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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

SENATE—*Monday, December 8, 1980*

(Legislative day of Thursday, November 20, 1980)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Our Father-God who rules the universe in splendor, yet hears the prayers of all Thy children, come upon us this day with all Thy cleansing and renewing power. Reinforce our minds, nourish our souls, and refine our spirits.

Keep us from impatience, from irritability, and from tempers too quick. Keep us from eyes focused on the faults of others and from tongues tuned to criticism rather than commendation. Deliver us from the meanness which parades as firmness. Cleanse us from being touchy, quick to take offense, and slow to forget. Make us prompt to forgive. Deliver us from that selfishness which tolerates only its own way.

Lead us through all confusion, ambiguity, and uncertainty into the light of Thy truth. And when evening comes may we rest in the peace of those whose minds are stayed on Thee, because we trust in Thee. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 8, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, this is my 30th floor statement this year on the subject: The United States Senate.

CIRCULAR LETTERS OF CONGRESSMEN TO THEIR CONSTITUENTS

Mr. President, all of us in this body recognize and appreciate the supreme importance of regular and dependable communication with our constituents. Thanks to the telephone and the airplane we have excellent opportunities to exchange views with the citizens of our respective states. We write personal letters, prepare newsletters, and participate in radio, television, and newspaper interviews. Our effectiveness here is directly related to the ability to communicate our understanding of public policy issues with those whom we represent.

Recently, I got to thinking about the difficulties that our predecessors in the earliest Congresses must have had without today's modern communication facilities. During the first half century of the Senate's history, members had to endure the many hardships of travel created by poor roads and bad weather. Mail service to outlying areas was slow and unreliable. Newspapers, particularly in the southern and western states, had limited and irregular circulations.

To reach their constituents, especially in these latter regions, members often resorted to a form of correspondence known as the "circular letter." Circular letters were, in effect, early versions of our own newsletters. They were intended to serve in lieu of personal letters and their writers hoped they would be passed from reader to reader, hence the term "circular." Apparently, they were printed in lots of up to five hundred copies and mailed out under a member's frank. Some were displayed in post offices and frequently they were reprinted in local newspapers. They were usually prepared close to the end of a congressional session often near election time. This may explain why popularly-elected members of the House resorted to them more frequently than Senators, who were, of course, then elected by state legislatures.

Long after the end of his presidency, John Adams wrote that he considered circular letters to be the "best of all" sources for the study of our nation's early history. In 1813 Adams told Thomas Jefferson that "I would give all that I am worth for a compleat Collection of all those circular letters."

If John Adams had survived until 1978, his wish would have been fulfilled. At that time, I had the pleasure of participating in a ceremony marking the publication of an extraordinary three-volume compilation of circular letters written by members of the Senate and House between 1791 and 1829. The original copies of these letters are scattered in libraries across the country. Thanks to the diligence of Professor Noble Cunningham, a distinguished historian of our government's early administrative processes, more than two hundred fifty of these important documents were located and published.

As Professor Cunningham has noted, the principal flaw in the idea of a circular letter was that its circulation was pretty much left to chance. Valued supporters were sometimes overlooked. Kentucky Representative Mathew Lyon once explained how he handled such omissions. "When I am canvassing my district, and I come across a man who looks distantly and coldly at me," he said, "I go up cordially to him and say, 'My dear friend, you got my printed letter last session, of course?' 'No sir,' replies the man with offended dignity. 'I got no such thing.' 'No,' I cry out in a passion. 'No! Damn that post office.' Then I make a

● This "bullet" symbol identifies statements or inserti ons which are not spoken by the Member on the floor.

memorandum of the man's name and address, and when I get back to Washington, I write him an autograph letter, and all is put to rights."

These circular letters are particularly useful for demonstrating a variety of individual, partisan, and sectional views on the same issue. As a rule, however, they lacked the fervent tone of campaign tracts and newspaper articles. Their contents ranged widely. Some members provided candid personal assessments of the legislative scene. Many resorted to reprinting Treasury Department figures including customs receipts and federal expenditures. Others lifted material from newspapers easily available in the nation's capital, writing of international as well as national and local developments. Some freely copied from reports appearing in their colleagues' circular letters. At least a few hired others to prepare their letters. In 1798 a North Carolina Representative complained about this practice. He said, "My reason for supposing that my colleague did not pen (the letter), is that 'tis generally spelt right, and the stile and grammar is tolerable tho this may have been done for him by a contemptable wretch here named Calendar who 'tis said gets his bread by writing circulars for the more illiterate jacobin members of Congress."

By and large, these letters offer us interesting assessments of what their writers considered to be the major issues of the day. One letter, written in April 1820 by Representative John Holmes, who was soon to become one of Maine's first two Senators, elicited from Thomas Jefferson one of the most prophetic statements in all of American history. Commenting on Holmes' reference to congressional debate over the admission of Missouri as a slave state, Jefferson observed that "this momentous question, like a fire bell in the night, awakened and filled me with terror. I considered it at once as the knell of the Union. (The slavery question) is hushed indeed for the moment. But this is a reprieve only, not a final sentence."

Fifteen years earlier on March 1, 1805, the Senate, sitting as a court of impeachment, voted to acquit Federalist Supreme Court Justice Samuel Chase. This had become a bitter partisan issue between Federalists and Republicans. The Senate's action had the effect of preserving the independence of the Supreme Court and restraining the ambitions of the Republican administration of Thomas Jefferson. Vice President Aaron Burr, who less than a year earlier had killed Alexander Hamilton in a tragic duel, appeared in the chamber in his role as Senate president for the last time on March 2. He used the occasion to deliver one of the most stirring speeches in the Senate's history.

Referring to the Senate's difficult decision on the Chase impeachment, he spoke of its unique role. "This House," he said, "is a sanctuary; a citadel of law, of order, and of liberty; and it is here, in this exaulted refuge, here if anywhere, will resistence be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacreligious hands of the demogogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor." Preparing a circular letter two days after Burr's address, Mathew Lyon captured the spirit of the Chase impeachment trial. Angered by the impeachment-inspired action of a group of House Federalists, who sought to have the Constitution amended to permit state legislatures to remove Senators from office, he praised the Senate's difficult decision. He wrote, "I have never been so well convinced of the benefit of a second deliberative and collective branch of the legislature as in the course of the last session. The calm, temperate reflection of the Senate, has in many respects, checked the progress of sentiments, which if adopted, would have been dangerous to the nation."

Senator William Hendricks of Indiana provides us with an excellent example of circular letters at their best. He wrote faithfully to his constituents at the end of each session from 1826 to the time of his retirement in 1837. He had earlier served in the House and was so popular with the citizens of his state that, in 1822, they elected him governor by a nearly unanimous vote. Hendricks began each letter with a general assessment of the accomplishments of the session just ended, particularly as they affected his state. He provided detailed information on appropriations for canal and road building projects. In 1826, he announced that $110,000 had been appropriated for the construction of the Cumberland Road from Wheeling to Zanesville and that plans were underway for its continuation to Columbus and eventually into Indiana. He counseled patience in the face of the inevitable legislative delays and his words seem as appropriate today as they were one hundred fifty-four years ago.

In commenting on a bill to provide a canal connection to Fort Wayne, he noted that the measure, "owing to the pending mass of business, the magnitude of the appropriation which it proposes, and the constitutional question of the power of Congress over the subject of internal improvement, will not become a law during the present session. The partial discussions, however, which have taken place in the Senate on the merits of this bill are by no means discouraging. We must hope for its success at a future day. Few subjects of magnitude are ever matured during the same session at which they are introduced, and however reasonable and right this and other measures may appear to us, who know the situation of our (state) and its fair claims, we have the arduous task of convincing others, who know nothing about our (state), of the justness of those claims. We must not ask too much, lest we get nothing, nor must we ask too many things at once, lest we weary those who have the power of giving."

Mr. President, I ask unanimous consent to have printed in the RECORD some of the letters from the three volumes to which I alluded earlier. The three volumes containing these letters are available in the Senate Library. They contain the raw material of the Congress, and the Nation's early history. I commend them to my colleagues.

Along with these letters, I ask unanimous consent that I may have printed several of my own newsletters that have been sent to my constituents during my service in the Senate. I include these in order that those of the future who serve in this Chamber and future historians may be able to compare some of today's newsletters—by one Senator, at least—with the earlier circular letters that were sent to their constituents by our predecessors in years gone by.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The material ordered to be printed in the RECORD follows:

[Fifth Congress]

FROM WILLIAM COCKE

(*Tennessee*)

Philadelphia, June 29th, 1797.

SIR, My best endeavors to promote the interest, preserve the peace, and secure the happiness of the United States, will, I hope, meet the entire approbation of my fellow-citizens in the State of Tenessee, to whom I hold myself accountable for my public conduct and whose confidence and esteem, I consider as the highest reward, that can be bestowed on a faithful servant. Grateful, as I am, for the many honors, that my country has, at various times, been pleased to confer on me, I cannot but labor to deserve, as well as to receive a continuation of their confidential regard. It gives me real pleasure to inform you, that there appears a considerable change of sentiment in a number of respectable members of the Senate of the United States, favorable to the State of Tenessee, and friendly to the extinguishment of the claims injurious to our rights. This day, Mr. Blount[1] and myself waited on the President, for the purpose of making known to him the situation, that a number of our citizens were likely to be involved in, should the Commissioners proceed to run the boundary line. The Secretary of War being at the President's, afforded us a favorable opportunity of stating to them, in the fullest manner, every thing relating to the interest of the State respecting the running of the said line. They both seemed fully impressed with the importance and necessity of attending to this subject, and promised to take the same into consideration, and to notify the Commissioners of the result of their deliberation.

The time of Congress has been chiefly occupied in contemplating the different subjects recommended by the President, and the following statement presents to your view, the proceedings of this Session to the present day:

Titles of Acts passed this Session[2]

1. An Act prohibiting, for a limited time, the Exportation of Arms and Ammunition, and for encouraging the Importation thereof. *Approved and signed.*

2. An Act to prevent Citizens of the United States from privateering against Nations in Amity with the United States. *Approved and signed.*

3. An Act to provide for the further De-

Footnotes at end of letter.

fence of the Ports and Harbours of the United States. *Approved and signed.*

4. An Act authorizing a Detachment of the Militia of the United States. *Approved and signed—and is like the one passed in* 1794.

5. An Act in addition to an Act intitled "An Act concerning the registrating and recording Ships and Vessels." *Approved and signed.*

6. An Act directing the appointment of Agents in relation to the sixth article of the British Treaty.

7. An Act providing a Naval Armament.

Titles of Bills rejected this Session, or postponed till the next.

1. To prevent the arming of private ships, except in certain cases, and under certain regulations. *Rejected in the House of Representatives.*

2. For raising and organizing an additional Corps of Artillerists and Engineers. *Rejected in the H. of Rep.*

3. To prevent Citizens of the United States from entering into the military or naval Service of any foreign Prince or State. *Postponed to the next Session in the H. of Rep.*

4. To enable the President of the United States, under certain restrictions, to raise a provisional Army. *Rejected in the Senate, where it originated.*

5. To authorize the President of the United States to lay, regulate and revoke Embargoes. *Rejected in the Senate where it originated.*

6. To suspend, in part, the operation of an Act entitled "An Act for raising a further sum by additional Duties on certain Articles imported, and for other purposes." *Rejected in the H. of Rep.*

7. For arming, organizing and disciplining the Militia of the United States. *Postponed in the H. of Rep.*

Titles of Bills brought in this Session, and not yet decided upon.

1. A Bill laying Duties on Licenses for selling foreign Wines and Foreign distilled Spirituous Liquors by Retail. *Passed by the H. of Rep.*[3]

2. A bill to continue in force, for a limited time, the Act and parts of Acts therein *mentioned. Passed by the H. of Rep.*[4]

3. A Bill to authorize the President of the United States, during the recess of the present Congress to provide Gallies, or other vessels, for certain purposes therein mentioned.[5]

4. A Bill making additional Appropriations for the support of Government for the year 1797.[6]

5. A Bill authorizing a Loan of Money.[7]

6. A Bill laying Duties on stamped Vellum, Parchment and Paper.[8]

7. A Bill proving for the more effectual Collection of certain internal Revenues of the United States.[9]

8. A Bill to ascertain the time for the next meeting of Congress.[10]

A treaty of peace has been concluded and ratified, between the United States and Tunis and Tripoli.[11]—The Spanish treaty is not likely at this time to be carried into effect; [12]—the proceedings on this head I communicated, some days past, to governor Sevier; [13] and expect they will be published in the Knoxville papers.

It is now certain, that the Emperor of Germany has made a separate peace, with the Republic of France. The victories obtained by the French arms, under the command of General Buonaparte, as well as those on the Rhine, led to that event:—The generosity of that gallant officer to his enemies has made him more conspicuous, than the glory he has achieved by arms.—The British Government is in a tottering situation.—Mutinies still continue on board the channel fleet;—the contagion has probably reached the army:—The bank has stopped payment:—The mob, it is said, have assembled in the city of London;—A motion has been made in the House of Commons to censure Pitt, for his administration:—The people have petitioned the king to dismiss him from his council:—Serious discontents pervade every part of the kingdom; and the Irish are in a state of insurrection.—Mr. Hammond set out from London for Vienna, previous to the signing the preliminary articles of peace, between the Republic and the Emperor, but did not arrive, time enough to include England, which was the object of his mission to that court.

Our warmest politicians, who, at the first meeting of Congress, were for raising fleets and armies, assuming the manly tone of Austria, and the erect attitude of Great Britain, begin to exercise their better judgment, and, at this time, I believe, prefer peace. General Pinckney of South Carolina, General Marshall of Virginia, and Mr. Gerry of Massachusetts, are appointed Commissioners to settle our differences with the Republic of France. And I hope their wisdom, prudence and good intentions will produce an accommodation, honorable and advantageous to both countries; and thereby restore that harmony, and good understanding, which once so happily subsisted between them; and which should be the first object of Republicans to strengthen and perpetuate. I am, with every sentiment of esteem, Your obedient servant,

William Cocke.

FOOTNOTES

[1] William Blount, senator from Tennessee.

[2] All of the acts in this list were approved and can be found in *Annals of Congress*, 5th Cong., 1st sess. 3685–3692.

[3] After amendments were added by the Senate, the bill was postponed, July 4, 1797, to the next session. *House Journal*, III, 71.

[4] Approved July 5, 1797, *Annals of Congress*, 5th Con., 1st sess., 3693.

[5] This bill did not pass the House, where it originated, *House Journal*, III, 856.

[6] Approved July 10, 1797, *Annals of Congress*, 5th Cong., 1st session, 3702–3703.

[7] Approved July 8, 1797, authorizing the president to borrow $800,000, *ibid.*, 3702.

[8] Approved July 6, 1797, *ibid.*, 3693–3700.

[9] This bill did not pass the House, where it originated, *House Journal*, III, 69, 856.

[10] Act of July 1, 1797, set the second Monday in November for the next meeting of Congress. *Annals of Congress*, 5th Cong., 1st session., 3692.

[11] The treaty with Tripoli, signed on Nov. 4, 1796, was submitted to the Senate on May 23, 1797, and was ratified on June 7, 1797. *Senate Executive Journal*, I, 241, 245. The treaty with Tunis had not been concluded; one was signed with Tunis in Aug. 1797, *Ibid.*, 263.

[12] Reference is to the Spanish delay in executing the Pinckney treaty, which was ratified by the Senate on Mar. 3, 1796.

[13] John Sevier.

[Seventh Congress]

From Thomas Sumter

(South Carolina)

City of Washington, May 1, 1802.

Fellow Citizens, Having for ten years represented your interests in the House of Representatives with fidelity on my part, and apparent satisfaction on yours, it was not without regret that I exchanged that station for one assigned me in the Senate, by the confidence of the legislature. To fill the place made vacant in that body by the resignation of Mr. Pinckney, I entertained no ambition from personal motives.[1] But when, without solicitation, it was conferred upon me, I could not avoid feeling it as an additional testimonial to my political integrity, nor could I decline accepting it, from an ardent desire to give every support in my power to the wise and patriotic measures of the chief magistrate. You know that a great part of the most important functions of the executive requires the sanction of the Senate, and you will recollect that at the time I took my seat in that body, the majority in favour of his measures, was very small. Impressed with the great importance of counselling and aiding, instead of embarrassing and impeding, his constitutional discharge of duty, I did not for a moment hesitate to conform to those obligations of patriotism, a scrupulous and chearful adherence to which has constituted the pride of my life.

Having participated in the toils and dangers of the revolution, I have not, since the era of our independence, been an indifferent spectator of public events. The feelings, which that great event inspired, still remain, and every incident, that has since occurred, has strengthened my convictions in favour of a republican over every other form of government. I have beheld abroad millions of my fellow-men, endowed with faculties susceptible of happiness, degraded, under despotic governments, to the lowest condition of humanity, and abandoned to misfortunes beyond the reach of relief. I have beheld *there* war and desolation wielding a general and premature destruction—while *here* I have beheld my fellow-citizens, happy in the enjoyment of equal rights, every one rising in proportion to his talents, and the nation preserving itself in peace. With such predilections, while I have cherished whatever in my opinion conduced to the preservation and perfection of liberty, I have viewed with jealousy whatever tended to its destruction or injury.

Having beheld a description of men, whose uniform efforts aimed at abridging the rights of the people, I have viewed them with attention, and so far as their principles led to political measures, I have preservingly opposed them.

The former administration authorized the establishment of an army that consisted of 25,000 regulars, and eighty thousand volunteers; and cost four millions of dollars: a navy that cost three annually; and incurred loans in one year to the amount of five millions of dollars; without, in my opinion, the least occasion therefor. They formed a British treaty which had nearly involved us in war with France. They passed sedition and alien laws in direct violation of the constitution: and whose tendency it was to divide the citizens from each other, and to destroy the liberty of the press. All these measures received my decided opposition. The alarm and terror, by which they were carried, did not dismay me. Nor did they induce me to despair of the republic. I knew the great body of the people of this country to be enlightened, and sincerely devoted to genuine republicanism; and I foresaw that, whatever wayward delusion might prevail for a day, the time would shortly come, when the principles, which sustained, and the spirit that achieved our revolution, would survive; and that, with them would be restored the full enjoyment of our rights, tranquillity and harmony. Nor have I been deceived. That time has arrived. The people have placed men in power who have done as much in the short period of a year, to secure the rights and happiness of the nation, as their

Footnotes at end of letter.

predecessors did in four years to impair and destroy them.

Thomas Jefferson was, in the month of February, 1801, declared by the House of Representatives to be President elect, after an effort (which I trust will never be repeated) to defeat the unequivocal expression of the national will.

He was, however, no sooner placed in the chair of the chief magistracy, than he exhibited a model of pure republicanism, and unprecedented magnanimity. His first words offered conciliation to his foes, and his measures, corresponded with his offers. Feeling, as the first magistrate of a free people ought to feel, he embraced in his equal regard the whole American people. With the absolute power of removing all the officers under the federal government, excepting those engaged in Judiciary concerns, he has not to this day, a period of fourteen months, removed one tenth part of those he found in office; [2] and these in general have been removed from incapacity, or from default to pay into the Treasury public monies in their hands. The first fruits of executive duty was agreat retrenchment in the public expenditure, which constituted, before the meeting of Congress, a saving of 150,000 dollars, as you will see more distinctly stated hereafter. Desirous also, in the spirit of a true American, to detach the United States from a dangerous union by diplomatic ties with European powers, the President suppressed two appointments of Ministers, the one to the Hague and the other to Berlin; suffering only three to remain, viz. to London, Paris, and Madrid.

Under auspices thus propitious to the harmony and prosperity of the country, Congress convened—Much remained for them to do, that was not constitutionally within the power of the President.

1. We found in existence an extended Judiciary, created in the last periods of the past administration for political purposes. Impressed with the conviction that they who are named to administer justice should be free from all improper bias, and particularly from the most baneful bias that arises from party feeling, the new courts had excited the jealous indignation of the whole community; they appeared further, from official documents, to be almost useless from the little business before them; they further appeared to cost the nation the annual sum of 45,000 dollars. From these considerations, and from others of equal weight, the law creating these additional courts has been repealed. Our opponents endeavoured to raise a constitutional question; but that question, it is most evident, would never have been raised, but from the suggestion of party spirit; as it is a fact that in many of the states courts existing under like circumstances have been abolished, without the least controversy, by legislatures decidedly federal.

2. We found in existence an odious, and in many respects an oppressive system of Internal Taxes, from which not more than 600,000 dollars were derived, the collection of which cost one fifth of the sum raised, and which employed 460 officers. You are too well acquainted with the inconveniences and evils attending excises, to require any enumeration of them for me.—It is sufficient for me to state that under an impression of them we thought ourselves justified in relieving the community from burthens rendered no longer necessary from the savings made by the government to a much greater amount than the proceeds of those taxes.

3. We found in existence a debt of eighty millions, part of which was the price of our freedom, and part the offspring of a spirit of prodigality and favouritism. Instead of loaning millions at the exorbitant interest of eight per cent, to rear useless and dangerous establishments in the vain hope of perpetuating our power, (should the public sentiment be hostile to its continuance) we have resolved at once to shew the sincerity of declarations when out of power, by making immediate provision for the whole of the public debt. We have accordingly appropriated the annual sum of seven million three hundred thousand dollars to its discharge, until it shall be ultimately redeemed, which will take place in fifteen years, if no unexpectedly adverse circumstances occur.

4. We found an authorised army of 5,000 men in existence. As the nation is in a state of profound peace, and as *our* great reliance in case of danger is on the militia of the country, we have reduced the military establishment to below 3,000 men; and have thereby saved the annual sum of 450,000 dollars.

5. We found in the Navy Department, as it existed under the late administration, habits of expenditure the most loose and least secure. It had been the custom of Congress to appropriate for the Navy a *gross* sum, leaving its application entirely to the discretion of the Secretary of the department. By this means large sums had been misapplied and lavished. We have passed an act not only limiting the total expenditure for the year, but also guarding each specific item, whereby past abuses will be greatly checked, and whereby, in connection with the suppression of useless agencies an annual savings of 200,000 dollars will be made.[3]

These, fellow citizens, are the great objects we have accomplished. They are all of them calculated to promote your happiness, and to increase the respectability of the American name. Unlike our predecessors, we do not overleap the barriers of that Constitution which you have established as the bulwark of your rights, that we may aggrandise our own power, and raise ourselves above your control. We, on the contrary, practise different principles. Knowing that too much power corrupts the human heart, we are diffident of ourselves as we were of our opponents, and we refuse all power that is not absolutely necessary for the promotion of the general interests.

All these measures, however, have been opposed by the friends of the former administration. It was to be expected that a system of measures, however fatal to the best interests of the nation, which had been pursued by these gentlemen, would be still strenuously contended for. But it was not to be expected, and I am mortified at being constrained to inform you, that the opposition has been conducted with an intemperance unprecedented in the annals of congress; and that threats have been uttered which every friend to his country should repel with indignation. We have been menaced with disunion and with civil war. But strong in the integrity of our views, and convinced of the justice of our measures, we have progressed in the discharge of the public business, and left to your good sense the rejection of such violent alarms.

Much more important business has been done, of a subordinate nature, and with the merits of which the limits of this publication will not allow me to make you acquainted.

I will proceed to state, in one general view, the operations of the government in relation to the receipts and expenditure of public monies, since the commencement of the present administration.

Retrenchments in the public expenditure made by the President, viz:

	Dolls.
By the abolition of the offices of 16 Inspectors, employed in collecting the internal revenue	19,823
Useless officers attached to revenue cutters	30,000
By the suppression of the missions to Portugal and Holland	21,350
One commissioner, under the 6th article of the British treaty, and one of the two agents in Great Britain, for causes and seamen	7,440
Sundry agencies, deputy quartermasters, &c. in the war department	10,000
Five unnecessary contractors in the navy department, at an annual salary of 3,000 dolls. each	15,000
By the discharge of 612 privates and non-commissioned officers of the marine corps	47,078
Amount of annual savings made by the President	150,691

Retrenchments made by the Seventh Congress, viz:

By the reduction of the army	450,000
By economical naval arrangements	200,000
In the Judiciary	45,000
In the compensation of collectors of the customs, &c	16,178
Amount of savings by Congress	711,178

Total amount of annual savings made by the new administration, executive and legislative, of the government, 861,869.

Theese are the savings which have already been made. They arise in part from new legislative provisions, and in part from the economical arrangements of the Executive. In this department much more is expected, which it, however, requires time to effect. A laborious investigation has been made by a committee of the House of Representatives into the public expenditures from the commencement of the year 1797. The task was an Herculean one, and the committee, notwithstanding a very assiduous attention, were not able to report till the close of the session.[4] Of consequence the legislature had not time to act upon it. It will, however, be the probable means of saving millions to the nation. It discloses a system of the most wanton and unauthorized expenditure of the public treasure. I speak within bounds, when I say that millions have been expended without any appropriation by law, and that millions remain unaccounted for. But as the report is published, I leave you to read it, and to judge for yourselves.

From the economical arrangements of the government, from the continuance of peace, and from the industry of our citizens, we have the fairest prospects before us. Our exports for the last year amounted to ninety-three millions of dollars, of which forty-six millions are derived from our own productions, the remainder being derived from the carrying trade.

During the last year

The duties on imports and tonnage amounted to	10,500,000
To which add the estimated sales of land	400,000
And postage on letters	50,000
And we have an annual revenue of	10,950,000
For the ensuing year the following appropriations are required, viz.	
For all domestic expenses of a civil nature	934,000
Intercourse with foreign nations	64,000
Military establishment,	855,000
Naval establishment,	900,000

Footnotes at end of letter.

Disbanded army	158,000
Treaty with Indians, &c	45,000
Total expenditure (excepting in relation to debt)	2,956,000
Annual appropriation for the public debt	7,300,000
Total expenditure	10,256,000
Leaving for unforeseen demands the sum of	694,000

Such, fellow citizens, is the imperfect view of the effects of the change which you have made in the administration of the general government, that I have thought it my duty at this time to present you;—a duty which I have considered the more necessary from the incessant and boundless misrepresentation which is diffused among you. It is to be deeply regretted that you do not possess more ample vehicles of correct political information, that you might be enabled without bias to judge for yourselves free from the danger of mistake The present administration courts the public attention to all its measures; I invite your attention to my conduct; and I wish on this occasion forcibly to impress upon you the duty of unceasing vigilance at once to the measures of the government, and to the measures of those who oppose it. While you are well informed, vigilant, and jealous of your rights, your liberties will remain secure. But should you withdraw your attention from public concerns, and become regardless of your rights, those evil days, which are just past, will return fraught with augmented danger.

Recollect too that you have placed at the head of your empire a man no less distinguished for his talents than his integrity. An enthusiast in the cause of rational liberty his labours are unintermitted for your good. But those labours, great and patriotic as they are, will perish without your support. However ascendant the talents of the President, it is on the mighty cooperation of the whole American people that the general good must rest. Let me then, with the affectionate zeal of an old friend, intreat you to render yourselves well informed of all that is done by men in power, and to support with the same energy a virtuous administration that secures and extends your rights, that you would oppose a corrupt one that should attempt to weaken or destroy them.

Thomas Sumter.

FOOTNOTES

[1] Sumter resigned from the House on Dec. 15, 1801, following his election to the Senate to fill the vacancy caused by the appointment of Charles Pinckney as minister to Spain.

[2] For statistics on removals see Noble E. Cunningham, Jr., *The Jeffersonian Republicans in Power: Party Operations, 1801–1809* (Chapel Hill, N.C., 1963), 60–61.

[3] Appropriations totaling $900,000 are itemized in an act approved on May 1, 1802, *Annals of Congress*, 7th Cong., 1st sess., 1356–1357.

[4] The committee, headed by Joseph H. Nicholson (Md.), reported on Apr. 29, 1802. Its detailed report is in *ASP, Finance*, 1, 752–821.

[Seventh Congress]

From Thomas Sumter

(*South Carolina*)

Washington, March 4, 1803.

Fellow Citizens, it must be a source of sincere pleasure to every friend to his country, to contemplate the rapid progress it makes to true greatness and glory. It has been the fate of other nations to run a mad career of ambition subversive of personal happiness and destructive of national existence. Hitherto it has been the lot of our nation, avoiding the dangerous road of ambition, to cultivate and promote whatever conduced to the true interests of its citizens, convinced that so long as they were happy the nation was prosperous. Entertaining these sentiments, I feel an honest pride in being the citizen of a republic, whose true glory consists in the diffusion of equal rights and the dispensing of impartial blessings.

Notwithstanding the predictions, made during the last session of Congress, of the injurious tendency of the measures then adopted experience, the ablest instructor of mankind, has demonstrated their wisdom. Useless establishments have been removed without the least public inconvenience, and oppressive and unpopular taxes taken off to the joy of the people, without the slightest derangement of our finances. During the last session Congress passed a law for the annual discharge of seven millions three hundred thousand dollars of the public debt. Instead of this sum, large as it is, the Commissioners of the sinking fund have redeemed nine millions three hundred and seventy thousand dollars; and at the end of the last year there remained in the treasury the unexpended sum of four millions five hundred thousand dollars.

It was predicted by the opponents of the administration that our revenues would decline; but instead of declining they have risen beyond the most sanguine expectation of the friends of the government. According to the official statement of the Secretary of the Treasury, twelve millions two hundred and eighty thousand dollars have been received during the course of the year ending on the 30th of September last; a sum larger, by two millions of dollars, than the amount received for the same duties during the preceding, or any other year; and which exceeds, by twelve hundred thousand dollars, the aggregate heretofore collected, in any one year, on account of both the impost, and the internal duties repealed by an act of last session.[1]

These are facts, beyond the reach of contradiction; and so far as they go are evidences, not to be invalidated, of the flourishing state of the country, and of the vigilance and wisdom of those who administer its concerns; of the precision with which they plan, and of the success with which they execute their measures.

These, too, are the fruits of a free government and a peaceful nation. In vain would it have been to look for these, had the products of labor been wrested by a tyrant, or the energies of the nation exhausted in war, instead of being employed in the peaceful arts.

Considering peace as all important to the advancing interests of the country, I have viewed with anxiety whatever tended, in the most remote degree, to disturb or hazard it. The unjust aggression, therefore, of the Spanish Intendant upon our right of deposit at New Orleans, early awakened and still engages my attention. On this subject, it is impossible for an old revolutionary soldier, whose sword was drawn to defend the rights of his fellow-citizens, and only sheathed when those rights were secured, not to feel indignation. But while I feel indignant at this violation of our rights, and while I trust and believe that in case of necessity, if reason fails, force will [*be*] applied; I feel with no less strength, the policy and duty of first endeavoring to gain that by negociation, which, in any other way, might require the sacrifice of countless blood and treasure. The American nation has too much to lose, wantonly or precipitately to go to war; but equally tenacious of her rights and confident of her strength, she will, if compelled, vindicate the one by a vigorous use of the other.

On this important subject, the legislature and the President have acted in perfect harmony, notwithstanding the effort of the opposition to divide them. Mr. Monroe has been sent as Envoy Extraordinary to Spain and France, a draft of 80,000 militia has been authorized, for which one million and a half of dollars have been appropriated; arsenals have ben directed to be built in the Western country;[2] and two millions of dollars have been additionally appropriated.

But little business of great importance has been transacted during the past session. With this we have been reproached; but, in my opinion, it is the best evidence of the prosperous state of our affairs, of the soundness of our laws, and of the fidelity with which they have been executed. Among those objects of a general nature, which have been effected, is the opening of a land-office for the disposal of lands in the Mississippi territory, at two dollars an acre.[3]

I will not detain your attention with a specification of those minor objects which have been attended to. They are all such as were required by existing circumstances, and are entirely unconnected with party feelings or prejudices. In these the opponents of the administration are compelled to acquiesce, and direct their censures not against what has been done, but against that which has not been done—So unavailing were the violent efforts made during the last session to divide the nation from the government—and so productive have they proved of augmented popularity to the latter, that it is to be hoped that the language of opposition will abate of its violence, and that the measures of public men will be treated with candour, while they are examined with vigilance. In all times I have been the firm friend of freedom of opinion and of enquiry; and, however virtuous our rulers may be at any time, it is no less the interest and duty of the people at that time, as well as at all others, to make themselves acquainted with their measures, the grounds on which they were passed, and the effects they are calculated to produce. Thus, and thus only, will a nation remain the guardians of its own rights; and by no other means can it long remain free. Permit me then to impress the duty of contributing every aid in your power to the diffusion of information. Whilst it is to be regretted that with us these means are so imperfect and limited, I submit to your judgment whether the use of vigorous measures might not extend and improve them? And whether there is not an obligation upon every citizen of a free republic to render himself informed on the conduct of public men, and the tendency of public measures?

Thomas Sumter.

[Thirteenth Congress]

From George W. Campbell

(*Tennessee*)

Washington City, August 16th, 1813.

To the Citizens of Tennessee.

During the extraordinary session of Congress that closed on the second instant, the laws requisite for laying and collecting a direct tax and internal duties, and also imposing a duty on imported salt, passed. A resort to those measures became necessary to maintain the public credit and enable the government to prosecute with effect the contest in which the nation is now engaged; a contest into which she was reluctantly forced, after having exhausted every means of negotiation, and drained to the very dregs the cup of conciliation. Our national rights had been for so long a time, so repeatedly violated with impunity by Great Britain, that she appears to have concluded we were prepared to indure any privations, however great, and bear any insults however degrading to our honor, rather than resort to war for redress; and the conduct of some of our own citizens in certain sections of the Union was calculated to conform her in this opinion. For more than twenty years she has been in the constant practice of disregarding the commercial rights of this country, as well as the personal rights of its citizens, whenever prompted thereto by interest or ambition. By her system of arbitrary blockades on paper only, and orders in council, she assumed the right to circumscribe and regulate our trade to suit her own particular views, subjecting nearly the whole of it to capture and condemnation unless it passed through her ports, or received the stamp of her permission, well knowing that in either case it would meet with certain condemnation at the ports of its destination. Her objects in regard to us must have been to check the progress of commercial enterprise, and prevent a rival in the commerce of the world from acquiring strength and arriving at maturity.

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[1] Sumter's summary of finances is in agreement with the report of the secretary of the Treasury, communicated to Congress on Dec. 20, 1802. *ASP, Finance*, II, 2–7.

[2] Act of Mar. 3, 1803, *Annals of Congress*, 7th Cong., 2d sess., 1608–1609.

[3] Act of Mar. 3, 1803, *ibid.*, 1593–1601.

The right she assumes and which she has so long practiced, to impress seamen from our trading vessels on the high seas, is an evident violation of our national sovereignty, and affects the *liberty* and often the *lives* of our citizens while under the protection of the sanctuary that ought to be afforded by the flag of their country. This right is usurped by Great Britain alone. It is not in principle or practice recognised by the laws or usages of civilized nations, either ancient or modern, it is in fact a right, if it be called one, which no other nation ever asserted, and in which no nation ever acquiesced.

Great Britain pretends to ground this right of impressment upon the right she asserts of reclaiming her seafaring subjects who have left her service. Suppose this latter right under certain limitations to exist (the validity of which it is not intended here to investigate) it would in no degree justify her practice. It could be exercised only within her own jurisdiction, and authorise the detention or seizure of those alone who should be found within the same. It could not be exercised within the jurisdiction of another state without its assent; for such an act would be a violation of its sovereignty. For the same reason it could not be exercised on board a trading vessel of such other state on the high seas, which being the common highway of all nations, cannot be subject to the exclusive jurisdiction of any one; and such vessel carrying the flag of her nation continues to afford the same protection and security to whatever may be on board, on the high seas, that she did in the port of her sovereign, with the exceptions only recognised by the laws and acknowledged usages of nations; which being relaxations of the sovereign rights of independent nations cannot be arbitrarily extended by any one beyond the bounds established by the consent of all. These exceptions extend only to articles contraband of war, including enemies. They have by no nation except Great Britain, been extended to persons any more than to articles of any other description. No instance of the kind can be found in the codes of public law.

If Great Britain had the right to reclaim in the manner she asserts, her seamen she would, it would seem, have an equal right to reclaim her landsmen or soldiers, her subjects of every description, and it might be said also, her goods found on board our trading vessels. There can in principle, in reason, be perceived no substantial difference between the cases. The latter right, however, she has not yet pretended to assert: nor has any of her advocates been so bold as to assert it for her.

If in principle this assumed right of impressment be, as has been shewn, incompatible with the sovereign rights of an independent nation, in practice it will appear in a still higher degree subversive of the personal rights of the citizen. It subjects our seamen to be forcibly taken from our trading vessels engaged in lawful commerce, by every petty officer of the British navy, whose caprice or want of men may induce him to claim them as British subjects, and without a trial of the fact before any tribunal or the decision of any judge thereon, which is indispensible in the case of a single bale of goods or other articles seized as contraband of war, before it can be used or disposed of by the captors, compelled to serve on board their ships of war, regardless of their rights as American citizens, and fight their battles against nations friendly to their own.

In this manner thousands of our citizens, while engaged in their lawful pursuits have been torn from their families, their homes and their country, detained for years on board their floating prisons under the galling chains and lash of their unfeeling oppressors, and now are either forced by the repeated tortures of the most inhuman punishment to fight against their own country, or where their patriotism has been proof against such treatment, are thrown into the dungeons of prison ships, there to languish out the short remainder of a miserable existence.

Under such accumulated and continued wrongs, where the result of protracted discussions between the two governments, had dissipated every prospect of amicable adjustment, no honorable course remained for the United States, but that which has been pursued, an appeal to arms, the last resort of nations, for redress: a course which, when party prejudices shall have subsided, and the subject is fairly investigated before the tribunal of unbiased reason, the friends of civil liberty, not only in this country, but throughout the world, must approve; and posterity will be astonished, that a nation of freemen should so long have endured such unprovoked and flagrant violations of their rights.

Engaged in a war as unavoidable as it is just on our part, it became the indispensible duty of the National Legislature to provide the means requisite to its vigorous prosecution. So long as the revenue arising from foreign commerce and other ordinary resources of the country was found adequate to this object, the government declined calling on the people for other contributions; justly conceiving that the exuberance of national wealth, not immediately required for public purposes, would in their hands be rendered more productive, as well as contribute more to their individual happiness, than in the national treasury; and that they would, when required, cheerfully make such contributions as should be demanded by the public exigency. The time has now arrived when, in order to sustain the public credit and meet the encreased expenditures occasioned by the existing crisis, it is incumbent on government to call forth a competent portion of the internal resources. For this purpose the system of a direct tax and internal duties has been resorted to. An appeal is thus made to the American people for the means necessary to enable the government to vindicate their rights and avenge their wrongs. Such appeal cannot be made in vain. The great majority of them will without a murmur meet the demand, and consider it as an earnest on the part of government that it will never abandon any one of their just rights. With regard to the citizens of Tennessee, I feel a confidence which will not, I am sure, be disappointed; they will be on this, as they have been on former occasions, among the first to comply with their duty, and evince their determination to preserve inviolate, and hand down to posterity unimpaired, that liberty for which their fathers fought and bled, and which they bequeathed to them as their most valuable inheritance.

In arranging the system of direct tax and internal duties, it was attempted, taking into view its various parts, to make it bear as equally as practicable on the different parts of the union. By the laws to lay and collect a direct tax, an authority is given to the several states to pay their respective quotas thereof, into the treasury of the United States, within the periods therein stated, and thereon be entitled to a deduction of ten or fifteen percent, according to the time of such payment, and no further proceedings, thereafter to be had in relation to the assessment or collection of said tax.[1] Where the finances of a state will enable the Legislature to take the benefit of this provision in the law, and advance the quota of tax required, it would undoubtedly be judicious to do so; as it would not only save to the state the amount allowed to be deducted equal at least to the expense of collection, but also avoid the unpleasant operation of assessing and collecting the tax; and if it should be found necessary to re-imburse by a tax on the people the amount advanced, it might in due time be collected by the state, by increasing the public state tax on land, at a much less expense than it could by the general government.

In the course of the session other measures of some importance were acted upon. Among these was the nomination of ministers to negotiate a treaty of peace with G. Britain, under the mediation of the Emperor of Russia, and also treaties of commerce with G. Britain and Russia, laid before the Senate for their advice and consent. Of these Albert Gallatin, Secretary of the Treasury, was one. Whatever objections might exist, under ordinary circumstances, to the appointment of the person at the head of the Treasury Department to a foreign mission, it appeared to me, on a full view of this case, the public interest required that the nomination of Mr. Gallatin should be affirmed. His station in the government, his talents and general qualifications for executing the trust reposed in a minister to a foreign court, rendered him the most prominent member of the mission. He was therefore placed at its head. He must also have been considered as possessing in a greater degree than his colleagues, in regard to the objects of the mission, the confidence of the republican interest throughout the Union; and it might be added, he was more intimately acquainted with, and could therefore more effectually secure the important interests of the western and southern sections of the Union. He had embarked on the mission, and a rejection of his nomination would neither recall him to the Treasury much sooner than if it were affirmed; nor could, it is presumed, a successor be appointed in time to cooperate in effecting the objects of the mission. Hence I was unable to perceive any public good such rejection could produce. While on the other hand, by the unfavorable impression it was calculated to produce abroad: by embarrassing and possibly defeating the proposed negociation for peace; and by increasing the divisions and discontents already existing at home, it might prove highly prejudicial to the public interest. The nomination was, however, rejected by a majority of one vote. That of the other two ministers, Adams and Bayard, was affirmed. A mission to Sweden was also determined on by the Executive, and a minister to that power nominated to the Senate.[2] Taking into view the present state of our relations with the European powers, and particularly the critical situation of a considerable quantity of American property now in Sweden, and the disposition of that government made known to ours, to interchange ministers with this country, and the actual appointment of one on its part, the mission appeared to me calculated to promote the public interest. It was, however, resolved by a majority of the Senate to be inexpedient to send such minister to Sweden.[3]

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[1] Act of Aug. 2, 1813 *Annals of Congress*, 13th Cong., 1st sess., 2758–2759.

[2] On May 29, 1813, Madison nominated Jonathan Russell to be minister plenipotentiary to Sweden, *Senate Executive Journal*, II, 347.

Previous to the close of the session, the President by message recommended an embargo for a limited time.[4] This measure appeared to me as well as many others, highly important. Our ports from Rhode Island to the Mississippi, were blockaded. That extensive portion of the Union was, therefore, excluded from all trade except what was permitted by the enemy; which would, of course, be such only as suited his own purposes, and not likely to benefit the general commerce of the country. The Eastern States had little to export at this season. The few articles of provision they could furnish, were not calculated for foreign market, and chiefly either destined to or captured by the enemy. The nation at large enjoyed but little foreign trade calculated to promote the general interest. An embargo could not, therefore, produce any serious pressure on the people, or affect materially the resources of the country. On the other hand, the enemy, it was confidently asserted and believed, (and additional evidence has since confirmed the fact) was in great want of provisions. The supplies he derived from this country, which he continued daily to receive in our own as well as foreign vessels, and on which he was principally dependant for subsistance, enabled him to maintain his fleets on our coast and his armies in Canada, and thus relieve himself, in a great degree, from the pressure of the war, while its privations were experienced in their full extent by this country. On him, therefore, the embargo would operate with all its force, and probably compel him to yield to its pressure. It would powerfully co-operate with our armies in effecting the objects of the war, and by depriving the enemy of supplies would, it was believed, force his fleets to abandon our waters. Every view in which the subject presented itself, seemed to promise such a result. The measure, however, after having passed the House of Representatives by a considerable majority, was rejected in the Senate.[5]

In consequence of not having had the command of the lakes Erie and Ontario, the operations of our armies in those quarters have been for some time suspended. Having now obtained the superiority on those lakes, the war will again be prosecuted with vigor, and, there is good ground to expect with success.

The spirit and manner in which the enemy prosecutes the war, cannot but excite the indignation and horror of every American not dead to the feelings of humanity. The petty warfare carried on by him on our coast, robbing and burning defenceless villages and private dwellings and plundering and destroying private property, resembles more the depredations of a band of pirates or high way robbers, than the war operations of a civilized nation.

His efforts, however, have been attended with little success, and with less effect, considering his force, than might have been expected. They have tended only to irritate the public mind and embitter the contest, without producing any impression in his favor. In every enterprise against any place that could be considered according to the usages of civilized warfare, a legitimate object of attack and had therefore been provided with defence, he has not only been foiled but repelled with loss, and the better informed of all parties are astonished how inefficient the boasted thunder of the great tyrant of the ocean has hitherto provided.

The murders and other cruelties perpetrated on our northern and northwestern frontiers by his savage allies in conjunction with his own troops, and for which he must be held responsible, could be equalled only by the shameful outrages on decency and humanity committed at Hampton under the very view of his officers, the reality of which now no longer remains doubtful. These enormities have no parallel in the history of modern warfare; and were surely never exceeded by the vandals of antiquity. They will fix a stain on the character of that nation, that the lapse of ages will not efface.

There is at present little ground to expect a speedy termination to the war. The latest accounts from England furnish ground to conclude a peace with that country, will not result from the Russian Mediation. England will not probably permit her cause to be discussed under the auspices of a power that might be expected to be impartial. It weakness, its injustice and its extravagance would be more exposed to the world, and might render her more obnoxious to the enmity of other powers; who must see in the violations of our rights a principle that would, if once established, equally authorise a violation of their own. She will not find advocates of her cause among the sovereigns of independent nations. They are confined to a party only in her own country, and to the less enlightened, as well as less patriotic, but more violent and desperate partizans among those she terms her friends in this country. It was the encouragement she derived from the unfortunate political divisions lighted up and fomented among ourselves by such characters, that prompted her to progress from one act of injustice to another, until she forced this nation into war; and she still relies more for the successful issue of the contest on the exertions of her advocates here, in embarrassing the measures of government, and paralizing the operations of the war, than she does on the prowess of her fleets and armies. Engaged on our part, in a just cause, nothing is necessary to ensure success but a proper management and skilful direction of the resources and physical force of the country, which are fully competent to effect all the objects of the war. A union and co-operation on the part of the people at large in support of their country's rights, (an event so natural as well as desirable, that it ought to be expected,) would at once convince the enemy how little he had to expect from our internal divisions, and how much it was his interest to bring the present contest to a speedy termination. The people of America can never consent to abandon any one of their just rights, or have their destinies directed or controlled by the ambitious views of another power; few among them will be found so dastardly, the great majority will on so important an occasion divest themselves of party and local considerations and combine their united efforts to maintain inviolate the integrity of the union, the liberty of the citizen and the honor of the nation.

George W. Campbell.

[Sixteenth Congress]

From John Holmes

(*Massachusetts-District of Maine*)

Washington, 10th April, 1820.

Mr. Holmes' Letter to the People of Maine

Fellow Citizens:

A representative of the people ought generally to expect that his constituents would understand the reasons of his conduct from the arguments which each subject invites. Apologies or justifications are extraordinary efforts, and calculated to excite suspicion. A premature defence betrays a consciousness of error, or implies an indirect censure of those from whom we differ.

With these impressions, and a confidence of my rectitude of intention, I have hitherto presented my official conduct to my constituents with the reasons only, which arise from ordinary discussion, presuming on the candour and intelligence of a generous and enlightened community, to do justice to my measures and motives.

It is with much hesitation and considerable reluctance, that I have, in the present instance, been induced to deviate from my usual course. But, in presenting this address to the people of Maine, I beg them fully to understand, that no fear of their suspicion, doubt of their candour, nor consciousness of any error of my own, has rendered it necessary for me to claim their attention.

Four of my colleagues, and a majority of the whole delegation from Maine, having differed from myself and Mr. Hill, on the *Missouri Question*, and the compromise of it as finally adopted, have deemed it expedient to make an extraordinary appeal to their constituents. Differing from the rest of the delegation with one exception; standing against such talents and numbers, who might urge their pretensions with a confidence which a *majority* inspires and popular excitement encourages; apprehending that a laboured defence of their own course must, of necessity, operate as an attack upon mine; and understanding that their communication has been circulated into my own district to instruct my particular constituents; I am reluctantly compelled to offer to the people, the reasons for my conduct, and its effect upon the interests of the nation and the independence of Maine.

It will be recollected, that in the last Congress, and before the attempt for the separation of Maine had commenced, a proposition to inhibit slavery in Missouri, as a condition for her admission into the Union, was discussed, and the restriction imposed in the House and rejected in the Senate. At that time, upon mature reflection, and without the *aid* of popular excitement, I was compelled to the conclusion, that *the restriction could not be imposed;* and this opinion was expressed in the House of Representatives, and went to the public through the medium of the newspapers. Since that time, I have been called by my constituents to important public duties, wherein the rights and *liberties* of the people were intimately concerned; have acted with the most intelligent citizens of all classes and from all sections of Maine, and to my recollection, not one word of doubt, distrust, or regret was ever expressed to me for the vote I had given. Until the commencement of this session of Congress, the people of the United States appeared disposed to submit the question to the uninfluenced decision of the only constitutional tribunal; and, until the circulars from *New York* had been obtruded upon the citizens of Maine, they had never felt an excitement, nor entertained a thought of, becoming parties to the discussion.

With a solitary exception, limited in its numbers, I had not, during this protracted discussion, from my constituents or the people of Maine, any instruction urging or requiring that my course should be different from what it *had been*. On the contrary, the tenor of my communications from gentlemen of the first political standing in the State, was in perfect accordance with my own opinion.

It would surely be paying a poor compliment to the people of Maine, to imagine for a moment, that they would wish or expect that a representative should yield to their opinions on a constitutional question at the expense of his conscience, and in violation of his oath. A high-minded, honourable, generous, and free people, would pity and despise the man who should sacrifice his duty to popular feeling, or artificial excitement. Believing, as I most sincerely did, that the political right of regulating the condition of master and slave, belonged exclusively to the people of Missouri, I was constrained to refuse to Congress the exercise of a *municipal power*, in extent unlimited, and in operation dangerous and destructive to the sovereignty of the States.

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[3] June 7, 1813, *ibid.*, 351.

[4] July 20, 1813, *Annals of Congress*, 13th Cong., 1st sess., 98.

[5] The measure passed the House, 80 to 50, on July 22, 1813, but it was rejected by the Senate, 18 to 16, on July 28. *Ibid.*, 503–504, 100–101.

For seventeen years the right to hold slaves in Missouri, had been recognised and confirmed. The lands there were purchased from a common fund, and the right of the slave-holder to emigrate, settle, and cultivate them, was co-ordinate with that of the rest of the people.

Parts of this same Territory had been incorporated into three different States, in each of which this right had been conceded. The treaty of cession was *imperative*—the terms were palpable, explicit, and unequivocal. The most ingenious dissertations to the contrary, were but a manifest perversion of a plain common-sense meaning, which, it was impossible to mistake. Thus did the Constitution, the treaty, and our own plighted faith forbid us to impose this restriction upon Missouri.

But, had the power existed, the effect of the experiment was doubtful and dangerous. Since the year 1808, Congress has been laudably engaged in prohibiting the importation of slaves. Laws have been enacted, amended, and improved; punishments have been augmented and enforced; and the navy of the United States has been put in requisition to arrest the violators of the laws. The gentlemen from the slave-holding States, with a zeal, which is a pledge of their sincerity, have ever been foremost to provide for detecting the offender and bringing him to justice. A common sentiment of indignation and abhorrence at the slave-trade, was beginning to prevail; and a correspondent feeling of humanity towards those already here, was inculcated and extended.

Experience had proved that to confine great numbers of slaves to a single owner, unable to afford them his personal protection, would expose them to the cruelty of overseers and other distresses. The constant emigration of free persons, without their slaves, would increase the evil and expose to danger those who remained. To permit the slave-holders to emigrate to Missouri with their slaves, would be to *disperse* but not to *increase* them. Distributed into the hands of more masters, they would be more intimately connected with their families, become the objects of their affection, and of their moral and religious instruction. Shall then the slaves now in the United States, be confined to the slave-holding States, or be permitted to be carried to Missouri? This is the MISSOURI QUESTION, so much spoken of and so little understood. Not whether more slaves shall be admitted into the United States—against this every hand is raised. Not whether slavery is an evil—all agree that it is a most afflicting, a most dangerous evil. Not whether it ought to be abolished—but what are our Constitutional means, to remove this evil without inflicting a greater? These are questions on which men may honestly differ. The best feelings of the human heart are instantly enlisted in favour of any measure, whose professed object is *liberty to the slave*, and without regarding its tendency or effect, humanity extorts an opinion, which pride forbids us to retract.

Born and nurtured in a land of liberty; habitually entertaining an utter abhorrence of slavery, in whatever disguise; witnessing as I verily believe, the happy moralizing influence of universal freedom; experiencing, moreover, the voluntary tribute of affection from freemen, which I am always proud to reciprocate; I seized with ardent partiality the proposed restriction, examined it with confident hope, and to my utter disappointment and regret was compelled to condemn it as unconstitutional, inexpedient, and dangerous.

The Constitution of the United States was a compromise of conflicting rights and interests. This having recognised the right of any State to its slaves and the treaty of cession and the laws in the territory having established and confirmed it to Missouri, the people there, complained of the interference of Congress in their internal concerns. Strong as were my impressions against slavery, the right of a people to manage their own affairs in their own way, had been too lately exercised by the citizens of Maine to escape my recollection.—The attempt of Massachusetts to prescribe to us, our duties in regard to *Bowdoin College*, was not forgotten. The indignation felt, at this officious interference, and the very great unanimity with which we, by a Constitutional act, withheld all endowment from that institution, until it should renounce the odious provision, were strong and impressive proofs of our principles; and gave an assurance that we were too magnanimous to impose on Missouri a restraint, which we had so recently, emphatically, and indignantly rejected.

The Senate of the United States by a decisive vote, had rejected the restriction, which the House had, by a small majority, imposed. By this disagreement of the two Houses, the admission of Missouri had been delayed from the last session, the public feeling was greatly excited, and a geographical division of parties was forming, which threatened danger, if not dissolution, to the Union. Meanwhile, slaves might be admitted into all our Territories and the evil, real or supposed, could not be restrained. The north and east were to be arrayed against the south and west, mutual animosities were fomented, recriminations reiterated, parties rallying, and leaders presenting themselves to marshal, and conduct these parties to the field.

The friends of the republic began to perceive that the Union was in danger; and that another year's delay would impair if not dissolve it. The contest was approaching a crisis, and a *compromise* was the only remaining resort—the last hope for the restoration of tranquillity.

To this there seemed an insuperable objection. A bill for the admission of Maine into the Union, had passed the House early in the session, and in the Senate had been united with that for the admission of Missouri. This union had been resisted in the House as unprecedented and improper. The discussion which these subjects, thus united, necessarily involved, had increased the excitement and widened the breach, between the parties. The liberal course of some gentlemen from the north, and the evidence exhibited that Maine, when admitted, would not be disposed to combine to enforce the proposed restriction, had induced several members of the Senate to relax, and to consent that Maine should be admitted alone. These, with the minority, originally against the union of the two subjects, would have secured a separate admission of Maine. But the doctrines advanced by a Senator in the second debate, and echoed in the House, the avowal that it was a contest for political power, and the consequent excitement and alarm, determined the majority to insist that both or neither should be admitted.

In this state of irritation, committees of conference were appointed; the members on the part of the Senate were Messrs. Thomas, Barbour, and Pinkney, and, of the House, Holmes, Taylor, Lowndes, Parker, M. and Kinsey. A compromise was proposed—that Maine should be admitted separately, Missouri without restriction, and that slavery should be inhibited in all the territory north of 36 deg. 30 min. N. lat. To the *principles* of this compromise the Senate's committee, and all those of the House, except Mr. Taylor, agreed. The *time and manner* of executing the compromise occasioned considerable discussion. The committee of the Senate, whose numbers were sufficient to effect a separation of Missouri from Maine, by uniting with those who had opposed their union, offered their pledge that, if the compromise were effectuated in the House, Maine should be admitted unconnected. We objected, and insisted that Maine must be first admitted. The Senate's committee would have consented to this, could we have made a similar pledge in regard to Missouri. This we could not do, and were about to separate on a point of *etiquette*, which could be safely yielded by the House, but not by the Senate. The peace of the Union, as well as the admission of Maine, was involved in it; and at last a majority of the committee of the House, (Mr. Taylor dissenting to the *principles*, and Mr. Parker to the *form*) consented that separate and similar reports should be presented in both branches, and each acted on without any stipulation in regard to priority. The compromise was agreed to—the bills have passed—and the subject is at rest. The restricted territory, equal to that of all the original States, being unsold and uninhabited, was not subject to the Constitutional objection. Maine was admitted into the Union—the slave-holding States obtained a southern latitude for themselves and their slaves, and the north, an exclusion of slavery from an immense territory, sufficient for all their purposes of emigration. The probability that, for a long time, the non-slave-holding States will have a majority in the House, and the slave-holding States, in the Senate, affords each party a security that the compromise will be permanent.

To the people of Maine the event is interesting and important. I have in my possession the most positive proof, from gentlemen of unquestioned veracity and honour, with full liberty to publish it, if I please, *that the Senate would never have yielded further than they did, and that, had not the report of the conferees been accepted, Maine must have been excluded*. It is matter of satisfaction to Mr. Hill and myself that, while our votes secured the admission of Maine, they were in perfect coincidence with our *principles* in regard to Missouri; and the members of the delegation who have addressed you, have the consolation that they have been subject to no constraint, inasmuch as the previous admission of Maine could never have induced them to vote for a compromise which they condemn, as unequal and unjust.

In reflecting upon the conduct of the people of Maine, during this interesting and arduous struggle, it affords me high satisfaction, reminds me of the virtues of the past, and presents a sure pledge for the wisdom of the future. Just emerging from colonial dependence, commencing her career of policy, and establishing her character with her sister States; it became her to avoid sectional contests, to solicit the favour and friendship of all, and to exhibit a policy, at once national, liberal, and just.

When the tempest of war assailed us, when discord, distrust, and disaffection prevailed; when the hopes of the enemies of freedom were exalted, and the face of the patriot wore paleness and dismay, Maine was firm, confident, and unshaken. At this time, with *present prospects*, and an undiminished fidelity to the Union, was it expected that she would combine to produce a geographical division of party? Could she have wished that her representatives should have persisted in a restriction, which they could not enforce, at the expense of the independence of Maine, the harmony of the Nation, and the safety of the Union? A political combination of the discordant materials of the north, to over-balance the slave-holding States, promises but little to the harmony and prosperity of the Nation. From this, what political or moral benefit would result? Would a northern party, marked by geographical lines, in which all others might be absorbed, produce an amalgamation, very congenial with the feelings and wishes of Maine?

And who are the men against whom you are called to unite? Republicans, honourable and patriotic—brethren, sympathizing and affectionate, who have fought by your side, and triumphed with you in your country's cause. Your interests and prospects imperatively require you to discountenance and resist every attempt to excite local jealousies. Young, interprising, and industrious, you will need the aid and friendship of the slave-holding States. Your navigation, commerce, fisheries, and manufacture must be cherished and improved. Protection to these is generally taxation upon their products of agriculture. On these subjects they have hitherto been liberal and magnanamous. But engage in this crusade against them; compel them to unite on the only subject in which their safety is exclusively concerned; combine against them in an affair so critical and delicate as the management of their slaves; and you provoke a hostility at once destructive of your own interests, and the safety of the nation.

But this attempt was most alarming to the slave-holding States. We, who know nothing of slaves, can have no correct conception of the excitement which the agitation of this question must naturally produce. Whatever may be imagined, the masters have a strong attachment to their slaves. So jealous are they of any attempt to infringe their rights to this species of property, that, to agitate the question, produces the keenest sensibility. Any indication of a wish to emancipate them, endangers the master, and subjects the slave to a more rigorous discipline. The slave-holding States would combine and resist every attempt of ours, at emancipation. Should we hereafter persist in provoking a union of these States, the parties would take their stand with all the inveterate obstinacy, which a deep sense of wrong on the one hand, and a zeal for humanity on the other, would inculcate. Instead of a competition in acts of kindness and mangnanimity; instead of an honourable emulation in feelings and duties, of forbearance and charity; instead of patriotic struggles for the safety, prosperity, and glory of the nation; we should be engaged in the unprofitable and fatal strife of inflicting and retaliating injuries, provoking jealousies and deadly hate; throwing obstacles and stumbling blocks in the way of each other's prosperity and happiness; and, at last consummate the hopes of tyrants by destroying the Union, and prostrating, in the dust, the temple of liberty.

I have thus given you, my fellow-citizens, a plain, concise, and candid view of my conduct, and my reasons in this interesting and important question. If I have erred, it is from an excessive zeal for the preservation of the Constitution and a superabundant solicitude for the harmony and safety of the Union.

In reviewing, however, my course, since the question has been decided, I find no cause of regret, but much of felicitation. The framers of the Constitution were obliged to yield much for the sake of union; and the great Washington has told us that such concessions are necessary to preserve it. Those who apprehended that slavery would be extended over the *immeasurable west*, will derive consolation that it is from thence excluded, and that settlements will be commenced and continued, by a people who will never after consent to establish it. Those who claim the territory as a common property for a common retreat, will be satisfied with the reflection, that though their portion is small, it is populous and valuable, and that they are excluded from a latitude where slaves could never be profitably employed. Those who saw, in this contest, an approaching storm with devastation and ruin in its wake, may rejoice "with joy unspeakable," that its fury is assuaged, its clouds are scattering, and the sun of harmony is rising "with healing in its wings and majesty in his beams."

John Holmes.

U.S. Senator Robert C. Byrd: Reports From Washington (June 1973)

BYRD ASKS MORE COAL USE IN ENERGY CRISIS

In a recent speech in the Senate on the energy crisis, Senator Byrd declared that "the national security requires the nation to give utmost priority to expanding its own sources of energy," and called for "a national commitment to coal research."

"Coal is the only energy source the United States has in available abundance that will assure domestic security," Byrd said.

He called coal "a huge national asset, comprising 88 percent of our proven recoverable reserves of all fuels."

Coal research, he said, should be directed to two major objectives: converting coal to gaseous and liquid fuels, and to reducing and controlling sulfur dioxide emissions when coal is burned, so that clean air standards may be met.

Following President Nixon's energy message, Byrd met twice with representativs of the White House to protest that the message "failed to recognize the potential of coal in solving the energy crisis."

Byrd said the "gap in funding between atomic energy research and research on coal is especially disturbing." The energy message called for $574 million for atomic energy research and only $91 million for coal research.

[Caption]

Mrs. Robert C. Byrd is presented with an "Erma Byrd Holly," a hybrid that was developed from research that began in 1947. The new tree was named for the wife of the Senator in recognition of Byrd's efforts in securing federal funds for agricultural research in Appalachia. Presenting the holly is Dr. Peck Neal of West Virginia University, who said the tree "is extremely hardy and is two or three times as heavily fruited as the American holly." With Senator Byrd at right is Dr. Daniel Hale of Princeton.

BYRD AWARDS GO TO 254 GRADUATES

The Robert C. Byrd Scholastic Recognition Awards are being given by Senator Byrd to 254 valedictorians in West Virginia high schools this year.

Each award consists of a $25 U.S. Savings Bond and a certificate inscribed with the student's name.

Thus far, in 5 years, Byrd has given 1,214 of the bonds since he began the awards in 1969, the cost of which he has personally borne.

The awards go to the valedictorians of each public and parochial high school in the state, as well as to the Schools for the Deaf and the Blind at Romney.

Senator Byrd established the awards to encourage scholastic achievement in West Virginia high schools. They are presented to the students at commencement.

CONFIRMATION OF MESA CHIEF ASKED BY BYRD

Senator Byrd has introduced a bill that would require Senate confirmation for the director of the newly-established Mine Enforcement and Safety Administration (MESA).

"Since coal miners labor under the most potentially hazardous conditions in the nation," Byrd said, "miners in our state and throughout the nation need to know that they are getting the protection they deserve from this new agency."

At present, the MESA director would be appointed without action by the Senate. Byrd said the position "is extremely important, and it is imperative that it be made subject to Senate confirmation."

BYRD FAVORS OCTOBER VOTE

Senator Byrd has introduced a bill to require that federal elections be held on the first Tuesday after the first Monday in October, rather than in November.

Byrd told a Senate subcommittee hearing on his measure that it would "stem the tide of rising campaign costs and encourage a greater voter turnout."

The present lengthy campaigns, Byrd said, "inundate the American voter, and he may have had his fill of politics by the time November comes around."

Byrd pointed out that modern communication methods, particularly TV, "make long campaigns a thing of the past." He also said that moving elections to October could "avoid the often severe winter weather which contributes to keeping voters at home."

BYRD GETS FRUIT LAB FUNDS

Senator Byrd has obtained White House release of $200,000 in planning funds, which he secured, for the $3.5 million Fruit and Berry Laboratory he obtained for the Martinsburg-Kearneysville area.

A contract to plan the new facility is expected to be let within the next two months. Some preliminary specifications have already been developed for the laboratory by the Agricultural Research Service.

BYRD SAYS WATERGATE HAS HURT, BUT URGES RESTRAINT

Following are excerpts, taken from the Congressional Record, of the speech which Senator Byrd made on the Senate floor on May 23 on the Watergate situation:

Six months ago, if one had mentioned Watergate anywhere in the country other than Washington, D.C., the mention would have produced a questioning stare or an expression of boredom. Today, even the remotest communities in our land have at least a passing familiarity with the unfolding picture that bids fair to render the reputation of Machiavelli passe.

While the burglary of the Democratic National Committee headquarters has been adjudicated and the guilty sentenced, there are ramifications of that action which are still sub judice, and I will not comment on them. But enough is known about these ramifications to justify the conclusion that something happened which threatened to subvert the American political system as we have known it since the inception of the Republic. Testimony has been given that shows that the Presidential election, and certain Democratic candidates in that election, were the prime targets of the political subversion. But as the circles have widened from the spot in which the stone was cast into the pond, questions have arisen that have a wider and more serious implication for the future of this Nation.

It now appears that in some of the highest offices in Government, there was more than a hint of arrogance, a lack of concern for the canons of integrity, and a contempt for the basic interests of the people, heretofore unknown in the history of Government.

I am not speaking now as a partisan Democrat. I am speaking as a deeply concerned citizen who is dedicated to the ideals and practices of democratic government that have been the cornerstone of this Republic since the Constitutional Convention, almost two centuries ago.

One does not need to be a Ph. D. in world history to be aware that in every government since the dawn of time, there have been blots on the escutcheon of state, in varying degrees. And because we have governments of men, and not of saints, these governments will, on occasion, suffer from the foibles and the frailties of men. Whether the form of government is parliamentary, republican, monarchic, or totalitarian, the dangers of excesses in the application of power are always present. In every case, the misuse of power is corruptive of those who wield it, and great suffering is borne by the people.

I do not know what will ultimately come out of the Watergate investigations. Rumor and speculation are rife, and, as I am sure you know, this city is a fertile breeding ground for both. I am convinced, however, that no greater harm can be done to this Nation, than that anything less than complete disclosure be made to the American people. The American people can be fooled, sometimes, but they are not fools. They can be temporarily intimidated, but they are not lacking in courage to face adversity. What they need, always, is that they be informed.

And it is only fair to say that the American people are not entirely blameless as regards the crisis in confidence that now faces their Government. For almost a half century, since the great depression brought us face to face with stark reality after a decade of euphoria, the vast majority of our people have lived high on the hog, as our industry and technology helped to provide the highest standard of living in the world.

The opiate of complacency; the intoxication of easy living; the welfare state syndrome, with its rewards for laziness and its disdain for thrift; the growing disrespect for law and disregard for authority; and the increasing contempt with which the fundamental and traditional verities have been viewed—all of these have been destructive of the stable values that have constituted the underpinning of our society and our way of life from the very beginning of this Republic.

The consequences have signaled a deterioration of national morality manifesting itself in many ways, the latest and not the least of which has been the Watergate case with its startling and ever-deepening revelations which, day after day, confound the imagination. A good many people—well intentioned, of course—say the country should forget about the Watergate and get on with more important business. But there is no business more important than restoring confidence in Government, and upholding the laws of the land. And whatever the crime, whether it consist of doing violence to the individual, violence to property, or violence to the political system, he who commits a crime in our society should be held responsible, no matter how high or how low his status may be. For to whom much is given, much is required. Watergate is a complex case, involving the apparent commission of numerous felonies including, but not limited to, the illegal interception of wire or oral communications; the obstruction of justice; conspiracy to obstruct justice; perjury; subordination of perjury; bribery of witnesses; burglary; falsification of facts; and the willful prevention of communication of information relating to violations of Federal criminal statutes. In addition to these felonies, there is to be considered the commission of numerous misdemeanors involving, for example, the failure to report receipts and expenditures of campaign funds.

It ill behooves us to attempt to dismiss this bizarre scandal as something that is common to the American political scene and normally engaged in by both parties. In the first place, this is not true; in the second place, if it were the common thing to expect in American elections, a more serious indictment of our political system could scarcely be made.

Undoubtedly, irregularities occur in every election, but at no time in the history of American polictics has there been anything that would compare with the sordid Watergate scandal—its utter illogicity; the number and rank of former and present high administration officials apparently involved; its breadth and depth; and its far-reaching, potential ramifications.

The Teapot Dome scandal in President Harding's administration 50 years ago involved high administration officials, and love of money was the root of the evil. President Harding himself was untainted, although his selection of Secretary Fall and other Cabinet officials, to say nothing of his judgment, was obviously faulty.

In Watergate, it is not the love of money but the use of money to pervert the political process that goes to the heart of the matter.

Watergate was a broad plot to destroy any effective political opposition, and it thus struck at the very roots of democracy.

In Watergate, national security considerations have been invoked in justification of the crimes committed; yet, national security has been impaired through the misuse and perversion of national security agencies such as the CIA and FBI.

In Watergate, it is suggested that the object was to seek intelligence for the purpose of preventing the commission of violence; yet violence, both to the law and to the political system, was committed by resort to police state methods.

In Watergate, high officials in an administration committed to the preservation of law and order, apparently knowingly and willfully violated the law of the land.

A former Attorney General and a former Secretary of Commerce have been indicted; another Attorney General has resigned; several high White House aides, including the Counsel to the President and top advisers to the President have resigned; other high echelon departmental and agency personnel have resigned; and an acting FBI director has resigned.

Teapot Dome brought into question the honesty of men; Watergate impugns the integrity of government, assaults the credibility of an administration, and epitomizes the arrogance of misplaced power.

The prospective impact of Watergate upon the Nation's foreign policy can be serious at a crucial time in our history, and the resultant potential impairment of the office of the Presidency is a matter of grave consequence.

It is a time for restraint and sobriety in our words, our actions, and our judgments.

Some say the President should resign. I see no present justification for this, and, hence, do not agree.

Some have suggested that the President be impeached, but such talk is, at best, premature and, at worst, reckless. There is no hard evidence to date linking the President either to the planning or the commission of the criminal acts or even to the attempted coverup. There has been a great deal of hearsay implicating the President, much of it reportedly coming from scared men who seek immunity to save themselves or who seek to excuse or mitigate their own actions.

Admittedly, the President has contributed, by his own actions and words, to such doubts and suspicions as have arisen. He temporized when he should have acted early and decisively to demand the resignations of Ehrlichman, Haldeman, Dean, and others. Their resignations he should have welcomed, not lamented.

Rather than suggest that no immunity be granted to individuals holding positions of "major" importance in the administration, he should have urged that every conceivable step be taken to get at the whole truth, regardless of where this may have led.

He should have gone outside the administration, at this critical stage in the investigation and prosecution of the case, for his appointments to the offices of Attorney General and Director of the FBI.

Instead of acting forcefully, unhesistatingly, promptly, and freely so as to allay doubts and suspicion, he encouraged doubts and suspicion by temporizing and by delaying action until forced by public opinion to do something. Even then, the steps taken were no more than the minimum required.

So, seeds of doubt and suspicions have been sown and nurtured. But to date, they remain just that—doubts and suspicions—unfortunate enough; yet, fortunately, nothing more. But mere doubts and suspicions are hurtful, and I hope that when all the facts are in—if they are ever fully known—the President will be shown to have been untouched. To this day I have not wanted to believe that he was involved, and to this day there is no direct testimony or evidence of Presidential involvement. And unless and until convincing evidence is presented, no man should jump to hasty conclusions based on rumor or hearsay or reflecting personal or partisan bias. In this regard, Democrats, generally, would be commended for the remarkable restraint they have shown to date. By and large, the Republicans have led the way in expressing concern and in demanding a prompt and full airing of the facts. This is as it should be, because this is no matter and this is no time for partisanship. When the President is in trouble, we are all in trouble. When the President is damaged, the Nation is damaged; the office of the Presidency itself is then weakened; and the system of checks and balances is then ruptured.

I think we all, therefore, carry a heavy duty to discourage the gossip, the muted whispers and loose talk of impeachment. This is not to say that the facts should not be pursued. They should be followed wherever they may lead—because, only then, will the doubts of the people be resolved and their confidence restored. This has to be, regardless of the consequences. But until there is real and substantial evidence of "treason, bribery, or other high crimes and misdemeanors," the utmost wariness should be exercised in what we say, and all of us should refrain from prejudging the President.

Impeachment is the ultimate remedy under our Constitution and it should be approached with the utmost caution—so vast, so grave, and so far-reaching are its consequences. Our forefathers deemed impeachment "a valuable element in their new Constitution, for it enabled Congress to depose, and the fear of it might be expected to restrain," but it is a last resort and must never be advanced on the basis of insufficient proof, personal or professional pique, or partisan considerations.

For the moment, let the duly constituted congressional committees and the courts proceed as their duty binds them to do. Let the rest of us discipline ourselves to think and speak carefully until the day when we may see clearly rather than, as it were, through a glass darkly. If fate does her worst, God forbid, time will await the event.

In the midst of all this, let us also be mindful that far from being a failure of the constitutional system, it was the constitutional system that saved us. Under a different system, the misdeeds of the wrongdoers would never have been known, crimes would have gone unpunished, and public indignation would not have been aroused. But it was a Federal grand jury that brought the first indictments. It was a Federal judge whose firmness led to the first break in the case. It was a bipartisan Congress that launched a formal investigation to make public all the facts so that reforms may be achieved. And it was a free press that continued to probe, and it found much that was hidden.

The process will go on. And although there is much cause for outrage at what has been done to subvert and corrupt the political process, there is much cause for pride in a constitutional system so devised and so disciplined that wrongs will be redressed and the public's right to know will be forever assured.

MINER BENEFITS INCREASE

Senator Byrd said that as of the end of April, $292 million in black lung benefit payments have been made to 47,200 West Virginians. The program was started in 1970.

The benefits being received by West Virginians now total $9.3 million a month.

MONEY FOR MED SCHOOLS BEING URGED BY BYRD

The Senate has passed a supplemental appropriations bill containing an amendment by Senator Byrd to provide $25 million to establish up to eight new medical schools.

In a subsequent conference with the House of Representatives, the amount was reduced to $20 million. Both Senator Byrd and Representative John Slack were conferees.

"I share the hopes of many West Virginians that one of the new colleges will be located in Huntington," Byrd said, noting that the city "is an ideal location because both Marshall University and a Veterans Hospital are located there."

Byrd's action would provide funds for planning the first phrase of the establishment of the schools. They would be operated in conjunction with Veterans Administration Hospitals.

MORGANTOWN JOBS ASSURED, BYRD PUSHES GASIFICATION

The director of the U.S. Bureau of Mines has assured Senator Byrd that there will be no personnel cuts at the Bureau's Energy Research Center at Morgantown.

Byrd, who was instrumental in securing federal funds for the center, said that Dr. Elburt Osborn "has informed me that none of the 172 positions at the facility will be cut."

Reports had indicated that a $600,000 budget reduction and at least a 25-position personnel cutback might be effected at the Morgantown facility.

Byrd has also proposed a $1 million amendment for first-year cost for an underground gasification project which would be conducted at Morgantown.

BYRD GETS FUNDS TO KEEP BAILEY DAM ON SCHEDULE

The White House recently advised Senator Byrd that $1.7 million will be released for work on the R. D. Bailey Dam in Wyoming County.

Byrd earlier had urged the Corps of Engineers to divert funds from other projects in the nation, if necessary, to keep the Bailey dam on schedule. He also urged the White House to release the needed money.

The released funds will permit the relocation of a school, thereby freeing fiscal year 1974 funds for the awarding of a construction contract for the spillway. Byrd noted that the contracts can now be let in September of this year.

"The $1.7 million will enable the Corps of Engineers to stay on schedule in an effort to finish this vital project in June of 1976," Byrd said.

BYRD SEEKS TO AID POLICE

A bill has been introduced by Senator Byrd to require that persons who bring damage suits against policemen post bond to cover court costs for the officers if the plaintiffs lose their cases.

Byrd introduced the bill after consulting with West Virginia police officials. He said it is aimed at reducing the "harassment of police officers in the proper performance of their duties.

"In many cases now," Byrd said, "an officer must bear the expense of court action even if he is exonerated of the accusations made against him."

The prospect of "being hauled into court unfairly, and having to pay the court costs even if he is shown innocent, has tended to intimidate some officers in recent years," Byrd said.

If the officer loses the suit against him, he would be required, under Byrd's bill, to pay the costs. The bond then would be returned to the complainant.

SENATE PASSES BYRD RECONFIRMATION BILL

The Senate has passed, by a vote of 73 to 17, a bill by Senator Byrd to make reconfirmation of Cabinet officers mandatory at the start of every presidential term.

At present, Cabinet officers are confirmed by the Senate when first appointed. If reappointed by the President for his second term, they do not now have to return for Senate reconfirmation.

"This bill could help to restore a balance of power between Congress and the Executive Branch of government," Byrd said in a floor speech before the vote.

"It is ironic that the President must face the people after four years and respond to criticism, while the Cabinet heads, who perform important work in the Executive Branch, do not," Byrd said.

BYRD OPPOSES CAMBODIA BOMBING

The bombing which the United States has carried on in Cambodia is "unjustified and carries with it the danger of a deeper involvement for America in Indochina," Senator Byrd declared in a commencement address delivered at Morris Harvey College in Charleston on May 13.

Byrd said "the United States has no commitments to defend Cambodia. There are no American ground troops to be protected, and our prisoners of war are home."

Noting his support for President Nixon's handling of the Vietnam war, Byrd said, "I believe the results he achieved justified my support. We have effected a cease-fire in Vietnam. We have been assured by the Administration—and by President Thieu—that South Vietnam is capable of handling its own defense. Therefore, the bombing of Cambodia should stop."

OTHER RECENT ACTIVITIES OF SENATOR BYRD

In recent actions, Senator Byrd has:

Introduced a bill in the Senate which would give West Virginia an additional Federal Judge for the Northern District. The state now has four Federal District Court Judges.

Gained approval of the Bureau of Customs for extending Charleston's new Port of Entry status, which he obtained, to all of Kanawha and Putnam Counties in order to serve truck terminals outside Charleston.

Obtained a Senate Appropriations Subcommittee's approval of an amendment to add $26 million for educational programs for 40,000 handicapped children.

U.S. Senator Robert C. Byrd: Reports From Washington

(November 1973)

BYRD WOULD NOT URGE IMPEACHMENT OF NIXON

Following an October 21 appearance at the Cross Lanes (W. Va.) Bible Church, Senator Byrd was interviewed by the press and was asked whether or not the firing of Professor Archibald Cox, the day before, and the resignations of Attorney General Richardson and Deputy Attorney General Ruckelshaus would cause impeachment of the President.

Byrd answered that this was a matter for the House of Representatives primarily to decide but that Mr. Nixon's actions did not leave "much other choice." Excerpts from Byrd's statements were repeated on the "Today Show" the next day, Monday, October 22.

In saying this, Senator Byrd did not advocate that the President be impeached. In indicating that Mr. Nixon's actions did not leave "much other choice," Byrd was not referring primarily to the firing of Cox but, rather, more specifically to the fact that the President had not yet publicly indicated that he would comply with the District Court order to surrender the relevant portions of the nine White House tapes, together with other papers, handwritten notes, memoranda, and documents specified in the subpoena.

At Tuesday noon, on October 23, Byrd delivered a Senate Floor speech, from which is extracted the following:

Mr. President, this constitutes my evaluation of the discouraging events of the past week end. I do not maintain that there are yet absolute grounds for impeachment of the President, but I do maintain that there is adequate cause for profound concern. Impeachment is a matter to be determined by the other body, and I will reserve any final personal judgment until trial by the Senate, after the House impeached—if that occurs. Certainly, I do not maintain that, although the firing of Cox is an indirect affront to the Senate and the summary abolishment of the prosecutor's office force smacks of totalitarian authority—these acts, in my judgment, do not in themselves appear to formulate a just basis for impeachment.

However, if the courts should decide that the President has failed to meet the requirements of court orders and that he is, therefore, in contempt of the courts, such, in my opinion, would probably come within the purview of the constitutional reference to "high crimes and misdemeanors," and the foundation would have been laid for the House to consider impeachment proceedings. I hope that, somehow the President will review his position in this regard and will yet fully comply with the order of the courts and submit the tapes and relevant evidence required by the court order.

Later, the same afternoon, Mr. Nixon announced he would comply with the court order.

Interviewed on the "CBS Morning News" on Monday, November 5, Byrd was asked whether he joined with those calling for the President to resign. Byrd answered:

"I do not. I think that this is a matter that the President's political friends, his advisers, and public opinion will ultimately decide."

Byrd was then asked whether he thought President Nixon's ability to govern had been weakened. Byrd answered:

"I do share the opinion that he has lost a great deal of his ability to govern. I feel sorry for the President, and I think he has done a lot of good for the country. He got us out of Vietnam. I personally liked his appointments to the Supreme Court, and I think he has done well in foreign affairs.

"But there is no question but that public confidence has been eroded. I would like to see it all go away. I would like to see the President be able to do something to retrieve this confidence. But, based on his past performance with respect to the Watergate situation and related affairs, he has not been able to do this, and it seems that every day and every new statement have eroded confidence further."

During the Senate Rules Committee interrogation of Gerald Ford, nominee for Vice President, on Monday afternoon, November 5, Byrd said:

"I have never advocated impeachment. And as a member of the Senate, I do not intend to advocate impeachment. That is up to the House of Representatives to decide.

"There was a brief three-day period immediately following the firing of Mr. Cox and prior to Mr. Nixon's decision to turn over the tapes to the District Court, when, in my judgment, he was in contempt of court because the court had ordered the surrender of the tapes. The President had indicated he had no intention to surrender them.

"In that brief period, in my judgment, the President was in defiance of the court order, which led me to say that he did not leave 'much other choice' but impeachment. However, I would never advocate impeachment, because, as a member of the Senate, in the event the House were to impeach the President, I would have to sit as a juror in the trial of the President by the Senate."

BYRD OFFERING STUDENT AWARDS FOR 6TH YEAR

With West Virginia high schools now well into their first semester, Senator Byrd wishes to inform senior class students in the state that the Robert C. Byrd Scholastic Recognition Awards are again being offered this year to valedictorians of the state's high schools.

Each award consists of a $25 U.S. Savings Bond and a handsome certificate inscribed with the student's name. The awards go to the valedictorians of each public and parochial high school in West Virginia, and to the Schools for the Deaf and the Blind at Romney.

Thus far in the five years the awards have been made, Byrd has given 1,214 of the bonds and certificates, the cost of which he has borne out of his own income.

BYRD OPPOSES DELAY OF FORD NOMINATION

With reference to Gerald Ford's nomination to be Vice President, Senator Byrd was asked, during an interview on the "Today Show" on October 31, whether the country should have a man in line of succession to President Nixon who is a Republican. Byrd answered:

That's my viewpoint and I believe that it would be shared by most of the Democrats in the Senate. The country elected a Republican. I think the country's entitled to have a Republican serve out the remaining three years of the President's term. I think it would be a serious mistake on the part of the Democrats and Congress if they sought to withhold action on the nomination of Mr. Ford.

Byrd said, in speaking on the Senate Floor (October 23):

Mr. FORD's confirmation should rise or fall on the merits of his own personal case and on the basis of his qualifications to fill the Office of Vice President. I may vote against him or I may vote for him, but I will not be a party to intentional delay of action on his confirmation out of pique or as an indirect means of changing the election results of 1972.

BYRD GETS FAA OFFICE FOR BECKLEY

At the request of Senator Byrd, the Federal Aviation Administration has located an Airways Facilities Maintenance Sector at Beckley.

Byrd, chairman of the Senate Appropriations Subcommittee on Transportation which funds the FAA, had urged the establishment of such an office for the past several months. Recently Byrd and FAA officials toured the Raleigh County Airport area, where Byrd has recommended the maintenance facility be located.

A maintenance field office keeps air traffic communications and navigation facilities in proper working order. Three technicians were to be at work by November 1, and two more are expected. The annual operating budget will be $100,000.

BYRD GETS $39 MILLION FOR COAL RESEARCH

Senator Byrd has been successful in obtaining an additional $39.3 million for research into coal gasification, liquefaction, and better mining methods. He had sought a total of $42 million. The bill has been signed by President Nixon.

Included in the amount is $3 million for the coal research work being done at Cresap in Marshall County, a facility Byrd obtained for West Virginia. Of this, $1 million is new funding, and $2 million is in authority to spend funds previously appropriated.

Byrd is a member of the Senate Appropriations Interior Subcommittee, which approved his amendment providing the funds.

BYRD OBTAINS LEETOWN LAB

Senator Byrd has secured $300,000 for planning a $3 million National Fish Disease Laboratory at the Leetown Hatchery in Jefferson County.

The facility will develop means of diagnosing and controlling fish diseases, and will train personnel for handling these tasks, Byrd said.

U.S. SENATOR ROBERT C. BYRD: REPORTS FROM WASHINGTON

(May 13, 1974)

DEMANDS FOR PRESIDENT NIXON'S RESIGNATION ARE PREMATURE, SENATOR BYRD SAYS IN SENATE

Following is the full text of a speech Senator Byrd made in the Senate on May 13:

Mr. President, throughout the past few days there has been an increasing intensity of calls for the resignation of President Nixon. Talk of resignation has escalated sharply, and, late last week, the Halls of Congress were swept with rumors of forthcoming resignation.

I have been a critic of the tactics employed by the President throughout the Watergate crisis. I deplored the inadequate investigation of the Watergate break-in by the Justice Department and the FBI. I worked with my colleagues on the Judiciary Committee to establish an independent special prosecutor.

I was appalled at the firing of Archibald Cox and spent an entire day, during public hearings, to extract, under oath, pledges of independence for the new special prosecutor, Mr. Jaworski, from Attorney General Designate William Saxbe.

I have been critical of every delaying tactic employed by the President and his attorneys to impede the investigations by the Special Prosecutors and the House Judiciary Committee.

To the President's charges that the Congress was dragging out Watergate, I responded that the most expeditious way for the country to get Watergate behind it would be for the President to be forthcoming with the production of tapes and documents necessary to the proper conduct of the investigations going forward under our constitutional form of government.

I take the time now to reiterate my constant position on Watergate and related affairs, for I do not wish to be misunderstood in what I am about to say about the whirlwind of resignation talk.

The United States has been justly proud of being a government of laws, and not of men. We have been scrupulously fair in our determination to preserve the principle that a defendant is innocent until proved guilty. It should be borne in mind, in this connection, that the President of the United States is not yet even a defendant—except in the court of public opinion.

If a President of the United States should be drummed out of office by intense pressure from the media, Members of Congress, indeed, by public opinion itself—before articles of impeachment, based on evidence formally presented, have been voted—I fear the impact such an event would have on the constitutional bedrock of our system.

Ours is not a parliamentary form of government under which an administration may be swept away by a "no confidence" vote and a new election called for by that vote. The President of the United States serves a set term of 4 years under our Constitution—through periods of high public confidence and low public confidence. The office is protected from what Walter Lippmann termed "the will of the transient majority," which he described as manifesting itself in pre-World War II Germany, when the German Reichstag, in one hysterically fanned vote, voted away its prerogatives for the next thousand years.

If calls for resignation and the fanning of resignation rumors create a flash fire of public opinion that stampedes a President into a forced resignation, this would change our system from one of fixed tenure to one in which a President would remain in office only by popular approval. Our Constitution gives the mechanism by which a President may be removed from office if his acts have made him unfit to continue to exercise the public trust. That mechanism is being employed.

Even now the House Judiciary Committee is hearing evidence to determine if articles of impeachment should be drafted to be sent to the floor of the House for a determination by that body as to whether the President should stand trial in the Senate. It will only be through the operation of this mechanism that enough evidence will be presented to the Senate and the American people to allow them to make a reasoned judgment on the culpability of the President.

There may very well come a time when the evidence and the circumstances are such that consideration of resignation would be justified. My concern now however, goes to demands for resignation of the President before the evidence has been formally acted upon by the House of Representatives and articles of impeachment adopted.

I recognize the concern for the agony the country may endure through an impeachment proceeding in the House and a possible trial in the Senate, which has prompted many to call for the resignation of the President so that the Nation may be spared such an experience. I submit, however, that in the highly charged atmosphere that now exists throughout the country, nothing is more important to the Nation than the exercise of sober judgment. Nothing is more dangerous than capitulation to mass emotionalism, which takes so little to deteriorate into mass hysteria.

But, if the President were to resign due to such pressures as are now engulfing the country, and, by so doing, terminate the impeachment inquiry now underway in the House, a significant portion of our citizens would feel that the President had been driven from office by his political enemies. The question of guilt or innocence would never be fully resolved. The country would remain polarized—moreso than it is today. And confidence in government would remain unrestored.

Future generations would hesitate to use the constitutional mechanism of impeachment if they saw that it had such an impact on us that a wave of public outcry drove a President out of office rather than allowing the mechanism to run its proper course. An impeachment proceeding is a constitutional remedy of last resort. As agonizing as it may be in its use, the country will survive its application. So, I speak—not in defense of the President, but, rather, in defense of the constitutional system and fairness to all concerned.

I have carefully read the transcripts of the President's meetings which were recently released. I find little comfort for the President in them. Indeed, I feel they are damaging to him. I share the view of the House Judiciary Committee that the transcripts cry out for the "best evidence" to be produced; that the actual tapes themselves be studied to determine if some events are as ambiguous as they might appear to be in an edited transcript of the words themselves.

I believe that not only those tapes, but also the tapes and documents still being withheld by the President from the Special Prosecutor and the House Judiciary Committee ought to be produced and studied so that a sound judgment can be made, based on all of the best evidence, of any culpability on the part of the President.

I submit that resignation, brought about by such events as we have seen in the past few days, could do serious and permanent damage to our constitutional system. Rather, I would hope that the storm would subside and that the President would fully cooperate by surrendering the "best evidence," which still remains in his possession, and that the

Congress proceed calmly and with judicial prudence with its impeachment inquiry. The result of such action would assure the American people that, whatever the final result, it had been reached carefully and in the spirit of detached fairness that is so necessary to prevent a scar from being left upon the American system that could take generations to heal.

RECENT BYRD ACTIONS

In recent actions Senator Byrd voted against forced busing of school children;

Secured Congressional approval for Byrd's amendment adding $2 million to initiate Amtrak service in five southern West Virginia cities—Bluefield, Welch, Williamson, Fort Gay, and Kenova;

Secured House conferees' approval of $25,000 for dredging, snagging and clearing of Guyandotte River;

Byrd, acting as a Senate conferee, secured approval for Byrd amendment adding $1.1 million for water supply projects in West Virginia communities of Walton, Sissonville, Gandeeville, and Pocatalico.

U.S. SENATOR ROBERT C. BYRD: REPORTS FROM WASHINGTON

(April 1975)

IMPORTANT FACTS ON ENERGY CITED BY BYRD

Dear Constituent: Many people are not aware of the considerable amount of energy legislation that was enacted by the 93rd Congress (1973–74). The following measures do not constitute all of the legislation that was enacted into law during those two years, but are examples of energy measures passed by Congress during those two years.

S. 1570 (Emergency Petroleum Allocation Act);

H.R. 11372 (Conservation of energy on the nation's highways—55 mph speed limit);

S. 2589 (National Energy Emergency Act—this was vetoed by President Nixon);

S.J. Res. 185 (Fuel pass-through for truckers);

H.R. 11793 (created Federal Energy Administration);

S. 1081 (Alaska Pipeline);

H.R. 14368 (Energy Supply and Coordination Act);

H.R. 14434 (Special Energy Research and Development Appropriations Act);

S. 3066 (Promote use of solar energy in housing);

H.R. 11864 (Solar Heating and Cooling Act);

H.R. 14920 (Development of geothermal energy);

H.R. 11510 (Energy Research and Development Act);

S. 3234 (Solar Energy Research and Development Act);

S. 386 (Urban Mass Transportation Act);

S. 1283 (Federal Nonnuclear Energy Research and Development Act);

H.R. 10701 (Deep water ports).

Energy facts

In view of the energy problem confronting the country at this time, the following facts may be of interest to you:

If the U.S. could achieve an average of 3.4 commuters per auto, it could theoretically reduce auto gasoline consumption by 16 percent.

A high degree of compliance with the 55 m.p.h. speed limit would reduce gasoline consumption by almost 3 percent of total auto and truck use.

Lowering temperatures 1 degree in winter and raising them 1 degree in summer can save as much as 3 percent of energy used for heating and cooling.

If residences currently not meeting insulation standards are retrofitted, the United States could save the equivalent of 300,000 to 350,000 barrels of oil per day.

Six inches or more of attic insulation could pay back its cost in less than 1 to 2 years, saving the homeowner up to 20 percent on fuel bills each month.

Caulking and weatherstripping could save homeowners up to 10 percent on fuel bills per month.

Storm windows and doors could pay for themselves in 3 to 15 years, and save up to 15 percent on heating-cooling bills per month.

1947 was the last year which the United States was a net exporter of petroleum.

Present worldwide reserves of oil are 135.5 billion barrels, of which 70 percent is in the Persian Gulf.

By the turn of the 20th century, coal supplied 90 percent of U.S. energy consumption. By 1950, coal dropped to 35 percent of the Nation's energy consumption.

By 1972, coal accounted for only 17 percent of the energy consumed by the Nation. Hence, while coal production has remained almost constant, the percentage of total energy consumption supplied by coal has declined dramatically.

Approximately 60 percent of the Nation's coal reserves contain 1 percent or less sufur by weight, and most of this is located in the West.

In 1973, the United States produced 599 million tons of coal. About 90 percent of this production was mined in the eastern United States.

In 1973, approximately 50 percent of total coal production of 599 million tons was produced from underground mines, the remaining 50 percent from surface mines.

Surface mining production increased 58 percent from 1965 to 1973, while underground mining decreased 11 percent in the same period. Underground costs have increased 109 percent since 1965, surface costs 46 percent.

The United States has enormous reserves of coal—enough to last over 800 years at 1973 consumption rates. Recoverable reserves would last 500–600 years.

Only about 21 percent of the coal currently mined is less than 1 percent sulfur by weight.

The United States exported 55 million tons or 9 percent of total coal production in 1973.

According to the Federal Energy Administration, in excess of 25 million tons of coal production are lost to the Nation each year as a result of wildcat strikes and slowdowns.

Manpower is the single greatest deterrent to expanded coal production. Estimates of additional manpower requirements are as high as 85,000 new workers between 1975 and 1985.

In 1973, employment in the bituminous coal mining industry totaled 157,000 and 4,700 in the anthracite mining industry.

Nuclear energy accounts for approximately 2 percent of our total energy sources today. It is expected to increase to 15 percent by 1985 and possibly as much as 25–30 percent by the year 2000.

Recent technological advances and the significantly higher prices of alternative fuels now make solar energy technologically and economically more competitive and will enable solar energy to play an important role as a commercial energy source.

Over 200 U.S. firms have expressed interest in the use of solar energy for heating and cooling buildings.

Wind energy systems should be economically viable within a few years and in some applications are economically viable today.

It is likely that use of the ocean as an energy source will not exhibit rapid growth until 1985 to 1990.

Geothermal energy, in the broadest sense, is the natural heat of the earth. Temperatures in the earth rise with increasing depth, but most of the earth's heat is far too deeply buried ever to be tapped by man. At present, economically significant concentrations of geothermal energy occur where elevated temperatures are found at depths less than 10,000 feet.

Steam-electric power production is currently the most important use for geothermal energy.

Power plants must be built at the site of the reservoir because geothermal heat cannot be transported without potential energy losses.

Foreign investment in the U.S. coal industry is presently in excess of $300 million and growing rapidly.

Foreign control of U.S. production capacity is not known exactly—Canadian interests are the largest.

The United States is principal supplier of low ash, heavy coking coal upon which many industrialized countries are dependent for their steel industries.

In short- and medium-term, U.S. coal exports cannot meet potential market demand unless the Nation develops resources on a scale considerably larger than at present.

Primary constraints affecting future levels of U.S. coal export capability are the same as those affecting domestic supply, that is, environmental, capital, logistic, and manpower constraints.

BYRD HOLDS HEARINGS DURING EASTER RECESS

During Congress' Easter recess, Senator Byrd remained in Washington to hold hearings on bills before the Appropriations Subcommittee on the Department of the Interior, of which he is chairman.

RECENT BYRD ACTIONS

In recent actions, Senator Byrd:

Voted to substitute the House tax cut bill ($19.8 billion) for the higher Senate tax cut bill ($34.3 billion). Byrd supported the tax cut, but favored the lower figure because of the federal deficit;

Made dedicatory remarks in Williamson, Welch, and Bluefield on the inaugural run of the Amtrak train he obtained to serve southern West Virginia on the Norfolk and Western;

Obtained construction funds to modify the plant at Cresap in Marshall County to enable it to handle multitesting coal research projects; and

Through the Appropriations Subcommittee on the Department of Interior, which he chairs, secured $500,000 for a project to provide employment in Morgantown by construction of needed office space for the Mining Enforcement and Safety Administration.

BYRD AGAIN GIVES AWARDS

Senator Byrd will again give valedictorians of West Virginia public and parochial high schools $25 U.S. savings bonds and engraved certificates at this year's commencement exercises.

In his scholastic recognition award program, begun in 1969, Byrd has given 1,454 savings bonds at a cost of $27,262, which he paid out of his own income.

"I have long felt that students who achieve excellence in the classroom should receive recognition for their accomplishments," Byrd said.

U.S. SENATOR ROBERT C. BYRD: REPORTS FROM WASHINGTON

(April 1978)

BYRD "SPEAKS OUT" ON CANAL

Dear Friends: There is presently before the United States Senate a matter of historical importance and of national interest—the question of ratification of the Panama Canal treaties—a matter greatly misunderstood by many of our people.

The Canal, now operating basically under the 1903 treaty with Panama, was constructed against overwhelming odds as an engineering wonder, to meet the need for improved transportation between the Atlantic and the Pacific and to serve world commerce.

The treaty terms gave us the right to construct, manage, and operate the canal. From the start, the people of Panama have been dissatisfied with the arrangement under which a 10-mile-wide swath bisecting their country exists under the control of another nation, operated for the benefit of all nations of the world. (Would West Virginians accept for a moment such an arrangement?)

For 75 years, Panama, under its succession of governments, while carefully observing terms of the treaty and not seeking to abrogate the agreement, has found the Canal to be a festering sore in its relations with the United States. Riots occurred in 1964, with attendant deaths and injuries to Americans and Panamanians. Other Latin American countries share the resentment of our "colonial" presence and some of our staunchest allies have wondered about our dual policy of maintaining control over a part of a nation in this hemisphere, while advocating independence and self-rule for other countries.

Presidents Eisenhower and Truman took recognition of our tenuous position and the need for revision of the agreement; subsequently, negotiation of new treaty terms ensued for a period of 13 years under direction of Presidents Johnson, Nixon, Ford, and Carter—a thoroughly bipartisan approach to a matter of national importance. The result is the treaties now before the Senate.

Our negotiators, seeking to serve our national interests, found that: (1) the purpose of the 1903 treaty has been served; (2) the canal is of diminishing importance to us; (3) our continuing need is only for assured access to and use of the canal; and (4) our needs can be met best in an atmosphere of cooperation with Panama, rather than in an atmosphere of confrontation.

The Joint Chiefs of Staff who today—not ten years ago or 50 years ago, but today—have the responsibility of planning for our national defense, unanimously support these treaties. They have said that the treaties are the best way to assure continued operation of the canal—to our benefit and that of all world commerce.

The Joint Chiefs concur that the treaties minimize the danger of sabotage and guerrilla takeover efforts—a possibility which many of our people fail to recognize. The Chiefs point out that in a hostile country we could defend the Canal area at a price of 100,000 men stationed there in perpetuity, but we could not, with any forces, assure uninterrupted operation of the Canal (our real need) in event of persistent sabotage efforts. (Of course, it could not be defended at any cost from a missile attack.)

Presented with the Constitutional "advise and consent" obligation, members of the U.S. Senate must determine whether the treaties should be ratified. Paramount in my mind throughout the process of examining the treaties has been this question: Is the ratification of these treaties in the best national interests of our country, now and in the future? After careful consideration of every issue involved, it is my firm belief that, with certain revisions, the American negotiators have secured a set of agreements with Panama that are in the highest national interests of this country and will strengthen our position in the world.

After first reviewing the treaties in September, it became apparent to me that it would be necessary to clarify two important points concerning our rights under the treaties:

1. The right of the United States, after the year 2000, to take action to defend the Canal and to assure that it will remain open; and

2. The expeditious or "head-of-the-line" passage through the Canal for U.S. military vessels in time of need or emergency.

I sponsored two amendments to the treaties guaranteeing these rights to the U.S., believing that, with these amendments—which the Senate adopted—the new Panama Canal treaties will protect the long-term interest of the U.S. better than the 1903 treaty does. These new treaties will symbolize to our friends and allies in Latin America that we have entered a new era in our relationships with them. Through the treaties, we shall pass on to future generations of Americans a more stable hemisphere and world in which to live.

Sincerely yours,

ROBERT C. BYRD.

The following excerpts are from a statement placed in the Congressional Record on March 10, 1978. In response to an invitation from the Charleston Daily Mail, readers proposed questions for Senator Robert Byrd relating to the Panama Canal Treaties now under consideration in Congress. The following questions were forwarded to the Senator's office, and his answers appear below:

1. The dictator Torrijos permitted the citizens of Panama to vote on the canal treaty. Yet, we have a democracy and are not permitted to vote on it. Why not a referendum?

A. The United States Constitution does not provide for a national referendum on treaties. Our Constitution provides that the President "shall have power, by and with the advice and consent of the Senate, to make treaties provided two-thirds of the Senators present concur; . . ." Our system is based on the premise that the Members of the Senate, as elected representatives of the people, will carefully weigh all the facts and will, based on those facts, make their collective judgment as to whether or not a treaty is in the best interests of the United States.

2. Sen. Byrd, this country is founded on freedom. It has been a free country. How could you ever think of turning the Canal over to a dictator?

A. If the treaties are ratified, the United States will not be entering into them with General Omar Torrijos. The treaties will be between the two governments of the United States and Panama, and will continue to be valid regardless of the changes in heads of state in the future. The U.S. has, in the past, negotiated treaties with countries under the leadership of dictators. The basic question to be decided here—as in the case of other treaties—is whether the treaties are perceived to be in our own country's best national interests. As a matter of fact, Panama appears more stable now, and its leadership appears to enjoy more popular support, than at any other time in recent history.

3. Why should the Panamanians own a canal we built and paid for?

A. Contrary to a general misconception, Panama has always retained sovereignty over the Canal Zone. My support of the treaties is not because of Panamanian interests, but is based on our own national security, commercial, economic, and political interests. U.S. military leaders in the Department of Defense maintain that the strategic military value of the Canal lies in its continued use and accessibility. In view of the general resentment in Panama toward our continued control over the Canal and our military presence there, it is the contention of those of us who support the treaties that the Canal's continued neutral use and accessibility can best be assured through cooperation, rather than confrontation, with Panama and through ratification of the treaties which give Panama a greater stake in keeping the Canal open and accessible.

4. Sen. Byrd, I believe your mail is running about 6-to-1 against ratification of the Panama Treaty. If you purport to represent the people, how then can you justify your stand on the treaty? Also, if you do not represent the people, how can you justify your salary?

A. Although most West Virginians who have communicated with me on the treaties oppose them, I believe that most West Virginians also expect me to vote in, what I deem to be, based on a careful evaluation of all the facts, the best interests of the United States. The easiest vote for me politically would be to vote against the treaties. However, I believe that most West Virginians realize that I have available to me more information than is generally available to citizens, and I think that they would expect me, in the final analysis, to reach a judgment based on the facts, and based on what is in the long-term best interests of the United States, rather than based on whether or not most of my mail is for or against the treaties. Many people throughout the country who are adamantly opposed to the treaties, have never read those treaties, but, rather, have simply reached a judgment "from the beginning" in opposition to the treaties. I have studied the history of the 1903 treaty; I have carefully studied the Foreign Relations Committee's hearing and report on the treaties; and I have given much time to careful consideration of the economic and military and political aspects thereof; and, based upon these careful studies, I firmly believe the treaties, with amendments that I have offered jointly with the Senate Minority Leader, are in our best national interests.

5. How can you say giving up the canal is in our best interest when in July 1977 Russia and Panama signed an economic pact. In those negotiations, Russia discussed financing and construction of a new sea level canal and to establish a Russian naval base in Panama. To ratify this treaty we have promised not to build another canal.

A. Panama does not have diplomatic or trade relations with the U.S.S.R. In July 1977, five Soviet trade specialists visited Panama and discussed the opening of trade relations, but no formal agreements were reached. I know of no follow-up discussions. Our country attaches little significance to the visit, inasmuch as many Latin American countries have trade relations with the U.S.S.R., just as we do. As to any concern about the establishment of a Russian naval base in Panama, Article V of the Neutrality Treaty prohibits Panama from authorizing a foreign nation to garrison forces or maintain military bases in Panama after the year 2000. A violation of the article would give us the right under Article IV to take any appropriate action. Incidentally, the existing 1903 treaty does not contain this prohibition and, if a foreign nation should garrison forces or set up a military base in Panama today, as long as such forces or bases were established outside the Canal Zone itself, the United States would have no legal basis, under the 1903 treaty, to complain.

6. Senator, I understand the Senate has before it only the English language draft of the treaties. Don't you think the Senate should have before it the English language and the Spanish language draft to make sure the Panamanians understand the same way we do?

A. Historically, it has not been the practice to submit foreign texts of treaties to the Senate. The English texts of treaties are always submitted to the Senate for advice and consent. The State Department has had language experts certify both the foreign and English texts of the treaties with Panama to assure conformity and that both have the same meaning in all substantive respects. No discrepancies of any substance were found in the final drafts. Any changes to the texts of the treaties adopted by the Senate will be translated into Spanish to assure conformity of texts and then transmitted to the Government of Panama.

7. How can the government ignore the will of the people in the Canal treaty? When they ignored the will of the people in the Vietnam situation, look what the final result was.

A. The tide of public opinion, as people become more informed about the contents and ramifications of these treaties, appears to be changing. A recent Gallup poll, released Feb. 2, was titled, "U.S. Public Opinion Shifts to Support of Panama Treaties." Gallup said: "Among the large majority of Americans who have heard or read about the debate over the Panama Canal treaties, opinion is now closely divided with 45 percent in favor and 42 percent opposed. A survey taken three months ago showed opinion 48 to 40 percent in opposition."

8. Why are you more concerned with the Panamanian resentment of the treaties if they're not ratified, and are ignoring the resentment of the American people who oppose ratification?

A. If the Senate votes against ratification, my fear is not of Panamanian resentment. My concern is that we will have harmed our own national interests.

9. What will happen to Panama and the Canal when the Communists take over after the treaty is signed? We all know the Communists don't keep treaties. Will it be another Cuba? Will they put in another Soviet missile base?

A. The question presupposes, without justification, that the Communists will take over Panama once the treaties are ratified. There is no evidence suggesting that such an eventuality will occur. The Communist Party in Panama is permitted to exist but has no legal status. It consists of about 500 members and keeps a low profile. The State Department is not aware of any leading government officials who are members of the Communist Party. Torrijos is firmly committed to the free enterprise system, and, since it became an independent nation, Panama's interests have always been closely tied to our own. It should be kept in mind that, if the Panama Canal Treaties are ratified, the U.S. will continue to control and operate the Panama Canal, and to maintain a military presence in the Canal Zone until the year 2000.

If my amendments to the neutrality treaty are approved—and that is a prerequisite for my support—the United States will have the unchallenged right to take action on its own, if necessary, to defend the Canal against any aggression or threat against it.

10. Does the money obtained from the traffic passing through the Canal take care of its maintenance and the money that goes to the Panamanian government, or will the American taxpayer still have to pour into it to keep it going?

A. Under the new treaties, it ratified, funds for operation and maintenance of the Canal and for annual payment to Panama will come from revenues generated by the Canal itself. Our calculations during the negotiations that canal operations will support the treaty arrangements were based on careful studies completed in 1974 and supported by review of economic experts within and outside our government.

11. Do you really think you got a true picture of Panama on your red-carpet tour there?

A. I am quite sure that the representatives of the U.S. national press who accompanied my delegation's visit to Panama would be among the first to say that it was not a "red-carpet tour." On the contrary, they were of the opinion that it was a useful but tough schedule of activities and that it was exacting, demanding, and difficult. I personally laid out the schedule of activities myself—it was not left to General Torrijos or the U.S. State Department to say where we should or would go.

12. Isn't the real reason for giving away the canal the fact that the banking interests who have loaned Panama money want the taxpayers to bail them out? Isn't your attitude predicted by George Orwell's "1984" wherein government officials decide to hell with the people, we think for them?

A. The position of American banks in Panama was never a consideration in the negotiations. The Government of Panama had, at the end of 1976, borrowed from U.S. banks only $350 million. A Federal Reserve figure of $2.9 billion for clearance by U.S. banks against Panama in June 1977, represents larger banking transactions passed through international branch banks in Panama (a large offshore banking center) and regional offices of multinational corporations. It has almost no bearing on the credit position of the Panamanian Government or the country's economy. All of Panama's debt service payments are being made.

13. What rights do these treaties give the U.S. that we do not already have on a far safer basis?

A. I refer the questioner to my reference to Article V of the Neutrality Treaty in my response to question No. 5 above.

14. Why should we give away the canal, which we built, just to appease the Panamanians? Mr. Carter, or anyone else, has never mentioned what will happen to the fifty square miles on land on each side of the canal. My book says that we bought this land and spend millions for improvement. Are we to give all this away with the canal?

A. I would refer the questioner to the responses given to questions Nos. 3 above and 15 below.

15. Why should the U.S. yield to a clear case of blackmail? Have we forgotten Russia's threat—"We will bury you"? What is happening to the integrity of our elected statesmen?

A. Surely no one would believe that the United States—a country of nearly 217 million people, the most powerful nation in the world—could be blackmailed by a small country with a population of less than 2 million people. If the U.S. enters into these treaties, it will not be under any threat of blackmail or to appease the Panamanians. These treaties are in our own national military, commercial, economic, and political interests. Far from being denied, our rights are preserved under the provisions of the treaties, and the amendments I have offered.

16. Does a new treaty insure that Panama will pay her huge bills to large banks? Doesn't this treaty help the American government save face for the present time at the future expense of the American people?

A. I refer the questioner to my statement in response to question No. 12, above.

17. I have a big "if" to ask Sen. Byrd. If they approve the Panama Canal treaty, it has been said that the Panamanians may raise the toll charges on the ships that carry my oil from Alaska to the Gulf of Mexico. If they increase the tolls, will it not increase the cost of my gasoline to a dollar a gallon and the cost of my oil to $1.50 a quart?

A. The question presumes that, under the treaties, the Panamanians would have sole authority to determine toll rates following ratification. In fact, the canal will continue to be operated until the year 2000 under the management of the United States. The operation and control of the canal by the U.S. will be exercised through a U.S. Government agency to be called the Panama Canal Commission. The Board of Directors of that Commission will have five American members and four Panamanians until the year 2000. The Chief Executive Office until 1990 will be an American and his deputy a Panamanian. After 1990, the administrator will be a Panamanian and his deputy an American. But, until the year 2000, the Panamanian administrator or deputy administrator, as well as all other members of the Board of Directors, will be appointed by the United States. So it cannot be presumed that "the Panamanians may raise the toll charges." The United States will set the tolls until the year 2000.

Under the treaties, a toll increase of roughly 30 percent is anticipated in the early years, with inflation adjustments for later years. The net increase in transportation costs would be less than one percent. For example, the average transportation cost for a bushel of Iowa corn going to Japan is $0.66/bushel. This would be increased by less than half a cent. The 30 percent toll increase would only raise the cost of Alaska oil going to the Eastern Seaboard by about one-tenth of a cent per gallon. Incidentally, whether or not the treaties are ratified, there should be an increase in the toll rates. The present rate of $1.29 per Panama Canal ton is only 9c higher than the $1.20 per ton that was charged in 1914.

18. How can you justify the amount of compensation to be given Panama, especially the $70 million for each of the 22 years? Much is made of the fact that $70 million will come out of the Canal revenue and not U.S. appropriated funds, but these are dollars that in past years have either been put back in Canal maintenance or the U.S. treasury.

A. Keep in mind, for many years, the United States only paid Panama $250,000 a year. This annuity was increased in 1936 to $440,000. Then, in 1955 the amount went to $1.9 million annually, and we currently pay to Panama only $2.3 million annually for the use of that country's most valuable resource. The compensation under the new treaties would constitute a more realistic and fair and just payment to that country, and would increase that country's economic stake in the canal. If Panama does not receive a just return on its most valuable resource, that country would have little interest in the Canal's continued operation. By providing for the continued maintenance of our troops and facilities in Panama for the next 22 years and for our continued use of the Canal, these treaties represent a sound investment in America's future.

19. I am very much alarmed at the prospect of a new treaty with Panama. If Panama now has trouble quelling a student uprising which is not students, but left wing agitators, what will be its position should the Canal be attacked or threatened by a much greater power after 1999? There is a possibility that our submarines and other service vessels may not be allowed access through the canal in the event some other dictator follows Torrijos. We wonder what guarantees the U.S. has that the Panamanian government which follows the present one would honor the treaties?

A. In my amendments, our defense rights against any threat from within or without, or against any peaceful transit of vessels, are absolute. It is my view that these treaties are the best means of assuring continued access to and use of the Canal, and that is our primary concern and the concern of U.S. military experts.

20. In light of past history and communist doctrine, what rationale is Sen. Byrd using to his conviction that you can take the word of a communist dictator or that any agreement, treaty, or other negotiation conducted with a communist dictator has any validity?

A. General Torrijos' country is not a communist nation. He has been in power since 1968 and the government shows more stability than at any time in the past. During the period since the signing of the 1903 treaty, I have been impressed by the good faith exhibited by the Panamanians. Panama's interests are closely related to our own interests, and, after visiting Panama, I am more hopeful and confident about that country's future political direction. Moreover, as I have stated in question No. 2 above, the treaties with Panama—as in the case of other treaties with any other countries—will be treaties recognized in international law as contractual agreements between national governments, not between individuals. In other words, the Panama Canal treaties are not agreements made between President Jimmy Carter and Panamanian General

Omar Torrijos. They will be between the United States Government and the Panamanian Government and will continue to be valid and recognized under international law in the future, regardless of the identities of the successors in office of either President Carter or General Torrijos.

21. The 1903 treaty itself states, in no uncertain language, that we do have sovereignty over the Panama Canal. So why has the House of Representatives been put in cold storage when they should have a voice in any territory give-away.

A. The 1903 treaty does not state that the United States has sovereignty over the Panama Canal. It grants to the U.S. the right to exercise "all rights, power and authority within the zone . . . which the United States would possess and exercise,"—note the words—"if it were the sovereign" of the territory. These words make it clear that Panama retained residual titular sovereignty over the territory. Inasmuch as we did not have sovereignty to begin with, it follows that we are not now giving up something which we have never had from the beginning. As to the involvement of the House of Representatives, that body will, of course, act on various implementing legislation that is required. However, the treaty contains self-executing provisions which provide for the transfer of property to the Panamanians as a result of the treaty. "Advice and Consent" on a treaty is a constitutional prerogative only of the Senate.

22. How do you feel about giving Guantanamo back to Cuba, which is the same situation?

A. It is not the same situation. The geographic, operating and other circumstances of the Canal and Guantanamo are quite different. Our base in Guantanamo is a military defense installation for the protection of our interests in the Caribbean. The Panama Canal was envisioned from the beginning as a path joining two oceans for commercial use by ships of all nations. Any change in our treaty rights to the Guantanamo base should be made on the basis of U.S. national interests. Protecting U.S. interests was the reason for negotiating the Canal treaties. These treaties are the best means of guaranteeing continued access and use of the Canal by all nations.

(Following are some additional questions frequently posed in constituent correspondence)

Q. If we turn over the Canal to Panama, we might as well give Alaska back to Russia, Louisiana back to France, etc?

A. These are not analogous to the Canal Zone. For example, the Louisiana Territory and Alaska were outright purchases, and the transaction documents make this clear, with no question of U.S. title to those lands and our absolute sovereignty over them.

Q. What if we just don't ratify?

A. Failure to ratify would deal a serious blow to our Latin American relations, likely increasing the communist influence there in addition to increasing anti-Americanism.

U.S. SENATOR ROBERT C. BYRD: REPORTS FROM WASHINGTON

(February 1980)

THREE DECADES OF CONTRIBUTIONS TO COAL

Senator Byrd, chairman of the Senate Interior Appropriations Subcommittee, has made substantial contributions over the years to the nation's coal industry.

In addition to obtaining and funding at least six coal or mine-related research facilities for West Virginia, he has worked to increase coal use and production, expand coal exports, improve mine health and safety, and find new uses for coal.

Some major achievements of his 27-year career on Capitol Hill:

1979—played a major role in Senate passage of landmark energy legislation, such as creation of an Energy Mobilization Board, windfall profits tax, synthetic fuels development; led move to increase "synfuels" research by $20 billion; convinced White House to build SRC–II liquid coal plant in Morgantown, W. Va.; convinced White House to restore budgetary funds for Appalachian Laboratory for Occupational Safety and Health (ALOSH) in Morgantown; formed Coal Caucus of coal-state Senators; led successful effort to retain clean air standards that allow burning of West Virginia coal; co-sponsored legislation to give States more control over surface-mining regulations; sponsored amendments to encourage methanol-from-coal production; convinced federal officials to create job of Assistant Secretary of Energy for Fossil Fuels, and recommended George Fumich, a West Virginian and former UMW-member, for the position;

1975–'78—increased funds for operation of black lung diagnostic clinics; co-sponsored law requiring new power plants to burn coal; obtained $15 million for coal research at West Virginia University and other locations; dedicated the $20 million National Mine Health and Safety Academy in Beckley, originally secured by Senator Byrd; obtained funds to build Dallas Pike mine safety equipment testing facility in Ohio County; obtained $24 million to construct experimental coal boiler at Rivesville;

1973–'74—obtained $39 million for coal research; prevented staff cuts at Morgantown Energy Research Center; secured approval of a bill making the Director of the Mine Enforcement and Safety Administration subject to Senate confirmation;

1971–'72—convinced President Nixon to sign extension of Black Lung Benefits Act; obtained $5 million for coal gasification research and $1 million for mine rescue equipment;

1959–'70—obtained funds to build ALOSH; obtained funds to build coal multi-purpose test facility at Cresap; secured location of black lung research unit in Morgantown; obtained funds to research uses for coal fly-ash; introduced bill to provide tax credits to coal producers who install coal mine safety equipment; co-sponsored the Federal Coal Mine Health and Safety Act to establish uniform mine safety and inspection standards; co-sponsored Coal Research and Development Act, creating Office of Coal Research in Department of Interior.

ENERGY IS BYRD'S TOP PRIORITY IN 1980 SENATE

Senator Byrd, who is leading efforts to enact coal conversion legislation requiring some utilities to switch from oil to coal, said:

"Coal conversion is a top priority in the U.S. Senate this year. Congress and the Administration are working to develop coal conversion legislation that would require coal-capable utility plants to convert immediately from oil or gas to coal for electricity generation.

"In the first phase, these plants could displace 350,000–550,000 barrels of oil a day by 1990, at a yearly savings of about $5.5 billion in imported oil purchases. A second phase would provide for the voluntary conversion of other utilities, displacing an additional 500,000 barrels of oil per day with coal.

"It is estimated that the conversion of 62 utilities would result in the use of 50 million tons of coal a year, and the creation of about 12,000 mining jobs."

The Carter Administration has given assurances that it will help expedite a coal conversion bill.

In other coal-related projects, Senator Byrd is:

Seeking funds to finance an expansion of the Morgantown Energy Technology Center, which conducts coal research;

Continuing efforts to increase exports of West Virginia steam and metallurgical coal through meetings with French, Japanese, and Spanish leaders; and

Working to assure adequate funds to pay black lung benefit claims.

BYRD WORKS TO BRING COKE PLANTS AND JOBS TO W. VA.

Senator Byrd, who is pursuing several proposals to build coke-production facilities in West Virginia, said:

"The progress has been encouraging so far in arranging financial packages for these proposed plants. Some proposals are in the early stages, and others are more advanced.

"National Steel Corporation has expressed an interest in establishing coke-production facilities in West Virginia, as have several other potential local investors.

"The exact number and location of the proposed facilities have not been settled, but federal agencies have made tentative commitments to provide the needed loan guarantees and grants, once final arrangements are made.

"It is estimated that one coke plant would generate more than 1,000 jobs, including 200–300 plant jobs, 200–300 coal mining jobs, and related employment in service areas such as banking and retailing."

Meetings are being held with Federal, State and local officials to settle financial arrangements for the proposed plants.

SECURES FUNDS FOR MORGANTOWN LAB

Senator Byrd convinced the Carter Administration to include $25 million in the FY 1981 federal budget to construct an addition to the Appalachian Laboratory for Occupational Safety and Health (ALOSH) in Morgantown.

"ALOSH must handle all mine-related respiratory disease research in the country. In addition, new legislation has expanded the lab's responsibilities in mine health and safety evaluations and research," he said.

"Without an increase in space and staff, ALOSH would be overburdened, which could result in increased hazards for coal miners."

The Administration agreed to include funds in the budget for an 87,000-foot addition. Funds would also be used to consolidate and enlarge the staff, which is now spread over six locations.

ATTENDANCE RECORD

Senator Byrd's 33-year career in public service includes 21 years in the U.S. Senate, during which time he has compiled a roll call attendance record of 97.9 percent as shown by the following tabulation:

Year	Rollcalls	Rollcalls answered	Percent of rollcalls answered
1959	216	211	97.6
1960	207	191	92.2
1961	206	203	98.5
1962	227	220	96.9
1963	229	209	91.2
1964	312	285	91.3
1965	259	239	92.2
1966	238	220	92.4
1967	315	313	99.3
1968	280	270	96.4
1969	245	238	97.1
1970	422	416	98.5
1971	423	416	98.3
1972	532	528	99.2
1973	594	593	99.8
1974	544	544	100.0
1975	611	604	98.8
1976	700	695	99.2
1977	636	636	100.0
1978	520	519	99.8
1979	509	507	99.6
Total	8,225	8,057	97.9

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin.

THE BALTIMORE HOLOCAUST MEMORIAL

Mr. PROXMIRE. Mr. President, in November of 1980, after nearly a decade's delay, ground was broken for the Baltimore Holocaust Memorial. When it is completed it will consist of massive grey concrete blocks which will form an entrance to an open air sanctuary. The memorial is being erected by the people of Baltimore to remember the millions of persons who lost their lives during the ruthless genocide of World War II.

The delay in groundbreaking was due in part to disagreement by various citizens groups in Baltimore over the wording of the memorial. Some wanted the memorial to be consecrated only to the memory of the 6 million Jews who lost their lives in the holocaust. Others, however, wanted the remembrance to include the 5 million non-Jewish victims of the holocaust, and this view prevailed. The memorial remembers "the world's silence and indifference" which led to the death of 11 million persons of all religious persuasions.

The decision to include non-Jews as well as Jews in the memorial's inscription was a wise and thoughtful one. Genocide is not, as many persons erroneously believe, simply a Jewish issue.

Genocide can be committed against persons of any religion. Recognizing this, representatives of many religions have endorsed the Genocide Convention. The National Council of Churches, an umbrella group representing many religions, has fought forcefully for ratification of the treaty.

By erecting tributes such as the Baltimore Holocaust Memorial, many citizens groups in the United States have shown their concern about the victims of genocide. Yet, defying the wishes of the citizens it represents, the U.S. Senate has never ratified the Genocide Convention. The Senate has given tacit approval to the heinous extermination of ethnic, national, racial, and religious groups.

We must ratify this critical document now.

We must ratify the Genocide Convention and resolve that the barbarities of the holocaust will never recur.

I urge my colleagues in this Chamber to vote for the adoption of the Genocide Convention.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, I am delighted to yield to my good friend, the majority leader.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator know what the prospects are for the Foreign Relations Committee to report out the genocide treaty? I call attention to the Senator that it is not on the Executive Calendar.

Mr. PROXMIRE. Mr. President, of course, the majority leader is always correct. The majority leader knows the Foreign Relations Committee has reported out the treaty four times, and I am sure they will do so again if the leadership indicates that they feel there is a good chance for the Senate to vote on it. It has done so in the past and I would be astonished if it did not do so.

As the Senator knows, this is not a partisan matter. It has bipartisan support. Presidents and Senators of both parties have enthusiastically supported this treaty. It is a small minority who has opposed it in both parties.

Mr. ROBERT C. BYRD. Mr. President, the Senator has been very dutiful in calling to the attention of the Senate daily his support for the genocide treaty. But, obviously, the leadership cannot call up the treaty until such time as it is reported from the Foreign Relations Committee, if then.

On previous occasions, when the treaty was on the calendar, there were problems in connection with the treaty and it was not possible to call it up. At the present time, the treaty is not on the calendar and until such time as the Foreign Relations Committee does report the treaty from the committee, the leadership will not be in a position to call it up.

Mr. PROXMIRE. Mr. President, I enthusiastically welcome the statement by the majority leader. I think it should be clear now to the members of the Foreign Relations Committee that this is where their duty lies. I know that a number of members in the Foreign Relations Committee feel very strongly that this treaty should be reported out. I am going to convey that message to them directly.

I thank my good friend.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I yield to the distinguished Senator from Arkansas.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I appreciate the majority leader yielding.

MY DOCTOR, MY FRIEND

Mr. PRYOR. Mr. President, on Friday night, a very brutal, senseless, and outrageous murder took place. The victim was Dr. Michael Halberstam, a Washington physician who is internationally known and highly respected. His death has deeply touched this city and all of those individuals who have had the opportunity to know Michael Halberstam.

Mr. President, I had the good pleasure and the great fortune of knowing this man. I know his wife, Elliot, who is a former resident of our State of Arkansas. I knew him as a splendid person—compassionate, but strong.

Mr. President, another friend of Dr. Halberstam, B. J. Stiles, knew him much better than I. He has contributed a moving article, entitled "My Doctor, My Friend," which appeared in today's Washintgon Post.

Mr. President, so that our colleagues might have the privilege of sharing in this article, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MY DOCTOR, MY FRIEND

(By B. J. Stiles)

Michael Halberstam, who was murdered on Friday, was a man who somehow always made crises seem less severe. Or at least less mysterious and more bearable.

We first met because of a crisis. At dusk on our first weekend in Washington 11 years ago—a balmy June Saturday night—a scream from our 7-year-old catapulted us into the alley. The suburbs of Nashville had not provided paved and lighted alleys, and this new personal playground was the only tangible benefit she had yet found about our new life.

The scream was more from fear than pain, but nevertheless she had been bitten by a mutt that could not be located and no one would claim. Confronted by the specter of rabies, and being new in town, to whom would we turn?

I suddenly recalled many stories that David Halberstam had told his Nashville cronies about a brother in Washington who was a doctor. Michael's phone was listed, and it rang only twice before he answered. In person. I stumbled through an introduction, apologized for the weekend interruption and generally made little sense at all.

"Now, Mr. Stiles," he said, "I think we can manage this just fine." In a way that I was to learn was characteristic, Michael Halberstam was clear, helpful, efficient, concerned. After counseling us on medical and veterinary matters, he welcomed us to Washington and invited us to drop by to get acquainted.

In the succeeding years, we dropped in regularly. There were the ordinary aches and pains and routine checkups, and several intermittent major crises. Michael the doctor became Mike the friend.

He helped in the usual ways to cope with life. But it was his unusual ways that made relationships with him provocative, spirited and satisfying. Medicine and health were basic, but life was full of much bigger matters that deserved time and thought.

The photos on his office walls testified to an active and eclectic life. Sailing with Dave in stormy seas off Nantucket. Sculling on the Potomac. Showing off an impressive catch from among the many that did not get away. He kept a rugged pace, yet urged others to set their own course. A fierce competitor himself, Mike gamely tolerated but cleverly maligned his friends' penchants for lethargy.

I suspect that his only irate critics and possible enemies were some hospital staff members and an occasional administrator. They must have groaned under his demands and blanched at his irreverent accommodations to patient care. Some years ago, he conspired with my wife to redeem a bleak Christmas I spent in the hospital awaiting spinal surgery. She prepared and surreptitiously served in my hospital room a Christmas Eve feast, replete with wine, "authorized by the attending physician."

His humor mitigated the tedium of pain, and helped cushion the strain of serious prognoses. It seemed fitting that the art in one of his examining rooms was George Cruikshank's illustrations. I felt less antiseptic when I undressed in the presence of Cruikshank's debauched 18th-century revelers and their retinue.

Even his letters to patients reflected his wit and style. My most recent annual physical was followed by a letter documenting the relevant facts. It concluded: "You have remained remarkably healthy over the years. and I feel this is no coincidence, but the result of your attention to diet, refusal to get fat and avoidance of smoking. Any other dissipations, of course, are healthy ones."

Mike's death is all too much like many other contemporary events. Bizarre. Outrageous. Mindless. Stupefying. Terrifying.

But as stunned and victimized as I feel by his death, the quality and power of his life bridge the chasm.

Our friend, the doctor, left his mark.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Alaska.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the acting minority leader.

Mr. STEVENS. Mr. President, I yield back the minority leader's time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I call to the attention of Senators that while the Senate is waiting we hope to secure clearance on the farm credit legislation, and I will ask that the Senate proceed to take up routine morning business.

I hope clearance can be gotten on the farm credit legislation. It was announced on Friday evening that the leadership would attempt to get such clearance today. The manager on this side of the aisle is on the floor patiently waiting to take up that measure. The leadership on the other side of the aisle is attempting to get clearance on the farm credit legislation. I hope progress can be made.

I ask unanimous consent that there be a period for the transaction of routine morning business at this time, that Senators may speak therein, and that the period of time not extend beyond 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. ROBERT C. BYRD. Mr. President while the joint leadership is attempting to clear the farm credit legislation and/or other measures, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

There being no objection, the Senate, at 12:15 p.m., recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ZORINSKY).

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended by 10 minutes and Senators may speak during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5200

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent with respect to that portion of the agreement on the fair housing bill which specificates a 1 p.m. today limitation on amendments in the nature of a substitute or amendments in the first degree thereto and/or to the bill be changed to 3 p.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make this request at the behest of Senator JOHNSTON for one and after having cleared it with Mr. KENNEDY.

I yield the floor.

Mr. STEVENS. Mr. President, as a matter of clarification, it is my understanding that amendments to the substitute can still be filed up to the close of business today; is that correct? There was no change. The only change the majority leader made was changing the time limit of 1 p.m. until 3 p.m. as it was specified in the prior agreement.

This does not change the amendments that did not have that time frame limitation.

Mr. ROBERT C. BYRD. I think I may have done it inadvertently with my request.

Let me ask if I did.

The PRESIDING OFFICER. The Senator is correct in the form of the agreement.

Mr. STEVENS. And it is still possible to file the amendments that had the close of business today deadline. That deadline still extends under the most recent request of the majority leader. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I believe my request though, limited amendments to the substitute to an entry by 3 p.m. today; whereas, under the previous request Senators would have until close of business today. Am I not correct?

The PRESIDING OFFICER. Under the previous agreement they have until the close of business today to file amendments to a proposed substitute. No substitute yet has been filed.

Mr. ROBERT C. BYRD. And we are extending.

Mr. STEVENS. We are extending the time for filing the substitute.

Mr. ROBERT C. BYRD. The time for filing the substitute is extended to 3 p.m. today. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I wish to be sure that nothing in the request prohibits filing of amendments to such substitute by the close of business today.

Mr. STEVENS. In accordance with the previous agreement.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. That is my understanding. I wish to make certain.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I thank the Chair and the majority leader.

Mr. ROBERT C. BYRD. I yield the floor.

FAIR HOUSING AMENDMENTS ACT OF 1980

Mr. BOSCHWITZ. Mr. President, as one who has continuously voted in favor of invoking cloture on the motion to proceed with the Fair Housing Act amendments, I am anxious to see a compromise reached on this legislation before the adjournment of the 96th Congress. Although I have some strong disagreements over several provisions of H.R. 5200, I support the fundamental objectives of this legislation and recognize the need to put some teeth into the enforcement procedures of title VIII.

There is a pressing need to seek more effective remedies for victims of housing discrimination and, in particular, to expedite the time consuming and expensive process of court action.

Primarily because of these delays and expense in the Federal court system, the current law is clearly inadequate, in my judgment, and ineffective if we are serious about protecting all Americans from discrimination in the purchase, rental, and financing of housing. Legislation must be enacted to address this problem; thus, it is important that the Senate act on the fair housing legislation which seeks to protect those rights guaranteed under the Civil Rights Act of 1968.

Because I agree with the proponents of this legislation that the current remedies available to victims of housing discrimination are inadequate, I have been willing to proceed with the consideration of this legislation despite my serious reservations about the specific provisions of H.R. 5200. However, if certain agreements are not reached, I could soon find myself in opposition to H.R. 5200.

In particular, I cannot support the provisions of section 811 that provide for administrative tribunals. I do not hesitate to voice my strong opposition to creating another arm of the administrative law judge system to hear and rule on complaints of housing discrimination. Our present court system is certainly not without its flaws. However, our efforts should be directed at improving that system—not establishing yet another administrative process.

It may be appropriate for the ALJ's to hear disputes between a regulatory agency and a regulated party, but it is highly inappropriate, in my judgment, to allow those same ALJ's to hear and decide cases between two private individuals. Those cases clearly belong in the independent court system, not the administrative courts.

I want to enact the most effective legislation possible to protect victims of housing discrimination, but I am confident that a district court magistrate can handle these cases in an effective and expeditious manner. With proper protections, I am convinced that the magistrates can provide speedy resolutions of such complaints. Thus, I would support as an alternative to the ALJ system a magistrate proposal that includes the following:

First, a trial by jury at the magistrate level at the request of either party; second, a hearing within 30 days after the filing of the complaint; and, third, an "on the record review" rather than a "de novo review" before the U.S. Court of Appeals. I have introduced such an amendment today, which I will call up if cloture is invoked on H.R. 5200 unless these provisions are incorporated into this legislation through another amendment on agreement.

The provisions of section 811 of H.R. 5200, which establish the administrative law judge system, are my major concern. However, I also share the concern of other Senators over the issue of what constitutes discrimination—intent versus effect. And, before I will be able to vote again in favor of this legislation, I would also like to see a resolution of the debate over this provision.

Mr. President, I filed those amendments shortly before 1 p.m., and I yield the floor.

(Mr. MITCHELL assumed the chair.)

Mr. BOSCHWITZ. Mr. President, may I ask as to the substitute, if I wish to file an amendment to the substitute as well as the amendment, it must be filed by 3 p.m.

Mr. ROBERT C. BYRD. Amendments to the substitute, I believe, may be filed by the close of business today.

Am I not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BOSCHWITZ. When will the substitute be filed?

Mr. ROBERT C. BYRD. It has not been filed yet. But there is a deadline of 3 p.m. today for that.

Mr. BOSCHWITZ. With respect to the substitute?

Mr. ROBERT C. BYRD. Yes.

Mr. BOSCHWITZ. I thank the majority leader very much.

Mr. ROBERT C. BYRD. I thank the Senator.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the joint leadership is continuing to exert efforts to clear the farm credit resolution, regulatory reform legislation, and certain tax bills. Until later, however, no clearance has been procured.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, if no Senator seeks recognition, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 1:10 p.m. recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

RECESS UNTIL 3 P.M.

Mr. ROBERT C. BYRD. Mr. President, negotiations are still proceeding in the hope that the farm credit bill will be called up this afternoon. Also, consultations are still going forward on various tax bills and on the regulatory reform bill. I hope that those consultations and negotiations will prove to be fruitful.

In order to give Senators time in which to continue those efforts, I ask unanimous consent that the Senate stand in recess until 3 p.m. today.

There being no objection, the Senate, at 2:04 p.m. recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LEVIN).

RECESS UNTIL 3:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 3:30 p.m. today.

There being no objection, the Senate, at 3:00:37 p.m. recessed until 3:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. LEVIN).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a resumption of routine morning business for not to exceed 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

ROBERT McLEAN

Mr. HARRY F. BYRD, JR. Mr. President, Robert McLean, who died last week, was one of our Nation's most dedicated newspapermen.

Mr. McLean was publisher of the Philadelphia Bulletin for 33 years and chairman of the board of the Santa Barbara News-Press for 16 years. But his greatest contribution was during his long tenure as President of the Associated Press.

Robert McLean served as a director of the Associated Press for 44 years, from 1924 to 1968, and as president from 1938 to 1957.

It was my privilege to have served as a member of the board of directors of the Associated Press during the latter part of Mr. McLean's presidency. I was greatly impressed with his sound commonsense, his wise counsel, and above all his total dedication to making the Associated Press an objective, accurate, world-wide news-gathering organization.

Because the Associated Press is so influential in its distribution of the news, the newspaper industry and, more importantly, the American people owe much, I feel, to Robert McLean, who working in concert with successive general managers—the late Kent Cooper, then Frank Starzel, then Wes Gallagher—brought to the world's largest news-gathering organization competence and objectivity which have been carried on by his, and their, successors.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand recessed for 30 minutes.

There being no objection, the Senate, at 3:43 p.m., recessed until 4:13 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DECONCINI).

H.R. 2170—REIMBURSEMENT OF LEGAL EXPENSES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask that the Chair lay before the Senate a message from the House on H.R. 2170.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2170), to provide for the reimbursement of legal expenses incurred by the city of Fairfax with respect to a 1971 entry and search by employees of the Federal Government.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Virginia (Mr. HARRY F. BYRD, JR.), I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

Mr. STEVENS. No objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, the purpose of this bill H.R. 2170, is to reimburse the city of Fairfax, Va., for legal expenses in the amount of $41,958.78, which the city incurred in defending itself in court action arising out of a 1971 entry into and search of a private building in the city by employees of the Federal Government. The city police acted solely on the CIA's behalf and at the CIA's request.

For the benefit of my colleagues, may I explain briefly the background which led to the need for reimbursement.

In 1971, the Central Intelligence Agency contacted officers of the city of Fairfax, Va. Police Department to request assistance in establishing surveillance of a private building in the city. The CIA indicated that the matter involved a threat to national security and a suspected breach of the Agency's internal security. City police assisted the CIA as requested.

Later that same year, the CIA again contacted city police and indicated that employees of the Federal Government intended to enter the premises under surveillance and conduct a search. City police cooperated with the CIA to protect employees of the Federal Government and the citizens of the city in the event of an inadvertent discovery of the entry. Employees of the Federal Government made the entry and search without incident and the CIA made no further contact with the city. The city police acted solely on the CIA's behalf and at the CIA's request.

In 1975, the actions of the CIA and the city police were made public in the Rockefeller Commission report. As a result of the city's cooperation with the CIA, the city and some of its employees were named as defendants in certain civil litigation.[1] On July 27, 1977, the case was decided in favor of the city and its employees and was based upon their good faith belief in the propriety of their actions.

Ultimately, the legal expenses of all city defendants amounted to $41,958.78. The Department of Justice did not provide representation to the city or its employees. Such representation would have invalidated the city's liability insurance coverage.

I have been informed that the Department of Justice has indicated that Federal reimbursement to the city is appropriate. The Department has no objection to the enactment of this bill. In addition, the Office of Management and Budget has also indicated that it has no objection to such reimbursement.

Mr. President, in conclusion, may I commend Congressman FISHER for his diligent efforts on behalf of the city of Fairfax in this matter.

Nine years have past since the city first agreed to assist the Federal Government. Adequate and just compensation to the city of Fairfax, Va., is long overdue.

In the interest of fairness and in recognition of the city of Fairfax's willingness to assist the Federal Government in a delicate matter, I urge the Senate to adopt the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendments to be proposed, the question is on the third reading of the bill.

The bill (H.R. 2170) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 1173, 1175, and 1176.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAYMENT OF WITNESS FEES

The resolution (S. Res. 538) relating to the payment of witness fees, was considered and agreed to, as follows:

Resolved, That witnesses summoned to appear before the Senate or any of its committees shall be entitled to a witness fee rated at not to exceed $75 for each full day spent in traveling to and from the place of examination and for each full day in attendance. A witness shall also be entitled to reimbursement of the actual and necessary transportation expenses incurred by him in traveling to and from the place of examination.

SEC. 2. The provisions of the first section of this resolution shall be effective with all fees payable on or after December 5, 1980.

PAYMENT OF TRAVEL EXPENSES OF A SENATOR AND HIS STAFF

The resolution (S. Res. 540) relating to payment of travel expenses of a Senator and employees of his office, was considered and agreed to, as follows:

Resolved, That, until otherwise provided by law, reimbursement with respect to travel expenses incurred by a Senator or employee described in section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(e)) shall be made as if the phrase "only for actual transportation expenses" read "for travel expenses essential to the transaction of official business while away from his official station or post of duty.".

SEC. 2. The provisions of section 1 of this resolution shall become effective with all vouchers submitted on or after the date agreed to by the Senate.

DEBORAH D. FORD

The resolution (S. Res. 541) to pay a gratuity to Deborah D. Ford, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Deborah D. Ford, widow of Gregory A. Ford, an employee of the Senate at the time of his death, a sum equal to seven months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

HOLDING OF CERTAIN LANDS FOR THE MDEWAKANTON SIOUX

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1178.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7147) to provide that certain land of the United States shall be held by the United States in trust for certain communities of the Mdewakanton Sioux in Minnesota.

The bill was considered, ordered to a third reading, read the third time, and passed.

DISTRIBUTION OF CERTAIN FILMS RELATING TO PRESIDENT LYNDON BAINES JOHNSON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1182.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8173) to provide for distribution in the United States of certain International Communication Agency films relating to President Lyndon Baines Johnson.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. CHURCH be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR CHURCH

H.R. 8173 provides for the release within the United States of 15 films by the International Communications Agency which pertain to former President Lyndon Baines Johnson.

This measure was introduced in the House of Representatives at the request of the Lyndon Baines Johnson Library which wishes to use portions of these films to document the Johnson administration and to tell the story of President Johnson and his family.

The bill, which was agreed to by the House of Representatives on November 17, 1980, is necessary because of a provision in the U.S. Information and Exchange Act of 1948 which prohibits dissemination within the United States of any ICA product produced for distribution abroad.

The bill is similar in purpose to earlier resolutions authorizing the release of certain ICA films for use by the John F. Kennedy Library. It involves no cost to the government since provision is made in the legislation for reimbursement of any expenses incurred by the International Communications Agency.

The ICA has no objection to the films being released provided, as stated in the resolution, that the Administrator of General Services secures the necessary copyright clearances.

This bill was reported favorably on December 2 by the Committee on Foreign Relations and I urge its passage by the Senate.

The bill was considered, ordered to a third reading, read the third time, and passed.

USE OF WOOD AND WOOD RESIDUES—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MELCHER, I submit a report of the committee of conference on S. 1996 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The asssistant legislative clerk read as follows:

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[1] *Orlando Numez de Villavicencio y del Toro, et al.* v. Fairfax City et al., Civil Action No. 76–133–A (U.S.D.C. E.D. VA.)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1996) to authorize the Secretary of Agriculture to encourage the efficient use of wood and wood residues through pilot projects and demonstrations and a pilot wood utilization program having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 4, 1980.)

Mr. MELCHER. Mr. President, S. 1996 authorizes the Secretary of Agriculture to establish pilot projects and demonstrations to encourage the efficient utilization of wood and wood residues. The bill provides wood residue removal incentives to pay purchasers of national forest timber for their costs in removing wood residues from timber sale areas to points of prospective use.

The incentives would be used as a credit against the amount payable for the timber and be the estimated cost of residue removal activities.

The purpose of the bill is to develop and improve methods that have potential for rapid commercial application of wood material that now has no value as lumber or pulp.

The pilot projects and demonstrations may include development and operation of wood utilization demonstration areas, fuelwood concentration and distribution centers, and construction of access roads needed to facilitate wood residue use.

The form and method of activities necessary for removal of wood residues would be prescribed by the Secretary of Agriculture in accordance with appropriate appraisal and sales procedures.

Except for that wood designated for free firewood use, the residues would be sold for not less than the appraised value of the material when a market exists.

The residues would be collected so as to avoid soil depletion or erosion, and full consideration will be given to the protection of wildlife habitat.

Twenty-five percent of the residue removal incentive credits and receipts of any sale of wood residues would be paid to the States for schools and roads, as is the case with normal timber sales.

The major difference between S. 1996 as passed by the Senate and the House amendments thereto related to the appropriate funding level. The conferees agreed upon an authorization for appropriations of $25 million a year for 5 years, which is somewhat less than the amount approved by the Senate, but sufficient to get the program underway.

Mr. President, countless tons of unused wood now lie rotting on the floors of our national forests, or it is piled up and burned like the stack gases at Arab oil refineries, polluting the air, and wasting a useful energy resource.

If this material can be taken out of the woods and delivered in reliable amounts to well-known collection points, I believe that this wood can become an important alternative energy source.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COLLISIONS ON INLAND WATERWAYS OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6671.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its disagreement to the amendment to the amendment of the Senate numbered 70 to the bill (H.R. 6671) entitled "An Act to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I move that the Senate recede from its position on Senate amendment No. 70.

Mr. STEVENS. There is no objection to that.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF TITLE VII OF COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. WILLIAMS, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of H.R. 6796 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6796) to amend and extend title VII of the Comprehensive Employment and Training Act.

UP AMENDMENT NO. 1829

(Purpose: Substitute amendment for the text of the bill)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. WILLIAMS, Mr. JAVITS, and Mr. NELSON, I send to the desk a substitute amendment to the text of the bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Messrs. WILLIAMS, JAVITS, and NELSON, proposes an unprinted amendment numbered 1829.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That section 112(a)(7) of the Comprehensive Employment and Training Act is amended by adding at the end thereof the following new subparagraph:

"(C) There are authorized to be appropriated such sums as may be necessary for the fiscal years 1981 and 1982 to carry out title VII.".

SEC. 2. Title VII of the Comprehensive Employment and Training Act is amended—

(1) by inserting ", in cooperation with other Federal programs that generate employment," immediately after "under this Act, and" in the first sentence of section 701;

(2) by striking out subsection (b) of section 702 and inserting in lieu thereof the following:

"(b)(1) Eighty-five percent of the funds made available for carrying out this title shall be allocated by the Secretary on an equitable basis among such prime sponsors, taking into account the factors set forth in section 202(a).

"(2) Ten percent of the funds made available for carrying out this title shall be used by the Secretary to provide incentive bonuses to prime sponsors who engage in efforts to promote coordination with economic development activities supported by Federal, State, or local funds. Funds used for such coordinated activities shall not be taken into account in the computation of cost per participant or cost per placement for purposes of program evaluation.

"(3) The remainder of the funds made available for carrying out this title shall be used by the Secretary to provide financial assistance to prime sponsors who jointly establish a single private industry council and to Native American entities described in section 302(c)(1)(A) and (B) for carrying out the purposes of this title.";

(3) by inserting ", local economic development councils established under the Public Works and Economic Development Act of 1965," immediately after "community-based organizations" in section 703(b)(5);

(4) by inserting "local economic development councils (such as those established under the Public Works and Economic Development Act of 1965)," immediately after "community-based organizations," in section 704(a)(1);

(5) by inserting "(particularly persons with expertise in on-site, industry specific vocational education)" immediately after "educational agencies and institutions" in the second sentence of section 704(a)(1);

(6) by striking "and" at the end of paragraph (14) of section 705(a);

(7) by striking the period at the end of paragraph (15) of section 705(a) and inserting in lieu thereof "; and";

(8) by adding after such paragraph the following new paragraph:

"(16) developing on-site, industry specific training programs supportive of industrial and economic development in cooperation with State vocational education boards, provided that, where feasible, funds made available under this Act for such programs are supplemented by Federal, State, or local vocational education funds or by non-governmental funds made specifically available for such programs, or both."; and

(9) by adding at the end of section 705 the following new subsection:

"(c) Activities under this section may include upgrading and retraining in accordance with the provisions of part C of title II. Not more than 15 percent of the funds available for this title may be used for programs under this subsection. No employer may participate in such a program unless the employer agrees that the employer will hire one economically disadvantaged person for every employee participating in the upgrading or retraining program. The Secretary may waive the provisions of the preceding sentence in whole or in part where the Secretary finds that it would be impracticable for the employer to comply with such provisions or that a waiver would facilitate participation by the employer in an experimental or demonstration project approved or being carried out by the Secretary.".

SEC. 3. The Comprehensive Employment and Training Act is further amended as follows:

(a) Section 122(1)(2) of such Act is amended by deleting "$7,200" and substituting in lieu thereof "$8,000".

(b) Section 202(f)(2)(B), section 233(d)(1), and section 604(b)(1) of such Act are each amended by deleting "1980" and substituting in lieu thereof "1982".

(c) Wherever the terms "Secretary of Health, Education, and Welfare" or "Department of Health, Education, and Welfare" appear in sections 311(b), 457(c) and 462(b) of such Act, they are amended to read "Secretary of Education" or "Department of Education", respectively.

(d) Section 305 of such Act is amended by deleting the words "and the Secretary of Health, Education, and Welfare" and the words "Labor and Health, Education, and Welfare" where they occur, and substituting in lieu thereof, respectively, the words "the Secretary of Health and Human Services and the Secretary of Education" and "Labor, Health and Human Services, and Education".

Mr. WILLIAMS. Mr. President, I am deeply pleased that we have been able to reach agreement on the legislation to revise and reauthorize the private sector initiative program under title VII of the Comprehensive Employment and Training Act.

This is a new program, enacted in 1978 and first funded in August of 1979, and a highly promising one. In its short life, it has been responsible for commendable progress toward engaging the interest and participation of businessmen in the private sector in CETA employment and training programs at the local level.

The extent of this progress recently was reported to the Congress by Secretary of Labor Ray Marshall. The Secretary's letter and a section-by-section analysis of the amendment in the nature of a substitute for the text of H.R. 6796 will be printed in the RECORD of these proceedings.

Mr. President, the legislation that has been agreed upon combines the best features of S. 2708, reported on May 15 by the Committee on Labor and Human Resources; its companion bill, H.R. 6796, passed by the House on September 15; and several miscellaneous amendments to CETA that were included in S. 2385, the Youth Act, as reported by the committee on September 25. These provisions have been combined in a substitute amendment for the provisions of H.R. 6796.

The amendment extends the authorization of appropriations for title VII for 2 years through fiscal 1982.

The purpose of the private sector initiative program is expanded to encourage cooperation with other Federal programs that generate employment.

In order to foster wider and closer coordination between the title VII programs and economic development activities in the community, 10 percent of the funds made available for the program are reserved for the Secretary of Labor to use to provide incentive bonuses to prime sponsors and their private industry councils who engage in such coordination. In addition, a new requirement for consultation with local economic development councils is inserted in the planning provisions under title VII, and the composition of the private industry council henceforth is to include representation from the economic development councils.

The amendment includes a provision, which was passed by the House and endorsed by the committee, authorizing private industry councils under title VII to develop onsite, industry-specific training programs in cooperation with State vocational education boards, using funds from CETA, public vocational education programs, and private sources. This is still another effort to stimulate initiatives in utilizing vocational education programs for economic development.

This provision encourages collaboration between the local CETA program and vocational education in efforts to aid depressed communities in attracting or retaining jobs, mounting quick-start training programs to meet rapidly developing industrial needs, and developing effective, industry-related programs in communities with large numbers of displaced workers. Such training frequently is provided by junior and community colleges, technical institutes, area vocational schools, vocational-technical centers, or vocational high schools.

In the most successful programs we have seen, additional training is conducted on company premises using company equipment, resulting in high rates of placement and job retention. Building on the already impressive record, these initiatives can enhance the capacity, in terms of both physical plant and professional expertise, of vocational education to respond quickly and more fully to specific industrial labor requirements arising from economic development.

Title VII also is amended to allow prime sponsors to use their funds for upgrading and retraining activities in accordance with title II–C of CETA. Under this program, participants need not be economically disadvantaged, but must be working in a position with little chance of advancement in order to qualify for skill upgrading or must be under bona fide notice of impending layoff in order to qualify for retraining. Participating employers are required to hire one economically disadvantaged person for each person retrained or upgraded with CETA funds, unless the Secretary waives the requirement where it would be impracticable for the employer to comply or where the waiver would facilitate participation by the employer in an experimental or demonstration project of national relevance approved by or being conducted by the Secretary. The sponsors of the amendment intend that the Secretary be flexible in the granting of waivers, particularly in cases of small businessmen with few employees, so as to insure that the upgrading and retraining authority is used to the maximum permissible extent to meet the skill needs of community employers and to open new employment and career opportunities for workers. Not more than 15 percent of a prime sponsor's title VII funds could be utilized for such programs.

Although limited in scope and experimental in nature, this upgrading and retraining authority represents a determined effort to provoke more than passing interest at the local level in the opportunities for using CETA resources to meet the growing and urgent need for new and expanding industrial technology. If it proves successful, I know that the committee will look with favor on further refinements and expansion when the act comes before the Congress for reauthorization in 1982

The amendment also includes a provision, originally proposed in committee by the Senator from Utah (Mr. HATCH) raising the base for computing the average index for public service employment programs from $7,200 to $8,000. The index is used to establish an annual average of the wage rates that may be paid by a prime sponsor to public service employees under title II–D and title VI of CETA. The current lower figure has made it extremely difficult for many prime sponsors, particularly in high-wage areas, to find meaningful jobs for participants. The higher figure will expand the range of work experiences available and reduce the number of menial, dead-end jobs to which participants too frequently have had to be consigned.

Finally, the amendment includes a provision to extend for 2 more years the special hold-harmless protection for prime sponsors that otherwise would suffer reduced funding allocations as a result of a change by the Bureau of Labor Statistics in its methodology for deriving local unemployment data upon which the allocations are based. Removing existing disparities between the old and new methodology can be done competently only when the 1980 census data become available next year, and a 2-year extension of this provision will permit the Bureau to resolve the statistical issues and to establish a reliable single methodology for fiscal year 1983.

As we near final action by the Congress on this important legislation, I would like to issue two commendations.

First, I commend all of those businessmen who have devoted their time and efforts to developing the private sector initiative in their communities. They should be assured that the Congress is committed to the preservation and continuation of the program and is grateful for their contributions in this important effort.

Second, I wish to express my appreciation to the members of the committee who have worked diligently to pass this legislation, particularly the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS), who are the leaders of our Employment Subcommittee, and the Senator from Utah (Mr. HATCH) who has been most supportive and helpful in this effort as we near the close of the 96th Congress. I am grateful as well for the counsel and cooperation of my colleagues from the House committee, the distinguished chairman, Mr. PERKINS, and Congressmen GUS HAWKINS and JIM JEFFORDS of the House Subcommittee on Equal Employment Opportunities, and their able and professional staff for making possible this agreement which, I believe, will be overwhelmingly accepted by the House and enacted into law within a few days.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Secretary of Labor Marshall and a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., November 19, 1980.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommitte on Labor, Health and Human Services, and Education Appropriations, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In our effort to keep you informed about the progress of the Private Sector Initiative Program (PSIP), authorized under Title VII of the Comprehensive Employment and Training Act (CETA), I am providing you with a report on the status of PSIP activities through the third quarter of Fiscal Year 1980. This augments the information I previously provided to you, most recently on June 10, 1980, which discussed activities through the second quarter.

As we anticipated, the institution-building phase of PSIP has been the major goal of the local Private Industry Councils (PIC's) this year. Now, sooner than we expected, we are beginnnig to see some strong movement in the direction of implementing operational programs. All of the 470 CETA prime sponsors that we have been tracking now have fully established PIC's. Seven new prime sponsors have been designated for FY 1981; with new consortia and other changes, there will be a total of 475 CETA prime sponsors next year. Of the new prime sponsors, three have already established PIC's and three have begun to appoint the membership. In all of these sites, at least a preliminary plan for the use of Title VII funds has been submitted, subject to ratification in those cases where the PIC is not fully established. The remaining prime sponsor is planning to join in a multijurisdictional arrangement, and has yet to prepare a plan.

Indications of progress toward the ultimate goal of PSIP—increasing employment and training opportunities for the Nation's economically disadvantaged, through the increased involvement of the private sector in all CETA programs—include increasing enrollments and expenditures, and the greater number of programs that have begun operations. These increases reflect the growing commitment to PSIP on the parts of the public and private sectors alike.

PIC's are involved in designing and operating a wide range of activities. These include on-the-job training, classroom instruction, services to participants, and reaching groups with special needs such as the handicapped, minorities, veterans, women, and youth. An analysis of operating programs indicates that 55.4 percent of expenditures is being used to support classroom instruction, 15.9 percent is for on-the-job training, 9.7 percent for services to participants, 15.5 percent for other activities, and 3.5 percent for work experience and miscellaneous activities. In addition, prime sponsors and PIC's are focusing on such activities as upgrading and retraining, employment generating services, and economic development.

Data submitted for the period ending June 30, 1980, indicate increasing activity levels. New enrollments more than tripled from the first to the second quarter; cumulative enrollments more than doubled from the second to the third quarter. A cumulative total of 32,460 participants had been enrolled, with a total of 21,402 participants on-board, as of the end of the third quarter.

Cumulative outlays for 1979 and 1980 through August stand at $110,066,000, thus continuing the upward trends of the second and third quarters. These outlays include a factor to account for an estimated 20 percent in administrative costs. Expenditure reports affirm this upward movement in program spending. Because of the varying accounting and reporting systems in place at the local level, expenditure reports frequently lag behind outlay data. If these trends continue through the end of FY 1980, outlays will be within 10 percent of our estimate of $150 million.

We have been receiving many questions from prime sponsors and PIC's about the status of Title VII program funding and the carry forward policy for FY 1980. To respond to these, we recently issued an ET Policy Letter which includes a brief description of the factors involved and presents our best estimates of funding availability based on our congressional budget request of $150 million and our own estimates of available carry forward.

PIC's are being chaired by active managers and leaders of the private sector across the country. These public spirited men and women represent the whole gamut of business and industry, both small and large, and include many minority-run operations. Among them are included chairpersons and presidents of banks and other financial institutions, insurance companies, communications industries, manufacturing and utilities companies, and labor affiliates.

The size of the average PIC is 16 members. Typically, 65 percent are representatives from business and industry, with 9 percent from education, 8 percent from organized labor, and 7 percent from community-based organizations. Job Service Employer Committee representatives sit on one-third of the PIC's; one-quarter of the PIC's have members from the Bureau of Apprenticeship and Training.

The National Alliance of Business (NAB) and the AFL–CIO's Human Resource Development Institute (HRDI) continue to actively support program development and linkages through the efforts of their technical assistance staff in the field, their national level program support, and through the development and dissemination of program ideas and models. The models provide a brief synopsis of ongoing programs and point out critical elements for success. Necessary funding levels and other key data items, such as persons to call for further information, are also included.

The PSIP Clearinghouse, operated by NAB, has experienced ever increasing requests for information and copies of their monthly newsletter "Showcase." Recently they issued a series of "PIC Profiles" in response to requests from local areas for specific program information and hints.

Trade Associations have published newsletters explaining PSIP and the benefits of the Targeted Jobs Tax Credit (TJTC), urging their constituencies to become actively involved. Some associations, such as the National Association of Black Manufacturers have prepared publications under contract to ETA. Others, such as the National Cable Television Association, have prepared educational booklets on PSIP and TJTC without financial assistance. In all cases, the information has been specifically geared to the needs and interests of the Association's members. In this way, the message of the need for greater private sector involvement in CETA is being spread to an extremely wide and diverse audience of potential business partners in this venture, at a very low cost.

The Ohio State University (OSU) has just published its fourth evaluation report on the status of the 25 PSIP programs they have been tracking. As can be seen from a quick review of Enclosure 11, the program is actively evolving in these sites. OSU continues to caution against overly high expectations of the program, and urges time for the institutional development of the PIC's to occur. It takes time for a concept like this to take hold. In fact, OSU believes that 3 to 4 years are necessary for a fully founded and ongoing system of private sector cooperation to develop. We tend to agree. Our experience shows that business has shown an initial willingness to get involved, but trust takes time to develop. Business and industry have accepted our challenge, but are cautious lest we change the rules along the way.

PSIP marketing and public relations activities have already been launched by some PIC's. Newsletters have been developed by a number of PIC's and prime sponsors. Other groups interested in employment and training activities have also found PSIP to be worthy of key articles in their publications. A case in point is the Jobs Watch magazine published by the Center for National Policy Review. In addition, the American Society for Training and Development (ASTD) devoted the insert to their April 25, 1980, National Report to questions and answers on PSIP.

This month, NAB will train Federal, prime sponsor, PIC, and their own technical assistance staff to become trainers on how to market PSIP. The training has been developed under contract by the American Management Association. All materials, including camera-ready copies of posters, newspaper advertisements, slide/tape presentations, and other media tools, have been developed in a fashion that allows for local adaptability. PIC's and prime sponsors can add their own addresses, pictures of local personalities, their own messages and telephone numbers. The training will be conducted in multiregional sessions to allow for maximum participation by prime sponsor and PIC staff most closely involved in local marketing of the programs to the private sector.

Thank you for this opportunity to apprise you of the status of CETA's PSIP.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

SECTION-BY-SECTION ANALYSIS

SUBSTITUTE AMENDMENT FOR THE TEXT OF H.R. 6796

Section 1 extends the authorization of appropriations for title VII of the Comprehensive Employment and Training Act through fiscal 1982.

Section 2 makes the following revisions in title VII of the Act:

Amends section 701 to promote cooperation of activities under title VII with other federal prorgams that generate employment as a purpose of the title;

Amends section 702(b) to require that the

Secretary use 10 percent of the funds available for title VII to provide incentive bonuses to prime sponsors who engage in efforts to promote coordination with economic development activities;

Amends section 703 to require that local economic development councils be consulted in development of the annual plan of the private industry council;

Amends section 704 to include representatives of local economic development councils on the private industry council and to emphasize that education representatives on the private industry council should include persons with expertise in on-site, industry specific vocational education programs;

Amends section 705 to provide that on-site industry specific training is an eligible activity under title VII and that, where feasible, funds for this purpose are to be supplemented by Federal, State, or local vocational education funds or by private sector resources; and

Adds a new subsection to section 705 authorizing the use of up to 15 percent of a prime sponsor's title VII funds for upgrading and retraining activities in accordance with title II–C and requiring an employer participating in such activities to hire one economically disadvantaged person for every employee upgraded or retrained unless this requirement is waived by the Secretary as impracticable for the employer or as necessary to facilitate participation by the employer in an experimental or demonstration project approved or being carried out by the Secretary.

Section 3 makes the following changes in the Comprehensive Employment and Training Act:

Amends section 122(i)(2) to change the base for calculating the average wage index from $7,200 to $8,000 per annum;

Extends through fiscal year 1982 the provisions in title II–B, title II–D and title VI requiring the Secretary of Labor to use discretionary funds to make allocations among the prime sponsors serving areas within the standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual unemployment data prior to January 1, 1978, in proportion to the extent to which such prime sponsors' formula allocations otherwise would be reduced by the termination of the use of such surveys; and

Makes technical corrections in several sections where there are obsolete references to the Secretary or the Department of Health, Education, and Welfare.

Mr. JAVITS. Mr. President, as the ranking minority member of the Senate Subcommittee on Employment and Poverty, I am very pleased that the Senate is proceeding to the consideration of H.R. 6796, the bill to extend and revise title VII of the Comprehensive Employment and Training Act.

This bill was reported by the Committee on Labor and Human Resources on May 15 of this year as S. 2708 and we had a recorded vote of 10 to 0 in favor of reporting the bill. My office has been involved in the discussions which have led to the substitute amendment Senator Byrd has offered on behalf of Senator Williams and me and I hope very much the amendment will be agreed to.

For the benefit of my colleagues, I wish to say that the bill before us is essentially a 2-year extension of existing law with a "such sums" authorization. We have recommended some modifications, including two amendments which I offered during our committee markup on May 15.

The first of these provisions would encourage stronger linkages between the local private industry councils (PICs) authorized under title VII and local economic development agencies. I have long felt that the mission of the PICs, to wit: Private sector training and placement of the economically disadvantaged unemployed, could be enhanced by affording them the opportunity to participate in local economic development activities. We have discussed this provision with the members of the House Committee on Education and Labor and have agreed to accept their language which would earmark 10 percent of the funds available for title VII to provide incentive bonuses to prime sponsors who engaged in efforts to promote coordination with economic development activities. I am very pleased that the Javits amendment can be the basis of this new provision of law.

A second modification in the title VII program relates to upgrading and retraining activities which would be permitted under the new law on the basis of another amendment which I offered in committee. More specifically, 15 percent of the allocated funds could be used by the PIC's to upgrade and retain existing employees. The committee thought it important to adopt this amendment because of the need to offer employers a package of employment and training services, including upgrading and retraining. We hope very much that this provision will strengthen the private industry councils in their efforts to work with private sector employers, particularly in those areas of our country where obsolescent industry is a very severe problem.

By way of clarification, Mr. President, I wish to note that we have modified the so-called "Javits backfill amendment", which requires employers to make available an employment/training opportunity for CETA-eligible individuals for each federally subsidized upgrading/retraining slot. The Williams-Javits amendment would permit the Secretary of Labor to waive the requirement whenever the Secretary felt it impracticable or when he desired to operate a demonstration project in upgrading/retraining activities. I wish to make it clear, Mr. President, that we intend that this "backfill" requirement not be an impediment to PIC's in their efforts to provide upgrading and retraining services. We certainly do not want each and every "backfill" waiver application to go before the Secretary of Labor for a protracted approval process. For this reason, we hope very much that the Secretary of Labor will administer this provision flexibly, with a mind toward encouraging upgrading and retraining activities, particularly in small business, and, where possible, enable private industry councils to satisfy the requirement or petition for waiver as part of their overall employment and training plan.

Mr. President, I said when the original title VII bill passed the Senate and became law that I felt this concept of local private industry councils was one of the more gifted innovations I had been a part of during my service on the Employment Subcommittee. Our experience with these PIC's in the past 2 years has served to confirm my hopes for this program. While there were some understandable delays in getting it off the ground in 1978, I believe we have come a long way and that the prospects for the private sector initiatives program are very good. I am most gratified to have been one of the original proponents of this idea and it is my fervent hope that after I leave the Senate my successors on the committee will see fit to continue this vital mission for our country.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended to read as follows:

To amend and extend title VII of the Comprehensive Employment and Training Act, and for other purposes.

FOREIGN LANGUAGE AND INTERNATIONAL STUDIES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Williams, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of House Concurrent Resolution 301 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 301) expressing the sense of the Congress that there is a need to strengthen course offerings and requirements in foreign language studies and international studies in the Nation's schools, colleges, and universities.

FOREIGN LANGUAGES, INTERNATIONAL STUDIES, AND AMERICAN INTERESTS

Mr. TSONGAS. Mr President, I rise in support of House Concurrent Resolution 301. The House has passed this resolution, Mr. President, and I am hopeful that we will do the same today. The resolution does not impose any legislative mandate or call for any expenditure of Federal funds. What it does, Mr. President, is simply to call attention to the depressed conditions of our foreign language and area study programs today. It calls for a renewed commitment to the strengthening of foreign language and international studies education. It is a limited but effective legislative step toward a worthy goal—a major advance in our understanding of the world around us.

The path to that goal will not be easy, Mr. President, as most of my colleagues know well, the last 10 years have not been kind to international affairs education. The decline from previous levels has been precipitous. To reverse that decline, we must deal with foreign language and foreign area training as we would other legislative proposals. Is the program useful? Will it enhance American interests?

This approach to the problem leads to the task of identifying foreign language applications. We in Congress have to be very practical about such matters. Budget dollars are scarce. Foreign language training has to be justified, and we can do that by showing just how useful foreign languages can be, to government and to business.

When I think about the sorry state of our foreign language competence, I recall the regrettable episode at our embassy in Afghanistan. In September, a Soviet soldier defected to our embassy in Kabul, only to find that none of our 16 diplomats there spoke Russian. After a week of caling in interpreters and so on, the Russian decided to go back to his own people. Our fine catch got away.

This linguistic lament is hardly unique. It has been seen before and will be seen again. The answer one usually hears is—"Somebody always speaks English." That is the prevailing attitude. A reporter asked the State Department recently why we do not put at least one person in Somalia who can speak Somali? We are about to build a naval base there. The country is nearly at war with Ethiopia.

It occurs to me that we should have a better grasp of the context.

"Don't worry," the reporter was told. "All the elite in the capital speak English."

That is supposed to be reassuring. But anyone who has traveled in Africa knows that history is made in the bush, not the capital. Popular movements start in the rural areas, in the vilages, on the farms, in the forest. And our diplomats seem to think the sophisticates in Mogadishu have all the answers. Meanwhile, we plunge ever deeper into a cauldron of ethnic conflict and political jealousies we hardly understand.

It is easy to blame the State Department: Meager incentives for language training, disincentives for learning the difficult or obscure languages, moving personnel from one country to another every 2 years, and so on.

But the State Department would not take the blame. They say they do not have enough money to staff all their posts, much less to pay people to learn languages in 6 month intensive courses. They talk about the very low language capabilities of their applicants. They say—"It's not us. It's them." And then they point directly at our educational establishment—the teachers, the courses, the requirements, and curriculum of our foreign language and area study programs.

In a sense, the State Department is right, but only partly so. Our educational system has deemphasized foreign language studies, but educators do not deserve all the blame.

It is no secret that our foreign language and international studies programs have declined. In 1966, 34 percent of the Nation's colleges had foreign language admission requirements, but only 8 percent have them now. In 1965, 24 percent of our high school students were enrolled in foreign courses—only 15 percent now. Funding for foreign areas studies programs has plummeted in the past 10 years. The Ford Foundation used to spend $27 million a year in international affairs education. Now they are down to $4 million a year. The same can be said of Federal funding.

The decline, especially since 1970, has been dramatic. What are the underlying causes?

Let us not forget how basically insular and isolationist our culture is. Foreign affairs have occasionally fascinated Americans, but most of the time it is all we can do to understand our own culture, much less the Horn of Africa. We all must face the unpleasant fact that foreign language instruction is just a little alien to the American character. Only a small percentage of Americans travel abroad regularly. It is a question of relevance. If Americans are the can-do types, what can one do with a foreign language? Most Americans will look at a proposition calling for an investment of their time and money in pretty hard terms. Where is the payoff? If I take German for 5 years in school, what do I get back?

That hardheaded approach is fairly recent. There was even a time when foreign language learning was very fashionable. It was an unquestioned part of the Victorian curriculum. In 1915, 85 percent of our colleges had foreign language requirements. Explorers, adventurers, and the conquerors of Africa and Asia excited the popular imagination, especially in Europe, but here as well. But in the wide wake of the "me" decade, there is not much room for language requirements. Today people do things out of self-interest, not duty. If foreign language instruction is to survive and prosper, it must be sold to the public as a practical and profitable undertaking.

I believe that foreign language and area study instruction is undersold. There are growing applications and uses for foreign languages.

I have already touched on the world of diplomacy. That world has changed dramatically in the last 20 years.

The turbulent Third World places tremendous strains on our diplomats and our foreign policy experts. Twenty years ago, much of the Third World was still under colonial rule. American interest in such countries was based on curiosity at best, reflexive anticommunism at worst. Our interests were not at stake. But by the mid-1970's there was talk about strategic minerals and raw materials in Africa and Asia. Naval strategy and East-West shipping lanes took on new importance.

Oil prices shot up through the roof and suddenly, little known countries with oil supplies became intensely important. Nigeria, Gabon, Algeria, Indonesia, Angola, Libya, Iraq—these countries and others became actors, not victims, in the great game.

With all of that came instability. Wealth poured into the Middle East and Africa, the great powers scrambled for influence over oil and mineral resources, and Third World governments lost their balance. They continue to do so.

Add one more ingredient to this turbulent situation—the end of American world dominance and the success of new competitors—France, West Germany, Brazil, Canada, Japan, Italy, and others have cut into America's economic lead, while the Soviets and the French have undermined our military preponderance. We are not calling all the shots as we did after World War II.

What all this means is a world in tumult. Conflict and instability can and will break out almost anywhere. Terrorism thrives. Not surprisingly the role of the diplomat has been altered profoundly.

He no longer can expect to spend his years in Paris or Bonn, quietly negotiating diplomatic protocols. He is far more likely to be in the middle of a civil war in Central America, acting as intermediary between left-wing guerrillas and nervous businessmen. Or he will be in Africa, assigned to reforming a capricious despot whose misrule threatens our access to a strategic mineral. Or he will be somewhere in the Middle East trying to predict when a political volcano will explode. These are not tasks for the old school—we need diplomats who can roll up their sleeves and relate to people at all levels of society. A vital qualification is language ability—not just French or Spanish, but hard languages, obscure languages, tribal dialects. Until we place people in the field who can penetrate cultural barriers in the Third World, we will operate at only half speed.

I firmly believe that foreign language training has a bright future. But the instruction must meet the needs of today. It is no longer appropriate to produce Ph. D.'s in Serbian literature. We have too many academics now and not enough students. We must orient language instruction toward the emerging market for foreign language students. And that market is business. More than any other application of foreign language training, business is the most promising.

Consider this: One of our major trading partners is Japan. We complain that Japan exports too many cars, TV's, and bicycles to our shores. Well, there are a number of reasons for this trade imbalance, and I cannot go into them all, but one of them is certainly language. Japanese businessmen, some 10,000 of them, crisscross America, using their excellent English to sell their products in one market after another. In Japan, one-tenth as many Americans, almost none of whom speak Japanese, do what they can for American exports. An article in Monday's Wall Street Journal sets out in clear terms how far the Japanese have progressed in learning our language. I request unanimous consent that it be reprinted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. TSONGAS. The Japanese are not the only ones outselling us. We are losing our export markets to Europeans and

Asians who know the terrain well. America's trade position is not strong.

We must recognize that America has always lagged behind our competitors in export activity. Our exports were 5 percent of our gross national product in 1956. Today, the percentage is only up to 8 percent. The figures are far different for Europe and Japan. France has gone from exports at 9 percent of GNP in 1956 to 24 percent today, nearly a threefold increase. Japan's export activity has shot up from 7 percent to 17 percent in that time period. Italy from 7 percent to 31 percent. America has not been export oriented and in this era of massive oil debt, we cannot afford such myopia and lethargy. And the irony is that with the dollar weak against other currencies, our exports are in a very good competitive position. There are signs now, of new activity throughout the private sector. In Massachusetts, my home State, we have reached the point where 40 percent of our high-tech production goes overseas.

The Third World is the logical growth point for our exports. There are several reasons for this. As I mentioned earlier, the incomes of oil producers are dramatically higher than in pre-OPEC years. With economic development the major objective, these countries are buying enormous quantities of Western technology and expertise. Future conditions in a resource-scarce world will favor the developing nations where mineral and resource surveys are just getting underway. Not all developing nations will become attractive markets—many will stay mired in their own balance-of-payments dilemma, unable to stimulate their economics. But rapid growth has and will occur in places like Nigeria, Brazil, Indonesia, Taiwan, Ivory Coast, Zimbabwe, and even China.

Almost 40 percent of our exports go to developing countries now. That percentage will rise and so will the overall levels.

These new trends have not been ignored by business. There is an increasing awareness of the export opportunity, and more funds are being set aside by companies to prepare their people for productive tours abroad. Hiring local nationals may make sense for an investment abroad but in order to sell overseas, a company will do best sending out one of its own, highly trained, highly motivated people.

High on the list of priorities is to train these people in the foreign language of the host country. And as Business Week suggests, "In many Third World countries, where both tourism and business opportunities are growing rapidly, it has become a matter of national pride to avoid conducting affairs in English or French, the old colonial languages."

I sponsored a foreign business conference in Boston last June. It brought together American corporation executives and government representatives from Portuguese-speaking Africa. I was surprised to see that some of those businessmen spoke Portuguese fluently. Most did not.

Lack of foreign language ability is the bane of our economic culture. We must upgrade our foreign language abilities in the commercial sphere. Citibank, for example, will not let foreign bound executives out of the United States unless they are at least "socially conversant" with the host language. Companies are sending more and more of their people to Berlitz, to Inlingua, to Training for Service Abroad, and other intensive language learning centers, and they are paying up to $6,000 per student to do it. This is a very positive development, and I think that our educational system should be aware of this growing market for students. Schools and universities should consider business-oriented language instruction. Helping our busness men compete overseas is not only in their interests, it is also in our interests, as we work to build a healthier, more export oriented economy.

I have talked about the new needs for foreign language in diplomacy and business. We could add tourism, literature, and foreign films. There are many applications, but learning foreign language and culture is more than acquiring a new tool. It is an essential part of our national development. It is profoundly important to our understanding of how we relate to the rest of the world. I am very pleased indeed to support House Concurrent Resolution 301. The Senate in its wisdom has now grasped the opportunity to endorse these principles. In the future I hope that we can move toward a more programmatic approach to the shortcomings of our foreign language and area study educational system.

EXHIBIT 1

[From the Wall Street Journal, Dec. 8, 1980]

WHEN IN JAPAN, DO AS THE JAPANESE DO, BY SPEAKING ENGLISH

(By Urban C. Lehner)

TOKYO.—A radio network here, Nihon Shortwave Broadcasting Co., tried an experiment recently. To enliven its presentation of a Saturday afternoon baseball game between the Yomiuri Giants and the Hansin Tigers, it broadcast every other inning in English.

An American broadcaster beaming baseball in Japanese would quickly lose its audience, but no such fate befell NSB. Of the 50 listeners who called in, 35 said they welcomed the chance to listen to the game and practice their English at the same time.

As that incident implies, Japan is, once again, on a learn-English binge. In contrast to the U.S., where the study of Japanese is about as popular as the study of rare fungus cultures, here fully 11 percent of the adults responding to one recent poll said they attend English-conversation classes. (Almost all these adults have already had at least six years of English in public school.)

"In the last several years, interest in the English language has been constantly increasing," says Naomitsu Kumabe, a college professor and official of Japan's Institute for Research in Language Teaching.

SIGNS ARE EVERYWHERE

The signs of this interest are everywhere. Here in Tokyo, the number of Berlitz-type schools teaching foreign languages, mainly English, climbed by 164 percent between 1969 and 1979, to 396 from 150. Some large companies such as Matsushita Electric Industrial Co. and Suntory Ltd., the whisky, beer and softdrink maker, have recruited foreigners to teach English to their employees. There are English lessons on television and English-instruction periodicals on newsstands.

The periodicals include a tabloid newspaper called Student Times that carries news in both English and Japanese and has special columns explaining the meaning of such English expressions as "moonlighting" and "on the fritz."

A "native English speaker" from Britain or the U.S. who finds himself penniless in Tokyo need never suffer caffeine deprivation. "English-speaking" tearooms have begun sprouting up here in the last two or three years. The idea is to give students of English a chance to practice their conversational skills in a social setting. "Native English speakers" get their coffee or tea gratis or for a nominal sum, just as girls used to be admitted to some dance halls free.

More ambitious native English-speaking expatriates can keep themselves in rice and *sake* by teaching English—and thousands do. Many of the private schools will hire almost any native English speaker, regardless of teaching ability.

A TOURIST IS WAYLAID

Even American tourists occasionally experience the Japanese interest in English firsthand. One American woman recently was accosted in her hotel lobby by three young Japanese men identifying themselves as medical students who insisted on buying her a drink. Their intentions turned out to be honorable, albeit somewhat unusual: They just wanted to tape-record her cocktail conversation so that they would have a native English speaker to mimic in practicing their English.

This isn't the first time the Japanese have gone on an English kick. The language has been required in public schools since Japan was "opened" in the 1860s. Interest swelled after World War II when American troops occupied Japan and in 1964 when the Tokyo Olympic Games attracted flocks of foreign tourists.

The current English resurgence reflects a growing tendency among the Japanese to look beyond their own insular borders. Polls suggest that interest in foreign travel, both for business and for pleasure, is the most important motive this time.

"More than ever before, the Japanese have become international-minded, consumed with a desire to communicate with the outside world," says the Rev. Peter Milward, a Jesuit priest who has been teaching English in Japan for 26 years. "And for them, communication with the outside world means knowledge of today's international language, English."

According to the Japan Travel Bureau, four million Japanese traveled overseas in 1979, up from 3.5 million in 1978 and only 663,000 in 1970. About 20 percent of the travelers are on business, the government agency says.

But many students of English have no immediate plans to use it in business or tourism, Some are studying it because they are studious by nature and English is as good a subject as any. Others study it out of a vague sense of obligation to become more "international-minded" or because they consider English "prestigious" (brand names of many products, including autos, are still written in English rather than Japanese for that reason) or out of some other equally indirect motive. "English," says a research chemist for Sumitomo Chemical Co., "is my hobby."

It isn't an easy hobby for the Japanese, quite apart from their notorious difficulties in pronouncing the English "r" and "l," neither of which sounds occurs in Japanese. Namiji Itabashi, who runs one of the oldest and largest English-teaching schools, the 2,000-student Japan-American Conversation Institute, notes that many English vowel sounds don't occur in Japanese, either, and are difficult for Japanese speakers to say.

One sign that the current resurgence of English may be serious is the growing public pressure to improve public-school English education. Despite the minimum of six years the Japanese spend in junior high school and high school studying English, only 8 percent of Japanese adults say they can carry on a conversation with an English-speaking foreigner.

The public-school English instruction aims mainly to prepare students for college-entrance examinations that focus on ability to read English and on the fine points of English grammar. Little emphasis is put on conversation. As a result, says Mr. Itabashi, the average Japanese "knows that a third-person-singular subject takes an 's' at the end of the verb—but he'll still say 'John go to the store.' "

The ministry of education, responding to such criticism, plans to change matters over the next several years. "We have been too grammar-conscious," says Teruo Sasaki, the ministry's English specialist. The new approach, he says, will emphasize "speaking, hearing, reading and writing." Some teachers are being retrained now, he says, to improve their conversational skills.

Skeptics wonder about the government's sincerity, though, especially because hours of English instruction, along with those of other subjects, are being reduced as part of an effort to reduce the burdens on schoolchildren.

Not everyone likes the trend to English. Takao Suzuki, a linguist at Tokyo's Keio University, argues: "English education should be scaled down drastically and the total number of people made to study English should be cut. It's absurd in the extreme that a whole nation should be studying a foreign language."

Nonetheless, the binge goes on, and the Japanese are so tenacious about it that some native English speakers are furious. In a letter to an English-language newspaper, one expatriate complained about the "pathological urge to speak English when sighting a foreigner" and said he resented being used as a "free English-speaking convenience."

His letter provoked a lively exchange in the letters column. One correspondent suggested that English-language approaches could be rebuffed by responding exclusively in Japanese.

The concurrent resolution was considered and agreed to.

The preamble was agreed to.

AMENDMENT OF RAILROAD RETIREMENT ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. WILLIAMS, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of H.R. 8195 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8195), to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases.

UP AMENDMENT NO. 1830

(Purpose: To amend the Railroad Retirement Act of 1974 to extend post retirement cost-of-living increases)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. METZENBAUM, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. METZENBAUM, proposes an unprinted amendment numbered 1830.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after enacting clause and insert in lieu thereof the following:

That section 3(g) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(g)" and by inserting at the end thereof the following new subdivision:

"(2) Those portions of the annuity of an individual as are computed under subsection (b) and (d) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before June 1, 1980, be increased by 32.5 per centum of the percentage increase, if any (rounded to the nearest one-tenth of one percent), obtained by comparing the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1981, with such Index for the calendar quarter ending March 31, 1980. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such index for the three months in such quarter. The increase provided under this subdivision shall be effective on June 1, 1981."

REPORT ON RECOMMENDATIONS

SEC. 2. No later than March 1, 1981, representatives of employees and representatives of carriers, acting through a group designated by them, shall submit to the Senate Commitee on Labor and Human Resources and the House of Representatives Commitee on Interstate and Foreign Commerce a report containing their joint recommendations for further restructuring of the railroad retirement system in a manner which will assure the long-term actuarial soundness of such system.

SEC. 3. The provisions of this Act shall take effect on the date of the enactment of this Act.

● Mr. METZENBAUM. Mr. President, earlier this year Senators MATHIAS, ROTH, BURDICK, MELCHER, MCGOVERN, CHURCH, BAYH, WILLIAMS, CULVER, FORD, HART, BAUCUS, MOYNIHAN, DURKIN, JAVITS, MAGNUSON, and SASSER joined me in introducing a bill designed to avert the impending bankruptcy of the railroad retirement pension fund. The Labor and Human Resources Committee conducted hearings on that bill prior to the November recess. But due to the short time remaining in the session the committee was unable to act on that piece of legislation.

Most of us are aware of the grave situation that confronts over a million retired workers and dependents who rely on this pension fund to provide the necessities of life. Most of these individuals have spent a large portion of their lives in the service of the Nation's rail system. They are alarmed over the prospect of bankruptcy—and the Congress should also be alarmed, because if we allow the fund to go under, it will place a substantial new burden on our social security and welfare systems.

The bill which we have before us today is a House-passed bill which does two things:

First, it provides for preretirement and postretirement cost-of-living increases. The cost-of-living increases occur once a year and will expire under current law. The bill simply extends the increases for 1 year. I want to stress that although the increases are based on the Consumer Price Index (CPI) they are only a percentage of the increase of the CPI. For example, the postretirement increase only amounts to 32.5 percent of the increase of the CPI. This legislation does not change or alter the benefit rate paid to the retirees. It simply extends current law.

Second, the bill also directs management and labor to report back to Congress by March 1, 1981, with recommendations to insure financial solvency of the fund.

I have a substitute amendment for the bill, containing all the provisions except the preretirement clause. I do this because of objections that have been raised to including the preretirement clause in any bill which Congress would consider. My amendment would remove that concern. Both labor and management have agreed to this compromise and the amendment has been cleared on the Republican side. I am not aware of any opposition to it. I want to thank Senator HATCH for his assistance in allowing this bill to be passed.

Mr. President, I urge immediate and favorable consideration of this legislation. The million railroad retirees should know that Congress is aware of their situation and has acted promptly to assist them.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1830) was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

PLANT VARIETY ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. TALMADGE, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 999 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 999) to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. TALMADGE be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

H.R. 999 would amend the Plant Variety Protection Act to—

(1) Expand the act's patent-like protection to novel varieties of six vegetables (okra, celery, peppers, tomatoes, carrots, and cucumbers) which had specifically been excluded from protection in the original legislation;

(2) Extend the time period during which protection under the act is afforded to novel varieties from 17 to 18 years;

(3) Authorize the publication of the name of applicants for plant variety protection and whether the applicant specified that the

variety is to be sold by variety name only as a class of certified seed;

(4) Authorize the Secretary to issue a corrected certificate of protection when a mistake in the original issuance of a certificate has incurred. Under the current provisions of the act, a separate certificate of correction is issued which is attached to the original certificate. Under the amendment, the original certificate would simply be corrected;

(5) Clarify the labeling requirements of the act; and

Refine and update terminology in the act.

During the hearings of the Subcommittee on Agricultural Research and General Legislation on Senate bills that were substantially similar to H.R. 999, significant concerns were raised about potentially adverse consequences of the Plant Variety Protection Act and the need for an improved plant germplasm program within the Department of Agriculture. These concerns are shared by the members of the Committee on Agriculture, Nutrition, and Forestry. It was these concerns that resulted in a letter that will be sent to Secretary Bergland requesting him to evaluate these concerns and report back to the committee on this matter during the 97th Congress. This report will greatly aid the committee's oversight of the Plant Variety Protection Act.

The bill was considered, ordered to a third reading, read the third time, and passed.

SARDIS LAKE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 4645 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4645) to change the name of Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma, to Sardis Lake.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further action on this measure be temporarily suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORTH SAN GABRIEL DAM, LAKE GEORGETOWN

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 4941 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4941) to name a dam and reservoir on the San Gabriel River, Texas, as the "North San Gabriel Dam" and "Lake Georgetown", respectively.

UP AMENDMENT NO. 1831

Mr. ROBERT C. BYRD. Mr. President, I send to the desk two amendments by Mr. RANDOLPH and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. RANDOLPH, proposes amendments en bloc numbered 1831.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 3, insert the following:

SEC. 2. (a) In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $18,498,000 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for major repairs and alterations to public buildings, as follows:

(1) U.S. Post Office and Courthouse, New Haven, Connecticut, $6,800,000;

(2) Old Post Office Building, Washington, District off Columbia, $11,698,000, in addition to that previously authorized, of which not to exceed $2 million is authorized for the purchase and installation of building furnishings and office equipment.

(b) In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $27,060,000 to the Federal Aviation Administration for the lease, at a maximum term of twenty years, of technical support facilities at the Technical Center of the Federal Aviation Administration in Atlantic County, New Jersey: *Provided*, that the authorization contained in this subsection shall be effective only upon the proper delegation of authority to the Federal Aviation Administrator from the Administrator of the General Services Administration.

On page 2, after the appropriate line, insert the following:

"SEC. 3. In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $12,844,000 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for the construction of a public building in Redding, California, provided that, the Administrator of General Services shall conduct a design competition to select an architect for the building, said competition to be conducted under such procedures that it shall cost no more than one-half of one percent of the cost of the building and shall be conducted under such procedures as will assure that fair compensation for work required from the firms participating in the competition does not exceed that amount.".

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize the distinguished Senator from Wyoming?

Mr. SIMPSON. Mr. President, I thank the Chair and the majority leader.

Mr. President, my remarks will be brief and within the limits of the 10-minute reserve.

I simply wish to relate, in connection with this legislation, that I now conclude my first 2 years in this body. I have enjoyed that very much, learned much, and come to know my colleagues on both sides of the aisle.

I suppose I could say that it has been, indeed, a difficult and sometimes inspiring and sometimes distressing type of occasion—but always fascinating. I served in a legislative body, and I know the "ancient ritual" of the legislative last days of the dying session.

But in my opinion, the activity that has overtaken us in these last hours and last days, has not only been somewhat ridiculous, but also often disgusting to me. If the American people really knew of the "crank-it-out mentality" that comes about in this particular place at this time I think at first they would be appalled and then it is my hunch that, after their juices cooled, they would become more than appalled; they would laugh. They would laugh, I think, at this magnificent institution and they would laugh at the Members and—yes, they would laugh at us all.

I am not accustomed to that. I do not enjoy that. It is absolutely extraordinary to me to see grown men and women galloping about putting together the most grotesque last-minute legislation, letting projects come to germination and fruition while we here are paying precious little attention to the entire process, even as I speak at this very moment of time.

They refer to it as stuff slipping through the cracks. No. The stuff is oozing up through the cracks. It is like some kind of a science fiction movie. These latter days are "a laughter" if they were not so comically tragic.

Here before us at this point is the very quintessence of what I am speaking of, the classic of what I call the "last gasp capers," the proposed building in Redding, Calif.

I speak as a member of the Environment and Public Works Committee. I greatly enjoy my membership there, and JENNINGS RANDOLPH as chairman could not have been any kinder to me, and our whole committee has been galvanized to correct the situations that arise in these types of public works projects. S. 2080, which was passed by the Senate on June 20, passed by a vote of 71 to 8. While it is now bogged down, we will get to it the next time. It is the type of thing that could have helped to have put the screws to projects like Redding, Calif.

Just briefly let me share with Senators what happened there. The House committee through its retiring chairman asked for an 11(b) report from GSA. The GSA asked the agencies to evaluate the needs of the agencies and in June the Department of Agriculture even said they did not need the building.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from the Department of Agriculture to the GSA.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. Department of Agriculture,
Office of the Secretary, Office
of Operations and Finance,
Washington, D.C., June 4, 1980.
Mr. Robert K. Bogardus,
Assistant Regional Administrator, Public Buildings Service, General Services Administration, San Francisco, Calif.

Dear Mr. Bogardus: This is in further reply to your letters of March 21 and 27 concerning a survey of Federal space needs in Redding, California.

Agenices of the Department of Agriculture have the following present and projected requirements in that community:

I. FOREST SERVICE

a. Leased location occupied by the Shasta-Trinity National Forest Supervisor's office at 2400 Washington Street.

1. Personnel: 185.

2. Space:

Office, 19,546 square feet. Special 1,664 square feet.

Total, 21,210 square feet. Outside parking. 10,800 square feet.

3. Annual rental, $148,800.

4. Annual lease with renewal options expiring October 30, 1983.

5. Includes 2,271 sq. ft. of office space occupied by Pacific Southwest Experiment Station.

b. Leased location occupied by the Shasta-Lake Ranger District compound at 6543 Holiday Road (12 miles north of Redding on service road for Interstate Highway 5).

1. Personnel: 59.

2. Space:

Office, 3,142 square feet. Storage, 2,000 square feet. Special, 720 square feet.

Total, 5,842 square feet.

Outside parking, 55,250 square feet.

3. Annual rental, $28,050.

4. Annual lease with renewable options expiring October 30, 1981.

c. Leased location occupied by Forest Service Zone Investigator at 448 Redcliff Road.

1. Personnel: 1.

2. Space:

Office, 135 square feet.

3. Annual rental $1,728.

4. Annual lease with renewal options expiring 9/30/81.

d. Government-owned facility at Redding Airport at 6111 Airport Road (6 miles southeast of Redding), constructed 1951 through 1985:

1. Personnel: varying according to activity (Regional Service Center).

2. Space:

Building:	*Area sq. ft.*
Sign Shop	2,000
Gas & Oil Canopy	416
Equipment Building	16,836
Equipment Sheds (2)	5,040
Paracargo	28,800
Paint Shop	525
Sign Shop Storage	2,700
Mess Hall	1,606
Seed Storage	2,700
Training Facility	2,241
Barracks	6,654
Laboratory (PSW Experiment Station)	400
Growth Chamber (PSW Experiment Station)	400
Total	90,568

Projected Forest Service Requirements. The Shasta-Trinity National Forest Supervisor's office will require a total of about 25,000 square feet at the end of five years, plus a total of 12,500 square feet of outside parking. Sufficient space exists at 2400 Washington Street to satisfy this requirement.

The Shasta-Lake Ranger District Office is expanding to about 8,000 square feet of space.

No changes are anticipated for the Government-owned smoke-jumping facility at the Redding Airport.

II. AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

a. Leased location occupied by the Shasta-Trinity County ASCS office at Bechelli Square, 3179 Bechelli Lane.

1. Personnel: 4.

2. Space:

Office, 816 square feet.

Storage, 182 square feet.

Total, 998 square feet.

3. Rental, $5,934 per annum.

4. Annual lease with renewal options expiring March 31, 1981.

5. Projected requirements: No significant changes projected for 5 years. Present space is suitable to maintain colocation with Soil Conservation Service and provide suitable access to rural clientele.

III. SOIL CONSERVATION SERVICE

a. Leased location occupied by field office at Bechelli Square 3179 Bechelli Lane

1. Personnel: 5.

2. Space:

Office, 854 square feet.

Storage, 50 square feet.

Total, 894 square feet.

3. Rental, $5,478 per annum.

4. Lease expiration: September 30, 1980.*

5. Projected requirements: No significant changes projected for 5 years. Present space is suitable to maintain colocation with ASCS and to provide suitable access to rural clientele.

Total Leased Space, 29,079 sq. ft. at $189,880 per annum (plus 68,050 sq. ft. of parking).

Total Government-owned Space, 90,568 sq. ft.

Total Space Occupied by USDA, 119,647 sq. ft.

As we advised you in our letter of April 21, the agencies of the Department in Redding are suitably and economically housed at present or have arranged to satisfy their expansion requirements. Additionally, we anticipate that by using the long-term leasing authority recently delegated to the Department by GSA, we will be able to continue satisfying our needs and achieve greater economies.

The space occupied by the Forest Service at 2400 Washington Street is situated in the central business area of the community, and the activities in this nearly new building function suitably at this location. However, the other elements of the Department have definite location requirements which preclude a central business area location and which also would preclude consolidation in a Federal Building or major lease project.

We trust that this information is satisfactory and will be of assistance.

Sincerely,

Frank Gearde, Jr.,
Deputy Director.

Mr. SIMPSON. Mr. President, it was then determined that there were 5,000 square feet in the project for the U.S. courts, but the courts had made no request for the space until after the 11(b) was passed. In these types of projects the "need" is simply the chairman's whim. It will be built. The GSA admits that a full-time judge will not even be assigned to Redding, Calif.

Speed on this project? You bet. After several months of "study," on September 15, 1980, in the heart of the political campaign up it came, regurgitated from the bowels of GSA at that time.

Hearing? Yes, they had one. You guessed it, September 23, 1980, as the campaign steamed up. That went through the subcommittee. Did it move swiftly then? You bet. The full committee markup was the same day. Odd that you would have perceived that.

Were the GSA officials embarrassed? Who knows? Are the Congress persons embarrassed? I have not the slightest idea.

But I am embarrassed and offended. I came here to work and that work did not entail the making of memorials for myself with the jack that the people of the American Republic cough up out there.

This is not a partisan commentary. New duties await me in the Senate. I will be honored, God willing, to chair a standing committee of this particular body and also a pair of subcommittees, and I can assure Senators that we will not be doing it that way. I am sure that a chuckle will go up out there—and an elbow in the ribs at the end of the squawk box—and that is the way that works also.

But there are many of us in the new crew around here, people elected in 1976, 1978, and 1980, both Democrat and Republican, who are wholly disenchanted with this system of passing 44,000-word bills in a spirit which smacks as best described as one with equal ingredients of simple madness and high glee, or combinations thereof.

How do we get the citizens of America to quit laughing at our efforts? I think that only comes when we clean up our act, and that is all of us, and me, too.

I defy any Member of this body to go home and tell any anxious citizen, and you can bet they are anxious, if they know what is going on here, what we have cobbled up in this sausage grinder in the last few days—without hearings—without debate—without sense.

They deserve better, and we deserve better. So I am really looking forward to working with my colleagues of the class of 1978, of both parties, and many others, who hope to bring reason to this absurd system of legislative wind down.

I have a final proposal, Mr. President, which I commend for your careful attention.

From now on, if a Member of either body is retiring, then I propose that we give him or her a solid gold $50,000 watch, carefully engraved, "Paid for by, the great unwashed" out there, "the taxpayers," and that will be eminently less painful for them than any $13 million public building.

We will never get credible if we stay so gullible. What a way to operate.

The lameduck epithet was bad enough and now I guess as it drags on it will be much like what is referred to in gin rummy parlance as "a no-brainer."

So stop the place. I am ready to get off. Thanks very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1831) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed the question is on the engrossment of the amendment and third reading of the bill.

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*Space is occupied on a sublease from ASCS. Portion occupied by SCS is not reported by ASCS.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4941) was passed.

EXTENSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that routine morning business be continued for an additional 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ENROLLING CLERK TO MAKE CORRECTIONS IN UP AMENDMENT NO. 1823

Mr. STEVENS. Mr. President, I ask unanimous consent that the enrolling clerk be instructed to make certain corrections to the Hatfield unprinted amendment No. 1823 to Calendar No. 904, which was passed on Friday, December 5, and I send a correction to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The correction is as follows:

> On page 7, line 13, following "required", insert "for the cost of replacement capacity, energy or both purchased by the Secretary of Energy under section 2, and"

AUTHORITY TO PRINT "HISTORY OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES"

Mr. WILLIAMS. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 559) authorizing the printing of a compilation of materials entitled "History of the Committee on Labor and Human Resources," as a Senate document.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. WILLIAMS. Mr. President, this resolution authorizes the compilation of materials entitled "History of the Committee on Labor and Human Resources," as a Senate document.

It has been cleared on both sides of the aisle and is ready for consideration.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 559) was agreed to as follows:

> *Resolved*, That a compilation of materials entitled "History of the Committee on Labor and Human Resources", prepared by Thomas A. Lindsley, be printed, with illustrations, as a Senate document, and that there be printed five hundred and twenty-five additional copies of such document for the use of that committee.
>
> SEC. 2. The document specified in section 1 of this resolution shall be printed and bound with a paperback cover of the style, design, and color as the Committee on Labor and Human Resources shall direct.

"WOMEN IN DANGER" FILMS

Mr. WILLIAMS. Mr. President, I know that all of my colleagues share my deep concern about the incidence of violent crimes in the United States. The most recent FBI statistics concerning these offenses show that the seriousness of the crime problem continues to grow and that, in particular, crimes of violence against women are steadily increasing. According to police tallies, 4,814 women were murdered in the United States in 1979, an increase of 10 percent over the preceding year. Rapes had gone up by an even higher 13 percentage points, totalling 75,989 reported cases in 1979—and all experts recognize that the reported incidence of rape omits a large number of cases where the crime is never brought to the attention of the police because of its inherent emotional trauma.

Mr. President, in the face of this steady increase, we would all hope that responsible segments of society would refrain from activities which could give an impetus to crimes of violence. However, during a recent viewing of public television's "Sneak Previews," an excellent show produced by WTTW in Chicago, it came to my attention that there is now a whole new genre of movies whose plots seem to consist of little more than the terrorization of young women leading to rapes, murders, or mutilations. Robert Ebert and Gene Siskel, the two respected film critics who host this show, departed from their regular format to devote a full half hour to this most disturbing trend.

While I will insert the full transcript of that broadcast at the conclusion of my remarks, I do want to summarize their comment regarding the common denominator of contents which crop up in these films. The victims are almost always attractive young women who, while apparently healthy, are also apparently incapable of doing anything except cower in fear when attacked.

The attacks themselves are generally preceded by sadistic threats, and are then carried out in the most brutal possible manner; including immolations by fire, decapitations, and repeated hackings and stabbings. All of these acts of extreme violence are portrayed in the most graphic detail, sometimes emphasized to an agonizing degree by slow-motion photography. And, apparently, these films are often shot through the eyes of the rapist/murderer, so as to encourage the audience to empathize with his distorted point of view, rather than the plight of the victim.

The hosts of "Sneak Previews" both see the explosive growth of this type of film as evidence that there is a very large audience which finds, in these sordid plots, a vicarious means of striking back at the women's movement. Sadly, they may be correct. The typical victim is an independent and attractive woman, and the assailant is usually a sexually frustrated male. Movies which seem to say that independent women somehow deserve to be raped and murdered, and which so casually mix sex with violence, to my mind represent a real danger to sound human relations and a decent society.

In the August 3 New York Times, Prof. Seymour Feshbach, chairman of UCLA's psychology department, presented the results of his most recent research on the effects of viewing explicit sex and violence. While concluding that, in most instances, such viewings did not present cause for alarm, he went on to observe that there is one important exception:

> Namely, when the exposure consists of the joining of sex and aggression, as in the presentation of a rape sequence . . . the depiction of violence in pornography can have decided negative effects. Males, in particular, are prone to use violent erotica to reinterpret expressions of pain on the part of a female rape victim as indications of sexual excitement. . . . In brief, the message that "pain or humiliation can be fun" can be a harmful message when used to justify rape. Moreover, the juxtaposition of violence with sexual excitement and satisfaction provides an unusual opportunity for the psychological conditioning of violent responses to erotic stimuli. I am not arguing for censorship; only for greater consciousness of the possibility that when violence is fused with sex, we have a potentially dangerous form of alchemy.

Mr. President, my purpose in bringing this subject to my colleagues' attention is likewise not intended to be an argument for censorship. However, I certainly think we must raise questions about an "entertainment" trend which is grounded in rape and violent death. Unfortunately, the fantasies of the movie screen are not far divorced from the realities of the latest murder statistics. The FBI's breakdown of female murder victims by age shows that more than one-half of 1979's deceased fell into the 15 to 34 age group. When asked to explain this grouping, the FBI's Congressional Relations Office suggested that it was due to the fact that many of these murders were the culmination of violent rapes.

Mr. President, before concluding, I also want to comment on the fact that there is absolutely nothing about the "R" ratings awarded to these films, or contained in their advertising, which prepares the unsuspecting moviegoer for the sadism and brutal carnage which they contain. After checking with the Motion Picture Association of America, I learned that the purpose of the rating system is not to provide a general guide to adult viewers, but to provide parents with advance information so they can make judgments as to which movies they wish their children to see.

While there films are not open to unaccompanied children, the rating system is simply irrelevant to Dr. Feshbach's concern that films which link sex and violence may legitimize violence as an acceptable response to sexual stimulation in adult minds. Frankly, I do not know whether it would be practical to revise the rating system to provide fuller disclosure to all viewers.

I do believe, however, that the Motion Picture Association of America's Classification and Rating Administration

(CARA) should reexamine its criteria for awarding "R" ratings to films which are grounded solely upon the depiction of violence against women.

I would also hope that both the film industry and the theater operators of America would give serious consideration to the very negative impacts upon our society which this type of movie may promote. For the benefit of my colleagues, I am inserting a recent article by Mr. Richard Heffner, chairman of CARA, which describes the evolution of the rating system, its purpose, and its inherent limitations.

Mr. Heffner is a most distinguished scholar of American history and communications, and teaches a course in communications and public policy at Rutgers, the State University of New Jersey, in addition to his film-rating duties.

Mr. President, while this subject of film violence directed at women is certainly one which is decidedly unsuitable for legislative solutions, it should benefit greatly from continued public discussion. We all certainly enjoy a good horror movie or thriller, but we must also recognize that the line dividing entertainment from exploitation has been breached by films which seek to demean one-half of the human race.

I ask unanimous consent that the items attached thereto be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Murders committed against females in the United States by age group, in 1979

Age of victim:	*Number of murders*
Less than 1	69
1–4	165
5–9	75
10–14	82
15–19	479
20–24	800
25–29	692
30–34	462
35–39	371
40–44	289
45–49	276
50–54	200
55–59	151
60–64	150
65–69	139
70–74	122
More than 75	218
Undetermined	74
Total	4,814

Source: FBI.

SNEAK PREVIEWS

Sneak Preview No. 304. Originally aired October 23, 1980 at 9 p.m. (Eastern) on the Public Broadcasting Service (PBS–TV).

"EXTREME VIOLENCE DIRECTED AT WOMEN"

Film Clip: "Run, if you must. Hide, if you can. Scream, if you are able. But above all, if you are alone, Don't Answer The Phone. Don't Answer The Phone, rated R."

ROGER EBERT. TV commercials like that one exploiting the plight of women in danger have been saturating television for the past two years. And the summer and fall of 1980 are the worst yet. They signify a disturbing new trend at the movie box office, one we'll be discussing on this special edition of Sneak Previews.

Across the aisle from me is Gene Siskel, film critic of the Chicago Tribune.

GENE SISKEL. And this is Roger Ebert, film critic of the Chicago Sun-Times. Now, normally on Sneak Previews, Roger and I review new movies. This week, however, we're going to be looking at a group of recent films that have some very ugly things in common. All of these films are thrillers, featuring extreme violence direcetd at young women. To put it bluntly, what you see in most of these films is a lot of teenage girls being raped or stabbed to death, usually both.

SISKEL. This is a depressing development in American movies, and, on this show, we'll examine the nature of this trend and speculate on why we're getting so many of these films and getting them now.

A lot of movie-goers, adults and teenagers both, go to see these R-rated films and they assume, well, they're just going to see a bunch of routine scary pictures. But often, they're really shocked at how awful these films are. As we explore this trend, we will not be showing you extreme violence in these movies. We picked scenes that only suggest the violence. We want to inform you, not offend you.

EBERT. It's just as well we're not showing some of those scenes. I think people would turn their sets off.

To begin with, one of the things these so-called "women in danger" films all have in common is that they portray women as helpless victims. After you've sat through a dozen or so of these films, as Gene and I have unfortunately had to, they all fall into the same pattern: a woman or a young girl is shown alone, isolated and defenseless, and then come the suspense-building scenes where the girl thinks she's about to be attacked but she isn't. And just when you think everything is going to be OK, and nothing is going to happen, a crazy killer springs out of the shadows and attacks her. Frequently, the killer sadistically threatens the victim before he strikes.

That's what's happening in this scene from last year's sleazy movie, When a Stranger Calls, which has now been re-released because of the recent upsurge in the popularity of these films about attacks on women. In this scene, the woman has been told to keep the caller who's been threatening her on the line until the police can trace the call.

Scene from When a Stranger Calls.

EBERT. That basic scene has provided the premise for at least a dozen films in the last year. It's always the same. The girl is at home alone, the menacing attacker, the ringing telephone, the wide, frightening eyes. I think there's something terribly wrong when an image like that becomes the building block of an entire movie genre.

SISKEL. You know, a lot of people think that the battle has been won in Hollywood on films about women. They think that now women have parity with men, that there are strong women images in films. Jill Clayburgh in An Unmarried Woman, Jane Fonda in every picture she makes. They've got it all wrong! Fonda and Clayburgh make one film a year maybe, right? These films are coming out week after week playing to millions of people. The dominent image in American films today on women is not Fonda or Clayburgh—it's women like that, cowering in the corner, knives being brandished in their faces, being raped, being sliced apart—that's what's going on in American movies. That's why we're doing this show.

EBERT. I think a lot of people have the wrong idea. They identify these films with earlier thrillers like Psycho, or even a recent film like Halloween, which we both like. These films aren't in the same category. These films hate women, and, unfortunately, the audiences that go to them don't seem to like women too much, either.

Now, we go to see these films in movie theatres. These are not the kinds of movies where they have nice, private little screenings for the critics. To sit there surrounded by people who are identifying not with the victim but with the attacker, with the killer, who are cheering these killers on—is a very scary experience.

SISKEL. Yeah, the movies are played so that they are really almost in favor of the killer and really against the women cowering back.

I don't think we can stress this too strongly: we're not talking about just a couple of films. It seems like we're getting new ones of these kinds of films every other week. That amounts to a major movie trend. Here are some examples—there's Prom Night, with teenage girls being slaughtered at their high school prom. The ad campaign is, "If you're not back by midnight, you wont' be coming home." There's don't go in the House, about a guy who was tortured by his mother and burns three women to death. The sell line here is, "You have been warned." And there's The Howling, a new movie about a woman who goes alone on her vacation and is tortured by the locals. The come-on line here is, "Imagine your worst fear a reality." And there's Terror Train, in which six college students at a masquerade party on a train are stalked by a psychopath. And there's The Boogeyman, where a super-natural killer haunts a house. Here's one of the ads for The Boogeyman.

Commercial for The Boogeyman: "You can't hide from him. By the time you believe in him, it'll be too late. The Boogeyman—he's going to get you!"

SISKEL. And we're out to get The Boogeyman before he gets you and your four bucks.

Now week after week, these are the kinds of movies we're getting. It is relentless. Every film company seems to be making one of these movies or distributing one that some fast buck artist has already made. In addition to the films we've already mentioned this season, we also have, He Knows You're Alone, Motel Hell, Phobia, Mother's Day, Schizoid, Silent Scream and I Spit On Your Grave, which is easily the worst of this disgusting bunch. The newspaper ads for these movies are bold in the way they suggest terror but in no way, in many cases, do the ads really prepare you for the kind of explicit violence we end up getting on the screen. Decapitations are not uncommon and shots, repeated stabbing shots, of all parts of women's bodies, are grotesquely routine.

EBERT. You know what I think misleads a lot of people when they look at the newspaper ads or ads on television for these movies? They see that R-rating and they think, well, R, that means if you're under 17 you have to take along a parent or an adult guardian. It can't be that bad. Maybe they've seen other R-rated films—like this summer you had The Blue Lagoon, which had a little low-key nudity in it, or The Blues Brothers, which really wasn't too extreme—and so they say, well, that's not so bad. They have no idea.

I agree with you about I Spit on Your Grave. That is the most violent, extreme, grosteque, nauseating, R-rated picture I've ever seen, and I just don't understand how the R-rating has grown so large to include these films which, in my opinion, go right off the map of any kind of good taste.

SISKEL. Yeah, what's happening is these gougings—again, to make the point—are taking place. And it's basically women that are being gouged. I think at this point, somebody is probably wondering, "Why?"

EBERT. Exactly.

SISKEL. Why, why is this happening? I have a theory. In the last couple of months that I've been seeing these pictures, I'm convinced it has something to do with the growth of the women's movement in America in the last decade.

I think that these films are some sort of primordial response by some very sick people saying, "Get back in your place, women." The women in these films are typically portrayed as independent, as sexual, as enjoying life. And the killer, typically—not all the time but most often—is a man who is sexually frustrated with these new aggressive women, and so he strikes back at them. He throws knives at them. He can't deal with them. He cuts them up, he kills them. These films seem to be saying, "Get back in your place, women"—they're against the women's movement.

EBERT. I think you're basically right, Gene. You know, after you've sat through hour after hour of this complete trash, you begin to ask yourself what did these female victims do to deserve the horrible attacks they undergo in these films. What was their crime? Why is it suddenly open season on young women in the movies? Well, one thing that most of the women victims do have in common is that they do act independently and I agree with you on that point. To one degree or another, they're liberated women who chose to act on their own and the moment that a woman starts making decisions for herself in these movies, you can almost bet she's going to end up paying with her life . . . and horribly.

Here's an example from the movie Silent Scream, with a college coed looking for off-campus housing.

Scene from: Silent Scream.

EBERT. This aggressive woman gets a room all right, but she also gets beaten, gagged, tied up in a closet and attacked with a knife.

Scene from: Silent Scream.

EBERT. And in the movie, Friday the 13th, an independent female camp counselor goes out on her own and hitchhikes a ride with the wrong driver.

Scene from: Friday the 13th.

EBERT. Now, that scene demonstrates a very common and probably a very significant technique that's used again and again in these films. We view a scene through the eyes of the killer. You never saw the driver in the last scene. Instead, you saw everything through the driver's eyes. In the traditional horror movie, we often saw things from the victim's point of view—but that's no longer. Now, we look through the killer's eyes. It's almost as if the audience is being asked to idenitfy with the attackers in these movies, and that really bothers me.

SISKEL. That's a very good point. One of the other things that bothers me is that the behavior that these women are engaging in, if done by men, would be considered brave, bold and fun. Going hitchhiking, you know, going across the country like in "Easy Rider," very typical. A woman tries to do something like that in these films—wham-o, she gets sliced up.

Again, I want to expand on the notion of what may be causing this. Whenever we see a movie trend, I think that what's really going on—I think I've talked about this before—is that it's sort of a coalesced dream that people may be feeling that the filmmaker hits on.

Remember those disaster pictures we talked about? At that time, everybody was afraid that something evil might happen to the world, a nuclear explosion or something like that; that's when we got all those doomsday films.

Here, I think filmmakers are picking up on the notion that a lot of men are angry at women, don't know how to cope with women—and they're pandering, exciting, inflaming men. Very bad.

EBERT. When you talk about the coalesced dreams, in other words, you're saying that there are a lot of people out there who have urges or feelings or fears that they don't articulate themselves, and then a movie comes along—sometimes almost by accident—that strikes that chord. For example, when Airport came out in 1970, nobody knew that was going to be the first of countless umpteen dozens of disaster movies, but it really spoke to people in a way that made other people imitate it. I think in this case, the first movie of this whole series of "women in danger" films was obviously Halloween, which we're going to get to in just a moment. I think Halloween's a pretty good picture. It captured an enormous audience. It did millions of dollars worth of business, and then the sleaze merchants came along, looked at that movie and tried to put their finger on what it was about it that was so successful. And they said, "Well, women are being chased by a killer, that's it. Let's go out and hire us some more women and some more killers and make us some money."

SISKEL. That's why they call these things exploitation films—these rotten ones—because they exploit one element and make it sort of sick. Also, many of the attacks in these films are on women who are scantily clad. I think the intent here is to also exploit the sex angles in these pictures. The nudity is always gratuitous, it's just put in the film only to titillate the audience and maybe make one other point: that women who dress this way or merely uncover their bodies are somehow asking for trouble and somehow deserve the trouble they get. That's a very sick idea.

Here, for example, is an innocent sunbather in I Spit On Your Grave. Watch what happens to her.

Scene from: I Spit On Your Grave.

SISKEL. And in Friday The 13th, we watch as a young woman primps provocatively in a bathroom mirror as she is stalked by a hatchet killer. This is yet another film connecting sex with violence. A film saying, "Act this way, young women, and you're asking for trouble."

Scene from: Friday The 13th.

SISKEL. In the past year, I must have seen that scene 100–150 times. Every movie of this kind has eight or ten scenes just like that. I am sick of them. I dread going to these kinds of movies. It really has become the most depressing part of my job as a film critic.

EBERT. And there we are in total agreement as far as I'm concerned. You know, we go to see these movies. In a way, I almost feel as if I don't belong in the theatre because everybody else apparently went to this movie, and movies like this, voluntarily. They're happy to be there, and they're reacting. I feel like an undercover spy in the dark.

I went to see I Spit On Your Grave and I was sitting next to a fairly nicely-dressed, middle-aged man, maybe in his 50's or 60's, who was talking back to the screen with lines like, "Boy, she's really asking for it now" or "There's a rape scene coming up, this will be a good one," and so forth. This guy is, to my way of thinking, a vicarious sex criminal. He has very anti-social attitudes. I felt creepy sitting there.

SISKEL. Not all are guys—I went and saw the picture, too, and I saw a lot of couples on dates. That gets me worried about another thing. I know a lot of people are wondering, well, you know, people are going to see these films and imitate the behavior. But, in the majority, it's middle class people who are going to see these films, that's why they're such big hits. And I then worry about this idea: that when you view women constantly as sport, being stabbed, I think that's sort of a sick notion that just sort of makes us—it's degrading. Because women in these films are viewed as second class citizens, that somehow makes it acceptable behavior.

You've said before that all movies tend to argue in favor of the behavior that they show. Well, these movies show women as sport, to be stabbed. I think that's a bad idea.

You know, they outlawed bullfighting because it was cruel. I almost have some of the same feelings toward these kinds of films.

EBERT. These kinds of movies put some very bad ideas into society in the context of entertainment.

You know, Gene and I had some long discussions before we decided to do this special program on women in danger in the movies, and, frankly, we worried about whether additional publicity for these movies might simply help them out at the box office. We sure hope not.

Our intention is to simply report on this trend and to warn unsuspecting people who might go to these films thinking they're merely good, old-fashioned horror films, the kind a lot of people used to enjoy.

EBERT. Because there is a difference between good and scary movies and movies that systematically demean half the human race. There is a difference between movies which are violent but entertaining and movies that are gruesome and despicable. There is a difference between a horror movie and a freak show.

And a good example of that is the fact that both of us gave favorable reviews to a very scary 1978 horror film named Halloween. Now, there must be people asking, how can we praise a movie like that and now say these other movies are so terrible? Well, here's a scene from Halloween. It's got the same basic situation as all the "women in danger" movies have. There's a woman alone in a big house, and she's being chased by a killer. But let's look at it first and then talk about some of the differences.

Scene from: Halloween.

EBERT. OK. That's Halloween, a horror movie we both think is pretty good.

SISKEL. Very good.

EBERT. One of the things a short scene can't show you is that Halloween is directed and acted with a great deal more artistry and craftsmanship than the sleaze-bucket movies we've been talking about.

But there's another much more important difference. As you watch Halloween, your basic sympathies are always enlisted on the side of the woman, not with the killer. The movie develops women characters as independent, intelligent, spunky and interesting people. Halloween does not hate women.

SISKEL. You know, when I saw that scene, I must admit, I wasn't really worrying about the woman as much as I was placing myself in that closet and thinking about that killer—how I would handle it.

And I was also appreciating the fact that Halloween not only doesn't hate women, but that it loves films and filmmaking. That music is just fabulous, the way they start one theme and lay another theme on top of it, keeping the other theme . . . really good. Also, the light coming through the slats in that closet. This is a film that's sort of "up." That scene is "up" and you're jumpy rather than getting depressed and feeling sorry that you're even watching it. It's an upbeat thing.

EBERT. You know, I think what you're touching on here is that artistry can redeem any subject mater. That's why I've always been opposed to censorship. I don't believe any subject matter should be off-limits. The question is, what does the artist do with it, how does he look at it, how does he put it through art—to make a statement about it, and to make it into either a commercial film or a serious film?

I believe in the case of a movie like Halloween we can engage in that "joy of filmmaking" that you talked about. That's not the case with the other films that really address themselves to the lowest possible common denominator.

SISKEL. So, we're not knocking scary pictures, per se.

EBERT. No.

SISKEL. Just a certain kind. Just to make the point one final time, to differentiate the films we're talking about from something good like Halloween. The films that we're dealing with here don't have the artistry of

Halloween. These "women in danger" films all really boil down to just one same image, one disturbing image. A woman screaming in abject terror.

Scene from: Friday the 13th.

Siskel. That's really the degrading essence of what's going on in these pictures, and, in that one, they even stretch it out with slow motion. That's all it's about, it's just that sick image of a woman cowering in a corner. As to what people can do about these films, this trend in the movies that we've been spotlighting, I think people have to realize that the box office speaks louder than just two film critics. So, if one of these films is around, if you have an idea that it might be around, stay away.

Ebert. Right, and how do you know which films to stay away from? Usually, you can tell by the ads—R-rated, usually with a knife or a hatchet or an axe, a girl screaming, some guy in a hood. These movies are junk, so give them a pass.

Siskel. OK. So much for this week's journey into sick movies. Next week, the films have to get better. How can they be any worse? Next time, we'll review five new films on Sneak Previews. Until then we'll see you at the movies.

WHAT G, PG, R AND X REALLY MEAN

(By Richard D. Heffner)

(Those often misunderstood movies ratings are explained by the man who knows them best.)

By the time a movie is shown on commercial television, it usually has been re-edited to meet family-viewing standards—or, to put it more bluntly, it has been censored. But the process by which movies are classified for theaters—rated G, PG, R or X—does not involve consorship, a fact that is not widely understood. A clear understanding of that process is important to moviegoers in making their decisions about what movies they wish to see—or allow their children to see—and to home viewers as they notice the differences between what they saw in a theater and what they are now seeing on a TV screen. (Viewers with pay-TV, of course, can see the theater versions.)

The person who presides over the board primarily responsible for assigning the ratings to theatrical movies is Richard Heffner (the producer-moderator of television's The Open Mind series). Since 1974, he has been impartial chairman of the Classification and Rating Administration (CARA), created a dozen years ago by a coalition of motion-picture producers, distributors and exhibitors; and administered by Jack Valenti, as president of the Motion Picture Association of America. Heffner is also professor of communications and public policy at Rutgers University. TV Guide asked him to explain how the classification system operates, and he chose to do so in the form of a self-interview in which Heffner the professor asks the questions and Heffner the chairman of CARA answers them.

Professor. What film content is prohibited by the present Rating Board?

Chairman. Nothing is prohibited. There no longer is a Production Code that lists what may or may not be shown on the American screen. If there were, I wouldn't want to have anything to do with it. For, let me ask you, in terms of viewing by mature adults, what content should be prohibited: what you don't like, or what I don't like? Wisely, Americans haven't made that choice. Instead, our historic reply has been: freedom of expression, however vile or vulgar in my eyes and in yours.

As far as the classification system is concerned, any film content goes—for adults. If it is submitted to CARA—and many films are not—it is simply classified as G, PG, R or X. X goes, too, remember that! And there is no never-never land beyond X where films go to die. Nothing is banned by our system. or refused a rating.

Professor. Don't you ever want to refuse even your ultimate X rating to some of the awful things you see?

Chairman. Yes.

Professor. Yes?

Chairman. Don't you think I share your sensibilities, your outrage, your disgust at some of what appears on the screen? Believe me, I do. And when I don't keep a wary enough eye on the strength and vigilance of my own Jeffersonian principles, I do dearly wish the earth would just open up to swallow whole some of the dreadful things we see. But as an erstwhile American historian, I'm convinced that the price of film censorship in this country would be too great.

Professor. But if you don't ban them, then how do you indicate that you disapprove of certain films?

Chairman. We don't approve or disapprove of films. We just classify those that are submitted to us. And even when we go "all the way" and do classify films as X, only youngsters under 17—or 18 some places—are kept from seeing them in the theaters that choose to observe the rating system. We are not censors. Nothing we do affects the moviegoing of anyone other than these young people, and even then, in largest part, only as their parents choose. We aren't moralists or critics. Our main objective is to provide an early-warning signal to parents, who may then exercise their own responsibility to expose their youngsters to more mature film content only as they individually mature.

Professor. At least tell me who determines your list of G, PG and R dos and don'ts.

Chairman. No one. There are no exact lists of inflexible dos and don'ts for each classification category. And if you think about it a bit, you'll agree that there couldn't be in a rating system that tries to look at films in their entirety, as parents do, not at moments of film content out of context, and that accepts its responsibility to reflect changing, shifting patterns of parental attitudes. Dos and don'ts might look good on paper. But in the real world such an effort to standardize film classification would only irrationally constrain the concerned, responsible filmmaker, while irresistibly tempting his opposite numbers to work ever harder to find ways to violate the spirit of such rules.

Professor. Aren't there times when just a moment on the screen will move an entire film from one rating category into another?

Chairman. I'm afraid there are.

Professor. Why do you say "afraid"?

Chairman. Because we really are convinced that most parents look at most films—and evaluate them for their youngsters' moviegoing—in their entirety, not through a bit here and a piece there of film content. And so we do, too. Or at least we try to. But sometimes we can't.

Professor. Why not?

Chairman. Because sometimes even a very brief moment on the screen will simply be too violent, or involve sexuality or nudity too explicit to permit us to rate the film as we otherwise would want to. Indeed, one might say that with that very heavy moment—which he has himself designed—the filmmaker has deliberately chosen to redirect his film, as far as most parents will be concerned. And it is our responsibility to alert those parents with a different rating than we would otherwise apply.

Professor. So you're really still just talking about making sense, not about following rules.

Chairman. Yes. But there is one exception: the so-called "automatic language rule" that the industry continues to impose on the Film Rating Board. It gives my colleagues and me absolutely no option in this one area. It requires the Rating Board to give any picture an R if it contains just one of the harsher, sexually derived words, even used as an expletive.

Professor. Now, just a moment. I can tell a "harsh, sexually derived word"—to use your euphemism—when I hear one. And I've surely heard them in PG-rated, not just R-rated, films. So much, then, for your "automatic language rule."

Chairman. You're right. But out of respect for the many parents who are quite disturbed by any strong language in PG-rated films, the rule is there. And the Rating Board does automatically rack up an R whenever it hears these words. But an all-industry Appeals Board exists over and beyond the Rating Board. It is empowered to set aside these automatic R's, and has done so occasionally, generally when the language is fleeting and unobtrusive and the films otherwise are clearly not what most American parents would insist be restricted for all moviegoers up to 17 years of age.

Professor. There are no other automatic ratings by rote or rule?

Chairman. No, with that single exception, there is no pretense that all of one kind of film content—all violence, all nudity, all language, all sex or all of what have you—must automatically go into one classification rather than another. For that would be unrealistic, a denial of the nature of contemporary films—and their audiences. That would be to impose an insensitive, unreasoning and unworkable rigidity upon the art of filmmaking.

Essentially, then, instead of the rigidities of the old Code that are long since gone, we have flexible rating guidelines that are embodied in the very definitions of our rating symbols: Films that, most American parents will likely consider appropriate in theme and treatment for even their youngest movie-age children are rated G. Films that most American parents will likely think youngsters up to 17 can attend alone, but that require parental guidance, are rated PG. Films that most American parents will likely think someone under 17 might see, but only if accompanied by a parent or adult guardian, are rated R. Films that most American parents will likely consider simply too adult for anyone under 17 are rated X.

Professor. Do you think that parents universally understand these definitions of G, PG, R and X?

Chairman. No. But I think we're getting there.

Professor. Isn't one of the loudest criticisms of the rating system that it's driven G pictures out of the market; that the G rating is perceived as bad news at the box office and therefore some producers will drop into their family films otherwise uncalled-for materials just to get your PG instead?

Chairman. I'm afraid that happens. Yet you have it upside down. It's the market that does in these films, not their ratings. When there's a market for particular G-rated films, they do well, as "Star Trek" and "The Black Stallion" did. When there's not, they don't.

However, I don't want just to dismiss this criticism. It does pose a problem, a real one. It's ironic, of course, that the very presence of a bottom-line there's nothing in here that most parents of even the youngest children need be concerned about. General rating seems to motivate some producers to "jazz up" their films to be classified PG instead of G.

But what's the alternative: Not to identify films for the entire family? Not to signal parents when there are some films they can take the kids to without any problems at all with language, sex, nudity, violence, theme, etc? That would relieve the industry of the burden of this present irony. But it would also saddle the parents of younger children with something far more onerous. And that's not acceptable. We owe it to these parents to give them the signals they want.

Professor. Let's turn to another aspect of the rating system. Where does it get its legal authority?

CHAIRMAN. It has none. It is not a function of government. It is totally a voluntary effort on the part of participating motion-picture producers, distributors and exhibitors to help American parents guide their own children's filmgoing without intruding upon the freedom of adult Americans to see and to hear what they choose. There is no governmental involvement with the rating system. There are no legal sanctions. CARA was designed precisely to avoid such an intrusion into free expression by the law. And perhaps its success can best be measured by the fact that our Nation has been unusual in avoiding film censorship.

PROFESSOR. Then on what basis do you require movie people to submit their films to you?

CHAIRMAN. We don't. They come to CARA for a rating only if and when they choose to.

PROFESSOR. How are the ratings enforced when you do assign them?

CHAIRMAN. They aren't, in the usual sense of the word, "enforced." We have no gumshoes or supersleuths. When we are alerted to the possibility of a misuse of our ratings, or of a disparity between the version of a film we have rated and the prints actually screened in the theaters, we check and can suggest proceedings leading to the revocation of a rating, if necessary, or take appropriate trademark action. The success of our struggle to substitute classification for censorship depends upon the credibility of our ratings, after all, and we can't let people muck around with them. But, as workers in a voluntary system, we must depend largely upon persuasion and upon the honor and integrity of those who participate in film classification. We don't send people to jail.

PROFESSOR. Isn't this a kind of namby-pamby approach to enforcement?

CHAIRMAN. I suppose so. And that certainly has to be our perception of the system if you don't share Americans' historic belief in voluntarism and prefer get-tough government regulation instead. But I still think that trying to get people to see the value of our voluntary system is better than trying them in court.

PROFESSOR. Let's go back again from theory to practice. At what stage of filmmaking do you solicit scripts? How do you edit them? And how many Rating Board members supervise each film-in-the-making?

CHAIRMAN. We don't solicit scripts. We don't want to see them, wish they would go away and comment only perfunctorily on them when they are are thrust upon us. Nor do we ever get involved in production at all, at any stage, much to the chagrin, incidentally, of people who actually liked those "good old" Production Code days before the classification system, when they were told at every step along the way precisely what they could do and what they couldn't. Some people want to get the monkey off their own backs and onto ours. And we won't take it!

PROFESSOR. But that doesn't quite ring true. We constantly hear stories about producers editing their films to get your PG instead of your R, or your R instead of Your X.

CHAIRMAN. Yes, but not at CARA's request, I assure you. We don't ask filmmakers to change their films. We don't want them to. We are, of course, obliged to tell them what we can about why we rate their films as we do: for violence or sex or language or nudity or theme or what have you. And if a filmmaker wants to resubmit his film in a new version that he thinks will merit the rating he wants, we'll surely not tell him he can't do so.

If he comes back with another version of his film, we approach it in turn without prejudice. Then, unless he wants us to forget the whole darn thing (and that's his privilege, for we have no right to impose our rating symbols if he decides he doesn't want his film to be rated), we'll classify it as if the earlier version didn't exist. For our own rating purposes, of course, it doesn't.

PROFESSOR. Do you think parental attitudes justify the "hard line" you and your colleagues take in rating movie nudity and sensuality, and your "soft line" in rating movie violence?

CHAIRMAN. That's a "when-did-you-stop-beating-your-wife" question—but with a twist. For surely we don't take those "lines" now. Yet I'm told that when it was created in 1968 the Rating Board was "softer" on violence and "harder" on nudity and sensuality. And that was really quite an appropriate posture for the Rating Board to take at the time. For I think it accurately reflected what parents were then mostly concerned about.

There has been a switch in recent years, however, and that is what has to be judged today, not the patterns of the past. So that a moment of nudity that automatically drew an R years back may be PG-rated today, while violence is often rated R now that was not restricted before. It's a result of what we perceive to be changing parental attitudes toward these subjects.

PROFESSOR. Do you think most American parents approve of what you do?

CHAIRMAN. Yes. Not all American parents, of course. But not just some, either. Most. Which seems to be borne out by frequent public-opinion polls. We classify 350 to 450 films each year. And I dare say that a certain number of parents around the the country will disagree with us on each rating. Most of the time, however, most parents seem to approve of most of what we do.

PROFESSOR. You've said if a filmmaker doesn't agree with a Rating Board decision, he can appeal.

CHAIRMAN. Yes, to an Appeals Board made up of industry people, not outsiders like my colleagues and me.

PROFESSOR. Do you and your colleagues resent this seeming intrusion?

CHAIRMAN. Absolutely not. In fact, if Jack Valenti hadn't worked to create an Appeals Board in the first place, we would ask him to do so now. It's wise to have checks and balances, it's good to be second-guessed so long as both the Rating Board and the Appeals Board have the same goals.

PROFESSOR. Are original Rating Board decisions frequently overturned?

CHAIRMAN. No. Since I became chairman of the Rating Board—if one separates out the automatic language R's, over which my colleagues and I have no control and make no initial decision ourselves—the Appeals Board has overturned us only seven times out of about 2500 film ratings.

We may all be making mistakes, of course. But I suspect instead that this low rate of reversal indicates the degree to which the Rating Board has been both fair and reasonable in setting films submitted to it against the necessarily imprecise yardstick of parental opinion. It is I think, only the rule of reason that works in balancing our twin concerns: maximum freedom of expression and maximum respect for the opinions of most parents.

PROFESSOR. You seem to be satisfied with the rating system. Don't you see reasons for change?

CHAIRMAN. Of course I do. I'm a staunch supporter of the basic concept of voluntary film classification as a barrier to film censorship. But I'm too realistic to be "satisfied" with any manmade and therefore necessarily faulted mechanism. No human institution can or should stand still . . . but rather must change to survive and serve in this changing world. I certainly have my own strong convictions about what changes ought to be effected. But I even more strongly believe that I ought to strive for those changes only within industry councils, not in the press or even before the Congress. For the real genius of this system is its very voluntarism, and the faith that it must find its own level, its own way, and not become subject either to the commands of government or to the whims of external criticsm. Our society already turns too often to coercion to achieve its purposes. I don't want us to follow that destructive path here, too.

PROFESSOR. All right. I guess that tells me what I wanted to know. Do you have any questions?

CHAIRMAN. Well, yes. I'm glad you ask. For I do have a question. One that's rather satisfying in its own way. And I tend more and more to ask it whenever I'm hard-pressed about film classification generally, or by questions about why in the world we rated one film this way or another film that way.

My question is always the same and is really as simple as it is pointed; namely, what would you do? Would you really abandon film ratings? Would you opt for film censorship instead? Would you not have a G category at all? Would you give all violence an X? Or all nudity and sex a PG? Would you not tell a filmmaker why you classified his film one way or another? And if he decided to change his film, would you refuse to look at it again? Would you give X ratings to films you deplore and G's to those you adore? In short, would you do things differently?

And, believe it or not, it turns out that after a good deal of mental shuffling around, of intellectual hemming and hawing, most thoughtful people own that they would do pretty much what we have done. Which really isn't too bad, is it, by way of summing up?

(Richard D. Heffner, 55 years of age, Chairman of the Rating Board, was born in New York City. A Phi Beta Kappa graduate of Columbia University, Heffner is University Professor of Communications and Public Policy at Rutgers. He brings to his position as Chairman a vast amount of practical experience in communications and in an academic career.

(A pioneer in public broadcasting, Heffner was instrumental in the controversial acquisition and activation of Channel 13, WNET, New York's educational television station, serving as its first General Manager. In his earlier work in commercial television, he had produced and moderated Man of the Year, the Open Mind, and other prize-winning television program series, and had served as Director of Public Affairs Programs for WNBC-TV, Channel 4, in New York. He also was Director of Special Projects for the CBS Television Network and Editorial Consultant to the CBS, Inc., Editorial Board, and served as a radio newsman for ABC.

(Beginning his career as an historian, Heffner taught at the University of California at Berkeley, Sarah Lawrence College, Columbia University and the New School for Social Research, New York. He is the author of A Documentary History of the United States and editor of Tocqueville's Democracy in America. His reviews and articles have appeared in such publications as the New York Times, Saturday Review, and the American Historical Review.

(Heffner has frequently served as an American Specialist in Communications for the United States Department of State in Japan, the Soviet Union, Germany, Yugoslavia, and Israel. He has assumed responsibility for a variety of other consultative projects in the field of communications and continues to moderate The Open Mind, which now originates in New York and is rebroadcast on public television stations across the nation.

(He is married to the former Elaine Segal, who is Assistant in Psychiatry at Cornell Medical School, and Co-Director of the Nursery School Treatment Center at Payne-Whitney Clinic of New York Hospital. The Heffners have two sons, Daniel and Andrew.)

H.R. 4645 HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 4645 continue to be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELI E. NOBLEMAN COMMENDED

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Ribicoff I send to the desk a resolution commending Eli E. Nobleman, and I ask that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 560) to commend Eli E. Nobleman, counsel to the Senate Committee on Governmental Affairs on the occasion of the conclusion of his distinguished career of service to the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Ribicoff I send to the desk a statement by Mr. Ribicoff for insertion in the Record, and I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Ribicoff

Mr. President, Mr. Eli E. Nobleman, counsel to the Governmental Affairs Committee, will be retiring from the Senate this year after thirty-three years. Eli is respected and admired by the many staff members and Senators who have had the opportunity to work with him. He is truly the Committee's historian. No one knows the history of the Committee better than he. Senator Percy once referred to him as "the institutional memory of the Committee."

I have had the pleasure of knowing Eli for the past 17 years. My first encounter with him was in February 1963 when I joined the Committee. Through the years, I have had frequent contacts with him, usually in connection with Committee business. His knowledge, advice and assistance, particularly with respect to reorganization matters and Senate and Committee rules, procedures and precedents, have been most valuable.

Eli has provided counsel to me as well as to other members of the Committee and their staffs on numerous occasions. He is always enthusiastic and eager to respond to questions by newer members of the Committee on a wide range of Committee activities. He responds readily to staff requests on many subjects of the Committee's endeavors. Eli's counsel is always thorough and well reasoned. He has numerous letters of appreciation and commendation from former Committee chairmen and other Committee members.

Eli is a native of New York. He received his B.A., LL.B., LL.M., and J.S.D. (Doctor of Juridical Science) degrees from New York University. He also attended various Army and Defense Department schools, including the Industrial College of the Armed Forces.

Eli practiced law in New York City from 1939 to 1941. He was a Law Secretary, Judge of U.S. District Court, Southern District of New York, from 1941 to 1942. He served as an Attorney and Special Assistant to the Attorney General of the U.S. from 1942 to 1948.

In 1948, Eli first was employed by the U.S. Senate on 90 days' leave from the Department of Justice. His first position was Counsel to the Subcommittee on U.S. Relations With International Organizations of the Senate Committee on Expenditures in the Executive Departments (later renamed Committee on Government Operations). He served in this position from January 1948 to February 1951. From 1951 to the present time, he has been Counsel to the Governmental Affairs (formerly Government Operations) Committee.

In addition to his Senate career, Eli has been a member of the part-time faculty of American University since 1947. From 1957 to 1976, he also served at American University as an Adjunct Professor in the School of Government and Public Administration, the School of International Service, and the Center for the Administration of Justice. In 1976 he was given the distinguished Adjunct Professor Award.

Eli has been admitted to the New York Bar and the bars of the United States Supreme Court, the U.S. Court of Appeals and the U.S. District Court for the District of Columbia, the U.S. Court of Claims and the U.S. Court of Military Appeals.

Eli has had an outstanding military career as well. He received a direct field commission in Germany as a second lieutenant during World War II and presently holds the commission as Colonel. He retired from the military in 1973, after holding several important general staff positions. He has been awarded various Department of the Army certificates of achievement. He received the Meritorious Service Medal in 1971 and the Legion of Merit in 1973.

Eli has written numerous reports and studies for the Committee. In addition, he has published numerous articles in the American Bar Association Journal, the Federal Bar Journal and other professional publications. He was formerly the Congressional Affairs Editor for The International Lawyer, the publication of the International and Comparative Law Section of the American Bar Association.

Mr. President, the Resolution we introduce today pays tribute to Eli's many years of service and counsel to the Committee.

Some of the highlights of Eli's career in the Senate are the following:

1948—He was appointed Counsel, Subcommittee on U.S. Relations With International Organizations for the Senate Committee on Expenditures in the Executive Department (later renamed Government Operations and Governmental Affairs).

Developed and prepared the first in-depth studies ever made with respect to international organizations and developed the basic format which is still used by the Department of State.

Feb. 1951 to present—appointed legal and professional staff member of the full Committee.

Handled and participated in processing of 35 reorganization plans.

Handled the legislation establishing the Department of Transportation.

Handled numerous pieces of legislation dealing with intergovernmental relations.

Handled the Legislative Reorganization Act of 1970 and worked with the staff of the Senate Committee on Rules and Administration in compiling law and Senate Rules.

Represented the Committee on a Task Force to recodify Title 5 of the U.S. Code.

Handled the basic legislation which led to the development and enactment of the Congressional Budget and Impoundment Control Act of 1974 and participated in the processing of the legislation.

Handled numerous legislative proposals implementing the recommendations of the First and Second Hoover Commissions.

Prepared most of the Activities Reports of the Committee on the activities of the Committee for each Congress.

Developed and prepared the first set of Rules of Committee Procedure for the Committee, which served as a model for other Committees.

Handled the early work of the Committee on the reform of the Federal Regulation of Lobbying Act.

Handled numerous amendments to the Budget and Accounting Act, 1921, as amended, including requirement for confirmation of Director and Deputy Director, OMB.

Responsible for Presidential Recordings and Material Preservation Act (Nixon tapes law) and subsequent resolutions relative to regulations to implement the law.

Eli prepared numerous special studies for the Committee. These include:

Study of the Authority of the Senate to Originate Appropriations Bills (Sen. Doc. No. 17, 88th Cong.), commented on favorably in the lead editorial of the Washington Post and discussed by Arthur Krock in his New York Times column.

Study of Government Competition With Private Enterprise (Committee print).

Study of Government Policy and Practice With Respect to Contracts for Technical Services (Committee print).

Study of Jurisdictional Overlaps and Conflicts in Congressional Investigations With Special Reference to Senate Practice (S. Doc. 51, 82d Cong., pp. 31–46).

Study of Legislation Authorizing Appropriations and Establishing Revolving Funds (as of March 1965) (Sen. Doc. No. 73, 89th Cong.).

Analysis of Constitutional and Legal Aspects of Reorganization Act Procedures, Pursuant to the Reorganization Act of 1949, as Amended (printed in hearings on bills to amend the Reorganization Act of 1949, Mar. 29, 1965, Comm. on Govt. Ops., pp. 10–18) (Cong. Rec., Feb. 17, 1965, pp. 2705–2709).

Study of Constitutional and Legal Aspects of Legislation to Prohibit Unreasonable Suppression of Information by the Executive Branch of the Government (printed in House Report No. 2456, 87th Cong., pp. 27–35).

Memorandum on Legal Aspects of Presidential Delegations of Constitutional and Statutory Functions (printed in hearings on a bill to create the position of Administrative Vice President (Hearings, Comm. on Govt. Ops., Jan. 16, 24 and 25, 1956, pp. 23–29), published in Annals of the American Academy of Political and Social Science (Sept. 1956) under title: The Delegation of Presidential Functions: Constitutional and Legal Aspects).

In-depth analysis of Financial Aspects of Congressional Participation in Foreign Relations (prepared in connection with a reorganization plan on various aspects of U.S. foreign operations—published in Annals of the American Academy of Political and Social Science (Sept. 1953) and printed in the Congressional Record).

Eli has served the Committee for more than half the Committee's life. No other committee counsel has served this Committee continuously in that capacity for that long a period. In fact, I am not certain that any counsel of any standing committee of the Senate has served in that capacity for so long a period of time. Accordingly, we thought it appropriate that upon his retirement, he be named "Counsel Emeritus" to the Committee on Governmental Affairs.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 560) was agreed to as follows:

Resolution

To commend Eli E. Nobleman, Counsel to the Senate Committee on Governmental Affairs on the occasion of the conclusion of his distinguished career of service to the Senate.

Whereas, Eli E. Nobleman, Counsel to the Senate Committee on Governmental Affairs, will be retiring from the Senate, effective December 31, 1980;

Whereas, he has honorably, faithfully and diligently provided wise counsel and guidance to the Committee since 1948, and the United States Government since 1941;

Whereas, by virtue of his skill and knowledge, he has made numerous outstanding and invaluable contributions to the Committee, to the Senate and to the Congress of the United States through his preparation of indepth studies and legislation relative to major areas of Constitutional government; and

Whereas, in the performance of his duties, he has served the Committee and the Senate with loyalty and dedication for a period covering more than half of the life of the Committee and longer than any other Counsel to the Committee: Now, therefore, be it

Resolved by the Senate, That the United States Senate extends to Eli E. Nobleman their sincere best wishes following his retirement from the Committee and hereby name him "Counsel Emeritus" of the Committee on Governmental Affairs.

The preamble was agreed to.

RICHARD A. WEGMAN COMMENDED

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RIBICOFF and Mr. PERCY I send to the desk a Senate resolution commending Richard A Wegman, chief counsel and staff director for the Senate Committee on Governmental Affairs, and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 561) to commend Richard A. Wegman, Chief Counsel and Staff Director to the Senate Committee on Governmental Affairs.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. RIBICOFF be inserted in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. RIBICOFF

Mr. President, I wish to pay tribute to Richard A. Wegman, the Chief Counsel and Staff Director of the Governmental Affairs Committee.

When I assumed the chairmanship of the full Committee, I asked Dick to take the chief staff position. He has been the Chief Counsel and Staff Director of the Committee for the entire six years that I served as Committee chairman.

Prior to assuming responsibility for the full Committee, Dick first worked on the Committee in 1974 as Chief Counsel of the Subcommittee on Reorganization, Research and International Organizations, which I chaired. He had been a legislative assistant to Senator Proxmire for five years prior to taking this position. He was an appellate attorney in the Antitrust Division of the U.S. Department of Justice for three years before joining Senator Proxmire's staff.

I respect and admire Dick for his outstanding talents. His abilities are also recognized by all who work with and for him. He has the trust and respect of both minority and majority Members and staff.

Dick is a top quality individual who, in my judgment, has the finest character attributes—he is compassionate and intelligent, firm and hard-working.

Dick has been extremely devoted to the work of the Committee. He is greatly responsible for its accomplishments.

Major legislation, oversight and committee studies were accomplished under his leadership.

During the past three Congresses, while Dick has been Staff Director, 105 bills considered by the Committee were signed into law. Let me just mention some of the most significant pieces of legislation:

The Civil Service Reform Act of 1978 (P.L. 95–454) is the most comprehensive reform of the Federal civil service system since its establishment 100 years ago.

The Ethics in Government Act of 1978 (P.L. 95–521) is designed to promote accountability and integrity of public officials. It provides a mechanism for appointing special prosecutors when they are needed, sets financial disclosure requirements for the three branches of government, restricts post-employment practices by former executive branch officials, and establishes a Senate Legal Counsel.

The Department of Energy Act of 1977 (P.L. 95–91) set up the 12th Cabinet department to end the government's previous fragmentation of energy programs.

The Energy Reorganization Act of 1974 (P.L. 93–438) laid the foundation for a restructuring of the nation's energy program. It abolished the Atomic Energy Commission and established the Energy Research and Development Administration and the Nuclear Regulatory Commission.

The Nuclear Non-Proliferation Act of 1977 (P.L. 95–242) established for the first time specific criteria to govern the nation's nuclear exports.

The Department of Education Organization Act (P.L. 96–88) provides a new improved structure for greater accountability and manageability of existing Federal education programs.

The Inspector General Act of 1978 (P.L. 95–452) established inspectors general in twelve executive departments and agencies to combat fraud, abuse and waste in federal government programs.

In addition, the Reorganization Act of 1977 (P.L. 95–17) provided authority for the President to submit plans to Congress proposing the reorganization of Federal agencies. These plans included a consolidation of international communications and cultural exchange activities into a new International Communication Agency; a streamlining of civil rights functions and expansion of the role of the Equal Employment Opportunity Commission; the establishment of the Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel and the Federal Labor Relations Authority; the establishment of the International Development Cooperation Agency, mandated to formulate U.S. development policies toward the developing world; and, the strengthening of the management capabilities of the Nuclear Regulatory Commission in order to improve nuclear safety.

One of the most outstanding accomplishments of the Committee, I believe, was the Committee's major study of regulatory reform. This was the first comprehensive study of Federal regulation ever conducted by Congress. Dick served as the Staff Director of this study. In all, six volumes were published. The topics covered were: the regulatory appointments processes; Congressional oversight of regulatory agencies; public participation in agency proceedings; administrative procedure and regulatory delay; regulatory organization; and, a substantial framework for regulation.

Although they did not become law, Dick devoted considerable time to legislation which would have established an independent consumer protection agency to speak for the interests of the consumer and on legislation which would tighten federal regulation of lobbying activities.

I feel the Committee and the Senate owe a great debt of gratitude to Dick Wegman for his guidance on these matters.

Dick received his juris doctorate degree in 1965 from the Harvard Law School. He received a M.S. degree from New York University (1962) and his A.B. from Brown University (1960). He is a member of the National Academy of Public Administration, serves as an Adjunct Professor of Law at Georgetown Law Center and is on the Board of Directors of the Institute for Public Representation of the Law Center. Dick is also the Co-director of the President's Commission on a National Agenda for the Eighties.

Mr. President, I ask unanimous consent that the Resolution before the Senate which recognizes Dick Wegman's outstanding contribution to the work of the Senate be passed.

● Mr. PERCY. I am pleased to join with my colleague Senator RIBICOFF, chairman of the Committee on Governmental Affairs, in offering a resolution to commend Richard A. Wegman.

Dick has served as chief counsel and staff director of the Governmental Affairs Committee for 6 extraordinarily productive years during which the committee reported several substantial legislative proposals which were enacted into law. Throughout his tenure, Dick's professional skill and craftsmanship have been an invaluable aid to the committee in developing such proposals as the Civil Service Reform Act of 1978, the Ethics in Government Act of 1978, the Nuclear Non-Proliferation Act of 1977, and many others.

I congratulate Dick on the record of accomplishment he has compiled during his years in the Senate, and am confident that his experience and ability will bring him the best in the future.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 561) was agreed to as follows:

S. RES. 561

RESOLUTION

Whereas, Richard A. Wegman honorably, loyally and faithfully served from 1975–1980 as Chief Counsel and Staff Director of the Committee on Governmental Affairs of the United States Senate;

Whereas, in that capacity he untiringly and effectively served the Committee in an outstanding manner, demonstrating the highest qualities of responsible staff leadership;

Whereas, by virtue of his expertise, skill and knowledge, he rendered capable assistance in the development and enactment of major legislation and valuable Committee studies;

Whereas, by virtue of his leadership, he made outstanding contributions to the development and passage of such legislation as the Energy Reorganization Act of 1974, the Nuclear Non-Proliferation Act of 1977, the Department of Energy Act of 1977, the Ethics in Government Act of 1978, and the Civil Service Reform Act of 1978;

Whereas, he made invaluable contributions to the area of government reform, by his directing the Committee's six-volume Study on Federal Regulation;

Whereas, he made many other significant contributions to the work of the Committee, the Senate and the Congress of the United States.

Resolved by the Senate, That the United States Senate express and record its deep appreciation for Richard A. Wegman's exceptional contributions and for his dedication, loyalty and service to the Committee on Governmental Affairs, to the Senate and to the Congress of the United States.

The preamble was agreed to.

SENATOR RICHARD "DICK" STONE

Mr. ROBERT C. BYRD. Mr. President, Senator Richard "Dick" Stone, our good friend and distinguished colleague from Florida is no stranger to public service or to public office.

It all began several years ago, in 1966 to be precise, when Dick Stone ably served as the city attorney of Miami. He went on from there, the following year, to serve in the Florida State Senate for the period 1967–70. After his State senate service, Dick Stone became the secretary of state of Florida, a position held from 1970 to 1974. And then, on November 5, 1974, the voters of Florida elected Dick Stone to the U.S. Senate.

In a very short period of time, Senator Stone proved himself to be a very capable and effective legislator. And throughout his 6 years in the Senate, he evidenced time after time his eye for detail and his ability to achieve effective compromise. To be sure, these are significant talents—talents which Dick Stone displayed repeatedly both on the floor of the Senate and in the demanding committee assignments he willingly carried. Yes, whether a matter involved agriculture, veterans' affairs, the foreign policy of the United States, or virtually any other national issue, Dick Stone was ready, willing, and able to tackle it and do the kind of job that needed to be done.

All of this is just another way of expressing our sincere thanks and deep appreciation to Senator Stone for his service to the Senate and to the Nation. Such thanks and appreciation are obviously in order for a job well done.

SENATOR GAYLORD NELSON

Mr. ROBERT C. BYRD. Mr. President, many men of great intellect and stature have passed through these halls. The great debates of this Nation have occurred here.

History will record that Gaylord Nelson, during his 18 distinguished years as a Senator, has been a forceful and thoughtful participant in the national debates of the last two decades.

He was an early and ardent opponent of the involvement of U.S. troops in the war in Vietnam. He fought to assert congressional power in the area of foreign policy.

He has been a strong supporter of the environmental movement. In 1970 he coordinated Earth Day, the focal event in the modern crusade to clean up the environment. As chairman of the Small Business Committee, he has led the fight for small business in the Senate.

He has championed the interest of the family farmer by advocating fair prices and land reform.

On the Finance Committee he fought for tax reform, for a stable and dependable social security system, and for programs designed to benefit the needy and elderly. He has cared about the hungry and the migratory farm worker.

Gaylord Nelson was a leader in promoting energy conservation and alternative energy development. Six months before the Arab oil embargo in 1973, Senator Nelson warned of an impending energy crisis and outlined a comprehensive national energy program consisting of energy conservation, alternative energy supplies, synthetic fuels, solar, and fusion energy.

We shall remember Gaylord Nelson as a colleague with integrity, keen wit, and true vision. We wish him well in his private life, with the knowledge that he will continue to use his many talents in the public interest.

MAJ. GEN. JOHN W. HEPFER, U.S. AIR FORCE

Mr. CANNON. Mr. President, I would like to call attention to the recent retirement of Maj. Gen. John W. Hepfer, U.S. Air Force, who left the service of his country after over 33 years of unmatched excellence and dedication. General Hepfer, a native of Pennsylvania, joined his country's Armed Forces during the Second World War. Following that war, he left the service to pursue his studies. He rejoined the Air Force in 1950 and served honorable and professionally in flying and research and development positions since that time.

General Hepfer is renowned as a developer and a manager of our intercontinental ballistic missile (ICBM) systems culminating in his present position as the commander of the Air Force ballistic missile office. His outstanding leadership, management expertise and foresight is the foundation for the success of major minuteman ICBM force improvements and progression of the technical development of the Nation's MX weapon system.

General Hepfer directed the work to replace the single warhead minuteman missile with the Nation's first multiple independently targetable reentry vehicle missile—the Minuteman III. This vitally important accomplishment now provides this Nation with a key element of our strategic defense capability. Past improvements in Soviet capability led to a decision to upgrade the hardness and survivability of the minuteman force. General Hepfer directed and managed the minuteman improvement program—which involved thousands of people in hundreds of professions. General Hepfer's superior executive management skill, his business acumen, and knowledge of the system resulted in completing the program on schedule and under budget. This program will provide a strategic deterrence for our Nation well into the 1980's.

General Hepfer also directed efforts to improve the accuracy and understanding of inertial guidance systems in ICBM's resulting in systems which are unexcelled in terms of precision, accuracy and reliability. Under his leadership, the minuteman guidance system has achieved reliability three times greater than contract goals. This guidance system operated 15,226,000 hours before the first gyro failed. These systems also have electronic parts which have operated over 219,800 hours without failure. Such reliability can be directly linked to the management and technical expertise of General Hepfer. Reliability is a hallmark of the ICBM forces, and the Nation can be proud of accomplishments by people like General Hepfer who bring out the very best in American industrial prowess.

As recent improvements in Soviet ICBM accuracy became obvious, the need for a new land based ICBM also became increasingly apparent. This situation has led to the development of the MX system under the management of the ballistic missile office. General Hepfer has devoted his experience and expertise to development of the new missile and refinement of numerous basing alternatives. He has directed the MX program to successful initiation of full-scale engineering development. Test facilities are under construction, the basing mode has been stabilized, environmental impact studies are nearing completion, missile harware development has been established and all schedules are being met.

Maj. Gen. John W. Hepfer is unquestionably a man of unwavering loyalty, possessing the highest ideals of a true patriot. He is a cornerstone in the ICBM community, and has made solid contributions to the Nation's future.

On behalf of this body, I am pleased to convey to General Hepfer and his wife, Janet, our best regards on the occasion of his retirement and express our appreciation for his service to our proud country.

HOUSE MEASURE HELD AT THE DESK

The following bill was ordered held at the desk, by unanimous consent:

H.R. 4645. An act to change the name of Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma, to Sardis Lake.

ENROLLED BILLS PRESENTED

The Secretary reported that on Saturday, December 6, 1980, he had presented to the President of the United States the following enrolled bills:

S. 1391. An act to amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal year 1981, and for other purposes; and

S. 1972. An act to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from and creditors of, the Sangre de Cristo Development Co., Inc., and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5013. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to assure the safety and quality of our Nation's meat, poultry, and egg products by providing the Secretary of Agriculture with the authority to quarantine animals if he believes that they may contain illegal residue levels; to strengthen the enforcement power of the Secretary under the Federal Meat Inspection Act, the Poultry Products Inspection Act, the Egg Products Inspection Act, and the Agricultural Marketing Act of 1946 by providing authority to withdraw inspection services under certain conditions; to levy civil penalties for certain violations; and to provide consistent standards and penalties for bribery; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5014. A communication from the Acting Assistant Secretary of the Air Force (research, Development, and Logistics), transmitting, pursuant to law, proposed plans to study conversions from in-house operation to commercial contract for certain functions; to the Committee on Armed Services.

EC–5015. A communication from the Acting Assistant Secretary of the Army, transmitting, pursuant to law, a report on actions proposed to be taken by the Department of the Army with respect to certain installations; to the Committee on Armed Services.

EC–5016. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, notice of a study with respect to converting the commissary shelf-stocking and custodial services function at Maxwell Air Force Base, Ala., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–5017. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on seven construction projects to be undertaken by the Army Reserve; to the Committee on Armed Services.

EC–5018. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting, pursuant to law, notice of the study of the conversion from in-house operation to commercial contract of certain activities; to the Committee on Armed Services.

EC–5019. A communication from the Assistant Secretary of the Navy (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, a report on a study with respect to the conversion from in-house operation to commercial contract of certain functions at different installations; to the Committee on Armed Services.

EC–5020. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a study with respect to converting the vehicle operations and maintenance function at Robins Air Force Base, Ga., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–5021. A communication from the Director of the Defense Security Assistance Agency, transmitting pursuant to law, notice of a proposed letter of offer to Switzerland for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–5022. A communication from the Assistant Deputy Chief of Naval Material, Department of the Navy, transmitting, pursuant to law, the annual report of research and development contracting actions of $50,000 or over for fiscal year 1980; to the Committee on Armed Services.

EC–5023. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on Indian and Alaska Native Housing and Community Development Programs for fiscal year 1980; to the Committee on Banking, Housing, and Urban Affairs.

EC–5024. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Demonstration of Vending Machines at Safety Rest Areas on the Interstate System"; to the Committee on Commerce, Science, and Transportation.

EC–5025. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "More Can Be Done To Ensure That Industrial Parks Create New Jobs"; to the Committee on Commerce, Science, and Transportation.

EC–5026. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the total itemized revenues and expenses and revenues and expenses of each train operated by the Corporation for the month of July 1980; to the Committee on Commerce, Science, and Transportation.

EC–5027. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice that the Commission is unable to complete the evidentiary record in No. 37435, "The Baltimore and Ohio Railroad Company et al. v. The National Motor Freight Traffic Association" by the November 10, 1980 statutory due date; to the Committee on Commerce, Science, and Transportation.

EC–5028. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice that the Commission is unable to render a final decision in Docket No. 37417 "Shipments in Marine Containers on Railroad Flatcars, April 1980" and "Commodity Rates East of the Rocky Mountains," F.S.O. 18982; within the specified 7-month period; to the Committee on Commerce, Science, and Transportation.

EC–5029. A communication from the Acting Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "Performance Profiles of Major Energy Producers, 1978"; to the Committee on Energy and Natural Resources.

EC–5030. A communication from the Deputy Under Secretary of the Interior (Territorial and International Affairs), transmitting, pursuant to law, the annual report of the financial condition of the Commonwealth of the Northern Mariana Islands for fiscal year 1979; to the Committee on Energy and Natural Resources.

EC–5031. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission containing an account of energy regulatory activities during fiscal year 1979; to the Committee on Environment and Public Works.

EC–5032. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Value-Added Tax in the European Economic Community"; to the Committee on Finance.

EC–5033. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the plan the Department expects to use if it becomes necessary to assume the functions and operations of a State disability determination unit; to the Committee on Finance.

EC–5034. A communication from the Deputy Chief of Staff for Installations and Logistics, U.S. Marine Corps, transmitting, pursuant to law, the annual report of the retirement plan for civilian employees of the U.S. Marine Corps Exchanges, Recreation Funds, Clubs, Messes, and the Marine Corps Exchange Service for calendar year 1979; to the Committee on Governmental Affairs.

EC–5035. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, legislation adopted by the Council on November 12, 1980; to the Committee on Governmental Affairs.

EC–5036. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, legislation adopted by the Council on November 12, 1980; to the Committee on Governmental Affairs.

EC–5037 A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, legislation adopted by the Council on November 12, 1980; to the Committee on Governmental Affairs.

EC–5038. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, legislation adopted by the Council on November 12, 1980; to the Committee on Governmental Affairs.

EC–5039. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, legislation adopted by the Council on November 12, 1980; to the Committee on Governmental Affairs.

EC–5040. A communication from the Inspector General (Designate) of the Department of Health and Human Services , transmitting to law, the quarterly report of the Office of Inspector General, Department of Health and Human Services, for the period July 1 to September 30, 1980; to the Committee on Governmental Affairs.

EC–5041. A communication from the Administrator of the Veterans Administration, transmitting, pursuant to law, the semiannual report of the Inspector General, Veterans' Administration, for the period April 1 through September 30, 1980; to the Committee on Governmental Affairs.

EC–5042. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, legislation adopted by the Council on November 21, 1980; to the Committee on Governmental Affairs.

EC–5043. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report outlining the activities of the Agency for calendar year 1979; to the Committee on Governmental Affairs.

EC–5044. A communication from the Secretary of Defense, transmitting, pursuant to law, the semiannual report on the activities of the Office of the Inspector General, Department of Defense, for the period ended September 30, 1980; to the Committee on Governmental Affairs.

EC–5045. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Commerce, for the period ending September 30, 1980; to the Committee on Governmental Affairs.

EC–5046. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Housing and Urban Development, for the period ending September 30, 1980; to the Committee on Governmental Affairs.

EC–5047. A communication from the Inspector General of the Department of Commerce, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Commerce, for the period ending September 30, 1980; to the Committee on Governmental Affairs.

EC–5048. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Achieving Representation of Minorities and Women in the Federal Work Force"; to the Committee on Governmental Affairs.

EC–5049. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the United States Capitol Historical Society for the Year Ended January 31, 1980"; to the Committee on Governmental Affairs.

EC–5050. A communication from the Assistant Secretary for Health and Surgeon General, Department of Health and Human Services, transmitting, pursuant to law, a report on a proposed new system of records for the Department for implementing the Privacy Act; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–940. A resolution of the City Council of Yonkers, N.Y., favoring legislation to give an income tax credit to the elderly who volunteer their services to tax exempt community service organizations; to the Committee on Finance.

POM–941. A petition from the National President of Concerned Citizens of America relating to human rights and the rights of immigrants; to the Committee on the Judiciary.

POM—942. A resolution of the Faculty Senate of the University of Wyoming, supporting the National Academy of Sciences resolution on efforts reports; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 544. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3234.

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 138. An original concurrent resolution authorizing the printing of the prayers of the Chaplain of the Senate during the 96th Congress as a Senate document (Rept. No. 96–1056).

S. Res. 558. An original resolution to pay a gratuity to Laverne D. Stong.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS:

S. 3258. A bill to declare and recognize the vital importance of ports and harbors to this country's economy and national defense, and the world's economy and energy self-sufficiency, and to authorize expeditious construction of essential river and harbor improvements in order to promote domestic commerce and U.S. export capabilities for coal and other commodities; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS:

S. 3258. A bill to declare and recognize the vital importance of ports and harbors to this country's economy and national defense, and the world's economy and energy self-sufficiency, and to authorize expeditious construction of essential river and harbor improvements in order to promote domestic commerce and U.S. export capabilities for coal and other commodities; to the Committee on Environment and Public Works.

PORTS AND NAVIGATION IMPROVEMENT ACT OF 1980

● Mr. HOLLINGS. Mr. President, through legislation I am introducing today, I am calling for the authorization of navigational improvements to the harbor and shipping channel at Charleston, S.C. Much time and consideration has been given to similar legislation concerning other ports, Mr. President, so there is no need for me to go into a long and detailed restatement of the pertinent facts and need for this legislation. This bill would deepen the harbor to 55 feet.

As in the similar legislation, Mr. President, this bill has several major thrusts. For example it provides for an expedited process for dredging projects; expedited environmental review of such projects; expedited congressional review of such projects; expedited judicial review of claims filed against such projects; and lastly, funds for advanced engineering and design. While this bill specifies attention for Charleston Harbor and Channel, S.C., it would not preclude other harbors—as the case has already been made—from coming forward and stating the case for navigational improvement.

In recent months it has become more and more apparent that the United States' vast supply of coal can do much to assist not only in our Nation's drive toward energy independence, but also to relieve the energy problems confronting the rest of the free world. The tremendous surge in demand for our coal presents a great opportunity, but has caused bottlenecks to appear in the chain leading from our mines to final use. The most glaring deficiency, and the one that deserves the focus of our attention and therefore the passage of this bill, is the bottleneck that exists at our ports. The experts have made the convincing and compelling case. It has been laid out in the scholarly journals and countless articles. The lengthening line of coal ships stretching out from the mouth of our great ports is testimony for all to see and witness. The single most important step we can take to alleviate this problem is to improve our harbors to meet the navigational requirements of this rapidly expanding coal trade. Our harbors must be deepened and facilities developed and expanded to meet the requirements of the large ships used in the coal trade.

In my own backyard of Charleston, S.C., we are blessed with one of the greatest natural harbors in our nation. The significant U.S. Naval facilities located there is testimony to this fact. This blessing of geography also places Charleston in close proximity to the rich coal fields of Appalachia. It is a natural marriage, Mr. President, to join these two and create facilities in Charleston for the transportation of coal. The deepening of the harbor to 55 feet would also have a significant importance for our naval facility and national security. At this time efforts are underway to construct a coal shipment facility. But central to this effort, Mr. President, will be expeditious action on this legislation to prepare the harbor and channel when the shipment facility comes on line.

For nearly two decades, the U.S. Army Corps of Engineers has worked to overcome the serious silting problems associated with Charleston Harbor. A diversion canal was needed to arrest the cause of the silting. The task at hand is to restore the deep water features of the harbor. The appropriate studies have been made and efforts are now underway to deepen the harbor and channel to a depth of 42 feet. But the real need, Mr. President, to give recognition to the case at hand, continue this fine work and deepen the harbor to 55 feet so that it can accommodate the large ships. We have a unique opportunity to build upon the work already in progress, and the studies already completed or underway, to expedite the deepening to the required level. Passage of this bill will permit this worthy goal to be achieved.

As we near the close of this legislative session, Mr. President, we cannot realistically expect this legislation or other legislation similar in nature to receive the legislative attention it deserves. I believe, however, it is important that I and my voice to the growth attention and interest this effort is receiving so that we can build the congressional consensus we need for prompt attention of this bill early in the 97th Congress.●

AMENDMENTS SUBMITTED FOR PRINTING

FAIR HOUSING ACT AMENDMENTS OF 1980

AMENDMENTS NOS. 2874 THROUGH 2880

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted seven amendments intended to be proposed by him to the bill (H.R. 5200) to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

AMENDMENTS NOS. 2881 AND 2882

(Ordered to be printed and to lie on the table.)

Mr. BOSCHWITZ submitted two amendments to be proposed by him to the bill H.R. 5200, supra.

AMENDMENT NO. 2883

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD (for himself, Mr. KENNEDY, Mr. BIDEN, Mr. MOYNIHAN, Mr. JAVITS, Mr. CHAFEE, Mr. MATHIAS, and Mr. BAYH) submitted an amendment intended to be proposed by them to the bill H.R. 5200, supra.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Dr. Stephen R. Sestanovich, an employee under the supervision of Senator MOYNIHAN, Greg Pallas, an employee under the supervision of Senator EXON, John Walton, an employee under the supervision of Senator JOHNSTON, Ed Graves, an employee under the supervision of Senator HUDDLESTON, and Edward Nef, an employee under the supervision of Senator BAUCUS, to participate in a program sponsored by a foreign educational institution, the Chinese Culture University in Taipai, Taiwan, from December 12 to 19, 1980.

The committee has determined that participation by these employees in the program in Taiwan, at the expense of the Chinese Culture University, to discuss United States-Taiwanese relations and the U.S. political and legislative process and to meet with Taiwanese leaders in various fields, is in the interests of the Senate and the United States.●

CONFERENCE REPORT FOR S. 1615, LEGISLATION FOR THE RELIEF OF JAMES R. THORNWELL

● Mr. HOLLINGS. Mr. President, late in the evening on last Friday night, the distinguished majority leader called up the conference report on S. 1615, legislation for the relief of Mr. James R. Thornwell. Because of the uncertain floor schedule at the time I was necessarily absent. Let me take this opportunity, however, to present some of the comments I would have made if present so that we can complete the record in regard to this legislation.

I, along with others, introduced this bill early last year. Mr. Thornwell is originally from South Carolina and many of his family and relatives still live there. You will recall that he is the man who the U.S. Army surreptitiously administered LSD to in June 1961. This was a part of the now defunct Army "third chance" program whereby LSD was used as a truth serum. The dosage of LSD was given to him after a protracted period of solitary confinement, duress, physical abuse, and threats against his family. It is significant that Mr. Thornwell was the only U.S. citizen treated in this manner. Compounding this egregious act was the fact that the U.S. Army failed to notify Mr. Thornwell that he had been so treated. For the next 17 years, he lived under the cloud of knowing something very terrible had taken place but he had no idea what it was. He would have flashbacks, but under the circumstances he knew of no basis for them. He would get jobs, enter personal relationships, and so forth, only to withdraw as one of these inexplicable periods of paranoia would engulf him. He never received any Veterans' Administration benefits. Analysts that did treat him labeled him as a "social and emotional cripple." His condition is further spelled out in the committee report so there is no need for me to restate it here.

His condition came to light quite by accident about 3 years or so ago. Through the use of the Freedom of Information Act all the sordid details of the U.S. Department of Army's actions came out. He tried to negotiate a settlement with the Army for the damages incurred and finally resorted to filing a $10 million law suit. Ordinarily cases of injury to service personnel do not form the basis of a tort claim against the Government due to exemptions spelled out in the Feres doctrine: *Feres* v. *United States*, 340 U.S. 135 (1950). This landmark case holds that the waiver by the United States of sovereign immunity in the Federal Tort Claims Act did not extend to injuries incurred by members of the Armed Forces "incident to service."

Ordinarily this doctrine would bar the recovery that Mr. Thornwell sought, but in preliminary rulings on the suit, the court ruled that a cause of action could lie against the Army for a failure to notify Mr. Thornwell had been given LSD, and for a failure to treat Mr. Thornwell for the injuries he suffered. Given the significant injustice done Mr. Thornwell and the very unfavorable publicity which would befall the U.S. Army if the case were to go forward, I introduced S. 1615 to provide Mr. Thornwell with the sum of $1.7 million for lost wages, past and future, and medical treatment, both past and future. Joining me as cosponsors of the bill were Senators THURMOND, CRANSTON, HAYAKAWA, and LEVIN. The figure of $1.7 million was agreed upon by all parties including the U.S. Army and U.S. Department of Justice and was based on an economic study provided by the Wharton School of Finance at the University of Pennsylvania. At the Senate Judiciary Committee that sum was reduced to $1 million. S. 1615 passed the Senate, unanimously, in that form on February 26 of this year.

This bill was duly considered by the House Judiciary Committee and reported from subcommittee. It ran into resistance at full committee and was reduced from the Senate passed amount of $1 million to the sum of $250,000. I might point out that the figure of $250,000 was totally arbitrary and had no basis in fact to the economic survey, comments by Mr. Thornwell's attorneys, the U.S. Army or the U.S. Department of Justice. Be as it may, the House passed the private bill at this lower figure. But the story does not end there. Members of the House, presumably who felt that Mr. Thornwell should receive nothing, constructed every legislative hurdle possible in an effort to prevent the House from reaching a final disposition on this bill. Through the fine efforts of Representative GEORGE DANIELSON, and members of his subcommittee, we finally were able to reach an agreement in conference—presided over by our distinguished colleague from Alabama, Mr. HEFLIN, and report the bill for the sum of $625,000. This final figure split the difference in the House and Senate versions of S. 1615. While this figure does not represent the most knowledgeable thinking on the matter of damages, it is the largest sum that could have been obtained under the circumstances. In fact, I am advised that this private bill represents the largest award ever paid to a single citizen by the U.S. Congress.

Mr. President, regardless of the size of the award, I think it is important to emphasize that in taking this action on S. 1615, the Congress has closed the book on this sordid matter and finally provided Mr. Thornwell with a measure of justice. He has never received any benefits from the Veterans' Administration. The bill limits the amount that can be paid for legal expenses to no more than 10 percent of the total award. And, this legislation sets up a trust to manage the award and insure that it is judiciously invested so that Mr. Thornwell can expect an income for the remainder of his life. Finally, under the terms of this bill, Mr. Thornwell will renounce all of his claims arising out of this incident. Therefore, the $10 million lawsuit he has pending before the U.S. District Court for the District of Columbia will be withdrawn and this bill will serve as a bar to any future legal action. Although the sum of $625,000 might seem large, the fact that Mr. Thornwell has withdrawn from a very worthy lawsuit, as stated by the lawyers from both Army and Justice—the lawsuit was estimated to cost more than $1 million alone just to try—has significant medical treatment expenses, has two children to assist in supporting, has a reasonably long life expectancy, and must deal with the problems of inflation, this sum is not too much at all.

Finally, Mr. President, I would like to have the following letter from the General Counsel of the U.S. Army, Ms. Sarah E. Lister, to Congressman GEORGE E. DANIELSON, printed in the RECORD after the conclusion of my remarks. Ms. Lister details very succinctly the many reasons why the U.S. Department of the Army—and for many of the same reasons why the U.S. Department of Justice—gave its complete and total support to the passage of this legislation. And, in summation, Mr. President, let me say that I am very gratified that the Congress, when finally presented with the merits of Mr. Thornwell's case, saw fit to pass this legislation. After these 19 long years it is a tribute to equity and justice that the United States has attempted to correct the wrongs perpetrated against Jim Thornwell, and that funds will be provided to assist him and hopefully enable him to live as worthwhile and productive a life as is possible under the circumstance of events he has endured.

The letter follows:

Department of the Army,
Washington, D.C., December 1, 1980.
Hon. George E. Danielson,
Chairman, Subcommittee on Administrative Law and Governmental Regulations, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: The purpose of this letter is to discuss H.R. 5063, 96th Congress, a bill for the Relief of James R. Thornwell. We understand that you intend to ask the full House Judiciary Committee to agree to a conference committee and appointment of conferees in order to resolve differences between the House and Senate regarding relief for Mr. Thornwell. The Army strongly supports enactment during this session of Congress of legislation that provides an adequate amount of compensation for Mr. Thornwell. Such legislation, in our view, is in the best interests of the Army and of the government.

The circumstances surrounding the prolonged detention and interrogation of Mr. Thornwell, the surreptitious administration of LSD to him in June 1961, and the subsequent failure by the Army to advise him that he had been given LSD or to provide him appropriate care for almost fifteen years after the fact, are set out in my predecessor's report on the matter to the House Committee on the Judiciary. I will not bother to repeat the facts detailed by that report in this letter. Suffice it to say that, due to the unconscionable nature of the wrongs done him, we feel the Army has a moral obligation to compensate Mr. Thornwell adequately for his injuries.

The Army's desire to obtain sufficient compensation for Mr. Thornwell is based on pragmatic as well as moral considerations, however. We are concerned that renewed litigation: (1) may result in a recovery by Thornwell that will have a profound adverse effect on the *Feres doctrine*[1] and on future litigation against the Army; (2) may cost the government more private relief; and (3) will create additional adverse publicity that will damage the Army.

We are very concerned about the profound effect that any recovery by Mr. Thornwell in his case would have on future Army litigation. The court hearing Thornwell's case has recognized in principle a legal theory that a cause of action in tort exists and is not barred by the *Feres* doctrine when based on a failure by the Army subsequent to a soldier's discharge to notify the soldier of and treat a dangerous condition known by the Army to exist and created while the soldier was in service. This theory of recovery circumvents the *Feres* doctrine and undercuts the important policy concerns on which it is based.[2] Thornwell's case is a classic example of the maxim that "hard cases make bad law." The facts alleged in Thornwell's case were so aggravated that the court felt compelled to create a theory that allows him the possibility of some recovery. But once successfully used in Thornwell's case, the principle behind this theory will be available to any courts and any potential litigants against the Armed Services who want to circumvent the *Feres* doctrine. If such a principle becomes firmly established, it will be difficult to limit to the unique facts of Thornwell's case.[3]

With almost 7,000 soldiers having participated in the Army's chemical testing program, 250,000 in nuclear testing and over 2,000,000 soldiers possibly having had contact with Agent Orange, the Army believes it is extremely important that the *Feres* doctrine remain as complete a barrier as possible against tort suits. Litigation against the Army involving all these cases would be inappropriate, would be staggering in cost, and would have adverse effects on military discipline, morale, and effectiveness.

Our second practical concern has to do with the cost of renewed litigation. Representatives from the Department of Justice advise us that the total cost to the government of a jury trial and subsequent appeals in Thornwell's case may exceed the $1,000,000 approved by the Senate for Thornwell, even assuming just a modest recovery in the action. It would be ironic for the government to spend more money on litigation than would have been spent on private relief, and yet end up with a result that leaves Thornwell with inadequate compensation and that leaves the Army with more bad publicity and a dangerous legal precedent that allows a flood of future litigation.

Our third practical concern is the new wave of adverse publicity for the Army we anticipate if no adequate private relief is obtained for Thornwell and litigation against the Army is renewed. The Thornwell incident has already received national television exposure twice on "Sixty Minutes," and aspects of it have been covered repeatedly on major network newscasts. The incident has been the subject of at least sixteen stories run by the national wireservices or major newspapers. The Army has received hundreds of letters from private citizens and members of Congress expressing their outrage at the Army over the matter. More adverse publicity accompanying renewed litigation not only would further tarnish the Army's image generally, but could impact on public perceptions and support in areas such as recruiting, defense spending, and development of needed chemical warfare defensive capabilities.

We understand that some members of the House of Representatives believe that compensation for Mr. Thornwell in excess of $250,000 would be inappropriate. The Army, with support from the Department of Justice, initially recommended relief for Thornwell in the amount of $1,700,000. Much of that figure—$1,112,200—was based solely on estimates of the lost earnings and expenses for psychiatric treatment of Mr. Thornwell caused by the government's wrongdoing. The recommendation was really quite reasonable when compared to the damages recovered in tort actions for comparable injuries. (However, Mr. Thornwell is barred from recovering most of this due to the Feres doctrine.) Of course, we understand that estimation of compensation due a person can vary, being a product of assumptions and judgment, and that members of Congress have the very important responsibility to ensure prudent use of government funds. Nonetheless, we believe that a flexible attitude on the part of members of the House concerning the amount of relief to be provided Thornwell is desirable from the viewpoint of the Army and the government. The Army has a strong interest in seeing this private relief measure passed some time prior to adjournment of the 96th Congress, and litigation in the matter ended.

We appreciate the consideration you have given the Army's views about this matter and your help in assuring that an adequate relief measure for Thornwell is passed this year.

Sincerely,

Sara E. Lister,
General Counsel. ●

DEAN THOMAS WELDON CHRISTOPHER

● Mr. HEFLIN. Mr. President, I submit for the Record a resolution which has been adopted by the faculty of the School of Law of the University of Alabama honoring retiring Dean Thomas Weldon Christopher.

The resolution follows:

Resolution

Whereas Thomas Weldon Christopher, Dean of the School of Law of the University of Alabama, has announced his decision to resign his administrative responsibilities as Dean effective at the end of the 1979–80 academic year to resume full time teaching as a Professor of Law of the University of Alabama School of Law; and

Whereas he has served, as Dean of this Law School since May 1971, during a period of unprecedented growth and development of the Law School, and during his tenure as Dean has brought about significant accomplishments, including the construction of a new Law Center Building, funded by a combination of state revenues and private contributions from the Bar and lay citizens throughout the state raised largely through the drive and dedication of Dean Christopher and, furnished, landscaped and decorated through the skill, talent and good taste of Dean Christopher and his wife, Montez "Sadie" Christopher; and

Whereas through his leadership the University of Alabama School of Law has achieved a position of high esteem and excellence among its sister law schools; now therefore, be it

Resolved, That the Faculty of the Law School of the University of Alabama does hereby express its regret at the news of Dean Christopher's resignation; and further

Resolved, That the Faculty hereby extends to Dean Christopher its pledge of full cooperation and support during his interim period until his successor is selected and installed; and further

Resolved, That the Faculty hereby extends to Dean Christopher its thanks for his years of service to the Law School as its Dean and expresses its deepest appreciation for his efforts and dedication to the Law School, and extends to him its best wishes and warmest welcome back to the faculty ranks upon the completion of his administrative duties; and further

Resolved, That the Faculty also extends its appreciation and best wishes to Montez "Sadie" Christopher for her unfailing and gracious support of the Law School and of her husband in his efforts in its behalf; and further

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[1] The *Feres* doctrine is based on a holding by the Supreme Court in the landmark case of Feres v. United States, 340 U.S. 135 (1950) that the waiver by the United States of sovereign immunity in the Federal Tort Claims Act did not extend to injuries incurred by members of the Army Forces "incident to service."

[2] Some of the policy concerns articulated in *Feres* and in subsequent cases explaining its rationale include the need to avoid the adverse effects that tort suits would have on military discipline and effectiveness, the need to avoid judicial interference in military affairs, and the provision by Congress of an exclusive remedy for service members in the form of a comprenhensive veterans benefits program.

[3] Private relief for Thornwell, unlike a recovery in court, does not establish a precedent for other cases involving testing of LSD or other chemical agents. Thornwell's case is unique in three respects in that it is the only known instance in which the Army (1) surreptitiously administered LSD to a soldier, (2) intentionally administered LSD in an environment that was designed to heighten the recipient's reaction rather than insure no adverse long-term effects, and (3) observed the recipient of LSD undergo a severe reaction without following medical care being provided. Because private relief is based on equitable principles, it can be limited to the unique facts of Thornwell's case, while recovery in court must be based on a more general principle of tort law.

Resolved, That this Resolution be placed in the official minutes of the Law School Faculty meetings and that copies thereof be sent to each of the members of the Board of Trustees of The University of Alabama, to Chancellor Volker, to President Mathews, to Vice President Thigpen, to the President of the Faculty Senate, to the Deans of the other schools within the University, to the Chief Justice of the Supreme Court of Alabama, to the President of the Alabama State Bar, to the President of the Alabama Law Foundation, to the President of the Farrah Law Society, to the President of the Law Alumni Association, and to the President of the Student Bar Association.

Done this 31st day of March, 1980.●

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS KENNEDY, METZENBAUM, AND STEVENS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized under the standing orders tomorrow, Messrs. KENNEDY, METZENBAUM, and STEVENS be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, efforts to resolve some of the problems in connection with the farm credit legislation are continuing and some progress has been made. Therefore, there will be no action on that measure today.

The Senate will come in on tomorrow at 10 a.m. After the orders for the recognition of Senators, the Senate will vote at 11 o'clock under the order entered last week on the motion to proceed to the consideration of the fair housing bill. If that vote carries, then the Senate will immediately proceed to vote on the motion to invoke cloture on the fair housing bill itself. If that motion secures the required 60 votes, the Senate then will proceed to the further consideration of the fair housing bill until that measure is disposed of one way or the other, following which, after 20 minutes of debate, the Senate will vote on the motion to invoke cloture on the Breyer nomination. In the event that motion secures the necessary 60 votes, the Senate would dispose of the nomination and then go to the revenue-sharing measure.

In the alternative, if the vote on the motion to invoke cloture on the fair housing bill should not garner the required vote of 60 in support thereof, the leadership is committed to taking the bill down, in which case, after 20 minutes of debate, the Senate would then vote on the motion to invoke cloture on the Breyer nomination and, following the disposition of that matter, will go to the consideration of the revenue-sharing bill. Several rollcall votes may be anticipated on tomorrow.

May I take this occasion to compliment Senators on both sides of the aisle on all sides of the various questions involved in the fair housing bill for their tenacity and dedication as they have labored to resolve many of the issues that have arisen in connection with that bill. Several matters, I believe, have been resolved, from what I understand. I would hope that this work will enhance the chances for the invoking of cloture on tomorrow. That remains, however, to be seen.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand recessed until 10 o'clock tomorrow morning.

The motion was agreed to; and at 4:55 p.m., the Senate recessed until Tuesday, December 9, 1980, at 10 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 9, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 11

9:30 a.m.

Judiciary

To hold oversight hearings on the Public Security Section of the Department of Justice.

2228 Dirksen Building

DECEMBER 12

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To resume hearings on exploring the use of special taxes on crude oil and petroleum products for the purpose of minimizing the adverse impact on the United States and other oil consuming nations of a major disruption in the world supply of oil and to reduce the long-run demand for imported oil.

2221 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, December 9, 1980*

The House met at 3 p.m.

The Chaplain, the Reverend James David Ford, D.D., offered the following prayer:

O God, grant us the appreciation we ought to have for the gifts of life that give purpose and meaning to our existence. We thank You for our families from whom we receive affection and to whom we share our love. We are grateful for friends who stand by us and with whom we join in the bond of trust, and we express allegiance to our Nation and for those to whom responsibility is given to rule. Our hearts are full of praise to You, our Creator, for You have made us in Your own image and placed us in this world to serve You by serving others. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a resolution of the House of the following titles:

H.R. 999. An act to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes;

H.R. 2170. An act to provide for the reimbursement of legal expenses incurred by the city of Fairfax with respect to a 1971 entry and search by employees of the Federal Government;

H.R. 7147. An act to provide that certain land of the United States shall be held by the United States in trust for certain communities of the Mdewakanton Sioux in Minnesota;

H.R. 8173. An act to provide for distribution in the United States of certain International Communication Agency films relating to President Lyndon Baines Johnson; and

H. Con. Res. 301. Concurrent resolution expressing the sense of the Congress that there is a need to strengthen course offerings and requirements in foreign language studies and international studies in the Nation's schools, colleges, and universities.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1996) entitled "An act to authorize the Secretary of Agriculture to encourage the efficient use of wood and wood residues through pilot projects and demonstrations and a pilot wood utilization program."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1097) entitled "An act to establish a national tourism policy, a Cabinet-level coordinating council and a nonprofit corporation as an implementing agency to carry out the national tourism policy."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4231. An act to designate the "John D. Larkins, Jr., Federal Building";

H.R. 4941. An act to name a dam and reservoir on the San Gabriel River, Texas, as the "North San Gabriel Dam" and "Lake Georgetown," respectively; and

H.R. 6796. An act to amend and extend title VII of the Comprehensive Employment and Training Act.

The message also announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 2726. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1981, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1420. An act to authorize the Secretary of the Interior to construct, operate, and maintain hydroelectric powerplants at various existing water projects, and for other purposes; and

S. 1440. An act to enable the Secretary of Energy to utilize revenues from power marketing to carry out his responsibilities related to Western Area Power Administration, and for other purposes.

The message also announced that the Senate recede from its amendment No. 70 to the bill (H.R. 6671) entitled "An act to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes."

HANDGUN CONTROL

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I have supported capital punishment, not because I am sure it will stop violent crime—but it might. Why can we not in the Congress pass a handgun control bill not because we believe it will end crime, but because it will save a substantial number of lives? Within this past week a police officer in New Jersey, a State trooper in New York, a doctor in Washington, and a musician named John Lennon all were murdered by handguns. They might all be alive today if we had just acted. What are we waiting for? The next life we save might be our own.

GILLIS LONG

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, I would like to take this brief time to congratulate the distinguished gentleman from Louisiana (Mr. LONG) on his election as chairman of the majority caucus. This election is a well earned tribute to the hard work the gentleman has put in during his distinguished service in this House.

On both sides of the aisle, this House can take justifiable pride in having selected party leaders for the next session who are ferociously loyal to their party but, when possible, prepared to put aside partisan differences to work cooperatively and constructively for the good of the Nation. GILLIS LONG typifies this kind of statesmanship. During this service on the Committee on Rules and as chairman of the Subcommittee on the Legislative Process the gentleman has been farsighted and effective in pointing the direction in which Congress should head in reforming its own institutions and practices, to better address the problems that face America today.

I am sure all my colleagues join in congratulating GILLIS LONG on a substantial victory and in wishing him well as chairman of the Democratic Caucus.

HANDGUN CONTROL

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, Allard Lowenstein was a Member of the House of Representatives. He was an author and a statesman.

Dr. Michael Halberstam was a doctor, a poet, an author, and a man of reason and compassion. John Lennon was a musician who, more than any other person that I can think of, helped to make and mold my generation. All three were killed with handguns.

Mr. Speaker, they cry out from their graves for this Congress to be unshackled from the NRA and to do something about handguns to stop the slaughter, to stop the flow of these weapons across State lines.

I would suggest that we take a hard look at the law of the great State of New York on handguns and make it the law of the land.

2D LT. GEORGE WHITEMAN—39 YEARS AGO

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, there is an Air Force Base in my district known as Whiteman Air Force Base, and so often we think of the various military installations around the country without referring to or thinking of them in any context from which they were named. Whiteman Air Force Base was named after 2d Lt. George Whiteman. Thirty-nine years ago, a second lieutenant in the Army Air Corps was the first or at least one of the first to give his life for his country on that December 7 day at Honolulu, Hawaii, as he was attempting to take his fighter aircraft off the ground.

I bring this to the attention of the House lest we forget.

☐ 1510

WON PAT APPRECIATES SRF GUAM SUPPORT

(Mr. WON PAT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WON PAT. Mr. Speaker, I want to express my deep appreciation to the members of the House and Senate conference on H.R. 8105, the Defense appropriations bill, for adopting language which will insure the continued operation of the naval ship repair facility at Guam.

The final measure included an annual appropriations of $24 million for the Guam facility and the conference report further requires that the U.S. Navy conduct an immediate study of the feasibility of homeporting U.S. military vessels on Guam to provide work for SRF in the future. As one who has for some time been warning our colleagues about the danger of the Pentagon's present policy of removing forces from Guam and instead relying upon our bases in foreign areas in the Pacific, I am pleased to see this clear signal from Congress that it recognizes the strategic value of our bases on Guam.

I also want to give my deep appreciation to Senator Daniel Inouye of Hawaii who shepherded through the Senate the assistance for the Guam base. I went to the Senator after the House dropped the annual funding for SRF. To his everlasting credit, Senator Inouye immediately saw the danger to this Nation's defense policies if SRF was allowed to close and he became a diligent and highly effective spokesman in the Senate to keep the base open and fully operating. It was at the urging of Senator Inouye that the Senate Appropriations Committee provided $24 million and the language calling for a homeporting study. By his actions he has shown himself to be not only a keen observer of the Nation's defense requirements and a Senator who recognizes that America must continue to remain a Pacific naval power. The people of Guam have a great friend in Senator Inouye and I thank him for assisting me so ably in the effort to save the Guam ship repair facility.

Thank you.

KILLERS OF NUNS IN EL SALVADOR SHOULD BE IDENTIFIED

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. OAKAR. Mr. Speaker, I will be submitting for the Record the text of Bishop-designate Anthony Pilla of Cleveland who talked at the memorial mass for Sisters Dorothy Kazel and Jean Donovan, a beautiful text. As we all know, they were brutally murdered in El Salvador.

I hope that our country will do everything possible to determine who murdered these dedicated missionaries. We should not rest until we find out who killed them. If our Government indirectly, because of our foreign aid policy, was responsible, then we have to admit what our problem is with that foreign aid policy.

So, I am sincerely hopeful that the State Department, the President of the United States, and Members of Congress will insist that we determine who murdered these innocent missionaries.

FEDERAL PENSIONS SHOULD NOT BE AVAILABLE TO PARTISAN POLITICAL WORKERS

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I was very sorry to see that the House last week passed a measure to which I had objected in the week before the Thanksgiving recess. I am referring specifically to the fact that we now allow those who work in our congressional campaign committees to pay into the Federal pension fund, and credit their time when working in a partisan political way which has nothing to do with the service to the Government in general and the people of this country, and receive that as credit for their pensions.

This was objected to by the Organization of Federal Retirees, and rightly. It weakens the whole system. We have got to stop it. The public does not like it, and I do not blame them. This is not public service that was performed; this was partisan political service, which is a completely legitimate thing to do, but it is not part of our Federal service and it should not be so credited.

I regret very much my absence last week so that I was not able to object again, as I had 2 weeks previously. We have got to stop it.

SOVIET ATTEMPT TO MANIPULATE WORLD OPINION ON OCCUPATION OF AFGHANISTAN

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, the subject is Afghanistan. As we speak today, the Soviets are again attempting to manipulate world opinion concerning their continued occupation of Afghanistan through control of the media. Soviet President Leonid Brezhnev is currently in India on his first trip to a non-Communist nation since Soviet troops invaded Afghanistan last December. The Soviets can be expected to emphasize his visit to a key nonalined nation even while 85,000 troops are occupying a nearby member of the nonalined movement. Brezhnev has with him more than 300 officials, and live television coverage is being beamed back to the Soviet Union. If Brezhnev is successful in sending home pictures of a cordial welcome now from India, it would be an important propaganda boost for him at home at a time when Soviet troops could be sent into Poland at any moment.

Of even greater significance, however, are the reported remarks of Indian Prime Minister Indira Gandhi that 11 months of international condemnation and Afghan armed resistance have that withdrawal of Soviet troops from Afghanistan is an increasingly remote possibility. This statement comes as no surprise to Western observers who believe that the Soviets are becoming more deeply involved in Afghanistan as time passes. The statement is significant, however, because India may be the Soviet Union's closest non-Communist friend, and because Prime Minister Gandhi had earlier predicted that the Soviet occupation could be resolved politically.

Unfortunately, Mr. Speaker, this assessment also serves to underscore the remarks I have made on this floor for the past 7 months: That the Soviets are in Afghanistan for the foreseeable future; that America's opposition to the Soviet intervention is consistent with both our long- and short-term policy goals; and that more now than ever we must not let the situation in Afghanistan fade from our view.

NEW HOUSE LEADERSHIP NEEDED

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, it has been reported to me that the majority leadership is persisting in the position of maintaining committee ratios in this House of Representatives that do not reflect the mandate of the American people in the last election. The mandate of the American people was very clearly expressed. In fact, nationally, more people voted for Republican Members of Congress than for Democratic Members of Congress.

There is a mandate, Mr. Speaker, to enact the program of Ronald Reagan, and a mandate for the election of Ronald Reagan.

Mr. Speaker, if the majority leadership persists in trying to foist upon this House opposition to the mandate of the American people, both in the Congress and in the election of a new President, at least from the standpoint of this Republican, there is no reason why Republicans cannot unite with like-minded Democrats to change the leadership of this House so that it will reflect accurately the mandate of the American people.

NEW HOUSE LEADERSHIP NEEDED

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, the country voted for change in 1980. We elected a new President. We elected a new majority in the Senate. We have elected a conservative majority in the House. The conservative majority wants to cut spending, cut taxes, cut redtape, and manage the bureaucracy.

By an accident of history and of habit, we are about to elect a liberal Speaker, a liberal majority leader, a liberal Rules Committee chairman, and pack the Rules Committee to vote against change. I am willing to break with habit and history, if the conservative Democrats would offer a candidate for Speaker, I would vote for a conservative Speaker even if our party labels differ.

WATERGATE SHOULD BE PUT TO REST

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, assassination is a terrible word, with terrible connotations. A number of months ago, when Gen. Alexander Haig was our top military man in NATO, we were all appalled by the fact that he was subjected to a possible assassination attempt.

Now, however, his name has been raised as a possibility for Secretary of State, there seems to be a very subtle character assassination going on.

Mr. Speaker, have we not done enough to our own country when we have one man who happens to be well respected by our European allies and would be an asset as Secretary of State, that we should dismiss him from consideration because we are going to forever bring up the question of Watergate? Why do this to ourselves? Why do this to our country? Let us have some commonsense back in the arena of politics in this country.

COMMUNICATION FROM THE CLERK OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. MOAKLEY) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
December 8, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted December 5, 1980, the Clerk has received on this date the following messages from the Secretary of the Senate:

(1) That the Senate passed without amendment H.R. 5182.

(2) That the Senate passed without amendment House Joint Resolution 337.

(3) That the Senate passed without amendment H.R. 8386.

(4) That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 1615) entitled "An Act for the relief of James R. Thornwell.".

(5) That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8105) entitled "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.".

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

☐ 1520

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to the authority granted the Speaker on Friday, December 5, 1980, the Speaker did on Monday, December 8, sign the following enrolled bills:

H.R. 1298. An act to designate the U.S. Post Office and Federal Building in Huntington, W. Va., as the "Sidney L. Christie Federal Building";

H.R. 3351. An act to amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certain surgery performed on an outpatient basis;

H.R. 5856. An act to amend title 32, United States Code, to allow Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the grade of colonel;

H.R. 7815. An act to recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes;

H.R. 7020. An act to provide for liability compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites;

H.R. 8235. An act to grant the consent of the Congress to the Tahoe Regional Planning Compact and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created;

H.R. 8298. An act to designate certain National Forest System lands in the State of New Mexico for inclusion in the National Wilderness Preservation System, and for other purposes;

S. 444. An act for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.;

S. 453. An act for the relief of Joe L. Frazier of Elko, Nev.;

S. 551. An act for the relief of Fred W. Sloat of Salt Lake City, Utah;

S. 576. An act for the relief of Larry Grathwohl;

S. 1307. An act for the relief of Gerald W. Frye;

S. 1615. An act for the relief of James R. Thornwell; and

S. 2069. An act to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities.

ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS AUTHORIZATION ACT OF 1981

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2726) to authorize appropriations for environmental research, development, and demonstrations for fiscal year 1981, and for other purposes, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 1, of the House engrossed amendment, strike out all after line 6 over to and including line 22 on page 5 and insert:

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1981 for the following activities:

(1) for air quality activities authorized under the Clean Air Act—

(A) in the Health and Ecological Effects program, $45,243,000;

(B) in the Industrial Processes program, $4,099,000;

(C) in the Monitoring and Technical Support program, $20,825,000;

(2) for water quality activities authorized under the Clean Water Act—

(A) in the Health and Ecological Effects program, $23,884,000: *Provided*, That of the funds appropriated pursuant to this paragraph, $3,600,000 may be obligated and expended on the Great Lakes Research program through the Environmental Protection Agency's Large Lakes Research Station, Grosse Ile, Michigan: *Provided further*, That of the funds appropriated pursuant to this paragraph, $1,000,000 may be obligated and expended on research to develop environmentally sound methods to control aquatic weeds: *Provided further*, That of the funds appropriated pursuant to this paragraph, $950,000 may be obligated and expended on the Cold Climate Research program through the Environmental Protection Agency's Corvallis Environmental Research Laboratory, Corvallis, Oregon;

(B) in the Industrial Processes program, $13,737,000, of which $2,500,000 is for the Renewable Resources program;

(C) in the Public Sector Activities program, $14,300,000: *Provided*, That of the funds appropriated pursuant to this paragraph, $500,000 may be obligated and expended on a program to develop and demonstrate wet-weather technology at New York, New York.

(D) in the Monitoring and Technical Support program, $12,101,000;

(3) for water supply activities authorized under the Safe Drinking Water Act—

(A) in the Health and Ecological Effects program, $12,359,000;

(B) in the Public Sector Activities program, $14,080,000;

(C) in the Monitoring and Technical Support program, $1,008,000;

Provided, That of the funds appropriated pursuant to this paragraph $4,000,000 may be obligated and expended on the Groundwater Research program (and no part of such sum shall be subject to transfer to any other category under subsection (e)), and the Administrator shall submit to the Congress a plan for the conduct of groundwater research and the use of the results of this research within one hundred and twenty days after the date of the enactment of this Act;

(4) for solid waste activities authorized under the Solid Waste Disposal Act, $26,446,000: *Provided*, That of the funds appropriated pursuant to this paragraph—

(A) $300,000 may be obligated and expended on a program to demonstrate the effectiveness of in-place solidification of hazardous wastes at a site in Charles City, Iowa;

(B) $68,000 may be obligated and expended on a program to demonstrate monitoring and isolation methods for hazardous wastes at a site in Coventry, Rhode Island;

(C) $500,000 may be obligated and expended on a program to demonstrate cleanup technologies, monitoring methods, scoping studies and related activities for hazardous wastes at two hazardous waste sites in Burrillville and North Smithfield, and Smithfield, Rhode Island.

(5) for pesticide activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act—

(A) in the Health and Ecological Effects program, $5,970,000: *Provided*, That no part of any amount appropriated pursuant to this paragraph may be obligated or expended except to the extent hereafter specifically authorized by law.

(B) in the Industrial Processes program, $2,900,000: *Provided*, That no part of any amount appropriated pursuant to this paragraph may be obligated or expended except to the extent hereafter specifically authorized by law.

(C) in the Monitoring and Technical Support program, $565,000: *Provided*, That no part of any amount appropriated pursuant to this paragraph may be obligated or expended except to the extent hereafter specifically authorized by law.

(6) for radiation activities authorized under the Public Health Service Act—

(A) in the Health and Ecological Effects program, $2,990,000.

(B) in the Monitoring and Technical Support program, $191,000;

(7) for interdisciplinary activities—

(A) in the Health and Ecological Effects program, $5,232,000;

(B) in the Monitoring and Technical Support program, $2,868,000;

(C) in the Anticipatory Research program $14,745,000;

(8) for toxic substance activities authorized under the Toxic Substances Control Act—

(A) in the Health and Ecological Effects programs, $31,876,000;

(B) in the Industrial Processes program, $1,772,000;

(C) in the Monitoring and Technical Support program, $3,247,000;

(9) for energy activities—

(A) in the Health and Ecological Effects program, $50,096,000;

(B) in the Energy Control program, $57,503,000, of which $500,000 is for a study of uranium mining wastes.

Page 6. of the House engrossed amendment, strike out lines 3 to 6, inclusive, and insert:

(c) The aggregate authorization under subsection (a) of this section shall be limited to the sum $8,000,000 less than the total of all authorizations otherwise provided in subsection (a).

Page 7, of the House engrossed amendment, strike out all after line 19 over to and including line 5 on page 8 and insert:

AMENDMENT TO SCIENCE ADVISORY BOARD ESTABLISHMENT

SEC. 3. Section 8. (a) of Public Law 95–155 (relating to the provision of advise by the Science Advisory Board) is amended by striking out "Science Advisory Board which shall provide such scientific advice as the Administrator requests" and inserting in lieu thereof "Science Advisory Board which shall provide such scientific advice as may be requested by the Administrator, the Committee on Environment and Public Works of the United States Senate, or the Committees on Science and Technology, Interstate and Foreign Comemrce, or Public Works and Transportation of the House of Representatives".

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendment be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The **SPEAKER** pro tempore. Is there objection to the initial request of the gentleman from Florida?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I will not object, but I make this reservation in order to allow our subcommittee chairman to explain just what we are doing here with this legislation. I yield to the gentleman for that purpose.

Mr. FUQUA. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, this bill, S. 2726, passed the House with an amendment on December 1, 1980, and was sent to the Senate. On December 5, 1980, the Senate considered the bill as amended by the House and further amended the bill to bring it into conformance with the conference report on HUD-independent agencies appropriations for fiscal year 1981 which the House accepted on December 1, 1980. The motion before us will accept the Senate amendment.

Mr. Speaker, the bill before us, S. 2726, authorizes fiscal year 1981 appropriations of $364.7 million for the EPA research and development program, $4 million below the President's request. This funding will support R. & D. activities in the areas of air and water quality, drinking water, hazardous waste, pesticides, radiation, toxic susbtances, and energy.

The House considered and passed the House version of this legislation, H.R. 7099, on December 1, 1980, and amended the Senate bill (S. 2726) with the House language. This House amendment provided an authorization of $360.5 million for EPA R. & D., $8.2 million below the President's request.

The Senate considered the House-passed bill and further amended it. The Senate action increased the House authorization for EPA R. & D. by $4.2 million, bringing the total authorization to $364.7 million which is still $4.0 million below the President's request. The Senate amendment further provided the Agency the discretionary authority to decide where this reduction is to be applied.

The Senate took this action to bring the EPA authorization bill into conformance with the EPA appropriation levels contained in the conference report on HUD-independent agencies appropriations for fiscal year 1981 which the House accepted on December 1, 1981. In this appropriations bill, $357.2 million was provided for the EPA R. & D. program, $11.4 million below the President's request. The conference report (H.R. 7361) also directed that this reduction be applied at the Agency's discretion.

Mr. Speaker, even though the bill before us slightly increases the authorization levels contained in the House-passed bill, it still retains some features that are certainly desirable. For example, the bill is under the President's budget and gives the Congress needed control over how EPA spends appropriated funds for their research activities. The bill accomplishes this by giving the Agency reprograming authority which, when in excess of 10 percent in any research category, must be approved by Congress. It also directs EPA to allocate 15 percent of appropriated funds for long-term environmental research which generates the fundamental knowledge that is needed if we are to effectively overcome the environmental problems that confront our Nation. Moreover, this bill provides continuity to the authorization process which is essential if the Congress is to continue to insure the consideration of the values of our constituents in the planning and execution of EPA's research programs.

All these are good reasons for enacting this legislation.

Mr. Speaker, despite the differences between this bill and the House-passed bill, I still believe that it contributes to our goal of having a cost-effective research program of the highest quality in EPA that is responsive to the environmental problems that threaten this Nation. I urge my colleagues to join me in supporting this bill.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT EXTENSION (PRIVATE SECTOR PROGRAMS)

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6796) to amend and extend title VII of the Comprehensive Employment and Training Act, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows.

Strike out all after the enacting clause and insert:

That section 112(a)(7) of the Comprehensive Employment and Training Act is amended by adding at the end thereof the following new subparagraph:

"(C) There are authorized to be appropriated such sums as may be necessary for the fiscal years 1981 and 1982 to carry out title VII.".

Sec. 2. Title VII of the Comprehensive Employment and Training Act is amended—

(1) by inserting ", in cooperation with other Federal programs that generate employment," immediately after "under this Act, and" in the first sentence of section 701;

(2) by striking out subsection (b) of section 702 and inserting in lieu thereof the following:

"(b)(1) Eighty-five percent of the funds made available for carrying out this title shall be allocated by the Secretary on an equitable basis among such prime sponsors, taking into account the factors set forth in section 202(a).

"(2) Ten percent of the funds made available for carrying out this title shall be used by the Secretary to provide incentive bonuses to prime sponsors who engage in efforts to promote coordination with economic development activities supported by Federal, State, or local funds. Funds used for such coordinated activities shall not be taken into account in the computation of cost per participant or cost per placement for purposes of program evaluation.

"(3) The remainder of the funds made available for carrying out this title shall be used by the Secretary to provide financial assistance to prime sponsors who jointly establish a single private industry council and to Native American entities described in section 302(c)(1)(A) and (B) for carrying out the purposes of this title.";

(3) by inserting ", local economic development councils established under the Public Works and Economic Development Act of 1965," immediately after "community-based organizations" in section 703(b)(5);

(4) by inserting "local economic development councils (such as those established under the Public Works and Economic Development Act of 1965)," immediately after "community-based organizations," in section 704(a)(1);

(5) by inserting "(particularly persons with expertise in on-site, industry specific vocational education)" immediately after "educational agencies and institutions" in the second sentence of section 704(a)(1);

(6) by striking "and" at the end of paragraph (14) of section 705(a);

(7) by strking the period at the end of paragraph (15) of section 705(a) and inserting in lieu thereof "; and";

(8) by adding after such paragraph the following new paragraph:

"(16) developing on-site, industry specific training programs supportive of industrial and economic development in cooperation with State vocational education boards, provided that, where feasible, funds made available under this Act for such programs are supplemented by Federal, State, or local vocational education funds or by non-governmental funds made specifically available for such programs, or both."; and

(9) by adding at the end of section 705 the following new subsection:

"(c) Activities under this section may include upgrading and retraining in accordance with the provisions of part C of title II. Not more than 15 percent of the funds available for this title may be used for programs under this subsection. No employer may participate in such a program unless the employer agrees that the employer will hire one economically disadvantaged person for every employee participating in the upgrading or retraining program. The Secretary may waive the provisions of the preceding sentence in whole or in part where the Secretary finds that it would be impracticable for the employer to comply with such provisions or that a waiver would facilitate participation by the employer in an experimental or demonstration project approved or being carried out by the Secretary.".

Sec. 3. The Comprehensive Employment and Training Act is further amended as follows:

(a) Section 122(i)(2) of such Act is amended by deleting "$7,200" and substituting in lieu thereof "$8,000".

(b) Section 202(f)(2)(B), section 233(d)(1), and section 604(b)(1) of such Act are each amended by deleting "1980" and substituting in lieu thereof "1982".

(c) Wherever the terms "Secretary of Health, Education, and Welfare" or "Department of Health, Education, and Welfare" appear in sections 311(b), 457(c) and 462(b) of such Act, they are amended to read "Secretary of Education" or "Department of Education", respectively.

(d) Section 305 of such Act is amended by deleting the words "and the Secretary of Health, Education, and Welfare" and the words "Labor and Health, Education, and Welfare" where they occur, and substituting in lieu thereof, respectively, the words "the Secretary of Health and Human Services and the Secretary of Education" and "Labor, Health and Human Services, and Education".

Mr. HAWKINS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, I do not intend to object, but I make this reservation for the purposes of asking the subcommittee chairman if he would elucidate as to what these amendments are. However, prior to that, I would ask him if I am not correct in saying that there were a significant number of amendments suggested by the Senate, but only two or three of any significance were finally agreed to by the Senate. Is that correct?

Mr. HAWKINS. Mr. Speaker, if the gentleman will yield, that is basically correct.

Mr. JEFFORDS. And I would ask this question also: The two major amendments which I have discussed with Members on this side have to do with the raising of the average wage index for purposes of title VI from $7,200 to $8,000, is that correct?

Mr. HAWKINS. The gentleman is correct.

Mr. JEFFORDS. It is also my understanding that that in no way increases the amount of money which will be spent but only the average wage that would be paid to individuals, and in some sense it reduces the number of people that could be employed because of the reduction in the amount of money, but it does not increase the total amount of money, is that correct?

Mr. HAWKINS. That flexibility is allowed, and the answer is that the gentleman is correct.

Mr. JEFFORDS. My understanding is that one other significant change has to do with going from a 4-year authorization to a 2-year authorization, is that correct?

Mr. HAWKINS. That is correct.

Mr. JEFFORDS. Mr. Speaker, I would ask the gentleman if there are any other changes that he would like to let the body know about?

Mr. HAWKINS. The only other change that was not discussed in the colloquy is that the substitute allows a hold harmless provision, and there were two technical amendments merely to correct references to different provisions in the Comprehensive Employment and Training Act.

There is likewise a flexibility which is allowed under the Senate provision that in the training and upgrading of an employee the requirement that a disadvantaged employee should also be hired is not in the House bill, but the Senate further provided that there would be flexibility for smaller businesses that might be disadvantaged by this provision.

So they allowed flexibility in those instances.

There was no opposition expressed to any of these provisions, and I think that they are in line with the intent of the House-passed bill and also the discussions that the gentleman from Vermont (Mr. JEFFORDS) and the chairman of the subcommittee did have prior to the Senate action.

Mr. Speaker, may I also take this opportunity to commend the gentleman from Vermont for the contribution that he has made in the enactment of this very far-reaching act, which I think brings the act into conformity with the express provision of the President-elect, and that is that much of the training and hiring that takes place under the Comprehensive Employment and Training Act should be in the private sector. I think this is in line with that particular concept.

Mr. JEFFORDS. Mr. Speaker, I thank the subcommittee chairman for his kind words. Certainly on this side of the aisle this is a very important part of CETA, which does reflect the thinking of the Members on this side of the aisle.

I certainly would commend the subcommittee chairman also for his very diligent work in this area and for bringing this bill forward at this time. I have discussed this bill wth the Members, I am aware of its provisions, and as far as I know, there are no objections to it on this side of the aisle.

Mr. HAWKINS. Mr. Speaker, Congress first enacted title VII of CETA in 1978 in an effort to encourage and promote private sector involvement in employment and training programs for the economically disadvantaged. The authorization for the title VII program expired September 30, 1980, and the program is currently authorized under the continuing resolution until December 15, 1980.

Yesterday, the Senate passed legislation to revise and reauthorize the private sector initiative program under title VII of the Comprehensive Employment and Training Act. Last September 15, the House passed H.R. 6796 by unanimous voice vote under suspension of the rules. The Senate action maintains most of the substance of the House bill, but provides modification of two provisions and adds amendments to other provisions of CETA which were not included in the House bill. These modifications and additions are acceptable to minority and majority members of the Committee.

Mr. Speaker, I would like to take this opportunity to briefly describe the provisions contained in the Senate substitute to H.R. 6796.

The Senate amendment limits the authorization of appropriations for title VII for 2 years through fiscal year 1982 in order to coincide with the expiration of the other titles of CETA.

Like the House bill, the Senate amends title VII to allow prime sponsors to use 15 percent of their funds for upgrading and retaining activities. However, the Senate amendment provides that participating employers are required to hire one economically disadvantaged person for each person retrained or upgraded with CETA funds, unless the Secretary waives the requirement where it would be impracticable for the employer to comply or where the waiver would facilitate participation by the employer in an experimental or demonstration project approved or being carried out by the Secretary.

The Senate substitute also includes a provision proposed by Senator HATCH which raises the base for computing the average wage index for public service employment programs from $7,200 to $8,000 to allow greater opportunity for meaningful jobs in the high wage areas.

The substitute also includes a 2-year extension of the "hold harmless" provision against loss of funds for prime sponsors arising from the termination of the current population surveys (CPS) on January 1, 1978, as a basis for determining annual employment data.

Finally, the amendment includes two purely technical amendments which correct references in the CETA law.

Mr. Speaker, I urge my colleagues to concur in the Senate amendments to H.R. 6796.

● Mr. PERKINS. Mr. Speaker, today I speak in support of concurring in the Senate amendments to the House bill H.R. 6796, a bill to reauthorize bill amend the private sector initiative program, title VII of the Comprehensive Employment and Training Act.

I am in support of this vital legislation in the form in which it has come back to us from the Senate, primarily because the most important provisions of H.R. 6796, as adopted by the House on September 15, have been meticulously preserved. The few modest changes adopted by the Senate are, I think its fair to say, viewed as acceptable improvements by members from both sides of the aisle on the Education and Labor Committee.

The private sector initiative program was established during the 1978 reauthorization of the Comprehensive Employment and Training Act to demonstrate ways of encouraging businesses to become more involved in the hiring and training of economically disadvantaged workers. The title provides funds to prime sponsors for the establishment of private industry councils to participate with the prime sponsors in developing employment opportunities for the unemployed in the private sector. These private industry councils include members from the local business communities, community-based organizations, local education agencies and where possible, 50 percent membership from small businesses.

At this point, virtually all prime sponsors in the CETA system have established private industry councils. Even though its history has been brief, the private sector initiative program has produced many encouraging examples of successful cooperation between CETA and the business community. These joint efforts have provided thousands of disadvantaged and jobless workers with meaningful employment and training opportunities. Also, the program has demonstrated to businesses that they can cooperate efficiently with the CETA system to improve their communities.

The bill before us today holds the potential for greatly improving upon this already auspicious beginning. In particular, by providing incentives for title VII cooperation with local economic development activities and by allowing title VII funds to be used for private sector retraining and upgrading, this legislation occupies a pivotal link in the public-private partnership to reinvigorate local economies. I urge my colleagues to adopt this needed legislation which, in addition to enjoying enthusiastic bipartisan support, has the strong support of the business community, organized labor, and public interest groups.

I want to commend the gentleman from California (Mr. HAWKINS), the chairman of the Subcommittee on Employment Opportunities, and Mr. JEFFORDS of Vermont, the ranking minority member of the subcommittee, for the fine and dedicated work they have done to bring this innovative piece of legislation to fruition.●

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California.

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 6796) just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NORTH SAN GABRIEL DAM AND LAKE GEORGETOWN

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4941) to name a dam and reservoir on the San Gabriel River, Tex., as the "North San Gabriel Dam" and "Lake Georgetown," respectively, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, after line 3, insert:

SEC. 2. (a) In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $18,498,000 from the fund established pursuant to section 210(f) of the Federal

Property and Administrative Services Act of 1949, as amended, for major repairs and alterations to public buildings, as follows:

(1) United States Post Office and Courthouse, New Haven, Connecticut, $6,800,000;

(2) Old Post Office Building, Washington, District of Columbia, $11,698,000, in addition to that previously authorized, of which not to exceed $2,000,000 is authorized for the purchase and installation of building furnishings and office equipment.

(b) In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $27,060,000 to the Federal Aviation Administration for the lease, at a maximum term of twenty years, of technical support facilities at the Technical Center of the Federal Aviation Administration in Atlantic County, New Jersey: *Provided*, That the authorization contained in this subsection shall be effective only upon the proper delegation of authority to the Federal Aviation Administrator from the Administrator of the General Services Administration.

Page 2, after line 3, insert:

Sec. 3. In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $12,844,000 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for the construction of a public building in Redding, California: *Provided*, That, the Administrator of General Services shall conduct a design competition to select an architect for the building, said competition to be conducted under such procedures that it shall cost no more than one-half of 1 percent of the cost of the building and shall be conducted under such procedures as will assure that fair compensation for work required from the firms participating in the competition does not exceed that amount.

Mr. LEVITAS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Georgia?

Mr. LIVINGSTON. Mr. Speaker, reserving the right to object, I would like to inquire of the gentleman as to the details of this particular bill.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I am happy to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding.

The bill which we have before us is a naming bill for a dam and reservoir located on the North Fork of the San Gabriel River in Williamson County, Tex., the North San Gabriel Dam and Lake Georgetown, respectively. The two names are supported by the residents of the area. Designating the dam as North San Gabriel Dam will accurately identify it in reference to its location. Similarly, it is appropriate that the reservoir be named Lake Georgetown. Georgetown is the nearest town to the lake—approximately 3.5 miles—as well as being the seat of Williamson County. The Senate amended the bill by the addition of a section 2 and section 3.

Section 2 of the bill provides that in accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $18,498,000 providing for repairs and alterations to public buildings, as follows: First, U.S. Post Office and Courthouse, in New Haven, Conn., at a cost of $6,800,000; and second, the Old Post Office Building in Washington, D.C., at a cost of $11,698,000 in addition to that previously authorized, of which not to exceed $2 million is authorized for the purchase and installation of building furnishings and equipment.

Section 2. (b) provides that in accordance with section 7 of the Public Buildings Act of 1959, as amended, an authorization for an appropriation in full in the Aviation Administration for the lease, at a maximum term of 20 years and at an estimated cost of $1,353,000 per year, for the construction of technical support facilities at the technical center of the Federal Aviation Administration in Atlantic City, N.J. Further, this subsection shall be effective only upon the proper delegation of leasing authority to the FAA from the Administrator of the General Services Administration. Lastly, at the end of the lease period, the Government would have the option to take title for $1.

Section 3 of the article provides that in accordance with section 7 of the Public Buildings Act of 1959, as amended, there is authorized to be appropriated $12,844,000 for the construction of a Courthouse and Federal Office Building in Redding, Calif.

Mr. Speaker, the House Committee on Public Works and Transportation has already approved these projects in accordance with section 7 of the Public Buildings Act of 1959, as amended, which states that:

> No appropriation shall be made to construct, alter, purchase, or to acquire any building to be used as a public building which involves a total expenditure in excess of $500,000 if such construction, alteration, purchase, or acquisition has not been approved by resolutions adopted by the Committee on Public Works of the Senate and House of Representatives, respectively.

I understand the adoption of these four projects by the Senate in this unusual fashion was necessary due to the fact that the Senate Committee on Environment and Public Works was unable to obtain a quorum to hold a formal meeting to approve these projects under the normal committee resolution process pursuant to the Public Buildings Act of 1959, as amended. This is an emergency situation and one that necessitates this action, but it is an exception to our normal procedure under the public building program.

□ 1530

Mr. LIVINGSTON. I thank the gentleman for his explanation but further reserving the right to object has the gentleman cleared these particular additions with the leadership of the minority on this bill?

Mr. LEVITAS. If the gentleman will yield, we have and it has been cleared.

Mr. LIVINGSTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Georgia (Mr. Levitas)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

AUTHORIZING APPROPRIATIONS FOR CERTAIN INSULAR AREAS OF THE UNITED STATES

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8444) to authorize appropriations for certain insular areas of the United States, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMERICAN SAMOA

Sec. 101. Notwithstanding any other provision of law and subject to valid existing rights, all right, title, and interest of the Government of the United States in personal property situated in American Samoa shall be transferred, without reimbursement, to the American Samoa government on October 1, 1981, unless the agency of the Government of the United States having administrative responsibility for the property advises the Secretary of the Interior in writing before the date of transfer that it has a continuing requirement for such property.

TITLE II—GUAM

Sec. 201. (a) Section 3 and section 5 of the Act entitled "An Act to provide for the rehabilitation of Guam, and for other purposes" (Public Law 88-170; 77 Stat. 302) are hereby repealed.

(b) The Act entitled "An Act to provide for the rehabilitation of Guam, and for other purposes" is amended by adding at the end thereof the following new section:

"Sec. 7. The government of Guam shall not be liable to the United States on and after the effective date of this section for repayment of any amount appropriated under this Act which was not repaid to the United States before such date.".

(c) This section shall take effect October 1, 1981.

TITLE III—NORTHERN MARIANA ISLANDS

Sec. 301. Within six months from the date of enactment of this Act, the Secretary of the Interior is directed to submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a report on the existing dock and harbor facilities in the Northern Mariana Islands; the need, if any, for repair, improvement, or replacement of such facilities: the cost of such rehabilitation; and the amount of Federal assistance which would be necessary to achieve such rehabilitation.

Sec. 302. (a) Section 12 of the Act of August 9, 1950 (64 Stat. 434), as amended, is further amended by deleting "Governor of American Samoa," and inserting in lieu thereof "Governor of American Samoa, the Governor of the Commonwealth of the Northern Mariana Islands,"; by deleting "to apportion to Puerto Rico, Guam, American Samoa," and inserting in lieu thereof "to apportion to Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands,"; by deleting "Samoa one-third of 1 per centum," and inserting in lieu thereof "Samoa one-third of 1 per centum, for the Commonwealth of the Northern Mariana Islands one-third of 1 per centum."; and by deleting "expenditure in Puerto Rico, Guam," and inserting in lieu thereof "expenditure in Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands,".

(b) Section 8(a) of the Act of September 2, 1937 as added August 18, 1941 (55 Stat. 632), as amended, is further amended by deleting "Governor of Guam," and inserting in lieu thereof "Governor of Guam, the Governor of the Commonwealth of the Northern Mariana Islands,"; by deleting "apportion to Puerto Rico, Guam," and inserting in lieu thereof "apportion to Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands,"; by deleting "Guam one-sixth of 1 per centum," and "inserting in lieu thereof "Guam one-sixth of 1 per centum, for the Commonwealth of the Northern Mariana Islands one-sixth of 1 per centum,"; and by deleting "expenditure in Puerto Rico, Guam," and inserting in lieu thereof "expenditure in Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands,".

Sec. 303. (a) The Act of March 12, 1980 amended as follows: In section 205(a) (Public Law 96–205; 94 Stat. 87) is hereby change "and before January 1, 1981." to "until, but not after, January 1, 1983.".

(b) The provisions of section 205(c) shall be suspended and shall be of no force or effect until January 1, 1983.

TITLE IV—TRUST TERRITORY OF THE PACIFIC ISLANDS

Sec. 401. Section 101 of the Act of March 12, 1980 (94 Stat. 84), is amended by changing the commas after "program" and "system" to semicolons; by deleting the word "and" after "system"; and by inserting after "Ponape;" the following: "for expenditure by grant or contract for the installation, operation, and maintenance of communications systems which will provide internal and external communications;".

Sec. 402. (a) Notwithstanding any other provision of law, subject to valid existing rights, and subject to subsection (b) of this section, all right, title, and interest of the Government of the United States in personal property situated in the Trust Territory of the Pacific Islands and of the Government of the Trust Territory of the Pacific Islands in personal property wherever located shall be transferred, without reimbursement, by October 1, 1982, to the government of the Northern Mariana Islands, Palau, the Marshall Islands, or the Federated States of Micronesia according to: a list of distribution established by the High Commissioner of the Trust Territory of the Pacific Islands in consultation with the recipient government.

(b) Personal property referred in subsection (a) of this section shall be transferred upon declaration by the High Commissioner of the Trust Territory of the Pacific Islands that such property is surplus to the needs of the Government of the Trust Territory of the Pacific Islands, which declaration shall be approved, if applicable, by the head of the agency of the Government of the United States having administrative responsibility for the property.

(c) If no government exists in Palau at the time of enactment of this section that is capable of receiving title to such property in its own name, the government of the Trust Territory of the Pacific Islands shall hold such property in trust for the prospective government of Palau until such government is established.

Sec. 403. Section 104 of the Act of March 12, 1980 is amended as follows:

(a) Strike "nor shall participation" and insert "and shall continue to be available to the extent said Territory or its successor or successors are eligible to participate in such programs. Participation";

(b) Change "governments be denied" to "'governments shall not be denied"; and

(c) Strike the period and insert "and shall continue at such levels as the Congress may provide in appropriation acts.".

TITLE V—VIRGIN ISLANDS AND GUAM

Sec. 501. Section 5 of the Act of October 21, 1976 (Public Law 94–584; 90 Stat. 2899) is amended by changing "sixty days after its submission" to "sixty legislative days (not interrupted by an adjournment sine die of the Congress) after its submission".

Sec. 502. Notwithstanding any other provision of law, with regard to parcels 2 and 22 (Estate Upper Bethlehem, Saint Croix, United States Virgin Islands) and parcels 2A and 23 (Fredensborg and Upper Bethlehem, Saint Croix, United States Virgin Islands) and parcel 24 (Estate Body Slob and Upper Bethlehem, Saint Croix, United States Virgin Islands), the Government of the Virgin Islands is hereby released from all obligation under the mortgage and note given by the Government of the Virgin Islands when such parcels were conveyed to the Government of the Virgin Islands by the Government of the United States.

TITLE VI—MISCELLANEOUS

Sec. 601. General Techincal Assistance.—(a) The Secretary of the Interior is authorized to extend to the governments of American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands, and their agencies and instrumentalities, with or without reimbursement, technical assistance on subjects within the responsibility of the respective territorial governments. Such assistance may be provided by the Secretary of the Interior through members of his staff, reimbursements to other departments or agencies of the Federal Government under the Economy Act (31 U.S.C. 686), grants to or cooperative agreements with such governments, agreements with Federal agencies or agencies of State or local governments, or the employment of private individuals, partnerships, or corporations. Technical assistance may include research, planning assistance, studies, and demonstration projects.

(b) The Secretary of the Interior is further authorized to provide technical assistance to, and maintenance of agricultural plantings and physical facilities for, the peoples from Enewetak Atoll and Bikini Atoll, as well as for the purchase of food and equipment and for the transportation of such food, equipment and persons as he deems necessary and appropriate until such areas produce sufficient food to fully sustain the residents after resettlement. This provision shall not cease to be applicable either before or after the termination of the trusteeship without the express approval of the United States Congress.

(c) The Secretary of Agriculture is authorized to extend, in his discretion, programs administered by the Department of Agriculture to Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Virgin Islands, and American Samoa (hereinafter called the territories). Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to waive or modify any statutory requirements relating to the provision of assistance under such programs when he deems it necessary in order to adapt the programs to the needs of the respective territory: *Provided,* That not less than sixty days prior to extending any program pursuant to this section or waiving or modifying any statutory requirement pursuant to this section, the Secretary of Agriculture shall notify the Committee on Agriculture and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate of his proposed action together with an explanation of why his action is necessary and the anticipated benefits to each territory affected. Such programs shall be carried out in cooperation with the respective governments of the territories and shall be covered by a memorandum of understanding between the respective territorial government and the Department of Agriculture. Any sums appropriated pursuant to this paragraph shall be allocated to the agencies of the Department of Agriculture concerned with the administration of programs in the territories.

(d) Effective October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Sec. 602. In the event that a political union is effected at a future time between the Territory of Guam and the Commonwealth of the Northern Mariana Islands, the Federal Government and each of its agencies is authorized and directed to assure that—

(i) there will be no diminution of any rights or entitlements otherwise eligible to said territory and Commonwealth in effect on the effective date of such union,

(ii) there will be no adverse effect on any funds which have been or may hereafter be authorized or appropriated for said territory or Commonwealth, as of the effective date of such union, or

(iii) no action is taken that would in any manner discourage such unification.

whenever any discrepancy exists or arises between the benefits available for either said territory or Commonwealth under any policies or programs authorized by law (including, but not limited to, any formulas for matching grants-in-aid or comparable programs or benefits), the most favorable terms available to either said territory or Commonwealth shall be deemed applicable to said unified area after the effective date of unification.

Sec. 603. Notwithstanding any other provision of law to the contrary, funds appropriated under the Emergency School Aid Act for fiscal year 1980 which are available for use in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be available in such areas for the purposes set forth in section 702 of the Emergency School Aid Act as such section was in effect immediately before September 30, 1979.

Sec. 604. (a) The Congress finds that—

(1) the Caribbean and Pacific insular areas of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau are virtually completely dependent on imported sources of energy;

(2) the dependence of such areas on imported sources of energy coupled with the increasing cost and the uncertain availability and supply of such sources of energy will continue to frustrate the political, social, and economic development of such areas by placing increasingly severe fiscal burdens on the local governments of these areas;

(3) these insular areas are endowed with a variety of renewable sources of energy which, if developed, would alleviate their dependence on imported sources of energy, relieve the fiscal burden on local governments imposed by the costs of imported fuel, and strengthen the base for political, social, and economic development;

(4) appropriate technologies are presently available to develop the renewable energy resources of these insular areas but that comprehensive energy plans have not been adequately developed to meet the energy demands of these areas from renewable energy resources.

(b) The Congress declares that it is the policy of the Federal Government to—

(1) develop the renewable energy resources of the Caribbean and Pacific insular areas of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau; and

(2) to assist other insular areas in the Caribbean and Pacific Basin in the development of their renewable energy resources.

(c) The Secretary of Energy or any administrative official who may succeed him shall prepare a comprehensive energy plan with emphasis on indigenous renewable sources of energy for Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands and Palau. The plan shall be prepared with the approval of the Secretary of the Interior and in cooperation with the chief executive officer of each insular area by—

(1) surveying existing sources and uses of energy;

(2) estimating future energy needs to the year 2020, giving due consideration to a range of economic development possibilities;

(3) assessing, in depth, the availability and potential for development of indigenous energy sources, including solar, wind, hydropower, ocean current and tidal, biogas, biofuel, geothermal and ocean thermal energy conversion;

(4) assessing the mix of energy sources (including fossil fuels) and identifying those technologies that are needed to meet the projected demands for energy; and

(5) drafting long-term energy plans for such insular areas with the objective of minimizing their reliance on energy imports and making maximum use of their indigenous energy resources.

(d) The Secretary of Energy or any administrative offical who may succeed him, with the approval of the Secretary of the Interior, as part of the comprehensive energy planning may demonstrate those indigenous renewable energy technologies which are determined to be most cost effective through the use of existing programs.

(e) Within two years from the date of enactment of this Act, the Secretary of Energy or any administrative official who may succeed him shall submit the comprehensive energy plan for each insular area to the Congress.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 605. Effective Otcober 1, 1981, section 22 of the Water Resources Development Act of 1974 (Public Law 93–251) is amended by adding at the end thereof the following:

"(c) For the purposes of this section, the term 'State' means the several States of the United States, the Commonwealth of Puerto Rico, Guam American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.".

SEC. 606. (a) The Congress finds that—

(1) The Trust Territory of the Pacific Islands is composed of over two thousand islands scattered over three million square miles of the North Pacific Ocean with a total land area of only seven hundred square miles supporting approximately one hundred thousand persons;

(2) the health, safety, welfare, as well as the political, social, and economic development of the peoples of the Trust Territory of the Pacific Islands are totally dependent on the adequacy and regularity of inter-island transportation;

(3) the principal form of inter-island transportation, especially for the outer islands is and will continue to be surface transportation;

(4) at present inter-island surface transportation is completely dependent on uncertain supplies of increasingly expensive imported fuel;

(5) recent development in sail-assisted technology offer the potential for alleviating the dependence of the peoples of the Trust Territory of the Pacific Islands on imported fuel for surface transportation, thereby improving the capability for regular supply schedules to the various islands, relieving the fiscal burden on local governments caused by the costs of imported fuel, and strengthening the base for political, social, and economic development of the peoples of the Trust Territory of the Pacific Islands.

(b) In order to ascertain the potential for sail-assisted technology for inter-island transportation in the Trust Territory of the Pacific Islands, the Secretary of the Interior is directed to review the transportation needs of the Trust Territory of the Pacific Islands and submit a report to the Congress by October 1, 1981, on his findings and recommendations.

(c) In preparing his report, the Secretary of the Interior shall consider, but is not limited to, frequency of services, present and alternative routes, cargo delivery, operating costs, port and docking availability and adequacy, and the impact on energy costs of the use of a second generation of inter-island field trip vessels using sail-assisted technology. The report shall set forth a scientific analysis of potential applications of sail-assisted technology as a means of reducing energy costs for inter-island transportation including, but not limited to, statistics on windspeed, direction, wave heights and currents; possible design configurations and specifications for sail-assisted vessels; cost estimates for construction, financing, and operation; and such other information as he deems appropriate to determine the feasibility of sail-assisted technology for inter-island transportation.

(d) The Secretary is directed to consult with appropriate representatives of the various local government units in the Trust Territory of the Pacific Islands as well as the Secretary of Transportation, the Secretary of Commerce, and the Secretary of Defense in preparing the report.

SEC. 607. (a) In order to assist the governments of Guam and the Virgin Islands in eliminating general fund deficits, there is authorized to be appropriated to the Secretary of the Interior for payment to Guam not to exceed $15 million for fiscal year 1982, and $11 million for fiscal year 1983, $7.5 million for fiscal year 1984, and $4 million for fiscal year 1985; and for payment to the Virgin Islands not to exceed $12 million for fiscal year 1982, $9 million for fiscal year 1983, $6 million for fiscal year 1984, and $3 million for fiscal year 1985.

(b) The Governors of Guam and the Virgin Islands shall each submit a plan for approval to the Secretary of Interior in consultation with the Secretary of the Treasury which is designed to eliminate the respective territory's general fund deficits by the beginning of fiscal year 1986. Such plan shall provide for—

(1) implementation of an effective budgeting and accounting system;

(2) realistic revenue and expenditure projections which will progressively reduce current year general fund deficits and result in a balanced general fund budget no later than the beginning of fiscal year 1986;

(3) financing of accumulated general fund deficits;

(4) quarterly goals and timetables for implementing the plan. The plan shall also indicate that the Governor has the necessary authority to implement the plan.

(c) Not more than thirty days after the close of each quarter which occurs after the plan required under subsection (a) of this section has been approved by the Secretary of Interior in consultation with the Secretary of the Treasury and through the close of fiscal year 1985, the respective Governor shall submit a report to the Secretary of Interior and Secretary of the Treasury, certified by the respective government comptroller, describing in detail the success or failure of such territory in meeting the goals and timetables described in such plan.

(d) No payment shall be made under this title until the plan required under this section has been approved by the Secretary of Interior in consultation with the Secretary of the Treasury. Before making any payment under this title after such plan has been approved, the Secretary shall determine whether the respective territory is meeting the goals and timetables prescribed in such plan. If the Secretary determines that such territory is not meeting such goals or timetables, he shall withhold payments otherwise due such territory until he determines that such goals and timetables are being met.

SEC. 608. Authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriations Acts.

Mr. PHILLIP BURTON. Mr. Speaker, this is sending back to the other body an altered version of a bill we sent them several months ago and it is my fondest hope that this matter will avoid the Scylla and Charybdis processes of that body.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 2 p.m., Wednesday, December 10, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

The gentleman from Illinois requests we adjourn until when? Today?

Mr. ROSTENKOWSKI. The gentleman from Illinois would like to amend his request.

Mr. BAUMAN. Go right ahead, we are very liberal about those things.

Mr. ROSTENKOWSKI. Mr. Speaker, the gentleman would ask unanimous consent that his original request be withdrawn and that unanimous consent be granted that when the House adjourn today it adjourn to meet at 3 p.m. on Wednesday, December 10, 1980.

The SPEAKER pro tempore. Is there objection?

Mr. BAUMAN. Reserving the right to object, 3 p.m. on Wednesday?

Mr ROSTENKOWSKI. The gentleman is correct.

Mr. BAUMAN. Could the gentleman accompany that with any explanation as to what the future might hold, say for the rest of the week? Some of us lameducks are getting terribly lame and we badly need to limp back home

Mr. ROSTENKOWSKI. Based on an informal discussion that I had with the Speaker, we are going to try to adjourn on Friday. That is if we get the cooperation of the other body.

Mr. BAUMAN. So it all depends on the outcome of the continuing resolution and one or two other matters?

Mr. ROSTENKOWSKI. I should presume so, yes.

Mr. BAUMAN. I understand.

Mr. Speaker, I reserve to my colleague from California.

Mr. ROUSSELOT. Could my good colleague tell us what is proposed to be on the schedule for tomorrow?

Mr. ROSTENKOWSKI. With the exception of suspensions, any measure that we will get back from the Senate.

Mr. ROUSSELOT. So it would be primarily anything coming back from the Senate and/or suspensions. How many suspensions can the gentleman tell us there are?

Mr. ROSTENKOWSKI. The gentleman from Illinois is in no position to give that information.

Mr. ROUSSELOT. Could we get a quick estimate from somebody?

Mr. ROSTENKOWSKI. I am sorry, I have no idea.

Mr. ROUSSELOT. Can the gentleman assure us before the end of the day we will get a list of the suspensions?

Mr. ROSTENKOWSKI. If it is within the authority of the gentleman from Illinois, I will be glad to submit that.

Mr. ROUSSELOT. I am sure somebody up there must know.

The SPEAKER pro tempore. The Chair is not aware of any.

Mr. ROUSSELOT. The gentleman in the chair, our distinguished Speaker is aware of none?

The SPEAKER pro tempore. We could consult with the Parliamentarian.

Mr. ROSTENKOWSKI. Will the gentleman from California yield?

Mr. BAUMAN. Further reserving the right to object, I will yield.

Mr. ROSTENKOWSKI. At the present time there really are no current requests for suspension.

Mr. BAUMAN. And with further reservation, can the gentleman give us any information about the possible veto of, I believe it is the Treasury-Post Office measure?

Mr. ROSTENKOWSKI. As far as the gentleman from Illinois is aware it has not been received.

Mr. BAUMAN. No veto has occurred and are we expected to deal with that this week do you think?

Mr. ROSTENKOWSKI. It all depends when we receive it from the White House.

Mr. BAUMAN. Continuing to reserve the right to object, I yield to the gentleman from California.

Mr. ROUSSELOT. Does anyone on the gentleman's side communicate with the White House these days or is that all over with? Might we know when to expect the veto?

Mr. ROSTENKOWSKI. I am not in a position to give the gentleman an answer on that.

Mr. ROUSSELOT. I knew how close the gentleman was to the White House.

Mr. ROSTENKOWSKI. The gentleman is in a very enviable position.

Mr. ROUSSELOT. So we do not really even know if we will have an opportunity to act on the President's veto?

Mr. ROSTENKOWSKI. The gentleman cannot answer the question.

Mr. ROUSSELOT. Can anyone?

Mr. ROSTENKOWSKI. Not to my knowledge.

Mr. ROUSSELOT. How about our Speaker?

The SPEAKER pro tempore. The Chair has no more knowledge than the gentleman from Illinois.

Mr. ROSTENKOWSKI. The gentleman from Illinois has had no conversation with the staff or the President with respect to the veto. I am sorry I cannot give more information on that.

Mr. BAUMAN. Mr. Speaker, I want to make it clear that I have had no discussion with the President either about this matter.

I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BENNETT. Mr. Speaker, I reserve the right to object.

In view of the request to know about matters that might come up I do want to advise the House that as of tomorrow and any day thereafter it is possible that the Jenrette matter will come up on the floor of the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois (Mr. ROSTENKOWSKI)?

There was no objection.

MODIFYING BOUNDARY OF CIBOLA NATIONAL FOREST, N. MEX.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill, S. 1803, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. FUQUA. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I do not intend to object, but I would like to inquire of the gentleman from Ohio if this is a bill that does contain some of the wilderness areas.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New Mexico.

Mr. LUJAN. I do not believe this is the Florida wilderness bill.

Mr. FUQUA. That is what I was trying to inquire about.

Mr. SEIBERLING. If the gentleman will yield, this bill deals with an addition to the national forest in the State of New Mexico and some other minor additions that have been engrafted by the Senate and proposed to be engrafted by the other side of the aisle. This is not what the gentleman is concerned about. I shall take up that measure as soon as we conclude consideration of this measure.

Mr. FUQUA. Further reserving the right to object, sometimes the words, "for other purposes," are rather broad and encompassing, and I was trying to protect the interests of the wilderness area in Florida.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. SEIBERLING)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico is hereby modified to include an area of approximately fourteen thousand four hundred and seventy-six acres as shown on United States Department of Agriculture, Forest Service map entitled "Boundary Modification, Cibola National Forest", dated April 1980.

SEC. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. For the purpose of section 6 (renumbered section 7 by the Act of July 11, 1972, 86 Stat. 459) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903 as amended; 16 U.S.C. 4601–9 (1976)) the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965.

SEC. 4. The Act of March 14, 1978 (92 Stat. 154), is amended as follows:

(a) In section 1(a), in the first sentence, delete the phrase "two-year", and change "September 30, 1980" to "September 30, 1985"; and

(b) In section 1(c) strike the second sentence in its entirety and insert the following: There is authorized to be appropriated an amount not to exceed $1,500,000 annually for fiscal years 1979 through 1982 to carry out the provisions of this Act: *Provided,* That any appropriations made pursuant to this Act shall be reduced by the amount of any payments made to said districts pursuant to the Acts of September 23, 1950 (64 Stat. 906), as amended (20 U.S.C. 631 et seq.), and September 30, 1950 (64 Stat. 1100), as amended (20 U.S.C. 236 et seq.). For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Mr. SEIBERLING. Mr. Speaker, S. 1803, a bill to modify the boundary of the Cibola National Forest in the State of New Mexico and for other purposes, has already passed the other body and was favorably reported by the Committee on Interior and Insular Affairs on November 17 of this year.

The bill is not controversial, and I know of no objections or questions concerning it on either side of the aisle. It would enlarge the boundaries of the Cibola National Forest and would also extends the provisions of the Act of March 14, 1978, concerning Federal assistance to a school district in Grand Canyon National Park.

I ask unanimous consent to revise and extend my remarks so as to include the following:

BACKGROUND AND NEED

S. 1803 passed the Senate on June 6, 1980. As so passed, the bill would extend the boundaries of the Cibola National Forest in New Mexico and would extend the provisions of the Act of March 14, 1978, concerning certain federal assistance to a school district in Arizona for an additional five years and authorize an increase in such assistance.

SECTION-BY-SECTION ANALYSIS

Sections 1, 2, and 3 of S. 1803 would extend the exterior boundary of the Cibola National Forest to include an area of about 14,476 acres. The area contains about 9,760 acres of public lands administered by the Bureau of Land Management, 1,280 acres of State lands, and 3,436 acres of privately-owned lands. Upon enactment of S. 1803, all Federal lands within the extended boundary would become a part of the Cibola National Forest. The boundary of the National Forest when modified would be considered the boundary as of January 1, 1965, for purposes of section 7 of the Land and Water Conservation Fund Act of 1965.

The area that would be included lies on the north end of the National Forest just west of the Continental Divide. The Federal lands that would become a part of the National Forest were acquired through a land-for-land exchange under the Taylor Grazing Act with the understanding that the extension of the National Forest to include them would be appropriate. The land is suitable for National Forest System purposes. The Committee has been informed that approximately 2,360 acres of the privately-owned lands are owned by one individual who has indicated he would be willing to convey his lands to the United States through exchange should the National Forest boundary be extended.

Section 4 deals with a separate matter, namely payments to school districts in Arizona for expenses incurred in educating pupils who live at or near Grand Canyon National Park. The Act of March 14, 1978, authorized the Secretary of the Interior to make such payments through the period ending September 30, 1980, and it authorized the appropriation of $1.5 million in each of fiscal years 1979 and 1980 for that purpose. Section 4 amends the 1978 Act by extending the authorization to make such payments through the period ending September 30, 1985, and by authorizing an annual appropriations of $1.5 million through fiscal year 1982. It thus extends the authority to make payments for an additional five years and authorizes an additional $3 million for that purpose.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: At the end of the bill, add the following new sections:

SEC. 5. (a) The Secretary of the Army, acting through the Chief of Engineers, is prohibited from taking any legal or administrative action in connection with the operation and maintenance of the Conchas Lake Project, New Mexico, seeking to remove improvements, including dwellings, that are presently located within the flowage easement below elevation 4,220 feet mean sea level; *Provided*, That this prohibition shall not be construed as creating any liability in the United States, or any of its officers, agents, or assigns, for any injury, loss, or damage accruing to the owners of such improvements, their leasees or occupants, as a result of any flooding or inundation of such improvements by the waters of the reservoir, or for such injury, loss, or damage as may occur through the operation and maintenance of the dam and reservoir in any manner.

(b) (1) The Secretary of the Army is prohibited from determining the forty-five acre cabin site in the south recreation area at Conchas Lake, New Mexico, to be excess of project needs prior to 1996, unless such a determination is agreed to by the Governor of the State of New Mexico or his designee.

(2) The Secretary of the Army shall not require the removal or sale and purchase of existing cabins, cottages, or other privately owned improvements located on the site referred to in paragraph (1) of this subsection prior to 1996, unless agreed to by the Governor of the State of New Mexico or his designee. Existing and prospective lease arrangements shall reflect the requirements of this section.

SEC. 6. (a) The Secretary of the Treasury shall pay out of any funds in the Treasury, not otherwise appropriated, to the Estate of Demetrio Madrid or into a court of competent jurisdiction, for distribution to such persons as shall be lawfully entitled thereto, the sum of $21,054.

(b) Upon payment being made as provided in subsection (a), the United States and all officers and employees thereof shall be forever released and discharged of and from any and all claims at law or in equity, if any, arising out of or in any way connected with the erroneous inclusion of certain lands in homestead entry and patent No. 323419, issued on April 3, 1913 to Demetrio Madrid, a resident of New Mexico.

(c) No amount in excess of 10 per centum of any payment referred to in this section shall be paid to or received by any agent or attorney in consideration for services rendered in connection with such payment. Any violation of this subsection shall be a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

SEC. 1. Any mining claim located under the Mining Laws of the United States subsequent to June 18, 1879, and prior to January 17, 1969, in the Northwest quarter of the Northwest quarter of section 9, Township 1 North, Range 5 East of the Gila and Salt River Base and Meridian, State of Arizona, shall be effective to the same extent in all respects as if such lands at the time of location, and at all times thereafter had been open to the operation of the Mining Laws of the United States: *Provided, however*, That the claimants have complied with all requirements of the Mining Laws of the United States, including section 314 of the Federal Land Policy and Management Act of 1976 and that the claims would be subject to any valid intervening rights by private parties under the laws of the United States.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Speaker, I would like to briefly explain this amendment and the bill.

Mr. Speaker, this bill, already passed by the other body, was favorably reported by the Committee on Interior and Insular Affairs on November 17, 1980. It would modify the boundaries of the Cibola National Forest, in New Mexico, and would extend the provisions of the Act of March 14, 1978, concerning assistance to a school district in Grand Canyon National Park, and authorize an increase in such assistance.

The amendment adds three new sections to the bill. One would provide for maintaining the status quo with regard to certain improvements adjoining a flowage easement, and a cabin site in a recreation area, in New Mexico. Another would rectify the inadvertent dispossession of a small landholder, through an erroneous survey of the Colorado-New Mexico border, by compensation. The third would add to the bill language, already passed by the House on November 21, which preserves certain mining claims adjacent to the Salt River Pima-Maricopa Indian Reservation in Arizona.

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Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, we have no objection to the passage of this legislation. The first part of the bill, which was reported by voice vote from the House Interior Committee, simply modifies the boundary of the Cibola National Forest in New Mexico. The modification would add about 14,476 acres to the forest. The purpose of the boundary change, which is supported by the forest service and the Bureau of Land Management, is simply to consolidate management of these lands in a single Federal agency, namely: the U.S. Forest Service. The lands are presently administered for the most part by the BLM, however, there are also State and private lands mixed in with the Federal lands. The area to be added to the present forest boundary is immediately adjacent on the west and south. The largest single private landowner who controls about 3,400 acres in the area has indicated a willingness to exchange his lands with the forest service. This can be accomplished once the area is brought into the forest boundary as this legislation does.

The second part of the bill was added to S. 1803 on the Senate floor, and the amendment adopted in the House Interior Committee. It simply extends for 2 years, an existing financial assistance program for the Grand Canyon Unified School District in Arizona. The original 1978 act, reported from the House Interior Committee, authorized payments to the school district of up to $1.5 million. subject to annual appropriations, through fiscal year 1980. This bill simply extends the funding authorization at the same level. still subject to annual appropriations, through fiscal year 1982.

The new sections with which I am familiar simply take care of two small problems in northern New Mexico and provides for the relief of the heirs of Demetrio Madrid. I am including as part of this statement my letters of July 10, 1979, and December 19, 1979, on the two areas discussed, and the report of July 16, 1980, from the Department of Interior in support of the legislation on behalf of Demetrio Madrid's heirs. I hope that they can be accepted and they have my strong support.

Thank you.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 19, 1979.
CONGRESSIONAL LIAISON,
U.S. Corps of Engineers,
Washington, D.C.

DEAR SIRS: I have recently been approached concerning the problems arising at Conchas Lake, New Mexico.

The Lake was constructed by the Corps to provide flood control storage and irrigation, and since its construction, there has been encroachment in the form of private residences being built on land below 4220 feet msl where the federal government has a flowage easement. Under a directive of the Office of the Chief of Engineers, the Corps is now resolving all encroachment problems at all civil works, and this encroachment problem is one that is affected.

Because of this, I would like to ask that legislation be drafted by your organization to deal with the problem at Conchas Lake. Under the terms of the bill I am requesting, encroachments would be permitted to continue without action. The Corps would be released from its mandate to remove the encroachments on the fee land under management, and the Corps and/or the federal government would be released from liability, should the Lake be backed up to 4220 feet msl and inundate the properties below that line. Colonel Bernard J. Toth, the District Engineer for our area, can supply more specific information. I understand that drafting the bill does not mean approval of it.

Your attention to this request will be appreciated, and if you have any questions about it, please let me know.

Best regards,

MANUEL LUJAN, Jr.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 10, 1979.
Hon. RAY ROBERTS,
Chairman, Subcommittee on Water Resources, Rayburn House Office Building, Washington, D.C.

DEAR RAY: I have introduced a bill, H.R. 1709, which would prohibit the Corps of Engineers from phasing out some cabin sites at Conchas Lake, New Mexico, and the bill is pending before your Subcommittee.

Conchas Lake was formed by a Corps of Engineers dam built in 1939. In 1943 the State of New Mexico was granted an easement for public recreational purposes and in May 1946 the Corps agreed that construction of dwellings by private individuals was compatible with the use of the area.

In 1966 a new lease for park and recreation purposes was granted to the State by the Corps and it contained a condition that the cabin sites be phased out no later than December 31, 1982. Both the State and the cabin owners would like to see the permission for the cabins to be continued until 1996. The Corps has refused to agree to this and thus a legislative remedy seems to be the only answer available.

The following are reasons for permitting the cabin sites to remain:

(1) the forty-five acres occupied by these cabins will not be needed for park development for at least twenty years

(2) approximately 13 of the 66 lease holders permanently reside on the site and dislocation could be difficult as the residents are retired persons

(3) the State of New Mexico derives income from the leases which is applied directly to the repayment of outstanding revenue bonds

(4) declaration of the forty-five acres by the Corps of Engineers as "excess" could result in private development, which is not really a viable alternative as the land is located within the boundaries of State leased land.

Therefore, in order to resolve this problem, I would like to recommend that hearings be scheduled on my bill as soon as possible. For your information, the language of H.R. 1709 was included in H.R. 8309 when it was passed by the Senate last year, but when it was combined with H.R. 13059, the bill never made it back to the House Floor for action and died at the end of the 95th Congress.

If you have any questions on this bill, please let me know, and I am looking forward to hearing from you.

Best regards,

MANUEL LUJAN, Jr.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 16, 1980.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has requested the views of this Department on H.R. 1764, a bill "For the relief of the heirs of Demetrio Madrid."

We recommend that the bill not be enacted as presently drawn. We would have no objection to enactment of the enclosed substitute draft bill.

H.R. 1764 would compensate the heirs of Demetrio Madrid for the loss of Demetrio Madrid's land due to an erroneous survey of the Colorado-New Mexico border. They would be compensated in the amount of $21,054.

The first survey of the Colorado-New Mexico border was done in 1865 by a U.S. surveyor, N. E. Darling. The official plat of the subdivisional survey of T. 32 N., R. 4 W., in Colorado, was approved January 17, 1833, its southern boundary being the so-called Darling line. The descriptions of Indian allotments and other disposals in this township in Colorado are derived from this plat. Upon the Department's recommendation and after congressional appropriation of funds for the purpose, H. B. Carpenter resurveyed the border from 1902 to 1903. The Carpenter line was located north of the Darling line, adding more land to the State of New Mexico. The General Land Office recognized the Carpenter line as the true boundary. T. 32 N., R. 4 W., in New Mexico was subdivided in 1907–8 by Deputy Surveyor Compton while the "Carpenter line" was being recognized as the boundary and the Compton survey was extended northward to that line. The Compton survey was on April 22, 1909, and all original descriptions of the subdivisions in that township were derived from that plat. Four homestead entries were made and patented in sections 8, 9, and 11, each based on the 1909 plat. One of these patents was issued to Demetrio Madrid.

On October 13, 1919, permission was granted to the State of New Mexico by the U.S. Supreme Court to file a suit against the State of Colorado for a settlement of the boundary dispute. The opinion of the Court dated January 26, 1925, was in favor of Colorado and a resurvey of the boundary line as marked by Darling in 1868 was ordered (267 U.S. 41). The decision was that the Darling line should be reestablished from what monuments could be found. In 1917 a part of the line had been rerun by W. C. Perkins of the General Land Office. The Perkins line was monumented with iron posts and the record of the Perkins survey was submitted to and accepted by the Court as the true location of that portion of the Darling line, thus restored.

A supplemental plat of T. 32 N., R. 4 W. in New Mexico was approved February 26, 1919.

This chain of events left portions of the four homestead entries lying between the Darling and Carpenter lines, in conflict with superior rights of Indian allottees or their successors in interest in Colorado.

In 1933 the Acting Assistant Commissioner of the General Land Office suggested that Madrid's heirs and others similarly situated might be given an opportunity to amend their entries to include land approximately equal in area to those lost as a result of the conflict. The application of this remedy was to be contingent upon a determination by the Forest Service that land in the adjacent township which formed part of the Carson National Forest could be made available for such a purpose.

The Colorado State Director of the Bureau of Land Management has completed his study of the adjacent land status and has determined that there is no public domain available to help resolve this issue. The Forest Service has indicated that there is a lot containing 28.17 acres within Carson National Forest that could be made available toward settling the Madrid claim, but this would not be enough to compensate for the approximately 71 acres of land which were lost by Madrid. We know of no other remedy available to the claimants.

H.R. 1764 would provide equitable relief to Madrid's heirs. We have been informed by the Colorado State Director of the Bureau of Land Management that the settlement figure of $21,054 which appears in the bill is a reasonable amount.

For these reasons, and because the payment of the sum involved would not adversely affect our programs or lands, we would have no objection to enactment of the enclosed substitute bill which provides for payment of $21,054 to the estate of Demetrio Madrid or into a court of competent jurisdiction for distribution to lawfully entitled persons, and releases the United States from any claims connected with the erroneous survey.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely.

DANIEL BEARD,
Deputy Assistant Secretary.

H.R. —

A bill for the relief of the heirs of Demetrio Madrid

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury shall pay out of any funds in the Treasury, not otherwise appropriated, to the Estate of Demetrio Madrid or into a court of competent jurisdiction, for distribution to such persons as shall be lawfully entitled thereto, the sum of $21,054.

(b) Upon payment being made as provided in subsection (a), the United States and all officers and employees thereof shall be forever released and discharged of and from any and all claims at law or in equity, if any, arising out of or in any way connected with the erroneous inclusion of certain lands in homestead entry and patent No. 323419, issued on April 3, 1913 to Demetrio Madrid, a resident of New Mexico.

SEC. 2. No amount in excess of 10 per centum of any payment referred to in the first section of this Act shall be paid to or received by any agent or attorney in consideration for services rendered in connection with such payment. Any violation of this section shall be a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, S. 1803.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CHANGES IN BOUNDARY OF FLORIDA KEYS WILDERNESS

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the bill (H.R. 6218) to provide for changes in the boundary of the Florida Keys Wilderness and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. FUQUA. Mr. Speaker, reserving the right to object, at one point today I had just about decided to stand up here and object. I do not intend to do so because of my concern with seeing the bulk of this legislation become public law. I cannot, however, stand idly by and not comment on the situation involving the Osceola National Forest. Extremely reluctantly, I agreed to permit the Big Gum Swamp to be exorcised from the bill. I did so only to permit the rest of the bill to be acted upon. I have not given up my quest to obtain wilderness designation for the Big Gum Swamp and I certainly have not given up my longtime efforts to halt the possibility of phosphate mining in the Osceola.

I will persevere and continue to press for a termination of all phosphate mining lease rights in the Osceola.

The battle is a long way from over in regard to the Osceola National Forest and I intend to be back when the 97th Congress convenes in January to once again introduce legislation to protect this national forest.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I certainly share the gentleman's feelings in this matter.

I had hoped that we could work out an accommodation between the House-passed bill and the Senate on this particular matter involving the phosphate mining, but that has not turned out to be possible in the time remaining in this Congress. I agree with the gentleman also that we ought to try to work that out in the next Congress.

In the meantime, it does seem desirable to move ahead and nail down the other areas that would be preserved by the bill as to which there was no controversy whatsoever and hope that by preserving the status quo with respect to the Big Gum Swamp matter, we can move on it expeditiously in the next Congress. I will do everything I can to see that we do.

Mr. FUQUA. Mr. Speaker, further reserving the right to object, I certainly appreciate the gentleman's assurance and look forward to working with him in trying to achieve the passage of this very valuable legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHANGES IN WILDERNESS AREAS

SECTION 1. (a) (1) There are designated as wilderness and added to the area known as the Florida Keys Wilderness (as so designated by Public Law 93-632) certain lands referred to as North Cudhoe Key, located in Monroe County, Florida, and comprising about seventy-three acres, as generally depicted on the map entitled   , dated   , on file in the Office of the Director, Fish and Wildlife Service, Department of the Interior. The designation of such lands as wilderness shall be effective on the date such lands are included in the National Wildlife Refuge System.

(2) When the designation of additional wilderness area under paragraph (1) takes effect, such lands shall be administered by the Secretary of the Interior as part of the Florida Keys Wilderness pursuant to those provisions of the Wilderness Act which govern areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(b) Notwithstanding any other provision of law, there are withdrawn from the area known as the Florida Keys Wilderness (as so designated by Public Law 93-632) certain lands referred to as Raccoon Key, located in Florida, which lands comprise about twenty-five acres, and which are depicted on a map entitled "Florida Keys Wilderness and Great White Heron National Wildlife Refuge (West Part)", dated July 1975, and on file in the Office of the Director, Fish and Wildlife Service, Department of the Interior. The withdrawal of such lands from the National Wilderness Preservation System shall be effective on the date such lands are withdrawn from the National Wildlife Refuge System.

MAP AND LEGAL DESCRIPTION

SEC. 2. As soon as practicable after the designation of additional wilderness areas under section 1(a) and the withdrawal of wilderness areas under section 1(b) take effect, the Secretary of the Interior shall file with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate a map and legal description of the Florida Keys Wilderness, showing the changes in the boundary of such wilderness made by this Act. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and description shall also be on file and available for public inspection in the Office of the Director, Fish and Wildlife Service, Department of the Interior.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SEIBERLING: On page 1, line 3, strike all after the enacting clause and insert in lieu thereof the following amendment in the nature of a substitute:

WILDERNESS DESIGNATIONS

SEC. 1. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Ocala National Forest, Florida, which comprise approximately three thousand one hundred and twenty acres, are generally depicted on a map entitled "Alexander Springs and Billies Bay Wildernesses—Proposed", dated March 1980, and shall be known as the Billies Bay Wilderness;

(2) certain lands in the Ocala National Forest, Florida, which comprise approximately seven thousand seven hundred acres, are generally depicted on a map entitled "Alexander Springs and Billies Bay Wildernesses—Proposed", dated March 1980, and shall be known as the Alexander Springs Wilderness: *Provided, however,* That the Secretary of Agriculture shall not restrict existing motorboat use on Alexander Springs Creek;

(3) certain lands in the Ocala National Forest, Florida, which comprise approximately two thousand five hundred acres, are generally depicted on a map entitled "Little Lake George Wilderness—Proposed", dated March 1980, and shall be known as the Little Lake George Wilderness;

(4) certain lands in the Apalachicola National Forest, Florida, which comprise approximately one thousand one hundred and seventy acres, are generally depicted on a map entitled "Bradwell Bay Wilderness Addition—Proposed", dated February 1980, and which are hereby incorporated in and shall be deemed a part of, the Bradwell Bay Wilderness as designated by Public Law 93-622;

(5) certain lands in the Apalachicola National Forest, Florida, which comprise approximately eight thousand two hundred and fifty acres, are generally depicted on a map entitled "Mud Swamp/New River Wilderness—Proposed", dated February 1980, and shall be known as the Mud Swamp/New River Wilderness;

(6) certain lands in the Ocala National Forest, Florida, which comprise approximately thirteen thousand five hundred and fifty acres, are generally depicted on a map entitled "Juniper Prairie Wilderness—Proposed", dated March 1980, and shall be known as the Juniper Prairie Wilderness;

MAPS AND DESCRIPTIONS

SEC. 2. As soon as practicable after the provisions of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committees on Energy and Natural Resources and Agriculture, Nutrition and Forestry of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture or the Secretary of the Interior as appropriate in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of the relevant provision of this Act.

FLORIDA KEYS WILDERNESS BOUNDARY ADJUSTMENTS

SEC. 4. (a)(1) There are designated as wilderness and added to the area known as the Florida Keys Wilderness (as so designated by Public Law 93-632) certain lands referred to as North Cudjoe Key, located in Monroe County, Florida, and comprising about seventy-three acres, as generally depicted on a map entitled "Florida Keys Wilderness (North Cudjoe Key Addition)", dated March 1980, on file in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior. The designation of such lands as wilderness shall be effective on the date such lands are included in the National Wildlife Refuge System.

(2) When the designation of additional wilderness under paragraph (1) of this subsection takes effect, such lands shall be administered by the Secretary of the Interior as part of the Florida Keys Wilderness pursuant to those provisions of the Wilderness Act which govern areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this section and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(b) Notwithstanding any other provision of law, there are withdrawn from the Florida Keys Wilderness (as such area was so designated by Public Law 93-632) certain lands referred to as Raccoon Key, located in Florida, which lands comprise about twenty-five acres, and which are depicted on a map entitled "Florida Keys Wilderness (West Part)", dated July 1975, and on file in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior. The withdrawal of such lands from the National Wilderness Preservation System shall be effective on the date such lands are withdrawn from the National Wildlife Refuge System.

(c) As soon as practicable after the designation of additional wilderness under subsection (a) of this section and the withdrawal of wilderness under subsection (b) of this section take effect, the Secretary of the Interior shall file with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate a map and legal description of the Florida Keys Wilderness, showing the changes in the boundary of such wilderness made by this Act. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and description shall also be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior.

(d)(1) At such time on or after the date of enactment of this Act as the United States, through purchase, donation, or otherwise, acquires any lands on Raccoon Key, Florida, the Secretary of the Interior shall publish a notice of such acquisition in the Federal Register and shall notify the appropriate committees of the Congress.

(2) Effective upon publication of an appropriate notice of acquisition pursuant to paragraph (1) of this subsection, all lands on Raccoon Key acquired by the United States on or after the date of enactment of this Act shall be added to and incorporated within the Great White Heron National Wildlife Refuge and the Florida Keys Wilderness, and shall be administered pursuant to appropriate provisions of law, including those provisions of the Wilderness Act which govern areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of publication of such notice, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Florida and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Florida, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Florida;

(2) with respect to the National Forest System lands in the State of Florida which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas the State of Florida reviewed in such Final Environmental Statement and not designated as wilderness by this Act or remaining in further planning upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide Roadless Area Review and Evaluation of National Forest System lands in the State of Florida for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) The provisions of this section shall not apply to lands located within the Osceola National Forest, Florida.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Speaker, I rise in support of H.R. 6218 with an amendment in the nature of a substitute. The provisions of the substitute are, with one exception, identical to the Florida portions of the "omnibus" package bill, H.R. 5341, which passed the House on July 1, 1980. However, the substitute presented today deletes the somewhat controversial language of H.R. 5341 which dealt with certain phosphate deposits in the Osceola National Forest and with the designation of a Big Gum Swamp Wilderness. Those provisions have encountered opposition in the other body, and we are hopeful that with their deletion the Senate will be able to accept the other meritorious provisions of the substitute pertaining to Florida.

Mr. Speaker, a further detailed description of the wilderness proposals and issues of the substitute can be found in House Report 96-1088 (parts 1 and 2), and I do not believe they need repetition here. Briefly, however, I note that the substitute contains six noncontroversial additions to the National Wilderness Preservation System in the State of Florida, the standard release/sufficiency formula for lands not designated wilderness, and an adjustment in the boundary of the existing Florida Keys Wilderness to permit implementation of a land exchange agreement concluded between the Department of the Interior and Charles River Breeding Laboratories. The land exchange will facilitate the breeding of rhesus monkeys which are used in medical, including cancer, research, whereas the wilderness proposals and boundaries and release/sufficiency formula have been carefully worked out with Congressmen CHAPPELL and FUQUA, in whose congressional districts the areas lie.

As such, Mr. Speaker I believe it behooves us to attempt to finish congressional work on these noncontroversial but meritorious proposals so that we can get on to other pressing business in the next Congress. I therefore urge my colleagues' support of the substitute to H.R. 6218.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6218.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN LENNON

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, the horrible, tragic murder last night of John Lennon not only robs the people of the world of a great entertainer, but kills a very important part of tens of millions of men and women. As a musician, poet, lyricist, performer, social critic, and political observer, Mr. Lennon had an extraordinary impact on the making of an entire generation.

If one needs to ask how great that impact was, how fundamental a role he and the Beatles played in the lives of many of us here in this Chamber and countless others throughout the world, then you will never really be able to appreciate how great his contribution was, or how tragic the death of this peaceful and talented man really is.

He was far more than a member of the most important group in the history of rock music. John Lennon captured the irreverence and playfulness of our youth; he articulated our sense of frustration and chaos about violence and war and hunger; he matured into a thoughtful and almost shy man who preferred the tranquil company of his wife and child to the frenetic adulation of adoring admirers. And when he had spent 5 years in introspection and was making a reemergence into the world of music, he was so senselessly lost to us. Lost, too, is the brilliant creativity he could offer which we will never know.

I remember that when President Kennedy was assassinated, someone said, "We'll never laugh again," and historian Arthur Schlesinger, Jr., replied, "Oh yes we will. We'll just never be young again." John Lennon had the ability to make us laugh, cry, think, become angry, forget, remember—and to make us feel young. We are all going to miss his great talent and feel his loss. We, too, have lost not just a reminder of our youth, but a very basic part of it.

This is the second murder in a single week to stun this community. Over the weekend, Dr. Michael Halberstam also was gunned down in a stupid act of violence. We feel the loss of Dr. Halberstam and Mr. Lennon in a communal sense because they were prominent members of the community. But this tragedy occurs every day—in southwest Washington, in the south Bronx, in Los Angeles, and Chicago—and every day hundreds of people we do not know become private mourners.

Perhaps this is a useless plea, but have not enough people died because of our nonexistent handgun control programs in this country? Cannot we overcome the influence of a highly organized and well-financed lobby and do what the overwhelming number of Americans want: Enact tough handgun control laws? And, I would add, enact equally tough laws which establish mandatory jail terms for carrying a loaded gun in a public place and for using a gun.

I think it is time to put aside the cute slogans about people rather than guns killing people. The fact is that people without guns cannot shoot someone, and guns without a finger on the trigger do not kill. We owe this law not to John Lennon or Michael Halberstam, but to the hundreds of anonymous people throughout this country who are going to die this coming year because of the easy availability of guns. I would hope that the American people flood our offices with demands for handgun control legislation, and I pray this Congress has the backbone to enact it.

HUNDREDS OF MILLIONS OF DOLLARS IN EDUCATION LOANS OWED TO VETERANS' ADMINISTRATION

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, in 1979, and again in April 1980, hearings conducted by the Veterans' Administration Subcommittee on Special Investigations revealed that hundreds of millions of dollars in overpayments and defaulted education loans were owed to the Veterans' Administration. As a result of this information, the committee included a provision in H.R. 7493, the Veterans' Rehabilitation and Education Amendments of 1980 which would have granted to the Veterans' Administration the authority to sue for the collection of any moneys owed to the United States under any law administered by the Veterans' Administration.

Unfortunately, this provision was overly broad and unclear. Had it been enacted, it would have had the effect of divesting the Attorney General of his statutory responsibilities to supervise and control Government litigation. I offered an amendment which struck these provisions from the act, and I did so for the following reasons:

The proposed amendment was so broad that it would have divested the Attorney General of his authority—and duty—to handle trial court litigation of any amount whatsoever, for the collection of money owed to the Veterans' Administration. It would also have divested the Department of Justice from handling appeals in any such cases, be they in the U.S. court of appeals or even the Supreme Court. Such draconian changes in our law, even though well intentioned are not needed and would play havoc with the orderly and efficient handling of litigation by the Government.

In the past 2 years, the Veterans' Administration has referred approximately 77,138 claims for collection of educational assistance overpayments, involving some $65 million, to the U.S. attorneys' offices. Most of the claims, numerically, are small in dollar value. The average is about $842 per claim, a few are for much larger amounts. The bulk of these claims would be handled in the small claims court if they were in the private sector. In some cases, these referrals increased the entire collection caseload by 400 percent.

In spite of this dramatic increase in the collection caseload, the Justice Department statistics indicate that $3,793,844 has been collected in this fiscal year alone. To date, collections in this program have totaled over $8.6 million. Nationwide, over 12,000 of these previously uncollectable debts are now in a repayment status.

On November 20, 1979, the Department of Justice and the Veterans' Administration entered into a memorandum of understanding authorizing the VA to conduct litigation in educational overpayment claims of less than $600 under the general supervision of the U.S. attorneys. The program was to be a 1-year test program in 10 districts.

That memorandum in substance reads as follows:

DEPARTMENT OF JUSTICE, VETERANS' ADMINISTRATION—MEMORANDUM OF UNDERSTANDING

1. This memorandum sets forth procedures for the conduct of a one-year test program designed to collect educational assistance overpayments in cases where the amounts owed to the United States are less than $600. The Veterans' Administration has informed the Department of Justice that it intends to conduct the program at the following Veterans' Administration Regional Offices: Boston, Chicago, New York, Newark, Atlanta, Detroit, Houston, Denver, San Francisco, Los Angeles.

2. Except as indicated below, Veterans' Administration personnel will have primary responsibility to pursue collection efforts. This authority will include the authority to file suit and conduct litigation in federal district courts or state courts and to compromise or close claims or pending litigation.

3. The Federal Claims Collection Standards, 4 C.T.R., Chapter II, will remain generally applicable to the processing of cases in the test program. A determination to file suit will be made only after exhausting the procedures, set forth in the Standards, designed to effect administrative collection. Prior to filing suit, a final demand letter will be sent. Such letters will be sent only in those cases where the Veterans Administration is prepared to file suit promptly.

4. The Veterans Administration and the Department of Justice recognize the need for full cooperation between the Veterans Administration and the Department of Justice. Such cooperation will, inter alia, permit the Veterans Administration to draw upon the expertise of the United States Attorneys regarding local rules and practices. The Veterans Administration will obtain the concurrence of the United States Attorneys in those districts in which the test program is to be conducted. If concurrence is withheld by a United States Attorney, the Veterans Administration will notify the Civil Division of the Department of Justice, which will attempt to obtain such concurrence. As part of the consultation and cooperation between the Veterans Administration and the Department of Justice, the Veterans Administration will seek the advice of the United States Attorneys on such questions as whether to file suits in state or federal courts. To avoid the imposition of undue burdens on court dockets, the United States Attorney has the authority to place restrictions on the time of the filing of the actions.

5. In any case in which substantial legal issues are raised (such as the construction or constitutionality of federal statutes or issues which might affect enforcement policies of government-wide significance), the Veterans Administration will promptly notify the Civil Division. In such cases, the Department of Justice will have the right to assume primary litigative responsibility.

6. The Veterans Administration will furnish to the Civil Division and the local United States Attorneys, at least quarterly reports containing, by judicial districts, at

least the following information: the number of claims in which final demand letters have been sent; number of claims in which repayment or repayment plans have been achieved; number of suits filed and the results of such suits.

7. The Veterans Administration will furnish to the local United States Attorneys copies of all pleadings, motions, legal memoranda, orders, and opinions. The Veterans Administration will furnish to the Civil Division a sufficient sampling of such documents from each district as will keep the Civil Division generally apprised of the nature of the documents which are being filed.

8. Nothing in this memorandum shall affect the authority of the Solicitor General to authorize or to decline to authorize appeals or petitions by the government to any appellate courts. A copy of any order or judgment adverse to the government shall be sent promptly to the Civil Division. The Civil Division shall be promptly notified of any case in which an order or judgment favorable to the government has been appealed by the defendant. The conduct of appeals remains under the control of the Deartment of Justice.

9. The commitment of personnel by the Veterans Administration to this test program shall not affect the obligation of the Veterans Administration to provide the necessary agency support to United States Attorneys in cases not covered by the test program. In the conduct of this test program, regardless of where the primary litigative responsibility is reposed, the Veterans Administration and Department of Justice will cooperate fully and, as required by 28 U.S.C. § 519, the Attorney General will retain final authority to determine the government's litigation position.

The test program between the Veterans' Administration and the Department of Justice had been in effect only 12 weeks when the provisions of H.R. 7394 were considered. Its effectiveness could not be measured, but it was clear that even before the program the Department of Justice had made progress in the debt collections considering the volume of claims that they had received in a short period of time.

With the recognition that the memorandum of understanding was a beginning but that much more remained to be done in these collection efforts, I encouraged the Department of Justice to expand this program and increase the limit on claims to be handled by the Veterans' Administration attorneys to $1,200.

I am pleased to report that on October 21, 1980, the Department of Justice and the Veterans' Administration entered into a new memorandum of understanding that delegates litigation authority to the Veterans' Administration to collect these debts up to $1,200. This new memorandum applies to the collection of debts arising out of Veterans' Administration benefit programs. This memorandum preceded the enactment of the Veterans Rehabilitation and Education Amendments of 1980 (Public Law 96–466), which, in its final form, delegated litigation authority to the VA for the collection of these debts, subject to the direction and supervision of the Attorney General and under such terms and conditions as he may prescribe.

I would like to offer, for the Record, a copy of this new memorandum of understanding between the Department of Justice and the Veterans' Administration.

Department of Justice, Veterans' Administration—Memorandum of Understanding

1. This memorandum sets forth procedures for conducting a program designed to collect debts owed the United States as a result of VA benefit programs where the amounts owed are $1,200 or less.

2. The Attorney General delegates to the VA primary responsibility to collect such debts. This delegation includes the authority to file suit and conduct litigation in federal district courts or state courts and to compromise or close claims or pending litigation.

3. The Federal Claims Collection Standards, 4 C.F.R. Chapter II, will remain generally applicable to the processing of cases in this program. A determination to file suit will be made only after exhausting the procedures, set forth in the Standards, designed to effect administrative collection. Prior to filing suit, a final demand letter will be sent. Such letters will be sent only in those cases where the VA is prepared to file suit promptly.

4. The VA and the Department of Justice shall cooperate fully in collecting the amounts owed the United States during this program. Because the debts included in this program have been delegated to U.S. Attorneys for collection, the VA shall consult with the U.S. Attorney in each district to, inter alia, draw upon each U.S. Attorney's expertise in local practices and rules and the U.S. Attorneys' advice on questions such as whether to file collection suits in federal or local courts. The U.S. Attorney in any district included in this program may place reasonable restrictions on the number of collection cases filed within that district and the time within which they can be filed in order to avoid imposing undue burdens on the dockets of the courts within that district. Irreconcilable disputes between the VA and the U.S. Attorneys involved in this collection program shall be referred to the Civil Division of the Department of Justice for final resolution.

5. In any case in which substantial legal issues are raised (such as the construction or constitutionality of federal statutes, or issues which might affect enforcement policies or have significance for the government as a whole), the VA shall notify the Civil Division promptly. In such cases, the Department of Justice shall have the right to assume primary responsibility for the litigation.

6. The VA shall furnish quarterly to the Civil Division and the local U.S. Attorneys, reports containing at least the following information: the number of claims pending in each district; the number of such claims in which final demand letters have been sent; number of such claims in which repayment plans have been achieved; and the number of suits filed and the results of such suits.

7. The VA shall furnish to each U.S. Attorney copies of all pleadings, motions, legal memoranda, orders and opinions filed in the U.S. Attorney's district. The VA shall also furnish to the Civil Division a sufficient sampling of such documents from each district as will keep the Civil Division generally apprised of the nature of the documents which are being filed.

8. Nothing in this memorandum shall affect the authority of the Solicitor General to authorize or to decline to authorize appeals or petitions by the government to any appellate courts. A copy of any order or judgment adverse to the government shall be sent promptly to the Civil Division by the VA, and the VA shall notify the Civil Division promptly of any case in which an order or judgment favorable to the government has been appealed by the defendant. The conduct of appeals remains under the control of the Department of Justice.

9. The commitment of personnel by the VA to this collection program shall not affect the VA's obligation to provide the necessary agency support to U.S. Attorneys in cases not covered by the program. In conducting this program, regardless of where the primary litigative responsibility is reposed, the VA and Department of Justice will cooperate fully and, as required by 28 U.S.C. § 519, the Attorney General retains final authority to determine the government's litigation position.

A TRIBUTE TO HON. MELVIN H. EVANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Lagomarsino) is recognized for 60 minutes.

GENERAL LEAVE

Mr. LAGOMARSINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Speaker, it is an honor for me to rise in tribute to a great man—the Delegate from the U.S. Virgin Islands to the U.S. House of Representatives, Dr. Melvin H. Evans. In this Congress, Mel has proved himself to be a man of great integrity, devoted to the welfare of all Americans in the offshore areas.

Mel's reputation as a hard worker and dedicated public servant preceded him to the Congress. When Governor of the Virgin Islands, Mel devoted his life to the betterment of the islanders; and this precedent served as his guide while in Congress. A tough negotiator, Mel assured that his constituents' requirements were never overlooked in the legislative process.

Another Virgin Islander—Alexander Hamilton wrote:

> It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part.

Mel epitomizes these words. He has battled the administration's arbitrary decisions to slash funds desperately needed in the islands. He has withstood political pressures to sacrifice the interests of one part of the Nation on the altar of special interest groups. For these convictions, he has suffered; but, in so doing, he established a record of selflessness within the Congress.

Mel is a man of character and high moral caliber. We have all benefited from his presence, and we shall miss him as a colleague and a friend.

But more importantly, the Nation will miss his legislative counsel as we tackle the difficult problems ahead.

□ 1550

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to my friend, the gentleman from Kentucky.

Mr. CARTER. I thank the distinguished gentleman for yielding.

I want to say that it has been a distinct pleasure to serve with Dr. MELVIN EVANS, the Delegate from the U.S. Virgin Islands, who has done so well during his period here.

I want to say that he is a congenial gentleman. It has been just good to see him each morning and to hear his cheerful words and to work with him as one physician works with another for the good of the health of the country.

I would say in his honor:

More than fame and more than money
Is the comment bright and sunny.

And the hearty, warm approval of a friend,
Oh, it gives to life a savor
And strengthens those who waver,
And gives one heart and courage to the end.

If he's earned your praise, bestow it;
If you like him, let him know it.
Let words of strong encouragement be said.

I say, it is now time to give a word of encouragement to our wonderful friend, the Delegate from the Virgin Islands.

I thank the distinguished gentleman for yielding.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I want to add my words of praise for the retiring Delegate from the Virgin Islands, Dr. MELVIN EVANS.

It has been my good fortune to serve with him on the Merchant Marine and Fisheries Committee, and as the ranking Republican member on the Panama Canal Subcommittee I have accompanied him to Panama during the last 2 years, during the time we were writing the very important implementing legislation.

Dr. EVANS has taken a very keen interest in all the affairs of Latin America and the Caribbean. He has certainly been one of the leaders in promoting the best interests of the Virgin Islands, as witness the legislation which he has gotten through here.

We will keenly miss him here in the House of Representatives. I am sorry that both of us will not be here to work together; but he has made his mark here as he did as the head of that great territory of the Virgin Islands.

I think his career, however brief in the House, is another illustrious addition to a very distinguished work in public service that will stand very well in comparison to any other that I have seen. I wish him well in the future.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. I, too, would like to thank my colleague, the gentleman from California (Mr. LAGOMARSINO) for arranging this special order honoring Dr. MELVIN EVANS.

I have known MELVIN a good time. As I have related to one and all, including his successor in office, that my personal relationship with MELVIN over the years was better than my personal relationship with any of the Governors that the Virgin Islands had.

MELVIN is a very gifted orator. He is a very committed person to the U.S. Virgin Islands and to our country. He is a fine doctor who administered on an occassion or two to me and some of our colleagues that we were able to convince to visit that beautiful part of the United States.

I would hope that the administration would recognize this fine man's talents, if not in the Department of the Interior, in the Department of State.

I cannot think of a person more equipped in so many ways to represent our country as an Ambassador to one or other of the countries of this world.

I shall personally miss MELVIN. We did not always vote alike on the committee, but that is not the point. The point is that he has served his district and our country with honor. I shall personally miss him very much.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, it is with a mix of pride and sorrow that I rise to honor a valuable colleague—Dr. MELVIN H. EVANS. I was proud to serve with the distinguished Delegate from the Virgin Islands and am very sorry that he will not be with us in the 97th Congress. MEL and I are kindred spirits as we represent people and places far removed from Washington, D.C. This distance and the corresponding lack of understanding by Federal officials—and some of our colleagues—makes effective representation an especially difficult task. Nonetheless, MEL consistently surmounted these obstacles to give the Virgin Islands first-class representation.

MEL is also a man of strength and convictions. Alaska will always be indebted to him for a truly courageous vote during Interior Committee deliberations on the Alaska lands matter. He supported, in the face of severe pressure, the legitimate rights and interests of Alaskans. He fully understood and was convinced of the need for local autonomy and voted this conviction whether the issue involved his own constituents or the distant people of Alaska. If ever a new version of "Profiles of Courage" is authored, MEL deserves a place of honor in it for his conduct during the Alaska deliberations.

The House will miss MEL's unobtrusive but effective work on behalf of the Nation and the people of the Virgin Islands. We hear constant public clamor for the election of officials who will staunchly vote their convictions rather than wilt under special interest pressure. I find it ironic that I was able to serve with such a public servant—MEL EVANS—yet he was not returned to office by the same public.

The House will miss MEL, the people of Alaska will miss MEL, and most of all, I will miss him.

Mr. LAGOMARSINO. Mr. Speaker, the last two speakers have said something that really needs to be said. The gentleman from Alaska, I think, expressed it very well, that if there has ever been an instance where a Member of this body suffered as a consequence of a vote of conscience, it is in the case of MEL EVANS and his vote on Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield further?

Mr. LAGOMARSINO. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I want to stress that again. His dedication to the people of Alaska and the conviction that he had probably cost him a great deal in this election, but for that I admire him with the highest of esteem.

It is unfortunate that those who saw fit to defeat him did not recognize this as a representative form of government. No one should wilt under the influence of special interests and he never had that weakness and never shall have it.

Mr. LAGOMARSINO. I might also say that what the gentleman from California (Mr. PHILLIP BURTON) pointed out is something that I and other Members of this body are working on. I think that Dr. MELVIN EVANS does deserve a place in the new administration. I think he could be invaluable in either the Interior Department or the Department of State.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to my friend, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in order to pay tribute to the distinguished delegate of the U.S. Virgin Islands, Dr. MELVIN H. EVANS. As former governor of the Virgin Islands, MEL brought valuable experience with him to the Congress. Being a member of the Committee on Interior and Insular Affairs, he was frequently consulted concerning specific problems confronting Americans in the offshore areas.

A man of conviction and high integrity, Congressman EVANS would not be swayed from his principles. A spokesman for the common man, he assured that the interests of his constituents were never overlooked. When territorial budgets were slashed, Dr. EVANS led the fight to restore vital programs necessary for the economic development and social welfare of Americans living in the offshore island areas.

MEL's leadership and persuasive ability will be sorely missed in these legislative halls. He has set a mark of dedication and courage difficult to emulate.

We shall miss you, MELVIN EVANS, we know whatever you undertake in the future will prove a success—because your record of performance and achievement was outstanding. Hospital and health facilities in the Virgin Islands will be improved because of your leadership. The roads, highways, airport facilities, and all of transportation are in the process of substantial improvements because of your initiatives and involvement. Educators, senior citizens, and all Virgin Islanders will benefit for years to come because of your unique ability to work with the key House Members and Senators, Democrats and Republicans, in advancing the interests, concerns, goals and objectives of the people you so proudly and properly represented.

Those of us in committee leadership positions have grown to genuinely appreciate your impeccable integrity, honesty, and adherence to the highest standards of ethics.

The people of the Virgin Islands can hold their heads high as they look back on your extraordinary record of service as Governor, Congressman, and I will predict some important post in the executive branch or Foreign Service of the United States.

To you, Mrs. Evans, and your great family, we your colleagues in the House say, "Good Luck and God bless you, Congressman Melvin Evans." We shall be eternally grateful for the privilege of working with you.

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New Jersey.

☐ 1600

Mr. COURTER. Mr. Speaker, I remember meeting Mel Evans about 2 years ago, 2 years and perhaps 2 weeks ago, and Mel, of course, was a member of our class, the 96th Republican class. I met him out, I suppose, at the hotel about 30 miles from here and I knew right away that it would be a very warm and very gratifying experience to work with an individual with the human compassion and the integrity of Mel Evans. We immediately became friends and we worked well together.

Then I was very surprised and delighted when Mel Evans turned up to be my seat mate at the Armed Services Committee which gave me an opportunity to work with him through many important strategic matters to the defense of this country. He and I would very often lean over next to each other and swap those little personal comments with regard to what witnesses were saying. I very frankly feel that I learned an awful lot from those personal exchanges with Mel Evans. I think my sensitivity to the defense needs of this country increased by virtue of having Mel next to me during those 2 years.

I know that Mel did not win the election. I think that is unfortunate. It is unfortunate to our class. I think it is unfortunate to this body and certainly unfortunate as far as the Republican Party is concerned. Although, however, he will not be here physically as an individual, I can tell you, Mel, as you may be listening, that your presence in a greater sense will be felt as long as I remain and as long as the other Members who benefited by your presence remain as well.

Mr. LAGOMARSINO. I thank the gentleman. I now yield to the gentleman from Indiana (Mr. Myers).

Mr. MYERS of Indiana. I thank my colleague from California for yielding and taking this time to pay tribute to a very fine American. Mel is one of those special people that come by not often enough. In many respects he is the kind of a person that you cannot put out of your mind and he has been with us too brief a time.

This is a loss not only to the territory that he represents, that area of our country, but also to our Nation.

It is very easy for a resident Delegate to be regional in scope and interest, but certainly this is not true, as the many friends today who have displayed and have told of the experiences they have had and of Mel's contribution to this Congress. I am very proud that we have had the opportunity to have had Mel's service in this body. As limited as it has been, it has been a great contribution to our country and we need more people of the caliber, the courage, the dedication, and the ability of our good friend, Mel Evans. We wish him well.

Mr. LAGOMARSINO. I thank the gentleman for those comments.

I yield to my friend from California (Mr. Lungren).

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for yielding.

I would just like to remind at least my fellow Members of the 96th class that when we met 2 years ago out there at the Dulles Marriott we were deciding how we would organize so that we could come together with some consensus and we turned to Mel Evans as our temporary chairman. I must say that I think it was through his direction that we were able to organize in the way that we were and that we were able to come out of those organizational meetings without too many bruised egos and with a common purpose.

I think that in large measure told the tale of why we were able to be as effective as I think we were over the last 2 years. Mel Evans has a quiet type of approach that works very well. He is one, as has been mentioned, who has some silent courage.

I think we are all aware of the vote he made in committee that was so extremely important in terms of Alaska lands legislation but perhaps which in the end gave him so much difficulty politically. But the fact that he made that decision, that he stood by that decision, is to his credit and it is to the credit of the people of the Virgin Islands who elected him in the first place.

Melvin Evans is someone who has distinguished himself not only as a public servant here but as the Governor of his own area and also as a practicing physician.

I would join the others who hope that the incoming administration will recognize his attributes and will give him a position which is equal to the immense capabilities that he has illustrated, both here and at home, both in public service and in the private practice of medicine. We will miss him when he leaves here but I think we will be very, very happy if he gets a position in the administration where he can be of great service to this country.

I thank the gentleman for yielding and for having this special order.

Mr. LAGOMARSINO. I yield to my friend from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding and I, too, wish to compliment my colleague from California for obtaining this special order so those of us who have known Mel Evans, the good doctor, can say how thankful we are that he has served with us in the House of Representatives. I am also grateful that we are able to express our appreciation for his ardent dedication.

There are so many areas of talent and ability that each one of us, as Members, could address here today in saying thank you to Mel Evans. Since my other colleagues have touched upon several of those areas already. I will comment on but a few of the many that stood out so well for me.

First of all, Mel Evans came to this Congress after having been the first elected Governor of the Virgin Islands, serving from 1971 to 1975. This fact has special meaning to me because it shows that the people of the Virgin Islands had great confidence in his ability to be the first Governor of that fine territory.

Additionally, they elected him in 1978 to the Congress of the United States to be their Delegate Representative. Immediately he assumed an active role by undertaking numerous responsibilities. His assignments included: The Committee on Armed Services, the Committee on Interior and Insular Affairs, and the Committee on Merchant Marine and Fisheries.

But, in addition to this, he also become a member of the Black Caucus, which many of us felt would benefit from a broader outlook. He did bring to the Black Caucus very meaningful participation, which we were so pleased to see. I regret that some of our colleagues from the other side worked so aggressively to see that he was not returned to the Congress. I think that this is a shame, especially for those who knew of the many capabilities that he brought to this fine office.

Finally I will join my other colleagues in saying I urge the Reagan administration to recount the many, many talents that this gentleman has because he has been of valuable service to this country and to the Virgin Islands. I am sure that the Reagan administratioin already knows of the overwhelming capabilities of this fine gentleman. We say to you, Mel Evans, thank you for your service in this Congress. We know you will be back in some way, and we are grateful for the fine service you have given us.

Mr. LAGOMARSINO. I now yield to the gentleman from Iowa (Mr. Tauke).

Mr. TAUKE. I thank my colleague from California for taking this time to say farewell to our colleague from the Virgin Islands, Mr. Speaker.

It is said that many pass too quickly across the stage, and certainly as we think about the stage of this House of Representatives it is clear that Dr. Mel Evans, the Delegate from the Virgin Islands and our good friend, is one who has passed too quickly across it.

I recall when I first met Mel 2 years ago as a Member of that incoming class.

He was larger in stature, and one quickly learned that he was also larger in spirit. As I came to know MEL over the past 2 years I found him to be warm and kindly, quiet and thoughtful, strong and gentle, wise and visionary.

He has been a tremendous asset to this Congress and I think that he will be well remembered in this body for his extraordinary service, not only to his constituency, but also to the entire Nation. I know that his influence will be felt even after he leaves because of the tremendous record he has established here and because of the friendships which we have developed with him.

I think as we think back about the work that MELVIN EVANS has done in this Congress and our relationship with him, that he will be remembered as a good and decent man who has done an outstanding job for our Nation and for our Hemisphere.

Mr. LAGOMARSINO. I thank the gentleman. I now yield to my friend from Nebraska (Mr. BEREUTER).

□ 1610

Mr. BEREUTER. I thank the gentleman from California for taking this time to honor our colleague, MELVIN EVANS, and I thank him for yielding.

Mr. Speaker, I have been pleased to participate in paying tribute to one of the finest Members among us, Delegate MELVIN EVANS of the Virgin Islands. It has been a privilege to work with him and to be his friend. It is amazing the breadth of experience and public service that this man has had over the years. Let me share a few facts with you about the kind of experience he has had in his own profession and in public service. I will not be lengthy, although I could be, in listing the kind of honors and contributions he has made.

MELVIN EVANS graduated from Howard University, magna cum laude; an M.D. with honors, college of medicine, Howard University; a graduate degree from one of the finest schools of public administration in the country, the University of California at Berkeley. He was a fellow in cardiology at Johns Hopkins Hospital, Commissioner of Health in the Virgin Islands.

As the gentleman from California (Mr. ROUSSELOT) mentioned, he was appointed Governor of the Virgin Islands, and also the first elected Governor.

I would say, parenthetically, that I think it is quite true that more was done to advance the cause of education and public health during his administration than in all of the other years that have passed that the Virgin Islands have been under Danish or American control.

He is a charter member of his own profession, the American Association of Public Health Physicians, and his fellow Governors elected him chairman of the Southern Governors Association, 1973–74. He is past president of the Virgin Islands Medical Society. He is blessed with a wonderful wife, Mary, and four sons who are now engaged in professions and making their contributions to the Virgin Islands.

As we bring to close the 96th Congress, I am reminded of the many warm friendships that I have been privileged to make here, and right at the top of that list is MELVIN EVANS. We were elected together. I consider it a privilege to know him and to have worked with him. In my eyes, there will be a tremendous void in this Congress when it convenes without him.

MELVIN EVANS came to this Congress with a difficult task of representing the Virgin Islands, an entity not quite a State but very important to the United States and very important that it have quality representation in this Congress—and it did during the last 2 years.

MEL EVANS ably carried out that responsibility and, in so doing, he brought credit to his home and to his constituents and to the Nation. He brought considerable exprience to Congress and he shared it with his colleagues. A doctor turned politician, a man always eager to serve the people.

I was more fortunate than most of my colleagues when I sat next to MEL EVANS on the House Interior and Insular Affairs Committee and served in that capacity on three separate subcommittees with him. I have watched him in action. I sought his counsel on issues before our committee, and I respected his ability. I would say, although it should not need to be said, that he was fiercely loyal to his constituents and he very effectively represented their interests before our committee and, as I understand it, before the several other committees on which he served in this Congress. Yet he was willing to make judgments on the basis of the national interest, a sometimes all too rare trait for a Congressman who knows he will face a tough reelection battle.

Delegate MELVIN EVANS served only a short time in this Congress, and yet in that brief period he won the friendship and the respect of many of us. We will miss him because we have gained so much from him while he was here. However, we wish him well, and we know that he will continue to make his contributions to his profession and to the public service with the same courage and with the same skill that he brought to this body.

In conclusion, I would like to reiterate and second for one of many times the suggestion to the Reagan administration that here is a man of quality who can make his contributions to the Nation. I hope that he will be given maximum consideration for that possibility.

Mr. LAGOMARSINO. Mr. Speaker, we will see that the Reagan administration gets a copy of these proceedings.

Mr. BEREUTER. I thank the gentleman.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I would like to commend the gentleman in the well for taking this special order to recognize the achievements of our colleague from the Virgin Islands, MELVIN EVANS. I cannot say that I served on any committees with Dr. EVANS, but I do believe that I got to know Dr. EVANS over the course of 2 years, and that experience has been a pleasant one and an educational one for me. I personally learned quite a bit more about the Virgin Islands and what some of the problems of the Virgin Islands are and learned a little bit about the Virgin Islands' economy and learned a little bit about the Virgin Islands' social setup. I think in that regard that MELVIN EVANS brought the territory of the Virgin Islands a lot closer to the mainland than perhaps it had been before, certainly in the minds and in the experiences of many of the Members.

MELVIN EVANS is blessed with a kind of unique personal warmth, a very mature and far-seeing judgment and an ability to translate those basic human qualities into his capacities as a legislator. MELVIN EVANS is also blessed with a delightful wife Phyllis, and I know I will miss Phyllis and so will many of the wives in our class who got to know Phyllis as a personal friend.

All I can say is at this point I, too, hope that Dr. EVANS' talents are recognized by the new administration and that we can continue to enjoy his excellence as a legislator and his personal warmth as a human being in the years ahead.

I thank the gentleman for yielding.

Mr. LAGOMARSINO. I thank the gentleman for his remarks.

Mr. Speaker, it is hard to imagine that Dr. EVANS has only been in this Congress for 2 years. I think that we can really honor the service that he has given this body by the way that we as a Congress treat the Virgin Islands and the other off-shore territories in the years ahead, in the 97th Congress, that we treat them fairly, equally, and realistically.

Mr. DOUGHERTY. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. I appreciate the gentleman's yielding.

Mr. Speaker, I would just like to briefly go on record and express my admiration and appreciation to Dr. EVANS for his service these last 2 years. MEL EVANS was a distinctly friendly and a very warm human being, whom I consider it a pleasure to have known. I regret that he will not be with us in the Congress, but I reiterate the suggestion of the many previous speakers that the Reagan administration will be the richer if they have Dr. EVANS in their service. He is a credit to the Virgin Islands, he is a credit to this Nation, he has been a credit to this Congress. I treasure his warmth and his kindness, and I wish him well.

Mr. LAGOMARSINO. I thank the gentleman for his remarks.

● Mr. McCLORY. Mr. Speaker, it has been a great pleasure for me during the past 2 years to serve as a colleague of MELVIN EVANS. I happened to be acquainted with MELVIN EVANS during the period before his coming to Washington—when he served with great distinction as the Governor of the Virgin Islands.

Since the people of the Virgin Islands elected MELVIN EVANS as their Delegate to the U.S. Congress, I have had occasion to work closely with him on a number of substantive legislative projects, including particularly civil rights bills such as the fair housing amendments. Congressman EVANS' contribution to these issues was always thoughtful, professional, and marked by a strong sense of compassion for those members of society who have been denied equal rights for too long.

MELVIN EVANS also brought to this Congress a uniquely valuable perspective on health care issues. His long and distinguished career as a doctor included service as the Commissioner of Health for the Virgin Islands from 1959 to 1967. This experience gave his views on issues of public health special weight with his colleagues.

MELVIN EVANS will be missed greatly in the Halls of Congress next year—especially by his Republican friends and colleagues, who are proud to call him a member of their party. But we know that MELVIN EVANS' fine career in public service will continue outside Congress for many years to come.●

● Mr. CAMPBELL. Mr. Speaker, I would like to take this opportunity to join my colleagues in honoring my good friend, MELVIN HERBERT EVANS, for his contribution to this body during his service in the 96th Congress.

MEL's leaving this great body culminates a distinguished career in which he has served the people of the Virgin Islands and the Nation well. His dedication to helping others is clearly evident throughout his long and illustrious career, beginning with his decision to become a physician. Since 1951 when he first become Assistant Commissioner of Health for the Virgin Islands, he has consistently been in the forefront, protecting the rights of the people of the Virgin Islands. They showed their confidence in him by electing him Governor of the Islands in 1971 and, of course, to Congress in 1978.

During his tenure, MEL has won many friends from both sides of the political aisle with his cooperation, understanding, and uncomplaining willingness to work. I know he will be missed by his colleagues on the Armed Services Committee as well as the entire House membership. No one has worked harder to achieve peace through strength than he has through his contributions to the deliberations and legislation considered and guided through the Armed Services Committee.

We will all miss his ready wit and warm friendship. I join my colleagues in wishing MEL and his lovely family all the best for the future, and I am proud to have had the opportunity to work and serve with him.●

● Mr. SCHULZE. Mr. Speaker, I am pleased to join DON CLAUSEN, BOB LAGOMARSINO, and the rest of my colleagues in congratulating the Honorable MELVIN H. EVANS on his effective service in the House of Representatives. MEL's background as a physician brought a unique perspective to this body. His insight was particularly valuable in efforts to improve our Nation's health care facilities.

Though short in length, MEL EVAN'S tenure here has been long on impact. He has served with distinction on three House committees: Armed Services, Interior and Insular Affairs, and Merchant Marine and Fisheries. In addition, he has made a significant contribution to several caucuses and other groups.

MEL has made his presence felt in a substantive, positive manner in all of these forums. And more, his contribution has balanced the needs of the Nation as a whole with staunch advocacy of the rights of Americans living on our offshore islands. I am sure that his dedication will be missed by both constituencies.

MEL, I am glad for this opportunity to extend to you my best wishes in all your future endeavors.●

TRIBUTE TO THE HONORABLE BILL ROYER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CLAUSEN) is recognized for 60 minutes.

Mr. CLAUSEN. Mr. Speaker, it is with great sense of honor and yet a tremendous sense of regret that I have been given this opportunity to pay tribute to one of my California colleagues BILL ROYER.

Although I have stood in the well of the House paying tribute to so many of my longtime friends and our honorable colleagues whose years of representation and companionship we will sorely miss, there is a difference in this special order of tribute. BILL ROYER has been with us but a year and a half, even though his record of achievement and service to his California constituents reads like that of a longtime veteran.

I have had the pleasure of working with BILL ROYER on the Public Works and Transportation Committee and on the Subcommittee on Surface Transportation. His incredible amount of experience and contribution on transportation matters has been most beneficial to my committee colleagues and has been a tremendous guidance to me. We will be keenly aware of his absence in the 97th Congress.

I have known few Members who grasped so quickly the subject matter at hand and acted accordingly. BILL's perception of issues has been an inspiration to us all. His introduction of the bill known appropriately as the Royer amendment was an ingenious piece of legislation. The amendment reauthorized EPA grants to provide special relief to small cities when applying for sewage treatment assistance. It was a necessary change to reflect the impact of inflation on small communities for which urban, rural, and suburban America is indeed thankful for BILL's initiative.

I am sure we will see the talents and expertise of this very genial and capable gentleman from California put to good use in the future.

BILL ROYER is truly a gentleman Congressman—a man of conscience, sensitivity, and commitment. Many of our colleagues and our countrymen have committed the Golden Rule to memory. You, BILL ROYER have committed the Golden Rule to your life.

As the chairman of the California Republican delegation, I know that I speak for the entire delegation when I say "BILL ROYER, you've made your mark—California, San Mateo County, and America are grateful for your dedicated service in the Congress of the United States."

Mr. Speaker, BILL ROYER will be missed by all of us—both those of us who had the pleasure of working with him and those of us who will reap the benefits of BILL's efforts. It is said the difference between a politician and a statesman is that the politician will follow a statesman's lead. BILL ROYER is a statesman whose expertise we will truly miss. We wish he and Shirley the very best now and in the years ahead.

Mr. Speaker, I yield to my friend from California, the gentleman from southern California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding. I, too, wish to express to him our appreciation for taking this time so that we would have an opportunity to say to BILL ROYER how grateful we are for his fine service in this Congress.

As my colleague from California has already pointed out, BILL ROYER, immediately upon his special election, jumped into his responsibilities here with the dedication, concentration, and capability of having served in the House of Representatives for some time. This is quite an accomplishment especially when one considers that he came to the Congress in a special election on April 3, 1979. My colleague from California (Mr. CLAUSEN) has already pointed out how successful he was in introducing amendments in committee and on the floor to improve and more carefully craft legislation. His colleagues on the Public Works and Transportation Committee and on the Science and Technology Committee will most certainly miss his participation.

He brought to both those committees a legislative expertise which had been developed from his previous public service in local government as a county supervisor and chairman of the county government in San Mateo County. In addition to his legislative capability, he brought to the Congress of the United States, an understanding of the importance of constituency service.

I have already heard from people in the 11th Congressional District and from his neighboring Congressman, Congressman MCCLOSKEY, how absolutely perfect and dedicated he was in serving the whole constituency, which he represented.

There is no doubt about the fact that BILL ROYER proved himself in the Congress of the United States. We are all well aware that the political registration was somewhat adverse to the party from which Bill Royer came. The heavily Democratic registration, made it difficult for him to try in such a short time since his special election in 1979, to be in the Congress doing his job and in the district on a regular basis to make it clear to his district that he could represent it in a bipartisan way. I am convinced that the registration factor was very much present in the recent election.

But, many of us believe that the name of Bill Royer will not be forgotten, and that it is very possible that he could return to this Congress at another time. When people are able to find out in a more complete way the job that Bill Royer did, they will say to themselves, "Well, maybe we should have looked a little more carefully and should have returned him to the Congress."

So we say, Bill Royer, we expect you to come back, because you have done an excellent job as the Congressman from the 11th District.

Those of us here know of that job, and wish to thank you for what you have done.

Mr. CLAUSEN. I thank the gentleman for his comments, because he so carefully articulates the kind of a working relationship we enjoyed and observed firsthand on the committees we served on together, namely Public Works and Transportation.

Specifically, I refer to the special sensitivity and understanding of the method of implementation of legislation at the local level. He brought this measure of expertise on the county government of San Mateo, but the most important thing of all, he was one of the most conscientious individuals I have ever had the privilege of knowing and working with.

Mr. BURGENER. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to my colleague from California.

Mr. BURGENER. Mr. Speaker, I thank my colleague, the dean of our delegation, for yielding; and more importantly, for taking the time to honor a great guy whom we have come to know and respect ond love for even these 2 short years.

Bill Royer will be deeply missed here, but I have a hunch he will be back, perhaps in a different capacity, perhaps as a Member. But I am very proud, in looking over Bill's background, I am proud to share a great deal in common with him. First of all, we are about the same age, vintage early 1920's and whether that is young or middle aged or old we will leave to the eye of the beholder. But in any event, we both grew up in the Rocky Mountain States, he in Idaho and I in Utah, and we both succumbed to the lure of California, which many fortunate and wise people do.

Then, we both went in World War II into the military at about the same year, both in the Army Air Corps, both from 1943 to 1946. Our careers were parallel even then.

Then, following World War II, we had some more similarities of which I am proud. We worked our way up through the ranks of local government, and our careers in real estate—we have that in common as well. Bill started out as sort of a part-timer in local government, serving as the planning commissioner of San Mateo County and the city of Redwood City there. He became a councilman, mayor, later on supervisor, and later on chairman of the board of supervisors, doing outstanding work for his city and his county. But, in the earlier years when that was considered more of a part-time responsibility, he did develop and build his own business.

He understands the free market, free enterprise, how to meet and make a payroll, and he understands that small business is truly the backbone of this country. He did indeed become a professional, named Realtor of the Year in 1968 in his own home community.

Then, of course, he came on here to Congress, as we all know, in the special election of a year and a half ago, and has done outstanding work on the Public Works Committee and Science and Technology Committee.

□ 1630

If I could describe an approach to his legislative duties, I would say he is possessed of a calm and highly reasoned competence in everything that he does, and I hope, Mr. Speaker, I will say to the dean of our delegation and my colleagues here today, that we can persuade Bill Royer to accept a position of some high responsibility here in this new and, we hope, very exciting and, we believe, much needed new administration.

But, in the meantime, a salute to Bill Royer for a tremendous job well done. I am sure we will see lots more of Bill, and that will be good for the country and good for all of us.

Mr. CLAUSEN. Mr. Speaker, I thank the gentleman from Southern California for his observations and for a very clear presentation of the similarities in the relationships that exist between these two outstanding legislators from California.

I was particularly pleased when the gentleman brought into this dialog in this special order the references to Bill's earlier private sector business background and orientation, because on two different occasions I saw his measure of expertise on transportation when legislation was implemented in the form of legislation simply because he knew what the impact under truck deregulation would be on the people out there in the marketplace. It was Bill Royer, as I am sure my friend, Jerry Lewis, who sat right next to him on the committee, knows, who brought these matters to our attention on two different occasions. So it was Bill Royer's special sensitivity and understanding of the impact of that legislation on the marketplace that has given us something in the way of a better product here in the Congress itself.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I thank my dean, the gentleman from California, for yielding.

I, too, would like to add my words of thanks to Bill Royer for his service in this House and suggest that as one who happened to live near Bill and his home here in this area I did have a chance to ride in and out with him from various functions, and I was taken with the fact that very few Members of Congress had such a high concern for their districts as did Bill Royer.

Virtually every conversation one had with him related in some way to his district, the needs of his district, the people in his district, and the experiences in his district and what he was attempting to do in his district. I found that he was forever trying to do what was best for his district.

I think it came as a shock to many of us that Bill would not be returning to this Congress for the first session of the 97th Congress. Yet when you hear the story of what occurred, when you hear the story about the accidental positioning, so to speak, on the voting machines and the part that that played, when you look at all the other indicia of that particular race, you have to ask, "Why? Is there some reason why he is not here?"

When I talked this over with Bill, I suggested to him that perhaps the good Lord has something more in mind for him. That is the only explanation I can come up with. When someone like Bill Royer, who is as dedicated to his job as he is, as dedicated to his constituency as he is, and as hard working as he is, from every indication we have, and was successfully working for his district, is leaving the House, it is hard to understand.

When I said that to Bill, he said that he took some consolation in that, and that he hoped to be of some service to his country and hoped to be of some continued service to the people of his district in whatever position he might have in the future.

I know that our dean joins me and joins the other Members of the California delegation in urging the Reagan administration to look very, very closely at Bill Royer for a position in this new administration, because we have spoken many times on the floor about the fact that perhaps the biggest problem with the outgoing administration was that it forgot what it was about once it got here, and that somehow there is a difference between talking to the people during an election and doing their bidding, so to speak, when they are elected. That fact was never fully recognized and fully appreciated, and no accommodation was made to it.

Bill Royer has, I believe great expertise in local government over the years, and he has an expertise that was somewhat refined by his service here in Congress that would be of tremendous assistance to whatever administration finds itself in the White House, particularly the Reagan administration, because, as many people know, Bill was an early supporter of Ronald Reagan back over a decade ago. He had been a chairman of his committee in California and had worked tirelessly on behalf of Ronald Reagan for Governor of California and for President of the United States.

I doubt if there is anyone better suited in this Congress or without this Congress than Bill Royer for service in the administration.

We certainly hope that his talents will be taken advantage of, and that those of us in the Congress will have a continued association with Bill Royer as we go into this new Congress, the 97th Congress.

Again, Mr. Speaker, I thank the gentleman for yielding and for taking this time on behalf of Bill Royer.

Mr. CLAUSEN. Mr. Speaker, once again I thank the gentleman from California (Mr. Lungren), as I have the others from California for their very descriptive explanations of the relationships that they have enjoyed with Bill Royer.

In particular, I want to verify in the strongest possible terms the point the gentleman made with regard to utilizing Bill's expertise in this new administration and the reasons for that.

Clearly, the administrations that I have observed over the 18 years that I have been in the Congress that have either succeeded or failed have literally narrowed themselves down to the kind of qualified people that they had in the executive slots who were communicating with the Congress. I think that anyone who has served in an elective position has that unique measure of sensitivity necessary to make for a congressional relationship and a liaison in order to successfully work with other branches of the Government in the way of a legislative program.

In this regard, we have not only the legislative experience that Bill Royer possesses at the Federal level but we have the vast experience that he had in California at the local level. And as the gentleman has stated earlier, we have his extraordinary knowledge of the free market, having been there in the private sector.

So I am sure that we will join as a delegation in communicating to the new incoming Reagan administration that it is up to them to take advantage of this great expertise that Bill Royer has.

I appreciate the gentleman's bringing that to the attention of our colleagues here on the floor.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to my friend from Santa Barbara, the gentleman from California (Mr. Lagomarsino).

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding, and I thank him for having this special order so we can pay tribute to Bill Royer.

I feel a mixture of regret and admiration today in paying compliments to Bill Royer—regret that we will not have the benefit of his ability, his judgment, and his wisdom in the coming session, but admiration because he is going back to the private sector, at least temporarily having made a large contribution to the public good.

In the short time Bill has served here in the House, he has made a reputation as being a conscientious and a thoughtful and a very able public servant. He came well prepared for the job. As has already been pointed out, Bill showed expertise as a county supervisor, as a councilman, and as a mayor, as well as being an accomplished businessman. He used his ability in many other fields as well. He was a welcome addition to our delegation, and he will be sorely missed.

But I am sure he must feel a sense of satisfaction, as well as anticipation as he moves on to a new challenge, in knowing that he did a difficult job well, and that he has made many new friends. I wish him the best.

I know we have not heard the last of Bill Royer. His commonsense and ability would be, as the gentleman in the well has pointed out, a great asset to the Reagan administration. I think that is true particularly in dealing with the problems affecting local governments, because Bill has been there, he has been on the ground, and he worked in local government when President-to-be Reagan was Governor of California. Bill understands his philosophy in that regard, and I think that he might be able to help bring about what the gentleman in the well and I have been working on for so many years now, trying to get rid of the redtape and bureaucracy involved in Federal-local government relationships.

So, Mr. Speaker, I wish Bill the best. I think we will soon see him back in a position where we will be in contact again. I thank the genntleman from California (Mr. Clausen) for taking this special order.

Mr. CLAUSEN. Mr. Speaker, again the gentleman from California (Mr. Lagomarsino) so accurately states one other area of expertise that comes to my mind, and he also reminds me of another thing that he and I have been working on, namely, the concept of expanding the principle of revenue sharing in block grants in some of the other areas of Federal administrative and management policy.

Bill Royer would clearly know how to implement the block grant approach from the Washington level, because he worked within the revenue sharing program when he served as a member of the county board of supervisors there in San Mateo.

This is another area, but I was thinking more in line with the transportation area, because he serves on the Committee on Public Works and Transportation and has demonstrated an unusual amount of ability in understanding all that was involved in the implementation of areawide transportation planning and policy.

Mr. Speaker, I will now yield to the gentleman from Iowa (Mr. Harkin), who has been very patient in letting us yield to as many of our California colleagues as we could.

Mr. HARKIN. Mr. Speaker, I thank the gentleman in the well for yielding.

Mr. Speaker, I, too, want to join in paying our respects to Bill Royer. As the gentleman and others have said, Bill was only here for a little over a year and a half after he won the special election.

I came to know Bill on the Science and Technology Committee. We served together on the Subcommittee on Transportation, Aviation, and Communication.

As so many before me have said, Bill Royer was always a gentleman. He was always conscientious in his work, especially on that subcommittee when it is so often so easy for members to miss subcommittee assignments and to miss subcommittee meetings. There was one member that I as chairman of that subcommittee could always count on being there, and that was Bill Royer.

As the gentleman in the well knows, that subcommittee is charged with the responsibility for aeronautical research and development in the United States, and Bill Royer added immensely to our deliberations and to our development of sound aeronautical R. & D. programs in this country. He knew of the great benefit that aviation gives to this country, and he knew how important it is for us to keep ahead in the world in terms of our aeronautical research and development.

☐ 1640

He was a most attentive member of that subcommittee. He was always very constructive when we were developing our authorizations or any new legislation. Whenever Bill Royer attended, whenever Bill had an amendment to offer it was never to obstruct, never to diminish but it was always to improve.

I, too, will miss Bill Royer as a very valuable member of the Committee on Science and Technology and the Subcommittee on Transportation, Aviation and Communications.

Bill Royer was always most courteous, always most conscientious but above all he was always a gentleman.

I thank the gentleman.

Mr. CLAUSEN. I thank the gentleman because the gentleman from Iowa has himself a very extensive background in all of aviation and is one of the most qualified Members of the Congress to speak on behalf of aviation so this comes as a genuine compliment from the gentleman from Iowa. The fact that Bill had the San Francisco International Airport in his backyard, he would talk to some of us who have been interested in the advancement of the National Plan for Integrated Airport Systems throughout the Nation, and he was a part of the effort that assisted us in incorporating an amendment into the legislation this last year so I am deeply grateful for the remarks of the gentleman from Iowa. His are among the more qualified comments made today in the aviation field.

Mr. HARKIN. If I might add one other thing, when I see people like Bill Royer, I think people with his background and with his ability, his conscientious attitude, that people like that ought not to be lost to the public sector. We need people like that in Government. Whatever he may do in the future, I certainly wish him well and hope that that type of attitude that he has, his conscientious effort, that he will see fit to participate some place in the public sector.

Mr. CLAUSEN. I might ask the gentleman to cosign a letter to implement that suggestion.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I consider it a distinct honor to yield to our very distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. I thank my colleague from California. It is an honor to join with him and other Members in paying our respects to a man who has not been here long but who has earned his spurs as far as the membership of this House is concerned. I agree with the gentleman from Iowa that BILL ROYER should be in the public service. He is a natural. He is a dedicated American, he is intelligent, he is able, he is hard working. He is all of the things we wish all of us were. He is indeed in every way a fine Member of this body.

Also, I would like to join my colleagues in wishing him well, no matter what he does. I again express the hope and the belief that we have not heard the last of BILL ROYER as far as public service is concerned. The country would be poorer if we had and will be much richer if he does find some way to stay in the public sector and to do, as he has expressed the desire to do, to serve his great Republic, his great State of California and his fellow man.

Mr. CLAUSEN. I thank the gentleman very much and yield to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, when we wander on the speaking circuit are asked from time to time what qualities go into preparation for running for the House of Representatives, for a student or somebody who aspires to have the privilege of serving in this institution. I think the background of BILL ROYER is one of the best descriptions that a person can give as to one way, a good way, and an effective way of preparing oneself for service in this body. It is certainly not the only way but to me it is an effective way.

First off, BILL acquitted himself well in the private sector by selling real estate, an honorable profession, particularly in the State of California. He served in that capacity as a realtor and was active in his realty association for 36 years, from 1954 to 1980. For 26 years, rather. He did an admirable job in that regard and learned what it means really to earn a living for his family and himself in the private sector. He has the responsibility for putting bread on the table and not working for the public entity for the purpose of performing that task.

Early on in his career in the real estate business in San Mateo County he entered in public service and he served on the Redwood City Council for some 16 years from 1950 to 1966, serving as mayor of that city. He served on the board of supervisors of San Mateo County from 1972 to 1979. He served on the transit district of his home area from 1973 to 1979.

These activities of local service gave BILL an opportunity for understanding the concerns of people and being able to transmit those concerns into an effective advocacy in the city council, the board of supervisors and here in the Congress of the United States. Certainly on a personal level, BILL has two sons, Dennis and William, his wife Shirley, he was a solid family man. He believed the family was the basis of our society.

These qualities, profession, family, and local service, equipped him well for coming here. You might ask, "Well, why did he leave?"

I think the answer is the district he represented here was not one that lent itself easily to continued representation by a member of his party. We can argue that for some time, perhaps, but I do not think that is the real issue today.

I would like to pay my respects to BILL, to wish him well in future service because he has many years left in his professional and personal life for contributing not only to the State but also to the Nation and I am sure that his qualities of public service which brought him here will continue to be of value to the people of this country.

Thank you, Mr. Speaker.

Mr. CLAUSEN. I thank the gentleman.

Mr. Speaker, I yield to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding. As a Member not from California, I want to say I think I can speak for many of my colleagues in this body who are not Californians who are equally impressed with the service BILL ROYER has contributed. The 96th class and other Members throughout the Congress think very highly of his contribution in that short period of time we were privileged to serve with him. His professional experience which he brought so often and with benefit to this body has been mentioned. His public service at the city and county level has been mentioned. He had a distinguished career in local government. He brought also some experience from the Metropolitan Transit Commission and Redwood City Planning Commission, something that has not been mentioned, very active in the drug abuse program for the metropolitan area.

I would like to say about BILL ROYER, first and foremost, he was a decent man who made a great contribution here as a citizen legislator. As DAN LUNGREN said, the gentleman from California, a few minutes ago, one is struck when one visits with somebody, about BILL ROYER. Their observations of him, the quality of contributions he made was unanimous. They always mention, too, that while he was interested in the national interest, he was very attuned to his district. He was concerned about it and brought everything down to the level of his district. He brought that commonsense view. Because of his service in local government, I noticed on many occasions that he understood quite well the complex intergovernmental relationships that too often we forget in this body. He brought that experience with benefit to all of us.

BILL ROYER will be missed here. He is going to make a substantial contribution in whatever he decides to do. I would like to wish and his lovely wife best wishes for continued experience in California, here or wherever they happen to go.

I thank the gentleman for yielding.

Mr. CLAUSEN. I certainly thank the gentleman from Nebraska for participating in this special order. It adds a little integration with the rest of the country into what is in effect a California special order.

I think he said something very well and I think it is important that you made the point; namely, that BILL ROYER was truly a citizen legislator.

☐ 1650

If I recall from my earlier research of our Constitution in the legislative history associated with the follow-on efforts associated with the Constitution, that was the intent. The intent was to have a body made of citizens of legislators. I think we have moved a long way away from that in many aspects, but BILL clearly was that kind of a citizen legislator.

I am so pleased the gentleman incorporated that into the remarks he made about BILL ROYER.

Mr. Speaker, I now yield to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, I appreciate the gentleman taking this special order because it gives all of us a chance to express our fond thoughts about our colleague, BILL ROYER.

I will not speak long, because I do not want to dilute the meaning of what I have to say about BILL ROYER.

As the gentleman knows, I had the honor to be president of the 96th freshman class, 39 Members from all across the country, with much diversity of thought and background.

BILL ROYER came to us in the middle of the 96th Congress in a special election, and as the gentleman from California (Mr. DANNEMEYER) pointed out, a tough district for a Republican Member; but he came here, and he worked hard, and he fit right into the class. He is a most excellent legislator.

I would simply like to say that on behalf of the 38 other colleagues of his in the 96th freshman class, that we love him and we are certainly going to miss him.

Mr. CLAUSEN. I certainly thank the gentleman who has a great deal of genuine admiration and respect on the part of a lot of the colleagues and particularly those who were in that class he served as president. I appreciate his contribution.

I now yield to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I join with all our colleagues in recognizing the fine contribution of Congressman BILL ROYER. His expertise, his contribution, and his service is going to be missed here in the Congress.

Now it was not that long ago that our very capable, well-respected colleague, Leo Ryan, passed away and thus calling for a special election, which resulted in the election of BILL ROYER to the 11th district, San Mateo County. It was a difficult election, because that particular area is considered fairly safe in the other party's interests, but because BILL ROYER was so respected and because of his many years of public service as vice mayor of Redwood City and then mayor of Redwood City, and then as an elected member of the board of supervisors of San Mateo, not to mention his involvement with Rotary and other civic organizations, because BILL demonstrated to those constituents of his, his interest, his concern, and his unique abilities.

I guess you have to give some credit to the campaign that he conducted. He was elected, and his service, I think, is commendable. He ran into difficulties because of the makeup of his district and certainly not because of the performance that he provided his district.

I think he was held in high regard by those who he represented, and I think it was basically an out-numbered situation.

I enjoyed working for BILL's election, and when I went up to campaign for him, I was immediately impressed with not only him but his family, especially his wife, Shirley, who has a very endearing personality, a woman who obviously was very much of a partner with BILL; and between the two of them, they inspired not only me but many of my colleagues who have spoken here this morning to get out and work hard for his election.

Once coming to Washington, of course, he jumped right into the job, and I was privileged to serve with him on two committees, the Committee on Science and Technology; and he served on the Subcommittee on Transportation, Aviation and Communications. His intimate knowledge of transportation problems, especially aviation, certainly contributed to the intelligence of the debate and the final product that we were able to put out of the Committee on Science and Technology. And then of course over in the Committee on Public Works and Transportation where again he lent his expertise on not only transportation, but all kinds of public works projects that involved communities and State problems and because of his early experience on the board of supervisors; and as mayor of Redwood City, he brought realism to the debate and certainly an expertise that many of us did not have.

I got to know BILL quite well, serving with him on those committees, and other than the expertise that he brought, just his personal nature, you could not help but like BILL ROYER. He was easy to get along with. You just could not help but like BILL ROYER. And at the same time, he was able to make a fine contribution.

I will miss working with BILL and I think the Congress will miss the work that he performed and could have continued to perform.

I do not think we have heard the last of BILL ROYER. He is the kind of personality, the kind of individual, who likes to be involved, who is concerned about his country, its well-being and particularly concerned about people.

He has empathy toward problems of those who are less fortunate and has taken it upon himself and his life work dedicated to helping others and helping Government to function.

I think BILL will continue to be involved. Our loss is someone else's gain.

I am only hopeful that perhaps one day we will find him back here in the House of Representatives continuing to make that input.

Mr. Speaker, I thank the gentleman from California (Mr. CLAUSEN) for making this time available for us to reflect upon our personal feelings about BILL ROYER and his wife Shirley and his family.

Mr. CLAUSEN. I thank the gentleman for his comments.

It tends to remind me of the first time that I met BILL ROYER and that was at an event honoring a former grade schoolteacher of mine who was celebrating her 100th birthday. BILL at that time was a member of the board of supervisors of San Mateo County. The event was being held in San Mateo County. I came down there to pay special honor to this great lady who was my sixth, seventh, and eighth grade schoolteacher, as a youngster up in Humboldt County. Her name was Elizabeth Fulmore. I had a chance to get acquainted with BILL at that time.

Later, I met BILL during the funeral of our late colleague, Leo Ryan.

I said at the time to myself when BILL came up to me and talked about the possibility that he may be giving consideration to run for the office, the impression he left in my mind was here is a man who really has a special sensitivity and the manner in which he handled himself during the days following the funeral up to and including the time that he filed for the office, I think had a tremendous impact on the people that here was a man who was not in any way expedient. He carefully evaluated what he might be doing that would not reflect adversely on Leo Ryan with whom he had a good close working relationship, with Leo serving as the Congressman and BILL as a member of the board of supervisors.

So this is the character and the quality of the man that I think each and every one of you during the course of this special order have added so much to adequately describe what I think is one of our great Americans. And of course, his lovely wife Shirley, and my wife, Ollie, have had a very special relationship, and I am so delighted that each and every one of you have taken time to participate in this.

☐ 1700

Mr. GOLDWATER. If the gentleman will yield further, I agree with the gentleman that that period of time after the death of Leo Ryan was a particularly sensitive one, because Leo Ryan was well liked here in the House of Representatives. He was held in high regard by his district, by the people he represented, and yet the transition of government had to take place. There by law had to be a special election in order to fill the vacancy left by the passing of Leo Ryan.

I think it is because of the way BILL handled that very delicate situation that earned him the respect in a bipartisan way and resulted in his eventual election; but even prior to the election itself, everyone was watching that district, watching that particular race and looking at the particular candidates who were seeking the position.

I think BILL did handle himself quite well and demonstrated to all of us not only his humility, but also his sensitivity for a particular situation that was as delicate as it was at that time.

I thank the gentleman.

Mr. CLAUSEN. Mr. Speaker, as most of my colleagues know, I had a very close and a very productive working relation with Leo Ryan. I knew him when he was in the legislature and more particularly on matters relating to the Bay area, I worked closely with Leo Ryan.

I can remember him relating to me the kind of admiration and respect he had for BILL ROYER and the working relationship he had, because BILL never challenged him for the office in all the time he was serving as a Congressman. I think he appreciated that special bipartisan working relationship that Leo Ryan and BILL had together and he shared that with me on occasion.

Mr. LEWIS. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS. I thank my colleague for yielding. I want to express my appreciation to the dean of our delegation, DON CLAUSEN, for taking this time and sharing with us his feelings about our friend and colelague, BILL ROYER.

The thing that I will remember, first, about BILL ROYER as a Member of Congress involved a headline in a very important newspaper in my own district, the Desert Sun in Palm Springs, which is not just a little bit important to me. The headline read, "Palm Springs Resident Gets a New Job."

The article referred to BILL ROYER being elected to Congress. He spends a significant portion of his year in my district as a second resident location. We were very pleased to have not just one voice, but two voices in Congress; the second being mine, rather than BILL ROYER'S.

BILL has become one of my best personal friends. I consider him not just to be a colleague, but a dear friend.

In this crazy business that is politics, you have a mixture of the goldfish bowl and the crucible. The heat of the kitchen tends to meld people together quite often across party lines, across great distances.

In the short time that we have had a chance to work together. BILL ROYER and I have become very, very dear friends. He to me reflects much of those qualities that we need to attract people to public affairs for, if indeed, there is a vaccum in our government today, it involves our capacity to attract people of great quality and depth to the field of government.

BILL has endless experience of his own. He is a self-made man working in the private sector, a rarity these days in politics.

Generally what we attract to public affairs, it seems often of late, are those who come directly from the ivory tower, who have done little else besides go to work for somebody in government, then look for a seat and run for politics and spend their life essentially extending that which is the public trough.

BILL ROYER is the kind of person who not only made it on his own, developed a base of independence through his contribution to his community and his business, but from there was willing to share his background and talent by becoming involved voluntarily in public affairs.

His election to Congress 2 years ago was at that point in his own mind's eye the height of his own success in public affairs. In my own view, it is just the beginning, for Bill is the kind of person who is going to accede to the highest pinnacle no matter what field he might follow.

I expect from here, not in business, but rather in another level of public affairs to see Bill Royer's name from time to time again. I have no doubt at all that the people who are leading this administration, the new administration, have enough intelligence to recognize the tremendous contribution he has to make in the work that they have ahead of them. So I expect to see his name there; but before we go on to Bill's future in government and in politics, I would like to share a bit of my experience with him here in the House.

First and foremost, we served together on the Public Works and Transportation Committee and there in subcommittee after subcommittee hours, I watched this very sensitive, very talented person address himself to complex issues that almost by instinct he had a feeling for, a way of understanding the material that came before us in a fashion that allowed him to respond certainly to his district, but to respond intuitively to what would be best for people. Time and time again he was willing to step back and react in a different way because of his concern for the effects of our processes upon human beings.

Bill reflected that same concern for people in the reaction that we saw that was a part of his nature following the election. Bill certainly was disappointed, but I think almost as intense as was his own disappointment because of the short career he had here, he was reacting with great concern about the impact it would have upon his friends and especially upon his staff.

How many of us really take the time to care about those who work around us? Bill not only did care immediately then, but since that time, since the November election, day in and day out was expressing concern about a very fine group of people who were willing to commit themselves to his service here. He certainly expressed to me and to those of us who worked with him in the committee, more than about himself, his concern about their future.

You know, in this crazy business, friendship is most important. Bill has demonstrated clearly that he has uppermost in his mind that one quality that is most important to anybody who is involved in a field like ours, and that is loyalty. Bill continually demonstrated a concern for his colleagues. He would do nothing that would ever cast a question upon the quality of our House. He epitomizes that philosophy that says if you cannot speak well of a person, then speak not at all. I have never heard him say or utter a negative word about a colleague, a friend, a constituent, even an opponent.

Bill Royer is a tremendous human being.

I personally want to share one other thing about Bill Royer with you for the record. There are those who would suggest that a short time in Congress is a great experience and an honor, and indeed, it is. There are those who suggest that Bill Royer will go on and make a contribution in some other area of government. It is my guess that there is a very decent chance that Bill Royer will decide to come back to the House of Representatives. If he should make that decision, I can tell you that 2 years from now or 4 years from now, those who would suggest that he would be anything but tough have got another thought coming.

Bill Royer, above and beyond anything else, has the kind of human quality that says he is willing to fight for that which he believes in. I really do expect to spend many, many years in the future working very closely with my friend and my colleague, Bill Royer.

I only hope that he chooses to make that future work here in the House.

I thank the gentleman.

Mr. CLAUSEN. Well, I certainly want to thank the gentleman for his very close and conceptual perspective on Bill Royer, because of the close relationship that you had. You shared that seat right next to him on the Public Works and Transportation Committee and I have seen at first hand and I can verify all the points that the gentleman has made.

I just want to conclude this special order on this point. I think that Bill Royer as an individual, a decent human being, has something that we need more of in this Congress and that is perspective. You know, you can forgive the child for being afraid of the dark, but the tragedy of our lifetime is when grown men and women are afraid to see the light. They have an inadequate perspective on the process.

Bill Royer, our genial colleague from California, was one kind of individual that had the kind of perspective that we need more in the eyes of the 435 Members that are privileged to serve in this body.

● Mr. SHUMWAY. Mr. Speaker, of all the tributes to departing colleagues in which I have participated, this one must be termed the most difficult. Bill Royer's time as a Member of this body has been all too brief, but he has clearly made his presence known. It has been said that no Member of the House has more friends among his colleagues than Bill Royer, and those of us who are privileged to call him a friend can certainly understand why.

Bill Royer is an amiable, concerned and responsible individual who has always applied his very best effort to each endeavor he has undertaken. His delayed arrival as a Member of the 96th Congress was somewhat bittersweet, considering the tragic circumstances which necessitated his election by special election. However, once on board, Bill lost no time in assuming the duties of a responsible legislator. His abbreviated tenure cannot dimish the value of his outstanding contributions, nor can it dilute my admiration for his determined effort to protect America's best interests. Throughout his time in Congress, Bill has consistently demonstrated all of the qualities which mark a fine representative of the people. His presence will be missed, and his record will be remembered.

As a friend, a colleague, and a fellow Californian, I would like to extend every best wish to Bill Royer for continued fulfillment and reward in his future undertakings.●

● Mr. CAMPBELL. Mr. Speaker, it has been my pleasure and honor to serve during the 96th Congress with Bill Royer, a fine representative from California.

I was privileged to work with Bill on the Committee on Banking, Finance and Urban Affairs, where he was a hardworking legislator contributing thoughtfulness and incisiveness to our proceedings. Bill was an effective spokesman for limited Government and local control, and he will be missed in the coming Congress as we strive to move closer to these goals.

While Bill will not be in the Congress, I am confident that his voice will be heard and heeded in the formulation of public policy in Washington and in his home State of California.

Bill Royer's contribution to this body has been substantial, although his years of service may have been short. I know he will go on from here to great successes, and I wish him all the best in the days to come.●

Mr. CLAUSEN. Mr. Speaker, with that, I appreciate the Members of the California delegation and others that have participated in this special order for our friend, Bill Royer.

GENERAL LEAVE

Mr. CLAUSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1710

AUTOMOBILE IMPORT RESOLUTION

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, the

Washington Post of December 8 had a very perceptive article on the automobile imports resolution which recently passed the House. I recommend its contents to my colleagues as follows:

IMPORTED CARS AND THE DEMOCRATS

The congressional Democrats seem to be sliding rapidly into an opposition party's frame of mind. You can see it in the House's overwhelming vote for the automobile imports resolution, followed by the Senate Finance Committee's prompt support for it. In the committee's vote on Thursday, the only dissenters were two dismayed Republicans.

The automobile imports resolution is poison. It promises nothing but protectionism and higher inflation. Most of the people in Congress understand that perfectly well. As long as the Democrats were fully in charge, they were admirably firm in defending open markets and competition. But power is now shifting from one party to the other. A lot of the Democrats have evidently begun to wonder why, in that case, they should continue to make themselves unpopular with Detroit. Is it not more convenient, not to say more amusing, to pass bad trade legislation and let the Reagan administration then try to deal with the auto workers?

The Carter administration managed to stave off this kind of bill, over the past year, by directing all complaints about imported cars to the International Trade Commission. The United Auto Workers and the Ford Motor Co. spent the summer there, pursuing their claims for limits on the Japanese imports, but last month the ITC decided against them. In response to that decision, both the union and Ford are now pressing Congress for legislation specifically authorizing the president to negotiate import restrictions with the Japanese. The Carter administration has said that it won't actively fight the resolution, but neither will it begin negotiations in the short time left to it. If the Senate now passes the resolution, that will leave the question squarely with Mr. Reagan.

Ford and the UAW have been arguing that the industry needs only temporary protection, while it goes through the transition to smaller and more efficient cars. Without protection, they fear, the American companies will lose such a large share of the American market that they will have a severely diminished prospect of profits even after the transition. The costs of this transion are unprecedented in American industrial history. Of the four big companies, only General Motors clearly has the financial strength to accomplish it unaided. American Motors, now partly owned by Renault, will depend on French resources. Chrysler depends on the U.S. Treasury. Of the four, Ford faces the widest uncertainties, and that's why Ford is leading the political campaign for protection.

With quotas holding down Japanese imports, Ford argues, it will be able to raise capital more easily and the transition will be speeded. But against that possibility the Reagan administration will have to weigh the certainty that quotas would lead to higher prices. It will also observe that in other industries—steel is an example—temporary protection has generally led not to efficiency and greater competitiveness, but to further pleas for further temporary protection.

Whether the resolution is passed or not, the Reagan administration will have to develop—rapidly—its own heat-resistant policy on imported automobiles. As Mr. Reagan suggested during the campaign, economic strength is not achieved by shutting out the competition.

LEGISLATIVE RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CARNEY) is recognized for 10 minutes.

● Mr. CARNEY. Mr. Speaker, it has become an established custom in the First Congressional District to submit to the people a yearend report on the activities of their Representative in Congress. As we prepare to bring to a close the 96th Congress, I would like to take this opportunity to report on the 2d session of this Congress.

As we reported at the close of 1979, very few of the issues before Congress were simple problems with simple solutions, but there were, and still are, particular problems which clearly deserve our utmost attention. Inflation, for example, was the foremost issue of the second session, just as it was in the first. Indeed, the people of America have repeatedly made known their demands for a solution to our economic woes. Election day, 1980, was solid evidence of their demand for a change in the heretofore ineffective approaches against inflation, as well as other problems of governmental intrusion in private lives and industry.

I believe that the Congress is closing this session with an eye toward the new administration as well as the new Congress in 1981. Certainly, there have been changes of a partisan nature, but also of a deeper philosophical nature. Discussions on Capitol Hill and even in the media revolve around new legislative initiatives that will become key items of the 1981 agenda in Congress. Much that has been neglected or stalled should be moved to the forefront in the next Congress.

Congress, especially the House of Representatives, will be most concerned with economic matters. Quite simply, the Constitution gives the "power of the purse" directly and explicitly to Congress. Unless the Congress both authorizes an expenditure and then appropriates the money for that expenditure, not 1 cent of Federal funds may be spent. The new administration has promised to work more closely with the Congress in solving our Nation's economic problems.

This 2d session of the 96th Congress saw a great many proposals come and go—and a great many votes to determine which way prevailed. I believe that a primary responsibility of any elected official is to insure that the voice of his constituents is heard on the issues. That is why I maintained a high attendance record on the floor of the House—the place where final amendments are proposed, and the place of ultimate judgment: no legislation becomes law unless passed on the floor of the House.

In fact, I am proud to note that I had the highest voting record of any member of the Long Island delegation. I was present for 1,369 recorded votes of the 1,428 taken to date in the 96th Congress, a percentage of 96 percent. In the 97th Congress, I will once again strive to maintain a high record to insure that Suffolk County is heard in Washington.

My votes on the many issues presented before the House were greatly aided by the responses I have received to reports sent during the year. Hundreds of constituents have written to my offices to express their appreciation for keeping in touch in this manner. I intend to continue making every effort in 1981 to keep all the residents of the First Congressional District informed of the activities and services of our offices.

While facing tough challenges to our Nation, the Congress must often act in ways which at times may not be considered beneficial to every individual or cause. But this year, and historically, our National Legislature—the Senate and the House of Representatives—has confronted a multitude of complex issues and has made great gains.

Certainly, there have been major achievements in this Congress. Our energy situation was recognized, considered, and significant actions were taken to alleviate our overwhelming dependence upon foreign petroleum supplies. While ending artificial and ineffectual regulations on domestic oil pricing, we provided the windfall profit tax to fund energy programs, and to return much of the money in the form of tax relief for all Americans. We included incentives in legislation for increasing domestic supplies of energy. We completed complex hearings and authorizations in the Science and Technology Committee for long-term energy development, including wind energy, various forms of exotic solar technologies, ocean thermal conversion, and new conservation techniques.

The House of Representatives gave special notice of our energy concerns when it considered the creation of a new standing Committee on Energy, a committee which would have consolidated the discussion and action on energy legislation in one suitable body. Unfortunately, not enough of my colleagues supported this measure as I did.

As reported at the end of the first session, the issues of inflation and energy are interconnected; our inflation rate will not be controllable as long as we continue to weaken our dollar and widen our balance of payments deficit by importing petroleum supplies. To improve our own economic status we must develop our own energy resources.

We did provide many alternatives in this second session, passing legislation to develop synthetic fuels, authorizing innovative programs in the Department of Energy, and taking Government regulations out of the producing sector in certain instances. Much more needs to be done, but we can be proud of the major strides made during the 96th Congress.

Another important achievement of the 96th Congress was its ability to recognize certain concerns of Americans and translate them into action. For example, there were many proposals which, while providing revenues to the Federal Treasury, would have caused untold hardships on American taxpayers. This Congress, to some degree, saw the oppressive burden of taxation and regulation and took action to alleviate that burden.

Specifically, Congress made clear its intention that social security benefits should not be subject to Federal income tax. Many Members felt, as I did, that such taxation would be a violation of the agreement the Federal Government has made with contributors to the social security system, and would be detrimental to those persons who rely on social security benefits as their only income. The proposal to tax those benefits is now, hopefully, dead.

When the Internal Revenue Service proposed implementation of a withholding tax on interest and dividends, the House of Representatives voted overwhelmingly to prohibit such an action. Here again was an effort to enhance the Federal cash flow at the expense of the American taxpayer.

The intent of Congress to ease the economic situation of Americans, especially in the vital area of savings, was made evident in other legislation as well. The Depository Institutions Deregulation Act was adopted which allowed interest-bearing checking accounts, and other vital reforms in savings regulations. In fact, I sponsored a measure to exempt from taxation up to $1,000 of interest income on savings per taxpayer. This would greatly assist American individuals and families who rely on their savings as an income supplement. In addition, the increased savings will aid the whole American economy which suffers from one of the lowest savings rates in the industrialized world, a condition which hampers our ability to invest and to improve productivity.

Hopefully, Congress will act favorably upon my legislation when it reconvenes in January.

The people of America want greater control over their lives and livelihoods. They desire Government to be effective, but no further removed than necessary. This is why the passage of an extension of revenue sharing was so important to this Congress.

Too many programs that are created by the Federal Government to aid States and localities are made ineffective by the strings attached to the money provided; that is, categorical grant programs. Revenue sharing, on the other hand, provides an efficient program of low administrative cost which allows the State or local government to use the funds in the manner best suited to the locality. In addition to its efficiency, it provides for a closer oversight by the people of any program and its benefits: The decisions are made where the problems exist.

Much of the credit for the continuation of this important program goes to one man, my Long Island colleague, Congressman John Wydler. He is retiring from the House at the end of this session, but no report on the activities of this Congress would be complete without noting his significant contributions to Long Island and America. His expertise and experience will be sorely missed in the 97th Congress.

Several pieces of legislation of great import to Long Island were passed by the House of Representatives this session, including some that I was pleased to cosponsor. Below are descriptions of the key elements of those measures.

The Ocean Dumping Act was one of these measures. The requirements of the act, to protect our waters from toxic substances, were extended to the Long Island Sound. Under this legislation, the latest and most effective tests available will be used to assess the impact of materials which enter the sound. The sound would be protected from dangerous pollution. In concert with the prohibitions on dumping in the New York Bight and the Atlantic shoreline, Long Island's precious waters will be preserved for future generations.

The American Fisheries Promotion Act will allow the United States to implement a national policy of fisheries development. The bill will gradually phaseout foreign fishing in U.S. waters, and provide revisions in Federal programs to insure benefits to the fisherman and not the regulatory bureaucracies. Provisions of this legislation could provide much-needed and long sought-after assistance to Long Island's vital fishing industry.

The Water Resources Development Act provides an unprecedented reform in Federal water policy, one which could at long last aid the Northeast section of our Nation. Included in the measure was the necessary authorization and appropriation for the stabilization of the Moriches Inlet, a vital project for navigational and safety concerns, as well as providing a source of stability for the entire bay.

Another direct benefit to Long Island of this Congress is the successful vote to establish a national tourism policy, along with a Cabinet-level coordinating council and a board to develop marketing and implementing plans and to promote foreign travel in the United States. Suffolk County certainly depends upon our tourism industry and will provide a beautiful location for such tourism promotion.

Other recent efforts of importance to Suffolk County are the three funds, or so-called superfunds to deal with the problems of environmental damage caused by oilspills, chemical spills, and hazardous waste sites. I supported these measures because we have an urgent responsibility to protect our environment as we continually utilize our resources such as offshore oil. Our navigable waterways are necessary avenues of transportation for many hazardous substances, but dangers to the environment must be compensated, as should individual victims of toxic spills. Long Islanders are well aware of the precious balance to be maintained between our economic growth and our environmental safeguards.

The last major area which I would like to discuss is defense. Unfortunate events in the last 2 years, such as the taking of the American hostages, the invasion of Afghanistan, and the attacking of our Embassy in Pakistan, have demonstrated the need for a sound foreign policy and a strong defense.

Congress recognized this need, I believe even more so than the administration. While the President's proposal for selective service registration was accepted and passed by the Congress, this effort is not sufficient to eradicate our military shortcomings. The Soviet Union has been building up their military forces for the past decade at an alarming rate, spending more than $100 billion in excess of American defense spending. In fact, I firmly believe that our steady decline in defense has encouraged the Soviet aggression of Afghanistan and the fanning of the Iran flames. Even the Joint Chiefs of Staff unanimously testified to the inadequacy of our military budget.

The security of our Nation is an essential Federal priority. After all, the most important social service a government can provide for its citizens is to keep them alive and free. I hope that the 97th Congress will effectively deal with the need to rebuild our defenses.

The voting summary printed below represents the highlights of the recorded votes taken by the House in 1980. I have tried to represent your interests to the best of my ability. The congressional office of the First District of New York exists to serve you. I welcome your advice and comments, and look forward to working together with you in the 97th Congress.

Date (1980)	Legislative issue	Carney vote
Jan. 24	Resolution approving the United States-China Trade Agreement granting "most-favored-nation" trade status to the People's Republic of China. (Approved, 321–74.)	No.
Jan. 30	Increase budget authorization for targeted fiscal assistance to $200 million, from $150 million, if the national unemployment rate is above 5 percent during the 1st quarter of a fiscal year. (Approved, 208–186.)	Yes.
Do	Resolution expressing appreciation to the Government of Canada for helping 6 American Embassy workers in Tehran escape from Iran. (Adopted unanimously, 370–0.)	Yes.
Jan. 31	Authorize, for fiscal year 1980, $1 billion in countercyclical antirecession fiscal assistance to State and local governments, and authorize a one-time $200 million payment to local governments only for targeted fiscal assistance. (Approved, 214–79.)	Yes.
Feb. 5	Authorize a number of water resources development projects to be built by the U.S. Army Corps of Engineers—including the stabilization of Moriches Inlet. (Approved, 283–127.)	Yes.
Do	Resolution to express the sense of Congress that the Soviet Union should release dissident Andrei Sakharov from internal exile, and that the President protest to the Soviet Union on its continued violations of human rights. (Adopted unanimously, 402–0.)	Yes.
Feb. 6	Agree to Senate amendment to House provision permitting the Small Business Administration to finance loans by borrowing from the Treasury Department, and requiring SBA to pay an interest differential only on these borrowed loan funds. (Approved, 384–17.)	Yes.
Feb. 12	Waive Federal labor laws requiring union membership or payment of union dues for workers who objected to membership on religious grounds. (Approved, 349–15.)	Yes.
Do	Amendment to allow a "one-house" legislative veto of EPA rules under the Noise Control Act provided the House or Senate acts within 60 days of the promulgation of a rule and the other chamber does not reject the veto within 30 days. (Approved, 253–103.)	Yes.
Do	Appropriate $15 million in each of fiscal 1980 and 1981 for the Environmental Protection Agency to carry out the provisions of the Noise Control Act and develop a 5-yr plan for noise control. (Approved, 288–70.)	Yes
Feb. 25	Motion to convene the House in secret session to discuss classified information on developments in Nicaragua—only the 2d secret session in 150 yr. (Approved, 290–74.)	Yes.
Feb. 26	Resolution expressing the sense of Congress that the President request the U.N. to send observers to refugee camps in Thailand to supervise relief assistance and ensure safety of Cambodian refugees. (Approved, 388–1.)	Yes.
Do	Amendment to Central American aid bill to require the President to terminate aid to Nicaragua if free elections were not held there by Dec. 31, 1981. (Rejected, 191–212.)	Yes.
Do	Amendment to require compensation by the Nicaraguan Government for expropriated United States property upon a determination of the Foreign Claims Settlement Commission. (Rejected, 192–197.)	Yes.
Feb. 27	Amendment specifying that no funds in Central American aid bill could be used to assist any schools in Nicaragua that housed, employed or were made available to Cuban personnel. (Approved, 235–166.)	Yes.
Feb. 28	Motion to recommit resolution to committee, to reduce funds for investigations and studies by the Armed Services Committee by $208,3.7. (Rejected, 68–323.)	Yes.
Do	Provide $776,000 for investigations and studies by the House Small Business Committee during 1980. (Approved, 343–57.)	Yes.
Do	Provide $1,896,800 for investigations and studies by the House Science and Technology Committee during 1980. (Approved, 257–145.)	Yes.
Do	Provide $1,682,171 for investigations and studies by the House Merchant Marine and Fisheries Committee during 1980. (Approved, 237–166.)	Yes.
Do	Provide $1,233,000 for investigations and studies by the House Select Committee on Aging in 1980. (Approved, 235–161.)	Yes.
Do	Motion to insist on House language establishing a legislative veto over Federal Trade Commission rules and regulations. (Approved, 257–115.)	Yes.
Mar. 5	Authorize an additional $2 billion a year for loans and extend through fiscal 1981 the Economic emergency agricultural loan program. (Approved, 392–22.)	Yes.
Mar. 6	Reduce authorization for United States contributions to the Inter-American Development Bank, and reduce contribution to its fund for special operations—the so-called soft loan window—from $700 million to $600 million. (Approved, 219–170.)	Yes.
Mar. 10	Allow businesses to form self-insurance cooperatives known as risk retention groups to provide product liability insurance. (Approved, 332–17.)	Yes.
Mar. 11	Provide $600,000 for investigations and studies to be conducted by the House Select Committee on Narcotics Abuse and Control during 1980. (Approved, 252–146.)	Yes.
Do	Provide $157,000 for investigations and studies by the House Select Committee on the Outer Continental Shelf in 1980 (Rejected, 183–218.)	Yes.
Mar. 13	Adopt conference report on bill to tax extra revenue going to the oil industry as domestic price regulations were lifted—the windfall profits tax. (Approved, 302–107.)	Yes.
Mar. 18	Extend the statute of limitations for 2 yr. to Apr. 1, 1982, for cases brought by the United States on behalf of Indian tribes. (Approved, 250–134.)	Yes.
Mar. 25	Motion to recommit legislation to committee with instructions to report back to the House an amendment to establish a new House standing committee on energy. (Rejected 125–282.)	Yes.
Mar. 27	Adopt Banking Deregulation Act to authorize interest-bearing checking accounts, phaseout interest rate ceilings on savings accounts, and reform Federal Reserve procedures. (Approved, 380–13.)	Yes.
Do	Authorize the House Standards of Official Conduct Committee to investigate alleged improper conduct by certain House members and employees in the FBI "ABSCAM" investigation. (Approved, 382–1.)	Yes.
Apr. 15	Remove maritime collective bargaining agreements with multiemployers from the Federal Maritime Commission's jurisdiction. (Approved, 358–2.)	Yes.
Do	Authorize additional $1.68 million for modernization of facilities at the U.S. Merchant Marine Academy at Kings Point, N.Y. (Rejected, 68–302.)	Yes.
Apr. 17	Recommit conference report on International Development Banks with instructions to restore House-passed amendments cutting overall U.S. contributions from $4 billion to $2.5 billion in 1979–82. (Approved, 211–180.)	Yes.
Do	Authorize the national sea grant program for ocean, coastal, and marine research and education for fiscal years 1981–83. (Approved, 373–13.)	Yes.
Apr. 22	Authorize transfer of $13.3 million to the Selective Service System to resume draft registration. (Approved, 219–180.)	Yes.
Apr. 23	Motion to table (kill) the resolution directing the President to provide to the House full and complete information regarding alleged United States concessions to Iran in exchange for the release of the American hostages. (Approved, 314–90.)	No.
Apr. 29	Increase fiscal 1980 budget ceilings by $3.1 billion in budget authority and $4.6 billion in outlays, reflecting revised estimates for existing commitments. (Approved, 244–173.)	No.
Apr. 30	Restore $2.3 billion in budget authority for State share of revenue sharing, and make offsetting cuts in categorical grants to States. (Rejected, 192–225.)	Yes.
Do	Increase total budget authority by $3.4 billion, reflecting reductions in defense function and reduction in the energy function. (Rejected, 74–313.)	No.
May 1	Increase defense programs by $5.8 billion in budget authority and $5.1 billion in outlays and make offsetting cuts in other programs. (Rejected, 164–246.)	Yes.
May 6	Reduce fiscal 1981 revenues to $599.9 billion, budget authority to $681.3 billion and outlays to $597.8 billion, and provide a $32 billion tax cut. (Rejected, 175–242.)	Yes.
Do	Reduce fiscal 1981 revenues to $603.5 billion, budget authority to $689 billion and outlays to $601.4 billion, and provide for a $31.7 billion tax cut. (Rejected, 191–218.)	Yes.
May 7	Adoption of fiscal 1981 budget resolution, setting revenues at $613.8 billion, authority at $694.6 billion, and outlays at $611.8 billion—a false balance. (Approved, 225–193.)	No.
May 8	Restore food stamp purchase requirement, except for the aged, blind, and disabled. (Rejected, 154–248.)	Yes.
Do	Require families who had received food stamps at some time during the year, but had annual incomes over 175 percent of the poverty level, to repay some or all of their food stamp benefits. (Approved, 241–147.)	Yes.
May 13	Authorize $16.7 million in fiscal 1981 for regulation of ocean dumping of wastes, designation of marine sanctuaries and research into ocean dumping alternatives, and $12 million in fiscal 1982. (Approved, 372–24.).	Yes.
Do	Appropriate $2,445,174,000 for food stamp program in the remainder of fiscal 1980. (Approved, 354–56.).	No.
May 14	Delete $200 million defense authorization for procurement of long lead items associated with the Strategic Weapons Launcher—an aircraft to substitute for the canceled B–1 bomber as a cruise missile carrier. (Rejected, 119–297.).	No.
May 15	Delete $500 million of the defense authorization for continued development of the MX intercontinental missile system. (Rejected, 152–250.).	No.
May 20	Require infant formulas to include minimum levels of nutrients required for human health, to raise Federal penalties for trafficking in large amounts of marijuana, and make other changes in drug abuse enforcement. (Approved, 388–15.).	Yes.
Do	Raise special pay for Veterans' Administration doctors and dentists, to make the special pay system permanent, to create a new service-connected scholarship program for doctors and nurses, and other VA health program changes. (Approved, 406–1.).	Yes.
Do	Disapprove the proposed rule by the Federal Energy Regulation Commission to expand the scope of incremental pricing—the change would have raised gas prices for all nonexempt industrial users. (Approved, 369–34.).	Yes.
May 21	Authorize defense weapons procurement and ceilings on manpower levels for the active and reserved armed forces. (Approved, 338–62.).	Yes.
May 22	Adoption of the conference report on the bill to revise the Social security disability insurance and supplemental security income disability programs, in order to provide new work incentives to disabled persons, and establishing a new, voluntary program of Federal certification of "Medicap" insurance policies sold to supplement medicare. (Approved, 389–2.).	Yes.
Do	Strengthen funding requirements for private pension plans covering employees of more than one company, permit financially troubled multi-employer plans to reduce benefits in certain cases, increase insurance premiums paid by employers to the Pension Benefit Guarantee Corporation and limit guaranteed benefit levels. (Approved unanimously, 374–0.).	Yes.
May 29	Motion to end debate and the possibility of amendment on providing for House floor consideration of the bill to extend the public debt limit at its existing level of $879 billion. (Rejected, 74–312.).	No.
Do	Approve the conference committee version of the budget resolution setting a fiscal 1980 deficit at $46.6 billion, and "balancing" the 1981 fiscal budget. (Rejected, 141–242.).	No.
May 30	Appropriate $49.7 million in fiscal 1980 for the Federal Trade Commission. (Approved, 236–106.).	No.
Do	Authorize courts in private antitrust cases to resolve issues against a defendant in the same way the issue was decided in a Government case against the same defendant, without a repetition of evidence. (Approved unanimously, 254–0.)	Yes.
June 4	Disapprove the oil import fee of $4.62 per 42-gal barrel that the President proposed—the "10¢ a gallon tax," (Approved, 376–30.)	Yes.

Date (1980)	Legislative issue	Carney vote
June 4	Extend the public debt limit at its existing level of $879 billion through June 30, 1980. (Approved, 208–198.)	No.
June 5	Reduce economic support fund aid to Zambia, from $27 million to $20.3 million. (Approved, 220–148.)	Yes.
Do	Eliminate $3.5 million in foreign aid to Syria. (Approved, 320–71.)	Yes.
Do	Decrease foreign aid authorizations by 10 percent, except for funds to Egypt, Israel, the United Nations Children's Fund, American schools and hospitals abroad, and certain other special instances. (Approved, 243–131.)	Yes.
Do	Passage, over the President's veto, of the bill to extend the existing debt limit of $879 billion, and to disapprove the President's oil import fee. (Approved, 335–34.)	Yes.
June 10	Extend, through Sept. 30, 1982, the pilot procurement and bond waiver programs under the Small Business Act. (Approved, 376–33.)	Yes.
Do	Authorize $426.8 million for fiscal 1980 for the Nuclear Regulatory Commission, and stiffen penalties for safety violations at nuclear reactor sites. (Approved, 386–9.)	Yes.
June 12	Passage of the bill to give the Federal Government new and unprecedented authority to enforce housing discrimination laws. (Approved, 310–95.)	No.
Do	Allow judges to award interest for the period prior to a final court judgement in antitrust cases. (Approved, 227–169.)	No.
Do	Limit the insurance sales activities of bank holding companies with over $50 million in assets. (Approved, 333–25.)	Yes.
June 13	Authorize $5.6 billion for fiscal 1981 for the National Aeronautics and Space Administration. (Approved, 285–29.)	Yes.
June 17	Allow the IFS to provide the Education Department with current addresses of persons who defaulted on higher education loans under the guaranteed student loan program. (Approved unanimously, 411–0.)	Yes.
June 18	Prevent the IRS from using any funds in the Appropriations bill to deprive any private, church-operated or religious school of its tax-exempt status. (Approved, 326–81.)	Yes.
June 19	Provide for a congressional veto of Interstate Commerce Commission or Transportation Department regulations of trucking. (Rejected, 189–192.)	Yes.
Do	Curtail Federal regulation of the trucking industry, increase competition in the industry, and allow individual firms greater ability to change rates. (Approved, 367–13.)	Yes.
June 24	Grant antitrust immunity to certain exclusive licenses owned by soft drink bottlers. (Approved, 377–34.)	Yes.
Do	Authorize $77.5 million to continue programs of the Federal Insecticide, Fungicide and Rodenticide Act and provide for a congressional veto of EPA pesticides regulations. (Approved, 392–22.)	Yes.
Do	Increase fiscal 1981 funding for energy supply, research and development by $107 million. (Approved, 254–151.)	Yes.
June 26	Authorize $20 billion to encourage development of synthetic fuels, $1.5 billion for alcohol fuels and urban waste, and $3 billion for a solar energy and conservation bank. (Approved, 317–93.)	Yes.
Do	Designate July 18, 1980 as "National P.O.W.–M.I.A. Recognition Day" honoring those Americans who were captured or missing in action in wartime. (Approved unanimously, 395–0.)	Yes.
July 1	Establish a national tourism policy, a Cabinet-level coordinating council and a board to develop marketing and implementing plans and to promote foreign travel in the United States. (Approved, 347–55.)	Yes.
July 2	Authorize supplemental appropriations for fiscal 1980 totaling $16.6 billion. (Approved, 291–117.)	No.
July 21	Provide a 13 percent cost-of-living increase in the rates of disability compensation for disabled veterans and raise benefits to survivors of disabled veterans. (Approved, 383–1.)	Yes.
Do	Provide a 10 percent increase in payments to persons receiving veterans' education program benefits, and make other changes in rehabilitation programs. (Approved unanimously, 383–0.)	Yes.
Do	Resolution stating the sense of Congress that social security benefits should remain exempt from Federal taxation. (Approved, 384–1.)	Yes.
July 23	Prohibit use of appropriated funds to administer or promote any trade between the United States and the Soviet Union. (Rejected, 124–284.)	Yes.
July 24	Amendment to rail deregulation bill to ensure against rail discrimination against any person, port, or type of traffic. (Rejected, 145–255.)	Yes.
July 28	Allow veterans to refinance at lower interest rates outstanding VA guaranteed home loans. (Approved unanimously, 382–0.)	Yes.
Do	Prohibit exports or imports of large amounts of currency without filing required reports; allow U.S. Customs agents to search for currency, and other revisions. (Rejected, 135–248.)	Yes.
Do	Withhold 2 percent of money earmarked for agencies under the HUD, independent agencies appropriations bill, except for the VA and any entitlements. (Approved, 228–151.)	Yes.
July 31	Provide $1 million for reconstruction of railroad bridge over the Hudson River at Poughkeepsie, N.Y. (Rejected, 129–263).	Yes.
Aug. 19	Prohibit the use of appropriated funds by the IRS for the study or implementation of a proposed withholding tax on interest and dividends. (Approved, 401–4.)	Yes.
Do	Prohibit the IRS from implementing new and more stringent vesting requirements for retirement plans under the Employment Retirement Income Security Act (ERISA). (Approved, 310–86.)	Yes.
Aug. 20	Prohibit the IRS from disqualifying any nonpartisan organization from tax-exempt status for reasons that they published or distributed voting guides on political campaigns. (Approved, 205–188.)	Yes.
Aug. 22	Authorize federally assisted housing programs and programs for community development. (Approved, 291–43.)	Yes.
Do	Extend and expand community mental health services programs, state mental health programs and mental illness prevention programs, and authorize funding through fiscal 1984. (Approved, 277–15.)	Yes.
Aug. 26	Provide a $790 million package of military benefits for certain members of the armed services. (Approved unanimously, 399–0.)	Yes.
Aug. 27	Revise and extend existing youth jobs programs, and establish a new program concerning the teaching of basic educational skills. (Approved, 337–51.)	Yes.
Aug. 27	Prohibit the use of funds by the Department of Education to implement proposed regulation requiring some school districts to provide instruction for non-English-speaking students in their native language. (Approved, 213–194.)	Yes.
Do	Exempt businesses, in industries with good safety records and having 10 or fewer employees, from regulations of the Occupational Safety and Health Administration (OSHA). (Approved, 225–178.)	Yes.
Sept. 3	Authorize $2.3 billion through fiscal 1983 for grants, scholarships, and other aid for schools and students of the health professions. (Approved, 368–8.)	Yes.
Sept. 4	Restore provisions of existing law providing semiannual cost-of-living adjustments in benefits to federal military and civilian retirees. (Approved, 309–72.)	Yes.
Sept. 9	Allow the Interstate Commerce Commission to review rates that exceeded certain thresholds, provide certain protections for shippers, and other revisions. (Approved, 369–6.)	Yes.
Sept. 16	Restore $100 million for military recruiting activities in Defense Appropriations bill. (Approved, 390–13).	Yes.
Sept. 17	Extend the Federal crop insurance program and provide subsidies for premiums. (Approved, 235–150.)	Yes.
Do	Amendment stating U.S. opposition to official observer status in the International Monetary Fund for the Palestine Liberation Organization (PLO.) (Approved, 386–2.)	Yes.
Sept. 19	Tighten funding requirements and reduce government liability for multiemployer pension plans, amending the 1974 ERISA provisions. (Approved, 324–1.)	Yes.
Do	Create 2 $375 million funds to clean up oil and chemical spills into navigable waterways, and to compensate victims of such spills for certain damages. (Approved, 288–11.)	Yes.
Sept. 23	Phaseout foreign fishing in U.S. waters and provide for U.S. fisheries research and development. (Approved, 300–97.)	Yes.
Do	Raise to $5 million from $2 million the size of an offering of securities allowed under the SEC's simplified reporting procedures and exempt certain "venture capital" companies from old provisions. (Approved, 395–1.)	Yes.
Do	Amend inspection and manning laws for small vessels carrying passengers or freight for hire and to subject all offshore supply boats to Coast Guard safety inspectionand manning requirements. (Approved, 279–111.)	Yes.
Do	Create a $1.2 billion "superfund" to clean up abandoned hazardous waste dump sites. (Approved, 351–23.)	Yes.
Sept. 24	Appropriate $12.1 billion in fiscal 1981 for the nonfossil energy programs of the Energy Department, water projects and independent agencies. (Approved, 273–117.)	Yes.
Sept. 30	Authorize U.S. intelligence agencies spending and activities for fiscal 1981 and to revise the law governing congressional oversight of the intelligence community. (Approved, 385–18.)	Yes.
Do	Adopt conference report on bill to appropriate $5.1 billion for military construction in fiscal 1981, including air and naval base facilities in the Indian Ocean and Middle East regions. (Approved, 342–29.)	Yes.
Oct. 1	Authorize grants to school districts with large influxes of Cuban, Haitian, and Indochinese refugees for education and social services for refugee children. (Approved, 303–94.)	Yes.
Do	Provide that the Federal Communications Commission, in considering applications for the renewal of broadcast licenses, shall not take into account any ownership interests of the applicant in other stations or communications media. (Approved, 310–97.)	No.
Do	Resolution providing for a Congressional recess between Oct. 2 and Nov. 12, 1980. (Approved, 230–173.)	No.
Do	Amendment to delete proposal to allow the government to pay attorney's fees in certain circumstances to individuals and small companies who prevailed in litigation against the Government. (Rejected, 48–357.)	No.
Do	Provide Federal funds to States to set up shelters for victims of domestic violence. (Approved, 276–117.)	Yes.
Do	Prohibit surprise police searches of newsrooms and organizations involved in activities protected by the 1st amendment of the Constitution. (Approved, 357–2.)	Yes.
Nov. 13	Substitute bill to extend the revenue sharing program for 3 yr, through fiscal 1983, provide an entitlement of $4.6 billion annually for local governments, and authorize appropriations of $2.3 billion annually in fiscal 1982 and 1983 for State governments. (Approved, 2 5–118.)	Yes.
Do	Final passage of legislation extending the revenue sharing program for 3 yr. (Approved, 345–23.)	Yes.
Nov. 17	Create a regional planning council for electric power generation and conservation in the Pacific Northwest. (Approved, 284–77.)	Yes.
Do	Resolution stating the sense of Congress that Japan should make additional efforts to help correct its trade imbalance with the United States. (Approved, 363–2.)	Yes.
Do	Resolution expressing the sense of the House that a special American Bar Association Committee should cease its policy of reluctance to recommend judicial nominees who are over the age of 60. (Approved, 341–19.)	Yes.
Nov. 18	Set binding budget levels for the fiscal year ending Sept. 30, 1981, as follows: budget authority, $698.5 billion; outlays, $631.75 billion; revenues, $606.7 billion—a deficit of $25.05 billion. (Approved, 203–191.)	No.
Do	Provide a $50,000 lump-sum payment to the survivors of Federal law enforcement officers or firefighters "killed in the line of duty because of some outside force." (Approved, 313–56.)	Yes.
Nov. 19	Allow juvenile court judges to jail certain youthful offenders who violated valid court orders regulating their behavior. (Approved, 239–123.)	Yes.
Do	Delete from the Farm Credit Act new authority for the farm credit system to finance agricultural exports. (Rejected, 47–328.)	No.

Date (1980)	Legislative issue	Carney vote
Nov. 20	Authorize appropriations for the Department of Energy for national security programs for fiscal year 1981. (Approved, 333–39.)	Yes.
Nov. 21	Adopt conference report making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending Sept. 30, 1981. (Approved, 240–59.)	Yes.
Dec. 2	Authorize the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States. (Approved, 317–57.)	Yes.
Do	Make further continuing appropriations for the fiscal year 1981, in lieu of regular appropriations legislation. (Approved, 272–106.)	No.
Dec. 3	Amend the Solid Waste Disposal Act to provide further authority to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a hazardous waste response fund ("superfund"), to establish prohibitions and requirements concerning inactive hazardous waste sites, and to provide for liability of persons responsible for releases at such sites. (Approved, 274–94.)	Yes.
Dec. 4	Agree to conference report making appropriations for Agriculture, Rural Development, and related agencies programs for the fiscal year ending Sept. 30, 1981. (Approved, 325–25.)	Yes.
Do	Agree to conference report to extend the Federal Insecticide, Fungicide, and Rodenticide Act until Sept. 30, 1981. (Approved, 334–13.)	Yes. ●

A PROPOSAL FOR CUTTING THE FISCAL YEAR 1981 BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANNEMEYER) is recognized for 30 minutes.

Mr. DANNEMEYER. Mr. Speaker, with inflation running at an annual rate of 13 percent and interest rates headed back up to the 20-percent level, the wisdom of cutting the Federal budget should no longer be in doubt. The big question is by how much.

In response to that question, two points are frequently raised. One is a humanitarian consideration: Can the budget be cut without causing the sick, the poor, and the elderly undue suffering? The other is more technical in nature; given the fact that roughly 75 percent of all Federal expenditures are for entitlement programs and are, therefore, "uncontrollable," is it even possible to make significant budget reductions? If the negative were the only answer to either proposition, the prospects for meaningful budget cutting would be bleak indeed, but such is not the case. There is enough fraud, waste, and just plain fat in the budget that major cuts could be made without causing anyone undue hardship. Likewise, the very fact that entitlement programs were a creation of Congress suggests that they can be amended by Congress also. As with cutting fraud and abuse, it is simply a matter of willpower.

This proposal for cutting the budget is certainly not unique. But for purposes of stimulating discussion, it is more specific than most and it is geared toward eliminating the $51.5 billion deficit, including off-budget items, being projected by the Office of Management and Budget for fiscal 1981.

In brief, it calls for budget cuts in fiscal 1981 of at least $56 billion and it identifies another $14.7 billion in cuts that could be made if the deficit is larger than is expected or, as one would hope, a tax cut is adopted.

In reaching these figures, the aforementioned would, at a minimum, eliminate 44 offices, councils, commissions, bureaus, boards, and agencies while terminating 24 Federal programs in their entirety.

Examples of agencies to be eliminated include the Council on Wage and Price Stability, the Legal Services Corporation, the Federal Energy Regulatory Commission, the National Consumer Cooperative Bank, and the Cultural and Technical East-West Interchange Center. Programs that would be dropped include the regional development program, the international commodity agreements program, the highway 'beautification program, the maritime construction subsidies, and the U.N. Development Program.

However, the cuts would not impact on people legitimately receiving social security or medicare benefits, nor would the proposal deny welfare, food stamps, or health benefits to the truly needy. In point of fact, what it would do is prioritize spending on the one hand while attacking fraud and mismanagement on the other.

Of course, not everyone agrees with all of the budget priorities outlined in this proposal or in any other proposal, for that matter, nor would I expect them to. Rather, it is to be hoped two things will result from it. One, realization that a $50-billion-plus cut in the fiscal 1981 budget is indeed possible; and, two, further discussion of how such a cut might best be achieved.

Farfetched as these goals may seem to some, their achievement is essential if the United States is to get off the economic rollercoaster and back on the road to financial stability.

☐ 1720

As an example of where these cuts would take place, I would like to read the projection as outlined in this summary as follows:

SUMMARY

[Dollar amounts in thousands]

Department	Estimated fiscal year 1981 outlays	Proposed cuts	Percent cut
Legislative	$1,314,042	$18,543	1.41
Judiciary	649,243	0	0
Executive Office	115,540	29,030	25.13
Funds appropriated to the President	5,964,298	3,597,594	60.32
Agriculture	20,786,103	5,208,066	25.06
Commerce	2,884,146	427,729	14.83
Defense—Military	153,879,000	5,883,395	3.82
Defense—Civil	3,079,834	980,000	31.82
Education	13,337,065	1,819,081	13.64
Energy	8,400,352	1,643,385	19.56
Health and Human Services	224,069,030	11,221,349	5.01
Housing and Urban Development	11,918,854	2,512,209	21.08
Interior	3,995,554	313,757	7.85
Justice	2,550,523	496,895	19.48
Labor	39,355,532	5,916,331	15.03
State	2,162,524	230,882	10.68
Transportation	17,687,288	1,223,631	6.91
Treasury	78,295,798	669,098	.85
EPA	5,519,345	705,784	12.79
NASA	5,207,600	60,970	1.17
VA	21,736,728	553,016	2.54
Other independent agencies	33,488,132	4,700,767	14.04
Undistributed offsetting receipts and interfund transfers	(−24,005,342)	NA	NA
Adjustments	NA	1,598,000	NA
Miscellaneous actions	NA	6,177,372	NA
Off-budget items	21,740,311	NA	NA
Subtotal	655,531,500	55,986,884	8.54
Alternative options	NA	14,691,466	NA
Total	655,531,500	70,678,350	10.78

Now, a good question will arise: Where in the world did you get those recommendations? Did you just pick them out of the air? Where is your meat ax? How are you going at it?

My friends, let me suggest that the work product that I just read, in part, is a responsible, deliberate attempt to make a meaningful reduction in Federal spending for fiscal year 1981. There are 264 specific items mentioned in this study. These recommendations came from the following sources:

The Congressional Budget Office, 1; the General Accounting Office, 30; a book written by a reporter by the name of Lambros, entitled, "Fat City," who, in that book, identified $100 billion of cuts if we but have the will and the determination to do it; recommendations of the Health, Education, and Welfare Department, 2; recommendations of the Republican Study Committee, 2; recomendations of the GOP Study Task Force, 54; and then multiple recommendations of the preceding six shared between them, or, rather, totaling 39. And independent recommendations, largely prepared as a work product of my office, 101. That totals some 264.

What is the status of the American opinion on the issue? Very clearly, the voters of this country are far ahead of the Members of Congress with respect to the necessity of performing budget cuts of the magnitude I have described.

For example, CBS-New York Times, September 19 to 21, of this year, a nationwide poll, reported: Which is more important? Balancing the budget was the choice of 57 percent of those polled. Cutting taxes was the choice of 14 percent.

In a Gallup poll of August 1980, nationwide, the question was posed "If spending for defense increases, how should the revenue be raised?"

The answer "Reduce other Government expenditures" was checked by 77 percent of the respondents.

In the last 10 years the Federal Government has increased in size 30 percent more than inflation. What are these added Government services worth today? That question was also asked as a part of the Gallup poll in August 1980. The respondents reported that they were worth less, 56 percent; the same, 25 percent; the value was more, 5 percent; and undecided, 14 percent.

The essence of these polls is quite clear. The American people are demanding that we, the Congress, get our fiscal house in order. These polls reflect that. The study indicates it can be done.

Let me give the Members just an example of some of the agencies which we have eliminated by this proposed budget reduction:

Office of Technology Assessment; Council and Office of Environmental Quality; Council on Wage and Price Stability; International Development Association; Institute for Scientific and Technological Cooperation; National Telecommunications and Information Administration; National Board for the Promotion of Rifle Practice; Federal Energy Regulatory Commission; National Institute of Education; National Council on the Handicapped; Administration for Public Services; Office of Consumer Affairs; New Community Development Corporation; Office of Justice Assistance, Research and Statistics; Women's Bureau, Department of Labor; National Consumer Cooperative Bank; Energy Supply R. & D./EPA; U.S. Regulatory Council; Administrative Conference of the United States; Arms Control and Disarmament Agency; Advisory Committee on Federal Pay; Commission of Fine Arts; Committee for Purchase from the Blind and Other Severely Handicapped; Federal Mine Safety and Health Review Committee; Foreign Claims Settlement Committee; Consumer Information Center and Public Services; FDR Memorial Commission.

Someone has observed that it is a fitting observation, a memorial to F. D. R., that is the size of the Federal Government today, and the question is raised: Do we really need such a commission continuing in existence 35 years after the death of that noted President?

Advisory Commission on Intergovernmental Relations; Appalachian Regional Commission; Delaware River Basin Commission; Interstate Commission on the Potomac River Basin; Susquehanna River Basin Commission; Cultural and Technical East/West Interchange Center; Legal Services Corporation; Marine Mammal Commission; National Commission on Libraries and Information Science; National Institute of Building Sciences; National Mediation Board; Neighborhood Reinvestment Corporation; Nuclear Safety Oversight Committee; Occupational Safety and Health Review Commission; Office of Federal Inspector for Alaska Natural Gas Transportation System; U.S. Metric Board; and, finally, No. 44, Water Resources Council.

The programs that would be eliminated entirely, some 24, are as follows: Interantional Commodity Agreements; special national forests; regional development program; maritime construction subsidies; area and regional development; U.N. development program; White House Conference; work incentives; congregate services program; urban development action grants; interstate land sales; Bureau of Mines, helium fund; Northwest Indian fishery fund; highway beautification; bicycle program; car/van pool support program; auto use management; State and community highway safety; rail labor assistance/Conrail; Alaska Railroad revolving fund; local government transition assistance; ACTION's urban volunteer program; national defense stockpile transfer fund; special foreign currency program, Smithsonian Institution.

And, finally, Mr. Speaker, let me close with this observation: Does anybody in this chamber have any serious question as to what impact would take place on the credit markets of this country if the Federal Government would remove itself from the necessity of borrowing the deficit which is contemplated between now and September 30 of the next year? We have, roughly, 10 months to go in fiscal 1981.

The Federal Government, our Central Government, is programed to borrow, go into debt on top of the approximate $900 billion existing debt, some $60 billion. When the Federal Government borrows that money, it is in competition with every consumer and private-sector borrower in the country.

The reason we have the extraordinarily high interest rates we have in the country today is because the irresponsible spending of this Congress through these repetitive deficits over the decades, particularly the 1970's, has resulted in the demand on credit in the credit system.

So the Federal Reserve Board is pressured, necessarily, by inference, to attempt to fight inflation itself. By how? By increasing credit costs so that every consumer in this Nation must pay. What has been the effect? We have almost stifled the automobile industry and the housing industry, because who in the world in our country can afford to service a mortgage on a house paying 15 or 16 percent first trust deed mortgage money? The answer is: Very few of us. That is one of the reasons we have almost no movement in the housing industry. Why, people are frustrated in our society.

□ 1730

We are slowly watching the disappearance of the American dream. Why? Because of the irresponsible spending habits of this Congress in which we are privileged to serve. If we remove in a responsible way the demand of the Federal Government for credit to the tune of $60 billion over the next 10 months, that would make a dramatic impact on the cost of credit for every consumer in this country. We would revitalize the abiltiy of the automobile industry to begin selling cars to people in this country, because people could afford to pay the interest costs to buy those cars. People could afford to buy houses and condominiums because the cost of credit would go down. We, the Congress, would take the pressure off the Federal Reserve System to lower those rates, and join with them in fighting the inflation that threatens to destroy the very fabric of our society.

We created it; the Congress did. We, the Congress, can make it go away—that is, inflation—if we but have the will to do it. That is what this program is about. I would urge the Members to give serious consideration. Each of you has been furnished with a copy of this analysis, and I would commend it to your serious attention so that we may adopt it and get on with rebuilding the strength and vitality of the economy in this country.

INTERNATIONAL COMMUNICATIONS REORGANIZATION ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I am pleased to join my colleague, the gentleman from North Carolina (Mr. PREYER), in introducing the International Communications Reorganization Act of 1980. This bill is designed to do exactly what its title implies: To develop and implement a uniform, consistent, and comprehensive U.S. policy on international communications and information.

Traditionally, this Nation has supported the concept of minimum restrictions on the flow of goods and information, believing as we do that this freedom is vital to the continued socioeconomic growth of all people. As a result, the United States has emerged as the world's major information producer. We manfacture more communications gear, computers, and satellites than any other nation. We produce more movies, television programs, news, and economic data than anyone else—and we transmit and process all this information on more computer hardware than any other nation.

There is now little question that the information stored in advance communications and computer technology is the life blood of governments and industry. As with any resource of such importance, the potential for abuse is great. The passage of privacy and data protection legislation by many industrialized nations, including the United States, during the past several years has been to some extent a reaction to this potential for abuse. Many of these laws were intended to protect the privacy of individuals who might be compromised if personal data were transmitted outside the country in machine-readable form.

However, we are now seeing the emergence of national privacy legislation which is actually aimed at erecting new trade barriers. Sweden, France, and West Germany in particular have all enacted laws establishing some form of national "data board" to monitor the use and storage of information. They have discovered the simple fact that to block data flow in the 1980's is to block trade. Perhaps worst of all, the building of information walls around a nation in the name of "privacy" has led to a hodge-podge of differing requirements which are incompatible. While I believe that nations may have the sovereign right to regulate information, I also believe that such national laws must be harmonized in order to strike the proper balance between privacy protections and the free interchange of information.

Accordingly, the time has come for the United States to take a leadership role in harmonizing international laws concerning data flow. This bill represents the first step—the step that will insure that the United States speaks with one voice when addressing international communications issues. Mr. Speaker, throughout history all nations have benefited significantly from information exchange of all kinds. The long tradition of free speech in the Western World is the very foundation of international understanding and has been fundamental to the arts, science, media, and commerce. It is my hope that this bill will enable the United States to reorganize itself again into an effective spokesman for this tradition.●

USE OF LOCAL FIRMS IN CORPS OF ENGINEERS CONTRACTING PROCEDURES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am today introducing legislation which is designed to grant the Corps of Engineers greater flexibility in awarding contracts for emergency flood repair work in order to favor local business firms in the affected area.

The language which I am proposing to incorporate in Public Law 84-99, the Emergency Flood Control Act, is identical to that which is presently included in the Disaster Relief Act of 1974. It is designed to provide the corps with some authority to favor the work of local firms without contravening existing procurement law which requires that awards be made to the lowest and most qualified backer.

There is obviously a great deal of advantage gained through the utilization of business firms which are located and obtain the majority of their employment in the disaster-stricken region. These firms are conscious of the need to retain a good reputation among those with whom they must work and interact on a frequent basis. Additionally, the familiarity of a particular local firm with the project site can be invaluable in enabling prompt and responsive action to be taken in the event future flood damage occurs at a particular site.

In my own congressional district in central California, flood damage along the major rivers in the area has occurred periodically in the past. Restoration of levees and other protective works is frequently undertaken by the Corps of Engineers under the authority of Public Law 84-99. The experience in this area has been that the work performed by firms from outside the area is often less efficiently and less conscientiously performed than that of local businessmen.

Under existing law, the corps may limit the area in which it solicits bids, thereby influencing to some extent the number and location of firms which are likely to submit proposals for a project. However, if a responsible contractor from outside the region were to learn of the contract and submit a bid slightly lower than that of a local firm, the corps would be obligated to award the contract to the outside businessman.

If the language which I am proposing were adopted, the corps would have sufficient authorization to permit local contractors to reduce their bids during negotiation procedures in order to meet the low proposal. Implementing this type of flexibility can provide an effective means of favoring local contractors while still guaranteeing that the Federal sponsor obtained reliable services at the lowest price possible.

Following is a text of the bill:

H.R. 8448

A bill to require the Chief of Engineers to give preference to local firms in awarding contracts for certain emergency repairs and restoration of flood control works

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Flood Control Act of August 18, 1941 (33 U.S.C. 701n(a)) is amended by adding at the end thereof the following: "Whenever the Chief of Engineers carries out any work under this subsection by contract, he shall give preference in the awarding of such contract, to the extent feasible and practicable, to organizations, firms, and individuals residing in or doing business primarily in the area where the work is to be performed.".●

GEN. ALEXANDER HAIG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, Alexander Haig is an individual eminently qualified to serve as Secretary of State. As SACEUR, he commanded the respect of our NATO allies, engaged in sensitive intra-Alliance negotiations, and instigated many creative and important reforms in NATO for which both Republican and Democratic administrations have worked. He knows the U.S. military establishment while his unique experience in the White House has familiarized him with executive branch bureaucracy and decisionmaking.

At a time of dissension and difficulty within the Atlantic community, Alexander Haig would bring to the job of Secretary of State a keen understanding and knowledge of Europe. And, as the Soviet threat increases, his understanding of the connection between military power and political clout would serve U.S. interests well.

I do not agree with those who argue that Alexander Haig's military background disqualifies him for the position of Secretary of State. Of course, he would have to resign from the Armed Forces prior to assuming such a post. But I would like to point out that one of the U.S. most distinguished Secretaries of State—George C. Marshall—came to that office from the U.S. Army.

Moreover, Alexander Haig's role in the Watergate episode should not preclude his nomination as Secretary of State. General Haig should not have to confront continued innuendo and allegations about his role in Watergate which I, personally, have never seen substantiated. If there are questions about his integrity, he can answer them during Senate confirmation hearings.

In my view, General Haig's service to the American people under both President Nixon and President Ford was exceptional and superior. If he is nominated, he should be scrutinized closely and I am confident he will emerge with prestige enhanced.

And the prospect that certain Democrats might drag out Watergate one more time in an attempt to shame Republicans should not deter President-elect Reagan from selecting his Cabinet members on the basis of their qualifications. Governor Reagan has won a clear mandate from the American electorate which also elected a Republican-controlled Senate and many new Republican Members to the House. An unfortunate effort to detract from that fact by tarring Ronald Reagan with a Watergate brush is no way to initiate the bipartisan Congressional-White House cooperation this country desperately needs.●

THE ASSASSINATIONS IN EL SALVADOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. HARKIN) is recognized for 60 minutes.

Mr. HARKIN. Mr. Speaker, I want to take a little time this afternoon to talk about the four Americans who lost their lives in El Salvador last week.

Mr. Speaker, I would initially yield such time as he may consume to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I

thank our distinguished colleague from Iowa (Mr. HARKIN), and I commend him for taking this time to discuss the tragic and deteriorating situation in our neighboring country of El Salvador.

Mr. Speaker, this is a situation which almost defies description. We have a country that is lapsing into anarchy, and rival gangs of leftists and rightists and the military and former military are roaming the country raping, pillaging, and murdering. I have followed this with particular closeness, Mr. Speaker, because for 2 years one of my sons was a church missionary in El Salvador. Thank God, he came back in February 1979, and every time I read of the slaughter of some church person, be he a native Catholic Church layman or clergy in El Salvador or a missionary from the United States or some other country, I think, "There but for the grace of God lies one of my sons."

Mr. Speaker, we have all had this brought home most forcefully by the terrible assassinations recently of four Catholic women from the United States, three sisters and one lay missioner.

Mr. Speaker, unfortunately this is not either the first of such incidents, nor is it an isolated incident. The Maryknoll order, in their release about this particular tragedy, have this to say:

> Maryknoll Sisters have been working to feed and provide shelter for the many refugees who are fleeing the widespread upheaval and violence in El Salvador. Evidence provided by reliable sources close to the situation indicates that the military was instrumental in the disappearance and death of these four women.

Mr. Speaker, in November of this year the Organization of American States, Inter-American Committee on Human Rights, published a report—or rather the Washington Office on Latin America, published a summary of the earlier report of the committee, and the Washington Office on Latin America had this to point out:

> Analysis and data compiled by both International and Salvadoran human rights organizations indicate that rights violations, particularly the problems of right to life and disappearances, from January 1980 onward, far surpass the violations verified by the OAS–IACHR in January, 1978, during the General Romero regime.

They go on to point out:

> In the 1980 report, the OAS-IACHR expresses, "its special concern for the relative passivity of the government toward certain armed groups that still maintain ties with former security organizations and with the dissolved organization ORDEN, which appear responsible for hundreds of death; it expresses its concern as well for the lack of an adequate and effective investigation of these crimes."

The article goes on to say, in its 1979 report, the committee concluded that,

> Priests, members of religious orders and lay persons who cooperate actively with the Church have been the object of systematic persecution by the authorities and organizations that enjoy the favor of the government.

The report concludes:

> That the necessary measures be taken to prevent continuation of the persecution of the members of the Catholic Church who act in legitimate exercise of their pastoral mission.

The article goes on to say:

> Persecution against the Church has intensified in the latter half of 1980. This year alone four priests have been assassinated, and great numbers of the 2,811 peasants killed by government forces through September of this year belonged to Christian community groups.

Mr. Speaker, perhaps this terrible tragedy of the four American Catholics who were just recently assassinated is, in some ways, God's way of telling the American people what is going on in El Salvador. What is to be done about it? The Washington Post yesterday, in an article datelined San Salvador, December 7, reported that:

> Col. Adolfo Arnoldo Majano, widely regarded as the most liberal member of El Salvador's five member junta, was forced out of the government today by a vote of the armed forces amid negotiations expected to restructure completely this embattled country's government.
>
> Majano made it clear that he had not resigned voluntarily, and his political future was unclear.

The article goes on to point out that the leader of the Christian Democratic Party, Napoleon Duarte, left open the possibility the Christian Democratic Party would withdraw from the government within a few days.

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And it quotes him as saying—

> If there is no solution, we should leave the government. In order to control this country (there must be) authority. That authority can come from the right or the left. We're proposing democratic authority.

Mr. Speaker, our Government has wisely sent a factfinding commission to San Salvador and has suspended military aid to the junta until that commission makes its report.

I will only say this: that if the remaining military forces in the junta have any idea that they can act with impunity because a more conservative administration is due to take office in this country in about 6 weeks or so, they should consider the fact that the American people have a sense of decency and a belief in democracy that goes far beyond and far deeper than any transition from one administration to another, that this kind of atrocity is not to be tolerated by the American people under any circumstances, and that if we are to continue to aid those who have power in El Salvador or other of our neighboring countries, for that matter, certain respect for the decency of mankind must be observed.

Mr. Speaker, the four American women who were abducted and brutally murdered in El Salvador, Ita Ford and Maura Clarke, nuns of the Maryknoll order, Sister Dorothy Kazel of the Ursuline order, and lay missioner Jean Donovan were apparently abducted on December 2 on their way home from San Salvador airport. Their bodies were found the following day about 30 miles from San Salvador, and they were hastily buried in an unmarked grave by local officials. On Thursday, December 4, their bodies were exhumed and identified by friends, including U.S. Ambassador Robert White. Three of the women had been shot in the head, one in the chest, and at least two had been raped.

If the deaths of the four women follow previous experiences in El Salvador, we may never know who was responsible for the murders. However, there are apparently strong indications that El Salvador's military was involved. A spokeswoman for the Maryknoll order stated that—

> Evidence provided by reliable sources indicates the military was instrumental in the death and disappearance of these four women.

The four women were ministering to the poor in El Salvador, working with refugees who had fled to refugee camps to escape fighting between guerrillas and government troops. Sister Kazel and Ms. Donovan both of whom came from my own State of Ohio, worked at a mission in La Libertad as teachers for adults and children. They also ran a nutrition program for pregnant women. As a nun praying at their common grave said, "Helping others cost them their lives."

As the deaths of Sisters Clarke, Ford, and Kazel, and Ms. Donovan clearly demonstrate, the Catholic Church is not immune from the escalating violence in El Salvador. Nine priests have been killed in recent years. You will recall that last year, Archbishop Oscar Romero, a leading advicate of moderation, and a spokesman for those who sought to bring an end to the violence in El Salvador, was assassinated as he celebrated an evening mass. Prior to the murder of the four American Catholics, two Salvadoran priests, Marcial Serrano and Ernesto Abrigo, disappeared under mysterious circumstances.

Since the mid-1970's, many of the Catholic Church's priests have openly advocated the restructuring of Salvadoran society. The church has been at the forefront of the struggle against human rights violations in El Salvador, and, as a result, has itself been the target of the violence it seeks to prevent.

As horrifying as the deaths of the four women are, I am moved to remind my colleagues that they are four more deaths in a country which has already seen the death of at least 9,000 Salvadorans this year alone. Two weeks ago, for example, five key opposition leaders were kidnaped and assassinated by a right wing death squad—known as the Comando Maximiliano Hernando Martinez—allegedly with the cooperation of the police and the military.

The situation in El Salvador does not present U.S. policymakers with many options. The administration has sought to support the present government as being the only moderate alternative in a country which is becoming increasingly polarized. Yet there are repeated statements from church officials and human rights groups which indicate that elements within the government are indirectly and directly involved with the repression that has become so prevalent in recent months. The 1980 OAS Commission on Human Rights report on El Salvador expresses "concern for the relative passivity of the Government toward certain armed groups that still maintain ties with former security organizations and with the dissolved organization ORDEN (an official paramilitary organization, dissolved in 1979), which appear responsible for hundreds of deaths."

There are now indications that the ruling junta in El Salvador may have taken a decisive turn toward the right. The forced resignation, on December 7, of Col. Adolfo Arnoldo Majano—a relative liberal in the junta—indicates a shift of power favoring Col. Jaime Abdul Gutierrez, widely regarded in El Salvador as a staunch conservative.

Regardless of the direct complicity of the government in the killings which continue in El Salvador, it is obvious that the government is, at the least, unable to control elements within it which act with relative impunity to carry out acts of political terror.

I commend the decision of the Carter administration to suspend new economic and military aid to El Salvador pending the outcome of an investigation of the murder of the four Americans. I urge the administration to make the findings of the investigation public as soon as possible.

In addition, I urge my colleagues to speak out so that those who have committed this terrible crime will know what we in Congress will not let such acts pass with impunity, at least, in so far as it should appear that the Government of El Salvador is involved. The most fitting tribute to these martyred angels of mercy, Sisters Ford, Clarke, and Kazel and Ms. Donovan, will be an end to this barbarous violence against the people of El Salvador.

Mr. Speaker, the full texts of the statement of the Maryknoll order and the articles I referred to follow these remarks:

Statement by the Maryknoll Order

The bullet-marked bodies of four U.S. missionary women, missing in El Salvador since Tuesday evening, December 2, have been found and identified as Maryknoll Sisters Maura Clarke from Queens, N.Y. and Ita Ford, from Brooklyn, New York; and the Cleveland Diocese missionaries Sister Dorothea Kazel of the Ursuline order and Miss Jean Donovan lay missioner. Last seen as they boarded the COPA in Managua, Nicaragua, Sisters Maura and Ita were to be met by Sr. Dorothea and Miss Donovan when they landed in the neighboring country of El Salvador. Twenty-four hours passed before the four women were reported missing. Shortly afterward, Sister Dorothea's vehicle was found empty and burned not far from the airport of the Capital city of San Salvador.

The four women chose to remain in the Central American country of El Salvador despite the volatile situation in that country and the possible danger to their lives.

For some fifty years the Salvadorean people have been struggling for freedom from military rule. Disappearances and killings are nothing new to this war torn country but instead, have increasingly become the order of the day. It is estimated that 9,000 people in the last year alone have been killed. 80 percent of these deaths have been attributed to paramilitary groups, covertly backed by the government.

The Catholic Archdiocese of San Salvador following the lead of the Latin American Bishops' Conference in Puebla, Mexico, 1978, opted for the cause of the poor and has suffered widespread persecution as a consequence. To date, 10 priests including Archbishop Oscar Romero, have been killed. Numerous committed religious and lay Christians have likewise been persecuted for defending basic human rights in that country.

Maryknoll Sisters Ita Ford and Maura Clarke had been working to feed and provide shelter for the many refugees who are fleeing the widespread upheaval and violence in El Salvador. Their presence and ministry received the full support of their Congregation who state in their official documents: "Solidarity with the poor is not an option but a sign of the Kingdom that must be made explicit in our day."

Evidence provided by reliable sources close to the situation indicates that the military was instrumental in the disappearance and death of these four women.

[From the Organization of American States-Inter-American Committee on Human Rights (OAS-IACHR) Report, March 1979]

Conclusions and Recommendations

In early 1978, the OAS-IACHR conducted an onsite visit to El Salvador. In March 1979, the Commission published a comprehensive report, which drew worldwide attention and acclaim for its balanced, in-depth study of the human rights situation, as well as of the long-standing political and economic factors that contributed to continued violation of basic rights. The October 1979 OAS General Assembly Meeting in La Paz, which was to treat the Commission's report, began its sessions just days following the military coup d'etat that ended the rule of General Carlos Humberto Romero. In conversations with numerous delegations in La Paz, the newly-appointed Foreign Minister from El Salvador expressed his hope that the Commission's report be fully discussed, indicating that such debate could only strengthen the position of the new government. Representatives of the new Salvadorean government were warmly welcomed by the General Assembly, but discussion of the Commission's report remained limited. The General Assembly commended the Commission on its report, noted with satisfaction the new government's determination to promote and guarantee exercise of human rights and expressed hope that the recommendations contained in the Report be complied with. Furthermore, the General Assembly asked the Commission to continue monitoring the situation of human rights in El Salvador and to include its conclusions in the report to the 10th General Assembly.

Despite the October 1979 change of government in El Salvador, the subsequent dismissal of some 40 high-level military officers and the determination of the young officers to lay the groundwork for a just society, the human rights situation in El Salvador has steadily deteriorated. Analysis and data compiled by both international and Salvadorean human rights organizations indicate that rights violations—particularly the problems of right to life and disappearances from January 1980 onward—far surpass the violations verified by the OAS-IACHR in January 1978, during the General Romero regime.

CONTINUED ACTIVITY BY ORDEN

The first and second conclusions of the 1979 OAS-IACHR report on El Salvador were that "many persons have died as a result of the actions of security bodies and of the official paramilitary organization known as ORDEN" and that "the security bodies and the official paramilitary organization ORDEN have committed torture and physical and psychological mistreatment in many cases." The first Commission recommendation was "that the official paramilitary organization called ORDEN be dissolved, because the way it has acted and is acting is contrary to the effective exercise of the human rights of the *campesinos*." In its 1978 Report to Congress on Human Rights, the U.S. government referred to ORDEN as "a government-sponsored paramilitary organization."

In its 1980 Annual Report, the OAS–IACHR expresses its "special concern for the relative passivity of the Government toward certain armed groups that still maintain ties with former security organizations and with the dissolved organization ORDEN, which appear responsible for hundreds of deaths; it expresses its concern as well for the lack of an adequate and effective investigation of these crimes."

Although ORDEN was dissolved by government decree in late 1979, ample evidence exists that the organization continues to function, most often in collaboration with the Salvadorean army and security forces. In late 1979, the organization was publicly reconstituted under a new name (Nationalist Democratic Front) by one of its original founders, Ret. General J. Alberto Medrano. No action was taken by the Salvadorean government against him in the resuscitation of ORDEN, whose activities continue to increase in number.

The San Salvador Archdiocese Legal Aid Office reports that ORDEN is responsible for the deaths of 140 Salvadoreans in June, July and August 1980 alone. The following are but two examples of the hundreds of signed communications to this office. In April 1980, in Llano Grande, eleven members of the Salvadorean National Guard and members of ORDEN captured and later decapitated peasants, Jose Orellano and Fidencio Alfaro. In May, members of ORDEN, accompanied by Salvadorean National Guard and Army troops, killed some six hundred peasants as they attempted to cross the Sumpul River into Honduras.

In an October 19, 1980, communique, the Office of Social Communications (Archdiocese of San Salvador) denounced forced entry of ORDEN members into a parish warehouse used to store food belonging to CARITAS. The Secretariat of Social Communications stated that "it does *not* consider (these events) as isolated incidents, *but rather* as the continuation of a series of open, cruel and pitiless acts of persecution . . ."

Abuses by ORDEN members have been documented both in rural and in urban areas; most frequently they act in combination with Salvadorean government troops which due to frequent post reassignments are unfamiliar with the local terrain and population. ORDEN members, on the contrary tend to live in a given village or town and are most often former members of the Army who supplement a modest income through pillage following assassination, rape and torture by the Salvadorean combined forces.

PERSECUTION OF THE CATHOLIC CHURCH

In its 1979 report, the OAC–IACHR concluded that "priests, members of religious orders and lay persons who cooperate actively with the Church have been the object of systematic persecution by the authorities and organizations that enjoy the favor of the government." It recommends "that the necessary measures be taken to prevent continuation of the persecution of the members of the Catholic Church who act in legitimate exercise of their pastoral mission."

The 1980 Annual Report of the Commission states that "the Archbishop of San Salvador, Mgr. Oscar A. Romero became the most outstanding spokesperson for defense of the poor, of the peasants and of human rights in general. In February 1980, Mgr. Romero denounced the destruction by bombing of the Catholic radio station YSAX, as well as the 72 sticks of dynamite planted in the Sacred Heart Basilica where he normally gave his homilies. In his homily of March 23, 1980, Mgr. Romero appealed to the members of the Army and National Guard troops and police, indicating that they are Salvadoreans and stating that the killing of peasants is against human law and the law of God." The annual report later mentions the July 5 search of the offices of the Archdiocese Legal Aid Office. One hundred and twenty National Security troops, accompanied by three armored trucks and armed military vehicles violently entered the Legal Aid Office to search and ransack files. Among the materials confiscated—and never responded for by the Salvadorean government to date—were signed legalized denunciations dating back to 1975 and the file containing information on the investigation into the March 24th assassination of Mgr. Romero.

Persecution against the church has intensified in the latter half of 1980. This year alone four priests have been assassinated, and great numbers of the 2,811 peasants killed by government forces through September of this year belonged to Christian Community Groups. The YSAX radio station represents the only media able to transmit news and analysis at variance with official sources. It has been dynamited and its transmissions interrupted on numerous occasions. On September 13, in the most recent attack, the YSAX radio transmitter was completely destroyed, and eye-witnesses report that Salvadorean military in uniform were among the 30–50 persons who participated in the two-hour operation. No member of the Salvadorean Military Command intervened to stop the successive bombings of the radio station entry-door and transmitter, and the Salvadorean government has not conducted an investigation.

In October the Office of Social Communication reported on persecution against the Catholic Church in the areas of Aguilares, where a parish church was machine-gunned, collection money stolen and shells of the G–3 (the regular weapon of the army and security forces) found in the ransacked church. According to this report, in recent months the area has been subjected to: six massive military operations; bombing and machine-gunning of towns and villages by Salvadorans armed forces helicopters and planes on six occasions; and the burning of 111 houses. According to mid-November conversations with peasants of the area, children sent from outlying rural areas to the town of Aguilares in recent weeks to purchase medicine and food have been captured or killed.

The San Salvador Archdiocese weekly newspaper, Orientacion, has recently printed a chronology of persecution against the church from January–October 1980.

VIOLATIONS OF THE RIGHT TO LIFE

According to the Archdiocese Legal Aid Office, some 5,303 persons from popular and progressive sectors were killed for political motives from January to September, 1980. These figures are substantiated by signed testimonies from eye-witnesses and/or family members, and do not refer to those victims of armed combat. Of these persons killed, 2,811 were peasants; 434 were students; 212 were workers and 62 were teachers. Legal Aid Office signed testimonies indicate that combined government troops were responsible for 992 political killings from June to August alone, and that in the first seven months of 1980, the Salvadorean army and combined troops conducted 437 military operations/invasions in areas inhabited by peasants. During the period of just one month, two members of Salvadorean Human Rights Commission were assassinated; these deaths not only endanger the continued existence of the Commission but also make it increasingly dangerous for relatives of all rights violations victims to speak out. In the October 19 issue of Orientacion, the Office of Social Communication "Places Responsibility on the security forces and Orden for repressive acts against the Christian Communities; and on the cruel and disproportionate rightist terrorism unleased in the countryside since they have the endorsement, protection and complicity of the Security Forces . . ." and . . . "Demands that the material and intellectual authors of so much crime, cruelty and sadism be punished, since the authors are known."

RECOMMENDATIONS

(1) That all OAS member states review the March 1979 OAS-IACHR report on El Salvador, in particular the conclusions and recommendations;

(2) That the General Assembly, in keeping with conclusions adopted at the 1979 Annual Meeting, take immediate steps to evaluate the new Salvadorean government's compliance with its stated intention to promote and guarantee exercise of human rights;

(3) That the General Assembly, in keeping with conclusions adopted at the 1979 Annual Meeting, request that the OAS-IACHR complete its mandate of monitoring the human rights in El Salvador situation by implementing an on-site investigation at the earliest possible opportunity;

(4) That the General Assembly call for an investigation into the Salvadorean military operation in May 1980 at the Rio Sumpul region between Honduras and El Salvador;

(5) That the General Assembly call for an investigation into the reported misuse of OAS personnel and helicopters leased to the OAS in areas within and outside the demilitarized Honduran-Salvadorean border zone prior to the signing of the peace treaty.

EL SALVADOR FIRES OFFICER FROM JUNTA

(By Christopher Dickey)

SAN SALVADOR, December 7.—Col. Adolfo Arnoldo Majano, widely regarded as the most liberal member of El Salvador's five-member junta, was forced out of the government today by a vote of the armed forces amid negotiations expected to restructure completely this embattled country's government.

Majano made it clear that he had not resigned voluntarily, and his political future was unclear.

Christian Democratic leader Napoleon Duarte, another junta member, said today that he expects "many changes to take place" in the government in the coming week.

His party is negotiating with the military, and Duarte said that if "democratic interests" are not given complete control of the government and command of the military, the Christian Democrats will withdraw. The party holds two of the five junta positions and several Cabinet posts.

A special U.S. diplomatic mission arrived last night, led by Assistant Secretary of State for Inter-American Affairs William Bowdler and William Rogers, who held a similar post in the Ford administration. The team has been meeting all day with various factions of the Salvadoran government and military.

The mission was dispatched after the United States suspended more than $25 million in economic aid to El Salvador pending investigation of the brutal slayings last week of four American missionary women. Sources who have met with the diplomats say they clearly are interested in the entire chaotic political situation here, where the Carter administration has a major diplomatic stake.

Sources close to the U.S. mission said the Americans have taken a very hard line with the Salvadoran military, attempting to make clear under what conditions the United States would resume aid.

Despite recent Republican statements suggesting that there would be no major changes in policy toward El Salvador, the Americans appear to be encountering belief among the right wing here that when President-elect Ronald Reagan is sworn in, his administration is likely to support whoever is in power.

Washington has backed a reformist junta that took power 15 months ago and has sought to push the junta toward reconciling El Salvador's warring leftist and rightist factions. Recently, however, there has been a struggle for control within the ruling group, believed to have been encouraged by conservative politicians and business leaders.

Analysts believe the right has been encouraging the recent wave of political killings in hopes that they will lead to a right-wing coup. U.S. officials fear such a takeover could spark a wider confrontation in the region between the left and the right.

It is not clear, however, what the U.S. diplomats can do to avert what appears to be an evolving right-wing coup in El Salvador.

The ouster of Majano by a vote of the country's military commanders, who chose to have conservative Col. Jaime Abdul Gutiérrez as their sole representative in the executive last night, is a clear first victory for the right.

Majano said this afternoon that he has not yet received official notification of the decision, but that he wanted it to be clear to the people of this increasingly polarized Central American country that he did not resign and will not resign.

Majano said the decision by the armed forces, "in these circumstances, leaves me free of commitments, and I can do what I choose."

There have been several reports that Majano has negotiated with leftists seeking to overthrow the government, but he declined to comment on his future plans.

Durate left open the possibility that the Christian Democratic Party would withdraw from the government within a few days. He dismissed the ouster of Majano as being of little importance in the context of the current crisis.

"I think it is not important who is in or out. The most important thing is how can we solve the basis of our problems—the violence," Duarte said. "Whoever has capacity to do this should have the power to do it.

"If there is no solution," Duarte added, "we should leave the government. In order

> to control this country, [there must be] authority. That authority can come from the right or the left. We're proposing democratic authority."
>
> [In another development, a Christian Democratic Party spokesman said the party has called for an exhaustive government investigation of the deaths of the four American women, Reuter reported.]
>
> In an interview earlier today, Majano said the only way to reach a peaceful solution or at least a less bloody one to the political violence that has cost at least 9,000 lives here this year is to form a broad coalition government.
>
> He welcomed, as have the Christian Democrats, the participation of outside governments as mediators in the current crisis. Both Majano and the Christian Democrats insist, however, that the final solution must come from internal forces and not be imposed by the United States or any other country.
>
> Following a series of spectacular assassinations in which right-wing elements of the military allegedly were involved—not only the murder of the missionaries, but of five internationally recognized leaders of the leftist opposition—the chances for negotiation are steadily declining.
>
> Majano told a reporter this morning that if negotiations do not bring results soon, then El Salvador's problems can be solved internally, "but it will mean putting on a helmet and fighting."

Mr. HARKIN. Mr. Speaker, I thank the gentleman from Ohio (Mr. SEIBERLING) for his very valuable comments. It is late. The House has completed its business over a couple of hours ago, and yet the gentleman from Ohio sat here and waited for this time so he could pay his respects to the memory of the four women, the three nuns and one lay missionary, who lost their lives in El Salvador last week.

The gentleman from Ohio has been most diligent in his service in the House in speaking out forthrightly about the violations of human rights not only in this country but around the world. So I want to compliment the gentleman from Ohio (Mr. SEIBERLING) for his valuable contribution to this special order.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I thank the gentleman very much for yielding, and I want to congratulate him and compliment him on taking this special order.

Mr. Speaker, I join with my colleagues to express my shock at the recent atrocities in El Salvador.

Last week, four Americans became victim to the senseless violence that has become commonplace in this small central American country. One of the nuns, Ita Ford, was the sister-in-law of a friend. She dedicated her life to aiding the poor, and the deprived of the world in the South American Chapters of the Maryknoll order.

Before going to El Salvador, Sister Ita Ford worked in Santiago, Chile, running soup kitchens for the hungry and needy. She personally asked the Maryknoll superiors to place her in the most poverty-stricken areas of South and Central America, where her help and kindness would do the most good.

In the fall of 1979, the Sister went to El Salvador to help people who were displaced by the political unrest in that country. She spent her days feeding and clothing the poor, sheltering them from the violence and killing of the raids of right-wing terrorists on innocent people. Sister Ford devoted her life to the innocent people at the risk of her own personal safety and well-being. She and her three colleagues were attempting to alleviate the pain and suffering in El Salvador, when they were brutally assassinated. I rise in tribute to these women who gave their lives selflessly for others.

Mr. HARKIN. Mr. Speaker, I thank the gentleman from New York (Mr. FISH) for his addition to the special order. The gentleman has really spoken most eloquently about the dedication of these four women.

These four women again, I believe, were as dedicated and as committed to the true ideals of our democracy, that is, justice, decency, human rights, and democracy, and as dedicated to fulfilling the role of America in the world today in unleashing the human rights and democratic aspirations of the underprivileged as anyone who has ever left this country to go abroad. In fact, in losing their lives in El Salvador, I believe they had dedicated themselves as much as any soldier who has ever left our shores to fight and die in a way to preserve our democracy.

Mr. Speaker, the rape, the torture, and the assassination of Maura Clarke, a Maryknoll nun from Queens, N.Y.; Ita Ford, a Maryknoll nun from Brooklyn; Jean Donovan, a lay missionary from the Cleveland diocese; and Sister Dorothy Kazel, an Ursuline nun also from the Cleveland diocese, is one more splash of blood in the rivers of blood that flow in that troubled country. Because of their innocence, they symbolize the victimization of thousands of innocent men, women, and children who have fallen beneath the fanatical right wing in El Salvador—the "death squads," the police, and the army itself.

I want to dwell on their deaths, not because their lives are in any way more precious than the 9,000 other human lives lost in El Salvador this past year, but because, as the gentleman from Ohio (Mr. SEIBERLING) said earlier, their torture and murders brings the horror of El Salvador closer to all Americans.

As Father Jim Noonan, director of the Catholic Maryknoll order, said recently:

> If their deaths serve to open the eyes of the policymakers in this country who supported the regime in El Salvador for so long, then they haven't died in vain.

Jean Donovan, the lay missionary from Cleveland, and Sister Dorothy Kazel, the Ursuline nun from Cleveland, worked with the poorest of the poor in El Salvador. As such, they were considered "subversive" by the security forces which have identified local priests and nuns as "Communists" and "enemies." Just last spring, the beloved Archbishop Romero, with whom I had the privilege of spending almost an entire afternoon, was gunned down by assassins because of his advocacy for justice and democracy in El Salvador. To date, 10 priests have been assassinated in El Salvador.

Make no mistake about it, this violence has been pinpointed not only by those individuals working in El Salvador who are not of the religious community, but also by the church itself in El Salvador. I might read just a brief statement translated from the Spanish put out by the Secretary of Social Communication of the Archdiocese of San Salvador. One paragraph is entitled "The General Situation," and I quote from that paragraph as follows:

> Notwithstanding, since January 24th, 1980, the deaths and disappearances have begun to be counted in the hundreds. Since that time more than 400 people of all ages, both sexes, and mixed economic background have been victims of a merciless, bloody persecution directed at Christian Communities of both the countryside and the city.
>
> A brief account provides for the following figures: Approximately six massive military operations; six times planes and helicopters of the Armed Forces have machine-gunned and bombed the towns and villages of Aguilares and El Paismal; military searches, accompanied by robbery, burning of houses, and assassinations are countless. Some 111 houses, have been burned in the region. The situation in the countryside is desperate. There is not enough food nor the way to obtain it.
>
> The Parish is continuously watched by the military and the Pastoral team is threatened. This has meant that the Pastoral action of the Church has been seriously hindered, including liturgy, catechism for children, pastoral visits to the villages, the celebration of mass or of gospel reflections, and social services provided by the Clinic * * *
>
> The Secretariat of Social Communication of the Archdiocese of San Salvador does not consider the events of the 6th and 11th—

That is of October they are speaking of—

> as isolated incidents, but rather as the continuation of a series of open, cruel and pitiless acts of persecution against the people and against the Church.
>
> Therefore, the Social Communications Office * * * places responsibility on the Security Forces and ORDEN for the repressive actions against the Christian Communities, and on the cruel and disproportionate rightist terrorism unleashed in the countryside and cities, since they—

Meaning the Security Forces—

> have the endorsement, the protection, and the complicity of the Security Forces.

□ 1750

Jean and Dorothy knew they were in danger, but were tireless in their work. They drove their van around the country, transporting refugees from war-torn areas to church refugee havens, bringing food, blankets and medication to the needy. Their well-known van—equipped with no guns or ammunition, but only the relief supplies they distributed—was found along the road—burned out and destroyed.

The two Maryknoll nuns, Maura Clarke and Ita Ford flew into El Salvador from Managua where they worked with the poor there. They had been asked to join their sisters in El Salvador because of the increasing need for humanitarian assistance to the victims of the repression there. They had no qualms about going where they were needed.

The murders of these four women were as brutal as they were senseless. Some were raped, and all showed signs of torture. Their bodies were dumped in a common grave by government officials before the U.S. Embassy was even notified.

Now, the U.S. Government has suspended military assistance to the Government of El Salvador because of evidence of government complicity in the deaths of the four Americans. Nothing less than a complete purge from the Salvadorean military of its uncontrollably repressive elements and a return to order and democracy should warrant reconsideration of military aid in the future.

I would quote here from a letter issued by Archbishop John Roach, president of the National Conference of Catholic Bishops, right after the slaying of the nuns. I quote from his letter:

> This campaign of violence against the poor and those who side with the poor is an abomination that cries to Heaven. People of good will everywhere must make their own the anguished cry of Archbishop Romero's last public homily: "In the name of God, Stop the repression!"
>
> Let those who govern in El Salvador fulfill the elemental duty of any government claiming legitimacy, namely:
>
> Bring under true control its own military and security force and end the bloody repression against the Church and the popular movements.
>
> As regards the United States:
>
> Let those who are responsible for the policy of the United States towards El Salvador, both those in office as well as those about to assume office, make unmistakeably clear to all the revulsion of the American people at the sickening spiral of violence affecting the Salvadorean people.
>
> Cessation of all assistance to repressive security forces and a clear affirmation of our enduring commitment to human rights.
>
> These are measures available to our political leaders: let such measures be taken now.
>
> The Church in the United States shares the grief of the families, the religious communities and dioceses from which the four dedicated and valiant women come. We share the grief of all in El Salvador whose loved ones have been so brutally taken from them. We pray during this time of waiting the Lord's coming, that the hour of justice, peace and healing will come soon to El Salvador.—
>
> JOHN ROACH,
> *Archbishop of St. Paul-Minneapolis; President of the National Conference of Catholic Bishops; President of the U.S. Catholic Conference.*
>
> DECEMBER, 4, 1980.

A reporter asked the general superior of the Ursuline order in Cleveland why the women stayed to work in such a dangerous place as El Salvador. Sister Bartholomew's answer was simple: "They felt they were serving the people, bringing gospel values to people in turmoil and suffering. They loved the people." And the people loved them. When Maura Clarke's poor Managua neighborhood heard of her death in El Salvador, there were massive demonstrations in the streets, and they demanded that she be brought "home" to be buried. And at the burial service of two of the others in El Salvador, the humblest peasants came to pay their last respects.

These four women were murdered for the "crime" of working for the poor. They were not leftists or politicians or guerillas. They simply understood the words of the Sermon on the Mount, and put it into practice in their daily lives.

Mr. Speaker, I will close my comment in this special order by quoting from that Sermon on the Mount a fitting tribute to these four valiant women, these four dedicated Americans, these four dedicated individuals who fought for nothing else other than justice decency and human rights.

Matthew 25, verses 34–40:

> Then shall the King say unto them on his right hand, Come, ye blessed of my Father, inherit the kingdom prepared for you from the foundation of the world. For I was hungry, and you gave me to eat, I was thirsty and you gave me to drink, I was a stranger and you took me in. For I was naked, and you clothed me, I was sick and you visited me, I was in prison, and you came to me. Verily I say unto you, Inasmuch as you have done it unto one of the least of these my brethren, you have done it unto me.

To be sure, Maura Clarke, Ita Ford, Jean Donovan, and Dorothy Kazel all fulfilled that admonition for they performed those services unto the least of our brethren.

At this time I would yield to my colleague, the gentleman from Texas (Mr. LELAND).

Mr. LELAND. Mr. Speaker, I would like to thank my colleague, Mr. HARKIN, for allowing us the opportunity to comment on the shocking murders of four American missionaries in El Salvador last week, and on the broader concerns relating to the increasing level of violence and political instability in that country, and U.S. foreign policy toward Central America.

I would like to know, Mr. Speaker, how many more deaths will it take; how many more exposés of American weapons or military aid being utilized to kill or torture citizens in Latin American or Caribbean countries before we change our policy there? How many more Nicaraguas will it take to finally prove to us that we cannot prop-up dictatorships, who abuse and terrorize the people of their countries, even if we view that particular government as "critical" to our own national defense interests?

I recall, only too well, standing this before this body last year to denounce the murder of Bill Stewart, of ABC News, by National Guards in Nicaragua. Did we not learn anything there?

Mr. Speaker, this Nation is being tested. Those governments in Central America and the Caribbean who oppose democracy and human rights have begun to test our resolve. Recently, the Haitian government conducted an unprecedented round-up of human rights activists and journalists. And, now the ruling junta in El Salvador openly slaps our face by either facilitating or condoning the murder of four U.S. citizens and the subsequent attempted cover-up.

Recent statements by both President-elect Reagan and his foreign policy advisors have given Latin American dictators good reason to believe that the United States will soon turn its back on human rights, and will resume, or actually increase, military aid to repressive regimes. Does the election of a Republican President and the Republican Senate majority indeed forbode a return to earlier days when any Latin American government, that was anti-Communist, no matter how inhumane, no matter how undemocratic or no matter how corrupt, will have blind U.S. support? That is precisely what our neighbors to the South are waiting to see.

Our response to the recent murders in El Salvador is a weathervane for future policy. I applaud the administration's suspension of aid to the El Salvadorean government and the early dispatch of an investigation team. Conversely, however, I am concerned that the mission actually look at all relevant issues and conduct an objective evaluation of government participation in this and prior assassinations. The Congress should also be alarmed at reports that the termination of military aid has not been complete, that military aid in the pipeline is still going to El Salvador today and that the termination will be only temporary. In fact, I am advised that there are U.S. military advisers still in El Salvador aiding the government today.

We should not really be surprised that these four dedicated women were killed. Persecution of the church in El Salvador is nothing new. In March 1979, the O.A.S. Inter-American Commission on Human Rights documented that religious leaders and lay persons, who cooperate with the church in reform efforts, have been systematically persecuted by the government, and, only last week, the U.N. General Assembly passed a resolution—opposed by only 13 members, most of whom are also well known human rights violators—condemning the repression and abuses in El Salvador. Without objection, I would like to have the resolution and a statement by the U.N. Secretary General entered into the RECORD. Since the current regime took over, 11 religious leaders have been killed, including the tragic murder of Archbishop Romero, and two other clerics are still missing and we can assume are also dead.

Mr. Speaker, I would like to have two additional statements entered into the RECORD. First, is the statement on the murders by the Maryknoll order, and second, is the statement by Bishop Arturo Rivera y Damas on behalf of the Archdiocese of San Salvador.

Personally, I hold the highest respect for Bishop Rivera, for his courage in making this statement, at a time and in a situation where he lives in constant personal danger.

Again, I thank my colleague for this

time, and I hope these valiant women will not have given their lives in vain.

The material follows:

MESSAGE FROM A SPOKESMAN FOR THE SECRETARY-GENERAL

The Secretary-General has been closely following recent events in El Salvador which have involved further terrorist attacks such as hostage-taking and assassinations.

The Secretary-General deplores these reprehensible acts and deeply regrets the tragic loss of life that has occurred. In the present situation, which is so agonizing for the Salvadorean people he appeals for the immediate release of those who have been abducted and for an early end to the violence.

STATEMENT ON BEHALF OF SECRETARY-GENERAL WALDHEIM WAS MADE BY A U.N. SPOKESMAN

The Secretary-General is deeply shocked and grieved to learn about the further killing of innocent people in El Salvador including the brutal murder of three nuns.

As the Secretary-General has noted three times in recent months, these senseless acts of terrorism and loss of life that flow from them must be stopped. The Secretary-General again appeals to all concerned to stop the violence.

He extends his heartfelt condolence to the families of victims.

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

THE SITUATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN EL SALVADOR

The General Assembly,

Guided by the principles embodied in the Charter of the United Nations and the Universal Declaration of Human Rights,

Conscious of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all,

Noting that all Governments have an obligation to respect and promote human rights in accordance with the responsibilities they have undertaken under various international instruments,

Bearing in mind resolution 19 of July 30, 1980 of the World Conference of the United Nations Decade for Women,

Dismayed by reports of human rights violations in El Salvador and especially by the death of thousands of persons and the climate of repression and insecurity prevailing in the country, which favours terrorism by paramilitary groups and enables it to be engaged in with impunity,

Deeply shocked by the vile assassination of Archbishop Oscar Arnulfo Romero, a prestigious personality, outstanding for his defense of the human rights of the Salvadorean people, and by the persecution of Salvadorean figures such as Monsignor Arturo Rivera Damas, Apostolic Administrator of the Archdiocese of San Salvador.

Gravely concerned about the unknown fate of many persons detained by the authorities,

Profoundly indignant at the assassination of Mr. Enrique Alvarez Cordove, President of the Revolutionary Democratic Front of El Salvador, as well as of five other members of the Executive Committee of that Front, perpetrated on November 27, 1980 in San Salvador,

Considering that the supply of arms and other military assistance to El Salvador will serve to aggravate the situation in that country,

1. Expresses its deep concern at the grave violations of human rights and fundamental freedoms in El Salvador;

2. Deplores the murders, disappearances and other violations of human rights reported in El Salvador and requests the Salvadorean authorities to take prompt action to curb the reprehensible activities of paramilitary groups;

3. Urges the Salvadorean Government to take the necessary steps to ensure full respect for human rights and fundamental freedoms in that country and to guarantee the safety of Monsignor Arturo Rivera Damas, Apostolic Administrator of the Archdiocese of San Salvador, whose life is in danger;

4. Appeals for a cessation of violence and for the establishment of full respect for human rights in El Salvador;

5. Calls on Governments to refrain from the supply of arms and other military assistance to El Salvador in the current circumstances;

6. Requests the Commission on Human Rights to examine, at its thirty-seventh session, the situation of human rights in El Salvador.

GENERAL ASSEMBLY 35TH REGULAR SESSION—80TH MEETING OF 3D COMMITTEE (VOTE SUBJECT: A/C.3/35/L.79/REV. 2)

Vote	Country
Y	Afghanistan.
	Albania.
Y	Algeria.
Y	Angola.
N	Argentina.
A	Australia.
Y	Austria.
A	Bahamas.
A	Bahrain.
A	Bangladesh.
Y	Barbados.
Y	Belgium.
Y	Benin.
A	Bhutan.
N	Bolivia.
	Botswana.
N	Brazil.
Y	Bulgaria.
	Burma.
A	Burundi.
Y	Byelorussian S.S.R.
Y	Canada.
Y	Cape Verde.
A	Central African Republic.
A	Chad.
N	Chile.
	China.
N	Colombia.
N	Comoros.
Y	Congo.
N	Costa Rica.
Y	Cuba.
Y	Cyprus.
Y	Czechoslovakia.
	Dem. Kampuchea.
Y	Dem. Yemen.
Y	Denmark.
	Djibouti.
	Dominica.
	Dominican Republic.
Y	Ecuador.
	Egypt.
N	El Salvador.
A	Equatorial Guinea.
Y	Ethiopia.
A	Fiji.
Y	Finland.
A	France.
A	Gabon.
A	Gambia.
Y	German Democratic Republic.
A	Germany, Federal Republic.
Y	Ghana.
Y	Greece.
Y	Grenada.
N	Guatemala.
Y	Guinea.
Y	Guinea-Bissau.
Y	Guyana.
A	Haiti.
	Honduras.
Y	Hungary.
Y	Iceland.
A	India.
A	Indonesia.
Y	Iran.
Y	Iraq.
Y	Ireland.
A	Israel.
A	Italy.
A	Ivory Coast.
Y	Jamaica.
A	Japan.
A	Jordan.
Y	Kenya.
A	Kuwait.
Y	Lao P.D.R.
	Lebanon.
A	Lesotho.
	Liberia.
Y	Libyan A. J.
Y	Luxembourg.
Y	Madagascar.
A	Malawi.
A	Malaysia.
A	Maldives.
A	Mali.
	Malta.
Y	Mauritania.
	Mauritius.
Y	Mexico.
Y	Mongolia.
	Morocco.
Y	Mozambique.
A	Nepal.
Y	Netherlands.
Y	New Zealand.
Y	Nicaragua.
A	Niger.
	Nigeria.
Y	Norway.
A	Oman.
A	Pakistan.
Y	Panama.
A	Papua, New Guinea.
N	Paraguay.
A	Peru.
N	Philippines.
Y	Poland.
A	Portugal.
A	Qatar.
	Romania.
Y	Rwanda.
	Saint Lucia.
	St. Vincent-Gren.
	Samoa.
Y	Sao Tome/Princ.
A	Saudi Arabia.
Y	Senegal.
Y	Seychelles.
	Sierra Leone.
A	Singapore.
	Solomon Islands.
	Somalia.
	South Africa.
	Spain.
	Sri Lanka.
	Sudan.
A	Suriname.
A	Swaziland.
Y	Sweden.
Y	Syrian A. R.
	Thailand.
A	Togo.
A	Trinidad-Tobago.
A	Tunisia.
Y	Turkey.
Y	Uganda.
Y	Ukraninian S.S.R.
Y	U.S.S.R.
A	U. A. Emirates.
A	United Kingdom.
A	U. R. Cameroon.
Y	U. R. Tanzania.
N	United States.
	Upper Volta.
N	Uruguay.
A	Venezuela.
Y	Vietnam.
	Yemen.
Y	Yugoslavia.
A	Zaire.
Y	Zambia.
Y	Zimbabwe.

Yes	63.
No	13.
Abstain	48.

The bullet-marked bodies of four US missionary women, missing in El Salvador since Tuesday evening, December 2, have been found and identified as Maryknoll Sisters Maura Clarke from Queens, NY and Ita Ford, from Brooklyn, New York; and the Cleveland Diocese missionaries Sister Dorothea Kazel of the Ursuline order and Miss Jean Donovan lay missioner. Last seen as they boarded the COPA in Managua, Nicaragua, Sisters Maura and Ita were to be met by Sr. Dorothea and Miss Donovan when they landed in the neighboring country of El Salvador. Twenty-four hours passed before the four women were reported missing. Shortly afterward, Sister Dorothea's vehicle was found empty and burned not far from the airport of the capital city of San Salvador.

The four women chose to remain in the Central American country of El Salvador despite the volatile situation in that country and the possible danger to their lives.

For some fifty years the Salvadorean people have been struggling for freedom from military rule. Disappearances and killings are nothing new to this war torn country but instead, have increasingly become the order of the day. It is estimated that 9,000 people in the last year alone have been killed. 80% of these deaths have been attributed to paramilitary groups, covertly backed by the government.

The Catholic Archdiocese of San Salvador following the lead of the Latin American Bishops' Conference in Puebla, Mexico, 1978, opted for the cause of the poor and has suffered widespread persecution as a consequence. To date, 10 priests including Archbishop Ocsar Romero, have been killed. Numerous committed religious and lay Christians have likewise been persecuted for defending basic human rights in that country.

Maryknoll Sisters Ita Ford and Maura Clark had been working to feed and provide shelter for the many refugees who are fleeing the widespread upheaval and violence in El Salvador. Their presence and ministry received the full support of their Congregation who state in their official documents: "Solidarity with the poor is not an option but a sign of the Kingdom that must be made explicit in our day.

Evidence provided by reliable sources close to the situation indicates that the military was instrumental in the disappearance and death of these four women.

Communique From the Bishop of San Salvador, Monsignor Rivera y Damas

The Bishop, Apostolic Administrator, priests and religious wish to say to all Christians, to the Salvadorean people, and to all men and women of good will throughout the world a clear and strong word about the recent cruel events against the Church in this country. As teachers we feel ourselves obliged to tell the truth. As pastors we have the obligation to accompany, orient and encourage the People of God who feel themselves terrorized and powerless at this time in the face of so much barbarity. We speak with the responsibility commended to us by God, and the pain and suffering of our Salvadorean people. We have no vested interest, wanting only to carry out our duty as shepherds.

I. In the first place we want to shed light on the most recent and cruel events of Church persecution: We denounce and strongly condemn the disappearance of Father Marcial Serrano, pastor of Olocuilta on the 28th of November, who, from all appearances, was assassinated. Father Serrano was returning from the celebration of a Mass in the village of Chaltipa, coming back to his parish. But instead of celebrating Mass in his parish, eye-witnesses saw him retrace his steps in the company of soldiers. Since then, Father has never been seen again. His pick-up truck was found in the National Guard Post with its license plates changed in San Miguel T'epozontes. The members of the National Guard affirmed their picking up of the abandoned truck in a certain place. Eye-witnesses, nevertheless, contradict this version as they did not see the pick-up truck in that place nor did they see the National Guard go there to recover it.

We denounce and condemn energetically the kidnapping, torture, and very probable raping of three of the victims in the assassination of Sisters Maura and Ita of the Maryknoll Congregation; Sister Dorothy, Ursuline from the Cleveland diocese; and of Miss Jean Donovan, lay missionary. On the 2nd Sister, Dorothy and Miss Donovan, who worked in the parishes of La Libertad, went to receive the other two sisters at the airport. On their return trip toward Libertad, the four were kidnapped. A little later, when people tried to find them, their car appeared completely burned. At kilometer 41, near by, just a few hours before there had been a roadblock by the security forces, which had stopped two cars previously whose passengers were priests and sisters.

We denounce and condemn the disappearance of Father Ernesto Abrego, on the 23rd of November when he was coming into the country from Guatemala in a car with several other relatives. Their whereabouts since then are still unknown. Everything leads us to the conclusion that Ernesto has also been an assassination victim.

II. These details of a criminal persecution against the Church are the culmination of four years of persecution which has grown in quantity and cruelty in this year of 1980, together with the political control of the country by military and by Christian Democrats. This year Archbishop Oscar Romero was assassinated, shepherd and prophet of the Church and of the Salvadorean people, together with two other priests, Fathers DeSoto y Manuel Reyes, and a seminarian close to ordination, and a great number of catechists, delegates of the Word, and faithful Christians. This year the different pastoral agents, priests, religious, catechists . . . have been threatened with death, arrested, kidnapped, their homes raided, machine-gunned or dynamited. The same assassination attempts have occurred in Catholic schools, and archdiocesan offices in San Salvador, as in the CRITERIO printshop, the radio station YSAX, the archdiocesan Legal Aid Office. This year Churches have been profaned, shot at, their inhabitants sometimes murdered, and even on several occasions the Blessed Sacrament has been profaned. To sum up, so far this year the Church has seen herself attacked in every sector, in her pastoral agents, in her educational institutions, and in her social communications media. She has been the victim of a cruel and systematic persecution which, in spite of the government's promises, instead of diminishing has increased, as the most recent events demonstrate.

III. As we witness, horrified and powerless, all of these things, we observe that in the commercial press and communications media, and in the official declarations of the military and of the governmental junta, very often these facts and their interpretation are silenced, twisted or falsified. On the other hand, the communications media of the Church are silenced with bombs and assassinations, as in the most notorious case that of (radio station) YSAX. In this situation we have the sacred obligation to speak the truth about the persecution of the Church and her leaders.

The Church is persecuted because she tells the truth that shakes up the powerful, and because she has made a preferential option for the poor of this country who for centuries have been oppressed by unjust structures, and today continue to be oppressed and also repressed with a virulence which borders on the unbelievable.

Although those directly responsible for this persecution try to hide their guilt, denouncing the violence slickly as a battle between the far-right and the far-left; or supported by a powerful political-military apparatus; nevertheless in nearly four years of Church persecution which we have suffered, it has been evident that the majority of the persecution of the Church has been carried out by security forces and paramilitary organizations. Because of this we reject those versions which would hold other social groups responsible, as on some occasions members of the government have affirmed.

IV. Because of all this we hold responsible for the persecution of the Church and especially for the assassinations, both of priests and of pastoral agents, the security forces and far-rightist parliamentary bands; and in consequence, we hold responsible the governmental junta, as well, who because of its supreme authority over the military is responsible for the actions of its members. We lament the fact that previous governments to the junta and the revolutionary junta government itself did not keep their promise to investigate the criminal assassinations of Archbishop Romero, priests, religious and pastoral agents.

Therefore, the government's declarations lose credibility and we can no longer accept the customary excuses, after the facts, nor the promises to investigate.

Only the immediate and efficient stopping of repression and persecution could demonstrate a clear will and decision to move beyond them; only this might exonerate, at least to some degree, the junta's responsibility. Only the immediate cutting off of repression and persecution would give credibility to the repeated offerings of dialogue for the pacification of the country. In any other case, all possibilities for peace through non-violent means will be strangled

V. In the most recent assassinations the special circumstance is added that the victims are three Northamerican sisters and a Northamerican lay missionary. These religious who came to our country to give their lives with selflessness and generosity, deserve our tribute of admiration and gratitude, and show us the true greatness, solidarity and help of many Christian men and women in our neighboring land, the United States. But these events show us, too, in what U.S. government aid to El Salvador should not consist. Because of this, we demand of the North American government in the United States, as did the gesture of our prophetic Bishop and martyr, Archbishop Romero, that no military aid be given; because in spite of the declarations about its purpose, military aid facilitates repression against the people and the persecution of the Church.

VI. This is our word of truth, but we want to speak, too, a word of encouragement and hope to Christians and to the people who suffer cruel persecution, and a word of solidarity to our pastoral agents so that they may not feel abandoned by their shepherds in such hard trials.

Persecution is a sign of authenticity in the Church because it makes her more similar to her Divine Founder, Jesus Christ, who was also persecuted for speaking the truth and opting for the poor, and also because persecution inserts her in the midst of the pain and suffering of the poor people. Because of this we should not weaken: a persecuted Church is today like Christ, the Servant of God, who takes upon Himself the sin of the world, and the sin of injustice and repression. This Church always ends up crucified, and many Christians today are led to the cross.

But by our faith we know that this cross takes us to the glory of the resurrection by Jesus Christ and to historic liberation, which will redound in a more just and fraternal society, where there will be true Peace, where fear and terror will give way to brotherhood/sisterhood and joy.

As Christians we believe that the bodies of Ita, Maura, Jean and Dorothy: four Christian women, who gave their lives for the poor, will be a pledge of hope and Christian strength, of justice for the poor, and of the so-long-desired peace for the Salvadorean people.

We are in Advent, a time of waiting and hope. We trust in God, let us be faithful to our preferential option for the poor, let us share their sufferings. One day soon this hope will become a reality. I repeat: one day soon this hope will become a reality, and there will be for the poor justice and peace.

In the meantime may we remember the foundation of our hope: "Do not be afraid," Christ says. "I have overcome the world."

ARTURO RIVERA Y DAMAS,
Bishop, Apostolic Administrator of the Archdiocese of San Salvador.
DECEMBER 6, 1980.

[Department of State Telegram]

MORE INFORMATION ON MURDER OF FOUR U.S. CITIZENS

1. Following is embassy's reconstruction of the events surrounding the deaths of four U.S. citizens—three nuns and one lay missionary, two of whom were from the Maryknoll order.

2. At approximately 1630 hours on Tuesday, December 2, two American citizens (AMCITS) drove to the El Salvador International Airport to pick up a party of four women returning from Managua. Only two of the women had been able to obtain seats on the plane, and the other two had been scheduled for a later flight. The first two travelers were driven by the AMCITS to the city of La Libertad, located approximately 60 kilometers from the airport, where all intended to spend the night after dropping off their passengers, the two AMCITS returned to the airport to meet the two later arrivals. The second set of travelers arrived, and at approximately 1900 hours all four talked with a group of Canadian missionaries at the airport.

3. The Canadian missionaries left before the four AMCITS. While driving from the airport to the main highway (the entrance road to the airport is approximately five kilometers long) the Canadians were stopped by uniformed individuals whom they identified as national police. Their cars were searched and the Canadians were allowed to proceed. The AMCITS had to travel the same route when leaving BFD Airport.

4. To reach the San Francisco hacienda from the airport entrance road one would travel twelve kilometers east on the main highway and then seven kilometers north on a secondary road. Between 2300 hours and 2400 hours on December 2 residents in that isolated area heard shots fired. Between 0700 and 0800 hours on Wednesday, December 3, the driver of a milk truck discovered the bodies of four women in a ditch beside a field close to the hacienda. The nearest residence is located approximately 30 yards from the spot where the bodies were found. The local judge, whose job it is to identify bodies before they are buried, was notified at approximately 0830 hours and reached the site at approximately 0930 hours. He found several individuals already digging one common grave for the four bodies. Among the gravediggers were the village mayor (Joseph Olores Melendrez), two members Oyophe National Guard (Sgt. Edgardo Rodrigeuz Correas and Fnu Gaitan), three members of the "Gmvil Guard" (Arnoldo Recino Aleman, and two others whose names are not recorded—all were described as armed and uniformed and were probably members of the local comandante's unit), and four residents of the neighborhood (Alejandro Rivas, Joel Mesa, Mariano Rosales, and Pedro Realgeno). Since there were no documents on the bodies, the judge was unable to identify them, and the burial continued.

5. Late Wednesday night or early Thursday morning an amcit who had become worried about the four missing women discovered a smoldering car on the side of the highway approx. nine kilometers west of the airport entrance road. The car was totally burned and the license plates had been removed. Several hours later the amcit identified the car as belonging to the mission women by the serial number of the motor. The car had not been sighted on that stretch of road earlier in the day. There are no houses near the spot where the car was found, but residents of the closest village reported seeing Hacienda police in the general area at about the time the car was set afire.

6. On the morning of December 4 the ambassador and the consul accompanied the Canadian missionaries to the airport. While returning, they were notified by radio of the finding of four bodies near San Francisco Hacienda. After considerable searching, they reached the site at approx. 1330 hours. About an hour later the same judge who had seen the bodies on December 3 returned and gave permission to open the grave. The four bodies had been placed on top of each other under about six feet of earth. The face of the first body had been destroyed, perhaps by a high caliber bullet. The second was shot through the head, and the third through the neck and breast and the fourth is believed to have been shot in the chest. According to the judge, one woman had been shot once, and all the others twice, the hands of the bodies were not tied, but one piece of cord was seen nearby.

Clothing of the victims was disarranged, and the underwear had been removed from two of the women.

7. A number of reporters witnessed the disinterment of the bodies.

☐ 1800

Mr. HARKIN. Mr. Speaker, I thank the gentleman for his contribution.

As I have said before, it is late. The House has been adjourned for some time. The fact that the gentleman would take this time to come here on the floor and to participate in this special order is one more indication of his dedication and commitment to working and fighting for human rights for our brothers and sisters in Latin America.

I know the gentleman from Texas well. I know of his dedication. I know of his concern and commitment, for economic justice, democracy, and human rights.

You know, it occurs to me at a time like this, that when we witness these brutal murders of these four nuns, that we recognize it for what it is, that we see in our mind's eye and hear the voices from the past who even cry out loudly today that what is happening in El Salvador is a fight between the forces of communism and the forces of democracy.

The gentleman from Texas knows, as I know, that that is just simply sheer fallacy. What is going on in El Salvador today and what is raging throughout Central America is not a battle between ideologies of democracy and communism or any other kind of ideology. It is simply a struggle by the masses of people in those countries for a better shake in life, for education for their children, for a decent measure of health care and for a government that will respect their individual human rights.

El Salvador is a country where over 85 percent of the people cannot read or write. I have walked through those barrios down there. There are people without floors in their houses, living with dirt floors, 10 or 12 people packed in a house that is smaller than most of our kitchens or living rooms, no electricity, no running water, no sewage, no schools, 85 percent cannot read or write, a life expectancy of 38 years of age, and then you walk out of the barrios; and three blocks up on the hill are mansions that would make the ones in Northwest Washington be put to shame, four and five Mercedes Benz parked in their driveway, swimming pools in the back, huge palatial mansions sitting there three blocks away from some of the most grinding poverty I have seen anywhere in the world. That is what the struggle is about in those countries.

It remains for us in this country to decide whose side we are going to be on. Are we going to be on the side of those people who rightfully—who rightfully—struggle for a decent share of the economic life of that country? Are we going to be on the side of those people who want their children to be educated, who want a better life for themselves, or are we going to be on the side of those few repressive elements that seek to suck all of the money out of those people, who seek to take the money and invest it in other countries, who, when their time comes can leave the country with their millions and millions of dollars and leave the country ransacked and poverty ridden?

I believe the case is clear that we in this country had better wake up, that right on our doorstep, south of us, Mexico, Guatamala, El Salvador, Jamaica, Haiti, Dominican Republic, that those same festering sores are beginning to break open, and that if we do not begin to fulfill our own historic obligation to those people in those countries, then we are all going to wake up some day and find that it is not only just El Salvador but it is many other countries down there that will be in the same situation.

I am hopeful that as this new administration takes office, that they not be led astray by those who paint the picture in El Salvador as a battle beween ideologies, but they will truly see what the church is talking about, what the Maryknolls are talking about, what Archbishop Romero is talking about, what all the people who have been in Latin America, especially El Salvador, what they have talked about and what they know to be true that that is not the battle in El Salvador, that it is a different kind of battle; and it is one on which we had better get on the correct side and that is the side of the poor and the side of the masses of people in El Salvador.

I thank the gentleman from Texas for his support and I now yield to the gentleman from Texas (Mr. LELAND).

Mr. LELAND. Mr. Speaker, I certainly do appreciate the gentleman's statements about my commitment. I certainly want to at this time note that the gentleman has really truly moved me and has struck me with a sense of his deep compassion and sensitivity about the problems of the people, particularly the poor of the world. I think that this body is certainly privileged to have him to serve here and hopefully will encourage him to delve deeply into matters of these and hopefully will join him in his struggle to try to right the wrongs of this world, particularly in the sense of what America represents to the world, as the flagship that runs the oceans of this world, to try to establish human rights, whether it is in fact led by the Reagan administration, the Republican administration or whatever administration.

I hope that as we embark on this new administration, and I know that my colleague will join me, we hope that in fact that there is some hope with the new administration in this effort.

□ 1810

Mr. HARKIN. I thank the gentleman.

I yield to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, I want to commend the gentleman for bringing this matter to the attention of the House.

I have been listening very carefully to the observations that have been made. I agree with the gentleman that there is on the basis of the situation in El Salvador a conflict between, to use the phrase, the haves and the have-nots. There is a very inequitable distribution of the goods of the world. People are hungry. Education is lacking. Medical resources are lacking.

I think at the same time when we recognize that and say we have a responsibility as the United States of America in this regard that we should also understand that there are the forces of communism at work in that country who will seek historically to take advantage of that situation for the purpose of bringing them to power under the very good flag or the pretense of bringing an alleviation of the suffering that the people are sustaining.

But right now in this world, what do we see? We see one of those nations of the world, imperialist Russia, which has brought communism by force of invasion to Afghanistan, at this very moment threatening to invade Poland for the purpose of continuing the Socialist form of government in that country.

When we talk about the legitimate aspirations of people in El Salvador, I think we should at the same time suggest to the people of El Salvador, to those Communists who are attempting to take control of that country for good reasons, medical care, education, housing, relieving the suffering of the poor, to watch the performance of those Communists of the world to make sure that they do not jump, that is, the people of El Salvador, from the frying pan into the fire.

What is the answer? I think the answer is the answer that we started on an experiment 200 years ago, a free people, a free people, a free economic system.

There is a man by the name of Wininski who wrote a book on this very subject, "The Way the World Works." He said:

> If you want to relieve the tensions of people in a society, if you want to advance the human interests of those people, reduce the tax load on the people of that country.

I think that is the long range. The short range, of course, is for this nation to bring its good offices to bear and the United Nations to bring its offices to bear to stop the suffering, the death and the destruction and then to build a good society where there can be an equitable distribution of the goods of the world.

Mr. HARKIN. I thank the gentleman for his contribution. I just hope, though, that we do not either confuse the situation in El Salvador with that which is happening in Poland, nor try to make some kind of linkage between what is happening in Poland and what is happening in El Salvador. There is not even the slightest bit of resemblance between the two countries nor the situations they face.

Therefore, to make some kind of linkage, I think again is to clothe or to mask what is happening in El Salvador with the mask of the world struggle between communism and democracy. That is not so in El Salvador I would make that point as strongly as I know how; but that while the gentleman is correct, that forces of communism will use the situation in El Salvador for their own benefit, and that is true, they will always try to use those situations where there is grinding poverty, where there is a great disparity, an immense disparity between the very rich and the poor and they will try to use those situations to their own benefit; but therein again lies our challenge and where we ought to be committed. We ought to be committed to developing in those countries like El Salvador a well educated populace, a populace that can read and write, a populace that does have decent health care and sanitation, a populace that does, in fact, have a life expectancy a little bit greater than 38 years of age. If we do those things, communism does not have a chance in El Salvador, not a chance; but if we continue to weigh in on the side of those repressive—I do not know what to call them—repressive military people in El Salvador that have no compassion whatsoever on the poor, who only want to slaughter anybody that gets in their way, if we continue to weigh in on their side, we only make it easier for the Communists to step in at some point in the not too distant future.

So I thank the gentleman for his contribution. He is corect, that there are violations of human rights in Poland and in Afghanistan and at any other time I would be glad to talk about that. I wanted to focus on El Salvador. Much of the world is focused on Poland, just as much of the world was focused on Afghanistan; but so many times we forget about a country like El Salvador. It really does not count for much in the world community. It has no great economic structure. It does not count much in international trade. It has no great standing army with which to defend our NATO or SEATO allies, but it is a nation that is close to the United States, both geographically and in terms of our own heritage.

I believe that it is necessary, I feel that it is necessary that we become more cognizant of what is happening in El Salvador, just as we have become cognizant of what is happening in Poland and in Afghanistan.

Mr. Speaker, I offer the following material in connection with this special order:

THEY FELT THEY WERE SERVING THE PEOPLE

(By Terri Shaw)

As soon as I climbed into the van that sunny day in El Salvador last month, I knew they were from Ohio.

They had that same cheerful, well-scrubbled look of the women I see driving tractors or shopping in Kroger's when I visit my parents in southwestern Ohio.

Jean Donovan, 27, with her close-cropped blond hair looked like a member of the high school band.

Dorothy Kazel, 41, behind the wheel of the van, didn't look much older. She could have been a home economics teacher in my high school in suburban Cleveland.

Jean chuckled when I asked if they were from the Midwest and confirmed that Ohio was their home. Dorothy was an Ursuline nun and Jean a lay worker, both assigned to El Salvador by the archdiocese of Cleveland.

Yesterday morning Charles Kuralt looked out of my TV set and informed me that Jean, Dorothy and two other North American women had "disappeared" in El Salvador. Their crime apparently was that they were Catholic activists working with El Salvador's poor.

Later it was learned that the bodies of the two were discovered after they had been shot.

A friend in Washington said Jean and Dorothy had driven Tuesday night to the airport, about an hour from San Salvador, the country's capital, to pick up two Maryknoll sisters arriving from a meeting in Nicaragua. The Maryknolls, Ita Ford, 40, and Maura Clarke, 49, were based in Chalatenango, an area in northern El Salvador where the fighting between leftist guerrillas and government forces has been particularly heavy.

News reports say the burned-out van was found beside the road the next day.

The day Jean and Dorothy gave me a ride, we didn't have much time to delve into the question of why two young women from Cleveland were risking their lives in El Salvador, where thousands of people have been killed in political violence this year.

They knew that working with the poor as Catholic missionaries was considered subversive by the right-wing terrorists and their allies in the armed forces who are believed to have killed hundreds of men, women and children suspected of sympathizing with the left.

The two women even joked about the danger, saying they knew they weren't popular among "certain groups" in the country.

They said they had been doing community work in La Union, in the eastern part of El Salvador, but because of the persecution of Catholic community groups they had to suspend most of their pastoral activity.

"We're in transportation now," said Jean, explaining that much of their time was spent driving refugees from war-torn regions to church refuges like the one at the archdiocese office in San Salvador where they had picked me up.

Their homey, Midwestern accents were a refreshing change after interviewing defeated, weary Salvadorean women who told of seeing their husbands and children killed by government troops. Somehow it seemed safe in the van, even though Jean and Dorothy talked about threats they and the priests they worked with had received.

I called Sister Bartholomew, general superior of the Ursuline order in Cleveland, to ask the question I hadn't had time to ask Dorothy and Jean. Why did they stay to work in such a dangerous situation?

"They felt they were serving the people," Sister Bartholomew said, "bringing gospel values to people in turmoil and suffering. They loved the people."

MASS AT ST. MATTHEW'S

Washington Archbishop James A. Hickey will conduct a public memorial mass for the slain women Saturday at 10 a.m. at St. Mathew's Cathedral. Hickey was bishop of Cleveland before coming here in August.

Washington Office on Latin America,
Washington, D.C.

Clear, Cruel and Arbitrary Persecution Against the People and the Church

The Secretary of Social Communication of the Archdiocese of San Salvador informed and announced the most recent events in the zone of Aguilares, seen as a clear, cruel and arbitrary persecution against the people and against the Church in El Salvador.

1. The Events of October 6th and 11th of October, 1980.

In the early morning of Monday, October 6th, members of the Security forces and of ORDEN violently burst into the warehouse that the parish used to store the goods of Caritas. They forced the back door of the storeroom, inspected the place and upon finding nothing, they ran through the hall of the main body of the Church. Then they destroyed two posters, one for assistance to the Church radio station, YSAX, and the other of the Mission, that were posted on the door of the Church. They then shot at the Parish building.

Not satisfied with this unjust and violent search of the buildings, at 2 am on Friday, October 11th, the same security forces and agents of ORDEN once again entered the warehouse of Caritas, breaking down the back door to enter and the front on leaving. They stole clothing being stored for helping campesinos.

Then they went to the Parish house, shot off the locks of the entry doors and entered the Rectory. They fired at the statue of Fr. Rutilio Grande and opened doors of rooms and cabinets, forcing the padlocks. They also fired weapons at the door of the Church. They were not able to open it from the inside and went into the Church through the Sacristy. They stole the poor money boxes after breaking into them with gunfire and machetes. They also fired at the door of the Parish Clinic, but did not enter. In the main body of the Church, the Rectory and the Sacristy, G–3 shells were found. The G–3 is the regular weapon of the Army and security forces. They also found 9mm shells. The broken locks as well as the shells are proof of these events, and are in the possession of the Archdiocese.

2. The General Situation.

It is very well known that the area of Aguilares and El Paisnal is one of the hardest hit regions by successive governments. Since the assassination of its Vicar, Fr. Rutilio Grande, in March of 1977, the military occupation of the city of Aguilares and the expulsion of its Parish team in May of that year, the deaths and disappearances have multiplied. Notwithstanding, since January 24th, 1980, the deaths and disappearances have begun to be counted in the hundreds. Since that time more than 400 people of all ages, both sexes, and mixed economic background have been victims of a merciless, bloody persecution directed at Christian Communities of both the countryside and the city.

A brief account provides the following figures: Approximately six massive military operations; six times planes and helicopters of the Armed Forces have machine-gunned and bombed the towns and villages of Aguilares and El Paisnal; military searches, accompanied by robbery, burning of houses, and assassinations are countless. Some 111 houses have been burned in the region. The situation in the countryside is desperate. There is not enough food nor the way to obtain it.

The Parish is continuously watched by the military and the Pastoral team is threatened. This has meant that the Pastoral action of the Church has been seriously hindered, including liturgy, catechism for children, pastoral visits to the villages, the celebration of mass or of gospel reflections, and social services provided by the Clinic, Caritas, etc.

The Secretariat of Social Communication of the Archdiocese of San Salvador does not consider the events of the 6th and 11th as isolated incidents, but rather as the continuation of a series of open, cruel and pitiless acts of persecution against the people and against the Church. Therefore, the Social Communications Office:

3. Denounces actively all these manifestations of repression against the people and against the Church that a.) leave a bloody, monthly balance of dozens of deaths and disappearances; b.) violate the most basic human rights, without giving people the least possibility of defense or protest, since all the channels for self-expression have been prohibited; c.) impede the Pastoral and humanitarian activities of the Church; and d.) go against the Constitution of El Salvador and against the rights that are guarded by the Constitution.

4. Places responsibility on the Security Forces and ORDEN for the repressive actions against the Christian Communities; and on the cruel and disproportionate rightist terrorism unleashed in the countryside and cities, since they have the endorsement, the protection and the complicity of the Security Forces.

5. And demands:

a. That the oft-proclaimed promises of the Government Junta to work to benefit the people and to respect Human Rights be fulfilled.

b. That the Government Junta, which has power over the Central Command of the Armed Forces, order the Security Forces—uniformed or not—to respect both in daytime and at night, the right of compesinos to organize, just the Security Forces respect the right to organize of organizations such as ANEP, ASI, etc.

c. That the material and intellectual authors of so much crime, cruelty, and sadism be punished, since the authors are known.

(e) That the Pastoral work of the Church be permitted and that it be allowed, to complete its mission.

This text appeared in Orientation (weekly newspaper of the San Salvador Archdiocese) Oct, 19, 1980.

Statement by Archbishop John Roach, President of the National Conference of Catholic Bishops (United States)

The assassination of Archbishop Romero in March of this year has dramatized to Christians as few other events could, the inherent risk faced today by those who would be faithful to the Gospel of Jesus Christ.

The pastoral task of accompanying the people and especially the poor and the oppressed in their daily suffering and struggle has made the Church of El Salvador a vibrant symbol to all the world.

In these last days, the price of such fidelity has brought death and destruction of unprecedented proportions to the Christian community of El Salvador.

One week ago as we in this country gathered in our homes and churches to give thanks to God for His bounty, armed men invaded the Jesuit High School in San Salvador where some two dozen people were meeting peacefully. Within 24 hours the bodies of six of them, including most of the top leadership of the opposition movement, were found marked with savage torture.

Soon after their bodies were brought to the Metropolitan Cathedral where many came to mourn their slain leaders, the Church was rocked by an explosion that destroyed parts of the building and wounded several.

No sooner had the funeral ended yesterday when we learned of the disappearance of four American women, all missionaries to El Salvador. Maryknoll Sisters Ita Ford and Maura Clark had been met at the International Airport by Ursuline Sister Dorothy Kasel and lay volunteer Jean Donovan, both of the Cleveland mission team. Their burned-out microbus was found along the highway near the airport and just today we have received confirmation that all four had been killed.

This campaign of violence against the poor and those who side with the poor is an abomination that cries to Heaven. People of good will everywhere must make their own the anguished cry of Archbishop Romero's last public homily: "In the name of God, Stop the repression!"

Let those who govern in El Salvador fulfill the elemental duty of any government claiming legitimacy, namely:

Bring under true control its own military and security force and end the bloody repression against the Church and the popular movements.

As regards the United States:

Let those who are responsible for the policy of the United States towards El Salvador, both those in office as well as those about to assume office, make unmistakably clear to all the revulsion of the American people at the sickening spiral of violence affecting the Salvadorean people.

Cessation of all assistance to repressive security forces and a clear affirmation of our enduring commitment to human rights.

These are measures available to our political leaders: let such measures be taken now.

The Church in the United States shares the grief of the families, the religious communities and dioceses from which the four dedicated and valiant women come. We share the grief of all in El Salvador whose loved ones have been so brutally taken from them. We pray during this time of waiting the Lord's coming, that the hour of justice, peace and healing will soon come to El Salvador.

John Roach,
Archbishop of St. Paul-Minneapolis; President of the National Conference of Catholic Bishops; President of the U.S. Catholic Conference.

December 4, 1980.

[From the Washington Office on Latin American Update, November/December 1980]

Salvadorean Government Targets the Catholic Church, as Washington Moves Ahead with New Military Aid

The San Salvador diocese weekly newspaper, *Orientation*, recently printed a two-part article entitled, "A Chronology of Persecution Against the Church: January to October 1980." Actions by the Salvadorean Government armed forces and security forces, as well as by government-condoned rightist paramilitary groups, predominate in entry after entry of this chronology. For example, on Januray 12, the National Guard captured Sr. Beatriz Velasquez Ortega as she traveled by bus. At the Arcatao National Guard headquarters, she was threatened with execution. On February 18, National Guard soldiers machine-gunned the Nejapa Parish Church at 3:30 a.m. On March 12, forty members of combined government troops searched the homes of priests in the Zacamil neighborhood, entering violently and stealing documents. On April 26, members of the Salvadorean army and men in civilian dress tortured and killed seven catechists in San Pedro Perulapan. On May 17, Salvadorean army members searched the San Jose Villanueva convent and captured Sr. Teresa Larios. On June 8, Salvadorean security forces brutally harassed meetings of Christian Community Groups in Potonico, Los Ranchos, and Reubicacion. The chronology continues through October 1980, with numerous entries for each month.

In its March 1979 report on El Salvador, the OAS Inter-American Commission on Human rights concluded that "priests, members of religious orders, and lay persons who cooperate actively with the Church have been the object of systematic persecution by the authorities and organizations that enjoy the favor of the government. This report, presented at the OAS General Assembly in October 1979, goes on to recommend "that the necessary measures be taken to prevent continuation of the persecution of the members of the Catholic Church who act in legitimate exercise of their pastoral mission" and that "the *campesino* sector be permitted to resort to every means of organization existing in a democratic society . . . and that the government should also encourage and protect the *campesinos*—and those who cooperate or wish to cooperate with them, such as the churches, particularly the Catholic Church—in the efforts to organize themselves to exercise their rights and to affirm their dignity."

Despite the October 1979 coup which ended General Romero's rule and the subsequent dismissal of some 40 high-level military officers, official or government-condoned persecution against the Catholic Church, as described by the OAS in its 1979 report, continues in El Salvador and has escalated in dramatic proportions since the formation of the Military-Christian Democratic government in January 1980. This year alone four priests have been assassinated, and great numbers of the 2,811 peasants killed by government forces through September of this year belonged to Christian Community Groups. The Catholic Church radio station, YSAX, represents the only media channel able to transmit news and analysis at variance with official sources. Its broadcasts provided the only uncensored news source for rural inhabitants, who constitute 62 percent of the Salvadorean population. The radio station has been dynamited and its transmissions interrupted on numerous occasions; those actions were condemned by members of the U.S. Congress having visited El Salvador. On September 13, in the most recent attack, the YSAX radio transmitter was completely destroyed, and eye-witnesses report that Salvadorean military in uniform were among the 30–50 persons who participated in the two-hour dynamiting operation. No member of the Salvadorean Military Command intervened to stop the successive bombings of the radio station entry-door and transmitter, and the Salvadorean government has not conducted an investigation.

The Catholic Church has felt a sharpening of this persecution in September and October, the YSAX attack being one example. The lead title for the October 12 issue of Orientation reads: "Enough Falsehoods, Death, and Repression," The editorial for the week decries the newest attacks on the Church: "Here we have the recent horrendous killing of an entire family in Chalatenango. We have the horrible assassination of Magdalena de Henriquez, of the Salvadorean Human Rights Commission. We have the assassination of Fr. Manuel Antonio Reyes. We have the explosion of a high powered bomb which destroyed part of the Archdiocese offices and the entry-way of the San Jose de la Montana Seminary" (where the offices of, previously, Archbishop Romero, and now, Mgr. Rivera Damas are located). The editorial goes on to raise some questions as to who perpetrates the violence and where responsibility lies for its continuation. "Who are those responsible? People always will say that it is those on the right. We ask, since when has the answer been formulated in this way? Why is no strong hand placed on the so-called Right if it is known? Is it that the Right is incorporated into the very Government? Is it that the Government is incapable of stopping these assassinations by the right? Or is it that the Government is an accomplice in these killings?" Further on, the editorial refers to Apostolic Administrator and acting Archbishop, Mgr. Rivera. "I know," said Mgr. Rivera in his homily, "of the good intentions and the religious sentiment of many members of the Government, but good intentions and personal sentiments are not enough; it is necessary that justice be imposed, a justice characterized by the practice and experiences of the Christian faith and the Bible."

In a mid-November interview, a senior government official indicated that El Salvador "very definitely" needed more U.S. military aid and that helicopters were required given the inadequate road system. He also confirmed that the U.S. is now training Salvadorean helicopter pilots and mechanics. During this same interview, another U.S. official was asked whether he thought that acting Archbishop Mgr. Rivera y Damas favored additional military aid, and helicopters in particular. "No," he responded. "I don't think so. He's against any kind of foreign assistance." Pausing, he added. "The question of helicopters is not by any means decided."

In Washington, the U.S. government is in the final stages of approving additional military aid for the Salvadorean junta. Although Congress has yet to approve the fiscal year 1981 economic and security assistance bill, recent Administration and Congressional agreement on the inclusion of El Salvador in a normal procedure entitled "continuing resolution" will enable the sending of $5 million in what is described as "non-lethal" assistance in the near future, before final passage of a foreign aid bill. According to the Institute for Policy Studies, the upgraded military package is to include nearly $3 million in helicopter support, refurbishing, return and repair; three commercial wreckers; 10 armor-plated jeeps; 10,000 smoke grenades; and nearly $250,000 in anti-riot equipment. Carter officials are now considering the leasing of six helicopters to El Salvador, and have reopened discussion on mobile training teams as a next step. Earlier U.S. attempts to send mobile training teams to El Salvador prompted the late Archbishop Oscar A. Romero to write to President Carter in February 1980, opposing any additional aid to the Salvadorean government, on the grounds that Salvadoreans needed to resolve their own problems.

Washington policy-makers therefore are giving the green light to more military aid for a government unwilling to end systematic repression against its people, with a particular focus against the Catholic Church. The Salvadorean government troop invasion of the San Salvador Archdiocese premises on November 19, 1980, is the latest and most glaring example of actions by present and future recipients of U.S. "non-lethal" military aid. The very day that the OAS General Assembly first met in Washington, D.C., forty armed men—four of them masked and all operating with the protection of five armored trucks and transport vehicles of the Salvadorean army—invaded the area set aside within the very archdiocese buildings for care of some 600 refugees, mostly women and children. Members of the Salvadorean army accompanied by men in civilian dress destroyed the clinic and physically assaulted six refugees, including the person in charge of food distribution. The soldiers then entered the adjacent offices of YSAX and "Orientacion." When asked by the director of the Church radio station "if he was the officer leading the military operation and why he had entered the area without a warrant," an armed soldier responded that "the commanding officer was outside and received orders from higher up." Mgr. Rivera y. Damas terminated the military operation by calling the junta. The unanimous opinion of the Archbishopric of San Salvador places responsibility for this new act of violence on the High Command of the Salvadorean Army . . . those who receive U.S. military aid.

STATEMENT BY MURAT WILLIAMS, FORMER AMBASSADOR TO EL SALVADOR NOVEMBER 28, 1980

There is every reason to expect a great outcry in this country from religious and other groups who have been appalled by the United States government's support of the so-called moderate junta whose agents are evidently responsible for this outrage.

Men were seized in the Church High School, on church property, by a group of about 200 government agents. Opposition leaders were tortured and executed without trial. Our government which for so long has supported the so-called moderate junta cannot wash its hand and deny responsibility.

President Carter is still president. He has two more months in which he can make up for the appalling violations of human rights perpetrated by a government which has no support except that rendered by the Carter Administration.

OAS–IACHR REPORT, MARCH 1979; CONCLUSION AND RECOMMENDATIONS

In early 1978, the OAS–IACHR conducted an on-site visit to El Salvador. In March 1979, the Commission published a comprehensive report, which drew worldwide attention and acclaim for its balanced, in-depth study of the human rights situation, as well as of the long-standing political and economic factors that contributed to continued violation of basic rights. The October 1979 OAS General Assembly Meeting in La Paz, which was to treat the Commission's report, began its sessions just days following the military coup d'etat that ended the rule of General Carlos Humberto Romero. In conversations with numerous delegations in La Paz, the newly-appointed Foreign Minister from El Salvador expressed his hope that the Commission's report be fully discussed, indicating that such debate could only strengthen the position of the new government. Representatives of the new Salvadoran government were warmly welcomed by the General Assembly, but discussion of the Commission's report remained limited. The General Assembly commented the Commission on its report, noted with satisfaction the new government's determination to promote and guarantee exercise of human rights and expressed hope that the recommendations contained in the Report be complied with. Furthermore, the General Assembly asked the Commission to continue monitoring the situation of human rights in El Salvador and to include its conclusions in the report to the 10th General Assembly.

Despite the October 1979 change of government in El Salvador, the subsequent dismissal of some 40 high-level military officers and the determination of the young officers to lay the groundwork for a just society, the human rights situation in El Salvador has steadily deteriorated. Analysis and data compiled by both international and Salvadorean human rights organizations indicate that rights violations—particularly the problems of right to life and disappearances from January 1980 onward—far surpass the violations verified by the OAS–IACHR in January 1978, during the General Romero regime.

CONTINUED ACTIVITY BY ORDEN

The first and second conclusions of the 1979 OAS–IACHR report on El Salvador were that "many persons have died as a result of the actions of security bodies and of the official paramilitary organization known as ORDEN" and that "the security bodies and the official paramilitary organization ORDEN have committed torture and physical and psychological mistreatment in many cases." The first Commission recommendation was "that the official paramilitary organization called ORDEN be dissolved, because the way it has acted and is acting is contrary to the effective exercise of the human rights of the campesinos." In its 1978 Report to Congress on Human Rights, the U.S. government referred to ORDEN as "a government-sponsored paramilitary organization."

In its 1980 Annual Report, the OAS–IACHR expresses its "special concern for the relative passivity of the Government toward certain armed groups that still maintain ties with former security organizations and with the dissolved organization ORDEN, which appear responsible for hundreds of deaths; it expresses its concern as well for the lack of an adequate and effective investigation of these crimes."

Although ORDEN was dissolved by government decree in late 1979, ample evidence exists that the organization continues to function, most often in collaboration with the Salvadorean army and security forces. In late 1979, the organization was publicly reconstituted under a new name (Nationalist Democratic Front) by one of its original founders, Ret. General J. Alberto Medrano. No action was taken by the Salvadorean government against him in the resuscitation of ORDEN, whose activities continue to increase in number.

The San Salvador Archdiocese Legal Aid Office reports that ORDEN is responsible for the deaths of 140 Salvadoreans in June, July and August 1980 alone. The following are but two examples of the hundreds of signed communications to this office. In April 1980, in Llano Grande, eleven members of the Salvadorean National Guard and members of ORDEN captured and later decapitated peasants, Jose Orellano and Fidencio Alfaro. In May, members of ORDEN, accompanied by Salvadorean National Guard and Army troops, killed some six hundred peasants as they attempted to cross the Sumpul River into Honduras.

In an October 19, 1980, communique, the Office of Social Communications (Archdiocese of San Salvador) denounced forced entry by ORDEN members into a parish warehouse used to store food belonging to CARITAS. The Secretariat of Social Communications stated that "it does not consider (these events) as isolated incidents, but rather as the continuation of a series of open, cruel and pitiless acts of persecution. . . ."

Abuses by ORDEN members have been documented both in rural and in urban areas; most frequently they act in combination with Salvadorean government troops which due to frequent post reassignments are unfamiliar with the local terrain and population. ORDEN members, on the contrary tend to live in a given village or town and are most often former members of the Army who supplement a modest income through pillage following assassination, rape and torture by the Salvadorean combined forces.

PERSECUTION OF THE CATHOLIC CHURCH

In its 1979 report, the OAS-IACHR concluded that "priests, members of religious orders and lay persons who cooperate actively with the Church have been the object of systematic persecution by the authorities and organizations that enjoy the favor of the government." It recommends "that the necessary measures be taken to prevent continuation of the persecution of the members of the Catholic Church who are in legitimate exercise of their pastoral mission."

The 1980 Annual Report of the Commission states that "the Archbishop of San Salvador, Mgr. Oscar A. Romero became the most outstanding spokesperson for defense of the poor, of the peasants and of human rights in general. In February 1980, Mgr. Romero denounced the destruction by bombing of the Catholic radio station YSAX, as well as the 72 sticks of dynamite planted in the Sacred Heart Basilica where he normally gave his homilies. In his homily of March 23, 1980, Mgr. Romero appealed to the members of the Army and National Guard troops and police, indicating that they are Salvadoreans and stating that the killing of peasants is against human law and the law of God." The annual report later mentions the July 5 search of the offices of the Archdiocese Legal Aid Office. One hundred and twenty National Security troops, accompanied by three armored trucks and armed military vehicles violently entered the Legal Aid Office to search and ransack files. Among the materials confiscated—and never responded for by the Salvadorean government to date—were signed legalized denunciations dating back to 1975 and the file containing information on the investigation into the March 24th assassination of Mgr. Romero.

Persecution against the church has intensified in the latter half of 1980. This year alone four priests have been assassinated, and great numbers of the 2,811 peasants killed by government forces through September of this year belonged to Christian Community Groups. The YSAX radio station represents the only media able to transmit news and analysis at variance with official sources. It has been dynamited and its transmissions interrupted on numerous occasions. On September 16, in the most recent attack, the YSAX radio transmitter was completely destroyed, and eye-witnesses report that Salvadorean military in uniform were among the 30–50 persons who participated in the two-hour operation. No member of the Salvadorean Military Command intervened to stop the successive bombings of the radio station entry-door and transmitter, and the Salvadorean government has not conducted an investigation.

In October the Office of Social Communication reported on persecution against the Catholic Church in the areas of Aguilares, where a parish church was machine-gunned, collection money stolen and shells of the G–3 (the regular weapon of the army and security forces) found in the ransacked church. According to this report, in recent months the area has been subjected to: six massive military operations; bombing and machine-gunning of towns and villages by Salvadoreans armed forces helicopters and planes on six occasions; and the burning of 111 houses. According to mid-November conversations with peasants of the area, children sent from outlying rural areas to the town of Aguilares in recent weeks to purchase medicine and food have been captured or killed.

The San Salvador Archdiocese weekly newspaper, Orientacion, has recently printed a chronology of persecution against the church from January-October 1980.

VIOLATIONS OF THE RIGHT TO LIFE

According to the Archdiocese Legal Aid Office, some 5,303 persons from popular and progressive sectors were killed for political motives from January to September 1980. These figures are substantiated by signed testimonies from eye-witnesses and/or family members, and do not refer to those victims of armed combat. Of these persons killed, 2,811 were peasants; 434 were students; 212 were workers and 62 were teachers. Legal Aid Office signed testimonies indicate that combined government troops were responsible for 992 political killings from June to August alone, and that in the first seven months of 1980, the Salvadorean army and combined troops conducted 437 military operations/invasions in areas inhabited by peasants. During the period of just one month, two members of Salvadorean Human Rights Commission were assassinated; these deaths not only endanger the continued existence of the Commission but also make it increasingly dangerous for relatives of all rights violations victims to speak out. In the October 19 issue of Orientacion, the Office of Social Communication "PLACES RESPONSIBILITY on the security forces and ORDEN for repressive acts against the Christian Communities; and on the cruel and disproportionate rightist terrorism unleased in the countryside since they have the endorsement, protection and complicity of the Security Forces . . ." and . . . "DEMANDS that the material and intellectual authors of so much crime, cruelty and sadism be punished, since the authors are known."

RECOMMENDATIONS

(1) That all OAS member states review the March 1979 OAS–IACHR report on El Salvador, in particular the conclusions and recommendations;

(2) That the General Assembly, in keeping with conclusions adopted at the 1979 Annual Meeting, take immediate steps to evaluate the new Salvadorean government's compliance with its stated intention to promote and guarantee exercise of human rights;

(3) That the General Assembly, in keeping with conclusions adopted at the 1979 Annual Meeting, request that the OAS–IACHR complete its mandate of monitoring the human rights in El Salvador situation by implementing an on-site investigation at the earliest possible opportunity;

(4) That the General Assembly call for an investigation into the Salvadorean military operation in May 1980 at the Rio Sumpul region between Honduras and El Salvador;

(5) That the General Assembly call for an investigation into the reported misuse of OAS personnel and helicopters leased to the OAS in areas within and outside the demilitarized Honduran/Salvadorean border zone prior to the signing of the peace treaty.

MURDERS IN EL SALVADOR MIGHT EDUCATE REAGAN

(By Mary McGrory)

The murder of four American women, three of them Catholic nuns, the other a volunteer, may bring home to Ronald Reagan the state of affairs in El Salvador.

The women went there, as members of the Maryknoll order, to which Ita Ford and Maura Clarke belonged, explained, "not as political people, but to live out the Christian message—but giving out bread is considered subversive, and therefore a political act."

Some 8,500 people have been killed in El Salvador in the past year, and they are divided between people who gave bread, like Archbishop Oscar Romero, who was killed as he said mass, and people who wanted it—like peasant leaders who were slain as they tried to put into effect long-awaited land reforms. The junta blames the killing on the extreme left, but has been unable to prove it.

The atrocity shows that the American policy of propping up the junta has failed. The United States tried to create a center where none existed. But the junta, which includes moderate and decent men, cannot control the military.

President Carter's prompt suspension of all military and economic aid surely says he suspects government implication in the latest horror.

"It was worth trying," says Patt Derian, the head of the human rights bureau at State of the U.S. experiment. "But the moderates could not hold the military. The string has just run out."

In the last letter before he died, Archbishop Romero wrote to President Carter beseeching him to cut off military supplies, which were being used against his people. The murder of the women accomplished what he could not.

One member of the Reagan transition team, which has been clamorously disdainful of Carter's human rights policies, promised a group of Salvadorians that the Reagan administration would send military aid to keep the hapless, ineffectual junta in power.

Reagan will find that diminution of human rights considerations could bring him into conflict with certain elements in the Catholic Church, a constituency he wishes to be on good terms with. In Latin America, the hierarchy, after centuries of blessing tyrants, has gone to war with them and tells the oppressed that life does not need to be that way.

Archbishop James Hickey of Washington said a memorial mass for the victims at St. Matthew's Cathedral. The president-elect is calling on Cardinal Terence Cooke, who is expected to tell him that the church is standing with the downtrodden, not the "legitimate governments," the major hang-up of the Nixon years.

The future of the State Department's human rights section in the Reagan administration seems about as promising as that of the Department of Education. But Patt Derian, sitting amid the inevitable cartons of the Carter appointee, alternates between hope and despair.

She recently had a celebrated spat with a prominent transition spokesperson, Jeane Kirkpatrick of Georgetown, on national television. Ms. Kirkpatrick was shown saying that "moderately oppressive regimes" friendly to the United States would be favored over revolutionary regimes that were unfriendly and might turn out in the end to be more oppressive. The camera cut to Ms. Derian, sputtering, "What the hell is a moderately oppressive regime—just a little torture?"

But Derian, who was trained in the civil rights movement for the work of confronting dictators, believes that after study, the Reaganites may find that human rights is a realistic foreign policy consideration, "because people cannot be treated like mules indefinitely in the 20th century."

The choices in El Salvador are all bad. To support the junta means more thuggery. To abandon it might bring on civil war. Obviously the right wing in El Salvador is hoping to convince Reagan that they are in charge, and all that stands between the country and a Castroite takeover. It's a nasty problem for a new president.

● Mr. LEDERER. Mr. Speaker, in the 14 months since the overthrow of the El Salvadoran President, political violence has claimed the lives of nearly 8,500 men, women, and children. Last week, the lives of four Catholic American women—three nuns and a lay volunteer—were taken, and their names added to the terrible toll.

Dorothy Kazel, Ita Ford, Maura Clarke, and Jean Donovan were not partisans. They did not pick sides in the battle between leftists and rightists. With love in their hearts and a sincere concern for those peoples less fortunate than they, these women went to El Salvador to provide solace to the poor, and to all those who live in turmoil and suffering amidst the conflict.

These women were well aware of the danger associated with their work. They knew all too well that working with the poor as Catholic missionaries was considered subversive by the right-wing terrorists and their allies in the armed forces. But, filled by their love of people and of God, they continued to distribute food and provide other physical and spiritual comforts to refugees from the fighting.

To their families, their friends, and their religious orders, we offer our deepest condolences and heartfelt prayers. We pledge this Government to bring to justice their murderers and to bring to an end the senseless violence that is taking the lives of the innocent in El Salvador.

Eternal rest grant unto them, O Lord, and may perpetual light shine upon these present-day martyrs.●

● Mr. DRINAN. Mr. Speaker, El Salvador has, unfortunately, become accustomed to violence. The brutal murders of four American missionaries there last week raises once again the issue of the future of this small, overpopulated Central American nation. It also raises questions about United States-El Salvador relations.

I visited El Salvador on two occasions and found it to be a nation in search of peace, but without a government to lead it there. Under General Romero, El Salvador knew severe repression against those who dared to speak out against the injustices of the military regime. For over a year now, a so-called centrist government has attempted to mend the fences between the extreme right and the far left. The murders last week, and the murders of so many before these, are a testament to the failure of the Government to confront the true issues facing El Salvador.

The cessation of all U.S. military aid to El Salvadore was an appropriate response to the near-civil-war conditions that exist there. Mr. Speaker, I strongly deplore such violence.

In the future, I would hope the U.S. Government would think twice before sending military hardware of any kind to a country that cannot control the violence perpetrated against its own citizens in such a systematic manner.

I commend Mr. SEIBERLING and Mr. HARKIN for calling this special order to bring attention to the situation in El Salvadore. The Congress must continue its leadership role in monitoring the actions of other nations whenever human rights are endangered.●

● Mr. PEPPER. Mr. Speaker, I am sure that our colleagues share my deep shock and disbelief at the recent atrocity we have witnessed in El Salvador, where dissension and warfare between the right and left wing of the country is paralyzing their beautiful country and has resulted in the heinous slaying of four innocent victims recently, American Catholic nuns, who had pledged their precious time and lives to help the poor people of that bewildered country. Thus exposed to the basest impulses of human beings, torn between political ideologies of extremism, El Salvador finds itself in a precarious position. Let us hope that Cuba's brutal Castro, whose subversive collaborators thrive on this kind of senseless and appalling violence and lawlessness, can be kept out of El Salvador, while the country spins helplessly in a cauldron of cruel rage, which serves to disgust onlookers and destroys the best hope of the Salvadoran people.●

● Mr. CORRADA. Mr. Speaker, I would like to join my colleagues in expressing my sympathy and that of the people of Puerto Rico to the families of the four American missionaries slain in El Salvador on December 2.

That four lives are taken is both saddening and shocking, but when four people driven by their sense of Christian mercy and duty are slain in such a manner and by the people in a country which they are so selflessly serving is almost beyond words. I urge the Government of El Salvador to take the strongest measures to capture and bring before the appropriate tribunals the perpetrators of this unspeakable act, and I urge the Government of the United States to take whatever measures are at its disposal to see that the Government of El Salvador brings to justice the killers.●

● Mr. OTTINGER. Mr. Speaker, I am shocked and deeply saddened by the abduction and assassination of four American missionaries in El Salvador. Two of the slain nuns were from the Maryknoll Missionary, which is located in my district. Maryknoll missionaries are dedicated to improving the lives of millions of people who live in poverty and oppression. In city slums, on barren mountain slopes, in remote jungle villages—throughout war-torn El Salvador, Maryknollers are at work teaching people how to care for themselves and each other.

The death of missionaries is not new to Maryknoll, unfortunately, for they have lost priests and nuns in Korea, Vietnam, Bolivia, Chile, and elsewhere. This tragedy, however, is particularly distressing because Maryknollers in El Salvador have been trying to alert us for years about human rights violations there. It is also most disturbing because of allegations that the Salvadoran junta's own security forces may have been involved in the deaths of these missionaries. Unfortunately, it is only now, when these gallant individuals have lost their lives, that our Government has decided to take some action to redress the atrocities that occur in El Salvador.

I believe it is important to be aware of the conditions in which these missionaries worked. Between January and September 1980, over 5,300 people were killed in El Salvador for political reasons.

On May 14 and 15 alone, at least 600 peasants were murdered in a massacre by the national army, the national guard, and the paramilitary organization known as ORDEN. These security forces are also responsible for the disappearances of some 211 political prisoners.

U.S. policy has not been effective in stopping this chilling situation. U.S. military assistance has not helped to limit the extent of repressive violence. Indeed, repression and the number of related deaths has increased steadily over the last 7 months, raising serious questions about the willingness of Salvadoran authorities to reduce the repressive activities of their security forces. In view of this, continued escalation of military and economic assistance to the Government of El Salvador seems unjustified.

Yesterday, I received a mailgram from the Maryknoll Fathers, deploring the recent violence in El Salvador and calling on the United States to stop all aid to repressive regimes. This was not the first communication on this subject I have received from Maryknoll. For years, these gallant missionaries have alerted me to human rights abuses around the world, sometimes jeopardizing their own lives to preserve the rights of countless others. The time has come for us to heed their words. We must stop the flow of millions of dollars to regimes which engage in brutal violations of human rights and continued intimidation of American citizens.

The four American missionaries who were assassinated were dedicated to providing assistance to refugees in a nation torn by violence. They were truly ambassadors of goodwill. The best way to commemorate their work, and their lives, would be to maintain human rights as an important component of our foreign policy now and in the future.

Mr. Speaker, the cause for which these Americans lost their lives will not be lost. Other groups are committed to human rights in Latin America. I would like to include in the RECORD an article by Colman McCarthy which highlights just a few of these groups:

[From the Washington Post, Oct. 25, 1980]

DAILY WORKS OF PEACE

(By Colman McCarthy)

It wasn't false modesty that prompted Adolfo Perez Esquivel to proclaim when he won the Nobel Peace Prize: "I accept this award, in the name of Latin America and its workers, in the name of its campestinos and its priests who are working diligently for the peace and rights of all."

This was a statement of awareness. Esquivel, as director of a group called the Peace and Justice Service understands that the front lines of non-violent revolution in Latin America are filled with many other organizations whose leaders and members are heroically committed to creating a just society.

Despite the gangsterism that passes for political leadership in countries like Argentina, Chile, Paraguay, Bolivia, El Salvador and Guatemala, the power of tireless citizens like Perez Esquivel is real. Life is mean because of the Videlas, Pinochets, Stroessners and other Latin American tyrant-thugs who rule by torture and killing, but the meanness would assuredly be much greater without the moral force provided by groups like the Peace and Justice Service.

If we wish to celebrate the honor conferred on Perez Esquivel—a Catholic pacifist whose non-violent resistance has landed him in jails in Argentina, Ecuador and Brazil—some familiarity with a few of the other peace and justice groups is in order.

Socorro Juridico. This is the legal aid office of the archdiocese of San Salvador. In 1977, one of its leaders, Roberto Cuellar, became the personal legal adviser of Archbishop Romero, the one-time conservative prelate whose conversion to advocacy of human rights led to his martydom last March. The group has become the major nationwide source of information on how El Salvador's army, police and right-wing terrorists are victimizing the dispossessed. In July, when the new bishop was in Brazil with the pope, the group's offices were raided and ransacked by government forces. Except for the standard lie that this was a weapons search, the raid has never been justified. Although his life is regularly threatened and his offices attacked, Cuelair refuses to be silenced. His group continues to issue reports on bombings, arrests and disappearances.

The Permanent Assembly for Human Rights. A Bolivian group, it is now banned by the brutal regime of Gen. Garcia Meza, which seized power in mid-July. The assembly's president, Father Julio Tumiri, known among the poor for his compassion, was branded a political prisoner. He was released from jail only last week after several months of torture. He was beaten so badly that urination was impossible for several days. After the attempted coup of last November, Tumiri wrote "The Massacre of All Saints," a book that so enraged the authorities that he was threatened with having to eat it page by page. An unprecedented wave of human rights' violations has overtaken Bolivia. Human rights leaders are either in jail, hiding or exile.

The Vicariate of Solidarity. This was formed in Chile by Cardinal Silva. In addition to providing data on arrests, disappearances and the discovery of bodies, the group is committed to the daily works of peace: running soup kitchens, health clinics and employment centers.

The Committeee for Justice and Peace. Its work in Guatemala combines protest, education, protection and inspiration. As with the other groups throughout Latin America, this one is based on the teachings of the church's social gospel as Popes John XXIII and Paul VI illuminated it. Recently the leader of the Guatemalan bishops conference was attacked by machine-gun fire as he left his car. In one diocese, a group of priests, fearful of official violence, has gone underground and calls itself the Church in Exile.

In awarding the peace price to Esquivel, the Nobel committee has indirectly honored these groups and many others, all of them a loose network that speaks out for *los que no tienen voz*—those who have no voice.

It is not farfetched to think that several American organizations are a vital part of that network. Among the most active are the Council on Hemispheric Affairs, the Washington Office on Latin America, the Department of Social Development and World Peace of the U.S. Catholic Conference and the Human Rights Office of the National Council of Churches.

Aside from being nearly anonymous, what unites the workers in these groups with the Esquivels, Cuellars and Tumiris in Latin America is a sense that social reforms are being made, however slowly. To persist in non-violent revolution is to exert a force that no dictator has ever permanently defeated.●

● Mr. YATRON. Mr. Speaker, it was with a great deal of sadness and outrage that our country learned last week of the tragic abduction and assassination of four Americans in El Salvador.

It is important that our anger and frustration about these senseless acts of violence not overshadow the outstanding work these four women did on behalf of the church and the poor people of this region.

Sister Ita Ford, Sister Maura Clarke of the Maryknoll Order, Sister Ursulan Dorothy Kazel, and lay worker Jean Donovan, deserve our utmost praise for their tireless efforts for basic human rights for the refugees of this war-torn country. Their heroic activities to bring hope and aid to people in need, makes our Nation very proud indeed of these courageous and dedicated Americans.

I know my colleagues join me in expressing our deepest sympathy to the members of the families of these outstanding women. Their deaths tragically emphasize our need to insure the protection of our citizens throughout the world and to send a clear message to El Salvador that we will not tolerate politically motivated violence and the usurping of human rights.●

● Mr. BONKER. Mr. Speaker, since January 1, more than 9,300 political killings have been recorded in El Salvador. Last week, four Americans—three nuns and a laywoman—were brutally murdered by terrorists believed to be of the extreme right. The week before, six political leaders of the left were murdered in a similar manner. Also 2 weeks ago, two Salvadoran priests, Marcial Surano and Ernesto Abrigo, disappeared.

This horrendous violence is not new to El Salvador. What is new and ominous is that the church has become a special target of right wing death squad. Especially since it has been in the forefront of working for meaningful economic and social reforms.

This previous March, Archbishop Oscar A. Romero who had devoted his life to peace, was assassinated as he celebrated mass. Along with the archbishop, more than 20 priests and religious teachers have also been slain.

No decent human can remain silent and allow this incredible assault on the church and other segments of Salvadoran society to continue.

As chairman of the only subcommittee in the Congress that oversees human rights—International Organizations Subcommittee—I commend the President for suspending all American aid to El Salvador. I commend Ambassador White for his fine performance under extraordinarily difficult circumstances.

We must do all we can to make sure that the murderers of nuns Ita Ford, Maura Clarke, Dorothy Kazel, and Laywoman Jean Donovan are brought to justice.

All aid should remain suspended until the Salvadoran security forces are cleansed of terrorists and killers. There can be no security in that land if the forces of law and order are the perpetrators of violence. If we are to be associated with the Government of El Salvador we must make sure that the armed forces are under the full control of the governmental authorities.

Once again I urge the President-elect to join in supporting and continuing the suspension of aid. I also urge him to forcefully speak out against this terror—whether from the right or the left—which is slowly destroying El Salvador.●

● Mr. MINETA. Mr. Speaker, for many months we have surveyed the developments in El Salvador with alarm and concern. Alarm, because the government there has been unable to cope with the mounting violence, forcing us to question its assertion that it truly can govern. Concern, because the people of El Salvador suffer terribly as a result of the irresponsible extremes taken by both the militant left and right. Sadly, the cohesiveness of a nation is vanishing before our eyes.

And now we must mourn the deaths of still more innocents—this time Americans—victims of the excesses perpetrated by fringe elements whose philosophical orientation is irrelevant in light of the gruesome reality of their deeds. Sisters Dorothy Kazel, Ita Ford, and Maura Clarke, and Ms. Jean Donovan, were in El Salvador for one purpose; to work for the good of humanity. Their tragic deaths are one more incident in a sad chain of violent events that behoove us, as the most powerful country in the hemisphere, to review our relations with the current government of El Salvador.

The vital interests of the United States of America are irrevocably bound to the fortunes of the other American states. The actions of every President from the time of Monroe underscore the importance of this truth. Accordingly, when we take an active role in providing the security resources of a country—as we have an El Salvador—we must be sure the government in question can in fact govern; for to do otherwise would jeopardize the credibility of U.S. foreign policy at home and abroad.

I believe the decision to suspend U.S. aid to El Salvador is a wise one. Before the support is resumed, we must be sure that every available step is taken to insure the safety of Salvadorans and Americans alike. To do this, the Government of El Salvador must have the backing of enough people to bring an end to the senseless violence. For the government to be effective, it must have a broad, legitimate base of support among the citizenry. If such is not the case, all of the aid in the world will not make the situation right.●

● Mr. BROWN of California. Mr. Speaker, all Americans share the sorrow of the families and religious societies whose sisters or daughters were murdered recently in El Salvador. But we in Congress must feel that special sorrow that many Americans might share, and that is the sorrow that we may have unwisely contributed to the tendency of the El Salvadoran Government to seek violent solutions to their intense social problems. Some months ago in the CONGRESSIONAL RECORD (March 31, 1980) I noted the words of the soon-to-die Archbishop Romero about our aid to the military forces in the name of preserving order. The archbishop said:

> But this answer does not satisfy me, because the aid is going directly to the security forces, and it is well known that they are repressing the people. I don't deny that there are provocations by the left, but the response by the security forces is totally out of proportion.

Archbishop Romero went on to distinguish between the terrorist groups of the left and the right and the "legitimated by their fear that any active advocacy of human rights, any political activity by nonviolent popular organizations would contribute to the "chaos" the government felt would follow any decision to demilitarize the struggle. If it turns out that the security forces, or other groups working with their evident knowledge, were responsible for the deaths of the four missionaries, we will be witnessing the inevitable logic of the repression of political dissent—that even the simple references to the teachings on social justice contained in the Judeo-Christian scriptures makes one an enemy of the state, a just target for rape and murder. May God forgive us if we have, by our lack of wisdom, contributed to this darkening of spirit in a noble people, a people whose tradition is one of delicate respect for women and reverence for religion. I, and I am sure, many of my colleagues, wish to join people of El Salvador in mourning the tragic death of their friends, and we pledge ourselves to do what we can to reduce the resort to violence by any of the parties to the struggle in their land.●

GENERAL LEAVE

Mr. HARKIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order regarding El Salvador.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

A BAD DECISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 10 minutes.

● Mr. VAN DEERLIN. Mr. Speaker, San Diegans were dealt a stunning blow last Friday afternoon. Navy Secretary Edward Hidalgo announced he has chosen to build a new naval regional medical center in an undeveloped area of the city's beloved Balboa Park.

For some months now, the Navy had been involved in a sizzling controversy over the site for its new hospital. In selecting Florida Canyon, the Secretary came down squarely on the side of political expediency. A far better location is available on more level ground a few miles away. It is known as Helix Heights. Unfortunately, commercial interests were among those pressing for the park location, hoping to leave Helix Heights free for their kind of development.

Mayor Pete Wilson, the city council and the county board of supervisors had urged the selection of Helix Heights. The city was—and is—ready to turn over 49 acres for the hospital. In Balboa Park, on the other hand, an earthquake fault which was turned up by the Navy's own engineering team poses special and expensive engineering problems for a major project such as this one.

Mr. Speaker, congressional committees funding military construction had asked the Navy to make a special study of the two sites. When the draft report was released November 5, supporters of Helix Heights—myself included—were heartened. And no wonder—its detailed review of the facts concurred logically with our choice.

Perhaps the single most important factor discussed in the study was the earthquake fault, which essentially bisects the Florida Canyon site upon which the hospital was originally planned. Destruction of a Veterans' Administration hospital in the 1970 Sylmar earthquake in Los Angeles had heightened an awareness of the vulnerability of the existing naval hospital in Balboa Park, and the need for its replacement.

Not only does the presence of the fault—classified as "potentially active"—render Florida Canyon a questionable location for the hospital; it also will require a substantial overhauling of the design and location plans. The hospital was originally intended to be a sprawling facility which would include perching buildings on the hillsides. The Navy concedes those plans must be scrapped. The hospital will have to be built on the lower half of the site, as a nine-story high-rise facility. In the words of the Navy study, the building will have to be of a "downtown nature."

Besides spoiling the nature of the canyon, these changes will adversely change the cost and timing of hospital construction. Since none of these problems exists with Helix Heights, the Florida Canyon location can cost an additional $15 million, take 3 to 6 months longer for design completion and 6 to 12 months longer for construction.

Other important issues are glossed over as lightly as cost and timing. The Navy study states flatly that there would be no significant transportation problems in Florida Canyon—a view disputed by many opponents, including our county board of supervisors. The Navy admits aircraft noise is a problem, but offers the pious hope that it will diminish with development of quieter aircraft. Nearly every city in the country awaits silent super jets, and I suspect there may be need for patience.

Secretary Hidalgo's letter downplays community opposition to the Florida Canyon site. It suggests there is an equal amount of support and opposition to each site, and that they seem to cancel each other. Equally unscientific as a sampling, perhaps, was mail to my office—favoring Helix Heights about 10 to 1. Mr. Hidalgo's letter failed to mention that residents of Helix Heights, in a community meeting last month, voted overwhelmingly to support putting the hospital in that area because of the economic and social benefits which could be expected.

Florida Canyon was touted to have an advantage for the Navy because it already owns the land in Balboa Park, through condemnation. Public opposition to building in the park brought a lawsuit against the Navy; that suit could still affect the availability of the land. Legal problems could indeed delay construction indefinitely. A sorely needed medical center could be held up for years.

I am suspicious that the choice by the Navy Secretary may have been made in part because Helix Heights lies in a predominantly black community. Some developers are interested in using the land for low-income, but highly profitable, housing. Low-income housing would add more of the same in a neighborhood which might benefit from diversity of use—an elementary principle of revitalization and good urban planning. Consciously or not, the Secretary's action puts Government on the side of perpetuating the social divisions within our Nation which subtly stem from segregated housing.

The clincher is this: Preliminary appropriation for the hospital by four congressional committees provided that they should have 30 days to study or object to Secretary Hidalgo's decision. But his announcement was made so that the time period falls almost exactly between adjournment and the convening of a new Congress in January. His timing flouts the intent of Congress and the spirit of the law.

Mr. Speaker, if the majority of San Diego's elected local leadership are right about this, then the Secretary of the Navy has cast a potential blight across our community that will be seen and felt through most of the 21st century.

But our concern should be felt more widely. The improper siting of a facility costing nearly a third of a billion dollars in Federal funds clearly has national implications.

It is far too significant a decision to be left to an outgoing subcabinet level official. I therefore ask that the Defense Department itself subject the Secretary's findings and conclusions to a full departmental review.●

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair has a statement he wishes to read:

The Chair announces, at the request of the Speaker, that the conference report on S. 1142, on the Kennedy Center for the Performing Arts, will be considered in the House tomorrow.

THE SPUTTERING AMERICAN INDUSTRIAL ENGINE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Akron Beacon Journal Sunday magazine section recently published an article by Dennis McEaneney entitled "Engine Trouble" which laid out some of the reasons for America's declining productivity.

The fact that productivity growth has all but disappeared in the United States is not news. The media are full of the views of economists, businessmen, labor leaders and Government policymakers trying to explain just why we are suffering this decline. But what I found new and insightful in this particular article was the frankness and depth with which it discussed the psychological aspects of the productivity slump.

The article is based largely on interviews with psychologists, business consultants, and employment service counselors who have studied the problems of unemployment in the Akron area. Some of their conclusions are not comforting. Nevertheless, it is important that we face up to them. For instance, a psychologist believes America has become a consumer-oriented society rather than a production-oriented society and that thus "people have started to assume that somebody owes us something" or that "you don't have to do much any more to make a living."

On the positive side, a business professor points out that, for the vast majority, "Life is good. The American dream is a reality." His view is that the current economic slump is the result of adjustments taking place to meet new, worldwide competitive conditions.

These experts agree, however, that the Nation's industry must change and that individual lives must change with it. They also agree that America's management and workers must become more innovative and productive. Corporate managers are criticized for discouraging new ideas from moving up the corporate ladder. Unions are criticized for curbing productivity through work rules and staffing levels that render plants noncompetitive.

The psychologist believes that—

> Without the opportunity to feel pride, accomplishment, a kind of spiritual satisfaction through work, the important things to us are the material things work enables us to buy. The important things today are the things away from work.

A welfare worker points out that, contrary to popular perception, people on welfare desperately want work. Yet he and the other experts agree that America's great industrial system has strangled people's opportunity to escape from the welfare system, because there is no place for most of them in our current market economy. Moreover, once outside the industrial system, these men and women have fewer opportunities to keep themselves and their children mindful of the work values of that system. The psychologist says that the impact of this on many children of welfare recipients is that they do not have "any understanding at all of the time and effort and commitment it takes to hold a job."

On the other hand, another expert points out, many young workers are sharp, reliable, and ambitious.

One thing is clear: Our economic and social system must find a way to train, retrain, motivate, employ and reemploy all of our able-bodied citizens if we are to regain our place as the preeminent industrial nation in the world. This is not just a job for the private sector. Government at all levels must help, through insuring that our educational system is geared to handle this challenge.

Mr. Speaker, the full text of Mr. McEaneney's article follows:

ENGINE TROUBLE

(By Dennis McEaneney)

Item: In July, the State of Ohio mailed unemployment checks totaling $3,915,263 to 7,417 people in Summit County.

Item: That same month, the state gave out $4,259,134 in welfare checks and food stamps to 20,410 Summit County adults and their families.

Item: On Aug. 4, columnist Richard Reeves reported in the Beacon Journal that the productivity of West German workers had reached four times that of Americans.

Item: On Aug. 29, the state mailed unemployment checks to 9,811 residents of Summit County—an increase over July of 2,394 recipients.

Item: On Aug. 31, Parade magazine reported that Japan had become the world's largest producer of cars and trucks, surpassing U.S. automakers.

Item: On Sept. 5, Gov. James Rhodes said that if federal funds were not released early to help pay Ohio unemployment benefits, the state might be unable to send out weekly benefit checks. According to state figures, Ohio will pay out more than $1.2 billion in 1980 unemployment benefits, up from the 1979 total of $275 million.

America's great industrial engine is failing, and Summit County is among the areas being hurt worst.

Statistics like those above reveal the reality of the failure, but not its magnitude. Consider that by the time you read this, the figures will be outdated—replaced by other figures almost certain to be worse.

Consider also that state figures on unemployment are casual estimates rather than careful measurements.

For example, state and federal officials said Summit County had 22,000 unemployed in August, or 9.2 percent of the county's work force. But according to Alvin Castile, who manages the Akron office of the Ohio Bureau of Employment Services, the figures are projected from a telephone survey—much like a political poll—in which a small number of county residents are asked if anyone in their households has lost a job.

Castile said the survey doesn't count young people 18 to 22 who have never held jobs. If they were included, he said, the county's unemployed would number at least 44,000, double the official figure.

David Richards, public relations officer for the Summit County Welfare Department, said the surveys also exclude almost all of the county's welfare recipients, women collecting Aid to Dependent Children and elderly people who want work.

Also excluded from the count—according to Howard Rubin Jr. of Akron's Snelling & Snelling employment agency, and Jane Pollock of Manpower Inc.—are a significant number of housewives who want to work to help their families.

Summit County has 506,106 residents, according to preliminary reports from the 1980 census. An estimate of the number of jobless would be imprecise, but based on comments by Akron area specialists, the actual number is certainly closer to one out of five county residents than the official figure of one in 25.

Whatever happened to the American Dream, in which employment was available to every adult who wanted to improve his life by achieving security and material well-being?

"The American Dream is dead, it's over, but the majority of the public continues to live a fantasy. I just don't see people responding to the situation the way they should be. They're not changing," said Dr. James Siddall of Barberton.

Dr. Siddall is a psychologist who counsels an increasing number of people who've been forced out of jobs, and he's observed more of the problems lately that stem from unemployment: bankruptcy, divorce, mental depression and neuroses, alcoholism, drug abuse and crime.

He says his work these days is "a lot like that of a combat medic."

American industry is organized like a pyramid, with a small group of decisionmakers at the top and a large group of laborers at the bottom. Siddall's work gives him a view of industry from the bottom up.

The main problem for many of his clients, said Siddall, is being unable to force themselves to retrain for new employment, relocate in a more promising area, or accept a job that pays less but helps them retain a sense of purpose.

Siddall says:

"What I hear frequently are people who sit at home by the telephone saying, 'Hey, Akron industry has laid people off before and it's always called them back.'

"These people cling to their mortgages and cars and boats and videotape machines, believing that the American Dream is going to bail them out of their difficulties. It's not going to. The dream is over."

Siddall said he is finding in more and more people a desire for escape, an unwillingness to face problems and map out solutions.

Strong disagreement comes from Dr. Donald Domm, a professor of business at Kent State University and a working business consultant. His jobs offer him a view of industry from the top down—the opposite of Siddall's perspective.

To Dr. Domm, "Life is good. The American Dream is a reality. Our gains this century in housing, medicine, subsistence protections and guarantees, work safety and leisure opportunities are proof that the American Dream is more than just a fantasy."

Domm said the current economic slump is the result of adjustments being made by industry to serve new needs. Once the adjustments are made, we'll again be on track, a proud and able nation competing with other nations in the international marketplace.

Domm said he believes a new dedication to innovation by both business and labor will enable the continuation of the American Dream.

Despite the disagreement between Siddall and Domm, they agree on this: The nation's industry must change and individual lives must change along with it.

America's industrial engine is a complex machine that has functioned through the interworkings of business, government, labor unions and individual wage earners in much the same way that an auto engine functions through the interworking of mechanical parts, fuel, lubricants and coolants.

The failure of the national engine, according to a growing number of experts, cannot be blamed on the failure of a single component; failure has occurred all down the line.

Government has failed to give financial incentives to business and workers; business has failed to modernize and innovate to keep productivity on the increase; unions have failed to keep demands reasonable; workers have simply stopped working.

And American products have taken a back seat in the world marketplace.

On Labor Day in Barberton at the city's annual political forum, 14 politicians did an amazing thing: In their speeches, they agreed unanimously that the major share of the blame for America's industrial failure is theirs.

That raises a question: Do politicians actually believe government is most at fault, or do they want to claim central involvement so they can demand a leadership role in industrial recovery?

Whichever, many business experts want government to stay out of a leadership position.

"The best thing government could do now is less," said Domm. Government's role in a reindustrialization process, he said, "ought to be one of legislating as little as possible and getting rid of restrictive legislation now in effect."

Consciously or otherwise, a growing number of Americans at the bottom of the industrial pyramid may suspect a political ploy in government's desire to lead an industrial recovery. In interviews with almost 50 unemployed men seeking work at Akron's Manpower employment agency, only one said he planned to vote Nov. 4.

It's entirely possible that none of the three presidential candidates this year will receive a majority of votes on Nov. 4. If workers stay away from the polls, they could be sending government a message to back off, Domm said.

Government's track record during the past decade has been dismal—a record which, experts say, is becoming more and more clearly documented as one characterized by a lack of courage.

According to recent Time and Newsweek stories, the need to deregulate oil was clear as far back as 1970, but government failed to act for a decade because it didn't have the courage to face consumers who would have been hit with higher gasoline prices and an auto industry that would have been unable to continue foisting high-profit gas-guzzlers on the public.

Since the OPEC oil embargo of 1973, the urgency to deregulate oil has been moot. OPEC did what the government would not in giving us higher prices, which are clearing the roads of gas-guzzlers.

Government anti-pollution and occupational regulations—which add to business costs, often without measurable benefits—also are cited by experts as causes of industrial decline.

Government also has failed to give financial incentives to business and workers, which would have helped keep the industrial engine in tune.

Tax cuts to workers encourage buying, but that reduces government revenue—and that requires government to scale down its own operations.

Aid to business, in the form of faster tax write-offs on capital spending, also has been denied—again in large part because cutbacks in government operations would result.

Government wants to be involved in everything it can, said Domm, because "when government does something, it needs additional staff, which means more taxes, which aggravates the very problem government said it wanted to solve."

Business is accumulating great blame these days for its failure to reinvest profits to modernize its own operations—a tendency that is encouraged by the stock market, with its demand that profits be turned into high dividends for shareholders.

"We'd be healthier if we shut down the stock market for a year and let people go about their business," said economist Lester C. Thurow of M. I. T. recently.

But when the charge it made that industry has sacrificed its own long-term health for short-term profits, Domm responds: "There is only the short run. That's the reality. If you don't make it in the short run, you won't have a long run."

But many still blame business for its recent neglect of innovation, long a basic strength of the American economy. Akron's Henry Saalfield, owner of Saalfield Publishing until he sold the company and became a labor consultant for the Greek government, recalls one example:

The firm that bought Saalfield Publishing installed three new book-binding machines at Saalfield plants in Akron, Glasgow, Scotland and Esslingen, Germany.

After a year, a production study determined that the Akron machine had run at just over 100 percent of the manufacturer's performance rating.

The Glasgow machine had been run at 65 percent because the Scottish plant managers "didn't want to wear it out," Saalfield said.

When the production study team went to Esslingen, they found that the Germans had designed and installed new gears that made the binding machine run at 250 percent of the manufacturer's performance rating.

"A year ago, when reports said that the Germans were two and a half times as productive as Americans, a lot of people thought it couldn't go much higher. But now it's supposed to be four times higher. Do you wonder why?" Saalfield said.

Business managers, Domm said, have been their own worst enemies in shunning innovation by discouraging new ideas from moving up the corporate ladder:

"The myth is that we pay people for their work, but the reality is that we pay them for their time. By doing that, business discourages its own employees from coming up with ideas for improvements."

Domm concedes that "large corporations reward conformity, and they don't innovate very well—they polish."

The American steel industry was still putting money into new open-hearth furnaces long after it was clear that the process was outmoded.

Domm says better tax breaks for industry on depreciation of equipment are overdue—but government might be wise to include a restriction: that the money must be allocated to actual plant improvements, rather than being diverted to such uses as buying out other firms or increasing dividends to shareholders.

Unions come in for criticism mainly for curbing productivity through work rules and plant staffing levels, which older plants cannot meet and still be competitive.

Psychologist Siddall said he has heard numerous complaints from clients—many of whom suffer guilt believing their own performance was a cause of layoffs—about union rules.

"If you've lived in this area for any length of time at all, you've got to have heard the stories about union employees not being allowed to change a light bulb or move a bucket on a plant floor because it's in the union contract that only a maintenance man or somebody else is allowed to do that," Siddall said.

"Where is free enterprise in practices like that? Nobody's free when everyone is bound by rules like that, not business or labor."

Workers, the largest component of the industrial engine, curiously come under fire for only a single failure. But it's a whopper: Workers simply haven't worked.

They've dogged it, laid back, slacked off, haven't given a damn about putting in a day's work for a day's pay, haven't cared, have let shoddy work slide through the plant and into the marketplace.

Remember what a joke "Made In Japan" used to be? Guess how the joke goes in Japan these days.

A case in point: General Motors handpicked one of the first of its front-wheel drive X-cars off the assembly line two years ago to ship to Japan for display and inspection by Japanese automakers.

The Japanese automakers sent GM back a list of 105 defects in workmanship found in the car.

America's great industrial engine is failing, but its failure has given Summit County more than one jobless person out of every five and 50,000 on unemployment or welfare rolls.

The engine's failure also has spawned psychological poisons and a burgeoning welfare system.

"People have started to assume that somebody owes us something," Domm said. "The reality is that nobody owes us anything."

Says Siddall, "American affluence has taught us—and particularly kids—that you don't have to do much anymore to make a living. But from what I see, the tap is dry."

Here is Siddall's view of the change that America has gone through in becoming a consumer society rather than a production society:

"Two generations ago, workers lived to work—that is, they valued work and found their identity and their purpose for living in work they were proud to do.

"But today, we don't have that sense of identity and purpose. The only compensation that an American worker has today is his salary. That means he no longer lives for work, he lives for what comes after work—the boat, the TV, the Jacuzzi.

"Without the opportunity to feel pride, accomplishment, a kind of spiritual satisfaction through work, the important things to us are the material things work enables us to buy. The important things today are the things away from work.

"We don't worry about work any more. Today's worker has it in the back of his head that he's protected—by the worth of his possessions, by union contracts, by unemployment compensation.

"The result is that he goes to his job accustomed to receiving but not to giving. The company owes him a living, he feels."

A companion to the attitude that "somebody owes me something" is the idea among many workers that work is drudgery, Siddall said:

"You can't imagine the psychological devastation that comes from the corrosive effect of seeing work as drudgery."

Siddall drives a Volvo, a car he calls "an industrial work of art," a car that has an average life of 17.9 years of service. His Volvo was made in a plant in Goteborg, Sweden, where seven-man crews hand-build each car from the ground up.

Siddall notes the "dehumanizing effect" of American auto assembly lines on workers and on the products they turn out.

Perhaps nowhere in America is the drudgery of labor talked about more than at GM's Lordstown assembly plant, the site of a study several years ago on dissatisfaction among assembly line workers.

Lordstown is the world's fastest assembly line, yet labor unrest at the plant has been a major factor in diluting the plant's promise. Just a few years ago in Youngstown, in bars where Lordstown workers hung out, the stories were legend of workers intentionally leaving pop bottles inside car doors, putting one screw into heater mounts instead of four, taking cars off the end of the line, removing the keys, locking the cars on the parking lots and then throwing the keys away.

Siddall cites drudgery as a major factor behind assembly line shoddiness and industrial sabotage—yet he also notes that an assembly line is a line of human beings who pass work along a human chain.

Laziness or shoddiness by one worker in the line destroys incentive for others in the line to work well.

The idea that "somebody owes me a living" and the feeling that work is drudgery are major causes behind declining American productivity, the great industrial engine's failure—and consequently of a heavy national welfare burden, Siddall and Domm said.

But Domm and Siddall contend the welfare system isn't the haven of refuge for the lazy and shiftless that many take it to be.

Many workers regard welfare recipients as leeches—people content to live off the sweat of other men's brows—but that is not the case, they said.

The idea is in fact a defense mechanism, they say.

"The reason I come to the conclusion that there are people who don't want to work, who are lazy, is so I can decrease my own anxiety. I want to work, therefore it can't happen to me. I use negative feelings toward welfare to help me think I can't wind up on welfare," Domm said.

The reality of our welfare system and its growing membership may be the greatest tragedy of the failure of our nation's industrial engine.

Listen to David Richards of the Summit County Welfare Department:

"I've done a lot in this department. I've been a records keeper, a caseworker and an administrator, and I'm telling you I've never met anyone on welfare who wanted to be there. When I was a caseworker dealing with ADC mothers, I met women who were desperate—I mean *desperate*—for honest and safe work so they could bring in money for their families and teach their childen by example to do the same."

If the failure of America's great industrial engine has done anything, it has strangled the opportunity to to escape from the welfare system to do so, they "are simply unable to escape because there is no place for them in the market economy. The economy does not support all who want to work."

The growth of welfare rolls is directly traceable to the strangulation of opportunity through a process that has worked like this, Siddall and Domm said:

As the industrial engine slowed, more and more people were squeezed out of the industrial system and into the welfare system.

Outside the industrial system, men and women had fewer opportunities to keep themselves and their children mindful of the values of that system.

As a result, when opportunities arose, the people who needed them most were unable to seize them.

"When you go out into the working world and you have a series of failure experiences, you wind up turning to crime or you head down the welfare trail," Siddall said.

The scariest aspect of the process is its impact on children, who will be called on to become the next generation of workers, Siddall said.

"I just don't see that kids have any understanding at all of the time and effort and commitment it takes to hold a job," Siddall said.

Kids, and many adults who have been disadvantaged for a long time, cannot force themselves to get out of bed in the morning, go to work, apply themsleves to tasks and successfully complete them, Siddall said. They just don't know how.

"These things may sound simple," adds Domm, "but they are not simple if you live outside the industrial system in a situation where meals are not on time, where respect for authority is not taught, where problems are argued instead of discussed, where there is no one who shows interest in you and what you do and what you think."

To be a good worker, an individual must have respect for authority, self-discipline, tolerance of others and a regard for material security, Domm said.

But a growing number of children and adults do not have those values, Domm and Siddall agree.

Howard Rubin of Snelling & Snelling tells high school students they can have a job the day after they graduate from school if they will do three things:

The first is to take courses that will teach them skills—courses such as typing, drafting, basic electronics, computer keypunch, bookkeeping, auto mechanics or welding.

The second is to get good grades. "I tell them not everyone can get A's, but with just a little effort almost anyone can get B's and C's," Rubin said.

The third is to go to school—regularly.

Rubin said that when he reviews school records, the first thing he looks at is attendance:

"If a student can't make himself show up at school, what is he going to do on the job? The answer is obvious."

Unlike Siddall and Domm, Rubin said his experience is that young workers are sharp, reliable and ambitious.

"Money is fashionable today the way long hair was 10 years ago," he said. "Young people want to work and make money."

As the 1980s progress, Rubin said he believes more and more young people entering the job market will make a difference in the labor force, encouraging older co-workers to new dedication.

Comparisons between our national industrial mechanisms and an automobile engine are especially appropriate for the Akron area, Rubin said:

"Akron is an automobile town, there's no question of it," said Rubin, who is Akron-Canton director of operations for the nation's largest private employment agency.

"The city itself is the headquarters for the country's major tire and rubber companies, which provide end products and components to the auto industry. Canton is a steel center. Our area makes rubber, plastics, machine parts, wire, electrical equipment, much of which goes into cars and trucks.

"We've also got auto assembly plants in the area—in Brookpark, Twinsburg, Lordstown and Hudson. Our fortunes are tied, and probably will continue to be tied, to the auto industry for quite some time."

The problem for Summit County in its relationship with the automobile is that, over the next year, the auto industry faces the most perilous months in its history.

Billion-dollar investments have been made by the auto industry this year in efforts to increase sales. But with millions of American jobless, Detroit is faced with one nagging question: Do enough people have money to buy new cars?

LETTING THE PRESIDENT ENFORCE LAW

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, one of the most important tasks of this body, I am sure, my distinguished colleagues on both sides will agree, is to express this country's stresses and frustrations in small amounts, to let off steam, while giving the Nation as a whole a law, a program, it can follow with undivided attention and with a sense of purpose.

Back in the 1960's Congress and our people had finally found, after many decades of strife and stress, that the Nation needed to try an alternative approach to our problem of racial tension, rioting, economic backwardness, and social injustices. We in the South and most of our people finally realized that we could no longer stand apart, live as a deeply divided nation, duplicate everything, continue to separate our culture and our people like a kind of political Berlin—split and useless.

Last week a momentous event in the Nation's difficult racial history marked its 25th anniversary—the Montgomery, Ala., bus boycott. It is a tribute to the courage of America since its inception to face up to changing reality and the violation of basic human justice, that finally times changed after a disastrous civil war and long years of agony black and white, and the order of seating on a public bus no longer was a topic paralyzing the economic, social, political, and human progress of our country to any extent.

Back in that era, we passed bills doing away with poll taxes, letting citizens vote as the Constitution specified, outlawing crass discrimination based upon the pigment of one's skin, and opening access to the public system of getting education, jobs and equal opportunity in the market of our economy to those who had been in bondage when they came to our land and who had previously been meted out every disadvantage public and private bodies could devise to the point of creating the groundwork for revolution, riot and inefficient labor use in our fair country.

It is a fact that busing or nonbusing integration programs, which are designed by each school district within reasonable guidelines, have altered the pattern in which people today chose to live and get along with one another. Not charity, or brotherly love, but the schoolbus full of small children, who get along better than their elders can, has brought about a willingness among our people to share neighborhoods, housing, jobs and social activities among people, among people whose economic and social interests are beginning to resemble each other and whose vision of color is becoming gentler, more realistic and less important to their peace of mind.

Now a piece of very important legislation, enabling the functioning of our Departments of State, Commerce, and Justice for the next fiscal year, is being used to carry a small amendment restricting the power of the President and the Justice Department under him to carry out the law, which the people and Congress realized as a remedy for a national plight over a decade ago. The President has done the only thing, in my humble opinion, which he could do in vetoing the bill and sending it back. How could a courageous Congress in the press of things agree to be a party to this sneak attack upon the Constitution, upon the national interest—upon the very laws which would be upheld and have been upheld time and again both in public opinion and open votes upon the floor of the House, when everyone contributed to open debate on this important matter.

I say let us stop fooling with these backdoor forays and sniping tactics on an issue of overriding importance: the very survival of our Nation as a united and steadfast people—and let us do the business we were elected to enact—dealing with the efficiency of Government, the effectiveness of Government by and for the people, providing for a common defense and endeavoring to deal with other nations on this globe, some of whom are known to be of exceeding importance to our survival and economic security, in some rational and orderly fashion.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STACK (at the request of Mr. WRIGHT), for this week, on account of a death in the family.

Mr. STANGELAND (at the request of Mr. RHODES), for today, on account of illness.

Mr. THOMAS (at the request of Mr. RHODES), for an indefinite period, on account of surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TAUKE) to revise and extend their remarks and include extraneous material:)

Mr. CARNEY, for 10 minutes, today.

Mr. DANNEMEYER, for 30 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

Mr. FINDLEY, for 5 minutes, today.

(The following Members (at the request of Mr. MILLER of California) to revise and extend their remarks and include extraneous material:)

Mr. MINETA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. PHILLIP BURTON, for 15 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. LOWRY, for 5 minutes, today.

Mr. VAN DEERLIN, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SEIBERLING, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,375.

(The following Members (at the request of Mr. TAUKE) and to include extraneous matter:)

Mr. BEREUTER.

Mr. PAUL in two instances.

Mrs. HECKLER.

Mr. LEWIS.

Mr. WALKER.

Mr. SAWYER.

Mr. LENT in two instances.

Mr. WHITEHURST.

Mr. YOUNG of Alaska.

Mr. LAGOMARSINO in two instances.

Mr. PORTER.

Mr. CARTER.

Mr. DANNEMEYER.

(The following Members (at the request of Mr. MILLER of California) and to include extraneous matter:)

Mr. BOLAND in three instances.

Mr. WAXMAN.

Mr. MAZZOLI.

Mr. FAUNTROY in three instances.

Mr. MURTHA.

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. MONTGOMERY.

Mr. DRINAN.

Mr. VAN DEERLIN in two instances.

Mr. DODD.

Mr. ADDABBO in two instances.

Mr. COELHO in two instances.

Mr. YATRON.

Mr. EDGAR.

Mr. BENNETT in 15 instances.

Mr. WEAVER.

Mr. MILLER of California in two instances.

Ms. OAKAR in two instances.

Mr. WEISS.

Ms. MIKULSKI.

Mr. STUDDS in six instances.

Mr. MAZZOLI.

Mr. MOORHEAD of Pennsylvania.

Mr. CAVANAUGH.

Mr. MCDONALD.

Mr. EDWARDS of California.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1420. An act to authorize the Secretary of the Interior to construct, operate, and maintain hydroelectric powerplants at various existing water projects, and for other purposes; to the Committee on Interior and Insular Affairs; and

S. 1440. An act to enable the Secretary of Energy to utilize revenues from power marketing to carry out his responsibilities related to Western Area Power Administration, and for other purposes; to the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 444. An act for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.;

S. 453. An act for the relief of Joe L. Frazier of Elko, Nev.;

S. 551. An act for the relief of Fred W. Sloat of Salt Lake City, Utah;

S. 576. An act for the relief of Larry Grathwohl;

S. 1307. An act for the relief of Gerald W. Frye;

S. 1615. An act for the relief of James R. Thornwell;

S. 1996. An act to authorize a pilot program to encourage the efficient utilization of wood residues, and for other purposes;

S. 2069. An act to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities;

S. 2163. An act to provide for the conservation and enhancement of the salmon and steelhead resources of the United States, assistance to treaty and nontreaty harvesters of those resources, and for other purposes; and

S. 2318. An act to revise the boundary of Crater Lake National Park in the State of Oregon, and for other purposes.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1298. An act to designate the U.S. Post Office and Federal Building in Huntington, W. Va., as the "Sidney L. Christie Federal Building";

H.R. 2170. An act to provide for the reimbursement of legal expenses incurred by the city of Fairfax with respect to a 1971 entry and search by employees of the Federal Government;

H.R. 3351. An act to amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certain surgery performed on an outpatient basis;

H.R. 5487. An act to designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes;

H.R. 5856. An act to amend title 32, United States Code, to allow Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the grade of colonel;

H.R. 7020. An act to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites;

H.R. 7147. An act to provide that certain land of the United States shall be held by the United States in trust for certain communities of the Mdewakanton Sioux in Minnesota;

H.R. 7815. An act to recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes;

H.R. 8173. An act to provide for distribution in the United States of certain International Communication Agency films relating to President Lyndon Baines Johnson;

H.R. 8235. An act to grant the consent of the Congress to the Tahoe Regional Planning Compact and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created;

H.R. 8298. An act to designate certain National Forest System lands in the State of New Mexico for inclusion in the National Wilderness Preservation System, and for other purposes; and

H.R. 8386. An act for the relief of Roy P. Benavidez.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On December 5, 1980:

H.R. 927. An act for the relief of Dr. Ka Chun Wong, and his wife, Marilyn Wong;

H.R. 6243. An act to provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattahoochee River, Ga., shall hereafter be known and designated as the "R. Shaefer Heard Park";

H.R. 6258. An act providing for reinstatement and validation of U.S. oil and gas leases numbered C-9496, C-9711, C-11600, C-11621, C-11622, C-11630, C-11631, C-11597, C-11699, C-13774, C-14197, C-17049, C-18262, C-26048, C-13532, C-11581, C-11585, C-11590, C-11591, and C-11595;

H.R. 6410. An act to reduce paperwork and enhance the economy and efficiency of the Government and the private sector by improving Federal information policymaking, and for other purposes;

H.R. 6975. An act to extend certain temporary tax provisions, and for other purposes;

H.R. 7018. An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes;

H.R. 7385. An act to authorize the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes;

H.R. 8061. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 8388. An act to amend the Foreign Assistance Act of 1961 to authorize appropriations for international disaster assistance for the victims of the recent earthquakes in southern Italy; and

H.J. Res. 205. Joint resolution authorizing appropriations of funds for acquisition of a monument to Dr. Ralph J. Bunche and installation of such monument in Ralph J. Bunche Park in New York City.

On December 9, 1980:

H.R. 1298. An act to designate the U.S. Post Office and Federal Building in Huntington, W. Va., as the "Sidney L. Christie Federal Building";

H.R. 3351. An act to amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certain surgery performed on an outpatient basis;

H.R. 5856. An act to amend title 32, United States Code, to allow Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the grade of colonel;

H.R. 7020. An act to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites;

H.R. 7631. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 7815. An act to recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes;

H.R. 8235. An act to grant the consent of the Congress to the Tahoe Regional Planning Compact, and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created; and

H.R. 8298. An act to designate certain National Forest System lands in the State of New Mexico for inclusion in the National Wilderness Preservation System, and for other purposes.

ADJOURNMENT

Mr. HARKIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until Wednesday, December 10, 1980, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5789. A letter from the Secretary of Energy, transmitting the second semiannual report on the Department's activities to implement the alternative fuels production program, pursuant to title II of Public Law 96–126; to the Committee on Appropriations.

5790. A letter from the Deputy Assistant Secretary of Defense (Information Operations and Reports), transmitting notice of the Navy's intention to omit the clause authorizing the Comptroller General to examine certain records which would otherwise be required to be included in the contract for certain aircraft engines with the United Kingdom and Rolls Royce Ltd., pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

5791. A letter from the Assistant Secretary of the Navy (Manpower, Reserve Affairs, and Logistics), transmitting notice of the Navy's intention to study the conversion from in-house operation to commercial contract of base operations support at Naval Air Facility, Midway Island, pursuant to section 502(a) of Public Law 96–342; to the Committee on Armed Services.

5792. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed conversion to contractor performance of the motor vehicle operation and maintenance activity at Corpus Christi Army Depot, Tex., pursuant to section 502(b) of Public Law 96–342; to the Committee on Armed Services.

5793. A letter from the Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice of the proposed conversion to contractor performance of the family housing maintenance function at Whiteman Air Force Base, Mo., pursuant to section 502(b) of Public Law 96–342; to the Committee on Armed Services.

5794. A letter from the Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice of the proposed conversion to contractor performance of the protective coating maintenance function at Lowry Air Force Base, Colo., pursuant to section 502(b) of Public Law 96–342; to the Committee on Armed Services.

5795. A letter from the Assistant Secretary of the Air Force (Research, Development and Logistics) transmitting notice of the proposed conversion to contractor performance of the military family housing maintenance function at Bergstrom Air Force Base, Tex., pursuant to section 502(b) of Public Law 96–342; to the Committee on Armed Services.

5796. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–297, "To amend the Day Care Policy Act with regard to income eligibility," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5797. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–298, "To amend the Healing Arts Practices Act, District of Columbia 1928," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5798. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–299, "To designate the east-west public alley abutting on lots 64, 93, 97, 809, 53, 10, and 98 in square 988, bounded by Constitution Avenue NE., and East Capitol Street, between 11th Street, NE., and 12th Street NE., as Walter Houp Court (Ward 6)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5799. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–300, "To regulate the conduct of business operations in the District of Columbia consistent with the goals of a free enterprise system," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5800. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 3–306, "To order the closing of a public alley in square 159, bounded by N and 17th Streets NW., and Rhode Island and Connecticut Avenues NW. (S.O. 77–232) (Ward 2)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5801. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Australia for permission to transfer certain U.S.-origin defense equipment to Malaysia, pursuant to section 3 of the Arms Export Control Act; to the Committee on Foreign Affairs.

5802. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affairs.

5803. A letter from the Chief, Insurance and Debt Management, Executive Secretariat, Air Force Welfare Board, transmitting the annual report on the Air Force Nonappropriated Fund Retirement Plan for civilian employees, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended; to the Committee on Government Operations.

5804. A letter from the Secretary, Railroad Retirement Board, transmitting notice of proposed changes in various existing records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5805. A letter from the Secretary of Health and Human Services, transmitting notice of a further delay in the submission of the report on adolescent pregnancy required by section 801 of Public Law 95-626; to the Committee on Interstate and Foreign Commerce.

5806. A letter from the Comptroller General of the United States, transmitting a report on CETA demonstration programs (HRD-81-1, December 8, 1980); jointly, to the Committees on Government Operations and Education and Labor.

5807. A letter from the Comptroller General of the United States, transmitting a report pinpointing major problem areas needing the continuing attention of the Department of Energy, utilities, and utility regulators (EMD-81-25, December 8, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

5808. A letter from the Comptroller General of the United States, transmitting this report discusses the results of the Small Business Administration's economic opportunity loan program (CED-81-3, December 8, 1980); jointly, to the Committees on Government Operations and Small Business.

5809. A letter from the Comptroller General of the United States, transmitting a report on the value-added tax systems in seven European Economic Community countries (ID-81-2, December 5, 1980); jointly, to the Committees on Government Operations and Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 8444. A bill to authorize appropriations for certain insular areas of the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DANNEMEYER:

H.R. 8445. A bill to amend the Communications Act of 1934 to permit the Federal Communications Commission to employ voluntary services for purposes of monitoring violations of the act by amateur station operators; to the Committee on Interstate and Foreign Commerce.

By Mr. FOLEY (by request):

H.R. 8446. A bill to assure the safety and quality of our Nation's meat, poultry, and egg products by providing the Secretary of Agriculture with the authority to quarantine animals if he believes they may contain illegal residue levels; to strengthen the enforcement power of the Secretary under the Federal Meat Inspection Act, and the Agricultural Marketing Act of 1946 by providing authority to withdraw inspection services under certain conditions; to levy civil penalties for certain violations; and to provide consistent standards and penalties for bribery; to the Committee on Agriculture.

By Ms. OAKAR (for herself and Mr. PEPPER):

H.R. 8447. A bill to provide financial assistance for programs for the prevention, identification, and treatment of elder abuse, neglect, and exploitation, to establish a National Center on Elder Abuse, and for other purposes; jointly, to the Committees on Education and Labor and Interstate and Foreign Commerce.

By Mr. PANETTA:

H.R. 8448. A bill to require the Chief of Engineers to give preference to local firms in awarding contracts for certain emergency repairs and restoration of flood control works; to the Committee on Public Works and Transportation.

By Mr. BIAGGI:

H. Con. Res. 456. Concurrent resolution providing for the reprinting of the report "Future Directions for Aging Policy—A Human Service Model"; to the Committee on House Administration.

By Mr. GUARINI (for himself, Mr. ROE, and Mr. HUGHES):

H. Con. Res. 457. Concurrent resolution expressing the sense of the Congress that all military assistance to El Salvador should remain suspended until the President of the United States determines that the Government of El Salvador was not implicated in any way in the abominable murder of the four Catholic religious workers; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

543. The SPEAKER presented a memorial of the Legislature of the Commonwealth of Pennsylvania, relative to the return of policymaking authority to State legislatures; to the Committee on Government Operations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7245: Mr. KRAMER and Mr. WYATT.

H.R. 8315: Mr. NEAL.

H. Con. Res. 450: Mr. WIRTH.

H. Con. Res. 454: Mr. BENJAMIN, Mr. GINGRICH, Mr. ROTH, Mr. FORSYTHE, Mr. GUYER, Mr. MCDONALD, Mr. LAGOMARSINO, Mr. JEFFORDS, Mr. PEPPER, Mr. DANIEL B. CRANE, Mr. FLIPPO, Mr. BEARD of Tennessee, Mr. BARNARD, and Mr. TAUKE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

656. By the SPEAKER: Petition of the Supervisors' and County Legislators' Association of the State of New York, Inc., relative to the general revenue sharing program; to the Committee on Government Operations.

657. Also, petition of the Washtenaw County Board of Commissioners, Mich., relative to the general revenue sharing program; to the Committee on Government Operations.

658. Also, petition of Lee Sherman Dreyfus, Governor of Wisconsin and others, relative to the Foster Grandparent program; to the Committee on Education and Labor.

SENATE—*Tuesday, December 9, 1980*

(Legislative day of Thursday, November 20, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

We stand in Thy presence, O Lord, to dedicate ourselves and our Nation to Thy service. Grant to us a purer life, a more unselfish patriotism, a deeper loyalty to Thy kingdom. Work out in this Nation the purpose Thou hast for her. We are Thy servants. Give us willing and patient hearts and hands that we may be used in fulfilling Thy pattern. Grant a measure of Thy amazing grace and Thy higher wisdom to all who serve in the Government. Read our hearts. Fill our needs. May goodness and mercy follow us all our days, and to Thee shall be the praise and thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 9, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

POLAND

Mr. ROBERT C. BYRD. Mr. President, in the wake of the recent developments in Poland and the threat of Soviet military activities in response to them, I want to draw the Senate's attention to a brief analysis of the situation, which appeared in the Washington Post of December 5, 1980. The analysis was prepared by Victor Zorza, an experienced journalist who has been a "Moscow-watcher" for many years.

Mr. Zorza's view of the situation is not encouraging. Rather, he states the view that the leaders in the Kremlin "* * * decided on Thursday, November 27, in principle, to intervene in Poland, leaving the date to be determined later." The analysis that follows provides the reasoning behind this assertion and leads to the conclusion that in terms of trying to predict Soviet timing of an invasion, "The danger period is the time around Christmas, as the invasion of Afghanistan demonstrated last year."

If the timing of the Soviet move into Afghanistan offers a guide to future events in Poland, it would be well for the Soviet leadership to review the overall lesson of Afghanistan before making a final decision on Poland. The lesson of Afghanistan is clear: There are no lasting military solutions to political problems. Before moving their tanks and troops toward Warsaw, the Soviets would do themselves an enormous favor by studying this lesson—and studying it well.

I ask unanimous consent that a copy of Mr. Zorza's analysis, mentioned above, be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD. as follows:

[From the Washington Post, Dec. 5, 1980]

READY TO ROLL

(By Victor Zorza)

This analyst's reading of the signs from the Kremlin suggests that the Politburo decided on Thursday, Nov. 27, in principle, to intervene in Poland, leaving the date to be determined later.

The immediate spur was the threat of a strike by Warsaw workers to enforce their demand for a reform of the security services, but this was merely the culmination of a week that saw the beginnings of the unraveling of the communist system, first in Poland and then perhaps in the neighboring countries. That, at least, is how it would have appeared to the men in the Kremlin.

For them, the real crisis began with the call for a rail strike, which the Kremlin denounced as a threat to Poland's defense interests. Moscow made it clear that any such threat to the lifeline of the Soviet forces in Germany would not be tolerated. The general rail strike was averted, but the earlier four-hour strike had shown that Polish railway men had the power and the will to act if and when they decided to do so. From then on, Moscow had to reckon that the Poles could cut its most vital military rail link at any moment of their choosing.

As the week progressed, the demand for the release of the Warsaw printer accused of reproducing a secret police document grew into a campaign for the curbing of the secret police itself, and it was once again reinforced by the threat of a general strike. It soon became evident that the reform of the security services demanded by the workers would amount to the virtual elimination of their power. That is how it began in both Hungary and Czechoslovakia, where the secret police were discredited and undermined well before the political reform movement acquired any real strength.

It has often been argued, wrongly in my view, that the real sticking point for Moscow would come when the Poles began to demand or to implement political reform such as the abolition of censorship and the dilution of the Communist Party's "leading" role. But the Kremlin knows that the party's power in Russia and in such countries as Poland rests ultimately on the secret police.

The threat to the morale of the security services implicit in the Polish call for an investigation of the abuses committed by them would have cowed them to the point where they could be no longer effective as a bulwark of the regime against the popular demand for political reform.

Any Soviet intervention would have far greater chances of success before the secret police began to disintegrate. Holding down Poland after an invasion would, again, be much easier if it were done with the help of a secret police apparatus whose self-confidence remained unimpaired.

These were the considerations that would have been foremost in the Soviet leaders' minds as the Kremlin's "political work"—which culminates every Thursday with a meeting of the Politburo—was building up to a crescendo. It was clear that the Politburo had made no final decision on Poland before then, but it was equally clear that the various components of the Soviet machine that would play a crucial part in an invasion—such as the military, security and foreign policy networks—had to have clear instructions now on whether an invasion was a practical option. They needed, in other words, a decision from the Politburo, at least in principle, in order to begin the complex series of moves necessary before the Soviet Union could mount an invasion.

As the week progressed toward Thursday, the situation in Warsaw became increasingly uncertain and confused, which would have tended to strengthen the position of those Politburo members who wanted a decision in favor of an invasion, if only in principle. Just a few hours before the Politburo was due to meet, during the night from Wednesday to Thursday, the arrested Warsaw printer was released by the police in an attempt to prevent the buildup of passions to the point of an explosion.

To the men in Moscow, this would have looked like the first step down the slippery slope in spite of all the explanations offered privately by Warsaw.

And, indeed, in the course of that Thursday it looked as if this concession had only

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

strengthened the union's determination to insist on the emasculation of the secret police and on the release of avowedly anti-Communist political prisoners. The Warsaw demand was reinforced by the threat of a general strike—which would include a rail strike—and was formally supported by a national meeting of Solidarity union representatives. To Moscow, it would have seemed that to delay a decision would be to court disaster.

On top of everything, even the publication of the party newspaper Trybuna Ludu had been delayed by striking printers—an omnibus reminder that the mass media could be turned rapidly against the regime.

On that Thursday, Nov. 27, the Polish situation would have clearly been the main, if not the only, item on the Politburo's agenda. To delay a decision until the situation in Poland had become clearer was to risk that it might get out of hand before the Politburo could meet again for an emergency session. It was safer, from the Kremlin's point of view, to send out a provisional order to get everything ready, in case it might be necessary to move suddenly—in other words, to make a decision in principle, in favor of an invasion.

The atmosphere in which the decision was taken is shown by Soviet press criticism of the Polish government for favoring the Solidarity unions over the official Communist trade unions. The Soviet press did not at first reprint the Prague warnings that other Warsaw Pact states could take the same action against Poland that they had taken against Czechoslovakia in 1968—but it reproduced them during the weekend following the Politburo meeting.

The Kremlin was taking steps to prepare its own population for the possibility of an invasion. The Soviet propaganda machine was swinging into action. New military movements were detected by Western intelligence on Poland's border. The Soviet forces in East Germany closed the border area to Western observers. The military machine was also swinging into action.

Any Soviet decision would also have to be taken in the light of external circumstances, the chief of which is the inauguration of Ronald Reagan on Jan. 20. While an invasion would certainly mean the end of détente for a while—after Hungary and Czechoslovakia, the freezeup lasted between two and three years—the Kremlin knows that it needs to move quickly, if it is to move at all. An invasion launched after Jan. 20 would be regarded by Reagan as a personal challenge, and he would never forgive the Russians so long as he remained president. The danger period is the time around Christmas, as the invasion of Afghanistan demonstrated last year.

Mr. ROBERT C. BYRD. Mr. President, I yield 1 minute to the Senator from Wisconsin.

MEMOIRS OF A HOLOCAUST SURVIVOR

Mr. PROXMIRE. Mr. President, in last Sunday's Washington Post, George Will reviewed Han Demetz's book, "The House on Prague Street."

This novel is an account of the day-to-day life of Jews during the holocaust period. According to Will, "the novel achieves power while giving readers only a glimpse of the violence and machinery of death" to which the concentration camps victims were subjected.

The story, which Demetz concedes is 98 percent autobiographical, tells of a young woman who survived the holocaust, but who lost both her parents during the war.

This poignant account serves as a reminder that genocide is not a thing of the past. The massive, brutal, and tortuous extermination of people could happen again.

By ratifying the Genocide Convention, many nations of the world have joined together and resolved that genocide is a heinous human rights violation, which cannot and will not be allowed to recur.

The United States is the only major industrialized nation that has never ratified this important treaty, although we have had over 30 years to do so.

We must join the other nations of the world and ratify the Genocide Convention to prove our commitment to the sanctity of human rights.

Mr. President, I ask unanimous consent that the article "Day-to-Day in a Deranged World" from the Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DAY-TO-DAY IN A DERANGED WORLD

(By George F. Will)

The unvarying theme of Holocaust memorials is: Remember. But the danger is less that people will forget than that they will ever know, will never sense, what the victims felt. Hana Demetz' novel, "The House on Prague Street," comes as close as art can, and as close as only art can, to making the terrible truth universally accessible.

Demetz' book, like Solzhenitsyn's "Gulag Archipelago," is an act of fidelity, a flame of remembrance for the dead. It is, she says, "98 percent autobiographical," which makes this victim's view of horror all the more remarkable. As a young person's view, it resembles Elie Wiesel's "Night," and is, perhaps, an even more impressive literary accomplishment than "Night" because it achieves comparable power while giving readers only a glimpse of the violence and machinery of death that Wiesel survived and described. Without once raising its voice, the book conveys the texture of day-to-day life in a deranged world.

Demetz, who today teaches Czech at Yale, says she originally thought of writing a "Forsyte Saga," a long, panoramic family tale, but found she could not write at length about such terrible events. That is fortunate, because her book's power derives from its spareness. It is a jewel of artistic economy: like "The Great Gatsby," it has no wasted motion.

Yet her small canvas (186 pages) is peopled by three generations, beginning with her grandfather who built a business in a small Bohemian town. He built the town's first park, from which he, a Jew, was later barred. He owned the town's first radio, around which he and other town leaders eventually clustered to hear a voice from Berlin, "a voice that threatened and chided and yelped."

As in "The Diary of Anne Frank," the power of the story involves the intersection of uninmaginable evil with the innocence of a young girl. The girl, Helene Richter, is the daughter of a Jewish mother and a German-born, non-Jewish father. Hers is a world in which wickedness and danger erect invisible but impenetrable barriers between members of a family. She lived when "all the grownups had so many secrets." The secrets parents kept to prolong the innocence of their children made children and parents unintelligible to one another.

In the atmosphere of lunacy, small matters took on terrible significance, as with the yellow Stars of David:

"These were to be worn visibly at all times, attached to the left side of the chest. Some had sewn theirs carefully and neatly onto their coats, using many tiny stitches, as if the stars were to remain fixed on their coats for years and years. Others . . . attached them sloppily, with safety pins. My mother had sewn her star slightly lower, below her chest, so that when she went out with me or with my father she could hold her hand-bag over it. Jews and non-Jews were not permitted to walk together."

The destroying torments that Demetz brings back to life involved not the huge horrors of the crematoria, but small, day-to-day forms of viciousness, manifold to the point of madness: Jews required to ride on the outside platforms of streetcars. Jews rationed margarine instead of butter. Jewish women required to add "Sara" to their names.

Helene's mother dies because the "Aryan ambulance" will not take her to the hospital. At the "liberation" in 1945, her father dies when the Prague hospital disdains him because he is a German.

Helene's adolescent romance with a German soldier may strike some readers as contrived. Demetz says it is part of the "98 percent autobiography." She is unsparing in her portrayal of Helene's innocent inability to comprehend how this breeds a sense of betrayal and isolation, and how it deepens her parents' collapse into passivity and loneliness.

When Helene's high-school teacher, a Nazi, makes indecent advances (she is a "Jewish mongrel" in the official school language), she is stunned because her father does not protest to the principal. "I had never seen so much fear in my father's eyes. He had always been my hero. Why was he a hero no longer?"

Reading that, consider Demetz' literary feat. Consider the human drama of Demetz' writing about herself as Helene, knowing now, in maturity, and in remorse, the forces pressing upon her father.

Denied family intimacy, Helene poured her feelings into letters to her German soldier, writing about "the way life had been long ago . . . with my father going out hunting when he was still my hero. . . ."

I had not imagined it possible to pack so much heartbreak into so few words.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I yield to the distinguished Senator from Virginia such portion of my time under the standing order as he may require.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

NATIONAL TOURISM POLICY ACT

Mr. WARNER. Mr. President, I thank the distinguished minority leader for making this time available.

This morning I propose to join with my distinguished colleague from Oklahoma (Mr. BELLMON) in a colloquy in which we hopefully will encourage our colleagues to approve a conference report on S. 1097, the National Tourism Policy Act.

By way of background, Mr. President, during the years 1974–76, it was my honor to serve this Nation as administrator of the American Revolution Bicentennial Administration. In that capacity, I became quite familiar with tourism, not only here in the United States but throughout the world, and recognized the need for our Nation to provide a structure comparable to structures found elsewhere in major industrial nations of the world which could properly accommodate, the many and diverse interests in the field of tourism and travel.

Regrettably, our Federal Government—and by no means do I point my finger politically because it has been the case with each of the preceding administrations for many years—has not, in my judgment, recognized the potential of tourism, not only the potential in terms of people learning more about our Nation and our culture, but the potential for improving our balance of payments.

Accordingly, since coming to the Senate I waited until I found the opportunity, together with my colleagues, Senator CANNON and Senator INOUYE, to put forth a bill which, in our collective judgment, would establish a structure which would enable our Government to more effectively promote tourism.

Travel and tourism is one of the major industries in the United States. This industry contributes significantly to economic growth, employment, and personal income; $140 billion in revenues are generated annually and more than 6 million of our citizens, many of whom are the least employable—semiskilled and unskilled workers—are provided jobs.

The National Tourism Policy Study conducted by the Senate Commerce Committee found that there are over 100 Federal programs administered by 50 agencies that affect travel and tourism. During my service as administrator of the American Revolution Bicentennial Administration, I found that this extensive Federal involvement is highly inefficient. There is little coordination of these Federal programs creating duplication and contradiction. As a result, even though the United States is the No. 1 tourist destination in the world, this country's share of the world tourism market has declined since 1973. Congress has recognized that this is a serious national problem.

This bill is similar to S. 1097 which passed the Senate unanimously with broad industry support. However, rather than creating a private nonprofit corporation to promote international tourism, the conference substitute establishes the U.S. Travel and Tourism Administration as an independent agency of the United States.

I believe this agency can achieve the objectives that would have been accomplished by a nonprofit corporation. The visibility and independence of the U.S. Travel and Tourism Administration will make it possible for the United States to finally develop an effective international tourism promotion program.

At this time, Mr. President, I yield to my colleague from Oklahoma so that we might initiate our colloquy.

Mr. BELLMON. Mr. President, I thank my friend from Virginia. I must say that I appreciate what the Senator from Virginia is trying to do because tourism is a very important part of our Nation's activities.

Mr. President, I agree in principle, and am strongly impressed with the idea of promoting the tourism industry. This industry serves the interests of the United States by attracting foreign currencies, helping to stabilize the U.S. dollar, and stimulating the domestic economy in general.

What I am not impressed with is the idea of creating yet another independent governmental agency. This is what this committee amendment would do. It seeks to abolish the Department of Commerce's U.S. Travel Service and to establish a new agency—the U.S. Travel and Tourism Administration. The reason given by proponents for doing this is Secretary of the Department of Commerce has not given attention to the existing travel service. Yet, how much time can the proposed new overseer, the President of the United States, be expected to devote to oversight of the new agency being created? It is the problem of oversight that really concerns me.

Mr. President, this is not the time for the creation of new agencies. Serving on the Budget Committee has taught me the painful lesson that every time Congress creates an independent agency it creates a new constituency and a new pressure for increased Federal funding.

The Senate should not be misled by the small amount of money involved. The $8.6 million authorization could mushroom to many times that size in a very short time. We all know this because we have seen it happen time after time. The National Consumer Cooperative Bank was funded for the first time in 1979 at $4 million. Two years later, the bank was appropriated at the level of $175 million for fiscal year 1981. This shows how fast these so-called independent agencies can grow.

Mr. President, I ask unanimous consent to insert into the RECORD at this time a letter dated November 24 to Representative STAGGERS, chairman of the Committee on Interstate and Foreign Commerce from OMB Director McIntyre expressing the administration's concern about establishing this new tourism agency.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 24, 1980.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to express the Administration's strong opposition to a draft substitute amendment to title II of the H.R. 6152, as reported by the Senate Commerce, Science, and Transportation Committee. The amendment would establish an independent "United States Travel and Tourism Administration" (USTTA) to carry out the Federal Government's role in tourism. This proposal is as objectionable to the Administration as title II of the bill as originally reported, which incorporated S. 1097 as passed by the Senate, providing for the establishment of a federally-funded "quasi-public" tourism corporation. The reasons for the Administration's opposition to S. 1097 that were set out in my letter to Speaker O'Neill on June 24, 1980, a copy of which is enclosed, remain valid.

In addition, the Administration strongly objects to linking the tourism bill with an unrelated bill—the Product Liability Risk Retention Act. Generally, the product liability provisions of title I enjoy Administration, congressional, and widespread public support as an innovative, market-oriented solution to the problems of product liability insurance costs. In developing this remedy, the Administration has worked closely with the Congress to develop a sound legislative proposal and has repeatedly urged that such legislation be favorably considered by the Congress without linking it to a bill that has profound deficiencies.

In brief, the proposed splintering of the Government's international trade activities through the transfer of the Department of Commerce's tourism activities to either a federally-chartered corporation or an independent agency is unacceptable to the Administration. Whether the need for nor the benefits to be gained from such a change have been clearly identified or demonstrated. Such a proposal is fundamentally flawed from an organizational management standpoint since it implies that establishment of new independent agencies is an appropriate way to improve performance in selected special sectors of international trade. Severing the function of facilitating travel and tourism to the United States from the broader range of domestic commerce and international trade functions of the Department of Commerce would serve only to detract from and further impede the effective and efficient management and coordination of these important functions.

Furthermore, we believe that it is highly undesirable from the standpoint of the conduct of foreign relations to grant such an agency the ability and mission to deal directly, and independently of the Department of State, with foreign governments. The proper conduct of foreign affairs requires that the Department of State, under the direction of the President, play a central role and that contacts with foreign governments by Federal agencies be undertaken only in close cooperation with the Department of State. Consequently, we believe the exercise of foreign affairs-related authorities for the proposed USTTA infringe upon the foreign policy function of the President, acting through the Secretary of State, and unjustifiably fragment those activities of the Secretary of Commerce with respect to the facilitation of international trade, which includes tourism, that are conducted in conjunction with the Department of State. Should any version of this title be enacted, it would establish an unfortunate precedent further proliferation of the Executive branch's conduct of international trade programs, and complicate—needlessly and severely—effective management of our foreign economic and political relations.

In addition to the foregoing, we strongly oppose those provisions that direct that the budget requests of the USTTA be concurrently submitted to the Congress and OMB. They are inconsistent with the concepts underlying the development of a unified Executive budget by the President established under the Budget and Accounting Act of 1921 and reaffirmed in the Congressional Budget and Impoundment Control Act of 1974.

We also vigorously object to the provision that requires the Assistant to the President for Domestic Affairs and Policy to chair the proposed coordinating council. The provision seriously impinges upon the President's proper authority and prerogative to assign and direct the functions for his senior advisors.

Finally, the proposed amendment contains numerous inconsistencies and technicial flaws. For examples:

Certain provisions repeal the International Travel Act of 1961 and abolish the USTS as of October 1, 1981, while others at the same time amend the 1961 Act and confer upon the USTS entirely new program responsibilities to be undertaken during the phase-out period.

The proposed amendment on the transfer of functions from the U.S. Travel Service to the agency is defective, and may be subject to legal challenge. It fails to transfer personnel of the USTS to the new agency, or to subject all aspects of the transfer of assets and personnel to review by the Director of OMB, in accordance with standard practice in such matters. The amendment thus runs directly contrary to the general rule that employees accompany functions in a transfer such as the one contemplated by the amendment. There is no question that the proposed amendment involves such a functional shift, as it would simply transfer existing governmental functions from an Executive department and establish it in an independent agency. Indeed, the provisions authorizing the transfer of "assets, funds, supplies, materials, equipment and records" from the USTS to the new agency make this clear. Accordingly, the failure to provide for the orderly transfer of affected personnel in the manner provided under existing laws and regulations governing transfers of function may give rise to legal challenge by the employees affected whose rights to retention and reassignment the language appears to ignore.

Another provision inappropriately compensates the proposed Council's Executive Director at an excessively high rate of pay, Executive Level III—a level normally reserved for the heads of major agencies.

The proposed authorization level of $8.6 million for the USTS and the requirement that the Secretary "may not reduce the amount of funds appropriated pursuant to this Act" that are available for USTS offices in foreign countries to an amount less than that available in fiscal year 1979 would be impossible to carry out under an authorization of $8.6 million because roughly $10 million was spent on the USTS overseas activities in 1979.

The above considerations are ample to raise the question whether the proposed restructuring and relocation of the Government's tourism functions are necessary, appropriate, or even sensible. Passage of this drastic amendment, in the closing days of Congress, without hearings or evidentiary basis in the record, would be unjustified and, we believe, unsound.

Title II of H.R. 6152, either as reported by the Senate Commerce, Science, and Transportation Committee or as proposed to be amended, is unacceptable. Therefore, we urge that title II be removed from the bill so that the proposed Product Liability Risk Retention Act can be expeditiously considered by the Senate on its own merits.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

Mr. BELLMON. Mr. President, I do not intend to vote for this conference report, but I would like to ask my friend from Virginia some questions to help establish the record as to what the full intent of the committee is as they undertake to establish this new agency.

As is already evident from what I have said on this floor, I am convinced that independent agencies have less oversight than agencies which are part of existing Government departments who have program planners who are less busy than the President of the United States.

I am concerned that the agency will just go its own direction without oversight from anyone.

Yet, Mr. President, I am almost certain that this conference committee report will be approved, so I should like to clarify two potential budget problems in the conference report so that, if it does become law, at least there will be a record of what we have in mind. I inquire of the distinguished Senator from Virginia along this line:

In section 205 and 207 of the conference report, there is considerable language directing this new agency, the U.S. Travel and Tourism Administration, to submit highly detailed operating plans and budget requests and other budget information directly to Congress—in particular to the House Committee on Interstate and Foreign Commerce and the Senate Committee on Commerce, Science, and Transportation. It is my concern that the new agency will balloon in size, and I want to make certain that the language in sections 205 and 207 does not suggest that, just because budget documents are submitted to the Hill, the new agency will escape the normal executive branch budgetary process, namely, the strict scrutiny and oversight by the Office of Management and Budget.

The question of my friend from Virginia is, specifically, is it true that the new agency will undergo the same Office of Management and Budget budgetary process as other executive branch agencies?

In other words, will OMB have a chance to examine and approve or disapprove of the budgetary management of this new agency?

Mr. WARNER. Mr. President, it is my understanding that the U.S. Travel and Tourism Administration will follow the same processes as other agencies of the executive branch, namely, they will be required to submit their budget concurrently to the Office of Management and Budget for the normal process of scrutiny and review prior to executive branch approval as well as to the appropriate committees of the Congress

Mr. BELLMON. I thank the Senator from Virginia. I have a second question involving the language in section 206 regarding the power of this new agency to enter into contracts.

This section authorizes the new agency to enter into contracts for a variety of purposes. I understand that it is the intent of the conferees that the agency can only enter into contracts subject to prior appropriations. As the Senator knows, section 401 of the Budget Act requires that legislation providing new contract authority shall not be in order in either the House or the Senate unless such authority is subject to prior appropriations. I wonder if the Senator from Virginia could clarify their intent in this regard?

Mr. WARNER. Mr. President, I am happy to clarify the intent. It is the intent of this legislation that any contracting authority accomplished by the new agency will be limited to the extent, and in such amounts, as is provided in prior appropriations acts. We do intend to comply with section 401 of the Budget Act.

Mr. BELLMON. Mr. President, I thank my friend from Virginia. I gather that he intends that this will be both an effective agency and an agency which will be fruitful in its operation. I thank my colleague this morning for making the record clear. I shall not be a Member of the Senate after the end of this term and I hope that those who are still here will carefully watch over this agency. The past record is clear that when we set up a new agency like that, it has a tendency to grow like weeds. I hope this will not be the case with the new administration.

Mr. WARNER. I thank my friend from Oklahoma. I give him my personal assurance that, having taken an active role in creating this new administration, if, in fact, it does become law, I shall personally, for the balance of my first term in the Senate, 4 years, carefully scrutinize it.

Mr. President, I share the concern of the Senator from Oklahoma for economy in government. For a number of reasons, I believe the National Tourism Policy Act which we are considering is not only consistent with that objective, it furthers it. Before explaining why, I should like to put the importance of tourism and our Government's present role in perspective.

According to many experts, tourism will be the world's largest industry by the end of this century.

In recognition of this fact, over 125 nations have government tourist offices located abroad for the specific purpose of attracting visitors to their respective countries.

Currently, tourism contributes over $140 billion annually to the U.S. economy, and supports over 6 million jobs.

Over 50 Federal agencies administer more than 100 programs which significantly impact tourism; and the Federal effort is highly inefficient and often contradictory.

Despite the Government's inefficient effort, according to our own Government's statistics, every Federal dollar spent on international tourism promotion returns $18.6.

An extensive 6-year study unanimously authorized by the Senate concluded that the central Government tourism effort—the U.S. Travel Service—should be replaced by an independent entity.

Mr. President, the National Tourism Policy Act takes these factors into account.

It does not technically create a new Federal agency. Rather, it replaces USTS with an independent administration which will make the Government effort to promote tourism more effective and cost efficient.

USTS will go out of business in 6

months, and the administration which would replace it will not cost the Federal Government any money beyond what has been appropriated for the U.S. Travel Service for fiscal year 1981. Just as importantly, not 1 penny is authorized for the new entity beyond fiscal year 1981. Congress will have to authorize additional funding next year or the new entity will cease to exist.

Mr. President, I wish to emphasize that nothing contained in this measure permits the new administration to commit the Federal Government to provide any sums for the payment of any obligation of the agency which exceeds amounts provided in advance in appropriation acts. This has been the intent from the very beginning, and it remains so.

Finally, I also wish to stress that this legislation absolutely does not circumvent the existing budgetary process. The budget for this new agency will still be submitted by the President, just as he submits the budget of the National Transportation Safety Board. In fact, in this respect, the relevant provision in this legislation tracks the provision in law which created the National Transportation Safety Board.

As a conservative Senator from the Commonwealth of Virginia, I am committed to help control the growth of Federal Government. Normally, I would reluctantly support the creation of a new Federal administration. Because of the tremendous impact that tourism has on our economy and our favorable balance of payments, I support the conference report.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. All the time of the minority leader has expired.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized for a unanimous-consent request.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the time allocated to the Senator from Massachusetts (Mr. Kennedy) be put aside temporarily without his losing his right to that time; that the Senator from Ohio be recognized for the time allocated to him at this time; and that, immediately thereafter, the time allocated to the Senator from Alaska be allocated to the Senator from Oregon (Mr. Packwood), who is presently on the floor.

The ACTING PRESIDENT pro tempore. Is there objection?

Hearing no objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

THE MIDDLE EAST

Mr. METZENBAUM. Mr. President, I wish today to express a few of my concerns over the controversy that has arisen in the past few days about remarks on the Middle East that have been attributed to our distinguished colleague from Illinois (Mr. Percy).

My intention is not to criticize the incoming chairman of the Foreign Relations Committee for expressing a point of view with which I strongly disagree. Every Senator has a right—indeed he or she has a duty—to speak out on the issues.

I do not believe that the Soviet Union, the PLO or anyone else can reasonably take the Senator's remarks as anything more than they were intended to be—an expression of a personal position that is at variance with our long-established foreign policy.

Anyone who doubts this Nation's position need only read the platforms of our two major political parties. The Republicans, for example, said that "with respect to an ultimate peace settlement, Republicans reject any call for involvement of the PLO as not in keeping with the long-term interests of either Israel or the Palestinian Arabs."

It said further:

> We believe the establishment of a Palestinian State on the West Bank would be destabilizing and harmful to the peace process.

All such doubts were dispelled by a senior adviser to the President-elect, who stated this past Sunday that the position of the Senator "would not reflect the policy of the incoming Reagan administration."

So, Mr. President, my concern is not with misunderstandings. Rather, it is with the issue of the PLO.

The Senator from Illinois is by no means the first distinguished American to urge inclusion of the PLO in Middle East negotiation, nor is he the first to call for creating one or another form of a Palestinian state.

The Senator from Illinois has spoken of a Palestinian federation with Jordan demilitarized for at least 25 years. He suggested that it be modeled after the example of Japan.

The problem, Mr. President, is that such an idea, as reasonable as it may at first glance seem to be, does not correspond with the realities of the Middle East.

The Middle East is not an island, like Japan. Unlike Japan, the nations of the Middle East cannot count upon a credible security guarantee from a great power.

The Middle East is not a region, like central Europe in the mid-1950's, in which a reasonably stable power balance has developed.

As I stand here today, Iran and Iraq are at war. Jordan and Syria are massing forces against each other. And neither of these confrontations is connected in any way to Israel or to the Palestinian issue.

Furthermore, it is absolutely essential to examine the position of the PLO.

Has it really changed?

Has Yasser Arafat become a moderate, a reasonable person who has seen the light after so many years? Do Mr. Arafat and his associates have any interest in making peace with what they call the "Zionist entity?"

Not, Mr. President, if you take them at their word.

On June 16 of this year, at a rally held in Beirut, Arafat had this to say:

> Do not believe that it is possible to regain Palestine and to return to Jerusalem by means of a political statement. You will not return to Palestine or raise the flag of the revolution over Jerusalem other than by means of the rifle. We will not achieve political victory so long as we do not achieve military victory. You must strengthen the iron fist around the rifle which will lead to victory.

That statement only reiterates what the Fourth Conference of Fatah, held in Damascus, resolved earlier that same month.

An official broadcast said:

> Fatah is a revolutionary patriotic movement that aims to liberate the whole of Palestine and to establish a democratic Palestinian State on the entire Palestinian soil. The political program points out that the armed popular revolution and armed struggle are the only way to liberate Palestine.

That, Mr. President, is not the voice of moderation.

That is another way of saying that Fatah and Mr. Arafat called for the destruction of Israel. It is the voice of violence, of terrorism, of implacable opposition to Israel's very existence. It is, in other words, the authentic voice of the PLO.

The 1968 PLO covenant called for the outright destruction of Israel. That has not changed—not in the slightest.

The PLO's close allies—Khomeini's Iran, Libya, Syria, Iraq—none of these countries has indicated in any way a desire for a peace short of total victory for their cause.

The Soviet Union, the PLO's political patron and military supplier, has shown no inclination to back away from stirring troubled Middle Eastern waters.

And above all, Mr. President, the PLO is today as committed as it ever was to the use of terror as a political method. The idea that the PLO has changed is wishful thinking—no more, no less.

And it is the kind of wishful thinking in which the people of Israel, whose survival is on the line, cannot afford to indulge.

We are told that Israel has not done enough for peace.

Yet here we have a country that gave up a secure source of oil—its only source—as part of the price of peace with Egypt.

Israel agreed to give back the Sinai—won in a hard-fought war with the blood of Israeli soldiers—and to give up some of the world's most sophisticated air bases—as part of the price for peace.

Israelis pay the world's highest taxes to build and protect their country.

Those are real sacrifices, but they are necessary in a country whose neighbors, with one exception, do not recognize its right to exist.

Do the Israelis want peace?

Of course they do.

What could that country want more? What could it need more?

But Israel cannot accept just any kind of peace.

Israel must have defensible borders.

Israel must have full and unambiguous recognition by the Arab countries.

And Israel must be in a position to defend herself in the future. If nothing else, the war between Iran and Iraq and the threat of war between Syria and Jordan demonstrates to all who want to see that no nation in the Middle East can afford in these unstable times to let down its guard.

Yet we hear that Israel should be "reasonable" and recognize the PLO as a party to negotiations.

We hear that Israel should legitimize the idea of a PLO State—a state armed by the Soviets, allied with the most radical Arab countries and pointed like a loaded pistol at Israel's heart.

Our country would never accept such a situation for itself, and it is wrong to expect the Israelis to endanger their country's future as a free, sovereign nation in pursuit of some ephemeral negotiations with the implacable terrorists of the PLO.

For Israel, that is an invitation to commit suicide. And it is an invitation that Israel cannot and should not be expected even to consider.

Mr. President, I reserve the remainder of my time.

Mr. PACKWOOD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, the comments of the senior Senator from Illinois over the weekend indicating support for the creation of a Palestinian State on the West Bank were, I am sure, said in good faith in the hopes of reaching peace in the Middle East.

It is, however, unfortunately not the road to peace, but the road to further war.

His statement is, certainly, not the position of the Republican Party I quote from our platform of this summer:

> Republicans reject any call for involvement of the PLO as not in keeping with the long-term interests of either Israel or the Palestinian Arabs.

Continuing from the quote of the platform:

> We believe the establishment of a Palestinian state on the West Bank would be destabilizing and harmful to the peace process.

So the statement from the senior Senator from Illinois is at odds with the Republican platform of this summer.

Second, Governor Reagan was quick to comment following the statement of the senior Senator from Illinois that it is not his position that we should either bargain with the PLO or create a Palestinian State on the West Bank, whether it be led by Yasser Arafat or another Palestinian.

The Senator from Ohio has clearly indicated that Israel is not the problem. Israel is not the cause of war in the Middle East.

Iran and Iraq are at war. Syria and Jordan are close to war. If there is any one verity about these situations, it is that these wars are not the fault of Israel. They would start, continue, and terminate whether or not there was the State of Israel.

The Arabs in the Middle East have a long history of animosity and jealousy that precludes the creation of the State of Israel.

I will talk for a moment about the interests of the United States, because I can make a case both morally for the sustenance of the State of Israel and from the standpoint of self-interest of the United States in maintaining the State of Israel.

Israel is our best ally in the Middle East. It is our best source of intelligence. It is our best source of information. They have offered, if we need land for bases, to station American troops in the Middle East. They are a rock of stability. In an area that does not have another democracy for thousands of miles in all directions, Israel is a democracy.

It is ironic that of all states of the Middle East, only in Israel do Palestinians get to vote and freely partake of the government. In all of the other surrounding states, they are faced by dictatorships, be they called monarchies or by some other name, in which their right to participate in the government is granted or limited at the whim of the ruler. Only in Israel are other democratic rights represented.

Mr. President, the argument is made in the United States and unfortunately the feeling is growing in the United States, that if we just gave the Palestinians the West Bank, peace would be obtained.

Nothing could be further from the truth.

The first creation of the Palestinian State on the West Bank that is not negotiated by those parties involved, including Israel, Saudi Arabia, Jordan, Syria, the first creation of a Palestinian State will not bring peace nor tranquility to the area. It will bring instability and eventually, again, war, because the only peace that is going to work in the Middle East is that which is bargained between the parties who have to live with it.

If history has taught us anything, be it the Middle East or otherwise, that lesson is that peace will not last unless the parties on the ground that have to live with it agree to it, and if it is imposed by outside powers, when those powers remove their troops and protection, war again ensues.

What bothers me, however, is that there is a tremendous lack of knowledge of history in this country about the Middle East and a feeling that, somehow, Israel has immorally or illegally taken land that does not belong to it and should give it back. That is not the situation, Mr. President.

If we look at the history of the Middle East in this century, it is a revealing history. At the start of this century, there were none of the modern states that we know today in the Middle East. There were no Syrias, no Lebanons, no Iraqs, no Israels, no Jordans—only Egypt, held at a loose suzerainty by Great Britain. But there were none of the independent smaller countries in the Middle East.

All that was under the domination of Turkey. Turkey had held it for about 400 years. Turkey was allied with Germany in World War I. In the middle of World War I, England and France got together and decided that when the war was over, they would take the Middle East and divide it up btween them. Britain promished that from the portion of the land they got, they would create a homeland for the Jews. That is the famous Balfour Declaration.

At the end of the war, indeed, the lands were divided. England got what eventually became Iraq, Israel, and Jordan. France got what eventually became Syria and Lebanon, although at that time there were no boundaries, and those countries did not exist.

Then, in 1921, in order to pay off an I O U to Emir Abdullah, who was the grandfather of the present King Hussein and who had been dealt out in the peace treaty—he did not get a country—he was given the country of Transjordan. It was carved out of the lands Britain got from Turkey. He was given those lands because he had a very good army and was looking around to create a country, and he was looking at Damascus, which the French had. The French complained to the British, and the British decided upon Transjordan. The name is interesting—"Trans," across the River Jordan. Everything east of the Jordan River would be part of the State of Transjordan.

So it was created—perhaps the most artificial creation of a state in this century. It had no ethnic or historic boundaries. It had no national consciousness, but it was created. From the time it was created, it was closed to Jewish immigration.

So 80 percent of what had been the Palestinian mandate was cut off for the Jews to settle in, and what was left is now the land that is presently Israel, including the West Bank. The Jews did not like the creation of Transjordan, but they accepted it.

In 1932, we had the creation of the State of Iraq, and it had a significant Jewish minority. It was created by Great Britain of the lands they held. But there was no Jewish outcry at the creation of this state; no world outcry, in spite of the fact that there was a significant Jewish minority; and that minority has been mistreated from the time that state was created.

In 1937, Great Britain submitted the first of its recommendations for the partition of what remains by mandate—basically the partition of what is present-day Israel plus the West Bank. In that partition, all that the Jews would get would be northwest Israel—period. The Arabs would get the West Bank and the Negev. Britain would keep Jerusalem and a corridor to the sea.

Mr. President, the Jews agreed to that division, and the Arabs turned it down. I emphasize that the Jews did not get Jerusalem and did not get the West Bank, but they wanted peace and a homeland so desperately that they accepted a partition that would give them nothing but what is currently northwestern Israel. If the Arabs had wanted peace and had wanted to accept the presence of Israel, they could have accepted that partition then, had the West Bank, had the Negev, had a Jerusalem still controlled by Britain, and had peace. It is clear that they did not want peace, because they did not want the creation of the State of Israel.

In 1938, the Jewish Agency, which was speaking for the Jews, suggested a partition. Bear in mind that this is a suggested partition by the Jewish Agency itself. In this partition, the Jews were to get northwest and north Israel. The Arabs were to get an independent state in much of what is presently the West Bank and much of what is the Negev, including Gaza and Beersheba. Jerusalem was to be divided between a Jewish state and a part to remain in the British mandate, and any other territories would remain in the British mandate.

Again, the Arabs could have had the West Bank and the Negev, a divided Jerusalem, and they turned it down because they did not want the creation of the State of Israel.

In 1942, the State of Syria was created by France, with a significant Jewish minority. There was no Jewish outcry, no world outcry, at the creation of Syria, even though the Jewish minority in that country has been persecuted from the day that state was created.

In 1946, at the end of World War II, the Jewish Agency again suggested a partition of Palestine. The Jews would take the Negev and northern Israel; the Arabs, the West Bank. Jerusalem would be be an international zone. Again, the Arabs refused.

Then, in 1947, the British decided to leave the mandate. They were going to turn it back to the United Nations. They were sick and tired of it. It was causing them problems. So they decided that they would leave, and they gave it back to the United Nations.

The United Nations drew a partition plan. In that plan, the Jews were going to get north and northwest Israel and most of the Negev. An Arab state was to be created on the West Bank, although it was not clear under whose jurisdiction that state would be created. Jerusalem was to be an international zone. Again, the Jews agreed and the Arabs refused.

Mr. President, in every suggested partition from 1920 on, in which the Arabs could have had peace and the West Bank and half of Jerusalem, they turned it down because they did not want the State of Israel. Nothing has changed today. The only difference is that Egypt, of all the Arab countries, has been willing to negotiate face to face with Israel. Because they have been willing to do it, Israel again is showing its good faith by giving back the Sinai—which they have given back in every war in which they have taken it since 1948—in the hope of securing peace.

However, Saudi Arabia, Jordan, and Syria will not negotiate with Israel. Instead, we now have a front organization—that is what it is—financed by the Soviets and Libya, the PLO, which can adopt a more terrorist and intractable attitude and says it wants to drive Israel into the sea; and Israel is asked to negotiate with that organization. It is suggested that that organization be put in charge of the West Bank, in a Palestinian State, an organization dedicated to terminating the very existence of the State of Israel.

The guilt in this case lies with the states of Syria, Jordan, and Saudi Arabia. If they would be willing to sit down and negotiate with the State of Israel, there is every likelihood that a permanent peace could be negotiated. Israel has shown, since 1920, their willingness to accept less than they believe they are entitled to, in order to secure peace. They show it in the situation with Egypt, in which they are giving back the Sinai in the hope of getting peace.

However, Syria, Jordan, and Saudi Arabia will not negotiate. Instead, they take a backseat and let the PLO be their front organization and let the PLO attempt to drive Israel into the sea and exterminate that country.

Mr. President, to make a suggestion that the Palestinians should be lodged in the West Bank and that then Israel negotiate is putting the cart before the horse. Put the Palestinians in the West Bank, with Yasser Arafat in charge, and I do not care what anybody says about a 25-year demilitarized zone—it will not work; and any commitment to honor such a pledge will last as long as the United Nations peacekeeping force did in 1967.

I conclude by saying once more that the only peace that will last in the Middle East is a peace that is negotiated by the parties that have to live with it.

Any peace imposed by outside powers will not last. And for the United States to suggest that we know the Palestinians led by Yasser Arafat should occupy the West Bank is presumptuous, arrogant, and wrong. It is not the road to peace. It is the road to war.

The position of the United States should be simply to keep Israel sufficiently supplied so she can bargain for peace from a position of equality.

The ACTING PRESIDENT pro tempore. The time allocated to the Senator from Oregon has expired.

The Senator from Ohio has 6 minutes remaining.

Mr. METZENBAUM. Mr. President, may I first commend the extremely able statement of my friend from Oregon who has spoken in this Chamber before on similar subjects. He is always very erudite and persuasive.

I simply wish to publicly commend him and indicate my respect for the knowledge and background he brings to the subject.

Mr. President, I have about 5½ minutes remaining, and I yield 3 minutes to my friend, the Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Ohio.

Mr. President, it has been reported that Senator PERCY, our friend from Illinois, on his trip to Moscow told the Soviet leaders he favored a Palestinian State which "would permit Arafat to realize his wish to be a head of state."

Such reports are cause for the most serious concern. Since the birth of the democracy which is Israel, it has been the stated policy of the United States to protect its security and its well being.

The protection of Israel's very right to exist is not compatible with the promotion of a Palestinian State dominated by the PLO. To discuss the development of such a state before the PLO has taken even the most minimal step toward peace is to encourage the continuation of present PLO policy whereby it receives international recognition in exchange for nothing. Indeed, its terrorist acts are continued and the situation is polarized even further.

It must remain the policy of the United States, as it is of Israel, to be willing to sit down and talk with anyone who is willing to recognize Israel's right to exist in peace and security. To reverse that policy or to stray from it is to compromise U.S. opposition to terrorism and our commitment to peace.

I hope the report of Senator PERCY's statement is not true because it does not represent the policy of this country, either of our political parties, the President, or the President-elect.

I hope, Mr. President, such statements were not made because they ignore history and because if implemented will inevitably doom the Middle East to a perpetual state of terrorism and war.

Finally, Mr. President, I hope the report is not true because the Camp David process is fragile and its progeny uncertain and such statements would make it more difficult to achieve a consensus solution to the Palestinian problem which requires a difficult and delicate formula, not a formulation of statehood with Arafat at its helm.

THE REALITIES OF MIDEAST PEACE

Mr. DOLE. Mr. President, the world, beginning with President Carter last January when he responded to the Russian invasion of Afghanistan, has been increasingly cognizant of the aggressive and imperialistic goals of the Soviet Union. The election returns on November 4, and particularly the choice of Ronald Reagan for President by the American people, show that the United States will soon be turning to the complex task of restoring our international strategic position. At the same time the Soviet armies are preparing for an invasion of Poland however, a few attempt to undermine Israel, America's strategic linchpin in the Mideast, has gained currency in the press.

Once again the resolution of a future comprehensive peace is laid solely on Israel's shoulders while the PLO is pictured as the aggrieved party. This is a false picture. It is wrong in the particulars, but it is also wrong for the United States and for global strategic reasons. We must not let ourselves forget that the PLO is a Soviet client "state." There is some indication that the terrorists who captured our Embassy personnel in Iran were trained, directly or indirectly, by the PLO and the Soviet Union.

The establishment of a PLO-dominated Palestinian state on the West Bank would not enhance a peaceful resolution in the Mideast but guarantee instability for decades to come. As a sometime-puppet of Russia, the PLO is largely financed, armed, and trained by the Soviet Union. A pro-PLO state would further Soviet influence in the region, create added instability, and further the encirclement of moderate, pro-Western Arab States.

The main chance for forward motion in the Middle East these days requires that outsiders must stop hitting Israel over the head with the Palestine Liberation Organization. It means emphasizing the role other Arabs can play in the Israel-Egyptian peace process. The best outsiders can do, including the United States and other friends of both moderate Arab States and Israel, in these conditions, is to help free negotiations from the emphasis on concessions to the PLO or the Palestinians. That means muting the emphasis that paralyzes Israeli politics and plays into the hands of Israeli hardliners—the emphasis on the role of the PLO. It means trying to bring other Arabs into the peace process. Most immediately, it means ending the spitting match that President Carter allowed to develop between the United States and King Hussein, which has been somewhat mitigated with the latest tension in the area resulting from the Iraqi-Iran war.

Such actions do not play to the grandstand and do not have quick payoffs. But they comprise the best way to achieve peace in the Middle East over the long run. The central issue of the Arab-Israeli conflict is not the Palestinians. After all, even their fellow Arabs did not discover the Palestinian "cause" until fairly recently. The core of the conflict always has been and continues to be the refusal of the Arabs to recognize Israel's very existence and its right to live within recognized and secure boundaries.

ISRAEL'S RIGHT TO EXIST COMES FIRST

Just over a year ago a joint letter by the Kansas-Missouri congressional delegation was sent to then-Secretary of State Vance, expressing our concern then about public and press speculations over changes in U.S. policy toward the PLO and Israel. There seems to be some kind of constituency in this country to achieve movement on a comprehensive peace by applying pressure mainly on Israel. Perhaps this is a reflection of the fact that the United States has some influence with Israel—a longtime ally—but very little with the PLO and the radical Arabs. Perhaps it is because every previous and unprovoked Arab attack has been rebuffed with success by the courageous Israelis—but not without a high price in human lives—and this success has fostered the illusion that only Israel has something to "give" in a comprehensive settlement. As noted here today by my distinguished colleagues, this is not the case.

Mr. President, I ask unanimous consent that the text of the joint letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 7, 1979.

Hon. CYRUS R. VANCE,
Secretary of State,
Department of State,
Washington, D.C.

DEAR SECRETARY: As members of the Congress of the United States from Missouri and Kansas we are deeply committed to obtaining a lasting peace in the Middle East. Toward this end we believe our government should use its good offices to involve nations such as Jordan as well as moderate West Bank Palestinian leaders to join in the negotiations now taking place between Egypt and Israel.

We believe that the interests of peace in the Middle East and American self-interest require our nation to hold steadfast to the policy that the United States will not recognize or negotiate with the Palestinian Liberation Organization as long as the PLO does not recognize Israel's right to exist and does not accept Security Council resolutions 242 and 338. To do otherwise would give the appearance of capitulating to terrorism and blackmail.

We believe that the signing of the peace treaty between Israel and Egypt was a fundamental step toward peace. We are hopeful that with patient support of these two nations and by maintaining our commitments to them, America's self-interest and the goal of peace will be achieved.

Very truly yours,

Ike Skelton, Dan Glickman, Jim Jeffries, Robert Young, John C. Danforth, Thomas F. Eagleton, Richard Bolling, Keith Sebelius, Larry Winn, Jr., Robert Dole, Nancy Landon Kassebaum, E. Thomas Coleman, Robert Whittaker, and Richard Gephardt.

Mr. DOLE. Mr. President, as this letter clearly indicates, there is a constant theme that runs through the U.S. position on the PLO issue. It is a theme based on logic, commonsense and practical politics, and it guarantees the future security of Israel as a prerequisite to peace. The administration responded affirmatively at that time to our concern, and the Senator from Kansas continues to believe that these fundamental issues—U.N. Security Council Resolutions 242 and 338 and the recognition of Israel's right to exist—are the basis for any movement in the future. It is not up to Israel but to the Palestinian people.

The PLO was founded not as a nation-state in exile but as a paramilitary group dedicated to the liquidation of Israel. Its establishment in 1964 predate Israel's occupation of the West Bank and Gaza. This fact plus its refusal to alter its stated goal of eradicating Israel are the prima facie evidence that the PLO is not a legitimate nationalist group.

It is incorrect to say the PLO has "earned" the right to sit at the Mideast peace table. This gives the blessing to its policies of terrorism, extortion, and murder. It would legitimize the most notorious terrorist organization in the world today, a group aiding other international terrorists and one that is directly linked to the Soviet Union, and whose entire history has been inimical to American interests. Israel is one of America's closest, most consistent, stable, and reliable allies anywhere in the world. The PLO represents exactly the opposite.

REPUBLICAN AGENDA

The Republican Party adopted last spring as a platform plank a Middle East position that recognizes that Israel, the only democracy in that volatile region, is not only our political kindred but the mainstay of our strategic interests. Its status as our long and faithful ally deserves our first consideration in the future. The platform position states that we "reject any call for involvement of the PLO as not in keeping with the long-term interests of either Israel or the Palestinian Arabs. We believe the establishment of a Palestinian state on the West Bank would be destabilizing and harmful to the peace process."

We hope "to pursue close ties and friendship with moderate Arab States," and to strengthen "the economic and military framework for assuring long-term stability both in the internal development of regional states and an orderly marketplace for the area's resources." These goals will not be pursued at the expense of Israeli security, freedom, or blood.

● Mr. LUGAR. Mr. President, let me express myself clearly and pointedly: The recent "leak" of classified information relating to Senator PERCY's discussions with Soviet leaders is deplorable. We have seen far too many cases recently of overly zealous individuals arrogating to themselves unilateral authority to declassify national security information. This practice—no matter what the motive—ultimately serves only one party, and that party is no friend of the United States.

Mr. President, national security information and sensitive conversations are classified for good reason, and it simply will not do to tolerate ad hoc release of this type of information whenever and however it suits someone who holds it. I am hopeful that the incoming administration will take a long, hard look at this practice, and that it will find ways to bring it under control quickly.

In the current case, the release of classified information is all the more regrettable. The motive appears to be a deliberate attempt to discredit Senator PERCY by releasing portions of a memorandum of conservation between Soviet leaders and himself.

Let me be equally clear about one more point: I myself do not support any leadership role for Yasser Arafat in any conceivable future Palestinian entity on the West Bank. We may all hold differing opinions on the future of the West Bank, or on a variety of other matters of concern to the United States; the debate on these issues, however, ought to be conducted above board, in the open, and with due regard for established national security practices.

I ask permission that the following editorial of December 9 from the Chicago Tribune be printed in the RECORD.

The editorial follows:

Smearing Senator Percy

The knives have already been drawn against Sen. Percy, who is expected to take over the chairmanship of the Senate Foreign Relations Committee. Employing one of the more deceptive and discreditable tactics of Washington politics, someone leaked to the New York Times portions of a memorandum reporting Sen. Percy's conversations in Moscow on the subjects of the Mid-East and SALT negotiations.

The classified memorandum, written by Thomas Watson Jr., U.S. ambassador to Moscow, quoted Sen. Percy as telling Soviet leaders that he favored a Palestinian state with Yasser Arafat as the ruler. Sen. Percy insists that what he also told the Soviets was that he favors the creation of a Palestinian federation with Jordan that would have minimal defensive military capability. He said negotiations with the Palestine Liberation Organization could only begin after the PLO recognized the state of Israel.

What we have here is a little like those movie ads that quote a critic saying a film is "extraordinary." When in fact the full text of the review said, "This movie is extraordinary in its capacity to put the audience to sleep."

Sen. Percy's position on a Palestinian homeland is not radical, nor is it out of line with the alternatives the United States has considered appropriate for a long-range Middle East settlement. It is not new that Sen. Percy believes that such a settlement will have to take account of Palestinian yearnings for a homeland if it is to be successful. Nor is his position a foolish one. It is shared by some mainstream Israeli political leaders.

All that is wrong with it, apparently, is that it does not square with the views of some members of the Reagan transition team. The leak was clearly designed to disgrace Sen. Percy by making him appear to be soft on PLO terror. But the real disgrace is that the leakers would stoop so low.

We are fed up with this kind of smear tactic. We are tired of having government officials use classified information [which is nearly impossible to evaluate or refute] as a weapon against their enemies, tired of being terrorized by leaks of supposed military plans which turn out only to be discussions of hypothetical options, tired of power-crazed little men who will use any trick or deception they can think of to warp the political process to their own ends. We are frankly sick of the attitude in Washington that considers the high stakes of national politics to justify behavior that would make the average Chicago alderman blush.

What was done to Sen. Percy was crude and vicious. It was utterly unwarranted. Within the Reagan group itself there will undoubtedly be debate about how to pursue Mid-East peace, and it would be unfortunate if Sen. Percy's position is not represented there.

Someone was quoted the other day as saying that the pressure this leak will put on Percy will not be in the Senate itself but in his home state. Let no one here, no matter what his view on the Mid-East tangle, be taken in by the leaker's trick. The message we should all be sending Sen. Percy this time is: "Hang in there."

(Later the following occurred:)

Mr. JAVITS. Mr. President, earlier today, there was a discussion on the Senate floor respecting Middle East policy and the reports of Senator Percy's talks with U.S.S.R. President Brezhnev and Foreign Minister Gromyko in Moscow during the last 10 days.

In view of my long association with Senator Percy, both as a personal friend and as a Senate colleague, I thought it appropriate to include the affirmative record of Senator Percy's views in his own words. From Senator Percy's perspective, this is the way he sees the best policy for Israel and the United States in the Middle East. The first release is Senator Percy's clarification of the press reports on these talks. The remaining documents trace back his views on these issues over the past 5 years. A complete record requires this additional documentation, which follows:

Release of Senator Charles H. Percy, December 6, 1980

Senator Percy has long believed that there can be no peace in the Middle East without a solution of the problem of the Palestinians.

It is Senator Percy's view that the Palestinian people should have a territory on the West Bank and in Gaza so long as it is federated with Jordan and is demilitarized for at least 25 years until they have demonstrated that they will live in peace without being a threat to anyone. Arafat or anyone else they elected could be their leader, but it would not be an armed, aggressive PLO state.

Percy continues to oppose the U.S. negotiating with the PLO until the PLO recognizes Israel's right to exist as a sovereign state, recognizes the right of the Israeli people to live within defensible borders, renounces terrorism, and accepts UN Resolutions 242 and 338.

All of this is a long-held view of the Senator. As he said in Beirut in January 1975—and the statement was reported by UPI—"Certain positive conditions must be met, for I personally would not accept a Palestinian state if it imposed another threat in the Middle East and refused to recognize Israel"

Charles Glass of the *Chicago Daily News* Foreign Service reported from Beirut the Senator's statement that the Palestinians must recognize that Israel is here to stay.

Senator Percy did not discuss his Mideast comments to Soviet leaders with President-Elect Reagan either before or after his trip. He was speaking for himself as a United States Senator.

Percy Asks Halt to Funding for Anti-Israel Campaign, October 17, 1978

Washington.—Sen. Charles H. Percy (R-Ill.) has asked President Carter to cut off American funds for a United Nations committee which has launched an anti-Israel propaganda campaign.

In a letter to the President, Percy joined with Sen. Patrick Moynihan (D-N.Y.) and other Senators to withhold the $190,000 from the U.S. contribution to the UN which would represent proportional support for the committee.

The committee, which is spending $500,000 in a public relations campaign to promote Palestinian rights and improve the image of the Palestinian Liberation Organization, is the Committee on the Exercise of the Inalienable Rights of the Palestinian People, formed by the UN General Assembly on Nov. 10, 1975, the same day the Assembly declared Zionism to be a form of racism.

In the letter to the President, the Senators declared that the committee "lives on not only as a reminder of that venomous episode but also as an embodiment of the anti-democratic, anti-American fervor" that prompted the resolution.

Percy said President Carter has discretionary authority to withhold the funds from the U.S. contribution to the UN. "It would be inexcusable for American funds to be used in support of anti-Israel activities," Percy said.

[From the Congressional Record, Mar. 16, 1978]

Senate Concurrent Resolution 72—Submission of a Concurrent Resolution To Combat International Terrorism

Mr. Case (for himself, Mr. Stone, Mr. Moynihan, Mr. Javits, Mr. McGovern, Mr. Ribicoff, Mr. Durkin, Mr. Biden, Mr. Metzenbaum, Mr. Percy, Mr. Anderson, Mr. Heinz, and Mr. Bentsen) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

H. CON. RES. 72

Whereas a series of unprovoked terrorist attacks have been conducted against citizens of Israel, Egypt, and Jordan since President Sadat's trip to Jerusalem last November;

Whereas the attacks have resulted in the loss of life and the wounding of civilians, including several Jordanian citizens living on the West Bank, the editor of the Egyptian newspaper Al Ahram on February 18, 1978, and men, women and children who were trapped in a burning bus or deliberately shot during the attack in Israel March 11, 1978;

Whereas the Palestine Liberation Organization has publicly accepted responsibility for the March 11 attack; Now, therefore be it

Resolved, That it is the sense of the Senate (the House of Representatives concurring) that

(1) Such acts of terrorism are strongly condemned and are obstacles to peace in the Middle East and thus are against the national interest of the United States;

(2) The Congress extends its condolences and deep sympathy to those wounded and the families of those killed in the terrorist attacks;

(3) The President should direct the Executive Branch to intensify its efforts to counter international terrorism including use of diplomatic, economic, and security measures taken unilaterally or in cooperation with other nations to terminate assistance received by (a) organizations, groups or individuals which commit or attempt to commit acts of terrorism and (b) governments which provide any assistance to organizations, groups and individuals which conspire to commit or actually commit terrorism.

(4) The President should report to Congress within 30 days after the adoption of this Resolution with respect to action the Executive Branch has taken to implement existing laws regarding terrorism, including Section 3(8) of the Export Administration Act of 1969, as amended and Section 18 of the International Security Assistance Act of 1977 in regard to countries cited under (5) which provide assistance to the PLO and other groups involved in terrorist activities.

(5) The President should report to Congress within 30 days on the nature and extent of the cavities of the Palestine Liberation Organization office in New York.

(6) The President should report to the Senate Foreign Relations Committee and the House of Representatives International Relations Committee within 30 days the names of nations which provide to the PLO and its constituent groups financial assistance, training, weapons, sanctuary, bases, escape routes, transportation assistance and documents and other forms of assistance in committing acts of terrorism.

[From the Congressional Record, Mar. 16, 1978]

Mr. Percy. Mr. President, I have chosen to be one of the original cosponsors of this resolution because I believe that greater efforts must be made to combat terrorism. The recent terrorist acts against citizens of Israel, Jordan, and Egypt demonstrate that terrorism remains one of the world's most intractable problems.

The outrageous raid against civilians in Israel was a premeditated murder both of innocent civilians and of the Israeli-Egyptian peace process as well. The obvious objective of the PLO attack was to poison the atmosphere for the Israeli-Egyptian peace negotiations. For this reason, all of us who seek a just peace should redouble our efforts to bring the parties together, while rejecting the destructive activities of the rejectionists.

The PLO cannot really believe that this criminal attack on innocent civilians will convince Israeli to invite a PLO-dominated state to be its neighbor. On the contrary, Israel can now be expected to be even more adamant in its opposition to the PLO.

Percy Says PLO Should Not Have Special Status at Geneva, November 15, 1977

Glencoe, Ill.—Senator Charles H. Percy (R-Ill.) said today that Palestinians should not be represented by the Palestine Liberation Organization at the proposed Geneva peace conference.

In a speech to the Men's Club of the North Shore Congregation Israel, Percy said it would be in the best interests of Israel if Palestinians were included in the Jordanian delegation to the conference.

"There is no reason why the PLO should be treated as a nation state when it is not," Percy said.

Saying that the Arabs and Israelis are ready to move ahead toward negotiations at Geneva, Percy emphasized that Israel already has taken an important step by agreeing with the United States on a working formula for talks.

"Now the Arabs must sort out their views and resolve their differences," Percy said.

Percy said the United States can strongly support Israel's conviction that there should be no territorial concessions without an equitable peace agreement.

"This would include formal Arab acceptance of Israel's right to exist within secure borders, full diplomatic recognition and provision for the opening of trade and cultural relations," Percy said.

Percy said he is hopeful that a Geneva conference can be convened this year, despite remaining differences between the Arabs and the Israelis.

"The conference should not be held until there is adequate accord among the parties on its structure and procedures. If the conference meets prematurely, without adequate preparation, it will fail and this would seriously endanger peace."

[From the Congressional Record, Sept. 11, 1980]

Percy Rebukes PLO Extremists for Threats Against Interim Sinai Agreement

Mr. Percy. Mr. President, at this time when we have reason to expect a reduction of tensions in the Sinai as a result of the Israeli-Egyptian interim settlement, it is disturbing if not surprising to hear threatening sounds from certain Palestinian leaders.

It is clear that the Palestinian extremists feel alienated as they see other Arab leaders now acting in a more conciliatory manner, one which provides the first glimmer of hope that the Arab-Israeli dispute can be settled by negotiation rather than war. To extremists, the path of negotiation is so contrary to their hit-and-run tactics that the very thought of it is threatening. So threatening in this case, in fact, that the PLO newspaper in Beirut has urged Arabs to shoot to kill any Americans stationed as cease-fire observers in the Sinai.

This threat is patently designed to encourage opposition in the U.S. Congress to sending 200 American civilian technicians to the Sinai. It deliberately ignores the fact that American technicians in the passes will be in the U.N. buffer zone under the protection of U.N. troops, and that provision is made to withdraw the Americans immediately should they ever be in jeopardy.

The PLO threat will not influence congressional action one way or another. What it will do—like previous PLO threats and acts of terrorism—is to further hinder the legitimate rights and goals of the Palestinian people.

I would hope that Yasser Arafat would realize the inestimable damage to his cause every time such an irresponsible threat is published or broadcast. Every threat, every raid, every murder, can only delay the day when the Palestinians are given a homeland of their own.

Palestinian interests were not included in the new settlement because the settlement was between Israel and Egypt and covered only a partial withdrawal in the Sinai. Should the PLO decide publicly to accept the continued existence and sovereignty of the State of Israel as a Jewish state, I feel confident that the PLO and other Palestinians could also negotiate with Israel. Not all Israelis reject the thought of a Palestinian homeland on the West Bank, but nearly all Israelis refuse to approve negotiations with a movement most of whose leaders still speak out for the destruction of Israel as a Jewish state.

If Yasser Arafat wishes to prove to the world that he is indeed less extreme than his rivals in the PLO, now is the time for him to initiate some restraint over the belligerent PLO propaganda and the savage attacks on Israeli civilians which continue to poison the Palestinian cause.

It may be too much to hope at this time, but I hope that very soon the Palestinians will learn from President Sadat the advantages of accepting the reality of Israel's existence and of negotiating cooperatively to reduce tensions. The interim settlement will allow Egypt to develop her economy in the interest of her people. An end to physical and rhetorical violence by the Palestinians is their best bargaining chip if they really want peace, stability and a homeland for their people.

Mr. METZENBAUM. Mr. President, I yield back the remainder of my time.

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Maryland is recognized.

TRIBUTE TO JACOB K. JAVITS

Mr. MATHIAS. Mr. President, no one who heard Jack Javits' valedictory remarks last week at Senator Stevens' party in his honor could fail to be moved, as I was, by the breadth of mind and spirit they disclosed.

The process of distillation is lengthy and complex. It requires heat and pressure and it produces a result that elevates the nature and the character of the raw ingredients. Jack Javits farewell talk that night was an example of distilled wisdom. After a bitter experience, he spoke without bitterness. After a rancorous campaign, he spoke without rancor.

In that brief talk, Jack Javits illustrated the ample dimension that has made him an American institution. He expressed the patriotism without which the Senate is an empty shell.

It is a source of deep regret to me that Jack's remarks have not been preserved for the Record. We who were there will cherish the knowledge that we partook of a great moment in the history of the Senate. We cannot fail but regret, however, that his words, like so many others spoken at times of deep significance to this Chamber, were written on the wind.

Jack Javits' record, however, is writ large on the face of our society. That will not disappear. His respect for human dignity and his dedication to building a just society animate and exalt a legislative record written over 32 years in the Congress of the United States.

Terrence observed that "True wisdom consists not in seeing what is immediately before our eyes, but in foreseeing what is to come." By this definition (and by many others as well) Jack Javits is truly wise.

Because his valedictory remarks are lost to posterity, I would like to inscribe here in their place other words of Jack's wisdom that we would do well to ponder when he is no longer here to remind us of where our heads and hearts should lead us.

Jack Javits spoke these words at Ellis Island in April 1979:

> (T)he major difficulty of our country that I can see is whether, though we're a young, a vital and a virile people, we are already beginning to lose our zest for life, our zest for setting an example, our zest for leadership and our zest for giving other peoples opportunity and setting them free.
>
> (I)f we use (our resources) well, we can liberate this world, in terms of its economy, in terms of its society, in terms of its social order, in the spirit which breathes from these walls . . . that the individual dignity of the individual human being is respected as being as valuable as life itself.

That is the great task before this Nation. Jack Javits has the wisdom to foresee it. I regret that we must pursue the goal he sets us without his strength and his guidance and his good companionship.

TRIBUTE TO HENRY BELLMON

Mr. MATHIAS. Mr. President, when most people leave the Senate, all they do is create a vacancy for someone else to fill. But when Henry Bellmon leaves, there will be a void.

I always feel a special twinge of regret when a Member of my own class in the Senate moves on, but Henry Bellmon has been such a positive and creative force in our deliberations that the sense of loss is particularly poignant.

When Henry came to the Senate fresh from the Governorship of Oklahoma, his first act was to found a foreign policy breakfast to learn about the great issues of our time from the best minds in the foreign policy establishment. This action was typical of his inquiring mind and positive outlook. At that moment, my awe and admiration for the good sense of Henry Bellmon was first aroused. My gratitude was also won because Henry's effort to equip himself to carry out one of the Senate's great responsibilities has provided edification for a great many of the rest of us as well.

More recently, as the first Republican leader of the Budget Committee, he, together with Ed Muskie, set the pattern for the whole budget control process under the Budget Act of 1974—a process which is slowly and painfully, but successfully, moving us toward a balanced budget.

The people of Oklahoma and the people of America have much reason to be grateful to Senator Bellmon and to regret his decision to retire. I share their sentiments for, to use Hamlet's felicitous phrase on an unfelicitous occasion: "We shall not look upon his like again."

TRIBUTE TO BIRCH BAYH

Mr. MATHIAS. Mr. President, politics of conscience is high risk politics. Its practitioners are few; its rewards uncertain.

Birch Bayh knew this and yet in 18 years in this Chamber he did not shrink from doing what he thought was right. A recent example was his fight for the independence of Federal judges at a time when "accountability" was the popular cry.

During the 12 years we have served together in the Senate, I have valued Birch Bayh's help, his leadership, his advice and his company.

He is responsible for so many changes in law—constitutional and statute—that his works will have an active and very positive influence on American life for a long time to come.

Birch Bayh's conscience gave new dimensions to social justice in America. There can be no finer legacy than that.

TRIBUTE TO JOHN CULVER

Mr. MATHIAS. Mr. President, to say that John Culver will be missed is to miss the essential point about John Culver. John Culver is so unique that his place in the councils of the Senate cannot be filled.

Few Senators in history have ever espoused their causes with such passion and courage. Few among us can boast such a steady plumb line.

The Senate needs men and women whose convictions derive from a steady faith in the ability of our Republic and its institutions to promote the general welfare. The Senate needs men and women who believe in equal justice and who have the vision and the tenacity to move us toward that goal. John Culver is such a man.

The Senate needs people who believe, as John Culver believes, that we can live up to the ideals we espouse. But the country also needs such men, so whereever he is and whatever his occupation in the future, I have no doubt that John Culver's aura will be palpable among us. And that will be a good thing.

A REJECTION OF COMMONSENSE

Mr. MATHIAS. Mr. President, I have few regrets about leaving the House of Representatives to serve in the U.S. Senate. But one regret I do have is that my service time in the House of Representatives did not coincide with Richardson Preyer's time there. He was elected to the House in 1968, the year I was first elected to the Senate.

Although the Capitol Rotunda may have come between us, it has not prevented me from observing with growing admiration how Richardson Preyer has gone about the Nation's business. In the process, I have come to value him as a wise counselor and good friend.

Like so many other good people, Richardson Preyer was not reelected. So be it. The glory of democracy is that the Republic will survive. But when Richardson Preyer leaves the House of Representatives, the legislative branch of government will lose a man of rare judgment and distinction.

In the tumult and shouting that followed the election, too little attention was given to a sensitive and informed reflection on Richardson Preyer's defeat that was published in the Washington Post. Written by Andrew Burness, a former member of Congressman Preyer's staff, I commend the article to my colleagues' attention as a fitting tribute to a distinguished legislator and as an illuminating essay on the legislative process.

No man is a hero to his own staff unless he is truly heroic.

I ask unanimous consent to have printed in the Record Mr. Burness' article, entitled "A Rejection of Commonsense."

There being no objection, the article was ordered to be printed in the Record, as follows:

A Rejection Of Common Sense

(By Andrew Burness)

In the post-mortem of the election, much attention had been given to the demise of liberal leaders. Specifically, Sens. McGovern, Bayh, Church and others were defeated by more conservative office-seekers.

But in North Carolina, the ideologically moderate and low-profile congressman named Richardson Preyer was also defeated. His defeat may have greater ramifications than those of his better-known liberal colleagues. In these times when politicians are boxed into ideological corners, anything less than a 100 percent score on the ideological litmus test can mean political suicide. And anything short of a commitment to outshout the opponent with evangelical tongue-lashings from the right or left just doesn't seem very appealing anymore. A five-term incumbent and former federal judge, Preyer refused to engage in verbal combat with his bellicose opponent.

Preyer exemplifies that dwindling cast of leaders called moderates. And he is not a moderate by default or a chameleon who has no principle and can never make up his mind. He, and a few others like him, are moderates by conviction.

There are certainly many elected officials who feel uncomfortable with either Jesse Helms or Ted Kennedy. But very few of them are unabashed, passionate and principled moderates in the Preyer mold.

The principled moderates have several defining characteristics, any but not all of which may be characteristics of their conservative or liberal colleagues. They may be politically partisan, but they are as well respected by the opposing party as they are by their own. They are the only ones who consistently earn the cooperation and support of their opposition party colleagues.

They do not shout down their ideological adversaries. They may continue to disagree, but their views are expressed with respect and calm.

They consider each issue on its merits, not oblivious to interest group pressure, but never swayed decisively by it.

They are characterized by impeccable integrity.

They often take positions that satisfy no one completely, realizing that it takes a national consensus to produce significant social change.

They are intelligent, and they have a keen sense of history.

Richardson Preyer is all of these, but this commentary is not only about him. It is about Jacob Javits, Joseph Fisher, John Buchanan and perhaps even John Anderson, who were also defeated. It is about Morris Udall, Millicent Fenwick and Charles Mathias, who survived. It is about a few others who are our only leaders who can bridge the gap between the bellicose ideologues.

Moderates, as Preyer says, are in the business of governing. Liberals or conservatives may have the better ideas and are probably more creative, but they are not the best policymakers. Though McGovern, Bayh and Church may have received the headlines, the defeat of Preyer and the few like him is particularly disturbing. It represents a rejection of common sense and reason, of evenhandedness, of moderation, if you will—essential qualities for any government that seeks to unite a polarized and angry public.

TRIBUTE TO ABE RIBICOFF

Mr. MATHIAS. Mr. President, monuments to Abe Ribicoff's leadership and legislative talent abound. The Ribicoff hallmark is stamped on civil service and regulatory reform and on the Departments of Education, Energy, Housing, and Urban Development and Transportation. This evidence of Abe Ribicoff's concern about the domestic state of the union is impressive.

But, to me at least, Abe Ribicoff's courage and vision in international affairs is even more impressive. I first came to appreciate the depth of Abe's feelings on the great issues that keep us balanced so precariously between war and peace one evening in Leningrad in the summer of 1975.

We had traveled there as members of the first Senate exchange with the Supreme Soviet of the U.S.S.R. and had spent that day visiting the graves of the literally millions of citizens of that "hero" city who had died during World War II. In the evening, at dinner, the leader of the Soviet delegation made the customary Soviet toast to "peace and friendship."

Abe Ribicoff rose to respond and delivered extemporaneously the most eloquent and moving exhortation to peace that I have ever heard. When Abe finished, the room fell silent.

Although we had among us some of the Senate's most famous orators, including the mellifluous Hubert Horatio Humphrey, no one moved to speak. Abe Ribicoff that night evoked, from the horror and tragedy of Leningrad's suffering, humanity's eternal anguished plea for peace. There was nothing left to say.

More recently, in May 1978, when Abe voted to send planes to Israel, Egypt, and Saudi Arabia—an unpopular vote with many of his constituents—he again summoned his colleagues to deal with the larger issues of our time. After addressing specific objections to the "plane package" one by one and persuasively, ABE RIBICOFF concluded with these words:

> Facing new problems and exchanging yesterday's answer for tomorrow's challenge is difficult. But if we are not honest with ourselves down what dark and uncertain road do we travel? If we are to accept the responsibility of guiding this nation's foreign policy and of assuring our future survival as a great nation we must have the courage to face a changing world and the will to serve our best national interests.

If I could be certain that the future deliberations in this Chamber would use these words of ABE RIBICOFF as magnetic north, I could more easily reconcile myself to his retirement. But, in these uncertain times, his absence will be sorely felt.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The time remaining allocated to the majority leader is 8 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my time may be utilized for routine morning business and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

ORDER FOR TIME TO RUN ON THE STANDING ORDER FOR MR. KENNEDY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time run on the standing order for Mr. KENNEDY.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FAIR HOUSING AMENDMENTS ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, Members have been discussing certain areas of the fair housing bill which has posed problems, and those discussions have continued all throughout the past weekend, throughout yesterday, and far into the evening and throughout the morning of today.

I understand from them that there is a desire to delay the vote on the motion to invoke cloture until in the afternoon of today or more precisely about 4:30 p.m.

I have presented this request together with an earlier request that the cloture vote be delayed by 2 hours to the distinguished minority leader and he has been working with Senators on his side of the aisle to ascertain the possibility of acceding to the request.

The request is for the purpose of allowing Senators to have additional time in which to file amendments at the desk, amendments in the second degree, more precisely.

Whether or not it will be possible to grant the request I cannot say.

REQUEST FOR CHANGE OF TIME FOR CLOTURE VOTE

Mr. President, while I am on my time, I ask unanimous consent that the cloture vote occur at 4:30 p.m. today, and, well, the time for filing amendments in the second degree would automatically be delayed in consonance with the rule. That is the request.

Mr. BAKER. Mr. President, reserving the right to object——

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, the majority leader and I have talked about this for a good part of the morning and, as he correctly points out, he first suggested the possibility of delay on the cloture vote by 2 hours, I believe.

I put out a hot line on that, and I may say, by the way, that I had a couple of objections on that request.

The majority leader then requested independent of that fact—I had not conveyed that fact to him—that we postpone the vote until 4:30 this afternoon.

I amended the hotline notice to the Republican Senators to that effect, and in a moment I am going to have to object on behalf of a number of Senators, not any particular one.

Before I do that, Mr. President, let me take this opportunity on the reservation to say what I have said previously on this floor, that I have said to the press in "dugout" chatter, so to speak, and which I will say a number of times hereafter, that I do not know how this cloture vote will go at 11:15, but if it does not succeed and if, in fact, this bill is taken down, I wish to state now publicly that I support a fair housing bill, a good fair housing bill, and I pledge that next year, if this does not succeed, I intend to try to move a fair housing bill as soon as possible.

But I must tell my friend, the majority leader, that as a result of the hotlines we have put out that I cannot agree to his request, and that it will be necessary for me to object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader for the efforts he has made to get the request acceded to.

I, therefore, having had the request to delay the vote until 5:30 today rejected, ask unanimous consent that the vote on cloture may be postponed for 2 hours in order to allow Senators to have an additional 2 hours in which to prepare and file amendments in the second degree at the desk.

Mr. BAKER. Mr. President, reserving the right to object, do I understand the majority leader is requesting that the vote which would otherwise occur at 11:15 or thereabouts occur at 1:15 p.m.?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. The full 2 hours to be available for time for filing amendments?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, reserving the right to object, and it will be necessary in a moment for me to object to that as well, I feel I should say on this reservation, however, that a different set of Senators is involved in the 1:15 request. I do not know if that is important to anybody else but me, but it is important because what it says is that having set the 11:15 time on today that it discommodes a group of Senators who have arranged their schedules some to be here, others to return, others who cannot be here at 4:30 and, as I say, I am not sure that is important to anybody but myself, but I wish the record to show that it is for a different list of Senators that I do now object to the request just made by the majority leader.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, Mr. KENNEDY, I believe, has a 10-minute order, does he not?

The ACTING PRESIDENT pro tempore. He has a 15-minute order.

Mr. ROBERT C. BYRD. And the vote is set to begin at 11?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. KENNEDY may be allowed to complete his order that was entered on yesterday.

Mr. BAKER. Mr. President, I have no objection.

Do I understand this is a special order granted to the Senator previously and would have occurred were it not for negotiations that had been underway this morning, and that no business will be transacted during that period but it is solely for the purpose of making a presentation?

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. I certainly have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR KENNEDY

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

FAIR HOUSING AMENDMENTS ACT OF 1980

Mr. KENNEDY. Mr. President, we have the opportunity today to enact the most important civil rights bill of the past decade—a bill that is designed to remedy once and for all the discrimination that blights the lives of millions of Americans who seek to buy or rent a home.

The right to fair housing is a basic right in our American society. Like the landmark Civil Rights Act of 1964, which ended discrimination in public accommodations, and the Voting Rights Act of 1965, which granted historic protections for the right to vote, the legislation now before us—the Fair Housing Amendments Act of 1980—will for the first time provide truly effective means to enforce the right to fair housing, free of discrimination on the grounds of race or religion or sex or handicap or national origin.

The enforcement mechanism now proposed is long overdue and urgently needed. Without it, the bold promise of the Fair Housing Act of 1968 will remain unfulfilled.

Because of the complexity of the issue and the substantial concerns that many Senators have raised, I and the other principal sponsors of the Senate bill have now introduced a compromise amendment, No. 2883, which contains three important modifications of the Senate bill as originally reported by our Judiciary Committee.

First, we have agreed to drop the provisions for expedited administrative enforcement by the Department of HUD in cases of housing discrimination. Instead, we have adopted a compromise, suggested by Senator DeConcini, that permits Federal magistrates to hear discrimination cases on an expedited basis.

Second, we have agreed, in accord with the suggestion of Senator Johnston, that in cases brought before a magistrate where the Federal Government seeks a civil penalty, the defendant will have the right to a trial by jury.

Third, as a result of extensive discussions with Senators Johnston and Boren and Nunn and others over the past 5 days, and with the assistance of Attorney General Civiletti and civil rights officials in the Department of Justice, the sponsors of the bill have developed a series of provisions to insure that this legislation will in no way be construed to change existing law with respect to the standard of proof required in cases of housing discrimination.

The language we have accepted refers explicitly to the large body of current case law that permits a defendant to justify a challenged housing practice by demonstrating a sufficient business or governmental reason for the practice.

In reaching this compromise, we did not—and we could not—agree to make "intent" the sole test of a violation. To adopt an "intent" test as the standard of proof required in case of housing discrimination would be a drastic weakening of current law and a severe setback to the cause of civil rights. It would plunge the Government and private plaintiffs with a morass of endless litigation over the motives of defendants. The damage caused by the adoption of an intent test would far outweigh the significant benefits achieved in the enforcement provisions of the bill. The result would be a clear retreat on civil rights that none of us should be prepared to make.

There is still time in this session to complete action on this essential legislation. I urge the Senate to vote now for cloture, and then to support the compromise we have proposed. If we succeed, the 96th Congress will be the Congress that carried on the cause of civil rights, the Congress that at last redeemed the promise of fair housing for the American people.

Mr. President, I ask unanimous consent to include in the Record an editorial from this morning's New York Times, as well as a memorandum on the standard of proof in cases involving housing discrimination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 9, 1980]

For Fair Housing, At Last

The United States Senate today will act on a radical proposition: that people should not be lied to, given the runaround or otherwise discriminated against in the sale or rental of housing.

Radical? Of course not, Congress explicitly outlawed housing discrimination years ago. But now there is a new bill, to protect victims of such discrimination, and Senators like Strom Thurmond and Orrin Hatch are urging strangulation by filibuster. It would shame the Senate if they succeed.

The original fair housing law, enacted in 1968, outlawed discrimination. But it gave the Government little enforcement power. In cases of asserted discrimination, the Department of Housing and Urban Development was authorized to serve only in the role of conciliator. The Justice Department was authorized to sue only if discrimination was systematic. Individual victims have had to fend for themselves if recalcitrant realtors, sellers and landlords refused to cooperate.

The debate on Capitol Hill has therefore centered on how best to strengthen Federal enforcement powers. The House months ago created a system of administrative judges to adjudicate discrimination cases. But the Senate has refused to go along. It has insisted on a compromise: suits must come before Federal magistrates. Since they are often preoccupied, special administrative judges would have been better. Still, the Senate bill is a decided improvement over no Federal enforcement at all.

Whether one relies on objective housing data or personal experience, the persistence of housing discrimination is plain as day. The bill before the Senate would not unleash Washington to reshape local land-use patterns. It would do no more than give victims of discrimination a realistic way to vindicate their rights. Cutting off the filibuster and then approving the fair housing bill would be a decent way for the Senate to conclude its business.

Memorandum on the Standard of Proof in Housing Discrimination Cases

1. The case law under the Fair Housing Act holds that plaintiff need not prove an intent to discriminate in order to establish a prima facie violation. The plaintiff's initial burden is met by proof that a challenged practice has the effect of discriminating on the basis of race, sex, religion or national origin. See, *e.g.*, *United States* v. *City of Black Jack*, 508 F.2d 1179 (8th Cir. 1943), *cert. denied*, 422 U.S. 1042 (1975); *Metropolitan Housing Development Corp.* v. *Village of Arlington Heights*, 558 F.2d 1283 (7th Cir. 1977), *cert. denied*, 434 U.S. 1025 (1978); *Resident Advisory Board* v. *Rizzo*, 564 F.2d 126 (3rd Cir. 1977), *cert. denied*, 435 U.S. 908 (1978); *Robinson* v. *12 Lofts Realty, Inc.*, 610 F.2d 1032 (2d Cir. 1979); *United States* v. *Mitchell*, 580 F.2d 789 (5th Cir. 1978).

There are two reasons for this standard. First, conduct that has the necessary and foreseeable consequence of denying housing on prohibited grounds can be as deleterious as international discrimination in frustrating the national commitment to fair housing.

Two examples are illustrative. The practice of mortgage redlining (denying loans to people who live in inner-city areas) can have a devastating effect on equal housing opportunities regardless of motivation. See, *e.g.*, *Laufman* v. *Oakley Bldg. & Loan Co.*, 408 F. Supp. 489 (S.D. Ohio 1979). And a landlord's refusal to count alimony and child support payments would prevent many women from renting apartments for no good reason. See, *e.g.*, *United States* v. *Reece*, 457 F. Supp. 43 (D. Mont. 1978).

Second, intent is a very elusive concept; because the Act was designed to nullify sophisticated as well as simple-minded forms of discrimination, an objective rule of evidence is necessary to enforce the law.

Proof of discriminatory effect is not conclusive. The defendant may rebut by showing an adequate justification for its challenged practice. In cases of private defendants, this is known as the "business necessity" defense. See, *e.g.*, *Williams* v. *Matthews Co.*, 499 F.2d 819 (8th Cir. 1974). In cases involving state or local governments, this is known as the "compelling interest" defense. See, *e.g.*, *United States* v. *City of Black Jack*, *supra*. These short-hand phrases are terms of art which have well-developed meanings. In determining whether these defenses are met, the courts examine three factors, see *Black Jack supra*, 508 F.2d at 1186–1187):

(a) Whether the challenged practice actually furthers the business or governmental interest asserted;

(b) Whether the interest is substantial enough to outweigh the private detriment caused by it; and

(c) Whether the interest can be met by alternatives that do not have a discriminatory effect.

Essentially, therefore, a balancing approach is used, with the courts making sure that the asserted interest is really (and not speculatively) served by the practice, and that an important (rather than trivial) interest is involved.

2. A proposal to confer an affirmative defense for "reasonable business need or reasonable economic or governmental interest" could well be a retreat from current law. These terms appear weaker than the terms of art now used, and could well be construed by the courts as designed to dilute existing case law.

Mr. ROBERT C. BYRD. Mr. President, I commend the distinguished Senator from Massachusetts (Mr. Kennedy) on the persistence he has brought to bear with respect to this issue and on the patience he has exemplified in his endeavors to resolve the issues that have arisen in connection with the legislation.

He has met for many hours—some of which meetings were in my own office, most of which meetings were elsewhere—with other Senators and with representatives of the Department of Justice in an effort to reasonably resolve the questions that have been posed.

I also want to commend Senators who have raised those questions for their good faith efforts to find some common approach by which those questions can be put to rest. I not only commend Senator Kennedy but I thank him on behalf of the leadership and on behalf of the Senate for his effective efforts and for the leadership that he has demonstrated to this cause.

I join with him in hoping that Senators will vote to invoke cloture. It seems to me that if Senators would do that, the Senate would have a maximum of 100 hours, and certainly that much time would not be needed because much of the groundwork has been laid, much of the ground has been plowed and many of the issues have been resolved. But Senators would have ample time then to continue to hammer out a compromise in the desire to achieve a workable bill.

Of course if the Senate does not vote cloture, that ends the opportunity this year and, in my judgment, for a good many years to come.

So if we really are serious about wanting to work out a bill that will deal with the problems that confront millions of Americans in the field of the securing of decent housing, whether it be by rental or by purchase, then we will vote to invoke cloture. The Senate will then have the time in which to continue to hammer out the compromises on the anvil of debate and consultations and meetings with one another. And I will certainly be as helpful as I can in the effort to be the instrument whereby those compromises can be reached.

Again, as I say, if the Senate does not vote cloture, that ends the opportunity. And we do have time. We do not have to go home this week. The Senate can work into next week and days beyond. But this is a landmark piece of legislation and I would hope that Senators would vote for cloture in the hope and in the belief and in the faith that we can then continue to resolve our differences and pass this legislation. Otherwise, it will be many years before a truly decent, fair and just housing bill will be enacted. That is my feeling.

Mr. BAKER. Will the Senator yield me one brief moment?

Mr. KENNEDY. Yes.

Mr. BAKER. Mr. President, I thank the Senator for yielding. I would simply reiterate what I said a moment ago to my friend the majority leader and the Senator from Massachusetts. I do not know how this vote is going to come out. I have no head count and I do not know. I make no effort to take the leadership position in opposition to this. But if it does fail—I am not now predicting that—I can assure the majority leader and the Senator from Massachusetts that I will try, as the incoming majority leader, to move the bill early next session—and a good bill, not just a bill in name only.

I am sure the Senator from Massachusetts recalls I cast the deciding vote that broke the filibuster on the 1968 bill and that I am dedicated to the principle involved and I am intent to seeing that a bill does face and serve the purpose that would be required. I thank the Senator for yielding.

Mr. KENNEDY. Mr. President, prior to the time that we vote on the motion to proceed and to invoke cloture, I want to again reiterate that we would not have come this far on this issue if it did not have the strong support of the majority leader and the valuable assistance of the majority leader. We are about to address the most important civil rights legislation of the past 12 years. The Senate has this opportunity now because of the leadership of the majority leader in bringing this measure before the U.S. Senate. I think this body understands and the American people ought to understand the leadership that has been provided by the majority leader in this area, as in many other areas. The Senate and the country are in his debt for his leadership in this area.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his comments.

Again, I say the time is now. This is a matter that ought not to be delayed beyond the necessary few days that may be required to hammer out a good compromise. The opportunity is now and I hope that Senators will stand up and be counted for action now. I hope that the Senate will invoke cloture.

I feel that, again, if it does not do so that we have lost the one opportunity we may have for a long time to pass a truly decent fair housing bill.

Mr. STEVENS. Will the Senator yield? I do not know what the time situation is.

Mr. ROBERT C. BYRD. The distinguished Senator from Massachusetts has the time.

Mr. KENNEDY. I am prepared to yield back the time unless some other Senator wishes to speak.

Mr. STEVENS. Will the Senator yield me a couple of minutes?

Mr. KENNEDY. I am glad to yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I want to reiterate what our distinguished leader has said and to disagree with my good friend from West Virginia. This is not the last time to get a good bill on fair housing. This is the wrong time to get a good bill on fair housing. It was not called up all year long. It has been called up after the election, under very trying circumstances.

What is going to happen here next year? Next year there is no majority on our side that can get cloture to a bill that the Senator from Massachusetts would not support. There is no majority on our side that would get the cloture that Senator HATFIELD, Senator BOSCHWITZ, Senator PERCY, Senator DURENBERGER, Senator BAKER, and myself would not support. We have always supported fair housing bills. This is a political gesture after a political election.

I have said, and I still say, that I am for fair housing, but I think that bill ought to be considered at a time when we have time to resolve the issue in the House. This bill has to go to the House next year. We are not going to have an unfair fair housing bill. It will be a fair housing bill, one that will take into consideration two basic things, Mr. President. One is that in this country you do not set up a procedure whereby Federal officials go after local governments on the basis that their ordinances and their subdivisions that they have approved are discriminatory unless there is an intent to discriminate. And I do not think that there is any reason to set up a procedure whereby a person is not entitled to a jury trial. Those have been the two basic issues involved here. They will be resolved next year. They could be resolved now if some people on the other side would be reasonable about it. But we will have a fair housing bill and it will be a fair bill that everyone who is in favor of fair housing can vote for. And, as the future majority leader has stated, it will be a bill that will be considered very early in the next session.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ROBERT C. BYRD. I ask unanimous consent to proceed for 1 minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am sorry that the distinguished Senator from Alaska has said that the effort to bring up the bill is a political gesture.

Mr. President, there was no hesitancy on the part of some of those who are opposing this legislation on the basis of the time to suggest that the Senate proceed following the election to enact the Kemp-Roth tax bill. It was not the wrong time for them in connection with that legislation. It is not the wrong time in connection with this legislation.

The Senate has the time. If we will apply our efforts and give ourselves the opportunity by voting for cloture, we could hammer out a good piece of legislation at this time.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The ACTING PRESIDENT pro tempore. Is there objection? Hearing no objection, it is so ordered.

Mr. DOLE. Mr. President, as one of those who have been involved in a lot of the proceedings and going to different meetings, I think there was a good faith effort by everyone to come to some agreement. I just do not think we have done it and there are several areas we just have not resolved. I doubt that we can do it in 1 hour, 2 hours, or 24 hours. But we have tried.

We tried in the majority leader's office, we tried in the minority leader's office, we tried in Senator BOREN's office, we tried in Senator HATCH's office. I would just suggest that there has been a good faith effort but we did get there. I am very pleased to hear the distinguished minority leader, Senator BAKER, indicate that we are committed to fair housing, real fair housing. Whatever happens today, it will be around next year.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. I want to thank the Senator from Kansas for the good faith effort in which he has participated in this matter. I want to say that for the record. I only say again that I hope the Senate will vote cloture so that the Senate will have enough hours to continue to work.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I reject the suggestion that this is a new proposal before the U.S. Senate. This measure passed the House of Representatives by a substantial majority. We have had this matter before the Judiciary Committee, of which the Senator from Kansas is a member, for a period of 2 years.

Often around here, we hear that now is not the time. The fact of the matter is, as Martin Luther King said in his famous letter from a Birmingham jail, "Now is the time."

Those issues which the Senator from Kansas has outlined, the issues of intent, the issues of enforcement, should be decided by a majority of the Senate. They are not going to go away. Those were the issues that we considered in the full committee. Those were the issues that we considered in the subcommittee. Those were the issues on which we had day upon day upon day of hearings. Those were the issues on which we have been meeting for over 40 hours in the past 3 days. They are not going to go away. The Senate ought to face up to them.

I will say to my colleague that there are always reasons for delay that can be found. But now is the time to act. I hope that the Senate will vote to permit us to make a decision on these vital issues in controversy before the Senate.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to vote on the motion to proceed to the consideration of H.R. 5200.

(Putting the question.)

The motion was agreed to.

The Acting President pro tempore. The clerk will now report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 5200, the Fair Housing Act.

Edward M. Kennedy, Donald Riegle, Howard Metzenbaum, Spark Matsunaga, Dennis DeConcini, George Mitchell, John Culver, Paul Sarbanes, Dale Bumpers, Charles McC. Mathias, Claiborne Pell, Bill Bradley, Carl Levin, Alan Cranston, William Proxmire, Tom Eagleton, Max Baucus, John Chafee, Daniel Patrick Moynihan, Robert C. Byrd.

VOTE

The ACTING PRESIDENT pro tempore. The question is, Is it the sense of the Senate that debate on H.R. 5200 amending title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing shall be brought to a close?

The yeas and nays are automatic under the rule.

The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk repeat after each vote how the vote was cast so that Senators will not have to crowd into the well.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER (Mr. EXON). Are there any other Senators in the Chamber who wish to vote?

The yeas and nays resulted—yeas 54, nays 43.

[Rollcall Vote No. 511 Leg.]

YEAS—54

Baucus
Bayh
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Culver
DeConcini
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Heinz
Hollings
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams

NAYS—43

Armstrong
Baker
Bellmon
Bentsen
Boren
Byrd,
Harry F., Jr.
Cochran
Cohen
Danforth
Dole
Domenici
Exon
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Morgan
Nunn
Packwood
Pressler
Roth
Schmitt
Schweiker
Simpson
Stennis
Stevens
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—3

Cannon
Hatfield
Talmadge

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, was the provision not included in the order that if the cloture motion should fail today, the bill would automatically be taken down?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. The bill returns to the calendar.

Mr. ROBERT C. BYRD. Yes.

The next order of business, I believe, Mr. President, is for 20 minutes of debate on the Breyer nomination, and then a vote on the motion to invoke cloture on that nomination; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And then is it not correct that upon the disposition of the nomination, one way or the other, the Senate will take up the revenue sharing bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. With apologies to the majority leader, the Chair will once again ask for order in the Senate.

It is very difficult for the Chair to even hear the majority leader on this very important matter.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

FAIR HOUSING AMENDMENTS ACT OF 1980

The Senate continued with the consideration of the bill.

Mr. JAVITS. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Only for the purpose of making a very brief statement on what has occurred; and as a matter—if I may suggest—of propriety if others desire to do the same, we might allow a few minutes to do it.

Mr. ROBERT C. BYRD. Mr. President, the Senator cannot be heard.

The PRESIDING OFFICER. The Chair apologizes once again to those who are trying to be heard. Conversations will cease on the floor of the Senate, and the Chair insists on quiet in the galleries. The Senate will not proceed until it is properly in order.

The Senator from New York.

Mr. JAVITS. Mr. President, I shall take half a minute, and I am grateful to the Senator from West Virginia.

Mr. President, in 1968, we made a promise to millions of Americans that we would implement the promise of fair housing and nondiscrimination in housing. We have not done so as of today.

There was a fantastically good faith effort, participated in by the majority leader and by groups which differed, with what turns out to be the majority, both on this side and the other side, and it came to naught.

I rise only as a Member who will not be here next time, to emphasize to the Senate that there is a promise outstanding to the people of this country; that that promise for nondiscrimination in housing is not being honored; that at a time when those very millions who are the real beneficiaries of that promise fear a wave of ultraconservatism in the country, it would have been very wise to have given some comfort and accommodation to their views. As it could not be done, I express the fervent hope that it may be done early in the next session.

I extend to all who tried my real thanks for millions of Americans, for whose benefit they expended so much.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. I thank the majority leader. My remarks will be brief, and they will supplement those of my revered senior colleague.

Mr. President, I wish to make a simple point which the American people should not let go unnoticed.

Two-thirds of the House of Representatives and a majority of the U.S. Senate have voted for a fair housing bill that will give results to the commitment of 1968. Our problem was that the law in principle, altogether approved by the Nation, has not worked out in practice.

A good-faith effort was made to bring about a procedure that would not change our policy but would give effects to our policy. The majority leader was indefatigable. Meetings went on night and day. The Senator from Kansas never failed to be present. The Senator from Massachusetts was reasonable and open.

In the end, we have not rejected fair housing today. Two-thirds of the House voted for it and a majority of the Senate voted for it.

In a month, it will be the responsibility of the gentlemen opposite who blocked it to come forward and give life to this principle. It will be their Senate, and there are many men and women on that side who know they are responsible. Let us hope they keep their promise.

Today, we did not reject fair housing. We committed ourselves to finding a method, through the procedures of the U.S. Senate, whereby the majority can work its will.

I thank the majority leader, who has been unfailing in his support of this effort, for giving me a moment to speak.

● Mr. TSONGAS. Mr. President, by a vote of 54–43, the Senate has failed to invoke a cloture motion which would have permitted consideration of the fair housing amendments. This failure means that the fair housing bill cannot be enacted in this session of Congress.

As a cosponsor of the Senate version of this legislation, I am saddened by the vote this morning. We had an opportunity to fulfill the promise which was made in the Civil Rights Act of 1968, and to enact the first effective fair housing law in our Nation's history.

The fair housing amendments represented a reasonable and responsible effort to give our fair housing law the clout which is lacking in current statute, while balancing and protecting the rights of all parties. Without this legislation we cannot make progress toward eliminating housing discrimination for millions of Americans.

I would like to commend Senator KENNEDY, chairman of the Senate Judiciary Committee, and the other Senators who worked in good faith to seek a resolution to the conflicts which prevented Senate consideration of this legislation, and the coalition of civil rights, labor and church groups who worked so hard and long on this effort. I am committed to work in the next session of Congress, and for as long as it takes, to enact a strong and effective law against housing discrimination.●

Mr. CRANSTON. Mr. President, I am deeply disappointed that the Senate did not vote for cloture for the consideration of the Fair Housing Amendments Act of 1980, H.R. 5200. The fair housing bill was the most significant civil rights legislation considered by this body in 12 years. The enforcement provisions in the bill would have strengthened the antidiscrimination procedures contained in title VIII of the Civil Rights Act of 1968.

Let me assure all Americans who are concerned about civil rights that the battle over fair housing is not finished. I am hopeful that fair housing legislation will be introduced in the next Congress. I will continue to fight for increased guarantees of the civil rights of all Americans.

I do not believe that title VIII's enforcement procedures are adequate. The overwhelming costs of civil rights cases and the delay in the hearing of those cases discourage those who have a legitimate complaint from pursuing the remedy. Stronger enforcement procedures such as the ones contained in H.R. 5200 will eliminate the discouraging effect that the current system fosters. I realize that this new enforcement procedure would be a departure from normal judicial procedure; however, the present procedure is actually retarding the spirit of title VIII, and we should not condone a system that is ineffectual and discourages a person from seeking a determination of his or her civil rights because the process is too cumbersome.

● Mr. HART. Mr. President, it is unfortunate the Senate failed to invoke cloture and end the filibuster on the fair housing legislation which has been under consideration by this Congress for nearly 2 years. I supported cloture and strongly supported enacting a meaningful and effective fair housing bill.

The promise Congress made to the American people 12 years ago by the enactment of title VIII of the Civil Rights Act of 1968 will regrettably remain unfulfilled. That law prohibited housing practices with the intent or effect of discriminating on account of race, color, national origin, religion, or sex. It failed, however, to provide an effective enforcement system to make that promise a reality.

The fair housing bill, which the Senate chose not to consider today, would have provided an enforcement mechanism to make meaningful title VIII of the 1968 Civil Rights Act. It would have allowed the Federal Government to protect all people covered by title VIII, not just those who have the resources and the determination to bring a suit on their own.

The effects of housing discrimination on both the individual and our society are widespread. Fair and open access to housing is fundamental to the enjoyment of many other liberties and opportunities. To the individual, housing discrimination means economic hardship, loss of job opportunities, and loss of dignity. On a larger scale, such discrimination has confronted our society with massive and complex problems, including the unsatisfactory approach of schoolbusing to compensate for segregated housing patterns. By failing to invoke cloture today, this Senate continues to allow discrimination against racial minorities, women, and the handicapped, with all the far-reaching consequences such discrimination includes.

The method of enforcement embodied in the fair housing legislation had all of the elements of an equitable and workable approach. It provided for expeditious hearings and action on individual housing discrimination complaints. It provided for speedy disposition of cases and for a reduction of expenses to all parties involved. It provided necessary safeguards to insure all parties would enjoy the guarantee of due process of law. And it promised that after 12 years, the law of the land would finally be enforced.

It is my hope that the critical nature of the housing discrimination problem and the strong, bipartisan, and committed support to developing an effective means of enforcement of our fair housing laws, will encourage the next Congress to pick up immediately where we left off today and enact fair housing legislation early in 1981. I intend to support and work for legislation to make real the fundamental right to fair and open housing.●

● Mr. DURENBERGER. Mr. President, the Senate's failure to invoke cloture on the Fair Housing Act has cost our country a vital piece of legislation. The responsibility for the defeat of this bill does not belong to those who raised sincere questions about its provisions. Those questions identified valid points of concern shared by many of my colleagues. Nor, does the responsibility rest with those who sought to filibuster this bill. It is the debate that led up to this cloture vote that resulted in supportable compromises that in the end would have aided passage of the Fair Housing Act.

The responsibility for defeat of this bill must be accepted by those who are responsible for this lameduck session of Congress. I am convinced that had this bill been brought to the floor of the Senate in September as it certainly could have been, we would today have a national Fair Housing Act. Instead, we are paying the price for the timidity of not wanting to cast potentially controversial votes before the election. Every American who suffers from discrimination in housing is paying the price for this lameduck session of Congress.

The citizens of my home State of Minnesota are fortunate that our political leaders had the courage and foresight more than a decade ago to pass one of the Nation's first enforceable fair housing laws. With the cooperation of the State government, local governments, realtors and private individuals, we in Minnesota have made tremendous progress toward eliminating discrimination in housing. Minnesota's efforts have been successful because of progressive leadership and the remarkable and commendable cooperation of realtors and private home sellers.

The negotiations on the national Fair Housing Act that have gone on since the cloture vote last Wednesday on the motion to proceed have resulted in supportable compromises. I am convinced that the compromise version would have been enforceable without being an undue burden on realtors or private home sellers.

The commitments we have heard to

pass a Fair Housing Act in the early days of the 97th Congress are sincere, I am sure. However, we must be realistic. The 97th Congress will convene in the midst of a national economic crisis. Our first responsibility will be to deal with inflation, high interest rates, tax reform, and unemployment.

We need a national Fair Housing Act, but what good is a Fair Housing Act if you do not have any housing? You cannot be fair if you do not have a house to sell; you cannot sell if you do not have a buyer; and, you cannot be a buyer if you cannot afford the cost of a home or the interest on the mortgage. Right now, only 14 percent of the American public can afford to buy a home. That means that 86 percent cannot afford to sell. Pretty soon, those numbers will be zero and 100 percent. Our first priority next year must be to deal with that crisis and the other economic problems we as a nation face.

The Fair Housing Act was killed by the decision of the congressional majority leadership to have a lameduck session. This session—the first in a Presidential election year since 1948—is the ultimate disservice to the American public. The Constitution provides only 2½ months for a transition period between administrations. That transition is made more difficult this year by the changes in the makeup of the Senate.

It is difficult to make this transition and concentrate on passing good legislation at the same time, especially with the country in an economic crisis. It is this lameduck session that has killed the Fair Housing Act.●

Mr. HEFLIN. Mr. President, while the fair housing bill is now dead for this Congress, I believe that a clarification should be made about the absence of insurance from the Senate Judiciary Committee reported bill. The Judiciary Committee issued a star print of the committee's report on S. 506. A revision of the report was necessary because the originally issued report failed to reflect accurately the decision of the Subcommittee on the Constitution, acquiesced in by the full Senate Judiciary Committee, to leave the regulation and oversight of the property insurance business to the States and to reject extension of title VIII to that business.

As originally introduced, S. 506 contained language which would have added to title VIII a new section extending the act's prohibitions to discrimination in the sale of residential property insurance. During subcommittee markup of the bill, that provision was deleted because a majority of the subcommittee members felt that, while insurance redlining should not be tolerated, the States and their experienced insurance regulatory agencies are in the best position to curb such practices.

When he introduced his amendment to delete the insurance provision from S. 506, the distinguished Senator from Utah articulated well the question before us at the time. He said:

> The central issue here is not the wisdom of outlawing discriminatory property insurance policies—nearly every state in the Union has adopted statutes to this effect; the issue is who is going to be primarily responsible for this regulation, the insurance commissions of the fifty states or HUD.

In support of the amendment to delete insurance, I pointed out that extension of title VIII to the property insurance industry would be inconsistent with the longstanding principle of the McCarran-Ferguson Act that the regulation and oversight of this industry is to be left to the States.

I believe, as I said in the subcommittee, that reconsideration of the policy of the McCarran Act should not be undertaken ad hoc. If that policy should be reconsidered, then let us revisit the McCarran Act, rather than allow it to be indirectly whittled away by granting Federal regulatory power without thought as to the impact of that power on State insurance regulation. As Senator HATCH pointed out in the subcommittee, this industry is extensively regulated now by the States. It is presently illegal under the laws of virtually every State to discriminate in the sale of insurance on the basis of characteristics such as race, religion, or national origin.

In addition, the State regulators, through the National Association of Insurance Commissioners, have adopted strong model legislation specifically aimed at unfair discriminatory practices, in this way, which will be far more effective than would be S. 506 with respect to this problem.

I am aware that HUD has proposed regulations under title VIII that would cover the business of insurance—a business the Senate has decided should not be addressed by this legislation. I hope it is clear from these proceedings that HUD should not attempt to achieve by regulation what the Senate has declined to do, namely, to amend title VIII to cover the business of insurance.

HUD's authority under title VIII extends to practices of discrimination in the sale or rental of housing, not to the sale of property insurance which, as I have already indicated, is an area of commerce to be regulated by the States under the McCarran-Ferguson Act.

Mr. President, I ask unanimous consent that the transcript of the subcommittee consideration of this matter and a copy of Senator HATCH's statement on it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSCRIPT

Senator BAYH. We will find a place so maybe we can meet close to the floor. I will check with the leader, and we will find a day when most of our guys are going to be here, and then we will just start at 9:30 or 10:00 or whatever it is, and we will move on through until we get through. Is there any objection to that?

And if we run out of time we will poll out the remainder. Is there objection to that? The Chair hears none. I appreciate the cooperation. My colleagues will pick a date and I will advise the members of the committee.

The Senator from Indiana is prepared to accept the amendment. The Senator from Alabama has been so persuasive. And if there is no objection we will accept it.

Senator Hatch, what does your amendment do with regard to taking the action back if no action is made?

Senator HATCH. Mr. Chairman, I would call up my amendment number four. That 506 would for the first time expressly extend Title Eight coverage to discrimination in the sale of residential property insurance. The central issue here is not the wisdom of outlawing discriminatory property insurance policies, nearly every state in the Union has adopted statutes to this effect; the issue is who is going to be primarily responsible for this regulation, the insurance commissions of the 50 states or HUD?

In my opinion it is the States that have developed the expertise and the experience in this area. I see no compelling reason why their statutes and their procedures ought to be subject to preemption by the Federal government. What is the purpose of duplicative Federal and state bureaucracies where the states have fallen significantly short of performing their oversight of the insurance industry in a responsible manner?

Has HUD been deluged with complaints by home buyers and others about discriminatory insurance policies? I don't see any evidence of this. According to HUD itself, "There have been very few complaints filed with our department involving property insurance."

So I ask unanimous consent that the rest of my statement be put in the record at this point, with the Chairman's permission.

Senator BAYH. Of course.

(Committee Insert.)

Senator HATCH. Okay. I just believe that this is an improper intrusion by this statute into the long-standing McCarran-Ferguson Act, which has protected the rights of states in insurance matters. So I would move my amendment at this point.

Senator BAYH. Let me just say one word. We talked to the insurance people in our state. I don't know about the rest of you, but we put language in there specifically to show that when we are talking about referring to a state or local public agency, we put in parenthesis, including an insurance regulatory body, so that there would be no question about the state or the local insurance regulatory body having precedent over this Federal approach.

Senator HATCH. It still injects the Federal government into the heretofore state approach toward insurance, and I think allows an unwarranted intrusion in this matter.

Senator HEFLIN. Mr. Chairman, the McCarran-Ferguson Act was adopted as an expression of Congress after the Supreme Court case that indicated that insurance was a part of interstate commerce. There has been a constant amount of change in insurance, and it is my judgment that this matter ought to be approached as a whole, not as a part. Therefore I am going to support the Hatch amendment here in this regard.

I think that the whole insurance industry and everyone else has relied on McCarran-Ferguson. It seems to me that you have to approach the entire issue if you are going to start whittling on that matter.

Senator HATCH. May I say, I don't read the bill the way the Chairman does, if I interpret the Chairman correctly, that the states would still have preeminence over the Federal government with regard to matters involving property insurance. Is there some point in the bill that says that? I would like to know exactly where it is, because I have some other idea——

Senator BAYH. Here in section three: the discriminatory housing practice within the jurisdiction of the state or local public agency, including an insurance rated third body to be charged with——

Senator HATCH. But that is the point that I raised earlier, that this is the same thing as certification. As long as they agree with the state they will certify; if they don't agree they will withdraw certification. I don't think that that protects the states in any way, shape or form.

Senator BAYH. I think it does, unless you have a state agency that just flat out permits discrimination.

Senator HATCH. Well, they are not going to permit flat-out discrimination in this day and age, but they can come in and say that they are. I don't think that the Chairman's interpretation of this as giving the states preeminence is correct. I think it gives the Federal government preeminence in an area long reserved for the states, and I think better managed and better approached by the states. Well, I move my amendment.

Senator BAYH. Well, as to the intent—some Federal control over those state agencies is now doing the job. It is pretty obvious what it says. Let's have a vote unless there is further discussion. The clerk will call the role.

CLERK. Senator Metzenbaum.

Senator BAYH. Let me just say for the information of the folks here that I am withholding the Senator from Ohio's proxy, which he gave me, because in that area and this one it is not specific.

CLERK. Senator DeConcini.

Senator DECONCINI. Aye.

CLERK. Senator Heflin.

Senator HEFLIN. Yes.

CLERK. Senator Hatch.

Senator HATCH. Aye.

CLERK. Senator Thurmond.

Senator THURMOND. Aye.

CLERK. Senator Simpson.

Senator SIMPSON. Aye.

CLERK. Senator Bayh.

Senator BAYH. No. The motion fails four to two. Is there another amendment?

Senator HATCH. Fails? The motion passes.

Senator BAYH. I am sorry. The motion passes. I just wanted to make sure you were on your toes. It is not what I said, it is what I mean.

Senator HATCH. I would like to call up now my amendment number 11, Mr. Chairman. Section 3604 of the Fair Housing Act presently reads that it shall be unlawful to commit any one of five specific discriminatory activities.

Mr. HATCH. Mr. President, I thank my friend and distinguished colleague from Alabama (Mr. HEFLIN). I am in strong accord with his views on the issue of property insurance coverage in either H.R. 5200 or S. 506, the House and Senate versions of the Fair Housing Amendments Act.

It has come to my attention that HUD is developing new regulations to describe practices which constitute discrimination in housing for the purposes of title VIII, Fair Housing Act. Among the subjects to be covered, I understand, is property insurance. Thus, HUD's proposed regulations may attempt to accomplish by administrative fiat what Congress has rightly declined to do—namely, amend title VIII to cover the so-called business of insurance.

Such regulations would clearly be ultra vires. HUD has the authority to enforce title VIII as it stands, not to expand its substantive coverage. Title VIII prohibits discrimination in the sale or rental of housing. In no respect does it govern the sale of property insurance, the regulation of which has been left to the States.

Extension of title VIII to property insurance would wreak havoc on the insurance business—not because insurers commonly engage in discrimination, but because HUD interprets title VIII as prohibiting practices that are purportedly discriminatory in their effect. If title VIII is extended to property insurance, insurers might be forced to underwrite unsound risks to avoid the wrath of overzealous HUD officials armed with oversimplified statistics.

It is precisely to prevent such unwarranted intrusions into insurance decisions—which Congress, in passing title VIII, never intended—that we have the McCarran-Ferguson Act, which precludes any Federal law from applying to the business of insurance unless that law specifically relates to insurance. Title VIII, of course, does not specifically relate to insurance and therefore cannot possibly authorize HUD to regulate insurance practices. Even if the McCarran Act were not in effect, however, HUD would have no authority to regulate insurance for the simple reason that title VIII does not cover insurance.

At this point in the RECORD, I ask that a statement prepared on this issue by the Alliance of American Insurers appear in the RECORD. I believe that it represents a clear analysis of this matter:

The statement follows:

THE APPLICABILITY OF THE FEDERAL FAIR HOUSING ACT TO THE SALE OF INSURANCE

This opinion shall consider the applicability of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601 et seq., to the sale of insurance. Recent developments have made the issue a question of practical importance. On August 1, 1979, the Secretary of Housing and Urban Development gave notice that regulations relating to alleged discrimination in property insurance were being considered. Also, legislation has been introduced in Congress which would include the sale of insurance within the coverage of Title VIII. Finally, a Federal judge in Ohio has ruled at the trial level that the Fair Housing Act does apply to the sale of insurance.

Upon analysis of this issue, the conclusion reached in this opinion is that Title VIII of the Civil Rights Act of 1968 does not apply to the sale of insurance. The legislative history of Title VIII reveals that Congress understood and intended that the Act have no application to the sale of insurance. A sound interpretation of the cases construing the Act is consistent with this view. Finally, the McCarren Act does not permit such application to the sale of insurance.

THE STATUTE

The Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, is set forth in U.S.C. § 3604 et seq. An examination of the statute makes it quite clear that Title VIII does not cover, either directly or indirectly, the sale of insurance.

In order for a practice to be covered by the Act, the practice would have come within the definition of a "discriminatory housing practice" Section 3602 (f) defines a "discriminatory housing practice" to mean an act that is unlawful under Sections 3604, 3605 or 3606. No reference is made in any of the sections to the sale of insurance.

Section 3604 prohibits discrimination in the sale or rental of housing. While Section 3604(a) contains the phrase "or otherwise make unavailable or deny" a dwelling, the focus of the section indicates that the phrase should be interpreted in light of the statute's over-all purpose—discrimination by owners, realtors, and the real estate industry in the sale or rental of housing.

Section 3605 prohibits discrimination in the financing of housing. It would prohibit discrimination in lending by an insurance company "whose business consists in whole or in part in the making of commercial real estate loans." It does not apply to the sale of insurance.

Finally, Section 3606 is limited to discrimination in the provision of brokerage services.

The failure of Congress to expressly include the sale of insurance in the Act argues strongly against any such application. The legislative history of the Act discussed in the next section, supports the view that Congress did not intend the Act to apply to the sale of insurance.

Only one Federal court case, *Austin Dunn et al* v. *Midwest Indemnity Company,* (C.A. 3–78–105), has applied Title VIII to the sale of insurance. This case, which is contrary to both Congressional intent and sound judicial construction of the Act, is discussed in a later section of this opinion.

LEGISLATIVE HISTORY

The legislative history of Title VIII of the Civil Rights Act of 1968 not only fails to support the conclusion that Congress intended Title VIII to apply to the sale of property insurance, but clearly indicates that Congress understood that the Fair Housing Act did not apply to the sale of insurance and did not intend the act to so apply.

Originally, Title VIII was not a part of H.R. 2516, which contained the first seven titles of the Civil Rights Act of 1968. Rather the Fair Housing Act was added to H.R. 2516 by amendment on the Senate floor by Senator Mondale. The Fair Housing Act was originally contained in the Senate Bill 1358 which contained the original provisions of Title VIII. Senate Bill 1358 was being considered by the Senate Banking and Currency Committee at the same time that the Civil Rights Act was making its way through Congress. On February 6, 1968, the Fair Housing Bill was admitted as an amendment to H.R. 2516 by Senator Mondale and Senator Brooke. After much discussion, the House ultimately concurred in the Senate Amendment and the Federal Fair Housing Bill became Title VIII of the Cvil Rights Act of 1968.

The legislative history of the enactment of Title VIII leaves little doubt that Congress had no intention of applying the Fair Housing Act to the sale of insurance. The debate of Title VIII on the Senate and House floor, with one exception to be discussed later, made no mention of any application of the Fair Housing Act to the sale of insurance. Rather the debate focussed on constitutionality of the major provisions of the Fair Housing Act which raised the extremely controversial question of whether the Federal Government had the power to place restrictions on the right of the property owner to dispose of his property as he wished. Since the Supreme Court had not, at that time, decided the case of *Jones* vs. *Mayer,* 392 U.S. 490 (1968), which declared that Congress did have power to place such restrictions, the constitutional question was an extremely important issue. Opponents of the legislation argued strenuously that the open housing portion of the Civil Rights Bill was a revolutionary usurpation of authority by the Federal Government.

Senator Mondale and the other proponents of the legislation recognized that the bill was extremely controversial. Throughout the legislative debate, the proponents were anxious to demonstrate that the open housing bill was a modest proposal. The proponents argued that the open housing law was like many housing laws enacted by the states which sought only to provide that the real estate industry must not discriminate against renters or buyers of housing. As Senator Mondale noted:

"It does nothing affirmative to relieve the immense problems our nation faces. It puts only a negative restriction on the sale and rental of housing. A person is left with all his rights to sell to whomever he pleases—

the first buyer with cash who appears, his neighbor—his son—but there is one thing he cannot do: He cannot if he uses a real estate broker, refuse on the grounds of race to sell to a Negro buyer." 114 Cong. Rec. 6000 (1968). (Remarks of Senator Mondale.)

Thus, Title VIII was seen and understood by the proponents of the legislation as a very limited act which affected the sale and rental of housing by owners, real estate brokers and other real estate organizations. Far from extending the scope of anti-discrimination provisions throughout society, the Act was considered to be very limited even with respect to its application within the real estate industry. It did not go as far as many proponents in the House of Representatives wished it might even with respect to its application within the real estate industry. During the debate of Title VIII on the House Floor, Representative McGregor, who had supported a stronger bill two years earlier, noted that the Senate would not have gone along with a much stronger bill than Title VIII:

> "Yet I am convinced from a careful reading of debate in the other body on this legislation that the Senate, at the present time, would oppose any effort on our part to strengthen this provision. So many of us find ourselves faced with the imperfect choice of accepting this provision or no provision at all during this session of Congress. While I would prefer a ban on discrimination in the sale of all housing, I will vote today for the more limited coverage which excludes single family house sales and rentals by an owner who acts without the assitance of any real estate broker, agent, or salesman." 114 Cong. Rec. 9564 (1968) (Remarks of Representative McGregor).

An examination of the legislative history of Title VIII therefore, reveals the utter improbability of the proposition that Congress intended to extend the provisions of the Fair Housing Act to the sale of insurance. First of all, the lack of discussion of any such application to insurance is in itself evidence that no such application was intended. Indeed, the bill in its application to the real estate industry was so controversial, that opponents of the legislation would hardly have neglected to bring to light another controversial feature which application to insurance in light of the McCarran-Ferguson Act would surely have been. Secondly, it is extremely unlikely that the proponents of Title VIII would have added another barrier to its enactment—namely an application of the bill to insurance in light of McCarran-Ferguson. The lack of any express inclusion of insurance in the bill and the utter lack of any discussion of the bill's application to insurance is strong evidence that Congress did not intend the Federal Fair Housing Act to apply to industries other than the real estate industry engaged in the sale or rental of housing.

If this evidence is not sufficient to dispel the notion that Congress did not intend any application of the Federal Fair Housing Act to insurance, the statement of Representative Randall on the House floor leaves little doubt that Congress understood the legislation not to apply to insurance. Representative Randall, while commenting upon the onerous effect of the open housing bill upon banks and other lending institutions, pointedly noted that the Federal Fair Housing Act does not extend those provisions to the business of insurance. In his speech on the House floor, he stated:

> "Thus, the lending institutions can be subjected to continuous harrassment and must continuously defend themselves for refusing to make a loan even to those who are bad credit risks. That the Bill is so inconsistent that while it puts the burden on banks and savings and loans, an insurance company can refuse title or fire, casualty or other insurance without discriminating or without subjecting themselves to lawsuits." 114 Cong. Rec. 9603 (1963) (Remarks of Representative Randall).

Therefore, far from indicating that the Title VIII has any application to insurance, rather the clear evidence provided by the legislative history is that no such application was intended and that the understanding in Congress was that the bill did not apply to the sale of insurance.

THE FAIR HOUSING ACT IN THE COURTS

Prior to 1979, the applicability of Title VIII of the Civil Rights Act of 1968 to the sale of insurance had not been considered by the courts. On June 20, 1979, however, an Ohio Federal Judge, in the case *Austin Dunn et al.* v. *Midwestern Indemnity Co.*, et al. (C.A. C-3-78-105), held that a discriminatory denial of property insurance is a violation of Section 3604 (a) and 3617 of the Federal Fair Housing Act. In light of the legislative history and judicial construction of the Act, the *Austin Dunn* decision is clearly erroneous and should be reversed on appeal.

The *Austin Dunn* case involves an allegation of wrongful cancellation of a homeowners policy by Midwestern. Midwestern actually terminated an agency contract which ultimately led to a non-renewal of the homeowners policy. Midwestern filed a motion to dismiss the complaint on the ground that the Fair Housing Act had no application to property insurance. The U. S. Department of Justice intervened to file an amicus curiae brief in opposition to the defendant's motion to dismiss and in support of the plaintiff's broad interpretation of the Fair Housing Act. On June 20, 1979, U.S. District Judge Carl Rubin denied the defendant's motion to dismiss the case and noted that "the concerns of insurance redlining are within the especial province of the Fair Housing Act."

As a matter of law, the Court decided that (1) insurance "redlining" is violative of the provisions of Sections 3604(a) and 3617 of the Fair Housing Act, and (2) the McCarran Act, the Urban Property Insurance Protection and Reinsurance Act of 1968, and the Ohio FAIR plan were not designed to address the problems of insurance redlining. In so ruling, the Court did not decide that the defendants had, in fact, violated the Act but only that "redlining" was a violation and that the plaintiffs were entitled to go forward with proof that the defendant's "redlined."

In construing Section 3604(a), the Court was strongly influenced by the views of the Department of Housing and Urban Development as to the close nexus between insurance, financing and the availability of suitable housing. Upon finding that a discriminatory denial of property insurance violated Sections 3604(b). The Court did note that Section 3605, relating to loans by banks and insurers, had no bearing on the refusal to issue an insurance policy.

A second case involving this issue, *Wildman* v. *State Farm Fire and Casualty Co.* (C.A. C-3-78-346) is also pending before the Ohio U.S. District Court.

The court in *Austin Dunn* adopted the construction of several housing cases also cited in legal opinion by Ruth T. Prokop and dated August 25, 1978. An analysis of these cases in Section IV of this opinion indicates that the court's (and HUD's) interpretation of these cases is overly-broad. These cases certainly do not support applicability of Title VIII to the sale of insurance.

The *Austin Dunn* court also accepted the argument of the plaintiffs and echoed by HUD that unavailability of property insurance makes a dwelling "unavailable" within the meaning of Section 3604. HUD has stated that "adequate insurance coverage is often a prerequisite to obtain financing." HUD Memorandum, dated August 25, 1978. If this reasoning were taken to its logical conclusion, however, the scope of Title VIII would become infinite. As a practical matter, many factors are a prerequisite for financing and sale of housing: adequate legal representation of mortgagors, the location of lending institutions, the adequacy of building inspectors, the availability of contractors to do repair work, the fairness of courts in construing mortgage rights, etc. To hold, however, that an attorney who does not locate his office in the city so as to represent buyers in mortgage closings is guilty of "housing discrimination" is clearly absurd. Yet, this is the logical extension of the *Austin Dunn* courts reasoning and that of HUD.

The fact of the matter is that insurers sell insurance on various property risks, regardless of whether the property is acquired through sale, rental, gift or inheritance. Insurers are not an extension of the housing industry so as to make Title VIII applicable.

In addition, a number of cases suggest that the nexus between the defendant in a Title VIII case and the housing transaction must be more than "incidental".

In *Hollins* v. *Kraass*, 369 F. Supp. 1355 (N.D. Ill. 1973) a bank was not held liable for damages under the Fair Housing Act absent actual and personal involvement. The owners in that case had conveyed the deed to their property to the bank and entered into a trust agreement. The owners then refused to rent to a black couple. The plaintiffs sued the bank and the property owners under the Fair Housing Act. The court found that the plaintiffs had stated no cause of action against the bank. The court stated:

> The purpose of the Fair Housing law and in this respect the application of the Civil Rights Act of 1866 is to provide a remedy against those individuals who are guilty of unlawful discrimination in the rental or sale of housing and is not directed at those who merely are responsible for putting the violator in the position in which he can act improperly. (citations omitted) (369 F. Supp. at 1358)
>
> It is well settled that police supervisory personnel are not liable for damages under 42 U.S.C. § 1983 to one injured by police misconduct absent direct personal participation. Similarly, an owner of a piece of realty or a bank holding it in trust should not be liable for damages under 42 U.S.C. § 3604 or 42 U.S.C. § 1982 absent actual and personal involvement. (citations omitted) (369 F. Supp. at 1358)

Another case under the Fair Housing Act is *Dillon* v. *AFBIC Development Corporation*, 597 F. 2d 556 (5th Cir, 1979). In that case, the court held that the corporate agent and the company, of which the agent was the sole shareholder, was liable, but that the developer was not because the developer was not involved in and didn't control the marketing of the development.

The *Hollins* case is part of a general rule that no one can be a defendant under any federal rights statute unless he is personally involved in the alleged misconduct or had knowledge that his subordinates are causing deprivations of civil rights. *Triplett* v. *Azordegan* 570 F.2d 819 (8th Cir 1978). That is, the *Hollins* case is part of a well settled rule of law that the defendant must be personally involved in order to be liable under federal civil rights statutes proscribing a deprivation of rights. While *Hollins* may be the only case applying this principle to the Fair Housing Act, there are numerous analogous cases applying the exact principle to other federal civil rights legislation. The Ninth Circuit may have expanded the personal participation principle slightly. In *Johnson* v. *Duffy* 588 F.2d 740 (9th Cir. 1978), the court held it was enough that the defendant set into motion an event or events which he knew or had reason to know would inflict constitutional injury. This expansion is not significant because the court is still requiring a causal connection to the defendant.

The argument that seems to flow from this is that although the courts say the Fair Housing Act must be construed liberally, there has to be a limit somewhere. One of those limits is application of the law only to housing problems. Another limit is the application of the rule that the defendant has to be personally involved in order to be liable. Indeed, in the only case so far deciding the issue, the court applied that principle to violations of the Fair Housing Act. *Hollins*. Otherwise, any incidental party, such as lawyers or title companies, could be brought under the Act.

The *Dillon* case used the analogy of a tort action. In other words, only the one actually causing the harm can be the defendant. The harm of the Fair Housing Act is discrimination involving the sale or rental of housing. There is no direct causal link between selling property insurance and discrimination in housing.

Despite these arguments, the Office of the General Counsel of HUD continues to maintain that Title VIII is applicable to the sale of insurance. The next section of this opinion will examine HUD's position in greater detail.

THE POSITION OF HUD

The Office of the General Counsel of Housing and Urban Development has rendered a legal opinion stating that Title VIII of the Civil Rights Act of 1968 does apply to the sale of property insurance and that the McCarran Act does not bar any application to the sale of insurance. Leaving aside the McCarran Act issue, which shall be addressed in the following section, the proposition that Title VIII applies to the sale of insurance is not supported by the cases cited in the memorandum by Ruth Prokop to the Assistant Secretary for Equal Opportunity, dated August 25, 1978.

Citing *Jones* v. *Mayer Co.*, 392 U.S. 490 (1968) and *Trafficante* v. *Metropolitan Life Insurance Company*, 409 U.S. 205 (1972), it is noted that Title VIII is intended to be a "detailed housing law," accorded to a "generous construction". This is quite true. Yet, the court have not construed Title VIII so as to apply to an industry not engaged in or an inextricable part of the provision of housing. It has been construed to be a housing law—not an insurance law.

Next the HUD opinion makes the point that the coverage of the Fair Housing Act is not limited to those who sell, rent or finance real estate. Citing a number of cases, it is asserted that the Fair Housing Act "has been construed to prohibit conduct much broader than that constituting a refusal to sell or rent." Further, the argument is further made that:

"The rationale of these decisions indicates that any discriminatory action which, as a practical matter, makes a dwelling 'unavailable' is violative of Section 3604(a)."

While granting that the courts have applied Title VIII to situations outside of the express provisions of the Act, a sound analysis of the cases cited does not support any application of Title VIII to a situation which is not an integral part of a real estate transaction or other undertaking to provide integrated housing. To this extent, the construction of Title VIII, with the exception of the *Austin Dunn* decision discussed earlier, has been completely consistent with Congressional intent.

The broad language quoted by the HUD opinion in support of the application of Title VIII to the sale of insurance is often understood to apply more narrowly when interpreted in the light of the factual situation of the particular case. For example, in *United States* v. *Youritan Construction Company*, 370 F. Supp. 643 (N.D. Calif. 1973), the court construes the phase "otherwise make unavailable or deny" a dwelling contained in Section 804(a). This case involved discrimination against black renters by a large apartment building and did not involve insurance at all. While the court used the broad language quoted by HUD, the remaining portion of the paragraph (which is not quoted in HUD's opinion) reveal that the language is clearly intended to apply within the housing industry. The practices which were making housing "unavailable" were noted by the court:

"The imposition of more burdensome application procedures, of delaying tactics, and of various forms of discouragement by resident managers and rental agents . . ." (p. 648)

The court, thus, invoked the "otherwise make unavailable" phrase in order to deal with sophisticated ploys by property owners—not to extend the Fair Housing Act outside of the housing field.

Similarly, the other cases cited in the HUD legal opinion have never applied Title VIII to factual situations remote from a contractual undertaking to provide housing or the financing of such transactions.

Laufman v. *Oakley Building and Loan Company*, 408 F. Supp. 489 (1976) involved alleged discrimination in the financing of home loans by a savings and loan association. The facts fell well within the express terms of section 3605 of the Fair Housing Act, relating to discrimination in financing. As was noted earlier, Congress, by providing an express provision, clearly intended the act to apply to lending institutions financing real estate transactions. The case, however, has no application to insurance.

The cases cited in the HUD legal opinion which deal with "racial steering"—*Zuck* v. *Hussy*, 366 F. Supp. 553 (N.D. Mich. 1973) and *Harrison* v. *Heinzeroth*, 414 F. Supp. 67 (N.D. Ohio 1976)—were brought within the express provision Section 3604(e), dealing with "blockbusting" by realtors. The case has no application outside of the housing industry.

In arguing for an overly broad application of the Fair Housing Act, HUD cites the case of *United States* v. *City of Parma*, P.H.E.O.H. Reptr. ¶13616 (Ohio 1973), in which the Court held that the Act applied to the racially exclusionary land use practices of a municipality. A superficial understanding of the case would suggest that Title VIII is being applied outside of the housing field. However, when it is remembered that zoning ordinances are considered to be an implied term of every real estate contract, the case is revealed to fall within the well-defined scope of Title VIII's application within the real estate industry. The same rationale would apply to those cases where the Act is held to prohibit the recording of racial covenants.

Similarly, the citation of *United States* v. *Hughes Memorial Home*, 396 F. Supp. 544 (1975) will not support an application of Title VIII outside of the housing field. In this case it was alleged that a Virginia children's home had made a "dwelling" unavailable to black children because of the restrictive terms of a trust. While the home did not sell or rent housing per se, the terms of Title VIII was held to apply. Granting the broad application, the case still could not be read to uphold an application of Title VIII outside of facts involving the provision of housing. Also, since relatives of the children were asked to pay a monthly donation and most complied, the case is, in all practical terms, indistinguishable from a rental of housing.

Although not cited in the HUD opinion, the case applying Title VIII to newspaper advertising, *United States* v. *Hunter*, 459 F.2d 205 (1972), should mislead no one in believing the act applies outside of the real estate industry. The advertising in this case was prepared by the property owner and section 3604 of the Fair Housing Act expressly applies to advertising. Again, the case is within the well-defined scope of the Act.

In another case, *United States* v. *American Institute of Real Estate Appraisers*, 442 F. Supp. 544 (W.D. Va. 1975), it would not be a fair reading of the case to suggest that Title VIII applies to appraisers, since the case was settled by a consent decree and no conclusion was reached on the merits.

In conclusion, HUD's legal opinion is simply incorrect to the extent it suggests that the cases cited therein support the application of Title VIII to the sale of insurance.

APPLICATION OF THE FAIR HOUSING ACT TO PROPERTY INSURANCE VIOLATES THE EXPRESS PROVISIONS AND POLICY OF THE M'CARRAN-FERGUSON ACT

Application of the Fair Housing Act calls into play Section 2 of the McCarran-Ferguson Act 15, U.S.C. § 1012 (1945).

That section provides as follows:

§ 1012. Regulations by State law; Federal law relating specifically to insurance; applicability of certain Federal laws after June 30, 1948.

(a) The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

(b) No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance: *Provided*, That after June 30, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

Mar. 9, 1945, c. 20, § 2, 59 Stat. 34; July 25, 1947, c. 326, 61 Stat. 448.

The effect of Section 2 of McCarran was to make any federal statute inapplicable to the business of insurance and to return to the states the plenary, regulatory power unless a) Congress enacted federal legislation specifically related to insurance, b) the challenged activity is not the business of insurance, c) the state had not enacted any law which would be invalidated, impaired or superseded by the federal law. Therefore, unless the Fair Housing Act falls into one of these three categories, it is a federal statute which is superseded by state regulation and inapplicable to property insurance under the provisions of the McCarran Act. An examination of the case law will show that the Fair Housing Act fits under none of these exceptions regarding the applicability of federal law to insurance. Rather, application of the Fair Housing Act is barred by the express provisions and policy of the McCarran Act.

A. The Fair Housing Act Does Not Specifically Relate to Insurance:

The first exception to the general rule of the McCarran Act that federal law is inapplicable to the business of insurance is for federal legislation that specifically relates to insurance. Federal legislation is deemed to specifically relate to the business of insurance only if it contains an express indication to that effect. *Prudential Insurance Company* v. *Benjamin*, 328 U.S. 408 (1946); *Cochran* v. *Paco*, 606 F. 2d 460 (5th Cir. 1979); *Gerlach* v. *Allstate Insurance Company*, 338 F. Supp. 642 (S.D. Fla. 1972).

In this case, on its face, the Fair Housing Act is a law of general applicability rather than a law specifically relating to the business of insurance. Moreover, neither the Act nor its legislative history hardly ever refer to insurance. Rather than being a law specifically relating to insurance, the Fair Housing Act is virtually totally silent on the subject of insurance. Therefore, the McCarran Act bars its application to the business of insurance on this basis.

A District Court in New York recently held the McCarran Act to bar a civil rights action on a very similar ground. In *Spirit* v. *Teachers Insurance and Annuity Association*, 475 F. Supp. 1298 (S.D.N.Y. 1979), the plaintiff charged sex discrimination in the operation of an annuity program in violation of the Civil Rights Act of 1964. The court held that the defendant was exempt from the provisions of the Civil Rights Act by virtue of the McCarran Act. The court found that the Civil Rights Act was a law of general applicability, not specifically related to insurance. Therefore, the court concluded that the Civil Rights Act did not override the provisions of the McCarran Act, but was rather made inapplicable to insurance. A similar case with regards to the Fair Housing Act requires a similar conclusion as to that Act's applicability to insurance.

B. Selling Property Insurance is "the Business of Insurance." Under the McCarran Act:

The McCarran Act will also serve as no bar to challenges under federal law to activities which are not "the business of insurance". Neither Congress nor the courts have clearly defined what the "business of insurance" is for purposes of the McCarran Act exemption. Regardless of the exact parameters, selling of property insurance certainly fits into the general boundaries of the definition of insurance set by the Supreme Court in *SEC* v. *National Securities, Inc.*, 393 U.S. 453, 460 (1969):

> . . . it is clear where the focus was—it was on the relationship between the insurance company and the policyholder. Statutes aimed at protecting or regulating this relation, directly or indirectly, are laws regulating the "business insurance."

In these circumstances, the Department of Housing and Urban Development seeks to assert its authority and regulations over the activity of property insurers. Surely the selling of property insurance is "the business of insurance", and the McCarran Act exemption comes into play. Therefore, the application of the Fair Housing Act is barred by the McCarran Act on this basis.

C. The Fair Housing Act would Invalidate, Impair and Supercede Current State Legislation:

The final exception to the McCarran Act in which federal law will be applicable to insurance is the situation in which the federal law could be applied consistently and concurrently with state law. That is, for the McCarran Act to bar the applicability of the Fair Housing Act, it must be shown that the states have enacted laws regulating the challenged activity, and that those laws would be invalidated, impaired, or superceded by application of the Fair Housing Act. Thus, the Fair Housing Act could be applicable in two situations:

a. where the states had no laws; and

b. where application of the federal law wouldn't invalidate, impair or supercede the regulations the state had.

That the states have adopted regulation to prevent the problem of unfair discrimination in property insurance underwriting is undisputed. The states and the NAIC have promulgated strong remedial legislation to address the same problems as the federal courts and federal agencies would be if the Fair Housing Act were applicable to insurance. Some 38 states have enacted legislation which deals with the problems of unfair discrimination in property insurance underwriting: 16 states specifically prohibit unfair discrimination based on factors or characteristics similar to those in the Fair Housing Act, while 22 additional states generally prohibit unfair discrimination in such a manner as to encompass those same individual factors or characteristics.

Moreover, the recently adopted NAIC Model Property Insurance Declination, Termination and Disclosure Act, as well as the four amendments to the NAIC Unfair Trade Practices Act, represent a commitment on the part of Insurance Commissioners to improve existing state laws governing unfair discrimination in property insurance underwriting. Specifically in 1974, the NAIC proposed the following amendment to its Model Unfair Trade Practices Act which is enacted in nearly 40 states. The amendment would make it an unfair trade practice and give the state insurance commissioner power to take action against an insurer when the insurer is:

d. Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, cancelling or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:

(1) The refusal, cancellation or limitation is for a business purpose which is not a mere pretext for unfair discrimination, or

(2) The refusal, cancellation or limitation is required by law or regulatory mandate.

Thus, the states are clearly regulating an area which the federal Fair Housing Act would also regulate if it were applicable. While the McCarran Act itself does not specify the extent to which states must have regulated before a federal statute will be deemed to invalidate, impair or supercede state law, but that language in McCarran has been judicially construed. The courts have said that McCarran is satisfied whenever the state has occupied the field of regulation of the business of insurance or regulated the same general subject as that potentially affected by the federal statute. *Lowe* v. *Aarco-American, Inc.*, 536 F.2d 1160, 1162 (7th Cir. 1976); *Cochran* v. *Paco, supra; Gerlach* v. *Allstate, supra*. Moreover, the cases in this area show that neither Congress nor the courts are concerned that state regulatory schemes may vary, sometimes even greatly. *Dexter* v. *Equitable Life Assurance*, 527 F.2d 233 (2nd Cir. 1975); *Ohio AFL-CIO* v. *Insurance Rating Board*, 451 F.2d 1178 (6th Cir. 1971), *cert. denied* 409 U.S. 917 (1972). The point is, once the states have undertaken regulation, the McCarran Act is satisfied, and state law will preempt a federal statute on the same subject.

Thus, the provisions of the McCarran Act dictate a similar result with the Fair Housing Act. Since property insurance underwriting practices are regulated by state insurance commissioners, the Fair Housing Act is inapplicable to property insurance. Indeed, the superimposition of federal regulation under that Act on insurance transactions already regulated by the states in effect takes away the power of the states to regulate insurance as they see fit. Any additional regulations, liabilities or penalties that would be imposed upon insurers by application of the Fair Housing Act clearly impair, invalidate or supercede the regulatory scheme that the state saw fit to enact. Moreover, the resulting dual regulation of the property insurance industry generates a plethora of federal-state jurisdictional conflicts to the detriment of the public interest. Since application of the Fair Housing Act to property insurance cannot help but invalidate, impair or supercede existing state legislation, the McCarran Act bars its application on this basis.

D. The Fact That the Fair Housing Act is Civil Rights Legislation Does Not Change The Conclusion Regarding Its Applicability to Property Insurance:

Since the Fair Housing Act does not fit into one of the three situations in which the McCarran Act allows application of federal law to insurance, it cannot be applied to property insurance. The regulation of property insurance remains in the hands of state insurance commissioners. However, it has been suggested that the McCarran Act prohibitions do not apply in this instance because:

1. McCarran is limited to prohibiting the application of federal antitrust laws; and

2. McCarran was never intended to override Civil Rights legislation.

While the McCarran Act was passed in reaction to an antitrust case, there is no doubt but that its scope is much broader. In § 1 of the Act, Congress declare that taxation and regulation of insurance shall be left to the states. The regulation of taxation alone has nothing to do with antitrust. Moreover, regulation is not limited to antitrust, but engulfs the whole purview of regulation that could potentially be covered by federal antitrust laws. Finally, the courts have barred application of federal regulation to insurance which has nothing to do with antitrust. The Truth in Lending Act has been held inapplicable to insurance to the extent that the states have regulated. *Cochran* v. *Paco, supra; Gerlach* v. *Allstate, supra*. In addition, the Federal Securities Laws have been held inapplicable to the extent that they attempt to regulate this business of insurance. *American Mutual Reinsurance Co.* v. *Calvert Fire Ins. Co.*, 367 N.E. 2d 104 (1977), *cert.* denied 436 U.S. 906 (1978). Finally, Congress itself thought the McCarran Act applied more broadly than to antitrust because it made the National Labor Relations Act and the Fair Labor Standards Act specifically applicable to insurance. 15 U.S.C. § 1014 (1938).

Nor is there any support for the argument that Civil Rights legislation should be treated any differently from any other federal legislation. The legislative history shows that when Congress enacted the McCarran Act, it intended to exempt insurance from any future federal legislation of any kind. No discussion of any exemption for any particular legislation was mentioned. The comments of Senators Ferguson and Bushfield illustrate the Congressional intent:

> Mr. FERGUSON. What we have in mind is that the insurance business, being interstate commerce, if we merely enact a law relating to interstate commerce, or if there is a law now on the statute books relating in some way to interstate commerce, it would not apply to insurance. We wanted to be sure that the Congress, in its wisdom, would act specifically with reference to insurance in enacting the law.
>
> Mr. O'MAHONEY. In other words, no existing law and no future law should, by mere implication, be applied to the business of insurance.
>
> Mr. FERGUSON. That is correct.
>
> Mr. O'MAHONEY. That was the understanding.
>
> Mr. FERGUSON. In other words, we would not repeal this law by implication. 91 Congressional Record 1487 (Jan. 25, 1945).
>
> The subsection reads in part as follows:
>
> Mr. BUSHFIELD. Sec. 2. (b) No act of Congress shall be construed to invalidate, impair, or supersede any law—
>
> And so forth. The whole crux of the subsection is the word "construed."
>
> The purpose of the framers of the bill, Mr. President, was to provide against a sudden adverse decision by some court in construing this Act or some State act thus throwing the business of insurance into confusion. The word "construed" is the whole crux of that particular subsection. I think to eliminate it would destroy the assurance given by the bill to the insurance business, and I would vote against eliminating it. 91 Congressional Record 484 (Jan. 25, 1945).

Thus, the Congressional intent in enacting the McCarran Act was that all future federal legislation would be inapplicable to the business of insurance. This is not to say that Congress gave insurers the right to violate the Constitutional rights of citizens. On the contrary, the business of insurance remains subject to the U.S. Constitution. McCarran exempts it only from federal legislation. Thus, in *Cochran* v. *Paco, supra,* the court dismissed the alleged violation of the Civil Rights Act as barred by the McCarran Act, but ruled separately on an equal protection claim based on the Fourteenth Amendment. This is an important distinction.

This is the distinction that the court in *Ben* v. *General Motors Acceptance Corporation,* 374 F. Supp. 1199 (D. Colorado 1974), failed to make and is likely the reason why it is the only court that even suggested that McCarran would not bar the applicability of a federal law to insurance. That court said that the McCarran Act was not intended to deny access to the federal courts for redress for violations of a person's civil rights guaranteed by the Constitution. The court erred in going on to equate the Constitution with the Civil Rights Act and said a violation of one equals a violation of the other. However, the case law does not support that conclusion. Rather, the case law says insurers are subject to state regulation and the dictates of the U.S. Constitution but not to other federal legislation.

The same distinction must be made with the Fair Housing Act. Because that Act is inapplicable to the business of insurance does not mean insurers are exempt from lawsuits based on the Constitution. It does mean that insurers are exempt from any federal regulation, unless Congress expressly makes the law applicable, as it has done with the National Labor Relations Act and Fair Labor Standards Act. To apply the Fair Housing Act to property insurance would be a repeal by implication of the McCarran Act which is contrary to the Congressional intent in the express language of the McCarran Act and its legislative history.

Finally, such an application would be clearly contradictory to the construction of the McCarran Act that Congress intended. In the first section of McCarran, Congress declared its policy to be:

> § 1011. Declaration of policy
>
> Congress declares that the continued regulation and taxation by the several States of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States. Mar. 9, 1945, c. 20, § 1, 59 Stat. 33.

That is, Congress expressly said silence on its part should never be construed to be a barrier to state regulation. Construction of Congressional silence regarding the applicability of the Fair Housing Act to insurance to make it applicable to insurance blatantly contradicts a clear Congressional policy. Thus, application of the Fair Housing Act to the business of insurance violates the express language and policy of the McCarran Act.

CONCLUSION

The conclusion reached in this opinion is that Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq., has no application to the sale of insurance.

First, the statute has no express provision for inclusion of the sale of insurance under the coverage of the Act. If Congress had intended such a radical departure from the policy of the McCarran Act, it seems reasonable to believe that it would have done so through an express provision.

Second, the legislative history of the Act indicates that Title VIII was intended to be a limited provision applicable to owners, realtors, mortgage lenders and other segments of the housing industry. Evidence indicates that all Congress understood that there was no application to the sale of insurance.

Third, a reasonable analysis of cases construing the Act does not support the extension of Title VIII to the sale of insurance. The only case to adopt a contrary view is clearly erroneous. Rather, the cases construing Title VIII have confined the scope of the Act to various segments of the housing industry or integral components of the real estate contract.

Finally, the letter and spirit of the McCarran Act does not permit the application of the Fair Housing Act to the sale of insurance.

SENATOR HATCH AND THE FAIR HOUSING BILL

Mr. HARRY F. BYRD, JR. Mr. President, I want to pay tribute to the splendid work done by the distinguished Senator from Utah (Mr. HATCH), in connection with H.R. 5200, the Fair Housing Amendments Act of 1980.

Senator HATCH studied this legislation carefully as a member of the Committee on the Judiciary. He decided—and I agreed with him—that neither the House-passed bill nor the version approved by the Senate committee was satisfactory.

In a careful and scholarly way, he marshalled his arguments against the bill. When the motion was made to proceed to its consideration, Senator HATCH carried the brunt of the opposition, remaining on the floor for long hours to present his case.

Meanwhile, Senator HATCH sought the support of his colleagues. When the first test vote took place, he was defeated, but he was not discouraged. Carrying on his campaign of debate and persuasion, refusing to abandon the cause, he finally prevailed today.

Senator HATCH has succeeded against overwhelming odds. His victory is well earned. I congratulate him.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that I may proceed for an additional 3 minutes, without the time being charged against the 20 minutes on the precloture debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. I yield to the Senator from Washington.

Mr. MAGNUSON. Mr President, for the benefit of the Senate, I ask the majority leader if and when we are going to bring up the continuing resolution. It is awaiting action. It contains many amendments. I believe there is going to be a long conference on it.

If there is an intention to hold it up, I would think that we could hold up the conference report when we come back, rather than not to pass the bill. We have worked long and hard on it, and there are many Senate amendments. I do not think all of them will be agreed to in conference, but it is going to be a tough conference. It is going to take at least a day or two.

I am just wondering whether there is any disposition to bring up the measure, to pass it, and to get it to conference. If the majority leader has any news for me on that, I will be very pleased, because I feel that it is my responsibility to get the continuing resolution moving.

We have until the 15th, but I do not like to see it come up at the last minute again and have all the Government departments worried and everybody calling to get it done.

Mr. ROBERT C. BYRD. Mr. President, the expression of concern by Mr. MAGNUSON is well taken. I assure him that upon the disposition of the Breyer nomination, which is already locked in by an order of the Senate, and then upon the disposition of the revenue-sharing measure, which is locked in by an order of the Senate, I will proceed to take up the continuing resolution.

Mr. MAGNUSON. I thank the Senator.

Mr. ROBERT C. BYRD. I hope that will be before this day is over or certainly by sometime tomorrow.

Mr. MAGNUSON. I do not know the situation in the House, but they will act on it first and then ask for a conference, and the conference is going to take a long time.

Mr. HATCH. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Do I have remaining time, Mr. President?

The PRESIDING OFFICER. The Senator's 3 minutes has expired.

Mr. KENNEDY. Mr. President, reserving the right to object, I will not object, because I believe the Senator from Utah is entitled to be heard.

We did agree on the time to vote on cloture. We have objection to changing the time for the cloture vote to later in the day, which I had proposed.

Mr. President, I give assurances to my colleagues, not only on the Judiciary Committee, but also in the full Senate, that I and the other members of the committee welcome the commitments that have been made here by the Senator from Tennessee, the future majority leader, to a fair housing proposal in the next Congress.

This is a matter of enormous importance. The majority of the Members of the Senate have indicated that they wanted the Senate to address this issue. It is a matter of enormous importance with regard to protecting the civil rights of the American people.

I give the assurance to my colleagues on the committee, as well as other Members of the Senate, that we will pursue this matter and insure that we will get an opportunity for the Senate to vote on this measure in the next Congress.

NOMINATION OF STEPHEN G. BREYER—EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate now will go into executive session to consider the nomination of Mr. Stephen G. Breyer to be U.S. circuit judge for the First Circuit.

There will be 20 minutes, equally divided between the Senator from Massachusetts (Mr. KENNEDY) and the minority leader, the Senator from Tennessee (Mr. Baker), or his designee.

Mr. KENNEDY. Mr. President, I am asking my colleagues to support cloture on the nomination of Stephen G. Breyer to the First Circuit Court of Appeals. Quite frankly, Mr. President, I am proud of this nomination, just as the members of the Judiciary Committee, both Democrats and Republicans, were proud to give it their unanimous support.

Mr. Breyer is, as Senator Hatch has said, one of the most qualified nominees to come before the Judiciary Committee in recent years. Prior to coming to the committee as Chief Counsel, he was for over a decade a professor at Harvard Law School. He has extensive appellate experience, and served on the Watergate Special Prosecution force and in the Antitrust Division of the Justice Department. He is the author of three major books on regulation, and of a long series of scholarly articles.

Every member of the Judiciary Committee knows Mr. Breyer. We know him well. He has served the Judiciary Committee and the Senate well. And with the sure conviction that he will be a great Federal judge, I ask the Senate, I ask my colleagues, for a bipartisan vote to invoke cloture and then to approve his nomination to the First Circuit Court of Appeals.

Mr. President, this nomination has strong bipartisan support in the Senate. All 17 members of the Senate Judiciary Committee support Mr. Breyer on the basis of firsthand knowledge of his work.

As Senator DeConcini stated at the committee hearing—

> Mr. Breyer's background . . . indicates a wide experience, a fine reputation, and . . . I can assure this committee and the United States Senate that the quality of your leadership and of your bipartisan support and your approach towards constructive changes in the Judiciary and your willingness to cooperate with all parties involved in legislation is exemplary.

Senators Thurmond, Laxalt, and Hatch have expressed their strong support.

Senator Hatch testified at the committee hearing—

> I think I can speak for those of us on the minority that we strongly support this nomination as one of the best nominations for the Federal bench over these last two years—frankly over the last four years—that I have been on this committee.

Senator Helms has said, as quoted in the Winston-Salem Journal on December 3—

> Breyer is a good man. I have been very much impressed with Mr. Breyer. He's worked cooperatively with us.

Mr. President, there are three additional points that I would like to discuss briefly:

First, Mr. Breyer's nomination went through the regular merit screening process. After the Democratic Convention—not, as Senator Morgan has stated, before the convention—President Carter told me that, if Mr. Breyer applied to the First Circuit Judicial Selection Commission, and if he were recommended by the Commission, his nomination would be favorably considered by the White House. It was also understood that he would be subject to the normal ABA scrutiny as well. And it was equally understood that if Mr. Breyer could not pass these merit selection procedures, his nomination would not go forward.

Mr. Breyer applied to the First Circuit Commission and went through the regular screening and evaluation process. His name, as well as the names of two others, were approved and recommended to the President. Similarly, Mr. Breyer's nomination was subject to the full regular screening and evaluation process of the ABA, which formally notified the committee that he was qualified for the position. No step of the merit selection process was neglected in this nomination.

Second, Mr. Breyer is fully qualified for the court of appeals. Opponents of his nomination have noted his lack of trial level experience. However, Mr. Breyer has been nominated for an appellate position. The Justice Department's own criteria for appellate court qualifications require proven excellence in two of five categories: Appellate litigation, trial litigation, teaching, law reform activity, and writing and development of legal thought. Mr. Breyer is fully qualified in four out of these five categories, not just two, as the Justice Department guidelines require.

In fact, Mr. Breyer has had substantial appellate experience. He has served as head of the Appellate Section of the Antitrust Division at the Justice Department. He has also participated in a wide range of appellate litigation as counsel and consultant, while serving on the faculty of Harvard Law School. In fact, since the essence of the case method to teaching law is the analysis of appellate cases, I believe that Mr. Breyer is actually an expert in many areas of appellate law.

Third, I want to assure my colleagues that the majority on the Judiciary Committee tried as hard as we could to confirm the other judicial nominations still pending in the committee.

At the time of the Republican Convention in July, 16 nominations were pending. Eleven of those were confirmed, in spite of numerous reports that no more nominees would be confirmed after that convention.

Fourteen additional nominations were received after the Republican Convention. Only two of those could be confirmed because of the strong opposition of the minority. Mr. Breyer would be the third.

Mr. President, some opponents of the nomination have suggested that a deal was made on the committee not to hold any executive sessions of the committee after the election, in return for an agreement by the minority to approve Mr. Breyer. There was no such deal. At all times, the Breyer nomination was considered entirely separately from the other nominations before the committee.

In all, our committee has confirmed 198 judges in this Congress, from virtually every State. I am proud of that record; I think the Senate can be proud of that record; and I think we can all be proud of this opportunity to confirm this excellent nomination to one of the Nation's most important courts. Mr. Breyer has the potential to be one of America's finest judges, and I hope the Senate will confirm him.

Mr. President, I ask unanimous consent that additional material relating to the nomination of Mr. Breyer may be placed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Background on Nomination of Stephen G. Breyer to the United States Court of Appeals for the First Circuit

QUALIFICATIONS

42 years old; married with three children; resident of Cambridge, Massachusetts.

Highest honors from Stanford University; Marshall Scholar at Oxford University; Member of the Harvard Law Review.

Law clerk for Justice Arthur Goldberg on the U.S. Supreme Court.

Two years appellate practice in the U.S. Department of Justice; additional appellate experience as consultant in appellate litigation.

Professor of Law at Harvard University for ten years, teaching primarily in administrative law, antitrust law, and regulatory law.

Prosecutor with the Watergate Special Prosecution Force.

Initiated airline deregulation legislation as Special Counsel to Senate Judiciary Committee.

Past two years as Chief Counsel of Senate Judiciary Committee.

Books published on administrative law and natural gas deregulation; forthcoming book on deregulation.

Nomination cleared through the Administration's merit selection process. The nomination was recommended to the President by the Judicial Nominating Commission for the First Circuit. The nomination has also been approved by the American Bar Association.

BIPARTISAN SUPPORT IN THE SENATE

All seventeen members of the Senate Judiciary Committee support Breyer on the basis of firsthand knowledge of his work.

Senator DeConcini stated at the Committee hearing: "Mr. Breyer's background . . . indicates a wide experience, a fine reputation, and . . . I can assure this Committee and the United States Senate that the quality of your leadership and of your bipartisan support and your approach towards constructive changes in the judiciary and your willingness to cooperate with all parties involved in legislation is exemplary."

Senators Thurmond, Laxalt and Hatch have expressed their strong support.

Senator Hatch testified at the Committee hearing: "I think I can speak for those of us on the Minority that we strongly support this nomination as one of the best nominations for the federal bench over these last two years—frankly over the last four years—that I have been on this Committee . . ."

Senator Helms has said: "Breyer is a good man. I have been very much impressed with Mr. Breyer. He's worked cooperatively with us." (Winston Salem Journal, December 3, 1980).

JUDICIARY COMMITTEE RECORD ON NOMINATIONS

At the time of the Republican Convention in July, sixteen nominations were pending in the Committee. Eleven of those nominations were subsequently approved by the Committee and confirmed by the Senate.

After the Republican Convention, fourteen additional nominations were received by the Committee. Only two of these nominations were subsequently approved by the Committee and confirmed by the Senate. Breyer would be the third.

In all, the Committee has approved and

the Senate has confirmed 198 judicial nominations in the 96th Congress.

[From the Boston Globe, Dec. 2, 1980]

To Select A Judge

The efforts to fill a vacancy on the U.S. Court of Appeals here in Boston have revealed the limit of efforts to make competence the paramount concern in selecting the men and women who will interpret federal law in the land.

The first front-runner for the job, Archibald Cox, was perhaps the preeminent person available. But Cox didn't make it. His prime sponsor was Sen. Kennedy; Sen. Kennedy was at political loggerheads with President Carter and President Carter was not of a mind to nominate a Kennedy choice, even one with the undoubted qualifications of Archibald Cox.

The judicial screening committee established to winnow candidates for the seat was rearranged and asked to survey applicants again. They did and found some good ones. Then something happened. No one is quite sure what. But none of the candidates who emerged from the second screening was nominated by the President, though that list included people who worked in the Carter Administration and who seemed in all ways qualified for the post. One explanation being proferred is that Republicans in the Senate promised to filibuster against all of the possible choices.

So the screening committee went back in business again. This time it came up with the name of Stephen Breyer, a young Harvard law professor who has served admirably in the Justice Department and, most recently, as chief counsel of Kennedy's Senate Judiciary Committee. A deal was worked out—prior to last month's election—and a number of leading conservatives agreed to support the Breyer choice. It was submitted by Carter and quickly approved by the Judiciary Committee. However, it is now blocked on the Senate floor, the potential victim of a filibuster of lame-duck Democratic Sen. Robert Morgan of North Carolina and Republic Sen. Gordon Humphrey of New Hampshire.

Humphrey's motives are not exactly honorable, but at least he's playing a traditional game. He would like to delay the judicial selection so Ronald Reagan can make the choice. Humphrey's stance is opposed by fellow Republicans of the right, including Strom Thurmond, who will soon be chairman of the Judiciary Committee, and Paul Laxalt and Orrin Hatch, who apparently believe Breyer's work on the Judiciary Committee demonstrated merit that overrides the normal political wheeling and dealing.

Morgan is another case. His animosity toward Breyer seems based on Breyer's work in establishing for the first time an independent investigatory capacity in the Judiciary Committee sufficient to challenge a Morgan choice for a judgeship in North Carolina and prompt the first-ever Judiciary Committee rejections of a presidential nominee.

The Senate will be asked, probably today, to vote cloture and shut off the Humphrey-Morgan filibuster on Breyer's Senate confirmation. Its failure to do so won't be read as a mere exercise in lamentable but traditional partisan politics. It will be read as a clear signal that efforts to employ merit selection, even within the constraints of partisanship, are futile. That would suggest that an effort to reform judicial selection procedures is not merely limited, but lost.

[From the New York Times, Dec. 1, 1980]

The Senate's Message to Itself

Much more than a single Federal judgeship is at stake in this week's Senate fight over the confirmation of Stephen Breyer, who has been nominated for the United States Court of Appeals in Boston.

A Harvard law professor with distinguished service in both the Justice Department and the Senate, Mr. Breyer is a quality nominee to an important court. Good as he is, his failure to make the bench might normally be just another accident of the political calender. But it is because Mr. Breyer, as chief counsel to the Senate Judiciary Committee, managed to make significant improvements in the process of filling judgeships that he is being doggedly opposed by Senator Robert Morgan. And that makes the case an important test of good government.

Senator Morgan was burned last March when the Judiciary Committee, hisorically a rubber stamp for judicial nominations, rejected his former campaign manager in North Carolina, Charles Winberry. The Senator holds Mr. Breyer responsible for that defeat— and rightly so—for it was Mr. Breyer who developed a staff that became capable of independently examining the qualifications of nominees. When questions arose about Mr. Winberry's ethics and professional ability, the staff probed more deeply than the F.B.I. or the American Bar Association had, producing questions that the nominee was unable to answer satisfactorily.

The episode set a new standard for inquiry into judicial nominations. It also showed that committee members would disregard even hallowed patronage practices if Senators misapplied their influence.

None of this, however, can justify Senator Morgan's quest for revenge. Mr. Breyer acted openly and fairly. He has been endorsed by committee members of every hue: Strom Thurmond, the ranking Republican and future chairman; Paul Laxalt, a Reagan campaign manager, and Orrin Hatch, who is rarely outflanked on the Republican right. They recognize that Mr. Breyer's accomplishments—including a creative role in airline deregulation—call for waiving the usual post-election partisanship.

Senator Morgan is joined on his wreckage mission only by Senator Gordon Humphrey of New Hampshire, who wants the Boston court seat saved for a Reagan appointee. They have threatened to filibuster during this final week of the lame-duck Congress. If their colleagues let them succeed, they should not try to take refuge in Senate rules. They will be telling the world and each other—that meanness and mediocrity pay, and that quality and courage don't.

[From the Washington Post, Dec. 4, 1980]

A Double Filibuster

It was inevitable that some crazy things would happen on Capitol Hill during the lame duck session, but a double filibuster is too much. Yet—we've got one. A group of senators is using a filibuster in an attempt to block some vital amendments to the fair housing law. Two individual senators are using a separate filibuster—simultaneously—in an effort to block confirmation of a federal judge in New England.

This remarkable event in the history of the world's greatest deliberative body has occurred because filibusters have become courtly affairs. Gone is the era of cots and night sessions and competition to see who could speak for the longest time without collapsing of exhaustion. Nowadays, some senator starts what is called a filibuster, another files a cloture motion, and the Senate sometimes even moves on to other, noncontroversial business until the time for a vote on cloture arrives.

This winter's dual filibuster has another peculiarity. The first half of it makes some sense for those who believe in this kind of legislative conduct and who want to keep the fair housing law weak. But the second half makes sense only for those who see a place in the Senate for personal animosity and razorsharp party politics.

The judicial nominee whose confirmation is being held up is Stephen Breyer, a former Harvard Law School professor who is counsel for the Senate Judiciary Committee. His nomination is the only one the Democrats have tried to move out of the Judiciary Committee since the election. That's because it is supported not only by Mr. Breyer's chief sponsor, Sen. Kennedy, but also by the incoming committee chairman, Sen. Thurmond, and by President-elect Reagan's Senate watchdog, Sen. Laxalt.

This unusual triumvirate would normally prevail, but Sens. Morgan and Humphrey have, for quite different reasons, seized upon the filibuster as a way to beat it. Mr. Morgan opposes the nomination because Mr. Breyer was instrumental in the committee's rejection of a man Mr. Morgan wanted on the federal bench in North Carolina. Mr. Humphrey wants the nomination stopped because he thinks every presidential appointment should be saved for Mr. Reagan.

The two men's filibuster, like its companion aimed at the fair housing law amendments, deserves to be shattered today. There are majorities in the Senate to pass the housing amendments and to confirm Mr. Breyer's nomination. They should be able to work their will.

[From the Nashville Tennessean, Dec. 4, 1980]

Bipartisanship Is Needed In Judicial Nominations

Senate Republicans may permit confirmation of a bare few of President Carter's nominees during the lame duck session and one of those ought to be Mr. Stephen Breyer, who has been nominated for the United States Court of Appeals in Boston.

Mr. Breyer's nomination moved through the Judiciary Committee with some speed and good reason. He is a Harvard law school professor who has had service both in the Justice Department and the Senate, where he has been chief counsel to the Senate Judiciary Committee.

There was no opposition, even from Sen. Strom Thurmond, R.-S.C., who will become chairman of the committee next year. But there is opposition in the Senate from Sen. Robert Morgan, a Democrat from North Carolina.

Senator Morgan's opposition springs from a note of personal animosity toward Mr. Breyer and goes back to last year when the Judiciary Committee rejected the name of his former campaign manager, Mr. Charles Winberry.

The North Carolina senator holds Mr. Breyer personally responsible for that rejection and he is right in part. It was Mr. Breyer who made some needed improvements in the process of filling judgeships and in developing a staff that soon became proficient in examining the qualifications of judicial nominees.

There were some questions raised about Mr. Winberry's ethics and professional ability and the nominee was unable to answer some of those questions satisfactorily. That incident was a kind of watershed in judicial scrutiny in that it showed that members were willing to rebuff the long standing practice of patronage when senators showed poor judgment in submitting names for appointment.

On the Judiciary Committee, Mr. Breyer was not only indorsed by Senator Thurmond, but by Sen. Paul Laxalt, a Reagan campaign manager, and by Sen. Orrin Hatch, among others.

Senator Morgan has one other supporter for his vendetta and that is Sen. Gordon Humphrey of New Hampshire. The latter simply wants the court post to be held by a Reagan appointee.

The Carter administration has said it will defer action on new appointments, but might push for some nominees submitted to the Senate before the election recess. Sen.

Howard Baker, who is to be the new majority leader, has said he plans to reinstitute an ad hoc committee to screen the nominations already made. And a member of the Reagan transition team said he expected some of the Carter nominees to be confirmed.

Mr. Breyer ought to be one of those confirmed, and both Senator Baker and the Reagan administration ought to show a little bipartisanship in the matter, especially in view of the very narrow reason that Senator Morgan is trying to block the confirmation.

December 1, 1980.

Hon. Edward M. Kennedy,
Chairman, Senate Committee on the Judiciary, Washington, D.C.

My Dear Senator Kennedy: I write this letter in support of the approval by the Senate of the nomination of Professor Stephen Breyer as a Judge of the United States Court of Appeals for the First Circuit.

In recommending his appointment I think it appropriate to note that I have a particular interest in this Circuit.

During my tenure on the Supreme Court of the United States I was the Circuit Justice for the First Circuit and am, therefore, intimately concerned with its workings and after leaving the Court for my post as Ambassador to the United Nations and since, I have followed the activities of the First Circuit with special interest.

It is my considered judgment that Professor Breyer is exceptionally well qualified for an appointment as a Judge of this outstanding Court of Appeals.

Professor Breyer, as all members of your Committee know, was a law clerk of mine during my tenure on the Supreme Court, during the 1964 term. He served as my clerk for one year and this enabled me to be well informed as to his legal abilities, character and integrity.

I found Professor Breyer to be a well trained lawyer with an excellent background in all areas of the law and diligent in the performance of the many duties which fall to a law clerk of a Supreme Court Justice. In addition, he has what I would term a judicial temperament. He is a moderate in his point of view, fair in his approach to complicated legal problems and always prepared to hear the other side of any controversy.

Following his clerkship with me Professor Breyer spent a period of time as an assistant to Attorney General Turner of the Antitrust Division of the Department of Justice and since then has been well recognized as an authority in several areas of the law in his capacity as a tenured professor at the law school of Harvard University.

It is my considered judgment that the federal judiciary benefits greatly from appointments not only from appointees with prior judiciary experience and professional practice but also from academia.

Several illustrations come readily to mind: Justice Felix Frankfurter, Chief Justice Stone, Judge Henry Edgerton and many others too numerous to mention.

Although Professor Breyer has been primarily a law professor in recent years he has also participated in litigation. He was a participant with me in the Atkins case, an important matter involving the question of the constitutionality of whether Judicial salaries could be diminished in light of provisions of Article III of the Constitution. I understand he also was consulted in other matters.

I strongly recommend him for appointment to the Court of Appeals for the First Circuit. He would add strength to this important Court.

Sincerely yours,

Arthur J. Goldberg.

Harvard Law School,
Cambridge, Mass., December 1, 1980.

Re Stephen M. Breyer.

Hon. Edward M. Kennedy,
U.S. Senate Office Building,
Washington, D.C.

Dear Senator: I write to commend the nomination of my colleague Stephen M. Breyer to the U.S. Judge on the U.S. Court of Appeals for the First Circuit and to urge his confirmation.

I have known Stephen Breyer as a student and colleague for almost twenty years. His learning, intellectual talents, experience and temperament all give assurance that, if confirmed, he will be a Judge of the highest caliber.

Of particular interest, Stephen Breyer worked for me in Washington as a member of the Watergate Special Prosecution Force during the summer of 1973. He was assigned primary responsibility of investigation and analysis of what was then known as "The ITT Affair." He did an excellent job in digging out the facts, ordering them, and analyzing what was ascertainable in the light of the applicable legal principles. His work demonstrates his capability for dealing with the factual and practical side of a controversy which may go to litigation just as his academic work demonstrates his keen legal analysis.

I also had occasion to study with some care the briefs prepared by Stephen Breyer in the suit brought some years ago by federal judges in the Court of Claims alleging that the failure to preserve the real value of their salaries violated Article III of the Constitution. The briefs drafted by Mr. Breyer were of a very high legal order. Their caliber would seem to be of particular relevance because this was important appellate litigation of the same general character as that with which federal judges must deal on the Court of Appeals.

Perhaps I may add that my legal interests and Mr. Breyer's largely overlapped, and we have often discussed the kinds of questions which come before a federal appellate court. The work which he did for me in the Watergate affair and his contributions to the salary litigation mentioned above confirm the high opinion which I have of his legal ability and the warm regard in which I hold him as a friend.

Sincerely,

Archibald Cox.

December 1, 1980.

Hon. Edward M. Kennedy,
Chairman, Judiciary Committee, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Senator Kennedy: I am a member of the bars of New York and the District of Columbia, and am a partner in the law firm of Covington & Burling in Washington, D.C. I have been engaged in the active practice of law in the private sector for nineteen years where I frequently engage in appellate litigation. I also have practiced law for three and a half years with the United States Justice Department.

I wrote to comment on the qualifications of Stephen Breyer for the position of a judge on the bench of a United States Court of Appeals.

I had occasion to work with Mr. Breyer in the period commencing the summer of 1965 through 1966 and into 1967. I was for the first four months of that period Director of Policy Planning of the Antitrust Division of the Justice Department. Thereafter, I was what was then known as First Assistant—i.e., Deputy Assistant Attorney General for the Antitrust Division.

During that period Mr. Breyer, as special assistant to the Assistant Attorney General, was assigned to tasks of exceptional difficulty or importance to the Division. In particular, he participated in the preparation of appellate briefs for cases before Courts of Appeals and the Supreme Court of the United States. He took an active role in the analysis of the arguments to be presented, in the developmnet of appellate strategy, and in the drafting of the appellate briefs.

By reason of the importance of the issues dealt with, and the frequency with which our office was involved in major appellate issues—including appellate matters for a number of government agencies for whom we were lawyers—Mr. Breyer received an experience in appellate litigation that was equivalent to a far longer period of normal appellate practice in the private sector.

Mr. Breyer performed all his obligations with facility and unusual distinction. His career since then has continued to be one of great distinction in all that he has attempted, in teaching and consulting, and, again, in Government service. In my judgment he will be an experienced and exceptionally well qualified addition to the appellate bench.

Sincerely,

Edwin M. Zimmerman.

December 4, 1980.

Dear Steve: I note by this morning's Post that you may be having a difficult time with confirmation. I certainly hope you make it.

Although my opportunity for observation has not been great it has been sufficient to persuade me that you are a very good lawyer, and it has been of such character to demonstrate that you can and do keep your balance in a difficult situation—the essence of judicial temperament.

Although I remain quite skeptical of your view concerning transportation, I take it that should such an issue come before you in a judicial capacity, that you could, in this, as in others, lay aside preconceived views and consider an argument for regulation solely on its merits. That is, of course, if it has any.

Good luck to you,

Sincerely,

Whitney Gilliland,

[Former member of the Civil Aeronautics Board, who was opposed to Mr. Breyer's efforts on deregulation.]

Mr. KENNEDY. Mr. President, I yield to the Senator from Utah on my time on the Breyer nomination, because I want to get to that vote. I will be glad to yield 2 minutes.

Mr. HATCH. I thank my dear friend from Massachusetts.

Mr. President, as incoming chairman of the Subcommittee on the Constitution, through which this measure will pass in the next session, and as the person who cast the deciding, single vote to pass the institutional civil rights bill, I am dedicated to try to come up with a reasonable and workable Fair Housing Act amendments bill in the next session of Congress that will treat all people in a responsible and reasonable manner.

I compliment my colleague from Massachusetts and those who supported him and for the great work that they have done and for the beliefs that they have. We share those beliefs. The difficulty has been how to get there and what is the fairest and most reasonable way to get there, and we will work to do that.

If the distinguished Senator from Massachusetts will yield 30 more seconds, I wish to say on the other subject regarding the Breyer nomination that I support Mr. Breyer. I think he is one of the best nominees we have had in the last 4 years since I have been a Senator. He is an outstanding individual. He has given great service to the Senate and has been a great majority counsel. He is honest. He has integrity. He has brains. I think he has the ability to be one of the best judges in this country and I would feel remiss if I did not at least stand up and say that here on the floor today. So I support the distinguished Senator from Massachusetts in that.

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Arizona.

Mr. DeCONCINI. Mr. President, on the subject of the Breyer nomination I know there has been considerable debate here, discussion, and concern of a number of our colleagues who also have nominations that are not before the Senate and most likely and absolutely will not come before the Senate at least in this session.

Let me say I regret that has occurred. There are numerous States that have a pressing necessity to have Federal judges appointed now, and a year ago the caseloads were astronomical. The pressures of the Federal judgeships are ever expanding with legislation that we have passed in this body and the other body for the past several years that I have been here.

And I think it is important to admit that and those of us on the Judiciary Committee who failed to report those judges need to take some of that blame, and I accept some of it.

Notwithstanding, we have an opportunity to put a man on the bench in the first circuit who knows the law, who has the background of working in this body on the Judiciary Committee who has taught and practiced appellate procedures and who has written on it and in my judgment will be an outstanding judge.

I hope the Senate today will not be foolish to deny Mr. Breyer's nomination and confirmation to the first circuit because of some failures of the Judiciary Committee and for the various reasons that other judges are not here.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield such time as the Senator from South Carolina desires.

Mr. THURMOND. Mr. President I reiterate my support for Stephen Breyer to the position of circuit judge for the First Circuit Court of Appeals.

Mr. President, Republican members of the Judiciary Committee, acting in a completely bipartisan capacity, assisted in the confirmation of 198 Federal judges during the 96th Congress. In addition, Republican assistance resulted in the rapid confirmation of 41 nonjudicial positions, such as U.S. Attorneys, U.S. Marshals, and other Department of Justice employees.

I think it is noteworthy that we approached the nomination process without political bias and have attempted to urge the confirmation of those individuals we felt most deserving. Mr. President, I feel that Stephen Breyer falls in that category. Having examined the record of each of the 198 nominees, there is no doubt in my mind that Mr. Breyer will, if confirmed, rank at the very top of that group.

For the record, I again emphasize a few of Mr. Breyer's qualifications. He was a Marshall scholar and graduated from Oxford in 1961. In 1964, he graduated from Harvard Law School where he was articles editor of the Law Review.

Stephen Breyer has had a very distinguished career. He served as law clerk to Justice Goldberg; as Special Assistant to the Attorney General, Antitrust Division, Department of Justice; Assistant Special Watergate Prosecutor; professor of law at Harvard Law School, and most recently as Chief Counsel of the Judiciary Committee.

Mr. President, as I have previously stated, it was in this capacity that I was able to obtain firsthand knowledge of his many talents. Working with Mr. Breyer has been a pleasure. He is an extremely dedicated and conscientious individual and one that I feel possesses the traits required of a Federal judge.

Again, I emphasize that all of the minority members of the Judiciary Committee have worked very closely with Mr. Breyer in his capacity as Chief Counsel, and the fact that not one single member of the committee voted against his nomination would indicate the high esteem in which Mr. Breyer is held.

Mr. President, I wholeheartedly endorse Stephen Breyer for the position of circuit judge.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY and **Mr. MORGAN** addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, I will be brief. The Senator from North Carolina also wishes to speak. I yield 5 minutes to myself.

Mr. President, I have already spoken at great length on this matter. There is really nothing new that I can add.

I ask unanimous consent to have printed in the RECORD the following items:

Two sets of remarks made by the Senator from New Hampshire on December 2, 1980, and a set of remarks delivered by the Senator from North Carolina (Mr. MORGAN) on December 2, 1980.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. HUMPHREY. Mr. President, a great many nominations are pending on the Executive Calendar. One cannot help wonder why this particular nomination is being acted upon today.

There are many who believe—and I am one of them—that it is unwise to act on any nominations or anything but the most substantive and pressing business in the closing hours of a lameduck Congress, especially in the case of nominations, when those nominations have been made by a lameduck President.

I must observe that this particular nomination has received unique handling by the Judiciary Committee and now by the Senate.

Some weeks back, prompted by contacts from attorneys in my State of New Hampshire about the rumor that Mr. Breyer was to be nominated for a position on the first circuit court of appeals, which circuit embraces my State, I instructed my staff to make inquiries of the staff of the Judiciary Committee and to express my interest in this nomination. At that time, my staff was told by the staff of the Judiciary Committee, in essence, that there was nothing to worry about—that, in fact, the nomination had not even been made.

On Friday of the week that staff conversation took place—I believe it was Friday; perhaps it was Thursday of that week—the President sent down the nomination; and notwithstanding the fact that I had expressed an interest in the nomination, I was given no word or indication by the Judiciary Committee, nor was my staff, that the nomination had come down.

After the committee staff had made the point that the matter was not pressing, since the nomination had not come down, one would have expected, under those circumstances, the staff to have informed me or my staff that now the nomination had come down.

But no such confirmation was forthcoming. The nomination came to the Senate on either a Thursday or a Friday. The very next Monday morning the confirmation hearings were held by the Judiciary Committee.

As Members know, there is a Senate rule which requires, I believe, 1 week advance notice of committee hearings, which I will admit can be waivered if the committee feels the matter is pressing. Obviously, the committee felt the matter was pressing because it scheduled hearings either 1 or 2 calendar days after the nomination arrived.

But, again, I have to express disappointment that not only was I not notified by the judiciary staff that the nomination had come down after expressing an interest in it. I must also express disappointment that to compound the lack of courtesy, neither I nor my staff were informed that the hearing would be held. My staff discovered the hearing by reading the CONGRESSIONAL RECORD. The Monday morning of the hearing, my chief legislative assistant discovered the hearing was being held by reading the CONGRESSIONAL RECORD, came to me and I rushed to the judiciary hearing room just as the hearing had concluded.

I must say that in that I had expressed interest in this nomination, and especially in that the nomination is one which affects my State, or at least the attorneys in my State who have to practice before this particular bench, and the citizens of my State who will have matters heard before this particular bench, inasmuch as that is the case, I feel even more strongly that the courtesy due me was grievously omitted.

I began by saving, Mr. President, that this nomination has received unique and, I would say, even bizarre treatment, because it is the only nomination moving through channels, because Senators affected by this nomination were not extended the usual courtesies, because the hearing was held without the customary notice.

But that is not the only set of bizarre circumstances, Mr. President. The confirmation hearing was held on Monday morning. Again, I point out, without the Senators involved being informed, other Senators from the States which comprise that circuit court, namely, Maine, New Hampshire, Massachusetts, and Rhode Island.

Not only were those Senators ignored and not extended the usual courtesies in the apparent haste of the Judiciary Committee to move this nomination, but in its very great haste to move it at a pace which can only be described as railroading, the committee voted to report out the nomination, not only in violation of the Senate rule which requires that a quorum be present, Mr. President, the committee reported out the nomination by telephone poll without even having a meeting.

Not only was a quorum not present, but a meeting was not held, such was the haste in regard to this particular nomination.

Well, the members of the Judiciary Committee later on realized their mistake, or perhaps, more importantly, the vulnerability they had created with respect to a point of order being lodged against the nomination, that a member of the Judiciary Committee moved here on the floor to lodge a point of order against the nomination for the irregular way it was reported out of committee, the way in which it was reported out of committee in violation of Senate rules, and the Chair ruled that the point of order was well taken, which, of course, it should have.

But there is more involved in that episode, as well, because this Senator was on the floor at the time seeking recognition, seeking the protection of the rules of the Senate, which are there to protect not only 100 Senators, not only 50 senators, but even five, four, or even one. I was seeking the protection of those rules, Mr. President, seeking to prevent, very frankly, and it was obvious at the time, the Chair from reaching the point where it would rule on the point of order.

Though I was standing right at this very desk, with this very microphone attached to my pocket, though I repeatedly called for recognition, though I stated, "Mr. President, I am seeking recognition," the Chair, the gentleman occupying the Chair at the moment, clearly was aware I was seeking recognition. He looked up from his paper he was reading several times, but, nevertheless, denied me recognition, in violation of Senate procedure and courtesies immemorial.

More evidence, Mr. President, that this particular nomination has received a very curious status, a very curious status; more evidence that this particular nomination is being moved under bizarre and unique circumstances.

There is a burning desire in the hearts of someone, or some persons, to get this nomination through, come hell or high water.

So, the point of order was ruled as well taken. The nomination was returned to the committee, as it should have been.

The majority leader later on sought unanimous consent, as he currently has the right to do, to allow the Judiciary Committee to report out the bill the very day it met.

I point out, the Judiciary Committee met in the evening under, certainly, by normal standards, unusual conditions. Indeed, upon the recess of the Senate, to meet in the evening, on a Tuesday night. It happened the very evening we had adjourned for the Thanksgiving recess and, certainly, members of every committee were, like the rest of us, anxious to go home. But they met that evening. They delayed their taking a holiday to meet on this nomination and report it out. Further evidence that there is a great urgency on this nomination.

In seeking to protect my rights, I had to object to the request of the majority leader respectfully, and so the nomination could not be placed on the calendar until the close of business yesterday. Now, of course, it is being brought up.

I recite that history, Mr. President, so that the record will show the way in which this particular nomination has been handled, not according, I am afraid, to tradition, and even, in one instance, in violation of Senate rules.

(Mr. HEFLIN assumed the chair.)

Mr. HUMPHREY. Now, why, Mr. President, is this particular nomination, when there are so many on the Executive Calendar, and, in addition to that, so many within the Judiciary Committee, so many judicial nominations, some 10 or a dozen, which have received confirmation hearings, if I am correct, why, with all these executive nominations, including other judges whose nominations are dear to the hearts of other Senators in this Chamber, why is this particular nomination being pressed?

I cannot answer the question, Mr. President. Perhaps others can.

But I will assert that it is most unwise for the Senate, as I stated in the beginning, to be moving to confirm a nomination in the closing week, the closing days, the closing hours, of a lameduck session, especially when that nomination has been made by a lameduck President, a man who will no longer be President in January, and I say this with all due respect and compassion, a man whose programs and outlook have been repudiated by the voters. I think it is most unfortunate.

Mr. President, I am not an attorney. I am not a member of the Judiciary Committee and I am perfectly willing to abide by the expertise, by the expert judgment of my colleagues on that committee and the recommendations of the ABA.

I had never during this debate questioned the qualifications of the nominee. But at the same time, I certainly cannot blame certain attorneys in my State who are concerned about this nominee. As a lay person with respect to law, I cannot blame them for being concerned about a nominee who has never tried a case, just as I would be concerned about a surgeon who has never performed an operation even though that surgeon might come from the medical school at Harvard University, might have written many enlightened books and served on many distinguished boards and bodies. So I cannot blame the attorneys, some of them in my State, for being worried about this particular nomination, but I will not go beyond that because, frankly, I am not qualified to and I accept the judgment of the Judiciary Committee.

With respect to the unanimity of the Senate among Republican members of that committee, it is a puzzling thing to be sure. The distinguished Senator from North Carolina has said very clearly that he was informed by the President that an agreement had been reached between the President at some point or other and the distinguished Senator from Massachusetts, the chairman of the Judiciary Committee.

I have also heard it said, frankly, by Senators in a position to know, that in fact the agreement encompassed more than that or grew at some point to encompass more than that and so perhaps this unanimity at least in some small measure might be part of an agreement reached with the Senator from Massachusetts. I do not know, but I have heard that said. I am not in a position to verify it. So, for my part I am likely to give a little less weight frankly, to the argument that has been made that unanimity of the Republican members of the Judiciary Committee should be taken as a sign that this nominee is extraordinarily well qualified and that the nomination should go through without further question.

Mr. MORGAN. Mr. President, I do desire to speak on this nomination, but, first, let me make a statement and from that point, I may make other comments from time to time.

Mr. President, on December 1, yesterday, the New York Times published an editorial impugning my motives in questioning the manner in which a Federal appellate court judge was nominated and approved by the Senate Judiciary Committee. The editorial called my opposition to this nomination a quest for revenge because, in March of this year, a candidate for a judgeship that I had recommended was not approved by the committee.

I do not ordinarily answer such charges made by newspaper editors, but this New York Times editorial was so unfair, so far removed from the true facts, that I feel that I should set the record straight.

As of this minute, Mr. President, there are 17 candidates whom the President of the United States has nominated to the Federal judiciary that the Senate Judiciary Committee has not acted upon. They are left, as a former White House official put it, "twisting slowly in the wind." Apparently, they will be left that way when this session of Congress adjourns. The names of some of these nominees have been before the committee since 1979 and many more have been there for months without being acted upon. Yet, in November, the committee acted to approve and send to the floor of the Senate the name of a nominee for the 1st circuit court of appeals. He is Stephen G. Breyer, a former Harvard professor of law and currently Chief Counsel of the Senate Judiciary Committee.

Mr. Breyer's name was sent to the committee on November 13, the day after the Senate returned from the elections, and given approval by the committee 4 days later. If anyone generally had knowledge of any intention to send this nomination to the floor of the Senate, it was certainly not made available to me or to the public.

Mr. President, I am told that the committee did not meet formally to approve this nomination, but, rather, its members were polled. This is an accurate statement. A point of order was raised by a member of the committee itself. Also, the approval came before the American Bar Association had been heard from, a necessary procedure in every other nomination that I know anything about. The American Bar Association's approval came in on the 19th of November, 2 days after the committee had already polled out the nomination.

The FBI investigation had not been completed. The nomination was made on the 13th. The FBI investigation reportedly was completed on the 28th of November. Yet, I was told by one Senator—I think the Senator from South Carolina—that he had nominated a member of the Court of Military Appeals and it took some 4 months for the FBI to clear that record. In this particular case, it was cleared only 2 days after the nomination, or 6 days after the nomination was made. To be sure, Mr. President, he had had prior clearance for staff work on the Judiciary Committee staff, just as a member of the Court of Military Appeals had had prior clearance. I am not sure that it is the same kind of clearance.

Nevertheless, let us recall now, for a moment: On November 1, the President of the United States sent to the Senate for the first time the nomination of Stephen Breyer. Notice of any kind of public hearing at all on Stephen Breyer appeared in the CONGRESSIONAL RECORD, which was delivered to my office after 11 o'clock on Monday morning, the 13th. By that time, the public hearing, which had lasted exactly 27 minutes, had already been conducted. The public hearing had already been conducted.

I believe I have my dates wrong, Mr. President.

The nomination was sent on the 13th. The notice of the public hearing was inserted on Friday, the 14th. But the copy of that RECORD was not delivered to my office until Monday at 11 o'clock, which was the 17th, at which time the public hearing was already over, with the exception of about 2 or 3 minutes. So effectively, the public was never really given notice of any kind of hearing on this man who was going to become a member of the Court of Appeals for the First Circuit, other than the technical requirement of the law that it be inserted in the CONGRESSIONAL RECORD.

Mr. President, let us look at what happened with regard to the first circuit with regard to this particular vacancy on the appeals court. When the President came into office, he announced that the judges for all courts of appeals, or the recommendations by the Members of the Senate, would have to come from panels or commissions selected by the President and appointed for the purpose of making nominations or submitting names from which a Senator would make his recommendations. That practice had been followed in every single circuit of the United States except the first circuit. In this one, it was not followed.

On May 29 of 1980, the Department of Justice announced the names of six persons recommended by the first circuit panel of the U.S. Circuit Judge Nominating Commission for appointment to a new circuit judgeship created by the Omnibus Judgeship Act of 1978 for the first circuit court of appeals. That was in conformity with the program announced by the President of the United States and in conformity with a procedure that was followed by every other Member of the U.S. Senate.

Mr. President, I believe I am wrong. Let me go back. That was the second list that was submitted. Let us go back to the first list that was submitted.

On March 2, 1979, the Department of Justice announced the names of five persons recommended by the first circuit panel, U.S. Circuit Judge Nominating Commission, for appointment to a new circuit judgeship created by the Omnibus Judgeship Act of 1978 for the first circuit court of appeals. I want to read the names on that first list. The first one is Robert Braucher, an associate justice of the Supreme Judicial Court of Massachusetts. He sits in Boston. I must assume, and I am sure my assumption is correct, that he was interviewed by this nominating commission and found duly qualified and was placed upon the list of these names from whom the Senator should make his recommendation to the President. Certainly, a man who sits on the Supreme Judicial Court of Massachusetts would seem to be qualified.

The second name was Andrew Caffrey, chief judge of the U.S. district court for the District of Massachusetts. He sits in Boston. He is the chief judge of the U.S. district court for that district, and it would certainly, on its face, seem he would be completely and fully qualified. I have heard no disqualifications with regard to age or otherwise.

The third name was of a very distinguished American Archibald Cox, professor of law at Harvard Law School, Cambridge. I understand that Professor Cox was over the age recommended by the American Bar Association and over the age by whatever standards the President made his judgment. I can understand that, Mr. President, because I nominated a judge that was 63 or 64 years of age and, although the bench and the bar in North Carolina were extremely interested in this man, the President refused to accept that.

So I understand why Professor Cox was not accepted.

The fourth name was Florence Murray, judge of the Superior Court of Rhode Island, and she sits in Providence.

And the fifth name was Miriam Naverira de Rodon, a professor of law at Inter American University at San Juan, P.R.

So in complying with the instructions of the President that every other Senator in this body complied with there were five names. I selected and recommended two judges for the Fourth Circuit Court of Appeals from nominating commissions from the list submitted to me. Had I had my own choice I probably would have expanded the list. I might have looked elsewhere, but I was willing to abide by the Executive order of the President.

But for some reason or another the distinguished Senators from Massachusetts found those people unsatisfactory. So for the first time and the only time I am told by the Justice Department, and if I am wrong I hope someone will correct me, the nominating commission was requested to send down a second list of names. This request was acceded to in this particular instance but not acceded to by the President in any other case. I assume that the New York Times failed to note that this morning. So who do they nominate this time?

This time from our preliminary inquiries, and we have made some substantial inquiries although not as much as I would have made with adequate time, but on May 29, 1980, the Justice Department announced that six more persons were being recommended by the first circuit panel of the U.S. Circuit Judge Nominating Commission for the new judgeship in the first congressional district. Those persons were Elizabeth Bartholet, a member of the Bars of Massachusetts, New York, and the District of Columbia, and assistant professor of law at Harvard Law School, at Cambridge.

A second one was Antonia Chayes, a member of the bars of Massachusetts and District of Columbia and an Under Secretary of the Air Force of the United States.

A third name was Jorge L. Cordova, a member of the bars of Puerto Rico and the District of Columbia, and a member of a very prominent Washington law firm.

The fourth name was Jaime B. Fuster, a member of the Bar of Puerto Rico, also in the Office for Improvements in the Administration of Justice here in the Department of Justice in Washington.

Another person was John M. Greaney, a member of the Bar of Massachusetts and an associate justice of the Massachusetts Appeals Court in Boston, another associate justice from the State of Massachusetts.

A fourth member was Juan R. Torruella, a member of the Bar of Puerto Rico and the District of Columbia and a U.S. district judge for Puerto Rico in San Juan.

So you see, now we have a second opportunity of six more names submitted for Senators from the first circuit to make their choice, a privilege not afforded any other Members of this Senate. No one has pointed out that any of these persons were disqualified. As I pointed out earlier I understood that Professor Cox was disqualified because of his age but none of the others were disqualified. But apparently, somehow or another they just did not meet the approval of the Senators from Massachusetts.

So what happened? They were not considered. The President made no selection from these.

There has been a great deal of pious talk here in the past few years about considering Federal nominees for judgeships on the basis of true merit. The idea has been to get the judgeships out of politics.

If this judge nomination does not represent a purely political maneuver then I do not know one when I see one because for the second time none of them recommended by the very distinguished commission in the First District were found suitable to the Senators from Massachusetts.

I think it might be well before we go on a little further to see who that nominating commission really was. Let us see. Are they people of some stature? Were they really making the bona fide efforts to select qualified people? Or was there some reason why these people nominated on two occasions by the commission should have been rejected?

I do not really know all these people who were on the first circuit commission. But I think they ought to be made a matter of record so that the public may know them. There was Robert Braucher, Esq., who was chairman from Boston, a member of the law firm of Hale & Dorr. He was chairman of that committee. There was Rae B. Condon, who I understand to be a member of the Conflict of Interest Commission from Providence, R.I., a State that is included in the first circuit. There is Thomas R. Peterson, president of the Providence College in Providence, R.I., a man certainly of some distinction.

There was Charles H. Abbott, a member of the law firm of Skelton, Taintor & Abbott of Lewiston, Maine, another State included in the first circuit.

There is Franklin Delano Lopez, from San Juan, Puerto Rico. I do not really know what he does, but Puerto Rico is in this circuit.

There is a lady by the name of Ida Marie Wilson from Augusta, Maine, a gentleman by the name of Clifford J. Ross, of a law firm of Ross & Davis from Manchester, N.H., one by the name of Geraldine Lombardo from Hingham, Mass., and I do not know what this person does, another one named Diane Lund, apparently from a law firm of Healy, Lund & Fisks of Cambridge, Mass., and Frieda Garcia, from Boston, Mass.

So there was a nominating commission made up of 11 people representing the whole first circuit. If there has been any disqualifying feature about any of those people on that nominating commission, I have not heard it and the record bears no indication of it.

And that is the same commission that nominated the first panel in 1979.

I stand to be corrected, Mr. President. It is even a little worse than I thought. They were not only dissatisfied with the recommendations of the commission, but they were dissatisfied with the commission. So the names of the persons that I just gave to you were the people who were on the second commission. The first commission was Florence Rubin, chairman of Newton, Mass., made up of Rae B. Condon, I think he was on the second commission, but he was from Rhode Island, a new person named Carolyn Dik, from Worcester, Mass., a new person, Richard Donahue from Lowell, Mass., apparently a lawyer, and his name was not on the other commission, Prof. Paul A. Freund, from Harvard who was not on the other commission, Daniel M. Keyes, Jr., attorney from Springfield, Thomas R. Peterson, president of Providence College in Providence, R.I., who was on the other commission, Charles Abbott, who was on the other commission, from Lewiston, Maine, Franklin Delano Lopez, from San Juan, who was on the other commission, Ida Marie Wilson from Augusta, Maine, she was on the first commission, but not on the other, and Clifford J. Ross from Massachusetts, who was on the first one. So let me go back and put it in the proper perspective. The first commission was named and that is the one I just listed. Then they made their recommendations of five people, five distinguished lawyers or jurists in the first circuit. But for some reason or another none of those were found satisfactory. And as I point out again the President for reasons unbeknown to me, decided that he would appoint a second commission.

In other words, he just did not reject these nominees and say to the commission bring me five or six more. He reoriented the commission. I do not know what the reason for the unhappiness with the first commission was, except apparently there were not any names that suited the right people. So then they named the second commission, the names of whom I just gave for the record earlier.

And this is the commission that named six persons and it was released on May 29, 1980.

Whether or not any of these six individuals were ever given careful consideration or any consideration is not reflected by the record. No one knows. The record does not reflect that either one of them was ever sent down to the Senate by the President. So nothing else was done in the First Circuit Court of Appeals vacancy until after the election and until November, until after the election.

So there were 11 nominees, 10 of whom were clearly qualified. Professor Cox having been disqualified by his age. Then what happened? The President told me, and told me I could quote him on the floor of the U.S.

Senate, and if this is not right then someone else can correct it. He said yes I did agree with Senator Kennedy of Massachusetts before the Democratic Nominating Convention that I would submit Mr. Breyer's name after the election to fill the vacancy in the First Circuit Court of Appeals.

Where is the merit selection system? I asked the President when he told me that. I said, Mr. President, may I quote you? And he said, yes.

I do not believe that the President knew at the time he made the agreement with the Senator from Massachusetts before the Nominating Convention that all 17 other nominees of the President sent to this Senate by the President, all of whom were nominated by Members of this Senate, would be left hanging or dangling in the wind.

I cannot believe, and I do not believe—I know that the President of the United States should not have made an agreement and I regret that he made an agreement—to do for the Senator from Massachusetts before the nominating convention what he had refused to do for every other Member of the Senate who had requested it. I must say I do not know whether anyone has requested it, but I did talk with the Justice Department about the possibility of new nominees in my own circuit.

I regret that the President made that agreement with Mr. Kennedy because at that time Mr. Breyer's name had not been selected by any nominating commission. In other words, an agreement to send this down to the Senate after the election had to carry with it an understanding that, "We are going to keep on until we get us a nominating commission that will send down the name we want." And then they have the audacity to talk about merit selection of judges.

Who were these nominees who were left—to find the word that was used—left twisting in the wind, slowly twisting in the wind? Who were these sacrificial lambs from all over the country who were sacrified in order that the President and Senator Kennedy could have this agreement to nominate Mr. Breyer? Mr. Howard Saches, from Missouri, the Eighth Circuit Court of Appeals, was nominated and the nomination was pending before the Judiciary Committee, a nomination recommended on July 1, 1980.

I assume it would have had to have the blessings of Senator EAGLETON or it would not have been sent down.

Mr. Andrew L. Jefferson, of Texas, representing the fifth circuit, was left slowly twisting in the wind. I am sure that he was recommended by the President on October 12, 1979, a year and a day before Mr. Breyer's nomination was selected, upon the recommendation of a distinguished Democratic Senator (Mr. BENTSEN). But he was one of the sacrificial lambs.

Eugene H. Nickerson, of New York, of the second circuit, nominated on August 29, 1980, 2 months or more before Mr. Breyer, and I am satisfied with the acquiescence and approval of the Senator from New York (Mr. MOYNIHAN).

Nicholas Bua, from Illinois, of the seventh circuit, left dangling in the wind, a sacrificial lamb.

James P. Jones, of the western district of Virginia, nominated in May of 1979.

John E. Sprizzo, of the southern district of New York, nominated back in June.

Gerald Arnold, from my own State, nominated on August 27, cleared by the Federal Bureau of Investigation and recommended by the American Bar Association, a distinguished judge on the North Carolina Court of Appeals. Another one of the sacrificial lambs.

You say I am not interested? Of course I am interested. Any U.S. Senator worth his salt would not stand idly by and watch some shenanigans such as this go on while his own nominee, a man of the distinction of Gerald Arnold, dangled in the wind and went down the drain, without something being said.

Gerald B. Lackey, Northern District of Ohio, I am sure, had the acquiescence if not the recommendation of the two distinguished Senators from Ohio, Senator METZENBAUM and Senator GLENN.

Peter Lowrey, western district of Texas. David Roberts, the district of Maine. Here is a judge nominated to take the place, as I understand it, of Senator MITCHELL, who resigned his seat to come to the Senate. What is Senator MITCHELL going to say when he goes back to Maine next year for reelection? He will say, "I'm sorry, I couldn't get my nominee out of the Senate Judiciary Committee, the man needed to fill my place, even though Mr. Breyer was nominated on the 13th and approved 4 days later." That is another one.

Raymond L. Finch, of the Virgin Islands; Ralph W. Nimmons, Jr., the middle district of Florida; Israel Glasser, eastern district of New York; Philip Weinberg, eastern district of New York; Miguel A. Gimenez-Munoz—I apologize for my pronunciation—of Puerto Rico; James E. Sheffield, eastern district of Virginia.

Then we have Walter Heen, of Hawaii, nominated in February, recommended by Senator INOUYE and Senator MATSUNAGA. Senator INOUYE tells me that there has been no civil court in the Federal court in Hawaii for a long time. Here is a man who was nominated in February and whose nomination is still pending.

All those 17 people were sacrificial lambs.

Mr. President, in a few weeks, I shall leave this body. Some of my friends and associates have suggested to me that I turn my head the other way and keep quiet about this nomination, and that would be the easy way out. However, it has been my policy during 30 years of public life to speak out when I saw something that I felt was patently wrong. For that reason, I have felt compelled to oppose this nomination, not because of the persons involved—because I bear them no ill will—but because of the manner in which it was handled.

When I return to North Carolina, I will take with me my self-respect and the knowledge that I did not deviate from my principles of speaking out against something I considered wrong.

Mr. President, I have not not told the whole story; I have not told the whole sordid story. I have just stated that twice the President appointed commissions to nominate candidates to fill this vacancy, and the second commission was the only time in President Carter's administration that he did this.

I have stated that President Carter, himself, told me that he agreed with Senator KENNEDY, before the Democratic Convention, that he would send Mr. Breyer's name to the Senate after the election; and I have told the Senate that I am satisfied in my own mind that the President did not know that these other 17 were going to be left going down the drain. But he made that commitment at a time when Mr. Breyer's name was not on anybody's list, not on any nominating committee's list. And the New York Times has the audacity to talk about merit selection of judges, knowing full well the shenanigans that went on. If they did not know it, they did some poor reporting.

What happened? If the President's Executive order was going to be carried out, we had to have another nominating committee. Well, this time, apparently, it was felt that there was no need to add any more new names to the Selection Commission but that there was a need for some more names.

No body has put into the record of the Senate, to my knowledge—and if they have, I hope somebody will call it to my attention—any of the disqualifications for the names submitted, except one, Archibald Cox. I certainly felt that his so-called disqualification was not a disqualification, and I hope that sometime we will amend the law. We have just elected a man to be President of the United States who soon will be 70 years old; and if we can do that, I believe a man should be allowed to be a judge of the circuit court if he is 64, 65, or 66. I do not believe that a man's age should disqualify him.

Anyway, we decided that we would not appoint a third nominating commission but that we would ask them to see what they could do about sending us somebody else's name, I suspect—I have no knowledge—that, somehow or other, the word had gotten to them that Steve Breyer's name was needed on this list.

So, on November 10, 2 days before we returned from our election recess, the Justice Department announced the names of three additional persons recommended by the U.S. Circuit Judge Nominating Commission for appointment to a new circuit judgeship created by the Omnibus Judgeship Act of 1978, for the First Circuit Court of Appeals.

What heads that list? Senators do not need me to tell them who heads that list—they know. It is Stephen Breyer, the man whom Senator KENNEDY and President Carter agreed they would nominate as soon as the election was over.

I know Mr. Breyer. He is on the staff of the Judiciary Committee. He is a professor of law at Harvard. I do not doubt at all that he is a smart man. But there is just something that smacks of being wrong when we continue for the third time to get a list of names and we get his name on it. There were two other people on the list—Clyde Ferguson, a professor of law at Harvard, and William G. Young, an associate justice of the Superior Court, Commonwealth of Massachusetts.

Within 3 days from the time that announcement was made, Mr. Breyer's name already had been submitted to the Senate for confirmation of his nomination as a circuit court judge.

I do not know what the agreement was between Senator THURMOND and Senator KENNEDY. They will have to speak for themselves. But the reports I had indicated—and the actual facts indicated—that no Judiciary Committee meeting was held. The reports I had were that it would be polled out and no other committee meeting would be held, so that these other 17 could not be considered. It is a great deal for Senator THURMOND and the Republican members of the committee, because they are going to get 17 Republican nominees. I have to say, in all candor, as many as we Democrats had, it certainly would be enticing. On the other hand, these 17 names were submitted.

So, there we are—most unusual circumstances, most unusual circumstances. We have an agreement by the President to send down a name for a circuit court judge, a person whose name had not been selected by either of the two previous nominating committees. Then, as soon as the election was over, the nominating committee, lo and behold, does send down the list with his name on it.

What kind of hearing was held? Well, the CONGRESSIONAL RECORD was delivered to my office sometime between 11 and 12 o'clock on Monday morning, November 17. According to the transcript of that confirmation hearing on Professor Breyer, held on the 17th, it was convened at 10:35 a.m. Remember, we received our CONGRESSIONAL RECORD between 11 and 12 o'clock.

Present at that hearing were Senator KENNEDY, Senator DECONCINI, Senator HATCH, and Senator COCHRAN. Also present was Senator CHAFEE, who, by the way, represents the State of Rhode Island, which is in this circuit.

I think it would bear well to read this transcript.

CONFIRMATION HEARING OF PROF. STEPHEN G. BREYER TO BE U.S. CIRCUIT JUDGE FOR THE FIRST CIRCUIT COURT OF APPEALS

(Monday, November 17, 1980)

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The Committee met, pursuant to notice, in Room 2228, Dirksen Senate Office Building at 10:35 a.m., Hon. Dennis DeConcini, presiding.

Present: Senators DeConcini, Kennedy, Hatch, Cochran.

Also present: Senator Chafee.

Staff Present: Burt Wides, Committee Council; Mike Altier, Counsel with Senator DeConcini; Duke Short, Chief Minority Investigator; Boyd Hollingsworth, Counsel with Senator Cochran; Romano Romani, Counsel with Senator DeConcini.

Senator DECONCINI. The Senate Judiciary Committee will come to order.

This hearing is on the nomination of Stephen G. Breyer of Massachusetts for the position of United States Circuit Judge for the First Circuit Court of Appeals. By blue slips Senator Kennedy and Senator Tsongas have approved the nomination.

Mr. Breyer's background investigation, which has been extensive both by the minority which we soon will be and the majority which we still are, and indicates a wide experience, a fine reputation, and as one member of the Judiciary Committee who has worked very closely with you, I can assure this Committee and the United States Senate that the quality of your leadership and of your bipartisan support and your approach towards constructive changes in the Judiciary and your willingness to cooperate with all parties involved in legislation is exemplary. I am very pleased to see that you have been nominated to this position and support the nomination even before I hear any opposition from the three Senators that are before us.

Senator Hatch has another scheduled meeting, and he has asked if he could be heard first. If you have no objection, Senator Tsongas and Chairman Kennedy, we will hear Senator Hatch.

STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Thank you, Mr. Chairman. Mr. Chairman, it is rare that this Committee receives a nomination whose character, judicial temperament and intellectual ability are known firsthand by its members. It is rare that this Committee is able to assess the qualifications of a nominee not solely on the basis of written recommendations and hearsay evidence, but on the basis of firsthand experience.

I am extremely pleased that the name of Stephen Breyer has been placed in nomination for the First Circuit Court. There is simply no question in my mind, nor I would guess in the minds of my colleagues on the Judiciary Committee that Steve is eminently well qualified for this position.

There is no question that he will be a credit to the bench and a credit to the good judgment of this Committee. Speaking of course, as a partisan, I cannot honestly say that I am disappointed that Steve will no longer be employed by the majority, although come to think of it that would not be such a bad idea this next year. But he has always proven to be a highly capable proponent of the majority's positions, always conducting himself with the utmost candor and integrity.

Mr. Chairman, I will not recite again the formal qualifications of the nominee except to say that for an individual so relatively youthful, he has enjoyed a remarkably broad range of legal experiences. I think I can speak for those of us on the minority that we strongly support this nomination as one of the best nominations for the Federal bench over these last two years—frankly, over the last four years that I have been on this Committee and over these last two years where we have had such an influx of Federal judgeships.

So with that I would strongly support Steve Breyer for this position. I thank my colleagues for allowing me to go first so I can make my other commitments.

Senator DECONCINI. Thank you. I would only like to point out one of the other outstanding appointments from the State of Arizona, Richard Bilby, that came forward.

I want to welcome Senator Chafee here. We will have an opportunity to hear from you.

First, Chairman Kennedy.

STATEMENT OF HON. EDWARD M. KENNEDY, U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. Mr. Chairman, it is a special privilege for me to come before you this morning and to express my support for President Carter's nomination for Stephen Breyer to the United States Court of Appeals for the First Circuit.

Mr. Breyer is highly qualified by his background and experience for this position. I believe that he will serve with great distinction on the Court of Appeals, and I hope that this Committee will recommend his confirmation by the Senate.

In a sense, all of us on the Judiciary Committee take pride in this nomination, because it is a genuinely bipartisan appointment. For the past two years, Mr. Breyer has served as Chief Counsel of the Committee. During this time, all the members of the Committee have come to know him well, to respect his outstanding ability, and to value his extraordinary fairness and objectivity.

Mr. Breyer served the Committee while on leave from his position as professor on the faculty of Harvard Law School. His interest in the work of the Committee was a direct outgrowth of his commitment to public service and to his preeminent records as a legal scholar in the field of deregulation.

More than any other scholar or expert in the field, Mr. Breyer was the architect of the landmark legislation that deregulated the airline industry in 1978 and the trucking industry in 1980.

His intellectual ability and his practical skill were essential elements in passing that legislation and bringing a new era of competition to our free enterprise system.

Mr. Chairman, I could cite many other examples of Mr. Breyer's remarkable achievements. He possesses a rare combination of extraordinary intellect and practical experience that will enable him to serve with great distinction on the Federal bench. I believe he has the capacity and the potential to become one of America's finest judges, and I hope the Committee will approve his nomination.

Senator DECONCINI. Thank you, Chairman Kennedy.

Senator Tsongas.

STATEMENT OF HON. PAUL E. TSONGAS, U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator TSONGAS. Mr. Chairman, I do not have a written statement, but I would like to just make two comments. One, that I think it speaks well of our system that someone like Stephen Breyer, when available, be appointed to the bench, and secondly, wants to be appointed to the bench.

In reading through his background, one is struck at how comprehensive it is to provide the kind, if you will, of perspective that I think any bench needs, and it is so often lacking. Orrin Hatch said he could not imagine anything he would add to the resume. I would say that perhaps had he gone to Yale Law School rather than Harvard, it might have been a little bit more perspective, but we will leave that as it is.

I think it is important since a lot of the issues that have been raised in the last couple of years go to philosophy and one's particular position on particular issues, and I think this nomination is important in the sense that it talks about substance, competent qualifications, and I think provides a certain, if you will, precedent that hopefully will be followed as we proceed on.

So I am very pleased to join with Senator Kennedy in endorsing the nomination.

Senator DECONCINI. Thank you, Senator Tsongas and Chairman Kennedy. We appreciate your support of this nominee and the background and how well you know the individual.

Mr. Breyer, do you have any opening statement?

STATEMENT OF STEPHEN G. BREYER, OF MASSACHUSETTS, TO BE U.S. CIRCUIT JUDGE FOR THE FIRST CIRCUIT COURT OF APPEALS

Mr. BREYER. No, I would just like to thank you and thank the Senators who have spoken for their very kind remarks, and I hope I can live up to that.

Senator DECONCINI. Do you care to introduce anyone?

Mr. BREYER. My wife and two of my three children: wife, Joanna; and Chloe and Neil. My third one, Michael, is at home.

Senator DECONCINI. We welcome the family of the nominee.

Mr. Breyer, you have heard all the questions that we submit to various nominees, and I will submit to you, as I have to every other nominee, a list of questions relating to organized crime. I would appreciate if you would answer those for us prior to reporting your nomination out.

I need not ask you the normal questions that I ask nominees about judicial tenure. You are instrumental in having drafted that and having it pass both the Senate and the House, and as you know, it has been enacted into law. It is a tribute to your legal ability to help steer such legislation through this body as well as many other examples.

With that I have no further questions. I would at this time ask Senator Chafee if he cares to make a statement. If he does, he may proceed. If he has questions, I will first yield to the Senator from Mississippi for questions.

Senator CHAFEE. Thank you, Mr. Chairman. If it is suitable with you, I thought I would wait until the members of the Committee were through asking questions and then I would ask some.

Senator DECONCINI. Thank you.

Senator Cochran.

Senator COCHRAN. Thank you, Mr. Chairman. I really do not have any questions of the nominee, Mr. Chairman. I would like to add my congratulations to him for his nomination to the Court of Appeals. We all know how important it is to have well qualified, experienced people serving on the Federal bench. I think, Mr. Chairman, the President has named Mr. Breyer to the bench realizing that we do have that critical need in the country; and because of his experience. I think he will certainly do the kind of job that we need and that would reflect credit on the judicial system of our country and on this Committee.

I have no questions, Mr. Chairman, and would defer to the Senator from Rhode Island for any questions or statements that he would like to make.

Before doing so, I would like to add Senator Thurmond is not here today, but also would like for me to convey to the nominee his support for his confirmation.

Senator DECONCINI. Thank you.

Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman. Mr. Chairman, I would be at fault if I did not express my disappointment that the nominee for this first Circuit vacancy is not from Rhode Island. As perhaps you know, Mr. Chairman, this First Circuit covers four States and Puerto Rico. It covers Maine, New Hampshire, Rhode Island and Massachusetts.

Currently sitting on the Court is a resident of New Hampshire, one from Maine, and one from Massachusetts, so when this fourth judgeship was created for the First Circuit I was very hopeful that the President would appoint somebody from Rhode Island instead of a second resident of Massachusetts.

In effect this First Circuit is the Supreme Court as far as we are concerned in our State, since of course, the opportunity to go to the Supreme Court as you know is very limited and hence the major decisions on appeals from the District Court in our State are determined by this First Circuit Court. Nonetheless the President made his appointment and it appears to have considerable support here in the Judiciary Committee. Nonetheless, also I think it is incumbent upon me as a Senator from Rhode Island to ask some questions about this nominee, whom I have never met before and have had no experience with through reputation or otherwise. So I have a couple of questions I would like to ask you, Mr. Breyer.

I did read over your response to the Judiciary Committee, the judgeship questionnaire response, and you, as has been pointed out by the Senators from your State, have had deep involvement in landmark legislation which has gone through this Committee and in the Senate, but as yet relatively unchallenged.

I am thinking about the airline and trucking deregulation, and legislation providing rights for the institutionalized and perhaps we will even get on with some changes in fair housing and the criminal code.

Now, my question is of you: What assurance can we have that your close involvement with these matters here on this Committee would not prejudice you in any way in your ability to conduct fair and impartial review of decisions on these matters that you have been so eminently involved with?

Mr. BREYER. That is a very good question, Senator. I think on that, in that area, I have to and I would want to follow the precedents and the ethics, the canons of ethics and the behavior of other people who have been involved in the legislative process who have become judges. There are, and it depends in part on the degree of your involvement, there are certain canons of ethics that prevent you from deciding certain cases where you had a great deal of involvement with the subject matter of the case. In other areas, where it is perfectly proper to sit, I would simply have to act as a judge, which would mean that I could not substitute my personal predilection or feelings about the wisdom of any particular legislation for what was right on the law.

I mean that is an area that I have thought about to some extent because of course when we were dealing with airline deregulation and trucking deregulation, the matter came up about whether it would be possible for courts to work those changes, even without legislation. Despite my firm convictions that was a desirable direction to go in, we came to the conclusion here that it would require legislation for courts would on the basis of precedents and law be required to decide the contrary of what we felt was desirable. In other words, I would have to act as a judge, I would have to follow the canons of ethics, I would have to follow the example of other people.

There are many fine people that have been in the legislative process and have then gone on to the bench, and I would have to follow the examples of people who have been heavily involved in litigation and has policy issues involved and later on policy-decisions come up on related matters, and that is what I would intend to do.

Senator CHAFEE. Yes, I think you would be in a very unenviable position perhaps, for instance in fair housing legislation there could even be a constitutional challenge in one way or another to it, which you would have to hear after having supported it vigorously here.

Mr. BREYER. Fair housing legislation has not become law, and should a comparable example arise, I would follow the appropriate precedent. I think if there is the appearance of some kind of conflict, that I must disqualify myself.

Senator CHAFEE. Also in looking over your resume, I see you were director of Peter Merrill Associates, but then you say you have been inactive as director and received no payment. What is the legal status of an inactive director?

Mr. BREYER. I mean this was just a friend of mine who started an organization that I simply did not participate in, and when I came down here, I looked up the appropriate canons of ethics. I received $50 a year or something like that before I came here. He was trying to start out a small company. I said I wanted to have nothing to do with it, so there would not be the appearance of any kind of thing, and he said come back on board, and if you get out—well, of course I will resign now entirely.

Senator CHAFEE. There has been considerable atonements thrown your way here for your vast experience and broad background. Yet I noticed that you have never pursued, tried a case to its conclusion.

Is that fair?

Mr. BREYER. When I went before the selection committee, the Department of Justice lists five areas. It says trial area, appellate area, teaching, writing, and legislative work, and it says you have to be qualified in two of the five, I felt perhaps, perhaps immodestly, I felt in four of the five I was pretty well qualified.

Senator CHAFEE. Let us go through each. The first is teacher?

Mr. BREYER. I hope I am qualified as a teacher. You can ask my students and colleagues.

Senator CHAFEE. Well, from Harvard, I think we can accept that as qualified.

Give us the next one.

Mr. BREYER. The next was appellate work.

Senator CHAFEE. Let us go through that one. I have come to this interview here without vast experience, like the other members of the Committee have had with you. So I do not know your background but I am interested. You are going to hear cases from my State which is the court of last resort really.

Mr. BREYER. I have spoken in your State, alumni groups and so forth. I would hope the fact that I am from Massachusetts, and not Rhode Island, would not in any way prevent me from deciding cases in your State on the same basis of fairness as others.

Senator CHAFEE. I am prepared to accept that. Let us hear about the second point. We have teaching qualified.

Mr. BREYER. Appellate work. When I worked in the Justice Department, I was put in charge of writing the appellate briefs from the Antitrust Division, and so I reviewed and read appellate briefs in that capacity. I have worked since I have been a teacher on a consulting basis, and from time to time have written appellate briefs, and I appeared when I was in the Department in court and argued, for example, in Merce v. Akron, I argued to the Appellate Court of Appeals.

Senator CHAFEE. You have argued an appellate case?

Mr. BREYER. Yes. Most of my work in law school, as I know you are familiar with, is primarily with appellate cases. What we are doing basically in law school teaching is going through appellate cases and considering them, and considering how they might be decided and what the logic of them is. But I would say in practical experience there as well as in teaching I have some experience.

Senator CHAFEE. You have argued an appellate case before the Supreme Court?

Mr. BREYER. No, it was Sixth Circuit.

Senator CHAFEE. Sixth Circuit. How many?

Mr. BREYER. I argued that one. I had that oral appearance and the rest of the time I have briefed.

Senator CHAFEE. One case?

Mr. BREYER. For oral appearance.

Senator CHAFEE. In other words you took it all the way?

Mr. BREYER. That is right.

Senator CHAFEE. What is next?

Mr. BREYER. The third one was writing. I can go through this if you like.

Senator CHAFEE. You have done notes and law review articles?

Mr. BREYER. I have had two books published and a third one has been accepted by Harvard University Press. I have in my resume there 7 or 8 or 9 fairly extensive articles, and I have written other less extensive articles, but I have written pretty extensively on administrative law, antitrust law and other aspects of Federal law. The fourth area was, I am trying to remember the exact phrasing, but it was more or less law reform work in the Federal area.

In that I feel it is fair to say I have pretty extensive experience because of my work here, and my work on airline deregulation, which involved Senate hearings and carrying the legislation through, my work with this Committee on a large number of bills and hearings and nominations and other areas. But even leaving the Committee apart, I appeared before administrative tribunals and argued for various kinds of administrative reform, so I felt in that fourth area that I had pretty extensive qualifications.

In other words, they would ask for two and I felt in four areas I had pretty strong paper qualifications anyway, and the merits of that I think you can best find out by asking others.

The fifth area, the trial area, in my own mind I feel it is important to have either trial experience or some familiarity with the trial process, if you are going to be appellate court judge. The question is, since I think there are many such judges who are not trial lawyers, who maybe have not been in trial courtroom, what is there in my background that is an equivalent substitute or gives me at least an approach, at least the beginning of the necessary experience? I am moderately familiar with the rules of evidence. I have taught evidence for three years at Harvard. When I was in the Appellate Division, when I was running the Appellate Section of the Antitrust Division, as a sort of acting head there, I became familiar with trial records. We worked heavily with trial records. When I worked with Archibald Cox, I was Assistant Federal Prosecutor in the Watergate's prosecutor's force, and at that time I organized an investigative phase of the cases, some of the cases that eventually went to trial, so I was heavily involved there with the preparations for trial, investigating witnesses, organizing data, getting the things ready to go to a grand jury and so forth, so I was heavily involved in that investigative phase. Then finally I think in the work, while a legislative hearing I am well aware is not equivalent, is not the same as a judicial hearing, nonetheless a lot of work, particularly in the airline thing, is similar. It is an adversary context. It is preparing witnesses. It is questioning witnesses. It is pulling together the information you receive in an organized way, so that it can be presented coherently to make an argument. It is taking account of the points of the other side and treating them fairly and thoroughly, and above all I think it is an understanding that the written record does not always reflect all the byplay and all of the things that are going on in the hearing. I think that has given me some experience which I think people that fifth area of the five is probably where I am the weakest in terms of experience.

Senator CHAFEE. But you think you could be sensitive to the problems that a trial judge encountered in the course of a trial?

Mr. BREYER. I certainly would. I have already found out, for example, that the office of the First Circuit, the appellate judge is upon the 16th floor, and two floors down are the courtrooms where the trial court judges are, and there not only is not only anything wrong but it is appropriate for me to go down there and listen or even to participate, and indeed when I learned that, that took quite a burden off my mind. That is indeed just what I would do.

I want to say parenthetically that, Lord of mercy, I thought if an appellate judge were to sit in a trial courtroom and hear the trial itself that that in itself would be a disqualifying factor in its own right.

I certainly think, it is elementary to me, that a circuit court judge who sat in a courtroom during the trial of a case would be disqualified. He says, "That is indeed just what I would do."

Senator CHAFEE. What do you mean participate?

Mr. BREYER. They will allow you to sit on cases, I gather?

Senator CHAFEE. Just sit and listen?

Mr. BREYER. That I would have to find out. I do not know the details of that.

Senator CHAFEE. Let me ask you, in these five criteria, judicial experience was not one of them?

Mr. BREYER. I would have to go look it up. I am sure judicial is one——

Senator CHAFEE. To leave judicial experience out of one——

Mr. BREYER. I am sure that must have been one, but I would have dismissed that because I do not have that.

Senator CHAFEE. I do not think judicial experience is essential. After all, Calvert Magruder never had judicial experience. It is nice, but not essential.

Thank you, Mr. Chairman.

Senator DECONCINI. Senator Chafee, thank you. I want to applaud the Senator from Rhode Island in taking the concern and interest he obviously has on selection of appellate judges. I think there are many of us in the Senate who could pay far more attention to it as it reflects to our own State, our own judicial area, and of course the country, and I applaud your conscientiousness in this matter.

Senator CHAFEE. I want to thank you, Mr. Chairman, for letting me sit in and ask the questions.

Senator DECONCINI. You are welcome any time. There has been a judicial conference recommendation to create a fifth seat on the First Circuit. I am hopeful that with the new Administration, with new Senate leadership here, that this Congress will proceed to continue to upgrade the courts and add additional judges where needed, and this recommendation has already been forwarded to the Congress, so perhaps the day will come when we have another opportunity to have a nominee.

I can add nothing further.

Senator Cochran, do you have anything?

Senator COCHRAN. I have nothing further.

Senator CHAFEE. Mr. Chairman, in connection with that last point that you made about the fifth judge for the First Circuit, I do not know whether they will go forward with it or not. It is of course up to the Administration and up to this Committee. But I do note that to the best of our ability there are only about four States in the Nation that do not have a resident who is on a Circuit Court: Rhode Island, I think South Dakota, Alaska, and one or two others, or so I have been told. So should a vacancy occur, I would appreciate it if this Committee would certainly give consideration to any nominee from Rhode Island, and I would be grateful for that.

Senator DECONCINI. Senator, I can assure you that if there is a bill presented here and introduced in the next session of Congress to expand the First Circuit or any of the circuits or other district judges that every consideration will be given. I think your point is well taken. I would hope that the new Administration continues their selection process and that qualified people from the State of Rhode Island would seek that position.

Mr. Breyer, I am sure there are many members of the Judiciary Committee staff that would love to ask you questions, like to save you any potential embarrassment, and I say that facetiously.

I have no other questions other than to compliment you once again for the excellence in the performance that you have put forth in behalf of the United States Senate Judiciary Committee. It has been an experience very rewarding to me and many other members. We wish you well, and I want to take a moment to compliment Senator Cochran, Senator Thurmond, Senator Hatch and other members of the minority for expediting this hearing. I think it is important. I think it demonstrates the wisdom of the minority soon to control this Committee that qualified people should be pushed forward as a matter of fact, and expedited in the process, and we certainly have that example before us today.

It has been a pleasure to be associated with you, and I look forward to hopefully appearing before your court some day.

Mr. BREYER. Thank you very much.

Senator DECONCINI. Is there anyone who cares to testify in favor or opposition to this nomination?

If so, will you please come forward at this time.

If not, this hearing will be closed.

(Whereupon, at 11:02 o'clock, a.m., the Committee recessed, to reconvene subject to the call of the Chair.)

Mr. President, the hearing took 27 minutes, and then the whole hearing was recessed on a man whose nomination had only been sent to this Senate 4 days before, on a man on whom the American Bar Association had not made its report, on a man on whom the FBI had not completed its investigation, on a man selected by a third try of a circuit nominating committee, a privilege extended to no other Member of the Senate, a man who has never tried a single trial case to verdict in his whole life, who has argued one appellate case while he was working as an attorney in the Justice Department, and I do not know of any attorney who ever worked in the Justice Department who was not given that privilege by the Attorney General to gain some experience.

Mr. Breyer has a very distinguished academic record. I have no question at all about his ability to teach and ability to research, but it just happens to appear to me as a lawyer who has held his license for 30 years and I would dare say has tried as many trial cases as any Member of this Senate, unless it was some Senator such as Senator DECONCINI who was a prosecuting attorney, that I just cannot comprehend an appellate court judge on the First Circuit Court of Appeals who has never tried a single trial case and says "I will get some experience because trial courtrooms are two floors down below and I will go down and I will sit down and I will watch some of those cases. I will watch them," and I assume they will have to be some of the cases that might very well come up.

I have no question at all about his intellectual ability but I do question the sanctimonious assumption that we are making our selection of judges on merit when a deal was cut with the President before the New York City Democratic Convention—when I say "deal" I will ask to strike that—the President said he made an agreement with Senator KENNEDY—those are his exact words and said I could quote him—that he did make an agreement with Senator KENNEDY that he would send this man's name to the Senate after the election, even though is was not on any nominating committee's list.

Mr. President, there has been no effort at all since this Senate reconvened on November 12 to consider any of the other 17 judges left dangling in the wind. You know the Democratic Party in this Senate today is still the majority party. There was no reason in the world why the chairman of the committee could not have called that committee together. I am sure that not all of those 17 judges would have been reported, but there was an agreement in the way. There was an agreement that we will pull this man out. We will not have any more Judiciary Committee meetings, to the end that none of the rest of them can be brought up, and they pulled him out.

I would have had no desire to defeat this nomination if there had been a conscientious effort to bring out the other 17 judges or certainly the one from my State. Senator HELMS has stated openly on the floor of this Senate that he supports that nominee and he is certainly qualified. Now we are sitting down there in the eastern district without a judge. But the agremeent was there would not be any committee meeting so they could not be brought up. That was one of the reasons I joined last week in saying I was going to raise a point of order because you cannot pull a man out of a committee under the committee rules unless there is a majority. And there was not a majority.

I am not the only one concerned. Let me read a letter dated November 24, 1980.

The Honorable EDWARD M. KENNEDY, Chairman, Senate Judiciary Committee, United States Senate, Washington, D.C. 20510.

DEAR SENATOR KENNEDY:

It is our understanding that the Judiciary Committee may soon hold a business meeting for the purpose of reporting out certain judicial nominations.

And this letter was written after it was clear that a point of order was going to be raised.

There are at the present time 17 nominations for judgeships on which the Judiciary Committee has taken no action. Approval of most of these is vitally important. It is our view that the committee should consider all these nominations at this next meeting with the goal of reporting them out, so that they can be considered by the full Senate. Your support of this would be greatly appreciated.

Signed GEORGE J. MITCHELL, U.S. Senator from Maine, DAN K. INOUYE, U.S. Senator from Hawaii, RICHARD STONE, U.S. Senator from Florida, DANIEL PATRICK MOYNIHAN, U.S. Senator from New York, ROBERT MORGAN, myself, LAWTON CHILES, U.S. Senator from Florida, SPARK M. MATSUNAGA, U.S. Senator from Hawaii, and on my copy it does not show it but I am advised by my staff member that Senator JOHN GLENN, Senator from the State of Ohio, signed the same letter and Senator LLOYD BENTSEN from the State of Texas signed the same letter.

So there are nine U.S. Senators who signed this letter of the 24th which was last Monday, saying, "Just please consider our nominees. That is all we ask, that you just consider the nominees."

And I participated that morning with the distinguished Senator from New Hampshire in making sure that the committee did not meet during the first 2 hours until such time as I felt some assurance from someone that there was going to be a conscientious effort to consider these nominees.

And we did not get it. So at 12:15, of course the committee could not meet.

All during the day I stood here on the floor, stayed on the floor most of the time and I talked to various members of that committee. Various members of the committee said, "You know, Robert, I think you are right, but we don't know what we can do with the Republicans," and I did not think you could do much with them, especially after the agreement had already been made. But you cannot convince me that there are not some good Republican members on that Judiciary Committee who would look beyond the end of their noses and say, "Look, here are some nominees where both Senators have given their endorsement." Some of them are Republican and some of them are Democrat. In my own case, Senator HELMS had sent back his blue slip and he said on the floor of this Senate, and it is in the RECORD, that he endorsed him, and you could not convince me that if a conscientious effort were made to consider them that some progress could not have been made.

Mr. President, during that evening, during last Tuesday, it was obvious to us that preparations were being made for the committee to meet. It was no secret. There was nothing unknown about it. Of course, time was of the essence in reporting it out.

Before I left the Senate, I realized that there might be an effort to recess the Senate, to allow the Senate to recess for 10 minutes, or 15 minutes, whatever, and to come back and report the nomination out to gain a day.

I talked with the majority leader. I said: "I think, Mr. Majority Leader, if that committee will go in there and make a conscientious effort to resolve these problems and come out and if I am satisfied that they made a conscientious effort to consider some of these people, to resolve the conflicts, I would certainly be more inclined to go along with the procedure, as irregular as the Breyer nomination is."

I understood that is what was going to happen, so I started to leave. As I got about halfway down the steps, someone came and got me and I came back. Someone was about to change their mind. They were going to have a recess, let the committee meet, and come back and report it back Tuesday night.

Well, we had another discussion. To make a long story short, it was decided, let us give the Judiciary Committee an opportunity to carry out its duty. We are still holding office until January 3.

So we did. We recessed.

They had an agenda, and we had been led to believe that there would be a real effort made on this agenda, though I am not all that naive. The first item on the agenda was Mr. Breyer, the second item a private relief matter, the third was the Small Business Motor Fuel Marketer Preservation Act of 1980, and the fourth item on the agenda was the 17 nominees left to dangle, turn, and twist in the wind.

Nevertheless, I had hoped that a conscientious effort would be made. I can tell you now, Mr. President, and I say this to my colleague, if you had gone in there and sat in the committee, and had discussions, legitimate discussions, about these nominees, talking about the pros and cons, and come out of that committee—maybe bloody but with no result—with at least an effort having been made that would be somewhat persuasive to someone who wanted to believe it, that they were trying to treat all 17 of them right, I doubt that I would be here on the floor of the Senate today.

But what happened? Well, needless to say I was disappointed. I think the transcript of the meeting itself would best tell you whether or not there was a good faith effort made.

I might start off by saying the meeting started at 7:50 and adjourned at 8 o'clock. It lasted 10 minutes. For 10 minutes the Judiciary Committee met to consider an item of this kind.

Tuesday evening, November 25—and that sets the record straight. The letter of the several Senators was written on Monday, the letter which made a plea to the members of the committee to have a serious consideration of all 17.

The Committee met, pursuant to notice, in Room S. 224, The Capitol, at 7:50 p.m., Hon. Edward M. Kennedy (Chairman) presiding.

Present: Senators Kennedy, Levin, Culver, Metzenbaum, DeConcini, Leahy, Baucus, Thurmond, Laxalt, Hatch, Cochran, and Simpson.

Staff present: Ron Brown, Chief Counsel; and Quentin Crommelin, Chief Minority Counsel.

Senator KENNEDY. The Judiciary Committee will come to order.

I believe that the members of the Judiciary Committee are aware of the nomination that was sent to the United States Senate on Stephen G. Breyer, of Massachusetts, to be United States Circuit Judge, Court of Appeals.

We had a unanimous vote in the polling, but a point of order was raised in terms of a member of the Senate, a point of order that a quorum was not present. And to ensure that the will of the Committee be expressed, I will ask now whether there is any objection.

Senator THURMOND. I move it be approved.

Senator LEAHY. Second.

Senator KENNEDY. All in favor, say "aye."

(Chorus of "aye.")

Senator KENNEDY. Those opposed?

(No response.)

Senator KENNEDY. Let the record indicate it was a unanimous vote of the Committee that Mr. Breyer be approved for that purpose.

The second item on the agenda is S. 2849, private relief for Charles Jeffery Greene. It is a private bill.

Senator DECONCINI. I move it be approved. I move the approval.

Senator KENNEDY. Without objection, the private relief, S. 2849, is approved.

The third item on the agenda is S. 2798, Small Business Motor Fuel Marketer Preservation Act.

Senator SIMPSON. Mr. Chairman, I regretfully move that be put over. The reason is, even though we have had hearings at the subcommittee level, we have had more at the full Committee level.

More importantly, I think that there are abuses. I really do know there have been abuses.

Senator KENNEDY. The Senator is within his rights in doing so. There are——

Senator BAYH. There is no way we can persuade you to have a little more compassion in your heart for that small retailer out there who has invested his life savings in serving his community?

The answer is no?

Senator SIMPSON. The milk of human kindness is not soured totally on my breath, but I have been practicing law for 20 years, and I had a lot of poor guys come in that have been ripped off by the majors entirely with that little printed contract that left him with one can of oil and three batteries and tires and accessories and racks. So I know what that is. And I hope we can correct that in the next session.

But here we are at the eleventh hour. I don't see any reason to deal with that, or anything else. That is my feeling.

Edward has talked to me about it. I know about it. And I am voting this way in every Committee I am on at this late season of the session.

Senator KENNEDY. The Senator is within his rights.

The other thing are the nominations which have been up before us to varying degrees, and I would like to see if we can get——

Senator DECONCINI. Mr. Chairman, could I speak for just a minute?

Senator KENNEDY. Surely.

Senator DECONCINI. It won't be long.

Mr. Chairman, I realize the politics of where we are and the necessity of the minority, soon to be the majority, to want to permit the new President to make appointees, but I have been advised that when President Carter came into office he took the majority of the lame-duck unconfirmed judges and sent them up here. And unless I am mistaken, I would implore the members of the minority, who will control this body next year, to consider passing all of these. They have all been approved. And I would hope that the Committee would consider that.

By the way, the record does not reflect it but my staff member, who was present tells me that prior to that time Senator Thurmond had walked out of the room and came back.

Senator THURMOND. Well, that will be passed on to them for consideration. But I object taking up any more tonight. I think we lost our quorum now.

So apparently the quorum did not stick around.

Senator KENNEDY. We are unable to get the other members for a quorum. So there will—

Senator DECONCINI. Well, Mr. Chairman, let me go ahead. Let us go ahead for just a few minutes and—in case somebody should show up.

There are a number of judges here, Judge Sachs, of Missouri—

Senator KENNEDY. I think we have looked into that particular matter, Dennis, and that doesn't happen to be the case. It is the understanding, at least of—

Senator THURMOND. Mr. Chairman, I object.

Senator KENNEDY. Well, we are out as a Committee. We are just talking.

Senator THURMOND. We don't have a quorum and I make a point of order.

Senator KENNEDY. While you are standing there we have one.

Senator DECONCINI. Mr. Chairman, I—

Senator KENNEDY. To get back now, Dennis—

Senator DECONCINI. I would at least like to express my opinion, Mr. Chairman.

There are a number of judges here that are dearly needed. In Ohio——

Senator KENNEDY. The Senator is within his rights in terms of making a point of order. We don't have a quorum. And so far the purposes of the meeting, we will adjourn. But for those who want to remain here for the discussion, of which I will remain here, we will proceed.

(Whereupon, at 8:00 p.m., the Committee adjourned.)

Ten minutes. It is perfectly obvious what happened.

So, Mr. President, this is a fine example of merit selection of judges. It is a disregard of the President's Executive order not once but twice. It is an agreement by the President that he would nominate a man who was not on anybody's list as soon as the election was over. There is the failure of the chairman of the committee to call a committee meeting after we came back to consider any of those other nominations. And then the selection of a man from the third list selected by the committee before the American Bar Association had made its report, before the Federal Bureau of Investigation had made its report. I realize he had been on the committee, but so had Senator HOLLINGS nominee been on the Court of Military Appeals which required a much more thorough background check.

Here was a man who had never tried a single trial case, who has argued one appellate case in his life.

Mr. President, I have nothing personally against Mr. Breyer, and I doubt that other Members have anything personal against him. I have no quest for revenge, I will say again. I do not believe you have to have any other motive than wanting the Senate to meet its responsibility to consider judges on their true merits in order to question how this nominee's name is before this body.

As I said earlier there has been a great deal of pious talk during these past few years about considering Federal nominees for judgeships on the basis of true merit. The idea is to get the judgeships out of politics. I am one of those who thinks that whenever you say, let us get the judges out of politics, or, let us get everything out of politics, what you are saying is, "Let us get it out of the hands of the people and put it in the hands of those who can manipulate."

Certainly, if there has ever been a case where a committee was manipulated it would have had to be this one because this committee on 2 occasions nominated 11 nominees for this circuit, only 1 of which was disqualified by reason of age. They had to go back and lick the calf a third time and come up with three more in order to get Mr. Breyer's name. The sacrificial lambs in this case, as I mentioned, are those 17 nominees who probably never will be considered and who will be left slowly twisting in the wind.

As I said earlier, Mr. President, in a few weeks I shall leave this body. Some of my friends and associates have suggested to me that I turn my head the other way and keep quiet about this nomination, and that would have been the easy way out. But I point out again that it has not been my way for 30 years of public life. When I retire from public life—temporarily or for whatever period of time it will be—on January 2, I will be able to do it with the knowledge that I have done my duty as I have seen fit. I will have my self-respect. I will have the knowledge that I did not deviate from my principles and that I did not fail to speak out against things which I think are wrong.

Mr. HUMPHREY. Mr. President, as I said before, I think it is most unwise in what we hope will now be the final hours of this Congress to be acting on any important nomination and certainly one as important as this nomination to the First Circuit Court of Appeals. It is a nomination made by a lameduck President that is about to be acted upon by a lameduck Congress. It is a nomination accompanied by some very curious circumstances.

As I said in my earlier remarks, there are a great many nominations of all kinds including some 17 judges still pending before the Senate Judiciary Committee which nominations will be allowed to die. But for some odd reason this one nomination has received special and preferential treatment. I think we all know why, Mr. President. I think anyone who has followed this controversy is aware that a deal has been struck and now it is about to be carried out.

Mr. President, I ask unanimous consent to have printed in the Record a letter which I sent my colleagues on December 4, 1980.

There being no objection, the letter was ordered to be printed in the Record, as follows:

December 4, 1980.

Dear Colleague: As you know, I am opposing the nomination of Mr. Stephen Breyer to the First Circuit Court of Appeals, which court has jurisdiction over my state of New Hampshire.

Our colleague, Senator Bob Morgan, revealed in the Record some surprising details of the manner in which the Breyer nomination has been given preferential treatment, including interference in the merit selection process by the President of the United States.

I have attached Bob's remarks from the Congressional Record. The highlights are these:

"The President has stated he made an agreement to submit the name of Stephen Breyer to the Senate (this action mooted any recommendations to be made by the Merit Selection Panel.)

"The first five names submitted by the Merit Selection Panel were rejected.

"The names were not only rejected but the membership of the Panel was then changed.

"The new Panel submitted another list of six names. This list, too, was rejected.

"The Panel submitted yet another list, this time including the name of Stephen Breyer, which the President then sent to the Senate.

"The Judiciary Committee held hearings with only two days' notice, reported the nomination out the same day and in a manner which violated the Committee's own rules. The Committee was in such haste, it acted even before the background investigation of Mr. Breyer had been received."

I believe it is unwise to act on any nomination at this late hour, especially one which has been the subject of controversial maneuvering. I ask your help in voting against cloture.

With warmest regards, I am

Sincerely yours,

Gordon J. Humphrey,
U.S. Senator.

Mr. HUMPHREY. I reserve the remainder of my time.

I yield 5 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I have spoken earlier about this matter and I will speak again.

Mr. President, when President Carter came into office he spoke often about the selection of judges by merit and to that end by executive order he set up a circuit judge nominating commission with panels for each circuit in the country. These panels are made up of distinguished citizens residing in the circuit involved. Every Senator in this body had been bound by the recommendations from the panel in his own district.

The Justice Department told me that in every circuit a nominee has been selected from the first list submitted but in the first circuit. It has taken three lists in order to arrive at the name of Mr. Breyer.

Mr. President, I have a nominee in that committee that had had a hearing. He is on the Court of Appeals in North Carolina. My district is so far behind just this past week the fourth circuit declared an emergency and exempted it from the Speedy Trial Act.

What happened is they threw the merit selection plan to the winds.

The President told me himself and said I could quote him that before the convention he agreed with Mr. Kennedy that he would nominate Mr. Breyer after the election even though at that time his name was not on anyone's nominating committee or list.

Then we have Mr. Thurmond telling us after we come back that there will be no further committee meetings because there had been an agreement whereby they would poll out Mr. Breyer and have no consideration of any other nominees, and that is exactly what has happened and yet the New York Times had the audacity to say that this was a merit selection.

My friend, the Senator from North Carolina, talks about how qualified he is, and yet the questionnaire submitted showed the man has never tried his first case in court. He has only argued one case in the appellate court and that was as a young attorney as amicus curiae.

I have had a lot of mail from this and some of it came from Boston. In the remainder of my time let me read this one paragraph and I will have more to say after the vote whether cloture is invoked or not.

> Hardly less important would be a further strengthening of the tendency to place on the higher courts men without substantial trial experience either as practitioners or judges. Prior experience is almost always that of an academic or a member of a congressional staff. I think many of the things that are wrong with the present state of our jurisprudence is in the predominance of rulemaking of the Supreme Court and courts of appeals, of abstract and academic considerations over practical ones, and I would say that is a product of the appointment of too many appellate judges without such experience. Such men have many times gone—

And it talks about his intelligence.

But if the Republicans support him, and if Mr. Kennedy supports him, what is wrong with letting the President submit his name again after January 3 and having some hearings and giving everybody an opportunity to be heard? I did not know the hearings were being held until they were already over. I heard the Senator from New Hampshire say he did not know of them until they were already over.

So, Mr. President, if we are talking about merit selection, then your vote should be against cloture. If you want to say that you want to throw merit selection to the winds and say, "Yes, we are going to yield to political deals on our selection of our appellate judges," then vote for cloture.

I yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, if the other side has nothing further to say I would be prepared to yield back the remainder of our time.

Mr. CULVER. Mr. President, I yield 2 minutes to the distinguished Senator from New Hampshire (Mr. Durkin).

Mr. DURKIN. I thank the Senator.

Mr. President, I will be brief. As someone who has grown up in the first circuit, and as a Senator from my State covered by the first circuit, and someone who plans to live in the first circuit, I just want to lend my strong support to the nomination and I will vote to invoke cloture.

I yield back the remainder of my time.

Mr. CULVER. Mr. President, if the other side yields back their time we will yield back our time.

Mr. HUMPHREY. One further piece of routine business. I yield to the Senator from North Carolina.

Mr. MORGAN. Mr. President, I ask unanimous consent that my "Dear Colleague" letter dated December 3, 1980 and my "Dear Colleague" letter dated

December 4, 1980, be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., December 4, 1980.

Dear Democratic Colleague: In connection with the Stephen Breyer nomination, I am enclosing a copy of an article appearing in today's News and Observer from Raleigh, North Carolina. That article outlines how desperately another judge for the Eastern District Court in North Carolina is needed.

My nominee for the vacancy on this court is one of the 17 languishing in the Judiciary Committee at the same time that the Senate is being asked to confirm Mr. Breyer.

The article reports:

That 1,445 cases are backlogged;

That the Fourth Circuit Court of Appeals has, for the second time in one year, exempted the U.S. District Court in Eastern North Carolina from parts of the speedy trial laws;

That nine special judges have been ordered to hold civil court in the district to reduce the backlog; and

That the criminal case load has increased by 100 percent over the last year, the second largest increase in the nation.

I am sure that North Carolina is not in this situation alone. Again, I hope you will vote against the cloture petition to limit debate on Mr. Breyer's nomination. Seventeen nominees left to perish set against the circumstances of Mr. Breyer's nomination is no way to complete the 96th Congress.

Sincerely,

Robert Morgan.

U.S. Senate,
Washington, D.C., December.3, 1980.

Dear Fellow Democrat: Tomorrow the Senate will be asked to vote on a cloture petition to limit debate on the nomination of Mr. Stephen Breyer for the First Circuit Court of Appeals. I hope you will take a moment to reflect on the circumstances of this nomination.

When President Carter came into office, he spoke often about the selection of judges by merit. To that end, by Executive Order, he set up a Circuit Judge Nominating Commission, with panels for each Circuit in the country. These panels are made up of distinguished citizens residing in the Circuit involved.

Every Senator has been bound by the recommendations from the panel in his own Circuit. The Justice Department told me that in every Circuit but the First, a nominee has been selected from the first list submitted. But in the First Circuit it has taken three lists in order to arrive at the name of Mr. Stephen Breyer.

The unusual circumstances in this instance are not difficult to understand. The President and Mr. Kennedy reached an agreement before the Democratic National Convention in August that the President would nominate Senator Kennedy's friend and counsel on the Judiciary Committee, Mr. Breyer. The President himself told me of this agreement and said that I could quote him on it.

No other member of this body has had the privilege afforded Senator Kennedy. But this is not all.

It is generally known, and Senator Thurmond has stated, that he made an agreement with Senator Kennedy to allow Mr. Breyer's name to be reported from the Committee provided that no other judicial nominees or significant legislation were reported. This means that the 17 other nominees were to be left slowly twisting in the wind. Some of these nominees have been before the committee for over one year. Hearings on many of them have been completed.

The 17 nominees are in stark contrast to Mr. Breyer. His name was sent to the Senate on November 13. Four days later, with little notice, the Committee with four members present held a 27 minute hearing on his nomination. He was then polled out of the committee and put on the Executive Calendar. But at that time neither the ABA report nor the FBI report on him were complete. It is customary that the ABA report be completed before the President even sends a nominee to the Senate.

I want to emphasize that I do not doubt Mr. Breyer's talents. His scholarly abilities are established. But it is important to note that he has not tried a single case in court during his entire career. He made one oral appearance before a circuit court in the late 1960s, but in that case it was only as an amicus curiae.

My point is that his nomination should be left for the next Congress to consider after a full hearing has been conducted. I object to the highly unusual manner in which this nomination has been considered. I object to approving Mr. Breyer when 17 other nominees, including one of my own, are left to perish in the committee. I object to the arrangement agreed to by the President and Senator Kennedy, an open breach of the merit selection system so proudly put into place for circuit court judges.

For these reasons, I do truly hope you will find it possible to vote against cloture tomorrow.

Sincerely,

Robert Morgan.

CLOTURE MOTION

The PRESIDING OFFICER. All time having been yielded back, and debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the standing rules of the Senate, hereby move to bring to a close the debate upon the nomination of Stephen G. Breyer to be U.S. circuit judge for the first circuit court of appeals.

> Max Baucus, Dennis DeConcini, Howell Heflin, Howard M. Metzenbaum, Strom Thurmond, Orrin G. Hatch, Paul Laxalt, Donald Riegle, Birch Bayh, Joe Biden, Bill Bradley, Paul Sarbanes, Tom Eagleton, George Mitchell, Harrison Williams, and Robert C. Byrd.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Mr. Stephen G. Breyer to be U.S. circuit judge for the First Circuit Court of Appeals shall be brought to a close?

The yeas and nays are automatic under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Alabama (Mr. Stewart), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield) is necessarily absent.

The PRESIDING OFFICER. Do any other Senators in the Chamber wish to vote?

The yeas and nays resulted—yeas 68, nays 28, as follows:

[Rollcall Vote No. 512 Ex.]

YEAS—68

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cranston
Culver
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatch
Heflin
Huddleston
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stennis
Stevens
Stevenson
Stone
Thurmond
Tsongas
Weicker
Williams
Zorinsky

NAYS—28

Armstrong
Baker
Boschwitz
Byrd, Harry F., Jr.
Cohen
Danforth
Domenici
Garn
Goldwater
Hayakawa
Heinz
Helms
Hollings
Humphrey
Inouye
Jepsen
Kassebaum
Lugar
McClure
Morgan
Roth
Schmitt
Simpson
Stafford
Tower
Wallop
Warner
Young

NOT VOTING—4

Cannon
Hatfield
Stewart
Talmadge

The PRESIDING OFFICER. On this vote the yeas are 68, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

NOMINATION OF STEPHEN G. BREYER

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HUMPHREY. Mr. President, I yield myself 5 minutes.

Mr. FORD. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. Will the Senate please be in order? The Senate will be in order.

The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the Senate has made its wishes known. In that the hour is late and we have a great deal of important business, not the least of which is revenue sharing, a matter of great interest to my State, for my part I do not intend to prolong matters any further. I have done my best. I think the Senate has spoken and the matter is now history. I do hope we can get to revenue sharing as quickly as possible.

I believe my colleague from North Carolina (Mr. Morgan) wishes to speak on the subject of the nomination. For the information of my colleagues, I do not intend to delay things any further.

I might say that we have not delayed things along the way as we have permitted other legislation to come up for consideration by the Senate.

For the information of my colleagues, I believe all concerned parties have agreed that a voice vote would be sufficient on this nomination.

I yield such time as he may require to the Senator from North Carolina.

The PRESIDING OFFICER. Will the Senator from North Carolina suspend for a moment?

May we have order in the Chamber?

The Senator from North Carolina.

Mr. MORGAN. Mr. President, for the information of my colleagues, I join with Senator HUMPHREY in saying that the Senate has spoken on this matter loud and clear. I have no intention of trying to delay a vote, but I do think it is important that I lay before the Senate and spread upon the record of the Senate what I believe to be the facts behind this matter, and what I believe also to be the qualifications of a judge.

Mr. President, I am interested in this matter because the eastern district of North Carolina is bigger than several of the Northeastern States of the United States.

The PRESIDING OFFICER. Will the Senator withhold for 1 more minute?

May we have order in the Chamber? The Senate will be in order.

The Senator from North Carolina.

Mr. MORGAN. Mr. President, as I was about to say, the eastern district for the State of North Carolina is bigger than several of the New England States put together. We have had a backlog of cases in that district for a long, long time. It is a three-judge district, and it now has two judges. Among those nominations that were left dangling in the Judiciary Committee was a nominee of the President of the United States, Judge Gerald Arnold, who now serves on the North Carolina Court of Military Appeals, and in contrast to the present nominee that we are voting on has written over 650 judicial opinions as well as tried many other cases. The hearings had been held, the FBI report had been made and approved, the American Bar Association had made its investigation and had submitted its report, all of this before we went home for the elections in November.

In addition to that, both blue slips had been returned.

Judge Arnold has been endorsed by the senior Senator from North Carolina.

I will now quote from the CONGRESSIONAL RECORD on September 29, 1980, page 27758, in which Senator HELMS said:

> In the case of the Honorable Gerald Arnold, I have sent dozens of letters of inquiry to distinguished judges and attorneys in North Carolina requesting an assessment of Judge Arnold's qualifications. Upon the receipt of responses from the majority of the judges and lawyers to whom I wrote, I promptly returned a blue slip. It is my expectation that Judge Arnold's nomination may be confirmed after the Senate recess.

Mr. President, we need Judge Arnold badly. Even though we, the Democrats, lost control of the Senate, until January 3 we still have control of the U.S. Senate. There were 59 Democrats, as I recall it, and there are many, many Republicans I am convinced who would not have voted against any nominee coming out of the Judiciary Committee who was as eminently well qualified as Judge Arnold and some of the other 17 judges that were ready to be brought out.

What I heard when I returned to the Senate after the election was shocking. I say I heard it; I would not repeat hearsay except that it has been borne out by the facts. I heard that there had been an agreement between Senator THURMOND and Senator KENNEDY whereby no further Judiciary Committee meetings would be held to consider any other nominees, but, in turn, the President was going to send down Mr. Breyer's nomination and he would be polled out.

I would not believe that, Mr. President, and really paid little attention to it because, since the day that President Carter came into office, he has made it clear that, with regard to appellate court judges, the nominees recommended by Members of the Senate and selected by them to be appointed by him would have to come from a committee, a nominating committee selected by the President himself. In every circuit in which there was a vacancy, the President appointed a Presidential nominating committee. That committee then made nominations for the circuit judges, from which list we Senators made our recommendations.

I had two such vacancies in my district that were allocated to my State. I willingly abided by the President's Executive order and recommended to the President a nominee for the Fourth Circuit Court of Appeals on one occasion—Judge Phillips, who is now sitting on that court. Then, when the second vacancy occurred, I abided by the President's Executive order and again made the selection from that list and recommended Judge Sam Ervin.

Every other circuit court judge nominated by the President of the United States and confirmed by the Senate, has come from that list or a list prepared by the nominating committee selected by the President. Therefore, one can see why I paid little attention to the rumors when I came back, even though I knew that there had already been some unusual circumstances about the first circuit.

For instance, Mr. President, when the first circuit nominating committee came down, it recommended five persons, all of whom were distinguished and able, including, as I mentioned last week, Mr. Archibald Cox. I understand why the President would decline to appoint him. That is because the American Bar Association standards provide or recommend that a judge should not be over 60 years of age.

The committee had another very real reason for nominating for the district court a judge of 64 years and the President refused to go along, saying he did not think it would be fair to the taxpayers to put a man of that age on the bench who would be entitled to a full-salary retirement in 6 or 7 years—or 5 or 6 years.

He said if there were same retirement program whereby the judges would draw in accordance to what they pay in—and, of course, they pay in nothing—but whereby the judges' retirement benefits would be based in proportion to the years served, he would have no hesitancy in appointing a judge over 60 years of age. I really could not argue with him on that, so I do not find any fault with the President's not selecting Mr. Archibald Cox, as distinguished an attorney as he is, for that position. But there were four other distinguished people on that list whose names I have already placed in the Record. I have them here again.

I think, Mr. President, that for the record, I shall ask unanimous consent that the list of those recommended be printed in the Record and that the entire press release, dated March 2, 1979, be printed in the Record at this point. This shows the five persons who were nominated by that nominating committee.

(Mr. SASSER assumed the chair.)

There being no objection, the material was ordered to be printed in the Record, as follows:

> The Department of Justice announced today the names of five persons recommended by the First Circuit Panel, United States Circuit Judge Nominating Commission, for appointment to a new circuit judgeship created by the Omnibus Judgeship Act of 1978 for the First Circuit Court of Appeals.
>
> The five are:
>
> Robert Braucher, Associate Justice of the Supreme Judicial Court of Massachusetts. He sits in Boston.
>
> Andrew A. Caffrey, Chief Judge of the United States. District Court for the District of Massachusetts. He sits in Boston.
>
> Archibald Cox, Professor of Law, Harvard Law School, Cambridge.
>
> Florence Murray, Judge of the Superior Court of Rhode Island. She sits in Providence.
>
> Miriam Naverira de Rodon, Professor of Law, Inter American University, San Juan, Puerto Rico.

Mr. MORGAN. Mr. President, remember, every other Senator was bound by that list but, somehow, that list did not seem to suit the distinguished Senator from Massachusetts. So, contrary to all other precedent, the President then sent back and appointed a second nominating committee and asked it to submit another list of names.

On May 29, 1980, the Department of Justice issued a second list of names on which there were six nominees, very distinguished people, from whom the Senators from Massachusetts could make their recommendation to fill this vacancy. I ask unanimous consent, Mr. President, that this press release, dated May 29, 1980, be printed in the Record.

There being no objection, the press release was ordered to be printed in the Record, as follows:

> The Department of Justice today announced the names of six persons recommended by the First Circuit Panel, United States Circuit Judge Nominating Commission, for appointment to a new circuit judgeship created by the Omnibus Judgeship Act of 1978 for the First Circuit Court of Appeals.
>
> The six are:
>
> Elizabeth Bartholet, Member of the Bars of Massachusetts, New York and District of Columbia, Assistant Professor of Law, Harvard Law School, Cambridge, Massachusetts.
>
> Antonia H. Chayes, Member of the Bars of Massachusetts and District of Columbia, Under Secretary of the Air Force, Washington, D.C.

Jorge L. Cordova, Member of the Bars of Puerto Rico and District of Columbia, Peabody, Rivlin, Lambert & Meyers, Washington, D.C.

Jaime B. Fuster, Member of the Bar of Puerto Rico, Office for Improvements in the Administration of Justice, Department of Justice, Washington, D.C.

John M. Greaney, Member of the Bar of Massachusetts, Associate Justice, Massachusetts Appeals Court, Boston, Massachusetts.

Juan R. Torruella, Member of the Bars of Puerto Rico and District of Columbia, United States District Judge for the District of Puerto Rico, San Juan, Puerto Rico.

Mr. MORGAN. From that list, Mr. President, no one seemed to meet the qualifications of the distinguished Senator from Massachusetts and nothing further was done. Nothing had been done prior to the Democratic Convention. As a matter of fact, nothing had been done, to my knowledge, and, certainly, those were the only names on the list, until after the election. But when I came back and heard those rumors, unbelieving as I was, I nevertheless kept my eyes and ears open and, lo and behold, on the night of November 13, out of the clear blue came a nomination from the President of the United States of Mr. Breyer to fill this vacancy on the First Circuit Court of Appeals—a man whose name had not been on either one of the two prior lists. To my knowledge, there was no third list, or no list on which his name had appeared.

As a matter of fact, I did not even know of the name being submitted on the night of the 13th; but on Friday, the 14th, it came down and I did learn of it.

I did not know of any notice of a hearing, although it was inserted in the Congressional Record that night. But a Congressional Record did not come to my office until after 11 o'clock on Monday. In that Record was notice of a hearing on Mr. Breyer to convene at 10:30 that same morning. As I mentioned earlier in my talk last week, the meeting lasted 27 minutes.

So, before we knew about it, before any of the lawyers from the first circuit had any knowledge that he was being nominated, before anyone had any occasion to examine his qualifications, the hearing had already been held and lasted 27 minutes and had adjourned.

Then I found that, lo and behold, on November 10, which was 3 days before the selection—there was no press release, by the way. I have learned that on November 10, the judicial panel for the first circuit submitted three names, including Stephen Breyer's.

Mind you, Mr. President, there was no press release issued—no press release issued. Whether it was done intentionally for the purpose of concealing the purported nomination of Mr. Breyer, I have no knowledge one way or the other. But I say on every other occasion, a press release had been issued.

It smacks of chicanery to me—and they talk merit selection.

Just as I had heard, sure enough, there was no meeting of the Judiciary Committee. There was no quorum. There was an effort made to poll the nomination out and bring it on the floor of the Senate.

First, I will talk about what went on at that committee meeting. I previously read it into the Record, for anyone interested in following this matter, to see whether or not we really based it on merit.

I say that the testimony itself reflected that the man had never tried a single case in his whole life. When Senator Chafee questioned him about this, he said,

> Well, the trial court is two floors below the court of appeals in Boston and I will go down and sit and watch some cases being tried.

In the first place, as a lawyer for 30 years, the first thing I would do if I was arguing a case before a court of appeals would be to move to disqualify any appellate court judge who sat in the courtroom during the trial of the case.

Second, we might have the most noted graduate of the finest medical school in the world, who had written all kinds of academic and scholarly articles on medical subjects, but I certainly would not let him wield a knife on me, perform an operation on me, just by having gone down and sat in the gallery and watched some other people perform some operations.

I think it is absurd, when the Senator stands up and says that this man is eminently well qualified to pass on the trial of cases, that have been tried in the trial courts of this land, when he has never participated in a trial, and only as an amicus curiae, argued only one case in an appellate court, and that was not as a party, just as a friend of the court, and then as a young attorney in the Department of Justice.

To say that man is eminently qualified contradicts everything I know and understand about the law.

I read a few minutes ago from an eminently well qualified lawyer from Boston, whose name I will not state because I am sure one day he will be there, and I will read this again:

> Hardly less important would be a further strengthening of the tendency to place on the higher courts men without substantial trial experience, either as practitioners or as judges. Breyer's experience is almost entirely that of an academic and a member of Congressional staffs. I think that many of the things that are wrong with the present state of our jurisprudence find their origin in the predominance, in the decisions and rule-making of the Supreme Court and the Courts of Appeal, of abstract academic considerations over practical ones, and I would that that is a product of the appointment of too many appellate judges without such experience. Such men have many times been highly intelligent, but too often they have had no notion of or concern with the impact of their decisions on the trial lawyer, the litigant and the normal law-abiding citizen who wants only to avoid being the victim of a crime or the object of litigation. Academics have their place in the legal system, as writers, teachers and critics, but I think we need more men on the appellate benches who know what the inside of a trial courtroom looks like, and what it is like to live outside the cocoon of government and the private universities.

I could not agree more than that.

That was essentially the qualifications of this man that they would now place on the Circuit Court of Appeals for the First Circuit, and, for most practical purposes, place on the court of final appeal for most people in the First Circuit of the United States, because we know most cases are rejected or not appealable to the U.S. Supreme Court, would place there a man who has never tried a case.

Yet, the New York Times says that there is a man eminently well qualified, based on merit, when every single rule laid down by the President's Executive order has been violated on its face.

Let us see, have I got anything else to support my statements other than what appears on its face? Yes, I have.

The nominee was polled out by the Judiciary Committee. Upon research, Senator Humphrey and I both found there had been no meeting of the Judiciary Committee. We know full well the rules required that not only there be a committee meeting, but a quorum be present before a poll was taken.

Here is the Judiciary Committee, supposedly the committee designed to follow due process, and to protect due process, violating the most fundamental of all rules.

Well, it came out on the Senate floor, as I recall, 2 weeks ago.

On the motion to take up, it was passed because it was not debatable. I discussed it at length, and so did Senator Humphrey.

But, by that time, apparently there had been a flash of brilliance somewhere down in the Judiciary Committee. A little word had been passed along that we would raise a point of order. They suddenly realized they could not take it up unless a quorum had been present.

So that evening, I talked to the distinguished Senator from Massachusetts (Mr. Kennedy) and my majority leader. I said:

> Why do we not let this matter go over until the Monday after Thanksgiving and see if there is some possibility that we can get some of these 17 nominees that are in the committee out?

We could not reach an agreement on that.

So, what happened? I got the impression, because it was here on the floor, and because I had not raised a point of order, nor had anyone else, the committee on Tuesday morning could not act because the matter was still on the floor, and if the committee did not meet within the first 2 hours of the session of Tuesday, of course, it could not consider.

I think it was pretty well understood we were not going to raise that point of order and permit it during the first 2 hours in sufficient time for it to be considered.

I heard the Senator from Massachusetts say, "Well, I will just go get the President to send the nomination down here again."

I really did not pay too much attention to it until I was on the floor at about 9:30 that night, giving a speech I had prepared weeks and months ago on federalism. It suddenly dawned on me that, by golly, that might be what was going on.

So I put in a quorum call and went back and called the White House. I said, "I understand there might be a request, that this motion be sent down here again."

The person I was talking to was very discreet and very honorable. He did not say a word except, "I better get in touch with the attorneys. They are the ones to handle this."

I know from the tone of his voice, I knew from what was being said, that the wheels were already turning.

So I followed up. I sent word to the President that I thought he had already carried out his part of the agreement when he sent it down and, if the Senator from Massachusetts could not handle his part of it on the floor of the Senate, that he ought not be a party to it any longer.

The next morning I was speaking here on the floor of the Senate and I got a call from the White House. It was the President. He was concerned. He was caught in a dilemma. The request had been made that that nomination be sent back here by 10 o'clock. It was already after 10 o'clock.

I was quite candid with him. He said to me—and I am quoting him; I asked if I could quote him. He said:

> Yes, Robert, I did agree with Senator Kennedy before the convention that I would send the nomination down after the election.

He said some other things, also.

I said, "Mr. President, can I quote you?"

He said:

> You can quote me in saying that I did agree with Senator Kennedy that I would send this nomination down after the election.

I reckon that that kind of agreement is what the New York Times would call a merit selection of Mr. Breyer—an agreement just before the convention.

I do not have to say any more. It is general quid pro quo around the floor of the Senate. At any rate, the President did not send it back down here. But that left my nominee plus 16 other nominees hanging in the wind.

Then, that night, when the Senate adjourned and the Judiciary Committee met, we had been assured by a number of the Senators who spoke this morning, "We'll make a real effort to get some of those other nominees out."

I read into the Record last week the entire transcript of that meeting. It took 10 minutes. Not one word was said about any other nominee until Senator Thurmond had gone. After he had gone, Senator DeConcini said, "I do think we should look into these other nominees and see what we can do about it."

I do not blame Senator Thurmond for making any agreement not to consider any more. As he said earlier on the floor of the Senate, President Carter had nominated a hundred or so—I do not know how many. But that is political maneuvering. That is not merit selection. If we are going to talk about merit selection, we should live by it. We should practice what we preach.

Senator Humphrey, whose State is involved, made specific inquiries, according to his statements on the floor of the Senate the other day, and yet did not know of it and did not know of the hearing until it was over.

So, Mr. President, what I am saying is that I have no further desire to delay or try to delay this nomination. I think he is a brilliant young man. Someone the other day, or some newspaper, said that I said he was not qualified. That is not my recollection of what I said. I said he was a brilliant young man. But I do not believe that any lawyer who has practiced in the courts would ever say that a man who never tried a case in a trial courtroom and a lawyer who argued only one case, as a friend of the court, as a young attorney in the appellate court, would be competent to sit on one of the highest courts of this land, the circuit court of appeals, in the first circuit.

However, all that has been decided. I believe the vote is clear. The support is here.

Someone said, "Well, back in the cloakrooms it was questioned that Morgan is seeking revenge, that one of his prior nominees was turned down."

Mr. President, I have tried a lot of cases. I have won a lot and I have lost a lot. I never have bothered worrying about it, except where I thought an injustice had been done. The facts I am stating here today are true; so that no matter what my purpose might be, I am stating this because I am concerned about the shenanigans and the deals that have gone on to get this man on the First Circuit Court of Appeals. Those who talked so piously about merit selection can judge me any way they wish.

When I go home, I will go home with a clear conscience, that I have done what I always have done for 30 years—spoken my mind and have made no deals. I have made no deals, I have extracted none. and I have turned down some deals in the last 4 weeks. When the time is right, they will be disclosed. If a man cannot make it on his own merit, he should not make it.

I anticipated what was going to happen. I knew what was going to happen. I have prepared a newsletter that goes to my people in North Carolina every week. This is what I sent to them, and I want to read it into the Record because I believe it pretty well sums up the matter:

> ### Politics—Not As Usual
>
> Shortly after President Carter entered the White House, he announced that all federal appellate judges that he nominated would come from lists submitted by commissions. The commissions, which would screen judicial aspirants, would be made up of distinguished citizens who were residents of the judicial circuit involved.
>
> That practice has been followed in every instance but one, and that was in the First Circuit, where Senator Kennedy of Massachusetts wanted his friend Stephen Breyer, a Harvard law professor and a committee counsel in Washington to have the job.
>
> Early this year, the screening commission in the First Circuit submitted the names of five possible nominees. They were not acceptable to Senator Kennedy.
>
> Later, in May, six more names were submitted, and again they were turned down. Then in August, just before the Democratic convention, Senator Kennedy extracted a promise from President Carter to nominate Mr. Breyer. On November 10, the commission sent three more names to the Justice Department, and Mr. Breyer's name was on the list.
>
> On November 13, the President sent the Breyer nomination to the Senate, and four days later, after a hearing that lasted 27 minutes, the committee approved it and sent it to the Senate for final confirmation.
>
> This was the only violation of the President's rule on having commissions screen appellate aspirants in the administration, but it was a flagrant one. In fact, it violated more than one rule.
>
> When the Breyer nomination was sent to the Senate, the FBI investigation was not completed. Neither was the examination of the nominee by the American Bar Association, which the committee requires in all federal judicial appointments.
>
> All of the pious talk about getting the appointment of federal judges out of politics went by the board in the Breyer case.
>
> You can't blame the Republicans for going along with Senator Kennedy and voting for Breyer. They accepted Breyer, but they left 17 other nominees for federal judgeships in limbo, never to be heard about again after the new Republican administration takes over. The Republicans, you see, will gain these 17 judgeships.
>
> So a deal was made; one judge wanted by Senator Kennedy got approved by the committee, and 17 other Democratic nominees, some of whom had been nominated more than a year ago, were sacrified. One of the 17 was Judge Gerald Arnold of North Carolina, a highly respected member of the State Court of Appeals.
>
> I didn't like this hypocrisy and said so on the Senate floor.
>
> Some of my friends asked me why I didn't leave it alone, since the session is about over, and I will be returning to North Carolina in a few weeks. That would be the easy way out.
>
> But for 30 years in public life, I have spoken out when I saw something wrong happening, and I felt a responsibility to follow that practice in this case.
>
> This was a political maneuver which aided one man and which sacrificed 17 others.

That is the newsletter I have sent out to my people. I stand by it, and I have made it part of the Record because I believe it should be clear when we talk about merit selections.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 27½ minutes remaining.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I yield back the remaining portion of my time.

Mr. HUMPHREY. Mr. President, if the Senator will yield, how much time do I have? I believe I yielded—no, the Senator was on his own time. I would like to be recognized.

The PRESIDING OFFICER. The

Senator from New Hampshire is recognized.

Mr. HUMPHREY. I will be very brief, Mr. President. I want to commend my colleague from North Carolina for the excellent work he has done in this matter. It has taken a great deal of courage, I would say, to make public the Senate shenanigans that have been going on in regard to this judgeship, all the while certain other institutions in this country have been piously preaching about the merit selection process, and especially in connection with this particular nomination.

But the Senator from North Carolina, Mr. President, is more than courageous. His is a man of very high principle. In his remarks a moment ago he mentioned that there was far more—or he implied there was far more—to the maneuverings than he has made public, and in that he has chosen not to reveal what other aspects there were to reveal, what other offers were made, and I am not at liberty to do so either.

But knowing what he has told me, I cannot escape the conclusion that he is a man of the highest principle, a level of principle that, perhaps, is unmatched in this Federal City.

I thank the Chair.

I do not believe anyone on this side of the question cares to speak, and if the other side is prepared to yield back their time then this side is as well.

Mr. HEFLIN. On this side we yield back all time and we are ready to proceed to a vote.

Mr. HUMPHREY. Mr. President, I yield back the time remaining.

The PRESIDING OFFICER. All time having been yielded back, the question is now on the nomination of Stephen Breyer.

Mr. THURMOND. Mr. President, I ask for a rollcall vote.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from South Carolina wish to insist on a rollcall? Does the Senator from South Carolina wish to have a quorum call or a rollcall?

Mr. THURMOND. If you have enough for a rollcall——

The PRESIDING OFFICER. There was a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Stephen G. Breyer to be U.S. circuit judge for the first circuit. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber desiring to vote?

The result was announced—yeas 80, nays 10, as follows:

[Rollcall Vote No. 513 Ex.]

YEAS—80

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Goldwater
Hart
Hatch
Heflin
Heinz
Helms
Huddleston
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—10

Armstrong
Danforth
Glenn
Hollings
Humphrey
Inouye
Lugar
McClure
Morgan
Schmitt

NOT VOTING—10

Cannon
Durkin
Gravel
Hatfield
Hayakawa
Mathias
Ribicoff
Stewart
Talmadge
Tower

So the nomination was confirmed.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I ask that the President be notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

STATE AND LOCAL FISCAL ASSISTANCE ACT AMENDMENTS OF 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and proceed to the consideration of H.R. 7112, the Revenue-Sharing Act. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7112) to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. INOUYE. Mr. President, will the Senator yield for 1 minute?

Mr. LONG. I yield for 1 minute.

NATIONAL TOURISM POLICY ACT—CONFERENCE REPORT

Mr. INOUYE. Mr. President, I submit a report of the committee of conference on S. 1097 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1097) to establish a national tourism policy, a Cabinet level coordinating council and a nonprofit corporation as an implementing agency to carry out the national tourism policy having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. INOUYE. Mr. President, the conference report on S. 1097—National Tourism Policy Act—is a compromise which has been worked out with the House. While it is not as far reaching as S. 1097, which unanimously passed the Senate almost 2 years ago, I believe it is fundamentally sound legislation. Its passage will, in my judgment, enable us as a Nation to utilize more effectively an economic tool which now contributes over $140 billion to the economy and is responsible for over 6 million jobs.

Specifically the compromise would:

First, make national tourism policy a law which: Officially recognizes the importance of tourism to the Nation's social and economic welfare; legally commits the agencies of the Federal Government to assisting and encouraging the growth and development of the tourism industry; makes the Government commitment to tourism a matter of law and not at the discretion of each new administration; and requires each Federal agency to assure that the specific goals of national tourism policy are reflected in their activities.

Second, create an independent agency in the Federal Government called the U.S. Travel and Tourism Administration. Within 180 days the Administration would take over the functions of the U.S. Travel Service which would then be abolished. While the Administration would take over the functions and programs of the Travel Service, it would not be required to employ any of the personnel currently employed by the Travel Service.

Not later than April 15, 1982, the Administration must develop and submit to the House Committee on Interstate and Foreign Commerce and Senate Committee on Commerce, Science and Transportation a comprehensive and detailed tourism development plan—including the estimated funding and personnel levels required to implement such plan and alternate means of funding—to obtain the objectives and carry out the purposes of the National Tourism Policy Act. The plan shall include, among other things, provisions for—

First, the establishment of branch offices in foreign countries and facilitation of services at U.S. ports-of-entry;

Second, consultation with foreign countries on travel and tourism matters and, in accordance with applicable law, the representation of U.S. travel and tourism interests in international meetings, conferences, and expositions;

Third, participation as a party in interest in proceedings before Federal agencies when such initiation or intervention is necessary to implement or further the national tourism policy;

Fourth, monitoring the existing and proposed policies and programs significantly affecting tourism of all Federal agencies to ascertain whether, insofar as consistent with other public policy objectives, they are in furtherance of the objectives of the national tourism policy, and reporting the results of such monitoring activities to the Congress;

Fifth, monitoring the policies and programs significantly affecting tourism of all Federal agencies for the purpose of ascertaining instances of intragency and interagency duplication or contradiction and reporting the results of its activities to the concerned agencies, and the Congress;

Sixth, developing and administering a comprehensive program relating to industry information, data service, training, and education, and technical assistance;

Seventh, developing and administering a comprehensive program relating to consumer information, protection, and education;

Eighth, developing a program to seek and to receive information on a continuing basis from the tourism industry, including consumer and travel trade associations, regarding needs and interests which should be met by an agency or program, and directing that information to the appropriate agency; and

Ninth, encouraging to the maximum extent feasible travel to and from the United States on U.S. carriers.

The legislation also provides that whenever the Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for congressional hearings, comment on legislation to the President or to the Office of Management and Budget, or report required by the act, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Administration to submit its budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, comments on legislation, or reports required by this part, or comments on any action by a Federal agency affecting tourism to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, comments, or reports to the Congress or such Federal agency. I wish to stress that this legislation absolutely does not circumvent the existing budgetary process. The budget for this new agency will still be submitted by the President, just as he submits the budget of the National Transportation Safety Board. In fact in this respect the relevant provision in this legislation tracks the provision in law which created the National Transportation Safety Board.

Not later than 30 days after the date of enactment of the legislation, the U.S. Travel Service shall make available to the Administration $1,000,000 to carry out its functions in the fiscal year ending September 30, 1981. In addition, at the time of its abolition the Travel Service shall transfer its remaining assets, funds, materials, equipment, and records to the Administration.

The conference substitute also establishes a 17-member Travel and Tourism Advisory Board to study on a continuing basis the programs and activities of the Administration.

Mr. President, I wish to emphasize that this legislation:

First. Does not create a new Federal agency. On the contrary, it replaces USTS with an independent agency which will make the Government's effort to promote tourism more effective and cost efficient.

Second. USTS will go out of business in 6 months, and the agency which would replace it will not cost the Federal Government any money in fiscal year 1981. Just as important, not one penny is authorized for the new entity beyond fiscal year 1981. Congress will have to authorize additional funding next year or the new entity will cease to exist.

Mr. President, this legislation is long overdue, and I therefore urge adoption of the conference report so that the Nation will be able to realize fully the economic benefits of an industry which is predicted to be the world's largest by the end of this century.

Mr. President, this conference report has been approved by all Senate Members of the conference and a majority of the House Members. It has been cleared by all parties on both sides. I move adoption of the conference report.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by Mr. Cannon.

There being no objection, the statement was ordered to be printed in the Record as follows:

Statement by Mr. Cannon

Mr. President, the Commerce Committee shares the concern of the Senator from Oklahoma for economy in Government. For a number of reasons the Commerce Committee believes the National Tourism Policy Act which we are considering is not only consistent with that objective, it furthers it; and I will state the reasons why. Before doing so, I should like to put the importance of tourism and our government's present role in perspective.

1. According to many experts, tourism will be the world's largest industry by the end of this century.

2. In recognition of this fact, over 125 nations have government tourist offices located abroad for the specific purpose of attracting visitors to their respective countries.

3. Currently tourism contributes over $140 billion annually to the U.S. economy, and supports over 6 million jobs.

4. Over 50 federal agencies administer more than 100 programs which significantly impact tourism; and the federal effort is highly inefficient and often contradictory.

5. Despite the government's inefficient effort, according to our own government's statistics, every federal dollar spent on international tourism promotion returns 18.6 dollars.

6. An extensive six year study unanimously authorized by the Senate concluded that the central government tourism effort—the United States Travel Service—should be replaced by an independent entity.

Mr. President, the National Tourism Policy Act takes these factors into account.

1. It does not create a new federal agency. On the contrary, it replaces USTS with an independent agency which will make the government effort to promote tourism more effective and cost efficient.

2. USTS will go out of business in six months, and the agency which would replace it will not cost the federal government any money beyond what has been appropriated for the United States Travel Service for FY '81. And, just as importantly, not one penny is authorized for the new entity beyond fiscal year 1981. Congress will have to authorize additional funding next year or the new entity will cease to exist.

Mr. President, I wish to emphasize that nothing contained in this measure permits the new agency to commit the Federal Government to provide any sums for the payment of any obligation of the agency which exceeds amounts provided in advance in appropriation Acts. This has been the intent from the very beginning, and it remains so.

Finally, I also wish to stress that this legislation absolutely does not circumvent the existing budgetary process. The budget for this new agency will still be submitted by the President, just as he submits the budget of the National Transportation Safety Board. In fact in this respect the relevant provision in this legislation tracks the provision in law which created the National Transportation Safety Board.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

AUTHORIZATION OF APPROPRIATIONS FOR NONPERFORMING ARTS FUNCTIONS OF JOHN F. KENNEDY CENTER—CONFERENCE REPORT

Mr. MOYNIHAN. Mr. President, I submit a report of the committee of conference on S. 1142 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1142) authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in

the House proceedings of the RECORD of December 5, 1980.)

Mr. MOYNIHAN. Mr. President, I move the adoption of the report.

The question is on agreeing to the conference report.

The conference report was agreed to.

STATE AND LOCAL FISCAL ASSISTANCE ACT AMENDMENTS OF 1980

The Senate continued with the consideration of the bill.

Mr. LONG. Mr. President, I yield myself 2 minutes.

Eight years ago the Federal Government established the general-revenue-sharing program. In doing so it made a commitment to State and local governments throughout the Nation to provide them with fiscal assistance on a continuing and certain basis. That commitment in the State and Local Fiscal Assistance Act of 1972 was reaffirmed in 1976, but expired on September 30, 1980. H.R. 7112 would renew this pledge to the local governments for 3 years and would authorize State participation in the program in fiscal years 1982 and 1983.

The Committee on Finance earlier this year reported to the Senate S. 2574 which also would extend the revenue-sharing program, but would do so for 5 years. In addition, the committee bill would make certain changes in the program and would authorize a countercyclical fiscal assistance program to State and local governments severely hit by a national economic downturn. While the House bill now before us differs from the bill approved by the Finance Committee, and while I may later have an amendment to offer to it, it is important that the Senate approve this extension of the General Revenue Sharing Act.

Mr. President, the general-revenue-sharing program is a program that works. The funds are used by over 39,000 State and local governments to provide everything from police protection to firetrucks to senior citizen centers—whatever is needed in that jurisdiction. This broadening of the decisionmaking process enhances the strength of our federal system, I urge my colleagues to recommit the Federal Government to this most valuable and successful program.

UP AMENDMENT NO. 1832

(Purpose: To provide technical and conforming changes to the local allocation formula provisions)

Mr. LONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 1832.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 7, strike out "and".

On page 5, line 8, redesignate subparagraph "B" as subparagraph "C".

On page 5, between lines 7 and 8, insert the following:

(B) by striking out subparagraph (C) of subsection (b)(7) and inserting in lieu thereof the following:

"(C) ADJUSTMENT FOR APPLICATION OF LIMITATION.—In any case in which the amount allocated to a unit of local government is reduced under paragraph (6)(C) by the Secretary, the amount of that reduction—

"(i) in the case of a unit of local government (other than a county government), shall be added to and increase the allocation of the county government of the county area in which it is located, unless (on account of the application of paragraph (6)) that county government may not receive it, in which case the amount of the reduction shall be reallocated in accordance with subparagraph (D); and

"(ii) in the case of a county government, shall be reallocated in accordance with subparagraph (D).

"(D) REALLOCATION OF EXCESS AMOUNTS.—Amounts reallocated under this subparagraph shall be added to and increase the entitlements—

"(i) first, of units of local government within the State, to the extent that such units may (after the application of paragraph (6)) receive such a reallocation, and

"(ii) then, if no unit of local government may receive such an allocation on account of the application of paragraph (6), among all units of local government within the State on a pro rata basis."

On page 5, between lines 10 and 11, insert the following:

(D) by adding at the end of subsection (e) The following new paragraph:

"(5) RULE FOR PERIODS FOR WHICH THERE IS NO STATE GOVERNMENT AMOUNT.—For the entitlement period beginning October 1, 1980, and for any entitlement period for which the amounts authorized by section 105(d) are not appropriated, this subsection shall be applied—

"(A) by substituting '13.5 percent' for '15 percent' in the first sentence of paragraph (1),

"(B) by substituting '6.75 percent' for '7.5 percent' in the second sentence of paragraph (1),

"(C) without regard to the words 'one half of' in the first sentence of paragraph (2),

"(D) by substituting '6.75 percent' for '3.75 percent' in the second sentence of paragraph (2), and

"(E) without regard to paragraph (3) or (4).".

(E) by striking out "September 30, 1980" in subsection (c)(1)(C) and inserting in lieu thereof "September 30, 1983".

On page 5, line 10, strike "." and insert in lieu thereof "; and".

Mr. LONG. Mr. President, I ask unanimous consent to divide this amendment on page 2, starting with the line that says:

On page 5, between lines 10 and 11, insert the following:

This second part has to do with the sheriffs in Louisiana. I should like to ask that we vote on that first.

The PRESIDING OFFICER. The Chair asks the Senator from Louisiana to repeat his requests.

Mr. LONG. I move to divide the amendment approximately in the middle of page 2, and vote first on the second part of the amendment which would start where it says "On page 5, between lines 10 and 11, insert the following," and adds language which has to do with the Louisiana sheriffs.

The PRESIDING OFFICER. The Senator has the right to have his amendment divided.

Mr. LONG. I ask unanimous consent that we vote on the last part first.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will vote on the last part of the amendment first.

Mr. LONG. Mr. President, this part of my amendment has to do exclusively with how funds are divided within the State of Louisiana. It neither increases nor reduces the amount of money available to Louisiana, or to any other State. Under existing law, the Congress provided that an amount equal to 15 percent of the amount received by the parish governments in Louisiana would be made available to sheriffs. Half of that came from the funds allotted to the police juries and half of it came from funds allotted to the State government. When the State government is no longer participating, my amendment would say that the amount for the sheriffs would be 13½ percent of the amount allocated to parish governments. In the years where the States receive some funds, the existing formula under present law would continue to apply.

This part of my amendment has exclusively to do with a problem that exists within Louisiana, and it is consistent with what the Senate has approved and Congress has agreed to on other occasions. The committee discussed this proposal and agreed to it by unanimous vote. I hope the Senate will agree.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I wonder if the Senator would yield for a unanimous-consent request?

Mr. LONG. Yes, I yield.

Mr. LEAHY. Before I make it, I might explain just briefly what I am going to do. I am going to ask unanimous consent that this be a separate amendment to the bill as it will eventually be passed by the Senate, to do with an earlier bill what the Senate has already done; that is to wipe out debts that States have carried since the act of June 23, 1836. They are debts that they are all carrying since President's Jackson's time. There is absolutely no intention of their ever being paid, but they have to carry them forward on the books.

Mr. LONG. Mr. President, I am going to cooperate with the Senator, but I ask if he would first let us get the first half of the amendment agreed to and we can discuss it after the second half?

Mr. LEAHY. Absolutely.

Mr. LONG. I yield back my time on the first half of the amendment, Mr. President.

The PRESIDING OFFICER. The Chair is advised that all the time must run on the amendment before either portion of the amendment, having been divided, is acted upon.

Mr. LONG. Let me explain the second half of the amendment, Mr. President. First, it provides for the reallocation of excess funds created by the 50-percent budget constraint to local governments in the State instead of to the State government, as is currently done. If this change were not made, some funds could be reallocated to the State, which is ineligible to receive them in fiscal year 1981. As a result, without this amendment these funds would remain in the Treasury instead of going out to local governments in that State.

Second, Mr. President, it provides that if a State chooses to take advantage of the optional formula rule in section 108 (c)(1)(c) it must apply that formula for the duration of the program. This is the current rule and this amendment merely makes the required technical change to continue it.

Mr. President, would the Senator from Vermont wish to offer his amendment at this time to my amendment?

Mr. LEAHY. I would rather amend the bill, Mr. President.

Mr. LONG. Then let us vote on this amendment.

Mr. DOLE. Mr. President, I am in accord with the amendment offered by the distinguished Senator from Louisiana. I yield back the time on this side.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. The question then is on agreeing to division 1 of the amendment.

On a division, the second part of the amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to division 2 of the amendment.

On a division, the first part of the amendment was agreed to.

UP AMENDMENT NO. 1833

(Purpose: To discharge the States from the obligation of repayment of money deposited with them under the Act of June 23, 1836)

Mr. LEAHY. Mr. President, I ask unanimous consent that it be in order to offer an amendment on behalf of myself and Mr. MOYNIHAN and to proceed for a period of 4 minutes on that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY), for himself and Mr. MOYNIHAN, proposes an unprinted amendment numbered 1833.

Mr. LEAHY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

H.R. 7112 is hereby amended by adding at the end thereof the following new section:

"SEC. (4) (a) The various states with which money was deposited by the Secretary of the Treasury under the provisions of sections 13 and 14 of the Act entitled "An Act to regulate the deposits of the public money", approved June 23, 1836 (5 Stat. 55), are hereby discharged of all obligations for repayment to the United States of the money so deposited.

(b) The proper accounting officers of the Government shall credit the various states with the amounts charged to them on the books of the Treasury Department pursuant to the proviso in the paragraph entitled "Credit in accounts of the Treasurer" in the Act of June 25, 1910 (36 Stat. 776).

Mr. LEAHY. Mr. President, this is an amendment to discharge the States from the obligation of repayment of money deposited with them under the Act of June 23, 1836.

For several years prior to 1836, the United States had been enjoying an era of great prosperity and world trade. When the surplus in the Treasury continued to increase beyond all expectations, the administration of President Andrew Jackson reported that the balance on hand, with the accruing receipts, was "likely for some time to come to exceed the real wants and just objects of the government for expenditure"—Report of the Treasurer, 1836, page 687—and it was decided to deposit the surplus with the 26 existing States according to the number of electoral votes each had.

Pursuant to an Act of Congress, act of June 23, 1836, chapter 115, 5 statutes 52, the U.S. Government deposited $28,101,644 with the several States in the form of interest-free demand loans. My own State of Vermont received $669,086.79, which has now been held in trust for 144 years. The act of 1836 did not specify any conditions under which these funds were to be used. The only proviso was that the moneys were to be returned to the Federal Government upon call.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD a table which outlines the amounts distributed to the 26 States at that time.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

State:	*Amount*
Alabama	$669, 086. 75
Arkansas	286, 751. 49
Connecticut	764, 670. 60
Delaware	286, 751. 49
Georgia	1, 051, 422. 09
Illinois	477, 919. 14
Indiana	860, 254. 44
Kentucky	1, 433, 757. 39
Louisiana	477, 919. 14
Maine	955, 838. 25
Maryland	955, 838. 25
Massachusetts	1, 338, 173. 58
Michigan	286, 751. 49
Mississippi	382, 335. 30
Missouri	382, 335. 30
New Hampshire	669, 086. 79
New Jersey	764, 670. 60
New York	4, 014, 520. 71
North Carolina	1, 433, 757. 39
Ohio	2, 007, 260. 34
Pennsylvania	2, 867, 514. 78
Rhode Island	382, 335. 30
South Carolina	1, 051, 422. 09
Tennessee	1, 433, 757. 39
Vermont	669, 086. 79
Virginia	2, 198, 427. 99
Total	28, 101, 644. 91

Mr. LEAHY. Mr. President, it is with a great sense of pride that I recount the words Senator Boggs spoke in 1971 when he said:

> The only states to profit in the long run as a result of the surplus revenue of 1836 were Vermont and my own State of Delaware.

But, while Vermont has profited from the 1836 payment, we have also carried this liability for some 144 years now.

For 74 years, nothing further was done by the Congress or the Treasury. Then, by the act of June 25, 1910, 36 statutes 776, the Treasurer of the United States was relieved from further accountability for these deposits. However, the States were not discharged. To the contrary, the act provided in part:

> *Provided*, That the credit herein authorized to be given to the Treasurer of the United States shall in no wise affect or discharge the indebtedness of the several states to the United States as is provided in said Act of Congress, approved June 23, 1836, and shall be made in such manner as to debit the respective states chargeable therewith upon the books of the Treasury Department, until otherwise directed by the Congress.

For 70 years now, we have had the strange anomaly of States remaining liable to the Federal Government for the very deposits for which the Federal Government was relieved of accountability.

Prior to June 25, 1910, the Secretary of the Treasury carried the total of the surplus revenues distributed to States in 1837 as part of his cash accountability but labeled it as "unavailable funds of the General Treasury." After the act of June 25, 1910, the Treasury was relieved of cash accountability and Congress was left with the responsibility of deciding what should be done with the deposits.

Mr. President, after 144 years of confusion, it is time for Congress to meet that duty and decide whether to demand repayment from the States, or to relieve the States from the obligation of repayment of money deposited with them. Any attempt to demand repayment would create more problems than it would solve. Many of the States have either no record of the money, have lost it through improvident loans, have spent it on establishing schools, or have had their funds liquidated during the Civil War. It would be unrealistic to expect these States to repay after all these years.

The only sensible solution is to wipe these obligations off the books. Since the Treasury is no longer accountable for the debt under the act of June 25, 1910, it is not carried as an asset on the books of the United States. At the present time it is recorded only as a memorandum book entry and the removal of the debt would in no way affect the balance in the Treasury, nor would it affect the public debt.

Mr. President, my amendment would have absolutely no effect on the fiscal year 1981 budget or on future budgets. It is my understanding that both the Treasury Department and the Office of Management and Budget have had a chance to review the amendment and that neither has any objections.

An identical provision was added to the Senate version of the Revenue Sharing Authorization Act by the distinguished Senator from New York (Mr. MOYNIHAN) during the Finance Committee markup of that legislation earlier this year.

It is my understanding that the Senator made a most eloquent and persuasive presentation at that time, and I am pleased to have his cosponsorship and support of the amendment I am offering today.

Mr. President, it is unfair to permit this confused condition to prevail. Under the act of June 25, 1910, Congress has to resolve this situation. After 144 years of uncertainty, let us clear the record.

Mr. President, as I have stated, the money in question was a surplus in the Treasury in the administration of President Andrew Jackson, which was given to the States. My own State of Vermont received $669,086 and some odd cents which has now been held in trust for 144 years. The Senate Committee on Finance, during consideration of the Senate version of the revenue sharing legislation, finally resolved this situation to help people clean up their books.

As I said, my colleague, the Senator from New York, spoke long and eloquently in support of an identical provision before the Finance Committee earlier this year. I shall not even attempt to match his statements, being only half Irish.

Mr. LONG. Mr. President, I yield myself such time as I may require.

The Treasury has no objection to this amendment. We on the committee believe it is meritorious. In fact, I believe both the Treasury and the committee felt this matter is long overdue. As the Senator from Vermont explained, the Senator from New York (Mr. MOYNIHAN) offered the amendment in the committee and it was agreed to. It was a part of the committee bill, and the only reason it is being offered now is that a decision was made to call up the House bill rather than the Senate Finance Committee bill. I support the amendment, and so does the committee.

I yield back the remainder of my time.

Mr. LEAHY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (UP No. 1833) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I have a number of amendments I intend to send to the desk.

The PRESIDING OFFICER. The Chair apologizes for interrupting the Senator, but the Chair must ask who yields time for debate.

Mr. LONG. Is the Senator offering an amendment?

Mr. BRADLEY. Yes, I will be offering an amendment.

Mr. LONG. Then I suggest the Senator yield time to himself off the amendment.

UP AMENDMENT NO. 1834

(Purpose: To extend the revenue sharing program to provide fiscal assistance to territories of the United States)

Mr. BRADLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 1834.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 13, insert "and Territories" after "Governments".

On page 2, line 15, strike out "(2)" and insert in lieu thereof "(3)".

On page 2, between lines 19 and 20, insert the following new paragraph:

"(2) TERRITORIES.—For each entitlement period described in paragraph (3), there are authorized to be appropriated to the Trust Fund $25,000,000 to make the payments to Territories of the United States hereafter provided for such entitlement period.".

On page 2, line 20, strike out "(2)" and insert in lieu thereof "(3)".

On page 2, after line 25, insert the following new paragraph:

(2) APPLICATION OF TITLE TO TERRITORIES.—Section 106 of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following new subsection:

"(d) TERRITORIAL AMOUNT.—

"(1) ALLOCATION.—

"(A) IN GENERAL.—There shall be allocated to each Territory of the United States for each entitlement period beginning after September 30, 1981, out of amounts appropriated under section 105(d)(2) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the population of that Territory bears to the population of all Territories.

"(B) SPECIAL RULE FOR PUERTO RICO.—The entire amount allocated to the Commonwealth of Puerto Rico shall be allocated on the basis of population to the units of local government thereof.

"(2) APPLICATION OF TITLE.—For purposes of this title (other than section 105 and the preceding subsections of this section), a Territory shall be treated as if it were a State.

"(3) DEFINITION.—For purposes of this subsection and section 105(d)(2), the term 'Territory' means the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.".

On page 3, line 1, strike out "(2)" and insert in lieu thereof "(3)".

On page 4, line 6, strike out "105(d)(2)" and insert in lieu thereof "105(d)(3)".

Mr. BRADLEY. Mr. President, today the Senate has the opportunity to reauthorize the general revenue sharing program. This valuable program of assistance to State and local governments was first enacted as part of the State and Local Fiscal Assistance Act of 1972. In 1976 the program was extended with some minor changes.

Two reauthorization bills are available for Senate consideration. S. 2574, approved by the Senate Finance Committee, would continue the program for another 5 years. This bill is the result of extensive hearings and discussions during which Senators had an opportunity to hear about the importance of general revenue sharing from State and local government officials and leaders from business, labor, and the educational community.

In recommending this bill to our colleagues, the Finance Committee believed that our federal system of government has been strengthened by the provision of relatively unrestricted fiscal assistance to State and local governments on a continuing and certain basis. By providing Federal funds with few limitations, we believe that State and local governments can more effectively meet the diverse needs and priorities of their own citizens and, by extension, of the Nation.

The Finance Committee bill continues the fundamentals of the GRS program:

The bill continues to provide for the distribution of $6.9 billion annually to approximately 39,000 state and local governments, with one-third going to state governments and two-thirds shared by local governments. Because of this year's budget realities, the states have not been included in the program for FY81; however, for fiscal years 1982 through 1985, the states would again become full participants.

Funds are distributed among the states using the GRS interstate allocation formulas established in the 1972 legislation, which take account of population, urbanized population, relative income, tax effort and state income tax collections. Funds are distributed among the local governments on the basis of population, tax effort and relative income.

These funds may be used for any legal purpose, thereby allowing great flexibility to recipient governments in using the funds to meet local needs and priorities.

The Finance Committee bill also makes an important addition to the current revenue sharing program by authorizing a standby countercyclical program which, in times of extraordinary unemployment would provide temporary aid to hard pressed State and local governments in meeting the costs of recession. Finally, the committee reviewed the situation of Puerto Rico and the U.S. territories vis-a-vis the general revenue sharing program and decided to provide for participation of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Pacific Trust Territories in the program in fiscal years 1982 through 1985.

The House has passed a 3-year reauthorization bill, H.R. 7112, which, like the Finance Committee bill, provides for the distribution of $4.6 billion annually to local governments and $2.3 billion for State governments in fiscal years 1982 and 1983. The House bill also includes a requirement that States trade off categorical grant moneys dollar-for-dollar for their GRS funds. I strongly oppose this condition on State revenue sharing and intend to offer an amendment striking this provision at the appropriate time.

Although I greatly prefer the Finance Committee revenue sharing bill, the end-of-session time constraints argue in favor of taking up the House-passed bill. Where the House bill falls short of the kind of well-balanced program I believe is needed, I will offer improving amendments. Beyond the elimination of the trade-off provision, I will seek to add the provisions from the Finance bill creating a standby countercyclical program and providing for the participation of Puerto Rico and the territories.

Turning from the specific legislation to the program's merits, I find the arguments in favor of general revenue sharing's reauthorization are both persuasive and compelling. Central to the entire concept of revenue sharing is the notion that decisionmaking should be decentralized. The growth in Federal aid in the two decades following World War II come mainly in the form of categorical grants directed at specific kinds of problems, which give the Federal Government the preeminent role in deciding how grant funds would be spent.

The new federalism of the early 1970's sought to reduce the Federal decisionmaking role by placing greater reliance on broader and less conditional Federal grants. The interest in decentralization resulted in both the development of general revenue sharing and the consolidation of a number of narrow purpose programs into block grants, such as those in law enforcement, community development and social services.

In 1980 decentralized decisionmaking continues to be regarded by many as a legitimate and desirable objective to be incorporated as far as possible into Federal programs. At the same time, critics of the GRS program have argued that decentralized decisionmaking hinders fiscal accountability. They argue that Congress must authorize funds without any knowledge as to whether they will be used to provide necessary public services. The very flexibility of GRS funds makes the program suspect to many. To the degree that other uses for Federal moneys are proposed—such as cutting the budget, reducing taxes or increasing Government spending for defense, energy or services for the elderly—the general revenue sharing program can become particularly vulnerable to budget raids.

I continue to believe that as large a role as possible should be preserved for State and local governments in making funding decisions and setting program priorities. Moreover, I believe that the evidence on how general revenue sharing moneys have been spent by the recipient governments supports the GRS premise that decentralized decisionmaking is a worthy objective.

A recent survey of State governments, using sometimes imprecise estimates presents the following picture of how States have allocated their revenue sharing funds: 32 percent went to education; 26 percent went to social services, such as care for the aged and mentally ill, emergency medical services and to environmental services; 15 percent went to capital improvements, such as libraries, hospitals, vocational-technical schools and corrections facilities; 15 percent went to cover the cost of retirement benefits for State and local government employees; and, 3 percent for tax rebates and reductions.

At the local level, this spending profile would be even more heavily weighted toward human services and capital improvements. It is evident from this accounting that the spending decisions made by State and local officials are focused on the basic services the American people expect of State and local governments: schools, hospitals, day care for the very young, and hot meals and senior centers for the elderly.

Another use to which many State and local governments put their GRS moneys is to meet matching requirements for Federal categorical grants-in-aid. Matching funds are required to secure community health and mental health center grants, Federal highway moneys, title XX social services funds and a variety of other Federal programs. Although State and local governments may want to participate in these programs, they may lack the local revenues needed to take advantage of Federal funds. Multipurpose revenue sharing moneys allow many local governments to qualify for Federal matching grants.

State and local governments also make significant expenditures to comply with federally mandated programs and reporting requirements. In the process of implementing certain Federal programs they frequently incur costs not anticipated and not reimbursed by Federal sources: Legal fees and court costs accompanied the implementation of Federal programs for bilingual education and handicapped education. Auditing requirements resulted from the passage of environmental legislation such as the Clean Air Act. Federally mandated reports, covering a wide range of programs, call for the compilation of complex data, in differing formats and at differing frequencies. Hours of personnel time must be devoted to fulfilling these mandates, although virtually no Federal funds are allocated to offset the costs of doing so.

Beyond the question of how GRS moneys are spent by State and local governments, critics have focused their skepticism on the question of whether recipient governments, primarily State governments, "need" revenue sharing funds. Proponents of this argument cite two separate indications of State well-being: the fact that some States have budget surpluses while other States have used their GRS payments to fund State tax reductions.

As the Advisory Council on Intergovernmental Relations has pointed out, however, States do not have budget deficits because their State constitutions prohibit such financing. Due to these restrictions, States are required to keep some cushion against cyclically declining revenues so that mandated expenditures do not force their treasuries into illegal deficit spending.

As a consequence of the current recession, which has reduced State tax revenues and increased State expenditures for unemployment insurance and welfare many State governments are ordering across-the-board cuts in agency budgets to avoid just this situation. South Dakota, for example, has imposed a 5-percent reduction on all State agencies; Michigan, a 20-percent cutback; Oregon, 13-percent; Vermont, 3-percent; and Utah 2.5-percent.

The loss of the fiscal year 1981 State share because of Federal budget stringencies will make these State budget cutbacks even more severe. Financial analysts, such as bond rating services, judge a State's "soundness" at least in part by the size of its surplus. For a State to have a solid surplus, according to Standards and Poor, the surplus should be better than 5-percent of State expenditures; 6 months ago only one-third of the States could claim such a surplus, and the erosion of State finances due to the recession has reduced this number substantially. In other words, the aggregate State surplus is not evenly distributed among States and is in decline in most previously surplus States.

While the permanent loss of GRS funds could be tolerated by a few surplus States, such as Texas or Alaska, the loss would strain some State budgets beyond their constitutional limits. New Jersey, my State, is only one such State in jeopardy. Even in the surplus States, the budget cushion is evaporating all too rapidly: The California general fund balance, which was projected to be $1.8 billion in 1980, will drop to $12 million—less than 1-percent of expenditures—in 1980. The Maryland balance, previously reported at $300 million, has now shrunk to $55 million.

Moreover, State governments are estimated to pass on 40 percent of State GRS funds to local governments. Some States, such as Michigan, are constitutionally unable to reduce local support. In others, a permanent loss of GRS funding could reduce State aid to local governments significantly—not only those GRS funds now being passed through but also other States moneys now devoted to local purposes if those moneys are necessary to pay for State operations.

Another criticism, which also finds the State share of general revenue sharing as its target, is that the 1980's demand greater fiscal responsibility to fight inflation. While I agree with this concern, I believe that the critics of revenue sharing are going after the wrong budget target. General revenue sharing is one of very few Federal programs that has not created a massive Washington bureaucracy. It is an efficient intergovernmental program which helps communities provide essential services as they see fit. Indeed, if there are significant reductions in Federal categorical grant programs, as currently appears likely, retaining the flexibility inherent in the GRS program is even more important to State and local governments as they adjust their budget plans to the new realities of Federal funding.

We all recognize the need to hold down the budget deficit, and for that reason the Finance Committee bill provides for the extension of general revenue sharing at the same funding level it has had since 1976. These dollars are unadjusted for inflation, have not been since 1976, nor will they be through 1985. In real terms, today's $4.6 billion for local governments and $2.3 billion for State governments represent a decline in buying power for these recipient governments. If the inflation rate of the last 5 years continues for the next 5, the value of these moneys will be halved. Seen in this light, the reauthorization of general revenue sharing at its current funding level is fiscally responsible.

Nevertheless, given inflationary pressures and the projected budget deficits beyond fiscal 1981, there is discussion of reducing or eliminating State government participation in the program altogether. I strongly oppose such a move, for the reasons I have just discussed and because of the very negative effect I believe the exclusion of the States from general revenue sharing would have on American federalism.

Local governments provide such visible services as fire and police protection, day care centers, garbage collection and street repair. The role of State government is less often obvious to people. Programs for which States have a major responsibility are frequently identified, not as State programs, but as Federal programs, among them medicaid, aid to families with dependent children, the unemployment insurance system, title XX social services, maintenance of the interstate highway system, foster care and so on. Education, a major State responsibility, is usually associated with the local property tax, not with general State revenues. The prison system is largely unseen.

It is hard to measure the benefits or even the presence of State environmental services. Added to this natural "low profile" of the States is the trend in Federal grant-giving toward bypassing the States and providing moneys directly to local governments. More than one observer of the American scene has commented on the implications for three-tier American federalism in this relative neglect of the State component.

Yet, the State role is pivotal in that State tax revenues are now greater than local tax revenue. This is a reversal from two decades ago when slightly over half of State and local tax revenues were raised by local governments, principally through the property tax. State level taxation has also become more progressive, with the much wider use of State income taxes. This shift to more equitable sources of tax moneys within States has been matched by increasing State responsibility for funding and administering part or all of such government functions as education, public health and welfare, programs which were previously left to local governments.

Finally, the States role in the overall provision and funding of services is reflected in the fact that in times of economic downturn, State governments tend to experience greater revenue loss and greater increases in expenditures than do local governments. For as economic conditions worsen, workers are laid off and the States lose revenues from the decline in income taxes and sales taxes paid. State expenditures for unemployment compensation, welfare, and medicaid also increase. Local governments, more dependent on property taxes and having fewer responsibilities for providing services to the unemployed, tend to be less vulnerable to recession than are the States. General revenue sharing can help State governments meet these increased demands for services at times of decreased revenues.

The partnership of the Federal, State, and local governments in our federal system is vital. The general revenue sharing program enhances American federalism by recognizing the service responsibilities of both State and local governments and providing them with additional resources in reasonable proportion to their responsibilities.

Mr. President, in extending general revenue sharing we will be bringing very direct benefits to all Americans. I therefore urge my colleagues to join in securing speedy reauthorization for this valuable program of assistance to our State and local government partners in the American federal system.

Mr. President, the amendment now before the Senate is a noncontroversial amendment.

The Finance Committee did adopt it in the Finance Committee bill. It simply says that $25 million would be allocated to Puerto Rico and the U.S. territories in general revenue sharing.

The purpose of the amendment is to recognize the importance of Puerto Rico and the U.S. Territories, particularly those in the Pacific, to our national defense, to share with them the general revenue-sharing program that has worked so effectively in other parts of the United States, and to make the effort to do this in recognition of the level of income in those parts of the world, which is very low.

This amendment moves toward showing a good-faith effort on the part of the U.S. Government to include them in the total revenue-sharing pot in a very small measure, $25 million out of $4.6 billion.

Nonetheless, it shows that we do have an intention to include them in this program.

Mr. LONG. Mr. President, I do favor the amendment. I will be happy to yield time to anyone who cares to speak against it.

Mr. PROXMIRE. Will the manager yield for a question?

Mr. LONG. I am happy to yield to the Senator for a question.

Mr. PROXMIRE. It is my understanding that the amendment does not add additional revenue-sharing money. It simply contributes to the funds already authorized, $25 million of that money to the territories; is that correct?

Mr. LONG. It is my understanding it does not increase overall. It would come from a so-called reserve fund and otherwise redistributed among the States.

Mr. PROXMIRE. I thank the Senator.

Mr. DOLE. I think this question has already been answered, but it is my understanding that it is the same amendment adopted in the Finance Committee.

Mr. BRADLEY. That is correct.

Mr. DOLE. I have no objection. There was none in the Finance Committee, as far as I recall.

Mr. BRADLEY. There was none.

Mr. DOLE. I think it should be added on the floor.

Mr. LONG. I yield back the remainder of my time.

Mr. BRADLEY. I yield back the remainder of my time.

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1834) was agreed to.

UP AMENDMENT NO. 1835

(Purpose: To provide for antirecession fiscal assistance)

Mr. BRADLEY. Mr. President, I send an amendment to the desk on behalf of myself and Senators JAVITS, TSONGAS, WILLIAMS, LEVIN, WEICKER, MOYNIHAN, and RIEGLE.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY), for himself and Messrs. JAVITS, TSONGAS, WILLIAMS, LEVIN, WEICKER, MOYNIHAN, and RIEGLE, proposes an unprinted amendment numbered 1835.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, between lines 2 and 3, insert the following new section:

SEC. 3. ANTIRECESSION FISCAL ASSISTANCE.

The Act of October 20, 1972, entitled "An Act to provide fiscal assistance to State and local governments, to authorize Federal collection of State individual income taxes, and for other purposes", is amended—

(1) by striking out the text of section 101 and inserting in lieu thereof the following: "This title and title IV may be cited as the 'State and Local Fiscal Assistance Act of 1972'."; and

(2) by adding at the end thereof the following new title:

"TITLE IV—FISCAL ASSISTANCE DURING PERIODS OF RECESSION

"Sec. 401. Financial assistance authorized.
"Sec. 402. Allocation of amounts.
"Sec. 403. Uses of payments.
"Sec. 404. Statement of assurances.
"Sec. 405. Nondiscrimination.
"Sec. 406. Labor standards.
"Sec. 407. Payments.
"Sec. 408. State and local government economization.
"Sec. 409. Withholding.
"Sec. 410. Reports.
"Sec. 411. Administration.
"Sec. 412. Data provision responsibilities.
"Sec. 413. Allocations to Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"SEC. 401. FINANCIAL ASSISTANCE AUTHORIZED.

"(a) PAYMENTS TO STATE AND LOCAL GOVERNMENTS.—The Secretary of the Treasury (hereinafter referred to in this title as the 'Secretary') shall, in accordance with the provisions of this title, make payments to State governments, units of local government, and territorial governments for each eligible calendar quarter for which appropriations are authorized by subsection (b).

"(b) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (c), there are authorized to be appropriated for each calendar quarter beginning in 1981, 1982, and 1983, for the purpose of making payments under this title an amount equal to the sum of—

"(1) $125,000,000, and

"(2) $30,000,000 multiplied by the number of whole one-tenth percentage points by which the rate of seasonally adjusted national unemployment for the most recent calendar quarter which ended 3 months before the beginning of such quarter exceeded 7.5 percent.

Any amount so appropriated for any such calendar quarter shall remain available for making payments with respect to such quarter until expended.

"(c) Aggregate Authorization.—The amount authorized to be appropriated by subsection (b) shall not exceed $1,000,000,000 for any fiscal year.

"(d) Suspension of Assistance.—

"(1) Suspension.—If the average rate of unemployment for the United States is less than 7.5 percent for a calendar quarter, no amount may be paid under this title for the third calendar quarter of the 3-calendar-quarter period which began with the first of such calendar quarters, or for any subsequent calendar quarter.

"(2) Termination of suspension.—Notwithstanding paragraph (1) of this subsection, amounts shall be paid under this title for calendar quarters for which the average rate of unemployment for the United States equals or exceeds 7.5 percent beginning with the third quarter of the 3-calendar-quarter period which began with the first of such calendar quarters until such time as paragraph (1) may require another suspension of payments.

"Sec. 402. Allocation of Amounts.

"(a) Reservations.—

"(1) Eligible states.—The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 401 for each calendar quarter for the purposes of making payments to eligible State governments under subsection (b).

"(2) Eligible units of local government.—The Secretary shall reserve two-thirds of the amounts appropriated pursuant to authorization under section 401 for each calendar quarter for the purpose of making payments to eligible local governments under subsection (c).

"(b) State Allocation; Percentage; Definitions.—

"(1) The Secretary shall allocate from amounts reserved under subsection (a)(1) of this section an amount for the purpose of making payments to each State equal to the total amount reserved under subsection (a)(1) of this section for the calendar quarter multiplied by the applicable State percentage.

"(2) For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the division of the product of—

"(A) the State excess unemployment percentage, multiplied by

"(B) the State revenue sharing amount, by the sum of such products for all the States.

"(3) For the purposes of this section.—

"(A) the term 'State' means each State of the United States,

"(B) the State excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the State unemployment rate for that State, but shall not be less than zero,

"(C) the State unemployment rate is equal to the average rate of unemployment within the jurisdiction of the State during the 6-month period which ended 3 months prior to the beginning of the appropriate payment calendar quarter, as determined by the Secretary of Labor and reported to the Secretary, and

"(D) the State revenue sharing amount is the amount determined under section 107 of this Act for the most recently completed entitlement period (as defined in section 141(b)) of this Act or the amount which would be so determined if the amounts authorized by section 105(d)(1) were appropriated and, for purposes of this subparagraph for fiscal year 1981, the amount which would be appropriated if the amount authorized by section 105(d)(1) for fiscal year 1982 were authorized and appropriated for fiscal year 1981.

"(c) Local Government Allocation; Percentage; Definitions; Special Rules.—

"(1) The Secretary shall allocate from amounts reserved under subsection (a)(2) an amount for the purpose of making payments to each local government equal to the total amount reserved under such subsection for the calendar quarter multiplied by the local government percentage.

"(2) For purposes of this subsection, the local government percentage is equal to the quotient resulting from the division of the product of—

"(A) the local excess unemployment percentage, multiplied by

"(B) the local revenue sharing factor, by the sum of such products for all local governments.

"(3) For purposes of this subsection—

"(A) the local excesss unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the local unemployment rate, but shall not be less than zero;

"(B) the local unemployment rate is equal to the average rate of unemployment within the jurisdiction of the local government during the 6-month period which ended 3 months before the beginning of the appropriate calendar quarter, as determined or assigned by the Secretary of Labor and reported to the Secretary (and, in the case of a local government for which the Secretary of Labor cannot determine a local unemployment rate, he shall assign such government the unemployment rate for the county, balance of county, or other appropriate geographic area in which the government is located and for which he has determined a local unemployment rate);

"(C) the local revenue sharing factor is—

"(i) for a unit of local government other than the recognized governing body of an Indian tribe or Alaskan Native village, an amount which bears the same ratio to the total amount to be allocated among all units of local government within the State as—

"(I) the population of the unit of local government, multiplied by the general tax effort factor of that unit, multiplied by the relative income factor of that unit, bears to

"(II) the sum of the products determined under subclause (I) for all such units, and

"(ii) for the recognized governing body of an Indian tribe or Alaskan Native Village, the amount determined by multiplying the amount allocated under section 108(a) to the county area within which such tribe or village is located by a fraction—

"(I) the numerator of which is the population of such tribe or village, and

"(II) the denominator of which is the population of such county area;

"(D) the term 'local government'—

"(i) means the government of a county, municipality, township, or other unit of government below the State which—

"(I) is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes", and

"(II) performs substantial governmental functions,

"(ii) includes the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions, and

"(iii) does not include the government of a township area unless such government performs substantial governmental functions; and

"(E) the population, general tax effort factor, and relative income factor of a unit of local government shall be determined in the same manner in which they are determined under title I, except that, for the purpose of determining the relative income factor of a unit under section 109(f), 'State' shall be substituted for 'county area' in paragraph (3) of such section.

"(4) Statistical methodology for unemployment rates.—Notwithstanding any provision of paragraph (3) to the contrary, in the case of a unit of local government which encompasses, or is within, a standard metropolitan statistical area or central city for which current population surveys were used to determine annual unemployment rates before January 1, 1978, the Secretary of Labor shall determine or assign the unemployment rates for such government calculated by the current population survey methodology used prior to January 1, 1978, if such rates are higher than rates determined or assigned by the Secretary of Labor for that government without applying the current population survey methodology, unless the Secretary of Labor determines that current population survey data are available for use on a satisfactory basis for such areas and the remaining areas of such State.

"(5) Minimum allocation.—If the amount which would be allocated to any unit of local government under this subsection is less than $2,500, then no amount shall be allocated for such unit of local government under this subsection.

"(d) Reallocation of Undistributed Reserved Amounts.—If, for any calendar quarter, the amount reserved under subsection (a)(1) for payments to State governments or under subsection (a)(2) for payments to local governments exceeds the sum of the amounts allocated to State or local governments because of the limitations contained in subsection (c)(5) or (e), or because of the suspension-of-payments requirement contained in section 407(b), then the Secretary shall reallocate the excess among State governments or local governments, as the case may be, receiving payments for the calendar quarter and allocate to each such State or local government an amount which bears the same ratio to the amount of the excess as the amount allocated to such government for the calendar quarter without regard to this subsection bears to the sum of the amounts allocated to all State or all local governments, as the case may be, for the calendar quarter without regard to this subsection.

"(e) Per Capita Income Limitation.—

"(1) In general.—Except as provided in paragraph (3), no amount shall be allocated under this title to any local government which had within its jurisdiction a per capita income equal to or in excess of 150 percent of the national per capita income for the most recently completed calendar year for which data are available, as determined by the Bureau of the Census for general statistical purposes and reported to the Secretary.

"(2) Noncontiguous state adjustment.—The percentage of the national per capita income used to limit allocations in paragraph (1) shall, for local governments in the States of Alaska and Hawaii, be increased by the average State percentage of basic pay which civilian employees of the United States Government receive as an allowance under section 5941 of title 5, United States Code. Such average State percentage shall be determined for the most recently completed calendar year for which data are available based on data provided by the Office of Personnel Management and reported to the Secretary.

"(3) Unemployment rate exception.—The per capita income limitation in paragraph (1) shall not apply to a local government in the State of Alaska for which the local unemployment rate for the appropriate 6-month period exceeds 10 percent.

"Sec. 403. Uses of Payments.

"Each State and local government shall use payments made under this title for the maintenance of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government, as the case may be. State and local governments may not use emergency support grants made under this title for the acquisition of supplies and materials and for construction unless such supplies and materials or construction are to maintain basic services.

"Sec. 404. Statement of Assurances.

"Each State and unit of local government may receive payments under this title only upon filing with the Secretary, at such time and in such manner as the Secretary prescribes by rule, a statement of assurances. Such rules shall be prescribed by the Secretary not later than 90 days after the effective date of this title. The Secretary may not require any State or local government to file more than one such statement during each fiscal year. Each such statement shall contain—

"(1) an assurance that payments made under this title to the State or local government will be used for the maintenance, to the extent practical, of levels of public employment and of basic services customarily provided to persons in that State or in the area under the jurisdiction of that unit of local government which is consistent with the provisions of section 403;

"(2) an assurance that the State or unit of local government will—

"(A) use fiscal, accounting, and audit procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States), and

"(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this title;

"(3) an assurance that reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this title and that such report shall be published in a newspaper of general circulation in the jurisdiction of such government unless the cost of such publication is excessive in relation to the amount of the payments received by such government under this title or other means of publicizing such report is more appropriate, in which case such report shall be publicized pursuant to rules prescribed by the Secretary;

"(4) an assurance that the requirements of section 405 will be complied with;

"(5) an assurance that the requirements of section 406 will be complied with;

"(6) an assurance that the State or unit of local government will spend any payment it receives under this title before the end of the 6-calendar-month period which begins on the day after the date on which such State or local government receives such payment; and

"(7) an assurance that the State or unit of local government will spend amounts received under this title only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

"Sec. 405. Nondiscrimination.

"(a) Prohibition.—

"(1) In general.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government which receives funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, commonly referred to as Civil Rights Act fo 1968, shall also apply to any such program or activity.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under this title.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Enforcement and Remedies.—The provisions of subsection (a) of this section shall be enforced by the Secretary in the same manner and in accordance with the same procedures as are required by sections 122, 124, and 125 of this Act to enforce compliance with section 122(a) of this Act. The Attorney General shall have the same authority, functions, and duties with respect to funds made available under this title as the Attorney General has under sections 122 (g) and (h) and 124(c) of this Act with respect to funds made available under title I of this Act. Any person aggrieved by a violation of subsection (a) of this section shall have the same rights and remedies as a person aggrieved by a violation of subsection (a) of section 122 of this Act, including the rights provided under section 124(e) of this Act.

"Sec. 406. Labor Standards.

"All laborers and mechanics employed by contractors on all construction projects funded in whole or in part by payments under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 C.F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"Sec. 407. Payments.

"(a) In General.—From the amount allocated for State and local governments under section 402, the Secretary shall pay not later than 5 days after the beginning of each quarter to each State and to each local government which has filed a statement of assurances under section 404, an amount equal to the amount allocated to such State or local government under section 402.

"(b) Suspension of Payments for Low Unemployemnt.—

"(1) Suspension.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if the average rate of unemployment within the jurisdiction of such State or local government during the 6-month period which ended 3 months before the beginning of such calendar quarter was less than 6 percent.

"(2) Termination of suspension.—Notwithstanding paragraph (1), amounts shall be paid under this subtitle to any State or local government for which payments were suspended under paragraph (1) beginning with any calendar quarter following such suspension which follows an appropriate 6-month period for which the State or local unemployment rate equals or exceeds 6 percent until such time as paragraph (1) may require another suspension of payments.

"(c) Adjustments.—Payments under this title may be made with necessary adjustments on account of overpayments or underpayments.

"Sec. 408. State and Local Government Economization.

"Each State or unit of local government which receives payments under this title shall provide assurance in writing to the Secretary, at such time and in such manner and form as the Secretary may prescribe by rule, that it has made substantial economies in its operations and that payments under this title are necessary to maintain essential services without weakening Federal Government efforts to stimulate the economy through reductions in Federal tax obligations.

"Sec. 409. Withholding.

"Whenever the Secretary after affording reasonable notice and an opportunity for a hearing to any State or unit of local government, finds that there has been a failure to comply substantially with any assurance set forth in the statement of assurances of that State or units of local government filed under section 404, the Secretary shall notify that State or unit of local government that further payments will not be made under this title until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this title.

"Sec. 410. Reports.

"The Secretary shall report to the Congress as soon as is practical after the end of each calendar quarter during which payments are made under the provisions of this title. Such report shall include information on the amounts paid to each State and units of local government and a description of any action which the Secretary has taken under the provisions of section 409 during the previous calendar quarter. The Secretary shall report to Congress as soon as is pactical after the end of each calendar year during which payments are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to State and units of local government under the provisions of this title, any actions with which the Secretary has taken under the provisions of section 409, and an evaluation of the purposes to which amounts paid under this title were put by State and units of local government and economic impact of such expenditures during the previous calendar year.

"Sec. 411. Administration.

"(a) Rules.—The Secretary is authorized to prescribe, after consultation with the Secretary of Labor, such rules as may be necessary for the purpose of carrying out his functions under this title. Such rules should be prescribed by the Secretary not later than 90 days after the effective date of this title.

"(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for the administration of this title.

"Sec. 412. Data Provision Responsibilities.

"The Secretary of Labor shall provide information and other necessary data and shall determine and assign unemployment rates necessary for the administration of this title. Such information, data, and rates shall be provided for each State and local government, and shall be made available to the Secretary to assist him in carrying out the provisions of this title. The Secretary of Labor shall also advise the Secretary as to the availability and reliability of relevant information and data. The Director of the Bureau of the Census and the Director of the Office of Personnel Management shall provide such information and other data as may be necessary for the administration of this title, and shall advise the secretary as to the availability and reliability of relevant information and data.

"SEC. 413. ALLOCATIONS TO PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS.

"(a) IN GENERAL.—The Secretary shall make payments under this title to the governments of the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(b) ALLOCATIONS.—

"(1) The Secretary shall allocate to such governments from the amounts appropriated pursuant to authorization under this title an amount equal to 1 percent of such amounts for the appropriate fiscal year or calendar quarter, multiplied by the applicable territorial percentage.

"(2) APPLICABLE TERRITORIAL PERCENTAGE.—For the purposes of this subsection, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

"(3) DEFINITIONS.—For purposes of this section—

"(A) The term 'territorial government' means the government of a territory.

"(B) The term 'territory' means Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(C) The term 'territorial population' means the population (as defined in section 109(a)(1) without regard to paragraph (2) of that section) for each territory.

"(c) PAYMENTS TO LECAL GOVERNMENTS.—The governments of the territories shall make payments to local governments within their jurisdiction from sums received under this section as they deem appropriate.

"(d) APPLICATION OF GENERAL PROVISIONS.—The provisions of sections 401(c)(5), 403, 404, 405, 406, 407, 408, 409, and 410 shall apply to the funds authorized under this section.".

On page 7, line 3, strike out "Sec. 3." and insert in lieu thereof the following: "Sec. 4.".

Mr. BRADLEY. Mr. President, this is an amendment that deals with the countercyclical revenue sharing program, which was again a part of the Senate bill, passed out of the Finance Committee.

Mr. President, the countercyclical program provided for in our amendment is a standby program. Money would only be spent out during times of serious national economic downturn and then only to especially hard-pressed State and local governments.

The national trigger is a 7.5-percent national unemployment level for one quarter, seasonally adjusted.

Eligibility for State and local governments is an unemployment rate of 6 percent or more, with aid proportional to level of unemployment, relative tax effort, relative income and population.

WHAT IS THE NEED FOR A COUNTERCYCLICAL PROGRAM?

All State and local governments live with the background possibility that the national economic health will deteriorate, with increasing unemployment, a decreasing local tax base and growing welfare rolls. Economic decline translates into heavy burdens on these governments as their expenditures for unemployment insurance and welfare increase at the same time their revenues from tax collections shrink. The countercyclical nature of this program provides these governments with extra funds to meet these costs of recession.

WHY HAVE A STANDBY PROGRAM?

A program automatically triggered by certain conditions of national unemployment is far preferable to ad hoc, after-the-fact legislation whose lack of timeliness in assisting State and local governments is predictable. The countercyclical program legislated by Congress in 1976 was passed in response to the recession of 1973–74. It is far better to have in place a standby countercyclical program which will deliver aid in a timely fashion. The Finance Committee program is just what is needed.

Mr. President, I know that there will be questions as to why now, why the countercyclical program now when the recession apparently is fading.

While our economic future is unclear, none of us can ignore the predictions such as we have heard recently that the recovery from this year's recession will be short-lived; that we will again experience rising unemployment and heightened interest rates next year.

The recent increases in the prime rate have already had a chilling effect on the housing industry and on credit sales such as new cars.

Unemployment in the auto and steel industries continues at record highs.

While we all hope that this recession's impacts will recede, we should not assume an end to recessions. No less for governments than for individuals, taking out insurance is a prudent policy.

Mr. President, the countercyclical amendment addresses, in the fullest sense, all the economic contingencies of the next several years for State and local governments, and puts on the shelf a program that can be used when its countercyclical purposes are most needed.

Mr. President, I urge the Senate to adopt this amendment.

Mr. PROXMIRE. Mr. President, will the Senator from New Jersey yield?

Mr. BRADLEY. Certainly.

Mr. PROXMIRE. My understanding is that this amendment is not, as the first amendment offered by the Senator, a noncontroversial amendment. It was disputed in the Finance Committee. It passed with a majority, but was disputed; is that right?

Mr. BRADLEY. This was not accepted unanimously, but it was accepted by the committee.

I do not think I described this amendment as a noncontroversial amendment. I described the earlier amendment as one.

Mr. PROXMIRE. I understand.

This amendment would cost $1 billion for each of the next 3 years, is that correct?

Mr. BRADLEY. That depends on what one's estimates are of the unemployment rate. A 7.5-percent unemployment rate sets a fairly high level of national unemployment before this program is ever triggered. The money would flow only to the State and local government that have unemployment over 6 percent.

So, depending on what one's estimates are, the cost could be as high as a billion dollars or it could be far less. If unemployment does not reach 7.5 percent nationally, the program is not triggered. In fact, it was that adjustment that got the votes in the Finance Committee, that got it to the floor.

Mr. PROXMIRE. As the Senator knows, the level of unemployment is now almost exactly 7.5 percent.

Is it not true, that there is no provision in the budget resolution for this amendment and it would be a violation of the budget resolution if we appropriate funds for it, and if the Senator were to propose such an appropriation, a point of order would lie against the Senator's amendment? Is that correct?

Mr. BRADLEY. The Senator is correct. These moneys are not contained in the budget resolution. But I point out to the Senator, who is a senior member of the Appropriations Committee, that if next year we get into a situation where we have unemployment over 7.5 percent but the Appropriations Committee feels that the budgetary consequences of appropriating money under this act are more important than appropriating money for local governments in great distress, the Senate would not have to appropriate the funds.

Mr. PROXMIRE. Why not wait until next year, when we will have a new President and a new majority in the Senate and we will have a much more up-to-date notion of what the economy needs? Therefore, we will be in a position, perhaps, to revise our budget resolution and take a different posture, rather than make the commitment now of a billion dollars over what we promised to restrict the Federal Government to spending.

Mr. BRADLEY. It is not a commitment of a billion dollars if unemployment does not reach 7.5 percent nationally.

I also make this point: You say, why now, instead of later? Why not wait until later? That argument was made in the recession in 1974—Why act now and not wait until later?—and we got a countercyclical revenue-sharing bill in 1976, just as the economy was on the upswing, and that accentuated the inflationary problem of the following year.

This is simply a standby program. Since I recognize—and I am sure the Senator recognizes—that the ability to respond instantaneously to a problem is not always the strongest suit of Congress, this program is on the shelf; and if certain criteria are met, the program is triggered.

I believe it is a prudent policy to have on the shelf. It is a prudent policy to be able to respond to local governments that are in distress as a result of national economic policy.

This is not at all what we call a big spending program. It is a prudent policy that provides for the situation if we get into a problem with a recession and there is unemployment above 7.5 percent. And I say to the Senator that even under the next administration, I do not believe we will have to redefine full employment to 7.5 percent. So if we have serious national distress, assistance would be targeted to localities with more than 6 percent unemployment.

Mr. PROXMIRE. I say to the Senator—and I will have more to say about this later—that what this does is to commit the Congress of the United States, for the coming year, to a program of meeting our recession problems by spending more Federal money, rather than by other measures which might reduce taxes or any number of other policies that, in the judgment of those who are in office next year, might be a better, more constructive, and more free enterprise approach.

Mr. BRADLEY. Let me make a further point: The Senate did approve a countercyclical revenue-sharing program and a targeted fiscal assistance program in August of 1979. I believe that the action we would take today in approving this amendment would be consistent with the action the Senate took a little more than a year ago.

Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, this amendment was voted on in the committee, and it was agreed to by a vote of 10 to 7. I was one of those who voted for the amendment, and I expect to vote for it on the floor.

Therefore, I ask unanimous consent that the time in opposition be assigned to the ranking member on the other side, Mr. DOLE, who I believe is opposed to the amendment.

The PRESIDING OFFICER (Mr. MITCHELL). Under the unanimous-consent agreement, in the usual form, the Senator from Kansas is entitled to the remaining time in opposition.

Mr. DOLE. Mr. President, a parliamentary inquiry. Does the agreement provide for 15 minutes to a side?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, I do not believe it should take 15 minutes to bury this amendment, and I am pleased to have the help of the distinguished Senator from Wisconsin.

This is a billion dollar amendment. It would break the budget.

I oppose the amendment to add $1 billion in countercyclical aid because it has not been proven that anti-recession assistance of this sort is an effective device to moderate the impact of an economic downturn. A billion dollars should not be authorized unless we are reasonably certain it will be well spent.

Last year both Houses passed standby programs of countercyclical aid, but no agreement was ever reached on the formula for triggering payments. Now the House has dropped the countercyclical fund that was included in H.R. 7112. I recommend we agree with the House. There is no reason to expect that the House would now accept the Senate triggering formula, and there is no reason to jeopardize our chances of renewing revenue sharing by fighting for a $1 billion fund that may not be needed.

QUESTIONS OF VIABILITY

In either event, there are serious questions that have not been resolved concerning the viability of countercyclical aid, whatever formula is chosen. With wages and salaries as a trigger, there can be a 6 to 8 month delay in payout. Even unemployment figures, as in the Senate bill, are not available for about 2 months with respect to the States and 2 to 3 months with regard to localities. Both versions of this proposal run a serious risk of turning into procyclical funds in actual practice: They may be paid out too late to ameliorate the effects of recession, and may instead tend to reinforce an already strong recovery, with an obvious risk of exacerbating inflation. It is not at all clear that countercyclical aid is an effective means of combating recession. At least the question deserves considerably more detailed consideration than the committee has given it.

NEED FOR CONSISTENCY ON THE BUDGET

I have another compelling reason to be concerned by the amendment to authorize $1 billion per year in countercyclical aid. The proponents of this amendment clearly intend that this new spending program be triggered by the current recession, so that it would pay out in fiscal 1981. Yet the first budget resolution as adopted by the Senate contains no provision for such a fund: In short, the countercyclical title busts the 1981 budget. There is considerable irony in the fact that, at the same time that the House and Senate have agreed to resolve their differences on the way to comply with the first budget resolution, committees in both the House and the Senate are going full speed ahead with new spending programs that, if enacted, would make a mockery of the budget reconciliation process that Congress has sweated through this year. This is no way to keep faith with the American people, who demand spending restraint, and it is no way to maintain the integrity of the budget process.

If we conclude that it is necessary to exceed the budget totals set forth in the first budget resolution in order to deal with the impact of the recession, it should do so forthrightly and in a manner that is likely to have a meaningful effect on the economy. The countercyclical title approved by the Finance Committee and now proposed by Senator BRADLEY meets neither standard! The $1 billion authorized by the committee would be better spent in a program that guarantees an immediate payout, such as revenue sharing for the States, 40 percent of which is passed on to localities in any case. The case for triggered countercyclical aid simply is not strong enough to warrant busting the budget, or to win our support. The public is increasingly skeptical of temporary, one-shot solutions to complex and deep-seated problems. The Finance Committee has acted responsibly in this Congress by approving measures for spending restraint and tax reduction. That is the direction we must continue to take if we are to meet the real long-term needs of the economy.

Mr. President, I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, a copy of a letter which is on the desk of each Senator, from members of the Budget Committee, indicating the violence this amendment would do to the budget. It would be subject to a point of order if it were on an appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. President, I do not ordinarily disagree with the distinguished Senator from New Jersey, but I disagree with him on this occasion.

Furthermore, we are asking the States to forego their portion of revenue sharing, $2.3 billion. This was not included in the House bill. It is not part of the House bill. It was not included in the substitute offered on the House side, which was approved by the House.

It seems to me that we should not be authorizing a billion dollars unless we can afford it; and if anyone believes we can afford it, then I have not talked to that person recently. At least, the voters do not think we can afford it. We do not have a billion dollars. We have a big, big deficit.

We have been talking about the economic crisis in this country, and now we want to saddle somebody with another billion dollars in spending when we do not have the funds.

There is a budget crunch and a crisis in this country. Because of too much Federal spending, because the voters on November 4 said, "We have had enough of Washington telling us what is best for us; we have had enough deficits; we have had enough higher taxes; we have had enough of the recession," I do not believe that this amendment has any merit at this time.

In any event, there are serious questions that have not been resolved concerning the viability of countercyclical aid, however meritorious someone might suggest it is.

I suggest that we have a real problem in this country. We need some consistency in our budget. This is one amendment that can be defeated if there is a rollcall vote.

As the Senator from Wisconsin has pointed out, the first budget resolution contains no provision for such expenditures. This can bust the 1981 budget.

There is considerable irony in the fact that at the same time the House and the Senate have agreed to resolve their differences through a very difficult reconciliation process, we are now back here trying to undo the very thing we agreed upon last week.

EXHIBIT 1

NOVEMBER 18, 1980.

DEAR COLLEAGUE: When the Senate takes up the General Revenue Sharing Bill, there will likely be a debate over a new $1 billion countercyclical revenue sharing program which is not in the Budget. We oppose enactment of countercyclical revenue sharing. The Senate reported General Revenue Sharing Bill would authorize $1 billion per year for fiscal years 1981 through 1985 for this new program. There is no funding allowance for this program in either the First Budget Resolution or in the Second Budget Resolution, as reported by the Senate Budget Committee. The House-passed General Revenue Sharing Bill does not include a countercyclical program.

If the Senate considers the Senate reported Bill, we will offer an amendment to strike countercyclical aid. If the Senate takes up the House-passed bill, and if someone offers to amend it to include a countercyclical program, we will oppose that amendment.

We simply cannot afford to add new Federal spending programs to those already in place. Funding of this countercyclical program would breach our budget targets by $1 billion in budget authority and outlays in fiscal year 1981. Our spending ceilings are already threatened by increases in spending for existing Federal programs.

In addition, enactment of a program that adds spending stimulus to the current economic environment is counterproductive. The recession has ended. The economy has exhibited a momentum toward growth and general stability that has defied all economic projections. We do not believe we should commit our resources to a five-year spending stimulus program when changed economic conditions may dictate spending restraint.

This program has significant budgetary and economic implications. We oppose its enactment and urge you to support this position.

If you have any questions, please contact Becky Davies (4–0537) on our staff.

Sincerely,

Henry Bellmon,
Pete V. Domenici.

Mr. DOLE. Mr. President, it seems to me that, notwithstanding the usual merit in amendments offered by the distinguished Senator from New Jersey—and this may have some merit—properly formulated and at the appropriate time.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. BUMPERS. Mr. President, I do not understand a couple of things that the Senator touches on.

First, as I understand it, the countercyclical part of this bill only kicks in when the national unemployment rate is 7½ percent. Is that correct?

Mr. DOLE. That is correct as this Senator understands it.

Mr. BUMPERS. The Senator just stated that we did a couple of times and never could agree on a formula. My question is what is the formula now? If we are going to put another $1 billion in here, as I understand it, it goes up $30 million for each one-tenth of a percent above 7½. Who gets it and how are they going to get it and for what purpose, and so on?

Mr. DOLE. Maybe the Senator from New Jersey can explain all those details. We have to reach the magic figure of 7.5 percent. The argument this Senator is making is we cannot afford it.

Mr. BUMPERS. I am inclined to agree with the Senator.

Mr. DOLE. That is right.

Mr. BUMPERS. Before we even get to the question of whether we should spend the extra $1 billion or not, I am concerned where the money is going to go and who will get it when the unemployment rate reaches 7.5 percent.

Mr. DOLE. Let me yield to the Senator from New Jersey without losing my right to the floor.

Mr. BRADLEY. Mr. President, I think I will be able to help the Senator out a little bit. The national figure is 7.5 percent.

Mr. BUMPERS. Yes.

Mr. BRADLEY. Before a local government can receive the money it must have an unemployment rate of 6 percent or more. The amount of aid that flows to those local governments that have 6 percent or more unemployment is determined on a proportional basis that depends on relative tax effort. If one lives in a community where they made a big effort and they collect a lot of local taxes, then they really made a serious effort and they are rewarded a little more than if a community made no effort to tax its own people.

Second, if one is in a community where the income levels are extremely low, they will get more of a pro rata share than they would if they are in a community where the income levels are very high.

It is on those grounds that the aid flows.

I do not happen to have a magic chart showing how much money would go to each community.

But those are the criteria which I think are reasonable criteria.

If one's local government has a high priority tax and they tax their people, because they want to provide local services and then, because of the national economy, they are plummeted into a recession, they will face increased expenditures to meet welfare and unemployment costs. Yet because these increased expenditures are caused to a significant degree by national policy, they should get a little more than that community that has taxed its people very little.

Mr. BUMPERS. The thing that confuses me a little bit is why we do not kick it in until the rate reaches a national rate of 7.5 percent? Why should anyone who has an unemployment rate of less than that benefit from this?

Mr. BRADLEY. The Senator raises a reasonable point. If that would make the amendment more palatable, we might consider an amendment to the amendment. The reason is that 6 percent has historically been the number that we have used in this countercyclical revenue sharing program. It was the number we used for eligibility in the bill the Senate passed in August 1979. The 7.5 percent was adjusted up by the Finance Committee because we did not want to trigger the program if unemployment did a slight blip as a result of interest-rate policy. We wanted this program to recognize significant distress, that is, national unemployment of 7.5 percent, and we wanted the benefits to flow to those communities with low income, high tax effort, and unemployment of over 6 percent.

The effect of 7.5-percent eligibility for a local community would have the effect of targeting it even more, which to my perspective would be perfectly all right.

Mr. DOLE. Mr. President, I hope that part addresses the concerns of the Senator from Arkansas. I say as to that matter a total explanation starts on page 21 of the report, and it is rather complicated, I might suggest to the Senator from Arkansas, and the more one reads it, the less reason there is to pass it, this Senator concludes.

But we have a limited time. I promised to yield some to the distinguished Senator from New Mexico first and then to the Senator from South Carolina and then to the Senator from Oklahoma.

How much time is remaining?

The PRESIDING OFFICER. The Senator has 9 minutes and 45 seconds remaining.

Mr. DOLE. Mr. President, I yield 3 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank my good friend from Kansas.

Mr. President, former Senator Kaneaster Hodges once described another bill as a "Hot house flower which would wilt the moment it encountered the light of day." I suggest that this countercyclical revenue sharing program belongs in Senator Hodges' arboretum, as it will wilt immediately as it is exposed to any real scrutiny.

Our Government's attempts to provide States and localities immediate infusions of cash, during periods of economic downturn, have been failures, the magnitude of which can only be described as disastrous. Even if this program were a good idea, on the record we would get the funds to States and localities too late to have any effect during recessions—and in fact the spending which would undoubtedly occur after recovery had begun would prove pro-cyclical and, therefore, by definition, counterproductive.

Let us look at the basic premise underlying this proposition for a minute. The sponsors argue that during periods of economic distress States and localities are hard pressed to meet demands for basic services, because their revenues are diminished. Lest we forget, Federal revenues are also reduced during recessions. And the Federal budget includes a wide array of "economic stabilizers," that is, programs which automatically increase in size and cost when the economy is in decline. The combination of revenue losses and spending increases places incredible pressure on Federal fiscal policy. It is highly questionable just how much additional "discretionary" stimulus spending the Federal budget can absorb, without causing deficits so large that they can never be offset after recovery begins.

The last 10 years call seriously into question our ability, at the Federal level, to enact spending side stimulus during recessions—and to "turn off" the "tap on" these programs when economic reality and common sense tell us it is time to do so. Make no mistake, programs such as the one proposed by this amendment create their own constituency. The pressure for continued funding—long after the economic conditions which argued for their creation have changed—has frequently led to funding clear through periods of recovery and into the next recession.

The sponsors of this amendment will argue that funding would only be authorized if national unemployment reached "unacceptable levels." Do any of us suppose that once the program authorization is "triggered on" that funding would not be forthcoming. Do any of us suppose that, should we once fund this program there would not be pressure to continue funding, long after unemployment rates declined? I would like to remind my colleagues of the pressure for a program to "wean" the recipients of the last countercyclical revenue sharing program—a proposal submitted by the Carter administration, and pushed by the very people who are now arguing for this bill, a full year after funding under the old countercyclical program had expired.

Another troubling aspect of programs such as the one proposed here is the political reality that we are able to target resources only to areas experiencing economic decline. In that regard, the other body may be more culpable than we—for the House exists to represent their district's interest, while the Senate hopefully represents a broader view of national need. The fact remains, however, that in order to garner support for any funding at all, for programs such as this, we have to spread the funds so widely that the programs either cost far more than they should—or there is not really enough money available in any one place to do any good.

Just witness how this proposal has changed. In January, Carter proposed $400 million for targeted fiscal assistance in fiscal year 1980 and $1 billion in countercyclical fiscal assistance in 1981. In March, Carter dropped his $1 billion request for countercyclical assistance and proposed a $500 million add-on to the local share of general revenue sharing. He abandoned that proposal in August in favor of $1 billion again in countercyclical revenue sharing for 1 year, although no official budget request has been transmitted. Now, the proposal before us would authorize appropriations of $1 billion a year over a 5-year period.

Finally, Mr. President, there is the budget argument. If this country is to achieve our stated goals—increasing national defense, cutting taxes, and balancing the budget—we must get used to the phrase: "We simply can't afford it." I realize that this is a concept very nearly foreign to Federal legislators—and the Federal executive in recent times. But if there is one clear conclusion that can be drawn from the recent election, it is that the American people have had enough. They demand that we set priorities. They demand that we balance the budget. They demand that we find a way to cut back Federal spending, cut taxes, and take some of the pressure off monetary policy in the fight against inflation. And most of all, they demand we find a way to bring inflation under control.

If we are to satisfy these demands, we must choose discretely those programs we commit to fund. I support general revenue sharing. I support increased national defense funding. I believe the economy demands substantial tax reductions. Given all this, and unless we want—wholesale—to start eliminating existing programs, we simply cannot afford new commitments to questionable programs such as the one proposed here today.

Mr. President, I suggest we consign this program to Senator Hodges' hothouse, where it belongs. I urge the Senate to oppose this amendment.

Mr. President, I simply say to the Senate that basically while we as a Senate are saying we cannot afford general revenue sharing, we need fiscal restraint, a compelling majority in this country are saying that they are tired of the Federal Government throwing money away and a compelling majority of Americans are saying let us come up with something that will make our Government's expenditures begin to decrease in their growth rather than increase, plain and simple, this bill adds $5 billion in authorization, $1 billion a year for 5 years for a program called countercyclical revenue sharing.

Theoretically, that means it is a block type grant to the recipients and it is supposed to trigger in and out depending upon economic good times or bad times.

I submit to the Senate that if we get hooked on this one we are not going to ever get unhooked. This program is just like every other billion dollar program. We will never wean the recipients away from it. We trigger it for a couple quarters because we have 7½ percent unemployment, or whatever the fancy economic indicators are that will cause people to start writing these big checks to the cities of America. Then we just try turning it off.

I ask my good friend, Senator PROXMIRE, who is nodding, if that is not correct? If there are 80 cities or 300 cities that get this nice check, they do not go out and tell their people this is countercyclical revenue sharing; they spend it and they hire people, they buy trucks and they supplement a garbage department that is going bankrupt, all of which are tremendous local needs, but I submit plain and simple we cannot afford it. It is not a proven long-term package for city problems. It is an invention of the last recession in 1974 when the word "countercyclical" came running into our programmatic assumptions.

I submit that is the simple issue. We should turn it down and go with the basic revenue sharing program that is before us.

I thank my good friend from Kansas for yielding.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. THURMOND. Mr. President, will the Senator yield me 2 or 3 minutes?

Mr. DOLE. I yield.

Mr. THURMOND. Mr. President, I rise today in opposition to the amendment offered by the distinguished Senator from New Jersey (Mr. BRADLEY). This amendment would add to the bill a title authorizing an antirecessionary fiscal assistance program. I am opposed to this title being included in the bill for a number of reasons.

Mr. President, a great deal of controversy exists between the Senate and the House over a formula for triggering payments under an antirecessionary fiscal assistance program. Last year both the Senate and the House approved standby programs to cover the year 1980. However, due to the great differences between the program and the strong sentiments of both Houses, the two bodies never went to conference. Therefore, I believe it would be unwise and would place the fate of renewing the general revenue-sharing program in great danger if this title is included in the bill.

Mr. President, in addition to the above consideration, serious doubts have been raised as to the effectiveness of antirecessionary fiscal assistance programs like the one embodied in this amendment. A 2- to 3-month delay period exists in obtaining unemployment figures from the States and localities. This delay creates the possibility of funds being expended in an economic recovery period. Should such a situation occur—and it is not unlikely that it would—it could well have the effect of fueling inflation, rather than the intended effect of countering a recession.

Another factor that must be considered is the effect of such a program on the fiscal year 1981 budget. No provision for a $1 billion antirecessionary fiscal assistance program is contained in the second budget resolution as adopted by Congress. Thus, adoption of this amendment would "burst" the 1981 budget. I do not believe this is what the American people want or demand. I believe the results of the November 4 elections clearly indicate that the American people are overwhelmingly in favor of fiscal restraint and tax reduction on the part of the Federal Government.

Mr. President, I do not believe that inclusion of an antirecessionary fiscal assistance program in this bill will serve to meet the long-term needs of our economy. It may well jeopardize the continuation of the general revenue-sharing program, and would certainly be contrary to the goal of a balanced budget. I sincerely hope that my colleagues in the Senate will join me in opposing this amendment.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. DOLE. Mr. President, how much time does the Senator have remaining?

The PRESIDING OFFICER. Four minutes and 20 seconds.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I thank my friend from Kansas.

Mr. President, I oppose the Bradley amendment to add an antirecession fiscal assistance program to this bill. The amendment would authorize $1 billion per year to start up a 3-year program of fiscal assistance payments to State and local governments during periods of economic recession.

We simply cannot afford to put this new $1 billion program in place at this time. No allowance for this program was made in either the first or second budget resolution. The continuing resolution, we will soon consider is $8.4 billion over in budget authority and $4.6 billion over in outlays.

Funding of the program would breach our budget resolution targets by $1 billion in budget authority and outlays in fiscal year 1981. According to the Congressional Budget Office (CBO), funding of the program would exceed our outlay targets by $2.37 billion in fiscal years 1982 and 1983. Our spending targets are already seriously threatened by increased spending for existing Federal programs; there is no room for the enactment of this or any other new spending program.

By its votes to hold down spending, the Senate has supported the principle that the economy and individuals are not helped by adding new spending programs to those already in place. Increases in spending have served to raise the deficit and, in the current economic environment, will serve to raise interest rates directly. This is counterproductive, not only for the jurisdictions that would benefit from spending under the Federal aid program, but for the economy as a whole. Our balanced budget goal will not be achieved by adding new spending programs to those already on the books. If we choose to initiate new programs, we must, at the same time, eliminate existing ones.

Enactment of this program defies the need for budgetary restraint. It is also an inappropriate Federal response in the current economic environment.

This program is proposed to assist State and local governments adversely affected by a national recession and to help offset State and local government actions which could intensify the recession.

The simple fact of the matter is, Mr. President, that the Nation is not now in a recession. It is true that the economy contracted sharply (at a minus 9.6-percent annual rate) in the second quarter in response to extraordinary credit tightening by the Federal Reserve. The economy has now recovered, however, and that recovery is dramatic.

Industrial production declined at a better than 16-percent annual rate between January and July. It has now risen at a 17-percent annual rate since July. Employee hours declined at a 9.5-percent annual rate from April to July, but have increased at almost a 7-percent annual rate since then. Retail sales, which began to decline in January, had retraced all their losses by September. In fact, by September we had recovered over half of the loss in total employment since last December, and 65 percent of all industries indicated absolute increases in employment in the past 2 months.

These are not signs of a sluggish economy, Mr. President. These are signs of a robust recovery. So much so, the Federal Reserve has allowed interest rates to rise to a level of 19 percent, almost double their recession low.

Economic events are admittedly volatile, Mr. President, but Federal spending programs are not a flexible tool in responding to economic cycles.

The use of the national rate of unemployment as the trigger mechanism for this program causes at least a 3-month lag in program spending—even longer if you factor in the time it takes for the money to wind its way through State and local government budgets and get into the economy. This renders the program inefficient as a countercyclical device which should trigger "on" and "off" with the change in economic growth. A program that adds stimulus at least one quarter after the unemployment rate has breached the trigger is likely to add to inflation and interest rate pressures. It is likely to be counterproductive in the current economic environment.

When interest rates peaked at 20 percent in April, we were convinced the country was in a runaway inflationary spiral. In May, 1 month later, interest rates had dropped to 11 percent and economists were convinced we were in the deepest recession since World War II. Now, growth and interest rates are again rising. This program, if enacted and funded by the end of this quarter, would begin to spend in October, based on the national unemployment rates for the June quarter. Are we so certain that, by January, we will not be facing the same prospect of runaway inflation and interest rates—and sharply lower unemployment rates—that we faced earlier this year? We would then feel the pressure to constrain spending, but our resources under this program, would already be committed.

Mr. President, page 21 of the Finance Committee report on S. 2574 shows a table indicating estimated allocations among States of countercyclical payments for the first calendar quarter of 1981 under the proposed program. A careful examination of the estimated distribution of funds proves this to be a structural aid program, not an antirecession aid program. Funds under the program would go to areas that have the highest overall unemployment rates, which may have been very little changed by the recession. Mr. President, I ask unanimous consent that a table be inserted in the RECORD comparing recent unemployment experience and program funding allocations by State.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF UNEMPLOYMENT EXPERIENCE AND PROGRAM ALLOCATION BY STATE

States	Unemployment rate, July 1980	Change in unemployment rate, January–July 1980	Percent Distribution of program allocation
Total, all States	7.8	+1.6	100.0
Alabama	11,1	+3.2	2.1
Alaska	8,6	−1.5	.6
Arizona	7.8	+2.0	.9
Arkansas	8.7	+1.6	.9
California	7.1	+.5	10.0
Colorado	5.9	+1.1	.6
Connecticut	6.2	+.2	.6
Delaware	7.6	−1.7	.3
District of Columbia	6.9	+.4	.1
Florida	7.6	+1.9	1.6
Georgia	6.6	+1.4	1.7
Hawaii	5.4	−.3	.2
Idaho	8.0	.1	.5
Illinois	9.9	2.1	5.8
Indiana	11.3	2.0	3.9
Iowa	6.1	−.6	1.1
Kansas	4.7	+.9	.1
Kentucky	7.9	+.5	1.2
Louisiana	6.5	−2.0	2.0
Maine	9.5	+1.8	.6
Maryland	6.9	NA	1.5
Massachusetts	6.1	−.3	1.6
Michigan	14,1	+3.0	13.5
Minnesota	6.0	0	2.3
Mississippi	8.0	+1.2	1.4
Missouri	7.4	+.9	1.5
Montana	6.2	−1.4	.2
Nebraska	4.0	−.3	0
Nevada	6.6	−.5	.1
New Hampshire	5.6	+2.1	0
New Jersey	8.1	+.9	3.7
New Mexico	7.6	−.9	.6
New York	8.1	−.3	10.2
North Carolina	8.1	+2.2	2.3
North Dakota	5.2	−.4	.1
Ohio	10.2	+3.2	5.9
Oklahoma	4.4	+.7	.2
Oregon	9.0	+.8	1.4
Pennsylvania	9.3	+1.5	5.0
Rhode Island	7.8	+.2	.4
South Carolina	8.3	+2.4	1.2
South Dakota	5.0	0	0
Tennessee	8.5	NA	1.8
Texas	5.6	+.4	1.8
Utah	6.1	+.1	.2
Vermont	6.8	+.3	.2
Virginia	5.8	+.4	1.3
Washington	8.3	−.8	1.7
West Virginia	9.8	NA	1.1
Wisconsin	7.2	+.6	2.3
Wyoming	3.6	−.6	.6
Territories	NA	NA	1.0

Source: Bureau of Labor Statistics, Employment and Earnings.

Mr. BELLMON. Mr. President, as this table indicates, many States, like Alaska, Kentucky, Missouri and Oregon, have experienced relatively small increases in their unemployment rates and yet receive significant shares of the program funding because their unemployment rates are 7, 8 or 9 percent. California is an example. The unemployment rate in California has risen only five-tenths of a percent since January, and in July stood at less than the national average of 7.8 percent, California, however, would receive a full 10 percent of the money in this program.

New York, as a State, actually experienced a decline in its unemployment rate has remained above 8 percent. It also receives 10 percent of the funding under this program.

High State-local unemployment rates are indicative of structural rather than countercyclical dislocations. They should be debated as such, particularly in the context of general revenue sharing. A new spending program, under the guise of an antirecession measure, is neither an appropriate nor a necessarily effective means of dealing with the problems of these jurisdictions.

In addition, the program is not targeted. Almost 20 percent of the funds would go to States that have experienced declining unemployment rates since the begining of the recession in January. Over half of the money—55.8 percent—would go to States that have experienced a less than average increase in the their unemployment rates since January.

This is a "something for everyone" approach which the Senate, in the past, has rejected. In the interest of fiscal restraint, we can no longer afford to spread around money under every Federal program. If programs such as this are to achieve their intended results, they must be designed to target the money to areas in true distress. States like Illinois, Indiana, Michigan and Ohio have been particularly hard hit by this recession because of substantial number of auto and auto-related workers. They would receive only about one-third of the money under this proposed program.

Last, Mr. President, the general fiscal condition of State and local government does not necessitate immediate action. State and local governments slipped into deficit on an operating basis in the first quarter of 1980 and the deficit deepened in the second quarter to about $10 billion. However, preliminary estimates of the third quarter deficit ($10 billion) indicate that the situation has stabilized and is likely to improve substantially in the current quarter along with an improving economy. The expected State and local operating budget deficit for 1980 is considerably less, as a percent of total State and local expenditures (approximately 2 percent), than during the 1974 recession (2.7 percent).

Mr. President, passage of a new countercyclical fiscal assistance program has significant budgetary, economic, and programmatic implications. The House-passed general revenue sharing bill does not include this program. The program was proposed by the President in August as part of his economic renewal package; however, no official budget request for this $1 billion program has yet been transmitted by the administration.

Countercyclical revenue sharing was enacted in 1976 and extended in 1977. Evaluations of that expired program have raised serious questions regarding the timing and targeting of expenditures. In fact, our experience with economic stimulus grant programs has generally been money pumped into the economy at the wrong time, resulting in additional inflationary pressures and wasted Federal dollars.

I urge my colleagues to reject this proposal to revive the program and oppose this amendment to add antirecession fiscal assistance program to the bill.

I yield back the remainder of my time.

Mr. BRADLEY. How much time remains for both sides?

The PRESIDING OFFICER. Two minutes and 40 seconds for the Senator from New Jersey, and 2 minutes and 50 seconds for the Senator from Kansas.

Mr. BRADLEY. I would be pleased to yield to the Senator from New York.

Mr. JAVITS. I thank the Senator.

Mr. President, this particular program is of critical importance to the decaying older cities. The reason is that the decaying older cities do not come back as quickly or as effectively as do other cities in the country.

As they represent a great preponderance of the population in city areas, it is absolutely essential to give them some help. Although the detailed price tag of $1 billion sounds a lot, it is subject to appropriations, so that it is not appropriated unless it is really needed.

Second, it brings back in terms of services and in terms of renewed employment far more than it costs. So it is pennywise and pound foolish to cut this out.

In my own judgment, Mr. President, it is a measure of equity, a measure of endeavoring to adjust to equal opportunity blocs of our population, big blocs of a population, who would otherwise not be helped.

It is for those reasons, Mr. President, that I hope very much the Senate will see its way clear to approve this amendment.

Let me add that these areas I speak of are the principal revenue-producers. It is they who generate the revenue that carries everything else. There are far more than $1 billion, Mr. President, in this bill which will go because the money is produced by the very areas which need this minimal help. I hope very much the Senate will approve it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOLE. Mr. President, I do not quarrel with any of the statements I have heard thus far.

I would only say in conclusion that we just do not have the money. This is a $1 billion boondoggle. It is money we do not have. If we had a big surplus—every time I am on a news program I am asked "Where are you going to cut spending?"

I am not going to start today by adding $1 billion and then say next year, "Let us cut."

Everybody asks the President-elect "Where are you going to save money?" We are not doing him any favors by creating a bigger burden for him.

I said recently the President-elect is going to have to declare an economic emergency in this country on January 20 and then proceed to take enough action that will shock the American people and let them know what an economic crisis we face.

We should not be here today trying to load up the burden for the new President. We do not have $1 billion, it is not in the budget. It would not be passed if it were in an appropriation bill.

If we had a surplus, no doubt about it. I am certain somebody can figure out a way to spend $1 billion. If you are a city official or a Governor you would say, "Oh, I need that money." But where are they going to get that money? We do not have the money. The taxpayers do not have much left.

I just suggest as a favor to the taxpayers in the spirit of Christmas, in this holiday season, let us not pass another $1 billion boondoggle as a Christmas present to the American taxpayers. They have had all the presents they can stand from this Congress. They do not need any more from us. They need us to say, "No," just one time. This is a $1 billion "no," a $1 billion boondoggle, and we can stop this right on this floor.

They say it is needed. Everything we appropriate is needed, but we cannot afford this. We do not have the money. To whom are we going to charge it? Our generation is already bankrupt. We have bankrupted the next generation, and we are now looking to the next unborn generation to saddle them with a few billion dollars. Where are we going to find the money?

So I repeat in the spirit of the holiday season let us give the taxpayers a break. Let us vote "No," on the Bradley amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I will only respond by saying that Christmas is not going to be a very cheering period for many people who live in our urban centers which have experienced a declining tax base, declining services, and loss of jobs as well as an accelerating tax rate.

Christmas is not going to be very cheering for them as they see interest rates at 20 percent, as they see the country teetering on the brink of another very deep recession, and as they see the country on the brink of a recession because of national economic policy, while the Federal Government provides no recognition that it is indeed in part responsible for the fiscal plight of local governments across the country.

Mr. President, again this is a prudent policy. It is a standby program, recognizing the possibility of recession in the next few months, the next year certainly.

The Finance Committee has approved this provision, and I urge the Senate to adopt it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOLE. Has all time expired?

The PRESIDING OFFICER. The Senator from Kansas has 25 seconds.

Mr. DOLE. Would the Senator like a little present?

Mr. BRADLEY. Let us yield it back.

Mr. DOLE. I yield back my 20 seconds.

Mr. LEVIN. Mr. President, I support the amendment offered by my colleague, Senator BRADLEY, which authorizes the standby countercyclical program. This program, designed to trigger fiscal aid at times of extraordinary unemployment, was included in the bill reported from the Senate Finance Committee, and a similar program was recommended by the House Government Operations Committee.

The economic downturn has cut State and local tax revenues at the same time placing increasing demands on State and local services. The unemployment rate in my State of Michigan was 13.4 percent in October of 1980. The figure is bound to go higher in the months ahead as high interest rates stifle demand for cars and trucks. The countercyclical program is not an extravagant program. It is one which responds to fiscally depressed communities offering relief where it is most needed.

The General Accounting Office has pointed out that data elements of the general revenue-sharing program can be used for allocation of countercyclical funds and, in fact, those payments will be better designed to meet the needs of fiscally distressed local governments than actual revenue-sharing payments. This allocation is made by multiplying each eligible local government excess unemployment rate by the product of the three key variables in the revenue sharing formula: First, population, second, per capita income relative to the State per capita income, and third, general tax effort. Payments are designed to meet fiscally depressed conditions as measured by a local unemployment rate that exceeds 6 percent. Once that level falls below 6 percent, payments are suspended.

A cap also exists on total payments during each year. Payments may not exceed $1 billion in any year. This is not an open ended program but one which has a modest spending cap.

Mr. President, this countercyclical program is greatly needed. We are facing the prospects of renewed economic depression particularly in the auto regions of the country. Any economic recovery will be stalled by the ever increasing interest rates. The program itself has safeguards against overstimulation. Funds, under the program, would not be dispensed to areas where unemployment fell below 6 percent or at the time national unemployment falls below 7.5 percent.

I urge my colleagues to give their support to this program, and to adopt the Bradley amendment.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Washington (Mr. Magnuson), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 24, nays 68, as follows:

[Rollcall Vote No. 514 Leg.]

YEAS—24

Bayh
Bradley
Byrd, Robert C.
Chafee
Culver
Danforth
Durkin
Heinz
Inouye
Javits
Kennedy
Levin
Long
McGovern
Moynihan
Nelson
Pell
Randolph
Ribicoff
Riegle
Sarbanes
Tsongas
Weicker
Williams

NAYS—68

Armstrong
Baker
Baucus
Bellmon
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Chiles
Church
Cochran
Cohen
Cranston
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Lugar
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Zorinsky

NOT VOTING—8

Bentsen
Cannon
Gravel
Hatfield
Magnuson
Mathias
Talmadge
Young

So Mr. Bradley's amendment (UP No. 1835) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota.

UP AMENDMENT NO. 1836

(Purpose: To amend the provisions regarding payment to State governments.)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. Durenberger), for himself, Mr. Bradley, Mr. Ford, Mr. Tsongas, and Mr. Weicker, proposes an unprinted amendment numbered 1836.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 11 after "106 (B)" strike "," and add "." Strike all on line 11 after ".", to line 23. On page 7, line 3 insert the following as a new Section:

(A) Study of Optional Revenue Sharing Payment to State Governments in Lieu of Categorical Grants.—

(1) In General.—The Advisory Commission on Intergovernmental Relations shall study and evaluate the administrative procedures which would be involved in making payments to State governments under title I of the State and Local Fiscal Assistance Act of 1972 which would be payable only if the State government elected to reduce, for the entitlement period for which the election is made, the amounts it would otherwise receive in categorical grants in an amount equal to the amount of the payment made to the State under such title for the entitlement period.

(2) Categorical grant.—For purposes of this section, the term "categorical grant" means any program for which the budget authority is included in Appendix H of the Special Analyses, Budget of the United States Government, 1981 (or in the corresponding part of the Special Analyses, Budget of the United States, for any subsequent fiscal year) other than—

(A) any such program which is a program of grants for payments to individuals, or

(B) any such program which, because it contains discretionary grant authority, should not be treated as a categorical grant for purposes of the study.

(3) Report to be completed within 1 year.—The Commission shall complete its study and evaluation and report the results thereof, together with any recommendations it may deem appropriate, to the Committee on Finance, United States Senate, not later than 1 year after the date of the enactment of this Act.

(4) Cooperation of other Federal agencies.—

(A) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law and within the limits of available funds, such data, reports, and other information as the Commission deems necessary to carry out its function under this section.

(B) The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

(C) The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(5) Authorization of appropriations.—There are authorized to be appropriated to the Commission for the fiscal year ending September 30, 1981, such sums as may be necessary to carry out the provisions of this subsection.

Mr. DURENBERGER. Mr. President, the cover of "fiscal responsibility" has received a lot of use this year. As long ago as last January, many of my distinguished colleagues were calling for "discipline in the budget process." In March, our constituents were promised a balanced budget. In June, the Senate passed a first budget resolution that was described as "austere."

Frankly, I wish the rhetoric we have heard for the past 10½ months had been more "disciplined" and "austere." If that had been the case, perhaps today we would have a balanced budget in fact, rather than in our memory book of promises.

Fiscal responsibility at one time meant an orderly program of spending reductions and tax reform. Today, it seems to mean slash where we can, keep the deficit under the mind-boggling figure of $50 billion, and get out of town.

Mr. President, I reject that definition. For me, fiscal responsibility means what it has always meant: using the national tax system to raise only as much money as is needed for needs of a national nature and using taxpayers' dollars wisely in determining policy for meeting those needs.

That is why I support general revenue sharing, and why I introduced S. 2414 to reauthorize GRS in its present format, with no strings attached, for State and local government for another 4 years. Until we have the courage in this Congress to reform national tax policy by, among other things, eliminating the impact of inflation on tax rates and tax base, general revenue sharing in its present form is a necessary and wise use of taxpayers' dollars.

Revenue sharing is not Federal assistance. It is not a handout to States, counties and cities. It is not a welfare program for governments. It is not a substitute for Federal categorical or block grant financing of public services.

Revenue sharing is a responsible and partial offset of a national tax system that thrives on inflation and robs State and local government of the ability to collect adequate revenues for vital public services. Let me remind my colleagues of one important point. The Federal taxpayer is the same person who digs into his or her pocket to keep the States, counties, cities and townships running. There is only one pocket, and to the person who keeps digging into it, it does not matter much where the money is going.

Cutbacks in revenue sharing, without corresponding Federal tax reform, mean simply that local government is forced to turn to the same taxpayer and ask him to put his hand in his pocket one more time. And today, that pocket contains, at best, borrowed money. Opponents of revenue sharing are trying to make local and State government, as well as the taxpayers, inflation's culprits. That is just not true.

During the past year, we have had reason after reason thrown up as to why general revenue sharing should be cut back, if not eliminated altogether. Perhaps the most consistent argument has been based on the National Governors' Association's report of last January that estimated that the States would have surpluses totaling more than $7.5 billion this year.

I want to point out that the NGA report was issued at about the same time the President and many of my colleagues were promising a balanced Federal budget for fiscal year 1981. Today, almost 11 months later, the NGA report will carry as much water as those promises.

Since January we have had periods of 18-percent inflation, 20-percent interest rates, and unemployment of almost 8 percent. We have been in a recession, and the same recession that sent National Government expenditures soaring sent States and local government revenues plummeting. There is no mystery in this cause and effect relationship; the mystery to me is why some people remain oblivious to it.

My State of Minnesota was one of those expecting a small surplus in the NGA forecast of last January. Today, Minnesota is facing a shortfall of $195 million in the current biennium. This shortfall has forced Minnesota to cut $20.8 million in aid to local units of government in addition to reducing the budgets of State agencies. The same is true of many of Minnesota's neighbors, as well as New York, Oregon, and other States.

I am even willing to compromise on this point. I will hold the National Governors' Association to its statements in the January report if the Senate will agree to be held accountable for its promises to balance the Federal budget.

In fact, several of my colleagues and I have tried to reach that compromise, voting time and again for a balanced budget. Unfortunately, our efforts fell short, and I do not expect that to change in the closing days of this session.

I would be less than honest if I did not admit that some States will have surpluses—huge surpluses, in fact. More than a trillion dollars will flow from the oil-consuming to the oil-producing States over the next decade as a result of the decontrol decision. A large portion of these revenues will be captured by State and local royalty and severance taxes. As these taxes rise, other taxes will be lowered and jobs and businesses will flow from the energy-consuming to the energy-producing regions of the Nation. The State of Alaska, for example, right now has a budget surplus of $1 billion and expects a surplus of $28.5 billion by the end of the decade. A few coal-producing States, with severance taxes as high as 30 percent, are rapidly joining this select group of energy producers.

Most other States, including Minnesota which imports 98 percent of its energy, are not as fortunate. These energy poor States are confronted with the difficult task of preparing to stem an exodus of people, businesses, and with them, their tax base.

Again, though, I am willing to compromise. If my colleagues will work with me to slow down this massive transfer of income between energy poor and energy rich States, I will work with them on an alternative formula for general revenue sharing. Until that compromise is worked out, though—and I must remind my colleagues that we have tried to compromise on this issue before and were unsuccessful—I strongly urge that we reauthorize the States share of revenue sharing as soon as possible. The fiscal interdependence of the States and their local governments is well documented.

In Minnesota, more than 80 percent of State taxes are returned to local government; at least 40 percent of the States share of the GRS funds are passed directly through by the States. Where the money is not given to cities, counties, and townships, it still has a direct impact—it funds services that local governments need—schools, teacher retirement funds, medical assistance, community mental health, and other necessary public services. The effect of eliminating States share of general revenue sharing on local governments and local taxpayers will be devastating.

Holding the States portion of general revenue sharing hostage is not the way to eliminate the categorical grant program. General revenue sharing is returning a portion of the unearned income the national Government collects through inflation's impact on an unindexed tax system. If general revenue sharing helps State and local governments hold down taxes, so be it. That benefits the same taxpayers all elected officials serve. It is the obligation of those of us in Congress to eliminate the misspent dollars and the wasted assets that are endemic to the categorical grant system. But this obligation is independent of our obligation to State and local governments through general revenue sharing.

If we want to change general revenue sharing, then we should use as our vehicle S. 1974, my proposal to index taxes, rather than high State and local tax rights or the elimination of categorical grants as our rationale.

The central issue we are faced with is how we can best serve the needs of our constituents—the same constituents we share with the State and local governments. At this time, I do not think we can do better than continue a program that returns 99 cents of every dollar in services to people.

Mr. President, the amendment before us——

Mr. LONG. Mr. President, is this an amendment contained in the unanimous-consent agreement?

The PRESIDING OFFICER. Will the Senator restate his question?

Mr. LONG. Is this one of the amendments subject to the unanimous-consent agreement?

Mr. DURENBERGER. I believe the Senator is correct.

Mr. LONG. Have we given unanimous consent to the amendment? I do not know what the amendment is. I am not familiar with it.

The PRESIDING OFFICER. Amendments are in order to the bill other than those that are specified.

Mr. LONG. Mr. President, I believe that we have an agreement that amendments have to be germane, but I shall await the Senator's explanation.

Mr. DURENBERGER. I think for clarification, I say to the Senator from Louisiana, in the Senate agreement, this may have been reported as an amendment proposed by the junior Senator from New Jersey. This is basically designed to strike from the revenue sharing bill the provision that would require States to choose between receiving general revenue sharing and accepting moneys available through categorical grant programs.

Specifically, Mr. President, it would delete the section which prohibits revenue sharing payments to a State unless that State has declined to receive or has refunded to the U.S. Treasury funds available to it under any Federal categorcial grant program in an amount equal to the revenue sharing payment.

In place of this requirement that States trade revenue sharing funds for categorical program money, my amendment would call upon the Advisory Commission on Intergovernmental Relations to conduct a 1-year study of the feasibility of such a trade-off.

The trade-off idea has been raised at least twice during this Congress—first, when the Senate was debating the first budget resolution and again when the Finance Committee marked up the revenue sharing reauthorization bill. As we debated this idea, several serious questions were raised about the feasibility of a trade-off, and at the request of Senator DOLE, the GAO analyzed his proposal, which was to do something similar to this. The problems GAO found with the Dole approach apply equally to the trade-off provision in H.R. 7112.

Here are some of the difficulties.

First. States would still need to meet the administrative and paperwork requirements associated with becoming eligible for categorical programs, only to have the funds transferred later to their revenue sharing accounts. Unnecessary effort and expense would be directed toward fulfilling pregrant approval requirements such as developing State plans, only to have these requirements negated if the categorical funds are traded for revenue sharing moneys.

Second. States could select programs where the State plays primarily a coordinating role in distributing Federal funds to local governments. Therefore, States could select pass-through programs which would have little or no impact on their own operations but which would decrease funding to local governments.

Third. Using revenue sharing funds in lieu of categorical grants could be viewed as a way of circumventing matching, maintenance of efforts, and other congressional or administratively mandated compliance provisions of categorical grant programs; and

Fourth. The trade off proposal could interrupt Federal-State budgetary processes. Categorical programs operate in different time frames, often carefully adjusted to the budget cycles of State agencies. Both Federal and State budget processes would be held up until a State decides whether it wants to relinquish funding for a categorical program. The result could be and probably would be extreme confusion.

At the Federal level, the paperwork involved in keeping track of the funds the States have declined and those they have accepted would be enormous. Elaborate bookkeeping systems involving every department of the Federal Government would need to be developed, Regulations for all of the programs would probably need to be rewritten; in some cases, the laws authorizing the programs would need to be changed.

So, because of these financial and administrative difficulties, Mr. President, it is my opinion that it is not wise to put this trade off proposal into law at the present time. The proposal deserves careful study. It should be analyzed and if the approach can be crafted into a legislative proposal, it certainly could be considered next year. No action, in my opinion, should be taken on it now.

The Committee on Finance, when it considered this matter, agreed that a study should be made before any trade off proposal is enacted as part of the revenue sharing bill. S. 2574 requires the Advisory Commission on Intergovernmental Relations to study the idea over the next year. My amendment would include the language of S. 2574 into the revenue sharing bill now before us and I believe that the approach suggested by the Finance Committee is the sensible one to take at this time.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I believe Mr. BRADLEY wishes to speak for the amendment and, I believe, Mr. DOMENICI, so the time should be yielded by the sponsor.

Mr. DURENBERGER. I yield the time, Mr. President.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I am in support of the amendment offered by the Senator from Minnesota in behalf of himself and the junior Senator from New Jersey.

Mr. President, this is addressed to the so-called Levitas amendment which was adopted in the House by voice vote, in which a requirement was established that a State must return to the Federal Government $1 in categorical grant money for each dollar of revenue sharing that it takes. The amendment provides no details on how this trade-off would work. The specifics are left to the Secretary of the Treasury, whose happy task is to figure out a way to make this idea work.

The Senator from Minnesota and I suggest that we strike this whole amendment, the Levitas amendment, and replace it with a study that looks at the viability of his trade-off idea, but in a way that forces the Senate and the Congress to come up with specifics instead of leaving it to the Secretary of the Treasury to decide. I should like to go over just a few of the problems, echoing some of the words that the Senator from Minnesota said:

First, categorical funds may be insufficient to allow for trade-offs. A CBO study indicates that States receive between $1 billion and $1.7 billion in categorical funding that is not passed through to individuals or local governments and that is not spent for certain specified purposes such as veterans programs and defense. Since the State share of revenue sharing authorized in the House bill is $2.3 billion, aid to individuals or localities could be affected by the trade-off proposal. Conclusion—More work must be done on the definition of programs covered by the proposal.

Second, the mechanics of State-level decisionmaking on trading off certain categorical moneys for revenue sharing are far from clear. State legislatures usually have a constitutionally prescribed role in the expenditure of all moneys, including those received from the Federal Government as categorical grants and revenue sharing. State legislatures meet on schedules which bear little relation to the Federal budget cycle: Some meet only every other year; some meet for special purposes only in the off year; some meet for limited periods of time. Legislative elections intervene. Governors are not always elected on the same time schedule as the legislature, and so on. Conclusion—The nature of decisionmaking on expenditures by State governments should be studied in greater detail to determine how this proposal might work in the real world.

Third, the Levitas amendment is inconsistent with legal requirements of existing categorical grant programs. Nor does reconciliation of the terms of the two appear possible, without some large-scale rewriting of current law. Current recipients of categorical grant moneys could challenge a State's decision to trade off those moneys. Such conflicts could lead to greater involvement of the Federal courts in running the intergovernmental system.

In conclusion, the legal problems of the trade-off scheme require greater study and specific proposals for resolution.

The fourth objection, Mr. President, is that the Levitas amendment, in my judgment, would spawn a whole new generation of grantsmen at the State level. If I am the Governor of the State and I want to keep my categorical grant and also revenue sharing, I would double my grant-writing staff to get more grants that I could trade away so I could have the same level of grants and revenue sharing.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. BRADLEY. I am glad to.

Mr. PROXMIRE. Will the Senator consider that there is no way there would be for the Federal Government to spend more money in grants. We set that level. It is up to us.

If the Governors want to be more skilled in writing requests, let them do it. But this would not mean spending any more money.

What the amendment does, it limits the amount we spend so that revenue sharing is given the flexibility they say they want, and that is it.

There is no way the Federal Government could be cheated out of additional money.

Mr. BRADLEY. Say that $100 is available for categorical grants. Revenue sharing is $10. We are setting one off against the other. We have cut out $10 somewhere.

In my judgment, this idea needs much greater study as to how it will work in actuality.

I think that is the intention of the Senator from Minnesota in offering the amendment, which I support.

I wanted to make these points in support. I do not want to make the time of the Senator any further.

Mr. President, I support the amendment.

Mr. DURENBERGER. I thank the Senator.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. BAUCUS). Does the Senator from Minnesota yield time to the Senator from Kansas?

Mr. DOLE. Just 2 minutes.

Mr. DURENBERGER. Yes.

Mr. DOLE. Mr. President, the Senator from Kansas has a particular interest in the provision of the House revenue sharing bill that requires States to trade off categorical grant funds dollar for dollar in order to obtain revenue sharing funds, beginning in fiscal year 1982. This provision was proposed by Congressman LEVITAS and adopted by the House on voice vote.

Last spring I proposed legislation here in the Senate to preserve the States share of revenue sharing by allowing each State to receive revenue sharing funds to the extent it elected reductions in categorical grant funds for which it is eligible. My proposal, S. 2681, was introduced with the goal of making the more flexible revenue sharing funds available to the States in a manner consistent with overall budget restraint. My legislation specified the types of programs that would be eligible for reduction—excluding, for example, income security programs. In addition, S. 2681 provided for reconciling the decisions of each State with appropriations made by Congress.

Mr. President, I mention the provisions of my own proposal simply to make the point that this is an idea that requires careful study and consideration before it can be put into practice. That is why I ask the Finance Committee authorize a 1-year study of my proposal, and why the committee agreed to do so. I still prefer that we proceed this way, rather than adopt the Levitas amendment. The Levitas amendment merely says that a State must return an equivalent amount in categorical grant funds to the Federal Treasury before it can receive its revenue sharing payment. No mechanism for enforcing this requirement is suggested.

I believe the trade-off idea is a good one, and I believe we can make it work. But I also believe that we ought to know how to proceed before we enact legislation requiring a trade-off. To leave the entire matter up to administrative discretion is not, in my view, an acceptable solution. That is why I favor substituting a study for the House provision requiring a trade-off by the States.

NO RISK TO THE BUDGET

Mr. President, authorizing a State share of revenue sharing in future years will not inhibit efforts to bring the Federal budget under control. Our goal is to decentralize spending decisions, and to get maximum value out of every Federal dollar spent. The States' share will be subject to the appropriations process each year, and if the money is to be provided, room will have to be made in the budget. Earlier this year the Senate approved the Kassebaum amendment to the first budget resolution, which would have provided a partial States share in 1981 by cutting categorical grant programs. While that amendment was dropped in conference, I expect that similar proposals will meet with more success in the next Congress.

The point is that there are ways to spend Federal moneys more efficiently, and revenue sharing is one of them. We can and ought to cut less efficient programs first, including categorical grants. But we have a clear mandate from the voters to cut spending, and the point cannot be made too strongly that revenue sharing for the States is not additional spending, but more efficient spending.

ENFORCING TRADE-OFF IS A GOOD CONCEPT

Mr. President, in conclusion let me say that I hope further study of the trade-off mechanism for States' revenue sharing will enable us to move in that direction. The concept is a good one, because it not only guarantees a degree of budget restraint, it also would give us an idea of which grant programs are most valuable to the States. While the proposal has not been studied in detail, general reaction to the idea has been favorable. In addition, the Congressional Budget Office has done an initial analysis of my own proposal, costing out the Federal grant programs that might be eligible for reduction by the States. So the groundwork for a detailed study has been made, and it is worth the effort. We should not be afraid to innovate, but let us innovate wisely.

Mr. President, I believe that during the discussion of this in the Senate Finance Committee, we agreed on a study. I think that is essentially what this amendment would do.

I am willing to go a step further, as will be indicated by the distinguished Senator from Nebraska in a few moments. That is, with reference to the demonstration projects.

I do not know how the two Senators feel about that.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Will either the Senator from Kansas or the Senator from Louisiana yield me time in opposition to the amendment?

Mr. LONG. I yield 10 minutes to the Senator.

Mr. PROXMIRE. I may not use all that time.

Mr. President, Congressman Levitas deserves a whale of a great deal of credit for what he has done. It is the same kind of thing Senator Dole and Senator Kassebaum have suggested here on the floor of the Senate in the past, and I think they also deserve a great deal of credit.

What they are trying to put together is an attempt to give the Governors and mayors of this country what they say they want, which is flexibility in spending the funds they receive.

What Congressman Levitas has done is say:

> Look, we are in no shape to afford more revenue sharing. We have an enormous deficit that is inflationary, and is also driving up interest rates. We have to hold down spending. Therefore while we will continue to give revenue sharing to the States and localities, we will say to them that for each dollar provided in revenue sharing, they will have to surrender an equivalent dollar in categorical grants.

The Governors including my own, have said over and over again, they favor that approach.

They do not want the categorical grants because they say it limits them. They cannot always use it where they may need money the most. It is inefficient. They take it because it is Federal money, but they would greatly prefer revenue sharing.

So what Congressman Levitas has done is propose a trade. It makes sense.

What the Durenberger-Bradley amendment would do is knock out the Levitas approach and substitute a study for it.

Mr. President, I think the study is a good idea, but I hope the Senate will not stop at completing the study. I have seen many of them in the past. I am sure the Senator from Louisiana has seen more than I have because he has been here longer. But, so often, the studies go nowhere.

If we are going to really be in a position in the future to determine whether or not we can make the Levitas-Kassebaum-Dole idea work, what we will have to have is a pilot project. That is exactly the thing the Senator from Nebraska (Mr. Exon) has proposed here.

What concerns me is that if we adopt the Bradley-Durenberger proposal with only a study, it may be very difficult to go much further toward implementing the tradeoff approach.

I hope we can find a way to incorporate the Exon proposal into the proposal by the Senators from New Jersey and Minnesota, because if we do that we will gain a solid period of experience.

There are many problems in this approach. It is complicated. But unless we have a few years of experience with some States we will simply spin our wheels and continue a duplicate program, provide revenue sharing that there is no way this country can afford, and deepen the deficit.

So I hope the Senator will have an opportunity to offer an amendment to the Durenberger-Bradley amendment.

I yield back any time I have remaining.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, does the Senator from Nebraska desire to speak at this point?

Mr. EXON. I would like 2 minutes.

Mr. LONG. I yield 2 minutes to the Senator.

Mr. EXON. I thank my friend from Louisiana for yielding me 2 minutes and my friend from Wisconsin for the remarks he has just made.

Mr. President, a point of clarification. I intended to offer the amendment we have been discussing, that the Senator from Wisconsin has shown keen interest in, and I thank him for that, as a separate amendment.

I have been assured that amendment will be supported by the two floor managers of the bill and, as far as procedure is concerned and staying away from a point of order, we thought it best if we offered separate amendments.

With that understanding, I have decided not to offer that as a perfecting amendment to the matter now before the Senate.

Mr. FORD. Will the floor manager yield for a question?

Mr. LONG. Yes.

Mr. FORD. Do I understand that if the Durenberger-Bradley amendment is accepted, that would ask for a study, then if the amendment of the Senator from Nebraska is acceptable we would have a pilot project; am I correct? And then the Senator from Wisconsin's proposal; his theory, admitting there are bugs in it, one, we would have a study; two, a pilot project.

Am I correct?

Mr. LONG. And three, we would have the whole thing in conference, too.

We would have all three possibilities in conference, as well.

Mr. FORD. Is that bad?

Mr. LONG. No; I do not see anything wrong with it.

Mr. FORD. I thank the Senator.

Mr. BUMPERS. Will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. BUMPERS. Mr. President, I intend to support the abolition of revenue sharing for the States for a number of reasons.

I enjoyed it while I was Governor of my State.

Incidentally, it was an interesting thing, one day my secretary handed me a check for $8 million just made to "Dale Bumpers."

I said, "Now is the time to take it on the lam."

It was a fine thing. I enjoyed it when I was Governor. I never, really, much liked the concept.

I think the people, anyone who gets money without any accountability for raising it, are just not likely to be as judicious in the expenditure of it as they would otherwise.

The idea of cutting categorical grants

dollar for dollar, for each dollar they get in revenue sharing, has certain appeal.

But for those in this body who are attracted to that, I remind them, the President-elect has said he wants to eliminate a lot of categorical grant programs in favor of block grant programs. I think it would be wise for us to strike all revenue sharing to the States even if they want to abolish categorical grants and give the new President-elect an opportunity to come up with the programs he thinks we can abolish, that is, the categorical grant programs.

Finally, Mr. President, and I know this does not set well with some Senators here, but on Alaska, for example, can anyone give me a valid reason why we should send money to Alaska, which has enough revenues to abolish the oil taxes, raise their $1.3 billion annual budget by 12 percent, rebate anywhere from $10,000 to $12,000 a year to each of their citizens, and still have a nice, healthy surplus in the year 2000?

In the coming year, we will have to reevaluate the whole Federal-State relationship, because it is about to get completely out of whack. I never did much like this concept. I do not believe there is enough accountability with it. For me, I would just as soon abolish all of it. But certainly cannot support the amendment of the distinguished Senator from Minnesota (Mr. DURENBERGER).

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I am prepared to yield time in opposition to the amendment if someone cares to make a speech against the amendment.

Personally, I have no objection to the amendment. We discussed this matter in the committee; and while we did not agree to precisely this, this is very much in line with what we did agree to. I do not believe there was much objection to it.

We felt that the language in the House bill requiring the States to surrender back should be deleted. The suggestion that it should be studied is logical, and I see no reason why we should not agree to it.

If anyone wants to speak against the amendment, I will yield time. If not, I yield back the time.

Mr. DURENBERGER. I yield back the remainder of my time.

Mr. BUMPERS. Mr. President, a parliamentary inquiry. Is this a striking amendment by the Senator from Minnesota?

Mr. BRADLEY. That is correct.

The PRESIDING OFFICER. The amendment strikes language and inserts language.

All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1836) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1837

(Purpose: To provide a pilot program under which 5 States would receive a State government allocation equal to the amount of the reduction in categorical grants elected by them)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an unprinted amendment numbered 1837.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, between lines 6 and 7, insert the following new subsection:

(a) TRUST FUND.—Section 105(a) of the "State and Local Fiscal Assistance Act of 1972" is amended by adding at the end thereof the following:

"(3) ESTABLISHMENT OF SEPARATE STATE GOVERNMENT ACCOUNT.—For the entitlement period beginning October 1, 1980, the Secretary shall establish within the Trust Fund a State government account which shall be credited only with amounts transferred to that account under section 107A(d) and which shall be used to make the payments to State governments provided for by section 107A.

On page 1, line 7, strike out "(a)" and insert in lieu thereof "(b)".

On page 2, line 5, strike out "(b)" and insert in lieu thereof "(c)".

On page 4, line 24, strike out "(c)" and insert in lieu thereof "(d)".

On page 5, line 20, strike out "(d)" and insert in lieu thereof "(e)".

On page 6, line 7, strike out "(e)" and insert in lieu thereof "(f)".

On page 7, between lines 2 and 3, insert the following new subsection:

(g) PILOT PROJECT OF OPTIONAL REVENUE SHARING PAYMENT TO STATE GOVERNMENTS IN LIEU OF CATEGORICAL GRANTS.—

(1) IN GENERAL.—Subtitle A of title I of the Act is amended by inserting immediately after section 107 the following new section:

"SEC. 107A. PILOT PROJECT UNDER WHICH STATE GOVERNMENT MAY ELECT ENTITLEMENT IN LIEU OF CATEGORICAL GRANT FUNDING.

"(a) GENERAL RULE.—Notwithstanding the provisions of section 107, under regulations prescribed by the Secretary, the amount a State government shall be entitled to receive under this subtitle for the entitlement period beginning October 1, 1980, shall be equal to the amount of the categorical grant funding reduction elected by that State for that entitlement period. No more than 5 States, from at least three different regions of the country, selected by the Secretary from among all States applying, may elect to have this section apply.

"(b) CATEGORICAL GRANT FUNDING REDUCTION ELECTION.—

"(1) IN GENERAL.—For purposes of this section, the amount of the categorical grant funding reduction elected by a State for any entitlement period is the sum of that State's allotments under categorical grant programs for the fiscal year which coincides with the entitlement period—

"(A) which have been designated by the chief executive officer of that State as categorical grant programs under which the State's allotment is to be transferred to the State government account established under section 105(a)(3), and

"(B) under which the amount allotted to the State for the fiscal year is transferred to that account.

"(2) LIMITATION ON AMOUNT OF ELECTION.—The amount of the categorical grant funding reduction elected by any State shall not exceed one-half of the amount allocated for the entitlement period to the units of local government within such State.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) CATEGORICAL GRANT PROGRAM.—The term 'categorical grant program' means any program for which the budget authority is included in Appendix H of the Special Analyses, Budget of the United States Government, 1981, other than—

"(A) any such program designated by the President for the fiscal year as a program of grants for payments to individuals, or

"(B) any such program under which each State's allotment is not determined by reference to the allotment of other States and which is not intended to operate in all States (as determined by the Secretary after consultation with the head of the administering department or agency charged with the administration of the programs).

"(2) ALLOTMENT.—The term 'allotment' means any allotment, apportionment, or other division of funding under a categorical grant program, determined before any reallotment, reapportionment, or redivision of funding.

"(3) DESIGNATION BY CHIEF EXECUTIVE OFFICER.—In order for the allotment of a State under a categorical grant program to be transferred to the State government account, the designation shall be—

"(A) irrevocable,

"(B) made in writing, in such form and manner as the Secretary may prescribe, by the chief executive officer of that State, and

"(C) received by the Secretary, and by the head of the department or agency charged with administration of the program before March 1, 1981.

"(d) TRANSFER OF ALLOTMENTS TO STATE GOVERNMENT ACCOUNT.—Whenever the chief executive officer of a State designates a categorical grant program under subsection (c)(3), the Secretary shall transfer the amount of that State's allotment for the fiscal year under that program from the appropriation for that program for the fiscal year to the State government account established under section 105(a)(3). The amounts required to be transferred to the Trust Fund under this subsection shall be transferred at least quarterly from the account to which the appropriation is credited to the State government account on the basis of estimates made by the Secretary. Proper adjustment shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(e) APPLICATION WITH CERTAIN REALLOTMENT PROVISIONS.—Notwithstanding any other provision of law to the contrary now or hereafter enacted (except to the extent that such provision explicitly overrides this subsection), if the chief executive officer of a State designates a categorical grant program under this section as a program from which that State's allotment for the fiscal year is to be transferred to the State government account established under section 105(a)(3), then such transfer shall be treated, for purposes of any provisions of law providing for the reallotment of amounts not paid under the program to a State government, as if it constituted a payment to that State under the program.".

(3) REPORT.—The Secretary shall report to the Committee on Finance, United States Senate, not later than August 1, 1981, the results of the pilot project and any recommendations for extension or expansion of the project.

Mr. EXON. Mr. President, the amendment I am offering was printed in the RECORD for November 18, and I am sure many of my colleagues are aware of its provisions. I know of no opposition to my amendment, and therefore I hope that it could be accepted by the floor managers of the bill.

The amendment I am offering is intended to enhance a provision which appeared in the revenue sharing authorization bill as reported by the Senate Finance Committee. In the Finance Committee bill as it was reported, there was a provision for a study, to be conducted by the Advisory Commission on Intergovernmental Relations, on the feasibility of legislation to permit State governments to exchange categorical grants in return for State revenue sharing payments. Even though the Senate has taken up the House bill, we have seen fit to raise the subject of such a study once again. By the action we have just taken, we have launched a study, which I support.

Mr. President, earlier this year I introduced a bill, S. 2678, which would have made State revenue sharing, for the period 1981 through 1985, dependent upon the amount of categorical grants that States were willing voluntarily to give up. The distinguished Senator from Kansas (Mr. DOLE) has introduced similar legislation, and the House of Representatives has recently adopted a provision which would place this concept into effect in 1982 and 1983. We have just changed that.

Mr. President, I therefore believe there is broad and growing support for funding State revenue sharing out of categorical grants which are voluntarily "traded in."

When the Senate Finance Committee considered my bill and the bill introduced by Senator DOLE, there were questions as to whether this concept was workable. The Finance Committee subsequently chose to commission the ACIR study, which we have approved today.

Mr. President, the amendment I am offering allows the Secretary of the Treasury to implement a pilot project to operate in conjunction with such study. The pilot project will involve up to five States in the different regions as chosen by the Secretary of the Treasury. The purpose of the pilot project will be to test financial mechanisms under controlled conditions, for the results of the pilot project will be much more instructive than a study. Studies too often turn out to be simply academic exercises, which do not relate to the real world. The establishment of a pilot project would also give some indication of potential State government interest and support for participation in any future legislation along these lines, something a study alone cannot do.

Mr. President, this is admittedly a modest amendment, but I hope that the Senate will see fit to adopt it nevertheless. Frankly, I regret that Congress is not yet ready to pass legislation which would make State revenue sharing dependent upon reductions in categorical grants, with the decision on one versus the other to be made in our 50-State capitals. The advantages of such legislation are numerous, and they should not be forgotten in our rush to reauthorize other provisions of our basic revenue sharing legislation. Just for the record, allow me to list some of the advantages of allowing the States to trade-in categorical programs in exchange for State revenue sharing dollars:

First, the governors, themselves, have indicated that they are willing to get by on fewer Federal dollars if they have increased flexibility. At a time when the Federal Government really has only a "deficit sharing" program, the least we should do is accommodate the Governors on their desires.

Second, it has been difficult, if not impossible, for the Congress to reduce categorical programs in order to fund State revenue sharing. Attempts have been made many times, never successfully. Congress should now pass legislation which once and for all funds State revenue sharing out of categorical grant reductions, and let the States make their choices.

Third, the goals of many categorical grant programs would be enhanced, rather than diminished. Some categorical programs are now caught in an inextricable web of redtape and conflicting regulations; States could continue the programs but eliminate the bureaucratic excesses under categorical trade-in legislation. Categorical program interest groups in the States would undoubtedly want to discuss these possibilities with their State leaders; and

Fourth, powerful lobbying groups in Washington, which have pushed for more and more narrow categorical programs to fund activities which are not the proper province of the Federal Government, will be diffused among 50 State capitals under categorical trade-in legislation. Diffusing such high-powered lobbying would help the Congress hold down on Federal spending and help turn back the tide of small, well-financed interests from having a disproportionate effect on Congress decisions.

Mr. President, these are only some of the advantages of this type of legislation. I am hopeful that the Congress at some point in the future will see fit to pass a bill similar to S. 2678, the bill I introduced earlier in the year. However, until that time, I believe we should move ahead in a realistic manner to study the feasibility of such legislation, and the amendment I am offering today merely facilitates further exploration of this new and innovative approach to the long history of intergovernmental relations in our country.

Mr. President, I ask the two distinguished floor managers if this amendment is acceptable. To my knowledge, this amendment would not conflict with, nor otherwise affect, any of the other amendments which have been or will be added to this legislation. The amendment would simply authorize a pilot project to be conducted on a voluntary basis in conjunction with the committee's proposed study.

Mr. President, I hope we can agree to accept this amendment, which is strictly voluntary, but it might give us an indication of how much help we can expect from the States in the future as we wrestle with the very difficult budget problems.

Mr. BRADLEY. Mr. President, will the Senator yield?

Mr. EXON. I yield.

Mr. BRADLEY. As I understand the amendment—and the Senator has just stated it—this is a fully voluntary program. If the State does not wish to participate, it does not have to participate.

Mr. EXON. The Senator is correct.

Mr. BRADLEY. I have a question concerning the categorical grants. If a State chooses not to accept highway moneys, for example, or water project moneys, it can receive revenue sharing instead. If it chooses to receive revenue sharing——

Mr. EXON. It gives it up in other programs.

Mr. BRADLEY. It gives it up in other programs. These are only categorical programs. Would something like legal services be included?

Mr. EXON. No; categorical programs, where we send a whole series of money through, a whole series of programs to the States. The State would be allowed to pick and choose, from $1 on up, by the Governor of the State saying, "I want that money transferred to general revenue sharing for fiscal 1981."

Mr. BRADLEY. If I were the Governor, could I say, "I don't want any moneys for special education, under the Elementary and Secondary Education Act, and would prefer to have revenue sharing dollars"?

Mr. EXON. If that were the decision of the Senator, as Governor of New Jersey, then, under the voluntary suggestion I have made, that would be within the realm of possibility.

Mr. BRADLEY. Does the Senator fear an interjection of the courts into the administration of intergovernmental affairs?

If I were a recipient of a categorical grant and my Governor said, "I'm not going to give it to you; we're going to take revenue sharing," might I have a cause, then, to take you to court and attempt to get the money, and might that interject the Federal Government into the administration of State government?

Mr. EXON. Unfortunately, the Federal courts are involved in every aspect of our lives today, and the threat of a Federal court coming in and what it might do has been the subject that has tied up the U.S. Senate for the past 10 days. I certainly would not stand on the floor of the Senate and assure the Senator from New Jersey that no court actions ever would be instituted against this proposal. But I hardly think that the fear of the Federal courts intervening should be a consideration as to whether or not we have a voluntary program that tries to do the things that the study which the Senator from New Jersey is supporting would do, except that this is an actual procedure in operation.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. EXON. I am happy to yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I wish to pursue the line of inquiry started by my distinguished friend from New Jersey.

I wish the chairman of our committee to hear this now.

Do I understand that the Senator is suggesting that a water project, for instance, is a categorical grant?

I have stood on this floor for some years now pointing out the extraordinary regional disparities between the recipients of water programs. I come from a State which happens to pay the largest share of Federal revenues by far and has an extraordinary deficit in its exchange.

If anyone wishes to complain about the Federal Government and say its budget is no bargain, it would be we in that respect.

But a month ago we passed a water appropriations of $1.5 billion in general Corps of Engineers' construction funds in which the State of New York got $13 million, and there are other States that got over a hundred million dollars.

Why did they get over a hundred million dollars? It was because of the tradition of this body that said you have to be west of the Mississippi or south of the Mason-Dixon line to get any such money.

If those arrangements should continue in the normal course of things as, for example, on the Tennessee-Tombigbee, here is a real opportunity.

I had an opportunity to tour the Tennessee-Tombigbee. That is where we are cloning the Mississippi River. I am this day chairman of the Subcommittee on Water Resources. I have 6 weeks of this eminence remaining to me. While it does, I wish to tell Senators something. The Tenn-Tom is about one-half complete. We are building a canal from the Pickwick Pool on the Tennessee to Mobile, Ala. I submit it will come in for about $3 billion, and three States have the $3 billion.

It is going to be worthless as far as I can tell. It is going to be a tinker toy canal. They take you down in a helicopter to about 20 feet off the ground before they can show you the Tombigbee River. It looks like as much water as comes off the roof of my house during a heavy rainstorm, and they are going to dig this out and put six little barges on it.

If I were the Governors of Tennessee, Mississippi, and Alabama I would take that categorical grant and turn it in just like that.

Mr. FORD. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. I do not have the floor.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. MOYNIHAN. I do not have the floor. But if I could retain and continue my question, I am sure that the Senator from Nebraska will allow me to answer.

Mr. FORD. I do not think there will be any problem.

Mr. EXON. Mr. President, I am happy to yield to the Senator from Kentucky.

Mr. FORD. Mr. President, I do not believe a grant such as that that relates to the Tennessee-Tombigbee would be included in here.

Mr. MOYNIHAN. The Senator just said it was.

Mr. FORD. When the Senator talks about a water project, the Senator jumped up with his tinker toy. That is not involved in what we are talking about as Governors and States' ability. I am talking about projects.

Mr. MOYNIHAN. The Senator said it was.

Mr. FORD. I do not think so.

Mr. EXON. Mr. President, may I reclaim the floor?

Mr. MOYNIHAN. Sure. I will ask one other question.

Mr. EXON. Mr. President, I want to claim the floor to straighten the Senator out.

Whenever we talk about water I find that people who live east of the Mississippi River get some very grandiose ideas.

When the Senator from New Jersey was talking about water, I assumed that he was talking about categorical grants or block grants that are given to some cities for their city water projects. There may be some of those in New York. I am not sure. I was thinking about EPA and the sewage treatment. Those are the things.

Mr. MOYNIHAN. The Clean Water Act program.

Mr. EXON. The fact of the matter is the Tennessee-Tombigbee and water projects are Corps of Engineers or Bureau of Reclamation projects that would not be covered under my study.

Mr. MOYNIHAN. Mr. President, does the Senator have a specific list of such projects, in other words?

Mr. EXON. No, I do not have a specific list. I said a categorical grant. The Tombigbee is not a categorical grant project.

Mr. MOYNIHAN. The Tombigbee is an historical project.

Mr. EXON. It is not a categorical grant project.

Mr. MOYNIHAN. We could not put the Tombigbee in any other category. I want this understood. So the Senator obviously has me there.

May I ask the Senator this: We have projects which are in the nature of categorical which provide aid for child care. They come out of different departments, but many of them provide aid, and that is aid that is provided for child daycare centers. Aid provided for child daycare centers is in fact the categorical aid program. But many of them provide aid to the aid that is provided for child daycare centers which is in fact the categorical aid program. Would that be included?

Mr. EXON. The Senator is correct.

Mr. MOYNIHAN. This is my point and the objection I have to take: One of the things we have been doing in this body since it began and doing well is setting some national standards of social provision. We do not agree with all of them. But the idea is that we are a Nation and the fact of citizenship entitles us to certain levels of social provision. One of the reasons many of these programs began is that it was so clear that while some States would make such provision, other States would not, and this was not only a form of injustice, some thought, to the Americans who lived in the States that would not—there is one State to this day that does not have medicaid—but it also became a form of competition between the States, those States that would set a minimum wage and those that never would and said, "Come to our State, we have no minimum wage," and those States that would set factory safety rules, work occupational safety rules and other States that said, "We have no occupation safety rules; come to our State."

What seems to me implicit in this whole idea, and I am sorry to have to say this, is that we will once again resurrect the situation in which those States that have the least social conscience can capitalize on that lack of social conscience not only by not providing what others do but getting paid not to provide. All they have to do is say, "We do not want any; give us the money for child care, give us the money for rubella, give us the money for black lung, give us the money for our sewage programs. We do not care if the water is dirty down here." But if you own the plant you can drink vichy water. If you work in the plant you can expect to have your belly rumbling a bit.

I thought we were behind all that.

We are now going to say, if you will not provide occupational safety, we will give you money so you can lower your taxes still further and get more runaway plants.

Oh, come on, come on. I thought we settled this issue in 1934.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, some interesting comments have been made by my friend from New York. I guess that he has forgotten conveniently what was the basic idea behind revenue sharing when it was introduced at the behest of President Nixon. The idea of it was to create a new relationship between the Federal and State governments to give the State governments more control over the money that was shipped back to them rather than funneling it conditionally through the bureaucracy, the high-priced bureaucracy in Washington, D.C.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. EXON. Mr. President, I ask for additional time.

Mr. LONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Louisiana has 14 minutes.

Mr. LONG. I yield 5 minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, the idea of the Federal revenue-sharing program was to put this money out and then we would work toward reducing categorical grants so that the Federal Treasury would not be continually overburdened.

What has happened, Mr. President, is what always happens when we start a program. We give away the money but we do not follow through on cutting out the categorical grants that were supposed to have been cut out when Federal sharing was instituted.

What we are saying here is that if we have Governors who are insensitive to the areas that the Senator from New York has enumerated and if we have

Governors who are insensitive in some of the areas that the Senator from New Jersey pointed out, then, yes, some of the dire predictions that have been so flamboyantly made by the Senator from New York would be correct.

I do not happen to believe that we have Governors or State legislatures that are not insensitive to the needs of the people. Why is it that we think all of the wisdom, all of the compassion, and all of the concern is located right here on the banks of the Potomac?

Mr. President, I suggest that the amendment I am offering is a step, a tiny step, toward bringing the Federal Government to fiscal responsibility and sharing the concerns with the elected officials of the States, including the Governors and the members of their legislative bodies.

I thank my friend from Louisiana for yielding me additional time, and I yield back whatever remaining time I may have.

Mr. PROXMIRE. Mr. President, will the Senator yield me 2 minutes to support the Senator from Nebraska?

Mr. LONG. I yield 2 minutes.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from Nebraska on this amendment. It makes all the sense in the world.

I think if we look at what the categorical grant programs contain we can see that many of the objections are wrong. The amendment will not have any effect on the minimum wage, which I support; or on social security, which I support or on OSHA which I also support. Those are not categorical grant programs.

Criminal justice assistance $500 million; State energy conservation planning $500 million; water and land resources planning, coastal zone management program development, fish restoration, hunter safety program, education and training programs for highway personnel, rural community fire protection program, State higher education planning commissions, and public library service programs, these are some of the programs which a Governor ought to have some discretion over, and whose funds he might choose to turn back to the Federal Government and then use revenue sharing for purposes that are more urgent in his particular State.

The great advantage of the Exon amendment is that it does not make the trade-off approach comprehensive for all 50 States in perpetuity. It is a pilot program for 1 year. It is ingenious because that 1 year is the year when the State will not get revenue sharing and, therefore, they will have an incentive under this program, to get the additional revenue-sharing funds under the limited program.

So I think this makes a great deal of sense, and particularly when you recognize this is an experiment and is not a comprehensive permanent program.

Mr. EXON. Mr. President, I ask unanimous consent that Senator DOMENICI and Senator NUNN be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, will the distinguished Senator yield me 5 minutes?

Mr. LONG. How much time remains?

The PRESIDING OFFICER. 10 minutes and 50 seconds.

Mr. LONG. I yield 5 minutes to the Senator.

Mr. MOYNIHAN. Mr. President, I do not think the Senate is as yet aware of what we are being asked to decide.

May I say to my friend from Nebraska that I do remember what the revenue-sharing proposal was supposed to do. It happens that I wrote the Presidential message which proposed it. I know exactly what it proposed to do. I happen to have worked in the previous administration as well when it was adumbrated by Mr. Walter Heller, then Chairman of the Council of Economic Advisors under the administration of President Johnson.

The idea was a simple one. It was, given the structure of the Federal taxing system, a 1-percent increase in gross national product tended to produce a more than 1-percent increase in Federal revenues and a less than 1-percent increase in State and local revenues. The results of that are that money kept accumulating in the Federal fist. This was in the 1960's, and demands could not be met in States and localities and, therefore, States and local governments went to the national Government to ask for new programs to be established, and the idea was to take some portion of the growing Federal revenues and return them to States to moderate that movement of forcing on the Federal system many small programs that do not belong here. That is one thing.

It is a wholly different thing to establish a national system of health care for the indigent. Under this amendment all the Governors would have to do—to the extent they wished to do it—is say, "We won't have a medicaid program. Give us the money instead."

You can abolish medicaid under this amendment. Any Senator who wishes to come to the floor—and I do dearly hope a great many of the gentlemen and lady opt to do so—because we are in terribly short supply or will soon be on this side—and I do not know that there will be enough desks—and therefore vote to abolish medicaid, will have to go home and explain it.

Think of any other program which helps people, something that they need, not the rat control programs, and the things the Senator from Wisconsin very properly does not much admire, but those elemental standards of national provisions. Why not? Because we are one Nation, and we used not to be. There were parts of this country that were centuries behind the industrial nation. Wisconsin is where most of the labor and social legislation of this country began. It did not begin in my State. It did begin in your State, Senator. Of course, you can live with the standards Wisconsin set for its people. But you know there was a time when you could not abide by it elsewhere, and you know those people who cared in those very parts of the country came and asked the National Government to make one nation of us.

Now we begin to split. I say this is an ominous proposal, and I hope it will be defeated. If it is not defeated, I hope those who vote for it will not suppose they will not hear of the matter because it will be my business, I can certainly assure them, to see that they do.

We have one Nation, and for fundamental things we should have single standards. That is my view.

I do not wish to appear in any way, and I hope I have not by the way I have spoken, to give offense to my friend from Nebraska, who is incapable of taking offense, his nature being too generous in these matters. But I ask do not extrapolate from your practice as Governor to what the Governors of the rest of the 49 States will do. There were not many Governors like you, there never are, and the temptation is such that all you have to do when you will have to raise State taxes—and by golly, the way to avoid it—is to cut out aid to the poor and tell all those folks up North or East or South—it is going to be in the South, too—to "Come into my State; we have a lot of poor people, but they are sick and dying off fast and they do not make large claims, and we do not have any taxes because the Federal Government just gives us their money instead."

It is a deplorable thought.

I see the Senator from Kansas on his feet, and I cannot but imagine that he will share in my feelings. [Laughter.]

The PRESIDING OFFICER. Who yields time?

Mr. LONG. How much time does the Senator desire?

I yield the Senator 2 more minutes.

Mr. EXON. I should correct my friend from New York once again. Medicaid will not be touched with this minor program. It is explicitly included in the amendment because it is aid to individuals.

I will give my friend from New York some of the areas that might be cut. One of them that the Governor of Nebraska could cut if he so desired would be agricultural research. I happen to have enough confidence in the Governor of the State of Nebraska to feel that he probably will not cut agricultural research, but if, in his opinion, agricultural research should be cut because of the priority selections that he has to make the determination on as the chief executive of an agricultural State like Nebraska, then I say so be it.

I guess I should emphasize, hopefully, in closing that this is a pilot project for only five States. They can enter into it voluntarily, and it is only for 1981. It is not the end of the world, unless you feel the Federal Government should continue to spend and spend at will.

Certainly I agree with the remarks that were made on the floor a short time ago by my distinguished colleague from Arkansas wherein he said that most States do not need nor are they entitled to Federal revenue sharing in 1981, and maybe not after that.

All I have done is to take a modest step, and I hope it will be agreed to.

Mr. MOYNIHAN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The Senator from Louisiana still controls time.

Mr. LONG. How much time remains? I yield my time remaining to the Senator from Kansas.

The PRESIDING OFFICER. The time is 3 minutes and 20 seconds.

Mr. DOLE. Mr. President, I support the proposal by the Senator from Nebraska (Mr. Exon) to authorize a pilot project in conjunction with the study of my proposal to allow States to trade off other grant funds for more flexible revenue-sharing funds. The study of this trade-off mechanism is authorized by the Finance Committee bill, and I believe it gives us an excellent opportunity to work out a procedure for continuing revenue sharing for the States in a manner consistent with budget restraint. At the same time, we will get a better idea of which grant programs are most valuable to the States.

The pilot projects suggested by my colleague Senator Exon will allow some practical experience with working a trade-off device in a manner consistent with State and Federal budget cycles, the appropriations process, and the goal of administrative efficiency. Because the pilot projects will be voluntary, upon application of interested States, there will be no danger that a State will be forced to leap into a new system during the budget year. On the other hand, those States that elect to participate, with the approval of the Treasury Department, will give us a good idea of how to cope with possible administrative difficulties in working a trade-off.

Mr. President, Senator Exon and I both introduced legislation last May to authorize future revenue-sharing payments to States that elect to take offsetting reductions in other Federal grant funds. Our mutual concern was that flexibility that revenue-sharing funds given the States be preserved in a way that is consistent with maintaining control over the Federal budget. The trade-off device is consistent with our idea of federalism: that spending priorities should be set, wherever possible, at the level of government closest to the daily concerns of our citizens.

I was pleased that the Finance Committee approved a study of this trade-off proposal, and I am pleased that Senator Exon has made the constructive suggestion of coupling the study with a limited pilot project to give us some practical experience with a trade-off mechanism. I hope that the study and the pilot project will enable us to move in that direction. The concept is a good one, and general reaction to the idea has been favorable. The Congressional Budget Office has done an initial analysis of my own proposal, costing out the Federal grant programs that might be eligible for reduction by the States. So the groundwork for a detailed study has been laid, and it is worth the effort.

Mr. President, I think, perhaps, I missed part of the discussion by the distinguished Senator from New York, but I am prepared to support the suggestion for 1 year on a voluntary basis by the distinguished Senator from Nebraska, Senator Exon.

In the bill introduced by the Senator from Kansas medicaid was specifically excluded and, in fact, under eligible programs I suggested under (g) health other than medicaid.

If it would reduce or restrain the distinguished Senator from New York's feelings about this proposal, it might be advisable to add on page 3 of the unprinted amendment after the paragraph (B), paragraph (C) the words "Medicaid," if it is not the intent of the Senator from Nebraska to affect medicaid, and perhaps no one would object, and that we make that change in the amendment.

Mr. MOYNIHAN. I object.

Mr. DOLE. Does the Senator object? Does the Senator want medicaid included?

Mr. MOYNIHAN. May I respond?

Mr. DOLE. I was just sort of addressing that to the Senator from Nebraska.

Mr. EXON. In response to the question, I have no objection whatsoever.

On page 3, line 22 of the amendment, it states:

> Any such program designated by the President for the fiscal year as a program of grants for payment to individuals.

That is almost the exact wording, if not the exact wording that was included as referenced by the Senator from Kansas. Since it has come up, I have no problem whatsoever by including it. I do not think it is necessary, but if that will make the Senator from New York feel better, I am anxious to help him out.

Mr. DOLE. Mr. President, can the Senator modify the amendment?

The PRESIDING OFFICER. The amendment may be modified by unanimous consent.

Mr. MOYNIHAN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Now I am confused. I thought the Senator from New York was concerned about medicaid.

Mr. MOYNIHAN. The Senator is, and that language does not deal with this. I object to this whole principle. We were about to include medicaid until you heard medicaid. If I listen another 15 minutes, you would find another 15. I object. I would like to see us vote on this measure as it stands.

The PRESIDING OFFICER. The Senator from Kansas has 45 seconds remaining.

Mr. DOLE. Mr. President, I yield the remaining time to the Senator from Nebraska.

Mr. EXON. Mr. President, I hope that my friend from New York would try not to abuse what others of us are trying to do. The Senator just made a statement that would indicate to me that he thinks the Senator from Nebraska is trying to put something over on the U.S. Senate.

Mr. MOYNIHAN. No.

Mr. EXON. It is very clear to those of us who have read the amendment that it is not covered. Yet an offer has just been made by the Senator from Kansas and the Senator rejects it. I say to my friend from New York that specifically that is not included in this amendment. I suspect that I want to go ahead and vote on this also. But I think it is unfair for the Senator from New York to try and read something into my amendment that simply is not there.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. LONG. Mr. President, I yield 2 minutes on the bill to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I will withdraw my objection, because the Senator from Nebraska suggests that I may have implied that he was not being straightforward.

I would like the Senator to know exactly what happened. I asked the chief counsel of the Committee on Finance if the grants for payments to individuals included medicaid. He said, "No, it would not." In other words, medicaid would be abolished under this experimental program.

I want it made very clear. I took the advice of counsel of the committee. I never in any sense suggested that the Senator from Nebraska has intentions other than the plain language as read by the gentleman here.

I withdraw my objection because I would like to limit the damage which I think this measure will do. But I would like the Senate to know it was on the verge of making that kind of decision.

The PRESIDING OFFICER. Does the Senator from Nebraska wish to modify his amendment?

Mr. EXON. I wish to modify the amendment as suggested by the Senator from Kansas.

The PRESIDING OFFICER. Is there objection?

Will the Senator from Kansas specify the modification?

Mr. DOLE. This is the unprinted amendment, is that correct?

On page 3, following paragraph (1)(B), add paragraph (1)(C) and add the word "Medicaid".

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The question is on agreeing to the amendment.

Mr. MOYNIHAN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, will the manager yield 1 minute to me for a question to the proponent of the amendment?

The PRESIDING OFFICER. Does the Senator from New York withdraw his motion to table?

Mr. MOYNIHAN. With the understanding that I may restate the motion later, the Senator does.

The PRESIDING OFFICER. Is there objection to withdrawing the motion to table?

Without objection, it is so ordered.

The Senator from Michigan.

Mr. LONG. Mr. President, I yield the Senator 1 minute from the bill.

Mr. LEVIN. I thank my friends from Louisiana and New York.

I have a question for the proponents of the amendment. I am wondering whether it is intended that the chief executive officer of the State, the Governor alone, could make this decision whether or not to make the Federal categorical programs available to their State and if that is the intention of the proponent whether he might be willing to add the words on page 3 "have been designated by the chief executive officer of that State with the approval of the legislature."

Mr. MOYNIHAN. I object.

Mr. EXON. I believe an objection was heard. I would not have any objection to the suggestion made by my friend from Michigan. The facts of the matter are that the chief executive of the State does have the authority now to turn down categorical grants on his own.

When he appropriates that money, in most States, at least, he has to have the approval of the legislative body. If the chief executive has the right to turn those down, I do not know why it would be necessary to do it any further.

Mr. LEVIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEVIN. Was there an objection heard on that request?

The PRESIDING OFFICER. An objection was heard.

Mr. LONG. Mr. President, all time has expired.

Mr. MOYNIHAN. Mr. President, I move to table the amendment.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment offered by the Senator from Nebraska (Mr. EXON).

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote yea.

The PRESIDING OFFICER (Mr. BUMPERS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 44, nays 49, as follows:

[Rollcall Vote No. 515 Leg.]

YEAS—44

Baker
Bayh
Biden
Bradley
Burdick
Byrd, Robert C.
Chiles
Church
Cranston
Culver
Durenberger
Eagleton
Glenn
Hart
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Kassebaum
Kennedy
Laxalt
Levin
Lugar
Matsunaga
McClure
McGovern
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Pell
Riegle
Sarbanes
Sasser
Stevenson
Stewart
Stone
Tsongas
Wallop
Weicker
Williams

NAYS—49

Armstrong
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Chafee
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durkin
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Johnston
Leahy
Long
Melcher
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Thurmond
Tower
Warner
Young
Zorinsky

NOT VOTING—7

Cannon
Gravel
Hatfield
Magnuson
Mathias
Ribicoff
Talmadge

So the motion to lay on the table Mr. EXON's amendment (UP No. 1837), as modified, was rejected.

The PRESIDING OFFICER. The question recurs on the amendment. The yeas and nays have been ordered.

Mr. MOYNIHAN. Mr. President, I move to vitiate the order for the yeas and nays.

The PRESIDING OFFICER. Is there objection? If not, the motion to vitiate the yeas and nays is agreed to.

The question is on agreeing to the amendment of the Senator from Nebraska (Mr. EXON), as modified.

The amendment (UP No. 1837), as modified, was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1838

(Purpose: To authorize the appropriation of $2,300,000,000 during the entitlement beginning October 1, 1980, and ending September 30, 1981, to the Trust Fund for payments to State governments)

Mr. MITCHELL. Mr. President, I call up an unprinted amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MITCHELL) for himself and Mr. COHEN, Mr. BAKER, Mr. KENNEDY, Mr. TSONGAS, Mr. PRESSLER, Mr. MCCLURE, Mr. HOLLINGS, Mr. SASSER, Mr. BRADLEY, Mr. MOYNIHAN, Mr. LEVIN, Mr. JEPSEN, and Mr. BOSCHWITZ proposes an unprinted amendment numbered 1838.

On page 2, strike out lines 22 through 25, and insert in lieu thereof the following:

"(A) The entitlement period beginning October 1, 1980, and ending September 30, 1981;

"(B) The entitlement period beginning October 1, 1981, and ending September 30, 1982; and

"(C) The entitlement period beginning October 1, 1982, and ending September 30, 1983.".

On page 3, lines 14 and 15, strike out "October 1, 1980, and ending September 30, 1981" and insert in lieu thereof "on or after October 1, 1980".

On page 4, line 11, insert "for any entitlement period described in subparagraph (B) or (C) of section 105(d)(2)" after "that".

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, this amendment, which is cosponored by Senator COHEN, Senator BAKER, Senator KENNEDY, Senator TSONGAS, Senator PRESSLER, Senator MCCLURE, and Senator RANDOLPH, authorizes the States' share of revenue sharing for fiscal year 1981.

As I am sure my colleagues are aware, the bill before us excludes the authorization for the States' share in 1981, resuming it for 1982 and 1983 at a level of $2.3 billion per year. The entitlement for the local share of State revenue sharing is continued in the bill for the years 1981–83. My amendment does not change that entitlement.

It is important for the Senate to recognize that this bill does two important things to the States' share of revenue sharing:

First. It changes the State share of the program from an entitlement to an authorization subject to appropriation; and

Second. It provides no authorization for fiscal year 1981.

Both of these changes are relevant to my amendment.

By changing the State share from an authorization subject to appropriation, the committee has shifted to the appropriations process the final decision as to whether the program will be funded. Adoption of my amendment does not, therefore, fund the State share for 1981, but only allows us to fund the State share through subsequent appropriations should we determine it necessary and appropriate. This legislation creates no budget authority for the State share for any year, and neither this legislation nor my amendment directly affects the targets of the second concurrent budget resolution.

Ironically, the Senate committee report and minority views accompanying the Senate legislation recognize the State share of revenue sharing as an "integral part of the Federal fiscal system." But the committee report lists as the only reason to exclude the fiscal year 1981 authorization for State share "an effort to hold down the size of the Federal deficit." Yet the authorization of funds for fiscal year 1981, in itself, has no direct effect on the anticipated deficit.

I support the States' share of revenue sharing and, if my amendment authorizing funds for 1981 is adopted, I will support appropriations to fund the program this year, with offsetting cuts in the budget.

But the funding decision does not have to be made now. It can wait until we have a better picture of potential reductions in other areas, at which time we may also have more information regarding the state of the economy and the effects of the current recession on State revenues.

Adoption of my amendment preserves the option of funding the State share even if Senators presently have reservations about it.

Regardless of whether appropriations are ultimately provided for fiscal year 1981—and I repeat that I will support funding for the State share in fiscal year 1981—this authorization amendment will serve two important goals:

First. It will provide for the continuity of authorizations for the program; and

Second. It will place the Senate clearly on record in support of the State share.

I have only been a Member of this body for 6 months. Yet, I have a clear impression that once a program is allowed to lapse in authorization, its future is in serious jeopardy.

So rejection of my amendment would save not one penny on the deficit. Yet it would jeopardize what may be the most valuable program of assistance to States in the entire spectrum of Federal assistance.

I would like to share with my colleagues a letter from Gov. George Busbee of Georgia, chairman of the National Governors' Association, and Gov. Richard Snelling of Vermont, chairman of the Association's Committee on Executive, Management and Fiscal Affairs, which reiterates the points I have made.

Mr. President, I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION,
November 20, 1980.

Hon. GEORGE J. MITCHELL,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MITCHELL: This is to advise you of our strong support for the amendment to revenue sharing legislation that you are co-sponsoring to authorize payments to state governments in fiscal year 1981.

We are aware that your amendment retains the option of Congress to appropriate state revenue sharing funds and that it does not guarantee payments to state governments. We feel it is appropriate to maintain this option at a time when reforms in the federal aid system are being considered and when spending restraints are being imposed. Revenue sharing, which has grown more slowly than categorical aid and requires less than one percent of funds allocated for administrative overhead, deserves support at a time when the public is calling for more effective, streamlined, and productive government programs.

As you know, the fiscal condition of the states has deteriorated since Congress began its consideration of the revenue sharing program. As a result, the education, social service, and other programs funded with state revenue sharing face reductions that are more serious than Congress foresaw when it made earlier decisions on the state share.

In view of the importance of revenue sharing to the federal-state partnership and in view of the needs faced by recipients of state services, we urge Senate adoption of your proposal to authorize revenue sharing payments to state governments in fiscal year 1981.

Sincerely,
GOV. GEORGE BUSBEE,
Chairman.
GOV. RICHARD A. SNELLING,
Chairman, Committee on Executive, Management and Fiscal Affairs.

Mr. MITCHELL. Mr. President, the State share of revenue sharing was an innovative program when it was conceived in 1972, and it remains a vital element of our federal system that should be continued. It is clear we are at a time in our history when the effectiveness, or lack of it, of the Federal Government—indeed of all government—must be carefully evaluated. I welcome this evaluation and look to it as an opportunity to reaffirm our commitment to needed and effective programs, to reform and restructure programs serving important needs in an outdated or ineffective manner, and to eliminate programs which have served their purpose or which are no longer appropriate to today's needs and priorities. And in that process I accord to balancing the budget a high priority.

Yet, we cannot proceed indiscriminately or vindictively to discard effective programs which serve a legitimate, valuable purpose. General revenue sharing, including the State share, is such a program. It is effective and it serves a basic priority.

The revenue-sharing program originated as a supplement to other Federal spending and policy initiatives by giving States and local governments financial assistance, with virtually no conditions attached, to pursue Federal mandates at the State and local level. The program reflected not a desire to relieve the Federal Government of its responsibilities, but rather an attempt to decentralize decisionmaking. Washington does not necessarily know what is best about everything.

The program was based on the sound notion that the Federal Government is the most efficient unit of government when it comes to tax collections—the budget resolution we just passed provides $62 million for tax-collecting purposes, in a $632 billion budget—surely some proof of that fact.

The States are not as efficient in tax collection, nor are State taxes generally as progressive as the Federal income tax. States rely heavily on sales and property taxes, both of which are regressive, taking proportionately more from those with the lowest incomes.

Hence, the logic in using the efficiency and relatively greater fairness of the Federal Government to collect taxes and then make the funds available to the States for those services considered priorities by the States themselves.

The program recognizes the essential nature of the federal system: The States are sovereign entities, and in order to fulfill their responsibilities, they need the resources to do so. Federal taxation now virtually preempts their tax base for income tax purposes; their only realistic options are sales and property taxes, and those are regressive and generally less productive as well. Thus revenue sharing shores up the federal system.

The program was also conceived as a dependable source of resources; it would not go up much, if at all, but it would be available and States could plan on it, budget with it, and build their own fiscal plans around it. In sharp contrast to categorical grant programs which are contingent on a variety of conditions generally beyond the control of local officials, and frequently beyond their ability to predict, general revenue sharing lends a measure of stability to the fiscal relations between the Federal and State governments. It recognizes that local units of government cannot function without the State government and the programs it funds, and for that reason incorporates the State share, simply so that shortfalls and needs that localities might not be able to meet can be met by the States in partnership. Proof that this works is the Treasury Department estimate that as much as 60 percent of the State share goes either directly or indirectly to the local units. No less than 40 percent goes to local government units.

The momentum to eliminate the State share of revenue sharing arose from two sources:

First, the apparent budget surplus of several States in recent years; and

Second, as a political backlash to the endorsement by some State legislatures of a constitutional amendment requiring a balanced Federal budget.

Neither individually nor together do these arguments diminish the rationale for revenue sharing. The suggestion that State governments do not need revenue sharing because there is a surplus, cannot survive careful scrutiny.

Every State except Connecticut and Vermont is required under its constitution to "balance" its budget. Because most States are prohibited from running deficits, their accounting procedures exclude capital expenses—which the Federal budget shows—and they appear to have balanced budgets or, in fact, operating surpluses. However, State operating surpluses are necessary: When a cyclical downturn in revenue can threaten a State with a deficit, it is prudent—even essential—to maintain a modest surplus so that State functions can legally continue.

In 1980, 18 States would be in a deficit situation without the aid of State revenue sharing funds. This is not evidence of healthy economic conditions for the States.

Fifty percent of the State surplus this

year belongs to three States: Alaska, California, and Texas. The other States with surpluses are all energy or food producers: 42 States have no surplus in fact. Why should 42 States be penalized for the relative affluence of the fortunate ones which happen to have oil under their ground?

Standard and Poor's requires 5 percent of expenditures to be shown as a surplus before it will grant the best bond rating. The average State surplus, if you eliminate the big three, is 3.8 percent. And even that is not evenly distributed.

In addition, State pension funds have an unfunded liability of $150 to $175 billion: This alone would cause a fiscal crisis for States in the future in the absence of their share of general revenue sharing.

If the States manage their finances well enough to avoid deficits, should we then turn around and penalize them? Do we use their successes to bail out our failure to balance the Federal budget?

And why target revenue sharing? Why not eliminate that portion of the highway program which improves and maintains State roads? Why not eliminate other equally valuable programs?

The answer is painfully simple. Political constituencies are directly affected. But I submit that the electorate is sophisticated enough to understand that elimination of State revenue sharing passes costs on to them as directly as elimination of categorical grant programs.

I am confident that few of my colleagues give credence to the view that States asking for a balanced Federal budget should be offered the elimination of revenue sharing. It is a superficially appealing argument, but one which runs counter to every effort to target cuts consistent with priorities related to programs effectiveness—and revenue sharing is an effective program.

An examination of the use of revenue sharing in the various States demonstrates the validity and effectiveness of the program.

In my own State of Maine, the State share of revenue sharing is used to fund approximately one-third of the teachers' retirement program. If the State of Maine, whose budget is already serverely strained, does not receive revenue sharing assistance, then this or other assistance to local governments is an obvious target for reduction. Then those local governments, already overreliant on the property tax, will have to increase that tax again to make up the difference.

Several other States—Delaware, Georgia, Indiana, Maryland, South Carolina, Tennessee, and Washington—use their revenue sharing funds entirely for employee retirement funds.

Nine States—Florida, Illinois, Montana, Oklahoma, Oregon, South Dakota, Utah, Virginia, and Wisconsin—use 100 percent of their revenue sharing for local school assistance. In fact 32 percent of the entire States share of revenue sharing has been used for education; and 26 percent for social services. This means that a total 58 percent is used directly for human service needs.

Other specific examples further illustrate the worthwhile and effective programs for which this money is used. Ohio uses 75 percent of its share for education; Pennslyvania uses 50 percent of its share for education of the handicapped; Connecticut uses its share to provide tax relief to the elderly, aid to the elderly, and aid to its cities; and New Hampshire uses its share for handicapped education and for sewerage treatment construction.

I repeat and reemphasize that I am not submitting this amendment in disregard of our budgetary process. This amendment is only a legislative authorization. It is not an entitlement. Adoption of this amendment will not bust the budget. We will make the effort to find offsetting cuts in the budget so that this program can be funded at a later date. However, unless this authorization is encated, no amount of effort to fund this program will be successful.

The Senate has repeatedly and strongly expressed its support for increased responsibility by State and local governments. We have also stressed the need to reduce the costs of government at the Federal level. Revenue sharing accomplishes both of these goals. It has modest Federal administrative costs; it permits a maximum degree of local discretion; it puts the policy decisions in the hands of locally elected officials. And it achieves this without the costly reporting and other requirements of categorical grants that can cost the Federal and State governments so much in manpower and time.

I ask Members of the Senate to join me in supporting this worthwhile and effective program and in placing the Senate firmly on record in favor of continued authorization of the States share of revenue sharing.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I yield 4 minutes of my time to the senior Senator from Maine (Mr. COHEN).

Mr. COHEN. Mr. President, I wish to express my strong support for the general revenue sharing program which, since its inception, has allowed State and local governments to fund programs that reflect local priorities. In my own State of Maine, these funds have been utilized by State and local governments to maintain social services, including public safety, senior citizens programs, health screening, food stamps, and adult education. Throughout the country, these funds have been used to maintain vital services which might not otherwise be available to those in need.

I am convinced that an integral and necessary part of the general revenue sharing program is the continuation of the States' share of the funding.

I hope that every Member of this body understands the significance of the provisions of S. 2574 as reported by the Finance Committee. The bill provides for a continuation of an entitlement program for the local governments, but for the first time, the States' share of the program is only an authorization and will be subject to the uncertainty of the annual appropriations process. The bill also completely omits an authorization for the States' share for fiscal year 1981. I am very concerned that this indicates a trend toward phasing the States out of this program.

Senators MITCHELL, BAKER, and I are offering this amendment to S. 2574 to provide an authorization for the States' share of general revenue sharing for fiscal year 1981. We feel that the Senate should be on record as favoring including the States in the benefits of a program that has been very successful.

I was interested in reading in the New York Times recently a column which pointed out:

> The Republican governors have given some sound advice to a former colleague headed for the White House: Relax costly Federal mandates, consolidate the rigid grant programs—but by all means preserve the states' share of Federal revenue sharing.
>
> * * * * *
>
> The governors and mayors obviously value, indeed prefer, revenue sharing. The portion that goes to states rather than cities was further threatened this year because Congress became petulant about the campaign of some governors for a balanced Federal budget. Very well, it said, let's start by cutting the states' share of that budget.
>
> But there is no good way to terminate the states' portion of revenue sharing without also cutting the cities' portion. The states already pass 40 percent of their Federal aid directly to local governments. And, squeezed as they are by inflation and diminished state aid, cities have already begun to raise their sales and property taxes to make ends meet.

State governments currently pass through much of their general revenue-sharing payment to localities. In fact, it has been estimated that if general revenue-sharing payments to the States are terminated, 66 percent of the aggregate impact in fiscal years 1981 and 1982 would fall on localities.

We hear arguments that the States are too well off financially to justify further assistance. Let us look at the facts. Many State governments are required by their constitutions to have a balanced budget. It is therefore necessary for them to have a cushion to prevent them from going into deficit, while trying to provide mandated services. Furthermore, only 15 States have a solid surplus rating by Standard and Poor, the nationally recognized bond rating service. Of these 15, all but two are major energy and/or food producers whose tax revenues have grown as a result of price rises on these commodities. Fifty percent of the total State surplus in operating funds is concentrated in three energy-rich States: Alaska, California, and Texas.

Earlier this year, the Tax Foundation reported that 22 State legislatures were debating tax increases while only 12 were leaning toward tax cuts. As these figures do not take into account the possible loss of several revenue sharing funds, the State tax burden is likely to be increased in many States, if the revenue sharing is reduced.

There also appears to be a downward

trend in State finances. The Council of Economic Advisers predicted in 1979 that the "operating balance of the State and local sector * * * is expected to shift to a small deficit in 1979 and 1980 * * * and given strong demand by citizens to reduce State and local taxes, a return to surplus seems unlikely for the next 5 years." Data Resources, Inc., which forecast an overgenerous $700 million surplus in 1979 for the State and local sector, predicts deficits of more than $3 billion in both 1980 and 1981.

The role of the States within the intergovernmental structure has also been expanding. The States have been assuming more and more of the responsibility for programs such as education and welfare.

Recognizing the need for fiscal austerity, I am willing to support cuts in other areas of the budget to prevent the States' share from exceeding the budget ceiling. I would, however, like to put the general revenue sharing program and the States' share in particular into perspective. The general revenue sharing program requires no large bureaucracy for implementing the program, and administrative costs are one-twelfth of 1 percent. Categorical grants average 12 to 17 percent in administrative costs. The States' share of general revenue sharing for fiscal year 1980 is 2.8 percent of the $82 billion in total grants-in-aid to State and local governments.

On November 4, we heard a strong message from the American voters demanding less government, lower taxes, and less bureaucracy. I urge Senators to respond to the wishes of the voters and support this vital part of the revenue sharing program by adopting our amendment.

For these reasons, I urge the support of the amendment offered by my colleague, the junior Senator from Maine, by Mr. BAKER, and by me.

Mr. BAKER. Mr. President, in these closing days of the 96th Congress, it seems particularly appropriate that we turn again to the consideration of the general revenue-sharing program.

As I look back on the deliberations of the Senate, it is clear that no other program has consumed our attention or provoked the quality or quantity of debate that revenue sharing has. And, frankly, Mr. President, that comes as no surprise to me because revenue sharing goes to the very heart and soul of the proper role for the National Government to play in our federal system.

In 1980, as in 1932, the electorate have demanded a change in the status quo operations of the National Government. In the days and months ahead, I anticipate that the mechanisms traditionally used to solve the problems of the Nation will be altered, and it is my firm belief that the model for these revisions and alterations will be the general revenue-sharing program.

I have always thought that revenue sharing was the ideal method by which the Federal Government could assist the State and localities in addressing their particular problems. Time and time again, this view has been confirmed by my Senate colleagues and by the countless State and local officials who visit me.

Regardless of their State or city, the position of the Governors, and mayors, and county officials is constant and unshakable: Give us the resources and we can solve our problems. Give us the flexibility and we can put those resources to work. Give us the opportunity and we can take care of ourselves.

But these representatives, Mr. President, are not the ultimate beneficiaries of revenue sharing. The true beneficiaries are the millions of American taxpayers who have been laboring under an ever-increasing tax burden. Three weeks ago these taxpayers had an opportunity to speak for themselves and they spoke with unmistakable clarity.

The American people have demanded that we reverse the flow of tax dollars to Washington; that we return these dollars back to our citizens to do with as they please.

Revenue sharing is the only program enacted in the last 40 years which accomplishes this goal. It is the only mechanism we have devised to place resources in the hands of those best qualified and best able to use them effectively—the State and local governments.

It is frequently said in this Chamber that we have made a solemn commitment to this or that program. I would urge my colleagues to remember that we have an overriding commitment to the principle of federalism which is the very heart and soul of our constitutional system.

The State and local governments have responsibilities which they must satisfy. If the National Government continues to absorb an ever-growing increment of the Nation's tax dollars we guarantee their failure.

Our constitutional obligation is to preserve the vigor of our federal system. By reauthorizing revenue sharing, we remain true to this fundamental principle.

In all honesty, our efforts today do not completely satisfy me. I regret that the State share is not funded as an entitlement for 1981.

But we can preserve the integrity of the revenue-sharing program if we reauthorize the State share as an annual appropriation not only in the out-years but in fiscal year 1981 as well.

This amendment, offered on a bipartisan basis by Senators MITCHELL, COHEN, and myself and others does not provide the funds for the State share in 1981. Nor does this amendment commit the Senate to appropriate such funds for the State share. Rather, it merely gives the Congress and the incoming administration the opportunity to review the merits of State participation and determine whether, in the ranking of budget priorities, the State share should be restored.

Last June, I offered an amendment to reduce categorical assistance in order to provide funding for the State share. The reductions proposed by that amendment were not easy for me to make. But I believed then, and I believe now, that revenue sharing is unquestionably the most successful and important Federal assistance program we have ever had, and its continuation justified those cuts.

If the next Congress should see fit to make the necessary off-setting reductions to finance the State share, I want to make sure that they have the legislative mechanism in place to do so.

This reauthorization, as amended, serves another, equally important purpose. It reaffirms our faith in the overall concept of revenue sharing: The concept of disbursing the vast powers and resources of the Federal Government to levels of government more responsive to the public needs.

Additionally, we announce our intention to proceed with the rejuvenation of the Federal-State relationship. Revenue sharing, and the "no strings" approach which characterizes it, has proven to be the most cost-effective and bureaucracy-free method of Federal assistance. Its success is undeniable and I fully expect that we will see it used with ever-increasing frequency.

I therefore urge my colleagues to support this reauthorization legislation and the amendment that we have offered to it.

Thank you.

Mr. COHEN. Mr. President, how much time do I have remaining of my alloted 4 minutes?

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. COHEN. I yield 30 seconds to the Senator from Iowa.

Mr. JEPSEN. Mr. President, I support legislation authorizing general revenue sharing. General revenue sharing is a program that works, it enhances State autonomy, and it promotes good relations between Federal, State, and local governments.

It is my hope that during the course of this legislation, efforts will be made to preserve the integrity of the State share of general revenue sharing. I realize that the Senate bill contains provisions for the State share for fiscal years 1982 through 1985. Nevertheless there are those of us who feel that some States may desire to elect to utilize funds under revenue sharing for fiscal year 1981.

Mr. President, I strongly support the amendment offered by the Senator from Maine (Mr. MITCHELL). This is a good amendment. There are many States which need this money. Although no money is appropriated for fiscal year 1981, it is the first step to implementing funds for general revenue sharing for fiscal year 1981.

It is my intention to support the efforts which will provide the maximum flexibility to the States and their respective Governors to adjust their budgets. My support will be coupled with the concern for fiscal responsibility and the integrity of the budget process adopted by this Senate and Congress.

Mr. President I believe the above approach will greatly enhance the revenue-sharing program to the States while at the same time provide an oportunity for Members to make the appropriate responses to their respective States.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield 5 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, as one of the original cosponsors of revenue sharing, I am not excited about opposing this amendment, but I do not know of any alternative.

We have just gone through one vote in which we had to reject an amendment because we did not have the billion dollars, and now we are asked to come up with $2.3 billion. I recognize that the amendment is well-intentioned and purely motivated and that we would not do it unless there could be offsetting budget cuts, and that funding is not provided in the 1981 budget.

However, having said that, I point out that it is going to be difficult enough to make additional cuts because we already are counting on the $2.3 billion in fiscal year 1981, the so-called States' share of revenue sharing. If we are made to go back now and find $2.3 billion, I do not know where we will find it.

We went through the reconciliation process. I say to anyone who has not been through the reconciliation process with the House that if you try to save any money, it is very difficult. I do not quarrel with Members of the House. They have their problems and we have ours, and I assume we both have enough.

This is a well-intentioned attempt to defend the role of the States in the revenue-sharing program, but it poses problems. Let us face it: We probably have 3 days left here. The House has taken a very hard line on this issue. It has tried to eliminate entirely the States' share.

I believe it is fair to say that the distinguished Representative from Texas, Mr. BROOKS, is not the biggest fan of revenue sharing in Congress. He has never seen much merit in this program, and he is going to be in charge of this when it gets back to the House.

I suggest that if we want a revenue-sharing bill without any States' share for 1981—I am just guessing—we might be better off not to adopt this amendment.

There is also the consideration that we should not be authorizing additional spending when the new administration will try to make an effort to cut 1981 spending. I do not raise that because it raises some partisanship in a new administration, but it will make it more difficult for the incoming President, President Reagan, it has to go back and save $2.3 billion he already had saved.

So, in deference to the distinguished minority leader, Senator BAKER; Senator COHEN; Senator MITCHELL; Senator JEPSEN, and others, I hope we can reject this amendment on a voice vote and get on to something we might adopt.

I reserve the remainder of my time.

Mr. MITCHELL. Mr. President, in reference to the Senator's remark about the incoming administration, I say to him that my understanding is that the President-elect repeatedly has expressed his preference for bloc grant programs of the type that revenue sharing is. I understand that what we are doing is consistent with the desires and wishes of the President-elect.

Mr. PROXMIRE. Mr. President, will the Senator yield me 5 minutes?

Mr. LONG. I yield.

Mr. PROXMIRE. Mr. President, I oppose this amendment. We have just defeated, by an overwhelming vote—almost 3 to 1—a billion dollar countercyclical addition to the bill. Now we are asked to add $2.3 billion of authorization. Proponents of this amendment say: "Well, we may not appropriate funds for the State share in fiscal year 1981." Why do we authorize it if we are not going to appropriate it?

We have the same issue here, only it is 2.3 times as large as we had on the other measure which we just rejected.

Mr. President, I oppose this amendment because it is inflationary and ill-timed. We presently face a budget deficit of $27.4 billion given the assumptions made by the second concurrent resolution on the budget—assumptions that some economists and legislators find extremely optimistic. There is no provision in that resolution for a State revenue-sharing program in fiscal year 1981. If $2.3 billion were appropriated for State revenue sharing in 1981, the projected budget would rise to $29.7 billion.

Of course, budget deficits in and of themselves may or may not be significant. At a time of economic stagnation they may even be desirable. But when inflation is soaring at an annual rate of 12.6 percent, passing legislation that could increase the budget deficit by almost 10 percent is like pouring gasoline on a raging fire.

I would particularly ask my colleagues from the other side of the aisle if we want to send the American people the kind of signal that the passage of this amendment would convey. Do we want to say that we can cut taxes, balance the budget, and authorize additional billion dollar Federal spending programs all at the same time? Because if this is what we want to say, I can assure Senators that we are underestimating the intelligence of the American taxpayer. If one of the first acts we take after receiving an election message that the voters are fed up with big Federal spending programs is to authorize yet another big spending program, then we do so at our peril.

It would be one thing if these funds were meant to strengthen our defenses, clean our environment, or revitalize a sector of our economy. Because of budgetary pressures, even these laudable goals might be secondary to our need to hold down Federal spending. But at least we would be dealing with a question of priorities and needs.

But what would these State revenue-sharing funds be used for? We have no idea. A 2-year study by the League of Women Voters found that about 40 percent of the State legislators, the press that covers the State legislatures, and the Governors did not know where revenue-sharing money went. They could not account for it. That means the argument that there is very little Federal cost in administering revenue sharing is not as impressive as proponents of revenue sharing would like us to believe. The reason the Federal cost is so small is because for the most part the program is administered by the States, with virtually no accountability.

One thing we can be sure of is that States will be able to cut their taxes as a result of receiving Federal revenue-sharing support. A total of 24 States cut personal taxes and 13 States cut sales taxes in 1979. Naturally, State Governors are delighted to get unrestricted dollars from Uncle Sugar so that they can turn around and reduce the State tax burden on their people. But I think the people are beginning to understand that the inflationary burden created by excessive Federal spending such as we are considering today is much greater than any sleight-of-hand relief they may receive from State taxes. And I think the people also understand that when Governors are not held accountable by the people of a State for how they spend public money—which is certainly the case with the State revenue-sharing program—then that money can and will be spent haphazardly and inefficiently.

How about the second budget resolution itself? That resolution, which has been approved by the Congress, clearly does not allow for funding the State revenue-sharing program. Are we now going to turn around and say, "Well we weren't really serious. Maybe we will fund State revenue sharing after all?" No wonder the American people are fed up with the shenanigans of Congress. If we adopt the pending amendment, we will once more end up saying one thing and doing the opposite.

How badly do the States need this revenue-sharing support? I already have alluded to the fact that 24 States cut personal income taxes and 13 States cut sales taxes in 1979. In that same year, 19 States had surpluses that exceeded 10 percent of their expenditures, 35 States had surpluses that exceeded 5 percent of their expenditures, and 48 States ran a surplus.

Yes, times now are tougher. Certainly the States are having more trouble making ends meet. Are we not all? But States should be forced to either raise their taxes or cut their expenditures or both. Let us not do it with mirrors. Let us not pretend we are helping the people by adding more fuel to that great engine of inflation. Inflation is the No. 1 economic problem that faces us. We do not respond to that inflation by spending another $2.3 billion.

Mr. President, the States should be forced to make the tougher choices. In fact, in my State last year we cut taxes by $900 million, which is the equivalent of 17 years of revenue sharing.

I realize that this is a popular program, but certainly we can forgo for 1 year revenue sharing and particularly in view of the fact we just agreed to the Exon amendment which clearly depends on having a situation in which there is no State revenue sharing in 1981.

We will be negating an action the Senate just took if we agree to the Mitchell amendment.

I yield the remainder of my time to my friend from Nebraska.

Mr. EXON. Mr. President, the proposition that the Senate should continue to authorize State revenue sharing for 1981 and thus reverse our all too modest restraint in spending comes during the

Christmas season. It is a time of great joy and unselfishness. It's nice to hear the children's voices ringing in the halls and the cheery tune of "Jingle Bells" in our thoughts as we debate.

It is wondrous indeed, Mr. President, to even talk of State "revenue sharing" when indeed we all know, every last one of us, regardless of affiliation or philosophy, that we have not a penny of revenue to "share," only deficits to "share."

I will attempt to explain today why there is not only no proven need for more spending in this area, but that indeed we must begin to look critically at many of the other budget outlays where it appears States may not be prudent with Federal funds. Let us remind ourselves that further spending increases deficits which drive inflation and in turn escalate higher and higher interest rates that are choking our free enterprise system at every level. Even the ticker tape cannot keep up with prime rate increases. Is it not time to ask, from what programs will come the money for this authorizing outlay next year? Allow me to put this in proper context so that we can view this matter realistically.

How many votes, Mr. President, would you imagine this State revenue sharing would receive today in the Senate were we to spell out that the funds going to the States would be subtracted next year from the national defense appropriations?

Mr. President, while I do not enjoy playing the role of Scrooge, I tempt the revenge of the Christmas spirit of the future by saying that the spirit of the past and present have stood for continued Federal "give aways" at an ever-increasing velocity.

Mr. President, this State revenue sharing proposal, a neatly wrapped package of unproven need, glistening under the dying Federal Christmas tree, is the latest lament from the State houses in their constant slurping of what they evidently consider Washington slush funds. Interestingly enough, most of these same States are the same ones who have sent us resolutions demanding a balanced Federal budget.

But the issue before us is "Christmas cheer" for the States. Never mind the source of the funds—it is the time of giving, even if we do it through miracles like those always accomplished easily by Santa Claus of the East. It can perhaps best be placed in perspective if we could picture a chorus of State chief executives serenading the Congress with a famous children's Christmas song from the spirit of the past and present:

> Jolly, old Saint Nicholas, lean your ear this way, don't you tell a single soul what I'm going to say. Christmas Eve is coming soon, now you dear old man. Whisper what you'll bring to me, tell me if you can.

Mr. President, I think we should answer in a loud chorus of "No's." I am opposed to any effort to reauthorize funds for State revenue sharing for fiscal year 1981. On one hand we are desperately searching for budget cuts of at least $20 billion and we have here a further unnecessary increase proposed. The statement has been correctly made that the Federal budget is hemorrhaging. We are wrestling here with budget reductions attempting to separate the legitimate concerns of the needy from the greedy.

Mr. President, I thought the message heard on November 4 came through loud and clear that the American people do not want to go about business as usual through increasing Federal spending. Although those who want to restore State revenue sharing for 1981 hold out the promise that categorical grants for other spending will be reduced in the 97th Congress, I believe the general public is tired of hearing the same old promises and, instead, expects corrective action. The action we have taken to date on State revenue sharing, which deletes payments to States for fiscal year 1981, deserves our support. The second budget resolution, which has now been passed, does not contain any provision for continuation of State revenue sharing in fiscal year 1981.

Because of the course the Congress has followed over the past several months on the matter of the States share of general revenue sharing, most, if not all, State governments have accommodated themselves to the fact that they would not be receiving payments this year. In some cases, States have taken action in their legislatures to adjust State tax rates accordingly. In other States, the expected absence of these funds has resulted in discontinuation of certain activities, programs, and positions. In my own home State of Nebraska, the State Board of Equalization, which sets State tax rates, only last month set taxes on the assumption that there would be no State general revenue sharing money in fiscal year 1981.

To pass an authorization for 1981 payments to States, on the assumption that the authorization would receive an appropriation sometime next year, is unnecessary, wasteful, and confusing. Any subsequent appropriation would result in an unexpected windfall for the States treasuries. If we authorize a 1981 payment now, and fund it within the next few months, this will represent one of the most unnecessary and wasteful expenditures ever made by a Congress which, if the November 4 election is any indication, does not have a reputation for thrift.

Mr. President, I would like to address in more detail the situation which exists in my own State of Nebraska. The State of Nebraska does not expect to receive general revenue sharing payments for 1981. Yet, within the past few weeks, the Nebraska State Board of Equalization was able to reduce State income tax rates by nearly 12 percent for both calendar year 1980 and calendar year 1981. The Nebraska general fund balance in the treasury was an alltime record $160 million-plus last month, even though the total new appropriations for the current fiscal year are $657 million. The cash in the Nebraska Treasury, therefore, represents nearly one-fourth of total appropriations, which is certainly excessive for cash-flow purposes.

Mr. President, does the State of Nebraska need a 1981 State revenue sharing payment? No way. Furthermore, it has recently come to my attention from newspaper accounts that the State government obviously does not need some of the other Federal moneys which are currently being wasted. I refer specifically to expenditures being made by the State of Nebraska out of Old West Regional Commission funds, housing and urban development funds, and Economic Development Administration funds. In total, hundreds of thousands of Federal taxpayer dollars are being expended upon such activities as "Meet Your Governor" sessions, a task force on State government improvement, and a post card campaign to identify State regulations that place a burden on the public.

Pointedly and interestingly enough, the State of Nebraska does not feel that these projects are worthy enough to be supported by State tax dollars, but yet they emphasize employment of Federal funds with abandon. After carefully explaining that no State tax dollars were employed in the costly study on how to improve State government, State officials now announce they intend to proceed to implement the findings of the study by instituting a private fundraising drive to raise an additional $160,000, to be matched by an additional $139,000 from Federal funds.

If their spending plans on all of this materialize, they will expend a total of over a half-million dollars, mostly from Federal funds and not a penny of State funds, which will help further expand Federal deficit financing and the national debt. Indeed, their efforts may or may not be worthy of taxpayer support, but if it is not a legitimate expense for the State government to consider reorganization of State government, what possible rationale is there to further expand the Federal deficit to pay for this with Federal taxpayer dollars? It is clear that Nebraska, and I assume other State governments as well, are spending taxpayers' "free money" dollars, from Santa Claus East in Washington through a wide variety of Federal loosely supervised outlays.

In the successful application for Federal grants from the Old West Regional Commission, Housing and Urban Development and Economic Development Administration, the State spells out conducting "outreach activities" with Federal funds:

> A. An outreach effort will be conducted to identify State regulations that place an undue burden on the public. Pre-addressed return cards will be distributed through participating organizations. Regulatory processes identified as burdensome will be investigated and appropriate remedial actions will be taken.
>
> B. Meet your Governor sessions will be held at various locations throughout the State as the Governor's schedule permits. These sessions will give citizens the opportunity to communicate their views on State service delivery policy directly to the chief executive officer.
>
> C. Project 2000 will be initiated. This project will give Nebraska citizens the opportunity to express their views on the longer-range goals and objectives for the State.
>
> D. Citizens correspondence regarding State

service delivery policy or proposed legislation will be analyzed as a part of the issue analysis process.

If any State has a legitimate need for Federal assistance, and I am sure most States do, then that Federal assistance should be applied to the priority needs of its people. I am sure there are many worthwhile endeavors in all States which could beneficially use more Federal funds. Costs have gone up for the care of the elderly, the sick, and the handicapped. In view of the fact there are these greater needs, including the need to reduce the Federal deficit, we should not continue to allow Federal funds to be used for less than high priority purposes. I suggest, Mr. President, that Nebraska, in all likelihood, is not the only State to take advantage of the "here it is, come and get it" loose handling of funds through the bureaucracy.

Mr. President, why do we not hold down Federal spending wherever we can? Whether it is State revenue sharing, HUD, EDA, or title V regional commissions, or others, let's stop wasteful and unnecessary expenditures. I have supported aid to States in many of these areas in the past, and will in the future. I am not saying none of the programs are justified. But here is clear evidence of Federal dollars being spent for unnecessary purposes as far as the Federal Government is concerned. The inappropriate uses of Federal moneys, as I have just outlined, cause me to rethink the whole relationship between the Federal Government and State governments. I am convinced it is the responsibility of the Budget and Appropriating Committees, the General Accounting Office, and the executive departments to all take a closer look at these past authorizations for future belt tightening.

I have made some proposals which would lead to some restructuring of our grant-in-aid programs, and I expect I will offer more in the future. In the meantime, let us not reauthorize a revenue-sharing payment for 1981. We made our decision earlier this year, and to reverse that would not only send mixed and confused signals to the electorate, but would also result in unnecessary spending.

For too long Congress has authorized more spending on the promise that we would find some other area to reduce later. It is fiscal madness if not irresponsibility to proceed spending money we do not have on programs the people do not need or even know about. We should proceed to pass revenue sharing for cities and counties and stick to our decision to not fund State revenue sharing for 1981.

Mr. MITCHELL. Mr. President, I yield 1 minute to the Senator from West Virginia, Senator RANDOLPH.

Mr. RANDOLPH. Mr. President, I thank the Senator from Maine (Mr. MITCHELL).

I am gratified to have the opportunity to join with other cosponsors of the pending amendment.

I wish to emphatically, and not in any sense of argument, address this particular remark to the able Senator from Kansas (Mr. DOLE). He has spoken about the amendment being well-intentioned. In fact, it is not only well-intentioned, it is well-reasoned, and that is why it is being offered here this afternoon.

I direct now in the spirit of understanding to my capable colleague from Wisconsin (Mr. PROXMIRE), what I believe we could do to cure this inflationary spiral. That is for the Congress finally to take hold of the Federal Reserve System. It is running wild in this country as to interest rates—in the discount rate and within the banks, the prime rate. That is the essence of the opportunity for us, and I am glad that Senator LAXALT speaks out on this subject. I am glad that Senator HELMS speaks out. And I speak out upon this issue again. We give little attention to the matters of interest rates and the Federal Reserve, but if Senators will read the record there are reasons why we need to direct our attention toward these issues. But this is another subject in itself.

The question before us is whether to restore revenue sharing for the States in fiscal year 1981. I believe strongly that we should. The State of West Virginia has used its funding for significant projects to benefit all citizens in education, water development, recreation, agriculture, and transportation.

Why cut out the 1 year? This is a program enacted first in 1972. It has been successful. It should now be continued for 5 years, not just 4.

The PRESIDING OFFICER. The time has expired.

Mr. MITCHELL. Mr. President, I yield 1 minute to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join with the Senator from Maine and our other cosponsors in support of this amendment.

We are facing serious economic and fiscal problems in this country at this time, but it does not resolve these problems by shifting them from the Federal Government back to the States.

Effectively, the Federal Government has usurped a very important opportunity to raise money, and that is through the States and that is through the income tax systems, and many States like my own Massachusetts rely heavily upon the property tax and sales tax which are basically regressive in nature.

It is only the Federal Government which has the opportunity to have a progressive system.

I believe that this program has been basically a partnership program between the Federal Government and the States. It has been of a bipartisan nature over a period of time. I know the distinguished Senator from Maine (Mr. MITCHELL) has reviewed how these funds have been expended. Basically they are expended in extremely worthwhile and vital services for the States.

So, Mr. President, I join with my colleagues in urging that the Senate accept this amendment.

The PRESIDING OFFICER. All time of the Senator from Maine has expired. The Senator from Kansas has 3 minutes.

Mr. DOLE. Mr. President, I said this was well-intentioned. You know if they want to amend the amendment to tell us where we are going to cut the $2.3 billion and put those cuts into the amendment, then we would have something to vote on. What they want is the authorization now for the $2.3 billion and then pass the buck to somebody else as to where you are going to cut the spending.

I do not want to get into what happened on November 4. All I know is that I was reelected.

The point is that it seems to me we are doing a disservice to nearly everyone. We can be responsible and say, "OK, we are going to authorize $2.3 billion, we are not going to do that until we have some offsetting savings," but the problem is what are the savings? I ask the sponsor of this amendment where are you going to get the first $1 billion? Do not worry about the last $1.3 billion, but please identify where you want to cut $2.3 billion. I would be happy to amend the amendment if the Senator from Maine or others have any direct knowledge, just tell me where you want to save the money and maybe we will just add that to the amendment

Mr. MITCHELL. We will have an opportunity to do so through the appropriation process I say to the distinguished Senator, next year. We are awaiting eagerly the proposed cuts by the incoming administration, and to give us some suggestions that would be useful here.

Mr. DOLE. I hope so.

I do not want to quarrel with the distinguished Senator from Maine because I know the amendment is well-intentioned.

But the point I wish to illustrate is we do not have any money and, as the Senator from Nebraska said with some poetic justice, it is the spirit of Christmas, and you know the old liberalism is dead. The American people said, "Stop putting us further and further into debt. Start paying your bills at the Federal level. Do not keep telling us all these good things are going to be good for my State or your State or someone's community."

We have almost bankrupted this Nation by passing spending programs because they do not cost anything. Ask the taxpayers what it costs. This year alone, in fiscal 1981, the increased tax burden for the American taxpayers is $86 billion. If inflation keeps on it is going to be higher than that.

So this Senator just suggests let us give the new administration a chance. Let us not saddle another burden on them before the inaugural.

I hope we can defeat the amendment.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. DOLE. I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay the amendment on the table.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MITCHELL. Mr. President, I ask unanimous consent for 1 additional minute to enable the Senator from Kentucky to make a statement.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. One minute to the Senator from Kentucky.

Mr. FORD. Mr. President, I want to support the amendment by the Senator from Maine.

Having served in the capacity of Governor, and seen the opportunity we could have as it related to revenue sharing to many programs that were given to our people that we could not afford to give ourselves, I repeat, I want to support the amendment.

The philosophy I have always followed is that the government closest to the people is the best government. If we share their funds with them and allow them to make the judgment on what is best for them, what is in their best interests, then revenue sharing will have accomplished its purpose better than any other program of the Federal Government.

Since this amendment only authorizes and gives us an opportunity to shift funds from other areas into revenue sharing to allow the people back home to make that decision, if they are going to send their taxes here, for heaven's sake let us allow them to make the decision as to where it should be spent.

I urge the Senate not to table this amendment but to support it when it comes around to voting.

● Mr. KENNEDY. Mr. President, I rise to speak in support of the amendment offered by the distinguished Senator from Maine, Mr. Mitchell, to reinstate the authorization for the State share of revenue sharing.

In my own State of Massachusetts and across the Nation in every other State, revenue-sharing funds are providing basic and important services in schools, in hospitals, and in health care.

To end this program now, at a time of extraordinary economic pressure on many States and with future predictions of even greater constrictions in resources, would be unwise. Not only would it deny services, but it would deny jobs.

I hope my colleagues recognize that the amendment before us today will provide an authorization for this program and register a strong sign of Senate support for its continuation.

In this regard, Mr. President, I would note that this amendment also balances the concern for the programs and services funded by this program with a recognition of the realistic pressures on our overall economic situation. It is not an entitlement for this program, unlike its history in the past, and unlike the payments to city and local governments.

The amendment recognizes the concerns which have been expressed by reinstating this program as an authorization which will require appropriations in order to fund it.

In this way, the amendment does not violate the budgetary ceilings established in the second concurrent budget resolution.

However, it does provide us with a capacity to examine the benefits and values of this program against others. At least at this point, we should not rule out the possibility that we may decide other programs are of less vital national need or that the economic condition of the country may require a change in our overall funding levels.

Mr. President, many States will suffer serious losses of services and benefits if the State revenue sharing portion does not continue. I would hope that my colleagues will recognize the important benefits that this program provides.

In Massachusetts, it has been used to finance critical construction programs. In Maryland it is used to provide retirement benefits for teachers and others. In Louisiana it funds needed roads. In California, it provides supplements to the aged, blind and disabled. In Michigan it offers critical funds to maintain State mental health programs and services. In Minnesota, it enables 200,000 residents to be served by medicaid.

Across the Nation, revenue sharing has provided fundamental assistance to State governments, enabling them to select their priorities and to have resources to meet those priorities. That assistance should be continued, and I urge adoption of the amendment.●

The PRESIDING OFFICER. Is there a sufficient second on the request for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay on the table the amendment of the Senator from Maine. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield) and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER (Mr. Tsongas). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 47, nays 44, as follows:

[Rollcall Vote No. 516 Leg.]

YEAS—47

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cranston
DeConcini
Dole
Domenici
Eagleton
Exon
Glenn
Goldwater
Hart
Helms
Huddleston
Humphrey
Jackson
Johnston
Laxalt
Leahy
Long
Metzenbaum
Mitchell
Nelson
Nunn
Pell
Proxmire
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Thurmond
Wallop
Warner
Zorinsky

NAYS—44

Armstrong
Baker
Boschwitz
Bradley
Church
Cochran
Cohen
Culver
Danforth
Durenberger
Durkin
Ford
Garn
Hatch
Hayakawa
Heflin
Heinz
Hollings
Javits
Jepsen
Kassebaum
Kennedy
Levin
Lugar
Mathias
Matsunaga
McClure
Melcher
Morgan
Moynihan
Packwood
Percy
Pressler
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Stewart
Tower
Tsongas
Weicker
Williams

NOT VOTING—9

Cannon
Gravel
Hatfield
Inouye
Magnuson
McGovern
Ribicoff
Talmadge
Young

So the motion to lay on the table (UP No. 1838) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I move to table the motion to reconsider and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will be on the tabling motion, the motion to table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

Mr. LONG. Who made the motion to reconsider?

The PRESIDING OFFICER. The Senator from Maine.

Mr. LONG. Did the Senator vote against his own amendment?

The PRESIDING OFFICER. Yes, and he made the motion to reconsider.

The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Washington (Mr. Magnuson), the Senator from Connecticut (Mr. Ribicoff), the Senator from Georgia (Mr. Talmadge), and the Senator from Kentucky (Mr. Huddleston) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Oregon (Mr. Hatfield), and the Senator from Texas (Mr. Tower) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The result was announced—yeas 46, nays 45, as follows:

[Rollcall Vote No. 517 Leg.]

YEAS—46

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
Cranston

DeConcini
Dole
Domenici
Eagleton
Exon
Glenn
Goldwater
Hart
Helms
Humphrey
Jackson
Johnston
Laxalt
Long
Metzenbaum
Nelson
Nunn
Pell
Proxmire
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—45

Baker
Boschwitz
Bradley
Church
Cohen
Culver
Danforth
Durenberger
Durkin
Ford
Garn
Hatch
Hayakawa
Heflin
Heinz
Hollings
Inouye
Javits
Jepsen
Kassebaum
Kennedy
Leahy
Levin
Lugar
Mathias
Matsunaga
McClure
McGovern
Melcher
Mitchell
Morgan
Moynihan
Packwood
Percy
Pressler
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Stewart
Tsongas
Weicker
Williams

NOT VOTING—9

Armstrong
Cannon
Gravel
Hatfield
Huddleston
Magnuson
Ribicoff
Talmadge
Tower

So the motion to lay on the table the motion to reconsider was agreed to.

UP AMENDMENT NO. 1839

(Purpose: To provide that post-1979 increases in severance tax collections may not be used to increase a State's general tax effort amount to the extent that such collections increase greater than collections of other taxes)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 1839.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, between lines 2 and 3, insert the following new section:

(f) Disproportionate Increases in Severence Tax Collections Disregarded.—

(1) In General.—Subsection (c) of section 109 of the Act is amended by adding at the end thereof the following new paragraph:

"(3) Proportional limitation on severance tax amount.—

"(A) In general.—For purposes of determining the general tax effort amount of any State for an entitlement period beginning after September 30, 1980, disproportionate increases in severance tax collections shall be disregarded.

"(B) Disproportionate increases in severance tax collections.—For purposes of this paragraph, the term 'disproportionate increases in severance tax collections' means the excess of—

"(i) the net amount of severance tax collections for the most recent reporting year, over

"(ii) an amount which bears the same ratio to the net amount collected from the State and local taxes (other than severance taxes) for the State for the most recent reporting year as the net amount of severance tax collections for calendar year 1977, 1978, or 1979 (whichever is highest) bears to the net amount collected from the State and local taxes (other than severance taxes) for the State for such year.

"(C) Severance tax defined.—For purposes of this paragraph, the term 'severance tax' has the meaning given such term by section 4997 (c) (2).".

(2) Conforming amendment.—Subparagraph (A) of section 109 (c) (2) of the Act is amended by striking out "The State and local taxes taken into account under paragraph (1)" and inserting in lieu thereof the following: "For purposes of this subsection, the State and local taxes taken into account".

On page 34, line 14, strike out "Sec. 103." and insert in lieu thereof "Sec. 104.".

On page 40, line 11, strike out "Sec. 104." and insert in lieu thereof "Sec. 105.".

On page 41, line 5, strike out "Sec. 105." and insert in lieu thereof "Sec. 106.".

On page 42, line 14, strike out "Sec. 106." and insert in lieu thereof "Sec. 107.".

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. Mr. President, it is my understanding that on this amendment there is no time agreement, is that correct?

The PRESIDING OFFICER. Is the amendment referred to the one on severance tax?

Mr. DANFORTH. That is right.

The PRESIDING OFFICER. The Senator is correct.

Mr. DANFORTH. Mr. President, for the information of the Senate, I do not intend to prolong this matter unduly, but I do want anybody who wants to speak on it to have an opportunity to do so.

I support the reauthorization of the revenue sharing program. During the congressional recess in October and early November, I had the great opportunity to visit 110 Missouri communities. Time and time again, community leaders expressed to me their concern over the future of revenue sharing. They know—better than any of us—that revenue sharing is an effective, efficient program, providing needed funds to State and local governments with a minimum of redtape and bureaucracy. Because revenue sharing funds come with virtually no strings attached, revenue sharing is the one Federal program that lets State and local governments use Federal assistance to meet the recognized needs of their communities—as they understand them—not as dictated to them by Congress or the executive branch bureaucracy.

Clearly, one message of the recent election is that the American people are tired of the Federal Government telling them how to run their lives. Clearly the frustration evidenced in the recent election returns grows out of the feeling, on the part of a great many people, that they have lost control over their government.

The revenue sharing program speaks to that concern. It recognizes that the Federal Government may not have all the answers, that Uncle Sam may not know what is best for the people of Missouri, or the people of Maryville, Boonville, Sedalia, La Plata, or Cabool. It gives authority to State and local government leaders, working with the people of their States and communities, to use Federal funds in support of projects and programs the people of their communities want and need.

But there would be little purpose in a revenue sharing program of any sort if all it did was to take money away from State and local governments and then give it back to them. If that were the case it would be more appropriate for the Federal Government not to collect the funds in the first place.

Therefore, what the revenue sharing program seeks to do is redistribute funds from wealthy communities to communities that are less well off. Although some 37,000 governments benefit from revenue sharing, the governments that get the greatest amount of assistance are those governments that are needy—low income communities that have exhausted their tax resources. To that end, the revenue sharing formula rewards tax effort.

And therein lies a serious problem. When Congress designed the revenue sharing formula, no one anticipated the extraordinary increase in severance tax revenues that would accompany the energy crisis. From 1972 to 1978, the Northeast-Midwest Institute estimates that severance tax revenues from oil and gas alone increased from $710 million to over $2 billion. And I remind my colleagues that these revenues do not reflect the effects of price decontrol, which is expected to increase severance tax revenues substantially.

These revenues are not distributed evenly across the United States. Only 20 States collect any kind of severance tax revenues, and the lion's share, by far, goes to 8 energy-rich States.

The effect of this phenomenon on the distribution of revenue sharing funds cannot be ignored. In a report recently prepared, the Treasury Department estimates that by 1985, over $34 million in revenue sharing funds may flow to the eight significant energy-exporting States, all at the expense of the other States, all as a result of severance taxes, even when it is assumed that 25 percent of increased severance tax revenues are offset by decreases in other taxes, and even when it is assumed that no funds whatsoever are appropriated for the State share of revenue sharing. In the State of Alaska alone, revenue sharing payments could jump nearly 200 percent. And if it can be assumed that funds will be appropriated for the State share of revenue sharing, over $51 million could end up going to the eight energy-exporting States, all as a result of increased severance tax revenues.

So, come 1985, while the rest of the country suffers the rigors of increased energy prices, the energy-rich States will be raking in the dough. Not only will they be reaping the profits from the sale of their resources, but also they can expect some $51 million in increased revenue sharing payments—$51 million they would not have received but for the energy crisis. Meanwhile the newfound riches of increased severance taxes will enable the energy-rich States to cut other taxes—perhaps by 25 percent, as in my example, perhaps by more—making these States more attractive to business and thereby contributing to their further economic growth. And yet their revenue sharing payments go up. We take from the poor and give to the rich. In my view, that is unfair.

I am not alone in expressing this concern. In the House of Representatives, Congressman MAGUIRE recently sought, unsuccessfully, to exclude from the revenue sharing formula the exported portion of severance taxes. Others have sought to exclude severance taxes altogether from the formula.

The amendment which I am offering today strikes a compromise. Under my proposal, severance taxes could still be used in measuring tax effort for purposes of revenue sharing, but the percentage share of tax effort represented by State severance taxes would be frozen at predecontrol levels. Since severance tax revenues tend to fluctuate from year to year, my proposal would give the States the option of choosing the year which would be used in computing tax effort—1977, 1978, or 1979.

The effect of the amendment would be to prevent the use of windfall severance tax revenues in computing tax effort for purposes of general revenue sharing—and, generally, would limit the impact of severance taxes on revenue sharing allocations.

This amendment was offered during consideration of the revenue sharing bill in the Finance Committee and was narrowly defeated. It was a tie vote, as I recall.

I believe this amendment is important. I do not think we can afford to blind ourselves to the disparate effects of the energy crisis, not only as it affects regional growth and development, but also as it affects the distribution of Federal aid.

Mr. President, in summation, the problem is as follows: I pointed out at very great length during the debate on the windfall profit tax bill that one of the effects of the decontrol of oil prices, which I happened to support, was that those States which have energy resources, oil resources, would have substantial increases in their State revenues by virtue of royalty receipts and severance tax receipts.

It was estimated that between 1980 and 1990, that 10-year period, the oil-producing States would receive an increase in their State revenues by an estimated $127.7 billion. The perverse effect of this on revenue sharing is that the severance tax increases are counted in computing State tax effort, so that the revenue sharing pie will be recut; and as it is recut, the States which will be getting more severance tax income will be getting larger pieces of the revenue sharing pie, and the States which have no severance tax revenues will be getting smaller pieces of the revenue sharing pie. It is that anomalous situation, that unfair situation, which this amendment is designed to remedy.

The point of revenue sharing is not to take money from State and local communities, send it to Washington, and have it sent back again. The point is to provide a way of giving financial assistance to communities without a lot of Federal strings. But when the distribution is on a formula which rewards those States which already are doing very well and gives them yet another economic advantage, I believe that that is contrary to the fundamental theory of revenue sharing and that it should be altered by this amendment.

Mr. WALLOP. Mr. President, I believe that when my colleague from Missouri brought up this amendment in the Finance Committee, I told him that in Wyoming when we have to destroy a horse and have shot it, we do not come back and shoot it again and again and again. That is exactly what is happening here. This issue has been settled by Congress, and just exactly what is happening should be pointed out.

The point of this amendment is not as stated by the distinguished Senator from Missouri. This amendment expresses tension that will be with us the rest of this century, and that is the tension between producing States and consuming States—in the world of energy, a crisis has been created by abysmally stupid Government policies that have existed for more than a quarter of a century.

What has happened is that we are confronted with some things which the Senator from Missouri says are unfair. He says that the revenues are not evenly distributed from the production of energy in this great country of ours. Neither are the revenues from beaches in Florida and California; neither are the revenues from rivers that flow through Missouri and haul our traffic; neither are the farmlands of America; neither is the timber industry or the fishing industry or any other part of the economy of this country distributed evenly in America.

He says, "Well, these things cut taxes." Cut taxes, my foot. I ask the Senator if he has seen Appalachia. Has he seen what happens when people consume the nonrenewable resources and when, having consumed them, they move on to something else and leave you sitting there, sucked dry of all these "riches"? That is exactly what we are talking about.

We are not going to cut taxes. We do not even have the ability to deal with what is coming our way now.

The latest census reports indicate that my State of Wyoming is one of the fastest growing States in America, and it is growing because we are producing energy so that your industry can run. We are not trying to suck your industry out of your State. We are trying to make your engine go. The moneys that are coming in are the tax dollars for Americans, dollars that are not going to support governments in Libya, Iraq, and Iran—unstable governments on which you cannot rely.

Producing this energy here saves your taxpayers and my taxpayers $40 a barrel. We are not sucking it out of America. Does the Senator prefer to have it go abroad and help the balance of payments over there?

This tension that I spoke of is not something new, and this is only one reflection of it in this Congress.

Under the windfall profit tax Missouri and the rest of the States taxed our share of the Federal royalty.

I think we should be grateful that the resources exist in America at all. It is something that I guess people in other States do not understand. Missouri taxpayers and the State government gets to tax 100 percent of the land in Missouri except what the State owns, and any parks and military bases. Our taxpayers, because the Federal Government owns half the land, get to tax but 50 percent of the land in our State. Missouri taxpayers share in the money from the royalties for oil off of our half.

We have a thing called payments in lieu of taxes for all those Federal lands, taxes which are incidentally remarkably lower than the taxes that private landholders pay. But 50 percent of our land gets a small pittance from the Federal Government in lieu of taxes. But it becomes the biggest single taxpayer and that big single taxpayer decided this year to cut back—by 25 percent.

How are they going to run a local government on that when we have a government that is trying to accommodate growth rates to the extent that we have in our State? We have grown in excess of 46 percent during the last 10 years. According to the Government anything larger than 4 percent is considered by urban planners to be uncontrolled growth.

In the southwestern part of our State, the Overthrust Belt, which has the most promising resources that this country has discovered in the lower 48 in this half century, we have a community of Evanston, Wyo., that has grown from a sleepy little place of some 1,200 people to nearly 9,000 in 18 months. And somehow or another those people's children have to be educated. They have to have hospitals when they fall off oil rigs. They have to have roads to deliver all of their oil that they produce. These are public expenses that cannot be ignored.

Yet we are obliged to do that while Missouri and her taxpayers and the remainder of Americans are 50 percent resident landlords in our State, but in that 50 percent we provide school districts, we provide fire protection, we provide police protection, we provide the game and fish management, all without cost to Missouri taxpayers, along with the enjoyment that they have by virtue of access to the public lands in this country.

So, when we were passing out public lands they were not distributed evenly either.

So all I am trying to tell the Senator from Missouri is that we do not want to suck industry out of his State or anyone else's State. The plain fact of it is industry would not exist unless we produced that energy willingly and quickly as we have done.

In my State over the last 2 years we have increased the known reserves of gas, we have increased the known reserves of oil, we have quadrupled our production of coal, we have doubled our production of uranium, and we have doubled our production of thermal generated power. And we do this to run the engines of the remainder of the country. We cannot consume even a tenth of the energy that we produce there.

And where comes this jealousy because we are falling over ourselves, a State that was an agrarian State with a beautiful environment, to turn back the type of impact where we have had CBS television mocking Rock Springs, a community of ours where people were struggling to keep the sewage out of the middle of the street and to take people out of caves and to care for people where the rate of alcoholism increased 150 percent in 4 years.

These programs cost money, and these programs are necessary because of the energy-related growth. This amendment attacks our ability to deal with those problems.

I appreciate the fact that the Senator from Missouri has decided he might withdraw this amendment. He will withdraw that amendment because we would be here a long time, as I recited the statistical evidence on the problems that have been created while we seek to produce the energy that the remainder of the country needs, because these are not funny programs; they are important to the remainder of the country to insure energy development goes smoothly and successfully and to the quality of human life in a State that has always known it and seeks to try to maintain it.

To the extent that that becomes impossible for us will be to the extent that we seek to slow down the Nation's dependence on our energy resources because we cannot afford it in human terms.

I yield the floor.

Mr. LONG. Mr. President, I believe the Senator might feel more kindly toward energy-producing States if he were aware of certain facts which I hope to direct to this attention.

One of them is this: The amount of revenue that we raised in an energy-producing State, and I suppose Louisiana would be a good example because we do produce more oil and gas per acre than any State in the Union, depends upon the needs of our Government for revenue.

At the time we were voting on the windfall profit tax, the Senator was very much concerned that the State of Louisiana, and perhaps Texas and others, were going to have large amounts of additional income and that they were going to use that additional income to wage economic warfare on other States.

I said at the time that the Senator's fears would not be realized; that like most things we worry about, it would not happen.

The fact is, Mr. President, that it has not happened. Louisiana did receive some additional income because of the increase in the price of oil and because it was able to find and produce more gas. It did not raise the State severance tax. It simply was able to find more oil and more gas and the price of oil did go up; and because it had some additional income, the State reduced its taxes.

What taxes did it reduce? It reduced the income tax, not the corporation income tax. The State of Louisiana gave no advantage to any industry to come into the State when it reduced its tax. It did not reduce the corporation income tax. It did not cut the taxes that were especially resented by business, such as the corporation franchise tax.

The tax it chose to reduce was the personal tax, and that was skewed to the benefit of the lower and middle income people. The people who got the tax cut were in the main in the middle income and low income brackets.

What the Senator fears has simply not been realized. To the best of my knowledge Texas did not do what he feared. It is true that there were some tax reductions in Alaska, but nothing was done to heist the industries away from other States.

The Senator would perhaps feel better about the States having some revenue from severance tax if he knew that this severance tax on oil is a tax on the producer. It is a tax on our own people. For example, so long as we are permitting a free market, as will be the case under deregulation and as is becoming the case now, we do not get 1 penny more for oil because the oil is subject to a severance tax. We get the same price everyone else gets.

For example, suppose the world price for oil is $30 a barrel. We get the same price that everyone else gets. If one's oil is a lighter oil he gets a little better price than if it is a heavy oil, but it is the same price for the same kind of oil in any event.

Louisiana has one of the highest severance tax rates in the Nation, but it has been there for many years.

A tax of 12½ percent simply is a tax on the producer. Let us assume the price of oil is $30 a barrel—as I am told it is at the present time. If the price is that high, the severance tax would be 12½ percent of $30 or $3.75. So instead of getting the $30, the producer gets $26.25. He just gets that much less. The tax comes out of our producers.

It may be true that some of those producers may come from Missouri—not many. Insofar as we tax a producer who is not a citizen of Louisiana, he is generally a citizen of Texas. Insofar as Texas people are taxing producers who are not citizens of Texas, the chances are they are probably Louisianians, Oklahomans, or citizens of other energy-producing States.

So severance taxes are taxes we put on our own people.

Now the tax on natural gas, as far as Louisiana is concerned, is not a percentage tax. It is a flat tax, a tax of 7 cents per 1,000 cubic feet.

Revenues from that tax have not gone up as the price of gas went up. I am told the tax is 7 cents per 1,000 cubic feet, and it is the same 7 cents per 1,000 cubic feet that was being taxed back in 1973 at the time the energy crisis hit. That tax has not been increased, though we are out there providing the services for people to produce out on the Continental Shelf, and a lot of energy is being produced out there by our people.

The Senator might be pleased to know we do not get any tax out of that oil. We have to bear the burden of additional costs. We educate the children of those people who work on the Continental Shelf. We provide highways, we provide health services to them, we provide all the services of government that are expected of a State. We do not get anything from that. The Federal Government gets it all. They take it all, and we get nothing out of it.

So the fact that we have had some additional income has not hurt anybody else. The severance tax is a tax on the producer. It is not a tax on the consumer.

Most of the gas that the producing States will produce—and I would say Louisiana is an exception in that because we export more than most—is consumed right in the State where they produce it. Again, in most instances, although not in all, the producer is the person who bears the tax on natural gas.

Now, is the Federal Government going to try to tell the State governments how they must raise their revenue, or how they should raise their revenue? If so, how is it going to equalize the situation in 50 different States? Mr. President, there are 30 States that have severance taxes. Twenty-eight States have severance taxes on oil. Is the Federal Government going to try to tell every State how it should raise its revenue? It is bad enough to put strings on how they can spend their money. But to go beyond that and try to tell the States how they should raise their revenue opens a whole new Pandora's box that should not be the subject for quarrel among people trying to settle the issue of distribution of revenue among States.

Some States raise revenue by gambling, as Nevada raises it, and some have horse racing. Some have industries that do not exist in other States. A State like New York is the financial capital, and it has some advantages. They also have problems, and so do we in Louisiana.

Mr. President, there is a great diversity among States. We have not tried to do anything other than take the attitude that a State should, if it can, raise taxes from its people to help provide for its own needs. Should some States be punished simply because they are in a better position to raise some money by way of taxes than others?

I submit that the amount they raise, one will find, is not based on how easy it is to raise money; it is generally based on what the needs of the State may be.

For many years, for example, Southern States, even though they were low in per capita income, led the Nation in tax efforts to try to provide better educational opportunities for their people.

I hope, Mr. President, that the Senator will not persist in his amendment. If he does, I hope that the Senate will not seek to get this Nation involved in invidious comparisons of State against State, each trying to penalize one another because of some God-given blessing or some momentary good fortune that may exist to the benefit of one and which, for all we know, may be transitory.

I know as far as the State of Louisiana is concerned, we are still a low-income State even though we have a lot of oil and gas. Insofar as revenue comes our way, we have a lot of poor people down there who would benefit from a better education, they would benefit from better health care, and they would benefit from better services, just as would the less fortunate people of all the other States of the Nation.

Historically our severance tax was viewed as a method by which we would tax the rich for the benefit of the poor. I recall when my father first started the battle in Louisiana he was trying to tax the oil companies with a severance tax in order to provide free schoolbooks for little children, and those who supported him at that time were, indeed, the less fortunate.

It turned out the blacks of our State benefited more than anyone else because they were the ones being most deprived of educational opportunities.

Now we are led to believe that for some reason we are not very nice people because we taxed those who in our States were the only ones who really had any money, and those were the people in the oil and gas industry. They could not pass on the tax. That was the idea, to put this tax on the very wealthy people where they could not pass it on to the poor and low-income people, and the State used that money to reduce taxes on the poor and provide better opportunities for their little children.

I think we should go slow in trying to penalize States when they were just trying to look after their own.

It is true that the price of oil is up at this moment. What does the Senator from Missouri propose to do if Russia takes that big surplus of oil and puts it on the market and breaks the market price and puts us in the position of being the poorest State in the Union? What would he do for us then? I suppose we would cease to be punished. But the point is we have done nothing to deserve this kind of treatment, and I submit, Mr. President, that these invidious comparisons where we envy what some other State has and seek to penalize them for it, and then try to put some formula in revenue sharing by which you discriminate against States that happen to have some resources, is a precedent that the Senate would be well advised not to involve itself in. I hope very much, Mr. President, that the amendment will not be agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, up until this amendment floated by I thought this revenue-sharing bill would be somewhat easy to understand. But if we adopt this amendment, I am not at all clear on how it affects my State, and I think that would apply to several other States.

However, it is limited to severance taxes, so however it complicates the bill, it would be limited to those particular States that have severance taxes as identified by the appropriate section of the IRS Code.

What it would do to those States, I think, is very confusing and very uncertain. The one thing that is certain is it would have the effect of disadvantaging a region of the country that produces energy and minerals, particularly, in the West and South, in the oil-producing States.

It is a type of amendment that pits regions of the country against each other. I hope we do not have to pursue this amendment very long. I hope it is true, as the Senator from Wyoming has indicated, that the author of the amendment will withdraw it. That would be the best solution.

I offer one thought on severance taxes, because that is all it is geared to affect. In general, severance taxes for the individual States have responded to the marketplace.

No matter what mineral it is on, no matter what source of energy it is on, in general, over a course of time, severance taxes have responded to the marketplace, and that is not a bad way to have them determined. I hope that we would leave it to the marketplace to determine at what levels there will be severance taxes on various minerals and energy resources.

Mr. President, under our Constitution, Congress and the courts have left to the individual States decisions to tax their own resources unless the action of the State unduly restricts interstate commerce.

Montana has a coal severance tax that is much lower per ton than the freight rates that the Burlington-Northern Railroad charges per ton to haul the coal to utility companies for electrical generation in various States.

Therefore, if there is a burden on interstate commerce, Congress, the public, utility companies and their consumers can review, investigate and, if there is reason, then challenge the freight rates on coal charged by the Burlington-Northern Railroad.

Montana's coal severance tax, only a fraction of the Burlington's freight rate, is more important in mining coal than the Burlington freight rate. The tax is used to pay for some of the coal mining impacts such as roads, schools, sewer, water, hospitals and other needs of workers and their communities to pay part of the cost of mining Montana coal. It is essential if there is to be expansion of mining in Montana which has by far the largest coal field in the United States.

Let me list the comparative costs of transportation and the severance tax on the delivered price of Montana coal:

Commonwealth Edison, serving customers in Illinois, pays $12.45, plus $3.38 in severence tax, for a ton of coal at the Decker Coal Co. mine in Montana. The Burlington Northern freight charges to Illinois are $17.79, more than five times the severance tax.

Interstate Power, with customers in Iowa, Minnesota, and Illinois, pays $6.32 per ton at the Westmoreland Coal Co. in Montana, plus $1.65 in severance tax.

Transportation costs amount to $16.49, almost 10 times the amount of tax.

Detroit Edison pays $10.52 per ton at the Decker Coal Co., plus $2.84 in severance tax. Freight charges are $12.81, over four times the size of the tax.

The Lower Colorado River Authority in Texas pays $5.42 per ton at Decker for Montana coal, plus the severance tax of $1.41. The transportation charges to Texas are $28.72, which are 20 times larger than the severance tax.

More briefly stated, other examples include:

Central Illinois Light: Coal costs $9.15, plus tax of $2.42, transportation charges $16.32.

Wisconsin Power and Light: Coal costs $5.12, plus tax $1.32, transportation charges $8.68.

Northern States Power: Coal costs $4.38, plus tax of $1.12, transportation charges of $11.01.

Minnesota Power and Light: Coal costs $6.19, plus tax of $1.65, transportation charges $9.84.

In general, transportation of Montana coal amounts to about 60 percent of the cost of the delivered coal to the utilities. It may be interesting to note that the place where the tax has the greatest impact is in Montana. The Montana Power Co. pays $1.12 per ton in severance tax on a delivered price of $5.75 per ton, or 19 percent of the delivered price. As seen from the examples above, non-Montana companies pay 11 percent or less of their delivered price in Montana severance tax.

Another issue before us today is at the very heart of our federal system of government. Such matters need constantly to come before us in the Congress, if only to serve as reminders of restraints the Constitution imposes on us.

I am referring specifically to the question raised as to the proper exercise by the States and the Federal Government of their respective sovereignty. Conflicts constantly arise between the manner in which States would redress grievances of their citizens and how Congress would respond. The list of Federal laws ruled unconstitutional by the Supreme Court is proof that Congress does not always act within its legitimate authority; the list of State laws ruled invalid similarly shows that States can and do act in error. Our federal system works because the various units of Government have real powers, and the exercise of those powers results in a mostly healthy competition. Our recent history is often cited in arguing that the Federal Government has been winning too often in that competition, but I have faith in our system of government. We have survived over 200 years as a continuous republic, longer than any other in all the history of the world, and one of the reasons is that we have never passed a bill like this one.

By enacting S. 2695, Congress would be forging unbidden and ill-guided into territory where neither its wisdom nor its resources are sufficient to discharge the vast responsibility that would ensue. That new territory is the levying of local taxes; the responsibility would be to substitute, for the self-imposed taxation of a State's people, a congressionally imposed taxation which the proponents of this bill assures us will be more fair, despite the fact that a large majority of Congress will necessarily be unfamiliar with and far removed from the local needs and problems. The responsibility would be never-ending. Once Congress decides how Montana, Wyoming, or North Dakota shall tax coal, Congress will continue, with identical legitimacy, to decide how Minnesota taxes taconite, how Arkansas or Washington tax lumber, or how California and Florida tax orange groves. Congress could analyze the tax structure and revenue needs of New York or California to decide proper taxes on the wine they produce.

My point is that taxes are necessary for local and State governments and they vary by State.

Montanans enacted a coal severance tax—at a rate higher than what would be allowed by this bill—after thorough consideration and debate. This coal severance tax has not ceased to be a subject of analysis and debate because it was imposed on a new industry in our State, an industry whose activities would have estimable but uncertain impacts.

As we encounter the actual impacts we will debate adjustments in our methods of dealing with those impacts. Although there has never been a bill in the Montana Legislature to do so, a move to increase the tax might be favored by some after a few years' experience; for example, if ground water recharging proves impossible.

Without foreknowledge of that experience, a lowering of the tax might be of equal likelihood; indeed, bills to lower the tax have already been debated in the legislature. This tax, its magnitude and its effective purposes prevail only with the concurrence of a majority of our State legislators, and I submit that in those elected representatives lies properly the authority to make changes in our coal tax statutes.

As a reference point for our discussion on severance taxes, I ask unanimous consent that a table identified as attachment 1 prepared by the Congressional Research Service that shows the total revenues from all State severance taxes in 1979, broken down by the different products taxed, be printed in the RECORD.

There being no objection, the attachment was ordered to be printed in the RECORD, as follows:

ATTACHMENT NO. 1.—STATE SEVERANCE TAXES BY PRODUCT TAXED, FISCAL YEAR 1979

[Amounts in millions of dollars]

State	Total	Production privilege [1]	Oil and gas [2]	Coal tonnage	Forestry	Solid minerals and all others [3]
Total	2,893.2	343.7	1,968.6	253.8	138.9	188.2
Alabama	22.3	11.5	[4] 5.8	3.3	1.7	
Alaska	173.7		173.7			
Arizona						
Arkansas	12.5	10.7			1.8	
California	48.1		4.2		43.9	
Colorado	[5] 19.8		7.9	8.3		3.6
Connecticut						
Delaware						
Florida	91.9		49.3			42.6
Georgia						
Hawaii						
Idaho	.5	.5				
Illinois						
Indiana	.7		.7			
Iowa						
Kansas	1.1		1.1			
Kentucky	154.0		.4	153.6		
Louisiana	511.6		500.7		4.5	6.4
Maine						
Maryland						
Massachusetts						
Michigan	13.7		[6] 13.5		.2	
Minnesota	71.3	24.3				47.0
Mississippi	32.9		30.7			2.2
Missouri	(*)					(*)
Montana	53.9	2.1	8.2	42.0		1.6
Nebraska	1.5	1.5				
Nevada	.1	.1				
New Hampshire	.2				.2	
New Jersey						
New Mexico	159.4	47.8	90.7			20.9
New York						
North Carolina	1.0				1.0	
North Dakota	25.5		13.5	[7] 12.0		
Ohio	4.6		1.4	[8] 2.1		1.1
Oklahoma	281.0	242.0	39.0	([9])		
Oregon	47.6				47.2	.4
Pennsylvania						
Rhode Island						
South Carolina						
South Dakota	.9		.3			.6
Tennessee	2.2		([10])	2.2		
Texas	1,025.6		1,021.0			4.6
Utah	9.0	2.8	6.2			
Vermont						
Virginia	1.0				.6	[1].4
Washington	37.8				37.8	([1])
West Virginia						
Wisconsin	.4	.4				
Wyoming	87.4		.3	30.3		56.8

[1] Consists of levies on "gross production" or "gross value" applicable to the range of natural resources indigenous to the particular State, e.g., "ore or metals; minerals; oil, gas and other hydrocarbons."

[2] Distinctive revenues from oil and gas sources are not uniformly reported in the Census Bureau detail on severance taxes by type of levy. The following amounts are given as revenues from levies on natural gas (millions of dollars in parentheses): Louisiana (238.6); Mississippi (11.2); Montana (1.2); New Mexico (natural gas processors' tax only, 3.6); Ohio (1.4); Oklahoma (gas conservation only, 36.0); and Texas (554.3).

[3] Includes various combinations of mineral products in the individual States, e.g., "clay, gravel, phosphate rock, lime, shells, stone, sand, and any or all rare earths;" "taconite, iron sulphides, and copper-nickel;" in 4 States also includes revenues from taxes on fish, salt brine, and other products not elsewhere classified (millions of dollars in parentheses): Louisiana (4.3); Ohio (1.1); Oregon (0.4); and Virginia (0.4).

[4] Rate increased from 4 to 6 percent, effective Sept. 1, 1979.

[5] Rates on all products subject to severance taxes will be adjusted to conform to the producers' price index.

[6] Effective Jan. 1, 1980, the 2 percent tax on the gross production of oil and gas will be increased to 5 percent on gas and 6.6 percent on oil.

[7] Effective July 1, 1979, the basic tax per ton of coal was increased from 65 cents per ton to 85 cents plus a 1 cent per ton adjustment for an increase in the producers' price index.

[8] Also includes the levy on salt.

[9] Beginning July 1, 1979, a new tax of 5 cents per ton was imposed on each ton of coal mined.

[10] On July 1, 1979, the tax on oil and gas was set at 1.5 percent of the sales price of oil and gas. Prior to this date the levy was 5 cents on each 50-gal barrel of crude oil processed and 5 percent of sales price of gas. Less than $500,000.

[11] Beginning July 1, 1980, a tax of 5 cents a pound is levied on each pound of uranium and thorium mined, up to $1,000,000 for each licensee.

*Less than $500,000.

Source: U.S. Bureau of the Census. State Tax Collection in 1979; Commerce Clearing House. Topical Law Reports. State Tax Guide. All States.

Mr. MELCHER. Mr. President, a glance down the "total" column will quickly reveal several States that collect more from their severance taxes than Montana's $53.9 million, or Wyoming's $87.4 million. It is instructive in the context of this debate today to note also that Montana and Wyoming collect small shares of the total severance tax revenues nationally when expressed as a percentage. I ask unanimous consent that attachment No. 2, which lists the revenues of the States with the largest percentage share of total severance tax collections be printed in the RECORD.

There being no objection, the attachment was ordered to be printed in the RECORD, as follows:

ATTACHMENT NO. 2.—*1979 severance tax collections*

All States	$2,893,148,000
	Percent
Texas	35
Louisiana	18
Oklahoma	10
Alaska	6
New Mexico	6
Kentucky	5
Florida	3
Wyoming	3
Minnesota	2.5
Montana	1.8

Mr. MELCHER. Mr. President, specific figures from these charts and the supporting data that may be of interest to members of the committee include Washington's $37.8 million collected from timber severance taxes, Kentucky's $153.6 million on coal, Oregon's $47.2 million on timber, Minnesota's $42 million on taconite (plus another $23 million in taconite royalty and occupation taxes), and Colorado's $3.6 million on molybdenum. I am not citing these particular States to say that their collections are too high or too low. These States have enacted taxes they feel are appropriate to the particular resource industry within their boundaries, and I would argue simply that such decisions are properly the domain of those States, not Congress. Any decision by us, however, to tell Montana and Wyoming how to tax coal will lead logically to future bills to decide rates of taxation on these other products.

Montana chose to enact a straightforward tax of 30 percent on the price of coal when severed, without subterfuges involving 10 percent at one stage, another 8 percent later, 3 percent here and 4 percent there; thus, the figure of 30 percent stands out as a target for those who would charge excessive taxation. But let us look for a moment at the actual impact of that tax. Montana and Wyoming are charged with placing a burden on the people outside of our States who consume the coal, or more to the point, the electricity produced from burning the coal. This so-called "burden" does not amount to much. I ask unanimous consent to have attachment No. 3 printed in the Record. It shows the annual amount added to Midwestern consumers' electricity bills by the Montana coal severance tax. The amounts range from 78 cents per year up to $4.07 per year.

There being no objection, the attachment was ordered to be printed in the Record, as follows:

Attachment No. 3.—*Severance tax paid by utility customers in 1979*

Utility:	*Amount of severance tax paid per customer*
1. Interstate Power	$0.78
2: Detroit Edison	1.23
3. Commonwealth Edison	1.46
4. Northern States Power	2.40
5. Montana Power	2.59
6. Lower Colorado River Authority	3.15
7. Central Illinois Light	3.18
8. Minnesota Power & Light	4.03
9. Wisconsin Power & Light	4.07

Mr. MELCHER. Mr. President, Montanans are in agreement that less than 2 pennies per day is not an unwarranted "burden" for those who receive the benefits of the coal to pay to Montana, where the impacts of the mining occur. Anyone truly concerned about lessening the impact of taxes on these consumers might want to look at the taxes imposed by the consumers' own States in the form of sales taxes on that same electricity. I ask unanimous consent that attachment No. 4 be printed in the Record. It compares the cost per month to these consumers of Montana's coal tax and their own local sales taxes. In every case, the local sales tax is a greater "burden."

There being no objection, the attachment was ordered to be printed in the Record, as follows:

ATTACHMENT NO. 4.—COMPARISON OF LOCAL SALES TAXES AND MONTANA TAXES PAID BY AVERAGE RESIDENTIAL UTILITY CUSTOMER

[1977 figures; per month]

	Sales tax by consuming State and city	Montana production taxes total
Illinois (Commonwealth Edison)	$1.14	$0.13
Iowa (Interstate Power)	.67½	.01¼
Michigan (Detroit Edison)	2.22	.03
Minnesota (Northern States Power)	.91	.22
Wisconsin (Wisconsin Power & Light)	1.06	.27

Mr. MELCHER. Mr. President, again, I do not say that the decisions to tax electricity in those States is wrong, or unconstitutional, or burdensome. I do make the point that Congressmen from these States might reassess any claims that Montana is milking their residents for excessive taxes, when we collect much less than their own State government does.

Another way to look at the impact of our coal severance tax is to compare it to other States' severance taxes on oil and gas. Since neither coal, nor oil, nor gas, is of much value in a bin or a tank, the best way to compare them is their heating value when burned. That value is best expressed in Btu's (British thermal units). For simplicity, the cost of any of these products can be measured in dollars per million Btu's, and likewise the severance taxes of the various States can be expressed in dollars per million Btu's.

I ask unanimous consent that attachment No. 5 be printed in the Record.

There being no objection, the attachment was ordered to be printed in the Record, as follows:

Attachment No. 5

Texas oil, 8.84 cents per million B.T.U.'s.

Montana coal, 9.97 cents per million B.T.U.'s.

New Mexico oil, 10.76 cents per million B.T.U.'s.

Oklahoma oil, 12.58 cents per million B.T.U.'s.

Louisiana oil, 16.58 cents per million B.T.U.'s.

Mr. MELCHER. Mr. President, attachment No. 5 shows that, far from being inordinate or excessive, Montana's tax on the heating value of coal is completely within the range of taxes imposed by other States.

Changes have been made and will probably continue to be made in the uses to which Montana puts the revenues from our coal severance tax. The main points to keep in mind are that Montana does not fund State government generally from this tax, in lieu of other taxes like income tax or corporation taxes or property taxes. The major portion of the tax is in a constitutional trust fund. to be used by coming generations who must also live with the impacts of coal mining, or perhaps more significant. with the impacts of the end of coal mining. The revenues from our tax are divided as follows:

Montana's use of the coal tax

[In percent]

Trust fund	50
Education trust fund	6.82
School aid	5.0
Parks	2.5
Alternate energy	2.5
Impact area	11.93
Land use planning	.5
Renewable resources	1.25
General fund	19.5

Montanans are not trying to stop the production of coal. Our population is growing, new generations need jobs, and the development of the resources within our boundaries is the key to our economic future. We see coal development as an important way to broaden the commercial base of our State.

Montanans are not trying to find a "free ride" on the backs of other Americans. Tax burden charts for the States continually show that Montanans tax themselves at high rates to pay for services that would come cheaper in a more densely populated region. We are not funding the operation of a State government out of coal tax revenues; we are not mailing "rebate" checks to Montanans because of a windfall of coal tax revenues. But our past experience with the removal of the "treasure" from our treasure State has steeled us to insist this time that the costs of mineral extraction be paid by those who gain the wealth and use the end products.

Montana's cooperation in supplying energy resources needed by the rest of the country is tempered only by an expectation that the rest of the country will cooperate with us in minimizing the lasting impacts on our State. If Congress and the Federal Government cannot be partners in that cooperation, we ask at least that they not be our adversaries.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise to speak as briefly as I can on the Danforth amendment to the general revenue-sharing bill.

First, I think it is probably important to say something about the revenue-sharing formula that has not been said. We have talked about need, but need in this particular instance is measured by a series of what I call surrogate statistics, which includes population, percent of population located in urban areas, per capita income, and taxing capacity of the State and local governments.

Senator Danforth, in his amendment, would deal with one factor, the changing fiscal capacity of the States. I want to say that I am in great sympathy with the intent of the Danforth amendment. The factor that he seeks to amend—"tax effort" factor—may soon be meaningless as a measure of the fiscal need of State and local governments.

Mr. President, the argument is not as we have heard here, particularly from the Senator from Wyoming, of the unfairness of taxation of revenue on America's natural resources, which we all know are not allocated equally among the States. And I think we do understand that.

I, for one, live in this Nation's richest nonfuel mineral State. In addition to that, we share our forest products, our agricultural products, and a variety of other natural resources with the rest of this country and with the world.

So the issue here is not taxing rivers or beaches or oil or windfall profits. It is the fairness of a national program which uses something called tax effort to determine the fiscal capacity of States to meet the needs of American citizens for public services that are common to all Americans regardless of the State in which they live and regardless of the natural resources which they enjoy.

As a statistical device, "tax effort" attempts to measure how much of a State or community's resources are committed to public programs. The resource is the total personal income of the citizens living in that State or community. "Tax effort" is the percentage of personal income devoted to public purposes through State and local taxes of all types.

The intent of the Congress in using this factor in the formula to allocate fiscal assistance funds is clear. Those States or communities who devote more of their personal income resources to public programs are more in need of Federal fiscal assistance than those communities that devote less.

However, and only recently, an important question about the statistical device used to carry out congressional intent has been raised. State and local taxes take a very wide variety of forms—from income, sales, and property taxes with which most Americans are familiar to severance taxes, occupation taxes, rents, royalties, excise taxes, and users fees. Although these taxes are levied by State and local governments, they are not always levies on the personal income resources of the citizens of the State or community. In some cases, the tax may be paid by citizens of other States. This is particularly true of severance taxes and royalty payments on mineral and energy resources.

In most cases, a royalty payment on oil extracted from State lands or a fee on oil transported through a pipeline is not a tax on the personal income of the population of that State. The producer or transporter pays the tax and recovers the outlay along with other business costs from the consumer of that product. And most often this is a consumer in another State. But under current law, these exported taxes are counted in the tax effort of the State that imposes them, because all State and local revenues from all tax sources are counted in calculating tax effort.

When revenue sharing was first enacted, the distortion of congressional intent created by the inclusion of severance taxes, royalties, and other exported tax in tax effort was not serious, because exported taxes did not play a large role in State and local revenues.

However, as it has in so many other instances, the energy crisis is having a profound impact on the tax structure of many States. As energy prices have rapidly escalated, State and local revenues from taxes on energy resources—taxes that were in place before the crisis—have become a major new source of wealth for some States.

Other States have added new taxes in anticipation of the shift from oil and gas to more abundant domestic resources like coal. And some States are now contemplating new forms of taxation—like profit sharing rather than bonus bids on lease sales—to capture as many of the energy dollars as they can.

Perhaps an example would help illustrate the distortion. As a result of oil discoveries on State land on the North Slope of Alaska, the construction of a pipeline to carry the oil to the rest of the Nation and the continued rapid escalation of oil prices, the State of Alaska has found an enormous windfall of tax resources to pay for State government. In the past year, the revenues from a variety of taxes on the oil industry were three times larger than the spending needs of State government.

As a result, the legislature passed a bill to rebate the surplus to Alaskans in the form of checks, the size of which was determined by the length of residence. The legislature also abolished the income tax. This is only the beginning for Alaska. Some have put the size of future State surpluses in the tens of billions of dollars.

It is not possible to consider this flow of wealth tax effort in the same way that a tax on homesteads is tax effort. But dollars from these sources have a similar weight in determining which States are in need of fiscal assistance. In fact, calculations based on the tax effort factor in current law show Alaska to be the State most in need of fiscal assistance.

Senator DANFORTH would correct this failure of the allocation formula by excluding severance taxes from the sum of State and local taxes which figure in the calculation. A change of this kind is clearly needed and although this amendment is not the perfect vehicle to accomplish this correction, I want to express my thanks to the Senator for once again raising the issue, and to offer my assistance in changing Federal policy to recognize the changed realities of State and local taxes.

I would indicate to my colleagues that, regardless of what Senator DANFORTH proposes to do with his amendment, all of us, including those who have spoken in opposition to the amendment tonight, will find it appropriate at some point in time to express our thanks to him for once again raising this issue.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Montana.

Mr. BAUCUS. Mr. President, I am very much opposed to this amendment. Various Senators this evening have already spoken against it, particularly the chairman of the committee, Senator LONG from Louisiana, Senator WALLOP from Wyoming, and various other Senators. I am not going to take much time to repeat those points.

Obviously, the amendment is unfair in major respects. One is it singles out one tax and one tax only, the severance tax. It states various other ways of raising revenues, in addition to taxing business, by taxing hotels and taxing a wide variety of other items. It is patently unfair to single out one tax to try to calculate a fair revenue sharing formula.

Second, this amendment is antithetical to the theory of revenue sharing. Revenue sharing is supposed to be no strings attached. This is additional strings attached and is getting into a Pandora's box, which is an obvious strong argument against it.

Beyond that, this is a Federal intrusion into State taxing efforts. I think we should not so easily and so blithely—as this amendment would do—step into State taxing, limiting State taxing efforts as this amendment provides at this time. I do not think any State takes a Federal effort to limit State taxes well at all. I think if States took notice of what has happened here today they would be very much opposed to the effort.

The main point I wish to make tonight is the thrust of the amendment of the Senator from Missouri is really his concern, legitimately, that in States like Missouri and other consuming States that really do not have some of the natural resources that, say, my State of Montana has, which has coal, or oil or gas resources like States such as Louisiana have, and that is, in some way, unfair.

Well, under the circumstances, there is an unfairness in the allocation of natural resources in our country. Some States just have more resources than others. But I do not think that we should be trying to penalize those States to have resources compared to those States that do not, if we start here we are going to be treading down a path which is going to be, I think, very, very dangerous to the country.

Montana and other Northern States, although they are blessed with natural resources, have other disadvantages. We are in the Frost Belt. We get a lot of snow. Every time we turn on the "Good Morning America" program or any of the morning TV shows, we see the coldest spot in the country is Cut Bank, Mont., or Great Falls, Mont., which was 25 below last week.

That is not exactly conducive to a good business climate. I think perhaps we should have a sunshine tax. We should have a Federal tax on Sun Belt States. Let us calculate the number of hours the Sun shines in the various States in the country, because people like to go South—Florida is inundated with people who like to go South. The bottom of the country is filling up with sunshine seekers. Let us enact a sunshine tax.

More indicative is a snow belt tax, something even for the Northern States, which have certain climate disadvantages compared with Southern States which have climatic advantages. Or we could go further. I think perhaps we could have a tax on ocean ports, to take in the Gulf States. I know New Yorkers would not like that and I do not think it would warm the heart of my good friend, the chairman of the committee. But, of course, we in Montana do not have ocean ports. It is hard for these super tankers to dock in Butte, Mont., or Great Falls, Mont. There is a certain problem there since we are not a deep water port State. Perhaps we could have a tax on those.

Or let us take St. Louis, Mo. We would love to be located on the Mississippi Waterway. That would mean our freight rates would be much lower. Montana farmers could ship their crops to market at a lower cost. Business would rush to Montana. We could develop in Montana. We would have terrific advantages.

Even if we take the advantages of other States, taking St. Louis., Mo., for example, we should tax all the States on the Mississippi River.

One can think up an innumerable list of legitimate areas to delve into if we were going to even out, balance out completely, the advantages that certain States have against other States.

We in Montana have been trying and trying for years and years to get business to come to Montana. They do not come because of the climate. It is not exactly a vacation spot in the winter.

There is great skiing, but it is hard to have business in some weather conditions. We have different transportation routes compared to other States. We are not unlike Wyoming or other Rocky Mountain States. But we do happen to have some coal. I think we are very earnestly, fairly, and reasonably trying to develop our coal and contribute our coal to the Nation.

I think States should be left to their own devices to develop in the way they see fit.

Mr. President, it is for these reasons and many others that I think the amendment is ill-advised and I urge its rejection.

Mr. SIMPSON. Mr. President, I want to lodge objection to the possible adoption of this amendment. I think it is a very dangerous national precedent. If Congress acts to exclude the amount of taxation which mining States are able to levy on mineral resources from the calculation of the State tax effort, then it would assuredly follow that Congress would also be urged to act under its broad plenary commerce powers to exclude taxes levied in the farm belt States, the manufacturing States, the timbering regions of this country, and any other State which sustained within its borders any form of regional or national center of production. I hope that that issue does not fail to be perceived by those here.

Of the 10.5 percent of State mineral excise tax which Wyoming has adopted, fully 6.5 percent of that goes to earmarked accounts that are specifically targeted for the purpose of relieving the various problems that are directly or indirectly associated with the rapid industrialization of Wyoming energy developing.

These coal tax revenues finance such traditional government functions as the construction of public facilities, public utilities, providing for the public health and recreation, developing of water resources, and the building of highways and bridges, all, I think Senators will agree, quite commendable objectives of government.

Certainly, any attempt by the Federal Government to punish the States for responding to these dramatic social, economic, and environmental impacts would fly directly in the face of the underlying purpose of Federal revenue sharing.

I would point out to my colleagues that it is a fundamental principle of equity that those individuals who benefit to the greatest degree and in the most direct fashion do indeed have the responsibility of assuming the burden of paying for those benefits. An application of that equitable principle to this situation would assure that those electric rate-payers who benefit from power generated from the combustion of coal resources mined in another State would assume a portion of the cost of providing for those fuel resources.

The social and environmental costs which the Western States are expected to bear in the development of coal within the scope of a national energy policy are physically visible to anyone who has seen the surface mines, the powerplants, the coal unit trains, the trailer camps, and the modular schools in my own State and in neighboring areas in Colorado, Montana, and North Dakota, those States within the Fort Union coal deposit.

The graphic and principal costs of this growth are being borne by the producing States, and the mineral severance tax only assists those States in distributing a small portion of those costs on to the consuming State. The commercial relationship between the coal company, the utility and the State regulatory commission in conjunction with the fuel supply agreements and the automatic fuel escalation tariffs are the things that provide for the direct pass-through of those costs and expenses.

I see little wisdom in limiting the Federal revenue sharing due to the operation of commercial agreements over which no control was had by the State government.

Over the years, several studies have been performed on the "political economy" of tax shifting or tax exportation which the various States may be able to produce within the overall structure of their State tax system. In fact, it would appear that many bureaucrats and politicians subscribe to the philosophy that it is their "responsibility" to shift as much tax burden as is possible from the residents to nonresidents. That seems to be the mode of the day.

But before the Senate wishes to continue in its efforts that I think will only lead America into some type of twilight zone of Federal preemption by circumscribing the limits to which any sovereign State may go in its own tax efforts, I want to insert for the RECORD, Mr. President, a table from the Statistical Abstract of the United States as prepared by the Department of Commerce on tax exportation showing the States that export the major amount of their taxes. I ask unanimous consent that that be printed in the RECORD, Mr. President.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

LONG RUN TAX EXPORTATION

State	1977 population (thousands)	1977 tax exportation (millions)
California	21,896	$4,781.6
Florida	8,452	1,088.6
Illinois	11,245	2,082.2
Michigan	9,129	1,716.8
Montana	761	124.2
Nebraska	1,552	290.0
Nevada	683	187.1
North Dakota	653	85.4
South Dakota	689	70.8
Wisconsin	4,651	741.1
Wyoming	406	91.5

Source: Population estimates from Statistical Abstract of the United States, 1978, U.S. Department of Commerce, Bureau of Census, 1978

Mr. SIMPSON. Let me just summarize in conclusion that the States that export the greatest amount of taxes are these: California, Florida, Illinois—and that is interesting. Every time a person in Wyoming buys a tractor from the John Deere Co., in Illinois, he is paying Illinois' tax. He is operating the State of Illinois with his tax.

The State of Michigan is a great exporter of taxes because of the production of automobiles. When a person in North Dakota buys an automobile made in Michigan, he is supporting Michigan's government. That is the way it is. Do not miss that particular aspect of this legislation.

Nebraska exports a great many taxes, Nevada, North Dakota, South Dakota, Wisconsin; Wyoming, my State, is last in exporting of taxes on the list of 11.

Tax exemption is indeed a most well known phenomenon now in public finance. The mining States, however, are really the newcomers to the game, which has been very much perfected by States chiefly known for tourism and manufacturing.

Mr. President, to adopt this amendment would amount to punishing the States that are naturally endowed with mineral resources for using their own initiative in addressing the impacts they must contend with. There is no rationale for focusing on mineral-producing States when all States, in part, use their tax structure to export their tax burdens to nonresidents.

Finally, I note that a similar amendment failed in the House of Representatives and that the Senate rejected such a limit in its debate on the windfall profit tax. I hope we will do the same on this particular amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I rise in opposition to this amendment. It is very frustrating to those who try to operate local and State governments for them to put something into place and then this body turn around and say, "No, you cannot do it. You have to tax this way; you have to spend that way." We preempt the operation of State government.

In 1972, Kentucky took the tax off of food, medicine, and farm machinery. They substituted that tax with a severance tax on coal. Now they have expanded that under our Constitution and given to the counties some severance tax on oil and gas.

That money from the severance tax on coal goes to the general fund. We eliminated the income from one source—food, medicine, and farm machinery—and instituted another severance tax on coal. Now we find that we are going to be limited, if this amendment passes, to what we might be able to do in Kentucky.

Some of this tax money is obligated for energy roads, for the bonds to build those roads that this body has not seen fit to support. The tax is also returned to the counties from which the mineral is extracted to give them an opportunity. So we have a formula within our State that, if this amendment is passed, will be jeopardized.

Mr. President, I know the good intent of the distinguished Senator from Missouri, but he is intruding into the good fiscal management of the various States. If we are going to begin, as many have stated, in the next session of Congress, the curtailment of Federal expenditures for programs within the States, then the States are going to be called upon to continue those programs if they wish. If they wish, they must raise additional taxes from their constituents.

Yet we are here to say how we can or cannot increase the taxes within our own boundaries of our States, rather than allow the Governor and the legislature and the people of our States to make that decision. Mr. President, I see intrusion into the liability of the States to make their own judgment on how they think it is best to tax their people, how it is best for them to spend their own money. Therefore, I hope that this amendment, if not withdrawn, will be soundly defeated.

The PRESIDING OFFICER. Does the Senator from New York wish to speak on the pending amendment?

Mr. MOYNIHAN. The Senator does not wish to speak, Mr. President.

Mr. DANFORTH. Mr. President, let me say that the question that is before the Senate is not really one of jealousy, as it was described by Senator WALLOP, nor is it one of trying to hinder the operation of the States, as it was described by Senator FORD and others. The issue before us is very simple. It is how are revenue-sharing funds to be allocated among the States? That is the only issue. Whatever funds we decide on in future years for revenue sharing, whatever amount is determined in future years to be authorized for revenue sharing, that amount is finite; it is limited. It is not an open-ended source of funds. It is a limited source of funds, limited by a specific number of dollars.

Insofar as revenue-sharing payments are made to one State, that payment detracts from the funds available for other States. If the proportion of revenue-sharing funds going to some States is increased, it follows that that portion which goes to other States must be reduced.

So, Mr. President, my interest in offering this amendment is not to punish Wyoming or Louisiana or any other State. It is simply to prevent the reduction of that portion of revenue sharing funds that goes to non-oil-producing States, including my own State of Missouri. That is the only issue that is before the Senate.

Mr. President, the fact of the matter is that, in the decade of the 1980's, it has been estimated that oil-producing States will have increased State revenues of $127 billion. Therefore, the question is, should the revenue-sharing pie be recut so that those same States which are going to have substantial increases in State revenues by virtue of the decontrol of oil prices will, in addition, get a larger portion of revenue-sharing funds and, by contrast, the other States that are not going to reap the benefits of energy production will get a smaller portion of revenue-sharing funds?

Mr. President, it is my intention to withdraw this amendment. I say that with a great deal of reluctance. What I found when I traveled throughout the State of Missouri and visited 110 communities during the month of October was that the fate of revenue sharing was crucially important to communities in my State. As it is, county officials told me repeatedly that they were facing the possibility of, if not bankruptcy, severe reduction of services if revenue sharing is not continued.

Mr. President, it is clear to me that, even if this amendment were adopted, it would either be dropped in conference or, if it were pressed in conference—which it would not be—it would jeopardize the future of this bill. But I say that the underlying issue is one that is going to be before the country for a long, long time, because what we are witnessing in America is a substantial shift of economic power from some regions of the country to other regions of the country. It is not a matter of jealousy or pettiness, it is a matter of survival. It is a matter of jobs. It is a matter of economic future. It a matter of hope or no hope. This issue is going to be before us for a long time to come.

Mr. President, I ask unanimous consent that several tables prepared by the Department of the Treasury be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

THE TREASURY ESTIMATES—KEY FACTS

The eight "significant energy exporting states" (Alaska, Kentucky, Louisiana, Montana, New Mexico, Oklahoma, Texas and Wyoming) would have received $500.7 million in revenue sharing funds in 1985 had there been no energy crisis. Because of the increased severance tax revenues resulting from the energy crisis, they can expect to receive as much as $535 million (if 25 percent of increased revenues are offset by decreases in other taxes)—an increase of more than $34 million. If the state share of revenue sharing is fully funded in 1985, these states can expect increased revenue sharing payments totaling more than $51 million.

Come 1985—Alaska can expect an increase of nearly 200 percent in its revenue sharing payments over the payments it would have received had there been no energy crisis.

Wyoming—An increase of nearly 26 percent.

New Mexico—An increase of 6.5 percent.

Louisiana—An increase of 6.1 percent.

Oklahoma—An increase of 5.6 percent.

Montana—An increase of 2.2 percent.

Three other states post modest gains of under 2 percent.

All other states lose.

These tables show the projected distribution of revenue sharing funds in 1985 as compared with the projected distribution of revenue sharing funds in 1985 had there been no energy crisis (the "base case"). "Displacement forecasts" reflect the differing effects which could result if 25 percent, 50 percent, or 75 percent of increased severance tax revenues are offset by decreases in other taxes.

The charts were prepared by the Treasury Department at the request of the Senate Finance Committee.

TABLE 15.—COMPARISON OF INTERSTATE REVENUE SHARING ALLOCATIONS: ACTUAL IN 1975 AND 1980 AND FORECAST ALLOCATION FOR 1985, BY STATE

[Dollar amounts in millions]

	Actual 1		1985 (EP 16) forecasts				Changes in allocations				
				Displacement forecasts			Actual 1 1975 to actual 1980	Actual 1 1980 to base case	Actual 1 1980 to displacement forecast		
	1975 (EP 5)	1980 (EP 11)	Base case	75 percent	50 percent	25 percent			75 percent	50 percent	25 percent
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
U.S. total	4, 569. 9	$4, 569. 9	$4, 569. 9	4, 569. 9	$4, 569. 9	$4, 569. 9					
8 significant energy exporting States 2	506. 8	509. 4	500. 7	510. 3	522. 0	535. 0	$2. 6	($8. 7)	$0. 9	$12. 6	$25. 6
7 other energy-rich States 3	577. 5	561. 7	585. 9	585. 6	585. 0	584. 2	(15. 7)	24. 2	23. 9	23. 3	22. 5
All other States	3, 485. 6	3, 498. 8	3, 483. 4	3, 474. 0	3, 462. 9	3, 450. 7	13. 2	(15. 5)	(24. 8)	(36. 0)	(48. 1)
States											
Alabama	76. 3	71. 8	77. 0	77. 0	77. 0	77. 0	(4. 5)	5. 2	5. 2	5. 2	5. 2
Alaska	6. 0	14. 9	10. 0	14. 6	21. 1	29. 0	8. 9	(5. 0)	(. 3)	6. 2	14. 1
Arizona	47. 0	53. 6	54. 3	54. 1	53. 8	53. 6	6. 6	. 6	. 5	. 2	0
Arkansas	48. 0	45. 7	45. 1	45. 0	44. 8	44. 6	(2. 3)	(. 5)	(. 7)	(. 9)	(1. 1)
California	480. 1	535. 1	516. 9	516. 0	514. 7	513. 2	55. 0	(18. 2)	(19. 1)	(20. 4)	(21. 9)
Colorado	48. 8	51. 1	57. 5	57. 4	57. 3	57. 2	2. 3	6. 4	6. 3	6. 2	6. 1
Connecticut	59. 1	57. 4	55. 2	55. 1	54. 9	54. 8	(1. 6)	(2. 2)	(2. 3)	(2. 5)	(2. 7)
Delaware	13. 8	13. 8	13. 6	13. 6	13. 6	13. 5	. 1	(. 2)	(. 2)	(. 3)	(. 3)
District of Columbia	19. 7	18. 9	17. 3	17. 3	17. 3	17. 2	(. 8)	(1. 6)	(1. 6)	(1. 6)	(1. 7)
Florida	143. 3	136. 8	149. 5	149. 4	149. 2	149. 0	(6. 4)	12. 7	12. 6	12. 4	12. 2
Georgia	97. 8	100. 8	105. 8	105. 5	105. 0	104. 6	3. 0	5. 0	4. 6	4. 2	3. 8
Hawaii	19. 8	21. 5	23. 8	23. 4	23. 0	22. 7	1. 6	2. 3	1. 9	1. 5	1. 2
Idaho	17. 7	17. 3	19. 8	19. 7	19. 6	19. 5	(. 4)	2. 4	2. 4	2. 3	2. 2
Illinois	230. 2	226. 9	219. 7	219. 3	218. 8	218. 2	(3. 3)	(7. 2)	(7. 6)	(8. 1)	(8. 7)
Indiana	94. 3	90. 2	87. 9	87. 8	87. 7	87. 5	(4. 1)	(2. 2)	(2. 3)	(2. 5)	(2. 7)
Iowa	62. 7	57. 0	54. 2	54. 0	53. 7	53. 5	(5. 7)	(2. 8)	(3. 0)	(3. 2)	(3. 5)
Kansas	41. 7	40. 8	41. 6	41. 5	41. 3	41. 1	(. 9)	. 8	. 7	. 5	. 3
Kentucky	72. 6	74. 0	76. 3	76. 3	76. 2	76. 2	1. 4	2. 3	2. 3	2. 2	2. 2
Louisiana	102. 6	92. 2	86. 7	88. 5	90. 2	91. 9	(10. 4)	(5. 5)	(3. 7)	(2. 0)	(. 2)
Maine	28. 3	26. 2	28. 9	28. 8	28. 7	28. 6	(2. 2)	2. 8	2. 7	2. 5	2. 4

TABLE 15.—COMPARISON OF INTERSTATE REVENUE SHARING ALLOCATIONS: ACTUAL IN 1975 AND 1980 AND FORECAST ALLOCATION FOR 1985, BY STATE—Continued

[Dollar amounts in millions]

	Actual[1]		1985 (EP 16) forecasts				Changes in allocations				
				Displacement forecasts			Actual[1] 1975 to actual 1980	Actual[1] 1980 to base case	Actual[1] 1980 to displacement forecast		
	1975 (EP 5)	1980 (EP 11)	Base case	75 percent	50 percent	25 percent			75 percent	50 percent	25 percent
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Maryland	89.2	88.8	90.2	90.0	89.8	89.5	(.3)	1.3	1.2	.9	.6
Massachusetts	144.2	143.4	142.9	142.6	142.2	141.7	(.8)	(.5)	(.8)	(1.2)	(1.7)
Michigan	193.8	197.3	191.8	191.5	191.1	190.5	3.5	(5.5)	(5.8)	(6.2)	(6.7)
Minnesota	90.9	91.2	94.6	94.2	93.9	93.5	.4	3.3	3.0	2.6	2.2
Mississippi	73.3	63.7	64.4	64.6	64.7	64.9	(9.6)	.8	.9	1.1	1.2
Missouri	87.2	82.7	83.1	83.0	82.9	82.7	(4.5)	.4	.3	.2	0
Montana	18.9	18.1	17.8	17.9	18.1	18.2	(.9)	(.3)	(.2)	(0)	.1
Nebraska	30.6	31.6	30.9	30.8	30.7	30.6	1.0	(.7)	(.8)	(.9)	(1.0)
Nevada	10.0	11.6	13.1	13.1	13.1	13.0	1.6	1.5	1.5	1.5	1.4
New Hampshire	14.9	15.6	14.8	14.7	14.7	14.6	.7	(.8)	(.9)	(.9)	(1.0)
New Jersey	143.1	151.8	147.5	147.3	146.9	146.4	8.7	(4.3)	(4.6)	(4.9)	(5.4)
New Mexico	28.5	27.1	29.0	29.7	30.3	30.9	(1.5)	2.0	2.6	3.2	3.9
New York	510.9	499.6	472.7	471.0	469.1	467.2	(11.3)	(26.9)	(28.6)	(30.5)	(32.4)
North Carolina	116.9	113.4	117.8	117.4	116.9	116.4	(3.5)	4.4	4.0	3.5	3.0
North Dakota	15.4	13.0	12.7	12.8	12.9	12.9	(2.4)	(.3)	(.2)	(.2)	(.1)
Ohio	182.7	185.1	179.5	179.3	178.9	178.5	2.4	(5.6)	(5.9)	(6.2)	(6.6)
Oklahoma	51.8	51.4	49.2	49.8	50.9	52.0	(.4)	(2.2)	(1.6)	(.5)	.6
Oregon	45.8	52.1	56.9	56.8	56.6	56.5	6.3	4.8	4.7	4.6	4.4
Pennsylvania	241.2	223.2	241.9	241.0	240.1	239.1	(18.0)	18.7	17.8	16.9	15.9
Rhode Island	20.1	19.8	19.4	19.4	19.3	19.3	(.3)	(.4)	(.4)	(.5)	(.5)
South Carolina	63.3	16.4	64.7	64.5	64.2	63.9	(1.9)	3.3	3.1	2.8	2.6
South Dakota	18.9	15.6	14.7	14.6	14.6	14.5	(3.3)	(1.0)	(1.0)	(1.1)	(1.1)
Tennessee	88.2	88.4	85.5	85.2	84.9	84.6	.2	(2.9)	(3.2)	(3.5)	(3.8)
Texas	218.5	222.3	222.6	223.6	224.5	225.3	3.8	.4	1.4	2.3	3.0
Utah	26.7	28.0	32.9	32.9	32.8	32.7	1.4	4.9	4.8	4.8	4.7
Vermont	12.9	13.7	13.6	13.6	13.5	13.5	.7	(0)	(.1)	(.1)	(.2)
Virginia	90.7	94.2	99.4	99.3	99.1	98.8	3.5	5.3	5.1	4.9	4.7
Washington	64.3	63.8	68.7	68.6	68.4	68.2	(.5)	5.0	4.8	4.6	4.4
West Virginia	45.4	40.2	40.7	40.6	40.4	40.2	(5.1)	.5	.3	.2	0
Wisconsin	114.2	106.5	106.6	106.2	105.8	105.4	(7.7)	.2	(.2)	(.6)	(1.1)
Wyoming	7.9	9.4	9.1	9.9	10.7	11.5	1.5	(.3)	.5	1.2	2.0

[1] The EP 5 total allocation was $6.2 billion to State and local governments and the EP 11 total allocation was $6.8 billion. The EP 5 and EP 11 allocations shown are recomputed to distribute a total of $4.57 billion so that the earlier allocations are comparable with the 1985 forecasts.

[2] Alaska, Kentucky, Louisiana, Montana, New Mexico, Oklahoma, Texas, and Wyoming.

[3] Alabama, Colorado, Florida, Michigan, Mississippi, North Dakota, and Utah.

Note: Detail may not add to totals because of rounding.

Source: Actual 1975 and 1980 allocations for the Office of Revenue Sharing, U.S. Department of the Treasury. Forecasts for 1985 by the Office of State and Local Finance, U.S. Department of the Treasury.

TABLE 16.—PERCENTAGE COMPARISON OF INTERSTATE REVENUE SHARING ALLOCATIONS FOR 1975 AND 1980 AND FORECAST ALLOCATION FOR 1985, BY STATE

[Dollar amounts in millions]

	Actual[1]		1985 (EP 16) forecasts				Percentage changes in allocations				
				Displacement forecasts			Actual[1] 1975 to actual 1980	Actual[1] 1980 to base case	Actual[1] 1980 to displacement forecast		
	1975 (EP 5)	1980 (EP 11)	Base case	75 percent	50 percent	25 percent			75 percent	50 percent	25 percent
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
U.S. total	$4,569.9	$4,569.9	$4,569.9	$4,569.9	$4,569.9	$4,569.9					
8 significant energy exporting States[2]	506.8	509.4	500.7	510.3	522.0	535.0	0.5	(1.7)	0.2	2.5	5.0
7 other energy-rich States[3]	577.5	561.7	585.9	585.6	585.0	584.2	(2.7)	4.3	4.3	4.1	4.0
All other States	3,485.6	3,498.8	3,483.4	3,474.0	3,462.9	3,450.7	.4	(.4)	(.7)	(1.0)	(1.4)
States											
Alabama	76.3	71.8	77.0	77.0	77.0	77.0	(5.8)	7.3	7.3	7.3	7.2
Alaska	6.0	14.9	10.0	14.6	21.1	29.0	148.9	(33.4)	(2.0)	41.2	94.2
Arizona	47.0	53.6	54.3	54.1	53.8	53.6	14.1	1.2	.8	.4	0
Arkansas	48.0	45.7	45.1	45.0	44.8	44.6	(4.8)	(1.2)	(1.5)	(1.9)	(2.3)
California	480.1	535.1	516.9	516.0	514.7	513.2	11.5	(3.4)	(3.6)	(3.8)	(4.1)
Colorado	48.8	51.1	57.5	57.4	57.3	57.2	4.8	12.5	12.3	12.1	11.9
Connecticut	59.1	57.4	55.2	55.1	54.9	54.8	(2.8)	(3.9)	(4.1)	(4.3)	(4.6)
Delaware	13.8	13.8	13.6	13.6	13.6	13.5	.4	(1.5)	(1.7)	(1.9)	(2.2)
District of Columbia	19.7	18.9	17.3	17.3	17.3	17.2	(3.8)	(8.3)	(8.4)	(8.7)	(9.0)
Florida	143.3	136.8	149.5	149.4	149.2	149.0	(4.5)	9.3	9.2	9.1	8.9
Georgia	97.8	100.8	105.8	105.5	105.0	104.6	3.1	5.0	4.6	4.2	3.8
Hawaii	19.8	21.5	23.8	23.4	23.0	22.7	8.3	10.7	8.9	7.2	5.7
Idaho	17.7	17.3	19.8	19.7	19.6	19.5	(2.1)	14.1	13.7	13.2	12.8
Illinois	230.2	226.9	219.7	219.3	218.8	218.2	(1.4)	(3.2)	(3.3)	(3.6)	(3.9)
Indiana	94.3	90.2	87.9	87.8	87.7	87.5	(4.4)	(2.5)	(2.6)	(2.8)	(3.0)
Iowa	62.7	57.0	54.2	54.0	53.7	53.5	(9.1)	(5.0)	(5.3)	(5.7)	(6.1)
Kansas	41.7	40.8	41.6	41.5	41.3	41.1	(2.2)	2.0	1.6	1.2	.8
Kentucky	72.6	74.0	76.3	76.3	76.2	76.2	2.0	3.0	3.0	3.0	2.9
Louisiana	102.6	92.2	86.7	88.5	90.2	91.9	(10.2)	(6.0)	(4.0)	(2.1)	(.3)
Maine	28.3	26.2	28.9	28.8	28.7	28.6	(7.7)	10.6	10.2	9.7	9.3
Maryland	89.2	88.8	90.2	90.0	89.8	89.5	(.4)	1.5	1.3	1.0	.7
Massachusetts	144.2	143.4	142.9	142.6	142.2	141.7	(.6)	(.4)	(.6)	(.9)	(1.2)
Michigan	193.8	197.3	191.8	191.5	191.1	190.5	1.8	(2.8)	(2.9)	(3.1)	(3.4)
Minnesota	90.9	91.2	94.6	94.2	93.9	93.5	.4	3.7	3.3	2.9	2.5
Mississippi	73.3	63.7	64.4	64.6	64.7	64.9	(13.1)	1.2	1.5	1.7	1.9
Missouri	87.2	82.7	83.1	83.0	82.9	82.7	(5.2)	.5	.4	.2	0
Montana	18.9	18.1	17.8	17.9	18.1	18.2	(4.5)	(1.7)	(.9)	(.2)	.5
Nebraska	30.6	31.6	30.9	30.8	30.7	30.6	3.3	(2.1)	(2.5)	(2.9)	(3.2)
Nevada	10.0	11.6	13.1	13.1	13.1	13.0	16.0	13.2	13.0	12.8	12.4
New Hampshire	14.9	15.6	14.8	14.7	14.7	14.6	4.5	(5.1)	(5.5)	(5.9)	(6.2)
New Jersey	143.1	151.8	147.5	146.3	146.9	146.4	6.1	(2.8)	(3.0)	(3.3)	(3.6)
New Mexico	28.5	27.1	29.0	29.7	30.3	30.9	(5.1)	7.2	9.6	12.0	14.3
New York	510.9	499.6	472.7	471.0	469.1	467.2	(2.2)	(5.4)	(5.7)	(6.1)	(6.5)
North Carolina	116.9	113.4	177.8	117.4	116.9	116.4	(3.0)	3.9	3.5	3.1	2.7
North Dakota	15.4	13.0	12.7	12.8	12.9	12.9	(15.5)	(2.2)	(1.7)	(1.3)	(.8)
Ohio	182.7	185.1	179.5	179.3	178.9	178.5	1.3	(3.0)	(3.2)	(3.4)	(3.6)
Oklahoma	51.8	51.4	49.2	49.8	50.9	52.0	(.8)	(4.2)	(3.1)	(.9)	1.2
Oregon	45.8	52.1	56.9	56.8	56.6	56.5	13.7	9.2	9.0	8.8	8.5
Pennsylvania	241.2	223.2	241.9	241.0	240.1	239.1	(7.5)	8.4	8.0	7.6	7.1
Rhode Island	29.1	19.8	19.4	19.4	19.3	19.3	(1.6)	(2.0)	(2.1)	(2.4)	(2.6)

	Actual[1]		1985 (EP 16) forecasts				Percentage changes in allocations				
				Displacement forecasts			Actual[1] 1975 to actual 1980	Actual[1] 1980 to base case	Actual[1] 1980 to displacement forecast		
	1975 (EP 5)	1980 (EP 11)	Base case	75 percent	50 percent	25 percent			75 percent	50 percent	25 percent
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
South Carolina	63.3	61.4	64.7	64.5	64.2	63.9	(3.0)	5.4	5.0	4.6	4.2)
South Dakota	18.9	15.6	14.7	14.6	14.6	14.5	(17.4)	(6.1)	(6.5)	(6.8)	(7.2)
Tennessee	88.2	88.4	85.5	85.2	84.9	84.6	.3	(3.2)	(3.6)	(4.0)	(4.3
Texas	218.5	222.3	222.6	223.6	224.5	225.3	1.7	.2	.6	1.0	1.46
Utah	26.7	28.0	32.9	32.9	32.8	32.7	5.1	17.4	17.2	16.9	16.)
Vermont	12.9	13.7	13.6	13.6	13.5	13.5	5.7	(.3)	(.6)	(1.0)	(1.4
Virginia	90.7	94.2	99.4	99.3	99.1	98.8	3.9	5.6	5.4	5.2	4.9
Washington	64.3	63.8	68.7	68.6	68.4	68.2	(.8)	7.8	7.6	7.3	6.9
West Virginia	45.4	40.2	40.7	40.6	40.4	40.2	(11.4)	1.2	.9	.5	.1
Wisconsin	114.2	106.5	106.6	106.2	105.8	105.4	(6.8)	.2	(.2)	(.6)	(1.0)
Wyoming	7.9	9.4	9.1	9.9	10.7	11.5	19.3	(3.5)	4.9	13.2	21.4

[1] The EP 5 total allocation was $6.2 billion to State and local governments and the EP 11 total allocation was $6.85 billion. The EP 5 and EP 11 allocations shown are recomputed to distribute a total of $4.57 billion so that the earlier allocations are comparable with the 1985 forecasts.

[2] Alaska, Kentucky, Louisiana, Montana, New Mexico, Oklahoma, Texas, and Wyoming.

[3] Alabama, Colorado, Florida, Michigan, Mississippi, North Dakota, and Utah.

Note: Detail may not add to totals because of rounding.

Source: Actual 1975 and 1980 allocations from the Office of Revenue Sharing, U.S. Department of the Treasury. Forecasts for 1985 by the Office of State and Local Finance, U.S. Department of the Treasury.

TABLE 17.—COMPARISON OF BASE-CASE 1985 FORECAST WITH DISPLACEMENT FORECASTS

[Dollar amounts in millions]

	1985 (EP 16) forecasts				Incremental change: Base case to displacement forecasts					
		Displacement forecasts			Changes			Percentage changes		
	Base case	75 percent	50 percent	25 percent	75 percent	50 percent	25 percent	75 percent	50 percent	25 percent
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
U.S. total	$4,569.9	$4,569.9	$4,569.9	$4,569.9						
8 significant energy exporting States[1]	500.7	510.3	522.0	535.0	$9.7	$21.4	$34.4	1.9	4.3	6.9
7 other energy-rich States[2]	585.9	585.6	585.0	584.2	(.3)	(.9)	(1.7)	(0)	(.1)	(.3)
All other States	3,483.4	3,474.0	3,462.9	3,450.7	(9.4)	(20.5)	(32.6)	(.3)	(.6)	(.9)
STATES										
Alabama	77.0	77.0	77.0	77.0	0	0	0	0	0	0
Alaska	10.0	14.6	21.1	29.0	4.7	11.1	19.1	47.1	111.9	191.5
Arizona	54.3	54.1	53.8	53.6	(.2)	(.4)	(.6)	(.4)	(.8)	(1.2)
Arkansas	45.1	45.0	44.8	44.6	(.2)	(.3)	(.5)	(.4)	(.8)	(1.2)
California	516.9	516.0	514.7	513.2	(.9)	(2.1)	(3.7)	(.2)	(.4)	(.7)
Colorado	57.5	57.4	57.3	57.2	(.1)	(.2)	(.3)	(.1)	(.3)	(.5)
Connecticut	55.2	55.1	54.9	54.8	(.1)	(.2)	(.4)	(.2)	(.4)	(.7)
Delaware	13.6	13.6	13.6	13.5	(.0)	(.1)	(.1)	(.2)	(.4)	(.6)
District of Columbia	17.3	17.3	17.3	17.2	(.0)	(.1)	(.1)	(.2)	(.5)	(.8)
Florida	149.5	149.4	149.2	149.0	(.1)	(.3)	(.6)	(.1)	(.2)	(.4)
Georgia	105.8	105.5	105.0	104.6	(.4)	(.8)	(1.2)	(.4)	(.8)	(1.2)
Hawaii	23.8	23.4	23.0	22.7	(.4)	(.8)	(1.1)	(1.6)	(3.2)	(4.6)
Idaho	19.8	19.7	19.6	19.5	(.1)	(.1)	(.2)	(.4)	(.8)	(1.2)
Illinois	219.7	219.3	218.8	218.2	(.4)	(.9)	(1.5)	(.2)	(.4)	(.7)
Indiana	87.9	87.8	87.7	87.5	(.1)	(.3)	(.5)	(.1)	(.3)	(.6)
Iowa	54.2	54.0	53.7	53.5	(.2)	(.4)	(.6)	(.4)	(.8)	(1.2)
Kansas	41.6	41.5	41.3	41.1	(.1)	(.3)	(.5)	(.4)	(.7)	(1.1)
Kentucky	76.3	76.3	76.2	76.2	0	0	(.1)	0	0	(.1)
Louisiana	86.7	88.5	90.2	91.9	1.8	3.5	5.3	2.1	4.1	6.1
Maine	28.9	28 8	28.7	28.6	(.1)	(.2)	(.3)	(.4)	(.8)	(1.2)
Maryland	90.2	90.0	89.8	89.5	(.2)	(.4)	(.7)	(.2)	(.5)	(.8)
Massachusetts	142.9	142.6	142.2	141.7	(.3)	(.7)	(1.2)	(.2)	(.5)	(.8)
Michigan	191.8	191.5	191.1	190.5	(.3)	(.7)	(1.2)	(.1)	(.4)	(.6)
Minnesota	94.6	94.2	93.9	93.5	(.3)	(.7)	(1.1)	(.4)	(.8)	(1.2)
Mississippi	64.4	64.6	64.7	64.9	.2	.3	.4	.3	.5	.7
Missouri	83.1	83.0	82.9	82.7	(.1)	(.2)	(.4)	(.1)	(.3)	(.5)
Montana	17.8	17.9	18.1	18.2	.1	.3	.4	.8	1.5	2.2
Nebraska	30.9	30.8	30.7	30.6	(.1)	(.2)	(.4)	(.4)	(.8)	(1.2)
Nevada	13.1	13.1	13.1	13.0	(0)	(.1)	(.1)	(.2)	(.4)	(.7)
New Hampshire	14.8	14.7	14.7	14.6	(.1)	(.1)	(.2)	(.4)	(.8)	(1.2)
New Jersey	147.5	147.3	146.9	146.4	(.3)	(.6)	(1.1)	(.2)	(.4)	(.7)
New Mexico	29.0	29.7	30.3	30.9	.6	1.3	1.9	2.2	4.4	6.5
New York	472.7	471.0	469.1	467.2	(1.7)	(3.6)	(5.5)	(.4)	(.8)	(1.2)
North Carolina	117.8	117.4	116.9	116.4	(.4)	(.9)	(1.4)	(.4)	(.8)	(1.2)
North Dakota	12.7	12.8	12.9	12.9	.1	.1	.2	.5	1.0	1.4
Ohio	179.5	179.3	178.9	178.5	(.2)	(.6)	(1.0)	(.1)	(.3)	(.5)
Oklahoma	49.2	49.8	50.9	52.0	.6	1.7	2.8	1.2	3.4	5.6
Oregon	56.9	56.8	56.6	56.5	(.1)	(.2)	(.4)	(.2)	(.4)	(.7)
Pennsylvania	241.9	241.0	240.1	239.1	(.9)	(1.8)	(2.8)	(.4)	(.8)	(1.2)
Rhode Island	19.4	19.4	19.3	19.3	(0)	(.1)	(.1)	(.2)	(.4)	(.7)
South Carolina	64.7	64.5	64.2	63.9	(.2)	(.5)	(.8)	(.4)	(.8)	(1.2)
South Dakota	14.7	14.7	14.6	14.5	(.0)	(.1)	(.2)	(.3)	(.7)	(1.1)
Tennessee	85.5	85.2	84.9	84.6	(.3)	(.6)	(1.0)	(.4)	(.7)	(1.1)
Texas	222.6	223.6	224.5	225.5	1.0	1.9	2.7	.5	.9	1.2
Utah	32.9	32.9	32.8	32.7	(.1)	(.1)	(.2)	(.2)	(.4)	(.7)
Vermont	13.6	13.6	13.5	13.5	(.0)	(.1)	(.2)	(.4)	(.8)	(1.2)
Virginia	99.4	99.3	99.1	98.8	(.1)	(.3)	(.6)	(.1)	(.3)	(.6)
Washington	68.7	68.6	68.4	68.2	(.1)	(.3)	(.6)	(.2)	(.5)	(.8)
West Virgina	40.7	40.6	40.4	40.2	(.1)	(.3)	(.5)	(.4)	(.8)	(1.2)
Wisconsin	106.6	106.2	105.8	105.4	(.4)	(.8)	(1.2)	(.4)	(.8)	(1.2)
Wyoming	9.1	9.9	10.7	11.5	.8	1.6	2.4	8.7	17.3	25.8

[1] Alaska, Kentucky, Louisiana, Montana, New Mexico, Oklahoma, Texas, and Wyoming.

[2] Alabama, Colorado, Florida, Michigan, Mississippi, North Dakota, and Utah.

Note: Detail may not add to totals because of rounding.

Source: Actual 1975 and 1980 allocations from the Office of Revenue Sharing, U.S. Department of the Treasury. Forecasts for 1985 by the Office of State and Local Finance, U.S. Department of the Treasury.

TABLE 18.—SUMMARY TABLE: CHANGES IN THE REVENUE SHARING ALLOCATION FORECAST TO OCCUR BETWEEN 1980 AND 1985, COMPARED WITH ACTUAL CHANGES IN THE ALLOCATION BETWEEN 1975 AND 1980

[Dollar amounts in millions]

	Between 1975 and 1980 allocations	Between actual 1980 allocation and 1985 base-case allocation	Between actual 1980 allocation and 1985 tax-displacement allocations			Between 1985 base-case forecast and tax-displacement allocations		
			75 percent	50 percent	25 percent	75 percent	50 percent	25 percent
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
U.S. totals:								
Gains	$114.8	$97.2	$95.2	$98.8	$104.5	$9.9	$21.8	$35.1
Losses	114.8	97.2	95.2	98.8	104.5	9.9	21.8	35.1
Net change	0	0	0	0	0	0	0	0
8 significant energy exporting States:[1]								
Gains	15.7	4.6	6.7	15.1	25.9	9.7	21.4	34.4
Losses	13.2	13.3	5.8	2.5	.2	0	.1	.1
Net change	2.6	(8.7)	.9	12.6	25.6	9.7	21.3	34.3
7 other energy-rich States:[2]								
Gains	7.2	30.0	29.9	29.7	29.3	.2	.4	.6
Losses	22.9	5.8	6.0	6.4	6.8	.5	1.3	2.3
Net change	(15.7)	24.2	23.9	23.3	22.5	(.3)	(.9)	(1.7)
All other States:								
Gains	91.9	62.7	58.6	54.1	49.4	0	0	0
Losses	78.7	78.2	83.4	90.0	97.4	9.4	20.5	32.6
Net change	13.2	(15.5)	(24.8)	(36.0)	(48.1)	(9.4)	(20.5)	(32.6

[1] Alaska, Kentucky, Louisiana, Montana, New Mexico, Oklahoma, Texas, and Wyoming.

[2] Alabama, Colorado, Florida, Michigan, Mississippi, North Dakota, and Utah.

Note: Detail may not add to totals because of rounding.

Source: Office of State and Local Finance, U.S. Department of the Treasury.

TABLE 19.—SUMMARY TABLE: CHANGES IN THE REVENUE SHARING ALLOCATION FORECAST TO OCCUR BETWEEN 1980 AND 1985, COMPARED WITH ACTUAL CHANGES IN THE ALLOCATION BETWEEN 1975 AND 1980, PERCENTAGE CHANGES

	Between 1975 and 1980 allocations	Between actual 1980 allocation and 1985 base-case allocation	Between actual 1980 allocation and 1985 tax-displacement allocations			Between 1985 base-case forecast and tax-displacement allocations		
			75 percent	50 percent	25 percent	75 percent	50 percent	25 percent
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
U.S. Totals:								
Gains	2.5	2.1	2.1	2.2	2.3	0.2	0.5	0.8
Losses	2.5	2.1	2.1	2.2	2.3	.2	.5	.8
Net change	0	0	0	0	0	0	0	0
8 significant energy exporting states:[1]								
Gains	3.1	.9	1.3	3.0	5.1	1.9	4.3	6.9
Losses	2.6	2.6	1.1	.5	0	0	0	0
Net change	.5	(1.7)	.2	2.5	5.0	1.9	4.3	6.9
7 other energy-rich States:[2]								
Gains	1.2	5.3	5.3	5.3	5.2	0	.1	.1
Losses	4.0	1.0	1.1	1.1	1.2	.1	.2	.4
Net change	(2.7)	4.3	4.3	4.1	4.0	0	(.1)	(.3)
All other States:[3]								
Gains	2.6	1.8	1.7	1.5	1.4	0	0	0
Losses	2.3	2.2	2.4	2.6	2.8	.3	.6	.9
Net change	.4	(.4)	(.7)	(1.0)	(1.4)	(.3)	(.6)	(.9)

[1] Alaska, Kentucky, Louisiana, Montana, New Mexico, Oklahoma, Texas, and Wyoming.

[2] Alabama, Colorado, Florida, Michigan, Mississippi, North Dakota, and Utah.

[3] The other States are Arizona, Arkansas, California, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

Note: Detail may not add to totals because of rounding. The base data used for calculation of the percentage changes in this table appear in cols. 1–3, rows 1–4 of table 15.

Source: Office of State and Local Finance, U.S. Department of the Treasury.

● **Mr. METZENBAUM.** Mr. President, I wish to express my strong support for the amendment offered by the Senator from Missouri. His amendment will help to alleviate a very fundamental flaw in the formula used to distribute funds under the revenue sharing program, a flaw in the existing formula that gives to a handful of oil-producing States more than their fair share of revenue sharing funds.

The problem is clear. With the decontrol of domestic oil, severance taxes gleaned by these States from oil production are expected to increase dramatically. Yet these same fortunate States will reap even more benefits because the general revenue-sharing formula counts as a factor in allocating revenue dollars the amount of State-severance taxes collected by a State.

In a report issued in April of this year, the Northeast-Midwest Institute described the situation as follows:

> Because of the huge concentration of increased income, . . . tax effort, as currently measured by the tax receipts per capita in the eight principal oil-producing states, will seem to rise dramatically, unless the states elect to use the new revenues to cut taxes.
>
> The eight principal oil-producing states can expect significant increases in general revenue sharing, which uses "tax capacity" and "tax effort" in its formulas. If the general revenue sharing grants remain at the present level, the 42 non-oil-producing states will receive a proportionately smaller share of Federal reimbursements.

In other words, Mr. President, severance taxes permit oil-producing States, in effect, to tax residential, commercial, and industrial consumers in other States. Yet these same oil-producing States count these revenues as part of their own State's tax effort. And thereby, they become, under the current formula, eligible for more in the way of revenue sharing.

As much as 85 percent of all severance taxes collected in this Nation are collected on oil and natural gas. Most of these taxes are collected from purchasers outside the State. For example, 85 percent of Alaska's severance taxes were paid by residents of States other than Alaska. Louisiana collected 79 percent of its severance taxes from other

States. And in Texas, the figure is 64 percent.

Just 1 month ago, the voters of this Nation sent us a message, and the message was clear: make the Government more fiscally responsible.

This is one opportunity for the Senate to respond affirmatively. Let us stop contributing to the unfair windfall to those few oil-rich States at the expense of the majority of oil-consuming States and their residents.

It will require States to select either their 1977, 1978, or 1979 figures on the percentage share of their State's severance taxes used to calculate general revenue sharing and freeze it at this level for future general revenue-sharing calculations. In other words, the amendment will neutralize an unfair advantage that the oil-producing States will otherwise enjoy under revenue sharing because of escalating severance tax revenues.

Senator DANFORTH's amendment is narrow and precise. It does not prevent any State from raising or lowering its severance taxes. It addresses severance taxes in one way only—as they relate to the distribution of revenue-sharing dollars.

All this amendment does, Mr. President, is make certain that the distribution of revenue-sharing dollars is fair and equitable. All this amendment does is help correct a problem that could not have been foreseen at the time the formula was written.

This amendment is only fair, Mr. President, and I urge its adoption.●

Mr. MOYNIHAN. Will the Senator yield?

Mr. DANFORTH. I yield the floor.

Mr. MOYNIHAN. Mr. President, I do not want to prolong the discussion but I very much wish to associate myself with the statement of the Senator from Missouri. I had the occasion earlier today to observe that I had been part of the group in the executive branch that first discussed the possibility of revenue sharing and it fell to me to write the actual Presidential message that proposed it. Basic to the formula that was proposed was the idea that tax effort ought to be compensated, as it represented a social effort that was to be supported. In the present situation, we shall have the reverse of that effect. The unintended outcome of the windfall profit tax will be to further enhance the resources of States that already have had them enhanced.

Far from being a compensating factor in the formula, it will be an enhancing one. It will exacerbate the differences rather than, to some extent, relieve them.

The matter will be before us and it seems to me an appropriate subject for the Finance Committee to take up, the whole formula.

Do I take it that the purpose of the Senator is to withdraw his amendment?

Mr. DANFORTH. I thank the Senator from New York for his comments.

I do withdraw my amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1840

(Purpose: To require an adjustment in the population data to include an estimate of the number of persons who were not counted in the 1980 census)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FORD). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1840.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, between lines 19 and 20, insert the following new subsection:

(d) POPULATION DATA.—Paragraph (1) of section 109(a) of the State and Local Fiscal Assistance Act of 1972 is amended to read as follows:

"(1) Population.—

"(A) IN GENERAL.—Population shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

"(B) UNDERCOUNT ADJUSTMENT.—The Secretary shall request the Bureau of the Census to adjust the population data provided under subparagraph (A), as soon as practicable to include a reasonable estimate of the number of resident persons not counted in the 1980 census or subsequent revisions thereof. The Secretary shall use such estimates in the calculation of allocations for the next entitlement period beginning after receipt of such estimates.".

On page 5, line 20, strike out "(d)" and insert in lieu thereof "(e)".

On page 6, line 7, strike out "(e)" and insert in lieu thereof "(f)".

Mr. MOYNIHAN. Mr. President, this is an amendment which was adopted unanimously in the Finance Committee when we were drawing a bill of our own. I propose that it might be added now to the bill we are, in fact, amending.

The simple purpose of this amendment is to instruct the Secretary of the Treasury to obtain from the Bureau of the Census estimates for States and localities that are adjusted, to the best ability of the Bureau, using accepted statistical methods, to take account of the undercount that is estimated by the Bureau to have occurred during the preceding census.

Mr. President, the Census Bureau each year presents to the Treasury the estimates of the population of some 39,000 units of Government. These are estimates. They are not enumerations. They are projections, basically, from the preceding Census based on what is known about general movements of population.

The Bureau of Census would now be quite free to adjust for the undercount as, indeed, in 1970 it imputed the existence of approximately 5 million persons not actually enumerated—to use the term of the profession, not actually eyeballed—but whose existence could be confidently imputed.

My purpose is, first, to point out that with respect to any particular State, the effect of this amendment will be very small. Those States that will receive the largest benefits, to the degree that there are benefits, will be in the South.

But my concern is not with any redistribution of benefits. There will be at most marginal changes.

My concern is to reestablish confidence in the estimates of the Bureau of the Census, an extraordinarily capable and effective institution of our Government, which has discovered the difficulties in its data and has brought them forward.

That has surprised many persons who did not know about them. It ought not. It is fully within the capacity of the Bureau to make these adjustments, to learn more as they do.

I would, therefore, hope that this amendment might be accepted. I submit it on behalf of myself and the Senator from Louisiana (Mr. JOHNSTON).

Mr. DOLE. Mr. President, I discussed this amendment. I thought, if there is an agreement on this amendment, there would also be an agreement on the amendment by the distinguished Senator from Oklahoma.

It is my understanding that this amendment is subject to a point of order, that there would be some tradeoffs.

I am now contacting the Senator from Oklahoma. He has one on a 4-day week. I am not certain of the details, but I wonder if we might temporarily set this amendment aside, reserving the right to make a point or order, and move on to others we might dispose of.

Mr. LONG. Mr. President, might I suggest that we go ahead and act on this amendment.

I say, as far as I am concerned, if he wants consent for the Bellmon amendment to be considered, I will not object to it. I am not aware of any objection over here.

Mr. DOLE. I am not aware of any, but once we agree to this one, there might be somebody who might object.

Mr. LONG. But this amendment, we agreed to in the committee.

Mr. DOLE. But it is not in the unanimous-consent agreement.

I want to accommodate the Senator from New York, but just let me contact the Senator from Oklahoma to see if we can accommodate him, while we are considering some of these amendments that I think there are no problems with.

Several Senators addressed the Chair.

Mr. MOYNIHAN. Mr. President, I have the floor.

Mr. President, I am happy to lay the amendment aside for the moment and will resubmit it at a later moment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

UP AMENDMENT NO. 1841

(Purpose: To establish audit requirements for auditing State and local governments and nonprofit organizations)

Mr. SASSER. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. SASSER) for himself and Messrs. DANFORTH, CHILES, LEVIN, FORD, DURENBERGER, ROTH, and COHEN, proposes an unprinted amendment numbered 1841.

Mr. SASSER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Purpose: To establish audit requirements for auditing State and local governments and nonprofit organizations.

On page 7 between lines 2 and 3 add the following new paragraph:

(f) COMBINED AUDITS.—Section 123 (c)(6) of the Act is amended by adding at the end of paragraph 6 the following new sentence: "When practicable, the audit requirements established pursuant to section 126 for auditing state and local governments and nonprofit organizations and the audit requirement of this section shall be combined."

On page 7, line 3, strike "3" and insert "4".

On page 7 between lines 2 and 3 insert the following:

SECTION 3. AUDIT OF FEDERAL PROGRAMS

Subtitle B of Title I of the Act is amended by adding at the end thereof the following new section:

SEC. 126. FINANCIAL MANAGEMENT AND AUDIT OF FEDERAL ASSISTANCE PROGRAMS

(a) DEFINITIONS.—For purposes of this section—

(1) the term 'financial and compliance audit means a systematic review or appraisal of a recipient of Federal assistance to determine and report whether the financial operations of the recipient are properly conducted and financial reports are presented fairly; and whether the entity has complied with significant compliance requirements contained in laws and regulations that can materially affect the entities' financial operations, conditions and reports;

"(2) the term 'public accountants' means certified public accountants, or licensed public accountants licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State;

"(3) the term 'independent auditors' means properly constituted State or local government audit agencies or public accountants, who have no direct relationship with the functions or activities being audited or with the business conducted by any of the officials of the government agency or unit being audited;

"(4) the term 'independent audit' means an audit conducted by independent auditors;

"(5) the term 'generally accepted auditing standards' means the auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States and incorporating the audit standards of the American Institute of Certified Public Accountants;

"(6) the term 'Federal assistance' means any assistance provided by an agency in the form of grants, loans, loan guarantees, property, contracts, cooperative agreements or technical assistance to State or local governments or other recipients, except that such term does not include direct Federal cash assistance to individuals, contracts for the procurement of goods and services of the United States, subsidies, insurance or assistance provided by the Tennessee Valley Authority;

"(7) the term 'local government' means any unit of government within a State, a county, borough, municipality, city, town, township, parish, local public authority, special district, intrastate district, council of governments, other interstate government entity, or any other instrumentality of local government but shall not be construed to mean any Indian tribe as defined in section 3(c) of the Indian Financing Act of 1974;

"(8) the term 'entity' means a first level organizational unit of a State or local government or nonprofit organization, and includes all subordinate organizational units within such first level unit and all contractors providing services to such unit; and

"(9) the term 'nonprofit organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code.

"(b)(1) In order to insure that Federal accountability systems do not impose unnecessary, conflicting, and duplicative accounting, auditing, and reporting requirements upon State and local governments, especially upon small communities and nonprofit organizations, who are recipients of Federal assistance and in order to reduce the costs, paperwork, and regulatory burdens associated with Federal assistance programs, Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall, consistent with applicable law, develop, establish, and maintain for use by all Federal agencies standard accounting, auditing, and financial management policies, procedures, and requirements for the administration, accounting, and fiinancial auditing of grants, contracts, cooperative agreements, and other forms of Federal assistance to State and local governments and nonprofit organizations. Any such policy, procedure, or requirement shall not conflict with any applicable audit standard developed by the Comptroller General of the United States. Standard policies, procedures, and requirements developed by the Director of the Office of Management and Budget pursuant to this section shall include—

"(A) terms, definitions, and conditions used in conjunction with grants, contracts, cooperative agreements, and other forms of Federal assistance to State and local governments;

"(B) generally accepted accounting principles and standards as required for financial accounting and reporting;

"(C) uniform requirements for grant application forms;

"(D) uniform principles and standards for sound financial management and auditing; and

"(E) uniform payment policies for grants, contracts, cooperative agreements, and other forms of Federal assistance.

"(2) The Director of the Office of Management and Budget shall prescribe directives to carry out the standard policies, procedures, and requirements established pursuant to paragraph (1). Any such directive shall be binding on all Federal departments and agencies. Such directives shall prescribe effective means to coordinate Federal, State, and local audits of grant programs.

"(c)(1) At least once every two years, there shall be a single independent financial and compliance audit of—

"(A) State and local governments, or State and local governmental entities and the subgrantees of such State and local governments or governmental entities; and

"(B) nonprofit organizations or entities of nonprofit organizations and the subgrantees of such nonprofit organizations or entities, which receive Federal assistance. Any such audit shall include an evaluation of the accounting and control systems of the recipient of Federal assistance and of the activities by the recipient to comply with the financial and performance requirements of grants received by the recipient from the Federal Government. Audits carried out pursuant to this section shall be audits of the recipient, rather than audits of individual grants or programs. In the case of any recipient of Federal assistance which receives less than $100,000 per year, the audit required by this section shall be conducted at least once every five years, but not more frequently than once every three years, unless there is evidence of fraud or other violation of Federal law in connection with such assistance.

"(2) A State government shall have the responsibility for financial and compliance audits of the State government or State governmental entities receiving Federal assistance, and the subgrantees of such government or entities. A local government shall have the responsibility for financial and compliance audits of the local government, local governmental entities receiving Federal assistance, and the subgrantees of such government or entities. A nonprofit organization shall have responsibility for financial and compliance audits of the nonprofit organization or entities of the nonprofit organization receiving Federal assistance and the subgrantees of such nonprofit organizations or entities unless by law, the State or local government has such responsibility, in which event the State or local government, as appropriate, shall have the responsibility for such audits. The audits shall be made by independent auditors in accordance with generally accepted auditing standards and shall include an opinion as to whether the recipient's accounting policies and financial statements follow generally accepted accounting principles and standards.

"(3)(A) The Federal Government shall be responsible, through the quality review process established pursuant to paragraph (4), for assuring that financial and compliance audits conducted by independent auditors meet generally accepted auditing standards. Nothing in this section limits the authority of Federal agencies to make audits of Federal grants-in-aid to State and local governments, State and local governmental entities and the subgrantees of such State and local government or governmental entities: *Provided, however*, That if independent audits arranged for by State or local governments meet generally accepted auditing standards and other requirements established pursuant to paragraph (4) Federal agencies shall rely on those audits and any additional audit work shall build upon the work already done.

"(B) The Federal Government is responsible for conducting, or contracting (to such extent or in such amounts as are provided in appropriations Acts) for the conduct of, audits which are not financial and compliance audits.

"(C) Nothing in this section limits the Federal Government's responsibility or authority to enforce Federal law or regulations, procedures or reporting requirements arising pursuant thereto.

"(4) The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish and approve a quality review process that will assure the proper performance of audits. Audits performed by Federal, State, or local government audit agencies which have been approved pursuant to quality review process shall be accepted by all Federal agencies making and administering grants.

"(5) The Director of the Office of Management and Budget shall prescribe appropriate means for the reimbursement of independent auditors for actual expenses incurred for such parts of audits as are performed on behalf of the Federal Government, including provisions for—

"(A) direct reimbursement for such expenses; and

"(B) equitable financial settlements when such audits fail to meet the standard policies, procedures, and requirements developed pursuant to subsection (b).

"(d) For purposes of this section, an Indian tribe, as defined in section 3(c) of the Indian Financing Act of 1974, shall not be considered a State.".

Mr. SASSER. Mr. President, current revenue sharing law encourages State and local governments to use other Federal grant audits for their revenue-sharing audit requirements if they so desire.

This is a sensible position. It simply means that if you have an acceptable Federal grant audit, that it can be used to satisfy your revenue sharing audit requirements. That is an efficient and economical use of the financial audits of Federal grants.

The original House and Senate revenue sharing bills as reported by the Senate Finance and House Government Operations Committee stated, and I quote—

> Where practicable, the audit requirements pursuant to the office of management and budget directives for auditing State and local governments and the audit requirements of this title shall be combined.

My amendment simply expands on this concept and sets forth the terms and conditions whereby other Federal grant audits can be accepted as revenue sharing audits.

The amendment does not change the basic revenue sharing program at all. It does not affect how funds are distributed; it does not add new funding programs to revenue sharing. It simply continues the present policy of encouraging State and local governments to use acceptable Federal grant audits to satisfy their revenue sharing audit requirements.

But more than that it enables us to put into effect the administrative improvements in the audit process that are contained in OMB circular A-102, attachment P. It further enables us to put into effect the grant audit reforms that have long been advocated by the Comptroller General of the United States. And I might add that in a letter to me the Comptroller General states that he fully supports this legislation that will help implement the single audit concept.

In summary, this amendment will enable us to streamline the Federal grant audit process. It should help provide sound revenue sharing audits of the financial conditions of State and local government. For these reasons I move its passage.

Before I conclude, let me provide for my colleagues a portion of the testimony that the Comptroller General offered about this amendment during the course of revenue sharing hearings this year—

> A legislative requirement implementing the single audit concept would be preferable. Federal agencies and grant recipients have not adhered to audit frequency and coordination requirements contained in the Office of Management and Budget circulars. As a result there are major gaps and duplications in audits of Federal grants. A legislative requirement for a single audit would clearly and unequivocally signify to all involved the importance of the single audit concept and, in our opinion, would have greater influence in achieving implementation of needed audit coverage of Federal grants than an executive order.
>
> The revenue sharing act is a logical vehicle to implement the single audit concept for state and local governments. The act already requires comprehensive financial audits of recipients' entire financial operations. The law could be expanded to require the use of a standard financial compliance audit guide that would satisfy both the revenue sharing and OMB circular 102 audit requirements.

I think that the Comptroller General's suggestion is a good one and is one that could be followed if we adopt this amendment that I and Senators DANFORTH, LEVIN, FORD, CHILES, DURENBERGER, ROTH, and COHEN offer here today.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Comptroller General of the United States, also a letter from the office of the legislative auditor of the State of Minnesota.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 19, 1980.

Hon. JAMES R. SASSER,
Chairman, Subcommittee on Intergovernmental Relations, Committee on Govmental Affairs, U.S. Senate

DEAR MR. CHAIRMAN: I am pleased to learn that Senate Bill S. 878, entitled "Federal Assistance Report Act of 1980," has been reported out of the Committee on Governmental Affairs and is scheduled for Senate consideration. As you know, the issues addressed by the proposed legislation are of great concern to the General Accounting Office. For the past few years, we have devoted considerable attention to the Federal grant and assistance system and its impact on the State and local sector.

I am particularly pleased to see "Title II—Financial Management and Audit of Federal Assistance Programs" included in the proposed legislation. We fully support legislation to help implement the single audit concept.

We are also pleased to see the Committee's support in the bill to provide for consistent requirements and standards for the audit of Federal assistance provided to or administered by State and local governments and nonprofit organizations.

We believe that, when governments or nonprofit organizations engage or employ government auditors or public accountants, they need the best qualified ones they can get since governmental financial statements result from many complex and complicated accounting transactions. Therefore, the highest type of skills are needed to audit and render opinions on these statements. Uniform criteria is required to ensure that those who render such opinions possess the necessary skills. Accordingly, we strongly support the definitions contained in Title II, Sec. 202 of S. 878, as reported out by the Committee on Governmental Affairs on September 19, 1980.

The role of Federal funds in the public sector and the implications for future roles are causing Federal, State, and local officials to become more concerned with Federal assistance programs. Senate Bill S. 878 proposes major steps to address these concerns.

If we can be of further assistance, please let us know.

Sincerely yours,

ELMER B. STAATS,
Comptroller General.

OFFICE OF THE LEGISLATIVE AUDITOR,
St. Paul, Minn., November 25, 1980.
Attention John Callahan.
Senator JIM SASSER,
Russell Office Building,
Washington, D.C.

DEAR SENATOR SASSER: The enclosed resolutions were adopted by the National Association of State Auditors, Comptrollers and Treasurers at its annual meeting in Hot Springs, Arkansas, November 19, 1980. They endorse, respectively, the partial reimbursement of audit costs associated with required audits under Revenue Sharing and the attachment of Title II of S-878 to the revenue sharing bill.

While both issues are important to the state auditor community we are particularly anxious to have Title II of S-878 enacted in order to "institutionalize" the responsibilities and conditions of non-federal auditors making audits of recipients of federal funds. We consider this enactment extremely important to the implementation of the single audit concept and the cooperation and reliance that accompanies that approach.

We appreciate your support of these measures.

Respectfully,

ELDON STOEHR,
Chairman.

RESOLUTION NO. 3: NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS AND TREASURERS

Whereas, the U.S. Senate Committee on Governmental Affairs has reported S-878, a bill to provide a reform of federal grant programs; and

Whereas, this bill contains in Title II provisions for the audit of federal grant recipients that are compatible with and complement the audit provisions of the State and Local Fiscal Assistance Act amendments of 1980; and

Whereas, the referenced audit provisions will provide much of the improvement in audits of federal assistance programs called for by the General Accounting Office and the House Committee on Government Operations and

Whereas, the Senate Committee on Governmental Affairs noted in its report on S-878:

Though reforms initiated by the Office of Management and Budget in auditing federally assisted programs are important ones the House and Senate Hearing Record, along with GAO and JFMIP reports show a lack of progress on the part of OMB in grant auditing.

Enactment of Title II of S-878 would make it clear that these reforms reflect the intents of Congress as well as the desires of the President.

In recognition of the desirability of consolidating all of the audit requirements affecting the recipients of federal fiscal assistance in one law; the National Association of State Auditors, Comptrollers and Treasurers does hereby announce its support for the addition of Title II of S-878 to the State and Local Fiscal Assistance Act of 1980.

● Mr. LEVIN. Mr. President, I am pleased to speak on behalf of the single audit amendment which Senator SASSER has offered, and of which I am a cosponsor. The single audit principle contained in this amendment, if approved, would streamline and simplify the present audit procedures as they affect State and local governments which receive Federal grants. Additionally, this amendment would lead to a more efficient use of audit resources, and would strengthen the existing audit coverage of Federal assistance.

I urge your support of Mr. SASSER'S single audit amendment.●

Mr. LONG. Will the Senator yield?

Mr. SASSER. Yes.

Mr. LONG. Mr. President, I ask the Senator, is it not true this amendment has already been agreed to on a different piece of legislation?

Mr. SASSER. Yes.

Mr. LONG. Mr. President, it seems to me, to save the time of the Senate, we ought to accept the amendment. I would urge that we simply vote on it. I do not think there is any objection to it. It has been agreed to before.

Mr. DOLE. Mr. President, there are no objections to this amendment. In fact, I think it is a good amendment.

Mr. DANFORTH. Mr. President, I am pleased to join Senator SASSER as a cosponsor of this amendment, which would effect meaningful reforms in the auditing of Federal grants.

This amendment originated as a provision of S. 904, the "Federal Assistance Reform and Small Community Act," a bill I introduced earlier this year. As an amendment to S. 878, the Federal Assistance Reform Act, it was unanimously approved by the Governmental Affairs Committee earlier this year.

I believe this amendment provides an important statutory framework for the reforms initiated by the Office of Management and Budget in recent years. It holds promise to achieve savings in Federal audit resources, while at the same time relieving State and local governments of the burdensome and often haphazard audit procedures that have characterized Federal grant programs in years past.

A vote of thanks goes to Len Grees, of the State auditors, and Missouri State Auditor Jim Antonio, for their help and support in writing this amendment.

KANSAS AUDIT PROVISION

Mr. DOLE. Mr. President, the Finance Committee report on S. 2574 contains language describing the intent of the committee that, in certain narrowly circumscribed conditions, a local government need not meet the requirement that the audit for revenue sharing be performed by a licensed municipal accountant licensed on or before December 31, 1970. This exception is designed to cover a particular situation that arose in Kansas, and will not in any way affect the general stringency of the audit requirements or the standards they prescribe. I would just note that the Finance Committee agreed that this is an equitable exception, consistent with the general audit requirements.

I believe the distinguished floor manager of the bill agrees with my characterization of this report language.

Mr. LONG. Yes.

Mr. DOLE. Mr. President, at this point I ask unanimous consent to have printed in the RECORD the language of the Finance Committee report on S. 2574, which sets forth the intention of the committee with regard to the audit problem that arose in Kansas.

There being no objection, the language was ordered to be printed in the RECORD, as follows:

EXCERPT FROM COMMITTEE REPORT

The Committee also agreed to a limited exception to the Treasury Department definition of an independent public accountant for purposes of section 123 of the State and Local Fiscal Assistance Act of 1972, as amended. The Treasury Department regulation defining this term, 31 CFR 51.101(c) (2), states that a licensed public accountant may qualify as an independent public accountant only if licensed or certified on or before December 31, 1970. Under the exception approved by the Committee, a licensed public accountant could also qualify as an independent public accountant, solely for purposes of an audit prepared and submitted to the Office of Revenue Sharing on or before September 1, 1980, if the following conditions are met.

First, the licensed public accountant must have been licensed not later than June 25, 1975, by a regulatory authority of a State. Second, the licensed public accountant must have had not less than twelve hours of college accounting and not less than three years of work experience in public accounting. Third, the licensed public accountant must have passed an examination covering principles of municipal government accounting and relevant laws of the State. Fourth, the licensed public accountant must have not less than fifteen hours each year of continuing education in order to maintain his license.

Provided all of these conditions are met, the licensed public accountant shall qualify as an independent public accountant for purposes of an audit prepared and submitted to the Office of Revenue Sharing on or before September 1, 1980, notwithstanding his failure to comply with the December 31, 1970 cutoff date set forth in the above Treasury regulation. It is not the intention of the Committee that this exception would be available to a licensed public accountant with respect to any future audits. The Committee supports the standards for independent audits prescribed by the Treasury Department and the Comptroller General, and its action should not be construed as a modification of those standards or an attempt to prescribe a rule of general applicability. This exception is designed to deal with a problem in the State of Kansas that has come to the attention of the Committee.

Several Senators addressed the Chair.

Mr. LONG. Mr. President, I am ready to yield back my time, unless people desire to speak on this amendment.

The PRESIDING OFFICER. Is there any other Senator wishing to speak on this amendment?

Mr. SASSER. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1841) was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

UP AMENDMENT NO. 1842

(Purpose: To provide additional allocations to the State and local governments of noncontiguous States)

Mr. MATSUNAGA. Mr. President, I offer an unprinted amendment, cosponsored by Senators INOUYE, STEVENS, and GRAVEL, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an unprinted amendment numbered 1842.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 8, strike out "section 105 (c) (1)" and insert in lieu thereof "(1) IN GENERAL.—Section 105(c) (1)".

On page 2, between lines 4 and 5, insert the following new paragraph:

(2) NONCONTIGUOUS STATES.—Section 105 (c) (2) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund to pay the entitlements of units of local government hereinafter provided $3,282,506 for each of the entitlement periods beginning October 1 of 1980, 1981, and 1982.

On page 2, after line 25, add the following new paragraph:

"(3) NONCONTIGUOUS STATES.—For each entitlement period described in paragraph (2), there are authorized to be appropriated to the Trust Fund $1,641,253 to make allocations in accordance with section 107 (a) (2) to the government of any State in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code.".

Mr. MATSUNAGA. Mr. President, the amendment which I am offering is a noncontroversial one which would merely continue existing law, which provides for payment adjustment for noncontiguous States.

Mr. President, the bill as favorably reported by the Finance Committee, S. 2574, includes the provision of my amendment, and were we considering the Senate bill? My amendment would be unnecessary, but for some strange reason the House Bill, H.R. 7112, omits the provision, which is part of existing law. This adjustment was included in the original 1972 general revenue-sharing program and has continued throughout the life of the program.

Mr. President, the adjustment has been allowed because the basic allocation formula overlooks State differences in cost of living. In the case of Hawaii, relative Statewide income levels are overstated, because of high living costs. High living costs increase the cost of Government and the basic formula does not take this special burden into consideration.

To remedy this deficiency in the allocation formula, the Congress in 1972 provided for an adjustment payment. This adjustment recognizes the higher costs for Government services in Hawaii and Alaska and follows a precedent dating from 1948 with the adjustment in cost-of-living allowances granted to Federal workers employed in noncontiguous areas.

The pending amendment seeks to preserve this provision which is, I repeat, in existing law, and I urge its adoption.

Mr. DOLE. Mr. President, I do not want to give this amendment preference over the amendment of the Senator from New York because it is not part of the unanimous-consent agreement. It was adopted by our committee. It is supported by the Senator from Hawaii and the Senator from Alaska.

It does cost money. I believe that should be pointed out, in fairness. But it does continue existing law.

I do not object to it personally, but I do not want the Senator from New York to feel that I have set his amendment aside and then have moved on to another one that has the same problem.

Mr. MATSUNAGA. Senator BELLMON is in the Chamber.

Mr. DOLE. Is it all right with the Senator from New York if we accept the Matsunaga amendment?

Mr. MOYNIHAN. I will be happy to see that happen. I understand that Mr. BELLMON is in the Chamber.

Mr. LONG. I have no objection to the amendment. It was agreed to by the committee.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MATSUNAGA. I yield back the remainder of my time.

Mr. DOLE. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1842) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I have an amendment that will take a little time. I understand that Senator PROXMIRE has an amendment which will be accepted, as does the Senator from Michigan (Mr. LEVIN). I will be glad to yield to them, with the unanimous-consent agreement that my amendment will follow the amendment of the Senator from Wisconsin and the amendment of the Senator from Michigan.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DECONCINI. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I will take a couple of minutes. I ask unanimous consent that I may proceed for 1 minute to explain what I am going to do, and then I will offer the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, earlier today, the Senate adopted an amendment providing $25 million for territories. At the time, it was my understanding—and I was mistaken—that these funds would not involve the need for an additional appropriation but would come from a reserve already available. I find that is not the case.

We discussed this with Senator BRADLEY, who was the author of the amendment, and with Senator LONG, Senator DOLE, and their staffs, and we all agreed that it would be proper to propose an amendment to provide that, to the extent practicable, the reserve that is available will provide the basis for this funding.

For that purpose, Mr. President, I move to reconsider the vote by which the so-called territories amendment was adopted.

MOTION TO RECONSIDER UP AMENDMENT NO. 1834

The PRESIDING OFFICER (Mr. MATSUNAGA). The question is on agreeing to the motion to reconsider the vote by which the amendment was agreed to.

The motion was agreed to.

UP AMENDMENT NO. 1843 (TO UP NO. 1834)

(Purpose: To extend the revenue sharing program to provide fiscal assistance to territories of the United States)

Mr. PROXMIRE. Mr. President, it is my understanding that time was not used on that amendment, so there is some time.

I offer an amendment to the amendment.

The PRESIDING OFFICER. All time had been yielded back.

Mr. PROXMIRE. I offer the second amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1843.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 13, insert the following: "Government".

On page 2, line 15, strike out "(2)" and insert in lieu thereof "(3)".

On page 2, between lines 19 and 20, insert the following new paragraph:

"(2) TERRITORIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for each entitlement period described in paragraph (3), there are authorized to be appropriated to the Trust Fund $25,000,000 to make the payments to Territories of the United States hereafter provided for such entitlement period.

"(B) CERTAIN AMOUNTS PAID OUT OF RESERVE.—Any amount appropriated pursuant to the authorization contained in subparagraph (A) shall first be made available from any amount which—

"(i) is remaining in the National Reserve Fund and which accumulated during the period beginning January 1, 1972, and ending December 31, 1976, and

"(ii) is not subject to any outstanding claims.".

On page 2, line 20, strike out "(2)" and insert in lieu thereof "(3)".

On page 2, after line 25, insert the following new paragraph:

(2) APPLICATION OF TITLE TO TERRITORIES.—Section 106 of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following new subsection:

"(d) TERRITORIAL AMOUNT.—

"(1) ALLOCATION.—

"(A) IN GENERAL.—There shall be allocated to each Territory of the United States for each entitlement period beginning after September 30, 1981, out of amounts appropriated under section 105(d)(2) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the population of that Territory bears to the population of all Territories.

"(B) SPECIAL RULE FOR PUERTO RICO.—The entire amount allocated to the Commonwealth of Puerto Rico shall be allocated on the basis of population to the units of local government thereof.

"(2) APPLICATION OF TITLE.—For purposes of this title (other than section 105 and the preceding subsections of this section), a Territory shall be treated as if it were a State.

"(3) DEFINITION.—For purposes of this subsection and section 105(d)(2), the term 'Territory' means the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.".

On page 3, line 1, strike out "(2)" and insert in lieu thereof "(3)".

On page 4, line 6, strike out "105(d)(2)" and insert in lieu thereof "105(d)(3)".

Mr. LONG. Mr. President, I yield myself 1 minute on the bill.

The PRESIDING OFFICER. The Senator has 10 minutes on the amendment.

Mr. LONG. Mr. President, when the matter was considered, I was misinformed. Therefore, what I said to the Senator was not correct.

I find that the effect of the Bradley amendment would be to authorize additional funds to the bill; and in order that that would not be the case, I would be happy to support the amendment of the Senator from Wisconsin. In order to correct the previous misunderstanding, I hope the amendment is agreed to.

Mr. PROXMIRE. I thank the Senator.

Mr. President, this amendment has been cleared with all parties. It simply would use the existing reserves first. It would reduce the amount of funding necessary for the revenue-sharing program.

Mr. BRADLEY. Mr. President, I am in full accord with this amendment. It was the original intention of the author, and I support the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1843) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment as amended.

The amendment (UP No. 1834), as amended, was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, under the previous unanimous-consent agreement, I had agreed to yield to the Senator from Michigan, and my amendment is to follow his.

The PRESIDING OFFICER. The Senator from Michigan.

UP AMENDMENT NO. 1844

(Purpose: To modify the audit requirements for certain units of local government for the 1977, 1978, and 1979 entitlement periods)

Mr. LEVIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. Levin) proposes an unprinted amendment numbered 1844.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, between lines 2 and 3, insert the following:

(f) Modification of Certain Audit Requirements.—In any case in which—

(1) a State had on July 25, 1974, entered into an agreement with the United States to conduct the audits required under section 123(c) of the Act on behalf of the units of local government in such State, and

(2) such audits were not conducted as so required for the entitlement periods beginning after December 31, 1976, and before January 1, 1980,

then any unit of local government of such State may meet the audit requirements of section 123(c) of the Act with respect to such entitlement periods by conducting audits which otherwise meet such requirements, except that, in the aggregate, such audits need cover only those funds of accounts in the financial activity of the local unit of government into which payments under the Act have been deposited.

Mr. BELLMON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. LEVIN. I yield.

Mr. BELLMON. Mr. President, I ask unanimous consent that I be permitted to offer an amendment, without regard to the question of germaneness, under the time agreement.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, do I correctly understand that the Senator's amendment has to do with the 10-hour day and the 4-day week?

Mr. BELLMON. Yes.

Mr. LONG. Senators have indicated that they would be willing to agree to let the amendment be offered, and I hope Senators will permit the amendent to be offered. We want to have the Moynihan amendment agreed to, and I believe that, in fairness, we should let the other side offer their amendment.

Mr. BRADLEY. It is my understanding that if the Bellmon amendment is offered, it requires unanimous consent, and the Moynihan amendment requires unanimous consent as well.

Mr. DOLE. I would have to include that in the request.

Mr. LONG. Both require unanimous consent.

Mr. BRADLEY. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Mr. President, what is the question before the Chair?

The PRESIDING OFFICER. It is a unanimous-consent request that an amendment by the Senator from Oklahoma and an amendment by the Senator from New York be in order to be offered.

Mr. DECONCINI. What are we talking about as to time? I have the next amendment.

Mr. DOLE. One minute for the Moynihan amendment.

Mr. LONG. We are not seeking to change the order of amendments. We are just seeking unanimous consent that they may be offered.

The PRESIDING OFFICER. It is only on the yielding by the Senator from Michigan that the Senator from Oklahoma has asked unanimous consent, and the yielding was solely for the purpose of seeking the unanimous-consent request.

Mr. DECONCINI. I have on objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Michigan.

Mr. LEVIN. I thank the Senator from Arizona.

Mr. President, this amendment, which I understand is acceptable to the managers of the bill, would add a narrow audit waiver provision to the two audit provisions already in the bill. These waiver provisions allow the Secretary of the Treasury to waive audits under certain limited circumstances.

Under this additional waiver which would be permitted, local governments would continue to be required to obtain audits of the actual accounts into which revenue sharing payments have been deposited. The compliance audit and other requirements of the act must also still be met by those counties.

This is a rather technical change which is discretionary with the Secretary of the Treasury and which I understand is acceptable to the managers of the bill.

This amendment, in which I am joined by Senator Riegle, is an attempt to provide an avenue for local governments to meet unexpected auditing costs during this difficult period without doing violence to the intent of the act.

The situation is unique because these counties were unexpectedly left with the responsibility of completing these financial account audits or submitting a plan for completing such audits in 2 months. For reasons I will explain in a moment, these counties reasonably did not expect to perform these audits. The situation is of course costly, both in dollars and human terms, because of the expense of obtaining the required financial account audits and the economic realities facing the State and county governments.

Section 123(c) of the State and Local Fiscal Assistance Act of 1972 directs the Secretary of the Treasury to provide for such accounting and auditing procedures, evaluations and reviews as may be necessary to insure that State and local government expenditures of revenue sharing funds comply fully with the requirements of the act. When the act was amended in 1976, Congress clarified this provision and established more detailed audit requirements for State and local governments. Units of government receiving $25,000 or more in revenue sharing funds for any Federal fiscal year were to obtain both an audit of all financial accounts and a compliance audit, at least once during the years 1977, 1978, or 1979.

On July 25, 1974, an agreement was signed between the Governor of the State of Michigan, director of the Office of Revenue Sharing (ORS), and former Vice President Gerald Ford. Under the agreement, the State agreed to conduct the audits required by the act and these counties relied upon that. On December 27, 1979, however, Michigan informed the counties and ORS that the State was unable to complete its responsibilities under the agreement.

As a result, these counties were placed in an impossible situation. For obvious reasons, funds for revenue sharing audits had not been budgeted by the counties. The few counties which could find the funds began competing for qualified private auditors at the height of the tax season. This problem was compounded by the fact that private auditors had never conducted revenue sharing audits of county governments because the State had previously performed these audits.

The expense of obtaining all financial account audits is doubly burdensome. The cost of conducting the required all financial account audits for these counties is estimated at between $2.5 million to $4.5 million. Neither the State or counties have the capacity to absorb these costs. With unemployment at 13.5 percent, increased unemployment insurance and public assistance loads have severely drained State resources. While Michigan needs a budget of $5.4 billion to maintain existing programs and keep abreast of inflation, the Governor has announced a series of budget cuts totalling $1.1 billion. Much of this cost cutting will fall directly on county governments in the form of reduced payments for physical and mental health programs and general grants to counties. Counties will have to eliminate some programs or pick up the costs. The unexpected and unplanned expense to the counties of all financial account audits only add to the financial strains facing State and county governments at this time.

Mr. RIEGLE. Mr. President, I am pleased to join with my colleague from Michigan, Senator Levin, to offer an amendment that is very important to scores of financially hard-pressed counties in our State.

Because of circumstances beyond their control, many Michigan counties suddenly found that regulations of the Office of Revenue Sharing will force them to spend tens of thousands of dollars to produce audits of past year accounts. Section 123(c) of the 1976 General Revenue Sharing Act requires all recipient governments to conduct audits of all funds at least once every 3 years according to so-called "generally accepted auditing standards." That will mean a substantial tightening of the past auditing practices of most local governments.

I understand that significant progress is being made toward that goal throughout the country. I know that every county in Michigan has a firm plan for meeting these new auditing requirements, beginning with fiscal year 1980 and continuing in future years.

Michigan counties have a unique problem, however. The problem relates not to their ability to comply this year and in the future but with their ability to go back over past records.

The Michigan State Constitution stipulates that audits of county accounts shall be conducted by the State government. Therefore, county governments have never had to establish their own procedures for auditing and they have budgeted funds for auditing.

In 1974, the Federal Office of Revenue Sharing and the Governor of Michigan signed an agreement that the State would conduct audits of Michigan counties that were required under the 1972 General Revenue Sharing Act.

Two years later, Congress mandated that general revenue sharing audits be conducted according to procedures that are much more costly than those used by the State auditing agency. Because of intense budgetary pressures, the Governor, from year to year, deferred most of the funding for county audits.

Mr. President, to understand this problem, you must realize that the past several years have been very difficult for my State. In fact, State and local government finances had not recovered from the recession of 1974–1975 when they were hit hard again by the current recession. Unemployment in the State is now 13.5 percent, about 6 points higher than the national average. Inflation in the State is three points higher than the national rate. State and local revenues have plummeted while the costs of basic services have risen.

State and local governments in Michigan have for months been implementing unprecedented austerity programs. The State budget is being cut by 20 percent below last year in real terms. About 30 percent of those cuts will be passed on to already hard-pressed local governments.

Finally, just last December, the Governor decided that the State could not afford to pay for the counties' general revenue sharing audits and notified the counties that they would have to meet the Federal requirements on their own.

County governments were already struggling with severe cutbacks in services and personnel, but they moved quickly to comply. They were staggered to learn that the provisions of the General Revenue Sharing Act could force many of them to spend tens of thousands of dollars to produce the audits that were required for fiscal years 1977 through 1979. Moreover, they found a severe shortage of certified public accountants who have experience with auditing county accounts.

Unless Congress takes remedial action, many counties will be forced to fire badly needed service personnel so they can hire accountants to audit accounts that had never received revenue-sharing funds. That makes absolutely no sense.

Senator LEVIN and I have reviewed this problem with numerous county officials in recent weeks. Members of our staffs have discussed this problem and various possible solutions with the Finance Committee staff. All of these discussions have been helpful. It has been obvious to all that we should concentrate scarce resources on improving local auditing procedures as quickly as possible. We should not waste resources on clearing up past books.

I think we have arrived at a solution that would meet everyone's concerns. Our amendment would require counties to complete audits for the years 1977 through 1979 for all accounts that have received general revenue sharing funds. Compared to all-funds audits, this measure would save tens of thousands of dollars for many counties. I want to stress that, under this amendment, all counties would be required to comply fully with the auditing standards beginning with fiscal year 1980.

In one of the State's largest counties, Oakland County, bids for audit of all operating funds have been received in excess of $200,000; audit of revenue-sharing funds received and expended, however, has been estimated to cost up to $75,000.

In another large county, Ingham County, bids to audit all funds have been up to approximately $80,000; audit of revenue sharing funds has been estimated to cost about $14,000.

In counties of intermediate size, such as in Saginaw or Allegan County, bids for audit of all-funds have been from $38,000 to $40,000, with audit of revenue-sharing funds being approximately $3,000 to $4,000.

In smaller Michigan counties, such as in Arenac or Gladwin County, bids are in excess of $20,000 for audits of all accounts; estimated cost of audit for revenue-sharing funds in both counties is about $2,000.

The savings resulting from our amendment are desperately needed by these counties to finance basic services. No national purpose would be served by diverting such large funds to accountant's fees.

Mr. President, this amendment is prudent, and I hope the committee will accept it.

Mr. DOLE. Mr. President, has the amendment been offered?

The PRESIDING OFFICER. The amendment is now pending.

Mr. DOLE. Mr. President, I support the amendment. I think it is a necessary amendment, and I am willing to accept it on voice vote.

The PRESIDING OFFICER. Will Senators yield back the time?

Mr. LONG. Mr. President, I have no objection to the amendment, and unless there are Senators who wish to be heard I yield back the remainder of our time.

The PRESIDING OFFICER. Senators yield back the time.

Mr. LEVIN. Mr. President, I yield back our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 1844) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, there are a number of colleagues here with 1-minute amendments. Mine I anticipate will take 30 minutes and may necessitate a rollcall vote. I hate to impose on their time. They have been here. If it is agreeable to the manager of the bill, I yield to the Senator from Florida on a unanimous-consent request and then to the Senator from New York to handle his amendment. Then I wish to take up my amendment.

The PRESIDING OFFICER. Does the Senator yield the floor at this time?

Mr. DECONCINI. No.

The PRESIDING OFFICER. Time is working against the 30 minutes so long as he holds the floor.

Mr. DECONCINI. Mr. President, that puts me in an awkward position.

I ask unanimous consent that the 30 minutes not apply to the time I have yielded to the Senator from Michigan, the Senator from Florida, and the Senator from New York. I wish to see them get their amendments up.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1845

Mr. CHILES. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself and Mr. BRADLEY, proposes an unprinted amendment numbered 1845.

Mr. CHILES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, between lines 2 and 3 add a new section, as follows:

"ADJUSTMENTS PURSUANT TO SECTION 118 OF PUBLIC LAW 96–369

"SEC. Section 109 of the Act is amended by adding a new subsection, as follows:

"(H) The allocations to States and local jurisdictions shall reflect any adjustments made pursuant to Section 118 of Public Law 96–369, and nothing in this Act shall be construed so as to preclude such adjustments being used for the purpose of allocation."

Mr. CHILES. Mr. President, this is essentially a technical amendment, designed to allow the Office of Revenue Sharing to implement a provision of the first continuing resolution which is Public Law 96–369.

Section 118 of that act provided authority to the President to adjust population estimates for Federal funding formulas to take account of those rare instances where a large inflow of immigrants arrives within 6 months of a decennial census count.

Mr. President, we understand that a variety of administrative data are available to make these adjustments quickly, and at minimal expense. The Office of Revenue Sharing Claims that a full nationwide reestimate of population would be necessary to make changes in their funding formula. We do not accept their interpretation, but in order to eliminate any misunderstanding, this amendment clarifies that these limited adjustments for only those heavily impacted jurisdictions shall be used for the revenue sharing program. We certainly have no desire to have the Federal Government incur the expense of a whole new census. Nor do we wish to delay the revision of funding formulas while waiting for a recount. A quicker, inexpensive solution is available, and this amendment clarifies its application to revenue sharing, and I am certain it will be accepted.

I yield to my colleague from New Jersey.

Mr. BRADLEY. Mr. President, I have the strongest support for the Chiles amendment. I think its intent is clearly stated by the Senator from Florida and its goal is simply not to penalize the municipalities in States that have received large influx of legal immigrants, not to penalize them in general revenue sharing programs.

I think it is a timely amendment and one I think clarifies the intention of certainly the Government of the last year in the long term its attitude toward legal immigrants, and I strongly support the amendment.

Mr. CHILES. Mr. President, I yield to the distinguished Senator from Alabama who wishes to make a statement.

Mr. HEFLIN. Mr. President, I rise to speak in support of full funding of revenue sharing for cities and counties.

Mr. President, many units of local governments, including those in my State, are facing many problems trying to meet the needs of their citizens. The general revenue sharing is one of the most important Federal programs in existence today. It is not a giveaway program. As you know, this was a program enacted in 1972 and at that time a commitment was made between the States, municipalities, and the Federal Government. This was a commitment by those who believe in the constitutional principles of federalism. I am here today to ask that the Members of this body act now to see to it that the Federal Government stands by its commitment. As you, of course, know, throughout its existence the basic purpose of the general revenue sharing program has been to bring about a balance in the total tax revenues going to the Federal, State, and local governments of this Nation.

The general revenue sharing program has the lowest administrative cost of any of the Federal assistance programs, it is distributed on a fair and equitable basis, and provides recipient jurisdictions the much needed flexibility in delivering locally determined services and programs. The revenue sharing program is one of the few programs providing dollars to the States and local governments with no strings attached. It is important that we maintain and support a program that is designed to meet the needs of the citizens as they are perceived by local officials. The funding received by local governments through this program has been crucial to enabling local governments to provide the mucn needed services to its citizens.

A cut in Federal revenue sharing funds would preclude the various county commissions from funding certain social services agencies, some of which originated from Federal programs.

Recently, Mr. President, the director of one of the county commissions on aging in my State wrote to me regarding the revenue sharing program. This county official stressed that the county commission recently approved $3,724 from anticipated revenue sharing funds for the commission on aging. This official wrote:

> The money is needed for matching funds for seven employees slots which have been allocated to this program from the Manpower/ Senior Aid program.

Without these revenue sharing funds, the commission on aging in this county of my State would not be able to operate due to an inadequate number of employees.

Mr. President, the revenue sharing program helps the local governments with their day care programs for the young, hot meals for old folk. We are already facing a loss of the State's share of the revenue sharing program which as you all know would directly affect the passthrough moneys to local governments. Failure to enact legislation providing for full funding for local governments would only add to the States' economic woes. I think we need to take a stand at this time to help the people back home during a period of high unemployment, industrial closings, and so forth—a period of uncertainty.

Mr. President, money worthwhile and money well spent equals revenue sharing for the local governments. We are talking about money for education, fire protection, health care, highways, housing, hospitals, libraries, natural resources, parks and recreation, and police protection. Let me say this about police protection, if the local police are to fight crime and do their jobs well to protect the citizens, we need to help them and we have an opportunity to help the local police forces through this revenue sharing program.

The U.S. Treasury Department, Office of Revenue Sharing reported recently that almost 15 percent of revenue sharing moneys goes for police protection and a large percentage for fire protection. One of the county commissioners of my State recently wrote to me and he sent me an outline of breakdowns of revenue sharing expenditures from fiscal year 1973 to fiscal year 1980. Mr. President, the list on how these funds were spent by this county government is most impressive. Community safety center received 3.46 percent of this local government's revenue-sharing moneys. Fire district training got some money from it and 3.01 percent was spent on apartments for the elderly.

Now if you take a good look at what the local governments do with their money from the revenue sharing program, you will see that 1.5 percent goes for sewage programs. This is a program that does not receive revenue sharing from the State portion. The utility system received money from the local government's share of the revenue sharing program. This is another program that does not receive funds from the State government share. Sanitation other than sewage received 11.5 percent of total expenditures.* So when we talk about the local government's portion of revenue sharing, we are also talking about 12.5 percent of the total function going for fire protection, another item that does not receive funds from the State government.

Cities throughout the country with small populations and small business centers depend on the revenue sharing funds that they receive and in some instances without these funds they would be compelled to close certain of their operations.

Mr. President, I recently met with several city and county officials from my State who came to Washington to meet with me to express their needs for this important program. These officials have provided me with documents showing how this money has been spent. I am very impressed by the quality of their presentations and I am convinced that the revenue-sharing moneys have been put to good use in my State.

I believe that revenue sharing is the best way to get some of the tax dollars back into the local communities. I support a multiyear entitlement program so that local governments may have a realistic basis for their fiscal planning.

If the revenue sharing bill does not pass Congress, there will be many city, town, and county governments across America that will be completely handcuffed fiscally.

I want to see the local communities keep their medical rescue vehicles and equipment and other services. Therefore, I strongly support immediate action by the full Senate to extend the revenue sharing for local governments at full funding with a multiyear entitlement program.

Mr. President, I thank you and the Members of the Senate.

Mr. DOLE. Mr. President, this amendment has been discussed with the members of our staff and I understand there is no objection to it.

I have listened to the Senator's explanation, and it makes a great deal of sense to this Senator and I have no objection to the amendment on this side.

Mr. LONG. Mr. President, I have no objection.

The PRESIDING OFFICER. Do Senators yield back the time?

Mr. CHILES. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Florida.

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*Source: Treasury Department, Office of Revenue Sharing.

The amendment (UP No. 1845) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1840

(Purpose: To require an adjustment in the population data to include an estimate of the number of persons who were not counted in the 1980 census)

Mr. MOYNIHAN. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1840.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, between lines 19 and 20, insert the following new subsection:

(d) POPULATION DATA.—Paragraph (1) of section 109(a) of the State and Local Fiscal Assistance Act of 1972 is amended to read as follows:

"(1) POPULATION.—

"(A) IN GENERAL.—Population shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

"(B) UNDERCOUNT ADJUSTMENT.—The Secretary shall request the Bureau of the Census to adjust the population data provided under subparagraph (A), as soon as practicable to include a reasonable estimate of the number of resident persons not counted in the 1980 census or subsequent revisions thereof. The Secretary shall use such estimates in the calculation of allocations for the next entitlement period beginning after receipt of such estimates.".

On page 5, line 20, strike out "(d)" and insert in lieu thereof "(e).".

On page 6, line 7, strike out "(e)" and insert in lieu thereof "(f)".

Mr. MOYNIHAN. Mr. President, I have set forth the reasons for this amendment. It was adopted unanimously in the Committee on Finance. It is very much in harmony with the response to the problem the Senator from Florida has just presented to us.

It would steadily tax the capacity of the Bureau of the Census to give an accurate, up-to-date count of the population of our States and their lesser jurisdictions.

I understand that the managers of the legislation will support the amendment, and I am very grateful if they do.

Mr. DOLE. Mr. President, at the time this amendment was considered in the Finance Committee the Senator from Kansas did not object, though I did reserve the right to object on the Senate floor. It was part of the Senate Finance Committee bill.

Now we have the House bill so it is necessary for the Senator from New York to add it to this House-passed measure.

I shall not object to the amendment.

I am certain I fully understand its consequences and, therefore, I wish to make a part of the RECORD a statement with reference to the amendment raising some of the questions that have been called to my attention.

I ask unanimous consent to have printed in the RECORD the census adjustment amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CENSUS ADJUSTMENT

Under the Moynihan amendment, Secretary of the Treasury is directed to request the Census Bureau to make an adjustment for possible undercount in the 1980 census. The Finance Committee report on this provision disavows any intent to have this adjustment used for purposes other than revenue sharing.

The provision for an undercount adjustment intrudes into an area not within the jurisdiction of the Finance Committee. Basically, this provision directs the Treasury Department to pressure the Census Bureau to make an undercount adjustment: something the Bureau has resisted doing.

The census issue is politically controversial, and it does not seem advisable to bring up such a controversial matter in connection with revenue sharing. It would be simpler to say nothing at all on the question: the odds are that any adjustment made in the census would be taken account of in the revenue sharing allocation.

If something must be said about census adjustment, it could be provided that, if an adjustment is made, the adjustment will be used in making the revenue sharing allocations. That way no pressure is being exerted to make an adjustment.

The point is not so much who would win and who would lose under a census adjustment. The point is that there would be winners and losers, and this is not a sensible way to go about choosing sides.

The implications of a census adjustment are enormous. The Census Bureau denies it has the power to make an adjustment for purposes of Congressional reapportionment (reapportionment figures are due by December 31, 1980). An adjustment would affect the distribution of funds for many federal programs in different (and unpredictable) ways. If Congress wants to legislate in this thorny area, it should do so directly, not by exerting this sort of indirect pressure.

The census question is also the subject of pending litigation: Federal judges in New York have ordered the Census Bureau to make an adjustment, but the Bureau is still resisting. While the matter is still in the courts, it would be best for Congress not to intervene unless it intends to resolve the question directly.

Mr. DOLE. I have no intention of objecting to the amendment.

Mr. MOYNIHAN. I thank the Senator, and I shall read the statement and provide in tomorrow's RECORD a response if I can do so. I am sure I can satisfy him.

This is a measure which is in the interest of the integrity of the Government's statistics and the perception of them.

I think over the years we will be pleased we have done this.

Mr. President, I yield back my time.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York.

The amendment (UP No. 1840) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, again because of the lateness in the evening and Senators who have amendments that are not controversial, I hope mine is that way also, without losing my 30 minutes on my amendment I will be glad to yield to the Senator from Montana and the Senator from Michigan and then ask unanimous consent to return to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, I thank my friend from Arizona for yielding.

UP AMENDMENT NO. 1846

(Purpose: To eliminate the requirement that Indian tribes and Alaskan Native villages give assurances that revenue-sharing funds will be extended for members of the tribe or village residing in certain county areas)

Mr. MELCHER. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1846.

Mr. MELCHER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

On page 7, between lines 2 and 3, insert the following new subsection:

(f) STATEMENT OF ASSURANCES.—Section 123(a) is amended—

(1) by striking out the semicolon at the end of paragraph (6) and inserting in lieu thereof the following: "; and";

(2) by striking out "; and" at the end of paragragh (7) and inserting in lieu thereof a period; and

(3) by striking out paragraph (8).

Mr. MELCHER. Mr. President, the amendment I am offering today will remove an unnecessary and unfair restriction on the expenditure of revenue-sharing funds by Indian tribes.

Section 123(a) (8) of the General Revenue-Sharing Act of 1972 reads as follows:

In the case of a limit of local government as defined in the second sentence of section 108(d) (1) (relating to governments of Indian tribes and Alaskan Native villages), it will expend funds received by it under subtitle "A" for the benefit of members of tribe or villages residing in the county area from the allocation of which funds are allocated to it under section 108(b) (4).

What this section of the law does is to require Indian tribes whose boundaries cross county lines to expend revenue-sharing funds only in the county in which the funds were received. This creates unneeded problems for the tribal government, and can lead to duplication and the inefficient utilization of revenue-sharing funds. The act does not place such restrictions on any other government units. For example, that restriction does not apply to the city of Atlanta, which is in multiple counties. This section appears to be discriminatory against Indian tribes only.

The Office of Revenue Sharing recognizes the need to adjust this problem, and in their version of the reauthorization of the program, they eliminated section 123(a)(8). I hope that the Finance Committeee will accept this language as part of the bill.

Mr. President, this amendment very simply takes care of an oversight in the existing law in revenue sharing where an Indian reservation overlaps in more than one county. It is a needed amendment. It is a needed correction to the law, and I hope the managers of the bill can accept it.

Mr. DOLE. Mr. President, this amendment has been discussed with the Senator from Montana and also the Senator from Utah, Senator HATCH, who has an interest in the amendment and who may be a cosponsor. But I think it does address a real problem and should be adopted.

Mr. MELCHER. I thank my friend.

Mr. LONG. Mr. President, I have no objection.

I yield back my time.

Mr. MELCHER. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Montana.

The amendment (UP No. 1846) was agreed to.

UP AMENDMENT NO. 1847

(Purpose: To provide procedural safeguards and regulatory flexibility in the administration of Federal financial assistance)

Mr. LEVIN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 1847.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new title:

TITLE IV—PROCEDURAL SAFEGUARDS AND REGULATORY FLEXIBILITY

SEC. 401. PROCEDURAL SAFEGUARDS

Any Federal agency which administers any program of Federal financial assistance to State and local government shall—

(1) provide advance notice to a State or local government of an action by the agency—

(A) to withdraw the provision of Federal financial assistance to such government;

(B) to refuse to renew Federal financial assistance which was provided to such government during the fiscal year prior to the fiscal year for which the action is being taken; or

(C) to withdraw a Federal commitment of funds for any program or project affecting a State or local government where public notice of such Federal commitment to participate has been made;

(2) upon request of any State or local government whose application for assistance has been rejected by the agency, provide such State or local government with an explanation of the reason or reasons for the rejection of the application; and

(3) upon request of a State or local government which has received notice of an agency action under paragraph (1), provide such government with an opportunity to demonstrate why the agency action should not be taken.

This section does not apply where the withdrawal or refusal by a Federal agency is required by law.

SEC. 402. REGULATORY FLEXIBILITY.

(a) IN GENERAL.—Whenever—

(1) a Federal agency which makes grants to States, local governments, and nonprofit organizations adopts a major change in any regulation for the administration of such grants or in any statement or document of the agency specifying conditions for the receipt of such grants, and

(2) in the opinion of the head of the granting agency, any such State, local government, or nonprofit organization has made a substantial commitment of time and expenditures in administering or applying for the grant under the provisions of the regulation, statement or document as in effect prior to such change,

the head of such agency may waive for such State and local government or nonprofit organization compliance with the change in provisions of the regulation, statement or document affecting such grant. The head of an agency shall not grant a waiver that has the effect of diminishing or detracting from any requirement of law or regulation or from fulfillment of the purposes of any affected assistance program.

(b) EXCEPTIONS.—This section does not apply to any change in any regulation, statement, or document which is required by law. This section is not intended to create any new or additional right to sue.

Mr. LEVIN. Mr. President, this amendment embodies a procedural bill of rights for local governments which receive Federal grants.

These provisions were contained in a bill to which Senator SASSER made reference a few moments ago. S. 878, which was unanimously approved by the Governmental Affairs Committee on September 19, 1980, and which was passed on a voice vote by the Senate on December 4, 1980.

Because it is unlikely that this bill, which contains a local bill of rights, will be brought to the floor of the House in this Congress, I hope my colleagues and the managers of the bill will see fit to accept this provision here. It is exactly the same as the amendment which we adopted in committee unanimously and on the floor of the Senate a few months ago. There is no change in it.

This amendment embodies a procedural "bill of rights" for local governments which receive Federal grants.

The amendment would give Federal agencies the authority to waive newly promulgated regulations and requirements for those State and local governments which have made a substantial commitment of time and expenditures under the superseded regulations. This could give recipients of grants some protection from revisions in grant regulations and requirements in the middle of a program. We adopted a similar approach recently on the HUD appropriations bill.

Additionally, the amendment would require Federal agencies to notify State and local governments of funding decisions in three instances; first, when a Federal agency withdraws funds from an on-going project or program; second, when a Federal agency refuses to renew funding for a grant which had been funded in the previous year; and third, when a Federal agency withdraws a public commitment of funds for a State or local program. Where the Federal agency refuses to renew or withdraws funding, the agency would also be required, on request, to give the State or local government an opportunity to demonstrate why agency action should not be taken.

Also where any application for assistance is rejected, agencies would be required, on request, to provide the reason or reasons for their action to the State or local government.

These provisions were contained in a bill which was unanimously approved by the Governmental Affairs Committee on September 19, 1980, and passed here December 4, 1980. Unfortunately, it is unlikely that that bill will be brought to the floor this Congress. It would be a shame for these modest, noncontroversial procedural improvements to go unenacted for this reason. These provisions have been presented and discussed publicly, and no opposition has been raised.

As a former local official myself, I am particularly sensitive to the need for communication and flexibility between State and local governments and Federal agencies. The opportunity for exchange and consultation not only enables the State and local governments to better administer their local programs, but it also provides the Federal agency with meaningful review of its own grant programs. Flexibility in the application of Federal program regulations would also prove invaluable in improved program effectiveness.

A large number of problems encountered by local officials grow out of the Federal agencies' practice of changing regulations in the middle of a program. There is nothing more aggravating and costly to local governments than changing the rules in the middle of the game.

Several specific examples from my experience as a local official affirm the need for the provisions I propose.

For instance, there was a sewer program near Battle Creek, Mich., where the Federal Government, after requiring the local government to put up a local share, and after that money was spent planning the sewer improvement, changed the regulations on Federal eligibility so that the sewer plan was no longer eligible.

The cost to local governments of midstream changes in regulation include not only the actual cost of complying with the changes but the cost of determining what the impact of those changes will be. In Wisconsin, for example, it was estimated that every time a Federal regulation changes, it costs the State $50,000 a year just to determine what changes must be made. Where there is a midstream change in regulations, the Federal agency should, at a minimum, have the power to allow the local government to abide by the earlier set of regulations once work has begun or the local government has taken substantial action pursuant to the earlier regulations.

An additional set of problems are created for State and local governments because of the lack of prompt Federal agency notice when funding decisions are reached, and the absence of any opportunity for the State or local government to learn the reasons for those decisions.

A number of years ago, the Federal Bureau of Prisons notified Detroit that it wished to build a Federal detention center in downtown Detroit across the street from the Federal courthouse. The city agreed and set aside some valuable land which remained off limits to other development for a number of years. The Federal Bureau of Prisons requested an appropriation from the Congress and the appropriation was approved. Recently, the Federal Bureau of Prisons, without any notice to the city decided to cancel the project and so informed the Appropriations Committees of the House and the Senate which began reprograming the funds.

The consequences of this decision were quite damaging financially to the city; the valuable land had sat idle for years, generating no revenue and forestalling needed development. Yet the decision was not communicated directly to the city, and was only revealed eventually by rumor.

When a local government has acted in reliance on an announced Federal project, the least the Federal agency should do is to notify the local government prior to reaching a final decision to drop the project.

The amendment will require an agency to provide State or local governments, upon their request, with explanations of their actions. The process created by these provisions will create an opportunity for improved consultation and more frequent contact among agency personnel and State and local officials. Finally, the process should help assure all parties in the Federal assistance system that specific and reasoned procedures are in place to guarantee the effectiveness of grant programs.

One other small point, to avoid any ambiguity in the implementation of this amendment it is my intention as its author, that the words "or regulation" means, of course, or "other" regulation.

Although most of the examples I have mentioned are based on my experience in Michigan, I know that most of my colleagues have heard similar examples from local governments in their own States. This amendment offers the opportunity to insure fairness and commonsense and at the same time contribute to the overall simplification and streamlining of all Federal assistance programs.

Mr. President, I would also note particularly to the managers of the bill that this is the same situation we were in about 10 minutes ago relative to Senator Sasser's amendment where that amendment was a small part of a bill which had been accepted by the Senate previously. This amendment which I am offering now is another small part of the same bill which had been accepted by the Senate some months ago.

●Mr. SASSER. Mr. President, I rise to speak on the amendment of my distinguished colleague, Senator Levin. This amendment assures a voice in the grants process to State and local governments. It gives them the opportunity to comment when a Federal agency takes action to withdraw or refuse to renew grant funds. And it allows State or local government officials the opportunity to approach an agency to show why their application for assistance should not be rejected.

An important aspect of Senator Levin's bill of rights for State and local governments is the encouragement of flexibility on the part of a grant-making agency when major changes are made in a regulation in midstream—that is, after a grant recipient has made a substantial commitment of time and resources toward compliance with a superseded administrative requirement.

The State or local government which accepts a Federal grant accepts a great responsibility. This responsibility cannot be fairly and adequately met unless those who administer the grant have some opportunity to comment within the grant process. They should be allowed to make their concerns known.

Senator Levin testified before the subcommittee on Intergovernmental Relations which I chair. His concerns grow out of his actual experiences as president of the city council in Detroit—with the fact that the city officials there felt that they were shut out, that they had no voice, in decisions that were made in Washington about their Federal grants.

I endorse the concept of Senator Levin's amendment and I give it my support.●

Mr. LEVIN. Mr. President, my understanding with the Senator from Arizona was that I would only seek his consent to proceed this way if this amendment were acceptable to the managers, and I do want to carry out that commitment. At the same time, I give my thanks to my friend from Arizona.

Mr. LONG. Mr. President, in view of the fact that the Senate has previously passed this measure, I assume the Senate can vote the same way again and I am prepared to accept the amendment.

I yield to the Senator from Kansas.

Mr. DOLE. The Senator from Kansas understands this was approved by the Senate Governmental Affairs Committee on September 19, 1980, and passed as a part of the Federal Assistance Act of 1980 on December 1, 1980.

It has already passed this body one time, and I think it is a good amendment, and I certainly have no objection to it.

Mr. LEVIN. I thank my friend and I yield back the remainder of my time.

The PRESIDING OFFICER. All Senators having yielded back their time, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP amendment No. 1847) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1848

(Purpose: To eliminate nonentitlement allocations to State governments)

Mr. DeCONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DeConcini) for himself, Mr. Proxmire, Mr. Bumpers, Mr. Chiles, Mr. Bentsen, and Mr. Bellmon proposes an unprinted amendment numbered 1848.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike out lines 5 through 25.

On page 3, line 1, strike out "(2) State share allocation" and insert in lieu thereof "(b) State Share Allocation".

On page 3, strike out line 6.

On page 3, line 7, strike out "(A)" and insert in lieu thereof "(1)".

On page 3, line 9, strike out "(i)" and insert in lieu thereof "(A)".

On page 3, line 13, strike out "(ii)" and insert in lieu thereof "(B)".

On page 3, line 16, strikeout "(B)" and insert in lieu thereof "(2)".

On page 3, line 18, strike out "(i)" and insert in lieu thereof "(A)".

On page 3, line 23, strike out "(ii)" and insert in lieu thereof "(B)".

On page 4, strike out lines 3 through 23.

On page 5, line 7, strike out "and".

On page 5, between lines 7 and 8, insert the following new subparagraph:

(B) by striking out subparagraph (C) of subsection (b)(7) and inserting in lieu thereof the following:

"(C) Adjustment for application of limitation.—In any case in which the amount allocated to a unit of local government is reduced under paragraph (6)(C) by the Secretary, the amount of that reduction—

"(i) in the case of a unit of local government (other than a county government), shall be added to and increase the allocation of the county government of the county area in which it is located, unless (on account of the application of paragraph (6)) that county government may not receive it, in which case the amount of the reduction shall be reallocated in accordance with subparagraph (D); and

"(ii) in the case of a county government, shall be reallocated in accordance with subparagraph (D).

"(D) Reallocation of excess amounts.—Amounts reallocated under this subparagraph shall be added to and increase the entitlements—

"(i) first, of units of local government within the State, to the extent that such units may (after the application of paragraph (6)) receive such a reallocation, and

"(ii) then, if no unit of local government may receive such an allocation on account of the application of paragraph (6), among all units of local government within the State on a pro rata basis."; and

On page 5, line 8, strike out "(B)" and insert in lieu thereof "(C)".

Mr. DECONCINI. Mr. President, this amendment strikes the authorization in H.R. 7112 for State participation in Federal general purpose fiscal assistance for fiscal years 1982–85, at a potential cost of $4.6 billion. Authorization for the State share was eliminated by the House Committee on Governmental Operations but restored on the House floor. The Senate bill, S. 2574, contains a similar authorization. The rationale for deleting the State share is simple and twofold: The Federal Government cannot afford it and the States do not need it.

The Federal deficit for fiscal 1980 was $59 billion. The national debt stands at over $900 billion and at the current rate we are generating red ink in the Federal budget, a trillion dollar debt is just a few short months away. The second concurrent budget which was adopted last month projects a deficit of $27.4 and worsening economic conditions may already have rendered its assumptions invalid. In fact, it seems probable that with continued double-digit inflation, sky-rocketing interest rates, and unemployment hovering around 7 percent and likely to increase as the current recovery stalls, the gap between revenues and outlays will be much larger than anticipated.

Mr. President, it is widely, if not universally, agreed that deficit spending by the Federal Government is one of the important factors fueling the inflationary pressures that are responsible for the economic turbulence that has overtaken this country. If we are to make headway toward restoring the kind of economic stability that real growth, productivity and prosperity require, it is essential to get the Federal budget under control. There can be little question that a balanced budget will have a positive effect in this connection. On that point, there is little disagreement.

Unfortunately, balancing the budget is sort of like the weather: Everyone talks about it, but no one does much about it.

Authorization of over $4.5 billion in additional expenditures over the next 2 fiscal years is indisputably an invitation to State governments and the interest groups which are their allies to press for the actual appropriation of those funds. That is why I think it is imperative we take the step now in eliminating the authority for the State share. It will put the States unequivocally on notice that they will have to find other means of financing their activities.

I said earlier that the States do not need revenue sharing. Perhaps I should have said, to be more exact, that State governments need it less than the Federal Government. I have here two tables taken from the fiscal survey of the States 1979–80, by the National Governors' Association Center for Policy Research and the National Association of State Budget Officers. I ask unanimous consent that they be inserted in the RECORD at this point. It should be emphasized that these figures refer to actual operating funds aggregates, exclusive of pension funds and other assets on a State's overall financial ledger.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE A-1.—PROJECTED STATE GENERAL OPERATING FUND RESOURCES, EXPENDITURES AND BALANCES, FISCAL YEAR 1980

[Dollar amounts in millions]

	1980 projected resources (including 1979 balances forward)	1980 projected expenditures	1980 projected balance	1980 projected operating balance as percentage of 1980 expenditures
Alabama	$1, 538. 2	$1, 538. 2	0	0
Alaska	2, 827. 4	1, 260. 4	$1, 567. 0	124. 3
Arizona	1, 357. 1	1, 170. 1	187. 0	16. 0
Arkansas	823. 3	823. 3	0	0
California	20, 410. 2	18, 575. 6	1, 834. 6	9. 9
Colorado	1, 450. 0	1, 246. 0	204. 0	16. 4
Connecticut	2, 388. 3	2, 388. 0	. 3	. 01
Delaware	644. 1	609. 9	34. 2	5. 6
Florida	3, 805. 8	3, 686. 5	119. 3	3. 2
Georgia	2, 895. 2	2, 814. 8	80. 4	2. 8
Hawaii	1, 105. 9	994. 0	111. 9	11. 3
Idaho	378. 0	357. 6	20. 4	5. 7
Illinois	8, 540. 0	8, 140. 0	400. 0	4. 9
Indiana	2, 215. 4	2, 014. 1	201. 3	10. 0
Iowa	1, 819. 5	1, 749. 2	70. 3	4. 0
Kansas	1, 291. 8	1, 135. 1	156. 7	13. 8
Kentucky	1, 890. 0	1, 866. 5	23. 5	1. 2
Louisiana	3, 572. 2	3, 317. 2	255. 0	7. 7
Maine	540. 2	524. 4	15. 8	3. 0
Maryland	2, 828. 4	2, 632. 8	195. 6	7. 4
Massachusetts	3, 922. 8	3, 903. 1	19. 7	. 5
Michigan	4, 696. 7	4, 696. 7	0	0
Minnesota	3, 914. 4	3, 767. 2	147. 2	3. 9
Mississippi	996. 2	982. 5	13. 7	1. 4
Missouri	2, 159. 5	1, 931. 7	227. 8	11. 8
Montana	258. 3	238. 2	20. 1	8. 4
Nebraska	649. 5	610. 5	39. 0	6. 4
Nevada	407. 2	352. 4	54. 8	15. 5
New Hampshire	266. 7	248. 5	18. 2	7. 3
New Jersey	4, 806. 0	4, 662. 0	144. 0	3. 1
New Mexico	790. 0	780. 1	9. 9	1. 3
New York	12, 863. 6	12, 853. 3	10. 3	. 1
North Carolina	2, 873. 4	2, 844. 7	28. 7	1. 0
North Dakota	412. 2	308. 9	103. 3	33. 4
Ohio	4, 771. 8	4, 561. 4	210. 4	4. 6
Oklahoma	970 4	855. 5	114. 9	13. 4
Oregon	1, 461. 3	1, 459. 5	1. 8	. 1
Pennsylvania	6, 366. 8	6, 322. 5	44. 3	. 7
Rhode Island	690. 7	662. 2	28. 5	4. 3
South Carolina	1, 544. 4	1, 539. 0	5. 4	. 4
South Dakota	229. 7	224. 1	5. 6	2. 5
Tennessee	2, 686. 0	2, 677. 0	9. 0	. 3
Texas	4, 247. 8	4, 067. 0	180. 8	4. 4
Utah	750. 1	750. 1	0	0
Vermont	228. 8	227. 1	1. 7	. 7
Virginia	2, 663. 6	2, 468. 8	194. 8	7. 9
Washington	3, 660. 8	3, 461. 5	199. 3	5. 8
West Virginia	1, 056. 0	1, 043. 0	13. 0	1. 3
Wisconsin	3, 375. 8	3, 281. 1	94. 7	2. 9
Wyoming	316. 2	230. 4	85. 8	37. 0
Total	136, 357. 7	128, 853. 7	7, 504. 0	5. 8

Note: Totals reflect rounding.

TABLE A-2.—STATE GENERAL OPERATING FUND RESOURCES, EXPENDITURES AND BALANCES, FISCAL YEAR 1979

[Dollar amounts in millions]

	1979 resources (including 1978 balances forward)	1979 actual expenditures	1979 actual balances	1979 actual operating balance as percentage of 1979 expenditures
Alabama	$1, 468. 5	$1, 447. 9	$20. 5	1. 4
Alaska	1, 767. 3	1, 098. 9	668. 4	60. 8
Arizona	1, 185. 2	1, 068. 0	117. 1	11. 0
Arkansas	777. 1	777. 1	0	0
California	18, 880. 0	16, 199. 9	2, 680. 1	16. 5
Colorado	1, 279. 0	1, 111. 0	168. 0	15. 1
Connecticut	2, 223. 2	2, 222. 2	1. 0	. 04
Delaware	594. 2	545. 8	48. 4	8. 9
Florida	3, 355. 3	3, 122. 8	232. 5	7. 9
Georgia	2, 867. 1	2, 759. 2	107. 9	3. 9
Hawaii	957. 1	890. 2	66. 9	7. 5
Idaho	326. 4	316. 3	10. 1	3. 2
Illinois	7, 142. 0	6, 752. 0	390. 0	5. 8
Indiana	2, 109. 3	1, 776. 6	332. 7	18. 7
Iowa	1, 655. 5	1, 564. 8	90. 7	5. 8
Kansas	1, 162. 7	966. 7	196. 0	20. 3
Kentucky	1, 805. 0	1, 725. 0	80. 0	4. 6
Louisiana	3, 099. 1	2, 692. 1	407. 0	15. 1
Maine	511. 3	484. 9	26. 4	5. 5
Maryland	2, 628. 0	2, 309. 0	319. 0	13. 8
Massachusetts	3, 736. 7	3, 540. 1	196. 6	5. 6
Michigan	4, 377. 8	4, 347. 7	30. 1	. 7

	1979 resources (including 1978 balances forward)	1979 actual expenditures	1979 actual balances	1979 actual operating balance as percentage of 1979 expenditures
Minnesota	3,583.8	3,325.1	258.7	7.8
Mississippi	959.2	887.5	71.6	8.1
Missouri	1,858.9	1,542.4	316.5	20.5
Montana	267.6	239.0	28.6	12.0
Nebraska	585.4	524.0	62.4	11.9
Nevada	420.3	332.1	88.2	26.6
New Hampshire	245.3	216.7	28.6	13.2
New Jersey	4,653.0	4,435.0	218.0	4.9
New Mexico	754.6	709.2	45.4	6.4
New York	11,941.6	11,931.4	10.2	.1
North Carolina	2,671.9	2,484.3	187.6	7.6
North Dakota	447.1	298.5	148.6	49.8
Ohio	4,237.0	3,879.7	357.3	9.2
Oklahoma	834.4	736.0	98.4	13.4
Oregon	1,214.3	1,075.7	138.6	12.9
Pennsylvania	5,891.6	5,861.1	30.5	.5
Rhode Island	647.7	605.8	41.9	6.9
South Carolina	1,415.3	1,401.9	13.4	1.0
South Dakota	205.1	194.2	10.9	5.6
Tennessee	2,338.0	2,330.0	8.0	.3
Texas	4,092.4	3,471.6	620.8	17.9
Utah	643.2	627.7	15.5	2.5
Vermont	228.4	228.4	0	0
Virginia	2,545.5	2,407.7	137.9	5.7
Washington	3,248.7	2,829.1	419.6	14.8
West Virginia	1,000.0	953.0	47.0	4.9
Wisconsin	3,410.9	3,130.3	280.6	9.0
Wyoming	275.3	162.0	113.3	69.9
Total	124,525.3	114,537.6	9,987.7	8.7

Note: Totals reflect rounding.

Mr. DeCONCINI. The data arrayed in these tables are very instructive. In 1979, for example, State governments in the aggregate enjoyed a surplus of almost $10 billion dollars. For the same fiscal year, the Federal deficit was $27.7 billion dollars.

Moreover in 1979, 48 out of 50 States had a surplus and for 1980, 45 of 50 States project revenues in excess of expenditures.

During this same period, Mr. President, the States have adopted tax reductions and new tax preferences totaling $3.3 billion. These were partially offset by increases slightly in excess of $1 billion leaving a net decrease in aggregate State revenue effort of about $1 billion. For these reasons, Mr. President, I do not believe authorization and funding for a State share of general purpose fiscal assistance is justified, and I urge the adoption of this amendment.

Let me say at this point, Mr. President, I have supported revenue sharing, and do support revenue sharing, for cities and counties. Cities and counties in most States, and particularly in the State of the Senator from Arizona, have no ability to accumulate surpluses. They are in a different situation from States where we have the figures as they have been presented by the tables I have previously submitted.

I hope, Mr. President, we realize that this kind of deficit spending no longer is going to be tolerated by the people of this country. I realize the good purpose and the need for revenue sharing when it was begun some years ago, and I still realize the need for it for cities and towns which cannot accumulate any surplus money.

But when we have States with the surpluses they have today it seems to the Senator from Arizona it is time to ask them to find their own funds and let us on the Federal level balance the Federal budget.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DeCONCINI. I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. I congratulate the Senator from Arizona on this amendment. It is an excellent amendment. It would reduce spending over the next 4 years, as I understand it, by $9.2 billion, $2.3 billion a year.

If there is any action Congress can take to combat inflation it is crystal clear it is to cut Federal spending.

If there is any message we got in the 1980 elections it was to hold down Federal spending and to fight inflation.

The Senator points out that we have an enormous deficit in the last fiscal year. We face very, very big deficits. We undoubtedly will have another deficit in 1982, in 1983, and in 1984 unless we take this kind of action.

Furthermore, the Senator pointed out how devastating the interest rates are. We had a lot of comment on the floor about high interest rates.

Mr. President, the one action we can surely take to reduce the pressures shoving up interest rates is to balance the budget and stop the deficit. What does the deficit do? It pushes the Federal Government, as the biggest borrower in the country, into the marketplace in order to borrow money which in turn, drives up interest rates.

The one action we can take is a painful action. It is a painful action and tough action. The Senator from Arizona has no illusion about how hard it is to get this accepted. The action we can take which surely will help us balance the budget and ease the deficit, ease the pressure on prices and hold down the pressure on interest rates is to do exactly what he is offering today, by far the biggest amendment offered that would go in this direction.

I congratulate my good friend from Arizona on an excellent amendment and I am delighted to support it.

Mr. DeCONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, I thank the Senator from Wisconsin. He points out something that I did not go into in detail, and that is the interest rates. I thank the Senator from Wisconsin for making that crucial point about balancing the budget. We are trying to control the flow of money in this country through interest rates and it is working, as we know.

The thing that is going to work, if anything works, is to balance the budget.

Mr. President, I ask unanimous consent that the Senator from Texas (Mr. BENTSEN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, is the Senator from Florida listed as a cosponsor?

Mr. DeCONCINI. Yes.

Mr. CHILES. Mr. President, I associate myself with the remarks the Senator from Arizona and the Senator from Wisconsin have made.

It just seems to me, at a time in which we are trying to find ways that we are going to bring the Federal budget into balance and into focus, that we ought to really be looking at where our priorities are. When we see that now the States do a have a capability, that they show that they have that capability, they have surpluses, now is not the time to be continuing in this direction.

This bill, I think, can do something for the cities and municipalities and county governments and we are attempting to do that.

Mr. President, Americans are frustrated by the growth in Federal spending, and they want to see it curtailed. I ask unanimous consent to have printed in the RECORD a table that shows the growth in Federal spending as a percent of GNP.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—GOVERNMENT OUTLAYS AS A PERCENT OF GROSS NATIONAL PRODUCT

Calendar year	Federal outlays	Federal aid to State and local/GNP	State and local expenditures: (a) Aid counted as Federal expenditure	State and local expenditures: (b) Aid counted as State and local expenditure	Total Government outlays/GNP
1940	10.0	NA	8.5	NA	18.4
1945	39.8	(0.5)	3.8	4.3	43.7
1950	14.3	(.8)	7.1	7.9	21.3
1955	17.1	(.8)	7.5	8.3	24.5
1960	18.4	(1.3)	8.6	9.9	27.0
1965	18.0	(1.6)	9.3	10.9	27.3
1970	20.8	(2.5)	11.0	13.5	31.7
1974	21.2	(3.1)	11.2	14.3	32.4
1975	23.3	(3.6)	11.5	15.1	34.8
1976	22.7	(3.6)	10.9	14.5	33.6
1977	22.4	(3.6)	10.6	14.2	33.0
1978	21.9	(3.6)	10.6	14.2	32.5
Fiscal year 1979	21.3	(3.6)			
Fiscal year 1980	23.0	[1] (22.3)			
Projected fiscal year 1981	22.7	[1] (21.8)			

[1] 1st budget resolution projections, Apr. 9, 1980.

Mr. CHILES. Federal outlays have grown from 14 percent of GNP in 1950 to 20 percent in 1970. And they are projected to reach over 22 percent of GNP in fiscal year 1981.

Mr. President, I ask unanimous consent to have a second table printed in the RECORD that shows State and local governments are relying more and more on the Federal Government to perform their basic functions.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—TRENDS IN FEDERAL AID TO STATE AND LOCAL GOVERNMENTS

	Federal aid outlays as a percent of—: Total Federal outlays	Federal aid outlays as a percent of—: State and local expenditures
Fiscal year (1):		
1950	5.3	10.4
1955	4.7	10.1
1960	7.6	14.7
1965	9.2	15.3
1970	12.2	19.4
1975	15.3	23.1
1976	16.1	24.4
1977	17.0	25.8
1978	17.3	26.4
1979	16.8	25.6
1980	15.8	25.3
Conference agreement (2):		
1981	14.6	NA
1982	13.9	NA
1983	13.6	NA

Mr. CHILES. Mr. President, table 2 shows that Federal aid grew from 23.1 percent of State and local expenditures in fiscal year 1975 to a peak of 26.4 percent in fiscal year 1978. It has only declined to 25.3 percent in fiscal year 1980. That is over a quarter of their entire budgets.

I am very concerned by these figures. I am in favor of returning responsibility for financing decisions to States and localities, but I also think they should share in the taxing responsibility. We are seeing some States offer tax relief to their taxpayers, while the State officials are looking to the Federal Government for continued aid. Also, many States have been demanding a constitutional amendment to require a balanced Federal budget. At the same time, they are calling out for more aid from Washington.

They cannot have it both ways.

Local governments, on the other hand, are experiencing harder financial times. Local governments do not have the same broad tax base that State governments have. Local governments in the United States obtain 81 percent of their revenues from levies on property, while State governments obtain 86 percent of their revenues from income and sales taxes. It is my understanding that 44 percent of the States now have income taxes.

Income and sales taxes are much more sensitive to economic cycles than property taxes are. During periods of inflation, income and sales taxes respond very quickly and provide more revenue to the States. Property taxes, on the other hand, stay much more stable and the revenue they provide for localities does not keep pace with inflation. As a result, many States are experiencing surpluses, while localities are being forced to cut back on crucial programs.

I know that in my State, the local share is vital to Florida's communities. Since Florida is highly dependent on the tourist and housing industries, the present recession coupled with high inflation has hit Florida's municipal governments very hard. With the high price of travel these days, many people are postponing their vacations or staying near their homes for recreation. Also, with interest rates soaring, new housing starts are at an all-time low in Florida.

And the refugee crisis has added to the financial burdens of many local governments. Although extra Federal expenditures are helping to pay some costs, local governments in Florida are still bearing much of the burden of our Federal refugee policy.

These and other costs are pushing up local expenditures faster than tax revenues are increasing.

Not long ago, we agreed to a budget resolution that continued the local share, but deleted the State share of revenue sharing. We have to stick by that budget commitment.

We were pushed off our track toward a balanced budget this year because of the national economic situation. We are now hoping to move toward a balanced budget by 1982 or 1983. With our entitlement programs increasing, we cannot give up over $2 billion for the State share in 1982 and 1983 if we hope to get a balanced budget.

That is why we have to make the cuts this year, and make them permanent. Getting on a long term track of controlling spending is the only way we will ever get a balanced budget.

I am tired of seeing people stand up and talk about fiscal restraint, and then hear them say, "Well, we're going to vote for funding here, but we'll be pushing for cuts in other areas next year." Every time we act to make some cuts, there are people saying, "I'll vote for cuts, I think the budget should be cut," and then they say, "But don't cut this program."

I have never voted for a bad appropriation. Every dollar we authorize to be spent is needed by somebody somewhere. But we have to draw the line somewhere, and the State share of revenue sharing is one place where the cuts will not be devastating. The States do not need the program, and the Federal Government cannot afford it.

If we are going to be successful in cutting back on spending, we have to look at the overall picture, and take a firm stand on some real cuts.

I urge my colleagues to join me in living up to our commitment of fiscal restraint by voting in favor of this amendment.

Mr. LONG. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Arizona may be exactly correct. I am not certain whether I may not join him next year in this effort.

But we have just gone through an exercise which we won by one vote in trying to keep out the $2.3 billion in fiscal year 1981, and I found many of my "conservative" friends supporting that effort to put back $2.3 billion.

I am certain that this amendment has merit or it would not be offered by the distinguished Senator from Arizona. I may join the Senator next year, but I would suggest, on the basis of the experience we had a few moments ago, that we might dispose of this on a voice vote. If not, although it is not clear that my support would make any difference, I would be compelled to vote against the amendment at this time. Perhaps next year the Senator will have a majority in favor of such action. Certainly there will be more support, in general, for measures to impose greater fiscal restraint on the Federal Government.

Mr. LONG. Mr. President, I yield to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise to oppose the amendment of the Senator from Arizona. I think that what he seeks to do is to strike out the State sharing in the outyears when we have no idea what the circumstances might be in the outyears. The bill as it is presently constituted provides that flexibility for fiscal years 1982 and 1983. The Senate always has the option to refuse to appropriate the funds, even if they are authorized for the outyears.

It is important, I think, to put into place the general revenue-sharing program that recognizes the full intent of the original legislation in 1972, and that certainly did include the States' share of revenue sharing.

Mr. President, there are arguments made that we have heard today that the States do not need the revenues. We know that the surpluses in the States are not evenly distributed over all States but are concentrated in a few States. We also know that States are not free of debt. They have capital budgets that are problems, unfunded liabilities in their pension systems, and the State portion of Federal-State unemployment that creates major liabilities for them.

Also, Mr. President, I think it is wise to point out that financial analysts such as bond rating services judge a State's soundness, at least in part, by the size of its surplus. According to Standard & Poor, the surplus should be better than 5 percent of State expenditures.

Mr. President, 6 months ago only one-third of the States in this country could claim such a surplus. The erosion of State finances is clearly due to the recession and it will reduce this number even considerably from that number several months ago.

Mr. President, I urge the Senate to do what it has done several times in the past year, which is to reject the attempt to strike at the outyear core of the general revenue-sharing program in the States' share.

Mr. LONG. Mr. President, I yield myself 2 minutes.

Mr. President, I would debate this amendment at greater length if the hour were not late and if I thought this were going to be a close vote.

Mr. President, as hard as the Senator from Kansas and I worked in order to defeat an amendment to put more money back in for revenue sharing over and above what the committee did, I do not believe the amendment is going to be agreed to. So I think we should not take a long time debating it at this hour of the night.

The Senator has a good point, but it was discussed in the committee and the amendment was voted down by a vote of 12 to 6. The significant thing to me was it did not get a single Republican vote in the committee.

Now, at some future point, the Senate might want to do this, Mr. President, but I do not think the Senate wants to do this tonight.

Therefore, I urge that the Senate not agree to the amendment. I hope that we could vote on it and get on with the business because many Senators have commitments to be elsewhere. I hope we could vote on the bill as soon as possible.

● Mr. JEPSEN. Mr. President, I rise in opposition to the DeConcini amendment which seeks to eliminate the authorization of the State share of revenue sharing to the States. The amendment is a direct attack on the preservation and integrity of the general revenue sharing program.

Although I recognize that the Senator is sincere in his amendment, the Senator's amendment major flaw is its lack of appreciation for the merits of the program and what it offers to State and local control of local dollars.

Mr. President I would consider it a disaster if we here tonight in the closing days of this Congress totally unravel a program which is the best vehicle for returning power back to the States.

Another flaw in this amendment is that if adopted it would undo the long and hard-fought process which has been established at the local level to assist local officials in administering their communities. I wish to emphasize as a former county supervisor, State Senator and Lieutenant Governor that one of the major problems with local government is that prior to general revenue sharing there was a complete and total reliance on the Federal Government to respond to the needs of State and local governments.

In the past, the primary emphasis to assist local governments was centered on costly categorical programs. Furthermore, local officials were not encouraged to coordinate or to administer Federal dollars at the local level. This situation cannot be allowed to repeat itself again.

I strongly object to the amendment. It is bad policy. It rejects the established belief that government which governs best, governs closest to home.●

The PRESIDING OFFICER (Mr. Proxmire). Who yields time?

Mr. LONG. Mr. President, does the Senator desire the yeas and nays?

Mr. DeCONCINI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DeCONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, I realize that the distinguished chairman, the ranking member of the Finance Committee, and the Senator from New Jersey make some points about the consideration of this at certain times and at certain periods, and when we are going to do it, and what have you. I am appreciative of their concern to approach balancing of the budget and reducing any Federal programs in an organized manner so as not to upset the economy or the States.

But, Mr. President, the time has come and it is going to come again next year. It is going to come again until the Federal Government balances the budget.

The Senator from New Jersey pointed out that the State surpluses help them to be able to borrow money and to finance their bonds, and what have you. The Federal Government does not have that problem. The Federal Government just prints the money. The Federal Government just goes to the market every day or every week.

As we continue to do that, we continue to send a message out to this country that, yes, we are talking about a balanced budget but we do not have the courage to say "Stop going to the market for those dollars; stop competing with private industry and individuals who need the dollars for capital investment to increase productivity."

I do not know how else to do it. I am sure there are many other ways. I voted for some of them and I voted against some of them for one reason or another. But it seems to me that here is a clear place that we do have to do it. We are not going to throw these States into a position where they cannot function. Thirty-eight of them now have surpluses. Why should the Federal Government, with a large deficit, continue to finance the surpluses?

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. DeCONCINI. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Arizona (Mr. DeConcini). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Stewart), the Senator from Georgia (Mr. Talmadge), and the Senator from Massachusetts (Mr. Tsongas) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 26, nays 56, as follows:

[Rollcall Vote No. 518 Leg.]

YEAS—26

Baucus
Bellmon
Bentsen
Biden
Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Cranston
DeConcini
Eagleton
Exon
Glenn
Helms
Johnston
Laxalt
Nelson
Nunn
Proxmire
Schmitt
Simpson
Stevenson
Stone
Zorinsky

NAYS—56

Armstrong
Baker
Boschwitz
Bradley
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Ford
Garn
Hatch
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Kassebaum
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevens
Thurmond
Wallop
Warner
Weicker
Williams

NOT VOTING—18

Bayh
Cannon
Church
Culver
Durkin
Goldwater
Gravel
Hart
Hatfield
Kennedy
Magnuson
McGovern
Ribicoff
Stewart
Talmadge
Tower
Tsongas
Young

So Mr. DECONCINI's amendment (UP No. 1848) was rejected.

UP AMENDMENT NO. 1849

(Purpose: To amend the Walsh-Healey Act and the Contract Work House Standards Act to permit certain employees to work a ten-hour day in the case of a four-day workweek.)

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I have an amendment at the desk. I ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1849.

Mr. BELLMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new sections:

Section 1 (c) of the Act of June 30, 1936, commonly known as the Walsh-Healy Act (41 U.S.C. 35) is amended by inserting before the colon a comma and the following: "or, in the case of a four-day workweek, in excess of ten hours in any one day or in excess of forty hours in any one week".

Sec. . Section 102 (a) of the Contract Work Hours Standards Act (40 U.S.C. 328) is amended by adding at the end thereof the following new sentence: "In the case of a four-day workweek, the increased rate of pay provided by the preceding sentence shall apply only to hours worked in excess of ten hours in any calendar day, or in excess of forty hours in the workweek, as the case may be."

Sec. . The amendments made by Sec. and Sec. of this Act shall not affect collective bargaining agreements in effect on the date of enactment of this Act.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. BELLMON. Mr. President, is there a time limitation on this?

The PRESIDING OFFICER. There is a half hour, equally divided, on each amendment.

Mr. BELLMON. Mr. President, I am agreeable to shortening the time if there are others who would be agreeable.

Mr. WILLIAMS. Mr. President, it probably would be possible to shorten the time.

Mr. BELLMON. Mr. President, this amendment will allow Government contractors the option of having a 4-day workweek.

At present, the laws governing Federal contractors require the payment of overtime after 8 hours in each day, thus effectively precluding a 4-day workweek in the case of competitively bid contracts. These laws—the Walsh-Healey Act and the Contract Work Hours Standards Act—make an 8-hour, 5-day workweek the standard for Government contractors. Businesses operating without Government contracts are governed by the Fair Labor Standards Act, which simply requires the payment of overtime after 40 hours in each week and therefore permits more flexibility in work scheduling. I might point out that Federal employees are permitted greater flexibility under the Federal Employees Flexible and Compressed Work Schedules Act. Therefore, Mr. President, Government contractors are in the peculiar situation of having the least amount of flexibility in work scheduling, and I can find no reason why this should be so.

Some employers, who operate their private businesses on a 4-day workweek, feel they cannot bid on Government contracts because they would be required to establish a separate, 5-day, 8-hour work schedule for the Government business. Others, who have ongoing Government contracts, would like to switch to a 4-day workweek, but cannot do so because they have bid competitively for the contract and would have to come up with 8 hours of overtime pay per employee per week from some source other than the Government contract. This amendment would remove the overtime requirement after 8 hours for Government contractors and would make it applicable after 10 hours, thus permitting Government contractors the flexibility to shorten the workweek, if that is desirable.

My amendment, Mr. President, would not mandate a 4-day workweek, but would simply make it possible where it is now impossible. The desirability of a 4-day workweek can be very beneficial. Greater productivity resulting from higher weekly output, reduced absenteeism, less tardiness, and lower turnover have been cited by some who have tried the 4-day week. Others have noted the improvement in working conditions which allow more leisure time for employees and reduced employee working costs, such as commuting fares, restaurant lunches, and child care. Still others note that energy conservation resulting from a reduction in commuting fuel costs and reduced energy for heating and cooling plants or offices is a beneficial result.

We should not be in the position of forbidding the option of a 4-day work week where it has value.

My amendment, Mr. President, would not change the Federal minimum wage law or the overtime provisions of the Fair Labor Standards Act. It would not affect in any way the collective bargaining process, except to make it possible to bargain over flexible work schedules such as the 4-day workweek where such bargaining is now precluded by the law. It would not mandate a 4-day workweek, but would make one possible by shifting the overtime requirement for Government contractors so that it would begin after 10 hours in each day instead of 8.

At a time when this country is faced with the need to conserve energy and improve productivity, Mr. President, it makes sense to allow those local working arrangements which are productive and conserving. My amendment would broaden the choices presently available to Government contractors and their employees, and I urge the Senate to adopt it.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, this amendment would strip away essential protection for employees of Federal contractors by interfering with a congressional policy on humane working hours that dates from 1868. The 8-hour calendar day overtime provisions of the Contract Work Hours and Safety Standards Act and the Walsh Healey Act reflect the long standing policy of the Federal Government that 8 hours should constitute a normal day's labor for laborers, workmen, and mechanics employed by or on behalf of the Government. This policy initially took the form of a prohibition on work beyond 8 hours on public contracts. However, for over 63 years, Congress has provided that work on public contracts beyond 8 hours should be compensated at a rate of time and a half. These provisions reflect the policy that work performed on our public contracts should serve as a model for the rest of our economy, and that our treatment of the working person on public contracts should be exemplary.

This amendment would amend this long standing public policy, without the benefit of hearings or careful review of its effects on the various classes of workers on our public contracts. Such precipitious action could create great risks for our workers on public contracts. For example, it should be remembered that many of our public contracts involve the construction industry. Yet, it has long been recognized that work beyond 8 hours substantially increases the possibility of safety accidents and injuries. These effects are particularly apparent in the construction industry, which is already the single most perilous of our industries. As repeated studies have shown, the nature of labor in the construction industry creates a propensity for fatigue and a consequent safety risk as hours of work are extended.

In three separate studies done in 1918, 1969, and 1971, it was concluded that overtime increased accident rates substantially. Common knowledge, then, would seem to implicate fatigue as the most significant factor, and overtime is of course a direct cause of fatigue.

Another important reason for opposing this amendment is that relaxation of overtime requirements will result in a loss of employment opportunities. Given the additional flexibility of requiring more than 8 hours of work in a day without overtime pay, employers will manipulate their employees' working hours to reduce the need for labor. The result of this will be a loss of jobs, as employers are no longer required to add additional workers to avoid overtime pay.

This principle was recognized by Senator Bellmon when he first introduced legislation on this subject in 1979. At that time he proposed to amend the Fair Labor Standards Act to require that employers working their employees in excess of the new maximum hours standards, or in excess of 40-hours per week under the Fair Labor Standards Act, would be required to pay double time rather than merely time and one half for overtime work.

Without that essential protection, however, there is no doubt that enactment of this amendment would cause the loss of job opportunities through manipulation of overtime work.

I would also like to point out that any arguable advantages of this amendment in terms of energy conversion have not been demonstrated. Only last Congress, we enacted a flexi-time act which permits flexi-time and compressed work time experiments in the Federal sector. Under that legislation, the Office of Personnel Management is required to carefully monitor the effects of flexi-time and compressed work time schedules on employee safety, morale and efficiency, and to determine what effect, if any, there is on energy consumption.

There may, in fact, be a number of inefficiencies that will be found to result from compressed work week schedules. For example, longer hours of work will mean that energy consumption will increase to provide for longer hours of heating and lighting for employment facilities. Thus, there will certainly be some disadvantages to this proposal, and we should not enact it without knowing what the ultimate effect will be. This is particularly true since the Office of Personnel Management is now studying the effects of flexible and compressed work schedules.

The basic point remains, however, that employees who are required to work more than 8 hours in a single day are entitled to overtime compensation as a matter of simple equity and fairness. The greater fatigue employees suffer after 8 hours and their greater exposure to injuries through accidents, not to mention the impact such a schedule might have on daily family activities, require in fairness that employees be given premium pay after 8 hours.

The Senate has already rejected this amendment when it was proposed earlier this years, and I urge the Senate to reject it again.

Mr. BELLMON. If the Senator will yield, I would like to point out that this amendment was introduced April 17, 1980 as S. 2577.

There has been ample time for hearings. The argument that we have not had them does not hold water. There has been plenty of time.

It is a matter that is easy to understand, and already the policy for Government employees. It is just the contractors who are not permitted this option.

Mr. WILLIAMS. It is true the amendment has been introduced on another occasion and it was rejected by the Senate on another occasion.

I suggest that the whole idea of this flexi-time, changing the hours, is now being demonstrated by the Federal Government. It is still in the process of being an experiment and its effects are being studied.

At the appropriate time, it should be considered in the appropriate legislative way, within the committees.

I think that appropriate, but it would be after the Government's experiment now in progress has shown some results that can be assessed. Then we can in the orderly way consider it, deal with it, bring it here again for the most appropriate debate.

Mr. JAVITS. Will the Senator yield?

Mr. WILLIAMS. Yes. I am happy to yield to the Senator.

Mr. JAVITS. I wish to associate myself, first, with the Senator's views.

I will add one additional fact. That is, the enormous proportion of women in the labor force today.

The fact is that there are close to 50 percent—slipping over that now—of women in the work and labor force.

The courts, in passing upon these questions, have always separated the 40-hour week from the 8-hour day.

It seems to me that is one basic rationale for it, with children so small, a flexi-time arrangement, and while I agree with the Senator that it should be tried, including the shorter workweek, it is simply the subject of inquiry, certainly for this reason, if for no other. Certainly, it would complicate very seriously the problem of mothers.

For example, the figures show that more than half of all mothers with children under 18 are in the labor force, and 60 percent of those with children below 3 were working, or looking for work.

It seems to me this idea is additional argument for the rejection of this amendment at this time.

Several Senators. Vote!

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, before I yield back my time, I point out again that the option for a 4-day work week already exists for Government employees, and also for contractors who do not have Government contracts. There is just one small segment of our economy denied this flexibility.

It makes no sense to me that we have chosen to select this one group and not give them this option. The result is that many contractors who could and would bid on Government contracts cannot do so because if they were to they would have to give up their flexibility for the balance of their work.

So this is an amendment that was considered, received 36 votes. Many votes were against it because they did not like the vehicle it was attached to.

I believe on its merit the amendment deserves the approval of the Senate.

Mr. WILLIAMS. One thing further, there have been many studies on the effect of the accident rate when workers go beyond the 8-hour day, and accident rates increase substantially because of the fatigue factor when people work beyond the 8-hour day.

These are all the things that should be considered and studies should be made known before we take what I consider this precipitate action with this amendment this evening, on this bill.

I have no further requests for time, and I am willing to yield back my time.

Mr. LONG. I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I move to table the amendment.

Mr. BELLMON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. The clerk will call the roll.

Mr. LONG. Mr. President, because of the lateness of the hour, I hope we might be able to have a straight up-and-down vote on this amendment. Some Senators have a number of commitments to be elsewhere.

I ask unanimous consent that the order for the yeas and nays be rescinded on the motion to table and that we simply vote up and down on the amendment itself. The yeas and nays have been ordered on the amendment.

Mr. WILLIAMS. Mr. President, the Senator is asking me to withdraw the motion to table; and, in a spirit of generosity and hope, I do so.

Mr. LONG. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Oklahoma (Mr. Boren), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Wisconsin (Mr. Nelson), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. BAKER. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "yea."

The PRESIDING OFFICER (Mr. PRYOR). Are there other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 38, as follows:

[Rollcall Vote No. 519 Leg.]

YEAS—43

Armstrong
Baker
Bellmon
Bentsen
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Chafee
Chiles
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Glenn
Hatch
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Leahy
Long
Lugar
McClure
Percy
Pressler
Pryor
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevenson
Thurmond
Tsongas
Wallop
Warner
Zorinsky

NAYS—38

Baucus
Biden
Bradley
Burdick
Byrd, Robert C.
Cranston
DeConcini
Eagleton
Exon
Ford
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Johnston
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nunn
Packwood
Pell
Proxmire
Randolph
Riegle
Sarbanes
Sasser
Stennis
Stewart
Stone
Weicker
Williams

NOT VOTING—19

Bayh
Boren
Cannon
Church
Culver
Durkin
Goldwater
Gravel
Hart
Hatfield
Kennedy
Magnuson
McGovern
Nelson
Ribicoff
Stevens
Talmadge
Tower
Young

So Mr. BELLMON's amendment (UP No. 1849) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I urge the Senate to approve promptly the legislation passed by the House to renew general revenue sharing. It is important that we act now to continue the revenue sharing program, which expired on September 30.

The original goal of Federal revenue sharing was to give the State and local governments more direct authority over revenues collected by the Federal Government but spent at the State and local level. The program was not designed to supplement Federal spending, but to decentralize spending decisions. The premise behind revenue sharing—that State and local governments are most closely attuned to the day-to-day needs of our citizens—is no less true today than in 1972, when the program was first enacted. Revenue sharing is vital to maintaining our Federal system of government.

PROMOTE AN EFFICIENT FEDERAL STRUCTURE

Federalism means that governmental authority is divided among the national government, the States, and municipalities within the States. Federal, State, and local governments share the exercise of power, and they share responsibilities for our citizens. Ideally, each level of government should exercise those powers for which it is best suited. For example, only the Federal Government can provide for the national defense; local governments should make decisions on the provision of basic public services; and State governments are well-equipped to regulate day-to-day commercial affairs and take legislative initiatives that might be difficult to implement at the Federal level but which can provide helpful guidance to the national legislature.

Mr. President, over the years the role of the national government in our Federal system has grown at the expense of State and local governments. The result in too many cases has been inefficiency, too much dictate from Washington, and an undermining of the authority of State and local governments. With less authority, those governments are in danger of becoming less responsive and less accountable to their citizens. Revenue sharing as originally proposed recognized this problem and sought to begin a process that would bring a better distribution of power and responsibility among the three levels of government.

We ought to carry forward that process now by agreeing to the recommendation of the House and the Finance Committee that revenue sharing be renewed. The Senator from Kansas believes it is particularly significant that the Finance Committee voted overwhelmingly to restore State governments to the program beginning in 1982. It is unfortunate that the Carter administration has sought to eliminate the States from the program, but the committee bill gives us a chance to rectify the administration's error. We have to recognize the vital contribution of State governments to a healthy, properly functioning Federal system. Both State and local governments are held responsible for the implementation of Federal policies, and both are hindered in taking the initiative because the Federal Government preempts such a large portion of their potential tax base. It is only proper, then, that both State and local governments should participate in general revenue sharing. The Senate should give strong support to the restoration of the States to the revenue sharing program.

Mr. President, one reason I support the House bill is that I have reservations about two provisions of the Finance Committee bill. The countercyclical fund approved by the committee at the level of $1 billion is not provided in the first budget resolution. Nor is it clear that such a fund would pay out in time to combat recession. In addition, the House has never accepted the Senate triggering formula for such a fund, using unemployment data. No doubt the House would object to this formula, and there is no point in a deadlock on this issue which would jeopardize the whole program.

These reservations aside, I hope the Senate will act immediately to reauthorize the revenue sharing program. A program this successful merits our support.

REQUESTING GAO TO STUDY THE IMPACT OF ENERGY SEVERANCE TAXES ON THE REVENUE-SHARING FORMULA AND ON BALANCE NATIONAL GROWTH

Mr. CHAFEE. Mr. President, I am asking other Senators to join me in requesting the General Accounting Office (GAO) to conduct a study of energy taxes collected by State and local governments and their impact, if any, on the general revenue sharing allocation formula.

The study will also make a 10-year projection of increases expected in energy tax revenues and the extent to which they may be substituted for other kinds of State and local taxes in the future.

My colleagues are aware that OPEC-controlled price increases, coupled with the decontrol of U.S. oil and gas, have begun to strain all of us, but particularly the economies of energy-poor States. The skyrocketing cost of energy and the sometimes tenuous availability of supplies have been important factors in the migration of industry and manufacturing jobs from the older, colder regions of our country.

Of course, we hope this situation will eventually lead us in Rhode Island and similar energy-scarce States to develop other strengths, such as the potential to support low energy, high technology industries. Nevertheless, I and Senators from the 38 importing States have continuing, legitimate concerns about the escalating transfer of wealth and resources—jobs and industry—to the energy producing regions. Unfortunately, very little is known at the present time about how broadly or rapidly this movement is taking place, or what strategies might be used to compensate for its effect on the livelihoods of our people.

Specifically, as it relates to the revenue sharing bill, we are concerned that increasing oil, gas, and coal severance tax revenues collected in the producing States may distort the tax effort computation used in the revenue sharing allocation formula.

Although total oil and gas severance tax revenues were only $2 billion in 1978, the amounts collected between 1980 and 1990—the decontrol period—will be astronomical. The Treasury estimates oil tax revenues alone will total $128 billion. Analaysts also project natural gas severance taxes mounting as high as $50 billion in added revenue at the same time.

It is reasonable to expect, Mr. President, that the sheer magnitude of this tax income will somehow affect the revenue-sharing program since the allocation formula rewards State and local government tax efforts.

Despite the fact that rapidly rising severance tax revenues are more the result of increasing energy prices than an increase in the tax burden on State or local residents, these revenues will be counted in the tax effort factor for general revenue-sharing payments.

In addition, there is concern, already substantiated by a Congressional Research Service study, that large proportions of these taxes are actually paid by out-of-State energy consumers. If this is true, energy producing States are able to export their tax burdens to other States, yet still claim these revenues as "tax effort."

Mr. President, these issues have been raised several time during the past year, both on the Senate floor and in the Finance Committee. I am well aware of the arguments that have been raised on the other side. In particular, I have heard Chairman LONG make a persuasive case for economic development in his State of Louisiana which is a major oil and gas producer. Prosperity is bringing good jobs for the first time to many of his people, and no one can object to that. He argued that severance taxes are not exported to taxpayers in other States. He has shown that while severance tax revenues increased in Louisiana—over 100 percent between 1972 and 1978—revenue-sharing payments over the same period actually declined.

The fact is, Mr. President, there are no clear answers to questions about the impact of rising energy costs on the energy-poor States, and benefits—some say "windfall"—accruing the handful of energy-rich States in our country.

How will energy severance tax revenues resulting from OPEC controlled price increases affect the allocation formula of the revenue sharing program?

How will they affect the formulas of other Federal programs which use a "general tax effort factor?"

Are energy taxes imposed by State and local governments actually exported to out-of-State consumers, or are they born by in-State producers?

Is there a need or a way to adjust allocation formulas to reflect the export of such taxes?

Will increasing energy tax revenues which are collected by a handful of States be used to offset income, business and property taxes to attract industry and jobs away from the energy-importing regions?

Mr. President, all of us would benefit by having more precise information about these issues. None of us should be afraid to know answers to these questions.

A comprehensive study of the points I have raised, and others which Senators may want to raise, will be more productive than further passionate, yet inconclusive, floor debate.

I urge my colleagues to put aside confrontation and regional animosities over this matter and join me in calling for a study of the issues.

● Mr. WEICKER. Mr. President, I would like to take this occasion to urge the passage of legislation reauthorizing the general revenue sharing program. Since its enactment in 1972 revenue sharing has provided badly needed assistance to State and local governments, helping them to meet the ever-growing demands on their fiscal resources. However, the key reason for this program's success has been the flexibility it provides the States and localities in selecting the uses for these funds based on local needs. This has never been more important than during the recessions of 1974 through 1975 and from 1979 through 1980. General revenue sharing has been a model of what Federal programs should be in that only a tiny portion of the funds allocated to this program are siphoned off by bureaucratic overhead.

In my home State of Connecticut, revenue sharing funds have been used to provide such valuable services as police and fire protection, mental health care, library services, and highway repairs. Clearly these funds have served to improve the quality of life for the many residents of my State.

I commend the Senate Finance Committee for its action in reporting out S. 2574, a bill to reauthorize the general revenue sharing program for 5 years. This farsighted legislation would restore the States share in fiscal year 1982 through fiscal year 1985. Some have argued against this provision on the grounds that the States are presently operating with large budget surpluses. However, when this situation is closely examined, one finds that the bulk of these surpluses are concentrated in three States: Texas, California, and Alaska. Those States without lucrative energy, agricultural or mineral resources are generally cutting services and raising taxes in order to keep out of the red.

I question, however, the wisdom of changing the entitlement nature of the States' share. By making this section subject to yearly appropriations, there is a potential for turning the funding of the States' share into a political football. This action could potentially throw the budget planning process of the States into chaos. As inflation continues to ravage our economy, it is highly probable that the States will need the assistance provided through the States' share of this program. Should Congress delay the appropriation of these funds, numerous States could be forced to cut back on services, thereby causing additional hardship to their citizens.

I commend the action of the Finance Committee for adding a countercyclical assistance provision to this act. As interest rates are once again on the rise, the long-awaited recovery from the present recession is still in the indefinite future. State and local governments are still feeling, and will continue to feel, the effects of the economic dislocation caused by massive unemployment and the decline in wholesale and retail sales. Until such time as the economy is healthy again, most State and local governments will need this aid to make ends meet.

As governmental policy has precipitated this recession, so should it help to cushion its impact on the people of this Nation. Hopefully, the economy will soon begin an upward trend and the unemployment rate will decline. At that time, the fiscal condition of State and local governments should improve and there may no longer be a need for a States' share or a countercyclical provision. However, until that time I concur with the opinion of the Finance Committee in reporting out S. 2574. Therefore, I urge this body to proceed with debate on a reauthorizing bill for the revenue-sharing program and pass legislation including the provisions of the Finance Committee bill.●

● Mr. PRESSLER. Mr. President, today I rise in strong support for reauthorizing the general revenue-sharing program and to urge my colleagues to adopt the amendment I have sponsored to restore the State share for 1981.

The State share of revenue sharing enables States to provide fiscal assistance in areas that need that assistance. In my State of South Dakota, the State share is entirely passed through to local education. No administrative costs are charged to local education in South Dakota. As a result, the State share is an efficient, effective roll in assisting our local governments.

Mr. President, the general revenue-sharing program provides local control over and decentralization of Federal benefits which allows the localities to decide where the benefits can be best utilized. Next year, the city of Sioux Falls, S. Dak., intends to use revenue-sharing funds for improving its transit capabilities, senior citizen facilities, contract ambulance service and equipment for landfill activities. These community benefits are available at a minimal overhead and administrative cost.

I urge my colleagues to reaffirm the benefits of local autonomy my reinstating the State share of revenue sharing and reauthorizing the general revenue-sharing program.●

● Mr. MITCHELL. Mr. President, I rise today in support of H.R. 7122, continuing general revenue sharing entitlements to local governments and authorizing payment of the State share to State governments.

Although I am disappointed that the Senate did not accept my amendment to authorize the State share for 1981 and continue the entitlement for local revenue sharing, I am optimistic about the prospects for funding of the State share in the future, both because of the closeness of the vote on my amendment and because the incoming administration has stated its support for the State share of revenue sharing.

Nonetheless, I believe it is important for the Senate to vote today in favor of continued funding for general revenue sharing, a program which has a proven record of being both cost and administrative effective.

Although no one can say with certainty what the voters in this country mean when they went to the polls last month, I believe it is clear that the public is demanding that Congress take a more responsible and careful look at Federal spending and Federal regulation.

Over the past 20 years, we have learned that every problem this country faces cannot be solved with more Government spending or creation of another Government program. It has been a hard and painful lesson, but it has been a vitally important lesson.

Frankly, I am very concerned what the loss of State share funding will mean to the State of Maine. Maine uses its State share to fund approximately one-third of the teachers' retirement program. Because the State of Maine's budget is already severely strained, this or other assistance to local governments is an obvious target for reduction. Local governments, already overreliant on the property tax, will have to increase that tax again to make up the difference.

I hope and pray that the people of my State will be able to cope with the loss of the State share for 1981. I strongly urge my colleagues to insure that the State share is funded for fiscal years 1982–85.

Everyone of us in the Senate is acutely aware of the need to reduce excessive Government regulation, and send a message to both the voters and business entities in this country that we are truly committed to fighting inflation and balancing the Federal budget.

But, Mr. President, let us not throw "the baby out with the bath water"—let us cut Federal spending for programs which have proven wasteful and nonproductive in the past, but let us make every effort to retain those programs, like revenue sharing, which have proven cost effective, administratively efficient and worthwhile.

In sum, Mr. President, let us approach the challenge of reducing Federal spending with the new practicality urged on us by the voters last month and retain the good programs while we weed out the bad.

We have learned that big government is not always better and that more spending is not always cost effective. More importantly, however, we at the national level have gained a new respect for the State and local entities in this country and have come to realize that local communities are most aware of local problems, most concerned about handling them, and best able to do so in a cost-effective and compassionate manner.

In short, Mr. President, we have learned a new practicality about our approach to the problems facing our country today.

More than any other Federal program in existence, revenue sharing embodies this new practicality. Through revenue sharing money is returned to the State and local units of government to deal with local concerns at the local level.

Not surprisingly, revenue sharing has lower administrative costs than any other Federal program. In addition, there are minimal guidelines on the use of revenue funds and there has never been a recorded case of fraud in the program.

Local government entities in my own State of Maine will receive approximately $26,500,000 in local revenue sharing allocations next year. The funds are used by Maine communities to fund the priority needs of the community, from salaries for public servants to building a new fire station to upkeeping park and recreation facilities.

The uses of this money are many and diversified, depending on the priority needs of the particular community. The most important factor, however, is that these priority needs are determined by the local community itself, without burdensome and restrictive federal regulations.●

● Mr. PRYOR. Mr. President, I rise in support of the reauthorization of the general revenue sharing program. I have been a strong supporter of revenue sharing since its inception. As a Member of the House of Representatives, I voted for the original revenue sharing legislation. As Governor of Arkansas, I had the opportunity to see the value of revenue sharing at both the State and local levels.

The philosophy behind the revenue sharing program—that is, the government closest to the people is best able to determine the needs and priorities of its citizens—is a philosophy in which I believe very strongly. I am committed to the notion that the States and local communities are the most informed judges of where tax dollars can best be applied to support local needs. Over the years, the Federal Government has assumed more and more functions that are properly those of State and local governments.

In Arkansas, much of our State share of revenue sharing funds is used for highway improvements. Our cities and counties have utilized these funds for such local priorities as education, public safety, health services, public transportation and many other vital services. This is not another Federal give away program. It is, in fact, nothing more than a direct return of tax money to the people who paid the taxes.

Since January 1972, when the first entitlement period began, the general revenue sharing program has sent more than $50 billion back to State and local governments to help them maintain essential services. Arkansas has received over $550,000,000.

Revenue sharing is also one of the most efficient Government programs. Compared to categorical grant programs which return 69 cents for every dollar collected, the revenue sharing program returns 99 cents. It is almost unique among Federal programs in that it has not created a large Washington bureaucracy.

For these reasons I support general revenue sharing and believe there is no more important legislation for the cities, counties, and States that Congress will enact this year.●

Mr. BAKER. Mr. President, I wish to commend the very able managers of this bill. Senators LONG and DOLE have moved this vital piece of legislation expeditiously and brought revenue sharing a step closer to reauthorization.

I would like to take a moment to comment on the extraordinary chairman of the Finance Committee. Although I have no regrets about his departure from the chairmanship, it is clear that the Senator from Louisiana has been an exemplary chairman and we will continue to value his experience and wisdom as the ranking minority member of the Finance Committee.

I would also like to take this opportunity to congratulate BOB DOLE who will become the next chairman of the Finance Committee. Taxation will inevitably be the centerpiece of the new administration's economic policies and the Finance Committee will take the lead in bringing these policies to fruition. I am confident that he will do an outstanding job as chairman and I look forward to working with him in that capacity.

I would be remiss if I did not also express my high regard for Senators BRADLEY and DURENBERGER, the chairman and ranking member of the Revenue Sharing Subcommittee.

They have labored long and hard on this matter and have made a substantial contribution toward improving the relationship between the national and State governments. The preservation of a vigorous federalism is important to all of us, and I am confident that their productive efforts will continue in the future.

Mr. THURMOND. Mr. President, I rise today in support of H.R. 7112, a bill to extend and amend the State and Local Assistance Act of 1972. This legislation will extend the local revenue sharing program for 3 years, and authorizes revenue sharing for States in fiscal years 1982 and 1983.

Mr. President, since enactment of the general revenue sharing program in 1972, it has been of tremendous assistance to the States and localities. Approximately $56 billion has been distributed to 39,000 State and local governments without the unduly burdensome restrictions so common to categorical grants. I have long held the view that those serving at the local level best know the needs of their constituents, and are in a superior position to direct the expenditure of public funds.

Mr. President, revenue sharing is one of the most cost-effective of all Federal Government programs. This legislation is within the guidelines of the second concurrent budget resolution for fiscal year 1981, and will benefit localities all across our Nation. I hope that my colleagues in the Senate will join me in supporting passage of this measure.

The PRESIDING OFFICER. If there be no further amendments, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall vote today. Tomorrow the Senate will be on the continuing resolution.

The PRESIDING OFFICER. All time is yielded back, and the question is, Shall the bill pass? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr.

GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. BAKER. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

On this vote the Senator from Arizona (Mr. GOLDWATER) is paired with the Senator from Oregon (Mr. HATFIELD).

If present and voting, the Senator from Arizona would vote "yea" and the Senator from Oregon would vote "nay."

The PRESIDING OFFICER (Mr. MITCHELL). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 80, nays 3, as follows:

[Rollcall Vote No. 520 Leg.]

YEAS—80

Armstrong
Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hatch
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
McClure
Melcher
Mitchell
Morgan
Moynihan
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—3

Helms
Metzenbaum
Proxmire

NOT VOTING—17

Bayh
Cannon
Church
Durkin
Goldwater
Gravel
Hart
Hatfield
Kennedy
Magnuson
McGovern
Nelson
Ribicoff
Stevens
Talmadge
Tower
Young

So the bill (H.R. 7112), as amended, was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to H.R. 7112, request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. BRADLEY, Mr. MOYNIHAN, Mr. DOLE, Mr. DANFORTH, and Mr. DURENBERGER conferees on the part of the Senate.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALUTE TO INNOVATIVE WISCONSIN FIRM

Mr. PROXMIRE. Mr. President, next Friday, Super Sky Products, Inc., of Thiensville, Wis., will celebrate its 50th anniversary.

This small company is one of the most innovative and inventive firms anywhere. It has been the pathfinder and pioneer for the modern skylight industry.

The list of buildings to which it has contributed are legion. They include the Aid to Lutherans Building in Appleton, Wis., and, the Mitchell Park Horticultural Conservatory in Milwaukee, an amazing place to see and visit, is yet another.

Nationally they provided the skylights for both the National Air and Space Museum and the East Wing of the National Gallery of Art. Much of the feeling of spaciousness which visitors to those buildings have commented on and for which they are internationally known are due to the innovative and constructive designs of this firm.

Super Sky Products, Inc., is a marvelous American success story. It was begun by Walter Belau as virtually a one-man operation and has grown to a firm of about 250 today. In the areas of safety, energy savings and design this small Wisconsin firm has excelled.

I like excellence. In this day and age when there are many shoddy products and a certain number of irresponsible people, it is really marvelous to pay a tribute to a firm whose excellence is exceeded by none and the quality of whose work, because of the responsibility of its employees and manager, is superb.

On Friday, December 12, Super Sky Products will both celebrate its 50th anniversary and dedicate its new building. I am delighted to salute them on this occasion and I am pleased to be able to draw the attention of Senators and those who read the RECORD to the accomplishments of this meritorious firm.

TRIBUTE TO ADLAI E. STEVENSON

Mr. MATHIAS. Mr. President, there is no one in the U.S. Senate with whom I feel a closer affinity than I do with our distinguished colleague from Illinois, ADLAI E. STEVENSON. And there is no one whose counsel and example I value more highly.

I have had the privilege of serving with ADLAI STEVENSON on both the Ethics and Intelligence Committees. His probity and his sensitivity to the needs of the Republic helped those fledgling committees to undertake and accomplish tasks of the utmost sensitivity in very difficult times and circumstances.

Indeed, thanks largely to Senator STEVENSON's strength of will and unimpeachable character, the Senate Ethics Committee survived severe trauma in its early days to become the useful, functional entity it is today.

In 1972, Senator STEVENSON and I constituted ourselves an ad hoc committee to hold hearings on congressional reform which had at least two lasting results. It provided the basis for the subsequent reform of the Senate and of the Federal election laws and it gave me a new nickname. Ever since the days of that ad hoc committee, I have been known as "Hoc" to Senator STEVENSON's staff. The logic is inexorable: If he is "Ad" to his friends, then I must be "Hoc."

I came across this bit of Stevensoniana when the daughter of a member of my staff, working as an intern in the Stevenson office, asked her mother whether she should tell her coworkers that my friends call me "Mac" not "Hoc." She had seen me identified as "Hoc" on their summary of the CONGRESSIONAL RECORD day after day and thought she ought to set the record straight.

The Stevenson staff and I achieved this pleasant familiarity when we were neighbors on the fourth floor of the Russell Building, borrowing cups of xerox ink from each other. And I must say that I regret seeing that good staff broken up as much as I regret seeing ADLAI STEVENSON leave the Senate. The Stevenson softball team—Ad's Lib—year in and year out has given "The Big Mac Attack" its nicest game. We will feel this loss especially keenly.

Senator STEVENSON and I are also cochairmen of the Atlantic Conference, sponsored by the Chicago Council on Foreign Relations, and in this connection together have explored some of the most urgent problems of our times, from arms control to the complexities of interdependence.

Through this web of relationships, I have had the rare privilege of working closely with one of the finest men who ever served in the U.S. Senate. ADLAI STEVENSON is not an easy man to know. He is a very private person. And he is deep.

But as you mine the depths, there is no dross.

In an era of inflated egos and media-born politicians, ADLAI STEVENSON stands out as a uniquely selfless public servant. His dedication to the Senate as an institution, to its purposes and its business was absolute. The desire for self-promotion was mercifully and miraculously absent from his character.

When ADLAI STEVENSON leaves this Chamber for the last time, we will lose a giant from our midst; the institution of the Senate will lose a man who knew and loved and served it well.

FAIR HOUSING ACT AMENDMENTS OF 1980

Mr. MATHIAS. Mr. President, the failure of the U.S. Senate to achieve cloture on debate on this fair housing bill is disheartening although a clear majority of the Senate was recorded as favoring a bill.

As the sponsor of this legislation, I am particularly disappointed that we were unable to limit debate on H.R. 5200, the fair housing bill, to 100 hours of debate. Having nursed this bill along through both the 95th and this, the 96th, Congress, I regret that certain Members on both sides of the aisle apparently felt the time was not right to consider appropriate means for enforcing title VIII of the Civil Rights Act of 1968.

This, despite the fact that every Secretary of Housing and Urban Development—both Democrat and Republican—has acknowledged that HUD lacks the necessary enforcement powers to make title VIII more than a promise of equal housing opportunity. And that, in order to make equal access to housing a reality, Federal representation of plaintiffs in a judicial forum and the imposition of penalties were key ingredients to that enforcement mechanism.

Former HUD Secretaries Robert C. Weaver, Carla A. Hills, and Patricia Roberts Harris, have all testified before Congress on the need for this legislation.

It has been 12 years since the Congress enacted the Civil Rights Act of 1968 with its open housing provisions. That legislation, my colleagues may recall, had passed the House successfully in the 89th Congress, but the Senate failed to act. Then the summer of 1968 saw the assassination of Martin Luther King, Jr. and civil disturbances—fires, looting, and killings—in over 200 of our Nation's urban population centers. The frustration level of America's urban blacks had reached the boiling point. The promise of a dream seemed to have been crushed with Dr. King's death.

It was in this atmosphere that the Senate finally, after 38 days of filibuster, acted. It does not speak well for this body that it acts on major civil rights legislation only when a national crisis is upon us.

Apparently it does not appear to two-thirds of my colleagues that a national crisis is upon us sufficient to warrant action on this bill.

Yet we know from national surveys and polls that the American people lack confidence and trust in their elected representatives. That respect for the U.S. Congress has declined over the years. We are contributing to that lack of respect here today by shirking our responsibility to take action—including modifications on the bill before us, the Fair Housing Act.

A heavy responsibility lies on the Senate to return to the subject of fair housing early in the next session with determination to find a way to assure every American equal access to the basic necessity of shelter.

MILITARY COMPENSATION IMPROVEMENTS ARE RECEIVED WITH THANKS

Mr. WARNER. Mr. President, this past year the Congress has taken some significant steps to improve the compensation and benefits of military personnel.

These actions were the result of the Congress' recognition that military pay was falling further and further behind inflation and that many military personnel, particularly those with families, were finding that they could no longer afford to remain in the military.

We as a nation were losing qualified and highly trained military personnel at an alarming rate and our military readiness was suffering because of the loss of these people.

The Senate Armed Services Committee and now the whole Congress have taken several steps to improve compensation. This year alone, the Congress has approved the Nunn-Warner package of benefits, an 11.7 percent pay raise, a major package of enlistment and reenlistment bonuses, and a pilot program of increased educational benefits.

These actions have not gone unnoticed and many military people have taken the time to write to me and say thank you.

I would like to share with my colleagues here in the Senate a small sampling of the letters I have received concerning the Congress' recent actions on military pay.

I ask unanimous consent that the text of these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NORFOLK, VA.,
November 14, 1980.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WARNER: I am the wife of a career-oriented Enlisted Man currently deployed on the U.S.S. John F. Kennedy. I am writing this letter on behalf of my husband and myself to thank you for sponsoring the Nunn-Warner Act. Your insight into the problems faced by military people and their families is certainly well-founded. This Act has played an instrumental role in my husband's decision to re-enlist for another four years. Your time and effort in sponsoring the Nunn-Warner Act and promoting it through the Senate and Congress is greatly appreciated by many, many military people. I feel very confident that the military people, as well as all of the people of the United States, will see some drastic changes for the better during the next four years as a result of the November Presidential Election.

The people of Virginia should feel very proud to have a man of your stature representing them. Thank you for addressing the problems of the military. I, personally, am very proud to be the wife of a military man, and I am also pleased at my husband's decision to serve another four years.

Thank you once again for all you have done for us.

Sincerely,
ROBERTA LANGDON.

FAIRFAX, VA., *October 22, 1980.*

Senator JOHN W. WARNER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WARNER: Yesterday I received my very first Variable Housing Allowance check and on 15 October I received my first paycheck including the recently enacted 11.5 percent pay raise and the increases to subsistence and quarters allowances. I want to thank you for your part in making these much-needed pay raises a reality.

As a Navy Counselor, I am painfully aware of the critical retention problem we face in the military. While these recent improvements to the military compensation package are not the total answer to the retention problem, they certainly will have a positive impact. The additional pays, allowances, and bonuses should make the decision to "stay Navy" a much easier one for many sailors.

I am grateful to you for your positive support of the military.

Sincerely,
G. ROBERT ABBOTT,
Chief Navy Counselor,
U.S. Navy.

SAN FRANCISCO, CALIF.,
October 2, 1980.

Senator JOHN W. WARNER,
Federal Office Building,
Richmond, Va.

DEAR SENATOR WARNER: Although I am not one of your constituents, I want to express my sincere appreciation and gratitude to you and your colleague, Senator Nunn, for your efforts in sponsoring the Nunn-Warner Compensation Initiatives which were included in the fiscal year 1981 DOD Authorization Bill (Public Law 96–342) and the Military Personnel and Compensation Amendments of 1980 (Public Law 96–343).

The initiatives were long overdue! Along with the 11.7 percent pay raise they will enhance retention of our service members and brighten the prospects of a military career for our young enlisteds.

More important to me, however, is the realization that congressional leaders, such as yourself and Senator Nunn, steadfastedly "fought the battle on the hill" against much opposition to change the perception and attitude regarding the American servicemen and women. As a 24-year Air Force veteran it's refreshing to me that finally someone recognizes the value and worth of the military person to the defense and security of our great Nation.

A hearty thanks from myself and family. If the opportunity ever arises that we can vote for you—you got it!

Sincerely,
ROBERT A. FOX,
Chief Master Sergeant,
U.S. Air Force.

NEW YORK, N.Y., *October 23, 1980.*

DEAR JOHN: I'd like to take this opportunity to personally thank you for your strong sponsorship of the recent military pay bills and the resultant Congressional passage. Your efforts in this area were most meaningful to the military families and we desire to convey our sincere appreciation.

As you are aware, readiness of the fleet depends on the retention of our many qualified people. And in turn, retention depends on adequate compensation/pay.

During the past year as Commanding Officer of NAS Oceana, I asked on many occasions that you provide your most effective support to these programs in the Congress. You came through when we needed you, and we, therefore, offer you our sincere gratitude.

On behalf of all the active military families in Tidewater, our warmest personal regards to you and Elizabeth.

Sincerely,
D. J. MICHAELS,
Captain, U.S. Navy.

VANDENBERG AFB, CALIF.,
September 25, 1980.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WARNER: I would like to personally thank you and your staff for the support and effort in securing the passage of the military pay/benefit package. The Air Force is losing many fine officers because of the hardships created by inflation and the lack of support from military and civilian leaders. Hopefully, this package will help us.

Keep up the good work.

Sincerely

Melvin L. Phipps,
Captain, USAF.

Department of the Air Force,
Nellis AFB, Nev., November 18, 1980.

Hon. John W. Warner,
Dirksen Building,
Washington, D.C.

Dear Senator Warner: The aircrews and families of the 429 Tactical Fighter Squadron "Black Falcons" wish to extend their sincere thanks for your efforts on our behalf. It has been a long time since anyone championed our cause with such vigor and outstanding results. Your amendment, plus the bills still before the Congress, have renewed our faith.

Again, thank you, Senator Warner.

Sincerely,

Charles E. Fulton, Lt. Colonel, USAF, Commander.
William F. Looke, Lt. Colonel, USAF, Operations Officer.
Patrick M. Quinn, Major, USAF, Assistant Operations Officer.
Richard W. Buickerood, Major, USAF, A Flight Commander.
Robert P. Albright, Captain, USAF, B Flight Commander.
Gary A. Lewis, Captain, USAF, C Flight Commander.
Walter S. Thedford, Captain, USAF, D Flight Commander.

Plus the members of the "Black Falcons" listed on attached page.

429 TACTICAL FIGHTER SQUADRON, BLACK FALCONS

Lt. Colonel Jerry K. Sharp.
Lt. Colonel Donald D. Graham.
Major Robert R. Ames.
Major John W. Lierman.
Major James D. Davies.
Captain Domingo Bustos.
Captain Charles J. Fagan.
Captain W. Carl Gallegos.
Captain Joseph Gentile.
Captain James E. Green.
Captain Stephen L. Owens.
Captain Richard J. Prosek.
Captain Verlin C. Snouffer.
Captain Kevin F. Henabray.
Captain David E. Lundquist.
Captain Douglas G. Malloy.
Captain Patrick Y. Nakagawa.
Captain Charles W. Tucker.
Captain Stephen F. Woodford.
Captain Kenneth E. Yowell.
Captain Robert Dulinawka.
Captain Michael M. Moore.
Captain Thomas P. Shaw.
Captain Ray Stetzler.
Captain Larry D. Thompson.
Captain Wayne S. Dodds.
Captain Russell E. Latenser.
Captain Keith R. Miller.
Captain William Plummer.
Captain Lawrence W. Smith.
Captain Robert S. Temkow.
Captain Robert W. Vaughan.
Captain Niko T. Zarras.
Captain Larry D. Hubatka.
Captain Wendall Johnson.
Captain Vincent J. Santillo.
Captain John H. Young.
Captain Michael J. Holm.
Captain Thomas R Kendall.
Captain Robert Murray.
Captain Bill Sanders.
Lt. Michael J. Burke.
Lt. Robert L. Wright.
Lt. John E. Watkins.
Lt. Gregory M. Baker.
A1C Mark E. Dettle.
A1C John A. Picerno.
SSgt. Rick A. Stiles.
TSgt. Charles Wuchterpfennig.
SSgt. Celeste M. Adams.
SSgt. Marvin Allen.
MSgt. Charles E. Bailey.
SRA Sixto D. Domine.
TSgt. Henry L. Jackson.
SRA Deborah R. Thomas.
SSgt. David White, Jr.

JOHN LENNON

Mr. BRADLEY. Mr. President, I do not think I can let this day pass without at least saying for the record that I, as one Senator, one American, one individual, am deeply saddened by the news of John Lennon's assassination last night.

For a generation of Americans, John Lennon and the Beatles brought an important new dimension to music and also to countless facets of American life. I think there are people in the country tonight who, as odd as it might sound, have as great a sense of loss as they have had in the other tragic assassinations of the last decade and a half. As the youngest Member of the U.S. Senate, I suppose I am part of that generation more than some of my colleagues. There really is a sense that something is gone, in part because of the importance and the role music has played in all of our lives, in raising attitudes toward self, toward community, and toward country.

I would say that John Lennon certainly demonstrated that the question of self frequently leads to an emerging stronger personality. I know that we as politicians think about the state of affairs, think about the election that was just held, and reflect on the fact that 25 percent of the people in this country who could have voted, voted the new President in. Then think of the millions of people under 35 years of age who chose not to participate in this process, and reflect on what those millions of individuals across this country sensed when they heard John Lennon sing his songs, when they heard him say, "Give peace a chance," when they heard him say, "Imagine the world is one," when they recognize he touched a strain of idealism that was beyond country but was extremely personal. It is that sense of idealism that is extremely personal that many times in political life is lacking.

We content ourselves with institutions and procedures, issues and numbers, and we fail to take the chance that is necessary to touch human beings lives.

I have had not only one call in the last 24 hours from people of my generation who cried out literally in lament about, "Why do we have to kill all our heroes?"

I do not know if John Lennon was a hero in the great sense of the word, but I know that he spoke for a strain in our national character that is rich and important, and a strain in world literature which has touched peoples lives.

So I simply say tonight that I personally feel a sense of loss. When I heard the news while driving my car, I must say that my eyes were filled with some tears. I think it is hard for people who are not in that generation to understand the importance of not just his music, but of the emotions that he touched and that his group touched, aside from the crass commercials.

We think back to the images of thousands of people walking together and saying, "Give peace a chance." It is the kind of emotion that is not always duplicated in politics. It is the kind of emotion that is genuine and I think almost necessary if we are going to bring ourselves together in this country.

So although times have changed and the Beatles have parted company, Lennon's generation continues to identify with him. It is strange because even after he stopped recording in the 1970's he faced that primary dilemma that many of my generation have faced when they have a family, and he chose to honor that family; he chose to drop out of his profession for 5 years and do the things that were necessary to raise his son for 5 years. He just returned this year with his newest album, in a way talking about those years.

All Americans, I think, whether they agree with John Lennon's political and social values or not, recognize that we have lost a talented artist, recognize that we have lost something of ourselves; that when we hear the music in the years to come that, hopefully, we will exert the effort to recapture those moments and use them wisely to make the world, as he says, one.

Mr. DeCONCINI. Mr. President, I cannot help but be moved by the statement of the Senator from New Jersey about the tragedy that happened today.

ESTABLISHMENT OF UNIFORM LAW ON BANKRUPTCIES

Mr. DeCONCINI. Mr. President, I send to the desk a bill which incorporates the language of S. 658, the Bankruptcy Technical Amendments Act, the Parental Kidnaping Prevention Act, and the State Justice Institute Act, all three of which have previously passed the Senate. The reason for introducing these items as a new bill is a parliamentary impasse with the House of Representatives.

Therefore, Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

Mr. President, I advise the Chair that the majority members and majority staff of the Judiciary Committee and the minority staff and the minority members of this body, as well as the majority members, have agreed to this. I believe there is no objection, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, this matter has been cleared with the majority. Mr. Mathias will speak for the minority.

Mr. MATHIAS. Mr. President, the majority leader is correct that this has been cleared with the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3259) to establish a uniform law on the subject of bankruptcies.

The Senate proceeded to consider the bill.

Mr. DECONCINI. Mr. President, on Monday of this week, the Senate amended the House amendment to the Senate bill S. 658, and sent the bill to the House. The House further amended the bill to a slight degree but in a manner that is unacceptable to the ranking member of the Judiciary Committee (Mr. THURMOND). The issue involves the amount of retirement for bankruptcy judges. The House bill provides for a significant increase in retirement benefits for these judges, while the Senate bill would not address the issue, Senator THURMOND preferring to wait until next year to address that matter. The bill we send to the House today will not include a retirement section for bankruptcy judges; otherwise, the two bodies are in almost complete agreement.

I urge my colleagues to adopt the Senate bill and hope that our colleagues on the House side will also see fit to accept this vital piece of legislation. If the House does not accept this bill, the ramifications for the country and the Nation's bankruptcy courts will be adverse and severe. Having had a good working relationship with many bankruptcy judges for the past several years, I strongly urge them not to alienate their allies in the Senate by continuing to urge the House to reject any bill that does not contain an increased retirement section.

In addition, a new title VI has been added to the bill, the text of which is the Parental Kidnaping Prevention Act which has passed the Senate on two prior occasions and which recently passed the House by a 2-to-1 margin as title III of the domestic violence report. Because of the opposition in this body to title I of that conference agreement, it becomes necessary to sever title III, the child abduction proposal, if it is to be enacted this year.

Mr. President, as this Congress rapidly nears a conclusion it seems likely that an important bill that has been pending in the Finance Committee, H.R. 5043, will not be enacted. This continues the void in the bankruptcy area of practice concerning what the applicable tax law is since the Bankruptcy Code repealed old tax law as of October 1, 1979, and no new law has been passed to fill the void. Hopefully, legislation will be enacted early next year to fill that gap but in the meantime, for the benefit of the litigants, the courts, and the Department of the Treasury, I would urge that the law as it existed in this area prior to its repeal continue to be the guide in resolving tax issues of bankruptcy estates that are currently being litigated.

Mr. President, the text of S. 3259, which I have just introduced, is identical to the Senate version of S. 658 that passed on December 1, with the exception of several technical corrections and the additions of separate titles which represent the texts of the Parental Kidnaping Prevention Act and the State Justice Institute Act the texts of which have previously passed the Senate and have been printed elsewhere. Therefore, I shall not ask that the text of the bill be reprinted in the CONGRESSIONAL RECORD, but rather that interested parties refer to the December 1 RECORD for the text of this bill.

● Mr. WALLOP. Mr. President, over a million children are affected by divorce or separation every year. Adjusting to this situation is not easy for many of them. It is virtually impossible for the thousands who fall victim to child snatching, the restraint or concealment of a child from one parent by the other parent. Congress has turned its attention to this disruptive, abusive practice because of its harmful effect on children and the inherent difficulties States have in resolving multistate conflicts that so often ensue.

I would propose an amendment the purpose of which is to promote cooperation among the States in the enforcement of custody and visitation orders, to discourage continuing interstate controversies and conflicts, and to deter interstate and international child abductions. My amendment, the Parental Kidnaping Prevention Act, has been favorably considered by the Senate on two prior occasions, and was most recently passed by a solid 2-to-1 margin in the House as title III of the domestic violence conference report. The language I am proposing is, in fact, the work product of a House-Senate conference on which members of the House Ways and Means and Judiciary Committees participated. Because of the controversy surrounding the domestic violence proposal here in the Senate, it has become necessary to sever title III from that conference report if the child abduction legislation, which enjoys strong bipartisan support in both bodies, is to be enacted this year.

The conferees were faithful to the principles underlying S. 105 but did make some modifications. To begin with, the conferees accepted the Senate provision requiring State courts to enforce and refrain from modifying custody and visitation decrees rendered by sister States acting consistently with the jurisdictional provisions set forth in the legislation and derived from the Uniform Child Custody Jurisdiction Act. This will remove the incentive court-shopping parents now have for abducting their children and fleeing to States that would otherwise freely entertain custody petitions and modifications actions, thereby rewarding the snatching parent for his/her actions.

The conferees also agreed to the provisions of the bill authorizing the use of the Federal Parent Locator Service in child abduction cases. The parent locator service was set up as part of the child support enforcement program to find parents who had defaulted on their child support obligations.

Specifically, this section allows States to enter into agreements with the Secretary of Health and Human Services for use of the Federal Parent Locator Service to locate children and parents who take, restrain, or conceal them. Location requests will be made in conjunction with civil or criminal custody cases arising under State, Federal, or treaty law. It is anticipated that most, if not all, of the States will agree to receive and forward requests for location from the persons authorized in the statute to make such requests.

In order to insure that the services of the FPLS are used for legitimate purposes, and to deter frivolous or malevolent requests for location assistance, the bill restricts access to the FPLS to public officials responsible for making or enforcing child custody determinations, or for investigating, enforcing or bringing prosecutions under criminal or civil laws respecting the wrongful taking or restraint of a child.

To further ferret out inappropriate requests, in addition to offsetting administrative costs, the bill permits the imposition of a fee to cover the costs of processing location requests. These fees will be comparable to those nominal charges which have been assessed against non-AFDC applicants who have utilized the FPLS to locate and collect arrearages from defaulting parents. Importantly, the service charge in practically every case will be substantially less than the tens of thousands of dollars many parents pay private detectives to locate their abducted and concealed children.

Finally, the privacy protections contained in current child support enforcement law are made applicable to child custody and abduction cases under this provision. Language has been added to the text at the request of the House to strictly limit the information obtainable from the IRS to the most recent home address and the most recent place of employment of the alleged abductor. In no event will wage information, or any other information, be made available to the requesting party. Because of some concerns about possible misuse of this information, it bears repeating that only public officials—courts and State and U.S. attorneys—will have access to the information pertinent to locating the absconding parent, and only then in connection with child custody matters.

One last point. The amendment does not contemplate an entirely new function. The location service authorized by the bill for child abduction cases is currently available in child-snatching cases which coincidentally involve issues of nonsupport. Thus, this provision simply puts abducted children on an equal footing with the funds that are owed the Government and which are presently collectible through use of the parent locator service. Surely the Government has at least as much interest in children as it does in money.

S. 105, the Parental Kidnaping Prevention Act, also contained a section making it a Federal misdemeanor to remove or retain a child in violation of an enforceable child custody determination, and a felony in the case of international abductions. Despite a solid and lengthy record in support of the proposed Federal criminal statute, the conferees—many of whom did not have the occasion to review the record or to study the issues in detail—did not adopt the suggested approach. Instead, there was general agreement that current Federal law should be fully enforced with regard to interstate and international child-snatchings. In particular, the conference committee focused its attention on the Fugitive Felon Act, 18 U.S.C. 1073, and adopted language which would require the Department of Justice to apply this law to State parental kidnaping felony cases in the same manner as in all other case.

The primary purpose of the Fugitive Felon Act is to permit the Federal Government to assist in the location and apprehension of fugitives from State justice. Normally, once the fugitive is apprehended, the Federal complaint is dismissed and State proceedings instituted. Although the statute by its terms applies to all State felonies, the Justice Department has effectively created an exception for parental kidnaping cases in all but the rarest instances. Departmental guidelines contained in the U.S. attorneys' manual evidence this policy.

The conference agreement will immediately revitalize 18 U.S.C. 1073 in parental kidnaping cases. In practice, this will mean that upon a showng by the State that a prosecution will go forward against the fugitive parent, the local U.S. attorney will be authorized to issue a warrant and the FBI will be authorized to investigate, apprehend, and return the alleged abductor to State authorities. This amendment will result in cooperation between Federal investigative authorities and State prosecutors while deferring at all times to State law respecting the custody of the minor child and criminal law violations.

The conference agreement is not without shortcomings. It does not provide the uniform deterrent embodied in the proposed misdemeanor felony provision because it depends upon the existence of State felony antiabduction statutes which vary in kind and quality throughout the country. While 38 States have felony laws on point, not all of these will facilitate FBI involvement under this pending proposal. It can be expected that parents' organizations concerned about parental kidnaping will increase their efforts in the 50 States to get tougher laws against custodial interference and child abduction enacted so that all States may obtain valuable Federal law enforcement and investigative assistance in these difficult interstate controversies.

The pending compromise falls short in the realm of international abductions as well. While the original proposal set up a stiff felony penalty for transnational wrongful removals and retentions of children with the intent of deterring such conduct, the pending compromise relies exclusively upon FBI involvement under the Fugitive Felon Act. This may well provide some deterrence, but lacks the teeth contained in S. 105 for international childstealing.

Notwithstanding the foregoing observations, I think it is fair to say that the compromise is a good and reasonable first step toward reducing the trauma anguish associated with childstealing. The losses on the international side of the proposal hopefully will be offset in the very near future by a treaty negotiated in the Hague, Holland, on the Civil Aspects of International Child Abduction. That proposal, which I understand may soon be before the Senate for its consideration, calls upon participating countries to promptly return children to the countries from which they have been wrongfully removed or retained. While the felony provision would have made extradition of offending parents possible, the convention establishes a framework for the prompt return of children.

The State Department is currently consulting with its group of experts on the recently completed treaty which will hopefully meet with their approval and be available for Senate consideration soon thereafter.

Mr. President, in 1977, the parental kidnaping prevention proposal passed the Senate but unfortunately died because of House inaction on the bill to which it was added as an amendment. In the 3 years since then, countless parents have suffered the anguish of losing their children, many never to see them again. My heart goes out to the children who are uprooted and deprived of access to both of their parents. The passage of this amendment would provide long-awaited, meaningful assistance to the many families torn apart by childstealing.●

The bill was ordered to a third reading, was read the third time, and passed.

Mr. DECONCINI. Mr. President I move to reconsider the vote by which the bill passed.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I thank Senator KENNEDY and Senator DECONCINI for their cooperation in passing that portion of the bill dealing with the Justice Department. I thank Senator MATHIAS and the minority for their cooperation on this bill.

IN CELEBRATION OF 25 YEARS IN THE GOSPEL MINISTRY OF REV. RONALD WINTERS, PASTOR OF SHILOH BAPTIST CHURCH

Mr. WILLIAMS. Mr. President, I speak in recognition of the dedicated service to the gospel ministry of my staff assistant, Ronald Winters.

Mr. President, in his 25 years of serving the gospel ministry, Rev. Ronald Winters has done much to share and celebrate the joy of Christian fellowship, care for the needs of all persons and meet the growing demands of church, congregation and self within the complex framework of the modern ministry. Reverend Winters, pastor of Shiloh Baptist Church in McLean, Va., was licensed to the ministry on December 4, 1955, at North Indianapolis First Baptist Church and was ordained in May 1965 at Mount Calvary Baptist Church in Rockville, Md.

Reverend Winters was born December 15, 1933 to John and Leontine Winters. Raised in Indianapolis, Ind., Ronald Winters graduated from Crispus Attucks High School before leaving Indianapolis to attend Bishop College in Dallas, Tex. Returning to Indianapolis, Mr. Winters was licensed to the ministry, after which he served 2 years with the U.S. Navy. After being honorably discharged, Reverend Winters studied theology at Baltimore Bible College and Seminary, receiving his baccalaureate and, later, an honorary doctorate of divinity.

Indiana Senator Vance Hartke brought Reverend Winters to Washington, to join his personal staff, in 1960. While on Senator Hartke's staff, he met and married the former Janice Lewis on June 20, 1964, with Senator Hartke standing as best man. Ronald Winters served on Senator Hartke's staff, and on the Veterans' Affairs Committee, for 16 years before joining my staff in 1977, where he handles veterans' affairs and military matters, extending his ministry to attend to the needs of my New Jersey constituents. In the years he has been with my staff, Mr. Winters has consistently devoted himself to serving the varied requirements of a demanding position with a cheerfulness and dedication that are truly an example to us all.

After his ordination in 1965, Reverend Winters served as pastor of Mount Pleasant Baptist Church for 7 years before assuming the role of pastor at Shiloh Baptist Church, in McLean. During his tenure as pastor, Reverend Winters has established a reputation as a fine preacher, expanded the church membership, enlarged the ministry of the church, instituted a college scholarship program and founded the Shiloh Mass Choir, a group renowned for the excellence of their singing and repertoire.

Reverend Winters is an active member and former president of the Northern Virginia Baptist Ministers Conference, former correspondent secretary for the Northern Virginia Baptist Association, former president of McLean's Neighbors for a Better Community and former chaplain of the Fidelity Lodge No. 20, F. & A.M. Prince Hall Affiliated, where he is a master Mason. He was considered for chaplain of the Grand Lodge of Washington, D.C., but was forced to decline due to the press of other duties. On the death of Dr. Martin Luther King, Jr., Reverend Winters' memorial sermon was published in the CONGRESSIONAL RECORD. Two years later, in 1970, he offered the convening prayer in the U.S. Senate.

Reverend Winters lives in Reston, Va., with his wife Janice and their two children, Ronald, Jr., aged 13 and Christy Ann, aged 12.

Mr. President, Reverend Winters exemplifies the finest in public and community service, as attested to by his many achievements, of which this is only a partial listing. I know the entire Senate will wish to join me in commending this truly fine man for his dedication and service.

Mr. President, Mr. Winters' ministry is a guiding light for the parishoners that he reaches at his church and his 25th anniversary in the ministry was observed with great beauty recently and most richly deserved by a man of his depth of humanity, his passion, his sensitivity, his good will and his good humor.

INDEFINITE POSTPONEMENT OF S. 2574

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 1142, S. 2574, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR JEPSEN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators for tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. JEPSEN be recognized for not to exceed 15 minutes after the two leaders have been recognized under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REDUCTION OF LEADERSHIP TIME TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, the time of the two leaders be reduced to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. DAVID ALLOWAY—1980 WINNER OF THE PRIZE OF ROME

Mr. BRADLEY. Mr. President, I take this opportunity to call the attention of my colleagues to a constituent of mine who has been internationally honored for his academic and literary accomplishments. David N. Alloway, Ph.D., of Bloomfield, N.J., serves with great distinction as a professor of sociology at Montclair State College in Montclair, N.J.

The Accademia delle Scienze di Roma is a notable organization under the direction of the Italian Ministry of Culture. Every year the "Prize of Rome" is awarded by the academy to individuals who have contributed to the physical sciences, the humanities, economics, literature, medicine, and other distinguished fields of endeavor. This year the academy awarded the prestigious "Prize of Rome" to Dr. Alloway for his work in the field of sociology. Subsequently, the general assembly of my State noted this honor in a resolution commending Dr. Alloway for his outstanding academic, civic, and social accomplishments. With great pride I submit for the RECORD that resolution honoring David N. Alloway, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MONTCLAIR STATE COLLEGE,
Upper Montclair, N.J., October 2, 1980.

Sen. BILL BRADLEY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BRADLEY: I have for some time now been watching your performance in the Senate as the representative of our state. I have been most favorably impressed by the basically sensible, careful and largely unpretentious manner in which you have been conducting yourself in that office. In a word, I am most pleased!

Enclosed with this is a Resolution of Commendation by the General Assembly of the State of New Jersey. I believe it explains itself. However, because all the state colleges in New Jersey can badly use favorable mention I have been prevailed upon (and that is the exact word—Prevailed) to send this to you in the hope the U.S. Congress might be similarly inclined—which I personally doubt, but here it is! I do not personally care one way or the other (for after all they '"cooked up" this one), but am doing my duty in sending it to you. I insisted that I do it instead of they so that I can make clear that we do not personally seek it, nor should you feel obligated in anyway to do anything. The information is, however, complete.

Meanwhile, my personal regards to your wife, who has been for some time, anyway, a colleague of mine here at Montclair, State College.

Whatever you decide, or is possible for that matter, will be quite alright with me—even if that is nothing at all. However, if you want Xeroxes of letters etc. I have them (all in Italian though, and I believe Ernestine's fluency is German, however). Meanwhile my warmest regards to her as well.

Sincerely, and with all
Best Regards,
DAVID N. ALLOWAY.

RESOLUTION

Whereas, David N. Alloway, Ph.D., of Bloomfield, a Professor of Sociology at Montclair State College, has recently been awarded, by the *Academia delle Scienze di Roma*, its prestigious international academic prize called the *Collare Grande Croce d'Onore Con Bandia d'Italia Marco Tullio Cicerone, in the field of Sociology*; and,

Whereas, Deriving from the Learned Academy of Rome, founded in 64 B.C. by Marcus Tullius Cicero, the *Academia delle Scienze di Roma* is supervised by the Italian Ministry of Culture and open to a highly select international membership of distinguished world leaders in many fields of endeavor; and,

Whereas, Nominated for membership in 1979, Professor Alloway was admitted and awarded the title of *Academico di Merito*, followed by the *Medaglio D'Oro di Merito*, for his outstanding academic and literary accomplishments as well as for his demonstrated commitment to the best interests of his fellowman; and,

Whereas, The *Collare Grande Croce di Merito Con Bandia d'Italia Marco Tullio Ciccrone* is frequently referred to as the "Prize of Rome," is deemed to be similar to the Nobel prizes awarded annually by the Royal Swedish Academy, and is limited to 10 awards in any one calendar year; and,

Whereas, Professor Alloway's co-awardees for 1980 include President Valery Giscard D'Estaing, of France (Government and Politics); Dr. Christian Barnard, of South Africa (Medicine); Sr. Ungar Mauricio, of Costa Rica (Literature); the Rt. Hon. Sir Sidney Lawrence, of the United Kingdom (Science); Professor S.E. Pierre Pasleau, of Belgium (Economics); and Sir Percy Radcliffe, of the United Kingdom (Humanities); and,

Whereas, It is altogether fitting and proper for this House to note the outstanding honor accorded a distinguished private citizen of this State, and to convey to Professor David N. Alloway the sentiments of the members hereof upon his recognition and award by the *Accademia delle Scienze di Roma*; now, therefore,

Be It Resolved by the General Assembly of the State of New Jersey:

That this House hereby commend Professor David N. Alloway, of Montclair State College, for his outstanding academic, civil and social accomplishments over many years; and convey to him upon his being awarded the *Collare Grande Croce d'Onore Con Bandia d'Italia Marco Tullio Cicerone* by the *Academia delle Scienze di Roma*, the sincere congratulations and best wishes of the members of this House for his continued good health, happiness and fulfillment in the future; and,

Be It Further Resolved, That a duly authentical copy of this resolution, signed by the Speaker and attested by the Clerk, be transmitted to Professor David N. Alloway, with the warmest thoughts of the members of this House.

MARIANNA STANGO RODINO

Mr. BRADLEY. Mr. President, New Jersey has lost a lovely and gracious lady—Marianna Stango Rodino, the wife of the dean of the New Jersey delegation, PETER RODINO.

In her 70 years, Ann Rodino devoted herself to the assistance of others. She was a native of Newark, N.J., where she grew up and first worked for the Prudential Life Insurance Co. A devout woman, Mrs. Rodino was active in the St. Gerard's Ladies Guild, the A'Kempis Society and the Catholic Daughters of America. She also chaired the Essex County March of Dimes and served on the board of the Kessler Institute for Rehabilitation in West Orange. It is fitting that, earlier this year, a U.S.-sponsored home for elderly earthquake victims in Majano, Italy, was dedicated in her honor.

Although Mrs. Rodino had been seriously ill for the past 2 years, she continued to provide support and encouragement for her husband. She will be missed, not only by her children, Margaret Ann and Peter III, but by the entire State of New Jersey.

DOCUMENTATION OF CERTAIN VESSELS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1082, H.R. 1196.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1196) to revise and improve the laws relating to the documentation of vessels, and for other purposes.

UP AMENDMENT NO. 1850

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. CANNON and, in turn, on behalf of the committee.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. CANNON, proposes an unprinted amendment numbered 1850.

Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I

Sec. 101. Short Title.

This title may be cited as the "Vessel Documentation Act".

Sec. 102. Definitions.

As used in this title—

(1) "documented vessel" means a vessel for which a certificate of documentation has been issued under this title;

(2) "fisheries" includes the planting, cultivation, catching, taking, or harvesting of fish, shellfish, marine animals, pearls, shells, or marine vegetation at any place within the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811); and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

Sec. 103. Ports of Documentation.

The Secretary shall designate ports of documentation in the United States where vessels may be documented and instruments affecting title to, or interest in, documented vessels may be recorded. The Secretary shall specify the geographic area to be served by each designated port, and he may discontinue, relocate, or designate additional ports of documentation.

Sec. 104. Vessels Eligible for Documentation.

Any vessel of at least five net tons that is not registered under the laws of a foreign country is eligible for documentation if it is owned by—

(1) an individual who is a citizen of the United States;

(2) a partnership or association whose members are all citizens of the United States;

(3) a corporation created under the laws of the United States, or any State, territory, or possession thereof, or of the District of Columbia, or the Commonwealth of Puerto Rico; whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum;

(4) the United States Government; or

(5) the government of any State, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

Sec. 105. Home Ports.

(a) With the approval of the Secretary and subject to such regulations as he may prescribe, the port of documentation selected by an owner for the documentation of his vessel shall be the vessel's home port.

(b) Once a vessel's home port has been fixed as provided in subsection (a), it may not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

Sec. 106. Name of Vessel.

(a) At the time of application for initial documentation of a vessel, the owner shall provide a name for the vessel. Subject to the approval of the Secretary and upon the issuance of a certificate of documentation, that name shall become the vessel's name of record.

(b) Once a vessel's name of record has been fixed as provided in subsection (a), it shall not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

(c) The Secretary may prescribe a reasonable fee for changing a documented vessel's name of record.

Sec. 107. Certificate of Documentation: Application; Issuance; Form; Exhibition.

(a) Upon application by the owner of any vessel eligible for documentation, the Secretary shall issue a certificate of documentation of a type specified in section 110, 111, 112, 113, or 114 of this title.

(b) The Secretary may prescribe the form of, the manner of filing, and the information to be contained in, applications for certificates of documentation.

(c) Each certificate of documentation shall—

(1) contain the name, the home port, and a description of the vessel for which it is issued;

(2) identify its owner; and

(3) be in the form and contain any additional information prescribed by the Secretary.

(d) The Secretary shall, by regulation, prescribe procedures to insure the integrity of, and the accuracy of information contained in, certificates of documentation issued under this title.

(e) The owner and the master of each documented vessel shall make the vessel's certificate of documentation available for examination as the law may require or as the Secretary may prescribe.

Sec. 108. Numbers; Signal Letters; Identification Markings.

(a) The Secretary shall maintain a numbering system for the identification of documented vessels and shall assign a number to each documented vessel.

(b) The Secretary may maintain a system of signal letters for documented vessels.

(c) The owner of each documented vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned under subsection (a) and any other identification markings the Secretary may precsribe.

Sec. 109. Purpose of Documentation.

A certificate of documentation issued under this title is—

(1) conclusive evidence of nationality for international purposes, but not in any proceeding conducted under the laws of the United States;

(2) except in the case of a pleasure vessel license, conclusive evidence of qualification to be employed in a specific trade; and

(3) not conclusive evidence of ownership in any proceeding in which ownership is in issue.

Sec. 110. Certificate of Documentation; Registry.

(a) A registry may be issued for any vessel that is eligible for documentation.

(b) A vessel for which a registry is issued may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) Upon application of the owner of any vessel that qualifies for a coastwise license under section 111 of this title, a Great Lakes license under section 112 of this title, or a fishery license under section 113 of this title, the Secretary may issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

(d) Except as provided in sections 111, 112, and 113 of this title, a foreign built vessel registered pursuant to this section may not engage in the coastwise trade, the Great Lakes trade, or the fisheries.

Sec. 111. Certificate of Documentation: Coastwise License.

(a) A coastwise license or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under laws of the United States to be employed in the coastwise trade.

(b) Only a vessel for which a coastwise license or an appropriately endorsed registry is issued may, subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade; and

(2) the fisheries.

Sec. 112. Certificate of Documentation: Great Lakes License.

(a) A Great Lakes license, or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.

(b) Only a vessel for which a Great Lakes license or an appropriately endorsed registry is issued may, on the Great Lakes and their tributary and connecting waters and subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade;

(2) trade with Canada; and

(3) the fisheries.

Sec. 113. Certificate of Documentation: Fishery License.

(a) A fishery license, or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries, only a vessel for which a fishery license or an appropriately endorsed registry is issued may be employed in that trade.

Sec. 114. Certificate of Documentation: Pleasure Vessel License.

(a) A pleasure vessel license may be issued for any vessel that—

(1) is eligible for documentation, and

(2) is to be used exclusively for pleasure.

(b) A licensed pleasure vessel may proceed from or to any port of the United States and to any foreign port without entering or clearing with the United States Customs Service.

(c) Notwithstanding any other law, the Secretary may prescribe reasonable fees for issuing, renewing, or replacing a pleasure vessel license; or for providing any other service in connection with a pleasure vessel license. The fees shall be based on the costs of the service provided.

Sec. 115. Vessel Limited to Trade Covered by Certificate of Documentation; Exemptions; Penalty.

(a) A vessel may not be employed in any trade other than a trade covered by the certificate of documentation issued for that vessel. A documented pleasure vessel may not be used for purposes other than pleasure. However, any certificate of documentation may, under regulations prescribed by the Secretary, be exchanged for any other type of certificate of documentation, or appropriately endorsed for any trade, for which the vessel qualifies.

(b) A non-self-propelled vessel which is qualified to be employed in the coastwise trade may, without being documented, be employed in that trade within a harbor or on the rivers or inland lakes of the United States, or on the internal waters or canals of any State.

(c) Whenever a vessel is employed in a trade that is not covered by the certificate of documentation issued for that vessel or a documented pleasure vessel is used other than for pleasure, the vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

(d) A documented vessel may not be placed under the command of a person other than a citizen of the United States.

Sec. 116. Falsification in Documentation: Fraudulent Use of Document; Penalty.

(a) Whenever the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation in connection with the documentation of his vessel under this title, in addition to any other penalty provided by law, that vessel, together with its equipment, is liable to seizure by and forfeiture of the United States.

(b) Whenever a certificate of documentation is knowingly and fradulently used for any vessel, that vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

Sec. 117. Certificate of Documentation: Termination of Validity.

(a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this Act and the regulations prescribed thereunder pertaining to that certificate of documentation; or

(2) is placed under the command of a person who is not a citizen of the United States.

(b) Except as provided by subsection (o) of section 30 of the Act of June 5, 1920, as amended (46 U.S.C. 961(a)), an invalid certificate of documentation shall be surrendered in accordance with regulations prescribed by the Secretary.

Sec. 118. Vessels Procured Outside the United States.

(a) The Secretary and the Secretary of State, acting jointly, may provide for the issuance of an appropriate document for any vessel procured outside the United States that meets the ownership requirements of section 104 of this title.

(b) Subject to any limitations the Secretary may prescribe, a vessel for which an appropriate document is issued under this section may proceed to the United States and engage en route in the foreign trade or trade with Guam, American Samoa, Wake, Midway, Kingman Reef. Upon the vessel's arrival in the United States the document shall be surrendered in accordance with regulations prescribed by the Secretary.

(c) A vessel for which a document is issued under this section is subject to the jurisdiction and laws of the United States. However, the Secretary may suspend for a period not to exceed six months the application of any vessel inspection law administered by him, or any regulation issued thereunder, if he considers the suspension to be in the public interest.

Sec. 119. Recording of United States Built Vessels.

The Secretary may provide for the recording and certifying of any information pertaining to vessels built in the United States that he considers to be in the public interest.

Sec. 120. Registration of Funnel Marks and House Flags.

The Secretary shall provide for the registration of funnel marks and house flags by owners of vessels.

Sec. 121. List of Documented Vessels.

The Secretary shall publish periodically a list of all documented vessels together with any information pertaining to them that he considers pertinent or useful.

Sec. 122. Reports.

To insure compliance with this title and the laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners and masters of documented vessels to submit reports in any reasonable form and manner he may prescribe.

Sec. 123. Violations; Penalty.

(a) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this title or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $500 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of the penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty under this section.

(c) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in any appropriate district court of the United States.

Sec. 124. Delegations and Regulations.

The Secretary may—

(1) delegate, and authorize successive redelegations of, any of the duties or powers conferred on him by this title; and

(2) prescribe regulations to carry out this title.

Sec. 125. Related Terms in Other Laws.

With respect to the documentation of a vessel whenever used in any law, regulation, document ruling, or other official act—

(1) "certificate of registry", "registry", and "register" mean a registry as provided for in section 110 of this title;

(2) "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" mean a coastwise license as provided for in section 111 of this title;

(3) "enrollment and licenses to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea" means a Great Lakes license as provided for in section 112 of this title;

(4) "license for the fisheries" and "enrollment and license for the fisheries" mean a fishery license as provided for in section 113 of this title; and

(5) "yacht" means a pleasure vessel whether or not documented.

Sec. 126. Amendments to Other Laws.

(a) Section 4131 of the Revised Statutes of the United States, as amended (46 U.S.C. 221), is further amended to read as follows: "Only a citizen of the United States may serve as master, chief engineer, or officer in charge of a deck watch or engineering watch or any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage and a vacancy is thereby created, until the vessel's first return to a United States port where a United States citizen replacement can be obtained, a person who is not a citizen of the United States may serve in—

"(1) the vacancy; or

"(2) any vacancy resulting from the promotion of another to fill the original vacancy.".

(b) Section 4311 of the Revised Statutes of the United States, as amended (46 U.S.C. 251), is further amended by striking the first and third sentences of subsection (a).

(c) Section 4320 of the Revised Statutes of the United States, as amended (46 U.S.C. 262), is further amended by—

(1) striking the word "licensed" in the first sentence and inserting in lieu thereof the word "documented"; and

(2) striking the last sentence.

(d) Section 4377 of the Revised Statutes of the United States, as amended (46 U.S.C. 325), is further amended by striking the second sentence.

(e) Section 7 of the Act of June 19, 1886, as amended (46 U.S.C. 319), is further amended by—

(1) striking the first sentence and inserting in lieu thereof the following:

"Whenever a vessel, entitled to be documented and not so documented, is employed in a trade for which certificates of documentation are issued under the vessel documentation laws, other than a trade covered by a registry, the vessel is liable to a civil penalty of $500 for each port at which it arrives without the proper certificate of documentation, and if it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or required to be paid, the vessel, together with its equipment and cargo, is liable to seizure and forfeiture."; and

(2) striking the last sentence.

Sec. 127. Repeals.

The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this title:

Revised statutes section	Revised statutes section	Revised statutes section
4132	4167	4315
4137	4168	4318
4138	4169	4319
4139	4170	4321
4141	4171	4322
4142	4174	4323
4143	4176	4324
4144	4177	4325
4146	4178	4326
4147	4179	4327
4150	4180	4328
4155	4182	4329
4156	4183	4330
4157	4187	4333
4158	4189	4335
4159	4190	4337
4160	4191	4338
4161	4214	4339
4162	4215	4372
4163	4217	4384
4164	4312	4385
4166	4313	4495
	4314	4498

Date	Chapter	Section	Statutes at large	
			Volume	Page
Apr. 17, 1874	106		18	30
Feb. 27, 1877	69	1 (only the part amending R.S. 4315, 4318, and 4319).	19	251
June 30, 1879	54		21	44
June 26, 1884	121	21	23	58
July 5, 1884	221	4	23	119
June 19, 1886	421	6	24	81
Feb. 21, 1891	250	1	26	765
Jan. 16, 1895	24	2, 4, 5	28	624, 625
Jan. 20, 1897	67	1, 2	29	491, 492
June 24, 1902	1155	1, 2	32	398, 399
Mar. 3, 1905	1457	9	33	1032
Apr. 24, 1906	1865	1, 2	34	136
May 28, 1908	212	7	35	426
Feb. 29, 1912	47		37	70
July 9, 1912	220		37	189
Aug. 24, 1912	390	5 (only the part amending R.S. 4132).	37	562
Mar. 4, 1915	172	1	38	1193
Do	184	5	38	1218
Feb. 19, 1920	83	1, 2, 3	41	436, 437
Feb. 16, 1925	235	1	43	947
Aug. 5, 1935	438	310	49	528
May 20, 1936	434		49	1367
May 24, 1938	265		52	437
May 31, 1939	159		53	794
Do	160		53	795
June 2, 1939	168		53	798
Aug. 30, 1957	Public Law 85-237	1	71	517
Aug. 17, 1961	Public Law 85-157		75	392
Sept. 29, 1965	Public Law 85-219	10	79	892

SEC. 128. EFFECTIVE DATE.

This title shall be effective on the first day of the eighteenth month following the month in which enacted.

TITLE II

SEC. 201. SHORT TITLE.—This Act may be cited as the "Tonnage Measurement Simplification Act".

SEC. 202. MEASUREMENT.—Section 4148 of the Revised Statutes of the United States, as amended (46 U.S.C. 71) is further amended to read as follows:

"SEC. 4148. (a) Before a vessel is documented or recorded under the laws of the United States, or where the application of a law of the United States to a vessel is determined by its tonnage, the vessel shall be measured by the Secretary of the department in which the Coast Guard is operating. The Secretary may, by regulation, provide for the temporary documentation of a vessel prior to the measurement required by this section.

"(b) A vessel required to be measured under subsection (a) of this section, other than a vessel used exclusively for pleasure, shall be measured as prescribed in sections 4151 and 4153 of the Revised Statutes of the United States, as amended, and to the extent applicable, as prescribed in Public Law 89-219, September 29, 1965 (79 Stat. 891; 46 U.S.C. 83-83k) if—

"(1) it engages or intends to engage in an international voyage by sea; or

"(2) it is at least twenty-four meters in length and is self-propelled.

"(c) A vessel not required to be measured under subsection (b) of this section may be so measured if requested by its owner. A vessel not measured under subsection (b) shall be assigned gross and net tonnages by the Secretary which are functions of its length, breadth, depth, and other dimensions, including appropriate coefficients. The Secretary shall prescribe the manner in which dimensions are measured and which coefficients are appropriate. The resulting gross tonnages, taken as a group, shall reasonably reflect the relative internal volumes of the vessels measured, and the resulting net tonnages shall be in approximately the same ratios to corresponding gross tonnages as are the net and gross tonnages of comparable vessels measured under subsection (b) of this section. In accordance with regulations issued under this subsection, the Secretary may determine the gross and net tonnages of a vessel which is representative of a designated class, model, or type and may assign those gross and net tonnages to other vessels of the same class, model, or type.

"(d) A vessel shall be remeasured if—

"(1) the vessel is altered or the use of its space is changed so that its gross or net tonnage is affected;

"(2) having been measured under subsection (c) of this section, the vessel becomes, by use or alteration, subject to subsection (b) of this section; or

"(3) having been measured under subsection (b) of this section and not required to be so measured, the owner requests that the vessel be measured under subsection (c) of this section.

Except as provided in this subsection, a vessel that has been measured is not required to be measured to obtain another document.

"(e) The Secretary shall make such regulations as may be necessary to carry out the provisions of sections 4148, 4149, 4150, 4151, and 4153 of the Revised Statutes, as amended (46 U.S.C. 71, 72, 74, 75, 77).".

SEC. 203. APPLICATION.—A vessel measured prior to the effective date of this title under sections 4151 and 4153 of the Revised Statutes of the United States, as amended, is considered as having been measured under section 4148(b) of the Revised Statutes of the United States, as amended by this Act.

SEC. 204. EFFECTIVE DATE.—The provisions of this title shall take effect on the first day of the twelfth month following the month in which enacted.

● **Mr. CANNON.** Mr. President, we offer today an amendment to H.R. 1196 that is in the nature of a substitute. It consists of two titles. The first title is aimed at simplifying the documentation of vessels under U.S. law. The second is intended to give small commercial vessels the option of using the simplified tonnage measurement procedures now used by pleasure vessels.

Vessel documentation is the administrative procedure by which a vessel is registered or licensed as a vessel of the United States for identification purposes and certified as authorized to engage in a specific trade. Documentation entitles a vessel to certain rights, privileges, and immunities under international law which follow the vessel wherever it may be on the high seas or in the territorial seas of another nation.

The original vessel documentation laws were enacted in the 1970's and some still remain in effect. Other laws have been added and amended in a piecemeal fashion to deal with specific documentation problems. The result is a patchwork of archaic, complex, and inconsistent laws that are difficult to understand and administer.

Title I of H.R. 1196 is a concise and orderly rewrite of existing laws relating to vessel documentation. Without making substantive changes, the bill eliminates the restrictive administrative details of existing laws and, within specific guidelines, delegates the responsibility and regulatory authority for their administration to the Coast Guard. This will permit the introduction of modern procedures and business techniques and will eliminate existing regulatory inefficiencies.

A revamped, simplified system of vessel documentation was recommended shortly after the Coast Guard's assumption of the documentation function in 1967. That recommendation has been pursued in every Congress since then but without success. In the meantime during the 1970's the annual volume of documentation transactions has more than doubled.

The present thicket of laws stands in the way of efficient vessel documentation. H.R. 1196 will effect the kind of streamlining that is long overdue.

Title I of the amendment we offer is slightly different from H.R. 1196 as it passed the House. We have made these changes so that this bill will not alter the substantive law on vessel documentation. The changes have been developed in close consultation with the House Merchant Marine and Fisheries Committee.

The House-passed version of the bill does not carry forward a law enacted last year specifying that fishing within the U.S. fishery conservation zone is to be included in the meaning of "fisheries" under the documentation law. One of the changes we offer would continue this recent law by incorporating it into H.R. 1196. The change would thus insure that, with a few small exceptions, only U.S.-built fishing vessels can take advantage of the harvesting preference given to domestic vessels in the U.S. fishery zone. The other changes included in title I would continue existing exceptions to the restrictions against the use of foreign-built vessels in the coastwise trade and the fisheries. The first such exception applies to vessels captured in war by U.S. citizens and condemned as prize and to vessels adjudged to be forfeited as a result of a breach of U.S. law. The exception regarding forfeited vessels has been relied on extensively by fishermen and other purchasers of small vessels. Another exception that would be continued pertains to wrecked vessels which have been substantially rebuilt by U.S. shipyards.

Title II of our amendment is substantially the same as H.R. 1197, a bill to simplify the tonnage measurement of certain vessels, which was reported by the Commerce Committee and passed by the Senate with amendments on August 22, 1980. The following excerpt of the Commerce Committee Report No. 96–852 covers the background of H.R. 1197 and the history of its consideration by the committee—

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 1197) to simplify the tonnage measurement of certain vessels, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE LEGISLATION

The purpose of this legislation is to extend to small commercial vessels the option of using the simplified tonnage procedures now used by pleasure vessels.

BACKGROUND

The measurement of a vessel's tonnage (technically known as "admeasurement") is actually a measure of the volume of the vessel, rather than of its weight or cargo capacity. Tonnage measurement is used to determine the applicability of international conventions, treaties, laws, and regulations. It is also used as the basis for computing limits of liability, tonnage duties, port and pilotage fees, and similar charges. The original admeasurement law for commercial vessels was enacted in the 1790's and has been unchanged since 1873.

This law (46 U.S.C. 71) requires the physical on-scene measurement of each space within a vessel. This intricate system of measurement (known as "formal admeasurement") is done in accordance with complex statutory and regulatory requirements and requires complicated measurements and calculations using integral calculus. Admeasurement is therefore a relatively expensive and time-consuming process.

Recognizing the need for a simplified admeasurement procedure for pleasure vessels, in 1966, Congress enacted Public Law 89-476, which allows pleasure vessel owners the option of using a mathematical formula based on the length, breadth, and depth of the vessel. Use of the formula yields a result approximating the result derived using the more formal method. This simplified method has been highly successful and, starting in 1976, has led to proposals to allow the same method for small commercial vessels.

COMMITTEE CONSIDERATION

H.R. 1197 passed the House under suspension on September 18, 1979, and was subsequently referred to the Committee on Commerce, Science, and Transportation. On January 16, 1980, the Committee requested written comments on the bill. The only comments received were from the Department of Transportation, which endorsed the bill with several minor technical amendments.

H.R. 1197, as reported, would allow the admeasurement of commercial vessels under 24 meters by either formal admeasurement or a simplified method similar to that presently applicable to pleasure vessels. This simplified method would not be available to a commercial vessel, regardless of size, which engages or is intended to engage in an international voyage by sea. This limitation is necessary to assure the continued acceptability by foreign governments of admeasurement documents issued by the United States.

The bill is intended to provide for a more efficient method of admeasuring small commercial vessels, which will permit more timely admeasurement of larger vessels. It is anticipated that over 3,000 vessels will be able to take advantage of the simplified method each year. Consequently, minor savings are expected from the reduction in Coast Guard personnel resources needed to measure these vessels.

The Committee approved the bill without amendment at its executive session of June 24, 1980.

Mr. President, I urge that our amendment to H.R. 1196 be passed promptly.●

● Mr. KENNEDY. Mr. President, I have been concerned over possible interpretations of the "ownership" provisions of section 4 of the bill which could prevent U.S. citizen vessel purchasers from using modern financing techniques, such as leveraged leases and other arrangements where noncitizens are involved as time charterers. A significant proportion of U.S. ships construction during the last 10 years has been financed in this fashion, with the approval—and frequently the participation—of the Maritime Administration.

Is my understanding correct that this bill is intended neither to establish new standards for determining ownership nor to ratify any interpretations since 1977 by the Coast Guard which would result in denial of documentation for vessels in cases where financing is substantially the same as for vessels previously documented by Coast Guard?

Mr. CANNON. Mr. President, that is correct. This bill is merely intended to recodify and to simplify the Coast Guard's documentation procedures; no substantive changes are intended. The Department of Transportation and the Maritime Administration have discussed the matter to which you referred and have assured the committee that they will develop a memorandum of understanding to clarify their respective roles in this area. That memorandum should be completed in the near future. In addition, Senator PACKWOOD and I have agreed that the Committee on Commerce, Science, and Transportation will be holding hearings early next year to examine the important defense and commerce issues raised by this matter. In the meantime, it is our intent that the Coast Guard not refuse documentation for vessels in cases where financing is substantially the same as for vessels previously documented by the Coast Guard. I have also received a letter from the Coast Guard indicating that its documentation practices will be in accord with this understanding. I ask that the Coast Guard's letter be printed in the RECORD.

The letter follows:

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
December 2, 1980.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON: In light of continued expression of concerns regarding the Coast Guard's policy on documentation of vessels involving charter arrangements, I thought it would be helpful to you if I clarified our position.

These concerns have arisen primarily as a result of an internal Coast Guard memorandum published in 1977 regarding the documentation of the vessels BT Alaska and BT San Diego. In that memorandum, after discussing a wide range of topics relating to the relationship between the owners of the vessels and the charterer, which was a foreign corporation, we came to the preliminary conclusion that the vessels could not be documented. As a result of that preliminary opinion there has been speculation that our policy and interpretations related to documentation of U.S. vessels which are time chartered to foreign corporations has changed, and that we were now going to be much more restrictive. I assure you that this is not the case. There has been no change in either policy or interpretation that would result in my refusal to document vessels in cases where financing and charter arrangements are substantially the same as for vessels that we had previously documented.

Since the concerns raised have been in the context of H.R. 1196, a bill to revise and improve laws relating to documentation of vessels, let me assure you that this bill is in no way intended to establish new standards for vessel documentation, including situations involving the financing and charter arrangements referred to above. Further, we contemplate no changes in policy or interpretation in the foreseeable future unless directed to do so through new legislation.

We are also continuing to work with the Maritime Administration to insure that there are no inconsistencies in our policies and procedures that will operate to the detriment of the U.S. merchant marine and shipbuilding industry. Where ambiguity or inconsistencies exist, we will resolve the problem through a memorandum of understanding, new regulations, or, if necessary, new legislation.

Sincerely,

J. B. HAYES,
Admiral, U.S. Coast Guard Commandant.●

The PRESIDING OFFICER. Without objection, the amendment will be considered original text.

The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1851

(Purpose: To extend the existing exemption of the Steamboat Delta Queen from certain vessel laws for an additional 5 years)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. LONG and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) on behalf of Mr. LONG, proposes an unprinted amendment numbered 1851:

At the end of the amendment in the nature of a substitute, add the following:

TITLE III

SEC. 301. The penultimate sentence of section 5(b) of the Act of May 27, 1936 (49 U.S.C. 369(b)), as amended, is amended by striking "November 1, 1983," and substituting "November 1, 1988,".

"DELTA QUEEN" SHIP AMENDMENT

Mr. LONG. Mr. President, I offer today an unprinted amendment to H.R. 1196. The purpose of the amendment is to extend the existing exemption of the steamboat *Delta Queen* from certain vessel laws for an additional 5 years. Although the current extension does not expire for another 3 years, securing the additional 5 years extension at this time is essential in achieving a positive and long-term image among lending institutions.

This is particularly true now because the Delta Queen Steamboat Co. (DQSC), was recently spun off from its parent company, the Coca-Cola Bottling Co., of New York, Inc. As an independent public company, operating the steamboats *Delta Queen* and *Mississippi Queen*, DQSC must now secure its own financing.

Since the fourth congressional exemption which was issued in November 1978, the company has invested $1.5 million in the *Delta Queen*. Major projects have included new wiring, boiler retubing, hull replating, deck replacement, sewage treatment plant installation, and interior refurbishment. All life jacket stations have been redone and all fire safety equipment is maintained to meet quarterly inspection specifications by the U.S. Coast Guard.

Importantly, the vessel passed a close inspection by the Secret Service in preparation for President Carter's 7-day voyage in August 1979. Future maintenance plans call for continued mechanical repair such as overhauling the port engine, continued deck replacement and, in the next dry docking, steel hull replacement as warranted. All of this is in addition to regular fire system maintenance for the quarterly inspection.

Moreover, DQSC maintains and operates the last two overnight steamboats in America. The company operates under an American flag and is therefore only one of two major U.S. flag passenger shipping companies in operation today, and the only one in operation on the inland waterways.

The company employs 275 people, 220 of whom are members of the Seafarers International Union and the Marine Engineers Beneficial Association. The boats provide a unique American vacation traveling through 14 States while plying the waters of the Mississippi and Ohio Rivers. The steamboats attract many foreign visitors to vacation in America.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1851) was agreed to.

UP AMENDMENT 1852

(Purpose: To authorize the Secretary of Transportation to conduct a feasibility study of constructing a drawbridge across Coos Bay, Oregon)

Mr. MATHIAS. Mr. President, I send an amendment to the desk on behalf of Mr. PACKWOOD and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) on behalf of Mr. PACKWOOD proposes an unprinted amendment numbered 1852:

At the end of the amendment in the nature of a substitute, add the following new section:

SEC. 302. There is authorized to be appropriated to the Secretary of Transportation $500,000 for fiscal year 1981 to conduct a study of the feasibility of constructing a new two track railroad drawbridge across Coos Bay, Oregon which would replace the existing Southern Pacific Railroad drawbridge located at mile 9.0 and would have a clear navigational opening of 400 feet or such lesser clearance as the Secretary may determine to be reasonable. Such study shall include an analysis of any modifications to the Coos Bay City Airport that would be required to permit construction of a new railroad drawbridge.

● Mr. PACKWOOD. Mr. President, this amendment provides for a study of the feasibility of building a two-track railroad drawbridge across Coos Bay, Oreg., There is increasing evidence that the existing drawbridge at mile 9.0 which is owned and operated by Southern Pacific Railroad is an impediment to the full utilization of the deep draft channel.

Since the depth of the channel has recently been increased by the Army Corps of Engineers to accommodate deeper draft vessels, it is now apparent that if the Port of Coos Bay, Oreg. is to reach its full potential as a regional, national, and international port, that a new bridge, designed to accommodate these larger vessels, is essential.

However, before the Congress is asked to commit the millions of dollars necessary to actually build a new bridge, I believe the wiser course is to determine the best type of bridge for the area and the optimum location. The preliminary indications are that the construction of a new drawbridge of appropriate height will impair the utilization of the runway 4–22 at the Coos Bay City Airport. This problem magnifies the need for a thorough examination of all aspects of the project prior to authorization of construction funds. The $500,000 will go to the Department of Transportation where it is anticipated that the Secretary of that Department will seek the assistance of the U.S. Coast Guard, the Federal Aviation Administration, and the Federal Railroad Administration.

I trust that this study will be completed as soon as possible, in order that we can proceed with acts of construction of a new bridge. It is my understanding that the study will entail hearings in the Coos Bay area and that the public and private sector will be given a full opportunity for input in the study process.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1852) was agreed to.

UP AMENDMENT 1853

(Purpose: To authorize the transfer of a vessel by the Secretary of Commerce to the Superior-Douglas County Museum for use as a maritime museum)

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. INOUYE and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. INOUYE, proposes an unprinted amendment numbered 1853:

At the end of the amendment in the nature of a substitute, add the following new section:

SEC. 303. Notwithstanding the provisions of title V, Merchant Marine Act of 1936 and section 11, Merchant Ship Sales Act of 1946, the Secretary of Commerce is hereby authorized to transfer, without reimbursement, the title and ownership of V4–M–A1 ocean tug Scotch Cap to the Superior-Douglas County Museum in Superior, Wisconsin, for use as a maritime museum. The vessel shall be delivered to the museum at the place where the vessel is located on the effective date of this Act, in its present condition, without cost to the United States. While the vessel is owned by the Superior-Douglas County Museum it shall be used solely as a maritime museum, and such vessel shall not be used for operation or transportation purposes of any nature whatsoever. In the event that the United States should have need for the vessel, the Superior-Douglas County Museum, on request of the Secretary of Commerce shall make the vessel available to the United States without cost. In the event the Superior-Douglas County Museum no longer requires the vessel for the purposes of this Act, such vessel shall be conveyed back to the United States in as good condition as when received, except for ordinary wear and tear, to be delivered by the Superior-Douglas County Museum to the point of original delivery without any cost to the United States.

● Mr. INOUYE. Mr. President, this amendment waives the provisions of title V, Merchant Marine Act of 1936 and section II, Merchant Ship Sales Act of 1946, to authorize the Secretary of Commerce to transfer, without reimbursement, the title and ownership of the V4–M–A1 ocean tug *Scotch Cap* to the Superior-Douglas County Museum in Superior, Wis., for use as a maritime museum.

The transfer of the vessel in its present condition would be made without cost to the U.S. Government. While the vessel is owned by that institution, it may be used only as a maritime museum and may not be utilized for any transportation purposes. In the event that the United States should have need for the vessel, the museum, on request of the Secretary of Commerce, must make it available to the United States without cost. In the event that the Superior-Douglas Museum no longer requires the vessel as a maritime museum, it shall be conveyed back to the United States to the point of original delivery without any cost to the United States.

The *Scotch Cap* is one of 47 V4–M–A1 type tugs designed and built for the U.S. Maritime Commission under the Merchant Marine Act of 1936. It was built in 1943 at Superior, Wis., and has been laid up in the Reserve Fleet at Beaumont, Tex., since March 23, 1956.

This legislation would enable the *Scotch Cap* to be used in a worthwhile venture without placing it in competition with private commercial operators. It would also keep it available for national defense purposes should it be necessary to reactivate these vessels.

The text of this bill was introduced by Senator PROXMIRE on July 9, 1979, and was subsequently referred to the Committee on Commerce, Science, and Transportation.

The committee has requested the views of all relevant agencies, and in each case there has been no objection to the legislation. The agencies commenting were the Department of Commerce, Department of the Navy in behalf of the Department of Defense, and the Department of Transportation. In addition, the bill has received the support of the Transportation Institute.

I ask that their comments be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
Washington, D.C., October 17, 1979.

Hon. HOWARD W. CANNON,
Chairman, Commerce, Science, and Transportation Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your request for comments on S. 1448, a bill "To authorize the transfer of a vessel by the Secretary of

Commerce to the Superior-Douglas County Museum for use as a maritime museum," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

The purpose of the bill is stated in the title.

The Department of the Navy, on behalf of the Department of Defense, has no objection to enactment of S. 1448.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on S. 1448 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely,

L. C. LAITSCH,
Captain, JAGC, U.S. Navy.

GENERAL COUNSEL OF THE
U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., September 28, 1979.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on S. 1448, a bill—

"To authorize the transfer of a vessel by the Secretary of Commerce to the Superior-Douglas County Museum for use as a maritime museum."

S. 1448 would allow the Secretary of Commerce to transfer the vessel SCOTCH CAP to the Superior-Douglas County Museum in Superior, Wisconsin, notwithstanding the provisions of title V, Merchant Marine Act of 1936 and section 11, Merchant Ship Sales Act of 1946. These provisions of existing law do not provide the Secretary of Commerce with the authority necessary to make such a transfer.

The SCOTCH CAP is one of forty-seven V4–M–A1 type tugs designed by and built for the United States Maritime Commission under the Merchant Marine Act of 1936, to serve the diversified war and peacetime transportation needs of the United States. It is approximately 195' in length 1,118 gross tons; 1,096 displacement tons; 2,250 HP. The SCOTCH CAP was built in 1943 at Superior, Wisconsin, and has been laid up in the Reserve Fleet at Beaumont, Texas, since March 23, 1956.

The proposed legislation, while not of national significance, is nonetheless a means of fully utilizing Reserve Fleet vessels in a worthwhile venture, without placing them in competition with private commercial operators, while keeping them available for national defense purposes.

It is noted that the vessel is to be made available, without cost, to the United States upon request, and is to be conveyed back and returned to the United States, without cost to the United States, when it is no longer required for use as a museum.

Therefore, the Department of Commerce supports the enactment of legislation transferring ownership and title of the ocean tug SCOTCH CAP to Superior-Douglas County Museum in the manner specified in the legislation.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

C. L. HASLAM,
General Counsel.

OFFICE OF THE SECRETARY
OF TRANSPORTATION,
Washington, D.C.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of the Department of Transportation concerning S. 1448, a bill "To authorize the transfer of a vessel by the Secretary of Commerce to the Superior-Douglas County Museum for use as a maritime museum."

This bill would authorize the Secretary of Commerce to donate the ocean tug, Scotch Cap, to the Superior-Douglas County Museum in Superior, Wisconsin, for use as a maritime museum. The bill would thus exempt the Scotch Cap from the normal requirement that any vessel acquired by the Secretary of Commerce be retained in the national defense reserve fleet.

The Department of Transportation has no objection to this bill.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report for the consideration of the Committee.

Sincerely,

LINDA HELLER KAMM.

TRANSPORTATION INSTITUTE,
Washington, D.C., November 16, 1979.

Hon. DANIEL INOUYE,
Chairman, Subcommittee on Merchant Marine and Tourism, Washington, D.C.

DEAR MR. CHAIRMAN: The Transportation Institute, a non-profit research and education organization whose members include American-flag deep sea and inland water carriers, appreciates the opportunity to submit its views on the bills S. 1818, S. 1448 and S. 1863.

The Transportation Institute opposes the enactment of S. 1818. This bill would waive the Jones Act, 46 U.S.C. 883, so as to permit the vessel ***Alaskan Shores*** **to operate as a fish** processor.

We have consistently supported efforts to revitalize the American fishing industry. This industry offers the potential for numerous economic benefits to the United States.

We would note that legislation is pending in Congress which is designed to stimulate the growth of the domestic fishing industry particularly with respect to underutilized species. Similarly, legislation has been introduced to extend certain provisions of the Merchant Marine Act to the fishing industry. We believe these and other proposals reflect Congress' growing awareness that such action is necessary. This legislation also emphasizes the importance of developing a coordinated program in order to achieve this nation's goal of a strong American-built and American-operated fishing industry.

Consequently, the Transportation Institute urges the Subcommittee not to act on S. 1818, and refrain from approaching the problems of the fishing industry on a piecemeal, vessel-by-vessel basis.

The Institute does support, however, S. 1448 and S. 1863, legislation authorizing the U.S.-built ocean tug *Scotch Cap* and the nuclear ship *Savannah* to be designated as maritime museum ships. It is our hope that such legislation will emphasize to the American public the importance of a strong merchant marine and naval defense fleet.

We request that this statement be made part of the record on the legislation commented upon.

Sincerely,

HERBERT BRAND,
President.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

ACQUISITION OF CERTAIN LANDS IN DOUGLAS COUNTY, WIS.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1157.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3096) to amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wisconsin.

The Senate proceeded to consider the bill.

Mr. NELSON. Mr. President, 15 years ago, in 1965, I introduced a bill to establish a St. Croix National Scenic Riverway. This bill, which was coauthored by Senator MONDALE from Minnesota, authorized the development of a riverway along 152 miles of the St. Croix River, which forms a substantial part of the boundary between Wisconsin and Minnesota, and 90 miles of the Namekagon, a tributary to the St. Croix in Wisconsin. The Senate passed the bill, but it failed to become law.

Three years later, part of the goal of this bill was achieved when 100 miles of the Upper St. Croix and 85 miles of the Namekagon Rivers were included in legislation which established a national system for protecting the Nation's few remaining wild rivers, the National Wild and Scenic Rivers Act of 1968. Wisconsin was fortunate to be the only State east of the Mississippi to have rivers included in the initial system.

In 1971, I introduced a bill to protect the rest of the St. Croix by amending the Wild and Scenic Rivers Act to add the 52 miles of the lower river to the national system. The Lower St. Croix bill was enacted in 1972, thereby protecting the entire St. Croix River from its origin at Solon Springs to its confluence with the Mississippi River at Prescott, Wis. This was the realization of the long-held dream of conservationists in northern Wisconsin and Minnesota who fought to protect these rivers against industrial development and other forms of commercial uses. With this action, over 200 miles of the region's finest rivers were preserved in their natural state.

Families from Wisconsin and Minnesota, and in fact, from the entire Nation and many foreign countries have since enjoyed the riverway, canoeing, fishing, and camping along the way. On the upper river, from its headwaters to St. Croix Falls, Wis., vast stretches of free-flowing water, boiling up at times into white water rapids, challenge boaters and anglers. Dense forests continue to cover the river banks and provide a canopy for a vast world of wildlife. On the lower river, from St. Croix Falls to Prescott, Wis., thousands of visitors from the Twin Cities and elsewhere enjoy the broad expanses of Lake St. Croix, the sandy beaches of Wisconsin's Kinnickinnic State Park, and the quiet backwaters of Minnesota's William O'Brien State Park.

Today, I am again speaking on behalf of the St. Croix River. This bill adjusts the boundary of the St. Croix National Scenic Riverway to include 1,380 acres of unspoiled natural values—virgin timber, scenic visits of the St. Croix valley, bubbling springs, trout streams and lakes, and nature trails. These and other attributes combine to give this property all of the qualities and environmental characteristics associated with our national park system.

This may be our last chance to preserve this land, known as the Velie Estate. It has been protected since 1893, when 2,000 acres were purchased by the John Deere Co. as a fishing club for company officials. In 1968, 62 acres of the original estate were included in the St. Croix National Riverway, 20 acres in fee simple and 42 acres in scenic easement. In 1978, the remaining 1,980 acres were sold to a real estate developer. Since then, the developer has sold off 600 acres for timber harvesting and is now in the process of offering fragments of the remaining 1,380 acres for sale to individuals and corporations. The timely passage of this bill will prevent this exquisite tract of land from being subdivided and lost forever to public use and protection.

The National Wild and Scenic Rivers Act of 1968 authorizes the National Park Service to acquire strips of land along rivers to protect natural features from intrusions. However, it does not provide for the acquisition and protection of exceptional scenic and ecologically important watershed areas beyond the riverside strips.

This bill would adjust the boundaries of the riverway to include the Velie Estate. Inclusion of this area would accomplish two important purposes. First, it would assure the continued protection of important acquifers, virgin timber, scenic values, and wildlife habitat for endangered and threatened species—bald eagles, osprey, timber wolves, moose, and whitetail deer. Second, the Velie Estate is the only area on the Upper St. Croix River of National Park Service caliber which could provide for a future natural history center for the recreating public. Needed canoe access to the river could also be provided.

The Velie Estate combines all the qualities needed for complete public use and appreciation of the Upper St. Croix Scenic Riverway. Its huge rustic log lodge would accommodate a natural history interpretive center. Both walking and woodland driving trails lend themselves to guided or self-guided nature trails. Scenic overlooks from the bluffs command an awe-inspiring appreciation of the whole Upper St. Croix River valley, which once carried melting glacial waters. The importance of protecting the clear and clean cold water sources is easily demonstrated at the numerous bubbling springs at the base of the bluffs. Trout streams and cold lakes will be available to trout fishermen. A variety of wildlife species inhabit or range across the area. There are two active bald eagle nests. Campground facilities could accommodate many visitors. Hundreds of acres of virgin forest would present unique opportunities for scientific studies.

There is no opposition to the acquisition of the estate from local or State representatives. The local township, the county board, and the State natural resources board have all passed resolutions urging this action. In fact, both the State and the county have actively tried to protect the property but lack the necessary funds to acquire it. The current owners will not wait any longer for those of us who want to protect and preserve the land. A 1978 National Park Service survey of the site confirms that the Velie Estate meets or exceeds the standards of quality that would merit its inclusion in the St. Croix National Scenic Riverway. Therefore, I urge that we act today to insure that the ecological integrity and the recreational opportunities of this estate be maintained as part of the natural heritage of this great Nation.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (6) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274) is amended by adding at the end thereof the following new sentence: "A one-thousand-three-hundred-and-eighty-acre portion of the area commonly known as the Velie Estate, located adjacent to the Saint Croix River in Douglas County, Wisconsin, as depicted on the map entitled 'Boundary Map/Velie Estate—Saint Croix National Scenic Riverway', dated September 1980, and numbered 630-90,001, may be acquired by the Secretary without regard to any acreage limitation set forth in subsection (b) of this section or subsection (a) or (b) of section 6 of this Act.".

ROBERT C. McEWEN U.S. CUSTOMS HOUSE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Public Works and Environment be discharged from further consideration of H.R. 8345 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8345) to name the United States Customs House in Ogdensburg, New York, the "Robert C. McEwen United States Customs House".

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1854

(Purpose: Relating to making of certain appointments)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BAKER and myself, I send to the desk an amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for himself and Mr. BAKER, proposes an unprinted amendment numbered 1854.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . (a) Any provision of law which provides that any member of a commission, board, committee, advisory group, or similar body is to be appointed by the President pro tempore of the Senate shall be construed to require that the appointment be made—

(1) upon recommendation of the Majority Leader of the Senate, if such provision of law specifies that the appointment is to be made on the basis of the appointee's affiliation with the majority political party,

(2) upon the recommendation of the Minority Leader of the Senate, if such provision of law specifies that the appointment is to be made on the basis of the appointee's affiliation with the minority party, and

(3) upon the joint recommendation of the Majority Leader of the Senate and the Minority Leader of the Senate, if such provision of law does not specify that the appointment is to be made on the appointee's affiliation with the majority or minority political party.

(b) The provisions of subsection (a) shall be applicable in the case of appointments made after the date of enactment of this Act pursuant to provisions of law enacted on, before, and after, the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1854) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time, and passed.

JOHN E. MOSS FEDERAL BUILDING-U.S. COURTHOUSE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask that the Chair lay before the Senate a message from the House on H.R. 8404.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8404) to designate the Federal Building-U.S. Courthouse in Sacramento, Calif., the "John E. Moss Federal Building-U.S. Courthouse."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 8404) was read the third time, and passed.

CORRECTION OF UP AMENDMENT NO. 1830 TO H.R. 8195

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the enrolling clerk be instructed to make certain corrections to the Metzenbaum unprinted amendment No. 1830 to H.R. 8195, which was passed on Monday, December 8, and I send a correction to the desk.

The correction is as follows:

On page 1, line 8, following "June 1," strike "1980" and insert "1981" in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 5687—FOR THE RELIEF OF MICHAEL G. MACDONALD

Mr. ROBERT C. BYRD. I ask unanimous consent, on behalf of Mr. KENNEDY, that the Judiciary Committee be discharged from further consideration of H.R. 5687 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5687) for the relief of Michael G. Macdonald.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time, and passed.

H.R. 4522—FOR THE RELIEF OF ANNETTE JUTTA WOHRLE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask unanimous consent that the Committee on Judiciary be discharged from further consideration of H.R. 4522 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4522) for the relief of Annette Jutta Wohrle.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time, and passed.

H.R. 5788—FOR THE RELIEF OF JUN AE HEE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 5788 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5788) for the relief of Jun Ae Hee.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time, and passed.

H.R. 4645—TO CHANGE THE NAME OF CLAYTON LAKE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4645, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4645) to change the name of Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma, to Sardis Lake.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1855

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. RANDOLPH, proposes an unprinted amendment numbered 1855.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. . (a) For the the preservation and enhancement of highly significant wildlife habitat of the area known as Bandon Marsh, in the estuary of the Coquille River in the State of Oregon, for the protection of migratory waterfowl, numerous species of shorebirds and fish, including Chinook and silver salmon, and to provide opportunity for wildlife-oriented recreation and nature study on the marsh so preserved, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to establish, as herein provided, a national wildlife refuge to be known as the Bandon Marsh National Wildlife Refuge (hereinafter referred to as the "refuge").

(b) There shall be included within the boundaries of the refuge those lands, marshes, tidal flats, submerged land, and open water generally depicted on the map entitled "Bandon Marsh National Wildlife Refuge", dated September, 1980, and which comprise approximately 300 acres. Said map shall be on file and available for public inspection in the offices of the U.S. Fish and Wildlife Service, Department of the Interior.

(c) The Secretary may acquire, with available appropriations, lands and waters, or interests therein, subject to the interests of the State of Oregon, including the public trust of the State, within the boundaries of the Refuge by donation, purchase with donated or appropriated funds, or exchange.

(d) The Secretary shall establish the refuge by publication of a notice to that effect in the Federal Register at such time as he determines that lands, waters, and interests therein sufficient to constitute an efficiently administrable refuge have been acquired. The Secretary may make such minor revisions in the boundaries of the Refuge as may be appropriate to carry out the provisions of this section.

(e) Prior to the establishment of the refuge and thereafter, the Secretary shall administer the lands, waters, and interests therein acquired for the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 663dd-ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities compatible with the wildlife resources, and interpretive education as he deems appropriate to carry out the purposes of this section, and should it become necessary acquire said lands subject to the public trust rights of the State, if any.

(f) Beginning October 1, 1981, there are authorized to be appropriated $270,000 to carry out this section.

● Mr. PACKWOOD. Mr. President, this amendment to H.R. 4645, a bill to redesignate Clayton Lake in Oklahoma, Sardis Lake, authorizes $270,000 for the U.S. Fish and Wildlife Service (FWS) to acquire Bandon Marsh on the Oregon coast.

This authorization is a key link in a chain of events which benefits our wildlife refuge program, the people and Port of Bandon, and historic preservation. Bandon is an Oregon coastal town located south of Coos Bay at the mouth of the Coquille River. For some time, the Port of Bandon has sought to acquire a vacant surplus Coast Guard Station adjacent to port property. The station is half a century old and was recently designated a National Historical Building. The port plans to restore this building and transform it into port offices and a visitor center/museum.

Presently, half of the building is owned by the Federal General Services Administration (GSA). The other half of the station is in private ownership. GSA, with the support of the Heritage Conservation and Recreation Service, will agree to transfer its share of the Coast Guard facility to the port, if the port can acquire the private half of the building, known as the Dyer Estate.

But the port does not have the cash to purchase the Dyer Estate. However, the port does own Bandon Marsh, a valuable wildlife habitat of considerable interest to FWS.

The Bandon Marsh and Flat is the largest, contiguous, intertidal area in the

Coquille River estuary. The marsh itself totals about 120 acres of low, sand, and salt marsh and 75 acres of immature high marsh. Neither the fish nor invertebrates of the marsh and flats has been systematically surveyed. The ecosystem, however, is considered to be one of the most important intertidal areas producing organic matter and nutrients and providing habitat for fish and wildlife along the Oregon coast. Juvenile Chinok salmon have been found to use rather heavily the west shore of the marsh—that section adjacent to the river. Several varieties of clams and shrimp occur along the marsh edge and the tidal flats. It is reportedly one of the most important waterfowl and shorebird resting and feeding areas along the southern Oregon coast. Species known to be heavily hunted there include the white ringed scoter, American widgeon, pintail, wood duck, and American merganser. Widgeon and pintails winter in the area. The foregoing notes only a few of the great diversity of species of fish and wildlife that inhabit or depend on the marsh and flat. Waterfowl hunting and clam digging represent the largest on-site use by people.

Although there are no known plans to develop the marsh, the locational factors involved do make it attractive for economic development that would damage or destroy its natural values. Accordingly, it would be prudent to take steps to discourage such conversion. The most certain way of doing that, of course, would be to place it in dedicated public ownership and management.

Enter the Trust for Public Lands (TPL), a nonprofit organization dedicated to preserving environmentally, historically, or culturally significant properties. TPL has an ongoing interest in protection of Bandon Marsh and restoration of the Coast Guard facility. Together with the Port of Bandon, TPL has developed a plan that will enable the port to acquire the Coast Guard station while insuring preservation of Bandon Marsh: TPL will buy the Dyer Estate half of the station, then give it to the port in exchange for the marsh. In this way, the port gets around the need to raise the cash for acquiring the second half of the Coast Guard station. TPL will then sell Bandon Marsh to the FWS, as authorized by this amendment, thus insuring the marsh's permanent protection.

Several factors make immediate approval of this authorization necessary. The Coast Guard station is in bad repair, and is suffering heavily under the strong rains that have recently visited the Pacific Northwest. The roof leaks, and water damage is beginning to take its toll. The sooner the port can begin restoration, the lower their restoration costs will be.

More important, TPL's option to purchase the Dyer Estate expires in the fall of 1981. Before they can purchase and trade the estate, they must have reasonable assurance that appropriations for the FWS to buy the marsh will be soon forthcoming that is by October 1981. If the authorization is not cleared in time for the fiscal year 1982 appropriations, TPL will be forced to back out of the Dyer Estate purchase, breaking the chain of transactions.

I urge the Senate to approve this amendment, and later approve appropriations to purchase Bander Marsh. If this is done, the people and Port of Bandon will get the old Coast Guard station they have long sought, a historic building will be restored, and an important wildlife habitat preserved. I would say that is a pretty good deal.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1855) was agreed to.

UP AMENDMENT NO. 1856

(Purpose: To authorize the conveyance of certain lands to the Wichita Mountains Wildlife Refuge)

Mr. MATHIAS. Mr. President, on behalf of the Senator from Oklahoma (Mr. BELLMON), I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS), on behalf of Mr. BELLMON, proposes an unprinted amendment numbered 1856.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end thereof insert the following new section:

SEC. 2. (a) Notwithstanding any other provisions of law, the Secretary of the Interior (referred to herein as the "Secretary") is authorized to convey to the Wichita Mountains Association, certain lands and waters of the United States comprising approximately ninety acres in the Wichita Mountains Wildlife Refuge, Oklahoma, described as township 3 north, range 13 west, Indian principal meridian; section 8, that part of the east three-quarter southwest quarter lying south of the big game fence; and, section 17, that part of the east three-quarter northwest quarter lying north of the north right-of-way of Lake Rush Road.

(b) The Secretary shall condition the conveyance of the land in this Act upon the use of the land for public recreational and cultural activities.

(c) In the event that the lands are no longer used for these purposes, title shall revert to the United States to be administered as a unit of the National Wildlife Refuge System in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee), and other applicable provisions of law.

(d) The Secretary is authorized and directed to prepare and execute such instrument as may be appropriate to carry out the provisions of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1856) was agreed to.

UP AMENDMENT NO. 1857

Mr. MATHIAS. Mr. President, on behalf of Mr. PRESSLER. I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS), on behalf of Mr. PRESSLER, proposes an unprinted amendment numbered 1857.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section.

SEC. . (a) The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Energy, the Tennessee Valley Authority, and the State of South Dakota, is authorized and directed to coordinate and conduct a monitoring, engineering assessment and remedial action program for the management of byproduct materials, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at offsite locations in the vicinity of the Edgemont, South Dakota, uranium mill site. Such program shall provide for necessary monitoring and engineering assessments at such locations and the establishment and performance of requirements for the management, including remedial action, of such byproduct materials, consistent with requirements promulgated by the Commission under section 84 of the Atomic Energy Act of 1954 and standards promulgated by the Administrator of the Environmental Protection Agency under section 275 a. of such Act.

(b) In carrying out the monitoring, engineering assessment and remedial action program established by subsection (a)—

(1) the Administrator of the Environmental Protection Agency shall propose, not later than sixty days after the date of enactment of this Act, standards of general application for the protection of the public health, safety and the environment from radiological and nonradiological hazards associated with byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at the locations described in subsection (a). Such proposed standards shall be applicable on an interim basis until finally promulgated;

(2) the Commission shall have lead responsibility for coordinating the monitoring, engineering assessment and remedial action program established by subsection (a) and, in consultation with the State of South Dakota, shall—

(A) establish general objectives and priorities for the program:

(B) review and approve a monitoring, engineering assessment and remedial action program for the locations described in subsection (a);

(C) assure that an approved monitoring, engineering assessment and remedial action program complies with the requirements of section 84 of the Atomic Energy Act of 1954 and conforms with the general standards established under paragraph (1) of this subsection; and

(D) provide funding through contract for an approved monitoring, engineering assessment and remedial action program at the locations described in subsection (a).

(c) As soon as practicable, but not later than one hundred and twenty days after the date of enactment of this section, the Commission shall submit a report to the Congress on the preliminary plannnig authorized by subsection (a), including a detailed description for each location of any required remedial action and an estimate of the cost of such remedial action.

(d) The Commission shall provide, as part of its annual report, a report on the progress of the monitoring, engineering assessment and remedial action program established by subsection (a).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1857) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

TRANSFER OF CERTAIN LANDS IN THE STATE OF ARIZONA

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1985.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1985) entitled "An Act to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That (a) the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") is authorized to convey by quitclaim deed, subject to the provisions of subsections (b) and (c) of this section, all right, title, and interest of the United States in and to the following described tract of lands and improvements thereon:

GILA AND SALT RIVER MERIDIAN

(Coconino County, Arizona)

Township 21 North, Range 7 East

Section 15:

North half northeast quarter,

Northeast quarter northwest quarter,

Northeast quarter southeast quarter northwest quarter northwest quarter,

North half southeast quarter southeast quarter northwest quarter northwest quarter.

Section 16:

South half northeast quarter northeast quarter northwest quarter,

Northwest quarter northeast quarter northwest quarter,

South half northeast quarter northwest quarter,

Northwest quarter northwest quarter,

North half northeast quarter southwest quarter northwest quarter,

Southeast quarter northeast quarter southwest quarter northwest quarter.

North half northwest quarter southwest quarter northwest quarter,

East half southeast quarter southwest quarter northwest quarter,

Southeast quarter northwest quarter.

The area described contains 256.25 acres more or less.

(b) (1) Any conveyances pursuant to subsection (a) of this section shall be conditioned upon the Secretary entering into agreements or land exchanges, sufficient to assure the Secretary that any party with whom such agreements or land exchanges are to be made will construct on a site to be determined by the Secretary, administrative improvements equal in value to the lands and improvements authorized to be conveyed by subsection (a) of this section. The lands and improvements may be conveyed by a series of transactions or land exchanges.

(2) Each party to whom conveyances are to be made may, in the discretion of the Secretary, deposit cash in an amount not less than the fair market value, to be determined at the time of conveyance, of the lands and improvements conveyed. The cash so received shall be deposited into a special fund in the Treasury which when appropriated is authorized to remain available until expended by the Secretary for the purposes of constructing administrative improvements as described in this Act. If the value of any land and improvements thereon authorized to be conveyed by subsection (a) of this section exceeds the value of administrative improvements determined to be necessary by the Secretary to be constructed with respect to such land under this Act, the party to whom such conveyance is to be made shall make a cash payment to the United States in an amount equal to such difference in value.

(c) (1) Of the tract of land described in subsection (a) of this section, the Secretary shall offer to sell at the fair market value, as determined on the date of enactment of this Act, to the Flagstaff Medical Regional Center, Flagstaff, Arizona, not to exceed 18.25 acres immediately adjacent to said Flagstaff Medical Regional Center and to the city of Flagstaff, Arizona, not to exceed 132.5 acres, under special use permit in effect on the date of enactment of this Act to the city of Flagstaff. Such offers to sell to the Flagstaff Medical Regional Center and to the city of Flagstaff shall remain in effect for periods of not to exceed 3 years and 10 years, respectively. Subject to the limitations contained in this paragraph, the city of Flagstaff and the Flagstaff Medical Regional Center may identify any specific tracts of land they want to purchase.

(2) Except for any land to be conveyed to the Flagstaff Medical Regional Center and the city of Flagstaff, the Secretary shall solicit public offers for the remaining lands and improvements authorized under subsection (a) of this section. All offers shall be publicly opened at the time and place stated in the solicitation in accordance with the administrative requirements of the Secretary. The Secretary shall consider price and land values before entering into agreements or land exchanges with any party whose offer conforming to the solicitation notice is determined by the Secretary to be most advantageous to the Government. Notwithstanding any other provision of this Act, the Secretary may reject any offer if the Secretary determines that such rejection is in the public interest.

SEC. 2. (a) The Secretary of the Interior (hereafter in this section referred to as the Secretary) shall convey by quit-claim deed, without consideration, to the owners that appear on record in the office of the county recorder, Pima County, Arizona, any right, title, or interest, including any mineral rights, which the United States may have in and to the real property described in subsection (b) of this section.

(b) The real property referred to in subsection (a) of this section consists of four separate strips of land that extend for a total distance of nearly four miles, designated as roadways in a certain White Survey, dated December 15, 1876, made pursuant to an Act of Congress dated February 5, 1875, crossing sections 2, 11, and 14, and the east half of sections 3 and 10 of township 14 south, range 13 east of the Gila and Salt River base and meridian, in Pima County Arizona.

(c) As soon as practicable after the date of enactment of this Act, the Secretary shall cause to be prepared a quitclaim deed effecting the title transfer described in section 1, and shall record such deed in the office of the county recorder, Pima County, Arizona.

(d) Within one year after the date of enactment of this Act, the Secretary shall notify all individuals or other legal entities which, as of the date of such notice, appear upon the tax rolls of Pima County, Arizona, as the owners of lands referreed to in subsection (b) of this section, or of interests in such lands—

(1) of the conveyance by the United States of its interests in such lands under section 1 of this Act,

(2) of the possible defect in the title to such lands resulting from such interests of the United States, and

(3) of the opportunity to record a quitclaim deed evidencing the conveyance described in subsection (a) of this section in the records of the affected grantee.

SEC. 3. The Act of March 14, 1978 (92 Stat. 154), is amended as follows:

(a) In section 1(a), in the first sentence, delete the phrase "two-year", and change "September 30, 1980" to "September 30, 1985"; and

(b) In section 1(c) strike the second sentence in its entirety and insert the following: "There is authorized to be appropriated an amount not to exceed $1,500,000 annually for fiscal years 1979 through 1982 to carry out the provisions of this Act: *Provided*, That any appropriations made pursuant to this Act shall be reduced by the amount of any payments made to said districts pursuant to the Acts of September 23, 1950 (64 Stat. 906), as amended (20 U.S.C. 631 et seq.), and September 30, 1950 (64 Stat. 1100), as amended (20 U.S.C. 236 et seq.). For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.".

SEC. 4. Any mining claim located under the Mining Laws of the United States subsequent to June 18, 1879, and prior to January 17, 1969, in the northwest quarter of the northwest quarter of section 9, township 1 north, range 5 east of the Gila and Salt River base and meridian, State of Arizona. shall be effective to the same extent in all respects as if such lands at the time in location, and at all times thereafter had been open to the operation of the Mining Laws of the United States: *Provided, however*, That the claimants have complied with all requirements of the Mining Laws of the United States, including section 314 of the Federal Land Policy and Management Act of 1976 and that the claims would be subject to any valid intervening rights by private parties under the laws of the United States.

Amend the title so as to read: "An Act to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona to authorize the Secretary of the Interior to convey certain interests in lands in the State of Arizona, to amend the Act of March 14, 1978 (92 Stat. 154), and for other purposes.".

● Mr. BUMPERS. Mr. President, the House amendment adds to the Senate passed bill a provision extending the authorization for certain Federal assistance to a school district in Grand Canyon National Park, Ariz. The Senate had previously adopted this provision in other legislation (S. 1803) on June 6, 1980. S. 1803 is still pending in the House. The House amendment also adds a new provision which will provide a mechanism to clear the title to certain strips of land in the downtown area of Tucson, Ariz., by directing the Secretary of the Interior to quitclaim the interest of the United States in such strips of land. Finally the amendment corrects a problem which was inadvertently created for some mining claimants by administrative and statutory changes in the boundary of the Salt River Indian Reservation. These amendments are acceptable to the Energy Committee.●

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BUMPERS, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Arthur I. Jacobs, of Florida, to be a member of the National Council on the Arts, this nomination having been reported today, and the request for immediate consideration having been cleared on both sides of the aisle.

Mr. MATHIAS. Mr. President, I am advised there is no objection on this side of the aisle.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

NATIONAL COUNCIL ON THE ARTS

The assistant legislative clerk read the nomination of Arthur I. Jacobs, of Florida, to be a member of the National Council on the Arts.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR LAXALT RECEIVES ISRAEL PEACE MEDAL

Mr. BAKER. Mr. President, on Sunday evening past, I had the distinct honor and pleasure of joining hundreds of Nevadans, as well as the State of Israel, represented by her distinguished Ambassador to the United States, His Excellency Ephraim Evron, in honoring a good friend, the most distinguished Senator from Nevada (Mr. LAXALT).

Ambassador Evron presented to Senator LAXALT the Israel Peace Medal, the highest honor Israel accords a foreign citizen.

Prime Minister Begin and Ambassador Evron could not have chosen a more worthy recipient. Throughout his tenure in this Chamber, PAUL LAXALT has shown unwavering devotion to a free and secure Israel. His leadership in behalf of this dear ally of the United States has been an inspiration to all of Israel's many friends in the United States, as well as to the people of Israel themselves.

I was most pleased to have been asked to take part in the Sunday program in Las Vegas and I am sure all of my colleagues join me in congratulating Senator LAXALT for his richly deserved honor and accomplishment.

TRIBUTE TO SENATOR MAGNUSON

Mr. President, I would like to express my affection and appreciation to the senior Senator from Washington (Mr. MAGNUSON) for the style and grace which is his custom and which was evidenced to us all this past Thursday on the occasion of Senator MILTON YOUNG's elevation for the day to the post of President pro tempore of the Senate.

Senator MAGNUSON's cooperation and gracious willingness to accord our beloved colleague from North Dakota all the privileges of the high post of President pro tempore was greatly appreciated by all of us on this side of the aisle. I know it was a special moment for Senator YOUNG, all the more because of the dignity and fellowship extended him by his friend and our friend, WARREN MAGNUSON.

With the departure of these two magnificent leaders, Mr. President, the Senate is losing it's two most senior Members. While both seats are now to be filled by Republicans, I nonetheless shall miss "MAGGIE" and "MILT," as we all will.

And I particularly wanted Senator MAGNUSON to know that his assistance to MILT YOUNG last week was a class act, and greatly appreciated.

PROPOSAL TO STRENGTHEN VETERANS' ADMINISTRATION DEBT-COLLECTION EFFORTS

Mr. CRANSTON. Mr. President, on December 5, I wrote a letter to the very distinguished ranking minority member of the Governmental Affairs Committee, the Senator from Illinois (Mr. PERCY), in connection with hearings that he recently chaired on Federal debt-collection efforts, in order to bring to his and to that committee's attention an amendment, No. 2368—which I introduced on September 19, 1980, and Senators PROXMIRE, SASSER, and TALMADGE have cosponsored, to H.R. 4155—to strengthen further the Veterans' Administration's debt-collection efforts.

Mr. President, I have described the background, purposes, and provisions of our amendment in my letter to the Senator from Illinois (Mr. PERCY), and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, the basic purpose of our amendment is to strengthen VA debt-collection efforts by permitting the VA to redisclose taxpayer-debtor addresses, which it presently may obtain from the Internal Revenue Service under section 6103(m) of the Internal Revenue Code, in certain carefully defined circumstances in which the authority for redisclosure would provide additional, useful, and cost-effective means for the collection of debts.

I intend to pursue this matter in the 97th Congress and look forward to working with the Governmental Affairs and Finance Committees for the enactment of this legislation next year.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., December 5, 1980.

Hon. CHARLES H. PERCY,
Ranking Minority Member, Committee on Government Affairs, U.S. Senate, Washington, D.C.

DEAR CHUCK: I am writing with regard to the November 19 and 20, 1980, hearings of the Committee on Governmental Affairs, which you chaired, on S. 3160, the proposed "Debt Collection Act", and on Federal Government debt collection efforts generally.

I would like to bring to your and the Committee's attention an amendment (No. 2368) that I introduced on September 19, 1980, and Senators PROXMIRE, SASSER, and TALMADGE have cosponsored, to H.R. 4155, a bill passed by the House of Representatives on June 17, 1980. H.R. 4155, which is currently pending in the Committee on Finance, would amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service (IRS) to disclose to the Secretary of Education the mailing addresses of taxpayers who have defaulted on certain student loans made under programs administered by the Department of Education and to permit the Secretary to redisclose the IRS-provided addresses to lenders or State or non-profit guarantee agencies participating in the guaranteed student loan program and to educational institutions participating in the national direct student loan program for use by officers, employees, or agents of those institutions for purposes of locating defaulters in order to collect defaulted loans.

Our amendment to H.R. 4155 would further amend the Internal Revenue Code to provide a comparable authority with respect to indebtedness to the Veterans' Administration. Specifically, it would authorize the Administrator of Veterans' Affairs to redisclose to contractors of the VA and to consumer reporting agencies (CRA's) for certain specified debt-collection purposes addresses obtained from IRS under section 6103(m)(2) of the Internal Revenue Code, which authorizes the IRS to disclose the mailing address of a taxpayer to officers and employees of Federal agencies for their use in administrative and judicial proceedings pertaining to the collection or compromise of a claim under the Federal Claims Collection Act of 1966 (FCAA) (31 USC 951–53).

As you know, the dollar amount of the VA's accounts receivable—active accounts with respect to which collection efforts have not been terminated—is enormous and is increasing. The total increased from $577 million as of March 31, 1979, to $643.7 million as of September 30, 1980. Educational assistance overpayments represent the largest portion of these VA accounts receivable—$420.7 million. Also, as of September 30, 1980, the VA was owed $22.4 million as a result of education loan defaults. Despite certain legislative and resultant administrative actions, the VA loan default rate remains alarmingly high—65.2 percent as of June 30, 1980.

The Senate Committee on Veterans' Affairs has been working diligently this year to attack this problem. Its efforts in this area culminated in the enactment of title VI of H.R. 5288, the Veterans' Rehabilitation and Education Amendments of 1980, on October 17, 1980, as Public Law 96–466. Title VI contains provisions that authorize the VA to disclose to CRA's certain information regarding an individual who has been determined to be indebted to the VA, in order to obtain current address information or consumer reports that the VA would then use to pursue collection efforts and, in appropriate cases, under carefully prosecribed procedures, to affect a debtor's credit rating. In addition, title VI of the new law contains provisions that remove any time bars that might prevent the VA from taking administrative actions to offset debts against future benefits payments; require the VA to charge interest and administrative costs on delinquent debts; and authorize the VA to use its own attorneys to pursue collection actions in court under the direction and supervision of the Attorney General.

However, if these provisions are to be as effective as possible in facilitating the VA's ability to collect outstanding debts, it is essential that the VA have better and more economical access to current address information.

The basic purpose of our Amendment No. 2368 is to facilitate VA debt-collection efforts by providing the VA with a quick and inexpensive way of locating individuals who are indebted to the VA. The cost to the VA of obtaining mailing addresses from the IRS is $0.11 per name. Although provisions of title VI of Public Law 96–466 authorize the VA to disclose information in VA files to CRA's in order to obtain current address information, the costs to the VA of obtaining such information from CRA's is much more expensive—$1.80 to $2.50 per name. Moreover, there will doubtless be many cases in which the CRA's will not be able to provide current addresses that the IRS would have for particular individuals. Thus, the amendment would give the VA a way of substantially reducing administrative costs in collecting delinquent debts and obtaining current addresses not otherwise available to it for debt-collection purposes.

I would like to note that, although the VA is presently authorized to obtain current address information from IRS files under section 6103(m)(2) of the Internal Revenue Code, the VA's use of such addresses is, under the IRS interpretation of that provision, very limited. The address may be disclosed only to VA employees engaged in debt-collection efforts, and disclosures to non-Federal agencies are not permitted even solely for debt-collection purposes. For example, the VA is unable to disclose an IRS-provided address to a VA contractor for the purposes of obtaining asset and income information or to a CRA for the purposes of obtaining a consumer report to help evaluate the individual's ability to repay the debt.

However, under current regulations (4 CFR 105.5) issued pursuant to the FCCA, the VA must, in referring a debt to the Department of Justice for collection action, provide evidence of the debtor's ability to repay. In addition, it may be necessary for the VA, when pursuing collection actions in court under the authority of Public Law 96–466, to make its own assessments of debtors' abilities to repay in deciding whether to bring suit. Our amendment is intended to alleviate these problems by authorizing the VA to disclose IRS-provided information to a contractor or CRA in order to obtain information that is necessary for the VA to refer a debt to the Justice Department or to make its own decisions whether to initiate court action. In addition, where an IRS-provided address is not current, this amendment would allow the VA to provide the address to a VA contractor to use—but not disclose—in tracing the debtor through the use of that address.

Our amendment would also authorize the VA to disclose IRS-provided addresses to CRA's to the same extent that the VA is authorized in section 3301 of title 38, United States Code, to disclose debtors' names and addresses (obtained from non-IRS sources) for the purposes of giving notice of delinquent debts. Provisions of Public Law 96–466 (described above) amend section 3301 to authorize the VA to disclose to CRA's the name and address of an individual who has failed to respond to reasonable VA efforts to collect the debt. I would like to emphasize, however, that, these new provisions do not authorize VA disclosure of IRS-provided addresses to CRA's and that, under our proposed amendment, CRA's would not be authorized to make any further disclosure of IRS-provided addresses disclosed to them by the VA.

Thus, in the use of the authority in our amendment for the VA to disclose an IRS-provided address to a CRA for any purpose—including the giving of notice of a delinquent indebtedness in connection with, for example, the CRA's provision of a so-called "skip-locator service", whereby the CRA would notify the VA of any information it ever receives regarding a delinquent debtor who cannot be located even at the IRS-provided address—it would be necessary for the VA and the CRA to establish special arrangements to insure that any IRS-provided addresses are specially flagged as such and are not included in any documents or computerized records that the CRA would disclose to third parties.

The FCCA and regulations issued pursuant to it require Federal agencies to refer certain claims to the Department of Justice and the General Accounting Office for collection action. However, section 6103(m)(2) of the Internal Revenue Code does not expressly authorize a Federal employee or officer who has received an IRS-provided address to disclose the address to employees of other Federal agencies—including employees engaged in debt-collection activities. Thus, our amendment would make clear that the VA may disclose IRS-provided addresses to employees of Federal agencies to which the VA refers a claim for collection action for those employees to use in preparation for any administrative or judicial proceeding pertaining to the collection or compromise of a claim under the FCCA.

Similarly, although section 6103(m)(2) permits the IRS to disclose the mailing addresses of taxpayers for use by officers and employees of a Federal agency for use "in preparation for" any administrative or judicial proceeding pertaining to the collection or compromise of a claim, it does not expressly authorize the disclosure of such addresses "in" a judicial proceeding pertaining to such a claim. Thus, our amendment would make clear that the VA—or other Federal agencies to which the claim has been referred—may disclose an IRS-provided address in proceedings to collect or compromise a claim under the FCCA.

Our amendment would also authorize the IRS to disclose to the VA the mailing address of a taxpayer for purposes of conducting evaluations or studies authorized by section 219 of title 38 or required by other Federal law, and would permit the VA to redisclose the IRS-provided address to a contractor hired by the agency for the specific purpose of carrying out such evaluations or studies. Section 219 studies generally involve contacting veterans to determine what VA benefits they have or have not utilized and why they have not utilized some or any benefits, and to elicit information bearing on whether VA programs are accomplishing their intended goals. These studies are generally carried out by agency contractors.

Prior to the Tax Reform Act of 1976 (Public Law 94–455), the VA had been using IRS taxpayer-address information to locate veterans in connection with these studies. However, section 6103(m)(2) of the Internal Revenue Code currently limits IRS disclosures of addresses to the VA to those VA employees engaged in debt-collection efforts and prohibits redisclosures to others or the use of the information for non-debt-collection purposes. As a consequence, the VA now has a backlog of studies, which it testified on August 2, 1979, it cannot complete without being able to locate large numbers of veterans for whom it does not have current addresses.

Although the provisions of Public Law 96–466 would permit the VA to disclose names and addresses from its files in order to obtain current addresses from CRA's for purposes of conducting these studies, the same issue arises with respect to the high cost to the VA of obtaining addresses from CRA's rather than from IRS.

In addition, under current credit reporting industry practices, a VA inquiry for current addres information on an individual would be noted in the CRA's files. Although such a notation would, generally, be made in the CRA's files in such a way as to indicate that it does not reflect adversely on the individual concerned, it is conceivable that some persons unfamiliar with credit reporting industry practices might interpret such a notation as possibly indicating the existence of an indebtedness or as being otherwise adverse. Thus, it would be highly preferable to enact the provisions of our amendent in order to authorize the VA to obtain address information from the IRS for purposes of conducting these studies rather than taking any chance, however slight it might be, of harming the individual's credit standing or reputation as a result of a CRA notation of a VA inquiry in the individual's files.

Finally, I would like to note that, consistent with both the existing provisions of the Internal Revenue Code and H.R. 4155 as passed by the House, our amendment would make the unauthorized disclosure of IRS-provided addresses a felony punishable by a fine of not more than $5,000 or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

Chuck, I urge you and the Committee on Governmental Affairs to give careful consideration to the provisions of our amendment, which, I believe, represent a cost-effective, prudent approach that would be both protective of the legitimate privacy interests of the individuals involved and helpful in enabling the Federal Government to collect the moneys owed to it.

I greatly appreciate your attention to this matter.

With warm regards,
Cordially,
ALAN CRANSTON,
Chairman.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:14 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 444. An act for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.

S. 453. An act for the relief of Joe L. Frazier of Elko, Nebr.

S. 551. An act for the relief of Fred W. Sloat of Salt Lake City, Utah;

S. 576. An act for the relief of Larry Grathwohl;

S. 1307. An act for the relief of Gerald W. Frye;

S. 1615. An act for the relief of James R. Thornwell;

S. 2069. An act to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities;

H.R. 1298. An act to designate the U.S. Post Office and Federal Building in Huntington, W. Va., as the "Sidney L. Christie Federal Building";

H.R. 3351. An act to amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certain surgery performed on an outpatient basis;

H.R. 5856. An act to amend title 32, United States Code, to allow Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the grade of colonel;

H.R. 7020. An act to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites;

H.R. 7815. An act to recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes;

H.R. 8235. An act to grant the consent of the Congress to the Tahoe Regional Planning Compact, and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created; and

H.R. 8298. An act to designate certain National Forest System lands in the State of New Mexico for inclusion in the National Wilderness Preservation System, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. HEFLIN).

ENROLLED BILLS SIGNED

At 3:52 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks announced that the Speaker has signed the following enrolled bills:

S. 1996. An act to authorize a pilot program to encourage the efficient utilization of wood residues, and for other purposes;

S. 2163. An act to provide for the conservation and enhancement of the salmon and steelhead resources of the United States, assistance to treaty and nontreaty harvesters of those resources, and for other purposes;

S. 2318. An act to revise the boundary of Crater Lake National Park in the State of Oregon, and for other purposes;

H.R. 2170. An act to provide for the reimbursement of legal expenses incurred by the city of Fairfax with respect to a 1971 entry and search by employees of the Federal Government;

H.R. 5487. An act to designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes;

H.R. 7147. An act to provide that certain land of the United States shall be held by the United States in trust for certain communities of the Mdewakanton Sioux in Minnesota;

H.R. 8173. An act to provide for distribution in the United States of certain International Communication Agency films relating to President Lyndon Baines Johnson; and

H.R. 8386. An act for the relief of Roy P. Benavidez.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 5:52 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House agrees to the amendments of the Senate to the amendment of the House to the bill (S. 2726) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1981, and for other purposes.

The message also announced that the House has passed the bill (S. 1803) to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the following bill:

H.R. 6796. An act to amend and extend title VII of the Comprehensive Employment and Training Act.

The message also announced that the House agrees to the amendments of the Senate to the following bill:

H.R. 4941. An act to name a dam and reservoir on the San Gabriel River, Tex., as the "North San Gabriel Dam" and "Lake Georgetown," respectively.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6218. An act to authorize appropriations for certain insular areas of the United States, and for other purposes; and

H.R. 8444. An act to authorize appropriations for certain insular areas of the United States, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles, and referred as indicated:

H.R. 6218. An act to authorize appropriations for certain insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 8444. An act to authorize appropriations for certain insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

ENROLLED BILLS PRESENTED

The Secretary reported that on today, December 9, 1980, he had presented to the President of the United States the following enrolled bills:

S. 444. An act for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.;

S. 453. An act for the relief of Joe L. Frazier of Elko, Nebr.;

S. 551. An act for the relief of Fred W. Sloat of Salt Lake City, Utah;

S. 576. An act for the relief of Larry Grathwohl;

S. 1307. An act for the relief of Gerald W. Frye;

S. 1615. An act for the relief of James R. Thornwell; and

S. 2069. An act to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5051. A communication from the Assistant Vice President (Personnel) of the Farm Credit Banks of St. Louis, transmitting, pursuant to law, the annual report of the pension plan of the Farm Credit Banks of St. Louis for the year ended April 30, 1980; to the Committee on Governmental Affairs.

EC–5052. A communication from the Deputy Administrator of the Veterans' Administration, transmitting, pursuant to law, the annual report of the Veterans' Administration on the disposal of foreign excess property for fiscal year 1980; to the Committee on Governmental Affairs.

EC–5053. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of the order suspending deportation of a certain alien under section 244(a)(2) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–5054. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act; to the Commitee on the Judiciary.

EC–5055. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders allowing temporary admission of certain aliens under section 212(d)(3) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–5056. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on certain activities under the Public Health Service Act for fiscal year 1980; to the Committee on Labor and Human Resources.

EC–5057. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for part 240—Teachers Centers Programs; to the Committee on Labor and Human Resources.

EC–5058. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on costs and financing of health care, distribution of health care resources; utilization of health resources, and the health of the Nation's people; to the Committee on Labor and Public Welfare.

EC–5059. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Department of Labor Has Failed To Take the Lead in Promoting Private Sector Productivity"; to the Committee on Labor and Human Resources.

EC–5060. A communication from the Secretary of Education, transmitting, pursuant to law, an interim annual report on the operations of the Women's Educational Equity Act program in fiscal year 1980; to the Committee on Labor and Human Resources.

EC–5061. A communication from the Secretary of Education, transmitting, pursuant to law, the second annual report on the implementation of the Education for All Handicapped Children Act for 1980; to the Committee on Labor and Human Resources.

EC–5062. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the fourth annual report on activities conducted under the Arthritis Plan for 1980; to the Committee on Labor and Human Resources.

EC-5063. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, an appeal of the Presidential budget mark for its 1982 budget request; to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Arthur I. Jacobs, of Florida, to be a member of the National Council on the Arts.

The above nomination, reported from the Committee on Labor and Public Welfare with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DECONCINI (for himself and Mr. WALLOP):

S. 3259. A bill to establish a uniform law on the subject of bankruptcies; considered and passed.

By Mr. WILLIAMS (by request):

S. 3260. A bill to provide greater protection for investors in Government-related securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WILLIAMS (by request):

S. 3260. A bill to provide greater protection for investors in Government-related securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

GOVERNMENT-RELATED SECURITIES ACT OF 1980

Mr. WILLIAMS. Mr. President, at the request of the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission, I am introducing the Government-Related Security Act of 1980. It is the result of an extensive study conducted by these agencies, as well as the Department of the Treasury, of the markets for Government-guaranteed securities and other related securities.

Mr. President, both the study and the legislation I am introducing today are rooted in S. 2515, "the Government Guaranteed Securities Acts Amendments," which I introduced earlier this year. Like S. 2515, the purpose of this bill is to extend Government regulation to the trading market for certain Government securities where serious episodes of fraud and the consequent financial losses have demonstrated that additional regulation is essential. And like S. 2515, this legislation would also rely heavily on the time-tested machinery of self-regulation with only residual power retained by the Federal Government.

Mr. President, the 97th Congress will have to address the serious and chronic problems addressed by the "Government-Related Securities Act of 1980." By introducing this measure today and by encouraging careful study of the document on which it is based, I am hopeful that the new Congress can give early and expedited attention to problems in the Government securities markets.

Mr. President, I ask unanimous consent that the letter of transmittal from Chairman Harold M. Williams of the Securities and Exchange Commission be reprinted in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., December 5, 1980.

Hon. HARRISON A. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SIR: The Securities and Exchange Commission (the "SEC") and the Board of Governors of the Federal Reserve System ("Federal Reserve Board") have today transmitted under separate cover the Report of the Joint Treasury-SEC-Federal Reserve Board Study of the Government-Related Securities Markets (the "Report") and draft legislation entitled "The Government-Related Securities Act of 1980." I would like to take this opportunity, on behalf of the SEC, to provide some background into the Joint Study and to summarize its findings.

As you will recall, the Joint Study was undertaken as a result of your inquiry into the need for regulation of dealers in government-related securities. In January 1980, staff members of the three agencies began a comprehensive review of the government-related securities markets and analyzed the existing regulatory structure in light of the abuses that had occurred in those markets. On the basis of their findings, the Joint Study participants unanimously recommended specific legislation that would establish a new regulatory structure, that would be applicable to forward trading in securities guaranteed by the Government National Mortgage Association ("GNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC"), and that could, as necessary, be extended to other government-related securities.

This Report and draft legislation were completed in July 1980, reflecting the unanimous views of staff members from each agency detailed to the Joint Study. At that time, both the SEC and the Federal Reserve Board by formal vote endorsed the results of the Study and the legislative proposal. While the Study has also been endorsed by the responsible senior officials at the Treasury Department and recommended favorably by them to the Office of Management and Budget ("OMB"), we understand that the Department is unable to express a formal position on the legislation without approval by the OMB. Although the Report and draft legislation were referred to the OMB in August, that Office has yet to reach a final decision.

In drafting the Report, the Joint Study participants gathered and analyzed data on the government-related securities markets, including markets for Treasury securities, government-sponsored agency securities and government-guaranteed securities. The Report concludes that regulation appears necessary at this time only in the case of forward trading in GNMA and FHLMC mortgage-backed securities. However, the legislative proposal would permit, under stringent procedures including unanimity among the Federal Reserve Board, the SEC, and the Department of the Treasury, an extension of regulation to the cash market in these securities or to the markets in other government-guaranteed securities.

A primary purpose of regulation in the government-guaranteed securities markets would be the reduction of abuses arising from the absence of uniform margin requirements for forward trading. Although recent public and private efforts have somewhat reduced the potential for abuse, it still remains possible to assume large, highly leveraged positions in GNMA or FHLMC securities with long delayed delivery dates without the deposit of margin either initially or at any point thereafter to meet adverse market moves. This practice has contributed to a high degree of speculative activity, and, thus to losses incurred by dealers and investors in these securities.

Based on the experience of the SEC and the Federal Reserve Board with implementing margin requirements for stocks, the Report recommends the adoption of minimum measures necessary to implement margin requirements for forward trading in GNMA and FHLMC mortgaged-backed securities. Effective margin regulation requires the registration of professionals effecting forward transactions, the adoption of recordkeeping provisions and a program of surveillance and inspections. Furthermore, to the extent that margin requirements involve the deposit of customer funds and securities with brokers and dealers, margin regulation must be accompanied by financial responsibility standards for non-bank government-related securities professionals in order to safeguard those funds and securities.

In addition to the problems associated with the absence of margin requirements, the Study participants identified a number of other seriously abusive practices which are described in Chapter IV of the Study Report. The findings of that chapter detail problems arising from the making of unsuitable recommendations, the employment of high pressure sales methods, the unauthorized execution of trades, and the misuse of customer funds and securities. Measured responses to these unfair practices would include suitability standards for recommendations, supervision requirements in order to reduce sales practices abuses, and standards for the safeguarding of customer funds and securities from unauthorized use. Many of these measures simply reflect good business practices and have, in fact, been advocated by the leaders of the industry.

To minimize federal intrusion into these markets the legislative proposal would provide supervised rulemaking authority to a self-regulated organization called the Federal Mortgage-Backed Securities Rulemaking Board (the "Board"). The self-regulatory Board, modeled along the lines of the Municipal Securities Rulemaking Board created under the Securities Acts Amendments of 1975, would be composed of representatives of bank and nonbank securities dealers and public representatives. The expertise and understanding of the markets possessed by industry members, who would comprise a majority of the Board, should assure that any regulatory measures adopted will provide appropriately limited responses to specific problems in the markets for government-regulated securities. The Board would exercise its rulemaking authority subject to the oversight of a Council composed of the Secretary of the Treasury, Chairman of the Board of Governors of the Federal Reserve System, and Chairman of the SEC, or their designees. The Council would have the power to approve, disapprove, or alter the rules of the Board, and to adopt its own rules in certain areas. Before making its own rules, the Council would be required to consult with all interested agencies (*e.g.*, GNMA and FHLMC).

In constructing a proposed regulatory framework for the government-guaranteed securities markets, the Joint Study participants carefully considered the potential costs and benefits of regulation. Because the current absence of regulation makes it difficult to develop precise figures, the Report draws upon the self-regulatory model for the municipal securities markets, on which the proposed legislation is largely patterned. Based upon the experience in the municipal securities markets since 1975, we believe that the costs of extending federally-supervised self-regulation to the government-guaranteed securities markets will be relatively modest. At the same time, direct benefits of deterring abuses in these markets should be substantial. Furthermore, the Report points out that legislation in this area will greatly increase public confidence in these markets and enhance investor protection, benefits which cannot readily be measured but which are nonetheless of great importance.

To help ensure that benefits will continue to exceed cost in the implementation of this regulatory scheme, the draft legislation contains explicit competitive standards to govern rulemaking by either the Board or the Council. A rule could be adopted by either only where it is demonstrated that regulatory purposes outweigh any competitive burden.

The SEC believes that this draft legislation, if enacted, would reduce substantially the incidence of abuses and restore public confidence in the government-guaranteed mortgage-backed securities markets. We are confident that the Joint Study's recommendations, reached after considerable review and analysis, are sound and closely tailored to achieve regulation necessary to deal with proven abuses, without imposing any undue burdens on the markets for these securities.

Sincerely,

HAROLD M. WILLIAMS,
Chairman.

ADDITIONAL COSPONSORS

S. 2809

At the request of Mr. PACKWOOD, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2809, a bill to amend the Social Security Act to provide for a program of comprehensive community-based noninstitutional long-term care services for the elderly and the disabled.

S. 3259

At the request of Mr. DECONCINI, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 3259, a bill to establish a uniform law on the subject of bankruptcies.

SENATE CONCURRENT RESOLUTION 133

At the request of Mr. TSONGAS, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Concurrent Resolution 133, a concurrent resolution expressing the sense of the Congress with respect to the fulfillment by the Government of the Republic of Korea of its stated commitments to the democratization of the Republic of Korea and with respect to the death sentence imposed upon Kim Dae Jung and the harsh sentences imposed upon his 23 codefendants.

AMENDMENTS SUBMITTED FOR PRINTING

FAIR HOUSING ACT AMENDMENTS OF 1980

AMENDMENTS NOS. 2884 THROUGH 2889

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted six amendments intended to be proposed by him to amendment No. 2883 to the bill (H.R. 5200) to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

AMENDMENTS NOS. 2890 THROUGH 2896

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted seven amendments intended to be proposed by him to amendment No. 2856 to the bill H.R. 5200, supra.

AMENDMENTS NOS. 2897 AND 2898

(Ordered to be printed and to lie on the table.)

Mr. WARNER submitted two amendments intended to be proposed by Mr. SIMPSON to amendment No. 2883 to the bill H.R. 5200, supra.

AMENDMENT NO. 2899

(Ordered to be printed and to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by Mr. MATHIAS to amendment No. 2883 to the bill H.R. 5200, supra.

AMENDMENT NO. 2900

(Ordered to be printed and to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to amendment No. 2883 to the bill H.R. 5200, supra.

AMENDMENT NO. 2901

(Ordered to be printed and to lie on the table.)

Mr. BOREN submitted an amendment intended to be proposed by him to amendment No. 2883 to the bill H.R. 5200, supra.

AMENDMENTS NOS. 2902 AND 2903

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to amendment No. 2883 to the bill H.R. H.R. 5200, supra.

SACRAMENTO VALLEY CANALS

AMENDMENT NO. 2904

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the amendment of the House to the amendment of the Senate to the bill (H.R. 2111) to extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes.

NUCLEAR WASTE POLICY ACT

AMENDMENT NO. 2905

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the amendments of the House to the bill (S. 2189) to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

● Mr. DOMENICI. Mr. President, this Congress has been wrestling with the issue of nuclear waste disposal for 2 years. Just as the several Congresses before this one have failed to reach a consensus it would appear that the 96th may follow suit. There are several points which separate the House from the Senate and, in fact, the Senate may not be in full agreement. Nevertheless, Mr. President, I feel we must make an effort to bring this issue to some significant level of resolution in this Congress. For this reason I am supporting the amendment to the amendments of the House to S. 2189 submitted today.

This amendment does not address all of the issues involved in the disposal of nuclear waste. It does not cover wastes generated by the Department of Energy's defense programs. There are many who say this is a serious mistake, but I believe those who do are really the ones doing a disservice on this issue. While much is said about the need for including defense activities in this bill, nothing is being said about how the only presently authorized permanent disposal site for defense transuranic wastes, the waste isolation pilot project (WIPP) is to be treated. Under its authorizing legislation this facility is distinguished out from all other defense related facilities for the disposal of nuclear waste. Unless specifically named in S. 2189 this facility would not be covered by its provisions even if defense wastes were included. Granted, under the authorizing legislation for the WIPP facility the State of New Mexico, the host State, received a role in oversight and planning for the project.

The project is not, therefore, wholly without State participation. But no one in this Congress seems to be willing to recognize that by placing defense facilities in any new legislation we may be giving the host States for those facilities substantively different rights from those given New Mexico. We must specifically treat the WIPP project in the legislation before if we are to assure us an equitable treatment. It appears to this Senator that here is little support for opening this aspect of the defense issue at this time. Therefore, I cannot support only partial treatment of defense facilities and I urge my colleagues to limit their attention to civilian facilities as this amendment does in an effort to make some policy advances on the issue of nuclear waste disposal in this Congress.

I will join in the efforts of Senator JACKSON in the next Congress to legislate with regard to all defense facilities for the permanent disposal of nuclear waste facilities, not just a few as proposed by the House. I hope my colleagues will join me at that time also.●

FARM CREDIT ACT AMENDMENTS OF 1980

AMENDMENTS NOS. 2906 THROUGH 2908

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted three amendments intended to be proposed by him to the amendment of the House to the bill (S. 1465) to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes.

CONTINUING APPROPRIATIONS, 1981

AMENDMENT NO. 2909

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH (for himself and Mr. ROBERT C. BYRD) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981, and for other purposes.

AMENDMENT NO. 2910

(Ordered to be printed and to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the joint resolution, House Joint Resolution 637, supra.

● Mr. CHAFEE. Mr. President, I rise to introduce an amendment to House Joint Resolution 637, a resolution providing for further continuing appropriations for fiscal year 1981.

The amendment I am offering would strike from this resolution language that provides funds for a pay increase for Members of Congress. My amendment would leave untouched provisions of this resolution that provide for substantial increases in pay for high level Federal employees, as well as leaving intact the provision that provides for a 10-percent reduction in Senate spending.

Why am I limiting my amendment to Members of Congress? First, Mr. President, Congress has enacted a procedure to avoid the delicate dilemma of voting itself pay increases. This procedure—the Federal Salary Act of 1967—establishes a Commission to review the salaries of Members of Congress every 4 years and to make recommendations to the President for changes.

Such a recommendation is due early next year. Voting ourselves a pay raise now—during the final days of a lame-duck Congress—is decidedly premature. We have a procedure for enacting or not enacting our pay increases and this is no time to abandon that procedure.

Second, Mr. President, I believe that we should proceed with pay increases for GS–15's and above. These people have not received raises comparable to those below them for many years. This is unfair to them and harmful to the Government's ability to attract and retain the talented and hardworking people so necessary to running any large organization.

For these reasons, I offer this amendment to House Joint Resolution 637, and urge its adoption.●

SUBMISSION OF NOTICE OF MOTION TO SUSPEND THE RULE

Mr. RANDOLPH submitted the following notice in writing:

In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year ending September 30, 1981, and for other purposes, the following amendment, namely:

(Purpose: To amend the Black Lung Benefits Act to provide that certain amounts available for disbursements under section 424 of such Act shall be available for the payment of benefits and reimbursements in the case of miners whose last coal mine employment occurred before July 1, 1973)

House Joint Resolution 637 is amended by inserting at the end thereof:

That (a) section 422(c) of the Black Lung Benefits Act (30 U.S.C. 932(c) is amended by striking out "December 31, 1969" and inserting in lieu there of "June 30, 1973".

(b) Section 422(j)(2) of the Black Lung Benefits Act (30 U.S.C. 932(j)(2) is amended by striking out "January 1, 1970" and inserting in lieu thereof "July 1, 1973".

SEC. 2. (a) Section 424(a)(2) of the Black Lung Benefits Act (30 U.S.C. 934(a)(2) is amended by striking out "January 1, 1970" and inserting in lieu thereof "July 1, 1973".

(b) Section 424(a) of the Black Lung Benefits Act (30 U.S.C. 934(a) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) the reimbursement of operators for amounts paid by such operators (other than as penalties or interest) at any time in satisfaction (in whole or in part) of claims of miners whose last employment in coal mines was terminated during the period beginning on January 1, 1970, and ending on June 30, 1973."

SEC. 3. The amendments made by the foregoing provisions of this Act shall take effect on October 1, 1980.

ADDITIONAL STATEMENTS

THE FUTURE OF U.S. FOREIGN INTELLIGENCE OPERATIONS

● Mr. GOLDWATER. Mr. President, in the coming years, it is the desire of the members of the Select Committee on Intelligence to constantly improve our intelligence efforts around the world. Dr. Ray Cline from the Center for Strategic and International Studies has spoken thoughtfully on this subject in a speech which appears in this month's the Retired Officer. I submit his speech for the RECORD.

The speech follows:

THE FUTURE OF U.S. FOREIGN INTELLIGENCE OPERATIONS

Reliable information about foreign situations and trends has never been more needed than it will be in the 1980s. There is a recent historical base and an existing framework for an intelligence effort of top quality in this country. Yet the Central Intelligence Agency (CIA) and the other agencies in coordination with it are operating at a lower state of effectiveness, and with less public confidence, than at any time in the past 25 years.

The future of U.S. intelligence is a crucial policy issue. The president, the Congress and the people ought to give the highest priority to providing the kind of data collection and analysis capability that an open society must have to survive and prosper in a volatile, dangerous world.

The value of secret intelligence in wartime has been clearly appreciated by American political leaders since the time of George Washington, but the concept of a central, coordinated intelligence system to support national decision-making did not become clearly articulated until World War II. The wartime Office of Strategic Services (OSS), the precursor of CIA, was promptly abolished when hostilities ended in 1945.

The embodiment of a peacetime central, coordinated system in law dates only from 1947, when the National Security Council (NSC) for strategic decision-making and the CIA were established. The literature and doctrine of U.S. intelligence is only beginning to crystallize in forms adequate to provide the foundation for a consensus on what kind of intelligence machinery is needed and how it should operate within our free political process.

In his pioneer historical analysis Strategic Intelligence for American World Policy, veteran OSS and CIA officer Sherman Kent pointed out that:

Although there is a good deal of understandable mystery about it, intelligence is a simple and self-evident thing. As an activity it is the pursuit of a certain kind of knowledge; as a phenomenon it is the resultant knowledge . . . and strategic intelligence, we might call the knowledge upon which our nation's foreign relations, in war and peace, must rest. If foreign policy is the shield of the republic, as Walter Lippmann has called it, then strategic intelligence is the thing that gets the shield to the right place at the right time. It is also the thing that stands ready to guide the sword.

In this sense, the overwhelming importance of intelligence activity, and of the "resultant knowledge." seems self-evident. The United States, nevertheless, was almost totally unprepared for the dangers and stresses of the 1940s in the field of intelligence, as in so many other areas.

Now, once again, the United States stands on the brink of tragedy because it has not yet restored the damage done to the whole, coordinated intelligence machine in the mid-1970's, when CIA's flaws and abuses became the center of a news media and political circus. The flaws and abuses had been reviewed and largely corrected internally more than a year before the public investigation began, but the solid achievements that vastly outweighed the mistakes have been comparatively little noted. Partly as a result, the dynamic thrust of accomplishment has not been sustained under the onslaught.

The collection of intelligence and its evaluation or analysis are seldom any longer questioned as legitimate and essential parts of the Washington bureaucratic process. Similarly, the need for analytical research to reduce raw data to meaningful ideas is usually regarded as a normal function of government, although it is often overlooked as a result of fascination with the details of espionage and the technical collection of electronic signals or photographic images. If national decisions are to be made, national efforts to provide a sound and carefully articulated data base are clearly worthwhile.

The crisis from which our intelligence system has not yet recovered began in the overheated Washington atmosphere of the Watergate scandal and the resignation of President Richard Nixon.

The end of the Watergate episode was followed by a wave of press and congressional investigation and criticism that fully occupied Bill Colby, the director of Central Intelligence, from July 1973 through 1975. Colby acquitted himself as well as anyone could in the circumstances, but it was a no-win proposition. For CIA this period was a disaster.

In light of the Watergate inquiry in mid-1973, Colby reviewed all of CIA's operations over the past years, asking every CIA officer to identify anything irregular or questionably legal that CIA had ever done. The resulting summary report including 683 possible violations of directives or law was dubbed the "Family Jewels." Colby quietly changed procedures where he felt they were wrong, advised the congressional oversight committee chairmen in the Senate and House what he had done and hoped for the best. But the atmosphere of Washington in the aftermath of Nixon's downfall was hostile to any form of secrecy. The leaks began occurring, first from Congress to the press, and then from everywhere to the *New York Times* in particular, which set out to make a name for itself in investigative reporting. The *Times* released a sensational year-end account in December 1974 alleging massive wrongdoing over the years by CIA, all plainly based on CIA's own self-correction studies. Both houses of Congress got into the act with official inquiries, and 1975 was virtually a lost year for CIA. It took over a year for the tales of misdeeds, nearly all taken from CIA's own "Family Jewels" report, to become public.

AN IMPERATIVE FOR THE 1980'S

Against such a background of inquiry and criticism, there is no doubt that the performance of the U.S. central intelligence system has deteriorated. The question now before the nation is what must be done as the United States approaches the 1980s. Morale has dipped in every agency, especially CIA. Foreign governments and foreign agents no longer provide information as willingly as when CIA was viewed as an elite organization capable of protecting its secrets forever. There has been a major exodus of experienced professional intelligence officers from government. To compound the difficulties, CIA has suffered from a shrinkage of cooperation and cover from American institutions that have a natural common interest with CIA in the "knowledge industry": the news media, universities, big business.

It is imperative that our central intelligence machinery be rebuilt and its capabilities reinvigorated. We cannot delay, for the world around us is dangerously volatile. Changes inside and among nation-states are endemic. The interest of the United States is in orderly change and restraint of violence, particularly undiscriminating terror, totalitarian revolution and war. There are many opponents of this interest; only 20 percent of the four and a quarter billion people in the world live in relatively free, politically pluralist societies.

The balance of political and economic power depends on the relative influence of the Soviet Union, the United States and other major nations in the zone of conflfct around the periphery of Eurasia. The nations in this area are linked by sea to the international trading system in which the U.S. economy is dominant, but they are also subject to overt and covert meddling by the Soviets and the Chinese that is designed to increase the influence of the U.S.S.R. and the People's Republic of China.

Soviet intelligence forces, and such other Soviet-controlled national intelligence services as those of Cuba and East Germany, continue their activities worldwide. Their objective is to collect intelligence, particularly on the economic and technological advances on which the future strength of free societies depend, and to use this information covertly to influence economic, military and political developments everywhere to their strategic advantage.

At the same time the Soviet Union, as well as all of the East European communist powers, conceal within their borders as prime state secrets nearly every aspect of national policy and behavior. Policymakers in the United States cannot afford to face this kind of international environment in the 1980s without knowing what developments may be encroaching upon our security.

It is the CIA's job to foresee and prepare policymakers for disasters like the collapse of the government in Iran, with the concomitant cut in oil for the advanced industrial nations. The bankruptcy of American intelligence was clearly revealed in this case.

DEVELOP STRATEGIES

In broad terms, it is essential to meet the challenge of the 1980s by providing the intelligence input in the form of information and analysis that we need to develop a coherent strategic concept on which to base our foreign policy. Strategic coherence has been almost totally lacking in the Carter administration. Only when our foreign policy is based on precise and consistent strategic thinking and is responsive to warning signals from the intelligence community can intelligence effectively play its role—described by Sherman Kent in Strategic Intelligence as the thing that gets the shield to the right place at the right time.

The United States must reassume a role of greater responsibility in the intelligence field worldwide. Our activities should focus on giving our leaders sufficient information to protect our security, to promote our international interests and to develop foreign policies supportive of democratic values and institutions. To do otherwise in the face of hostile and secretive adversaries would be to engage in unilateral disarmament in the sphere of gathering and evaluating information—a sphere that should be a strong point in a free society.●

INITIATIVE FOR MANAGING GSA

● Mr. PELL. Mr. President, I would like to share with my colleagues an interesting and timely editorial, "Managing GSA—A Blueprint for Reagan" by Paul Goulding. It appeared in the November 30, 1980 issue of Government Purchasing Outlook, a publication of Government Executive magazine.

Paul Goulding is a former Acting Administrator of the General Services Administration, whose tenure was characterized by integrity and sound judgment. He also has served as Deputy Administrator and Director of Congressional and Intergovernmental Affairs for GSA.

Presently a member of the professional staff of the Senate Rules and Administration Committee, Mr. Goulding's editorial offers his personal views on what he believes the new administration could do to restore the efficiency and honesty of the Federal Government's largest independent agency.

I am particularly struck by the eight specific initiatives that he cites in this editorial to cut waste in this agency, which serves as the Government's civilian procurement arm. He notes that these initiatives can be applied on a Governmentwide basis.

I have known Mr. Goulding for more than 20 years and respect both his administrative skills and his personal integrity. Both were evident to me when he worked as my administrative assistant, prior to his work in GSA, and have remained evident throughout our long friendship.

The editorial follows:

MANAGING GSA—A BLUEPRINT FOR REAGAN

(By Paul Goulding)

Background: Mr. Paul Goulding is presently a member of the professional staff of the Senate Rules and Administration Committee. He was Acting Administrator of GSA in the Spring of 1979 and has also served as Deputy Administrator and Director of Congressional and Intergovernmental Affairs at GSA prior to that. The expressed views here are his own and not necessarily the official position of the U. S. Senate.

On October 10, 1980 in Columbia, South Carolina, then Presidential Candidate Ronald Reagan made what has to be a most unusual speech in the entire lexicon of political speeches about a government agency. First, he outlined the recent history of scandal and problems at the General Services Administration. He then made a most outstanding statement whereby he pledged "to put the corruption fighters back in charge of GSA. And they are going to be told to clean that agency out from top to bottom, and not to stop until the waste and fraud is ended and every last corrupt employee is dismissed." As the former Deputy Administrator of GSA, I assisted former Administrator Jay Solomon to expose this scandal and to take positive steps to clean up this unfortunate mess.

During this landmark speech, Reagan addressed the need to control government spending, and stated in part: "successful elimination of fraud and waste must be the cornerstone of any serious policy of controlling government spending. According to even Federal Government estimates, the fraud and waste is enormous."

We all fully support incoming President Reagan in his solemn pledge to complete the job of ending fraud. The rest of this article is concerned with the other pillar of his speech—control of government spending and elimination of waste. In other words, improved management of the total Government complex.

It is with this focus that I shall outline my thoughts as to how President-elect Reagon should view GSA and some steps that would help to fulfill his pledge to the American people.

First of all, I reject the thinking of some OMB individuals, and elsewhere, that GSA is unmanageable. Therefore, it should be dismantled and its parts distributed throughout the Federal Government. I, for one, do not subscribe to the overly simplistic Califano-Lindsay school of government which dictates that if "they" can't run something efficiently, why just throw up your hands and loudly proclaim that the job is too big for any one individual to handle. As a former Acting Administrator of GSA, I believe that nothing is further from the truth. There are bigger agencies than GSA with more complex tasks. Should they be dismantled and their parts strewn about?

Let us go back to the beginning to clearly establish why GSA was established, and what it was designed to do. Then let us see whether it has accomplished the tasks set out for it, and what some of its major issues are.

The creation of GSA in 1949 was the direct result of a Hoover Commission report which states as follows:

"Three major internal activities of the Federal Government now suffer from a lack of central direction. These are Supply, Records Management, and the Operation and Maintenance of Public Buildings. These activities are carried on in places within the Executive Branch with varying degrees of adequacy. While, as a general rule, centralized direction is lacking, there are some instances of the exact reverse of this situation in which operations are centrally controlled down to the smallest detail."

"To the general public, the 'housekeeping' activities listed above are little-known, but unless they are properly administered, the Executive Branch cannot be effectively managed. Moreover, huge sums are spent on these activities."

"Since these activities relate to all departments, there is only one place in the Executive Branch of the Government where authority should be vested. That is in the President, subject, of course, to appropriate legislative directions. Yet obviously the President personally cannot exercise the responsibility except in most unusual circumstances."

The Hoover Commission message is as clear and as fresh as if it were just written. There is a big, exciting job that is being done each day and needs to be expanded on if the Federal Government is to significantly control waste and reduce costs in the administrative services areas.

The outgrowth of the Hoover Commission report was the establishment of the GSA.

GSA is a Government conglomerate with 37,000 employees. It establishes policy and provides for the Federal Government an economical and efficient system for the management of its property and records, including construction and operation of buildings, purchasing and distribution of supplies, transportation management, stockpiling, warehousing management, utilization and disposition of property, and the management of the Government-wide automatic data processing resources program.

It is a $15 billion activity. It manages and operates 10,000 federally owned and leased buildings with about 285 million square feet of space. It procures $3.5 billion worth of supplies, materials, and services each year. It has 100 interagency motor pools. The Declaration of Independence, the Constitution, and the Bill of Rights, as well as other historic exhibits are on display at its National Archives Building. It appraises and stores government records. It arranges for property no longer used by one part of the Government to be made available for use by other parts of the Government.

The Hoover Commission envisioned that the Administrator of GSA would be responsible for developing a comprehensive Federal System for the delivery of supplies and related support services. This, however, never came to fruition because GSA's organizational placement in the bureaucracy made it a convenient "whipping boy" for the very cabinet agencies it was designed not only to serve but also to regulate. Administrative services costs of the Federal Government exceed $100 billion and are still going up.

OMB has made GSA the "fall guy" in an attempt to control some elements of Federal spending. For example, in the area of leasing of space for the federal agencies, GSA was given expanded responsibilities, but OMB restricted its resources. GSA was made responsible for determining who gets what, but was provided no guidelines, process or resources. This nonsense should stop.

The answer is clear—the Administrator of GSA should be made a Cabinet level position so he may sit at the same table with his peers and receive a mandate from the President-elect to wade into the burgeoning administrative services costs.

In order for GSA to intelligently do this, I recommend that it systematically strengthen its capability to obtain accurate Federal agency requirements and ascertain what agencies are spending on administrative costs, the amount budgeted and spent by each agency, and apparent out-of-line situations. It would place GSA in a position to significantly improve its central management role. Such comparative analyses are a starting point in pinpointing not only what agencies need to do, but also what GSA needs to do to help agencies do a better job.

A process should be set up so that GSA could regulate these costs There are presently no government-wide systems and, therefore, no goals, measurement, and controls. No one knows the overall situation, including OMB. Therefore, how can anyone manage what he doesn't know about!

Secondly, GSA's Office of Acquisition Policy, which was created while I was there should be merged with the Office of Federal Procurement Policy and thereby fulfill one of the Hoover Commission mandates—and streamline the process by which government functions with business and industry. This would lead to less bureaucratic red tape, duplication and conflicting regulations by different agencies, and would result in greater efficiencies and economies in the acquisition of goods and services.

The government has a fleet of 500,000 automobiles. This can provide a seat for every government employee. No government agency is responsible for reviewing the utilization of these vehicles—no policy is presently in effect concerning whether any agency should buy, rent, or lease automobiles, and who should have them. The replacement costs of these vehicles is $3 billion—GSA presently operates 20 percent of them at an annual operating cost of one billion dollars. GSA should perform central operations and management functions of the entire fleet.

Presently, there are 20,000 Federal employees in the air at the same time of the business day flying at the taxpayers' expense. Under my direction and against the advice of OMB officials, GSA began to aggressively secure discounted air fares and rail travel—a practice which major corporations have been doing for decades. This also can save millions of dollars. The Government should cease competing against itself and move towards a national supply system progressively in order not to disrupt the market place. For example, various agencies purchase different makes of typewriters at the same time. A single agency Government contract would produce savings in the acquisition and maintenance costs of such machines.

Likewise, increased concentration of construction contracting authority in a few agencies—one being in GSA—would materially help in the establishment of government-wide construction standards, and would reduce operating costs. There are 50 organizations in 22 agencies which have a construction role, resulting in waste, duplication, and conflicts. Private industry has to decipher and master 22 sets of regulations. Such fragmentation is notoriously wasteful and confusing to private industry.

Significant saving can be achieved through expansion of records management activities, to permit an increase in inspection of agencies' records management programs, the conduct of multi-agency studies leading to development of standard records systems applicable to several agencies, and development of effective records management training material.

Presently 85 agencies or subagencies have not completed records disposition schedules. The cost of unscheduled records significantly contributes to $140 million in storage costs. Also, word processing and other office equipment is either underutilized or unused.

GSA has responsibility for Public Utilities Management. The Federal Government spends billions of dollars annually for purchase of utility services such as gas and electricity, and operating costs for Federally-owned heating and generating plants. Its responsibility includes procuring public utilities consumed by Federal agencies and representing Federal interests before regulatory bodies as consumers or users. Most large Federal agencies are exempt from GSA authority. This activity at GSA has been woefully understaffed and, once again, lacks effective clout. GSA needs new authorities and resources in order to ensure adequate conservation and budget reduction in this important energy area.

As the cost of automatic data processing (ADP) equipment is being constantly reduced, over-regulation by the government has increased. And a recent internal study by GSA indicates that 85 percent of entire government ADP equipment is obsolete. In the area of telecommunications the Federal long distance calling rate increased almost twice that of the commercial rate since FY 1966. About one million telephones are connected to the Federal telephone system. GSA could institute cost control measures, including restricting access.

The potential for savings from better management of the Government business is tremendous. What I have previously outlined is merely a beginning not an end.

There are eight initiatives I would suggest to the new administration for cutting waste. These initiatives conform to the following criteria: They are of significant Presidential interest; they can be applied on a government wide basis; and, lastly, GSA should be expected to provide overall policy and management direction. They are as follows:

1. Establish a record cleanout reduction goal of 20 percent of record holdings in Federal office space. In GSA alone from 1976–1978 a modest record cleanout campaign saved over $1.3 million; 1,878 units of file equipment were returned to stock; 18,384 square feet of office space were released; and 63,725 cubic feet of records in office space were destroyed; 60,677 cubic feet of records were transferred from office space to Federal Records Centers and other low cost storage.

2. Establish a forms reduction goal of 20 percent. Again, a modest reduction campaign in GSA in three years, 1976–1978, eliminated almost 2,000 forms and saved almost $2 million.

3. Establish a moratorium on the purchase of new file cabinets by Federal agencies. In 1965, President Johnson did so and saved an estimated $5 million.

4. Reduce expenditures for office furniture and typewriters by 20 percent. In 1965, President Johnson suggested repair and rehabilitation of existing furniture and typewriters and timely declarations of excess property for prompt redistribution.

5. Reduce reproduction equipment and related costs by 20 percent. This was initiated by President Ford in 1976. However, no specific goals were established and therefore no comparative effective measurement took place.

6. Reduce mail costs by 10 percent. This was also initiated by President Ford in 1976, but it never came to fruition.

7. Reduce the average number of square feet assigned to each Federal employee by at least 10 square feet. This would yield an annual saving in excess of $200 million per square foot. As of June 30, 1978, GSA has reduced its own space 7.5 percent.

8. Reduce telecommunications equipment and related equipment costs by 20 percent. A utilization survey of telephone equipment in the Administrators office while I was at GSA brought about a 21 percent savings.

Belt tightening is never popular and we

can expect some anguished screams. However, it is better to proceed in a planned and orderly manner than await a meat axe, or take no action at all. There is no easy way to cut waste. The famous trappist monk who led thousands of readers toward a deeper spiritual life, Thomas Merton, wrote in his book "Contemplations in a World of Actions," "he who attempts to act and do things for others or for the world without deepening his own self-understanding, freedom, integrity, and capacity to love will not have anything to give to others. He will communicate to them nothing but the contagion of his own obsessions, his aggressiveness, his ego center ambitions, his delusions about ends and means, his doctrinaire prejudices and ideals."

This is excellent advice in today's Washington. We must deepen our own self-understanding before we propose solutions which are mere delusions about ends and means. Accordingly, I suggest that another Hoover-type Commission be convened to recommend new solutions within the context of the 1980's and reaffirm the values expressed by the Hoover Commission in 1949.

This would give the new administration a sound basis upon which to build not only a re-organization, but also a re-thinking of missions and goals. I would suggest that former President Jerry Ford be asked to head up this Commission for two reasons. First, his overall knowledge and leadership would attract the best minds in the private sector. Secondly, his prestige with the new administration would facilitate adoption and implementation of its recommendations. I envision that one of the missions of a new Ford Commission would be to analyze ways and means by which the Federal Government can more properly function with business.

The relationship between Government and the American enterprise system has eroded through the years. This is a gross injustice to Government as well as the business community. When our economic freedom is diminished, our personal freedom also slips away.

Our Government should buy the best at the lowest price and at the same time seek to strengthen the American enterprise system. The times cry out for new answers to serious problems. I have tried to outline a few improvement areas. I recognize that it will take boldness and courage to move ahead and achieve meaningful change. But we must change indeed if we are to restore to the American system much of its animating substance and vision.●

AMERICAN ECONOMIC FOUNDATION—40 YEARS OF ECONOMIC EDUCATION

● Mr. HELMS. Mr. President, the American Economic Foundation recently celebrated its 40th anniversary of promoting wider public understanding and appreciation of the free economy, the foundation of all our liberties.

According to the foundation, in America today about half of all people receiving income of any kind are recipients of income from the Government. Its expenditures underwrite 47 percent of the goods and services produced by the private sector.

This situation poses a fundamental question raised by the foundation—how will we organize our society? Do we go down the path of a socialist-collectivist command economy, in which the State makes the fundamental decisions? Or will America maintain and enhance its free market economy, in which principal decisions are taken by individuals freely exchanging their goods and services?

Mr. President, the American Economic Foundation reminds us that the struggle of thousands of years helped build a society of free, self-reliant, productive individuals. Now in the last 150 years or so, those moved by collectivist thought have worked to destroy our moral habits and beliefs in sound money, savings, investment, production productivity, profit, research and development.

The pamphlet, "Nobody Mentions Surplus" is an example of the output of the American Economic Foundation. "Nobody Mentions Surplus" is clear thinking in clear language. Written by contributing editor Alice Widener, it is indeed a text for our times. Miss Widener is publisher of USA Magazine and an internationally noted commentator on economics, and international affairs.

The pamphlet is one of a number of solid, concise items published by AEF and helped bring the recognition and success it deserves.

I commend the foundation on its anniversary and I wish it even greater success in coming years. The foundation's good works are needed by the Nation.

Mr. President, I ask that "Nobody Mentions Surplus" be printed in the RECORD.

The article follows:

NOBODY MENTIONS SURPLUS

(By Alice Widener)

A political battle is raging is our country between liberals and conservatives over money and inflation. The liberals charge that conservatives are being "simplistic" in their proposed solution of immediate massive tax cuts enabling free enterprise to replenish the supply side of our economy with immediate good results. Other conservatives claim that strict control by the Federal Reserve over money supply will cure inflation. Liberals and all leftists clamor for immediate imposition of wage and price controls plus a drastic lowering of interest rates to make cheap credit available in order to avoid an economic depression by "cooling" inflation.

If William Shakespeare were alive, he surely would be in a state of despair such as he suffered when listing in Sonnet 66 among all the things that made him long for restful death "And simple Truth miscalled Simplicity."

In economics, the simple truth is that no sustained progress can be achieved if outgo is "in balance" with income or if outgo "exceeds" income. For economic progress there must be a surplus, or in other words, profit.

Despite computer technology, econometric models and Marxist lingo about economics as a "science," the plain truth is that the future is unpredictable. Therefore foolproof economic planning or "fine-tuning" is impossible. That is why a surplus—for an individual, family, business, city, state and national government—is indispensable.

A surplus—accumulation of capital above savings needed for a rainy day—is the sole means of economic progress. An economic system that stimulates consumption ahead of production has got the cart before the horse. A government which pursues such a policy is bound to create inflation followed by stagnation, retrogression and eventual bankruptcy.

Our present runaway inflation is caused by the ugly necessity of having to use present funds to pay off accumulated debts. This simple truth has been camouflaged by economic con artists advising people to buy more than they can afford and "pay it off in cheap dollars." There is no such thing as a cheap dollar. Soon many big and little businesses, governments and families are going to go bankrupt because of the exorbitantly high cost of "cheap" dollars.

Take the horrendous but now classical example of the welfare state transit system in New York City. The actual cost of a ride on it is $1.04. The present fare is 50 cents. So each ride on the Metropolitan Transit System has a 54 cents deficit. Multiply this by millions and the new two-year Transportation Workers Union wage settlement means a deficit for April 1, 1980–April 1, 1982 of more than $500 million. Promises to maintain the 50 cents fare through subsidies from increased State taxes and Federal grants mean that every worker in New York State and every taxpayer in our nation will pay a share of the real 54 cents transit ride deficit. But even a 75 cents fare would leave a 29 cents per ride deficit. And even if the full $1.04 cost per ride were paid by riders, there still would be no surplus to pay for cleaning up the filthy subway, buying needed new equipment and improving tracks and routes to take care of wear and tear.

The wisest thing about inflation was said recently by Dr. Kurt Richebaecher, Managing Director of the Dresdner Bank, West Germany. "Inflation solved, all else solved, is a mistaken belief," he said, and explained that nothing good can be achieved by governments that drain national productive capital resources for the purpose of consumption. It is a major economic error, he said, to maximize short-run consumption at the expense of capital accumulation.

The only way to avoid inflation is to create a surplus (savings, profits) for use on a rainy day and for investment in productive useful work. That is a simple not "simplistic" truth, tax-cutting money-supply-control conservatives and deficit-financing liberals and leftists willy-nilly. As important as how much money you have is what you do with the money you have and earn.●

BELCHER OIL CO.'S ANNUAL SPILLAGE CONTROL CONFERENCE AND WORKSHOPS

● Mr. STONE. Mr. President, I would like to call to the Senate's attention an important and valuable public service being performed to help resolve an issue of paramount concern to the American people. Congress too, has recognized the importance of, and is currently wrestling with, this problem. The issue I address is toxic chemical and oil spills, and hazardous wastes disposal.

The Seventh Annual Spillage Control Conference and Workshops sponsored by Belcher Oil Co. of Miami was held on September 30 through October 2 at Lake Buena Vista, Fla. The gathering featured participatory exercises in the prevention, control and cleanup of hazardous/toxic materials and oil spills. Wildlife rescue and deployment of the latest containment and cleaning equipment were demonstrated during the conference.

The conference was underwritten as a public service by Belcher Oil Co of Miami, a unit of the Coastal Corp., Houston, Tex. Cosponsors were the U.S. Environmental Protection Agency, the U.S. Coast Guard, the Florida Department of Natural Resources, and the Florida Spillage Control Association.

The international conference attracted more than 300 pollution control experts from major oil companies, conservation organizations, and Government response teams.

In a dramatic exercise, a simulated oil spill was staged in the Cypress Gardens aquarama pool. For the first time participants viewed a spill and cleanup from underwater, through the pool's famous underwater picture windows. The oil spill exercise demonstrated government and industry cooperation during pollution catastrophes that affect everyone. The exercise posed the realities of a spill giving participants a heightened awareness of their responsibilities in prevention and cleanup.

Among leading authorities who addressed the conference were: DeVan L. Shumway, editor and publisher of the Oil Daily, and a recognized energy authority; Rear Adm. Wayne E. Caldwell, Chief of the Coast Guard's Office of Marine Environment and Systems; and Alice B. Berkner, executive director of the International Bird Rescue Research Center, Berkeley, Calif., and the world's leading authority on saving oiled wildlife. Mr. Roger Pynn of Belcher Oil served as the conference director.

In additional to cosponsoring the spillage control conference and workshops each year, Belcher Oil Co., has researched and prepared safety and prevention manuals. These manuals have set standards on prevention and cleanup of hazardous spills and are in use around the world.

Belcher's leadership role in petroleum industry efforts to protect the environment is also evidenced by the fact that major oil corporations sent their own personnel to the spillage control conference to be trained in spill control methods.

The Belcher environmental protection team has also been instrumental in establishing environmental protection co-ops at ports and marinas. Department experts, personnel, and equipment are on call around the clock to aid anyone or any agency in need of assistance.

Belcher Oil Co. is to be commended for its efforts. When accidents or disasters occur, officials will be able to deal with them more effectively as a result of the training and assistance they have received.

I believe it is appropriate for all of us in the U.S. Senate to recognize the public service Belcher Oil Co. is providing by sponsoring the annual spillage control conference and workshops.●

SWING-BED PROVISION IN H.R. 7765

Mr. DOLE. Mr. President, I wish to clarify a technical point concerning the swing-bed provision contained in the Budget Reconciliation Conference Agreement H.R. 7765 which was agreed to by the Senate December 3, 1980.

It is my understanding that the conference agreement provides medicare and medicaid reimbursement for long-term care in small rural hospitals that use their beds interchangeably as either acute or long-term-care beds, depending on the patients' needs. This provision was molded after a provision of H.R. 934, which had been reported out of the Senate Finance Committee about a year ago, but not acted on further.

In explaining the Finance Committee approved provision, the committee report states that small rural hospitals that now maintain distinct-part skilled nursing facilities as separate cost centers would be permitted to switch to the simplified reimbursement procedure that was provided by the bill.

This clarification was designed to accommodate institutions of less than 50 beds which maintain their long-term beds in a separate part of the institution. The intent was to permit these institutions to continue to maintain a separation of the acute and long-term-care beds while at the same time permitting the institution to switch to the simplified reimbursement procedure provided by the bill.

Further, it is my understanding that this same explanation concerning the treatment of small, rural hospitals with distinct long-term care units should have been included in the committee report on the budget reconciliation bill, but was inadvertently omitted.

I ask the distinguished chairman of the Committee on Finance if it is his understanding that the conferees intended this explanation of the small rural hospitals which have less than 50 beds.

Mr. LONG. Mr. President, I concur with the Senator from Kansas.●

JOHN LENNON

● Mr. LEVIN. Mr. President, John Lennon's music and ideas influenced our culture and our times. As a member of the Beatles, he had a seminal impact on popular music throughout the world, and he was on the cutting edge of a cultural upheaval in America and the world that transcended music. His ideas, his music, and his life moved and influenced a generation in a profoundly powerful, intense, and personal way. He helped define an era.

John Lennon expressed anger and dismay at the senselessness, pain, and sorrow in our world. And, in an act of such senselessness, he was murdered with a handgun. Such mindless and unreasoning violence continues, in part because we do not have the strength and wisdom to control handguns in a reasonable way.

John Lennon's influence continues. He enriched our lives. He challenged us, he entertained us, he touched us, and either directly or indirectly, his life and work changed us.●

UNITED STATES-REPUBLIC OF CHINA RELATIONS AS VIEWED FROM TAIWAN

Mr. GOLDWATER. Mr. President, shortly after the Presidential election was concluded in the United States, the largest English language newspaper published in Taiwan, the China News, initiated a seven-part series of editorials examining the likely course of relations between the Republic of China on Taiwan and the United States after the Reagan administration is inaugurated.

These articles give a unique view of current problems in those relations and the hopes of the people of Taiwan regarding the more sympathetic hearing the needs of the Republic of China will receive after the new administration takes office.

The China News does not hide the obvious hurt the Government and people of Taiwan feel because of actions of the Carter administration, but the articles are not vindictive.

Certainly, one of the major policy decisions which the new President must make involves how to improve our relations and friendship with the Republic of China on Taiwan and how to strengthen the national security interests of the United States in the Pacific Basin area. The China News addresses these important issues in a thoughtful manner. So that these intelligent editorials may be shared with those of my colleagues who may not have seen them, I ask that the entire series may appear in the RECORD.

The editorials are as follows:

[From the China News, Nov. 13, 1980]

ROC-U.S. RELATIONS—I

As of next January 20, the United States will have a new president, a new administration and a Senate controlled by the Republican party for the first time in a quarter centry.

This is going to mean many changes, although most will take place slowly rather than overnight.

Even the American House of Representatives, which is still in Democratic hands, will be less liberal.

The conservative Democrats are likely to combine with the Republicans in the Lower House to give President Reagan a majority for most of his program.

Domestically, the new chief executive is going to seek a tax cut, reduction of government personnel and expenditures, less interference with private enterprise, more positive steps toward energy self-sufficiency and improved defenses.

Internationally, the Reagan guidelines will be marked by a pragmatic approach to the Soviet Union, emphasis on friendly performance rather than U.S. views of human rights in relations with other countries and restoration of U.S. prestige abroad.

What should be the attitude and the role of the Republic of China toward the Reagan administration's expected changes in the American direction?

Some may suggest that before tackling this question, we should ask ourselves what to do about the more than two months that are left of the Carter administration.

For the most part, this country should do nothing. That is what the Carter administration will be doing.

President Carter and the present Congress are lame ducks. By American tradition, they will act as caretakers and not attempt to innovate.

In our view, Mr. Carter and his administrators treated us very shabbily. Many of those who insist that Red China had to be recognized are prepared to acknowledge that President Carter mismanaged the relationship with the Republic of China. Some share our view that breaking of the formal U.S. relationship with the ROC was completely unnecessary.

This country is not vindictive. We should like to right as many of Mr. Carter's wrongs as possible but have no desire to denigrate him. The American people have already sent Mr. Carter back to Georgia peanut farming.

During the remaining days of the Carter administration, we should plan and make contacts for the era that begins January 20.

The weeks ahead should be marked by dignity and correctness. Unless Mr. Carter and his administrators try to hurt us further, we can afford to let politeness prevail.

Recently the two countries agreed to extend certain diplomatic-style immunities to unofficial representatives. Not all of this agreement was to our liking. The Carter administration broke its word to us before derecognition and afterward.

If Mr. Carter had been re-elected, we should have appealed this conduct to the U.S. Congress and the American people. There is no point in doing so now. It's not that we want to be good losers so much as that with the altered circumstances we have opportunity to become winners.

We have much to do while waiting for Reagan.

The Chinese Communists have seized some of the initiative in approaches to the American people.

Because they have an embassy in Washington and we have only an office does not alter our opportunity and even obligation to win friends and influence people there and throughout the United States.

The Republic of China's apparatus in the United States is larger and more effective than that of the Chinese Communists. Most Chinese Americans lean to us and either oppose or take a neutral attitude toward our enemy.

Nevertheless, the Communists are digging in at the people's level. They have advocates and apologists all over America, and these are extremely active. They are distributing their propaganda widely and not without some effect.

This country makes insufficient use of its students, the Chinese Americans, its American friends and the many U.S. leaders who deeply regret both what President Carter did and how he did it.

One of the ways in which we can proceed involves the correction of mistakes we have made in the past. If our policy and our needs are not known to American leaders and the American people, we have small chance of improving our situation and the U.S. relationship.

The president-elect of the United States is favorably disposed toward the Republic of China. That is an improvement and encouraging. But it is up to us to make sure that the opportunity is not frittered away.

[From the China News, Nov. 14, 1980]

ROC-U.S. RELATIONS—II

Ronald Reagan, the president-elect of the United States, is a friend of the Republic of China.

He has been so for a long time, and he is not going to change because of his new high office.

Mr. Reagan has shown his friendship on many occasions. He did not soft-pedal his preference for the Republic of China over the Chinese Communists during the presidential campaign against Jimmy Carter.

Some of Governor Reagan's aides wanted him to avoid the "China problem," but as a candidate he had his say.

That fact that he was finally persuaded to tone down his support of the Republic of China to an endorsement of the Taiwan Relations Act does not alter his hope that the ROC-U.S. relationship can be returned to the official level.

Given his druthers, Mr. Reagan would like to derecognize the Chinese Communists and return to U.S. recognition of the Republic of China as the de jure sovereign for all Chinese territory.

This isn't likely to happen right away, however, because the decisions made by President Carter are not easy to change. Mr. Reagan will have to formulate his new China policy step by step.

From the outset, this country can expect a more friendly Washington atmosphere.

The unofficial organizations of the Republic of China in the United States and of the United States in the Republic of China will operate more smoothly and with less pretense of nonexistence.

President Carter and some of the pro-Chinese Communist members of his administration have sought to demean us. They have given the appearance of being ashamed to consort with old but discarded friends.

That despicable spirit will be quickly ended. The State Department won't have Taiwan to kick around any longer.

How much does Mr. Reagan know about what is going on? We cannot be sure but should do our best to find out and give him the straight story.

That implies contacts with the president-elect at a personal level, preferably before he moves into the White House and is submerged under a thousand and one other problems.

The Republic of China has friends in many walks of American life, and some of these are also friends of Ronald Reagan. Our government should make sure that they know all that has been going on and suggest, if they need such urging, that they brief Mr. Reagan. The incoming American chief executive should also be aware of what the Republic of China needs from him in order to continue its role as a strong and faithful American ally.

One immediate goal of improvement in relations should be the resumption of contacts between a high level of U.S. and ROC officials at the earliest possible time.

Regardless of officiality, it should be possible for the highest American leaders—even Mr. Reagan himself—to come to Taiwan and see the ROC situation for himself.

Similarly, we hope that Premier Sun Yun-suan or even President Chiang Ching-kuo may be welcomed to the United States and received by any and all Americans up to and including the president.

When the United States entered the liaison relationship with the Chinese Communists, it demonstrated that protocol and political niceties could be thrown out of the window.

The only obstacle to a closer and more constructive ROC–U.S. relationship is that set up by the Chinese Communists and their apologists.

As president, Mr. Reagan is not likely to pay nearly so much attention to their objections as Mr. Carter has. The Communists will make a lot of noise but they won't do anything.

If even a BB gun arrives in Taiwan, the Communists jump up and down, screaming that the Republic of China is being armed so it can arrogantly reject aggressive moves from the mainland.

Fortunately, even the Carter administration has been wise enough to realize that an unarmed Taiwan would be overrun by Red hordes. So weapons continue to arrive and the Communists do nothing. Only protests arise from their Washington "embassy."

In the long run, we can hope that the United States under Ronald Reagan or any other president will rerecognize the Republic of China and give us moral support for the creation of one free, democratic and united China. We ask especially that the United States desist from actions which tighten the straitjacket of tyranny that now prevents the mainland people from getting rid of Communism.

Meanwhile, we can and should ask Mr. Reagan to right the more grievous of the wrongs against us committed by the Carter administration. Everything that Mr. Reagan has ever said or done assures the Republic of China of a sympathetic hearing.

[From the China News, Nov. 15, 1980]

ROC-U.S. RELATIONS—III

After President Jimmy Carter recognized the Chinese Communists and derecognized the Republic of China in mid-December of 1978, Ronald Reagan—now the president-elect of the United States and Mr. Carter's successor by an overwhelming mandate of the American people—sent this cable to President Chiang Chingkuo:

"I call upon President Carter to come forth and tell the American people precisely and concretely which measures the government will take in order to assure the safety and well-being of the 17 million people of Taiwan. We don't need platitudes or vague expressions of our hopes for Taiwan. We do need concrete reassurances. If we do not provide these, we will have taken the first step in directly violating the human rights of the people of Taiwan. Americans have welcomed improved friendship with the people of mainland China in recent years. But this sudden action raises the stark question: What did we get that we did not already have; and what was the urgency in doing it now?"

The question posed then by the incoming American chief executive has never been satisfactorily answered by President Carter or any of the members of his administration.

Playing of the Red China card has not inhibited Soviet aggression in any way. Only the hard-bitten, unyielding guerrilla fighters of Afghanistan have done that.

So there is good reason to believe Mr. Reagan has not changed his mind about the China problem. As he said at the outset of his campaign, the Republic of China should not be punished and pushed around at the command of the Chinese Communists. If Mr. Reagan felt free to do so, he would undoubtedly rerecognize the Republic of China on his first day in the presidency.

He will of course have advisers and left-over bureaucrats who will counsel against that. They will try to frighten him with warnings that the Chinese Communists might get angry, pick up their Washington marbles and go home. The new leader of the American people must also face the fact—as we must, too—that the Chinese Communists have pulled a lot of wool over a good many American eyes in the last couple of years.

This country does not expect rerecognition at the outset of Mr. Reagan's administration, although it hopes and should work for that end at the earliest possible time. We do believe that Mr. Reagan will insist on terminating discrimination against the Republic of China. He can be expected to scrap the nonsense of officiality and nonofficiality and encourage American and Free Chinese of the top levels to meet together and discuss their problems. He will try to correct the snubs and cavalier treatment of the ROC by small-minded bucreacrats who love Red China because it is Communist (or "liberal" in their definition) and hate the Republic of China because it is successful.

In his cable of nearly two years ago, Mr. Reagan spoke of the safety and well-being of the people of this country.

That supposedly was taken care of in the Taiwan Relations Act of the U.S. Congress, a measure signed by President Carter reluctantly because it was a much stronger law than he wanted. Only the constant needling of interested Congressmen have kept the Carter administration within shouting distance of the course laid down in the act.

In recognizing the Chinese Communists, President Carter agreed to a one-year moratorium on the negotiation of arms sales to the Republic of China (although his administration made every effort first to conceal and then to soft-pedal this pusillanimous concession to Red China). Never in all its previous history had the United States treated a comrade-in-arms so shabbily.

Weapons discussions were resumed this year but without favorable U.S. decisions on some of the armaments that are considered most essential for the defense fo Taiwan. Still withheld from our Ministry of Defense's purchases are the superior military aircraft necessary to protect a small island against a continental aggressor.

Weapons delivered this year were in the pipeline long ago, agreed to when the United States and the Republic of China not only had formal relations but a defense treaty which Mr. Carter unilaterally renounced at the same time he canceled U.S. recognition.

Consequently, Mr. Reagan may wish to give priority attention to the defense situation of the Republic of China so that the people of this country are protected by something more than "platitudes" and "vague expressions." As a good beginning, he might consider telling the Chinese Communists that the U.S. role in helping to defend Taiwan has been specifically ordered and approved by the Congress and that it is none of Red China's business.

Mr. Reagan is not likely to have any trouble persuading the professionals of the Pentagon that the improvement of Taiwan's defense is good for the United States as well as the Republic of China. American military men must ask themselves who would fight for the United States. They know that the Republic of China would—against Soviet Russia or any other attacker. They do not know that the Chinese Communists would, even if the assailant were the USSR. Some of the leading American students of Communism still expect Red China to team up with the Soviet Union to deal with the American heartland of freedom and capitalism.

The Republic of China's role in preparing for relations with an American military establishment presided over by Ronald Reagan in the role of commander in chief is that of supplier of information and a lister of requirements. Requests that were submitted to the Carter administration should be renewed. Under the Reagan administration they will be examined in a far more objective and friendly light.

There is an old saying that the squeaky wheel gets the oil. The Republic of China's needs are urgent and genuine. We have no reason to be ashamed of making them known to Mr. Reagan before he takes up the awesome burden of the American presidency.

[From the China News, Nov. 17, 1980]

ROC–U.S. RELATIONS—IV

Presidents of the United States have a great deal of power in the trade field.

Administration of all the laws passed by Congress is supervised by the president. The way in which this is done can make almost as much difference as the laws themselves.

Presidents also have considerable discretionary power.

This country can expect Ronald Reagan to be fair-minded about the U.S.–ROC trade relationship.

If Mr. Reagan is protectionist, it will be on a selective basis.

Japan is fearful (and not without reason) that the new American chief executive will get tough about imports of Japanese cars.

There are reasons why he should. The Japanese consider that it's all right to flood the U.S. market with their products but they do not want to open up their own country to American goods.

Mr. Reagan is much less likely to get tough about U.S. imports of products from developing countries. Additionally, he will consider the free world loyalty and friendship toward the U.S. of the country involved.

The Republic of China has good reason to suppose that Ronald Reagan will be favorably disposed toward the further increase of U.S.-Taiwan trade.

He will of course urge that this country further reduce its barriers against American imports. If we are to sell the United States more and more, this is obviously essential.

Our market is growing in size and purchasing power. The United States cannot be blamed for wishing to sell us many things besides the agricultural products we are buying in such large quantities.

Another purchasing mission will go to the United States early next year. Groups of the past have been constructively intentioned but have not managed to reduce the favorable balance of our U.S. trade as much as had been hoped.

Before the departure of the new mission, the authorities of this country should make clear to Mr. Reagan that we shall try very hard to buy goods that the United States is especially desirous of selling.

Taiwan is also seeking increased trade in Europe and elsewhere. This calls for reciprocity. Others will not buy from us unless we buy from them.

In trying to enlarge European trade, we must keep in mind that old customers deserve more consideration than new ones. The United States is our biggest customer. Its trade interests will be neglected to our peril.

Sooner or later, the Republic of China must correct the fact that it buys much more from Japan than it sells and sells much more to the United States than it buys.

In times past, Ronald Reagan has spoken out for improved unity and collective security to protect the free countries of Asia. This continues to be one of the principal international goals of the Republic of China.

The U.S. president-to-be has a deep appreciation of the importance of Taiwan's strategic location and the Asian defense role of its military defenders.

This is a good time to renew our longstanding suggestions that the three Asian states could do a great deal more to defend themselves, if only they were drawn together in a U.S.-supported alliance, whether formal or informal.

ASEAN has contributed to the protection of free Southeast Asia. If the Republic of China, Japan and South Korea were similarly united in Northeast Asia, any potential aggressor would be given pause.

Japan has not entered into diplomatic relations with Red China for purposes of defense but to augment trade. The Japanese know they are threatened by the Chinese Communists. They still regard Taiwan as a major deterrent to aggression by Red China.

However, the problems are such that only U.S. leadership can break through the various barriers and provide a larger degree of Northeast Asian solidarity. If Ronald Reagan can lead the way, he will be making a major contribution to U.S. and Asian and Pacific security.

Mr. Reagan may also recognize that the Republic of China could be a political and military force as well as an economic power in the world.

Our position has been sorely damaged by the decision of President Carter to derecognize the Republic of China in order to exchange recognitions with the Chinese Communists.

This was unnecessary, as Mr. Reagan has said on many occasions. It consistently follows that he will want to correct the recognition mistake and return the Republic of China to its proper place in Asia and the world.

Possibly this cannot be done at the outset of the Reagan administration. Mr. Reagan has said that he wants to make the Taiwan Relations Act the oasis for American ties with the Republic of China. That is a beginning which could lead toward the resumption of a more formal relationship.

President Carter found a way to raise the liaison relationship with Red China to that of full diplomatic recognition. Unfortunately, he hurt the Republic of China in the process of doing so.

When he succeeds to the presidency next January 20, Ronald Reagan can be expected to seek ways to formalize the relationship with the Republic of China without damaging U.S. interests on the Chinese mainland.

To ask only for a smoothing of the Taiwan Relations Act relationship is not enough for either the Republic of China or the United States. We both need more than that. This country deserves more and no one knows it better than the U.S. president-elect.

[From the China News, Nov. 18, 1980]

ROC-U.S. RELATIONS—V

This country has a big problem in its relations with the United States and most other countries of the world.

No matter how friendly these countries and their leaders, they regard the Republic of China as being associated merely with Taiwan and not with the Chinese mainland.

They tend to regard China as the mainland under control of the Communists.

While aware of the Republic of China's outstanding economic success on Taiwan, they think of China as a subcontinent with a billion people and consider that the Communist hold is unbreakable.

Thus the Republic of China has lost the formal recognition of all the world's great powers. Among countries in the secondary power classification, we retain only South Korea, Saudi Arabia and South Africa.

Our good friend Ronald Reagan, the president-elect of the United States has not challenged the inevitability of continued mainland rule by the Communists.

He is an advocate of "two Chinas." That is better, certainly, than an advocacy of one China under Communism. At the same time, it is a symbol of our failure to convince Mr. Reagan and countless others that in the end, the people of the mainland are going to choose our Three Principles of the People and reject the political, economic and social failure of Communism.

In the narrow, surface sense, our relations with the United States will improve as a result of Ronald Reagan's election to the presidency. He is a friend and he has no use for Communism.

American bureaucrats will stop pushing us around. That will be a relief. The United States can be expected to pay closer attention to our defense and will try to avoid discriminating against us in trade.

But the U.S. government will continue to recognize the Chinese Communists and to deal with them, thereby becoming an accomplice in tightening the mainland hold of tyranny.

The Republic of China must try harder—for the 1 billion mainland compatriots as well as for its own interests—to convince the United States and its leaders that the Communists are not in the saddle to stay.

If the free world would only recognize this and stop propping up the mainland regime, the Chinese Communists would fall faster and with less pain for the long-suffering people of the mainland.

From the beginning, the history of Chinese Communism has been one of internal struggle.

There is and never has been any agreement on what Chinese Communism stands for or should be. These usurpers understand only that they must oppress and hold down the people to keep them from being overthrown.

Today's top dogs among the Communists are said to be pragmatists. They are represented as seeking the modernization of the mainland.

Supposedly they have broken with the concepts of Mao Tse-tung and are about to punish the "gang of four" for killing and plundering during the "cultural revolution."

Yet these same pragmatists closed down the poster walls and the press of protest.

These same pragmatists have given up any hope that the Chinese mainland can be modernized in this or any other century.

The China of Communism—any Communism—is hopeless.

The United States has turned to Red China principally for military and economic reasons.

Supposedly the Chinese Communists will be the trump in any game of showdown with the Soviet Union.

Completely ignored is the fact that the Chinese Communist armed forces have shown they don't know how to fight and they will not fight under their present masters.

Ignored, too, is the reality known to every serious mainland China scholar: that the unchanging aim of the Chinese Communist is to combine with the Soviet Union to defeat the United States. If Red China and the USSR cannot divide the spoils, that can be settled later.

Economically, the mainland under Communism is bankrupt internally and a threat externally.

There is no market of a billion customers and never can be under Communism, because these billion people are dirt poor. They can, on the other hand, endanger the factories of the United States and other developed countries.

Americans are greatly concerned about the competition of Japanese industry. What would happen to Detroit if the Japanese moved their plants to the mainland and started using cheap Chinese slave labor?

If they are to formulate a China police in America's interests, Mr. Reagan and his administration must be made aware that the mainland will soon explode in anti-Communist revolution.

For years, the U.S. government has supposed that the Republic of China wished to go storming across the Taiwan Straits to the liberation of its compatriots there.

That is and never has been the case, as was so clearly expressed in the late President Chiang Kai-shek's dedication to mainland recovery through political means.

Mainland China cannot be free without the dedication and the action of the people there. The mounting of a revolution is not easy in the face of Communist tyranny. Even against the corrupt dynasty of the Manchus, Dr. Sun Yat-sen had to try again and again before the National Revolution succeeded and the Republic of China was established.

The Chinese people will persevere and eventually win out. In that moment the Republic of China will provide all the help at its command and return legitimate sovereignty and one of the world's great constitutions to the mainland. This will be at the invitation of all the Chinese people and not as an expedient.

This is the China of tomorrow. The Republic of China does not ask for the overt assistance of Ronald Reagan in bringing the victory of freedom and democracy to culmination. It does ask for sympathy and acknowledgement that "two Chinas" is only temporization. The American tradition and spirit compel the United States to support a free not a slave China, and this is the conviction that we must press upon the new president of that country.

[From the China News, Nov. 19, 1980]

ROC-U.S. Relations—VI

One of the most basic and difficult problems faced by this country in its relations with the United States is the attitude of the American mass media.

Slowly but inexorably, many leading American newspapers and magazines have been embracing the Chinese Communists. Some but not all of them have become hostile toward the Republic of China.

The American television networks have given extensive coverage to Red China. Most of this is favorable; the Communists have learned to watch out for and disconnect any "candid cameras."

Some of the reporting from correspondents newly stationed in Peiping has been objective, some has not.

Any correspondent working in Red China must keep on relatively good terms with the regime. He cannot operate unless he does. The Communists do not have to expel a correspondent in order to get rid of him.

In the last three years, the American people have changed their fundamental attitude of hostility toward the Chinese Communists to one of friendship and support. The mass media have played an important role in the change.

Not one major non-Chinese correspondent of the American media is stationed in the Republic of China.

This is not said as any reflection upon the competency of Chinese nationals representing the American news services and big papers. No matter how able, the Chinese staffers do not have the clout and editorial influence of Americans sent out by the home office. So the Republic of China and Taiwan are given press and TV coverage only on a spasmodic basis—usually by correspondents sent here on a junket of a few days—or by a press corps dispatched here in a crisis situation.

A specific example of the American mass media problem has occurred in the last few days with dissemination from Tokyo of a news analysis by John Roderick, the Peiping correspondent of the Associated Press and an "old China hand."

After citing a Mainichi story indicating that the 15-nation Coordinating Committee for Export Control to Communist Areas (COCOM) is preparing to lift the ban on weapons exports to Red China, Roderick wonders whether Ronald Reagan "will have the boldness to favor a move which would have been unthinkable just a few years ago."

The reasoning is easy to follow. Richard Nixon, once the leading anti-Communist fighter in the House of Representatives and elected to the Senate on a platform charging his opponent with being "soft on the Reds," was responsible for the opening to Peiping.

"As an avowed friend of Taiwan," Roderick writes, "Reagan is perhaps in a better position to (sell weapons to Red China) than Carter would have been."

This is an obvious attempt to put ideas in president-elect Reagan's head. Never at any time has Mr. Reagan given the slightest indication that he might favor the arming of the Chinese Communists to support his stand against the Soviet Union.

Roderick's analysis implies that Mr. Reagan could approve weapons deliveries to the Chinese Communists because "tensions between the two old enemies (Red China and the Republic of China) have dropped to an all-time low" resulting from Peiping's "insistence on seeking Chinese unity through peaceful persuasion rather than military means."

Roderick is surely aware that tensions have not dropped to an all-time low and that the Chinese Communists deliberately threaten Taiwan on one day and talk peace on the next. Within this very week, a ranking official of the Peiping regime said that the use of force will be considered if Taiwan continues to ignore Chinese Communist pressures for surrender and unification.

The same official said that the Republic of China must be dealt with before the Hong Kong problem is tackled, adding that the Hong Kong status quo is to the advantage of Red China whereas not to take over Taiwan would be a "negative factor."

Roderick says that "some Chinese" in Peiping have expressed hope that Reagan "might do something just as historic (as Nixon) and encourage the (Republic of China) to reach agreement with the mainland." This might be too much for "so committed a conservative" as Reagan, he adds, but the new U.S. president will not lack "opportunities for stiffening" the Washington-Peiping relationship "to the mutual strategic advantage of both."

Reading this analysis, the inadequately informed American (or Asian or European, for that matter) can easily be led to the conclusion that Mr. Reagan would be wise to arm the Chinese Communists and that it wouldn't be a bad idea if he twisted Taiwan arms sufficiently to bring about the Republic of China's surrender and destruction.

In times past, John Roderick wasn't unfriendly to this country. Probably he considers that he isn't even now. His thinking has been changed by the requisites of his Peiping posting, just as has that of many others. This in turn influences the attitudes of millions of Americans, most of whom depend upon either AP or UPI for their news and opinion about Red China (and the Republic of China, too, for that matter).

What can we do to change the false impressions which the American people are receiving about the intentions of the Chinese Communists toward the Republic of China? What can we do to contradict the impression that the Red Chinese takeover of Taiwan is inevitable—so why not now and with the support of Ronald Reagan?

This country cannot compel American print and television media to be more objective, nor to cover the Republic of China on a more equitable basis. The initiative has to be our own. We have to use our own media and people to better advantage. We need to expose the failings of the Communists objectively, not propagandistically, and persuade the American people that we cannot accept loaded proposals that would lead us into charnel houses and concentration camps.

The stakes are as high as survival. If the Americans decide to arm the Chinese Communists, will they continue to sell us the weapons we need to defend ourselves?

The paper and picture war with the Chinese Communists could be decisive, and the battleground is in the American mind.

[From the China News, Nov. 20, 1980]

ROC-U.S. Relations—VII

"I bring you hope," Representative Daniel Crane of Illinois told the 26th Asian Peoples' Anti-Communist League meeting at Perth, Australia, this week.

He said the election of Ronald Reagan as president of the United States heralds a new era in the worldwide struggle against Communism.

If Congressman Crane is right, this is good news for the Republic of China.

The leaders and people of this country do not believe that coexistence (or détente) with the Communists is possible.

Such a view does not grow out of the fact that mainland China is held by the Communists but out of our experience with trying to deal with them and their acknowledged dedication to world domination.

The war with Communism is not an ordinary conflict. It is one of free men against tyrants, of free thinkers against close-minded fanatics.

In the 1920s, 30s, and 40s, the government of the Republic of China made repeated attempts to compromise with the Communists. It was impossible. They consider that they are not bound by any agreement. Communism is right and those who oppose it are wrong, so all means are justified in achieving the Communist end.

Ronald Reagan is an anti-Communist. He fought the Communists in the movie unions. His record as governor of California and as a leading national political figure in the United States confirms that he has not changed his thinking about Communism.

Richard Nixon was an anti-Communist once, too. Yet he opened the way to the left in embracing Red China.

President-elect Reagan is not a man of the Nixon kidney. He has not changed and he is not going to change. He will oppose Communism realistically and at every opportunity.

When Nixon, Gerald Ford and Jimmy Carter were soft on Communism, it was at the expense of the United States and American interests throughout the world.

Among the nearly 200 sovereignties of the earth, the United States has only Communist enemies. It is threatened only by the Soviet Union and potentially by the Chinese Communists.

This doesn't mean that we can expect Ronald Reagan to lead a crusade against the Communists. He is not going to ask Congress to declare war on the Soviet Union and Red China. The United States will fight in self defense but not until attacked.

What we can expect from Mr. Reagan is a policy of making the United States stronger and of taking an adamant stand against further Communist aggression.

He will stop helping the Communists and prepare to oppose them with force if and when that may become necessary.

During the presidential campaign. Mr. Reagan took a position against the SALT II treaty. He did not oppose further negotiations with the Soviet Union but said that any agreements must be equitable.

His position on China is similar. He has not advocated canceling out Jimmy Carter's recognition of the Chinese Communists. He has come out in favor of according equal treatment to the Republic of China.

Mr. Reagan knows that the showdown with Communism is inevitable. In the end, the free world wins or the Communists do.

At the same time, he is aware that the people of the free world are not prepared to risk the destruction of nuclear war at this time.

In fact, there is another way, and it will no doubt be chosen by the new American chief executive.

All Communist regimes have foundations of sand. They do not command either the love or allegiance of their peoples. They rule by force, not consent. They wield rubberstamps and not free ballots.

China is not the only country with a mandate of heaven held in reserve. The people of all lands will rise up when the torment becomes too terrible, when the oppression becomes more than they can stand.

The only Communist regimes with anything approaching the good life are the few in Eastern Europe which have permitted a measure of liberty and partial operation of the free enterprise system.

Mainland China is coming closer and closer to anti-Communist revolution. When the last hope engendered by the dream of modernization is gone, the people will take matters into their own hands. If a new "gang" is formed to suppress the people, it will be dealt with violently and finally.

Supposedly the Soviet Union is not likely to erupt in revolution. The people are poor but have been told that things were much worse under the "old regime."

Some observers are not so sure of this. If the economy of the USSR goes from bad to worse, the people will lose their patience with the awful bureaucracy that Communists spawned. Russia has had revolutions before; it can have another.

What is the role of the Republic of China in encouraging and trying to assist a Reagan anti-Communist administration?

First, we have a great deal of experience with Communism. The leaders and specialists of this country can offer their counsel and their assessment of what works and what doesn't of the possible and the impossible.

Second, the Republic of China has sizable defense forces which are at the beck and call of the United States for anti-Communist duty in the Taiwan Straits or elsewhere. It must be made very clear that President Carter's unilateral scrapping of the ROC–U.S. mutual defense treaty has not destroyed our de facto alliance with the United States.

Third, the Taiwan economy is one of the most successful among the developing countries. The know-how is at the disposal of the anti-Communist world. Chinese are present everywhere. We are the people on which the sun never sets, and we are ready to help the cause of economic advance in free countries everywhere.

Fourth, our leaders have consistently dedicated themselves to the proposition that strength lies in unity. The Republic of China is prepared to join the United States politically on an international or regional basis. In trying to assure the safety of Northeast Asia, we do not have even the ax of mainland recovery to grind. Our first interest is in protecting the continued freedom of Japan and the Republics of China and Korea.

Fifth, we can offer conclusive proof that Red China is the implacable enemy of the United States and the free world. If Americans will consider this record, they will approach the developing relationship with the Chinese Communists a good deal more cautiously.

Ronald Reagan is going to be told to proceed cautiously in opposing Communism. Our advice is not materially different. What we add is the suggestion that he be guided by what the Communists do and not to put much stock in their promises.

If he will do that, there is great hope that his administration will bring to an end the dangerous erosion of the free world's position in the struggle to keep the earth from being swallowed up in the new dark age of Communist totalitarianism.

EULA McGILL

● Mr. STEWART. Mr. President, it is a privilege for me to personally know a woman who has worked with the Amalgamated Clothing and Textile Workers Union for 42 years. This outstanding lady, Eula McGill, has spent a major portion of her life dedicated to helping the workers of Amercia.

Mr. President, I ask that the attached newspaper article, which appeared in the Birmingham-Post Herald on October 16, 1980, be printed in the RECORD.

The article follows:

STATE'S "NORMA RAE" SAYS STANDING STILL IS GOING BACKWARD

(By Susan Hurley Boyd)

"You never stand still. If you don't go forward you're going backward," she said, and she is not a woman to go back.

At 69, Eula McGill has worked with the Amalgamated Clothing and Textile Workers Union for 42 years. She has been a worker, labor organizer, and business agent, living and working in Kentucky, Tennessee, and North and South Carolina. In 1976 she returned to Alabama, where she grew up, to become joint manager of the North Alabama board representing 16 locals.

She got her first job in a cotton mill at age 14 in Gadsden, where she worked 12 hour shifts five days a week and four and a half hours Saturday. "They put you on the payroll when they thought you had learned sufficiently—I worked six weeks and they didn't pay me a penny." The seventh week she made $3.10—a dime was taken out of her check for the company doctor and three cents for ice "but we never had any."

The place was Dwight Mill, which she said closed in the 1950s. The conditions were "hell." She remembers the dirt, the lint, and the heat—windows were always tightly closed to preserve humidity, so yarn would spin. Giant uncovered pulleys overhead attached to other pulleys ran the machinery. One day one of them came loose and fell, "and if it had hit anybody it would have killed them. There was absolutely no safety (measures).

"I hated that place. My dad (Joseph H. McGill) used to say, 'I might do it for bread but I'd never do it for meat and bread."

When she finished school in 1930 she took a job at the Selma Manufacturing Co. on Vanderbilt Road, making sugar bags. Raised in a union family—her father was a union carpenter—she joined the union quickly. "They didn't have to hunt me, the minute I heard they were organizing I went looking for who had the union cards."

A tall, heavyset woman, her facial expressions range from flinty to kind as she deals with a dozen topics.

She believes unions are facing a crisis today. Not the kind of crisis of violent opposition she and others rode out in the 1930s, she said. But she thinks one that may force them to merge to consolidate future bargaining power as the Amalgamated has merged with textile workers and shoe workers over its history.

She has seen many changes over the last 42 years, not the least of which has been the end of an era of family-owned garment industries to a time in which many garment factories are small subsidiaries of huge conglomerate corporations.

And she handles the question that perhaps union demands drove some of those companies out of business with the skill accumulated during years of organizing and selling the union.

"Uh, uh," she dismisses the question. "Let me tell you this—there's only two ways labor can force a company, through strike or arbitration. That's the only force labor has. Now, if I go in here and I make a bad suggestion and the company buys it why do they blame me? They're as equally to blame as I am if they didn't resist my sales pitch.

"I'm very conscious of the facts, we have to be in our industry because of competition. This is something steel never had, something auto never had. They've cut the working people out of anything pertaining to planning for the industry . . . this is my theory. In our business because of competition we have had to plan with the companies to try to save the jobs.

"We're very company conscious, because we feel if the company doesn't make money they can't hire people, if they can't hire people we haven't got a union. We're all in it together and that's the theory this union was founded on."

She believes it was an owner who turned his plant over to managers—the Hart Schaffner and Marx factory in Chicago—that precipitated a strike in 1914, and led to the emergence of the union and its first president, Sydney Hillman.

"I think that workers sometimes do get unreasonable. That's where it takes strong leadership in unions to try to lead people where they won't make mistakes that will hurt them in the long run.

"I brag on our union because I think it has done a wonderful job," she said. She points to a tradition of encouraging its members in social activities apart from their work lives. And the union set up an unemployment insurance fund in 1923, jointly funded by workers and clothing manufacturers in Chicago to offset the effects of the seasonal clothing business. Deductions from summer paychecks, when mens' suits were made, helped get workers through the winter months when there was no work.

The program stopped in 1938 when federal unemployment insurance benefits went into effect. In 1940 the union turned its attention toward getting health and welfare benefits, and in 1945 to retirement benefits.

The competition in the industry has come from Hong Kong suitmakers, from the Japanese, Taiwan, and now Venezuela, Argentina and Mexico. Because not much capital is needed to set up a garment plant, the garment-making industry was often the first industry introduced in foreign countries through foreign aid.

"We were the first ones hit" by foreign competition, she says. "Now it's getting into steel and automobiles and people are getting all upset about it—we've been upset for 40 years because competition has been real stiff."

The union left her little time for a family. Her marriage at age 17 "lasted a few months. I've been single ever since." Her parents reared her son, Thomas.

She said she believes the answer to child care problems today is to have a joint company and parent supported child care center next to the plant, so that a mother can be with her child immediately if anything happens to him.

Violence pocks her career and she describes labor organizing in the 1930s and 1940s in the South.

She was an organizer in Memphis when union organizers in the 1930's had to have bodyguards. Once in Bruceton, Tenn., a group of 150 men came to the Methodist minister's home where she rented a room and demanded he turn her out. They shot out the lights on her car outside her bedroom windows and slashed the tires. "But I stayed on in the area and became a pretty respectable person. I was business agent in Huntington after that.

Did the union return violence for violence? "How could we, who would we turn against? I wanted to get the company . . ." and she believes most of the people who delivered the abuse were "just misguided souls."

In one incident she had to pick up two union workers who were dropped off at the city jail in Knoxville after they were stripped, tied to a tree, covered with tar and beaten. One never recovered from the beating and went into a sanitarium.

She says she kept on during hard times because, "People need unions. It's as simple as that. People need protection, they need some way to have representation in the workplace. You need industrial freedom and believe me you'd have very little of it without the union.

"Look at the things we've gotten . . . we've gone from the sweatshops to a decent wage and working conditions, health and welfare benefits and pensions, and I've seen that happen in my lifetime. It's a great satisfaction to me to know I had a little something to do with it.

"The union is just made up of people like me that have done as much as I have. Some have done a lot more." ●

SENATOR HENRY L. BELLMON

● Mr. RIBICOFF. Mr. President, we make many friends in a Senate career. I will especially cherish the friendship of Senator Henry L. Bellmon of Oklahoma. In every sense a gentleman, in every sense a decent, thoughtful, considerate man, Henry Bellmon is a shining example of how a U.S. Senator should conduct himself.

Senator Bellmon was elected to the Senate in 1968, the first Republican in 20 years and the fourth in State history to be elected to the Senate from Oklahoma. In 1974, he won again, becoming the only Republican ever reelected to a statewide office in Oklahoma.

From his position on the Senate Appropriations Committee and his post as ranking minority member of the Senate Budget Committee, Senator Bellmon has earned the well-deserved reputation for making Government eliminate wasteful spending. Henry Bellmon was a leader in the successful effort to gain approval of the first budget resolution approved by Congress.

A farmer who embodies the very finest qualities of rural America, Senator Bellmon helped pass the Agriculture Act of 1970, the Farm Credit Act of 1971, the Rural Development Act of 1972, the Agricultural Act of 1978, and the Agricultural Credit Assistance Act of 1978.

Serving on the Appropriations Committee, the Energy and Natural Resources Committee, and, before that, the Agriculture, Nutrition, and Forestry Committee, Senator Bellmon has been a most effective legislator, his legislative achievements including coal mine safety, postal reform, tax and welfare reform and Indian affairs.

Besides serving in the Senate, Senator Bellmon and I have two other things in common. We are both former Governors of our States—and we both announced early in 1979 that we would not seek reelection in 1980.

I know I will miss seeing Henry Bellmon. His friendship has become very important to me. I wish him all the best of good fortune as he returns to his farm and begins many new pursuits, all of which, I am sure, he will find fulfilling.●

SENATOR GAYLORD NELSON

● Mr. RIBICOFF. Mr. President, serving with Senator Gaylord Nelson of Wisconsin on the Finance Committee, I have come to see what a brilliant, accomplished legislator he is.

The Finance Committee deals with some of the most complicated, complex issues that face the Congress.

But, no matter what the proposed legislation before us, Gaylord Nelson always has a firm grasp on the issues. He also has amendments to improve an essentially good bill—or persuasively points out why another bill is hopelessly flawed and should go no further.

On trade matters, Senator Nelson has been an effective advocate for encouraging the Japanese and other trading nations to eliminate the nontrade barriers that result in reduced markets for U.S. products.

Always forceful in his desire to assure that Wisconsin producers get fair treatment against foreign competition, Senator Nelson sponsored legislation that implemented the international cheese import agreement. To quote Leland Mulder, president of the Wisconsin Farmers Union: "No one has fought harder for the Wisconsin dairy farmer than Senator Gaylord Nelson."

As chairman of the Employment, Poverty and Migratory Labor Subcommittee of the Labor and Human Resources Committee, Senator Nelson guided through the Senate vital legislation on job training and placement programs for the unemployed. Senator Nelson has been especially effective in promoting youth employment programs.

The legislative record Gaylord Nelson has compiled over the past 18 years is one he can take enormous pride in. He has been a conscientious, imaginative, effective Senator.

I first met Gaylord Nelson when he was Governor of Wisconsin and I was Governor of Connecticut. We worked together on several State projects. We became friends and have remained friends ever since. Gaylord was a fine Governor, just as he has been a fine Senator.

It has been a great privilege to have known and worked closely with him and have had him as a friend for a quarter of a century.●

TRIBUTE TO SENATOR WARREN MAGNUSON

● Mr. BENTSEN. Mr. President, anyone who has served in the Senate during the last generation has known first hand the wisdom, the fairness, the leadership, and the legislative prowess of Warren G. Magnuson. Senator Magnuson's impact on his times and country extend, however, far beyond the Halls of Congress. During his lengthy and distinguished career in public service, Senator Magnuson has been responsible for legislation that touches the lives of virtually every American citizen.

His departure from the Senate after 36 years of service will be a profound loss for everyone who cares about the health of our people, the care accorded to our veterans, the fragile nature of our environment, the civil rights of our citizens, or the capability of our transportation system.

The breadth of Senator Magnuson's impact on America is evident from the fact that 13 million Texans benefit daily from policies and programs shaped by the Senator from Washington.

Warren Magnuson's associations with the people of Texas extends back to the late 1930's when, as a junior Member of the House of Representatives, he attended "board of education" meetings chaired by Speaker Sam Rayburn. As one who also had the honor to participate in those meetings, although a decade later, I know there is no better or more effective on-the-job training for public service. I can also attest that Senator Magnuson learned his lessons well and performed admirably in this body when another Texan named Lyndon Baines Johnson was in a position of some Senate influence.

So, Mr. President, we in Texas have a special appreciation for the talent and personality of Warren Magnuson.

We also happen to have one of the best cancer treatment facilities in the world, the M. D. Anderson Hospital in Houston; 145,000 patients have been treated at M. D. Anderson since 1944. More than $170 million in Federal funds has been made available to the hospital since 1970, with most of it going to basic and clinical research.

The people of Texas and the Nation have seen cancer cure rates improve substantially since 1970; we have seen the dread fear of cancer give way to new hope in thousands of cases every year. We can see positive results from the National Cancer Act of 1970 and—more than any other individual—we can thank Warren G. Magnuson for those benefits.

Mr. President, I am proud to be a cosponsor of Senate Joint Resolution 213. I can think of no more fitting tribute to the distinguished career of Warren Magnuson than to name a significant research facility after the man who has done so much to bring better health and a brighter future to millions of Americans.

On behalf of the people of Texas, I want to say thank you to Warren Magnuson. And as one who has been honored to know Warren and count him as a friend over the years, I would like to add my own personal congratulations to a Senator of exceptional ability and accomplishment.●

SENATOR GEORGE McGOVERN

● Mr. RIBICOFF. Mr. President, the historian Henry Steele Commager has said of Senator George McGovern of South Dakota, "George McGovern is a leader in the tradition of Woodrow Wilson. He is a statesman as well as a politician and a commanding figure within his region who is also a leader of the Nation."

Senator McGovern deserves that description. He is a highly disciplined, imaginative, brave political figure. George McGovern is a strong, principled man. The Senate is diminished by his departure.

In 1968, in Chicago, at the Democratic National Convention, I nominated George McGovern for President. Then, in 1972, in Miami Beach, at the Democratic National Convention, it was again my privilege to nominate Senator McGovern to be the party's nominee for President. This time George won the nomination.

I was pleased to have this assignment. George McGovern was a good candidate. He would have made a fine President.

But it was not to be. George McGovern was not elected President. George came back to the Senate from the defeat a wiser man, but a man no less committed to his principles and goals.

Senator McGovern is an eloquent, stirring spokesman for basic American values—and he never hesitates to embrace those values, even when it is not very popular to do so. George reminded us that no American should be denied the chance to work, to live in decent housing, to enjoy adequate health care. He is devoted to assuring those opportunities for everyone.

Senator George McGovern is an able and persuasive spokesman for his State of South Dakota and for farmers throughout the Midwest and Nation. He has been a highly effective senior member of the Agriculture, Nutrition and Forestry Committee. He is chairman of the Subcommittee on Nutrition where his report on improving the American diet has had significant impact on the foods our people eat.

George and I served together in the Kennedy administration. As the first Director of the food for peace program, George McGovern was an innovative, imaginative administrator and won many friends for President Kennedy and the food for peace effort.

A decorated bomber pilot in World War II who flew 35 missions and was awarded the Distinguished Flying Cross, George McGovern impresses those who know him with his discipline and strength of character. I have known George for some 25 years and, in that time, I have come to respect his political judgment and his commitment to principle. It is sometimes said that high ideals and practical politics do not mix. George McGovern, who can look back on an enormously diverse and successful career in national and State politics, is a vivid example of the fact that political activity need not diminish one's values and beliefs.

History will say that George McGovern was a great U.S. Senator. It is my hope that George remains actively involved in public affairs. His State and Nation must continue to benefit from his views and perspective. The Nation will have suffered a tremendous loss if the campaign of 1980 saw George McGovern not only leave the Senate but also stop speaking out on the issues. Keep up the good work, George, you are still fit and your voice must continue to be heard.●

SENATOR RICHARD S. SCHWEIKER

● Mr. RIBICOFF. Mr. President, it has long been my view that the Congress should have the government do more to promote health research and disease prevention. That opinion is shared by Senator Richard S. Schweiker of Pennsylvania. From two crucial subcommittees, Richard Schweiker has made great strides toward achieving that objective.

As the ranking minority member of both the Labor-HEW Appropriations Subcommittee and the Health and Scientific Research Subcommittee of the Labor and Human Resources Committee, Senator Schweiker has been in a unique position to encourage initiatives that will improve health care and disease control in this country.

Senator Schweiker has made the most of the opportunity of serving in a senior position on those subcommittees—and, because of his efforts, the American people have benefited greatly.

Senator Schweiker has worked hard and effectively to promote increased Federal support and public understanding for diabetes control, cancer, heart disease, sickle cell anemia, and lead paint poisoning. Richard Schweiker has given great time and personal commitment to diabetes programs particularly. He also has supported comprehensive health care reform, preventive health care and expanded mental health programs.

Senator Schweiker's tireless efforts on behalf of health research and disease prevention have not gone unnoticed by the people who are directly affected by his good work. Among his many honors are tributes from the Juvenile Diabetes Foundation, the American Diabetes Association, the National Association for Mental Health, and the National Society for the Prevention of Blindness.

One of the best informed Senators on the subject of military preparedness and foreign policy, Senator Schweiker has also been instrumental in pension reform, mine safety and black lung benefits, environmentally acceptable coal conversion and reducing government paperwork and regulation.

From his enlistment in the Navy at the age of 17, to his 8 years in the House of Representatives, to his 12 years in the Senate, Senator Richard Schweiker has served his country with brilliance, integrity, dedication and enthusiasm. The Senate will miss him.●

SENATOR WARREN G. MAGNUSON

● Mr. RIBICOFF. Mr. President, Warren G. Magnuson, the senior Senator from the State of Washington, has served in the U.S. Senate with distinction since 1944. Senator Magnuson is a legend, a man who can look back upon a career that saw him make major contributions to the progress of his State, the Pacific Northwest, and to the entire Nation.

The President pro tempore of the Senate and chairman of the Appropriations Committee, Senator Magnuson has been described as the most effective legislator and the most competent tactician in the Senate. Senator Magnuson is a workhorse, not a show horse.

In his own way, gracefully but never flashily, Warren G. Magnuson goes about his business. Things tend to get done—bills are passed, programs implemented, policies revised—if Warren G. Magnuson says so. In 36 years in the Senate, and 7 years in the House of Representatives, Warren G. Magnuson has made historic contributions to the well being of his constituents and all the American people.

Senator Magnuson is a compassionate man who has never forgotten the needs of America's less fortunate citizens. For many years he has been the chairman of the Labor/Health, Education and Welfare Subcommittee of the Appropriations Committee. When I was Secretary of HEW, I was witness to Senator Magnuson's heroic efforts in assuring that vital health and social programs were funded.

Similarly, Senator Magnuson has worked on behalf of stronger and more effective consumer protection statutes and programs.

Before becoming chairman of Appropriations, Senator Magnuson chaired the Commerce Committee. There his presence was awesome as he presided over major legislative programs that affected the Nation's economy and environment.

Senator Magnuson is the author of the Ports and Waterways Safety Act—a traffic control system for vessels in Puget Sound—designed to reduce collisions. He is the author of legislation banning an oil transshipment superport in inner Puget Sound. The 200-mile fishing limit law is another achievement Senator Magnuson can point to.

As a westerner who had the vision to realize the great potential mainland China offered the United States in terms of trade, Senator MAGNUSON in 1973 headed the first congressional delegation to visit China in a quarter of a century. The commercial breakthroughs we now enjoy in relations with China would not be possible had WARREN MAGNUSON not been working to lay the groundwork for these many years.

Senator WARREN G. MAGNUSON, known to all of us as MAGGIE, is a gentleman and a warm-hearted man, a man who helped each of us as we learned what it meant to be a U.S. Senator. He has given his all to public service, principally in the Senate. A grateful Nation appreciates your many great contributions, MAGGIE. A grateful Nation says thanks.●

SENATOR BIRCH BAYH

● Mr. RIBICOFF. Mr. President, no one ever accused Senator BIRCH BAYH of Indiana of having extrasensory perception. Nor could he—or any of us—have anticipated the events that occurred in President Nixon's second term.

But it can be said that BIRCH BAYH does have a strong sense of what might go wrong. It may have been simple Indiana pragmatism. But, for whatever reason, Senator BAYH could see that our system of Presidential succession needed some improving.

His efforts to draft and then pass the 25th amendment providing for Presidential succession helped the Nation move through a time of crisis when the Vice President resigned and then the President resigned. In all the commotion that ensued after Vice President Agnew's resignation—followed by President Nixon's—we tended to dwell on personalities and events and take for granted the new provision of the Constitution that enabled the Government to go on functioning relatively well.

Foreign observers, able to see the drama unfolding from a distance, marveled at the ability of our Government to survive as well as it did. Much of the reason for getting through that period was the inherent stability of our democracy.

But some of the credit also goes to the 25th amendment. And for that constitutional mechanism, we owe a debt of gratitude to BIRCH BAYH. It probably would not have been on the books without him.

Similarly, the 26th amendment to give the vote to 18-year-olds was also passed, in large measure, because of Senator BAYH.

BIRCH BAYH has been an enthusiastic, capable, responsible and very personable Senator. He and I arrived here in 1963 and we have been friends ever since. The Senate will miss his intelligence, vision, and leadership.●

SENATOR ROBERT MORGAN

● Mr. RIBICOFF. Mr. President, I have the highest regard for Senator ROBERT MORGAN of North Carolina. He has been an outstanding Senator.

Since being elected in 1974, Senator MORGAN has been an able and articulate spokesman for North Carolina and, from his positions on the Banking, Housing, and Urban Affairs Committee and the Armed Services Committee, he has labored hard and effectively on behalf of the entire Nation.

Having served five terms as a State Senator and as attorney general of North Carolina, ROBERT MORGAN brought to the U.S. Senate a sound understanding of how State government works and what Federal agencies should and should not do to help.

As chairman of the Rural Housing Subcommittee, Senator MORGAN broke new ground in promoting rural homeownership for low-income families and for better housing for migrant workers.

In his position on the Armed Services Committee, Senator MORGAN has been one of the most informed Members of the entire Congress on military matters.

A man whose career was interrupted twice by military service—serving in the Navy in World War II and in Korea—Senator MORGAN has demonstrated time and again his commitment to responding to his country when it is in need. By his example, ROBERT MORGAN has shown the meaning of words like duty, sacrifice, and honor.

Mr. ROBERT MORGAN is a gentleman, a thoughtful, considerate man whose sense of service is matched only by his competence and legislative abilities. It has been a pleasure to know and work with this extraordinary U.S. Senator, ROBERT MORGAN of North Carolina.●

SENATOR FRANK CHURCH

● Mr. RIBICOFF. Mr. President, few of us are fortunate enough to realize a boyhood dream. But one of us did.

When he was a boy, reading about and admiring William E. Borah, U.S. Senator from Idaho, the young FRANK CHURCH decided he would like to follow Senator Borah.

FRANK CHURCH did just that. He became the Senator from Idaho, being elected for the first time in 1956, and then, like Borah before him, went on to become chairman of the Foreign Relations Committee.

And like Borah again, Senator FRANK CHURCH has earned himself a place in American history.

FRANK CHURCH is expert in foreign policy. He is gifted intellectually and he works hard. FRANK CHURCH is an intelligent, able man. He is sensitive to what is going on in the world. He reads a lot and he thinks a lot. And what he says makes sense. The Senate and the Nation will miss his views and his perspective on foreign affairs.

In a 24-year Senate career, FRANK CHURCH has been an effective, tireless advocate for his State. Accordingly, agriculture, natural resources and energy—vitally important issues in Idaho—occupy much of Senator CHURCH's time.

Not surprisingly, FRANK CHURCH emerges as not only an expert on foreign policy. He is also one of our most articulate Members on farming and the other vital issues that affect his State.

It is characteristic of FRANK CHURCH that he becomes expert in everything that matters to him. It is not his nature to approach a subject any other way.

FRANK and his lovely wife Bethine have always been close friends of ours, and Casey and I wish them the very best in all their future activities.●

SENATOR ADLAI STEVENSON

● Mr. RIBICOFF. Mr. President, I have known two Adlai Stevensons in my lifetime and both men have enriched my life. I am especially proud to have served in the Senate with Senator ADLAI STEVENSON of Illinois.

A man of great intelligence and high ideals, ADLAI STEVENSON has worked effectively for many worthwhile objectives.

As chairman of the International Trade Subcommittee of the Finance Committee, I had the pleasure of working with Senator STEVENSON in his capacity as chairman of the International Finance Subcommittee of Banking, Housing and Urban Affairs. There were several projects in which our subcommittees shared interests. In export policy and in many other trade matters, Senator STEVENSON was always cooperative, considerate and, most important, fully informed and sensitive to the perspective which my subcommittee brought to the issue at hand.

Senator STEVENSON has been a distinguished chairman of the Subcommittee on Science, Technology, and Space. He chaired the Select Committee on Ethics, an assignment he did not seek but one he carried out with fairness and diligence.

ADLAI STEVENSON, who has a distinguished record as a Marine tank commander in the Korean War, has given most of his adult life to public service, serving as a clerk to an Illinois State Supreme Court Justice, in the Illinois House of Representatives, and as treasurer of the State of Illinois before coming to the Senate in 1970. I like to think that all of us, upon leaving the Senate, have many contributions to make to our communities and our Nation. This is especially true for ADLAI STEVENSON.●

SENATOR RICHARD (DICK) STONE

● Mr. RIBICOFF. Mr. President, Senator RICHARD (DICK) STONE of Florida made many valuable contributions to the Nation over the last 6 years.

One of the most important statutes DICK STONE helped pass was the sunshine law that opened up most Government proceedings to the public. Working with his colleague from Florida, Senator LAWTON CHILES, Senator STONE made this historic measure one of his priorities.

Because of my own special interest in exports, as chairman of the International Trade Subcommittee, I have been especially impressed with Senator STONE's effective efforts to increase the amount of goods, particularly agricultural produce, which our Nation sells abroad. In large measure because of Senator STONE's work, Japan was persuaded to lower barriers to Florida citrus imports and in 1978, 1979, and 1980 Taiwan signed multi-million dollar agreements to purchase Florida soybeans, phosphate, and citrus.

DICK STONE has been a hard-working, dedicated spokesman for his State of Florida and a brilliant, articulate Member of the Senate. As chairman of two crucial subcommittees—the Subcommittee on Foreign Agricultural Policy of the Agriculture Committee and the Subcommittee on Near Eastern and South Asian Affairs—Senator STONE has been a responsible, constructive leader.

DICK STONE is my good friend and loyal colleague. He has been a credit to the Senate, to his State, and to the Nation. He has many years of valuable service ahead of him.●

SENATOR JOHN CULVER

● Mr. RIBICOFF. Mr. President, we are fortunate in having with us a former National Basketball Association star in the distinguished Senator from New Jersey, Mr. BRADLEY, but a not so well known fact is that another Member of the Senate was drafted in the National Football League.

Senator JOHN CULVER of Iowa, who starred as a fullback at Harvard University, decided not to try out for a career in professional football. Instead he accepted a scholarship to study in Great Britain at Cambridge University. The NFL may have lost the services of a strong fullback. But the United States gained—in many ways.

Upon completion of his studies at Cambridge, JOHN CULVER served 39 months as a Marine Corps infantry lieutenant.

Returning to Iowa, JOHN CULVER practiced law and then was elected to the House of Representatives, representing the Second Congressional District.

In this 10-year career in the House, Congressman CULVER earned national attention and led efforts to reform the House.

In 1974, JOHN CULVER was elected to the Senate. His service here has been exemplary. JOHN CULVER is a principled, brilliant, dedicated Senator. The fact that he will not be returning in 1981 is a significant loss to the Senate and to the Nation.

Everything JOHN CULVER has done in his life he has done well. As a youth, he was not content to be a Boy Scout; he earned the rank of Eagle Scout. In sports, he was exceptional. In the House of Representatives, JOHN CULVER stood out. Similarly, his Senate career has set him apart, a man of great intellectual abilities and leadership potential.

The journalist Elizabeth Drew wrote of Senator CULVER that "he established a reputation as one of the most effective Members of the Senate." I concur in that judgment.

JOHN CULVER of Iowa is a man of vision and ideals. He has served his country well. He is young and has ahead of him many years—and many opportunities—to continue that service.●

SENATOR MILTON R. YOUNG

● Mr. RIBICOFF. Mr. President, in 1974, the last time Senator MILT YOUNG of North Dakota sought reelection, his supporters used three words to symbolize the kind of man he is. The words were honesty, integrity, and effectiveness. Those are the same words I would use in describing MILT YOUNG. He is an honest man, a man of great integrity and a Senator who has been very effective in everything he sets out to do.

For nearly 36 years, Senator YOUNG has represented North Dakota in the U.S. Senate. When I came to the Senate in 1963—when Senator YOUNG had already been here some 18 years—I was welcomed graciously by this remarkable man. He and I have been friends ever since.

MILT YOUNG is one of those few extraordinary people we meet in life who are exactly what they seem to be. When they are friendly, they are genuinely friendly. When they are generous, it is because they are generous through and through. And when they are angry, they are really angry. There is not a pretentious bone in MILT YOUNG's body. Duplicity is not his style. Deceit is something that would never occur to him.

MILT YOUNG is a Senator who sets a good example for other Senators—and for everyone else too. He is one of the finest human beings I know. It has been a privilege and a pleasure to have known him and worked with him.●

SENATOR JACOB JAVITS

● Mr. RIBICOFF. Mr. President, the Senate is blessed with many brilliant Members. But one Senator stands out for his intelligence and his skills. That Senator is JACOB JAVITS of New York.

JACK JAVITS is one of the most intelligent men who ever served in the Senate. I have served with him in the Senate for 18 years and was with him in the House of Representatives as well. Our friendship goes back more than 30 years. I know this man well. He is a close personal friend. I never cease to be impressed with his intellectual grasp of issues and principles.

JACK JAVITS combines his great intellectual gifts with graceful and concise language. He is a persuasive advocate. Each of us knows that when we engage JACK JAVITS in debate it is very advisable to have done plenty of homework on the subject.

JACK's extraordinary mind and his facile, elegant way with words distinguished the man, but his goals—and his effectiveness in achieving them—were and are the elements that have secured for the senior Senator from New York his place in American history.

We have in the last three decades witnessed a revolution in this country in opening up mainstream America to millions of our citizens who previously had limited opportunities to participate. It has been a stressful, dynamic but, for the most part, a peaceful process, invoking the law and an appeal to people's reason. And in this process, JACK JAVITS has been in the forefront.

Senator JAVITS had made it his personal ambition to make our ideals and values work. In matters of race, in labor law, in laws for the elderly and in public health, in virtually every feature of our national life where reform is needed, Senator JAVITS has been a leader, an advocate, an effective spokesman for the underdog.

He has been the sponsor of and in large measure responsible for every civil rights act that has passed in the U.S. Senate in the 20th century.

In health care, in health research, in worker and workplace safety, in consumer protection, in voting rights, in help for the handicapped, in legal services for the poor, in educational opportunities, in medicare and other health programs for the elderly—in these and in many more areas JACK JAVITS has been a pioneer, a pacesetter, an innovator. He has succeeded where others have failed, where others did not try because the odds were too great that they would lose.

Senator JAVITS has never been put off by difficulty. No matter how strong the opposition, he did not hesitate to enter the contest. And he usually won. Whatever new pursuits he takes up, I know he will succeed. He has been a truly great U.S. Senator, a credit to each of us and to the Senate itself. He will always be my friend.●

THE PSYCHIATRIC MENTAL HEALTH NURSE

● Mr. INOUYE. Mr. President, the psychiatric nurse is perhaps one of our Nation's greatest untapped resources. Nurses generally are well known by consumers as the health care person with whom they have the most contact and the individual who is most responsive to their many varied individual needs. Clients respect and trust nurses and quickly establish a rapport which can be especially beneficial in a mental health setting. Because of the unique nature of their training, psychiatric nurses have the unique ability to combine the profession's basic biological-physiological knowledge with more specialized and indepth psychosocial training. This enables psychiatric nurses to provide nursing services to the total patient, ranging from administering and monitoring medications to engaging in psychotherapeutic interventions.

Historically, nurses have always played an important role in the care of the mentally ill. However, it has only been since World War II that psychiatric nursing has emerged as a formal specialty within the broader field of nursing. This change was a result of numerous and complex changes including basic expansion within all categories of nursing education, advanced technology in treatment modalities for the mentally ill, and a knowledge based upon research findings. I was especially pleased to note that the President's Commission on Mental Health formally recognized the professional autonomy of psychiatric nursing.

There is no question that psychiatric nursing has now emerged as an important graduate education specialty area in the mental health field. To become a psychiatric nurse, an individual must successfully complete a State-accredited baccalaureate program, followed by a State licensing exam.

Further, given the evolutionary nature of the nursing profession's development, two categories of psychiatric/mental health nurses presently exist. The first category of generalist requires demonstrated expertise in psychiatric and mental nursing practice through a formal review process by including continuing education, and revalidation by one's peers. The American Nurses Association has required that a psychiatric/mental health nurse specialist must have a master's of science degree in psychiatric nursing, 2 years of practice as a registered nurse in this field and be currently engaged in clinical practice. Certification is attainable by both categories and is renewed every 5 years. As of August 1, 1980, 482 nurses were certified with 443 registered to take the exam in November 1980.

Psychiatric/mental health nursing primarily employs theories of human behavior as its science and purposeful use of self as its art. It is directed toward both preventive and corrective impacts upon mental disorders. It addresses the global promotion of mental health for society, the community, and the individual. I am especially pleased that preventive efforts are given special priority by our Nation's nurses. The core of psychiatric nursing practice involves developing interpersonal relationships with individuals and groups and is concerned primarily with the sociopsychological aspects of patients' environments. These nurses work with clients ranging from those who experience everyday problems of living to those who are severely mentally ill. They also detect and care for somatic aspects of clients' health problems, including responses to drugs and other treatments. Teaching with specific reference to emotional health is another important activity. Our Nation's psychiatric nurses have responsibility for collaboration and coordination with other members of the mental health care team.

A 1977–78 survey by the American Nurses Association indicates that there are approximately 61,000 psychiatric and mental health nurses in practice. Another survey indicates that approximately 7,500 nurses, through 1975, hold master's degrees with a psychiatric and mental health nursing focus. As these individuals actively enroll in the American Nurses Association certification program, we will, indeed, have the basis for a most impressive national core of high-quality mental health specialists. As I indicated earlier, these nurses are employed in a number of diverse settings with the highest percentage being in organized institutional settings. In fact, less than 0.5 percent of all psychiatric nurses are employed in private practice, although as our various Federal health programs begin to recognize them, I am confident that this figure will dramatically increase. These organized institutional settings include hospitals, community health centers, public health agencies; emergency and crisis care units, such as suicide, child abuse, and rape clinics, day and night care centers, offices, homes, schools, correctional institutions, camps, and industrial centers.

In the role of primary care provider, the psychiatric nurse traditionally assumes responsibility for continuous care for individuals and families, beginning at the point of clients' entry into the mental health delivery system and extending through the treatment and rehabilitation phases. Of interest, a survey of graduate level prepared psychiatric and mental health nurses—September 1977—shows that sizable proportions of psychiatric nurses reported that they were working in the inner city.

Another study on mental health and nervous disorders utilization and cost survey sponsored by the National Institute of Mental Health—May 1979—emphasizes the wide range of clients that psychiatric nurses serve with 21 percent of the services associated with a diagnosis in the category of schizophrenia or affective psychosis. This compares to 10 percent for other M.D.'s, 6 percent for psychiatrists, 5 percent for social workers, and less than 2 percent for psychologists. Fifteen percent of services provided by psychiatric nurses were in the category of personality disorders and 5.7 percent in the category of alcoholism compared to an average for all providers of 8.4 percent and 0.4 percent respectively.

In addition, the average cost per visit for psychiatric nurses was $20 compared to $42 for psychiatrists, $38 for psychologists, and $30 for social workers. This study shows that nurses are providing care for the more severe psychiatric disorders at less cost.

I am especially pleased that the scope of psychiatric and mental health nursing practice has expanded as nurses have assumed increased responsibility with respect to prevention, intervention and rehabilitation. Under our various State Nurse Practice Acts, the individual nurse is accountable for identifying the scope of his/her own practice and evaluating the competency to perform particular activities or functions, circumscribed by the limits of his/her knowledge, experience, and education. Direct nursing care functions presume that the nurses' actions and reflections are focused on a particular client or family, and that the nurse has personal responsibility and is accountable to the client or family for outcomes of such actions. Such functions include psychotherapy, with individuals, groups, or families; intake screening and evaluation, home visits, provision of a thereapeutic milieu, counseling, health teaching, support and medication surveillance, and community action. Other roles which psychiatric/mental health nurses hold include those of educator, administrator, clinical supervisor, consultant, and researcher.

In these days of increasing daily stress associated with inflation, unemployment, pollution, drugs, alcohol, divorce, abuse, and the loss of the extended family as a support system, we as a nation need to develop new and existing resources to cope with these stresses. In my judgment, psychiatric/mental health nurses are just such a resource and deserve our recognition and support.

Perhaps the progress made by the nursing profession is best personified by Dr. Rhetaugh Dumas. Dr. Dumas is presently the Deputy Director of the National Institute of Mental Health and is the first nurse to be appointed to such a high level policy position within NIMH. As our nurses become more involved in establishing our Nation's health care policies, there is no question in my mind that our consumers will definitely benefit.●

AMENDMENTS TO THE PLANT VARIETY PROTECTION ACT OF 1970

o Mr. LEAHY. Mr. President, the Senate has passed H.R. 999, a bill to amend the Plant Variety Protection Act of 1970, but not without some reservations. On the surface, these amendments appear innocuous and merely add six vegetables to the already long list of plant varieties covered by the act. However, serious questions have been put forward by sincerely concerned public organizations and citizens regarding the effects of the Plant Variety Protection Act of 1970 on important issues such as economic concentration in the seed industry, the maintenance and conservation of our germplasm resources, and the availability and prices of seeds on the consumer market.

Mr. President, it is apparent that these serious concerns reach far beyond the scope and realistic effects of H.R. 999. They strike at the heart of the Plant Variety Protection Act of 1970 itself and should be addressed with this fact in mind.

At hearings before the Senate Subcommittee on Agricultural Research and General Legislation in June, it was already apparent that these alleged effects of the Plant Variety Protection Act of 1970 have not been carefully studied and documented, that thorough congressional and administration attention to these concerns has not taken place.

As a member of the Agriculture, Nutrition, and Forestry Committee next year, I intend to urge that committee to look at these questions in depth through the process of oversight hearings. Only substantive oversight of the entire act will allow Senators and the public to know whether or not the Plant Variety Protection Act of 1970 is actually contributing to economic concentration in the seed industry and thus the loss of irreplaceable genetic plant stocks.

Mr. President, I and other members of the Agriculture, Nutrition, and Forestry Committee have sent a letter to the Department of Agriculture directing them to begin a study on these important issues immediately and to present their findings to the committee early in the 97th Congress. I ask that it be printed in the RECORD at the conclusion of my remarks.

I believe this thorough analysis by the Department of Agriculture coupled with careful scrutiny by the committee will allow us to discern the true effects of the Plant Variety Protection Act of 1970, and to determine the appropriate legislative remedies early in the 97th Congress.

A review of this nature and magnitude is in the interest of both the proponents and opponents of H.R. 999. It will bring forth the information that both sides are calling for on the economic and social impacts of the plant patenting laws and process. The more cynical among us may doubt that the seed industries that are in favor of H.R. 999 would support such a study. In light of this, I submit a copy of a letter signed by the American Seed Trade Association and others calling for this effort by Congress and the Department of Agriculture. I ask that it be printed in the RECORD at the conclusion of my remarks.

Mr. President, the Senate has approved H.R. 999 and sent it to the President for his signature. However, the commitment of myself and other members of the committee to look into the broad effects of the Plant Variety Protection Act of 1970 will continue and action will be taken. The possible ramifications of the plant patenting process on smaller seed companies and our germplasm resources are too great to do otherwise.

The letters follow:

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., December 5, 1980.

Hon. BOB BERGLAND,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: H.R. 999, a bill to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes, will most likely come before the Senate prior to the adjournment of the 96th Congress. The intent of the Plant Variety Protection Act is to encourage the production of new varieties of plants. The Act has clearly accomplished this objective by giving the producer of a new variety a proprietary right to market the seed, thus encouraging both the production of new plant varieties and international trade in the seed industry.

During hearings held in the Subcommittee on Agricultural Research and General Legislation this year, however, concern was expressed by a number of witnesses that the patenting process may also encourage unintended trends and activities affecting the agricultural economy, namely, increasing concentration in the seed trade industry, loss of genetic diversity, and rapid increases in the price of seed. While there has been no adequate study to date establishing a causal link between the patenting process and these trends, the potential for such relationship remains a legitimate and necessary point of inquiry for the Department of Agriculture and Congress.

It is our understanding that an outline for a study to be conducted by the Department of Agriculture to assess the impact of the patenting process on these trends has been started. We feel that a study of this nature will be essential to a thorough assessment of the Plant Variety Protection Act. Our Committee is committed to effective oversight of the Plant Variety Protection Act, including any necessary hearings during the 97th Congress. The findings of such a study would greatly assist in this effort.

Closely tied to the issue of a lack of genetic diversity in agriculture is the need within the Department for an effective program to collect, store, and catalogue plant germplasm. It would be helpful if the Department could present an assessment of its current program for these activities to this Committee along with the study mentioned above.

Thank you for your kind cooperation in this matter.

Sincerely,

HERMAN E. TALMADGE,
Chairman.
JESSE HELMS,
Ranking Minority Member.
DONALD W. STEWART,
Chairman, Subcommittee on Agricultural Research and General Legislation.
RICHARD LUGAR.
PATRICK J. LEAHY.

AGRICULTURE COALITION,
November 17, 1980

Re Plant Variety Protection Act Amendments.

To All Members of the United States Senate:

The past two sessions of Congress have hosted legislation dealing with amendments to the Plant Variety Protection Act. The amendments to the Act are primarily housekeeping in nature and were initiated and supported by the USDA. The House passed H.R. 999 on November 17, 1980.

The amendments to the Act are primarily housekeeping in nature and were initiated and supported by the USDA. The legislation would extend provisions of the Act to six kinds of vegetables excluded when the Act was passed in 1970. This proposal makes no change in existing legislation and extension of the rights granted under the legislation to developers of these six kinds of vegetables is a matter of equity.

Supporters of the legislation—which includes farm organizations like the American Farm Bureau Federation and the National Grange, the seed industry, the Administration, federal and state officials, the Crop Science Society of America, and the vast majority of agricultural scientists at home and abroad—urge your support of the prompt passage of these amendments as outlined in H.R. 999. This support is based upon the fact that the 1970 Act is accomplishing its primary objective—to increase private investment in plant breeding research and to provide U.S. farmers with a wider range and greater number of crop varieties. This legislation is unique in that even though protection is given to the developer of a new variety, the principal beneficiary of the advantages of the new variety is the farmer who grows the variety.

We support the concept of oversight hearings of the entire Act during the next session of Congress and the initiation of a study by USDA to determine the economic and social impact of the Plant Variety Protection Act of 1970, as amended, on the United States and other nations to include the lesser-developed countries.

With the current constraints placed on energy, fertilizer and pesticides, the most promising hope of feeding an ever-expanding world population is through improved plant breeding. The advances in food production in the United States during the past 30 years have been impressive. The price and availability of food and fiber would have been dramatically affected without the progress that has been made. Many sources have contributed to this increased productivity but no single source stands out as significantly as improved plant breeding. Private plant breeders have been one of the major contributors to these advances. The Plant Variety Protection Act has been a positive force in these contributions. The amendments in H.R. 999 and S. 2820 will make the basic Act easier to administer by USDA, improve the international trade of argicultural products and contribute to the improvement of agricultural production. Your support is needed in passing these amendments if we are to continue to make progress.

Respectfully,

Harold D. Loden, Executive Vice President, American Seed Trade Association; John Baize, Washington Program Manager, American Soybean Association; David C. Carter, President, U.S. Beet Sugar Association; Ronald A. Michieli, Director, Government Affairs for Land and Natural Resources, National Cattlemen's Association; Nick W. Kramer, President, National Council of Commercial Plant Breeders; Kenneth D. Naden; James B. Graw, Executive Secretary, National Association of State Departments of Agriculture; F. Farrell Higbee, Executive Director, National Agricultural Aviation Association Association; -------- --------, Director of Government Affairs, American Association of Nurserymen; -------- --------, Administrator, National Association of Plant Patent Owners; -------- --------, Executive Vice President, National Association of Wheat Growers. ●

CLINICAL SOCIAL WORKERS

● Mr. INOUYE. Mr. President, in the waning days of the Congress, we have the opportunity to give full acknowledgement to the social workers of this Nation. They should be especially commended for the tireless contribution that they provide our Nation's population in the field of mental health services. It is for this reason that I am genuinely enthused by the provisions of the Department of Defense appropriations bill that will provide for a special pilot demonstration project directly reimbursing their services under the civilian health and medical program of the uniformed services, otherwise known as CHAMPUS, and also the provision in the Omnibus Reconciliation Act of 1980, that included a provision for another similar demonstration project to determine the administrative, financial and other aspects of making the services of clinical social workers more generally available as part of the benefits received under title XVIII of the Social Security Act (medicare).

The concept of direct reimbursement for clinical social workers is not one that is new to the Congress and in December 1979, I introduced S. 2176, which amended the Social Security Act to include social workers as independent providers of mental health services to medicare and medicaid patients. This gave the opportunity for our Nation's aged and disadvantaged to receive treatment by a professional of their choice. Our men and women of the uniformed services also deserve to have this same opportunity.

Nearly 3 years ago, during deliberations on the fiscal year 1978 Department of Defense appropriations bill, we began efforts to have nurse practitioners directly reimbursed under CHAMPUS, independent of physician referral or supervision.

The following year, we were successful in getting one category of nurse practitioners—the certified nurse-midwives—approved for direct reimbursement.

Last year during our deliberations on the fiscal year 1980 appropriations bill, the Senate was successful in convincing House conferees to authorize a special

5-month demonstration project which began May 1, 1980. As of this date, all nurse practitioners, expressly including psychiatric nurses, will be directly reimbursed for their services.

Like their counterparts, I believe the specialty of the social worker is readily definable and, in my opinion, the CHAMPUS beneficiary should also have access to their services.

Presently, there are approximately 9.1 million Department of Defense beneficiaries worldwide, of which 8.6 million are eligible for CHAMPUS benefits.

This demonstration project is necessary, in my judgment, for several reasons. Our present CHAMPUS reimbursement process is that clinical social workers are reimbursed for services only when the actual billing is submitted in a physician's name, or where the clinical social worker demonstrates supervision and there is a referral by a physician. This form of billing not only does not give recognition to the qualifications of our nonphysician professionals, but in all candidness, is professionally demeaning.

It is not cost effective and I submit does not insure any more meaningful supervision. I have felt that for years, our health system has not made optimum use of our qualified nonprofessionals.

We must consider the investment that we have made in training nonmedical mental health clinicians. Clinical social workers are trained to provide psychiatric care and are certified to be competent by their associates only after a minimum of 2 years postgraduate supervised clinical experience. Thus, there is a discrepancy when on one hand we have said that they are qualified, and then deny independent reimbursement. We permit direct reimbursement to medical doctors, many of whom themselves readily acknowledge that they are not suitably trained or lack the trained assistance needed to treat the mentally ill.

Freedom of choice of the patient to select a mental health care professional of his or her choosing is especially an important consideration in the success of mental health treatment, given the truly personal nature of the illness. The large number of people expressing the preference for mental health services by a clinical social worker indicates the less dramatic effect of receiving treatment from a professional clinician. I have heard many allegations that when seen by a psychiatrist many have felt labeled and dosed with medication rather than having received the humane sharing and support that they experienced when treated by a qualified clinician.

We must also look at the fact that a 1977 survey by NIMH showed that social workers are the prime providers of mental health care.

The United States today spends more on health care than any other nation in the world. It is our third largest industry and presently accounts for 9.1 percent of our gross national product, the highest percentage in our Nation's history. The Federal Government pays almost 40 percent of all health care expenditures. In fact, the Federal Government's expenditures for health comprises an astronomical 12.7 percent of the entire budget. Presently, only national defense, interest on the national debt, and income security programs command a larger share. Simply stated, we must act forcefully to gain control over our Nation's ever-escalating health care costs.

This demonstration project would be the catalyst needed to provide our members of our Armed Forces the kind of mental health services that they are surely qualified to administer. This experiment will provide social workers the opportunity to demonstrate what is obvious to us all: That their clients like their services, that they are professionals, and that they are truly cost effective.

In closing, I am pleased to have this opportunity to give recognition to all social workers of this Nation. I feel that ti is time that they be independent reimbursable providers under the CHAMPUS and social security medicaid and medicare programs.●

CLOSED-CAPTIONED TELEVISION FOR HEARING-IMPAIRED AMERICANS

● Mr. LEAHY. Mr. President, I rise today to report on the highly successful first 8 months' progress of closed-captioned television for hearing-impaired Americans and to urge the support of my colleagues for proposed legislation which would help to extend this remarkable new service to those who cannot afford it without financial incentive.

It was just last March that home-use equipment for decoding closed captions went on the market and 16 hours per week of closed-captioned programs went on the air. Already, almost 30,000 decoders have been sold and at least 30 hours of closed-captioned programs plus many commercials now are closed captioned every week on ABC, NBC, PBS, and some independent stations for the benefit of this new viewing audience.

What this means is that hearing-impaired citizens of all ages in this country can now read on the screen what they cannot hear on the soundtrack of television programs—many, for the first time in their lives. Their response continues to be overwhelmingly enthuastic Here are just a few examples of the tremendous outpouring of gratitude from viewers of these captioned programs:

"... My eight year old is thrilled. It's going to be significantly helpful."—Mrs. H. William Mauldin, Lutherville, Md.

"... My sincere thanks for this device! It is a miracle!"—Mrs. Donna G. Reed, Boulder, Colo.

"... Will mean so much to Johnnie since he lost his hearing when he was 22 years old and has been so shut out! Thanks."—Hill Family, Carlsbad, N. Mex.

"The captions not only provide entertainment, but are educational as well."—Mr. William E. Davis, Superintendent, Tennessee School for the Deaf.

"... The captioning is helping his reading ..."—Mrs. Donald Cobb, Newburg. Ind.

"The first night that my wife watched a closed-captioned TV program on TV, we all cried because for the first time in her life she fully understood a TV program and for the first time enjoyed it! I cried like a baby for her ..."—Mr. Bob Christian.

It is clear to me that we are seeing impressive results of the efforts of all those who worked together to bring this new and long-overdue service to the hearing handicapped citizens of this country. But we would be remiss if we did not recognize also that many among the hearing handicapped are still underemployed in low-paying jobs and that many more are senior citizens on fixed incomes. The result is the same: These handicapped Americans will not be able to buy decoders themselves without help. What they will miss is amply testified to by the letters above. It is to help these people that Representatives TOM HARKIN and BARBARA MIKULSKI and I have introduced tax-incentive legislation, H.R. 4767 and S. 1869.

The convention of the National Association of the Deaf recently unanimously adopted a resolution calling on the Congress to proceed with this legislation:

Whereas the advent of the new closed-captioning system in March 1980 now enables deaf and hard-of-hearing populations to watch popular television programs with the same complete understanding and enjoyment as their hearing peers; and

Whereas many citizens who can reap the greatest benefit from closed-captioned television—adult deaf persons who often are underemployed solely because of their handicap and elderly persons who are on fixed incomes—cannot afford to purchase home-use decoding equipment ($250 for an adapter unit); and

Whereas a medical deduction will offer little or no relief to these low-income families and individuals; and

Whereas bills proposing tax credit for purchasers of decoding equipment for closed captions have been introduced in both the United States House of Representatives (H.R. 4767) and the United States Senate (S. 1869); be it therefore

Resolved That the National Association of the Deaf (NAD) in convention assembled strongly urges the United States Congress and the White House to speedily enact legislation which will provide tax relief in the form of a tax credit for this worthy group of citizens; and be it also

Resolved, That the NAD Executive Board be mandated to actively pursue this matter."

We look forward to hearings on these bills as the 97th Congress considers its new tax legislation early next year. I recognize that it may take some time for the Congress to enact this legislation, and I recommend that those who can purchase decoders do so. But, on behalf of all those Americans who are deaf and hearing impaired, I urge my colleagues in the Senate and the House to cosponsor this legislation and help us next year to give it the speedy enactment it deserves.●

REINDUSTRIALIZATION OF THE STEEL INDUSTRY

● Mr. HEINZ. Mr. President, a recent series of articles in the Valley Independent by Mike Fuoco presents a comprehensive and thoughtful discussion of the concept of reindustrialization as it applies to the steel industry. The articles feature a detailed interview with Dennis Carney, chairman and chief executive officer of Wheeling-Pittsburgh Steel, which is using the Federal steel loan guarantee plan in an innovative way to help construct a new rail mill. Also featured in the articles is the distinguished current chairman of the Senate steel caucus, JENNINGS RANDOLPH, whose determination and dedication are responsible for so much of the Government's increasing awareness of steel problems.

At a time when the change in administrations presents a new opportunity to examine steel policy, these articles will help set the stage for that process. Mr. President, I ask that they be printed at in the RECORD.

The articles follow:

[From the Valley Independent, Oct. 6, 1980.]

"BUZZ" TO AID STEEL INDUSTRY GROWS LOUDER

(By Mike Fuoco)

The "buzz" being heard in corporate board rooms, governmental offices and political campaigns, once but a murmur, is growing increasingly louder.

The racket is even beginning to be heard and acknowledged on the street, where it really matters, although its most common label is as difficult to accurately define as it is to pronounce.

"Reindustrialization"—certainly a mouthful of syllables, one necessitating a deep breath. Still, given the climate in which it is circulating, it seems destined to become a word of common usage in the near future, however cumbersome.

But the trick will not be successful pronunciation of an eight-syllable word but transformation of the vague concept it symbolizes from election-year rhetoric to long-range policy.

Without successful implementation of its main components soon, many fear America's once-rivaled industrial complex may be swiftly approaching its last dying gasp.

REINDUSTRIALIZATION?

The tongue-twister "reindustrialization" is generally considered to have been introduced by Amitai Etzioni, director of the Center for Policy Research, a former Columbia University sociologist and former White House adviser.

Generally speaking—although different interests have different definitions—the word seems to imply structuring a framework, a workable national policy, under which America's industrial base would be permitted and provided the necessary resources to correct past mistakes, build on its inherent strengths and become competitive again.

Such a concept most generally includes untangling contradictory government policies; providing for faster depreciation schedules and other tax incentives to entice investment; making available federal loan guarantees and other government backing to provide for capital formation; and enforcement of trade laws to protect domestic producers from unfair foreign competition.

BIG AID TO STEEL

President Carter, who prefers to call the concept "revitalization" (so as not to sound like Ronald Reagan and John Anderson, both of whom call for "reindustrialization"), last week unveiled the Administration's new policy to aid the troubled steel industry.

Carter's plan embraces reindustrialization's main components in that it provides restraints of illegally priced imports, major money-saving tax reforms and delayed environmental mandates.

Although pleased that something is being done, though, most proponents of reindustrialization say only that Carter's program is a "good first step." However, much more must be done, they claim, if the steel industry—once the unrivaled ruler of America's industrial kingdom, the strength of its muscle—is to become truly competitive again.

WHAT IS IT?

"Reindustrialization" of America's ailing steel industry is the cumbersome buzzword currently making the corporate, campaign and street-talk circuits.

But what, really, is all of the talk about? And can America accomplish the goals of this vague concept and stop spinning its industrial wheels?

Valley Independent Reporter Mike Fuoco has spent the past six weeks researching the concept and interviewing steel industry, government and labor officials.

His work included an exclusive interview with Dennis J. Carney, chairman and chief executive officer of Wheeling-Pittsburgh Steel Corp., the mid-Mon Valley's largest employer.

The results are a five-part series, "Reindustrialization—Can America Find an Answer?", the first installment of which appears today.

Today, despite its frightening decline in competitiveness for a myriad of reasons, it remains this country's fourth largest industry with total employment of nearly 300,000 workers in 36 states, 133 cities.

Of course, for Pennsylvania, the steel industry is vitally important as more steel is produced here than in any other state. And for the mid-Mon Valley, the correlation between steel's health and local economies cannot be overstated, Wheeling-Pittsburgh Steel Corp. being the area's largest employer and largest taxpayer to local school districts and municipalities.

Reindustrialization has given hope to steel industry management, labor and communities that something will be done to turn the tide. There are problems, though.

ON THE DOWNTURN

Few would disagree that the United States' basic industries—particularly autos and steel—have plummeted perilously close to ruin, their decline well-documented by the current recession that has seen productivity drop drastically, once-stable employment evaporate and investors' confidence sink to all-time lows.

Some 100,000 fewer workers are employed in the steel industry today than in 1969 and the average number of hourly-paid employees dropped for the 12th straight month in June to 276,572 as production slipped to 50 percent of capability.

Just one year earlier, when the industry was operating at close to 94 percent of war steel production capability, employment was 354,241.

Meanwhile, a quarter-of-a-million auto workers have been laid off as have thousands others in related industries such as rubber and glass, in addition to steel.

But despite the apparent need for remedial policy, the problems are so pronounced, so complex, yet so vital it is difficult to visualize how broad strokes could be effective.

NEED FOR PLANNING

The United States, in many areas, has regularly been crisis-oriented. When major problems bordering on industrial disaster occur, the federal government rushes to aid, implementing policies to provide assistance.

The Chrysler bailout is an example. Government's critics claim such a life-support system would not have been necessary, though, had adequate attention to the auto industry's potentially fatal disease been diagnosed sooner and long-range, appropriate treatment begun.

Government backers, though, point to the auto industry's shortsightedness in failing to move swiftly toward smaller, more fuel-efficient cars, a market now dominated by imports.

Still, a consensus is now forming that the time for finger-pointing is past. Even government officials agree hasty action when crisis threatens industrial life is ineffective in obliterating the malignant root of the illness.

A move toward strong, long-range central planning—directed by a coalition of industry-government-labor with adequate assistance to heal the illness, to replace the band-aid approach—is currently in vogue.

A long-range approach, advocates claim, would provide the preventive medicine industry needs so desperately.

Such thinking has splintered into calls for sector plans for reindustrialization by which a commitment to aid a specific industry—steel, for example—would be made, goals set and resources needed to reach those goals provided.

It is a plan of offensive attack tailored to specific problems with specific solutions. It differs greatly from what many consider our history of unorganized, defensive industrial "policies" that have merely dulled—and in some cases, delayed—the pain.

MADE IN JAPAN

No one who calls for such specialized action denies the fact that the remarkable success of the Japanese industrial economy, more than any other factor, has aided in the move toward consensus.

That country's systematic approach is led by government planners who utilize the benefits of a seemingly-unshakable bond between industry, labor and government, which work toward a common goal for the common good.

The approach has certainly been successful, transforming Japan's industrial economy into the most efficient in the world, a most formidable competitor for the U.S.

Possibly the largest problem facing reindustrialization, then, is the need to change the way we think, the way our admitted adversary relationships between government, industry and labor hinder our progressive development.

Many contend we are really starting from scratch because the United States does not have an industrial policy to refine. Others deny the criticism, recalling that as early as 1791, Alexander Hamilton, the first secretary of the Treasury, issued the "Report on the Subject of Manufacturing."

The point seems moot. Whichever the case, the United States' industrial machine is losing—and badly.

"MADE IN JAPAN" LABEL NO LAUGHING MATTER

(By Mike Fuoco)

It was not so very long ago, 20 years or so, that the label "Made in Japan" inevitably connotated anything cheap and shoddy, comically inferior to American-produced commodities.

Today, no one is laughing. In an ironic twist which two decades ago would have been beyond comprehension, America's industries and businesses are looking to Japan, an industrial economy that works, as an example for reindustrializing this country.

With an unprecedented scenario of national commitment, long-term planning and efficient industrialization, the Japanese have come to the forefront as a chief competitor and major threat to U.S. industries' once-unchallenged domestic market.

Dennis J. Carney, chairman and chief executive officer of Wheeling-Pittsburgh Steel Corp., has for years sounded warnings of domestic market penetration, especially by the singularly directed and determined Japanese.

Like his counterparts in other steel firms, to whom foreign steel imports cause sleep-less nights and lower profits, Carney says he is not against foreign trade per se, just unfair foreign trade.

ECONOMIC WARFARE

"Japan is in a war with us," Carney candidly commented in his 19th floor office in the firm's Pittsburgh headquarters in Gateway Four. "They're beating everybody in this economic war.

"It is no accident on their part. They carefully planned this war . . . to beat the hell out of the United States."

On close examination, Carney's accusations appear founded. The Japanese have this year captured 26.8 percent of the domestic automobile market and while more than half of our exports to Japan are food, fuel, and crude materials, more than two-thirds of our imports from that country are finished, high-technology, manufactured goods.

Meanwhile, in steel, imports from Japan and Western European countries amounted to 14.1 percent of domestic consumption last year while the first four months of 1980 saw 5.3 million tons of foreign-produced steel cross America's borders compared to 4.76 million tons for the same period last year.

And while imports here have increased, America's share of the world's manufactured exports has dropped drastically, from 22 percent in 1962 to 14.8 percent in 1977, the last year for which comparisons are available.

Consequently, thousands of Americans have seen their jobs displaced in the automotive, steel and related industries.

UNFAIR COMPETITION

Like Carney, most industrialists and labor leaders are strongly critical of what they term unfair foreign competition. They cite steel imports as a prime example and claim foreign steel is being sold in this country below the price of production, a process commonly termed "dumping."

Meanwhile, the Japanese particularly come under fire for what critics say is "exploitation" of our free trade policies.

A Government Accounting Office study last fall on the U.S.-Japanese trade problem found in case studies of seven major industries that, overall, the Japenese government and businesses work hand-in-hand to target American industries for penetration.

In the meantime, while taking advantage of America's free trade policies, they employ a variety of indirect tactics to shield Japanese markets from virtually any foreign competition.

"We export 23,000 tons of steel (to Japan) as opposed to seven million tons imported," commented Eugene Frank, one of the country's leading steel analysts, with the Pittsburgh investment banking firm M. Waddell & Towne, Inc., "but before (U.S. exports) get in (Japan), they have to have a license. And these are specialty products they don't make there.

"Because the U.S. marketplace is the most open in the world, it has served as the dumping ground for excess foreign steel production . . . (and it) is also becoming the burial ground for a number of American steel plants."

FREE TRADE'S FLAWS

"Unfair" foreign competition also upsets U.S. Rep. Don Bailey (D-Greensburg), who is concerned about overseas barriers to our exports while there are none here.

"If we talk about trade, we've got to talk about fair trade," he said. "We have got to say to foreign nations, 'Either let us operate fairly or we'll take it out of your hide.'

"We have to tell Japan and West Germany that we need some relief and time to be able to retool so that we can be competitive and they'll have to take it. We've done things to help their countries," Bailey added.

Lloyd McBride, president of the United Steelworkers of America, says, "We have given up enough of our domestic markets to foreign producers. Our markets are wide open: theirs are closely controlled. We put profits first; they put market share first and profits follow. We practice free trade; they practice national interest."

The U.S. government has been caught in this crossfire, its movement toward unbridled free trade sharply criticized for laxity in utilizing its failsafe protection—enforcement of trade laws already on the books.

"For two decades our government has chosen not to enforce its trade laws to prevent the dumping of steel in our marketplace," Frank said. "Instead, under the banner of free trade and the desire to control domestic steel prices and wages, it has welcomed the dumped imports."

DIFFERENT RULES

Carney said America is locked in a losing economic battle as long as it plays by a different set of trading rules than the rest of the world.

"What we're doing is operating as if the rest of the world is playing the same game," the Charleroi native said. "We can't dictate the way the rest of the world runs themselves.

"We have two choices: Either close the borders all together—but I don't think we'll do that because too many influential people and press do not favor that—or we can change our system to meet this crisis."

However, there's another side to the coin, one that alleges decades of mismanagement of American industry, corporate shortsightedness and insensitivity, apathy and inferior work by labor, and little quality control.

Carney challenges those claims and labels them nothing more than economic war propaganda spread by the Japanese as part of their scenario.

"There is an effort to show the (poor) attitude of (U.S.) workers, poor management and quality control and that's why they (Japanese) are successful," Carney said. "It is part of a plan to influence the press.

"Those are problems but not the basic problems. They don't want us to see what the basic problem is."

ECONOMIC PARTNERSHIP

To Carney, that "basic problem" is the the fact the Japanese government subsidizes and cooperates with its steel industry while the U.S. does not.

Such a partnership produces modern Japanese mills while the average equipment age for the U.S. steel industry is 17 years. It is a situation which presents American industry, which oftentimes find itself locked in mortal combat with government, at a distinct disadvantage.

The government-controlled Bank of Japan subsidizes the Japanese steel industry while the government guarantees hundreds of thousands of dollars in loans, many from U.S. banks, for plant modernization. It presents a tax climate conducive to capital formation.

Profit and loss statements are not so important in Japan as is market penetration, a strategy which plans recouping losses in the long run with escalated prices of a controlled market.

"It must be remembered that most foreign governments use their steel industries as instruments of social, economic and foreign policy rather than as a profit center," Frank explained. "By contrast, the American company, which has to compete against the resources of an entire nation, must make a profit to survive.

"Foreign governments place considerable strategic and economic importance on their steel industries and view them as national assets, the most essential ingredient for industrialization, economic development and the economic stability of the nation," he added.

EQUITY VS. DEBT

Unlike the Japanese and some other foreign producers, American steel companies are largely financed by equity, the sale of shares of stock. Japanese firms, however, with its government providing unofficial but solid guarantees, use an alternate approach, loan-financing or debt, which is largely frowned upon in our profit-motivated economic system.

Because of the option chosen, some analysts feel American steel firms and other businesses have been saddled with too much pressure to present neat quarterly dividends for its stockholders, or owners. And, critics contend, that amounts to nothing short of mismanagement because those funds could—or should—be reinvested in the concerns.

David Ignatius of the Wall St. Journal noted that America's system of equity has made the steel industry nothing less than a "prisoner of Wall St."

Frank offers, though: "We are a profit-incentive, capitalistic, free economy and we've tabbed the word 'sin' on profit. It is difficult to compete against Japan . . . because there management is not responsible for how much they lose to get a market share.

"We're living by our economic system, but their economic system can only show progress for one major reason—they've had a dumping ground, an open market."

"TRADE WITH ALLIES"

The USW's McBride contends that the United States ". . . must trade with our allies."

"But we must work out orderly, disciplined trading arrangements," McBride said. "We have to do this government to government. And we must do it soon."

U.S. Rep. Austin J. Murphy (D-Monongahela), while sympathetic to the plight of the industry, still contends, "We have been at a disadvantage by declaring dividends instead of reinvesting in our industries."

In this regard, Wheeling-Pittsburgh Steel, the nation's eighth ranked producer, is the exception rather than the rule. All capital generated by the corporation from depreciation, earnings and borrowing has been reinvested in steel operations.

No regular dividends to W-P common stockholders have been paid since the second quarter of 1975 other than a special yearend dividend of $1 per common share paid during the last quarter of 1979.

But Wheeling-Pittsburgh joins its fellow members of the Big 9 steel producers in having to battle against an inherent adversary relationship between U.S. government, industry and labor, what could be the paramount reason our industry is declining while Japan's is blossoming.

The depth and success of hand-in-glove cooperation between the three major economic influences in Japan is not a new or accidental phenomenon, but its implications to the American economy and how it could possibly be an example in efficiency are finally beginning to strike a chord of consensus here.

JAPAN POOLS RESOURCES TO BOOST ECONOMY

(By Mike Fuoco)

Perhaps it was World War II, a crushing defeat to a proud Japanese people whose centuries-old culture had forged an undying love of their homeland.

Whatever the impetus, the Japanese have pooled their resources and capitalized on their intrinsic nationalism to build the most efficient industrialized economy in the world.

Using a low-keyed but effective approach, the Japanese government has led the way in this amazing industrial success story by providing skillful long-term planning and necessary resources while pushing high technology. Meanwhile, a cooperative Japanese labor force has offered dedicated work.

The result: All three economic components have harmoniously progressed, both individually and collectively.

Such, unfortunately, has not been the case in this country. Once the dominant industrial force worldwide, we are being effectively challenged by the cooperative industry-government-labor coalitions in Japan and other progressive industrialized countries.

ADVERSARY RELATIONSHIPS

Seemingly always poised for the attack, our government, industry and labor have neglected harmony and consistently battled and scarred each other. But now, when our swift industrial slide has reached a point of crisis, so graphically illustrated this year by massive and unprecedented layoffs in the steel and auto industries, we have begun to examine our interaction.

Examination may not be enough. According to analysts both in the public and private sectors, this adversary relationship we have somehow permitted to fester, at least subliminally, must be quickly eliminated if we are to reindustrialize our nation and become competitive again.

"Labor, industry and government worked themselves into an adversary relationship during the 30s and 40s and even before," explained Monongahela Congressman Austin J. Murphy. "Since the 1940s, the pent-up wage-and-price controls have been unleashed with the result being adversity.

"And then, the wave of the big environmental movement in the 1950s and 1960s again put government in an adversary position with industry."

He added: "All of us—government, business, labor—have too many meetings among ourselves and then problems arise. Then it is not a meeting but a confrontation."

CONSENSUS FORMING

Murphy is not alone in favoring more cooperation and understanding from the three main facets in America.

"We are ripping ourselves apart," Eugene Frank, a Pittsburgh-based steel analyst candidly offered. "Twenty years ago the adversary relationship with government began."

And James Fallows, in an extensive article, "American Industry: What Ails It, How to Save It," published in the September edition of The Atlantic Monthly, also touched on this economic malady: "Our productive abilities fall victim to an adversary culture in which business and labor and government are constantly at one another's throats in a formalized combat in which the lawyers feed the paranoia of all sides."

Why, one might ask, have we cultivated such a situation which is detrimental to us all? Although there are no easy answers, it is no secret that we are looking to Japan not only to find how we can best compete with them but how we can emulate that nation's success in tripartite relationships.

"What makes government and business interaction in Japan different is the extent and scale of such interaction." Henry Scott Stokes quoted from a 1972 U.S. Commerce Department report in his Aug. 21 New York Times article, "Can Japan's Aid to its Industry Guide U.S.?"

The report further noted: "A style peculiar to the Japanese derives from Japan's history and culture with its emphasis on the consensual approach, a tradition of government leadership in industrial development and a generally shared desire to advance the interests of the Japanese nation."

For whatever reason, we have somehow not taken the same tact.

MUTUAL CRITICISM

The U.S. government is sharply criticized by business for being inflexible, imposing expensive and restrictive regulations while not providing tax incentives to spur investment, a climate to promote capital formation or sufficient federal loans or loan guarantees.

While not necessarily disagreeing with some of those arguments, government backers pass some of the blame back to business and claim it should have been reinvesting some of its profits in modernization, instead of paying dividends, and looking ahead to the future, not the short term.

Labor, meanwhile, criticizes business for insensitivity to the nation's working men and women while unions come under fire by business for its demands for better wages and conditions.

It is a vicious, downward cycle in which otherwise useful energy is wasted and there are truly no winners.

In Japan, by contrast, the government follows a consistent policy of making regulatory and tax decisions based on their effects on economic progress. The government's Ministry of International Trade and Industry advises companies on long-term strategy, coordinates actions of competing interests and helps depressed industries.

Because of the government aid and the national system of investing in long-term practicality rather than short-term profits, Japanese business executives, unlike their counterparts in America, are not under pressure. Blessed with a cooperative government which provides advice, direction, tax incentives and direct and indirect subsidies, business has prospered.

Meanwhile, assured lifetime employment, Japanese workers dedicate themselves to their companies and everyone turns up a winner: government has a stable economy, businesses have a growth environment and workers have jobs.

But can such a system work here or is it a coalition peculiar to the Japanese?

A NEW APPROACH

According to U.S. Rep. Don Bailey of Greensburg, we have to try.

"This country simply has to reach—the public and private sectors—into our pocketbooks and divert resources for capital-intensive industries and thereby revitalize our industrial base," Bailey said. "In order to increase productivity, we have to reinvest and spread across society as a whole via depreciation of the cost of . . . change.

"Our priorities sometimes get mixed. Everyone in this country, including big business, was so concerned about balancing the (federal) budget. If someone would have asked me to vote for a budget with a $15 billion deficit that included a tax expenditure that would give more rapid depreciation, I would have voted for it because it would pay.

"The way to beat inflation is through productivity increases," he commented.

Murphy agrees something has to be done collectively: "We're finally feeling the effects. For so long—200 years—we were the great exporter of not only technology but goods. Now we have competition and with it is coming a realization of everyone's responsibilities.

"We've decided now is the time to work it out."

NEED FOR COALITION

Dennis J. Carney, chairman and chief executive officer of Wheeling-Pittsburgh Steel Corp., also sees the necessary "coalition" of industry-government-labor forming "but not to the extent needed to fight. Until we as a country realize we are in an economic war, I don't think we will solve the problem."

Carney, whose firm received $150 million in federal loan guarantees for construction of a $105 million rail mill in Monessen and installation of pollution control equipment in all its plants, said much more federal assistance is necessary to rebuild the slumping steel industry.

Carney noted that U.S. banks will not lend to domestic steel firms whose debt-to-equity ratio is 30 percent or higher but those same banks lend to Japanese steel firms with 80 percent ratios.

"There is no risk involved," he said, explaining the loans are backed by the Japanese government. "All that (U.S.) loan guarantees really do is what Japan (is doing)."

He firmly added: "We have to have them (loan guarantees) to compete."

PRIME FACTOR

Bailey agrees that capital is a prime factor in any reindustrialization plan, not only for steel or other "declining" industries but for those of the future.

"We have reached a crisis," he remarked. "Capital formation is the greatest crisis facing America. We don't hear either political platform talking about it and I think they should be.

"It is the single greatest concern to the western world."

U.S. Sen. Jennings Randolph (D-W.Va.), a prime legislative mover in securing loan guarantees for W-P, is confident America will find a solution and work together toward a common goal.

"I am optimistic and have been," he said. "I feel we will work out our problems if people work together. People are realizing everyone—business, labor and government—is going to have to work together if we are really going to provide a solid foundation for the future growth of our economy and expansion.

"People are just coming to the realization there is going to have to be a very cooperative effort."

According to United Steelworkers President Lloyd McBride, steelworkers will "share any sacrifices that must be made by all Americans to restore a vigorous, inflation-free economy. However, the huge capital requirements cannot be deducted from wages."

Much of the burden of reindustrialization and an effective coalition of economic forces naturally rests with the government.

OPTIONS AVAILABLE

In a July 1980 report issued by the Congressional Research Service entitled "Recession in the United States: Economic Effects and Policy Implications," lists the following as policy options to assist the steel industry:

Accelerated depreciation, loan guarantees or subsidized interest loans to aid capital formation.

Relaxation of environmental and worker health and safety standards.

Exploration of public-private cooperative efforts to restructure the industry.

Coordination of government programs affecting the steel industry.

Imposition of import restriction policies such as quotas, tariffs and antidumping pricing mechanisms.

"A wiser legislative branch, led by the Congressional Steel Caucus, the Senate Steel Caucus, along with a better-informed Administration and supported by the labor movement and all of industry will see to it that this nation has a winning overall game plan and a solid plan for its steel sector," Frank said.

"With everyone in our government pulling in the same direction instead of pulling the industrial base of this country apart, our future will be secure."

But as Frank himself noted, "Words are not enough."

MONESSEN RAIL MILL ECONOMIC SALVATION

(By Mike Fuoco)

To uninterested observers, the green shell visible along Route 906 in Monessen appears as just another building on steel mill property.

To residents of the Mon Valley, though, it represents an economic salvation, of sorts.

And to proponents of a reindustrialization policy for the United States, it symbolizes the best working example of what can be accomplished by cooperative efforts of industry, government and labor to reach their respective goals.

A SHINING EXAMPLE

Wheeling-Pittsburgh Steel Corp.'s new rail rolling mill, presently under construction at its Monessen Plant, would not normally be of national significance, although it is singularly notable in and of itself.

One of the most technologically-modern rail and structural steel facilities in the world and the first built in this country since 1927, the mill is of particular importance for its conception and labored birth.

Somehow, through a trying three-year drama, the nation's eighth-ranked steel producer, the federal, three state and numerous local governments, the United Steelworkers of America, and the public at-large succeeded in forging a partnership which provided what was needed by everyone involved.

The process at times threatened to self-destruct and jeopardize the very life of the corporation, at least its operations in the area.

Despite some inherent flaws, though, it worked. Diversification of W-P's product mix, stabilization of the area's economy, increased employment, and environmental control were the welcomed results.

Such goals are at the core of arguments for a national commitment to a revitalized industrial base and Monessen's rail mill is the concept's shining example.

However, the painfully long and complex process—or what some consider a lack of national policy—experienced in the W-P case must be greatly altered, most private and public sector observers agree, if America is to experience a national industrial renaissance.

HOW IT BEGAN

Times were bad and getting worse for W-P in 1977. Losses continued and hopes for recovery dwindled as the steelmaker headed for an eventual year-end loss of $25 million.

Shipments dropped, a property tax appeal case was lost and outstanding loans of about $52 million were coming due.

In short, the outlook was grim.

However, probably the incident which at the time seemed the most potentially fatal to the corporation's continued operation—a $40-million pollution suit—ironically became its impetus to battle its adversities, its rallying issue.

The suit, filed by the state Department of Environmental Resources (DER) in March, appeared to be the final threat. If unsuccessful in its appeal, W-P could well have faced bankruptcy.

However, the corporation shrewdly parlayed the misfortune into an effective plea for help from its steel communities, labor, state, local and federal governments—and it worked. Not only did the corporation obtain necessary funding to fulfill environmental mandates but unprecedented loan guarantees and other public and private monies to diversify its product line.

CLEAR MESSAGE

It was a savvy piece of corporate recovery and although many individuals aided in its successful implementation, Dennis J. Carney, now W-P's chairman and chief executive officer, is generally viewed as chief architect of the strategy.

"The rail mill is a very important piece for me," Carney says as he sits in his office in Gateway 4, Pittsburgh. "I think without the rail mill, the Mon Valley (plants) couldn't have survived."

Carney's point is not a revelation to the people of the mid-Mon Valley. Cognizant of troubles beleaguering the area's largest employer in 1977, local residents were quick to flock to W-P's corner.

Paul (Putsy) Lewis, director of United Steelworkers District 15, recalls that the USW got involved after W-P explained its "particularly acute situation" and union economists verified company claims. A cooperative partnership of labor and industry was then formed, Lewis said, for the eventual betterment of both.

The relationship was forged, Lewis said, "simply because they (W-P officials) were straightforward in letting employees and employees' representatives know what its economic condition was prior to going into some chaotic condition like bankruptcy."

Meanwhile, business representatives, state legislators, state officials and federal officeholders also heeded the plea for help. Everyone wanted to provide assistance because the word was out: either some type of help would be provided to the firm or the Monessen and Allenport plants would have to be phased out.

It was not a message that would miss its mark.

PRECEDENT SET

Perhaps because W-P's problems at that time—dumped imports, lack of capital for modernization or expansion, government regulations—provide such a microcosm of the current state of the ailing steel industry as a whole, the firm's success is viewed as a precedent for reindustrialization.

"Wheeling-Pittsburgh is certainly an example of what my view of reindustrialization is," commented U.S. Sen. Jennings Randolph (D-W. Va.), one of the project's main backers. "It not only includes a modernization program including environmental protection but a new product activity (rails) as far as the company is concerned."

Lewis, co-chairman of the Labor Division of the President's Steel Tripartite Advisory Committee, agrees: "The success of labor, government and industry in the Wheeling-Pittsburgh situation was a contagious situation which led to more activity on the part of the tripartite (structure) in taking an overall look at the steel industry."

The bottom line in the W-P case, as it is in today's call for revitalization of the steel industry, is capital. W-P just did not have the working capital to invest in environmental control equipment and expand its product line to make the corporation more viable through diversification.

Similarly, the steel industry in general suffers from inadequate capital formation. According to the American Iron and Steel Institute (AISI), a domino effect results from such a situation. Inadequate individual and corporate savings leads to inadequate plant and equipment spending which contributes to lagging productivity, double-digit inflation, inadequate job creation and lagging economic growth, AISI claims.

In its comprehensive report earlier this year, "Steel at the Crossroads: The American Steel Industry in the 1980s," AISI adds that other interrelated factors combine to result in the industry loss of its "competitive edge."

POOR SHOWING

Compared to other industrialized countries, we have a poor showing in savings and investment in our industries.

AISI reports that the Japanese invested almost 50 percent more per ton of capacity in their steel industries than did American companies in the mid-1970s. The Japanese save 20 to 25 percent of their total income versus five or six percent in the U.S.

The United States was dead last in spending for new tools and in growth of output per hour between 1960 and 1978, AISI said.

Meanwhile, American banks are gun-shy about lending to American steel firms when debts rise to more than 30 percent of total capital. Meanwhile, these same American banks have three times as much money on loan to Japanese firms with debt ratios of 80 percent or higher because Japan, Inc., backs the funds.

As James Fallows noted in his September article on America's ailing industries in the Atlantic Monthly, "(In Japan) the money helps buy the continuous casters, electric furnaces and integrated mills that American firms cannot afford."

Because of the lack of capital, W-P was forced to go to the federal government for loan guarantees.

After lengthy negotiations, the Commerce Department's Economic Development Administration (EDA) agreed to provide W-P with $100 million in guarantees, the largest ever in the agency's 15 years of existence, for use in rail mill construction and pollution control in Pennsylvania.

Meanwhile, a $50 million guarantee was received from Agriculture Department's Farmers Home Administration (FmHA) for use in pollution control in West Virginia and Ohio, again the largest ever granted by the agency.

"This is the kind of assistance our agency and others in government can provide to reinvigorate and make competitive basic industries in this country," commented Alex Vallecillo, chief of EDA's Project Review Division. "This is the kind of effort that has to be brought to bear and implemented on a structured basis to reinvigorate and rejuvenate our industries."

NOT FOR EVERYONE

In the battle of industrial haves and have-nots, though, federal loan guarantees are either unnecessary or vital. Large steel conglomerates like U.S. Steel Corp. oppose them in blatant self-interest; smaller firms, like W-P, the only major integrated domestic producer with earnings 100 percent dependent on steel sales, view them as a last hope for their continued existence.

Randolph commented that one of the hurdles to increasing availability of guarantees is that "the steel industry does not speak as one voice." He said he "wholeheartedly disagrees" with the claim they are bad for the economy.

Steel analyst Eugene Frank said, "We have to improve the funding because we don't have the money in the steel industry. We are cash poor.

"We have to fund technology not only in steel but in those industries that fit in with the demographic capabilities."

There are several schools of thought on just how to do that, though.

FUNDING VEHICLES

After a trying experience in piecing together a complex package of loan guarantees, Carney feels something along the lines of the Reconstruction Finance Corp. (RFC) should be established for easier access to greater amounts.

The RFC, terminated in 1954, served to cushion the economic downturn in the early 1930s and provide efficiency in shifting resources in defense needs during World War II. The agency provided funding where funding was needed and that is what is needed now, Carney and others claim.

However, a 1980 Congressional Research Service report, "Evaluation of the Reconstruction Finance Corporation with Implications for Current Capital Needs of the Steel Industry," finds that such an agency would be ineffective today.

However, it goes on to recommend that something like an "Emergency Finance Bank" be established due to a need to "assist large firms or industries on a case-by-case basis." And it further agrees the steel industry has three valid claims for federal loan guarantees including dumped imports, undependability of foreign sources and the social costs of closing down steel facilities.

Along the same lines, the AFL–CIO Executive Council in August called for a "National Reindustrialization Board" made up of public, labor and industrial representatives. The board would oversee a "Reindustrialization Financing Corp. (also with the RFC acronym) which would make or guarantee loans or participate in loans made by private lenders to finance reindustrialization projects approved by the board."

The AFL-CIO said the new RFC should "have access to both public and private funds to enhance its lending capability," should invest in "private and quasi-public ventures through direct loans, loan guarantees and below market financing" and should have "the power to use tax policy as a tool of reindustrialization."

CAPITAL CONSENSUS

Despite some differences in exactly how to provide the steel industry and others with much-needed capital resources, the general consensus is that something must be done.

"Dennis Carney is 100 percent right that this country needs a steel policy and should make capital available to have a healthy, viable steel industry," commented U.S. Rep. Don Bailey (D-Greensburg), who was involved in the W-P negotiations for the loan guarantees. "The most significant part of the rail mill is the financing aspect and the role of government in financing it.

"It is crucial for ailing firms."

U.S. Rep. Austin J. Murphy (D-Monongahela), who also was involved in the loan guarantees negotiations, added that government funds should seek increased industrial productivity, not bail-outs: "What is needed is the economic boost of loans and grants which is where the government should be reinvesting.

"The whole thing to the success of an economy is production. A public service job or make-job produces little in the way of a commodity."

Here's How Rail Mill Came About

Just how Wheeling-Pittsburgh Steel Corp. was successful in acquiring funding for a new rail rolling mill at its Monessen Plant and installation of pollution control equipment at all of its facilities is a complex tale of what can be described as ad hoc "reindustrialization."

Many behind-the-scenes maneuvers took place in the three years of planning and negotiations.

The following is a brief account of a lengthy and complex scenario which proved successful despite setbacks and challenges:

March 7, 1977—The state Department of Environmental Resources (DER) fines Wheeling-Pittsburgh Steel $39.8 million for past pollution violations in Monessen.

April 29, 1977—Dennis J. Carney, then W-P president, reports at the annual stockholders meeting that the firm is pursuing legal aspects of the DER suit but after meeting with state officials and DER representatives he is hopeful an "understanding" on pollution problems at W-P plants can be obtained.

Third Quarter, 1977—W-P decides to diversify its product line into rails.

Sept. 3, 1977—It is reported W-P officials will meet with federal and state representatives to discuss the fate of the Monessen Plant. It further is reported preliminary discussions with the federal Economic Development Administration (EDA) are held concerning possible financial assistance.

Sept. 7, 1977—Then Lt. Gov. Ernest P. Kline announces the Commonwealth has declared a 90-day moratorium on prosecution of its $40-million suit against W-P.

Nov. 7, 1977—Kline, Carney, state Rep. James Manderino, United Steelworkers District 15 Director Paul (Putsy) Lewis, aides to then-Gov. Shapp and former DER Secretary Maurice Goddard meet for three hours. The possibility of a "major breakthrough" is reported by The Valley Independent the next day.

Dec. 8, 1977—W-P receives a lengthy and comprehensive draft settlement proposal from DER setting an environmental schedule for Monessen, settling the $40-million suit for $200,000 while tying the package together with $100 million in financial aid for rail mill construction and pollution control installation.

March 22, 1978—An agreement between DER and W-P is formally announced by Kline at the firm's Pittsburgh headquarters. The settlement is said to be contingent upon approval by the federal Environmental Protection Agency (EPA) and receipt of federal loan guarantees of at least $28.5 million for pollution control and $80 million for rail mill construction.

First Quarter, 1978—W-P holds discussions with EDA and the federal Farmers Home Administration (FmHA) about financing the rail mill and pollution projects.

Second Quarter, 1978—U.S. Sen. Jennings Randolph (D.-W. Va.) calls meeting with officials of EPA, DER, USW, EDA and FmHA to discuss W-P's pollution problems.

Second Quarter, 1978—Negotiations begin with EPA, DER, Ohio EPA and the West Virginia Air Pollution Control Commission in an attempt to formulate a comprehensive consent decree for all W-P plants as required by EPA.

Third Quarter, 1978—Negotiations with EDA and FmHA for loan guarantee terms continued.

Dec. 28, 1978—EDA announces it will recommend approval of federal guarantees of $100 million for rail mill and pollution control projects in Pennsylvania.

First Quarter, 1979—FmHA sends letter of intent to W-P to guarantee $50 million for pollution control projects in Ohio and West Virginia. Meanwhile, institutional lenders (insurance companies) commit to provide the guaranteed loan funds.

Jan. 29, 1979—The Pennsylvania Industrial Development Authority (PIDA) tentatively approves a $10 million loan to tie in with rail mill and pollution projects. The state loan is contingent upon a consent decree with EPA.

March 19, 1979—W-P and EPA sign a master consent decree and Carney announces ground for the rail mill will be broken March 27.

Third Quarter, 1979—Guarantee agreements and conditional commitments to guarantee loans are signed by government agencies, W-P and lenders.

Third Quarter, 1979—Colorado Fuel & Iron, one of only three domestic rail producers, files suit to prevent EDA from providing loan guarantees for W-P rail mill. The suit claims there is already excess capacity for domestic rail production.

Fourth Quarter, 1979—CF&I loses suit in court.

First Quarter, 1980—CF&I appeals lower court decision to U.S. Circuit Court of Appeals.

Second Quarter, 1980—CF&I loses appeal.

Third Quarter, 1980—Construction of rail mill in Monessen proceeding on schedule with spring 1981 targeted for completion and beginning of production.

Decisive Decade Lies Ahead For America

(By Mike Fuoco)

The next 10 years will be a decisive decade for America.

It will be a decade in which America will make important decisions significantly affecting its industrial, economic and social make-up.

These will be years in which America's sagging industrial pride, self-reliance and innovation may be sufficiently rekindled, resulting in the formulation of an effective long-range national policy. The alternative, some analysts claim, is an uncharted course to irreversible industrial erosion, a weak economy and a lower standard of living.

The choices seem to be largely ours.

"I'm extremely optimistic. We're going to do it (reindustrialize)," U.S. Rep. Austin J. Murphy (D-Monongahela) commented. "It is just a matter of the pressures, the choices that need to be made between the short-run and the long-run."

Others, however, like steel analyst Eugene Frank of Pittsburgh, are not quite so certain.

"The biggest problem in the whole thing is to take it out of the stage of rhetoric and conceptualization and put it in motion to get it off the ground," Frank said. "These are nice words, but how do you make it function?"

And Dennis J. Carney, chairman and chief executive officer of Wheeling-Pittsburgh Steel Corp., offered that one of the problems he sees is the politics involved. "It is not very encouraging that something will happen quickly."

Still, they and other interested and informed parties feel something bridging on an action-oriented consensus is forming. And that, they claim, is a much-delayed first step of a long journey back to industrial competitiveness.

STEEL AND DEFENSE

"Washington is starting to see that steel should not be allowed to decline anymore, if only for defense reasons," admitted Carney, long a critic of government for its stance toward steel. "Washington is finally realizing what it should have known 10 years ago."

Indeed, there is little debate a viable domestic steel industry is vital to national defense.

A February 1980 report by the Congressional Research Service found, "Overseas sources (of steel) may be unavailable for U.S. defense needs. A supplying nation may want to avoid being drawn into a conflict, sympathize with the enemy, possess steel facilities destroyed by combat or have its steel shipments blocked by naval action.

"The probability and costs of a supply disruption must be compared with the expense of government assistance."

Meanwhile, in its massive report issued in January, "Steel at the Crossroads: The American Steel Industry in the 1980s," the American Iron and Steel Institute (AISI) flatly states: "Steel is critically important to the nation's security."

But there is much more at stake, advocates of steel industry revitalization claim. Even if defense needs could be met, they say, the economic effects of even a partially-liquidated steel industry would be massive, both on national and local levels.

"If the current pace of industry liquidation continues, this nation's steel industry will only have the capability to ship between 80 and 85 million tons of finished product (in 1990)," Frank noted. "We cannot afford to import 50 to 70 million tons of steel.

"Dependence upon foreign sources for such quantities would be as damaging to the U.S. economy as this country's current dependence on foreign oil."

And AISI reports: "Without an adequate and continuing supply of steel products, a strong economy could not exist. America cannot afford to rely on foreign steel, lest we become as dependent tomorrow on imported steel as we are today on imported oil."

There are other negative consequences if America does not reindustrialize, specifically the steel industry.

According to the Congressional Research Service's report, "The social costs of closing down steel facilities will fall disproportionately on certain states, regions and groups. These social costs, such as unemployment, crime, community disruption and emotional stress, may be so high that it might be appropriate to provide some public support to the steel industry."

Such a claim could also be made for the automotive industry and others. Something needs to be done, industry, labor and government economists agree, but what? And where do we begin?

BUILD ON STEEL

If we are going to rebound, we have to build on steel," Frank contends. "Regardless of what skeptics may say, the world is and will be for some time to come, in the 'Steel Age.' We cannot progress and improve living standards without steel.

"For two decades the people of the United States have been without an adequate economic plan. A sound sectorial plan for steel, because of its unique status, could serve as a format for all of industry."

Like some other analysts, Frank feels W-P's utilization of federal loan guarantees, a state loan and private money for construction of its Monessen rail mill and installation of company-wide environmental controls is a vivid example of the type of aid needed for modernization and expansion.

"Not only is it reindustrialization of Monessen with the most advanced rail mill in the country, but it contributes substantially to the real future economic situation of the country," Frank remarked. "It fulfills our needs to keep people employed, the need to sustain the basic steel industry and the need to satisfy a product that is short."

Carney, chief architect of the rail mill-environmental project, agrees a sector approach by government is necessary and that massive amounts of capital for modernization and expansion must be made available.

In concert with loan guarantees, he and other industry officials feel the government should provide tax incentives, protection from unfair foreign competition and modification of mandates, all of which would make private investment in the industry attractive again.

Just how much capital is required to rebuild the domestic steel industry so that it may recapture the "competitive edge" AISI says it is losing is a debate separated by billions of dollars. It is money sorely needed, though, as foreign competitors are already modernizing and expanding their ultra-modern facilities.

CAPITAL QUESTION

Depending upon whose figures you use, it will cost somewhere between $3-billion and $8-billion per year to rebuild the domestic steel industry during this decade.

As might be expected, the most conservative estimate comes from the federal government. In a report published last July entitled, "Recession in the United States: Economic Effects and Policy Implications," the Congressional Research Service notes that, like the auto industry, steel is burdened with long-term problems which compound its recessionary slump.

Of one of those problems, "aging and obsolete plants," the report finds: "The Office of Technology Assessment estimates that steelmakers must increase capital spending by at least 50 percent during the next decade to approximately $3 billion a year in order to modernize existing mills, expand capacity and bring profitability up to the level of most other domestic manufacturing industries."

However, in what the steel industry respectfully refers to as the "Orange Book," AISI projects that $7 billion per year—more than twice the rate expended currently—must be spent over the next decade.

To Carney, no less than $8 billion per year needs to be spent in the first four years of this decade to rebuild the industry.

"I feel we need to have capital resources faster and farther than I think they (current scenarios) will provide," Carney said. "We need to spend it quick and fast. We have to move much faster than I see everyone else willing to move, particularly on modernization."

Carney said if large capital resources were provided W-P, the firm would invest in "new casters, a new cold mill, modernize the (Allenport) tube mill . . . It is all laid out. I know exactly where to spend it."

He continued: "For me to get the company comfortably competitive, I need $500 to $700 million. With all of these new programs, I might get the money by the 1990s. If I could get loans, I could do it by 1986

"There is going to be a boom in '83, '84, '85. I should have two new casters by then."

Carney feels the federal government should back loans so that American banks would not be skittish about lending to steel companies whose debt-to-equity ratio is higher than 30 percent.

Whatever the estimate, a considerable amount of capital is necessary to rebuild what we've let decline. But James Fallows, in the September Atlantic Monthly, noted: "The 10 to 20 billion it might cost to build a whole new steel industry sounds like a lot until one thinks of the $100 billion the U.S. will send out of the country this year to pay for foreign oil."

Still, there are those who say reindustrialization is nothing but a cumbersome word and a bad idea.

GOVERNMENT CONTROL?

Some observers remark that talk of reindustrialization is not a call for a partnership with government but a surrender to government control. While not disagreeing, Carney sees nothing wrong with a limited partnership.

"I don't like that (government control) either," he said. "We're fighting a battle of survival. Either you fight with government loans or die without them.

"I think it is better to survive with them. The other option is to continue what we are doing and lower the living standard, which is the most likely thing."

Carney further criticized those who call for "free enterprise" to right America's industrial ship.

"There is no way we are going to win with free enterprise. Free enterprise won't beat the government of Japan," I haven't heard a program that long range will win the auto and steel war with Japan.

U.S. Sen. Jennings Randolph (D-W.Va.) feels industry and government can co-exist in a partnership: "I don't really think that (government control) is going to be the case. It can be done in such a way to prevent government control, although the government will be concerned about the loans."

And even the New York Times in a June editorial commented: "American capitalism is not so pure that it would be defiled by a little more help from Uncle." However, it warned, "It would take enormous political discipline, though, to make more government pay off in greater productivity and improved treatment for people and places jarred by economic change."

THE W-P ALTERNATIVE

Even if the government does not provide the type of assistance necessary for effective reindustrialization, Carney said W-P will survive, "partly because I see the problem. I realize I'm in a war."

Carney expanded on an unexpected comment he made Aug. 14 to the Steubenville (Ohio) Chamber of Commerce when he raised the possibility of foreign ownership of W-P or joint ventures with foreign interests.

"I need a better balance sheet so that I can spend for modernization quicker," Carney told The Valley Independent. "If I have to go foreign, I will. If someone walked in here and had a nice balance sheet I would consider it."

Carney further said that if a lending vehicle, such as the former Reconstruction Finance Corp., is not instituted to provide massive amounts of capital to the industry "then I'll go foreign. I don't want to but they're (government) not willing for a lot of reasons to give me what I need.

"Why do you think American Motors went foreign? For the same reason—the government forced them," he said.

Carney admitted, though, such a move might not be necessary "if it ever became apparent the government really was trying to help the steel industry" because it would then be likely "some domestic investors would come forward."

Carney may get a chance to expound upon his views. Randolph, in a letter to President Carter last month, suggested Carney be appointed to the planned President's Economic Revitalization Board due to his experience and success in dealing with the issues the group will address: extensive environmental problems, governmental regulation, low productivity, low investment return and inadequate capital.

TOO LATE OR IN TIME?

Some feel we may have been complacent too long and the disease which has crippled our industries, idled thousands of workers and swept us deeper into the swirling waters of inflation and recession is beyond curing.

Others, however, say we have diagnosed the disease in time. The prognosis for recovery, while not excellent, is at least possible.

To Congressman Don Bailey (D-Greensburg) all of the interest is encouraging: Five years ago, who was talking about capital formation, faster depreciation? A whole new era of economics is dawning on the world."

Murphy agreed: We are very resilient. We bounce back and when we do, we are on a higher plateau than we were before. We're making strides and people in industry are realizing we are making strides."

Frank, meanwhile, is optimistic America will formulate a steel sector policy because "we have to. Regardless of who is elected . . . the sector policy for steel will be successful because it has to be."

Bailey concurred. "We're talking, analyzing the problem. The only difficulty in this system is that it takes a while to reach a consensus. We've got to cooperate."

Perhaps cooperation is the key. As noted by the AFL–CIO in August. "A reindustrialization program will require the cooperation and participation of everyone in society. Only through true cooperative action, reflecting a balance of interests of the public, labor and industry, can the reindustrialization program objectives be achieved."

PRECEDENT SET

Paul (Putsy) Lewis, director of United Steelworkers District 15, feels that past adversary relationships really should not be an impediment: "There are so many things we (labor, government, business) can join hands on. There are so many things we should walk the same road on."

Again, in this regard, W-P has set something of a precedent as it did in its dealings with the federal and state governments. The purchase of $8.5 million of a special issue of preferred company stock by 10,000 union and management employees in 1978 is largely credited with the successful negotiation of federal loan guarantees.

The next year, employees at the Allenport Plant heeded a request by management and voted to reduce their incentive payments over a 30-month period. And just last August, employees in all W-P plants voted by a 5-1 margin to postpone cost-of-living increases and a bonus to improve the corporation's cash flow.

Carney said such success has occurred because "we've been honest with them (employees)" and because of mutual respect between himself and USW district directors Lewis and Paul Rusen.

Lewis, meanwhile, agrees the arrangement has worked thus far in keeping W–P afloat.

"I don't believe Wheeling-Pittsburgh could have survived with just about any other leadership than Dennis Carney," he said. "He's tough, he knows the steel industry, he's credible. His word had been good."

Such a workable tandem is necessary throughout the industry. As Murphy noted, nothing can be accomplished if industry and government cooperate but industry and labor do not.

The AFL–CIO observed that "such a partnership may be difficult to achieve because of recent and continuing business hostility to basic aspirations of workers and their unions. However, such an effort to establish a limited partnership must be made."

THE OUTLOOK

"My philosophy is that not enough is being done," offered Carney. "We need to think more long range."

Still, Carney has hopes for W–P: "For the short range, I am very optimistic for Wheeling-Pittsburgh. The next 10 years will be better than the last. We have a great potential to make one hell of a lot of money for Wheeling-Pittsburgh—for the employees, stockholders and the country."

He revealed the corporation is looking into new product lines to reduce its 80 percent concentration in cyclical sheet mill products. When in full operation, the rail mill will reduce the firm's dependence on flat rolled products to about 70 percent of its product mix.

"I have some moves similar to the rail mill," Carney said, but refused to elaborate.

According to Carney, employment within the firm should stabilize at its current levels but "I have an option to expand capacity 20 percent if the growth is greater than what is planned."

Meanwhile, Frank forecasts, "For those companies, plants and communities that survive the current crisis, the steel needs of our economy alone are so great . . . a bright future is assured."

Carney is adamant W–P will be "one of the few companies that will survive the war. We're unique because of our size and we can make what is going to be needed.

"It all comes down to time," Carney warned, though. "The clock is running and there are only so many days left."

Just how America utilizes those "days" will, to a great extent, determine the kind of life we will live this decade and beyond.●

MORE SENSELESS TRAGEDY

● Mr. **KENNEDY**. Mr. President, as a physician, as a writer, and as a friend, Michael Halberstam has enriched all our lives, and we are all diminished by this tragic and senseless death. I know in my heart the overwhelming shock and grief of his family.

No words of sympathy can possibly bring them sufficient consolation in this time of sorrow and loss. But at least we can resolve to do our best to prevent such violence in the future.

Michael Halberstam's murder, and the murder of John Lennon last night in New York, once again emphasizes the urgency of reasonable handgun control. I have been a leader on this issue in the past and I intend to continue the fight in the future. Handgun control is the least we can do for the memory of Michael Halberstam, who so recently called on us to restrain the traffic and the toll of firearms—and for the memory of John Lennon, a gentle and happy soul, a man of joyful genius, who asked us in song many years ago to "Give Peace a Chance."●

THE PLO—UP FROM THE BOTTOM AGAIN

● Mr. **HEINZ**. Mr. President, once again, as seems to happen periodically on the American political landscape, the question of the Palestine Liberation Organization has resurfaced to complicate our search for peace in the Middle East.

Clearly, intelligent people can disagree over what might ultimately constitute a fair and desirable peace settlement in the Middle East, although I have consistently maintained that such a decision properly must lie solely in the hands of the opposing parties, to be decided by direct negotiations. What has been, and should remain, beyond the realm of discussion in responsible circles, however, is what role the PLO should have in any negotiations or settlement.

That topic should remain beyond the realm of discussion because the PLO itself has been and remains outside the realm of acceptable human behavior. Its history has been one of terrorism and murder, of seeking only to destroy rather than to create. Some have suggested nonetheless, that because they command support they should be included in any negotiations that take place. Such an action would not only be indefensible morally, it would make no strategic or political sense either. The PLO, largely financed and armed by the Soviets, is dedicated to the destruction of Israel, our most consistent and reliable ally in the region, and the creation of a state hostile to our interests in the Middle East. It is inconceivable that PLO participation in peace negotiations can lead to anything but a serious destabilization of our ongoing peace effort.

The Carter administration, to my great disappointment, periodically appeared to be sending signals through various officials that there might be some possibility of working with the PLO. When pressed, more responsible officials retreated behind the standard formula—that only if the PLO accepted U.N. Resolution 242 and acknowledged Israel's right to exist were any negotiations possible. That is the only correct formula, though the Carter administration's signals to the contrary have managed to inject an unfortunate continuing element of ambiguity into the situation.

In the past few months, however, some European leaders have begun pursuing PLO involvement, and now, inevitably, people are anxiously awaiting President-elect Reagan's comments on the subject. It is my hope and expectation that his policy will continue to be consistent with the Republican platform adopted last summer—

> Republicans reject any call for involvement of the PLO as not in keeping with the long-term interests of either Israel or the Palestinian Arabs.

This has been Governor Reagan's view, and I am confident it will continue to be so—that this country will firmly reject violence, terrorism, and murder and continue to stand for a fair and equitable peace settlement negotiated between legitimate states that share a mutual respect for each other.●

FOR DEMOCRACY IN URUGUAY

● Mr. **KENNEDY**. Mr. President, as one who has long called for restoration of democracy in Uruguay, I was heartened by the recent popular rejection of a new constitution which would prolong military rule virtually indefinitely in that nation. In the first opportunity given to express their views, the people of Uruguay told their rulers that they want a return to the democratic institutions which prevailed in their country for 100 years prior to the military coup in 1973. Despite almost one-third of the population of Uruguay being forced into exile, and so denied the right to vote at all, 59 percent of Uruguayans voted "no" to military government last Sunday.

The plebiscite is one more reminder of the historic importance of the struggle for democracy and liberty throughout Latin America. We can be proud that our Nation has clearly alined itself with this struggle, and it must continue to do so.

Mr. President, I request that the text of a perceptive editorial on Uruguay appearing in the New York Times be printed at this point in the Record.

The editorial follows:

The Surprising Answer in Uruguay

When an authoritarian regime stages a plebiscite, the exercise typically ends with an announcement that 99.95 percent of the voters answered "Yes!" The news from Uruguay this week is therefore refreshing. By a margin of almost 7 to 5, voters there said "No!" to a new constitution designed to guarantee permanent control over Government decisions by the military.

The charter was rejected despite active electioneering by the country's military rulers. The voters thus demonstrated that years of repression have not yet snuffed out the democratic spirit in South America's southern cone.

Military rule in Uruguay dates back to 1973, when economic troubles and urban terrorists finally proved too much for what was once the continent's most impressively democratic state. Until the 1960's Uruguay had enjoyed the reputation of being like Switzerland—a civilized place and a haven for refugees from the violent politics of neighboring lands.

All that seemed to have changed irrevocably as Uruguay became one more police state in a region of notorious police states. With a population of just 3 million, it achieved in the 1970's one of the world's highest ratios of political prisoners per capita. The nation's congress has been closed for seven years; the main political parties are banned. A siege mentality prevails among the security forces, even though terrorism, the pretext for repression, has long since been eradicated. Dictatorship gained momentum on its own.

The generals presented their new constitution just a month before sending it to the voters for approval. Opportunities to campaign against the charter were severely circumscribed; known opponents of the regime were disfranchised. As always in Uruguay, all other civilians were required to vote, and ballots that said "Yes" to the charter were printed in the national color. Nonetheless, the people said "No."

The ruling generals have obviously been caught offguard. They once hinted that rejection of the constitution would impede further liberalization. But the surprising weight of popular opinion may give them pause—a pause that should be nourished by the Carter Administration's prudent and low-key characterization of the plebiscite as "democratic." The military cannot credibly rail against Yankee meddling.

The vote does, however, vindicate the Administration's periodic pleas for human rights in Uruguay. Officials in Washington, it turns out, appreciated better than those in Montevideo, the democratic aspirations of a long-silenced people.●

A SUMMARY OF THE WORK OF THE JUDICIARY SUBCOMMITTEE ON THE LIMITATIONS OF CONTRACTED AND DELEGATED AUTHORITY IN THE 96TH CONGRESS

● **Mr. BAUCUS.** Mr. President, Ralph Waldo Emerson once said:

> There is nothing that so astonishes man more than common sense and plain dealing.

Those words from the 19th century seem even more true today.

Americans are practical people, commonsense is our guide. The American question is, "Does it work, or doesn't it?"

All too often, however, Federal programs and Federal agencies lose sight of that principle. Today an alphabet soup of Federal agencies, bureaus, offices, and departments is spread all over Washington, D.C. Like the tentacles of an octopus, this bureaucracy has spread, increasingly affecting all our lives.

But as we all know, bigger is not always better. As Federal programs grow larger and spend more they do not necessarily become more effective or efficient. In fact, often just the opposite is true.

It seems to be a fact of political life that creating new programs is far easier than eliminating those that are obsolete and wasteful. It is far easier to pass politically popular spending bills than to cut wasteful spending from an agency's budget.

But like it or not, this too is part of our responsibility as U.S. Senators. Our job must include cutting waste and fat from the Federal bureaucracy.

Senator Burton K. Wheeler was one of Montana's most distinguished U.S. Senators. As chairman of the Senate Commerce Committee he understood that Congress must constantly oversee the Federal bureaucracy, and described that role as follows:

> Had it not been for the (Congressional) inquiries into the Justice Department and the Teapot Dome deal, the American people might not yet have known that the Harding Administration was responsible for the most cynical gang of looters that ever descended on the national capital. Since then, numerous other Congressional committees have acted as "watchdogs" over our ever-growing bureaucracy. I consider them to be absolutely essential to our system of checks and balances—and in the best tradition of a truly democratic republic. Federal office holders today wield vast power and allocate millions, even billions of dollars; all of them are as human as the rest of us, and inevitably a percentage of them are inefficient or crooked. Only surveillance by experts in another branch of government can keep crookedness and laxity to a minimum.

Federal programs have changed greatly, and grown enormously, since Burton K. Wheeler served here. And, the "watchdog" role he talked about is just as critical today.

The General Accounting Office, Congress investigating arm, estimates that as much as 10 percent of the Federal budget may be wasted each year just through fraud. That money comes right out of the pockets of American taxpayers. For example, the people of Montana paid $1.4 billion in Federal income taxes between October 1, 1978, and September 30, 1979. Yet if the 10-percent estimate is accurate, $140 million of that was wasted, nearly $200 for every Montanan.

Wasted money, mismanagement, abuse, and fraud can be found in every Federal program. Congress must lead the fight to find it and eliminate it.

This Congress began work amidst a lot of fanfare about cutting Government waste. We were supposed to be the Congress that would review and analyze Federal programs—and cut the fat from the budget.

I welcomed this effort, and made it a high priority on my agenda. But how successful were we in cutting Government waste and what lessons have we learned in the past 2 years? I have conducted ongoing investigations into several programs and agencies: the General Services Administration (GSA), the Justice Department's Lands Division and its Civil Division, the title III program of the Department of Education, the Environmental Protection Agency (EPA), the Small Business Administration (SBA) and others.

I am proud to say that we made some significant improvements in these programs. As a result of our work, we have saved taxpayers hundreds of millions. The savings are outlined in the attachments. But I would not be honest if I said we were 100-percent successful. Compared to the enormity of the task, we barely scratched the surface.

Too often our best intentions have been thwarted by a bureaucracy that has become entrenched over the past decades. Presidents come and go, so do Members of Congress—but Federal agencies and their programs seem to live eternally, growing larger all the time. And, as new programs are added to old ones, the number of people dependent on Federal programs grows. Every Federal program develops its own constituency that fights for its continued existence. But the lobbyists for cutting wasteful spending are far less vocal.

Congress also has a tendency to take a meat-ax approach to cutting Federal spending. It is easy and appealing to cut a department's budget by a certain percentage. Although I have advocated across-the-board cuts on certain occasions, such an approach does not always solve a problem. Letting an agency decide where to cut its budget will not insure that wasteful spending is eliminated.

To stop waste effectively, each specific program must be analyzed, investigated and scrutinized. Each program must be judged on one criterion: Does it work the way it is supposed to work, is it accomplishing its goals? In short, oversight must be performed by Congress.

This kind of effort is not glamorous. Instead, it involves long, tedious hours of digging for the truth. And, it requires long hours following up an investigation to make sure improvements actually take place. This is the kind of work that should occur, however, before Congress appropriates $1. This work is essential if we are to restore confidence in the Government.

I hope our commitment to cutting wasteful spending does not end at the end of this session of Congress. We have only just begun to do the job.

Attached is a summary of the projects undertaken by my subcommittee during the 96th Congress.

The summary follows:

SUMMARY

I. THE GENERAL SERVICES ADMINISTRATION (GSA)

Problem.—Charges of abuse, mismanagement, fraud and waste have plagued the General Services Administration for some time.

Investigation.—The Subcommitee requested copies of audits conducted on GSA activities by the agency's own auditors. We looked at the Federal Buildings Service, which constructs and/or leases all federal buildings in the nation; the stockpile of strategic raw materials, consisting of at least $7-billion in such materials; and contracting procedures at the agency.

Hearings.—The subcommittee conducted hearings on the findings of our investigation. The head of the GSA audit unit testified that he and his unit's findings and reports were worse than the actual audits claimed or stated. He also said his audit's findings were ignored by officials at GSA. The subcommittee found that the strategic stockpile was ridden with serious abuse, such as negotiated contracts and a virtual revolving door between the agencies and companies it did business with.

Status.—As a result of our hearings and investigation, GSA added 100 auditors to its Internal Audits section. According to Howard Davia, head of the audits section, each auditor saves the federal government at a minimum of $375,000 to $400,000 a year. Our investigation was a very positive first step. But much more remains to be done. Many of the abuses we uncovered at GSA continue to plague the agency. Constant review and analysis of the agency is absolutely essential.

GENERAL SERVICES ADMINISTRATION—METREX

Problem.—The agency has had a long series of difficulties regarding awarding of large contracts without benefits of competition. The practice is known as sole-sourcing or non-competitive contracting.

GSA has also left a long trail of controversial procurements involving automatic data processing equipment, computers, related software and telecommunications capability. Many such contracts have trailed on for years, involving add-ons totalling many millions of dollars.

Other such contracts have not benefitted agencies as a whole, despite inflation claims to the contrary. Also, contracts like this invariably benefit the Washington area, and pay few dividends to States whose taxpayers foot the bill.

METREX envisioned adding certain minimal capabilities to all Federal phones in the Washington area, some 300,000 in all, that would allow more conference calls and a greater ability to transfer phone calls.

GSA had received an unsolicited proposal from the local telephone company, C & P, that would have allowed that organization to obtain the contract without competition or even adequate advertisement of the availability of the contract. GSA had orally accepted the proposal, and was preparing to award the contract on an interim, five-year basis; an unheard-of situation.

Interim contracts are usually for only a few months to begin with. Second, the contract was for an eventual total of at least $300 million.

What compounded the situation was that this was in fact an interim contract. It was to inevitably be followed by a permanent secondary contract, which was virtually guaranteed to be awarded to C & P. Once the technology was installed for the first contract, it would be prohibitively costly to rip it out by awarding the second contract to another company.

In effect, then, the award of the first contract guaranteed a Federal expenditure of almost $1 billion to the same company, on a non-competitive basis. The successor contract was alleged to be in the neighborhood of $700 million, although it was extraordinarily difficult to get the agency or company to put a specific dollar figure on the agreement.

Investigation.—The Subcommittee found out about the existence of the contract, and ferreted out exactly what it involved, specifics of the contract and players in the game. It found out how far contract negotiations had progressed, who was involved at GSA and the phone company and what terms of the unsolicited proposal were.

As a result, METREX was slated for inclusion in the Subcommittee's GSA hearings, with the Commissioner of Automated Data and Telecommunications Service, Frank Carr, as a witness. Hearings were duly held.

Hearings and results.—After thorough preparation by Subcommittee staff, ADTS Commissioner Carr was subjected to close questioning about need for METREX, its cost, its benefits, and non-competitive aspects of the procurement. His answers were not responsive and were highlighted in the press, embarrassing the agency and calling the entire procurement into question.

The Subcommittee sent a number of letters signed by Max to OMB, House and Senate Appropriations Committees, GSA's Administrator and related people, asking that the procurement be killed. These letters indicated Max's intent to pursue the matter and subject the system to intense scrutiny.

An intent to introduce amendments to delete funds from GSA's appropriations was included in the letters. All these pressures, combined with renewed press attention, had the effect of causing GSA to withdraw and cancel the proposed procurement.

Net saving.—A minimum of $300 million. An eventual saving of at least twice that much because of the impossibility of carrying through with the secondary procurement.

Status today.—Such an inactive procurement can be revived at any time by the agency, should an agreement be struck by the agency and a potential contractor. Renewed vigilance is essential to ensure that a repetition is not sprung upon Congress. It could happen at any time. Knowledge on their part that the Subcommittee is keeping a vigilant eye on the procurement process at GSA is the constant, effective deterrent.

II. THE DEPARTMENT OF EDUCATION—TITLE III PROGRAM

Problem.—Title III of the Higher Education Act of 1965, the Strengthening Developing Institutions Program, was designed to help small, struggling institutions enter the "mainstream" of higher education.

Over $4.5 million has been spent by six Montana schools during the 15-year existence of the program. Over $1 billion has been spent by 800 schools nationwide.

Investigation.—In August, 1979, one Montana school was unable to obtain answers from Office of Education officials concerning their FY 1979 grant that was to begin in September.

Their unanswered questions were basic to the program: How much money were they to receive? When would they receive it? On what could the money be spent?

After checking with other Montana institutions and discovering they were having similar problems with the Office of Education, the subcommittee began a formal review of the entire program.

We reviewed tens of thousands of pages of documents, including two General Accounting Office reports, internal Office of Education audits and O.E. staff technical reviews.

Hearings.—After two days of public hearings at which seven witnesses testified, including Congressman Pat Williams, the subcommittee found and documented arbitrary decision-making, poor management, questionable use of funds and conflicts of interests, all resulting in waste of government funds.

Status.—As a result of our investigation, the subcommittee sent 12 recommendations to the Senate Subcommittee on Education to amend Title III legislation.

Of 12 recommendations six were enacted into law and two were implemented through administrative changes in the Department of Education. These included:

1. Long-range plans are required for each institution applying for funds;
2. Institutions are no longer required to use consulting firms known as "assisting agencies";
3. An objective proposal evaluation process has been established to prevent special consideration being given to institutions based on racial characteristics of student population;
4. Institutions are required to plan for future self-sufficiency once Federal funding has ceased;
5. Priority is given to cooperative arrangements that are geographically and economically sound; and
6. Percentage of funds set aside for two-year institutions was increased.

The two recommendations implemented administratively are:

1. Regular site reviews by Department of Education personnel are now being conducted; and
2. Regular financial audits are being conducted for the first time.

Perhaps the greatest improvemcent has come in administration of Title III. Problems noted by Montana schools in 1979 had substantially disappeared in the FY 1980 funding cycle. Top program personnel have been replaced and new administrators are more committed to the program.

Since it will be another year before new legislative changes are implemented (due to time lag in issuing regulations) further oversight of the program should be limited to contact with state education officials to assure that problems do not reoccur. The General Accounting Office should be asked to do an audit of the program sometime in 1982 or 1983.

III. THE DEPARTMENT OF JUSTICE—LANDS & NATURAL RESOURCES DIVISION

The Subcommittee's first review of a government agency was the Land and Natural Resources Division of the Department of Justice. The "Lands" division is the federal government's litigator in a very broad area including hazardous wastes, pollution control, marine resources, wildlife protection, Indian claims and resources and land acquisition.

In recent years, Congress has vastly expanded the National Park System. However, the number of lawyers needed to do all the attendant legal work has not been increased to meet the increased work load.

Our review concentrated on three areas: land acquisition, hazardous wastes and wildlife protection. A public hearing was held held on April 11, 1979.

Land acquisition

The Lands division handles much of the legal work involved when the federal government acquires lands necessary for public use. This includes initiating and prosecuting condemnation proceedings in the U.S. District Courts.

At the time of our hearing, there was a four-year backlog in federal land purchases. Because of land price inflation, this backlog was costing the federal government at least $40 million a year.

We succeeded in getting an additional 20 personnel slots through the Congressional authorizations and appropriations process. Although it will take five or six years to get caught up on land acquisition cases, millions of dollars already have been saved. The savings will increase each year, reaching and staying at the $40-million mark by 1984.

Each additional attorney working on the backlog of land acquisition cases saves the government many times more than it costs to employ him. Not providing the resources needed for land acquisition cases is just simply being, "penny wise and pound foolish."

The tragedy of Love Canal focused public attention on the fact that hazardous wastes have been indiscriminately dumped for years throughout the United States. At the time of our hearings, the Lands Division had only one attorney working on hazardous wastes disposal cases. No one even knew where the old dump sites were.

As a result of our efforts, the Hazardous Wastes section was created, and eleven attorneys added to its staff.

So far, 53 civil suits have been filed by the Hazardous Waste section. These suits seek to prevent further disposal of toxic wastes at certain sites, to enforce cleanup orders at other sites and/or mandate the monitoring of other sites. Also, we are at last finding out where the sites are.

Wildlife protection

Our investigation found a massive illegal trade in wildlife amounting to tens of millions of dollars each year. As a result of this trade, the domestic poultry industry was suffering hundreds of millions of dollars in damages each year from Newcastle's disease, an exotic disease transmitted by certain imported birds.

Following our investigation, we increased the number of attorneys in this section from one to eight. To date some 200 cases have been filed in the U.S. Major poultry organizations are noticing a significant decrease in Newcastle disease.

IV. THE ENVIRONMENTAL PROTECTION AGENCY—OFFICE OF RADIATION PROGRAMS (ORP)

Problem.—The subcommittee's inquiry focused on reckless awarding of sole-source contracts and abuse of in-house consultants by the Office of Radiation Programs (ORP). The situation at ORP was brought to our attention by a "whistleblower" who wanted to improve the situation.

Dr. David Rosenbaum, deputy assistant administrator for Radiation Programs, was arbitrarily ordering sole-source contracts for firms and universities that were not always the only or best contractor available.

Dr. Rosenbaum authorized hiring consultants and experts who supervised or, for all intents and purposes, replaced permanent EPA employees.

Investigation.—In several cases, these consultants and experts were engaged in a conflict of interest by being paid as employees of contractors and working on specific contracts as researchers while they were paid by EPA for consulting work in the same research areas covered by the contracts.

Basic percentage figures for competitive versus non-competitive contracts at ORP are indicative of the problem. While overall competitive contracts for EPA amounted to 79 percent of total awards, the figure for ORP was only 49 percent. The ORP sole-source contracts proposed or awarded amounted to more than $2 million.

Hearings.—Contract officials from EPA testified at the subcommittee's September 25, 1980, hearing that Dr. Rosenbaum violated EPA procedures in many instances by contacting potential contractors in advance of the procurement process and personally soliciting contract proposals, which he received before the contracts office did.

Environmental scientists at ORP and the Bureau of Mines testified that many of the justifications for sole-source contracts were misleading or false. Contract officials testified they were at the mercy of the program office for the purpose of verifying information contained in justifications.

Dr. Rosenbaum testified he had problems with resources and caliber of ORP staff. Therefore, he testified, he needed to hire consultants and experts to buttress regular staff. This practice violates the intent of a Presidential directive which prohibits the hiring of consultants to buttress an understaffed program office.

Examples of specific abuses uncovered by the subcommittee include the following:

When an ORP employee prepared a scope of work for a contract to assist in preparation of public hearings on a uranium mill tailings program, he listed several contractors who could perform the work.

But when his material was submitted to Dr. Rosenbaum's office, it was rejected, and the employee was ordered to copy verbatim an earlier sole-source contract for the Scientists Institute for Public Information.

ORP proposed a $285,000 sole-source contract for Cal Tech to study field monitoring techniques for radon. Dr. Thomas Tombrello of Cal Tech was to be a principal investigator (research) on this contract, but was not to be paid under the contract, which would have paid other investigators on the contract far less than $10,000 each.

Instead, Dr. Tombrello was to be hired as an expert at EPA, and would have been paid $192.72 per day, which would have amounted to $25,053.60 for the 130-day period for which experts are hired. Simultaneously, Dr. Tombrello would have been paid by Cal Tech, clearly an apparent conflict of interest, at least. The subcommittee determined other sources were available to perform the contract.

When the contracts office at EPA learned of this, they cancelled the contract award pending further review, so at least $285,000 was saved by the subcommittee's inquiry.

Contracts for analyzing radon experiments and techniques were awarded by ORP to the Universities of Texas and Wisconsin. Upon examination of justifications for these sole-source contracts, the subcommittee discovered they were virtually identical.

The work to be perfromed could probably been done by one contractor for half the price of the total of both contracts, which amounted to $110,000.

Dr. Rosenbaum proposed a $164,000 contract for the American Statistical Association to establish a program of visiting fellows at ORP. The subcommittee found other sources could have performed this sole-source contract. Furthermore, the proposal for the contract was written by Donald Rubin for the Association.

Rubin is a senior editor at the Association, but is also a full-time consultant at EPA, another apparent conflict of interest.

Status.—As a result of our inquiry at ORP, EPA's Inspector General began a separate investigation. It is nearly complete. A hard-hitting report should be forthcoming.

There is evidence that abuse of Federal contract and consulting regulations is not limited to ORP, and is extensive. I have requested a GAO investigation of every office at EPA and their contracting and consulting procedures. GAO staff tells the subcommittee they have discovered agency-wide procedures requiring correction, and will detail abuses in an impending report to be finished by July, 1981.

V. THE SMALL BUSINESS ADMINISTRATION—SECTION 8(a) PROGRAM

Problem.—The Small Business Administration's 8(a) Program is an example of good government intentions gone bad. The program, authorized by Section 8(a) of the 1953 Small Business Act, is designed to assist minority small business owners by providing Federal contracts from every agency. It is a mammoth program.

Since the program's inception in 1968, 4,353 firms have been certified as 8(a) contractors. More than 24,000 contracts have been awarded under the program at a cost to taxpayers of nearly $7 billion.

Despite this staggering amount of Federal dollars, only 174 firms have graduated or completed program requirements in the past 12 years. The FY 81 budget for the 8(a) Program is $6.2 million.

Investigation.—In September, 1979, the SBA Inspector General released a comprehensive review of 1,505 firms in the 8(a) Program. Of firms reviewed, 526—36 percent—were found to have serious deficiencies ranging from eligibility problems to criminal fraud.

Twenty-one percent of such firms were headed by individuals who did not have management control of companies, or owners who were not socially and economically disadvantaged, a requirement for program entry.

More than a year has passed since the report was released. As of the September 25, 1980, subcommittee hearing on the 8(a) Program, no problem firms at all had been terminated from the program. In addition, the subcommittee found several millionaires were receiving 8(a) assistance.

Subcommittee staff examined all 526 problem firms, the first time they received such scrutiny outside SBA. Examples of firms investigated include:

The owners of Information Planning Associates of Gaithersburg, Maryland, drained the company by increasing salaries while it was losing money. Its net worth decreased from a positive $32,285 in 1974, to a debit of $108,515 by the end of 1978. Yet, total company officers' salaries increased from $41,124 in 1975 to $164,571 in 1977. During this same period, the principal owner increased his salary from $25,000 to $73,900, and increased his personal assets from $153,350 to more than $1.1 million.

The owner of the Maddox and Stabler Construction Company of Los Angeles had a net worth of $3.4 million and annual income of $286,295 while participating in the 8(a) Program. The Inspector General suggested this firm be removed from the program, but SBA management balked.

In the case of Multi-Mac Service Corporation, a janitorial firm based in Hampton, Virginia, an uneducated black janitor was used by a white businessman as a front to obtain 8(a) assistance.

When the innocent black owner discovered the white businessman was stealing funds from the 8(a) firm, he turned him in to SBA. The agency subsequently terminated the firm. But when the honest black merchant tried to reapply for 8(a) assistance, he was turned down.

Although SBA requires 8(a) firms to seek non-8(a) contracts and not rely on Federal support, Systems and Applied Sciences of Riverdale, Maryland has performed only $18,233 in non-8(a) work, compared to more than $6.2 million in 8(a) contracts. Yet, SBA refuses to terminate this company.

Status.—We have seen no indications that the SBA intends to promptly remove underserving firms from the 8(a) Program. However, with a strong Inspector General in place at SBA, and through constant Congressional oversight, firms which enter the program in the future will be more thoroughly scrutinized. Without such oversight, the SBA 8(a) Program will continue its record of patronage, waste, corruption, and incompetence.

VI. THE DEPARTMENT OF DEFENSE—MILITARY SALES TRUST FUNDS

Problem.—When the Iranian revolutionary regime unilaterally abrogated at least $9 billion in pre-agreed U.S. military sales contracts, the U.S. government was stuck with a series of contracts between pre-Revolutionary Iran and a variety of individual, private military contractors.

While frantic efforts were made by our government to make our allies and various branches of our armed services absorb obligations to procure many weapons in question, debate centered about what would happen in the case of contracts that could not be laid off to allies or our armed services.

The subcommittee asked could contractors here at home go to court and enforce such contracts against the U.S. government and Treasury, declaring they were ready to deliver goods and had to be paid; if not by Iran then by the U.S. taxpayer.

Investigation.—With tips on this situation coming from many sources, it was discovered by the subcommittee that no one in Congress had the desire to pursue the inquiry to determine eventual liability. We went to GAO, which was willing to undertake the task.

A report was prepared over a one-year period. As soon as the subcommittee discovered that the Iranian arms purchase trust fund posed such a problem, we began looking into the next largest trust fund, which turned out to be the Saudi Arabian Trust Fund. A similar request was made for an audit of that fund by GAO for the same reasons.

Results.—GAO discovered first that in the case of the Iranian Trust Fund, there was definite vulnerability of the U.S. Government to lawsuits by private companies who had entered into arms purchase agreements with Iran, and who were victims of unilateral cancellation by the revolutionary regime.

They found that in the specific situations experienced at the time, it was quite conceivable that lawsuits would be brought by companies whose contracts had not only been cancelled, but which could not have them picked up by our allies or U.S. armed services.

In those cases, GAO found, contractors could probably go to court and obtain judgments against the U.S. Treasury. Liabilities, although no definitive figures could be computed, might amount to billions of dollars.

This had enormous potential ramifications for the U.S. in the case of Saudi Arabia, since claims by contractors involved with that country were substantial, mounting up into the billions. In light of predictions that Saudi Arabia was in danger of following Iran into some form of revolutionary upheaval, potential hazards for the public purse were obvious, especially in light of the fact that the Iranian situation showed that not enough money was on deposit to cover unilateral cancellation of contracts. The Pentagon, both in the Iranian and Saudi situations, had not and was not requiring deposit of adequate funds to cover such an eventuality. GAO urgently recommended that action be taken immediately to require adequate deposits and that the Pentagon take action to position us properly so that vulnerability was reduced.

Net saving.—If the proper actions are indeed taken, the saving to the Treasury in terms of reduced liability is in the neighborhood of $3-7 billion.

VII. FEDERAL ADVERTISING AND PUBLIC RELATIONS

Problem.—Steady growth of Federal advertising and public relations programs.

Investigation.—226 letters were mailed to Federal entities requesting data on expenditures for advertising, public relations and public information activities, for fiscal years 1978, 1979 and 1980.

Also sought was a breakdown of which media used—television, radio or print—and whether these activities were done internally or contracted outside.

From obtainable figures, the Federal government spent at least $132,272,800 in FY 1978 for public relations, public information and related activities; at least $167,311,275 for such activities in FY 1979; and as of May 30, 1980, spent at least $148,451,124 for FY 1980, for the same activities.

One group of agencies had already spent more as of May 30, 1980, three-fourths of FY 1980, on these products and services than that same group of agencies spent in each of the last two fiscal years for the same products and services.

Examples of products from all agencies were obtained and reviewed. Some include examples:

1. "Cities are for Living"; (DOT).
2. "Common Sense in Buying a Used Car"; (DOT).
3. "On the Run", a 28-page glossy allegedly designed to help runaway youth in transportation centers; (DOT).
4. "Transportation U.S.A.", with a picture of a lobster and an article entitled, "When Lobsters Travel, They Go By Air"; (DOT).
5. "Interoffice Safety Memo to the Entire Staff", a colorful brochure that notes 12 steps to office safety: "Walk, don't run"; On stairs, don't run, walk."; (HUD).
6. "International Bulletin", with an article entitled, "How to Get an Apartment in Poland,"; (HUD).
7. National Oceanic and Atmospheric Administration produces many movies and films. Two are: "Clam and Oyster Sam," an educational musical comedy designed for general audiences . . . with toetapping tunes such as "Everybody Gotta Love an Oyster, Nobody Doesn't like a Clam."; (Commerce).
8. Another example produced by NOAA was a Seafare recipe brochure, with many recipes for seafood.

Results.—An amendment to reduce advertising, public relations and public information budgets by ten percent (an across-the-board cut has been attached to the State, Commerce and Department of Justice appropriations bill, Transportation appropriations bill and to HUD's appropriations bill). The amendment was lost in conference for State, Commerce and DOJ, but was kept with the other two.

Status.—As remaining appropriations come up on the Senate floor, this amendment will be offered. Future work includes reviewing newsletters, magazines and newspapers that agencies mail to what they view as their constituencies. ●

U.S. POLICIES TOWARD CENTRAL AMERICA

● Mr. KENNEDY. Mr. President, I wish to share with my colleagues a thoughtful article by Abraham Lowenthal, Secretary of the Latin American program of the Smithsonian Institution's Woodrow Wilson International Center for Scholars now on leave at the Brookings Institution, on future U.S. policies toward Central America.

Dr. Lowenthal argues for a much less intrusive U.S. policy in better accordance with both our interests and our constraints in the region. I would differ somewhat with such a policy, believing—consistent with this article—that we should halt military aid to repressive regimes such as El Salvador while also believing—possibly less consistent with this article—that the United States and like-minded states should continue to press for human rights and democracy throughout Central America and the hemisphere. But I have no doubt that Dr. Lowenthal's article merits serious attention, and I request that it appear at this point in the Record.

The article follows:

[From the Los Angeles Times, Nov. 28, 1980]

Mr. Reagan, Meet Central America: Its Turmoil Is a Big Problem, and We'd Best Pull Back

(By Abraham F. Lowenthal)

One of the first foreign-policy problems that the Reagan administration will face is what to do about Central America's turmoil: whom to support, how, to what extent, why.

It is widely assumed, in Washington and in Central America, that Ronald Reagan will significantly alter the U.S. government's approach to the region. Whereas the Carter Administration sought to accommodate the revolutionary government in Nicaragua, Reagan, many observers believe, will cut off U.S. aid and perhaps even try to "destabilize" it. Whereas President Carter tried to help moderates achieve reforms, Reagan, it is said, desires to work more closely with conservatives, even if they are uncommitted to reforms. Whereas Carter promoted human rights in the region, even at the expense of the local military and police, Reagan, it is thought, will expand U.S. aid for security forces, even if the number of human-rights violations multiplies.

Reagan has every right, of course, to change U.S. policy on this, as on other issues. It is also true that the need for a new approach to Central America has become increasingly obvious. The Carter Administration's strategy of looking for moderate allies in El Salvador and Guatemala has not succeeded.

During the recent presidential campaign, Reagan and the other candidates disagreed sharply about Central America. But, despite their differences, the candidates seemed to agree on a great deal.

All asserted that much is at stake for the United States in Central America, that democracy is desirable and possible, that the United States has considerable influence and should seek to be more active in the region.

These assumptions should be challenged.

What does the United States have at stake in Central America beyond its own sense of hegemony lost, of its own machismo challenged?

None of the countries of the region are major participants in the international economy or in international politics. American commercial and financial interests in the region are meager. No significant resources come from Central America to the United States. Unlike Mexico and the Caribbean, Central America is not very closely related to the domestic U.S. community through migration. The climate for the expression of core U.S. values has never been seriously affected by their persistent absence in Central America. Nor can Central America be said to pose significant and tangible security threats to the United States. The increasingly fashionable notion that radicalism in Central America would threaten Mexico's stability, and hence endanger the United States, is without basis. It depends on what lawyers call "a parade of imaginary horribles." It grossly underestimates Mexico's own resources.

Is there any reason to believe that Washington could successfully cultivate democracy in Central America?

None of these countries (except Costa Rica and perhaps Honduras) have any established tradition of democratic politics. El Salvador and Guatemala are now wracked by deepening civil strife and polarization. It is hard to imagine the current cycle of violence and repression there giving way soon to anything but authoritarian rule of one kind or another.

Does the United States have much capacity positively to shape unfolding events in Central America?

The dramatic denouement in Nicaragua in 1979, when U.S. officials tried vainly to arrange for a peaceful transition from the Somoza dynasty, suggests that the answer is no. Without sending in the Marines, Washington today has little control over Central America. If the Marines were landed, we might well face a new Vietnam close to home, as Mexico's President Jose Lopez Portillo has warned.

Concrete U.S. interests in Central America are scant, announced U.S. objectives there are largely unachievable, and U.S. influence is limited. The most effective way to advance U.S. aims might be not to step up assistance to a different set of actors, but rather to step back from the region. The best policy in Central America might be the least intrusive one.

The worst outcome in Central America would be the consolidation there of deeply anti-American regimes, allied with the enemies of the United States. This result could be made more likely if the U.S. presence there were to increase.

A less obtrusive U.S. policy, however, might well have the effect that U.S. policy had in Jamaica, where a temporary turn toward socialism has been reversed. International economic realities virtually assure that all the countries of the Caribbean basin will remain in the U.S. orbit, unless we help force them out.

Some will undoubtedly urge Reagan to reject such a course. Just as Carter used Central and South America as a place to show this country's zeal for human rights, some will want Reagan to demonstrate America's strength and resolve in the Western Hemisphere.

But the President-elect has a historic opportunity to clarify U.S. aims in Central America. He can emphasize, as part of a general approach to the international situation, that the basic U.S. interest in Central America is not to control local politics but rather to keep the Soviet Union or Cuba from doing so. Mexico and Venezuela share this objective, too.

By focusing squarely on curbing international involvement in Central America's civil strife, rather than letting America's energies be drained away there, Reagan has a chance to establish his stature in the field of foreign affairs, and could help our country avoid renewed tragedy.●

S. 3030, THE COMMUTER TRANSPORTATION ENERGY EFFICIENCY ACT

● Mr. DURENBERGER. Mr. President, on August 5 I joined with Senators Percy, Bentsen, Hayakawa, Baucus, Pell, Tsongas, and Hatfield to introduce S. 3030, the Commuter Transportation Energy Efficiency Act of 1980. Since that date Senator Heflin has joined as a cosponsor and Congressman Mark Andrews of North Dakota has introduced a companion bill, H.R. 8315, in the House of Representatives.

As the 96th Congress winds down it is apparent that S. 3030 will not be the subject of legislative consideration in these closing days. But I do intend to reintroduce this bill in the first days of the 97th Congress and have reason to be confident that this legislation will be taken up actively at an early date by the new Congress. My confidence is based on an outpouring of support for S. 3030 from ridesharing and transit organizations across the Nation. My purpose in speaking today is to share with my colleagues some of the many comments and endorsements that have been received.

At a time when Government is considering a vast array of expensive and complicated new programs like synthetic fuels, rationing, gasoline taxes, and high mpg cars, I think it is important that we look closely at ridesharing and transit and understand the role that efficient use of the existing vehicle fleet and conventional fuels can play in resolving our energy crisis. The Commuter Transportation Energy Efficiency Act provides the Nation an opportunity to choose the most energy efficient and least costly solution to our petroleum problem. S. 3030 has five titles each of which amend the Internal Revenue Code to provide new, voluntary incentives for ridesharing.

Title I provides a tax incentive to the individual who buys a van and uses it as a vanpool for the trip to work. The investment credit of title I is similar to those now available for the purchase of insulation or storm windows. Under the provisions of S. 3030, any individual who purchased a van and used it for ridesharing over a 3-year period would be eligible for a 15-percent tax credit based on the cost of the van.

Title II is designed to remove some of the ambiguity in current law regarding employer-sponsored programs that encourage ridesharing and mass transit utilization by employees. This bill would provide that any ridesharing transportation service or subsidy of mass transit offered by an employer to an employee would be excluded from the taxable income of the employee. If the employer provides bus passes or transportation to work in a vanpool, the cost to the employer would not be considered compensation to the employee for tax purposes. Any administrative cost borne by the employer for ridesharing provides that a driver in a ridesharing vehicle who collects fees from his or her riders is not required to report the fees as taxable income.

Title III amends current law to increase tax incentive for businesses purchasing or leasing vans for use in employee ridesharing programs. It adds vanpool vehicles to the list of energy properties qualifying for the business energy tax credit and sets the energy percentage at 10 percent. This would bring the total investment credits for the purchase of vanpool vehicles to 20 percent.

Title IV provides a business tax credit for a series of costs that business might incur as administrative overhead for an organized employee ridesharing program. These costs include assigning personnel to manage the program, adjusting working hours to facilitate ridesharing, computer matching of potential riders and drivers, surveying the commuter transportation habits and needs of the employees, distributing information on ridesharing opportunities, contracting for assistance in managing a ridesharing program, providing liability insurance for ridesharing vehicles and maintaining emergency vehicles for use of employees who commute in ridesharing vehicles to work.

Finally, title V of this bill restores the gasoline tax deduction against Federal taxable income for taxes paid on gasoline and motor fuels used in ridesharing vehicles. Ridesharing vehicles are defined in this title to include carpools operating at least 176 days per year and carrying an average of three persons. Gasoline taxes eligible for the deduction are State and Federal excise taxes, State sales taxes, and any import fees or other administrative or legislative fees designed and imposed to increase the price of gasoline.

Because ridesharing has such promise for energy conservation and for reducing the cost of the worktrip, I believe that it will be an important part of the future solution to our energy crisis. It will happen whether Government takes action to encourage it or not. In fact, thousands of vanpools and carpools are operating across the Nation today. And millions use mass transit to get to and from work. Much of this ridesharing is sponsored or subsidized by companies who provide administrative and/or financial support so that their employees can save money and energy getting to work.

But the Nation remains dangerously dependent on oil imports. And despite the trend toward transit and ridesharing, two-thirds of all Americans still make the worktrip in single occupant automobiles. I introduced S. 3030 because I believe that these incentives will give a significant boost to the ridesharing movement. And I am glad to say that many who are expert on these questions agree.

I have received many letters from individuals and organizations who are knowledgeable in commuter transportation, who have experience with ridesharing and transit and who see in S. 3030 an opportunity to significantly decrease our petroleum dependence and at the same time save the commuter money.

One of the significant contributions to the ridesharing movement in the past year has been the work of the National Task Force on Ridesharing. This group of 18 distinguished Americans appointed by the President and working with Secretary Goldschmidt at the Department of Transportation made its report in October. The report which is entitled "Ridesharing: Meeting the Challenges of the 80's," makes several recommendations to the Congress, the Federal agencies and to State and local governments.

The National Ridesharing Task Force was chaired by the Honorable Tom Bradley, Mayor of Los Angeles, and among its members were T. F. Bradshaw, president of Atlantic Richfield Co.; Thomas W. Bradshaw, Jr., the North Carolina Department of Transportation; Ray M. Coughlin, Southern New England Telephone Co.; Jack Derby, California Department of Transportation; Richard H. Erickson, Hallmark Cards; the Honorable Ella T. Grasso, Governor of Connecticut; Ray Herzog, chairman of the board of the 3M Co.; Robert D. Kilpatrick, president of Connecticut General Life Insurance Co.; Jim Lowe, IBM; Dale W. Luehring, Golden Gate Bridge Highway and Transportation District; John Mahony, Smithkline Corp.; the Honorable Louis Nickinello, State Representative from Boston, Mass.; Clarence Shallbetter, president of Ridesharing, Inc.; David J. Sherwood, president of Prudential Insurance Co. of America; Richard Sommerville, Texas Medical Center; Stan Stokey, Tennessee Valley Authority; and the Honorable Jeanette Williams, councilwoman of Seattle, Wash.

Mr. President, this task force provided a significant public service by pooling their talents and experience in an intensive 1-year study of ridesharing. Their recommendations cover a broad range of topics and should be most helpful to the Congress in the coming year. There is one area that I would like to bring to the specific attention of the Senate, today. One chapter of the report covers public incentives for ridesharing and offers the following recommendations:

1. Provide tax credits to private employers equal to the amount spent by the employer or a maximum per employee (whichever is less) to offset the cost of administering a ridesharing program.

2. Exempt ridesharing incentives provided by employers to employees from taxable employee income. Examples of these incentives include vanpool driver incentives, carpool, vanpool, and buspool financial and parking incentives, and transit ticket discounts.

3. Increase the tax credit to 20 percent for corporations that purchase or lease vehicles for commuter vanpooling or buspooling. Where the vans or buses are leased by the firm or individuals, the tax credit must be passed on to the leasee. There should be no further condition attending the qualification for credit.

4. Establish a tax credit for individuals who purchase or lease vehicles for commuter vanpooling. When the vans are leased, the tax credit must be passed on to the leasee.

Mr. President, I am pleased to say that these recommendations are parallel to those made in the several titles of S. 3030. By passing this legislation, Congress could substantially implement the incentive recommendations of the President's task force.

Another group knowledgeable on the subject of energy conservation and dedicated to our efforts at energy independence made the following comment on S. 3030.

> We strongly support the bill you are introducing. This legislation is an effective first step in encouraging private firms to expand ridesharing—the quickest, least costly means for reducing oil consumption. The potential for this resource is enormous. The Alliance has done studies that show . . . the vanpooling market could yield 850,000 more (vehicles). 850,000 vanpools would save 450,000 barrels of oil per day.

This statement was made in a letter from the Alliance to Save Energy, a nonprofit, nonpartisan group chaired by Senator PERCY and Senator CRANSTON which includes many distinguished Americans from the private and public sectors on its board of directors.

I am also pleased to inform my colleagues that this bill has been officially endorsed by the National Association of Van Pool Operators which has business and individual members in almost every State.

Mr. President, as is the custom I have referred this legislation to the various departments of the Federal Government concerned with these issues for their review and study. Although I have had no official reply as yet, I do have indications that the review is going favorably. Recently the GAO made a report to the Congress entitled "Increasing Commuting by Transit and Ridesharing." This report is a thorough review of the issues and should prove helpful in our future deliberations. I was pleased to note in the official Department of Energy comment on this report the following paragraph:

> We feel that employer sponsored ridesharing programs represent the only approach which has been able to double and maintain ridesharing activity. However, many employers are reluctant to promote and assist ridesharing by their employees. Apparently much of this reluctance is due to the fact that a ridesharing program is a "non-revenue producing overhead expense." We believe a tax credit for employers who sponsor ridesharing programs as proposed in a recent bill introduced by Senator Durenberger and others . . . may provide a solution to this problem.

For the record, I would like to note that GAO agreed with the spirit of the DOE recommendation in the text of their report with the following language:

> We believe the specific actions DOE has suggested would contribute to bringing about the changes in human behavior that are necessary to achieve a large shift to ridesharing, namely:
>
> Creating incentives for employers to establish ridesharing programs,
>
> Providing tax incentives for all forms of vanpooling, and
>
> Further, we agree with DOT and DOE views about the critical role of employer sponsorship of ridesharing programs, to the advancement of ridesharing.

Mr. President, I am pleased to say that support for S. 3030 is also coming from the private sector—from companies and individuals who have direct experience in employer-sponsored ride-sharing programs. Particularly useful are the comments of the 3M Co. which pioneered the employer-organized vanpool. The following is taken from a letter by Carlos Luis, vice president at 3M:

> We at 3M strongly support your new ridesharing bill, S. 3030. It is a unique and innovative approach to energy conservation in transportation . . . We know from first-hand experience just how much energy can be saved by ridesharing. The 3M Vanpooling program has saved the equivalent of 1.1 million gallons of gasoline and 13.7 million vehicle miles during the last seven years, while eliminating 60 tons of air-exhaust pollutants that otherwise would have been emitted.

Another Minnesota corporation, the St. Paul Co., has recently initiated a significant step in ride sharing with the creation of a subsidiary company to provide third-party ride-sharing management services. Carl Drake, Jr., chairman of the board of the St. Paul Co., offered these comments on S. 3030:

> The tax credit you propose will give the private sector the incentive needed to begin this effort. The credits rely on employers and individuals taking the initiative in devising and marketing these services, and to finding solutions to obstacles that vary from one employment location to another. The credits will encourage firms and individuals to take some risks and address these matters today rather than waiting until limited gasoline supplies or prices get them to act. Employers will find in taking these steps that they have a basic emergency energy plan already in place and operating which they can simply expand if gasoline supplies are limited. In the meantime, they can free up space from employee parking and provide a service that increases employee income for other purposes.

In many areas of the Nation van manufacturers and fleet leasing companies are now making vans available for lease for van pooling purposes. One such company is Van Pool Services, a subsidiary of Chrysler Corp., Thomas McDonald, president of Van Pool Services, offered the following comments on S. 3030:

> We recognize van pooling as making one of the greatest contributions to conserve the nation's petroleum products over all other forms of commuter transportation. The incentives outlined in your bill will encourage others to participate. We strongly support Senate Bill S. 3030 and look forward to its early adoption.

In other letters, C. E. Hill of Texas Eastern Transmission Corp., said:

> Texas Eastern's Ride Share Program now involves 1,188 Houston office employees (66%). These programs represent considerable expense to the Company, but are a necessary part of the modern, energy conscious, socially aware business . . . Increased employer sponsorship of ridesharing will produce immediate energy savings and contribute to the long term energy awareness among all employees.

M. R. Seipler, general manager of the Union Railroad Co., East Pittsburgh, Pa., noted the importance of these credits to companies which did not already have ridesharing programs:

> Our company is seriously considering car and/or vanpooling incident to a proposed major new work facility not served by existing public transit routes and S. 3030 would be most helpful to us in justifying the provision of some form of pooling for the many employees involved. We feel that thousands of businesses, nationwide, would find S. 3030 an incentive to investigate the merits of ridesharing which should go a long way toward helping the Nation solve its energy problems.

Mr. President, I have several additional letters that outline the importance of ridesharing to energy conservation, commuter cost savings, air quality control, the employers ability to recruit workers and the employees ability to get the best work available, particularly in rural areas of the Nation. I ask that these letters be printed in the RECORD with my comments.

The material follows:

OFFICE OF THE GOVERNOR,
Salem, Oreg., September 18, 1980.

Hon. DAVID DURENBERGER,
Russell Senate Office Building,
Washington, D.C.

I would like to lend my support for the concepts contained in your Commuter Transportation Energy Efficiency Act. The provisions of S. 3030 will go a long way toward encouraging companies and individuals to participate in ridesharing activities.

I will be proposing to the Oregon Legislature a ridesharing package as part of my special energy program. This package will include some state-level incentives. S. 3030 will provide on a national scale the types of incentives that will help ridesharing become an effective tool in meeting our energy self-sufficiency objectives.

Sincerely,

VICTOR ATIYEH,
Governor.

SEPTEMBER 26, 1980.

Hon. DAVID DURENBERGER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR DURENBERGER: We at 3M strongly support your new ridesharing bill, S. 3030. It is a unique and innovative approach to energy conservation in transportation; and one that we believe will go a long way in helping to solve our nation's current and future energy problems.

We know from first-hand experience just how much energy can be saved by ridesharing. The 3M vanpooling program, for example, has saved the equivalent of 1.1 million gallons of gasoline and 13.7 million vehicle miles during the last seven years, while eliminating 60 tons of air-exhaust pollutants that otherwise would have been emitted. At the same time, the program has reduced employee transportation costs. Results similar to these are also being realized in 3M's other company-sponsored transportation programs, especially in our carpooling and mass-transit programs.

3M's experience in this ridesharing field is not unique. We are just one of many companies that has benefited from ridesharing. Unfortunately, however, more companies still need to become involved. As the Alliance to Save Energy points out, there are only about 8,000 vanpools in the U.S. today; 850,000 vanpools could be added, with a savings of 450,000 barrels of oil per day. And, the need for company-sponsored carpool programs is equally great.

Your ridesharing bill will help business to meet these needs. The bill's provision for a business energy investment credit will give many companies the kind of incentive they need to start new vanpool programs or expand existing ones. The employers tax credit for administrative costs incurred in running a program will eliminate much of the administrative overhead which now prevents many companies—especially smaller ones—from getting involved in ridesharing. And, of course, employees should be able to take advantage of vanpooling, carpooling and mass-transit programs without being taxed because of their participation.

Taken together, these kinds of changes in our tax laws will do a great deal to promote ridesharing across the United States. These changes will help make ridesharing an important part of our national energy program.

Sincerely,

CARLOS W. LUIS.

OFFICE OF THE
SECRETARY OF TRANSPORTATION,
Washington, D.C., June 27, 1980.

Hon. DAVID DURENBERGER,
U.S. Senator, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR DURENBERGER: Last year, President Carter established a National Task Force on Ridesharing comprised of major public and private sector leaders committed to implementing ridesharing programs throughout the Country. At the President's request, I have been privileged to serve as Chairperson of the Task Force.

Recently, the Task Force has had the opportunity to review your proposed legislation, S. 2610 and S. 2611. The Task Force strongly supports your efforts to increase the investment tax credit to 20 percent. The Task Force also supports your efforts to exclude from gross income assistance received by employees for commuter transportation by various ridesharing alternatives. To encourage all forms of ridesharing, the Task Force would urge that you expand your definition of "Qualified Transportation" to include all ridesharing modes, including carpools, vanpools, public or private commuter buses, taxipools, jitneys or public transit. This definition will insure that assistance for all forms of ridesharing can be excluded from income.

The Task Force is currently completing its Interim Report and is finalizing a series of legislative recommendations. We look forward to an opportunity to discuss these additional recommendations with you in the near future.

You have our deep appreciation and support for your continued interest in ridesharing. Please feel free to call on me or any member of the Task Force if we can be of assistance in your efforts.

Sincerely,

TOM BRADLEY,
Mayor of Los Angeles.

NATIONAL ASSOCIATION OF VAN POOL,
Knoxville, Tenn.

Senator DAVID DURENBERGER,
Washington, D.C.

DEAR SENATOR DURENBERGER: On behalf of the Board of Directors in the 394 current members of the National Association of Van Pool Operators I wish to express our appreciation to you and your colleagues for introducing S. 3030 the NAVPO Board unanimously endorse the legislation and your efforts in support of ride sharing in general and van pooling in particular at their quarterly board meeting, October 10–11, other strong endorsements have been voiced by individuals in regional chapters we anticipate many of our members will individually express their endorsement to their local Senators and Representatives and request their support for passage.

Thank you again for your understanding of the problems of ride sharing and your efforts to alleviate them we sincerely believe that passage of this legislation will stimulate and encourage additional growth in shared modes of commuter transportation and is in the best national interest as part of the struggle for energy independence.

Respectfully,

ED MARKS,
Executive Director NAVPO.

CHRYSLER CORP.,
October 28, 1980.

U.S. Senator DAVE DURENBURGER,
U.S. Senate,
Committee on Government Affairs,
Washington, D.C.

DEAR SENATOR DURENBURGER: Thank you for your letter to Mr. Iacocca concerning Senate Bill S. 3030.

We at Chrysler Corporation appreciate and support the Commuter Transportation Energy Efficiency Act of 1980. The legislation which you introduced in the Senate will provide the incentives to obtain our Nation's wholehearted support for the ridesharing program. You are to be highly commended for your efforts.

Chrysler Corporation is actively promoting ridesharing programs throughout our plants by encouraging employees to car pool and van pool. At present, we have 170 vehicles in our employee van pool fleet.

Chrysler's subsidiary, Van Pool Services, Inc., is providing third-party van pooling in the states of Minnesota, California, Colorado, Michigan, Connecticut, Pennsylvania and Washington, D.C.

We recognize van pooling as making one of the greatest contributions to conserve our Nation's petroleum products over all other forms of commuter transportation. The incentives outlined in your bill will encourage others to participate.

We strongly support Senate Bill S. 3030 and look forward to its early adoption.

Sincerely,

THOMAS J. MCDONALD,
President, Van Pool Services, Inc.

MINNESOTA
DEPARTMENT OF TRANSPORTATION,
St. Paul, Minn., September 18, 1980.

Senator DAVE DURENBURGER,
Room 174, Federal Building,
Minneapolis, Minn.

DEAR SENATOR DURENBURGER: As Governor Quie's Ridesharing Coordinator for Minnesota, I want to take this opportunity to thank you for your efforts to enhance the desirability of sharing rides. I am convinced that increased carpooling and vanpooling offers an economical yet effective means to reduce gas consumption and adverse effects of high gas prices. I specifically want to endorse the passage of the Commuter Transportation Energy Efficiency Act of 1980 (S. 3030). Your recommended legislation addresses the problems we have identified as being barriers to effective rideshare programming.

The attached comments on specific elements of S. 3030 may be useful in hearings on the bill. Please let me know if I or my staff can be of assistance in securing passage of this legislation.

Sincerely,

RICHARD P. BRAUN,
Commissioner.

METROPOLITAN TRANSIT COMMISSION,
St. Paul, Minn., November 20, 1980.

Hon. DAVID DURENBERGER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR DURENBURGER: The Metropolitan Transit Commission (MTC) strongly supports your recently introduced Commuter Transportation Energy Efficiency Act of 1980 (S. 3030). This legislation will provide important incentives for employers to develop and encourage new and continued ride-sharing efforts.

In particular, we offer the following comments:

"The provision to give tax credits to employers who provide rideshare programs and services is especially important. As evidenced through the MTC's ridesharing experience, the commitment from top management directly increases the level of ridesharing of its employees. We hope that this particular provision will encourage more firms, who either have their own programs or utilize various services of a public program like that offered by the MTC, to increase their support for ridesharing.

"We would like to ask if it is your intention to have this tax credit apply to a variety of transit modes. As you may know, several Twin Cities firms have provided monthly bus pass discounts to their employees through payroll deduction, an action that seems consistent with other ridesharing incentives included in your bill. We urge you to extend this tax credit provision to employers for their efforts in encouraging employees to use regular route transit, subscription bus service and buspools.

"The proposal to increase the 10 percent investment tax credit on vans used for vanpooling to 20 percent, liberalizing the restrictions on personnel use, and allowing this credit for third party vendors who purchase or lease vans are also very important provisions of this proposed legislation. As you know, the MTC, the Minnesota Department of Transportation and other public rideshare programs often contract with a third party vanpool provider. The tax credit provisions included in the legislation would be an incentive for both existing and new vanpoolers since this credit would tend to lower fares."

We commend you for providing the leadership in Congress to enhance the climate for ridesharing on the national level. Minnesota has been a leader in ridesharing for the past seven years and your proposed bill is representative of that leadership.

If we can be of any assistance to you, please let us know.

Sincerely,

CAMILLE D. ANDRE,
Chief Administrator.

MINNESOTA CHAPTER OF NAVPO,
November 18, 1980.

Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: The members of the Minnesota Chapter of the National Association of Van Pool Operators endorse your bill—S. 3030—The Commuter Transportation Energy Efficiency Act of 1980.

The Minnesota Chapter represents 21 organizations that provide vanpool services to 4,150 employees. We organized as a group last year to promote vanpooling and other forms of ridesharing, to exchange information on mutual interests in vanpooling challenges and techniques for delivering the most energy efficient commuter service.

Your proposed legislation can significantly encourage other employers and individuals to provide this important service. We believe the tax incentives for employers to provide ridesharing services and for purchase or lease of vans by firms and individuals is a move in the right direction. Another provision that eliminates the incentives for ridesharing from personal taxable income will remove a significant cloud that dampens activity.

If we can be of assistance in your efforts on this bill, please let us know.

Sincerely,

HAROLD J. SCHUEBEL,
Chairman.

OCTOBER 21, 1980.

Hon. DAVE DURENBERGER,
U.S. Senator, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR SENATOR DURENBERGER: The Virginia Van Pool Association is a non-profit organization for Virginia Van Pool owners and operators. Since its beginning in March 1979, our register of Northern Virginia Vans has grown to over 250 with new ones beginning at about a dozen per month.

The efforts of the VVPA have been directed toward all aspects of Van Pooling, including financing, operations, insurance, ride matching, standard rules, legislative efforts and fuels. We are the largest organized group of independent (owner/operator) van pools in the United States. Recently VVPA was chosen to receive a Presidential Energy Efficiency Award. It will be presented in San Francisco on October 23rd.

Members of the VVPA have been working closely with local, state and federal officials to provide assistance and insight into the successful operation of owner/operator van pools. The consensus of the membership support your concepts included in S. 3030 that you so kindly provided. There were some reservations however, to the inclusion of small (less than eight) commuter vehicles under the program.

The VVPA would be more than happy to provide any additional information regarding our operations or members would be available for public testimony regarding van pools.

Respectfully,

JOHN G. OEHLENSCHLAGER,
President.

DEPARTMENT OF TRANSPORTATION,
Olympia, Wash., November 20, 1980.

Hon. DAVE DURENBERGER,
U.S. Senator, U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: I wish to thank you for forwarding, for my review, information pertaining to S. 3030, the Commuter Transportation Energy Efficiency Act of 1980 relating to new tax incentives to encourage ridesharing for commuting.

I believe this proposed Act certainly would provide a considerable incentive to encourage vanpooling for the private sector employers, individually owned vehicles, and third-party operators, as well as the incentives proposed to encourage carpooling. Financial incentives, I believe, are a key factor to provide the necessary catalyst to greatly expand vanpooling and carpooling activity nationwide.

It may be of interest to you that the Washington State 1980 Legislature passed HB 1508 which exempts the sales or use tax and the Motor Vehicle Excise Tax for vehicles used for vanpooling by seven or more on a regular basis.

Sincerely,

ROBERT S. NIELSEN,
Assistant Secretary for Public Transportation and Planning.

DANE COUNTY REGIONAL
PLANNING COMMISSION,
Madison, Wis., November 19, 1980.

Hon. DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: I was delighted to read S. 3030, the Commuter Transportation Energy Efficiency Act of 1980 that you are introducing.

The reluctance of some employers to wholeheartedly support ridesharing programs is addressed in this bill in several ways including the innovative tax exclusion for payment of transportation costs by an employer for an employee. And, speaking as a county ridesharing coordinator, the tax credit on administrative costs of an employer-sponsored ridesharing program removes another barrier to realizing the potential of ridesharing in commuter transportation.

These clarifications and substantive legal inducements are encouraging steps in the development and expansion of ridesharing. Ridesharing can play an important role in a balanced transportation system and with Congressional leadership, like S. 3030, ridesharing could rapidly close ground on achieving energy conservation goals.

Copies of this letter are being sent to our Congressional delegation in the hope they will consider giving their support to S. 3030.

Sincerely,

WARD PAXTON,
Ridesharing Coordinator.

DULUTH MISSABE AND IRON
RANGE RAILWAY CO.,
Duluth, Minn., November 19, 1980.

Hon. DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: The Duluth, Missabe and Iron Range Railway, with operations in Northeastern Minnesota and the Superior Area of Wisconsin, strongly supports your efforts to encourage ridesharing as a way to help our country meet the current energy crunch.

S. 3030, introduced by you and co-sponsored by a number of your Senate colleagues, would enable companies such as ours to give serious consideration to van or carpooling as a practical way to get employees to and from work locations not enjoying service by existing public transit, or where such service is inadequate or inconvenient.

I hope this legislation will be favorably reported by the Senate Finance Committee, and enacted into law by the Congress.

Sincerely,

D. B. SHANK.

CITY OF CHARLOTTE,
Charlotte, N.C., November 17, 1980.

Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: The City of Charlotte sees ridesharing serving a major role in transportation for the future. We have had an active rideshare program in this area since 1978 and plans are underway to expand ridesharing activities.

A key factor to the success of any rideshare program is the incentives available to employer sponsors and individual commuters.

The City of Charlotte supports Senate Bill 3030, the Commuter Transportation Energy Efficiency Act of 1980. This legislation would provide several new tax incentives to encourage ridesharing for the commuter trip. The incentives are offered to those who do rideshare as opposed to restricting persons who do not.

This legislation has potential for positive impacts on energy, air quality and congestion without taking anything away from those who choose not to take advantage of the incentives.

I believe that SB 3030 will make a significant contribution to both local and national energy and transportation policy.

Sincerely,

EDDIE KNOX.

PENINSULA PLANNING
DISTRICT COMMISSION,
Hampton, Va., November 20, 1980.

Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: The Peninsula Metropolitan Planning Organization supports the intent of S. 3030, the Commuter Transportation Energy Efficiency Act of 1980, which would provide several tax incentives to encourage commuter ridesharing.

Many large firms, including Newport News Shipbuilding and Dry Dock Company, Inc., the largest private employer in the Commonwealth of Virginia, are located in this region. In addition, the Peninsula area is also actively involved in a major ridesharing effort, directed by the mass transportation operator in the urbanized area, the Peninsula Transportation District Commission. This proposed legislation could have a significant impact on ridesharing efforts in this region.

Thank you for the opportunity to comment on the proposed legislation. When enacted it should greatly assist the energy conservation and air quality goals of urban areas throughout the nation.

Sincerely yours,.

HENRY M. COCHRAN,
Executive Director.

TULSA METROPOLITAN
AREA PLANNING COMMISSION,
Tulsa, Okla., November 18, 1980.

Hon. DAVE DURENBERGER
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR DURENBERGER: You have our deep appreciation and support for your interest in ridesharing as an effective means of reducing energy consumption, air pollution and traffic congestion.

We strongly support Senate Bill 3030 as an effective step in encouraging private firms to expand their ridesharing efforts. The tax credits you propose will give the private sector, both companies and individuals, the needed incentive to begin the ridesharing effort.

The lack of adequate transportation prohibits potential employees from traveling any length of distance to a labor market. With ridesharing, employers can attract employees from distant labor markets and the financial limits of feasible transportation will be lifted. This can only serve to boost our economy.

If our Ridesharing office can help you in any way, please let us know.

Sincerely,

DUDLEE DARNELL,
Rideshare Coordinator.

METROPOLITAN TRANSIT AUTHORITY,
Nashville, Tenn., November 17, 1980.

Hon. DAVID DURENBERGER,
Washington, D.C.

DEAR SENATOR DURENBERGER: I agree with your statement that ridesharing offers a most significant contribution to solving our nation's energy problems. I further agree that your proposed Commuter Transportation Energy Efficiency Act of 1980 will enhance the ridesharing movement in this country.

The MTA has recently initiated a comprehensive ridesharing program with the intention of promoting ridesharing to citizens of the Metropolitan Nashville area. Our first year goals include involving 50 major employers in the ridesharing program, increasing ridesharing among employees by 10–20 percent, and reducing energy consumption and air pollution associated with employees work trips by 10–20 percent. These are achievable goals if the support for ridesharing is strong enough to induce the major employers in Nashville to participate. The tax incentives provided in your proposed legislation would definitely support our efforts to encourage individuals and major employers to participate in the MTA ridesharing program.

MTA supports the concept of ridesharing as an energy efficient means of transportation. MTA will continue to promote ridesharing and provide active support on behalf of your proposed legislation. Let me know if I can be of further assistance.

Yours truly,

Dr. RALPH H. HINES,
Chairman.

BESSEMER & LAKE ERIE RAILROAD CO.,
Pittsburgh, Pa., November 19, 1980.

Hon. DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: The Bessemer and Lake Erie Railroad Company is greatly interested in S. 3030, introduced recently by you and several colleagues, which would provide tax incentives for ridesharing through the use of carpools and vanpools.

Our company, which operates in Western Pennsylvania and Northeastern Ohio, is considering the possibility of utilizing car and vanpooling in getting employees to and from work locations not served by public transit. The provisions of S. 3030 would not only assist the Bessemer and its involved employees in justifying economically these possible pooling arrangements, but would also represent a significant reduction in the consumption of gasoline as a contribution toward solution of the nation's energy crisis.

We strongly urge favorable consideration of this legislation by the Congress.

Sincerely,

M. S. TOON,
President.

WESTINGHOUSE ELECTRIC CORP.,
South Boston, Va., November 14, 1980.

Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: As a representative of the South Boston Small Power Transformer Division of Westinghouse Electric Corporation in South Boston, I strongly commend you for your interest in promoting ride sharing and energy conservation. I am in complete support of your bill S. 3030, the Commuter Transportation Energy Efficiency Act of 1980, which you introduced in August. I firmly believe this bill, if enacted, would be another step toward solving this nation's energy problem and reduce our dependency on foreign oil. I read your bill in its entirety and I am convinced that the tax credits that are proposed for individuals and businesses would be an extra incentive for individuals and businesses alike to promote and encourage various ride sharing alternatives.

Again, in summary, you have my complete support for your bill S. 3030 and I hope that my interest along with others in the business community will encourage other members of the Congress to join you in passing this much needed amendment to the Internal Revenue Code of 1954.

Sincerely,

R. E. MATLACK, *Manager*.

METRO AREA TRANSIT,
November 12, 1980.

Senator DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: Thank you for requesting our input to S. 3030, the Commuter Transportation Energy Efficiency Act of 1980. I have previously had an opportunity to review the bill, and feel that it will provide significant encouragement to employers who are interested in promoting employee ridesharing.

In our dealings with local employers, we have found them to be highly receptive to the promotion of ridesharing. Their major concern was that there has previously been little recognition or support from the federal level. This type of support is vitally important in providing an incentive to employers to continue and expand their ridesharing programs, and I believe S. 3030 will go a long way towards solving this problem.

My only suggestion is that if, (or should I say when), S. 3030 is passed, information on how employers and individuals may qualify for these tax incentives should be distributed to all ridesharing agencies. Then we, as local advocates, can follow-up by insuring that the appropriate persons locally are made fully aware of the benefits of the bill.

Thank you for your interest and concern, and please let us know if we can be of any assistance to you in this area.

Sincerely,

STEVE FRISBIE,
Program Supervisor.

OFFICE OF ENERGY RESOURCES,
Augusta, Maine, November 13, 1980.

DAVE DURENBERGER,
U.S. Senator,
Washington, D.C.

DEAR SENATOR DURENBERGER: I was both pleased and excited to receive your letter of October 17th in which you outlined S. 3030, the Commuter Transportation Energy Efficiency Act of 1980. It is encouraging to those of us promoting ridesharing at the local level to know that there is solid support for the concept in Congress.

The five incentives which S. 3030 will offer to individuals and businesses will, I believe, make employer sponsored rideshare programs that much more attractive. For individuals, the tax exemptions you propose in terms of payment from riders to drivers and transportation benefits accruing to individuals through employer rideshare programs, will provide some much needed clarification on current statutes. Both of these areas are currently rather "murky" and open to a variety of interpretations. Therefore, I am enthusiastic about S. 3030 and certainly hope that it will be quickly enacted.

Let me take this opportunity to share some perspectives with you. For the most part, major rideshare programs have been based in highly urbanized areas of the country. I do not mean to suggest that this is inappropriate, but I think the significance of ridesharing in rural areas is often overlooked. Here in Maine, the average commuting distance is often more than 20 miles one way. Pay scales are generally low. Winters can be very rough, making commuting something of a battle. Gasoline supplies can be, and have been, easily interrupted. Public transportation is limited to the "intown" portions of our largest cities. As gasoline prices escalate, or if rationing or prolonged shortages should occur, Maine commuters will have a very difficult time travelling to and from work. The effect on our economy could be disastrous. All these factors combine to make ridesharing: on an organized, regional basis, a very important tool for immediate conservation as well as an emergency contingency tool.

For the above reasons, our office has aggressively promoted ride-sharing during the last year. We are aware of 127 vanpools now in operation and a survey taken last summer showed approximately 18 percent of Maine commuters travel in carpools. We are pleased by these results, but a great deal remains to be done.

Your efforts are greatly appreciated. If our office can be of further assistance, please do not hesitate to contact us.

Cordially,

JAMIE FIRTH,
Rideshare Coordinator.

UNION RAILROAD CO.,
East Pittsburgh, Pa., November 14, 1980.

Hon. DAVE DURENBERGER,
U.S. Senate, Washington, D.C.

DEAR SENATOR DURENBERGER: The Union Railroad Company, with operations in Allegheny County (Pittsburgh District), Pennsylvania, would like to go on record as being strongly in favor of S. 3030, which would provide certain tax incentives to encourage carpools and vanpools. You and the eight colleagues who joined you in sponsoring this legislation are to be commended for this forward-looking effort to help employers justify such pooling arrangements.

Our company is seriously considering car and/or vanpooling incident to a proposed major new work facility not served by existing public transit routes, and S. 3030 would be most helpful to us in justifying the provision of some form of pooling for the many employees involved.

We feel that thousands of businesses, nationwide, would find S. 3030 an incentive to investigate the merits of ridesharing, which should go a long way toward helping the nation solve its energy problems.

Sincerely,

M. R. SEIPLER,
General Manager.

GATEWAY FLEET CO.,
Pittsburgh, Pa., November 14, 1980.

Hon. DAVID DURENBERGER,
U.S. Senate, Washington, D.C.

DEAR SENATOR DURENBERGER: As a representative of Gateway Fleet Company, a subsidiary of Westinghouse Electric Corporation, and as a private citizen, I commend you for your interest in promoting ridesharing and energy conservation.

You have my complete support for your bill (S. 3030) and I hope that my interest will encourage the support of other members of Congress from my district.

Sincerely,

L. M. DOBAK,
President.

TEXAS EASTERN TRANSMISSION CORP.,
NOVEMBER 11, 1980.

Re: Support of S. 3030, Commuting Transportation Efficiency Act of 1980

Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: Encouragement of ride sharing subsidies to employees through favorable tax legislation for sponsoring employers, such as S. 3030, is an effective energy conservation measure.

Texas Eastern's Ride Share Program now involves 1,188 Houston office employees (66 percent):

Ride Sharing Employees (10-01-80)

Program	*Participants*
Car Pool	184
Bus	392
Van Pool	612
Total Ride Share	1,188

These programs represent considerable expense to the Company, but are a necessary part of the modern, energy conscious, socially aware business environment.

Increased employer sponsorship of ride sharing will produce immediate energy savings and contribute to the long term energy awareness among all employees.

Sincerely,

C. E. "NEIL" HILL,
Manager.

DEPARTMENT OF ENERGY &
TRANSPORTATION,
Jackson, Miss., November 11, 1980.

Hon. DAVE DURENBERGER,
U.S. Senator,
Washington, D.C.

DEAR SENATOR DURENBERGER: Thank you for your letter of October 17, 1980 and the enclosed extract from the Congressional Record (vol. 126, No. 125) concerning S. 3030: The Commuter Transportation Energy Efficiency Act of 1980.

Your efforts are greatly appreciated in this matter, particularly because we are trying to enact van pool legislation here in Mississippi. I am currently a Transit Specialist trying to implement the Urban Mass Transportation Small Urban and Rural Transportation (Section 18) Program on a statewide basis. In our planning and implementation we are continually confronted with the need to provide for work trips. Van pools are the obvious solution, but we cannot fund these.

Would you please consider in future laws, a provision allowing the Section 18 program to insure loans to van-poolers? We have the necessary state-wide networks and contacts; we need the funds. The Federal Highway Administration, Federal Aid highway funds may already be used for this purpose, but in this state those funds are considered sacrosanct as "blacktop money."

Please let me know if we can be of assistance to you. In the meantime, we will keep working on our state program.

Sincerely,

STEPHEN T. HIGGINS,
Transit Specialist.

CENTRAL CONNECTICUT REGIONAL
PLANNING AGENCY,
November 14, 1980.

Hon. DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: I am writing to express my support for S. 3030, the Commuter Transportation Energy Efficiency Act of 1980 which will provide a number of new tax incentives to encourage ridesharing for the trip-to-work. As a transportation planner for the Central Connecticut Regional Planning Agency, I share your realization that rising fuel prices and recent world events dictate that the U.S. take every reasonable step to ensure both transportation efficiency and energy independence by discouraging the inefficient single-occupancy auto work-trip. In areas where transit service is currently unavailable or unaffordable, ridesharing is the most inexpensive and gas-efficient method of commuting.

Since, as pointed out in the Congressional Record, the costs and fuel benefits of ridesharing are widely accepted as fact, the biggest obstacles keeping more commuters from utilizing the ridesharing mode of travel are ingrained attitudes and legal impediments. I certainly hope that the passage of S. 3030 will provide the needed incentives for borderline employers and employees to actively participate in commuter ridesharing programs. In respect to the legal impediments, I hope Congress will do all it can on the national level to encourage states to adopt the various sections of the Model State Law to Remove Legal Impediments to Ridesharing Arrangements which was drafted by the National Committee on Uniform Traffic Laws and Ordinances for the U.S. Department of Transportation.

I hope you will transmit my comments to your colleagues in Congress and wish you success in guiding S. 3030 through the legislative process. Please keep me informed of any developments as they occur.

Sincerely,

JOSE GINER,
Transportation Planner.

CITY OF LINCOLN,
Lincoln, Nebr., November 5, 1980.
Sen. DAVE DURENBERGER,
U.S. Senate, Washington, D.C.

DEAR SENATOR DURENBERGER: Speaking for the staff of Lincoln's Carpool/Vanpool Program, we are excited about your bill, S. 3030, the Commuter Transportation Energy Efficiency Act of 1980.

As ridesharing professionals promoting and coordinating an employer based program, we know employer incentives are needed and S. 3030 provides this with the tax credit for the employer sponsored ridesharing program. To date, the strongest employer programs are due to "social responsibility" on the part of the company. The tax credit rewards these firms and provides excellent incentive for prioritizing ridesharing at the top management level.

We are also very pleased to see the gas tax deduction provision for carpools and the individual tax credit which applies to work trip vehicles carrying eight adults plus the driver. This definition should cover some of our "dedicated" carpools purchased by pool members for long commutes. A case study provided by an individual we assisted is enclosed.

Nebraska tends to be a low density area with longer trips from the rural areas to work locations. This bill assists these persons so they may not be forced to relocate which often creates another type of financial burden.

Thank you for providing information on the Commuter Transportation Energy Efficiency Act. We are confident that the employer provisions will greatly increase ridesharing interest among employers which will facilitate employee need.

Sincerely,

SHIRLEY MALY,
Administrator.
LINDA AHLMAN,
Assistant.

AMERICAN CAN COMPANY,
Greenwich, Conn., November 6, 1980.
Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: The American Can Company has been active in vanpooling and ridesharing activities at its Corporate Headquarters in Greenwich, Connecticut since 1974.

We strongly support the Commuter Transportation Energy Efficiency Act of 1980 (S. 3030) proposed by Senator David Durenberger and his colleagues offering new tax incentives for ridesharing.

Ridesharing, in all its forms, makes a very significant contribution to our national energy conservation efforts, and any added inducements would definitely add impetus to its further acceptance and growth.

We strongly recommend a "yes" vote on this legislation.

Very truly yours,

NICHOLAS MARCHAK.

NORTH DELTA REGIONAL PLANNING AND
DEVELOPMENT DISTRICT, INC.
Monroe, La., October 31, 1980.
Hon. DAVID DURENBERGER,
U.S. Senator, Washington, D.C.

DEAR SENATOR DURENBERGER: Recently we received a copy of the proposed bill, S. 3030, the Commuter Transportation Energy Efficiency Act of 1980. We at North Delta strongly support this bill and appreciate your efforts in support of ridesharing.

We feel that the potential for ridesharing to significantly affect our country's energy situation is tremendous and should be encouraged as much as possible. S. 3030 is an important and timely piece of legislation which will provide desperately needed incentives to promote ridesharing.

As Vanpool Coordinator of our eleven parish district in northeast Louisiana, I feel that S. 3030 will make the task of promoting ridesharing much easier. Both employers and employees in this area are reluctant to begin formal ridesharing programs because there are few examples of such programs in Louisiana. The added incentives of S. 3030 should provide the necessary impetus to get new ridesharing programs started.

Once again, let me thank you for your work to promote ridesharing and reiterate our support for S. 3030.

Sincerely,

NANCY GLOVER,
Vanpool Coordinator.

REGIONAL PLANNING COMMISSION,
New Orleans, La., October 30, 1980.
Sen. DAVE DURENBERGER,
U.S. Senate, Washington, D.C.

DEAR SENATOR DURENBERGER: We would like to express our appreciation for the opportunity to review and comment upon the Commuter Transportation Energy Efficiency Act of 1980 (S. 3030) which you have recently introduced into Congress.

Having worked with employers in the New Orleans SMSA in an effort to encourage employer-sponsored ridesharing programs, we are particularly pleased to note the provision which allows a business tax credit for specified costs which businesses might incur as administrative overhead for an organized employee ridesharing program. These costs can prove substantial and, particularly in the case of smaller businesses, difficult to absorb.

We feel that all of the tax credits outlined in the bill will prove beneficial in encouraging ridesharing, and that a good balance has been achieved in providing incentives to both the individual and to the employer.

We would therefore like to offer our wholehearted support of this legislative effort.

Sincerely,

JOHN M. BORDELON,
Executive Director.

STANISLAUS COUNTY, DEPARTMENT-
MENT OF PLANNING AND COM-
MUNITY DEVELOPMENT,
Modesto, Calif., November 3, 1980.
Sen. DAVE DURENBERGER,
U.S. Senate, Washington, D.C.

DEAR SENATOR DURENBERGER: Thank you for your support of ridesharing. Tax incentives are an excellent way to encourage people to share their vans and cars.

If our goal is to decrease our dependency on foreign fuel, then every effort must be made to conserve; and what better way than ridesharing.

S. 3030 will make a significant contribution to our national energy conservation effort.

Sincerely,

PAT PAUL,
Ridesharing Manager.

NORTH DAKOTA
STATE HIGHWAY DEPARTMENT,
Bismarck, N. Dak., November 3, 1980.
Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: This is in response to your October 17 letter regarding legislation to encourage ridesharing. The sort of legislation which you and your colleagues in the Senate are supporting is precisely what is needed to stimulate aggressive ridesharing throughout the nation. The provisions for tax exclusions and tax credits for car pools and van pools are sorely needed incentives to arouse public interest in such programs. I commend you and your fellow senators on your efforts in pursuing this timely recourse.

The North Dakota State Highway Department is also doing its share of energy conservation. Of the approximately 400 employees of the Highway Department's central office building, in Bismarck, over 50 percent are either car pooling, van pooling, bicycling or walking to work.

On another point, I would like to correct the number of Highway Department sponsored van pools in North Dakota. Your listing in the Congressional Record shows only 13 pools. I am pleased to say that we now have 51 vanpools successfully operating in the state. With the high cost of financing (15 percent to 20 percent interest) for private automobile loans, government sponsored van pooling has become a very sensible alternative to purchasing smaller, limited capacity passenger cars. Under our present van pool program, we provide 75 percent interest-free loans to employers or individuals for van purchases by use of federal highway funds. I am certain that we would see an even greater interest in van pooling if Congress would change the funding requirements so that 90 percent interest-free loans could be offered, as was the case when the program was first established.

In addition to the interest free loans, now available, any tax incentives provided would greatly benefit the national effort to conserve energy in transportation.

Therefore, I wholly support your attempts to introduce this worthwhile legislation.

Sincerely.

BILL WEIMER,
Public Transit Coordinator, Transportation Services Division.

LOUISVILLE AREA,
CHAMBER OF COMMERCE, INC.,
Louisville, Ky., November 4, 1980.
Sen. DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: Thanks for your letter of October 15th and the information concerning the bill (S. 3030) which you introduced to provide tax incentives for ridesharing.

Our success in stimulating ridesharing among Louisville commuters, has been achieved largely by working through major employers, for two reasons. The potential ridesharers are workers and they can best be found where they work. Also, we have found that our task is to motivate the worker to exchange the convenience of an individual automobile for the efficiency of ridesharing—and his employer is an effective motivator.

All this adds to the fact that our principal challenge at this time, is to convince some reluctant Louisville employers that it is in their selfish best interests to aggressively promote ridesharing. Consequently, ridesharing tax incentives, particularly for the employer, will be most helpful to us.

I feel confident that the passage of your bill will provide a very important stimulus for additional ridesharing, at a relatively modest cost.

Sincerely,

JOHN H. MILLER,
Director.

MEMPHIS AND SHELBY COUNTY
OFFICE OF PLANNING AND DEVELOPMENT,
Memphis, Tenn., October 31, 1980.
Re: Senate Bill S. 3030
Hon. DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: Thank you for providing our office with a copy of Senate Bill S. 3030. It is our understanding that the bill was introduced on August 6, 1980 and, if enacted, it would amend the Internal Revenue Code to provide increased individual and employer tax incentives for ridesharing arrangements. Based on a close examination of the text of this proposed legislation, we believe that S. 3030 has considerable merit. Passage of the bill would (1) help promote and expand ridesharing programs across the nation, and (2) establish a federal precedent which may encourage state governments to remove legal and regulatory barriers to ridesharing arrangements.

The Memphis-Shelby County Office of Planning and Development and the Tennessee Energy Authority have sponsored an employer-based ridesharing program in the Memphis area since 1979. Although the program is new, we have already observed the manifold benefits that can accrue to employers, employees, and an entire community through the encouragement of carpooling and vanpooling. As a result of the Memphis Rideshare Program, which has so far cost $75,000, over 1400 commuters have begun carpooling, vanpooling, or riding public transit to and from work. Expressed on an annual basis, the benefits associated with this increased ridesharing include: 405,300 gallons of gasoline conserved; 365 tons of carbon monoxide air pollution removed; and, over $1,000,000 in commuting costs saved. It has been calculated that the cost to conserve one barrel of oil through the program has been $1.14.

As you must know, the impressive benefits realized through the Memphis Ridesharing Program are not unusual. Ridesharing programs across the country are producing significant energy savings while simultaneously reducing air pollution, traffic congestion and parking demand. The fact that these programs accomplish all of these benefits in a manner that returns more in terms of savings to commuters and employers than the cost of the programs is, at the very least, noteworthy.

The tax incentives for ridesharing that would be created by the passage of Senate Bill S. 3030 would provide a valuable boost to ridesharing programs such as ours. The incentives would make it easier for state and local ridesharing agencies to market carpooling and vanpooling to employers and their employees. In our experience we are finding that employers are coming to recognize that the current availability of relatively low-cost fuel is, at best, a short term proposition, and that the transportation of employees is a legitimate concern. But because of actual or perceived legal and regulatory barriers, many employers are initially reluctant to get involved in vanpooling and carpooling. With provisions for a business energy investment credit for purchase of qualified commuter highway vehicles, and an employer tax credit to defray the administrative costs of an employer-sponsored rideshare program, S. 3030 may prove to be a deciding factor in encouraging many of these businesses to test the economic feasibility of ridesharing arrangements.

Another consideration is that passage of S. 3030 may encourage state governments to remove legal and regulatory impediments to ridesharing arrangements. This is because state tax laws and rulings generally rely upon the basic federal definitions of "gross income," "adjusted gross income," and "taxable income" as a basis for calculating state income taxes. While not certain, it is likely that many states will follow the federal precedents which would be established by S. 3030 in determining the tax consequences of ridesharing arrangements. This would create an added boost for ridesharing programs in many areas of the country.

In sum, Senate Bill S. 3030 is an opportunity for the federal government to effect legal and regulatory changes that will help to promote ridesharing arrangements, and S. 3030 should make a significant contribution toward a stronger, more integrated national energy and transportation policy. We encourage you and your colleagues to continue to work toward passage of S. 3030.

Sincerely,

ALAN D. GRAY,
Rideshare Program Coordinator.

STATUTORY PLANNING COMMISSION,
CITY PLANNING DEPARTMENT,
Rapid City, S. Dak., October 27, 1980.
Hon. DAVID DURENBERGER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR DURENBERGER: Thank you for your letter of October 17, 1980 inviting me to comment on S. 3030, "The Commuter Transportation Energy Efficiency Act of 1980". I strongly support this legislation as I feel that it is an important step in encouraging expanded ridesharing activities. The incentives provided by this legislation could have very positive energy conservation (and financial) impacts; especially in our more "rural" states such as South Dakota. South Dakota probably has more miles of roads per capita than any other state in the union. Yet, due to our small population, the financial resources available to maintain our highway system are very limited. Any incentives which would encourage more efficient utilization of our highway system merit special consideration.

Unlike odd-even or minimum purchase requirements, or gasoline rationing, which are almost punitive responses to the energy problem, ridesharing is among the few strategies which represent a positive, personal approach for dealing with a critical problem.

In terms of other legislative actions which could facilitate and encourage ridesharing, I feel that motor carrier and insurance laws should be modified to address the special status of carpools and vanpools. Specifically, ridesharing vehicles should be exempted from the laws requiring motor vehicles transporting passengers for compensation to qualify as common or contract carriers.

If you would like any information on our local ridesharing programs or if I can be of any assistance in your efforts, please free to call me.

Sincerely,

ROBERT W. STOKES, AICP,
Senior Planner.

CONYERS, GA.,
October 29, 1980.
Hon. DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: This letter is in support of Bill S. 3030 to encourage the use of carpools and vanpools for the commuter.

I commute 35 miles a day to my place of employment (70 miles round trip). I have been trying for months to form a car pool with others who live within a reasonable distance of my home and work in close proximity of my office, without too much success.

People are hesitant to give up a little freedom, such as use of their car at lunch hour, or traveling a few blocks out of their way to pick up a passenger. I believe a tax benefit for the driver and the riders would cause these people to forget their petty reasons for not carpooling and clamor to find other drivers, or passengers for their car or van. Another big plus is that traffic would be less congested as a result of fewer vehicles on the road.

I would also support vanpooling by corporations and would sign up in a minute if such a program was implemented by my company.

Yours truly.

FRANCES M. MULLEN.

P.S. I might add that my place of business is not downtown where mass transportation is readily available, but on the outskirts of Atlanta where more and more businesses and industry are locating, leaving the commuter no alternative but to use his personal car.

SPOKANE REGIONAL CONFERENCE,
TRANSPORTATION STUDY DIVISION,
October 28, 1980.
Hon. DAVE DURENBERGER,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR DURENBERGER: Thank you for correspondence dated October 17, 1980 explaining S. 3030, the Commuter Transportation Energy Efficiency Act of 1980. Ridesharing activities are an essential element in the adopted Transportation Plan and the adopted Air Quality Implementation Plan for the Spokane metropolitan area. Hence, legislation which will benefit and extend the use of this necessary transportation "mode" is supported and encouraged by the Spokane Regional Planning Conference's urban Transportation Planning Process.

We will appreciate receiving future information and the status on pending legislation.

Very truly yours,

ROBERT A. VAUGHAN,
Transportation Study Director.

THOMAS M. DUNN,
Point Pleasant, N.J., October 24, 1980.
Hon. BILL BRADLEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BRADLEY: I am writing as a constituent to express my support for the commuter Transportation Energy Efficiency Act of 1980, Senate Bill S. 3030 which was introduced on August 6, 1980, by Senator David Durenberger.

The bill provided several additional incentives for ridesharing programs which I feel are critical to more efficient use of our scarce energy resources. Any encouragement which can be offered by the government to employers or individuals to initiate ridesharing programs should be actively pursued.

I currently serve as Van Pool Coordinator for Federal Pacific Electric Co., with headquarters in Newark, New Jersey and have seen first hand the fuel savings that can be realized through ridesharing efforts. We currently operate five 15 passenger vans on routes ranging from 60 to 15 miles one way, providing an alternative to 65 employees who otherwise would be driving their own cars.

I would be most interested in hearing your comments on this bill and whether or not you intend to support this legislation. Your reply would be appreciated.

Very truly yours,

THOMAS M. DUNN.

Texas Energy and
Natural Resources Advisory Council,
Austin, Tex., September 24, 1980.
Hon. David Durenberger,
Minnesota Senate,
Butler Square Bldg.,
Minneapolis, Minn.

Dear Senator Durenberger: I was very pleased to learn that you had introduced the Commuter Transportation Energy Efficiency Act (S. 3030) to the Senate Finance Committee. I strongly support this bill and believe it will greatly encourage the ridesharing effort.

Since Texas, like Minnesota, has a great deal of experience in the area of vanpooling, I would be glad to provide you with any information or figures in support of this bill.

Respectfully,
James P. McIntyre,
Program Coordinator.

Department of Transportation,
Salem, Oreg., September 17, 1980.
Hon. David Durenberger,
U.S. Senator,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Durenberger: The Oregon Department of Transportation is developing a statewide ridesharing program. We will be working with our legislature to provide many of the incentives to ridesharing that are contained in your Commuter Transportation Energy Efficiency Act.

The leverage that will be provided to our ridesharing program by S. 3030 will help make the success of ridesharing in Oregon even greater. It is important that these incentives are established. Ridesharing will sell itself once it gets going, but it needs a little push. S. 3030 will certainly help to provide that push.

Sincerely,
F. B. Klaboe,
Director.

Manchester Transit Authority,
Manchester, N.H., September 10, 1980.
Senator David Durenberger,
Russell Senate Office Bldg.,
Washington, D.C.

Dear Senator: Your bill S. 3030 concerning the Commuter Transportation Energy Efficiency Act of 1980 shows a remarkable sense of creativity in regards to energy conservation.

Not only does the bill provide for a more effcient act of energy conservation by the American people but also it gives the Transit Authority a marketable tool to sell a program which we are currently pursuing.

The program itself is called Quick Pass. It is outlined in the brochure enclosed. Please read the brochure to get a better understanding of what the Transit Authority is doing to get citizens of Manchester to take part in mass transit.

It is the duty of every American citizen to stop wasting and start saving our precious fuel.

Your bill provides an incentive for American business to start creatively thinking of ways to save. The Manchester Transit Authority thanks you for your effort.

Your efforts in passing this bill will be supported by the Manchester Transit Authority.

Sincerely,
Herbert Pence,
General Manager.

Regional Transportation Commission of Clark County,
Las Vegas, Nev., October 29, 1980.
Re: S. 3030, the Commuter Transportation Energy Efficiency Act of 1980.
Senator David Durenberger,
U.S. Senate,
Washington, D.C.

Dear Senator Durenberger: Thank you for your letter of October 17, 1980, informing me of your sponsorship of the above referenced bill, which would provide for several new tax incentives to encourage commuter ridesharing.

Legislation of this kind is certainly in order and timely. Unintended legal impediments to ridesharing must be overcome if progress is to be made in our efforts to reduce oil consumption, air pollution, and highway congestion.

The tax incentives will provide great encouragement to the formation of vanpools, especially employer-sponsored vanpools. And I think the fact that members of Congress, such as yourself, who are addressing the problem constructively will add significance to the importance of ridesharing.

Such leadership will encourage employers and State legislatures to become aware of the need to support ridesharing. In Nevada, for example, Chapter 706 of the Nevada Revised Statutes does not provide exemptions for private owner-operated vanpools from regulations of the Public Service Commission applicable to major common motor carriers such as bus companies. Issues of workman's compensation liability and overtime minimum wage liability regarding flexible work hours to accommodate rideshares also require attention.

I wish you success with your endeavors in this matter. If I can be of assistance, please do not hesitate to ask.

Very truly yours,
Charles P. Brechler,
Managing Engineer.
David Peace,
Management Analyst.

Reynolds Aluminum,
Washington, D.C., November 24, 1980.
Hon. David F. Durenberger,
U.S. Senate,
Washington, D.C.

Dear Senator Durenberger: I wish to acknowledge your letter of November 12 to Mr. Edward T. Duffy of our Company concerning your bill to provide tax incentives to encourage ridesharing.

The Reynolds Metals Company strongly supports the concept of your bill. I commend you for your initiative and hope that you will be successful in getting the bill enacted in the next session of Congress.

Sincerely yours,
John J. Alexander, Jr.,
General Director.

City of Springfield, *December 1, 1980.*
Hon. David Durenberger,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Durenberger: After reviewing your proposed legislation, S. 3030—Commuter Transportation Energy Efficiency Act of 1980, I strongly support the passage of this bill. The need to develop our ridesharing potential is paramount, and this legislation offers effective incentives to encourage employers and individuals to promote and participate in a ridesharing program.

As indicated in your legislation, ridesharing is an energy-saver and a money-saver. As a special mode of transportation it has been emerging as a key strategy toward solving today's problems concerning energy, environment, and transportation. With the continued possibility of fuel shortages and the increasing cost of owning and operating an automobile, we cannot afford not to rideshare.

As highways become more crowded and fuel costs continue to rise, ridesharing will increasingly offer the most attractive option, and your legislation provides a means to encourage its use.

The City of Springfield, Missouri is in the process of implementing a ridesharing program for the city and the surrounding communities. The passage of your bill would greatly enhance our efforts by increasing the attractiveness of ridesharing. The City Council has passed a resolution endorsing your proposed legislation, and I am enclosing a copy of this resolution.

You have our support for your continued efforts in the promotion of ridesharing.

Sincerely,
Gene Boles,
Director of Planning.

ERC Corp.,
Overland Park, Kans., October 29, 1980.
Mr. Dave Durenberger,
U.S. Senate, Washington, D.C.

Dear Senator Durenberger: I am in receipt of your letter of October 15, 1980 in which you acquainted me with your sponsored bill on tax incentives for ridesharing.

As an advocate of ridesharing of the van pool/car pool variety, I wish to commend you and your co-sponsors of the bill. It is something that is urgently needed at this point for the costs of commuting continue to mount. Fully a third of our employees who terminate their employment have advised us the reason was commuting expense. We installed a van pool program as a result.

As the head of the personnel operation of one of the prestige corporations in America, I can tell you that our van pool program has grown like a prairie fire spreads. From the modest beginning of 1 van installed in April of 1979, we have witnessed a phenomenal growth to 15 vans carrying over 200 of our employees daily in their commute from home to work and back. This means that almost 30 percent of our employees ride vans.

This takes a conceivable 200 automobiles off the highway daily and replaces them with 15 vans. The average commuting distance is approximately 38 miles daily. The resultant savings in consumption of energy is apparent.

Through my efforts, 5 other companies in the greater Kansas City area have also installed van pool programs. It appears therefore that Kansas City employers have become very energy conscious and at the same time are achieving some success at retaining employees who because of the inflation problem might have to seek employment elsewhere closer to home.

By increasing the tax credit for new vans to 20 percent, I am sure that we can expect to double the number of van pools operating in the U.S. within the first year. This of course coupled with your plan of business credits to corporations will be the incentive to convince many companies that this is the future way to go.

If I can be of any further service to you in presenting company or personal data to the Senate Finance Committee, I would be honored to appear for you (and the United States of America).

Since I personally am a resident of the ninth Congressional district of Missouri, I would appreciate your sending a copy of this letter to Tom Coleman, my congressman, and to Tom Eagleton of the Senate.

Sincerely,

E. F. THOMAS,
Assistant Vice President and Director of Personnel.

ACTION NOW, INC.,
Louisville, Ky., November 26, 1980.
Senator DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: A copy of your October 15th letter and a summary of S. 3030 was forwarded to us by John Miller, Director of the Metro Louisville Ridesharing Program.

Action Now, Inc. a non-profit organization, in cooperation with the Louisville Ridesharing Program, sponsors the Action Now/Van Pool Program. We work in a third-party advisory capacity, helping prospective drivers to buy their own vans for van pooling. With the current state of the economy and vehicle interest rates climbing daily, I assure you it is an uphill struggle.

We are, therefore, overjoyed to see the introduction of this legislation. Van pooling isn't now, nor has it ever been, a money-making venture for either the individual or the employer. Your bill will give needed financial assistance to those who have the courage to go out on a limb in promotion of ridesharing.

The passage of "The Commuter Transportation Energy Efficiency Act of 1980" will be a tremendous boost to our efforts to promote van pooling. We give it our full support and commend you and your colleagues for your efforts.

Sincerely,

PAUL L. CURRY,
Field Coordinator.

SAN ANTONIO, TEX.,
November 26, 1980.
Hon. DAVID DURENBERGER,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR DURENBERGER: United Services Automobile Association (USAA) recently received a copy of S. 3030 which you introduced to provide tax incentives for ridesharing. As a member of the National Association of Vanpool Operators, USAA strongly supports the bill as an effective step in reducing the nation's energy consumption.

In 1977, USAA instituted a Vanpool Program for its employees to supplement our existing Carpool Program. To-date, we have some 320 carpools and 100 vans serving 2,150 employees and saving an estimated 620,000 gallons of gasoline annually.

The tax incentives outlined in S. 3030 will undoubtedly encourage both individuals and private firms to expand ridesharing efforts. USAA supports this legislation as an incentive to ridesharing, which we feel is one of the quickest and most cost-effective means of reducing energy consumption, and we want to commend you for your efforts in this area.

Sincerely,

ROBERT F. MCDERMOTT,
President.

October 31, 1980.
Senator DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: As Coordinator of the Sun Ship Inc. Van Pool Program, I was very pleased to hear about bill S. 3030 which you recently introduced to the Senate. We at Sun Ship have been leasing ten (10) vans during the past year for the purpose of ridesharing for our employees.

The program has been a big hit with both management and employees, however, because of spiraling cost of fuel and vehicle leasing we have been forced to raise our charges to the riders, however, in this increase we are still not certain that all of our cost will be covered. I feel that the tax credits mentioned in bill S. 3030 would help our program a great deal.

Bill S. 3030 if enacted would be a big push for ridesharing and energy conservation. Best of luck to you Senator.

Sincerely,

EDWARD J. KORDALSKI,
Human Resources Representative.

MID-OHIO REGIONAL
PLANNING COMMISSION,
Columbus, Ohio, October 31, 1980.

DEAR SENATOR DURENBERGER: Thank you for forwarding the proposed legislation (SB 3030) for comment.

The Mid-Ohio Regional Planning Commission supports additional incentives to expand the constituency for Ridesharing. We will indicate our support to Senators Glenn and Metzenbaum and request an affimative vote.

From my recent experience assisting major employers in the Columbus metropolitan area, I have found that a number of corporations are willing to sponsor Rideshare programs but are reluctant to underwrite total administrative costs. Tax credits based upon employee participation levels and the 10 percent energy credit increase will significantly expand company sponsorship in this region. At the present time, the 10 percent energy credit is considered too minimal to justify the paperwork for submittal.

Currently the Ohio Association of Regional Councils is introducing state legislation to remove existing statutory restrictions which impede Ridesharing. New Ohio legislation in conjunction with IRS incentives at the federal level will greatly accelerate the formation of Rideshare programs as energy costs continue to increase.

I wish you much success in this endeavor.

Very truly yours,

DOROTHY W. COUSINEAU,
Regional Ridesharing Coordinator.

THE COORDINATING &
DEVELOPMENT CORP.,
Shreveport, La., October 27, 1980.
Re: Senate bill 3030.
Hon. DAVE DURENBERGER,
U.S. Senate,
Committee on Finance,
Washington, D.C.

DEAR DAVE: Thanks so much for your correspondence of October 17 outlining the Commuter Transportation Energy Efficiency Act of 1980. This particular piece of legislation appears to be what we have all been looking for and hoping both the Senate and House would come up with to give incentive to industry and business in promoting ridesharing development.

Dave, we have reviewed the Bill amending the Internal Revenue Code and support the various sections contained therein. A few suggestions which you may wish to consider in strengthening the Bill's chances of passing are 1) a revolving tax credit for early in/early out business-oriented transportation, and 2) away-from-job employer credits for drivers. Both of these are minor suggestions, but they are needed.

Senator, again, it is our position that this proposed legislation is very much needed. We, therefore, support the Bill and offer any assistance which would help its passage. Thank you for allowing us the opportunity to review, comment, and garner support for this worthy legislation.

Warmest regards.

Your friend,

M. D. LECOMTE,
Louisiana Congressional Delegation.

NORTHUMBERLAND COUNTY
PLANNING COMMISSION,
Sunbury, Pa., October 24, 1980.
Hon. DAVE DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: I am in receipt of your letter of October 17th, 1980 in regards to the introduced Senate Bill 3030, the Commuter Transportation Energy Act of 1980. The Northumberland County Planning Commission is in support of any incentive which promotes and encourages a ride-sharing program. At present Northumberland County is actively involved in establishing a vanpool for County employees. Due to the fact that the County is composed of many rural areas and only three municipalities having a population of 10,000, many transportation problems exist. Private commuter busing has been tried many times, all being unsuccessful. The only feasible method of commuter transportation seems to be with carpools and/or vanpools. Mass transit system that work in larger urbanized cities do not lend themselves to any economically feasible system in areas with rural characteristics.

Enclosed is a copy of a survey taken by the Planning Office determining those employees interested in a proposed vanpooling program. 85 percent of those surveyed (total surveyed: 172) were in favor of such a system. 48 percent currently ride in a carpool, which demonstrates that the interest and need exists and therefore have resorted to developing their own method of ridesharing with additional incentives. We feel that this percentage would increase substantially and further decrease our nation's current energy consumption.

With new legislation and innovation programs initiated by government agencies, the country can significantly reduce our dependency on oil-producing countries. If this office can be of any further assistance, please feel free to contact us.

Sincerely yours,

KEITH A. LLOYD,
Assistant Planning Director.

STATE OF NEW MEXICO,
ENERGY AND MINERALS DEPARTMENT,
Albuquerque, N. Mex., November 6, 1980.
Hon. DAVE DURENBERGER,
U.S. Senate, Washington, D.C.

DEAR SENATOR DURENBERGER: I was extremely pleased to have received the information regarding Senate Bill 3030. It is obvious that you and your colleagues are aware of the difficulties involved in convincing American commuters to change their habits. Your provisions, if accepted, will be invaluable in promoting the concept of ridesharing, and should be recognized as a significant step toward alleviating our energy and air pollution problems.

Copies of your material will be forwarded to other interested agencies and individuals to afford them the opportunity to voice their support of your endeavors. Please notify me if there is anything more my office can do to further this effort.

Sincerely,

LINDA WAMPLER,
Training Specialist.●

CHANGING LEADERSHIP AT THE WORLD BANK

● Mr. MATHIAS. Mr. President, we have been so engrossed by the changes that the election has wrought in the Senate that we have not paid sufficient attention to what has been going on further down Pennsylvania Avenue at the World Bank. I would like to make amends for that.

On November 6, Colbert I. King, the

U.S. Executive Director at the Bank, nominated A. W. Clausen to succeed Robert S. McNamara as President of the International Bank for Reconstruction and Development, the International Development Association and the International Finance Corporation when the latter retires on July 1, 1981.

Mr. King's remarks are not only a very eloquent and richly deserved tribute to Bob McNamara for a job well done, but they also give us valuable insight on the attitudes and objectives of his prospective successor. I commend them to my colleagues' attention and ask that they be printed in the Record.

The remarks follow:

Statement by Colbert I. King, U.S. Executive Director

It is an honor and personal privilege for me to nominate on behalf of the United States, Mr. A. W. Clausen to succeed Mr. Robert S. McNamara as President of the International Bank for Reconstruction and Development, the International Development Association and the International Finance Corporation effective upon Mr. McNamara's retirement.

Before discussing Mr. Clausen's nomination, I wish to devote a few words to our President, Mr. McNamara. As I indicated in my November 3, 1980, memorandum to the Executive Directors, the United States shares "without reservation the international community's sense of deep regret over Mr. McNamara's decision to retire and view his departure as a critical juncture in the progress of the World Bank Group."

Since Mr. McNamara's retirement was announced on June 9, many well-deserved words of praise have been bestowed upon him. I will not attempt to match the eloquence of those tributes; however, I do wish to add my voice to those who have expressed their gratitude to Bob McNamara for his outstanding service to the Bank, its members and, indeed, to mankind. It has been said that, "It is not enough to have great qualities; one must make good use of them."

That has been the accomplishment of Bob McNamara for the twelve years he has stood at the helm of this institution. You deserve our respect and gratitude because you devoted your extraordinary talents, your towering intellectual prowess, your unflinching courage, your enormous physical energy and drive and your genius for persuasion and leadership, not in behalf of the powerful or in pursuit of personal enrichment, but rather in behalf of the poor. You have pursued, but more importantly, you have persuaded others, including governments of the world, to pursue the greatest ends, and in doing so, you have achieved greatness. You are one, who, in the words of Macaulay, "neither sought nor shunned greatness (but) who found glory only because glory lay in the plan path of duty."

The World Bank is regarded by the United States as the most effective international instrument of economic and social development on earth. Consequently, the Bank Group and its members have a right to expect that only the very best qualified person should be elected to succeed Mr. McNamara. The qualifications of numerous potential successors were carefully reviewed with that in mind. In conducting this extensive and extended review, careful attention was given to the Profile for a President of the World Bank which was the product of three informal meetings of Executive Directors during the summer. My authorities greatly appreciate having had this document at their disposal, and they found it to be an additional useful yardstick against which to measure potential successors. For the benefit of new Executive Directors, we who developed the profile believe it to be essential that the next Bank President be committed to international economic development and social progress, that the new President have an ability to command confidence and respect in the international financial markets, and that this individual possess political objectivity and independence. Executive Directors also believed that age, management experience, ability to work effectively with international institutions and people of different backgrounds were also important qualifications which should be weighed in the decision on the next President.

International finance, as noted in the World Development Report, will play a crucial role in the decade of the 80s, especially in the affairs of developing countries. The role undertaken by the Bank in the past under Mr. McNamara must be continued. This decade confronts us with new needs, some of which have appeared, some of which may be yet to come. The Bank must be in a position to respond and respond effectively to those needs. The immediate and whole new range of financial difficulties with the obvious effect that these concerns will have on economic growth and absolute poverty in the developing world, argue strongly for a successor who has mastered and mastered well the world of international finance and development lending. Mr. Clausen more than satisfies these requirements in every respect.

As Chief Executive of the world's foremost financial institution having assets exceeding $100 billion, and a world-wide multinational staff of over seventy-four thousand men and women delivering banking and investment services through 110 branches, 19 corporate service and representative offices, and more than 400 offices of subsidiaries and affiliates in over 100 countries throughout Asia, Europe, the Middle East, Africa, Latin America, the Caribbean and North America, Mr. Clausen has acquired extensive international experience on the order of magnitude required by the office of World Bank President. Moreover, under the leadership of Tom Clausen, Bank America's assets and earnings have quadrupled, and it remains the most profitable commercial banking institution in the United States. At age 57, Mr. Clausen has compiled a distinguished record of strong and dynamic leadership in international banking and finance, he has held extensive dealings with finance ministers and senior officials throughout the world, and he obviously possesses the financial expertise so critical to maintaining the trust and confidence of the international financial markets.

Since the beginning of our discussions of the next President, a central concern of this Board and, I would add my own authorities, has been the matter of commitment to economic development and social progress with with particular emphasis on concerns for the poor. "Commitment" is not a word that easily leads itself to objective measurement, therefore judgments in this area should be reached with a degree of care and caution. Nonetheless, we have sought to satisfy ourselves that Mr. Clausen has a special sensitivity to the problems of the developing countries.

One may resort to several methods to find satisfactory answers, but one of the better approaches may well be to follow the record established by the nominee to speak for itself. Toward this end, I have obtained copies of selected remarks by Mr. Clausen covering nearly a decade of service. These documents offer a remarkable insight into the views of Mr. Clausen on a range of important international economic concerns. For example, in remarks before the Pacific Basin Economic Cooperation Council in May 1971 at Vancouver, British Columbia on the subject of world trade and international cooperation. Mr. Clausen in discussing protectionism cautioned,

"In periods of business adjustment, such as the period we have been passing through in the United States, it is tempting to fall back on direct or indirect restrictions on competition from abroad. But it is dangerously short-sighted.

"It is not open to any country—not even the United States with its incomparably varied and developed market—to attempt any use of resources (manpower, capital, management skills, raw materials) . . . to attempt any use of these resources less efficient than obtainable elsewhere. It is doubtful that any area of national economic life can be protected effectively for very long against the competitive power of greater efficiency. And it is mischievous to try.

"We now live in a global economy. While we must recognize the important differences between the industrialized developed and the less developed nations, we ignore at our peril the mutual interdependence that exists among the family of nations. And there are only two ways for nations to face up to this fact. The first is all too evident today: the attempt to insulate and protect the domestic economy from the forces of competition surrounding it. But this way is, in the end, self-defeating. In reality, there is only one way: to admit these forces, to adapt the economy to them, and thus to strengthen the nation's firms and industries to better provide both for its own citizens and to contribute to the welfare of the planet. At the same time, of course, we must provide help and assistance to those who are dislocated and whose incomes are threatened by a free world economy . . .

"The implication of this argument, you will recognize, is another illustration of my basic theme. These are global problems with only global solutions, that is to say, in this case, multinationally coordinated and cooperative trade policy."

Speaking on September 26, 1973 in Nairobi, Kenya at the time of the Annual Bank/Fund meeting, Mr. Clausen observed that one could not look around Kenya and "forget that interdependence among nations transcends trade and takes many other forms . . . Truly the quality of life in each nation depends on the resources and cooperation of others to a greater extent today than ever before."

He said:

"An aspect of that interdependence that concerns us particularly today is the need of the developing countries for development finance and the obligation of the industrial nations, in their own self-interest, to assure a more adequate flow of financial resources to the developing countries.

"Relations between developing and developed countries in simpler times were confined to discussions of how much aid the latter should give the former, and perhaps what forms it should take. Development was understood in the most simplistic fashion: raising Gross National Product per capita as quickly as possible through the appropriate mix of external resources.

"Developing countries argued that resources were due them on moral grounds, . . . They also complained that the resources made available to them bore little relationship to their national hopes and aspirations. The problem was a familiar one: everyone was paying attention to the thermometer and forgetting about the weather.

"We are now starting to remember again that GNP is just a short-hand expression and that the object of development is to improve the level of well-being of people, not to produce upward-sloping lines on charts. Well-being is something that can be sensed only by those who are the objects of policy, so it is not merely right but also necessary that they have an important role in shaping the development strategies that the world will follow.

"In adopting this more cooperative approach to development, we are also relearn-ing that development is not merely a whim of the poorer nations that should inspire guilt among the industrial nations. Economic development is a process which is of mutual benefit to rich and poor alike. Whatever our position on the economic scale now, cooperation will improve the lot of all of us."

In this Nairobi speech, which dealt with the subject, "Developing Countries and the International Monetary System," Mr. Clausen called for "a monetary system which was more responsive to the needs of the poorest two-thirds of the world's population." In this 1973 debate on the issue of the allocation formula for the distribution of Special Drawing Rights or SDRs, Mr. Clausen argued for a system for allocation that would be more beneficial to the less-developed countries—a stance which was particularly well received by developing countries; and I would point out, a viewpoint quite independent of those held by the United States and other industrialized countries.

During the past decade, Mr. Clausen has repeatedly returned to the theme of nature of the interdependent relationship between the developed and developing worlds, the need for international cooperation, and the necessity of a special public and private response to the requirements of developing countries. In Tokyo in April 1977, in remarks before the Bank of America New York Board, Mr. Clausen noted that while there seems to be concern about a world split along North-South lines, "the fact is: the developed and developing countries are much more complementary than they are antagonistic." "We tend to forget this," he said, but "we need each other more than we ever have." Pointing out that the future of LDCs is a matter of "considerable interest" in the United States, Mr. Clausen proposed a reordering of financial assistance to all developing countries, "so that private funds can move to the more advanced economies while multilateral and official development assistance can be provided to other developing countries who may not be able to qualify for private credit or investment." He proposed that governments of the individual countries, including the United States—"should provide increased financial support to multilateral financial institutions, including the World Bank Group, the IMF and regional development banks." He argued that these institutions have the ability—and correctly noted that "for a number of LDCs, the sole ability—to provide long-term credit." But he also called for industrialized countries either individually or through the OECD to increase their support for the developing countries by giving LDC-produced goods freer access to industrial country markets.

Mr. Clausen, in a keynote address before the International Monetary Conference in Tokyo on May 22, 1977, displayed a keen appreciation for the relationship involving the Bank, other international institutions and the private sector—a sensitivity which Executive Directors have identified as an important requirement for the next President. "Neither government nor private business alone," he noted, "can provide the insights and resources needed to assure global growth and development."

"So far as the global economic community is concerned, the foundations of this greater cooperation already have been erected. We have the necessary institutions—official bodies, such as the IMF, the World Bank, and the (regional) development banks, the central banks, and, of course, the vast network of private commercial banking." But he went on to caution that "we must find a sound and more workable identification of responsibilities, to ensure that the private sector does not undermine the sensible discipline of the official agencies, and that formal authority does not undermine the vitality of initiative, development, and innovation."

And in recognition of the changing economic relationships (which I would note is also relevant to the future of this institution), Mr. Clausen said we "must encourage, as strongly as we can, the participation of those whose resources and positions now demand that they participate." "For example," he said, "the time has come for oil-exporting nations to enter more actively into the global system—for only in full cooperation, based heavily on self-interest and active membership in the global community, can any of us achieve sustainable growth and financial stability for ourselves."

Executive Directors have appropriately indicated that the next President must possess good political judgment, but also be sufficiently objective and independent to manage and direct the affairs of a complex international organization with a multinational staff. On this score, Mr. Clausen, on the basis of his record clearly would share our objective and aims, particularly insofar as maintaining the Bank's reputation for integrity, objectivity and independence. Two years ago in Paris, Mr. Clausen spoke on the subject of the Transnational Citizen: A Broadening Prospective. He remarked that we are in a period where "our economic institutions are being severely tested," further noting that a transnational perspective must prevail in our international organizations "if economic growth and rising standards of living are to continue throughout the world." He stressed the urgent need for transnational citizens describing a transnational citizen as "one who—while maintaining an allegiance to his or her own country—understands the dynamics of international affairs, and who appreciates the benefits that international cooperation can bring to all people, and who then acts on these beliefs." Today's major problems," he pointed out in 1978, "are global and can be solved only in the context of a transnational perspective," and not from "a narrow, domestic reference point."

These remarks of Mr. Clausen are merely cited to suggest the nature of his views on international cooperation and development. Given the combination of his personal commitments and his highly successful performance with Bank of America, we believe Mr. Clausen has the stature to maintain the confidence of the Executive Directors and the governments you represent as well as the trust of the international capital markets. The remarks I have touched upon reflect a record of commitment to international economic growth and development.

During the past two weeks, my authorities, in an unprecedented act, have been in the process of consulting a large number of developed and developing country members concerning this decision to nominate Mr. Clausen. Today all Governors of the Bank have received or are in the process of receiving a communication from the Governor for the United States. Secretary Miller, regarding Mr. Clausen's nomination.

The election results on Tuesday reflect the clear decision of the American people. What you have been witnessing is a long, intensive debate involving sharp differences over national policies; but while differences over policies exist, there remains broad agreement on principles. It was agreement on the principle that the World Bank must continue to have extraordinary leadership as it enters this decade. that enabled those with clear political differences to agree on Mr. Clausen's nomination.

Today, I can reaffirm that Mr. Clausen enjoys support within the United States which is broad, and most assuredly bi-partisan. It is, therefore, with a sense of deep commitment to, and confidence in the future of the World Bank, that I propose the candidacy of Mr. A. W. Clausen.

TRIBUTE TO SENATOR ABRAHAM RIBICOFF

● Mr. SCHWEIKER. Mr. President, there is always a sense of sadness and loss when a colleague leaves this body. In some way we are reminded of our own "mortality," that we too are destined to move on. We miss the presence of one who has shared some of our efforts, our modest triumphs and disappointing defeats. Abe Ribicoff has given the Senate and the Nation 18 years of integrity and competence, as a leader and sharer in the events of the past two decades. I too am saddened and tempted, as are many others, to call his retirement, after years of extraordinary contribution, a loss to his State of Connecticut and the Nation.

The list of achievements, the areas where he has been a force for constructive, bipartisan programs, is both long and varied. His interests have included health, public welfare, foreign relations, and economic affairs, to name only a few. Abe has kept a breadth of vision that allowed him, while working for the people of Connecticut, to consider the country as a whole and the best solutions for its problems. Perhaps more than any other he has demanded that programs work, that we be as willing to recognize our errors as our successes. My colleagues are not wrong in saying Abe Ribicoff could serve as a model for all who wish to enter public life: Dedicated to his State, eager to confront problems across the Nation, and sensitive to the role of our Nation in the world.

Rather than call it a loss, I think this is an occasion to hold Abe's achievements up as a beacon for those who would follow in his footsteps. I can think of few better people to try and emulate, and that is Abe's legacy. I wish him well in any new challenges he undertakes.●

TRIBUTE TO SENATOR WARREN G. MAGNUSON

● Mr. SCHWEIKER. Mr. President, I am glad to take this opportunity to pay tribute to our departing colleague, Senator Warren G. Magnuson of the State of Washington.

I have known "Maggie" as we like to call him, for many years. We have worked together on the Appropriations Committee and in the last 2 years we shared the leadership duties on the Labor-HHS-Education Appropriations Subcommittee.

It is through the Labor-HHS-Education Subcommittee that I have had the best chance to observe the chairman and understand his interests. I have been particularly impressed by his commendable concern for the Nation's health and his willingness to provide more than adequate resources for the health programs that serve those less fortunate than we.

It is not by accident that Congress has voted to name the clinical center at the National Institutes of Health for the chairman. For NIH has been one of Maggie's abiding interests. He helped to found the National Cancer Institute and has worked to make NIH the world leader in the field of biomedical research.

The improvement of health care in the United States will be an important part of the public legacy that Chairman Magnuson leaves behind. But we who have worked closely with him shall also remember Maggie as a Senate man, as a very fair-minded chairman, and as a good friend.

Maggie's departure will leave a big void in the Senate and all of those staying on will, I am sure, miss his presence. But having carried the burdens of the Nation for so long the chairman is entitled to a little time off for some well-deserved rest and relaxation. It has been a distinct pleasure to serve with Maggie, and I join with all of my colleagues in wishing him well in the years ahead.●

SENATOR PERCY'S VISIT TO THE SOVIET UNION

● Mr. PELL. Mr. President, over the weekend there was a leak to the press of a classified cable from our Embassy in Moscow reporting on Senator Percy's comments on Middle East policy in conversations he had with Soviet officials. Even before that leak occurred, there were press reports on Senator Percy's trip that presented confusing accounts as to whether Senator Percy was speaking for himself or for President-elect Reagan on the whole range of issues that Senator Percy discussed with the Soviets while he was in Moscow.

On Sunday, December 7, Richard Allen, who is President-elect Reagan's foreign policy adviser, appeared on ABC's Issues and Answers program and was questioned on the matter of leaks to the press and on the reports of Senator Percy's trip to the Soviet Union. Mr. Allen responses were very illuminating, I commend them to my colleagues.

Mr. President, I ask that the relevant portions of the ABC interview relating to Senator Percy's trip to Moscow be printed in full at this point in the Record.

The interview follows:

Excerpts From Richard Allen's Appearance on "Issues and Answers," Sunday, December 7, 1980

Q. Mr. Allen, this past week there have been a series of leaks of transition reports and other such things—and, most significantly, of leaks of cables describing the Percy trip to Moscow. The leaks seem to have the direction of wanting to savage anyone who doesn't have the ideological purity of the person responsible for writing the report, it would seem. I wonder if you could give us some sense of your concern at what's happened this past week?

A. (Richard Allen, foreign policy adviser to Ronald Reagan): I am always concerned when leaks occur. I think that for many years that concern on my part has been evident. I think we have to begin to treat classified information with the appropriate precautions and indeed with the reverence it deserves, because classified information is classified for a purpose.

In the case of the leakage of the cables that came back from Moscow that were sent by Ambassador Watson, who did accompany Senator Percy and Mr. Robert Galvin on his calls in the Soviet Union—his visits in the Soviet Union—I can say that we're dismayed by any such leakage. Senator Percy discussed his trip with me before he left, and he also discussed it with the President-elect, indicated to the President-elect that he would get back to both him and me and others when he came back and he did just that. So we lament the use of any classified cables.

As far as transition reports are concerned, the transition reports are in fact reports of the state of affairs within the various departments. Those reports ultimately find their way to Bill Timmons, who is in charge of the transition, then go on to my colleague, Darrell Trent and are shared with Martin Anderson, and proceed on up to Ed Meese and others who give these consideration.

Q. But when did they go to the *New York Times?*

A. (Richard Allen) Well, one wonders about that. Obviously too early a time and I think you're going to see probably a less widespread availability of such reports in the future. And I must stress that they are interim reports. They're a series of reports that have come in along so he who feels that he has the final testament in this regard would be mistaken from our point of view.

Q. Mr. Allen, part of the confusion over the Percy visit results from that fact that, as you know, he spoke with both you and the President-elect before leaving and after returning. He, at times, in his discussions with the Soviet leaders appeared to be speaking with the blessing of the Reagan Administration. At other times he was speaking strictly for himself. Would you like to draw the line—and the confusion seems to be, apparently, the most troublesome in the area of the Middle East policy. Was he speaking solely for himself there?

A. (Richard Allen) Well, yes he was. And I think that Senator Percy made it abundantly clear. It is not at all unusual that a distinguished Senator would consult with members of an incoming administration before going to—before taking on such an important trip as that of going to Moscow—which was a pre-planned trip.

Senator Percy did extend us that courtesy, and we did discuss. But in no way was the visit coordinated to the extent that he was carrying any proposals. He is a Senator and he is entitled to his views. Whatever views, to the extent that those views are valid are accurately reported in the news are his, and they do not represent, necessarily, those of the incoming Administration.

Q. Senator Percy did tell the Russian leaders that he supports the creation of an independent Palestinian state. Would you like to disavow any of that statement?

A. (Richard Allen) First of all, I would say that that particular statement, which I understand was not entirely accurate, having discussed this matter with Senator Percy and having had a chance to examine the cables myself, certainly would not reflect the policy of an incoming Reagan Administration.

But then again, let me stress that a Senator is entitled to his views. I can remember six months ago, at a conference in Williamsburg, having had a discussion with Senator Percy—a wide-ranging one including, among other things, the Middle East and these views were not new. In fact he told me at that time and has since reiterated to me that the expression of his views—the accurate expression of his views—have been on the record for years. So I see nothing new in this and I think that Senator Percy is going to—has already taken steps to clarify the matter.●

ACTIVITIES OF THE SUBCOMMITTEE ON THE HANDICAPPED DURING THE 96TH CONGRESS OUTLINED BY SENATOR RANDOLPH

● Mr. RANDOLPH. Mr. President, it has been my privilege and responsibility to be the chairman of the Subcommittee on the Handicapped since its establishment. In this Congress, as in past Congresses, the subcommittee members have directed their activities toward achieving the goal of equal rights for handicapped Americans and to legislation which will improve and enrich their quality of life.

Since its establishment, the subcommittee has been fortunate to have as members those Senators who are dedicated to helping meet the needs of this Nation's handicapped citizens. I express appreciation to the members of the panel for their constructive efforts in this 96th Congress: Senators Thomas Eagleton of Missouri, Donald Riegle of Michigan, Robert Stafford of Vermont, and Richard Schweiker of Pennsylvania.

Senators know, that the Subcommittee on the Handicapped is a standing subcommittee of the parent Committee on Labor and Human Resources. It was established in the final months of the 92d Congress, and its existence as a permanent subcommittee is an indication of the importance which Congress has attached to legislation affecting handicapped individuals. Our subcommittee is charged not only with developing legislation, but also formulating national policy on such issues as education, vocational rehabilitation, employment, and architectural, transportation, and communications barriers.

The subcommittee has specific jurisdiction over the Education of the Handicapped Act, including the Education for All Handicapped Children Act of 1975, the Rehabilitation Act of 1973, as amended, the Developmental Disabilities Assistance and Bill of Rights Act, the Randolph-Sheppard Act, and the Javits-Wagner-O'Day Act. In addition, the members and staff of the subcommittee work closely with other committees on matters relating to handicapped persons, but over which the subcommittee has no direct jurisdiction.

OVERSIGHT ACTIVITIES

During the 96th Congress, the subcommittee has conducted extensive oversight on programs under its jurisdiction and particularly focused attention on the implementation of the Education For All Handicapped Children Act of 1975.

On April 30, 1979, the subcommittee held a hearing on the implementation of the Randolph-Sheppard Act originally passed in 1936, and signed into law by President Franklin D. Roosevelt, which established a priority for the operation of vending stands and facilities in Federal buildings and on Federal properties by blind vendors. Since 1936 this program has afforded thousands of blind men and women an opportunity to participate in the business community. Witnesses at the hearings included representatives from the Department of Health, Education, and Welfare—the implementing Agency—the Department of Defense, the General Services Administration, the Government Accounting Office, and representatives from organizations representing the blind and directors of State programs for the blind. A number of issues were explored at the hearings and recommendations were made concerning the improvement of the programs through administrative means.

The subcommittee held hearings on the implementation of the rehabilitation, comprehensive services, and developmental disabilities amendments on November 5 and 7, 1979. Although signed by President Carter on November 6, 1978, the law was not accomplishing its purpose since the administration had not issued regulations so that services could be provided to handicapped Americans. Organizations representing the handicapped expressed their deep concern to the subcommittee over this delay. The hearings received testimony and recommendations on how to assist the administration in expediting the implementation of these very vital programs. Administration representatives testified on November 7. They announced that regulations to implement the programs had been signed off on by the Secretary of Health, Education, and Welfare.

A primary concern of the subcommittee during the 96th Congress was the review of the implementation of the Education For All Handicapped Children Act of 1975. This law assures the right of all handicapped children to a free appropriate public education. Hearings were July 19, 26, and 31, October 1, 3, and 10, 1979, and March 3, July 29, July 31 and September 10, 1980.

The subcommittee examined the implementation of the law at the local, State, and Federal level by receiving testimony and statements from parents of handicapped children, teachers of handicapped children, local school superintendents, State education officials, Federal officials, and organizations representing handicapped persons, teachers, and administrators of programs serving handicapped children. A variety of concerns were brought to our attention about the implementation of this important law, and the subcommittee will review all testimony carefully to assess whether statutory or administrative action will be needed to address the issues discussed and explored in the extensive hearings.

On February 6, 1980, the subcommittee held a hearing on the oversight of programs for the deaf and hearing impaired. Our able colleague, Senator RICHARD SCHWEICKER, contributed his time and effort to make this hearing a very helpful in-depth examination of the current problems and programs for the deaf and hearing impaired and to explore future technological developments designed to assist the deaf and hearing impaired.

LEGISLATIVE ACTIVITIES

Although the subcommittee devoted a great deal of time to oversight of programs during this 96th Congress, it also worked with other subcommittees and committees to assist in the improvement of the lives of handicapped Americans.

A major accomplishment on behalf of handicapped persons was the establishment of an Office of Special Education and Rehabilitation Services in the new Department of Education and the creation of the position of Assistant Secretary for this Office. We worked closely with Senator RIBICOFF and the members of his Committee on Governmental Affairs during the development of this legislation, enacted as Public Law 96-88, the Department of Education legislation. For the first time in this Nation's history, special education and rehabilitation are organizationally linked so as to establish a true partnership of these two very important programs that assist handicapped persons. For the initial time, programs for the handicapped have been afforded high visibility in the governmental structure. There is not only an opportunity to maximize the impact of those programs, but also an opportunity to focus attention on the needs of handicapped persons.

During the hearings on Public Law 94-142, the Education for All Handicapped Children Act, witnesses testified about the need for special education teachers—particularly in rural area. The Higher Education Act, signed into law on October 3, 1980 (Public Law 96-374) contains a provision to address the problems of special education teacher shortages in areas of need. The Subcommittee on the Handicapped worked closely with the Subcommittee on Education, Arts and Humanities in the development of this amendment.

Another issue that surfaced during the hearings related to the administrative set-aside for States under Public Law 94-142, it was recommended that it be increased in order to assist smaller States to meet their administrative responsibilities. This provision was incorporated in Public Law 96-270. The subcommittee worked cooperatively with the Education, Arts and Humanities Subcommittee to accomplish this change.

Mr. President, as I have stressed, the Subcommittee on the Handicapped has devoted most of its time during the 96th Congress to holding oversight hearings. We have done so that we would have a full understanding of what needs to be done legislatively in the 97th Congress when the subcommittee will be very busy with the reauthorization and examination of the Developmental Disabilities Assistance and Bill of Rights Act; the Rehabilitation Act of 1973, as amended; and the Education of the Handicapped Act. We will continue to rely on the support and cooperation of our concerned colleagues in the Senate as well as that of handicapped individuals and organizations representing the handicapped as we move forward with the legislative responsibilities of the 97th Congress.

We will see a political change in the Senate in the 97th Congress. I am confident at the advocacy and leadership of all of the members of the Subcommittee on the Handicapped will remain constant. In the 96th Congress it was my privilege to labor closely on the subcommittee with my valued colleague, Senator STAFFORD. He and I agreed that the work of the subcommittee should be nonpartisan, and I am confident it will continue during the 97th Congress.

THE LESSON OF PROPOSITION 13

● Mr. ROTH. Mr. President, although a month has passed since the recent election, political analysts are still sifting through the results attempting to identify the myriad opinions that voters carried into the voting booth.

Clearly a consensus has developed among the analysts that voters clearly were sending a message to Washington to both lower taxes and cut Federal spending—the two central themes of the Roth-Kemp legislation. Indeed, 14 of the 16 GOP Senators who won in November voiced their strong support of the Roth-Kemp bill.

Subsequent to the election, much has been written about the reaction of the minorities to the election. As columnist William Raspberry noted recently:

> Liberals—and especially blacks—are consumed with gloom and despair over what a Reagan presidency will mean for their interests.

However, Raspberry went on to state in his column that—

> Overall, it strikes me that the predictions of disaster are based more on emotion than on a realistic assessment of what is likely to happen.

In my State of Delaware, there has been a similar expression of concern among minorities as to how the Reagan administration will impact on their lives. There is also in Delaware a noted thinker and writer who—like William Raspberry—feels that the despair among minorities is based on unrealistic assumptions. I am referring to Tom Curtis—the author of numerous articles and studies on domestic and international issues. Mr. Curtis has recently completed a book entitled "The Retreat From Human Rights" and one of the chapters in this book deals with the vote in California that substantially lowered property tax rates.

In his book, Mr. Curtis pulls no punches in putting to rest the concerns of the minority groups as they relate to tax cuts.

> First, let us put aside the notion that tax limitation and the curtailment of the power of government which tax limitation requires, is an attack upon the poor. Poverty is poorness, lack of money. Tax limitation would not require that the genuinely poverty stricken forfeit any of the good and proper financial assistance which a decent government willingly provides. What tax limitation would require is the severe curtailment of the myriad "social services" which have grown up around the honorable concept of aid to the poor. These services provide no financial assistance to the poor, but operate as a direct income transfer to the relatively affluent.

I would ask that all of my colleagues carefully read the following excerpt from Tom Curtis' book for I am sure they will come away with the valuable insight that tax limitation does not have to be viewed by any constituent group as a foreclosure of "doom and gloom."

The Lesson of Proposition 13

(By Thomas Curtis)

In the aftermath of the overwhelming success of the Jarvis-Gann tax limitation initiative in California, much of the comment by public officials has been predictable and disturbing. Rather than heeding the popular mandate expressed by the two-thirds vote of the California electorate, and echoed throughout this country during this summer of our discontent, entrenched political interests have called for tax increases to offset the public will, federal budgetary supplements to maintain the "level of government services," and judicial action to nullify this expression of the will of the people. Such determination to maintain a repudiated regime, in the face of the opposition of the majority of the people, would be reprehensible in the banana republics at which Americans pretend to sneer, and will make necessary and inevitable a series of federal constitutional amendments reasserting popular sovereignty, or the calling of another Constitutional Convention.

First, let us put aside the notion that tax limitation, and the curtailment of the power of government which tax limitation requires, is an attack upon the poor. Poverty is poorness, lack of money. Tax limitation would not require that the genuinely poverty-stricken forfeit any of the good and proper financial assistance which a decent government willingly provides. What tax limitation would require is the severe curtailment of the myriad "social services" which have grown up around the honorable concept of aid to the poor. These services provide no financial assistance to the poor but operate as a direct income transfer to the relatively affluent.

From left to right among responsible Americans a consensus has developed: that direct income assistance to the poor—liberals call it a "family allowance," conservatives prefer "negative income tax"—would provide greater real assistance to disadvantaged Americans, without diverting scarce tax dollars to the subsidization of a counterproductive "social services" bureaucracy. Under the spur of the popular mandate of Proposition 13 such a reform may now come to pass.

Similarly, all too many Americans have had personal and heartbreaking experience with the manifold obstacles placed in the way of prospective adoptive parents by an unresponsive "social services" bureaucracy, supported by our tax dollars. Not surprisingly, this same unresponsive bureaucracy spends other tax dollars to promote abortions, which succeed, to their way of thinking, in maintaining the artificial scarcity of children for adoption. Irrespective of one's views regarding abortion, it is certainly preferable to remove the artificial obstacles to adoption, rather than have the government maintain such obstacles as government policy, while simultaneously sponsoring the destruction of intrauterine life. A frugal and humane rethinking of policy, which the public enthusiasm for tax limitation may now encourage, would usher in a more benevolent and less expensive policy of providing for the increased births by removing the impediments to increased adoptions.

An additional benefit of the removal of government obstacles to adoption, would be the probable increase in adoptions by minority-group families. Blacks and other minority peoples have too often been considered less likely to adopt, by the same people whose very intrusion into family circumstances is the strongest disincentive to adoption which this society has erected. Members of minority groups have long been aware of what white Christian Americans are only lately coming to realize. Beyond the minimum power necessary for national defense, public safety, and criminal justice, the extension of governmental authority is not at all a benign phenomenon. Public officials who ignore the growing public disenchantment with the extension of governmental controls, ostensibly for our own good, ignore it at the peril of our constitutional system.

A democratic system is difficult to maintain, precisely because it requires a high level of self-restraint on the part of the members of a democratic society. In the short run, a dictatorship can obtain better results in one or another particular area, by the simple device of coercion. The problem is that over any long period of time the dictatorial device breaks down, because of a lack of a popular commitment to societal goals which have been imposed by force. That is why we see the constant extension of governmental controls in totalitarian countries. Force is necessary, as a ring of steel to hold the society together, in place of the popular will, which is suppressed or ignored.

In American society, too, we have in recent years too often fallen victim to the dangerous temptation to circumvent the democratic process, through the extension of judicial power, and through the increasing encroachment of an unassailable bureaucracy, answerable to no one. And legislative bodies whose perquisites and community of interest with government administrators make them an unresponsive elected bureaucracy unto themselves, are increasingly being bypassed by a public aroused at being unrepresented.

Several years ago I was shocked, but not surprised, to read that a single federal judge had decided that it was cruel and unusual punishment if a group of prison inmates did not receive three hot meals a day. As a middle-class American who is not particularly deprived, and who makes do with one hot meal a day, I had to reflect that all I had to do to earn more elaborate meals was to commit sufficient felonies to merit incarceration.

Another federal judge ruled that penitentiary inmates were subjected to cruel and unusual punishment if they did not have a recreation director hired full-time, with at least a bachelor's degree in that field.

Such instances would remain just grotesque and trivial horror stories, if they and their like were not becoming disturbingly common. And if there were not genuinely serious problems of abuse of prisoners by prisoners, tacitly condoned by prison officials and ignored by all but the victims.

Observance of the democratic process would require state legislatures, as representatives of the people, to make the hard decisions concerning the allocation of available resources, to cover required state expenditures. The hard decisions such as weighing the relative need of recreation directors for dangerous felons, and additional teaching staff for a state school for the handicapped. The judicial diversion of funds would itself be considered cruel and unusual by most Americans, as would the court orders in force in several jurisdictions to release dangerous criminals, if a federal judge is not satisfied with the state's provision of prison accommodations. The democratic system itself places restraints on the process of government by injunction, restraints of which Proposition 13 is but the first, if the lesson of Proposition 13 is not heeded.

It would be only natural if an aroused public, wondering at the amount of functional illiteracy in American society, should seize upon the educational system as a prime example of wasteful expenditure. It is a prime candidate for financial stringency, precisely in order to increase its effectiveness in performing its primary function—educating.

It is little short of criminal, in a society in which proficiency in the basic skills is not being transmitted to such a large number of our young, to have such a small percentage of what we loosely refer to as the "education dollar" devoted to the salaries of teachers of reading, English composition and mathematics. And such a large percentage devoted to bureaucratic maintenance to conferences, consultants, travel and trivia. Just as in the public welfare example, public education could be improved, in its delivery of actual services, by drastic budget reductions in tax dollars diverted to the area of educational administration. The question that we as citizens and as parents need to ask ourselves is do we really care whether Johnny learns to read. If we do, we must seize the initiative from those who only care if bureaucratic empires are maintained undisturbed. Proposition 13 may provide a way, through tax limitation, to return public education to its original function—the education of children, rather than the maintenance of adults.

Much more serious even than the diversion of tax revenues to unproductive and even counterproductive channels, is the use of tax dollars directly against the interests of the taxpayer and his family. Whether it be in its drive to force the nation to submit to ethnic and sexual quotas, or its recently announced "public education" campaign against smoking, the federal bureaucracy seems determined to provide us with an inexhaustible stream of horrible examples of government overflowering its proper bounds, and flooding into areas property forbidden to governmental action, in a democratic society.

As a nonsmoking parent, I have to view the federal bureaucracy's mounting of an educational program to discourage teenage smoking as just another governmental action attempting to undermine the institution of the family, the primary instrument of culture transmission in this society. The situation is hardly improved by the knowledge that the campaign is wasteful and will probably fail, since the most important factor in children's choices as to the smoking habit seems to be parental example. The evidence from surveys is here confirmed by our own and other families' experience.

This campaign is, however, another example of the distressing governmental propensity, upon viewing what seems to be a problem, to rush headlong to develop a multimillion dollar "program." All too often heedless of the important societal values and interests which are trampled in the process. Just as the national consensus in favor of equal rights for all was heedlessly dissipated in the effort to fasten quotas and racial controls on all American citizens. The full societal bill for this transgression has yet to be paid.

Tax limitation, whether on the Jarvis-Gann or another model, offers the prospect of a respite from the furious expansion of government. And a respite from the proliferating alienation and hostility which the expansion of governmental controls must make mandatory—in a nation as diverse as ours. The democratic system, permitting and encouraging diversity and regarding governmental intervention as the exception rather than as the rule, is a simple necessity for the social peace of this country.

That is the message of Proposition 13. Not that we must find other funding sources for government services, but that the proliferation of governmental services is itself the primary disturber of the domestic peace.

Public officials who ignore that message, and who ignore the fact that state legislatures are in the process of passing calls for Constitutional Conventions on several issues concerning which the democratic system has unfortunately been bypassed, may cause us all to regret it.●

TIME FUZES FOR ARTILLERY PROJECTILES

● **Mr. HUDDLESTON.** Mr. President, the committee of conference on the act making appropriations for the Department of Defense for the fiscal year 1981, in its report to accompany H.R. 8105, adopted as amendment No. 42 the Senate proposal to appropriate $1.531 billion for procurement of ammunition for the Department of the Army.

This amendment included specifically the appropriation of $77.6 million as a single line item as proposed by the Senate, for the procurement of time fuzes for artillery projectiles. The committee of conference adopted in essence the Senate amendment on this procurement program. The legislative history to accompany the Senate amendment, as set forth in the Senate committee report, was not, therefore, reproduced in the conference report.

In particular, Mr. President, the committee of conference agreed with the Senate position that the requested amount for procurement of time fuzes be merged into a single line item of $77.6 million to insure that the production capability of mechanical fuze manufacturers is maintained.

The relevant language from the Senate committee report, appearing on pages 139–140 of Senate Report 96–1020, should be incorporated by reference as set forth below and be considered a definitive statement of the intent of the conference committee.

Time Fuzes for Artillery Projectiles

The Committee recommends an appropriation of $77,600,000 for procurement of time fuzes and associated electronic time fuzesetters. The amount contained in the President's budget was divided into three line items—$42,600,000 for procurement of 500,000 electronic time fuzes, $24,300,000 for procurement of 276,000 mechanical time fuzes, and $3,800,000 for procurement of 1,600 electronic time fuzesetters. The House appropriations bill added an additional $5,900,000 for mechanical time fuzes to insure that both electronic and mechanical fuze manufacturers were maintained at a minimum sustaining rate of production.

The Committee notes that 267,000 electronic time fuzes are on order from procurement funds appropriated in fiscal years 1979 and 1980. However, the first electronic time fuze has yet to be delivered, and the current model of the electronic fuze, the M724, will be discontinued following the proposed fiscal year 1981 procurement, to be replaced by a next generation electronic fuze, the XM762, which is currently under development. Initial delivery of the M724 fuze from the fiscal year 1979 procurement will be in March 1981.

Over 1.5 million units of the mechanical fuze, the M577/M582, have been delivered to the Army from prior year procurements with a reliability performance exceeding 99 percent. It is the intent of the Army electronic fuze, the XM762, is available and proven.

The Committee is concerned that the funds available in the President's budget for procurement of mechanical fuzes will not provide for an economical procurement and maintain the production capability for manufacture of this fuze to be surged in time of potential hostilities. Therefore, it is the recommendation of the Committee that the requested amount for procurement of fuzes in fiscal year 1981 be merged in a single line item of $77,600,000.

The Army is directed to review the planned procurement of fuzes in fiscal year 1981 to insure that the quantity and type of fuzes procured will result in the most economical buy and provide for the maximum augmentation in combat capability. The Committee is to be advised by March 15, 1981, of the quantity of fuzes which will be procured in fiscal year 1981 and the justification supporting the procurement.

Mr. President, this additional legislative history, submitted at this time for clarification of the intent of the committee of conference, should provide the Department with adequate direction to insure that proper readiness with respect to mechanical time fuze production capability is maintained.●

HOUSING POLICY FOR THE 1980'S

● Mr. MATHIAS. Mr. President, a distinguished American, Edward Brooke, of Massachusetts, recently addressed the National Association of Homebuilders on his perspective on existing housing programs and suggested some underlying policy themes which should be guiding public policymakers in the decade of the 1980's. Senator Brooke, in his role as chairman of the National Low-Income Housing Coalition, and in his long service on the Senate Banking Committee, has a long history of commitment to the housing problems of lower income people and means to address them.

I recommend his speech as priority reading for Senators and ask that it be printed in the Record at this point.

The remarks follow:

Remarks of Senator Edward W. Brooke

I want to begin by expressing my appreciation for the kind invitation to talk with you at this critical time for housing, and as you address the central question of housing affordability.

We meet at a time when many concerned with housing are apprehensive as a new President is about to take office. But, we should be encouraged by statements recently made by the President-Elect.

(1) That housing will be given a high priority in his Administration.

(2) That a program will be instituted to stimulate increased savings in order to provide a larger pool for home mortgages,

(3) That a variety of alternative mortgage instruments will be made available.

(4) That the cyclical peaks and valleys of the housing industry must be eliminated.

(5) That unnecessary regulations which impede progress in the housing industry be eliminated, and

(6) That a bipartisan independent commission on housing, modeled after the Kaiser Commission, will be created.

And, of course, the Administration, by bringing inflation under control and unshackling the economy will give the greatest boost to housing.

I also believe that the new Administration will be sensitive to the needs to improve our present housing programs and to make them more responsive to those with the greatest needs.

As you may know, I supported and actively campaigned for Governor Ronald Reagan. I did so not because I agree with him on every issue, for, indeed, we have a number of serious disagreements. But I did so because I believe he will provide us with sorely needed leadership. Moreover, I think he will concern himself not only with getting our economy moving again but also with imaginative and effective ways of dealing with the problems of those who are too often either left out or left behind—Blacks, Hispanics, other minorities, and low income people.

Moreover, I am convinced that President-elect Reagan will support the strengthening of our Fair Housing Law which is now unfinished business still before the lameduck session of the Congress.

I would like to state the views Ronald Reagan expressed when we discussed this subject last October.

The Governor said that he applauds the Congress's efforts to amend the Fair Housing Act of 1968, and that he wanted Members of Congress to know that they would have his full support as President in their efforts to enact appropriate and effective amendments to the Act.

Governor Reagan said that the Open Housing Act must be enforced, and that means an effective administration that can deal with cases speedily without accumulating an enormous backlog.

He said that merely enforcing the law, or creating more judicial machinery in Washington, is not a sufficient answer to the very real problems of discrimination in housing, for the problem lies in the hearts of our fellow citizens, and that it is to those hearts that he as the President must direct an appeal to justice, to fairness, to reconciliation, and to equal opportunity for all. Governor Reagan said that no President can rest until what he called twelve years ago the "evil sickness of prejudice" has been eliminated from our society.

He further said that the President must use his high office to combat racism and discrimination wherever it exists, and that he must take a committed personal role himself.

The Governor said that ensuring civil rights and full equality before the law are critical responsibilities of a national administration, and that they are responsibilities that he will take to heart. He said that it is encouraging that we have many beneficial laws on the books already, but that the challenge for the 1980's is to make them work well to meet the real needs of our minority citizens. And, in particular, when justice slows to a crawl in remedying instances of housing discrimination, then justice is denied.

All of us know that fair housing laws, even when vigorously enforced, cannot be effective unless the stock of housing is adequate. These are, indeed, troubled times for housing. Production cannot be maintained when mortgage interest rates are at such staggering heights, and financing is difficult or impossible to obtain. To adapt a familiar aphorism, when the housing industry sneezes, low income people catch pneumonia. All of us know, and have always known, that low income people have the worst housing problems. Too often, this situation is regretted, but nothing is done to remedy it. Indeed, we sometimes aggravate the housing problems of low income people in our efforts to improve housing for the rest of us. In the past, urban renewal too often became "Negro removal"; more recently, we have instances of low income people being displaced to build new Section 8 housing, or for other neighborhood improvements. Indeed, many minority and low income communities regard efforts at urban revitalization with a dread that can only be understood by those who know what it is to be homeless. And the recital of statistics that minimize or hide the threat of displacement does nothing to reassure them.

The advent of a new administration will mean, whether we like it or not, that our basic assumptions and approaches will be re-examined, in housing and in other areas of government activity. I believe we need to approach the task of reviewing housing policy not only as one of finding ways to maintain housing production, but also as one of finding ways to relieve the critical and growing housing problems of low income people.

The absolute shortage of low income housing units is appalling. Each year the Bureau of the Census makes an annual housing survey. The 1978 results have just been published. They show that, two years ago, there were more than three million renter households with incomes below $3,000—the very poorest of the poor. But there were only about one and one-half million units within their economic reach: that is, renting for less than $62.50, or 25 percent of an income of $3,000. This one dramatic fact—that for very, very low income renters the housing supply is less than half of housing need—ignores many other important facts. For example, as we all know, many of these units are in deplorable conditions. Moreover, the economics of supply and demand, in which the poorest people would occupy the cheapest units, does not work for housing markets, except in very rough terms. According to our estimates, more than half of the units which renters with incomes below $3,000 could afford are, in fact, occupied by households with higher incomes. And then, of course, there are problems of location and availability. Either the housing isn't there at all, or it's the wrong size, or minority people are unable to rent or buy it.

In addition to this absolute shortage of housing for our very poorest people stands the production record of our low income housing programs. All of the subsidized housing programs of the last forty years have produced about four and one-half million units—about three and one-half million through HUD and another million through the Farmers Home Administration. And the record is getting worse each year.

Low income housing was just recovering from the moratorium by fiat imposed by then-President Nixon in 1973 when a new moratorium began: a moratorium by attrition. I would remind you that in 1976—the first year of full recovery from the 1973 moratorium and the last year of the Ford Administration—HUD placed a total of 517,000 units of Section 8 and public housing under program reservation. This is the highest level of assisted housing reservations ever achieved by HUD in a single year. What has happened since? In 1977, HUD reserved 388,000 units. The 1978 and 1979 levels were about 325,000 units. Last year—fiscal 1980—the number dropped to only 202,000 units. This year, we will be fortunate indeed if Congress provides funds for 250,000 units—less than half the 1976 total. I hope and believe that the incoming Administration will seek ways to maintain our assisted housing program levels, even as it looks for approaches to reduce overall federal spending.

At the same time that program levels have been declining, a very significant precedent has been established. Congress has been appropriating funds for housing assistance programs at a level of $25–35 billion annually. This is, of course, "budget authority"—a firm commitment to spend the funds over the life of the public housing and Section 8 contracts. This means fifteen, twenty, thirty, or forty years into the future. In other words, this year's appropriation will not be fully spent until after 2020 A.D.

Federal outlays for assisted housing, covering all of the contracts written over the past 40 years, totalled less than six billion dollars in 1980. Housing-related tax expenditures—the money which the federal government does *not* collect because of various provisions of the tax laws, particularly the homeowner deductions for mortgage interest and property taxes—are estimated to total almost twenty-five billion dollars—more than four times the cost of housing assistance to lower income people. Indeed, the total of all the assisted housing payments ever made under all HUD-assisted housing programs, from the inception of public housing in 1937 through 1980, is less than the cost to the federal government of housing-related tax expenditures in 1980 alone. I am not for repeal of these tax provisions, but elementary sense of social justice and equity demands that we cannot continue to deny the poor the housing assistance they need, while providing so generously for others.

I believe the time has come for some bold new approaches to housing policies and programs. These approaches can and should be developed by asking ourselves two questions. First, what needs to be done to achieve the 1949 housing goal, now thirty years old, of a decent home for every American family? Second, are there better ways to use the funds we are appropriating for housing in this country? Suppose, for example, we were to use them currently instead of stretching them out for such long periods?

As you may know, since leaving the Senate, I have continued to work for better housing for low income people as Chairperson of the National Low Income Housing Coalition, an increasingly effective and respected voice on housing policy and housing issues.

The Coalition believes it is possible to develop a comprehensive housing program, at no greater cost than our present financial commitments to low income housing, which would deal effectively with the housing problems of low income people; conserve and rehabilitate our present housing stock; and provide the necessary support for a high rate of housing production. Before outlining the components of such a program, let me state several specific objectives which any comprehensive housing program should meet:

(1) it should assist *all* inadequately housed people desiring help to deal with problems of housing quality, housing affordability, and housing choice.

(2) It should improve and conserve the existing housing stock and existing neighborhoods.

(3) It should provide an adequate supply of new housing.

(4) It should be responsive to consumer, neighborhood, and community needs and preferences.

(5) It should minimize the cost to the federal government, including hidden subsidies.

We have developed, for discussion and consideration—and I repeat, for discussion and consideration—the framework of a comprehensive housing program with three major, interrelated components. None can stand alone and be expected to deal effectively with housing problems. This point cannot be overemphasized. The elements of the program are:

First, a major expansion in the production of moderate cost new housing, both sales and rental. The basic thrust should be to provide an adequate supply of housing and to meet special needs, such as those of elderly people, Indians, and farmworkers.

Second, a program of block grants for housing assistance for lower income people, tied to community development block grants, with balance-of-state or discretionary funds available to serve nonentitlement communities.

Third, and most important, an entitlement to housing assistance for all very low income people, which would pay the difference between the amount they can afford and the cost of the housing they require.

Our proposed program rests on the premise that different aspects of the housing problem should be addressed by the most appropriate means. Overall, there is the problem of an inadequate supply of rental housing and moderate-cost sales housing. This will become increasingly severe in the next four to five years, as the people born during the postwar baby boom establish their own households and enter the housing market. Already, vacancy rates in rental housing are at the lowest level in two decades, and the supply of unassisted rental housing is dwindling. Yet construction costs have risen to the point where some federal assistance is needed if new units are to be available for middle income people. We need to explore ways of reducing construction costs and, if necessary, providing production subsidies without diverting resources away from the even more critical needs of low income people. Achievement of a high level of production would benefit both those who move into the housing units and others who would be helped by an overall moderation of housing costs.

Among the approaches which we are considering to flesh out this part of our program are two which I have long advocated. First is an expansion of the so-called Brooke-Cranston program, to provide a flow of mortgage money at reasonable rates for both rental and sales housing. I again urge immediate release of the present two billion dollars authorization. Additional funds should be provided as needed to maintain adequate levels of production. Second is the concept of a tax-exempt "Individual Housing Account" to allow first-time home buyers to accumulate equity for the down payment on a house. This savings account, which would operate on a principle similar to the Individual Retirement Account, would permit a potential home buyer to deposit up to twenty-five hundred dollars a year, up to a maximum of ten thousand dollars. This amount would be deductible from income for income tax purposes, and the interest income would be exempt from taxation. This would enable young families to accumulate the funds they need to embark on home ownership. And I need not remind you of the plight of young families starting out today and the difficulty they have in buying that first home. I believe that this is destabilizing in a society when young people are unable to purchase their first home.

After World War II, when many of us were looking for housing, you may recall there was a concerted national effort to produce the housing and provide the mortgage credit we needed to buy our homes. The housing industry responded to our needs by producing moderate priced, single family homes in large numbers. Many of us bought "no frills" houses and raised our young families there until we could "graduate" to something more spacious.

Today's problems are very different. Mortgage interest is more than double the rates of the 1950's. Local building and zoning restrictions often preclude modest single-family housing. We need to shape programs which will provide today's young people with the same range of real housing opportunities that were available to us a generation ago. We need to couple federal support for this objective with new efforts to remove local barriers to moderate cost housing and with a new commitment from the private sector to focus on meeting the critical needs of our moderate-income families.

The second major element of our proposal is a housing block grant program. It appears likely that this approach—which did not originate with us—will now get serious consideration, and the National Low Income Housing Coalition hopes to be actively involved in shaping any enabling legislation. Let me emphasize that we see housing block grants as a basic component of a broader approach, not as the sole form of delivering housing assistance.

There are several major issues to be addressed in designing a block grant program. Among the most important are what activities should be eligible, and who should receive assistance. We would hope that eligible activities would allow broad scope to local communities to meet their needs, whether they be for new construction, rehabilitation, or preservation. However, if a housing block grant program is to meet our basic test of giving priority to low income housing needs, all activities undertaken should be directed to improving the housing of people now eligible for Section 8—that is, with incomes below eighty percent of median. We would urge that housing block grants be available to all communities now receiving community development entitlements. Finally, we are concerned that a housing block grant program be designed to give neighborhood and community-based organizations an opportunity to propose and receive funding for housing improvements that they need and want.

In developing an allocation formula, a balance should be struck between need, as measured by the number of low and moderate income people, and the condition of housing in the community. Incentives will be needed so communities will continue to spend their community development block grant funds on housing rehabilitation, rather than switching to total reliance on the new program. In addition, a portion—perhaps ten percent—of the funds should be available to HUD to meet urgent needs not adequately addressed through the allocation formula, to develop innovative approaches, and to expand its programs of technical assistance and dissemination of valuable approaches.

Finally, I urge that any federal housing block grant program require applications to contain a clear and specific statement of housing policies: assuring that all housing meets basic standards of health, safety, and decency; providing equal opportunity without discrimination based on race, sex, income, age or family composition: avoiding displacement; providing maximum opportunity for implementing housing programs to community-based housing development corporations; and encouraging cooperatives and home ownership.

Based on the experience so far of the community development program, it seems likely that housing block grant funds would tend to be fairly dispersed. going to a number of neighborhoods. The bulk, we believe, would be used for rehabilitation or conservation activities. However. neighborhoods and communities could decide for themselves how best to meet their housing needs.

A sound housing block grant program would have another advantage: it would change the dynamics of providing assisted housing, because neighborhood groups would seek funds to meet their housing needs, instead of objecting to them, as so often happens now. Block grants provide an opportunity, available in no other way, to mesh housing assistance with neighborhood needs and desires. Those of us who have labored over the years to build a more effective constituency of support for housing programs should welcome this.

Neither new production nor block grants addresses the most critical housing problem of very low income people: affordability. In 1978, over six million households were paying more than *half* of their incomes for shelter, including utilities. An additional five and one-half million households were paying between thirty-five and fifty percent. And, these are the very lowest income households. The National Low Income Housing Coalition estimates the median income of households with shelter-cost/income ratios of thirty-five to fifty percent was sixty-six hundred dollars. The median for those paying more than half their income for shelter was thirty-seven hundred dollars. Moreover, the number of households with these unbearable shelter-cost/income ratios is increasing at a rate of at least one million per year. The only way to meet the housing needs of these low income people is through an entitlement to housing assistance.

Moreover, when supplemented by new production and conservation activities, we believe an entitlement to housing assistance for very low income people—say, those with incomes below 50% of median—could be designed so as to deal effectively with the affordability problem without raising housing costs generally. Their housing assistance should cover the difference between what they can afford and the fair market rent for units of the size they need.

The proposed housing entitlement program would permit low income people, whether renters or owners, to compete for decent housing in the private market. It could be built upon the Section 8 existing program with two major changes: first, inclusion of home owners and second, instead of being dispersed in limited amounts to communities in accordance with their housing assistance plans, entitlements to Section 8 certificates would become a matter of right to all households who qualify. Only housing meeting minimum standards could be used and, to provide broader opportunity for housing choice, a portion of the certificates could be convertible, upon request, to higher housing assistance payments so that the holders could occupy new housing.

One of my early legislative proposals resulted in the Experimental Housing Allowance Program. The results of this program in my view demonstrate that housing allowances can be an important tool for low income people.

Housing allowances are no panacea, but neither are they are ineffective or counterproductive as their opponents contend. For example, there is strong evidence that they would have little effect on housing prices, even in tight housing markets. They induce repairs—generally relatively inexpensive ones—to the stock of existing housing, but they do not stimulate new production or substantial rehabilitation. Payments do need to be tied to housing standards, as they are in the Section 8 program, to make sure that families live in decent housing. Perhaps most significant for our purposes is the estimate of the cost of a universal housing allowance program; about seven and one-half billion 1976 dollars for a far more liberal program than the one I have just outlined. Even allowing for inflation, a housing entitlement program is clearly within our economic reach.

This, then, is the outline of a responsive, cost-effective comprehensive housing program. Let me emphasize that it is not a finished program. Nor are we proposing that it immediately replace our present low income housing programs. Rather, we regard it as a framework for discussion and elaboration as we seek better ways of meeting low income housing needs.

One thing should be made clear: the annual budget authority commitment required for our approach would be somewhat less than at present—though annual outlays would be higher. Congress is still considering the 1981 assisted housing appropriation: thirty-one billion dollars in budget authority, for which we can expect an addition of perhaps 250,000 units for lower income families. Under our approach, for twenty billion dollars, we could provide nine billion dollars in housing assistance—enough for all very low income families, plus five billion dollars for housing block grants, plus six billion dollars for new production assistance.

Those of us who have been worried by the steady attrition of lower income housing programs, and the likelihood that all of us will be pinched by a level of housing starts that may well dip below one million units can, I believe, take heart. As a Republican, I read the election results not as a mandate to turn away from human needs. Rather, I believe it is a mandate to try new and more effective approaches to problems which have not yielded to the efforts of the past two decades. I believe, if our approach has merit, that it will receive a hearing and careful consideration. Similarly, I as an individual and the National Low Income Housing Coalition as an organization will give careful consideration to whatever proposals emerge from the new administration. Our touchstone for evaluating them will be the extent to which they respond to the needs of those whose housing problems are most critical. I believe we can, even within the constraints of our present resources, solve them within a relatively short period. All we need is the imagination and the determination to do so.●

THE FIVE BEST-MANAGED COMPANIES, 1980

● Mr. MOYNIHAN. Mr. President, the December issue of Dun's Review features a special section entitled "The Five Best-Managed Companies 1980." New York State, I am happy to say, has within its borders two of those companies—Gannett and American Standard.

Gannett, which has its headquarters in Rochester, has grown into a company that had revenues of $1 billion in 1979. This alone is impressive, but it is even more so when we consider that this large and efficient enterprise traces its origins to Frank Gannett who bought the Elmira Gazette in 1906. Mr. Gannett bought that newspaper for $20,000 then, and continued acquiring others. He had 21 when he died in 1957. The Gannett chain now has 81 newspapers, with a daily circulation of 3.6 million.

I commend Mr. Allen H. Neuharth who became Gannett's president in 1970 and its chief executive officer in 1973. Under his stewardship, and with the diligent work of the whole Gannett management team, this company has become a model enterprise.

I also congratulate Mr. William R. Marquard, chairman and president of American Standard, Inc., headquartered in Manhattan. This company, which is the largest manufacturer of bathroom fixtures in the world, has shown itself to be creative and capable of adapting to the changing economic realities of our Nation. The amazing financial strength and growth of American Standard are testaments to the managerial talents and fine personal qualities of Mr. Marquard. He and his company are vital to New York. We are proud to have them.

Mr. President, I ask that Dun's Review articles about Gannett and American Standard be reprinted in the Record.

The articles follow:

GANNETT: HOW TO BUILD A MEDIA EMPIRE

Allen H. Neuharth, the outspoken chairman and president of Rochester, New York's Gannett Co., likes to recall a talk he gave to a group of security analysts in the early 1970s. The then little newspaper chain was unfamiliar to many investors, and after Neuharth explained what the company was all about, someone in the audience asked whether the name was pronounced Gan-*nett* or *Gan*-nett. Without hesitation, Neuharth shot back: "Profit."

A lot of things about Gannett (accent on the second syllable) have changed since then, but one thing that hasn't is its dedication to the bottom line. Over the last few years, while many newspapers have been struggling to come to grips with soaring costs and intensifying competition from television, Gannett has been turning in a series of exceptional performances. From 1974 to

1979, its revenues grew at an annual compounded rate of 16.9 percent profits at 19.8 percent. And during the 1970's, the company's profit margin and return on equity almost doubled.

Closing out the decade in typical style, Gannett's 1979 revenues hit the $1 billion mark (thanks to the merger of Combined Communications Corp.), thereby doubling its size in just three years. Wall Street estimates that Gannett will earn around $4.25 a share in this recession year—a 13 percent increase, compared with less than 1 percent for major public newspaper companies as a whole.

This kind of success has not come without excellent management. Gannett's unique style—a mixture of acquisition and internal expansion, central planning and local autonomy—is largely responsible for its remarkable transformation from a little-known regional publisher into one of the country's leading media empires. Gannett's chain of 81 newspapers, with a total daily circulation of 3.6 million, is the largest in the country. It also owns twenty radio and television stations, a national billboard company and the Louis Harris consumer research company. "They've had the best strategy of any newspaper chain since I started following them in the late 1960s," says analyst J. Kendrick Noble Jr. of Paine Webber Mitchell Hutchins.

The company was founded in 1906 when small-town newspaper editor Frank Gannett bought *The Gazette* in Elmira, New York, for $20,000. Although *The Gazette* was profitable and its competitor, *The Evening Star,* wasn't, Gannett reasoned that he could make even more money if there were only one paper in town. So he bought the *Star* and merged it into his own. Working exactly as monopolies are supposed to, the paper generated so much cash that Gannett decided to use the same strategy in other cities. When he died in 1957, passing the torch to his hand-picked successor, Paul Miller, the chain owned 21 newspapers in small and medium-sized East Coast cities, plus a string of little radio and TV stations.

SAVVY ACQUISITOR

Miller was the perfect choice to continue Gannett's acquisition policy. A former assistant general manager of the Associated Press, he remained an AP director after joining Gannett and eventually became its chairman. This involvement enabled him to keep a close eye on hundreds of newspapers around the country, and whenever a paper went on the block, Miller was often the first outsider to know.

It also gave Gannett an important negotiating advantage. Small independent publishers forced to sell out knew they could trust Miller to uphold their newspaper's standards and traditions, and they found him easy to deal with. From 1957 to his retirement as chairman in 1978 (he remains a director and chairman of the executive committee), Miller was a tireless acquisitor, spreading out from the East across the country even to Hawaii. True to Frank Gannett's philosophy, most of the papers are smallish (in the 20,000-to-80,000 circulation range) and in noncompetitive markets.

To Gannett observers, one of Miller's shrewdest moves, was hiring Al Neuharth. A former assistant executive editor of *The Detroit Free Press,* Neuharth climbed aboard in 1963, rose to president in 1970 and chief executive in 1973. His hard-driving—some call it "imperial"—style, knack for detail and flair for publicity became a perfect complement to Miller's genial demeanor.

With Miller handling acquisitions, Neuharth immersed himself in operations, giving the company its first formal management structure. He established staffs of experts at Rochester headquarters to oversee the production, sales and financial practices of each newspaper. He also set up a central purchasing subsidiary, Gannett Supply Co., which has not only cut supply costs but insures Gannett of dependable sources, particularly for sometimes scarce newsprint.

Neuharth's most dramatic innovation has been the establishment of a formal system of budgeting and planning, under which all Gannett publishers are required to project income and expenses for the coming year and spell out in detail how they intend to achieve their objectives. He has divided the chain into seven regions, each headed by a president. Once a year, he tours the regional headquarters, where, in long sessions, he peppers the publishers and regional executives with questions about their operations—and often revises their plans.

Neuharth believes these sessions are essential to the continued success of the company, not only for planning purposes but to break down the traditional total-autonomy mindset of Gannett's newspaper people. He wants all employees to think of themselves as part of the Gannett team. "We have developed what I call a global point of view," he says proudly.

One policy that hasn't changed since Frank Gannett first spelled it out in 1928 is editorial autonomy. Local publishers and editors still have the final say both as to how the news will be covered and the political stance taken on any issue. Although this may have something to do with conscience on the part of management, it is also a matter of self-preservation. With the phenomenal growth of newspaper chains in the past decade, journalists and other opinion leaders have charged that the diversity of the press is being destroyed, and some have even called for legislative restrictions on newspaper acquisitions as a way to halt the trend. While there has been no significant support for such a move up to now, the chains want to keep it that way.

Neuharth, however, has begun to take more than a passive interest in the quality of Gannett's editorial operations. A longtime newsman, he has undoubtedly been stung by criticism that Gannett's news coverage could be more aggressive and imaginative given its vast resources. Neuharth observes that Gannett's papers invariably improve after joining the chain. Besides, he says, "You have to remember that these newspapers are in small cities. It is unfair to compare them with The New York Times or The Washington Post."

Nevertheless, he has been trying to upgrade the Gannett News Service, the chain's own wire service. Since most Gannett papers get their national and world news from the Association Press, Gannett News Service—with bureaus in Washington and state capitals—was designed mainly to provide features and local angles on major news stories. But Neuharth believes it gives Gannett a way of competing with large, prestigious newspapers, and he has raised its annual budget from $1.5 million in 1974 to more than $4 million today. Last year, the service won a Pulitzer Prize.

Neuharth has also emerged as a tireless defender of press freedom, making many speeches about what he sees as growing threats to First Amendment guarantees and quickly challenging in court any encroachments on Gannett's own papers.

RECESSION-PROOF?

In the past few years, some Wall Streeters have wondered whether Gannett's heavy emphasis on the newspaper business is making it too vulnerable to economic cycles. To be sure, Neuharth has broadened the product mix; the Combined merger, for instance, increased revenues from broadcasting and billboards to 10 percent of the total each. He also makes no secret of the fact that he would like to move Gannett into magazine or book publishing if the right opportunity came along.

But newspapers will remain Gannett's main focus for the foreseeable future, and Neuharth contends that any fears about its cyclical vulnerability reflect a lack of understanding of the newspaper business. While competitive big-city markets like New York, Chicago and Los Angeles may be subject to economic swings, he says, "The record shows that newspapers in medium and smaller communities are virtually recessionproof."

Gannett is not the only chain to realize this, of course, and the competition for a dwindling supply of available newspapers means that it must now pay as much as forty or fifty times earnings to get good properties, compared with ten-to-fifteen times earnings a decade ago. Neuharth points out that chains still account for only 6% of newspaper circulation in the U.S., but industry analysts believe that a good portion of the cream—the small family-owned independents in growth markets—has already been skimmed and that Gannett will be forced to go after bigger fish if it is to maintain its growth rate.

To a degree, it is already doing so. The Oakland Tribune (circulation 188,800) and The Nashville Tennessean (133,000), both purchased in the past two years, would have been passed up years ago because of their size. And Neuharth suggests that larger papers are a major part of his growth plans. As he explains: "We're not scared of the larger markets. We've simply made it clear that we're not interested in major competitive newspaper markets."

Given the fact that such competitive markets are fast disappearing anyhow, that sounds like a way of saying that there are almost no limits to Gannett's reach.

American-Standard's Spectacular Comeback

Legend has it that the black-brick, golden-crowned headquarters building of American Standard Inc. in midtown Manhattan was designed to suggest a coal fire. The architect may have had something there. For on the 21st floor of the 56-year-old neo-Gothic skyscraper, Chairman and President William R. Marquard has been quietly generating considerable heat at the old plumbing and heating company over the past decade. Indeed, Marquard has transformed the once troubled company into a top performer, with a unique ability to generate red-hot earnings growth in mature, mundane capital goods businesses.

Back in the soaring Sixties, Wall Street looked askance at American-Standard (which likes to hyphenate its name in informal use) as a classic example of corporate ambition run amok. Eager to break out of its mainstream bathroom-equipment business, the company went on a protracted acquisition binge. The gaggle of companies it corralled—among them Westinghouse Air Brake, Union Switch & Signal, Mosler Safe—helped make American-Standard a $1 billion company. But profits were so meager that the company could scarcely cover its dividend, and debt stood at a horrendous $500 million. Abroad, subsidiaries sometimes found themselves bidding against each other for the same contract. In the inevitable cliché that floated around Wall Street in 1970, American-Standard was about to take a bath.

THE REORGANIZATION

To keep the company from going down the drain, the board of directors turned to Mosler Safe President Bill Marquard. It was a wise choice. Marquard sold off more than $500 million worth of money-losing operations and reorganized the remaining businesses into four major groups: transportation products, building products, security and graphic products and construction and mining equipment. He slashed long-term debt (to $280 million currently) and imposed strict financial planning and controls on every department. Results were immediately apparent, and in the five years to 1979, American-Standard's earnings grew at a compounded annual rate of 31 percent. "I'm impressed with what management has accomplished," says analyst Jack Kavanagh of Merrill Lynch & Co. "It got rid of losers and concentrated on the things the company does best."

American-Standards's largest business today is transportation products, which bring in 43 percent of sales. It makes braking systems for heavy trucks and air brakes and train control equipment for the railroad industry. With order backlogs high and most of its facilities operating at or near capacity, the transportation group is the company's major winner this year (sales up 20 percent for the first nine months), and Marquard expects it to do even better in 1981.

The building group, which accounts for about one-third of sales, has sustained its position as the biggest name in bathroom equipment worldwide. With housing starts down in the U.S., it has geared sales to the renovation market. It has also modernized its once staid line, coming up with whirlpool baths, fancy faucets and other trendy products. According to Marquard, American-Standard's share of the U.S. bath market has been growing and now stands at more than 20 percent.

Mosler Security Systems continues to be a sound money-maker. Going beyond safes and bank vaults, Mosler is now into electronic monitoring systems and special hazard-resistant doors for nuclear facilities.

The graphic division makes business forms, operates commercial printing plants and is the nation's third-largest printer of bank checks. Marquard gave the business a big boost last year by plunking down $28 million for Stafford-Lowdon, a Fort Worth, Texas, printer that gives the company much-needed representation in the Sun Belt and has increased graphic products sales by one-third.

Marquard is the first to admit that the construction and mining equipment group, which chips in about 13 percent of sales, has performed below expectations. Largely a producer of trucks for the mining industry, it has been "'thwarted," he says, by the depressed state of the Eastern U.S. coal industry. But it is an article of faith with Marquard that "Coal must come," and to prepare for that day the group has been investing heavily in the development of advanced-design heavy trucks. Both truck sales and order backlogs rose in 1980, Marquard says, and the division recently closed down its line, of scraper vehicles, which he expects to greatly improve profitability.

SPREADING THE RISK

In restructuring American-Standard, Marquard has aimed to avoid the cyclical swings of the capital goods market through product diversity and geographic spread (with about half of sales from abroad). In this recession year, that strategy paid off. Strong worldwide demand for transportation products more than made up for the lackluster business in construction and mining equipment. And while domestic sales of building products were soft at home, they were brisk abroad. As a result, although earnings have not maintained their extraordinary growth of the past five years, they are expected to rise a very respectable 12 percent to around $10.65 a share (before a 2-for-1 stock split) on sales of $2.7 billion. And the company's return on equity or about 26 percent (up from 11.4 percent in 1975) is called "the envy of most other capital goods producers" by anaylst Anne McBride of Morgan Stanley & Co.

To keep that return growing, Marquard says, American-Standard must maintain strong positions in all of its business segments, and that means being the most efficient producer—a company goal that is "repeated thousands of times and fed all the way down to the bottom of our organization." The company makes managers aware of the real costs of doing business by charging every operating unit for the use of capital and assets employed and insisting that they figure depreciation on a replacement-cost basis, not by historical costs. Marquard admits that the cost-efficiency program is burdensome to many company managers. "But in the real world, you have to achieve real results," he says.

For that matter, American-Standard was the first capital goods producer, and is still one of the few, to adopt LIFO accounting (which values the cost of goods sold at current prices and all but eliminates inventory profits) on a worldwide basis. As Marquard explains, "We became convinced early in the Seventies that inflation would be a major problem. The result is that today we are dealing with real profits, not illusionary, inflated earnings." In the real world of soaring energy costs, it is also characteristic of American-Standard to be well-deep in a program to find natural gas on or near its own property. Thus far it has brought in enough gas to equal more than 15 percent of company needs.

American-Standard manages its far-flung empire with what Marquard calls "a small and lean group" of executives. A company that considers itself international in the strictest sense of the word, more than one-third of its 32 vice presidents are foreign nationals, including many at New York headquarters.

In American-Standard's decentralized but carefully controlled operations, Marquard leaves day-to-day operations to senior vice presidents but "looks very carefully at strategic planning from the top down and bottom up." He goes into depth on the goals, problems and budgeting of every group at quarterly operating reviews and profit planning sessions and meets regularly with the group operating heads.

A "NO-NONSENSE" MANAGER

As a manager, Marquard is known for his low-key, businesslike style. A great believer in face-to-face discussions, he likes to "keep pretty good hands on people" by popping into their offices unannounced. "I'm a no-nonsense person," he says, puffing on his ever-present Jamaican cigar. "Our people know that once we set objectives, they have to perform. I do not suffer mediocrity."

Marquard gets the "highest possible rating as CEO" from Augustine R. ("Gus") Marusi, chairman of Berden Co.'s executive committee and a member of the American-Standard board. "Bill runs a tight ship and is quietly efficient," Marusi says. " I know of very few executives who could have done the job that he has done with American-Standard."

Adds industry analyst Terry York of Drexel Burnham Lambert & Co.: "Marquard has instilled a high degree of confidence and morale in the organization, the single most important thing in any company."

Marquard does not believe the job is finished by any means. Given galloping inflation, he points out that if American-Standard is to continue meeting its annual growth goal of "at least 5 percent real," it has to increase earnings by 15 percent a year. Beyond that, he hopes to extend the company's product lines and "move out geographically." Marquard does not know if the company will be in the same four businesses ten years from now. "But in anything we do," he says, "we will want to be a leader."

When he took over as CEO ten years ago, Marquard told a group of analysts that American-Standard might not be as exciting in the future as it once was but that it would be a lot more rational. Now even he is willing to admit, "Maybe we're beginning to be exciting again."●

COAL PORTS CRISIS: A CRUCIAL FEDERAL INITIATIVE S. 3247 "THE PORTS AND NAVIGATION IMPROVEMENT ACT OF 1980"

● **Mr. WARNER.** Mr. President, I have related to the Senate in a series of statements the problems facing America's coal export industry.

My statements have pointed out that these problems have created expensive delays in the filling of orders of foreign coal buyers.

These delays and their attendant increased costs have not set well with our foreign coal customers.

A buyer for French coal users, Philippe Julienne, in viewing the problems involved in our coal export market, which can add upwards of 20 percent to the cost of coal delivered overseas said:

> It's a joke and yet it is frightening. By 1983, it will cost buyers at least $100 million extra for the delay.

Mr. President, I ask that the October 24, 1980 Christian Science Monitor article "Overseas Buyers Queue up for American Coal, But Worry About U.S. Reliability, Port Facilities" be inserted in the RECORD at the end of my remarks.

The problems outlined in this article call for concerted action by both private and public parties to rectify the concerns America's coal export market face.

Last Friday, Senator Johnston and I, along with our distinguished cosponsors Senators HEFLIN, HEINZ, and STENNIS, introduced S. 3247, "the Ports and Navigation Improvement Act of 1980," which sets forth the proper and crucial Federal initiative that must be undertaken immediately if America's coal is to retain an economically viable position in the highly competitive world coal market.

After examining the bill, I hope the rest of the Senate can join in support of this bill and work toward prompt passage of this measure.

The article follows:

[From the Christian Science Monitor, Oct. 24, 1980]

OVERSEAS BUYERS QUEUE UP FOR AMERICAN COAL, BUT WORRY ABOUT US RELIABILITY, PORT FACILITIES

(By Clayton Jones)

BOSTON.—Coal trains that rumble night and day out of Appalachian mines are carrying a fuel more to the world's liking with almost every passing crisis.

War in the Persian Gulf, coming after high oil jumps in 1979 and miner strikes in Poland and Australia, has helped boost US coal exports by two-thirds so far in 1980, or nearly to a level not anticipated until 1985.

What worries other nations, however, is that a sudden return of the once and future king of fuels someday could mean less-than-royal treatment by the world's largest coal supplier, the United States.

This quick jump in export, mainly to Western Europe, has caused renewed forecasts of the US becoming the "OPEC of coal" with an estimated 200- to 300-year reserve in rich, thick veins under East and West mining fields.

"Nineteen hundred eighty exports are a good indication of what the future holds," says Connie Holmes of the US Coal Exporters Association. Eager to end the US trade deficit and reduce high miner unemployment, the Carter administration formed an interagency task force in May to solve roadblocks to the US leading the way into a new coal age.

Coal can provide two-thirds of the world's new energy supplies for next 20 years, stated an extensive World Coal Study by the Massachusetts Institute of Technology last May, with the US exports making up nearly half the market.

But even the possibility of a partial US energy monopoly in the future has ignited concerns among American allies now over possible supply cutoffs during an energy emergency or, less likely, the use of coal as a political weapon.

Such fears are not unfounded.

In 1973, point out delegations of coal buyers in recent visits to American coal companies, the Department of Agriculture helped farmers by blocking exports of soybeans in a market almost totally controlled by the US and central to Japanese diets.

Would the flow of US coal likewise be interrupted?

The sanctity of long-term coal contracts was to have been addressed by President Carter in a public meeting planned for Oct. 24 at the White House, but the forum was rescheduled until after the election Nov. 4, says Bernhardt Wruble, head of the six-month-old coal export panel. "We want to disavow coal exports as a political weapon," he said.

Of more immediate worry to Europe, Japan, and other coal importers, however, have been long delays this year in loading ships at US coal ports, specifically the largest such harbor in Norfolk, Va., known as Hampton Roads.

Sudden demand for both utility-grade and steel-making US coal caught the nation's port facilities on the East and Gulf coasts unprepared, creating a bottleneck in the coal flow. The US coal and rail industry did not anticipate the fast conversion to coal of many European oil-fired plants in 1980 following last year's world oil price hikes.

Piers for loading were too few and too small to transfer enough of the coal from rail cars to conveyor belts and then to the hungry cargo holds that now must wait offshore.

At anchor in Chesapeake Bay of Virginia, for instance, are several dozen large ships that have swung at anchor for as long as 30 days waiting to take on coal from trains rolling down from the Appalachian hills. One day's waiting costs an average $15,000 for each ship, foreign buyers report. This delay adds upwards of 20 percent to the cost of coal delivered overseas.

"It's a joke," says Philippe Julienne, buyer for French coal users, "and yet it is frightening. By 1983, it will cost buyers at least $100 million extra for the delay."

Still, the high cost of waiting, offset somewhat by the US advantage of closer ports to Europe, has not caused the small energy armada to turn to more distant nations. Some ease-up in the long queues is reported at Baltimore and Philadelphia, although, Mr. Julienne says, "We expect no improvement for the next two years." By 1987, port capacity for coal exports is expected to increase by 100 million short tons if a number of industry construction projects are completed.●

DEATH OF JOHN LENNON

● Mr. SCHMITT. Mr. President, it is with sadness that I note the tragic death of former Beatle John Lennon. His untimely passing came when he was just beginning to reemerge from several years of artistic seclusion to release his first recording in over 5 years.

It was in the sixties that Lennon combined his considerable writing and musical skills with three other talented musicians to form one of the most popular and influential pop groups in history. The arrival of the Beatles in this country from England in 1964 set off a wave of hysteria that came to be known as Beatlemania. It began a musical career in the United States that would end up as one of the most successful ever, both commercially and artistically.

Lennon authored many of the songs that were to become favorites among many different age groups. The popularity of these recordings can be seen in the fact that radio stations throughout the country still devote hours of time to playing Beatle hits. Furthermore, their songs have been recorded by not only other rock groups, but by performers in jazz, folk, country, classical, and Gospel music as well. Their words and their music have a universal appeal.

The sixties was a turbulent decade in which many events of significance took place. Lennon and the Beatles were there to record these events in their songs. They captured the sixties by capturing the spirit of the times and putting it into words and music. As they did this, their musical genius not only redefined rock as a musical form, but they also created new means of expressing the hopes and dreams of a generation. And they did it well. Thus the Beatles became the spokesmen of an era.

The contributions of John Lennon to our musical treasure chest were great, and his loss will be felt by everyone who enjoyed his music. His songs will continue to provide listeners with hours of happiness. For, although John Lennon will no longer be with us, his music will endure for generations to come.●

LEGISLATION TO BENEFIT U.S. FARMERS AND FISHERMEN

● Mr. ZORINSKY. Mr. President, it is my hope that the Senate will act on S. 1465, which provides substantial benefits to U.S. farmers and fishermen, before the 96th Congress adjourns sine die.

S. 1465, the Farm Credit Act Amendments of 1980, will improve the lending programs of the Farm Credit System by increasing services to borrowers and modernizing the operations of the Farm Credit System.

Thousands of farmers preparing to plant crops next spring may be hard-pressed to obtain adequate credit for their operations. S. 1465 will be a great help to U.S. agriculture in meeting farmers' credit needs.

The Senate initially passed S. 1465 on July 24, 1980. The House passed S. 1465, with an amendment substituting the text of the House-reported bill, on November 19, 1980. The House amendment contains a number of provisions that are identical to provisions in the Senate bill. The differences between the Senate and House versions of S. 1465 on other provisions are, for the most part, minor. The House amendment has strong support from farm, banking, commodity, and insurance groups.

The Farm Credit Act Amendments of 1980 can be presented to the President for his signature once the Senate approves the House amendment to S. 1465. Senator TALMADGE, Senator HELMS, and I have been working hard over the last 3 weeks and will continue to do everything we can during the remainder of the 96th Congress, to get S. 1465 scheduled for floor debate.

Mr. President, this legislation, which has been under consideration for the last year and a half, is extremely important to U.S. agriculture. The Senate should not adjourn before considering whether to accept the House amendment. I urge my colleagues to support us in our efforts to get S. 1465 on the floor for debate.●

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will come in at 10 o'clock.

I hope to take up the continuing resolution as soon as the order for recognition of a Senator has been consummated, and I anticipate that the Senate will be on the continuing resolution for several hours. Whether or not it will be possible to complete action by the Senate on tomorrow, I cannot say.

In any event, the measure will have to be disposed of finally as between the two Houses before Congress can adjourn sine die. The deadline at which Government agencies will begin to have financial problems if the matter is not resolved prior thereto is next Monday, December 15.

In addition to the continuing resolution, it is hoped that the Senate can extend the debt limit before Congress adjourns sine die.

I also express the hope that the Senate can dispose of the farm credit legislation and possibly a regulatory reform measure and other measures before going out for the session and the season.

In any event, I stress the importance of final action on the continuing resolution before the Senate can adjourn sine die—that together with the extension of the public debt limit.

The extension of the public debt limit is not an absolute necessity, but I think the Senate would be wise to act on that measure before adjourning for the year.

Mr. LONG, the chairman of the Finance Committee, is prepared to proceed with the measure. I hope that my colleagues, before making their final reservations to go to distant parts, will be prepared to stay here until final action can be completed on the public debt limit and especially on the continuing resolution.

Other conference reports—for example, any conference action on the revenue-sharing measure—will need to be disposed of before the Senate goes home.

Mr. MATHIAS. Mr. President, will the distinguished majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. MATHIAS. I wonder whether the majority leader can advise the Senate of his intentions with respect to mass transit legislation.

Mr. ROBERT C. BYRD. I would hope that that legislation could be disposed of. There are some problems in connection with it, as I understand it, but I hope that once the continuing resolution can be disposed of, the Senate can clear up several other measures while the continuing resolution is making its way on the other side of the Hill. That is about all I can say.

Mr. MATHIAS. That is a consummation devoutly to be desired.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

I would anticipate a good many rollcall votes tomorrow and Thursday and Friday.

The House will probably go out Saturday, over until Monday. I understand, in talking with the Speaker, that the House will go out Friday afternoon, as a matter of fact, over until Monday.

So if we do not get our work completed before the House goes out on Friday afternoon, I assume that we can only expect to be around here next week—Monday at least. So let us hope and pray and keep our fingers crossed, in the effort to finish our work by Friday, at the close of business. But do not bet on it.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and at 9:02 p.m. the Senate recessed until tomorrow, Wednesday, December 10, 1980, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 9, 1980:

NATIONAL COUNCIL ON THE ARTS

Arthur I. Jacobs, of Florida, to be a Member of the National Council on the Arts for a term expiring September 3, 1986.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Stephen G. Breyer, of Massachusetts, to be U.S. circuit judge for the first circuit.

EXTENSIONS OF REMARKS

THE GLOBAL 2000 REPORT: A RECONNAISSANCE OF THE FUTURE

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. SEIBERLING. Mr. Speaker, as president of the Peace Through Law Education Fund, I take great pleasure in inserting into the RECORD the remarks of Mr. Gus Speth, Chairman of the Council of Environmental Quality. Mr. Speth was the speaker at the October meeting of the food and population breakfast series sponsored by the fund.

Mr. Speth has served as Chairman of the Carter administration's Toxic Substances Strategy Committee and as a member of the interagency groups which developed the administration's policies on solar energy, nuclear waste management, and water conservation. Before his appointment to CEQ, he was a staff attorney for the Natural Resources Defense Council, a public interest group which he helped found in 1970.

I commend his remarks to the attention of my colleagues:

The Global 2000 Report is the first attempt by the U.S. Government—or any government—to make long-term quantitative projections across the range of population, resource and environmental concerns. Given the obvious limitations of such projections, the Global 2000 Report can best be seen as a reconnaissance of the future.

The next 20 years will see an increasingly crowded world, containing more than 6 billion human beings by 2000. It could be a world in which growing numbers of people are suffering hunger and privation; where losses of croplands and forests are mounting while human numbers and needs for food, fiber, and timber increase; where per capita supplies of fresh water, timber, and fish are diminished; where degradation of the earth's air and water is accelerating; and where plant and animal species are vanishing at rates without precedent. Even now, some 800 million people live in conditions of absolute poverty, their lives dominated by hunger, ill health, and the absence of hope. By 2000, if current policies remain unchanged, their number could grow to more than one billion.

The effect of rapid population growth and poverty on the productivity of renewable natural resource systems is certainly one of the most troubling of the Study's findings. We have become accustomed in recent years to warnings about the need to conserve nonrenewable resources, which eventually must run out. But the Global 2000 Report points to serious stresses that threaten our renewable resources as well. Even now, the earth's carrying capacity—the ability of biological systems to meet human needs—is eroding. By 2000, matters could be considerably worse, if the trends toward progressive impoverishment of the earth's environment and renewable resource base continue.

One important conclusion reached by those of us who worked on the Report is that the conflict between development and environmental protection is often misunderstood and is, in significant part, a myth. Many of the pressures on renewable natural resources noted in the Report are the result of the desperate struggle of poverty-stricken peoples to stay alive; thus the key to easing these pressures is to improve the conditions of the earth's poor through sustainable economic development, which requires, among other things, sound resource management, environmental protection, and family planning. Instead of being an obstacle to development, protection of resources and environment is an essential aspect of development. Many of the resource problems outlined in the Global 2000 Report stem from a lack of sound, sustainable development, and will be effectively addressed only by economic progress.

I believe that the Global 2000 Report confronts this nation and the other nations of the world with one of the most difficult challenges facing our planet during the next two decades—second only, perhaps, to the global arms race in importance. While the United States can and must assume a strong leadership role in meeting this challenge, it is clear that no one nation or group of nations can cope with international problems of the magnitude described in this Report.

POPULATION

The Report's projections point to continued rapid population growth with world population increasing from 4.5 billion today to more than 6 billion by 2000. More people will be added to the world's population each year in the year 2000 than today—about 100 million a year as compared with 75 million today. Most of the additional people will live in the poorest countries, which will contain about four-fifths of the human race by the end of the century.

INCOME

Unless other factors intervene, this planetary majority will see themselves growing worse off compared with those living in affluent nations. The income gap between rich and poor nations will widen, and the per capita gross national product of the less-developed countries will remain at generally low levels. In some areas—especially in parts of Latin America and East Asia—income per capita is expected to rise substantially. But gross national product in the great populous nations of South Asia—India, Bangladesh and Pakistan—will be less than $200 per capita (in 1975 dollars) by 2000, despite considerable increases in production and national income in some of these countries.

FOOD

While the Report projects a 90 percent increase in overall world food production in the 30 years from 1970 to 2000, a global per capita increase of less than 15 percent is projected over the same period. Most of the per capita increase will go to countries that are already comparatively well-fed. In South Asia, the Middle East, and the poorer countries of Africa, per capita food consumption will increase marginally at best, and in some areas may actually decline below present inadequate levels. Real prices of food are expected to double during the same 30-year period.

CROPLAND

The pressures of population and growing human needs and expectations will place increasing strains on the Earth's natural systems and resources. The spread of desert-like conditions from human activities now claims an area about the size of Maine each year. Croplands are lost to production as soils deteriorate because of erosion, compaction, and waterlogging and salinization on irrigated lands. Meanwhile, cropland in the United States and other industrialized countries is being converted rapidly to other uses—residential development, highways, shopping centers, and reservoirs. In poorer countries as well, villages and cities are expanding at the expense of cropland.

ENERGY

The increases in world food production projected by the Report are based on continued improvements in crop yields per acre, at the same rate of the record-breaking increases of the post-World War II period. These improvements depended heavily on energy-intensive technologies like fertilizer, pesticides, fuel for tractors and power for irrigation. But the Report's projections show no relief from the world's tight energy situation. World oil production is expected to level off by the 1990s.

FORESTS

The conversion of forested land to agricultural use and the demand for fuelwood and forest products will continue to deplete the world's forests. The Report estimates that these forests are now disappearing at rates as high as 18-20 million hectares—an area half the size of California—each year. As much as 40 percent of the remaining forests in poor countries may be gone by 2000. Most of the loss will be in tropical and subtropical areas.

GENETIC RESOURCES

The loss of tropical forests, along with the impact of pollution and other pressures on habitats, will cause massive destruction of the planet's genetic resource base. Between 500,000 and 2 million plant and animal species—15 to 20 percent of all species on Earth—could be extinguished by 2000. One-half to two-thirds of the extinctions will result from the clearing or degradation of tropical forests. This would constitute a massive loss of potentially valuable sources of food, pharmaceutical chemicals, building materials, fuel sources and other irreplaceable resources.

WATER RESOURCES

Deforestation will worsen severe regional water shortages and the deterioration of water quality. Deforestation destabilizes water supplies, aggravates water shortages in dry seasons and intensifies flooding, soil erosion and siltation of rivers and resources in rainy seasons. Population growth alone will cause demands for water to at least double from 1971 levels in nearly half of the world. Competition for water could also exacerbate international tensions. The Report notes that 148 of the world's major river basins are shared by two countries and 52 are shared by three to ten countries. "Long-standing conflicts over shared rivers * * * could easily intensify," the Report says.

AIR QUALITY

Industrial growth is likely to worsen air quality. Air pollution in some cities in less-developed countries is already far above

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

levels considered safe by the World Health Organization. Increased burning of fossil fuels, especially coal, may contribute to acid rain damage to lakes, plants and building materials and to the increasing concentration of carbon dioxide in the Earth's atmosphere, possibly leading to climatic changes that could have highly disruptive effects on world agriculture. Depletion of the stratospheric ozone layer, attributed partly to chlorofluorocarbon emissions from aerosol cans and refrigeration equipment, could also have an adverse effect on food crops and human health.

POLICY IMPLICATIONS

Disturbing as these findings are, it is important to recognize the Global 2000 Report's conclusions for what they are: not predictions of what will occur, but projections of what could occur if we do not respond.

The humanitarian reasons for action in response to these problems are strong enough by themselves, but we must be aware of the Report's implications for our security as well. The Global 2000 Report should alert us to the possible consequences of increasingly widespread hunger and poverty, growing competition for scarce resources and widening income disparities between the richer and poorer nations of the world. The Brandt Commission put its finger on this central truth when it wrote:

> "War is often thought of in terms of military conflict, or even annihilation. But there is a growing awareness that an equal danger might be chaos—as a result of mass hunger, economic disaster, environmental catastrophes, and terrorism. So we should not think only of reducing the traditional threats to peace, but also of the need for change from choas to order."

Secretary Muskie also made the point well in his recent defense of the U.S. foreign aid program before the foreign Policy Association:

> "It is in our interest to do all we can now to counter the conditions that are likely to drive people to desperation later. * * * We would rather send technicians abroad to help grow crops than send soldiers to fight the wars that can result when people are hungry and susceptible to exploitation by others."

The urgency and scope of the challenges set forth in the Global 2000 Report call for a new era of global cooperation and commitment. Prompt changes in public policy must be made around the world before these problems worsen and options for effective action are reduced.

In bringing about these changes, the United States has both the ability and the obligation to continue its strong leadership role. Even though many of the problems identified in the Report may seem remote from us, they are not. We must turn our attention, ingenuity and generosity increasingly to them.

To provide the basis for a strengthened, sustained U.S. response to the problems identified in the global 2000 Report, President Carter has established a Presidential Task Force on Global Resources and Environment and has asked that it report back to him with a plan of action early next year. Members of the Task Force, in addition to CEQ, are the Department of State, the Office of Management and Budget, the White House Office of Domestic Affairs and Policy and the Office of Science and Technology Policy. As Chairman of the Task Force, I am looking forward to working with these agencies and the many others that made such valuable contributions to the Global 2000 Report in developing specific proposals for ensuring that our Government does what is necessary to address these urgent problems. I would like to add at this point that I consider this assignment from the President to be the most important assignment anyone in my position could have at this time. Developing for the President a set of strong, effective recommendations for action will be our highest priority effort in the coming months.●

HIGH INTEREST RATES MUST BE CURBED

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. FITHIAN. Mr. Speaker, I would like to take this opportunity to protest again the recent increases in the discount rate by the Federal Reserve Board.

These increases have again catapulted interest rates to 19 percent—a return to the disastrously high interest rates of this spring. In the next month, the rates may again approach 20 percent. At the very time when the Nation seems to be climbing out of a yearlong recession, unreasonable interest rates threaten to plunge us into another round of unemployment increases and slowdowns in the auto, steel, housing, and real estate industries. In addition, high interest rates have not substantially reduced the inflationary spiral that has gripped the Nation for the last year. In fact, the high rates have contributed to it. We must end this roller coaster flow of interest rates and stabilize our economy. Obviously, some individuals and organizations make a handsome profit out of high interest rates—but not the working family. Some may even profit from the rapid changes upward and downward of the cost of money. But not the overwhelming majority of people.

High interest rates have had a dramatic impact on reduced housing starts across the country and on driving many real estate firms out of business. The construction trades are in desperate shape, and the prospects for the future are not bright. The automobile industry faces its greatest crisis since the Great Depression, and auto dealers are going bankrupt across the Nation. The steel industry is directly affected by the present slump in the auto industry. When Detroit sneezes, Gary and Pittsburgh catch cold. Small businesses are severely impacted by interest rates for their inventories, and many have had to close their doors forever.

I fully support Government fiscal policies which will allow interest rates to return to reasonable levels. During the 96th Congress and before, I steadfastly worked for a balanced Federal budget, and I will continue this work in the next Congress.

The people I have the privilege to represent in Indiana feel strongly about the need to bring interest rates down and keep them down, while at the same time controlling inflation. Lowering interest rates and curbing inflation can both be accomplished with the proper fiscal policies and a balanced budget. The time has come to reduce interest rates and cut Government spending.●

TRIBUTE TO CONGRESSMAN AL BALDUS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. COELHO. Mr. Speaker, when the 97th Congress convenes it will be absent a colleague who has been a credit to this institution; Congressman ALVIN BALDUS. I have had the distinction of serving on the House Agriculture Committee with AL: he is the chairman of the Dairy Subcommittee of which I am a member.

I recall AL's election to these Halls in 1974. At the time I was administrative assistant to my predecessor, Congressman Bernie Sisk. But California had an eye on the race in the Third District of Wisconsin, for there the voice of dairy producers around the country would take a seat in Congress.

No one could have done as fine a job as AL BALDUS. In a part of the country where dairy issues are of paramount concern, AL BALDUS knew the job for which he was chosen. If the matter before him involved the intricacies of a milk marketing order, AL BALDUS knew how to approach it. If restricting imports on a product competing with his farmers was brought to his attention, AL BALDUS was prepared to take on the trade officials responsible for the action. The farm country of that western and southwestern portion of Wisconsin was fortunate to have a fighter of AL BALDUS' stature here in Washington.

To have known AL BALDUS as I have, and as have my colleagues on the Agriculture Committee—is to know a man of tremendous dedication to his work on Capitol Hill. It has been a privilege to have benefited from his contributions to not only this body, but to the agriculture community throughout the United States. To say that his sudden departure from the House is a shock, is to understate the void left to be filled.

AL BALDUS—we will miss you. We know, however, that you have left for us a great deal to live up to. In the road ahead, you have our sincerest best wishes.

Thank you, Mr. Speaker.●

EVERETT SKINNER

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mrs. HECKLER. Mr. Speaker, we in Congress share a common bond with all those in public service across the Nation, and those who build a record of excellence in public office deserve our special recognition. I am honored to call to the attention of my colleagues just such a gentleman.

For 32 years Everett Skinner served the town of Plainville, Mass., with determination, competence, and selflessness. He has earned the admiration and appreciation of his fellow citizens, and I am privileged to join them in publicly recognizing his outstanding career and dedication to the highest standards of public service.●

A TRIBUTE TO COUNCILWOMAN WILLIE J. HARDY

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. FAUNTROY. Mr. Speaker, at noon, on January 2, 1981, one of the District of Columbia's most loyal and dedicated servants will officially step down from elective office. This Friday, December 12, 1980, many of Councilwoman Willie J. Hardy's friends and supporters will gather at St. Luke's Church, 4924 East Capitol Street, SE., in the District of Columbia, to pay tribute to the deeds and contributions of this great woman. I urge the Members of this Congress to join in this tribute which begins with dinner at 7 p.m., and is followed by dancing until 1 a.m.

Councilwoman Willie J. Hardy has represented the District of Columbia's seventh ward on the District of Columbia Council since 1975, having been first elected in 1974. She was one of the first elected to that body as reconstituted under the Home Rule Act. She was reelected in 1976 and has served continuously since that time. She has served as chairwoman pro tempore of the Council and has chaired several of its standing committees. In all respects, her service has been exemplary.

But Willie J. Hardy has been more than an elected official to the District. A native Washingtonian whose roots run deep, she has been a committed community activist since early adulthood. When a voice was needed to rise above the calamity of oppression, segregation, and discrimination, Willie J. Hardy was heard. When clothing was needed for the near naked and food for the hungry, Willie was there. When protection from the terrible, tragic violence of street crime was needed for our youth, Willie J. Hardy led the way. Often, late at night and into the wee hours of the morning, Mrs. Hardy was forever vigilant, insuring that residents of public housing have decent, safe, and sanitary living places. To so many District residents, Willie has been a friend and a comfort.

Her career has been varied. She has been a private entrepreneur, she has worked in the Senate of the United States and she has worked for agencies of the District of Columbia government. Throughout her 6 years on the District of Columbia Council, her vast experience has been an invaluable asset to the work of that body. Most important, she has been an active and vocal member. While some of her legislative proposals have been controversial, she has always stated her position and stood by what she believed in—a rare quality among legislators.

A loving mother, a wife, and then a widow, a shining beacon in a sea often filled with confusion, chaos, and hopelessness, Councilwoman Willie J. Hardy, with the courage and strength of a Ghandi or a Martin Luther King, Jr., has made life more livable for so many.

The District of Columbia will miss Mrs. Hardy on the council, but if I know Willie her presence will continue to be felt and heard. The Congress thanks you, Councilwoman Willie J. Hardy, for all that you have done.●

EDITORIAL COMMENTS FROM NEBRASKA

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. BEREUTER. Mr. Speaker, recently I read two editorials in one of the largest daily newspapers in my congressional district, that I would like to bring to the attention of my colleagues. The Lincoln Journal offers some insights that I think we can all appreciate as we close the 96th Congress.

This Member is in complete agreement with the editorial titled "Don't Bother Me With Details, Boy." It refers to the need of elected officials to exercise greater control over the Federal bureaucracy's regulatory functions. The conclusion deserves underscoring.

> Somebody has to write the rules, if not in law then in regulation form. By allowing bureaucrats to do too much of that, legislators default on their jobs, even as they hypocritically beat administrators around the ears with rhetoric sticks.

The second editorial offers an interesting perspective on the current busing controversy facing Congress. I also commend it to the attention of my colleagues.

I submit these editorials to be printed in full as follows:

[From the Lincoln Journal, Dec. 4, 1980]

DON'T BOTHER ME WITH DETAILS, BOY

The soon-to-be majority leader, Tennessee's Howard Baker, wants the Republican-dominated Senate in 1981 and 1982 to work fewer hours, pass less legislation and restore the upper chamber's reputation as a national forum for debating great questions of the day.

So far, so good. Right or wrong, that is in concert with the national mood.

There is a risk, nonetheless.

Baker hopes "we can get away from acting like elected bureaucrats and passing thousand-page bills."

The catch there is that if the legislature, federal or state, does not declare its will in explicit and often very-detailed terms, it surrenders options—and not infrequently policy calls—to the administrators in the executive branch, those "bureaucrats" with whom we, and legislators, maintain a continuing love-hate relationship.

Better, in our judgment, that legislators concern themselves with details. Too many government rules and regulations are made by people not nearly as politically accountable as elected representatives.

There is in the proposition of passing few but spaciously-worded laws the germ of the notion legislators can duck their full responsibilities.

Somebody has to write the rules, if not in law then in regulation form. By allowing bureaucrats to do too much of that, legislators default on their jobs, even as they hypocritically beat administrators around the ears with rhetoric sticks.

[From the Lincoln Journal, Dec. 1, 1980]

KEEPING BUSING AS ONE TOOL

President Carter can veto the antibusing amendment passed by Congress. The Lincoln Journal hopes he will do so. It could be an academic exercise, however.

In a matter of weeks, the man in the White House will be Ronald Reagan, not Jimmy Carter. Reagan says he is in complete harmony with the mood on Capitol Hill.

Whether that mood is totally racist or just a teeny-weeny bit or inadvertently or unconsciously racist may be arguable. Racism is present, however. Deny it six ways from Sunday, the fact remains.

The object of Congress is to prevent the Justice Department, by means of controlling its money, from playing any part in school desegregation litigation. That would not prevent private parties from going to court. It would, however, remove the primary driving force in such cases, the one supposed to be charged with enforcing the law of the land.

To be sure, court-ordered busing as a remedy for deliberate racial segregation in the public schools has not been a howling educational or social success. Its detractors are all about. No one doubts that busing problems have stimulated "white flight" and no one questions that intraschool disciplinary problems have increased.

These are tormenting new vexations which can be as bad as the evil sought to be diminished.

Still, there also are examples of positive racial integration achievements in the United States, given sufficient time, community leadership and good will, and conscious efforts directed towards success on behalf of the children.

Busing as one—but only one—of the possible remedies for legally proven deliberate racial segregation should not be put on the shelf.

The tool should remain available to authorities where circumstances warrant, those situations where the violation has been clear and gross.●

NATIONAL CONSUMER COOPERATIVE BANK

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. MOAKLEY. Mr. Speaker, a constituent of mine, Mary T. Scarinci, recently prepared a copyrighted article on the National Consumer Cooperative Bank. The bank is one of the more interesting recent initiatives of Congress and Ms. Scarinci provides a thoughtful description of its operation which I am sure would be of interest to my colleagues:

NATIONAL CONSUMER COOPERATIVE BANK

(By Mary T. Scarinci)

A new cooperative bank called the National Consumer Cooperative Bank established headquarters in the nation's capital at 2001 S Street, N.W., 20009. NCCB officially opened its doors on March 21, 1980.

Governmental in nature, the Bank was created through Congressional legislation, (PL 95-351, amended by PL 96-149), for the benefit of needy, elderly and low-income citizens in inner cities and rural areas throughout the country. Citing the constant increases in the cost-of-living and in unemployment, Congress acted to give the less fortunate an opportunity, based on their own personal effort, to share in the fruits of our free enterprise system. Primary objectives are aimed at encouraging the development of new and existing cooperatives (not-for-profit organizations) by providing specialized credit and technical assistance. Modeled after the Farm Credit Administration, the Bank stands ready to provide loans in a variety of fields, such as: cooperatives for food, housing, health care, energy, auto repairs, fishing, handcrafts and for numerous other kinds of cooperatives.

A separate office is established in the Bank having its own Account and its own Director, named the Office of Self-Help Development and Technical Assistance. This Office is designed to subsidize loans for cooperatives that are unable to repay loans and that lack knowledge and experience in cooperative management.

Governing the Bank is a 15-member Board of Directors appointed by the President of the United States, and approved by the U.S. Senate. Eight board members are from among officers of the federal government and seven are from the general public with strong background experience in cooperatives. The Director of the Office of Self-Help Development and Technical Assistance also is a presidential appointee with Senate approval.

Funds authorized for investment total $300 million over a five-year period. The Bank has issued class A, preferred stock, to the U.S. Treasury, (held solely by the government), to be repaid with interest at the earliest possible date. Loan recipients are required to purchase class B and class C, interest bearing common stock, carrying voting power (one vote per cooperative stockholder). The purchase amount need not equal the amount borrowed. Current loan ceiling is $2.5 million, but the majority loan volume will not exceed $7,000.00. Subsequently, as a portfolio is developed, bonds and other forms of indebtedness (of non-voting power) will be offered to the general public. The Bank may borrow up to $3 billion by issuing bonds. All securities are "tax-exempt".

Eligible for credit and technical assistance are not-for-profit organizations—existing cooperatives and new cooperatives having ability to repay loans with interest. Ineligible for loans are credit unions, mutual savings banks, and mutual savings and loan associations. Exception is made for credit unions serving predominantly low-income members—these are allowed to receive technical assistance.

The Office of Self-Help Development and Technical Assistance, authorized to receive up to $75 million in Congressional appropriations, subsidizes loans for cooperatives unable to repay, and provides educational programs for organization, financing, management, and other related functions. Fees for technical assistance are determined by the Office and can be waived. The Office will not provide ownership (stock) in the Bank. Additionally, workshops are planned to inform consumers and the general public of the advantages offered by cooperative action. Fees collected are made available for on-going expenses in a revolving fund. Loan application information can be obtained by telephoning (800) 424-2381.

Minimal risk is involved in the government's investment. Annual audits will be conducted by a federal government agency. When two-thirds ownership passes into the hands of private ownership, an Office of Supervision and Audit will be formed.

The following outlines the Bank's regional network:

REGION 1: NEW ENGLAND

Office: Somerville, Massachusetts.

Territories: Massachusetts (Somerville); Maine/New Hampshire/Vermont (Portland, Me.); Rhode Island/Connecticut (Providence, R.I.).

REGION 2: MIDDLE ATLANTIC

Office: Brooklyn, New York.

Territories: New York City/New Jersey/Puerto Rico/Virgin Islands (Brooklyn); upstate New York (Rochester); Pennsylvania (Pittsburgh); Maryland/Delaware/D.C. (Washington, D.C.).

REGION 3: SOUTHEAST

Office: Charleston, South Carolina.

Territories: South Carolina/Georgia/Alabama (Atlanta); Virginia/North Carolina (Raleigh, N.C.); West Virginia/Kentucky/Tennessee (Lexington, Ky.); Mississippi/Louisiana/Arkansas (New Orleans, La.); Florida (Miami).

REGION 4: LOWER MIDWEST

Office: Detroit, Michigan.

Territories: lower Michigan (Detroit); Indiana/Ohio (Columbus, Ohio); Illinois (Chicago).

REGION 5: UPPER MIDWEST

Office: Minneapolis, Minnesota

Territories: Minnesota/South Dakota/North Dakota (Minneapolis); Wisconsin/upper Michigan (Milwaukee); Iowa/Missouri/Kansas/Nebraska (Kansas City, Mo.).

REGION 6: SOUTHWEST

Office: Fort Worth, Texas.

Territories: north Texas/Oklahoma (Fort Worth); south Texas (San Antonio); New Mexico/ Arizona (Tucson, Ariz.).

REGION 7: WEST

Office: Oakland, California

Territories: north California / north Nevada / Hawaii / Pacific Territories (Oakland); south California / south Nevada (Los Angeles).

REGION 8: NORTHWEST

Office: Seattle, Washington

Territories: west Washington / west Oregon / Alaska (Seattle); east Washington / east Oregon / Montana / Idaho (Butte, Mont.); Colorado / Utah / Wyoming (Denver).

Those responsible for adhering to the safeguards in the provisions of the legislation are the Bank's Board of Directors:

Chair: Lawrence Connell—Chairman, National Credit Union Administration

Vice Chair: Rev. A. J. McKnight—President, Southern Cooperative Development Fund, Lafayette, La.

Roger C. Altman—Assistant Secretary of the Treasury for Capital Markets and Debt Management

Msgr. Geno Baroni—Assistant Secretary of the Department of Housing and Urban Development for Neighborhoods, Voluntary Associations and Consumer Protection

Sam Brown—Director, ACTION

William Clement—Associate Administrator, Minority Small Business and Capital Ownership Development, Small Business Administration

Carol Tucker Foreman—Assistant Secretary of Agriculture for Food and Consumer Services

Grace Olivarex—Director, Community Services Administration

Ronald Grzywinski—President, Illinois Neighborhood Development Corporation, Chicago, Illinois

Joseph L. Hansknecht, Jr.—Director of Public Affairs, League of Insurance Companies, Detroit, Michigan

Frances Levenson—Director of Urban Housing and Vice President, New York Bank for Savings, New York, New York

Juan Patlan—Executive Director, Mexican-American Unity Council, San Antonio, Texas

Derek N. Shearer—Lecturer, School of Architecture and Urban Planning, University of California at Los Angeles

Alexis Herman—Director of the Women's Bureau, U.S. Department of Labor

Frank B. Sollars—President, Sollars Brothers Mfg. Co., Washington Courthouse, Ohio

At the present time, Jacques Cheek and Ernest Gutierrez are the Acting Directors of the Office of Self-Help Development and Technical Assistance.

The Board elected Carol S. Greenwald, Ph.D., President of the Bank. Dr. Greenwald, visiting professor at the Harvard Business School, and member of the White House Price Advisory Commission, formerly was appointed Banking Commissioner of Massachusetts. Prior to that appointment, she was assistant vice president and economist at the Federal Reserve Bank in Boston.

John P. Comerford was elected Executive Vice President.

David Jameson was elected Vice President—Loan and Investment, and Acting Treasurer.

Mitchell Rofsky, Esq. was elected Secretary. He is on leave from his position as Director, Congress Watch.

Gradually all members of the Board will be replaced by Bank shareholders having voting power. Ownership and control will revert to cooperative management without cost to the U.S. government.

The broad based opportunities offered by the National Consumer Cooperative Bank respond to the national commitment of maintaining a stable, adequate food supply and of fostering well-being for disadvantaged Americans. The community is placed at the helm because assistance is not tinged with the flavor of charity, rather it is based on personal in-put.●

JOHN LENNON

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. STUDDS. Mr. Speaker, I rise in tribute to one of the most influential artists of our time, John Lennon, who was tragically gunned down last night in New York City.

As a member of the Beatles, Lennon influenced the musical taste, the styles, and the politics of an entire generation. From his early days in Liverpool to his recent life as one of Manhattan's most celebrated residents, he was always in the vanguard, setting standards by which all musicians who followed him would be judged.

Like no one before or since, Lennon understood the importance of rock and roll, not only as an art form, but an influential force—perhaps the most influential force—in the lives of millions of young people. First as a Beatle, then as a solo performer, he used his status as an entertainer to speak out forcefully about the injustices of our time. From his widely publicized "bed-ins" with his wife Yoko Ono to his full-page newspaper advertisements protesting the Vietnam war, his particular concern was curbing the violence in our society. How ironic, Mr. Speaker, that he—like Al Lowenstein, Michael Halberstam, and so many others committed to this cause—should die so senselessly the victim of a crime he abhorred so totally.

John Lennon will live forever in the words of his music and in the minds of everyone who grew up—in every sense of the term—during the 1960's. There is no greater tribute we could pay him than to redouble our efforts to eradicate once and for all the brutality and violence that has become so commonplace in our lives.●

HAM RADIO OPERATORS AS FEDERAL VOLUNTEERS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. DANNEMEYER. Mr. Speaker, today, it is my privilege to introduce legislation aimed at making it possible for ham radio operators to volunteer their services to the Federal Communications Commission (FCC). At present, the FCC is prohibited by title 31, section 665b of the United States Code from using volunteers to help enforce the law against on-the-air violators of its regulations.

Mr. Speaker, the problem some of my constituents are having, and other ham radio operators around the country have been having, deals with the use of excessive wattage by illicit ham radio operators. This practice results in a signal sufficiently strong that the signals of legitimate ham operators are blotted out and they are effectively foreclosed from pursuing their hobby. Not only is that wrong, but absent effective monitoring, which takes considerable manpower, it is not easy to stop. Therefore, this bill.

Were this legislation to be enacted, the Federal Communications Commission would be able to recruit and train licensed volunteer ham radio operators to monitor transmissions. These operators would not be paid, nor would they be considered Federal employees, but they would be able to provide a needed service much as do members of the Coast Guard Auxiliary. Also, as just indicated, there is plenty of precedent for such a provision of law; at least 10 other exceptions to title 31, section 665b have been put on the books previously, notable examples being those for the National Park Service, the Office of Drug Abuse Policy, and the Teachers Corps.

I might also add that this legislation would not only permit the FCC to monitor excessive wattage output but also other forms of intentional interference, the use of profanity over the air waves, and other signal violations, such as failure to use the proper call sign. However, this bill would not permit the volunteers to inspect other amateur stations. In short, this is a measure that would address a specific need by taking advantage of willing and able resources that can be utilized at little or no cost to the Government. In these inflationary times, that is precisely the type of approach we need to employ more often.

I realize, of course, that it is too late to consider legislation such as this in the 96th Congress. However, monitoring the air waves is a legitimate function of the Federal Government and, given the volunteer expertise available, there is no reason volunteers should not be utilized by the FCC to enforce its regulation. Therefore, I urge my colleagues to give the proposal serious consideration in the near future so that we can go ahead and adopt it early in the next Congress.●

FOOD SAFETY AND QUALITY ACT AMENDMENTS

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. FOLEY. Mr. Speaker, I am today introducing, at the request of the Department of Agriculture, the Food Safety and Quality Act amendments.

At this late point in the closing hours of the 96th Congress, it is obvious that this legislation cannot receive consideration in the House Agriculture Committee before Congress adjourns. I have introduced it at the request of the Department officials, however, so that their proposals in this field can be placed on public record.

Introduction of a bill by request is intended primarily to make such proposals available for study without commitment to any specific portions of the legislation.●

IMPORT RELIEF FOR SPECIALTY STEEL

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. MURTHA. Mr. Speaker, the recent decline in auto production has impacted greatly on the domestic steel industry. As an executive committee member of the Congressional Steel Caucus, I would like to express my concern about the increasing import penetration of the specialty steel market and the need for relief.

In 1977, import quotas were established for specialty steel products. The 3 years of relief helped the industry stabilize, and allowed it time to upgrade facilities, increase capital spending, hire workers, and plan for the future. However, this capital intensive industry could not fully recover before the quotas expired last February.

As we are trying to revitalize our basic steel and auto industries, we must also seek a healthy specialty steel industry.

At a time of overall business downturn, specialty steel, as the auto industry, is especially hard hit by imports. In the first 6 months of 1980, stainless wire rod imports increased 55.4 percent, tool steel imports 28 percent, and stainless steel bar 92.6 percent over the first half of 1979. The industry is currently experiencing a 30-percent unemployment rate. The United States has become a target of foreign producers who divert massive amounts of specialty steel to penetrate the U.S. market.

The economic effect to my State of Pennsylvania has been devastating. Of the 65,000 specialty steelworkers, over one-half are in Pennsylvania, most of them in the western part. Allegheny Ludlum Steel Corp., has estimated that the lifting of import restraints impacts my district's community of Leechburg by $52 million in wages, benefits, and property taxes generated by the local plant. This is a modern and competitive industry, but it cannot withstand the onslaught of foreign producers who are subsidized by their governments.

The specialty steel industry's contribution to national defense cannot be overstated. The domestic industry is the world leader in technology and productivity. Specialty steel is essential to the rebuilding of our defense capability. The domestic economy relies heavily on specialty steel products. They are vital to our technology levels.

I would urge the Department of Commerce to extend trigger price mechanism coverage to specialty steel products to prevent the loss of further jobs, and to preserve our national security. Without this coverage, an equivalency program must be worked out for specialty steel.●

SAN GORGONIO PASS MEMORIAL HOSPITAL

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

●Mr. LEWIS. Mr. Speaker, on Sunday March 4 in the year of our Lord, 1951, concrete evidence of a foresighted dream in the form of a new hospital, was heralded in the San Gorgonio Pass Area of California. Located approximately 80 miles due east of Los Angeles and 23 miles west of Palm Springs on Interstate Highway 10, the pass area is so named for its location nestled between the San Bernardino Mountains on the north and the San Jacinto Mountains to the south.

The San Gorgonio Pass Memorial Hospital resulted from a desire among many civic minded individuals to establish a permanent memorial to the honored dead of World War I and World War II. A tribute which offers new life to a community, alleviates pain and suffering, restores health, and prolongs life was what the pass citizens desired.

In August 1944, while our country was still furiously engaged in winning the Second World War conflict, patriotic and civic minded citizens of the area began thinking of constructing a suitable war memorial. Movements were organized in both Banning and Beaumont to determine among the citizens the type of memorial they wished to construct. The greater majority expressed their desire for a hospital. A living memorial, a memorial which would alleviate the suffering of the unfortunate, for the benefits extended by a hospital to the citizens—freedom from pain, freedom from suffering, freedom from fear, freedom to live—the same freedoms the soldiers were fighting for, whether repression of these freedoms resulted from disease or other human beings.

Howard Osborn and Dr. Charles E. McClean publicly advocated a hospital memorial in September 1944, and in January 1945, through letters to the local newspapers, expressed the consensus of the majority of pass citizens. This majority was expressed when the people voted 12 to 1 in favor of forming a hospital district, and more than 4 to 1 in favor of the hospital, despite heavy State and Federal taxes. Such a mandate from the people had to be recognized, and leaders in Beaumont and Banning united for the purpose of fulfilling their desire.

The consolidation of the campaign took place early in 1947, when Beaumont Kiwanians discussed the matter at one of their meetings and immediately recognized the advantages of having a district hospital instead of two small community hospitals. The Beaumont hospital committee requested a meeting with the Banning committee, and the two groups met in the Banning City Hall. Five Beaumonters and a like number of Banningites were appointed by the mayors and city councils of the two cities and became known as the San Gorgonio Pass Memorial Hospital Central Committee. For 4 years the central committee planned and worked with diligence and enthusiasm, solving the hundreds of big and little problems and working out the multitude of details that such a position incurs. Ray F. Allen, Leonard Covert, Charles T. Poole, Mrs. Capitola Crosby, and Mrs. Genevieve Morse of Beaumont, and Dr. David C. Williams, Mrs. Hildred Crawford, Fred Roberge, Fred Herfurth, and Carl Barkow of Banning comprised the initial central committee. The hospital district includes not only the Beaumont and Banning Union High School districts, but also takes in Cabazon, Banning Heights, Midway, Cherry Way, and Calimesa.

A board of five directors was appointed at the district formation by the county board of supervisors. Fred Roberge, William King, Frank Stowell, Sydney Bridges, and Jessee Price made up the five man board of directors, who met at least once a week. On Sunday, March 4, 1951, the wishes of the various committees, civic minded citizens, the architects, the contractors, and many other pass citizens, was formally completed when the San Gorgonio Pass Memorial Hospital was officially dedicated. The official aid rendered by the State and Federal Governments was terminated, and the hospital became a vital part of the pass communities. Two Silver Star heroes, Herbert Jones, former infantryman, and George Carter, former marine, unveiled the plaque noting the memorial in the name of their fallen neighbors. Carter, speaking for the deceased servicemen, expressed the hopes and wishes for the future of the entire pass area when he said, "It is the hope of all that the trubute of the hospital is one to the last and final world war."

The original hospital of 34 medical/surgical and 10 maternity beds was altered several times, bringing the square footage up to 41,000 with the last addition being completed in 1973, with assigned beds of 52 medical/surgical, 4 intensive care, 6 pediatric, and 6 maternity. The initial planning of this newly dedicated phase began when a study was prepared of the community's health care needs for the period of 1975–90. The study made a recommmendation to expand or rebuild the hospital to 72,000 gross square feet to meet the 1980's requirements within the community served. The concept of the new wing required cooperation from the community who could see the necessity for the increased and new ancillary services. Many years of planning and meetings with doctors, hospital consultants, architects, and engineers were required before construction could begin. Ground breaking took place in June 1978 with plans to construct a new intensive care unit, emergency room, clinical laboratory, radiology department, nuclear medicine department, physical therapy, and respiratory care department, EKG and cardiac department, EEG and dietary department. Other ancillary departments included housekeeping, purchasing, and the maintenance and mechanical departments.

Today the hospital serves a community of approximately 35,000 with 3,000 patients per year, not including 14,000 patients seen annually in the emergency room. The hospital's active medical staff numbers 25 with 200 full-time employees. The hospital is equipped with some of the finest equipment medical science has to offer. It has again brought together many unique individual communities in the pass area and it will always remain a living memorial to those whose lives were given for their country in the hope that those who remained might make this a better place for mankind.●

SUPPORT FOR THE WALKER AMENDMENT

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. WALKER. Mr. Speaker, I was very pleased to note that our colleague, Mr. EDWARDS of California, inserted in the December 4 CONGRESSIONAL RECORD the response I received from the chairman of the Civil Rights Commission, Arthur Flemming, regarding my amendment to the appropriations bill for the Departments of Labor, Health and Human Services, and Education. As you will recall, my amendment which was approved overwhelmingly by this House would prohibit the use of quotas, ratios, and other numerical requirements in employment or admissions policies or practices.

Chairman Flemming stated quite clearly in his response that the U.S. Civil Rights Commission favors the use of quotas as a remedy for discrimination. Mr. Speaker, this is precisely the point I have been trying to pound home for the past 4 years. In his letter, Chairman Flemming states:

> The issue is whether such "numerical requirements" are necessary and appropriate in particular situations. The Commission believes they are.
>
> We support affirmative numerical remedies, such as those employed and upheld by the courts, that are necessary to provide equal opportunity.

In other words, in the name of civil rights, we are proposing that the Government implement precisely the same policies that we sought to eliminate with the passage of the Civil Rights Act of 1964. Equality of opportunity for all Americans simply cannot become a reality until we abandon the inherently discriminatory remedies which are being propounded by the Federal Government—most notably the U.S. Civil Rights Commission.●

TRIBUTE TO CONGRESSMAN HARLEY STAGGERS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. BENNETT. Mr. Speaker, in the years that I have been in Congress, I do not know of a man who has been more universally loved in Congress than HARLEY O. STAGGERS and we are going to miss him tremendously as he leaves us. We wish for him every happiness in his retirement and hope that he will come back to visit us on many occasions. He leaves behind him a tremendous record of achievement, in which we all take pride.●

SECRETARY OF THE INTERIOR'S CONCERN FOR ACTION

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

●Mr. EDGAR. Mr. Speaker, the Secretary of the Interior, Cecil D. Andrus, has communicated to the House his deep concern for action on several issues in the closing hours of the 96th Congress. I think it is important to share the text of this letter with the Congress.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., December 5, 1980.
Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: I understand that the Senate is considering as amendments to House Joint Resolution 637 three provisions which would: (1) circulate my implementation of the decisions I announced on December 1, 1980, allocating water from the Central Arizona Project; (2) effectively take, possibly without full compensation, certain oil, gas and other mineral rights currently held in trust by the United States for the Osage Tribe; and (3) provide that any of four specific members of Congress may exercise an extraordinary veto authority over approval by me and future Interior Department Secretaries of applications by States for inclusion of certain State-protected rivers in the National Wild and Scenic Rivers System. I oppose these three provisions and urge that you advocate their defeat in Conference if they are approved by the Senate.

CENTRAL ARIZONA WATER PROJECT (CAP) ALLOCATIONS

I oppose the restrictions on implementing the CAP allocations because delay now in implementing my allocation decision risks a complete reopening of the allocation issue, more years of litigation and delay, and potential rapid escalation in the project construction cost which is already estimated to be $2.2 billion. The allocations I have made will enable Indian users to share CAP water with non-Indian municipal and industrial users on an equitable and stable basis during good years as well as during periods of water shortage. The allocations I have made resulted from an open process including three years of study, public consultation and careful deliberation. I believe they right serious previous wrongs by allocating water to seven reservations that can beneficially use the water but did not previously receive an allocation and by better protecting Indian interests in water during water short years. This latter aspect is critical to the beneficial use of the water since the Indian Reservations involved here remained largely undeveloped due to the lack of adequate reliable water supplies. Interior studies show that project water for Indian use could have been reduced under the previous allocation to as little as 40,000 acre feet, or 10 percent of the total, during shortage years—a level that would make investments for water use extremely risky. My allocation would maintain a minimum Indian supply of 144,000 acre feet.

OSAGE MINERALS RIGHTS

This amendment would provide the Corps of Engineers authority to subordinate the mineral interests of the Osage Tribe to project purposes and would effectively forestall future Tribal oil and gas development in the affected area. Subordination would cloud the future value of the Osage mineral rights, potentially resulting in serious economic loss to the Tribe. This land has produced 41 million barrels of oil in the past and is estimated to contain future recoverable resources of about 20 million barrels with a value of some $800 million at current prices. Tribal royalties from current production are about $1.9 million per year and future royalties would exceed $130 million. The proposed action is unwise from the standpoint of energy production and remarkably unfair to the Osage Tribe.

WILD AND SCENIC RIVERS

This amendment, apparently intended to be permanent law, would require that the chairmen and ranking minority members of the relevant authorizing committees must approve any State application for Wild and Scenic Rivers System designation prior to Secretarial approval. The State application procedure, as established by Congress, is useful in that a State can secure certain Federal protections for State protected waterways in a manner that minimizes Federal involvement and expense in contrast to Federally managed areas. This procedure has been used to approve a number of State requests for designation of rivers including the New River in North Carolina, the Little Miami and Little Beaver in Ohio, and the lower St. Croix in Minnesota and Wisconsin. The present administrative processes for approval of such applications are orderly, set high standards, and are open to public involvement. For Congress to empower four of its members with an effective veto over approval of such applications with no requirements for due process pushes the concept of one house vetoes to the extreme of one member vetoes, and probably would result in elimination of the State application process.

TRAVEL, TRANSPORTATION, AND OTHER SAVINGS

I also understand that the Senate is considering a governmentwide amendment similar to that employed in 1980 for reducing travel, transportation and certain other expenses. The 1980 action made land management activities (managing parks and refuges, improving rangelands, leasing coal, oil and gas, etc.), Indian education and training, geologic, water and minerals surveys, and other Interior activities extremely difficult to conduct. This new provision requires a reduction four times as large as last year on a smaller base (the 1981 President's Budget generally reflected continuation of the lower 1980 levels) in the face of rapidly escalating costs of vehicle rentals (such as park police cars, pickups, trucks, and school buses), gasoline, employee transfer costs, and airfare. I think that such a provision, if enacted into law, would result in grossly inefficient management of our programs, serious resource losses, and other deleterious impacts to our service population and programs.

Sincerely,

CECIL D. ANDRUS,
Secretary.●

MEMORIAL MASS FOR SISTERS KAZEN AND DONOVAN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

●Ms. OAKAR. Mr. Speaker, last Sunday, there was a beautiful memorial mass at St. John's Cathedral in Cleveland, Ohio, for Sister Dorothy Kazen, O.S.U. and Miss Jean Donovan. They were living saints, now they are martyred saints.

The following is the text of the homily by our bishop designate, Anthony M. Pilla.

I believe the bishop's remarks are so very fitting. I hope Members of Congress will take the time to read the homily and take note of his comments regarding foreign aid to San Salvador:

Dear Mr. and Mrs. Kazel, Mother Bartholomew, Relatives, Friends and Associates of Jean Donovan, and Dear Sisters and Brothers, one month from today, God willing, I will begin my first full day as the Bishop of Cleveland, as father in Christ to all. Advent, the season of expectation and new life seemed an ideal time for the diocese to inwardly prepare for the celebration of the installation of a new bishop, and for me to reflect upon what it means to be shepherd of a local Church. However, I am afraid that the unspeakable events in our mission in El Salvador have changed all of that. They have prematurely made me aware of the full weight of my new ministry as your bishop. I can think of few other events that could bring us together so uniquely as the Church, as women and men of faith, few events that would bind us together so completely in faith, hope and love. If somehow unconsciously, I could have considered withholding some portion of my heart from you, that is no longer possible. You have me. And you have all of me.

What I now say is born of a long silence: the silent apprehension on first learning that two of our Cleveland missionaries in El Salvador were missing and feared kidnapped, the silent hope that they might have somehow escaped to safety, the silent shock and sorrow on learning of their cruel deaths, the silent appreciation of the vibrant lives of two remarkable young women of faith, the silent inadequacy in the face of the anguish, even the anger of relatives, friends and fellow missionaries, who ask, why? why them? why now?, the silent sharing of Archbishop Hickey's great grief, his abiding love for us and unity with us at this hour.

And, yes, I speak from the silent wonderment at those who can glibly say, "These tragedies would never happen if we would keep our sisters at home where they belong."—And at those who so romanticize missionary life that they see no reason for us to pause and re-evaluate our presence in El Salvador.

I speak from my inner silence to your silence and to all the many different emotions that fill your hearts. I speak from the silence of meditating upon our Holy Father's new Pastoral Letter on the quality of mercy. In that letter, Pope John Paul reminds us that since forgiveness and mercy come from God, they are greater than evil and sin and can overcome them.

Sister Dorothy Kazel, a member of our Cleveland Ursuline Community, served in El Salvador for some six years. Jean Donovan had been there for two years. They each brought such talent, such energy and such dedication to their work. Their loving inspiration will be sadly missed by all the people in our missions. The funeral Mass for Jean is planned for Tuesday morning in Sarasota, Florida, and I will be present. The funeral liturgy for Sister Dorothy will be here at the Cathedral on Wednesday evening. The two Maryknoll Sisters. Ida Ford and Maura Clarke, were buried in El Salvador.

In my silence I read the homily that Archbishop Oscar Romaro gave on the Feast of the Epiphany last year—paradoxically, the very date of the coming installation. The now slain Archbishop declared:

"Is there no longer any hope? What will happen to the reforms that have begun? Will it always be the poor people who are left in their distress?"

Then he said:

"Despite all that has happened, and all that is happening, I tell you that as a man of faith I believe that a new path of salvation will appear. I want to hold out this hope to all who are listening to me."

I wish to make the Archbishop's words my own and hold out Christian hope to all of you gathered here in faith with me this morning. In spite of all that has happened, I believe that a new path of salvation will appear.

The reading from Isaiah announces our Advent hope.

From the family of Jesse shall come forth one who "shall judge the poor with justice, and decide aright for the afflicted of the land. Justice will be the band around his waist, And faithfulness a belt upon his hips." (Is. 11,4-5)

Jesus Christ is the fulfillment of Isaiah's prophecy. Throughout this pregnant season of Advent longing, the Church reminds each of us that Christ has come and yet He is still coming. And He is coming to give an utterly new life to the world. Our dear sisters gave their very lives so that the life Christ brings might be better manifested in El Salvador.

Each one of us makes our Christian discipleship real when we sustain and enrich the lives of others with the life of Christ. As members of the Church we must never tire of seeking new ways to be life-givers. The Church is like Mary, pregnant with the life of Christ, and anxious to give birth. As Pope Paul VI often stressed, by her vary nature, the Church is other-centered and mission directed.

It is always possible, of course, for the Church to become stagnant and go with the drift of things. The Church's dynamic mission can be obscured by a preoccupation with triviality, stability and security. Sixteen years ago the Catholic Church in Cleveland had already grown to such a vital sense of missionary generosity that when Paul VI asked the United States to share its religious leaders, a new level of missionary zeal emerged in our diocese. We have benefitted a great deal from this life-sharing ministry because we gained a deeper sense of our Catholicity by having a sister church in another land and culture.

In the history of the Church, the life of the missionary has never been easy or glamorous. More times than not, the missionary has been faced with dangers for the sake of the Gospel. This was true of Paul and Barnabas, and it was true of Dorothy and Jean.

The missionary does not go off to an unknown land armed with good will and holy water, seeking to baptize and to "save souls." Nor is the missionary the principal architect of political and social developments that may be taking place in a particular country. In El Salvador, our mission is not so much to baptize since so many are at least nominally members of the Church. Our mission is to teach, to catechize and to build up the Body of Christ among a people who have so few priests, sisters or lay leaders of their own.

However, the Body of Christ is not simply a spiritual reality. It is real people, with real needs, in complex and difficult situations. Of necessity, the missionary seeks to help a people to learn to read, to master the best techniques for farming, health care and hygiene. The missionary's presence helps to strengthen family unity and community solidarity, especially through the communidades de base. In time, bonds of love unite the missionaries and those they serve as one family.

While they do not become allied with any side, it is impossible for true missionaries, imbued with the full message of Christ's Gospel to serve in a strife-ridden country where human rights are violated and human life is wasted on a daily basis, without proclaiming the Gospel values and confronting the consciences of all political factions. The missionary knows the cost of discipleship and serves with a certain selfless detachment and tranquility. Saint Paul's words to the Romans are also words for our team in El Salvador.

"If God is for you, who can be against you? Who will separate you from the love of Christ? Trial or distress, persecution or hunger, nakedness or danger, or the sword? Neither death nor life will be able to separate you from the love of God that comes from Christ Jesus." (Rom. 8: 31, 35, 37)

In the Gospel of Matthew, Jesus tells us who are His followers: "Do not let men intimidate you! What I tell you in darkness, you must speak in the light and proclaim from the housetops."

He tells us not to fear those who can destroy the body but cannot touch the spirit. Since the Father knows and loves each of us and has numbered even the hairs on our heads, Jesus challenges and comforts each of us, saying, "Do not be afraid of anything!"

Archbishop Romero, whom Dorothy, Jean and all of our missionaries, admired so much, knew the meaning of these scriptures. A few weeks before he was slain at the very altar of Christ, he said: "As a Christian and as a pastor, I am obliged by divine command to give my life for those whom I love . . . even for those who may assassinate me. If that threat should come to pass, I offer to God from this very moment my blood for the redemption and resurrection of El Salvador."

He was not afraid to confront the Junta, the Right or the Left on behalf of the suffering Salvadorian people.

In a prophetic letter to President Carter on February 17, 1980, the Archbishop pleaded in vain that no more American military assistance be given to the Salvadorian government. He knew very well that the posture and policies of our nation directly influenced the daily lives of his needy people. His letter was not heeded. After his death, Archbishop Quinn (then the President of the National Conference of Catholic Bishops) declared that there could be no better way to honor this holy man than for our nation to grant his request to end the military aid. But Archbishop Quinn's plea was not heeded. The violence, the suffering, the death continued. And now, in the wake of the death of American citizens, all aid from the United States to El Salvador has been suspended. It is our fervent hope and prayer that our government will now make every effort to develop policies toward El Salvador that will help to end the senseless violence and anarchy in that embattled country.

It is not possible for any of us to go forth from the silence of this memorial unaffected. And that is as it should be. In faith, we know that unless the grain of wheat falls to the earth and dies, it remains just a grain of wheat. But if it dies, it produces much fruit. The blood of the Church of Cleveland has been spilled in faithful service. It now flows into the redemptive current of the blood of Christ. But if the seed is to bear fruit, if the blood of martyrs is to give new life, then each one of us must confront the complacency that may keep us from living fully in Christ and realizing the mission of the Church in our individual lives and ministries.

The events in El Salvador have filled us with alarm. We may wish to turn away from the world, but this is the only world we have. The Church is not an escape from the world. The Church is the flavorful salt, the enriching leaven, the kindly light that should make it easier for life's pilgrims to find their way to the Lord's house.

In those days, each of us, sisters, lay people, seminarians, priests and bishops, has been reminded in a startling way that our Christian vocation is not a mere job. It is a deeply personal call to holiness. It is a call to conversion at the most basic levels of our personal lives. If we take no new life from this loss of life, we diminish their noble faith and heroic sacrifice.

The Church of Christ is catholic and universal. So are all her actions. When she buries her sons and daughters, that action concerns you and it concerns me. For all of humankind is of one author. No man is an island, entire and of itself. Everyone of us is a part of the whole. The death of anyone diminishes you and it diminishes me. This is because we are all involved in humankind. Therefore, never send to ask for whom the bell tolls. It tolls for thee. (paraphrased from John Dunn's Meditation on Death)

During these days of sorrow for the Catholic family of Cleveland, we have not been left alone in our grief. Many bishops of our sister dioceses have comforted and sustained us. I am personally grateful this morning for the presence of my dear friend, Bishop Malone from Youngstown. Members of other religious communities, the civil government and citizens of good will have generously expressed their condolences and support. We thank you all from our hearts.

In this celebration of the lives and ministries of these women of faith, we are compelled to speak directly to all of the women of the Church: So much of the good that God accomplishes through His Church is the result of the tireless efforts and outstanding abilities of lay and religious women of singular virtue. We who serve as priests and bishops know how empoverished our efforts would be without you and your collaboration. We have always known it and we are now reminded anew. Know how we appreciate you! Know how we need you! Know how we love you!

May the names and the good works of Sister Dorothy Kazel and Miss Jean Donovan be praised, blessed and remembered now and forever. May they be numbered with Ruth and Esther, with Elizabeth, Martha and Mary Magdalene, with Agatha, Lucy, Agnes, Cecilia and Anastasia, with Catherine of Sienna and Theresa of Avila, with Joan of Arc and Elizabeth Ann Seton, and with Dorothy Day.

May the Angels lead them into paradise, in the company of Mary, the Mother of Christ the Mother of us all.

Amen.●

TWO STEPS REAGAN SHOULD TAKE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. WHITEHURST. Mr. Speaker, the December 15, 1980, issue of Navy Times carried a column written by Brig. Gen. J. D. Hittle, USMC, retired. General Hittle has served as Assistant Secretary of the Navy for Manpower and Reserve Affairs, and he is clearly in a position to speak knowledgeably about the issues on which he has commented.

Because I believe that he has raised a number of valid points, and the suggestions he offers have a great deal of merit, I am pleased to take this opportunity to share his views with my colleagues. I hope that General Hittle's recommendations will be given the full and favorable consideration which they deserve.

Thank you, Mr. Speaker.

TWO STEPS REAGAN SHOULD TAKE

(By Brig. Gen. J. D. Hittle, USMC (Ret.))

President Reagan will, on taking office, be confronted with one of the most serious military personnel problems since General Washington labored and prayed at Valley Forge to hold together his dwindling army.

Let there be no mistake about it. This country has a military manpower crisis on its hands that runs wide and deep. Evidence: The Army Chief of Staff has labeled his organization "the hollow army." A Navy ship could not sail on schedule because of crew shortages. Trained NCOs and petty officers are leaving service at a potentially disastrous rate. In the Navy, for instance, the number of 1979 desertions and AWOLs add up to about the total crews of 10 Nimitz-class carriers. It's a manpower crisis with no ifs, buts, or maybes.

It's going to take time, money, and, above all, a high degree of leadership to even start straightening out the manpower mess.

The serviceman has been studied, computerized, and managed to the point of despair and disgust. What he and his family really need is top Pentagon civilian appointees who will understand what service life is and care about those in the services. The fighting man has not seen such a thing for a long time. There hasn't been a genuinely pro-people era in the Pentagon since Secretary of Defense Melvin Laird. When he took over as the Pentagon boss, he faced a personnel problem in some ways like what the next Secretary of Defense will soon face. The long period of previous Pentagon rule by Secretary of Defense Robert McNamara had been a lean one for the serviceman. It was during that period that the computer and scientific (?) analysis provided the phony magic of the manpower managers. The result was that service people were computerized and the personnel-management cult took over and a thing called leadership was pushed into limbo.

The moment Melvin Laird took over he moved to restore military morale. People were his primary concern. He knew that the best weaponry is a weak reed without the kind of military people who could and would make the weapons hit the target.

One of the first people-type actions taken by Laird was to order the reinstatement of space-available air transportation for active and retired service people. Space-available had been taken away by the McNamara whiz kids. It was a short-sighted false economy move. Service people, active and retired, angrily resented it.

When Laird took this remedial step, he, in effect, sent out a signal that people and their interests were of top importance in the Pentagon's top office. He followed up with continuing pro-people actions that reflected the kind of leadership so desperately needed to come to grips with the present manpower crisis.

The Reagan administration has the opportunity to restore sagging military morale and start cleaning up the manpower crisis. So much needs to be done that it's doubtful if the military personnel predicament can be fully straightened out in two or even four years. Yet there is no doubt that a real start can be made, and quickly, when the new administration takes over.

Here, for whatever worth they might have, are my recommendations for some things that should be done as soon as President Reagan moves into the Oval Office.

He should immediately restore the positions of Assistant Secretaries for Manpower and Reserve. At the very time post-Vietnam military personnel problems were looming increasingly serious, the Carter administration eliminated (except, curiously, in the Department of the Army) the Office of the Assistant Secretary for Manpower and Reserve by combining it at the DoD, Air Force and Navy levels with the Assistant Secretary for Installations and Logistics.

Such action was fatally flawed for at least two reasons—first, it was widely taken to mean that service people were no longer as important as they had been. When people no longer were entitled to their own assistant secretary whose full concern was their problems, interests, and hopes, then people were downgraded. By combining people with logistics, military people were placed on the same shelf with bicycle tires, paint brushes, and oil drums. That is not the stuff of which high morale is made.

Second, organizationally it couldn't have been a worse move. The sheer magnitude of the logistics and manpower matters at the DoD or military department levels makes it impossible for any one person, however gifted, to do the combined jobs with the necessary unceasing personal attention to people.

The inevitable organizational result happened. People matters have been kicked downstairs through a bureaucracy of administrative layering that is amazing in its size and baffling in its construction.

The change cannot be justified by economy. During a high point of the Vietnam War the personnel in the office of the Assistant Secretary of the Navy for Manpower and Reserve Affairs came to a grand total of about 15. The Navy says that under the present set-up, there are 57 people in the personnel side of the combined Navy secretariat of manpower and logistics.

Perhaps what we are seeing is another manifestation of the bureaucratic phenomenon of "expansion by contraction."

There is a very fundamental organizational reason for restoring the assistant secretary for people. When there is a serious problem, let alone a crisis, in a vital area of an organization's activities, it's a good procedure to put one man in charge of the problem, and that problem becomes his sole concern.

Manpower is a vital matter, and it's now in a crisis. Military people need and deserve to have their own assistant secretary given back to them. The nation needs this to be done in order to start working its way out of the crisis. This is an organizational fundamental. If fundamentals aren't tended to, then all the other remedies become a patchwork of Band-Aids.

Along with such a pro-people fundamental organizational correction, there is also a need for a swift remedy of a widespread wrong that has been inflicted on service personnel. I'm referring to the order forcing the service-man and woman to pay for parking at their duty stations.

If there ever was an ill-conceived, harsh, unfeeling, and burdensome directive, the military parking charge is it. At a time when the service families are squeezing pennies to try to weather out an inflationary storm, the parking charge edict picks the fighting man's pockets. What it really means is a pay cut for everyone in uniform caught by the parking charge.

With thousands of service families paid at substandard levels and having to go on food stamps, the parking charge is actually a penalty for being in uniform. The charge means that many a serviceman can't buy shoes for his youngsters when needed. At the same time, commercial employment want-ads continue to offer "free company parking."

No one will ever know how many service people have taken the parking charge as the "last straw" that broke their patience and made them decide to turn in their uniforms and put on civvies.

An order to end the parking charge should, of course, recognize the need for fuel conservation through car pooling when practical. Such an order putting an end to the needless, irritating, economic burden would be greeted by servicemen as a clear signal that the new commander-in-chief cares about those in uniform and their families. It would be a long overdue morale booster.

The neat thing about these two needed actions, restoring the assistant secretaries for people and stopping the military parking charge, is that the remedial procedure is administratively simple. Both can be corrected by executive action. All it takes is a stroke of the presidential—or Secretary of Defense—pen. If is is done, military morale will rise and a real start will be made in whipping the manpower crisis.

Of course, there is much more to be done to put service personnel matters on a firm and healthy footing. This will be the subject of a future article.●

TRIBUTE TO ANDREW MAGUIRE

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. REUSS. Mr. Speaker, I thank my friend RICK NOLAN for arranging this special order to honor our distinguished colleague, ANDREW MAGUIRE, for 6 years of dedicated and progressive service as a Member of Congress. ANDY's intellect and his sensitivity to legislation meeting real human needs have made him an exemplary legislator.

ANDY's interest in environmental issues has resulted in his legislative efforts to curb pollution and insure a healthy environment for all Americans. His dedication to improving the health of U.S. citizens, particularly those who cannot afford the skyrocketing cost of private health care, led him to introduce valuable child health care legislation, and to successfully steer it through this House. ANDY has also played a leading role in recent efforts for congressional reform. I would also like to compliment ANDY for his long-time involvement on behalf of international peace, through his work at the United Nations and his founding of the ad hoc Monitoring Group on Southern Africa.

In his 6 years as Congressman, ANDY has been a consistent spokesman for progressive solutions to the problems facing our society. His contribution has been large, and his absence will be felt.●

TRIBUTE TO JOHN BRADEMAS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. BOLAND. Mr. Speaker, the departure of JOHN BRADEMAS from the House of Representatives is a profound loss both to this institution and to the Nation.

JOHN BRADEMAS has represented the people of Indiana with skill, dedication, and integrity for 22 years. He has made their concerns his own and has worked tirelessly to enact legislation which would improve their lives and the lives of their children. He has given of himself in countless ways so that the young, the poor, the elderly, and the sick would have more of a chance to share in the fruits of our bountiful society.

Possessing a fine education, JOHN BRADEMAS has worked for two decades to insure that the opportunity to receive the benefits of an education is available to all Americans. All of the important education programs which Congress has established over the last 20 years bear his imprint. He has been especially concerned with the quality of elementary and secondary education and has championed innovative programs designed to improve the educational foundations of this country. In addition, he has become the foremost spokesman in the House for efforts to broaden the role the Federal Government must play in encouraging the arts and humanities. He understands that what a society chooses to do about the preservation of its culture is an indication of the values that it holds most dear. JOHN BRADEMAS has worked hard to make sure that the creative spirit of Americans, whether it is expressed in works of art, literature, or music, finds the encouragement it needs to develop and mature.

Besides being a leader on the committees to which he has been assigned, JOHN has been an integral part of the Democratic leadership team in the House. As majority whip he performed the vital function of providing guidance to Members on the content and import of legislation. In addition, he provided an invaluable service to his colleagues by making more orderly the manner in which the House transacts its business. All of us owe JOHN a debt of gratitude for the manner in which he presided over the whip's office. It, like this House, is a better place, a more productive place, because of the efforts of JOHN BRADEMAS.

We will miss JOHN's counsel and sagacity in the months ahead. I know that his departure from the House does not mark the end of his career of public service. It merely marks a change of forum. He will continue to work for the causes in which he believes because that is the type of man he is. It has been a privilege to serve with him and I wish him only the best in the days to come.●

TRIBUTE TO ANDY MAGUIRE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. RICHMOND. Mr. Speaker, today we honor an outstanding member, ANDY MAGUIRE, an uncompromising idealist who has served with great distinction in the House while providing outstanding service to his constituents, as well as the New York/New Jersey metropolitan region.

ANDY and I came to Congress in 1974, members of the 94th class, a group that brought to this House a new spirit of idealism, progressivism, and reform. Like so many of our colleagues of the 94th class, ANDY MAGUIRE believes most passionately that institutions can change and that people who care can make a difference.

Another characteristic ANDY shares with many of our colleagues of the 94th class is the fact that he came to Congress from outside of politics. ANDY's academic background and superb intellectual gifts, coupled with his courage and deep concern for people, make him a brilliant legislator.

ANDY MAGUIRE's compassion, as evidenced by the range of his legislative interests, encompasses energy, environmental issues—especially clean air—health insurance, health care, cancer research, and a variety of social programs.

Mr. Speaker, ANDY MAGUIRE is a great friend of mine and a distinguished Member of this Congress. To me, to all of us, his departure is a great loss. I join in honoring ANDY and in wishing him the best of success and every happiness in all his future endeavors.●

FIRESTONE VINEYARD

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. LAGOMARSINO. Mr. Speaker, one of the very newest and finest vineyard regions of the Nation is, I am proud to note, located in my congressional district—the Santa Ynez Valley of Santa Barbara County, Calif.

Established in 1972, the Firestone Vineyard is nestled in the picturesque hills of the Santa Ynez Valley comprising 300 acres of premium varietal grapes. It has become both nationally and internationally prominent as a producer of quality wine. The superb nature of its product has been attested to by connoisseurs and sampled by individuals of world renown such as His Royal Highness, the Prince of Wales, and Her Majesty Queen Margrethe H. of Denmark upon her visit to Solvang in 1975. I have also had the great pleasure of introducing Firestone Chardonnay and Grey Riesling to diplomatic circles in Washington, including several ambassadors and Secretary of State, Henry Kissinger.

The partnership that founded Firestone Vineyard is itself truly international in nature and spirit: Mr. A. Brooks Firestone and his wife Kate, who personally direct all vineyard operations, Brooks' father, the former U.S. Ambassador to Belgium Leonard K. Firestone, and Mr. Keizo Saji, chairman of Japan's Suntory Spirits and Wine Co.

Brooks and Kate are pioneers in the Santa Ynez Valley as wine producers, and have now been joined by other winemakers drawn by their presence and success. Their ultimate goal is to produce only 70,000 cases of excellent quality wine a year, a goal I am confident they will achieve. As the vines have matured, the quality shows steady improvement with distribution now including Riesling, Cabernet Sauvignon, Pinot Noir, Merlot, Chardonnay and Gewurtztraminer.

Mr. Speaker, I am proud to have the Firestone Vineyard in my district and

I am pleased to bring to the attention of my colleagues the quality of their products both for the benefit of our people domestically and as a quality export of this Nation in the years to come.●

TRIBUTE TO MIKE McCORMACK

HON. MARK ANDREWS

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. ANDREWS of North Dakota. Mr. Speaker, I am delighted to be part of this outpouring of warm tributes to our good friend and esteemed colleague, Mike McCormack.

We have served together now for 10 years, and no one has performed in that decade with more distinction than Mike. As a member of the Public Works and Transportation Committee, Mike has done an outstanding job as the ranking majority member of its Water Resources Subcommittee—an area of jurisdiction which has been of extreme importance and sensitivity to those of us from Western States. In that capacity, the Congressman from Washington State has been my friend, and the friend of not only the West but the entire United States.

Mr. Speaker, one of Mike McCormack's many great contributions to the work of this body has been in the field of energy. He has been a leader of those of us who have vigorously worked for sensible solutions to our problems of being energy-dependent upon other nations. Mike and I have been on opposite sides of the political aisle for the 10 years we have served together, but I am proud to say that Mike McCormack and I are in agreement far more often than we disagree, especially in matters of great importance to our country.

I will miss Mike in the Congress, but more importantly, his State and the constituents of his congressional district will miss him even more. He has been an outstanding Member of the House, one who can look back with immense pride on his tenure here. We all wish him the best of good things in the years ahead.●

A WELCOME ENDORSEMENT FOR SAME-TIME/SUNDAY VOTING

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. BIAGGI. Mr. Speaker, last August, I introduced a bill—H.R. 7928—requiring all general elections to be held on Sunday, and all polls to open and close at the same time across the country for Presidential elections. Under the terms of my bill, these proposed changes would take place during an 8-year trial period beginning with the 1982 election.

Simply stated, these two changes seek to stimulate voter turnout and prevent voter apathy.

Evidence shows that voter turnout in Western European democracies where national elections are held on Sundays averages about 40 percent higher than our own. In 1980, only 52.3 percent of all eligible voters in the United States actually participated in electing the highest leader of our land—the lowest turnout for a Presidential election in 32 years.

Voter turnout was especially disappointing in Western States where polling places were still open when a Ronald Reagan victory was projected. Surveys indicate that these early predictions resulted in the loss of nearly 500,000 west coast votes on important local issues, including several key congressional races that were decided by 1 percentage point or less. Preliminary figures show that voter participation declined from 1976 in every Pacific time zone State—California, Nevada, Washington, and Oregon—as well as Hawaii and Alaska. Polling officials throughout the West reported many persons leaving the voting lines and going home after they received word of the Reagan victory.

Based on an extensive study I have conducted on this issue, I am confident the changes called for in H.R. 7928 would help to reverse this dangerous trend, and I am not alone in this thinking, I have received enthusiastic endorsements of my proposal from religious leaders, State election officials, leading newspapers, and numerous other interested groups and individuals around the country.

Mr. Speaker, at this time, I proudly insert a recent endorsement of the proposal received from Mr. James J. Kilpatrick, a well-respected and syndicated columnist for the Washington Star:

WHY DO WE VOTE ON TUESDAY?

Back in 1845, for reasons that must have seemed good at the time, Congress fixed the Tuesday after the first Monday in November as the national Election Day. Now Congressman Mario Biaggi of New York has what he regards as a better idea: Let us vote on the Sunday after the first Monday in November, and let us have uniform hours of voting across the land. The idea merits discussion.

Why did Congress ever settle upon Tuesday in the first place? Doubtless some gnome at the Library of Congress, having nothing better to do in an idle hour, could prowl through the Congressional Record of 1845 and find out. Offhand, Tuesday would appear to have nothing more in its favor than any other day.

Mr. Biaggi makes the point that most Western European democracies vote on Sundays, and their turnouts regularly are much higher than ours. Last month, we in the United States cast about 52.2 percent of the potential vote. In their most recent elections the Swedes voted 90 percent, the West Germans 89 percent and the Italians 88 percent.

The gentleman's proposal on voting hours has more immediate significance. We all know what happened last month. Television reporters in the East questioned voters as the voters emerged from the polls. By late afternoon it was apparent that a Republican landslide was under way. At 8:15 NBC awarded the White House to Mr. Reagan. At 9:30 President Carter read his concession statement. Western polls had still an hour and a half of voting time remaining.

The effect of these pronouncements can now be measured. Four years ago, according to the county registrar, 10 percent of the vote in Los Angeles was cast in the final hour, between 7 and 8 p.m. Last month less than 2 percent of the vote was cast in that hour.

In the individual case of Rep. James C. Corman of the 21st District, the pronouncements may have cost him re-election. A 20-year veteran of the House, Mr. Corman lost by 776 votes out of 176,000 cast. The black and Hispanic votes that had gone heavily for him in the past simply did not turn out. The same thing may have happened in Oregon, where Rep. Al Ullman, chairman of House and Ways and Means, lost by 3,500 votes in nearly 300,000 cast. There, too, election officials noted an abrupt falloff between 7 and 8 p.m.

NEWS IS NEWS

Now, so long as the First Amendment remains, there is no way to prevent reporters from asking questions and broadcasting the answers. News is news, and the networks' job is to report it, not to suppress it.

Mr. Biaggi's solution is firmly rooted in Article II of the Constitution, which empowers Congress to fix both the day and the time for choosing presidential electors. He would open polls everywhere between the hours of 12 noon and 9 p.m., Eastern Standard Time. This would mean 11 a.m. to 8 p.m. in the central states, 10 to 7 in the mountain states, 9 to 6 on the Pacific Coast, and 7 a.m. to 4 p.m. in Hawaii. Everyone would have nine hours in which to vote, and they would be the same nine hours from Boston to Honolulu. Put that in your pipe, John Chancellor, and smoke it if you please.

Many other "reforms" also are under discussion, but most of them, such as a single nationwide primary for presidential nominees, would provide cures worse than the disease. The changes proposed by Mr. Biaggi as to day and hours are not radical changes, and they might well be changes for the better. Unless persuasive objections are offered. I'd be inclined to give his plan a fair try.●

TRIBUTE TO GUNN McKAY

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. JOHNSON of California. Mr. Speaker, it is a pleasure and a privilege for me to participate in the special order to recognize the outstanding service of our colleague, Gunn McKay, with whom I am pleased to have served in the Congress during the past 14 years.

Whatever Gunn has done, whether it be chairing the House proceedings or working on original legislation, he has done it with an expertise for which he can be rightly proud. In a comparatively short time, he achieved extraordinary stature in the Congress when, in 1977, he became the shortest tenured Congressman to become chairman of a major subcommittee. Recognition of his leadership abilities has extended beyond the Halls of Congress, to the entire Washington community. He has served his constituents well by working for and achieving legislation to provide essential projects in Utah, including funding for the central Utah project and creating the Public Rangelands Improvement Act. He has served his country well as he worked toward improving defense and balancing the budget.

GUNN MCKAY's awesome and numerous achievements have earned our respect, his able performance has earned our commendation, and his cooperation and steadfastness have earned our thanks. I wish him well in the many years of productive service still ahead.●

TRIBUTE TO BOB ECKHARDT

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, it is with a heavy heart that I rise to honor my dear friend BOB ECKHARDT. BOB will long be remembered by his colleagues as one of the truly great Members of the House of Representatives.

BOB was a widely acknowledged master of the law and often spoke eloquently on the House floor, clarifying legal issues for his colleagues. He was a champion of the consumer and vigorous opponent of the major oil companies' rapacious efforts to capitalize on the Nation's energy crisis.

BOB served as chairman of the Commerce Subcommittee on Oversight and Investigations and served as chairman of the Democratic study group.

I will miss BOB for his warm friendship, for his work on progressive causes, for his unswerving commitment to the public interest, and my wife Sala, and I will sorely miss the friendship of Celia and BOB ECKHARDT.●

SARAH'S STORY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. FINDLEY. Mr. Speaker, a recent article which appeared in the Illinois Times published in Springfield, Ill., presents a case study of the all too prevalent problem of incest in our society. Too often we deal exclusively in cold statistics. At least 1 out of 10—perhaps as many as 1 out of 4—children are sexually abused by parents or relatives. But this high number still does not get us personally involved with the victims.

Reading Sarah's account of her experience does.

When the trauma of incest is compounded by pregnancy, the effect is even more devastating to the victim. Pregnancy, even among preteenage girls, regularly occurs. In fact, the possibility of pregnancy is greater than in rape because victims are usually unprotected and—as in Sarah's case—the act generally occurs repeatedly, time after time.

Debate over whether to permit federally funded abortion in limited circumstances continues. The amendment I have supported has reduced the instances of federally funded abortions by 99 percent—an impressive achievement. The only exceptions this amendment permits are when pregnancy results from rape or incest, or when abortion is necessary to save the life of the mother. These limited exceptions seem to me to be reasonable, compassionate, humane, and fully in accord with the basic moral precepts of our society.

But not everyone agrees. In fact, the chairman of the National Pro-Life Political Action Committee, Father Charles Fiore, states: "Precious as her life and well-being are, no one has the right to permit the selective taking of a child's life to save the mother's." In other words, he opposes abortion regardless of the circumstances. Nor is the National Pro-Life organization willing to grant an exception when pregnancy results from rape or incest. Many State Pro-Life organizations, including the one in Illinois, take a similarly inflexible position.

Of course they are entitled to their opinion. But it is misleading to state that those who disagree with them on this one limited issue—whether to permit an exception for rape, incest, or to save the life of the mother—are in favor of abortion. That is simply not the case.

Sarah's story follows:

INCEST IS REAL—WHISPERS AND CRIES FOR HELP

(By Susan Strom Mogerman)

Most of us give little or no thought to the subject of incest. It is comfortably tucked away in the pages of a Tennessee Williams book or occasionally lifted for discussion from a movie about poor, unfamiliar characters in places as remote as the subject itself. Ask your neighbors. They'll tell you that the problem does not exist in their town, their neighborhood—certainly not in their home. Yet recent statistics reveal a different story—one that has shocked even those professionals accustomed to dealing with shocking statistics.

The most conservative estimates indicate that one child in every ten in the United States will be sexually abused before reaching the age of 18. Mental health professionals feel a more realistic estimate is one in four. The problem crosses economic boundaries. It occurs in urban as well as rural areas and it is practiced by people of every ethnic background. Though the subject of incest remains taboo for parlor discussion, the problem is real. It is here. And it is happening now.

I recently spoke with an incest victim in the quiet privacy of the Rape Information and Counseling Service (RICS) after clinic hours. Details vary from victim to victim, but in many ways Sarah's story typifies the terrible injustices endured by thousands of children each year. There will be an estimated 2,800 such cases in Illinois this year—about 200,000 across the country. Most of the abused children will keep their terror a secret. A few, like Sarah, will have the courage to speak out and seek help.

"I love my mother a lot, but I get angry too. I get angry about her leaving us alone and giving me so much responsibility, and letting things, happen. She didn't see what was going on, or didn't want to. Even when I told her, she didn't want to talk about it."

Sarah is sixteen, soft-spoken, bright, and articulate. She expresses her feelings with some hesitation but with an insight and maturity which speaks volumes about the responsibilities thrust upon her by an immature mother, a disturbed stepfather just returned from Vietnam, and her mother's volatile live-in boyfriend.

"In a lot of ways, she was less able to cope with this than I am," Sarah said sympathetically. "She was such a child." Coping, day to day, with the indignities and humiliation of her life was the name of the game in Sarah's home. It was a nightmarish game, five years in duration.

Sarah was born in Springfield. She lived with her mother and father until they divorced when she was six years old. She remembers the weekend she and her brothers were sent to stay with relatives. When they returned, they were introduced to their new father, the man who, Sarah remembers, demanded to be called "Daddy." The new family moved from Illinois to another state, but Sarah's father was given no forwarding address. Within months, Sarah's new Daddy initiated her into the life of fear, shame, and pain that she was to know until she was eleven years of age.

The memory of her first sexual experience remains vivid in Sarah's mind. "I'll never be able to forget it," Sarah said. "But I try not to dwell on it." Her stepfather entered her room one evening after she had gone to bed. He was completely naked. "He asked me to do things to him and told me not to tell my Mom. He said that all fathers do this but if I told my Mom, she'd feel guilty about it. I knew it wasn't supposed to be like this because I had been around my Dad until I was six."

That night Sarah acquiesced to her stepfather's wishes. He had already demonstrated a violent temper and over the years the family lived with him, he often beat her mother and younger brother. On one occasion, during a family camping trip, Sarah recalled her stepfather throwing her infant halfbrother into a river. "I never knew what he would do," she said.

It was some time before Sarah's natural father was able to trace his children's whereabouts. When he finally did, the courts allowed Sarah to spend two weeks with him back in Springfield, with the option of another two weeks should she desire it. She did. When her stepfather heard that she had chosen to spend the extra two weeks with her natural father, he retaliated by beating her mother. Even a thousand miles away, Sarah suffered guilt and the consequences of her stepfather's temper.

Sarah's mother divorced for the second time about three years after the marriage. Sarah was nine years of age and relieved to be out of her stepfather's clutches. The relief was short-lived, however. The family moved back to Illinois and in short order, Sarah's mother took up residence with a new man. Sarah remembers him as being nice at first, but before long, the familiar pattern of "fooling around" with her began to take shape.

The boyfriend asked Sarah to sit on his lap and began rubbing her legs. Sarah was frightened and remembering her earlier experiences, she fled to the bathroom and tried to lock the door. The boyfriend followed her. She was only nine and a half the first time he pulled a gun on her and threatened to kill her if she did not do what he wanted her to do. For two years, Sarah quietly followed this man's orders.

Sarah was now totally responsible for the care of her two younger brothers, the household, and her mother's boyfriend. The role reversal, which is common in incestuous families, was complete. Her mother referred to her as "the little mother" when she was around, but she wasn't around much in those days. She often explained to Sarah that she was just trying to get things together so that they could have a nice place to live.

"I knew that I was different from my friends—that they didn't have to take care of their brothers and sisters. But none of their parents were divorced. I figured that she [mother] had to do this sort of stuff."

Sarah had also learned that her secret life needed to be kept a secret. "Once I had a friend stay overnight. When she told her Mom that my mother's boyfriend stayed with us, her mother never let her come over again." Sarah feared she would not be able to keep a friend if anyone was aware of the goings on in her house.

Eventually, life became more than even "the little mother" could bear. One evening she screamed in pain while her mother's boyfriend raped her, bringing her mother into the room to see what had happened. "He told her I was having a bad dream and that he had come into my room to console me." Sarah's mother believed him, or pretended to believe him, and left the room. When Sarah confronted her mother with the truth, she was told to lock her door at night and warned not to tell her father about it when she saw him during the summer.

Sarah's father was aware that all was not well in his ex-wife's home, though his daughter had never revealed the horrifying facts to him. In 1975, he visited his children, accompanied by Sarah's grandparents. "In the middle of the night, he woke us up and told us we were leaving. We had my half-brother with us and he said we couldn't take him." Sarah and her brother returned to Springfield with their father, while her half-brother was taken to a child service center, then returned to the mother. A child custody trial took place shortly thereafter and Sarah and her brother were returned to the custody of their father.

That was five years ago. Five years during which Sarah told almost no one of her experiences. (Sarah's father and grandmother know only some of Sarah's story.) On the surface she seemed happy and well-adjusted. She was a model student, active in school activities, attractive, responsible, well-mannered and behaved. But without realizing it, Sarah was beginning to exhibit discomfort in the company of boys.

"There was one boy I was interested in. I knew I was kind of tense but I didn't realize how much. Part of me gets really scared around guys." Sarah's male friend asked her girlfriends why she tensed up and then asked Sarah directly why she was so afraid of him. It was then that she realized she had a problem.

In September, Sarah was required to speak about a subject of her choice in one of her classes. She chose incest and called the Rape Information and Counseling Service to get some literature on the subject. She didn't know it at the time, but Sarah was putting out a call for help. When the RICS staff member talking with Sarah asked why she had chosen incest as the subject of her report, she admitted that she had been a victim. She has been seeing a counselor on a weekly basis ever since.

"Just knowing that I can talk to someone who won't judge me or blame me has really helped," Sarah said. "Talking helps me to settle things in myself. I felt guilty about everything for so long. I used to think that I must be doing something wrong or why would this be happening to me."

It is just in the last four or five years that mental health professionals have begun grappling with problems like Sarah's on a large scale. According to Katherine Lawson of RICS, the subject of incest "is where rape was a decade ago." And, unlike other areas of familiar abuse, there is little hard data to help the professionals out. There are no uniform definitions of incest and even the professionals' perception of what constitutes incest varies enormously.

This fact was effectively demonstrated at a conference on Child Sexual Victimization sponsored by RICS and Sangamon State University October 22-24. Conference participants were asked to read a list of behavioral situations and decide whether or not they were incestuous. "Of course, you're having no difficulty with this at all," joked Nole Larson, a Minneapolis psychotherapist who conducted the session, "because we all know exactly what incest is." Participants groaned as they attempted to decide what behavior is acceptable in families and what is not:

Father and daughter kissing each other on the lips (3 to 11 years old)? (13 to 18 years old)? Brother and sister exploring each other's bodies (school age)? (adolescent)? A four-year-old crawling in bed and cuddling with Mom after Dad leaves? A four-year-old crawling in bed with her nude parents in the morning? An eight-year-old? A twelve-year-old? A sixteen-year-old? The list of twenty-two situations generated plenty of discussion—and some disagreement.

What professionals do agree on is that identification of sexual abuse victims must become a priority in our schools, communities, and society. Incest is amendable to treatment. But you have to know who to treat.

In general, children who are sexually abused at home will not seek help. They wait to be discovered. They wait for someone to ask them the right questions, just as Sarah waited. "There were teachers and neighbors who knew something was wrong," she said, "but they didn't want to interfere." Sarah's doctor was concerned that she was chronically underweight. Sarah's minister was concerned that she seemed nervous and disturbed. But concerned or not, they never bothered to ask Sarah what her problem was. "If just one person had asked me," Sarah said, "I would have told them."

Sarah's counselor is as optimistic about Sarah's future as she is herself. She has been able to confront her past and accept it. Her father is supportive. Her home has given her strength. Sarah plans to go to college after she graduates from high school. She'd like to get married some day, after she has completed her education and feels ready to settle down. And she'd like to have children too, though she worries she will be an overprotective mother.

Sarah is a survivor, but the greater number of victims do not survive unscathed. They often suffer from depression, sexual dysfunction, alcoholism, drug abuse, or any number of behavioral and medical problems. Often, it is because they are being treated for some other problem that incest is discovered in their past. Until more people care enough to ask questions, these children will continue to suffer in silence.●

ON THE RETIREMENT OF REPRESENTATIVE ROBERT GIAIMO

HON. BARBER B. CONABLE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. CONABLE. Mr. Speaker, there are few men in the House of Representatives more admired than Bob Giaimo. He has assumed major responsibility as chairman of the Budget Committee and acquitted his role there with force and dignity. My assignment on the Budget Committee frequently cast me in a contrary posture to Bob Giaimo's leadership, but he was an adversary I have always respected. His leadership there demonstrated the force of his character, the responsibility with which he moved to do his duty and the judgment which he contributed to the strength of our institution and our process. I believe the House owes Bob Giaimo a very substantial debt of gratitude, and I want to congratulate him on the distinction of his service as he moves his active life into another forum.●

BOB GIAIMO

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BRINKLEY. Mr. Speaker, for more than two decades, Bob Giaimo has served in Congress with distinction, combining a deep sense of commitment to those he has represented with an unflagging confidence in the greatness of our country and its future. His splendid leadership, as chairman of the House Budget Committee, stands as a remarkable demonstration of ceaseless dedication and masterful budgetary skill.

In addition to his exemplary committee service, I personally am grateful to Bob for the invaluable role he fulfilled in helping to secure Federal funds for crucial renovations at the Georgia Warm Springs Hospital and Rehabilitation Center, located in my district. Bob has tirelessly and actively supported Warm Springs because he cares deeply for his fellow man and wanted to help insure continuation of the center's excellent programs for the handicapped. Most recently, Bob joined us as cosponsor of legislation authorizing the initial steps to make the proposed Franklin D. Roosevelt Warm Springs Memorial a reality.

In a letter to me expressing his strong support for the memorial, Bob wrote of the compassion and great humanitarian efforts of Franklin D. Roosevelt. These same words describe so well the rare qualities of Bob Giaimo. This uncommon man leaves behind a legacy of brilliant legislative talent, and for the lessons he has taught us, we are forever thankful.●

THE ALABAMA BOYCOTT ANNIVERSARY

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. UDALL. Mr. Speaker, history is often made in unlikely places. A large part of the American Revolution was planned in ordinary taverns. The Wright brothers, who forever changed the world, began in a common bicycle shop in Ohio. A short, mostly ignored speech in a cemetery became the literary legacy of Abraham Lincoln.

For contemporary America, the struggle for civil rights—for full rights for every citizen, under the law—began 25 years ago this month, in Alabama in a bus—when a young black woman said she would not move from a front seat to one at the rear.

So began a turning point in our Nation's history.

Today is a fitting time for rededication to a commitment, to an ideal, to equality, to freedom.

Let us continue.●

TRIBUTE TO BOB BAUMAN

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. CLAUSEN. Mr. Speaker—

I stand in the well,
As I've often stood before;
The tribute that I'm here to tell,
Honors the Watchdog of the Floor.

I heard it said just last night
Keeping secrets from some men,
Is like trying to sneak daylight
Past a rooster or a hen.

Bob Bauman fits that select group of men
Who nothing can slip by,
His undying dedication and intelligence
Has been our guide.

There are seventy-three House Members
Who'll not miss Bob next year.
They are seventy-three unfortunates
Who have never seen him here.

To see his brilliant mind
And adherence to rules at work,
Or know of his untiring efforts
To rid injustice where it lurks.

A superb parliamentarian,
A spokesman in legislating,
Bob is both a statesman
And a scholar worth emulating.

Too numerous to mention—
The good he's brought the Hill;
Aside from guarding the floor,
Carefully scrutinizing bill after bill.

And so, Bob Bauman, let me say
And I hope you understand why
Knowing that you'll return one day.
We say "so long" and not "good-bye."●

TRIBUTE TO GUNN McKAY

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. BOLAND. Mr. Speaker, I appreciate the opportunity to join my colleagues in paying tribute to Gunn McKay.

I have had the privilege of serving with Gunn McKay on the Appropriations Committee. He has been one of the most effective members of that committee and has served with particular distinction as chairman of the Military Construction Subcommittee. In that capacity, he had a special responsibility to insure that the Nation's Defense Establishment was being adequately maintained with an absolute minimum of waste of the revenues of the Treasury. Gunn discharged that responsibility with distinction.

As a man of the West, Gunn McKay has a special love and respect for the land. His work on the Interior Appropriations Subcommittee was a testament to that love. He has fought hard for the things he knows the West needs but he has never lost sight of his responsibility to the Nation as a whole. He has been a Representative in the best sense of the term and we who remain in the House will miss him.

I want to wish Gunn and his wife and family much success and happiness in the days to come.●

TRIBUTE TO TIM LEE CARTER

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mrs. HOLT. Mr. Speaker, this opportunity to pay tribute to our colleague Tim Lee Carter is both overdue and too soon. Overdue, because his service to his district, to Kentucky, and to America has deserved tribute for many years. Too soon in coming, because it means he will be retiring from the Congress, and we will miss him very much.

Dr. Carter's accomplishments here are well known and respected by Members from both sides of the aisle. For those who have not had the chance to get to know him personally, they are missing the key ingredients to his success. Tim Lee is a man who cares about people. His service to the constituents in Kentucky's Fifth District has come from his heart, not just the desire to be the best Representative he could be. His easy way with people comes from being an easy man to know. He is honest and deeply faithful to the commitments he believes are right. Certainly, some of his strength comes from his devoted wife, and all of these things have made Tim Lee Carter an effective legislator, a true gentleman, and a very nice man.●

KCRW-FM, SANTA MONICA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. WAXMAN. Mr. Speaker, KCRW-FM, a radio station in Santa Monica, has gained in the past few years a reputation of being one of the most eclectic, informative, and responsible voices on the air. Much of the credit is due to Ruth Hirschman, the station's general manager, and the outstanding and dedicated staff she has assembled. A tireless champion of her station and public radio, Ms. Hirschman is recognized nationally as a leader in the medium. By virtue of a new transmitter due to go into operation next month, KCRW's signals will soon reach the entire Los Angeles area. KCRW's service to our community deserves to be recognized. I am pleased to share with my colleagues the following article, from a local newspaper, on the station and Ruth Hirschman:

SANTA MONICA'S KCRW-FM GROWS UP, WITH A LOT OF HELP FROM RUTH HIRSCHMAN

(By Richard Mahler)

Will success spoil KCRW?

The manager of Santa Monica's ugly duckling public radio station laughs at the question, and gestures toward the busy playground outside her window.

"We're still in a classroom at John Adams Junior High School! It's a little hard to lose your head under that kind of situation."

Ruth Hirschman knows her station is "hot."

Never mind that the peanut-whistle transmitter and flagpole-height antenna barely get KCRW's FM signal as far as the Bonaventure Hotel. Forget about those seventy-odd competing voices shoehorned into the Los Angeles radio dial. Pay no attention to the anemic budget and tiny staff crammed into a space not much larger than a studio apartment.

"My overwhelming terror is how we'll get off the phone long enough to run the station. We only have five lines and six people to answer them—and they already ring all the time."

Ruth Hirschman has taken a dinky public radio outlet incongruously parked in the middle of a junior high campus from a sleepy little jazz station to what many West Siders consider the "most aesthetically pleasing and intellectually sensible" broadcaster in town. Unfortunately, KCRW's low antenna placement—barely as high as the school's gymnasium—has kept the station a secret to most people in Los Angeles. That will change in January, when the transmitter and antenna are scheduled to move onto a mountain top. That will allow KCRW's signal to be heard by up to eight million people throughout Southern California.

"There's no way to know how many people listen to us now," Hirschman explains, "because the major ratings services look at Los Angeles as a whole, including many neighborhoods we cannot reach. Since we have 1,500 subscribers, however, I extrapolate that we have at least 15,000 regular listeners and probably many more."

The latest available Arbitron statistics suggest KCRW's manager is being too modest. That survey gives KCRW about 21,000 listeners per week. A far cry from the two million enjoyed by top-rated KMET, or even the 200,000 pulled by noncommercial KUSC, but respectable considering Los Angeles is the most competitive radio market in the country, and probably the world.

By all accounts, Hirschman deserves the lion's share of the credit for turning KCRW around.

"She's a person of national stature in what she does," believes KCRW's operations director, Mitchell Harding. "She's made this station as good as any public station in the country."

Even her detractors give Hirschman credit for being a skilled programmer and hard bargainer, although they cite her strong opinions and persistent manner as qualities that sometimes work against her.

"Many people have a love-hate relationship with Ruth," a former coworker (who asked not to be named) told me. "She is very effective at getting what she wants, but sometimes it rubs people the wrong way."

KPFK, the listener-sponsored Pacifica Foundation station in Los Angeles, was only two years old when Hirschman took over its drama and literature department in 1961. Pacifica stations are probably the only ones in the country that even have such positions, but that's another story. Hirschman rose to the program director's slot in the early seventies, where she gained recognition for putting together, along with then-manager Will Lewis, live readings of the Watergate transcripts using some of the top names in Hollywood. (She dreams of some day getting celebrities together to record Marcel Proust's Remembrance of Things Past for KCRW). KPFK later made headlines when Lewis went to jail rather than give the police tapes the station received from an underground political group, and when station employees rebelled against Lewis's and Hirschman's leadership. The pair left the station under staff pressure in 1976. After Hirschman took over as KCRW manager in 1977, Lewis later joined the station as a fund-raising consultant.

"I don't like the word competitive," says Hirschman. "We take into account what the others are doing because we feel we have a responsibility to offer something different from what you can get three stations away.

"When we constructed our programming, we did it with a clear sense of what other stations were doing. When KUSC puts on its news and public affairs, for example, that's when we offer classical music."

At Hirschman's insistence, KCRW programmers make a point of mentioning other radio stations' special programs when they're on the air.

"The more people I can turn on to public radio the better. We're all clustered into one little ghetto area of the dial, and chances are if you listen to KPFK or KUSC, for example, you will stumble on us." (KCRW's dial position, 89.9 MHz, is just a fraction of a turn to the left of the Pacifica and University of Southern California outlets).

Some long-time Los Angeles listeners recognize the Pacifica influence in Hirschman's approach, with its emphasis on eclectic music and progressive public affairs reporting. In the words of one admirer of KPFK's openness to left-wing opinions, "KCRW is 'safe' Pacifica."

Hirschman sees it another way.

"There are certain things we don't have to do because other stations are already doing them. KPFK is always on the cutting edge of change. It has a responsibility to the avantgarde—to present extreme points of view of all kinds. It's wonderful that there's a station doing that, and there's no point in duplicating it. Just as we don't try to duplicate KUSC's fine classical music service."

What KCRW does do that's different, according to Hirschman, is "try to help people discover new music, ideas, and cultures that they may never have expected to encounter or enjoy. The station is a forum for diverse points of view that exist in the community—from extreme conservatism to extreme radicalism. If our listeners tune in for one program and then stay around for another, then we're being successful."

Over the past few months, public radio has shifted gears from the quiet pace of a country lane to the frenetic tempo of an eight-lane freeway. The installation of a sophisticated satellite system connecting the 200-plus National Public Radio stations now enables up to six stereo programs to be transmitted simultaneously from any major city in the country.

The sudden availability of hundreds of hours of nationally syndicated programming is tempting many stations to install rigid formats. That has sparked a heated debate within the industry.

"You can now have an all-news, all-children's, all-classical, or even an all-Spanish-language public radio station," Hirschman notes. "I'm philosophically opposed to the concept. The commercial stations should be looking to us for new approaches, we should not be copying them. Instead of creating a programming ghetto within our own public radio community, let's create something that will become highly successful, let them steal it from us, and then go to work creating something entirely new again."

While acknowledging the station will substantially increase the amount of network public affairs programming it carries once the new antenna is in place, Hirschman believes any compromise of the homegrown "feel" of KCRW would be disastrous.

"People desperately want a radio service that is local and personal. They would much rather pay for that than for programs that are designed to appeal to a national audience and are available elsewhere. We have an economic and a political commitment to maintain such a presence."

On-the-air fund-raising appeals are considered a necessary evil by noncommercial broadcasters. For weeks at a time regular programming is pre-empted by pleas for subscriber donations. KCRW is no exception. Proposition 13 cutbacks and inflation have forced the station to rely more and more on direct contributions from listeners. Although the bulk of funding comes from the Corporation for Public Broadcasting (a quasigovernment agency that makes grants to all eligible public outlets, including Pacifica), and from Santa Monica College (the licensee since 1976), it depends on its listeners for close to $50,000 a year.

"Luckily, we only have to spend ten days a year asking for money on the air," Hirschman explains. "We try to make these pitching periods as a special and fun as possible. That's why we spend four months preparing for them."

For the past fifteen years, KCRW has been the jazz station for thousands of all-nighters on the West Side, Seven nights a week, usually starting at 10:30, one of a dozen or so hosts sets a musical mood that is never interrupted by a Datsun commercial or savings and loan ad. Rather, the infrequent breaks are devoted to relevant comments about the artists themselves, or to satisfy legal requirements for station identification.

Several "Strictly Jazz" hosts are, like Ron Pelletier, professional musicians with deep roots in the jazz community here. Others, like screenwriter Will Thornbury, a historian of the local jazz scene, are strictly indulging in a hobby. A few even have programs on other stations with tighter formats.

Mitchell Harding, for example, speaks far beyond the KCRW signal area in a weekly science-fiction program he co-hosts with novelist Mike Hodel over KPFK. A mellifluous voice associated with public radio for as long as the term has existed, Harding represents one-sixth of KCRW's full-time (all civil-service) paid staff.

Hirschman and Harding join forces every weekday at noon for a lunch-time review of news reports from the pages of the latest New York Times and Christian Science Monitor.

"As program and traffic coordinator, Mitch is the person who keeps track of what show must be taped when, which should be scheduled where, and makes sure nothing gets lost. It's gotten to the point where he recently bought a minicomputer to keep track of it all," Hirschman says.

The man who terrifies management and delights school children by climbing the transmitter tower during recess is John Huntley, KCRW's chief engineer. Huntley is making preparations for reducing KCRW's actual power (from 26,000 to 8,000 watts) and installing a microwave link to the new Hollywood Hills transmission site. His assistant may be the only Orthodox Jewish woman assistant engineer in the country.

"What's the secret to our success?" Hirschman repeats the question. "Certainly part of it is that we all work in the same office space. There are no walls between us. We all feel closely connected because the transfer of information is instantaneous."

Calling KCRW to extract information from whoever answers the phone can be an eerie experience. If the person you're speaking to can't help, a shout goes out around the room and an answer shoots back. A reporter asking a series of technical questions got an over-the-shoulder response from the engineer. The development director piped up with financial data, and the music director added programming information. The man answering the phone didn't have to move a muscle.

"Every person takes up a chair and a desk," Hirschman laments. "We just don't have room for new volunteers."

Eventually, KCRW will leave its converted classroom and move into a remodeled basement on the Santa Monica College campus. But for now it actively discourages unexperienced volunteer programmers, unless they are willing to go through a college training program overseen by instructor John Copps. Copp's classes produce four-and-a-half hours of community and public affairs programming for the station each week. Additional material is produced within the station by newly hired community affairs coordinator Jacqueline Des Lauriers (a former volunteer) and production director Tom Strother (an SMC graduate).

National Public Radio ran a slick advertising in October to soften its "pointy head" image and population its programs. (You may have seen the newspaper ads asking you to identify "who plays first bass for KUSC?") KCRW ran a series of network-produced promos calculated to underscore NPR's versatility:

"What's a radio station doing at a drug bust?" the announcer inquires, as the sounds of just that event are heard in the background.

"What's a radio station doing at the birth of a baby?" and crying and fumbling are heard.

"What's a radio station doing in Leonard Bernstein's dressing room? . . . chasing a great white whale?" and so on. The point becomes obvious.

The noncommercial network offers more than headlines and the top ten.

The staff of KCRW is well aware that, along with its strictly local programs, the audience responds well to these NPR offerings. They know it because of calls logged whenever a station announcer offers free program guides (about 500 such calls are logged each month). The monthly program listing is also sent to all subscribers.

"I came to KCRW at the same time Frank Mankiewicz became head of National Public Radio," Hirschman recalls. "He has taken a provincial, parochial network and given it a sense of humor, sophistication, and intellectual credibility."

Mankiewicz is a respected journalist who is politically well connected through past affiliations with major Democratic candidates. He is widely praised for his commitment to NPR's award-winning drive-time news magazines, "Morning Edition" and "All Things Considered," the two programs that attract KCRW's largest audiences.

"We depend heavily on this news service," Hirschman continues. "We get tremendous response to 'All Things Considered,' for example, and could not possibly make inroads into the community without it. Frank has brought NPR into the world of power and intrigue, made it interesting, and given it visibility."

Local community affairs on KCRW runs the gamut from obligatory transmission of the Santa Monica City Council to highly produced documentaries, from reports of consumer rip-offs to call-in shows about gun control, from news of women's issues to discussion of Argentine political prisoners. The station recently added a local public affairs staffer (via a City of Santa Monica grant) and there is a plan afoot to air eventually a regular local newscast.

In the vast desert of Los Angeles media hype, there is something oasis-like about KCRW's lack of pretension. No one in the offices wears wraparound sunglasses. There's no gaudily-painted news van in the driveway. No solid gold records hang on the wall. There are no contests for the best looking rear end. Perhaps it's because almost none of the seventy-odd volunteers has ever worked in Sunset Strip-style radio before, and few have been in a radio station at all before coming to KCRW.

"The audience can tell when the person putting on the record loves what they do," Hirschman believes. "We want programmers who are experts in a field—not in being on the radio. Whether it's telling you how to save your sick coleus plant or explaining Shostakovich, we want them to sound like they know something about the subject. A program must be up to the standards of the person producing it. I always say 'you will get the audience you deserve.' "

All in all, Hirschman confesses some trepidation over the increased attention KCRW will get when it increases its coverage early next year. There are already many more "passionate amateurs" requesting air time than there are hours in a day, and "great diplomacy" must be exercised by the general manager to appease disgruntled applicants.

"The temptation is to put on what's popular. But some programs, like our poetry series, are never going to be very popular. They should be kept on the air because they're important, and fulfill our legal responsibility as a public, tax-subsidized station.

"We can't go off in our own little corner and ignore the community, though. It's a balancing act. To paraphrase Norman Mailer: 'You either change, or pay more for remaining the same.' "●

TRIBUTE TO HON. LUCIEN N. NEDZI

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. BOLAND. Mr. Speaker, the voluntary retirement of Lucien Nedzi will deprive the House of Representatives of one of its most effective Members.

Lucien Nedzi has represented the people of the 14th District of Michigan with skill, dedication, and integrity for 19 years. He has never forgotten the responsibility he owes to his constituents, and his legislative record is evidence of the success he has enjoyed in safeguarding their interests.

Lucien has served on subcommittees and committees that other Members might have preferred to avoid as being too far removed from the bright lights and center stage. Through diligence and hard work, however, Lucien seized the opportunities provided by his committee assignments and became one of the recognized leaders in the House on matters affecting defense policy and the conduct of national political campaigns and elections. He has done an especially fine job as acting chairman of the Committee on House Administration, a position which requires temperate treatment of a number of sensitive issues.

I am sorry that Lucien Nedzi will not be returning for the 97th Congress. He made an important contribution to the work of this House and he will be missed. I know that he will enjoy much success in the days to come and I wish him equal measures of health and happiness.●

TRIBUTE HONORING HON. ANDREW MAGUIRE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. ROE. Mr. Speaker, it is with much sadness that I rise today to bid farewell to Andy Maguire, my fellow colleague from New Jersey, who will not be with us when the 97th Congress convenes next month.

A man of Andy Maguire's strength and determination will be sorely missed. During the 6 years he has served so ably in the House of Representatives, Andy Maguire has built a reputation for himself as a leader in the fight to make the world a better place for us all to live in.

And a fighter he is. Andy Maguire wants ourselves and our families to be able to drink clean water and to breathe clean air without having to worry about cancer-producing pollutants.

His work in the area of environmental concern is unequaled in Congress. We will all certainly miss his input into the many new pieces of legislation concerning the environment that will be introduced during the next few years.

We must also not forget the excellent job that Andy Maguire did for his constituents in Bergen County, N.J. Whether the problem was a small one or a major calamity such as the closing of the massive Mahwah Ford plant, Andy Maguire was there to see what he could do for his people.

Andy Maguire is a young man brimming with talent and caring. Though he may be gone from this body for a short time, you can mark my words this will not be the last time we hear from him.●

TRIBUTE TO HON. ANDREW MAGUIRE

HON. E DE LA GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. de la GARZA. Mr. Speaker, I am pleased to join my colleagues in paying tribute to Andy Maguire on his departure from the House of Representatives after 6 years of active and dedicated service.

During his tenure in Congress Andy Maguire has developed a well-earned reputation for his competence and effectiveness. While I have not always been in agreement with Andy Maguire, I have the utmost respect for his abilities.

Andy Maguire has my sincere best wishes for the months and years ahead.●

TRIBUTE TO HON. GUNN McKAY

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. STEED. Mr. Speaker, the ending of a Congress always brings with it the departure of some Members, as well as the arrival of the newly elected. Fortunes of the recent campaign combined to bring to an end the career of one of our most outstanding Members, Hon. Gunn McKay, a Democrat of Utah. To those of us not well informed of the Utah constituency, it is difficult to understand why a State would dispense with the services of such a fine Representative, unless somehow it simply did not fully understand his life and his work.

I have served with him through all of his years here and have become even better acquainted in our mutual labors on the House Appropriations Committee. This common endeavor became more complete when we became members of the Subcommittee on Military Construction. This gave me an opportunity to see him in action, especially during the years when he served as the subcommittee's chairman.

His broad knowledge of the farflung Military Establishment, including the bases of operation throughout the United States and the world has been a mighty advantage to the Congress, not only in enabling him to provide leadership in helping provide the physical facilities our Armed Forces required, but to know these needs and these activities so well that he could guard against waste, minimize unnecessary programs and help guide through projects that were sensitive, and in many instances controversial.

He proved a good and loyal Democrat, but a better American. He proved a highly moral leader and a man all who knew him were proud to call friend. He has been a credit to his party, his State, his Nation, and himself. He has added to the prestige of the country. He will be missed. I join in wishing him a long, useful, and happy life.●

TRIBUTE TO HON. MIKE McCORMACK

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. UDALL. Mr. Speaker, Mike McCormack has been a hard-working and tenacious legislator and an effective spokesman for those who share his strong views on the role of nuclear power in America's future. Mike has been a friend and a Member who has served his district, his State, and his country well. I am sorry to see him leave.●

BIAGGI SUPPORTS U.S. AID CUTOFF TO EL SALVADOR

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. BIAGGI. Mr. Speaker, the brutal murders of three American nuns and a Catholic social worker in El Salvador has prompted President Carter to suspend approximately $25 million in U.S. aid to that nation. I commend the President for his prompt decision in this matter and for dispatching a delegation to investigate what if any role the government's security police had in the murders.

The four slain Americans were identified as Sister Dorothy Kazel of Cleveland, a member of the Ursuline Order—Sisters Ita Ford and Maura Clarke of the Maryknoll Order, and Jean Donovan, a lay worker from Cleveland. The savagery of these murders has shocked and sickened the civilized world.

These murders are far from an isolated incident. El Salvador has been a haven for right wing terrorism directed against members of the Catholic Church which has spoken out on human rights. At least nine priests have been assassinated since 1977 including Archbishop Oscar Romero who was murdered on March 24.

It is tragically ironic that the two Maryknoll sisters were from my home State of New York and had just returned briefly to New York after attending a conference in Nicaragua. Upon their return to the United States they had expressed reservations about returning to El Salvador because of the violence. Yet their lifetime of service to their fellow man brought them back to El Salvador where their worst fears were tragically realized.

The United States must continue to stand firm against those nations where violence is tolerated. El Salvador is responsible for one of the most reprehensible of all acts of violence and the United States must redouble its efforts to protect the lives of our citizens in El Salvador.●

TRIBUTE TO HON. HAROLD T. (BIZZ) JOHNSON

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I have the rare pleasure of paying tribute to a dear friend and colleague and one who entered the Congress when I did and who is leaving at the same time too, Bizz Johnson. There are not many public servants left like Bizz Johnson and certainly not many left who have been as effective and successful as this great man from California. The next Congress will be the lesser without his leadership and his friendship.

Bizz has done so much to make this the kind of representative body our forefathers had intended it to be. The Committee on Public Works and Transportation is losing one of its finest chairmen. Bizz' role on that committee has brought about some important legislation including a multimillion-dollar water and power conservation and development program, measures designed to develop a balanced transportation system, and various antipollution and wilderness conservation programs throughout the country. Bizz will always be remembered as a champion of environmental interests. As a legislator, Bizz has been a man of commitment and action, as a chairman, he has been a leader of good judgment, and as a colleague, a trusted friend.

Bizz, the Congress is a better place for your having been here. Both your district and this House will remember your many considerable strengths. I wish you happiness and good luck in your retirement.●

TRIBUTE TO MORGAN MURPHY AND GUNN McKAY

HON. G. V. MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. MONTGOMERY. Mr. Speaker, I take this time today to express my very sincere regret that Morgan Murphy will not be among our ranks when the 97th Congress convenes in January. For 10 years, he has been a conscientious and dedicated Member of this body and I certainly will miss his presence as well as the many contributions that he could still make to our Nation as a Representative.

As a member of the Rules Committee, Morgan has had to vote twice on almost every issue that came before the House. His job has not been easy, but neither has Morgan taken the easy way out. He always voted his conscience and what he thought would be best for the people of Illinois and America. Morgan's willingness to face the tough decisions head on was one of the hallmarks of his decade of service in the House of Representatives.

Mr. Speaker, I am also appreciative of Morgan's service on the Permanent Select Committee on Intelligence. I would discuss his committee's work with him at times and was always thankful of his understanding of the need for America to have a strong intelligence gathering capability. He had a very clear realization of the necessity of intelligence for a strong national defense.

I join with my colleagues in wishing Morgan well in the future and thanking him for his service to his Nation and his friendship.

Mr. Speaker, I rise today to pay tribute to another member of the Decade Club who, unfortunately, will not be returning when the 97th Congress convenes in January. I refer, of course, to Gunn McKay of Utah who has proven himself to be one of our most valued Members during his 10 years of service in the House.

I am particularly mindful of Gunn's contributions on the Appropriations Committee and more specifically as chairman of the Subcommittee on Military Installations. He served as subcommittee chairman at a time when there was a growing need for new and improved physical facilities for our Armed Forces, but a decreasing amount of money in real terms being allocated for this purpose. GUNN did a most admirable job of working with the funds made available to his subcommittee and applying them where they would do the most good for our military.

Mr. Speaker, I am sorry that GUNN McKAY will not be a Member of the House in 1981 because we will have all lost a very dedicated colleague and many of us will be losing a close friend as well.●

TRIBUTE TO SAM DEVINE

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. HANCE. Mr. Speaker, we are honoring one of the outstanding Members of the House in recognizing SAM DEVINE. Mr. DEVINE is one of the more knowledgeable Members of the House and we will sincerely miss his expertise and experience in our many deliberations. His 22 years of experience have given him the insight into Congress, its workings and procedures, which are important to all Members of Congress.

As a colleague of mine from Ohio, Mr. DEVINE has provided me with an exemplary model of how legislative goals can be accomplished by hard work and study. He is a great man and a great American.●

TRIBUTE TO HON. JOHN BRADEMAS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. ROSENTHAL. Mr. Speaker, I rise to express my deepest respect and affection for our distinguished colleague, JOHN BRADEMAS. His departure will be an enormous loss to the House of Representatives and to our country. He has served this institution and our Nation as a distinguished leader with remarkable ability, a high level of competence, and complete dedication. He has also been my good friend and for this I am most grateful. Over the 19 years we have served together, I can truly say that my pleasure in working with JOHN was exceeded only by my delight in our friendship.

Of the countless projects we have worked on together, one holds special importance. Since the summer of 1974, JOHN and I have spent endless hours working to solve the deplorable situation on the island of Cyprus. Our work on this problem, in tandem with our colleague, Senator PAUL SARBANES, has brought us together and taught me a great deal about JOHN BRADEMAS, the Congressman. JOHN's total immersion into any legislative project and his enormous ability and skill as a legislative tactician are awesome. I consider myself extraordinarily fortunate to have been his brother-in-arms during all of the legislative battles involving Cyprus.

The range of JOHN's interests and activities would completely engulf a lesser man. He is remarkable in that he, more than any legislator I have ever worked with, can manage hundreds of items at the same time. Through the years, we have attended many working sessions and meetings together, and JOHN's perspicacity and diligence and his commitment to recording the history of these events is something I hold in great respect. JOHN has a true scholar's ability coupled with a finely tuned political sense—a combination rarely found these days. My admiration for this man is complete and enduring.

I have enjoyed JOHN's personal friendship and companionship in a hundred different ways. We have traveled together, learned together and my respect, affection, and admiration for him is one of the single most rewarding experiences of my service in the Congress. The House shall miss one of its most important Members and I shall miss a dear friend.●

TRIBUTE TO HON. GUNN McKAY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. MAZZOLI. Mr. Speaker, I would like to join with my colleagues in the House in honoring GUNN McKAY, distinguished Congressman from the State of Utah, who will not be returning for the 97th Congress.

GUNN and I came to Congress as "classmates" back in 1971. In the 10 years GUNN has served the people of Utah, he has impressed me with his integrity, hard work, and professionalism.

I am very sorry the voters in Utah voted as they did. GUNN's departure diminishes the House.

I wish GUNN and his family all the best in the years to come.●

THE AMERICAN STEEL INDUSTRY: PROBLEMS, CHALLENGES, PERSPECTIVES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. LAGOMARSINO. Mr. Speaker, my constituent, Mr. Luc Kiers from Santa Barbara, Calif., has given me informative material from his book, "The American Steel Industry: Problems, Challenges, Perspectives." Mr. Kiers discusses the reasons for the current failings of the industry and some necessary changes to ameliorate the situation. I would like to share Mr. Kiers' thoughts with my colleagues.

Material from book follows:

Motivated by deep concern about the United States' weakening grip on technological leadership and the stagnation of growth in the steel industry, this book inventories the factors responsible for this problem. An endeavor will be made to identify the principal causes of steel's depressed condition. Realities are less dangerous than illusions; fact finding is more effective than rationalization. In our search for realities, we must not obscure economic facts by prejudices or preconceptions. The short-range goal is to arouse public awareness and thus contribute to a better understanding of the issue. An effort must be made to replace the adversary relationship between management and labor with a shared feeling of responsibility that is based upon common interests. The long-range goal is to formulate possible answers to existing problems and to find guidelines for ultimately regaining the health of the American steel industry.

The question is whether the country will allow its steel industry—once the symbol of the nation's strength—to become merely a relic of our past. The challenge is how to prevent this. Unless the crew pulls the oars in unison, the boat may sink. Foresight is a crown for the wise, hindsight a noose for the fool.

Total world steel trade rose from 23 million tons per year in 1950 to 131 million tons in 1976—an annual rate of increase of more than 100 million tons—virtually without U.S. participation. While prior to 1958 the American steel industry provided a substantial part of the then existing world steel trade (up to 15 percent), after 1959 the United States became a net importer and since then has exported, with few exceptions, only between 2 to 3 percent of its yearly production. Rather than thinking in terms of the world market, the U.S. steel industry remained domestically oriented, failing to recognize that, as the world's steel-producing capacity increased, steel would become a world market commodity.

The steelmakers of the world had a rude awakening coming. Without realizing that during the past decade they had programmed their expenditures either too little/too late or too much/too early, the crippling effects of the energy crisis would wreak havoc upon all plans and cause grave problems for everyone worldwide. The U.S. steel industry's expansion fever of 1975 came to naught in 1976. The foundations shook in 1977. The profitability umbrella given to the industry in 1978 by the government in an effort to curb imports (see Chapter 3) contributed significantly to improved profit performance: net income in 1978 was $1.3 billion on sales of $47.1 billion, and net income in the first nine months of 1979 was $1.57 billion on sales of $43.7 billion. Despite these financial injections, average profits (based on revenues) declined during the 1970s by approximately one third in comparison to the average results of the previous decade. New shutdowns and thousands of layoffs are inevitable. These developments clearly show that something other than protective regulations is required to reverse industry's perilous downward skid.

IMPORT PROBLEM

Imports are the number 1 problem in the steel industry, sapping growth and inhibiting expansion, according to Frederick C.

Langenberg, president of the American Iron and Steel Institute (AISI).

International trade must be fair trade, equitable and working in both directions. In case of dumping or illegal procedures, constructive government intervention is needed for prevention. The Solomon Report is a well-meaning effort to attain this goal. However, it is too arbitrary to be considered constructive in terms of national interest.

It seems safe to state that neither TPM nor other suggested recommendations will afford the steel industry a sound footing or produce a long-term solution. Such measures, while intended to be corrective, are in fact propagative. Authoritative protective moves constitute the easiest way out, produce minimum rocking of the boat, result in increased prices, and encourage continuation of the existing lethargy in all ranks of the U.S. steel industry. Such actions solely mitigate the effect without curing the cause, glaringly exemplifying people reacting to business conditions rather than shaping them. This is no way to attain efficiency or to increase productivity; nor does it constitute the material with which new factories are built.

One does not engage in a skirmish when survival is at stake and larger movements are called for. Does the use of a Band-Aid or the application of cosmetics eliminate the necessity for a surgical operation? Instead of using steel imports as a whipping boy—and in the process, misdirecting public opinion—it might be more appropriate for the American steel industry to do some deep soul-searching about long-standing chronic problems and about the subject of productivity. Uncommon people are needed for this uncommon task; others have too often equaled or surpassed the performance of the American steel industry.

THE CAPITAL SHORTAGE ROADBLOCK

Steel management mentions many other reasons for the downward trend in the steel industry besides the intensified effort to blame unfair imports. The main roadblock on the way to recovery, according to steelmakers, is capital shortage caused by government's unwillingness to create a climate conducive to capital formation, as evidenced by Washington's heavy hand in controlling prices, too stringent tax regulations, and the increasing regulatory action by diverse branches of government. Steelmakers claim these restraining influences prevent the U.S. steel industry from adequately financing new facilities and improving productivity.

A NEW MANAGEMENT PHILOSOPHY

Unless management is totally dedicated to establishing and preserving a healthy steel industry and is unhesitatingly convinced that such a goal can be reached, even the most carefully designed plan will flounder and fail.

As history proves, neither capital spending nor wage increases guarantee a viable industry. These steps by themselves do not answer the question no government can answer: how do we remedy inefficiency? Only the combined efforts of everyone involved in the manufacturing of steel can provide that answer. Let none forget that the wolves remain at steel's door. Unless the operating philosophy of the American steel industry changes, from mahogany row down to the floor sweepers, the steel industry may suffer the fate of the railroads in the 1970s.

Steel industry management must face the facts. A realistic diagnosis reveals that the problems are high man-hours per ton, high yield losses, high maintenance costs, inefficient utilization of raw materials and fuels, and lack of dynamic leadership.

Careful consideration by management and stockholders alike of the Japanese attitudinal priorities should be given: first to security, growth, and permanence of the company, then to profitability. The accusation that Japanese corporations do not have to make a profit is foolish. All business men know very well that a corporation without profit is doomed. While the Japanese executive is judged by the measure of stability, permanence, and growth of his company, his American counterpart is judged by the numbers on the bottom line: "Profit is the name of the game." The goal to be pursued by anyone in steel should be a healthy industry, not immediate profitability and return on investment. Profit will automatically follow as the industry gains strength. Austerity in finances, unison in planning, and dedication to performance might be a good starting point. The willingness to do so after the plant is closed or after the plant is in trouble is too late.

A central, industry-wide, development organization should be established in addition to—but not as a substitute for—private development efforts by each steel company.

The initial efforts of this central development organization might focus on innovations relative to manpower reduction, yield enhancement, prudent utilization of raw materials, and frugality in energy consumption. Prototype "fully automated" mills could serve as testing grounds and examples for the entire industry. Designating the steel output of such ultramodern, jointly owned showplaces of industrial technology exclusively for export would accomplish the multiple goal of establishing an industry-wide export offensive while constantly renovating the industry in cooperative and coordinating fashion, sharing costs and benefits. All that is needed is a purposeful and selective change of antitrust laws to permit cooperative research, development, and export (R.D.&E.) effort by otherwise competing (steel) companies. This may prove to be the only way to make U.S. business men consider participation in the international market and simultaneously improve productivity and rekindle the spirit of innovation.

LABOR AND UNION PARTICIPATION

The union leader's perception has remained the same during the last two decades. Preoccupied with higher wages and shorter hours, regardless of the health of the industry or the vigor of the economy, they have kept propagating the idea that continual battle against big business—frequently in alliance with big government—best serves the workers' interest. The major stated goal of the unions in the 1970s was union growth, that is, increase in membership. If the manpower utilization rate of five man-hours per ton (mentioned in Chapter 5) is realized, only one-half the number of workers as presently used will be required. When the ultimate goal of two man-hours per ton is achieved, only one-fifth the number of workers will be required. It is not union growth that should be the unions' primary goal but the welfare and job security of the individual worker. Acceptance of nongrowth of the unions is the surest way to reach this goal.

Man-hours per ton will have to decrease much more rapidly in the future and at a rate greater than increased sales tonnage alone can accomplish. Normal attrition rate will diminish the work force. And, after a period of time, a work force of less than 50 percent of today's number of workers could produce—given modernization, new facilities, and advances in technology—the best steel in the world under ideal conditions and could be paid the highest wages ever paid in any industry in history.

Lifetime job security is clearly a central issue in any worker's mind—there is nothing wrong with this. Why shouldn't management guarantee all union members now employed in the steel industry a basic income for life in return for the member's commitment and willingness to pitch in when needed and accept job transfer, if necessary, from facility to facility in order to increase productivity?

The Japanese system with its traditional value of loyalty and its inherent dependency syndrome guaranteeing job security has been, and still is, major propulsive force in the Japanese steel industry. The flexibility of devoted workers to be shifted from job to job and, if necessary, from plant to plant accounts for a sizable portion of the difference in labor utilization rates between the U.S. and the Japanese steel industries. In view of the United States' rugged individualism, it would be foolish to suggest that we try to imitate Japan's dependency syndrome. The Japanese willingness, however, to ask "What can I do for my company?" instead of asking "What can my company do for me?" is something to think about. Naturally, no one in his right mind is going to ask what he can do for his company unless he has pride in his work and is motivated to make operations a success. Neglect of human resources is the greatest capital loss imaginable.

The point is that, given the right motivation, a tremendous source of human energy and competence can be tapped for application in responsible and voluntary cooperation toward a goal for the benefit of all.

GOVERNMENT'S HELPING HAND

Only a dynamic, bold, and imaginative approach can solve the steel industry's existing problems. Moreover, the job must and can be done by industry itself. Beware of "the nose of the camel in the tent." Government intervention in the marketplace, while intended for a short time, invariably becomes complex, never ends, and ultimately weakens free enterprise, sapping entrepreneurial spirit.

Government naturally has a role to play in the marketplace in order to preclude undue damage to the economy. That role, however, should be selective and purposeful: stimulating innovation and supporting incentive programs that reward corporate and individual productivity increases, lending an uplifting hand instead of clipping a wing, fostering not tethering. Lack of creative flexibility in the relationship between government and industry retards our national growth potential. Global economic confusion, the increasing industrial strength of other nations and an unbecoming, nearly syndromic tendency "to run to Uncle Sam for a fix" may well necessitate a change in our traditional priorities and our perception of free enterprise. It appears that we are getting ever closer to an indispensable choice: either deteriorate into a planned bureaucracy, characterized by more and more government incursion, or generate a planning community, integrating symbiotically the social-political responsibilities of government with the economic objectives of industry.

THE INVESTMENT CLIMATE

One immediate question may be anticipated: Where will the capital come from to put innovative programs into action? this is a hard nut to crack, a stumbling block that has caused many a standstill. Like the chicken and egg quandary, capital is needed to generate profit to make capital available to. . . .

Previous analysis showed limited internal generation of funds from steel company operations. Investors also show limited interest. But, as chapter 5 shows, the potential for highly profitable operations does exist. The truth is that the story of steel's potential has heretofore never been told realistically. Potential investors have received a steady stream of "doom and gloom" pronouncements or a barrage of empty platitudes.

Compare this picture with that of a dynamic, aggressive management, at peace and in cooperation with its own work force, announcing a bold program of technological development with projections of increase in profit on the order of several hundred percent. Investors could make the steel stocks the "darlings of Wall Street" in short order.

The industry can be saved, but the medicine for the cure will be bitter and it will take imaginative vision, time, money, and, above all, a desire to survive. This desire must be impelled by a sense of unity, purpose, and direction. Such spirit and determination, under tough-minded and hard-nosed leadership, would be a clear demonstration of the change of operating philosophy in the American steel industry.●

TRIBUTE TO HON. LIONEL VAN DEERLIN OF CALIFORNIA

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am honored to join my colleagues in a tribute to the distinguished gentleman and good friend from California, Lionel Van Deerlin. For 18 years Lionel has faithfully served the people of the 42d District in San Diego.

Indeed he has been the communications and broadcast expert of the Hill, a career he so ably succeeded in before coming to the House in 1962. I have been fortunate to have served during his terms in Congress and have seen the many positive results of his leadership. He has been a well-established chairman of the Communications Subcommittee of the Committee on Interstate and Foreign Commerce covering the legislation that has dealt with communication satellites, cable television, and interstate telephone and telegraph services. He has always believed that deregulation is the answer to making the communication industry more responsive. Lionel has also been a much respected member of the Committee on House Administration.

Not every Member can leave the House with a career of success such as Lionel Van Deerlin's. He is responsible for so many good things that have affected his district and the Congress. He has been a trusted friend and this body will greatly miss him.

To you and your wife MaryJo, I wish a very happy retirement.●

A TRIBUTE TO AL ULLMAN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BIAGGI. Mr. Speaker, I wish to join with my colleagues who have paid tribute to the long and distinguished career of Al Ullman of the Second District of Oregon, who will be leaving us after a distinguished 24-year career at the end of this session.

Though quietly dignified in manner and style, Al has nonetheless been a stalwart chairman of our Ways and Means Committee. We are all familiar with the trials and tribulations of the legislative process, and this is probably why he has received such a great deal of respect for his work by both his committee members and all of us here.

The Ways and Means Committee has dealt with an array of social and fiscal issues which affect the lives of all Americans. His leadership in areas such as tax relief for both individuals and business, social security reform, trade, and health care have helped to earn him the reputation he holds today. Congress has seen the passage of landmark tax legislation since he assumed the chairmanship of Ways and Means, such as this year's windfall profit tax. A great deal of the credit to this goes to Al for his ability to synthesize, compromise, and produce a product which will best serve the needs of our Nation.

Al has been a hard-working and dedicated Representative for the past 24 years and his presence here next year will be missed. I am confident that his future holds many new challenges for him and wish him well in all future endeavors.●

A TRIBUTE TO STEPHEN POLESHUK

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. LENT. Mr. Speaker, on October 18, 1980, I was privileged to be among those attending a memorial ceremony for Stephen Poleshuk, whose life and career won universal admiration and respect from those who knew him or worked with him. Both in his life's work as an educator, and in his everyday contacts with friends and acquaintances, Stephen Poleshuk established himself as a man to remember; a man of warmth, kindness, and understanding of others.

Mr. Speaker, it is through the selfless contributions of devoted citizens like Stephen Poleshuk that our Nation has achieved and sustained its greatness. Yet, all too often we who benefit from their services are never aware of their contributions.

With that fact in mind, Mr. Speaker, I think my colleagues should be aware of the outstanding life and career of Stephen Poleshuk.

A native Long Islander, Stephen Poleshuk was born and raised in Oceanside, N.Y., in my Fourth Congressional District. He was a noted athlete, a member of the Long Island High School championship football team in 1938. After graduating from Colgate University, Mr. Poleshuk served in the U.S. Army in World War II, then began his teaching career at Port Jefferson, Long Island. He returned to his hometown of Oceanside in 1947 as a teacher and football coach at Oceanside High School, and served the school for the rest of his career in education.

For three decades, Stephen Poleshuk devoted his efforts to the education and development of the young people attending Oceanside High School. His outstanding leadership qualities soon led to added responsibilities, first as assistant principal, and then in 1964 as principal of Oceanside High School. For the next 13 years, he directed the administration of Oceanside High School. In those years, Stephen Poleshuk's influence on the lives of Oceanside's young people and on the community of Oceanside continued to widen. His devotion to the improvement of the quality of education at Oceanside High School was evident to all. But even more important, were the human qualities of patience, understanding, kindness, and warm personality which made Stephen Poleshuk a powerful influence in the lives of his students, his teaching colleagues, and the citizens of the Oceanside community.

Stephen Poleshuk retired in 1977, but in the short years that remained in his life he continued to exert a powerful influence on those who came in contact with him. His enjoyment of life, his friends, and his family never dimmed.

When death came on April 30, 1980, the many thousands of persons whose lives he had touched felt a deep sense of personal loss. The were aware that they had known a truly remarkable human being who had enriched the lives of all who came in contact with him.

Mr. Speaker, in Stephen Poleshuk's passing, not only the Oceanside community, but our State of New York and our Nation have suffered a loss.

But his positive contributions will not be forgotten, and his exemplary life will serve as an inspiration to all of us.

I know that my colleagues join me in offering our condolences to his wife Betty, their five children, Stephen Robert, Brett, Justine Oberg, Amy Smith, and Betsy, and their four grandchildren.●

H.R. 8105—DEFENSE DEPARTMENT APPROPRIATIONS, 1981

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. ADDABBO. Mr. Speaker, among the many reasons necessitating a repeal of the Maybank amendment is the acute unemployment problem that exists in our Nation's inner cities. Under this amendment, the Department of Defense has been the only department or agency of the Federal Government that has been precluded from directing its purchases to private firms in high unemployment areas.

Among those who have spoken out most strongly on this subject is Gov. James A. Rhodes of Ohio. I believe Governor Rhodes' comments, delivered earlier this year before the Small Business Subcommittee on General Oversight and Minority Enterprise, will be of interest to my colleagues.

Under the 5-day general rule granted for extension of remarks on H.R. 8105, I submit Governor Rhodes' statement for the RECORD.

STATEMENT OF GOVERNOR RHODES

INTRODUCTION

Nowhere are able-bodied people facing more of a job problem than those in America's inner cities.

Our inner cities are being strangled by unemployment and have become human breeding grounds for crime and despair.

Millions of our citizens who live in these wastelands are chained to a welfare system that has no end.

Inner city residents want the dignity of a job, not welfare.

They want to hold their heads high and become productive members of society.

Washington has turned its back on the fact that welfare has become a way of life.

In Ohio alone, nearly three billion dollars in federal and state taxes are required every two years to pay for welfare.

Five thousand people on welfare in Ohio costs Ohio taxpayers $24 million annually.

But if those same five thousand people held private sector jobs to support their families, they would instead produce $2 million a year in additional tax revenues for state and local governments, resulting in a net gain of $26 million to Ohio taxpayers.

The only solution to welfare is permanent jobs.

The great majority of the social ills among able-bodied people in the inner cities come from the lack of permanent jobs.

In Ohio, the unemployment rate for young people in our inner cities ranges from 40 to 50 percent.

The same situation exists all across America.

We must be bold, imaginative and job-oriented in our thinking if we are to break the Gordian knot that has held young people captive on Federal inner city reservations for nearly half a century.

We must have programs to create permanent jobs in the inner cities now. We cannot wait any longer.

One area in which the federal government can help is in defense spending. Many, many components of military procurement could easily be manufactured in inner city locations. But the Maybank Amendment successfully prohibits this.

In 1979, the federal government spent about $100 billion to purchase goods and services from the private sector. That is more than the entire gross national product of 15 different European countries. Back in 1952, the Defense Department decided that part of its procurement—for routine items such as uniforms, paper and tools—ought to be set aside for bidding by firms in areas of "labor surplus." It was a conscious attempt to direct some business to New England, for example, where unemployment was high because old mills were closing down and moving South. Senator Burnet Maybank of South Carolina, seeing that his state might lose some business, tacked on an amendment to the 1953 Defense Appropriations Act that required the Defense Department to award contracts only to the lowest bidders, regardless of the 1952 Defense Manpower Policy #4 (DMP-4) on labor surplus areas. That made DMP-4 a dead issue as to the Defense Department, since the South's lower wages will always give them a competitive advantage over the North.

For more than 25 years, the Maybank Amendment to the defense appropriations bill has effectively prohibited the Defense Department from directing its purchases of goods and services to private firms in high-unemployment areas. It is the only department or agency of the federal government exempted in this manner from the provisions of DMP-4, an executive order originally signed by President Truman. Repeal of the Maybank Amendment would help create jobs and generate economic activity in areas hurt the most by high inflation and unemployment.

Even the General Accounting Office stated in the 1977 report, "Labor Surplus Policy: Is It Effective in Providing Government Contracts to High Unemployment Areas and Jobs for the Disadvantaged?":

"The procurement dollars spent and the numbers of people hired that are attributable to the Labor Surplus Policy have declined, and at the same time the Government procurement budget has increased significantly."

The total procurement by civilian executive agencies in 1978 was over $428 billion. Construction expenditures by these same agencies during this period were close to $2 billion.

Military agencies spent over $65 billion for total procurement during 1978. Procurement for services by the military amounted to over $4.5 billion. Expenditures for military construction during 1978 amounted to close to $2.5 billion.

STATE OF THE REGION

During the period 1960-75, manufacturing employment grew by 43.3 percent in the Southeast states, 67 percent in the Southwest states, 24 percent in the Plains states, 45 percent in the Rocky Mountain states, and 20 percent in the Far West states. Yet during the same period, manufacturing employment declined by 9.9 percent in the New England states, 13.7 percent in the Mideast states and grew by only 3.2 percent in the Great Lakes states.

Currently, Federal policies drain $35 billion annually from Northern states in taxes that do not return in federal spending to the states in our region. Ohio's loss is $6,124,000,000 or $572 per capita, one of the biggest losses of any state. It suffered a net migration of 479,800 people in the 1970's, 4.5 percent of the population. Only New York had a bigger loss. And Ohio lost nearly 100,000 manufacturing jobs in the decade before the current recession began. Ohio's problem is shared by the entire Northeast and Midwest, which lost 3.5 million people in net outmigration and 900,000 factory jobs.

Representing nearly a quarter of the Gross National Product, federal government spending has a profound effect on each region's economy.

WHAT REPEAL OF THE MAYBANK AMENDMENT CAN MEAN

President Carter realizes that the government's procurement policies are a significant tool for stimulating private sector development in the nation's distressed areas. In releasing the details of his Administration's urban policy in March, 1978, President Carter said:

"To assure that federal procurement is used to strengthen the economic base of our nation's cities and communities, I will strengthen the implementation of the existing procurement set-aside program for labor surplus areas, by directing the General Services Administration to work with each agency to develop specific procurement targets and to monitor their implementation. GSA will report to me every six months on the progress of each agency."

The President also directed that an Inter-agency Coordinating Council be formed to monitor the implementation of his urban policy, including DMP-4. The Office of Federal Procurement Policy, part of the Office of Management and Budget, is responsible for overall implementation of DMP-4. In conjunction with the General Services Administration, the Office of Federal Procurement Policy established 1979 labor surplus area goals for civilian agencies of approximately 10 percent of their annual procurement budgets.

However, defense procurement is exempt from this order because of the Maybank Amendment.

In this time of continuing inflation, a predicted recession, and high unemployment levels, the labor surplus area program provides the federal government with an effective tool to stimulate private sector jobs in areas of concentrated unemployment. The added cost to the government is negligible, and results in reduced federal spending for income maintenance programs such as food stamps, housing subsidies, and unemployment benefits.

Investment by the private sector in high-risk areas such as central cities requires public sector inducements. The normal array of inducements usually includes: tax abatement, trained labor supply, high-quality public services, and low cost financing. A significant increase in business from the federal government would hasten the inner city area becoming an attractive and desirable business location which might have been previously neglected.

You may ask yourselves, "Why should the government pay more money for goods that can be purchased cheaper elsewhere?" No one is suggesting that the MX missile be built in Harlem, but it is suggested that New York's garment district should compete only against garment districts in Philadelphia or other cities in decline.

A limit might be set that no bid from such an area could be more than 5 percent over the lowest bid received nationally. But for that extra 5 percent cost, the nation would be putting jobs in the hearts of many cities where the poor are concentrated.

If only 10% of the Pentagon purchasing were targeted to areas of labor surplus, that $7 billion could create 200,000 factory jobs in old plants now being abandoned. If such a policy makes sense for civilian agencies of government, why not the military as well?

As an example, with one million inner city residents working and off welfare rolls, there would be a $4.8 billion savings annually to taxpayers.

These one million workers would also generate an estimated $6 billion per year in Federal, State and local taxes.

We must also realize that creating one million jobs will result in an estimated $50 billion in plant investments and will provide half a million jobs for construction workers and thousands more in machine tool and other equipment industries.

The repeal of the Maybank Amendment would give American cities the muscle they need to restore economic prosperity to desolate urban areas.

The pride and will to live a more meaningful life will be restored to the millions of human beings across our country who are now on the treadmill of despair. It would restore a sense of dignity to thousands of jobless Americans.

Without this incentive, the exodus of business from our cities will continue, leaving fewer and fewer financial resources to care for the poor, the aged and the handicapped.

We cannot continue the disastrous welfare cycle in which we currently find ourselves. If we do, future generations of inner city residents will be deprived of the meaning of America, and generations of other young people to come will be forced to pay the tragic cost of keeping their fellow man, and in the not too distant future, the nightmare of our inner cities will come to haunt our entire society.●

THE RETURN OF THE RED MENACE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. DRINAN. Mr. Speaker, we are all aware of the recent deterioration of relations between the United States and the Soviet Union, and the return, in many ways, to a cold war mentality. As we have witnessed in the past, this mentality is not always conducive to a rational, intelligent approach to national and international affairs.

A member of my staff, Michael Shea, recently published an op-ed piece in the New York Times which graphically illustrates this problem, and offers constructive suggestions on how we should deal with the Red menace this time around.

The article follows:

[From the New York Times, Oct. 7, 1980]

THE RED MENACE IS BACK

(By Michael Shea)

WASHINGTON.—Like a cyclically recurring medieval plague, the Red Menace has returned to infect a new generation of Americans.

The symptoms include rapid heating of the blood, myopic or tunnel vision, and serious impairment of mental faculties. Prior infection does not seem to offer immunity, as it does with many other diseases. In fact, the debilitating symptoms often seem most pronounced in Americans previously exposed during earlier outbreaks, in the 1950's and 1960's. There is even evidence that those previously exposed may in fact be carriers.

Some recent occurrences serve to demonstrate the bizarre side-effects that this particularly virulent strain of Red Menace (also known as the Afghan Flu) has had on our populace, and on our leaders as well.

Our Government's recently adopted policy toward Cuban refugees is symptomatic of the disease's disorienting effects. Amid much fanfare and repeated allusions to the Statue of Liberty, the United States threw open its borders to tens of thousands seeking to escape Fidel Castro's Cuba. Our brains boiling with Red Menace fever, we told ourselves and the world that this mass exodus was proof of the failure of Castro's Government. The possibility that the United States' economic blockade may be a major cause of Cuba's economic difficulties is, of course, not a consideration.

These freedom-loving Cubans, when asked why they left their homeland, talk about the difficulties they faced in acquiring jeans, television sets and tape recorders.

And as we throw open our arms to these seekers of liberty and Levis, refugees from El Salvador's bloody civil war, trying to illegally enter this country, die in our southwestern desert. The fact is, an offer of open immigration would virtually empty most countries of the third world—perhaps most countries on this planet. But helping Salvadorans, Haitians and others would do nothing to purge America's body politic of the Red Menace.

Another strange manifestation of the mental blackouts caused by the Red Menace is the curious case of Walter Polovchak, the 12-year-old immigrant who refuses to return to the Soviet Union with his parents. Walter explains that he likes his new friends and that he likes having a bike here in the United States. Arguments about parental authority, the primacy of the family in American life, and the belief that a 12-year-old is not mature enough to decide his fate, get as sympathetic a hearing as the shouts of an Iranian demonstrator.

It is startling to note that even among those who value "traditional" family authority (such as those who object to centers for battered wives and children as "intrusions" by the Government into the family), young Walter's desire for freedom and a 10-speed bike is a cause célèbre.

Conservatives who would rise in rebellion over a court ruling that grants an American child the right to refuse to accompany his parents on a trip to Cincinnati applauded an Illinois court's determination that Walter can say "nyet" and kiss his parents goodbye. Such aberrational behavior can be explained only by the fact that those previously exposed to the disease often seem the most disoriented by the latest outbreak.

The recent strikes in Poland supply us with yet another example of the epidemic's fantastic mind-clouding effects.

All across America, right-wing sufferers of chronic cases of Red Menace fever were cheering the Polish workers in their fight for independent unions—while those same conservatives fight bitterly here at home to ensure that American farm, textile, paramedical and other workers never get that same right. In the delirium of their fever, they wake from their beds biting their own feet.

What is the prognosis? Will this latest outbreak of pestilence lead us once more to witch-hunts, war, or something even worse? It may, but we can hope that the current maddening fever will break on or about Election Day.

After that, the patient will require months of peace and quiet and regular treatments of objective, non-nationalitic reporting and commentary from the news media.

Perhaps most crucial as a cure is an occasional shot of courageous and insightful political leadership—in place of the sugar-coated militaristic demagoguery that is accelerating the growth of the disease, and poisoning our health as a nation.●

TRIBUTE TO HON. JIM LLOYD OF CALIFORNIA

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am pleased to have the opportunity to pay tribute to JIM LLOYD who for 6 years has been of great service to the 35th District of California and this House. JIM may always be remembered as the aviator for his serving in many capacities in the Air Force, Navy, and NASA. He has been an able chairman of the Subcommittee on Oversight and Investigation of the Committee on Science and Technology presiding over the investigation of design and construction of wide-body aircraft.

JIM is also a key member of the Armed Services Committee where his military experience has brought needed expertise in the special Subcommittee on NATO Standardization, Interoperability, and Readiness. He has also been a member of the Select Committee on Aging, working on legislation that has greatly benefited our senior citizens. We served together in the whip organization.

JIM you have been a dedicated colleague and a good friend and you have done much to uphold the integrity of this institution. I wish you and your family the best of luck in the future.●

FLAMMABLE FABRICS AMENDMENT NEEDED NOW

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. ADDABBO. Mr. Speaker, for several years now I have been calling to the attention of my colleagues the need for legislation to amend the Flammable Fabrics Act, in particular, to prohibit the manufacture for sale in commerce articles of interior furnishing intended for use in any public facility unless such articles conform with requirements to be established by the Consumer Product Safety Commission which will insure that such articles are fire resistant.

Twenty of the distinguished Members of the 96th Congress have joined me in expressing concern, and have taken note of the tragedies of the past and the inadequacies of some local fire codes. The events of the last few weeks, where 26 deaths resulted from a Harrison, N.Y., blaze and where 83 deaths were recorded in the MGM Casino Las Vegas fire, greatly sadden me, and makes it even more imperative that we taken effective action in the future. We have waited long enough.

Regardless of the cause of these fires, the fact remains that the senseless and wasteful destruction of human lives could have been kept to a minimum if my bill were now the law of the land. In particular, I wish you to note the results of the investigation conducted in Las Vegas. According to the deputy fire chief the fire was fed by the plastic and glittery trappings of the casino. Fancy flocked wallpaper, furniture, fabrics, and other interior decorating material contributed to the fatal character of the fire. Most of the dead were killed not by flames but by poisonous gases, created by a critical heat stemming from the synthetic materials. Aside from the dead over 500 people were injured.

The fireball-like blaze that swept through the Stouffer's Inn Conference Center in Harrison is still under investigation, but there is no doubt that the intense heat and asphyxiating fumes were the primary culprits, along with the lack of sprinkler systems. H.R. 2264 would allow those caught a significant opportunity to escape by containing a blaze and keeping the production of poisonous gases to a minimum.

In Las Vegas and in Harrison, and no doubt in many other areas of the country as well, State and local government officials are calling for investigations and are promoting means of tightening fire codes and eliminating grandfather clauses which exempt older buildings from any new codes adopted. They may or may not be successful. We in the Congress can provide an effective reform, quickly and efficiently, by enacting my amendment to the Flammable Fabrics Act. I will be reintroducing this bill during the 97th Congress, and hope you will join me before other lives are lost.

I also hope you will give your attention to the plight of senior citizens and others in nursing facilities and intermediate care facilities who are currently exposed to great danger because sprinkler systems may not be required in such institutions. In another piece of legislation I intend to reintroduce, automatic sprinkler systems will be required in such facilities certified for participation in the medicare or medicaid program. This is an expensive but needed reform, and to assist in its enforcement I have also proposed to provide for direct low-interest Federal loans for the construction, purchase, and installation of the mandated systems. Eighty-three able-bodied persons were trapped in the MGM blaze. I do not even want to think about the lives that could have been lost if this fire had taken place in a facility where occupants would need the assistance of others merely to move from their beds. It is unconscionable that we have allowed such situations to exist, and as I have said, to delay any longer in enacting appropriate safeguards in the face of past and recent evidence that proves that tragedy is only around the corner and that none of us are as safe as we think we are, is to clearly show that we have been neglectful of our responsibilities.●

TRIBUTE TO LUD ASHLEY—ONE OF THE HOUSE'S BEST AND BRIGHTEST

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. BIAGGI. Mr. Speaker, one of the genuine pleasures and privileges which I have enjoyed in my 12 years in Congress has been knowing Thomas Lud Ashley. Unfortunately, I am here today to pay tribute to Lud on the occasion of his unexpected departure from the House. Rarely has a Member served with the degree of effectiveness that Lud Ashley has for the past 26 years.

Lud Ashley is a legislator's legislator. His productivity has been impressive—his accomplishments truly significant. He has impacted in many arenas in this House, but most especially in those areas where his committee work permitted him the opportunity to acquire greater expertise.

As chairman of the all-important Subcommittee on Housing and Community Development of the House Banking and Urban Affairs Committee, Lud Ashley produced some of the most important legislation of this century. Let us consider as an example, the multibillion-dollar Housing and Community Development Act. This program has provided funds which in some cases have been responsible for revitalizing entire cities. In addition, under the leadership of Lud Ashley, the section 202 program providing special housing for our elderly and handicapped citizens became law.

Lud Ashley played a key role in one legislative initiative in which I was deeply involved—the New York City loan guarantee program. His advocacy of the city helped persuade a number of our colleagues to vote for the city and keep it from fiscal collapse. Similarly, Lud Ashley's influential voice was heard championing the cause of Chrysler Corp., when similar legislation was necessary to keep them from fiscal collapse.

It has been my personal pleasure to serve with Lud on the House Merchant Marine and Fisheries Committee. Lud was designated as acting chairman earlier this year and his support was instrumental in getting important bills passed which originated in my Coast Guard and Navigation Subcommittee. These included, among others, House and Senate passage of H.R. 4310, the Recreational Boating Safety Act, House passage of H.R. 85, the Comprehensive Oil Spill Liability and Compensation Act. Lud was a fair and highly effective chairman who will be missed.

The breadth of Lud's legislative knowledge and the degree to which he is respected by his colleagues was best reflected in 1977 when the Speaker designated Lud to head an ad hoc Committee on Energy. This panel was given the unenviable task of trying to consolidate more than 100 different energy bills into one coherent package. Lud, displaying exemplary skills, managed to coalesce the various interests and emerge with a bill. This was a catalyst for the eventual approval by Congress of legislation which marked the origins of our first national energy policy.

Lud's record is so replete with accomplishments, to list them all would take far longer than this statement allows in terms of space and time. Suffice it to say that this record will be hard to duplicate. Personally, I found Lud to be a warm and considerate gentleman—concerned about his fellow man—committed to service. He concentrated his enormous intellectual powers into the legislative process so that people of all ages could live better.

I feel confident that Lud's best years are by no means behind him. His potential to excel in whatever endeavor he chooses is limitless. I am only sorry that we in the House will be deprived of his leadership. I extend to Lud my personal thanks and gratitude for being the grant man and friend that he is, and to he and his lovely wife Kathleen, I wish good health and happiness.●

TRIBUTE TO JOE FISHER

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. OBERSTAR. Mr. Speaker, Joe Fisher is one of the most thoughtful, scholarly Members of this House. Like so many of our colleagues, I have the greatest respect for Joe's intelligence, principles, and creativity in dealing with the critical problems of energy and the economy.

Joe Fisher's views on taxes and energy have carried great weight in this body. In 1978, along with Jim Corman, Joe led a strong and commendable effort to redistribute that year's tax cut to provide middle-income Americans with the greatest share. Unfortunately, the Corman-Fisher amendment was narrowly defeated.

It amazed me that Joe Fisher was the target of moral majority groups. He has been a Congressman whose morality and integrity are above criticism.

During the 97th Congress we will miss Joe Fisher's contributions as a member of the Ways and Means Committee, cochairman of the Environmental Study Conference, advocate for human rights, and spokesman for commonsense.●

TRIBUTE TO CONGRESSMAN RICHARD ICHORD

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. BENNETT. Mr. Speaker, one of the most able Members of Congress that I have been associated with is the gentleman from Missouri, Richard Ichord. He has, in his two decades of service in the Congress, been a vigorous worker for strong national defense and a proponent of many excellent measures which leave for him a great memorial to his dedication to America. We are all certainly going to miss him tremendously here in Congress.●

TRIBUTE TO SAM DEVINE

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. CONABLE. Mr. Speaker, Sam Devine is one of nature's noblemen. A man of varied background in sports and law enforcement, he is also one of those rare people who becomes the center of any group in which he serves. Few are more widely liked in the House than Sam, whose genial nature, sturdy character, and laconic wit have combined to enrich his public service. His popularity was attested by his election to the chairmanship of the Republican Conference, but he served in countless capacities before that—as ranking member of his committee, as chairman of the "Good Guys" supper club, and as an initiator of conservative causes in the House of Representatives.

His departure from among us will be regretted by his many friends, but we are confident that Sam will continue to set a fine example of active politics and citizenship in a retirement blessed by continuing social leadership.●

TRIBUTE TO LUD ASHLEY

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, I join my colleagues in honoring one of the finest Members of the House, Lud Ashley. Certainly one of the major losses of the 1980 elections was the defeat of Lud Ashley.

Lud's accomplishments are numerous including the monumental achievement of crafting the omnibus energy legislation in the 95th Congress. This complex bill was perhaps the most contentious ever to pass any Congress and it is unlikely that someone of lesser talent than Lud could have succeeded in shepherding it through the many obstacles in its path.

I am sure all my colleagues join in wishing Lud the best in his future endeavors.●

IN HONOR OF JIM CORMAN AND LIONEL VAN DEERLIN

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. OTTINGER. Mr. Speaker, I would like to join my colleagues today in paying tribute to two of my distinguished colleagues and friends from California, Jim Corman and Lionel Van Deerlin.

Throughout his 20 years in Congress, Jim Corman consistently fought to see that our Government worked for those most in need of help. His service here also extended to his party. He served as chairman of the Democratic Congressional Campaign Committee, and I know I share with my Democratic colleagues a heartfelt sense of gratitude to Jim of the work he has performed for each of us.

I want to particularly note how I will miss Lionel Van Deerlin with whom I have served on the Commerce Committee during all of my 12 years in Congress. It has been a privilege to work with Van. I have worked with few as dedicated as he. We will miss his wit as well as his wisdom.

As chairman of the Subcommittee on Communications, Van led the fight to reform and revise our outdated communications laws. He has encouraged the development of new technologies and new ideas across the entire spectrum of communications. Van's hard work and insight have established the groundwork for future revisions of the outdated Communications Act of 1934.

It is thus with appreciation and a deep personal sense of loss that I pay tribute to Jim Corman and Lionel Van Deerlin.●

BIAGGI SPONSORS BILL FOR NATIONAL TOLL FREE HOTLINE FOR SENIOR CITIZENS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. BIAGGI. Mr. Speaker, on December 5, I introduced H.R. 8416, a bill establishing a national toll free telephone information line for senior citizens. I was joined by Chairman Claude Pepper of the House Select Committee on Aging as an original cosponsor.

As an original member of the Aging Committee, I have conducted and participated in numerous hearings over the past several years and one common complaint registered by seniors is their lack of knowledge about Federal programs which exist for their benefit. In addition, for some who are able to identify a given program—they find the federal system impossible to understand, thus they fail to participate in programs.

My legislation is aimed at helping the average older American negotiate the sometimes bewildering maze of Federal programs by providing straightforward and easily accessible information. This type of service would help maximize the impact of Federal programs by guiding needy citizens toward the appropriate resource.

My bill proposes to have this hotline administered by the Administration on Aging in the Department of Health and Human Services. Specifically, it would be my hope to have the program operate out of the national Clearinghouse on Aging within AOA, which is sorely in need of a definite mission.

Today, according to our committee estimates there are over 100 Federal programs providing some form of benefits for our senior citizens. They range from the all important income maintenance programs such as social security and supplemental security income, to low-income energy assistance, to employment. Eligibility ages range from 55 upward.

My legislation is designed to be complimentary to State-operated toll free senior citizen hotlines. One such hotline is operated with great success in my home State of New York. Information dissemination by all levels of government is critical for older Americans. I believe my proposal for a senior citizen's national toll free hotline would encourage more seniors to become educated about Federal programs and their ability to provide assistance. I hope for its favorable approval by the Congress.●

TRIBUTE TO HON. JAMES C. CORMAN OF CALIFORNIA

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is with regret that this House loses a person such as Jim Corman, yet it is with pleasure that I have the opportunity to pay tribute to his long and distinguished career. Jim came to Congress 1 year after I did and since that time we have become good friends and partners. I have great respect for this man because he has been such an outspoken leader in the very best sense.

Jim has been an important member of the Ways and Means Committee and the Committee on Small Business to both of which he has contributed so much. He has been an able and skilled chairman of the Subcommittee on Public Assistance and Unemployment Compensation and the ranking majority member of the Health Subcommittee. In addition he has been a more than able chairman of the Democratic Congressional Campaign Committee. Aside from his many duties on the Hill, Jim has been a great civic leader, serving on the board of almost everything in San Fernando Valley.

Jim, you have certainly left a mark of accomplishment in the House of Representatives. Your many services will always be remembered. You have served your district and this Nation with good judgment and sound leadership. The best of luck to you in your retirement.●

MOVE THE MX MISSILE OUT TO SEA

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. PAUL. Mr. Speaker, with the coming of a new administration, we can reassess the many wasteful and ridiculous Government spending programs. One prime example is the multiple protective structures (MPS) basing mode for the MX missile in Nevada and Utah.

An excellent article on this subject, and an efficient and frugal alternative, appeared in National Review, written by a retired Navy captain, and I would like to call excerpts from it to my colleagues' attention:

Move MX Missiles Out to Sea

(By John E. Draim)

The United States has spent billions of dollars since the end of World War II for both military and space rocket vehicles. Rockets themselves are costly, but so are the extensive facilities required to launch them. The above-ground assembly buildings, blockhouses, launch pads, and gantries at Vandenberg and Cape Canaveral have their underground counterparts in the Minuteman and Titan missile fields of the Western states.

The Carter Administration has approved for development a new strategic deterrent system, the MX Linear Grid. The full impact of emplacing MX missiles and their extensive support facilities in the states of Utah and Nevada is only beginning to be recognized, and public opposition to their deployment is mounting. The project would be the largest public works effort ever undertaken by mankind—dwarfing even the Great Wall of China and the Pyramids of Egypt.

Proponents of the MX system refer to it as a "mobile" system. Massive wheeled vehicles (the largest ever built) will move the MX missiles from one shelter to another on an irregular schedule. In the complex system, there are to be 4,600 reinforced concrete shelters to accommodate two hundred missiles, or 23 shelters for each missile. The Secretary of Defense and his analysts are betting that an enemy will be unable, for the next two decades, to determine which shelters contain the missiles.

ROLL, SPLASH, BOOM!

Opponents of the system argue that, in the absence of a ratified SALT II treaty limiting the number of Soviet warheads, one or two nuclear warheads could be used to knock out each shelter in a time-coordinated attack (since the exact location of each of the 4,600 shelters will be known well in advance). Thus, all two hundred missiles could be destroyed almost simultaneously. Unable to ignore this possibility, the Department of Defense is looking into emplacing a massive (and expensive) ABM system alongside the MX system for protection. Even without the ABM system included, cost estimates for MX range from $33 billion to in excess of $100 billion, depending on who is doing the estimating.

At all events, there are strategists who will argue that any system anchored in 2.4 million tons of concrete has very little mobility, and even less flexibility from a military perspective. They point out too that good strategy dictates that battles be fought elsewhere than on the land one seeks to preserve and defend. With MX emplaced in the planned locations, an enemy nuclear attack would surely obliterate both Utah and Nevada. Moreover, warheads detonating at ground level would suck up great amounts of radioactive soil and distribute it downwind over most of the eastern half of the country, exposing the population to intense, possibly fatal, doses of radioactivity.

In 1960, at Point Mugu, California, a U.S. Navy research team directly attacked the deficiencies of land-based launch support facilities. They proposed using a highly mobile and flexible launch-pad which could accept rockets of all sizes and shapes, was indestructible in the event of fire or explosion, and was available at no expense. This launch-pad was the ocean itself, or more precisely any body of water deep enough to float a rocket vertically. The Navy project to develop the floating launch was named, appropriately, "Project HYDRA," after the mythological nine-headed monster which rises from the water and grows two new heads for each one that is cut off.

The floating-launch concept is deceptively simple. Bare, unencapsulated rockets are waterproofed and made bouyant (through design or the addition of external floats). As the rocket motor builds up to full thrust, the floating rocket rises vertically from its wet pad. Once clear of the water, it is indistinguishable from any land-launched rocket. Surprisingly, tests showed that the added upward force of buoyancy actually results in a performance benefit over land-launched missiles.

It soon became apparent that important military advantages were gained by using the HYDRA launch method. Once the HYDRA missile is developed, it can be either dropped, slid, or rolled from a surface ship; alternatively, it can be floated up from a submerged submarine. By experimenting, the Navy HYDRA team found that almost any variety of ship, barge, or seagoing platform could, with little or no modification, be used as a transporter of HYDRA missiles. Very large missiles could be handled with little more difficulty than was experienced with smaller ones. They could be dropped in the water either vertically or horizontally, since they quickly erected themselves to the vertical. Finally, an awesome concentration of firepower is possible, since any number of missiles can be launced simultaneously.

Project HYDRA personnel launched several dozen experimental floating rockets in the early 1960s. (Surplus rocket motors were found to be available from the Department of Defense and NASA at no cost for research purposes. Thus, since the launch-pad itself was free, the HYDRA project found itself in the anomalous position of launching "no-cost rockets" from "no-cost launch pads"! Years later, when queried by Administration officials, Navy Comptrollers were unable to find any line-item funding Project HYDRA in their financial records.) The majority of HYDRA tests were conducted using solid-propellant rockets, but several storable liquid rockets were also launched successfully from the water. A solid-propellant HYDRA rocket was launched in a high wind and choppy seas at Point Mugu in April 1960, in the course of a press conference. In spite of the poor launch conditions, the inherent stability of the rocket resulted in a smooth, near-vertical launch, and extensive press coverage.

Less than six months after the project started, a full-sized HYDRA ICBM test model was constructed. The missile was 44 feet long and weighed ten tons. Powered by a solid-propellant motor, HYDRA II could be launched almost casually, without fuss or expense. Several times the launching crew floated it out of the flooded well deck of the dock landing ship *U.S.S. Alamo.* On other occassions, no ship at all was used the missile being placed in the water using a boat cradle or seaplane beaching equipment. Once, it was even dragged bodily off a sandy beach by a Marine Corps amphibious tank.

Despite a very long string of successful launches, the Navy canceled the HYDRA program in 1965. At the time of cancellation, Polaris A-1 was being modified for a floating-launch demonstration. Earlier studies had been carried out on modifying the Air Force's Minuteman missile and NASA's Scout satellite booster to make them suitable for HYDRA launching.

Through the late 1960's and early 1970's, U.S. scientific payloads were carried aloft from various maritime locations around the world using HYDRA probe rockets. A HYDRA-IRIS was launched one thousand miles east of Buenos Aires in 1965. It carried 125 pounds of electronics and scientific instruments to an altitude of 178 miles. All the mission's objectives were accomplished, the data being recovered by telemetry.

In the Soviet Union, naval missile designers found the floating launch made to order for their SLBM program (which actually lagged behind our Polaris program by several years). For one thing, the Russians have always preferred liquid-fueled rockets to the solid fuels favored by American missilemen. The natural buoyancy of the bare, liquid-propellant missile made the addition of extra flotation devices unnecesary. Russian SLBMs are merely floated upward to the surface from a submerged submarine and "launched" from there. By contrast, U.S. SLBMs are non-buoyant and must be fired out of the submarine tubes by gas generators. Their velocity carries them clear of the water, where their first-stage motors are ignited.

During the summer of 1979, the U.S. Senate was debating ratification of the SALT II treaty. The topic of "missiles without launches" was brought up by Senator John Warner (R., Va.) as a possible treaty loophole. The treaty would limit the number of launchers, but not the number of missiles themselves. Thus launcher-less HYDRA missiles would be totally uncontrolled! Mr. Paul Nitze, in these same hearings, testified that neither side had satisfactorily defined the term "launcher." The SALT II treaty gives the rather circular definition: "An SLBM launcher is a launcher for an SLBM." Admiral Thomas

Hayward, Chief of Naval Operations, testified that "Soviet development of a six-hundred-kilometer ballistic missile which could be launched without any external flotation devices would be a clear circumvention of the ban and would be of sufficient gravity for the United States to consider such actions as abrogation of the Treaty."

It has been estimated that if deployment of HYDRA-type missiles in both surface ships and submarines were to replace the currently planned MX system, we could save up to $15 billion. Scarce water supplies in the desert regions would remain unaffected if the sea-based HYDRA-MX were used. The flora and fauna of the desert would remain undisturbed (as would the fish at sea, for that matter). A much earlier operational capability could be achieved, with existing ships carrying MX or Trident missiles modified for HYDRA launch. The ships would remain constantly in motion, scattered over 55 million square miles of ocean and employing a wide variety of deception and concealment techniques. Deployed missiles would remain under positive control aboard ship until a launch decision was made. Then, missiles would be quickly slipped into the water and fired.

A sea-based strategic system would confront our enemies with a multitude of built-in uncertainties. Destruction of a majority of the missile force in a short space of time would be virtually impossible. Also, Soviet leaders would not be able to count on "free" collateral damage to the American landmass, since the majority of their missiles would have to be targeted in remote ocean areas. All of these factors would reduce the likelihood of a surprise attack on the United States.

Laying down more and more concrete is not the answer to our defense problems. Americans traditionally have brought forward innovative approaches and concepts in time of national emergency or crisis. The HYDRA floating launch technique is such an approach. A system based on this simple launch technique could provide a strategic deterrent much less costly than the present MX system, while at the same time removing the "ground-zeroes" for enemy nuclear weapons from American soil. Deployed, the sea-based deterrent would truly protect and defend our territory and our people, rather than acting as a magnet for a nuclear attack.●

TRIBUTE TO CONGRESSMAN CHARLES VANIK

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 2, 1980

● Mr. BENNETT. Mr. Speaker, Congressman Charlie Vanik is one of the most personable, and able, and productive Members of Congress that these Halls have ever seen. He is a delight to be with, he is bright and forceful, and his leadership will be greatly missed as he retires. All of us wish him and his beautiful wife, Betty, every happiness in the years ahead.●

INSPIRATION FOR OUR SENIOR CITIZENS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. LENT. Mr. Speaker, I wish to call to the attention of my colleagues, and to the attention of senior citizens throughout America, a song of, by, and for older Americans.

The song, "The Seniors of Today," was composed by a constituent of mine, Mr. George Salvatore of Bellmore, N.Y. Mr. Salvatore wrote both the words and the music. First published in 1978, the song has attracted wide attention and enjoys considerable popularity. It has been arranged for orchestra, and is now in the regular repertoire of the Golden Age Band of Nassau County. It has been adopted as the theme song for the Bellmore Senior Center and is sung at every general meeting.

Mr. Speaker, this song typifies the unquenchable optimism, the strong determination, and the great enthusiasm for new adventures which enrich the lives of so many senior citizens. George Salvatore's composition has caught the spirit of the seniors of today and has done so with an eloquence and a forcefulness that we all can appreciate. Mr. Salvatore deserves the highest commendation for his admirable work.

Mr. Speaker, I offer the lyrics of Mr. Salvatore's song to be entered in the Congressional Record at this point, so that all may appreciate the sentiments it expresses so admirably.

The lyrics follow:

THE SENIORS OF TODAY

We are the newer men and women of today,
This we'll say:
We've earned the right to live our life in our own way,
Come what may.
We'll march and fight for what's our own right,
Yes, we will.
Life over sixty is a-o-k,
We're seniors of today.

Now that the golden years for all of us are here,
This we'll say:
We'll sing and dance and play and start a new career,
Come what may.
We'll march and fight for what's our own right,
Yes, we will.
Life over sixty is a-o-k,
We're seniors of today.

Grow old along with me, the best is yet to be,
Poets say,
Because it's always spring when you are young in heart,
Ev'ry day.
We'll march and fight for what's our own right,
Yes, we will.
Life over sixty is a-o-k,
We're seniors of today.●

TRIBUTE TO RICHARD ICHORD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. BIAGGI. Mr. Speaker, during the closing days of a Congress, we are faced with the difficult task of saying goodby to those colleagues who will not be returning the next year. Saying goodby is made especially difficult when the individual is taking with him the high level of patriotism and hard work that Dick Ichord has contributed to this body for two decades.

It is especially distressing that Dick is leaving at a time when issues of national security are of paramount importance. Never have I met a man more devoted to preserving and strengthening the security of our Nation. An ardent and articulate spokesman for a strong national defense, Dick has helped lead many a fight against efforts to weaken our first-rate military posture. As one who has long shared his concern that peace is only assured through a strong defense, I am truly grateful for his wisdom and strong convictions.

As chairman of the House Armed Services Committee's Subcommittee on Research and Development, Dick has provided effective leadership and well-respected expertise. As a result we have a stronger and more efficient Armed Forces.

As one who supports the reestablishment of the House Internal Security Committee, I also fully recognize the significant contribution Dick made in his capacity as chairman of the committee before it was abolished in 1975. Since the dissolution of the committee, which monitored internal threats to our country, we have seen increased activity by various extremist and terrorist groups in our Nation.

On behalf of the thousands of small businesses in my congressional district and across the country, I would also like to pay special tribute to Dick's work as an active and effective member of the House Small Business Committee. Dick's efforts have reflected a clear and important understanding that small business—representing the backbone of our economy—needs and deserves Federal support.

Mr. Speaker, Dick Ichord has served this body and the Nation with distinction and honor. His patriotism will not be surpassed, but I am hopeful others will attempt to follow his shining example. I wish him all the best in his future endeavors.●

LAMAR GUDGER

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, I rise to pay tribute to my dear friend and colleague, Lamar Gudger. Lamar and I served together on the National Parks and Insular Affairs Subcommittee.

He was a major figure in the recently signed Alaska lands legislation. Lamar spent many hours mastering the intricacies of this complex, controversial legislation and was at the forefront of the struggle to protect these precious wilderness lands. He earned a reputation as a masterful legislative analyst in his work on the Redwoods National Park expansion bill and Boundary Waters Canoe Area legislation. Lamar was a leading advocate of the Overmountain Victory Trail bill which was enacted in this Congress.

I will be one of many who will miss Lamar in the 97th Congress.●

TRIBUTE TO TIM LEE CARTER

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. CONABLE. Mr. Speaker, the distinguished gentleman from eastern Kentucky comes from a great tradition of public service to which he has been true during the past 16 years. He never stopped being a physician during his service here, advising his colleagues about their ills at the same time he tended and treated the ills of the Nation. Tim Lee Carter has a strong sense of decency. His feel for people as human beings led him to great repect, not just for human life but also for the human spirit. His sense of camaraderie has been exemplary, and he leaves behind him friends for life who will cherish the memory of his many kindnesses.●

TRIBUTE TO JOHN BUCHANAN

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. FASCELL. Mr. Speaker, it is indeed an honor, though one I would not have wished upon myself at this time, to pay tribute to John Buchanan, a good friend and a fine and dedicated Member of Congress who will not return to the 97th Congress. Among the changes, good or bad, that we expect in the next 2 years, there is not one that will affect me as much as the absence of John Buchanan.

John and I began a relationship years ago that grew out of the sharing and compromise of ideas and has become one of trust and friendship. In my mind, there has been no better representative of his people; no one who has voted more for human dignity and progress. I have enjoyed his support as well as his leadership and will miss his humor in the tight spots.

During John's 16 years in Congress, he has been a leader in both the foreign affairs and education communities. He has challenged Americans to express the best in our national psyche, to stand as a beacon for the rest of the world. He has sought the highest good for the greatest number. He is a man of faith who has translated belief into concrete proposals to better the lives of all peoples of the world. Human rights and human dignity are not words or slogans to John Buchanan. They are the sine qua non to progress for the human race.

John, my staff and I will miss you dearly, but I know that the country will not lose your talent, your faith, and your efforts. I wish you well in your future endeavors and hope that, whatever thay may be, they will mean continued contact in the years to come.●

TRIBUTE TO BOB ECKHARDT

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PANETTA. Mr. Speaker, the Nation is losing one of its finest public servants with the departure of Bob Eckhardt.

Bob has been a dedicated advocate of the American consumer, and it is sad to say that his unwillingness to bow to special interests led to his downfall last month. He served a vital purpose in the Congress in his various roles on the Committee on Interstate and Foreign Commerce, and he would have had a tremendous impact on our energy situation in the next Congress. The people of this country will sorely miss his influence.

In addition, Bob will be missed around Congress as one of the true individualists. Bob has always been an identifiable figure around Capitol Hill, riding around on his bicycle, and I know my colleagues join me in hoping that we will continue to see him a great deal in the years ahead. We should all regret the loss of Members like Bob Eckhardt, and I want to take this opportunity to extend my best wishes for the future to him and his family.●

CONGRESSMAN BOB WILSON

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. BENNETT. Mr. Speaker, Congressman Bob Wilson has decided to retire and we will all greatly miss him and his lovely wife and hope that they will be back many times in the future to visit us. Bob has succeeded, in his almost 30 years of service here in Congress, in producing a great body of legislative achievements which will always be a memorial to him. I am sure we all wish him and his wife every happiness in the years ahead.●

TRIBUTE TO ANDY MAGUIRE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. UDALL. Mr. Speaker, Andy Maguire has been an effective, vigorous legislator who was not cowed by controversy. Sometimes we overlook our next door neighbors, but Andy Maguire remained a next door neighbor to every resident of his congressional district. He has served well and it has been my privilege to serve with him. I will miss him.●

CONGRATULATIONS TO WEBSTER, TEX.

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. PAUL. Mr. Speaker, the city of Webster, Tex., has struggled for the past 6 years to complete the labyrinthin process of the EPA to build a waste water treatment plant.

The city and its officials have demonstrated fortitude in overcoming many unnecessary and costly bureaucratic delays.

On November 20, 1980, Webster held ground-breaking ceremonies to mark the end of this long process, and the beginning of the construction of their new facility.

I would like to congratulate Webster for its determination to provide needed services for its citizens in the face of Federal inflation and redtape.●

TRIBUTE TO LUD ASHLEY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. OBERSTAR. Mr. Speaker, Lud Ashley is one of the most effective legislators in this House. His departure is one that will be keenly felt in the next Congress.

Lud Ashley has made an enormous difference in the quality of legislation passed by this body. We saw his mastery of the legislative process just earlier this year when he successfully managed the Housing and Community Development Act of 1980.

In 1977, Lud made a monumental contribution to the development of a national energy policy in his role of chairman of the ad hoc Committee on Energy. He managed one of the most complex pieces of legislation to come before the body in the past decade. Our national energy policy would be far more effective today if the final version of the Energy Act of 1978 had been the Ashley bill.

I have served with Lud Ashley on the Merchant Marine and Fisheries Committee, of which he has been acting chairman during the past 6 months. The port city of Toledo and the entire Great Lakes were well represented by Congressman Lud Ashley.

Lud leaves a record of accomplishment of which he can be most proud. I shall miss the leadership and friendship of a hard-working, competent colleague.●

JOHN BUCHANAN

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. CONABLE. Mr. Speaker, there is no finer, kinder, and more decent man, not only in the House of Representatives but in my entire acquaintance, than John Buchanan. I wish he was not leaving us.●

MENDEL DAVIS

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BRINKLEY. Mr. Speaker, when the 97th Congress convenes, we will miss the fine service of one of the brightest stars South Carolina has yet produced: Mendel Davis.

Serving with Mendel on the House Armed Services Military Construction Subcommittee has given me the opportunity to know, firsthand, the depth of his commitment to our country's military strength and his unshakable independence of thought. Mendel has taken many a courageous stand, acting according to the dictates of his own conscience and eschewing doctrinaire guidelines.

Those of us who had the privilege of teaming up with Mendel for the annual congressional baseball games hailed him as our star catcher. He performed in those games with the same remarkable zest and determination that became the hallmarks of his entire congressional career.

We will miss your irrepressible spirit and your dedication, Mendel, and we bid you farewell with much reluctance and with genuine affection.●

TRIBUTE TO RICHARD ICHORD

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. RAHALL. Mr. Speaker, in the last 15 years, the Eighth District of Missouri has been redistricted five times. All the physical changes, however, never changed the identity of the Congressman, as Richard Ichord has served in this body for 20 years.

A teacher, an attorney, a veteran, the speaker of the Missouri House of Representatives, and a Member of Congress, Dick Ichord has had a diverse and distinguished career.

As a member of the House Armed Services Committee and as chairman of the Subcommittee on Research and Development, Dick Ichord played an important role in the future of our Nation's military. In a time when this issue will no doubt become a focal point, Dick Ichord's absence will be hard felt by this body as it grapples with concerns of military preparedness.

As a member of the Small Business Committee, Dick Ichord was a strong voice for the men and women who comprise a major portion of America's free enterprise system, and he worked to assist and to solidify their positions in our Nation's economic picture.

Twenty years is a long time for a person to serve in one job, but in the case of Dick Ichord, I know we all hope he could continue to serve in this body for another 20 years. We wish him well, but not without thanking him for his dedication and his friendship.●

CONGRESSMAN LUCIEN NEDZI

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. BENNETT. Mr. Speaker, Congressman Lucien Nedzi will be greatly missed here in Congress. He has worked vigorously for a strong national defense and fought for and succeeded in the passage of much constructive legislation while he has been here in Congress. We will all certainly miss him greatly and wish him and his family every happiness in the years ahead.●

"LUD" ASHLEY: A MAN WHO HAS TAKEN ON THE TOUGH ISSUES

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. GLICKMAN. Mr. Speaker, during the time that we have served in the Congress together, I have always known Lud Ashley to be a man who is willing to take on the tough issues. During the 95th Congress, he took on the complex and largely thankless task of chairing the ad hoc Committee on Energy. Over what appeared to be insurmountable odds, this man cajoled the House into passing and worked through conference legislation that has begun to turn our energy situation around.

And energy has not been the only problem on which the House has turned to Lud Ashley for guidance. In his capacity as chairman of Subcommittee on Housing and Community Development, our friend from Ohio has been in the forefront of the search for creative, effective solutions to the problems facing our housing industry. With interest rates at record levels, the housing industry is in serious condition right now, and his leadership will be sorely missed.

Most importantly, Lud Ashley has been a man willing to lead and willing to look at issues with an open mind. Fortunately for those of us who have worked with him and for the people of this country, Lud Ashley has been ready to try the unexpected. He has not been bound by any doctrinaire perspectives. At a time when we need new answers to so many problems, it will be a real loss to the Congress when Lud leaves us.●

TRIBUTE TO CONGRESSMAN MIKE McCORMACK

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. WYDLER. Mr. Speaker, over the past few years of my life in the Congress I have become convinced that nuclear power is the most promising source of electricity for the world in the next 25 years. My travels throughout the world have convinced me that every country on the face of the Earth recognizes this fact except our own country.

Those who are crying in the wilderness and laboring in the vineyards bringing these facts home to the American public are doing a service for our Nation and particularly for those younger citizens who will inherit the American economy in the next few decades.

Of all the people I have met in this field, Mike McCormack is the most well informed across the board. He not only understands the social and political questions that are involved, but fully understands the technical issues as well. His leadership in both the fission and fusion fields has been enormous for our Nation. The tribute that I pay him today will be fully justified by the history of nuclear development in our Nation, as the next generation of Americans loses its fear based on ignorance and seizes the opportunity that nuclear power holds for economic expansion and the betterment of the world's economy for mankind. MIKE McCORMACK will be missed.●

TRIBUTE TO ROBERT GIAIMO

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PANETTA. Mr. Speaker, I am pleased to join in the tribute for our distinguished colleague from the State of Connecticut. For the past 2 years I have had the special privilege of serving under BOB's chairmanship on the House Budget Committee. I treasure his friendship and the experience of working with him during this 96th session of Congress.

One of BOB's great contributions to Congress during the past 22 years has been his work as chairman of the House Budget Committee. The 1974 Budget Act was designed to force the Congress to face up to the consequences of its spending decisions and, ideally, to gain some control over Federal spending. But the Budget Act simply gave Congress the tools to plan future Federal budgets, it did not provide what is most needed to make the process work—a Budget Committee chairman who could, by his intelligence, strength, and wisdom, guide the budget process through the stresses and strains that plague any new congressional institution. BOB has filled that vital role over the last 4 years and the people of this country, not to mention the Congress, are better off because of his commitment to the budget process.

BOB has worked hard to explain how the budget process works to both old and new Members of the House. Also he has constantly reminded us of the consequences of each congressional spending decision. It has not been an easy task to impose some fiscal discipline over the Congress. BOB has often found himself on the unpopular side of many an issue, but his commitment to controlling spending has remained strong. Without his commitment the budget process might not have survived the 1970's. BOB will long be remembered for his courage in forcing the Congress to face up to the realities of uncontrolled spending.

We will all miss BOB's presence in Congress. We can only hope that he will continue to take the time to comment upon the work of Congress and share, as he did with me, the great knowledge he has of this institution.●

TRIBUTE TO HON. CHARLES H. WILSON OF CALIFORNIA

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is with regret that the House of Representatives loses such a fine Member as CHARLIE WILSON. The 31st District of the great State of California has been fortunate to have had the kind of positive representation that CHARLIE has so ably provided.

As a key member of the Armed Services Committee and chairman of the Procurement and Military Nuclear Systems Subcommittee, CHARLIE has been a leading expert on military aviation and intelligence operations. As an outspoken critic of SALT II and chairman of the SALT II special panel, CHARLIE has demonstrated his profound concern for the stability of our Armed Forces and our national security. CHARLIE will always be remembered for the many reforms he brought to the Postal Service while chairman of the Subcommittee on Postal Operations and Services. He is largely responsible for improving this country's mail service.

CHARLIE, your career in the House is an accomplished one. History will record your many successful roles in Congress. I wish you the best in the future and may you enjoy the years of retirement.●

TRIBUTE TO CONGRESSMAN ROBERT GIAIMO

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BENNETT. Mr. Speaker, Congressman BOB GIAIMO leaves behind him a solid record of achievement as he retires from Congress. He has been a strong right hand in securing greater fiscal responsibility on the part of the Federal Government. His outstanding achievement has been in his work as chairman of the Committee on the Budget, but he has also been the author of many pieces of constructive legislation which will long be a memorial to him. We all wish for him and his family every happiness in his retirement.●

TRIBUTE TO HON. LUCIEN NEDZI

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. UDALL. Mr. Speaker, LUCIEN NEDZI is the kind of conscientious, honest, competent Member of Congress who does great credit to this House. Politically generous, a gentle man in the best sense of those words, LUCIEN was always a voice of moderation and commonsense. He is a hard worker who always did his homework, a man I am proud to have served with. The people of his district may be proud of his service. He has left a positive mark on this House and on our country.●

TRIBUTE TO CHARLES VANIK

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 2, 1980

● Mr. OBERSTAR. Mr. Speaker, the decision of our colleague from Ohio, Mr. VANIK, to retire at the end of this Congress is characteristic of the principled representation he has provided over the past 20 years. Advised by his campaign staff that it would be necessary for him to undertake a major fundraising effort, our colleague chose not to seek reelection. CHARLIE VANIK stated that the whole process by which congressional campaigns are financed imposed restrictions and obligations upon officeholders that he could not accept.

With CHARLIE VANIK's principled views on fundraising as an inspiration, I hope this House will enact campaign financing reform in the next Congress. Congressman VANIK has come to represent the highest ideals of service in the House: integrity, competence, considerateness, and vision. His service on the Ways and Means Committee and his chairmanship of the Trade Subcommittee demonstrated his great skill as a legislator.

The House will miss the presence of this Member so fiercely dedicated to principle, and so fearless in his consistent efforts to expose the special interests.●

HON. AL ULLMAN

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. CONABLE. Mr. Speaker, for 14 years I have served with AL ULLMAN on the Ways and Means Committee. For the last 4, I was ranking minority member to his role as chairman. As such, I have been closely associated with him as a friend, an adversary, a cosponsor and coinitiator, a follower, an adviser, and, last by not least, an admirer. Al Ullman is an honest and decent man. His nature is methodical, but his insights are deep. On occasion he is far ahead of his time and willing to take the risks of being a leader and a prophet. Here in the House he has carried more than the usual burden in the significant service he has rendered through the Ways and Means Committee, but he had done it with grace and understanding. Associating with him has been a privilege, enriching my service here and that of countless colleagues, as well. We wish him the very best in years to come, knowing that he will continue to draw on his vast experience as a writer, speaker, and advocate of significance.●

BOB WILSON

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. BRINKLEY. Mr. Speaker, after almost three decades of devoted service to his district and the Nation, Congressman Bob Wilson will be sorely missed by all of us who have had the privilege of working with him.

Bob is truly all American in the very finest sense. His broadminded, tolerant, practical views have helped to guide this body through some of its most difficult deliverations.

Over the years, in working with Bob on the House Armed Services Committee, I have come to know and respect his expertise on wide-ranging military issues. Bob's mastery of defense matters was readily apparent to each member of our Armed Services Committee's 1971 study trip to examine the Vietnamization program.

Bob Wilson has cast a giant shadow in this body, and we will miss his example of solid leadership for years to come.●

THE HONORABLE GUNN McKAY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. RAHALL. Mr. Speaker, for 10 years, the First District of Utah has been represented in this body by a man of high distinction, tireless dedication, and great warmth. That man, Gunn McKay, is an individual whom I am proud to call a colleague and pleased to call a friend.

As a small businessman and teacher, Gunn McKay's public career began in 1962, when he was elected to the Utah House of Representatives. In 1967, he served his State in another capacity, as an assistant to then-Gov. Calvin L. Rampton. In 1970, he came to Congress.

As a member of the House Interior and Insular Affairs Committee, I have had the opportunity to work with Gunn McKay, on a number of important issues, since he serves on the Interior Subcommittee of Appropriations. I have been with Gunn in his district and have seen firsthand the results of his untiring efforts on behalf of his constituents. We all have also been impressed by his work as chairman of the Subcommittee on Military Construction.

We all wish Gunn and his wife, Donna, the very best in the coming years, and also know that they both look forward to spending a great deal of more time with their large family.●

CONGRESSMAN RICHARDSON PREYER

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. BENNETT. Mr. Speaker, Congressman Richardson Preyer is a man who has set the highest possible standards for achievement in Congress. He is a Congressman's Congressman because he is relied upon for sage advice and for leadership and has succeeded in leaving behind him a solid record of achievement in legislation which few can equal. We will all greatly miss him in the years ahead and we hope that he and his family will be back here many times so that we can rely upon him in the future in the helpful spirit that is his.●

A TRIBUTE TO SAM DEVINE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. BIAGGI. Mr. Speaker, I deeply regret that our friend and colleague, Sam Devine, will be absent from this body when the 97th Congress convenes in January and wish to pay tribute to him for his 22 years of service to the people of the 12th District of Ohio.

While Sam was a dedicated leader of his own Republican Party, it certainly did nothing to diminish the respect he received from Members on my side of the aisle as well. As we all know, advice comes easily in this Chamber. You could always be sure that Sam Devine could be counted on to provide advice that was sound, as well as sincere. His role as a counselor was popular among Members, both new and senior.

As the senior Republican member on the Interstate and Foreign Commerce Committee, Sam was a leader on that panel since 1972. He also had a special interest in the internal workings of this body as witnessed by the great deal of time he spent on his House Administration Committee activities. The mechanics of running this operation called Congress are often overlooked and we should be thankful for the kind of people like Sam, who have been instrumental in keeping things in order for everyone.

I am confident that my good friend Sam Devine will continue his dedication to public service in an appropriate fashion. We are losing a diligent legislator, a respected individual, and a real gentleman. My wish for him is that his future be fruitful and that we might see him again in public life before too long.●

NORTHERN VIRGINIA COLLEAGUES WILL BE MISSED BY THE HOUSE

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. GLICKMAN. Mr. Speaker, I rise to pay tribute to our colleagues from northern Virginia, Herb Harris and Joe Fisher, who will be leaving the House at the end of this term. These are two men who have given their best to the Congress and to the Nation; they will be missed.

I have had the good fortune to serve with Herb Harris on the House Judiciary Committee over the last year. That has given me an opportunity to know and learn from Herb. He is a thoughtful legislator and one who is not afraid to express himself. His candor was refreshing during debates in the Judiciary Committee, and coupled with his good nature helped keep things in their proper perspective.

And Joe Fisher has been a levelheaded, hard-working legislator. He has applied his intellect to tackling tough and complex problems, and he has stood up for the principles he believes in. Both his service on the Ways and Means Committee and at the helm of the Environmental Study Conference have added greatly to the respect which those organizations command.

I wish Herb and Joe the very best. I look forward to continuing friendship.●

TRIBUTE TO CONGRESSMAN JIM LLOYD

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. WYDLER. Mr. Speaker, as a Republican, I rise to praise Jim Lloyd, both as a Member of the Congress and as a citizen of our Nation. Those who know him personally recognize him to be a fine man in every sense of the word. His thoughtfulness and intelligence have made him an effective legislator as well. I wish him every success in the years ahead and I hope our paths will cross often.●

TRIBUTE TO LUCIEN NEDZI

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PANETTA. Mr. Speaker, I join my colleagues in paying tribute to Lucien Nedzi. As a 23-year veteran of the House, Lucien has some tremendous accomplishments upon which he can look back, and, as he retires, I know we all wish him the best.

I have been familiar with Lucien's work in two particular areas. First, I served with him on the Committee on House Administration and found him a strong and conscientious committee member. In addition, of course, he has served as acting chairman for several months during a very difficult time. He has done so with distinction.

In addition, I have been very impressed with Lucien's work as chairman of the Armed Services Subcommittee on Military Installations and Facilities. My own area has several such facilities, and there has been a serious need for improvements in many areas. Lucien has listened and given approval to my requests for upgrading of those facilities. My constituents and I will always be grateful for his recognition of their needs.

Lucien has been one of the most respected Members of this body, and I know we will all miss him. I would like to wish him and his family the best of luck in the years to come.●

ROSA PARKS TRIBUTE

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, today marks the 25th anniversary of one of the pivotal events in the Nation's civil rights struggle. On December 1, 1955, Rosa Parks, a black resident of Montgomery, Ala., was arrested for refusing to sit in the "colored section" of a city bus. This courageous act triggered an avalanche of constructive protests by blacks and their allies throughout the South.

Although today we hear some voices proclaiming the end of the civil rights movement, I am certain that the accomplishments of the past 25 years will not be reversed if people remember the bravery and conviction of citizens such as Rosa Parks. The struggle for freedom continues and each citizen must be ready to stand fast for their rights as Rosa Parks did 25 years ago.●

CONGRESSMAN THOMAS ASHLEY

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. BENNETT. Mr. Speaker, Representative Thomas Ashley, or as we know him, Lud, has made a solid contribution to the legislative achievements of Congress in the many years he has been in Congress. We will all greatly miss him and we wish for him and his family every happiness in the years ahead. He has been a real leader among us and we know that wherever he goes, he will carry on many years of achievement. Many times, but for his active leadership, we would not have passed much needed legislation; and the country is deeply his debtor.●

JOHN LENNON—ANOTHER SENSELESS HANDGUN MURDER

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. PORTER. Mr. Speaker, senseless deaths caused by an excess of easy access to handguns threaten us all on the streets and in our homes and places of business. John Lennon's death yesterday at the hands of a deranged assailant is but the latest in a wave of brutal handgun killings. This past weekend in Washington, D.C., it was Michael Halberstam, a noted surgeon and author, who died. Thousands of others each year are equally victims of crazed or crime-bent assailants, who ought to be obstructed by law from easy access to handguns.

It is often said by those who oppose all handgun control that guns do not kill people, people kill people. This obviously is true in a sense and of course we need strong laws and strong law enforcement by both the police and our courts, with mandatory additional sentences for crimes committed with a handgun, for example.

But many of the killings that take place with a handgun, like the one yesterday, are perpetrated by deranged individuals or are crimes of passion that no level of deterrence or enforcement will control. It is here where efforts are needed to prevent easy access to easily concealable, highly deadly weapons like handguns.

I believe Federal legislation to control indiscriminate access to handguns is necessary to prevent these gratuitous killings. Yes; some assaults with other weapons and even killings by handguns will continue no matter how we limit access to handguns by law. But, incidents of well-known people gunned down in the streets, as John Lennon was yesterday evening, flash a clear warning of the senseless instability of a gun-toting society where handgun traffic remains totally unchecked.●

TRIBUTE TO HON. HERB HARRIS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. OBERSTAR. Mr. Speaker, it is difficult to believe that a Member can work as hard and as effectively for his constituents as Herb Harris has and not be returned by the voters.

Herb Harris' narrow election defeat is a loss to this country. He has been a leader in the fight to reduce wasteful Government spending and to curb hidden and unnecessary consulting costs.

He has made an important contribution to the development of a national energy policy.

Herb's energies and ability insure him a most exciting and interesting future. I hope the House will again benefit from Herb Harris' presence in the not too distant future.●

TRIBUTE TO CHARLES VANIK

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 2, 1980

● Mr. CONABLE. Mr. Speaker, the spirit of the House of Representatives is diminished by the retirement of Charles Vanik. A sometimes mischievous, sometimes unpredictable, sometimes iconoclastic, but always impressive debater and parliamentarian, Charlie could do by instinct more than many people would be able to accomplish after great research and study. Socially a man of great charm and outreach, his role in the House has been lightening and thunder, attention-compelling and frequently a lone stand against the multitude. The House will be a poorer place without the ferment of ideas and electricity that he has added to the environment.

I want to wish him and Betty as lively lives in their retirement as they have had during their years in Washington.●

JOSEPH FISHER

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, I rise to pay tribute to one of the most respected Members of the House, Joseph Fisher of Virginia. This outstanding member of the well-known class of 1974 will be sorely missed by this body.

Joe's integrity and vast knowledge of economics won him admiration throughout Congress. As a member of the Ways and Means Committee he played a vital role in the development of the major energy and tax legislation enacted in the past few years.

I will miss my good friend Joe Fisher when the 97th Congress convenes.●

CONGRESSMAN RAY ROBERTS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BENNETT. Mr. Speaker, I know that all of us in Congress are going to miss the leadership of Ray Roberts more than words can express. He has been an outstanding leader here and has left behind him a solid body of achievement in legislation which will benefit his district and America for many years to come.●

LAMAR GUDGER

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. BRINKLEY. Mr. Speaker, when the 97th Congress convenes we will miss the presence of a man whose life and service might truly be compared with Shelley's definition of poetry: "the record of the best and happiest moments of the happiest and best minds."

Lamar is a lawyer's lawyer. His splendid record on both the House Judiciary and Interior Committees has proved him to be both a master of legislative skills and a true patriot, with an abiding commitment to representing his district and serving his country with distinction.

On May 17 of this year, I was privileged to share the podium with Lamar at a speech to the North Carolina Democrats in Asheville. On that happy occasion, I related a maxim my grandfather had shared with me long ago: "I am not what I am because I do what I do. I do what I do because I am what I am."

Martindale-Hubbell is the lawyer's bible, and the top of the class has an "a.v." rating. It is a testimony to character and legal ability. Lamar Gudger has this high ranking and it is because he does what he does. His life is a commitment to excellence and we bid him farewell with reluctance, wishing for him the best and brightest in the years ahead.●

AL BALDUS: THE DAIRYMAN'S FRIEND

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. GLICKMAN. Mr. Speaker, during my 4 years in the House, I have had the good fortune to serve with our colleague from Wisconsin, Al Baldus, on the Committee on Agriculture. And on that committee I have been able to benefit from the terrific amount of understanding Al has for the dairy industry. Dairymen could have no better friend. To them and to those of us who have worked with him, Al Baldus, absence from the House, will be a real loss.

And, on every issue that came before this body, it is evident that Al carefully weighed the pros and cons and cast votes for what he thought was right. He did so not from the perspective of a Member of the Congress, but as a well-informed and thoughtful American. That kind of commonsense assessment of issues is a trait for which the people he served should be thankful. It will be missed.●

KIM DAE JUNG—SOUTH KOREA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. BONKER. Mr. Speaker, I am deeply pleased and want to commend the President for sending Secretary of Defense Harold Brown to South Korea to publicly express our concern about the fate of opposition leader Kim Dae Jung. He has been condemned to death for advocating free elections, a government with broad popular support, an end to martial law, and the return of the military to the barracks.

As chairman of the only subcommittee in the Congress that oversees human rights—the International Organizations Subcommittee—we have been working hard for a number of months to save Mr. Kim's life. Along with a number of my distinguished colleagues we have tried to make clear to the South Korean regime the consequences that would follow should Kim Dae Jung be executed.

Since the President-elect has also expressed his concern, I want to urge him to send his own personal emissary to Korea. This struggle to save a human life is not a partisan matter. The time is short; not a minute should be wasted.●

TRIBUTE TO MIKE McCORMACK

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. OBERSTAR. Mr. Speaker, one of the unfortunate deficiencies of this Congress is the inadequate scientific background of most Members.

Congressman Mike McCormack compensated to a great extent for the generally low level of scientific understanding of this body. He has been an informed, patient teacher, and leader in the area of enacting legislation to encourage scientific research and development in this country.

It is difficult to believe that Mike's constituency would choose not to return him to this body where his dedication, knowledge, and effectiveness have earned him great respect.

We shall miss Mike in the 97th Congress. I wish him much happiness and success in the coming years.●

CONGRESSMAN LAMAR GUDGER

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. BENNETT. Mr. Speaker, Congressman Lamar Gudger has left with us a solid record of achievement and we are all deeply indebted to him for it, as is his district and country. He is a man of warmth, intelligence, and achievement and I know that all of us join in wishing him and his family every happiness in the years ahead.●

PROPOSED LEGISLATION

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. WEAVER. Mr. Speaker, I would like to declare that I will introduce two bills at the beginning of the 97th Congress: the first would require the simultaneous closure of all general election polls in the continental United States to avoid the problems we faced in the last election as residents of Western States. I will also submit a resolution to provide for a constitutional amendment to establish a single 6-year term of office for President, and a 4-year term for Members of the House, limiting tenure to three terms.

My first bill would alleviate a serious problem that has become painfully apparent in this last election. Of course, I am referring to the early media predictions of election results, the earliest of which came more than 2 hours before the closure of polls on the west coast. Many concerned voters have written me to express their frustration and anger at having the election appear to be over before they had cast their ballots. A constituent of mine, Velma Evers from Elmira, Oreg., wrote: "Here, nearly 3 hours before our polls close, they told us it was all over. I don't blame people in Oregon if they don't vote."

In addition, many people were distressed by the possible influence of the media on local races and issues. Another constituent, Patty Ellis of Gold Beach asked: "After hearing this declaration, how many people decided there was no point in going to vote, thereby causing local ballot measures to be ignored?"

The legislation that I will propose would close all polls at 10 p.m. EST throughout the continental United States, thereby giving all voters an equal chance to participate in the election of their President and Vice President. It is clear that early reporting of election results from the east coast had a significant impact in close elections in the Northwest and California. There is simply no reason to allow these predictions that are made based on early returns to determine the outcome of the election as a whole. Obviously, we cannot keep the media from doing their job, or prevent untimely concessions by candidates, but we can put all voters on equal footing with simultaneous poll closures.

In addition to this bill, I will also introduce a resolution to provide for a constitutional amendment, to be ratified by the States, to create a single 6-year term for the President, and a 4-year term for the House of Representatives, limiting tenure to three terms. Given our complex modern government, I feel it is time to examine the questions concerning terms of office with renewed interest.

Historically, the proper length of the term of office for the President and Members of Congress has been debated since the original Constitutional Convention in 1787. In the Federalist Papers, Madison clearly stated that the proper length of terms for Federal officers "does not appear to be susceptible to any precise calculation." Our present 4-year Presidential term and 2-year House term, then, were set up only as estimates given democratic precepts. Our recent experience with the present terms of office has shown, I think, many advantages to the constitutional changes that I have proposed.

Increasingly, reelection politics have come to play a considerable role in the daily actions of the President, both domestically and abroad. Indeed, a President begins his quest for a second term the moment he takes office. Together with the strain of running in 37 primaries to gain nomination, followed by a long general election, these activities can only exert a large drain on the President's commitment to his vital national and international responsibilities.

As I have introduced, the single 6-year term would permit the long term, steady planning and implementation of policy that a successful President must develop, yet does not presently have time to in 4 years. In addition, a single term would aid the President in making decisions in the interest of the Nation free from the temptation of political expediency. Clearly, such a change would, to a greater extent, free the President to devote a much larger amount of his time to the enormous task of serving all the people of this Nation as Chief Executive.

In the House of Representatives, the problem is even more acute. A Representative in a marginal district may spend nearly half his term merely running for reelection, while other powerful Members run year after year uncontested. My proposal for a 4-year term, with a three term limit would diffuse the balance of power away from the existing senior Members and special interests. With fewer elections, Congress could afford to spend more time and energy on the pressing legislative needs of the country.

Both of these measures are nonpartisan in nature and address problems of national significance. I strongly urge your support for this legislation as it will appear when I formally introduced it in the beginning of the 97th Congress.●

TRIBUTE TO ED BEARD

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, I rise to pay tribute to my friend Ed Beard. He will be sorely missed in the 97th Congress.

Eddie is one of the staunchest supporters of this Nation's working men and women. He served as chair of the Labor Standards Subcommittee which brought attention to problems of wage discrimination against blind persons, fair benefits for Federal blue-collar workers, and lack of compensation for sufferers of byssinosis. Eddie is a strong spokesman for the less fortunate members of this society.

His presence will be missed by his colleagues and by those people he strove mightily to help.●

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. BRADEMAS. Mr. Speaker, the White House Conference on Library and Information Services, held late last year, was convened to stimulate a national debate about the value of libraries and information resources in our society and help, as well, to define the appropriate roles of local, State, and Federal governments in the support of these precious national resources.

As the sponsor, Mr. Speaker, of the legislation calling for a White House Conference on Library and Information Services, I am pleased that the report of that Conference has now been sent to the Congress by the President.

The recommendations contained in the report are significant to the development of library and information science policy in the years ahead. The resolutions and proposals developed by the White House Conference should be discussed by the American public and debated by our legislators.

Mr. Speaker, so that my colleagues and others concerned with the future of information services and our Nation's libraries may be better aware of the recommendations of the White House Conference on Library and Information Services, I am pleased to insert at this point in the Record the President's message accompanying the report of the Conference.

THE WHITE HOUSE

To the Congress of the United States:

I am pleased to transmit to you the Report of the White House Conference on Library and Information Services and my own recommendations on public access to information, as required by Sec. 1(d) of Public Law 93-568 of December 31, 1974.

Information is the essence of education and the lifeblood of democracy. People need accurate information to make the personal and political decisions that will shape the country's future. The production and distribution of information is a significant factor in our economy. A technological explosion is reshaping the way information is stored and communicated, while rising costs and limited resources strain the public institutions that make information accessible.

The White House Conference considered all these issues. It examined our information needs and problems and the key role of libraries in meeting them. The delegates included librarians, information specialists and community leaders. They were selected at conferences in every state and territory, through a process that involved 100,000 people. I wish to commend the National Commission on Libraries and Information Science for its key role in making the Conference a success. The Conference theme was "Bringing Information to People." Its recommendations will help us frame an information policy for the 1980s.

THE IMPORTANCE OF LIBRARIES

Since the beginning of our Nation, libraries have played an important role in providing citizens with the information they need to guide our destiny. Our First Amendment rights have been strengthened by the independent status of libraries free from government control. By preserving the records of our history and culture, libraries serve as a door into our past. As a source of the information we need to direct our lives, they also serve as a door into our future. As we plan for the information requirements of the 1980s and beyond, we should acknowledge the contributions that libraries have made and ensure they remain vital.

Most libraries are local institutions, under local control. State and local governments bear the responsibility for supporting and operating public and school libraries. I agree with the White House Conference that this principle must be maintained.

At the same time, the Federal Government has assumed a special role of helping libraries provide access to information for all. The Government also provides leadership in developing new technologies and services, and encouraging resource sharing among all types of libraries. This Federal role complements the basic responsibilities of state and local governments. My Administration has worked with Congress to fulfill that role.

To ensure that library programs get the attention they deserve, we created an Office of Libraries and Learning Technologies in the new Department of Education, headed by a Deputy Assistant Secretary.

Overall Federal support for libraries has increased by almost 30% since the beginning of my Administration. We proposed improvements in the Higher Education Act to strengthen support for library research and demonstration and training programs and for college and research libraries. We supported literacy and school library and media programs through our 1978 amendments to the Elementary and Secondary Education Act.

My 1982 budget request to Congress will reflect our response to the Conference recommendations for increased budgetary support for resource sharing among libraries; research and development in information technologies; and research libraries.

The Conference recommended a new National Library and Information Services Act to redefine the Federal role. I will submit new legislation to replace the Library Services and Construction Act which will expire in 1982. This legislation will include such issues as: barriers to information access for the handicapped and disadvantaged; library networking and resource sharing; the role of large urban libraries and research libraries as centers for library resource networks; and new information technologies.

I urge the Congress, the library community, and the public to join in the discussion during the next year on the priorities among these important concerns.

GOVERNMENT INFORMATION

The Federal Government has a special responsibility to ensure that its information is made available to the people. Open government is vital to democracy. We must also recognize the constraints of national security, privacy, efficient decision making, and costs.

We are working to address these concerns in a way that increases access to information. A new office has been established in the Office of Management and Budget to develop Federal information policy. This office is working closely with the agencies, libraries, and private sector to develop a policy on the management and dissemination of information by Federal agencies. This policy will affirm the key role of the Federal depository libraries as centers where citizens can obtain free access to government publications.

The policy will also stress the special role libraries can play in helping Federal agencies disseminate information that people need. We should not create new delivery systems when libraries, with strong community bases, can do the job. The Denver Public Library is one example of a library that is working closely with several agencies to make consumer and environmental information available. I encourage and support cooperation like this. To foster such partnership, I have directed the Administrator of the General Services Administration to work with the library community and the Department of Education to select three to five Federal Information Centers and locate them together with libraries. If this cooperative effort is as successful as I expect, I will expand the program.

My Administration has also taken a number of other initiatives to improve and enhance public access to government information. For example:

We revamped the security classification system to eliminate needless initial classification and reduce the time that documents remain classified while strengthening protection for necessary secrets. About 250 million pages of documents will be released because of this change.

The Freedom of Information Act is being administered fairly. The Department of Justice has instructed agencies to release information that could legally be withheld if the release could not be clearly harmful.

Our policy on industrial innovation calls for an improvement in the dissemination of patent information, which will make over 4 million patents accessible.

The National Technical Information Service has expanded the indexing and dissemination systems available to scientists and engineers.

Increases were requested for the National Commission on Libraries and Information Science, an agency which has a vital leadership and coordination role in library and information science at the national level.

THE NEEDS OF THE DISADVANTAGED

The Conference report serves as a reminder that too many of our citizens are cut off from the information available to most of us. One of the greatest barriers is functional illiteracy. To overcome this problem, I have directed the Department of Education to take the lead in coordinating Federal efforts to eliminate functional illiteracy. Their task will be to identify methods and programs of demonstrated value and to work with local education agencies, libraries, and voluntary organizations to implement these programs. Twenty percent of our Americans are functionally illiterate, and we must expand our commitment to helping these people obtain the basic skills they need.

Under my Administration, a new Basic Skills Improvement Program was authorized in 1979. Its overall objective is to bring about national improvement in student achievement in the fundamentals of education—reading, writing, speaking and mathematics.

We are working to assist disabled Americans. At my request, the broadcasting networks helped establish a pilot closed-captioning television system to permit the hearing impaired to share the educational and entertainment shows available to everyone. In addition, the Library of Congress and the Department of Education are working to provide special materials, equipment and services for those with physical handicaps and learning disabilities.

Another frequently overlooked barrier to information is geography. Many Americans are denied access to information because of where they live, such as an Indian reservation, a Pacific Island, or an isolated area. To address these problems and those of other persons isolated from information due to their location, I am directing the Department of the Interior to analyze these issues and provide recommendations to me.

I will soon send to the Senate a protocol to the Florence Agreement of 1952 further liberalizing the exchange of books and information and reducing barriers to international understanding. The National Commission on Libraries and Information Science has already begun working with the International Federation of Library Associations.

THE NEW INFORMATION AND COMMUNICATIONS TECHNOLOGIES

New technologies are revolutionizing the ways in which we create, store and disseminate information. For example, the text of 3,200 books can now be stored on a 12-inch videodisc which costs $20. In the library, computers are replacing the card catalog. The sum of changes like these will have a major impact on our lives.

My Administration is actively encouraging the creative application of these technologies for the benefit of all individuals. As the largest user of computer technology in the world, the Federal government plays a major role in deciding how this technology is applied everywhere. We are using technology to provide government services, including information, in new and better ways. A number of agencies are actively involved in conducting or supporting research and development into new technologies and their application. We shall aggressively pursue such research. We also have a program to develop standards which will enhance our ability to transfer technology.

We have worked to remove regulations that prevent competition and constrain application of the new technologies. The Federal Communications Commission is completing a dramatic overhaul of its regulations, opening up competition and promoting diversity. Recent actions are creating 1000 new radio stations and a whole new class of community TV stations. We developed a program which has doubled minority ownership of broadcast stations. We are working with Congress to pass legislation to reduce regulation and promote competition in telecommunications. The explosion of outlets in the electronic media provides special opportunities for libraries. For example, libraries can work with cable TV systems to program public service channels. Competition will stimulate innovation, increase productivity, and make the communications industries more responsive to consumer demands.

Actions we have taken to realize the public dividend from the new technologies include:

My space policy, which is helping public service producers use satellites to cut their communication costs. The Commerce Department is responsible for this program, and I am directing them to work with the library community to make satellite and other emerging communication technologies available where it is cost-effective for networking and other purposes.

The Department of Education will support a conference of independent experts to develop an agenda for library research in the 1980s.

The library and information science communities will be encouraged to propose technology assessment studies for consideration by Federal agencies.

As our society expands use of the new information technologies, we must protect our personal privacy. Last year I proposed the Nation's first comprehensive privacy policy. Five privacy bills are now before Congress, covering medical, bank, insurance and other types of records. Their passage is an essential ingredient to an information policy of the 1980s.

The biggest challenges rest with the library and information community. These institutions are run by talented and dedicated people with strong bases in their communities. They have contributed much, and they can do even more to meet people's needs in coping with the problems we face in the 1980s. I believe we have viewed libraries too narrowly. The needs of the public who must cope with our increasingly complex society can only be met by libraries actively providing access to the great variety of information they have. Libraries can provide information to individuals about jobs and education opportunities; information to families about social services and energy; and consumer information to small business on marketing and technological innovation. Americans must be able to obtain this information in convenient, accessible, community institutions like the library. To survive as community institutions, libraries must be strengthened and the public made more aware of their potential.

We expect that the libraries will help to teach people the value of energy conservation and the ways to accomplish it; help the American people protect themselves from inflation by informed purchasing; help them to see that we live in an interrelated world which requires both America's strength and also American patience and American understanding; and, help them most of all to learn that we have to look at the world as it is and not as we remembered it 25 years ago. I have every confidence that you will meet these challenges as you have others in the past. Libraries will continue to be a critical ingredient in building a stronger, a more vibrant, a more informed America that we all hope for.

Jimmy Carter.●

HALBERSTAM ON GUN CONTROL

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. BINGHAM. Mr. Speaker, on Friday, December, 5, 1980, an eminent Washington cardiologist was shot during the robbery of his home. The Washington community will sorely miss Dr. Michael Halberstam. It is painfully ironic that Dr. Halberstam, shortly before his death, argued forcefully for stronger gun control laws. The December 7, 1980, Washington Post reprinted one of his editorials, and I include it at this point in my remarks.

Doctor's Prophetic Warning

Michael Halberstam, the 48-year-old physician shot to death Friday when he surprised a burglar at his Northwest Washington home, was a regular commentator for the Cable News Network. In a commentary broadcast Nov. 21, he said:

"I'm not one of those doctors who's always warning his patients not to take chances. I think one reason for that is I rather like to take chances myself. I'd rather ski downhill than cross-country. I like football rather than Frisbee. I still prefer baseball to softball.

"But I want to take my chances, not someone else's. That's why I'm in favor of handgun control. Not banning handguns, but licensing and registering them, keeping them out of the hands of criminals and psychopaths.

"Each year in this country, 20,000 Americans are killed by handguns. Half of them [are] suicides, but the rest, accidents and murders.

"I don't wanna be the guy shot when I honk at the guy next to me and he reaches in his glove compartment and starts blasting away. I don't want my son shot when some punk holds up the filling station where he works, panics, and starts shooting.

"Handgun control has nothing to do with banning handguns, but altogether, it has to do with keeping them under control and registered. That has nothing to do with hunting. We're gonna keep hunting in this country. It has everything to do with the national epidemic of sudden, violent, foolish deaths.

"It may be true that guns don't kill and people do, but handguns make it a lot easier, Too easy.

"I'm Dr. Michael Halberstam."●

THE SHAMING OF INDONESIA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. EDWARDS of California. Mr. Speaker, I would like to bring to my colleagues attention the following editorial which appeared in the New York Times of December 8, 1980.

The editorial does an excellent job of portraying the complicity of the Portuguese, Indonesian, and American Governments in the tragedy of East Timor.

Portuguese remissness as the original colonial power left the island in desperate condition after the demise of the Portuguese empire. As the editorial states, "East Timor summed up much of what was bad about European imperialism."

In the brutal annexation of 1976, the Indonesians entered the vacuum left by the Portuguese and have now exerted a colonialism of their own design.

Successive American Governments have all acquiesced in the brutal Indonesian dominance in an effort to maintain friendly relations with a nation thought to be of strategic importance.

As the editorial points out, recent Portuguese initiatives provide an opportunity to finally bring an end to the colonization of East Timor. It will not be easy; nor will it be without precedence. The recent resolution of the conflict in Zimbabwe exemplifies what can be achieved when a responsible and sincere effort is made by the original colonizing power. Our Government should do everything possible to support the Portuguese efforts toward peace in the area.

The Shaming of Indonesia

In the eyes of the third world a generation ago, nations were divided very much in the spirit of George Orwell's Animal Farm—four legs good, two legs bad. Western colonial powers were all two-legged, and none seemed quite so bad as Portugal, keeper of a huge, impoverished empire. But things are not so simple anymore. At the United Nations the other day, Portugal was praised for championing the cause of self-determination in East Timor, a former colony. Now Indonesia, which annexed the colony, is plainly the bully. A more shaming judgment on Indonesia, once the cynosure of the third world, is hard to imagine.

Under four centuries of Portuguese rule, East Timor summed up much of what was bad about European imperialism. A small, poor territory at the eastern end of the Indonesian Archipelago, East Timor gained a veneer of Catholicism and little else from Lisbon. When the Portuguese empire crumbled in 1974-75, East Timor was left to fend for itself. Its people had almost no preparation for independence, and a violent struggle for power attended the Portuguese departure.

Using the strife as a pretext, Indonesia invaded East Timor in 1976 and annexed the territory the following year—all in the name of self-determination. Under Indonesian occupation, a tenth to a third of 600,000 East Timorese have died; no one can be sure of the real figure because access is restricted. Like Cambodia, East Timor has become synonymous with starvation and refugees. Americans have given some emergency aid but Washington's role has not been glorious. Successive administrations have "understood" without endorsing the Indonesian grab.

Belatedly but creditably, Portugal has reconsidered its responsibilities. In September, Lisbon's Council of Ministers called for top-level consultations with all concerned, while stipulating that negotiations with Indonesia would imply no approval of what Jakarta has done. There are a lot of hitches—not least the uncertainty arising from the Portuguese Prime Minister's death on Thursday in an airplane accident. But the gesture could lead to Lisbon's return, as a decolonizing power. There is one recent precedent, in Zimbabwe, of a former colonial overlord returning temporarily to power to arrange legitimate self-determination.

In welcoming the Portuguese initiative, the General Assembly offers Indonesia redemption. If it is scorned, Indonesia would be confirming that its brand of colonialism is as ruthless as any once fashioned in Europe.●

CONGRESSMAN SAMUEL DEVINE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. BENNETT. Mr. Speaker, Congressman Samuel Devine has had an outstanding career in Congress and all of us will greatly miss him. We wish for him every happiness in his retirement. I know he cannot be but a happy man in the contemplation of the things he has done for his district and for our country, for which we are all indebted.●

THE MESSAGE WAS ONE OF SURVIVAL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. MAZZOLI. Mr. Speaker, last evening, I heard a gasp and a cry from my daughter's bedroom. I rushed into her room and found her in tears at the news that Beatle John Lennon had been shot to death.

Millions of Americans were similarly affected by the passing of John Lennon.

It is as if a chapter of American history has come to a close.

A generation of young Americans grew up with the Beatles. Their songs mirrored the times—dissonant, iconoclastic, disquieting—and they helped these young Americans relate and cope.

They sang of isolation and loneliness and faceless, anonymous people. Yet, their underlying theme was of camaraderie and love.

The Beatles expressed the difficulties faced by Americans—indeed citizens of the world—in times of tremendous societal transition and pressure. Yet, theirs was a message of peace and survival.

Though it is with tremendous sadness that we receive the news of the senseless murder of John Lennon, we must all celebrate his contributions to music and to helping a generation of young Americans cope with changes of a magnitude never before faced by any generation.●

TRIBUTE TO FRANK THOMPSON

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, I rise to honor my friend and colleague FRANK THOMPSON. This body will miss his political knowledge, his sagacity, and his well-known, much enjoyed wit and humor.

THOMPY and I worked together for many years on the Education and Labor Committee doing battle for the interests of the working men and women of this country. His achievements in this field and in the arts and humanities have marked him as one of the finest progressive, liberal Members of this institution.

I am certain I join many of my colleagues who feel a deep sadness at this loss and in extending our heartfelt wish that he is successful in his future endeavors.●

ALL-MALE DRAFT: PROTECTION RACKET

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. CAVANAUGH. Mr. Speaker, the Supreme Court has agreed to decide whether or not an all-male military draft violates the protections of the U.S. Constitution. The Supreme Court is presented with the issue of whether men and women in a free society in which a constitutional standard extending "the equal protection of the laws" to each "person" may enjoy separate benefits and sustain separate obligations, because of their sex, because the Congress determined that it was the will of the American people to establish such a sexual distinction of responsibility. On December 6, 1980, Ellen Goodman, writing for the Washington Post, addressed the issue of the all-male draft from the perspective of its impact on the future social, political, and economic advancement of women in our society. Ms. Goodman concluded that a segregation of responsibility for the protection of the society leads inevitably to a segregation of the enjoyment of the benefits of the society and so she concluded:

> A decision in favor of an all-male draft would be used to "protect" women back into their old restrictions. So I opt for risk if it will fuel change and yet I know how difficult it is to offer up our daughters as hostages to the fate of our ideas of the long run.

I commend this excellent article to my colleagues:

ALL-MALE DRAFT: PROTECTION RACKET

BOSTON.—We are going back to the Constitution again, back to this legal document we use like a gym mat. Again, nine men, dressed in ceremonial black robes, will wrestle over one of the toughest social issues.

This time it's the draft.

The Supreme Court agreed Monday to decide whether or not an all-male draft is "unconstitutional." If it is, we'll have two choices; to eliminate the draft altogether or extend it to women. If it isn't, we'll see the ruling applied to other segregated "jobs" and ideas.

The lawyers will, I'm sure, phrase their arguments precisely, each proving that he or she reads the true meaning of the Constitution. But the issue of women and the draft evokes feelings as well as precedents. It involves personal goals an well as legal ones.

Since last winter when the notion of drafting women emerged as a real possibility, it has held a central place in our minds. It strikes to the core of our concerns over how the lives of men and women are and aren't changing.

It doesn't take a great legal scholar to see how many of us are stuck in the mud of social transition.

The movement of women has been uneven, and we know that. Women have gained more responsibilities than power. We're in the work force in great numbers, but at low wages. we belong to more institutions, but lead few of them. We follow more rules than we make. We carry new jobs at work and old jobs at home.

The men we live with and work with also feel stuck at times, carrying the familiar weight of wage earners and asked to add unfamiliar weights at home. Many are hostile to the demand for equality without the proof of equality.

Stuck here in the muddle, many of us have looked to our children for more change. One man tells us half-jokingly that he is a traditionalist with his wife and a feminist for his daughter. I know women who, afraid of disrupting their own lives, tell me about their own homes and ambitions for their daughters.

But we are aware that the next generation is also in transition. Our daughters particularly are amalgams of skills. They learn carpentry in school . . . and passivity. They are expected to be ambitious for themselves . . . and sensitive to others. They are expected to be stars . . . and cheerleaders. They are expected to be independent . . . and obedient.

The young men and women of draft age have changed more than we did, but less than we hoped they would. They are coming into a world in which women do not have equal power.

So we can't help wondering whether it is fair to saddle young women with more obligations. We wonder whether they will be stronger or just more victimized.

The issue comes to a head when we think about our daughters and the draft: fighting, war. This is the life-and-death duty they've been protected from. This is the last, and most dangerous, responsibility.

If women are mired in this traditional mud, should we refuse to follow a law until we have the power to make it? Which is better for women in this current state of stasis: protection or risk?

Frankly, I don't have much faith in protection. In the long run, it turns into a protection racket. We always pay for it, with obedience or silence or fear. A decision in favor of an all-male draft would be used to "protect" women back into their old restrictions.

Protection rackets in wartime have always been costly. The bargain was this: give us your sons and husbands, and we'll let you keep your daughters. Let us make war, and then we'll protect you.

So I opt for risk if it will fuel change. And yet I know how difficult it is to offer up our daughters as hostages to the fate of our ideas, of the long run.

The Supreme Court will not hear these arguments. The lawyers phrase their words in cooler tones, in briefs. But this is the debate that goes on inside our minds when, as courtroom spectators, we watch the draft issue finally wrestled down to the constitutional mat.●

TRIBUTE TO CONGRESSMAN JAMES CORMAN

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BENNETT. Mr. Speaker, Representative JAMES CORMAN has had a truly outstanding career in Congress and we will all deeply miss him. He has handled some of the most difficult measures before Congress, and done so in an excellent manner. We wish for him and his wonderful family every happiness in the years ahead.●

A TRIBUTE TO MS. ROSEMARY MELONEY—EXECUTIVE SECRETARY EXTRAORDINAIRE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. GUARINI. Mr. Speaker, I rise today to announce that on Friday, December 12, my executive secretary, Rosemary Meloney, will be retiring after an illustrious 16 years of service to the House of Representatives.

A tireless and diligent worker, Rosemary displays a knowledge of the Hill and high level of competency equaled by few others who share her profession. She has indeed been a most valuable asset to my staff, and my office will miss her dearly in the months ahead.

Rosemary began her congressional career as an executive secretary in the Washington office of Representative Dominick V. Daniels, a post she was to hold for six succeeding Congresses. Congressman Daniels so valued Rosemary that local officials and constituents alike readily knew that her word or opinion on an issue was tantamount to hearing it from the Congressman himself. Rosemary made such a positive impression on the district that upon Mr. Daniels' retirement, his successor, Representative Joseph A. LeFante, acted with haste to retain her for his own staff. With the deep dedication to her work that has become her trademark, she readily accepted the challenge and admirably administered his district operation during the 96th Congress.

I, myself, was so impressed by her personal qualities and proven capabilities that upon entering office, I also moved quickly to insure her needed and invaluable presence on my staff. In fact, I know full well that Rosemary has been one of the prime reasons that my district operation has functioned so well. Her competency in managing an office and directing the flow of casework has paid dividends beyond enumeration. Her abilities are simply outstanding.

While my staff and I will miss her greatly, she well deserves the retirement that she has been anticipating. I know that my colleagues will share my sentiments today and eagerly join her son, naval Comdr. Michael Meloney, an Annapolis alumnus of the class of 1966, her three loving grandchildren, and myself in extending to Rosemary every best wish and much happiness for the many years ahead.

May you thoroughly enjoy your retirement, Rosemary, and may you be graced with good health always.●

PROBLEMS OF CHILD ABUSE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. WEISS. Mr. Speaker, I would like to call to the Members' attention a brief excerpt from a new and important book entitled "Child Abuse an Agenda for Action." The book represents the collaborative efforts of communications expert, George Gerbner, and two scholars from Yale, Catherine Ross, assistant professor of history, and Edward Ziegler, professor of psychology. As noted authorities in the field of child abuse, they have compiled a volume which could possibly be the definitive study of this widespread problem.

I would like to share with my colleagues the section entitled "Agenda for Action, Child Abuse and Social Realities". Ross and Ziegler outline the need for what they call a national commitment to the well-being of our Nation's children, and suggest that efforts should be launched at all levels of Government, and in the private sector. I believe everyone who reads this book will find it both informative and provocative.

CHILD ABUSE AND SOCIAL REALITIES

Although programs to prevent child abuse cannot await broader social reform, we cannot ignore the relationship between social reform and the quality of life for children and families. We have attempted to develop concrete and manageable policy proposals that realistically appraise the current mood of fiscal austerity regarding social welfare. However, a recurrent theme of this volume is the need of the United States to reform its social environment, confront structural problems, and support policies that enhance family life. In addition to the specific strategies for preventing abuse outlined above, basic reforms are needed to reduce the incidence of child abuse and attack conditions that inhibit the optional development of children.

A national commitment to the well-being of children would be reflected in policies designed to guarantee every child decent medical care and nutrition; and guarantee base-line standards of living, adequate housing, day care, and social services (cf. Keniston et al., 1977; National Academy of Sciences, 1974; Silver, 1978). Interested professionals should monitor all proposed legislation to see how it will affect children. Advocacy networks at both the state and federal level, along the lines of experiments now being conducted by the Children's Defense Fund and other groups, should be expanded and strengthened.

The federal government's National Center on Child Abuse and Neglect, important as it may become, should not overshadow either state and local governments, or the private sector. Large companies should expand their efforts to devise employment policies and services that would foster family life. Child care professionals and advocates should offer their services in setting up such programs. Ongoing coalitions at the local level among private and public organizations and corporations to coordinate and facilitate the development of an environment conducive to family life would enlarge the potential impact of each experiment. Sponsors of programs that strengthen families should publicize their model programs along with cost analyses.

None of our suggestions require radical innovations. Models for many of the approaches we propose are readily accessible. They exist in Head Start's Parent and Child Centers, in programs mounted for other purposes by the National Institute of Mental Health, the Office of Education, and even by ACTION. Many localities have already made a start. But popular reconceptualization of the definition and scope of child abuse, and an integration of existing programs and ideas is overdue. The comparative perspective offered in Chapter 7 summed it up well: The real need is not for increased funding for child abuse services, but for an integrated system of services for children and families (Kahn & Kamerman, this volume). Even though specific actions may help to prevent and contain child abuse, it is so closely related to the general problems facing American children and families that in the long run massive social reform and advocacy seem necessary. Child abuse cannot be separated from the range of children's policy issues, but it may serve as a focal point for obtaining needed social reforms.●

PERSONAL EXPLANATION OF CONGRESSMAN BINGHAM

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. BINGHAM. Mr. Speaker, I was forced to miss several rollcall votes due to illness and other matters during the 96th Congress. I wish to record here what my position would have been had I been present and voting.

FIRST SESSION, 1979

Rollcall 64, amendment to reduce aeronautical research and technology authority by $22.7 million to prohibit funds for supersonic transport research, "yes."

Rollcall 65, motion to pass H.R. 1786, to authorize appropriations to NASA for research and development, "yes."

Rollcall 195, amendment to H.R. 2641, Civil Rights Act, to reduce 1980 authorization ceiling, "no."

Rollcall 196, motion to pass H.R. 2641, amendment to Civil Rights Act to raise limitation on appropriations to Civil Rights Commission, "yes."

Rollcall 197, motion to pass H.R. 2374, to establish Frederick Law Olmsted National Historic Site in Massachusetts, "yes."

Rollcall 198, motion to pass H.R. 3347, to authorize appropriations for international affairs functions of Department of Treasury, "yes."

Rollcall 340, motion to pass H.R. 4393, making appropriations for Treasury Department, U.S. Postal Service, Executive Office, and so forth, for fiscal year ending September 30, 1980, "yes."

Rollcall 451, to H.R. 79, seeking to freeze public service subsidies at current $920 million level through fiscal year 1984, "no."

Rollcall 452, motion to pass H.R. 79, to amend title 39, United States Code, to provide that the Chairman of the Board of Governors of U.S. Postal Service be appointed by the President, "yes."

Rollcall 487, amendment to House Concurrent Resolution 186, seeking to provide for a balanced budget in fiscal year 1980, "no."

Rollcall 566, amendment to H.R. 2061 that extends coverage of Public Safety Officers' Death Benefits Act administered by LEAA to rescue squad personnel, "yes."

Rollcall 567, motion to pass H.R. 2061, to restructure Federal Law Assistance Administration, to assist State and local governments in improving quality of justice systems, "yes."

SECOND SESSION, 1980

Rollcall 17, House Concurrent Resolution 267, expressing appreciation to Canada for support in safe release of American Embassy personnel from Iran, "yes."

Rollcall 169, amendment to H.R. 6837, seeking to provide for study of Cleveland-Erie-Buffalo rail corridor, "no."

Rollcall 171, amendment to H.R. 6837, to strike language proposing development of 13 intercity rail passenger corridors, "no."

Rollcall 172, motion to pass H.R. 5410, re Federal employee survivorship benefits, "yes."

Rollcall 176, amendment to H.R. 6464, missile plant transfer, re Michigan Job Development Authority, "no."

Rollcall 177, motion to pass H.R. 6464, to authorize Secretary of the Army to convey to Michigan Job Development Authority the Michigan Army Missile Plant in Sterling Heights in return for new office buildings at Detroit Arsenal, "yes."

Rollcall 183, amendment to S. 2009, Central Idaho Wilderness, seeking to reduce wilderness acreage from 2.2 to 1.8 million acres, "no."

Rollcall 184, motion to pass S. 2009, designating certain public lands in central Idaho as wilderness areas and part of National Wild and Scenic Rivers System, "yes."

Rollcall 323, motion to pass H.R. 2255, to amend Bank Holding Company Act of 1956, limiting property casualty and life insurance activities of bank holding companies and their subsidiaries, "yes."

Rollcall 326, amendment to H.R. 6413, NASA authorization, seeking to reduce aeronautical research by $23.5 million for development of a supersonic transport, "yes."

Rollcall 327, motion to pass H.R. 6413, appropriations for NASA research and development, "yes."

Rollcall 346, conference report on S. 2698 SBA authorization, "yes."

Rollcall 401, amendment to Senate amendment No. 95 to H.R. 7542, supplemental appropriations, "yes."

Rollcall 424, amendment to H.R. 7235, rail deregulation, that establishes ICC jurisdiction over all rail rates greater than 160 percent of variable costs where there is market dominance, "yes."

Rollcall 425, amendment to H.R. 7631, seeking to reduce funding for urban development action grant program by $175 million, "no."

Rollcall 445, motion to pass H.R. 7724, appropriations for Department of Interior and related agencies for fiscal year ending September 30, 1981, "yes."

Rollcall 467, amendment to H.R. 7583 that prohibits use of funds to transmit under the Twentieth Decennial Census congressional apportionment data, "no."

Rollcall 468, motion to pass H.R. 7583, appropriations for Treasury, U.S. Postal Service, Executive Office, and certain independent agencies, "yes."

Rollcall 525, motion to pass H.R. 6790, to promote foreign policy of the United States by strengthening and improving Foreign Service, "yes."

Rollcall 533, amendment to H.R. 7235, rail deregulation, seeking to create Rail Land Bank, "no."

Rollcall 554, conference report on S. 1125, to improve and extend Federal crop insurance, "yes."●

TRIBUTE TO HON. HAROLD T. (BIZZ) JOHNSON

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. GIAIMO. Mr. Speaker, I rise to say a few words in honor of a colleague who came to these halls at the same time as I and who leaves here at the same time. Harold T. (Bizz) Johnson, before he was elected to Congress in November 1958, already had begun a distinguished career in public service.

He had been city councilman, school trustee, mayor, and State senator prior to his election to the House. As a Member of this body, he has served with great distinction and honor.

Bizz is best known to us as a tireless worker, who is chairman of the Committee on Public Works and Transportation. The domain of that committee ranges far and wide—public buildings, water transportation, aviation, highways, dams, and water resources. The chairman is known for his fairness and diligence.

He has, moreover, been supportive of me in my role as chairman of the Committee on the Budget. He is one of the stalwart chairmen who helped us effect a milestone through the passage of the Omnibus Reconciliation Act of 1980—a monumental achievement for which this Congress will long be remembered—which reduced the deficit by $8.3 billion.

This House will miss the work and the wise and pleasant counsel of the gentleman from California. And I shall miss him very much.

I hope that Bizz will enjoy for many years his new role as a private citizen.●

TIME FOR THE UNITED STATES TO PURSUE SERIOUS POLICY ON NAMIBIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. McDONALD. Mr. Speaker, U.S. policy in Africa in general, and in southern Africa in particular, appears to have blown in the direction of every fresh burst of oratory in the United Nations. U.S. interest, both national and strategic, appear to have been ignored at every turn. Given the fact of increasing chaos and impotence of the United Nations as well as its tilt toward the Communist world, it is increasingly apparent to all that it is high time for a change. It is certainly to be hoped that President-elect Reagan and his administration will take a new look at Namibia and see where U.S. interests lie and alter our policy accordingly. Among these interests are the rich mineral wealth of the area as well as the strategic port of Walvis Bay. For that reason, I include at this point in the Record a letter I received today from the Council of Ministers of South-West Africa/Namibia on the subject of Namibia which I feel bears repeating to the American people.

Council of Ministers
of South-West Africa/Namibia,
Windhoek, December 9, 1980.

Hon. Larry P. McDonald,
Member of Congress,
Washington, D.C.

Dear Congressman McDonald: The people and government of Namibia (South West Africa) appeal to you and other members of Congress, who, like yourself, have achieved positions of power and leadership. We know the leadership position you enjoy did not happen by chance—the American political system distributes its rewards and honors only to those who earn them.

Namibia needs your help and advice. That is why I make bold to write this letter to you. We believe U.S. national security and, to some extent, American prosperity are linked to the fate of our country. Such matters are too important to Americans to be left exclusively in the hands of the United Nations and the diplomatic bureaucracy.

The United Nations General Assembly in recent years has become dominated by the mob rule of a Third World majority in close alliance with the Soviet bloc. U.S. taxpayers contribute 25 percent of the U.N. budget established and allocated by the General Assembly—(over $600,000,000 for this year.)

The noted Washington Post editorialist Philip Geyelin, in a recent column captioned "United Nations: An Outrage" (Wash. Post, Aug. 19, 1980), described the United Nations as:

"* * * a brawling, sprawling global bureaucracy whose governing bodies routinely violate their own rules—an institution in which a full two-thirds of its 153 General Assembly votes represents less than 10 percent of the world population and for which a small minority of 30 practicing democracies contributes more than two-thirds of the financial support. The United Nations, in short, is an institutional outrage, a moral swamp. It operates much of the time by the mob rule of a Third World majority in close alliance with its Communist bloc."

The U.N. helps finance (using in part U.S. dollars) the South West Africa People's Organization (SWAPO), a Soviet bloc terrorist force based in Marxist Angola across our North border. SWAPO was once a legitimate internal liberation movement. Now that Namibia has exercised its God-given and inalienable right of self-determination, elected its own legislative assembly and established a cabinet of ministers to administer its government, SWAPO has become a senseless anachronism. SWAPO, armed by Russia, is trying to seize Namibia (and its vast uranium, gold, diamond, copper, zinc and other mineral resources) by violence and terrorist attacks. The deep water port on our West coast could be used as a base for Russian nuclear submarines to bisect the oil lifeline from the Persian Gulf to the U.S. and NATO countries in Europe. Namibia (South West Africa) is clearly the target of a Soviet take-over campaign. SWAPO terrorists use Russian land mines and automatic rifles to commit violent atrocities against the black civilian population of Namibia. Murder and abduction is a standard SWAPO method of operation. If SWAPO succeeds, Namibia will be dragged behind the Soviet "iron curtain" which has fallen around other countries in Africa.

Nothing better illustrates the moral bankruptcy of the U.N. than its current obsessive and racist campaign to force a U.N. supervised election in Namibia rigged so that SWAPO, the Soviet-bloc terrorist cat's paw and surrogate, can win Namibia. U.S. taxpayers and the free world will be the losers if Namibia is forced by violence into the Russian orbit. Namibians, like Americans, have chosen freedom. We do not want to become Soviet puppets. Namibians prefer their existing duly elected government to SWAPO and the Russians, pending the time when a truly impartial U.N. can supervise the election of a constituent assembly to write a new Namibian constitution. Namibia's 11 major population groups (who speak 8 languages, 29 dialects, and of whom the white group is only 11 percent of the total) are all proportionally represented in the present government and will never accede to a U.N. election which favors SWAPO. We will have no truce or parley with SWAPO's grisly gang so long as its goal is to work the Soviet's wicked will. Ultimately we want full independence and international recognition.

Namibia was first colonized by Germany in the 1880's, then taken over by the British in 1915 during World War I, later in 1920 mandated by the League of Nations as a trust territory to South Africa. The people of Namibia presently have self-government by a duly elected black or non-white majority, and we have been promised full independence. The U.N. has no lawful jurisdiction over Namibia, any more than it has jurisdiction over U.S. territories, except as we Namibians may agree. Neither the U.N. charter nor the League of Nations covenant provides any mechanism for involuntary transfer of a League trust territory to the U.N., which nonetheless for years has sought such control. Namibians, like other free people, have exercised their right of self-determination to elect our own 50-member National Assembly and designated a 12-man Ministers' Council, representing all 12 population groups. This interim government was elected by the people of Namibia on the basis of one man one vote and universal adult suffrage. It has all legislative and executive powers to the same extent or greater than that enjoyed by American territories.

Vital national security interests of Namibia/South West Africa as well as the United States are being seriously endangered by the last ditch effort of the United Nations General Assembly to stage a "human rights spectacular" at the U.N. by threatening sanctions unless Namibia agrees to a U.N. supervised election "rigged" for a victory by the South West Africa People's Organization (SWAPO). We refuse to be a pawn in the game of Soviet geopolitics.

We say, wake up, America! It's time for U.S. taxpayers to ask that Congress prohibit use of U.S. tax dollars by the United Nations to finance SWAPO's acquisition of Russian weapons to attack our Namibian civilian population. Today Namibia, yesterday Central America and Afghanistan, tomorrow—where next? U.S. taxpayers in aiding SWAPO are financing their own destruction. The United Nations General Assembly to some extent has become an enemy of the United States, as it is of Namibia. It is time to blow the whistle on the U.N.—and save $600 million a year for U.S. taxpayers.

Can you discuss with your colleagues in the U.S. Congress our hope that the U.S. Congress will stop the flow of U.S. tax dollars to SWAPO? By helping our people and government, you will be serving the national security interest of the U.S. and all Americans. We are your friends. We admire the U.S as a symbol of hope and freedom in the world—God bless America and its good works.

Sincerely yours,

Dr. Benjamin J. Africa, D. F. Mudge, Chairman, E. Christy, E. Neef, T. Imbili, R. Ngongo, J. Julius, G. Kasche, P. Limbo, K. Riruako, D. Luipert, G. Tibinyane.●

WINDPOWER PIONEER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. MILLER of California. Mr. Speaker, while we have discussed new Government programs to stimulate the use of alternative energy sources, many individuals across the Nation are taking the matter into their own hands and charting their own energy future. I am pleased to report that one of these energy pioneers is a constituent of mine, John Rinaudo of Pittsburg, Calif.

Mr. Rinaudo is building a windmill in his back yard that he hopes will be operational by January, and will pay for itself in energy savings within 5 to 7 years. An added benefit is that Mr. Rinaudo expects the windmill to increase his property value by about $5,000.

I wish to applaud Mr. Rinaudo's initiative in building his own windmill, and hope that this article on Mr. Rinaudo from the Contra Costa Times will stimulate interest in Members of Congress informing their communities that alternative energy sources can work if we work at them.

The article follows:

[From the Contra Costa Times, Nov. 24, 1980]

PITTSBURG MAN PLANS TO REAP WIND POWER

(By Roland Dewolk)

PITTSBURG.—For many, windmills are squat structures made of wood, pleasing to the eye and ear as they make a light, rapid clicking noise. Windmills bring to mind old American farms, or the Dutch countryside.

Not for John Rinaudo. By January, he hopes to have a 40-foot pole up in his back yard with propeller-like blades spinning with a low whoosh to power his suburban Pittsburg home.

The city planning commission approved Rinaudo's application to put up the machine, and he's excitedly preparing to catch the East County winds that usually do little more than bend trees and toss hats from heads.

When Rinaudo and his family moved to the Pittsburg area in 1973, he immediately noticed that "it was always windy. I thought I could harness it, but then I thought about all the hassles. Who would want a 40-foot windmill next door to them?"

But his utility bills were choking him, he said, so he started small. Heat-returning tubes and a blower in the fireplace helped a little bit. Then he bought a wood burning stove for the living room.

Soon his gas bill went down to $8 a month in the dead of winter. "That was really the beginning," he smiled.

He wrote to the state Energy Commission and to PG&E requesting information about windmills. Reams of paper came back. He went to Southern California to look at some of the more popular models in use. But he still wasn't sure.

He went to his neighbors. The response was enthusiastic: "A couple of them want to put one in for their houses. One of them said to me, 'Hey, if you can beat the system, great.'"

He edged closer to a decision. He called up PG&E and told them what he proposed to do. "When they said I wouldn't have to sign any contract with them, that was it. I was sold."

The city issued him a use permit, and he ordered the equipment, which took a $6,000 cash outlay. But after the tax breaks for which he will eligible. Rinaudo figures the final bill will be $2,800.

As he gazed at the part of his yard where the machine will go up, he added that he expects his property value will increase by about $5,000 immediately.

He estimates the $250-300 yearly savings on electrical bills, coupled with the pattern of rising energy costs at about 10 percent a year, will pay for the equipment in five to seven years.

"I figure we'll save about $25 a month in bills right away," he commented.

"—Which we can use to buy groceries," his wife Jan quickly added.

Rinaudo has been measuring wind velocity in Pittsburg for seven years and estimates the wind will blow at an average 13.5 miles per hour at the top of the 40-foot pole. A 10-mph wind is needed to kick off the generator.

The current will flow though a single wire into a meter and then out to a regular 110 volt, 60 cycle wall plug. On a very windy day, he hopes it will provide 90 percent of his home's electrical energy needs.●

INDUSTRIAL INNOVATION AND PRODUCTIVITY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. BROWN of California. Mr. Speaker, congressional interest in industrial innovation has been running high, and even given the uncertainty of changed leadership in the Senate and many new Members in both Houses, I expect it to increase. It would be an understatement to say that all of Congress is concerned with this Nation's economic problems—inflation, per capita income, the balance of payments, and so forth. Increasing technological innovation and productivity is a very large part of the longrun solution to our economic problems. I believe Congress, including our new Members, will come to understand this and will be willing to take the steps necessary to foster industrial innovation for the good of our national economy.

What has Congress accomplished to date? Here is a brief rundown. There has been action on patent policy and on the operation of the Patent and Trademark Office in the House and Senate Judiciary Committees, the Senate Committee on Commerce, Science and Transportation, the House Committee on Government Operations, and the House Science and Technology Committee.

There was a desperate need to achieve reform in the area of who should have the rights to inventions arising from Government-sponsored research and to improve the validity of patents issued by the Office. In the 96th Congress we were unable to obtain the consensus between both Houses needed to enact full reform. Nevertheless, we obtained enough of a consensus to clear, on November 21, a partial reform bill for the President's signature. That bill, H.R. 6933, provides a mechanism where issued patents can be reexamined by the Office if relevant prior art has been overlooked; provides a new fee system which will eventually save the general taxpayers millions; and, to help assure that inventions arising from Government-sponsored research get beneficially utilized by society, establishes a uniform patent policy for small businesses and nonprofit institutions such as universities. Under this policy, small businesses and nonprofit institutions are entitled to patent rights for the things and processes they invent in connection with a federally funded project regardless of the agency sponsoring the project. Attention needs to be given in the 97th Congress to enacting legislation establishing a uniform patent policy for recipients of Federal funds other than small businesses and universities.

Tax measures to stimulate industrial innovation received serious consideration in the House Ways and Means Committee and the Senate Finance Committee but did not result in changes in the law. A significant reason for our failure to enact legislation was that the past administration waited until mid-September—over 3½ years after it had assumed control of the executive branch—to take any position regarding substantive tax reform for stimulating innovation other than saying "not now." I expect tax measures directed at stimulating the use of innovative technologies to encourage productivity to be enacted in the next Congress.

The Senate Banking Committee considered foreign trade matters. The Joint Economic Committee looked into technology as part of a broad study of our economy. The House and Senate Small Business Committees looked into high technology small business. Retiring Senator ADLAI STEVENSON played a substantial leadership role in having the Senate Commerce, Science, and Transportation Committee look broadly at the subject of industrial innovation.

My own Subcommittee on Science, Research, and Technology and our parent committee held over 30 hearings on innovation and productivity issues during the 96th Congress, focusing on patent policy, university-industry relations, Federal laboratory utilization, FDA new drug regulation, the concept of a National Technology Foundation, small business, and other subjects. Together with our counterparts in the Senate we were successful in obtaining enactment and Presidential approval of S. 1250, the Stevenson-Wydler Technology Innovation Act of 1980. That act, now Public Law 96-480, provides a multifaceted approach to improving the environment in which industrial innovation occurs. The principal thrusts of the law are to build links between generators of knowledge (universities and Federal laboratories) and users of knowledge (industries and State and local governments) and to build into the Federal Government a positive concern for the welfare of industry. The law authorizes the Department of Commerce and NSF to establish and support university-based Centers for Industrial Technology and establishes an Office of Industrial Technology in the Department of Commerce to study national industrial policy and carry out a Centers program at the Department. Other elements include a section designed to increase the utilization of federally owned technology by providing improved transfer mechanisms and increased Federal funding levels. The law establishes a National Technology Medal to be awarded to innovative individuals or firms. Finally, a section of the law promotes university-industry-Federal laboratory exchanges of scientific and technical personnel.

In the United States private enterprise is the sector of society primarily responsible for providing goods and services. Where needs for goods and services are not being met by private enterprise, the Government's role should be to take whatever steps are necessary to remove barriers to action by private enterprise. While I take great pride in the enactment of Public Law 96-480, it unfortunately represents only a piecemeal first step in what needs to be done. My subcommittee's study has made it clear that efforts of the Federal Government to facilitate technological development are fragmented and too small to provide for a national economy in which innovation can thrive.

Earlier I introduced H.R. 6910, the National Technology Foundation Act. At that time, I made the following statement:

> Responsibility for technology-related programs is now scattered throughout the Federal Government. The various mission agencies—Department of Defense, Department of Health and Human Services, Department of Energy, and so forth—each support technology development related to their missions. The National Science Foundation and the Department of Commerce have components directed at technology, but these are minor portions of the budgets of those agencies and are treated as stepchildren by those agencies.
>
> In considering how the Federal Government can most effectively organize itself to support technology for the national welfare, one extreme is to leave programs scattered but to make each the best possible. The other extreme would be to consolidate all science and technology activities of the Federal Government in a single Department of Science and Technology; an idea that received considerable attention in the mid seventies during consideration of the bill that became the National Science and Technology Policy, Organization, and Priorities Act of 1976. The idea of a department was not adopted at the same time because of compelling arguments that most science and technology activities should be kept closely tied to the missions which they support—defense, energy, space, health, and so forth, and, hence should be kept as integral parts of the agencies which pursue those missions. The National Technology Foundation bill represents an intermediate position. It would consolidate technology-related activities which are not now closely tied to an agency mission and would insure that the Federal Government will assume additional responsibilities for technology which have heretofore not been adequately discharged by any sector of society.
>
> The programs which this bill would consolidate in a single agency might, in theory, be adequately supported in their current homes, the Department of Commerce and the National Science Foundation. This has not been the case. Support has been modest at best.

When I introduced the bill on March 25, 1980 (CONGRESSIONAL RECORD, 6593, I stated that I was reserving judgment on which course of action is best, consolidation in a new agency or strengthening in existing agencies. I also stated that the purpose of introducing the bill was to provide a vehicle by which we could focus the discussion of alternatives. Since then, my subcommittee held 5 days of hearings on the bill. The staff of my subcommittee is now reviewing those hearings and revising the bill to incorporate what we have learned. Also, substantial revisions are needed to remove provisions no longer necessary because of the enactment of Public Law 96-480, which I just described. Further, the National Science Foundation has seen fit to reorganize itself. This reorganization, which I intend to monitor closely, may obviate some of the concerns H.R. 6910 is designed to address.

Mr. Speaker, let me conclude these remarks by simply noting that the work we have begun in this Congress will continue into the next. The steps that have already been taken should be given a chance to work, while those which are still pending should receive a fresh review next year. I intend to do my part in exercising this continued examination and oversight.●

TRIBUTE TO CONGRESSMAN MIKE McCORMACK

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. BENNETT. Mr. Speaker, Congressman Mike McCormack brought to this House expertise and ability which reaped great rewards for his district and his country. We will miss him greatly here in Congress and wish for him and his family every happiness in the years ahead.●

UNSUNG HERO RECEIVES COMMENDATION

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. SAWYER. Mr. Speaker, I am proud to note that a Grand Rapids area citizen, William D. Lilly, of Rockford, has been named winner of an award from the American Movers Conference for a special act of heroism as an employee of the household goods moving industry.

Mr. Lilly was one of six finalists selected from hundreds of nominations for his courageous actions in saving the lives of three persons involved in a private airplane crash in Kent County, Mich., on July 17, 1980.

I join in saluting Bill Lilly and the many others who unselfishly risk their lives for the safety and protection of others. We need more like them.

I include with my remarks a copy of the citation issued by the American Movers Conference:

> William Lilly is a contract driver with North American Van Lines. Bill has become a well-known hero in his community, Grand Rapids, Michigan, for his role earlier this summer in saving the lives of three persons in a light plane crash.
>
> It was July 17, and a plane carrying 5 members of one family had just taken off from a nearby airport. Bill noticed a loss of power and then heard the propeller hit a tree. He noted where the plane had gone down, and rushed through the woods to help. Bill acted quickly, and was the first to arrive at the scene of the flaming wreckage. At constant risk to his own life, Bill rescued a two-year-old baby first. With the assistance of the pilot, who had two broken legs, Bill then pulled the other people out of the aircraft.
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> Like in the movies, flames engulfed the airplane as the last person was pulled out and the plane exploded. Although two members of the family later succumbed to injuries from the crash, Bill Lilly's prompt action was credited with saving three lives.
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> Police officials later said that all five passengers might have been killed were it not for Bill's heroic efforts. In recognition of his act of heroism, Kent County and the Federal Aviation Administration have presented awards to Bill.
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> The Zimmerman Award is one more award on top of the others, but it will provide the national recognition that he deserves.●

ELDER ABUSE PREVENTION AND TREATMENT ACT

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Ms. OAKAR. Mr. Speaker, today I am introducing a bill entitled the "Elder Abuse Prevention and Treatment Act." It is unfortunate that such a bill is necessary; however, abuse, neglect, and exploitation of older Americans is a bitter reality for an estimated 1 to 2½ million older Americans who do not have the legal resources to protect themselves.

Congressional hearings have documented innumerable cases of older persons who have been physically beaten, psychologically tormented, and financially exploited. Most often this mistreatment is inflicted by so-called caregivers and family members. Research suggests that much of this abuse stems from the undue stress felt by caregivers who assume the burden of long-term home care for dependent older persons. We need to pass legislation to prevent elder abuse by providing community services to supplement and support the family and friends who now provide 80 percent of home care for older Americans.

Additionally, we need to pass legislation to remedy the present problem of elder abuse by providing legal protection and services for elderly who are victims of abuse, neglect, and exploitation. The bill I am introducing today, cosponsored by my distinguished colleague Senator Claude Pepper, will create a National Center on Adult Abuse and will provide money to States for elder abuse prevention and treatment programs. In order to qualify for these funds, States must have in effect an elder abuse, neglect, and exploitation law which provides for mandatory reporting and immunity for persons reporting suspected cases of abuse, neglect, and exploitation. Upon receipt of such a report, States must initiate an investigation and take steps to protect those abused, neglected, and exploited older persons. Furthermore, States must have in effect administrative procedures, trained personnel, institutional, and other facilities, and multidisciplinary programs to deal effectively with these special problems. Additionally, States must provide for the cooperation of law enforcement officials, courts, and appropriate agencies providing human services, with respect to the problems of elder abuse, neglect, and exploitation. Also included in this bill is the provision that States must provide that the abused, neglected, or exploited older person participate in decisions regarding his/her welfare, and provide that the least restrictive alternatives be made available to the abused, exploited, or neglected person. Last, information about the programs and special problems of elder abuse, neglect, and exploitation must be disseminated.

This bill will relate not only to the elderly who live in the community and are victimized by their caregivers or other persons, but also to older persons who live in nursing homes, mental institutions, or other institutions. Although incidence of abuse, neglect, and exploitation are less frequent in institutions, we have heard testimony about older persons who have been burned, sexually assaulted, and have even died as a result of mistreatment by persons who are paid to provide institutional care for them. In my own district, I know of a 96-year-old woman who was allegedly raped by an employee of the nursing home in which she resided. No legal action was taken against this employee because there are no laws in Ohio to require the reporting of abuse and to provide immunity from prosecution for those who do report suspected cases, and witnesses were fearful of reporting the incidence.

It is long overdue that older persons who are victims of abuse, neglect, and exploitation be provided the services and protection to which they are entitled. The deliberate abuse of our older Americans who are least able to protect themselves is a national disgrace. We are hopeful that the Elder Abuse Prevention and Treatment Act will provide the viable solutions to meet the critical problems of older persons who suffer abuse, neglect, and exploitation.

I am pleased that the chairman of our Select Committee on Aging, Senator Claude Pepper, has joined me in sponsoring this most important bill. Because this is a most serious national problem, I sincerely hope that other Members of Congress will join us as sponsors.

I am submitting a full text of the bill which follows:

H.R. —

A bill to provide financial assistance for programs for the prevention, identification, and treatment of elder abuse, neglect, and exploitation, to establish a National Center on Elder Abuse, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Prevention, Identification, and Treatment of Elder Abuse Act of 1980".

NATIONAL CENTER ON ADULT ABUSE

SEC. 2. (a) The Secretary of Health and Human Services (hereinafter referred to in this Act as "Secretary") shall establish an office to be known as the National Center on Elder Abuse (hereinafter referred to in this Act as the "Center").

(b) The Secretary, through the Center, shall—

(1) compile, publish, and disseminate a summary annually of recently conducted research on elder abuse, neglect, and exploitation;

(2) develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

(3) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

(4) provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the special problems of elder abuse, neglect, and exploitation;

(5) conduct research into the causes of elder abuse, neglect, and exploitation, and into the prevention, identification, and treatment thereof; and

(6) make a complete study and investigation of the national incidence of elder abuse, neglect, and exploitation, including a determination of the extent to which incidents of elder abuse, neglect, and exploitation are increasing in number or severity.

The Secretary shall establish research priorities for making grants or contracts under paragraph (5) of this subsection and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.

(c) The Secretary may carry out functions under subsection (b) of this section either directly or by way of grant or contract. The Secretary shall promulgate regulations setting forth criteria for programs receiving funding under this subsection, and shall review programs funded under this subsection to determine whether such programs comply with such criteria. The Secretary shall, within 30 days after any determination by the Secretary that a program fails to comply with such criteria, terminate funding for such program.

(d) The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or the willful deprivation by a caretaker of goods or services which are necessary to avoid physical harm, mental anguish, or mental illness;

(2) the term "elder" means any person who has attained the age of 60 years;

(3) the term "caretaker" means an individual who has the responsibility for the care of an elder either voluntarily, by contract, receipt of payment for care as a result of family relationship, or by order of a court of competent jurisdiction;

(4) the term "exploitation" means an illegal or improper act or process of a caretaker, using the resources of an elder for monetary or personal benefit, profit, or gain;

(5) the term "neglect" means the failure to provide for oneself the goods or services which are necessary to avoid physical harm, mental anguish or mental illness or the failure of a caretaker to provide such goods or services; and

(6) the term "physical harm" means bodily pain, injury, impairment, or disease.

DEMONSTRATION PROGRAMS AND PROJECTS

SEC. 4. (a) The Secretary, through the Center, is authorized to make grants to, and enter into contracts with, public agencies or nonprofit organizations (or combinations thereof) for demonstration programs and projects designed to prevent, identify, and treat elder abuse, neglect, and exploitation. Grants or contracts under this subsection may be—

(1) for the development and establishment of training programs for professional and paraprofessional personnel, in the fields of health, law, gerontology, social work, and other relevant fields, who are engaged in, or intend to work in, the field of prevention, identification, and treatment of elder abuse, neglect, and exploitation;

(2) for the establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the special problems of elder abuse, neglect, and exploitation cases, to provide a broad range of services related to elder abuse, neglect, and exploitation, including direct support and supervision of sheltered housing programs, as well as providing advice and consultation to individuals, agencies, and organizations which request such services; and

(3) for furnishing services of teams of professional and paraprofessional personnel who are trained in the special problems of elder abuse, neglect, and exploitation cases, on a consulting basis, to small communities where such services are not available.

(b)(1) The Secretary, through the Center, is authorized to make grants to the States for the purpose of assisting the States in developing, strengthening, and carrying out elder abuse, neglect, and exploitation prevention and treatment programs.

(2) In order for a State to qualify for assistance under this subsection, such State shall—

(A) have in effect a State elder abuse, neglect, and exploitation law which shall include provisions for immunity for persons reporting instances of elder abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

(B) provide for the mandatory reporting of known and suspected instances of elder abuse, neglect, and exploitation;

(C) provide that upon receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse, neglect, or exploitation, steps shall be taken to protect the health and welfare of the abused, neglected, or exploited elder;

(D) demonstrate that there are in effect throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation, such administrative procedures, such personnel trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and services as may be necesssary or appropriate to assure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;

(E) provide for methods to preserve the confidentiality of records in order to protect the rights of the elder;

(F) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of elder abuse, neglect, and exploitation;

(G) provide that the elder participate in decisions regarding his or her own welfare, and provide that the least restrictive alternatives are available to the elder who is abused, neglected, or exploited;

(H) provide that the aggregate of support for programs or projects, related to elder abuse, neglect, and exploitation, assisted by State funds shall not be reduced below the level provided during the twelve months preceding the date of the enactment of this Act, and set forth policies and procedures designed to assure that Federal funds made available under this Act for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects; and

(I) provide for dissemination of information to the general public with respect to the problems of elder abuse, neglect, and exploitation, and the facilities and with respect to prevention and treatment methods available to combat instances of elder abuse, neglect, and exploitation.

(c) Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

(d) The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

AUTHORIZATION

SEC. 5. There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.●

U.S. MERGER WITH THE SOVIET UNION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. McDONALD. Mr. Speaker—

Between 1933 and 1953 a change took place in the United States which was so drastic it could be accurately described as a "revolution." It was during these critical years that the nation's worst depression occurred and the American people became involved in a catastrophic world war. Shortly afterwards they found themselves in a no-win "undeclared war" in Korea. As crisis piled upon crisis significant changes took place in the structure of American life. One of the more obvious changes was the rapid shifting of ultimate responsibility for the economic welfare of the people from the private sector to the Executive Branch of the Federal Government.

Rather amazingly, this revolutionary transfer of power was achieved without violence and in a propaganda climate which led the majority of the American people to give it their full consent.

By the early 1950's, however, there were many people both in and out of government who felt that something was seriously wrong. It was charged that the resources of America's vast educational system had been misappropriated to teach concepts which were destructive to the entire fabric of the American constitutional system. It was also felt the schools were being utilized to promote the acceptance of economic ideas which are diametrically opposed to the open society of the American free enterprise system.

The question automatically arose, "Who is responsible for all of this?" A preliminary inquiry indicated that the main thrust was coming from several private foundations which had spent hundreds of millions of dollars in tax-exempt funds to promote textbooks and teachings which were "socialistic" in domestic affairs and "one-world" in foreign affairs. The three principal offenders were said to be the Carnegie Endowment for International Peace, the Rockefeller Foundation and the Ford Foundation.

So much public indignation had been generated by 1952, that the 82nd Congress passed House Resolution 561 to set up a special "Select Committee to Investigate Foundations and Comparable Organizations." Many considered this to be one of the most important investigations in the nation's history. The Committee was instructed to determine whether or not any of the foundations had been using their resources for un-American and subversive activities or for purposes not in the interest of the tradition of the United States. (House Report No. 2514, January 1, 1953. p. 2.)

This Committee was named after its chairman and became known as the "Cox Committee," but unfortunately it did not accomplish a great deal. The time factor was rather limited and the unexpected death of the chairman resulted in a very superficial inquiry being conducted. Nevertheless, it did establish that there were signs of strong subversive influence on the decision making level of several leading foundations. However, the impact of this discovery was virtually nullified in the Committee's final report by giving considerable weight to the testimony of the foundation officers who had insisted that the subversive elements on their boards were not of any particular significance. Congressman B. Carroll Reece was a member of the Cox Committee and was not at all satisfied with the final report. He added an appendage which urged that if a more comprehensive study is desired, the inquiry might be continued by the 83rd Congress. (Ibid., p. 14.)

Congressman Reece felt that the hasty and superficial inquiry of the Cox Committee left the nation without the answers it needed. He therefore introduced House Resolution 217, which was passed by a vote of 209 to 183 on July 27, 1953. The resolution provided that:

"The Committee is authorized and directed to conduct a full and complete investigation . . . to determine which of such foundations and organizations are using their resources for un-American and subversive activities, for political purposes; propaganda, or attempts to influence legislation." (House Report No. 2681, December 16, 1954, p. 1.)

Between September 15, 1953 and April 29, 1954 the Reece Committee operated, in essence, under the direction of its Research Director Norman Dodd. (Freeman Digest, June 1978.)

The foregoing is a synopsis of events which led to what is now recognized as a major revelation regarding 20th century American history by Norman Dodd. In an interview with Michael Chadwick, editor of the Freeman Digest, Mr. Dodd again recounted what occurred when he was invited in November 1953, to visit Roman Gaither, president of the Ford Foundation, at Mr. Gaither's New York office. Mr. Gaither opened the discussion upon their meeting:

> "Mr. Dodd, we invited you to come because we thought that perhaps, off the record, you would be kind enough to tell us why the Congress is interested in the operations of foundations such as ourselves." Before I could think of how best to reply, he volunteered this: "Mr. Dodd, we operate here under directives . . . which emanate from the White House. Would you like to know what the substance of their directives is."
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> My answer was. "Yes, Mr. Gaither, I would like very much to know."
>
> Whereupon he said: "The substance of the directives under which we operate is that we shall use our grant-making power to alter life in the United States so that we can be comfortably merged with the Soviet Union." Needless to say, I nearly fell off the chair. . . .
>
> I said. "Mr. Gaither, legally you are entitled to use your grant-making power for this purpose but I do not think you are entitled to withhold this information from the American people to whom you are beholden for your tax exemption. So why do you not tell the American people what you have just told me?"
>
> His answer was: "Mr. Dodd, we would not think of doing that." (Freemen Digest, June 1978.)

For many years since the investigation by Norman Dodd, this disclosure by Roman Gaither remained one of the few pieces of evidence documenting the true nature of American foreign and domestic policy though largely unknown by the American people. Though we continued to elect officials who declared their sole allegiance to the Constitution of the United States and this Nation's sovereignty, the American public continued to be baffled and outraged by decisions from their leaders which seemed wholly inconsistent with the Nation's best interest. If our officials truly believed in a solid monetary system, free enterprise, and a strong and sophisticated economic superstructure necessary for the survival of America in the 20th century, why did they pursue policies which have plunged us headlong into national bankruptcy. If an unequivocal military victory was the only outcome we as a Nation would ever accept in an exchange of hostilities between aggressive foreign powers and ourselves, why have we pursued a course of unilateral surrender and the loss of credible deterrence? Could it be that the true intension was and is to force the American people into dependence on international lending institutions in the area of monetary policy, a sort of international Federal reserve, as a solution to our financial "mismanagement," compromising our economic independence and, militarily, to so weaken the country that its people could not resist the final compromise of their liberty and sovereignty upon being merged into this new "community of nations." The answer in 1980 is most apparent to the careful observer, particularly of trilateral affairs. Mr. Gaither seems to have given the true underlying reason for the decisions actually arrived at and not the pedants of our Government who have been trying to explain the true reason for such disturbing policies.

The scant evidence of Mr. Dodd in fact no longer stands alone as the sole accuser of our Nation's direction. The fact is in the late 1960's and early 1970's the policy described by Mr. Gaither became a well-published fact. Dr. Zbigniew Brzezinski, presently Assistant to the President for National Security Affairs and past president of the Trilateral Commission, states in his book, "Between Two Ages—Americas Role in the Technetronic Era:"

> A community of the developed nations must eventually be formed if the world is to respond effectively to the increasingly serious crisis that in different ways now threatens both the advanced world and the Third World. Persistent divisions among the developed states, particularly those based on outmoded ideological concepts, will negate the efforts of individual states to aid the Third World; in the more advanced world they could even contribute to a resurgence of nationalism.
>
> Accordingly, an effort must be made to forge a community of developed nations that would embrace the Atlantic states, the more advanced European communist states, and Japan . . . Movement toward such a community will, in all probability, require two broad and overlapping phases. The first of these would involve the forging of community links amoung the United States, Western Europe, and Japan . . . The second phases would include the extension of these links to the communist countries.

Dr. Brzezinski is of course describing the essence of trilateralism where not only is a balance of power established with the Soviet Union, but a concert of power in which the U.S.S.R. could share. The foregoing was a conclusion drawn by Jeremiah Novak in a special to the Christian Science Monitor, April 17, 1980, entitled "The Trilateral Controversy." In an opposing viewpoint to Mr. Novak's article written by Charles B. Heck, North American secretary of the Trilateral Commission, published that same day in the Monitor, Mr. Heck chose not to refute in any manner the conclusion by Mr. Novak.

Roman Gaither's frequently summarized statement "so to change the political, economic, and social structure of the United States in order to gain a comfortable merger with the U.S.S.R." was just given a 1970 facelift by Dr. Brzezinski.

Henry Owen, former director of foreign policy studies program at Brookings Institution and currently Special Representative of the President for Economic Summits and U.S. Ambassador at Large, also gives us clear indication that this is the ultimate and even praiseworthy direction of our Federal Government. In a book he edited for the Brookings Institution in 1973 entitled, "The Next Phase in Foreign Policy," one of the specific courses of action suggested in the conclusion is as follows:

> "The United States should persist in the effort to find and act on interests that it shares with the Soviet Union and China. Success will hinge on our ability to keep at it over a long period of time, despite the natural tendency to vacillate between extremes of hostility and euphoria. Progress in building a working community of developed nations, in which the USSR could eventually play some role, may hasten success in this effort if we do not allow ups and downs in East-West relations to divert attention from this central task."

The existence of this policy, therefore, is simply a matter of record now. It appears the directives of the White House may not have changed at all since Mr. Gaither's startling admission in 1953.

Even though the record on this matter now appears clear it does occur to me that it still is not a fact generally known by the average American; or if and when it is disclosed, it is not done in such a manner as to clearly identify the consequences or the relationship of such a policy to the last 30 or 40 years of American history. The time has long passed when our leadership both in and out of government should cease their deceptive posturing and more openly identify their positions to the public for their debate and approval or rejection. It also occurs to me that when this is finally accomplished and understood by the average citizen on the street the only word they will be able to use to describe the actions of their leaders is betrayal. Free men historically have not taken lightly the loss or betrayal of their liberty and there is nothing which leads me to believe people will react differently to such actions in the 8th decade of the 20th century.●

TRIBUTE TO LAMAR GUDGER

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. O'NEILL. Mr. Speaker, I welcome the opportunity to join my colleagues in paying tribute to LAMAR GUDGER on the occasion of his departure from the Congress.

LAMAR GUDGER has served the 11th District of North Carolina with distinction and great devotion to duty. Before he came to the House he had built a reputation as a responsible and determined State legislator and a foremost district attorney.

During his brief tenure in the House of Representatives LAMAR GUDGER as a member of the Select Committee on Aging, has been an active and vocal advocate of the needs of elderly. He has served with special experitise on the Judiciary Committee, an assignment where the House and the Nation have benefited from his keen legal mind. In his two terms in the House, LAMAR GUDGER has helped immeasurably the 11th District of North Carolina, where more than 20 percent of the land is federally owned, by his important service on the Interior Committee.

LAMAR GUDGER will always be remembered by his colleagues for his conscientiousness, diligence, and for always placing the interests of his district and his beloved State of North Carolina first.

I wish LAMAR every success in all his future endeavors, and sincere best wishes to him and his charming wife, Genie.●

TRIBUTE TO HON. AL ULLMAN

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. GIAIMO. Mr. Speaker, I am honored to join my colleagues in paying tribute to AL ULLMAN, an outstanding legislator, and a great American who will be leaving after 24 years in the House of Representatives.

Having worked with AL for 22 of those years, I can say without qualification that he has served tirelessly and effectively for the people of the Second Congressional District in Oregon and for all of the people of this great country. I have an additional reason for honoring AL ULLMAN since he foresaw the pressing need for controlling the Federal budget. As cochairman of the Joint Study Committee on the Budget in 1973 and as the first chairman of the House Committee on the Budget in 1974, he became a modern-day fiscal pioneer. His tenure as chairman of the House Committee on the Budget was short lived because he was elected chairman of the important House Ways and Means Committee in 1975. Both positions carry an awesome responsibility which, however, AL carried out with rare ability and with a keen insight.

Congressman AL ULLMAN has devoted 24 years in the public service to his constituents and to the United States. Those years stand as a permanent monument of which we are all proud. I want to join all his colleagues in extending my best wishes as he leaves an institution he served so well.●

ANDREW MAGUIRE

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am honored to join my colleagues in a tribute to the distinguished gentleman from New Jersey, ANDY MAGUIRE. In the three terms that ANDY has served here, he has been a true leader of congressional reform. He has been an outspoken member of the Subcommittee on Energy and Power of the Interstate and Foreign Commerce Committee. He worked hard for the Clean Air Act of 1977. In addition ANDY has been a key member of the Government Operations Committee where I have had the pleasure of serving with him. I know he has been of great importance to the Subcommittee on Environment, Energy, and Natural Resources. He will certainly be remembered as the cofounder of the Ad Hoc Monitoring Group on Southern Africa, an area in which he is very familiar.

This great House has been a better place for his being here. The 97th Congress will miss his service and leadership.

ANDY, good luck in your future endeavors.●

TRIBUTE TO RICHARD ICHORD

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. FOUNTAIN. Mr. Speaker, I would like to join in the tribute to my long-time friend and colleague, RICHARD ICHORD of Missouri. Throughout his 20 years of distinguished service, DICK has ably represented his district and this Nation.

DICK has been a conscientious and objective Member of this body. He was an excellent chairman of the Internal Security Committee, and his eloquent voice on the House Armed Services Committee will be sorely missed.

DICK ICHORD has long been an advocate of a strong American defense posture, and DICK'S position has always encompassed the prudent use of our defense funds in the most effective manner. He has long known that the most effective way to deal with adversaries is from a position of strength, not weakness.

My friend DICK ICHORD is a great American and a fine gentleman, and I am proud to have served with him. He has been a leader in the continuing fight against Communist aggression, and I am saddened at his decision to retire from this Chamber.

The country still needs the strong voice and steady hand of DICK ICHORD, and I know he will continue to give this Nation the benefit of his wise counsel and guidance.●

CONGRESSMAN TOM STEED

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BENNETT. Mr. Speaker, all of us in Congress are going to miss Congressman STEED of Oklahoma, more than words can express. He has been a truly outstanding American patriot and has saved the United States Government millons of dollars and has produced excellent legislation which will be on the books for years to come as a tribute to his progressive and dedicated public service. All of us wish him and his wonderful wife every happiness in their retirement.●

TRIBUTE TO MORGAN MURPHY

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. O'NEILL. Mr. Speaker, I would be remiss if I did not take this opportunity to honor one of the outstanding Members of the House and one of my closest friends and colleagues, MORGAN MURPHY, on the occasion of his departure at the end of the 96th Congress.

MORGAN MURPHY came to the House of Representatives a decade ago as a Member of the 92d Congress. No Member who has served in the House of Representatives over the last 10 years has manifested greater integrity, commitment, and principle. MORGAN MURPHY has been one of the most decent and honorable human beings I have known, and it has been a great privilege to have served with such an esteemed colleague.

A fine legal background helped to prepare MORGAN for his legislative tasks on the Rules Committee, often dubbed the Speaker's Committee. Not only did MORGAN gain an expertise on the rules and procedures of the House with this appointment, but in addition, he used his fine analytical intellect and his consummate political acumen to become an articulate and persuasive floor spokesman who steered through the House some of the most controversial rules of the last decade. MORGAN MURPHY has never shirked his responsibility and obligation to his constituents or his party; he has never shied away from controversial or politically sensitive issues; and most importantly, he has never betrayed the public trust he had sworn to uphold as a Member of the House.

As Speaker, I have looked to MORGAN as one of my key lieutenants on the Rules Committee. There have been occasions when MORGAN had to oppose me as a matter of personal conviction; yet he never embarrassed me on procedural matters and always supported the granting of a rule to issues which were matters of Democratic Party policy. When he opposed a bill on principle, he waited and quietly cast his vote against final passage in a dignified manner.

Because of MORGAN's integrity and commitment to the principles and ideals upon which this Nation was founded, I appointed him to the Permanent Select Committee on Intelligence when it was established 3 years ago. Without his contribution to the deliberations and legislative draftings of that committee, a strong voice of reason to balance the needs of our intelligence agencies to protect our national security without violating the constitutional rights of American citizens would not have been heard.

The Nation's leading spokesman against drug abuse and narcotics trafficking, a consistent champion of the American worker and businessman against unfair foreign competition—I could go on and on to enumerate MORGAN's contributions, but no list could ever pay him the accolades he deserves. While biographies chronicle Members of Congress in terms of their legislative achievements, they are remembered by their colleagues for their personal attributes. Possessing a keen and insightful intellect and warmth and charm that naturally attracted his colleagues to him, MORGAN MURPHY was popular and widely respected on both sides of the aisle and an important part of the Democratic leadership.

From the bottom of a grateful heart, I thank MORGAN for his personal loyalty, political support, and superb guidance and counsel over the years. With MORGAN MURPHY's departure, I know I am losing a warm and close friend and a dear colleague.

You know, MORGAN, my door is always open. My sincere best wishes in the years ahead, for I know that whatever you do, success has to follow you.●

TRIBUTE TO DR. TIM LEE CARTER

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. GIAIMO. Mr. Speaker, as the 96th session of Congress comes to a close, I would like to take this opportunity to pay tribute to Dr. TIM LEE CARTER on his retirement; but I do so with mixed emotions.

Although I wish him much success and happiness in his private life, I cannot help but feel saddened that the U.S. Congress will be losing such a valuable Member.

For 16 years, TIM LEE has tirelessly worked to secure a better way of life for not only his constituents in the Fifth District of Kentucky, but also for all Americans. Whatever task he undertook was done with enthusiasm and determination. His dedication was an example for all of us who worked with him.

He came to the House in 1965 as a noted physician, and this background provided him with an understanding of the health needs of the people. His contributions in this and other areas have been many. He proved himself to be an effective legislator, one that will certainly be missed when the 97th Congress convenes in January.

As he leaves this Chamber, I know TIM LEE will carry with him the assurance that he has served his people well. I wish him the very best.●

TRIBUTE TO WERNER FLEISCHER

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, there are not many people in this country who meet success and freedom the way Werner Fleischer did. Escaping from his home in Communist East Germany, he was determined to reach America, the land of opportunity, and start a new life for himself. He did just that, and now lives happily with his family in The Plains, Va. In addition, he is busily engaged in a succesful trade.

I submit the following article by Carol Tomlinson of the Fauquier Democrat, which examines this remarkable man's life in East Germany and the United States.

EAST GERMAN WERNER FLEISCHER FINDS FREEDOM IN THE PLAINS

"What you have before you is a man with an eighth grade education who was lucky enough to come to the greatest country in the world."

With these words spoken in clear English but with a distinct German accent, Werner Fleischer now an American citizen, but once an East German, began talking with students at Marshall Junior High on their annual Career Day.

He was there to tell them about his work as an independent businessman, about plumbing which is his work, about the need for excellence among those on the job market.

Mostly, however, he was standing before these students to tell a remarkable story of a young man who wanted more from life than his native land could offer and who found the country where his dreams could come true.

"I wasn't as lucky as you to be born in America," he told the students. Later he would warn them, "If we in America were to lose our democracy, then we would begin to miss the many benefits. Then we would know what once was ours."

LONG WAY FROM HOME

Werner Fleischer was a very young boy when World War II begin to draw Europe and America under its cloud. His father was a soldier who was captured by the Americans at the Normandy Invasion.

As a prisoner of war, he found himself in a prison camp in Arizona. There, he learned to read and write. His work was hauling trash in the camp, a job which resulted in his learning to drive, securing a driver's license and earning a small wage. With his earnings, he was free to buy candy or cigarettes in the prison store.

He spent the last two years of the war under these conditions a very long way from his wife and son and daughter who continued living in East Germany.

When young Werner was eight, his father returned home and told him, "The best years of my life were spent as a prisoner in America." Here he had had a taste of freedom and opportunity greater than he had ever known in his own country, in spite of the irony that he was a prisoner at the time.

At eight years old, Werner told his father that some day he would go to Amrica to live. The thought never left his mind from that day until he kept his pledge 12 years later.

LEFT JUST IN TIME

By the age of 20, Werner was fervent in his desire to leave the government which he found so oppressive. As with most of his fellow students, he had had no choice in what he would study in school. At an early age the students had a vocational direction set for them by the government.

"Only six of my class were allowed to go on to high school, only one of those to the university. There, they use their teachers only for the brightest. To go to the university, you must be a brain and have a father who is a member of the Communist Party," he said.

"I wanted to study English," he said. "They made me study Russian. I was to be an upholsterer. I didn't like it, but I was forced to stick with it. I learned to be a very good upholsterer."

At 20, he said good-bye to his family, travelled to East Berlin, and stood at the threshold of opportunity.

At the time, the border between East and West Berlin was patrolled by armed guards, but there was a free flow of traffic from one side of the city to the other by those with "legitimate business" which necessitated their crossing the border.

"I travelled light so I would not look suspicious," said Fleischer.

He walked across a street and from Communism to feedom. At the time, persons were leaving the East at the rate of 2,000 per day.

"Three months later, I woke up one day and read in the paper that they had built the Wall," he said.

Though he was still a long way from reaching his dream of an American life, he was much closer than he might have been. Had he waited three months longer to leave his home, his dreams would have been imprisoned forever behind the Iron Curtain.

DREAM CAME TRUE

The time between escape to the West and establishing a life in America was long and often baffling. At times, things appeared hopeless.

There was life in a refugee camp, a long search for an "affidavit" required before the granting of immigration papers, and finally a pilgrimage of jobs which carried Fleischer from New York City to the California coast and back to Virginia where he settled when he married Faye Moriarty of The Plains.

Shortly after that, he went into business for himself as a plumber.

"That's the second smartest thing I ever did," he quips with sparkling eyes. "The smartest was to come to America. This truly is the land of opportunity. All you need here is common sense, perseverence and patience. There is no such thing here as someone not having an opportunity."

Using himself as an example, he told students that he began his business with only $450. The first month he made $64, the second $120. By the third month he was making enough for his family to live on.

"You know you've found the right job," he counsels them, "when your job becomes your sport and you get paid for it anyway. If you get a job you don't like dump it. Don't worry about what people say. Find a job you're happy with."

However, he repeatedly warns, "There are no shortcuts. You have to put out. There's only honest work. That's the surest way to success."

EAST GERMANY

The students were full of questions about the life of Fleischer's family who still live in a Communist country—and about others who live there as well.

"No," he told them, "I will never go back because there was an amnesty granted to people who left before the Wall. I will never go back myself, though. I don't want in any way to do something which might appear to support a Communist regime."

He would like for his children to spend a summer with their aunt in East Germany when they are old enough. This he feels is important for them so they have a comparison for the good life that they have always known in America.

His parents visited him here not long ago. Here, they can talk freely. In letters, however, both sides are cautious about what is said. Letters are read by officials sometimes before the mail reaches its destination.

Because there are virtually no private telephones in the country, Fleischer used to call his mother once a year at her work. Though conversation was careful, it was an opportunity to hear each other's voices. Now that has been stopped by the government. All telephones are controlled. Few have access to them.

He told the students about East German schools where work is more intense, but where students have no academic choices to make and where no extracurricular activities exist.

"You can't talk freely in the halls. There might be someone behind that door to report you," he said.

"What about sports?" asked a seventh grade boy, recalling medals won by East Germans in the Olympics.

"They have sports, all right!" he nodded. "They are fanatics about sports. That's how they want the rest of the world to forget they have their people under lock and key. In sports, too, however, they work only with those young people who have talent. You don't choose to go into sports."

CONTRASTS WITH DEMOCRACY

For many of the students who have only known life under American democracy, the explanations of Fleischer's land of birth seemed strange, if not unfathomable. There are elections, but only one candidate on the ballot; and, at that, says Fleischer, someone watches you mark and fold your ballot.

"People who disobey disappear," he answers to one question.

When asked what he meant by "disappear," he responded, "No one knows. They just disappear. They are not heard from again."

Then, as if reading the thoughts of a youngster in this country who would know to go to the police for help if someone disappeared, he added, "Who would you complain to? The police? They did it!"

Would his countrymen leave as he did if they had the opportunity?

"If the Wall were lifted," he answers without hesitation, "people would hit the road at once."

Expanding on freedoms which exist here but which are unknown to citizens of a Communist country, he said. "It may say on paper there that there is a freedom of speech, but if you practiced it, you would disappear."

Then he asks his audience,

"Do you know what guarantee is most important to insure we keep our democracy?"

With little pause, he answers his own question. "It is the right of the people to bear arms. I am not a hunter. I do not own guns, but I can tell you that if the people in East Germany and Czechoslovakia and Poland had fire power, they would have ditched the Communists long ago."

"I am not for them," he concludes, "but the fact that we have the Communist Party here in America shows we are a true democracy."

"When I first came to this country," says former East German and now American citizen Werner Fleischer of The Plains, "I learned fast that even the wealthy people were not snobs. Here, if you go to a large farm, the man in blue jeans will be either the stableman or the owner. That is not so in East Germany. There, the owner would be in a white shirt and a tie. I appreciate these simple things. You see I was not born with them."

Fleischer, who became an American citizen seven years after arriving in this country, lives with his wife and daughters Heidi, Sonja and Monica in The Plains.●

TRIBUTE TO CHAIRMAN RAY ROBERTS

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues in paying tribute to a distinguished public servant, the Honorable RAY ROBERTS, on the occasion of his retirement at the end of the 96th Congress.

For nearly two decades RAY ROBERTS has served the Fourth District of Texas with dedication, a sense of purpose, and competence. He always placed as priority the interests of his district and beloved State of Texas.

In his capacity as chairman of the Veterans' Affairs Committee, he has been the consistent champion of the interests and the concerns of Americans who have fought in foreign wars to protect our cherished freedoms.

We can all be thankful for the long and dedicated service RAY ROBERTS gave this Nation. I extend best wishes to him for health and happiness in the years ahead.●

TRIBUTE TO JOHN BRADEMAS

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. GIAIMO. Mr. Speaker, the ranks of the class of 1958 grow thin. Many of us who began our service in Congress in 1959 will be leaving the House at the end of the year. I doubt that anyone will be missed more than JOHN BRADEMAS of Indiana.

JOHN and I began our careers at the same time and on the same committee—Education and Labor. Those were interesting times, but even then I saw in JOHN the commitment and intelligence that set him apart from his peers. I came to respect him as a person and to value him as a friend.

In 1963, I moved to the Appropriations Committee, but JOHN remained on Education and Labor and continued his pursuit of legislation to assist education and the arts, an interest that I share with him from those early years. In addition, he helped formulate other landmark legislation, such as the Rehabilitation Act of 1973. His achievements are legion and his efforts will be remembered by all of those who have been assisted by the bills on which he worked.

In my years as Democratic zone whip, I worked closely with JOHN. He threw himself into that job with the same verve that he used in tackling difficult legislation.

JOHN BRADEMAS did everything well in the House. His absence next year will lessen this body, but I know that he will succeed in whatever endeavor he chooses to undertake.

I wish him the very best.●

TRIBUTE TO JOHN BRADEMAS

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. FOUNTAIN. Mr. Speaker, I would like to join in tribute to my friend and colleague, Majority Whip JOHN BRADEMAS of Indiana. It is indeed unfortunate that the 97th Congress will be convened without JOHN's presence.

For the past 22 years, JOHN has been an extremely effective and active leader here in the House of Representatives. Replacing JOHN BRADEMAS will be difficult—both as a Member of the House and as majority whip, as I'm sure we would all agree.

JOHN has been a distinguished Member of the House, and I am proud to have served with him and to feel that he has been, and still is my friend. He has done a superb job as majority whip, and we have all come to rely on his dedicated service. One of his great qualities was the ability to disagree without being disagreeable. He always reflected credit upon himself and the people he represented, and of course upon the House of Representatives.

Although he is leaving the House, I know that JOHN will continue to serve his State and Nation with great ability. I want to wish him every success wherever he goes and in whatever he undertakes.●

TRIBUTE TO LESTER WOLFF

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. O'NEILL. Mr. Speaker, it is with sadness that I join my colleagues in saying farewell to LESTER WOLFF on his departure from the Congress.

LESTER has been one of the hardest working Members ever to represent the Sixth District of New York in the House of Representatives. In the noblest and finest type of representation, LESTER WOLFF has preformed each legislative and constituent task in an excellent and qualitative fashion. In his capacity as chairman of the Select Committee on Narcotics, LESTER has had a direct and dramatic voice in America's policy toward controlling the international drug traffic and specifically, reducing the influx of illegal drugs to this country. He is recognized nationally and internationally as an expert in the field of drug traffic and control. In addition, as a ranking member of the Foreign Affairs Committee, LESTER played a significant role in the process of normalization of relations with the People's Republic of China.

Among the colleagues in the House, LESTER will always be remembered for his affability, warmth, and ever willingness to assist a fellow colleague with a personal or political problem. LESTER has been popular with colleagues on both sides of the aisle and has been viewed as a friend of the employees of the House as well.

It is with great sadness and deep gratitude that we say farewell to LESTER WOLFF. LESTER loved his State, his country, and he loved the House of Representatives. I am deeply grateful for his support and guidance over the years. Thank you, LESTER WOLFF, for years of service marked by distinction, dedication, and competence. Best wishes for health, happiness, and continued success in the years ahead.●

TRIBUTE TO MENDEL DAVIS

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. GIAIMO. Mr. Speaker, I am pleased to take this opportunity to pay tribute to one of the finest, hardest working Members of Congress, MENDEL DAVIS of South Carolina.

MENDEL DAVIS came to Washington in 1960 to work as an office aide and doorman on the floor of the House of Representatives, thereby beginning a productive and successful career in government. MENDEL has earned a reputation for strong dedication to his district along with an unwavering patriotism. Even amid strong opposition, he has stood firm in his beliefs and ideals. His involvement on the Armed Services Committee and the Committee on House Administration has served his district and this country well.

Although I respect his decision to retire, his presence in the House of Representatives will be missed by his colleagues and by this country. I feel privileged to have had the opportunity to serve alongside MENDEL, and I wish him and his family all the best in the future.●

TRIBUTE TO GUNN McKAY

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. FOUNTAIN. Mr. Speaker, I wish to join in the tribute to my good friend and colleague, GUNN McKAY of Utah. It saddens me to think of beginning the 97th Congress without his strong voice and spirit.

GUNN McKAY has served his district and this Nation with great distinction and great dedication, especially in his assignment on the Appropriations Committee and as chairman of the Subcommittee on Military Construction. GUNN has worked diligently to serve the needs of his State and area of the country, and his judiciousness is an excellent example for all of us to follow.

I feel privileged to have served with GUNN McKAY and to be able to call him my friend. I wish him only the best in the years to come, and I know he will continue to work hard for his State and his country.●

WALNUT CREEK'S CITY MANAGER: ONE OF THE BEST

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. MILLER of California. Mr. Speaker, as we enter into the tight budget era of the 1980's, it is crucial that our cities, States, and our Nation are as well-managed as possible. The standard for Government should be the efficiency of the private sector. I am pleased today to honor the city manager of Walnut Creek, Calif., Tom Dunne, who has exemplified this high standard of his profession. His colleagues have recognized his ability by recently electing him president of the International City Managers Association, a worldwide management organization. I wish to congratulate Mr. Dunne on this honor, and believe that this article from the Contra Costa Times deserves the attention of all those interested in improving the efficiency and management of government:

WALNUT CREEK'S CITY MANAGER TOM DUNNE: IT'S NOT BUSINESS AS USUAL IN THE CITIES OF AMERICA

(By Kim Favors)

WALNUT CREEK.—Tom Dunne leans back in his tangerine-colored recliner, readjusts his wire-frame glasses and stokes up a pipe.

He gazes toward the ceiling momentarily then swings around toward City Councilwoman Peg Kovar.

"So what I hear you saying . . ." and 30 seconds later the city manager has capsulized Kovar's 15 minutes of suggestions into a simple step-by-step action plan.

Tom Dunne could probably run Walnut Creek. He did run Salinas in the Sixties under a weak city council that sought direction.

But public leadership is not the preferred approach of the 56-year-old ex-design engineer for General Motors.

"I'm not comfortable in that kind of situation," says Dunne, whose natty dress and reflective style sometimes evokes images of the sage Benjamin Franklin.

Instead, Dunne—as he perceives his job—leaves the decisionmaking to the five members of the City Council and earns his annual $50,000 carrying out their direction.

He describes the working relationship succinctly: "They make the policy—I carry it out."

But Dunne's modest and sometimes self-effacing description of his role in Walnut Creek's municipal machination belies the power and influence he wields, not only among city officials, but nationally.

And he's not shy about his views which helped propel him to the presidency this year of the prestigious International City Management Association, whose 7,000 members represent municipalities across the continent and overseas.

"With new fiscal restraints now upon us and those yet to come, (public) services are in jeopardy if we cling to the old concept of business as usual," he told association members during his acceptance address last month in New York City.

"We must continue to open our minds to new ideas of more creative and effective management. The need for creative and positive thinking managers will continue to expand. . . ."

The survival of cities, says Dunne, also depends on a continuing push for administrative excellence and more citizen involvement.

"The diminishing concern for excellence in all areas of society has eroded our quality of life and the fabric of the communities we serve . . . the pursuit of excellence must be our goal."

The most successful local governments in the years ahead "will be those which offer quality service matched to society's changing demands" which should be identified through "new techniques which will better assure broadened public input to the public decision-making process."

Dunne's career in public administration began in 1946 with a civil engineer draftsman's job for the city of Salinas following a brief and dissatisfying post-war stint as an automotive engineer in Detroit where his father was manager of the Cadillac division of General Motors.

During the first 11 years in Salinas administration, Dunne rose through the ranks.

"Every time they (Salinas) had an opening I went to the boss and told him I could do it . . . I went to night school and studied weekends," Dunne recalls.

"I had no professional academic preparation for the field and it used to bother me, but I didn't let it limit my opportunities."

Then, in 1957 and at the age of 32, Salinas hired Dunne as its city manager.

The next 15 years he learned firsthand the political pitfalls and triumphs of being the top administrator in a city whose councils demand direction.

In 1972, Dunne was hired by Walnut Creek, and brought with him many of the ideals born and nourished during his years in Salinas.

"I'm a firm believer in the affairs of the city being directed by elected officials . . . such as a board of directors might decide policy and procedures for a large corporation.

"The city manager, like a general manager, would operate the business on a day-to-day basis."

Dunne's approach—and more specifically some of his innovative suggestions—to approving municipal management practices have earned him the respect and admiration of his peers, city officials and employees.

"Walnut Creek changed and grew so rapidly in the 1960s there became a real problem in City Hall," says longtime resident and nine-year councilwoman Peg Kovar.

"They were still doing things the same way and just didn't quite know where they were going, everyone seemed off on their own. When Tom arrived, one of the first things he did was hire a full-time professional financial director then build up a staff of good people to work as a team," according to Kovar.

Through Dunne's initiation, Walnut Creek became possibly the first city in the nation to introduce a two-year budget, and one of the few to allow its city council, rather than administrative staff, to decide funding amounts for various programs.

"It was a very innovative thing," observes Councilman Jim Hazard, adding "The budget allows us to plan for a long enough period to look at the results, and to decide on programs and levels of service rather than pencils, bulldozers and yards of street paving."

Out of the 1980–82 budget, quietly adopted this spring after many public hearings, came a $1 million surplus, the first that size in the city's history.

"It's one of the hallmarks of Tom's administration," notes Hazard.

Bud Stewart, city manager of Concord, characterizes his Walnut Creek counterpart as "sort of a standout . . . he's an innovator who's willing to run the risks . . . a mover and shaker."

Pleasant Hill City Manager Jim Alkire calls Dunne "one of the best professionals in the country."

"His ideas have proven merit. Certainly Walnut Creek is one of the better run cities in the country."

Part of Dunne's success, say those who work with him, is his persistence for excellence from employees coupled with a willingness to listen and accept decisions he doesn't agree with.

"Of all the city managers I know, he has the greatest ability to face issues and resolve problems," says community development director Dave Finigan, who came to Walnut Creek one year after Dunne.

"He demands good performance and we try to meet his expectations. He's also very supportive, giving managers a lot of independence yet accountability."

Councilmembers Hazard and Kovar both describe Dunne as having a "toughness with flexibility."

"He's a decisive and aggressive manager but at the same time he's willing to accept and work with policy decisions . . . when he's had his day in court, so to speak, he accepts and carries out the will of the council," says Hazard.

Kovar agrees: "He will argue up until the vote, then if he doesn't agree, without complaint he will carry out any policy we set."

Both say Dunne works closely with council members outside their meetings.

"The council has a good working relationship with Tom," according to Hazard.

"He spends a lot of time talking individually with us . . . we consider him a close friend too," says Kovar.

Dunne takes such accolades modestly and says he may become a controversial "cutting edge of change."

"I'm not satisfied we can't do a better job—we will have to begin a process of questioning the role of government and what it does for the public."

Walnut Creek, Dunne believes, is the city that could initiate such changes.

"I think there's an attitude here . . . not so much by design but by the kind of people we have here, that makes for stronger public input through the process.

"Walnut Creek is ahead of other cities. And others will emulate the example of what's been established here.

"I couldn't ask for a better place to be to translate such ideals."●

TRIBUTE TO BENNETT STEWART

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues in paying tribute to an outstanding public servant, BENNETT STEWART, on the occasion of his retirement from Congress.

BENNETT STEWART has been an energetic, dedicated, and committed Member of the House of Representatives for the last 2 years. As a freshman, he had an exceptional record of legislative accomplishments in the area of fair housing laws, urban mass transportation, and CETA programs; these were important concerns to Chicago's First District, and so they were in the forefront of BENNETT STEWART's contribution to his constituents, the State of Illinois, and the Nation.

Though he has been with us only a short time, one term, BENNETT STEWART has distinguished himself in the House and has earned the respect and admiration of his colleagues for hard work and a compassionate commitment to the needs of his district.

It has been a great pleasure to have had BENNETT STEWART serving on the Democratic team in the House, and I wish him continued success in the years ahead.●

TRIBUTE TO HON. BILL BURLISON

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. GIAIMO. Mr. Speaker, for the past 12 years I have had the privilege to serve with BILL BURLISON of Missouri. It pains me to realize that this body no longer will be graced with his presence.

For the past 6 years, I have worked with BILL BURLISON on the Defense Appropriation Subcommittee. BILL always has been keenly interested in our defense needs, and those of us on the subcommittee have come to respect his views and his dedication to our national security.

In addition, BILL serves on the Select Intelligence Committee, an awesome responsibility that includes maintaining effective oversight over our intelligence operations. Having heard his comments on this matter during our consideration of the intelligence budget, I know that he has exercised his duties with diligence.

His leaving the Congress will create a void on the Defense Subcommittee and in the House that will be difficult to fill. Because of his efforts, however, this Nation is stronger and better prepared to face the challenges of the future.●

WARREN GRANT MAGNUSON CLINICAL CENTER

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. SWIFT. Mr. Speaker, WARREN G. MAGNUSON—a giant in the Senate; gentle, self-effacing, but a giant.

MAGGIE moved through the Congress for 44 years accomplishing more than most and doing it with less fanfare than many who accomplished so much less. He often distinguished between the "workhorses" and "show horses" in politics. He was, and wanted to be known as, a workhorse.

He approached that task with uncommon skill in the legislative process. And he approached it with another quality that is virtually unique in a city that is obsessed with the acquisition and use of power.

Senator MAGNUSON was one of the most powerful men in the Federal Government. What was unique is the gentleness with which he wielded it.

Someone once said that "MAGGIE can make you look better losing to him than most Senators can when you beat them."

I have wondered about that, wondered at the source of such restraint, at such a self-effacing and low-key style. I have concluded that Senator MAGNUSON is one of those rare men in political life who is so secure in himself, that he did not need to make himself look bigger by trying to cut others down to size. He was so without lust for higher political office that he had no need to dance in the spotlight. And being secure and satisfied with himself and his role, he could direct his energies to achieving public policies he felt were important to people—his constituents in Wahington State and his fellow citizens of America.

Before it was vogue, WARREN MAGNUSON was championing research into cancer. He quietly pushed legislation to make sure no community went for want of a doctor and to make sure that no parent had fear of his or her children dying from clothing which caught fire.

The quality is sorely needed in government and politics and it is so rare that when WARREN MAGNUSON returns to private life he will take an enormous percentage of the current supply with him. The decency, gentleness, and caring among the powerful in Washington, D.C., will have been measurably diminished by his leaving.

His unquestioned support of health care for all Americans makes it entirely fitting that we name the National Institutes of Health Clinic after this most amazing man—WARREN GRANT MAGNUSON.●

TRIBUTE TO DICK ICHORD

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. WHITEHURST. Mr. Speaker, the retirement of one's colleague is always a mixed blessing, and while I am happy that a Member can lay down his burden after extended service, I lament the departure of one who has priceless experience. DICK ICHORD assuredly falls into this category.

I have had the pleasure for the past 4 years of serving on the Research and Development Subcommittee of the House Armed Services Committee, of which DICK has been the chairman. No one has brought a greater degree of intelligence and industry to the leadership of that committee than he. Far from being simply an echo of the representatives of the Department of Defense, DICK has sounded the call for the wiser allocation of defense research resources and has done more than anyone else I know to call attention to the ominous Soviet chemical warfare weapons. Indeed, his leaving at this juncture fills me with a keen sensc of loss, because his voice needs to be heard now more than ever.

Mr. Speaker, I reach my hand across the aisle to bid farewell to one of the finest colleagues I have had the pleasure of serving with and wish him and his family a happy, healthy, and long retirement.●

TRIBUTE TO JAMES HANLEY

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. O'NEILL. Mr. Speaker, I would be greatly remiss if I did not join my colleagues in paying tribute to one of the finest Members of the House I have had the privilege to know, the Honorable JAMES HANLEY, on the occasion of his retirement from the Congress.

Unquestionably, JIM HANLEY has been one of the most dedicated, distinguished, and devoted Members to serve in the U.S. House of Representatives. We are all familiar with his prodigious legislative accomplishments during nearly two decades of purposeful service. First, as ranking Democrat on the Post Office and Civil Service Committee, and most recently as its chairman, JIM HANLEY has been the architect of the Postal Reform Act, the preservation of veterans preference in the Civil Service Reform Act, and played a pivotal role in the ultimate direction of the Civil Service Reform Act of the 96th Congress. In addition, JIM has served on the Banking, Finance and Urban Affairs Committee where he headed a banking committee task force to study the effects of the economic recession on the American automobile industry and cochaired the ad hoc committee which was established to study the fiscal crisis of New York City. In every legislative task before him, JIM HANLEY always gave his best, and that best was always more than enough.

JIM HANLEY has been the champion of the interests of the 32d District of New York as well as the entire State of New York and the Nation at large. I am deeply grateful to JIM for his personal loyalty, support, and guidance over the years. We worked together on critical democratic legislation, we traveled together overseas on congressional factfinding missions, we rejoiced at our political triumphs and cried together at mutual defeats. I want to take this opportunity to thank JIM from the bottom of a grateful heart for the privilege of his friendship and the fond memories of nearly two decades of cooperative efforts in the House of Representatives. Not only has JIM always been an invaluable member of the Democratic leadership's team, but he has always been willing to help any fellow colleague in need. In countless ways over the years, JIM HANLEY gave that extra special effort required on behalf of a constituent or colleague which really meant the difference between success and failure.

JIM, I will deeply miss your counsel and guidance, and especially your friendship in the 97th Congress. You know, my door is always open, and I wish you and your beautiful wife, Rita, all the happiness, health, and success in the years ahead.●

TRIBUTE TO HON. THOMAS L. ASHLEY

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. GIAIMO. Mr. Speaker, Thomas L. Ashley came to the House of Representatives in January 1955. He has served since then with wisdom, grace, good humor, hard work, and deep devotion.

Lud Ashley and I have served together on the Committee on the Budget for 6 years. He has pitched in and worked to make the budget process work. He has been my friend and counselor. When I was ill, he became acting chairman, serving with brilliance and dedication during a serious conference on a budget resolution.

Members will recall also that it was Lud Ashley who, as chairman of the Ad Hoc Energy Committee, led our House conferees during the prolonged deliberations on the massive energy legislation. More than anyone else in this body, he was our leader in this critical area, and the energy legislation that passed during this Congress is his legacy.

I shall also remember Lud as a dear personal friend. The House, the country, and the State of Ohio are the poorer for his departure from these halls. I wish him well in his new role as private citizen.●

TRIBUTE TO BOB CARR

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, I wish to express my profound sense of loss over the defeat of a fine young colleague, Bob Carr.

I had the privilege of working with Bob over the past few years on the Committee on Interior and Insular Affairs. I have always been impressed by his relentless commitment to the policies and legislation he believed in, coupled with constant and careful attention to the needs of his constituency.

Bob was a vigorous opponent of wasteful, misguided defense programs. He was one of the leaders in the fight against the B-1 bomber. Bob was a major figure in the successful effort in 1975 to prevent the United States from becoming involved in a ground war in Cambodia.

His energetic presence will be missed in the House, but I would not be surprised if we see him here again someday.●

TRIBUTE TO CONGRESSMAN GUNN McKAY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. MURTHA. Mr. Speaker, it has been a pleasure for me to serve on the Appropriations Committee with Congressman Gunn McKay.

I sat next to him on both the Military Construction and Interior Subcommittees, and have worked closely with him on such issues as synthetic fuels development, a multiple use approach to Federal land use, and efforts to get the Government directed more at energy development.

But whatever the issues, I have always found Gunn McKay to be patient, considerate, and understanding with people appearing before the subcommittees and extremely well versed and knowledgeable about the issues he was discussing.

I had the pleasure of visiting some of the area Gunn represented on an inspection tour of a military depot in his area. He has done an outstanding job representating his constituents.

Certainly, Gunn McKay will be missed from Congress because of his compassion, knowledge, and ability. And he will also be missed by so many of us who were privileged to be his friend. I surely wish him the best of luck.●

WARREN GRANT MAGNUSON CLINICAL CENTER

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BONKER. Mr. Speaker, I am happy to be able to join with my colleagues in saying a few words about Senator Warren Magnuson, and the tremendously valuable role he has played in insuring quality health care and research for all Americans.

The first bill that Warren Magnuson passed in Congress in the 1930's established the National Cancer Institute. That evidenced an early commitment to basic medical research, which has been so important in all fields of medicine.

Throughout the 1950's, as chairman of the Appropriations Subcommittee for Health, Education, and Welfare, Senator Magnuson fought hard to insure that NIH and other research institutes were funded at levels needed to get the work done.

In 1969, the Senator passed the National Health Service Corps Act—which sent doctors out into rural areas and inner-city neighborhoods where they were needed most.

And most importantly, in 1973, the Senator was awarded the Albert Lasker Public Service in Health Award. This is the Nobel Prize in the field of basic medical research, and it was a fitting recognition of a career devoted to better health care and pushing the frontiers of biomedical research.

It is only right that this clinic at NIH, which has, over the years, benefited to such a great degree from the Senator's dedication, should be named after him today.

As I said, I am happy to join with my colleagues in honoring Senator Magnuson today.●

WARREN GRANT MAGNUSON CLINICAL CENTER

HON. JAMIE L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. WHITTEN. Mr. Speaker, I join with my colleagues in paying tribute to "Mr. Health," Senator Warren Magnuson of Washington State. It is with great personal regret, when I see that the Appropriations Committee of the Senate, the Congress, and the American people are losing Maggie's service. Somehow it seems we frequently lose our best legislators and that certainly is the case when the Congress loses Warren Magnuson.

Maggie has served his Nation in Congress since 1937. He first served in the House of Representatives, and has served for the last 36 years in the Senate Chamber.

Needless to say, the State of Washington will particularly miss this giant of the Senate, for I have no doubt that the senior Senator from Washington has done more for his State than any other representative in its history.

I also am honored to join as a cosponsor in a resolution naming the clinical center of the National Institutes of Health after this great man. This is very appropriate in that Senator Magnuson has devoted a major portion of his life to the promotion of legislation to improve the health of the American people. He has acted with compassion, perseverance, and a basic understanding of the importance of medical research as a means of providing better health care.

Maggie has served on the Senate Appropriations Committee since 1953 and as chairman of the Subcommittee on Labor-Health and Human Services since 1955. He presently is chairman of the full Senate Appropriations Committee and has served in this capacity for the past 3 years.

Senator MAGNUSON's record as chairman of the Senate Appropriations Committee and particularly as chairman of the Subcommittee on Labor-Health and Human Services exemplifies his ability to deal with very difficult situations while at the same time respecting the concerns of his colleagues. It has been my privilege to work closely with MAGGIE on appropriations matters and through this close association, I was fortunate to enjoy his able assistance, patience, and valued advice.

MAGGIE will be sorely missed, not only in his capacity as a leader and respected colleague but as a dear friend and able counsel.

I know I join with all my colleagues in wishing MAGGIE all the best in whatever the future may hold.●

TRIBUTE TO JOE FISHER AND HERB HARRIS

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues in honoring two superb legislators of northern Virginia, HERB HARRIS and JOE FISHER.

For 6 years these men of legislative quality have served their committees, the State of Virginia, and the Nation with dedication and sense of purpose.

As a member of the Ways and Means Committee, JOE utilized his previous public service and trained economic expertise to champion progressive and responsible tax policy and became an effective spokesman for energy conservation.

HERB HARRIS has been an effective spokesman for Federal employees and home rule for the District of Columbia.

Both these members were competent and prodigious legislators. Well liked and respected by their colleagues, HERB HARRIS and JOE FISHER were conscientious, energetic, and always placed first the interests and concerns of their constituents.

In their departure from the Congress, northern Virginia and the Nation lose the service of two outstanding public servants.

My sincere best wishes for success in all their future endeavors.●

HOUSE OF REPRESENTATIVES—*Wednesday, December 10, 1980*

The House met at 3 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Say among the nations, "The Lord reigns! Yea, the world is established, it shall never be moved; He will judge the peoples with equity.—Psalms 96: 10.

O God, You have created the heavens for us to behold—the Sun of the day and stars of the night, and have provided the Earth with its harvest of food to nurture and sustain, encourage us to use the resources of land for the alleviation of hunger and the well-being of people everywhere. Remind us to be wise stewards of the gifts made available to us that we will use our bounty for all and so fulfill the law of love. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4522. An act for the relief of Annette Jutta Wohrle;

H.R. 5687. An act for the relief of Michael G. Macdonald;

H.R. 5788. An act for the relief of Jun Ae Hee; and

H.R. 8404. An act to designate the Federal Building-U.S. Courthouse in Sacramento, Calif., the "John E. Moss Federal Building-U.S. Courthouse."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1142) entitled "An act authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 1985. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1196. An act to revise and improve the laws relating to the documentation of vessels, and for other purposes;

H.R. 4645. An act to change the name of Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma, to Sardis Lake;

H.R. 7112. An act to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes;

H.R. 8195. An act to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases; and

H.R. 8345. An act to name the U.S. Customs House in Ogdensburg, N.Y., the "Robert C. McEwen U.S. Customs House."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3096. An act to amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wis.; and

S. 3259. An act to establish a uniform law on the subject of bankruptcies.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7112) entitled "An act to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes," requests a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. BRADLEY, Mr. MOYNIHAN, Mr. DOLE, Mr. DANFORTH, and Mr. DURENBERGER to be the conferees on the part of the Senate.

ANNOUNCEMENT OF INTENTION TO CALL UP H.R. 7112, REVENUE SHARING BILL

The SPEAKER. The Chair recognizes the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I would like to announce to the House that I hope to call up under suspension, pursuant to the rules, H.R. 7112, the revenue sharing bill passed by the House, passed by the Senate, and now pending on the Speaker's desk.

CONFERENCE REPORT ON S. 1097, NATIONAL TOURISM POLICY ACT

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 1097) to establish a national tourism policy, a Cabinet-level coordinating council and a nonprofit corporation as an implementing agency to carry out the national tourism policy:

CONFERENCE REPORT (H. REPT. No. 96-1532)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1097) to establish a national tourism policy a Cabinet level coordinating council and a nonprofit corporation as an implementing agency to carry out the national tourism policy, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "National Tourism Policy Act".

TITLE I—NATIONAL TOURISM POLICY

SEC. 101. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) the tourism and recreation industries are important to the United States, not only because of the numbers of people they serve and the vast human, financial, and physical resources they employ, but because of the great benefits tourism, recreation, and related activities confer on individuals and on society as a whole;

(2) the Federal Government for many years has encouraged tourism and recreation implicitly in its statutory commitments to the shorter workyear and to the national passenger transportation system, and explicitly in a number of legislative enactments to promote tourism, and support development of outdoor recreation, cultural attractions, and historic and natural heritage resources;

(3) as incomes and leisure time continue to increase, and as our economic and political systems develop more complex global relationships, tourism and recreation will become ever more important aspects of our daily lives and our growing leisure time; and

(4) the existing Federal Government involvement in tourism, recreation, and other related activities needs to be better coordinated to effectively respond to the national interests in tourism and recreation and, where appropriate, to meet the needs of State and local governments and the private sector.

(b) It is the purpose of this Act to establish a cooperative effort between the Federal Government and State and local governments and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, to implement a national tourism policy that will—

(1) optimize the contribution of the tourism and recreation industries to economic prosperity, full employment, and the international balance of payments of the Nation;

(2) make the opportunity for and benefits of tourism and recreation in the United States universally accessible to residents of the United States and foreign countries and to insure that present and future generations be afforded adequate tourism and recreation resources;

(3) contribute to personal growth, health, education, and intercultural appreciation of

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the geography, history and ethnicity of the United States;

(4) encourage the free and welcome entry of individuals traveling to the United States, in order to enhance international understanding and goodwill, consistent with immigration laws, the laws protecting the public health, and laws governing the importation of goods into the United States;

(5) eliminate unnecessary trade barriers to the United States tourism industry operating throughout the world;

(6) encourage competition in the tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry;

(7) promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel;

(8) promote quality, integrity, and reliability in all tourism and tourism-related services offered to visitors to the United States;

(9) preserve the historical and cultural foundations of the Nation as a living part of community life and development, and insure future generations an opportunity to appreciate and enjoy the rich heritage of the Nation;

(10) insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection, and the judicious use of natural resources;

(11) assist in the collection, analysis, and dissemination of data which accurately measure the economic and social impact of tourism to and in the United States, in order to facilitate planning in the public and private sector; and

(12) harmonize, to the maximum extent possible, all Federal activities in support of tourism and recreation with the needs of the general public and the States, territories, local governments, and private and public sectors of the tourist and recreation industry, and to give leadership to all concerned with tourism, recreation and national heritage preservation in the United States.

TITLE II—THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SEC. 201. PURPOSE.

It is the purpose of this title to establish an independent agency of the United States to be known as the "United States Travel and Tourism Administration".

SEC. 202. CONGRESSIONAL DECLARATION OF POLICY.

The Congress finds and declares—

(1) that it is in the national interest to encourage the orderly growth and development of tourism to and within the United States;

(2) that orderly growth and development of tourism depends on the efforts of the public and private sectors of that industry to assure that the objectives of the national tourism policy are implemented to the maximum extent consistent with other public policy objectives;

(3) that orderly growth and development of tourism, while matters for regional, State, local, and private development, are also of appropriate and important concern to the Federal Government;

(4) that it furthers the national interest to assure that the extensive Federal policy and programmatic involvement in tourism is responsive to the needs and interests of the public and private sectors of that industry;

(5) that in view of the importance of travel and tourism to the economy of the United States, and the pervasive Federal policy and programmatic involvement in tourism, it is necessary and appropriate for the Federal Government to complement, assist and support mechanisms that will most effectively assure implementation of the national tourism policy; and

(6) that an agency should be created to promote and facilitate the orderly growth and development of tourism and to assist in the implementation of the national tourism policy.

SEC. 203. ADMINISTRATION ESTABLISHED.

There is established an independent agency of the United States, to be known as the "United States Travel and Tourism Administration" (hereinafter in this title referred to as the "Administration").

SEC. 204. OFFICERS AND EMPLOYEES.

(a) The Administration shall be headed by an Administrator (hereinafter referred to as the "Administrator") who shall be nominated by the President not later than 75 days after the date of enactment of this Act and appointed by and with the advice and consent of the Senate. The Administrator shall serve at the pleasure of the President and shall be compensated at the rate now or hereafter prescribed for offices or positions at level II of the Executive Schedule.

(b) The President shall appoint a Deputy Administrator by and with the advice and consent of the Senate who shall be compensated at the rate now or hereafter prescribed for offices or positions at level III of the Executive Schedule. The Deputy Administrator shall perform such duties as the Administrator may prescribe. The Deputy Administrator shall act for and perform the functions of the Administrator during any absence or disability of the Administrator or during a vacancy in the office of the Administrator.

(c) The Administrator shall have power to appoint and fix the compensation of such personnel as he determines advisable, however, not more than five such appointments may be placed in grades GS–16, GS–17, and GS–18 of the General Schedule, to carry out the functions of the Administration. The authority with reference to appointments in grades GS–16, GS–17, and GS–18 of the General Schedule will be subject to the procedures prescribed under section 5108 of title 5 of the United States Code. Included among any personnel appointed by the Administrator may be no more than three persons who may be appointed, compensated, or removed without regard to the Civil Service laws and regulations. Under such regulations as the President of the United States may prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those otherwise authorized by law, including those authorized by section 5108 of title 5 of the United States Code.

(d) The Administrator, to such extent as the administrator determines necessary, may procure supplies, services, and personal property; make contracts; expend funds appropriated, donated, or received in pursuance of contracts hereunder in furtherance of the purposes of this Act; and exercise those powers that are necessary to enable the administrator to carry out efficiently and in the public interest the purposes of this Act.

SEC. 205. PURPOSES AND ACTIVITIES OF THE ADMINISTRATION.

(a) In order to achieve the objectives and to carry out the purposes of this Act the Administration is authorized to assist the Congress of the United States and all Federal agencies having policy and programmatic responsibilities affecting tourism.

(b) Not later than April 15, 1982, the Administrator shall develop and submit to the House Committee on Interstate and Foreign Commerce and Senate Committee on Commerce, Science and Transportation a comprehensive and detailed tourism development plan (including the estimated funding and personnel levels required to implement such plan and alternative means of funding) to obtain the objectives and carry out the purposes of this Act.

(c) The plan developed under subsection (b) shall include, among other things, provisions for—

(1) the establishment of branch offices in foreign countries and the facilitation of services at United States ports-of-entry;

(2) consultation with foreign countries on travel and tourism matters and, in accordance with applicable law, the representation of United States travel and tourism interests in international meetings, conferences, and expositions;

(3) participation as a party in interest in proceedings before Federal agencies when such initiation or intervention is necessary to implement or further the national tourism policy;

(4) monitoring the existing and proposed policies and programs significantly affecting tourism of all Federal agencies to ascertain whether, insofar as consistent with other public policy objectives, they are in furtherance of the objectives of the national tourism policy, and reporting the results of such monitoring activities to the Congress;

(5) monitoring the policies and programs significantly affecting tourism of all Federal agencies for the purpose of ascertaining instances of intraagency and interagency duplication or contradiction and reporting the results of its monitoring activities to the concerned agencies, and the Congress;

(6) developing and administering a comprehensive program relating to industry information, data service, training and education, and technical assistance;

(7) developing and administering a comprehensive program relating to consumer information, protection, and education;

(8) developing a program to seek and to receive information on a continuing basis from the tourism industry, including consumer and travel trade associations, regarding needs and interests which should be met by an agency or program, and directing that information to the appropriate agency; and

(9) encouraging to the maximum extent feasible travel to and from the United States on United States carriers.

SEC. 206. ADMINISTRATIVE POWERS AND PROVISIONS.

(a) In carrying out this title, the Administrator is authorized to—

(1) enter into such contracts, agreements, or other transactions as the Administrator determines appropriate, except that in entering into any contract, agreement, or transaction the Administrator shall rely on competitive bidding to the maximum extent practicable;

(2) accept in the name of the Administration and employ or dispose of in furtherance of the objectives of this Act any money, or property, real, personal, or mixed, tangible, received by gift, devise, bequest, or otherwise;

(3) obtain the services of experts and consultants without regard to section 3109 of title 5 of the United States Code except that no such expert or consultant may be compensated at rates which exceed the daily equivalents of rates now or hereafter pre-

scribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code;

(4) accept voluntary and uncompensated services of attorneys, consultants, and experts notwithstanding any other provision of law;

(5) appoint without compensation, such advisory committees as the Administrator deems appropriate;

(6) accept and use with their consent, with or without reimbursement, such personnel, services, equipment, and facilities of agencies of the Federal Government, State governments, or local political subdivisions thereof, as are necessary to conduct the activities of the Administration efficiently; and

(7) promulgate, issue, rescind, and amend such administrative regulations as may be necessary to carry out the purposes of this title.

(b) Upon request made by the Administrator, each Federal agency shall—

(1) make its services, personnel, and facilities available to the greatest practicable extent to assist the Administration in the performance of its functions; and

(2) furnish to the Administration, subject to the provisions of applicable law, such information, suggestions, estimates, and statistics as the Administration may request.

(c) The Administration may not provide or arrange for transportation or accommodations for persons traveling between other countries and the United States, or between points within the United States, in competition with businesses engaged in providing or arranging for such transportation or accommodations.

(d) The General Services Administration shall furnish the Administration with such offices, equipment, supplies, and services as it is authorized to furnish to any other agency or instrumentality of the United States.

SEC. 207. REPORTS.

(a) Whenever the Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for congressional hearings, comment on legislation or the report required by this title, to the President or to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Administration to submit its budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, comments on legislation, or reports required by this title, or comments on any action by a Federal agency affecting tourism to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, comments, or reports to the Congress or such Federal agency.

(b) The Administration shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress on or before the 31st day of December of each year. The report shall include a comprehensive and detailed report of the Administration's operations, activities, financial condition, and accomplishments and may include such recommendations as the Administration deems appropriate.

SEC. 218. FUNDING.

(a) Not later than 30 days after the date of enactment of this Act, the United States Travel Service shall make available to the Administration $1,000,000 to carry out its functions in the fiscal year ending September 30, 1981.

(b) Funds made available under subsection (a) shall remain available for obligation until expended.

SEC. 219. ADVISORY BOARD.

(a) There is established the Travel and Tourism Advisory Board (hereinafter in this section referred to as the "Board") to be composed of 17 members appointed by the Administrator. The members of the Board shall be appointed as follows:

(1) Not more than 9 members of the Board shall be appointed from the same political party.

(2) The members of the Board shall be appointed from among citizens of the United States who are not regular full-time employees of the United States and shall be selected for appointment so as to provide as nearly as practicable a broad representation of different geographical regions within the United States and of the diverse and varied segments of the tourism industry.

(3) Fourteen of the members shall be appointed from senior executive officers of organizations engaged in the travel and tourism industry. Of such members—

(A) at least one shall be a senior representative from a labor organization representing employees of the tourism industry; and

(B) at least one shall be a representative of the States who is knowledgeable of tourism promotion.

(4) Of the remaining three members of the Board—

(A) one member shall be a consumer advocate or ombudsman from the organized public interest community;

(B) one member shall be an economist, statistician, or accountant; and

(C) one member shall be an individual from the academic community who is knowledgeable in tourism, recreation, or national heritage conservation.

The Administrator shall serve as an ex officio member of the Board. The duration of the Board shall not be subject to section 14(a)(2) of the Federal Advisory Committee Act. A list of the members appointed to the Board shall be forwarded by the Administrator to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Interstate and Foreign Commerce.

(b) The members of the Board shall serve for three-year terms. Vacancies on the Board shall be filled in the same manner in which the original appointments were made. No members of the Board shall be eligible to serve in excess of two consecutive terms of three years each.

(c) The Chairman and Vice Chairman and other appropriate officers of the Board shall be elected by and from members of the Board other than the Administrator.

(d) The members of the Board shall receive no compensation for their services as such, but shall be allowed such necessary travel expenses and per diem as are authorized by section 5703 of title 5, United States Code. The Administrator shall pay the reasonable and necessary expenses incurred by the Board in connection with the coordination of Board activities, announcement and reporting of meetings, and preparation of such reports as are required by subsection (f).

(e) The Board shall meet at least quarterly and shall hold such other meetings at the call of the Chairman, the Administrator, or a majority of its members.

(f) It shall be the duty of the Board to make a continuing study of the programs and activities of the Administration Specifically, the Board shall review preliminary plans and final budget requests of the Administrator and submit its comments thereon to the President and the Congress. The Board shall prepare an annual report concerning the results of its studies of Administration activities and include therein such recommendations as it deems appropriate with respect to the performance of the Administration and the operation and effectiveness of its programs. Each annual report shall cover a fiscal year, shall be submitted on or before the 31st day of December following the close of the fiscal year, and shall be submitted to the committees referred to in subsection (a). The Board shall have the power to do those things that are necessary and proper to carry out the foregoing activities.

SEC. 220. TRANSFER OF FUNCTIONS.

(a) The Administration and the United States Travel Service (hereinafter referred to as the "Travel Service") shall complete such actions as are necessary to transfer to the Administration within 180 days after the date of enactment of this Act—

(1) the assets, funds, supplies, materials, equipment, and records of the Travel Service;

(2) the rights, privileges, powers, duties, and liabilities of the Travel Service in respect to any contract, agreement, loan, account, or other obligation; and

(3) any unexpended balances of funds appropriated or otherwise accruing to the Travel Service.

The transfer of rights, privileges, powers, duties, and liabilities of the Travel Service under paragraph (2) shall not limit or extend any period of limitation otherwise applicable to the contract, agreement, loan, account, or obligation involved.

(b) Upon completion of the transfer prescribed by subsection (a), the International Travel Act of 1961 (22 U.S.C. 2121 through 2127) and the Act of July 19, 1940 (relating to the encouragement of travel) (16 U.S.C. 18 through 18d) are repealed and the United States Travel Service is abolished.

TITLE III—AMENDMENTS TO THE INTERNATIONAL TRAVEL ACT

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

The first sentence of section 6 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended—

(1) by striking out "and" immediately before "(8)"; and

(2) by inserting immediately before the period at the end thereof the following: "; and (9) $8,600,000 for the fiscal year ending September 30, 1981, of which not more than—

"(A) $100,000 shall be available to carry out projects meeting the requirements of subsection (c)(1) of section 5A; and

"(B) $500,000 shall be available to carry out projects meeting the requirements of paragraph (2) of subsection (c) of section 5A.".

SEC. 302. FEDERAL ASSISTANCE FOR REGIONAL PROMOTION OF TOURISM.

(a) The International Travel Act of 1961 (22 U.S.C. 2121) is amended by inserting after section 5 the following new section:

"SEC. 5A. (a) The Secretary is authorized to provide financial assistance to a region of not less than two States or portions of two States to assist in the implementation of a regional tourism promotional and marketing program. Such assistance shall include—

"(1) technical assistance for advancing the promotion of travel to such region by foreign visitors;

"(2) expert consultants; and

"(3) marketing and promotional assistance.

"(b) Any program carried out under this section shall serve as a demonstration project for future program development for regional tourism promotion.

"(c)(1) An applicant for financial assistance under this paragraph for a particular region must demonstrate to the Secretary that—

"(A) such region has in the past been an area that has attracted foreign visitors, but such visits have significantly decreased;

"(B) facilities are being developed or improved to reattract such foreign visitors;

"(C) a joint venture in such region will increase the travel to such region by foreign visitors;

"(D) such regional program will contribute to the economic well-being of the region;

"(E) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions within such region; and

"(F) a correlation exists between increased tourism to such region and the lowering of the unemployment rate in such region.

"(2) An applicant for assistance under this paragraph shall demonstrate to the Secretary that (A) the particular region has been declared a major disaster area by the President or (B) the travel and tourism industry of the particular region has suffered severe economic damage as a result of force majeur.".

(b) The program established under section 5A(c)(2) of the International Travel Act of 1961, as added by subsection (a) of this section, shall commence not later than 30 days after the date of enactment of this title.

SEC. 303. TIME PERIOD FOR PERSONNEL REDUCTION.

Section 9 of the International Travel Act of 1961 (22 U.S.C. 2128) is amended by striking out "as of September 1, 1979, and thereafter," and substituting "during the period beginning October 1, 1980, and ending September 30, 1981,".

SEC. 304. RESTRICTIONS ON REDUCTIONS OF PERSONNEL OR FUNDS.

The International Travel Act of 1961, (22 U.S.C. 2121) is further amended by adding at the end thereof the following new section:

"SEC. 10. (a) Notwithstanding any other provision of law, the Secretary may not reduce the number of employees of the United States Travel Service in the offices of such Service in foreign countries to a number that is less than the number of authorized employees assigned to such offices in fiscal year 1979.

"(b) Notwithstanding any other provision of law, the Secretary may not reduce the amount of funds appropriated pursuant to this Act that are available for obligation to pay for the activities of the offices of the United States Travel Service in foreign countries to an amount that is less than the amount of funds that were available for obligation to pay for the activities of such offices in fiscal year 1979.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to establish a national tourism policy and an independent government agency to carry out the national tourism policy."

And the House agree to the same.

HARLEY O. STAGGERS,
J. J. FLORIO,
JIM SANTINI,
BARBARA A. MIKULSKI,
ROBERT T. MATSUI,
ED MADIGAN,
GARY A. LEE,

Managers on the Part of the House.

HOWARD W. CANNON,
DANIEL INOUYE,
WARREN G. MAGNUSON,
RUSSELL B. LONG,
ERNEST HOLLINGS,
BOB PACKWOOD,
JOHN W. WARNER,
HARRISON H. SCHMITT,
BARRY GOLDWATER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the Bill (S. 1097) to establish a national tourism policy, a cabinet level coordinating council, and a nonprofit corporation as an implementing agency to carry out the policy, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE AND DEFINITIONS

Senate bill

Provided that the Act may be cited as the National Tourism Policy Act, but contains no definitions.

House amendment

The House amendment provided that the Act may be cited as the National Tourism Policy Act, and contained definitions of the following terms used in the amendment: "Board," "Council," "State."

Conference substitute

Same as the Senate bill.

NATIONAL TOURISM POLICY

Senate bill

Section 101(a) set forth in broad terms why it is in the national interest to have a national tourism policy.

Section 101(b) declare that it is the policy of the Federal government in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance to: (1) optimize the contribution of the tourism and recreation industries to economic prosperity, full employment, and the nation's international balance of payments; (2) make the opportunity for and benefits of tourism and recreation universally accessible to residents of the United States and foreign countries and to insure that all citizens of present and future generations be afforded adequate tourism and recreation resources; (3) contribute to personal growth, health, education and intercultural appreciation of the geography, history and ethnicity of the United States; (4) encourage the free and welcome entry of foreigners traveling to the United States in order to enhance international understanding and goodwill consistent with immigration laws, the laws protecting the public health, and laws governing the importation of goods to the United States; (5) preserve the historical and cultural foundations of the nation as a living part of community life and development, and insure future generations an opportunity to appreciate and enjoy the rich heritage of the nation; (6) insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection, and judicious use of natural resources; (7) harmonize to the maximum extent possible, all Federal activities in support of tourism and recreation with the needs of the general public and the States, territories, local governments and private and public sectors of the travel/recreation industry, and to give leadership to all concerned with tourism, recreation, and national heritage preservation in the United States; (8) assist in the collection, analysis, and dissemination of data which accurately measure the economic and social impact of tourism to and in the United States, in order to facilitate planning in the public and private sector; (9) eliminate unnecessary trade barriers to the United States tourism industry operating throughout the world; (10) encourage competition in the tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry; (11) promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel; and, (12) promote quality, integrity, and reliability in all tourism and tourism-related services offered to visitors to the United States.

House amendment

Essentially the same as the Senate bill.

Conference substitute

Same as the Senate bill.

NATIONAL TOURISM POLICY COUNCIL

Senate bill

Title II established a National Tourism Policy Council as an independent Federal policy coordinating body chaired by the Assistant to the President for Domestic Affairs and Policy, and consisting of the President of the quasi-public Corporation created under title III who would also act as the vice-Chairman, and the seventeen departmental-level Federal executives from Federal departments and agencies with important tourism and recreation-related programs or with programs which frequently and significantly interact with and impact on tourism and recreation interests.

The Policy Council would have been charged with monitoring Federal agencies' compliance with national tourism and recreation policy and coordination of the policy's interpretation with other national interests. The Council would have limited its activities to issues with national policy significance and its coordination responsibilities to policies, programs, or issues which relate to tourism, recreation, or national heritage resources and which involve two or more Federal agencies. Specific Policy Council functions would have included: continuous refinement of tourism, recreation and heritage resources preservation related Federal policies; coordination of tourism, recreation, and heritage resource preservation activities and policies with related activities and policies in various Federal agencies; concentration of Federal efforts for maximum benefit to the public; elimination of program duplication and overlap; resolution of program and policy conflicts that involve two or more Federal agencies and/or involve issues of national or regional significance; and reporting to the Congress on Council activities.

The Policy Council would have had four principal organization elements: a Council; an Executive Committee; four policy Committees; and a staff.

House amendment

Title II established a National Tourism Policy Council as an independent entity within the executive branch. It would have been the principal coordinating body in the Federal government for programs, policies and issues relating to tourism.

Membership of the Council would have included the Chairman (as designated by) the President from the Executive Office; and the Secretaries from Commerce, Energy, State, Interior, Labor and Transportation or their designated alternates. The Chairman of the U.S. Tourism Planning and Implementation Board would have served in a non-voting capacity.

Section 202 provided for the appointment of an Executive Director by the Chairman of the Council. A staff would have been made available to the Council from existing Department of Commerce personnel at the request of the Council and other Federal departments and agencies would have furnished information, services, facilities, and could detail temporary-duty personnel upon request.

Section 203 defined the function of the Council as the principal coordinating and monitoring body within the Federal Government for policies, programs and issues relating to tourism. The Council would have kept abreast of tourism related issues and provided comments to the appropriate department or agency on the impact of any proposed change which significantly impacts tourism. In the case of interagency disputes the Council would have developed methods for resolving those disputes.

Section 204 provided the authority for the Council to review, consider and comment on all proposed changes by Federal departments or agencies that will have an impact on tourism. Any Federal department or agency that was proposing a change that would affect tourism would be required to notify the Council of the departments or agencies plan for the Council's consideration and comments.

Section 205 established policy committees within the Council that would be responsible for monitoring specific areas affecting tourism and reporting to the Council on those activities within the designated area that will impact on tourism.

Section 206 allowed the Council to establish necessary administrative procedures.

Section 207 mandated the Council to prepare annual reports that would have included the results of the Council's efforts; an analysis of the problems referred to the Council; and recommendations for legislation and administrative action.

Section 208 authorized $250,000 for the Council for fiscal year 1981.

Conference substitute

Deletes Title II in both the Senate bill and the House amendment.

IMPLEMENTING MECHANISM

Senate bill

Title III established a non-profit Corporation—United States Travel and Tourism Development Corporation.

Section 302 set out a congressional declaration of policy explaining why Congress finds it is in the national interest to establish a federally chartered, non-profit Corporation to promote and facilitate the orderly growth and development of tourism and to assist in the implementation of the national tourism policy.

Section 303 established the "United States Travel and Tourism Development Corporation", and specified that the Corporation would not be an agency of the U.S. Government; that it would be subject to the provisions of the National Tourism Policy Act; and to the extent consistent with that Act, subject to the District of Columbia Nonprofit Corporation Act.

Section 304(a) provided that the Corporation shall have a 15 member Board of Directors appointed by the President, by and with the advice and consent of the Senate. Not more than eight members of the Board could be members of the same political party.

Section 304(b) described the qualifications for membership on the Board.

Section 304(c) required that the President appoint the members of the initial board of directors within 120 days of the enactment of the bill and these initial directors were to take whatever actions were necessary to establish the Corporation as expeditiously as possible under the District of Columbia Nonprofit Corporation Act.

Section 304(d) prescribed a 30 year term of office for Board members, and limited service on the Board to 2 consecutive terms of 3 years each. Members whose terms have expired could serve until a successor has qualified.

Section 304(e) provided that a vacancy on the Board shall not affect its power.

Section 304(f) provided that a majority of the directors shall constitute a quorum and Board action could be taken only by a majority vote of those members present.

Section 305(a) provided that the President shall designate one of the initial Board of Directors as Chairman. Thereafter, the members of the Board would annually elect one of their members as Chairman, and one or more as vice-Chairman or vice-Chairmen.

Section 205(b) provided that membership on the Board does not make a member an employee of the United States. It also provided that members of the Board shall serve without compensation, but shall be reimbursed for expenses incurred by them in carrying out the duties of the Board.

Section 306(a) provided that the Corporation shall have a President, and such other officers as the Board appointed for terms and at rates of compensation fixed by the Board.

Section 306(b) provided that except for the requirement in subsection 304(a), no political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the United States.

Section 307(a) prohibited the Corporation from issuing stock, or declaring or paying dividends.

Section 307(b) prohibited the use or payment of any of the Corporation's income and assets for any purpose other than carrying out the purposes of the Corporation as set forth in the legislation.

Section 307(c) prohibited the Corporation from contributing or otherwise supporting any political party or candidate for elective public office.

Section 308(a) authorized the Corporation to assist the Congress, the National Tourism Policy Council and all Federal agencies having policy and programmatic responsibilities affecting tourism, and the public and private sectors of the industry.

Section 308(b) declared that it is the primary purpose of the Corporation to develop and administer a program designed to stimulate and encourage travel to the United States by residents of other countries for the purposes of study, culture, international congresses, recreation, business, and other activities. The Corporation's activities could not compete with the activities of any State, city or private agency.

Section 308(c) authorized the Corporation to carry out certain other specific activities in furtherance of its purpose.

Section 309(a) provided that the Corporation would have the usual powers conferred upon nonprofit corporations by the District of Columbia Nonprofit Corporation Act, and certain other specified powers.

Section 309(b) authorized and directed all Federal agencies, upon request of the Corporation's President, to make agency services, personnel, and facilities available to the greatest practicable extent to assist the Corporation in the performance of its functions; and to furnish to the Corporation, subject to the provisions of applicable law, information, suggestions, estimates, and statistics.

Section 309(c) specified certain activities which would be prohibited to the Corporation notwithstanding any provisions of the District of Columbia Nonprofit Corporation Act.

Section 310 required the Corporation to submit annually to the President a report on its operations, activities, financial conditions, and accomplishments for the preceding fiscal year for transmittal to the Congress on or before December 31, of each year. The report would also have included such recommendations as the Corporation deems appropriate.

Section 311(a)(b) required the Corporation to file a comprehensive and detailed report of its financial operations and condition.

Section 311(c) provided that the General Accounting Office could audit the financial transactions of the Corporation in any fiscal year during which Federal funds are available to finance any portion of its operations.

Section 312(a)(b)(c) directed the Corporation to undertake a comprehensive study of the funding levels required to effectively implement a comprehensive tourism development program and all alternative funding measures other than direct Treasury funding and report its findings and recommendations to Congress and the President within 6 months of its incorporation. Meanwhile, there was authorized to be appropriated for the expenses of the Corporation $9,500,000 for the fiscal year ending September 30, 1980.

Section 313(a) provided for the transfer to the Corporation from USTS of the assets, funds, supplies, materials, equipment, and records of USTS; and the rights, privileges, powers, duties, and liabilities of USTS in respect to any contract, agreement, loan, account, or other obligation provided that the transfer would not limit any period of limitation otherwise applicable to such contract, etc.

Section 313(b) repealed the International Travel Act and abolished the United States Travel Service 181 days after incorporation of the United States Travel and Tourism Development Corporation.

House amendment

Section 301 established the U.S. Tourism Planning and Implementation Board as an independent entity in the executive branch of the Federal government. The Board would have been comprised of 17 members appointed by the President, one of which will be designated Chairman. Fourteen of the members would have come from the tourism industry to include one member each from whether, insofar as consistent with other labor and the states. The three additional members would have come from the academic sector, the financial sector and the consumer interest groups. The Secretary of Commerce would have been a non-voting participant.

Section 301 also provided for the necessary staff to carry out the activities of the Board and appropriate reimbursable expenditures for the Board members.

Section 302 stated that a comprehensive and detailed marketing and implementation plan to stimulate and promote tourism to the United States by foreign residents must be developed by the Board.

This section articulated that the Board must consider and evaluate various options and alternatives for promoting tourism and that the elected options must include how the entity would be financed from private as well as public sources.

Following this analysis the Board would have reported its findings to the Congress in the form of a plan to be submitted for Congressional approval no later than October 1, 1981. An expedited procedure for Congressional action was provided under the authority of Section 552 of the Energy Policy and Conservation Act. If the plan was not approved the Board would have resubmitted another plan within six months.

Section 303 outlined the administrative powers and other provisions which such an entity would have had if the Board elected a federally chartered entity.

Section 304 required records and audits of the Board's business and financial transactions.

Section 305 authorized $450,000 for the Board for fiscal year 1981.

Conference substitute

The Conference substitute creates an independent agency in the Federal government called the United States Travel and Tourism Administration. Within 180 days the Administration would take over the functions of the United States Travel Service, which would then be abolished. The Administration would take over the functons and programs of the Travel Service, and the Administrator is authorized to appoint and fix compensation of such personnel as he determines is advisable to carry out the functions of the Administration.

Not later than April 15, 1982, the Administration must develop and submit to the House Committee on Interstate and Foreign Commerce and Senate Committee on Commerce, Science, and Transportation a comprehensive and detailed tourism development plan (including the estimated funding and personnel levels required to implement such plan and alternative means of funding) to obtain the objectives and carry out the purposes of the National Tourism Policy Act. The plan shall include, among other things, provisions for—

(1) the establishment of branch offices in foreign countries and facilitation of services at United States ports-of-entry;

(2) consultation with foreign countries on travel and tourism matters and, in accordance with applicable law, the representation of United States travel and tourism interests in international meetings, conferences, and expositions;

(3) participation as a party in interest in proceedings before Federal agencies when such initiation or intervention is necessary to implement or further the national tourism policy;

(4) monitoring the existing and proposed policies and programs significantly affecting tourism of all Federal agencies to ascertain whether, insofar as consistent with other public policy objectives, they are in furtherance of the objectives of the national tourism policy, and reporting the results of such monitoring activities to the Congress, or more frequently if necessary;

(5) monitoring the policies and programs significantly affecting tourism of all Federal agencies for the purpose of ascertaining instances of intraagency and interagency duplication or contradiction and reporting the results of its activities to the concerned agencies, and the Congress;

(6) developing and administering a comprehensive program relating to industry information, data service, training and education, and technical assistance;

(7) developing and administering a comprehensive program relating to consumer information, protection, and education;

(8) developing a program to seek and to receive information on a continuing basis from the tourism industry, including consumer and travel trade associations, regarding needs and interests which should be met by an agency or program, and directing that information to the appropriate agency; and

(9) encouraging to the maximum extent feasible travel to and from the United States on United States carriers.

The substitute also provides that whenever the Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for Congressional hearings, comment on legislation to the President or to the Office of Management and Budget, or report required by the Act, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Administration to submit its budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, comments on legislation, or reports required by this part, or comments on any action by a Federal agency affecting tourism to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, comments, or reports to the Congress to such Federal agency.

Not later than 30 days after the date of enactment of the legislation, the United States Travel Service shall make available to the Administration $1,000,000 to carry out its functions in the fiscal year ending September 30, 1981. In addition, at the time of its abolition the Travel Service shall transfer its remaining assets funds, materials, equipment, and records to the Administration.

The Conference substitute also establishes a 17 member Travel and Tourism Advisory Board to study on a continuing basis the programs and activities of the Administration.

REPORTING REQUIREMENTS

Senate bill

No provision.

House amendment

Section 401 amended the International Travel Act of 1961 to provide a dual reporting activity by the Assistant Secretary to the Secretary of Commerce on those matters that involve tourism only and to the Under Secretary for International Trade when tourism interacted with trade.

Conference substitute

The Conference substitute deletes the House amendment.

AUTHORIZATION OF APPROPRIATIONS

Senate bill

No provision.

House amendment

Section 402 authorized $8.6 million for fiscal year 1981 for the USTS.

Conference substitute

Same as the House amendment.

TIME PERIOD FOR PERSONNEL REDUCTION

Senate bill

No provision.

House amendment

Section 404 maintained existing staff levels of the USTS until September 30, 1981.

Conference substitute

Same as House amendment.

FEDERAL ASSISTANCE FOR REGIONAL PROMOTION OF TOURISM

Senate bill

No provision.

House amendment

Section 403 authorized the Secretary to provide financial assistance to a region of the U.S. comprised of at least two States or portions of those States to assist in the implementation of a regional tourism promotional and marketing program.

Conference substitute

The Conference substitute accepts the House amendment.

HARLEY O. STAGGERS,
J. J. FLORIO,
JIM SANTINI,
BARBARA A. MIKULSKI,
ROBERT T. MATSUI,
ED MADIGAN,
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Managers on the Part of the House.

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BOB PACKWOOD,
JOHN W. WARNER,
HARRISON H. SCHMITT,
BARRY GOLDWATER,
Managers on the Part of the Senate.

ANNOUNCEMENT OF INTENTION TO CALL UP CONFERENCE REPORT ON S. 1097, NATIONAL TOURISM POLICY ACT

Mr. STAGGERS. Mr. Speaker, I wish to announce that the conference report on the Senate bill S. 1097, will be taken up in an hour.

AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1974

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8195) to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause, and insert: That section 3(g) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(g)" and by inserting at the end thereof the following new subdivision:

"(2) Those portions of the annuity of an individual as are computed under subsections (b) and (d) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before June 1, 1981, be increased by 32.5 per centum of the percentage increase, if any (rounded to the nearest one-tenth of 1 per centum), obtained by comparing the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1981, with such index for the calendar quarter ending March 31, 1980. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such index for the three months in such quarter. The increase provided under this subdivision shall be effective on June 1 1981.".

REPORT ON RECOMMENDATIONS

SEC. 2. No later than March 1, 1981, representatives of employees and representatives of carriers, acting through a group designated by them, shall submit to the Senate Committee on Labor and Human Resources and the House of Representatives Committee on Interstate and Foreign Commerce a report containing their joint recommendations for further restructuring of the railroad retirement system in a manner which will assure the long-term actuarial soundness of such system.

SEC. 3. The provisions of this Act shall take effect on the date of the enactment of this Act.

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, this does not sound like a matter within the jurisdiction of the committee the gentleman heads. Could the gentleman explain to us what the amendment does?

Mr. STAGGERS. Will the gentleman yield?

Mr. BAUMAN. I am happy to yield.

Mr. STAGGERS. Mr. Speaker, on October 1, 1980, the House passed H.R. 8195 which provided an additional cost-of-living increase in the tier 2 portion of the railroad retirement benefit. The Railroad Retirement Act of 1974 provided for four cost-of-living increases in tier 2 benefit for preretirement coverage and for postretirement coverage from September 1976 to 1981. Because the last cost-of-living increase provided in the 1974 act occurred last June, this bill assured railroad employees and retirees will continue to recover a portion of the inflationary impact upon their benefits, while representatives of railroad management and labor developed recommendations for a long-term solution to the railroad retirement fund.

Mr. BAUMAN. Mr. Speaker, so the gentleman does not have to continue his explanation, do I understand this pertains only to railroad employees and not lameduck, retiring Members of Congress, or Senate employees put out of work by the change in control?

Mr. STAGGERS. That is correct.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, I would ask the gentleman to continue his explanation.

Mr. STAGGERS. Will the gentleman yield?

Mr. MADIGAN. I am happy to yield to the gentleman.

Mr. STAGGERS. The Senate amendment provides only for the postretirement cost-of-living increase next June. The intent in limiting such increase is to induce the representatives of management and labor to move expeditiously in their discussions. In fact, the legislation requires the parties to report back to Congress by March 1, 1981, with legislative recommendations. It is our intent that such recommendations address not only further cost-of-living increases in the tier 2 benefit, but also the long-term solvency and funding of the program.

Mr. MADIGAN. I would say to the House that this bill passed the House unanimously. As it is amended by the other body it actually is less of a bill than we passed here. It provides only for one cost-of-living increase in railroad retirement benefits, while railroad labor and management are trying to determine what their recommendations to us will be for the long-term solution to the problems of the railroad retirement system. It is a modest bill and one which passed here unanimously, one which I intend to support.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Speaker, I rise in support of H.R. 8195, as amended by the Senate.

As you know, the House passed H.R. 8195, by voice vote and without opposition, at the end of September. That bill would have extended the tier 2 cost of living increase for railroad retirees for 1 more year.

The 1974 Railroad Retirement Act provided for four specific cost-of-living increases for the tier 2 component of a retiree's benefit.

There are two types of tier 2 cost of living adjustments.

One, the postretirement increase, is applied to the tier 2 portion of a retiree's annuity. The last postretirement increase became effective this past June.

The other type of cost-of-living adjustment is a preretirement increase. This is applied to the wage record of railroad workers when they retire to insure that their initial benefit level has kept pace with inflation. This cumulative adjustment will stop growing, effective 1981, under current law.

The House-passed version of this bill would have extended both types of increases for 1 more year. Unfortunately, the Senate eliminated the extension of the preretirement increase. While the House version was more comprehensive, I believe this bill deserves our support.

This bill also directs railroad labor and management to submit a joint proposal to Congress by March 1, 1981. This proposal should represent a long-term solution to the problems of the railroad retirement system, which is currently operating at an actuarial deficit.

This bill would insure a continuation of the cost-of-living adjustment while a long-range solution is developed, I urge your support.

Mr. MADIGAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

ROSENTHAL SLAPS REAGAN TRANSITION TEAMS

(Mr. ROSENTHAL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSENTHAL. Mr. Speaker, the time has come to blow the whistle on the Reagan transition teams.

In recent weeks, statements coming from transition team sources have signaled changes in foreign policy regarding Taiwan, Africa, and Central America. These reports are having the effect of official policy without the necessary legitimate constitutional authority.

As a member of the Foreign Affairs Subcommittee on Inter-American Affairs, I particularly support Ambassador Robert White's charge that the Reagan transition team has urged a retreat from the U.S. commitment to human rights and social reform in Central America. It is undermining American foreign policy in El Salvador, and having the same effect in other parts of the region.

Rightwing forces in Guatemala, Honduras, and elsewhere in South America long opposed to human rights policies are taking these cues from the Reagan team as a green light for further repression and violence. At stake is the future of democracy in this hemisphere and the lives of tens of thousands of innocent people.

Mr. Reagan is not yet the President of the United States. His transition teams have no official responsibility. Their activities are violating the spirit of Presidential transition. Mr. Reagan should silence his subordinates and wait until he is inaugurated before he allows his staff to act as if the oath of office has already been administered. Otherwise the honeymoon is over.

CONTRACTING WITH FOREIGN COMPANIES

(Mr. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LLOYD. Mr. Speaker, in the Los Angeles Times today there was an article concerning the award of a contract to a Canadian transportation firm. This award was not only to a foreign company but to a foreign company which is government associated.

It is true that the Canadian firm was the low bidder, and Westinghouse Corp. and the Vought Corp. were more expensive, so logic would say, why not go with the low bidder? But in this case the Canadian firm ranked third in the staff's composite ranking of bidders, and though it says it can do the job cheaper, it does not have a track record with which to substantiate its claims. Westinghouse scored first in the rating, and as a result, although it had the best program, it cannot be considered. Although the moneys generated for this project will be moneys generated in the United States, the benefactor of the process is a foreign concern which is an integral function of a foreign government. It would appear that we are powerless to stop this "downtown people mover" project from being awarded to a foreign company when we have people right here in the United States, and certainly in the Los Angeles area, who are clearly out of work and could do the job.

In light of a recent vote wherein this House has mandated that attention be given to our own entrepreneurs, it would seem that there is folly in the way that we in the United States do not take care of our own business enterprises.

FAIR HOUSING AMENDMENTS OF 1980

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, yesterday, in a moment that will long be remembered with bitterness by the minorities, women, and the handicapped of America, the Congress sounded the death knell for the Fair Housing Amendments Act of 1980. By doing so, the prospect of enacting a rejuvenated and meaningful enforcement mechanism to combat housing discrimination has been destroyed for many years to come. I say destroyed, and not merely temporarily delayed, because the promise of a Republican-sponsored bill in the next Congress is nothing short of a cruel hoax. It is a fraud because the promise of improved enforcement has always been linked by Republicans to their nonnegotiable demand that the protection of the Fair Housing Act itself be whittled down so as to make it more difficult, if not impossible, to prove any kinds of discrimination cases. So victims of discriminations should take no solace from these promises.

We must also fully recognize why the measure failed. Republican leaders, intimidated by a small minority of their own party, aided and abetted this abdication of responsibility. President-elect Reagan himself, asked to reassure minorities that a Republican administration will not turn its back on their needs, issued meaningless platitudes instead of support for a bill that the House of Representatives adopted by a 3-to-1 margin.

I fear that this defeat is an ominous portent of things to come. It is also a devastating blow to our best alternative to busing. On the other hand, as author and floor manager of this bill, and one who deeply shares the conviction of this body that fair housing should be rendered a reality, I do not intend to give up. I urge the Republicans who opposed this bill to reevaluate their position. It is in the interest of both parties that the civil rights of all Americans be fully protected.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, I make a point of order against the gentleman's remarks. They are not in keeping with the rule that requires no mention of the other body.

The SPEAKER pro tempore (Mr. ROBERTS). The gentleman from California (Mr. EDWARDS) is referring to the proceedings of the other body. He will please restrict them. They are out of order and without objection, will be stricken from the RECORD.

Mr. EDWARDS of California. I thank the Speaker.

I feel that this defeat is an ominous portent of things to come. It is also a devastating blow to our best alternative to busing.

A CALL TO SUSPEND THE SELECTIVE SERVICE REGISTRATION PROGRAM

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, I take this time to call upon the President to suspend the selective service registration program that is now scheduled for January.

In the first place, the whole program is under a judicial cloud. No one is certain whether or not the courts will hold that it is a valid law.

In the second place, the registration law to date has been ineffective. The lack of compliance is enormous, a clear reflection that the individuals affected are uncertain of their obligation, uncertain of what the need is, uncertain about any urgency, and unclear on the validity of the law itself.

In the third place, the incoming administration may eliminate the program entirely. Governor Reagan said during the campaign he opposed it. Since that time some of his advisers say that registration may in fact be needed. In short, what the next administration may decide to do is an open question.

With all these questions hanging over the program, it would be an act of integrity for the President to suspend the January registration effort. Nothing would be lost by this, and much gained.

Once policy issues are clearly resolved, once the judicial clouds are lifted, appropriate action can be taken. As matters now stand, no one is certain whether or not to comply with the law, and for that reason large numbers simply ignore it.

There is no need to press this registration program at a time when its meaning is in doubt, its need generally open to question, and its future so obviously questionable.

I call upon the President to suspend draft registration until we do have a clear policy and well settled law. Suspension of registration will in no way affect our state of readiness. It will, on the other hand, avoid any further exacerbation caused by a program that has not worked and shows little promise of working, absent a clear national policy and a clear national need.

WASHINGTON, D.C.,
December 10, 1980.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR PRESIDENT CARTER: I respectfully call upon you to suspend Selective Service registration until constitutional questions and national policy issues can be settled. Suspension of registration will in no way affect our state of readiness. It will on the other hand avoid further problems caused by a program that has not worked well and shows no promise of working until national policy is made clear and a national need is clearly established.

With best regards,
HENRY B. GONZALEZ,
Member of Congress.

SHOULD WE REEVALUATE THE HELSINKI ACCORDS?

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, I recently had the opportunity of being in Madrid, Spain, as a member of the U.S. delegation to the Conference on Security and Cooperation in Europe, the so-called Helsinki accords monitoring meeting. After consultations there, I have come to the conclusion that we have reached a crucial time of decision. The Helsinki accords, which were surrounded with much controversy at the time they were entered into, are a two-way bargain. The tacit acceptance of the post-World War II boundaries in Eastern Europe, with the exception of the Baltic States, on the one hand, was the consideration for the recognition of human rights on the other.

The United States knows that the Soviet Union is not respecting the second part of that agreement. Where one part of an agreement is not performed, then the other part is no longer binding. The time has come for us to reevaluate whether the first part of that agreement is still binding on us in any way. Should we respect the post-World War II boundaries in Eastern Europe, if the Soviet Union does not live up to its human rights undertakings. The time has come for us to begin this reevaluation.

JOHN LENNON

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, the man who gave us "A Day in the Life," sang "She Loves You," and urged us to "Give Peace a Chance," is dead. John Lennon was murdered Monday night, barely a block outside of my district.

The world will long remember John Lennon's energetic rock songs and penetrating lyrics, many written as a member of the Beatles, the most influential musical group of the last 20 years. He built his music on the foundation of the blues, the indigenous American black form, and created a sound that enchanted a generation. His work has been recorded by many other gifted artists, and can be heard everywhere in elevators as well as in symphony concerts. His music is a monument to the 1960's, when the world's youth joined the Beatles on a journey from exuberant innocence to political awareness, anger, and mystical self-discovery.

John Lennon will also be remembered for his direct, sometimes abrasive honesty when speaking of politics and popular music. He was the man who was severely criticized for making an awkward but perhaps accurate observation about the phenomenal popularity of his group: In 1967, he said that the Beatles were more popular with American youth than Jesus Christ. He was the man who staged a "bed-in" with his wife, Yoko Ono, in an Amsterdam hotel, to protest the wars nations fight in their waking hours. And he was the first popular hero to withdraw from public life and his career for 5 years to live as a "househusband." In so doing, the self-described former male chauvinist learned both the joys and the tedium of being a father 24 hours a day, as women have for generations lived as mothers.

John Lennon, age 40, had an unusually full life behind him, but he had ahead the best years of all: The years when life could take on a character all the more fulfilling for its new directions, and for the closeness of loved ones.

May I remind the House that a handgun struck down John Lennon, as a handgun killed Washington, D.C., cardiologist Michael Halberstam last Friday, and as handguns have slain more than 7,000 Americans this year, including our late colleague, Allard Lowenstein.

It truly is time to start over, as John Lennon sang in his last recording, and heed the words he wrote in what seems so long ago, but was only yesterday. To give peace a chance, let us put away the instruments with which we are killing ourselves.

☐ 1520

CRIME

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, in the past 48 hours, many of my colleagues in this body have mentioned the issue of crime in Hawaii to me, taking note of both the tragic death of John Lennon in New York and a recent article in Time magazine. The man who shot Lennon had spent the last 4 years in Hawaii, bought his gun in Honolulu, and transported the gun from Hawaii to the mainland with no apparent problem.

The article in Time magazine called "Storm Clouds Over Paradise" reported a substantial jump in the incidence of crime over the past 2 years in Hawaii.

Hawaii does not stand alone, however, when facing the problem of ever-rising crime rates. Crime has extended its crippling hand over the face of this Nation, casting a shadow which frightens most of us in every State in this Union.

Statistics show that the future of crime indeed looks rosey. Final figures for 1979 recently released by the FBI show that crime took its biggest jump since the recession years of 1974–75. Murder rose by 10 percent, assaults by 10 percent, forcible rapes by 13 percent, and robberies by 12 percent.

In fact, one can even construct a "crime clock" using data recently released by the FBI, based on crimes reported in 1979:

A serious crime occurred every 2.6 seconds;

A theft occurred every 4.8 seconds;

A burglary occurred every 10 seconds;

A violent crime occurred every 29 seconds;

A car or truck theft occurred every 29 seconds;

An assault occurred every 51 seconds;

A robbery occurred every 68 seconds;

A forcible rape occurred every 7 minutes; and

A murder occurred every 24 minutes.

It is a small wonder that 4 out of every 10 Americans feel that they are vulnerable to murder, rape, robbery, or assault in their everyday environment. Americans apparently have good reason to be afraid of each other. And, I think it is time Congress conducted a thorough study of the problem. I think it is time we made recommendations based on that study; our future demands it.

STAFF SEVERANCE PAY

(Mr. WALKER asked and was given permission to addresss the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, it appears as though Washington lameducks are lining up for one last major rape of the American taxpayer. In the continuing appropriations bill that has emerged, section 155 builds in the potential for severance pay for the Senate staff members displaced by the transition to a Republican majority.

I took a look at the figures and figured out that in one committee, in the Foreign Relations Committee, if everybody draws the maximum permitted under that bill, that one committee will be eligible for $426,500 in severance pay.

The SPEAKER pro tempore. The Chair will advise the gentleman from Pennsylvania that the Chair just had to call to order a Member from the other side of the aisle. The gentleman simply cannot refer to the other body in those terms. Will the gentleman please remove these remarks?

Mr. WALKER. I thank the Chair for his correction. I thought the Chair ruled in favor of it in the previous instance.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. WALKER. Mr. Speaker, I would simply say that those, whether they be in this body or in the other body, who live by political largesse and now want to squeeze a little more out of the taxpayer on their way out of political power, should not be permitted to do so by the conferees on this side, and I would hope that our conferees will stand fast against this unconscionable act of taxpayer abuse.

DISPROPORTIONATE COMMITTEE ASSIGNMENTS

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, yesterday the House Democrat Caucus voted to disenfranchise many American voters by passing a resolution to deny Republican Members their rightful proportion of committee assignments.

Republican candidates for the House, I am told, got about 50 percent of the vote. Due in part to malaportionment, Republican Members comprise only 44 percent of the voting Members of this House. Yet the Democrats yesterday voted to restrict Republican Members to 40 percent on the Appropriations and Budget Committees, 34 percent on Ways and Means, and only 31 percent on Rules.

By that vote, Democrats demonstrated a callous disregard for the election results and for the voters who caused them. What they could not win in election, they voted to steal yesterday.

That resolution was a shameful act, antithetical to the principles of representative government. It was exactly that kind of old, me-first kind of politics that caused the Republican gains in the first instance. It is a statement that says "We have no confidence in ourselves, nor in the voters."

I understand the Speaker has been given appropriate warnings about the Republican response. I do not speak for the Republican conference on this matter, but I am pretty sure we will no more stand for stealing committee seats than we will stand for stealing elections.

The Speaker had some difficulty running the House in the 96th Congress. The 96th will seem like the good old days until the Republicans get fair treatment and proportional representation on House committees.

ELECTION RESULTS THWARTED

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, on Monday, December 8, 1980, the Republican Conference of the House of Representatives passed a resolution which I authored, resolving that all committees and subcommittees of the House should be apportioned in accordance with the 5-to-4 ratio reflected by the membership of the House.

The next day, December 9, the Democratic Caucus met and ignored this resolution and the new alinement of the House providing for a Rules Committee ratio of 2 to 1 plus 1, an Appropriations Committee ratio of 3 to 2, a Budget Committee ratio of 3 to 2, and a Ways and Means Committee ratio of 2 to 1 minus 1.

Today, the Republican Conference passed another resolution authored by me declaring that action by the Democratic Caucus to be unacceptable. Further, the conference called upon the caucus to rescind its resolution and to form all committees and subcommittees using the 5-to-4 ratio.

On November 4, 1980, the voters of America voted for change in economic, fiscal, and tax policy by changing the occupant of the White House, the majority party in the other body, and reducing significantly the Democratic majority in the House. If the action of the Democratic caucus is allowed to stand, then the will of the people has been thwarted by partisan action. It is only logical and fair that the changes sought by the American people be reflected in the ratios of those committees.

Mr. Speaker, we have heard the majority leadership say to the media that they want to cooperate with the new administration. This clearly partisan action is neither cooperation nor recognition of the will of the people.

IS THE HONEYMOON OVER ALREADY?

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, in recent weeks we have heard on television and read in the newspapers about how some Members on the other side of the aisle are willing to grant the new President-elect a honeymoon period. They have talked about an era of cooperation, some respect, some real effort to try and get things moving in the right direction. And then just yesterday we were confronted with the fact that we on the Republican side are going to be denied our rightful numbers in representation on those committees which deal most specifically with those issues which got Ronald Reagan elected—fiscal and taxing policies.

Now, we cannot have it both ways. Either there is going to be cooperation in this House, or there is not. And it seems to me that, when it is obvious that some are attempting to break up the wedding party before it even gets to the honeymoon cottage, we ought to speak the truth on this floor. We ought to talk openly about whether we are going to have cooperation or confrontation.

I hope and I pray that it will be cooperation, because that is what the people of this country asked for when they voted on November 4, and that is what they have been told by leaders in this House they are going to get. Let us hope that our actions match our words.

REDUCED POSTAL RATES FOR EARTHQUAKE VICTIMS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, to the extent it can be measured, in terms of destruction and human suffering, the earthquake which struck southern Italy 2 weeks ago was the worst European disaster since World War II. Over 3,000 people are dead, nearly 8,000 injured, and a quarter of a million people have been left homeless.

The American people are responding in an outpouring of generosity to those suffering, many of whom are relatives or family friends. To facilitate this response, I wrote to the Postmaster General yesterday to request the establishment, as soon as possible, of special, reduced postal rates on letters and packages from the United States to earthquake victims. In addition, I suggested a volunteer drive within the Postal Service whereby its more than one-half million employees could contribute to the urgent needs of the earthquake victims for food, clothing, and medicine.

Once more, the American people are demonstrating their compassion for friends in need during a crisis. It is my hope that these requests of the Postmaster General will help to translate that compassion into increased assistance for a people with whom we have had a special and enduring friendship.

CRISIS IN POLAND IS WORSENING

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, the crisis in Poland is worsening. As reports tell of the Soviet Union's preparation for military intervention, the United States has found it necessary to send radar aircraft to monitor Soviet troop movements in Eastern Europe. In Brussels, our Secretary of State will discuss with our NATO allies a number of contingency steps to take in the event of Soviet interference. Those steps reportedly would include severe curtailment of trade and economic relations with the Soviet Union.

The resolution which I have introduced supports actions such as trade curtailment—in particular the financing of such trade by Western governments and banks, and indicates that if the Soviets intervene, the United States will negotiate, in conjunction with its NATO allies, Japan and Australia, to discontinue the extension of loans and credits to the Soviet Union. With the strong cooperation of our allies, we must use our financial and technological resources to exert pressure on the Soviet Union, before they take military action. I urge my colleagues to join as cosponsors of my resolution.

MAJORITY PARTY SHOULD FOLLOW LEAD OF 83D CONGRESS IN COMMITTEE RATIOS

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, since the dispute about the ratios of the committees has arisen, there has been a lot of rhetoric about whether or not the suggested ratios are fair, and in accordance with precedents. I have even heard people in high places in the majority talk about what the Republican 83d Congress had done, and compare the ratios in that Congress with their suggestions.

Since I am one of the few Members of this body who was also a Member of the 83d Congress, I am somewhat of an authority on the way the 83d Congress was organized. It was 8 to 4 as far as the Rules Committee was concerned, or a 2-to-1 ratio. As far as the Ways and Means and Appropriations Committees were concerned, the ratio was 3 to 2. As far as all of the other committees were concerned, it was just about exactly the ratio that the two parties bore to each other in the House. Those of you who remember will recall that the Republican majority was very small indeed in the 83d. I think we had 223 Members to 212 on the Democratic side.

So, all of the committees were absolutely equal except for the big three. Now, I would suggest to my friends in the majority that if you want to be really fair about the ratios, that you adopt the formula used in the 83d Republican Congress. It was fair then, and I think it would be fair now.

HANDGUN CONTROL LAW NEEDED NOW

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, it is seldom that I have found in my experience during 1-minute speeches in the well that when a Member speaks, that an immediate response is forthcoming. Yesterday, Mr. Speaker, I spoke on the subject of handgun control and the tragic deaths that had faced so many of our outstanding citizens over the past week in this country.

This talk, of course, was triggered by the death of John Lennon yesterday afternoon, and all day today I have been hearing from people all over this country, including people abroad, who are saying, "Why can't we do something in this Congress? At least, let John Lennon's death be worth something by moving a handgun control bill out of this Congress next year."

I have talked to the chairman of the Judiciary Committee, and he assures me that we will have introduced a handgun control bill next year, and I hope we can all support it.

FEDERAL RESERVE DRIVES PRIME RATE UP

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. ALEXANDER. Mr. Speaker, the Federal Reserve's increase of the discount rate to 14 percent last Friday has driven the prime rate to 19 percent. That means that individual producers who must have credit to continue operations can look forward to paying more than 20 percent on money they cannot do without. Can we expect producers to simply absorb the increased costs of money? I submit we cannot. Clearly, the increased cost of credit is passed along to consumers and the inflationary spiral is accelerated further.

The Fed's role is to control the supply of money to make the monetary system responsive to the underlying economic conditions. We are presently experiencing conditions marked by a downturn in the economy induced by higher interest rates while inflation rages unabated because there is no decrease in the demand for credit.

Mr. Speaker, it is my view that Federal Reserve policies have become a major component in the inflation problem rather than being the basis for a solution. It is time for Congress to reexamine the policies and practices of the Federal Reserve.

REVISING AND IMPROVING LAWS RELATING TO DOCUMENTATION OF VESSELS

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1196) to revise and improve the laws relating to the documentation of vessels, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

TITLE I

SEC. 101. SHORT TITLE.

This title may be cited as the "Vessel Documentation Act".

SEC. 102. DEFINITIONS.—

As used in this title.—

(1) "documented vessel" means a vessel for which a certificate of documentation has been issued under this title;

(2) "fisheries" includes the planting, cultivation, catching, taking, or harvesting of fish, shellfish, marine animals, pearls, shells, or marine vegetation at any place within the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811); and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 103. PORTS OF DOCUMENTATION.

The Secretary shall designate ports of documentation in the United States where vessels may be documented and instruments affecting title to, or interest in, documented vessels may be recorded. The Secretary shall specify the geographic area to be served by each designated port, and he may discontinue, relocate, or designate additional ports of documentation.

SEC. 104. VESSELS ELIGIBLE FOR DOCUMENTATION.

Any vessel of at least five net tons that is not registered under the laws of a foreign country is eligible for documentation if it is owned by—

(1) an individual who is a citizen of the United States;

(2) a partnership or association whose members are all citizens of the United States;

(3) a corporation created under the laws of the United States, or any State, territory, or possession thereof, or of the District of Columbia, or the Commonwealth of Puerto Rico; whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum;

(4) the United States Government; or

(5) the government of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 105. HOME PORTS.

(a) With the approval of the Secretary and subject to such regulations as he may prescribe, the port of documentation selected by an owner for the documentation of his vessel shall be the vessel's home port.

(b) Once a vessel's home port has been fixed as provided in subsection (a), it may not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

SEC. 106. NAME OF VESSEL.

(a) At the time of application for initial documentation of a vessel, the owner shall provide a name for the vessel. Subject to the approval of the Secretary and upon the issuance of a certificate of documentation, that name shall become the vessel's name of record.

(b) Once a vessel's name of record has been fixed as provided in subsection (a), it shall not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

(c) The Secretary may prescribe a reasonable fee for changing a documented vessel's name of record.

SEC. 107. CERTIFICATE OF DOCUMENTATION; APPLICATION; ISSUANCE; FORM; EXHIBITION.

(a) Upon application by the owner of any vessel eligible for documentation, the Secretary shall issue a certificate of documentation of a type specified in section 110, 111, 112, 113, or 114 or this title.

(b) The Secretary may prescribe the form of, the manner of filing, and the information to be contained in, applications for certificates of documentation.

(c) Each certificate of documentation shall—

(1) contain the name, the home port, and a description of the vessel for which it is issued;

(2) identify its owners; and

(3) be in the form and contain any additional information prescribed by the Secretary.

(d) The Secretary shall, by regulation, prescribe procedures to insure the integrity of, and the accuracy of information contained in, certificates of documentation issued under this title.

(e) The owner and the master of each documented vessel shall make the vessel's certificate of documentation available for examination as the law may require or as the Secretary may prescribe.

SEC. 108. NUMBERS; SIGNAL LETTERS; IDENTIFICATION MARKINGS.

(a) The Secretary shall maintain a numbering system for the identification of documented vessels and shall assign a number to each documented vessel.

(b) The Secretary may maintain a system of signal letters for documented vessels.

(c) The owner of each documented vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned under subsection (a) and any other identification markings the Secretary may prescribe.

SEC. 109. PURPOSE OF DOCUMENTATION.

A certificate of documentation issued under this title is—

(1) conclusive evidence of nationality for international purposes, but not in any proceeding conducted under the laws of the United States;

(2) except in the case of a pleasure vessel license, conclusive evidence of qualification to be employed in a specified trade; and

(3) not conclusive evidence of ownership in any proceeding in which ownership is in issue.

SEC. 110. CERTIFICATE OF DOCUMENTATION; REGISTRY.

(a) A registry may be issued for any vessel that is eligible for documentation.

(b) A vessel for which a registry is issued may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) Upon application of the owner of any vessel that qualifies for a coastwise license under section 111 of this title, a Great Lakes license under section 112 of this title, or a fishery license under section 113 of this title, the Secretary may issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

(d) Except as provided in sections 111, 112, and 113 of this title, a foreign built vessel registered pursuant to this section may not engage in the coastwise trade, the Great Lakes trade, or the fisheries.

SEC. 111. CERTIFICATE OF DOCUMENTATION; COASTWISE LICENSE.

(a) A coastwise license or, as provided in section 110(c), of this title an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under laws of the United States to be employed in the coastwise trade.

(b) Only a vessel for which a coastwise license or an appropriately endorsed registry is issued may, subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade; and

(2) the fisheries.

SEC. 112. CERTIFICATE OF DOCUMENTATION: GREAT LAKES LICENSE.

(a) A Great Lakes license, or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.

(b) Only a vessel for which a Great Lakes license or an appropriately endorsed registry is issued may, on the Great Lakes and their tributary and connecting waters and subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade;

(2) trade with Canada; and

(3) the fisheries.

SEC. 113. CERTIFICATE OF DOCUMENTATION FISHERY LICENSE.

(a) A fishery license, or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries, only a vessel for which a fishery license or an appropriately endorsed registry is issued may be employed in that trade.

SEC. 114. CERTIFICATE OF DOCUMENTATION PLEASURE VESSEL LICENSE.

(a) A pleasure vessel license may be issued for any vessel that—

(1) is eligible for documentation, and

(2) is to be used exclusively for pleasure.

(b) A licensed pleasure vessel may proceed from or to any port of the United States and to any foreign port without entering or clearing with the United States Customs Service.

(c) Notwithstanding any other law, the Secretary may prescribe reasonable fees for issuing, renewing, or replacing a pleasure vessel license; or for providing any other service in connection with a pleasure vessel license. The fees shall be based on the costs of the service provided.

SEC. 115. VESSEL LIMITED TO TRADE COVERED BY CERTIFICATE OF DOCUMENTATION; EXEMPTIONS; PENALTY.

(a) A vessel may not be employed in any trade other than a trade covered by the certificate of documentation issued for that vessel. A documented pleasure vessel may not be used for purposes other than pleasure. However, any certificate of documentation may, under regulations prescribed by the Secretary, be exchanged for any other type of certificate of documentation, or appropriately endorsed for any trade, for which the vessel qualifies.

(b) A non-self-propelled vessel which is qualified to be employed in the coastwise trade may, without being documented, be employed in that trade within a harbor or on the rivers or inland lakes of the United States, or on the internal waters or canals of any State.

(c) Whenever a vessel is employed in a trade that is not covered by the certificate of documentation issued for that vessel or a documented pleasure vessel is used other than for pleasure, the vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

(d) A documented vessel may not be placed under the command of a person other than a citizen of the United States.

SEC. 116. FALSIFICATION IN DOCUMENTATION: FRAUDULENT USE OF DOCUMENT; PENALTY.

(a) Whenever the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation in connection with the documentation of his vessel under this title, in addition to any other penalty provided by law; that vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

(b) Whenever a certificate of documentation is knowingly and fraudulently used for any vessel, that vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

SEC. 117. CERTIFICATE OF DOCUMENTATION: TERMINATION OF VALIDITY.

(a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this Act and the regulations prescribed thereunder pertaining to that certificate of documentation; or

(2) is placed under the command of a person who is not a citizen of the United States.

(b) Except as provided by subsection (o) of section 30 of the Act of June 5, 1920, as amended (46 U.S.C. 961(a)), an invalid certificate of documentation shall be surrendered in accordance with regulations prescribed by the Secretary.

SEC. 118. VESSELS PROCURED OUTSIDE THE UNITED STATES.

(a) The Secretary and the Secretary of State, acting jointly, may provide for the issuance of an appropriate document for any vessel procured outside the United States that meets the ownership requirements of section 104 of this title.

(b) Subject to any limitations the Secretary may prescribe, a vessel for which an appropriate document is issued under this section may proceed to the United States and engage en route in the foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. Upon the vessel's arrival in the United States the document shall be surrendered in accordance with regulations prescribed by the Secretary.

(c) A vessel for which a document is issued under this section is subject to the jurisdiction and laws of the United States. However, the Secretary may suspend for a period not to exceed six months the application of any vessel inspection law administered by him, or any regulation issued thereunder, if he considers the suspension to be in the public interest.

SEC. 119. RECORDING OF UNITED STATES BUILT VESSELS.

The Secretary may provide for the recording and certifying of any information pertaining to vessels built in the United States that he considers to be in the public interest.

SEC. 120. REGISTRATION OF FUNNEL MARKS AND HOUSE FLAGS.

The Secretary shall provide for the registration of funnel marks and house flags by owners of vessels.

SEC. 121. LIST OF DOCUMENTED VESSELS.

The Secretary shall publish periodically a list of all documented vessels together with any information pertaining to them that he considers pertinent or useful.

SEC. 122. REPORTS.

To insure compliance with this title and the laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners and masters of documented vessels to submit reports in any reasonable form and manner he may prescribe.

SEC. 123. VIOLATIONS; PENALTY.

(a) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this title or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $500 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of the penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty under this section.

(c) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in any appropriate district court of the United States.

SEC. 124. DELEGATIONS AND REGULATIONS.

The Secretary may—

(1) delegate, and authorize successive redelegations of any of the duties or powers conferred on him by this title, and

(2) prescribe regulations to carry out this title.

SEC. 125. RELATED TERMS IN OTHER LAWS.

With respect to the documentation of a vessel whenever used in any law, regulation, document ruling, or other official act—

(1) "certificate of registry", "registry", and "register" mean a registry as provided for in section 110 of this title;

(2) "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" mean a coastwise license as provided for in section 111 of this title;

(3) "enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea" means a Great Lakes license as provided for in section 112 of this title;

(4) "license for the fisheries" and "enrollment and license for the fisheries" means a fishing license as provided for in section 113 of this title; and

(5) "yacht" means a pleasure vessel whether or not documented.

SEC. 126. AMENDMENTS TO OTHER LAWS.

(a) Section 4131 of the Revised Statutes of the United States, as amended (46 U.S.C. 221), is further amended to read as follows: "Only a citizen of the United States may serve as master, chief engineer, or officer in charge of a deck watch or engineering watch on any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage and a vacancy is thereby created, until the vessel's first return to a United States port where a United States citizen replacement can be obtained, a person who is not a citizen of the United States may serve in—

"(1) the vacancy; or

"(2) any vacancy resulting from the promotion of another to fill the original vacancy.".

(b) Section 4311 of the Revised Statutes of the United States, as amended (46 U.S.C. 251), is further amended by striking the first and third sentences of subsection (a).

(c) Section 4320 of the Revised Statutes of the United States, as amended (46 U.S.C. 262), is further amended by—

(1) striking the word "licensed" in the first sentence and inserting in lieu thereof the word "documented"; and

(2) striking the last sentence.

(d) Section 4377 of the Revised Statutes of the United States, as amended (46 U.S.C. 325), is further amended by striking the second sentence.

(e) Section 7 of the Act of June 19, 1886, as amended (46 U.S.C. 319), is further amended by—

(1) striking the first sentence and inserting in lieu thereof the following:

"Whenever a vessel, entitled to be documented and not so documented, is employed in a trade for which certificates of documentation are issued under the vessel documentation laws, other than a trade covered by a registry, the vessel is liable to a civil penalty of $500 for each port at which it arrives without the proper certificate of documentation, and if it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo, is liable to seizure and forfeiture."; and

(2) striking the last sentence.

SEC. 127. REPEALS.

The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this title:

Revised statutes section	Revised statutes section	Revised statutes section
4132	4168	4318
4137	4169	4319
4138	4170	4321
4139	4171	4322
4141	4174	4323
4142	4176	4324
4143	4177	4325
4144	4178	4326
4146	4179	4327
4174	4180	4328
4150	4182	4329
4155	4183	4330
4156	4187	4333
4157	4189	4335
4158	4190	4337
4159	4191	4338
4160	4214	4339
4161	4215	4372
4162	4217	4384
4163	4312	4385
4164	4313	4495
4166	4314	4498
4167	4315	

Date	Chapter	Section	Statutes at large	
			Volume	Page
Apr. 17, 1874	106		18	30
Feb. 27, 1877	69	1 (only the part amending R.S. 4315, 4318, and 4319).	9	251
June 30, 1879	54		21	44
June 26, 1884	121	21	23	58
July 5, 1884	221	4	23	119
June 19, 1886	421	6	24	81
Feb. 21, 1891	250	1	26	765
Jan. 16, 1895	24	2, 4, 5	28	624, 625
Jan. 20, 1897	67	1, 2	29	491, 492
June 24, 1902	1155	1, 2	32	398, 399
Mar. 3, 1905	1457	9	33	1032
Apr. 24, 1906	1865	1, 2	34	136
May 28, 1908	212	7	35	426
Feb. 29, 1912	47		37	70
July 9, 1912	220		37	189
Aug. 24, 1912	390	5 (only the part amending R.S. 4132).	37	562
Mar. 4, 1915	172	1	38	1193
Do	184	5	38	1218
Feb. 19, 1920	83	1, 2, 3	41	436, 437
Feb. 16, 1925	235	1	43	947
Aug. 5, 1935	438	310	49	528
May 20, 1936	434		49	1367
May 24, 1938	265		52	437
May 31, 1939	159		53	794
Do	160		53	795
June 2, 1939	168		53	798
Aug. 30, 1957	Public Law 85-237	1	71	517
Aug. 17, 1961	Public Law 85-157		75	392
Sept. 29, 1965	Public Law 85-219	10	79	892

SEC. 128. EFFECTIVE DATE.

This title shall be effective on the first day of the eighteenth month following the month in which enacted.

SEC. 202. MEASUREMENT.—Section 4148 of the Revised Statutes of the United States, as amended (46 U.S.C. 71) is further amended to read as follows:

"SEC. 4148. (a) Before a vessel is documented or recorded under the laws of the United States, or where the application of a law of the United States to a vessel is determined by its tonnage, the vessel shall be measured by the Secretary of the department in which the Coast Guard is operating. The Secretary may, by regulation, provide for the temporary documentation of a vessel prior to the measurement required by this section.

"(b) A vessel required to be measured under subsection (a) of this section, other than a vessel used exclusively for pleasure, shall be measured as prescribed in sections 4151 and 4153 of the Revised Statutes of the United States, as amended, and to the extent applicable, as prescribed in Public Law 89-219, September 29, 1965 (79 Stat. 891; 46 U.S.C. 83-83k) if—

"(1) it engages or intends to engage in an international voyage by sea; or

"(2) it is at least twenty-four meters in length and is self-propelled.

"(c) A vessel not required to be measured under subsection (b) of this section may be so measured if requested by its owner. A vessel not measured under subsection (b) shall be assigned gross and net tonnages by the Secretary which are functions of its length, breadth, depth and other dimensions, including appropriate coefficients. The Secretary shall prescribe the manner in which dimensions are measured and which coefficients are appropriate. The resulting gross tonnages, taken as a group, shall reasonably reflect the relative internal volumes of the vessels measured, and the resulting net tonnages shall be in approximately the same ratios to corresponding gross tonnages as are the net and gross tonnages of comparable vessels measured under subsection (b) of this section. In accordance with regulations issued under this subsection, the Secretary may determine the gross and net tonnages of a vessel which is representative of a designated class, model, or type and may assign those gross and net tonnages to other vessels of the same class, model, or type.

"(d) A vessel shall be remeasured if—

"(1) the vessel is altered or the use of its space is changed so that its gross or net tonnage is affected;

"(2) having been measured under subsection (c) of this section, the vessel becomes, by use or alteration, subject to subsection (b) of this section; or

"(3) having been measured under subsection (b) of this section and not required to be so measured, the owner requests that the vessel be measured under subsection (c) of this section.

Except as provided in this subsection, a vessel that has been measured is not required to be remeasured to obtain another document.

"(e) The Secretary shall make such regulations as may be necessary to carry out the provisions of sections 4148, 4149, 4150, 4151, and 4153 of the Revised Statutes, as amended (46 U.S.C. 71, 72, 74, 75, 77).".

SEC. 203. APPLICATION.—A vessel measured prior to the effective date of this title under sections 4151 and 4153 of the Revised Statutes of the United States, as amended, is considered as having been measured under section 4148(b) of the Revised Statutes of the United States, as amended by this Act.

SEC. 204. EFFECTIVE DATE.—The provisions of this title shall take effect on the first day of the twelfth month following the month in which enacted.

TITLE III

SEC. 301. The penultimate sentence of section 5(b) of the Act of May 27, 1936 (49 U.S.C. 369(b)), as amended, is amended by striking "November 1, 1983," and substituting "November 1, 1988,".

SEC. 302. There is authorized to be appropriated to the Secretary of Transportation $500,000 for fiscal year 1981 to conduct a study of the feasibility of constructing a new two track railroad drawbridge across Coos Bay, Oregon which would replace the existing Southern Pacific Railroad drawbridge located at mile 9.0 and would have a clear navigational opening of 400 feet or such lesser clearance as the Secretary may determine to be reasonable. Such study shall include an analysis of any modifications to the Coos Bay City Airport that would be required to permit construction of a new railroad drawbridge.

SEC. 303. Notwithstanding the provisions of title V, Merchant Marine Act of 1936 and section 11, Merchant Ship Sales Act of 1946, the Secretary of Commerce is hereby authorized to transfer, without reimbursement, the title and ownership of V4-M-A1 ocean tug Scotch Cap to the Superior-Douglas County Museum in Superior, Wisconsin, for use as a maritime museum. The vessel shall be delivered to the museum at the place where the vessel is located on the effective date of this Act, in its present condition, without cost to the United States. While the vessel is owned by the Superior-Douglas County Museum it shall be used solely as a maritime museum, and such vessel shall not be used for operation or transportation purposes of any nature whatsoever. In the event that the United States should have need for the vessel, the Superior-Douglas County Museum, on request of the Secretary of Commerce shall make the vessel available to the United States without cost. In the event the Superior-Douglas County Museum no longer requires the vessel for the purposes of this Act, such vessel shall be conveyed back to the United States in as good condition as when received, except for ordinary wear and tear, to be delivered by the Superior-Douglas County Museum to the point of original delivery without any cost to the United States.

Mr. BIAGGI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Roberts). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Speaker, H.R. 1196 is a bill to revise and improve the laws relating to the documentation of vessels. It was passed by the House on September 17, 1979. The original text as passed by the House has not been substantially altered or changed by the Senate and continues to allow for the elimination of antiquated procedures while retaining substantive vessel documentation law intact.

H.R. 1196 is before us again primarily because the Senate added a part that concerns itself with procedures to simplify the tonnage measurement of vessels. This is not new to the House, since it incorporates the provisions of H.R. 1197, which was passed by the House on September 17, 1979.

During August of 1980, the Senate considered H.R. 1197 and added an amendment related to surface mining and reclamation—a subject of considerable controversy. This led to the appointment of conferees from the Committee on Interior for the Surface Mining Act amendment—and from the Committee on Merchant Marine and Fisheries for the tonnage measurement provisions. To date, the conferees have not met nor are they expected to meet.

In order to salvage this needed legislation to permit reforming and simplifying tonnage measurement procedures, the Senate has added the provisions of H.R. 1197 to H.R. 1196. The bill before us contains the same provisions concerning vessel documentation and vessel admeasurement that were acted upon by the House over a year ago. At that time, there was no controversy over their enactment. I again request their passage by unanimous consent.

● Mr. YOUNG of Alaska. Mr. Speaker, we are considering today H.R. 1196, the Vessel Documentation Act, as passed yesterday by the Senate. This bill incorporates two bills already passed by the House: H.R. 1196, the Vessel Documentation Act and H.R. 1197, the Tonnage Measurement Simplification Act. Several conforming and technical amendments have been made to the House version of the Documentation Act. Among these amendments are provisions permitting the documentation of vessels under the laws of the United States which have been forfeited and which have wrecked and been repaired in U.S. shipyards.

In addition, the Senate version of H.R. 1196 includes three other amendments. First is an extension of the *Delta Queen* exemption from certain vessel laws for an additional 5 years. Second is a feasibility study of constructing a railroad bridge across Coos Bay, Oreg. Finally is the transfer of a vessel for use as a maritime museum in Superior, Wis.

Mr. Speaker, I have no objection to this unanimous-consent request. This legislation completes all legislation pending before Congress from the Coast Guard and Navigation Subcommittee. I want to take this opportunity to commend Chairman Biaggi, the other members of the committee and the staffs for their efforts during this Congress in bringing about these legislative achievements.●

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

OTIS PIKE FIRE ISLAND HIGH DUNE WILDERNESS

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the bill (H.R. 7814) to designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness," and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I ask the chairman of the committee (Mr. Phillip Burton) if he will explain what the bill does and why it is being taken up at this time.

□ 1540

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, I have an amendment at the desk, and if it is in order at this time, I will offer the amendment.

The SPEAKER pro tempore. The Chair will ask that the gentleman withhold his amendment now and offer it later.

Mr. PHILLIP BURTON. Mr. Speaker, I understand the gentleman from New York (Mr. Carney), as well as the gentleman from New York (Mr. Downey), would like to engage in a colloquy with reference to this matter, and I am prepared to do that at this time.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I am in support of this legislation, and I now yield to the gentleman from New York (Mr. Carney) so that he may engage in a colloquy with the chairman of the subcommittee.

Mr. CARNEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that the boundaries referred to in the bill are the shoreline of the Great South Bay on the north; the toe of the primary dunes on the south; the western boundary of the Smith Point County Park on the east; and the eastern edge of the Watch Hill Campground on the west. Is that correct?

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman from California will yield, the answer to the question is yes.

Mr. CARNEY. The 17-acre Bellport Beach tract is specifically excluded from the wilderness area?

Mr. PHILLIP BURTON. That is correct.

Mr. CARNEY. Wilderness designation shall not restrict vehicular traffic on lands seaward of the toe of the dune, beyond restrictions in effect in the remainder of the seashore area—is that your understanding?

Mr. PHILLIP BURTON. That is correct.

Mr. CARNEY. The bill places a ceiling of $500,000 on the funds available for development in the Fire Island National Seashore. It is my understanding that even this $500,000 will not be available until and unless specifically appropriated by Congress, and further, that no additional funds above that $500,000 will be available until and unless both authorized and appropriated by Congress—is that correct?

Mr. PHILLIP BURTON. That is correct. This language limits development expenditures more rigidly than does existing law .

Mr. CARNEY. Mr. Speaker, it is my understanding that the facilities at Old Inlet which are inside the wilderness boundary are designated as "Potential Wilderness Additions," and may be retained so long as they remain in serviceable condition and are deemed appropriate for retention for wilderness type use.

Mr. PHILLIP BURTON. That is correct.

Mr. CARNEY. Mr. Speaker, it is a pleasure to rise today in support of legislation similar to that which I introduced in July of this year (H.R. 7814), to create a wilderness zone within the Fire Island National Seashore.

The purpose of the establishment of a National Wilderness Preservation System was to assure that present and future generations of Americans would have available to them America's greatest natural resource—the lands and waters that comprise our great Nation. Congress recognized the need to preserve the raw beauty that has so captivated explorers and immigrants over the past five centuries.

The Fire Island National Seashore was established in 1964 in order to preserve a relatively unspoiled area in very close proximity to one of the most densely populated areas on this continent. That enabling legislation envisioned a wilderness area by prohibiting development in the so-called 8-mile zone between Davis Park and Smith Point County Park.

Presently, the National Park Service has no plans to develop the 8-mile zone. However, designation of the zone as wilderness will strengthen the protection of this undeveloped area. In addition, formal designation will serve as a reminder to us all of the fragile nature of our environment and of the humble yet unparalleled surroundings in which our forefathers first settled this country.

The wilderness area to be created by this legislation will be unique in another sense. Fire Island National Seashore lies south of Suffolk and Nassau Counties in Long Island. Approximately 3 million people live in this bicounty area, and the wilderness is only a few hours drive from New York City and its suburbs.

Documents provided to the committee staff make a strong case for a wilderness area. I want to explain that H.R. 7814 was drafted only after I listened to dozens of organizations testify in support of the wilderness concept at a public hearing in May of 1980, and after I reviewed supplementary testimony submitted over the next month. The H.R. 7814 concept enjoys almost complete support in my district.

However, many organizations that support the wilderness area were concerned about ramifications that wilderness designation might have on their historical and traditional use of the area. With few exceptions, the provisions of H.R. 7814 met the consensus needs of the environmental and recreational communities, as well as local residents.

One provision is absolutely critical to maintenance of that coalition. All groups have agreed to a southern boundary for the wilderness area that extends to the toe of the dune. The National Park Service wants to push the boundary further seaward.

Recognize the sensitivity of local citizens to disruption of traditional usage of the area. Correspondence submitted to the committee indicates the cooperation that existed between disparate interest groups in the development of support for this legislation. Retention of "toe-of-the-dune" language for the southern boundary will permit residents of communities on Fire Island access along the ocean front. Sportsmen who have utilized the beachfront for recreational purposes for years will continue to be able to do so. The toe-of-the-dune language is consistent with the southern boundary of Park Service jurisdiction on the remainder of the island. Finally, this boundary is not only acceptable to, but the preferred choice, of a larger number of local environmental groups. Acceptance of any other language will necessitate withdrawal of my support for the bill.

One other section of the original bill deserves discussion, and that is section 7, regarding mosquito infestation on Federal lands in Suffolk County, N.Y.

In the early 1960's, when the legislation was being drafted to establish the Fire Island National Seashore, the authorities in the Suffolk County Mosquito Control Commission requested that provisions be included to permit the commission to treat the properties in question on an annual basis for mosquito infestation. The commission's requests were ignored and the legislation failed to include any provision for mosquito control by the Suffolk County Mosquito Control Commission. As a result, mosquito control could only be accomplished with the written permission of the Superintendent of the Fire Island National Seashore.

Prior to 1975, written permission from the superintendent of the Fire Island National Seashore was obtained on an annual basis, but the superintendent always had the activities of the Mosquito Control Commission carefully monitored.

In 1974 the mosquito control commission was abolished as part of a major reorganization of county agencies. In its place, the county legislature established the bureau of vector control which is a subagency of the Suffolk County Department of Health.

In 1974 and 1975 the bureau of vector control, because of its reorganization, neglected to implement a mosquito control program in either the land managed by the Fire Island National Seashore or the land managed by the U.S. Fish and Wildlife Service.

In 1976 a written agreement was prepared by the bureau of vector control and the National Park Service regarding conditions for mosquito control during the period July–December 1976.

When the bureau of vector control attempted to negotiate a second agreement for the year 1977, the superintendent of the Fire Island National Seashore indicated that there would be no further agreements for the following reasons:

First. He was convinced that the mosquito control program in the Federal land preserves was unnecessary.

Second. He was of the opinion that the continuation of the mosquito control program would have a devastating impact on the environment.

Third. He was of the opinion that the continuation of the mosquito control program would endanger marine life.

Each year since 1977, the bureau of vector control has prepared a proposed mosquito control program and has submitted that proposal for approval. Those proposals have all been denied.

Despite my repeated efforts, the National Park Service refuses to permit spraying or ditching for mosquito control. The Park Service recognizes the mosquitoes are a "very real nuisance" to residents of the area, but that, failing a finding of a public health hazard by the Federal Public Health Service, they would not permit spraying.

The county health department and the New York State Department of Health both believe that mosquito control is necessary. A research scientist for the State Health Department wrote that—

> The U.S. Public Health Service (the CDC) relies on data provided by the State Health Department in order to declare a health emergency. Neglect of mosquito breeding sites is inconsistent with the responsibilities and duties of the U.S. Public Health Service as well as the local health authorities. The whole idea of mosquito control in the eastern United States including Suffolk County is to prevent the need of an emergency declaration. With both Suffolk County and the State of New York having strong and responsive health departments, the need or desirability for the federal health authorities to intervene is minimal, if at all.
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> In the past, we have acknowledged the Seashore's commitment to the environment and because we acknowledge this we endorsed the request from the Seashore to you for a proposal for mosquito control. In turn, we have made it clear that populated areas near the seashore should not be subjected to high mosquito populations. Having made clear our positions, we anticipated having laid the groundwork for compromise. I believe that you have fulfilled your part. It is unfortunate that the Seashore is still unwilling to reach a compromise solution.

Mr. Speaker, the National Park Service must learn to coexist with its neighbors. By requiring the Park Service to permit the county to enter Park Service lands to handle a recognized health problem, a major sticking point between local citizens and the Federal Government will be removed. Although the committee has refused to include such a requirement in this legislation, I will, during the 97th Congress, urge expanded efforts to curb the tyranny that currently works against the will of the residents of Long Island.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me ask the gentleman from New York (Mr. CARNEY) this question: The development ceiling authorization of $500,000 effected by this bill does not in any way express disapproval of or require any modification of the developments slated in the approved general management plan for Fire Island?

Mr. CARNEY. Mr. Speaker, if the gentleman from California will yield, no, we support the proposals in that plan—this provision only requires that the Park Service come to the Interior Committee for specific authorization after funds already appropriated, and the $500,000 in this provision, have been exhausted.

Mr. DOWNEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it has been an ambition of mine for many years to see the establishment of a wilderness area in the high dune district of Fire Island. It is an area of great scenic beauty in a unique location in close proximity to densely populated Long Island and the New York metropolitan area. Such a unique and unspoiled area richly deserves the added protection which wilderness designation will confer upon it, so that future generations can enjoy the natural beauty of the high dunes as I have and as many hundreds of my constituents on Long Island and visitors from all across the Nations have over the years.

It is particularly appropriate that this proposed wilderness should bear the name of my good friend and former colleague from Long Island, Otis Pike, whose lifelong commitment to the protection of the Fire Island seashore is legendary. It is highly fitting that the Otis Pike High Dunes Wilderness should be the first wilderness area to be established in the great State of New York.

I want to congratulate my friend and colleague. Mr. CARNEY for introducing this measure originally, and for his patience and thoughtfulness during the lengthy process of working out the final language. It is equally important that both my colleague from Long Island and I acknowledge the invaluable support provided to us by the gentleman from California (Mr. PHILLIP BURTON) whose expertise in the area of wilderness legislation is well known. Without his advice and assistance we would not be discussing this important measure here today.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I urge support of this bill.

Mr. Speaker, this bill deals with wilderness designation in the Fire Island National Seashore in New York. While the area designated is not large—comprising 1,363 acres and representing only a portion of the length of the entire seashore—it is most significant in that it is located in the most densely populated part of the United States. I believe it is most fortunate that we can make this type of commitment to land management in this area.

This bill has not had the opportunity for close scrutiny and action by the committee, but its provisions and implications have been widely discussed and worked over by the staffs of both affected members and our Committee, with the consideration of input from the National Park Service and interest groups of various types which are concerned about issues relevant to the action we take here. It is my further understanding that the action we are proposing has the knowledge and concurrence of all affected Members of the New York congressional delegation. In that regard, we would not be able to consider this bill today were it not for the strong interest and support from our New York colleagues, the Honorable BILL CARNEY and the Honorable TOM DOWNEY, assisted by their able staff members, Mr. Ken Merin and Mr. David Smith, respectively.

Since there are a number of issues related to the wilderness designation which could bear some clarification, I believe it is important to comment on some of them at this point:

BOUNDARY LINE

The boundary is as generally depicted on the map referred to in the bill text. More specifically, its location is as follows: along the shoreline of the Great South Bay on the north; along the toe of the primary dunes on the south; a generally north-south line which forms the western boundary of the present Smith Point County Park (excluding the Federal visitor center but within a distance of 100 feet from that present development on the east; and along the immediate eastern perimeter of the existing nature trail and campground at Watch Hill on the west.

The location on the south side as represented by the toe of the dunes is intended to not be disruptive to whatever use and access continues to be deemed appropriate in that area seaward of the toe of the dunes.

Moreover, the toe of the dunes represents a distinguishable boundary that should always be fairly easy to identify on the landscape. As this dune line shifts and moves through time, so moves the wilderness line. Except for essential management needs as permitted by the Wilderness Act, no motorized vehicular use of any type would be permitted within the wilderness proper.

POTENTIAL WILDERNESS ADDITIONS

Essentially and eventually, no facilities or indications of man's presence or works should be retained within the wilderness. There are a number of existing facilities within the proposed wilderness which are inconsistent with wilderness designation. These sites have been designated as "potential wilderness additions", within which the inconsistent uses will be phased out and eliminated through time as the opportunity presents itself in each individual case. At such time as this occurs, the sites will automatically become wilderness by act of the Secretary's publication of notice to that effect in the Federal Register.

Numerous private residences will be phased out in 1992 and 1993—and one at the end of a life tenancy—and will thereupon be removed from the landscape. The boardwalk, shower and toilet facilities at Old Inlet will at some future time disappear as it is practical for this to occur; deteriorated condition and or storm damage should be a major determinant in this decision, as well as the necessity for retention for wilderness type use of the area. The boardwalk trail at the eastern end of the wilderness will be phased out if and when it can be relocated to another suitable nonwilderness location, or if it becomes substantially destroyed by storm action.

SEASHORE DEVELOPMENT

While not directly related to wilderness designation, the bill sets a development ceiling for the seashore at $500,000. It has come to be standard practice for the Congress to establish such a standard initial ceiling for development for all park system units which have no ceiling. That ceiling may be subsequently elevated to accommodate development proposed by current general management plans, and approved by the Congress. The establishment of this $500,000 ceiling is designed to assure that no significant new development projects occur within the seashore without the specific authorization of the Congress.

Mr. Speaker, I believe this is a good bill, and I urge my colleagues to support its adoption.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PHILLIP BURTON)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 3(c) of the Wilderness Act (78 Stat. 890) certain lands in the Fire Island National Seashore, New York, comprising approximately one thousand three hundred and sixty-three acres, and potential wilderness additions comprising approximately eighteen acres, as depicted on the map, entitled "Wilderness Plan for Fire Island National Seashore, New York", dated May 1980, are hereby designated as "The Otis Pike Fire Island High Dune Wilderness."

SEC. 2. As depicted on the map above the boundaries of the wilderness shall be: The shoreline of the Great South Bay on the north; the toe of the primary dunes on the south; the westernmost point of the Smith Point West Nature Trail for the Handicapped on the east; and the eastern edge of the Watch Hill campsite on the west. The seventeen-acre Bellport Beach tract is specifically excluded from the wilderness area.

SEC. 3. With the exception of proposed developments at Talisman and the lighthouse, major Federal developments of any area in the Fire Island National Seashore west of the western boundary, as set forth in section 2 of the Act, shall require congressional approval.

SEC. 4. Wilderness designation shall not restrict vehicular traffic on lands seaward of the toe of the dune, beyond restrictions in effect in the remainder of the Fire Island National Seashore area.

SEC. 5. Wilderness designation shall not interfere with present maintenance practices for public utility cables within the wilderness area.

SEC. 6. Wilderness designation shall not preclude the repair of breaches that occur either in the wilderness area, or in the remainder of the Fire Island National Seashore, in order to prevent loss of life, flooding, and other severe economic and physical damage to the Great South Bay and surrounding areas.

SEC. 7. (a) Upon a finding by the Suffolk County Department of Health that mosquito infestation on the Fire Island National Seashore, William Floyd Estate, Wertheim Estate, or the Peters-Webster Estate, results in a danger to the health of Suffolk County residents, the county is authorized to use such resources as it deems necessary to eliminate such infestation, including breeding source reduction and the use of insecticides.

(b) The county is authorized to enter such Federal lands for the purpose of identifying and treating mosquito-infested areas.

Sec. 8. Wilderness designation shall not preclude maintenance of the boardwalk and other existing facilities in the vicinity of the Old Inlet.

Sec. 9. Any decision by the Federal Government to return Fire Island National Seashore to State and/or local governments shall terminate the wilderness status created by this Act.

Sec. 10. As soon as practicable after this Act takes effect, a map and description of the boundaries of the wilderness shall be filed with the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives, and such map and description shall have the same force and effect as if included in the Act: *Provided, however,* That correction of clerical and typographical errors may be made. The map and description of boundaries shall be on file and available for public inspection in the Office of the Director of the National Park Service in the Office of the Superintendent of Fire Island National Seashore.

Sec. 11. Those lands which represent potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses prohibited thereon by the Wilderness Act have ceased, shall thereby be designated wilderness. Such potential wilderness additions shall be managed by the Secretary, insofar as practicable, as wilderness until such time as they are designated as wilderness.

Sec. 12. The wilderness designated by this Act shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Phillip Burton: Strike all after the enacting clause and insert in lieu thereof:

"That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c)), certain lands in the Fire Island National Seashore, New York, comprising approximately one thousand three hundred and sixty-three acres, and potential wilderness additions comprising approximately eighteen acres, as depicted on the map entitled "Wilderness Plan—Fire Island National Seashore", dated December 1980, are hereby designated as the "Fire Island Wilderness". The southern boundary of the wilderness shall be the toe of the primary dunes.

(b) As soon as practicable after this Act takes effect, a map and a description of the boundaries of the wilderness area shall be filed with the Committee on Interior and Insular Affairs of the U.S. House of Representatives and the Committee on Energy and Natural Resources of the U.S. Senate, and such map and description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in such map and description may be made. The map and description of boundaries shall be on file and available for public inspection in the offices of the Superintendent of the Fire Island National Seashore and the Director of the National Park Service.

(c) Lands which represent potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses prohibited thereon by the Wilderness Act have ceased, shall thereby be designated wilderness. Pending such designation, the Secretary shall administer such lands in such manner as to preserve, insofar as is possible, their wilderness or potential wilderness character.

(d) Wilderness designation shall not preclude the repair of breaches that occur in the wilderness area, in order to prevent loss of life, flooding, and other severe economic and physical damage to the Great South Bay and surrounding areas.

(e) Section 10 of the Act of September 11, 1964 (78 Stat. 928) is amended by changing the period to a comma, and by adding the following: 'and, after the date of enactment of this provision, not more than $500,000 for development.'

(f) Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1981. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts as are provided in advance in appropriation Acts.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PHILLIP BURTON. Mr. Speaker, I would like to commend our two colleagues from New York, the gentleman from New York (Mr. Carney) and the gentleman from New York (Mr. Downey).

I want to commend one and all of the participants in this very, very important effort. I would particularly note the sustained interest of the Audubon Society and of Rupert Cutler in this matter.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. Phillip Burton).

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ACQUISITION OF CERTAIN LANDS IN DOUGLAS COUNTY, WIS.

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3096) to amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wis., and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. Moakley). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (6) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274) is amended by adding at the end thereof the following new sentence: "A one-thousand-three-hundred-and-eighty-acre portion of the area commonly known as the Velie Estate, located adjacent to the Saint Croix River in Douglas County, Wisconsin, as depicted on the map entitled 'Boundary Map/Velie Estate—Saint Croix National Scenic Riverway', dated September 1980, and numbered 630–90,001, may be acquired by the Secretary without regard to any acreage limitation set forth in subsection (b) of this section or subsection (a) or (b) of section 6 of this Act.".

● Mr. PHILLIP BURTON. Mr. Speaker, S. 3096 authorizes the Secretary of the Interior to acquire the Velie Estate as part of the St. Croix Wild and Scenic River in the State of Wisconsin. This magnificent estate, in single ownership, of approximately 1,380 acres has been protected by private landowners since 1893, but is now in the hands of real estate developers who, in the absence of Federal purchase, would subdivide the lands. Subdivision would not only destroy this outstanding resource but would impair the values of the existing St. Croix Wild and Scenic River.

Mr. Speaker, I cannot speak too highly of the long years of dedication and leadership of Senator Gaylord Nelson on issues of environmental concern. S. 3096 is the latest of the long list of legislation that Senator Nelson has spearheaded to make our country a better place to live. I would also commend our colleague and outstanding member of the Interior and Insular Affairs Committee, Bob Kastenmeier, for his leadership in this matter. In addition, Congressman Obey and Congressman Baldus have both been very helpful.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1142, KENNEDY CENTER FOR THE PERFORMING ARTS

Mr. LEVITAS. Mr. Speaker, I call up the conference report on the Senate bill (S. 1142) authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 5, 1980.)

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LEVITAS) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. HARSHA) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the agreement reached by the conferees authorizes to be appropriated to the Secretary of the Department of the Interior $4,287,000 for the fiscal year ending September 30, 1980, and not to exceed $4,400,000 for the fiscal year ending September 30, 1981, acting through the National Park Service to provide maintenance, security, information, interpretation, janitorial, and other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts.

In this regard, the National Park Service is responsible for the maintenance, repair, security, and administration of numerous Presidential memorials in the Nation's Capital. Thus, the Congress directed upon enactment of Public Law 92-313, in 1972, that those memorial-type functions of the Kennedy Center be administered under the supervision of the National Park Service. Subsequently, the Park Service and the Kennedy Center entered into an agreement whereby the Park Service is allocated 76.2 percent of the operation and maintenance costs and the Kennedy Center is allocated 23.8 percent. The authorizations contained in the conference reflect the appropriate allocation formula.

Section 2 of the bill designates Ralph E. Becker, an Honorary Trustee of the John F. Kennedy Center for the Performing Arts, in recognition of his service as a founding trustee and general counsel for the Center from 1958 to 1976.

Mr. HARSHA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 1142 and H.R. 3051, 96-1530.

The funds authorized by this legislation are consistent with Public Law 85-874, the John F. Kennedy Center Act, as amended, and the cooperative agreement entered into between the Department of the Interior and the John F. Kennedy Center on July 1, 1973, which requires the John F. Kennedy Center to annually pay 23.8 percent of the maintenance cost incurred at the Center; the remaining 76.2 percent is provided by the Interior Department. I would like to point out, however, that the 23.8 and 76.2 percent ratio has recently been investigated by the General Accounting Office. That office is recommending that the Kennedy Center begin paying a larger share than they are currently paying. However, because of the grave financial dilemma the Kennedy Center is currently experiencing it is doubtful that the Center would be in a position to do so. The Committee on Public Works and Transportation intends to conduct hearings early in the 97th Congress in order to find an answer solving the many problems at the Center. In the meantime, Mr. Speaker, I would like to urge my colleagues to join me in passage of the conference report.

Mr. Speaker, before I yield back the balance of my time, I yield to the gentleman from Maryland (Mr. BAUMAN).

(By unanimous consent, Mr. BAUMAN was allowed to proceed out of order.)

Mr. BAUMAN. Mr. Speaker, I appreciate the gentleman's yielding to me.

I thought I would take this time, since this is the bill dealing with the nonperforming arts, and say that I would suspect what the gentleman from Maryland has to say will definitely fall into the category of arts nonperforming.

"T'WAS THE WEEK OF ADJOURNMENT"

T'was the week of adjournment and all through the House,
The Members were stirring; they all wanted out.
The Lame Ducks were packing their junk up with care,
In hopes that job offers soon would be there.
Transition Team people all snug in their slots,
Were thwarting Democrats from holdover plots;
When on the House rostrum there arose such a clatter,
I sprang from my seat to see what was the matter.
Down to the House well I flew like a flash,
There was the Speaker, his gavel did crash.
TV lights on the breast of this crestfallen man,
Made him look, not a "winner," but just "also-ran."
When what to my wondering eyes should appear,
But a Democrat Forum with grins ear to ear,
With conservatives marching, so lively and quick,
I knew in a moment the Speaker'd be sick.
More rapid than elephants, the Republicans came,
As Bob Michel whistled and called them by name:
Now, Trent Lott, now, Jack Kemp, now shades of Dick Nixon;
The freshman Republicans their plans were a fixin!
From the top of the dome, from the gallery walls,
The Speaker's broad "a"s resounded the calls:
"We'll stop your new ratios, heres' muck in your eye,
We'll give Reagan lip service, but none of the pie,
So that bloody Republicans can't rise very high."
Then down to the well I, Bob Michel, he flew
With a call to do battle that roused the 1-9-2.
"The elections are over, Tip can't change a thing,
And if he's not careful, I'll threaten to sing."
And then on the West Front there came such a noise,
Of workmen preparing the scene of our joys.
The prancing and pawing of each appointee,
Filled the hearts of the stalwarts with thoughts GOP.
But down came the gavel, it slammed with a bound.
"At least," said the Speaker, "There'll be no Bauman around!"
But the Speaker turned purple from his head to his foot,
The New and the old Deal now ashes and soot;
"Jimmy Carter's campaign was an effort too shoddy,
And what's even worse, now there's that Other Body."
As I made a point of order and was turning around,
Down Pennsylvania Avenue Reagan came with a bound,
His eyes, how they twinkled, He said, "Gosh, aw, gee,"
"Is that 'Hail to the Chief' they're playing for me?"
A bundle of appointments he had stashed in his pack,
And he looked like a man who could bring America back.
With a wink of his eye and a twist of his head,
I knew he would knock the liberals quite dead.
He spoke very few words, but went straight to his work,
Removing the has beens, every last jerk.
And laying his finger aside of his nose,
And giving a nod, to the occasion he rose;
"Let us reason together, Mr. Speaker," Ron said,
"Before White House and Congress loses its heads,
"We all want to do that which is straight, and working together, make America great."
But I heard him exclaim ere he drove out of sight.
"Happy Christmas to all, and Washington here I come."

☐ 1550

Mr. HARSHA. Mr. Speaker, I reserve the balance of my time.

Mr. LEVITAS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. I would just like to say that I was not present on the floor at the time there was a special order of our colleague from Maryland (Mr. BAUMAN). I shall miss him as will many Members of this body. On many occasions the gentleman proved he knew the rules better than we. He helped stick it to us. I think we will miss him. I will miss him as a Members of Congress, I will miss him as a personal friend, and I truly believe this body is worse off for his defeat. If it was anybody else, I would have raised a point of order because I do not think the gentleman's remarks were germane to the bill.

Mr. LEVITAS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

ROBERT C. McEWEN U.S. CUSTOMS HOUSE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8345) to name the U.S. Customs House in Ogdensburg, N.Y., the "Robert C. McEwen U.S. Customs House," with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 1, insert:

Sec. 3. (a) Any provision of law which provides that any member of a commission, board, committee, advisory group, or similar body is to be appointed by the President pro tempore of the Senate shall be construed to require that the appointment be made—

(1) upon recommendation of the majority leader of the Senate, if such provision of law specifies that the appointment is to be made on the basis of the appointee's affiliation with the majority political party,

(2) upon the recommendation of the minority leader of the Senate, if such provision of law specifies that the appointment is to be made on the basis of the appointee's affiliation with the minority party, and

(3) upon the joint recommendation of the majority leader of the Senate and the minority leader of the Senate, if such provision of law does not specify that the appointment is to be made on the appointee's affiliation with the majority or minority political party.

(b) The provisions of subsection (a) shall be applicable in the case of appointments made after the date of enactment of this Act pursuant to provisions of law enacted on, before, and after, the date of enactment of this Act.

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with and that it be printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the proposed House amendment to the Senate amendment.

The Clerk read the House amendment to the Senate amendment as follows:

Sec. . In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $2,459,300 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for the repair and alteration of the U.S. Postal Service Building at 115 East Sixth Avenue, Gary, Indiana.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Georgia?

There was no objection.

A motion to reconsider was laid on the table.

OHIO WESLEYAN UNIVERSITY

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3317) for the relief of Ohio Wesleyan University, Delaware, Ohio, with Senate amendments thereto, concur in the Senate amendments to the title of the bill, and concur in the Senate amendments to the text of the bill with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause, and insert:

Section 1. Excise Tax Refunds in Case of Certain Uses of Tread Rubber.

(a) Refunds for Certain Uses.—Subparagraph (G) of section 6416(b)(2) of the Internal Revenue Code of 1954 (relating to special cases in which tax payments considered overpayments) is amended to read as follows:

"(G) in the case of tread rubber in respect of which tax was paid under section 4071 (a)(4)—

"(i) used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)),

"(ii) destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process,

"(iii) used in the recapping or retreading of a tire the sale of which is later adjusted pursuant to a warranty or guarantee, in which case the overpayment shall be in proportion to the adjustment in the sales price of such tire, or

"(iv) used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use,

unless credit or refund of such tax is allowable under paragraph (3);".

(b) Use in Further Manufacture, Etc.—

(1) In general.—Paragraph (3) of section 6416(b) of such Code (relating to tax-paid articles used for further manufacture, etc.) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) in the case of tread rubber in respect of which tax was paid under section 4071(a) (4) used in the recapping or retreading of a tire, such tire is sold by the subsequent manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, unless credit or refund of such tax is allowable under subparagraph (C);".

(2) Technical Amendments.—

(A) Subparagraph (E) of section 6416(b) (2) of such Code is amended by inserting after "paragraph (3)" the following: "(or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)),".

(B) Subparagraph (C) of section 6416(a) (1) of such Code is amended by striking out "(b)(3)(C)" and inserting in lieu thereof "(b)(3) (C) or (D)".

(C) Subparagraph (A) of section 6416(b) (3) of such Code is amended by inserting "(D)," after "(C),".

(D) Subparagraph (A) of section 6416(b) (4) of such Code is amended by striking out "section 4071" and inserting in lieu thereof "section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading,".

(c) Statute of Limitations.—Section 6511 of such Code (relating to limitations on credit or refund) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Special Rule for Certain Tread Rubber Tax Credits or Refunds.—The period for allowing a credit or making a refund of any overpayment of tax arising by reason of subparagraph (G)(iii) of section 6416(b)(2) with respect to any adjustment of sales price of a tire pursuant to a warranty or guarantee shall not expire if claim therefor is filed before the date which is 1 year after the day on which such adjustment is made.".

(d) Imported Recapped or Retreaded United States Tires.—Section 4071 of such Code (relating to excise tax on tires and tubes) is amended by adding at the end thereof the following new subsection:

"(f) Imported Recapped or Retreaded United States Tires.—

"(1) In general.—For purposes of subsection (a)(4), in the case of a tire which has been exported from the United States, recapped or retreaded (other than from bead to bead) outside the United States, and imported into the United States—

"(A) the person importing such tire shall be treated as importing the tread rubber used in such recapping or retreading (determined as of the completion of the recapping or retreading), and

"(B) the sale of such tire by the importer thereof shall be treated as the sale of such tread rubber.

"(2) Exception for certain taxable sales.—Paragraph (1) shall not apply with respect to the sale of any tire if such tire is sold on or in connection with the sale of an article on which tax is imposed under section 4061.".

(e) Effective Date.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

Sec. 2. Nonrecognition of Gain on Sale of Principal Residence.

(a) In General.—In the case of an individual—

(1) who sold his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1954) in 1977,

(2) who purchased property on which to construct a new principal residence (within the meaning of such section)—

(A) the construction of which commenced during such year, and

(B) the construction of which was terminated before completion,

(3) who brought an action, and obtained a judgment, against the builder who commenced construction of the new residence but failed to complete it,

(4) who suspended construction of such residence so that the partially constructed residence could be used as evidence in connection with the prosecution of the builder without regard to whether it was so used, and

(5) who failed to meet the requirements of such section with respect to occupancy of the new principal residence because of such suspension of construction,

the Secretary of the Treasury, in the administration of section 1034(c) of the Internal Revenue Code of 1954 (relating to rules for application of section 1034), shall apply paragraph (5) of such section as if "5 years" were substituted for "2 years" where it appears in the last sentence of such paragraph.

(b) Effective Date.—The provisions of the first section of this Act shall apply with respect to taxable years beginning after December 31, 1976, and before January 1, 1983.

Sec. 3. Disclosure of Tax Returns to State Audit Agencies.

(a) General Rule.—Subsection (d) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of return information to State tax officials) is amended to read as follows:

"(d) Disclosure to State Tax Officials.—

"(1) In general.—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36 shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency body or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

"(2) Disclosure to state audit agencies.—

"(A) In general.—Any returns or return information obtained under paragraph (1) by any State agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

"(B) State audit agency.—For purposes of subparagraph (A), the term 'State audit agency' means any State agency, body, or commission which is charged under the laws of the State with the responsibility of auditing State revenues and programs.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Sec. 4. Resident's of Certain Publicly Owned Institutions Which Are Not Operated at Public Expense.

Sec. 4. (a) Section 1611(e)(1)(C) of the Social Security Act is amended—

(1) by inserting "(i)" after "'public institution'" and by inserting before the period at the end thereof "and (ii) does not include an institution in existence on the effective date of this clause if both on and after such effective date such institution does not derive its operational funds in whole, or substantial part, from public sources"; and

(2) by adding at the end thereof the following sentence: "Payments made to an institution by residents thereof shall be considered to be from public sources to the extent that such payments represent income of such residents from public sources other than income in the form of a compensation for employment (including a pension based on prior employment), or in the form of payments from Federal funds, or in the form of State supplementary payments made pursuant to this title which are made at a level not in excess of the levels of State supplementary payments which would be available to such residents if they were living in their own home.".

(b) The amendments made by this section shall be effective with respect to supplemental security income benefits payable under title XVI of the Social Security Act for months beginning after the date of enactment of this Act.

(c) Subject to subsection (b), clause (ii) of section 1611(e)(1)(C) of the Social Security Act shall be effective on the earlier of the date of enactment of this Act or November 1, 1980.

Sec. 5. Treatment of Certain Expenses Includible in the Income of the Recipient.

(a) In General.—Subsection (e) of section 274 (relating to specific exceptions to application of disallowance of certain entertainment, etc., expenses) is amended by inserting after paragraph (3) the following new paragraph:

"(10) Expenses includible in income of persons who are not employees.—Expenses paid or incurred by the taxpayer for goods, services, and facilities to the extent that the expenses are includible in the gross income of a recipient of the entertainment, amusement, or recreation who is not an employee of the taxpayer as compensation for services rendered or as a prize or award under section 74. The preceding sentence shall not apply to any amount paid or incurred by the taxpayer if such amount is required to be included (or would be so required except that the amount is less than $600) in any information return filed by such taxpayer under part III of subchapter A of chapter 61 and is not so included."

(b) Effective Date.—The amendment made by this section shall apply to any expenses paid or incurred after December 31, 1980, in taxable years ending after such date.

Sec. 6. Preserving Existing Tax Status of Wine and Flavors Used in the Production of Distilled Spirits.

(a) Allowance of Credit.—Subpart A of part I of subchapter A of chapter 51 of the Internal Revenue Code of 1954 (relating to distilled spirits) is amended by adding at the end thereof the following new section:

Sec. 5010. Credit for Wine Content and for Flavors Content.

"(a) Allowance of Credit.—

"(1) Wine content.—On each proof gallon of the wine content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to the excess of—

"(A) $10.50, over

"(B) the rate of tax which would be imposed on the wine under section 5041(b) but for its removal to bonded premises.

"(2) Flavors content.—On each proof gallon of the flavors content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to $10.50.

"(3) Fractional part of proof gallon.—In the case of any fractional part of a proof gallon of the wine content, or of the flavors content, of distilled spirits, a proportionate credit shall be allowed.

"(b) Time for Determining and Allowing Credit.—

"(1) In general.—The credit allowable by subsection (a)—

"(A) shall be determined at the same time the tax is determined under section 5006 (for 7652) on the distilled spirits containing the wine or flavors, and

"(B) shall be allowable at the time the tax imposed by section 5001 (or 7652) on such distilled spirits is payable as if the credit allowable by this section constituted a reduction in the rate of tax.

"(2) Determination of content in the case of imports.—For purposes of this section, the wine content, and the flavors content, of imported distilled spirits shall be established by such chemical analysis, certification, or other methods as may be set forth in regulations prescribed by the Secretary.

"(c) Definitions.—For purposes of this section—

"(1) Wine content.—

"(A) In general.—The term 'wine content' means alcohol derived from wine.

"(B) Wine.—The term 'wine'—

"(i) means wine on which tax would be imposed by paragraph (1), (2), or (3) of section 5041(b) but for its removal to bonded premises, and

"(ii) does not include any substance which has been subject to distillation at a distilled spirits plant after receipt in bond.

"(2) Flavors content.—

"(A) In general.—Except as provided in subparagraph (B), the term 'flavors content' means alcohol derived from flavors of a type for which drawback is allowable under section 5134.

"(B) Exceptions.—The term 'flavors content' does not include—

"(i) alcohol derived from flavors made at a distilled spirits plant, and

"(ii) in the case of any distilled spirits product, alcohol derived from flavors to the extent such alcohol exceeds (on a proof gallon basis) 2½ percent of the finished product."

(b) Clerical Amendment.—The table of sections for such subpart A of part I of subchapter A of chapter 51 of such Code is amended by adding at the end thereof the following new item:

"Sec. 5010. Credit for wine content and for flavors content."

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1980.

(d) Transfers of Alcohol.—Section 5212 of the Internal Revenue Code of 1954 (relating to the transfer of spirits in bond) is amended by adding at the end thereof the following new sentence: "The provisions of this section restricting transfers to bulk distilled spirits shall not apply to alcohol bottled under the provisions of section 5235 which is to be withdrawn for industrial purposes."

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 with respect to excise tax refunds in the case of certain uses of tread rubber, and for other purposes.".

The Clerk read the House amendments to the Senate amendments, as follows:

Page 4, strike out lines 10 through 12 and insert the following:

by redesigning subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Special Rule for Certain Tread Rubber

Strike out section 4 of the Senate amendment and insert in lieu thereof the following:

Sec. 4. Treatment of Bonner's Ferry Restorium Under the Supplementary Security Income Program.

(a) Treatment As Non-Public Institution.—For purposes of title XVI of the Social Security Act, the Boundary County Restorium (popularly known as the Bonner's Ferry Restorium) in Bonner's Ferry, Idaho, shall not be considered a public institution (within the meaning of section 1611(e)(1)(C) of such Act).

(b) EFFECTIVE DATE.—Subsection (a) shall apply to supplemental security income benefits payable under title XVI of the Social Security Act for months beginning with November 1980.

Page 10, line 20, insert "of the Internal Revenue Code of 1954" after "section 274".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. CONABLE. Mr. Speaker, I reserve the right to object.

May I ask the gentleman if he will explain the basic provisions of this great tribute to the declining hours of the 96th Congress?

Mr. ROSTENKOWSKI. Will the gentleman yield?

Mr. CONABLE. I do yield to the gentleman.

Mr. ROSTENKOWSKI. Mr. Speaker, this bill contains six provisions most of which make minor and relatively noncontroversial changes in the tax laws. Four of these provisions have already passed the House: Refund of tread rubber excise tax; the disclosure of tax returns to State audit agencies; the excise tax treatment of wine and flavorings used in distilled spirits products; and the deductibility of certain entertainment facility expenses.

The remaining two sections afford relief in two narrow instances. The first waives the 2-year replacement period required to qualify for the nonrecognition of gain upon the sale of a residence, but only under very unique circumstances. The second modifies the definition of public institution under the supplemental security income (SSI) program.

While intended to apply only to a single institution in Idaho, the provision as passed by the Senate is rather broadly drafted and could have policy and fiscal implications far beyond its intended beneficiary. Therefore, Mr. Speaker, this motion amends section 4 of the bill to insure that its provisions apply only to Bonner's Ferry Restorium. This change would remove most of the objections to the bill.

I urge the House to approve this motion and send H.R. 3317 to the Senate for final action.

Mr. CONABLE. Further reserving the right to object, Mr. Speaker, I would like to yield to the gentleman from California (Mr. ROUSSELOT), who has been the engineer of the redrafting provision relative to the so-called Restorium in Idaho which was a somewhat casual amendment to the bill in the other body. Could the gentleman explain the amendment and what was done in the drafting.

Mr. ROUSSELOT. If my colleague from Illinois can confirm, it is my understanding that this modification relating to Bonner's Ferry Restorium, we more carefully confined this provision to what was originally intended by the two gentlemen from the other body from the State of Idaho, is that not correct?

Mr. ROSTENKOWSKI. That is the intention.

Mr. CONABLE. Further reserving the right to object, may I ask my friend from California if there has been some discussion with Members of the other body indicating the possibility of repassage of this measure, as amended, so that this particular change in drafting will not be viewed as a nefarious thought to kill the bill.

Mr. ROUSSELOT. It is my understanding, as long as the confinement was to this one item, that it would be acceptable and there would be no objection in the other body.

Mr. CONABLE. Further reserving the right to object, are there not other technical errors in the draftsmanship of this wonderful measure that have required at least the change of a few words, even thought it does not involve any substantive change?

Mr. ROUSSELOT. If the gentleman would yield further, the gentleman is correct. There were some very minor technical changes in language that were required that evidently the writers of the legislation in the other body had not adequately covered and that they are asking that those very minor technical changes in language, as the gentleman states, not changing the subject, be made by the House of Representatives.

Mr. CONABLE. Further reserving the right to object, it is the gentleman's understanding that that will not in any way disable further consideration of this measure by the other body?

Mr. ROSTENKOWSKI. That is my understanding.

Mr. CONABLE. Mr. Speaker, further reserving the right to object, I would like to yield now briefly to my friend from Minnesota (Mr. FRENZEL) for a few acidulous and acerbic remarks that I know the gentleman has in mind.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, a part of this bill originally passed the House in the form of H.R. 7171, which, in my judgment, was an unwise measure conferring unwarranted tax benefits on the U.S. wine industry. I disapprove of its passage at this time.

Mr. Speaker, I oppose H.R. 3317 because included in the bill is a provision that erodes important changes made in the method of taxing distilled spirits agreed to in the multilateral trade negotiations (MTN) and implemented last summer in the Trade Agreements Act of 1979.

The provision would disturb the new unitary system of taxing distilled spirits by reverting to pre-1980 tax treatment for producers and importers of distilled spirits containing wine. Under H.R. 3317, such producers and importers would be able to claim a credit against the distilled spirits tax equal to the excess of $10.50 over the tax rate on the wine content that would have been imposed if the wine had been taxed as wine. In my view, circumstances do not warrant such an early and perfunctory abandonment of the unitary tax system that represents a major improvement over the cumbersome and fragmented system in place prior to this year.

I remind my colleagues that, in return for reciprocal concessions negotiated in the MTN, the United States agreed to change from the "wine gallon" to the "proof gallon" method of imposing the distilled spirits excise taxes and tariffs. The purpose of this change was to tax distilled spirits products, whether domestic or imported, uniformly on the basis of alcoholic content rather than volume.

At that time, it was recognized that the change to a uniform proof-gallon system removed a clear advantage that domestic distillers enjoyed over importers of bottled spirits. In order to mitigate any adverse effects, certain further tax and administrative changes were enacted along with the trade concession provisions.

Now it is claimed that the effects of these changes on distillers of products containing wine was not intended by the Congress. However, it is clear from the report language of the Trade Agreements Act of 1979 that the tax on distilled spirits containing wine would be increased after January 1, 1980.

In the report, the intent of the legislation was clearly spelled out as follows:

> The result of adopting the all-in-bond system is that domestic products as well as imported products will now be taxed on the basis of the alcohol content of the finished product after it has been diluted and bottled and will include the part of the alcohol content which is derived from wine or other alcoholic ingredients added to a distilled spirits product before it is bottled. (Page 164.)

The industry and public was advised by Trade Subcommittee press release No. 9 of April 10, 1979, about 3 months before the Ways and Means Committee completed action on the MTN implementation bill, of the nature of the "revised" method of determining the tax on distilled spirits—all-in-bond system. It is hard to believe the industry could have been surprised by the new system.

Yet, the wine industry now claims that it was promised protection from any adverse effects, no matter how far removed, that might result from the MTN changes. Insofar as I can determine, no such promise was made, or was any promise made concerning this legislation.

The wine industry was not and is not today adversely affected by the MTN trade concession provisions or by the conciliatory tax changes enacted last year. One of their customers—a customer that purchases less than one-half of 1 percent of total wine sales—lost certain advantages because of the MTN changes and received compensatory tax relief in the context of the implementing bill. To say that distillers of products containing wine are so unexpectedly hurt that they will now abandon the use of wine, in many cases supplied by their own subsidiaries, because of the consequences of the MTN is totally unjustified.

I believe it is important to maintain the unitary method of taxing distilled spirits and to preserve the tax compromises worked out last year in the implementing legislation. Now that the unitary system has been achieved, we should not be carving out exceptions for every minor effect on the marketplace. If we do, we will soon find ourselves again with a fragmented and complex system similar to the one we tried to replace. The many people who are pushing this bill will be back asking for relief from the administrative burden required under its provisions.

Mr. Speaker, a number of Members of our body, including the gentleman from California (Mr. ROUSSELOT) and the gentleman from California (Mr. BURGENER), inform me that this bill is absolutely essential to the economic well-being of their particular areas. For that reason, I shall not object to the bill and for the further reason it would simply add the extra time which we need not take.

Nevertheless, Mr. Speaker, I wanted at this time to raise my strong objection to that part of the bill which comprises the old H.R. 7171.

Mr. Speaker, I thank the gentleman from New York for yielding.

Mr. CONABLE. Mr. Speaker, further reserving the right to object, I have no desire to raise my voice in objection but I would like to ask if there are other Members who would have further colloquy on this piece of legislation.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

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Mr. ROUSSELOT. I thank the gentleman for yielding.

I would like to pose a simple question to my colleague from Illinois.

Does the gentleman agree with me that it is our intention with regard to this amendment pertaining to the Bonner's Ferry Restorium that the Department of Health and Human Services should not make any attempt to recoup SSI funds paid to Restorium residents prior to the November 1980 effective date of this amendment?

Mr. ROSTENKOWSKI. Yes, that is our intention.

Mr. ROUSSELOT. I thank the gentleman.

Mr. CONABLE. Mr. Speaker, it is my hope that the gentleman from Illinois and I can resolve all further outstanding differences as easily as we have our differences over this bill.

● Mr. HANSEN. Mr. Speaker, I rise in support of the amendment offered by Congressman ROUSSELOT to H.R. 3317, and am hopeful that my colleagues will also agree to this measure.

Several years ago, the citizens of Boundary County, Idaho, constructed a nonmedical group care home for the senior citizens in that area who were no longer able to maintain their own homes. After the senior citizens moved into the Restorium in 1976, the Social Security Administration declared that they were inmates of a public institution and were therefore no longer eligible for SSI benefits, even though the Restorium receives no operational support from the county which paid for its construction. Operating funds come mainly from the residents and their families.

Passage of this amendment would address this "gray" area of the law and solve a problem for the residents of the Bonner's Ferry Restorium which has been unsettled since 1976. This amendment will insure that the needy, blind, disabled and elderly citizens who are residents of this Restorium will be provided with a minimum income, insuring the continued viability of the Restorium which has provided a decent place of residence to many individuals.●

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois (Mr. ROSTENKOWSKI)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter relating to H.R. 3317, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

S. W. TAYLOR MEMORIAL PARK

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4131) to change the name of the China Bluff Access Area being constructed by the Army Corps of Engineers as part of the Tennessee-Tombigbee Waterway near Warsaw in Sumter County, Ala., to the "S. W. Taylor Memorial Park," with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 4, insert:

SEC. 2. That the authorization of the La Farge Lake, Kickapoo River, Wisconsin, flood control project (cited as the "Kickapoo River, Wisconsin, project") in section 203 of the Flood Control Act of 1962 (76 Stat. 1173, 1190) is hereby modified to terminate the authorization for a feature of the project which relates to the construction of a levee and certain appurtenant works at Gays Mills, Wisconsin, substantially in accordance with the plan of the District Engineers set forth in House Document Numbered 557, Eighty-seventh Congress, second session, dated September 17, 1962.

The clerk read the House amendment to the Senate amendment, as follows:

At the end of the matter proposed to be inserted by the Senate amendment add the following:

SEC. 3. The project for flood protection on the Sacramento River, California, authorized by the Flood Control Act approved March 1, 1917, as amended, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct bank protection works along the reach of the Sacramento River and its tributaries from Red Bluff to Shasta Dam, and from Chico Landing downstream along each bank to the head of the Sacramento River Flood Control Project levees, subject to the same requirements of non-Federal cooperation applicable to other similar elements of the project, and to include mitigation of fish and wildlife losses induced by the project. The evaluation and justification of the project shall be based on the overall benefits and costs of all project elements. In addition to previous authorizations, there is hereby authorized to be appropriated the sum of $25,000,000 to carry out the purposes of this section.

SEC. 4. (a) For the preservation and enhancement of highly significant wildlife habitat of the area known as Bandon Marsh, in the estuary of the Coquille River in the State of Oregon, for the protection of migratory waterfowl, numerous species of shorebirds and fish, including Chinook and silver salmon, and to provide opportunity for wildlife-oriented recreation and nature study on the marsh so preserved, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to establish, as herein provided, a national wildlife refuge to be known as the Bandon Marsh National Wildlife Refuge (hereinafter referred to as the "refuge").

(b) There shall be included within the boundaries of the refuge those lands marshes, tidal flats, submerged land, and open water generally depicted on the map entitled "Bandon Marsh National Wildlife Refuge", dated September 1980, and which comprise approximately 300 acres. Said map shall be on file and available for public inspection in the offices of the U.S. Fish and Wildlife Service, Department of the Interior.

(c) The Secretary may acquire, with available appropriations, lands and waters, or interests therein, subject to the interests of the State of Oregon, including the public trust of the State, within the boundaries of the Refuge by donation, purchase with donated or appropriated funds, or exchange.

(d) The Secretary shall establish the refuge by publication of a notice to that effect in the Federal Register at such time as he determines that lands, waters, and interests therein sufficient to constitute an efficiently administrable refuge have been acquired. The Secretary may make such minor revisions in the boundaries of the Refuge as may be appropriate to carry out the provisions of this section.

(e) Prior to the establishment of the refuge and thereafter, the Secretary shall administer the lands, waters, and interests therein acquired for the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 633dd–ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities compatible with the wildlife resources, and interpretive education as he deems appropriate to carry out the purposes of this section, and should it become necessary acquire said lands subject to the public trust rights of the State, if any.

(f) Beginning October 1, 1981, there are authorized to be appropriated $270,000 to carry out this section.

SEC. 5. (a) The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Energy, the Tennessee Valley Authority, and the State of South Dakota, is authorized and directed to coordinate and conduct a monitoring, engineering assessment and remedial action program for the management of byproduct materials, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, as offsite locations in the vicinity of the Edgemont, South Dakota, uranium mill site. Such program shall provide for necessary monitoring and engineering assessments at such locations and the establishment and performance of requirements for the management, including remedial action, of such byproduct materials, consistent with requirements promulgated by the Commission under section 84 of the Atomic Energy Act of 1954 and standards promulgated by the Administrator of the Environmental Protection Agency under section 275a. of such Act.

(b) In carrying out the monitoring, engineering assessment and remedial action program established by subsection (a)—

(1) the Administrator of the Environmental Protection Agency shall propose, not later than sixty days after the date of enactment of this Act, standards of general application for the protection of the public health, safety and the environment from radiological and nonradiological hazards associated with byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at the locations described in subsection (a). Such proposed standards shall be applicable on an interim basis until finally promulgated;

(2) the Commission shall have lead responsibility for coordinating the monitoring, engineering assessment and remedial action program established by subsection (a) and, in consultation with the State of South Dakota, shall—

(A) establish general objectives and priorities for the program;

(B) review and approve a monitoring, engineering assessment and remedial action program for the locations described in subsection (a);

(C) assure that an approved monitoring, engineering assessment and remedial action program complies with the requirements of section 84 of the Atomic Energy Act of 1954 and conforms with the general standards established under paragraph (1) of this subsection; and

(D) provide funding through contract for an approved monitoring, engineering assessment and remedial action program at the locations described in subsection (a).

(c) As soon as practicable, but not later than one hundred and twenty days after the date of enactment of this section the Commission shall submit a report to the Congress on the preliminary planning authorized by subsection (a) including a detailed description for each location of any required remedial action and an estimate of the cost of such remedial action.

(d) The Commission shall provide, as part of its annual report, a report on the progress of the monitoring, engineering assessment and remedial action program established by subsection (a).

SEC. 6. (a) The project for the Caesar Creek, Ohio River Basin, Ohio, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes"; approved June 28, 1938 (52 Stat. 1215), is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct a public water supply system in accordance with the document entitled "Southwest Ohio Water Plan", prepared by the Ohio Department of Natural Resources (April 1976), with modifications as the Chief of Engineers deems advisable, at an estimated cost of $66,000,000.

(b) Prior to the construction of the water supply system pursuant to subsection (a) of this section, the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests which provides that (1) such non-Federal interests will provide the Secretary with the lands, easements, and rights-of-way necessary for the Secretary to construct such water supply system, (2) after such construction is completed, all right, title, and interest of the United States in such water supply system shall be conveyed to such non-Federal interests who shall thereafter operate and maintain such water supply system, and (3) the costs of construction shall be repaid to the Federal Government over a period of fifty years after completion of construction of the water supply system. The first annual payment shall be a minimum of 0.1 per centum of the total amount to be repaid. The annual payments shall be increased by 0.1 per centum each year until the tenth year at which time the payment shall be 1 per centum of the total principal amount to be repaid. Subsequent annual payments for the balance of forty years shall be one-fortieth of the balance remaining after the tenth annual payment (including interest over such fifty-year period) at the rate specified in section 301(b) of the Water Supply Act of 1958 (Public Law 85-500).

Mr. ROBERTS (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

● Mr. JOHNSON of California. Mr. Speaker, this amendment modifies the project for flood protection and other purposes on the Sacramento River, California, to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct bank protection works along the reach of the Sacramento River and its tributaries from Red Bluff to Shasta Dam and from Chico Landing downstream along each bank to the head of the Sacramento River flood control project levees, subject to the same requirements of non-Federal cooperation applicable to other similar elements of the project. Mitigation of fish and wildlife losses induced by bank stabilization work is also authorized. Section 358 also provides that the evaluation and justification of the project shall be based on the overall costs and benefits of all project elements and authorizes not to exceed $25 million over and above prior appropriations to carry out the project.

The project for flood protection on the Sacramento River and tributaries was originally authorized by the Flood Control Act of 1917. Since then, it has been modified and supplemented by a number of subsequent acts. The bank protection feature of the project consists of a long-range program for construction of bank erosion control works and setback levees. Its purposes are to maintain the integrity of the levee system of the flood control project, and prevent serious erosion problems and associated deposition of sediment in downstream channels. The releases from Shasta Dam, a Federal project, are causing erosion problems in the reach between the dam and Red Bluff. Accordingly, this section of the river, immediately upstream of the existing bank protection work, has been added to the overall project, in addition to the section of the river downstream from Chico Landing.●

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR DISPOSITION OF SENATE AMENDMENTS TO H.R. 7112

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 826) to provide for disposition of the Senate amendments to the House bill H.R. 7112.

The Clerk read as follows:

H. RES. 826

Resolved, That upon the adoption of this resolution, the bill (H.R. 7112) to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes, with the Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that—

(1) the Senate amendments numbered 17, 18, 19, and 29 be, and the same are hereby, agreed to;

(2) Senate amendments numbered 1 through 16, 25, 26, 30, 31, 33, and 34 be, and the same are hereby, disagreed to; and

(3) the Senate amendments numbered 20 through 24, 27, 28, 32, 35, and 36 be, and the same are hereby, agreed to with amendments as follows:

(A) In Senate amendment numbered 20, omit the matter proposed to be inserted and insert "1983"; and," and on page 3 of the House bill, lines 13 through 15 and lines 23 through 25, strike out [for the entitlement period beginning October 1, 1980, and ending September 30, 1981] and insert "for any entitlement period beginning on or after October 1, 1980.".

(B) In the matter proposed to be inserted by Senate amendment numbered 21 strike out "; and" at the end of subparagraph (D) and insert in lieu thereof a period and strike out subparagraph (E).

(C) In the matter proposed to be inserted by Senate amendment numbered 22 strike out "(e)" and insert in lieu thereof "(d)".

(D) In lieu of the matter proposed to be inserted by Senate amendment numbered 23 insert the following: "(e)".

(E) In lieu of the matter proposed to be inserted by Senate amendment numbered 24 insert the following: "(f)".

(F) In the matter proposed to be inserted by Senate amendment numbered 27 strike out "(j)" and insert in lieu thereof "(g)".

(G) In the matter proposed to be inserted by Senate amendment numbered 28 strike out "(k)" and insert in lieu thereof "(h)".

(H) In the matter proposed to be inserted by Senate amendment numbered 32 strike out "SEC. 6." and insert in lieu thereof "SEC. 4.".

(I) In lieu of the matter proposed to be inserted by Senate amendment numbered 35 insert the following: "SEC. 6.".

(J) In lieu of the matter proposed to be inserted by Senate amendment numbered 36 insert the following: "sections 1, 2, and 4 of".

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. BROOKS) will be recognized for 20 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although my opposition to revenue sharing is well known, it has been equally well demonstrated that I have acted in good faith throughout the consideration of this legislation in order to assure that the House has a full opportunity to work its will.

We did that. On November 13, we sent to the Senate a bill that had been thoroughly debated on the floor, and that was passed by a vote of 345 to 23.

That was a month ago, but the Senate did not take it up until yesterday. And then it added some 36 amendments to the House bill, covering a wide range of subjects and activities, and sent it back to us at this late hour of the session when it will be nearly impossible, and certainly inconvenient to the Members to convene a conference to work out a compromise.

And to put us in an even tighter squeeze, the Senate has, as I understand it, made provision in the continuing resolution now under consideration in the Senate on the floor for a 1-year extension of revenue sharing subject to provisions passed by the Senate.

In other words, Mr. Speaker, they have sent us this grabbag of a package expecting us to swallow it whole so we can adjourn in good time. Well, that is not the way to settle the differences between the House and Senate on important legislation, and I do not intend to stand for it if I can help it.

A number of amendments that the Senate has added are nongermane to the revenue-sharing program. They deal with Federal grants, Federal contracts, the 8-hour work day. They affect other programs and the work of other committees.

They have deleted provisions of the House bill that had strong support when we considered it.

Now, Mr. Speaker, it would be easy for me to also take advantage of the lateness of the hour and dig in my heels and do nothing. It is tempting, since I have opposed revenue sharing from day one, since President Nixon dreamed it up as a reelection operation and the rest of the Presidents and Members have generally acceded to it.

But I know that I have a responsibility to act. I know that an overwhelming majority of both the House and the Senate want a revenue-sharing bill. So I am coming forward at this time with a proposal that will preserve most of what the House passed and will also include several of the Senate provisions.

To be specific, I am proposing that we send back to the Senate a bill extending general revenue sharing for local governments at the current expenditure level for 3 years. The State share would be authorized for fiscal year 1982 and 1983, subject to appropriations.

I am also proposing to accept the following Senate amendments.

One, an amendment continuing the practice Louisiana has followed in including the sheriffs in the allocation of that State's funds.

An amendment wiping off the books some $28 million in paper debts that the States have been carrying since 1827. This was money loaned to them—without interest—by Andy Jackson when the Federal Treasury was overflowing, when they really did have revenue sharing instead of deficit sharing as we now have. There has never been any intention to get that money back from the States. The Treasury took it off the books as an asset some 70 years ago and this provision would let the States write it off, too.

Another amendment we agreed to is allowing local governments to count recently arrived immigrants in their population base for the revenue-sharing formula, and this is aimed primarily—offered by Senator LAWTON CHILES of Florida—at helping Florida and Arkansas where they have an influx of new legal immigrants who do live there who attend local schools, use the streets, hospitals, police, fire, water, electrical, and other services.

We include an amendment relieving the State of Michigan of certain audit requirements.

We adopt an amendment clarifying the method of distributing revenue-sharing funds to Indian tribes. I think it is a constructive one.

We adopt an amendment requiring the Secretary of the Treasury to work with the Census Bureau in an effort to adjust figures where there has been an undercount. This was offered, I believe, in the Senate by Senator PATRICK MOYNIHAN.

Now one of the provisions that the Senate removed from the House bill was the amendment of the gentleman from Georgia (Mr. LEVITAS), that would have required States, if they wanted to continue receiving revenue-sharing funds in 1982 and 1983, if they were provided in appropriations, to return an equal amount in categorical aid.

□ 1610

This amendment passed by a voice vote in the House as carrying out the basic original justification given for revenue sharing when it passed this House in 1972.

The Levitas amendment has no effect on the 1981 revenue-sharing funds. I feel compelled to stay with the House position.

Mr. Speaker, I hope the House will recognize this as a good-faith effort to get a revenue-sharing bill and, at the same time, preserve the integrity of the House, the integrity of the legislative process.

There is no need for us to swallow the whole package that the other body dumped on us and the proposal I am making preserves much of what they added and most of what the House originally passed. I think it is a reasonable compromise. I hope the Members will agree. We can then send this back to the other body; they can pass the continuing resolution, and we can adjourn this Congress.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the resolution. The other body, as Chairman BROOKS has already indicated, last night added some 15 amendments, some of which were highly controversial. The resolution before us today is a compromise that would allow the House and the other body to resolve our differences on this revenue-sharing bill and would also allow the revenue-sharing program to continue for an additional 3 years.

I think most of my colleagues will recall that the very first legislative day after the election, which was on November 12, on that day we began the debate on the revenue-sharing bill and the next day we passed the revenue-sharing bill in the House. At that time the House basically agreed to continue the revenue-sharing program for 3 additional years, that is to local governments, and then, that is on an entitlement basis, and to include State governments in the out years, which would be 1982 and 1983, on an authorized basis only which meant that they would have to come back to the Congress for appropriations in 1982 and 1983. Basically that part of the bill has not changed. Local governments would continue to receive their money on an entitlement basis.

The House also, as the chairman indicated, did adopt the Levitas amendment that requires that State governments that received money in 1982 and 1983 may turn back some of that on an equal proportion with regard to categorical funds. In other words, they have to make a choice between categorical and revenue sharing. That amendment apparently, from what the chairman has said, would be in the bill that we already passed here.

In deliberations last night the other body made, as the chairman indicated, quite a number of changes. The chairman spoke of the changes that we are willing to accept on the House side which basically are the six or seven amendments that he referred to that were passed in the other body. These amendments were incorporated in the resolution which is before us.

I personally believe that they will improve the program and, because of the lateness of the hour, as far as the 96th Congress is concerned, I would hope that we could pass this resolution under suspension of the rules provisions, send it back to the other body, and hopefully they would accept our resolution which would permit this program to continue for the next 3 years.

So I urge adoption of the resolution.

Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Speaker, I am going to support this resolution, if somewhat reluctantly. I am somewhat in a state of uncertainty about the rationale that has been used to accept and reject parts of the conference agreement or the proposal of the other body, I should say.

I want to pay my thanks and appreciation to the chairman of the committee for at least allowing the House to work its will on this legislation so that we can get a bill passed this year. I think it is very important, and I appreciate the efforts the gentleman is making in that regard.

But I am a little bit confused, and I would be remiss if I did not comment on a few things that we are doing here which seem to me to be slightly inconsistent. I can understand the reason that we have to restore the Louisiana sheriffs to the largesse of revenue sharing. That apparently is to get the support of a Member of the other body for the bill who is still an important man over there, and apparently this is his price for getting the bill through the other body.

But I am a little confused when I see we are not accepting the Bradley amendment which would allocate $25 million to Puerto Rico and the territories. It seems to me we might consider Puerto Rico and the territories worthy of some help under the revenue-sharing funds, particularly when we consider that we are accepting the Moynihan amendment which is going to allow us to pay revenue sharing to people for aliens. They are going to get some revenue-sharing funds for the aliens, but apparently if you are a Puerto Rican or live in one of the territories of the United States, you do not count for nothing. That is just about the way we are working that one out and I do not think that is a sensible or fair distinction to make.

The main thing, of course, that bothers me about what we are doing here today concerns the Levitas amendment. The best thing about the Levitas amendment is its title. It has a good title and it has a good author but, honestly, it is an attempt to do something which may be worthwhile but I do not think we really understand what we are trying to do or how we are going about doing it.

I really think that a study of that proposal before we adopt it would be a sensible course of action to follow and I would have hoped that we would have accepted the Senate proposal in that connection. But, as I say, we have only one choice at this point in the proceeding and that is to accept this package or, in effect, do nothing. Certainly the former is the better choice and I intend to support the resolution.

Mr. CORRADA. Mr. Speaker, will the gentleman yield?

Mr. WYDLER. I am happy to yield to the gentleman from Puerto Rico.

Mr. CORRADA. Mr. Speaker, I would like to express that I am very much upset by the elimination in this report of the Senate amendment that would include Puerto Rico and the territories in the revenue-sharing program with a modest sum of $25 million.

Let me say this: It is true that we do not pay Federal taxes in Puerto Rico, and the amount provided in the Senate amendment would only have been much less than 25 percent of what we would be entitled if we were a State of the Union.

On the other hand, I think that what you are doing here in this House is telling the American citizens in the U.S. Territories that we are second-class citizens, that we are not entitled to participate, even at a minimum amount, in this program of billions of dollars for American citizens all over the Nation.

Let me say this: We do not pay Federal taxes, but this is a Federal tax policy to stimulate the investment of capital by American companies in Puerto Rico and the other territories. The real beneficiaries of these tax incentive provisions are American corporations and their stockholders in this Nation. Now you are telling us that the local governments that have to provide many services to their same corporations there are not able to participate even modestly in this legislation.

I commend the Senate for having approved overwhelmingly the Bradley amendment. I will tell you something, we do not have much political clout. I do not even have a vote in this House. But I can tell you when something is utterly unfair, unjust, and discriminatory against American citizens. We go to war and shed our blood when we are called by the President on equal treatment. We do not ask for special consideration. Why should the territories, because we do not have political clout, be left out of this legislation?

☐ 1620

Mr. WYDLER. I just want to say to the gentleman I tend to agree with what he is saying. But just facetiously I might suggest that if all the people in Puerto Rico went to Florida, they could be counted for revenue-sharing purposes, particularly if they went there as legal aliens.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I share the disappointment that the insular areas were left out of the revenue-sharing till. I would like to note that our distinguished colleague, the gentleman from Texas (Mr. BROOKS), is a very fair-minded person and one who has been a great deal of help to the insular areas over the years. I am sure under the time constraint that we are confronted with reference to this bill that I would like to think that he would refer to a different solution from the one we are confronted with. I would like to underscore the fundamental point made by the distinguished Resident Commissioner. These people living in these insular areas be they the Commonwealth of Puerto Rico or the U.S. Virgin Islands, or Guam, or the Northern Mariana Islands, or American Samoa, are our fellow Americans. They do serve our country in time of battle. They do participate in many of the affairs of our Nation. They are left out of some of our processes like the Presidential vote, which I regret. That I hope to correct in the next Congress. I would hope that my dear friend, the gentleman from Texas (Mr. BROOKS) if a later occasion presents itself, will reconsider his view on this.

Mr. BROOKS. Mr. Speaker, I yield myself 2 minutes.

On this particular matter let me say that if the bill did put in the territories and insular areas of the United States, that $25 million would be paid out of reserve funds which are now withheld from earlier years' revenue sharing to the States, and which would be used to pay pending claims against that trust fund.

In addition, revenue sharing originally was intended as a means of sharing tax proceeds between the Federal Government and the other units of the federal system—States and local governments. The territories are not a part of this system and in effect are already receiving 100 percent of those taxes. To give them this payment would distort the revenue-sharing program. They were not in it in 1972, or in 1976 when the program was renewed, and they are still not in it. The subcommittee considered the issue of adding territories, and they did not agree to do so in their hearings last year. If it is to be done, that is the place to consider it, and I am sure that the distinguished and able chairman of that committee would give the territories a complete, full, and fair hearing.

Mr. CORRADA. Will the chairman yield?

Mr. BROOKS. I yield to the distinguished Resident Commissioner.

Mr. CORRADA. I thank the gentleman for yielding. I would like to state that the amendment as approved by the Senate would not allow the reserve fund to be utilized for payment to Puerto Rico and the territories with reference to outstanding claims. In other words, only funds in the reserve fund that are not subject to outstanding claims could be utilized for disbursement to the territories on the basis of the amendment as approved by the Senate.

Mr. BROOKS. I thank the gentleman.

Mr. HORTON. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise to join in the support of this amendment along with my colleagues, the gentlemen from New York (Mr. WYDLER and Mr. HORTON), and commend them for their efforts in attempting to bring about an expeditious resolution of this matter.

Mr. Speaker, I am pleased that the Senate has now acted on H.R. 7112, the reauthorization of the general revenue-sharing program. Although this program would have been funded under the continuing resolution if Congress had failed to enact a reauthorization, it is important that we underscore the serious nature of our commitment to the vitality of local governments and local communities by enactment of this legislation.

As I have previously noted, the delay in the consideration of this legislation has imposed a real hardship for many communities in my district in New York State. I am hopeful that a final solution of this matter can be reached within the next few days, so that we can fulfill our goal of providing crucial and necessary funds to local governments.

The Federal revenue-sharing program has been described to be one of the most effective of all Federal programs and I know that has been the experience of the communities in my district. I hope that my colleagues will join in strong support of this program, and that speedy and favorable action will permit us to send this bill to the President for prompt approval.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. FOUNTAIN), the chairman of the subcommittee which brought forth this magnificent piece of legislation.

Mr. FOUNTAIN. I thank the distinguished chairman for his compliment. I am not sure it is as magnificent now as it was when it left the subcommittee. I think we passed a bill, and the full committee passed a bill which regrettably did not pass the House, and it is regrettable that the motion of the gentleman from New York (Mr. WYDLER) eliminated $3 million of antirecession money from the bill when his motion carried.

However, I rise in support of the resolution which is designed to expedite extension of the revenue-sharing program in these closing days of the session.

While I have reservations in principle about several of the Senate amendments included in the resolution, we must, of course, be realistic about the need for compromise if our local governments are to receive their revenue-sharing allocations next month. It is in this spirit that I join in support of this measure which accepts about half of the amendments added by the other body to the House-passed bill.

In meeting the Senate halfway, the resolution rejects those Senate amendments that are not germane to the revenue-sharing program, and which would do violence to the revenue-sharing concept by encumbering the program with extraneous requirements.

I urge the Members to support the resolution as a responsible way to assure the speedy reenactment of this very important program.

Mr. Speaker, I sympathize very much with the gentleman from Puerto Rico (Mr. CORRADA), but we considered this a number of times. Puerto Rico never has been in the legislation, and inasmuch as we did not increase the amount going out to local units of government, taking into account inflation, and so forth, we felt we could not add any more recipients to the program.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from New York.

Mr. WYDLER. I appreciate what the gentleman just said. One of the provisions we are accepting is really remarkable when we analyze it—this Moynihan amendment to forgive certain debts owed by the States to the Federal Government. One of the big battles we had here on this program was the fact that we had some very well-to-do States with great surpluses and, therefore, we struck them out of the program in the current fiscal year. Now in the same piece of legislation we have done that, we are forgiving debts owed by the States to the Federal Government. If I am not mistaken, these are the States with the surpluses. So this is truly a remarkable turn of events and I think maybe should make the House think again about what they have done in the legislation we passed.

Mr. FOUNTAIN. My information is that New York State has about $4 million of this money which will be forgiven.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. ROSENTHAL), who is in strong support of this legislation.

Mr. ROSENTHAL. Mr. Speaker, I support this legislation but not quite as strongly as my distinguished chairman, the gentleman from Texas (Mr. BROOKS) would suggest. I support it, taking into account the realities and the pragmatics of the situation.

□ 1630

But I do want everyone to understand that my support for this legislation, this resolution, does not include support for the Levitas amendment which was offered on the floor and which passed by a voice vote. That amendment would trade off dollar for dollar general revenue-sharing funds with categorical grant funds. I do not think that that was the intention of the Government Operations Committee, and I do not think it was the intention of the committee that considered the legislation, notwithstanding the fact that the Levitas amendment passed.

I think it would have been the prudent thing to accept and follow the suggestion of the other body when it eliminated the so-called Levitas amendment and subsituted therefor a 1-year study provision that would look into the logic of a trade-off. Maybe there is some wisdom to the trade-off. But I do suggest that we ought to take a good, hard look at the wisdom of including the Levitas amendment.

Mr. HORTON. Mr. Speaker, I have no further requests for time.

Mr. BROOKS. Mr. Speaker, I have two further requests for time.

I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I rise in support of the motion by the gentleman from Texas.

I do support this legislation. And I am somewhat grieved that I do not receive the enthusiastic support for my amendment, which is part of the proposal we are sending back to the Senate, from my two good friends from New York, Mr. WYDLER and Mr. ROSENTHAL.

My amendment embodies the essence of revenue sharing, which was to replace the categorical programs so that the people closest to the citizens who elect them can make the decisions. The Governors came to the Congress and said, "If we have to choose, we would rather have the categorical programs taken out and the revenue sharing put in." And we have given them just exactly what they have asked for. It says to the American people that the local elected officials and the State elected officials have at least as much, if not more, judgment about where these funds should be spent than a group of bureaucrats in Washington. I personally would prefer to see us go to a continuing resolution and pass no bill if we cannot retain this provision which makes revenue sharing a meaningful form of federalism.

I hope the Senate will go along, but if they do not, then I suggest that we go to a continuing resolution and take the matter up in the future.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. WEISS).

Mr. WEISS. I thank the gentleman for yielding.

Mr. Speaker, I want to express my appreciation to the chairman, the gentleman from Texas (Mr. BROOKS), for allowing us to have this legislation up on the floor at this point.

For the cities and localities of this country it means $4.6 billion over the course of the next 3 years each year as an entitlement program. So, although I think that some of the amendments we are accepting at this time, including the amendment offered by the gentleman from Georgia (Mr. LEVITAS), are probably going to create some mischief, on balance it is more important to adopt this legislation at this point and then go on and take the corrective measures next year.

● Mr. DERWINSKI. Mr. Speaker, one question, in the Moynihan amendment, section B of the amendment, undercount adjustment reference is made to the effect "as soon as practicable to include a reasonable estimate of the number resident persons not counted—".

I hope that I am correct in my interpretation of "reasonable" to mean a statistically defensible means of arriving at such an estimate.●

● Mr. AKAKA. Mr. Speaker, I reluctantly rise in opposition to the substitute bill offered by Chairman BROOKS. I am more than happy to go along with not agreeing to new provisions in the general revenue sharing program. However, I am opposed to not continuing the existing law on general revenue sharing. It is very clear why I take this position.

In 1972, when the general revenue sharing program was started, the Congress included a provision which allowed for a noncontiguous State adjustment. This adjustment was a recognition of the higher costs of Government services in Alaska and Hawaii. It is also consistent with Federal law as it applies to cost of living allowances granted to Federal workers in noncontiguous areas. The Congress has established this policy and followed it since 1948. The situation in Hawaii and Alaska with respect to high costs for Government services has not changed. I see no reason to change the law at this point.

I urge the defeat of the chairman's substitute.●

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. HORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 826 presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and agree to the resolution, House Resolution 826.

The question was taken.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 337, nays 19, not voting 76, as follows:

[Roll No. 676]

YEAS—337

Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
Crockett
D'Amours
Daniel, R. W.
Danielson
Dannemeyer
Davis, S.C.
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hammerschmidt
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McDade
McHugh
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stockman
Stokes
Stratton
Studds
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—19

Akaka
Archer
Bennett
Brooks
Cavanaugh
Collins, Tex.
Crane, Daniel
Crane, Philip
English
Evans, Ind.
Hall, Tex.
Hance
Jacobs
Kramer
Obey
Pickle
Rousselot
Stenholm
Stump

NOT VOTING—76

Abdnor
Anderson, Ill.
Badham
Bafalis
Beard, Tenn.
Bolling
Boner
Brodhead
Buchanan
Byron
Carr
Chisholm
Collins, Ill.
Corman
Daniel, Dan
Daschle
Davis, Mich.
Deckard
Devine
Dodd
Dornan
Erlenborn
Garcia
Giaimo
Gibbons
Goodling
Grassley
Gudger
Hamilton
Hanley
Harsha
Heftel
Hutchinson
Hyde
Jeffords
Jenrette
Johnson, Colo.
Kelly
Lederer
Luken
McCormack
McDonald
McEwen
McKay
McKinney
Mathis
Miller, Calif.
Mottl
Murphy, N.Y.
Neal
Nedzi
O'Brien
Paul
Railsback
Rinaldo
Russo
Santini
Satterfield
Sebelius
Shuster
Snyder
Spellman
Stack
Stark
Steed
Stewart
Swift
Symms
Thomas
Ullman
Van Deerlin
Walgren
Weaver
Williams, Ohio
Wilson, C. H.
Wolff

☐ 1650

The Clerk announced the following pairs:

Mr. Santini with Mr. Abdnor.

Mr. Russo with Mr. Jeffords.

Mr. Corman with Mr. Harsha

Mr. Brodhead with Mr. Erlenborn.

Mr. Giaimo with Mr. Devine.

Mr. Murphy of New York with Mr. Beard of Tennessee.

Mr. Mottl with Mr. McEwen.

Mr. McCormack with Mr. O'Brien.

Mr. Lederer with Mr. Railsback.

Mr. Hanley with Mr. Sebelius.

Mr. Heftel with Mr. Symms.

Mrs. Chisholm with Mr. Williams of Ohio.

Mr. Carr with Mr. Hyde.

Mrs. Byron with Mr. Goodling.

Mr. Daschle with Mr. Dornan.

Mr. Garcia with Mr. Badham.

Mr. Hutchinson with Mr. Johnson of Colorado.

Mr. Stack with Mr. McKinney.

Mr. Stewart with Mr. Hall.

Mr. Swift with Mr. Rinaldo.

Mr. Van Deerlin with Mr. Thomas.

Mr. Stark with Mr. Deckard.

Mr. Miller of California with Mr. Davis of Michigan.

Mr. Mathis with Mr. Bafalis.

Mr. Luken with Mr. Buchanan.

Mr. Weaver with Mr. Grassley.

Mr. Walgren with Mr. Kelly.

Mr. Ullman with Mr. Shuster.

Mr. Steed with Mr. Satterfield.

Mr. Gibbons with Mr. Gudger.

Mr. Boner of Tennessee with Mr. Jenrette.

Mrs. Collins of Illinois with Mr. Dodd.

Mr. McKay with Mr. McDonald.

Mr. Neal with Mr. Dan Daniel.

Mr. Wolff with Mr. Charles H. Wilson of California.

Messrs. STENHOLM, CAVANAUGH, HANCE, and HALL of Texas changed their votes from "yea" to "nay."

Mr. KOGOVSEK changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I take this time for the purpose of outlining the schedule for tomorrow.

Mr. Speaker, it would be the purpose of the leadership that the House shall meet at 10 o'clock tomorrow morning in anticipation that the other body will have completed action on the continuing appropriations resolution and will have sent it to us. It is anticipated that at that hour we will appoint conferees and allow the conference to begin. We earnestly hope that it may be possible for those conferees to complete their efforts tomorrow and bring back a jointly agreed package.

If that be the case, I look forward to being able to conclude this session tomorrow.

We will be in at 10 o'clock in the morning. Quite possibly, then, the House will recess after 30 or 40 minutes, and the Democratic Caucus may expect to resume at approximately 11 a.m. tomorrow. Then we would expect the House to be available to be called back at the call of the Chair and would hope that we might be able to vote on the conference committee report on the continuing resolution.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, may I ask the gentleman, is it anticipated that Members who would serve on the conference committee with the other body on the continuing resolution should be available yet this evening, or will that be put off until tomorrow morning?

Mr. WRIGHT. It is not anticipated that there will be any action this evening. I think, after we conclude this business presently at hand, we will be through for the day. I do not know of other matters scheduled to come before us or eligible to come before us, and I expect that we would adjourn, expecting to return at 10 o'clock tomorrow morning.

The Senate will by then surely have acted upon the continuing resolution. We would expect to appoint conferees at 10 o'clock in the morning.

Mr. MICHEL. Mr. Speaker, would there be any suspensions brought up tomorrow, in view of the time that we obviously would have during the period in which the conferees would be meeting? Would the Members be supposedly spinning their wheels, or would there really be a recess?

My personal preference, frankly, would be for a recess rather than piling on matters with which the Members would not be acquainted. Particularly, I think there is one bill on tourism that might be ready for us to act on, and perhaps there will be something else. If there is, it will be announced.

Mr. WRIGHT. Mr. Speaker, I would like to yield at this time to the gentleman from New Jersey (Mr. FLORIO). I understand that he might be able to respond to the inquiry about the tourism bill.

Mr. FLORIO. Mr. Speaker, I thank the gentleman for yielding.

I would just indicate at the conclusion of the majority leader's remarks that I will make the appropriate announcement of notice to bring up the suspension on the tourism bill, S. 1097, tomorrow.

Mr. MICHEL. Mr. Speaker, may I ask, would there be anything else?

Mr. WRIGHT. I am not aware of anything else, I would say to the distinguished minority leader.

Mr. DERWINSKI. Mr. Speaker, will the distinguished majority leader yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, there are people around the country who are asking if the Democratic Caucus will be concluded before January 5, 1981. I wonder if the gentleman can enlighten the rest of us on that?

Mr. WRIGHT. Mr. Speaker, I am sure the gentleman is awaiting with bated breath the conclusion of the Democratic Caucus. So are some of the Democrats.

FURTHER ANNOUNCEMENT AS TO LEGISLATIVE PROGRAM

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, I announce, with the approval of the Speaker, that I will move to suspend the rules and agree to the conference report on S. 1097 tomorrow.

FUTURE DIRECTIONS FOR AGING POLICY—A HUMAN SERVICE MODEL

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 456) providing for the reprinting of the report "Future Directions for Aging Policy—A Human Service Model," and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 456

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the House Select Committee on Aging, one thousand copies of the report "Future Directions for Aging Policy: A Human Service Model", Ninety-sixth Congress.

Mr. BIAGGI. Mr. Speaker, my concurrent resolution calls for the reprinting of 1,000 copies of said report estimated by GPO to cost $3,407.73. In just over 6 months, we have exhausted our initial supply of 1,800 reports. We have hundreds of requests pending for the report. This matter has been discussed and has the full support of the ranking minority member of the House Select Committee on Aging, Mr. GRASSLEY. It has also been discussed with Chairman HAWKINS and the ranking minority member, Mr. CLEVELAND.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1700

COMMUNICATION FROM CHIEF ECONOMIST, COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following communication from the Committee on Small Business:

COMMITTEE ON SMALL BUSINESS,
Washington, D.C., December 9, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of H. Res. 722, 96th Congress, this is to advise you that I was served today with a subpoena to appear for the purpose of taking my deposition in an action entitled W. C. and Kenneth Strey, et al. vs. Hunt International Resources Corporation, et al., 78–F–450 (United States District Court, District of Colorado).

The subpoena is being examined and I am consulting with Chairman Smith regarding determinations to be made pursuant to the provisions of Section 3 of H. Res. 722.

A copy of the subpoena is attached.

Respectfully,

JOHN W. HELMUTH,
Chief Economist.

□ 1510

PRESIDENT CARTER HAS ENCOURAGED THE ARTS

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I had the privilege on December 8, 1980, of being present for the third annual presentation of the John F. Kennedy Center honors of five American artists who have distinguished themselves by their contributions to the performing arts in the United States.

The persons honored this year for artistic excellence are Leonard Bernstein, James Cagney, Agnes de Mille, Lynn Fontanne, and Leontyne Price.

Present for the occasion were President and Mrs. Carter, who had earlier that day honored the recipients of the awards with a reception at the White House.

It seems to me appropriate, Mr. Speaker, as President Carter's administration comes to an end, to note the encouragement the President and Mrs. Carter have given to the performing arts in the United States through their having hosted a series of Sunday afternoon concerts which were televised for the American people. These concerts featured Vladimir Horowitz, Mstislav Rostropovich, Leontyne Price, Mikhail Baryshnikow, and Andres Segovia—all among the outstanding artists in the world.

Mr. Speaker, in addition to their having hosted these concerts, President and Mrs. Carter invited to perform at official functions a number of distinguished American artists from the fields of music, dance and theater. These performers have included such persons and groups as Rudolf Serkin, the Wind Quintet from the Richmond Symphony, members of the Metropolitan Opera Company, Shirley Verrett, Isaac Stern, Martina Arroyo, Clamma Dale, the Chamber Music Socity of the Lincoln Center, the Washington Opera, the Guarneri String Quartet, Andre Watts, Beverly Sills and Alan Titus, Leontyne Price, Pinchas Zukerman and Itzhak Perlman, Sarah Caldwell and the Boston Opera, and Andre Kostelanetz.

From the world of dance there were presented Cynthia Gregory, Ted Kivitt, the Metropolitan Opera Ballet and the Alvin Ailey Dance Theater.

Other performers included Cicely Tyson, Geraldine Fitzgerald, Cliff Robertson, Kitty Carlisle Hart, and Faye Dunaway.

In addition, Mr. Speaker, special events, often held at the White House, featured "A Salute to American Poetry" with American poets reading their own works and salutes to a number of musical forms native to the United States—blue-grass, country and jazz—which were represented by artists such as Sarah Vaughan, Dizzy Gillespie, George Shearing, the Statler Brothers, the New York Jazz Repertory Co., Tom T. Hall, John Denver, and Alberta Hunter.

Mr. Speaker, whenever the President of the United States invites an artist to perform at the White House, the invitation both honors the artist and gives recognition to the place of the arts in our country. President and Mrs. Carter are to be commended for their having so honored artists of such distinction as those of whom I have spoken.

INDUSTRIAL INNOVATION AND PRODUCTIVITY

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, congressional interest in industrial innovation has been running high, and even given the uncertainty of changed leadership in the Senate and many new Members in both Houses, I expect it to increase. It would be an understatement to say that all of Congress is concerned with this Nation's economic problems—inflation, per capita income, the balance of payments, and so forth. Increasing technological innovation and productivity is a very large part of the long run solution to our economic problems. I believe Congress, including our new Members, will come to understand this and will be willing to take the steps necessary to foster industrial innovation for the good of our national economy.

What has Congress accomplished to date? Here is a brief rundown. There has been action on patent policy and on the operation of the Patent and Trademark Office in the House and Senate Judiciary Committees, the Senate Committee on Commerce, Science and Transportation, the House Committee on Government Operations, and the House Science and Technology Committee.

There was a desperate need to achieve reform in the area of who should have the rights to inventions arising from Government-sponsored research and to improve the validity of patents issued by the Office. In the 96th Congress we were unable to obtain the consensus between both Houses needed to enact full reform. Nevertheless, we obtained enough of a consensus to clear, on November 21, a partial reform bill for the President's signature. That bill, H.R. 6933, provides a mechanism where issued patents can be reexamined by the Office if relevant prior art has been overlooked; provides a new fee system which will eventually save the general taxpayers millions; and to help assure that inventions arising from Government-sponsored research get beneficially utilized by society, establishes a uniform patent policy for small businesses and nonprofit institutions such as universities.

Under this policy, small businesses and nonprofit institutions are entitled to patent rights for the things and processes they invent in connection with a federally funded project regardless of the agency sponsoring the project. Attention needs to be given in the 97th Congress to enacting legislation establishing a uniform patent policy for recipients of Federal funds other than small businesses and universities.

Tax measures to stimulate industrial innovation received serious consideration in the House Ways and Means Committee and the Senate Finance Committee but did not result in changes in the law. A significant reason for our failure to enact legislation was that the past administration waited until mid-September—over 3½ years after it had assumed control of the executive branch, to take any position regarding substantive tax reform for stimulating innovation other than saying "not now." I expect tax measures directed at stimulating the use of innovative technologies to encourage productivity to be enacted in the next Congress.

The Senate Banking Committee considered foreign trade matters. The Joint Economic Committee looked into technology as part of a broad study of our economy. The House and Senate Small Business Committees looked into high technology small business. Retiring Senator ADLAI STEVENSON played a substantial leadership role in having the Senate Commerce, Science, and Transportation Committee look broadly at the subject of industrial innovation.

My own Subcommittee on Science, Research, and Technology and our parent committee held over 30 hearings on innovation and productivity issues during the 96th Congress focusing on patent policy, university-industry relations, Federal laboratory utilization, FDA new drug regulation, the concept of a National Technology Foundation, small business, and other subjects.

Together with our counterparts in the Senate we were successful in obtaining enactment and Presidential approval of S. 1250, the Stevenson-Wydler Technology Innovation Act of 1980. That act, now Public Law 96-480, provides a multifaceted approach to improving the environment in which industrial innovation occurs. The principal thrusts of the law are to build links between generators of knowledge, universities and Federal laboratories, and users of knowledge, industries and State and local governments, and to build into the Federal Government a positive concern for the welfare of industry.

The law authorizes the Department of Commerce and NSF to establish and support university-based centers for industrial technology and establishes an Office of Industrial Technology in the Department of Commerce to study national industrial policy and carry out a centers program at the Department.

Other elements include a section designed to increase the utilization of federally owned technology by providing improved transfer mechanisms and increased Federal funding levels. The law establishes a National Technology Medal to be awarded to innovative individuals or firms. Finally, a section of the law promotes university-industry-Federal laboratory exchanges of scientific and technical personnel.

In the United States private enterprise is the sector of society primarily responsible for providing goods and services. Where needs for goods and services are not being met by private enterprise, the Government's role should be to take whatever steps are necessary to remove barriers to action by private enterprise. While I take great pride in the enactment of Public Law 96-400, it unfortunately represents only a piecemeal first step in what needs to be done. My subcommittee's study has made it clear that efforts of the Federal Government to facilitate technological development are fragmented and too small to provide for a national economy in which innovation can thrive.

Earlier I introduced H.R. 6910, the National Technology Foundation Act. At that time, I made the following statement:

> Responsibility for technology-related programs is now scattered throughout the Federal Government. The various mission agencies—Department of Defense, Department of Health and Human Services, Department of Energy, and so forth—each support technology development related to their missions. The National Science Foundation and the Department of Commerce have components directed at technology, but these are minor portions of the budgets of those agencies and are treated as stepchildren by those agencies.
>
> In considering how the Federal Government can most effectively organize itself to support technology for the national welfare, one extreme is to leave programs scattered but to make each the best possible. The other extreme would be to consolidate all science and technology activities of the Federal Government in a single Department of Science and Technology; an idea that received considerable attention in the mid seventies during consideration of the bill that became the National Science and Technology Policy, Organization, and Priorities Act of 1976.
>
> The idea of a department was not adopted at the same time because of compelling arguments that most science and technology activities should be kept closely tied to the missions which they support—defense, energy, space, health, and so forth, and, hence should be kept as integral parts of the agencies which pursue those missions.
>
> The National Technology Foundation bill represents an intermediate position. It would consolidate technology-related activities which are not now closely tied to an agency mission and would insure that the Federal Government will assume additional responsibilities for technology which have heretofore not been adequately discharged by any sector of society.
>
> The program which this bill would consolidate in a single agency might, in theory, be adequately supported in their current homes, the Department of Commerce and the National Science Foundation. This has not been the case. Support has been modest at best.

When I introduced the bill on March 25, 1980 (CONGRESSIONAL RECORD, p. 6593) I stated that I was reserving judgment on which course of action is best, consolidation in a new agency or strengthening in existing agencies. I also stated that the purpose of introducing the bill was to provide a vehicle by which we could focus the discussion of alternatives. Since then, my subcommittee held 5 days of hearings on the bill. The staff of my subcommittee is now reviewing those hearings and revising the bill to incorporate what we have learned. Also substantial revisions are needed to remove provisions no longer necessary because of the enactment of Public Law 96-480 which I just described. Further, the National Science Foundation has seen fit to reorganize itself. This reorganization, which I intend to monitor closely, may obviate some of the concerns H.R. 6910 is designed to address.

Mr. Speaker, let me conclude these remarks by simply noting that the work we have begun in this Congress will continue into the next. The steps that have already been taken should be given a chance to work, while those which are still pending should receive a fresh review next year. I intend to do my part in exercising this continued examination and oversight.

DON'T MAKE BERNARDINE DOHRN ANY HERO; SHE ISN'T

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, watching Bernardine Dohrn and William Ayers on television the other night, as the two terrorists came up out of the underground, it brought back some compelling memories. As ranking minority member of the House Committee on Internal Security in the late 1960's and early 1970's, I knew quite a bit about these two. Our committee heard extensive testimony about SDS and its Weatherman faction, later called the Weather Underground. Dohrn and Ayers were two of the top leaders.

The crimes of the Weathermen are not nice memories. In 1968 they were active organizers and participants in the riots aimed at disrupting the Democratic Convention in Chicago. In 1969 they returned to Chicago for the "Days of Rage." Our committee investigators were eyewitnesses as they beat up innocent people on the streets of Chicago's near North side. They watched them attack the police and come out on the losing end of the violence that they started.

Our committee gathered evidence of how the Weathermen decided that fighting cops on the street was a losing proposition and that bombings and terrorism was a better method. Dohrn and Ayers were leaders in the SDS march to terrorism.

FBI files declassified for use in the Felt-Miller case reveal that:

The Weathermen were responsible for dozens of bombings including the February 16, 1970 bombing of a San Francisco police station in which one police officer was killed and eight injured. Shortly before this bombing Dohrn had a series of meetings with the group responsible.

On March 6 a Weatherman bomb factory exploded in New York killing three Weathermen. FBI evidence identified Dohrn as being in the house a short time prior to the explosion.

Note: Both the police station bomb and the New York bombs that went off prematurely were antipersonnel. They contained nails used as shrapnel.

Also in March the Research Center of Case Western University was firebombed. FBI information identified Ayers as planning this action.

The Weathermen did not operate on their own. They had the help of the Castro Cuban Government. They made frequent phone calls to Cuban intelligence agents who used the Cuban U.N. mission in New York for cover. These contacts were examples of classic intelligence "trade craft." When the Weathermen identified themselves to the Cuban intelligence officers they would then use a code to set up meetings at secret locations known only to them and the Cubans.

Weathermen hiding in Canada after committing acts of terrorism in the United States, used the Cuban Embassy as a message center. They would call in using a code to leave messages for other fugitive Weathermen.

Dohrn and Ayers have returned at this time because they have seen these Weather terrorist fugitives walk out with a "slap on the wrist" after they surfaced. Perhaps they feel that they could get a better deal from the outgoing Justice Department than they can get from the Reagan Justice Department. I hope this is wrong. These two should stand trial for the crimes that are attributed to them in the FBI files.

Two former FBI officials, Felt and Miller have been convicted of violating the "rights" of the Weathermen by using intrusive techniques to try to locate the terrorists. They face stiff sentences. The FBI men argued that the connections between the Weathermen and hostile intelligence services allowed the Government to use those investigative techniques. They pointed to an October 14, 1980, memorandum by Kenneth Bass of the Justice Department who stated the Department's view that there is, "the Executive's inherent authority to approve warrantless physical searches directed against foreign powers on their agents for intelligence purposes."

Nevertheless, Felt and Miller were tried and convicted by a Washington, D.C., jury for their warrantless physical searches in the effort to capture the Weathermen terrorists who collaborated with the Cuban intelligence service.

Felt and Miller are appealing the case. In all logic, the convictions should be overturned. If they are not, President Reagan should pardon these men who devoted their lives to the protection of the American people. A sensible Justice Department would prosecute terrorists, not FBI agents.

☐ 1530

ECONOMIC CHAOS—A CARTER LEGACY

(Mr. LEWIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS. Mr. Speaker, the crispness in the air reminds us that Christmas is near. The holiday season is traditionally a time of hope, a time of goodwill, and a time of giving.

The postelection arrival in Washington of Governor and Mrs. Ronald Reagan brought with it a new spirit—a renewed optimism based upon bipartisan understanding that positive new direction for America is possible if we are willing to work together.

Our new President-elect moved quickly to establish a new style—reaching out to both sides of the aisle in Congress, meeting with the Supreme Court, and calling upon our people to return to an ethic of production. The theme seems to say, "together we can give America a new beginning."

But let us not be misled by the spirit of the season. It is too early to celebrate a new economic "holiday." Let us be certain that every American recognizes the legacy which is the Carter administration Christmas present to our people. The "gift" of the Carter administration is economic chaos. The American people have been taken on an economic roller coaster ride of ineptness and broken promises that has left our economy in the worst shape it has been in for 50 years.

The inflation rates of the last 2 years are the highest the United States has experienced since the single post war boom year 1946. Unemployment continues in the 7.5- to 8-percent range. Interest rates are so high they are crippling much of our system.

With a prime rate of 19 percent, thousands of businesses representing hundreds of thousands of jobs are in great jeopardy because they simply cannot afford to finance normal operations, let alone expand or implement new technologies to meet increasing foreign competition. On the consumer side, people cannot meet the high payments on automobiles, major appliances and homes.

In the 50 years prior to the Carter administration, prime interest rates only reached a peak average of 12 percent in 2 months—2 months out of 50 years. In the last 18 months of the Carter administration, the prime rate exceeded a 12-percent average in 15 months. Today's 20 percent is a repeat of last spring's all-time high.

The construction industry has been devastated by high home mortgage interest rates. Potential homeowners simply cannot afford the high initial cost and unrealistically high monthly mortgage payments with home loan interest rates at 14 to 16 percent. Statistics on average new home mortgage rates have only been kept by the Federal Home Loan Bank Board since 1963. In the 13 years prior to the Carter administration, the average only exceed 9 percent for 1 year. In all four of the Carter administration years the rate has exceeded 9 percent and it appears to be headed for an all-time high in 1980. Unless things are turned around, the American dream of owning one's own home will have permanently faded out of sight for the average American family.

Of all of the many reasons advanced for our high inflation rates, the one most universally agreed upon and the one most unique to our economy is excessive

Federal Government spending. Federal Government expenditures have risen from $366.4 billion for fiscal year 1976 to an estimated $632.4 billion for fiscal year 1981. That is a whopping $266 billion increase in just 5 years. The increase from 1980 to 1981 is the biggest yearly increase in the history of the United States and is greater than the entire Federal budget of just a few years ago.

The deficit envisioned by the $632.4 billion budget figure is $27.4 billion. This deficit is grossly underestimated with both budget outlays and receipts being projected with unrealistic optimism. The actual deficit will be much closer to $50 billion.

It seems that, especially since last month's election, everyone agrees that Federal Government spending must be reduced sharply. Certainly the Reagan administration will be dedicated to that purpose. Even the Congress—in spite of its recent speedy passage of the hastily slapped together second concurrent budget resolution—is showing signs that it has begun to tame its spending appetites.

Cutting Federal spending is mandatory, but it is no simple task that can be done in a few blows with an ax. Across the board percentage cuts will only work to a limited degree and even they are not simple to implement. The Reagan administration clearly intends to make a sizable cut in the fiscal year 1981 budget—yet half the budget year will have passed before they can act. Much of what they would like to reduce will already be spent. A 2-percent cut of the entire budget will, for example, result in a 4-percent cut in the last half of the year.

The economic outlook for 1981 is growing steadily worse. Most forecasters now expect unemployment to go up and inflation to be only slightly lower than in 1980. And there is increasing feeling that reality may turn out to be worse than the forecasts. With his policies impacting only the second half of 1981 and his assuming office against a background of the tightest monetary and fiscal policies the U.S. economy has seen in years, whatever proposals Mr. Reagan makes when he becomes President are likely to make very little change in this economic outlook. World events such as another sharp rise in oil prices because of a prolonged Iran-Iraq war could lead to a further reduction in new policy impact on the economy.

We must all realize that there are some basic structural problems with our economy. There must be major long-term readjustments if we are to cure our economic ills. These cures go beyond purely economic policy. They include fresh looks at the ever-increasing portion of the budget that are considered untouchable "entitlements." They include a major reduction in our dependence on foreign oil. And they include a change in political-economic climate to one that is conducive to savings and investment and increased production—through capital availability and through allowing business and industry to function without excessive Government interference. We must deal with our structural problem with a realistic view of Government's role in the private enterprise system. Government and the private sector must work in partnership to promote production and competitiveness while protecting people and the environment.

Basic changes in attitude will be required of policymakers. The very foundations of this country rest on the private enterprise system. We must once again allow it to work. The challenge before us is not one of Democrats versus Republicans. The challenge is not Mr. Reagan's alone. The challenge is to work together to once again make our economy work for the average American. We must give the working man and woman reason to hope for reasonable economic gain in the productive years of their lives and for reasonable expectation that their savings and investments will retain sufficient value to provide security in their retirement years. The time is now for renewed dedication by all policymakers and elected officials to make our economy once again the greatest, most productive in the world. How well we meet this challenge may decide whether our free enterprise system will survive.

TRIBUTE TO THE HONORABLE JOHN J. RHODES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. Rudd) is recognized for 60 minutes.

GENERAL LEAVE

Mr. RUDD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the subject of this special order, a tribute to the Honorable John J. Rhodes of Arizona.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RUDD. Mr. Speaker, I am advised that the President-elect is forwarding material to be inserted in the Record, extraneous material in this special order.

Mr. Speaker, I am proud, pleased, and grateful that the Republican Members of Congress have recognized over these past 7 years the unusual qualities projected by John Rhodes.

He has been steadfast in his support of enduring Republican principles.

He is a peacemaker between passionate advocacies, and where some Members of Congress create strife and animosities by their strident support of certain notions, he mediates and produces solid results.

John Rhodes is insistent, and fights for the things that are of utmost importance to the Nation as well as the Republican Party.

He has been on the side of commonsense, individual freedom, and constitutional government.

He has proven time after time that the right minority is stronger than the wrong majority.

Mr. Speaker, it has frequently been stated that the strength of a nation depends upon the strength of its people.

Certainly our Nation's strength and progress has resulted from the collective talents and devoted dedication to service of leaders like Arizona's John Rhodes, who for the past 7 years has orchestrated Republican Members of the House of Representatives as House Republican leader.

Pulitzer prize-winning columnist George Will once observed—

> One glance tells you. God had a Congressman in mind when he made John Rhodes. And he is just what the Founding Fathers had in mind when they designed the House of Representatives, the body intended to be closest to the common man.

John Rhodes' life of public service has exemplified the abiding values of our society: love of God, family, and country; faith; pride; discipline; loyalty; perseverance; and dedication to a cause larger than oneself.

From the time of his early childhood in the State of Kansas, his education at Harvard, and his World War II service as an Air Force officer at Williams Field Pilot Training Base in Arizona, John has lived and led his fellow citizens by a code of ethics seeking always new heights of individual excellence and attainment.

It is a code of ethics rooted in the belief that a man's worth—a woman's worth—is accurately tested in adversity, greatly sharpened in competition, and ultimately proved in times of great challenge.

John Rhodes' life of public service after World War II was in addition to his great success as an attorney and owner of an insurance business in Arizona.

He served as vice chairman of the Arizona Board of Public Welfare, as an active member and president of the Mesa Chamber of Commerce, and as a senior vice commander of his American Legion Post in Mesa.

Since his election to Congress 28 years ago, he has served on Education and Labor, Interior and Insular Affairs, and the Appropriations Committees of the House.

Arizona's economic vitality and high quality of life as one of the fastest growing States in our Nation is largely due to the leadership of John Rhodes.

It was his work in the House which brought us the important central Arizona project and other public works which provided water and helped tame mother nature in our southwestern desert climate.

In addition to helping build a Republican majority in Arizona, John Rhodes has led us toward a National Republican majority as a constructive leader and spokesman.

The outstanding quality and reputation of John Rhodes is his constructive and positive-minded approach as a conservative politician.

He has always sought positively constructive conservative alternatives to the leftward drift of our Government toward centralized power and socialism.

Twice in his tenure as Republican leader, he has produced a positive legislative agenda for Republicans to counter the Government-controlled approaches to economic problems, social issues, and other domestic matters.

Likewise with foreign policy and national defense—he has been an outspoken and constructive advocate of American strength and leadership in the world, a positive program for peace and security.

It is his manner of leadership which has been so outstanding.

It violates every instinct of his being to play tricks on the opposition.

He is a totally straightforward gentleman in his dealings with others, and when placed in an opposition role he has always sought to explain the positive results of voting "no" or opposing the Democrats' program.

One thing we all know and admire about JOHN RHODES is that he never loses his composure.

He has always bent over backwards to do his best for everyone, and despite his differences with the other party's leadership has always maintained friendly relations—a totally professional approach to politics and leadership.

It is because JOHN RHODES is so well liked by members of both parties that he has accomplished so much for the benefit of our country.

I believe it is JOHN RHODES' approach to constructive conservative government and leadership that the American people voted for when they elected Ronald Reagan as their next President.

It is this constructive, creative conservatism that Governor Reagan implemented with such great success during his two terms as Governor of California.

Mr. Speaker, the people of Arizona's First Congressional District reelected JOHN RHODES with better than 73 percent of the total vote in a race with three other candidates.

And so even though he is voluntarily stepping aside as Republican leader in the next Congress, we can be sure that JOHNNY RHODES will continue to be an active and visible force as we attempt to implement President Reagan's program over the next several years.

As we pay deserving tribute to JOHN RHODES, we must also recognize and commend JOHN's wonderful wife and helpmate, Betty.

Betty Rhodes is JOHN's perfect partner—and among people in Washington as well as Arizona is just as well known and loved as her famous husband.

Mr. Speaker, I and many other Members of this body are deeply indebted to JOHN RHODES for helping show us the ropes when we first arrived as newly elected Congressmen.

I also have the great honor and privilege of representing the neighboring congressional district, and of knowing JOHN as a personal friend.

There is no better person.

I can tell you this—he has earned the respect and admiration of every American who honors the Republic and believes in freedom.

It is a pleasure to take this time to pay tribute to our Republican leader, JOHN RHODES.

Mr. Speaker, I now yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I would like to thank the gentleman from Arizona (Mr. RUDD) for arranging this time so that we might pay tribute to our colleague, our friend and leader, the gentleman from Arizona (Mr. RHODES).

JOHN RHODES' 7 years of service as House minority leader has been marked by tireless work and outstanding leadership. JOHN has worn the cloak of authority with humility and dignity, fulfilling his responsibilities energetically and effectively. Our side of the aisle has always counted on JOHN to get the job done, and he has never let us down.

JOHN RHODES was elected minority leader during my first year in the House. His friendship and advice were certainly welcome then and are still highly valuable to me today. Although I regret that JOHN has chosen not to continue in his present leadership role, I am pleased that he will still be with us serving in this body. I am certain that JOHN's extensive experience, maturity, and insight, will enable him to continue to fulfill an important role in the House of Representatives and in the new administration.

Mr. RUDD. I thank the gentleman from New York (Mr. GILMAN) for his remarks.

I now yield to the gentleman from Texas (Mr. LOEFFLER).

Mr. LOEFFLER. Mr. Speaker, there are special individuals in this body for whom words are hard to find. They are leaders among leaders, statesmen among statesmen. They are friends for whom the words "respect" and "admiration" do not adequately express one's feelings.

JOHN RHODES is such a person.

JOHN RHODES has been more than a leader. He has been an inspiration. He has labored long and hard for his constituents, and for his country. He has labored long and hard for his party.

He has always been there willing to help in any way possible. He has always been there when a fight had to be fought, when a coalition was needed, when decisions needed to be made. During difficult times, it was JOHN RHODES who kept us together as a party. During difficult times, it was JOHN RHODES' leadership which paved the way for victories we had no right to expect as the party in the minority. I know of no Member more deserving of the heartfelt gratitude of his colleagues or his party than JOHN RHODES.

I feel greatly honored personally to have worked in several capacities with an individual so committed to principle, to purpose, and to party. But more than that, I feel greatly honored to call him my friend. He has brought an era of leadership unique in the annals of the House of Representatives. He has now passed that leadership on to the capable hands of the gentleman from Illinois, BOB MICHEL. I will always feel a special affection for, and an appreciation of, the special qualities of leadership possessed by JOHN RHODES.

I am glad he is my friend and that he will continue to serve in this great body.

Mr. Speaker, I thank the gentleman from Arizona for yielding and commend him and thank him for obtaining this special order.

Mr. RUDD. Mr. Speaker, I yield to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I would like to say first of all on my own behalf how much JOHN RHODES has meant to the U.S. House of Representatives and to America. He is an outstanding leader, an outstanding gentleman, and an outstanding American.

I would like to read a letter, if I may, that was recently received. It is to our distinguished minority leader, Mr. RHODES.

The letter follows:

OFFICE OF THE PRESIDENT-ELECT,
Washington, D.C., December 10, 1980.
Hon. JOHN J. RHODES,
Minority Leader, House of Representatives, Washington, D.C.

DEAR JOHN: It is with great pleasure that I join with your colleagues to pay tribute to you for the outstanding leadership that you have given to our nation as the Republican Leader in the United States House of Representatives.

Your service to our country and the Republican Party over the many years is deeply appreciated. I look forward to your continued advice and counsel as my Administration begins the task of developing the programs and policies to provide a new beginning for America.

Again, my heartfelt thanks.
With warmest personal regards.
Sincerely,
RONALD REAGAN.

Mr. RUDD. I thank the gentleman from Delaware for his contribution.

Mr. Speaker, I yield to the distinguished gentleman from Illinois (Mr. McCLORY).

☐ 1720

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Speaker, I am sure you will not take it as an offense when I say that many of us wish that in addressing Mr. Speaker we were addressing the gentleman from Arizona (Mr. RHODES) who was our candidate for Speaker in the 96th Congress. In announcing that he would not become a candidate for Republican leader in the 97th Congress he said there is one exception. He said in case the Republicans get a majority of the House, he said, "I am the candidate for Speaker of the House."

We made a lot of progress in this Congress even though we did not make it all the way, but one reason we made it as far as we did is because JOHN RHODES helped us, kept all of us who sought election and reelection and helped expand our numbers by I believe 33 additional Members of this body. I know he will continue in that kind of work.

So in that sense his contributions have been a major part of the substantial Republican gains that have been made.

May I likewise say that while he articulated our position very forcefully and convincingly in this Congress, and lost on many issues, the American people understood what he was articulating and they opted for that position and not the prevailing position which the Republicans had advanced. Likewise, it was the gentleman from Arizona who was articulating our position on these major issues upon which the voters of America made up their minds.

So it is entirely appropriate that we pay tribute to our colleague from Arizona this afternoon and to say how much we respect him as a Republican leader and as a friend. I might say my wife, Doris, and I both regard JOHN RHODES and Betty Rhodes as good friends that we have enjoyed making here and we are happy that we are going to continue that friendship and that we are going to continue to have his solid backing and leadership as we continue this legislative process in the future.

I thank the gentleman for yielding.

Mr. RUDD. I thank the gentleman from Illinois. He has reminded us all that JOHN RHODES did criss-cross this country from one end to the other, not only in the last campaign, but in the campaign prior to that, and was very instrumental in assuring that there was a substantial gain by new Members of Congress from our side of the aisle. I thank the gentleman for reminding us of that.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank my colleague from Arizona for yielding and I thank him for taking time to give us the opportunity to express our appreciation and our thanks to one of the grandest Members of this body.

All of us have been freshmen at some time and I can recall many years ago my early days in this body and one of the first people other than the delegation from Indiana who helped me tremendously, one of the first people beyond that was JOHN RHODES. JOHN was not our minority leader at that time. He was a Member of Congress and an active Member of Congress, but he took an interest in freshmen Members. I can recall him helping me on a number of occasions as he has many others here in procedural matters, when to speak up and when not to get up and speak about something we knew nothing about. He was always willing to take that extra time that busy people sometimes are not willing to share.

He is a very grand person. I am proud to say, as others who have taken this opportunity to thank for their service and who are leaving at the termination of this session of Congress, I am proud to say that JOHN will be with us next session and this, again, is one of the indications of the giant of the person JOHN RHODES is. What he saw was as a leader of this Republican Party he might better serve more forcefully in stepping down as a Member, and we can still have access to his experience and to his sage advice but by giving the mantle of responsibility of leadership to someone else who might make a new approach, takes a big person. JOHN could well have been reelected the leader again for the Republican Party in the 97th Congress but he personally decided long ago that he would rather pass that responsibility on to someone else, another indication of the size of the spirit, the interest, and the person of JOHN RHODES.

We wish he and Betty many more years of happiness in his tenure in the House, however long it may be. We will be pleased to again seek his advice and we know it will always be available.

Best wishes to you, JOHN, and thank you for taking this time.

Mr. RUDD. I thank the gentleman from Indiana who frequently takes the well to benefit this body with his words of wisdom. I thank him for his observations with regard to our leader, JOHN RHODES.

At this time I yield to the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. Mr. Speaker, I rise in tribute to the Honorable JOHN J. RHODES, who is stepping down from the Republican leadership after 7 years of tireless and distinguished service.

During the 2 years I have served in Congress, I have had the opportunity to work with—and for—this most dedicated man. He is a "leader's leader".

We all know that the true measure of a Congressman is not the amount of dilatory demagoguery in which he engages. No, the real measure of a Congressman is the respect he earns from his colleagues for the effective work he does and the dedicated manner in which he makes the legislative process work.

Mr. RHODES served us and America well, and the admiration the people of the First District of Arizona have for him is shared by all of us here in the House of Representatives.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I am pleased to yield to the gentlewoman from Nebraska.

● Mrs. SMITH of Nebraska. Mr. Speaker, who can forget the contributions of our steady and incomparable minority leader, my friend and colleague, the gentleman from Arizona (Mr. RHODES)?

When I was a freshman Member of this body, I will never forget his kindness, his consideration to me as a newcomer, his support, and his unfailing courtesy.

I knew that when I felt uncertain of my course, of what decision to make, I could count on JOHN RHODES to counsel me to help me see the issue more clearly and help me act with wisdom for the benefit both of my district and my party.

When I was troubled about the pressures brought upon me by opposing forces on matters of national and international concern, I knew that I could turn to the distinguished minority leader and tell him my innermost concerns relating to the issues at hand. I knew that I could trust him with my political life if need be.

Again and again, when I needed his support for legislation for the people of the Third Congressional District of Nebraska—far removed from any direct interest of his own home State of Arizona—JOHN RHODES was there, speaking for me and for my causes.

He has always been ready to share the benefits of his vast experience in this House with other Members and me. He has done this with unfailing understanding and graciousness, qualities that he brought to the position and upon which his selection was based when chosen by his Republican colleagues to be their spokesman in the presentation of a program and in the give and take of the legislative process.

I say to the gentleman from Arizona that he has left his mark upon this body. He has the respect of Members on both sides of the aisle for honesty and fairness, and, win or lose, it will always be said that JOHN RHODES fought the good fight.●

Mr. RUDD. I thank the gentlewoman for her remarks. I am reminded of her staunch, strong, and well-researched contributions to this body and to her very dedicated service to this Nation and to her constituency.

At this time I yield to the distinguished gentleman from New York, most recently elected chairman of the Republican Conference, with congratulations.

Mr. KEMP. Mr. Speaker, I thank my friend for yielding and I appreciate his remarks.

I appreciate his leadership in bringing to the attention of the House and the American people the distinguished service of JOHN RHODES, not just as a Member of the Congress from Arizona and not just, frankly, as the minority leader of our party, but as an American, someone who put the country ahead of party, even though he was a partisan Republican. JOHN RHODES fulfilled the highest principles upon which our party was founded—that is, you serve your party best by serving your country first. JOHN RHODES, it can be truly said, served his country first by representing not only Arizona but the American idea.

Back in 1952, republicanism was almost an unknown quantity in the State of Arizona, but in that year two men had a profound impact on the politics of that State. One of these men went on to become the standard bearer of the Republican Party in the Presidential election of 1964 and the other was destined to take over the minority leadership of the House in one of the most trying times in our Nation's history. That leader, JOHN RHODES, was the first Republican ever to win a House seat from the State of Arizona, and let me assure you, thanks to his leadership, he is only the first in a long line of great Republicans from the Grand Canyon State.

JOHN RHODES' service to his party has been immeasurable. In Kansas City in 1976 and again in Detroit this past summer, JOHN served as the permanent chairman of our party's national convention. His fairness and ability to listen to all sides of any debate has been a major factor in bringing our party together like never before. We in the Republican Party will not forget the role JOHN RHODES has played in our renaissance and we are eternally grateful.

Whether it has been as a member of the U.S. Air Force in World War II, or here, on the House floor, JOHN RHODES has been a champion in the fight for liberty and justice for all Americans. Before assuming his role as minority leader in 1973, JOHN served as a member of the Education and Labor, Interior, and Appropriations Committees where he was often in the forefront in combating excessive and counterproductive Government intervention in the lives of individuals. John also served as the chairman of the House Republican Policy Committee for 9 years and he used that experience to write his very worthwhile book, "The Futile System," which provides a poignant commentary on the Congress of recent years.

☐ 1730

Having said that, I wanted to say that it was an honor the other day to be elected chairman of the Republican conference and to be in the chair when the Republican Members of this House honored John by unanimously passing a resolution that John Rhodes would be our Leader Emeritus for the 97th Congress. That is a privilege and an honor seldom bestowed on anyone, and it was bestowed on John Rhodes with the total unanimity of the Republican conference.

The gentleman from Arizona (Mr. Rudd) is a great friend of the minority leader, the gentleman from Arizona, Mr. John Rhodes, and I appreciate his taking this time to give us, his friends, as well as John's friends, a chance to talk about someone for whom we have such high regard.

John Rhodes is a man of integrity. I can remember at the Republican Convention when my brief moment on the platform to speak to the convention and to the American people by way of television was interrupted by the schedule. There was an attempt, frankly, in the schedule to put this gentleman from New York at a different time. John heard about it, chairing the convention, and he literally said no to the people who were trying to make that change. There but for the grace of John Rhodes and his integrity and his willingness to stand up for his comrade in arms, I would not have had a chance to give that speech. I am eternally grateful to John, not for something as small as that, which might have been a chance to boost one's ego, but, more importantly, for his continuing fidelity to party, to principle, to country, to his colleagues. The respect that we have for him is also, of course, on the other side of the aisle as a competitor. There is no higher regard in which an individual can be held than to have the respect not only of his own party, but of the opposing party as well.

Mr. RUDD. I thank the gentleman for his comments.

I now yield to the gentleman from Massachusetts (Mr. O'Neill), the Speaker of the House.

Mr. O'NEILL. Mr. Speaker, I am pleased that the gentleman from Arizona, Eldon Rudd, has called this special order to pay tribute to the Republican Party's distinguished leader, the honorable John Rhodes, as he prepares to step down from this position after 7 years of exemplary and resourceful leadership.

Despite our partisan and philosophical differences—and everyone in this Chamber knows that there are indeed great differences between John and me—I can truthfully say without reservation that John Rhodes is one of the finest public servants I have had the privilege to know.

While I understand the reason why John has decided to step down from his leadership position, I want the whole House to know that in legislative and political triumph and defeat, Minority Leader John Rhodes has always been a gentleman of imposing dignity and grace. Yes, we have had our differences, but that is what the two-party system, this House, and America are all about. While our differences have been partisan and philosophical, they have never been personal. John Rhodes is an esteemed colleague among Democrats, as well as Republicans, and I have the greatest respect and admiration for his dedication, devotion to duty and competence as a leader.

John Rhodes has excelled as an author, a tough debator, a skilled legislator, and a masterful politician. On many occasions I had met my match in political negotiations with John Rhodes. When our former colleague, Jerry Ford, became President, John Rhodes served him as his personal spokesman in the House for the President's programs, and no Member of the House—Democrat or Republican—could have served his President with greater loyalty and dedication than John Rhodes. As minority leader, John Rhodes was indispensable to President Ford on Capitol Hill.

John, I could go on and on praising your great contributions over the last 7 years, but if I say too much about you in laudatory words, you might lose some of the esteem of your Republican colleagues. We have had many exciting experiences working together in the leadership of the House. I have enjoyed the moments of cooperative efforts for the benefit of the House as an institution; I want you to know that it has been a real privilege to work with you, to serve with you, and I look forward to a continuing close working relationship in the 97th Congress even though you will be serving in a different capacity.

Good luck to you, John.

Mr. RUDD. I thank the distinguished Speaker for his laudatory remarks regarding our friend, John Rhodes. I know that he will be deeply appreciative of those remarks.

Mr. Speaker, I now yield to the gentleman from New York (Mr. Conable).

Mr. CONABLE. I thank the gentleman for yielding. If I can recall the words of the immortal bard, one of his sonnets begins:

> They that have pow'r to hurt and will do none,
> That do not do the thing they most do show,
> Who, moving others, are themselves as stone,
> Unmoved, cold and to temptation slow,
> They rightly do inherit Heaven's graces
> And husband nature's riches from expense;
> They are the Lords and owners of their faces,
> Others but stewards of their excellence.

Mr. Speaker, I came to the Congress after the election of 1964, and John Rhodes was elected to leadership in that year. Ever since that time I am proud to have been one of the stewards of his excellence. His excellence as a leader has been classic. I have been proud that the Republican Party had such a man to lead it. His many acts of kindness to me would be too numerous to recount, but in this human institution John has not only exemplified leadership, but humanity and friendship, the kind of association that has enriched us all. I am proud of his contributions to the Congress. I am proud to have served with such a man, to have benefited from his leadership and his association, and to find him now that he has doffed the mantle of leadership voluntarily—which few do—still staying with us as a full participant in the pattern-setting work that he has so far nobly advanced.

☐ 1740

He is a fine man, a fine legislator, and we all, I think, accept his continued presence among us with pride and with absolutely the best of good will and camaraderie. May he stay here and give us the benefit of his experience and his association for many years to come.

Mr. RUDD. I thank the gentleman from New York for his laudatory remarks, which are very accurate, and I am reminded that an earlier speaker indicated that John Rhodes did a great job at the last convention as chairman of that convention, and I must say that not only was it the last convention, but the convention before that, that he exercised the responsibilities put upon him as chairman of those conventions in an exemplary manner, and that will long be remembered.

Mr. TAUKE. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman from Arizona for yielding, and I also commend him for taking this time to honor our Republican leader, John Rhodes.

As I have been sitting here listening to my colleagues, I am reminded of the words of Alfred Lord Tennyson, when he wrote:

> And slowly answered Arthur from the barge,
> The old order changeth, yielding place to new,
> And God fulfills himself in many ways
> Lest one good custom should corrupt the world.

I guess that we could never suggest that our distinguished leader, John Rhodes, would ever be a good custom that would corrupt this House. But I think that this presentation today does, in a sense, suggest that there is a changing of the guard, if you will. But while we are recognizing a changing of the guard, I think it is also most fortunate that we do have an opportunity at this time to recognize someone who is in the midst of his career rather than someone who is in the twilight of a career. And certainly, as I view the time that John Rhodes has spent in the House, and the time that he is going to spend here and in Government, I am confident that his greatest accomplishments are still before him.

While the gentleman in the well was speaking about our distinguished leader, I happened to be in the Cloak Room, listening to the conversations of some of our very fine employees of the House of Representatives, and when the gentleman in the well indicated that John Rhodes was a man of very even temper, he was very calm, he was not easily shaken, they said, "Boy that's right. That John Rhodes, you never can get him upset."

Then the gentleman in the well suggested that John Rhodes was a tremendous gentleman, and the people in the Cloak Room said, "That's right. He is really a gentleman."

And so it was, as the gentleman in the well articulated many of the very fine qualities of our leader. I think that those people, who have an opportunity to view us day in and day out, who see the best of us and the worst of us, perhaps are some of the best judges of those of us who serve in the House, and certainly the comments that they made during the gentleman's remarks about our distinguished leader were not only a tribute to the gentleman in the well and his ability to express well the views of the people in this House, it was also a tremendous tribute to our leader.

As I have known John Rhodes, I have found him to be a very honorable, a very good, a very kind, a very decent man. He is the kind of person who I think all of us want to emulate. As a leader he has not sought battles, but he has never backed away from any battles. I think that it is because of the great efforts that he has made toward Republican unity that we as a party have been able to win victories which our numbers would not allow us to win. Perhaps the greatest victory that we achieved was the November 4, 1980, elections. I have to feel that the gains that we made in this House of Representatives, we in the Republican Party made in 1980, were an endorsement of the policies of John Rhodes, they were an endorsement of the record of John Rhodes; but, perhaps most importantly, they were an endorsement of John Rhodes himself.

Mr. RUDD. I thank the gentleman for his comments. The gentleman quoted from the words of a poet laureate of England. I am reminded of some words from John Mansfield, who was never made poet laureate of England, which might be applicable in reverse in this case, referring to "the tumult and the shouting dies, the captains and the kings depart." This will never apply to John Rhodes because, even though his strong presence may be removed as leader, he will still be here in the thick of battle and his presence will remain and be felt.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

Of course, I could add much of the same in the way of tribute to John Rhodes as has been said here, but I would like to add another dimension to this special order, and that is to remind all of the Members and those watching that John Rhodes did some other things outside this Chamber. John Rhodes is an author, and some 6 years ago he wrote a book entitled "The Futile System," and in there John Rhodes said that, because of the ways that this institution has functioned over the years, it is not likely that we could bring change to the institution of Congress unless the power was shifted from one party to another. I know that it is a vindication for John Rhodes to look up this year and see the increase in numbers that we have here in the House of Representatives and to see the U.S. Senate change hands from Democrat to Republican after some 25 long years.

What I hope, above all else, is that John Rhodes will not only serve well in the 97th Congress, but that he will also come back for the 98th Congress when we will have the numbers to take the majority on this side and, at long last, he will truly be vindicated, because John Rhodes, in the 97th Congress that we are now entering, will be the only Member on our side of the aisle who recalls serving in a Republican majority.

So I hope he will stay around for the 98th Congress and many Congresses as well.

Mr. RUDD. I thank the gentleman for his remarks.

Mr. QUAYLE. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Indiana, who will join the other body in the next session.

Mr. QUAYLE. I thank the gentleman for yielding.

Mr. Speaker, there is really little more to be said about John Rhodes which already has not been said. He has been talked about as a great leader, which he is, that he is a man of a great deal of integrity, a great deal of intelligence, and we are all thankful for his input here in this body.

I would just like to add a little bit of a special note and a special relationship that I have had with John Rhodes over the years. As the gentleman from Arizona knows, at one time, for a period of 8 years in my life, I was a resident of Arizona, and my mother and father were volunteer workers for the Rhodes Congressional Committee in the late 1950's and the early 1960's.

Mr. RUDD. I would encourage the gentleman's speedy return.

Mr. QUAYLE. Well, we have a few things yet to do in Indiana, it is a great State, and, although I enjoy visiting Arizona periodically, I love Indiana where I was born, as well.

But beyond that, my grandfather in 1952 was one of those who urged John Rhodes to get into politics. As a very young person, he was very instrumental in saying, "John, you really belong in public life." And John does belong in public life and the Nation is greater because of his involvement in public life.

When I began my public career, which was not until 1976, John Rhodes was the person I called and asked to come into the Fourth Congressional District of Indiana, when I was having difficulty communicating that we really had a chance of winning the election in 1976. John was very quick to respond, "Dan, whatever you want, I will be glad to do it." He came in, he gave a great speech, and we had a successful victory in 1976. When I first came back, of course, John Rhodes was one of the people I went to on a friendship basis, and the family connection, to give me the insight and the understanding of what really went on in the legislative process.

Again in 1980, when I made that very difficult decision to run for the U.S. Senate and to leave this body and, hopefully, to enter the other body, it was John Rhodes, during the primary, who was willing to come in for Dan Quayle. I thank John Rhodes for that. He was successful in 1976, he was successful in 1980. And I also thank his charming wife Betty for allowing John Rhodes to do all of these things for myself and for many others who have benefited, not only his leadership here on the floor and in the House of Representatives, but also on that very tiring and gruesome campaign trail in trying to elect Republicans to the House of Representatives.

I could not think of a more fitting year than 1980 for John Rhodes, after his years of service, and he will continue in public service, to see the change in the House of Representatives. Everybody has said it, and I will just say it again: John is truly a magnificent leader. The State of Arizona is better off because of John Rhodes; the House is better off because of John Rhodes, and so is the Nation.

Mr. RUDD. I thank the gentleman for his incisive remarks.

□ 1750

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding.

I can well remember the evening, as a relatively new Member that I learned that Jerry Ford would be the Vice President of the United States. I went back to my office and went through the list of Republicans. It was so clear to me that the obvious choice for our new leader would have to be John Rhodes because of his personal qualities and his experience. There was just no question in my mind that he would be the one we should choose.

I just want to say that our faith was never misplaced. John has served as a leader with integrity, with compassion, with courage, with understanding, and foresight.

One of the qualities I especially appreciate about John Rhodes is that he is always willing to listen. His door is open. He is always willing to help any Member in any way possible.

On a personal note, my wife Mary and I cherish the friendship of John and Betty Rhodes. I just want to say that they are both beautiful people, and I thank the gentleman from Arizona (Mr. Rudd) for having this special order so that we can say in an inadequate way how much we appreciate what John and Betty have meant to all of us as a leader and as a friend over the past several years.

Mr. RUDD. I thank the gentleman for his remarks.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the distinguished gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, first of all, I wish to thank my good colleague from Arizona for taking this time so that many of us will have a chance today to say, "Thank you, JOHN RHODES, for the excellent job you have done as our minority leader.

I wish to say to my colleague from Arizona (Mr. RUDD) that many of us have several observations that we would like to make, and we could probably spend several hours talking about JOHN RHODES and his many accomplishments, and fine character. I will just mention but a few that come to mind as we pay tribute tonight to JOHN RHODES.

My first observation is triggered by a comment on the style of leadership that a veteran newspaperman used here in Washington. I quote him because I think it describes JOHN RHODES very well.

The reporter said:

> Behind his soft-spoken manner and easy grin is a determined hard-working fellow who does not want to spend the rest of his political life as leader of a minority. . .

There is no doubt about the fact that JOHN RHODES, just as Jerry Ford before him, wanted to be Speaker of this fine House of Representatives. I know on several occasions when we were swearing in the Speaker of the House, JOHN made it clear that he wished that it was he who was being sworn in as the Speaker, rather than our good friend TIP O'NEILL.

Second, I would like to point out, as have many people in his home State, that JOHN RHODES represents that fine, enthusiastic American spirit. He always has; he always will. Many of us, who have had the opportunity to work with him feel that he epitomizes that American ideal. JOHN RHODES does have that within his soul, and he has presented it so beautifully on numerous occasions.

Several have mentioned that JOHN RHODES has always been willing to come to their districts when others in our leadership maybe did not have the time or were not able to be there. But JOHN RHODES was always there to say, "Yes; I think we should have this gentleman in Congress." He was willing to make those trips across the country to help our colleagues and to bolster their efforts to either be reelected or elected for the first time.

I know that on many occasions JOHN RHODES would go into the districts where others were a little timid or unwilling to go. JOHN RHODES would do it. He was there when he was needed.

I particularly recall in the 1950's—and I guess that just may disclose my age—serving as a staff person for a Republican truth squad that traveled around the country to describe the record of the Republicans in the Congress. I was fortunate to have worked with JOHN RHODES as a member of that panel. I clearly remember that he was always willing to put in that extra time, and extra effort.

Where others might get tired at 9 or 10 o'clock at night, JOHN RHODES was still willing to put in time on radio or television to make certain that our message was put across.

He was equally indefatigable on his committee assignments, whether it was the Committee on Appropriations, or the Committee on Education and Labor, or the Committee on Interior and Insular Affairs. Many might have forgotten that JOHN RHODES was one of the main instigators that made an issue of bringing a proper budget process to this Congress. While serving on the Joint Study Committee on Budget Control, he worked hard to institute a discipline in our budget process so we would consider the budget resolution twice a year.

And though, as with myself, he was disappointed that we did not put all of the full disciplines within the budget system that we should have—such as possibly having a two-thirds vote to break a budget ceiling, which is one of the things that he advocated. It was JOHN RHODES' endless hours of work that helped to make sure that this Congress did have a budget process that would begin to deal properly and positively with the whole issue of expenditures against revenues.

It has already been stated how JOHN RHODES helped fashion our platforms many times. He was our permanent chairman at our conventions. We cannot forget how he never relaxed in his responsibility to be sure that input was made on our platform.

Mr. Speaker, as he stated time and time again, "My mother didn't raise me to be a minority leader," and so he voluntarily, because we were not able to make it this time, withdrew as minority leader because he did not enjoy being just the minority leader. He wanted to be the Speaker. We are sorry that we have not been able to get that number that is needed to make you the Speaker.

We say, "JOHN, we still hope that that time will come, and we are again grateful for your fine and dedicated service to the people's body, the House of Representatives."

Again, I wish to thank my colleague from Arizona (Mr. RUDD) for taking this time.

Mr. RUDD. I thank the gentleman from California for his refined, well-researched, and informative remarks.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am not one of those to whom the previous Member referred when he said that Mr. RHODES traveled across the country helping his colleagues get reelected. I do, however, recall the "spook squads" of the 1950's, and having bitten hard with Democratic nails, I would like to say, Mr. Speaker, the gentleman from Arizona (Mr. RHODES) is a gentleman.

I think sometimes we lose sight of the definition of that word. A gentleman is a man who is gentle, and if persuading of winning votes from doubtful colleagues is any measure of legislative effectiveness, then JOHN RHODES surely has been an effective leader for the Republican Party in the House of Representatives. But, he has done it with rational advocacy and without unkindness to any human being in this House or anyplace any of God's children are anywhere on this Earth.

He is a kind person, and he emulates, it seems to me, one of the highest ideals of Abraham Lincoln, who said, "Do I not destroy my enemy when I make him my friend?"

JOHN RHODES is such a man, and I might say, Mr. Speaker, and to our colleague in the well, Mr. RUDD, that it is an especially joyful occasion for a Democrat at this time to pay tribute to a colleague who is going to be here in the next Congress.

□ 1800

Mr. RUDD. Mr. Speaker, I thank the gentleman from Indiana (Mr. JACOBS) for his laudatory remarks.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman from Arizona for yielding, and I commend him on his initiative in bringing us together to talk about JOHN RHODES and the kind of man that we know him to be.

I echo the thoughts of my colleague, the gentleman from Indiana (Mr JACOBS), in that this is a joyous occasion, because we are not saying goodby to JOHN RHODES; we are simply welcoming a kind of five-star general into the fighting ranks. That indeed is a joyous occasion to those of us at least on this side of the aisle, because we will retain his expert capabilities and his skill as a legislator.

We have heard others speak of that skill as a legislator. We have heard others speak of his skill as an author. We have heard our colleagues speak of his skill as a leader and as a team player. I would just like to add a personal observation of JOHN RHODES as a human being.

It is said that the true measure of a man is what he does for others. In this regard JOHN RHODES knows no peer. He is, in a word, unselfish. He has a deep sense of compassion and a deep willingness to help others who need assistance.

There are countless stories that I could recount from my own personal relationship with JOHN RHODES, as I know many Members here could. The fact is that JOHN RHODES enriched our lives, and we look forward to a further enrichment of our lives here in the U.S. Congress. I do not think there is any more respected individual in this body on both sides of the aisle than JOHN RHODES.

JOHN, we look forward to many more years of serving with you.

Mr. RUDD. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. RITTER).

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I, too, want to thank the gentleman in the well, the gentleman from Arizona (Mr. RUDD), for taking this time so that we might all give John Rhodes the deserved recognition that he is now receiving.

John Rhodes has indeed been a very fine public servant. During the years John Rhodes has been the House minority leader, the nature and makeup of Congress and indeed the Nation have undergone a major change. The American people are now more than ever calling for greater economic freedom, greater economic stability, and a greater America, and I would say that the efforts of John Rhodes have contributed in large part to the needed change of direction which America is now taking.

As a minority leader, John Rhodes has had to be many, many things. He has not only been an office holder and a vigorous Representative of his district, but he has also been an educator, at least for me, a consensus seeker, and a persuader. He has also been a mediator. Even more than an ideologist, because John Rhodes has been responsible for the unity of the Republican Party which has molded us into an effective cohesive force.

As others have said, he has been very generous of his time. He was generous of his time to me. He came into my district to campaign, and he gave tirelessly of his time and talents to help Members in other districts.

All of us who have served with John have learned from him and, I think, have become better legislators.

Mr. Speaker, I suggested to my wife a little while ago while watching the monitor, that there was a special order being given for John Rhodes, and that I was coming over. Marjorie told me I should say hello for her. So, in her behalf also, to Betty and John I wish the very best.

Mr. RUDD. Mr. Speaker, I thank the gentleman from Ohio (Mr. Wylie).

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Speaker. I thank the gentleman from Arizona (Mr. Rudd) for taking this time to help us honor our colleague, John Rhodes.

John, in a city of "clingers," is a person who knows who he is. There are too many here who seem to cling to power far beyond their time, and sometimes this gets to be a problem in the affairs of Government. I think that it is very commendable that John knows who he is. He does not have to have a title in order to establish this.

The John Rhodes I know is a person who is a man of his own mind. He is gracious, he is eminently fair, and from personal experience I have seen John Rhodes stand in the face of many people against popular opinion and turn the tide just because he had the courage to hold to principle and give of his own conviction.

He has a lot of Western commonsense. As a fellow Westerner and a lover of Arizona, I see in John Rhodes a lot of the color and character that we witness in the meaningful cartoons of Arizona's famous Reg Manning as depicted in the stately and durable saguaro cactus.

John Rhodes is stable and enduring. John now gives other Members an opportunity for leadership and yet stays on as that "five-star general", as mentioned before, to help us man the trenches in this battle to keep America on the high road.

John is a person who has given a great image to the Republican Party, enough so that under his leadership we have come back from poorer days to a great victory in this election. John helped to carve that victory by giving us the kind of national image that we could elect a President, gain control of the Senate, and have a much stronger voice in this body.

His wife, Betty, is a very gracious lady and certainly has been a credit to John and to all of us. They are real fine family people. I can say this from firsthand experience that with them the affairs of state and country come first, but only right after they assure a loving and loyal family foundation, without which everything else is for nought.

Mr. Speaker, John Rhodes gives—he shares credit—he encourages those about him to aspire to success and accomplishment.

I see a special future for our minority leader emeritus who is now available to President Reagan as a strong congressional right arm not tied to other duties.

This is the beginning of a new future for John Rhodes, for the Republican Party and the Nation as we move from the plateau of victory on November 4 to the task of rebuilding and redirecting America along the tested and successful lines of our unique heritage of constitutional free enterprise.

Thanks, John, for all you have done as our leader and welcome back to the ranks of the troops. The best officer is always one of the men and you will always be a leader among us.

Again thanks to the gentleman from Arizona (Mr. Rudd), a newer stalwart in the manner of John Rhodes for this opportunity to honor our esteemed leader.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Speaker, I wish to thank very much the gentleman in the well for allowing me to participate in this tribute to John Rhodes.

Perhaps the Speaker talked only about this past convention, because in the other 4 years prior, I was John's counterpart in the Democratic Party, and I got a great deal of advice and help and training from John, as well as from others.

The SPEAKER pro tempore. The time of the gentleman from Arizona (Mr. Rudd) has expired.

A TRIBUTE TO THE HONORABLE JOHN RHODES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. Boggs) is recognized for 30 minutes.

Mrs. BOGGS. Mr. Speaker, I ask that I be able to yield some of my 30 minutes under my special order to the gentleman from Arizona (Mr. Rudd).

The SPEAKER pro tempore. The Chair will inform the gentlewoman from Louisiana that she may yield to whatever Member she desires.

Mr. RUDD. Mr. Speaker, I thank the gentlewoman for yielding, and I yield back the time to the gentlewoman from Louisiana (Mrs. Boggs).

Mrs. BOGGS. Mr. Speaker, in colloquy with the gentleman from Arizona (Mr. Rudd), I was saying that John Rhodes had been so helpful to me when we were counterparts as chair of the conventions of our two parties in 1976, and also that this is typical of the kind of help that he has extended to me over the years.

My husband, Hale, and I and Betty and John have been friends for such a long time, and we have shared many, many experiences in the great experiment that is the American democracy. We have shared many beautiful personal experiences as well.

What has occurred to me while we have been talking this afternoon is that the thing that stands out, I believe, about John Rhodes—this highly principled man, this man who is so strong and has such a high purpose—is that he has been flexible enough to be able to change with the times, and I believe that the litany of his contributions that we have heard to this House, to the Nation, to his own State, and especially to his party and to its individual members, bears out this ability of his.

I think it is so fitting that he has decided that it is time for a change in the leadership in the Republican Party in the House, and that he wished to give over to some of the ambitions and the very fine attributes of some of the other members of his party. It is fitting also that he will be there as a stabilizing influence and as a person to whom each of his party's members can repair, as I have repaired to him when I have needed advice and counsel.

So, Mr. Speaker, I am very delighted to have the opportunity to join with the Members in paying tribute to this great American and this truly good friend, John Rhodes.

☐ 1810

Mr. RUDD. The remarks of the gentlewoman are well appreciated.

Mr. WALKER. Will the gentlewoman yield?

Mrs. BOGGS. I will be happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentlewoman for yielding.

The Bible, the book of Luke, tells us:

> For unto whomsoever much is given, of him shall be much required: and to whom men have committed much, of him they will ask the more.

I can think of no one whose life and legislative career reflects and personifies that biblical statement more than John Rhodes. It seems to me that his legislative career shows he was given responsibility and he handled that responsibility with grace and dedication.

We on this side of the aisle committed to him the leadership, the leadership of a small minority which represented, we believe, the Nation's majority viewpoint. John took that commitment and forged a cohesive force out of those small numbers that won battle after battle on behalf of the American people. His leadership is going to be missed in this House, but it will be remembered and we certainly look forward to serving with him for many more years to come and I thank the gentlewoman again for yielding.

Mr. BURGENER. Mr. Speaker, will the gentlewoman yield?

Mrs. BOGGS. I will be happy to yield to the gentleman from California.

Mr. BURGENER. Mr. Speaker, I thank the gentlewoman for yielding and for being so gracious as always to share her time with us to honor John Rhodes. I shall be brief. The hour is late.

Mr. Speaker, from time to time we have graphic displays on the floor during our debate. We have great maps of Alaska, we have energy charts, we have pictures of the Tellico Dam, occasionally a photograph of the snail darter and things like that, but we do not put those pictures in the Record. I have a picture which cannot appear in the Record but I hold it here in my hand. It shows three very young men. The picture is 28 years old. On the left is a freshman Congressman named John Rhodes. On the right is a freshman Congressman named Bob Wilson and in the center is a brand-new naive city councilman named Clair Burgener. This picture was taken in San Diego in 1953. These two wise counselors were uring me onward and upward. I am a slow learner. It took me many, many years to arrive on the scene.

Mr. Speaker, let me quite seriously say that John Rhodes was a Congressman's Congressman. He is a Republican's Republican, an American's American. He is a great guy. It is fun to honor someone who is not leaving. We have honored our colleagues who are leaving voluntarily and involuntarily. This one is going to be around. He has given me wise counsel over the years, hopefully some of it has rubbed off.

This is a better place because of John Rhodes and for John Rhodes, Betty and their wonderful family only the best for the years ahead.

Mr. Speaker, I thank the gentlewoman for yielding.

Mr. CLAUSEN. Mr. Speaker, will the gentlewoman yield to me?

Mrs. BOGGS. I will be happy to yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, I am particularly pleased to have the gentlewoman from Louisiana yield to me because I can recall so well that very special relationship that existed between her husband, Hale, and John and Betty Rhodes that you alluded to in your comments.

John Rhodes, in my judgment, will be recognized as truly one of the finest Congressmen we have had. He had, as you stated, that unique ability to communicate with people on both sides of the aisle. He held to some very strong convictions. He had very high standards and principles by which he lived. At the same time he was able to listen and evaluate and then come forward in a very decisive manner on what he felt was in the best interest of the individual's request and as it related to the country.

You said something about the fact that he was a very strong person and he was flexible, and the fact that he could address himself to the challenges of change that each and every one of us in this room have to do upon occasion. He did it so well and so ably that whenever you got through talking to John you knew you had been listened to, but also that instinctive mind of his very often would say, "No, that is not really the right way to go, but here is maybe a new sense of direction that you ought to take."

You then realize how wise this very strong man from Arizona actually is.

I tend to want to describe Johnny Rhodes with the three F's: Fair, firm, and factual. A very fair individual but firm in his resolve to see that whatever we did was in the performance of the Constitution in which he believed so much, but you had better be presenting the facts to John Rhodes if you wanted to get his support for whatever your objective was.

I think also something has been said about the giving up of power. We all know in this city of Washington there has been so much in the way of negative publicity to come from this Nation's Capital about the abuse of power. I would extend it one step further. I think we have had quite frankly too many instances where access to power becomes the abuse of power and then it literally becomes the arrogance of power.

In John Rhodes we found an individual who was just the opposite of that and his action in giving up the power that is associated with the minority leadership, a major position in this congressional structure, his giving up that access to power is truly an example of the character of this outstanding American.

John Rhodes, in my judgment, will go down in history as one of the finest most constructive Congressman we have ever seen. He was a champion of water. He served on the Water Committees of the Congress and I can think of a number of projects that my good friend and colleague, Clair Burgener, alluded to, a number of projects throughout this country that will stand as a monument, a living monument to John Rhodes' efforts in concert with his Democratic colleagues on the Public Works Appropriations Subcommittee. The same thing could be said of defense and so many other areas where he had involvement and interest.

I would simply conclude, as I have said, about many of my friends, but I certainly think it applies to Johnny Rhodes: A lot of people in this Chamber have memorized the Golden Rule. In John Rhodes' case, he has not only memorized the Golden Rule but he has committed it to his life. There is an individual who treated other people like he would like to be treated if the situation was in reverse.

I am so pleased that you, Mrs. Boggs, the wife of one of my great and true friends, Hale Boggs of Louisiana with whom I had the privilege of serving, would yield to me in concert with our friend, Eldon Rudd from Arizona, who took this special order and gave me an opportunity to pay a small tribute to John Rhodes, this great all-American Congressman from the State of Arizona.

Mrs. BOGGS. I was delighted to yield and it was a magnificent tribute.

I yield to the gentleman from Arizona.

Mr. RUDD. I thank the very genteel gentlewoman from Louisiana who wears that title proudly.

I have in my hands which has just been delivered to me, a copy of a letter directed to John Rhodes from the Vice President-elect of the United States which I would like to read if I may.

Office of the Vice President-Elect,
Washington, D.C., December 10, 1980.

Hon. John J. Rhodes,
Minority Leader, House of Representatives,
Washington, D.C.

Dear John: I am proud to be among so many of your friends and colleagues who are rightly taking this time to pay tribute to your service as Minority Leader of the House of Representatives.

In all my years of public service I have never met a person who has exceeded your dedication to pursuing the highest ideals and objectives for our country, the Congress and our party.

Your service in the House of Representatives has been exemplary. You have been a party loyalist, but when the security or well-being of the nation was at stake, like all statesmen, you chose country first and party second.

I have valued your counsel and guidance. I have respected your integrity in both public and political service. And finally, I have cherished all the years of our friendship.

The Members of the House, of both parties, will continue to look to you for inspiration as I will during the months and years ahead.

Barbara joins me in conveying our warmest best wishes.

With warm regards,

George.

Mr. LEWIS. Mr. Speaker, I wonder if the gentlewoman will yield?

Mrs. BOGGS. I will be happy to yield to the gentleman from California.

Mr. LEWIS. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, it was not my intention to take time at this moment but rather to express my feelings in person to Congressman Rhodes upon his stepping down from leadership but it is my privilege to bring to the House, the Members, and to Congressman Rhodes a message from one of the great, great constituents from my district from Palm Springs, a former Member of this House, a former Republican leader of this House, a former President of the United States, Gerald Ford, who would like to express his best wishes at this point when John Rhodes' colleagues get together to pay tribute to his work here.

You know, in watching John, as a new Member, I have mixed emotions about his stepping down. First and foremost as I look at Jerry Ford, at his general health and condition, his enjoyment at life these days, one has to recognize that with that burden of leadership coming off your shoulders that John Rhodes has ahead of him probably some of his grandest days in terms of enjoying the Congress, the House that he loves so much.

□ 1820

Beyond that, let me say that for me personally in a selfish kind of way, it probably will be of great benefit that John Rhodes has chosen to step down at this time and at the same time has chosen to continue his service here, for I look upon Congressman Rhodes as one of those men of real class and quality, the kind of man from whom people like myself have a great deal to learn. There is little doubt that there will be a great deal more opportunity to share of his wisdom and background and experience as a result of a lighter load in the years ahead.

John Rhodes is a man of great class, of great style, who is a tribute to all of us, who chose to make the work of public affairs our life's work.

I thank the lady very much for extending this time and sharing her time with us as well.

Mrs. BOGGS. I was delighted to share my time. I am so pleased that the gentleman brought greetings from the former President and his wife, Betty, because the Fords, Betty and President, and the Rhodeses, Betty and John, and Hale and I shared many, many experiences together.

Mr. PRITCHARD. Mr. Speaker, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Speaker, I would just say that I have considered it a privilege to have served with John Rhodes. I have always been very proud of the fact that he was our leader. He is a fine American, and it has always been a particular sense of satisfaction to me to say that he was my friend. I wish him and his wife the very best.

Mrs. BOGGS. I am very happy to have been able to extend some time to the gentleman.

Mr. MICHEL. Mr. Speaker, will the gentlewoman yield?

Mrs. BOGGS. I yield to the newly elected minority leader.

Mr. MICHEL. Mr. Speaker, the gentleman from Illinois here has been doing everything but what he probably ought to have been doing here within the last few minutes. I appreciate so much the gentlewoman's generosity in lending her special order, in part, to the tribute we are paying to our leader, John Rhodes.

I guess my friendship with John Rhodes goes back longer than probably any other Member of this House, since I was an assistant, or when John was first elected to the Congress and had an office just down the hall from us. I knew him when he came to Congress with a short crewcut, along with several others at that time.

I have nothing but the highest praise to sing for what John Rhodes has meant to me as a counselor and a leader in our party.

I happen to now have the role of filling his very big shoes, and I am finding how very difficult, with only a few days in that capacity, how difficult it is and all the pressures that are brought to bear.

The unbounded patience that John obviously had all through this time when our fortunes were not nearly as good as they are today, when we were just down, down, down, and it was he who kept our side together here trying to work continually, as he always said, for that largest cohesive force here on Capitol Hill.

I appreciate so much the gentlewoman giving me this opportunity to say these very few words.

Mrs. BOGGS. I am very happy that the minority leader came to pay tribute, and I heard him say that he would like to sing the praises of John Rhodes, and I hope I will be able to hear him in actuality do that soon.

Mr. MICHEL. Thank you.

● Mr. CLINGER. Mr. Speaker, today, we are honoring our House Republican leader for the past 7 years, Congressman John J. Rhodes. Mr. Rhodes is leaving after dedicating 28 years of service in this Chamber.

None of those years were more somber than the past 7, when at times it was popular to seriously consider what would happen to the two-party system as we now know it, after the demise of the Republican Party.

Indeed, those were lean years. It was not popular to be a Republican, with public opinion at times aroused to emotional opposition to policy positions of the party. It was during those years that Mr. Rhodes provided leadership at a time when the lack of strong direction could have had serious consequences.

I have only had the privilege of serving in the House with Mr. Rhodes during the 96th Congress, my first term in office. But that has been sufficient time to confirm firsthand opinions formed by Mr. Rhodes' activities as chairman of the Republican Convention in 1976 and his legislative skillfullness that led to formulating the budget process in 1974.

The past 2 years have been a learning process for me, and Mr. Rhodes has been most helpful in providing generous advice. Now that the prospects for leadership in the House for our party are infinitely improved from 7 years earlier Mr. Rhodes is leaving his position as leader of the party to retire to private life. The debt of gratitude remains to be paid, and I am certain the success of our party in the future is the gift Mr. Rhodes will most enjoy.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to Hon. John J. Rhodes, who is retiring at the close of the 96th Congress as the House minority leader.

John has compiled a splendid record of excellence and achievement during his leadership here in the House of Representatives, and his efforts have been both fruitful and beneficial to the citizens of this Nation. Few men have given more of themselves to good government, and his calm patience and good humor will be missed.

I extend to John my warmest best wishes for many more years of successful cooperation and productive legislation as we continue to work together in the forthcoming 97th Congress in devotion to the highest principles.●

● Mr. BOB WILSON. Mr. Speaker, in 1953, crew cuts were in, and so were John and I. There has been a lot of time and just a few problems that have passed us by since then, but John and I have weathered the passage. I had thought of verbally doing a panorama, a sort of montage of the years that John and I have spent in this House, but I really cannot. John is too old a friend, and too much has happened since we both entered this Chamber as new-caught Congressmen.

But let us just say that in the interim period, we have both grown. Over the years, I became ranking minority leader of the House Armed Services Committee, and John had to fool around with being House minority leader. He followed, of course, Jerry Ford, and we all know what happened to him.

This is going back a bit, but something I do not believe many of our newer Members realize was that John and I were considered two of the young Turks in our time. We were part, and a big part of the movement to elect Charlie Halleck to the Republican leadership in 1958. And that was back when the philosophy was that you did not talk back to your elders. Well, we not only talked back, we yelled like crazy. And, you know, it works.

I really hate to keep saying "John and I," but it is true. So much of our history is wrapped up together that we would give the Bobbsey Twins problems. We were both members of the founding group of the SOS in 1953. We have worked together in behalf of the Republican Party for ages. And I have got to say that since we are the two remaining survivors of the Eisenhower landslide of 1952, I have been grateful that John let me have the title of senior Republican for the past 2 years. Although he outranked me numerically in the same class because his name began with "R" and you all know where I sit in the alphabet, he told me I could have the right to call myself whatever I wanted. Parenthetically, it might also be because I am a few days older than he is.

In any event, John, you are now at the top. My leaving I hope will remove any bone of contention as to who is doing what to whom, how, and who told whom to do it. I will miss you.●

● Mr. MARKS. Mr. Speaker, when I arrived in Congress 4 years ago, the name of John Rhodes was a long-distinguished and much-respected one, and I soon learned why. His legislative skill and dedication, both to the ideals of the Republican Party and the future of our country were matched only by the friendship and courtesy he promptly showed even his most junior colleagues.

As I have learned the ropes, his guidance has been invaluable. He has been an effective spokesman and successful leader with whom I have been privileged to serve. While he is departing his leadership post, it is fortunate for all of us that he will remain in Congress, a friend and trusted counsel to us all. I salute the distinguished minority leader, and only wish he could have served us as majority leader while he was leading the legislative fights for all of us.●

● Mr. DICKINSON. Mr. Speaker, it is a distinct priviledge for me to pay tribute to our minority leader, my good friend, John Rhodes.

John has served our Nation in this body since 1953. He has been our distinguished leader since 1973. John's reputation is crowned by his traits of fairness, impartiality, honesty, and evenhandedness.

When I came to Congress in 1965 John was already a 12-year veteran. I came to know and respect him for his generosity and his willingness to lend a helping hand. He was one of those veterans who was willing to take me in hand and show me the ropes. He has continued to be helpful to me throughout our service together in the House.

John has served as minority leader, perhaps, during the most difficult period for Republicans and conservatives in our history—in that he took the job during the so-called Watergate period. With the elections just held, Republicans have, I believe, gotten rid of the stigma of that period. The fact that Republicanism and conservatism are on the rise is in no little part due to John Rhodes' stewardship during his service as our leader. We all owe John a great debt of thanks for his considerable contributions to the rebuilding of our party.

I have nothing but admiration for minority leader, John Rhodes. He always responded positively when I asked him to speak for me or for any assistance from his office.

Even though John is stepping aside as our leader, I am glad he will continue to serve in the House, and that we will continue to be able to call upon him as one of our senior statesmen.●

● Mr. MILLER of Ohio. Mr. Speaker, I am pleased to join in this special tribute to our distinguished Republican leader, John Rhodes. Come January even though we will have a new leader we have the immense good fortune to continue to benefit from John's presence in this House.

In his new role as a "leader emeritus," John's advice and counsel will still hold the same significance to all of us who value his good judgment.

Perhaps no other leader of our party in this House has even been met with greater political obstacles than John Rhodes. When he assumed this position Watergate and Vietnam paralyzed the Nation and threatened to devastate our party. During those difficult times, when our Nation had to muster its best it did—Gerald Ford healed the Nation's deepest wounds and John Rhodes lead our party back to political recovery. John rose to every challenge. He is a winner and he is a statesman. He has served all of us on this side of the aisle with dedication, selflessness, and fairness.

John Rhodes in the eyes of all those who have had the good fortune to know him and work with him is a man of great honesty, decency, and civility. We are proud to have had him as our leader and friend.●

● Mr. ABDNOR. Mr. Speaker, as a member of John Rhodes' "loyal opposition" team for 8 years it is a special pleasure for me to join in thanking him for the valued leadership he has given us.

John has been a leader in the full sense of that term for all of the years he has served in the House of Representatives. That he has been directing the Republican loyal opposition for so many years is a richly earned tribute to his talents, his tact, and his tenacity.

Congratulations on a tremendous record, John, and thanks for an inspiring record.●

● Mr. YOUNG of Florida. Mr. Speaker, the gentleman from Arizona should be commended for setting aside this time to honor one of our most distinguished colleagues, our minority leader, the Honorable John Rhodes.

For 6 years John has handled the all-encompassing task of being minority leader, a job that carries with it a great amount of work and responsibility. Being a minority leader is an especially frustrating position, but despite a 2-to-1 Democratic majority in the 6 years he has served in the position, John has been able to see that some key legislation has passed over the objection of the leadership. Such maneuvering is difficult and is testimony to John's keen legislative and leadership abilities. Despite the pressures and workload of his position, John has found time to be a friend, a very special friend, one who has had a great impact on my career. John appointed me to the very important Permanent Select Committee on Intelligence 2 years ago, and 6 years ago he strongly supported me to fill his vacancy on the Appropriations Committee. I will be forever grateful to John for the opportunities he has given me to serve my constituents.

On several occasions John has visited my district and the people of Pinellas County. In fact this summer, John reorganized his busy schedule so he would be able to address a group of constituents there.

John steps down as minority leader with a long list of accomplishments, and although he will no longer be our official leader, I know he will continue to lead by his example of hard work and dedication.●

● Mr. ROBINSON. Mr. Speaker, in recent days, we have been taking time to pay tribute to a number of our colleagues who will retire when this 96th Congress adjourns sine die. We have lauded their service and expressed our heartfelt regret at their leaving. We have expressed the hope that we would have the pleasure of continuing to see them from time to time. Our remarks have been in the nature of fond farewells, but farewells are tinged with sadness.

It is a particular pleasure today, therefore, to rise in tribute to a colleague who is relinquishing a post of great responsibility in the House, but who does not plan to leave us.

When the minority leader announced some time ago that he would not be a candidate for reelection to that position, I was disappointed, because I felt that the time was approaching at which he would make the logical, deserved advance to the highest office of this body—with all due respect, of course, to the incumbent Speaker. I was heartened, however, by the decision of the gentleman from Arizona (Mr. Rhodes) to seek reelection as Representative for the First District of that State, as I had no reason to doubt the wisdom of the people of Arizona and was confident that they would protect, on election day, their sound investment—and they did.

So, John Rhodes, God willing, will take the oath again when the 97th Congress convenes, and his wise counsel and energetic development and advocacy of sound legislative initiatives and responsible fiscal policies will be available to us, and to the Reagan administration.

John Rhodes was most generous to me when I came here first as a Member of the 92d Congress. His helpful advice, his sterling friendship, were offered early, and they have been unfailingly available to help sustain me in the times of uncertainty and discouragement which all of us are fated to experience here. As an experienced member of that body, he was invaluable in my introduction to the work of the Committee on Appropriations.

Consideration of his colleagues has been a hallmark of the gentleman from Arizona. He may be about to relinquish the formal responsibilities of leadership to other highly capable hands, but we can rest assured that he will not give up his personal commitment to responsible, constructive service. He will be a force for reason and progress in the 97th Congress and, as he has been, a credit to the House.●

● Mr. KINDNESS. Mr. Speaker, the 7 years during which the Honorable John Rhodes of Arizona has served this House of Representatives, as well as his political party and the Republican Members of this House, as the Republican leader have been years of rapid change and adjustment, turmoil and progress, inflation, and economic decline.

And during that time John Rhodes has continued to be, in addition to his role as a leader, a most honorable and decent and admirable man, a good legislator, and a good representative of the people. Oh, how I wish we could all be blessed with such qualities and abilities.

John Rhodes is due the commendations, the thanks, and the appreciation of all of us; and I add my poor, weak words to those of all the others who today praise him.

Besides working hard to achieve consensus and loyalty among Republicans, John has traveled the country, doing what he could to spread the Republican message and help Republican candidates.

I am hopeful that with our new President and the new Congress, our country's economy will regain the strength it once had and thereby the confidence of the American people in their governmental institutions will be restored. The chance that we Republicans now have to provide leadership and energy in this effort is due in large part to the faith, courage, and hard work of a good and decent man of this House, JOHN RHODES.●

● Mr. CARTER. Mr. Speaker, it is with pleasure that I join with my colleagues to honor a man who has served our minority party and this country so well these past 7 years.

I speak, of course, of our good friend and colleague from Arizona, JOHN RHODES.

JOHN is a very calm, cool, conservative Republican leader.

His levelheadedness and strong leadership have been instrumental in maintaining the party discipline which has helped keep our Members, while in the minority, a force to be reckoned with at all times. In no small part as well is the increased strength of Republicans in the Congress and across the Nation due to his vigorous and unflagging efforts to rebuild and revitalize our party. Many have been the Lincoln Club dinner and other Republican gatherings which he has appeared before in almost every State and district in the country.

Along with his efforts for our party, JOHN has been very kind to me over the years, and I am thankful for the many things he has done for me.

His constituents in Arizona must think almost as well of JOHN as the minority Members of the House who have elected him as our leader with overwhelming votes each time he has sought this position.

It is my devout wish that JOHN will continue in his good work and thrive and prosper as the Republican Party which he has welded together increases in strength.●

● Mr. SCHULZE. Mr. Speaker, it is my pleasure to join in this tribute to the Honorable JOHN J. RHODES, and to offer to him my personal thanks for the leadership he has provided to Republicans and this body as a whole these past 7 years.

Throughout his tenure as minority leader, JOHN has advocated a legislative agenda based on many fundamental principles now receiving the bipartisan support they deserve: fiscal responsibility on the part of the Federal Government; a strong national defense; and a free enterprise system unfettered by unnecessary Government interference, to name a few. These values, the values upheld by JOHN RHODES, are those which have made America the great Nation it is today.

Though he will no longer serve in a formal leadership capacity, the House and, indeed, the Nation are fortunate that we will continue to enjoy the benefits of his experience. JOHN, please accept my congratulations and best wishes.●

● Mr. MITCHELL of New York. Mr. Speaker, I would like to take this opportunity to pay tribute to the Honorable JOHN RHODES. After leading the House Republicans for the past 7 years, JOHN has announced that he will step down from his leadership position. His decision to resign the minority leader's post is certainly a disappointment to every Republican who has served under his leadership. However, we are all pleased that he will remain among us as a diligent, thoughtful and experienced Member of the House of Representatives.

Throughout his tenure as minority leader, JOHN RHODES has demonstrated his ability to persuade, to generate consensus, to give direction to the efforts of the minority—in other words—to lead in the best and proudest fashion.

It has been said that if a leader commands wisely, he will be obeyed cheerfully. As one of the Members of the Republican minority who has cheerfully followed the lead of the gentleman from Arizona, I wish to express my deep appreciation and immense respect for JOHN RHODES and his 7 years of wise leadership.●

● Mr. DERWINSKI. Mr. Speaker, I wish to join this afternoon in commending JOHN RHODES for his outstanding leadership as House Republican leader for the past 7 years. The resurgence of the Republican Party is due, in large part, to JOHN's tremendous role as leader in the House.

His political savvy and tactical skill can be seen in the many Republican successes on legislation which embody Republican philosophy. We have been fortunate to have JOHN as our spokesman on the floor of the House, and to benefit from his extraordinary legislative ability. His grasp of the issues and his sound judgment in charting a party course, have made him a driving force in leading the Republican Members.

In addition, JOHN has compiled an outstanding record in Congress for the people of Arizona. His great personal and working relationship with that State's senior Senator, BARRY GOLDWATER, SR., has contributed not only to enviable project goals for the State of Arizona, but also for the good of our country. Dedication and consistent concern have been hallmarks of JOHN's work in Congress over the past 26 years.

I am looking forward to working with JOHN in the next Congress, and again, commend him on his excellent work as House Republican leader.●

● Mrs. HOLT. Mr. Speaker, it is a pleasure having this opportunity to say a few words in tribute about our colleague, JOHN RHODES. As leader of the minority party in the House, Mr. RHODES has been instrumental in forming the cohesive union that characterizes the Republican Party. Through his insightful and charismatic approach to leadership, the minority has been able to blend its extremes and develop policy and goals that anticipated the great voter mandate in November.

It is quieting that JOHN has seen fit to resign his post at this time, and we will miss being able to call on him for help in passing important legislation when faced by overwhelming opposition from the other party. I do not think we really will stop calling on him, but it has been reassuring to know that he was there to go to bat for you when needed. Mr. RHODES has also been able to work with the majority leader and Speaker to develop compromise positions when no middle of the road seemed to exist.

JOHN RHODES has been all of this and much more to the Republican Party during the years we have been in the minority. Now, with a new wave of fiscal conservatism and demands for responsible Government, JOHN's work is coming to fruition. We are still lucky enough to have him here in the House, but it is most appropriate to take this time and thank him for all that he has done for both parties, all of us, in working for the best legislative Government America can have. We will miss your acknowledged leadership, JOHN, but we still look to you for guidance.●

● Mr. JEFFORDS. Mr. Speaker, it is with great pleasure that I join my colleagues in paying tribute to our Republican leader, JOHN RHODES. With an abundance of equanimity and good will, JOHN has undertaken the difficult task of mobilizing Republican forces for 7 years.

I am personally indebted to JOHN for the many services he has provided throughout my tenure in the House. He has always lent an ear to my concerns and problems, and has taken effective measures to resolve those difficulties. JOHN has also taken great pains to insure that Republican Members received the committee assignments that they desired.

We will all remember with gratitude the many efforts JOHN has made on behalf of our reelection campaigns. He has devoted many long hours and days to the fundraising and speechmaking circuit. I deeply appreciate the time he took to travel to my home State of Vermont.

I commend JOHN for all of the good work he has done in the House, and look forward to working with him in coming years.●

● Mr. SHUMWAY. Mr. Speaker, I appreciate having this opportunity to recognize the many accomplishments of our friend, colleague, and outgoing minority leader, JOHN RHODES.

Certainly, it is not an easy task to assume the role of top spokesman for the outnumbered party. Indeed, for the individual who fills that position the task must frequently seem thankless. Throughout his years as minority leader, Mr. RHODES demonstrated the most outstanding traits of the "loyal opposition": He was courteous, but firm; gentlemanly, but persistent, and, above all, he was dedicated. His actions as our leader have been outstanding, and they have been effective. During my tenure here in the House, I have never known JOHN RHODES to lose his composure, his sense of fairness, or his reason. He has consistently fought for equitable treatment of the minority party, and his efforts have been both eloquent and reasonable.

Those of us who came to Congress as Republican members of the freshman class in 1978 are perhaps especially keenly aware of the value of Mr. RHODES' guidance and leadership: His able assistance and suggestions enabled us to become involved legislators and knowledgeable spokesmen here in the House.

I would like to take this opportunity to thank JOHN RHODES most sincerely for all his guidance, and to wish him continued success and fulfillment.●

● Mr. QUILLEN. Mr. Speaker, it is a privilege for me to join my colleagues in saluting JOHN RHODES on the wonderful job he has done as Republican leader.

JOHN'S voluntary retirement as leader does not mean that he will not be active. His counsel and advice will be widely sought as the days and months pass, and he will continue to make many great contributions.

One of my happiest reflections is his friendship and the opportunity of working with JOHN RHODES over the years. He paved new pathways for our party, and he leaves an indelible mark as one who fought long and hard for a Republican majority in the House. He has always served his constituents and our Nation with distinction and tremendous dedication, and even though he will no longer be our leader, I know he will continue his efforts to make America great and strong again.

My sincere congratulations to JOHN on the fine job he has done through the years, and we pay tribute to his leadership and to him as an individual. I look forward to continuing to work with him in the next Congress as a colleague and a friend.

Cecile and I join JOHN'S host of friends in extending our very best to JOHN and Betty and the family.●

THE PORTS AND NAVIGATION IMPROVEMENT ACT OF 1980

Mrs. BOGGS. Mr. Speaker, today I am joining with several of my colleagues to introduce a piece of legislation that is very important to our Nation's economic and energy future: The Ports and Navigation Improvement Act of 1980. This bill is a companion to S. 3247 which the Senator from Virginia, Mr. WARNER and the Senator from Louisiana, Mr. JOHNSTON introduced last Friday. The goal of this legislation is to provide a rational and effective solution to some of the problems facing our Nation's coal export industry.

This legislation will allow all of our Nation's ports, if they have navigational projects which are selected as essential to the national interests set forth in the bill, to take advantage of:

First, expedited process for dredging projects;

Second, expedited environmental review of such projects;

Third, expedited congressional review of such projects;

Fourth, expedited judicial review of claims filed against such projects; and

Fifth, advanced engineering and design moneys for such authorized projects while awaiting the congressional appropriations process.

The key element in this proposal is expedited action. Under current procedures, planning, permitting, and actual construction of major navigation improvement projects takes an inordinately lengthy period of time. A review of projects currently authorized indicates that most take in excess of 25 years from authorization of a study to completion of the project.

Given the continuing international energy crises and the posture of our international balance-of-trade, we cannot now afford the luxury of the leisurely development of our coal export ports. We must move ahead now and we must move ahead expeditiously.

The Corps of Engineers has estimated that, under the expedited procedures set forth in the Ports and Navigation Improvement Act of 1980, the current average time for the dredging process could be reduced to a range of 10 to 15 years and that some of these projects could be completed in an even shorter time frame.

Recognizing the reality of the fact that several of these potential coal export port projects are further along in the planning and design process than are others, this legislation identifies three projects, Norfolk, Va., Mobile, Ala., and Baton Rouge-New Orleans, La., because of their advanced stage in the necessary development and review process. The Corps of Engineers has already completed environmental studies, economic studies, and cost-benefit analyses necessary for actual construction of these three. As a matter of fact, the preliminary design of these projects is well on its way. However, this list is not meant to be exclusive. The legislation sets forth a mechanism by which other ports can be considered on a priority and expedited basis as that study process advances.

Mr. Speaker, while this bill encourages expeditious completion of essential projects, it also includes mechanisms to retain necessary congressional control of them. Congress will be able to review these projects during initial authorization, after a final environmental impact statement is submitted on each project to Congress for its approval, and during the annual review conducted as a part of the appropriations process.

I would call particular attention to the environmental safeguards contained in this legislation. It certainly would not weaken or impair any of the environmental standards that are part of our national environmental policy. It simply sets forth an expedited environmental review process while maintaining existing requirements that these navigational improvements comply with all of the substantive environmental laws and regulations in effect at the time.

The bill's environmental review process provides that the final EIS for any project be submitted to Congress for its consideration. The final EIS may be disapproved by concurrent resolution within a 10-day period if Congress finds that the final EIS is not adequate or does not demonstrate compliance with pertinent environmental laws.

Mr. Speaker, of course, I have a particular interest in urging the construction of a channel 55 feet deep to serve the Baton Rouge to New Orleans industrial corridor. Projected coal export facilities capacity in the lower Mississippi River is expected to reach 100 million tons in 1990 and possibly double that by the year 2000. Grain exports from this same 234-mile stretch of the river are projected to reach 150 million tons with a value of over $27 billion in 1990. Transportation savings of over $1 billion annually would result on these two commodities alone if the Mississippi River from Baton Rouge to the Gulf of Mexico was deepened from 40 feet to 55 feet on a "fast-track" basis. The Corps of Engineers draft report and EIS currently being completed indicate a benefit to cost ratio of 8.5 to 1 and a cost of $400 million to accomplish this deepening.

Need I remind my colleagues that the inland waterway system of mid-America is one of the finest in the world. With some enhancement it already has the capacity to carry our Nation's future coal and grain production to export ports for transshipment to international markets. However, fully loaded vessels in the range of 100,000 to 150,000 deadweight tons that are necessary to transport these commodities efficiently cannot enter the mouth of the Mississippi River fully loaded because of channel depth restrictions. The river is already approximately 100 feet deep except for the last 21 miles of Southwest Pass and at nine crossings between New Orleans and Baton Rouge. According to experts in the field, the total deepening project could be completed in 3 years instead of 8 or more if Congress decides that it is in the national interest.

Bulk carriers above 100,000 DWT represented only 3 percent of international trade in 1970. By 1977, this had increased over eight times, to 25 percent. Today, the workhorse of the bulk carrier trade is the 150,000 DWT vessel, requiring a draft of 55 feet. It has been calculated that if a 100,000 DW vessel could use its full draft today instead of the restrictions imposed by the 40-foot depth in the Southwest Pass, the transportation cost between New Orleans and Rotterdam would be reduced by one-half million dollars, or over $3 per ton per one-way trip. The reduction would be correspondingly larger for vessels ranging up to 150,000 tons. The competitive posture of the United States in the world market is seriously impaired by inadequate access to the major ports serving the midcontinent of the United States.

Contrasting to the restricted depth available in major U.S. ports, Antwerp, Belgium, has a 61-foot draft, Kashima, Japan, has a 72-foot draft; and the Port of Le Havre, France, which has deepened its 48-foot channels, is handling 150,000 DWT vessels.

Mr. Speaker, New Orleans has the potential to be one of the world's premier coal and grain export ports. The Ohio River will bring Appalachian coal to New Orleans via the Mississippi. Western coal will arrive through the Missouri-Mississippi River route and coal from southern Illinois will also be in easy reach. Of course, our rail lines will continue to play a vital role in the transportation of coal and grain from Mid-America. I do think we need to press on with much needed improvements to our inland waterway system, particularly the completion of the replacement of Locks and Dam 26 at Alton, Ill. and the reconstruction of the Gallipolis Lock and Dam on the Ohio River. Both of these projects are essential to the efficiency of the Mississippi River system.

A final significant point in support of the development of our domestic export ports so that they can handle our coal resources is the positive impact such action would likely have on the American-flag merchant marine and on our domestic shipbuilding industry. Currently our dry bulk fleet is in miserable shape. Dry bulk cargoes, such as coal and grain, comprise nearly 40 percent of this country's foreign trade—and this figure is expected to radically escalate in the near future—yet only 2 percent of this trade is moved in American-flag vessels. The U.S. dry bulk fleet consists of only 18 antiquated vessels—a tiny portion of the 5,000 dry bulk vessels worldwide.

The world coal study, "Coal—Bridge to the Future," estimates that within 20 years as many as 1,000 dry bulk vessels with an average carrying capacity of 100,000 DWT each may be required to transport coal for export. Construction of such a fleet must begin immediately. I believe American ship operators and shipbuilders can supply a reasonable share of this future requirement if they have the incentives needed to do so.

Earlier in this Congress, my colleague **Paul Trible** and I introduced a legislative package that would provide just the type of incentive that is necessary. These bills, the Maritime Bulk Trade Act (H.R. 5113) and the Merchant Marine Act Bulk Shipping Amendments (H.R. 5145) merit serious consideration, particularly in light of the failure of interested parties to resolve differences on the Omnibus Merchant Marine Act amendments (H.R. 6899).

Mr. Speaker, in summary I believe my colleagues and I are proposing important legislation that serves to focus national attention on a significant area of economic growth. This bill, or similar legislation to facilitate the export of our domestic coal resources, will have a tremendous impact on diverse sectors of our national economy. If we do take the initiative and if we do commit ourselves to expediting this essential port development process, we can expect to reap tremendous rewards in our coalfields, in our rail and inland water transportation systems, in our shipbuilding industry, and in our American-flag merchant marine.

I hope that this type of legislative initiative will be a priority concern of President-elect Reagan and his administration. I am sure that Members of the 97th Congress will stand ready to act in concert with him to expand our energy and export horizons.

I include the text of the Ports and Navigation Improvement Act immediately following my remarks.

H.R. 8449

A bill to provide for improving the efficiency of certain rivers and harbors of the United States and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ports and Navigation Improvement Act of 1980".

Sec. 2. (a) The Congress finds that many of the Nation's ports, harbors, rivers, and other waterways of this Nation serve vital and essential national and public interests of this country in—

(1) providing for the safe and efficient conduct of transportation essential to this country's national defense and free world security;

(2) providing for the continued conduct of national and international waterborne transportation of coal and other commodities; and

(3) assisting with the national effort to expedite the efficient transportation of the Nation's coal.

(b) The Congress further finds and declares that many of the Nation's ports, harbors, rivers, and other waterways are seriously inadequate to serve the vital and essential national interests of this country as specified in section 2(a) of this Act.

Sec. 3. The purposes and objectives of this Act are—

(a) to direct navigation improvements, on an expedited and priority basis, at the locations specified in section 4 of this Act, which the Congress hereby finds to be economically justified, engineeringly feasible, and essential to economic revitalization and safe and efficient transportation of the Nation's coal and other commodities;

(b) to authorize such other navigation improvements of the Nation's ports, harbors, rivers, and other waterways determined by the Secretary of the Army, acting through the Chief of Engineers, to be economically justified, engineeringly feasible and essential for national interests; and

(c) to provide a uniform procedure for judicial review of the navigation improvements authorized by this Act, and of all actions taken pursuant to this Act (and all matters pertaining thereto).

Sec. 4. In furtherance of the purposes of this Act and notwithstanding any other provision of law, except as provided herein, the Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to undertake, on an expedited and priority basis, navigation improvements at the following locations, to a minimum depth of fifty-five feet in accordance with such plans as the Chief of Engineers determines to be advisable:

Norfolk Harbor and Channels, Virginia;

Mobile Harbor, Alabama; and

Deep-draft access to the Ports of New Orleans and Baton Rouge, Louisiana.

These improvements may be accomplished as separable projects or as separable units or features within such projects, with agreements with non-Federal interests providing for non-Federal cooperation for each such project, feature or unit. These improvements will be subject to such conditions as the Chief of Engineers determines to be necessary to protect or minimize harm to the environment of the area. Prior to initiation of construction of each of the projects to be constructed pursuant to this section and within one year of the date of enactment of this Act, the Chief of Engineers shall submit to Congress a final environmental impact statement for each project demonstrating compliance, as determined by the Chief of Engineers, with the National Environmental Policy Act of 1969, the Clean Water Act, the Fish and Wildlife Coordination Act, and other statutory requirements as determined to be pertinent by the Chief of Engineers. The improvements authorized by this section shall be undertaken for each of the projects to be constructed without further action under the National Environmental Policy Act of 1969, the Clean Water Act, the Fish and Wildlife Coordination Act, and other statutory requirements addressed in each Chief of Engineers environmental impact statement for each project unless the Congress disapproves of any such final environmental impact statement by concurrent resolution within sixty calendar days of receipt by Congress of such statement. In the event that Congress does not disapprove such final environmental impact statement by concurrent resolution within such period of time, absence of such congressional action shall constitute a finding and determination by Congress that the policies, purposes, and requirements of said statutes have been satisfied in connection with the navigation improvement.

Sec. 5. In furtherance of the purposes of this Act and notwithstanding any other provision of law, except as provided herein, the Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to develop, improve and maintain the Nation's rivers, harbors, and other waterways, at such depths and dimensions and with such facilities, determined to be economically justified and engineeringly feasible, and otherwise sufficient as determined in the discretion of the Secretary, to insure the safe and efficient conduct of defense transportation or foreign and domestic commerce. Such work is to be prosecuted, at Federal expense, for the essential national purposes served and national benefits attained subject only to requirements of non-Federal cooperation that have been enacted by Congress or such requirements of non-Federal cooperation that the Secretary of the Army determines would be applicable if the work were specifically authorized for undertaking pursuant to provisions of Federal law requiring such non-Federal cooperation.

Sec. 6. The navigation improvements authorized by section 5 of this Act will be subject to such conditions as the Chief of Engineers determines to be necessary to protect or minimize harm to the environment of the area. Prior to initiation of any such work, the Chief of Engineers shall submit to Congress a final environmental impact statement for such improvements demonstrating compliance, as determined by the Chief of Engineers, with the National Environmental Policy Act of 1969, the Clean Water Act, the Fish and Wildlife Coordination Act, and other statutory requirements as determined to be pertinent by the Chief of Engineers. Each such statement shall be submitted to Congress within one year of the date of the completion of the draft environmental impact statement, which draft EIS shall in turn, be completed on an expedited basis, subject to timetables and other requirements determined by the Chief of Engineers to be necessary and reasonable. Other Federal agency heads having responsibilities therewith shall provide input as they deem appropriate in accordance with such timetables and requirements. The plan of improvement addressed by each such Chief of Engineers environmental impact statement shall be undertaken without further action under the National Environmental Policy Act of 1969, the Clean Water Act, the Fish and Wildlife Coordination Act, and other statutory requirements addressed in the statement unless the Congress disapproves of any such statement by concurrent resolution within sixty calendar days of its receipt of the statement. In the event that Congress does not disapprove such final environmental impact statement by concurrent resolution within such period of time, absence of such congressional action shall constitute a finding and determination by Congress that the policies, purposes, and requirements of said statutes have been satisfied in connection with the navigation improvement.

Sec. 7. Environmental impact statements for projects and improvements authorized by this Act, findings and determinations by Congress pursuant to section 4 and section 6 of this Act, and actions to carry out such projects and improvements shall not be subject to judicial review under any law except that (a) claims alleging the invalidity of this Act may be brought within sixty days following its enactment; (b) claims alleging the inadequacy of a final environmental impact statement transmitted to Congress pursuant to provisions of this Act may be brought within sixty days following the date of a finding and determination by Congress pursuant to sections 4 and 6 of this Act; and (c) claims alleging that an action to carry out projects and improvements authorized by this Act will deny rights under the Constitution of the United States, or that such action is beyond the scope of authority conferred by this Act, may be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, for a district where the improvement is to be located, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief against any actions pursuant to this Act except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this Act. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

SEC. 8. There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the purposes of this Act. Pending the appropriation of such sums, the Secretary of the Army, acting through the Chief of Engineers, may transfer upon approval of the Committee on Appropriations, from existing Department of the Army (Corps of Engineers) civil appropriations, such sums as are necessary for immediate prosecution of advanced engineering and design and other necessary studies for the improvements herein authorized.

PORTS AND COAL

● **Mr. LIVINGSTON.** Mr. Speaker, America now faces a challenge that will determine its role in the burgeoning world coal markets.

In the next 20 years, coal is expected to supply between one-half and two-thirds of all additional energy consumed in the world. A recently completed MIT study predicts U.S. coal exports should triple during this period. Foreign governments today are negotiating the long-term coal contracts that will provide their energy supplies.

To insure America has a market for its vast coal supplies in the future, the United States must double its export capacity by 1985 or lose the coal business to other exporting countries. For instance, last year there was a demand for an additional 10 million tons of coal that could not be exported because of a lack of adequate U.S. seaport facilities. Foreign countries are now demanding that American ports become capable of handling fully loaded deep-draft vessels, ships that draw 50 feet of water.

The economics of transportation have required this shift to deep-draft vessels and importing countries have already begun deepening ports and channels. For instance, Antwerp now has a 61-foot port and, Kashima, Japan, a 72-foot port. The savings from use of deep-draft vessels are significant. The Port of New Orleans estimates that a partially loaded deep-draft vessel traveling from New Orleans to Antwerp will charge an additional $3 per ton of coal to compensate for its unused capacity.

Meanwhile, foreign exporting nations have already begun deepening their channels and ports. By 1983 Australia will have completed construction on ports at Newcastle and Kembla. Furthermore, South Africa will have doubled the capacity of its Richard's Bay facility.

To meet these challenges the U.S. Congress must improve its seaport facilities. I am happy to be a cosponsor today of a bill that focuses on a method and means to carry out port and navigation projects. The bill will expedite the process for dredging projects; the bill fast-tracks environmental review; it expedites congressional review of projects; and it expedites judicial review of claims against the projects.

Legislation that helps ports helps our country. America must turn its creative energy to the task of improving port facilities that are in many instances 30 to 50 years out of date. Foreign nations know our port status and are asking if we are committed to using our resources and technology to improve facilities. They can no longer afford demurrage and partially loaded vessels.

Meeting their needs, of course, will create new U.S. jobs, and gives a tremendous boost to the water, rail, and mining industries. I urge my colleagues to study this bill and offer constructive comments and suggestions that can help direct the House in its deliberations during the 97th Congress.●

● **Mr. BEVILL.** Mr. Speaker, the Ports and Navigation Improvement Act of 1980 could prove to be one of the most important pieces of legislation we will see this decade, to help America begin to make better use of its vast supply of coal.

As most energy experts agree, coal and nuclear energy are the only major sources of energy which this country can turn to in the immediate future to help break its unhealthy dependency on costly and undependable foreign oil.

The World Conference on Coal has predicted that coal must meet a great deal more of the world's energy needs. And the United States, with nearly one-third of the world's supply, will play a major role in supplying coal to the world. In fact, America is expected to become the Saudi Arabia of coal in the decades ahead.

The International Energy Agency has estimated that the United States will have to export 100 million tons of steam coal by 1990 and 300 million tons by 2000 to meet free world energy needs.

Our country has no choice but to dramatically increase the amount of coal we export. No matter where the coal is burned, it is replacing oil, and making that freed-up oil available where it is most needed. In that manner, even our exported coal is making more oil available for our domestic needs.

America is expected to export about 70 million tons of coal this year, and statistics show that we can easily be producing at least an additional 100 million tons of coal per year.

Our huge coal reserves of approximately 1.7 trillion tons should last us for hundreds of years.

However, we face three major problems in trying to export our coal. There is severe congestion at American ports, hampering our ability to load the coal aboard ships. In addition, we have poor coal loading facilities at the ports. Also, the country does not have a coordinated and effective coal transportation capability for these expected increased amounts of coal.

The Ports and Navigation Improvement Act seeks to begin immediate major improvements at four major U.S. ports, including Mobile Harbor, in Alabama, Norfolk Harbor and Channel, in Virginia, and the deep-draft access to the ports of New Orleans and Baton Rouge, in Louisiana. These will be dredged to at least 55 feet, to accommodate the huge seagoing coal-hauling ships.

Dozens of these multimillion-ton-capacity ships lie at anchor today in our harbors, forced to wait up to 6 weeks in order to load coal for overseas. It costs about $20,000 a day per ship during the wasted time at anchor, which the foreign countries must pay. This adds about $6 per ton to the price of American coal. If this delay is not drastically reduced, the ships will go elsewhere for coal, costing American jobs.

More coal exports are necessary for America for several major reasons. The proposed increase in American coal exports will create an additional 200,000 jobs for American workers by 1990.

In addition, the exports will bring us hundreds of millions of dollars worth of needed foreign dollars each year, which will help to reduce America's balance of trade deficits, created by our higher costs for foreign oil.●

☐ 1830

Mrs. BOGGS. I ask unanimous consent to include the text of the Ports and Navigation Improvement Act immediately following my remarks.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

GENERAL LEAVE

Mrs. BOGGS. I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this important piece of legislation.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

A NEW POLICY TOWARD ARGENTINA

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● **Mr. GOLDWATER.** Mr. Speaker, the Carter administration policies toward Argentina remind me of the story about the guy who discovered an arsonist at his house and in his outrage called the police department to make the arrest, but forgot the fire department and the house burned down.

Yes, human rights are important, and yes, it is important that we provide leadership in this area. It is ludicrous, however, that we have let the house burn down by letting our outrage destroy any influence for good that we might have.

David Rockefeller, chairman of the Chase Manhattan Bank, stated the case rather well in a recent letter to the editor of the New York Times in response to an Anthony Lewis article. I believe Mr. Rockefeller's response contains a measure of commonsense that has been missing in the last 4 years.

I include this excellent letter at this point in the Record:

ARGENTINA, THE UNITED STATES AND HUMAN RIGHTS

To the Editor:

While granting that I must live with "lunatic conspiracy theories," Anthony Lewis in his column of Nov. 24 accuses me of "lending comfort to evil."

His exhibit is a press report that on a recent trip to Argentina I "praised" the Government and said that life there is "much better than before." He says also that I "signaled a change in U.S. human rights policy," indicating that I thought President-elect Reagan "will deal with the world as it is."

While in South America for a regular overseas meeting of our bank's board of directors, I was asked my views on the recent elections in the U.S. In no way a representative of the President-elect, I expressed my personal reactions based on Governor Reagan's comments during the campaign.

Contrary to the implication in Mr. Lewis's column that I am unconcerned about human rights, I believe strongly that Americans should be true to the basic tenets of freedom upon which our country was founded and uphold human rights in all parts of the world.

But what I and others have disagreed with, often vigorously, over the past several years has been our Government's *application* of "human rights" policies around the world. It is unfortunate indeed that Mr. Lewis confuses and inaccurately portrays my honest disagreement with the recent governmental approach to human rights on the one hand and my long-held and deeply felt commitment to promoting human liberty on the other.

Specifically, I do not believe that repeated lecturing and public condemnation of regimes we disagree with are likely to produce the results we seek. Regardless of the circumstances, few nations will make public obeisance to the dictates of outsiders.

Furthermore, I believe that we have been neither consistent nor evenhanded in the application of the pressures we have tried to apply. More often than not, authoritarian nations which have posed no threat to us and were even inclined to be friendly—such as some in Latin America—have been singled out for special opprobrium. Others—some of them totalitarian regimes with full-blown Gulag Archipelagos imposing total control over the masses—have been subject to astonishingly little criticism.

This, too, has been a source of deep concern and resentment, particularly with many of our long-standing friends and allies.

Further compounding our well-intentioned but, I think, misguided application of human rights policy has been an attempt to impose our own standards by threatening to curtail foreign aid and trade.

This attitude has understandably been viewed by many as self-righteous and offensive—and, I am forced to say, somewhat hypocritical. Any objective evaluation of our own domestic situation makes it clear that we still have a great deal more to do here at home.

As to Argentina, Mr. Lewis himself rightly points out that prior to the military takeover in 1976 "terrorists carried out political assassinations and kidnappings on a scale that traumatized the country" and that "Argentine society came near to crumbling under that assault."

The point is well taken. Argentina was, in fact, in a state of virtual civil war. Its institutions and economy were in shambles. Inflation had reached a rate of 57 percent *per month*. The nation was without reserves. In other words, Argentina was bankrupt.

Today, by contrast, the inflation rate is closer to 57 percent *per year*—a remarkable accomplishment in just four years. Foreign exchange reserves too are now in the order of $10 billion.

In short, Argentina has made enormous strides under a military regime that has called upon and made use of outstanding civilian leadership in the economic realm. It seems also to be trying to rectify the injustices that occurred—inevitably in a civil war situation—following the military takeover.

Abuses there, or anywhere, are reprehensible. But the situation has improved dramatically. It is a development that seems clearly worthy of mention and encouragement.

In Mr. Lewis' apt phrase, only a "lunatic theory" would attempt to characterize my measured encouragement of this process of normalization as "lending comfort to evil."

David Rockefeller,
Chairman,
The Chase Manhattan Bank.●

JOHN JENRETTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 60 minutes.

● Mr. GONZALEZ. Mr. Speaker, I understand that John Jenrette has, or will at some time today, resign.

I regret that action very much, but I understand his situation. Resignation would at least end the threat of one of the swords dangling over his head. Yet in resignation he also ends any contest over the right and authority of the Committee on Standards of Official Conduct to pursue him even as it leaves others alone.

The judicial position of John Jenrette was and is no different than that confronting John Murphy and Frank Thompson. Yet the latter two never faced any threat of action by the Ethics Committee. The sole reason is a simple accident of history, or fate, if you like. Jenrette was convicted in 1 month, the others in another, and later time. The committee never contemplated bringing action against the latter two.

But if the offenses were the same, the penalty should have been the same. For the House to have contemplated action against Jenrette while ignoring the others would be unconscionably wrong.

Moreover, for the House to have considered action in any one of these matters on the last hour of the last day would have accomplished nothing, served nothing, proved nothing. It would have been the equivalent of flogging an already dead sailor. After all, each one of these three will not return to the next Congress; they have failed of reelection. It ought to be sufficient judgment and penalty that they have not only been convicted, but turned out of office by the only people who properly should do that, and that is the people they represent.

What purpose would a last-minute disciplinary action serve? Nothing. It would simply be an act of self-purification by the House itself.

I am glad to note that the Democratic Caucus adopted the suggested reforms put forth by Don Edwards. These reforms will assure that the prosecutor, judge, and jury in ethics cases will not in the future be one and the same body. These reforms also require that the committee have full attendance—unlike the present situation in which Members find themselves pulled between obligations, and frequently cannot attend hearings of the committee—which is much like a juror being out of the jury room a good part of the time, and with equally unfortunate results.

Today, for example, the committee met while the Democratic Caucus was in session. This is the most important meeting of the caucus, dealing as it does with rules and leadership in the next Congress. Yet the meeting of the committee went on, forcing Members to choose between their obligation to the House as members of the majority party, and their other obligation to consider an ethics case. This placed members of the committee, and other Members of the House like myself, who happened to be interested in the case, concerned about it, in an impossible position. The Edwards reforms will end this kind of dilemma.

But I remain unconvinced of the need for the committee. The House had no such committee until very recent times, and there is no evidence that the existence of it has upraised the moral tone of this body. After all, what are we to say when there is no action even suggested against one brother who admits to crimes we used to quietly call morals offenses—but pursues others caught up in the net of the most unique, and possibly least legal, criminal investigation in history?

I believe we would do better to leave to the Judiciary Committee, or better, to the House itself, the business of deciding when to consider disciplinary action. This is not a matter that ought to be delegated to any committee, but reserved to the House itself—for it is a question that deals at its heart, not with the conduct of a Member, but the right of constituents to be represented by a free, independent, elected person.

That is the most basic of all constitutional rights, and it ought not to be lightly tampered with, as it has been in the actions we have seen this year.

I offer for the Record at this point letters I sent today to the committee in the Jenrette matter, and the reforms adopted by the caucus this morning.

December 10, 1980.

Hon. Charles Bennett,
Chairman, Committee on Standards of Official Conduct, Rayburn House Office Building, Washington, D.C.

Dear Mr. Chairman: I have just learned that the Committee is meeting this morning to consider the matter of John Jenrette.

I want to appear in behalf of Mr. Jenrette before the Committee takes any action on his case.

I request that the Committee meet at a

time when the Democratic Caucus is not in session, and protest the fact that it is meeting during the Caucus. There is an obligation upon committees not to meet during times when the Caucus is in session, and there is no more important a session of that body than during consideration of organizational matters. It is impossible for Members to attend their duty in the Caucus and at the same time attend committee meetings.

There is no way that any member of the House, with the best of intent and the most strenuous of effort, could fairly consider the Jenrette matter in these closing moments of the Congress. It would be unfair to Mr. Jenrette and unfair to the House for the Committee to report a last-second decision in this matter.

With best wishes, I am,

Sincerely,

HENRY B. GONZALEZ,
Member of Congress.

WASHINGTON, D.C.,
December 10, 1980.

Hon. CHARLES BENNETT,
Chairman, Committee on Standards of Official Conduct, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This supplements my earlier letter to you.

The Committee ought to bear in mind that the judicial situation of John Jenrette is identical to that of John Murphy and Frank Thompson. As far as I know, the Committee has no intention of bringing any disciplinary proceeding in the latter two cases.

It is only an accident of history, the date of trials, that makes John Jenrette the subject of disciplinary proceedings, and also immunizes the other two. Yet, if the offenses are the same, the House can in no way provide equal justice without exacting similar penalties from all three. I suggest that unless the Committee is prepared to act on all three cases, it should act on none of them.

With respect to the Jenrette matter, I again stress that no Member could, in these last moments of the Congress, consider all the evidence at hand and reach a fair judgment on it. Given the circumstances we face, it is an impossibility for Members to receive, digest, and carefully consider even a report from the Committee.

I submit that for the Committee to recommend action on the Jenrette matter now would place the House in the position of penalizing him for having the misfortune to be convicted in one month rather than another. An action against him, with no action against other identically situated, would merely make Mr. Jenrette an accident of history.

Moreover, I question the need for the House expelling on the last minute of the last day a Member whose service is already at an end. It confirms nothing, and achieves nothing, for the House to act at this late date. Expulsion of a defeated member on the last moment of the last day would be akin to flogging a dead sailor through the fleet, an ugly irony that would only be compounded by the absence of action in the Thompson and Murphy cases.

I request that you provide a copy of this letter to each member of the Committee, and for that purpose am attacking herewith a sufficient number for each Member, for counsel on both sides, and the Committee files.

Sincerely,

HENRY B. GONZALEZ,
Member of Congress.●

VICTIMS OF NAZI PERSECUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 15 minutes.

● Mr. WOLFF. Mr. Speaker, I recently received a report from Mr. Milton Kestenberg, a constituent of mine and an attorney dealing with the problems of victims of the Nazi holocaust. I have known Mr. Kestenberg for many years, and have long respected his work in this field. Therefore, I would like to insert his report into the RECORD at this time:

DISCRIMINATORY PRACTICE IN THE GERMAN RESTITUTION PROGRAM

National socialism was totally compromised, not a result of an enlightened rejection of its ideas and their execution, but solely due to its military defeat and collapse.

Nobody wanted to hear of guilt of the past, or responsibility. The people of Germany were tired and embittered; they did not want to think about adopting humane ideas toward their homeless and bereaved neighbors. Prof. U. Venzlaff describes the mistreatment and resulting illness of the few survivors in an essay entitled Basic Observations As To the Evaluation of Psychic Damages Caused by Racial and Political Persecution. Wiedergutm. Beil.d.Allg. Wochenzeitung d. Juden in Deutschland Mai 1960.

"A group of people in our country and later in the occupied territories were declared subhuman and marked as dangerous to the nation and world. A group from all levels of our society including scientists, artists, academicians, merchants, craftsmen, small towners, men, women and children were overnight, by order of the dictator and his vassals, condemned, declassified, ejected from society in which they were rooted. A cruel human degradation and destruction were carried out by officials with zeal, by idealists with blindness, by citizens driven in a stampede and by masses out of sadism and joy of destruction. A large number of the persecuted lived illegally in hiding. Most of them were discovered, arrested, deported and killed."

Upon discovery of the atrocities committed during the war and the plight of the survivors who were emaciated and near death, the three Western Allies promulgated many laws and regulations in their respective occupation zones. These were designed to restore the health and economic conditions of the victims of persecution to their pre-war state. These laws were administered by officials of the occupation forces. The extensive aid given to Germany pursuant to the Marshall plan and the withdrawal of the occupation forces from Western Germany, were coupled with a pledge by Germany to continue the restitution program without narrowing the scope of commitment to the survivors, originated by the allies.

Similarly, the convention of Bad Godesberg of May 26, 1952 (Art. 4, part 3), under which the occupying forces transferred their powers to the Federal Republic, provided an undertaking not to modify the Restitution Laws.

If we look at the various efforts of the Federal Republic and its states to compensate victims of Nazi persecution, we must recognize the good will of Chancellor Adenauer and some of his followers, particularly in the size of funds expended for the benefit of survivors (with the exception of reparations for financial losses) whose economic existence in many instances depends on pensions received from Germany.

However, "Wiedergutmachung" means to make good—not only to compensate in terms of money. I am referring to a moral "Wiedergutmachung." The innocent victims of Nazi persecution, having been punished for being Jewish, having been uprooted from their cultural and social environment which they helped to create over generations, having lost their families, friends and homes, are entitled to spend the few years left to them in restored dignity.

THE PUNITIVE PARAGRAPH 7 OF B.E.G. (FEDERAL COMPENSATION LAWS)

The decision had always been contingent on the applicant's truthfulness in supplying the data regarding his persecution. However any error was equally damaging. If a wrong age was given or a wrong statement to the authorities, the applicant would forever forfeit his claim. In a sense, he was adjudged as not worthy of receiving indemnification because he was a liar and a cheat who, under false pretenses, was trying to extort money from Germany.

It was not essential for them whether the applicant was indeed in a concentration camp or not; it was essential that he made an inaccurate statement and he was punished for lying. By implication, the degraded Jew who was now to receive an official acknowledgment of the wrong done to him was indicted and pressed into a position that he had indeed deserved the persecution and did not need to be remunerated for the ill health which resulted from it. The examples of "catching" Jews on "lies" are so numerous that they would fill volumes.

The decisions relating to the issue of false statements are issued pursuant to the very unusual Paragraph Seven of the Restitution Laws (B.E.G.). Paragraph Seven is so broad that it covers not only willful acts but also wrong statements caused by negligence, even though if a true statement were made the claimant would be entitled to restitution.

It is a general principle of law that a false claim must be denied. The false statement however must be relevant, meaning that if the truth were revealed the claim has to be denied. The official commentary of the German Indemnification Law states: (Van Dam-Loos 1965) "Inaccurate statements must be objectively inaccurate.—One can even lie with the truth". (B-H-K, comment 14 to 2 BEG) . . . . Conflicting statements in the application for indemnification are generally inaccurate (and warrant denial). "Inaccurate statements shall be those which were made merely for the simplification in the presentation of evidence. (EU163/54 Munich)." Under paragraph 7 compensation can be refused for the use of "improper means." Improper means shall apply even to those misstatements which "could not affect the desired indemnification". The person entitled to the award does not have to know that the statements are objectively inaccurate (BGH RZW57, 120; 61,380). It is not necessary that the false statements for the desired indemnification be the cause for a determination (BGH RZW56, 214 Nr. 30).

With the progress of time and growing intention of denying claims, Paragraph 7 became an excuse, no matter how much its implication would hurt the claimant.

The claimant, usually an elderly, ill person who has tried to forget the nightmare of Nazi persecutors and the murder of his family, is now called upon to reconstruct some terrible experience which over the years he had tried to forget. Now his claim is rejected because he is a liar.

We submit that Paragraph Seven is punitive in its nature and prejudicial. If a claimant is entitled to restitution he should receive it on the merits of his claim regardless of any innocent error or omissions. The inaccuracies were frequently caused by the fact that documents had to be written in German, a language in which the majority of claimants were not well-versed. Most of them spoke Yiddish and Polish and had difficulties communicating with lawyers processing their claims.

THE CONTINUATION OF THE PERSECUTIONS IN PROCEDURES TO PROVE DAMAGE

Despite all the good intentions on the part of legislators in Germany, the attempt to degrade the Jew, now singled out for reparation payments, was perpetuated under the noses of those who wanted to do justice to the persecuted. To receive the payments, the applicants had to subject themselves to the most humiliating and degrading, seemingly very correct legal type of investigations to prove their claim. The lawyers who represented the victims thought that German laws were just and, at least an appeal to the higher courts would see the error of their decisions and perhaps give a new interpretation that would make the execution of the laws more equitable. One such vital change concerned the interpretation of the laws by German authorities which resulted in the rejection of all claims for mental disorders as caused by persecution for the following reasons:

According to old psychiatric theories, adhered to in Germany and going back to the 1920's, any traumatic experience no matter how severe could have only a temporary effect on the individual.

All permanent disorders were genetic and thus were unrelated to persecution.

The application procedure for payment of treatment and for a pension that would be commensurate with the loss of earning ability due to aftermaths of persecution involved obtaining statements from physicians as to the damage concerned and showing (proving) that the applicant had been treated since their liberation. Only "Brueckensymptome" (bridgesymptoms) were recognized as valid. That implied that symptoms had to be present at the time of liberation and a doctor had to be accessible then. So-called "Spaetschaden" (delayed damage) were not recognized, at least not, at first. The physician's statement would be forwarded to the "Vertrauensarzt" (the literal translation of this term is "physician of trust") who examined the victim and then established the degree of his damage—at first only to his body, later also to his mind and soul, on the basis of which the applicant would receive a pension. The Vertrauensarzt was appointed by the German authorities, sworn in at the German Consulate and obviously had to represent the interests of the German government. He examined the claimant thoroughly and frequently, often in a manner very humiliating to the claimant and at times expressing doubt in his veracity.

Should the Vertrauensarzt conclude that the claimant is suffering from a damage to health resulting from persecution and causing a disability of at least 25 percent he would recommend the payment of a pension to the claimant.

If the claimant was in a concentration camp for a period in excess of one year, the causal relationship between the illness and the persecution was presumed. Some concentration camps however, have been looked upon as not as terrible as others, and confinement for one year would be credited by German authorities as if only two or three months.

In Germany a new institution has begun to take over—an institution not provided for in the Indemnification Laws: The "Beratender Arzt" (Consulting physician). The consulting physician did not see the claimant; he only read the report of the Vertrauensarzt and notoriously overruled it. The reason for rejection is that medical science is not universal: there is an American medical science and a German one. The private physician who treated the claimant for many years and certified to his illness was treated with suspicion and his certificate was referred to as "Gefalligkeitszengniss" (certificate of accommodation). He was requested to forward his original records showing examinations of patient and unless the records were complete, the claim was rejected.

A recent claimant offered to go, at the expense of her relative, to Germany to be examined by the "Beratender Arzt". The offer was accepted. She arrived for a personal examination after which the Beratender Arzt affirmed the findings of the Vertrauensarzt. The restitution authorities then referred the file to another physician in Germany, who in the basis of the information in the file and without seeing the claimant, recommended a rejection of the claim with which the authorities concurred.

It has been the consistent attitude of the German psychiatrists that a child who spent the first two or three years of his life in an extermination camp or in hiding and does not remember the details of his suffering could not be permanently damaged. Current psychiatric opinion would not sustain this.

In 1979 appeared a book published by Forum der Psychiatrie entitled "Sequential traumatization of children by Von Hans Keilson. (Ferdinand Enke Verlag Stuttgart 1979). It described a longitudinal study of over 200 Jewish war orphans in the Netherlands, born 1940–1945 until they reached the age of approx. 25 years. The tragic outcome of the report is that only four people out of approx. 200 did not suffer from severe psychiatric disturbances. Nevertheless, the German psychiatrists and authorities decided frequently that severe traumatic experiences in early childhood have no emotional effect on the adult. Thus if the adult has emotional disturbances they are unrelated to persecution in early childhood.

At first, the psychiatrists and authorities were friendly and bent backwards to help the survivors; gradually, the situation deteriorated and cases such as the above are not infrequent now. As a result of such proceedings and court litigations, cases are still pending though the claims were filed twenty years ago.

The "Beratender Arzt" who had been understanding, became gradually hostile to the claimants. In the opinion of some of the attorneys processing claims the most hostile is the young psychiatrist exposed to literature denying the holocaust or feeling that he is protecting the generation of his parents of the most hideous crimes in history.

One of the German psychiatrists I spoke to told me that his chief in the hospital admonished him to protect the "Fiscus" (the Treasury). After all, the good doctor was an employee of the State. If a case is not concluded at the time of the death of the claimant, the case dies. According to information given by attorneys, 50 percent of claims are denied, 25 percent are still pending in courts and only 25 percent have been resolved in favor of claimants—all this after endless humiliation to which the claimant is subjected. A case in the highest court (Bundeshof) alone, takes eight years for determination.

I represented a woman who asked me to reopen her claim rejected pursuant to Paragraph 7 because she had exaggerated her symptoms and pretended to be ill. Her daughter had just approached her that she is about to be married and had told the family of her fiance that her mother is dead. She feared that if they discover that my client is "crazy" they could assume that the condition is hereditary. Rejected for "feigning" an illness, and fearful of rejection for having one, many survivors who were ill did not want to admit to themselves and to others that they were mentally ill. It would have meant to them a "posthumous victory of Nazism" so they did not seek psychiatric help despite the fact that they were tormented by nightmares in which they relived the worse of their war time sufferings and fears.

An unfair and terribly prejudicial practice is the rejection of the claim "mangels Mitwirkung" due to failure of the victim of persecution to cooperate with the authorities. This relates to claims filed on time in full compliance with the law.

The claimant was obviously very anxious to receive his compensation, his "Wiedergutmachung" which he desperately needs and awaits. For months nothing has been heard and then a letter arrives from the authorities requesting additional data, additional documentation. The letter contains a deadline within which a reply must be furnished. The patient is ill in a hospital; ill due to persecution or moved and his attorney is delayed in communicating with him. The answer arrives beyond the deadline. The case is rejected.

The claim of H.M. (Landesgericht Muenchen 23 E.K. 1748/70) was rejected. She was 2 years old when she was shipped with her family to the Ghetto Lemberg, where she almost died from starvation. She was smuggled to peasants homes, later placed in a hole in the ground; another time in a chickenhouse or "like a piece of wood" under a bed—in constant fear of discovery. Her mother was caught and killed when she was trying to visit the claimant. Her brother was killed by being thrown out through a window.

The claim was rejected primarily because the claimant had failed to fill out questionnaire "B".

THROUGH THE EYES OF GERMANY TODAY

Dr. Hartmann, who has analyzed children of Nazis in Germany participated in the July, 1979 Psychoanalitic Congress in a symposium related to the "effect of the holocaust on the second generation."

Dr. Hartmann says (translation mine): We are dealing only with the survivors and have to be thankful for each single person who survived persecution. We have burdened ourselves with enough guilt and each survivor relieves us. At least we can make good partially to the survivor, for what we have done. For the generation of the children and the people born after the war this may not be clear, since undoubtedly it is the guilt of the Fathers for which they are liable in a political and moral sense.

In my opinion the simple proof that a man was exposed to discrimination, persecution and pain in body and soul should be sufficient for a minimum award.

Dr. DeWind, a psychiatrist from Holland reports: "Holland enacted its laws to assist individuals whose earning capacity was reduced below a certain amount by reason of damages to body or soul as a result of Nazi persecution. Knowing that the victims and particularly those who suffered most will find it difficult to prove their claims, the government funded a Jewish Committee whose function it was to collect all necessary evidence. The government then requested all individuals to report their damages to the Committee for historical and medical evaluation, regardless of their earnings at that time. Those who failed to report their claims within a prescribed period could file their claims subsequently but had to prove the causal relationship between persecution and their current disability."

Holland, itself an innocent victim of the war, treats the claimants with respect and dignity. The payments may be smaller than those from Germany but the number of rejected claims is also small.

Recently the German Legislature allotted certain funds to indemnify only those claimants who suffered from extreme economic hardship, but due to technicalities, were excluded, until now. However, the indemnification is limited to 5,000 DM ($2,500) per claimant which is highly inadequate. This fund shall be managed by the Conference on Jewish Material Claims against Germany, which is laudable. It is hoped that Germany shall increase the allowance, since a compensation for the victim's suffering, and permanent disability in one lump sum of $2,500, is rather a donation, than an indemnification.●

REAGAN SHOULD REPUDIATE PERCY ON PLO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 15 minutes.

● Mr. BINGHAM. Mr. Speaker, according to classified cables which were "leaked" to the New York Times, Senator Charles Percy has informed Soviet leaders that he favors the establishment of a Palestinian state headed by PLO chief Yasir Arafat. Percy, apparently, said that a PLO state, even a very small one, would allow Arafat to "realize his wish" to be a chief of state.

If reported accurately, Percy's remarks are appalling. Senator Percy is going to be the next chairman of the Senate Foreign Relations Committee and his remarks can be interpreted to mean that the United States is abandoning both the Camp David process and our commitment not to recognize or negotiate with the terrorist PLO. It is very important that President-elect Reagan make clear that Senator Percy was not speaking for the new administration when he endorsed the goal of a PLO state. During the campaign Mr. Reagan accurately labeled the PLO as a "terrorist organization" and indicated that he would not deal with it. There is no reason to believe that he has changed his view but a clarification here is certainly in order.

Even if speaking only for himself, Senator Percy's remarks are alarming. It is not in the interests of the United States to permit or encourage Yasir Arafat to "realize his wish" to be a head of state. Arafat is a terrorist and with his organization, the PLO, is responsible for hundreds of acts of violence around the globe. There are those, and perhaps Senator Percy is among them, who believe that the PLO has abandoned its genocidal aims. It has not. As recently as this past May, Al Fatah, the largest organization in the PLO and Yasir Arafat's own organization, called for the continuation of "armed struggle to liquidate the Zionist entity politically, economically, militarily, culturally, and ideologically." That is no call for a "secular Palestinian state" but rather for the destruction of the state of Israel and the Israeli people. Obviously the United States cannot have relations with an organization which has genocide—or, to put it more politely, politicide—as its chief goal.

Senator Percy must not be taken in by Yasir Arafat's public commitment to a diplomatic solution to the Israeli-Palestinian conflict. He has made it clear that he would accept a small Palestinian state on the west bank only as a launching pad for terrorist attacks and, ultimately, full-scale war to regain all of what he considers to be the Palestinian homeland. That Palestinian state would likely be allied with the Soviet Union, thus giving the Soviets a base in the center of the conflict-torn Middle East, just a few miles from Israel and the Saudi oil fields. It is folly for U.S. leaders to embark on a flirtation with Yasir Arafat and his terrorists. I urge President-elect Reagan to repudiate Senator Percy's alleged remarks and I call on Senator Percy himself to rethink his position.●

REMARKS OF THE HONORABLE JANE M. BYRNE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Stewart) is recognized for 10 minutes.

● Mr. STEWART. Mr. Speaker, recently, the Honorable Jane M. Byrne, mayor of the city of Chicago, addressed the legislative action committee of the U.S. Conference of Mayors. In her speech to that committee, Mayor Byrne raised some very important issues which are of vital concern to the mayors of our urban areas.

In view of the fact that the 97th Congress will be confronted with these issues, I want to insert in the Record at this time the speech of the mayor:

Statement by Mayor Jane M. Byrne

Thank you all for coming today. It's good to see so many of you here.

Following the election, Mayor Hatcher and I concluded that it was important to convene this committee of the U.S. Conference of Mayors as soon as possible.

Many of us have spoken to Mr. Reagan since the election. He has assured me that the cities will have, and I quote, "a friend in the White House." Mr. Reagan expressed his desire to work with the mayors and the cities to establish firm policy and cut some of the bureaucratic redtape that too often surrounds federal grants.

The recent election faces us with new realities that have been in the making for a number of years. As leaders and professionals our challenge is to work more effectively than ever before to carry out a new approach to the problems of the cities, building on the best of existing programs.

It should be noted that the message of this election must not be interpreted as a statement that any of the basic rights or gains that have been developed through hard fought efforts be cast aside.

As a major policy committee of the U.S. Conference of Mayors, we need to impress on the new President and the Congress the issues confronting all of us in a nation as heavily urbanized as ours.

In some quarters, cities aren't in fashion. It would be far too easy for President Reagan to blame America's problems on programs that ease the lives of the elderly, the poor, minorities and the unemployed. Nor can he hope to keep his promise to lead us back to a strong economy without revitalizing our cities, which are the commercial and industrial centers of our country.

Now is the time to stand united and plot a course of action that will take our cities and our nation on a successful voyage into the eighties.

In looking to the future, however, we cannot forget that during the last decade many cities have made tremendous strides. We cannot abandon that progress.

In his campaign travels, Mr. Reagan recognized the importance of our cities to his election. Now, nine days after his victory, it is time to start talking frankly with the President-elect and his staff, both publicly and privately, about those issues that are most important to all of us, including, ultimately, the new administration. History has shown us that no administration can be successful without a successful urban policy. To pretend that cities are enemy territory is self-defeating.

We are expecting Mr. Reagan to be President of all the people.

It is time to put our cities back to work; it is time to make our cities work; it is time to create "working cities."

If we want to have working cities, the first step should be a comprehensive urban economic development strategy. Mr. Reagan and his advisers have already suggested a number of tools that can be used, such as: Tax incentives for industrial investment and expansion; accelerated depreciation allowances; the possibility of tax-free industrial zones; job-linked employment training programs in the private sector; and regulatory relief from red tape.

I believe that through a city incentives program we can build on the best of the current structure.

Administration of such city incentives should be housed in one agency that would also combine and coordinate existing urban economic programs.

I would urge President-elect Reagan to support the urban development action grant program, the Economic Development Administration reauthorization legislation now pending in Congress, and the Small Business Administration package of technical assistance and loans.

All of these elements could take their place in a new economic development block grant program similar to the successful community development block grant program now in place. This approach would embody Mr. Reagan's emphasis on the use of Federal dollars as incentives for private investment.

The second step the Reagan administration should take toward making our cities work requires a reappraisal of the way in which Federal dollars can be more effectively distributed. Mr. Reagan has said that he plans to cut redtape in the regulation of private industry. He can make more effective use of tax dollars by using the same approach toward the regulation of Federal grants.

For instance, a streamlined grant application could save money immediately. At the Chicago Transit Authority, a new order for articulated buses wound through the bureaucratic process for many months. As we waited for the approval of our application, the price of the buses soared by thousands of dollars. This is just one instance of the inflationary effect of Government redtape on cities.

We all know that there must be safeguards for the expenditure of public funds. But that shouldn't mean starting from scratch with every grant every time a new fiscal year begins.

Part of the clear message from the citizens is that we must work with the Federal Government to hold down spending wherever possible, so that the tax dollars that are collected are used to the maximum benefit. These dollars should create an investment climate in our urban communities.

To do this, it is imperative that we be able to direct dollars toward conserving and reconstructing the infrastructure of our cities. This is also important so that cities can maintain viable financial bases. In strengthening the foundations of America's cities, Federal tax policies and expenditures should also focus on generating the construction and rehabilitation of affordable housing by the private sector.

At the U.S. Conference of Mayors annual meeting in Seattle earlier this year, then-candidate Reagan said that the time has come for the Federal Government to work with the cities and not force cities to develop programs to meet the catalog of mandates that are handed down by the Federal Government.

The future of the Nation's cities must be an important part of Mr. Reagan's transition planning. We must remember that some of our most valuable programs, including revenue sharing and the community development block grant program, have been enacted under Republican administrations.

We have the opportunity to develop a creative partnership with the new administration, and as leaders, we have the responsibility to try.●

AGRICULTURE ISSUES, PAST AND FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

● Mr. BROWN of Califorinia. Mr. Speaker, the 96th Congress is drawing to a close. In keeping with the retrospective observations that these events usually evoke, I would like to examine some of the major legislative issues of the last 2 years in agriculture, an area of major concern to me. I would also like to offer some thoughts on what the needs in this area may be in the 97th Congress.

There was much legislative activity originating from the Conservation and Credit Subcommittee in the House Agriculture Committee, and subcommittee chairman, ED JONES, and ranking minority member, EDWARD MADIGAN, are to be congratulated on their work. Congress enacted a major expansion of the crop insurance program in the 96th Congress, extending coverage to new geographic areas and to more crops. Enacted after much debate, and a fair compromise carefully crafted by Mr. JONES and Mr. MADIGAN, this legislation rationalizes the various USDA crop insurance and disaster payment programs. Expansion for the 1981 crop year has already been announced, the first stage of an orderly expansion over the next few years.

Another major piece of legislation originating in the Conservation and Credit Subcommittee is the bill to expand the authorities of the farm credit system. The bill is a fine balance of the various positions on the matter and with financing a major problem with farmers and cooperatives, this legislation would be of great assistance to the agricultural sector of our economy. I hope that enactment can be accomplished before we adjourn.

Enacted during this Congress was legislation reauthorizing the emergency loan program in USDA. Limits were placed on the amounts that could be received by any one farmer after revelations that some farmers were receiving large loans from the program. The reauthorization again aids farmers being placed in a credit squeeze, especially after the weather problems of the last year.

A major piece of legislation from the Family Farms and Rural Development Subcommittee passed Congress this year, a bill designed to improve our rural development efforts. The Rural Development Policy Act offers better coordination and planning in rural development efforts and involves State and local governments in these efforts to a larger extent.

A number of bills were enacted raising loan rates and target prices for agricultural commodities. This has been an especially difficult area to deal with due to the influence on crop prices from a number of outside events. High interest rates, increasing costs of production inputs, the grain embargo, and most recently, the adverse weather, have all added uncertainty on what price levels should be set to assure farmers a fair return. I expect this disruption to continue in the new Congress and see a need to devote more attention to this area. It will be a difficult task to insure predictability and some degree of stability to commodity prices in the coming year.

Also of great importance was the enactment of legislation establishing an emergency grain reserve. Using the grain already owned by the Government as a result of the grain embargo, this program will be of great assistance in meeting emergency food needs in the coming years. Congress acted none too soon on this, judging by the harvest forecasts that I have seen.

In one specific commodity area, attempts were made last year to set a floor on sugar prices. Market conditions have increased sugar prices since then, and pressure to establish a sugar program has lessened. Given the cyclical nature of sugar prices, I would encourage producers to act in the next Congress to continue efforts on this program, in advance of any drastic downturn in prices.

A number of energy bills were approved in this Congress that involved the Agriculture Committee. Energy from farm and forest products was a large part of the Energy Security Act, and USDA involvement in biomass energy sources will increase. With the transfer of biomass funds from the Department of Energy to USDA, and the already operating loan programs in USDA for energy production, the Agriculture Committee will be increasingly involved in energy matters.

On the energy demand side, the committee was involved in the fuel allocation and transportation problems of the early 1979 crop. These problems will undoubtedly surface again. Fuel prices and the prices of petrochemical products continue to burden producers and distributors in the agriculture area, and there is so much work to do in dealing with these problems.

Consumer and nutrition issues were much discussed in this Congress and will receive increasing attention in the next. The nitrite controversy, the cholesterol issue, dietary guidelines, and food safety issues generated much attention. This is a divisive area as producer groups and consumer groups continue to disagree in these areas. The next Congress will see a new administration with some changes in emphasis expected. There are pressures for updating some of the existing legislation in this area, such as the Delaney clause. These will be hotly debated topics requiring the best wisdom of the Agriculture Committee.

The reauthorization of the food stamp program effected some changes in the program aimed at reducing fraud and abuse. The annual reauthorization will be considered again next year and may involve some major changes, depending upon the administration's plans.

The Department Investigations, Oversight, and Research Subcommittee, under the chairmanship of Mr. DE LA GARZA, with Mr. WAMPLER, the ranking minority member, was active in this Congress. The pesticide programs under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) produced debate on Federal regulatory policy that were mirrored in a number of other areas. The orderly review procedures, risk-benefit analysis, congressional veto, and other measures became the subject of much debate. We can expect this debate to continue and escalate in the next Congress, presenting a challenge for the subcommittee and the Congress as a whole.

Needed research in animal cancer, increased authorizations for research facilities at black land-grant colleges, and legislation dealing with prevention of African swine fever were passed by the House after Agriculture Committee approval.

Numerous other issues faced the Agriculture Committee during this Congress. Questions concerning the Government's role in overseeing farm cooperatives and the futures market were discussed. Needed legislation on wood residue utilization and a forestry loan program were passed and the RARE II issue was raised again. The Great Plains conservation program was reauthorized, and the committee took another look at the critical issue of farmland retention. Many specific sectors and commodities were examined as well.

The 97th Congress will be especially active for the Agriculture Committee as the required authorizations of FIFRA and food stamps will come up, as well as the major quadrennial effort to reauthorize the program outlined in the 1977 farm bill. The 1981 farm bill will present an opportunity to simultaneously examine all of our agriculture-related programs and make any necessary changes. The committee will be charged with setting agriculture policy for the next 4 years, a difficult task given the economic and resource-related changes we have undergone and will continue to experience.

Broad questions of regulatory policy will affect deliberations on pesticide and food safety and quality functions. Changes in regulatory decisionmaking can be expected to be proposed by the new administration and become a part of the debate in these areas.

Energy prices, inflation and loan interest rates can be expected to increase, affecting producer and consumer alike. The Agriculture Committee will have to examine these issues in detail and in a coordinated fashion before setting a policy expected to last through 4 years of change. Dealing with energy specifically, the committee may need to coordinate energy supply, demand, and production issues by designating one subcommittee with energy jurisdiction to allow a more comprehensive approach.

The extreme weather conditions of this crop year will have an effect on agriculture issues in the 97th Congress. Many farmers will be placed in desperate financial situations, requiring special attention. Also emerging this year were many farm water use developments. Drought and groundwater overdrafts are forcing changes in farming practices in the Midwest. Irrigation water supply and quality problems are a concern in the Colorado Basin States and in areas of Texas. Energy development projects in the West will place increasing demand on agricultural water supplies. The Agriculture Committee should consider an examination of onfarm water use issues, since the problems of water supply and quality are becoming increasingly serious.

In the next Congress, we will have to reauthorize our Public Law 480, food for peace programs. The Agriculture Committee has partial jurisdiction over this and, if current predictions about food shortages are true, this program will become more important than ever. We should carefully examine this program's encouragement of and effect upon the development of a sound agriculture base in recipient countries. We should examine as well the accountability of recipient countries in reporting the development of agricultural self-sufficiency.

In a similar vein, it becomes increasingly important to insure sufficient levels of collaborative agricultural research with developing countries. We will have more success, in the long run, by working to establish agricultural and development capabilities in these countries. This point is made in the recent Heritage Foundation report to the new administration and will, I hope, begin receiving greater support.

Agricultural research generally will become increasingly important as resource limitations begin to affect our agricultural system. Changes in the structure and practices of agriculture are being forced by increasing energy prices. Problems of water supply and quality are concerning many farmers. Chronic crop losses from a number of sources—air pollution, decreasing soil fertility, soil salinity—are a growing problem. The list of production and post-harvest research needs is long.

Given the lag between research and onfarm application, we need to take a longer research planning horizon. Yet the present needs are just as important and, with little chance of increased research funding, we must assure that our strategic research planning in agriculture is properly done. We also need to insure that our research takes into account advances made in other areas, such as information and communications technologies and the bioengineering technologies.

As a number of recent reports have found, renewable resource management will become an increasingly important topic, with agriculture at the center. I look forward to beginning an examination of critical agriculture's issues in the next Congress, as a part of reauthorizations of standing legislation, and as separate topics of emergent need.●

HUMAN RIGHTS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fascell) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, 32 years ago today, the United Nations began a process to establish an international bill of human rights and fundamental freedoms with the adoption of the Universal Declaration of Human Rights. Through this declaration, the organization and its member states espoused the principles of freedom in thought, conscience, religion, and the inherent dignity and inalienable rights of all the peoples of the world. Although the declaration is sanctioned by many nations, the words are often empty ones—glorified on paper, but lacking substance in the policies of nations and the actions of those who govern.

Five years ago, 35 nations signed the Helsinki accords of the Conference on Security and Cooperation in Europe. Like the Universal Declaration of Human Rights, the accords have no legally binding force. Both rely on honor, conscience, and politics to bind the signatories to their pledge to respect basic human rights, including the right to take part in government and the inviolability of national frontiers. On this Human Rights Day it is the conscience of both the declaration and the accords as well as the conscience of nations that joined in their signing and judge their merits which are threatened.

Some of us met in Madrid in November to review the implementation of the Helsinki accords. The 1975 accords represent détente at its fullest spirit of cooperation. The 1980 Conference reflects the decline of détente. Prime examples of its failures are those in the category of human rights.

Widespread violations have been reported in the Soviet Union and some East European states including legalized ethnic and religious discrimination, forced emigration and exile, and the imprisonment of human rights advocates. And the Soviet Union has increased jamming of Western radio broadcasts and invaded Afghanistan.

These are not only defeats for détente and diplomacy, but also invasions of human rights. Therefore we cannot lose our sense that the issue of human rights demands a prominent place in our foreign policy as a justification and standard for one man's rule over another. When missionaries are killed in El Salvador, dissidents and religious minorities are imprisoned, and foreign troops mass on the borders of a sovereign nation, these are problems of the international community as reflected in the Universal Declaration of Human Rights and the Helsinki accords.

The defense of human rights should not be separate governmental and political relationships. I sincerely hope that any new developments in U.S. foreign policy will not mean that we lose sight of our commitment to a universally recognized code of human rights and what such a code could mean for the ultimate aim of our foreign policy—peace.●

TRIBUTE TO MIKE McCORMACK

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, it is with deep regret that I take note of the fact that Mike McCormack is leaving us at the end of this session. Mike's unique qualifications in the highly technical matters concerning energy, provided this body with the true facts it needed to contend with the energy problems the Nation faces. Coupled with his great professional knowledge of the field and his actual experience in carrying out highly technical energy projects, Mike applied inexhaustible energy to help guide us in our energy-related legislative activities. I sincerely hope that whatever he does next in his already illustrious career it includes continued inputs to the solution of our critical energy dilemma.

I am sure everyone joins me in wishing you, Mike, every success and reward in whatever you take on in the future. I also want to express the hope that included in your future is a return to the membership of this body where you have already contributed so much and can contribute so much more to help our Nation.●

HOLIFIELD HEAVY ION RESEARCH FACILITY

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, on Monday, December 8, 1980, an outstanding research facility was dedicated in honor of an outstanding former Member of this legislative body. The facility was the Holifield Heavy Ion Research Facility at the Oak Ridge National Laboratory and the outstanding person to whom it was dedicated is our beloved former colleague, Chet Holifield.

No one is more deserving of this honor than Chet. He and I have worked together for three decades and our record in the support of research is one that anyone could be proud of. As I said in my message to Chet congratulating him on the receipt of his latest honor, the Holifield Heavy Ion Research Facility will greatly enhance our scientific stature in the scientific field.

Further, in this respect, I would like to invite my colleagues attention to the editorial in the December 9, 1980 edition of the Washington Post which brings out the point that our record of receiving half of the Nobel Prizes in the last decade reflects the fact that our scientific programs received the support they did in the decades which preceded. This reflects the vision Chet Holifield and I recognized was needed three decades ago when we fought for the support of scientific research.

I am including at the close of my remarks the Washington Post editorial since it brings out the point so well that we must consider the lead time in scientific research and continue our support of a vigorous scientific research program.

I would also like to include at the close of my remarks the statement our honored friend, Chet Holifield, made at the ceremony dedicating the Holifield Research Facility. I am also including the congratulatory statements Adm. H. G. Rickover and I made on the occasion.

I am sure you all join me in congratulating our esteemed colleague on this latest highly deserved honor he has received.

The material follows:

Basic Research and the Budget

Of the 102 Nobel Prizes awarded over the last decade, the United States has won over half—more than three times as many as second-place Great Britain. (For those who like to keep track of such things, the Soviet Union has won two.) Because the bulk of these prizes recognize fundamental advances in basic research, they are ample evidence that this country is doing something—in fact, many things—right in the organization, support and general climate provided for basic research.

But because the prizes are generally given for research performed at least a decade earlier, and because these men and women were trained several decades ago, even the most recent prizes cannot be taken as evidence of the continuing health of the American research enterprise. In fact, there are two reasons why scientists are anxious about the near future.

There is the worry over budget cuts. Within the relatively small portion of the federal budget that is available to the new administration for discretionary cutting, the money for basic research stands out as a tempting target. Unlike most other federal programs, it has only a small, though influential, constituency. More important, the effects of such cuts have no immediate impact; they will not be felt for years. On top of Mr. Reagan's commitment to expand defense spending—and therefore, necessarily, defense-related R&D—the overall impact on research in all other fields could be very serious.

A second source of concern is the pending reorganization of the National Science Foundation. Prompted by congressional anxiety over the decline in innovation and productivity, and by unmistakable shortages of funds in engineering schools, the NSF, which for 30 years has been the chief source of support for basic research, is embarking on a new course designed to give greater emphasis and money to applied research and engineering. If the new areas must compete with basic research for the same—or an even smaller—amount of money, the long-term effects could be serious.

It is impossible to measure with precision the contribution of technological innovation to economic growth and productivity, but there are few who would argue with the view that it has been a major contributor to U.S. economic growth in the past several decades. The direct link between basic research and subsequent innovations is also indisputable. Transistors, microprocessors, lasers and bioengineered bacteria are just a few examples of how recent basic research discoveries have led to major industrial enterprises. Nothing in the budget is sacrosanct. Many desirable programs must be cut. All we are saying is that where the budget for basic research is concerned, the budget-cutters should proceed with extreme care.

REMARKS OF CHET HOLIFIELD

Mr. Chairman, distinguished guests and friends, this is an important day for the Holifield family. Friends and relatives from Washington, Kentucky and Tennessee have travelled to Oak Ridge to participate in this event. All of us thank our Oak Ridge friends for their many courtesies.

The name of the heavy ion facility was authorized by Congress in 1975, the year after I retired from Congress, December 30th, 1974.

Today I express my deep appreciation to Congresswoman Marilyn Lloyd Bouquard and Senator Howard Baker, two of Tennessee's finest elected officials, for their support and leadership in passing the legislation which designated the official name of the heavy ion facility. In the forthcoming administration, both of these distinguished Members of Congress will have increased prestige and power to strengthen the atomic projects in the Oak Ridge National Laboratory. Their support will be invaluable in bringing to fruition the liquid metal fast breeder reactor.

I consider the tribute, and remarks made today on my behalf, the highest honor I have received in my thirty two years of public service. I accept the honor with deep humility, as a recognition of the service of all the members of the Joint Committee on Atomic Energy. I also want to state that we who served on that committee since it was first established in 1946, know that our record of accomplishments was made possible by the strong support we received from the majority of the Members of Congress.

That support for atomic development has remained strong until this day. I regret that for the last four years, the Congress has faced delaying, crippling opposition from the Executive Branch of the Government.

I believe that the new administration will return to the atomic goals and programs which were supported by six presidents, who served for thirty years, prior to 1976.

This Nation desperately needs energy from the atom to help solve the real problems, posed by dwindling fossil fuel resources and a rapidly increasing population.

We who have expended so many years in building the capability to harvest the peaceful benefits of the atom, face the future with new hope. We believe we see the light of a new era of opportunity, at the end of a four year journey through the dark tunnel of obstruction.

As I look back for more than three decades, I am proud and grateful for the progress we made.

We must remember that Congress possessed no Members with scientific degrees in physics, chemistry or engineering in 1946. It was necessary to select and appoint members to the new joint committee who were non-scientific laymen. The congressional Members became students. The professional scientists and engineers, many from the Manhattan Atomic project, became our teachers and advisors. They too were on the threshold of unknown and unexplored vistas of the atomic frontier. Together, we moved forward into the strange and mysterious world of pure scientific research, and engineering application of the properties within the atom.

That was the real congressional education of the importance of pure scientific research. I believe the heavy ion facility to be one more important device to explore the unknown, to gratify part of the never ending curiosity of the scientifically oriented human mind.

Fate seemed to decree that men who had no degrees in science and engineering would be chosen to serve on a new and unique jurisdictional committee of the Congress. The task of these laymen forced them to make decisions between competing research and development programs. We made those choices. Some of the choices were good and some were not. All of the choices were difficult, because as always occurs in the exploration of the unknown, we found that competent scientific advisors deferred on the merit of scientific theories.

The record shows that the non-scientific congressional Members were experts in their political and legislative skills. They were the avenue of access to Federal funds, without which the great, expensive atomic programs and goals could not have been achieved.

For almost four decades the Congress generously supported pure scientific research and developmental application, in the fields of atomic science, space technology, biology and medicine. They came to believe it was necessary in order to meet the problems we faced during the last forty years.

I am confident that Congress will continue strong support of atomic programs.

It will be even more necessary as we face present and future problems in a world of burgeoning populations, dwindling natural resources and political instability.

It is true that we no longer face geographical frontiers on the planet Earth. It is also true that our sophisticated satellites are now exploring the stars, moons, and planets in the faroff galaxy of space.

However, we are not without frontiers. We have very important frontiers in science and technology. More important perhaps to man's destiny are the frontiers of human relationships, political stability and social behaviour.

It has been my lot as a Member of Congress to be concerned with the broad spectrum of our Nation's social, economic, political, national and international problems. I found all of these areas to be challenging fields of interest. I was an active advocate in all of these problem fields.

During the last twenty-eight years of my thirty-two years in Congress, however, my principal time and interest was directed into the exploration and development of the atom.

From 1946 to 1954 the joint committee was mainly concerned with strengthening our military capability in atomic weapons and the development of the nuclear-propelled navy. The base we laid in atomic technology in those eight years gave us a broad base of information and "know how" for peacetime application. The budget in those eight years was therefore expended mainly for national security.

Beginning in 1954, our committee moved into the "atoms for peace" programs of the Eisenhower years.

During the ensuing twenty years our budgeted expenditures moved steadily into greater peacetime applications. This movement was in harmony with my 1945–1946 fight for civilian control of the atom.

My first concept of the testing of the atom was that it should not be controlled by the military for weapon use only, but that it should be under civilian control so its use would be for both peace time and military use. This was the principle adopted by the Congress finally in the McMahon bill.

The "Atoms for Peace" program re-awakened the interest of many scientists who had left the atomic military program.

By the year of my retirement, 1974, the annual budget of four to six billion dollars had changed from nearly 100 percent for military expenditures, to about 50 percent military programs and 50 percent peace time civilian programs.

In addition to our development of an unparalleled military security, we developed more than 2,000 peace time applications.

Fortunately our chief peace time projects were directed toward the development of a new energy fuel source. I say 'fortunately', because of the world wide shortage of fossil fuels, and the unreliability of foreign imports. That is the compelling reason why the consumation of the fast breeder on the Clinch River is so important, not only to us, but to the western free world nations.

Our great pure scientific research programs which have included the Berkley Bevatron and the Fermi Accelerators, the Los Alamos Meson and Stanford Linear Accelerators and the heavy Ion accelerator we are dedicating today, are so very important to our national future.

Within the past two weeks both my wife Cam and I have celebrated our seventy-seventh birthday. We have been married fifty-eight years as of last September, and we have three daughters who are here today, and we also have fifteen grandchildren and seven great-grandchildren. So you see, we have a continuing interest in the future.

We extend to our many friends our appreciation for your friendship, and our gratitude for our years of participation in the development of the uses of the atom.

DECEMBER 8, 1980.

To: Manager, DOE, Oak Ridge Operations Office.

Please convey the following message to Congressman Chet Holifield on the occasion of the dedication of the Holfield Heavy Jon Research Facility:

I know of no one more deserving of this honor than you.

For many years, and particularly during the formative period, you led the efforts in promoting research, development and engineering in the nuclear field. This facility is another link in the chain you forged to keep this country in the lead in this field.

My personal best wishes to you and your gracious wife.

Adm. H.G. RICKOVER.

DEDICATION OF HOLIFIELD HEAVY ION FACILITY, DECEMBER 8, 1980

(By the Honorable MELVIN PRICE)

As the only surviving active charter member of the Joint Committee on Atomic Energy that authorized this great facility, it is a particular honor to convey my best wishes to a formerly active surviving charter member of that great committee. I deeply regret that I can't express these thoughts in person. This is the day that Committee members are selected for the 97th session—about the only possible reason that could have kept me from being here.

The record shows that Chet and I have virtually without exception actively supported basic research for three decades—a record we are proud of. Our support of this facility is an example.

I expect that our scientific stature will be greatly enhanced by the work undertaken in this unique facility.

I embrace Cam and Chet and I hope that they continue to participate in the discussions and decisions of the issues facing our great nation. We need their continuing help.●

SUPPLEMENTAL MATERIAL ON THE HOLIFIELD HEAVY ION RESEARCH FACILITY

Mr. PRICE. Mr. Speaker, earlier today I commented on the December 8 dedication of the Holifield Heavy Ion Research Facility located at the Oak Ridge National Laboratory. I included in the RECORD material related to this facility and comments on our good friend and former colleague Chet Holifield, in whose honor the facility was named.

Since then I received the printed remarks of Dr. Edward Frieman, Director of the Office of Energy Research of the Department of Energy, who was the principle speaker at the dedication. His remarks present an excellent insight to the purpose of this and related research facilities to our welfare and national security. Dr. Frieman also properly recognized the great contributions of our former colleague in providing for the design and construction authorizations for such facilities. I am including Dr. Frieman's remarks at this point in the RECORD for the information of all of my colleagues:

DEDICATORY ADDRESS AT HOLIFIELD HEAVY ION RESEARCH FACILITY BY EDWARD A. FRIEMAN

I am happy and pleased to be here today to participate in the dedication of a key new research facility for nuclear physics and to honor Chet Holifield at this time. The Department of Energy and its predecesor agencies have maintained a keen interest and commitment to the development of this field of scientific knowledge.

Nuclear physics and associated nuclear studies have always been destined to have an enormous impact upon mankind. We are among the generations that have had the realities of this impact most strongly impressed upon our society. With due respect to the many "This is the Nuclear Age" cliches, we DO live in a time when nuclear physics and nuclear energy cannot be ignored.

In a very real and direct sense, fundamental knowledge of nuclei and nuclear reactions provides: a shield of military strength to protect our country; present and potential sources of power to generate electricity for our society; techniques, materials, and knowledge to diagnose and treat our illnesses; and moreover, techniques, materials, and knowledge for our industrial base in creating new products and improved manufacturing processes; and, finally, stimulation of our intellects with new visions of realities beyond the macroscopic world of concrete, and soil, and steel, and plastic. Without doubt, knowledge of nuclei and nuclear reactions has brought difficult problems to our society—the problems of nuclear waste, safety, and non-proliferation are still matters of public policy debate. But, because this knowledge is a basic reality of our world, we cannot and must not attempt to avoid both its challenges and opportunities. Instead, we must meet these challenges and opportunities with an insatiable thirst for deeper understanding.

I believe this laboratory has long been in a leadership role in this respect. Further, Chet Holifield in his years of distinguished service for our Nation, clearly recognized this responsibility. The research program made possible by the Holifield Heavy Ion Research Facility will probe the mechanisms by which massive chunks of nuclear matter exchange mass, energy, and angular momentum. In the energy range of Holifield's heavy ion beams, the colliding projectile and target nuclei will certainly be stressed, but not so violently stressed that information on the underlying organization of bound protons and neutrons is lost.

Examination of the more violent collisions at higher energies is important to our understanding of the bulk properties of nuclear matter. However, such studies will mainly be the function of complementary heavy ion facilities at other laboratories and institutions. The central role of this facility will be investigation of the structure and properties of nuclei beyond the familiar stable nuclei, exploration of the limits of nuclear stability, examination of intrinsic modes of nuclear matter to the stress of high angular momentum. These experiments require precisely controlled heavy ion beams over a wide range of energies and projectile species. Holifield will emphasize the precision study of nuclei.

Although this facility's primary mission is basic nuclear research, it has important application to and interrelationships with atomic physics, plasma physics, astrophysics, geology, archeology, materials science, and reactor technology. I applaud and encourage Oak Ridge's determination that this link to scientific disciplines and technologies beyond nuclear physics be exploited.

One of the important and positive factors in the selection of Oak Ridge as the site for this accelerator facility of ORNL's demonstrated ability to work constructively with outside scientists in use of ORNL capabilities and ORNL's ability to cooperate with the State of Tennessee to the benefit of both Federal and State interests. In basic nuclear research, we have two outstanding success stories—the University Isotope Separator at Oak Ridge (UNISOR) and the Joint Institute for Heavy Ion Research.

In 1970, the initial UNISOR consortium of 12 universities combined forces with the State of Tennessee to purchase an isotope separator and with ORNL and the AEC to construct a building addition to Oak Ridge Isochronous Cyclotron facility. The AEC and ORNL agreed to provide accelerated heavy ion beams for the on-line isotope separator experiments.

Since 1970, the UNISOR project has produced excellent nuclear research and has provided unique research opportunities to its member universities. Active UNISOR participants presently include 40 faculty and graduate students. We look forward to continued success of UNISOR as an important component of the Holifield facility. The Joint Institute is a similar story involving Vanderbilt University, the University of Tennessee, Oak Ridge National Laboratory, and the Department of Energy.

On land adjacent to Holifield, these four partners are currently constructing two buildings which will provide visiting scientists with office space, individual living areas for long-term visitors, sleeping alcoves for use during long-run experiments, a lecture hall, and light laboratory space. The Joint Institute is important to achieving Holifield's mission as a true national facility open to all qualified American scientists.

I am also pleased to be able to say that in the past year we have reached agreement with NSF, DOE, OMB, and OSTP, and the NSAC long-range plan to provide stable funding for the whole field of nuclear physics. Heavy ion nuclear research has a long heritage at Oak Ridge. In 1950, ORNL scientists measured the cross-section for 14_N plus 14_N greater than 12_C plus 16_O and, thus, determined that an H-bomb explosion would not ignite the Earth's atmosphere. I believe Alex Zucker, who is in the audience, was involved in this work. (Thank goodness, they didn't forget a factor of pi squared in the analysis!)

It is entirely appropriate that this new, forefront heavy ion research facility be at Oak Ridge. And, in view of Chet Holifield's long and distinguished service on the Joint Committee on Atomic Energy, it is more than appropriate that this facility be honored with Representative Holifield's name.

This Nation is very much in debt to Representative Holifield. We have all benefited from Representative Holifield's work in the Congress on the difficult questions of nuclear research and application of that research to national goals and national security. In bringing a facility like this into being, an enormous effort is required from its very inception from a researcher's dream to a final first rate research facility. In particular, the efforts of John Teem should be recognized as well as the vast amount of labor expended by many, many others.

It is with pride and anticipation of many accomplishments to come that I dedicate this facility in honor of Representative Chet Holifield.

CONGRESSIONAL MEDAL OF HONOR WINNER MATT URBAN

(Mr. VANDER JAGT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VANDER JAGT. Mr. Speaker, frequent are tributes in the CONGRESSIONAL RECORD recognizing deeds and achievements of virtually every magnitude. During my 14 years in the House of Representatives, I have authored many tributes myself, and have read hundreds more.

But in all my years in the Congress—and indeed in all of my lifetime—I have never known of an individual more deserving of tribute and recognition than Holland, Mich., resident Matt Urban. Matt Urban, hero extraordinaire by anyone's definition, was awarded the highest honor of this land, the Congressional Medal of Honor, on Saturday, July 19, 1980, 35 years after his acts of bravery on battlefields of World War II.

Mr. Speaker, when discussing the bravery and heroism of Matt Urban, one must use the plural. He served in Africa, Sicily, England, France, Belgium, and Germany and was involved in numerous battles in which he literally led the charge against seemingly insurmountable odds and opposition. He was wounded at least seven times, and received seven Purple Hearts. He earned two Silver Stars, three Bronze Stars, the French Croix De Guerre, and citations from campaigns in Tunisia, Sicily, and Belgium. And 35 years after his bravery "saved countless American lives" on those World War II battlefields, Matt Urban was finally awarded the Medal of Honor.

Matt Urban is the first to receive the Medal of Honor for World War II gallantry since 1950. An original recommendation for a medal was made in 1945, but misplaced records and the death of the major who suggested the medal delayed awarding of the medal for 35 years.

My staff and I are extremely proud to have played a very small part in behalf of Matt. The cooperation we received from the Department of the Army, the Department of Defense, and the White House was excellent, and ultimately led to the medal being awarded by President Carter at a ceremony here in Washington with many of Matt Urban's comrades from the Ninth Infantry Division. It took many months, even years, to verify and document this case from many of Matt's comrades.

Fortunately, the original letter of recommendation was verified and there was certainly no lack of collaborating accounts from fellow soldiers. The accounts I have read, not only from Matt but from those who served with him in the field are simply overwhelming. There was simply no way Matt Urban could have been denied this medal he earned—many times over.

Mr. Speaker, I could not be happier or more proud for Matt Urban, and I am delighted he finally has received the honor he so richly deserved. The very special presentation ceremony in Washington was a fitting tribute to Matt, reflecting the fullest gratitude and thanks of his Nation which he served so bravely.

And the hero's welcome Matt Urban received upon his return to Holland, Mich., was very impressive. Hundreds of Holland residents turned out to greet Matt, to express their gratitude not only for his heroic service in World War II, but for his continued dedication to the community itself, serving as recreation director.

But, Mr. Speaker, rather than relating many of the deeds of Matt Urban, I would like to insert into the RECORD his very own account of just two incidents from his distinguished record, as well as accounts from his comrades and newspaper stories which depict his acts of bravery and heroism:

Attention: CW2 Carl Hansen, 200 Stovall St., Alexandria, Va. 22332.
To: Commander, U.S. Army, Personnel Branch, Military Awards, Tel. 202-325-9171.
From: LTC Matt L. Urban, U.S.A. retired—416199.
Subject: Supplementary information to application for the Medal of Honor Award—originally submitted by Sgt. Earl Evans—for LTC Matt Urban.

Company "F", 60th Inf. Regiment, 9th Division—landed on Omaha Beach on D plus 4 day—I was leading the unit inland about a mile or so—when enemy tanks and infantry—temporarily stopped our advance. The enemy followed with a counter attack—with tanks as their most effective weapon—we were able to hold our position—while suffering fairly heavy losses—as the direct continuous tank and machine gun fire kept coming into close range. The heavy, high hedgerow countryside proved advantageous, as it provided good concealment for us and restricted enemy tank maneuverability. I was able to grab a bazooka from a disabled crew and with two of my men maneuvered close enough to knock out two of their tanks.

Then leading my troops, Indian fashion, we were able to leave this vulnerable area and get within sight of our objective. Here, again, we were pinned down by heavy machine gun and tank fire! On my reconnaissance—I realized that this was merely a holding action—as now—the enemy mainly had machine guns, tanks—with a minimum of manpower. Therefore, I led the attack and as we were about to seize the road junction and the dominating high ground, I was hit in the back of my leg by a tank—aimed directly at me—and my life saved—only because—the hedgerow took the brunt of the outburst—as I leapt—forward and to the side. Not feeling pain, although the blood was freely flowing—the ever dependable, brave, efficient medic was there to patch me up.

Being placed on a litter—as I insisted on remaining with my troops—if only to verbally lead them—the last few yards to our objective and to consolidate ourselves into a firm defensive unit. Prepared—we were—as we encountered a final counterattack—one which my men withstood gallantly—as I yelled out instructions and encouragement from my stretcher—placed in their midst. Victory was ours—dusk approached—and only then—did I allow myself to be evacuated—with the parting words to my soldiers—of—"I will be back!"

The Washington report—given to me the other day—said that I was evacuated to England. As far as I remember—I was kept in France. It was in a field tent—in France—under a dim lite—that two doctors—so expertly fixed me up. This I remember—only, because, of one incident. After slicing off the burnt, damaged outer flesh—the doctor—in the palm of his hand—showed me the results—a thin slice of flesh—commenting "Wouldn't this make a lovely hamburger?" I smiled—thinking—Oh! you wonderful—wonderful doctors—we had the world's best—always—right behind us.

I do not recollect how long it was—but—to me—it seemed like a week or two—that I commandeered a "meat wagon." It took a great deal of manipulating to get it moving—early that a.m. later—so that I could get to my men—for the St. Lo breakthrough. With my pleading urgency—"This is war"—I was able to talk a new recruit, an assistant driver—in taking off. As my chauffeur, me, and the "meat wagon" rambled down that country road—impressive to us—was the overhead escort of 2,500 bombers—paving the way—for St. Lo!

The brave sympathetic ambulance driver got me well into our lines—before he made his lightning fast—about face! For the remaining half mile—or so—I commandeered an abandoned mail jeep. I limping—scrambled into a huge crater—where a half dozen or so—men were squirmed—in for cover.

As the enemy shelling and small arms fire was slowly beginning to pick up in density—I yelled, "Who is in command here?" One of the men pointed to a crouched over, seemingly "frozen" soldier with a rifle in his hand trembling slightly. Thinking he may be a squad or platoon leader as he was not wearing any insignia, with my one good leg I scuffed at his side telling him "to order his men to scatter and move before all of you get wiped out!" Getting no reaction from him the others followed me as we made our way up to the point. In my advance I kept yelling to the men dug in and immobilized in the road ditches, to scatter out in the field, follow me, as the shelling was zeroed in on the road area as well as it being heavily mined. Later, I discovered that the soldier I tried to motivate was a lieutenant colonel, age in his 40's—freshly shoved into the lines just out of the States.

As I reached the point, the leading tank (ours) was demolished. The following tank was out, heavily damaged—seemed to be in smoke with continuous anguished crying out coming from within—"Help me!" "Medics!" A soldier leaped into the tank—soon yelling that he needed some help. With no one else responding, I crawled onto the tank, held the soldier under the arm pits in an upright position while the soldier cut off what flesh remained above his trapped foot and lower leg. As we were dragging him out and into a ditch, I was busily wrapping the stump of his lower leg with the jacket that I wrenched off his back. Both of us applied the tourniquet before the soldier did the cutting. Within seconds a medic took over. And as I continued the attack, I hopefully prayed that the guy pulls out of it. I do not know who the rescuing soldier was but that guy deserves a medal.

I, quickly, yelling and screaming was able to stimulate the troops to leave their road ditch positions and to follow me into the right flank hedgerow country. We were able to move roughly more than one-half mile to the flank and a mile or so forward—towards our objective. Here, we met stiff machinegun fire and antitank gunfire, and securely positioned—close to the top of the hillside—we were to secure.

I tried advancing by having a platoon work its way over into a flanking—crawling—hedgerow advance on both flanks. The terrain and enemy fire—pinned these down. Time—was of an essence. I had no wire, no radio to call for artillery support. My mortars were not near enough around. Every minute counted—the enemy I was sure was still regrouping, digging out of basements, shelters, and other dugouts—still—shaking off the cobwebs and debris, caused by the aerial bombardment.

The enemy was not yet at full strength but, yet, what they had quickly salvaged and brought forward up to the front did enable them to have the controlling, observing dominating hill top. Our men were being picked off and especially so. If we were to dig in for any amount of time, we had to move—but quick. The immediate advantage was still ours. So act I did.

Facing us with a farmer's grassy tow road leading up the hill and the only approachway for our one remaining tank as high hedgerows covered the area. The enemy antitank gun muzzle protruded from one end of their tow road opening and a machine gun emplacement on the other end. In between us we had about 100 yards of a sloping short grass hillside.

Our assault was to go off with the tanks movement and fire. The driver was ready to go. The tank gun was not available. I do not remember why? Whether out of ammunition or it must have been that the gunner was wounded—as he never went for the turret machine gun. Either way the tank lieutenant was to get into the tank and give us whatever fire power was available. As he tried to get into the turret opening, he was machine gunned down. Any moving of the tank would expose it to anti tank fire. I yelled for a volunteer to get up there to man the tank's machine gun. A sergeant undertook the mission and was also machine gunned down.

Only one thing left to do. And it was me—myself—crawling snake like up into the turret. The enemy gun opened fire at me. I don't know how. I don't know why. But I was in the tank—yet alive.

I was convinced that my death was yet to come! As the tank had to ascend a fairly slow inclining hillside, I would have to get my head and shoulders far enough above the turret to aim my machine gun fire at both adjoining enemy gun crews. In that one second I scanned over a hundred prayers, thought of my loved ones, and heavy tears rolled down my face. God help me! Good-bye world! were my only other thoughts. Then all hell broke loose, the tank was off in high gear. My gun was thundering what seemed like thousands of shots directly at the enemy gun crews. I was screaming "damn you—you bastards—here we come!" hysterically—over and over—again.

I am not and never have been a swearing man. I was later told that my soldiers leaping over the hedgerows, others following the tank in a unified speedy assault also picked up the tempo and wield with vengeance—"spitting out" tremendous fire power. It was only about 100 yards or so from our jump off point. So in my elevated position I could see most of the defending gun crews. Surprisingly some of them standing up trying to man the antitank gun and the others to get vision of me, high up on the turret. Killed both gun crews—the others surrendered. We did it! Mission accomplished!

If anyone was to ask me—how?—then—I would have to refer them to—the "Guy"—"upstairs!"

The results of my—our action being: I was told that my—our unit—the Second Battalion of the 60th Infantry made the furthest penetrating advance on "D" Day—of the St. Lo breakthrough. After reaching our objective—the dominating high-ground—and as we were regrouping, we were most keyed up to pursue to a degree—the rapidly becoming disorganized, retreating enemy—but—by a runner from the Bn. C.P., I was ordered to hold our position until the other flank units caught up to us. So I did! Our battle zone was as heavily defended as any of them as we lost all three of our battalion commanders! Major Barnwell, dead; Lt. Steve Sprindis, severely wounded, and Major Wolf, my predecessor as the C.O. of the 2nd Bn. dead!

Major Wolf was hit by an artillery shell shortly after our successful attack. As he viewed our action through binoculars from the Bn. C.P. on the top of the hillside just beyond us. One of the persons in his presence later told me that some of the last words that Major Wolf spoke of was of decorating Urban for his heroism in the success of the attack and consequently the saving of so many American lives.

I believe that Sgt. Earl Evans, the originator of my Medal of Honor application, was a member of that command post group.

(Note.—CW2 Hansen, of the awards branch, requested my actions thru Africa, Sicily, and France and Belgium, copies of which have been sent to him. He has also received full-witnessed documented reports from more than ten 9th Division men.)

Account of Lt. Col. Stephen Sprindis

D PLUS 4—INVASION OF NORMANDY

While attacking south of Ste. Mere Eglise, Captain Urban's rifle company encountered severe enemy opposition, skillfully camouflaged, with supporting tanks. With the enemy well entrenched and strategically dominating the higher terrain, the captain's attacking unit suffered considerably from the initial fusillade of this superior fire. Two enemy tanks were unmercifully raking the captain's men with their overwhelming fire power. Needless to say, the men were pinned down in a precariously untenable position.

As casualties mounted and decimation of his rifle company an almost imminent reality, Captain Urban knew he had to act quickly and decisively. In swift fashion the captain seized a bazooka and with two ammo carriers maneuvered towards the enemy tanks. Using natural hedge row concealment where possible, then darting in serpentine fashion through a continuing barrage of scathing enemy fire they miraculously reached vantage cover (hedge row perpendicular to tanks position). From that vantage with brazen self exposure while firing the bazooka the captain destroyed both tanks with broadside hits and set them afire.

Responding to this intrepid action the captain's company rallied again to the attack routing the fleeing enemy while inflicting substantial losses.

Later that same day in continuance of the attack objective Captain Urban, with his inimitable quality of leadership, always up front, shouting words of encouragement to his men, was shot in the leg by an enemy delaying action. Refusing evacuation he continued to direct orders to his men until dusk fell. When all his casualties were accounted for and his men secure for the night, Captain Urban, only then, reluctantly submitted to hospitalization.

ST. LO BREAKTHROUGH—26 JULY 1944

In order to fully comprehend Captain Urban's return to the battle front one must review the impact and vacuum of leadership created by his untimely departure due to wounds. When he got shot he left a brave, viable fighting unit. When he returned he found a frustrated, frightened, motionless mass of soldiers that were supposedly on the attack in the St. Lo breakthrough. Angrily denouncing any and all leaders regardless of their rank, Captain Urban within minutes, ignited the fighting spirit he knew they possessed and rallied these soldiers to attack.

During this crucial breakthrough attack Captain Urban resumed command of the entire battalion front line activity. Within a short period of time the captain reached the leading elements and found one of our tanks destroyed and burning. Another lead tank was hit and smoldering with an agonizing cry for "help" coming from within. Knowing that the tank would soon be engulfed in flames the captain and an unidentified soldier dashed immediately to aid the stricken G.I. In defiance of concentrated enemy fire which was zeroed in on the disabled tank the aiding soldier made his way into the tank. The captain was behind the tank shielded from the enemy fire while machine gun bullets ricocheted from the turret. The injured man's both legs were badly mutilated and therefore immobilized. With the aiding G.I. hoisting the wounded tankman from inside the tank the captain, maintaining as low a silhouette as possible, crept up on the top of the smoldering tank and pulled him to safety. This complete life saving mission was accomplished under heavy enemy fire and with a smoldering tank seconds away from exploding into an inferno. The tank did, in fact explode within minutes thereafter.

With the leading elements of that fighting force temporarily halted Captain Urban moved over to his flanking rifle company for supporting fire. Upon reaching that company's action the captain found one of their two support tanks in flames while the other seemed intact but had no turret gunner and was not moving. The captain quickly located the lieutenant and sergeant in command of the supporting tanks and directed a plan of attack with their one remaining tank to lead. As the lieutenant moved up to man the turret gun he was immediately killed by enemy fire. The sergeant tried the same and he too was killed. Here again, the captain knew quick action had to be taken—the enemy well dug in with complete observation and overwhelming fire—so he dashed under the scathing fire and safely made his way into the tank's turret. Captain Urban then gave the tank crew orders to start moving directly at the enemy's gun emplacements. The captain at this time was blazing away with the machine gun directly at the enemy's positions. His riflemen launched their simultaneous attack with inspired valor and overran the enemy force.

It is extremely difficult to put into words the heroics of this great man. His whole concept of combat leadership exhibited time and time again from Africa to Sicily to France, his courage, fearlessness in every confrontation with the enemy, was most positively unparalleled in all of world war two. It was only God's will and guidance that extended and preserved this man's life on so many occasions.

I am extremely proud to relate and corroborate a small part of Captain Urban's front line actions. His total dedication to all GI's under his command his disregard for personal safety, his incredible courage above and beyond the call of duty with the supreme sacrifice the greater possibility but not the eventual occurrence.

As the result of Captain Urban's personal heroics countless American lives were saved.

If the Medal of Honor is not ultimately awarded to this man who, in my opinion, was the greatest combat soldier ever, a serious injustice in the history of military awards will have occurred. I should know as I fought side by side with Captain Urban, we shared the same philosophy of combat leadership. (We, as lieutenants, listened intently as General George Patton addressed us at Fort Bragg and said "You cannot push a piece of string from the back, it will wither and stop, you must take it by the front end and pull, it will follow").

In closing, I would like to state that the corroboration of Captain Urban's numerous and distinguished achievements have not been made by a rear echelon soldier. All my promotions were received on the field of battle (one from General Patton personally) along with four Silver Stars.

Partial Account of Sgt. George Albert on Experiences With Matt Urban

He had a carbine slung crosswise over his back and shoulder. As we recognized each other a big smile came over his face, but he couldn't stay long. He was a man with a purpose and a mission to accomplish. He was impatient to get back to winning the war. Writing this, a picture forms in my mind of tanks carrying troops, tanks and foot soldiers moving up to the front in a steady stream, all the while the enemy fire was very heavy. The casualties very high. Medics were not immune to this heavy fire. A number of them were wounded. Many soldiers lay wounded, in need of attention. There was not enough medics, litters or litter bearers. Pfc. Cramer and I were ordered to help by going to the aid station to obtain as many litters as we could return with. It was at this place that we both became casualties due to enemy artillery fire.

In the hospital, we were to learn of Capt. Urban's heroic exploits in the capture of St. Lo. He led a charge straight into enemy guns destroying enemy positions, taking a dominating hill, and inflicting heavy losses upon them. His courage and daring leadership inspired his troops to follow as he was doing, as they charged the enemy yelling and firing their weapons, they eliminated what had been a key German position.

Capt. Urban's leadership and natural instinct to win faired well with the 2nd. Battalion, a popular consensus among the men, even today. The loss would not have been so high in casualties and captured at the Meuse River had Matty L. Urban been able to stay with his troops. However, he was wounded by a machine gun bullet through the neck, passing through the middle, entering one side, and out the other tearing flesh and all else with it as it sped through his neck. His life was saved by a quick thinking medic who slit his wind pipe enough to insert a tube from a fountain pen into it to keep air flowing into his lungs.

Many times in years past when we veterans would be together, we experience strange wonderment for Matt who fought so gallantly and inspired ordinary men to do brave deeds. We often wondered how he could have escaped with his life and without the Congressional Medal of Honor. It is with warm happiness that I feel for Lt. Col. Matt L. Urban, who is to receive the most coveted of all military awards. He has earned it many times over. Matt Urban, this great soldier wounded, scheduled for a homeward journey, able to speak only in a whisper, bare audible to human ears, couldn't leave Europe without returning to the front lines one more time to see his friends. I was on an observation post late November or early December when I received a request to return to the Battalion C.P. Upon arriving, I was pleased to see this great man who had traveled from England by what ever means he was able to acquire. He came back to see us, to see me, when he could probably be home by now. I do not know who else he saw for I was overwhelmed by his display of compassion and sincerity.

The day was very cold and snowy. Gray December skies prevailed. Matt didn't have much time, but we wished to let each other know what had never been put into words before. As we walked towards an old stone Church, the only building still intact in that village, we were joined by our Battalion Chaplain, Father Andreziac. This scene will live forever and ever in my memory. The three of us entered this old Church building made of stone with wooden floors. It sort of reminded me of my old second grade school building on the inside. Of course, it was very cold, no lights or heat of any kind. The cold, cloudy, gray day of December did very little to brighten the room. The three of us stood in about the center of the room. I was overwhelmed by it all. And as if on cue, we each, Matt & I, asked the Chaplain to say a prayer for the safety and well being of each other. At that moment everything seemed much brighter and the heavyness of this serious moment was much lighter.

Matt Urban is an outstanding example of what a national hero should be. One who placed his life and well being second to his duty as a soldier. One whose actions were not paralleled by any other for such a prolonged period. A person who never lost his perspective as a human being even while in combat. One who is exemplary in his achievements after return to civilian life.

Many years have passed since the war. I have read about heroes who have received the Medal of Honor and the lesser awards. In most all cases, the actions of these brave men which warranted the award was a result of a "one night stand situation". They became heroes because the situation put them there. A spot where they were about to be over run—or out numbered, out gunned and they performed super-feats to defeat the enemy and rightfully so, these men were honored for their actions. However, in Matt Urban's case, he put himself in that situation time and time again. His actions in combat makes one believe the old adage that "heroes are made not born" does not hold true in his life. It seems to me he was born to be a hero for he worked at it day after day.

The heroics of many of the 60th Infantry's men had no faces. It was as though no matter what super actions they imposed against the enemy, a man from the 9th Infantry Division could not be recognized for it while one from another Division might be recognized as a hero.

An award of the Congressional Medal of Honor to Matt Urban would be bestowed upon one who would stand taller than all others because of his continuous devotion, actions, and achievements throughout the war and highlighted by his acomplishments at St. Lo. This award would also say "Thank you" to all the men of the 9th Infantry Division for a job well done.

LETTER OF SGT. EARL EVANS RECALLING HEROISM OF MATT URBAN

APRIL 5, 1979.

LTC VERNON R. HULL,
Department of the Army,
Alexandria, Va.

DEAR SIRS: Better late than never, is fine with me. However, when you ask of dates thirty-five years in the past, I must confess to being a bit rusty.

I can only relate to incidents and perhaps a few people. I do remember that just before the St. Lo breakthrough, Matt Urban, at that time Captain, still limping from a previous wound and coming from out of nowhere to rejoin us. Up to that moment, we were pinned down and going nowhere. Urban took over and bellowed, "First thing . . . spread out." He familiarized himself with the situation pronto. Matt Urban moved forward, and damned if the U.S. Army didn't move forward also. It was the only natural thing to do. I recall some smoldering tanks sitting like dead ducks and Urban jumping from one to the other, trying to get them to function. Moving forward on foot, we ran into heavy gun-fire from the hill top. Urban came upon another tank of ours which was not moving. Operable, but without a gunner. He bellied up to the tank and amid heavy gunfire scrambled aboard and manned the machine gun. The driver took heart with Urban aboard, the tank roared forward and Urban tore that hillside apart with that gun. The men, once again with "Urban-itis" scrambled up the rise and gained the objective. We finally had the high ground.

We dug in and held. It was then, I was able to discuss some of these happenings with Major Wolf at Battalion C.P. I felt that Matt Urban deserved the best. The Major said he would see to it that Urban got the highest award. A little while after that, standing just a couple of feet from Wolf, I saw a huge chunk of shrapnel smack him in the stomach, killing him instantly.

Just before the Meuse River. Pinned down by machine gun fire. Urban charged across an open field to knock it out. He took a bullet thru the neck. I had one of my men (Pvt Schecter) shove a finger in each hole. Once again, "Urban-itis" . . . The men swarmed over the gun.

Sincerely,

EARL G. EVANS.

Did you ever contact a Lt. Emmerich???

MYTHICAL MAJOR MATTY!

(By S/Sgt. Alex Kahn)

Major Matty Urban: "I'll share an Army blanket with a G.I. any time."

Long after Major Matty Urban was removed from the field by three of his enlisted men—after being wounded for the seventh time—the story of his comradery, his courage and devotion to his men had spread from Africa to Germany. This seventh wound penetrated the Major's throat, entering the left side of his neck and coming out the right.

This was destiny of a sort, as one of the Major's favorite ways of instilling spirit into his men was by company talks. He used his voice well and enjoyed discussion, debate and defense. Here at Halloran, some of the patients who fought with the Major in one of the six campaigns he contributed to, claim that, long after his removal, the voice of Major Matty Urban—encouraging them, cheering and pleading with them, rang in their ears and was heard again in their hearts.

A ONE-MAN ARMY

While Matty Urban was still at Cornell University, he was often referred to as a "one-man" basketball or boxing team. His entrance into the Army simply transferred the reference to "One-Man Army". As such, he returned to Halloran wearing the Purple Heart with six clusters, six major campaign stars, two Silver Stars, two Bronze Stars and two Presidential Citations.

The Major received his first Silver Star for taking an important enemy gun emplacement (to say nothing about four Jerries) and capturing a complete radio and communications center. This was at Kasserine Pass where he received his first wound . . . "in the fleshy part of my forearm, but when I saw large numbers of wounded being brought into the aid station, I simply picked up a sling for my arm, borrowed an ambulance and drove right back to the front."

Not waiting for aid seems to have been a habit with Major Matty for, again, at the aid station near Bizerte, when a hand grenade hit him directly in the hand, he waited until the attack was completely coordinated before even allowing time for a dressing. In between invasions and assignments, the then Capt. Urban used every spare moment coaching individual boxing teams.

TAKING A POKE AT THE C.O.

"I found it helped the morale of the men if they each got a chance to take a punch at their commanding officer. While we were in England, waiting for D-Day, I assumed the extra duties of Special Service Athletic Officer."

Major Matty's next decoration, a Bronze Star, was won following the battle during which the wounded officer refused to be evacuated until after he had finished giving orders—from a litter. He was back on his feet for the St. Lo breakthrough, although his return to action required his "grabbing" a mail truck and arriving just as the lead tanks caught on fire. Report has it that the company was not only pinned down by artillery but was more or less frozen so far as attempting any comeback. Once again the Major resorted to his voice, yelling and screaming at the men to get going. One of the soldiers, a replacement in the company, told a dentist friend of Major Matty that, "one of the craziest officers suddenly appeared before us, yelling like a mad-man and waving a gun in his hands. He was probably a replacement and never in combat before. He got us on our feet, though, gave us back our confidence and well, he actually saved our lives for us."

A MORTAR SHELL STRUCK MY CANTEEN AND WHAT IT RESTS ON

As Company Commander, Major Urban was shot in the chest while leading his men over a ridge. This time he refused to be evacuated at all and continued leading them despite serious injury. When the pain did subside, a week later, the Major was hit again. "This time some mortar shell struck my canteen and what it rests on."

To follow the exploits of Matty Urban in their entirety would require an entire issue of the BEACON. (A book on Mythical Major Matty is in the writing) For this issue, we can give you only some of the highlights in the career of a man who cared nothing about his own safety but was always concerned about his men, who always provided them with good food and insisted that hot coffee be served hot!

It was in the town of Phillipsville that the Major was hit through the throat while running across an open field, screaming like an Indian. He had been trying to get to the head of his outfit. "I didn't scream for long. A bullet caught me on one side of the neck and came out the other, after spinning me completely around. I fell in direct line of enemy fire. It was impossible, or so it seemed, for anyone to get to me. I just lay there with blood spurting in two directions.

TWO ENLISTED MEN SAVED MY LIFE

"Two enlisted men saved my life. Pvt. Schekt, an Austrian by birth, who acted as my interpreter, and my orderly from Alabama, Pfc Price. Pvt Schekt crawled out to me, despite the heavy fire and put a finger in each of the holes on either side of my neck. He held them there for five minutes and that almost stopped the flow of blood. Next, I saw my orderly crawling across the ground. I thought to myself, "This is suicide for the kid,' but he not only made it but went back a second time for a stretcher. Together they pulled me on the stretcher, inch by inch, under constant fire, until we came into the next field.

"My orderly then astounded me completely by announcing that he intended to bring my jeep down to the field. He had to make his way over the crest of a hill to reach the road. But he made it and made it back, driving the jeep right up to the spot where I lay on the ground. We had two tires blown out and a lot of holes went through the hood but we made it back to the highway and an ambulance convoy. I couldn't talk at all by the time I reached the hospital."

I WAS SHOT IN THE LARYNX

Medical records show that the Major was shot through the larynx and that his chances were a million to one. The records also show that when he did regain his voice a little, he asked for leave to go to visit Scotland—instead of which, he managed to hitch a ride aboard an airplane to Rheims and, by thumb, back to his company headquarters, this side of Germany.

"I had a day of fighting just south of Aachen. Of course, I wanted to stay even if I had to whisper my combat orders. But I was convinced to return to the States to try to regain my voice. So far so good . . . and better than that. I married the girl I had intended to marry at the time I sailed for Africa.

"The way it looks now, whether I got more voice back or not, I think I'd like to go back to doing what I was doing before I went overseas—coach boxing, baseball and basketball. But whether I get to talking louder or not, I'll never stop talking about the enlisted men in this man's Army. I'll share an Army blanket with a G.I. any time."

MEDAL OF HONOR—34 YEARS AFTER WAR?

It's been 34 years since a sudden act of heroism brought a former Monroe man a nomination for the nation's highest military honor—an honor he may yet receive.

Matt Urban, who seldom mentioned his World War II experiences during his 16-year tenure as director of the Monroe Community Center, is now being considered for the Army Medal of Honor, commonly known as the Congressional Medal of Honor.

Mr. Urban, 59, who visited Monroe this weekend to go fishing with friends, left Monroe in 1962 and now is recreation director for the City of Holland.

His wartime heroics, being documented now by the Army, culminated in a 1945 recommendation that he be awarded the Medal of Honor—a recommendation which was misplaced for 34 years.

Lt. Col. Vernon Hull of the U.S. Army awards division, Washington D.C., said such misplaced honors are not uncommon. He said nearly 8 million men were being discharged immediately after the war and files and records were coming in from all over the world.

"We find awards all the time that have never been awarded. At that time all the men wanted to do was get home and so, too, our department. But this being the Medal of Honor makes it distinctive," Colonel Hull told The Evening News this morning.

Colonel Hull said the award is commonly called the Congressional Medal of Honor, but it actually is awarded by the President on behalf of Congress.

The recommendation must be documented now, and the Army is writing letters and calling men throughout the U.S. for their memories of Matt Urban.

Earl G. Evans, a staff sergeant in 1945 when he recommended Mr. Urban for the medal of honor, told Colonel Hull in April that his memory is rusty but he remembers the St. Lo breakthrough right after D-Day. Mr. Urban, then Lt. Col. Urban, ran through heavy enemy gunfire to board a tank and man its machine gun.

"The men, once again with 'Urban-itis,' scrambled up the rise and gained the objective. We finally had the high ground," Mr. Evans wrote recently from his home in Miami Beach.

Mr. Urban was commander of the second battalion of the ninth division's 60th infantry regiment going through Africa, France and Belgium.

He was wounded seven times during the war, the final injury being a bullet that went through his throat. Again under heavy gunfire, an enlisted man crawled out to Mr. Urban and stuck his finger in each hole to stop the bleeding.

The wound left him with a gravelly speaking voice but he calls his survival "a miracle."

Although the Medal of Honor, awarded to fewer than 500 men during World War II, would be his most distinguished honor, his wartime actions have not gone unrecognized. He already has received 23 medals, including two silver stars, two bronze stars, six purple hearts, three Presidential citations and the French Croix de Guerre with gilt star.

The Army staff is gathering data on Mr. Urban's military career to present the case to the Senior Army Decorations Board. The board's recommendation must be approved by the Army Chief of Staff, the Secretary of the Army, and the Secretary of Defense before the honor is awarded by President Carter on behalf of Congress.

Colonel Hull said a decision could be made by late July or August.

Meanwhile, Mr. Urban awaits word of the award in his office in Holland where he has continued his work in recreation. Because of job commitments and the medal of honor decision, he recently turned down an offer as administrative manager for the U.S. Men's Softball Team in the 1979 Pan-Am games.

He and his wife, Jennie, have a nine-year-old daughter, Jennifier.

He came to Monroe in 1947, taking charge of the community center, and building up a program there which eventually culminated in the construction of the Arthur Lesow Community Center.

During those years he seldom mentioned the actions which inspired his recommendation for the medal of honor. As one fellow officer said in a letter to the Army, ". . . His courage, fearlessness in every confrontation with the enemy, was most positively unparalleled in all of World War II. It was only God's will and guidance that extended and preserved this man's life on so many occasions."

[From the Army Times]

1945 DOCUMENTS DISCOVERED: RETIREE COULD RECEIVE MEDAL OF HONOR

(By Don Hirst)

ALEXANDRIA, VA.—Documents discovered during a review of old service records could lead to the award of the Medal of Honor to a retired Army officer who was severely wounded during World War II.

If the recommendation is approved, Lt. Col. (Ret.) Matt Urban would become the 294th soldier to receive the Medal of Honor for heroism during that conflict, according to Military Personnel Center officials.

The documents—1945 recommendation papers for the nation's highest valor award—were found during a review of files at the Reserve Components Personnel and Administration Center, St. Louis, late last year. The recommendation had been in Urban's file since 1945 with no record of any action being taken on it, officials said. Because the recommendation is pending, they added, it would be inappropriate to provide details on the acts for which Urban is being considered.

Normally, recommendation for the medal must be made within two years of the act and the medal must be awarded within three years of the heroic act in question.

But, a provision of Title 10, U.S. Code states that if the recommendation were made within two years of the act—but not acted upon through loss of the recommendation or other inadvertent circumstances—the recommendation may be acted upon and forwarded to the President for a final decision. Necessary staff action to consider the recommendation is under way, officials said.

Urban, 59, said in a telephone interview: "I couldn't be any more proud and happy, no matter what happens. I have no reason to be angry with the Army. I'm happy they discovered me. It (1945) was a time of turmoil. The war had just ended and people were trying to go home."

Urban served with the 2d Bn, 60th Inf, 9th Inf Div in North Africa and Europe from 1942 until he was severely wounded on Sept. 3, 1944. A captain at the time, he was acting battalion commander.

Urban ultimately was evacuated to the U.S. and hospitalized in New York until February 1946. He was promoted to major and then to lieutenant colonel in the hospital, officials said, and was retired in disabled status upon leaving.

During hospitalization, Urban was visited by SSgt Earl Evans, a member of the unit who had been repatriated to the U.S. from prisoner-of-war status in Germany. Evans learned that Urban hadn't been recommended for the Medal of Honor as the previous battalion commander had promised. Urban took that officer's place as battalion CO after the commander was killed in action, officials said.

On July 5, 1945, Evans wrote the promised recommendation and in November of that year, the Adjutant General's office sent the recommendation to the 9th Div headquarters in Europe and placed a copy of the recommendation—with forwarding correspondence—in Urban's file.

Extensive research by MilPerCen's Awards Branch since the file copy of the recommendation was discovered includes searching unit files and the National Archives. Research revealed no record of the recommendation being received by division headquarters or any action on the recommendation, officials said.

[From The Holland Sentinel, July 18, 1980]

MATT URBAN'S MEDAL

Saturday in Washington Holland's Matt Urban will finally receive his Medal of Honor.

The ceremony will take place during the annual convention of the Second Battalion of the Ninth Division's 60th Infantry Regiment, which Urban commanded in World War II.

When he receives the medal, delayed for 35 years, Urban will be most-decorated veteran of any war in the nation's history.

Monday we will all welcome him home with a public celebration and then the quiet-spoken city recreation director will go back to work as usual.

At the end of the global conflict, just as any other veteran of the four-year ordeal, Urban was probably too glad to be home and settling down into civilian life to worry about the Medal of Honor application which had been submitted on his behalf.

The trials and tribulations of other war heroes who had been catapulted into the spotlight and then were unable to cope with ordinary day-to-day living probably made him glad that no undue fuss had been made.

The first Medal of Honor winner, Sgt. Alvin York, a hero of World War I, never capitalized on, or was exploited for, his heroism under fire. He returned to his life on a Tennessee farm and received very little attention, compared to the media hoopla over later war heroes.

Not that we don't think hoopla was justified, but for a young man whose life is really just beginning, where do you go to top a Medal of Honor? How can you possibly live up to the reputation of a hero for the rest of your life?

And if the media persists in following you into civilian life, how do you deal with the ups and downs, defeats and triumphs that we all experience, but which for you are magnified and distorted in the mirror of publicity?

The later careers of several World War II and Korean Conflict heroes were tragically different from the life Matt Urban, whose letter of recommendation went astray, has led in this pleasant Michigan town.

We are glad that the medal he so greatly deserves is his at last. At this remove from his wartime exploits, Urban isn't likely to mistake media hype for reality, and he also has the great satisfaction of knowing that for the past 35 years his friends and family have loved and respected him for himself.

Now the honor he earned in his youth has at last come to him, and we rejoice with him and for him.

[From the Detroit News, July 19, 1980]

Holland Man To Get Medal—35 Years Late

Washington.—President Carter planned to give the Medal of Honor today to a retired Army officer from Holland, Mich. The belated recipient, Lt. Col. Matt Urban, is a World War II hero whose recommendation for the honor was overlooked for 35 years.

Urban, 60, was wounded five times in France as he led troops in fierce battles against Nazi forces.

Wearing a newly issued uniform, Urban was to receive the highest award for valor during morning ceremonies at a Washington hotel. His wife and 10-year-old daughter were among guests invited to the first World War II medal ceremony since 1950.

Other decorations already hanging on the ex-soldier's jacket front—seven Purple Hearts, two Silver Stars and three Bronze Stars. Subordinates endorsed him for the Medal of Honor in 1945, but the Army says his documents were "lost or not processed."

Pentagon officials said that in June, 1944, then-Capt. Urban saved his company from decimation at Enouf, France, by single-handedly destroying two enemy tanks with a bazooka despite heavy enemy fire.

Urban was wounded in the leg later that day and refused evacuation, continuing to lead his men until they moved into defensive positions for the night. The next day, he was wounded again and evacuated to England.

In mid-July of that year, while recovering from his injuries, Urban learned of his unit's severe losses in Normandy. He hitchhiked to his unit near St. Lo, France, and took command again when it encountered heavy enemy fire.

With many of his men dead, he mounted an empty tank, drove through enemy fire and manned the machine gun against the Germans. He was wounded again and refused evacuation.

A Connecticut veteran who served in that battle, Lt. Col. Stephen Sprindis Sr., wrote to the Pentagon that "as a result of Capt. Urban's personal heroics, countless American lives were saved."

In early August, 1944, Urban became a battalion commander. Although he had suffered a paralyzing neck wound, the officer again moved his troops to secure a crossing point on the Meuse River.

[From the Muskegon Chronicle, June 28, 1980]

Dream Finally Comes True for Medal of Honor Winner

Holland, Mich.—A misplaced letter of nomination meant a 35-year wait for former U.S. Army Capt. Matt Urban before he could receive the nation's highest military honor, but he says he doesn't mind the delay.

Urban is scheduled to receive the Congressional Medal of Honor July 19, years after he climbed atop a tank at St. Lo, France, to lead a successful attack against the enemy.

Urban, originally from Buffalo, N.Y., is now 60 and works as recreation director for Holland in southwestern Michigan. The much-decorated veteran said Friday: "I'm just kind of stunned. It's like a dream come true, and I haven't woke up yet."

Earl Evans, now a Miami, Fla., retiree who was Sgt. Evans under Urban, wrote the letter nominating Urban for the Medal of Honor in July 1945. Evans said he didn't hear back from Army brass.

About 14 months ago, a member of Urban's old unit re-nominated him in a letter to the Pentagon. Charles Goodwin of the White House press office said Friday that President Carter will pin the Medal of Honor on Urban.

Urban, 2nd Battalion commander in the 60th Infantry, 9th Division, was wounded in the leg several days after his unit landed on Normandy's Omaha Beach shortly after D-Day—June 6, 1944.

He recuperated and returned to his unit to find a "frustrated, frightened, motionless mass of soldiers that were supposedly on the attack in the St. Lo breakthrough," recalls Lt. Col. Stephen Sprindis Sr. of Danbury, Conn., who served under Urban.

Evans recalls:

"We were pinned down just outside Normandy and had tanks of ours on fire or standing still when he came limping back. All of us were frozen, lying along the roadside getting shelled. He got us on our feet—kicked some of the men in the rear—and gave us all that confidence.

"He jumped onto one of our tanks and grabbed the .50-caliber machine gun and sprayed the hill where the enemy was—he ripped that hill apart," Evans recalled Friday. "We were so excited, we just went up and took that hill.

"The man was fantastic. He got hit seven different times. Every time I'd say, 'there goes the war,' but he always came back."

Urban holds no bitterness over the delay.

"Right after the war everything was a mess. People were being discharged by the thousands, everybody wanted to get home, and it just happened to get lost in the shuffle."

Urban cut short a telephone interview Friday to catch a plane for Paris, first stop in a two-week journey through France where his story was to be filmed by ABC–TV.

Urban said his wife, Jenny, and 10-year-old daughter, Jennifer, will join him when he receives the Medal of Honor. He has already been decorated with seven Purple Hearts, two Silver Stars, three Bronze Stars and other citations from campaigns in Tunisia, Sicily and Belgium.

[From the Washington Post, July 20, 1980]

Thirty-Five Years Late, Veteran Receives Medal of Honor

(By Jefferson Morley)

A retired Army lieutenant colonel received the Congressional Medal of Honor from President Carter yesterday in an emotional ceremony that came 35 years late and left both men blinking back tears.

Matt Urban, now 60 years old and a recreation director in Holland, Mich., was a captain in the Army in France in World War II when his heroism and leadership under fire despite wounds won him a recommendation for the nation's highest award for valor.

The recommendation was lost in the mails and was not found until 1978. Yesterday, at a reunion of Urban's old division at the Shoreham Americana Hotel, the President expressed his regret about the delay and praised Urban before his comrades as "truly a hero of this great nation."

Before 500 veterans of the 9th Infantry Division and their wives, the President lauded Urban for "outstanding, bold and courageous leadership under punishing enemy fire."

After the presentation, the two men hugged. Urban struggled to retain his soldierly bearing but his face melted with emotion and his eyes shone with tears. The President also blinked back a tear.

The road to yesterday's ceremony began in northern France in June 1944, not long after the D-Day invasion. Urban, then 25 and a captain, was leading his company in the face of heavy fire from German artillery and tanks.

Armed with a bazooka, Urban moved out into the enemy fire and blew up two German tanks. His men advanced and routed the enemy. After suffering two battle wounds the next day, Urban was evacuated to an English hospital.

However, just six weeks later Urban heard that his company had suffered severe casualties. He returned to France and hitchhiked to the battle front where he found his company again bogged down by German fire. Still hobbling from a leg wound, Urban commandeered a tank and led his troops through the enemy lines.

Despite three more wounds in the next month, Urban refused to leave the battlefront until his battalion had established a crossing point into Belgium.

The way one 9th Infantry Division veteran told it yesterday, a major had watched in awe as Urban rode the tank into enemy fire telling another soldier, "I'm going to recommend that man for the highest medal the U.S. has."

The major was later killed in action, but the other soldier, Sgt. Earl Evans wrote a letter to his superiors in July 1945, urging that Urban be awarded the Medal of Honor.

The letter vanished. Urban received a chestful of other medals, including a Silver Star, Legion of Merit award, a Bronze Star, and a Purple Heart with six oak leaf clusters. But not the biggest one, the Medal of Honor.

In reviewing Urban's records in 1978, the Army found a copy of Sgt. Evans' letter. After confirming the letter's accuracy, the medal was approved.

President Carter said that he "deeply regretted" that Urban's honor was so long in coming. "But I am grateful," Carter added, "for this timely reminder to our nation of what freedom means, what it has cost, and what is really at stake when we speak of America."

When the audience, including 40 to 50 of Urban's battle companions, rose to cheer, the honored soldier finally relaxed, smiling unabashedly and waving both hands.

Afterwards, Urban said the medal was "a dream come true."

"All of this could have only come about through the fellow upstairs, the Lord Almighty," he told a throng of reporters and friends in a hoarse, happy voice.

He insisted that he did not regret having to wait for the honor. His only regret, he said, was that his mother and father could not have lived to see him receive the award.

Several men stepped up and introduced themselves to Urban in the sometimes vain hope that he would immediately recognize them. Others asked for autographs. As several uniformed officers began to lead Urban out of the hotel, to attend a wreath-laying ceremony at the Tomb of the Unknown Soldier, someone asked Urban what had prompted him to his acts.

Urban paused and spoke more softly.

"Anger. Remorse. Despair at seeing your friends die. You cannot understand the kind of dependence that fighting servicemen have for each other. We are closer than brothers. I just couldn't leave them in there and not help." he said.

Earl Evans stepped out of the crowd and the men kissed each other.

"Remember," Urban told his listeners moments later. "War is a world of hell."

[From the Muskegon Chronicle, July 22, 1980]

Hero's Welcome: Holland Goes Patriotic Over Matt Urban

(By Brian Tucker)

Holland.—It was Americana at its best—a small town's residents lining the main street, waving flags and wearing their patriotism on their sleeves. It was a welcome fit for the war hero it was meant to honor.

Matt Urban, Holland's recreation director, was all spit and polish as he rode through this western Michigan town Monday night on the back of an open convertible. And the townspeople looked just as happy as Urban, who was presented the Congressional Medal of Honor Saturday—35 years late.

An American Legion color guard and band led the parade. Each time Urban's car stopped, someone ran from the crowd to shake his hand or pat him on the back. Sitting on the seat at his feet, Urban's wife, Jenny, and 10-year-old daughter, Jennifer, smiled and joined in the waving.

Urban, 59, was recommended for the medal in 1945 for acts of bravery during the Allied invasion of Europe. U.S. Army officials said the documents nominating Urban were "lost or not processed" until a veterans' service officer prodded them in 1978.

It was an emotional scene at the Holland Civic Center as Urban and his family strode down the main aisle toward the stage. Veterans, even those in civilian garb, proudly saluted the color guard. It was as if patriotism had never gone out of vogue.

Urban received the nation's highest military award from President Carter Saturday in Washington, D.C., becoming one of the most decorated American soldiers in history, according to Sgt. William Daly, an Army recruiter in Holland. Urban has seven Purple Hearts, two Silver Stars, three Bronze stars, and many other citations and medals, including several from foreign countries.

Twenty-nine medals in all, the product of 20 months of front-line combat in Africa and Europe. And the story of his exploits reads like a Hollywood script. It's Gary Cooper playing Sgt. Alvin York or Audey Murphy playing Audey Murphy.

Urban and his men landed on a Normandy beach three days after the D Day invasion by Allied forces. He was wounded in France, but led his company to defensive positions for night. The next day, the young captain from Buffalo, N.Y. was wounded again.

He was sent to England for treatment, but returned to his men in mid-July by hitchhiking to the front line. He resumed command of his dispirited company. During the St. Lo breakthrough, after two men were gunned down trying to commandeer an American tank, Urban succeeded and led his men to victory.

"We Americans need to be reminded that we are as great and as capable as any in the world," Urban said Monday in a raspy tone, a somber reminder of the neck wound that took his voice for a year and finally sent him home. "I don't think the American people have to be afraid. We have the closest, friendliest people in the world."

[From the Grand Rapids Press, July 20, 1980]

TEARS FLOW AS A CITY HAILS ITS WAR HERO

(By Tom Rademacher)

HOLLAND.—Thirty-six years ago, he was Capt. Matt Urban, dressed in combat fatigues, injured and battle-weary, but strong enough to leap atop a U.S. tank and pour deadly fire upon German troops.

Monday evening, he was civilian Matt Urban, attired in a neatly pressed uniform, riding in a white convertible with his family, smiling and waving to hundreds of well-wishers who turned out to honor this town's second recipient of the nation's highest award—the Medal of Honor.

"The old chills went up and down my spine," said Holland resident and former Marine Ray Bos, 60, as the 59-year-old hero passed down the city's main street.

"When I saw him, I just kept thinking what a whale of a job he did."

Jane Brouwers, 57, who lives just three houses from Urban, couldn't hold back the tears. "He's wonderful," she said. "He certainly deserves it, every bit of it . . . yes, there's a lump in my throat."

"He's beautiful," added Alvina Maas, 74, also of Holland. "He's a hero from the word 'Go.' "

Proud residents from this lakeshore community turned out to pay tribute to Urban, who returned Monday afternoon from Washington, D.C., where two days earlier in a special ceremony he accepted the venerated award from President Jimmy Carter.

Following Monday's short parade, Urban was honored with speeches and a half-dozen standing ovations from more than 1,500 fans who crowded into the Holland Civic Center.

With the medal hanging from a ribbon around his neck, Urban, his wife, Jenny, and their daughter, Jenny, 10, listened as some 20 dignitaries took turns praising the World War II veteran for bravery in the face of almost certain death.

Urban, a former collegiate boxing champion at Cornell University, was nominated for the medal 35 years ago for the time he leaped atop a U.S. tank after the crew had been killed, activated the machine guns and wiped out enemy troops returning fire from a machine gun nest.

Earl Evans, a Miami Beach liquor store owner who served as a sergeant under Urban during the war's St. Lo campaign in France, recommended Urban for the award in 1945.

Evans' letter was misplaced in the shuffle following the war and was found recently after a thorough search of old Army files.

Urban, who rose to speak following commendations from area politicians and members of the armed forces, was visibly overwhelmed by the proceedings.

American flags lined the foot of the stage. An Army band sounded a drum roll. And people seated in the audience wiped away tears as Urban approached the microphone.

"I am proud," he told admirers. "And I'm appreciative. We all need to be reminded, we all need to be told, that we are as great and as capable and as good as any people in the world."

He continued after the cheering subsided: "I don't think the American people have to worry. We have the friendliest people in the world. We have nothing to fear."

Urban paused momentarily, then quietly voiced his only regret of the night: "I have only one," he said, his voice breaking, "and that is that my mother and dad are not here to appreciate this moment.

"I do not think—I am sure—that I would ever have come back home if I didn't have the help and prayers of my mom and dad."

Urban is the 2,355th soldier to receive the Medal of Honor since it was instituted during the Civil War. He is one of eight living Michigan residents who own the medal, and the second from Holland to receive it.

The other, Paul Lambers, received the award in 1968 for bravery during the Vietnam conflict. He died 13 months later when 12-foot waves and strong winds swept him off Holland's south pier.

Monday's guests included Art Euler, 63, who served 1½ years with Urban as a staff sergeant. He gave a rousing tribute to his old buddy, proudly recalling that after watching Urban perform in combat, "I knew he was an extraordinary individual."

Euler, who now lives in Tontogany, Ohio, told a pair of reporters how Urban, who had been injured in combat, was able to walk away from a hospital bed in order to rejoin his comrades in the front lines.

"I was in the hospital right after he got out," Euler said. "I learned that he had carved a walking cane from a stick of wood so he could limp back to his unit."

[From the Holland (Mich.) Sentinel, July 22, 1980]

URBAN'S HOMECOMING TRIUMPHANT

(By Peter Luke)

It was a slice of Americana not often seen since the end of World War II when U.S. servicemen returned home to large and small towns everywhere, marching in triumph following victory in the "big one."

Thirty-five years later, one more World War II hero strode home amid a police escort, waving flags and a marching band as cheering crowds lined the streets expressing their appreciation for his bravery and courage which made him the most decorated soldier of the war and winner of the Medal of Honor.

Monday, the Holland community saluted Matt Urban, capping a momentous weekend in Washington where he received the Medal of Honor from President Jimmy Carter and the praises of many.

After landing at Kent County International Airport from Washington around 5:30 p.m., Urban arrived by motorcade in Holland where he rode atop an open convertible with his wife Jennie and 10-year-old daughter Jennifer down Eighth Street to the Holland Civic Center.

As the American Legion Band led the way, residents ran from the crowd to shake Urban's hand or pat him on the back. The smiles on their faces were as wide as Urban's and expressed an exuberance over the comforting notion that real heroes still do exist in the uncertain aftermath of Watergate and the Vietnam War.

At the Civil Center, Urban's workplace as the city's recreation director, numerous politicians, military officers and the heads of various veterans organizations offered mounds of praise for Urban and his accomplishments.

And more than 1,500 Holland residents present responded in kind by giving the 60-year-old Urban four standing ovations.

In response, Urban thanked the crowd and said their reaction, coupled with the reaction in Washington was further "proof" that the citizens are together in their nation.

Urban said the country must rid itself of its doldrums acquired in the past several years and restore faith that it is still the "greatest country on Earth."

"We Americans need to be reminded and have to be told that we are as great and as capable as any people on earth," Urban said in his raspy "Gravel Gertie" voice obtained in the last of his seven wounds suffered in the war. "The American people don't have to be afraid. We are the closest, friendliest people on earth. We have nothing to fear."

Urban spent about five minutes discussing the positive aspects of a draft.

Later, he said the wait for the Medal of Honor has been like a trip on a "yo-yo, going up and down."

"I never knew when it was going to stop," he explained. "Well, it finally stopped Saturday and it was just tremendous."

The exhilaration included meeting President Carter who, he said, may have given him "a few cracked ribs" from the "bear-hug" received after getting the medal. But Urban also spoke of the "compassion and emotion" on the president's face during the ceremony."

"I know he's a great person and a great individual though he may need help sometimes . . . I better keep my mouth shut, politics mess me up," Urban said. "Besides there's too many Republicans in Holland and it's good to keep friends."

And despite the accolades and attention, Urban reiterated that his only regret was that his deceased mother and father could not be present to witness his moment of glory.

"I'm sure I wouldn't have come back if I hadn't had the prayers of my mother and dad," Urban concluded. "Those prayers made it possible for me to be alive and to receive this Medal of Honor."

The featured speaker of the evening, Brig. Gen. Arthur N. Phillips of the Michigan National Guard, said Urban's name will be engraved in the Pentagon's Hall of Honor and on a plaque at Arlington National Cemetery, but added:

"None of the inscriptions are as powerful as those in the hearts of your friends. The courage of Matt Urban is the bulwark of freedom."

SELLING AMERICA

(Mr. VANDER JAGT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VANDER JAGT. Mr. Speaker, one of the most inspiring speakers in the United States today is Richard M. De Vos, cofounder and president of the Amway Corp.

Rich De Vos is truly one of the great "salesmen" of America. The phenomenal success of his Amway Corp.—rising from a small basement operation to a Fortune 500 company in less than two decades—attests to his business skills and ability to sell Amway products.

But even more existing than his business success is Rich's dedication to the principles that have made this a great Nation, and his enthusiastic efforts to "sell" America. Rich De Vos does not view this land through rose colored glasses, ignoring our faults and difficulties. Rather, he points to our virtues and emphasizes those qualities that make America the greatest place in the world in an encouraging and stimulating manner.

Mr. Speaker, it is with great pleasure that I provide for the benefit of my colleagues the text of a recent speech Rich gave in Boca Raton, Fla., to the Drug, Chemical and Allied Trades Association. And, while it conveys only a fraction of the excitement of Rich's oratory, the text is, nevertheless, a moving tribute to the achievements of the United States and the American people.

The address follows:

SELLING AMERICA

(Remarks by Richard M. De Vos)

Almost 20 years ago I gave a talk called "Selling America" and at that time I thought about the greatness of this land as I saw it, and recounted some of the examples of that greatness. As I grew older and became more embroiled in day-to-day problems, some of my staff said, why don't you take a new look at America—why don't you do "Selling America" over again.

I tried, but I couldn't. I just couldn't get into it.

Then, as the days wore on and the stress with which all of us in this country are now living became apparent, I decided I must try to take that fresh look at America.

Today I want to refresh your memory, because all of our memories are so short. We live in water-tight compartments, we live parcels of life. We say we're going to accomplish this or that in 30 days or 90 days or a year. Sometimes our long term goals are over-shadowed by the day-to-day activities which seem so important. Similarly, we can lose sight of the positive aspects of our Nation if we spend most of our time complaining about those specific problems which plague us for the moment.

Last June, I was on the Mutual Broadcasting System's Larry King Show. I like to appear on that program. Each time I am a guest I talk to people calling in from across the country and realize that out there is the world of the disillusioned, the discouraged, the disheartened.

One man said to me, "I don't know the difference between capitalism and communism—in one you're a slave to a state and in the other you're a slave to the capitalist pigs—we're all slaves to somebody."

I bled for him. His view of history is distorted. He has lost sight of the accomplishments of generations of free Americans. I think he reflects the fear of success—a distrust of those in leadership roles, which, while justified in some societies is exaggerated greatly in ours.

The other day I re-read the words of Isocrates, an Athenian orator. He made this statement in the year 430 B.C., but I found it apropos of circumstances today. He said "One must now apologize for any success in business as if it were a violation of the moral law, so that today it is worse to prosper than to be a criminal." He made that observation in 430 B.C.—and you thought we were the only ones ever condemned for achievement!

Despite that statement by Isocrates, the anti-success mood does prevail. Arguments about rich versus poor echo throughout the world. Those arguments must not be dismissed categorically. The feeling of frustration that poor people experience is not understood by many who are achievers. We may not always be as sympathetic as we should be. There is a source of potential tension that we must address. We in America can address it, because we have demonstrated that as we achieve new goals, new avenues are opened to those who have not yet realized our good fortune.

We hear talk about the advantaged and the disadvantaged—the blacks versus the whites—management versus labor—Democrats versus Republicans—blue collar workers versus white collar workers—conservatives versus liberals and so on. We talk about Muslims versus Jews in the middle East, Communism versus Capitalism, socialism versus free enterprise.

We have our arms in frustration at inflation which has gone as high as 20 percent this year, but when we look around we find much of the world lives with 50, 60, and even 100 percent inflation. We complain about fuel shortages and we are concerned about recession and unemployment.

None of this is new. Like the sentiments which troubled Isocrates, these problems and others like them have been part of life for thousands of years. We will survive our frustrations, and with determination we will eliminate many of the problems which now concern us. I believe that the best is yet to come, and I can prove it.

I speak of the promise of America and the Free World. The Communist world denies people the opportunity for achievement and progress. In my view the Communist World moves backward, not forward, while the free world moves ever forward. We are propelled by the most fundamental of principles—the right to be free. People from oppressed societies know that. They continue to risk their lives in leaky boats to cross hundreds of miles of ocean carrying a few personal belongings and clinging to a ray of hope . . . hope that they too may taste freedom. The first "boat people" to come to this continent seeking freedom landed at Jamestown, Virginia, in 1607. Others landed in 1620 at Plymouth, Massachusetts, and they have been coming ever since. Today they come from Southeast Asia . . . from Cuba and Haiti . . . and they all come seeking economic and personal freedom.

All of the claims of the Communist world are subjected to scrutiny as the world watches those little ships escaping from Vietnam or the crowded boats moving across the straits of Florida—people willing to do anything to be free, to escape tyranny.

Let us look at the record of the free world. Let us examine some of the fruits of the labor of free people, their accomplishments—our accomplishments.

And what better place to start than with the theme of your convention: "The Small Business Connection . . ."

I guess Amway cannot be considered a small business anymore, but it was only 20 years ago that we *were* one of the smallest! When we started in 1959, it was my partner and I and one or two other people to help us out now and then. Today we employ more than 5500 people worldwide, and there are more than 500,000 Amway distributors in 13 countries—and they are small business people.

I guess I will always be a small businessman at heart. The small business person, of course, is the entrepreneur, the builder, the guy willing to take a chance, to do something differently and better, cheaper or faster.

This country achieved its greatness because of small business men and women, and I am concerned that we maintain the climate which made it possible for me and for millions of others to start a business and to build it and provide quality products and services and jobs and opportunities for so many millions more Americans. In simple terms that means keeping government off the backs of the small business people and making certain that our free enterprise system continues to provide the breathing room in which those who want to can start a business of their own.

Small business is indeed a large part of the great American success story. It has created 98 percent of all the new (non-government) jobs in the last 10 years.

Small business is where the innovators are. Dollar for dollar small business provides more than 24 times the innovations of big business and government combined.

The National Science Foundation reports that firms with fewer than 1,000 employees produced about 50 percent of America's most significant new industrial products since World War II. Companies with less than 100 employees produced 24 percent.

Those are impressive numbers which emphasize the magnitude of the small business connection and the contribution of people with courage and determination to stick by an idea and make it work.

That is why—in talking about the greatness of our country—I salute small business people everywhere. Each day we deal with hundreds of such businesses at Amway, and believe me, we are proud and grateful that they are there.

Let me tell you about people in some other segments of our society who are doing their bit to keep this country number one.

Let's talk about education. To be sure, I, along with many of you, have been heard to complain that our education system is not up to par, that it's not like it used to be, that the kids aren't learning the way we did, that test scores are down, that government is corrupting the education process, that teacher organizations are too powerful, and so on.

But the real story in education is that 25 percent of our population is in some learning institution, studying the widest variety of curricula ever offered. And inside those institutions of learning are skilled teachers who, despite the same problems you and I lament, do a magnificent job.

Last June, a million of our young people came out of the colleges and high schools of America and entered the job market—to begin to make their contribution to the productive capacity of our nation, using the skills they have acquired in our educational system, skills which enable them to cope with new technologies not even imagined just a hundred years ago. It wasn't the easiest summer to enter the job market, but once we get the economy on the upswing, they will all find work and make their contributions to the future of our country—because they had the benefit of our outstanding education programs.

Yes, somehow, despite the problems, our educational institutions continue to do great things; and I salute the millions of dedicated teachers and administrators who work in the midst of trying situations and somehow get the job done.

Our education system—that's another of the great things about our free, American system. Pride in work is too.

Right now we face critical unemployment, and recession has hit the automotive industry. But today more than 100 million people still go to work every day. That's something to think about.

The papers tell us that we have 7 or 8 percent unemployment, but of course the irreducible number on unemployment is now said to be almost 4 percent. At the most, the number of employable persons not working is probably between 3 and 4 percent Fortunately for them, most are on unemployment compensation.

What a system! Even when they can't work, even when there is no work, those people get some money so that they will not starve, even in the midst of an unemployment cycle such as we're experiencing. What a nation that can support such a system!

I know that there are inequities in the system. I know some people receive much more for not working than others, but when you look at the overall program, it works!

It is the commerce of this nation which produces the goods and services to make it possible, and that, too, is remarkable. The banks open, the telephone circuits work, the hotels operate, the buses roll, factories produce cars and steel and toasters and soap and the thousands of other products we use—and all of this happens on a continuous basis—every day!

If you still think things are bad, think of someone you know who's sick. We all know some who suffer and we pour our hearts out and we say, oh, God, why them? We don't understand but we are grateful for the progress in medicine that will—we hope—make them well again.

Look back a few years and recall the great things that have been happening in the field of medicine. Think about those people who, not too long ago were blind with cataracts and now find men with skilled microsurgery who can correct their vision problems, where before there was no hope. Now, a laser beam is used to treat a detached retina! We marvel at the skill of those who work with such precision and we must be thankful that we live in this miraculous age.

A good friend of mine in Grand Rapids is a doctor from Argentina. He must spend most of his waking hours performing delicate heart surgery. It wasn't long ago that those with heart ailments were told to rest—to take it easy to prolong their lives a few months or years. The miracles of medicine have now made possible transplants, valve replacements, bypass operations and much more, so that today, after a relatively short period of recuperation a person can return to a normal life—working, playing, even jogging or running.

The pioneers in arthritic surgery have made it possible to install artificial bone parts in the hands, hips and other parts of the body so that persons afflicted—and in many cases immobilized—with the pain of arthritis, can now enjoy more comfortable, productive lives. These and so many others in the medical professions are using God-given skills to make life better for all of us.

The list is longer. We all have stories. My mother reminds me that when she was growing up during World War I, one out of every five people died of influenza. Twenty million people died in the world in those years: They were stacking coffins at Fort Custer, my father-in-law tells me. And one person in almost every household in every town died. They couldn't bury them fast enough.

Today we think of flu in an almost casual way, because we can innoculate people against known strains of the disease. In the midst of all the governmental interference in the medical profession, scientists found an answer. Great things are happening.

In World War II, it was polio that was causing such havoc. I remember coming back across the Pacific from Japan on a troop carrier. We were not allowed to depart Yokohama until there was an iron lung on board, because of the polio epidemic.

Some of our friends were in hospitals. I remember a friend who was in such condition that they finally had to break his foot because the muscles atrophying were crinkling his foot. So they broke it, in hopes that it would fuse. Fortunately, he walks today.

Then in 1953, Dr. Jonas Salk presented us with the anti-polio vaccine, and the battle against that dread disease was won. In 1957 Dr. Albert Sabin gave us an oral polio vaccine. Today, if parents make certain that their children take one of these vaccines, the iron lung of the 40s and 50s will remain a bad memory of my generation and an unknown to future generations. Yes, these are some days.

Another friend of ours pioneered in plastic surgery—to take the broken mouths with no roof in them and the tongue floating into that absent void and looking through the mouth right up into the upper nostrils of the nose and he developed a technique to re-form the mouth so that as a child grew to adulthood, one could hardly tell that there had been a problem.

Those are some of the miracles that occur around you every day and while you may have some doctors you may not think too much of, I can tell you, most are as dedicated as anyone in this room could ever hope to be.

Some day . . . some place . . . some age.

Marvels of our age are occurring not only in education and medicine, but in essential fields such as transportation. We are now making automobiles in this country that deliver 30 miles to the gallon. They will soon get 50! When we started Amway 21 years ago, we knew transportation would be an essential ingredient in our business.

We used to ride on DC–6s to the West Coast. My partner used to carry his typewriter with him because with such a long flight, he could type literature and newsletters while he was traveling. Who could afford a secretary in those days!

Today we jump in jets like the 747 and head for places as far away as Australia. And on some airlines they put you to bed and you wake up in Honolulu and you change your shirt and the next thing you know you're landing in Sydney!

Today, we pack a shipping container full of material in Ada, Michigan, put it on a truck or train. It is transported to the West Coast, loaded on a ship and ends up in Tokyo. From there some is redistributed in that part of Asia while some containers are loaded aboard other vessels for Sydney, Australia. That material is opened in our Asian warehouses never having been touched from the time it left Ada. That's fascinating. More importantly, this great system enables us to ship products all the way around the world and still sell competitively.

Another important aspect of the transportation story is the fact that we are still producing in the U.S. about 10 million cars a year. We have over a hundred million cars and trucks on our highways. In all the great expanse of space that is the Soviet Union, there aren't even a million cars and trucks.

Our auto industry has suffered badly at the hands of government and the energy and regulatory policies handed down in the 70s. But we are not out of the automobile game—not by a long shot. Americans may have been shocked by the influx of foreign cars, but they are determined to gain back a greater share of the market, and they will. This fall, that program shifts into high gear.

If you want more reasons to be proud and happy to be living in America today, let's talk about our food industry—agriculture. In the United States today we continue to produce an abundance of food and grain. We continue to share that abundance with much of the world, but we can share only because we still have farmers who get up with the chickens and go to bed late at night.

They are the people who really demonstrate their caring. Unlike those who so often talk about it, the farmers are the producers. They have created a product which they can share . . . rather than idle talk about the value of sharing which feeds no one.

I am reminded of a passage from "The Fountainhead" in which Ayn Rand put it this way:

"Men have been taught that the highest virtue is not to achieve, but to give. Yet one cannot give that which has not been created. Creation comes before distribution—or there will be nothing to distribute. The need of the creator comes before the need of any possible beneficiary. Yet we are taught to admire the second-hander who dispenses gifts he has not produced above the man who made the gifts possible. We praise an act of charity; we shrug at an act of achievement".

I salute the farmers of this great land who put forth such effort to make it work. Whenever I talk about farmers I think of another friend of mine who has automated his farm. Imagine he pushes a button and blows silage into his Harvestore for storage. He pushes another button and the silage moves on a conveyor to where the cows eat it. The waste from the cows ends up on another device which carries it back to the field. Two men can operate the entire process!

Most of us never think about where we get our food. For most, there is no question of whether there's going to be food or not—at resturants, fast food establishments or grocery stores. There's no discussion about whether there's going to be milk on the step in the morning—or these days, in the dairy case at the food store.

While this is true in America it is not the case in large parts of the world. In Russia today, 30 percent of the people still work on farms but they cannot produce enough food to feed that nation. By comparison, in America 2 percent work on farms.

Here's an interesting story: 1.5 percent of the land in Russia is still held privately. Russian farmers own little pieces of ground. On that 1.5 percent of the tillable land in Russia, they produce 31 percent of the meat and milk, 35 percent of the vegetables, 40 percent of the eggs, 60 percent of the potatoes. A full 25 percent of the total food supply of that land is grown on 1.5 percent of the soil.

Even in the Soviet Union it is unbelievable what can be accomplished when individuals are rewarded in relation to what they produce.

I still marvel at the fact that when I order a glass of milk, I can get it fresh anytime, anyplace, anywhere—and we think nothing of it! Yes, this is a great land despite our problems.

What about energy? People argue, as a man did with me recently, about the problems with nuclear power. I responded that the number of people killed in connection with nuclear power generation is zero while those who die or suffer from black lung disease from mining coal are many. Yet thousands of people—many of them uninformed—continue to demonstrate against a viable alternative energy source which, in my opinion, may prove to be one of the safest systems we've ever known.

The fear of the future frightens many people. But you and I must not live in fear. You and I must think and act with confidence. The nation should be told that oil and gas and coal and uranium are the essential energy sources we will need through the year 2000 and, probably, beyond.

The trouble is, we take energy for granted. And I suppose we will continue to do so until we wake up some morning and push the light button and it doesn't work, and the car has no fuel, and there is no gas for cooking or heating! Then we'll discover the real problem, but that will be too late. The fact is we need all the domestic energy we can produce—coal, uranium, natural gas, oil—Now.

Another of the marvels of our time is communication. In America we pioneered modern communications techniques—some out of necessity in World War II, others for our ventures into space.

I was in the Netherlands recently and wanted to call my office in Ada, Michigan. I called the hotel desk and asked how to do it. To my surprise, the operator said, "Dial direct." No big deal! It's only across the Atlantic Ocean, you know. Some of us still think that is some distance away!

So we dial back and forth around the world. Really, there is no long distance anymore. It's all relative. It takes about the same amount of time to dial across town, across the country and halfway 'round the world.

Telephone calls are relayed via satellite. In fact, our own communications company, the Mutual Broadcasting System, is gearing up for a satellite system. When that system is completed, we will send all of our programs up to a satellite 22,000 miles above the earth and beam them down again to the 950 Mutual affiliates in the U.S. That's the age in which we live.

But with all the wonders of new technology for food, for energy, for communications and the rest, let us not forget that our greatest asset in America is people.

One group of Americans that is too often overlooked or taken for granted is the group of men and women in public service. In the communities where most of us live, when we have a particular emergency, people respond to our call in minutes. Our firemen, policemen and rescue squad paramedics are great and dedicated people; and what a sense of security that gives us.

And there are so many others in public service. Let us not forget the sanitation workers. They come by on a regular basis to help us keep our homes and businesses clean and safe.

Of course, we should not forget those dedicated men and women in military service. Not too long ago, I was privileged to be aboard the aircraft carrier U.S.S. *Constellation* on maneuvers off San Diego. I watched as the crew conducted night flight operations on that huge ship and I could not believe what I was seeing. It is something to behold—those men training in jet fighters that cost $33 million, and which, someday may be the key to defending the sea lanes which are so essential for the flow of foreign oil and other materials on which we, as a nation, have become so dependent.

The young men on that carrier who handle the planes on deck are amazing. They are proud examples of the millions who serve our country—often at low pay and under trying conditions—without whom all of our lives would be in peril.

There are many others who serve in our Federal, State and local governments who also deserve our respect and admiration. While we may think we have too much bureaucracy, there are thousands of "civil servants" who work very hard, doing the routine jobs that keep government an orderly process. We often talk about the excesses of government, but we must be careful that we are not so busy talking about excess that we neglect to pay tribute to those faithful souls who carry out the essential functions every day.

I can tell you that when I get up on a winter morning in Michigan and discover that all of the streets have been plowed, I know that men have been out all night to make the roads passable for us. And when I come into Kent County International Airport in a blizzard late at night and hear, with our pilots, that reassuring voice saying you're cleared for the approach, and we start to come down, and know the air controllers are there doing their jobs, I am most grateful. My friends, this country is filled with dedicated people like those at all levels of government.

They are the people who make it possible on good days and bad to turn on the faucet and enjoy clean water. Somebody had to make sure the pumps were in place and the intakes were open and the purification system was functioning so that we could turn our little spigot and get the water we needed.

Those are things that happen around us every day and I wanted to share some of them with you, because from time to time I believe it is well to take a look at ourselves—our nation, and to recognize that for all of our faults and despite all of our complaining, this is the most wonderful nation on earth.

There is no question that there is much to be done in America. We all must play a part in making this nation even better for those generations which succeed us. But that is no reason to berate the system, to give up on all that free people have accomplished in less than 400 years.

I am proud to be part of this system . . . this land . . . I am grateful for the opportunities I have enjoyed. I am prepared to defend all of it in any forum at any time.

Yes. I have taken another look at our country and the achievements of its people and I am committed to Selling America for another 20 years . . . and more.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEDERER (at the request of Mr. WRIGHT), for today, on account of a necessary absence.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TAUKE) to revise and extend their remarks and include extraneous material:)

Mr. RUDD, for 60 minutes, today.

Mr. KEMP, for 15 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. TAUZIN) to revise and extend their remarks and include extraneous material:)

Mrs. BOGGS, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. WOLFF, for 15 minutes, today.

Mr. BINGHAM, for 15 minutes, today.

Mr. STEWART, for 10 minutes, today.

Mr. BROWN of California, for 5 minutes, today.

Mr. FASCELL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. VANDER JAGT, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,456.25.

Mr. VANDER JAGT, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,080.75.

(The following Members (at the request of Mr. TAUKE) and to include extraneous matter:)

Mr. DANIEL B. CRANE in two instances.

Mr. YOUNG of Alaska.

Mr. SYMMS.

Mr. GREEN in two instances.

Mr. GOLDWATER.

Mr. HARSHA.

Mr. WYDLER.

Mr. CARTER.

Mr. CARNEY.

Mr. CONABLE.

Mr. ROTH in three instances.

Mr. STANTON.

Mr. CLAUSEN.

Mr. RINALDO.

Mr. GILMAN in two instances.

Mr. ROUSSELOT.

(The following Members (at the request of Mr. TAUZIN) and to include extraneous matter:)

Mr. MARKEY.

Mr. HAMILTON.

Mr. FORD of Michigan in two instances.

Mr. MATTOX.

Mr. SOLARZ in two instances.

Mr. WOLFF in two instances.

Mr. OTTINGER in five instances.

Mr. BIAGGI in 10 instances.

Mr. YATRON.

Mrs. BOUQUARD.

Mr. ROE.

Mr. FORD of Tennessee.

Mr. BRINKLEY in four instances.

Mr. GIAIMO in 10 instances.

Mr. WON PAT in three instances.

Mr. COTTER.

Mr. SCHEUER.

Mr. ADDABBO.

Mr. FAZIO in four instances.

Mr. PICKLE in 10 instances.

Mr. KOSTMAYER.

Mr. DODD.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 999. An act to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes;

H.R. 4522. An act for the relief of Annette Jutta Wohrle;

H.R. 4941. An act to name a dam and reservoir on the San Gabriel River, Texas, as the "North San Gabriel Dam" and "Lake Georgetown," respectively;

H.R. 5182. An act to amend the Chesapeake & Ohio Canal Development Act to change the termination date of the Chesapeake & Ohio Canal National Historical Park Commission from the date 10 years after the effective date of such act to the date 20 years after such effective date;

H.R. 5687. An act for the relief of Michael G. Macdonald;

H.R. 5788. An act for the relief of Jun Ae Hee;

H.R. 7217. An act to establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes;

H.R. 7306. An act to provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes;

H.R. 7591. An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 7626. An act to amend title 37, United States Code, to improve certain special pay and allowance benefits for members of the uniformed services, and for other purposes;

H.R. 7682. An act to amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes;

H.R. 8105. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 8404. An act to designate the Federal Building-U.S. Courthouse in Sacramento, Calif., the "John E. Moss Federal Building-U.S. Courthouse"; and

H.J. Res. 337. Joint resolution designating February 11, 1981, "National Inventors' Day."

ADJOURNMENT

Mrs. BOGGS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 33 minutes p.m.) the House adjourned until tomorrow, Thursday, December 11, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5810. A communication from the President of the United States, transmitting a request for appropriations for fiscal year 1981 for Italian earthquake relief (H. Doc. No. 96–395); to the Committee on Appropriations and ordered to be printed.

5811. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of December 1, 1980, pursuant to section 1014(e) of Public Law 93–344 (H. Doc. No. 96–396); to the Committee on Appropriations and ordered to be printed.

5812. A letter from the Secretary of Transportation, transmitting a report on a violation of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

5813. A letter from the Assistant Secretary of the Air Force, (Research, Development and Logistics) transmitting notice of the proposed conversion to contractor performance of the family housing maintenance function at Mountain Home Air Force Base, Idaho, pursuant to section 502(b) of Public Law 96–342; to the Committee on Armed Services.

5814. A letter from the Assistant Secretary of the Air Force, (Research, Development and Logistics) transmitting notice of the proposed conversion to contractor performance of the family housing maintenance function at Ellsworth Air Force Base, S. Dak., pursuant to section 502(b) of Public Law 96–342; to the Committee on Armed Services.

5815. A letter from the Secretary of Education, transmitting proposed regulations to govern distribution of Federal vocational education funds by State boards of vocational education to subrecipients, pursuant to section 431(d)(1) of the General Education Provision Act; to the Committee on Education and Labor.

5816. A letter from the Director, Defense Security Assistance Agency, transmitting a report on a proposed memorandum of understanding between the United States and France to establish a joint program for the development of engineering to integrate the CFM–56 turbofan engine with the KC–135 and French C–135F aircraft (Transmittal No. 01–81), pursuant to section 27(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5817. A letter from the Director, Procurement and Assistance Management Directorate, Department of Energy, transmitting a report on the Department's disposal of foreign excess property during fiscal year 1980, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

5818. A letter from the Comptroller General of the United States, transmitting a report on the effects of 1976 amendments to the Revenue Sharing Act (GGD–81–9, December 10, 1980); to the Committee on Government Operations.

5819. A letter from the Secretary of Health and Human Services, transmitting the annual report of the National Cancer Advisory Board for calendar year 1979, pursuant to section 407(a)(7) of the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

5820. A letter from the Secretary of Health and Human Services, transmitting the annual report on the state and progress of health services research, health statistics, and health care technology, pursuant to section 308(a)(1) of the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

5821. A letter from the Secretary of the Interior, transmitting the annual report of the Fish and Wildlife Service on the administration of the Marine Mammal Protection Act of 1972, covering the year ended March 31, 1980, pursuant to section 103(f) of the act; to the Committee on Merchant Marine and Fisheries.

5822. A letter from the Chairman of the Board, U.S. Railway Association, transmitting justification for the Association's fiscal year 1982 appropriation request, pursuant to section 202(g)(2) of Public Law 93–236; jointly, to the Committees on Appropriations and Interstate and Foreign Commerce.

5823. A letter from the Comptroller General of the United States, transmitting a report on the voluntary pay and price standards as having had no discernible effect on inflation (PAD–81–02, December 10, 1980); jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

5824. A letter from the Comptroller General of the United States, transmitting a report on American employment being generally favorable at international financial institutions (ID–81–3, December 10, 1980); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

5825. A letter from the Comptroller General of the United States, transmitting a report on the inequitable treatment of women in prison (GGD–81–6, December 10, 1980); jointly, to the Committees on Government Operations and the Judiciary.

5826. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting the 21st report on abnormal occurrences at licensed nuclear facilities, covering the second quarter of calendar year 1980, pursuant to section 208 of Public Law 93–438; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on U.S. Postal Service plan for the nine-digit ZIP code (Rept. No. 96–1531). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on S. 1097 (Rept. No. 96–1532). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. BOGGS (for herself, Mr. Livingston, Mr. Bevill, Mr. Breaux, Mr. Edwards of Alabama, Mr. Long of Louisiana, Mr. Moore and Mr. Young of Missouri):

H.R. 8449. A bill to provide for improving the efficiency of certain rivers and harbors of the United States and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BREAUX (for himself and Mr. Forsythe):

H.R. 8450. A bill to enable shrimp producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion in order to improve, maintain, and develop markets for shrimp; to the Committee on Merchant Marine and Fisheries.

By Mr. DOWNEY:

H.R. 8451. A bill to provide for simplified cost recovery in corporation income taxes, for the refundability of the investment tax credit up to $100,000, for nonrecognition of gain on certain sales and exchanges of interests in small business concerns, for incentives for research and experimentation in certain businesses and by institutions of higher education, and for election by married individuals to be taxed as unmarried individuals; to the Committee on Ways and Means.

By Mr. BROOKS:

H. Res. 826. Resolution to provide for disposition of the Senate amendments to the House bill H.R. 7112; considered and agreed to.

By Mr. BUTLER (for himself, Mr. Robert W. Daniel, Jr., Mr. Robinson, Mr. Satterfield, and Mr. Whitehurst):

H. Res. 827. Resolution for submission of a resolution commending the cultural laureate program; to the Committee on Education and Labor.

By Mr. PHILIP M. CRANE:

H. Res. 828. Resolution to amend the Rules of the House of Representatives to eliminate the limitations on outside earned income of Members of the House; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

544. By the SPEAKER: Memorial of the House of Representatives of the State of Michigan, relative to assistance to Somalia; to the Committee on Foreign Affairs.

545. Also, memorial of the Senate of the State of Illinois, relative to the proposed use of Veterans' Administration hospitals to treat Cuban refugees; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1785: Mr. BONKER, Mr. LUNDINE, Mr. MOFFETT, and Mr. HANCE.

H.R. 4576: Mr. HEFTEL and Mr. AKAKA.

H.R. 5099: Mr. MOLLOHAN.

H.R. 7928: Mr. LUNDINE.

H.R. 8092: Mr. WIRTH, Mr. BROWN of Ohio, and Mr. LONG of Maryland.

H.R. 8261. Mr. LOTT.

H.R. 8367: Mr. MURPHY of Pennsylvania, Mr. HANCE, and Mr. CHAPPELL.

H.J. Res. 502: Mr. YOUNG of Missouri, Mr. ANDERSON of California, Mr. LONG of Louisiana, Mr. HOPKINS, Mr. MONTGOMERY, Mr. WON PAT, and Mr. PICKLE.

H. Con. Res. 445: Mr. PORTER.

H. Con. Res. 454: Mr. ERTEL, Mr. WILLIAMS of Ohio, Mr. ARCHER, Mr. GARCIA, and Mr. LEDERER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

659. The SPEAKER presented a petition of the 26th annual Session of the North Atlantic Assembly, Brussels, Belgium, relative to its recommendations and resolutions, which was referred to the Committee on Foreign Affairs.

SENATE—*Wednesday, December 10, 1980*

(Legislative day of Thursday, November 20, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, equip us with the gifts of Thy spirit that we may have no fear of the future nor hesitation in the face of the unknown. Grant unto us the faith that persists, the hope that endures, the loyalty which is unfailing and the purity which resists all deviation from virtue. Measure our lives by the quality of our service. Arm our wills with Thy strength, and fill our hearts with Thy love, that we may be strong to obey Thee and loving to serve our fellow man.

In Thy holy name we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 2 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR THE SENATE TO PROCEED TO THE CONSIDERATION OF HOUSE JOINT RESOLUTION 637

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of the order for the recognition of a Senator today, the Senate proceed to the consideration of House Joint Resolution 637, making further continuing appropriations through September 30, 1981.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLASSIFIED INFORMATION

Mr. ROBERT C. BYRD. Mr. President, I take a very dim view of the disclosure of classified information. I believe that this Nation's secrets ought to be respected. I object to the casual use or intentional disclosure of materials which have been classified for national security reasons.

I understand from the December 6 New York Times that portions of cables sent from our Embassy in Moscow to the State Department were made available to that newspaper. The cables in question reported on Senator PERCY's private conversations with Soviet leaders. They were classified at the "secret" level and sent by Ambassador Watson to Secretary of State Muskie. The compromise of these documents violates the laws of this Nation.

I believe that any Senator, and especially one with Senator PERCY's standing on the Committee on Foreign Relations, should be free to speak privately with foreign leaders. A Senator should not be subject to disclosure of private conversations. I make no reference to the subject of the Senator's talks nor do I know the source of the leaks. But I believe that the Secretary of State would be entirely justified in having the Federal Bureau of Investigation look into this illegal act.

Both the executive and legislative branches of our Government, and both sides of the aisle in this Senate stand to lose if this sort of irresponsible act is overlooked. Diplomatic discussions are serious business. They deserve to be protected from compromise, no matter what the motive for damaging our security may be.

In this case, Senator PERCY has been done a disservice. But so has the entire Senate. Any Senator has the right to privacy without fear that somewhere along the line of reporting and reading, his conversation will appear in public print. This is not a partisan issue. It is one of common decency and national security. I deplore these leaks. And I express my support for whatever investigations Secretary of State Muskie finds appropriate.

Mr. President, I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my good friend, the majority leader.

NEO-NAZI INCIDENTS IN FRANCE

Mr. PROXMIRE. Mr. President, anti-Semitism has long been one of the world's great injustices. Throughout history, Jews have been treated as scapegoats for many of the problems that people have faced. While the height of anti-Semitism was reached in the late 1930's and early 1940's by Nazi Germany, neo-Nazi groups still exist today, and are a threat not only to Jews but to the free world as well.

On October 4, 1980, a synagogue in Paris was bombed by an anti-Semitic rightwing extremist organization. The bombing, which killed four people and severely wounded over a dozen more, evokes memories of "Crystal Night," November 7, 1938, when mobs of Nazis mounted violent demonstrations against Jews. Synagogues and stores owned by Jews were vandalized and looted, almost 100 Jews were killed and thousands more were beaten up and ridiculed. Crystal Night was merely a prelude to the horror that was to follow.

That infamous night in history occurred 42 years ago, but anti-Semitism continues even today. Shortly following the bombing in Paris, more outbursts of terrorism against Jews took place throughout France. Jewish-owned stores were the targets of bombing attempts in Grenoble and Marseilles, and Jewish homes were attacked in small towns in southern France. These isolated acts of violence aimed at Jewish people are a tragic reminder of the difficult history of the Jews.

To the credit of the great majority of the French people, however, over 100,000 French men and women marched through Paris on October 7 in a magnificent show of solidarity against anti-Semitism and racism. The U.S. Senate can learn a lot from this example set by the French people.

It has been over 30 years since the Genocide Convention was first brought before the Senate. Like our French allies, we must rise to the occasion, and uphold our principles of justice and fairness. The Senate must express its outrage against acts of anti-Semitism and racism. The Senate must manifest its unity against violence toward all ethnic and racial groups. The Senate can do so by ratifying the Genocide Treaty.

The other day when I brought up the Genocide Convention my good friend, the majority leader, pointed out it should be reported by the Foreign Relations Committee and must be before the Senate can act.

He is absolutely correct. I earnestly hope and pray one of the first actions next year by the Foreign Relations Committee will be to report the convention. I firmly think they will. They have reported it four times before, and I am sure that this is not a partisan matter. This is one in which Democratic and Republican administrations alike over the years have enthusiastically supported this treaty, and I am sure they will in the coming year.

Mr. President, I thank my good friend and yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Wisconsin.

THE CONTINUING RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, I hope that the Senate will be prepared to stay in late today. The continuing resolution is a vital piece of legislation

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

that must be enacted and must be enacted before the Senate adjourns sine die, and the deadline is Monday of next week, after which various agencies will be having difficulties financing programs and paying employees if the continuing resolution is not adopted by then.

So I hope that the Senate does not pursue action on the continuing resolution with a Christmas tree mentality. This joint resolution will not carry all of the amendments that I understand are going to be offered and I understand there are already over 80 differences with the House of Representatives in the joint resolution that has been reported from the committee.

So I trust that Senators will keep these important facts in mind and approach the action on the resolution with enough discretion, patience, and self-discipline to avoid putting the Senate through an unduly long exercise in finalizing action on the resolution.

Mr. President, I yield back the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized for not to exceed 2 minutes.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I thank the Chair. I have no need for my time under the standing order and no request for time, but if the majority leader or any other Member has need for time I would be glad to yield to them for whatever purpose. Otherwise I am glad to yield it back.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

Mr. BAKER. I yield back my time.

RECOGNITION OF SENATOR JEPSEN

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized for not to exceed 15 minutes.

TRIBUTES TO SENATOR JOHN C. CULVER

Mr. JEPSEN. Mr. President, I rise today to speak on behalf of the senior Senator from the State of Iowa, Senator John C. Culver. It has been a pleasure and honor to serve with Senator Culver during the 96th Congress. He has distinguished himself as a man of strong convictions, highly principled in his beliefs and characteristics and equally dedicated to the cause of justice, fair play, and equality for all.

Although, Senator Culver and I are often on opposite sides when it comes to certain issues, our disagreements have always been respectful. We are unanimous in our deep concern for the people of Iowa and for the future of this Nation. Senator Culver as the senior Senator from Iowa, along with his staff, has been most cordial and equally helpful to me and my staff in our efforts to serve the people of Iowa. I appreciate and thank him and his staff for their kindness.

Mr. President, the single most important and precious quality which exemplifies the senior Senator from Iowa is the quality of his courage. Those who have come to know him, to love and fear him, along with the few who may have been angered by him, all agree that John Culver has courage.

It has become popular to associate Senator Culver's personality and characteristics with those of a tough, rugged fullback breaking, charging up the field for the final touchdown. I would like to respectfully deviate from the last description and express a personal perception of my distinguished colleague. To me, John Culver is a warrior, a soldier in an endless battle for social change: A soldier who has marched proudly through the battlefields of changing issues: most often in victory, though, defeat is no stranger to his many gallant efforts. Nevertheless, whether in victory or defeat, John Culver has always sought to see the battle through, his eyes front and his head held high to the finish.

I am reminded of the poem "Invictus," by Ernest Henley in which he writes of a strong individual whose head is bloody but unbowed. In his closing stanza Henley writes:

> It matters not how straight the gate, or how
> charged with punishment the scroll.
> I am the master of my faith,
> I am the captain of my soul.

Senator Culver, during his distinguished career in the Congress, particularly as a Member of this chamber, and especially in his recent battle to retain his seat, has truly been the master of his faith and the captain of his soul.

Mr. President, I am further reminded of John Culver in a famous quote from President Theodore Roosevelt, in which he states—

> It is not the critic who counts: not the man who points out how the strong man stumbled or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena: whose face is marred by dust and sweat and blood: who strives valiantly: who errs and comes short again and again: who knows the great enthusiasms, who, at, the best, knows the triumph of high achievement and who, at worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.

Mr. President, the credit belongs to Senator Culver for his role and dedication in the arena of public service, for his courage to forge ahead in spite of the obstacles before him and to strive valiantly while doing so.

As a result of his life, his efforts and, most of all, his courage to remain true and unyielding in his convictions, Senator John Culver will never be one of those cold and timid souls who knows neither victory nor defeat.

Mr. President, throughout my remarks, I have emphasized the courage of John Culver. I would like to read into the Record a brief passage on courage by our late President, John F. Kennedy, from his book, "Profiles in Courage," which represents my feelings in this subject.

> Without belittling the courage with which men have died, we should not forget those acts of courage with which men . . . have lived. The courage of life is often a less dramatic spectacle than the courage of a final moment: But it is not less a magnificent mixture of triumph and tragedy. A man does what he must—in spite of personal consequences, in spite of obstacles and dangers and pressures—and that is the basis of all human morality. . . . In whatever arena of life one may meet the challenge of courage, whatever may be the sacrifices he faces if he follows his conscience—the loss of his friends, his fortune, his contentment, even the esteem of his fellow men—each man must decide for himself the courage he will follow. The stories of past courage can define that ingredient—they can teach, they can offer hope, they can provide inspiration. But they cannot supply courage itself. For this each man must look into his own soul.

Mr. President, as a final tribute to the senior Senator from Iowa, I ask unanimous consent to have printed in the Record a list of his accomplishments, along with a biographical outline of his life.

There being no objection, the material was ordered to be printed in the Record, as follows:

Biography of Senator John Culver

Iowa U.S. Senator John C. Culver this year is seeking re-election to his second consecutive Senate term. He was first elected in 1974, after serving ten years in the U.S. House as Iowa's 2nd Congressional District Representative.

In the Senate, he has been active in a wide variety of areas. He is a nationally-recognized expert on defense problems and has authored major legislation in such areas as soil conservation, environmental protection and product liability reform. He has been heavily involved in numerous public works programs benefiting the state, such as flood control and bridge replacement, and recently has been in the forefront of Senate efforts to ease red tape and paperwork for small businesses. He has been a strong supporter of gasohol and other alternative energy development, and of aid to rebuild deteriorating midwestern railroads. He serves on the Senate's Armed Services, Judiciary, Environment and Public Works and Small Business Committees.

A profile of Senator Culver, written by the political journalist Elizabeth Drew, and published in 1979 as a book entitled "Senator," says he has "established a reputation as one of the most effective members of the Senate."

Culver wrote the Senate resolution which established the Temporary Commission on the Operation of the Senate, a citizens panel known as the Culver Commission, which examined the workings of the U.S. Senate and recommended reforms. He served as a member of the President's Commission on Olympic Sports and was appointed a Congressional Observer of the Strategic Arms Limitation Treaty negotiations by the Vice President.

Culver was born August 8, 1932. The son of Mr. and Mrs. William C. Culver, his grandmother, Etta I'Dell Clarke Culver, was a native of Fairfield. He was raised in Cedar Rapids, where his father operated the Culver Motor Company, and where his mother and sister still reside. He attended Cedar Rapids public schools, was an outstanding student and lettered in three sports. He was an Eagle Scout and was elected Secretary of State for Hawkeye Boys state in 1949. Following his father and grandfather to Harvard University, he was a record-setting football fullback and graduated with honors in 1954. He was a 1954 National Football League draft choice but declined the bid to accept the Lionel de Jersey Scholarship for a year's study at Cambridge University, in England. He then served 39 months as a Marine Corps infantry lieutenant before returning to Harvard to earn a law degree. After establishing a law practice in Cedar Rapids, he was first elected to Iowa's 2nd District Congressional seat in 1964. He won re-election to that seat four times by ever-increasing margins before being elected to the Senate.

In the House of Representatives, Culver served on the Foreign Affairs and Government Operations committees. Named by Nation Magazine as Congressman of the Year, he authored the proposal which resulted in major reforms of the House committee structure. He was instrumental in encouraging Iowa participation in the federal government's historic preservation program in 1972, and initiated the "Iowa 2000" futures conferences held throughout Iowa in 1974.

Senator Culver was named by Time Magazine as one of its "200 leaders of the future" in 1974.

He is a member of the Iowa State and Linn County Bar Associations, and was admitted to practice before the U.S. Supreme Court in 1967. He holds honorary degrees from Loras College, Dubuque; Westmar College, LeMars; Upper Iowa University, Fayette; and Marycrest College and St. Ambrose College, Davenport.

Culver is married to the former Ann Cooper, of Cedar Rapids. They have four children, Christina, Rebecca, Catherine and Chester, and maintain their family home in a restored house overlooking the Mississippi River in McGregor, in Clayton County. The family belongs to the Presbyterian Church.

Senator Culver's great grandfather's Civil War letters were published in 1979 by the Friends of the University of Iowa Libraries in a volume entitled "Your Affectionate Husband, J. F. Culver."

SENATOR JOHN CULVER: SUMMARY OF MAJOR SENATE ACCOMPLISHMENTS

Wrote 1977 Senate report calling attention to inadequacy of American military readiness. Improvements generated by the report include a substantial increase in the number of combat-ready Navy aircraft.

Authored the 1978 Rural Clean Water Program (now public law), a new cost-sharing program to help farmers adress the related problems of soil erosion and water pollution.

Co-authored 1978 Senate amendment (now public law) increasing federal assistance to states for repair and replacement of unsafe bridges and permitting this assistance to be used for local bridge work. Federal bridge aid to Iowa increased from $3 to $15 million annually as a result of this measure.

In the same year, co-authored another measure (now public law) creating a special program for funding major bridge replacement projects. Work on major new bridges at Sioux City, Dubuque and Keokuk is now going ahead under this special program.

Led 1977 Senate effort to block sale of highly sensitive military equipment to Iran, warning that the Shah's regime was unstable.

Co-authored 1979 amendment, adopted by Senate, to re-direct $120 million of existing Economic Development Administration funds into gasohol development, and development of solar and hydroelectric power to serve small cities and rural areas.

Authored major 1977 legislation (now public law) to curb child pornography and child prostitution by imposing stiff federal penalties.

Co-authored 1976 "Culver-Nunn" amendment to increase standardization of NATO weapons. Now public law, when fully implemented amendment will result in stronger NATO defenses and save billions of dollars by elimination of wasteful duplication.

Was instrumental in persuading the Environmental Protection Agency to change its proposed 1979 rural dusts standards, which would have harmed Iowa's agricultural and industrial development efforts.

Authored 1978 amendment (now public law) which changed formula for distributing aid to states for improving safety at railroad crossings—change doubled amount of aid available to Iowa for this purpose.

Co-authored 1977 Senate Public Works Committee amendment which eventually led to Senate approval of construction of a new Locks and Dam 26 on the Mississippi, to ease grain-shipment bottleneck.

Was instrumental in securing federal loans and grants in 1979 to help modernize the Rath Packing Co. plant in Waterloo to allow it to continue operations and preserve over 1,200 jobs in the community.

Led successful 1976 Congressional opposition to the $30 billion B-1 Bomber project, arguing that the Cruise Missile offered a better, less costly way to accomplish the same military mission.

Authored legislation (passed by Senate in 1978) to cut red tape and paperwork for small businesses and small cities. Incorporated this legislation into major regulatory reform legislation which he coauthored in late 1979.

In 1976 led successful fight on Senate floor to block purchase of a new $35.5 million office building for Senate use.

Authored amendment (now public law) to 1978 Revenue Act exempting from farmers' income tax federal and state cost-sharing payments for soil conservation. Won Senate Finance Committee approval in 1979 to extend exemption to county cost-sharing payments.

Won $1.1 million funding from the Environmental Protection Agency in 1979 for solving hazardous waste problems at the LaBounty chemical dumpsite in Charles City.

Introduced major legislation in the same year to address the hazardous waste problem nationally.

A leader in the House in securing floodwalls for Dubuque and Clinton, led Senate efforts to secure an emergency floodwall in Evansdale when the community was threatened by spring floods in 1979. Was instrumental in securing additional appropriations for a permanent Evansdale floodwall so that construction of that project could be accelerated.

Held 1978 Senate hearings on drug smuggling, which played a key role in stimulating negotiations to curb smuggling from Colombia and Honduras, and helped lead to better coordination of Mexican border management.

Authored amendment (now public law) to 1978 Revenue Act to help ease business product liability problems.

In 1978 recommended to Senate Commerce Committee changes in eligibility criteria for railroad branch line repair assistance to the states. Changes which were adopted into public law, made an additional 1,200 miles of Iowa branch line track eligible for this aid. Co-authored 1979 amendment increasing branch line assistance funding. As a result of these and other steps, Iowa in 1980 is receiving more than twice the amount of branch line aid it previously received.

Was instrumental in persuading the Department of Housing and Urban Development not to close its only Iowa office, in Des Moines, in 1979—a move which would have left Iowa municipal officials without local access to HUD programs.

Co-authored 1979 amendment (approved by Senate) to earmark $1 billion of oil windfall profit tax revenues for rehabilitating railroads.

Authored 1975 requirement (now public law) that the Secretary of Defense's annual report be prepared in consultation with the Secretary of State, to better coordinate American foreign and defense policy.

Authored 1979 amendment to launch a series of demonstration projects to develop economical water purification systems for small cities. The Environmental Protection Agency agreed to implement these projects on its own after the Senate adopted the amendment, and will begin doing so in the fall of 1980. New technologies developed from these projects could have broad application in Iowa, where 90 percent of the cities have populations of less than 5,000.

Persuaded appropriations committees in both House and Senate to fund construction, begun in 1979, of a major visitors center and museum at the DeSoto Bend Wildlife Refuge in Southwest Iowa to display artifacts from the wreck of the Civil War era steamboat Bertrand.

Authored and won approval in 1975 for establishment of the Temporary Commission on the Operation of the Senate, a citizens panel to review Senate operations and recommend reforms. The establishment of this Commission represented the first time the Senate had ever asked an outside group to examine its internal workings and suggest changes. Changes resulting from the Commission's recommendations resulted in more efficient Senate management practices.

Original co-author in the House of Representatives of legislation establishing the Great River Road, has been the leader in the Senate for continued funding for this program, which creates a scenic protected corridor paralleling the Mississippi River in Iowa and other states.

Co-authored 1977 farm bill amendment to prohibit large non-farm corporations and trusts from receiving payments under commodity programs. Amendment was adopted by Senate and study of impact of this prohibition became public law.

Authored 1977 amendment (now public law) requiring strip mine operators to return strip-mined farmland to at least its former levels of productivity.

Authored and floor-managed 1978 revision of the Endangered Species Act, designed to continue protections for endangered wildlife and allow reconciliation of conflicts between federal projects and endangered species.

Authored proposals, approved by Congress in 1978, to repeal law requiring Navy warships to be nuclear-power, to permit future ships, especially those carrying aircraft, to be smaller and more survivable.

Authored 1978 legislation (now public law) improving Environmental Protection Agency long-term research and development programs. Legislation included provision for increasing citizen participation in these programs, which has led to funding for the University of Iowa to continue the work of the Iowa 2000 project—a project which Culver originally proposed.

Co-authored 1978 legislation (now public law) implementing recommendations of the President's Commission on Olympic Sports (on which Culver served). Legislation revised U.S. Olympic charter to improve opportunities for amateur athletes and contained amendments by Culver providing programs and aid for handicapped athletes and facilitating their integration into ongoing programs for able-bodied athletes wherever feasible.

Authored the 1978 Quiet Communities Act which greatly enhanced state and local roles in combatting noise problems, such as airport noise. As a result of this legislation, the cities of Des Moines, Council Bluffs, Iowa City, Sioux City, Ft. Dodge, Davenport, Waterloo and Oskaloosa have received assistance in developing programs to deal with their local noise control problems. A regional center for technical assistance on noise problems has also been established at the University of Iowa.

Note: Senator Culver's Senate voting attendance record is as follows, with the average Senate attendance for each year in parentheses: 1975, 93 percent (89 percent); 1976, 89 percent (83 percent); 1977, 92 percent (88 percent); 1978, 94 percent (87 percent); 1979, 83 percent (90 percent).

Mr. JEPSEN. I thank my friend, my distinguished colleague, and my fellow Iowan. I thank him for his friendship and for his service to our country and our great State of Iowa. It has been my privilege and honor to know and serve with JOHN CULVER.

Mr. President, at this time I have been asked to yield, and I will yield, to the distinguished Senator from Massachusetts (Mr. KENNEDY).

The ACTING PRESIDENT pro tempore. The Senator from Masaschusetts is recognized.

Mr. KENNEDY. Mr. President, I am proud to join in this tribute to one of my closest friends and one of the truly outstanding Members of the Senate, the distinguished senior Senator from Iowa, JOHN CULVER.

JOHN CULVER is an enormous man of enormous talents. A Harvard fullback, pro-football draft choice, Marine, scholar, five-term Congressman, and our colleague in the Senate for the past 6 years, Senator CULVER never ducked a fight in his life. In fact, as all of us know, he relished them. As he once said, "When you go down to the U.S. Senate, you'd better take your courage with you, because you are not going to find it in your desk." There is no question of his courage. JOHN CULVER was always at his best when the odds were long, when the going was tough, when he was fighting for his beliefs and his commitments.

JOHN'S finest hour came in his recent reelection campaign. After the courageous stands he had taken, JOHN CULVER was not surprised to find himself targeted by the ultraconservative interest groups and well-financed PAC groups. As he said at the time, "I'm a target, but I'm a target that's going to fight back." And he responded in typical CULVER style—without apologies, without vacillation, and with well-reasoned positions on the issues that cut through the simplistic criticism made of his progressive stands.

When questioned on his stand on the equal rights amendment, JOHN CULVER minced no words. He said "I'm for it at the State level, I'm for it at the Federal level, and if it were available at the county level, I'd be for it there, too."

On the broad range of social issues, JOHN CULVER always took the side of working men and women, the individual taxpayer, the small farmer. He fought to shore up the ailing social security system. He was a recognized expert on farm policy, and a passionate advocate for the small farmer. As a fellow member of the Judiciary Committee, I can testify to the tremendous contribution he has made to the cause of civil rights and the establishment of an effective judicial system for our country.

The State of Iowa is at the heart of JOHN CULVER'S life. It was in Iowa that he grew—and grew—and grew. And so it was logical that the people of his State chose JOHN to represent them in the Congress. As one Iowa farmer said: "Let the Federal Government feed him for a while."

The people of Iowa never had to guess where JOHN CULVER stood—he stood with them and for them. He worked hard to solve Iowa's rail transportation problems, to increase Federal support for gasohol, to ease Federal regulation and redtape for small businesses, and to preserve the family farm. He brought the full range of his experience and intellect to every problem of his constituents—from lost social security checks to safe rail crossings, from the establishment of historic sites to the development of flood control projects. In all of these different battles, JOHN CULVER won time after time because he was not afraid to stand up and make himself heard.

A former U.S. Marine, he was both a crusader in Congress against unnecessary and wasteful military spending and a crusader in Congress for improved combat readiness for our Armed Forces long before the current national defense debate began, JOHN CULVER was speaking out on the issue of military readiness and national preparedness.

JOHN CULVER also showed his leadership on other important defense issues. In coauthoring the 1976 "Culver-Nunn" amendment to promote the standardization of NATO weapons, JOHN worked for a stronger, more cost-effective NATO defense. And in leading the successful fight against the $30 billion B-1 bomber and for the air-launched cruise missile, he once again sought and found the most effective and least costly solution.

JOHN CULVER was also one of the first to warn of the potentially destabilizing effect of large scale arms transfers. In 1977, he turned this warning into action when he led the Senate effort to block the sale of highly sensitive military equipment to Iran.

JOHN CULVER'S important contributions to America's national defense are unquestioned. His hard work, his firm grasp of defense issues, and his personal knowledge of America's military forces have contributed immensely to America's security in recent years. As we debate national security policy in the years ahead, the U.S. Senate will deeply miss the wisdom and the commitment of JOHN CULVER.

Even JOHN'S political opponents acknowledge his ability and devotion to principle. Whether on farm policy or foreign policy, he worked hard for his country and the people of Iowa. His maturity, experience, and blunt honesty have made an important difference to the Senate and the Nation. And those same qualities will, I am confident, serve the Nation well again. As a close ally in the Senate, as a fellow Senator and member of the Judiciary Committee, and most of all as a lifelong friend, I salute JOHN CULVER for a job well done. For the past 6 years he has taught all of us the meaning of true purpose and high commitment in public service, and all of us will miss him.

Mr. PROXMIRE. Mr. President, will the Senator from Iowa yield?

Mr. JEPSEN. Yes.

Mr. PROXMIRE. Mr. President, I am happy and proud to join the distinguished junior Senator from Iowa and the Senator from Massachusetts in praise of JOHN CULVER. His thundering voice will certainly be missed—and it is a thundering voice with volume and force and, of course, integrity to match.

As has been pointed out, he did not hesitate one minute to defend his position up and down the last campaign, in spite of the fact that he knew it unpopular and he knew it probably represented a minority view in his State, as the election indicated it did. But he stood fast by his principles.

I think he gave this country a much better insight into the kind of military strength we need, a military strength that would stress, as Senator KENNEDY pointed out, the cruise missile, which is far more economical than the B-1 bomber.

Mr. President, he is a man who fought for civil liberties and civil rights, a man who fought for the interest of his State and the interest of his Nation, and a man who has given 6 remarkably fine years to the U.S. Senate. Unfortunately, as we all know, Senator CULVER was not reelected. But I think that is a loss for the country and a loss for his State.

Mr. President, I yield the floor.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Iowa yield?

Mr. JEPSEN. Yes.

Mr. HARRY F. BYRD, JR. Mr. President, I associate myself with the remarks made by the distinguished junior Senator from Iowa, Mr. JEPSEN, in regard to Senator CULVER. I salute Senator CULVER as a man of courage and a man of convictions. He will be missed in the Senate.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. JEPSEN. Yes.

Mr. WILLIAMS. Mr. President, I, too, share all of the feelings and thoughts expressed here in appreciation for the meaning of JOHN CULVER to the U.S. Senate and the Nation as he expressed it here as a Senator.

Mr. President, there is not a single Senator in this Chamber who would dispute the statement that Senator JOHN CULVER is a man of great stature, nor would we dare dispute that statement.

But can anyone doubt that Senator CULVER has a heart and spirit to match his considerable size? I should say not. There may have been many things proven in the most recent elections but one of the clearest, it seems to me, is that someone with courage, with willingness to fight a good fight, and with a heartfelt commitment to the highest of principles, can make us all proud to be in the profession of politics. JOHN'S campaign is one which we all will remember—not necessarily for the issues discussed and certainly not because of the outcome—but because of the manner in which JOHN spoke out forcefully and without equivocation for the things he felt were important and for the right of any person in public service to serve his constituency in a forthright and decent manner.

There is much more that JOHN CULVER

will be remembered for, of course. His leadership on one of the most crucial issues of the 20th century—the control of nuclear weapons—was invaluable to this body and raised questions and points which I hope will guide the next President in his negotiation of an arms control treaty. Moreover, his service on the Environment and Public Works, Committee, the Judiciary Committee, and the Select Committee on Small Business was marked always with the kind of sensitivity and determination which distinguished all of his 6 years in this body.

There is something else which JOHN CULVER leaves this body. He is one of our true futurists and one who has thought deeply about the kind of country we ought to be able to live in during the next century. It was most appropriate that he served as chairman of the Subcommittee on the Future of Small Business and it is impressive, also, that his hard work led to a series of conferences in Iowa centered on the theme "Iowa 2000."

When Time magazine selected him as one of the "200 Leaders for the Future" they could not have anticipated the great upheaval which would shake American politics in the year 1980. But they did correctly discern that JOHN CULVER has a great deal to offer this Nation and that he will continue to make his presence felt as we set the policies which will guide this country into the 21st century. That is no small accomplishment, Mr. President, and it seems clear to me that none of us has heard the last of Senator JOHN CULVER. I fully expect, indeed look forward, to hearing and studying his wisdom for many years to come. And I know that the Senate will feel his presence for many, many sessions ahead.

It is with great affection, and with great appreciation for his forward-looking service, that we say farewell to JOHN CULVER and that we wish him and Ann all the best for the years to come.

JOHN CULVER, THE FIGHTING LIBERAL

Mr. CRANSTON. Mr. President, when the history of the 1980 election is finally written, the record will show, I believe, that Senator JOHN CULVER—more than anyone else challenged and targeted this year—rose to his full and formidable height, stood to face those who would pillory him for the crime of liberalism, and without timidity, equivocation, or apology, shouted in that booming, rich, and resonant voice with which he has often filled this Chamber, "This is what I stand for—take me or leave me be."

That's the way JOHN CULVER is.

In the 90th Congress, during his second term in the House, he was given well-intended but erroneous advice that accepting an assignment to the House Un-American Activities Committee, with whom he would inevitably come in conflict, would lead to political trouble in Iowa.

Not only did JOHN take the assignment, but in his efforts to keep the committee from abusing the civil liberties of those it attacked, he wrote dissenting reports every time the committee reported, and then announced that as a civil libertarian he found the work "very satisfying."

Throughout his life our very respected colleague from Iowa has combined his great intellect, hard work, and high achievement with directness and a willingness to face challenges headon.

An honors graduate majoring in American Government at Harvard—where he also played football—JOHN CULVER served for 3 years in the Marine Corps from which he was discharged with the rank of captain.

Following graduation from Harvard Law School, he served the Senate as a legislative assistant to Senator TED KENNEDY.

Returning in 1964 to Cedar Rapids, Iowa, where he had been raised, JOHN won a seat in Congress after only 1 year in private law practice. Obviously, he had a clear sense of direction.

Cynics may suggest that his confrontative posture in 1980 was only a campaign strategy that did not succeed, resulting in the sad outcome which regrettably will take the distinguished senior Senator from Iowa at least temporarily from our midst.

Those of us who know him well realize that forthrightness is not a mere campaign strategy with JOHN CULVER, but rather a central element of his character.

And, as one who has lost two elections—including one race for the U.S. Senate—yet managed to recover sufficiently to achieve some subsequent political success, I want to try to console my friend with these three thoughts:

First, when one has fought for principle and served the Nation as well as he has, there is no shame in losing an election.

Second, while few who finished second would not share the sentiment of Vice President FRITZ MONDALE, who said recently: "Obviously, I would rather have won * * *," there is nevertheless something to be said for the candid, well-fought and open, even if unsuccessful effort, especially in an era of public dismay with politicians who equivocate to serve their own interests.

And third, noting that when his Senate term ends in January—having also served five terms in the House of Representatives—JOHN CULVER will be but 48 years of age. I am confident and very hopeful that this setback will merely be a brief interruption in what has been a most impressive legislative career.

My good friend from Iowa has been a Member of Congress continuously since January 3. 1965.

And in that time he has managed to leave an indelible mark on the structure of both the House and the Senate.

Always an active reformer and advocate of greater democratization of Congress, he sponsored reform legislation resulting in changes in the House in 1971, limiting Members to one subcommittee chairmanship.

He continued to press to revise the committee system, helped create a bipartisan committee to study House operations to improve effectiveness, and coauthored the Congressional Budget Act.

His interest in reform of Congress did not end, but rather intensified, when he came to the Senate in 1975.

Working closely with me and others, he helped lead efforts to alter the seniority system, democratize committee assignments, modify proxy procedures, and open committee meetings to increased public scrutiny.

In a single Senate term he has established a record of remarkable legislative accomplishment.

As I focus on only a few aspects of that record, I realize what a tremendous void his absence will leave in the Senate.

JOHN CULVER shares my belief that the need for arms control in the nuclear age is the No. 1 item on the human agenda. If we fail to resolve this problem, other problems become rather insignificant. If we stumble into nuclear war, all our other problems will not matter.

I have been a leader in the fight for Senate approval of the SALT II treaty because I believe it could take a significant step toward our ultimate goal: Eliminating the costly and dangerous arms race that increases the risk of nuclear war.

JOHN CULVER, a distinguished and well-prepared member of the Senate Armed Services Committee, has helped lead the effort to ratify SALT.

He has brought depth and understanding to the Senate SALT study group, of which he was a founding member.

While the election results may have ended efforts to ratify this particular treaty, the SALT process will continue—as, for the sake of humanity, it must.

To the extent that Senator CULVER's involvement in these issues is curtailed he will be sorely missed.

And certainly no review of JOHN CULVER's record could omit reference to his perseverance in achieving, following 2 years of concentrated effort, the reauthorization of the Endangered Species Act—not once, but twice.

The Senator from Iowa has himself indicated the importance he attributes to this legislation, designed to prevent unenlightened indiscriminate destruction of the natural habitat:

> Increasingly, scientists and environmentalists are coming to the conclusion that destruction of the species is [an early warning system] directly related to the viability of the human race itself * * *.

Mr. President, JOHN CULVER has faced some of our most important challenges—unblinking and unbowed—in his short time in this body, and has left his mark upon them.

Norma and I will certainly miss him and Ann as they leave the Senate.

But I cannot believe that they will go far away or stay away very long.

The ACTING PRESIDENT pro tempore. The time allotted to the Senator from Iowa has expired.

CONTINUING APPROPRIATIONS, 1981

The ACTING PRESIDENT pro tempore. The clerk will report House Joint Resolution 637.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981, and for other purposes.

The Senate proceeded to consider the joint resolution.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, reserving the right to object, I would not object to the Senator's request if the Senator would modify the request to exclude two amendments of the bill reported by the committee so those amendments may be considered separately and individually. The sections I refer to are section 166, which is on page 44, line 17 through page 45, line 8 of the bill and pertains to the Farm Labor Contractor Registration Act; and section 167, which is on page 45, line 9 through line 22 of the bill which pertains to the Mine Safety and Health Act. Also, I ask unanimous consent that the committee amendment on page 16, line 23 through line 25 be excluded from the request.

Mr. MAGNUSON. Mr. President, I will modify my request.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, I did not hear the Senator from Washington make a unanimous-consent request to consider the committee amendments en bloc.

Mr. STEVENS. He did. Then I asked for the quorum call.

The ACTING PRESIDENT pro tempore. Previously, the Senator moved consideration prior to the Senator coming to the floor.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object if a unanimous-consent request is made to consider committee amendments en bloc, I would object to that unless certain amendments are excepted from that motion.

Mr. MAGNUSON. The Senator from Virginia is correct. I have not made the request yet.

Mr. STEVENS. I apologize.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of further amendment, and that no points of order will be considered as waived.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object——

Mr. MAGNUSON. With the exception of those amendments that were objected to by the Senator from Alaska.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, and I shall object unless sections 154 and 155 are excepted from the request.

Mr. MAGNUSON. I do not know what they are.

Mr. HARRY F. BYRD, JR. One of them deals with a new proposal on staff severance pay and the other one—Mr. President, I am referring to sections 154 and 155.

Mr. MAGNUSON. What is 154 and what is 155?

Mr. HARRY F. BYRD, JR. Well, the Senator is the manager of the bill, but if he wishes I will look it up for him.

Mr. STEVENS. Mr. President, they are my two amendments, I might say to the Senator. One is the amendment dealing with the clerk hire allowance and the second one is the one dealing with what we call severance pay for employees of the Senate.

Mr. HARRY F. BYRD, JR. Unless they are excepted from the unanimous-consent request, I shall object to the unanimous-consent request.

Mr. MAGNUSON. Will the Senator explain what he is talking about?

Mr. HARRY F. BYRD, JR. The Senator from Alaska has explained it.

Mr. MAGNUSON. But the Senator from Virginia is making the objection.

Mr. HARRY F. BYRD, JR. Yes, I am.

Mr. MAGNUSON. Explain what the amendments are.

Mr. HARRY F. BYRD, JR. Then I will just object.

Mr. STEVENS. Mr. President, I would add those are two to be excluded from the motion of the Senator from Washington.

Mr. MAGNUSON. I will exclude them, yes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BRADLEY, I have been asked to object unless an exception can be made to the amendments that have to do with revenue sharing. I understand that subparagraph (h) beginning at the bottom of page 10 and continuing at the top of page 11 would be the pertinent paragraph. I am sorry to have to object, but on behalf of Mr. BRADLEY, while he is coming to the Chamber, I would have to insist that that paragraph be excepted.

Mr. STEVENS. May we add that to the exclusion?

Mr. MAGNUSON. Well, with the exception of those amendments, I ask unanimous consent that the committee amendments be considered en bloc, with the exception of those amendments.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator from Washington, the chairman of the Appropriations Committee, that Senator BRADLEY is concerned about those amendments or that amendment, whichever may be the case, which pertain or pertains to revenue sharing. Do I understand this is the only paragraph that deals with revenue sharing.

Mr. STEVENS. Yes.

Mr. President, they are my amendments. I might say to the chairman, I will be happy to explain those amendments and to have them offered as amendments in order to become original text.

Mr. HARRY F. BYRD, JR. I might say, it is customary that the manager of the bill explain the amendments, not the Senators.

Mr. STEVENS. Mr. President, I will be pleased to answer.

Mr. MAGNUSON. I do not know what they are when the Senator refers to them by number.

Mr. HARRY F. BYRD, JR. Mr. President, I will say to the Senator from Washington, they are in his bill. He put the bill in.

Mr. MAGNUSON. I know.

Mr. HARRY F. BYRD, JR. I want to query the Senator about the amendments.

Mr. STEVENS. Mr. President, I might say to my good friend, they are my amendments and I will be happy to answer the question.

Mr. MAGNUSON. There are 40 amendments.

Mr. HARRY F. BYRD, JR. I am not talking about floor amendments.

Mr. MAGNUSON. There are 40 amendments to this bill. When the Senator refers to them by number, I want an explanation of which ones the Senator is talking about.

Mr. HARRY F. BYRD, JR. The Senator from Alaska just gave the explanation.

Mr. MAGNUSON. Excuse me. There are 75 amendments to this bill. That is a goodly number. Let the Senator from Alaska explain.

We can accept the modification of the unanimous-consent request. It does not make any difference. We are going to vote on them anyway, vote up or down. I do not know what the difference is, as a practical matter. This is what we always do. We leave open all the amendments that can be presented and everything else. I do not know that it makes any difference.

Mr. ROBERT C. BYRD. Well, it makes a difference, but I think the Senator has taken care of it.

Mr. STEVENS. Mr. President, I have another exclusion. I hope we get this done. On page 16, line 18 through 25, I ask that that also be excluded from the Senator's motion.

Mr. MAGNUSON. I will exclude any amendment anybody wants me to because we are going to vote on them anyway whether my unanimous-consent request is accepted or not. We will vote them up or down anyway.

The ACTING PRESIDENT pro tempore. Is there objection? We will vote them up or down. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 3, line 16, after the comma, insert the following: except further, for the programs and activities included in H.R. 7583 at the rate permitted by the action of the House or the current rate whichever is lower except that the amount for the Postal Service shall be $1,250,000,000 as provided by section 117 of Public Law 96-369.

On page 4, line 5, before "Notwithstanding", insert "(b)";

On page 4, line 5, after the comma, insert the following: "the amendments made by sections 201 and 501 of Public Law 95-118";

On page 4, line 10, after the comma, insert the following: "other than payments to the International Development Association";

On page 4, line 21, after "and,", insert the following: except that with respect to the Export-Import Bank for the fiscal year 1981, gross obligations for the principal amount of direct loans shall not exceed $6,429,000,000 and total commitments to guarantee loans shall not exceed $7,559,000,000 of contingent liability for loan principal and except that

On page 5, line 7, strike "be" through and including "1980" on line 9, and insert the following: not exceed $500,000,000: Provided further, That an overall ceiling for Foreign Military Credit Sales loans and grants of $3,116,000,000 is hereby established:

On page 5, line 16, strike "1980:" and insert the following: "1980, to remain available until expended";

On page 5, line 19, strike "That" through and including "Foundation", and insert the following: That appropriations made available by this joint resolution for the Economic Support Fund for the fiscal year 1981 shall be increased by $40,000,000 which shall be available only for Jamaica.

On page 5, strike line 24 through and including page 6, line 16, and insert the following:

(c) Notwithstanding section 102, such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 7593, entitled the "Legislative Branch Appropriation Act, 1981", as passed the House of Representatives, July 21, 1980, and the provisions of H.R. 7593 shall be effective as if enacted into law; except that the provisions of section 309 of H.R. 7593 shall not apply to the General Accounting Office, and the last proviso under the heading "Government Printing Office, Office of Superintendent of Documents, Salaries and Expenses" in H.R. 7593 shall not apply, and the provisions of section 306(a), (b), and (d) of H.R. 7593 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials) shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through December 31, 1980, by this or any other Act; and the provisions of subsection (d) of this section, insofar as it relates to activities for which disbursements are made by the Secretary of the Senate, shall be applied as if the phrase "of the current" where it appears in the matter preceding the first proviso, read "90 per centum of the current". Notwithstanding section 102(c) of this joint resolution, for mileage of members, as authorized by law, $210,000.

On page 8, strike line 4 through and including line 5;

On page 8, line 16, strike the second "and";

On page 8, line 17, after "under", insert "title III";

On page 8, line 21, strike "obligations" and insert "obligational authority";

On page 8, line 22, strike "$200,000,000" and insert the following: $200,000,000;

activities under title IV, part C of the Elementary and Secondary Education Act; and

Activities for support of State Medicaid Fraud Control Units at the matching rate specified in section 1903(a)(6) of the Social Security Act, notwithstanding the limitation on eligible quarters contained therein.

On page 10, line 14, after "rate", insert the following: "of $1,000,000 more than the amount";

On page 11, line 9, strike "$65,300,000" and insert "$110,300,000";

On page 11, line 15, after the semicolon, insert the following: there is hereby appropriated an additional amount of $39,000,000, to remain available until expended, for Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Operation and Maintenance, General, and an additional amount of $65,000,000, to remain available until expended, for Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Flood Control and Coastal Emergencies, such amounts to be merged with and subject to the same provisions as amounts previously provided for such activities in Public Law 96–304, Supplemental Appropriations and Rescission Act, 1980;

On page 12, line 4, after the semicolon, insert the following: the project for navigation improvement of the Grays Harbor and Chehalis River and Hoquiam River, Washington, authorized by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 10) and Section 101 of the River and Harbor Act of 1954 (68 Stat. 1253) is further modified in accordance with the dimensions recommended in the report of the Chief of Engineers dated 22 December, 1977, provided that the Secretary of the Army may acquire land to mitigate adverse fish and wildlife impacts to the extent justified;

On page 12, line 13, strike "and";

On page 12, line 20, after "Act", insert the following: ; the Secretary of the Army is hereby authorized to acquire, by subordination, such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians, or held in trust for said tribe, necessary for the construction, operation, and maintenance of the Verdigris River and tributaries project, Oklahoma and Kansas, authorized by section 203 of the Flood Control Act of 1962 and the project for the Shidler Reservoir, Salt Creek, Oklahoma, authorized by section 204 of the Flood Control Act of 1965; and notwithstanding any other provisions of law and this joint resolution, there shall be available from the Bonneville Power Administration Fund additional funds not to exceed $20,000,000 for staff and other consultant expenses for the implementation of the Pacific Northwest Electric Power Planning and Conservation Act during fiscal year 1981. Expenditures from the Bonneville Power Administration Fund for fiscal year 1981 shall not be subject to apportionment. The Administrator's full-time permanent personnel employment shall be separately reported to the Congress and shall be determined by the Administrator not to exceed 3,282 in fiscal year 1981.

On page 14, line 16, after "State", insert the following: : *Provided further*, Notwithstanding any other provision of law any assistance provided under terms of the Home Energy Assistance Act shall not result in a reduction of benefits provided by the Food Stamp Act of 1977, as amended.

On page 15, strike line 5 through and including line 11, and insert the following:

(l) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in the conference report (H. Rept. No. 96–1519) filed in the House of Representatives on December 2, 1980.

(m) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), under the terms of the conference report (House Report 96–1477) filed in the House of Representatives on November 21, 1980, and in accordance with associated agreements stated in the Joint Explanatory Statement of the Committee of Conference, accompanying H.R. 8061.

On page 16, line 8, beginning with "the" through and including "1980" on line 10, and insert the following: "such Act as enacted by the Congress";

On page 16, line 16, beginning with "adopted" strike through and including "1980" on line 17, and insert the following: "enacted by the Congress";

On page 16, line 18, strike "(o)" and insert "(p)";

On page 16, after line 24, insert the following:

(q) Notwithstanding section 102(c) of this joint resolution, there shall be provided as an additional amount, for the United States quota in the International Monetary Fund, the dollar equivalent of 4,202.5 million Special Drawing Rights (approximately $5,537,839,000), to remain available until expended, and balances equivalent to the current SDR value of the United States quota in the Fund shall be merged with this appropriation. Amounts equivalent to the United States reserve position in the Fund shall be credited to this appropriation. Amounts available in this account may be transferred to the Fund by the Secretary of the Treasury to meet United States obligations in the Fund in an amount not to exceed at any time the United States quota in the Fund. The amounts provided for valuation adjustments of Fund holdings of United States dollars shall continue to be available for this purpose and shall be available for transfers to this appropriation account for the purpose of such adjustments.

On page 18, line 2, strike "June 5, 1981" and insert "September 30, 1981";

On page 20, strike line 20, through and including "1981" on line 21, and insert the following: $335,000,000 of new budget authority shall be available during fiscal year 1981; notwithstanding subpart (4) of part A of title IV of the Comprehensive Employment and Training Act, new budget authority for the youth employment and training program under subpart (3) of part A of title IV of that Act shall be at the annual rate of $896,000,000.

On page 25, after line 8, insert the following:

SEC. 125. Notwithstanding section 15(a) of the Act entitled "An Act to provide Certain Basic Authority for the Department of State", approved August 1, 1956, not to exceed $200,000 of the amount available for "Administration of Foreign Affairs", shall be allocated to the General Services Administration for the expenses of the Consultative Group on United States-Japan Economic Relations.

SEC. 126. For an additional amount for the Department of Justice, Immigration and Naturalization Service, "Salaries and expenses", $8,900,000.

SEC. 127. For an additional amount for the Department of Justice, Federal Prison System, "Salaries and expenses", $4,600,000.

SEC. 128. For an additional amount for the Department of Justice, Office of Justice Assistance, Research and Statistics, "Law Enforcement Assistance", $5,000,000.

SEC. 129. To create a new office within the Department of the Treasury, "Office of Inspector General" and to provide the necessary expenses for that office, $7,544,800: *Provided*, That the provisions of Section 5 and Section 6(a)(4) of the Inspector General Act of 1978 shall apply to this Office.

SEC. 130. To provide an additional $4,573,000 to the amounts otherwise provided by this Act for the Department of Treasury's Federal Law Enforcement Center: *Provided*, That not to exceed $4,155,000 of this amount may be used for travel.

SEC. 131. To provide an additional $3,039,000 to the amounts that would otherwise be provided by this Act for the Office of the Inspector General, General Service Administration.

SEC 132. No less than $20,000,000 of the amount provided by this Act for the Internal Revenue Service, Investigations and Collections, shall be available exclusively for narcotics cases within the Criminal Investigation Division.

SEC. 133. To provide an additional $10,270,000 over the amounts otherwise provided by this Act for the United States Customs Service's Air Interdiction Program.

Sec. 134. Funds appropriated under this Act shall be available for necessary expenses in the disclosure of information if upon application by the Secretary of the Treasury, a United States district court may, by ex parte order, direct that a return or taxpayer return information be disclosed to the appropriate Federal investigative agency if, in the opinion of the court, such information is material and relevant to a violation of Federal criminal law.

Sec. 135. To increase the spending limitations otherwise provided by this Act for Construction and Acquisition of Facilities, within the Federal Buildings Fund, General Services Administration, for advanced design work by $5,000,000: *Provided further*, That none of the funds available to the General Services Administration shall be available for expenses other than advanced design in connection with any project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved.

Sec. 136. To provide an additional $500,000 for the Internal Revenue Service, Investigations and Collections, for the purpose of continuing the volunteer income tax assistance program at the current annual level of $2,300,000.

Sec. 137. To increase the capital of the Fishermen's Protective Fund established by Section 9 of the Fishermen's Protective Act of 1967 (22 USC 1971–1980), $10,000,000.

Sec. 138. Notwithstanding any other provision of this Act, the amount available for the Office of Special Counsel shall be $4,250,000.

Sec. 139. No funds provided in this Act shall be utilized for the publication, implementation, or enforcement of any Internal Revenue Service ruling, or Treasury Department regulation or decision, issued on or after August 31, 1980, relating to the Federal income tax treatment of the assumption of indebtedness upon the incorporation of a holding company.

Sec. 140. Notwithstanding any other provision of this joint resolution, the provision included in Public Law 96–74 as section 103 shall cease to be effective on the date of enactment of this joint resolution into law.

Sec. 141. (a) No part of any appropriation contained in this Act made available to the Merit Systems Protection Board shall be used to interfere with the investigative or prosecutorial functions of the Office of the Special Counsel, including—

(1) personnel actions, such as the appointment, evaluation, promotion, training, or removal of employees of the Office of the Special Counsel;

(2) communications by employees of the Office of the Special Counsel with Congress;

(3) a public information function in the Office of the Special Counsel; and

(4) substantive revisions to budget requests properly submitted by the Office of the Special Counsel.

(b) No part of any appropriation contained in this or any other Act shall be used to prosecute or defend in the United States District Court for the District of Columbia the case of Merit Systems Protection Board against Mary Eastwood, Civil Action File Numbered 80–2970, or any other similar court case brought against the Office of the Special Counsel or officers or employees of the Office of the Special Counsel beginning seven days after the date of the enactment of this Act.

Sec. 142. In order to provide additional capital for the revolving fund established by the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a–1), the Secretary of the Senate is authorized and directed to transfer $100,000 to such revolving fund from "miscellaneous items" in the contingent fund of the Senate.

Sec. 143. Effective with respect to fiscal years beginning on or after October 1, 1980, the first sentence of section 101 of the Legislative Branch Appropriations Act, 1976 (2 U.S.C. 61a–92), is amended by striking out "$7,500" and inserting in lieu thereof "$10,000".

Sec. 144. Section III of the Supplemental Appropriations and Rescission Act, 1980 (Public Law 96–304) is amended by striking out "and to remain available through September 30, 1981" and inserting in lieu thereof "and to remain available until expended".

Sec. 145. Effective on the first day of the first month following the date of enactment of this Act, the Secretary of the Senate may appoint and fix the compensation of a Museum Specialist at not to exceed $22,039 per annum in lieu of a Clerk at not to exceed $17,190 per annum.

Sec. 146. The second proviso contained in the Legislative Branch Appropriation Act, 1966 (2 U.S.C. 126b), under the heading "SENATE", "Salaries, Officers, and Employees", "office of the secretary", is amended to read as follows: "The Secretary of the Senate is hereafter authorized to employ, by contract or otherwise, substitute reporters of debates and expert transcribers at daily rates of compensation, or temporary reporters of debates and expert transcribers at annual rates of compensation; no temporary reporters of debates or expert transcribers may be employed under authority of this provision for more than ninety days in any fiscal year; and payments made under authority of this proviso shall be made from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.".

Sec. 147. Section 105(a) of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 72a note), is amended by deleting "1980", and inserting in lieu thereof "1985".

Sec. 148. Hereafter, the Secretary of the Senate as Disbursing Officer of the Senate is authorized to make such transfers between appropriations of funds available for disbursement by him for a fiscal year subject to the customary reprograming procedures of the Committee on Appropriations of the Senate.

Sec. 149. Effective for fiscal years beginning on or after October 1, 1980, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $30,800.

Sec. 150. Any funds appropriated or made available under the heading "SENATE" in any Appropriation Act or any resolution making continuing appropriations for the fiscal year ending September 30, 1981, shall remain available until expended for the same purpose for which appropriated or made available.

Sec. 151. Effective with the fiscal year ending September 30, 1981, section 117 of the Second Supplemental Appropriations Act, 1976 (2 U.S.C. 61f–1a), is amended by striking out $92,000" and inserting in lieu thereof "$167,000".

Sec. 152. The paragraph, which commences with the words "The Committee on Appropriations, authorized by Senate Resolution Numbered 193" and which appears in the first section of chapter 89 of the Legislative Branch Appropriations Act, 1946 (59 Stat. 243; 2 U.S.C. 67a) is amended by adding at the end thereof the following new sentence: "If an individual described in the preceding provision of this paragraph, subsequent to leaving employment by the Senate Committee on Appropriations, accepts employment in a position in the Senate (other than a position on such Committee) the salary for which is disbursed by the Secretary of the Senate, then, upon such individual's leaving such subsequently accepted position, his service in such position shall, for purposes of the preceding provisions of this paragraph, be treated as service performed in the employment of such Committee.".

Sec. 153. For an additional amount for "Offices of the Secretaries for Majority and the Minority," $100,000.

Sec. 156. For purposes of this joint resolution not to exceed $5,000,000 of the funds credited to the appropriations, Copyright Office: "Salaries and expenses", during fiscal year 1981 under section 708(c) of title 17, United States Code, shall be available for obligation during such fiscal year.

Sec. 157. For an additional amount for "General Accounting Office", "Salaries and Expenses", $6,000,000.

Sec. 158. For an additional amount for "Library of Congress," "Salaries and Expenses," for the acquisition of American Natural History Materials, $100,000, to remain available until expended and to be derived by release of a like sum withheld from obligation by the Librarian of Congress pursuant to section 309 of H.R. 7593.

Sec. 159. (a) (1) Except as provided in paragraph (2), the total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to travel and transportation of persons, and the transportation of things, for offices and employees of all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced by an amount which is necessary to meet the requirements of subsection (d) (1) of this section.

(2) The provisions of this subsection shall not apply to the Department of Defense.

(b) The total amount proposed in the Budget of the United States Government for fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to the use of experts or consultants by appointment or contract in all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced by an amount which is necessary to meet the requirements of subsection (d) (1) of this section.

(c) (1) Each department, agency, and instrumentality of the Federal Government shall establish procedures to identify the causes of overpayments and delinquencies and the corrective actions needed to reduce overpayments and delinquencies, establish better control of receivables, actively use the services of credit bureaus and commercial collection agencies, and take more aggressive collection action.

(2) The Secretary of the Treasury shall revise the fiscal requirements manual of the Department of the Treasury to require interest charges on delinquent accounts and to provide more complete reporting of data on delinquent accounts.

(3) The Commissioner of Internal Revenue shall carry out a debt collection pilot project under which a delinquent debt owed by any person to the United States will be collected by retaining, out of any tax refunds otherwise payable to such person, such sums as are necessary to cover such debt. The debt collection pilot project required by this subsection shall be carried out in accordance with procedures designed to assure that no person will be denied due process of law under the project and that confidentiality of data held by the Internal Revenue Service pertaining to such person will be protected.

(d) (1) The Director of the Office of Management and Budget shall—

(A) allocate reductions in the amounts obligated for travel and transportation expenses under subsection (a) among all departments, agencies, and instrumentalities to which subsection (a) applies;

(B) allocate reductions in the amounts

obligated for expenses for experts and consultants under subsection (b) among all departments, agencies, and instrumentalities; and

(C) review the savings made by the collection procedures and related activities required under subsection (c);

to assure that the total amount of such reductions and savings will be $2,000,000,000 for the fiscal year ending September 30, 1981.

In allocating the reduction required by this subsection with respect to expenses described in paragraph (1)(A) among the departments, agencies, and instrumentalities of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency or instrumentality be reduced by more than fifteen per centum of the amount of such expenses proposed for each department, agency or instrumentality in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921.

(2) The Director of the Office of Management and Budget shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives a report on—

(A) the actions taken to carry out the provisions of this section;

(B) improvements in the budget process which emphasize accounting system approval and debt collection procedures; and

(C) proposals of actions to be taken by the Congress including the reduction in requested new budget authority to reflect the result of the collection of delinquent debts and as an incentive to promote increased collection of such debts.

Sec. 160. Notwithstanding section 101 of this joint resolution, the following amounts are hereby appropriated for the National Institutes of Health: National Cancer Institute, $1,021,330,000; National Heart, Lung, and Blood Institute, $565,264,000; National Institute of Dental Research, $71,206,000; National Institute of Arthritis, Metabolism, and Digestive Diseases, $381,993,000; National Institute of Neurological and Communicative Disorders and Stroke, $263,838,000; National Institute of Allergy and Infectious Diseases, $239,355,000; National Institute of General Medical Sciences, $340,676,000; National Institute of Child Health and Human Development, $223,565,000; National Eye Institute, $125,254,000; National Institute of Environmental Health Sciences, $99,269,000; National Institute on Aging, $81,091,000; Research Resources, $184,439,000; John E. Fogarty International Center, $9,138,000; National Library of Medicine, $47,730,000; Buildings and Facilities, $11,750,000; and Office of the Director, $22,549,000; *Provided*, That of the amounts herein appropriated for the National Eye Institute, $1,000,000 shall be for construction.

Sec. 161. Notwithstanding section 101 of this joint resolution, the following amounts are hereby appropriated for the Alcohol, Drug Abuse, and Mental Health Administration: National Institute of Alcoholism and Alcohol Abuse—Research, $25,000.000; National Institute of Drug Abuse—Research, $50,000,000; and National Institute of Mental Health—Research, $156,000,000.

Sec. 162. Notwithstanding section 101 of this joint resolution, there is hereby appropriated $87,000,000 for the National Health Service Corps and $10,000,000 for the Primary Care Research and Demonstration Program.

Sec. 163. Notwithstanding any other provision of this joint resolution except section 102, the funds appropriated under section 314(d) of the Public Health Services Act shall be at the rate provided in applicable appropriation Acts for fiscal year 1980.

Sec. 164. Funds contained in Public Law 96–123 for carrying out title XV, part B of the Education Amendments of 1978 shall remain available for obligation until September 30, 1981.

Sec. 165. Notwithstanding any other provision of this joint resolution, for Center for Disease Control, Preventive Health Services, an additional $7,460,000 shall remain available until expended for conducting studies of the health consequences of the former residents of the Love Canal area of New York, and for continuation of the Mount Saint Helens health study: *Provided*, That the $7,460,000 for health consequences studies is to be derived from unobligated swine flu funds provided under Public Law 94–266 and that the amounts appropriated may be used to reimburse other agencies for related expenses, including administrative and support costs.

Sec. 168. The Department of Education shall provide from the amount available for "Rehabilitation Services and Handicapped Research" $650,000 for grants to Indian tribes under section 100(b)(3) of the Rehabilitation Act of 1973, as amended.

Sec. 169. Notwithstanding any other provision of this joint resolution, $280,000,000 for aging social services and centers, $38,100,000 for aging research, training, and special projects, and $3,000,000 for the White House Conference on Aging shall be available under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981.

Sec. 170. None of these funds may be used for the purpose of publishing in the Federal Register, implementing or enforcing the proposed Conditions of Participation for Skilled Nursing Facilities (SNF's) or Intermediate Care Facilities (ICF's) which were first published as proposed in the Federal Register on July 14, 1980, prior to receipt of revised cost estimates by the Department and the final draft of a General Accounting Office evaluation of the impact of the proposed regulations, and in no case, prior to January 12, 1981.

Sec. 171. Notwithstanding any other provision of law, in the case of each individual who is enrolled in the insurance program established by part B of title 18 of the Social Security Act to whom pneumococcal vaccine is administered on or after July 1, 1981, there shall be paid under part B of such title an amount equal to 100 per centum of the reasonable charges for such vaccine and its administration, unless the Secretary determines that the administration of the vaccine is not reasonable and necessary for the prevention of illness or injury.

Sec. 172. Notwithstanding any other provision of this resolution, $15,000.000 shall be available until September 30, 1981, for carrying out title III of the Refugee Education Assistance Act of 1980 notwithstanding provisions of section 102 of that Act: Provided, That these funds shall be used to provide educational services to eligible children who arrived in the United States in the most recent twelve-month period for which the Secretary has adequate data: Provided further, That funds shall only be available for students in school districts which have received at least one thousand eligible children during that twelve-month period.

Sec. 173. Notwithstanding any other provision of this joint resolution, there is hereby appropriated $750,000 for the Robert A. Taft Institute, as authorized by section 1373 of Public Law 96–374.

Sec. 174. Notwithstanding the last sentence of section 7(a), assistance under section 7 of Public Law 874, Eighty-first Congress, shall be available to the Mobile, Alabama, County School System at the same rate as such assistance was available for fiscal year 1980.

Sec. 175. Notwithstanding any other provision of law, sufficient funds are included to allow the Secretary of Education to increase payments to qualifying local education agencies without proration or other reduction, in accordance with the provisions of section 3(d)(2)(b) of Public Law 874, Eighty-first Congress. Funds for section 3(d)(2)(b) of Public Law 874, Eighty-first Congress shall not be prorated or otherwise reduced for distribution in either fiscal year 1980 or fiscal year 1981.

Sec. 176. Notwithstanding any other provision of this joint resolution, there is hereby appropriated $2,000,000 for the purpose of carrying out section 491 of the Higher Education Act of 1965 as amended by the Education Amendments of 1980.

Sec. 177. Notwithstanding section 101(a) of this joint resolution, $37,000,000 shall be available for the National Institute of Handicapped Research.

Sec. 178. Notwithstanding any other provision of this joint resolution, for the Department of Health and Human Services, Social Security Administration the Limitation on Research and Statistics, Survey of Income and Program Participation shall be $11,000,000.

Sec. 179. Notwithstanding section 101(a) of this joint resolution, rural housing activities of the Community Services Administration under sections 230 and 232 of the Economic Opportunity Act of 1964, as amended, shall be funded at the same annual rate as in fiscal 1980.

Sec. 180. Notwithstanding any other provision of this joint resolution, funds available for any military construction activities may be used to cover cost increases due to currency fluctuations overseas in family housing.

Sec. 181. Notwithstanding any other provision of law, no funds appropriated for use by the Department of the Interior shall be used to take final action with respect to a state application under section 2(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1273 (a)), as amended, until such proposed final action is approved by the Chairman and ranking minority member of the authorizing committees with authority over said Act in the Senate and House of Representatives.

Sec. 182. Notwithstanding any other provision of this joint resolution, no funds made available under this joint resolution and any appropriation Act may be used to implement or enforce the final Central Arizona Project water allocations as announced by the Secretary of the Interior on December 1, 1980, before February 1, 1981, and the Secretary of the Interior shall not enter into any contracts relating to such final water allocations before February 1, 1981.

Sec. 183. Notwithstanding any other provision of this joint resolution, there is hereby appropriated an additional amount of $78,900,000 for the Department of Transportation for the fiscal year ending September 30, 1981, to remain available until expended, to enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, including payment of additional operating expenses of the Corporation, resulting from the operation, maintenance, and ownership or control of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976: *Provided*, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the President of the National Railroad Passenger Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further*, That section 601(b)(1) of the Rail Passenger Service Act, 45 U.S.C. 601 is amended by inserting before the semicolon at the end of subparagraph (A) the following language: "and any sums authorized by subparagraphs (B) and (C) of this subsection for appropriation in the fiscal year ending September 30, 1981, and not otherwise appropriated, are authorized to be appropriated for the payment of operating expenses in the fiscal year ending September 30, 1981;".

SEC. 184. For an additional amount for the Department of Transportation, Coast Guard, "Operating Expenses," $42,000,000.

SEC. 185. Notwithstanding any other provision of this joint resolution, the limitation on administrative expenses for the Department of Transportation, Saint Lawrence Seaway Development Corporation, is increased to $1,685,000.

FIRST EXCEPTED COMMITTEE AMENDMENT

The ACTING PRESIDENT pro tempore. The clerk will state the first excepted amendment.

Mr. MAGNUSON. Mr. President, I have a short statement I want to make on the bill.

The ACTING PRESIDENT pro tempore. Can the clerk state the amendment first?

Mr. MAGNUSON. All right.

The assistant legislative clerk read as follows:

On page 10, line 25, after "$4,566,700,000", insert the following:

"*Provided* That section 108(e) of the State and Local Fiscal Assistance Act of 1972, as amended, shall be applied as provided in sections 101(c) and 102(a) of S. 2574, as reported by the Senate Committee on Finance on September 30, 1980.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mr. MAGNUSON. Mr. President, this is an extremely complicated bill. It is virtually impossible to summarize. That is why I asked the Senator from Virginia to explain what he wanted to exclude. There are 75 amendments. Nobody is going to know about all of them but they are all coming in.

Mr. President, this is a good example of the Senate legislating on an appropriation bill. It is the best example I know of. Anybody who could not get anything done in a legislative committee comes down and wants it on an appropriation bill.

Mr. President, I am hopeful that next year the rules will be changed so we can stop all this procedure. It is getting so the Appropriations Committee is becoming a legislative committee. No one argues about the money involved. We are a money committee.

Mr. HARRY F. BYRD, JR. If the Senator from Washington will yield, this Senator argues about the money.

Mr. MAGNUSON. Yes, yes.

Mr. HARRY F. BYRD, JR. I argue about the money. That is my objection to this bill.

Mr. MAGNUSON. Mr. President, no one in particular argues about the money. It is always a legislative matter. I know the Senator from Virginia is concerned about the money in an appropriations bill. But I shall exempt him.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. MAGNUSON. As I said, Mr. President, this bill is virtually impossible to summarize. It affects just about every department, every agency. Basically, those programs which we did not amend in the committee will operate at the House level. That is in the House continuing resolution. There are over 75 committee amendments and although we did not file a report because of the rush to move this bill quickly, a committee print has been placed on every Senator's desk. In addition, I ask unanimous consent to have this document printed in the RECORD at this point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

FURTHER CONTINUING APPROPRIATIONS, 1981

The Committee on Appropriations, to which was referred the resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981, and for other purposes, reports the same to the Senate with various amendments and with the recommendation that the joint resolution be passed.

As of this date, 3 of the 13 regular appropriation bills have been signed into law by the President. As other bills are signed into law, they disengage from coverage provided in this continuing resolution.

Status of appropriation bills

Final action on all appropriation bills appears in doubt prior to the sine die adjournment of the 96th Congress. The accompanying resolution provides continuing authority until June 5, 1981, or to September 30, 1981, for a few specific purposes. The adoption of the resolution is essential. A status of appropriation bills follow:

STATUS OF APPROPRIATION BILLS—96TH CONGRESS, 2D SESSION

Bill	Public Law
Public Law:	
Energy and water development bill, 1981 (H.R. 7590)	96–367
Continuing resolution, 1981 (H.J. Res. 610)	96–369
Transportation and related agencies bill, 1981 (H.R. 7831)	96–400
Military construction bill, 1981 (H.R. 7592)	96–436
Awaiting Presidential action:	
Agriculture bill, 1981 (H.R. 7591).	
Defense bill, 1981 (H.R. 8105).	
District of Columbia bill, 1981 (H.R. 8061).	
HUD-Independent agencies bill, 1981 (H.R. 7631).	
Interior bill, 1981 (H.R. 7724).	
State-Justice, Commerce, Judiciary bill, 1981 (H.R. 7584).	
Awaiting Senate floor action:	
Further continuing resolution (H.J. Res. 637).	
Treasury-Postal Service bill, 1981 (H.R. 7583).	
Awaiting Senate subcommittee action:	
Labor-HHS-Education bill, 1981 (H.R. 7998).	
Legislative branch bill 1981 (H.R. 7593).	
Awaiting House floor action: Foreign operations bill, 1981 (H.R. 7854).	

DEPARTMENT OF AGRICULTURE AND RELATED AGENCIES

The Committee recommends an amendment which will continue appropriations for the programs funded in the Agriculture, Rural Development, and Related Agencies appropriations bill at the level agreed to in the conference report on the regular fiscal year 1981 bill (H.R. 7591), instead of the House-passed level as provided in the House version of the continuing resolution.

Public Law 480 Assistance to Egypt.—The Committee recommends that Public Law 480, title I, assistance to Egypt be maintained. The Departments of State and Agriculture are therefore directed to program not less than 1,500,000 metric tons of food assistance for Egypt in fiscal year 1981. The Committee recommends that actions to assure this level of assistance to Egypt shall not result in a reduction in the title II program.

DISTRICT OF COLUMBIA

Section 101(l) provides continuing authority for the District of Columbia appropriation bill at the rate provided for in the conference report (H. Rept. 96–1477) which was adopted by the House on December 2, 1980, and is currently awaiting adoption by the Senate.

ENERGY AND WATER DEVELOPMENT

Section 101(i)—Department of Energy

The Committee recommends concurrence in the provisions of section 101(i) as passed by the House as follows, and also recommends the following amendments: For Atomic Energy Defense Activities, nuclear weapons materials production, $46,700,000 for operating expenses and $65,300,000 for plant and capital equipment as requested by the President, except as revised by House action. The Committee recommends an amendment providing $110,300,000 in lieu of $65,300,000 for plant and capital equipment and intends that $45,000,000 of this amount be available to continue the construction of the waste isolation pilot plant as authorized in S. 3074. which has been enacted by the Congress.

Corps of Engineers

The Committee recommends an amendment appropirating $39,000,000 for Operation and Maintenance for additional dredging requirements as a result of Hurricane Allen on the Texas coast and for continued essential work on the Columbia River due to the Mount Saint Helens eruptions. An amount of $65,000,000 is recommended for Flood Control and Coastal Emergencies for continued essential requirements and operations due to the eruption of Mount Saint Helens in the Cowlitz and Toutle River Basins and for replenishment of the emergency fund.

Provisions are also included in the resolution as reported by the Committee modifying the Grays Harbor, Wash., navigation project for needed improvements to enhance navigation safety and provide for additional economic benefits of that important area served by the port. An amendment is recommended providing the Secretary of the Army with authority to acquire by subordination, such interests in minerals owned by the Osage Tribe of Indians as may be necessary in order to permit the authorized Verdigris River and tributaries projects, Oklahoma, and Kansas, and the Shidler project, Salt Creek, Okla., to proceed.

Bonneville Power Administration

A new provision is recommended in the resolution as the enactment into law of the Pacific Northwest Power Planning and Conservation Act has placed extensive new program responsibilities upon the Bonneville Power Administration, many of which must be implemented immediately. Bonneville is a self-financed regional power marketing agency which relies upon its power sales revenues to finance its program instead of appropriations. The act requires Bonneville to develop conservation measures and small-scale renewable resources as soon as possible to assist the region in reducing the major power shortages currently forecasted for the early 1980's. In addition, BPA must immediately negotiate and develop new contracts and arrangements with 116 public bodies and cooperatives, 16 direct-service industrial customers, and 8 investor-owned utilities and several Federal agencies in the region and work with the region's States in the initial funding and establishment of the PNW Power and Conservation Planning Council. We understand Bonneville will submit a budget revision for fiscal year 1981 pursuant to the Government Corporation Control Act to provide additional funding for the needed programs mandated under S. 885. However, this budget revision probably will not be available to the Congress until February or March of 1981. Section 101(i) allows Bonneville to make use of an additional $20,000,000 from the Bonneville Power Administration fund for staff and miscellaneous expenses immediately. The Committee will review BPA's amended fiscal year 1981 budget to determine if other funds are necessary to implement the new act.

The Committee expects that BPA's fiscal year 1981 budget submittal will reflect the increased responsibilities which the Congress has assigned to it. The budget and personnel ceiling increases approved by the Committee for fiscal year 1981 will facilitate immediate implementation of the Pacific Northwest Electric Power Planning and Conservation Act prior to the submission of the amended fiscal years 1981 and 1982 budgets. The Committee anticipates that full implementation of BPA's new responsibilities may require additional funding and personnel which the Committee will consider in the fiscal year 1982 budget process.

The Committee supports the rapid implementation of the Pacific Northwest Electric Power Planning and Conservation Act and believes that hiring freezes or limitations and the usual apportionment techniques that are applicable to other Federal agencies would adversely affect Bonneville's ability to meet its responsibilities under the new act during fiscal year 1981. The personnel ceiling limits are those developed by Bonneville in consultation with the Congressional Budget Office (CBO) in support of CBO's cost estimate related to S. 885 dated April 15, 1980.

Finally, the Committee reaffirms the policy established in Public Law 75–329 and reaffirmed by Public Law 93–454 and section 302(2)(3) of Public Law 95–91 that were intended to "free the Administration from the requirements and restrictions originally applicable to the conduct of Government business and to enable the Administration to conduct the business of the (Bonneville Power Administration) with a freedom similar to that which has been conferred on public corporations carrying on similar or comparable activities." (Comptroller General Op. of September 21, 1951 (D–105397)).

FOREIGN OPERATIONS

The Committee concurs with the House in recommending continuation of funding for most items normally included in the annual Foreign Assistance and Related Programs Appropriation Bill at the rate provided in the fiscal year 1980 Conference Report (H. Rept. 96–787).

Information regarding proposed amendments to the House passed continuing resolution follows:

Callable capital for the International Bank for Reconstruction and Development and the Asian Development Bank.—The Committee recommends bill language which would permit the United States to guarantee fiscal year 1981 callable capital for the International Bank for Reconstruction and Development in the amount of $295,200,000 for the Asian Development Bank in the amount of $223,387,386. This action concurs with earlier Senate action on the authorization bill for the International Development Association.

International Development Association.—The Committee has included language which disallows funding for the International Development Association, the soft loan window of the World Bank. It recommends this action because the authorization required for this new replenishment for IDA has not been enacted, nor is there any prospect that it will be in this session of Congress. Therefore, authorizing legislation will have to be completely redone in the new Congress, with some prospect that the IDA replenishment itself might have to be renegotiated. While the Committee may well end up supporting an appropriation for the sixth replenishment of IDA, it does not see the sense of appropriating money now because of the authorization delay, and because the possibility of a renegotiation may delay the need for funding of this item until fiscal year 1982.

Export-Import Bank.—The Committee has included language providing the administration's fiscal year 1981 request level plus an additional $1,700,000,000 in direct credit activity. However, this is only $1,000,000,000 in additional direct loan activity above the current continuing resolution.

The justification for this increased program activity for the Export-Import Bank has been made time and time again over the last several months. Even the Bank, at an open meeting in September, admitted that what was needed in direct credits over fiscal year 1980 and fiscal year 1981 was $15,000,000,000. The Committee's recommendation of $6,000,000,000 in direct credits, together with the $4,000,000,000 provided in fiscal year 1980 provide only two-thirds of that need. While the Committee would like to provide even more resources, it is constrained from doing so because of overall budgetary considerations. It re-emphasizes, however, its commitment to the Export-Import Bank as a vital mechanism to increase U.S. exports in this time of high interest rates and predatory financing by our Western allies.

Foreign Military Sales.—The International Security and Development Cooperation Act of 1980 amended the Arms Export Control Act and removed the requirement that 10 percent of the foreign military credit sales program be appropriated to finance guarantees. Instead, the legislation establishes a $750,000,000 reserve to meet claims brought against FMS credit guarantees. Only direct credit programs now require appropriation of budget authority. However, the legislation does enable the Congress to establish limitations on the total of credits to be extended through appropriations legislation.

The Committee recommends a program ceiling of $3,116,000,000. Within that amount, it recommends the appropriation of $500,000,000 in direct credits. Among other country programs, these recommendations will provide $1,400,000,000 in FMS credits for Israel (in accordance with authorizing legislation the repayment of $500,000,000 is to be forgiven) and $550,000,000 for Egypt.

ESF assistance to Jamaica.—The Committee is recommending an additional $40,000,000 of ESF assistance to Jamaica for a total ESF program of $2,024,500,000. The Caribbean nation is badly in need of fast dispersing funds to get their economy moving again and to reestablish the investment climate necessary to attract the Jamaicans who have left due to the previous government's excesses. Without this assistance, Jamaica would default on its foreign debt by February, forcing plant closings, increasing unemployment and dashing the hopes of the Jamaican people.

The Committee is greatly encouraged by the new government which was just recently elected, and has high hopes for a future close relationship between Jamaica and the United States.

It is the Committee's intention that this $40,000,000 be provided to Jamaica on the basis of a $5,000,000 grant and $35,000,000 in concessional loans.

Increase in IMF quota.—The Committee proposes to amend section 101, adding new subsection (p), in order to provide for an increase in the U.S. quota in the International Monetary Fund. This increase in the U.S. quota is expressed in special drawing rights (SDR), the unit of account of the IMF in which all members' financial rights and obligations are denominated. In proposing the new subsection, therefore, the Committee is recommending the appropriation of budget authority equivalent to 4,202,500,000 special drawing rights—approximately $5,537,839,000—which is the negotiated U.S. share of the quota increase in the Fund.

This somewhat unusual budgetary treatment is necessary because the SDR is based on the exchange value of a basket of 16 currencies and, therefore, its dollar and foreign currency value fluctuates daily with fluctuations in exchange rates. Consequently, a fixed U.S. dollar value for the U.S. quota increase cannot be determined until the date the quota increase in the Fund takes effect—which requires the consent to quota increases by members having not less than 75 percent of the total quotas in the Fund. Accordingly, the appropriation required for U.S. consent to the quota increase is expressed in SDR.

The Committee strongly supports the proposed increase in the quota of the IMF. We believe that the IMF must be strengthened in its role as the primary mechanism for promoting and preserving economic and monetary stability among nations. At present, however, the resources of the Fund in relation to the volume of world trade are at their lowest ebb since the creation of the IMF at the Bretton Woods Conference in 1944. This is highly significant because, at a time when the IMF is in a weakened condition, the need for a strong institution is acute: oil prices have risen 1,200 percent since 1973; world economic growth is stagnant; virtually all nations confront the dual problems of high inflation and high unemployment; and unprecedented payment imbalances are putting crushing pressures on the international financial system.

These factors are, in part, what prompted the Committee to incorporate authority for U.S. participation in the quota increase into the text of this resolution. However, because the quota increase is likely to go into effect soon—with or without U.S. participation—our sense of urgency is the product of more narrow, particular concerns about maintaining the U.S. position in the IMF. If the quota increase goes into effect without U.S. participation, not only will our failure to participate be regarded as a failure of U.S. leadership in an institution where it has always played a key role, it will also result in a serious decline in the U.S. voting share and influence in the IMF. In short, the United States will lose its veto over key IMF decisions.

While this loss could be reversed through a subsequent increase in the U.S. quota share, a more direct and irreversible loss will also occur if the United States does not increase its quota by December 31 of this year. An SDR allocation of approximately $5,300,000,000 will be made by the IMF on January 1, 1981. The distribution of this allocation among IMF members will be based on quota shares as of December 31, 1980. Thus, the United States will lose $317,000,000 in SDR allocations, if we cannot subscribe to the new quota increase this year.

The Committee's consideration of these factors has led it to conclude that the United States should consent to an increase in its quota and that it should do so as soon as possible. Accordingly, the Committee recommends the appropriation of the dollar equivalent of 4,202,000,000 special drawing rights.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service—Center for Disease Control

The Committee has provided $3.600,000 for the University of Oregon's Mount St. Helens activities. This funding is derived from amounts left over from the swine flu program and is not an increase in budget authority. The work at the university will be conducted in four primary areas—air monitoring, morbidity and mortality studies, care control studies on selected health problems, such as pulmonary disease, mental health, and health services utilization, and for selected animal and human autopsy studies. It is important that this work continue as it is one of the few times in history that man has had an opportunity to directly study the impact of volcanic eruptions on life and health of residents in the area. Of the amount provided, $600,000 will be made available to the Center for Disease Control to evaluate, monitor, and collect information which has already been obtained since the volcanic eruption.

In addition, $3,860,000, the total amount of the President's budget request, was allowed for the Love Canal program and studies.

NATIONAL INSTITUTES OF HEALTH

	Fiscal year 1980	President's request, fiscal year 1981	House allowance	Committee recommendation
National Cancer Institute	$999, 254, 000	$965, 105, 000	$1, 001, 330, 000	$1, 021, 330, 000
National Heart, Lung, and Blood Institute	527, 682, 000	532, 799, 000	560, 264, 000	565, 264, 000
National Institute of Dental Research	68, 368, 000	69, 951, 000	71, 206, 000	71, 206, 000
National Institute of Arthritis, Metabolism, and Digestive Diseases	341, 367, 000	361, 211, 000	371, 993, 000	381, 993, 000
National Institute of Neurological and Communicative Disorders and Stroke	242, 094, 000	246, 807, 000	253, 838, 000	263, 838, 000
National Institute of Allergy and Infectious Diseases	215, 487, 000	226, 412, 000	232, 355, 999	239, 355, 000
National Institute of General Medical Sciences	312, 478, 000	328, 139, 000	335, 676, 000	340, 676, 000
National Institute of Child Health and Human Development	209, 034, 000	215, 031, 000	223, 565, 000	223, 565, 000
National Eye Institute	113, 034, 000	115, 562, 000	120, 254, 000	125, 254, 000
National Institute of Environmental Health Sciences	83, 912, 000	93, 769, 000	97, 269, 000	97, 269, 000
National Institute on Aging	70, 000, 000	74, 317, 000	76, 091, 000	81, 091, 000
Research resources	169, 199, 000	173, 878, 000	184, 439, 000	184, 439, 000
John E. Fogarty International Center	8, 989, 000	9, 138, 000	9, 138, 000	9, 138, 000
Subtotal	3, 360, 898, 000	8, 412, 119, 000	3, 537, 418, 000	3, 604, 418, 000
National Library of Medicine	44, 000, 000	44, 389, 000	44, 730, 000	47, 730, 000
Buildings and facilities	3, 250, 000	11, 750, 000	11, 750, 000	11, 750, 000
Office of the Director	20, 995, 000	22, 189, 000	22, 549, 000	22, 549, 000
Total, NIH	3, 429, 143, 000	3, 490, 447, 000	3, 616, 447, 000	3, 686, 447, 000

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

	Fiscal year 1980	President's request, fiscal year 1981	House allowance	Committee recommendation
National Institute of Alcoholism and Alcohol Abuse—Research	$22, 251, 000	$25, 141, 000	$22, 251, 000	$25, 000, 000
National Institute of Drug Abuse—Research	46, 000, 000	50, 192, 000	46, 000, 000	50, 000, 000
National Institute of Mental Health—Research	141, 192, 000	156, 458, 000	147, 000, 000	156, 000, 000
Total, ADAMHA research	209, 443, 000	231, 791, 000	215, 251, 000	231, 000, 000

Clinical Investigators

For over 2 years the Committee has expressed its growing concern over the inability of NIH to expand and attract people into the field of clinical investigations. This is a result of many factors, mainly stability of funding, compensation levels, and future professional opportunities. In addition, wavering departmental policies regarding all facets of training have thrown this and other programs into an uncertain situation. It is felt strongly that a crisis in this area is rapidly approaching and that the NIH must begin immediately to address the lack of effort in recruiting and training clincial investigators. Out of the increase of $70,000,000 which has been allowed to the various programs within the NIH, each Institute is directed to use a portion of their share for an increase in clinical training. Further, the Director of NIH should establish an NIH-wide program on clinical investigation training and report to the Senate (early in 1981) the means by which the NIH components are collaborating to redress the shortage of clinical investigators.

Advisory Board Composition

The Committee was very discouraged to learn of the lack of representation on various NIH and ADAMHA advisory boards, peer review groups, and study sections of health personnel other than M.D.'s and Ph. D.'s. Two years ago, the Committee expressed interest in NIH moving in the direction of providing more slots for nurses and other health professionals. Since that time NIH has done a poor job in meeting this requirement or in making an attempt to provide slots for these professionals. With this in mind, the NIH and ADAMHA is directed to report to the Committee, by each NIH component, what vacancies they expect to occur in fiscal year 1981 and what specific efforts each component will take to increase numbers of currently underrepresented health professionals.

Training

The Committee is pleased that the House has provided sufficient training funds to bring all training programs back to at least the fiscal year 1979 and 1980 levels—the Committee has been advocating this for several years. The continuing commitment which the Committee has to biomedical research is endangered if qualified research personnel are not available. The Committee would expect that a report on the training levels for all NIH programs designating levels of training support from fiscal year 1978 to the present be provided the Committee prior to the fiscal year 1982 hearings.

National Cancer Institute

The Committee has allowed $1,021,330,000 for the National Cancer Institute. This is an increase of $20 million over the House level and $36,225,000 over the President.

In providing an increase of $20,000,000 for the National Cancer Institute, the Committee directs a major portion of that amount to be for the purchase of Interferon to be used in clinical and basic research. The Institute has been slow in developing plans in this area and has been reluctant to move aggressively. The Committee is convinced that it is essential to move as quickly as possible in this important area and the funds have been provided for this.

In addition, the Institute should step up its lax coordination with the National Institute of Allergy and Infectious Diseases and develop a more comprehensive program for Interferon research and clinical trials.

Because such studies take so long, it is important to begin an active program now. There are approximately 30 major cancer tumor sites in the body and it would take at least 5 years, including followups, to do effective clinical trials.

National Institute of Neurological and Communicative Disorders and Stroke

The Committee has provided $263,838,000, an increase of $21,744,000 over the fiscal 1980 level and $17,031,000 over the President's request and $10,000,000 over the House allowance. During the past 5 years, the Committee has placed a greater emphasis on this Institute than nearly any other program with the NIH. This commitment to these programs is a reflection of the Committee's concern for adequately funding the Institute as well as the expansion of positive and hopeful research being done in the area. The increase provided this year will allow additional research grants to be funded in areas such as trauma of the nervous system, spinal cord injury, and spinal cord regeneration. It is important that the Institute also place a large portion of the increase to continue and establish new research centers and research grants and contracts in the areas of stroke, Huntington's disease, epilepsy, and other degenerative neurological disorders. In the past, the Committee has encouraged the Institute to conduct more research in the area of amyotrophic lateral sclerosis (ALS). The Committee expects that this appropriation will enable a reasonable number of new and innovative projects to be funded in order to advance current insufficient knowledge about ALS.

Natiional Institute of Arthritis, Metabolism and Digestive Diseases

Juvenile Arthritis

The Committee recognizes that arthritis in children differs in many ways from the disease in adults. The reasons for these differences are not known but they raise the possibility of distinctly different agents precipitating juvenile arthritis. The Committee urges the National Institutes of Health to substantially strengthen its research in juvenile arthritis to help in determining the ultimate causes of both juvenile and adult arthritis.

National Institute of Allergy and Infectious Diseases

The Committee has provided $239,355,000 for the National Institute of Allergy and Infectious Diseases. This is an increase of $12,943,000 over the President and $7,000,000 over the House. The additional funds are for more research and clinical trials involving interferon and for greatly expanded efforts in research on herpes and venereal disease. The Institute is directed, along with the Cancer Institute, to submit a report to the Committee on Interferon as to how their additional resources will be used, in accordance with the Committee recommendations, prior to February.

National Eye Institute

The National Eye Institute's work has been significantly expanded by this Committee in recent years. Creditably, the Institute has attracted many new investigators to the field.

Numerous new basic research projects and clinical trials have been mounted. The critical factor now limiting essential growth in eye research is lack of laboratory space. Therefore, in accord with the Institute's recently announced construction grant program, the Committee directs that $1,000,000 of this appropriation be allocated for vision research facility renovation and construction.

National Library of Medicine

The Committee has provided $47,730,000 for the National Library of Medicine, an increase of $3,730,000 over the fiscal 1980 level, $3,341,000 over the President's request, and $3,000,000 over the House level. Funds in this area will allow the National Library of Medicine to increase its biomedical communications activities. It is critical that this Nation's medical library be maintained as an updated resource for health care practitioners, biomedical researchers, and health professional educators. This additional sum will prevent a deterioration in the services that are so essential for health care maintenance and the delivery of information. Additional funds have been provided to expand the computers in medicine program at the Library. The grants would support efforts to exploit new computers and communications technologies geared to improving methods for the transfer of biomedical information to health care practitioners.

The Committee is pleased that the Lister Hill Center has been completed, both ahead of time and below cost. It is expected that the remaining funds appropriated for the Lister Hill Center will be used as soon as possible for renovation of the existing library facility and that this renovation is designed to improve fire protection and to enhance the safety of the irreplaceable NLM collection.

Buildings and Facilities

The bill includes $11,750,000, the amount requested and the same as the House level, for buildings and facilities.

Of the increase over last year's appropriation, $7,000,000 is for the renovation and upgrading of the NIH Clinical Center—a 500-bed research hospital that has been in service for 25 years and is now in urgent need of overhaul and modernization. In order not to interfere with patient care and clinical research, the renovation project will be spread over a period of several years.

Primates

The Committee finds that a facility, the Laboratory for Experimentxal Medicine and Surgery in Primates (LEMSIP) at Sterling Forest, N.Y., has had its central funding halted without full consideration of the needs of the medical schools and other institutions using the facility. These institutions perform 15 percent of federally supported biomedical research. To provide continued operation of this facility until Congress has an opportunity to explore this situation the National Institutes of Health Division of Research Services shall provide LEMSIP with $400,000 from this appropriation.

Health Resources Administration

The Committee remains very supportive of coordinated and regional dental health projects and especially efforts sponsored by the Western Interstate Commission for Higher Education (WICHE) to develop a comprehensive assessment of the overall dental manpower needs of the Western States. Accordingly, the Health Resources Administration is directed to make every effort to obtain this information in a timely fashion for the public policymakers of our Western States. In addition, HRA is directed to continue the regional dental education program which will be entering the third year of the 5-year program.

Aging Programs

The Committee has increased the social services and centers account under the Administration on Aging by $23,000,000 above the House allowance. The 1978 Older Americans Act Amendments changed the prior law which allowed 20 percent of the nutrition funds to be spent on supportive social services—transportation, senior centers, in-home services, et cetera. Because no one knew how much of the nutrition budget was actually spent on these supportive services, Congress felt it would be better to separate the nutrition and social services accounts entirely. However, given this change in authorization, and its automatic increase in the budget for food programs, we run the risk of having a large amount of new money for meals and no means of transporting senior citizens to nutrition sites or developing sites in which to hold congregate meals.

To give you an idea of the impact on the social services budget based on the fiscal year 1980 appropriations of $320,000,000 for the nutrition program, roughly $64,000,000 of this amount was spent on supportive services. Because of the change in the law, in fiscal year 1981, this $64,00,000 now becomes the funding responsibility of the social services account. It is clear that the $10,000,000 increase in social services provided by the House is totally inadequate.

To offset this increase, the amendment would reduce the research, training, and special projects account by $7,400,000. $2,400,000 would be a reduction in the House level of funding for the training program with the idea of eliminating the five new bi-regional training centers which largely duplicate the existing State training programs. The additional $5,000,000 reduction would be in the Commissioner's $22,500,000 discretionary account. Although the discretionary account has funded a number of worthwhile programs, most notably the new long-term care demonstration grants, the Committee does not believe it has adequate justification for the $22,500,000 funding level.

Rehabilitation

The Committee has increased the funds for the National Institute of Handicapped Research by $2,000,000, for a total of $37,000,000. The Committee intends that the increased funds be used to strengthen ongoing activities and to expand support for the research and training center program within the Institute. The Committee directs that a portion of this increase be used to support at least two Research and Training Centers for the Deaf and Hearing Impaired, and that $400,000 be used for planning and development of a Comprehensive Research and Training Center in the Pacific Basin.

The Committee recommends $1,000,000, the same as the House, for demonstration programs pertaining to making recreational activities fully accessible to the handicapped, as authorized under section 311(a)(3) of the Rehabilitation Act. Of the $1,000,000 recommended for programs under section 311 (a)(3) of the Rehabilitation Act, $150.000 is to be made available to develop a joint use park for handicapped and nonhandicapped citizens in eastern Maricopa County, Ariz., while $200,000 is intended for design of recreational facilities at the Alabama Space and Rocket Center. The Committee also intends that the Rehabilitation Services Administration provide funds to construct and equip a new facility to continue the National Center for Therapeutic Riding.

Of the amount recommended for service projects, $2,000,000, the same as the House, is allowed to establish recreation programs for persons with disabilities as provided by section 316 of the 1978 Rehabilitation Amendments. These programs shall be funded by grants made by the Commissioner of the Rehabilitation Services Administration to State and to public and private nonprofit agencies and organizations. These funds are not intended to be used for construction. Programs funded under this appropriation should utilize existing resources. The Committee also believes that programs which integrate disabled people into existing community recreation programs, those which utilize recreational facilities operated by private nonprofit organizations to provide services to clients in the basic State grant vocational rehabilitation program, and those which have been developed and previously funded under Title III of the Rehabilitation Act, should be given top priority.

The Committee has earmarked $650,000, within the total amount available for rehabilitation services, to fund projects under section 130, title I, of the Rehabilitation Act, for the Navajo Vocational Rehabilitation program.

State Legal Expenses for Cubans/Haitians

The $1,000,000 added by the Committee under the authority of section 501(c) of the Refugee Education Assistance Act of 1980 is to reimburse State and local governments for the costs associated with the State prosecution and incarceration of Cuban-Haitian entrants who have been convicted of State crimes.

DEPARTMENT OF EDUCATION

The Committe has included language in the continuing resolution that defers implementation of proposed bilingual education regulations before June 1, 1981. This is the same language that is contained in the current continuing resolution, Public Law 96–369. The reference to the "LAU remedies" in the bill should not be interpreted as either ratifying or prohibiting the current "LAU remedies." The Committee maintains that the "LAU remedies" are only suggestions from the Department of Education to local school districts for methods of complying with the equal educational opportunity requirements under title VI of the Civil Rights Act of 1964.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS IMPACT AID

After passage of the first continuing resolution for fiscal year 1981, the Department of Education implemented an interim funding procedure for impact aid payments for "A" and "B" students. With the enactment of this resolution, the Department is directed to follow the normal, established procedure in allocating and making impact aid payments to local school districts.

The Committee has included language in the continuing resolution which would protect school districts with large numbers of federally connected students from receiving cutbacks in their impact aid funds. This provision would protect school districts whose federally connected enrollments comprise at least 50 percent of the district's average daily attendance.

This amendment would avoid large reductions in impact aid payments to those districts which have the highest concentrations of eligible students.

The Committee finds that because of the devastation caused by the Mobile County School System by Hurricane Frederic in September of 1979, special provision should be made under Public Law 81–874 for the continuance of impact aid to the Mobile County School System at the same level that such aid was available for fiscal year 1980. The school system suffered losses on timberlands owned by the school system in excess of $12,000,000 so that, without special treatment under section 7(a) many of the ongoing programs would have to be curtained or eliminated.

PELL GRANTS

The Committee assumes that the maximum grant for Pell grants, formerly basic educational opportunity grants, will remain at $1,800 under the continuing resolution.

In preparing the family contribution schedule for the 1981–82 school year, the Department of Education should base its calculations upon a maximum grant of $1,800. The Committee is aware that current estimates indicate that a supplemental appropriation may be required at a future date to maintain a $1,800 maximum grant award. The exact funding requirements for the program can be calculated and discussed prior to the formulations of the payment schedule in the spring.

Educational Television

The Committee notes that a new television series, "Made in U.S.A.", is currently being developed for public television. This series will dramatize the history of American working women and men. The Committee directs the Department of Education to provide $5,500,000 for the production of this series. The Department should work closely with, and may arrange by grant or contract with, the Corporation for Public Broadcasting to assure adherence to normal procedures for producer content control and financial accountability.

Support and Innovation

The Committee has included bill language that maintains the fiscal 1980 funding level of $197,400,000 for support and innovation, elementary and secondary education. The funds are to be used to support State education agency managements, improvement of local education practices, and to fund hold harmless provisions.

DEPARTMENT OF LABOR

The continuing resolution incorporates, by reference, the existing OSHA legislative riders in the enacted fiscal year 1980 appropriations bill. It is the intent of the Committee, however, with respect to the proviso limiting inspections of small business in less hazardous industrial categories that the most recent data which are of equivalent specificity to the 1977 data cited in the original proviso should be used.

SECRETARY'S DISCRETIONARY FUNDS

The Committee encourages the Secretary of Labor to provide up to $200,000 in funding for a model program in Albuquerque, N. Mex., similar to the national women's employment and Education model program in San Antonio, Tex., to provide private sector jobs for low income women who are heads of households.

MINE SAFETY ADMINISTRATION/OSHA

It is intended that the Occupational Safety and Health Administration assume jurisdiction to regulate persons engaged in the surface mining of stone, clay, colloidal phosphate, sand or gravel, as of February 1, 1981. By allowing until February 1 for the assumption of jurisdiction to take place, it is intended that in the interim MSHA and OSHA work closely together to assure an orderly transition. Through their joint efforts during the transition period, MSHA and OSHA can assure that there is no possibility that any period of time will elapse, however slight, in which the health and safety of workers in these industries is not effectively protected.

Under current law, OSHA and MSHA have overlapping authority over these surface mining industries. Section 4(b)(1) of the Occupational Safety and Health Act establishes the relationship between OSHA and other Federal and State safety enactments:

> Nothing in this Act shall apply to working conditions of employees with respect to which other Federal agencies, and State agencies acting under section 2021 of title 42, exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health. 29 U.S.C. 653 (b)(1).

Courts which have construed this provision have uniformly concluded that the exemption from OSHA standards which it contains is not activated by the mere existence in some other agency of statutory authority to regulate safety. Some "exercise" of authority is necessary to suspend OSHA's regulatory scheme. It is intended that after February 1, 1981, the Mine Safety and Health Administration cease from the exercise of its statutory authority to regulate persons engaged in the surface mining of stone clay, colloidal phosphate, sand or gravel. OSHA should exercise its jurisdiction as of that date.

The Congressional Research Service on September 12, 1980, issued the following opinion at the request of Mr. Bumpers. After analyzing the applicable statutory provisions and case law, the opinion concludes that the amendment would preclude the exercise of MSHA's authority over the surface mines and would permit the exercise of OSHA's jurisdiction over those mines at the same time.

This memorandum is in response to your request for an analysis of the effect of an amendment to the pending Labor Department appropriation bill on the Occupational Safety and Health Administration (OSHA). The question presented is whether this amendment, which bars the use of appropriated funds for enforcement of safety regulations at certain types of surface mines by the Mine Safety and Health Administration, would have the effect of providing OSHA with jurisdiction over those mines.

The Departments of Labor, Health and Human Services, and Education, and related Agencies Appropriation Bill, 1981, provides an appropriation of $148,398,000 for the salaries and expenses of the Mines Safety and Health Administration (MSHA) of the Department of Labor. See House Report No. 96–1244, 96th Cong., 2d Sess. at 15 (1980), to accompany H.R. 7998. During floor debate, the House adopted an amendment which placed the following limitation on the appropriation:

> nor shall any funds appropriated under this paragraph be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Federal Mine Safety and Health Act of 1977 with respect to any person engaged in the surface mining of stone, clay, colloidal phosphate, sand or gravel. 126 Cong. Rec. 23532 (Aug. 27, 1980).

According to its sponsor, the purpose of the amendment is to provide that the Occupational Safety and Health Administration have the basic responsibility for safety enforcement in four areas of surface mining: stone, clay, phosphate, sand, and gravel. The basis for this conclusion was set forth as follows in the acompanying debate:

[From the Congressional Record, Aug. 27, 1980]

Mr. Rousselot. I thank my colleague for his support. There is a question that needs to be answered:

The question is: Does the MSHA amendment create a void in Federal enforcement of safety and health standards over the surface mining of sand, gravel, stone, clay, and colloidal phosphate?

The answer: No. OSHA, under the Occupational Safety and Health Act, has jurisdiction over these mines.

Let me give my colleagues the reasons:

First. OSHA by its terms applies to all employers engaged in a business affecting commerce, 29 U.S.C. section 652(5). Thus, OSHA legally covers mines which are also covered under the Mine Safety and Health Act of 1977.

Second. The drafters of OSHA realized that there was the potential problem of dual regulation. Thus they included in the act a deferral provision, 29 U.S.C. section 653(b)(1). It provides that where another Federal agency exercises its own statutory authority to prescribe or enforce occupational safety or health standards, then OSHA will not apply.

Third. The legislative history of OSHA shows that the key factor triggering deferral is the exercise of another agency's statutory authority. Mere existence of the authority is not sufficient to cause deferral. Thus the exercise of MSHA's statutory authority over mines has effectively deferred the exercise of OSHA's statutory authority over them.

Fourth. The appropriations limitation has the effect of not providing funding for fiscal year 1981 for the exercise of MSHA's statutory authority over the surface mines described in the pending amendment. Thus there will be no exercise of statutory authority by MSHA.

Fifth. The effect of this nonexercise under section 4(b)(1) of OSHA (29 U.S.C. section 653(b)(1)) thus triggers, by operation of existing law, the responsibility of OSHA to assume enforcement activity over the described surface mines.

I urge my colleagues to support this needed amendment.

The impact of the amendment thus turns upon the interpretation of section 4(b)(1) of the Occupational Safety and Health Act. That section establishes the relationship between OSHA and other Federal and State safety enactments:

> Nothing in this [Act] shall apply to working conditions of employees with respect to which other Federal agencies, and State agencies acting under section 2021 of title 42, exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health. 29 U.S.C. section 653(b)(1).

The Federal courts which have construed this section have uniformly concluded that the exemption from OSHA standards which it provides is not activated by the mere existence in another agency of statutory authority to regulate safety. Rather, some "exercise" of that authority is necessary to oust OSHA's pervasive regulatory scheme. *Southern Pacific Trans Co.* v. *Usery*, 539 F.2d 386, 389 (5th Cir. 1976). Thus, the exemption does not apply when another Federal agency has regulatory authority but has failed to exercise it. *Southern Railway* v. *OSHRC*, 539 F.2d 335, 336 (4th Cir. 1976). The District of Columbia Circuit found itself in essential agreement with the above decisions of the Fourth and Fifth Circuits in a case involving parallel circumstances. *Baltimore Ohio Railroad Co.* v. *OSHRC*, 548 F.2d 1051, 1053–54 (D.C. Cir. 1976).

As the Second Circuit has observed, section 4(b)(1) was not intended by Congress to eliminate OSHA's jurisdiction merely on the basis of hypothetical conflicts; a sister agency must actually be exercising a power to regulate safety conditions in order to preempt OSHA. *Marshall* v. *Northwest Orient Airlines*, 574 F.2d 119, 122 (2d Cir. 1978).

The interpretation placed on section 4(b)(1) by the courts is supported by its legislative history. While earlier versions of the legislation had provided that mere existence of statutory authority in another agency was sufficient to invoke the exemption. the final version required the actual exercise of the authority rather than its mere existence. This was made clear in the colloquy between Representatives Erlenborn and Daniels, stressing that an exercise of authority would be necessary to justify an exemption. 115 Cong. Rec. 38381–82 (Mar. 23, 1970); Sen. Labor and Public Welfare Comm. Legislative History of OSHA at 1019 (1971). *See Southern Railway Co.* v. *OSHRC*, *supra*, 539 F.2d at 336–37.

The surface mines affected by the pending amendment are presently covered by the Federal Mine Safety and Health Act of 1977 (FMSHA). Under section 4(b)(1) of the Occupational Safety and Health Act, the exercise by MSHA of its statutory authority under FMSHA has precluded OSHA jurisdiction over these surface mines. Assuming that the pending amendment would prevent MSHA from continuing to exercise its authority over these surface mines, then the Occupational Safety and Health Act would apply to those mines which otherwise meet the jurisdictional standards of the latter act. As the Fifth Circuit has noted, the deferral—preemption section of the Occupational Safety and Health Act generates an anomalous relationship between OSHA and other safety and health agencies, decreeing the existence of overlapping authority, with displacement of OSHA coverage depending on unilateral action by the sister agency rather than on either a determination by some neutral agency or on consultation between the agencies. *Southern Railway Trans. Co.* v. *Usery*, 539 F.2d 386, 389 (5th Cir.). It would therefore appear that, because of this unusual statutory scheme, the pending amendment would not only preclude the exercise of MSHA's authority over the surface mines, but would permit the extension of OSHA jurisdiction to those mines at the same time.

HUD-INDEPENDENT AGENCIES

The Committee has recommended an amendment to section 101(m) providing continuing authority for the activities covered by the HUD-Independent Agencies appropriation bill at the rate provided for in H.R. 7631 as enacted by the Congress. The Senate language recognizes the fact that following House action on the continuing resolution, the HUD-Independent Agencies conference agreement was ratified by both Houses of the Congress.

Revenue sharing

Section 101(h) of the bill as passed by the House insures that revenue-sharing funds provided in H.R. 7631 will go only to localities. This section is effective for the remainder of fiscal year 1981 notwithstanding any other provision of law.

The Committee has recommended an amendment to section 101(h) incorporating by reference two sections of S. 2574, the revenue sharing authorization bill as reported by the Senate Committee on Finance. The first section insures that when certain units of local government are ineligible to receive their full entitlements because of a statutory ceiling, the funds are first redistributed to other local governments, not State governments as they would be under existing law.

The second section incorporated by reference allows continued funding for the Office of Sheriff of each of Louisiana's parishes roughly at present levels. It does so by amending the current law, which provides that sheriff's offices are supported by State and local revenue-sharing funds on a 50–50 basis, with a provision allocating 13.5 percent of each parish's revenue-sharing funds to the sheriffs' offices, thus making up for the loss of State revenue-sharing money.

LEGISLATIVE BRANCH

Administrative Provisions

The Committee has included a number of administrative provisions of a technical or housekeeping nature. As is customary, the administrative provisions are printed in the report together with a short explanatory statement.

Stationery Room Revolving Fund

Sec. 142. In order to provide additional capital for the revolving fund established by the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a–1), the Secretary of the Senate is authorized and directed to transfer $100,000 to such revolving fund from "miscellaneous items" in the contingent fund of the Senate.

The Committee has included an administrative provision to increase the capitalization of the Stationery Room inventory by $100,000 which will be accomplished by transfer of this amount from appropriation for miscellaneous items. Consequently, no additional appropriated funds have been included in the bill.

This increased capitalization will not only permit the Stationery Room to increase its inventory, but it will also create a larger savings through volume purchases. This will result in a lower cost on many items which will be passed on to Senate offices. It will also enable the Stationery Room to increase the number of shelf items for immediate availability to Senate offices and reduce the large number of special order items which, in the past, could not be stocked.

Inquiries by the Committee reveal that no funds have been appropriated for the capitalization of the Stationery Room inventory during the past 30 to 40 years. The increased activities of Senate offices has gradually created a situation, both in the volume of the inventory and the number of inventory items to be stocked, that requires these additional funds in order for the Stationery Room to keep pace with the needs of Senate offices.

The Committee is aware of the critical warehousing problem of the Stationery Room and it is hoped that additional climate-controlled warehouse space will soon be made available. The Committee recognizes that there are occasions, due to circumstances beyond the control of the Stationery Room personnel, when an item in the Stationery Room will be out of stock. However, both the increased capitalization and additional warehouse space are two actions which will help the Stationery Room attain its goal of eliminating, almost completely, the out-of-stock problem.

Travel Expenses, Office of the Secretary of the Senate

Sec. 143. Effective with respect to fiscal years beginning on or after October 1, 1980 the first sentence of section 101 of the Legislative Branch Appropriations Act, 1976 (2 U.S.C. 61a–9a), is amended by striking out "$7,500" and inserting in lieu thereof "$10,000".

Section 143 increases the authorization for travel expenses incurred by the Secretary of the Senate and his staff to $10,000 per fiscal year. This provision reflects both an increase in costs due to travel in major metropolitan areas, particularly in west coast cities, and increased activity by the Secretary's Office. Management staff and department supervisors need to keep abreast of the latest technology, office management techniques, and research materials available to provide better and more efficient services from the various departments of the Office. Travel requests are carefully reviewed by the Secretary to insure that the travel will benefit the Office and the Senate.

Extended Availability

Sec. 144. Section 111 of the Supplemental Appropriations and Rescission Act, 1980 (Public Law 96–304) is amended by striking out "and to remain available through September 30, 1981" and inserting in lieu thereof "and to remain available until expended".

This technical provision extends the availability of funds for the inaugural ceremonies until expended.

Museum Specialist, Office of the Secretary

Sec. 145. Effective on the first day of the first month following the date of enactment of this Act, the Secretary of the Senate may appoint and fix the compensation of a Museum Specialist at not to exceed $22,039 per annum in lieu of a Clerk at not to exceed $17,190 per annum.

Section 145 abolishes the position of Clerk at $17,190 per annum in the Curator's Office and creates the position of Museum Specialist at not to exceed $22,039 per annum, resulting in an increase of $4,849 per annum.

The intent is to establish a career specialist position in that office to assist in the added responsibility of the many foreign gift items that are required to be cataloged and carefully stored by the Curator's Office.

Reporters of Debates and Expert Transcribers

Sec. 146. The second proviso contained in the Legislative Branch Appropriation Act, 1966 (2 U.S.C. 126b), under the heading "SENATE", "SALARIES, OFFICERS AND EMPLOYEES", "OFFICE OF THE SECRETARY", is amended to read as follows: "The Secretary of the Senate is hereafter authorized to employ, by contract or otherwise, substitute reporters of debates and expert transcribers at daily rates of compensation, or temporary reporters of debates and expert transcribers at annual rates of compensation; no temporary reporters of debates or expert transcribers may be employed under authority of this provision for more than ninety days in any fiscal year; and payments made under authority of this proviso shall be made from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.".

The Commission has included an administrative provision which will authorize the Secretary of the Senate to temporarily employ reporters of debates and expert transcribers at annual rates of compensation for not more than ninety days in any fiscal year. This provision retains the authority for the Secretary of the Senate to employ substitute reporters of debates and expert transcribers at daily rates of compensation. The new authority for temporarily employing reporters and transcribers will permit the Secretary, when a known vacancy will occur, to employ a replacement reporter or transcriber, in advance of a vacancy, for training and familiarization with Senate reporting or transcribing procedures. The use of the term "temporary reporters of debates and expert transcribers" should not be construed so as to deny an individual, so employed, the privilege of participating in the retirement, health, and life insurance programs prior to the time he or she is transferred to a position on the regular payroll of the Secretary of the Senate. No additional funds are required by this new authority.

Classified National Security Information

Sec. 147. Section 105(a) of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 72a note), is amended by deleting "1980", and inserting in lieu thereof "1985".

This administrative provision will authorize the continuance of the Office of Classified National Security Information for an additional five years. The Secretary of the Senate has advised the Committee that this office is the only repository for top secret and other highly classified documents in the possession of the Senate and has the only room on the Senate side of the Capitol suitably designed for hearings that encompass national security matters that are highly classified. This recommendation for a five-year extension has the concurrence of the Majority Leader, the Minority Leader, and the Chairman of the Committee on Rules and Administration.

Transfer Authority

Sec. 148. Hereafter, the Secretary of the Senate as Disbursing Officer of the Senate is authorized to make such transfers between appropriations of funds available for disbursement by him for a fiscal year subject to the customary reprograming procedures of the Committee on Appropriations of the Senate.

This administrative provision would authorize the Secretary of the Senate, as disbursing officer of the Senate, to shift funds from accounts with small surpluses to accounts with small deficits, thus obviating the necessity for small supplemental appropriation requests.

SENATE DISBURSING OFFICE, OFFICE OF THE SECRETARY

SEC. 149. Effective for fiscal years beginning on or after October 1, 1980, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $30,800.

Section 149 increases the allowance for administrative and clerical assistance in the Disbursing Office. This increase is necessary due to the requirement for documentation of all vouchers charged against the Senators' Official Office Expense Accounts, which requires additional staffing in the Disbursing Office for a thorough audit of the vouchers and substantiating documents.

EXTENDED AVAILABILITY

SEC. 150. Any funds appropriated or made available under the heading "SENATE" in any Appropriation Act or any resolution making continuing appropriations for the fiscal year ending September 30, 1981, shall remain available until expended for the same purpose for which appropriated or made available.

This section stipulates that those funds appropriated under the heading "SENATE" in fiscal year 1981 will remain available until expended, for the same purposes for which appropriated. This follows the same procedure used for the past several fiscal years.

TRAVEL EXPENSES, OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

SEC. 151. Effective with the fiscal year ending September 30, 1981, section 117 of the Second Supplemental Appropriations Act, 1976 (2 U.S.C. 61f-1a), is amended by striking out "$92,000" and inserting in lieu thereof "$167,000".

The fiscal year 1981 budget request for travel funds for the Senate Computer Center is $185,000, an increase of $93,000 over the current year. These funds are primarily needed for the installation of communications equipment and training Senators' staff in State offices. The Senate Computer Center anticipates installing facilities and providing training for up to 25 additional Senate offices with 40 communications sites in fiscal year 1981.

The Senate Sergeant at Arms advises that implementing a State office communication facility and providing staff training requires several trips. On the first visit, a communication network specialist inspects the site with the State office personnel and the local telephone company staff. Office layouts are planned and sketched and timetables are developed. Sites in several States are reviewed and associated plans are developed during a single trip. Equipment is then shipped to the site for installation. A second trip is made to install and test the communications equipment and computer terminals. Network specialists schedule installation at several sites during one trip. Once the equipment is installed, a training specialist travels to the State offices. This may require one or two trips per Senate office, depending on the different functions which have to be taught.

Recent increases in transportation exexpenses and projected increases in living costs, coupled with the continuing demand by Senators for State office installations, are the basis for the requested increase.

The administrative provision recommended by the Committee includes a ten-percent reduction in the budget request based on the advice of the Sergeant at Arms that certain economies can be achieved.

Positions disbursed by the Secretary of the Senate

SEC. 152. The paragraph, which commences with the words "The Committee on Appropriations, authorized by Senate Resolution Numbered 193" and which appears in the first section of chapter 89 of the Legislative Branch Appropriations Act, 1946 (59 Stat. 243; 2 U.S.C. 67a) is amended by adding at the end thereof the following new sentence: "If an individual described in the preceding provision of this paragraph, subsequent to leaving employment by the Senate Committee on Appropriations, accepts employment in a position in the Senate (other than a position on such Committee) the salary for which is disbursed by the Secretary of the Senate, then, upon such individual's leaving such subsequently accepted position, his service in such position shall, for purposes of the preceding provisions of this paragraph, be treated as service performed in the employment of such Committee.".

The Committee has included an administrative provision stipulating that long-standing reemployment rights accorded to certain staff members of the Senate shall be retained by those employees as long as they hold positions disbursed by the Secretary of the Senate.

Offices of the Secretaries for the Majority and Minority

SEC. 153. For an additional amount for "Offices of the Secretaries for Majority and the Minority," $100,000.

The Committee has included section 153 which provides $50,000 each to the Offices of the Secretaries of the Majority and Minority at the request of the minority leader to meet increased needs on the Senate floor due to the minority party assuming the majority in the next Congress. This section increases the amount available for the Offices of the Secretaries for the Majority and Minority to $278,000 each.

Transfer of Clerk-Hire to Expense Account

SEC. 154. (a) Effective in the case of each fiscal year (commencing with the fiscal year ending September 30, 1981) each Senator, at his election, may transfer from his Administrative, Clerical, and Legislative Assistance Allowance (hereinafter referred to as the "clerk hire allowance") to such Senator's Official Office Expense Account any balance remaining, or any portion thereof in such clerk hire allowance as of the close of the fiscal year. Any balance so transferred to a Senator's Official Office Expense Account shall be available only for expenses incurred during the calendar year in which occurred the close of the fiscal year. Each Senator electing to make such a transfer shall advise the Senate Disbursing Office, in writing, no later than December 31, and such transfer shall be made on such date (but not earlier than the October 1 which next succeeds the close of the fiscal year with respect to which the balance occurs) as may be specified by the Senator.

(b) Transfer of funds under subsection (a) shall be made from the appropriation "Administrative, Clerical, and Legislative Assistance Allowance to Senators" under the heading "Senate" and "Salaries, Officers, and Employees" for transfer to the appropriation "Miscellaneous Items" for allocation to Senatorial Official Office Expense Accounts.

This administrative provision would allow a Senator to transfer any balance remaining in his clerk-hire allowance to his official office expense allowance. The amendment would not require any additional appropriations. The provision is necessitated by the large increase in the cost of items funded under the expense allowance since the last time that allowance was adjusted in January 1977.

Severance Pay for Displaced Staff Members

SEC. 155. (a) For purposes of this section—

(1) the term "committee" means a standing, select, joint, or special committee of the Senate, whose funds are disbursed by the Secretary of the Senate;

(2) the terms "committee chairman" and "ranking minority member" mean the chairman and ranking minority member of any such committee as of the beginning of the Ninety-seventh Congress;

(3) the term "eligible staff member" means an individual who—

(A) was a member of a staff of any such committee, or subcommittee thereof, on January 2, 1981, and had served continuously thereon (except for any period of four days or less) since November 1, 1980, and

(B) has served continuously (except for any period of four days or less) as an employee of the Senate for one year immediately preceding his termination of service; and

(4) the term "displaced staff member" means an eligible staff member whose service as an employee of the Senate is terminated on or after January 2, 1981, solely and directly as a result of the reorganization of the staff of a committee caused by the transition to a Senate in which a majority of Senators are members of the Republican Party, and who is certified as a displaced staff member by the committee chairman and ranking minority member of such committee.

(b) The committee chairman and ranking minority member of each committee shall certify to the Committee on Rules and Administration the name of each displaced staff member of such committee before the later of—

(1) January 12, 1981, or

(2) the tenth day after the date on which the displaced staff member's service is terminated.

(c) Under regulations prescribed by the Committee on Rules and Administration and subject to the succeeding provisions of this section, each displaced staff member shall be entitled, upon application to the Committee on Rules and Administration, to be paid severance pay in regular pay periods of the Senate.

(d) Severance pay of a displaced staff member consists of a basic severance allowance computed on the basis of 1 week's (7 days) basic pay at the rate received by such staff member as of November 1, 1980, for each year of civilian service up to and including 10 years, and 2 weeks' basic pay at that rate for each year of civilian service beyond 10 years.

(e) Total severance pay under this section shall not exceed three month's pay at the rate received by a displaced staff member as of November 1, 1980.

(1) is receiving an annuity under subchap- be paid from any available funds which are or have been appropriated under the heading "SENATE".

(g) A displaced staff member shall not be entitled to severance pay under this section if, at the time of the termination of his service, he—

(1) is receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or is entitled to receive an immediate annuity under such subchapter; or

(2) is receiving retirement or retired pay or an annuity under any other retirement law or retirement system for employees of the United States or the District of Columbia or members of the uniformed services (other than retired pay for nonregular service under chapter 67 of title 10, United States Code), or is entitled to receive such pay or an immediate annuity under such law or system.

(h) A displaced staff member shall not be paid severance payments under this section during any period with respect to which he—

(1) is an employee of the United States Government or the government of the District of Columbia; or

(2) is entitled to receive a deferred annuity under subchapter III of chapter 83 of title 5, United States Code, or under any retirement law or system referred to in subsection (g)(2).

and his severance pay shall be reduced by an amount equal to the payment he would have received for such period if he had not met the condition specified in paragraph (1) or (2).

(i) To receive severance pay for any month (or portion thereof), a displaced staff member shall submit to the Secretary of the Senate, as soon as possible after the close of such month, a notarized statement setting forth—

(1) whether or not he was employed or self-employed during such month (or portion) or received unemployment compensation for such month (or portion); and

(2) the amount of compensation received or receivable for services performed as an employee during such month (or portion), the amount of net earnings received or receivable from self-employment during such month (or portion), and the amount of unemployment compensation received or receivable for such month (or portion).

(j) The amount of severance pay to which a displaced staff member is otherwise entitled for a month (or portion thereof) shall be reduced by the sum of the amounts set forth under subsection (i)(2) in the statement submitted by him for such month (or portion). If a statement for a month (or portion) is not submitted by a displaced staff member to the Secretary of the Senate within sixty days after the close of such month (or, if later, within sixty days after the date of enactment of this Joint Resolution), the gross amount of severance pay to which such displaced staff member is otherwise entitled under this section shall be reduced by the amount of severance pay which would otherwise have been paid to him for such month (or portion).

(k) In the event of the death of a displaced staff member, any unpaid severance pay to which the displaced staff member is entitled shall be paid to the widow or widower of the displaced staff member or, if no widow or widower, to the heirs at law or next of kin of such deceased displaced staff member.

(l) Severance pay paid under this section shall not be treated as compensation for purposes of any provision of title 5, United States Code, or of any other law relating to benefits accruing from employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision or law

(m) For purposes of this section, the Office of the Vice President, with respect to funds appropriated under the heading "Salaries, Officers and Employees," shall be considered a committee.

This administrative provision would provide severance pay to displaced staff members as a result of the reorganization caused by the transition to a Senate in which a majority of Senators are members of the Republican Party. The precedent for such a provision is legislation enacted in connection with the realinement of Senate subcommittees in the 95th Congress. The Committee-recommended provision limits severance pay to 3 months and includes offsetting reductions for earnings, unemployment compensation, et cetera. Any funds required for implementation of this provision are to be paid out of any available funds under the heading "Senate". Consequently, no additional appropriations will be required as a result of this provision.

LIBRARY OF CONGRESS INCREASE IN COPYRIGHT RECEIPTS

SEC. 156. For purposes of this joint resolution not to exceed $5,000,000 of the funds credited to the appropriation, Copyright Office: "Salaries and expenses", during fiscal year 1981 under section 708(c) of title 17, United States Code, shall be available for obligation during such fiscal year.

The Committee has included this administrative provision to increase the limitation on the amount of receipts available for obligation in fiscal year 1981 in the Copyright Office of the Library of Congress. This provision would not require any additional appropriations. Rather, the limitation merely recognizes that a higher than anticipated workload of copyright applications has been received at the Copyright Office. The increase in limitation will allow the application fees associated with the larger number of applications to be spent on overtime to process those applications. The Library advises that without the increase in limitation, the backlog would grow and processing time would increase from a normal 3 to 4 weeks to 8 weeks or more.

General Accounting Office

SEC. 157. For an additional amount for "General Accounting Office", "Salaries and Expenses", $6,000,000.

This administrative provision would provide an additional $6,000,000 for the General Accounting Office for fiscal year 1981, the same amount provided by the Committee and the Senate in the first continuing resolution, but which was subsequently lost in conference with the House. The total amount recommended is still $2,000,000 below the fiscal year 1981 budget request of $218,000,000. The level of funding provided by the Committee would allow the General Accounting Office to average 5,175 staff-years in fiscal year 1981, a reduction of approximately 75 employees below the on-board staff at the close of fiscal year 1980. This would still require the GAO to maintain the hiring freeze imposed in the spring of 1980 well into 1981, but would avoid forced firings and cover certain other inflationary costs.

Acquisition of American Natural History Materials

SEC. 158. For an additional mount for "Library of Congress," "Salaries and Expenses," for the acquisition of American Natural History Materials, $100,000, to remain available until expended and to be derived by release of a like sum withheld from obligation by the Librarian of Congress pursuant to section 309 of H.R. 7593.

Testimony before the Committee indicates that the natural history holdings of the Library of Congress are deficient in books on this subject, particularly in the works of the 1800's when the natural history of our country was being discovered and described by botanists, ornithologists, and others.

Interest in this area has led the Committee to the realization that, while the Library houses many fine collections of Americana, more attention is needed to be given to the basic subject of American natural history. In response to that testimony, the Committee has been working with the Library administration, and the rare book room on the best means to redress this shortcoming. Consequently, the Committee has included this general provision earmarking $100,000 for the acquisition and maintenance of rare books, and requests that the Library make efforts to attract donations from private collections.

Reduction of Expenditures for Transportation and the Cost of Experts and Consultants, and Savings From Improved Collection Procedures

SEC. 159. (a)(1) Except as provided in paragraph (2), the total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to travel and transportation of persons, and the transportation of things, for offices and employees of all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced by an amount which is necessary to meet the requirements of subsection (d)(1) of this section.

(2) The provisions of this subsection shall not apply to the Department of Defense.

(b) The total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to the use of experts or consultants by appointment or contract in all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced by an amount which is necessary to meet the requirements of subsection (d)(1) of this section.

(c)(1) Each department, agency, and instrumentality of the Federal Government shall establish procedures to identify the causes of overpayments and delinquencies and the corrective actions needed to reduce overpayments and delinquencies, establish better control of receivables, actively use the services of credit bureaus and commercial collection agencies, and take more aggressive collection action.

(2) The Secretary of the Treasury shall revise the fiscal requirements manual of the Department of the Treasury to require interest charges on delinquent accounts and to provide more complete reporting of data on delinquent accounts.

(3) The Commissioner of Internal Revenue shall carry out a debt collection pilot project under which a delinquent debt owed by any person to the United States will be collected by retaining, out of any tax refunds otherwise payable to such person, such sums as are necessary to cover such debt. The debt collection pilot project required by this subsection shall be carried out in accordance with procedures designed to assure that no person will be denied due process of law under the project and that confidentiality of data held by the Internal Revenue Service pertaining to such person will be protected.

(d)(1) The Director of the Office of Management and Budget shall—

(A) allocate reductions in the amounts obligated for travel and transportation expenses under subsection (a) among all departments, agencies, and instrumentalities to which subsection (a) applies;

(B) allocate reductions in the amounts obligated for expenses for experts and consultants under subsection (b) among all departments, agencies, and instrumentalities; and

(C) review the savings made by the collection procedures and related activities required under subsection (c);

to assure that the total amount of such reductions and savings will be $2,000,000,000 for the fiscal year ending September 30, 1981.

In allocating the reduction required by this subsection with respect to expenses described in paragraph (1)(A) among the departments, agencies, and instrumentalities of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency, or instrumentality be reduced by more than 15 per centum of the amount of such expenses proposed for each department, agency, or instrumentality in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921.

(2) The Director of the Office of Management and Budget shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives a report on—

(A) the actions taken to carry out the provisions of this section;

(B) improvements in the budget process

which emphasize accounting system approval and debt collection procedures; and

(C) proposals of action to be taken by the Congress including the reduction in requested new budget authority to reflect the result of the collection of delinquent debts and as an incentive to promote increased collection of such debts.

In fiscal year 1981, the Federal Government has budgeted $8,900,000,000 for travel and transportation of Federal employees. In addition, $3,000,000,000 to $5,000,000,000 will be spent on consultants. Recent testimony by representatives of the Office of Management and Budget indicates that the Federal Government is owed $175,000,000,000. Of that amount, $47,000,000,000 is currently due and $25,000,000,000 is delinquent. The sum of $6,000,000,000 has been set aside for bad debts and $1,000,000,000 was written off in fiscal year 1979 alone.

OMB testimony also indicates that up to $16,000,000,000 could be cut from the Federal deficit if the Federal Government would conduct a more vigorous and effective effort to collect its debts.

In order to address this situation, the Committee has included a general provision that would require cutbacks in nondefense travel by Federal employees, reductions in consultant costs, and more vigorous efforts to collect Federal debts. The Committee has set a goal of $2,000,000,000 in savings to be achieved through these measures, which seems particularly modest in view of testimony that indicates that $16,000,000,000 could be collected in delinquent debts through more vigorous collection efforts.

MILITARY CONSTRUCTION

The Committee recommends a provision to clarify existing authority to permit military construction funds to be used to cover cost increases due to currency fluctuation in family housing operation and maintenance overseas.

DEPARTMENT OF STATE

The Committee has inserted language in the bill permitting the Department of State to make available not to exceed $200,000 to the Department of State to make available the General Services Administration for the expenses of the Consultative Group on United States-Japan Economic Relations. This Group has been funded by the Unanticipated Needs appropriation of the President, which is no longer available to the Consultative Group.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Salaries and Expenses

The Committee has inserted a supplemental appropriation of $8,900,000 to the Immigration and Naturalization Service to pay the extraordinary costs associated with processing Cuban and Haitian entrants. The amount recommended is the same as the request in H. Doc. 96–382. The amount covers the personnel costs of detention operations and investigations in the United States and the operation of Krome North as a short-term holding center.

Federal Prison System

Salaries and Expenses

The Committee has inserted the full supplemental appropriation of $4,600,000 requested in H. Doc. 96–302 to cover the per capita expenses incurred by the Bureau of Prisons for housing Cuban offenders at Bureau facilities.

Office of Justice Assistance, Research and Statistics

Law Enforcement Assistance

The Committee has inserted a $5,000,000 supplemental appropriation for the "Undercover Property Recovery Program" of the Office of Justice Assistance, Research and Statistics. Since fiscal year 1975 some 117 separate STING operations in 54 cities around the Nation have resulted in the recovery of stolen property valued in excess of $293,000,000. The cost of purchasing the stolen property to date has been slightly over $7,867,000.

The Committee has maintained Federal funding for this program because it is multistate in nature and the States have not had the opportunity to develop alternative funding. These funds are provided so that these successful projects will be continued, while the States develop plans and funding for future cooperative endeavors. These plans should include support from insurance companies who are major benefactors of the antifencing program.

SMALL BUSINESS ADMINISTRATION

Disaster Loan Fund

The bill includes an additional $600,000,000 in new borrowing authority for SBA's disaster loan fund. The Administration now projects that demand for disaster loans through March 1981 will be $1,700,000,000. A total of $1,026,000,000 is presently available for the fund for fiscal year 1981, including the unobligated balance carried over of $726,000,000, net repayments of $200,000,000 and the $100,000,000 in borrowing authority provided in the conference agreement on H.R. 7584.

At the present rate of approval of disaster loan applications, SBA projects that the entire $1,026,000,000 will be committed by the end of January or early February 1981. Therefore, $600,000,000 in additional borrowing authority is recommended to cover the interim period until the 97th Congress reconvenes and can consider the full requirements of the fund.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

For the Department of Transportation the resolution contains appropriations of $42,000,000 for the Coast Guard's added expenses incurred in connection with the Cuban refugees; $78,900,000 for grants to Amtrak to cover their operations for the balance of fiscal year 1981; and $1,685,000 for the St. Lawrence Seaway to cover the costs of repairing their facility in Massena, N.Y., which suffered extensive fire damages earlier this year.

Also, the House version of the resolution contained $10,210,000 for the Panama Canal Commission's capital account. We have retained that provision in the Senate resolution as well.

Transit Project

The Committee is aware that the alternative analysis for engineering studies on the Banfield Transit Project in Portland, Oregon, has been completed, is badly needed to relieve a transportation crisis, and enjoys substantial local financing which will be lost by operation of State law unless a letter of intent is issued promptly by the Secretary of Transportation. The Committee directs the Secretary to immediately issue such a letter on the basis of existing authority.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

Spending Rate for Agencies

SEC. 101(a)(4). The Committee recommends for the agencies included in H.R. 7583 that the appropriate spending level for operation under the continuing resolution shall be at the House passed level or at the current rate, whichever is less except that the rate for the Postal Service is set at $1,250,000,000 or the same amount agreed to in Public Law 96–369, the first continuing resolution for 1981.

The Senate Appropriations Committee concurs with language included in the House report on the continuing appropriations resolution which directs the Postal Service to continue 6-day delivery of mail as at present, including Saturday delivery of mail in business and residential areas and on rural delivery routes.

The appropriations bill as recomended by the Committee and reported on September 17, 1980 was approximately $544,000,000 under the House bill. In order to help maintain these reductions as recommended by the Committee, it is necessary to permit the House passed level to apply only when it is less than the current rate and to maintain Postal Service expenditures at $1,250,000,000.

Office of Inspector General

Salaries and Expenses

SEC. 129. The Committee recommends creation of the Office of Inspector General as an independent office within the Department of the Treasury and has recommended an appropriation of $7,544,800. This appropriation provides the necessary resources for 200 positions to include 70 auditors and 70 inspectors.

In the hearings conducted the Committee was concerned to learn that the Treasury Department had requested only 22 positions and $882,000 for the Inspector General function included within the Office of the Secretary. Included in that request were only 3 investigators and 10 auditors for the entire Department compared to the 622 positions and the $21,913,000 requested by the General Services Administration's Office of Inspector General.

The Committee was also concerned to learn that the Inspector General at Treasury does not have the institutional independence of a statutory Inspector General, he has substantially less control over audit and investigative staff resources throughout the Department and he must generally rely on the bureau to initiate proactive programs. He does not have subpena authority, he cannot offer the same assurance of confidentiality to a complainant nor does he issue periodic reports to the Congress covering problems, deficiencies and recommendations for improvement and progress on the implementation of corrective measures as envisioned by the Inspector General Act.

RESPONSIBILITIES OF THE OFFICE

The responsibilities of the Office of the Inspector General shall continue as described in the Department Order No. 256; revised, and the letter of further clarification dated October 26, 1979, and signed by the then Acting Secretary. Essentially the Office shall investigate and help institute the remedial actions regarding all major problems and allegations of fraud, abuse, waste, and error in Treasury programs, particularly those involving senior Treasury officials. Other less major problems or allegations may be referred to Bureau level offices for audit and investigations but the Office of the Inspector General shall oversee the work of these offices and shall review and approve their annual audit and investigative plans. The Office of the Inspector General shall also initiate proactive investigations and audits and conduct vulnerability analysis. The Committee has recommended bill language to provide the Office with subpena power and to require the Office to comply with the reporting requirements of Section 5 of Public Law 95–452, the Inspector General Act of 1978. The Committee understands that the authorizing committees are planning to act on this matter and therefore this authority will be for 1 year only or until the authorizing committees have had time to complete their work.

Federal Law Enforcement Training Center

Salaries and Expenses

SEC. 130. The Committee was concerned to learn that the Training Center proposed to eliminate payment for individuals receiving advanced training but proposed to continue to pay 100 percent of the cost of those individuals receiving basic training. The Committee believes that this policy would reduce the amount of white collar crime training and other advanced training that the Center would provide to assist the Inspectors General. The Committee, therefore, directs the Training Center to continue to pay 100 percent of the cost of both basic and advanced training to the extent funds are available and to aggressively ascertain and meet the training needs of the Inspectors General. For the purposes of section 502 of the accompanying bill up to $3,000,000 of the recommended increase for the Center may be added to the amount requested for object class 21, travel.

The Federal Law Enforcement Training Center provides the necessary facilities, equipment, and support services for conducting Basic and Advanced, In-service, Refresher, and Specialized (AIRS) training for law enforcement personnel of the participating organizations. Center personnel conduct the instructional programs for the basic recruit training and also selected portions of the advanced training. In addition, the Center furnishes training on a space available basis to personnel from several Federal organizations which are not formal participants in on-going training activities.

Fishermen's Protective Fund

The Committee recommends an amendment that is necessary to make required payments pursuant to existing law to compensate U.S. commercial fishermen for fines imposed on them by foreign governments.

The purpose of this amendment is to provide $10,000,000 of additional capital to the Fishermen's Protective Fund. This fund was created by the Fishermen's Protective Act of 1967 for the purpose of compensating U.S. commercial fishermen for fines imposed on them by foreign governments when those fishermen are apprehended on the high seas but in areas claimed by various foreign governments as territorial waters. Pursuant to this act, U.S. fishermen submit claims for reimbursement to the State Department. Subsequent to certification by the State Department, the U.S. Treasury makes payments to the various U.S. fishermen in question. These payments are automatic and mandatory as prescribed by current law.

The Department of Treasury now has three that have been certified by the State Department in the amount of approximately $1,100,000 for which adequate funds do not exist. The Department of State is now processing or expects to be processing additional claims for approximately $7,400,000. This amendment would provide the Department of Treasury's Protective Fishermen Fund with the necessary capital to make these mandatory and necessary payments to U.S. commercial fishermen.

GENERAL SERVICES ADMINISTRATION

Office of Inspector General

SEC. 131. This level of resources is necessary to fund the additional 50 auditor positions needed by the Inspector General to more fully address the problems of fraud and abuse at GSA.

This appropriation provides agencywide audit and investigative functions to identify and correct management and administrative deficiencies within GSA which create real or potential conditions for fraud, corruption, and mismanagement. This level of effort would allow audit activities to fully participate and support all investigative functions and will include an inspection program for monitoring quality control programs operated by GSA's Service and staff offices.

Internal Revenue Service

More Effective Pursuit of Narcotic Traffickers Needed

SEC. 132. The Committee continues to be greatly concerned that the Internal Revenue Service has continued to reduce its efforts to use its financial expertise to investigate and to take all necessary actions to indict narcotics traffickers and organized crime families dealing in narcotics. This reduction of effective effort is of all the more concern to the Committee in view of the fact that approximately 70 percent of the taxes lost from the illegal portion of the underground economy are due to narcotics trafficking.

The Committee learned in the process of our hearings that in 1974 the Internal Revenue Service was spending approximately $20,000,000 in its Criminal Investigation Division to address this problem but in fiscal year 1981 proposes to spend approximately $8,500,000 even though the problem continues to worsen. This is only another confirmation of the fact that while the problem has increased IRS has continued to reduce its efforts. The Committee has taken action to reestablish these spending levels as they relate to the pursuit of narcotics traffickers to the 1974 level.

Volunteer Income Tax Assistance Program (VITA)

The Committee recommends an amendment to provide an additional $500,000 for the VITA program at IRS. This amendment would bring the amounts to be provided for that program into conformance with H.R. 7583 as agreed to by this Committee in September when the appropriations bill for Treasury, Postal Service, and General Government was marked up. This is an important and very successful program that provides income tax preparation assistance primarily to the elderly. Program funds are used primarily to train elderly volunteers who can then provide this needed assistance.

Customs Service

Air Interdiction Program

SEC. 133. Responding to the high illegal profits from drug smuggling, well-organized crime families have secured the most up-to-date aircraft and other equipment to evade the air interdiction effort currently operated by the U.S. Customs Service. The Customs Service has estimated that there are approximately 7,000 illegal intrusions each year, and their air interdiction successes can be equated to only 1 percent of those illegal intrusions. The major problem faced by the Customs Service in increasing its effectiveness in this regard is their limited ability to detect targets. The Customs Service is not primarily impeded by a lack of aircraft, personnel or funds for maintenance and operation, even though increases in these areas could be effectively used.

In order to improve the effectiveness of the air interdiction program at the U.S. Customs Service, the Committee has recommended an increase of $10,270,000 over the amounts requested by the administration for this program, to be used primarily to increase target detection capability. Specifically, these additional funds should be used in the following way: (1) $6,930,000 is provided for a command control center, a low flyer net, and a beacon detection system. The enhanced radar detection capability that these facilities would provide should be put in place as soon as possible and located in areas that would result in the greatest payoff. (2) $3,375,000 is provided for the procurement of one additional turboprop plane. Funds are provided to fully equip this aircraft with advanced radar systems and forward-looking infrared. The Committee has been advised that the turboprop aircraft are more useful to the program than other types of aircraft because of their extended flight time capabilities. (3) $965,000 has been provided for additional operating and maintenance expenses, to be used nationwide. This amount also funds 10 additional positions to be used to man the new radar detection systems.

The Committee has also provided the additional $750,000 requested by the U.S. Customs Service to equip the several turboprop aircraft now in the fleet with forward-looking infrared.

IRS's Role in Assisting Federal Law Enforcement Agencies

SEC. 134. While the Committee believes that IRS management has adopted an attitude which does not lead to aggressive pursuit of narcotics traffickers, the Tax Reform Act of 1976 has exacerbated this situation. One particularly severe problem created by the Tax Reform Act is that IRS is not permitted by law to release information to any Federal law enforcement agency that it obtains by analyzing tax return information indicating the commission of a nontax crime unless that particular agency has requested the information. This results in a "Catch 22" situation where IRS has information that would be useful to a Federal law enforcement agency but is prohibited from indicating that it has such information and, therefore, the Federal law enforcement agency does not know what to ask for. In the accompanying bill, the Committee has recommended language that would permit the Internal Revenue Service to seek a court order to release such information to the appropriate law enforcement agencies. The Committee directs the IRS to aggressively use this new authority.

GENERAL SERVICES ADMINISTRATION

Federal buildings fund—limitations on availability of revenue

Construction and Acquisition of Facilities

SEC. 135. The Committee has become concerned over the credibility of the engineering scope and cost estimate of the prospectuses. It has become apparent that, if the prospectus is to identify and cost out engineering solutions to mandated environmental and high technology energy alternatives programs, that additional resources must be spent "up front" on advance planning and design of new construction and repair and alteration projects. Additionally, the Committee has previously expressed concern over the lag in construction completion of prospectus projects and the need to perform long- and short-range planning. It would appear that a prudent course of action for GSA would be to perform advance planning and design of new construction and repair and alteration projects prospectus level projects prior to authorization and appropriations. This is a standard industry practice. This advance planning then, would provide the appropriate congressional committees with an improved prospectus based on advance engineering study and also the GSA with completed plans and specifications on or about the time of appropriations. The Committee also recognizes the economic benefits of providing new construction or repair and alteration projects up to 2 to 3 years earlier by this recommended course of action.

The Committee has therefore inserted language into this appropriations bill that will enable GSA to expend moneys from the Federal Buildings Fund during fiscal year 1981 for planning, design, and engineering services of new construction and repair and alteration prospectus level projects in advance of authorization and appropriations, in order to involve and expedite the prospectus and design process involved. Additionally, GSA is authorized to utilize such amounts as shall be necessary from this appropriation to sponsor and conduct an international energy design symposium. The symposium, as an integral part of the design process, will focus on innovative techniques that can be employed to make newly constructed buildings models of energy efficiency.

Merit Board and Office of Special Counsel Relationship

The Committee adopted an amendment offered by Senator Stevens which prohibits the Merit Systems Protection Board from interfering with the investigative and prosecutorial functions of the Office of the Special Counsel. It also prohibits the use of funds to prosecute the pending court case against the Special Counsel. The following explains the proper relationship for the Board and the Special Counsel:

It is clear that the Civil Service Reform Act of 1978, in conjunction with Reorganization Plan No. 2, provides that in matters relating to the investigative and prosecutorial functions of the Office, the Office is independent of the supervision or direction of the Board. At the same time, however, the law clearly places the Office within the Board. This unique relationship will operate in the following manner:

Personnel.—The Office will have sole responsibility in the hiring, firing, training, evaluating, and promoting of all office personnel, and all other basic personnel matters. The processing of papers will remain in the Office unless the Office and the Board agree otherwise.

The Office will promptly supply the Board with information regarding any and all personnel actions which obligate Government funds. The Board shall monitor all Office expenditures and shall immediately notify responsible Office personnel if any budgetary problems arise. Upon such notification, the Office shall promptly take appropriate corrective action.

Procurement and contracting.—The Office will continue to submit to the Board all requests for the purchase or rent of equipment, furniture, or space, or contract for services. The Board will promptly notify the Office when funds for the purchase or rent of such equipment, furniture or space or contract for services have been obligated. The establishment of field offices, however, remains within the purview of the Office. Authority to secure space for a field office, though, resides with the Board.

Budget process.—The budget of the Office shall be submitted to the Board for inclusion in the Board's budget request to the Office of Management and Budget (OMB) and Congress. The budget request of the Office, however, will remain a separate line item appropriation, and the Office will be called upon to justify its request to OMB and the Congress. The Office's budget request shall not be substantively modified by the Board. The Board, though, may make technical changes to the Office's budget submission to bring it into conformity with the style of the Board's overall budget package.

If the Board disagrees with a substantive budget request submitted by the Office, the Board and the Office shall discuss the disagreement. If the Office and the Board cannot reach an agreement, the Board may attach an addendum to the Office's budget request to OMB and Congress explaining its disagreement. In such case, the Office should have opportunity to justify that particular portion of its request before OMB and Congress.

Congressional contacts.—The Office shall have direct access to Congress at all times. The Office shall coordinate legislative activities with the Board and attempt to avoid duplication of effort. The Office shall provide copies of prepared testimony for the Congress to the Board prior to the submission of such testimony to Congress. The Office shall submit to the Board for approval legislative changes the Office proposes to Congress, except legislative recommendations called for by section 1206(m) of title 5, United States Code.

Outreach and publications.—The Office may have its own public information function. It shall be responsible for disseminating information to the public regarding its existence and functions. Whenever practicable, however, publications shall be submitted to the Board for comment prior to public release. The Office and the Board shall coordinate publications of information covering both the Office and the Board. The Office may use its own letterhead on all stationery and publications, but shall clearly indicate the Office's association with the Board.

Finally, the prohibition on the use of Government funds in the pending court case, *Merit Systems Protection Board* v. *Mary Eastwood*, is delayed 7 days after the enactment of the continuing resolution. The purpose is to allow time for the orderly termination of the lawsuit.

Additional Funding for the Office of Special Counsel

The Committee recommends an amendment for the Office of Special Counsel to provide that Office with the amount agreed to when H.R. 7583 was marked up last September. This is also the amount that was recommended by the House. Without this amendment, the Office of Special Counsel would be required to operate at a level of $2,500,000 instead of $4,300,000 agreed to for 1981. This would seriously impede the operation of the Office to investigate allegations of prohibited personnel practices.

Mr. MAGNUSON. Mr. President, Senator Young may have some additional comments on it. I am not going to go into detail on this. I am sure he does not want to, either. But there is no way to summarize this.

Mr. YOUNG. Mr. President, I do have a relatively short statement.

The current continuing resolution runs out December 15. The House sent over a continuing resolution that would extend the date until June 5, 1981. The Senate Appropriations Committee changed the House date for the continuing resolution to September 30, 1981. I understand the concerns of extending the date to September 30, 1981, because of the budget implications. The distinguished chairman of the Budget Committee (Mr. Hollings) and other members of the Appropriations Committee discussed the implications of extending the date to September 30 in committee, and it was the committee position to adopt the September 30 date.

Mr. President, this continuing resolution, like all continuing resolutions, is intended to continue appropriations for those agencies for which an annual appropriations bill has not been enacted. This continuing resolution before the Senate today would do that, but let me point out that the bill that the House sent to the Senate went beyond providing the means for Government agencies to continue to operate at their present rate and added $5.4 billion in direct appropriations.

In the deliberations of the Senate Appropriations Committee, the committee added approximately $5.8 billion of direct appropriations to the continuing resolution; $5.5 billion of the additional funds is for the International Monetary Fund (IMF).

Needless to say, a great deal more money will be spent than the money added to this bill for direct appropriations because of the continuation of the ongoing programs. So, it is impossible to put a total specific dollar figure on the cost of this continuing resolution. However, the Budget Committee and the Congressional Budget Office will make an estimate of how much will be spent relative to this continuing appropriation.

Mr. President, the committee adopted approximately 65 amendments to this resolution. Many of these amendments are needed so that Government agencies can efficiently and effectively continue to operate. However, all of these amendments will be in conference and if we are to complete the conference by this weekend, it is important that we complete action on this bill as soon as possible.

Mr. President, there are far more amendments to this bill than are necessary. The new Congress convenes only about a month from now, and most of these amendments could be considered by that Congress. If we are to adjourn this Congress this week, we shall have to eliminate many of these and not accept many more except the most important amendments.

I urge my colleagues to approve the continuing resolution as recommended by the Appropriations Committee.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

UP AMENDMENT NO. 1858

(Purpose: To continue in effect for fiscal year 1981 the pay cap limitation currently in effect)

Mr. SASSER. Mr. President, I have an amendment for myself, Senator Burdick, and Senator Helms at the desk. I ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. Sasser) for himself and Mr. Burdick, proposes an unprinted amendment numbered 1858.

Mr. SASSER. Mr. President, I ask unanimous consent that further reading be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

Sec. 186. Notwithstanding any other provision of this joint resolution, the provisions of section 306 (a), (b), and (d) of H.R. 7593 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials) shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through September 30, 1981, by this or any other Act.

Mr. SASSER. Mr. President, this amendment will continue the currently existing pay cap through the life of this continuing resolution; that is, September 30, 1981.

This cap was included in the first continuing resolution. It will expire with the first continuing resolution on December 15, 1980. The House of Representatives recognized this and included a new pay cap in this, the second continuing resolution for fiscal year 1981. The cap included in the House version of the resolution would extend until June 5, 1980, which is the expiration date of the second continuing resolution. However, the second continuing resolution, as reported by the Senate Appropriations Committee, would lift the pay cap on December 31, 1980. The effect would be to allow Members of Congress, Federal judges, and upper level Federal employees to be paid salary increases of up to 16.5 percent.

SASSER-BURDICK AMENDMENT

Mr. President, the amendment I am offering for myself and Senator BURDICK would continue the currently existing pay cap for the life of this continuing resolution; that is, through September 30, 1981. Our amendment provides that the salary pay cap limitation will apply to any appropriation, fund, or authority made available for the period October 1, 1980 through September 30, 1981, by this or any other act.

CITIZENS ARE FALLING BEHIND

Mr. President, the rationale for this amendment is that the citizens of this country are falling farther and farther behind because of runaway inflation. The result is a significant erosion in the standard of living of most Americans. As we all know, inflation hits the poor, the elderly, and those on fixed incomes especially hard. On the other hand, the Members of Congress, judges, and high-level Federal employees earning more than $50,000 are perceived by most Americans as being better able to cope with the effects of inflation.

If we, Mr. President, were to approve a pay raise for ourselves and other high-level officials and employees of the Federal Government—we would be sending the wrong signal to the American people. We would be sending a signal to the American people that we in Congress expect them to cut back, that we expect them to be subject to the ravages of inflation, but we in Congress are going to insulate ourselves and insulate the Federal judiciary and insulate high-level Government employees from the effects of inflation by a pay raise. I believe a vote for a pay raise at this time would be misinterpreted—perhaps correctly interpreted—by the American people as an indication that we in Congress are not willing to bear our fair share of the problems of inflation.

Mr. President, instead of approving a pay raise for ourselves, we should be exerting more vigorous efforts to reduce nonessential Federal expenditures. And I plan to offer the Senate the opportunity to do just that.

15-PERCENT-CUTBACK AMENDMENT

Immediately after the Senate disposes of this amendment, I will offer a second amendment which will cut the fiscal year 1981 Senate budget by 15-percent below the fiscal year 1980 level.

As my colleagues will recall, the Senate voted overwhelmingly—first on June 2, 1980 and again on August 26, 1980—to reduce the Senate budget by 10 percent in the aggregate.

I believe that a larger reduction can be realized due to the extraordinary turnover in Members. The likelihood is that the new Members will only gradually build up staff comparable to their predecessors.

My 15-percent-cutback amendment would provide the lowest Senate appropriation since fiscal year 1978.

SUMMARY

Mr. President, the amendment that I am offering for myself and Senator BURDICK would impose a salary pay cap limitation through the life of this continuing resolution. This will assure that there will be no pay raise this fiscal year for Members of Congress, Federal judges, or high level Federal employees.

The amendment I will offer immediately after the Senate disposes of the Sasser-Burdick amendment would impose a 15-percent cut on the Senate budget in the aggregate. If this amendment is enacted, it will provide the lowest Senate appropriation since fiscal year 1978.

CONCLUSION

Mr. President, I urge my colleagues to support both of these amendments.

I might add, Mr. President, in real dollars, that is, dollars corrected for inflation, one of the lowest Senate appropriations in many, many years.

Mr. President, I ask unanimous consent that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) be added as an original cosponsor to both of these amendments, and that the Senator from North Carolina (Mr. HELMS) be added as an original cosponsor of the pay cap amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MAGNUSON. Will the Senator yield?

Mr. SASSER. Yes.

Mr. MAGNUSON. I understand that the Senator's amendment on the pay cap is one thing, and the other 15 percent is another thing. Does the Senator propose to join the amendments or have them separate?

Mr. SASSER. I propose to have them separate.

Mr. MAGNUSON. Separate?

Mr. SASSER. Yes.

Mr. MAGNUSON. That is all right. I just wanted to know.

Mr. SASSER. Mr. President, I urge my colleagues to support this effort to limit the salary of Members of this body, the Federal judiciary, and also high level employees of the Federal Government, as an indication that we in this body are concerned about inflation, that we are willing to do our share and take our portion of the adverse effects of inflation.

Mr. President, I also ask unanimous consent that the Senator from North Carolina (Mr. HELMS) be added as a cosponsor on the 15-percent-cut amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BURDICK. I rise in support of the amendment offered by my colleague from Tennessee (Mr. SASSER) to retain the current salary ceilings for executive, legislative, and judicial employees and officials.

Mr. President, during the last 12 months this Chamber has been ringing with the rhetoric of balanced budgets and restrained Federal spending. In order to achieve these goals, we have been asked time and time again to reduce spending for programs such as food stamps, child nutrition, and student aid. Now we are being asked to concur with a proposal to grant a 17 percent pay raise to more than 33,000 Federal employees earning over $50,000 a year at a cost to the Federal Government of at least $100 million in fiscal year 1981 alone. I believe it is our responsibility as publicly elected officials to set an example for the Nation—particularly business and labor—and reject this suggestion.

It is ludicrous to think that we can persuade our constituents that we are serious in our efforts to fight inflation when we are voting ourselves a 17 percent pay hike. It is incumbent upon us to set a higher standard. How could anyone vote for this increase, yet tell an elderly person on food stamps or a family waiting for modest, affordable housing that they will have to do with less. It would be cruel and hypocritical, and the American people would be justly furious.

This appropriations bill is already over the budget ceilings we set earlier this year. If we are going to add $100 million to the Federal budget, let us add it where it is needed and not in pay increases for people already earning substantial salaries.

Several Senators addressed the Chair.

Mr. MAGNUSON. If I may, I will ask the Senator from Tennessee another question.

Would the 15-percent cut apply only to Senate employees; will it apply only to Senate employees?

Mr. SASSER. Would the Senator from Washington restate the question?

Mr. MAGNUSON. The Senator proposes an amendment cutting 15 percent of Senate employees.

Mr. SASSER. No. I offer an amendment, which we will get to after the pay cap amendment——

Mr. MAGNUSON. It will come up afterward?

Mr. SASSER. Yes.

It offers a 15-percent cut in the Senate budget in the aggregate.

Mr. MAGNUSON. But it would not affect the House?

Mr. SASSER. No; it would not. We have no authority, I say to the distinguished Senator from Washington.

Mr. MAGNUSON. All right.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. BOREN). The Senator from Alaska.

Mr. STEVENS. Mr. President, once again we are in a situation of talking about compensation for the executive, judicial, and legislative branches. I hope that Members will differentiate between salary increases and cost-of-living increases.

The Senator from Tennessee's amendment rightly applies to the pay cap on the cost-of-living increase and he has articulated his reasons for his amendment most ably.

I might say that I have been delighted to be able to work with the Senator from Tennessee on many issues. I am sad we disagree on this one because, Mr. President, whether we like it or not, because of our reluctance to deal with our own salaries, what we have done is put a cap on all salaries for the executive and legislative and judicial branches of Government which is stifling—literally stifling—our efforts to control expenditures of the Federal Government and to get our total expenditures under control so that we can really have an impact on the inflationary spiral.

Many people talk to me about the time we have spent on this question. We do spend an inordinate amount of time on it and yet we ignore the real problem, which is the 34,000 individuals of which only 535 are Members who will receive an overdue pay adjustment if we lift the current pay cap. The other 33,500 Federal employees have all taken a pay cut in terms of loss of purchasing power due to inflation. The size of the pay cut depends on how long an individual has been under the pay cap. For example, Government employees, frozen at Executive Level II, have today, the purchasing power of $43,299 salary in 1977 dollars. In other words our salary which is linked to Executive Level II salaries today is really $43,299 not $60,000. Now if you want to measure the salary based on the value of the 1969 dollars, when I came to this body, it is really $26,249. But the Member pay is not the problem we are attempting to solve. We are trying to deal with a problem that if not dealt with will have a debilitating effect on the operation of the Federal Government.

On January 20, a new administration will be sworn into office. President-elect Reagan is, I know, attempting to recruit the most able men and women possible to lead this Nation. I know for a fact that his transition team has been experiencing difficulty in recruiting top flight personnel for these top executive positions, particularly in the mid and upper midlevels for the executive branch. The problem was highlighted when Alexander Trowbridge, President of the National Association of Manufacturers, pointed out:

What is the bottom line then of leaving industry to go to work for the Government? Quite often it means:

Lower base salary;

Fewer perquisites and incentive compensation;

Contributory, rather than company-paid life and health insurance;

Generally inadequate life insurance coverage;

No accrual of pension.

Yet there are problems involved other than recruiting for the new administration. For example, Jane Zodun, President of the Classification and Compensation Society, stated recently:

The Government cannot expect to keep its brightest people where promotions present increased responsibilities with no increase in pay. It is a fact of life that we cannot keep a cap on top salaries and still attract and retain the best managers and leaders. Such a cap demeans the Federal Service and implies that the Government does not need top quality people.

Robert Frosch, Administrator of the National Aeronautics and Space Administration, recently wrote me and pointed out:

A certain amount of turnover among executives is to be expected, indeed, it is desirable in a research and development organization. The artificially low federal pay cap, however, has the effect of driving out of NASA those whose talents and experience are most needed by the agency and at the point in their careers when they are the most productive. . . .

W. Graham Claytor, Deputy Secretary of the Department of Defense, testified before the Quadrennial Commission and stated:

Now, when we get to the executive branch of the government, executive department top salaries run from just over $50,000 for Executive Level V to just under $70,000 for Executive Level I. . . . To use my old company, the Southern Railway, as an example, this is a base salary range for middle-management people, such as assistant vice president and regional sales managers. And even these receive every year substantial bonuses under the company's executive management incentive plan that may be as high as 25 percent.

Now, I don't urge that government executives have to be paid the same as private executives, but when the discrepancy gets to where it is now, it's just going to be impossible to hold or attract the right people.

A memorandum, prepared by the Department of the Air Force outlines the tremendous problems. Issued by our military arm, states in part:

It is evident that the current pay system for the managerial and executive levels within the Federal Government, particularly in the military departments, does not provide higher pay for higher levels of work. The Federal pay system is currently causing executive recruitment and retention problems." Unless positive changes are made quickly the problem of recruiting and retaining capable managerial people will soon be so serious that vital government programs could be adversely affected.

Pay compression has reached the point where people in the military departments see all senior managers being paid the same amount. Within the Air Force we have 176 general officers and 826 civilians capped at $50,112.50. Whether presented functionally or through the "chain-of-command," seven to nine levels of management are paid at the same rate. Once it was a truism that promotion meant an increase in pay as well as an increase in responsibility. Since this is no longer the case it is increasingly more difficult to fill higher level jobs from within the agency, especially if a geographic move is involved. With the drastic upward spiral in mortgage rates alone in the past two years, there are few people who can move without a significant monthly increase in housing costs. When combined with family-life disruptions of a move, it is not hard to see why a high-level employee views a move, even with a promotion, as a reduction in pay and is extremely reluctant to accept it.

Senior executives are influenced to retire at the earliest possible date because the COLA adjustments to annuities far outstrip salary adjustments. A dramatic example is that of the SES employee (GS-17 level) who retired on 28 February 1977. Annuity increases from 1 March 1977 to 1 September 1980 would be over $10,000, compared to a salary increase of $2,612.50 if the employee had elected not to retire. Since January 1980 about 20 percent of our SES members have retired. The average age of SES members dropped over 1 full year during the past 24 months. The retirement situation will continue until base pay is adjusted upward."

PAY RELATIONSHIPS

CPI	Year	Executive level V GS-16/SES	General Officer (0-10)	Step rate	GS-15	GS-14
177.1	February 1977	[1] $47,500.00	[1][2] $47,500.00	S-8	$41,671.00	$35,431
	October 1977	[1] 47,500.00		S-8	44,613.00	37,925
200.7	February 1978	[1] 47,500.00	[1] 47,500.00	S-9[3]	45,819.00	38,950
	October 1978	[1] 47,500.00		S-9	[1] 47,500.00	41,090
225.4	October 1979	[1] 50,112.50	[1] 50,112.50	S-9	[1] 50,112.50	43,969
251.7	October 1980	[1] 50,112.50	[1] 50,112.50	S-9	[1] 50,112.50	47,967
	Increase	2,612.50	2,612.50		8,440.50	12,536

[1] Pay limited to the rate for level V of the Executive Schedule.

[2] Mar. 1.

[3] Each employee is assumed to have completed required waiting period and given a step increase.

COMPARISON OF SALARY INCREASES 1977 TO PRESENT

[In percent]

Date	Level V employees	Other Federal employees	Retired Federal employees
1977	↑	↑	↑
1978		[2] 28.6	[3] 40.9
1979	[1] 5.5 ↓		
1980	0.0	↓	↓

[1] Effective October 1979.

[2] Effective October 1977, 1978, 1979, 1980.

[3] Effective March, September 1977, March, September 1978, March, September 1979, March, September 1980.

From Feb. 1977 to the present time the Level V ceiling has only been increased by 5.5 percent. During the same period of the annuities of retired Federal employees increased by 40.9 percent. For on-board employees the increases (including the 1 October 1980 adjustment) total 28.6 percent.

Alan K. Campbell, Director, Office of Personnel Management, succinctly pointed up the problem in an attempt to manage the Federal Government personnel when he stated:

It is becoming increasingly difficult to recruit candidates from outside government for senior jobs. This is not to say that these jobs are going vacant or are being filled with unqualified candidates, particularly for jobs which require specialized professional or technical qualifications.

What follows are excerpts of management problems pointed out in the Comptroller General's report of July 31, 1980:

Executive Schedule salaries have increased an average of only 35 percent since October 1969 as compared with increases of 84 percent in the General Schedule and 125 percent for private sector executives.

The purchasing power of Executive Level I salaries has decreased 43 percent since October 1969, and salaries of the Level V ceiling have decreased about 31 percent.

Pay compression extends further into the General Schedule and causes about 90 percent of SES executives to receive the same pay despite different levels of responsibility.

Salary differentials are inconsistent for different levels of Federal executives.

PAY COMPRESSION PROBLEMS CONTINUE

Pay compression continues to be a major cause of recruiting and retention problems for Federal agencies. These problems are compounded by the attractive cost-of-living adjustments to retirement annuities which increase the incentive to retire.

Personnel officials at Federal agencies consider low Federal executive salaries and infrequent adjustments as major sources of difficulty in recruiting well-qualified individuals from outside the Government.

Many Federal executives are reluctant to accept promotions because the increased responsibilities of the position are not recognized with higher pay. Also, such promotions often involve moves to high-cost areas of the country. Pay compression results in more payless promotions because executives at several different levels of authority make the same salary.

The Director of the Office of Personnel Management acknowledged that pay compression "leaves the Federal Government, as an employer, in the position of not being able to attract high-quality executives from the private sector, nor to offer the most able midmanagement Federal employees any reward for accepting increased responsibility."

Many Federal executives with extensive experience are choosing to retire rather than continue working at frozen pay levels. In fact, the rate of executives retiring in the first 3 months of 1980 was much greater than the rate of retirements in the last 6 months of 1979. The Department of Health and Human Services alone lost 16 top executives in the first quarter of 1980 with combined Federal experience of over 500 years.

SES COULD BE ADVERSELY AFFECTED

SES salaries' link to the Executive and General Schedules has resulted in about 90 percent of SES members receiving the same pay.

The compression of SES salaries undermines two important purposes of SES and may threaten its success.

The Civil Service Reform Act of 1978 states that SES was created to—

> Provide for a compensation system designed to attract and retain highly competent senior executives; and
>
> Insure that compensation, retention, and tenure are contingent on executive success which is measured on the basis of individual and organization performance.

Failure of the Congress to insure that these objectives are implemented may be seen by civil servants as a lack of commitment to civil service reform. This perception could be critical when agencies begin implementing other aspects of reform, such as merit pay, which may affect as many as 125,000 GS-13's through GS-15's, and performance appraisal, which affects all Federal employees.

Recent proposals in the Congress to limit total remuneration, including performance awards, and actions to further limit the number of SES positions eligible for awards could be disastrous for SES.

Prohibiting or limiting performance awards and ranks:

Could nullify the success agencies have had in encouraging Federal executives to join SES.

Is seriously affecting the morale of Federal executives.

May stifle the incentive for excellence and superior performance.

Can damage the credibility of the entire civil service reform legislation.

More importantly, many executives who have elected to join SES interpret the performance award limitation as a breach of faith. Responses to a questionnaire sent to senior executives indicate a large number are very concerned about proposals to limit performance awards and to continue the executive pay freeze.

By lifting the pay cap we are helping resolve the problem. In the Comptroller General's Report of July 1980 entitled "Federal Executive Pay Compression Worsens" it states:

> Allowing annual adjustments to take effect would help alleviate compression, improve pay distinctions, and reduce agencies' recruitment and retention problems.

There is no question we must do something regarding pay. I think the American public will understand and support the fact we are attempting to improve the quality of Government by allowing this Nation's top management to receive the pay increase denied them over the past several years.

Again remember we are primarily talking about the executive branch. Currently GS 15, step 5's and above are making the same salary—a totally untolerable management problem. If we do not do anything now, the number of individuals under compression will almost double to 54,000 by October of 1981, and 140,000 by 1984. Currently, everyone in a GS 15, step 5 and above receive the same salary. In 1981 that will drop to GS 14, step 8—except GS 15, step 10—and 1984 means that all those at levels GS 13, step 7—except GS 14, step 1—will be making the same salary. That means six levels of management all making the same salary.

Since 1969, executive salaries have increased 35 percent, while the CPI has gone up 140 percent. The result of pay caps on Federal management has been increasingly difficult in recruiting top flight personnel and the retention of current executives. Those top executives with long years of government service are staying only because of their investment in the Federal retirement system. Even these executives, frozen by the pay cap, retire at twice the frequency of other Federal employees.

My concern goes beyond the welfare of the individual executives caught under this pay cap. My concern is with the quality of government the American people will receive. There is no question that we must have the very best people to administer the laws we pass. If we do not, and if there is not some salary adjustment for management executives, we are increasing the possibility of mismanagement, waste and fraud in government, something none of us want and the American public will not tolerate.

Let me point out the military aspects of this because, so often, people say we are just, somehow or other, dealing with the executive branch and people often forget that as part of that executive branch we have the military system.

In the Air Force alone, there are 176 general officers and 826 civil service who are capped by the pay cap. That does not make much difference to many people, to just use that statement.

However, I asked for a chart to be prepared showing what this means in a chain of command. I will take the Air Force in this connection and just read off where we are.

We are at the situation now that five levels of Government are frozen at the same salary level. As we try to bring about better management in order to effect savings, we are prevented from getting good managers at the top because there is no incentive to move up.

The person who is the chief of configuration data and logistics defense, a grade GS-15 in the Air Force, now has the same salary as the electronics engineer who is above him, grade 15; the deputy for technical operations, who is above him; the commander of the electronics systems division, a general. Above him a vice commander of the Air Force Systems Command. Above him is the Commander of the Air Force Systems Command. Above him is the head of research, development, and acquisitions, who is a lieutenant general. Above him is the Chief of Staff, who is a general. Above him, of course, is the Chairman of the Joint Chiefs of Staff.

If we look at the military system, we see that there are nine levels now; and we are supposed to be in the situation in which we are bringing about better control over expenditures of the funds we provide for the Defense Department.

As I have said, in terms of the general schedule, all persons who enter Government at grade 15, step 5 and above, unless this cap is raised, will receive the same salary. In the Senior Executive Service, that is about 34,000 people.

We spent hours on this floor reforming the Civil Service Act, to bring about the Civil Service Reform Act, to create a new Senior Executive Service—all those in Government service above grade 16—and we provided special incentives, such as incentive bonuses, in order for people to perform better.

In this pay cap, we have capped all those in the senior executive service at one step below their salary level at the time they went into the senior executive service. We are losing middle management in Government at a rate never before experienced.

Regardless of which side of the aisle they are on, I hope the Members of the Senate who were here will recall that 4 years ago, I was arguing the same thing on behalf of an incoming President named Carter, because the pay cap that was sought then to be imposed had to be lifted in order that the new administration might acquire additional people they wanted and have the normal pay compensation incentives to take these jobs.

Today, we have the same situation. We have an incoming administration trying to fill jobs. Some jobs have been vacant for more than a year because of the pay cap. We have this compression that has brought us to the point where, as I have said, anyone above GS–15, step 5, is receiving the same salary.

We now see the situation that unless we lift this pay cap, all salaries above GS–14, by the end of the next fiscal year, will be capped. There will be no incentive at all to move from GS–14 through all the steps through 15, 16, 17, and 18, into the E schedules.

You cannot manage a supermarket at the level of pay that you pay the person who is putting the groceries in the bag. That is what is going on in this Government.

If you want to know why we have inflation, we are running this Government from the sixth and seventh level. Unless we change this, there is going to be greater inflation and waste in our expenditures, because we do not have the capability to keep the people who have the ability. At middle-level management, they are moving out.

Think of this in connection with the Department of Agriculture: The position of assistant regional administrator for Agricultural Research in Science and Education Administration was refused by several highly qualified candidates from outside because of the pay cap.

In the Arms Control and Disarmament Agency, two assistant directors left because of pay.

In the Office of Assistant Secretary of Defense, two promising young attorneys who were eagerly sought for the Office of General Counsel refused to take the job because of pay.

In the Environmental Protection Agency, four division directors and one deputy assistant administrator returned to private industry or law firms because of the pay cap.

In the Federal Home Loan Bank Board, the position of chief accountant in the Office of Examination and Supervision, a key position, has not been filled in the last 8 months because of lack of qualified candidates. In addition, two of their top-level economists went back to private industry because of pay.

If you go through the Department of Health and Human Resources, it is even worse. The Director of the Division of Heart and Vascular Diseases, National Heart, Lung and Blood Institute, remains vacant because there is not enough pay to attract a qualified individual.

Nine committee administrators in the Social Security Administration have retired and have not been replaced because of pay.

In the FBI, the GS–17 position in automation technology was refused because of the pay cap. This was the third Federal offer to try to fill the job in a year—a GS–17.

Why take it? Why take the additional responsibility and demands and move up from, say, a grade 15 to 17 with no more pay? You can leave the Government and compete in private enterprise.

In the Federal Bureau of Investigation a GS–17 position in automation technology was refused by a full professor of computer science at a major university, who mentioned this was the third Federal offer he had declined in a period of 1 year, because of pay.

At the Library of Congress several GS–16 positions have been vacant for many months, with inadequate salary a major factor. Positions include Chiefs of the Manuscript, European, and the Asian Divisions.

In the National Aeronautics and Space Administration a vacant ES–6 (SES) position was turned down by six former (but not retired) NASA employees, because of pay.

An ES–5 (SES) position was accepted by a highly qualified candidate from the private sector, then declined because of economics.

At the Tennessee Valley Authority in the last 10 months, TVA has lost to the private sector, for higher pay, the Director of the Division of Nuclear Power, the Manager of the Engineering and Design Organization, and the two highest ranking executives responsible for coal procurement.

In the Department of the Treasury two Regional Counsel SES positions found only three interested outside candidates. No GS–15's applied. The GS–14's selected were rejected by OPM as not meeting the qualifications.

Mr. President, let me say this about our own pay: In terms of 1969 dollars, Congress and the executive level personnel today earn, under the pay cap, $27,000. In 1977 dollars, they earn $44,500.

We are in the situation now that Congress and the top executive branch personnel, including the military personnel, have received only a 5.5 percent cost-of-living adjustment since 1976. During the same period, the CPI has climbed almost 40 percent. Unless we can lift this cap, as I have said, we will go down in the fiscal year that this bill covers to GS–14. As a consequence, thousands of additional people will leave government because there is absolutely no incentive to stay in government and to seek promotions.

As I said earlier, I understand the reluctance of those of us to deal with our own pay. Unfortunately, we have the tradition that says that these senior executive people, including the military, cannot be paid in excess of the salary that is paid to the Members of Congress. I believe we will have to attack that basic problem, and I hope to do that next year when the quadrennial salary recommendations come to Congress.

However, Mr. President, we are talking about cost-of-living adjustments. Because we have denied ourselves cost-of-living adjustments on the last two occasions, we have, in fact, frozen the pay of 34,000 people. We have put ourselves in the position where the salary for the Chairman of the Joint Chiefs of Staff is the same as an electronics engineer in the Air Force—and there is no incentive for that electronics engineer to stay, because there is no job he could go to in the chain of command above him that would give additional compensation. He can only get additional responsibility, with no additional compensation. If he left the Government to go out into the industrial base that is involved with the Air Force, he would get thousands and thousands of dollars in pay difference in the very first level of his employment.

I would hope there are some people who are concerned about this. The effect of the Senator's amendment will be to deny not only to ourselves but to the executive and judicial employees the cost-of-living adjustments that would be provided by my amendment.

I would welcome any suggestions from others. I would be more than willing to accept the amendment if it were limited to the legislative branch because I recognize realities of political life, but I am here arguing basically for the rights of the 34,000 people in the judicial and executive branches, particularly those in the Department of Defense, and I would hope that we would lift the pay cap for them even if we want to keep it on for ourselves. Let us lift it for those who are really being burdened by our own timidity. They are burdened by our own unwillingness to face the question of fair compensation for a job performed as far as Members of Congress are concerned also.

But I leave that for my good friend from Tennessee.

As I said, I will be most happy. We could avoid a vote. Let us just all agree that the judicial and executive pay cap is lifted but we keep it on the legislative branch for this fiscal year.

Mr. YOUNG and Mr. SASSER addressed the Chair.

Mr. STEVENS. Mr. President, may I say to my friend that my senior colleague, the ranking minority Member on our side had asked me to yield. May I yield to him briefly?

Mr. SASSER. Yes.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. YOUNG. Mr. President, I wish to make a short and very unpopular comment. It is very unpopular to advocate any pay increase or even a cost-of-living increase no matter how justified.

The 34,000 people in the executive department whom the Senator from Alaska was talking about did not receive any pay raise at all from 1977 through 1979. They did receive one in 1979 but since then there has been inflation of 26 percent. So since that time, since last year, they are actually receiving 26 percent less than they did a year ago. I do not know what better case one could make for giving these people the cost-of-living increase if we wish to keep competent people in Government.

I know I am arguing from an unpopular position. The average person thinks $40,000 or $50,000 is big pay, but if we want the capable people, the kind of people we need to run our Government, we are going to have to pay more money than that for the most important assignments. I am not for raising Senator's salaries.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, on the desks of the Members this morning there is a printed amendment No. 2859, identical to the amendment of the Senator from Tennessee, which I introduced on November 20 which was ordered to lay at the table and to be printed.

I have since had the honor to have a number of colleagues ask to join as cosponsors of that amendment which I had intended to offer but which the Senator from Tennessee in his capacity as chairman of the Subcommittee on the Appropriations Committee which handles these matters did offer himself.

Mr. President, I ask unanimous consent that the Senator from Delaware (Mr. BIDEN), the Senator from Texas (Mr. BENTSEN), the Senator from Nebraska (Mr. EXON), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Michigan (Mr. RIEGLE), the Senator from Nevada (Mr. CANNON), the Senator from Maine (Mr. COHEN), the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Alabama (Mr. HEFLIN), the Senator from Delaware (Mr. ROTH), and the Senator from Nebraska (Mr. ZORINSKY) be added as cosponsors of my amendment No. 2859.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, as I do not feel I am in a position to talk directly for them, I simply make the point that they would be cosponsors. I cannot but suppose they would wish to be a cosponsor of the amendment of the Senator from Tennessee and I ask unanimous consent that they and myself as well en bloc be so ordered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, briefly, I have listened to the Senator from Alaska with the greatest attention and agree with so much of what he says.

I recall the Senator from Missouri not many months ago standing on the floor and speaking to the urgency of a pay increase for Federal judges and, indeed, to touch upon the question of whether the present inflation was not constituting an unconstitutional diminishment of their pay in office.

Mr. President, there is a question of procedure. This was not done as it should have been done. The public will not understand or will understand all too well—and the effects are not going to be to enhance the reputation for openness in our body, or of deservedness in the military and civil services. The Senator from Alaska speaks with clarity and with precision and in my view with complete justification.

There is a matter of procedure. It has been spoken to by editorials across the land in those terms and the appearance of forthrightness in these matters is as important in my view as propriety and the soundness of the policy which is being put forth.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a "Dear Colleague" letter and several editorials which I have introduced in behalf of the identical amendment of the Senator from Tennessee in order to expand on this point, which, I think, is sufficiently understood by the Senate not to require further elaboration by me at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
December 5, 1980.

DEAR COLLEAGUE: When the Continuing Resolution is taken up by the Senate, I will move to strike the pay raise that the Appropriations Committee has proposed to allow for members of Congress and senior employees in all three branches of the federal government.

There are few among us who would not personally welcome a salary increase. But it would be irresponsible and unresponsive to the clear wishes of the American people if we were to allow it to occur at this time and in this way.

For the last several years, the cost of living has increased faster than the incomes of most Americans. The result is steady erosion in the standard of living of most families.

It is widely agreed that government deficit spending is one cause of inflation. It is widely agreed that government spending now consumes too large a fraction of the gross national product. That, at least, is one of the clear messages delivered by the electorate on November 4, and it should be unthinkable that we should disregard it now, in the final hours of a "lame duck" session. It should be especially unthinkable that we would disregard it in this particular way: not by voting additional funds to the needy and those on fixed incomes—the hardest-hit victims of inflation; but by voting additional funds to insulate *ourselves* and the highest-paid employees of the federal government, people whose individual salaries already exceed $50,000 a year, against the effects of inflation.

I do not believe that the American people want us to vote ourselves pay raises. And I will therefore move to maintain the prohibition against such raises that would be in effect during Fiscal 1981 if H.R. 7593—the Legislative Branch Appropriation Act—had been enacted into law.

If you wish to cosponsor this initiative, or have any questions, please phone Timothy Maxwell or Pablo Lippe at 4-4451.

Sincerely,

DANIEL PATRICK MOYNIHAN.

MR. PRESIDENT, I rise to introduce an amendment to H.J. Res. 637, a bill making Further Continuing Appropriations, 1981. The initiative is designed to strike the pay raise that the Appropriations Committee has proposed to allow for members of Congress and senior employees in all three branches of the federal government, while at the same time it retains the planned 10 percent cut in the expenses of the Senate.

There are few among us who would not personally welcome a salary increase. But it would be irresponsible and unresponsive to the clear wishes of the American people if we were to allow it to occur at this time and in this way.

For the last several years, the cost of living has increased faster than the incomes of most Americans. The result is steady erosion in the standard of living of most families.

It is widely agreed that government deficit spending is one cause of inflation. It is widely agreed that government spending now consumes too large a fraction of the gross national product. That, at least, is one of the clear messages delivered by the electorate on November 4, and it should be unthinkable that we should disregard it now, in the final hours of a "lame duck" session. It should be especially unthinkable that we would disregard it in this particular way: not by voting additional funds to the needy and those on fixed incomes—the hardest-hit victims of inflation; but by voting additional funds to insulate ourselves and the highest-paid employees of the federal government, people whose individual salaries already exceed $50,000 a year, against the effects of inflation.

We have just this week passed a budget reconciliation bill which cuts Federal spending by $4.6 billion. As a member of the Budget Committee, and a conferee for the bill, I can attest to the tremendous difficulty of this task. Are we now to turn around a very few days later and grant an increase of roughly $100 million to the highest-paid employees of the government?

I do not believe that the American people want us to vote ourselves pay raises. And I will therefore, at the appropriate time, move my initiative to maintain the prohibition against such raises that would be in effect during Fiscal 1981 if H.R. 7593—the Legislative Branch Appropriation Act—had been enacted into law.

In recent weeks two Washington Post editorials have opposed this pay increase, one going so far as to describe it as part of a "rip-off," and I ask that they be included in the RECORD at this point.

DANIEL PATRICK MOYNIHAN.

[From the Washington Post, Dec. 5, 1980]

POLITICIAN, PAY THYSELF

On Wednesday evening, the Senate Appropriations Committee slipped a hefty congressional pay raise into a bill and whistled it off to the floor. It was the same raise they said last week they wouldn't dream of giving themselves—amounting to more than $10,000, for a total salary of $70,900. This, or any other increase that could squeak through Congress in these final hours, should be vetoed by the president.

Often the parties to these actions will retreat when the spotlight of publicity is turned on them, which could explain all the denials that were emanating from these halls when the first report of the pay-raise maneuvers appeared. And during the day yesterday, many senators were quick to rise in scripted indignation and well-rehearsed shock at the very thought of such a selfish, stealthy, wasteful act occurring in their midst. After all, members of the House had gone to considerable—well, modest—pains to include language specifically banning any such congressional pay raise.

So how does all this come out in the end? In the frantic scrambling to break stereophonic filibusters, enact continuing resolutions and pack up—in many instances for the last time—it can be quite a job discovering exactly how much money the lawmakers finally do scoop up at the cashier's window before they head for home. This time, maybe the glare has proved too bright for such a plan to get all the way through Congress. But until the crack of that final gavel, don't be too sure.

[From the Washington Post, Nov. 25, 1980]

OLD HANDS IN THE TILL ON THE HILL

With the requisite amounts of guile and gall, members of the lame duck Congress have come up with an ingenious and expensive move that could line their pockets handsomely when they leave town in January. The plan, uncovered by Federal Diary Columnist Mike Causey, would: (1) jack up the salary for each member of Congress by more than $10,000—to a total of $70.900—and (2) let members who had been defeated or who plan to retire in January cash in on a 7.7 percent cost-of-living raise that went into effect in September for already-retired federal and military personnel.

True to past grubby form, the members are playing down this version of the money game, and they have even thought up a way to package their gift to themselves so that President Carter might not be able to veto it. The idea, reported to have been cleared by Senate and House leaders, is to couple the congressional raises with raises for top federal government employees who have been unfairly stuck under a salary ceiling—and to include it in a continuing resolution that Congress must act on before adjourning.

To answer any taxpayers who don't appreciate the benefits of this arrangement, the lame-duck lawmakers will surely cite their own collective thoughtfulness as a departing Congress doing something nice for the incoming Congress—and never mind where the twain may meet. But even those members who won't be sticking around long enough to make much out of the pay raise would be able to use it in calculating their average salary for retirement benefits. This, along with that cost-of-living break that they're cutting themselves into, would mean lifetime annual annuity increases worth several thousands of dollars a year.

It all adds up to a rip-off—and if it takes a veto by President Carter, complete with a call for another session to do it until they do it right, so be it.

[From the New York Post, Dec. 8, 1980]

LAME-DUCK GRAVY TRAIN: A CHALLENGE FROM MOYNIHAN

A late-hour move by Republican Senate whip Ted Stevens of Alaska to smuggle a Congressional pay raise into a government appropriation bill brought an eloquent outcry from Sen. Daniel Moynihan.

The Stevens rider would also provide substantial pay hikes for federal officials and Congressional staff. In proposing an amendment to remove the boosts from the overall legislation, Moynihan addressed a spirited challenge to his colleagues on both sides of the aisle. We quote:

It is widely agreed that government deficit spending is one cause of inflation. It is widely agreed that government spending consumes too large a fraction of the gross national product.

That at least is one of the clear messages delivered by the electorate on Nov. 4. It should be unthinkable that we would disregard it in the final hours of a lame-duck Congressional session.

It should especially be unthinkable that we would disregard [the message] in this particular way, not by voting funds for the needy and those on fixed incomes but by voting additional funds to insulate ourselves and the highest paid employes of the federal government—people whose individual salaries exceed $50,000 a year—against the effects of inflation.

Enactment of the hand-outs (which would raise Congressional salaries from $60,662 to $70,000) could incite a new wave of public cynicism toward the battle against inflation. It would be, in Moynihan's word, "unthinkable."

This sleeper grab should be laid to rest without ceremony.

Mr. MOYNIHAN. I thank the Chair.

Mr. BENTSEN. Mr. President, I rise in support of the amendment of the Senator from Tennessee and the Senator from New York and am pleased to do so.

In November of this year the American people sent a message to the Congress of the United States that they want Federal spending reduced, that they want the budget deficit brought back into line, and that they want the economy put back into order. In point of fact, Mr. President, they are no longer asking us to take these steps, they are telling us—loudly and very, very clearly.

Mr. President, you and I and the other Members of this body must respond to this demand and we should start here and now. We must exercise our responsibility as this country's fiscal leaders and set a clear example by cutting from this bill the increase in our own salaries. An increase in our payroll would be inflationary and completely out of touch with the kinds of increases the average American has been receiving.

Let me elaborate.

When I was studying this resolution the other evening I turned to the November 1980 Economic Indicators prepared by the Joint Economic Committee and released just a short time ago. I wanted to refresh my memory on how the average citizen's income had changed over the course of the last year and see how the Senate increase might compare. Senators now make $60,662 per year but what was the per capita personal income of the average citizen in this country last year? Was it $25,000? Was it $15,000? No, Mr. President, it was $8,728. After taking out personal taxes and nontax payments, the American citizen had $7,367 to spend as disposable income. In 1978, 1 year earlier, the per capita disposable income was $6,672. When the change between 1978 and 1979 is adjusted for inflation we see that the average citizen made a small gain of 1.4 percent. I say it is a small gain because this is one of the smallest changes over a 1-year period since 1971 when the table begins.

Now let us do a little computation on the proposed change in Senate salaries this year. Under this legislation we would receive a little better than a $10,000 per year raise. This raise alone is more than the per capita total income of the average American. Using the same inflation adjustments as were included in the calculations from the Economic Indicators report, I discovered that our raise, also in real terms, would be a whopping 7.3 percent. Mr. President, there is no reason why the Senate should be any better off than the average citizen of this country. There is no reason why we should get any more than 1.4 percent and, until we get the economy back in order, I would even vote against that small sum.

But this pay raise is inflationary as well. Everyday you and I read about the wage-price spiral. The Senate has discussed the subject on the floor many times and it has come up time and time again before the Finance Committee, in hearings I have held in the Joint Economic Committee, and in other committees as well. During the last several years the President has imposed wage and price guidelines and this body has considered various ways to put a brake on that vicious cycle. Now the Senate has a unique opportunity to stop complaining about wage hikes and do something about it.

INFLATIONARY EXPECTATIONS

Mr. President, if we enact this pay raise today, tomorrow's news will not be about labor's wage demands, or management's price hikes. They will not be about utility rates, mortgage costs or OPEC price increases. They will not even be about the Federal Reserve Bank. No, Mr. President, tomorrow's news will be about the U.S. Senate's direct contribution to inflation. The blame will fall squarely on the shoulders of every man and woman in this body. It will not be that vague entity the "Federal Government" that added to the problem this time—it will be the 100 Members of this body.

Mr. President, my colleagues are used to hearing me talk about productivity. About how we need a tax cut to stimulate the vast production potential our country has so we can get America back on its feet once again. This pay raise is a prime example of the kinds of economic policies that cause inflation—more money being paid out with no increase in productivity. Bigger and bigger Government spending more and more money makes the problem worse and worse. Let us begin here, today, to put a stop to this kind of spending by cutting this pay raise.

Mr. President, in conclusion, this pay raise is out of line with what the average citizen is getting in pay raises. It has an inflationary impact and it is a bad idea. Mr. President, we must delete this provision from the bill—the American people demand it.

I just left the meeting of the Joint Economic Committee that we are holding with leaders of business, labor, and academicians talking about what we can do to try to control inflation in this country of ours.

If one takes a look at what we are talking about in the way of a raise for Members of Congress, we are talking about raising it from $60,000 to approximately $70,000. That is a $10,000 raise.

If one also looks at the economic indicators and sees what the average income is for Americans today, it is not $25,000, it is not $10,000, and it is surely not $60,000, but it is about $8,700.

Then when we take out the personal taxes and the nontax payments American citizens are getting down to about $7,367 in disposable income.

If we take the year 1978 and then see what the net increase in income of Americans happens to be in the one year and take out inflation we are talking about an adjustment of 1.4 percent.

The major problem that we have today in trying to curb inflation is inflationary expectation. "How far is this going? I better spend it now because it is going to cost me more tomorrow."

Let me say if we pass this, and I understand the arguments of the Senator from Alaska—I sympathize with them—I tell Senators when we talk about doing it now the American people sent us a message in November and they said to cut back on expenditures. They said they really want to see inflation whipped. But do this and raise the salary of Senators and the headlines tomorrow are not going to be talking about the Federal Reserve, not going to be talking about utility rate increases. They are not going to be talking about union wage increases or management price increases. They are going to be talking about the Senators raising their salary and they are going to say, "Oh, what the heck. Did they not understand what we were trying to tell them last November?"

I got the message. It came through loud and clear and I think it would be a serious mistake on our part to turn around at a time like this, when we are trying to do something about inflation in this country which can tear this country apart and can destroy it, to say we are going to give ourselves a substantial pay raise.

I urge very strongly to oppose it.

Mr. STEVENS. Mr. President, I do not wish to argue this too much. I understand what the Senator from Texas is saying. It certainly did send a message. The message was cut wasteful expenditures.

The real problem here is we are literally going to come into the day of the colonels. Generals will not stay. They can get greater pay outside. There is no incentive for them to stay. We are starting to get early retirements. We see vacancies throughout the executive branch that cannot be filled. There is no incentive for anyone to seek a promotion now in terms of additional compensation if he is at grade 15 or she is at grade 15, step 5. By the end of this fiscal year it will be grade 14.

I ask any one of you how would you like to find some middle-level people, try to find people to move around in the Senior Executive Service, as we gave President Carter and the President-elect Reagan authority to do? We can shift senior executive personnel to take advantage of experience in one department to another department with ease. But the difference is why go? You cannot get any greater compensation.

I really do not understand a system that says that everyone from the sergeant level is going to get the same pay, when we need some captains and some majors around in order to win the war against inflation. We do need generals in the war against inflation, generals in the armed services, as well as generals in the executive branch.

The judicial branch has not even been mentioned. The judicial branch absolutely must have competent people, too.

Yet here we are, we have got a pay cap on them, a pay cap at a time—I understand, as I said, no one understands that message better than I do. I hope everyone understands it the way I understand it.

We have done it. I coupled my amendment with an absolute 10-percent cut of all Senate expenses, and as a member of the Defense Appropriations Subcommittee—and I will be chairman next year—we insisted that that budget come in under, not above but under, the congressional budget level. The defense bill that passed and went to the President was under the budget. That is where we get the management, which is necessary in making the tough decisions, and getting people who will enforce them downtown and in the military to keep those expenditures now in line.

Are you going to do that—again I say are you going to do that—so that the grade level of GS-15, step 5 is to be penalized? There are good people there. I hope no one implies I say they are not competent. They are competent, good people. They need the maturity and experience they would get as they moved up to 16, to 17, to 18, and into the E level, and those majors will move up to colonel and then into the generals, get their stars, and they would have the experience and maturity to do what we have to have done.

Now, unfortunately, we are going to keep this pay cap apparently, and again I would ask my friend from Tennessee if he would please lift it as far as the executive and judicial branches are concerned. Let it stay in the legislative branch if that is the desire of the Senate. But I just do not see any reason for this total restriction on top management.

Salaries in the private sector have increased 140 percent. The CPI has increased 135 percent; the salaries below GS-15, step 5, have increased 84 percent. Here we have a situation where all of those above GS-15, step 5, have increased 40 percent in the same period of time.

Fair is fair I should say. We are the board of directors for this Government of ours. Would we really as a board of directors of some major institution or corporation expect our senior management people to be paid the same salary of those down on the level of 5 or 6 beneath them in terms of management capability? I do not think so.

We might say, as a gesture, that we would keep our own board of directors' salaries—as a matter of fact, if the Senator from Tennessee wants to, I will tell him what I will do. I will make him a deal. Cut the level of Congress. You want to send a message, cut it. I would cut it down to wherever you want to cut it, but keep the levels of judicial and executive salaries at the levels they must be to have competent management in Government.

I say that sincerely. You want to cut something? Cut our salaries. You want to send a message out? I challenge you all, cut our salaries, but do not do this to the Government.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, let me say that the Senator from Alaska is persuasive, as always, and I respect his logic in this problem.

I think he has pointed out some real problems in the Government. The problem is how do we retain competent upper-level management in the Federal bureaucracy, and how do we retain the competence in the military when we reimpose these pay caps.

But I would say, Mr. President, that this country is now bordering on economic crisis. As a matter of fact, I saw on one of the Sunday afternoon television programs this past Sunday a distinguished Member of this body appearing and stating there that this country was in an economic crisis, and calling on the present occupant of the White House to so state.

Now, in a time of economic crisis or in a time when you are bordering on economic crisis, this calls for extraordinary measures. I do not think by any stretch of the imagination it is an extraordinary measure to put a pay cap on anyone in the Federal Government who is making more than $50,000 a year.

Now, the distinguished Senator from Alaska points out, and I think quite rightly, that there is a problem when you get a telescoping of salaries, where those at the upper end in responsibility are not making much more than those at the middle level.

But I would also point out that the real crisis as far as the defense of this country is concerned, and where the real turnover of manpower is taking place, is not in general officers, no. It is in the junior grade officers, the men who fly the F-15 aircraft, the highly skilled junior officers we are losing. We are not losing general officers. You have only to go over to the Pentagon and you cannot walk 10 feet without bumping into a major general over there or a brigadier general or a lieutenant general, and I do not see any of them retiring because they are not getting pay raises.

Let me say one other thing: There are other incentives on entering Government service other than economic incentives. I doubt that any Member of the U.S. Senate ran for this body on the basis of salary.

Speaking for myself, my real disposable income as a moderately successful practicing lawyer in my native State exceeded my salary here in the U.S. Senate.

Those of us who run for this body are motivated primarily by public service, and those who serve in the defense of this country, I think, are motivated primarily by public service.

I think those middle level officials whom the Senator from Alaska has spoken of so eloquently who will be needed by this incoming administration are not going to be motivated by a profit motive. If that were the case they would stay in the private sector. They will be motivated by a spirit of public service, and I think that is in the finest traditions of Government service.

I am not saying we ought to have a pay cap here into perpetuity, and I am not saying that the Members of this body or the members of the defense establishment or upper level Federal officials ought to have to live in poverty to perform their roles in this Government. But what I am saying is that these are extraordinary times, and we will be sending absolutely the wrong signal to the American people if we take this opportunity to raise our pay and to raise the pay of the Federal judiciary.

I have been in this body for 4 years and I have had the honor to recommend three Federal district judges to the President of the United States. They were fine, honorable, and able lawyers. They are distinguished and able Federal judges.

But I will say, Mr. President, that there was never any dearth of candidates for any one of those three Federal district judgeships. As a matter of fact—and I think every Member of this body will agree—for every opening for a Federal district judge, you have 150 or 200 applicants without even asking.

So I would say that what we are doing today is sending a signal to the American people and saying, "Yes, we are willing to share the burdens of this inflation with you and we are willing to put our shoulder to the wheel and we are willing to see that those who look to us for leadership"—and that includes those in the defense establishment and that includes upper level public servants, that we are willing to say that they must join with us in this battle against inflation.

Several Senators addressed the Chair.

Mr. STEVENS. Mr. President, will the Senator allow me to make this unanimous-consent request?

I ask unanimous consent, on behalf of Senator WEICKER, that page 26, line 22 through page 27, line 4, not be considered original text for the purpose of the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, in the printing of the bill, because of the time element, some errors occurred. I ask unanimous consent that the corrections indicated in the errata sheet on each Senator's desk be incorporated as part of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The corrections are as follows:

ERRATA

Page 10, line 25 of the Senate reported bill, strike out "section" and insert: "sections 108(b)(7) and"

Page 11, line 2 of the Senate reported bill, after "102(a)" insert: , "respectively,"

Page 13, line 11 of the Senate reported bill, after "not" insert: "be"

Page 14 of the Senate reported bill, line type all after line 20 over to and including line 4 on page 15.

Page 15, line 12 of the Senate reported bill, strike out "(l) and insert: "(k)"

Page 15 of the Senate reported bill, insert lines 12 to 18, inclusive, between lines 4 and 5.

Page 15, line 19 of the Senate reported bill, strike out "(m)" and insert: "(l)"

Page 15, line 22 of the Senate reported bill strike out all after "8061)," over to and including line 2 on page 16 and insert: "to the extent and in the manner provided for in such Act as adopted by the House of Representatives on December 2, 1980."

Page 16, line 3 of the Senate reported bill, strike out "(m)(n)" and insert: "(m)"

Page 16, line 11 of the Senate reported bill, strike out "(n)(o)" and insert: "(n)"

Page 16, line 18 of the Senate reported bill, strike out "(o)(p)" and insert: "(o)"

Page 17, line 1 of the Senate reported bill, strike out "(q)" and insert: "(p)"

Page 28, line 8 of the Senate reported bill, strike out "103" and insert: "614"

Page 29, line 21 of the Senate reported bill, strike out "III' and insert: "111"

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I drafted two amendments almost identical to the amendments offered by the distinguished Senator from Tennessee, but I was happy to defer to him in the submission of the amendments and join him as a principal cosponsor.

Mr. President, references have been made here about signals being sent by the American people. If these amendments are not adopted by the Senate, I suspect that this Senate will get another message from the American people and it is going to be almost like the message of November 4.

The references to the unavailability of talent in the Federal Government, in the bureaucracy, if you please, strikes me as being a little bit strange. Because my impression since November 4 is that there is an abundance of patriots willing to serve. As a matter of fact, it is difficult to get through the lobby and reception room of my office because of the people willing to serve in various capacities of government.

I have often felt in recent days like Abraham Lincoln, who said that he did not have time to be President because he had to spend his time seeing job seekers. That does not mean that everybody seeking a job is qualified. But I do not recollect seeing any loaded buses leaving Washington, D.C., filled with disgruntled $50,000-a-year employees who do not want to take that $50,000 a year any more.

If my friend from Alaska will permit me, I will cry tomorrow about the logjam in the upper echelons of Government. That is something that we can straighten out. But there is no shortage of competent Americans willing to serve this Government.

The other day a very prominent North Carolinian called me about a matter involving his city. After I had taken a few notes on the problem, I said, "I want to congratulate you, sir. You happen to be the 12th North Carolinian whom I know not to be interested in a Federal job." And he said, "The second thing I wanted to talk to you about was"—and he too wanted a job.

So, Mr. President, we will send one signal or another by how we vote on the pending amendment and the succeeding one submitted by the Senator from Tennessee. But I suggest that Senators better give a little bit of thought to the agonies of the American people in this time of economic stress.

It is perfectly possible to operate this Government on a more sensible basis and a more equitable basis. And I believe that that is all the Senator from Tennessee is suggesting by his amendment.

I support this amendment and the succeeding one which will be called up.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that Senator DECONCINI be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, I ask unanimous consent to announce that it is my intention to proceed with the 15-percent cutback on the Senate budget amendment immediately after the vote on the pay cap.

The PRESIDING OFFICER. Is the Senator asking consent that that amendment be in order? Because the previous order would require that the Senate return to consideration of the excepted committee amendments.

Mr. SASSER. I ask unanimous consent, Mr. President, that immediately following the yeas and nays on the pay cap amendment that we proceed directly to the 15-percent cutback amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. What does the Senator want?

Mr. CHAFEE. Mr. President, I did not hear that request.

The PRESIDING OFFICER. The Senator has requested that, rather than return to the excepted committee amendments under the previous order, he be allowed to offer an amendment immediately following the vote on the current amendment, the effect of which would reduce the Senate budget by 15 percent.

Mr. MAGNUSON. Reserving the right to object, why do we not vote on his amendment first?

Mr. SASSER. May I say to the distinguished Senator from Washington, I want to vote on this pay cap amendment first and then I ask unanimous consent that we may proceed directly then to the 15-percent cut on the Senate budget.

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. The Senator wants to go to his next amendment after the vote?

Mr. SASSER. Yes.

Mr. MAGNUSON. I have no objection.

Mr. STEVENS. Mr. President, reserving the right to object, may we see a copy of that amendment? It has not been offered yet, obviously. Does the Senator have a copy of it?

Mr. SASSER. Yes. I am happy to furnish one.

Mr. STEVENS. It is my understanding that if this consent is not granted that the amendments that were excepted from the Senator from Washington's prior request would come up in the normal order, am I correct in that?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. And this is an amendment which would go at the end of the bill. It does not touch any of the other exempted amendments. That is what I am interested in.

I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to make a few comments before we proceed with the vote on the Sasser amendment.

Mr. President, I support the Sasser amendment, although I really do not think it is exactly right. What I really wish he would do is to reimpose the pay cap solely on members of the legislative branch and the judicial branch, if the Congress so feels. But I agree with the distinguished Senator from Alaska that we have got real problems as far as the executive branch is concerned. I believe they should be exempt from this pay cap that is being reimposed by the Sasser amendment.

However, it is my understanding that possibly we can arrive somehow, at an arrangement whereby when the measure finally passes that it will exempt the members of the executive branch. Because certainly the administration faces problems in attracting capable people at the limited salaries that now exist.

There are some here that say, well, no one should receive more pay than Members of Congress. But they fail to recognize that Members of Congress, through honorariums that they receive, through speeches which the members of the executive department are not entitled to receive, that Members of the Congress, when you take their salaries plus their earned honorariums, end up with substantially more pay than members of the executive branch. I think we ought to bear that in mind.

Just recently a disclosure came out of which Members of Congress have received close to the $25,000 permitted amount under the law for honorarium.

Indeed, Members of Congress can earn more than that if they choose to donate the balance over $25,000 to charity. So, for those who say nobody should receive more than a Member of Congress, I think they are forgetting these very substantial amounts that can be paid to Members of Congress through honoraria.

Mr. METZENBAUM. Mr. President, I rise in support of the Senator from Tennessee's move to strike from the continuing resolution language providing for a substantial increase in pay for Members of Congress. This provision, adopted at the very last moment by the Senate Appropriations Committee, is to me one of the worst, most glaring, examples of Congress penchant for pushing through unpopular and costly items right before adjournment.

Frankly, Mr. President, I am shocked by this action. I do not see how any Member can support the idea of approving a congressional pay increase during the final few hours of the 96th Congress. If we go along with maneuvers of this kind, how can we expect the people of this Nation to have faith in this body?

How can we expect the American people to condone or understand the priorities of a Congress that pushes a $45 million pay increase for itself at the same time it tries to slash more than $800 million from title XI of CETA—a move that will cost at least 100,000 Americans their jobs?

Yet this is precisely what the continuing resolution before us would do. And there is more.

While lifting the freeze which prevented congressional pay increases, the continuing resolution also cuts $150 million from the Nation's critically important low-income energy assistance program. A cut, by the way, which flies in the face of the last continuing resolution. This resolution provided $2 billion in fiscal year 1981 to help meet the special energy needs of hundreds of thousands of Americans who were hurt by last winter's frigid temperatures and last summer's unprecedented heat wave.

No, Mr. President, I do not believe the vast majority of Americans would greatly appreciate this body bestowing a huge pay raise on itself, while, at the very same time, cutting vital social programs of benefit to millions of Americans.

For the past few years, congressional, executive, and Federal judicial salaries have been capped—either Congress has denied to itself the annual cost-of-living increase altogether, as it did this past year, or it has held previous increases below those afforded other Federal civil servants.

I believe that Congress took these actions to demonstrate fiscal restraint to the American people. Yet, in the waning hours of the 96th Congress, we see a proposal to quietly turn that around—and hope that no one is looking.

As approved by the committee, the continuing resolution would lift the congressionally-imposed ceiling on the salaries of top-level Federal executives, members of the judiciary, and Members of Congress as of January 1, 1981.

This action will allow such salaries to rise by as much as 16 percent. Over 34,000 Federal employees would be affected and, as for the Members of Congress, our salaries would be increased from $60,662.50 to $70,900 annually.

Mr. President, I really do not wish to take issue with the merits of providing a pay raise to Members of Congress, Federal executives, or Federal judges. But I do wish to object strongly to the way in which the Senate is attempting to provide these increases. I object strongly to these last minute, back-door shenanigans. Every 4 years Federal executive schedule salaries are reviewed.

The Quadrennial Commission which reviews these salaries is due to make its recommendations next month. From all accounts, the Commission is more than likely to recommend a salary increase which would affect the very same people as would the continuing resolution.

The Commission's recommendations will be submitted with the President's budget in January. Congress will then have the opportunity to decide the merits of a pay raise.

Why should we bypass this established procedure? And why would the Senate act at the last moment on a congressional pay raise already specifically rejected by the House?

This last minute action is totally unacceptable, and I fully support the Senator from Tennessee in his effort to strike it from the continuing resolution.

Mr. DOMENICI. Mr. President, I rise today not just as the Senator from New Mexico, not just as a Member of Congress whose future salary is being considered here, not just as the future chairman of the Senate Budget Committee. No, Mr. President, I also stand to speak today as the father of eight children. As their father, I must keep their future in mind. Not only do they look to me for food and clothing, they also look to me for an education, a training in skills that will see them through a difficult and perhaps dangerous future. Three of those children are now in college and one more is pursuing advanced, postgraduate studies.

So I do not rise to oppose this pay raise as a Senator who does not need the money. The Domenicis could use an extra $10,000 a year. But it would be wrong.

Instead, I would rather earn that extra money, in whatever spare time I have, through speaking engagements, through honoraria, as we are now allowed to do, than to take it from the Federal Treasury.

Furthermore, I do not oppose this raise because I believe Senators are too highly paid. Indeed, I know how difficult it is to maintain a decent standard of living in Washington, even with a small family, on the $60,600 we now earn.

We have not had a pay raise since 1976, and then it was a 5.5-percent raise, while the cost of living has gone up 40 percent since 1976.

It is even more difficult for our families to keep in touch with our friends and neighbors at home, given the cost of today's travel. If I were to take my entire family to New Mexico, it would cost me more than 1-month's salary in airfare. So we do not go very often.

Quite aside from questions of living cost is the question of how we compensate our national leaders. There is truly no adequate compensation—except the emotional rewards of public service—for the long, hard hours of work we give to the Senate, for the burdens of decisions we must make, for the strains that we put on our private lives. This Nation should adequately compensate its elected leaders, and under other circumstances I would be the first to vote for that compensation. But not now. It would be wrong.

We should be more concerned, as Senators, with the kind of job we are doing for our country. I am not a Senator who believes we should force our staff members who have years of experience and special expertise to accept a lower standard of living simply because they work for the Senate. That is not the way to attract the kind of people we need to write good legislation and perform good oversight. I believe we need to adequately compensate those employees.

But we are elected leaders. We have chosen to run for office because we have a philosophy of government. My philosophy happens to revolve around the notion that government should not be so great a burden on the economy that it drags our economy down. And that is what has happened.

We have just gone through a national election in which the people of this country told this Congress clearly and unequivocally what they want us to do. They want us to cut taxes. They want us to hold down inflation. And to do those things they know we have to restrain Federal spending and they want us to get on with it.

Beginning in January our new President will be calling for restraint. He will be asking sacrifices, probably across a broad range of American life, in order to restrain the growth of Federal spending and to bring inflation under control. We in the Senate must join that call. We must have budget cuts, almost across the board, if we are to gain control of the Federal budget.

How can we ask the American people to accept these budget cuts if we do not also impose this discipline upon ourselves? How can we set ourselves up as leaders of this Nation, while ignoring the message that was delivered on November 4?

Just because those elected on that day have not yet taken office, just because the leadership of the Senate has not yet changed, just because this is still the 96th Congress, not the 97th—these would be poor excuses for ignoring the mandate of November 4. We must not ignore that mandate. It would be wrong.

As the next chairman of the Senate Budget Committee, I have another grave concern. This bill, of which the pay raise is a part, is a budget buster. The budget we passed but 2 weeks ago would be violated if we pass this bill, and it is already in deficit by $27.4 billion. We must start somewhere and I believe this is the first place to start. The longer we put off fiscal responsibility, the harder it will be to attain.

If we approve this pay raise, it would send the wrong signal to the American people. We would be saying: We do not have to sacrifice; no one has to sacrifice to balance the budget. It is business as usual in Washington.

I oppose the pay raise because we, as Senators, must set an example of sacrifice. I oppose it because we cannot vote ourselves another $10,000 a year when the average working American family actually has less real take-home pay than it had 20 years ago. I oppose it because it will strain the Federal budget still more, and because it is wrong.

● Mr. GLENN. Mr. President, I am voting against the Sasser amendment, not because I oppose a pay cap for the immediate future, but because I believe that the Senate should not close the door to reasonable consideration of the Presidential recommendation that will come to us with the budget in January and which stems from the work of the Quadrennial Commission on Executive, Legislative and Judicial Pay.

I would prefer that we act to retain the cap pending thorough consideration of that statutory recommendation rather than reinstate the present pay level ceiling for the entire fiscal year, until September 30, 1981.

Mr. President, there is a serious problem of salary compression in the Federal service, civilian and military, and Congress timidity in dealing with the subject can only prolong and worsen the problem. I believe we should face up to it early in the 97th Congress.●

● Mr. LEVIN. Mr. President, last September, before the election, the Senate made a public commitment to deny itself a pay raise during this fiscal year. We must affirm that commitment in our vote today.

I do not like the form of the amendment before us today. Not only would this amendment deny a pay raise to those of us serving in the Congress, it would deny a cost-of-living raise to top Federal executives and, I think most disturbingly, to members of the Federal bench.

As Members of Congress, we have an obligation to set an example of frugality for the public during these troubled economic times. But I fear that we are hurting the Nation by making symbols of those who preside over our courts. During the past 10 years, inflation has taken a terrific toll on the salaries of our judges. By denying them raises, we are forcing some of our best judges to leave for the private sector where they can earn far more money. And, I am afraid, we are not getting the best candidates for our courts.

If I could vote for an amendment that would deny us a pay raise, but allow one for the judiciary, I would vote for it. Unfortunately, however, there is not enough support for such an amendment. What we face is an all or nothing proposition. Given that choice, I vote for no pay raise in order to carry out our pre-election commitment.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Hawaii (Mr. Matsunaga), the Senator from North Carolina (Mr. Morgan), the Senator from Georgia (Mr. Nunn), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. Nunn) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 69, nays 21, as follows:

[Rollcall Vote No. 521 Leg.]

YEAS—69

Armstrong
Baucus
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Magnuson
McClure
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Simpson
Stennis
Stevenson
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—21

Baker
Bellmon
Boschwitz
Dole
Glenn
Goldwater
Hayakawa
Inouye
Javits
Kennedy
Lugar
Mathias
McGovern
Melcher
Percy
Schweiker
Stafford
Stevens
Stewart
Tower
Williams

NOT VOTING—10

Bayh
Cannon
Church
Durkin
Gravel
Hart
Matsunaga
Morgan
Nunn
Talmadge

So Mr. Sasser's amendment (UP No. 1858) was agreed to.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. MAGNUSON. Mr. President, the Senator from Tennessee is going to present his second amendment——

Mr. FORD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will suspend until we have order.

The Senator from Tennessee has been recognized.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. The Senator from Tennessee has a second amendment which he is going to present now, is that correct?

Mr. SASSER. That is correct.

Mr. MAGNUSON. All right.

The PRESIDING OFFICER. Under the previous order, the Senate will now consider an additional amendment by the Senator from Tennessee.

UP AMENDMENT NO. 1859

(Purpose: Relating to limitations on Senate expenditures for fiscal year 1981)

Mr. SASSER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. Sasser) proposes an unprinted amendment numbered 1859.

Mr. SASSER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, insert the following new section:

Sec. 187. Notwithstanding any other provision of this joint resolution or any other provision of law, the aggregate amount of funds made available to the Senate for the fiscal year beginning October 1, 1980, shall not exceed 85 per centum of the aggregate amount of the funds made available to the Senate for the fiscal year beginning October 1, 1979.

Mr. SASSER. Mr. President, as I explained it earlier in discussions on the previous amendment, this amendment is designed to cut the fiscal year 1981 Senate budget by 15 percent below the fiscal year 1980 level.

As my colleagues will recall, the Senate voted overwhelmingly—first on June 2, 1980 and again on August 26, 1980—to reduce the Senate budget by 10 percent in the aggregate.

I believe that a larger reduction can be realized due to the large turnover in Members. Past experience has indicated that the likelihood is that the new Members will, over a period of a year, a year and a half, or 2 years, build up staff comparable to their predecessors. So this is where the slack would be taken up.

My 15-percent-cutback amendment will provide the lowest Senate appropriation since fiscal year 1978.

CONCLUSION

Mr. President, I urge my colleagues to support both of these amendments.

As I said earlier, the lowest Senate appropriation in real dollars, that is, dollars corrected for inflation, in many years.

So I urge my colleagues to support both of these amendments and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senator from Maine (Mr. MITCHELL) and the Senator from Arizona (Mr. DECONCINI) be added as original cosponsors on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I am concerned about section 155 in this bill, about 3 months' payment to certain staff people who may be leaving Senate committee staffs.

Is that included in the reduction of expenditures?

Mr. STEVENS. I say to the Senator from Kansas, that is my amendment.

Mr. DOLE. I do not care whose it is.

Mr. STEVENS. We will be addressing it later. It is not covered in this one.

Mr. DOLE. We will have a chance to have a rollcall vote on it?

Mr. STEVENS. Yes.

Mr. President, with regard to the amendment of the Senator from Tennessee concerning expenditure of Senate funds, we worked quite diligently in trying to make certain these expenditures are limited.

I do think the amendment he has fulfills that goal as we defined it previously in actions of our committee and action of the Republican Conference.

I state to him that I just saw this this morning and I want to reserve the right in conference to perhaps adjust it, if necessary, to make certain the moneys are in line with the action we previously took.

Mr. SASSER. I thank the Senator.

Mr. President, I would like to express my appreciation to the distinguished Senator from Alaska for his help, not only with this amendment, but for his guidance and wise counsel during the years he has served as ranking minority member of the legislative Appropriations Commitee and I have had the honor to serve as chairman.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. SASSER. I yield.

Mr. GLENN. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until the Senate is in order. Members will cease conversations.

The Senator from Ohio.

Mr. GLENN. Mr. President, I should like to ask the distinguished Senator from Tennessee a couple of questions on this matter. I am not sure that I understood all the implications of what this might mean with respect to an across-the-board cut such as this.

Does this mean that every Member would be expected to assume that percentage cut across the board?

Mr. SASSER. I say to the Senator from Ohio that that is precisely what it means. What we are seeking to do is to impose a 15-percent cut in the aggregate of the Senate budget. This is precisely what we voted on back in August.

At that time, we voted for a 10-percent cut. This simply imposes an additional 5 percent on the previous 10-percent cut.

The rationale is that as new Senators come into this body—we have an almost unprecedented turnover in the last election—as new Senators come in, it takes them, experience indicates, a year or 1½ years or 2 years to staff up to the level of their predecessors. What we are doing is squeezing some of the excess out of the budget.

Mr. GLENN. I agree with that.

My second question is this: Would it, then, limit those new Senators coming in during that period and not affect the money given to old Senators?

Mr. SASSER. The money given to old Senators, as I understand it, will not be affected, unless in the extraordinarily unlikely event that in the remaining fiscal year, every new Senator who came in should suddenly staff up to the 100-percent level, which never has happened in the history of this body.

Mr. GLENN. It is difficult for me to see how that would be accepted or if it is constitutional or even if it would abide by the rules of the Senate, in that a new Senator coming in represents a certain number of people in his State.

Our allowances here reflects that difference in representing those people, and we fit into about five or six different gradations here.

It seems to me that it would be unfair to say, automatically and arbitrarily, ahead of time, that, for example, a Senator from New York is coming in and he is a new Senator and that he is prohibited by the rules of the Senate or by law from assuming his rightful staff—the staff that would be his legitimate right in representing the people of his State.

On the other hand, if we are saying that this is going to be spread over the entire Senate and we all are going to take a reduction, that is another matter. Either way, it seems to me that it raises some serious questions.

Mr. SASSER. I believe the Senator is right in saying that it would be unfair to impose this lid on new Senators. That is not the intent, nor will it be the practical effect.

The Senate Rules Committee has determined and will determine the amount or the percentage that each Senator is allowed to draw down so far as clerk hire is concerned. This is simply taking up some of the slack.

In other words, what we do every year is appropriate money to operate the U.S. Senate. It is not used up at the end of the fiscal year, and we simply give it back to the Treasury. What we are saying here is this: Let us add an additional 5 percent to the 10-percent cut that we voted on this past summer and not go through the exercise of appropriating the money, not using it, and then turning it back to the Treasury.

Mr. GLENN. I understand that. But how is this going to work? New Senators are coming in, let us say, from New York or Maine. They want to staff up fully. Will this prohibit them from staffing up fully?

If that is not the case, and if we put this additional 5 percent in, then am I, as a Senator from Ohio, starting my second term, to be cut on my own staff, where I already have to cut people? Somebody will have to take this rub.

We either put it on the new people, which the Senator from Tennessee is using as a justification for it, or we all share equally across the board on this 5 percent, which means that I lose, Senator EXON loses, Senator LEVIN loses—everybody in this Chamber loses.

Which way does it go? It has to be one or the other.

It cannot be generalized that because it has happened in the past, we can assume it. It either goes on the new people or on all of us.

Mr. SASSER. It never has happened before in the 200-year history of this body. That is a pretty strong precedent.

However, we have included in the bill, the authority to allow the Secretary of the Senate to move funds around to make sure that all U.S. Senators have their full allocation of clerk hire, in the extraordinarily unlikely event that should become necessary.

Many Senators here now, particularly those from the smaller States, do not use all their clerk hire. This is simply turned back at the end of the year. Many Senators from the larger States, because of more constituents, heavier volume of correspondence, and that sort of thing, do use it all.

Mr. GLENN. If the Senator wishes to have the legislative history show that it is not the intent to cut back on existing staff or Senators who have been here and have their staffs, and if we can lock that in, it would make it acceptable to me.

Would the Senator be willing to say that?

Mr. SASSER. I believe we have established this here almost by our colloquy on the floor.

Mr. GLENN. Is it the intent of the Senator from Tennessee that existing Senate staffs not be cut back if we approve this additional 5 percent?

Mr. SASSER. It is our intent that existing personnel staff—that is, the existing clerk hire for present Senators—would not be cut, and that it would not be necessary to cut them because the funds would not run short, because the new Senators would not be fully staffed up.

In the extraordinarily unlikely event that that should occur, that new Senators should fully staff up in the remainder of this fiscal year and that other U.S. Senators who turn back substantial amounts of their clerk hire should not turn it back in the remainder of this fiscal year but use it up, then the Secretary of the Senate would be authorized to transfer funds from other operations of the U.S. Senate into the clerk hire account.

But I say to the Senator from Ohio that that is really an academic discussion. This is so unlikely that I cannot conceive that it would happen in the remainder of this fiscal year.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. SASSER. I yield.

Mr. BIDEN. I notice that the Senator from Tennessee, in discussing his 15-percent cut, used the same kind of offhand language that the Senator from West Virginia used when he was talking about the 10-percent cut—talking about the little States. Coming from a large State like Delaware, it is of no immediate concern to me. [Laughter.]

However, were I from a little State, I would raise the question as to whether or not the little States are likely to be the ones to have to absorb a greater proportionate cut.

I hate to remind this body, but my friend from West Virginia, the majority leader, during his explanation of how his across-the-board cut would be taken care of, said, for example, that Delaware does not need all its money. Then he wisely shifted to a really little State and said that Rhode Island does not need all its money.

I point out to the Senate that we are laboring under a misconception. The Senators from Montana, Maine, Delaware, North Dakota, and South Dakota have to vote on the same issues you fellows have to vote on, and we have to be as well informed.

I suspect that you will find, even though you have much larger States and more constituents in terms of numbers, that your constituents do not expect as much from you as mine do from me. They expect me to be there. They expect a hand-written letter back from me, with a postscript. When you represent a State of 22 million, your contributors are happy if you get back to them. [Laughter.]

I believe all Senators understand that we little States have rights, too.

I am very uneasy about the way we so blandly say it is not going to happen. If it is not going to happen, then I respectfully suggest why in the heck do it? If it is not going to happen, if we are going to have the surplus, let us just turn it back, turn it back after the fact, if the surplus is there. Why cut it now? Let us experiment with the 10 percent to find out whether the Senator from Maine, the Senator from Delaware, the Senator from Vermont, or the Senator from New Jersey still have staff left when it is all over and still have the ability to get back to their folks because even though it is not proportionately based on population, we still do get a lot less than other Senators get and in fact we have to vote on the same issues.

I have to have as competent a person handling foreign policy for me as the Senator from California has to have. I have to have as competent a person handling Government operations questions as the Senator from Tennessee has.

I happen to have those people now. I wish to keep them. Let us try out the 10 percent and see how that works and if we have the money left over wonderful. I will come back and help the Senator sponsor it the next time out.

I appreciate the Senator answering my question and I thank him.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. SASSER. Mr. President, I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I shall ask the Senator from Tennessee several questions.

Does his amendment affect the entire Senate budget?

Mr. SASSER. It goes to all of the appropriations in the continuing resolution under the heading "Operation of the U.S. Senate."

Mr. BUMPERS. How much is that appropriation?

Mr. SASSER. Approximately, $213 million.

Mr. BUMPERS. And there is already provision to cut that by 10 percent?

Mr. SASSER. There is a provision to cut that by 10 percent. This is an addition of 5 percent to the previous 10-percent cut for a total of 15 percent. If my addition is correct, 5 and 10 still make 15.

Mr. BUMPERS. If any addition is correct, then the total 10-percent cut would be $21,300,000, and the 15-percent cut is $31,950,000.

Could the Senator tell me how much of the $213 million appropriations is for Senate clerk hire?

Mr. SASSER. About half of the $213 million, speaking rough numbers, would be for clerk hire.

Mr. BUMPERS. How much is for committee staff?

Mr. SASSER. I am advised about $4 million or $5 million, but it depends really on how much the committees use roughly.

Mr. BUMPERS. I do not know the figures, but I would have a hard time accepting a figure of $4 million or $5 million for committee staff. I would think it would be much greater than that.

Be that as it may. As everyone in this body knows, we can call Senate Disbursing Office anytime we want and get a computer printout of exactly where we stand. As everyone knows, our monthly expenses may not exceed the pro rata share that we are entitled to for that year. For example, if a Senator is entitled to $60,000 a month, in the first month of the fiscal year he may not exceed $60,000.

To go further now, if a Senator only uses $50,000 of his clerk hire in the first month, then he may spend $70,000 the second month.

If in the 10th month of this year I have $60,000 in excess of my allotment for the remaining 2 months and I had chosen to hire 10 extra staff members for a special project to use up that $60,000 the last 2 months, I could have done it. There may be Members of this body who do not know it, but if they want to give a Christmas bonus to their staff and use up that $60,000, they may also do that.

So my question is: How would the Secretary be able to shift money, around from me? I have turned a considerable amount of my clerk hire money back every year since I have been here. I do not know if I will continue to do so. That is an option available to me. But how can the Secretary shift money around from my account until the end of the year when he does not know whether I am going to use it or not?

Mr. SASSER. The answer to that is, as I am sure the Senator knows from his duties on the Legislative Appropriations Subcommittee where he serves with me, that the Secretary of the Senate can shift those funds from the purchase of Senate computers, from the purchase of Senate equipment and defer the purchase of Senate equipment to make sure that he gets the funds that he is entitled to by virtue of the rule put down by the Rules Committee.

My point is this: This body cooperating and working together certainly should have no difficulty in putting on an additional 5 percent cut in the operation of the Senate.

I think we can certainly swallow an additional 5-percent cut when the majority of the Members are not using their full clerk hire now. We are trying to make this as painless as possible.

Mr. BUMPERS. Mr. President, if the Senator will yield again, how much clerk hire was turned back this past October 1?

Mr. SASSER. Approximately 7 percent. That is the usual rate that is turned back.

Mr. BUMPERS. Is that 7 percent of the clerk hire?

Mr. SASSER. Seven percent in the aggregate of clerk hire.

Mr. BUMPERS. Then according to the figures the Senator gave me a while ago, about $100 million of the Senate budget is clerk hire. If 7 percent or $7 million of that was turned back, this year under the 10-percent cut, we are going to be required to turn back $21 million. If the Senator's amendment is adopted, we are going to have to turn back $31 million, or $24 million more than we turned back this year.

Where does the Senator propose to find that $24 million?

Mr. SASSER. We are talking about 7.5 percent of the clerk hire only. There are other funds that are turned back at the end of every year that are appropriated but that are not expended in the operation of the Senate.

Mr. BUMPERS. What was the total amount turned back out of $213 million appropriated to the Senate last year?

Mr. SASSER. We do not have those figures available to us.

Mr. BUMPERS. All the Senator knows is that 7 percent of the clerk hire was turned back; is that correct?

Mr. SASSER. Roughly on the average 7 percent of the clerk hire was turned back. We anticipate that is what will be turned back this year. It will be significantly higher next year for this reason.

Mr. BUMPERS. Because of the new Senators coming in?

Mr. SASSER. We will have new Senators coming in and also the figures indicate that in an election year Senators seem to staff up more in anticipation of an election for some reason, so next year is not an election year and we are going to be benefiting two ways. One, Senators not staffing up to better serve their constituents in anticipation of elections and also new Senators will not use up their full allocation of clerk hire.

Mr. BUMPERS. Let me ask one further question and then I will close. If every new Senator elects to staff up fully, then the Senator's amendment will be flawed, will it not?

Mr. SASSER. No, in the unlikely event, and that I say respectfully.

Mr. BUMPERS. I think that is the worst scenario.

Mr. SASSER. We do not have to assume the worst case scenario.

Mr. BUMPERS. Every Senator coming in this body has a right to hire whomever he wants and to use his clerk hire. Let us assume he does that.

Mr. SASSER. My point is this: Why make a fallacious assumption there when in the 200-year history of this body that never happened?

But in response to the question of the Senator from Arkansas, in the extraordinary, unlikely event that that would occur, and I am not a mathematician, but I would guess the chances of this occurring might be 1 in 5 or 6 million, but in the event that that would occur, the Secretary of the Senate has the authority to transfer funds to make sure that each Senator will have their full clerk hire.

Mr. GLENN. Mr. President, if the Senator will yield, from what source would he get those funds? Would they be taken from our allowances? That is what the Senator told me a minute ago, would not be done.

Mr. SASSER. I would say to the Senator from Ohio there are funds in the Senate contingent fund that could be used. There are funds which are appropriated but traditionally are not expended. There are always some left over funds at the end of the year or simply by deferral of purchase of computers, equipment, other things that the Senate might ordinarily purchase.

Mr. GLENN. Have these surplus funds in the past always been turned back then? It has not been a loss to the Treasury, is that correct?

Mr. SASSER. Traditionally they have been turned back to the Treasury.

Mr. BUMPERS. Let me ask one additional question, if I may, Senator. The turnback you are talking about back on October 1 of this year was the turnback of 1980 funds. We are proposing now to cut back 15 percent from what we had in fiscal 1980. At the same time, we are suffering from a 15-percent inflation rate; is that not correct?

Mr. SASSER. That is correct.

Mr. BUMPERS. So that the——

Mr. SASSER. I would say this to the Senator from Arkansas, I do not agree that we are suffering from a 15-percent inflation rate. I hope not.

Mr. BUMPERS. Whatever it is.

All I am saying is your figures of how much we turned back apply to fiscal year 1980, and I assume that everybody gave their staff some kind of a pay raise on October 1.

So if you just left the Senate appropriation exactly as it was in 1980, not only would you not have a turnback, you probably would have a deficit.

You are proposing to cut 15 percent off that level, is that not correct?

Mr. SASSER. We are proposing to cut 15 percent off the Senate budget in the aggregate, and I think the distinction should be made here between 15 percent off clerk hire and 15 percent off the aggregate of the Senate budget. What we are proposing to do is add an additional 5 percent to the 10-percent cut that we passed earlier.

Mr. BUMPERS. I am the author of one amendment to cut the Senate appropriations by 10 percent. I joined the Senator from Virginia (Mr. HARRY F. BYRD, JR.) in his amendment to cut 10 percent, and I am willing to stick with that, although I think that constitutes a pretty austere budget.

But when you add 5 percent to that without really knowing just what the impact of that is going to be, I have a little difficulty with that.

If you cut 10 percent of the Federal Government, maybe that is what we are getting ready to do, you would have a balanced budget at least temporarily, but I do not know what the economic impact would be. I am not sure all of us have thought about the consequences of a 5-percent cut in addition to the 10-percent cut we made in the Appropriation Committee.

Mr. SASSER. Let me say to the Senator from Arkansas, let us make no mistake about it, this amendment is going to force economies, it is going to force efficiencies in the operation of the U.S. Senate. It is going to force economies in the operation of the Capitol police, economies in the office and the operations of the Sergeant at Arms, economies in the computer center, economies in the office of the Secretary of the Senate, and all of us are required by this amendment, let us face it, to bite the bullet and make economies where we can. I think we can do that without unduly hampering our effectiveness as U.S. Senators and without hampering our efficiency and effectiveness in serving the needs of our constituents.

Mr. HOLLINGS. Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Tennessee.

Mr. SASSER. I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I do not mind folks running for office. I just completed that task, and I am starting again on a new 6 year term.

Back in August I voted against this—that was before the election. I think that all of this biting the bullet on the economy and everything else should be brought into a realistic perspective.

What we are doing is again self-flagellation. I do not mind setting an example on inflation. I just voted for that pay cap. But when it comes to the Senate budget we are going to have to look at it comprehensively, overall, because editorials will constantly talk about the $1 billion Senate.

You are talking now to a former chairman of the legislative appropriations bill who cut back on a good part of that bill. When I had the legislative appropriations I found out that the Congressional Research Service was preparing high school term papers for everybody, particularly on the House side. Any constituent's son or daughter who wanted a term paper would write the Member and the Congressional Research Service was turning these things out by the thousands. We eliminated that.

I found what I characterized as an abuse of the GAO. If you do not have enough members on your own staff you could order up a study from the GAO. Everybody wants to know everything, everybody wants to investigate, and we had individual Senators with as many as 37 separate studies going on for them. Then when we would go back home at Christmastime—maybe we are not going to get home this year—but at least when we went home at Christmastime you would turn on your TV and see Senators grinding out GAO studies about how conscientious they were.

We instituted a lot of economies. We had one with respect to 400 North Capitol Street. We needed space, but we start flagellating ourselves, about being oppressed by the economy, and how we could not buy that building for $31 million. The fact was that it was purchased by a private entity for $32 million. That was 4 years ago. This past summer the owner of the building was offered $97 million for the same building and turned it down. And who are his tenants? We find out that it is the U.S. Senate which wanted computer space, all Amtrak—for all practical purposes governmental agencies—they all went barreling on over there.

Now, do we need this money? Do not tell me about work and do not tell me about economizing. Let us just get on home and do our jobs. We work around the clock here, and one of the criticisms of a U.S. Senator is that somehow he has gotten up in the ivory tower, gone off to Washington and he has gotten Potomac fever.

His congressional counterpart has three home offices furnishing constituents' services, he is an ombudsman who is obtainable, accessible, and everything else, and we have to try to open up offices whether we like it or not.

You can go back to the days of Jimmy Byrnes when they had four on the staff. But that is not the nature of the beast. The nature is that the people do want these governmental services and we do our best then not just to compete but to render ourselves available back home with these offices. There are no Senators just sitting around with a lot of staff who do nothing.

I am going along with it, but it is a harsh business, letting tremendous talent go, letting budget analysts go from the Budget Committee staff. I realize that what we do—which takes about a month—takes OMB 600 people and 6 months to get the work done, work that we do with our staffs on the Budget Committee and our own senatorial staffs analyzing these things trying to keep up. We do that in less than a month's period with only 15 people on that staff.

Now, where does the $1 billion come from? Look at Congressional Research, look at the Library of Congress that serves the entire country; look at the Botanical Gardens, look at the investigations.

If the executive branch had not caused so many problems a few years ago we would not have had to spend millions to investigate that, and other investigations. We have to do the job.

We are not expanding senatorial services and throwing money around. Certainly money which is left over, if you are going to be a businessman about it, you save it. You do not immediately fill a position if you do not immediately need it. We try to economize, and I have turned back funds. We have an intern program. You would not have them under this amendment, you can eliminate them, but that is what people want. It has worked well for the senatorial offices.

I know about the $1 billion Congress. It is not the Senate, it is not the staffs. We had to increase these staffs because Senators had bags of mail in the corridors which they were not able to take care of with all their people, so we gave the California, New York, Pennsylvania, and the other largely populated State delegations additional money. We equalized that so they could at least get their mail out.

These are the demands upon the U.S. Senate. If you want to economize, let those Senators who are bellowing about biting bullets ask themselves how they voted on the double dipping and all the cost-of-living increases. All they want is to give something that is not even paid for, where we could have saved $6 billion on the cost-of-living adjustments. That is not paid for. They would not vote for that. How did they vote on Saturday mail? How did they vote on revenue sharing? You can bite all those bullets, and the same fellows around here who are talking about biting the bullets are biting each other, that is whom they are biting. That is total nonsense.

It is hard work around this place. We should have adjourned on November 5 and gotten out of this place. Under the parliamentary form of government, if you lose a vote of confidence they move you out and the new Prime Minister has breakfast at his new home the next morning.

Maybe we ought to try to emulate that and save that much money by getting the devil out of here, rather than trying to run for next year and say, "Oh, I tried to set the example, I economized."

I can show you where to save the billions. It is not on this budget in the U.S. Senate with your staff trying to play catchup ball, investigating the Government, keeping people informed and trying to keep yourself involved about the various subjects of every kind. To come around here with another little 5 percent after you have a 10 percent and keep on biting around just to improve an image—I do not particularly appreciate it, because I know what these budgets are. I work with them. I have been on that subcommittee and we have tried to save money. We have economized in many, many instances.

But I do not find the waste on the senatorial staffs. If the Senator thinks so, just try to keep your staff and see where they go. They go to the committees. We cut back on that. We are agreeing to that 10-percent cut. That is good leadership.

But if you cannot pay the talent, they are all going to leave you and go other places.

Now we are talking an additional 5 percent, and that is not smart. We will really put ourselves in a position of being unattainable and inaccessible, and being unable to respond to the people back home. They will say: "Yes, he was a good fellow, but he went to work and he forgot."

How are you going to be remembered around here physically? By having those offices back home, doing the job, with your staff working and everything else.

I do not know what the Senator's staff is doing, but mine is working around the clock. And if the Senator wants to economize and get up and say, "I sent this money back," that is fine. And all of those who do not spend the money, they are going to send it back.

But do not go to the point now of saying that the Senators and their staffs are not doing the work around here. You are going to make it so we cannot do the work. It has gotten to be an impossible situation of traveling back and forth in planes and keeping up with this city and what have you and then you come around and talk about economizing.

I will give the Senator that list and ask how he voted on these billion-dollar-savings items. That is where we have to save. Everybody is nitpicking these little points. I can give Senators all these amounts that they all voted for in June and then turned around when we tried to balance the budget late this year, the billions from the pressure groups.

But no one is pressuring for commonsense on the floor of the Senate about his own staff and his own job and his own requirements. I love this job. I am not complaining. But I do not mean to cut myself back to a totally impossible situation, because we are working around the clock trying to play catchup ball and keepup ball.

I am glad to yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I share the views expressed by the distinguished Senator from South Carolina. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

Mr. HARRY F. BYRD, JR. addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I shall support the position of the distinguished Senator from Tennessee.

Mr. HOLLINGS. Mr. President, a motion to table has been made.

Mr. HARRY F. BYRD, JR. Mr. President, I ask if the Senator will withhold the tabling motion just for a moment.

Mr. DOLE. Yes.

The PRESIDING OFFICER. Is the motion to table withdrawn?

Mr. DOLE. Yes.

Mr. HARRY F. BYRD, JR. Mr. President, I shall support the amendment offered by the Senator from Tennessee. I do want to say for the record, however, that, in my judgment, any reduction in clerk hiring should apply to all 100 Senators. So far as I am concerned, I do not think that the record should stand to indicate that the incumbent Senators have no responsibility in this regard. I do not think the new Senators should be the ones who bear the brunt of any reductions made. I favor a 15-percent reduction, but I think it should apply to all Senators.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Will the Senator allow me to proceed for 1 minute?

Mr. DOLE. Yes.

Mr. BUMPERS. Mr. President, everybody should bear in mind, first, that in the Appropriations Committee we have already cut the Senate operations by 10 percent, or $21.3 million.

Second, I never have been able to find out how much each individual Senator turns back. I daresay—this is a little self-serving—that there are not many Senators in this body who have turned back more money than I have as a percentage of the total he has in his office. I have always been very frugal and very conservative in the expenditures of both my office account and my clerk hire.

But I would much rather see the Senator's amendment phased in. Let us adjust to this 10-percent cut and make sure that it is not going to be as draconian as some predict it will be before we adopt the additional 5 percent.

For that reason, I am going to vote with the Senator from Kansas to table this amendment.

Mr. MITCHELL. Mr. President, I support Senator SASSER's amendment to reduce congressional allowances by 15 percent from the funding levels in effect last year.

I do so, Mr. President, because of my commitment to fiscal responsibility and my firm belief that sacrifices are necessary if we are to reduce spending, balance the Federal budget, and combat the rate of inflation in this country today.

I know that a number of my colleagues feel this reduction is too drastic, that it will put an undue strain on already tight budgets.

But, Mr. President, inflation is a drastic problem, threatening not only our pocketbooks, but our whole social and political structure.

One of the biggest single contributors to inflation is the inflationary expectations of many Americans today—expectations growing out of the fact, Mr. President, that we in Congress have not been successful in reducing inflation—inflation has grown—or in balancing the budget—the budget is not balanced—or in providing any real relief to the working men and women of this country faced with an escalating cost of living.

When the Senate returns in January, we shall have to face these problems. Mr. President, we are going to have to make major reductions in Government spending—reductions that are going to hurt, but are necessary if we are to reduce growth in the cost of living and combat the inflationary psychology prevalent in this country today.

I, for one, will feel a lot better about asking my constituents in Maine to accept less when I have to vote against a particular program that affects their lives, if I have voted to reduce spending in an area that affects mine.

I know that a 15-percent reduction in our office and staff expenses will not solve inflation in and of itself, but it will have a direct impact on the amount of money each office spends next year. More importantly, it will show the American people that Congress is not just telling them to cut back and accept less—we are willing to do so ourselves.

I urge my colleagues to vote in favor of the Sasser amendment.

Mr. DOLE. Mr. President, let me make it clear that I am one of those, as others, who turn money back each year. So I am not here fussing about it.

But it just seems to me, after listening to the Senator from South Carolina, the Senator from Arkansas, the Senator from Delaware, and others, that we are making some progress.

I do share the same concern about how we vote around here on the things that really make a difference. We can bring up some little amendment and say, "I am going to cut the budget." And maybe we will.

I am going to try to cut it further in knocking out section 155 that gives 3-months' severance pay to some departing staff members in January. We ought to expose that and give that a little airing later on today.

But, for the meantime, I am going to move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment offered by the Senator from Tennessee (Mr. Sasser). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from North Carolina (Mr. Morgan), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. Humphrey) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 56, nays 34, as follows:

[Rollcall Vote No. 522 Leg.]

YEAS—56

Armstrong
Baker
Baucus
Bellmon
Biden
Bumpers
Cochran
Cranston
Dole
Domenici
Durenberger
Glenn
Goldwater
Hatch
Hatfield
Hayakawa
Hollings
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
McGovern
Melcher
Nelson
Packwood
Pell
Percy
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Stafford
Stevens
Stevenson
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young

NAYS—34

Bentsen
Boren
Boschwitz
Bradley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cohen
Danforth
DeConcini
Eagleton
Exon
Ford
Garn
Heflin
Heinz
Helms
Huddleston
Magnuson
McClure
Metzenbaum
Mitchell
Moynihan
Nunn
Pressler
Proxmire
Pryor
Sasser
Simpson
Stennis
Stewart
Zorinsky

NOT VOTING—10

Bayh
Cannon
Church
Culver
Durkin
Gravel
Hart
Humphrey
Morgan
Talmadge

So the motion to lay on the table Mr. Sasser's amendment (UP No. 1859) was agreed to.

The PRESIDING OFFICER (Mr. Exon). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to momentarily set aside the next amendment in order to present an amendment relative to the budget and the budget amounts. I have checked it with Senator Stevens and Senator Domenici. I would offer this amendment on behalf of Senator Stevens, Senator Domenici, Senator Hatfield, and myself.

Mr. STEVENS. Reserving the right to object, and I shall not object, it is my understanding that it takes unanimous consent to set aside the first committee amendment. Is that correct, Mr. President?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. If we consent to setting that aside, we would come back to the committee amendments after this is taken care of?

The PRESIDING OFFICER. The Senator is correct.

Is there objection?

Mr. DOMENICI. Reserving the right to object, may I ask, Mr. President, it is not contemplated that this unanimous consent be such that this amendment can either be substituted for or amended? Is that correct? It is this amendment and it will be voted on by the Senate.

Mr. HOLLINGS. Yes, Mr. President.

Mr. DOMENICI. If there is a substitute or amendments to it, then the unanimous consent is off and we are back on the next matter.

Mr. HOLLINGS. Yes. I know other Senators, including myself, the distinguished Senator from Colorado, and others, may have some amendments relative to the budget. I think this has been worked out where we can accept this amendment on a voice vote.

Mr. DOMENICI. What I am saying is that the Senator from South Carolina is not seeking, for the other budget amendments, that the sequence be changed; just for this one right now?

Mr. HOLLINGS. Just for this one, that is correct, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the amendment.

UP AMENDMENT NO. 1860

(Purpose: To assure that the budget authority and budget outlay provided by this joint resolution do not exceed the Second Concurrent Resolution on the Budget)

The legislative clerk read as follows:

The Senator from South Carolina (Mr. Hollings) proposes an unprinted amendment numbered 1860:

At the appropriate place in the bill, insert the following new section:

Sec. . Notwithstanding any other provision of this joint resolution, except Section 102(a) and 102(b), the total budget authority and budget outlay provided by this joint resolution, when added to the budget authority and budget outlay of other Acts, shall not exceed the total budget authority and budget outlay established by Congress for the fiscal year 1981. In carrying out the provisions of this section, each project and activity covered by this joint resolution shall, subject to the last sentence of this section, be continued at the rate provided in this joint resolution until the total of budget authority or budget outlay for fiscal year 1981 reaches the ceiling established by the Congress for fiscal year 1981. In determining when the budget authority and budget outlay total is reached, the full fiscal year 1981 budget authority and budget outlay available for payments required by law shall be included. Entitlement payments provided for in this joint resolution shall continue. Provided, further, that nothing in this section amends, restricts or qualifies the provisions of the Impoundment Control Act of 1974.

Mr. HOLLINGS. Mr. President, this amendment is designed to make sure that the continuing resolution does not exceed the budget ceilings already established. It simply provides that the total spending in that resolution shall not exceed the budget resolution totals. What has occurred is that in the continuing resolution, over on the House side, they selected a date. I think it was around June 5. With President-elect Reagan and the new administration coming in, it is going to be one terrific burden trying to get these things through by June 5. On the Senate side, what we wanted to do is run that for the full fiscal year through September 30.

Our distinguished chairman-designate, the Senator from Oregon (Mr. HATFIELD), was particularly concerned that we do it in an orderly way. That worried us from the budgetary standpoint. We wanted to make sure that this continuing resolution did not exceed the budget ceilings Congress has established. This amendment will make sure the ceilings are not exceeded and, at the same time, will leave room for Congress to consider whatever budget cuts President-elect Reagan proposes.

This general language may seem rather pithy and not as direct as it should be in a budgetary fashion, but it is really all we can do at this particular time, unless we go further and make some real cuts.

But this language has been worked out on both sides, so that in a minute, we can consider other things such as an amendment relating to revenue sharing.

My own State-Justice-Commerce is an important item here.

That bill, if it continued to be appropriated at the same level as the conference committee agreed on, would present a problem. This amendment will make sure we stay within the budget totals, while giving us time to get our fiscal house in order in an orderly fashion.

I will probably be arguing along with my distinguished colleague from Colorado (Mr. ARMSTRONG) that we ought to have certain percentage cuts and be more direct about what cuts willl have to be made. But right now, we can not foresee exactly what the final budget figures will be, because that depends on several factors; the economy, the Congress, and the budget cuts President Reagan will propose. For example unemployment is now running at 7.6 percent, lower than the 8-percent unemployment estimate in our second concurrent resolution. That lower unemployment rate will save about $2½ billion from the budget.

On the other hand, interest rates are up, and if they stay up, interest costs on the national debt will go up.

Those things would alter the economic projections.

Meantime, there is a definite move on behalf of the new administration to cut spending. President Reagan's advisers are proposing budget cuts which would reduce spending to $620 billion, $13 billion below the budget resolution totals.

I am confident the Congress will look favorably on some of those cuts. Whether they get down from the $632.4 billion level that the current resolution has adopted, to approximately $620 billion, I am not sure.

But we will certainly be moving in the direction of significant reductions in spending. The public is for it, the Budget Committee is for it, President-elect Reagan is for it, and I believe the Senate is for such spending reductions.

But these spending cuts should be made in an orderly way, with full consultation with the new President, and with cooperation by the Budget and Appropriations and other committees through our budget process.

We have worked it out with Senator BELLMON and Senator DOMENICI, our leaders on the Republican side, and with Senator HATFIELD, the incoming chairman of the Appropriations committee. We worked on this language and we think this amendment will make sure spending under this continuing resolution does not exceed the budget resolution while Congress and President Reagan get together to cut the budget.

This amendment supports the budget process, supports President-elect Reagan's efforts to cut the budget, and give us the time we need to get our fiscal policy in order in a deliberate and responsible manner.

Mr. HATFIELD. Will the Senator yield?

Mr. HOLLINGS. I am delighted to yield to the distinguished Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the distinguished Senator from South Carolina, the distinguished Senator from New Mexico, and the distinguished Senator from Oklahoma, for their understanding of the problems we would be faced with early on in the next session, as far as meeting all deadlines and fulfilling obligations and responsibilities that will be the Appropriations Committee's to fill.

At the same time, we are as anxious on the Appropriations Committee to preserve the Budget Act set up by the Congress and the procedures under that act as are the members of the Committee on the Budget.

I feel very strongly we also must preserve a certain degree of flexibility for the new administration as it takes office in January in order to meet its political campaign commitments as well as to deal with the complexities of this fiscal picture.

I think we have done so in this language by giving them the time factor necessary to send up to the Hill a certain number of rescissions which they would recommend, probably in a package, thereby giving the Appropriations Committee the opportunity to consider them, with the Budget Committee's input, as well.

So, Mr. President, this is not the best of the worlds we have to deal with. We are caught in a catch-22 situation, so to speak, at this time.

I do not think there is anyone who feels that this is the best procedure or the best possible solution. But it is, under the circumstances, I think, the best we can hammer out.

I want to include the Senator from New Mexico (Mr. SCHMITT), who also worked hard on this compromise. I thank him for participating in this effort.

Mr. President, I support the statement made by the chairman of the Senate Budget Committee (Mr. HOLLINGS) and express my appreciation for his understanding and cooperation with the members of the Appropriations Committee in working this out.

When we first had this discussion in the committee, Senator STEVENS, our assistant minority leader, was very active in getting the expiration date set up for September 30.

I know that some would prefer to see us go across the board. But I say that we ought to look down the road and recognize that there are two things I would like to keep always before us in the Congress.

One is that we should never yield our legislative responsibilities to the executive branch of Government.

If we are going through the budgetary process and the appropriations process, and justify through hearings and other methods of review the budgets we bring to this floor, then I think we have to recognize that that is, in effect, our responsible role. To suggest we go across the board with cuts to meet a certain budgetary figure at this time, I think would be premature because, again, it would, in effect, encumber the whole appropriation process.

We are supposed to divide into subcommittee hearings these budget requests, making judgments. This Senate has acted upon this in one way or another, and there is where we are now.

If we do this across the board at this time, we are also denying the new President the kind of flexibility he must have because we have not yet agreed to the basic figures as to what this will be in terms of outlays.

We have all kinds of figures—$620 billion, $633 billion, $638 billion, $645 billion, $650 billion. We can pick the one we wish. There is quite an array of options.

So I wanted to make these comments in terms of preserving this right of the legislative body.

Second, I think we have to always preserve this budgetary role we have established through the Budget Act and not yield to the OMB to perform that function, either directly or indirectly.

Senator DOMENICI and I have conferred numerous times in the last few weeks and we are committed, along with Senator DOLE, who is chairman of the Finance Committee, to working these problems out that revolve around the fiscal questions that confront us now and down the road.

I am grateful for the cooperation that has been extended by the Budget Committee. I look forward to a very harmonious working relationship with that committee, clear understandings of our respective duties and responsibilities, and no intent on the part of anyone to try to intrude into those areas of responsibility.

UP AMENDMENT NO. 1861

Mr. DOMENICI. Mr. President, if Senator HOLLINGS will look at the amendment before him, I am going to send an amendment to the desk. I think it is only a technical amendment. I will just read the words I will insert and then I will send it to the desk.

In the fourth line, following the word "resolution," I am going to insert "unless contravened by specific reference to this section."

In all other respects it will be the same.

The reason for that is, as I view it, and it may not be necessary, but there are many references in this huge bill to the word "notwithstanding."

This is merely saying none of those kinds of words and qualifiers apply to this amendment, unless specific reference is made to this.

Mr. President, I send an unprinted amendment to the desk, and I ask unanimous consent that it be substituted for the previous amendment.

Mr. HOLLINGS. Not substituted. The Senator may want to modify the amendment.

Mr. DOMENICI. Mr. President, it is amendable at this point?

The PRESIDING OFFICER. The amendment is amendable.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1861 to amendment 1860.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 4, after "resolution", add the following: ", unless contravened by specific reference to this section."

Mr. DOMENICI. Mr. President, I asked unanimous consent because it was my understanding that we were not going to permit amendments to the amendment. Since this is the situation, I will proceed for only 3 minutes, and I ask the Chair to advise me when I have used that time.

Simply, this continuing resolution and the whole appropriation process this year is an utter and absolute fiasco. I do not say that with reference to those who participate in trying to get the business of the United States of America appropriated, but it is a literal mess.

What we are going to do—and I am not going to resist it—is that by continuing resolution we are going through the whole year. So that will be a first. Continuing resolutions usually continue for some period of time. I am in complete agreement with the new chairman, Senator HATFIELD, that to do otherwise will bring more chaos, because we will have continuing resolutions running out right at the time when we have the whole new process of appropriating, right at the time we are considering a new budget.

So we have a continuing resolution that is going to carry us through the whole year. Anybody who knows how big this appropriation process is has to know that that is going to result in something far less than orderliness because, as a matter of fact, it is a mess.

In addition, if we add up everything this continuing resolution and the entitlements contemplate, the truth of the matter is that we are $4.6 billion in outlays over the budget resolution we passed 2½ weeks ago, and we are $8.4 billion over in budget authority.

The truth of the matter is, therefore, that when we adopt this continuing resolution, which is now a full-year appropriation being called the continuing resolution, by that act we will be breaching the budget.

What we are doing here today, in the interest of buying some time, is that this amendment, which I hope the Senate will adopt in a few minutes, says that it does not really matter how much we have appropriated—we will not spend more than the levels provided in the budget resolution. If you want some more mess and disorderliness, think about that one.

This means that at some point down the line—6, 7, 8, or 9 months from now—unless we get some recissions, some deferrals, some law changes, or a third budget resolution, there will be no money; because, although this provides for the whole year, the amendment we have collectively come up with is—what? Notwithstanding that, you will not spend it all, because when you have spent as much as the budget resolution provides, you will stop spending. We know they will not stop spending, because that may mean 1 month without any Government.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I yield myself 2 additional minutes.

So we hope that the new President, through his rescission authorities—and we specifically have said that we are not trying to alter those in those amendments; he still has them—with his leadership, with a new OMB Director, and with Congress, through the normal tools of rescission, deferral, and changes in the law, might find enough savings so that we can stay with the budget figures and be in business for a full year. If not, obviously there will be another resolution to provide the escape hatch for the extra spending that is being passed here today.

Having said that, I support this as a minimal way to keep the budget process intact and to keep this continuing resolution from being subject to a point of order for breaching the cumulative totals under the Budget Act.

However, as a Senator, I truly cannot support the continuing resolution when I know that I am going to vote "no" when that time comes. I cannot vote for one that, on its face, breaches the budget to the extent it does—although, technically, I could say that with this Hollings-Domenici-Hatfield-Stevens amendment it does not. We are saying that some months down the line, they may have to stop spending. That is a rather strange and strained process, to say the least.

Having said that, I hope we adopt this amendment forthwith and at least present ourselves with the options next year of not having changed the budget levels in the Budget Act. We will have a new President and others to work with, and perhaps we can come up with some cuts that will bring this process into better focus for next year.

Mr. ARMSTRONG. Mr. President, some months ago, when we had one of our budget resolutions of the year before us, I recalled for Senators the fable of the emperor who had no clothes. Once again, the emperor is parading through this Chamber without any clothes on.

While I am going to support this modest, little amendment, I wish to congratulate the sponsors of the amendment for their candor in pointing out that this provides the form but not the substance of putting this continuing resolution in conformity with the budget.

The fact is that if we add up the entitlements and appropriations of the bills already passed, plus this continuing resolution, we are some billions of dollars over the amount contemplated and agreed to in the budget resolution. Bear in mind that the budget resolution was not a document of restraint; it was a document of extravagance. Nonetheless, it is the budget resolution which has been adopted.

Now, a few days later, after having piously agreed to a budget resolution, we are preparing to adopt an appropriations measure which, absent this amendment, would breach the ceiling we have established.

By the adoption of this amendment, so far as I can see, we really have not solved the problem, nor is the problem of the magnitude of $4.6 billion, as the Senator from New Mexico has suggested. In my judgment, it is more a problem of the magnitude of $25 billion.

I believe the Senator will agree that if we update our economic assumptions and apply the best thinking we presently have available to us, the probable amount of Federal outlays in the current fiscal year will not be $632 billion or $636 billion or $637 billion but will be somewhere in the range of $655 billion to $660 billion, unless statutory changes are made.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I yield.

Mr. DOMENICI. I should like the record to reflect that the Senator from New Mexico agrees with that point.

The figures I gave in terms of the expense of the breach are using the economic assumptions and other assumptions that are part of the resolution. We cannot change them. But I tend to agree that they probably are not going to turn out being right; and to the extent that they are not, commonsense says that it is going to be on the side where these numbers I gave are the minimums by which we patently are going to breach the resolution when we adopt this continuous resolution, but for this technical savior.

Technically, it saves us; but, substantively, we are waiting for somebody to do something to cut back later.

Mr. ARMSTRONG. Mr. President, having established that, let me just explore what I conceive to be the only three possible alternatives. There may be others, but I can only think of three possible scenarios under which the provisions of the pending amendment we would somehow get the actual outlays for fiscal 1980 to conform with this amendment and with the budget resolution.

Possibility No. 1 is that in January Congress will come in and in a frenzy of delayed budget cutting fervor will pass a bunch of bills rescinding prior appropriations. I do not regard that as a likely possibility, but I admit that it is a theoretical opportunity that will be available to us and on behalf of the Senator from Colorado I promise that I will suggest some cuts of that kind. I do not necessarily foresee it being likely they will pass.

The second theoretical possibility and the one which the Senator from Oregon, the distinguished chairman-designate of the Appropriations Committee referred to, is the possibility that the new President will send us a package of rescissions which would then meet the approval of Congress and go into effect. I think this is somewhat more likely, but I regret that the Senator from Oregon is not in the Chamber because I wish to inquire of him or of someone who is knowledgeable in this matter if there is a real chance that such rescissions would be forthcoming and if so whether or not they would be adopted.

Mr. President, I am advised that in the year since we have established this cumbersome process of Presidential rescissions no less than 85 percent of the rescissions propounded by the executive branch have been rejected by Congress and each year it is interesting to note that Presidents—I do not just mean President Jimmy Carter—but I mean Presidents in general have sent fewer and fewer such rescissions because their batting average has been so bad that they have lost confidence that they will ever be able to get spending under control in that way so we have a mechanism which clearly is not very workable or at least has not worked in recent years.

The third possibility is that nothing will happen or that nothing of substance will happen and that some day in September of next year we are going to run out of money because that is what this amendment really does. It simply says that you will go ahead and spend at the present rate but when you get to the grand total which Congress has approved then you have to stop spending and so literally what we are doing is setting up a time bomb that will go off somewhere around the 15th or 20th of next September and on that date I fully expect if we have not acted Senators will come to the Chamber say that we cannot let this happen, we cannot shut down the Government for 10 days and, in fact, I am even told that some Senators have sought parliamentary advice whether or not that would be the literal effect of the adoption of an amendment such as this. Does Congress actually retain the authority to shut down the Government for a few days in order to make the books balance?

I am not going to ask the Chair that question. Perhaps another Senator will propound such a parliamentary inquiry, and I understand that the way has been paved to in fact rule that Congress has that authority. But obviously that is not an authority we are going to exercise. No matter how bad things get the Government will be operating for the last 10 days or the last 15 days of the current fiscal year.

So what we are really doing is ducking the issue with this resolution, if we do nothing more than adopt it.

Mr. President, I do not oppose this amendment. I am going to vote for it but with the understanding that we must then take the next step, which is to enact some spending reductions in order to give meaning to the principle which is propounded in the pending amendment.

So I will be joined with other Senators in suggesting such amendments later this afternoon or at the appropriate time.

Mr. President, the heart of the problem, it seems to me, is that we have unwisely curtailed the traditional authority of the Chief Executive to withhold the spending of funds.

In 1803 President Thomas Jefferson established a precedent which the Chief Executives of this country and the chief executives of most other jurisdictions, States, mayors, and other local executives have followed ever since because Congress appropriated $50,000 for a gunboat and when it came time to spend the money President Jefferson did not think we needed a gunboat and so we did not spend the money.

In 1840, President Martin Van Buren decided a congressional appropriation for a widow's pension was unnecessary because the widow was already getting a pension from another source. So he declined to spend the money.

In 1857 and again in 1876 and all down through the years and the decades Presidents have exercised the authority not to spend money.

As a matter of fact, this has been litigated extensively and at the right time I wish to discuss the whole impoundment issue at some length, but the bottom line is this, that about 6 or 7 years ago Congress in a dispute with then-President Richard M. Nixon severely and in my opinion unwisely curtailed the authority of the President to manage the Nation's financial affairs.

I would not for a second delegate an undue amount of authority to any President of any party to reverse the policy decisions of Congress. But it is foolish in the extreme to take the position as we have in the present law and by the practice of denying Presidential rescission to say that once the money is appropriated it has to be spent no matter whether it is needed or not, whether or not administrative economies can be achieved, whether or not conditions have changed, whether or not the gunboat is needed or the widow is getting a pension from another source or the project is found to be unnecessary.

It is imperative, it seems to me, as a matter of policy that the Chief Executive of this country have a reasonable degree of flexibility to manage the financial affairs of this Government.

So at some point today or on another occasion Congress, it seems to me, should restore to the President just a portion of the authority which all Presidents down through history have previously exercised up until a very, very few years ago.

Mr. President, I make that explanation because I would not want anyone to think that with the passage of the pending amendment we have solved the problem. We have not. But the Senate will have a chance to do so when it votes on other amendments later this afternoon, amendments which will, in fact, reduce spending contained in this resolution.

Mr. HARRY F. BYRD, JR. Mr. President, when the Senator from New Mexico was speaking I was called out of the Chamber and I did not get to hear all his remarks. I was impressed, however, with the figures which the Senator from New Mexico (Mr. DOMENICI) gave the Senate.

I am taking them from memory now, but this is as I understand it. May I ask the distinguished Senator: this continuing resolution envisions an increase in spending of $4.6 billion over the budget resolution and for budget authority $8.4 billion over the budget resolution. Is the Senator from Virginia correct on those figures?

Mr. DOMENICI. $8.4 billion and $4.6 billion, the Senator is correct.

Mr. HARRY F. BYRD, JR. I thank the Senator from New Mexico.

One other question: As I recollect the colloquy between the Senator from New Mexico and the Senator from Colorado, the two distinguished Senators agreed that in their judgment and using realistic assumptions the spending will be $25 billion greater than the budget resolution passed recently called for?

Mr. DOMENICI. Mr. President, our colloquy would establish the proposition that certain economic facts would indeed have the outlay level for this year instead of being $632.4 billion, a figure voted in by the Senate, that it could be $650 billion or more, or anywhere from $18 billion to $20 billion or $25 billion in excess of that. Yes.

Mr. HARRY F. BYRD, JR. In any case, whatever the precise figure might be, it is substantially in excess of the budget resolution that Congress adopted just recently?

Mr. DOMENICI. Indeed, and it could be substantially in excess of the figures I gave the Senator and gave the Senate of $4.6 billion and $8.4 billion which are based upon economic assumptions and other assumptions in the resolution itself.

Mr. HARRY F. BYRD, JR. I think this debate dramatizes the totally irresponsible way that Congress has been handling the tax funds of the American people. I think this continuing resolution makes a mockery of the whole budget process. I am going to vote against it. I think it is a very bad way to handle the funds of the American people. I am wondering if the Senator from New Mexico could tell the Senate the price tag of this continuing resolution. How much money is involved in the continuing resolution? I do not recall any Senator having brought this out in the Chamber. I do know that in the House of Representatives the chairman of the House Appropriations Committee acknowledged that the amount being appropriated by this continuing resolution cannot be exactly pinned down. I am wondering whether the Senator from New Mexico or other Senators would have any precise figure that could be given to the Senate.

Mr. DOMENICI. Yes, Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I will give you the best figures we have. They are based upon economic assumptions and based upon certain spend-out ratios and the like, but I will give it to you.

The continuing resolution itself

amounts to $100,072,000,000 in budget authority, $65,646,000,000 in outlays.

Senator, the interesting situation that the Congress and this Senate find themselves in under the continuing resolution is that in outlays it is only around $66 billion out of an expected outlay of well over $632 billion. So a number of bills have already been passed and are on their way to the President.

Then the issue that we do not want to come to grips with is the issue of entitlements that are not even appropriated for, that are running along because laws have been passed that entitle people to money or rights to things that are worth money.

So our appropriators are in a bit of a bind. They are in a sense not in charge because much is not appropriated. They are not totally responsible to make sure this budget comes in within the mark in the budget resolution because the entitlements, some of them, are not even appropriated and, in fact, most of them, and they are running on their own.

So to bring things under control we cannot suggest, say, to Senator HATFIELD next year, "You do it all," because they have less than half the budget.

The Senate is going to have to change some laws, alter some beneficiary groups, give somebody some authority to make some administrative changes in overlapping programs, literally decide these entitlements are going to be altered.

I submit we are not going to bring the budget under control without looking at the entitlements, I will tell the Senator right now. We will end up very little in the direct appropriation process if we continue as we are. We are going to let them squeeze and squeeze and let the entitlements go and go, and we will not have much.

We may have a budget in deficit, nonetheless, and it may be bigger than this year because the entitlements are growing at a much faster pace than the revenue is coming in percentagewise, and much higher with inflation.

Mr. HARRY F. BYRD, JR. It would appear to the Senator from Virginia, without adding up the precise figures, that the increase in spending for fiscal year 1981 as compared to fiscal year 1980 will be more than $60 billion, an increase of more than $60 billion, and may be an increase of more than $70 billion.

Mr. DOMENICI. The Senator is correct.

Mr. HARRY F. BYRD, JR. I think a significant fact is that that comes on top of an $85 billion increase in spending for the past fiscal year, fiscal 1980.

Incidentally, that was the greatest increase in spending of any year in the history of our Nation.

I guess it is no news to my colleges in the Senate that I have been somewhat pessimistic about the Federal Government's financial situation. But I am even more pessimistic today after listening to this debate and after studying this continuing resolution.

Mr. DOMENICI. Senator, I just want to one more time thank you for your astute observations, and recall once again that the entitlements that have been referred to generally here, many of them have to be looked at, and I am sure that from your position on the Finance Committee, Senator, you will join with those of us who want to look at them next year. It is not all on the shoulders—and I am not on either committee and, as you know, I am neither on Appropriations or Finance, and maybe that is better for me—but both of those major committees are going to have to look at it or this mammoth growth you are speaking of percentagewise—I will give you a round figure, for the last 4 years the Federal budget has grown 14 percent each year for each of the 4 years in real growth, and that is enormous—will continue.

Mr. HARRY F. BYRD, JR. That is enormous and, in my judgment, is a major cause, if not the major cause, of the inflation which has been going so heavily into each wage earner's paycheck and into each housewife's grocery dollar.

The Senator from New Mexico is completely accurate when he says no one individual, no one group, no one committee, can solve this problem.

As I see it, it takes the full cooperation of the Congress within the Congress and the Congress and the executive branch. The Congress cannot say to the President, "You do the job," and expect it to get done.

The President cannot say to the Congress, "You do the job," and expect it to be done. We have to work together. The executive branch and the Congress must work in cooperation if the huge spending of the Federal Government which is now out of control, is to be brought under control.

Mr. YOUNG. Mr. President, will the Senator yield? I concur with the statements made by the Senator from New Mexico. He made an excellent point with respect to the entitlement program. The food stamp program is a very good example of that. Anyone with half a million dollars or more in assets can get food stamps. The Appropriations Committee cannot correct that. The legislative committee can correct that. That is one example where entitlement programs cannot be reduced in cost by the Appropriations Committee.

Mr. HARRY F. BYRD, JR. That is a good example, I might say to the Senator from North Dakota. That program started roughly 15 years ago at $64 million, and, if my memory is accurate, it is now $11.5 billion in that short period of time. If you go back 3 years, it has been increased by about $4 billion in that short period.

Mr. YOUNG. And the Appropriations Committee cannot do a thing about it.

Mr. HARRY F. BYRD, JR. I blame not any particular committee and not any particular individual. It is the responsibility of the Congress as a whole and the executive branch, the two working together.

Mr. HOLLINGS. Mr. President, I move the adoption of the Domenici amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP amendment No. 1861) was agreed to.

Mr. HOLLINGS. I move the adoption of our amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended.

The amendment (UP amendment No. 1860), as amended, was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. I would suggest that we have the regular order.

The PRESIDING OFFICER. The question recurs on the first committee amendment.

Mr. HOLLINGS. Can I say momentarily that the distinguished Senator from Louisiana, the chairman of the Finance Committee, I think was next in line. He has stepped outside, and if we had a quorum call, he would be here and be able to call up his particular amendment I think with respect to revenue sharing. I think he has talked to Chairman MAGNUSON and to the minority side. With that understanding I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1862

Mr. LONG. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 1862:

On page 10, line 22, strike out "as passed the House on November 13, 1980" and insert in lieu thereof "as passed the Senate on December 9, 1980".

On page 10, line 25, strike out "$4,566,700,000" and all that follows through page 11, line 4, and insert in lieu thereof "$4,566,700,000,".

The PRESIDING OFFICER. It will take unanimous consent to consider this amendment.

Mr. LONG. Why, Mr. President?

The PRESIDING OFFICER. It is not to the committee amendment.

Mr. LONG. Mr. President, I ask unanimous consent to set aside the committee amendment in order to consider this amendment, and then we will go back to the committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I learned yesterday evening that the chairman of the House Committee on Government Operations might not wish to go to conference on the revenue sharing bill on which the Senate labored all day yesterday.

If that were the case, then the continuation of the program this year would depend entirely on the continuing resolution, which provides for revenue sharing both in the committee substitute as well as in the House bill. The House proposed in their continuing resolution that the language of H.R. 7112, as passed by the House on November 30, should be regarded as the basis for the appropriation for revenue sharing. Under those circumstances, Mr. President, it would be appropriate that the continuing resolution language relating to revenue sharing refer to the version of the revenue sharing bill agreed to by the Senate yesterday.

In other words, the House bill put in the conference H.R. 7112 as passed by the House on November 30, 1980. My amendment proposes that the language in conference should be the language of the same bill, H.R. 7112, but as passed by the Senate on December 9, which was last night, so that the Senate language would be in conference as well as the House language.

Might I say that I have discussed this matter with the chairman of the committee, Mr. Magnuson, and I have discussed it with Mr. Hollings, with the majority leader, who is a member of the committee, and also with Mr. Dole, and I believe he has discussed it with some Members on his side of the aisle.

Mr. YOUNG. Mr. President, no one has discussed it with me.

Mr. LONG. Mr. President, let me explain it to the Senator. Here is what we are proposing: there is in this continuing resolution language to extend for 1 year revenue sharing according to the language of the revenue sharing bill as passed by the House on November 30 of this year.

In order that the Senate language might be considered, on which the Senate voted yesterday, it is necessary to amend the bill so that the Senate language agreed to by the Senate yesterday on the same bill, the revenue sharing bill, could be considered in conference.

Mr. YOUNG. This would be legislation on an appropriations bill but it would be maybe desirable.

Mr. LONG. But the point is, we did not start it in the Senate. The House did. What we are doing is simply this: Where the House bill says "House," we substitute the word "Senate" and where they put the House date we substitute the Senate date so that at least the Senate language could be considered in conference.

Mr. YOUNG. I have no objection.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, the senior Senator from Louisiana correctly states the proposition. On behalf of the committee, I am authorized to accept the amendment.

● Mr. DOLE. Mr. President, I support the Long amendment to the continuing resolution to modify the provision intended to fund the revenue sharing program on a contingency basis. This provision was drafted to deal with the possibility that Congress might not complete action on renewing the revenue sharing program for 3 years. Yesterday the Senate approved a renewal bill that is similar to the revenue sharing bill that the House passed. We will have to work to guarantee that the differences between those bills are reconciled in an expeditious manner. I am confident that will be done. But, I believe the backup option—the continuing resolution—should be consistent with the revenue sharing bill as passed by the Senate. This should encourage the possible conferees on revenue sharing to reach a quick agreement, or they will have to accept temporary funding based on the Senate provisions.

This amendment will conform the revenue sharing appropriation to the Senate-passed version of the revenue sharing bill. It is important that we act promptly to complete final action to renew revenue sharing for 3 years. A brief extension of the program, which is all the continuing resolution provides, is not good for local governments or for the program. The virtue of revenue sharing is the promise of certain funding over a period of years, and we ought not to fight the revenue sharing battle all over again next year. But that is what will happen if we rely on the continuing resolution.

Mr. President, our obligation is to complete action on revenue sharing. We have delayed too often on this matter, and there is no excuse for further delay on the full revenue sharing program just because a temporary expedient is available in the form of the continuing resolution. The Senate and House should be obliged to fulfill their obligations with regard to revenue sharing, and this amendment helps make that responsibility clearer.●

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana (Mr. Long).

The amendment (UP No. 1862) was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1863

(Purpose: To include the Coast Guard in the exemption from the provisions of the continuing resolution calling for reductions in the amounts obligated for travel and transportation, etc.)

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the pending matter be temporarily laid aside in order that I may offer an amendment, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. Johnston) proposes an unprinted amendment numbered 1863:
>
> On page 39, strike "the Department of Defense." on line 15 and insert "the Armed Forces."

Mr. JOHNSTON. Mr. President, Senator Sasser previously had an amendment passed which cuts down on travel and transportation, experts and consultation expenses, but there was a further provision which exempted the Department of Defense from that reduction.

What this amendment does is change the words "Department of Defense" to "Armed Forces." The effect of the amendment is to include the Coast Guard in the exception. I think the difference was an inadvertent one. The Coast Guard is certainly part of our Armed Forces but, technically is not part of the Department of Defense. What this amendment does is make clear that the Coast Guard is considered to be a part of the Armed Forces for the purpose of this amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. YOUNG. Mr. President, I have no objection. This is a good amendment and it is necessary.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana (Mr. Johnston).

The amendment (UP No. 1863) was agreed to.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I ask unanimous consent that the committee amendments be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1864

(Purpose: To extend the hours of operation at the Port of Scobey, Mont.)

Mr. MELCHER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Montana (Mr. Melcher) proposes an unprinted amendment numbered 1864:
>
> At the appropriate place in the Joint Resolution, add the following new section:
>
> "Sec.   To provide an additional $77,000 over the amounts otherwise provided by this Act for the 'United States Customs Service Salaries and Expenses' to provide additional personnel for assignment to the Scobey, Montana, Port of Entry."

Mr. MELCHER. Mr. President, the amendment I offer today would provide a minor sum to fill a major need. It would appropriate $77,000 to provide year-around, 16-hour service at Scobey, Montana's Port of Entry. Right now there is 16-hour service at Scobey only during the summer months. The funds provided in this amendment would cover the entire cost of personnel to keep that office open throughout the year.

Customs officials have said in the past that the car count must increase before approving longer hours at Scobey. It makes no sense to say we cannot expand the hours until the traffic picks up when the fact is that the current short hours are one of the factors preventing an even greater flow of traffic. One Scobey resident told me the car count argument makes about "as much sense as me locking my doors 4 hours and saying if I had more customers I would stay open longer."

If the Customs people want a greater traffic flow, the figures show the daytime traffic has picked up. Between 1976 and 1978, traffic at Scobey nearly doubled from 7,998 to 13,146. Between May and October in every year between 1969 and 1979, the figures show traffic is much higher. That is the time when the border facility is open until midnight. I realize cold weather can cut down traffic in the winter, but in this case, the winter traffic count suffers all the more because of early closing of the port of entry.

For years the community has suffered because the facility closes down during the winter months at 6 p.m. That works a serious hardship on the community's economic well-being because it means small businesses close early for lack of trade. A major reason for the lack of trade is that the early closing of the port of entry prevents Canadian citizens, who have to travel twice as far to Canadian communities, for coming in to do shopping at night.

The short hours at Scobey have adverse community impact on both sides of the border. It complicates the task of providing timely medical service. It has stifled the development of a mutual aid fire department arrangement with our Canadian neighbors. It has prevented the expansion of truck commerce important to wheat and barley shipments. Beyond these issues, there is a growing market for the services Scobey can provide. Just 20 miles to the north, the Coronach Power Complex has brought 400 new workers and residents into Scobey's commercial circle, people who cannot now be served in the evening because of the short hours at the port of entry. Next spring this will go to 700 workers. The town of Coronach itself has grown from 378 people in 1975 to 1,050 in 1979. They project a population of 1,500 to 2,000 people by next year. Scobey is the most sensible place for these people to shop. However, they are forced to travel an additional 50 miles because of the Scobey Port's limited hours of operation.

I have heard it said that the shortage of one inspector at a place like San Diego can back cars up as much as half an hour. Maybe so. But the lack of personnel in Scobey means you neither come in or go out at all after 6 p.m.

In its report on the Senate's version of the 1981 Treasury appropriations bill, the committee suggested increasing the number of inspectors for the Nation's airports and seaports by 250, and at the same time decreasing the number of inspectors at landports by 75. This action was taken based on Customs Service figures. I cannot speak for other ports of entry along our northern border but the traffic count at Scobey and the development taking on the Canadian side of the border is on the increase, not the decrease.

What we are dealing with here is a practical and very serious community problem. We have the unique opportunity to do one community in the United States a great deal of good by providing just two more inspector positions. I strongly hope the committee will do all it can to help resolve this matter.

Mr. President, this amendment would appropriately be added to the Treasury appropriation. Since that is not going to be considered, the only means we have is to offer it on the continuing resolution to allow Scobey, Mont., to have, during the winter months, the same hours for entry from Canada or from the United States into Canada as they have during the summer months. It is absolutely needed in terms of energy development on the Canadian side, where they have workers crossing back and forth and it works an undue hardship to them to have to close the port of entry at 6 o'clock during the winter months.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, am I correct that this involves only $77,000?

Mr. MELCHER. That is correct, it only involves $77,000.

Mr. JOHNSTON. Mr. President, we have not had time to clear this amendment all through the Appropriations Committee. It lies within the jurisdiction of Senator CHILES' subcommittee.

Nevertheless, since the amount is small and the case appears, on its face at least, to be a compelling one, we would be willing to take this to conference, with the understanding that the Senator from Montana should, in the interim, clear it with all members of the committee, especially Senator CHILES.

Mr. MELCHER. I thank the Senator.

Mr. YOUNG. Mr. President, the amendment has merit and I think we should take it to conference.

Mr. MELCHER. I thank the Senator from North Dakota.

Mr. HARRY F. BYRD, JR. Mr. President, has the Chair acted on the amendment?

The PRESIDING OFFICER. The Chair has not. Does the Senator from Virginia seek recognition?

Mr. HARRY F. BYRD, JR. Not at this point. I will seek recognition after the amendment is agreed to.

The PRESIDING OFFICER. Does the Senator from Arkansas seek recognition?

Mr. BUMPERS. Mr. President, I do not seek recognition at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Montana (Mr. MELCHER).

The amendment (UP No. 1864) was agreed to.

Mr. HARRY F. BYRD, JR. addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I be permitted to speak for 20 minutes immediately prior to the vote on final passage of the continuing resolution.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

UP AMENDMENT NO. 1865

(Purpose: To modify language regarding Wild and Scenic Rivers Act)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator from Arkansas request that the pending amendment be temporarily set aside?

Mr. BUMPERS. Mr. President, I am sorry, I did not realize there was an amendment pending.

The PRESIDING OFFICER. There is a committee amendment pending.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the pending committee amendment be temporarily set aside in order to consider my amendment.

Mr. CHAFEE. Mr. President, I would like to withhold my decision on objecting until we know what the amendment is the Senator from Arkansas proposes.

Mr. BUMPERS. Mr. President, if I may be permitted to respond——

The PRESIDING OFFICER. The Senator is recognized for that purpose.

Mr. BUMPERS. This amendment is designed to correct an amendment in the continuing resolution dealing with the Wild and Scenic Rivers Act. The amendment provided that before any river could be added to the Wild and Scenic River System, the action would have to be approved by the chairman and the ranking minority committee member in both the Energy Committee of the Senate and the Interior Committee of the House. I have been told that was not the intent. I prepared an amendment to provide that the committees will be given 60 days' notice before the inclusion of any river in the Wild and Scenic River System. This is simply to correct what the intent was.

Mr. CHAFEE. This request is solely to bring it up, is it not, Mr. President?

Mr. BUMPERS. The request is to lay aside the pending amendment in order to consider my amendment.

Mr. CHAFEE. I have no objection.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1865.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 49, lines 7 through 14, strike Section 181 in its entirety, and insert in lieu thereof the following:

"SEC. 181. Notwithstanding any other provision of law, no funds appropriated for use by the Department of the Interior shall be used to take final action with respect to a state application under section 2(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1273 (a)), as amended, until 60 days after notification of the proposed final action has been forwarded by the Secretary of the Interior to the appropriate House and Senate authorizing committees for review."

Mr. BUMPERS. Mr. President, this amendment would modify section 181 of the committee reported bill. As reported, section 181 would require the concurrence of the chairman and ranking minority members of the appropriate House and Senate authorizing committees before rivers can be added to the Wild and Scenic Rivers System pursuant to section 2(a) of the 1968 Wild and Scenic Rivers Act.

I am strongly opposed to the language as reported. I simply do not feel that the decisions of a State legislature, the Governor, and the Secretary of the Interior should be subject to what is in effect a one person veto—I do not believe that was the intent. Under section 181 as reported, a wild and scenic river designation could enjoy the support of the State legislature, the Governor, the local Congressman, the two affected Senators, and the Secretary of the Interior and still be vetoed by a committee chairman or ranking minority member. I think that such a situation violates the spirit and intent of section 2(a) of the Wild and Scenic Rivers Act.

In an effort to remedy this situation, I have prepared some alternative language which I have discussed with Senator McClure. This language insures that the appropriate authorizing committees will be notified and have a chance to review these designations but will not give one House of Congress, a committee, or an individual Member a veto over the proposed action. This modified language would provide the committees with a 60-day review of the Secretary's final decision regarding a designation under 2(a).

I think this is a good compromise and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I would like to ask a question of the Senator from Arkansas. This does not give the veto power to the Energy Committee on these wild and scenic rivers, but it only requires that the respective House and Senate committees be given 60 days notice. It does not change the law as far as the present proceeding in the designation of these rivers pursuant to consultations with Governors and the regular procedure set forth in current law. Am I correct?

Mr. BUMPERS. The Senator is correct. The whole purpose in offering the amendment is to make certain that there is no veto power.

Mr. CHAFEE. I heartily agree with that. I commend the Senator from Arkansas for his initiative in straightening out this matter. I thank the Senator.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, let me indicate at the outset that the reason that I offered the amendment with the language I did in the pending resolution is because in the enactment of the Wild and Scenic Rivers Act there was a presumption or an understanding of many of us that has not proven to be the fact in practice. That is that while we in the Congress of the United States may legislate with respect to any wild and scenic rivers addition and affirmatively approve or reject the proposal or modify the proposal that might be made, that there would be legislative action.

The other side of that bill provided that segments could be added to the National Wild and Scenic Rivers System by action by the State, which I approve of. I think it was contemplated by those of us involved in the passage of that act that the State would, pursuant to State law, act to decide what might be added to the river, and when the State had approved such an addition they could suggest that it be added to the national system. Upon secretarial approval by the Secretary of the Interior, it would then be a part of the National Wild and Scenic Rivers System.

Mr. JOHNSTON. Will the Senator yield for a unanimous-consent request?

Mr. McCLURE. I yield.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that it be in order at any time for Senator Weicker to bring up an amendment with reference to the busing language contained in this resolution.

Mr. McCLURE. Reserving the right to object, I understand that will not include the right to displace the pending business.

Mr. JOHNSTON. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, I wonder when the Senate might get to regular order. There are five or six amendments which were excepted from the unanimous-consent request approving all the committee amendments en bloc.

Mr. JOHNSTON. Immediately after this amendment and then the busing amendment.

Mr. BUMPERS. Reserving the right to object, did I understand the Senator from Idaho to ask the Senator from Louisiana if his request applied only after the consideration of this amendment?

Mr. JOHNSTON. That is correct.

Mr. McCLURE. I said it would not displace the pending business. Whatever the pending business was, it would not give the Senator from Connecticut the right to displace the pending business when he wanted to bring up his amendment.

Mr. JOHNSTON. That is correct.

Mr. HARRY F. BYRD, JR. Reserving the right to object, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. The pending business is action on the amendments which have not been agreed to en bloc, is it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Mr. President, I do not believe that is correct. The unanimous-consent request by the Senator from Arkansas was that the pending amendment be temporarily laid aside in order for me to bring up this amendment. The pending business is the Bumpers amendment. Immediately upon the disposition of that, then the pending business will be the committee amendments.

Mr. HARRY F. BYRD, JR. That is correct.

The PRESIDING OFFICER. The assumption just made by the Senator from Arkansas and agreed to by the Senator from Virginia is correct.

Mr. JOHNSTON. Mr. President, if I may rephrase the unanimous-consent request, it is that it be in order at any time for Senator Weicker to bring up an amendment with respect to busing provided that it may not displace the pending business, which is the amendment of the Senator from Arkansas, and that to the extent that that busing amendment is brought up, the regular order would follow immediately thereafter.

Mr. HARRY F. BYRD, JR. Reserving the right to object, suppose the Senator is not available to bring up the amendment?

Mr. JOHNSTON. Then the regular order would be the order.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. JOHNSTON. Did the Chair rule?

The PRESIDING OFFICER. The Chair did not rule. The Chair recognized the Senator from Idaho.

Mr. JOHNSTON. I made a unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Idaho.

Mr. McCLURE. Mr. President, I was explaining the reason why we took that action. It is because it did not appear to the Senator from Idaho that it was our intention ever that a Governor, acting in concert with the Secretary, could not add to the National System of Scenic Rivers without the decisionmaking process of the legislative body at either the State level or the Federal level. The Senator from Arkansas has correctly stated that it was not the intention of the Senator from Idaho to individually exercise a veto. I used language which I thought had the effect of and certainly had the intention of giving notification to the appropriate legislative committees in the Senate and the House so that the appropriate legislative committees could exercise that legislative oversight program which I think is essential at some level.

After the discussion with the Senator from Arkansas, I am perfectly satisfied with his amendment because that will give us the opportunity, if we decide that further legislation is necessary with respect to a specific segment or a specific proposal, or with respect to the generic legislation, in the next session of the Congress to look at either of those actions and promote whatever legislative solutions we believe may be appropriate.

I appreciate the clarification the Senator from Arkansas has brought to this matter because it has been incorrectly stated by a number of people in the press and otherwise that the Senator from Idaho was trying to extend his authority to the opportunity for a personal and individual veto of actions that might be taken. That was certainly never my intention. I do not think it is a necessary effect, but it certainly was not the intention of the Senator from Idaho. I think this compromise is a way of solving that problem, at the same time reserving to the legislative branch the opportunity to legislate appropriately in the next session of Congress.

Mr. BUMPERS. I thank the Senator very much.

Mr. HAYAKAWA. Mr. President, I rise to support the efforts of my good friend from Idaho to provide for some type of congressional review and approval of proposed inclusions in the National Wild and Scenic Rivers System. This review is urgently needed in order to avoid situations like the one we now face in California.

As you know, on July 18, of this year, the Governor of California requested the Secretary of the Interior to include five California rivers in the National Wild and Scenic Rivers System. The inclusion of these rivers, the Klamath, Smith, Trinity, Eel, and Lower American, has raised strong objections from a majority of the members of both houses of the California Legislature, as well as from a majority of my California colleagues in the U.S. House of Representatives. I hold in my hand a petition signed by over 6,500 Californians in opposition to Governor Brown's request. These signatures may be examined by anyone who wants to examine them for their authenticity.

A decision by Secretary Andrus to include these rivers in the national system would have an enormous impact on the State of California. Together, the Smith, Klamath, Trinity, and Eel Rivers drain more than 9 million acres of land. Placing them in the Federal system could significantly affect the timber industry, the exploration for strategic minerals, and water resource conservation. The impact to local economies, as well as to the State, are issues that need to be addressed carefully at the Federal level before any further administrative decisions are made or Executive actions taken.

Governor Brown's request, if acted upon, would circumvent the planning process of the U.S. Forest Service as mandated by the Congress. National forest lands comprise a great portion of the area which would be impacted by the proposed Federal designation. Of the rivers proposed for inclusion by Governor Brown, I am especially concerned with the Smith River, whose watershed lies totally within southern Oregon and Del Norte County in California. National forest lands encompass more than three-quarters of the entire Smith River watershed. The Six Rivers National Forest, in which much of the Smith River watershed is located, is currently in the midst of preparing a comprehensive "forest land and resource management plan." This plan will consider in detail various issues including allowable timber harvest levels, fisheries, herbicides, Indian cultural activities, recreation, water quality, and wild and scenic rivers.

The Six Rivers plan is already underway and is scheduled to be completed late in 1981. A draft environmental impact statement on the plan is scheduled to be released in March of next year. With this kind of detailed planning in process, as mandated and funded by the Congress, I believe the hurried and superficial environmental impact assessment being conducted by the Heritage Conservation and Recreation Service is both wasteful and precipitous. Therefore, I strongly support this effort to make proposed additions to the National Wild and Scenic Rivers System subject to some kind of congressional review and approval, and I urge my colleagues in the Senate to accept the proposal made by the Senator from Idaho.

Mr. BUMPERS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER (Mr. LEAHY). The question is on agreeing to the amendment.

The amendment (UP No. 1865) was agreed to.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the pending business be set aside to take up a minor technical amendment that I have that has been cleared on both sides of the aisle.

Mr. CHAFEE. Mr. President, I reserve the right to object pending a brief explanation of this innocuous amendment.

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. MITCHELL. Mr. President, I yield to the Senator from Washington.

Mr. MAGNUSON. Mr. President, I hope the Senator from Rhode Island will not object to considering this amendment. I am sure the Senator from Idaho will not.

This is a potato amendment, I say to the Senator from Idaho.

Mr. McCLURE. Will the Senator yield?

Mr. MAGNUSON Maine potatoes are involved, Idaho potatoes are involved, and Washington potatoes are involved I am sure we can all agree to it.

Mr. McCLURE. Mr. President, I can understand why the Senator from Washington would indicate that if the Senator from Maine were offering an amendment that dealt with potatoes, it must be innocuous.

Mr. MITCHELL. Mr. President, in response to the question of the Senator from Rhode Island, under present law, Canadian potatoes are exported from Canada into the United States. They are subject to quotas and tariffs. There is a quota for tablestock potatoes—that is, potatoes to be used for human consumption—and there is a separate quota for seedstock potatoes, which will not be used for human consumption. After the quota is reached, the tariff doubles.

The present practice is that potatoes are shipped in for human consumption and when the tablestock quota is reached, they are then shipped in labeled as seedstock—although they actually are sold in this country as table stock—to permit the advantage of the lower tariff until the seedstock quota is reached.

My amendment would merely require the Treasury Department to enforce the law and to see that there is no mislabeling of potatoes and that if potatoes are sent into this country intended for human consumption, they not be labeled otherwise.

Mr. CHAFEE. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1866

(Purpose: To prohibit the use of funds for the processing of potatoes until certain corrective measures are taken)

The PRESIDING OFFICER. The Clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MITCHELL) for himself and Mr. COHEN, proposes an unprinted amendment numbered 1866.

Mr. MITCHELL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . None of the funds made available by this joint resolution shall be available to process potatoes for entry into the United States until the President determines that the United States Customs Service, the Department of Agriculture, and other Federal agencies have taken appropriate measures to assure that potatoes imported as seed stock are not substituted for potatoes intended for human consumption.

Mr. MITCHELL. Mr. President, this amendment to the continuing resolution addresses a very serious problem facing the potato producers of northern Maine.

Last April, potato producers of Maine were facing a very difficult financial crisis. To meet this crisis there was formed a special White House task force to study the problems confronting this industry, which is so vital to the economy of northern Maine.

One of the problems that has been identified is the apparent misdirection of potatoes that are being imported from Canada as seed stock to the supermarkets in New England.

Currently, there is an import quota of 114,000 hundredweight for seed potatoes and a quota of 45,000 hundredweight for table stock potatoes. When either quota is filled the tariff is doubled for that type. However, what is happening, is that once the table stock quota is reached, the Canadian producers are exporting potatoes under the seed quota in order to take advantage of the lower tariff, even though the potatoes are actually intended to be sold as table stock.

For example, from the beginning of the growing season in July until the end of December, 1979, Canada had exported approximately 3.3 million pounds of seed potatoes. The quota for table stock potatoes was reached on December 27, 1979. In the following 3 months, over 21 million pounds of so-called seed potatoes were imported from Canada under the lower tariff. That is a 1,200-percent increase in the monthly average.

The table stock quota for 1980 was reached on November 12. From July 1 of this year until that date, Canada had exported no seed stock potatoes through Maine borders. In the first week following the triggering of the double tariff for table stock, over 980,000 pounds of seed potatoes were imported to Maine from Canada. Unfortunately, these so-called seed potatoes are eventually being sold as table stock potatoes. This substitution of seed potatoes for table stock potatoes is a disservice to consumers and to potato producers. Clearly, this practice voids the higher tariff disincentive.

I am told by Maine's Commissioner of Agriculture that the Federal task force indicated that the current laws do not contain an express prohibition of a change of the end-use classification.

The U.S. Customs Service is doing its job properly. My amendment would simply require that appropriate measures be taken to assure that the end use of these potatoes is the same use for which they have been imported.

Accordingly, my amendment will prohibit the expenditure of funds by the U.S. Customs Service to process the entry of any potatoes designated as seed stock until the President has certified that appropriate measures have been taken to achieve this purpose. This is the minimum step we must take, not only to prevent unfair competition against American farmers, but to protect American consumers against the substitution of produce on their supermarket shelves.

I urge that my colleagues join me in supporting this amendment.

Mr. COHEN. Mr. President, I join Senator MITCHELL in offering this amendment to the continuing appropriations bill which will prohibit the use of funds made available by this act for the processing of potatoes into the United States until certain corrective measures are taken. The amendment is needed to mitigate the economic impact of increasing Canadian potato exports into the eastern U.S. markets.

For the past several decades, Maine and the Maritime Provinces of Canada have competed in Northeastern markets in both tablestock and seed potatoes. In the past 3 years, however, exports from Canada have increased substantially, creating a surplus of potatoes in the markets and causing price depression. Industry sources in Maine indicate that cash prices could be depressed by 20 percent or up to $1 per hundredweight (cwt.) as a result of present Canadian imports. This marketing season follows a year when Maine potato farmers, frustrated by the flood of Canadian potatoes into Eastern markets, barricaded Canadian ports of entry. At that time, cash prices at the terminal markets were from $1.50 to $2 per cwt. when costs of production were over $6.

In this marketing season, it is estimated that up to 20 percent of the Eastern table potatoes entering the Northeastern markets are of eastern Canadian origin. This volume would equal the entire production of a major Eastern potato raising area such as Long Island. The 45,000 hundredweight annual quota on table stock potatoes was filled on November 14, 1980, at which time the tariff increased from 35 cents per hundredweight to 70 cents. The potato seed quota is 114,000 hundredweight with a tariff of 37 cents.

Since November 14, a large portion of the shipments entering the United States are entering as "seed," thus bypassing the higher tariffs placed on table stock. The "seed" potatoes, it is charged by Maine industry groups, are being repacked and marketed throughout the Northeast as table stock. Seed potatoes are not marketed this early in the season and there is no movement of seed into the markets from other producing areas. At present the Customs Service must rely on the product designation or "seed tag" that describes the product being entered. The Service has no jurisdiction or means of determining the end or ultimate use of the product. I find this practice unacceptable.

The Maine potato industry, I believe, can meet the competition. However, it is unfair for Maine farmers to face such strong competition when in fact tariff rates may be ignored or bypassed. If potatoes are certified by the Canadian Government and entered as "seed," the ultimate use should be seed, not table stock. The problem is exacerbated by the exchange rates, which permit wholesale buyers to purchase Canadian potatoes at below Maine costs.

Maine's potato farmers, after 3 years of below cost-of-production prices, cannot stand the continued market depression. I sincerely urge that the problem be addressed, and I strongly urge the approval of this amendment.

Mr. MITCHELL. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1866) was agreed to.

Mr. MATHIAS. Mr. President, I have an amendment at the desk relating to Postal Service training facilities.

The PRESIDING OFFICER. Is the Senator asking unanimous consent to set aside the first excepted amendment?

Mr. MATHIAS. I make such request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maryland is recognized.

UP AMENDMENT NO. 1867

The PRESIDING OFFICER. The clerk will state the amendment. The assistant legislative clerk read as follows:

> The Senator from Maryland (Mr. MATHIAS) for himself and Mr. SARBANES, proposes an unprinted amendment numbered 1867:
>
> On page 3, line 21, strike out the period and insert in lieu thereof the following:
>
> ": *Provided* that no funds appropriated by this or any other Act may be used by the United States Postal Service in connection with a training facility in Potomac, Maryland.".

Mr. MATHIAS. Mr. President, the amendment speaks for itself. Its total purpose is to keep the Postal Service from continuing to develop a training facility in a residential neighborhood until the Postal Service has more carefully addressed the negative impact that this facility may have on that neighborhood. That is the whole story.

Mr. MAGNUSON. Mr. President, as I understand it, this has been cleared with Senator CHILES?

Mr. MATHIAS. Yes, he is in agreement.

Mr. MAGNUSON. Very well, Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1867) was agreed to.

Mr. MATHIAS. I move to reconsider the vote by which the amendment was agreed to.

Mr. HAYAKAWA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, under the pending continuing resolution as reported by the Senate Appropriations Committee, funding for the International Development Association (IDA), the soft loan window of the World Bank, would not be permitted in fiscal year 1981. The committee, in taking this action, apparently believes that barring IDA funding is warranted because authorizing legislation for the sixth replenishment of IDA has not been enacted. I, along with several members of the Appropriations Committee, opposed this action yesterday. I hope that the Senate today will reverse the action of the Appropriations Committee.

What is at stake here is not simply including a provision which would enable the United States to participate in the IDA sixth replenishment, but rather, the ability of the United States, and, more specifically, the newly-elected Chief Executive, to fulfill important responsibilities which flow from basic foreign policy commitments.

As many of my colleagues will recall, the International Development Association was negotiated during the Eisenhower administration. IDA was established largely because of the U.S. initiative, and during the last two decades the U.S. Senate has strongly supported U.S. participation in IDA. As recently as last spring, the Senate endorsed IDA by passing the bill which authorizes the United States to participate in this new replenishment. Failure of the Senate to provide for IDA funding in this pending continuing resolution simply flies in the face of our intent expressed earlier by passage of the authorizing legislation.

If the Appropriations Committee's action is allowed to stand, we will not only be reversing our earlier stance, but the Senate will also jeopardize fundamental U.S. political and humanitarian interests as well as the ability of the newly-elected Chief Executive to execute our foreign policy effectively.

As we all know, if the Senate fails to include IDA funding in the present continuing resolution, it is highly unlikely that an initial funding for IDA will be possible before 1982 because the Senate calendar will be full during the first half of the new year. Similarly, the possibility of a separate supplemental provision for IDA early next year must be regarded as virtually nil.

As a result, the incoming administration, which should have maximum flexibility to deal with IDA, will find its hands tied because the Senate will have eliminated the possibility of achieving funding action for IDA in fiscal 1981. This unnecessary foreign policy liability would force the Reagan administration into an early, undesirable, and avoidable dispute with our European allies and Japan who are major IDA donors, and with other strategically important developing countries. I believe, Mr. President, that the action proposed by the committee is unfair to the President-elect.

Moreover, if we reject IDA funding in this resolution, the Senate will, in effect, be telling the world that the United States is no longer prepared to stand behind internationally negotiated arrangements. Why should we place the new administration in such a difficult position? Why should we allow others to infer that the United States no longer keeps its word? And why should we wish, by this action, to cripple the operations of IDA?

As Members of the Senate know, Mr. President, available resources for IDA were exhausted last summer when the IDA replenishment expired. Fortunately, however, the World Bank has been able to make IDA commitments on the basis of temporary bridging arrangements made by some major European countries and Japan in anticipation that the United States would ultimately fulfill its internationally agreed upon obligations.

However, this source of emergency financing will be exhausted in February. It is highly unlikely that other donor nations would be willing to advance any more of their money to make up the U.S. shortfall, particularly if the possibility for IDA funding is removed from this resolution and the U.S. contributions cannot be provided before fiscal year 1982.

From the standpoint of our national security interests, this means that all lending to many strategic areas such as Central America, Egypt, Pakistan, Kenya and the Caribbean will come to a halt. In humanitarian terms, it means that the 800 million people who live in absolute poverty, who have a condition of life so characterized by malnutrition, illiteracy and disease as to be beneath any reasonable standard of decency, these people will simply go unserved.

Because of the failure of the United States to make progress on IDA 6, the 138 other members of the Bank who support IDA will be thwarted in their determination to have this important international institution respond to the poorer countries of Africa, Asia and Latin America where the great majority of people have a life expectancy of closer to 50 years; to respond to the poorer countries of the world where one-half of all children die within the first year; to meet the needs of the one-fifth or more of all the people in Asia, Latin America, and Africa who suffer from hunger and malnutrition and millions of their infants who receive insufficient protein to permit optimum development of the brain.

Key members of the Bank will simply not be able to understand the actions of the Senate if we eliminate IDA from the continuing resolution. As my colleagues will recall, Mr. President, 59 Members of the U.S. Senate signed a letter addressed to President Robert McNamara of the World Bank on August 5 expressing their "support for the decision taken on July 25 by the World Bank Board of Directors to deny a request by the Palestine Liberation Organization for observer status at the 1980 joint meeting of the World Bank and International Monetary Fund."

The majority of the Senate stated in the letter:

> Our nation, *which has been and remains the mainstay of these organizations* (emphasis added), has scrupulously observed the principle that multilateral institutions must be able to operate without political interference.

Member nations considered the words of the Senate very carefully and they sustained the actions taken by the executive board when Governors of the World Bank met during the annual meeting. I believe many Governors of the Bank not only shared the Senate's views with respect to the PLO; they also acted on the logical assumption that the United States would continue its support for the World Bank if observor status for the Palestine Liberation Organization were denied. Now we are faced with a situation, Mr. President, where even after members of the Bank have acted in a manner consonant with the wishes of the Senate, the Senate is now prepared to reverse itself and withhold support from the Bank.

The action that the Appropriations Committee would have this body endorse runs directly contrary to U.S. interests and, I would add, the positions adopted by every living former Secretary of the Treasury. At the conclusion of my remarks, I ask unanimous consent to have printed in the RECORD, a joint statement of support for IDA by former Secretaries of the Treasury Department, including W. Michael Blumenthal, William E. Simon, George P. Shultz, David M. Kennedy, Henry H. Fowler, C. Douglas Dillon, and John B. Connally.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. Mr. President, this statement refers to enactment of the authorizing legislation for IDA 6, but I believe the sentiment expressed by this distinguished bipartisan group of former Secretaries would fully apply to the situation that now confronts us in this continuing resolution. They state:

> Failure to authorize the full amount would lead to prolonged interruption of IDA lending, and require renegotiation of the replenishment agreement. Such an outcome would severely undermine U.S. leadership in the multilateral development banks, with our allies, and in the developing world.

It is clearly in the best interests of the United States, therefore, that we reverse the actions of the Appropriations Committee and allow for IDA funding in the fiscal year 1981 continuing resolution.

I therefore suggest that the continuing resolution as reported by the committee be amended to add the words "unless authorized" after "except that no funds will provide for payment to the International Development Association." This formulation will eliminate budget authority in the absence of authorizing legislation, but will give the incoming Reagan administration funding authority and more importantly the flexibility to respond in the national interests if authorizing legislation is enacted early next year. The House version of the continuing resolution does provide budget authority for IDA and, therefore, there should be little difficulty in obtaining House concurrence with the course of action I have outlined.

EXHIBIT 1

JOINT STATEMENT BY FORMER SECRETARIES OF TREASURY IN SUPPORT OF H.R. 6811

The following joint statement has been authorized by W. Michael Blumenthal, William E. Simon, George P. Shultz, David M. Kennedy, Henry H. Fowler, C. Douglas Dillon, and John B. Connally:

As former Secretaries of the Treasury, we wish to reaffirm that continued effective U.S. participation in the multilateral development banks—The World Bank Group and the regional development banks—remains vital to American economic and political interests.

Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford and Carter have regarded a leading role for the United States in the institutions as a major element in our foreign policy. As Secretaries of the Treasury during this period, we have consistently nurtured the growing role of the institutions in the world economy. Strong bipartisan support in the Congress has been central to ensuring the effectiveness of American participation in them.

We believe that the multilateral development banks provide the most cost-effective means of cooperation among the industrial democracies in assisting the economic progress of the developing world. They assure equitable sharing of the costs of development assistance, which otherwise would tend to fall disproportionately on the United States. Moreover, the banks have always been guided by a philosophy of an open, market-oriented price-responsive world economy consistent with American ideals.

These banks are also a good deal for the U.S. economy. The developing countries represent the largest and most rapidly growing market for our exports of both manufactured and agricultural products. In fact, every $1 which we pay into the multilateral development banks directly produces an expansion of $3 in our own gross national product.

Continued effective U.S. participation in the multilateral development banks now depends largely upon the House of Representatives. The House will soon consider authorizing legislation for the United States to participate in the sixth replenishment of the International Development Association, the concessional loan window of the World Bank which lends exclusively to the poorest countries, and to join the African Development Bank. The Senate has already passed the bill by a comfortable majority, and the House Banking Committee has reported it by a substantial majority.

IDA VI cannot become effective until we have authorizing legislation for the full amount of $3.2 billion, which represents 27 percent—a continued sharp reduction in the U.S. share—of the total replenishment of $12 billion. Failure to authorize the full amount would lead to prolonged interruption of IDA lending, and require renegotiation of the replenishment agreement. Such an outcome would severely undermine U.S. leadership in the multilateral development banks, with our allies, and in the developing world.

We strongly believe that continued U.S.

leadership in the multilateral development banks is overwhelmingly in America's economic and strategic self-interest. It is, therefore, vital that the Congress approve the authorizing legislation as reported and then appropriate the necessary amounts to fund these commitments.

Mr. McCLURE. Mr. President, on December 3, I offered an amendment to the continuing resolution with regard to Department of the Interior appropriated funds and the Wild and Scenic Rivers Act. The Senate Committee on Appropriations accepted this amendment during the markup session of the continuing resolution. To my colleagues, this action was somewhat of a surprise and while my staff and other Members' staffs have taken steps to clarify this action, I would like to take a few moments to give my own clarification.

Under the Wild and Scenic Rivers Act, designation of rivers as wild and scenic can occur through two measures. One is by an act of Congress. The second is by approval of the Secretary of the Interior for rivers designated as wild, scenic, or recreation by an act of a State legislature. Under the latter, administration of the rivers would permanently be with the State under its own agencies or political, subdivision thereby eliminating any expense to the Federal Government. In order to follow this route, the Governor of the State requests to the Secretary of the Interior to include the designated State protected rivers in the national system. The Secretary then determines if the river meets the standards of the national system. In addition to the criteria set forth in the Wild and Scenic Rivers Act, an impact statement, required under the National Environmental Policy Act, must also be completed.

When the Wild and Scenic Rivers Act was passed in 1964, the congressional intent was to involve the State in the development of the national system. However, it has become apparent that the wishes of a State legislature and a great many State citizens can be circumvented by this Secretarial action. This is an issue of the States' rights and specifically brings me to a gubernatorial request now pending with the Secretary of the Interior.

This past July, Governor Brown of California requested the inclusion of five California rivers, currently under State protection, to the national wild and scenic rivers system. Earlier, in 1972, the California legislature acted to include a number of California rivers in a State-administered wild and scenic rivers system but reserved to itself judgment as to how these rivers would be managed. Since that time the legislature has authorized and funded detailed management studies of these river systems. To date, two reports have been submitted for legislative review with the remaining reports to follow.

It is the opinion of over 72 percent of the California legislature, that an administrative decision including these rivers in the national system is premature. In a letter to the Secretary of the Interior this past August, the California legislature stated its opposition to such an action and emphasized its desire to retain, under State law, administration of the rivers in question. The State legislature is not alone. All of the north coast counties involved are also opposed.

In the U.S. House of Representatives a majority of the California delegation signed a letter to President Jimmy Carter reinforcing the California legislature's concerns. In addition, these Members expressed concern with the accelerated review process being conducted by the Department of the Interior. The Congressional Members concluded that a more thoughtful and considered review, than what has occurred, should be followed.

Under these circumstances, we all should be concerned because this circumvention of State desires could occur in our own home State.

My good friend, SAM HAYAKAWA, and I agreed on this problem of circumvention. During Senate consideration of the Department of the Interior appropriation bill, we discussed this problem on the Senate floor. It was our hope that by discussing the problem and altering our colleagues, preciptious action would not be taken by the Secretary of the Interior. Unfortunately, this has not been the case and the Secretary is continuing along his planned time schedule which is a result of hasty procedures. This now brings me to the amendment I offered to the continuing resolution.

The amendment is intended to prohibit the use of appropriated Department of the Interior funds for the use of taking final action with respect to inclusion of State rivers into the national system without approval by the committees having legislative jurisdiction over the Wild and Scenic Rivers Act. I would like to emphasize, and clarify that the intent was not to give veto power to either the chairmen or ranking minority members of the committees having legislative jurisdiction. Should this issue not be clear in the currently proposed amendment, I would be amicable to a modification which would clarify my intent as just outlined. Thank you.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, what is the pending business before the Senate?

SECOND EXCEPTED COMMITTEE AMENDMENT

The PRESIDING OFFICER. The pending business is the second excepted committee amendment on page 16, lines 23 through 25.

Mr. ARMSTRONG. Mr. President, in the absence of those who wish to proceed on this, I ask unanimous consent that it be laid aside temporarily, and then I will send an amendment to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1868

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1868:

On page 49, line 23 through page 50, line 25, "Strike out the entirety of Section 183."

Mr. ARMSTRONG. Mr. President, the effect of this amendment is to eliminate the supplemental appropriation for Amtrak. In fact, the appropriation in its form as well as substance is somewhat unusual in that it really is a supplemental contained in the continuing resolution intended to cover anticipated Amtrak operating losses.

The Senate-reported continuing resolution provides additional fiscal year 1981 funding of $78.9 million to cover Amtrak operating losses. In action on the regular fiscal year 1981 appropriation bill just 2 months ago, Congress appropriated $881 million in subsidies for Amtrak, including $650 million to cover anticipated operating losses in fiscal year 1981. The continuing resolution would, therefore, provide supplemental funding for Amtrak well ahead of the normal schedule for consideration of supplementals on the basis of only 2 months of Amtrak operating experience in the current fiscal year.

The Department of Transportation, which monitors Amtrak performances, believes that the proposed supplemental is premature and larger than may be necessary. Next spring, after additional operating experience and more detailed consideration of Amtrak fare adjustments and cost-cutting alternatives, is the proper time to consider the need, if any, for an Amtrak supplemental.

Mr. President, the Secretary has communicated with some Members of the Senate on this matter. I would like to quote briefly from his letter of December 8. Secretary Goldschmidt says:

> The continuing resolution for 1981 contains a supplemental appropriation of $78.9 million for Amtrak's fiscal year 1981 operating grant. During the last few weeks the Department has met with Amtrak and analyzed their budget for the remainder of fiscal year 1981. We agree with Amtrak that a fiscal year 1981 supplemental appropriation is necessary, but we find that $78.9 million goes well beyond what is necessary to operate the Amtrak system. We believe that arguing in the second month of the fiscal year that a supplemental appropriation of $78.9 million is required largely because of uncontrollables overstates the case. While we would agree with Amtrak that such uncontrollables as interest, taxes, and insurance may justify a supplemental, we believe that they have overstated their needs and that their requirements for additional funds can be met through alternative approaches.

Mr. President, on another occasion, I would be prepared to argue to determine whether or not a supplemental of any amount was justified for Amtrak and, in all probability, I would oppose such a supplemental.

At this point, however, it seems to me only orderly that we take it out of this particular resolution so it can be considered along with all the other supplementals that will be coming down the pike in the spring.

The fiscal restraint, if there is any imposed by the budget resolution, will be completely undermined if at the start we say that we will fund any cost overruns on the uncontrollable items.

So, Mr. President, that is the explanation of the amendment. I urge its adoption.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, for what purpose is the clerk calling the roll?

The PRESIDING OFFICER. The Senator from Washington suggested the absence of a quorum.

Mr. ARMSTRONG. I thank the Chair.

Mr. MAGNUSON. The reason I called for it——

The PRESIDING OFFICER. A quorum call is in progress and debate is not in order.

The assistant legislative clerk continued to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, reserving the right to object, I suggested the absence of a quorum because the Senator from Indiana wishes to speak on the amendment of the Senator from Colorado.

Mr. DOMENICI. I am going to speak in favor of the amendment.

Mr. MAGNUSON. All right.

Mr. DOMENICI. If the Senator still wants a quorum call, we can have one.

Mr. MAGNUSON. No; I just want to be sure that we are going to stick to the amendment.

Mr. DOMENICI. Mr. President, a parliamentary inquiry. Are there any time limitations on this amendment?

The PRESIDING OFFICER. There are no time limitations.

Mr. DOMENICI. Nonetheless, I yield myself 3 minutes.

Mr. President, I hope the Senate will adopt the Armstrong amendment.

It is almost incredible that we are using this particular continuing resolution, at a time of great economic emergency—and everybody should understand this—to add a supplementary appropriation for Amtrak. It is incredible.

We just gave them their full appropriation. Somebody invented the fact that now there should be a supplemental, before we even have appropriated that which the Government of this country needs.

So if we take this one, speaking of Christmas trees, this is a real Christmas tree. We want to give them a $78 million present just to make sure they get it this year. Apparently, somebody is worried about fiscal restraint coming down the line in years to come, and they are going to make sure that, everyplace we can, we take care of everyone and everything in this supplemental.

The administration does not think we need it. The regular appropriation keeps Amtrak doing those things that the Executive thinks should be done and consistent with current policy, but this supplemental would add another $78 million.

I commend the Senator from Colorado. I hope that other Senators will go through this bill and that, as they find items as out of tune with the economic problems in our country as this one, they will bring them to the floor of the Senate, and I hope the Senate will adopt many of them. On this one, I believe the Senator is correct, and the Senate should save $78 million for the American taxpayers.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, as a Member of this body who has had the responsibility and the privilege during the last 2 years of dealing with the appropriation of money for the Amtrak system, I am particularly sensitive about the costs and the efficient operation of that system. This concern is not one that has been expressed only now, after the results of the last election.

I should like to express my deep appreciation to other members of the committee, including the distinguished ranking Republican member, the Senator from Idaho, who will go on to bigger and better responsibilities in the next session. He has worked very carefully and closely with me, and our staffs have cooperated.

Just a few years ago, it was our committee, not the Department of Transportation, that initiated a review of what was happening to Amtrak cost overruns; and, for the first time, they came up with a program in which we knew where the end of it was.

When we first established the Amtrak system it was like a bunch of cats and dogs. We had systems going every which way. No one knew how much it was going to cost. The cost kept getting bigger and bigger and we told Amtrak to come up with a program so we would know where the end of it was going to be and to shut down some of these lines that did not make sense.

I recall more than once hearing our good friend from Louisiana talk about how much it would cost to go from Chicago to Miami on the Floridian that went through the center of my State, that one could get a first-class air fare ticket, go down there, spend a weekend in the motel and come back and save money compared to what it was costing Amtrak. It took a little courage perhaps as well as some commonsense to go along with the Senator from Louisiana and close down this one Amtrak line that went right smack dab from one end of my State to the other, but we closed it down because it was a loser and it went through the State of the Senator from Kentucky, my good friend, Senator HUDDLESTON.

We cut out a lot of real losers but when we get right down to it Amtrak is just now beginning to get its act in order and it still is losing money, and I fear it is going to continue to lose money and we have to determine how we can limit those losses, how we can continue to provide the kind of services that the people of this country have every right to expect.

So I just put that down as a predicate on which to suggest that as much as I appreciate the concern expressed by the Senator from Colorado and followed by our distinguished friend and colleague from New Mexico I think if we go along with this cut we are cutting off our nose to spite our face. We are going to require other cuts in service and if we cut service we cut revenue and the losses get larger instead of smaller.

I have a great deal of respect for the distinguished Secretary of Transportation, Secretary Goldschmidt. Normally I find him a very logical, prudent man.

So rather than attribute the letter that I received from him and I assume the other Members of this body received from him which triggered this effort to cut these funds, I just think he has gotten some poor advice. Most of the staff down there at DOT understand the importance of that extra money we put into this bill. We did not want to put extra money in there. No one wants to put extra money in there. But what we did was put enough money in there to keep the system running so we do not cut service and cut revenues and losses get larger instead of smaller.

Let me point out some facts that were not contained in Secretary Goldschmidt's letter which leads me to believe that he is a busy man, has a lot of problems down there, and whoever is staffing him is doing him a disservice by just giving him about a third of the picture and when one looks at the whole picture he comes to the conclusion, at least the Senator from Indiana did, that that money is necessary if we are really going to have a good Amtrak service and if we are going to keep our losses from getting even greater.

First of all, I wish to point out that when Mr. Boyd and the Amtrak officials came to testify before our committee relative to the budget that we are now operating on, they predicted and we all knew everyone knew there was going to have to be a supplemental. It was going to have to be somewhere between $50 and $100 million depending upon a lot of circumstances, inflation, interest costs, certain other factors. So we knew when we came up with that figure that was in the first bill that was signed by the President this year as I recall that was not going to be enough. The question was how much extra were we going to need in the supplemental.

In Amtrak President Boyd's testimony on the regular budget request he figured for an inflation rate of 8.6 percent, even though, as we discussed at that time past experience would show that we could better anticipate costs that would be inflated about 13 percent.

I hate to say that hindsight has proven about the same as foresight was then. It has been about 13 percent. So that the original figure requested even building in inflation did not rely on a sufficiently high inflationary rate.

I think it is important to look at a couple of other factors here that are not taken into consideration by the Secretary of Transportation.

First of all, the inflation rate figured at the beginning was not enough.

Second, the amount really needed by Amtrak in this supplemental is not $78.9 but $90.8 million. If they are really to do everything they would like to do and really required to do they need $12 million more than are provided in this supplemental.

So the amount that we are asking in the supplemental is $12 million less than is really required.

The other features to which I call the Senate's attention are some bookkeeping items that I hesitate to call this but it looks to me like someone is looking for a quick fix that really is not doing anything by changing the way the books are being kept and the way the money is being allocated back and forth. We look like we are saving money when really we are not.

So discussion about the potential settlement with Conrail could be nothing. Sure, it could be nothing, but anyone who really thinks it could be nothing could walk across the Potomac River in high tide barefooted. We know there is going to be a cost. The estimated cost under the prescribed required bookkeeping principles must be included in this supplemental in this budget.

And to suggest that we could put it off and then pay later is to be intellectually dishonest and to follow abhorred bookkeeping and accounting technology and technique.

The other feature that I point out is the Secretary's suggestion that there is going to be a carryover for labor protection capital funds. Yes, there is going to be a protection carryover, but the law requires that this money goes into the capital fund not into the operating fund, and we are already facing an Amtrak System with insufficient capital to do the job and yet we are going to take money out of capital that should be referred to capital and has been anticipated to go into the capital funds.

We are going to take that out on a short-term basis and going to save the day by putting it into operating and we are going to pay for that later on when the costs are even higher.

There are some other items that I think this Senate and this Congress need to face up to. I just say I have been one of the real critics of Amtrak in trying to get it to be more efficient.

When I see Congress sit up here and pass Public Law 96-73, that requires Amtrak to run certain lines, they do not have any option but to run those lines. We say, "Amtrak, Brother Boyd, you run those lines, but now we are going to give you enough money to pay for it."

We are going to have to fish or cut bait, it seems to me, here. We cannot tell our folks at home we are going to give them the full Amtrak service and then not pay for it.

Yet, that is exactly what we are in the process of doing, I say, with all respect to those who are really wanting to use this and feel that this is an efficiency measure.

We have required Amtrak between now and October 1 to run these lines, and if we are going to come up with a multimillion dollar budget cut it seems to me we better tell our constituents which of their lines we are going to cut because Amtrak has no alternative but to cut service, if we do not give them the money necessary to run the lines that we have told them they have to run.

Another item I have already mentioned, the underestimation of inflation in the budget, and I should also point out that Congress repealed the authority for Amtrak to receive capital funds on a quarterly basis, beginning with the fourth quarter of fiscal 1980. Thus, we did not appropriate $52 million in debt reduction that resulted in additional interest payment or loss of interest income. Yet although we have changed the rules, we have not compensated for that as we are preparing to provide the amount of moneys that Amtrak needs. We were slow in apportioning funds for Amtrak and as I pointed out earlier the present appropriated fund is significantly less than Amtrak required really to meet their needs.

So I think, frankly, we have already been $12 billion below what Amtrak needs. That is going to require a good deal of belt-tightening, and the scenario that would be followed if we do not pass this is a number of alternatives that I would like to, without objection, have printed in the RECORD, a list of alternatives that are available.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALTERNATIVES AVAILABLE AT AMTRAK DISCRETION

Reduce train frequencies on routes served by more than one train:

Pro. This could save up to $15 million while retaining some service for affected localities. Cutting frequencies is the only type of service reduction Amtrak could take unilaterally since the routes themselves are determined by law.

Con. It is an unquestioned fact that multiple frequencies are very important determinants of ridership levels (permitting a rider to fit round-trips to needs) and are the main way to get effective use of capital investments in both fixed facilities and rolling stock.

Would cut most service which is relatively cost-effective on a passenger mile basis (N.Y.-Florida and Los Angeles-San Diego).

Reduce service from daily to tri-weekly on selected long-distance routes:

Pro. Could save up to $10 million. Retains minimum level of service on route and allows for possible subsequent restoration of service.

Con. Causes all the problems resulting from frequency reductions discussed above.

Would inconvenience public and increase unit cost of remaining service.

Reduce sales promotion outlays:

Pro. Could save $10 million.

Con. Would reduce revenues by upwards of $20 million.

Raise fares:

Pro. Could increase revenues in short term.

Con. Amtrak has already raised fares in calendar year 1980 by 15–25 percent, and plans additional 1981 fare increases of 15 percent or more within the objective of maintaining the increasing ridership. A further increase would undoubtedly reduce ridership.

Reduce level of rolling stock maintenance:

Pro. Would save up to $20 million in FY 81.

Con. Would be an unwise expedient resulting in eventual breakdowns, and higher maintenance cost later; would delay conversion to modern head end power trains. Unsatisfactory levels of service to passengers would reduce ridership and revenue. (The converse is also true. As new or rebuilt equipment has been introduced, ridership on all affected routes has risen 30%.)

Reduce level of maintenance-of-way expense:

Pro. Could save up to $15 million.

Con. Because virtually all Amtrak-owned track is in the Northeast Corridor, such action would allow deterioration of upgrading done by NECIP. Would increase risk of serious accident. Would result in increased level of catch up cost in later years. Would possibly result in slower trains and loss of revenue. Would cause NECIP contractual problems.

ALTERNATIVES REQUIRING CONGRESSIONAL ACTION

Shift existing appropriations for labor protection to operating budget:

Pro. Amtrak estimates only $3.5 million of the $20 million FY 80 appropriation for labor protection was required for that purpose, leaving $16.5 million. If no route discontinuances are made in FY 81, it is possible Amtrak will need only another $3.5 million of the $11 million FY 81 appropriations for labor protection. This would leave an additional $7.5 million for a total of $24 million in labor protection funds which could be shifted. The authorization language permits surplus funds to be shifted to either operating or capital.

Con. The FY 80 and 81 appropriations language restricts the use of these funds to labor protection or capital. This language would have to be changed to allow the use of excess labor protection funds for operating purposes.

Stop so-called "Sunset" commuter trains on April 1, 1981:

Pro. Would save $4.0 million. Some argue that State and local government and the riders themselves should pay for what are essentially local-service trains.

Con. P.L. 96–254 requires Amtrak to operate these trains until October 1, 1981, even though an additional authorization and appropriations were not provided.

Would arouse extreme political pressure. Would raise serious complications since some of the DOT-identified commuter trains are actually part of longer-distance service.

Cut long-distance trains not meeting Congressional criteria early:

Pro. At present all but three Amtrak long-distance trains meet Congressional criteria of 150 passenger miles/train mile. The Cardinal (Washington-Chicago via West Virginia) is projected to have a 1981 PM/TM of 77.5, the Inter-American (Chicago-Texas) 97.5, and the Pioneer (Salt Lake City-Portland) 82.7. These trains will generate an FY 81 avoidable loss estimated at $27 million. An early decision to discontinue the trains would avoid a portion of this FY 81 loss.

Con. All of the trains are improving financial performance.

Would require Congressional action to relieve Amtrak from current requirement (P.L. 96–73) to operate regional balance and other trains until October 1, 1981. In light of the great interest by Congress and the public in the 1979 route restructuring debate, to take precipitate action now—outside the planned 1981 review of criteria trains—would seem to risk a strong adverse reaction.

By the time Congress acted and trains were cut, actual savings would be much less than

$27 million. Labor protection costs would consume some of the remaining savings.

Pre-empt the Authority of State and Local Governments to Tax Amtrak:

Pro. Amtrak currently pays an estimated $5–10 million in sales taxes on materials and supplies, and $5 to 6 million in other state and local taxes excluding real estate; approximately half a million more might be saved if real estate were limited to the 1976 assessed valuation (not permitting state and local units to reap "windfall" tax benefits from federal investments in the Northeast Corridor.)

Con. Changing the law during FY 81 would influence only the sales taxes since personal property and real estate levies are based on January assessments.

Forgive Amtrak's Outstanding Loans:

Pro. This would save up to $50 million for the remaining portion of FY 81 interest payments.

Would also eliminate the need for future appropriations to Amtrak to whittle away at the current $850 million debt which resulted from the Congressionally mandated acquisition of the Northeast Corridor from the Penn Central and from a method of financing other acquisitions of equipment before Amtrak began receiving capital grants.

Con. Budget Committees would object strenuously.

Actual savings in FY 81 would depend upon speed of Congressional action on a very controversial proposal.

Might simply shift the outlay to DOT budget at much increased—albeit one-time—level.

Mr. BAYH. What will happen if Amtrak does not get this money? The bottom line is they have to make some tough decisions to cut out service we have mandated, and by cutting out services, revenues fall off, and the size of the losses gets greater instead of less, and I think that would be a tragedy.

We need a good Amtrak system, and I think the committee has acted responsibly in putting in that $78.9 million instead of the $90.8 million, and I hope my colleagues would give Amtrak the money it would need to have to run.

We had a 14-to-4 vote in the committee, and if you look at that list it is across the board, Republicans and Democrats alike, who recognized the need of the budget and to be fiscally prudent recognize if we are going to have a good, first-class Amtrak system, we have to give them the resources necessary to run.

Mr. McCLURE. Mr. President, let me say, first, to my friend from Indiana that I appreciate the comments he made in opening his statements with respect to the relationship we have had and the transportation committee of the Appropriations Committee which has been a friendly and fruitful and useful collaboration on issues across-the-board in transportation. I appreciate having had the opportunity to work with the Senator from Indiana in that regard.

Having said that, I also have do say that with respect to the 14-to-4 vote in committee, I was one of the four who voted against this addition in the committee, and I did so on these basic grounds: the authorizing committee reported authorizing language for Amtrak. That bill has been signed into law, and there has been no supplemental report from the authorizing committee.

The amount of money which is being asked now is on top of an appropriation that met 100 percent of the authorizing goal. We are not coming up to the authorizing goal. This goes beyond the authorizing legislation and that appropriation and authorization is less than 2 months old. There is no likelihood that even if the shortfalls in Amtrak revenues are correct or the increased costs of operation are correct that there will be any cessation of service or interruption of service before the authorizing committee can look at those facts next year, can deal with those facts, can recommend action, and the Appropriations Committee would have time to act upon that direction from the authorizing committee.

There is no emergency need being met here. This action is being taken in spite of the fact that the Secretary of Transportation has not supported it, specifically refused to, did not support it.

So all I am saying is what the Senator from Indiana has said may prove to be true at some time in the future and if, as a matter of fact, the authorizing committee agrees, I am certain they will be back in there asking for more money.

If, as a matter of fact, the hearings then develop the truth of the information as suggested by the Senator from Indiana, the Appropriations Committee can act on the basis of the usual and ordinary procedures. But the time has not passed yet. We are just on the heels of having given them the money that was authorized.

We have had no submission from the administration. There has been no orderly committee procedure. It is a gratuitous addition without the supporting facts, except from the urging of the Senator from Indiana, and I hope the Senate will today reverse the action taken by the Appropriations Committee in this continuing resolution and go back to the ordinary authorizing of appropriations even for a supplemental.

I think it may be useful to add that the statements made by the president of Amtrak, Mr. Alan Boyd, as he is inviting people to an end-of-the-year celebration as we look at the holiday season. He makes these statements with respect to what Amtrak has been able to accomplish:

> Progress is evident on several fronts—

He said, and this letter is dated December 2, 1980.

> Revenue has increased 23 percent over the past year.
>
> The revenue/cost ratio has increased from 38.5 percent in 1978 to 41.1 percent in 1980. This is a better ratio than national railroads of Japan, Britain, France, or West Germany.
>
> Every car in our fleet will be totally renovated or replaced by fall 1981.
>
> On-time performance has improved from 57 percent to 69 percent over the past year.
>
> Customer complaints have dropped 65 percent over the past year.

Mr. President, I mention those only to illustrate that Mr. Boyd is not in his statements crying the blues about the situation that exists down in Amtrak but, on the contrary, he is saying everything is going up, everything is getting better, and that certainly flies in the face of a request for an emergency infusion of money beyond the authorizing statute which is less than 2 months behind us.

I think it is premature for us to make a judgment as to whether another $79 million is necessary when, as a matter of fact, there is plenty of time for us to make that judgment before they run short of funds, and I hope the amendment of the Senator from Colorado is agreed to.

Mr. ARMSTRONG. Mr. President, I very much appreciate the observations and persuasive argument of the Senator from Idaho.

I would just like to sum up the issue very quickly. Amtrak has now been subsidized to the extent of—well, it started at $40 million a few years ago, and this year prior to action on the continuing resolution supplemental, we will appropriate something like $881 million.

It is my judgment that we are not getting our money's worth. During the consideration of the authorizing legislation Senators made a number of telling points, it seems to me.

The fact that while deficits have grown from $40 million to nearly $900 million, the quality of service has deteriorated, but I do not think that is the issue proposed in this amendment.

Amtrak routes have been added without any effective evaluation of the performance of the new routes or even of those which are already in existence. I share that opinion which was voiced on the floor of the Senate during the authorizing debate, but that is not the issue we are addressing here.

The total cost of Amtrak now approaches $3 billion. But that is not the issue.

Last year Amtrak carried fewer passengers than the year before. During the recent energy shortage there was a flurry of increased ridership on Amtrak, but that has been largely dissipated, and many of the trains are still running at less than half full. But that is not the issue.

Amtrak's on-time performance is getting worse, not better. Over the last several years Amtrak has added new equipment, and yet the trains are running at at lower average speed than they were 30 years ago, and after 8 years in the passenger railroad business Amtrak is still carrying less than 1 percent of intercity passengers.

Those are all good reasons, it seems to me, to question the validity of the basic program. But that is not what this amendment does.

Some of the Senators may be familiar with the report of the Department of Transportation which showed that the Government could fly first-class every man, woman, and child riding the Southern Crescent from Birmingham to Washington, fly them free of charge to the passenger, and then give them each $41 to boot, and that would be cheaper than running the railroad train.

I suggest that when that kind of information is presented to the Congress of the United States that would justify a searching reexamination as to whether or not we want to continue this program on any basis. But that, I stress, despite the eloquent arguments of the Senator from Indiana, is not the issue in this amendment.

The issue is not whether you are for

or against Amtrak, not whether you are for or against a particular route of Amtrak. The question is whether or not we are going to fund in advance the estimated supplemental. Amtrak says it is going to need a supplemental, and that is a question which properly would come before the Appropriations Committee next spring, along with all these other supplementals we are going to be looking at. I suppose the Department of Defense will be in for a supplemental, and HHS will be in for a supplemental. Who knows, the cut we are making in the legislative branch is such that they will be in for a supplemental, and that would not surprise me one bit.

The question is whether or not we are now going to prejudge the extent of any possibly needed supplemental appropriation at this time, rather than waiting for the normal course of the appropriations process.

I say it is a mistake to do that. The Department of Transportation is on the record officially as recommending against the action which is being taken in this bill of granting in advance the supplemental when only 2 months of the fiscal year have gone by.

I say to the Members of the Senate that the issue is not how you feel about Amtrak. I have made it clear how I feel about it, but that is not the question. The question is the integrity of the appropriations process.

There is not anything about Amtrak that is anything different than all the rest of the programs for which a supplemental will probably be requested. It ought to be judged on its merits after a hearing at the right time and not be included in this bill. Therefore, I hope the Senate will adopt this amendment.

Mr. President, since I know there are those who have a different point of view on this, I will, at this time, ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAYH. Mr. President, I will not take but just a moment. I think it is important for the record of what happened in the Appropriations Committee to be complete so everybody will know what happened there. I happen to know what happened in the subcommittee because I was chairing it. In the hearings and when the measure was discussed by the subcommittee and the full committee, we knew we were going to have to have a supplemental. So to suggest that this is anything unusual is to deny what actually happened when the original bill was passed.

At that time, we estimated it would be somewhere between $50 and $100 million. Alan Boyd wants $90.9 million. We are giving him $90.9 million. So we are right on target of what the Appropriations Commitee thought when we first passed the appropriation bill.

Second, with all due respect to my friend from Idaho and my friend from Colorado, we have not appropriated in that original bill the full authorization amount. The bill that originally passed and is now the law provides for $650 million. The full authorization is $674.9 million. So part of this additional amount certainly is that part which was authorized but which was not recommended earlier.

Now, the discussion of it costing nearly a billion dollars—of course, it does not cost nearly a billion dollars. It would have if the Senator from Indiana and some others had not ordered the Department of Transportation to come up with a new plan, a plan which Congress passed and mandated Amtrak to run.

Next year you are going to look at it again and you folks who are here I hope will look at it closely. If there are some loser lines that ought to be taken out of there, I hope the Senator from Colorado is supported and we get those losers out of there.

We took several of them out of there, as I mentioned earlier. One of those came right through the State of the Senator from Indiana. But I want those to be prudent. But it is not prudent now for us to delay giving Amtrak the amount of money they need to run the system right.

The man who is running the system, if he does not get this money, he has to start right now to cut back service. He cannot wait until next June, when he finds out how much money he is going to get. He may get none and then he will have to close down the whole system. So I suggest that I think this is well within what the Appropriations Committee did in the beginning. Next year, if Congress decides that they do not want this full system, they do not want to spend this money, then I hope they have the courage to say, "Where are you going to cut service?"

Right now if we do not get this supplemental, we are going to say, "Run the whole system, but we are not going to give you the money to do it." I do not think that is a way to run a railroad or the U.S. Senate.

Mr. ARMSTRONG. Mr. President, I think we are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado (Mr. Armstrong).

All time has been yielded back. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from North Carolina (Mr. Morgan), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maine (Mr. Cohen), the Senator from Iowa (Mr. Jepsen), the Senator from Maryland (Mr. Mathias), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER (Mr. Mitchell). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 43, nays 46, as follows:

[Rollcall Vote No. 523 Leg.]

YEAS—43

Armstrong
Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Byrd,
Harry F., Jr.
Cochran
Danforth
DeConcini
Dole
Domenici
Eagleton
Exon
Ford
Garn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heflin
Helms
Humphrey
Kassebaum
Laxalt
Lugar
McClure
Mitchell
Nunn
Percy
Pressler
Proxmire
Riegle
Roth
Sasser
Schweiker
Simpson
Stennis
Thurmond
Wallop
Zorinsky

NAYS—46

Bayh
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Cranston
Durenberger
Durkin
Glenn
Heinz
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Packwood
Pell
Pryor
Randolph
Ribicoff
Sarbanes
Schmitt
Stafford
Stevens
Stevenson
Stewart
Stone
Tsongas
Warner
Weicker
Williams
Young

NOT VOTING—11

Cannon
Church
Cohen
Culver
Gravel
Hollings
Jepsen
Mathias
Morgan
Talmadge
Tower

So Mr. Armstrong's amendment (UP No. 1868) was rejected.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

UP AMENDMENT NO. 1869

(Purpose: To insure that the Congress does not unconstitutionally encroach upon either the executive branch or the judicial branch)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. Weicker) for himself and Mr. Hollings, proposes an unprinted amendment numbered 1869:

On page 16, line 25, strike the period after the phrase "the Congress" and add the following: ", except section 606 of such Act.".

Mr. WEICKER. Mr. President, I yield for the purpose of a unanimous-consent request to the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Judy Bardacke, Robert Peck, and Keith Martin be granted the privilege of the floor for the balance of the consideration of the pending legislation.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I plan to be brief in my comments addressing this amendment. In effect, what the amendment does is remove the Collins-Thurmond language from the continuing appropriation bill. I am not here now, Mr. President, to reiterate the arguments so effectively articulated on both sides of this issue when we had the State-Justice appropriations bill on the floor. There is no question in my mind that every aspect of the issue was intelligently and eloquently presented.

Following congressional action on the State-Justice appropriations bill, the President of the United States indicated his position of this matter. What we are now confronted with is the question of whether or not we shall continue to go back and forth on the issue in a parliamentary sense, with victory belonging to neither side, or whether the matter will be discussed at a later time, with the outcome being left in doubt so that the Senate and the House can conclude its business and prepare for the new session of Congress.

I, obviously, as do many who voted for me, feel very strongly as a matter of principle on this issue. Some of us argued constitutional aspects. We argued that the Collins-Thurmond amendment was an unconstitutional encroachment by Congress into the executive and judicial branches of Government. Others argued on the ground of what was being done through discrimination in this country.

On the other side, Senator HELMS and Senator THURMOND articulated their position as to the ineffectiveness of certain remedies applied in the past, as well as defending the constitutional aspects of what they were doing.

It seems to me we are going to hear about this again. I know we are. Senator HELMS knows we are.

I know we are. We all know it. Much is left to be heard on this whole subject.

It is my hope that the matter can be removed from the legislation before us at this time. Everybody knows full well they will have an opportunity in the future to resolve this issue.

I would like to point out, incidentally, Mr. President, that I offered this amendment on behalf of myself and Mr. HOLLINGS.

I respect those that have opposed me. I did not win, although I might well have had there been some early indication of what the President would do. I cannot tell.

It seems to me we are in a standoff and the matter is best left in that form at this time.

Mr. HELMS. Mr. President, I am in a unique position here today. If I have done my head count correctly, we have enough votes to defeat the Weicker amendment.

But I am not going to press the case because the Senate has already spoken on this question, as the distinguished Senator from Connecticut has said. I think the Senate will be ready to speak again.

I think it is important for Congress to complete its work and go home. As I watch activities around this place, I am reminded of what Will Rogers once said. He said that the American people have the same degree of nervousness when Congress is in session that they have when they see a baby with a hammer in its hand.

So, with all due respect to my good friend from Connecticut, and he is my friend, his amendment is irrelevant in terms of having any meaning because 40 days from now we will have a new President, a new administration, a President who has been constantly on record in opposition to forced busing.

The Senator from Connecticut is right. There will be legislation on this question next year, and I think I can predict its outcome, certainly in the Senate.

So for those reasons, I have no predisposition to ask for a roll call vote on this amendment, or even to try to modify the Senator's amendment.

But I will say, Mr. President, that the American people over and over again have indicated their distaste for the folly of forced busing.

As for the constitutional argument as to whether the Senate has the right to limit the jurisdiction of the courts, some rather renowned constitutional scholars have addressed this question.

I believe it is clear we have not only the right, but the duty to do it when we see the courts and the executive branch abusing their authority.

So I oppose the amendment, but I will not ask for the yeas and nays.

I say again that this battle has been won.

Mr. JOHNSTON. Will the Senator yield?

Mr. HELMS. Yes.

Mr. JOHNSTON. I ask my distinguished friend from North Carolina, as a supporter, as a matter of fact as a coauthor of his amendment which he put in earlier——

Mr. HELMS. For which I am grateful.

Mr. JOHNSTON. And as an enthusiastic supporter, can the Senator state that we will have early action in the next Congress on some kind of similar legislation with respect to busing?

Mr. HELMS. I can assure the Senator that is the intent of the Senator from North Carolina. Yes.

Mr. JOHNSTON. I will ask the distinguished Senator from South Carolina if he is disposed to act quickly in the new Congress, so that when the Senator talks about a 40-day delay, we can expect at least not very much more than a 40-day delay, should this matter be excised from the bill?

Mr. THURMOND. Mr. President, I know the able Senator from Louisiana is strongly in favor of the antibusing amendment.

The people of this country have spoken in numerous public opinion polls. Blacks and whites are opposed to busing for racial balance. That is clear.

The Congress has spoken. The House spoke overwhelmingly. The Senate has spoken. People do not favor busing for racial balance. The Senate this year has voted several times in that light.

However, the President of the United States has threatened to veto this bill. He says he will veto any bill that contains an antibusing amendment. I doubt that at this time we would have sufficient numbers in the Senate to override that veto, and it would only be a short while until the new Congress will convene. At that time, we can consider such an amendment and it certainly will be offered.

I think the people of the country next year will get relief from busing which is done just for racial balance.

It will not only be a relief from making little children ride for miles and miles unnecessarily, causing them to become irritated, restive, and uncomfortable, but it would save millions of gallons of gasoline, too.

I am convinced this should be done. We intend to pursue this shortly after the first of the year.

Mr. JOHNSTON. And the Senator can assure the body it will have early action on that, to the extent the Senator is chairman of the Judiciary Committee?

Mr. THURMOND. As early as can be obtained.

We appreciate the position of the able Senator from Louisiana. I assure him we do expect to pursue this matter at the earliest time possible.

Mr. JOHNSTON. Can the Senator give any estimate as to how quickly we can expect action on that?

Mr. THURMOND. It would be rather difficult to say how soon because of administration changes, the inauguration on the 20th of January, and the probability that the matter would have to go before some committee, if not offered as an amendment on some other bill to which it can be attached. It will be done. I assure the Senator it will be done just as quickly as it can be done in view of the legal process here in the Senate.

Mr. JOHNSTON. The Senator would give it the highest priority in the Judiciary Committee?

Mr. THURMOND. If it is referred to the Judiciary Committee, it will proceed in the highest order.

Mr. JOHNSTON. I thank the Senator.

Mr. HELMS. Mr. President, one more point. I say to the Senator from Louisiana, who is my friend, we are in the middle of a school year.

As I said earlier, we are 40 days away from having a new President who has an entirely different atitude about forced busing.

I am fairly certain that the lawyers and the bureaucrats in the Justice Department will not spend Christmas season running around the country promoting forced busing. I think they will be too busy, some of them, filling out their résumés.

So I think nothing is lost by letting this amendment be approved.

Mr. JOHNSTON. Has the Senator received, if not express, then implied, assurances that this is so, that the cases will not be actively pushed in the interim of 40 days?

Mr. HELMS. I am sorry, will the Senator repeat his question?

Mr. JOHNSTON. Has the Senator spoken to those in Justice who might give some sort of assurance, either expressed or implied——

Mr. HELMS. No, I have not.

Mr. JOHNSTON. I thank the Senator.

Mr. THURMOND. Mr. President, within the last few months, both Houses of Congress have, on a number of separate votes, definitively expressed opposition to forced busing for the purpose of racial balance in public schools. This action came in the context of an antibusing rider to the fiscal year 1981 State, Justice, Commerce, judiciary, and related agencies appropriation bills.

Mr. President, if the hundreds of letters I have received on this subject are any indication, the American people clearly, by an overwhelming majority, approve of this congressional action. I am pleased to have been a leader in this fight in the Senate, along with my distinguished and dedicated colleague from North Carolina (Mr. HELMS).

I believe it is unfortunate for the American people that President Carter has announced his intention to veto the important State, Justice, Commerce appropriations bill because of the antibusing provision it contains. The President apparently feels that this amendment is an unconstitutional incursion on the duties of the Justice Department and the Chief Executive to enforce the law. I vehemently disagree with this view and have so stated on numerous occasions during the recent debates on this issue. Many notable constitutional scholars, including former Senator Sam Ervin and Harvard scholar Raoul Berger, are confident that the restriction on Justice Department advocacy of forced busing for racial balance is both constitutional and appropriate.

In the scheme of separation of powers among the branches of the Federal Government, Congress is the body which makes the laws that provide duties and direction for the executive branch and the judiciary. Inherent in every act of Congress is some limitation on the authority of the Executive. Of course, given the finely tuned balance of powers among coequal branches of the Government, it is possible for Congress to go too far, either in assuming a power not granted to the legislative branch by the Constitution or by infringing on a power specifically delineated to the executive branch under the Constitution. I am firmly convinced, however, that this antibusing limitation does not go too far and is both proper and necessary. Restricting the Justice Department from the pursuit of the "equitable"—it would be more appropriate to say "inequitable"—remedy of forced busing does not leave citizens without an effective remedy for proven de jure (institutionalized) discrimination. This is true both because the antibusing provision does not restrict private litigants or the courts and because there are a variety of other remedies available.

Nevertheless, Mr. President, we must recognize that there is a strong difference of opinion on this issue. In view of the President's announced intentions to veto both the regular State, Justice appropriations bill and the continuing resolution, should it include a similar restriction, I would be willing to defer action on this issue until next year. At that time, I believe a more conservative Congress, supported by President-elect Reagan, can bring a halt to the pernicious practice of forced busing for racial balance once and for all. In return for this deference, I would hope that the Justice Department would wisely refrain from initiating any new lawsuits that could require forced busing until the Reagan administration can establish policies in this area. I believe this would be the best way to proceed at this time, and I commend Senator HELMS for suggesting this course of action.

Mr. President, I ask unanimous consent to have printed in the RECORD a chronology of events in connection with the antibusing provision.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHRONOLOGY OF EVENTS—ANTIBUSING RIDER TO STATE, JUSTICE, COMMERCE, FISCAL YEAR 1981 APPROPRIATIONS BILL (H.R. 7584)

September 23, 1980—House passed antibusing amendment offered by Mr. Collins of Texas.

September 25, 1980—Senate voted 49–42 in favor of Thurmond motion to preserve antibusing language adopted by the House.

September 26, 1980—Weicker offered amendment No. 2392 to undercut anti-busing language.

September 26, 1980—Senate voted 51–27 that Weicker Amendment was germane, and by vote of 27–54, failed to table Weicker Amendment. Amendment remained pending.

November 12, 1980—By vote of 34–16, Senate again failed to table Weicker Amendment.

November 13, 1980—By vote of 42–38, Senate adopted Helms-Thurmond Amendment No. 1743 to Weicker Amendment, excepting busing from remedies which the Justice Department could advocate.

November 13, 1980—By 73–11, Senate failed to recommit bill to appropriations committee.

November 17, 1980—By 51–35 Senate passed bill.

November 21, 1980—By 240–59, House agreed to Conference Report containing original Collins anti-busing language, absent Weicker addition as modified by Helms-Thurmond Amendment.

December 3, 1980—Weicker offered motion to concur in House amendment with amendment undercutting anti-busing provision.

December 3, 1980—By 45–44, Senate tabled Helms amendment No. 1816 to Weicker Amendment No. 1815.

December 3, 1980—By 46–43, Senate agreed to Helms-Thurmond Amendment No. 1817 to Weicker Amendment, thus preserving House language.

December 3, 1980—By voice vote, Senate tabled Weicker motion to concur with amendment, as amended by Helms-Thurmond Amendment, thus preserving anti-busing language.

December 4, 1980—Carter announced he would veto H.R. 7584 and also continuing appropriations resolution, if anti-busing rider not removed.

Mr. WEICKER. Mr. President, I have been in contact with the Justice Department; it is important to reiterate what the distinguished Senator from North Carolina has said—that this is a matter of accommodation between two points of view here on the floor of the Senate. Nobody else has participated in this accommodation. It is between myself and Senators HELMS and THURMOND. That should be made abundantly clear.

I am finished on this subject, Mr. President, and I hope we can go to a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HELMS. Mr. President, I have just been advised that the distinguished minority leader wishes to make a statement, and he is on his way to the Chamber.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, is is so ordered.

Mr. BAKER. Mr. President, we are coming to the end of a very long and arduous lameduck session of Congress. It is a session which, in my opinion, we never should have had.

Although I did not expect it, the Senate made its position clear on the issue of forced busing; and if that decision were placed before us again today, I have no doubt that we would reject that remedy as a means of eliminating discrimination in educational opportunity.

It should also be clear, Mr. President, that the action we take today regarding the continuing resolution should not be viewed as a reversal or alteration of the position of Congress in this matter.

Mr. President, it bears repeating that section 5 of the 14th amendment empowers Congress to enforce its provisions. Congress has simply declared that busing is not one of the remedies that should be used to address this problem. However, this should not be interpreted as a sign that Congress has turned or will turn its back on the necessity of equal educational opportunity. In the area of domestic policy, there are few matters as important as equal educational opportunity, and it is my hope that, at all levels of government, adequate attention and resources will be provided to meet the needs of every American child.

I wish to commend the senior Senator from North Carolina for his leadership on this issue. I share his view of the constitutional role of Congress regarding the enforcement of the 14th amendment, and I join him in opposition to the use of busing. I am confident that the position of Congress concerning forced busing will soon be adopted as the policy of the Department of Justice.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I have no further comments to make on the amendment. I now ask for its adoption, and I urge those present to vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

Mr. HELMS. Mr. President, will the Senator withhold that?

Mr. WEICKER. I withdraw my request for a quorum.

Mr. HELMS. Mr. President, I ask that the RECORD show that I am opposed to this amendment, and the Senator from Louisiana (Mr. JOHNSTON) has asked me to make the same request on his behalf.

Mr. THURMOND. Mr. President, I make a similar request.

The PRESIDING OFFICER. The RECORD will so indicate.

The question is on agreeing to the amendment.

The amendment (UP No. 1869) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, I ask unanimous consent that the committee amendment be set aside temporarily.

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, I say to my good friend that we have a series of committee amendments that have not been presented as yet. We have been setting them aside. It is my belief that if we can get to those amendments, many of the other amendments may not be necessary. I think we should go to the committee amendments and dispose of them.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. MELCHER. I wonder whether we might start doing that, because there are other amendments to be offered. I am just attempting to use the time of the Senate expeditiously. I do not want to interfere with the committee amendments when we can just bring them up and dispose of them.

Mr. STEVENS. Mr. President, how many committee amendments are to be disposed of?

The PRESIDING OFFICER. There are six committee amendments remaining to be disposed of.

Mr. BUMPERS. Mr. President, do those amendments have to be taken up in sequence, in the absence of a unanimous-consent request to the contrary?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Could the Chair read off the amendments to us? I do not have the sequential list.

The PRESIDING OFFICER. The clerk will state the remaining committee amendments.

The legislative clerk read as follows:

On page 16, lines 23 to 25.

On page 26, line 22, to page 27, line 4.

On page 32, line 13, through line 10 on page 33.

On page 33, line 11, through page 38, line 13.

On page 44, line 17, through line 8 on page 45.

On page 45, lines 9 through 22.

Mr. STEVENS. Mr. President, I did object to the request of my good friend from Montana. I ask unanimous consent that his amendment follow immediately upon the disposition of the last committee amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, reserving the right to object, what was the request?

Mr. STEVENS. I made the request that the amendment of the Senator from Montana, who sought the floor—I objected to his offering an amendment until we disposed of the committee amendments—be the first amendment following the committee amendments.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I reserve the right to object. What amendment is this that is going to come up?

Mr. MELCHER. Mr. President, if the Senator will yield, the amendment that I call up is amendment No. 2636, a printed amendment available in the Chamber here, and it deals with the imputed interest.

Mr. CHAFEE. The amendment deals with what?

Mr. WILLIAMS. It deals with imputed interest.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I have an amendment dealing with one of the committee amendments that has been agreed to be separately considered, and I send to the desk an amendment dealing with section 166, the committee amendment on page 44, line 17 through page 45 through line 8. This pertains to the farm labor contractor provision in the bill.

SECOND EXCEPTED COMMITTEE AMENDMENT

The PRESIDING OFFICER. The Chair will inform the Senator that the pending committee amendment is on page 16 lines 23 through 25. If the Senator wishes another amendment to be considered he must obtain unanimous consent.

Mr. WILLIAMS. I am asking unanimous consent to proceed to this.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, was this language that was just covered by the recent Weicker amendment?

Mr. WILLIAMS. No.

The PRESIDING OFFICER. The Weicker amendment was added at the end of the committee amendment. The committee amendment itself has not been agreed to.

Mr. STEVENS. Mr. President, if the Senator will yield for a minute so there be no misunderstanding, I ask that the committee amendment on page 16, lines 18 through 24, as amended by the Weicker amendment, be approved.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Again, Mr. President, what was the request?

Mr. STEVENS. That the committee amendment be approved.

Mr. BUMPERS. Is this the first committee amendment?

Mr. STEVENS. It was the pending committee amendment which was not approved because of the circumstances that the Weicker amendment to it was approved. We now want that as the committee amendment which was the subject of it approved.

Mr. BUMPERS. Is the Senator asking for adoption of that amendment?

Mr. STEVENS. Yes.

Mr. BUMPERS. With what does it deal?

Mr. STEVENS. The State-Justice-Commerce insertion here.

Mr. President, the only thing that can really be approved is the Weicker amendment which has already been adopted.

Mr. BUMPERS. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment (page 16, lines 23 through 25) was agreed to.

Mr. STEVENS. I thank the Senator from New Jersey.

COMMITTEE AMENDMENT BEGINNING ON PAGE 44, LINE 17, THROUGH LINE 8 ON PAGE 45

The PRESIDING OFFICER. The question is on agreeing to the next committee amendment on page 44, line 17, through line 8 on page 45.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. WILLIAMS. I ask unanimous consent to proceed to the consideration of UP amendment No. 1870.

The PRESIDING OFFICER. Is there objection to the request by the Senator from New Jersey?

Without objection it is so ordered.

UP AMENDMENT NO. 1870

(Purpose: To provide a modification for section 166 relating to the Farm Labor Contractor Registration Act of 1963)

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1870.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, line 17, beginning with "Notwithstanding" strike out through "employee" on line 2, page 45, and insert in lieu thereof the following: "No part of any funds appropriated for the fiscal year ending September 30, 1981, by this joint resolution may be used to require, under the Farm Labor Contractor Registration Act of 1963, any farmer, processor, canner, ginner, packing shed operator, nurseryman, farmer-owned cooperative, or any full-time permanent employee of such person, to".

Mr. WILLIAMS. Mr. President, my amendment would modify a provision added to the pending resolution in committee which would, in effect, amend the Farm Labor Contractor Registration Act. The provision in question clearly constitutes legislation on an appropriation bill. Further, it simply will not accomplish the objective we all desire, and that is elimination of unnecessary and burdensome regulation for those involved in agricultural enterprise.

I think it is important that we have a clear understanding of the proposed amendment and I will, therefore, take a few minutes now to explain what the amendment that I have offered does.

The major thrust of the proposed amendment is to offer wholesale exemptions to currently covered employers and their employees. It does this by repealing changes that were made in the law in the 1974 amendments which extended protections to migrant and seasonal agricultural workers employed in canneries, cotton gins, packing sheds, food processing operations, and nurseries.

There have been a number of proposals recently to exempt a large number of employers from the coverage of the act. These proposals seem to be based on a misconception of the purposes underlying the amendments that were passed here in 1974.

Those amendments were designed to bring about a substantial increase in coverage of the Farm Labor Contractor Registration Act. It was intended that most agricultural employers of migrant and seasonal workers were to be subject to the requirements of the Farm Labor Contractor Registration Act. In broadening the coverage of the act, Congress maintained in section 3 certain relatively narrow exemptions for small employers considered unlikely to affect significant numbers of covered workers, and for whom compliance with the act might be unduly burdensome. These exemptions, included in paragraphs (2), (3), and (4) of subsection 3(b), are intended to exempt only small-scale agricultural employers, whether or not they are doing business in the form of a corporation, cooperative, or association. As long as these entities employ workers solely for their own operations and engage in farm labor contractor activities only on a limited scale, they are exempt.

The assertion that these narrow exemptions were intended to be available for large agribusinesses is simply inaccurate. Congress was aware that agricultural enterprises are becoming increasingly large and are more likely to be run through corporations or cooperative associations. Nevertheless, as Congress also knew, abuses of migratory and seasonal farmworkers in this industry are a continuing problem.

The provision now in the continuing resolution contains such vague, yet sweeping language that I am not sure who, if anyone, is left covered under the act. The provision is taken from the amendment that was offered earlier to the child nutrition bill by the distinguished Senator from Oklahoma (Mr. BOREN). That amendment—though I completely disagree with it—at least related back to specific sections of the Farm Labor Contractor Act itself and changed the language of that act so as to make clear who is now exempted. But the provision in the bill is simply a string of exemptions covering virtually all farm-related jobs, and it does not in any place define who would be exempted. This is the amendment in the bill that we seek to modify. The amendment is broadly written to apply "notwithstanding any other provision of law" and in this way changes the law without any attempt to retain a coherent statutory scheme.

We are particularly concerned about the effect this provision in the bill would have on the authority of the Federal courts to apply or enforce the law. By its terms, it would prohibit the use of any appropriated funds during fiscal 1981 to apply to enforce the Farm Labor Contractor Registration Act. This would have the effect of cutting off not only future cases—but pending cases as well. And there are hundreds of pending cases affecting thousands of parties.

Because of our concern, we have asked for the opinion of the Justice Department and the Labor Department on this point.

There has not been time to obtain a formal written opinion from them, but both the Justice Department and the Solicitor of Labor have advised us orally that there is a strong possibility that the courts would interpret the amendment to cut off even pending lawsuits.

Many of these cases were filed 2 and 3 years ago. They involve thousands of private litigants who have expended their own money and time in an effort to enforce their rights under the act. I want to emphasize that these cases do not involve the Department of Labor but rather are between private parties. What are the Federal district court judges presiding over these cases to do? How are they supposed to tell these private parties that even though the act still exists, and despite their own investment in their case, and regardless of the merits of their claim and the seriousness of their injuries, the court may no longer hear their case?

I certainly do not believe that this was the intended result of this provision. However, the problem clearly exists. In pending cases, briefs are due, oral arguments have been scheduled, and the rights of private citizens are in issue. If all these matters are to be left to fall in upon themselves, I cannot believe that anyone's interest will be advanced.

Under the language of this provision, farmers, processors, canners, ginners, packing shed operators, and nurserymen, and persons involved in some undefined way with farm-owned cooperatives, and all employees of such persons are all, I emphasize all, exempted from the Farm Labor Contractor Registration Act. There are some cooperatives that are no more nor less than classic farm labor contractors providing migrant laborers to farmers. Yet these classic middlemen would apparently be taken entirely out of the act by this provision.

Under this provision, a farm labor contractor would almost have to label himself such and request the Government to come regulate him to be covered by the act. As such, without hearings or any sort of factual record we are withholding the protections of this act from some and possibly all migrant workers. I am sure Members recognize that migrant workers are the most exploited and vulnerable group of employees in our society.

I think it would be tragic if this drastic and unnecessary step were taken without any hearing or other committee consideration. I believe we can do better than this. Certainly those whom the Farm Labor Contractor Registration Act was written to protect deserve better than this.

What I propose is that we modify the provision in the bill to avoid its most drastic effects. My amendment completely eliminates all registration requirements—including fingerprinting and paperwork—for stationary employers. This includes canners, ginners and the like, as well as farmers. All that would be left in the law would be the basic requirements that migratory workers not be hired on the basis of false or misleading information and that they be provided decent wages, sanitary housing, and safe transportation. I cannot understand why anyone would want to eliminate these basic proscriptions against unfair and brutal treatment of farm labor.

My amendment has an additional and extremely important attribute. The Farm Labor Contractor Registration Act is the only Federal law prohibiting employment of undocumented and, therefore, illegal alien workers. The dimensions of this country's problems with preventing or even regulating the flow of illegal aliens are now becoming apparent. Similarly, the adverse and possibly disastrous consequences of this massive movement of workers on wage standards and job opportunities for American workers is at last becoming public knowledge.

Senator SIMPSON is a member of a Presidential Commission which recently investigated this issue and, I am told, some of the results of the Commission's work are now available. I do not at this time know the Commission's recommendations, but I believe that Senator SIMPSON would confirm that elimination of the sole statutory proscription against the knowing employment of illegal aliens would significantly exacerbate an already terrible situation.

The employment of illegal aliens presents a particular problem for American farmworkers. Unscrupulous employers can exploit undocumented workers by paying them substandard wages under substandard working conditions, without fear that these undocumented workers will complain to authorities. Under these circumstances, there is an unfortunate incentive for some employers to seek to hire workers illegally in this country. And the lure of this illegal employment has resulted in a tide of illegal immigration.

Only 2 years ago, Congress provided an additional 252 workers for the Department of Labor for the specific purpose of increasing enforcement activities with regard to undocumented workers. It would be extremely unfortunate if we were to eliminate the basic statutory prohibition against employing undocumented workers at a time when we are finally beginning to apply effective resources to combat this unlawful practice. Indeed, it makes no sense to play havoc with these statutory protections when the American work force is beset by unemployment and so vulnerable to the dangers of an unchecked migration of illegal workers.

I wish to emphasize that my proposed amendment is a modification of the provision now in the resolution. The effect of our amendment is merely to strike from the provision in the bill the language that totally repeals the Farm Labor Contractor Registration Act. I would leave in place the language that repeals the registration and fingerprinting requirements and other administrative requirements.

If our amendment is adopted, the effect will be to exempt all farmers, processors, canners, ginners, packing shed operators and nurserymen, and all farmer-owned cooperatives, and employees of these employers, from the requirement that they:

Be fingerprinted;

Be registered;

Declare publicly his salary;

Consent to designation of the Secretary of Labor as the agent available to accept summons;

Provide the Secretary of Labor with a notice of each and every address change within 10 days after such change, or

Be listed by the Secretary of Labor in a public central registry.

This amendment will, therefore, relieve employers of the burdens of registration and redtape, but preserve the important basic safeguards that I have described.

Mr. President, this is an instance in which the legitimate interests of both those involved in agricultural enterprise and migrant laborers can be accommodated if we only make the effort. It would be a shame, and something that we would all regret, if in the waning days of this Congress we pass over this issue lightly and needlessly sacrifice the interests of migrant laborers. The compromise I have offered provides a way to meet the legitimate concerns of all affected by the act. I, therefore, urge my colleagues in the strongest terms to adopt this amendment.

I would like to say, Mr. President, this amendment, as I presented it, deals with the problems which we have come to know exist. Scores of hours have been spent by our committee staff, and by members, with those who tell us that there is an overreach as a result of the Farm Labor Contracting Act, an unnecessary and heavy burden, and also a demeaning burden in certain respects.

We have spent hours understanding this, and the amendment that I have offered would strip from the enforcement provisions through the appropriation bill any enforcement of these objectionable features.

What the amendment would do, however—and this is what the amendment in the bill does not do—is leave in place those basic fundamentals of coverage. And that is the coverage that directs those who are contracting with labor to be fair, to be honest, to do with their workers what they promised they would do upon recruitment of those workers.

All of the objectionable features that so many stationary operators had told us they are particularly opposed to we recognize should not be enforced, and that is in the amendment I have offered.

We retain, however, the Farm Labor Contractor Registration Act coverage for just the essentials, intended to make sure that no false promises will be made to the workers who are brought to the farming areas, that they will have safe and sanitary housing, that where vehicles are used there will be insurance on those transport vehicles bringing workers to the jobs. And, most importantly, it would continue to prohibit the employment of alien undocumented workers. All of these requirements which are listed in the Chiles amendment to be eliminated, would also be eliminated by the amendment I have offered.

The PRESIDING OFFICER (Mr. TSONGAS). Who seeks time?

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, this issue is not a new one for the Senate. This past summer the Senate debated this question at length and voted by a substantial margin of 57 to 37 to adopt the Boren amendment.

The provisions added by the Appropriations Committee to the continuing resolution are very similar to the Boren amendment. The basic point at issue is who is covered by the Farm Labor Contractor Registration Act. My understanding—and I think the understanding of most of the Senators—is that the act was intended to register crew leaders in order that abusive crew leader practices could be stopped. That was certainly my understanding when I voted for the 1974 amendments, after specifically asking the floor manager of the bill who would be covered.

I remember, as I think most Senators do that there were some great abuses in the area of migrant labor. Some of those abuses may well be continuing with people who are crew leaders; with those persons who hire migrant workers and take them from one agricultural endeavor to another. These people were certainly abusing the migrant workers, and we wanted to put a stop to that.

I certainly did, and I supported the 1974 amendments. But at that time we asked specifically what is the Labor Department going to do with this authority. Are they going to cover the crew leader or is this going to be one more case in which they will take the statutory authorization and broaden it?

If we look at the results of what they have actually done. If we look at who they are putting under a bond, who they are fingerprinting, who they are placing under the other requirements of the act, it is not just the crew chiefs. They have covered the farmers themselves, and even where they had foremen who were permanent employees, they have required them to register. Not in one instance but in hundreds of instances, where the workers were not migrants, where they were permanent workers and did not travel from one area to the other.

So it has been a classic example again of where the bureaucracy has completely exceeded its bounds.

Currently the Department is registering as farm labor contractors, citrus growers in Florida, fruit and vegetable farmers, corn and grain sorghum seed producers, cotton ginners, cattle feedlot operators, and nurserymen, just to name a few. We even have a situation in Florida where three cultivators working a citrus grove in Florida are required to register because they take turns driving each other to the grove and thus are considered to be transporting migrant labor. I really do not feel Congress had this in mind when we passed the 1974 amendments.

As is so often the case we have allowed an executive department to take the law and extend it far beyond its original purpose. The result has been an unwarranted paperwork and regulatory burden on the agriculture community. Further, the Department has occupied itself so much with registering almost every one involved in agriculture that it has not been an effective force in controlling abusive crewleader practices. There have been great leaps in registration numbers but little progress in civil money penalties collected or criminal prosecutions.

The effect of the amendment included in the continuing resolution is simply to clarify that FLCRA does not cover farmers and other agricultural employers and their employees. The amendment will place a temporary moratorium on the Department's application of FLCRA to farmers and processors until the authorizing committee can deal with this issue next year. Charges have been made that this provision would bar enforcement of the act during this fiscal year. This is simply not the case.

The amendment would not halt enforcement of the act: The Secretary of Labor would continue to be authorized and required to properly administer the act. Farm labor contractors, or crewleaders, who recruit, solicit, hire, furnish, or transport migrant farmworkers for agricultural employment would still be required to register and comply with all requirements of the act.

The amendment would not leave migrant farmworkers without any protection: migrant farmworkers recruited, solicited, hired, furnished, or transported by farm labor contractors would remain fully protected under the protective provisions of the act. These protective provisions would actually be strengthened since the Department of Labor's enforcement actions would be targeted to eliminate the exploitive practices engaged in by certain unscrupulous crew leaders. Further, such workers would remain fully protected under the wage and hour provisions of the Fair Labor Standards Act, and other statutes, including OSHA. The amendment would not bar Federal district courts from protecting the rights of migrant workers: migrant farmworkers recruited, solicited, hired, furnish, or transported by farm labor contractors for agricultural employment would remain covered under the protective provisions of the Farm Labor Contractor Registration Act. As such, any cause or action could still be brought before Federal district courts to enforce the act.

Mr. President, this amendment, which was adopted by the full Appropriations Committee by a vote of 15 to 8, will serve to return the law to its original intent and signal to the Labor Department that it should focus its limited resources on the crew leaders who abuse migrant workers. It will redress the current situation in which the Labor Department has exceeded its authority and levied excessive and unnecessary regulations on farmers and other agricultural employers. These regulations represent not only another example of bureaucratic intervention but are counterproductive and ineffective in exposing violators. I do believe the Congress should adjourn without rectifying this problem and I urge the retention of this amendment.

I see the distinguished Senator from Oklahoma (Mr. BOREN) on the floor. He is of course the author of the Boren amendment which I have spoken of earlier. We did debate that in this body at length. We did pass it by a vote of 57 to 37, and I would be delighted to yield to him at this time.

Mr. BOREN. I thank my colleague from Florida very much.

Mr. President, I simply want to echo what the Senator from Florida has just said. Nothing in this provision which has been added to this resolution would in any way prevent the Secretary of Labor and the Federal officials from properly protecting the rights of migrant farm workers. We are very interested in seeing that done. I think all of us sincerely want to see that done.

But we do not want to have the farmers themselves, who were exempted from this act—certainly the intent of Congress again and again has been expressed that farmers should be exempted from this particular act—we do not want to see those people harassed under a misapplication through an abuse of regulatory power by the Department of Labor of the law itself.

Now, the Senate earlier this year, as Senator CHILES has said, by a substantial margin, a margin of 20 votes, with over 40 Members of this Senate acting as cosponsors of the act, voted to prohibit the Department of Labor from misusing its regulatory authority in this way.

I think if Members of the Senate would stop to realize what has been done under a law aimed at stopping abuse by crew leaders and migrant labor contractors and they would realize what had been done under the guise of preventing the abuse by these people, I think they would, without a doubt, support the language that now exists in the resolution written into it by Senator CHILES and adopted by the committee by a 2 to 1 margin.

The Secretary of Labor has, in essence, said that anyone is a farm labor contractor who is engaged in farming and who has even one employee. The Secretary of Labor has gone on to say that a farm labor contractor, a person who acts as a contractor, has a crew leader and employs migrant workers, includes any farmer with one employee who has an employee engaged in agriculture.

Not only is he defining a farm labor contractor as any old farmer, in essence, he has also said that a migratory worker is anyone who works in agriculture.

Mr. President, that is a ridiculous abuse of regulatory authority, especially when Congress said in the law that farmers themselves would be exempt from this particular act.

If you think we have had trouble in this country and dissension caused by abuse of regulatory authority, just wait until you have farmers in this country who perhaps may even have their own relatives working for them as employees on their farm who live there year round, people who are not employing migratory workers, people who are not engaged in the business of contracting farm labor, people who are by no stretch of the imagination crew leaders of migratory workers, if you have all of the farmers in this country harassed—originally, under this particular law, they had to be fingerprinted and they had to file all sorts of forms. The Senator from New Jersey said we will defer that; we will not make them register, but we still want them to be subject to the law.

I hope my colleagues will realize what is meant by making them subject to the law. They have to post signs as to where the people work on their farms. They have to file all sorts of forms and written contracts with their employees in terms of conditions of employment. They have to provide special medical examinations. They have to provide special documentation as to insurance coverage. There are all sorts of other things, in addition to registration, with which we will continue to harass the average farmer in this country who is in no way engaged in contracting for migrant farm labor.

That is absolutely absurd and ridiculous. That is why the Senate earlier this year went on record by a substantial margin in wanting to put a stop to it.

Mr. President, I will tell you another result. There have been a series of documentaries on television—and I have seen some of them recently—which point out that abuses are still going on in this country, very serious abuses of the rights of migrant farm workers; that there are still operating in this country unscrupulous farm labor contractors who are taking migrant workers around the country, keeping them in absolutely appalling conditions, not informing them of their rights and, in essence, almost holding them in peonage.

According to one of the documentaries I happened to see myself, the official said that it is not a problem with the law on the books, it is a problem of not having the resources, the people, the personnel, the inspectors necessary to go out and keep track of these unscrupulous farmers or contractors and crew chiefs and catch them in the act of violating the rights which this Congress has written into law.

Do you know why, Mr. President, we do not have the Department of Labor channeling and targeting the resources where they need to be targeted to stop the kind of abuses that many of us saw documented on television? It is because they have people sitting down in offices writing ridiculous rules and regulations with which to harass the average farmer in this country, who is not involved as a farm labor contractor and who is not a migrant worker crew chief.

If the farmers of this country got up in arms over being harassed by this kind of ridiculous regulation, I can only say that I think they would have every right to do so and that they would have every right to hold every Member of this Congress who voted to allow that kind of situation, and that kind of abuse of regulatory authority to continue accountable for the serious conditions, accountable for the harassment of people who should not be harassed, and accountable for a continued violation of the rights of migrant workers that we ought to be protecting.

Mr. President, essentially what we have here in the modification offered by the Senator from New Jersey is an attempt to continue in the law—not in the law, because it is not in the law, it is in the regulations issued by the Department of Labor. It is the way they misapply the regulations and the manner in which they misapply their own resources in the Department. We have an attempt here to continue the maladministration of a program, an important program to put in place for the protection of migrant agricultural workers in this country.

I commend my colleague from Florida, Senator CHILES, for including this language in the continuing resolution. In doing so, he was actively supporting a position which the Senate, again, by a 20-vote majority, had already taken in a vote on the Senate floor and in which we had a long scale, far-reaching debate of this issue.

I urge my colleagues in the Senate to hold with the position that they took earlier and to keep the Chiles language now included in this resolution in place.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I share the concern that the Senator has just expressed over the maladministration and the overreaching regulations that has been very unwise and, I think, very disruptive. I have protested that sort of behavior to the Department of Labor. I share all the concerns that were expressed.

I believe that the substitute Williams amendment, however, is designed to remedy those problems, while providing some protections that are still needed. For that reason, I support the Williams substitute.

The unfortunate consequences of enacting the proposed amendment, I think, would militate against supporting it.

I share the purpose to relieve farms and their full-time, permanent employees from unnecessary redtape associated with the Farm Labor Contractor Registration Act, but I do not support efforts to weaken the actual coverage of that law.

The Secretary of Labor wrote to all of the members of the House-Senate conference committee dealing with the child nutrition bill regarding a similar amendment to that bill.

The Secretary argues in his letter as follows:

> This is to express my deep concern and strong opposition to the amendment introduced by Senator Boren to the Farm Labor Contractor Registration Act (FLCRA). This amendment was passed by the Senate and attached as Title III of H.R. 7664, the Child Nutrition Amendments of 1980.
>
> The Senate amendment to Farm Labor

Contract or Registration Act would effectively repeal the Act's protections for most agricultural workers brought within the Act by the 1974 amendments and for most farm-workers who were protected by the original passage of the 1964 Act.

These amendments could be read as providing that a traditional farm labor contractor—the person who recruits, solicits, hires, furnishes, or transports workers for agricultural employment—would be exempted by the simple expedient of being hired an "employee" by every user of his services. Even if the farm labor contractor should serve several users simultaneously, he could be exempt under the amendment's definition of a "regular employee" which includes all part-time employees. Since the amendment exempts any "employee" of a farmer, canner, processor, ginner, packing shed operator, or nurseryman, the traditional farm labor contractor could escape coverage.

Under present law, the only responsibility of the user of farm labor contractor services is to assure that the contractor has complied with the registration provisions of the Act.

The amendment does not transfer any obligations for the protection of agricultural workers to the user from the traditional farm labor contractor. Since the amendment virtually eliminates the prior obligations of the farm labor contractor, the amendment results in the agricultural workers being left with no protections under the law.

The amendment would further exclude from coverage agricultural cooperatives and associations and their employees, even when performing traditional farm labor contractor activities, such as supplying migrant workers not only for their member growers but also for other growers as well.

The Act presently exempts any processor, ginner, canner, packing shed operator, or nurseryman who supplies migrant workers solely for his own operation. The amendments would define the term 'for his own operation' so broadly, however, that it is strongly arguable that virtually every entity, regardless of whether it acts as a traditional farm labor contractor or not, would qualify for the exemption.

Although the amendment would relieve fixed situs operations from the burden of registration—an aim which this department supports—it does so by unnecessarily eliminating essential protections for their farmworkers. Furthermore, the amendment would reduce the general class of protected farmworkers. This Department cannot support legislation which would lessen farmworker protections. Because farmworkers are least able to protect themselves, their current labor standards protections under the Act must continue.

This Department is not unmindful of the legitimate concerns of many members of Congress concerning the interpretations placed on the Act's provisions by the Department and by the Federal courts. On July 30, 1980, Congressman William D. Ford introduced H.R. 7868, the Farm Labor Contractor Act of 1980, which the Department of Labor supports.

H.R. 7868 would maintain the protections provided for agricultural workers under FLCRA while eliminating unnecessary paperwork—registration and documentation—requirements for fixed situs agricultural employers who hire agricultural workers only for their own operations.

This, we believe, is a sensible approach. FLCRA registration and documentation provisions were initially established to deal with crew leaders who provide workers to others and who regularly move from one place to another in carrying out those activities. Some means of registration and documentation of traditional farm labor contractors must be maintained in order to protect both workers and employers. It has become clear, however, that the need for registration and documentation of fixed situs employers who obtain agricultural workers only for their own operations is less important than assuring substantive labor protections for those agricultural workers.

While we agree that fixed situs employers should be relieved of the registration and documentation requirements, it remains abundantly clear that agricultural workers employed by fixed situs employers still need substantive FLCRA protections. We believe that H.R. 7868 appropriately addresses these issues.

That bill would further remove the possibility which presently exists that corporate employers may be eligible for certain exemptions from coverage while their managerial employees would not be exempted. Such a situation could result in employees being held responsible for corporate policy over which they have no control.

H.R. 7868 addresses other issues, and we are enclosing for your use a more detailed comparison of Title III and H.R. 7868.

In summary, we believe that the provisions of H.R. 7868 should be substituted for the provisions of Title III of the Child Nutrition Amendments of 1980. The provisions of H.R. 7868 would both maintain the substantive protections currently available to agricultural workers and eliminate unnecessary employer burdens.

These changes would also assist the Department of Labor in targeting its compliance activities in the most effective manner possible. By contrast, Senator Boren's amendment to FLCRA would needlessly reduce protections farmworkers currently have and at the very least should be removed from the Child Nutrition Amendments of 1980.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program. Signed, Ray Marshall, Secretary of Labor.

Mr. President, I believe that the Labor Department's analysis of the issues is most compelling. The language included in House Joint Resolution 637 does more than relieve employers from burdensome overregulation. As presently written, this language goes to the main intent of the Farm Labor Contractor Act which is to protect farmworkers from exploitation by labor contractors and their agents and from those who act as farm labor contractors. For this reason, I support Senators WILLIAMS' substitute amendment which addresses the concerns raised by Senator CHILES and Senator BOREN, yet protects migrant farmworkers against abuses by unscrupulous crewleaders.

Mr. President, I urge the Senate adopt the Williams amendment.

Mr. JAVITS. Mr. President, I rise in support of the amendment and ask, if I may, with Senator WILLIAMS' consent, unanimous consent that I may be made a cosponsor.

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, one of the most shocking disgraces in our country's labor plan has been this pattern of migrant labor. As a member of the Committee on Labor and Human Resources, on which I had been ranking minority member for many years until Senator SCHWEIKER replaced me when I went to Foreign Relations, I have visited migrant labor camps. Mr. President, it is a very, very depressing aspect of our country. Many books have been written about it. Impressive reputations have been made by authors on this subject and quite justly so. It is characteristic of our colleagues who have admitted that this field is very deeply troubled.

Mr. President, the problem which we face is that we are allowing ourselves to be deceived by the mote in our eyes. In other words, sure, there was vexing paperwork. Now as Senator WILLIAMS, Senator CRANSTON, and Senator BOREN have argued, that paperwork is being cut very, very materially by the substitute of Senator WILLIAMS. But it does not cut the essential.

I would like to point out that the amendment which is in the bill, that is, the amendment of Senators CHILES and BOREN, throws out the baby with the bath because it inhibits the enforcement of the existing law. Indeed, the language is so broad that it may very well inhibit pending prosecutions and pending legal actions.

I would like to read that because, Mr. President, however we may argue a given case, the fact is that the language is what counts. This says, on page 44, line 17:

> Notwithstanding any other provision of

And then it goes on—

> to prohibit the use of funds from implementing or enforcing the Farm Labor Contractor Registration Act of 1963.

With thousands of people involved in these litigations, it seems to me, and I say this as a lawyer, that this raises a very serious barrier to the use of any funds found in any provision of law, let alone this particular continuing resolution, to continue to deal with any case, even a pending case, under the law.

I should hardly think, Mr. President, that this Congress would intend that in so grievous a situation as the inhumanity to which so much of migrant labor has been subject.

The second deep imperfection, Mr. President, is the use in this provision in which we are seeking change of the word "employee."

It is true that the practice of recruiting and dealing with migrant labor has, to some extent, passed from the roving crew leader to the stationary crew leader who might be an employee. If he were a permanent employee, the Williams provision leaves him just where he is, but if he is a temporary employee then he can easily duck in under this particular provision which we find in the continuing resolution and be completely out of the whole deal. Mr. President, there is nothing whatever that says permanent employee here. It just says, on page 44, line 25, "or any employee thereof," which means permanent or temporary, if it is for 1 week or 1 day.

Mr. President, that is too open a barn door and too inviting a hole in this legislation in a field which has shown such inhumanity of man to man as this one has.

Finally, Mr. President, and I am only picking up what my colleagues perhaps have not yet critically and pointedly emphasized, there would be no way of dealing with undocumented or illegal aliens. This is one situation in which we do have some handle on illegal aliens. But if we adopt this approach to the matter, then we take that out of the law.

Mr. President, I doubt very much that at the present time we would remotely consider doing that.

So, Mr. President, it is the vague, sweeping language of this provision which is its real danger, and I hope very much, because this is strictly legislation in the most overt kind on an appropriation bill—there is no doubt about that—I hope very much that the Senate will not allow any such thing to be done on a continuing resolution which is for temporary purposes and has a limited purpose. To change the law in this very profound way I think would be a very great disservice in an area where the United States has a lot of blots on its escutcheon. I hope very much the Williams substitute will be adopted.

Mr. MAGNUSON. Will the Senator yield?

Mr. JAVITS. Yes.

Mr. MAGNUSON. If there has ever been a strict interpretation of legislation on an appropriation bill, it is here.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I rise in support of the amendment by the Senator from New Jersey. I come from an agricultural State. I am fully aware of the dissatisfaction of many farm employers with the nuisance of overregulation. In this particular act and in many others I have consistently voted since I have been in the Senate for measures which could, in whatever way possible, reduce the burden of regulation and the burden of paperwork not only on our farm communities but on business and the general public as well.

But I am concerned about this from the standpoint which has been alluded to by the distinguished Senator from New York, in that it does represent the only tool we have, legislatively, to deal at the present time with the illegal alien and illegal worker problem that we have in this country.

This is not an inconsequential problem. We do not know the full dimensions of it. But the sentiment seems to be that it has reached such proportions that the time has come when we must give very serious consideration to a comprehensive program dealing with the question of the employment of illegal aliens in the country.

I am sure my colleagues are aware that the special Commission on Immigration Policy is winding up its work. It has met recently and reports are that it will recommend that we put in place legislation that will deal with the question of illegal aliens and will include the imposition of sanctions against those employers who knowingly hire illegal aliens. I support that kind of move, as I feel it is necessary.

Mr. President, we do not know just exactly where we are headed as far as the economic situation in this country is concerned. We do know that we have a large number of unemployed. We do know that those who are on the lower rungs of the social and economic ladder are those who are imposed upon the most by illegal workers in this country.

It seems to me it would be the wrong time to give a signal to the country that we are going in any way to relax efforts that we have in place to deal with the question of illegal aliens. I think the Senator from New Jersey has reached a happy medium with his proposal in addressing the question of overregulation, making it possible to deal with that, at the same time keeping in place the only mechanism we have that addresses this particular problem.

Of course, we do not have to reiterate—it has already been done by the Senator from New York and others—the very sad situation that we have had in this country that has been demonstrated as far as migrant workers are concerned. It seems to me the better course of action is to proceed into the next administration, to make a determination then as to how the Department of Labor is going to administer this particular program, how the committees of the Senate itself, with the changes that will be made there, will deal with this program, rather than now, on this particular bill, putting legislation on an appropriations bill, sweeping far too broadly in the changes that it would make.

Mr. President, I would support reasonable improvements in the act and certainly, reasonable improvements in the administration of the act. But I hope the Senate will not go as far as has been suggested by the amendment that is in place now in the bill that is before us.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that, following the disposal of the presently pending amendment, the Senate then proceed to the consideration of the committee amendment, section 155, on page 33; and after that is disposed of, proceed to the consideration of the committee amendment on page 32, namely, section 154.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

• Mr. METZENBAUM. Mr. President, I wish to express my strong opposition to the provision in this legislation that exempts stationary employers from the Farm Labor Contractor's Registration Act.

Let me begin by saying that I do not believe that we should be considering substantial revisions in current law on appropriations bills. During our consideration of the continuing resolution, I intend to object on each occasion that one of my colleagues attempts to legislate on appropriations.

However, I recognize that real problems exist in the manner in which FLCRA has been enforced.

I have, for example, heard real horror stories from nurserymen and others in Ohio about wholly unnecessary and even humiliating requirements that have been placed in the way of their doing business.

They complained of being required to be fingerprinted and of having to provide copies of their prints to the Department of Labor.

They told me of being required to undergo a medical examination every 3 years in order to prove that they are in good enough health to drive a vehicle in which agricultural workers ride.

Furthermore, Mr. President, these small businessmen were required to carry on their person at all times a "certificate of registration" as a farm labor contractor. That certificate must be shown to any worker prior to dealing with the individual.

And finally, Mr. President, my constituents objected to being listed by name in a public central registry in the Department of Labor in Washington, D.C.

Those requirements are outrageous. There is no doubt that we must eliminate this ridiculous, unnecessary paperwork, and cut back on cumbersome administrative procedures. In order to accomplish that, I joined Senator JAVITS earlier this year in introducing S. 2789, legislation that was viewed by all parties at the time as "a reasonable compromise."

That bill relieved employers from the requirements of fingerprinting, annual registration, disclosure of salaries of employees who perform crew leader duties, and the other administrative requirements which are sensible and necessary when applied to classic "crew leaders" who recruit and transport agricultural laborers for a fee, but which are unduly burdensome and unnecessary when applied to stationary employers. At the same time, however, the bill preserved minimum essential protections for covered agricultural workers.

The provision before us today goes far beyond what I believe to be a reasonable solution—and it threatens those essential minimum protections.

Eliminating paperwork is one thing, but this provision throws out the baby with the bath water. It guts the entire act.

Mr. President, the Congress enacted FLCRA for one purpose—to give minimum protection to the thousands of migrant and seasonal agricultural workers who have been preyed upon and exploited by unscrupulous labor contractors. The hearing record compiled during consideration of the act clearly shows that without adequate protection, these workers can be and have been abused, forced to work without pay, and at times, forced into a form of indentured servitude.

Mr. President, this body should not act in haste to gut this legislation.

As one who has spent many years in the world of business, I know at firsthand about excess paperwork and nitpicking regulations.

But my constituents, who asked me to relieve them of these outrageous requirements, did not ask me to relieve them of the responsibility of having adequate liability insurance to operate a vehicle. They did not argue with the need to maintain safe housing for their employees, or to fairly represent to employees the wages they would be paid.

Those are some of the requirements

that this provision would eliminate. And that is not all. As I understand the provision, it would exempt cooperatives and nonprofit agricultural operations. That runs counter to recent court decisions.

The provision before us would provide a loophole whereby a "classic" farm contractor can become a regular employee of the company and be exempt from the law.

Mr. President, I do not believe that we should, in the last hours of this session of the Congress, be enacting such far-reaching legislation.

I see no compelling reason to arbitrarily turn back the clock for thousands of migrant workers in this country.

I believe that the substitute amendment offered by Senators WILLIAMS and JAVITS will get at the real problems of FLCRA, but without sacrificing our ability to respond effectively to real and compelling human problems.

I urge the Senate to adopt this moderate and responsible compromise.●

Mr. WILLIAMS. The Senator from Ohio makes the argument forcefully, as have the Senator from Kentucky and the Senator from New York, that what we have here in the amendment that is now pending that would change the committee amendment is a measure that goes to the basic problem that has developed in the administration of this act. That is, the unnecessary regulatory burdens, the demeaning aspects of fingerprinting and the other unnecessary burdens that come through registration. My amendment would remove that requirement that these stationary operators be registered.

When we take them out of registration, Mr. President, we remove from them the burdens of redtape and all of the other demeaning aspects of the coverage of this law, but we leave in place the requirements that these operators do treat their workers in basically humane ways. For example, their housing must be safe and sanitary, they may not make promises to employees when they recruit them and bring them long distances to work and then run out on those promises; and they also may not employ alien undocumented workers, as the Senator from Kentucky has so clearly stated. The burdens are taken off by my amendment. The essence of fairness is retained. That is what this amendment is about.

Mr. CHILES. Mr. President, in just a moment, I do intend to move to table the amendment by the distinguished Senator from New Jersey (Mr. WILLIAMS). First I want to make a couple of comments.

One, we are looking forward to the Commission's report on illegal aliens. I agree with the distinguished Senator from Kentucky that we have to do something about this serious problem. I agree with what he said, that where people knowingly employ illegal aliens, there must be sanctions against them. I think there will have to be legislation; there is going to have to be a package of legislation dealing with that. Right now though, we are not finding any such cases arising. Certainly not under this act.

The reason is there is no way of documenting or determining whether they are illegal aliens or not. Neither the courts nor we want to impose penalties on a farmer or any other employer who has no way of knowing whether he is hiring an illegal alien.

So far as saying there is any strength in that particular standard, we know there is not. We know there has to be legislation on that. There has to be a way that the employer is able to determine whether a worker can be hired legally or not.

I just say, Mr. President, that act itself and the amendments we passed in 1974 state clearly that the term "farm labor contractor" shall not include any farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in such activity for the purpose of supplying migrant workers solely for his own operation. It states the term "farm labor contractor" shall not include any full-time or regular employee of an entity referred to who engages in such activity solely for his employer normally or on an incidental basis. We found that not to be true. We found the Labor Department has gone out and covered them, required them to be fingerprinted, to be bonded.

What we are saying in this amendment is, stop that; let the authorizing committee deal with this problem. We are not going to do anything with respect to coverage of the actual crew chief. That is the person we want to see every sanction imposed upon, we want to see every protective provision applied to him.

If they would use their time and effort and enforcement dollars in the Labor Department to go after that person, fine, they would actually be doing something for the migrant worker. What they are doing now is just pure harassment.

Mr. BOREN. Mr. President, will the Senator yield for a comment? Some Senators have come to me and asked me if this amendment on which both of us have worked would leave the migrant farmer without any protection. I ask my colleague from Florida if I am not correct in stating that the amendment does not in any way relax the enforcement of the Farm Labor Contractor Registration Act. The migrant farmworkers are recruited, hired, solicited by farm labor contractors.

Mr. CHILES. That is correct.

Mr. BOREN. The act would remain fully enforceable on them.

Mr. CHILES. That is absolutely correct.

Mr. BOREN. Mr. President, on the second point, the Senator from Minnesota (Mr. DURENBERGER) has asked me with respect to the present status of lawsuits being prosecuted with help from the Legal Services Corporation and others to protect the rights of such migrant farmworkers. Am I not correct in answering that where these cases which are being brought by the Legal Services Corporation, or anyone else, in the courts where they are dealing with migrant farmworkers who have been recruited by these farm labor contractors, these cases would certainly remain in force and the Legal Services Corporation would be absolutely able to prosecute these cases?

Mr. CHILES. They would be.

Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The Senator from Florida has made a motion to table. It is not debatable.

Mr. CHILES. Mr. President, I withdraw it.

Mr. WILLIAMS. Mr. President, I was in this exact same position last night. I know the script. I hope the end of this discussion will be the same as it was last night.

I moved to table. Mr. LONG requested that we get to the merits of this.

I am asking the same thing now because what we have in this amendment I have introduced has never been voted on. The last time this subject matter was up, it came to us under an amendment by the Senator from Oklahoma.

It was not possible because of the parliamentary situation to have a vote on my proposal. There were two amendments which I could not get an amendment on.

So we never did get a vote on this amendment now before us. We have had a vote on the Boren amendment at a prior time. We have never had a vote on this.

I wonder if we could not, in a spirit of trying to get the sense of the Senate on the merits of the question, have a vote on it, rather than on a motion to table.

I had an appeal put to me the same way last night. We had a vote on the merits. I lost that vote. I make the same appeal, and I have no idea what the end result will be on this matter.

Mr. CHILES. I thank the distinguished Senator. I will look to the sponsor of the original Boren amendment.

I am afraid there are a number of people we have told that we would move to table. I feel I have to move to table.

Mr. JAVITS. Mr. President, before the Senator moves, may I ask this question?

Two questions trouble me which the Senator dealt with before moving to table. One is the claim that this would not inhibit any further action by any of these agencies in pending matters.

I see nothing whatever in this amendment which would not apply in the pending matters and absolutely freeze such action.

On what ground does the Senator make that point?

Mr. CHILES. On the ground that this amendment does not attempt to adjust existing law from that standpoint. It says that farm labor contractors are not to engage in any of these activities, and are covered by the act.

We simply clarify now that the people that the act originally said not to be farm labor contractors, are not farm labor contractors.

Mr. JAVITS. I must say that the language is clear, notwithstanding any other provision of law, no part of the funds, and so on, may be used to implement or enforce the Farm Labor Contractor Registration Act of 1963 in such a way as.

It seems to me that is as wide open as a barn door.

The second question is the employee referral. That is referred to in the last line as the——

Mr. CHILES. If the Senator will read further, he will see in such a way as to treat any——

Mr. JAVITS. That is OK. But that is

strictly a construction proposition, and the enforcement is absolutely inhibited.

A court would have to see to the treatment of what we are trying to do.

I think it is the vaguest language in the world and is an absolute prohibition.

Mr. CHILES. Will this be as much a question as the last question?

Mr. JAVITS. Or an employee thereof.

Does that employee have to be permanent, can he be temporary, even for a week or a day? Nothing says he has to be permanent.

Mr. CHILES. Well, the act itself talks about that.

Mr. JAVITS. But we have already suspended the act in respect to what the Senator is saying.

Mr. CHILES. No.

Mr. JAVITS. The Senator said that himself.

Mr. DURENBERGER. Mr. President, the issues raised by this amendment have been debated before this body in the past, and I am confident that they will be the subject of further discussion when the Senate reconvenes next session. The issue is an emotional one, and rightly so, as the rights and protection of migrant workers are of the highest priority.

The language embodied in section 166, inserted by Senator CHILES when this resolution was considered by the Appropriations Committee, is drawn from S. 2875, which I and approximately 50 other Senators have cosponsored. My support was based on the belief that the implementation of the Farm Labor Contractor Act has been anything but successful. Like many of my colleagues, I believe that the Department of Labor had misinterpreted congressional intent under that act, and I cosigned a letter urging Secretary Marshall to review the Department's policy and concentrate its resources on curbing abuses by unscrupulous crew leaders as Congress intended.

Senators WILLIAMS and JAVITS have now offered an amendment to the Chiles amendment. It is intended to eliminate unnecessary requirements while at the same time retaining the substantive protections embodied in the original FLCRA. I certainly desire to retain the substantive protections provided for migrant workers. However, there are several points that cause me concern about this amendment.

This Williams-Javits amendment would require all agricultural employers to maintain a level of insurance on all vehicle equivalent to that required by the ICC for interstate buses and other vehicles. Vehicle insurance is a necessary protection. But vehicle insurance is a universal requirement under State laws. In my State of Minnesota, every agricultural employer is also required to carry workers' compensation insurance, which covers loss of wages, and medical bills in case of injury to workers while on the job. Many of my constituents feel that this double coverage is an unnecessary and unfair expense.

This amendment also requires housing inspections for labor camps. Adequate housing is essential for migrants, and I support this protection. Yet, housing inspection is already required pursuant to OSHA and the Wagner-Peyser Act. In Minnesota, we also have an excellent migrant labor camp law to insure decent, sanitary housing. In fact, some of my constituents have complained that they spend a large amount of time escorting numerous Federal and State inspectors, one after the other, through the same housing complexes.

In addition, this amendment would require all employers to obtain a special medical examination before they can drive a vehicle in which their employees are transported. We have to keep in mind that all agricultural employers are considered to be "migrant workers" by the Labor Department under this act, regardless of whether they live permanently in the area of employment or migrate from another State. While driver safety is certainly an essential protection, it is an area that is exhaustively regulated by State governments. It is hard for me to understand why farmers and agricultural producers should be singled out for special medical examinations, as they would be under this amendment.

Mr. President, I am very concerned that migrant workers receive adequate protection. However, I am not convinced that the Williams-Javits amendment adds materially to that protection.

The language embodied in this resolution is of relatively short duration and in all likelihood would be replaced with a new Farm Labor Contractor Registration Act long before this resolution expires. I want to stress how important it is to me that this issue be acted on next year. It should be the subject to intensive hearings, as it touches upon some rather complex domestic and international issues. If further regulation of farmers and agricultural producers is needed to protect migrant workers, then it should be done carefully and deliberately, not in the rush of legislation before a lameduck Congress anxious to adjourn.

I must confess that I was extremely disappointed that the promised hearings on S. 2789 and S. 2875 on August 19, 1980, before the Labor and Human Resources Committee were not held. I believe, and I am certain that the rest of my colleagues will agree with me, that had that hearing taken place this issue would not be before us today. I intend to make certain that this promise is kept next session, and look forward to working with the Members of this body on this pressing issue.

Mr. CHILES. We do not do anything that extends the act. It says, a farm labor contractor shall not include any full-time or regular employee, or entity referred to, that engages in the activity solely for his employer, on an incidental basis.

Mr. JAVITS. I must say, I believe it applies, clearly.

Mr. WARNER. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from New Jersey to the language in the bill by the distinguished Senator from Florida.

In view of the very restrictive course of action pursued by the Department of Labor, I would like assurance that this language on lines 8 and 9 would include in the definition of farmers, the fruit growers, because a number in my State are severely affected by this problem. I hope they would be covered by the language contained in the bill as submitted.

Mr. CHILES. I say to the distinguished Senator from Virginia that I think they are definitely covered.

Mr. WARNER. I thank the Senator.

● Mr. KENNEDY. Mr. President, I join my colleagues here in urging that the Senate adopt the substitute amendment of the Senator from New Jersey. I know that considerable discussion of this amendment has already occurred and I do not wish to belabor the issue further. However, I believe that several points do deserve additional commentary.

First, we are not asking the Senate to alter materially the amendment offered in the appropriations committee by the Senator from Florida. The Williams substitute merely clarifies the ambiguities of that amendment to provide that farmers, canners, ginners, packing shed operators, food processors, farmer-owned cooperatives, and their full-time permanent employees, are exempted from specific burdensome provisions of the Farm Labor Contractor Registration Act about which they have complained.

While I know that the Chiles amendment was intended to accomplish this limited purpose, the language of the amendment is unnecessarily vague. If we are intending to exempt farm employers and their employees from registration, fingerprinting, et cetera, we should say so as clearly as we can. The Williams substitute does this by deleting the language that is not essential to achieve clearly this intent.

Second, it should also be understood that this continuing resolution is not an appropriate vehicle for the substantive amendment of the Farm Labor Contractor Registration Act. This law is too important to our Nation's farm laboring population for the Senate to enact legislative changes that have not been the subject of proper hearings by the committee with jurisdiction. I think there are legitimate questions about the Chiles amendment's full thrust and effect. The fact that the ranking members of the committee with jurisdiction are here proposing a very moderate substitute suggests these questions can be answered with some modest clarifying changes. We owe it to America's farm workers to reject any changes that could have legislative, as opposed to funding, effects.

Third, I urge my colleagues to put this amendment in some perspective. Farm employers have come to the Congress asking for a limitation on the activities of the U.S. Department of Labor, which they claim have burdened them with complaints over meaningless administrative compliance under this law. I make no assertion with respect to that. However, it should be pointed out that a new administration will soon assume responsibility for the direction of the Department's enforcement of the law. It is safe to conclude that a thorough review of the past administration's polices will be among the priorities of the new Secretary of Labor. We would do well, I think, to give the new Secretary the clearest instructions possible about the funding limitation imposed by this body. Vagueness or uncertainty about the limitation imposed here will only result in further controversy. I think we can and should avoid that prospect.

Fourth, I think it is well to remember that this law was instituted to try and protect the lives, well-being and rights of farm workers after extensive documentation of abuse.

I only have to ask my colleagues to recall the studies and reports over the years, the television documentary "Harvest of Shame," the suits that the Justice Department has filed of slavery because of the conditions imposed on some farm laborers.

While there may be reforms needed in the law, let us not act hastily today and endanger the people this law now protects.

Finally, in recognition of the concerns raised this year about amendments to the act, I want to go on record as supporting an adequate review in the next Congress. Since the amendment being debated today is a funding limitation only and not a substantive legislative change, some amendment of the act is obviously necessary. I hope and expect that the Labor and Human Resources Committee will commit itself to a review of the act and to report a bill in the first session of the 97th Congress. Speaking for myself, I will certainly be urging this course.●

Mr. CHILES. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The motion to table has been made. The question is on the——

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from New Jersey. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HEINZ (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. MORGAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Iowa (Mr. JEPSEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The PRESIDING OFFICER (Mr. BAUCUS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 41, as follows:

[Rollcall Vote No. 524 Leg.]

YEAS—46

Armstrong
Baker
Bellmon
Bentsen
Boren
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Humphrey
Johnston
Kassebaum
Laxalt
Lugar
McClure
Nunn
Pressler
Pryor
Roth
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stone
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—41

Baucus
Bayh
Biden
Boschwitz
Burdick
Chafee
Church
Cranston
Culver
Eagleton
Ford
Glenn
Hart
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Stewart
Tsongas
Weicker
Williams

ANSWERED "PRESENT"—1

Heinz

NOT VOTING—12

Bradley
Cannon
Cohen
Durkin
Gravel
Jepsen
Long
Mathias
McGovern
Morgan
Talmadge
Tower

So the motion to table the amendment (UP No. 1870) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BOREN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT BEGINNING ON PAGE 33, LINE 11 THROUGH PAGE 38, LINE 13

The PRESIDING OFFICER. The clerk will report the committee amendment on page 33.

Mr. RANDOLPH. Mr. President, I ask unanimous consent to set——

Mr. CHAFEE. Mr. President, I could not hear that request.

The PRESIDING OFFICER. The Senator is correct, the Senate is not in order.

Mr. RANDOLPH. Mr. President, I ask unanimous consent to set that amendment aside for a moment. I would like to say——

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. I object, pending an explanation of this.

Mr. CHILES. I think we are ready to take up——

Mr. RANDOLPH. This is not the black lung matter, I would say, although it is not a matter we have discussed with you, Senator CHAFEE, with reference to the black lung program.

Mr. CHAFEE. This has nothing to do with that subject?

Mr. RANDOLPH. It has to do with some necessity for additional lawyers to take care of the black lung cases that are backed up.

Mr. CHAFEE. I will have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, what is the regular order?

The PRESIDING OFFICER. The regular order is the committee amendment on page 33, which the clerk will report.

The assistant legislative clerk read as follows:

Page 33, line 11, insert section 155(a).

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment is as follows:

SEC. 155. (a) For purposes of this section—

(1) the term "committee" means a standing, select, joint, or special committee of the Senate, whose funds are disbursed by the Secretary of the Senate;

(2) The terms "committee chairman" and "ranking minority member" mean the chairman and ranking minority member of any such committee as of the beginning of the Ninety-seventh Congress;

(3) the term "eligible staff member" means an individual who—

(A) was a member of a staff of any such committee, or subcommittee thereof, on January 2, 1981, and had served continuously thereon (except for any period of four days or less) since November 1, 1980, and

(B) has served continuously (except for any period of four days or less) as an employee of the Senate for one year immediately preceding his termination of service; and

(4) the term "displaced staff member" means an eligible staff member whose service as an employee of the Senate is terminated on or after January 2, 1981, solely and directly as a result of the reorganization of the staff of a committee caused by the transition to a Senate in which a majority of Senators are members of the Republican Party, and who is certified as a displaced staff member by the committee chairman and ranking minority member of such committee.

(b) The committee chairman and ranking minority member of each committee shall certify to the Committee on Rules and Administration the name of each displaced staff member of such committee before the later of—

(1) January 12, 1981, or

(2) the tenth day after the date on which the displaced staff member's service is terminated.

(c) Under regulations prescribed by the Committee on Rules and Administration and subject to the succeeding provisions of this section, each displaced staff member shall be entitled, upon application to the Committee on Rules and Administration, to be paid severance pay in regular pay periods of the Senate.

(d) Severance pay of a displaced staff member consists of a basic severance allowance computed on the basis of one week's (seven days) basic pay at the rate received by such staff member as of November 1, 1980, for each year of civilian service up to and including ten years, and two weeks' basic pay at that rate for each year of civilian service beyond ten years.

(e) Total severance pay under this section shall not exceed three months' pay at the rate as of November 1, 1980, received by a displaced staff member.

(f) Severance pay under this section shall be paid from any available funds which are or have been appropriated under the heading "SENATE".

(g) A displaced staff member shall not be entitled to severance pay under this section if, at the time of the termination of his service, he—

(1) is receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or is entitled to receive an immediate annuity under such subchapter, or

(2) is receiving retirement or retired pay or an annuity under any other retirement law or retirement system for employees of the United States or the District of Columbia or members of the uniformed services (other than retired pay for nonregular service under chapter 67 of title 10, United States Code), or is entitled to receive such pay or an immediate annuity under such law or system.

(h) A displaced staff member shall not be paid severance payments under this section during any period with respect to which he—

(1) is an employee of the United States Government or the government of the District of Columbia; or

(2) is entitled to receive a deferred annuity under subchapter III of chapter 83 of title 5, United States Code, or under any retirement law or system referred in subsection (g) (2),

and his severance pay shall be reduced by an amount equal to the payment he would have received for such period if he had not met the condition specified in paragraph (1) or (2).

(i) To receive severance pay for any month (or portion thereof), a displaced staff member shall submit to the Secretary of the Senate, as soon as possible after the close of such month, a notarized statement setting forth—

(1) whether or not he was employed or self-employed during such month (or portion) or received unemployment compensation for such month (or portion); and

(2) the amount of compensation received or receivable for services performed as an employee during such month (or portion), the amount of net earnings received or receivable from self-employment during such month (or portion), and the amount of unemployment compensation received or receivable for such month (or portion).

(j) The amount of severance pay to which a displaced staff member is otherwise entitled for a month (or portion thereof) shall be reduced by the sum of the amounts set forth under subsection (i) (2) in the statement submitted by him for such month (or portion). If a statement for a month (or portion) is not submitted by a displaced staff member to the Secretary of the Senate within sixty days after the close of such month (or, if later, within sixty days after the date of enactment of this joint resolution), the gross amount of severance pay to which such displaced staff member is otherwise entitled under this section shall be reduced by the amount of severance pay which would otherwise have been paid to him for such month (or portion).

(k) In the event of the death of a displaced staff member, any unpaid severance pay to which the displaced staff member is entitled shall be paid to the widow or widower of the displaced staff member or, if no widow or widower, to the heirs at law or next of kin of such deceased displaced staff member.

(l) Severance pay paid under this section shall not be treated as compensation for purposes of any provision of title 5, United States Code, or of any other law relating to benefits accruing from employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision or law.

(m) For purposes of this section, the Office of the Vice President, with respect to funds appropriated under the heading, "Salaries, Officers and Employees", shall be considered a committee.

Mr. MAGNUSON. Mr. President, may we have order so that we can understand what is going on?

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Florida suspend until we get some order?

Mr. MAGNUSON. Mr. President, let us have some order.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. HARRY F. BYRD, JR. Mr. President, I think I have the floor.

Mr. CHILES. I wonder if the Senator will yield. I listened to the distinguished Senator from Virginia and I thought he said after we completed this business we would go to his amendment. Now what we had was the Williams modification, the Williams amendment, to the committee amendment, and we have not disposed of the committee amendment. We have simply tabled the Williams amendment, and I wanted to ask the Presiding Officer if it is not true that we have not disposed of the committee amendment, and I wondered if the Senator would allow us to do that and then proceed with the regular order of business.

HARRY F. BYRD, JR. Yes, of course.

The PRESIDING OFFICER. The Senator is correct. The Senate has not disposed of the committee amendment.

Mr. STEVENS. Mr. President, I asked what the regular order was. Was the previous amendment not disposed of?

Mr. MAGNUSON. The regular order was disposed of, but the committee amendment to which it was offered was not disposed of.

Mr. CHILES. I think we should proceed to that committee amendment and dispose of it.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Why would it have to be without objection? It is the pending business, is it not?

Mr. HARRY F. BYRD, JR. Mr. President, I move the adoption of the committee amendment.

The PRESIDING OFFICER. The unanimous-consent request is to go to the committee amendment on page 33.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair asks the Senator on what he asks for the yeas and nays?

Mr. METZENBAUM. On the committee amendment.

The PRESIDING OFFICER. That is on page 33?

Mr. HARRY F. BYRD, JR. No. I think the Chair is in error on that. It is the committee amendment which the Senate will be working on.

The PRESIDING OFFICER. The Senate is presently on the committee amendment on page 33.

Mr. MAGNUSON. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. There is a unanimous-consent request to go to the committee amendment on page 44.

Mr. MAGNUSON. Mr. President, is not the pending business the committee amendment? We disposed of the Williams amendment and the committee amendment is before the Senate, and the Senator from Ohio has asked for the yeas and nays on the committee amendment.

Mr. METZENBAUM. That is correct.

Mr. MAGNUSON. Which is substantially what the Senator from Florida has proposed.

Mr. CHILES. I think, Mr. President, the parliamentary snarl is that the Senator from Virginia asked for unanimous consent to take up certain committee amendments on page 33 pending the disposal of the Williams amendment. I thought he meant the pending disposal of the Williams amendment and the committee amendment which we were discussing.

Mr. HARRY F. BYRD, JR. The Senator is correct.

COMMITTEE AMENDMENT BEGINNING ON PAGE 44, LINE 17, THROUGH LINE 8 ON PAGE 45

Mr. CHILES. I think the way out of the thicket is to ask unanimous consent that we now dispose of the committee amendment on page 44, and if the Senator from Ohio wants to ask for the yeas and nays, then that is all right with this Senator.

Mr. METZENBAUM. That I have done.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. There is no objection on this request. I am asking for the yeas and nays. Why are we asking if there is objection?

The PRESIDING OFFICER. It would take unanimous consent to return to the committee amendment on page 44. Is there objection to returning to that committee amendment? Without objection, it is so ordered.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 44, line 17, through line 8 on page 45. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HEINZ (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from North Carolina (Mr. MORGAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Iowa (Mr. JEPSEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 47, nays 41, as follows:

[Rollcall Vote No. 525 Leg.]

YEAS—47

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Humphrey
Kassebaum
Laxalt
Lugar
McClure
Nunn
Percy
Pressler
Pryor
Roth
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stone
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—41

Baucus
Bayh
Biden
Burdick
Chafee
Church
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Hart
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Stewart
Tsongas
Weicker
Williams

ANSWERED "PRESENT"—1

Heinz

NOT VOTING—11

Bradley
Cannon
Cohen
Gravel
Jepsen
Johnston
Long
Mathias
Morgan
Talmadge
Tower

So the committee amendment on page 44, line 17, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to ascertain how many amendments there are remaining, committee amendments and amendments from the floor, and whether or not time agreements can be reached. How many committee amendments are there remaining? I understand there are three more.

Mr. MAGNUSON. There are three more committee amendments.

Mr. STEVENS. Mr. President, if the Senator will yield, I have discussed with the Senator from Virginia (Mr. HARRY F. BYRD, JR.) that on the next two amendments he and I will be addressing we are prepared to agree to a time limit of 20 minutes to a side. I do not know whether or not there will be a rollcall vote required on either or both amendments. A time limit of 20 minutes to a side would be adequate and probably not all will be used.

Mr. STONE. Mr. President, I have an amendment on which I would require 5 minutes on my side and 5 minutes in opposition.

Mr. ROBERT C. BYRD. Mr. President, on the remaining committee amendments, I wonder if we can get an agreement on them first. How about 15 minutes to a side?

Mr. STEVENS. All right.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of 30 minutes on each of the remaining committee amendments to be equally divided in accordance with the usual form.

Mr. BUMPERS. Reserving the right to object, can we have 15 minutes for any amendments in the second degree?

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. As I understood, it would be 30 minutes on original amendments equally divided. I am simply suggesting to add 15 minutes for any amendment in the second degree to the committee amendments.

Mr. ROBERT C. BYRD. Fifteen minutes equally divided?

Mr. BUMPERS. Make it 20 minutes equally divided.

Mr. ROBERT C. BYRD. All right. In accordance with the usual form, and with the understanding that those amendments to amendments have to be germane to the amendments.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. My understanding is that that means a half hour to a side on the three committee amendments and 20 minutes on any amendments to these amendments.

The PRESIDING OFFICER. Yes.

Mr. ROBERT C. BYRD. Mr. President, could I also suggest to my colleague that action on this measure has to be completed before the Senate adjourns sine die. It will have to go to conference and the conference report will have to be agreed to before the Senate can adjourn.

I would suggest to the distinguished minority leader that our respective cloakrooms or our respective staffs attempt to ascertain from those Senators who still have amendments what kind of time agreements they might be agreeable to.

Mr. BAKER. Mr. President, if the majority leader will yield, I might tell him that Senator STEVENS has already taken that inventory and we should have a result before long. At the same time, we, too, will shop for the possibility of time limitations. I agree with the majority leader, the distinguished chairman of the committee, and the ranking minority member that we ought to do this as promptly as possible.

I put our Members on notice that we will be in late tonight. I have no idea how far we can get or whether we can finish, but we need to finish as soon as we can. I hope that Members who may hear this colloquy between me and the majority leader will let us know if they have amendments and will agree to an expeditious handling of those amendments on the basis I have just described.

Mr. ROBERT C. BYRD. Mr. President, I share the minority leader's viewpoint. I would also express the hope, probably without much feeling that the hope will be realized, that Senators would restrain themselves from calling up amendments. This is an appropriation bill. Senators who call up legislative amendments, of course, run the risk of points of order being raised, delaying the Senate, and the House, of course, will find it difficult to take those amendments. We are just wearing on the Senate, taking the time of the Senate. Today is Wednesday. The House will go out Friday until Monday. So if we do not get a conference report back by the close of business Friday, we have to be in Monday again.

Mr. BAKER. Mr. President, if the majority leader will yield to me, I am sure all Members realize, I believe my memory is correct, that the continuing resolution under which we are operating now expires on Monday.

Mr. MAGNUSON. On December 15.

Mr. BAKER. Which is Monday.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators. We shall attempt to get further time agreements.

COMMITTEE AMENDMENT BEGINNING OF PAGE 33, LINE 11 THROUGH PAGE 38, LINE 13

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. STEVENS. Mr. President, I have at the desk a modified version of the committee amendment. I ask that it be called up.

Mr. BOREN. Will the Senator withhold that request for a minute so I may move to reconsider the vote by which the previous committee amendment was agreed to?

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STEVENS MODIFICATION

Mr. STEVENS. Mr. President, there were some errors in the committee amendment. I am calling up the committee amendment to modify it.

Mr. ARMSTRONG. Will the Senator yield for a brief inquiry by the Senator from Colorado?

Mr. STEVENS. May I see if we can get this straightened out first, Mr. President? Is there some problem with my doing that, Mr. President?

The PRESIDING OFFICER. Will the Senator repeat his request?

Mr. STEVENS. I ask unanimous consent that I may present a modified amendment in place of the amendment that is before us under the time agreement, which is the amendment that the Senator from Virginia——

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, I do not know what amendment the Senator from Alaska is talking about.

Mr. STEVENS. We are talking about section 155. Is that not the amendment the Senator is interested in? It needs some modification and I offer that amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I would like to have the Senator explain the modification before I agree to the unanimous-consent request.

Mr. STEVENS. I am prepared to discuss that. I yield to the Senator from Colorado for the purpose of his question.

Mr. ARMSTRONG. In this corner of the room, Mr. President, we could not quite hear what was decided about the order of amendments. Since I have some I would like to offer, if the Senator from Alaska would tell us what his order is——

Mr. STEVENS. It is my understanding that we are proceeding now on section 155. Then we shall proceed to section 154. The committee amendment—what is the page number of the last committee amendment, I ask the Chair?

Mr. HARRY F. BYRD, JR. Reserving the right to object, Mr. President, I have been informed that this is a very far-reaching amendment. I am not prepared to accept a unanimous-consent agreement to substitute this for what is in the committee amendment unless we have a good bit of time to study it.

Mr. STEVENS. I am going to do that, I say to the Senator from Virginia. I agree I should do that. There are two modifications that should be made and I am prepared to make that explanation within my time.

Mr. HARRY F. BYRD, JR. Before the unanimous-consent request is agreed to.

Mr. STEVENS. I did withdraw that, I say to my friend.

Mr. ARMSTRONG. Mr. President, I understand we are going to proceed now to the consideration of three committee amendments?

Mr. STEVENS. Yes, Mr. President, the balance of the committee amendments. And following that, the Senator from Montana will offer his amendment.

Mr. ARMSTRONG. Are there other amendments stacked up?

The PRESIDING OFFICER. The Chair informs the Senator from Alaska that there are four committee amendments remaining.

Mr. STEVENS. I was incorrect.

Mr. ARMSTRONG. I have seven amendments I wish to offer. I shall fall right in behind the Senator from Montana or whoever is ahead of me.

BILL HELD AT DESK—AMENDMENT OF COMMUNICATIONS ACT OF 1934

Mr. INOUYE. Will the Senator yield for 30 seconds?

Mr. STEVENS. I am happy to yield to the distinguished Senator from Hawaii.

Mr. INOUYE. Mr. President, I send to the desk a bill to amend section 222 of the Communications Act of 1934. It has been cleared on both sides. I ask unanimous consent that this bill be held at the desk for consideration later this day or tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CONTINUING APPROPRIATIONS, 1981

The Senate continued with consideration of the bill.

Mr. CHAFEE. Mr. President, have we agreed on a time limitation to Senator STEVENS' proceeding?

Mr. STEVENS. I hope my time is not limited, but it is a half hour.

Mr. CHAFEE. Mr. President, is the order to proceed to 155?

Mr. STEVENSONS. Yes, 155, then 154.

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. I address the Senator from Alaska. The agreement for the time limitation was on section 155. There is no agreement for a time limitation on the substitute that the Senator from Alaska is presenting.

Mr. STEVENS. Mr. President, the Senator is right. If it is not modified, it will not be presented, that is correct. I hope the Senator will allow me to start and proceed through.

Has my time started yet, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I ask unanimous consent that we start all over, then. I am going to need 15 minutes.

The PRESIDING OFFICER. Is there objection to the Senator's request to start over again? Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, there is no time limitation on this amendment the Senator from Alaska is presenting.

Mr. STEVENS. I say to my good friend, the modified amendment is not before us. We have a 15-minute time agreement on each side on the amendment that is before us. I shall attempt to modify that amendment after I explain what I want to do.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, this amendment, No. 155—there are two in the bill and at the request of the Senator from Virginia, we are taking the one on page 33, section 155, first.

This deals with severance pay for displaced staff members of the Senate. Severance pay for staff members of the Senate was first authorized by Senate Resolution 239, agreed to August 5, 1977. This came about as a result of the Committee System Reorganization Amendments of 1977 (S. Res. 4, agreed to February 4, 1977).

Senate Resolution 239 authorized severance pay to any eligible committee staff member who was displaced as a result of the reorganization of Senate committees in February 1977. Severance pay was authorized on the basis of 7 days pay for each year, or portion thereof, of service as an employee of the Senate. The maximum severance that could be paid was 90 days.

By contrast, the executive branch is authorized to pay up to 1 year of severance pay to employees who are involuntarily separated. In addition, Federation employees so separated are entitled to take their accrued leave in a lump sum. And they can credit their sick leave toward retirement.

Mr. President, I submit the amendment in the bill is a very fair one. Times have changed. We have built into the federal system a concept of severance pay. When I was presented with this amendment, I rewrote it in the committee and the committee adopted the amendment that is before us now. I do have some amendments, some modifications I would like to make to that because of matters that have come to our attention.

Let me point out this is more stringent than the provisions applicable to those people in the executive branch who will be displaced as a result of the transition. This amendment provides for a maximum of 3 months as opposed to the time, 1 year, in the executive branch. It will permit that maximum only for those people who have 10 years' service in the Senate. Most employees will receive very much less. They will be entitled to 7 days' pay for every year of service based on the rate of pay that they had on November 1, 1980, prior to the election.

In addition, the amount of severance pay that any person who is a displaced staff member will receive in the amendment that is in the committee bill will be reduced by any unemployment compensation received or any other earned compensation received. That is not true for the executive branch.

Nor is any staff member eligible for severance pay if he or she retires or is in any way eligible for a Federal annuity.

Mr. President, that is the committee amendment that is before us that my good friend from Virginia asked questions about. Let me explain what else will be in the modification.

In the first place, there are some who have raised the question as to whom this amendment applies to. Some have said that it would apply only to so-called Democratic staffers. I use the word "so-called" because my experience in committees has been that professional staff people are professional. They have responded to my requests as a Member of the minority, even though they may have been employed originally by a Member of the majority. They are professional people.

There are some who were displaced who were, in fact, employed by Republicans in the first instance. So to make that certain, there is an amendment in the modification that makes sure that all committee staffers will be treated equally if they are displaced by the reorganization.

Other Members have indicated that the amendment, as the Appropriations Committee included in the bill, did not treat fairly the staffs of departing Members. This amendment has been revised to deal with that. Under the provisions of this revision, each departing Member will be permitted to pay his departing employees up to 30 days leave in a lump sum—which, again, is comparable to that in the executive branch concept. But it must be paid out of the allowance of the departing Member.

It will not come out of the sums of the Senate. It will come out of those sums made available to the Senator or the Congressman during his or her time up to January 5.

At the request of the other Members, we have revised this amendment so as to include those few committee staffers who were off the payroll for a brief period of time.

I do not know how many others do this, but from time to time as to those people who worked with me in committees, I moved them over to my personal payroll so that they might take advantage of my allowance for travel, to go to my State, when there was not travel money available from the committee.

Throughout 1980, that has happened. If the amendment is not there, those people who are moved to a different payroll might not be eligible otherwise.

I consider that a technical amendment.

Mr. President, I think this amendment has and ought to have bipartisan support.

We will be in control on this side of the aisle of the next Congress for the first time in 26 years.

We are trying to bring about a smooth transition in the Congress as well as it must be smooth in the executive branch.

Congress, by law, has been more generous in this concept with every career person in the executive branch who will be displaced.

I will be glad to answer any questions. I think it is a very fair amendment and very fair treatment.

Inasmuch as I hope to be around for at least another 25 years, when the pendulum swings back, I will remind my colleagues on the other side of the aisle of the fact that this should be a tradition of the Senate.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the committee amendment, section 155, which is before the Senate, establishes, I believe, a new precedent.

If I am incorrect in that, I would be glad for someone, the Senator from Alaska or whoever, to correct me.

This, for the first time, would grant severance pay to members of committee staffs. The question of whether they are a Democrat or Republican is not the point.

The thought occurs to me, do we want to establish that precedent?

The Senator from Alaska in his new proposal apparently broadens that. He is not only going to grant severance pay to members of committee staffs, but he is going to include the offices of 18 Senators who no longer will be in the Congress or the Senate next year.

So the new proposal of the Senator from Alaska broadens greatly what the committee has recommended.

It is not pleasant for me to object to this proposal. We have good staff people in the Senate. I do not like to rise in opposition, except that I think it is a bad precedent. I think it goes counter to what the people want. They want some sacrifice in Washington.

Never before have staff people been granted a severance pay. If the Senate wishes to establish that precedent, it has the right to do it tonight.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, may I ask, does the Senator still object to my offering the modification, as a modification, can we have one vote?

He has asked for the yeas and nays. I cannot modify the amendment.

I would be glad to offer it as an amendment to the amendment, but that will take another vote. Why can we not have one vote up or down on the modification?

Mr. HARRY F. BYRD, JR. That modification broadens the committee proposal.

Mr. STEVENS. I say again, it broadens it three ways. One, out of the funds available to a Senator, he can pay a departing employee a lump sum of up to 30 days from the moneys available to him up to January 5.

Frankly, any departing Member can do that right now. He can raise the pay of every one of his people if he wishes to do it.

This is a more orderly way and more similar to the way we treat every other departing career employee in the Federal Government.

Second, it does treat equally those people who are so-called Republican or Democratic staffers, based on who originally hired them.

Mr. HARRY F. BYRD, JR. Does the Senator mean the last proposal by the committee did not treat them equally?

Mr. STEVENS. The way it was drafted it did not come out that way. There was no such intent. It was an error on my part. I seek to correct that.

Third, it also deals with the question, as I pointed out, of moving from a Member's staff to a committee staff in 1980.

If that technical amendment is not in there, many other people who are otherwise eligible would be disqualified.

We estimate there are not more than 500 employees able to take advantage of this in a full way because, again, any compensation a person receives within the time frame covered by this must be credited toward it, and it is a bridge to future employment.

If these people were downtown in the executive branch, they could be paid up to a year. They would get all their accrued leave time and their sick leave would be automatically credited toward their retirement.

We are not doing that. We have fashioned this so it will be more consistent with the action taken by the Senate in 1977 in providing severance pay for those committee staff members affected by the reorganization of 1977.

So I have to correct my good friend. There is a precedent for it here. We did do it in the Senate at that time.

Mr. HARRY F. BYRD, JR. How many people were involved?

Mr. STEVENS. About 25 eligible, I am informed. Only about 10 took it at that time.

At this time, we estimate there will be approximately 500 that will be eligible.

Most employees are able to go out and start looking for a job. Others must devote their time to this body until the day they leave.

Someone said once, "Why is the Senator from Alaska getting involved in this?"

I will say why. I was downtown on January 20, 1960, and I remember full well leaving this town without any benefits at all and wending my way back home. At that time, I thought it was unfair.

Since then, Congress has adequately provided for the members of the executive branch. I see no reason why Federal employees working for the Congress should be treated so much differently from those who work for the executive branch. This is a matter of equity from my point of view.

But I hope the Senator will permit me to modify the amendment as I indicated, in those three ways, and have an up-or-down vote on the modified amendment.

Mr. HARRY F. BYRD, JR. I am glad to do that, if it makes the amendment broader and establishes a broader principle.

Mr. STEVENS. It does that.

The main item, I say to my friend, is that a departing Member may instruct the Disbursing Office to disburse to any departing employee up to 30 days' pay, payable on November 1, now, from the amounts available to that member as of that day, January 5.

Mr. HARRY F. BYRD, JR. It is still the taxpayers' money.

Mr. STEVENS. It is, but they could do it right now and seriously disrupt the Senate and the House.

Those people who allow their people to leave early will disrupt the orderly workings of this Congress if the emplyees are not here to continue the functions of the Senate and the House.

We could be called back into session. We do have several matters in the world that are very disturbing.

We are going home Friday or Monday, but we could come back at any time, and these employees should remain here until January 5.

It is hard to get people to do that knowing they will be affected by something they had no control over.

I believe this is only fair.

Mr. President, I ask unanimous consent the amendment be modified by the substitute I have at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. 155. (a) For purposes of this section—

(1) the term "committee" means a standing, select, joint, or special committee of the Senate, whose funds are disbursed by the Secretary of the Senate;

(2) the terms "committee chairman" and "ranking minority member" mean the chairman and ranking minority member of any such committee as of the beginning of the Ninety-seventh Congress;

(3) the term "eligible staff member" means an individual who—

(A) was a member of a staff of any such committee, or subcommittee thereof, on January 2, 1981, and had served continuously thereon (except for any period of four days or less) since November 1, 1980, and

(B) has served continuously (except for any period of four days or less) as an employee of the Senate for one year immediately preceding his termination of service; and

(4) the term "displaced staff member" means an eligible staff member whose service as an employee of the Senate is terminated on or after January 2, 1981, solely and directly as a result of the reorganization of the staff of a committee caused by the transition to a Senate in which a majority of Senators are members of the Republican Party, and who is certified as a displaced staff member by the committee chairman and ranking minority member of such committee.

(b) The committee chairman and ranking minority member of each committee shall certify to the Committee on Rules and Administration the name of each displaced staff member of such committee before the later of—

(1) January 12, 1981, or

(2) the tenth day after the date on which the displaced staff member's service is terminated.

(c) Under regulations prescribed by the Committee on Rules and Administration and subject to the succeeding provisions of this section, each displaced staff member shall be entitled, upon application to the Committee on Rules and Administration, to be paid severance pay in regular pay periods of the Senate.

(d) Severance pay of a displaced staff member consists of a basic severance allowance computed on the basis of one week's (seven days) basic pay at the rate received by such staff member as of November 1, 1980, for each year of civilian service up to and including ten years, and two weeks' basic pay at that rate for each year of civilian service beyond ten years.

(e) Total severance pay under this section shall not exceed three months' pay at the rate as of November 1, 1980, received by a displaced staff member.

(f) Severance pay under this section shall be paid from any available funds which are or have been appropriated under the heading "SENATE".

(g) A displaced staff member shall not be entitled to severance pay under this section if, at the time of the termination of his service, he—

(1) is receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or is entitled to receive an immediate annuity under such subchapter; or

(2) is receiving retirement or retired pay or an annuity under any other retirement law or retirement system for employees of the United States or the District of Columbia or members of the uniformed services (other than retired pay for nonregular service under chapter 67 of title 10, United States Code), or is entitled to receive such pay or an immediate annuity under such law or system.

(h) A displaced staff member shall not be paid severance payments under this section during any period with respect to which he—

(1) is an employee of the United States Government or the government of the District of Columbia; or

(2) is entitled to receive a deferred annuity under subchapter III of chapter 83 of title 5, United States Code, or under any retirement law or system referred to in subsection (g) (2),

and his severance pay shall be reduced by an amount equal to the payment he would have received for such period if he had not met the condition specified in paragraph (1) or (2).

(i) To receive severance pay for any month (or portion thereof), a displaced staff member shall submit to the Secretary of the Senate, as soon as possible after the close of such month, a notarized statement setting forth—

(1) whether or not he was employed or self-employed during such month (or portion) or received unemployment compensation for such month (or portion); and

(2) the amount of compensation received or receivable for services performed as an employee during such month (or portion), the amount of net earnings received or receivable from self-employment during such month (or portion), and the amount of unemployment compensation received or receivable for such month (or portion).

(j) The amount of severance pay to which a displaced staff member is otherwise entitled for a month (or portion thereof) shall be reduced by the sum of the amounts set forth under subsection (i) (2) in the statement submitted by him for such month (or portion). If a statement for a month (or portion) is not submitted by a displaced staff member to the Secretary of the Senate within sixty days after the close of such month (or, if later, within sixty days after the date of enactment of this joint resolution), the gross amount of severance pay to which such displaced staff member is otherwise entitled under this section shall be reduced by the amount of severance pay which would otherwise have been paid to him for such month (or portion).

(k) In the event of the death of a displaced staff member, any unpaid severance pay to which the displaced staff member is entitled shall be paid to the widow or widower of the displaced staff member or, if no widow or widower, to the heirs at law or next of kin of such deceased displaced staff member.

(l) Severance pay paid under this section shall not be treated as compensation for purposes of any provision of title 5, United States Code, or of any other law relating to benefits accruing for employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision or law.

(m) For purposes of this section, the Office of the Vice President, with respect to funds appropriated under the heading, "Salaries, Officers and Employees", shall be considered a committee.

(n) (1) For purposes of the preceding provisions of this section, an individual shall be deemed to be an "eligible staff member" if—

(A) he was a member of the staff of a committee (as defined in subsection (a) (1) of this section) on January 2, 1981, and

(B) during the calendar year 1980, he was an employee of the Senate for at least 183 days (whether or not his service was continuous).

(2) If an individual who is deemed to be an eligible staff member under paragraph (1) of this subsection was not a member of the staff of a committee (as defined in subsection (a) (1) of this section) on November 1, 1980, the provisions of subsections (d) and (e) of this section shall be administered as if the date "November 1, 1980", as contained therein, referred to the most recent day prior thereto that such individual was an employee of the Senate.

(o) For purposes of the preceding provisions of this section, the term "displaced staff member" also includes an eligible staff member (as defined in subsection (a) (3) of this section) whose service as an employee of the Senate is terminated on or after January 2, 1981, as a result of reorganizations (or consolidations) of committees of the Senate or of the cessation of service by a Senator who on November 4, 1980, was serving as chairman or ranking minority member of a committee (as defined in subsection (a) (1) of this section) or a subcommittee thereof, and who is certified as a displaced staff member by the committee chairman and ranking minority member of such committee.

(p) (1) Whenever the service of an individual, who is an employee in a Senator's office, is terminated because the Senator's service as a Member of the Senate ceases, such employee shall be entitled to be paid in a lump sum for such accumulated leave, not in excess of 30 days, as the Senator in whose office he was employed shall certify to the Secretary of the Senate to be due to such individual.

(2) No employee shall be entitled to a lump-sum payment under this subsection unless he was an employee in a Senator's office on November 1, 1980, and unless his position in such office was terminated after such date and prior to January 6, 1981.

(3) The amount payable to any individual under this subsection shall be paid from any funds available to pay for clerk hire or any other expenses of the Senator in whose office the individual was an employee.

Mr. HARRY F. BYRD, JR. I have no objection, but, in my judgment, it is a bad precedent of the Senate. It is very far-reaching, and it is going to be an undesirable precedent, I believe. I shall vote against it.

Mr. STEVENS. I understand that the vote will take place on the committee amendment as modified by my amendment.

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. Mr. President, I should like to ask a question of the Senator from Alaska.

The Senator stated that members of the executive branch are taken care of when an administration ends. How does that work out?

Mr. STEVENS. An executive branch employee is authorized to receive severance pay, if he or she is involuntarily separated, by a payment of up to 1 year of severance pay. It is based on the number of years of employment. They also are entitled, as I said, to take their accrued leave in a lump sum payment on the day they leave, and they also are entitled to have their sick pay credited toward their retirement.

Mr. CHAFEE. I am not talking about those in the civil service. I am talking about Presidential appointees or noncivil service.

Mr. STEVENS. That is not for Presidential appointees. It is for career people. We are dealing with career people in Congress in this amendment. We are not dealing with Members in this. We treat Members the same as we treat Presidential appointees. We treat our employees the same as we treat career people in the Federal Government.

Mr. CHAFEE. Let us take an Assistant Secretary of the Treasury or of Commerce, of some type, and that person's services are terminated at the conclusion of the administration. That person receives nothing. He cannot collect any sick pay or any of this type of pay that the Senator from Alaska suggests. Is that not correct?

Mr. STEVENS. A political appointee, as I understand it, will not benefit, except to the extent of the accrued leave time, which will be similar here to the time we are giving—the provision for paying the Member's employees. As for political appointees, this treats our political appointees in a similar manner. The employees of the Senate will be treated as the employees of the career service in the executive branch.

Mr. CHAFEE. Let us take an employee of a departing Senator. Which category does that person fit into?

Mr. STEVENS. An employee of a departing Senator, under this amendment, could be paid, if the departing Senator so determines, severance pay up to 30 days, which would be paid on the departing day, as the lump sum payment is paid in the executive branch.

There is no limit in the executive branch. That is accrued leave. It could be many, many days. This is 30 days.

The Senate has no comprehensive leave schedule for Members' employees. Therefore, we cannot use the same system and base it upon accrued leave. This leaves it to the Senator or Representative to determine how much severance pay the employee is entitled to.

The PRESIDING OFFICER. The time of the Senator from Alaska has expired.

Mr. DOLE. If the departing Senator does not have allowance remaining, what happens?

Mr. STEVENS. So far as we can determine—if I am allowed to speak on the Senator's time—all Members would have funds available, because this is the consolidated allowance of each Member that we are talking about. There is a sufficient fund for this purpose, I am informed.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. HARRY F. BYRD, JR. Does the Senator mean that it does not come out of the individual Senator's allowance? Are all 18 put together and is it then added up?

Mr. STEVENS. It comes out of the allowance available to any Senator.

Mr. HARRY F. BYRD, JR. The Senator from Kansas asked a different question.

Mr. DOLE. If you do not have any salary allowance remaining, you can still take it out?

Mr. STEVENS. Whatever allowances were available to the Member until January 5; and there are sufficient funds in every account, I am informed, to take care of that.

Mr. DOLE. I am sympathetic with what may happen to some, but I believe our employees are in a category different from that of some in the Federal service.

Based on what the Senator from Alaska has said, I believe we should take a look at the benefits we give others in the Federal service—apparently, they have been fattened up over the years—rather than catch up with an overblown program.

We spent a few hours today discussing who can be the toughest on ourselves and who can cut the most, whether it will be 10 percent or 15 percent. Now we are trying to put in something for those who are leaving. I suggest that it may have a lot of merit, but I would rather know more about it, and I am going to follow the lead of the Senator from Virginia.

Mr. STEVENS. No additional funds would be required for this. This is all within existing appropriations, and it will allow the Senate and the House, as a continuing body, to have staff until January 5.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. STEVENS. I have to borrow time from the Senator from Virginia.

Mr. YOUNG. I should like to say a word.

In all the years I have been here, I probably have the best staff now that I ever had. They are loyal, and most of them are staying on until the first of the year or until my term ends. If they were all to quit now and accept another job, I would be in pretty tough shape trying to answer mail and take care of all the requests for help. I understand that after we leave the Senate, we still get considerable mail, which we have to answer ourselves somehow.

This would help the staff members to stay on as long as needed, until the Member is out of office. This amendment would be most helpful to both the Senators and their staffs.

Mr. STEVENS. I thank the Senator from North Dakota.

I do not have any time remaining. Is the Senator prepared to yield back his time?

Mr. HARRY F. BYRD, JR. Yes.

The PRESIDING OFFICER. The question is on agreeing to the modified committee amendment. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from North Carolina (Mr. MORGAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Iowa (Mr. JEPSEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. LEVIN). Are there other Senators wishing to vote?

The result was announced—yeas 44, nays 43, as follows:

[Rollcall Vote No. 526 Leg.]

YEAS—44

Baker
Baucus
Bellmon
Bentsen
Biden
Burdick
Byrd, Robert C.
Chiles
Church
Cranston
Culver
Durenberger
Eagleton
Ford
Garn
Glenn
Goldwater
Hatch
Hatfield
Heinz
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Matsunaga
McGovern
Nelson
Pell
Pressler
Pryor
Randolph
Ribicoff
Sarbanes
Sasser
Schweiker
Stafford
Stevens
Stevenson
Stewart
Stone
Williams
Young

NAYS—43

Armstrong
Boren
Boschwitz
Bumpers
Byrd,
Harry F., Jr.
Chafee
Cochran
Danforth
DeConcini
Dole
Domenici
Exon
Hart
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Kassebaum
Laxalt
Levin
Lugar
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Percy
Proxmire
Riegle
Roth
Schmitt
Simpson
Stennis
Thurmond
Tsongas
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—13

Bayh
Bradley
Cannon
Cohen
Durkin
Gravel
Jepsen
Johnston
Long
Mathias
Morgan
Talmadge
Tower

So the modified committee amendment on page 33, line 11 was agreed to.

COMMITTEE AMENDMENT BEGINNING AT PAGE 32, LINE 13, THROUGH 10 ON PAGE 33

The PRESIDING OFFICER. The clerk will state the next committee amendment.

Mr. STEVENS. Mr. President, the next amendment is section 154.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

Page 32, line 13 through line 10 on page 33——

The PRESIDING OFFICER. The clerk will suspend. The Senate will be in order. The clerk will state the amendment.

The assistant legislative clerk read as follows:

Page 32, line 13, insert a new section 154.

The committee amendment is as follows:

SEC. 154. (a) Effective in the case of each fiscal year (commencing with the fiscal year ending September 30, 1981) each Senator, at his election, may transfer from his Administrative, Clerical, and Legislative Assistance Allowance (hereinafter referred to as the "clerk hire allowance") to such Senator's Official Office Expense Account any balance remaining, or any portion thereof in such clerk hire allowance as of the close of the fiscal year. Any balance so transferred to a Senator's Official Office Expense Account shall be available only for expenses incurred during the calendar year in which occurred the close of the fiscal year. Each Senator electing to make such a transfer shall advise the Senate Disbursing Office, in writing, no later than December 31, and such transfer shall be made on such date (but not earlier than the October 1 which next succeeds the close of the fiscal year with respect to which the balance occurs) as may be specified by the Senator.

(b) Transfer of funds under subsection (a) shall be made from the appropriation "Administrative, Clerical, and Legislative Assistance Allowance to Senators" under the heading "Senate" and "Salaries, Officers, and Employees" for transfer to the appropriation "Miscellaneous Items" for allocation to Senatorial Official Office Expense Accounts.

Mr. STEVENS. Mr. President, this is an amendment——

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield myself such time as I may require. This amendment is an amendment that was suggested——

Mr. MAGNUSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

The Senate will be in order.

The Senator from Alaska.

Mr. STEVENS. Mr. President, this was an amendment which was suggested on a bipartisan basis by Senators to the Legislative Appropriations Subcommittee. What it would do would authorize a Senator—and it must be at the Senator's motion, I point out—to transfer office expense account those sums which from his clerk hire allowance to his may be left on September 30, but they must be expended by December 31.

There was a complaint that it was not possible to use these funds and that this would allow the Senator to transfer those into the other accounts. It would not bring about any increase in appropriations. Obviously, to the extent that the Senator did transfer and use those sums, it would decrease the amount of the balance that would revert to the General Treasury at the end of the year.

What it means really is that we will have 15 months to expend all our clerk hire account instead of 12 months on a normal basis.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, how much time does the Senator from Virginia have remaining?

The PRESIDING OFFICER. The Senator from Virginia has 15 minutes remaining.

Mr. HARRY F. BYRD, JR. Mr. President, this is another example of a bad precedent that is being set if this committee amendment is adopted. The Senate just a moment ago, by a 1-vote margin, set a bad precedent and is getting ready to set another bad precedent. I shall vote against this committee proposal. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I yield myself additional time and I will be happy to answer any questions.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I point out that this is a way of holding down the concept of increasing the office expense allowance. We have not increased that in 4 years, in spite of the inflationary period we have been through.

We have had a number of people who pointed out to us that they do not use all of their clerk hire allowance, but their general office expenses have gone up so rapidly they want some leeway.

I do not have the exact figures, but in my personal office I would point out that those of us from Hawaii and Alaska have fantastic travel bills. We have not had any increase to meet those increased travel bills at all. This will enable us, if we do not use our money for clerk hire, to continue to be able to go back to our States as frequently as we did in the past.

It does not increase any allowances. It merely gives us the flexibility to determine if we do not spend the funds available for clerk hire that we may use them in the general expense of our offices. Of course, funds so transferred into the expense allowance are subject to the usual 90–10 division between discretionary funds and other expenses.

I wish to make plain that no Member could use any of these moneys for his personal use. No Member could use these moneys for anything other than those that are already authorized by rule.

Basically, we are dealing with the transportation allowances which have been so inflated that they really are inadequate now. If we do not do this, we are going to have to increase next year by supplemental our office allowances because we cannot continue to absorb these fantastic increases in travel costs.

Mr. BUMPERS. Will the Senator yield?

Mr. STEVENS. I yield to my friend from Arkansas.

Mr. BUMPERS. Mr. President, this amendment, as I read it, enables us to transfer money from our clerk hire account to our office account or office expense account. It does not allow a reverse transfer, is that correct?

Mr. STEVENS. That is correct. It goes just one way and it becomes part of the consolidated office account for 3 months.

Mr. BUMPERS. That is my next question. I heard the Senator mention something a while ago about 15 months and 3 months and I did not get the gist of that. What was the Senator saying?

Mr. STEVENS. This money is available for the fiscal year for clerk hire. To the extent that it is not used for clerk hire in that 12-month period, it can then be used in the next 3 months, the beginning of the next fiscal year, for office expense.

Mr. BUMPERS. Do our office expenses run on a calendar year?

Mr. STEVENS. No, we are on a fiscal year basis.

Mr. BUMPERS. Everything begins October 1?

Mr. STEVENS. Right.

Mr. BUMPERS. So what the Senator is saying is that next September 30, if I have $50,000 left over in my clerk hire account, I can transfer that $50,000 October 1 to my office expense account instead of turning it back?

Mr. STEVENS. You could notify the disbursing office that you were doing that, that is right.

Mr. BUMPERS. Do I not have to have his permission?

Mr. STEVENS. No.

Mr. BUMPERS. All I have to do is notify him?

Mr. STEVENS. Right.

Mr. BUMPERS. Mr. President, I say to the Senator that I am going to support this amendment, but I am a little troubled with the fact that people can transfer what is left over from one year to the following year. I would rather see an amendment that would allow us to use clerk hire money for office expense during the year and then on September 30 let both of them terminate.

Mr. STEVENS. Mr. President, I might say that we are examining that. One of the problems is that some of these allowances are based upon population, some are based upon distance from Washington in terms of travel allowances, and some are based in terms of telephone allowances on the availability of WATTS lines, and so forth. But those accounts are going to be reviewed by the Rules Committee next year.

This merely says that for this coming year we may do this. On September 30, if you notify the disbursing office of how much of your clerk hire, if you have any left, you will transfer to your office account, that money could then be used for office account basis for 3 months and then it would lapse.

Mr. BUMPERS. Wait just a minute. Do I understand, then, if I transfer money from my clerk hire account over to my office account that I may only use that during the ensuing 3 months?

Mr. STEVENS. Yes; the money so transferred will only be there for 3 months.

Mr. BUMPERS. At the end of that 3-month period, if I have money left in my office account which I have transferred over there, what happens to it? If I transfer $50,000 from my clerk hire account on October 1, 1981, over to my office expense account and then 3 months later I have only used $25,000 of that, what happens to the other $25,000?

Mr. STEVENS. It reverts to the Treasury.

Mr. BUMPERS. The Senator also said a moment ago that there has been no change in the office exepense account in 4 years.

Mr. STEVENS. Yes.

Mr. BUMPERS. Why has that been true? Why has there been no increase?

Mr. STEVENS. Mr. President, I would say that the pressure has been on the legislative committee to reduce all these allowances, not increase them. In spite of the inflationary period, we are now directed to make a 10-percent reduction in the office account allowance. We are going into a fiscal year in which we have agreed to cut all allowances by 10 percent.

Here is a clerk hire allowance which we have not, by the way, put a 10-percent limitation on and you may have some of that left over.

Mr. BUMPERS. The first year I was here, as I recall, I turned back 50 percent of my office account. Each year I have been able to turn back less and less because a round trip from Washington to Little Rock is now almost $300 and just 18 months ago it was $200. In order to make two or three speeches a day when you are home, you have to fly to places on charter aircraft. The cost of charter air travel has doubled.

I will support this amendment. I appreciate the Senator's answers to my questions.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield to my friend from Hawaii.

Mr. MATSUNAGA. Mr. President, I rise in support of the Senator's amendment.

There appears to be, however, some question relative to the language used on page 32, beginning at line 20:

> Any balance so transferred to a Senator's official expense account shall be available only for expenses incurred during the calendar year in which occurred the close of the fiscal year.

Mr. STEVENS. That is the next 3 months. It should have said the next 3 months, but it means just that.

Mr. MATSUNAGA. It would be helpful if the language could be clarified.

Mr. STEVENS. The legislative counsel drafted it for us in that manner. It means if it is in October 1981, it must be spent by December 31, but it is easier to say it this way, they say, so we took their language.

Mr. MATSUNAGA. I suppose it could be made clear by our conversation on the floor, but the statement of the Senator is what is intended.

Mr. STEVENS. It is the calendar year, which means for anyone at the end of the calendar year. It is awkward to describe, Again, I want to point out this was not my amendment. It was brought to us by other Senators who I do not see in the Chamber at the moment. It did make sense to us under the circumstances when we are unable to meet the request for increased allowances in the office account.

Mr. MATSUNAGA. I thank the Senator.

Mr. STEVENS. Did the Senator ask for the yeas and nays?

Mr. HARRY F. BYRD, JR. I did ask for the yeas and nays.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENS. Yes.

Mr. HARRY F. BYRD, JR. I yield back any remaining time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the committee amendment on page 32, line 13. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Iowa (Mr. JEPSEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. MATSUNAGA). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 64, nays 19, as follows:

[Rollcall Vote No. 527 Leg.]

YEAS—64

Armstrong
Baker
Baucus
Bellmon
Bentsen
Biden
Boschwitz
Bumpers
Burdick
Chafee
Chiles
Cochran
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Eagleton
Ford
Garn
Glenn
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Sarbanes
Sasser
Schmitt
Schweiker
Stevens
Stevenson
Stewart
Stone
Thurmond
Tsongas
Wallop
Weicker
Williams
Young

NAYS—19

Boren
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Dole
Exon
Goldwater
Hatch
Helms
Humphrey
Metzenbaum
Pressler
Proxmire
Randolph
Riegle
Roth
Simpson
Stafford
Warner
Zorinsky

NOT VOTING—17

Bayh
Bradley
Cannon
Church
Cohen
Durkin
Gravel
Jepsen
Johnston
Kennedy
Long
Mathias
Morgan
Ribicoff
Stennis
Talmadge
Tower

So the committee amendment on page 32, line 13, through page 33, line 10, was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, there are two committee amendments, I believe, that remain to be acted upon, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I hold in my hand a list of amendments that we know about and I count 39. It appears there are about 40 amendments left.

So I would think it would be impossible to complete action on the resolution tonight.

I suggest, if it is agreeable to the managers of the resolution, that we proceed to complete action on the two committee amendments, and then if there are amendments that can be agreed to by voice and accepted, perhaps, by the managers, perhaps we can get those done this evening after the committee amendments have been disposed of, which would allow most of the Members to go and come back in the morning, start at 9:30 again on the resolution, and try to finish it tomorrow.

It still has to go to conference, has to come back from the House, the House will go out Friday afternoon at 3 o'clock, over until Monday.

So if the conference report is not acted upon by both Houses by Friday afternoon, the Senate will be forced to go over to Monday, and so the sine die adjournment would be pushed into next week, if then.

I assume we might be able to indulge ourselves for a little while longer on this resolution.

There seems to be a great desire to offer amendments to this resolution to make a Christmas tree of it. But the Senators are making it more difficult to get that Christmas tree, and be home this year at the time it is lighted and Santa is appearing under it and dropping his packages.

Mr. YOUNG. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. YOUNG. Mr. President, I would like to make it plain to the Members of the Senate that amendments which are legislative in character, when they go to conference with the House, the House does not take them under their rules, they automatically dispose of them. We are just wasting time putting on legislative amendments on an appropriation bill.

Mr. ROBERT C. BYRD. The Senator is correct.

Perhaps the Senate at some point in time will decide just to get everybody to vote against such amendments, just table them, vote them down.

But I am not sure the Senate is ready to do that.

Mr. BAKER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I agree with the request of the distinguished Republican on the Appropriations Committee. I, too, hope that amendments that are legislative in character, or even quasi-legislative in character, would not be offered as amendments to the resolution.

I would also hope, Mr. President, if the majority leader will yield further, that Members would see it in their hearts to not ask for so many rollcalls.

I have an idea that a number of these 40 amendments that we know about could be disposed of after debate by voice vote.

So I would hope, in the interest of time, that we might forego that demand for the yeas and nays.

Mr. ROBERT C. BYRD. I wonder if the minority leader and I could join in supporting tabling motions on the amendments, on our respective amendments, to support this and just vote to table on legislative amendments. That would shut off debate. The motion to table would shut off debate and we could get this resolution to conference.

It is absolutely necessary that it be enacted into law by midnight next Monday or some of the agencies are going to find themselves in deep financial trouble. Here we are playing with this resolution, adopting a Christmas tree mentality toward it, offering all kinds of legislative amendments.

I realize they are important to Senators who are offering them. But this is the wrong vehicle.

I just urge Senators to restrain themselves from offering legislative amendments to this measure. I, for one, would be willing to enter into a compact, oral or written, to support tabling motions on all such legislative amendments.

Mr. BAKER. Mr. President, if the majority leader will yield to me, I am tempted with respect to that. I will be glad to go over this list with Senator YOUNG and others who are directly involved, and we will see if we can do something.

Mr. ROBERT C. BYRD. We will move ahead with the other committee amendments.

Mr. SARBANES. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. MAGNUSON. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I believe we should finish the committee amendments tonight and then recess until 9:30 tomorrow morning and not become involved in taking up amendments that we think will be accepted. I do not know whether I will accept all these amendments.

Let us do that, and we will come back in the morning refreshed, and we can finish this bill tomorrow. There will be very few Senators here at 9:30. We can start then with the amendments that are noncontroversial.

Mr. SARBANES. Mr. President, will the chairman yield on that point? Some of us have been waiting to offer amendments which are not legislative or quasi-legislative on which there is agreement. We could dispose of those amendments very quickly this evening, after the two committee amendments, and that would be very helpful in clearing the agenda.

Mr. MAGNUSON. We can take those up in the morning. We do not have to take them up tonight.

We have been in session now close to 10 hours, and we have had all kinds of amendments. Tomorrow morning, those who think they have noncontroversial amendments can be here.

Usually, when we come in at 9:30 in the morning there is only Senator YOUNG of the Appropriations Committee and the chairman and the two leaders, and nobody else shows up.

Those Senators who believe they have noncontroversial amendments should show up tomorrow morning, and we will take a look at them.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BUMPERS. Will the majority leader consider making the request that further rollcall votes be 10-minute votes?

Mr. ROBERT C. BYRD. Yes. I make that request—10 minutes on all rollcall votes for the remainder of this evening.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I can do that after the next vote, and I may be able to do it in a moment on this one. I will be glad to check and find out.

Mr. ROBERT C. BYRD. I make the request for now, I say to the minority leader, that all rollcall votes after the next rollcall vote be 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume consideration of the pending measure tomorrow morning at 9:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:25 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until tomorrow morning at 9:25.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. May I have the understanding of Senators that the Senate will proceed with the remaining two committee amendments and dispose of them before recessing for the day.

Mr. MAGNUSON. All Senators who think they have noncontroversial amendments should be here at 9:30 and present them. The Senator from North Dakota and I do not want to come in and find we are the only two Senators here.

Mr. YOUNG. We do not mind being here alone, if, without objection, we can pass the bill.

Mr. MAGNUSON. If nobody is here within 15 minutes to offer an amendment, I am going to move for a third reading and pass the bill.

The PRESIDING OFFICER. The Senate will be in order.

COMMITTEE AMENDMENT BEGINNING AT PAGE 26, LINE 22, THROUGH LINE 4 ON PAGE 27

The PRESIDING OFFICER. The clerk will state the next committee amendment.

Mr. CHILES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment is as follows:

SEC. 134. Funds appropriated under this Act shall be available for necessary expenses in the disclosure of information if upon application by the Secretary of the Treasury, a United States district court may, by ex parte order, direct that a return or taxpayer return information be disclosed to the appropriate Federal investigative agency if, in the opinion of the court, such information is material and relevant to a violation of Federal criminal law.

Mr. CHILES. Mr. President, the Senator from Connecticut (Mr. WEICKER) and I are the principal movers of this amendment. He had agreed that he would accept, as I will, a 15-minute time limitation on each side. So I make the unanimous-consent request that the time be limited to 15 minutes to a side on this amendment.

The PRESIDING OFFICER. The Chair advises the Senator that that already has been agreed to.

Mr. CHILES. I yield myself 3 minutes.

Mr. President, this is a very simple amendment. What it basically does is to try to correct a fault we now have in the Tax Reform Act.

At this time, if an IRS agent is on an investigation of any kind into a tax return and there comes to his attention evidence of a nontax crime, he is prohibited by law—and the IRS is prohibited by law—from disclosing that evidence to any other law enforcement agency.

Theoretically, you can have a situation such as this: If he uncovers a plot to assassinate the President of the United States while the investigator is making a tax return examination, he is prohibited by law from disclosing that information.

So, what every other citizen is required to do by law, the IRS, by virtue of the Tax Reform Act, is required not to do. Under the present act, the only way that information can be made available to a law enforcement agency is that agency must find out if IRS has any information relating to a non-tax crime on a particular individual. Without knowing what the IRS has in its possession that agency must go to court to prove why the information is relevant to a criminal investigation. It is an impossible Catch-22 situation.

I run into this in my State in connection with drugs. Of course, the principal offenders in my State are those dealing in narcotics. They are dealing in tremendous sums of money. The IRS is looking at the sums of money involved in drug conspiracies, and they cannot disclose that information. Only if the other law enforcement agency requests them to disclose it and tells them particularly what they want, can they disclose it.

What this amendment says is that IRS—it is not mandatory—may go to a Federal judge and say, "Mr. Federal Judge, we have discovered evidence of a crime." The Federal judge then can hold a hearing and determine whether he thinks that information should be disclosed.

It seems to me that what we require every citizen to do, to give information of a crime, we should also require a Government agency to do.

So far as protecting the rights of privacy of an individual and so far as protecting against abuse by a President is concerned, we say, take it to a Federal judge.

The Federal judge holds the hearing and he determines we are also making it permissive. That is exactly what the amendment does. I believe that it is something that we should adopt.

In our permanent Subcommittee on Investigations, chaired by Senator NUNN, we have had extensive hearings on the whole Tax Reform Act and the problems with the act.

This is attempting to get to one area of that, and I will be delighted to yield such time to the distinguished Senator from Georgia as he might wish in support of this amendment.

Mr. NUNN. Mr. President, I thank the Senator from Florida.

I congratulate him on this amendment. As he observed our Subcommittee on Investigations of the Governmental Affairs Committee for approximately 2 years has looked into this in great detail. We have conducted extensive hearings. We had extensive hearings in December 1979. We introduced a comprehensive measure that is known as S. 2402, S. 2403, and S. 2405. We have 11 different cosponsors, including Senator CHILES, Senator JACKSON, Senator RIBICOFF, Senator PERCY, Senator COHEN, Senator DECONCINI, Senator LONG, Senator TALMADGE, Senator BOREN, and Senator PROXMIRE.

That is on a very comprehensive measure.

What Senator CHILES has done in this measure is he has proposed an interim step. It does not go as nearly as far as the comprehensive measures which we have supported and which we have introduced and which have been endorsed by both the Justice Department and the administration except for a few details which have now been ironed out and compromised, so Senator CHILES is trying to take an interim step here which will provide that the Internal Revenue Service can go to court, can say to the court that we have evidence of a nontax crime, and the court can then make a decision, consistent with the rights of the privacy of the taxpayer and the overall administration of justice, so that the court can determine if that information should be turned over.

It does not dilute the privacy right of the taxpayer because, first of all, it is discretionary. The IRS can make a decision about whether to seek a court order. Secondarily and most importantly the court still acts as a buffer to determine if the information should be turned over if it is relevant to a criminal investigation. It also puts the Internal Revenue Service only in the same position that the Department of Justice now is in.

The Department of Justice can go to court now and ask for the same information. The court can grant that right, and the Department of Justice cannot get this information so it is not information that cannot be obtained under the present law.

But there is a crucial distinction here because what we have created is a catch-22 situation. The Department of Justice has no way of knowing that the Internal Revenue Service has information that indicates criminal offense. So they have to, first of all, know that the information is available before they can seek the information. They have no way of knowing that it is available because the Internal Revenue Service is precluded by law from letting that information be known to the Department of Justice.

So, rather than take a long time, I would say that this is a good step in the right direction. The Finance Committee has had hearings on these bills. The Finance Committee or the House Ways and Means Committee have had hearings under Congressman GIBBONS from Florida.

It was my hope this year that when the overall Finance Committee tax package came out we could have these attached as a critical and important part of that tax legislation.

Of course, we know that did not happen. The tax legislation will not come out until next year, and I believe that this step if we take it tonight while not comprehensive as we need to have in later legislation I think it is an interim step that is extremely important that will help in the combating of organized crime and narcotics in particular and general white collar crime also.

There are all sorts of examples that we have before our committee. We have hundreds of pages of testimony on this. We have had all the experts testify on it.

There are some people who take the view that nothing should interfere with the taxpayers' right to not have any of that information known even if the taxpayer is running a narcotics operation between Colombia and the United States and says so on his tax return, saying that "I am in the narcotics business. I import marihuana and cocaine for a living. I made $5 million last year and I am turning this in as my appropriate tax."

If that happens, unless the Justice Department can guess and realize that is in there and has the gift of prophecy and the gift of insight they will not ever be able to get that information. That is a ludicrous situation.

We have one example after another where nontax crimes have been committed that the Internal Revenue Service realizes that either through tax returns or through other information, and they do not make it available.

The IRS has virtually been removed as a part of any kind of effective law enforcement apparatus, and I am hopeful that the Senate will accept this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Vote.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BAUCUS. Mr. President, who is managing the time in opposition to the amendment?

The PRESIDING OFFICER. The minority leader or his designee and the chairman of the committee.

Does the chairman yield to the Senator from Montana? I ask the Senator from Washington, does the Chair yield time to the Senator from Montana?

Mr. MAGNUSON. It is my understanding that the Senator from Connecticut wishes to speak on this matter. I do not know. Otherwise I yield back the remainder of my time.

Mr. BAUCUS. Mr. President, perhaps the chairman will yield 5 minutes to me to speak in opposition and then Senator WEICKER on the minority side.

Mr. MAGNUSON. I yield 5 minutes to the Senator.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, the essential question is whether we here tonight should allow information which taxpayers voluntarily submit to the IRS to be at the volition and the discretion of the IRS handed over according to an ex parte order to another enforcement agency for nontax purposes.

Generally, under present law, the IRS is not permitted to do so. That is, today taxpayers voluntarily submit taxpayer information. They voluntarily submit information to the IRS so the IRS is in the position to know whether people are complying or not complying with the tax code.

Mr. President, as a fact of the matter, under present procedures, under present law, taxpayers submit information which may or may not be self-incriminatory in nature with respect to nontax criminal statutes. They essentially waive their right under the fifth amendment when they provide tax information.

There are procedures where law enforcement agencies today can ask the IRS for certain taxpayer information and there are safeguards built in to prevent abuse and invasion of privacy so that the IRS can protect individuals' rights and particularly with respect to the fifth amendment.

Mr. President, I submit that tonight at this hour is not the time to discuss a legislative rider on the continuing appropriations bill. This is not the time to start tampering with the fifth amendment as it applies to taxpayers and their submission of information to the IRS.

We are being asked tonight to give the IRS the authority, in fact to encourage the IRS to be involved in law enforcement activities for nontax criminal matters.

I suggest that we do have appropriate agencies who are primarily charged with drug enforcement. Congress has established a number of agencies to enforce drug statutes. We have the FBI, the Justice Department, and the Drug Enforcement Administration and that is their primary responsibility.

I further suggest that the heinous activities that we are aware of—the cocaine cowboys, the rampant use of hard drugs, and other kinds of drugs in America is a matter which we should address in other ways and not easily succumb to the temptation of tampering with the fifth amendment.

I suggest that if this amendment tonight were to pass we would not get more crooks, we would not find more people who are engaged in these kinds of activities. I suggest that this amendment misses the mark.

Now, I am sure that people will say, "No, it is a paper chase, where we find these people." But I suggest that if the amendment passes it is not going to be a paper chase. These people are going to be covering their tracks.

We do have a voluntary system today. Americans do submit information they have to the IRS, and I suggest if this amendment passes, the underground economy we are worried about and the enforcement problems that the IRS has in trying to get people to comply with the Internal Revenue laws are going to be even greater than they are right now. I have not been convinced that the amendment the Senator proposes will lead to more effective enforcement of drug laws. But, they will lead to less effective enforcement of tax laws.

We need the IRS to spend most of its time collecting tax revenue so that we can help balance the budget and solve the problems that are at hand. The Internal Revenue Service should use its limited resources for the difficult task of enforcing tax laws.

I suggest that this amendment is not a good amendment. It is bad policy. There are other opportunities to address it.

Furthermore, there have been hearings on this issue. I happen to chair the Subcommittee on Oversight of the Internal Revenue Service that had the hearings, and I can suggest that there are many, many problems with this approach. The administration is opposed to it; the IRS is opposed to it.

We have a recent communication from the IRS saying that the administration's position is still in opposition to this amendment. There are very serious problems that come up with this amendment, basically the problems to which I alluded, and basically this is not the time for this amendment.

Mr. CHILES. Mr. President, will the Senator yield? I notice in listening to the discussion that the Senator said there are better things the IRS can do. This is an excerpt from a speech by the Attorney General, Mr. Civiletti, in which he says:

> Moreover, the skilled personnel of the Internal Revenue Service were and still are the best and most numerous financial investigators in the Federal Government and before the Tax Reform Act of 1976 we relied upon them heavily to unravel the complex transactions that conceal both tax and nontax crime. But the disclosure restrictions imposed by the Tax Reform Act of 1976 have limited our access both to the financial information in the possession of the IRS and to the assistance of these experts . . .

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BAUCUS. Mr. President, will the Senator yield 30 seconds?

Mr. MAGNUSON. I yield.

Mr. BAUCUS. I thank the Senator.

I think we agree that there are problems with the present Tax Reform Act. But it is a delicate situation. We have had hearings, and we are unable to resolve the matter because time ran out. We in the Finance Committee did not have time this year to formulate a resolution of the problem, and I suggest that we not summarily just wipe out tonight what we have placed in the law a few years ago, but rather that we address this very delicate problem in a very sensitive matter next year.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 7½ minutes.

Mr. WEICKER. Mr. President, first I would like to thank my distinguished colleague from Montana, Senator BAUCUS, for so ably articulating the arguments against this amendment.

This is bad legislation—bad not only in the parliamentary sense because it is legislation on an appropriations bill, and it is bad there; not only in the sense that it preempts the authority of the Finance Committee, and it does that; and not only in the sense that it negates 40 years of reform, which culminated in the Tax Reform Act of 1976, by a quick amendment on an appropriations bill. All of that is bad enough. But in substance, it is as an invasion of privacy, an invasion, I might add, that was protected against due to revelations of the early 1970's, which led to the reforms which are being gutted here today. That is why it ought to be soundly defeated.

We are having Americans tax privacy rights be shredded by those who feel that all ills are going to be cured by the Justice Department and the other agencies of Government using this taxpayer-provided information.

I hear the terms "organized crime," "narcotics," and all the buzz words, to have us totally disregard the Constitution and totally disregard individuals rights and liberties.

The present Commissioner of the Internal Revenue Service excoriates this proposal. However, more than that, so do all the other Commissioners of Internal Revenue Service dating back through the 1970's. There is where the warning comes from, from those who know the law from those who are charged with the responsibility of revenue raising, and not for law enforcement other than of the tax laws of this country.

I remember the last time we had an attempt to eviscerate tax privacy safeguards before us. It was sort of a late, last-ditch effort in the wee hours of the morning. Now we have it again in the closing days of this legislative session. If this is such a good proposal, why not bring it up before the authorizing committee, before the Finance Committee? Put it out there in broad daylight. And then abide by the decision of the committee which has power over the Internal Revenue Code.

The reason why you do not bring it out is because it will not fly under those circumstances. It will only fly as legislation on an appropriations bill or as an amendment to some bill in the closing days of a legislative session.

I understand one of the great attributes of my countrymen is that we forget fast. That is a good thing, except in instances like this. Why did we have the Tax Reform Act of 1976? We just did not dream it up as a result of a hypothetical situation or due to speculation. There was a massive invasion of individual citizens' privacy in this country. There was a massive assault on the institutions of Government and on the individual liberties and the privacy rights of American citizens. That is where the Tax Reform Act of 1976 came into being. It had nothing to do with Richard Nixon. Now what is being attempted in this amendment is the opening of the situation right back up again to where it was.

I think it would be appropriate to review the history surrounding the existing tax privacy statutory safeguards.

The starting point is the fourth amendment to our Constitution. This amendment provides that:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

I am certain that my colleagues are familiar with this amendment to our Constitution. However, how many of my colleagues are aware of the fact that a principal reason for the adoption of this safeguard was the abuse of privacy rights perpetrated by English monarchs in the name of tax collection?

The abuses which prompted enactment of the fourth amendment were discussed by Mr. Justice Blackmun in *G.M. Leasing Corporation* v. *United States*, 429 U.S. 338 (1976), who concluded that:

> Indeed, one of the primary evils intended to be eliminated by the Fourth Amendment was the massive intrusion on privacy undertaken in the collection of taxes pursuant to general warrants and writs of assistance. 429 U.S. at 355.

James Madison realized the necessity of placing restrictions on the powers given to the Government for the purpose of collecting taxes. In arguing for the adoption of the bill of rights to restrain the U.S. Government, Madison said:

> The General Government has a right to pass all laws which shall be necessary to collect its revenue; the means for enforcing the collection are within the direction of the Legislature: may not general warrants be considered necessary for this purpose, as well as for some purposes which it was supposed at the framing of their constitutions the State Governments had in view? If there was reason for restraining the State Governments from exercising this power, there is like reason for restraining the Federal Government. 1 Annals of Congress, 438 (1834 ed.).

Thus, our Founding Fathers wrote safeguards into the Constitution because they understood that the protection of the basic liberties of our citizens must be founded on law and not on the assurance of Government officials. They realized that there is a tendency among those who govern to justify the use of ignoble means to achieve noble objectives. As Samuel Johnson observed, "Patriotism is the last refuge of a scoundrel."

Unfortunately, subsequent generations forgot the lesson that our Founding Fathers had so painfully learned. Despite attempts to limit disclosure, by 1934 income tax returns and information were deemed to be "public records." Federal law enforcement officials were able to obtain tax information simply by stating that, in their discretion, it was "necessary in the performance of official duties." The Internal Revenue Service, for all intents and purposes, operated a lending library.

In 1976, Congress was confronted by overwhelming evidence of abuses similar to those which prompted our Founding Fathers to adopt the fourth amendment. The statutory rules governing the disclosure of tax information were reviewed for the first time in over 40 years and tax privacy safeguards were enacted in the Tax Reform Act of 1976 as a result of four interrelated developments.

First, abuses uncovered during the Watergate investigations documented use of the IRS as an intelligence body to derive information harmful to enemies of the Nixon administration and helpful to its friends. These abuses were summarized by the House Judiciary Committee in article II, subparagraph 2 of the "Articles of Impeachment of President Nixon:"

> He has, acting personally and through his subordinates and agents, endeavored to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner.

Among the most egregious violations of individuals' rights were those committed by the "special service staff," a semisecret unit operating within the IRS which was charged with collecting information on so-called "activist organizations and individuals." Because there were no limitations at that time on the dissemination of tax return information, the Special Service Staff traded tax information freely with the Justice Department in an attempt to establish nontax statute violation bv those "enemies." Senator Ervin described the questionable activities of this group:

> The Special Service Staff was tasked with collecting, analyzing and disseminating information on individuals and groups publicly promoting what the IRS considered to be "extremist views and philosophies." What began with an initial list of 77 organizations mushroomed to an intelligence file on approximately 3,000 organizations and 8,000 individuals who openly disagreed with Government policies . . .
>
> Special cooperation with other Government agencies with regard to nontax statute violations was high on the list of Special Service Staff responsibilities. For example, the Internal Security Division of the Justice Department sought out a special informal working arrangement with the Staff whereby it would have access to such information. A listing of 14,000 entities which "posed a threat and probability of tax violations" was sent by the Internal Security Division to the Special Service Staff . . .
>
> (T)he Special Service Staff's political intelligence activities went far beyond the Internal Revenue Service's proper function of enforcing the tax laws . . .

In short, abuses of tax privacy rights in the name of nontax criminal violations were a prime reason for enactment of the disclosure safeguards contained in the Tax Reform Act.

Second, violations of Americans' constitutional rights were discovered by the Church committee on "Intelligence Activities and the Rights of Americans." The committee found that there was nothing to insure the limitation of the subsequent use of tax information to the purpose for which it was disclosed, and concluded in its 1976 report that:

> The FBI has had free access to tax information for improper purposes . . . The FBI used as a weapon against the taxpayer the very information the taxpayer provided pursuant to his legal obligation to assist in tax cases and, in many cases, on the assumption that access to the information would be restricted to those concerned with revenue collection and used only for tax purposes.

Third, disclosures that special powers of the IRS were being misused to collect information for purposes well beyond tax administration but related to other law enforcement activities. These led to a series of congressional hearings on the propriety of various uses of tax information. In the 93d Congress the Senate Judiciary Committee held hearings and numerous hearings were conducted by the Senate Finance Committee and House Ways and Means Committee in the 94th Congress.

Fourth, recommendations made by the Privacy Protection Study Commission for more stringent safeguards with respect to disclosures of records made by the IRS. The Commission stated that the taxpayer's disclosures to the IRS—

> Cannot be considered voluntary because the threat of criminal penalties for failure to disclose always exists. The fact that tax collection is essential to government justifies an extraordinary intrusion of personal privacy by the IRS, but it is also the reason why extraordinary precautions must be taken against misuse of the information the Service collects from and about taxpayers.

The Privacy Commission concluded that:

> Federal law enforcement officials should not have easier access to information about a taxpayer when it is maintained by the IRS than they would have if the same information were maintained by the taxpayer himself.

Mr. President, I have taken the time to review this history because it is important to remember the events surrounding, and consideration given, the formulation of the existing standards governing disclosure of tax information. Based upon this substantial record, Congress carefully drafted legislation which balanced the rights of Americans to certain privacy standards with the needs of Government in enforcing the law.

Now, less than 4 years after the striking of this balance, attempts are being made to tip the scales in favor of law enforcement, at the expense of the taxpayer's privacy right. Last December, an unprinted amendment was offered to the windfall profit tax bill which would have removed the safeguard of a court order for disclosure of tax return information. That attempt failed by a 65 to 8 vote. Now, on a rider to a continuing appropriation bill being rushed through a lameduck session of Congress, legislation to weaken the tax privacy safeguards has been offered. This end-run is being made despite the fact that—or perhaps because—the Finance Committee held hearings on legislation to amend the Internal Revenue Code and decided not to report a bill to the full Senate.

This clearly is not the proper way to make drastic alterations in such important legislation. As IRS Commissioner Kurtz said in a letter to me dated September 22:

> We strongly oppose what are essentially amendments of the Internal Revenue Code by means of the appropriations process. We believe that responsibility is—and should be—that of the tax writing committees of Congress.

What is the rationale for this backdoor encroachment upon the rights of Americans? It is done under the banner—which all good citizens willingly carry—of the fight against organized crime, mobsters and narcotics traffickers. Why? Because one is best able to obfuscate the true issues by arguing in an inflammatory way that a change in the law is the only solution to these evils.

Those who advocate diluting existing tax privacy safeguards claim that the Tax Reform Act of 1976 has led to a flourishing of illegal narcotics trading. They, however, seem to ignore the deficiencies of the agency entrusted with enforcement of the criminal statutes—the Justice Department. In its March, 1977 report entitled "War on Organized Crime Faltering—Federal Strike Forces Not Getting the Job Done," the GAO concluded that, and I quote:

> The Government still has not developed a strategy to fight organized crime.
>
> There is no agreement on what organized crime is and, consequently, on precisely whom or what the Government is fighting.
>
> The strike forces have no statements of objectives or plans for achieving those objectives.

A subsequent report in October 1979, went on to elaborate that the Government drug enforcement and supply control efforts were hampered by poor coordination, a failure to use available enforcement tools and poor training. The report also concluded that "the adverse impact on the law enforcement community, as a result of the disclosure provisions (enacted as part of the Tax Reform Act of 1976), had not been sufficiently demonstrated to justify changing the law."

Mr. President, I have testified at great length before the Senate Finance Committee and House Ways and Means Committee concerning legislation which would amend the disclosure provisions of the Internal Revenue Code. I will not repeat myself here today, other than to say that the few years that have transpired since enactment of the Tax Reform Act have not shown that Congress erred in enacting needed tax reform legislation or that provisions of the law have unfairly or unduly burdened law enforcement efforts. What time and experience have shown is not that the law is burdensome, or wrong, or unfairly restrictive, but that those who have interpreted the law have done so incorrectly.

I will not dwell on the substance of my criticism of the proposed legislation here today because what we are now dealing with is an appropriation bill, not substantive legislation to amend the Internal Revenue Code. Perhaps that is the most objectionable aspect of fighting this privacy fight today. The privacy rights which have been established after serious deliberation should not be cast aside in a cavalier manner. Legislation revising the procedures for disclosure of tax information has been considered by the Finance Committee. To amend this carefully drafted statutory language by attaching a rider to an appropriation bill would subvert the legislative process.

Mr. President, I am joined in my opposition to this provision by the Department of the Treasury and the Internal Revenue Service. This section is identical to section 109 of H.R. 7583, the Treasury appropriation bill, as reported by the Appropriations Committee. I ask unanimous consent that a letter addressed to me, dated September 22, 1980, from IRS Commissioner Kurtz in opposition to this provision be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMISSIONER OF
INTERNAL REVENUE,
Washington, D.C., September 22, 1980.

Hon. LOWELL WEICKER, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WEICKER: This responds to your letters to me and Deputy Secretary Carswell of September 18, 1980, asking for a statement of the Internal Revenue Service's position on sections 109, 511, and 614 of H.R. 7583, the Treasury Department appropriation bill as reported by the Senate Committee on Appropriations.

Section 109 authorizes the use of appropriated funds by the Service to obtain ex parte court orders to disclose tax returns and taxpayer return information (that is, information furnished to us by or on behalf of the taxpayer himself) to Federal criminal investigatory agencies. Section 511 would authorize the use of appropriated funds to pay civil damages awarded against Federal employees under section 7217 of the Internal Revenue Code for unauthorized disclosures of tax information resulting from negligence. Section 614 prohibits the use of any appropriated funds to prosecute Federal employees under section 7213 of the Code for unauthorized disclosures resulting from good faith but erroneous interpretations of section 6103.

I asked our Chief Counsel for an opinion of the legal effect of these provisions and am attaching a copy of his response. As you will see, we have no authority under section 6103 of the Code to seek court orders to disclose tax returns and tax return information to nontax related criminal investigators. Accordingly, there could be no occasion to use appropriated funds for this purpose. Even if section 109 were legally effective, the Administration opposes Service initiated disclosure of individuals' tax information. On July 30, 1980, I testified as follows on this subject before the Subcommittee on Oversight of the Ways and Means Committee:

The Administration does not believe that there should be any affirmative duty on the IRS to initiate a court order procedure to disclose returns of taxpayer return information to law enforcement agencies. With respect to this information, the Administration believes that the taxpayer is entitled to essentially the same protections that would exist if the taxpayer himself continued to hold the information.

We believe that these protections are appropriate both because ours is a self-assessment tax system that depends substantially on voluntary compliance by taxpayers, and because individual taxpayers are entitled to a high degree of privacy protection in the records which they are required to maintain to meet their tax obligations. The Administration believes that these interests are best protected by requiring any court order proceeding to be initiated by the Department of Justice under the disclosure standards I described earlier. A provision allowing the Service to initiate a court order procedure to disclose taxpayer return information for nontax criminal investigations would leave taxpayers in the dilemma of complying with the tax laws at the risk of prosecution for nontax criminal violations.

The position which I took before the Subcommittee continues to be that of the Administration.

The subjects of sections 511 and 614 are, as you know, dealt with in S. 2405 and S. 2404 now pending before the Finance Committee. The Administration supports these bills. As our Chief Counsel points out, however, section 511 can be read to authorize the use of Treasury Department appropriated funds to pay damage awards against non-Treasury personnel, a result which we would regard as totally inappropriate and contrary to S. 2405.

However, we strongly oppose what are essentially amendments of the Internal Revenue Code by means of the appropriations process. We believe that responsibility is—and should be—that of the tax writing committees of Congress.

With kind regards,
Sincerely,

JEROME KURTZ.

CHIEF COUNSEL,
INTERNAL REVENUE SERVICE,
Washington, D.C., September 19, 1980.

MEMORANDUM

To Jerome Kurtz, Commissioner
From N. Jerold Cohen, Chief Counsel

You have asked for our opinion of the legal effect of sections 109, 511, and 614 of H.R. 7583, as reported by the Senate Committee on Appropriations. H.R. 7583 appropriates funds for the Treasury Department for the fiscal year ending September 30, 1981.

SECTION 109

Section 109 provides that appropriated funds shall be available for necessary expenses in the disclosure of information if upon application by the Secretary, a Federal district court may, by ex parte order, direct the disclosure of a return or taxpayer return information to a Federal criminal investigation agency.

Returns and taxpayer return information may be disclosed only as authorized or required by the Internal Revenue Code, and the Code neither authorizes nor requires the Internal Revenue Service voluntarily to make such disclosures, with or without a court order. For this reason, there would be no occasion to use appropriated funds for the purpose described in section 109.

SECTION 511

This section provides that appropriated funds shall be available for the payment of civil damage awards against Federal officers and employees under section 7217 of the Code for unauthorized disclosures of tax information negligently made within the scope of office or employment.

This authority is unnecessary, insofar as Internal Revenue Service officers and employees are concerned. Present section 7423 (2) of the Code provides that the Secretary, subject to Treasury regulations, is authorized to repay "[a]ll damages and costs recovered against any officer or employee of the United States in any suit brought against him by reason of anything done in the due performance of his official duty under [Title 26]." The Comptroller General has ruled that section 7423 (2) applies to civil damage awards under section 7217 against Federal officers and employees performing tax administration duties.

Section 511 on its face, however, applies to civil damages awarded against any Federal officer or employee who makes an unauthorized disclosure. There would seem to be no valid reason whatever why civil damage awards under section 7217 against Federal officers and employees other than Treasury Department personnel should be paid out of the Department's appropriation. It should properly come from the appropriation of the employing agency.

SECTION 614

This section provides that no funds appropriated under H.R. 7583 or any other appropriations act shall be available to prosecute a Federal employee under section 7213 of the Code for an unauthorized disclosure if the disclosure resulted from a good faith but erroneous interpretation of section 6103 and the employee was acting within the scope of his employment or duties.

Section 614 would not affect the Service's appropriation since the Justice Department, not the Service, prosecutes offenses under section 7213. Further, section 614 very likely would have no adverse effect upon the Justice Department's appropriation since present section 7213 applies only to disclosures which are willful, that is, a voluntary, intentional violation of a known legal duty.

Mr. WEICKER. Under existing law, the Secretary of the Treasury "may disclose in writing" return information —which is information the IRS has obtained from third parties—to another agency where there is evidence that a nontax Federal criminal law has been violated. The Secretary has no statutory authority to disclose returns or taxpayer return information—which includes books and records obtained by the IRS from the taxpayer—unless another agency has obtained an ex parte order from a Federal district court judge.

The standards for an ex parte order are based on standards similar to those established under the fourth amendment for the issuance of a search warrant. The Justice Department or any other Federal agency seeking an ex parte order for disclosure must establish that:

There is reasonable cause to believe, based on information believed to be reliable, that a specific criminal act has been committed;

There is reason to believe that such return or return information is probative evidence of a matter in issue related to the commission of such criminal act; and

The information sought to be disclosed cannot reasonably be obtained from any other source.

Section 134 of the continuing resolution would, for the first time, put the IRS directly and affirmatively in the nontax criminal enforcement business. It must be read in conjunction with the language in the committee report to fully appreciate its scope. In the committee report on the resolution, it is stated that:

IRS is not permitted by law to release

> information to any Federal law enforcement agency that it obtains by analyzing tax return information indicating the commission of a nontax crime . . . In the accompanying bill the Committee has recommended language that would permit the Internal Revenue Service to seek a court order to release such information to the appropriate law enforcement agencies. The Committee directs the IRS to aggressively use this new authority.

If enacted and effective, section 134 read together with this report language, would completely negate the privacy safeguards contained in existing law.

If, as directed by the committee report, the IRS "aggressively use(s) this new authority," it would obviate the necessity of any other agency having to seek an ex parte court order to obtain information provided by the taxpayer that might constitute evidence of nontax criminal violations. The IRS would be required to spend its time in court initiating applications for disclosure of information obtained from the taxpayer. I might add that this effort would be undertaken at the expense of the IRS efforts to collect revenues and enforce the tax laws.

Because the IRS, and not the Justice Department, would be seeking the ex parte court order, the decision to grant the order compelling disclosure would be based on the standard contained in section 134 of the bill, and not on the standard required by current law. Thus, an order would be granted simply upon a showing that the "information is material and relevant to a violation of Federal criminal law." Obviously, this is a much lower standard than the three-prong test in existing law, thereby undermining the privacy safeguards.

This section would also hamper the IRS' administration of the tax laws. The Secretary of the Treasury is presently empowered to withhold information if he certifies that "disclosure would identify a confidential informant or seriously impair a civil or cirminal tax investigation," even in the presence of an ex parte order. Section 134 contains no such provision. Thus, the Secretary would be forced to sacrifice civil or criminal tax investigations—which enforce the tax laws he is mandated to administer—for the sake of nontax criminal investigation.

In short, this section would make the IRS a nontax criminal law enforcement agency instead of a revenue collector.

In testimony before the Subcommittee on Oversight of the Committee on Ways and Means on July 30, 1980, IRS Commissioner Jerome Kurtz expressed opposition to authorizing the IRS to seek an ex parte court order to disclose tax information. He stated that:

> The administration does not believe that there should be any affirmative duty on the IRS to initiate a court order procedure to disclose returns of taxpayer return information to law enforcement agencies. With respect to this information, the Administration believes that the taxpayer is entitled to essentially the same protections that would exist if the taxpayer himself continued to hold the information.
>
> We believe that these protections are appropriate both because ours is a self-assessment tax system that depends substantially on voluntary compliance by taxpayers, and because individual taxpayers are entitled to a high degree of privacy protection in the records which they are required to maintain to meet their tax obligations. The Administration believes that these interests are best protected by requiring any court order proceeding to be initiated by the Department of Justice under the disclosure standards I described earlier. A provision allowing the Service to initiate a court order procedure to disclose taxpayer return information or nontax criminal investigations would leave taxpayers in the dilemma of complying with the tax laws at the risk of prosecution for nontax criminal violations.

The use of the IRS as a nontax criminal law enforcement agency flies in the face of congressional intent. As noted in "a report to the Steering Committee for the Internal Revenue Service project of the Administrative Conference of the United States," there is no indication in legislative history that either the IRS or the Internal Revenue Code were meant to play any role in the enforcement of nontax criminal law.

In his letter to me, IRS Commissioner Kurtz expressed the opposition of the Treasury Department to section 134 as follows:

> We have no authority under section 6103 of the Code to seek court orders to disclose tax returns and tax return information to nontax related criminal investigators. Accordingly, there could be no occasion to use appropriated funds for this purpose. Even if section 134 were legally effective, the Administration opposes Service initiated disclosure of individuals' tax information.

Mr. President, in considering this section, we must remember that we are talking about legislation designed to amend the Internal Revenue Code which is being offered as a rider to an appropriation bill. Our endorsement of, or objection to, this language if it were offered to the Tax Code is irrelevant to our consideration of this section. What is relevant—and extremely important—is the vehicle being used to end-run carefully drafted legislation.

Amendments to the Internal Revenue Code should not be made by means of the appropriations process. That responsibility is properly one of the tax writing committees of Congress.

I remember in the hearings which preceded the Tax Reform Act of 1976 that six Commissioners of the Internal Revenue Service testified that the percentage of compliance by taxpayers would be in direct proportion to the degree of confidentiality of their tax returns. So even if you do not believe in individual liberties, if you want to have the Internal Revenue Service doing what it is supposed to do, which is to collect the maximum in taxes, that would be reason enough to reject this amendment.

I hope the greater principle would prevail, that of belief in the Constitution and in individual privacy.

But if you just want to discuss it on a collection basis, this is a bad amendment.

I have consistently opposed attempts to eviscerate tax privacy safeguards, as have most Members of this body. On the last vote we had on such an attempt the vote was 65 to 8 rejecting it, making certain that our experiences of the early 1970's would not have the breeding ground to occur again.

So I hope, Mr. President, that we will reject the amendment.

The debate that now exists in my mind is whether I will object in a parliamentary sense that this amendment is legislation on an appropriations bill, and it is. But I do not think that is the way to approach this matter.

I think it is up to every Member of this body to stand up and say—

> Look, it took 40 years to produce the Tax Reform Act of 1976 and many more years of experience before that to produce the result that was that Tax Reform Act. We are not going to throw it out the window in a last-ditch effort by those espousing the cause of law and order.

Do you realize that more crime was committed in the name of law and order in the 1970's and in the late 1960's than in any other name? So I do not want to hear that term used on this floor.

Respect for the Constitution and respect for individual liberties seem to me to be what should be the prime concern to each one of us here. Believe me the protections that are in the present Act are entirely capable of assuring the proper enforcement of our tax laws while assuring the maximum collection of taxes while, at the same time, assuring that history will not repeat itself in this instance, and that American's tax privacy rights will be protected.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. How much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes and 55 seconds.

Mr. CHILES. I yield 2 minutes to the Senator from Arizona (Mr. DECONCINI).

Mr. DECONCINI. The distinguished Senator from Connecticut raises the old arguments again. First of all, that the IRS is opposed to it. The IRS is always opposed to doing anything except criminal prosecution for committing crimes on not reporting one's income tax. That is, historically they do not want to get involved in organized crime, and no one can fight organized crime better than expert accountants.

The Senator talks about the buzzwords. Organized crime is not a buzzword. Income of between $60 million and $100 million a year from organized narcotics is not a buzzword. Those are facts, that is money coming into this country, and almost nobody is doing anything about it.

He talks about broad daylight, why do we not do that in committee hearings so that we have broad daylight. This is broad daylight, even though it is 8 o'clock at night. This is a public forum. We have the right to debate these issues here today.

He talks about the safety and about more crime being committed in the name of law and order in the 1960's and 1970's. Well, if the Senator will go down to Florida, come out to Arizona, we will show him where the crime is in drugs and organized crime, and the Federal Government is not doing the job. We are not pursuing the matter of enforcement, of having the IRS turn over obvious evidence that they have. Safety is built in by going to the courts. This involves the judicial branch of Government. The court makes a determination not some IRS agent, not someone in the White House, not someone in the Justice Department on his own. He goes to a court and has to argue a case.

What else can you do? There is not a lot of time left on the drug traffic in this country and the organized crime influence. If we do not start putting our shoulders to the wheel and make a determined effort in this country we are not going to have much of a country.

Look at the real estate values in my State and in the State of Florida. You will see they are going up and up and many of them are cash purchases. How do you trace those cash purchases? You do it through the IRS and you do it with a cooperative effort. You no longer disband the criminal investigative arm of the IRS. You permit them to work hand-in-hand after securing a court order.

I submit this legislation is needed. It is long overdue. We have a great opportunity to take a step forward tonight.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. BAUCUS. Mr. President, will the Senator yield just a minute?

Mr. WEICKER. Mr. President, I say to my distinguished colleague that I have 38 seconds remaining to respond.

Mr. BAUCUS. Mr. President, will the Senator yield 15 seconds?

Mr. WEICKER. Yes.

Mr. BAUCUS. I thank the Senator. Mr. President, it is not only the IRS, but it is the Criminal Division of the Justice Department who also oppose this approach.

I quote from the June 20 hearing from Irvin Nathan, a Deputy Assistant Attorney General for the Criminal Division at the Justice Department:

> The administration is not in favor of that requirement. We do not want to make the Service go through the protected books and records of the individual or the return looking for evidence of crime, and going to court to turn it over.

The point is the IRS and the Justice Department are both opposed to this.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHILES. Mr. President, I yield 1 minute to the distinguished Senator from Georgia.

Mr. NUNN. Mr. President, I wish the distinguished Senator from Montana would look at that quote. He is talking about a particular provision which is modified in the act and not this particular provision here.

We heard this provision will invade privacy, it will bring up all the Watergate abuses, it will bring up abuses that occurred before that, it will violate the fifth amendment and violate the constitutional rights.

Mr. President, here are no constitutional rights being violated here. We are changing an action before a court. The court is going to be in between here. The courts of the United States will make the decision. The court is not going to violate privacy and the constitutional rights of the American people.

This is a court procedure. What we have heard here tonight is not a valid argument against this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHILES. Mr. President, I concur wholeheartedly with what the Senator from Georgia is saying. The courts can be expected, certainly, to adopt logical standards in the face of evidence that a crime has been committed and that reasons exist to support a finding that a tax return or financial data are relevant to a criminal investigation or prosecution.

Privacy of individuals is certainly important, and I am for protecting privacy rights. We are going to have a court protecting an individual's privacy.

But there is something else out there that is important too. That is just the basic protection of your society; that you are not going to let a bunch of hoodlums take over this country. That is what we are doing with drug trafficking.

The most effective agency you have that can do something about major narcotics traffickers in terms of tracing the financial transactions is the IRS. And you tie their hands and you will not let them participate in going after that bunch of hoodlums who are giving drugs to your kids. You know they are doing it now, and you know they reaping tons of profits that they put into legitimate businesses. They do not pay any taxes on it. How can a legitimate businessman try to compete with that?

We are going to sit back and say we are worried that there might be some kind of privacy problem; that it might handicap the IRS a little in doing their job. We are going to deprive ourselves of allowing the court to tell you that we ought to look at these tax returns and that we ought to give this information to another law enforcement agency.

What in the world are we doing to ourselves if we are going to prohibit ourselves from using this agency to go after the criminal.

Mr. WEICKER. Mr. President, I believe I have 23 seconds remaining, is that correct?

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 23 seconds.

Mr. WEICKER. Mr. President, two parts. If we pass the amendment, it will apply not only to drug traffickers or organized crime, it will apply to ministers, to artists, to politicians, to everybody. So let us understand whose privacy we are invading.

Point No. 2, Al Capone was sent up the river because of a tax charge. Nothing has been done since that time which would in any way change the law that led to the conviction of Al Capone.

I would advise that we can accomplish both enforcement and the protection of everyone's rights.

Mr. President, I move to table the committee amendment referring to section 134 and I ask for the yeas and nays.

The PRESIDING OFFICER. All the time of the Senator from Florida has not as yet expired.

Mr. WEICKER. I apologize to the Chair.

Mr. CHILES. Mr. President, I just want to say quickly that when we are talking about privacy, if I am any law enforcement agent, any law enforcement agency and I want to go tap your telephone—the minister, the doctor, the lawyer, the politician—what do I do if I want to put a wiretap on your telephone? I have to go to a Federal judge and the Federal judge has to approve that wiretap. If he approves that, I can invade your telephone; I can listen to everything you say, whether you are the doctor, the lawyer, or the Indian chief.

We trust the Federal judge to take care of that privacy. We trust the Federal judge that you are going to have an ex parte hearing before him and that you are going to have to prove that we think something criminal is going on there and we think we ought to be able to have a wiretap. If he says yes, that wiretap goes on.

I am saying that if you can trust the Federal judge to do that, you can trust the Federal judge when you say, "Look, Mr. Judge, I am an IRS agent and I think a crime is going on here. What do you think about it?"

If he thinks it is, he can call in the FBI, he can call in the Secret Service, he can call in the CIA, he can call in someone else if he thinks it is going on.

If we trust him to be able to tap our telephones, why can we not trust him on this?

The PRESIDING OFFICER. All time has expired.

Mr. WEICKER. Mr. President, I move to table the committee amendment referring to section 134 and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut (Mr. WEICKER) to table the committee amendment on page 26, line 22 through line 4 on page 27. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the

Senator from Maine (Mr. Cohen), the Senator from Iowa (Mr. Jepsen), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from South Dakota (Mr. Pressler), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER (Mr. Stone). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 43, nays 34, as follows:

[Rollcall Vote No. 528 Leg.]

YEAS—43

Armstrong
Baker
Baucus
Bellmon
Biden
Boschwitz
Chafee
Cochran
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Garn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Javits
Kassebaum
Levin
Lugar
McClure
Mitchell
Moynihan
Packwood
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stevens
Tsongas
Wallop
Weicker
Williams
Young

NAYS—34

Bentsen
Boren
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
DeConcini
Eagleton
Exon
Ford
Glenn
Heflin
Hollings
Huddleston
Inouye
Jackson
Leahy
Magnuson
Matsunaga
Melcher
Metzenbaum
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Sasser
Stafford
Stone
Thurmond
Warner
Zorinsky

NOT VOTING—23

Bayh
Bradley
Cannon
Church
Cohen
Durkin
Gravel
Jepsen
Johnston
Kennedy
Laxalt
Long
Mathias
McGovern
Morgan
Nelson
Pressler
Ribicoff
Stennis
Stevenson
Stewart
Talmadge
Tower

So the motion to lay on the table the committee amendment on page 26, line 22, was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

Mr. NUNN. Mr. President, I want to be recognized.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table the motion to reconsider.

The motion to table the motion to reconsider was agreed to.

COMMITTEE AMENDMENT BEGINNING AT PAGE 45, LINE 9, THROUGH LINE 22

The PRESIDING OFFICER. The clerk will state the last committee amendment.

The legislative clerk read as follows:

On page 45, beginning at line 9, insert new section 167.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment is as follows:

Sec. 167. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, for the Mine Safety and Health Administration shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Federal Mine Safety and Health Act of 1977 with respect to any person engaged in the surface mining of stone, colloidal phosphate, sand or gravel: *Provided, however*, That this section shall not become effective until February 1, 1981.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the 30 minutes on this amendment be equally divided between the Senator from New Jersey (Mr. Williams) and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, we might be able to shorten this if Senators will just give me their attention for a few moments.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, there is a bill pending in the U.S. Senate, S. 625, which has 42 cosponsors. That bill and this amendment do the same thing.

This amendment simply provides that the regulation of sand and gravel, stone, colloidal phosphate and I hope to offer a perfecting amendment which will include clay other than brick clay—that regulation of those industries for safety purposes is to be transferred from the Mine Safety and Health Administration to the Occupation Safety and Health Administration.

Now, everybody knows that OSHA has taken a shellacking in this body. We get a lot of mail talking about their abuses. But when we passed MSHA, it was never anybody's intention that these industries be regulated by that agency, and so my amendment will place them under OSHA's jurisdiction.

Let me give a few examples of how ridiculous it is for MSHA to be regulating the sand and gravel operation.

But before that, let me say that deep surface mining is, indeed, a dangerous and hazardous occupation. To a much lesser extent, surface mining of coal is dangerous because of the silicosis problem for one thing. My amendment does not touch these coal mining operations.

Of the 7,600 sand and gravel operations in the United States, 6,000 of them have less than 10 employees and 3,000 of them have less than five employees.

The problem with MSHA is that it has been terribly arbitrary. It has been highhanded. There is a mandatory penalty provision in the MSHA law which literally has bankrupted businesses.

Let me give you a good example. There is one stone quarry operator in Illinois who was told he had to make certain improvements to his plant which would cost $30,000. His gross yearly income was only $34,000. So he had no choice but to quit and go out of business.

When we get into the business of mandating fines for "all violations" regardless of how trivial, then we trade an undetectable gain in compliance for a very substantial loss in credibility and goodwill, and we bankrupt people.

Mr. President, this same kind of amendment passed the Senate last summer by a substantial vote. A bill similar to this is now pending in the House with 218 cosponsors.

I got a letter the other day from a sand and gravel operator in Michigan. MSHA cited him for faulty electric wiring. The company requested that the inspector discuss the matter with their electrical contractor, and MSHA refused.

Then the company filed a request for a review of the citation and told the inspector that it was not going to comply with the citation.

So, MSHA forced the company to spend $2,000 complying, and closed the operation until they did. The company continued to appeal the case and eventually won, but did not recover any of the money it had spent in compliance, nor any of their court costs, nor any of their attorneys' fees.

Mr. President, let me state something about these industries.

The sand and gravel business in this country has a better safety record than the manufacturing of children's clothes. Yet, MSHA has subjected them to the very closest, harshest kind of safety regulations we could design.

I want Senators to understand that I am not proposing to transfer authority over all metal and nonmetal from MSHA and OSHA. What I am suggesting is that these surface mining industries have safety conditions that bear no relationship to underground mining, and underground miners are the employees that we were primarily trying to protect with MSHA.

The stone mining and sand and gravel mining industries are two good examples. Here are some statistics published recently by OSHA. Listen to them.

OSHA published statistics on industrial classifications which would be exempt from OSHA safety inspections under the Schweiker amendment to the HEW appropriations bill. We all remember that amendment.

Under that amendment, if an industrial category had a statistical injury-illness rate of fewer than 7 per 100 full-time workers per year, as published by the Bureau of Labor Statistics, its members would be exempt.

If an employer in the exempted industrial category had 10 or fewer employees, he could file an affidavit to obtain the exemption.

Using the figures obtained from MSHA, these industries I am talking about, the nonmetallic mineral classification, would have all been eligible for the exemption.

Finally, I would like to say that we

are not trying to make the workplace any less safe for workers.

We are just trying to foster a spirit of cooperation between employers and the Government to insure a cohesive and workable system of safety for employees.

Finally, Mr. President, I know the argument is going to be made that if we adopt this amendment, employees in sand and gravel, stone, colloidal phosphate, and clay will fall between the cracks and will not be regulated. That is not true as a matter of law. And I am making the record here right now which is intended to make that clear.

The fact of the matter is that OSHA covers virtually every workplace and industry in America unless an industry is removed from its jurisdiction.

When we passed MSHA, we intended to remove underground mining and surface mining of coal from OSHA. It was specifically set out in that Act that MSHA would be the exclusive regulator of that industry. When you remove the mines covered by my amendment from the jurisdiction of MSHA, OSHA automatically has jurisdiction to regulate them. There is absolutely no question about that.

I would like to make one other point. The amendment provides that it will not take effect until February 1, 1981, which will give MSHA and OSHA plenty of time to work out a smooth transition and exchange jurisdiction from one to the other.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. I yield myself 5 minutes.

Mr. President, the idea that stone mines are not mines, and that sand and gravel mines are not mines, is among the more persistent rumors around here.

The idea that these mines are not hazardous places of employment is also one of the most persistent rumors around here. Both of these rumors are harmful because they erroneously encourage support for this amendment.

The operators of stone mines and the sand and gravel mines would have us believe that they are not really mines at all. They would have us believe that the Federal Mine Safety and Health Act of 1977 is the problem because that law treats them as mines for the first time.

This is not so. They have been treated as mines under Federal mine safety legislation since at least 1966.

Let us not kid ourselves, Mr. President, these mines are hazardous mines. So far this year, nearly 62 percent of all noncoal mining fatalities occurred at the so-called safe mines which are the beneficiaries of this amendment.

So, Mr. President, in considering this issue, it is essential to separate the fact from the fiction. We must know what is right and what is wrong.

Anyone who believes that these are not mines is mistaken.

Anyone who believes that these mines have not always been regulated as mines is mistaken.

Anyone who believes that these mines are not, in fact, hazardous places of employment is mistaken.

Anyone who believes that this amendment would improve the safety and health of 165,000 miners is also mistaken, tragically mistaken, because the effects of this amendment would be that stone mines and sand and gravel mines, and phosphate mines would be subject, for the next fiscal year, to the regulations of no Federal workplace safety and health agency, and no State workplace safety and health agency.

That is not what the proponents of this amendment say that they intend. They say that their intention is that the jurisdiction over these mines be transferred from MSHA to OSHA.

Mr. President, that is clearly the danger of trying to bring about legislative changes by means of appropriations riders. Because, by casting this amendment as a funding restriction, it has the effect of a funding restriction, and the result is that neither MSHA nor OSHA will have jurisdiction over these mines.

I will explain how this would be, Mr. President, despite the good intentions of the proponents of this amendment.

There was a lot of talk in the other body, when this was first considered as an amendment to the Labor-HHS-Education appropriation, about the effects of section 4(b)(1) of the Occupational Safety and Health Act of 1970. Let me read the pertinent language of that section:

> Nothing in this act shall apply to working conditions of employees with respect to which other Federal agencies . . . exercise statutory to prescribe or enforce standards or regulations affecting occupational safety or health.

The proponents of this amendment, both here and in the other body, assert that this statutory language would give OSHA jurisdiction over these mines during the period of this appropriation, because MSHA could not be exercising its statutory authority.

But, Mr. President, there is no indication that the courts and adjudicative bodies would find that section 4(b)(1) would provide OSHA with this jurisdiction in the face of a temporary limitation on the use of appropriated funds.

Most of the case law on the scope of section 4(b)(1) involves situations where an agency other than OSHA had statutory authority, but failed to exercise it. That is, the other agency never issued regulations or never conducted inspections.

But that is not the case here. Not only does MSHA have the statutory authority over these mines, but also, it has issued regulations, and it has enforced those regulations.

Mr. President, I should like to refer back to our hearing record and recall for Senators that on two occasions, in hearings, when the committee was considering the legislation that would become the Federal Mine Safety and Health Act of 1977, at the time when the mining safety for stone and sand and gravel and phosphate mines was under the Mine Enforcement Safety Administration, not OSHA, representatives of the Crushed Stone Association, appeared before the committee. They were asked where they would prefer to be covered under safety and health legislation. On those occasions, they indicated that they wanted to stay with the Mine Safety Administration. That is where they had been, prior to the current law, and that is where they are now.

It is true that we have had votes here to remove sand and gravel and crushed stone and phosphate mines from MSHA jurisdiction, and I know that clay will be added, parts of clay will be added, to this provision, later tonight.

We have had votes to take jurisdiction in these areas of mining from MSHA and transfer it to OSHA, and that was specifically a transfer, in the amendment that was offered by the Senator from Wyoming (Mr. WALLOP). That is what we had the last vote on—a clear transfer of jurisdiction.

This is an appropriations bill. What this amendment says is that no funds appropriated to the Mine Safety and Health Administration can be used to enforce the provisions of the mine safety law in these areas of stone, gravel, and phosphate—and clay will be added.

The Senator from Arkansas says that the objection will be made that this means that there will be no standards and that no safety law will be applied to these mines if MSHA cannot do the job. The objection is being made, and I am making it right now.

This removes these workers from the protection of safety and health standards because this is an appropriations bill, not an authorization bill, and there is no authorization transferring jurisdiction over these areas of mining to OSHA.

The Senator from Arkansas will say that anything that is not covered under any other law is covered under OSHA; and that will be the case, the Senator from Arkansas says, because he as the proponent of the amendment says so here in this debate.

But, this question will be decided not in a debate on an appropriations amendment in the U.S. Senate but rather, it will be decided in the courts of law. Courts have had this question before, and the decisions have been contrary to what the Senator from Arkansas says would be his intention.

Now we have an appropriation restriction which says that for a limited period of time MSHA cannot enforce those regulations. No decided case has ruled that this would be sufficient to give OSHA jurisdiction over these mines. Indeed, the decided case which comes closest, factually, has ruled just the opposite—that OSHA does not have the jurisdiction as a result of section 4(b)(1).

That case, Pennsuco Cement & Aggregates, Inc., was decided by the Occupational Safety and Health Review Commission on May 8, 1980, only a few months ago. The Commission's decision can be found in volume 8 of the Occupational Safety and Health Cases, on page 1378.

The issue there was whether section 4(b)(1) of the Occupational Safety and

Health Act permitted OSHA to assert jurisdiction at a workplace over which another Federal agency, in this case MESA, MSHA's predecessor agency, had not exercised its jurisdiction.

In that case, as now, the other agency, MESA, had statutory jurisdiction. In that case, as now, the other agency, MESA, had acted in the exercise of that statutory authority by promulgating safety standards. In that case, as now, the other agency had exercised its statutory jurisdiction by conducting inspections to enforce those standards. In that case, as now, the other agency had been required, temporarily, to cease exercising its jurisdiction.

During that period, OSHA attempted to enforce the Occupational Safety and Health Act at that mine. The mine operator challenged OSHA's authority, contending that section 4(b) (1) did not, in those circumstances, give OSHA jurisdiction over that mine. The Commission agreed with the mine operator and vacated the citation which OSHA had issued.

The Commission ruled that the mere fact that MESA had temporarily ceased its inspections did not alter the fact that MESA had exercised its statutory jurisdiction. MESA had, in fact, promulgated and enforced standards. The Commission pointed out that to rule otherwise would put employers in the anomalous position of having to comply with both MESA's and OSHA's standards.

That is where we are right now. In this case, by denying MSHA money to enforce the law at these mines, we are not taking the jurisdiction away from MSHA; we are just giving it no money to enforce the law. It is a temporary situation for the duration of this continuing resolution. OSHA does not have jurisdiction. OSHA is not exercising it now, and I do not believe that the OSHA law will automatically give that authority to OSHA merely because MSHA is temporarily denied authority to enforce the law. It is just as it was in the one case that has been reported on this situation.

So, Mr. President, while I certainly believe that the proponents of this amendment intend OSHA into have that jurisdiction, I believe that, in view of this precedent, the Senate cannot, and should not, blindly accept their assertion that this mischevious amendment would result in OSHA coverage over these mines. Certainly, the risk that the 165,000 miners employed in these mines could very well end up without any statutory safety or health protection is just too great risk to take. We should defeat this dangerous amendment.

Now, indeed, some may disagree with this interpretation of the decisional law. And indeed, when the courts finally get around to addressing, for the first time, the precise legal question which this amendment would pose, they might answer that question differently. But, in the interim, Mr. President, who is going to protect these 165,000 miners? The answer remains the same—no one.

Because, with such an uncertain legal basis, the question of OSHA's jurisdiction is certain to be litigated, and during the pendency of that litigation, it is certainly most likely that OSHA would not be able to exercise its claimed jurisdiction.

Mr. President, the Senate should know that the practical effect of this amendment, whether intended or not, will be to deny these 165,000 miners the protection of any workplace safety and health program.

We must bear that in mind, and we must recognize that the fate of 165,000 miners employed in some of the most hazardous workplaces in our country is at stake. This is not the same question that was before us when we had a legislative amendment before us on July 29. Then the question was should these miners be protected by MSHA or OSHA?

Then the question was, Should these be protected by MSHA or nobody? The answer should be clear. The decision should be easy.

Regardless of what some of us may see as the relative merits of OSHA versus MSHA protection, I cannot believe that any of us is prepared to argue—or vote—in favor of an amendment that says no protection is better for these miners than MSHA protection.

So, Mr. President, we must reject this amendment. These hazardous mines were responsible for more than 6 out of every 10 noncoal mining fatalities so far this year. Clearly the sites of such a significant percentage of the mining fatalities cannot be left outside the scrutiny of any workplace safety agency.

So, here we are: Sand, gravel, and colloidal phosphate mining—these are dangerous occupations. Some clay mines will be added, and there were four fatalities this year in the clay operations, and all of them were in the type of clay mines that the Senator from Arkansas will want to exempt from MSHA in his amendment.

So far this year, Mr. President, 62 percent of noncoal mining accidents were in mines where MSHA would not be permitted to enforce the law under this amendment, because there would be no money to enforce it.

So it seems to me that taking that money away, taking away developed standards of safety and health for a highly hazardous occupation is a reckless disregard for some very important workers in this country.

All workers are important. Those who work in the hazardous occupations should get an extra bit of appreciation for the jobs they do. We should not strip away the jurisdiction of the law that does protect their safety and their health on the job.

This amendment would strip them effectively of protection on their hazardous jobs.

Mr. BUMPERS. Mr. President, just a couple of minutes on the question of jurisdiction.

The case cited by the distinguished Senator from New Jersey is a Health Review Commission decision. All the Commission said was that compliance requirements of OSHA of which an employer has no notice cannot protect the safety and health of employees, and obviously what the Commission was holding there was that an employer without notice that he is covered by OSHA was not liable under OSHA regulations. But leading cases on this jurisdictional question are Southern Pacific Transportation Company against Usery, a 1976 court of appeals case. The court said that some exercise of authority to regulate railroad safety is necessary to oust OSHA's pervasive regulatory scheme. Here, by my amendment we are depriving MSHA of the power to exercise jurisdiction, and automatically OSHA's pervasive scheme—and I do not like the word pervasive, but that is what the court said—OSHA's pervasive scheme will automatically take over.

Here is another case from the D.C. Circuit, Baltimore & Ohio Railroad Company against OSHA. I am not going to read it, but I did want to point it out. Another one is Southern Railroad Company against OSHA, a 1976 Fourth Circuit decision in which the court said:

> To read the exemptive statute in a manner which would leave thousands of workers in these nonoperational areas of the railroad industry exposed to unregulated industrial hazards would in our opinion utterly frustrate the legislative purpose.

So at least three courts of appeals in this country, which are the courts next in authority to the U.S. Supreme Court, have consistently held that OSHA has jurisdiction when any other agency—the Federal Railroad Administration, MSHA, or another one—is deprived of jurisdiction.

Finally, I want Senators to listen to some more safety statistics.

Let us look at the fatalities in the stone and sand and gravel industries. In 1979 there were 12 deaths in the sand and gravel industry. How did they occur? Three were due to drownings. The workers were provided life jackets but refused to put them on. That is the reason those three drowned.

In another fatality, a miner with 37 years' experience was struck by material dropped from a front-end loader.

The fifth victim was a truck driver who was delivering material from a steel mill. The driver drove his truck into some power lines, and when he tried to jump out he was electrocuted.

I submit that all the laws and regulations in the world will not keep a worker from getting killed when he does that.

Victim No. 6 was the vice president of a company with 20 years' mining experience. He unwittingly attempted to free a 2,300-volt power cable that was submerged in a dredge pool while he was standing in 12 inches of water.

All the regulations in the world would not have prevented that death.

Another sand and gravel worker was killed while arriving at work. An MSHA accident description says the man came to work on a motorcycle. He was late, and in his haste he ran into a water truck.

In summary, Mr. President, the Senate has spoken on this issue before. The Senator from Wyoming and I have offered similar legislation that now has 42 cosponsors. The same bill pending in the House has over 200 cosponsors.

So I urge Senators to keep this amendment in the continuing resolution.

I want to make one final point in case anyone is confused. I am arguing for the committee amendment which is already in the bill.

The Appropriations Committee put that in the bill without objection from anyone, and I want it to stay in. Your vote in favor of the amendment would be an aye vote.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from New Jersey has 6 minutes.

Mr. BUMPERS. Mr. President, I misspoke myself. The amendment was adopted in the committee by 15 to 10.

Mr. WILLIAMS. Did everyone hear that? It was 15 to 10 in the committee, not unanimous. Is that right?

Mr. BUMPERS. That is right.

Mr. WILLIAMS. Mr. President, I stated, earlier, that when the coverage of sand and gravel under the Mine Safety and Health Act was being considered in our committee at hearings during several days in March 1976, those who spoke for the crushed stone industry clearly stated that they wanted their safety and health standards for their industry to be created to be administered, and to be enforced by the Mine Enforcement Safety Administration.

The witness was Mr. James Campbell, executive vice president of Harry T. Campbell & Sons who appeared with several others to represent the industry.

Mr. Campbell spoke for the group, and Mr. Campbell said on page 831 of our hearings that I have referred to:

> We think both sand and gravel are best served under the Mine Enforcement Safety Administration.

That is where they want it to be. That is where they are.

I know that they are now putting a plea to be taken out of MSHA and transferred to OSHA. I think I can guess why. It is a good organization that knows its business, the Mine Safety and Health Administration. They have a background of experience and they apply it effectively even to the point of being able to require two inspections each year of these mines that we are talking about.

OSHA has no standards specifically applicable to mines. Obviously, OSHA has no requirement of a set number of inspections periodically.

These people who want to live without standards have prevailed on some to advance their cause to get out from under MSHA and go to OSHA.

Maybe some day they will get there, but I fear that they will not get there this way through this Appropriations Act.

The Senator from Arkansas says that when an agency is deprived of jurisdiction then under the OSHA Act, OSHA provides coverage.

This appropriations bill does not deprive MSHA of jurisdiction over mines, specifically the mines here designated in this amendment. All it does is say to MSHA: "You cannot use any money to enforce the standards you have promulgated under the jurisdiction you have."

We are right back where I said, and the last resort, of course, is not what I say here. The last resort will be the first case in the courts and there will be an early case if this goes through that will definitively say what the law is.

All the evidence we have on the law is that when an agency has jurisdiction and temporarily does not exercise it, that does not give the jurisdiction to the other agency, OSHA. There we are.

I have no request for time.

Mr. BUMPERS. Mr. President, I wish to make one comment and then I shall send a modification to the desk.

The comment I wish to make is that the request by the crushed stone industry be included in MSHA was made in 1976. That was before they were included.

I can tell Senators we did not pass MSHA until 1977 and they now want out worse than they wanted in at first.

MODIFICATION OF COMMITTEE AMENDMENT BEGINNING ON PAGE 45, LINE 20

(Purpose: To include within the exemption from Mine Safety and Health Administration regulations persons engaged in the surface mining of clay other than brick clay)

Mr. BUMPERS. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

> On page 45, line 20, after the word "of" insert the words "clay other than brick clay,".

The PRESIDING OFFICER. Is there objection to the modification?

Mr. WILLIAMS. There is no objection to the modification.

The PRESIDING OFFICER. Without objection, the committee amendment is modified.

Mr. WILLIAMS. Mr. President, I wish to point out if I may, if I have a moment, that this modification only deals with clay and specifically does not include clay that goes into brick.

Mr. BUMPERS. The Senator is correct.

Mr. WILLIAMS. Mr. President, I regret this limitation. So far this year, there have been four fatalities in clay mines. All four were in mines which the modification would free from MSHA jurisdiction. Not one was in a mine that the Senator from Arkansas would leave within MSHA jurisdiction.

The four fatalities were all in clay, other than brick clay. I did not know if the Senator knew that.

Although I regret its inclusion, and particularly regret it, I am not objecting and we might as well vote on the whole amendment, as modified. I am prepared to yield, and I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment amending the committee amendment has been included.

Mr. BUMPERS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 45, as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 44, nays 35, as follows:

[Rollcall Vote No. 529 Leg.]

YEAS—44

Armstrong
Baker
Baucus
Bellmon
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Chiles
Cochran
Danforth
Dole
Domenici
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Humphrey
Inouye
Jackson
Kassebaum
Lugar
McClure
Melcher
Nunn
Packwood
Pryor
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—35

Bayh
Biden
Burdick
Byrd, Robert C.
Chafee
Cranston
Culver
DeConcini
Durenberger
Eagleton
Glenn
Hart
Heinz
Huddleston
Javits
Leahy
Levin
Magnuson
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Pell
Percy
Proxmire
Randolph
Riegle
Sarbanes
Sasser
Stafford
Stewart
Stone
Tsongas
Williams

NOT VOTING—21

Bentsen
Bradley
Cannon
Church
Cohen
Durkin
Gravel
Jepsen
Johnston
Kennedy
Laxalt
Long
Mathias
McGovern
Nelson
Pressler
Ribicoff
Stennis
Stevenson
Talmadge
Tower

So the committee amendment on page 45, as amended, was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, does this complete action on the committee amendments?

The PRESIDING OFFICER. It does.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes tonight. The Senate will resume action on this resolution at 9:30 tomorrow morning. Rollcall votes will occur throughout the day and into the evening. Hopefully, action can be completed tomorrow on the resolution.

Senators will keep in mind, I am sure, that the measure will have to go to conference and action will have to be completed on the conference report before the Senate can adjourn sine die for the year. It may be necessary to have a session on Saturday, as well as on Monday, and perhaps on Tuesday.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is due to be recognized. Does the Senator from Montana seek recognition?

Mr. MELCHER. Mr. President, I yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, section 124 of the pending resolution denies use of appropriated funds to disqualify a plan under section 411(d)(1)(B) of the Internal Revenue Code, provided such plan has a vesting schedule which is equal to or more stringent than the so-called 4/40 plan. This restriction is referred to in the conference committee report on the Employee Retirement Income Security Act of 1974 (ERISA). That conference report reads in part as follows:

> Except in cases where actual misuse of the plan occurs in operation, the Internal Revenue Service is directed not to require a vesting schedule more stringent than 40 percent vesting after 4 years of employment with 5 percent additional vesting for each of the next 2 years, and 10 percent additional vesting for each of the following 5 years.

The conference report focuses on plans with a 4/40 formula of vesting based on 4 years of employment. Again, the conference report deals here with years of employment and not years of plan participation. Section 124 of the resolution only restates the conference report language in the context of funds expended to enforce section 411(d)(1)(B) of the Code.

Mr. President, this issue arises from proposed Treasury regulations published on April 9, 1980. ERISA disqualifies plans where there has been a pattern of abuse in the vesting of benefits tending to discriminate in favor of officers, shareholders, or highly compensated employees or where there has been, or there is reason to believe there will be, an accrual of benefits or forfeitures tending to discriminate in favor of employees who are officers, shareholders, or highly compensated.

This provision establishes the congressional policy against discriminatory pension plans. The law should not approve and confer tax benefits to a plan which substantially favors officers, shareholders, and the highly compensated to the disregard of rank-and-file workers.

However, the pension costs imposed on employers must be balanced. The employer's creation of a pension program for his workers is voluntary. If the expenses exceed the benefits, the employer will not establish a plan or will terminate his current plan.

Generally, vesting of benefits is spread over a period to encourage a worker to remain with the employer. If full and immediate vesting is required, the incentive to remain on the part of the employee is lessened, and considerable expense is imposed on the employer who experiences rapid turnover among his workers. The Congress had to balance these concerns in legislating vesting requirements.

The proposed Treasury regulations sought to define what discriminatory vesting is and what it is not. The proposal raised great concern among plan counsels and administrators, because of the potential increase in cost to employers.

At the executive session of the Senate Finance Committee on June 11, 1980, several committee members—Senator Dole, Senator Talmadge, Senator Bentsen, and this Senator—expressed deep concern over the Treasury proposal. Deputy Assistant Secretary of the Treasury Daniel I. Halperin at that time assured the committee that the Treasury would modify its proposal with the committee members' concerns in mind. I ask unanimous consent to include in the Record at the end of my statement, a copy of the coloquy between Deputy Assistant Secretary Halperin and this Senator from Hawaii.

I have since followed the Treasury's actions closely. The Treasury has modified the proposed regulations to answer the criticisms raised by large pension plan representatives; and it was in the process of devising a modification to meet the need of small plans.

On August 19, 1980, the House of Representatives adopted a floor amendment to the Treasury appropriation bill. This amendment, which became section 124 of the resolution, denies the use of appropriated funds to disqualify a plan under certain conditions.

Up to that point, it was my hope that the administrative process would work to resolve the issue. The Finance Committee had deferred any legislative action in favor of administrative resolution to achieve a permanent solution in line with the understanding Treasury representatives reached with Finance Committee members. However, the House in the Treasury appropriations bill and now in the continuing appropriations resolution has decided to take legislative action and the House action supersedes the earlier effort and understanding the Finance Committee had reached with the Treasury Department. The freeze imposed by the House action will keep the problem unresolved for another year.

Employers need certainty in establishing a plan and I find the House freeze far from satisfactory. But I support the action with the hope that a permanent solution will be reached in the near future.

Mr. President, I ask unanimous consent that a colloquy between the Deputy Assistant Secretary for Tax Policy, Mr. Halperin, and myself, which took place on June 12, 1980 in the committee, be printed in the Record.

There being no objection, the colloquy was ordered to be printed in the Record, as follows:

Colloquy Between Senator Matsunaga and Daniel I. Halperin, Deputy Assistant Secretary for Tax Policy Regarding Proposed Vesting Regulations Under Section 411(d) of the Code

Senator Matsunaga. Mr. Chairman, I would like to pose several questions to Deputy Assistant Secretary Halperin on an issue of deep concern to me and many pension plan administrators and counsels.

Mr. Halperin, section 411(d)(1) of the Code has two focuses. It proscribes a pattern of abuse tending to discriminate in favor of officers, shareholders, or the highly compensated employees. It also prescribes actual or reasonably anticipated accrual of benefits or forfeitures tending to discriminate in favor of officers, shareholders or highly compensated employees. This provision implements the congressional policy against discriminatory pension plans. The laws should not approve and grant tax benefits to a pension plan which substantially favors officers, shareholders, and the highly compensated and disregards rank-and-file workers. On the other hand, the pension costs imposed on employers must be balanced. The employer's creation of a pension program for his workers is voluntary. If the expenses exceed the benefits, the employer will not establish a plan or will terminate his current plan.

Generally, vesting of benefits is spread over a period to encourage a worker to remain with the employer. If full and immediate vesting is required, the incentive to remain is lessened, and considerable expense is imposed on the employer who experiences rapid turnover among his workers.

Mr. Halperin, I have received numerous letters and personal expressions of concern about the proposed Treasury regulation under section 411(d) of the Code on non-discriminatory vesting. You have heard these concerns too. What is Treasury's concern in this area?

Mr. Halperin. Our concern is with implementing the 40-year-old requirement which provides that tax-qualified retirement plans may not discriminate in favor of high-paid employees. However, we also recognize the need to balance the interests of employee protection with the cost of providing those protections.

Senator Matsunaga. Would you tell me what Treasury is doing in this area. I understand the Treasury's new revised proposal has been published this week. Would you describe the details of the proposal.

Mr. Halperin. The original proposal was published on April 9, 1980 and a 60-day written comment period was provided. On June 9, we filed modifications to the proposal with the Federal Register and the new provisions are to be published in the Register today.

A public hearing on the proposed regulations, as modified, is scheduled for July 10, and a 60-day period for written comments is also provided for the modifications. The public has until June 26 to request an opportunity to appear at the public hearing.

We hope this rapid response to public comments and the changes that have been made to the proposed regulations show our willingness to be flexible and reasonable in establishing guides in this area. It shows the administrative process works well. It should be allowed to continue.

The June 9 modifications respond to two general criticisms of the original proposal.

First, the "safe harbors" in the original were viewed as an attempt to force plans into faster vesting. This was not the intent, and these safe harbors have been withdrawn.

Second, the facts and circumstances test was not understood and many said it could not be applied. The modifications clarify that a reasonable disparity between the prohibited group and other employees is acceptable. The new proposal provides specific factual examples of how the test will be applied and what is a "reasonable" disparity.

Senator Matsunaga. Plan administrators must know in advance that a vesting schedule is sufficient to obtain a favorable determination letter and will more likely than not be approved in a future audit review.

Do the proposed regulations affect the ability of a plan using 4/40 or 10 percent vesting to receive a "favorable determination letter?"

Mr. Halperin. Since 1942, the Internal Revenue Code has said that a retirement plan is not entitled to favored tax treatment if it has the effect of providing "discriminatory" benefits for officers, shareholders and high-paid employees.

Even before ERISA, the issuance of a determination letter required an indication that, based on the plan's particular facts and circumstances, a plan's vesting schedule would not operate in a way that would lead to discrimination in operation. The proposed regulations are no more stringent than rules which have been in existence for nearly 40 years.

Since 1975, a plan seeking a determination letter could avoid this facts and circumstances test; it could adopt so-called 4/40 vesting and automatically receive a determination letter. However, the determination letter by its terms did not apply to the effect of the plan in operation.

Thus, we have had three different standards—a 4/40 determination letter standard which did not apply in operation, a standard of facts and circumstances for vesting slower than 4/40, and a third, operational standard which had not been clearly defined. This created a serious problem of uneven enforcement.

The proposed regulations replace these three standards with one standard—the facts and circumstances test which has existed since 1942.

We have also—we hope—given substantial guidance as to how this test will be applied.

After the regulations become final, this single test will be applied for both determination letter and operational purposes, and we expect that a single, clear pattern will be provided for plans to satisfy the requirements for a determination letter.

Senator Matsunaga. As I stated earlier, taxpayers must be confident of obtaining a favorable determination. Except in cases of actual misuse, 4/40 vesting is adequate.

Let's examine this application issue for a moment—what will happen to a plan that has a determination letter when it comes into the IRS for review on another matter? Or will all plans have to come in again?

Mr. Halperin. We do not want all qualified plans to come back through the determination letter process. In fact, we indicated quite clearly that several categories of plans—generally, those that have already received a determination letter involving some kind of facts and circumstances judgment—will be treated as having a determination letter under the facts and circumstances test in the regulations. Clearly, such plans need not come in for review. And when they do come in for review because of a change to some other plan provision, we anticipate that a relatively simple procedure will be developed for dealing with vesting.

As to plans with 4/40 vesting, we believe that many—perhaps most—of these plans will be found to operate in an acceptable manner under the examples in the proposed regulations.

We hope to receive additional input from the sponsors of these plans regarding the facts which should be addressed in the examples.

Senator Matsunaga. If a plan comes in for review and the IRS determines—based on your examples—that its vesting schedule is discriminatory, what will happen? Will the plan be retroactively disqualified?

Mr. Halperin. This is a matter we expect to be considered at the July 10 IRS hearing and we are open to suggestions here.

There are at least two conflicting interests we are trying to balance. On the one hand, many employers believe that a 4/40 determination letter was acceptable in all cases, and will argue that it should protect them in operation. On the other hand, the determination letter by its terms indicates that its favorable ruling does not apply to the effect of the plan in operation.

However, we are sympathetic to the problems that many plans face and we want to be reasonable. Therefore, on balance, we are willing to adopt a rule which would say that a plan will not be retroactively disqualified unless the discrimination was egregious.

We think that an egregious case would include two situations. One would be where there was evidence that employees were fired to keep them from vesting. The other would involve, for example, a plan that has been in operation for 10 years and where there have been several participants at one time or another, but where only the sole shareholder has any vested interest. In other words, if no present or former employee has any vested interest in the plan except for the shareholder after 10 years of operation, we would find that the plan was egregiously discriminatory and should be retroactively disqualified.

Of course, more difficult cases would arise, and we are most interested in receiving comments and suggestions about where the line should be drawn for this purpose.

Senator Matsunaga. Of course, if a plan with 4/40 vesting fails to meet the facts and circumstances test because of discriminatory firing, the plan will be disqualified. It would seem that in such an egregious case as discriminatory firing of workers to prevent vesting of benefits, disqualification should be retroactive.

But generally 4/40 vesting is a fair balance between the desire to benefit workers and the cost imposed on employers. Employers furthermore need some degree of certainty that their plans will be approved. If in review, the plan is disqualified, it is my hope that disqualification will be prospective except in the egregious cases. I hope you will give careful thought to this concern.

Would you be willing to add additional examples to give guidance in applying the regulations?

Mr. Halperin. Yes, we are very interested in providing a wide range of specific examples so that a variety of plans will have guidance and certainty in applying the tests. We anticipate that the final examples will include more than one 4/40 plan, and one or more plans providing vesting at the rate of 10 percent per year of service, including at least one plan that begins such a schedule after a one-year delay.

However, we do need time to proceed in this. Our administrative process is not yet complete and we need to carefully consider comments and suggestions in order to provide clear, reasonable examples. We do want to be responsive to the needs of plan administrators, and we need their input to provide examples.

Senator Matsunaga. It is my intention that the small plan administrators and counsels at the IRS hearing will provide examples for the IRS to include in the new regulations. It is also my intention and understanding that the IRS will incorporate additional examples in the new regulations, thus offering specific guidance for small plans.

Moreover, it is my understanding that the Treasury and the IRS will issue final regulations on this matter only while the Congress is in session with adequate time for the Congress to respond. Is this correct?

Mr. Halperin. Yes.

Senator Matsunaga. I desire a fair accommodation to satisfy all concerns. The proposal should not impose unbearable cost to cause employers to drop pension plans or not to establish a pension plan for workers.

Would you give adequate time for the public and the tax writing committees to study and comment on the new proposal. You, of course, will give all due consideration to our comments and seek a fair accommodation?

Mr. Halperin. We will certainly try to adopt a procedure to get broad input so that we can determine if the examples and the regulations as a whole are responsive to your concerns.

● Mr. DOLE. Mr. President, I support the amendment to reduce the level of appropriations in the continuing resolution so that it is consistent with the spending level we authorized in the budget resolution. I believe we have to end the habit of taking credit for budget restraint on the one hand while boosting spending on the other.

The problem has always been that we commit ourselves to a particular spending level in the budget resolution, then contradict ourselves when we pass authorizing legislation and appropriate funds. We made some progress this year by passing the budget reconciliation bill in response to the directives set by the first budget resolution. The bill we have before us now is a temporary appropriations measure, but that is no reason to ignore the spending level we adopted in the second budget resolution.

Mr. President, the recent elections demonstrated the frustration of the American people. With double-digit inflation it is no wonder that Americans are frustrated. Our obligation is to take consistent, tough, intelligent steps to maintain fiscal restraint. We have an opportunity to do so now by reducing the level of spending in the continuing resolution.

It may be that we need to impose tighter institutional restraints on the ability of Congress to exceed spending levels once they are adopted. Unless both spending and taxing levels are reduced, we can look forward to continued economic stagnation. But we can demonstrate our determination to avoid that result by voting now to adhere to the spending level provided in the second budget resolution.

Seldom has there been such a firm consensus that the fiscal policies of the Federal Government have been irresponsible. Our job is to acknowledge that consensus and deal with the root causes of public discontent with our management of the Federal budget. To do that, we must agree that there are limits to our ability to spend the public's money in a manner that is consistent with the interest of the public as a whole. We do not have a mandate to make random and ruthless cuts in Federal programs. We do have a mandate to make choices among spending priorities. Only then can we adhere to a budget limit, as the public demands. Now is a good time to start.●

LONG-TERM CARE DEMONSTRATIONS

● Mr. CHILES. Mr. President, I would like to call the chairman's attention to the research and demonstration budgets for the Health Care Financing Administration and the Administration on Aging. During fiscal year 1980, $10 million from the Health Care Financing Administration's research funds, and $10.5 million from the research funds of the Administration on Aging, financed a congressional initiative in long-term care, including special channelling demonstrations, which the Senate Appropriations Committee has sponsored for several years. Twelve projects were funded from the 1980 allocation. They will be testing innovative ways of organizing and delivering a wide range of community health and social services to meet the growing needs of our elderly and disabled population. A hallmark of these demonstrations is the unique coordination and cooperation they are forging between health programs funded under medicare and medicaid and social services supported by title XX of the Social Security Act and the Older Americans Act.

The bill before us allocates a total of $50 million for research for the Health Care Financing Administration. This amount is $3.2 million over the 1980 funding level, but represents a cut of $2.4 million from the amount requested by the administration for 1981. The administration budget request for the long-term care initiative was $15.5 million, $8 million of which was to come from the Health Care Financing Administration's research funds.

Since we are not fully funding the budget request, and the House bill did not specify where the cut of $2.4 million should be applied, I would like to ask if the chairman agrees that it is the committee's intent that priority continue to be given to these long-term care demonstrations. The committee would expect this initiative to be funded to at least the level of the administration budget request for fiscal year 1981, is that not true?●

● Mr. MAGNUSON. The Senator is correct. The committee has always given priority to these demonstrations and it is our intent that they receive continued funding of at least $15.5 million. These demonstrations are an important and unique element in our efforts to prepare for the future long-term care needs of the elderly.●

● Mr. BENTSEN. Mr. President, one of the best services provided by the U.S. Customs Service is the operation of port of entry offices throughout our country. The city of Austin, Tex., has applied to be an official port of entry.

The continuing resolution, House Joint Resolution 637, provides funds allowing normal growth and expansion of the U.S. Customs Service and I would urge the Customs Service to move forward as expeditiously as possible on the Austin application.

Austin is the State capital of Texas, and is becoming known as a capital of high-technology industries. With industry expanding rapidly in the Austin area, a port of entry would serve several purposes. It would reduce distribution costs for goods entering and leaving Austin. It would increase local import-export services and encourage even more international commerce in central Texas. And the port of entry designation would also improve Austin's tourist trade. Austin has a favorable cost-benefit ratio. This new office will save the Federal Government money by increasing efficiency and servicing industries at their home base.

Designating Austin as a port of entry would increase productivity in central Texas, as well as expand a quality service of government. With the passage of this bill, I hope this designation can soon become a reality.●

FAMILY EDUCATION PROGRAM

Mr. BAUCUS. Will the distinguished Senator from Washington yield for a question by my colleague (Mr. MELCHER) and me?

Mr. MAGNUSON. I would be happy to yield to the Senators from Montana.

Mr. BAUCUS. As the Senator knows, we have a program in the States of Wyoming, Montana, Nebraska, North Dakota, South Dakota, and Idaho called the family education program.

The family education program, which received some of its early support through the efforts of Senator Mansfield, seeks to solve some of the welfare problems in our part of the country by developing employable skills. These are not public service jobs, but an effort to provide educational and vocational assistance to allow participants to become self-supporting. The program, as its very name indicates, is designed to provide this incentive with the family in mind. The program's philosophy is identical to that stated, I might note, in the Republican Party Platform:

> The values and strengths of the family provide a vital element in breaking the bonds of poverty.

The results of the program have been very positive, Mr. President. For example, in 1979, 73.9 percent of the families entered sustained employment within 45 days of program completion and 90.1 percent of the families which had participated were still intact 1 year after participating in the program. This compares favorably with vocational-technical training, generally, where a similar employment rate after program completion can be found. Most heartening about this program is the far higher rate of families remaining intact after completion of the program. The national family breakup rate is about twice as high as the breakup rate for families participating in the family education program.

The overall success rate of the program might be gleaned from the avoidance of public assistance participation for those who participate in the program. Most programs have a 25 to 40 percent success rate in breaking the welfare cycle. This program has an 80 to 90 percent success rate in breaking the cycle.

During the past year, discussions ensued concerning transferring the Federal funding from CETA, a variety of HHS programs, and the Old West Regional Commission to the Department of Education vocational education programs of national significance. This has not occurred, as a result, in part, of the status of the labor-HHS appropriations measure.

The question by Senator MELCHER and myself of the chairman is, in view of the success of this program, by the terms of the continuing resolution, are there sufficient funds and are the agencies involved required to keep this program running, which will necessitate $3.5 million in fiscal year 1981, and can the agencies get together to pool the funds and transfer the responsibility to the vocational education program?

Mr. MAGNUSON. Mr. President, not only does the continuing resolution effectively direct the agencies to do this, but by this very discussion I hope the agencies will look upon the success of the programs to see if it can be enhanced.

FOREIGN AID

Mr. BAUCUS. Mr. President, many Americans perceive foreign aid as an enormous giveaway of hard-earned tax dollars. I think this is an understandable concern, particularly when inflation is eroding the purchasing power of the dollar at home.

Yet, surely, even the most outspoken critics of foreign aid would agree that every American has a stake in a disciplined foreign aid policy that operates in the best interests of the United States' domestic, economic and foreign policies.

I suggest that the following six fundamental goals should be pursued in shaping our foreign aid policies:

To enhance our diplomatic and strategic position;

To counter Soviet bloc influence;

To encourage free market principles;

To maintain a strong image, discipline and direction;

To strengthen our domestic economy;

To encourage self-sufficiency.

Let me elaborate on these six goals.

First, a well-conceived foreign aid policy should enhance the United States' position both diplomatically and strategically throughout the world and should help us to gain and maintain the respect and friendship of other nations, without compromising the fundamental principles on which our country was founded.

Second, a sound foreign aid policy should help counter Soviet and Communist bloc influence throughout the world. Certainly, I fully understand the frustration many Americans feel at what often appears to be the ungrateful attitude of some of the recipients of our aid programs. Still, while we cannot guarantee that every nation that receives our aid will be entirely sympathetic to our world view, commonsense dictates that we do all that is prudently possible to keep other nations, particularly those in the Communist bloc, from picking up where we leave off.

Third, a good foreign aid policy should encourage free market principles in the developing world, and help strengthen and stabilize the governments of our many valuable allies throughout the developed and developing world.

Fourth, a strong foreign aid policy must direct our assistance to where it is most urgently needed and must avoid the inexcusable situation where American aid goes where it is wasted, abused, or simply unnecessary. Americans are tired of hearing of tiny desert islands loaded down with boxes of worthless junk, while at the same time being fully aware that millions of human beings are desperately in need of life's basic necessities.

The United States cannot be an unlimited source of assistance to every nation on Earth. Our assistance must be selective, and our allies must help us share the costs.

Fifth, a good foreign aid policy should help strengthen our own domestic economy, while at the same time strengthening the economies of nations in the developing world.

Sixth, and finally, a well-conceived foreign aid policy should encourage recipients of our aid, particularly those in the Third World, to become self-sufficient. In fact, I am particularly interested in exploring the possibility of helping other nations through trade, rather than aid, wherever appropriate.

The results of a questionnaire I sent to my constituents indicates that Montanans overwhelmingly favor cuts in foreign aid. I am fully prepared to support selective cuts in our foreign aid programs whenever any aspect of that program is beneficial neither to the United States nor to the recipient nation.

As in other areas of the Federal budget, there is room for tightening, reducing, and redirecting our foreign aid commitments where appropriate.

U.S. AID VERSUS COMMUNIST BLOC AID

While our foreign aid commitments are substantial, they are not growing by leaps and bounds, as many may suspect. In fact, since the Marshall plan years of the late 1940's and early 1950's, foreign aid commitments as a percentage of gross national product have dropped from approximately 3 percent all the way down to 0.19 percent in 1979, or 1 percent of our total national budget.

Mr. President, I am not belittling the size of our foreign aid commitment. It is substantial, but I would like to stress a point recently made by Secretary of State Muskie: That is, military weapons are not our only defense against the Soviet Union's substantial and growing presence in the Third World. Indeed, it is disturbing to note that Communist economic aid in 1978 broke all previous records—amounting to nearly $5.4 billion.

Further, as the table below illustrates, while the United States still maintains a slight lead in the absolute level of foreign economic assistance, this lead is rapidly diminishing as the Soviet Union and other Communist nations dramatically increase their foreign aid commitments, both in absolute terms and as a percentage of their GNP's.

I ask unanimous consent to have the table printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—FOREIGN ECONOMIC ASSISTANCE BY UNITED STATES AND COMMUNIST COUNTRIES, 1969–78

[United States equals gross obligations; others equals aid entensions; aid expressed in billions of dollars]

	United States		U.S.S.R.		East Europe		China	
	Aid	Percent of GNP	Aid	Percent of GNP	Aid	Percent of GNP	Aid	Percent of GNP
1969	3.254	0.38	0.476	0.01	0.043	0.03	0.016	(1)
1970	3.676	.37	.200	(1)	.196	.01	.781	..05
1971	3.442	.32	1.126	.02	.484	.03	.563	.03
1972	3.941	.34	.654	.01	.915	.05	.607	.03
1973	4.118	.32	.714	.01	.605	.03	.600	.03
1974	3.851	.27	.816	.01	.914	.04	.282	.01
1975	4.985	.33	1.934	.02	.511	.02	.366	.01
1976	5.055	.30	.979	.01	.773	.02	.150	.01
1977	4.778	.25	.402	(1)	.397	.01	.182	.01
1978	6.297	.30	3.707	.30	1.502	.39	.185	.04

[1] Less than 0.005 percent.

Mr. BAUCUS. Mr. President, if we are to encounter successfully Soviet expansionism and enhance our own position in that part of the world, we must be willing to dedicate sufficient resources to our foreign aid commitments. We can, and must react to the Soviet Union's challenge with more than words and huge defense budgets.

To paraphrase Secretary Muskie, rockets and rhetoric are simply not enough.

ECONOMIC BENEFITS TO UNITED STATES FOR PROVIDING FOREIGN AID

Equally important, though often less obvious, the United States has strong economic motives for continuing its foreign assistance programs. Our foreign aid dollars help to give more developing countries the leg-up they so desperately need, thus enabling them to become our partners in world trade and economic cooperation.

U.S. exports to the Third World make up more than one-third of our total exports, and over 1 million American jobs depend upon our exports to developing countries. In addition, fully 70 percent of development assistance funds are spent in the United States through procurement of goods and services. For example, in my home State of Montana, more than $58 million in goods, services, and agricultural products were purchased in conjunction with our economic development program last year.

Also, the Federal Government had nearly $60,000 in technical contracts with universities and other private institutions in Montana in connection with overseas development projects.

Not only do we secure valuable markets for our exports through our foreign assistance programs—we also secure access to essential raw materials, such as tin, cobalt, and bauxite, critical to our national security. As the world becomes increasingly interdependent and the world's natural resource base continues to deteriorate, this point should not be forgotten.

Besides our many bilateral aid programs with individual countries, the United States participates in multilateral development banks. These multilateral development banks finance development projects in the less developed world. They have considerable experience and expertise in managing development projects.

The banks strongly endorse Western free market economic principles—clearly an important reason for U.S. participation. The result is that the less developed countries have their economies invigorated in the spirit of Western economics.

The United States is not the only participant in these banks, of course. This is precisely the advantage of these banks—they provide an ideal means through which the more developed nations of the world can share the task of aiding the developing world.

They provide assistance while reducing political tensions among donor countries competing in the Third World. It is interesting and important to note that for every dollar the United States contributes to a multilateral development bank, the U.S. GNP increases by $3 as a result of bank lending activities.

Substantial U.S. participation in multilateral development banks, and other international financial institutions, affords us a great deal of leverage in setting overall bank policy.

For example, the United States controls approximately one-fifth of the voting strength of the International Monetary Fund (IMF), an institution which provides foreign exchange to nations, including the United States, encountering temporary balance-of-payments difficulties.

The real power of the IMF stems from the confidence placed in it by the international banking community and the governments of industrialized countries, and that power is considerable.

In fact, many call the IMF the central bank of the world economy. Clearly, it is important for the United States to continue to play a key role in international financial institutions like the IMF.

The Export-Import Bank (Eximbank) is another excellent example of an international financial institution which is far more than simply a glorified antipoverty agency.

Indeed, Eximbank provides direct and indirect loan assistance to foreign importers of American goods, thus playing a key role in promoting U.S. trade.

Yet, until Congress recently passed an emergency supplemental, Exim's lending authority was seriously undermined due to Congress failure to pass its fiscal year 1980 foreign aid bill.

THE LINKS BETWEEN U.S. FOREIGN POLICY AND FOREIGN AID

Our foreign assistance programs also play a vital role in furthering our foreign policy goals. Our foreign aid dollars can help to encourage and nurture struggling democracies in the Third World.

Our military aid and economic support funds strengthen and stabilize the governments of our many valuable allies throughout the developed and developing world. The cooperation resulting from foreign aid can help the United States achieve some of its important domestic and international goals as well.

This is abundantly clear in areas that require tight international cooperation such as international drug trafficking, population growth, nuclear proliferation, and human rights.

HUMANITARIAN SIDE OF FOREIGN AID

Perhaps the most fundamental goal of our foreign aid policy is humanitarian. Almost 1 billion human beings live in extreme poverty. One-half billion people face starvation and malnutrition on a daily basis. Illiteracy and low-life expectancy haunt most of the Third World. Foreign aid becomes not mere dollars and cents in this case, but rather the very staff of life for millions of starving human beings. In my view, the United States has a moral obligation to help struggling countries to help themselves.

Here, it is important to point out that the United States is by no means alone in shouldering the cost of foreign aid. Many Americans would probably be surprised to learn that many other industrialized or "donor" nations contribute a larger percentage of their wealth to economic assistance programs for developing nations than does the United States.

In fact, as shown below, the United States ranks 15th of 17 donor nations in terms of what we contribtue to development assistance as a percentage of our wealth.

Mr. President, I ask unanimous consent that table II be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Country	1979 rank	ODA percent of GNP	1978 rank	ODA percent of GNP
Sweden	1	0.94	1–2	0.90
Norway	2–3	.93	1–2	.90
Netherlands	2–3	.93	3	.82
Denmark	4	.75	4	.75
France	5	.59	5	.57
Belgium	6	.56	6	.55
Australia	7–8	.52	7	.54
United Kingdom	7–8	.52	9	.48
Canada	9	.47	8	.52
Germany (West)	10	.44	10	.38
New Zealand	11	30	11	.34
Japan	12	.26	14	.23
Finland	13	.22	16	.17
Switzerland	14	.21	15	.20
Austria	15–16	.19	12	.29
United States	15–16	.19	13	.27
Italy	17	.10	17	.07

Mr. BAUCUS. Mr. President, in concluding, let me simply say that I share the concern of my fellow Montanans that our foreign aid dollars be spent wisely and efficiently, for purposes that strengthen America's domestic, economic and foreign policy goals.

Whenever any aspect of our foreign aid policy is no longer in our best interests, we must be prepared to change that part of our policy. This will require vigilant and continued scrutiny of the world situation and our our foreign aid policies.

Someone once said:

> The object of foreign aid is to help alleviate human misery by aiding those who show a capacity to aid themselves, and by doing so, to help create an international order where compassion will be joined to self-interest and where the poor may seek to join the rich rather than exterminate them.
>
> For those of us privileged in society's affluence beyond the imagination of most of mankind, foreign aid is not simply charity, but . . . as Oliver Wendell Holmes once said of taxes, our investment in civilization.

These are important words to keep in mind as we continue to strive to maintain a disciplined, well directed foreign aid policy.

INEXPENSIVE BOOK DISTRIBUTION PROGRAM

● Mr. EAGLETON. Mr. President, the continuing resolution contains $35 million for the basic skills improvement program in the Department of Education. As the Senate sponsor of the Reading Improvement Act which has evolved into the basic skills improvement program, I wish we had been able to increase the funding level for this activity. Simply put, nothing, in my view, is more closely tied to the health and strength of this country than the kind of education it provides its children. And the heart of that education—the essential building blocks of that education—are reading, writing, and computational skills.

I would like to direct a question to the distinguished floor manager of the bill about one aspect of this program. Am I correct, Mr. Chairman, that it is the intent of the committee that $6.5 million of the $35 million appropriation for basic skills improvement be used to maintain support for the inexpensive book distribution program?

Mr. MAGNUSON. That is correct. Six and one-half million dollars is for the inexpensive book distribution program.●

NDSL INTEREST RATE

● Mr. EAGLETON. Mr. President, the continuing resolution before us, House Joint Resolution 637, and the companion House measure include a provision which changes the effective date of the increase in the national direct student loan interest rate from October 1, 1980, to July 1, 1981. When the conferees reached agreement on the Education Amendments of 1980, we did not realize the impact of the October 1 effective date for the increased loan interest rate would have on students, financial aid officers, and higher education institutions.

Shortly after the Education Amendments of 1980 were signed into law on October 3, a letter went out from the Department of Education instructing student financial aid officers to modify any NDSL promissory notes signed after October 1 to reflect the new 4-percent interest rate. This letter was dated October 22. Thus, there was roughly a 25-day period during which loans were signed at the old 3-percent interest rate, which under the new law would have to be modified to a 4-percent note. While some institutions have made an effort to comply with the October 22 "Dear Colleague" letter, others simply have not been able to make the modifications to the original loan agreements. In order to assure an orderly implimentation of the new law, the delay of the effective date of the increased interest rate to July 1 is extremely important.

However, I would like to ask the manager of the bill if it is not our intent to interpret this language to mean that the effective date shall be not later than July 1, 1981. A "not later than" interpretation will preclude institutions which have already amended some or all of their NDSL notes from having to go back to the students a third time to modify the note back down to a 3-percent interest rate.

Mr. MAGNUSON. The Senator from Missouri is correct that the Department should interpret this change to mean not later than July 1, 1981.●

● Mr. MATHIAS. Mr. President, I would like to call to the Senate's attention the necessity to provide funds to continue the program operated by the National Center for Therapeutic Riding. The need arises because the facility where the program operates has been declared unsafe. The therapeutic riding program serves handicapped children of the District of Columbia public schools and of other groups and individuals in the metropolitan area. It is my understanding that sections 311 and 316 of the Rehabilitation Amendments of 1978 authorize funds for this kind of recreational program.

Mr. SCHWEIKER. The sections you cite were included in the 1978 amendments to encourage the development of local demonstration programs that would provide recreational opportunities for the handicapped.

Mr. MATHIAS. This program demonstrates that therapeutic riding is an effective method of physical and psychological therapy for handicapped people.

Mr. SCHWEIKER. I agree, and feel that the Rehabilitation Services Administration in the Department of Education should look into this matter and see to it that this project continues.

Mr. MATHIAS. I appreciate your support. I cannot overemphasize what a wise investment this would be. Anyone who is familiar with the program can attest that it has been highly successful for the past 6 years. In fact, it is so successful that the Center is planning to expand the program to include 1,000 children and to train instructors for similar programs around the country, and abroad. Moreover, Washington is a logical site for the headquarters of a national and international effort to educate the public about these valuable techniques for helping the handicapped.

Mr. SCHWEIKER. The committee agrees this is an important project. Under the applicable sections of the law, projects of this kind should be given a high priority. This exchange should serve as a clear guide of the Senate's legislative intent in that respect. The committee, however, expects the Rehabilitation Service Administration, in accommodating the request of the Center, to make every effort to hold down the costs to the level needed for an effective and efficient program.

Mr. MATHIAS. I agree. I raise this issue now because I believe we should do everything possible to preserve this program, directed at helping children who have serious handicaps to regain a sense of confidence. With the International Year of the Disabled taking place in 1981, it would be unfortunate and ironic to find ourselves observing it by standing idly by while an outstanding, and in the long run, cost effective program goes down the drain.●

● Mr. LAXALT. Mr. President, today the Senate debates the continuing resolution for fiscal year 1981, House Joint Resolution 637. One part of that resolution would provide funding for the Community Services Administration for a crisis intervention program. I feel it is extremely important for Congress to clearly define the limits of this appropriation to the CSA.

Pursuant to the established formulas in the windfall profit legislation, the Appropriations Committee has provided $87.3 million to the CSA for the crisis intervention program in conjunction with State energy assistance grants. This program is to assist poor families and individuals to continue to obtain energy and fuel supplies.

Eligibility for this program shall not be dependent upon past payment of fuel bills or receipt of shutoff notices.

Mr. President, we must emphasize that these funds may not be spent for anything other than direct energy assistance to the poor. In the past, the Community Services Administration improperly ignored the intent of Congress when it spent part of energy assistance funds for energy advocacy, education programs, and other forms of so-called indirect assistance to the poor. Congress never intended to fund these programs. Moreover, the Community Services Administration participated in a highly questionable lawsuit in order to misuse these funds for these programs, which activities brought disgrace upon the entire crisis energy assistance program. In order to prevent the Community Services Administration from attempting to again circumvent congressional intent, it is now crucial in this appropriation to restrict its expenditures to the provision of blankets and warm clothing, the payment of fuel and energy bills in emergencies, the weatherization of homes, and the provision of other direct assistance to low-income households. To do otherwise would jeopardize the continued participation of the CSA in this vital project.●

Mr. HEINZ. Mr. President, I rise to express my deep concern about a particular provision of this continuing resolution. I would like to engage my colleague, the distinguished chairman of the Senate Special Committee on Aging, in a colloquy regarding his amendment which was accepted by the Appropriations Committee.

I am referring to section 169 of House Joint Resolution 637 that calls for $38.1 million to be appropriated for programs administered under title IV of the Older Americans Act: These are the important discretionary programs for training, research, and special projects of the Administration on Aging.

These programs provide training for people who deliver the vital services to our Nation's elderly such as nutrition and health care.

They provide funds for research to expand our existing knowledge of aging. And they add tremendously to the development of other programs designed to enhance the independence and self-sufficiency of our older citizens.

They provide the funding for special projects—initiatives that have frequently served as the basis for some of the most successful Older Americans Act programs—the nutrition program, the retired senior volunteer program, and foster grandparents.

The $38.1 million for title IV programs in this bill now before us represents a $7.4 million reduction over and above the $8.8 million cut in the same programs in the President's fiscal year 1981 budget.

Mr. President, I want to point out that this bill also calls for a $33 million increase in title III social services and senior centers. I believe this increase is necessary if we are to continue to allow our senior citizens the opportunity to maintain their maximum independence in their own homes and in their own communities.

I know that the distinguished chairman shares my deep commitment to that goal.

Earlier this fall, I sent a letter—signed by a number of my Aging Committee colleagues—to the Appropriations Committee. We urged them to restore the $33 million in title III social services funds that the President had cut from his first budget proposal.

My friend from Florida provided the leadership that helped carry that through the Appropriations Committee.

Now, once again, we have joined together to make certain that these essential, community based services are funded at the full $280 million level.

But we are confronted with a substantial reduction in title IV appropriations—funding vital to the research that provides much of the support and the expertise for these critical services.

I believe this reduction is short-sighted, and needs to be corrected.

I must ask my good friend from Florida—a man who has been an outstanding supporter of the needs of all our older Americans: What was the impetus behind the $7.4 million reduction that has been proposed?

Mr. CHILES. Mr. President, I am pleased to respond to the concerns raised by the Senator from Pennsylvania about the funding provisions for Older Americans Act programs in the continuing resolution. I know we share a commitment to meet the vital needs of our senior citizens within the constraints of a tight, anti-inflationary budget. I compliment him on being an effective spokesman for older persons, and I look forward to working with him during the next year in his new capacity as chairman of the Senate Committee on Aging.

Our amendment to the continuing resolution had three aims: First, to obtain a $33 million increase for community service programs funded under title III(b); second, to highlight the inadequate information provided to Congress about the use of the Commissioner's discretionary funds; finally, to assure adequate funding for the White House Conference on Aging.

Our top priority is providing an adequate level of funding for community services, since the amount passed by the House of Representatives would not adequately compensate for the costs of inflation and the mandated transition away from funding backup services under the nutrition title.

In the face of tight budget constraints, my utmost concern is that older persons continue to be transported to nutrition programs, that in-home health services remain available for persons who are homebound or suffer restricted mobility, and that senior citizen centers remain open the maximum number of hours—especially during emergencies such as the deadly heat wave of the past summer.

In the budget which the administration presented last January, an increase of $33 million in community service programs was requested as necessary to maintain the current level of service in the face of rapidly rising costs and clientele. That requested increase was reduced in the March anti-inflation revisions of the budget, and the House provided only $10 million. I am pleased to say that we in the Senate were able to find other parts of the budget to cut to make room for the critical $33 million for community services.

The reason we took part of the necessary cut in the Commissioner's discretionary account for research and training, is that the Department had provided totally inadequate information to Congress on what these funds are being used for. We have had considerable problems getting a clear fix on all the research and training funds for human development services. We have found duplication of programs, and no clear strategy for priorities in research or what kind of personnel to be trained.

Since introducing the amendment, we have received a tremendous amount of information in from the field telling us what these programs are doing. While there are still some questionable areas, I have been convinced that enough valuable work is being done that these funds should not be substantially cut. I have been assured that we will continue to receive better information from the Department on the use of these funds.

I am reluctant to see any money added to the continuing resolution on the floor of the Senate, since it already exceeds the budget resolution by almost $5 billion. However, given the new information we have received concerning the use of discretionary funds, I am confident that we can work out an arrangement in conference to restore the cut and convince the House to go along with our increase for community service funding.

Life would be easier if we had the luxury of spending freely on well-intended programs and justifying the expenditure afterward. Unfortunately, the pressures of inflation and competing demands for Federal funds make that impossible. I do not need to remind any of you that inflation has increased the cost of necessities such as food, gasoline and utilities by some 18 percent. We heard only last week in a hearing with the Social Security Administration that the average social security check, which is the sole income of many older persons, is between $320 and $330 per month and that in the past year, over 400,000 older persons dropped below the poverty line.

With the enormous numbers of letters from my own State of Florida and from across the Nation asking that the levels of service at nutrition sites and other Older Americans Act programs be increased, or at a minimum maintained at last year's levels, I felt compelled to restore the $33 million, which the program operators had termed "critical," to the Older Americans Act appropriations.

Mr. HEINZ. I want to thank the distinguished chairman for his eloquent statement. In the light of the strong public response to these proposed reductions, I ask the Senator from Florida if he will accept in the conference on this bill a restoration of the funding of $45.5 million for this program?

Mr. CHILES. Yes, I am confident that we can work out an arrangement in conference to restore the cut and convince the House to go along with our increase for community service funding.

Mr. HEINZ. Again I want to thank the distinguished Senator from Florida and to reiterate my support for his efforts to increase to $280 million funding for essential aging services.

TRIBUTE TO BUDGET COMMITTEE MINORITY STAFF MEMBERS

Mr. BELLMON. Mr. President, over the last 5 years, I have devoted the great majority of my time in the Senate to matters affecting the Nation's budget and the budget process. This period, following passage of the Budget Act, has been the formative stage of the budget process and while much remains to be done, I believe most observers will agree that considerable progress has been made.

Before I leave the Senate, I wish to take a few moments of the Senate's time to pay well deserved tributes to the minority members of the Budget Committee staff who have worked energetically, effectively, and tirelessly to make the budget process succeed and grow stronger. These are truly an outstanding group of dedicated Americans who: First, sensed the need for a responsible Federal fiscal policy, and second, who assisted in the creation of a system of budgetary management able to give the Members of Congress an intelligent and understandable system of making budget decisions. While both majority and minority have been well served by the budget staff, I feel a particular personal debt to minority staff members and wish, at this time, to pay them the individual tribute they so richly deserve.

ROBERT S. BOYD

The minority staff director is Mr. Robert S. Boyd whom I persuaded to interrupt a promising career in the investment banking business to come to Washington and assist me in organizing the minority staff of the Budget Committee. Bob had served as a member of my Governor's staff in 1965 and 1966 and had gone to Kansas City after the end of my term and was well established in the investment banking field. He came to the Senate Budget Committee at a considerable sacrifice in salary and has given the budget endeavor the same conscientious, hard-driving leadership which made him successful in the private sector. He has succeeded in recruiting a talented minority staff and has inspired them to put forth their maximum efforts in support of the budget process. Bob is now leaving government employment and returning to the private sector in what I consider to be the best tradition of our country. I believe the system of government works best when responsible, talented individuals from the private sector dedicate a few years of their lives to government and then return to private life. The Senate and the country owe Bob Boyd a great debt of gratitude for his service over these past 5 years.

GAIL SHELP

Mr. President, for over 2½ years the minority staff of the Senate Budget Committee has been operating with a unique asset. To my knowledge, we have the only economist on the Senate staff who has actual Wall Street experience. There seems to be something about having had to make a living based on the accuracy of your last forecast which tends to sharpen your focus. This economist's name is Gail D. Shelp. Because of her ability to see trends which other economists have not, the Budget Committee was able to avoid the temptation of putting extra stimulus into the budget last summer. Time and again Gail's uncanny ability to forecast and her great written and verbal skills in presenting her case have caused her to have an enormous and beneficial impact on the Senate Budget Committee. She is a dedicated and tireless worker who has much to contribute as the committee and the Congress face economic and financial problems, such as the underlying inflationary pressures, the reindustrialization of American industry, and the inevitable financing problems of such industries as the domestic auto and steel industries. I am very grateful for her work these past 2½ years.

BILL STRINGER

Mr. President, at the beginning of the budget process, almost 6 long years ago, the second person hired on the minority staff was William L. Stringer. At that time Bill was the senior economist, although in those days titles did not mean much since the small staff had to be versatile and sufficiently expert enough to cover all the budget problems. Throughout these years, Bill provided great expertise, not only in such areas as the economic forecast, but he also became one of the most knowledgeable people on Capitol Hill in such wide-ranging areas as agricultural and housing programs in the budget—both extremely complex and far-reaching parts of the U.S. budget. Bill is also one of the few experts on Capitol Hill in the critically important credit budget and off-budget agencies. His skills in the housing area were so widely recognized that he was lured away from us for a full year to act as Special Assistant for Economics and Policy for two chairmen of the Federal Home Loan Bank Board. Bill's clear thinking and excellent writing have been of immense value to me and will provide a great resource to the operation of the Budget Committee in the years ahead. I am deeply grateful for his wise counsel and faithful service.

BECKY DAVIES

Mr. President, in early 1975 when the budget process was just beginning, one of the first employees on the minority staff was a young research assistant and secretary. That research assistant, Rebecca M. Davies, inherited the task of analyzing two parts of the budget—function 450, urban and regional development, and function 850, general revenue sharing. Little did we realize that these two relatively small parts of the budget would pose such major problems for the budget policies of the U.S. Government. Now, 6 years later, we can see what a major impact Becky Davies has had through her deep knowledge of which programs are accomplishing their objectives and which ones deserve to be redesigned or eliminated. Becky's involvement can be clearly seen in the major budget battles of the countercyclical programs, the general revenue-sharing programs, the urban programs, and the disaster relief programs. Special note should be made on behalf of her efforts regarding the New York City loan guarantee program. I think it can be said that over half of the major budget controversies of the last 6 years fell in the area of one analyst—Becky Davies—and her work has been outstanding. She knows her programs, and she knows how to convey that knowledge in an understandable manner. Frequently, she has demonstrated the ability, not only to point out what is wrong, but to suggest options or making improvements. For her tireless and dedicated efforts, and for her many skills, I am deeply grateful.

CAROL COX

Mr. President, for 3 years the Senate Budget Committee has been blessed with the considerable talents of Carol G. Cox, the minority staff's senior legislative coordinator and senior analyst for function 500 (education, training, and employment), as well as function 400 (transportation). As much as any single staff person, Carol Cox was responsible for holding down funding levels in the CETA programs, and for re-shaping funding for educational programs. However, in addition to her analytical efforts on the budget, in the last year or two, Carol has been the senior minority staff person dealing with Senate floor activities which posed budget problems. Carol also knows the Budget Act as well as anyone else. In fact it has been stated that "discussing the Budget Act with Carol Cox is like discussing the Talmud with your rabbi—you do so at your risk." Few staff members are as widely known in the Senate as is Carol Cox. Her ability to accurately predict legislative outcome has been of immense value to the Budget Committee, and her tireless efforts on behalf of the Budget Committee has been a major contribution to many of the victories the budget process has enjoyed. Her areas of budget responsibility have been areas of controversy, and Carol has been a major factor in causing fiscally sound positions to prevail. Her wide knowledge with the Senate and close association with many of the people make her an invaluable asset. She too is a dedicated worker, and I am very indebted to her efforts over the past years.

BOB HELM

Mr. President, one of the most troublesome parts of the Federal budget is the area which deals with National Security and International Affairs. For 2 years now the senior minority analyst has been Robert W. Helm. Prior to joining the Budget Committee minority staff, Bob was a principle defense analyst at the Los Alamos Scientific Lab and was an adviser to the Joint Chiefs of Staff on the U.S. Comprehensive Test Ban Negotiating Delegation in Geneva. It is no coincidence that following Bob's arrival the committee began a more thorough analysis of the defense budget and that the real level of defense spending began to show significant increases. Bob's knowledge and conceptual ability has had a major impact on the Budget Committee and the defense community on Capitol Hill. I am particularly impressed with his concept of the interrelationship between our foreign affairs and our defense policy. Bob has very impressive verbal and written skills, and the ability to describe the complex subjects which are involved in his parts of the budget in ways which are clearly understandable and very useful. He has a very bright future, and I am deeply appreciative of his many efforts on my behalf these last 2 years.

ROBERT E. FULTON

The Senate Budget Committee has been served in an exceptional manner by Robert E. Fulton, the committee's minority counsel and group leader for the human resource portion of the Federal budget. With his boundless energy, agile mind and vast experience, Bob has provided guidance and leadership in the most difficult budget environment and over the most volatile portions of the Federal Government's budget. Bob's fine hand can be seen in so many of the budget reductions accomplished in the Committee or on the Senate floor over the last 4 years.

Bob Fulton has been a leader and a manager—without him the budget process would not be as successful as it has been. I know the task of Senator DOMENICI, the new Budget Committee chairman, will be made less arduous because of the dedicated, exemplary minority staff. I am very grateful for his assistance and his loyal service these past 4 years, and I wish him the very best in his future endeavors.

ALL OTHER MEMBERS OF THE STAFF

Mr. President, numerous other talented people have provided key roles in the activities of the Senate Budget Committee and have been responsible for many of its significant achievements. One such person is Joyce M. Purcell who has been with the committee almost 3 years. Joyce is the minority staff's one analyst for all the environment and natural resource programs, as well as space, general science, and general government activities. She has made many meaningful contributions, but I would particularly note her in-depth analysis of the Nation's largest power/water program—the EPA waste/water program.

Another talented analyst is Susan J. Petrick who joined the minority staff 2½ years ago and has become the analyst for the Postal Service and other commerce programs, as well as providing research assistance on many revenue and economic activities which the committee has undertaken. Susan will soon be returning to the private sector, and I wish to express my gratitude for her loyal and faithful service and extend my good wishes for what I know will be a successful career.

In August of 1979, the committee hired a true expert to assist in providing budget policies intended to help stabilize the most volatile part of this Government budget, namely, the health budget. This expert is Thomas F. Sullivan. For the last 2½ years Tom's years of expertise as a manager and director of several of the HEW field offices gave to the committee some hands-on experience which proved invaluable, especially as we focused on how to economize in the medicare/medicaid field, as well as assessing appropriate nursing home requirements. I thank him for his many efforts.

Scott Dunn joined the committee over 1 year ago as a graduate school intern, and because his work was so good, he was asked if he could stay with the committee even after he received his masters in public administration degree from the University at Southern California. Without Scott's research and analytical efforts, I doubt that the Budget Committee would have had the impact it has had in attempting to hold down such runaway programs as the food stamp program and trade adjustment assistance. Had the Congress followed Scott's advice in these two areas, next year's budget would clearly be under more control.

For over 1 year Everett Wallace has provided the analytical expertise for the energy part of the budget, and has been particularly useful on the complicated issue of the strategic petroleum reserve. Everett's work has caused him to have a meaningful impact on this program, and I am grateful for his efforts on all the energy issues.

Finally, Mr. President, there are four other individuals who deserve special praise. One is the executive assistant for the minority staff director, Lynne Seymour. In many instances Lynne has provided the glue which held the staff together and certainly made the complicated tasks of the minority staff more meaningful through her constant efforts to insure that the tasks were coordinated among the various staff members and that deadlines were met with a finished product designed to communicate and influence. I know the minority staff director found her efforts invaluable to the success of the operation, and I am deeply appreciative of her work.

Judith Boddie has been with the committee almost 1 year and has provided invaluable service in research activities and secretarial skills for the human resources part of the minority staff effort. Judy, too, has helped cause the committee's activities in the Human Resources area to be accomplished accurately and on schedule.

Finally, Mr. President, without the tireless secretarial and administrative skills of Patricia Hameister and Patricia Niffenegger all the good work of the Budget Committee analysts would have been for nought. Because these two people took great pride in their work and were selfless in their efforts, the minority staff has produced products which influenced budget and legislative decisions in the Congress. I know their work is appreciated by others of the staff, and I want them to know that I, too, appreciate their dedication.

Mr. President, during my 12 years of service I have come to have a new appreciation of the contribution made to the legislative process by the highly competent individuals who serve on various staffs. We have been especially fortunate on the Budget Committee to have the services of the men and women I have described. I publicly thank them for their contribution.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 30 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC LAW 480, TITLE I, EGYPTIAN ALLOCATION

Mr. BELLMON. Mr. President, during the committee consideration of the continuing resolution, language to be included in Chairman Magnuson's statement was agreed to which directed that Egypt receive in fiscal year 1981 a Public Law 480, title I allocation of not less than 1.5 million metric tons of food assistance.

Both USDA and AID oppose this unprecedented congressional establishment of an individual country allocation. The problems associated with this provision are several.

Egypt has already been tentatively allocated over 34 percent ($288 million) of the title I, Public Law 480 assistance in fiscal year 1981. Because of commodity price increases, guaranteeing Egypt 1.5 million metric tons of food assistance will increase this share to 38 to 39 percent ($315 million) of the amount available. This will further squeeze the allocation to other needy countries.

Public Law 480 currently makes allocations on a dollar, and not a tonnage basis. A directive to guarantee Egypt 1.5 million metric tons will be very difficult to administer because future price fluctuations could lead to significant supplemental funding needs.

Egypt's economic situation is improving. It has now over $1 billion in foreign exchange reserves and this is expected to increase by another 50 percent next year primarily because of oil exports, Suez Canal fees and workers' earnings repatriation. With a $350 per capita GNP it is poor, but not the most poor. Egypt is still expected to receive about $750 million in new AID assistance (in addition to $2.4 billion already in the pipeline), $500 million new in foreign military sales (in addition to portions of the 3 year $1.8 billion Camp David aid package); and about $200 to $250 million in World Bank concessional loans.

The congressional directive ignores other legislative criteria under which Public Law 480 country allocations are made including section 401(b) where the recipient country must certify that it has adequate storage and handling facilities and also that Public Law 480 shipments will not result in a substantial disincentive to domestic food production in the recipient country.

Mr. President, I have discussed this matter with the distinguished Senator from Oregon and I now yield to him.

Mr. HATFIELD. Mr. President, I thank the Senator from Oklahoma for bringing these concerns to the attention of the Senate. I want to assure him that it was certainly not my intent in offering the language to place an impossible burden on the administration of this very important program.

Egypt has played a crucial role in the pursuit of a lasting peace in the Middle East. She is an important friend with respect to our efforts to protect the legitimate interests of our country and those of our Western allies. She is a stabilizing influence in a very important and unsettled area of the world.

Egypt has also sacrificed much to pursue an independent leadership role in seeking a peaceful accommodation with the State of Israel through the Camp David accord. At that time, the United States made a moral commitment to assist Egypt through various programs including that provided under Public Law 480—the very aptly named food for peace program.

Through the concessional sale provisions of that program, Egypt has received badly needed food assistance to improve the diets of her people, and also to develop the resources to produce more food herself.

Mr. President, Egypt has traditionally received about 1.5 million metric tons of food assistance annually under title I of Public Law 480. This is a commitment that we should keep. In view of the concerns raised by the Senator from Oklahoma, however, I agree that an absolute tonnage minimum is inappropriate, and I shall not seek to have this language reflected in the conference report on the continuing resolution.

I do believe, however, that the Departments of State and Agriculture and AID should make every effort to assure that Egypt receives an allocation of title I assistance this fiscal year that to the extent practical, maintains the traditional 1.5 million metric ton level of food assistance.

The PRESIDING OFFICER. The Senator from West Virginia.

WAIVING CONGRESSIONAL BUDGET ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 555.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 555) waiving section 402(a) of the Congressional Budget Act with respect to the consideration of H.R. 5888.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 555) was agreed to, as follows:

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5888. Such waiver is necessary because the bill authorizes appropriations to be made for fiscal year 1981 and was not reported out of a Senate committee by May 15, 1980.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT TO FEDERAL EMPLOYEE COMPENSATION ACT

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. Glenn, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5888.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to advise the distinguished majority leader that that item is cleared on our calendar. We have no objection to its consideration and passage.

The PRESIDING OFFICER (Mr. Biden). Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5888) to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes.

Mr. GLENN. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. GLENN. Mr. President, I particularly appreciate the efforts of the majority leader and the majority leader in bringing up H.R. 5888.

Mr. President, I support H.R. 5888, which amends the Federal Employee Compensation Act to provide a $50,000 death benefit to survivors of Federal law enforcement officers and firefighters who die as a result of a direct and traumatic injury sustained in the line of duty. This bill seeks to recognize the debt owed to those Federal public servants who give their lives for the protection of the public safety, by guaranteeing that their widows and children will not be forced into poverty.

Under current law—the Public Safety Officers Benefits Act (PSOB)—State and local public safety officers, including firefighters and also volunteers, are already allowed a $50,000 line-of-duty death benefit. Federal law enforcement officers and firefighters, like their State and local counterparts, are indeed engaged in a most hazardous occupation, with firefighters suffering the highest death and injury rate of any profession in the country. Provision of an equal death benefit to Federal law enforcement officers and firefighters is a simple matter of equity. After all, neither crime nor fire distinguishes among Federal, State, or local public safety officers; nor should the law.

While Federal law enforcement officers

and firefighters are covered under the Federal Employee Compensation Act, this coverage is generally inadequate. A major flaw in its current provisions is that, since it is based on employee salary, the death benefit provided will vary, with the young, less experienced and lower paid officer receiving the least amount of coverage. Furthermore the family of the younger officer is likely to be in the greatest financial need, faced with high mortgages, minimal savings, and huge outlays for rearing and educating young children. Such treatment of the surviving families of Federal law enforcement officers and firefighters, who lay down their lives in public service, who often suffer horrible deaths, is insensitive to the pain and financial dislocation with which these families are faced.

The cost of H.R. 5888, which has been estimated to be $500,000 per year by the Congressional Budget Office, can only be called negligible in light of what this legislation would do for the surviving families of Federal law enforcement officers and firefighters who lost their lives in the line of duty.

Our colleagues in the House of Representatives have recognized the merits of this bill and have overwhelmingly endorsed it. The House Education and Labor Committee favorably reported out the bill by a voice vote with no objections being raised, and it was passed on the House floor by a huge margin of 313 to 56.

I would ask that the Senate today follow with strong support of this measure, so that an inequity in the treatment of Federal law enforcement officers and firefighters can be rectified.

Mr. CHILES. Mr. President, I also urge passage of the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 5888) was read the third time, and passed.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHILES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BIRTHDAY OF SENATOR HARRISON A. WILLIAMS, JR.

Mr. ROBERT C. BYRD. Mr. President, our evening would not be complete if I did not note that today is the birthday of the Senator from New Jersey (Mr. Williams).

Pete Williams has been hard at work all day here in the Senate. I suspect that his several contributions to the shape of this continuing resolution have been derived from a sense of duty rather than a sense of celebration. Nonetheless, hard work and conscientious performance of duty are characteristic of Pete Williams, and it is appropriate that he be here on the floor on this special day.

I wish him the best and hope that he will have some time for relaxation and celebration before the day is over.

THE GREATNESS OF GEORGE McGOVERN

Mr. KENNEDY. Mr. President, in 1962 when I was elected to the Senate, another man who won that year was assigned to sit next to me in the last row of this Chamber. His name was George McGovern. For the better part of two decades, he and I have been seatmates in the Senate, allies on the issues, and, most of all, friends.

In a conservative constituency, he has always had to sail against the wind. And always he has kept the rudder true. He has been true to his conscience. He has been true to the best traditions of public service and of the Senate. He has been one of the great Americans of a generation in the Congress and in the country.

History will remember him for the 1972 national campaign in which he was right, though he did not become President. History will honor him for the standard of integrity he set in 1972, for the stands he took and the foresight he had on the central issues of that campaign.

More than this, we shall all remember him for the reason that we so needed him here in the Senate. He always spoke his mind; he always challenged us to face hard questions—from the shame of hunger in America to the reality of a war in Vietnam from which he so eloquently called America home.

When I was in South Dakota last May, I said that when I spoke about other public figures, I refrained from invoking my brothers' words about them. George McGovern is an exception to that rule—because, as I said last May, my brothers felt so strongly about the kind of man he is. President Kennedy regarded George McGovern as a man of extraordinary commitment and character.

He entrusted him with the food-for-peace program—and because of George McGovern, there are tens of millions of people who are alive in the world today. My brother, Robert Kennedy came to South Dakota just before he died, and spoke of his deep respect for George McGovern as "the most decent man in the U.S. Senate."

For so many of us in the Senate, that is what George McGovern has been. He has been a man of achievement; but even more, he has been a man of vision. He has been a voice for the most fundamental American values. And the quiet tones of that prairie voice have been heard around the world.

George McGovern was the No. 1 target this year of the forces of fear. But he spoke in 1980, as he always has, for the politics of hope and of commonsense.

I believe that we will continue to hear from him—and that the world will greatly note and long remember what he has done here in the Senate, and what he will attempt and accomplish in years yet to come.

Mr. President, I introduced George McGovern to the 1972 Democratic convention to accept his nomination for the Presidency. Today I would like to repeat some words that I said then: "How fortunate we are to find that promise—America—in the wise and skillful hands of our leader, the Senator from South Dakota—George McGovern."

How fortunate we in the Senate have been to serve with George McGovern.

He has been wise and skillful.

He has been a leader among us.

We shall miss him as a colleague; we shall treasure him as a friend.

RECONCILIATION PROVISION

Mr. INOUYE. Mr. President, section 118 of this resolution prohibits the Department of Health and Human Services from spending funds to implement the day care regulations issued by the Department which were to be effective October 1, 1980. The recently passed reconciliation act suspends the regulations until July 1, 1981, and requires the Department to assist each State in conducting a systematic assessment of current practices in the effected day care programs and provide a summary report of the assessment to Congress by June 1, 1981.

Is it correct that the reconciliation provision can be implemented by the Department despite the language in section 118?

Mr. MAGNUSON. Yes, that is correct.

MESSAGES FROM THE HOUSE

At 6:05 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 999. An act to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes;

H.R. 4522. An act for the relief of Annette Jutta Wohrle;

H.R. 4941. An act to name a dam and reservoir on the San Gabriel River, Texas, as the "North San Gabriel Dam" and "Lake Georgetown," respectively;

H.R. 5182. An act to amend the Chesapeake & Ohio Canal Development Act to change the termination date of the Chesapeake & Ohio Canal National Historical Park Commission from the date 10 years after the effective date of such Act to the date 20 years after such effective date;

H.R. 5687. An act for the relief of Michael G. Macdonald;

H.R. 5788. An act for the relief of Jun Ae Hee;

H.R. 7217. An act to establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes;

H.R. 7306. An act to provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes;

H.R. 7591. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 7626. An act to amend title 37, United States Code, to improve certain special pay and allowance benefits for members of the uniformed services, and for other purposes;

H.R. 7682. An act to amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes;

H.R. 8105. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 8404. An act to designate the Federal Building-U.S. Courthouse in Sacramento, Calif., the "John E. Moss Federal Building-U.S. Courthouse"; and

H.J. Res. 337. Joint resolution designating February 11, 1981, "National Inventors Day."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 6:34 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 3096. An act to amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wyoming.

The message also announced that the House agrees to the amendment of the Senate to the following bills:

H.R. 1196. An act to revise and improve the laws relating to the documentation of vessels, and for other purposes; and

H.R. 8195. An act to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the following bill:

S. 1142. An act authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the following bills, each with an amendment, in which it requests the concurrence of the Senate:

H.R. 4131. An act to change the name of the China Bluff Access Area being constructed by the Army Corps of Engineers as part of the Tennessee-Tombigbee Waterway near Warsaw in Sumter County, Ala., to the "S. W. Taylor Memorial Park"; and

H.R. 8345. An act to name the United States Customs House in Ogdenberg, New York, the "Robert C. McEwen United States Customs House".

The message further announced that the House agrees to the amendment of the Senate to the following bill, with amendments, in which it requests the concurrence of the Senate:

H.R. 3317. An act for the relief of Ohio Wesleyan University, Delaware, Ohio.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7814. An act to designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness," and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 456. A concurrent resolution providing for a reprinting of the report "Future Directions for Aging Policy-A human Service Model."

HOUSE BILL REFERRED

The following bill was read twice by its title, and referred as indicated:

H.R. 7814. An act to designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness," and for other purpose; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 456. Concurrent resolution providing for the reprinting of the report "Future Directions for Aging Policy—A Human Service Model"; to the Committee on Rules and Administration.

ENROLLED BILLS PRESENTED

The Secretary reported that on today, December 10, 1980, he had presented to the President of the United States the following enrolled bills:

S. 1996. An act to authorize a pilot program to encourage the efficient utilization of wood residues, and for other purposes;

S. 2163. An act to provide for the conservation and enhancement of the salmon and steelhead resources of the United States, assistance to treaty and nontreaty harvesters of those resources, and for other purposes; and

S. 2318. An act to revise the boundary of Crater Lake National Park in the State of Oregon, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5064. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on an obligation in excess of an approved apportionment of appropriations; to the Committee on Appropriations.

EC–5065. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the protective coating maintenance function at Lowry Air Force Base, Colo., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–5063. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the military family housing maintenance function at Bergstrom Air Force Base, Tex., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–5067. A communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a report on contract award dates for the period November 15, 1980, to February 15, 1981; to the Committee on Armed Services.

EC–5068. A communication from the Assistant Secretary of the Navy (Manpower; Reserve Affairs, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the guard services function at the Naval Undersea Systems Center, and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–5069. A communication from the Assistant Secretary of the Navy (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the base support function at Naval Air Facility, Midway Island, and the decision that performance under contract is the most cost effective method of accomplishment; to the Committee on Armed Services.

EC–5070. A communication from the Assistant Secretary of the Army (Installation, Logistics, and Financial Management), transmitting, pursuant to law, a report on a study with respect to converting the motor vehicle operation and maintenance activity at Corpus Christi Army Depot, Tex., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–5071. A communication from the Chairman of the Board of the U.S. Railway Association, transmitting, pursuant to law, justification for a 1982 appropriation of $23.5 million for administrative expenses of the Association; to the Committee on Commerce, Science, and Transportation.

EC–5072. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Electric Powerplant Cancellations and Delays"; to the Committee on Energy and Natural Resources.

EC–5073. A communication from the Secretary of Energy, transmitting, pursuant to law, the second semiannual report on activities undertaken by the Department of Energy to implement the alternative fuels production portion of the Interior and Related Appropriations Act for Fiscal Year 1980; to the Committee on Energy and Natural Resources.

EC–5074. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to December 4, 1980; to the Committee on Foreign Relations.

EC–5075. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on mail and express revenues, dated November 1980; to the Committee on Governmental Affairs.

EC–5076. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 25, 1980; to the Committee on Governmental Affairs.

EC–5077. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 11, 1980; to the Committee on Governmental Affairs.

EC–5078. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 11, 1980; to the Committee on Governmental Affairs.

EC–5079. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 12, 1980; to the Committee on Governmental Affairs.

EC–5080. A communication from the Chairman of the Council of the District of

Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on November 12, 1980; to the Committee on Governmental Affairs.

EC-5081. A communication from the Secretary of the United States Railroad Retirement Board, transmitting, pursuant to law, a proposed new system of records for the Board for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-5082. A communication from the Secretary of Health and Human Services, transmitting, for the information of the Senate, notice that a report of the problem of adolescent pregnancy will be filed on or about January 15, 1981, instead of the November 10, 1980, due date; to the Committee on Labor and Human Resources.

EC-5083. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Most Borrowers of Economic Opportunity Loans Have Not Succeeded in Business"; to the Select Committee on Small Business.

EC-5084. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the family housing maintenance function at Whiteman Air Force Base, Mo., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-5085. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Voluntary Pay and Price Standards Have Had No Discernable Effect on Inflation"; to the Committee on Banking, Housing, and Urban Affairs.

EC-5086. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the administration of the Marine Mammal Protection Act for the period April 1, 1979, to March 31, 1980; to the Committee on Commerce, Science, and Transportation.

EC-5087. A communication from the Acting Under Secretary of Energy, transmitting, pursuant to law, the annual report on energy conservation programs for schools, hospitals, and buildings owned by units of local government and public care institutions, for fiscal year 1980; to the Committee on Energy and Natural Resources.

EC-5088. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the twenty-first report on abnormal occurrences at licensed nuclear facilities for the second calendar quarter of 1980; to the Committee on Environment and Public Works.

EC-5089. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Revenue Sharing Act's 1976 Amendments: Little Effect On Improving Administration and Enforcement of Nondiscrimination Provisions"; to the Committee on Finance.

EC-5090. A communication from the Assistant Secretary-Treasurer of the Seventh Farm Credit District Employee Benefits Program, transmitting, pursuant to law, the annual report on the financial condition of the plan for 1980; to the Committee on Governmental Affairs.

EC-5091. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "American Employment Generally Favorable At International Financial Institutions"; to the Committee on Governmental Affairs.

EC-5092. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Women in Prison: Inequitable Treatment Requires Action"; to the Committee on the Judiciary.

EC-5093. A communication from the Secretary of Education, transmitting, pursuant to law, Notice of Interpretation: Distribution of Federal Vocational Education Funds by State Boards for Vocational Education to Subrecipients; to the Committee on Labor and Human Resources.

EC-5094. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "CETA Demonstration Provides Lessons On Implementing Youth Programs"; to the Committee on Labor and Human Resources.

EC-5095. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report of the National Cancer Advisory Board for calendar year 1979; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 555. Resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of H.R. 5888.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services:

Mr. HARRY F. BYRD, JR., Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Lt. Gen. Robert T. Marsh, U.S. Air Force, to be general, and Gen. Alton D. Slay, U.S. Air Force (age 56), for appointment to the grade of general on the retired list. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. In addition, in the U.S. Air Force, there are 576 promotions to the grade of colonel (list beginning with Harold B. Adams). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of December 3, 1980, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bill was introduced, read the first and second time by unanimous consent, and referred or held at the desk, as indicated:

By Mr. INOUYE:

S. 3261. A bill to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section; ordered held at the desk by unanimous consent.

ADDITIONAL COSPONSORS

AMENDMENT NO. 2859

At the request of Mr. MOYNIHAN, the Senator from Texas (Mr. BENTSEN), the Senator from Nebraska (Mr. EXON), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Michigan (Mr. RIEGLE), the Senator from Nevada (Mr. CANNON), the Senator from Maine (Mr. COHEN), the Senator from Vermont (Mr. LEAHY), the Senator from Alabama (Mr. HEFLIN), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Delaware (Mr. ROTH), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 2859 intended to be proposed to House Joint Resolution 637, a joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

TREASURY, POSTAL SERVICE APPROPRIATIONS, 1981

AMENDMENT NO. 2911

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (H.R. 7583) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes.

NUCLEAR WASTE DISPOSAL

AMENDMENT NO. 2912

(Ordered to be printed and to lie on the table.)

Mr. JACKSON (for himself, Mr. JOHNSTON, Mr. MCCLURE, and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the amendment of the House to the bill (S. 2189) to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

● Mr. JACKSON. Mr. President, it would be advantageous for the Congress to complete action on nuclear waste legislation this year. On July 30 the Senate passed S. 2189, the Nuclear Waste Policy Act, which was a comprehensive bill dealing with civilian nuclear waste activities in a number of different respects. The House on December 3 also passed a less comprehensive nuclear waste bill by striking the text of S. 2189 and inserting a substitute text.

While the House asked for a conference, the sponsors of the bill on the Senate Energy and Natural Resources Committee felt that there was insufficient time to accomplish a formal conference on such complex legislation in the final days of this Congress. Thus, through informal discussions with key Members of the House, we have arrived at an amendment to the House amendment to S. 2189. We believe that this amendment, sponsored by Senators JOHNSTON, McCLURE, DOMENICI and myself, constitutes a suitable response to the House-passed legislation and should be acceptable to the House.

The Senate bill contained 10 titles dealing with various aspects of nuclear waste policy. The most important elements of the Senate bill in the eyes of the Committee on Energy and Natural Resources were the titles dealing with away-from-reactor storage of nuclear fuel, a requirement for early completion of a detailed proposal for a facility to provide for long-term retrieval disposal of civilian high-level waste or spent fuel, and low-level waste management. While the committee did not formulate in the reported bill a provision for State participation, it was the committee's intent to include such a provision on the Senate floor. After several months of discussing the objections of members of other committees with regard to S. 2189, a compromise was struck in order to permit consideration of the bill. That compromise was a careful balance which permitted the consideration of the bill with the addition of titles VII, VIII, IX, and X.

Titles IX and X carefully spell out a process for State participation in the siting of facilities for the long-term disposal of high-level waste, spent nuclear fuel, or transuranic waste. While the first six titles of the bill only apply to civilian nuclear waste activities, these last two titles permitted State participation in atomic defense waste repositories. While it was our preference not to include atomic defense waste since that is the purview of the Armed Services Committee, we agreed to include it as a part of the compromise necessary to complete Senate action on S. 2189, including the AFR provisions which I believe to be urgently needed.

The House-passed version of S. 2189 is substantially different and deficient in a number of respects when compared to the original Seante-passed text. The Senate provisions on away-from-the-reactor storage in titles III and V were not only missing, but were clearly the subject of greater controversy in the House. While we believe that these titles should have been included in the House text, there were colloquys and assurances in the House that such legislation will be given prompt and early consideration in the 97th Congress.

The key concept of title 4 of the Senate bill was the requirement of a detailed proposal for monitored retrievable long-term disposal facilities for civilian high-level waste or spent fuel, but these provisions were deleted by the House. This title of the Senate bill called for nothing more than a proposal after which the Congress could make a judgment as to whether to pass additional legislation based on the detailed information, cost estimates, and siting recommenadtions to be included in this proposal prepared by the Secretary. The House legislation did not include statutory provision for the permanent establishment of a State planning council or a requirement for a national waste management plan.

The basic thrust of title I of the House substitute text is to establish a process for the Secretary of Energy to find, characterize, and develop a nuclear waste repository site. The provisions also establish a methodology for limited State participation in the repository development process. Two important oversights in the House-passed text relate to atomic defense and research and development activities relating to nuclear waste repositories. In fact, a colloquy between one sponsor of the House bill and Congressman MELVIN PRICE, the chairman of the House Armed Services Committee, indicates that the intent of the sponsors was not to capture the atomic defense repository activities with this legislation. Basically, since the House bill does not distinguish between civilian and atomic defense repositories, an enactment of the House provisions in title I would establish a repository development process for both types of repositories. Thus, without a specific exemption for atomic defense repositories, acceptance of the House provisions would infringe upon the jurisdictions of both the House and Senate Armed Services Committees, which was not the intent of the sponsors of the House bill, in our understanding.

However, this exemption does not permit the Secretary to conduct the atomic defense waste activities in variance with the existing requirement of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974. Rather, these laws remain controlling in the conduct of the atomic defense waste program and legislation will be recommended by the Armed Services Committees to provide for any additional requirements to be met by the Secretary.

In light of all the competing interests in provisions in this legislation, we have prepared an amendment which uses the House-passed text as a point of departure. The essential feature of the amendment is to only add to the House text those provisions which we believe are consistent with the intent of the House or provisions which should be acceptable in light of the House actions. Our amendment specifically exempts repositories exclusively for atomic defense waste, and research and development activities, from the process established for the Secretary of Energy to develop a repository.

The amendment provides a more extensive participatory role for the States in siting, characterization and development of civilian nuclear waste repositories. The remaining significant change to the House text was the addition of a title requiring a study proposal to be submitted to the Congress on the long-term monitored disposal of high-level waste or nuclear spent fuel. The other changes to the House text are what were characterized in informal discussions as acceptable technical changes to more accurately reflect the intent of the prime sponsors in the House.

Mr. President, we believe that this amendment constitutes a proper measure of the required give and take of the legislative process and, as passed by the Senate and accepted by the House, will provide for an adequate law for defining the activities of the Secretary of Energy in the development of repositories for the disposal of civilian nuclear waste. I know that some of my Senate colleagues would prefer to see additions to this amendment which reflect their individual preferences on how to legislate in this important area, but I would urge their indulgence that this amendment be adopted as we have prepared it to insure that an amendment which can be quickly accepted by the House is adopted. For instance, while the State planning council provisions are important, they can be considered early in the next Congress.

I am personally disappointed that the urgent problem of spent fuel is not addressed in the House bill. We have omitted it from this amendment only because we were assured by both chairmen of the relevant House committees that there is no possibility of such language being accepted in this Congress. I have therefore reluctantly endorsed this proposal to deal with other civilian waste issues in the interim.

This amendment is offered as an attempt to complete legislative action on the commercial nuclear waste management problem this year. We believe that commercial nuclear waste is an important national problem that should be addressed without delay. There are a number of concessions that are included in our proposal in an effort to arrive at an agreement this year. If we are unable to arrive at an acceptable agreement, however, next year we will begin our consideration of the issue from the basis of the earlier Senate position.

I ask unanimous consent that the text of this amendment appear in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

In lieu of the language inserted by the amendment of the House insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Nuclear Waste Policy Act".

DEFINITIONS

SEC. 2. As used in Titles I and II of this Act—

(1) The term "Commission" means the Nuclear Regulatory Commission.

(2) The term "disposal" means the long-term isolation of radioactive waste.

(3) The term "high-level radioactive waste" means the highly radioactive wastes resulting from the reprocessing of spent nuclear fuel, liquid waste which is produced directly in reprocessing, any solid material into which such liquid waste is made, and such other highly radioactive material as the Commission designates as high-level radioactive waste following a determination that such designation is necessary to protect the public health and safety.

(4) The term "Indian reservation" means—

(A) the Indian reservations and dependent Indian communities referred to in clauses (a) and (b) of section 1151 of title 18, United States Code; and

(B) lands selected by Alaska Native villages or regional corporations under the provisions of the Alaska Native Claims Settlement Act.

(5) The term "Indian tribe" means an Indian tribe, as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93–638);

(6) The term "low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act of 1954.

(7) The term "repository" means any facility for the permanent deep geologic disposal of transuranic waste, high-level radioactive waste, spent nuclear fuel, or any combination of such wastes or fuel, whether or not such facility is designed to permit the subsequent recovery of the materials placed in the repository.

(8) The term "Secretary" means the Secretary of Energy.

(9) The term "site characterization" means activities undertaken to evaluate the geologic and other characteristics of a site. Such term includes borings, surface excavations, excavations of exploratory shafts, and in situ testing needed to evaluate the suitability of a site for a repository, but does not include preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(10) The term "spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(11) The term "State" means any State of the United States, the District of Columbia and, subject to the provisions of Public Law 96–205, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(12) The term "Review Panel" means any Nuclear Waste Repository Review panel that meets the requirements under section 106, as so determined by the Secretary.

(13) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, which have a half-life greater than 5 years, and which are in concentrations greater than 10 nanocuries per gram or in such other concentrations as the Commission determines is necessary to protect the public health and safety.

APPLICATION

SEC. 3. (a)(1) The provisions of this Act shall not apply to the siting, construction or operation of repositories dedicated exclusively to the disposal of high-level radioactive waste, transuranic waste, low-level radioactive waste and spent fuel resulting from the atomic energy defense activities of the Secretary.

(2) The Secretary may not dispose of high-level radioactive waste, transuranic waste, low-level radioactive waste or spent fuel resulting from any activity other than the atomic energy defense activities of the Secretary in a repository to which the provisions of this Act do not apply by virtue of paragraph (1).

(3) The Secretary may not dispose of high-level radioactive waste, transuranic waste, low-level radioactive waste or spent fuel resulting from atomic energy defense activities of the Secretary in any repository subject to the provisions of this Act.

(b) The provisions of this Act shall not apply to the siting, construction or operation of facilities of the Secretary used exclusively for research and development purposes which contain materials with a curie equivalent of not more than 10 metric tons of spent fuel.

(c) For purposes of this section the term "atomic energy defense activities of the Secretary" includes those activities and facilities of the Department of Energy carrying out the function of Naval reactors development and propulsion, weapons activities, verification and control technology, materials production, inertial confinement fusion, defense waste management and nuclear materials security and safeguards, as included in the Department of Energy appropriations account in any fiscal year for atomic energy defense activities.

TITLE I—DISPOSAL OF TRANSURANIC WASTE, HIGH-LEVEL RADIOACTIVE WASTE, AND SPENT NUCLEAR FUEL

FINDINGS AND PURPOSE

SEC. 101. (a) FINDINGS.—The Congress finds that—

(1) radioactive waste creates potential risks and requires safe and environmentally acceptable methods of disposal;

(2) the accumulation of spent nuclear fuel from nuclear power reactors, radioactive waste from commercial nuclear reprocessing, activities related to medical research, diagnosis, and treatment, and nuclear research and development activities, and radioactive waste from other sources, have created a national problem;

(3) Federal efforts during the past 30 years to devise a permanent solution to the problems of radioactive waste disposal have not been adequate;

(4) the Federal Government has the responsibility to provide for the permanent disposal of transuranic waste, high-level radioactive waste, and spent nuclear fuel in order to protect the public health and safety and the common defense and security;

(6) State and public participation in the planning and development of repositories for the disposal of radioactive waste is essential in order to promote confidence among the public with regard to the safety of disposal of radioactive waste;

(7) the establishment of a radioactive waste repository program in accordance with this title provides reasonable assurance that methods of safe disposal of transuranic waste, high-level radioactive waste, and spent nuclear fuel can be available when such methods are needed; and

(8) radioactive waste has become a major issue of public concern, and appropriate precautions must be taken to ensure that radioactive waste does not adversely affect the public health and safety of this or future generations.

(b) PURPOSE.—It is the purpose of this title to—

(1) establish a schedule for the siting, construction, and operation of licensed repositories for transuranic waste, high-level radioactive waste, and spent nuclear fuel which will provide the Congress with a reasonable assurance that the public will be adequately protected from the hazards posed by such wastes;

(2) establish the Federal responsibility for the disposal of such wastes from nuclear activities; and

(3) establish a definite Federal policy for the disposal of such wastes.

IDENTIFICATION OF SITES FOR REPOSITORIES

SEC. 102. (a) GUIDELINES.—Not later than June 30, 1981, the Secretary shall, in consultation with the Council on Environmental Quality, the Environmental Protection Agency, the Nuclear Regulatory Commission, and the United States Geological Survey, issue general guidelines for the recommendation of sites for repositories. Under such guidelines the Secretary shall specify factors that would disqualify a site from development as a repository, including factors pertaining to the location of valuable natural resources, proximity to populations, hydrogeophysics, seismic activity, and nuclear defense activities. The guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recommend sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering sites to be recommended under subsection (b).

(b) RECOMMENDATIONS BY THE SECRETARY.—(1) Not later than January 1, 1982, the Secretary shall identify and recommend to the President at least two sites which the Secretary determines are suitable for site characterization. Not later than February 1, 1985, the Secretary shall identify and recommend to the President at least two additional sites which the Secretary determines are suitable for such purpose. Each recommendation of a site shall include a detailed statement of the basis for the recommendation. If the Secretary recommends a site to the President, the Secretary shall notify the Review Panel of the State in which the site is located, and the Tribal Council of any affected Indian tribe of the Secretary's recommendation and the basis for such recommendation.

(2) Before recommending to the President any site for characterization, the Secretary shall hold public hearings in the vicinity of the site to inform the residents of the area in which the site is located of the proposed recommendation and to receive their comments.

(c) PRESIDENTIAL REVIEW OF RECOMMENDED SITES.—(1) The President shall review each site recommendation of the Secretary under subsection (b). Within 60 days after the submission of a recommendation for a site, the President in his discretion shall either approve or disapprove the site, and transmit his decision to the Secretary and the State Review Panel of the State in which the site is located and the tribal council of any affected Indian tribe. If the President fails to approve or disapprove the site in accordance with this paragraph during such 60-day period, or within such period fails to invoke his authority under paragraph (2) to delay the determination, the site shall be considered to be approved.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a site upon determining that the information provided with the recommendation is not sufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such period, of his intent to utilize the authority provided under this paragraph. If the President invokes his authority under this paragraph but fails to approve or disapprove a site at the end of such 6-month period, the site shall be considered to be approved.

(d) CONTINUATION OF SITE SCREENING.—After the identification of sites under subsection (b), the Secretary shall continue to identify and study other sites to determine their suitability for site characterization.

(e) Any activity of the President or the Secretary under this section shall be considered a preliminary decisionmaking activity and shall not be subject to the National Environmental Policy Act of 1969.

SITE CHARACTERIZATION

SEC. 103. (a) IN GENERAL.—The Secretary shall carry out in accordance with this section appropriate site characterization activities at each site approved under section 102.

(b) NUCLEAR REGULATORY COMMISSION AND STATE REVIEW PANELS.—(1) Before proceeding to sink shafts at any site, the Secretary shall submit for such site to the Commission and to the Review Panel of the State in which the site is located, and to the governing body of any Indian tribe on whose reservation the site is located, for their review and comment—

(A) an environmental assessment of the nonradiological impacts of the site characterization activities planned for such site and a discussion of alternative activities for purposes of site characterization which may be undertaken to avoid such impacts;

(B) a general plan for site characterization activities to be conducted at such site which plan shall include—

(i) a description of the site;

(ii) a description of the site characterization activities, including the extent of planned excavations, plans for any onsite testing of radioactive or nonradioactive material, investigation activities which may affect the ability of the site to isolate radioactive wastes and spent fuel, and provisions to control likely adverse, safety-related impacts from site characterization activities;

(iii) plans for the decontaminating and decommissioning of the site if it is determined unsuitable for application for licensing as a repository; and

(iv) any other information required by the Commission; and

(C) proposals describing the possible form or packaging for the waste material and spent fuel which would be emplaced in the repository.

(2) During the conduct of site characterization activities at a site, the Secretary shall report to the Commission, and to either the State Review Panel of the State in which the site is located or the governing body of any Indian tribe on whose reservation the site is located, on the nature and extent of such activities and the information developed from such activities.

(c) TESTS.—The Secretary shall conduct such tests as the Secretary deems necessary to provide the necessary data for an application for a construction authorization by the Commission for a repository at the site and for compliance with the National Environmental Policy Act of 1969. The Secretary shall report to the Commission on the tests conducted at a site pursuant to this subsection and on the information developed from such tests.

(d) RESTRICTIONS.—(1) In conducting site characterization activities or tests pursuant to subsection (c)—

(A) the Secretary may not use radioactive materials at a site unless the Commission concurs that such use is necessary to provide data for the submission of an application for a construction authorization for a repository at the site;

(B) if radioactive materials are placed in a site, the Secretary shall place the smallest quantity necessary to determine the suitability of the site for a repository, but in no event more than the curie equivalent of 10 metric tons of spent fuel; and

(C) any radioactive material used or placed on a site shall be fully retrievable.

(2) If characterization activities are terminated at a site for any reason, the Secretary shall remove any nuclear waste, spent nuclear fuel, or other radioactive materials at or in the site as promptly as practicable.

SITE APPROVAL AND CONSTRUCTION AUTHORIZATIONS

SEC. 104. (a) HEARINGS AND PRESIDENTIAL RECOMMENDATION.—(1) Prior to submitting a recommendation to the President for approval of a site, the Secretary shall hold public hearings in the vicinity of the site to inform the residents of the area in which the site is located of the determination of the Secretary and to receive their comments. Upon completion of the hearings, the Secretary may submit to the President a recommendation that the President approve the site for the development of a repository. Together with any recommendation of a site under this paragraph, the Secretary shall submit to the President a Repository Development Report under section 105(c), including the views of any State Review Board, or governing body of any Indian tribe, which is affected by such site, as determined by the Secretary, together with the Secretary's response to such views.

(2) Not later than March 30, 1987, the President shall submit to the Congress a Repository Development Report under section 105(c) for a site which the President considers qualified for application for license as a repository. After submission of the first Repository Development Report, the President may submit to the Congress a Repository Development Report under section 105(c) for other sites which the President also considers suitable for such purpose, together with such reports.

(3) If the approval of a site for the initial repository proposed as required under paragraph (2) does not take effect as a result of a disapproval by the Congress under section 105, the President shall submit to the Congress withn one year after such disapproval a Repository Development Report under section 105(c) for another site for an initial repository. The President may not submit to the Congress a Repository Development Report for a site under this paragraph unless the Secretary has recommended to the President under paragraph (1) approval of such site and has submitted to the President a report for the site as required under such paragraph.

(b) SUBMISSION OF APPLICATION.—If the President recommends to the Congress a site for a repository under subsection (a) and the site designation is permitted to take effect under section 105 (pertaining to congressional review), the Secretary shall submit to the Commission a license application for the construction of a repository at the site within 90 days after the date on which the recommendation of the site designation is effective under such section and shall provide the Review Panel of the State in which the site is located, and the governing body of any Indian tribe on whose reservation the site is located, a copy of the application.

(c) STATUS REPORT FOR CONSTRUCTION PERMIT AUTHORIZATION.—No later than 2 years after the date on which an application for a license application is submitted under subsection (b), the Commission describing the proceedings undertaken through such date with regard to the authorization application submitted, including a description of—

(1) major unresolved safety issues, and the Secretary's explanation of design and operation plans for resolving such issues;

(2) matters of contention regarding the application;

(3) any Commission actions regarding the granting or denial of the authorization.

(d) COMMISSION ACTION.—The Commission shall consider a license application for the construction of a repository in accordance with the laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the first such application not later than—

(1) January 1, 1990, or

(2) the expiration of four years after the date of the submission of the application, whichever occurs later.

REVIEW OF REPOSITORY SITE SELECTION

SEC. 105. (a) (1) In addition to the requirement of section 102(b), the Secretary shall identify the States with one or more potentially acceptable sites for a repository, including test disposal of high-level or transuranic wastes. Within ninety days of such identification, or within ninety days of enactment of this Act, the Secretary shall notify the Governor, the State legislature, and the Tribal Council of any affected Indian tribe in any affected State of the potentially acceptable sites within such State.

(2) Each affected State and affected Indian tribe notified under paragraph (1) shall have the right to participate in a process of consultation and concurrence, based on public health and safety concerns, in all stages of the planning, siting, development, construction, and operation of a repository. The Secretary is authorized and directed promptly to enter into negotiations with each Repository Review Panel described in section 106 to establish a cooperative agreement under which the Repository Review Panel may exercise such right. Public participation in the negotiation of such agreement shall be provided for and encouraged by the Secretary, the States and the Indian tribes. The Secretary, in cooperation with the States and Indian tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with these guidelines shall not be a basis for judicial review.

(3) The cooperative agreement may include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws. Such cooperative agreement shall provide procedures for negotiating and resolving objections of the Review Panel in any stage of the planning, siting, development, construction or operation of such a facility within the State: *Provided, however,* That any such agreement shall not affect the Nuclear Regulatory Commission's authority under existing law.

(4) For the purpose of this part of this title "process of consultation and concurrence" means a methodology by which the Secretary (A) keeps the Review Panel fully and currently informed about the aspects of the project related to any potential impact on the public health and safety, (B) solicits, receives, and evaluates concerns and objections of the Review Panel with regard to such aspects of the project on an ongoing basis, and (C) works diligently and cooperatively to resolve such concerns and objections.

(5) The Secretary and the Review Panel shall seek to conclude the agreement required by paragraph (2) not later than one year after the date of notification under paragraph (1). The Secretary shall report to the Congress annually thereafter on the status of the agreement approved under paragraph (3). Any report to the Congress on the status of negotiations under paragraph (2) or the agreement under paragraph (3) by the Secretary shall be accompanied by comments solicited by the Secretary from the Review Panel.

PROPOSED SITE REPORTS

(b) (1) At such time as the Secretary, following detailed site characterization under section 103 at one or more specific possible repository sites, proposes that for the purposes of further Department repository development activities any such site be selected as the location or a repository, the Secretary shall prepare and submit to the Congress a Proposed Site Report describing the site in question, the alternatives considered, if any, and his reasons for the selection of the proposed repository site from among any such alternatives.

(2) The Secretary shall not undertake further work toward the development of a repository at any proposed site as described in paragraph (1), including the preparation of any necessary license application for any such repository, until forty-five days of continuous session (as defined in subsection

(e)) shall have elapsed following his submission to the Congress of the Proposed Site Report specified in paragraph (1). The Congress by concurrent resolution may waive this time period.

(3) Prior to his submission to the Congress of the Proposed Site Report specified in paragraph (1) the Secretary shall prepare a draft of such report and solicit the views thereon of—

(A) the Review Panel convened in the State containing the repository site;

(B) other interested States, including specifically, the views of the Governor (or other appropriate State officials as may be specified by State law) of other adjacent States that the Secretary determines may be directly and substantially affected by a repository at the proposed site;

(C) the public; and

(D) other Federal agencies and departments as the Secretary deems appropriate. The Secretary shall permit at least ninety days for such review and comment.

(4) The Secretary shall prepare a final Proposal Site Report after considering the comments he receives pursuant to paragraph (3) and shall submit such final Proposed Site Report together with such comments to the Congress.

(c)(1) The Secretary shall—

(A) at the earliest feasible time prior to the intended submission by the Secretary to the Nuclear Regulatory Commission of an application for a license to construct the main shaft of a nuclear waste repository, or

(B) in the event that the Secretary is not required by law to obtain a license from the Nuclear Regulatory Commission for the construction of the main shaft of such repository, at the earliest feasible time prior to undertaking site preparation work leading to construction of the main shaft of such repository,

prepare a Repository Development Report for submission to the President in accordance with section 104(a). The Secretary shall immediately notify the Repository Review Panel of the State in which such proposed repository would be located of his decision to prepare the Repository Development Report.

(2) The Repository Development Report shall contain—

(A) the license application for the repository prepared by the Secretary for the Nuclear Regulatory Commission, including any relevant environmental impact statements, or, in the event the Secretary is not required by law to obtain a license from the Commission for the construction of the main shaft of such repository, a document containing comparable information and analysis;

(B) a plan for the transport of high-level or transuranic contaminated waste or spent nuclear fuel to the repository including an assessment of anticipated environmental, health, and safety impacts and a description of emergency planning procedures; and

(C) any plan to provide financial assistance to State or local governments or Indian tribes with respect to health, safety, environmental, economic, or social impacts arising from the proposed repository.

(3) Federal agencies and departments shall assist the Secretary by coordinating with the Secretary's preparation of a Repository Development Report for a proposed repository, the preparation by such agencies and departments of any pertinent Environmental Impact Statements mandated by the National Environmental Policy Act so as to avoid unnecessary delay and duplication of effort.

(4)(A) The Secretary shall prepare the Repository Development Report with respect to such proposed repository in close cooperation with the appropriate Review Panel and shall incorporate the views of such Panel into such Repository Development Report to the maximum extent feasible.

(B) The Secretary shall also consult with the Governor (or other appropriate State officials as specified by State law) of adjacent States that the Secretary determines may be directly and substantially affected by the repository described in the Repository Development Report and with the governing bodies of Indian tribes in adjacent States that may be so affected, and shall incorporate the views of such officials into the Repository Development Report to the maximum extent feasible.

(C) Upon completing the Repository Development Report, the Secretary shall submit the Repository Development Report to the Review Panel for final review and to the Governor (or other appropriate State officials as may be specified by State law) of adjacent States that may be directly and substantially affected by the repository described in the Repository Development Report, and with the governing bodies of Indian tribes in adjacent States that may be so affected, and shall make the Report available for public comment. The Secretary shall allow a period of ninety days for such comments. The Review Panel shall file any formal objections to the Report before the completion of such ninety-day period.

(5)(A) The Secretary may not file an application with the Commission for a license to construct the main shaft of a repository, or if no such license is required by law, may not undertake site preparation work leading to the construction of the main shaft of a proposed repository, unless and until the requirements of section 104(a) and section 104(b) (pertaining to Congressional review) have been met.

(B) In addition, if the relevant Review Panel has filed objections to the Report under paragraph (4), the Secretary may not file such an application or undertake such site preparation work if during the sixty-day period of continuous session following submittal of such Report either House of Congress passes a resolution pursuant to subsection (h) stating in substance that the Repository Development Report does not sufficiently address State and local concerns to permit the Secretary to apply to the Commission for a license to construct such repository or, if such a license is not required by law, to proceed with construction of such repository.

(6) In the event that either House of Congress passes a resolution as specified in paragraph (5) with respect to a Repository Development Report the prohibition set forth in paragraph (5) shall remain in effect until such time as—

(A) the President shall have submitted to the Congress a revised Repository Development Report with respect to such repository, and

(B) if the relevant Review Panel has filed objections to such revised Report under paragraph (4) and the following sixty-day period of continuous session elapses without either House or both Houses of Congress, as the case may be, passing a resolution as specified in paragraph (5) with respect to such revised Repository Development Report.

Each revised Repository Development Report shall be prepared pursuant to the procedures set forth in this section and in section 106 (c) pertaining to the preparation of Repository Development Reports.

(d)(1) The Secretary shall—

(A) at the earliest feasible time prior to the submission by any Federal agency or department to the Nuclear Regulatory Commission of an application for a license to emplace significant quantities of high-level or transuranic contaminated waste or spent nuclear fuel into a repository; or

(B) in the event that such agency or department is not required by law to obtain a license from the Nuclear Regulatory Commission in order to emplace significant quantities of high-level or transuranic contaminated nuclear waste or spent nuclear fuel into such repository, at the earliest feasible time prior to beginning the emplacement of such waste or spent nuclear fuel into such repository,

prepare a Repository Loading Report with respect to such repository.

(2) The Repository Loading Report prepared with respect to such repository shall contain the information required in the Repository Development Report prepared with respect to such repository appropriately updated. The Repository Loading Report for such repository shall identify any significant differences between the plans, descriptions, and analyses contained therein and those presented in the Repository Development Report prepared with respect to such repository. Special emphasis shall be given to assessing the significance of information collected during the course of the construction of the repository to the analyses of the anticipated environmental, health, and safety impacts of such repository. If the foregoing information is contained in an application prepared by the Secretary for a license from the Nuclear Regulatory Commission to load high-level or transuranic contaminated waste or spent fuel in such repository, then such application may serve as a Repository Loading Report.

(3) The Secretary shall—

(A) prepare the Repository Loading Report with respect to such repository in close cooperation with the Review Panel of the State in which the repository is located and shall incorporate the views of such Panel into such report to the maximum extent feasible;

(B) the Secretary shall also consult wtih the Governor (or other appropriate State officials as specified by State law) of such adjacent States as the Secretary determines may be directly and substantially affected by the loading of the repository described in the Repository Loading Report and shall incorporate the views of such officials into the Repository Loading Report to the maximum extent feasible; and

(C) upon completing such Repository Loading Report, the Secretary shall solicit comments on the report from—

(i) the Review Panel,

(ii) other interested States, including specifically the views of the Governor (or other appropriate State officials as may be specified by State law) of other adjacent States that the Secretary determines may be directly and substantially affected by the loading of the repository,

(iii) the public, and

(iv) other Federal agencies and departments as the Secretary deems appropriate.

The Secretary shall allow a period of ninety days for the receipt of such comments.

(4) The Secretary may not emplace significant quantities of nuclear wastes or spent nuclear fuel into any repository, unless and until the Secretary shall have submitted to the Congress a Repository Loading Report prepared with respect to such repository, together with the comments of the appropriate Review Panel, and a period of forty-five days of continuous session of Congress (as defined in subsection (e)) shall have elapsed. Congress may by concurrent resolution waive this forty-five-day period.

(e)(1) The President shall have a Repository Development Report delivered to both Houses on the same day and to each House while it is in session.

(2) Any time during the period of thirty calendar days of continuous session of Congress after the date on which the report is transmitted to it, but before any resolution described in subsection (b) has been ordered reported in either House, the President may make amendments or modifications to the report, to address any concerns raised to it by the appropriate Review Panel which modifications or revisions shall thereafter

be treated as a part of the Repository Development Report originally transmitted and shall not affect in any way the time limits otherwise provided for in this Act. The President may withdraw the Repository Development Report any time prior to the conclusion of sixty calendar days of continuous session of Congress following the date on which the report is submitted to Congress.

(f) For the purpose of this section (1) continuity of session is broken only by an adjournment or Congress sine die; and (2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(g) Subsection (e) through (j) of this section are enacted by Congress (1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (h); and they supersede other rules only to the extent that they are inconsistent therewith; and (2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(h) For the purposes of the Act "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the   believes that the Repository Development Report relating to the proposed development of a repository at   within the State of   transmitted to Congress by the President on   , 19   (as amended by the President on   , 19   ) does not sufficiently address State and local concerns to permit the Secretary to apply to the Nuclear Regulatory Commission for a license to construct such repository or, if such a license is not required by law, to permit the Secretary to proceed with the construction of such repository.", the blank spaces therein being appropriately filled and the text in parentheses being included if the President has amended the report pursuant to subsection (e)(2)(b).

(i)(1) No later than the first day of session following the day in which a Repository Development Report is transmitted to the House of Representatives and the Senate under subsection (e), a resolution, as defined in subsection (h), shall be introduced (by request) in the House by the chairman of the committee to which the report is referred, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the committee to which the report is referred, or by a Member or Members of the Senate designated by such chairman.

(2) A resolution with respect to a Repository Development Report shall be referred to the appropriate committees of the House and Senate (and all resolutions with respect to the same report shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within forty-five calendar days of continuous session of Congress following the date of such resolution's introduction.

(j) If the committee to which is referred a resolution introduced pursuant to subsection (i) (or, in the absence of such a resolution, the first resolution introduced with respect to the same Repository Development Report) has not reported such resolution or identical resolution at the end of forty-five calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(k)(1) When the committee has reported, or has been deemed to be discharged (under subsection (j)) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

(3) Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final approval of the resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(l) In considering any Repository Development Report submitted to the Congress pursuant to this title, the Congress may obtain the views and comments of the Nuclear Regulatory Commission on such report. The provision of views by the Commission shall not be construed as binding the Commission with respect to any licensing action pertaining to the repository which is the subject of such Repository Development Report.

(m) The passage of a resolution by the Congress pursuant to this title shall in no way be considered as binding with respect to any licensing action of the Nuclear Regulatory Commission pertaining to the repository which is the subject of such resolution.

(n)(1) Nothing in this Act shall affect the authority of the Nuclear Regulatory Commission to license and regulate high-level or transuranic contaminated waste or spent nuclear fuel storage and disposal pursuant to section 202 of the Energy Reorganization Act of 1974 or byproduct, source, or special nuclear material pursuant to section 201(f) of such Act.

(2) Except as otherwise expressly provided in this Act, nothing in this Act shall exempt any Federal department or agency from the requirements of the National Environmental Policy Act.

(3) Nothing in this Act shall affect the authority of States to inspect nuclear facilities as designated pursuant to State law pursuant to section 274 of the Atomic Energy Act.

(4) Nothing in this Act is intended to grant any State any authority with respect to the siting, development, or loading of any repository, except as specifically provided herein.

(o) In the event that the site of a proposed repository is located on lands which are (1) owned by an Indian tribe or held in trust for such tribe by the Federal Government and (2) within the boundaries of the reservation of such tribe, the tribal organization, as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act exercising the powers of self-government as defined in section 201(2) of the Act of April 11, 1968, shall have the same rights under this title as the Review Panel for such repository.

ESTABLISHMENT OF NUCLEAR WASTE REPOSITORY REVIEW PANELS

SEC. 106(a)(1). A governmental organization, task force, council, committee or other body established by State law to represent such State in its relations with the Federal Government concerning the siting, development, and loading of nuclear waste and spent fuel repositories shall be deemed to be a Nuclear Waste Repository Review Panel for the purposes of this Act: *Provided, however*, That such panel must include representation for affected Indian tribes.

(2) In the event that within one hundred and twenty days after receipt by the Governor of a State of notification of the Secretary's intention to study an area within such State as a possible site for a nuclear waste or spent fuel repository, pursuant to section 105(a)(1) such State shall not have established by law a governmental body to represent the State as described in subsection (a), the Governor of such State shall establish a Review Panel pursuant to subsection (b).

(3) The requirements of section 105 concerning the preparation of Proposed Site, Repository Development, and Repository Loading Reports and their submission to the Congress, and the prohibitions contained in section 105 on repository development and loading activities of the Secretary shall not apply with respect to any repository in a State unless a Review Panel shall have been established in such State pursuant to this section.

(4) A Review Panel established pursuant to section 5(a)(2) with respect to a proposed repository siting, development, and loading activities in a State shall continue to function until—

(A) the Secretary formally notifies the Review Panel that the Federal Government no longer intends to site, develop, or load a repository in such State;

(B) the Secretary formally notifies the Review Panel that a Repository Loading Report prepared with respect to such repository has been submitted to the Congress pursuant to section 105(c), and the Chairman of the Panel thereafter declares the Panel to be adjourned; or

(c) such time as may be provided by the laws of the State establishing the Review Panel.

(b) A Review Panel convened pursuant to subsection (a)(2) shall consist of—

(1) the Governor convening the Panel who shall serve as the Chairman of the Panel; and

(2) seven additional individuals from the State of the convening Governor to be appointed by the Governor and to serve at the pleasure of the Governor. The convening Governor shall include on the Panel individuals who are local government or Indian tribe officials of the area under study by the Department as a possible site for the proposed repository and may include—

(A) other officials of the State's government including members of the State legislature, and

(B) interested residents of the State, except that such residents shall be selected so as to ensure representation of a broad range of views on nuclear waste repository siting, development and loading issues.

(c)(1) A Review Panel established pursuant to subsection (a) shall enter into an agreement with the Secretary as specified in section 105(a) and shall meet regularly to review current and planned actions of the Department with respect to the siting, construction, and operation of the relevant proposed repositories within the State for which the Review Panel has been convened. Representatives of the Secretary shall meet regularly with the Review Panel to explain the Department's activities and to obtain the views of the Panel thereon.

(2)(A) In accordance with its agreement with the Secretary as described in section 105(a), a Review Panel shall cooperate closely with the Secretary in the preparation of a Proposed Site, Repository Development and Repository Loading Reports prepared pursuant to sections 105(b), (c), and (d).

(B) Such Review Panel shall, within ninety days after receipt of such reports review the health, safety, economic and social issues raised in the reports concerning the site or repository discussed therein, and may hold public hearings on the reports in support of such review.

(C) Within ninety days after the Review Panel receives any Proposed Site, Repository Development or Repository Loading Report, the members of the Panel shall submit their comments on such report to the Secretary for submission to the Congress.

JUDICIAL REVIEW

SEC. 107. (a) Except for review in the United States Supreme Court, the U.S. Court of Appeals for the District of Columbia shall have original and exclusive civil jurisdiction over any petition—

(1) for review of final agency decisions or actions under this title;

(2) alleging that a Federal or non-Federal agency has failed to take an action, or make a decision, under this Act necessary to the approval, licensing, or construction of a repository or repository site;

(3) challenging the constitutionality of this title;

(4) for an interlocutory appeal from agency decisions or actions where the U.S. Court of Appeals for the District of Columbia will have jurisdiction over the final decision or action, and where the U.S. Court of Appeals for the District of Columbia determines that interlocutory review is appropriate in accordance with applicable law.

In all other cases review shall be in the United States district court or other court as provided in other provisions of law.

(b) The U.S. Court of Appeals for the District of Columbia shall exercise its powers in such manner as to expedite the determination of cases over which it has jurisdiction under this title.

(c) Where the exercise of jurisdiction by a court of the United States over any petition referred to in subsection (a) would be impermissible under the limitations contained in the United States Constitution, the appropriate State court shall have jurisdiction over such petition.

(d) The U.S. Court of Appeals for the District of Columbia may stay that portion of any proceeding in any other Federal, State, or local court, other than the Supreme Court of the United States, which involves a petition for review which is within the exclusive jurisdiction of the U.S. Court of Appeals for the District of Columbia under this title.

(e) Any petition for review under this section of final agency decision or action shall be brought not later than the 60th day following the date of such decision or action, except that if a party shows that he did not know of the action complained of, and a reasonable person acting in the circumstances would not have known, he may bring a claim for judicial review not later than the 60th day following the date of his acquiring actual or constructive knowledge of such decision or action, but in any event not later than 1 year after the date of such decision or action.

EXPEDITE AUTHORIZATIONS

SEC. 108. (a) ISSUANCE OF AUTHORIZATIONS.—(1) Subject to paragraph (2), to the extent that the taking of any action related to the characterization of a site or the construction or initial operation of a repository under this title requires a certificate, right-of-way, permit, lease, or other authorization from a Federal officer or agency, such officer or agency shall issue or grant any such authorization at the earliest practicable date, to the extent permitted by the applicable provisions of law administered by such officer or agency. All actions of a Federal officer or agency with respect to consideration of applications or requests for the issuance or grant of any such authorization shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to such repositories.

(2) The requirements of paragraph (1) shall not be applicable in the case of any action related to any permit or other authorization issued or granted by, or requested from, the Nuclear Regulatory Commission.

(b) TERMS OF AUTHORIZATIONS.—(1) Any authorization issued or granted under subsection (a) shall include such terms and conditions as may be required by law, and may include terms and conditions permitted by law.

(2) Except as provided in the second sentence of this subsection, nothing contained in this section shall be construed to impair the authority of any Federal officer or agency to add to, amend, or abrogate any term or condition included in any authorization issued or granted pursuant to subsection (a) if such action is otherwise permitted under applicable laws administered by such officer or agency. In the case of any such action which is permitted but not required by law, the Federal officer or agency shall have no authority to take such action if the terms and conditions to be so added, or as so amended, would have the effect of terminating the characterization, construction, or initial operation of the potential or permanent repository which the authorization affects.

SCHEDULE FOR CERTAIN STANDARDS AND CRITERIA

SEC. 109. (a) EPA STANDARDS.—Not later than November 1, 1981, the Administrator of the Environmental Protection Agency, pursuant to authority under other provisions of law, shall, by rule, promulgate generally applicable standards for protection of the general environment from radioactive material in respositories.

(b) CRITERIA.—Not later than November 1, 1981, the Commission, pursuant to authority under other provisions of law, shall, by rule, promulgate criteria which it will apply in reviewing under the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, applications for construction authorizations for the construction of repositories.

DISPOSAL OF SPENT FUEL

SEC. 110. Notwithstanding any other provision of this Act, any repository for the disposal of high-level radioactive waste and spent fuel which is designed and constructed under this title shall be so designed and constructed that the spent fuel may be retrieved, during an appropriate period of operation of the facility, for any reasons pertaining to the public safety or for the purpose of permitting the recovery of the economically valuable contents of the spent fuel.

AUTHORIZATION OF APPROPRIATIONS; CONTRACT AUTHORITY

SEC. 111. (a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary to carry out this title $5,000,000 for the fiscal year ending September 30, 1982.

(b) CONTRACTS.—The authority of the Secretary to enter into contracts under this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

ACCOUNTING OF EXPENDITURES

SEC. 112. (a) RECORD OF EXPENDITURES.—The Secretary shall maintain adequate records of all expenditures made under this title which, together with expenditures made by the United States under other laws in connection with the management and disposal of nuclear wastes and spent fuel under this title, shall provide the basis for any fees to be assessed as described under subsection (b).

(b) FEE COLLECTION.—Not later than the date the Secretary submits to the Commission under section 104 a license application for the construction of an initial repository, the Secretary shall submit to the Congress a report proposing fees to be collected to offset all construction, operation, administrative, and other costs incurred by the Secretary in providing for the management and disposal of nuclear wastes and spent fuel under this title. The fees specified in the report would be collected from the persons or entities who hold title to such nuclear waste or spent fuel.

TERMINATION OF TITLE

SEC. 113. (a) SECTIONS 107 AND 108.—Sections 107 and 108 shall cease to have effect at such time as the Secretary commences licensed commercial operation of at least one repository.

(b) REMAINDER OF TITLE.—The provisions of this title, other than sections 107, 108, and 112, shall cease to have effect after December 31, 1999.

TITLE II—LOW-LEVEL RADIOACTIVE WASTE

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

SEC. 201. (a)(1) It is the policy of the Federal Government that—

(A) each State is responsible for the disposal of low-level radioactive waste generated within its borders except for waste generated as a result of Federal defense and research and development and

(B) low-level radioactive waste can be most safely and efficiently managed on a regional basis.

(2)(A) To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

(B) A compact entered into under subparagraph (A) shall not take effect until the Congress has by law consented to the compact. Each such compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent. After January 1, 1986, any such compact may restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the region.

(b)(1) In order to assist the States in carrying out the policy set forth in subsection (a)(1), the Secretary shall prepare and submit to Congress and to each of the States within 120 days after the date of the enactment of this Act a report which—

(A) defines the disposal capacity needed for present and future low-level radioactive waste on a regional basis;

(B) defines the status of all commercial low-level radioactive waste disposal sites and includes an evaluation of the license status of each such site, the state of operation of each site, including operating history, an analysis of the adequacy of disposal technology employed at each site to contain low-level radioactive wastes for their hazardous lifetimes, and such recommendations as the Secretary considers appropriate to assure protection of the public health and safety from wastes transported to such sites;

(C) evaluates the transportation requirements on a regional basis and in comparison with performance of present transportation practices for the shipment of low-level radioactive wastes, including an inventory of types and quantities of low-level wastes, and evaluation of shipment requirements for each type of waste and an evaluation of the ability of generators, shippers, and carriers to meet such requirements; and

(D) evaluates the capability of the low-level radioactive waste disposal facilities owned and operated by the Department of Energy to provide interim storage for commercially generated low-level waste and estimates the costs associated with such interim storage.

(2) In carrying out this subsection, the Secretary shall consult with the Governors of the States, the Nuclear Regulatory Commission, the Environmental Protection Agency, the United States Geological Survey, and the Secretary of Transportation, and such other agencies and departments as he finds appropriate.

TITLE III—REPORT

DEFINITIONS

SEC. 301. As used in this title—

(1) The term "permanent disposal" means the long-term isolation of radioactive waste for at least such period of time as the Commission determines is necessary in order that the radioactivity, heat generation and toxicity of such waste does not exceed the radioactivity, heat generation and toxicity of naturally occurring uranium.

(2) The term "safe geologic repository" means any underground facility for the permanent disposal of transuranic waste, high-level radioactive waste, spent nuclear fuel or any combination of such wastes or fuel, whether or not such facility is designed to permit the subsequent recovery of the materials placed in the repository, and whether or not such safety is achieved solely by the characteristics of the geologic medium in which the facility is located or by a combination of such characteristics with appropriate engineered structural containment, waste form and packaging, monitoring and maintenance, including replacement as necessary of such facility.

(3) The term "civilian nuclear powerplant" means a utilization or production facility for the generation of commercial power, as that phrase is used in the Atomic Energy Act of 1954, which is or will be licensed under such Act;

(4) The term "high-level radioactive waste" has the same meaning as is assigned that term in section 2(3) of this Act.

(5) The term "spent fuel" means nuclear fuel that has been irradiated in and recovered from a civilian nuclear powerplant;

SEC. 302. (a) In addition to the actions required under Titles I and II, the Secretary shall prepare and transmit to Congress on or before January 1, 1982 a report describing a system consisting of at least one safe geologic repository for the permanent disposal of spent fuel and high-level radioactive waste resulting from civilian nuclear activities. Such repositories shall be designed to—

(a) accommodate spent fuel from civilian nuclear activities without reprocessing, as well as the high-level radioactive waste from other civilian nuclear activities, including reprocessing of such spent fuel if such reprocessing is undertaken in the United States:

(2) permit continuous monitoring, management, and maintenance of the spent fuel and high-level radioactive waste for the foreseeable future;

(3) provide for the ready retrieval of any spent fuel and high-level radioactive waste for further processing or disposal by an alternative method; and

(4) safely contain such high-level radioactive waste and spent fuel so long as may be necessary, by means of maintenance, including, but not limited to, replacement as necessary, of such facility.

(b) The proposal shall include—

(1) the general description, cost estimates, cost-benefit analysis, and construction schedule for a system which shall be initially designed for a capacity adequate at a minimum to receive in a timely manner the high-level radioactive waste produced by all ongoing civilian nuclear activities and the spent fuel from the operation of all civilian nuclear powerplants for which any application for any Federal license or permit has been received prior to the date of the enactment of this Act; and

(2) site-specific designs, specifications, and cost estimates adequate to solicit bids for the construction of an initial repository within the system referred to in subsection (a) which will demonstrate the feasibility of permanent disposal of spent fuel and high-level radioactive waste and which has capacity of at least one thousand spent fuel rods along with a volume of processed high-level radioactive waste from civilian activities limited to the amount sufficient to accomplish the purpose of this subsection.

(c) In preparing this report, the Secretary shall consult with the Commission and the Environmental Protection Agency, and shall transmit their comments on the final report to the Congress together with the report.

(d) Preparation and transmittal of the report to Congress is not a major Federal action significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) but an environmental assessment shall be prepared in connection with the report to accompany such transmittal. Such assessment shall be based upon available information regarding alternative technologies for radioactive waste disposal.●

COMMUNICATIONS ACT AMENDMENTS

AMENDMENT NO. 2913

(Ordered to be printed and referred to the Committee on Commerce, Science, and Transportation.)

Mr. BRADLEY (for himself, Mr. WILLIAMS, and Mr. BIDEN) submitted an amendment intended to be proposed by them to the bill (S. 2827) to amend the Communications Act of 1934 to provide for improved domestic and international telecommunications, rural telecommunications development, and for other purposes.

CONTINUING APPROPRIATIONS, 1981

AMENDMENT NO. 2914

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981, and for other purposes.

AMENDMENT NO. 2915

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 637), supra.

AMENDMENTS NOS. 2916 THROUGH 2922

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG submitted seven amendments intended to be proposed by him to the joint resolution (H.J. Res. 637), supra.

AMENDMENT NO. 2923

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG (for himself, Mr. EXON, Mr. MATHIAS, and Mr. GOLDWATER) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 637), supra.

ADDITIONAL STATEMENTS

FOREIGN POLICY TRANSITION

● Mr. KENNEDY. Mr. President, in a recent New York Times op-ed article, Theodore C. Sorensen, former Special Counsel to President John F. Kennedy, offers some important and useful suggestions for a successful transition between incoming and departing Presidents. Reflecting in his experience in Government, Mr. Sorensen advises the new administration to make the fullest use of the expertise and knowledge of both our career Foreign Service and the career personnel at the Department of Defense, the Central Intelligence Agency, and the Agency for International Development. He writes, that "the transition period is an important opportunity to win their confidence."

Mr. Sorensen suggests that the role given to the National Security Council staff will be an important sign of a President's commitment to these career public servants. I share his view that while "every President needs an assistant for national security affairs to coordinate reports from State, Defense, the CIA, Congress, and others, "the President must be cautious about creating a "little State Department" operating within the White House, and competing for supremacy with other Government departments.

Mr. President, I agree with Mr. Sorensen that "our diplomatic corps, from career ambassadors to consuls, is full of talented men and women." Together with the other dedicated civil servants in our foreign affairs, defense and intelligence agencies, they must be stretched to their fullest potential if we are to successfully meet the challenges of the 1980's.

I ask that the full text of Mr. Sorensen's article be printed in the RECORD.

The article follows:

TIPS ON TRANSITION

(By Theodore C. Sorensen)

Every Presidential transition begins with the incoming and departing Presidents vowing complete cooperation between staffs.

That vow is generally kept. But the views of the departing team, which has no future role, have comparatively little impact. The more urgent need is for open channels between the incoming Presidential appointees and the continuing Government bureaucracy. That is more difficult, particularly in foreign affairs.

During the Truman-Eisenhower transition, Secretary of State-designate John Foster Dulles reiterated General Eisenhower's campaign pledge to "roll back" the Iron Curtain and "liberate" Eastern Europe. Almost simultaneously, a holdover State Department official publicly scoffed at the pledge, certain it was unrealistic. Events proved him right, but neither ally nor adversary could determine what American policy was that weak.

During the Eisenhower-Kennedy transition, a Joint Chiefs of Staff subcommittee submitted a crucial memorandum recommending alternatives on Cuba. Months later, a secret investigative report filed by Gen. Maxwell D. Taylor on the Bay of Pigs debacle concluded that the memorandum, which might have changed minds, had apparently been "lost in the activities arising out of the change in administration."

During the Johnson-Nixon transition, the American representative to the Paris peace talks on Vietnam met with the President-elect and emerged to state, with Richard M. Nixon's aide beside him, that Mr. Nixon would send his own observer to Paris. World capitals took notice. Mr. Nixon later denied it.

What accounts for these communication gaps? Old Washington hands have watched half a dozen Presidents come and go, with their campaign slogans and public-relations gimmicks, each one arriving in hope and departing in pain. They are skeptical of new appointees who hope to change the world in the first 10 days but are unable to decipher Federal Registerese. They were amused by Jimmy Carter's pledge to abolish hundreds of agencies and by Mr. Nixon's writing 66,000 "Who's Who" entrants to seek new appointees. No doubt some of these top civil servants have been less than fully communicative with each set of newcomers.

But sometimes the fault lies with the newcomers. Some act out of haste or confusion, some out of arrogance. Some begin with an unconcealed mistrust of bureaucrats.

The best-prepared Cabinet members on Mr. Eisenhower's Inauguration Day were Treasury Secretary George M. Humphrey and Joseph M. Dodge, Director of the Bureau of the Budget, both having made clear to the career staffs they inherited that no purges were planned and that all would be deemed useful until proved otherwise. Mr. Dulles, though not a disciple of Senator Joseph R. McCarthy, conveyed to his department an attitude of deep suspicion; the result was neither harmony nor efficiency.

Let us hope the new Reagan national-security team will forget any campaign rhetoric about a Foreign Service of fuzzy-minded incompetents insufficiently alert to the Soviet menace and consistently out-negotiated. Our diplomatic corps, from career ambassadors to consuls, is full of talented men and women. If properly identified, encouraged, and called upon, they can be invaluable. So can the career staffs at the Pentagon, Agency for International Development, and Central Intelligence Agency. Any bureaucracy needs occasional pruning and prodding, but, as Presidents Johnson and Nixon discovered, distrusting a bureaucracy only diminishes its responsiveness and productivity.

One signal of trust toward the national-security career services is a new President's decision on the "little State Department" in the White House. President-elect Carter pledged to cut it but failed. Every President needs an Assistant for National Security Affairs to coordinate reports from State, Defense, the C.I.A., Congress and others. But an "assistant" is not an administrator running his own operation, competing for supremacy with the departments yet unaccountable to Congress.

The danger of a President-elect's placing too little trust in the national-security bureaucracy is outweighed only by the danger of his placing too much trust in its specialists. Mr. Kennedy was initially impressed by those briefing him on the Bay of Pigs scheme. In the heady atmosphere of infallibility that follows successful campaigns, it is hard not to be impressed by the secret maps, arcane terminology, gold braid, and experts' crisp, confident manner. Success is in the air, failure is unthinkable. Thus, he stumbled. So will future new Presidents—unless they remember that the military, intelligence, and diplomatic specialist, for all his indispensable knowledge, sometimes lacks the broader, more balanced perspective necessary for Presidential decisions.

Mr. Reagan did not win the votes of most Federal employees in the District of Columbia and Maryland. But as a skilled communicator, he has in the transition period a more important opportunity to win their confidence.●

FAIR HOUSING AMENDMENTS

● Mr. BOREN. Mr. President, yesterday the Senate voted not to impose cloture to bring debate to a close on H.R. 5200, the Fair Housing Amendments of 1980. I voted against imposing cloture.

For me, it was one of the most difficult votes I have cast since coming to the Senate. I am a strong advocate of fair housing. I sincerely and deeply feel that every American—regardless of race, color, religion, sex, handicap, or national origin—should have a chance to obtain housing on a nondiscriminatory basis. This is a fundamental right which should be guaranteed to every American citizen.

Nothing has a more destructive effect on the spirit of a community which needs to be revitalized in our Nation than housing discrimination. If we truly had fair housing in our society then we would not be faced with the proposal of difficult programs like busing to desegregate our public schools.

Our goal must be to create a society which provides economic opportunity for every citizen and then guarantees the right of a person to use the fruits of his labor to obtain housing in any place of his choice which he can afford.

Because of my feelings, I had hoped to not only vote for the fair housing bill, but also be one of its most enthusiastic advocates.

Unfortunately, the bill on which we were forced to vote, did not propose wise or acceptable methods for achieving the goal of fair housing. In protecting one kind of constitutional right, we must not disregard other important constitutional principles and rights.

The bill on which we voted, opened the door to the abuse of the rights of citizens by giving an excessive grant of broad powers to a bureaucracy within the Department of Housing and Urban Development.

In addition, it opened the door to possible Federal usurpation of the rights of local officials to determine zoning and land use policies. Under the proposed bill, it would have been possible for Federal officials to overturn local ordinances on the basis of social theories and blueprints which have only a very tenuous relationship, if any at all, to racial discrimination.

I worked very hard with a group of Senators to try to modify the language of the bill to strike a proper balance to assure the rights of all concerned. I personally spent many hours consulting with Senator KENNEDY of Massachusetts and officials from the Department of Justice trying to work out an acceptable bill.

Unfortunately, time ran out before we could resolve the problems in the bill. Senator KENNEDY and I joined in asking the majority leader to request additional time. He made the unanimous-consent request needed for this extra time, but objections were unfortunately raised by others and the additional time was not granted.

Had we considered this important legislation during the regular session when more time could have been given to it, I feel certain that an agreement could have been reached and a satisfactory bill could have been passed. I do not believe such a major piece of legislation like the fair housing bill could be given the full consideration it deserves in a limited post election session.

Speaking as one Senator, I will work as hard as I possibly can to assure passage of a sound fair housing bill next year.●

THE MILWAUKEE: A SUMMARY

● Mr. BAUCUS. Mr. President, I would like to submit for the RECORD and the benefit of my colleagues a paper prepared by the Montana Department of Agriculture summarizing this past summer's efforts on the matter of restructuring the Milwaukee Railroad, and a letter from the director of the Montana Department of Agriculture to the Federal Railroad Administration describing why the State of Montana officially ended its efforts to acquire the Milwaukee Lines in Montana.

Since the Milwaukee filed for bankruptcy in 1979, many of us fought long and hard to maintain and revive the Milwaukee Railroad west of Miles City, Mont. We did so for many reasons. We believed, and I still believe, that rail competition along the Northern Tier States is of immense importance to our Nation's ability to transport vital natural resources to markets. I fear now that the failure to save the Milwaukee in the West may someday come to haunt us. More than ever before, we must set upon a course of action to revitalize our deteriorating transportation system. Without a commitment to a sound transportation system at reasonable prices, we cannot hope to succeed in reindustrializing our Nation, a task we all recognize as absolutely essential to our economic and social well-being.

Many of my colleagues were most supportive of Montana's efforts to maintain the Milwaukee Railroad. I am most appreciative of their commitment and support.

As a reminder of the efforts that were expended on the Milwaukee in Montana, and of the superior efforts that we must embark upon in the future, I submit the following letters and summary to the RECORD.

The letters and summary follow:

STATE OF MONTANA,
DEPARTMENT OF AGRICULTURE,
Helena, Mont., August 15, 1980.

DEAR INTERESTED PERSON: In view of your interest in the efforts that were being made to preserve the Milwaukee Railroad, I felt it appropriate to officially advise you that the State of Montana is discontinuing its efforts to acquire the railroad.

The enclosed letter and position paper explain why this decision was necessary, and provide additional details.

Your interest in and support of this project is greatly appreciated.

Sincerely,
W. GORDON MCOMBER,
Director.

STATE OF MONTANA,
DEPARTMENT OF AGRICULTURE,
Helena, Mont., July 31, 1980.

Mr. JAMES W. HANSCOM,
Acting Director, National Freight Assistance Programs, Federal Railroad Administration, U.S. Department of Transportation, Washington, D.C.

DEAR MR. HANSCOM: This letter is in response to yours of July 10, identifying additional information needed to complete FRA review of two applications submitted by the State of Montana for $50 million in Federal assistance to acquire portions of the Chicago, Milwaukee, St. Paul and Pacific Railroad located in Montana, Idaho and eastern Washington.

We appreciate and accept your need for the additional information requested. We recognize your concern for the viability of a Montana rail operation in light of possible Potlatch and Union Pacific acquisition of Milwaukee properties in Idaho and the recent action by the Trustee in proceeding ahead with salvage operations on branch line segments not desired by the Burlington Northern. The latter is most distressing in that it circumvents Interstate Commerce Commission authority in reaching an independent judgment on which carrier can best serve the public interest and thus be authorized to acquire and operate, on a permanent basis, Milwaukee segments between Miles City and Marengo.

During the last several days, we have spent considerable time reassessing our position in light of the above developments. Reluctantly, with the approval of Governor Judge the Department of Agriculture will discontinue its present efforts to purchase Milwaukee lines. Montana does not have the immediate fiscal resources to effectively stop this deliberate action being taken by the Trustee and Reorganization Court.

Discontinuance of those efforts does not mean abandonment of the State's quest for competitive rail service. Such service is particularly important in view of anticipated coal production in the Ashland-Birney area. Montana will continue to do all it can to retain both east and westbound competitive rail service at Miles City to ensure the marketability of Montana-produced coal. Montana is supportive of the actions being taken by FRA and other states to improve the former Milwaukee mainline east of Miles City so that rail operations can be sustained on a permanent basis. If retention of the mainline west of Miles City becomes impossible, as it now appears, Montana will investigate the possibility of railbanking this line as far west as Silver Bow (Butte) to (1) ensure that competitive rail service can be reinstated when needed in the future to serve the coal industry and (2) minimize the disruption and negative impacts occurring from heavy coal movements through communities located adjacent to the coal hauling route. We welcome your comments on this proposed action, which we feel is supportive of the national interest in providing the transport systems needed both now and in the future to deliver coal as efficiently and economically as possible. Specifically, we would like to determine the availability of Federal funding for railbanking this portion of the Milwaukee mainline and the requirements that have to be met.

We appreciate the courtesy and consideration you have extended to Montana in the past.

Sincerely,
W. GORDON MCOMBER, *Director.*

STATE OF MONTANA,
DEPARTMENT OF AGRICULTURE,
Helena, Mont.

A SUMMARY OF THE MILWAUKEE ROAD RESTRUCTURING EFFORTS

The following provides additional explanation of Montana's July 22, 1980 decision to discontinue its present efforts to retain competitive rail service between Miles City, MT and Marengo, WA.

Recent actions taken by the Trustee, the Reorganization Court, and others have made it virtually impossible to consummate an agreement for the transfer of the rail properties to Montana or to protect the integrity of the Milwaukee's track structure prior to an expected August, 1980 decision by the Interstate Commerce Commission on which carrier can best serve the public interest and thus be authorized to acquire and operate Milwaukee segments on a permanent basis. A favorable decision by that agency coupled with the approval of requested loans from the Federal Railroad Administration and the Farmers Home Administration is moot if the rail infrastructure has purposely been severed or removed.

Unfortunately, Montana does not have the immediate fiscal resources to effectively stop this deliberate action, through restraining litigation, being taken by the Trustee and the Reorganization Court in spite of the Commission's strong desire that public agencies be given first crack at acquiring abandoned Milwaukee properties.

The decision to discontinue efforts on its applications before the Interstate Commerce Commission, the Federal Railroad Administration, and the Farmers Home Administration does not mean abandonment of its quest for competitive rail service in the state. Such service is particularly important in view of anticipated coal production from the Ashland-Birney area. Montana will continue to do all it can to retain both east and westbound competitive rail service at Miles City to ensure the marketability of Montana-produced coal.

Montana is supportive of the actions being taken by FRA and various states to improve the former Milwaukee mainline east of Miles City so that rail operations can be sustained on a permanent basis. If retention of the mainline west of Miles City becomes impossible, as it now appears, Montana will investigate and pursue the possibility of railbanking this line as far west as Silver Bow (Butte) to (1) ensure that competitive rail service can be reinstated when needed in the future to serve the coal industry and (2) minimize the disruption and negative impacts occurring from heavy coal movements through communities located adjacent to the coal hauling route. Montana also recognizes that it may no longer be possible to retain competitive rail service in grain growing areas in central Montana. If this objective is not achievable, then retention of rail service is more in the agricultural community's interest than losing rail service entirely. Montana will seek to have these feeder lines rehabilitated so as to help ensure satisfactory service and remove any possibility of abandonment in the near future.

The immediate cause of Montana's decision to discontinue its efforts to retain competitive rail service was recent Trustee's court authorized actions in scrapping out branch lines in central Montana not purchased by the Burlington Northern. Salvage operations are already underway between Choteau-Agawam and Winifred-Winifred Jct. A contract has also been let for the segment between Harlowton and Moore. The latter is extremely important, in that it connected the grain producing areas served by the Milwaukee with the mainline at Harlowton. Severance of this line would significantly reduce the traffic base and revenue available to the new railroad operation.

While the state could appeal this action through the courts, such action would not prevent the salvage operations from going forward. Alternatively the state could purchase the railroad right-of-way involved, thereby preserving the track structure until operation could be resumed.

However, pending a favorable decision on several loan or loan guarantee applications the state does not have the financing needed to purchase both the real estate and the track materials which the trustee is scrapping, or removing for utilization elsewhere on the core system. Short of a court order restraining him, the trustee has been unwilling to halt salvage operations until the Interstate Commerce Commission and the Federal Railroad Administration reaches a final decision on the applications before those agencies. Removal of track materials directly affects economic feasibility; restructuring a railroad from ground up is far more costly than rehabilitation.

A further and serious complication, is the Potlatch Corporation's court approval acquisition of Milwaukee properties in Idaho, which effectively severs the mainline at Avery, Idaho. Although Montana has appealed the sale on the basis that the Reorganization Court exceeded the authority granted it under the Milwaukee Railroad Restructuring Act, the delays arising out of the very nature of court proceeding and schedules imposed by court rules in filing briefs in pre-trial conferences, etc., and by the court in rendering its decision, effectively preclude any relief being rendered in a timely fashion.

While Montana feels that some type of accommodation, such as trackage rights might be worked out, to provide Montana with rail access to Marengo and Spokane, an independent, private railroad operation by Potlatch in Idaho, would deprive Montana of essential revenues and thus make the overall operation just that much more marginal.

Other contributing factors include:

1. Continuing actions taken by the Trustee. On March 1, 1980, the Trustee began demanding that Montana enter into an immediate purchase agreement with him, complete with money guarantees, or he would consummate the sale of certain lines to the Burlington Northern. The Trustee knew that Montana could not get the federal agencies to grant even conditional commitments of the loans required within the time frame proposed. On March 10, 1980, the Trustee entered into an agreement with the Burlington Northern for the purchase of Milwaukee segments, principally in the grain growing areas of the state and some short disconnected segments, severing the mainline at strategic points. This sale was granted preliminary approval by the Reorganization Court on March 18, 1980. From this time for-

ward, there was never any meanful contact with the Trustee, and as a practical matter, the Trustee appeared to impose every obstacle possible in an attempt to thwart Montana's plan.

2. The lessening viability of the proposed rail operation. As a result of extensive revenue and cost studies conducted by Montana earlier this year, the state concluded that the traffic identified was sufficient to sustain a carefully-managed light density line rail operation until the projected coal mines in the Ashland-Birney area could come on-line and substantial quantities of coal began moving to the Pacific Northwest. However, since then continuing erosions of the traffic base and deterioration of the track structure through non-use have reduced the potential viability of the proposed rail operation. It now appears that additional time and expense will be required simply to restore the track structure. Even with application approvals this summer, resumption of operations is unlikely before 1981. In the face of deteriorating economic feasibility reliance on revenues alone to sustain operation expenses, is becoming increasingly unlikely during the first few years.

3. The lack of an operator. In spite of intensive efforts, Montana has not been able to find a qualified operator. The State has not been able to interest any major railroads in extending their operations to include the Miles City to Marengo lines. Although some interest has been received from other groups interested in operating these lines, none were deemed to have sufficient experience and financial resources necessary to undertake operations over a 1,200 mile system immediately.

4. Inability to locate private financing above that presently identified and available. Inquiries made by State officials into the availability of private funding which could be used to immediately purchase the right-of-way and track materials, and so head off the salvaging operations being conducted by the Trustee, have not been promising. Early acquisition before the Interstate Commerce Commission is not approved. While track materials could always be sold for reuse or scrap, disposal of the right-of-way could take years if not used for rail transportation purposes.

5. Potential loss of available federal rail assistance funding. Approximately $4.1 million in federal local rail assistance funding is presently available to Montana. Unless these funds are committed to specific projects by July 31, 1980, there is a strong possibility that the funds involved will be reallocated to other states. The grant agreement under which federal assistance is channeled to states requires certain commitments and assurances which are not achievable unless ownership of the lines has been fully resolved. Federal regulations also require the applicant to demonstrate that the public benefits of such projects exceed their costs, and that such projects be identified in the state rail plan. Montana has previously identified Milwaukee segments in central Montana as candidate projects in its state rail plan. Given the debilitated condition of the Milwaukee grain lines, rehabilitation must be undertaken now regardless of their long-term ownership. Hence the importance of committing these funds now to ensure continued operations of Milwaukee segments being purchased by the Burlington Northern.

6. Unavailability of funding. The Montana Department of Agriculture simply does not have the fiscal or staff resources to continue its efforts to retain competitive rail service between Miles City and Marengo. The Department cannot expend monies which it does not have.

In seeking the retention of competitive rail service over the past year, one thing stands out—the overwhelming concern that a majority of Montana residents and shippers have on the need for competitive rail service and the assistance, encouragement and time that the Congressional delegation and various officials in pursuing this objective. Montana is thankful for and appreciative of this continuing support. State officials have a great sympathy for those who have shared in the dream of a strong and effective rail carrier rising from the bankruptcy of the Milwaukee.

At this point, the need is to go forward. The State has done all it could reasonably do in pursuing competitive rail service. Further continuation of present actions risk the possibility of obtaining nothing for these efforts, and specifically jeopardizes losing the Federal funds currently available to Montana.

W. GORDON MCOMBER.●

NOT A SUPERFUND

● Mr. KENNEDY. Mr. President, I would like to place in the CONGRESSIONAL RECORD today the excellent op-ed article on the chemical cleanup bill by my distinguished colleague, GEORGE MITCHELL of Maine.

I fully share the convictions expressed in this article. I believe that it is absolutely essential that the chemical waste cleanup legislation be broadened next session to include medical cleanup expenses. The hearings that I held last summer demonstrated the enormous human costs of the present irresponsible chemical dumping practices.

The Senator from Maine is performing an enormous public service in this area. I commend him on his leadership and pledge him my support in his efforts.

The article follows:

NOT A SUPER FUND

(By GEORGE J. MITCHELL)

WASHINGTON.—The Congress has enacted compromise legislation dealing with the problem of hazardous wastes. While I voted, reluctantly, for the compromise, the people of the United States should understand that it does not deal with the most serious part of the problem.

The legislation, which creates a $1.6 billion fund, is a first step to respond to the threats posed by releases of hazardous substances and by toxic dump sites.

While significant, the legislation is seriously deficient. It provides for the cleanup of places and compensation for damage to things, but it provides nothing for injury to people.

The bill passed by the Congress permits use of the so-called Superfund only for cleanup of hazardous-waste sites and spills and to compensate governments for damage to natural resources. But victims of chemical poisoning cannot obtain from the fund out-of-pocket medical expenses for illnesses resulting from the action of another party. Indeed, under the legislation a guilty party cannot be held accountable for any damage it has inflicted on a person. If a toxic-waste discharge injures both a tree and a person, the tree's owner, if it is a government, can promptly recover from the fund for the cost of repairing the damage, but the person cannot.

In effect, under the legislation it's all right to hurt people, but not trees.

The Congress has told the American people that under our value system a property interest is worth compensating, but a human life is not.

Neither logic nor compassion nor good government nor common sense compel this result. It is a failure of will on the part of the Congress to deal with what is the most serious part of the problem: injuries to persons.

The response is that the injured person has legal recourse against the party causing the injury. To that I ask, If such a course is satisfactory for injured persons, why are we permitting direct recovery from the fund for injury to natural resources?

The answer, obviously, is that lawsuits are agonizingly slow and inordinately expensive. It takes years and many thousands of dollars to pursue one of these cases to a final determination through the courts. Those who discharge wastes know this, and the consequence is legal guerrilla warfare in which the objective is to force an early settlement.

We don't want damage to natural resources to await the workings of that process; we permit claims against the funds for damage to natural resources.

But if this alternative is unacceptable to the Congress for governments whose natural resources are damaged, why is it acceptable for people who have been injured?

By what standard of justice or decency is damage to property more important than damage to persons?

The only response is the fear that phony claims will be made. It says something about the judgment of Congress as to the morality of the American people that we are unwilling to permit prompt compensation of valid claims because we fear that this may stimulate some fraudulent claims.

But no evidence to support that judgment has been presented. All that has been expressed is the vague fear that creation of this fund will so stimulate the larcenous tendencies of the American people that we dare not give anyone access to the fund for personal injury.

Perhaps this is true, although I hope it is not. But at the least, if that is the basis for our decision, the argument should be made with such evidence as is available to support it.

Our failure to provide compensation from the fund for persons who are injured is even less defensible when we recall that the original Senate bill provided liability only for out-of-pocket medical expenses. There would have been no compensation for pain and suffering, psychological damage, or even death.

Having made the judgment that property is more important than a person, we should not delude the people of this country about what we have done. Most particularly, we must not delude the thousands of people who are victims, who will not get that help from this legislation. For them, the Superfund is not super.

People have been tragically harmed by chemical wastes in virtually every state of the Union. The Congress had the opportunity to help them, but did not. The compromise enacted by the Congress represents a beginning. But we have far to go to fulfill our duty to the people we represent.●

JAMIE WYETH, ARTIST

● Mr. METZENBAUM. Mr. President, Jamie Wyeth is a deeply talented American artist whose special insights and whose creative energies are fully emerging in the world of contemporary, representational American art.

I have seen several of Jamie's portraits and canvasses. They are intelligent, personal, and thoroughly American. They speak of subjects that we as a nation hold as important parts of our character and of our development. They are masterly paintings, and they will endure in our art heritage.

I believe that our art-conscious public now sees Jamie's paintings entirely in their own light. He is, of course, the heir to a distinguished American artistic family, and were he less of an original talent, he might fall into being a painter "in the school of" his father or his grandfather. But his work is entirely his own, and entirely ours as Americans. We are deeply grateful that he is painting for us and among us.

I was especially impressed with an article entitled "Painting's Favorite Son" on Jamie Wyeth that recently appeared in the United Mainliner magazine, and wish to bring it to my colleagues' attention, and I ask to have this article printed in the RECORD.

The article follows:

PAINTING'S FAVORITE SON

(By Phil Patton)

The robust man getting out of the big yellow taxi in front of the art gallery wore light brown corduroy trousers, a wilted white shirt and an unbuttoned gray vest from a suit a banker would wear. Jamie Wyeth is not usually recognized on the streets of New York, to which he often commutes from his home and principal studio—housed, as one might expect of a Wyeth in an old weather-beaten barn—at Point Lookout, Pennsylvania, or from his second home on Monhegan Island in Maine. Married for twelve years to the former Phyllis Mills, Wyeth remains shy, private, enigmatic.

But ever since his first New York show in 1966, at the age of twenty, Wyeth has been lionized by a press eager to proclaim him painting's new heir. It was, admittedly, a story too good to avoid: "The Younger Wyeth"—son of the country's most popular painter, Andrew Wyeth; grandson of the illustrator N. C. Wyeth, whose visions of pirates and cowboys, of scenes from *Treasure Island* and *The Deerslayer* colored the imagination of generations—a realist keeping tradition fresh in the age of all-leveling abstraction. Add to all this the family commission to paint a portrait of the late President Kennedy, completed in 1967.

But the current staging of a major retrospective exhibition of Wyeth's work at the Pennsylvania Academy of Fine Arts in Philadelphia—also due next year at the Greenville County Museum of Art in South Carolina and the Amon Carter Museum in Fort Worth—reveals a different, more mature and, above all, more individual Jamie Wyeth. At age thirty-four, Jamie Wyeth is at last his own artist, not his father's son, not the latest In a genealogy of artists, but a distinguished and distinctive practitioner of realism in the age of abstract and conceptualist art. The portrait that emerges of the artist today is of a man with perspective on himself and his work.

"It was all great fun," he says today of the publicity that surrounded his debut, "all a kind of masquerade, but it bore no relation at all to my work." For Jamie Wyeth, his work is everything. He is a patient and deliberate creator and a portraitist who immerses himself in his subjects' lives in order to capture personal truths in their physiognomies.

"I like to spend as much time as possible with a subject," Wyeth says. "Ideally, I like to live with the person for a while, I follow him around, trying to get under his skin, trying to absorb his character by osmosis."

For the Kennedy portait, Wyeth watched hours of films, followed Bobby and Ted Kennedy on the campaign trail, interviewed the President's widow and talked to members of his staff. The result was not totally flattering. Some critics called it "pudgy"; Wyeth admits that the practicality and even the deviousness of politics is there in the brooding image.

For a 1977 portrait of dancer Rudolph Nureyev, Wyeth hung out at the American Ballet Theatre School and once ventured backstage before a performance. For a portrait of arts impresario Lincoln Kirstein. Wyeth demanded some two hundred hours of sittings. For a portrait of his friend Andy Warhol, Wyeth absorbed the heady atmosphere of Warhol's famous "Factory" and the circle of Warhol disciples there.

When Jamie Wyeth himself is the subject of a portrait, however, he reacts with some hesitance, as if aware of the sensitive probing that such thoroughgoing research is likely to involve. That day at the gallery, he turned down another request from a television crew to film him "in the act" of painting.

"People think that when you paint, lightning shoots out of your fingers or something," Wyeth says. "I don't like anybody in the room when I'm working. I take the phone off the hook. Painting is not easy for me. I find it hard to concentrate. I generally find it hard, hard work."

Thwarted by his reluctance to stand in the foreground, a Wyeth portraitist necessarily resorts to a look at his background to his family heritage and the early years spent at Chadd's Ford, in the Brandywine Valley, which today cannot help but look like Andrew Wyeth pictures.

"I grew up drawing things from movies, books and cartoon characters I'd seen—like any kid." Wyeth says, but years of study with his Aunt Carolyn, also a painter, and eventually with his father, Andrew, gave him a head start few painters can boast. He left school after sixth grade and split his next years between tutoring and sketching in pencil and charcoal. His first subjects were simple spheres and cubes.

"The thing that was different," Wyeth insists, "is that the tools of painting were always lying around the house. I would have thought it very odd for my father to put on a suit and tie and go off to the office. The palette on the kitchen table was just a normal thing."

From the earliest days, his father was critic as much as teacher. "We criticize each other's work," Jamie says. "He's been very tough, but it's a give-and-take thing. It's not a matter of saying 'that nose is wrong' or 'that color is wrong.' Painting is such an individual, personal thing. There are no rules. I think he applied the same standards to me when I was sixteen as he did to his own work."

Aside from his teachers, most of Wyeth's childhood companions were animals, he says, a circumstance that accounts for the prevalence of animal images in his painting. The Pennsylvania Academy Show, for instance, includes his five-by-seven canvas *Pig;* several other versions of pigs; *Angus,* a picture of cattle; and several images of dogs. The *Pig* picture grew from his fascination with the Den Den, a sow from a nearby farm in Chadd's Ford.

"I'm painting animals more, because I'm getting less interested in people, I guess," Wyeth says wryly. "Animals are not sweet and lovable. Pigs, for instance, are vicious and moody. A pig's eyes are especially terrifying. The danger is to romanticize animals, because in fact they are in another world."

The portrait-making, which seems to be the second major strand of Wyeth's current work, coexists with the animal pictures. Wyeth refers to a portrait of Nureyev, for which he spent months sketching: "What attracted me was Nureyev's physicality, that peasant force. He is very aware of his animal nature—he has this marvelous energy, and he is always moving, always on stage. He is as strange off the dance stage as on—unlike, say. Baryshnikov, who is a nice, quiet guy offstage."

Nureyev was so caught up in his work that he at first gave Wyeth very little time for formal posing. "Finally,' Wyeth recalls. "I asked a boy in one of Nureyev's classes who looked rather like him to pose, just to get the feeling, you know. I told Nureyev, 'Rudolph, I've asked this fellow to pose and . . .' He was outraged. 'What,' he said 'Heem! That peeg! With those peeg legs?' The result was that Nureyev gave me more time. It sounds great, as if I had planned it, but I didn't. I was desperate as hell."

If these considerations of getting under the skin, of discovering some kind of animal "otherworldliness" even in human subjects, seem to offer a side darker than the country musings of Andrew Wyeth, that is a fortunate counterpart to journalists who are prone to grouping father with son. Critical considerations of Jamie and his work have tended to lump him with his father and even his grandfather, with accusations that the Wyeths are "mere illustrators." No charge irritates Jamie Wyeth more. "The advent of photography took the recording element out of painting. It lost something. But there is great illustration in Goya and Rembrandt. Since when did illustration become a dirty word?"

Jamie does not allow himself to become resentful when the inevitable pairing with his father is suggested. "It's something you have to contend with, sure," he says. "It's a kind of baggage you bring with you. It has been helpful as far as selling my work, which is the way I make my living. But I've never lost sleep over it. All that sort of consideration goes out the window when I'm working."

Jamie and his father differ on the younger painter's appreciation of abstract painting. "I much prefer most abstractionists to most realists today," Jamie says. "Most of my friends are abstractionists. I like Bob Rauschenberg's work, Jasper Johns, Franz Kline. There's an excitement about them. It's just that when I see a form or shape that appeals to me, I say, why abstract it? Many of my friends feel just the opposite. But superrealism doesn't appeal to me at all. I don't think photography and painting mix. There's so little feeling to that kind of painting."

Another of Wyeth's good friends is Andy Warhol. In 1976 the two painters held a joint show of their portraits of each other. Last summer, their work was shown together in Monte Carlo. For Wyeth, Warhol seems to have provided a kind of model for striking a balance between private work and public involvements. "Andy has this thing called 'Andy Warhol' that he holds out in front of him," Wyeth says, "while behind the scenes he's busily working away. You hear about Warhol going to all sorts of parties, but he usually just stands in the corner by himself, observing."

Wyeth has effected a somewhat similar tradeoff; a resistance to being captured too completely by glib media mavens and a refusal to let publicity get under his skin, complemented by "constant curiosity," he calls it, that leads him to try to get beneath the surface of objects and render their essential nature. "The main thing I have to have," he says, "is a conviction that whatever I'm painting, I'm doing the definitive version, the essence of the thing. For that, you have to keep your tools as sharp as possible, because you want to be ready when the inspiration comes along."●

THE DEATH OF JOHN LENNON

● Mr. GLENN. Mr. President, once again it has happened. Once again, shots have rung out. And once again, the world has been shocked by yet another brutal and senseless act of violence. John Lennon—a man whose music and artistry helped transform an entire generation—was tragically gunned down last night in New York City. Early reports indicated that the murder weapon was a .38-caliber revolver—the grisly handgun most commonly known as the

"Saturday Night Special." Ironically, New York City had recently enacted what is probably the most stringent gun control law in the Nation. But as the Lennon slaying makes clear, it is still far too easy for anyone with murder on his mind and a few dollars in his pocket to obtain and use one of these weapons.

In time, we will no doubt learn what "motivated" John Lennon's assassin. Likely as not, we will discover that the killer did not know Mr. Lennon and had no apparent reason to feel hostility toward him. And that is perhaps the most disturbing thing about this tragedy. It serves to demonstrate once again, if any further proof were needed, that the successful or famous among us are far too often made targets simply by virtue of their renown.

Like many parents of my generation, I must confess to not always been enamored of Mr. Lennon's music and ideas. But as a father whose children grew up during the 1960's, I recognize the profound impact that John Lennon had on popular music and, indeed, on the whole of Western culture. Classical music composer Aaron Copland once observed that—

> When people ask to create the mood of the 1960s, they will play the Beatles' music.

And so they will. But it is deeply saddening to realize that from this day forth, a primary creator of that music, John Lennon, will not be here to share it with them.●

SMALL-CITY AMERICA: THE FUTURE PROMISE

● Mr. BAUCUS. Mr. President, the October 1980 issue of Money magazine contained a profile of 10 communities which that magazine rated among the best small cities in the country.

In selecting the 10 best small-city communities, Money magazine considered several criteria. Among those criteria, and I quote from the magazine, were:

> The 10 communities in this portfolio are among the best of the small-city breed: they offer, above all, rapid expansion of employment. Chase Econometrics, the forecasting firm, reports that each city has a job growth rate well above the national average of 2.5 percent a year. Other criteria considered by *Money* in making the selections: good public schools, a college or university within the community, low state taxes, an attractive setting. Many of these cities score high in all categories, and none misses out in more than one. Most are regional hubs with diversified opportunities in manufacturing, sales, health and communications. Professional and managerial jobs are plentiful, although women may have a harder time moving onto and up the executive ladder than they do in larger cities.

I was pleased and proud that among the 10 cities selected was Billings, Mont.

Mr. President, I would like to share with my colleagues what Money magazine said about Billings, Mont., and ask that the article be printed in the Record.

The article follows:

Billings, Mont. (Pop. 100,000)

Billings is where the Old West meets the new. Legendary figures survive as vigorous ghosts: Calamity Jane, who lived there in the 1890s, and local characters like Yellowstone Kelly, an Army scout and sharpshooter who used a grizzly's paw as his calling card. Contemporary cowboys stride the busy main street, where saddles custom-fitted to man and mount sell for $850 and up. The cattlemen are outnumbered by petroleum engineers, technicians and geologists from the many energy companies with local offices. Bullwhackers and computer wranglers, friends and strangers greet each other on the street with "Howdy."

Rich deposits of coal, oil and shale in the dry plains and broken hills have made energy the fastest-growing part of Billings' economy. Conoco, Exxon and Cenex have large refineries on the outskirts of town. Billings is also the medical, financial, sales and transportation capital of a vast region.

The Beartooth Mountains, about an hour's drive from town, provide year-round skiing. Yellowstone Park is 130 miles away. Low living costs are another attraction: three-bedroom-house prices start at $50,000. Ash, cottonwood and ponderosa pine trees shade the streets, but lawns are a luxury. Residents must drill their own wells or pay about $20 a month to water a typical lawn.●

SHIPBUILDING

● Mr. METZENBAUM. Mr. President, on December 1, after completion of propulsion sea trials, the crew of our newest nuclear attack submarine, the U.S.S. *Bremerton*, had a visit from the legendary Adm. Hyman Rickover, who has justly been called "the father of the nuclear Navy."

Admiral Rickover's remarks to the crew pointed up a real problem that exists in many parts of our economy. In too many industries, we have seen a decline in the quality of management, in the quality of production, and in responsiveness to consumer needs, whether the consumers in question be the average family in the marketplace or the armed services, purchasing the wherewithal to defend our country.

Admiral Rickover said:

> Shipbuilding in the United States is now controlled by large conglomerates. In some cases, the conglomerate's primary interest appears to be only to make money—regardless of what they are making, toys or naval ships.

The admiral continued:

> In connection with this I would like to remind you what is stated in Matthew.
>
> For where your treasure is, there will your heart be also.

Mr. President, I believe that as we move to strengthen our Armed Forces, we must keep in mind what Admiral Rickover knows so well—that there is no substitute for competence, commitment, and excellence.

I submit for the Record the text of Admiral Rickover's remarks to the crew of the *Bremerton*.

The remarks follow:

Admiral Rickover's Remarks After Completion of the Bremerton Propulsion Sea Trials

Captain Anderson. This is the captain speaking. Admiral Rickover has some remarks for the crew and those embarked.

Admiral Rickover. We have just completed the first trials of the *Bremerton*. The propulsion plant operated satisfactorily.

I recognize that the management of Electric Boat has been impatient to get this ship to sea. But in submarines, there is no viable alternative to having the ship built properly.

A former president of the Electric Boat Company, Mr. L. Y. Spear, understood the necessity of having high quality work in submarines. On June 26, 1945, Mr. Spear issued Electric Boat Company order No. 13. This order was a restatement of company policy published as order No. 4 dated September 1, 1932. It was published by the new London Ship and Engine Works. On November 17, 1965, another former Electric Boat president, Mr. J. W. Jones, reissued Mr. Spear's order to Electric Boat employees. The order included the following instructions:

"First-Class quality not only with respect to material and workmanship but also as to details of design is to be regarded always as the prime consideration not to be sacrificed in the interest of lower cost or of more speedy construction except when the latter is especially authorized by the bureau."

He also said:

"While economy of construction must be kept constantly in mind and diligently sought for, when conflict arises between economy and quality, the latter is to prevail."

It is essential that all those involved in the submarine business understand and follow these important principles. There have been occasions when some—even senior officials—have not understood this. Unfortunately, some people will have to experience the loss of a submarine to bring this fact home to them. But this is too high a price for young men to pay for transient management.

Shipbuilding in the United States is now controlled by large conglomerates. In some cases the conglomerate's primary interest appears to be only to make money—regardless of what they are making, toys or naval ships.

In connection with this I would like to remind you what is stated in Matthew:

"For where your treasure is, there will your heart be also."

I have always remembered that statement, and that it is in the New Testament. But to make sure of its accuracy I asked Lt. R. T. Egolf, who I had been told was a church-going Christian and familiar with the New Testament, to verify it. He managed to find a Bible, but had difficulty locating the verse. So he asked ET3 M.A. Stone, another reputed Bible "expert", to assist him. After one half hour, the two "experts" finally located the verse. It is in Matthew 6:21.

Another apt stanza that came to mind is from Sir Walter Scott's "The Lay of the Last Minstrel," which he wrote in 1805.

"Breathes there the man, with soul so dead, who never to himself hath said, this is my own, my native land."

This stanza is one particularly apropos for immigrants, such as myself and others recently arrived, to remember. I have always been grateful for what this country has done for me. I would have been dead long ago—as far back as World War One—if my parents had not brought me to the United States in 1906. This country has given me great opportunity and unbounded generosity. It is not possible for me to do enough in return. I hope all immigrants appreciate this; that they do not look at the United States merely as a place to make a lot of money, by no matter what means.

One of the great problems our country faces today is its poor industrial performance as compared with other countries, notably Japan and West Germany. In some places in this country the top manager is present only part of the time. In one of our shipyards he is present for but half the time. Even then he rarely goes aboard one of his ships even though they have major problems that delay them for months; even years.

Now as to the *Bremerton*. It is finally an excellently built ship. I wish to congratulate all of the workers who built this ship and who worked in the tradition laid down by Mr. Spear; get the job done correctly.

I also want to thank the supervisor of shipbuilding, Captain Yurso, and his people, all of whom worked hard to bring about this successful trial. Without Captain's Yurso's organization to continually check the work in the ship, the *Bremerton* would not be in the fine condition she was today.

I especially want to congratulate Captain Anderson and his officers and men. Anyone witnessing these trials would find it hard to believe that only 40 percent of the crew had ever been to sea before taking the ship out on these trials.

All of them demonstrated that they are capable of doing an outstanding job; all of them handled the ship like veterans. I know they will all continue to perform their duties in the very same outstanding manner.

Our country should be proud of Captain Anderson, his officers, and his men. So, on behalf of the U.S. Navy, I thank them for a job well done.

I would like to add a personal note. I have been on board and responsible for the first sea trials of more than 120 nuclear powered naval ships. I do not believe I have been on one that has been handled by its officers and men in so expert a manner.

Thank you again; the Navy and our country should be proud that it has produced so fine a crew.●

TRANSPORTATION: MONTANA AT THE CROSSROADS

● Mr. BAUCUS. Mr. President, I would like to share with my colleagues a recent speech I presented before a symposium of Montana transportation leaders and citizens. The symposium, entitled "Montana at the Crossroads—A Public Affairs Forum on Transportation," was sponsored by the Montana Leadership Development Association and Cooperative Extension Service of Montana State University. The sponsors of this conference performed a valuable public service, and I commend them for their excellent efforts. As many of my colleagues are no doubt aware, the revitalization of our transportation system is one of the greatest challenges we face today.

I was very pleased to be able to participate in this conference. I ask that my remarks be printed in the RECORD.

The remarks follow:

A TIME TO REASSESS

(Speech by Senator MAX BAUCUS Before the Montana Leadership Development Association, Great Falls, Mont., October 17, 1980)

Thank you and good afternoon.

I feel honored to be a keynote speaker at this symposium on transportation.

I heartily commend the Montana Leadership Development Association for sponsoring this symposium. It is timely and appropriate—for we are at a critical junction in transportation.

Montana is at the crossroads.

Speaking of crossroads reminds me of the definition I heard the other day of a "successful" farmer. Now, by this definition, the "successful" farmer may not be the "best" farmer. He may not even be a "good" farmer.

A "successful" farmer is one who can easily haul his grain to a subterminal elevator that is within 5 miles of a major barge facility and at the intersection of a major interstate highway and a mainline railroad.

Well, unfortunately, that definition excludes all Montana farmers from being "successful."

It brings home a harsh reality. Montana farmers are the best in the world—but they will not be successful unless they have reasonably priced, reliable transportation.

Every so often, the problems we face and the times we live in demand that we pause to reflect upon where we have been, where we are, and where we have to go.

This is most assuredly one of those times.

We are most assuredly at a crossroads in transportation.

We can continue down the road we are on. We can continue to abandon rail lines, suffer freight car shortages, pay ever-higher freight rates, watch our airline service disappear, and let roads and bridges fall into disrepair

Or we can make a turn. We can dedicate ourselves as Montana leaders to building the transportation system that this State must have for continued development. We can dedicate our time, our creativity, our expertise and—yes—our money to improving transportation.

In reviewing with you today—where we have been—where we are—and where we have to go—the message I would like to share with you is a simple one.

That message is that we must expand and elevate our transportation horizons.

It is not enough to isolate one problem in our transportation network—be it railcar shortages or utilization, competitive service, completion of the interstate, or Government overregulation—solve that one problem, and expect our transportation woes to evaporate.

We must move forward together—in a partnership—to rebuild our transportation network, to find new and innovative ways to link our products with the markets.

And in the partnership, there can be no saints or villains—only Montana commonsense separated from nonsense.

SO WHERE HAVE WE BEEN?

We have fought some tough transportation battles over the past several years.

The results have been less than encouraging.

Amtrak has been cut, although it still runs through northern Montana, which is nice for easterners who want to see glacier National Park and for deer who want to ride the rails.

With airline deregulation, major airline service to nearly all of the State's major cities has been reduced.

According to the Washington Post (October 6, 1980) "Helena may be the most isolated capital in the continental United States."

It's a sad day when a State capital's only transportation link is the interstate highway which only went through Helena only because the law required it to connect State capitals.

For the past two years, we have worked together to revive the Milwaukee Railroad.

The Milwaukee only carried 15 percent of Montana's bulk-freight traffic. But it was an important 15 percent. It was our only rail competition.

Although we lost the battle of the Milwaukee, we learned something in that defeat.

We learned that we have to act—not react.

The Milwaukee was in trouble for years. We could have been preparing for its eventual bankruptcy.

But when the Milwaukee announced that it would discontinue service in 1977, Montana didn't even have a rail plan. At the State level, the responsibility fell on an obscure and underfunded transportation unit in the Department of Agriculture.

We've become more aware of the critical importance of transportation in Montana—and to the Nation—not just in getting the harvest to the elevators, but in getting it beyond—to the ports and ocean-going vessels.

SO WHERE ARE WE TODAY?

Today, we are at the end of an era—an era of seemingly abundant and inexpensive energy—and on the threshold of another—the era when America must revitalize its industrial capacity. This task can only be accomplished by also rebuilding and revitalizing our transportation network.

The political buzzword of 1980 is "reindustrialization."

But it is more than a buzzword—it is a must word.

In 1950, we produced 75 percent of the world's automobiles—today, less than 30 percent. In 1950, we produced 50 percent of the world's aluminum—today, only half—25 percent.

In the same period, America's share of the world export market declined from 25 percent to 16 percent.

Nearly everywhere we look, we see the effects of obsolescence and deferred maintenance on American productive capacity.

And it is no coincidence that our deteriorating plant capacity is paralleled by deterioration in our railroads and rail beds and highways.

Our ability to produce will be no better than our ability to connect one region of the country with another and to transport commodities to market.

It is no coincidence, either, that capital needs in transportation in the next decade equal or surpass captial needs for reindustrialization.

The figures are staggering!

The U.S. Department of Transportation estimates that in the 1980's—for transportation alone—the Federal Government must spend $235 billion, that State and local governments must spend $350 billion, and that the private sector must spend $1.5 trillion—a total of $2.065 trillion.

For railroads alone, government and industry sources estimate capital requirements at $16 billion through 1985!

To rebuild and maintain our highways—on only the 860,000 mile Federal-aid-to-highway system—will require upwards of $300 billion according to the Government Accounting Office!

But if we fail to rebuild our transportation system, agriculture will suffer the same fate as our other industries.

The one bright spot in our national economic picture is farm exports. In 1950, the United States exported 12 million tons of grain. Last year we exported over 130 million tons—a nearly 12 fold increase.

Our farm exports are the only positive aspect of our international balance of payments. Last year, farm exports contributed $38 billion. And experts agree that the demand for food exports will continue to boom as world population increases and as living standards rise in developed countries.

To ignore our rural transportation needs therefore would be to sacrifice agriculture. It would create disincentives to agricultural production and invite economic disaster for our Nation, and especially for Montana.

And that is the message I am continuously imparting to my colleagues in the United States Senate and to officials in the administration.

In that regard—and in part as the result of a transportation conference I sponsored last winter in Bozeman—I have introduced a modest—but I think, important—piece of legislation.

That legislation would grant statutory authority to the Office of Transportation in the United States Department of Agriculture. It would give that office a footing equal to that of the Department of Transportation in dealing with rural transportation problems and needs. It would insure, so far as possible, that rural transportation needs are listened to, are addressed, and are dealt with at the highest levels of the Federal Government.

Because outside of USDA, there appears to be little understanding—especially among officials at DOT and the ICC—of the importance of the efficient movement of grain to the national economy.

I've been asked to discuss rail deregulation and I will do so briefly. It is a part of where we are and also a part of where we are going.

The Staggers rail bill of 1980 passed Congress on October 1.

How does the rail bill fit into the picture? First, it contains a confusing morass of concessions and counter-concessions, of joint rates allowed and disallowed, of surcharges and cancellations—the end result of which only begins to approach the objective of removing regulatory restrictions while affording protections to those confronted by monopolistic forces.

It is, in short, a mixture of good news and bad news for shippers and carriers.

It allows most railroads to raise freight rates up to 160 percent of their variable, or out-of-pocket, expenses the first year without ICC review.

But the ICC is also directed to determine whether rates are reasonable when a railroad has "market dominance" or when the rates exceed 160 percent of the railroad's variable costs. In the second year, that rate threshold would go to 165 percent, and in the fourth year to 175 percent.

Since Montana rail freight rates now run considerably higher than these thresholds, that is relatively good news for Montana shippers.

However, the bill also allows railroads to raise rates by an additional percentage to offset inflation, plus another 6 percent per year for the next four years.

The rail deregulation bill is obviously no panacea. It is more "re-regulation" than deregulation. It is, as Reinhold Niebuhr said of democratically-crafted solutions generally, "an approximate solution to an insoluable problem."

The rail deregulation bill began as a measure designed to assist the railroad industry in becoming more competitive.

Since 1925, the railroads share of the freight traffic has fallen from a high of 80 percent to 35 percent today. Aggregate railroad return on investment averaged less than 2 percent in 1979—far below motor carriers at 24 percent, water carriers at 17 percent, and substantially below the 10.2 percent rate the ICC considers necessary to attract and retain needed capital.

No one can argue, I'm sure, with our need to rebuild and revitalize our railroad industry. Railroads haul 60 percent of our nation's grain and 70 percent of its coal.

But to what extent the rail deregulation bill will succeed in its objectives is highly uncertain.

Secretary of Agriculture Bob Bergland recently called for the nationalization of the Nation's railbeds. He fears that agriculture will be the sacrificial lamb of a deregulated environment that is coupled with the headlong rush of the strongest and richest railroads to merge.

Even industry officials are skeptical. According to a vice president with the Union Pacific, the "shotgun" mergers among railroads and the deregulated environment "mean a new era for the railroad industry." If they fail, "the industry will probably be nationalized." Either way, he concluded, "it will never be the same" again.

A lesson, I think, is obvious, and we cannot be oblivious to it.

Much more than rail deregulation is necessary to rebuild our railroads, while providing for efficient transportation at reasonable costs.

Railroad managers will have to manage their resources most effectively.

Rail shippers will have to be innovative in their approach to transportation issues.

WHERE WE HAVE TO GO

As I gaze into my crystal ball, I see a large black cloud hanging over Montana. And that cloud is marked, in big red letters, transportation.

Montana's economic health rests upon our abundant natural and renewable resources—gas, oil, coal, timber, and agriculture.

These resources are only valuable if they can be moved to markets in cost-effective and timely ways. There will be increasing demands for these resources in the 1980s.

But, if we are to prosper as a State, we must resolve the uncertainties of our transportation system.

We need to reassess our transportation objectives. We will have to confront a central—but seldom asked and rarely answered—question: What do we want our transportation system to do?

Is it to provide service? Is it to be profitable? Is it something else?

The transportation challenge for the 1980s is tremendous. Montana's capital requirements just to upgrade and maintain our highways are upwards of $900 million.

It's going to be tough to find this money at a time when highway revenues are declining and voters are demanding cut backs in Government spending.

We are going to have to find more efficient ways to transport grain. We are going to have to look at unit trains, subterminal elevators, an improved barge system on the Columbia, and better port facilities.

We need to find ways to attract air carriers to our smaller communities.

Unfortunately, I can't stand up here this afternoon and offer all the answers. But I can offer my full assistance.

Since I was sent to Congress, transportation has been one of my major priorities. It will continue to be a major priority.

We must continue to work together to improve transportation. Montana's future depends on it.

Thank you.●

CHANUKAH'S MODERN MEANING

● Mr. JAVITS. Mr. President, Rabbi Menachem M. Schneerson, the Lubavitcher Rebbe, recently celebrated his 30th anniversary as the leader of the Lubavitch movement. In that capacity he has sought to bring the chassadic philosophy of Judaism to the attention of all Jews, regardless of their level of formal observance, and to relate the teaching of the movement to the modern age. Rabbi Schneerson has provided his spiritual guidance to his followers from the worldwide headquarters of the movement, which is at 770 Eastern Parkway in the Crown Heights section of Brooklyn in New York City.

Rabbi Schneerson has been a pioneer in the field of education. This important role was recognized by a joint resolution of the Congress, which I am pleased to have cosponsored in the Senate, proclaiming April 19, 1979, "Education Day USA."

Mr. President, today is the eighth day of Chanukah, the Festival of Lights; and it is appropriate that we in the Senate reflect on the modern meaning of the victory of the Macabees more than 2,100 years ago. Under the auspices of the Lubavitch movement, a Chanukah Menorah, the eight-stemmed candelabra that is lit on each night of Chanukah, has been erected in LaFayette Park across from the White House. This candelabra serves as a vivid reminder of the courage and fortitude that is required by all men of good faith to overcome both spiritual and physical evil.

Rabbi Schneerson, in a message to all the participants in the public lighting of the Chanukah Menorah in the Nation's Capital, calls on the United States, which he describes as "generously blessed by God with material as well as spiritual riches * * * to promote all the forces of light both at home and abroad, and in a steadily growing measure."

Mr. President, freedom is a cherished value, one which we in the United States sometimes take for granted. I commend the Lubavitcher Rebbe's statement on the modern meaning of Chanukah to my colleagues and ask that the address by Rabbi Schneerson be printed in the RECORD.

The address follows:

BROOKLYN, N.Y.

By the Grace of G-d on the eve of Chanukah, 5741.

To all participants in the public lighting of the Chanukah Menorah in the Nation's Capital:

GREETING AND BLESSING: Chanukah, the Festival of Lights, recalls the victory—more than 2100 years ago—of a militarily weak but spiritually strong Jewish people over the mighty forces of a ruthless enemy that had overrun the Holy Land and threatened to engulf the land and its people in darkness.

The miraculous victory—culminating with the rededication of the Sanctuary in Jerusalem and the rekindling of the Menorah which had been desecrated and extinguished by the enemy—has been celebrated annually ever since during these eight days of Chanukah, especially by lighting the Chanukah Menorah, also as a symbol and message of the triumph of freedom over oppression, of spirit over matter, of light over darkness.

It is a timely and reassuring message, for the forces of darkness are ever present. Moreover, the danger does not come exclusively from outside; it often lurks close to home, in the form of insidious erosion of time-honored values and principles that are at the foundation of any decent human society. Needless to say, darkness is not chased away by brooms and sticks, but by illumination. Our Sages said, "A little light expels a lot of darkness."

The Chanukah Lights remind us in a most obvious way that illumination begins at home, within oneself and one's family, by increasing and intensifying the light of the Torah and Mitzvos in the everyday experience, even as the Chanukah Lights are kindled in growing numbers from day to day. But though it begins at home, it does not stop there. Such is the nature of light that when one kindles a light for one's own benefit, it benefits also all who are in the vicinity. Indeed, the Chanukah Lights are expressly meant to illuminate the "outside," symbolically alluding to the duty to bring light also to those who, for one reason or another, still walk in darkness.

What is true of the individual is true of a nation, especially this great United States, united under G-d, and generously blessed by G-d with material as well as spiritual riches. It is surely the duty and privilege of this Nation to promote all the force of light both at home and abroad, and in a steadily growing measure.

Let us pray that the message of the Chanukah Lights will illuminate the everyday life of everyone personally, and of the society at large, for a brighter life in every respect, both materially and spiritually.

With esteem and blessing in the spirit of Chanukah,

M. SCHNEERSON.●

WEAPONS DEVELOPMENT

● Mr. GLENN. Mr. President, a hallmark of this 96th Congress has been a rude collective awakening to the disturbing fact that defense trends do not augur well for America. The results of successive years of massive military spending by the Soviet Union are becoming apparent. While we in this Chamber might differ on the details of the military balance between America and the Soviet Union, I believe most of us can agree that the new 97th Congress will be every bit as occupied with defense matters as we have been—and then some.

In these closing hours of the 96th Congress, I want to briefly touch on a major defense problem that must be faced and, I hope, overcome by the 97th Congress. That problem is the slow, cumbersome, and downright dangerous way that we put new weapons in the hands of our military forces.

I am particularly concerned with the extraordinary delay in getting a weapon from the drawing board to our ground forces. Both we and the Soviets see the need for an effective antiaircraft gun for our combat divisions. The Soviets have a gun respected by all pilots—the ZSU 23–4. We have nothing comparable, although we have been studying the problem for nearly a decade.

Now developing an antiaircraft gun is in no way comparable to the technological problem that a workable laser weapon presents. Yet it seems to me our troops might have the laser before we get the gun.

The difficulty, however, lies not in our technology but in the management of our weapons development. Three contemporary articles have been written about different aspects of our management of the development process. I ask that they be printed in the RECORD.

The articles follow:

[From the Armed Forces Journal International, December 1980]

IRONIC EXAMPLE OF WHY U.S. WEAPONS LAG

Ironically, Dr. William Perry told the House Defense Appropriations Subcommittee last February, "What I would like to illustrate with this [IMAAWS], is the efficiency with which we are bringing systems into procurement, production and into the field." It would indeed have been an "expedited development program" by the Pentagon's normal research and development timetables, had the contracts let in September not been cancelled less than seven weeks later.

17 YEARS FOR NEW US WEAPON SYSTEM, VERSUS 7–10 YEARS FOR A RUSSIAN ONE

The program thus becomes a classic new example of the Start-Stop-Restudy syndrome which has plagued Army weapon developments for the past two decades, and which has resulted in an average 17-year lead time from concept to deployment for new weapons systems, according to a recent study by the Defense Science Board. (It takes the Soviets seven to 10 years, Dr. Perry testified last February, from the time full-scale development of a new weapon begins until it is fielded.)

20-YEAR ARMY GESTATION PERIOD

The Army's gestation periods for new weaponry have been particularly long. The Army, for instance, is still struggling today to deploy four major programs whose development really began in 1963—its XM–1 tank (begun in 1963 as Main Battle Tank 1970); its Patriot air defense missile (begun in 1963 as SAM-D); its XM–2/XM–3 fighting vehicles (conceived in 1963 as the MICV Mechanized Infantry Combat Vehicle); and its AH–64 Advanced Attack Helicopter (an outgrowth of the Advanced Aerial Fire Support System on which the Army began industry competition in 1963, and which later became the since aborted AH–56 Cheyenne helicopter). The first XM–1s are coming off the production line this year; Patriot won't be operational until 1982; the first XM–2 and XM–3 vehicles won't be in the hands of troops until late next year; and the Advanced Attack Helicopter will not become operational until 1984.

PROCESS AWRY

As DoD's Perry told the House Defense Appropriations Subcommittee last February 12th, "Somewhere along the line, I think, Mr. Chairman, we allowed the process to go awry, and it is taking two decades in some instances to get a weapon from the laboratory into the hands of the man who needs it."

One result is that compared with 60 "new, major" land warfare weapons systems which the Soviets have fielded since 1960, the US Army has managed to deploy only 22 new ones in the same period, according to the Army's Deputy Chief of Staff for Research Development, and Acquisition, Lt. Gen. Donald R. Keith. He told the Senate Armed Services Committee last March that in the same period, the Army had also fielded seven product improvements of existing weapons, but he gave no such comparison for Soviet forces.

To overcome such disparities, Maj. Gen. Robert Moore, head of the Army's Missile Command, told AFJ in an October interview, "We've got to freeze the envelope of design and quit saying, 'Oh, there's something else new in technology we can add,' just as we get into development, and almost into production, because then we stretch it out again. We've got to freeze that baby; and we've got to produce it; and we've got to get it out." IMAAWS was the first major new program launched, ironically, by MICOM since Moore assumed command there on July 31st.

In an AFJ interview roughly a year after he took office, DoD's Perry said that, "The biggest management problem we have in defense acquisition is dealing with program stretch-out. And the consequence of not dealing with it is a 12 or 13 year acquisition cycle. And that is killing us." (Aug. 1978 AFJ, original emphasis.) Perry added, "The engineering part of our programs, we're very good at. It's the time before, and the time after, that's killing us. . . . Our industry is still very, very good. It's the management superstructure we put on it in Washington that's strangling the process.

Perry said at the time that the new MENS process would be a substantial help in avoiding such problems because, "It focuses attention on the need issue very early; it brings Congress into the act very early; so the basic question of need is considered before we ever get into the . . . acquisition cycle and go into the advanced development phase." One of the biggest IMAAWS ironies is that it was the first new Army program for which Perry's office approved a Mission Element Needs Statement, and indeed the first MENS approved for any of the Services. Three years later, the Army is apparently still undecided over what kind of a new anti-tank weapon it needs, or how soon.

Perry said the Defense Department was proceeding "vigorously" to ready IMAAWS for troop use in the "1985–1986 time frame." The Army testified that it hoped to award contracts for full-scale engineering development of the system in October of 1982, thus readying the system for production beginning in 1986.

DARCOM spokesman Penton told AFJ that the Army now hopes to launch a new competition for IMAAWS some time "next spring or summer."

[From Newsweek, Apr. 21, 1980]

TRICKS OF THE ARMS TRADE

(By Bruno Koeppl)

Why does the Soviet Union, with its inferior economic system and technological base, now rate as the military equal of the West—or perhaps even its superior?

The standard answer is money: while the West, particularly the United States, cut back its defense budget in the spirit of détente, the Soviet Union kept pumping rubles into its defense establishment. That is certainly part of the problem, but in my opinion it is by no means the whole answer. Strong defense takes more than money; it takes good management, and it goes generally unrecognized in the Western Alliance that the Communist system succeeds largely because it employs decidedly unCommunistic management methods with its weapons makers. Meanwhile, the West has fallen into a pattern of mistakes one would expect the Soviets to make. If you are looking for a spirit of competition, production incentives, efficiency and plain common sense, look East, not West. The Soviets beat us at our own capitalistic game.

With no private marketplace to build on, the Soviets simulated Western competitive pressures by creating them. In Joseph Stalin's time, up to twenty engineering offices could be found competing for a production order. For reasons of economy, Soviet planners have scaled that number down in recent years, yet there still are, for example, eight aircraft-engine manufacturing groups in the Soviet Union. In developing the intercontinental ballistic missile, the Soviet system generated seven different prototypes. In most other fields, at least two prototypes are developed before the final design is selected.

Sanctions: The reward for winning is not corporate profits. Nor is it the satisfaction of serving the state. Soviet leaders are realists; they know it is not in the nature of human beings to work unselfishly for society. The winner of a competition is honored; the loser can expect grave sanctions. A production order is the equivalent of a decoration; moreover, it brings higher salaries, a private home, car and driver and political power to the engineers and technicians responsible for the success. Those who go too long without winning an order are threatened with punishment that may include the closing of their offices.

In the West, the situation is very different. In England, the armaments industry is largely a monopoly, thanks to the nationalization policies of the past two governments. In my own country, West Germany, most procurement contracts are awarded by a noncompetitive policy of direct allocation. The situation in France is similar. In the United States, there is more competitive bidding, but "sole-source procurement" is by no means unusual.

The reasons for this state of affairs can be found in the social and economic goals of the Western societies and their governments. There is nothing wrong with applying social and economic standards to the armaments industry, but at this point they are being given precedence over the requirements of security. In England, the goal of nationalizing industry became more important to the Wilson and Callaghan governments than the health of the arms industry. The same tendency exists in the Federal Republic of Germany, where the trend toward monopoly grows. Deliberately or otherwise, these governments have sabotaged their arms industries.

The lack of competitive pressure gives Western weapons makers the opportunity to strive for higher turnover and high profits, and hence for high procurement costs. They try for the longest-running development and production contracts possible, and also for great technological complexity in their weapons. They argue that the superior quality of Western weapons makes up for the greater quantities of Soviet weapons. But these complex weapons systems are considered "overbred" by many of NATO's own experts, and liable to be in the repair shop in the event of actual conflict. The Soviets, on the other hand, try to keep things simple, not because they lack technological know-how, but because they feel that highly complex weapons are not up to the demands of a battle situation.

The effect of this fundamental weakness in the Western arms industry is already clear, and will become more marked in the coming years. Long-term increases in defense spending without increasing management efficiency will only serve to foster inflationary tendencies without sufficiently improving armaments. A vigorous search for more efficiency in Western arms production is much more important than more defense spending. If the arms manufacturers of the alliance could be persuaded to operate more effectively, there is little doubt that in the foreseeable future—and without any major increase in expenditure—the West could surpass the Warsaw Pact countries in military capability.

Incentives: This is not the place to propose concrete solutions, but there is a way for NATO to escape from this self-inflicted vulnerability: simply apply the principles of the market economy to the individual armaments enterprises of the alliance. Along with competition, introduce new incentives—for example, financial rewards.

The procurement system of the Western Alliance cannot be fundamentally improved overnight. In the meantime, in this time of danger, it is important to make quick improvements in the production of key weapons—conventional and nuclear weapons that have a massive deterrent effect. It is quite conceivable that even the development of only one such weapon would discourage Eastern strategists from further acts of aggression. Countries that are willing to improve their arsenals, such as the U.S., should put all their effort into producing a maximum number of key weapons as rapidly as possible, even if some armaments-weary NATO countries continue in their old ways. For what good is a decision to deploy medium-range nuclear missiles in Europe if it cannot be implemented until 1983—or probably much later, given our present inefficiency? What NATO needs is a fast, efficient reaction today, before it is too late.

[From the Washington Post]

Studying Defense to Death

(By R. James Woolsey)

"We shouldn't spend the money for increased defense investment," the lecture goes, "until our strategy is clearer—until we have a better idea of the scenarios in which our armed forces will be used. If the military would just get its act together and explain to us what kind of war they're going to need to be able to fight, then we can begin to make some progress on sorting out our national security problems."

We have here the early summer song of the Butter-Feeding Strategic Ponderer. Deceptively melodious, it has led many participants in the defense debate to pause and gaze ruminatively into the distance for lengthy periods of time while the years and the studies roll on and rust gathers on the production lines.

It's not that strategic thinking is unimportant, nor is that even more plentiful and less valuable commodity, strategic talking. But much of what passes for either one these days is really neither—it is a patina for procrastination.

It's important to distinguish between two very different types of military planning: operational planning and force planning. The former is planning how to fight with what you have; focusing on specific geographic areas and detailed schemes about how to use weapons and forces is often essential. The latter is deciding what weapons you want to buy and how many of what forces you need —how much is enough, and all that.

It is this latter, force-planning process that has become mired in its own intellectual pretensions. It wants very much to be as precise as its cousin—operational planning. When it's told it can't be, it sits and pouts and contemplates its navel, indefinitely.

There are some—a very few—weapon systems decisions that profit from lengthy study of the specific scenarios in which the weapon might be used. But for many, and especially for a weapon as widely useful and as badly needed, for example, as the general-purpose submarine, their utility is so general that agonizing studies of specific scenarios are a waste of time.

Modern submarines, with the advent of the cruise missile, can now be used not only for anti-submarine warfare and to attack surface ships with torpedoes; they also have a whole range of additional uses, including the ability to attack land targets with conventional warhead cruise missiles and to carry nuclear-warhead cruise missiles as a secure and mobile theatre nuclear deterrent. You can simply look at the Soviet construction rate of 10 such submarines a year and our rate of one a year and agree with Bob Dylan: "You don't need a weatherman to know which way the wind blows."

Detailed and lengthy force-planning studies, and much of the process that accompanies them in government, are frequently bureaucratic gambits to delay programs and reduce defense budgets without admitting that such is the purpose. The weapons often get used for purposes radically different from those for which they were designed anyway.

Consider the B52 designed and first used as a high-altitude bomber to carry nuclear weapons, then used as a low-altitude nuclear bomber (normally requiring a very different design—but the old workhorse could do it), then as a conventional bomber in Vietnam, now as a cruise-missile carrier. Young SAC pilots are flying B52s that their fathers flew.

Or take the carrier Midway. Its keel was laid in the midst of a war with Japan; its home port is now in Japan and it is helping defend lines of supply to raw materials that it was designed to help destroy. That's some change in scenario. Happily, the force planners who were around when the B52s and Midway were built didn't delay production until they had completed exhaustive strategic studies, or we might still be using propeller-driven bombers and pre-World War II carriers.

Not only do the weapons last longer than the countries; sometimes the studies last longer than the countries. Instead of dawdling around on weapons programs until we can do a better job of something we'll never be able to do—forecast the location and nature of future wars—we need to change the nature of the weapons we buy so that they are more readily adaptable to whatever comes along.

The aircraft carriers have been able to be modernized and to change missions so readily because their aircraft can be changed; the B52s have had structural stability and have also seen many changes in the weapons they carry. What is needed is to make more weapon systems as easily modernizable as the carriers and the B52s.

The electronics revolution is helping to make this more imaginable. Through the use of micro-processors, chips and the like, weapons can be made more modular—with sensors, guidance or other components that can be replaced quickly and readily without throwing everything away and starting over.

It will take time for such a way of designing weapons to evolve, especially given all the procedural checks and balances with which the weapons-development process is now blessed. In the meantime, we will have to do the best we can with the systems already developed and in production.

But the last thing we need to do is to delay clearly needed investments in our armed forces because we're waiting to decide exactly which one-and-a-half wars we might have to fight where and when. That's like waiting for Godot, and a good deal more dangerous.●

AMERICAN WORKERS SUPPORT SOLIDARITY

● Mr. MOYNIHAN. Mr. President, this morning's Washington Post carried an article with the headline "East Germany Accuses AFL–CIO of Subversion." The East Germans, who are not noted for caring very much about the integrity of language, have confused solidarity with subversion. What the AFL–CIO is doing now is what the American labor movement has done for nearly a century: It is standing up for fellow workers in a foreign land.

America's workers have responded to the struggle of the Poles with immense generosity, raising $136,882 for solidarity, the free trade union of Poland. Among the largest contributors have been several labor organizations from New York. For instance, the International Ladies Garment Workers Union has given $10,000, while the New York State AFL–CIO has sent $1,000 to the Poles.

From everywhere across the Nation, plumbers, telegraphers, teachers, steelworkers, bakers, actors, and construction workers, sharing their hard-earned money with their counterparts in Poland. Those who say that the labor movement has lost its spirit, and lost its sense of internationalism should look at what is happening here.

Already, the AFL–CIO's Polish workers aid fund has given solidarity something that is indispensable for a free trade union—a $50,000 offset press. The press, which solidarity now has, would have been impossible to buy in Poland. It will be put to good use; we can be sure of that.

If providing people with an offset press to spread the truth is subversion, then I say let us have more of it.

I ask that the article be printed in the Record.

The article follows:

[From the Washington Post, Dec. 10, 1980]

East Germany Accuses AFL–CIO of Subversion

Berlin, December 9.—East Germany accused the American labor movement today of financing "antistate activity" in Poland.

In a dispatch from Washington, East Germany's official ADN news agency said the AFL–CIO had raised $140,000 to be sent to independent trade unionists in Poland.

ADN also quoted union official Tom Kahn as saying Polish-language copies of the AFL–CIO's "Free Trade Union News" had been sent to Poland.

"The general council of the AFL–CIO has

since the beginning of September prepared a special fund for financing subversive activity in Poland," ADN claimed.

In Washington, a spokesman for the AFL–CIO said that only the September issue of the magazine was translated into Polish and that fewer than 100 copies went to Poland.

The spokesman said there were no plans to translate further issues into Polish and that most of the September copies were used in this country as part of a fund-raising drive for the Polish unions.●

FREIGHT TRANSPORT UPDATE

● Mr. BAUCUS. Mr. President, I would like to submit for printing in the RECORD a series of brief articles on freight transportation that appeared in highly-regarded Christian Science Monitor on September 17, 1980. These articles succintly describe and review various aspects of the freight transportation industry, from trucking and railroad deregulation to innovations in transportation technology.

Coming as they do on the heels or in the wake, as some might say, of substantial deregulation of the major sectors of the transportation industry, these articles are timely and appropriate. As party of my efforts to monitor the effects of deregulation, particularly as they might impact upon rural areas where transportation alternatives are limited, I strongly commend this series of articles to my colleagues.

The articles follow:

FREIGHT TRANSPORT FRESH COMPETITION QUICKENS AN OLD INDUSTRY

(By Thomas Watterson)

BOSTON.—Freight transportation has never been too popular with business students. For someone aiming at the top of American industry, the choice has usually been clear-cut: Go into manufacturing. To build a product and sell it often seemed more exciting than how to get it from place to place.

That may not be the case much longer. The changes steaming down on a once-routine freight transportation industry promise to make it a more stimulating, competitive, and lively business. By the end of this decade, it will be a business playing by different rules that include greater diversity, less energy, more mixing of the various kinds of transport, new equipment, and fewer—or at least different—government regulations.

"If you are the type who can overcome initial resistance and skepticism," says David H. Maister, an assistant professor at the Harvard Business School, the potential for success in transportation is gigantic."

Right now, one measure of success in freight transportation will be the ability of an executive to steer a freight company through a recession that has been much harder on the industry than on the economy as a whole.

For the railroads, the economic slump cut car loadings 9 percent in the second quarter of 1980 compared with the same period in 1979.

And in trucking the downturns in the automobile, steel, and related industries have cut common carrier business by almost one-third. And about one-fifth of the Teamsters Union's 300,000 drivers and warehouse workers have been laid off.

The industry is also trying to cope with diesel fuel costs that have doubled in a little over a year.

Finally, the truck deregulation bill signed by President Carter July 1 is already helping larger companies lure traffic from smaller ones, which cannot cut rates as drastically.

"It's certainly bad timing for deregulation," commented Lance M. Bronfman, vice-president and senior economist with A. Gary Shilling & Co. an economic consulting firm in New York. "It's coming out at the same time as a major recession in the trucking industry."

Ironically, the ultimate beneficiaries of deregulation—the consumers—may not gain as much as was thought when it was first proposed.

"Deregulation of the transportation industry has been on the agenda of every president since Eisenhower," Dr. Maister says. "It's a long, hoary old debate that's been around a long time. . . . But the benefit for consumers is close to naught." He estimates deregulation will save, at best, 0.25 percent on consumer prices.

Consumers might see some savings as large companies like General Motors and General Electric "strike some pretty juicy deals for hauling parts and finished goods" with railroads and bigger trucking companies, says John Pincavage, transportation analyst at Paine Webber, Mitchell & Huskins. These deals involve "contract rates" between a shipper and a carrier. They agree on amounts of freight and the equipment to move it in a specified time. The carriers can do more long-range planning for their equipment and the shipper usually gets a lower rate.

"But will the companies use that savings to increase profits and pay stockholders, or do they pass it on to their customers?" Mr. Pincavage asks. "We'll have to see."

While truckers and other freight managers deal with the recession and energy problems, they must prepare for the increased competition deregulation will bring.

The barge industry will be trying to figure out how it can bring antiquated and inadequate riverway locks up to date so that it can carry the freight it believes will be attracted by its lower costs and greater fuel efficiency.

In railroading, a wave of mergers would leave the nation with six large rail systems (including Conrail), competing in an environment where they have more freedom to set prices and provide faster, long-distance service. Those railroads not included in mergers will be scrambling to win their share of traffic while examining the options of being included in any future mergers.

The Interstate Commerce Commission has indicated that it will take a more liberal attitude toward mergers. If it had not, Congress is on its way to doing so. A railroad deregulation bill on Capitol Hill would make it easier to set contract rates, abandon branch lines, lay new track, and expand into new markets. While agreement on these and other points has come fairly easily, the bill was slowed in the House of Representatives this summer on a dispute over the level of rates subject to ICC approval.

Unlike deregulation of airlines and trucking, which is at least partly intended to lower rates, the goal of rail deregulation is to increase revenues and raise the capital needed for expansion, maintenance, and repair. The bill is the first major overhaul of railroad regulations since 1887.

Until now, government regulations over the railroads and other freight carriers have given transport executives a haven from an important competitive decision faced by their colleagues in other industries: setting prices. The rates they charged for their services were set in industry cartels and approved by the government regulators. No more.

"We're going to increase our reliance on the marketplace wherever possible," said ICC Commissioner Thomas A. Trantum.

While "the government is not sitting here with a grand design of what freight transport should look like ten years from now," Mr. Trantum added, "I hope that deregulation gets the trucks and railroads and water carriers working more closely together. It's in their economic interest."

There is ample evidence this is already happening. An increasing volume of freight is being moved by truck and train as a result of the growing use of "piggyback" service. The railroads carried over 3 million trailerloads of piggybacks last year and could carry as many as 12 million trailerloads by the end of the decade.

More trailers could be carried on the nation's 25,000 mile of riverways, again providing that the locks and dams on those routes can be upgraded.

But by far the most dramatic shift in freight transportation this decade will be the reversal—or at least the slowing—of the decades-old pattern of truck transportation growing at the railroads' expense.

"The tides of history are forcing business back to rails and away from trucks," Mr. Pincavage says.

In 1947 the railroads carried over 65 percent of the U.S. freight, measured in billions of ton miles, according to the Transportation Association of America. In the same year trucks carried just 10 percent of the freight.

By last year, the rail's share had fallen to 35.9 percent, while trucks were carrying 24.5 percent. Oil pipelines, Great Lakes shipping, rivers and canals, and air freight divided up the rest. The oil pipelines, in fact, carried almost as many tons as the trucks, moving 23.3 percent.

Measured in dollars, trucks have far surpassed the railroads. The nation's freight bill in 1978 came to $190.7 billion. Of this, trucks were responsible for $147.4 billion, while the railroads carried $21 billion worth of freight. The pipeline's share came to $5.4 billion.

But, Mr. Pincavage argues, the "shifting economics" of more businesses moving to the South and West where longer distances favor the railroads, the growth of Western coal production, and the increasing costs of energy will help bring out the advantages of steel-wheel-on-steel-rail transportation.

And deregulation, he believes, will free the railroads to set rates high enough to cover their costs and embark on long-deferred track and equipment maintenance programs. The Federal Railroad Administration estimated the railroad companies will need $42 billion for capital improvements by 1985.

The railroads would also like more freedom to abandon unprofitable branch lines, put some lines into "storage" until possible later use, and go ahead with some of the end-to-end mergers many railmen have long been anxious to complete. Mergers, rail executives claim, will also help them win business from trucks.

Many shippers also favor these mergers. "We think the rail mergers are very beneficial," said George F. Tidmarsh, senior vice-president for physical distribution at Sears Roebuck & Co. "I very much believe the so-called end-to-end mergers will result in more efficiency . . . as long as we make sure we're not undercutting the competitive environment."

The end-to-end mergers between two lines that connect at end points, would, among other things, permit the railroads to offer more through-train service of commodities without having them stop in large switching yards. One product to benefit from this is fresh food—long the almost exclusive preserve of trucks.

The changes in the freight industry will also have an important impact on labor. By making it easier for new individuals or firms to enter the business, for instance, truck deregulation opens up wide opportunities for the nonunion side of this industry.

"It is not the end of the line for the Teamsters in trucking," Harvard's Dr. Maister says. "But it's going to be much harder for them."

A primary reason for this, he adds, is the likelihood of slower growth in the less-than-truckload (LTL) end of the business. The bigger—and often nonunion—companies, with much more money to pay for the network of terminals needed for this business, will be able to win a growing share of the LTL traffic.

The drop in rates could also prompt manufacturers who have their own truck fleets to switch to private carriers, according to a study conducted by A. Gary Shilling for the ICC. Many of the carriers gaining from this may be nonunion.

Deregulation Has Truckers Sharpening Pencils on Pricing

(By Thomas Watterson)

Boston.—Don't expect to see many truck drivers wearing three-piece business suits. But you can expect the people who run many trucking companies to become much more sophisticated executives as they enter what some are calling the "whole new ball game" of their now "deregulated" business.

The law that President Carter signed on July 1 sharply cut back the number of government regulations—some in effect since 1887—over the US trucking industry. By making it easier for new companies to enter the business; for existing companies to expand into new territories and routes; and for all truckers to vary their prices according to costs and market forces, the law greatly enhances the meaning of the word "competition" for this industry.

Until the bill passed, truckers priced their services based on industrywide tariffs. If a customer wanted to select a trucking company, and if there was more than one equipped to carry the particular commodity on the same route, the selection was made on the basis of service—on-time performance, availability of equipment, and damage control—not price.

Now, trucking companies—from large, nationwide fleets down to individual owner-operators—will be forced to spend much more time figuring out exactly how much it costs to move a shipment from one place to another. If they do not, another company which has done more of its homework would be able to offer lower rates.

At the same time, many of the companies are exploring ways of broadening their services, including expanding the number of states they serve and forging new alliances with a mode of freight transport that has been on the losing side of much of their growth, railroads.

For now, however, most waiting before making any major moves that may be permitted under deregulation.

"We are sort of watching and waiting to see what the effect will be," said Al Sagansky, a vice-president of Perkins Trucking Company. Mr. Sagansky was president of B&T Transportation in Boston until last year, when he sold that company to Perkins.

When the truckers do make a move, industry observers say, they should consider hiring good managers before making expansion plans.

"There has not been a tradition of sophisticated management in trucking," said David H. Maister, an assistant professor at the Harvard Business School, who has specialized in studying the industry. Many trucking executives are former truck drivers, he notes, adding, "They have been pretty lean in professional management."

"Few companies have sophisticated costing systems to tell them what it costs to carry different commodities on different routes in different geographic areas of the United States. . . . I expect trucking companies will have to hire a lot more staff people."

Fortunately for those companies not fully prepared for deregulation, some of the new law's more important provisions do not take effect right away. For instance, collective ratemaking and antitrust immunity do not end until January 1, 1984, with a possible six-month extension.

The new rate rules, Dr. Maister holds, will also mean that customers who can fill a whole truck with their own goods will enjoy decreasing rates, while those who cannot should expect to pay more for these less-than-truckload rates. "I think the gap between truckload rates and less-than-truckload rates will widen as time goes on," he said.

Perhaps many truckers wish they had new management personnel in place now. Deregulation, which has the potential of driving many smaller companies out of business, comes at a time when the industry is already in a recession far deeper than the economy as a whole. Heavily dependent on the movement of automobiles, including the steel and other raw materials needed for that industry, several trucking companies have had to lay off drivers. The dramatic slowdown in the construction industry has also taken its toll.

The falloff has been especially hard on the common carriers, the largest segment of the industry, which specialize in less-than-truckload shipments. Their business is off more than 32 percent since their last peak in March 1979, according to the American Trucking Associations. Nearly 10 percent of their traffic is related to the steel, auto, and construction industries. Some auto-carrying companies report their business is off 50 percent or more.

In addition, fuel prices have approximately doubled in the last year and a half.

And while the biggest companies are expected to fare best under deregulation, it is these same ones that are doing better in the recession. "The recession has hurt some guys a lot more than others," says John Pincavage, a transportation industry analyst with Paine Webber Mitchell Hutchins. "The big guys—Roadway and Yellow—can hold up. So can the 'mom and pops.' But some of those in the second tier might go under."

Many of the "mom and pops"—especially the independent owner-operators who own and drive their own trucks, finding business on their own or contracting themselves out to larger companies—are now happy with the law.

Deregulation, as it was passed earlier this year in the Senate, would have gotten the government almost totally out of truck regulation. But the larger carriers, seeing this as a threat to profits, won some compromises in the House, which the Senate, eager to see at least some sort of bill pass, accepted.

After President Carter signed the law, the Independent Truckers Association (ITA) charged that it actually added regulations on some commodities, especially fresh food and produce, which is the chief cargo for many independent drivers. The law does increase reporting requirements for truckers carrying food products.

This new world of deregulation—or "reregulation," as the ITA calls it—combined with efforts to emerge from a deep recession, means a new kind of trucking industry will emerge in the next few years.

"There will be more clearly defined lines of service," Mr. Pincavage maintains. Most long-haul major city-to-major-city routes will be served by the larger companies, while the short-haul, small-city, and town routes will be left to the smaller companies. As a result, he notes, these smaller towns "will end up paying more and depending on non-national carriers and perhaps fewer carriers" to move goods in and out.

At the same time, many truckers can be expected to make closer ties with the railroads to bring about a dramatic increase in "piggybacking," by which truck trailers are carried long-haul on railroad flatcars, said Kenneth Berman, director of marketing for St. Johnsbury Trucking Inc. of Holliston, Mass. His companies have been busy making deals with trucking companies throughout the United States. St. Johnsbury picks up trailers in the New England area, ships them by rail to Chicago, for instance, and there they are picked up by a local trucking company. It already has "sister carriers" in Chicago and on the West Coast for this purpose, Mr. Berman said.

The potential for piggybacking, trucking experts agree, is enormous. Its growth will depend on pricing, on how much the railroads and trucking companies cooperate to improve service, and on how fast fuel prices increase.

A study completed earlier this year by Booz, Allen & Hamilton Inc. projected that, under the right circumstances, piggyback volume could nearly quadruple, from 3.2 million trailerloads in 1979 to 10 to 12 million trailerloads by 1990. But without major changes in pricing or service, the study said, piggyback volume would increase only 3 percent a year, to 4.5 million trailerloads by the end of the decade. Through the 1970s, piggyback volume grew at a 4 percent rate, the study noted.

Although heavier use of piggyback could help reduce shippers' costs, and possibly hold down price increases for the goods they carry, most industry observers are skeptical of claims of important cost savings as a result of the new law.

When the bill was signed, Carter administration officials claimed it could save American consumers as much as $8 billion a year in transportation costs.

"That's a lot of baloney," Mr. Pincavage snorted. "When industry profits are only $1 billion with a margin of 2 percent, where's that $8 billion going to come from?"

Harvard's Dr. Maister is more specific. Using a blackboard in his office to illustrate his point, the professor notes that, under the most optimistic of forecasts, deregulation is expected to save 10 percent of transportation costs. This equals a saving on the wholesale price of manufactured goods of 0.5 percent. Just half of that, or about one quarter of 1 percent of the retail price, would be affected.

"So it is definitely not a consumer issue," he says.

ICC Chairman Sees Railroads as Next on the Agenda for Deregulation

(By Guy Halverson)

Washington.—The historic deregulation of the U.S. trucking and airline industries is no passing fancy, Darius W. Gaskins Jr. maintains.

In fact, says Mr. Gaskins, it is likely that a railroad deregulation law will be enacted by Congress later this year or early in 1981.

Mr. Gaskins probably has his ear as close to the staccato rhythm of the U.S. railroad system as anyone else. As chairman of the powerful Interstate Commerce Commission (ICC), Mr. Gaskins sits at the head of the 2,000-member independent agency that regulates the U.S. bus, truck, and railroad industries. (The airline industry is regulated by the Civil Aeronautics Board and the Federal Aviation Administration.)

An articulate, fast-talking economist who has held important posts with the Department of Energy, the Federal Trade Commission, and the Aeronautics Board, Mr. Gaskins says deregulation is one step—though certainly not the only step—toward boosting American productivity. The ICC is now working to carry out the congressionally mandated deregulation of the trucking industry.

The commission is also continuing to make decisions on its own to allow railroads more freedom to raise and lower shipping rates. At the same time, staff planners are already looking down the regulatory highway toward what is expected to be an eventual deregulation of the bus industry. But that is at least a year away. A conference on the bus industry is being held this month in Boston.

What effect might the election of Mr. Reagan have on rail deregulation?

Mr. Gaskins says he does not foresee that that would make much of a difference on deregulation. Moreover, he is proud of ICC efforts to ease the regulatory burden of US rail carriers. "We've (the ICC) been evolving fairly rapidly in the past several years with our own policies toward both rail and motor carrier deregulation," he says.

During the past months, the commission erased filing and reporting burdens on rail carriers; struck down railroad collective ratemaking agreements (to enhance competition); and set up an office of consumer protection, among other major decisions.

Mr. Gaskins is new to the ICC chairmanship this year, replacing former chairman Daniel O'Neal, also a strong proponent of deregulation.

Does Mr. Gaskins believe US railroads have a long-range future, given their economic woes, plus outside competition?

"Railroads do have inherent problems that are plaguing them in the 20th century," he concedes. "They're relatively inflexible in responding to fundamental demographic changes and industrial shifts. It's no surprise that those railroads that are having problems are located in the Northeastern United States" (where jobs and population are moving away). "Railroads are making money in the South and Southwest," where population is resettling, he says.

Mr. Gaskins notes that Canadian railroads, which were deregulated in 1965, have posted significant gains in productivity since that time. US carriers, by contrast, have had "virtually no growth in productivity" in the same period.

That factor alone, he suggests, is an incentive for deregulation.

The Senate passed a strong rail deregulation measure last spring. As of this writing the issue is bogged down in the House.

So far as trucking deregulation, Mr. Gaskins expects some merger activity during the months and years ahead. Some, he says, will really be "acquisitions" designed to obtain "skilled personnel" and equipment.

But he is hopeful that truck deregulation won't lead to industrywide bankruptcies.

Meanwhile, the ICC is pruning its operations under Mr. Gaskins. It might be down to 1,800 employees by 1982—but never out of business, he says with a smile, noting all the problems associated with industries as active as trucking, bus lines, and railroads.

Traffic Jam on the US Inland Waterways

(By Lucia Mouat)

CHICAGO.—To the nation's steadily growing barge industry, the key problem of the 1980s is not one of ship supply but of river capacity. The question is whether or not America's intricate system of inland waterways can be mended and improved to provide smooth, uninterrupted transit for the increased traffic expected.

The barges themselves are relatively quick and easy to produce as demand increases. Many of them can easily shift from carrying one commodity to another.

But the industry worries that the transportation bottlenecks produced by out-of-date and inadequate locks along the riverways—often causing the equivalent of a downtown traffic jam which lasts days rather than hours—will continue, triggering higher and less competitive shipping rates.

Currently, the barge industry carries some 12 percent of the nation's freight—everything from oil and coal to grain and steel. One barge can carry as much as 15 railroad cars or 57 trucks. Shipping by barge generally takes longer than rail or truck. However, it has also tended to be cheaper and more fuel efficient per ton mile.

It is that competitive price edge and general progress which the industry now feels are in danger, both from the standpoint of transit problems and from the imposition of a first-time barge user tax on diesel fuel beginning in October. While that tax starts at a modest 4 cents a gallon, it will rise to 10 cents by 1985. Just how much further Congress presses the barge industry for full recovery of federal expenses on waterways may depend on the outcome of an economic impact probe by the Departments of Commerce and Transportation expected in the fall of 1981.

Barge industry spokesmen insist it is the railroads that are behind both the lock and dam repair, construction delays, and the new barge user tax.

"The party line of the railroads for the last 100 years has been that if they can just obstruct and kill off the competition, all the tonnage will move by rail—it's a pretty limited view," says David Wright, president of the National Marine Service in St. Louis.

Many in the water transport business took heart recently when US Transportation Secretary Neil Goldschmidt joined them by pointing a finger of blame at the railroads. Chiding them for "wasting" their time by "hassling" the barge industry, he said, "The railroads want to make sure they've taxed their competitors out."

While approving the concept of a user tax for barges, Secretary Goldschmidt stressed that the railroads were originally "given" their land and are making a "fortune" off it.

The railroads continually argue that they must pay to maintain their rights of way while water transport enjoys a free ride at the expense of the American taxpayer.

The American Waterways Operators Inc. (AWO), the major trade association for barge and tow operators and for those who build and repair such ships, counters that the federal subsidy to railroads over the years, via such sources as land grant earnings, railroad retirement benefits, and Amtrak aid, amounts to a tidy $24 billion. Washington, by contrast, according to AWO statistics, spent only one-fourth as much on water navigation and maintenance projects.

But the point remains debatable depending on one's definition of subsidy. A Congressional Budget Office study a few years ago, for instance, claimed that for every dollar of revenue earned by the water transport industry and the railroads, each received 40 cents and 3 cents on the dollar respectively in federal subsidies.

Many transportation experts view all this hip-shooting and the search for equalized treatment from Washington as an unnecessary diversion which blocks rail-barge cooperative efforts which could do a lot to help both industries grow. So far such efforts have been the exception rather than the rule, but some industry officials see a change ahead.

"The climate is better for such cooperation now than it's ever been," says Ross Feltz, a spokesman for Dravo Mechling of Pittsburgh, which hauls steel and liquids. "The sheer realities of efficiency and the economies involved may very well make shippers start demanding it."

In the meantime, what the barge industry wants most is a speedup in repair and reconstruction work on locks and dams at several key points in the nation's 25,000-mile inland waterway system.

Worst for most barge and tow operators is the No. 26 dam and set of locks at Alton, Ill., through which all north and south traffic on the Mississippi River must pass. The main lock there is only 600 feet long, about half the length of the other locks in the system. The result is that the usual flotillas of barges—often one tow boat pushes a clump of 15 or more cabled together—must be broken up into two or more groups to get through. The wait in that process has been as much as three or four days.

"It can cost you as much as $400 an hour and you're not making any revenue while you wait," says American Commercial Barge Lines vice-president Robert Kilroy.

The situation at Alton is expected to get worse before it gets better. The Army Corps of Engineers, charged with maintaining the nation's waterways, broke ground last spring for construction of one lock. But the project is expected to take eight to ten years to complete.

The railroads and such environmental groups as the Sierra Club and the Izaak Walton League had successfully postponed the start for years by a series of legal challenges.

"We're asking the corps if anything can be done to accelerate the project—we're doing everything we possibly can," insists Anthony Kucera, the AWO president, who admits nonetheless that Mississippi River delays may be as bad until the late 1980s as they have been recently.

For most shippers it is too costly to transfer the cargo to land to skirt lock delays. But the Staley Company of Decatur, Ill., a manufacturer of grain products, started a new plan in January. It ships some of its southbound products by rail to a point south rather than north of the dam site and loads them directly onto barges. The Illinois Central Gulf Railroad is paid according to how speedily it gets to the Mississippi's edge.

"We're still barging as much as in the past but the location has changed," observes Reeder Miller, Staley's director of corporate transportation.

But there is little question that for all shippers the Alton kind of delay is a costly one. A recent analysis by Minnesota's Cargill, one of the nation's largest grain firms and owner of Cargo Carriers Inc., which is primarily a grain hauler, notes that the barge industry carries one-third of the grain destined for export, but has not shared in the 25 percent growth of such exports over the last three or four years.

"There isn't any way to get more grain through the (Alton) bottleneck," says Cargill spokesman Stuart Baird. He says that a round trip between St. Louis and the Twin Cities now takes 20 to 22 days, or almost twice as long as three or four years ago.

"The river has been the most efficient means of carrying bulk commodities. But now that efficiency is falling off . . . this is a business where one-eighth of a cent a bushel makes all the difference."

At Alton, barge and tow operators would like to see reconstruction of two locks, instead of one, as added security against expected heavy traffic and possible breakdowns. In addition, there are at least half a dozen other sites where AWO is eager to see more repair and reconstruction action. But most of them are still under discussion and study if that.

One Senate source who closely monitors the progress on such projects says the wait for projects is likely to get even longer unless the water transport industry shows more willingness to shoulder a fair share of the cost.

"Lock 26 would be far closer to completion if the barge industry had recognized that the idea of a user charge has value," he says. "Until they decided to repay the taxpayer, like the gas tax and the highways, you're going to see guerrilla warfare over every project that comes along."

Rivercraft Out to Save Fuel, Improve Communications

(By Lucia Mouat)

CHICAGO.—What's ahead in technology over the next decade for the tows and barges that travel the nation's inland waterways?

Many of the more dramatic gains in productivity—such as the diesel engine and the giant jump in towboat horsepower—have already occurred.

Barge and towing company officials say that what is ahead may sound less spectacular but could prove economically even more significant. The search continues, for instance, for much greater fuel efficiency on the part of the fewer than 5,000 towboats that push the nation's fleet of barges along the web of inland waterways.

Diesel fuel, now going for 85 cents a gallon, accounts for as much as two-thirds of towboat operating costs. A powerful towboat may burn as much as 14,000 gallons a day, says Tom Gladders, president of G. W. Gladders towing company in St. Louis. So even a 5 percent fuel cutback could save close to $200,000 a year. As he sees it, fuel conservation efforts over the next decade, except in cases where safety is a concern, will be dictated increasingly by shore offices rather than towboat pilots.

Some tows that used to race full speed ahead wherever a wide smooth patch of river was in sight now have computers on board which help the pilot select the best throttle setting for maximum fuel efficiency. The number of such computer-equipped tows is expected to grow.

One other fuel-oriented project, which could serve as a model for others, involves St. Louis Ship, a barge and tow company, the General Electric Company, Federal Barge Lines Inc., and Breit & Garcia. The aim is a 10 percent fuel saving by taking the normally wasted exhaust heat going up to tow smokestack and transferring it back into the engine system for additional horsepower.

A major improvement in communications for the barge and tow industry is also on the horizon. Currently, many shore offices find it so time-consuming and difficult to make contact with their fleets on the water that they have to wait until the ships put to port and phone in.

A few years ago, however, 16 major barge lines joined together as Watercom and put up the initial funds to start work on a common-carrier system that would make ship-shore contact in either direction much easier. Those who decide to subscribe to the radiotelephone service will be able to transmit written and spoken messages not only within their own companies but to other ships and their offices as well. The service is expected to get under way on the Mississippi River, Illinois River, Ohio River, and Gulf intercoastal waterway by 1982.

"It will literally be an extension of the office telephone on board ship," says Ray Spence, Watercom's general manager.

Despite all the talk of increased coal movement for export and power company use and the stepped-up role for water transport, many barge and tow operators say they are still waiting to see the talk translate into action. John Lambert, president of the Twin City Barge & Towing Company in St. Paul, Minn., says environmentalist objections to every facet from burning coal to disposal of dredged material and use of wetlands for rebuilding or expanding port facilities must first be overcome.

"Congress, just as it did on the Alaska pipeline, has got to step in and say, 'This is a national priority,'" he insists. "If everyone is allowed his two bits worth of objections, we're never going to get the job done. . . . It's the old freeway argument: Everybody drives on it but no one wants it in the neighborhood."

Most who work in the barge and tow industry admit that updated and expanded terminal facilities at ports where cargo is transferred from one mode of travel to another are badly needed. A study by A. T. Kearny Inc. observed that it was not unusual for cargo handling costs at terminals to be as much as direct water transportation costs, or more.

"It's added storage and loading capacity that is needed," says Geoffrey Vincent of the American Waterways Operators Inc. He notes that a few major coal companies have recently announced plans to rebuild port terminal facilities on the East Coast.

There are now several varieties of barges designed to better protect the particular product carried, and research to improve design continues. However, most in the industry say that the basic shallow and narrow hull shape, necessary for passing through locks, is likely never to be replaced.

One relatively new development aimed primarily at handling increased coal shipments on coastal waters is the superbarge. It can carry the equivalent cargo of 100 railroad cars.

Also new in recent years is the "lash barge," which can be loaded intact onto a merchant ship for ocean crossings and unloaded quickly at a port such as New Orleans for direct river travel. It is particularly apt for crowded ports where docking space is limited.

A Trucker's Dream Rig Gets 6 M.P.G.

(By Thomas Watterson)

It may not seem like much to someone with a fuel-stingy economy car, but to the people who build heavy-duty trucks six miles per gallon will be a dream come true.

And it will be the culmination of a hectic research effort aimed at improving truck technology. As with the auto industry, the effort began in earnest following the oil embargo days of 1973–74, as truck manufacturers fought for more fuel economy and to maintain sales through two recessions.

Considering that most heavy-duty trucks are getting 3½ to 4½ miles to a gallon of diesel fuel, reaching six miles a gallon would mean a fuel saving of more than 70 percent.

A report on a recent test of an engine built by the Cummins Engine Company stated that the 72,000-pound truck "turned in an impressive 5.25 miles per gallon average fuel economy" on a trip from Florida to California.

To reach this lofty level, U.S. truck manufacturers are scrambling to modify engines, cut weight, make tires roll more efficiently, and even streamline the bodies of their trailers.

At the same time, they are being forced to comply with tougher air pollution and noise standards. But these standards come from the government, not the marketplace. Customers who spend $50,000 to $80,000 on a vehicle provide all the pressure truck builders need to make the 18-wheelers more fuel efficient.

"Trucks are tools," said Sheridan Brinley, spokesman for the Motor Vehicle Manufacturers Association. "People buy them to perform a job, and looks are secondary." Many trucks today travel 100,000 miles a year, Mr. Brinley explained. A 25 percent fuel savings on such a vehicle can mean savings of over $5,000 in dollar-a-gallon diesel fuel costs.

Also, truck experts point out, while six miles per gallon might not seem like much, it is far more fuel efficient than a car, considering the weight involved. An automobile with an mpg of 24 may be six times as fuel efficient as the best truck. But it might only weigh 4,000 pounds, including passengers. A truck and its cargo, meanwhile, often weighs 80,000 pounds, or 20 times as much.

While truck and engine manufacturers work on the engines, the truck builders and companies that use trucks are taking some of the easier steps to save fuel. Many trucks have been carrying wind deflectors on top of their cabs for several years.

"These can cut wind drag up to 35 percent at 55 miles per hour," Mr. Brinley said. "And they can mean a fuel savings of 2-to-6 percent, depending on the type."

And while steel-belted radial tires are becoming increasingly popular on automobiles, their reduced resistance to rolling almost makes them a necessity on trucks.

A truck that is lighter is also less resistant to rolling. So manufacturers are taking weight off faster than a new member of Weight Watchers.

"Anything we can take out of the truck enables the operator to haul more payload and stay within legal weight limits," said Walter May, senior vice-president for production and engineering for Mack Trucks Inc. If payload is not a problem, he added, less weight means the engine doesn't have to work as hard—more fuel savings.

To cut weight, Mr. May explained, Mack and other companies are trying to find as many places as possible to use something lighter than steel. "We're using aluminum and fiber glass in as many noncritical areas as possible," he said. Fibre glass is being tried on many parts of the cab body, including the hood, fenders, doors, instrument panels, and battery boxes. "We're considering making the whole cab out of fiber glass," he added.

Noting that the General Motors Chevrolet Division has announced fiber glass springs for the 1981 Corvettes, James Coté, an engineer with the company's GMC Truck Division, expects the material will one day be used in truck springs.

But it is the engines that manufacturers have the most room for innovation, and where the greatest fuel savings lie. Here, terms like turbocharging, turbocompounding, torsional isolation, and even ceramics are being bandied about by an energy-conscious industry.

Perhaps the most promising innovation is turbocompounding, a technique that improves on the benefits of turbocharging to provide more power while taking much of what was formerly "waste" heat generated by the engine and using it to produce even more power. The exhaust from the turbocharger is ducted to a low-pressure power turbine which is coupled to the engine crankshaft.

One of the effects of such measures is to reduce the amount of horsepower needed to move a truck.

"It takes less horespower to drive a truck today than its used to," said Carl Ahlers, assistant vice-president for research and engineering at Cummings Engine. "We think all the things going on in the marketplace are going to work to drive horsepower down."

The newer engines, explained Jerry Holmes, spokesman for the Detroit Diesel Allison division of General Motors, are designed to operate at higher torque, which means they can reach their maximum power at a lower RPM [revolutions per minute] level. "This means you can pull heavier loads at slower [engine] speeds and your engine isn't doing as much work," Mr. Holmes said.

"The new engines can operate at a greater RPM range, which means they don't need as many gears," said Dario Sabatini, president of Dario's Diesel Service in Worcester, Mass. Without so many gears the driver doesn't have to shift as often." As a result, trucks with 10, 13, or even 15 gears are expected to be replaced by those with eight or nine speeds.

One of the more interesting concepts in engine technology is still in the experimental stage—ceramic parts. So far, Cummins Engine is the only firm looking into this idea seriously, but it has its origins in an idea that is thousands of years old: a brick oven retains heat longer than a steel one.

Noting that 30 percent of an engine's heat is sent out the exhaust pipe and 35 percent goes to the cooling system, Mr. Ahlers points out that this "leaves only 35 percent that comes out as shaft work . . . so over two-thirds of the heat is wasted." By saving some of this heat in ceramic parts, the engine does not have to produce as much original heat.

The primary drawback to full development of ceramic parts, or even a totally ceramic engine, Mr. Ahlers says, is stress.

"We have ceramics that can stand up to the heat," he says. "But not up to the stresses of an engine. They just break up from the force of all the work they have to do."

The truck industry has given itself some incentives to save fuel through the voluntary truck and bus fuel conservation program. Set up in 1975, the program involves the Departments of Transportation and Energy, the Environmental Protection Agency, and the truck-building industry. It is an effort to coordinate resources and technology to promote fuel-saving advancements and driving techniques. The program has been saving about 100,000 gallons of fuel a day, Mr. Brinley of the Motor Manufacturers Association said.

Hazard Flags Over Inland Waterways

(By Jonathan Harsch)

Storm warnings are going up all along America's 26,000 miles of freight-carrying inland waterways.

Despite official assurances that all is smooth sailing ahead, barge industry executives aren't the only ones worried that federal budget cutbacks could scuttle the excellent safety record set by towboat and barge operators. The same concern is being voiced by individuals within the three federal agencies most directly responsible for barge transportation: the US Coast Guard, the Environmental Protection Agency, and the US Army Corps of Engineers.

The official view put forward by industry and government spokesmen is that risks are inevitable when dealing with 20 or 30 giant bulk barges lashed together into tows up to 1,200 feet long, 200 feet wide, carrying 40,000 tons of cargo—but that the industry's low accident rate proves the risks are being dealt with effectively.

Both industry and government point out that a towboat operator is bound to take all possible measures to handle his tow safely when the total worth of his equipment and cargo can add up to $30 million.

Along with the natural economic incentive to protect valuable cargo and vessels, operators are kept on course by stringent regulations enforced by the US Coast Guard.

But many see storm clouds moving in from Washington. Forecasts point to a doubling in barge traffic over the next 20 years. Yet over the past four years the Carter administration has exerted steady pressure to reduce spending on various waterways programs.

Coast Guard officers fought Washington-imposed cutbacks which reduced their buoy inventories, reduced their ship numbers, dissolved the Towing Industry Advisory Committee, and from July 15 to 25 this year closed down their vessel traffic system (VTS) for New Orleans.

The VTS has been reinstated. A ship collision resulting in a PCB chemical spill when the VTS was shut down may have convinced budget-cutters that this one-way traffic system on the Mississippi is worth its $2 million annual cost.

The Coast Guard also had the cutback on its spare buoy numbers reversed—and within the next few months hopes to be back to a "safe" level. Legislation is expected to be passed shortly to re-create the disbanded Towing Industry Advisory Committee to provide a channel for regular contact between the industry and the Coast Guard.

Coast Guard officers say they have learned to live with fewer buoy tenders by setting up a priority system for replacing the most important buoys knocked out by high water or collisions. They now rely on towboat operators to report missing buoys—and warn river users not to expect the 60 percent of channel buoys lost each year to be replaced as quickly as in the past.

Commander Alexander Tanos, Commanding officer of the Coast Guard Marine Safety Office and Captain of the Port of St. Louis, reports no immediate problems for his district, which stretches from St. Paul, Minn., to Baton Rouge, La. But he does wonder about the future saying, "the more density [of shipping] you have, the more increase in hazards."

Army Corps of Engineers officers also see hazards increasing if traffic increases while budgets are cut. One officer reported that "We've had quite a few groundings . . . some of which might not have occurred if we had been able to dredge as we used to." He and other Army engineers said cutbacks in the $300 million per year dredging program resulted from a combination of factors. Money ran short this year due to higher fuel prices and emergency dredging needed to deal with shoaling caused by ash from Mt. St. Helen and by Hurricane Allen.

Also, state and environmental restrictions have made it more expensive, and in some cases impossible, to find disposal sites for the spoils dredged from rivers and harbors.

Congressman Mario Biaggi (D) of New York, chairman of the House Coast Guard subcommittee, believes that increasing barge traffic poses a major safety problem.

"Barges improperly cared for or improperly operated," he told the Monitor, "have the potential for turning into infernos which are perils to the public." He recognizes that budget cutbacks are popular today, but added that "if there weren't cuts, the elements of safety would be enhanced and would be enhanced further with additional funding."

Capt. Thomas Rutledge, chief of operations for the Second Coast Guard District, based in St. Louis, believes that the barge industry has tremendous potential because of its excellent safety record and because "this is one of the few areas where we can greatly improve the nation's transportation resources without great expense."

Currently the industry cites a six-year old Arthur D. Little study as proof of its safety record. This report focuses narrowly on hazardous cargoes, and doesn't make valid comparisons with other modes of transport, according to Luigi Colucciello, chief of the marine accident division of the National Transportation Safety Board.

One of the Little report's researchers pointed out that barges show a good safety record according to "the human exposure index." Their routes keep them far from major population centers. But he added, "If water pollution is the issue, then barges could be the most hazardous mode."

Industry and government officials agree that great advances have been made in barge safety. Regular Coast Guard inspections of equipment are backed up by powers of boarding and seizure and fines of up to $25,000 along with the far more costly requirement that operators must clean up all spills. More and more barges are being built with double-skin hulls. Increased horsepower gives modern towboats more control in swift currents.

Operator skills have been improved by tough new licensing requirements and the Coast Guard's power to revoke licenses ("which we do every day," said one New Orleans officer.) There have been constant efforts to improve radio communications, training of crews, and navigational aids.

Diesel-Stingy Locomotives Chug Forth

(By Thomas Watterson)

Except for barges, the railroads use less fuel than any other form of transport. So they could be forgiven for expecting others to do all the work on fuel-saving.

However, railroads do want to save costly energy. The Association of American Railroads estimates railroads use about 4 billion gallons of diesel fuel a year. Thus, devices that have cut fuel consumption by 10 to 24 percent in tests have little trouble getting railmen's interest.

In the United States, the primary builder of railroad locomotives is the Electro-Motive Division of General Motors. Its newest offering—a 3,500 horsepower turbocharged diesel—comes with 16 cylinders and 500 more horsepower than its predecessor with the same number of cylinders.

But the "new generation" locomotive, part of what Electro-Motive calls its new "50" series, comes with a number of features that should help it run more efficiently:

The engine idles at a lower speed—250 instead of 315 r.p.m. (revolutions per minute).

Higher-efficiency radiator cooling fans switch off when they are not needed. Their design lets them deliver more air from the same amount of horsepower, the company maintains, and also helps reduce noise.

More highly refined controls allow the engines to be shut down at temperatures higher than 50 degrees F. Because of the difficulty in getting the huge diesel engines going, some rail yards allow their old engines to run much of the time.

The company has produced 23 test versions of the locomotive, which have been tried by four railroads, logging more than 5 million miles since 1978.

Even with lowered horsepower, trains are often carrying more power than they can use. For this reason, more railroads are installing "black boxes" with a toggle switch that allows the engineer to cut off one or more of the locomotives in multi-engined trains. These engines operate at idle while the others run at full speed, where they are most efficient. Semiautomatic and computer-controlled devices to accomplish the same purpose are being developed.

The railroads will also be the beneficiaries of another advance, but one that involves the trucking industry. Moves to deregulate the freight industry are expected to bring more cooperation between trucking companies and railroads in the 1980s. That's particularly so in "piggyback," where truck trailers are carried on railroad flatcars designed for this purpose.

Now, the Atchison, Topeka & Santa Fe Railway has impoved on the concept with a system of trailers it claims will save the company 1.5 million gallons of fuel a year. Called the "Fuel Foiler," the rail car looks sort of like a capital "I," the narrow middle making it much lighter. The cars are designed to be connected in units of 10, each unit carrying a single trailer.

The Fuel Foiler's "trucks," or sets of wheels, are set between the cars, rather than underneath them. This means the truck trailers ride lower, reducing wind resistance. The truck arrangement also means the cars in "Ten Pack" units can be coupled together more closely, reducing slack action between the cars.

Santa Fe has put 10 of the "Ten Packs" together in a train carrying a total of 100 trailers. The lighter weight and lower profile, the railroad says, means that only three locomotives, instead of four, are needed for power. In tests, the railroad claims to have saved 6,000 gallons of fuel per 4,400-mile round trip between Los Angeles and Chicago.

Another use of truck trailers is an idea some 20 years old, but one that is getting renewed attention in these fuel-hungry days. Called the "road railer," it is a truck trailer with rubber tires for highway travel and flanged railroad wheels that can be lowered for the rails. On the railroad, the trailers are linked in much the same way an automobile and a trailer are hooked together.

The developers of the road railer—Bi-Modal Corporation of Greenwich, Conn., and the North American Car Company of Chicago—maintains that its fuel consumption is 75 percent less than highway trucking and 45 percent less than piggybacking.

Finally, the railroads are even getting into the solar power picture, though their trains are a long way from being run by the sun. The Southern Railway and Canadian Pacific are experimenting with solar power to operate grade crossing protective devices, like those flashing red lights that warn motorists of oncoming trains. The solar devices are used in place of commercial electric power and standby batteries. The solar devices use special batteries to store, literally, the sun's power "for a rainy day."

Gains Cited; Recession Hits Conrail

(By Thomas Watterson)

Conrail, the government-sponsored freight railroad, is facing its most serious test—even before it has a chance to pass its first one.

When it began in 1976, Conrail (Consolidated Rail Corporation) was given $3.3 billion by Congress and two primary missions: Improve rail service in the Northeast, and make a profit. So far, it has been more successful at the first task than the second.

On the strength of that $3.3 billion, the railroad has been able to buy new equipment, rebuild some of the older stock, and upgrade thousands of miles of track. As a result, it has been able to reduce delays, bring in more customers, and put more good equipment in service. To take one example, "bad order cars," or the number of cars rejected by shippers as unfit, dropped from 19,969 in 1977 to 10,386 in 1979.

And although Conrail has lost money throughout its life, in 1979 it was beginning to show a slower rate of loss. Instead of ending the year $385 million in the hole, as it did in 1978, Conrail finished last year just $178 million in the red.

Then the recession hit. That has brought the second test—survival. The recession hit first in Conrail's area, the heavily industrialized Northeast, slowing or shutting down auto plants, closing steel mills, and affecting thousands of other companies that depend on these industries. Conrail's traffic dropped 20 percent from a year earlier.

More alarm bells began to ring this year as talk of railroad mergers pushed ahead. First, the Chessie System and Seaboard Coast Lines announced their merger plans. Then the Norfolk & Western Railway and the Southern Railway followed suit. These mergers, taking place where Conrail does most of its business, threaten to take away many of the customers Conrail has fought to win.

"Conrail was born in a recession," said Carl D. Martland, research associate with the Center for Transportation Studies at the Massachusetts Institute of Technology. "And it's facing its toughest test in a recession. Had we not had two recessions in its lifetime, Conrail would be in better shape than it is today."

Apparently agreeing, Conrail has returned to Congress with its palm up, asking for an additional $900 million. And, the railroad said, if Congress did not pass the rail deregulation bill, thus allowing it to raise rates to cover more of its expenses, it would have to ask for $500 million more, a total $1.4 billion over its original $3.3 billion grubstake.

But in making the request, Conrail did more than than give Congress a choice of granting the request or not doing so. It inadvertantly set off a new debate over what kind of future—if any—Conrail should have.

Along with its initial funding of $3.3 billion, Conrail was given a 17,000-mile rail network. Today, Conrail officials claim, and most experts agree, that is too much for the system to manage adequately.

"There is definitely too much track," said Alvin Arnett, an assistant vice-president of Conrail and one of the railroad's legislative liaisons in Washington.

Mr. Arnett suggests there might be a "ballpark figure of somewhere between 3,000 and 5,000 miles" of track that Conrail could unload, either through abandonment of little-used branch lines or sale of some lines to other railroads.

Others, however, have suggested more drastic alternatives, ranging from cutting Conrail down to about 8,000 miles of its most profitable track and selling off or abandoning the rest. One problem with this, however, is that any railroads interested in buying pieces of Conrail tracks would be more interested in the moneymaking lines Conrail wants to keep.

Another alternative is for the federal government to swallow the fact that to maintain rail freight service in the Northeast, it is going to have to permanently subsidize at least part of the Conrail system. This would involve isolating the unprofitable part of Conrail east of what is known as the "firewell," a line from Buffalo, New York, to Harrisburg, Pennsylvania. West of this line, Conrail is profitable and this section would be more attractive to prospective buyers. The lines east of the firewall would continue to be run under government subsidy.

By far the most drastic choice would be to abandon Conrail completely, selling its equipment and profitable lines to other railroads—most likely the two newly merged roads—and leave shippers on the other lines the choice of moving to another rail line, or using trucks, as many have already done.

This alternative is favored by Barry Nelson, senior rail analyst for Value Line. Giving more cash to Conrail, he says, would be "throwing good money after bad. The best thing would be to break Conrail up now, before we spend billions more. . . . Now would be a good time to do it, too. With all the mergers going on and deregulation, private capital is once again interested in railroading."

When asked about the sizable expense of paying off the rail workers—who have lifetime financial protection if Conrail slims or shuts down—Mr. Nelson says, "It's cheaper to pay them a full salary forever—certainly cheaper than throwing money into Conrail forever."

Conrail's $900 million request is based on a "best case" scenario of Congress passing the rail deregulation and of an improved economy. But with a slow economic recovery, Conrail estimates the government might have to invest an additional $700 million. However, Conrail's banker, the United States Railway Association (USRA), is not very optimistic about "best cases."

"The chilling fact is," USRA president Donald C. Cole said recently, "that present economic projections have already moved toward Conrail's slower recovery scenario."

Length-and-Weight Limits Spur a Fight Over Trucking

(By Guy Halverson)

If Congress and the powerful U.S. trucking lobby have their way, those massive tractor-trailer rigs barreling down the nation's Interstate Highway System will soon be longer and heavier than ever.

Critics argue that they will be even more deadly on the already cluttered freeways.

Nonsense, truckers reply. The larger rigs mean more goods shipped in fewer hauls—which means greater efficiency and productivity for the economy.

The issue here—now being fought out in Congress—is: Should there be a nationwide, unified weight and length provision for trucks? If so, at what levels?

Five states limit truck weights to 73,200 pounds: Mississippi, Illinois, Indiana, Arkansas, and Tennessee. The weight is slightly heavier in Missouri, under recent legislation.

But most U.S. political jurisdictions permit rig weights of up to 80,000 pounds. What that means, in effect, is a "barrier" of states in the Mississippi River Valley, "blocking" major cross-country trucking routes.

Raising the legal weight limits in those "barrier" states is "very important," argues William Mertz, an official of the American Trucking Associations Inc. What's happening, he says, is that trucks "load low" to meet the 73,000-pound limits, rather than filling to the 80,000-pound capacity. To fill to capacity would require a costly process of unloading a portion of the cargo in the Midwest, then loading that surplus in another truck.

For its part, the Senate earlier this year passed legislation that would increase the authorized truck weight to 80,000 pounds and length to 65 feet. No state could have lower "maximums" on its Interstate roads.

The weight-length legislation was actually a voice-vote floor amendment to a truck safety bill sponsored by Illinois Republican Sen. Charles H. Percy. The original Percy bill did not include the weight-length provisions.

The Percy bill to which the two provisions were attached gives the transportation secretary jurisdiction over working conditions of drivers, expands federal safety requirements on highways, increases fines for safety violations, and provides criminal penalties.

Most tractor semitrailers, according to congressional sources, are now 55 or 60 feet long. A dozen or so (mainly East Coast) states limit lengths to the shorter figure.

Federal control of truck weight and length dates back to the 1956 Federal Highway Act, which set up the Interstate system.

The weight-length issue is twofold, a House source says. "Although critics [of larger limits] talk in terms of 'highway safety,' we've really got a struggle here of states' rights vs. the highway lobby," the source says.

One factor explaining the caution of the Mississippi River-area states in accepting the higher tonnage is the fact that water seepage and moisture in their roadbeds lead to more frequent road-repair work than is the case in many other parts of the United States.

Increased weight, it is felt, could only exacerbate weak road conditions.

Carriers Read the Bottom Line: Safety Steps Are Cheaper

(By Wendy Gristmacher)

It pays to be safe!

That's what the shippers of hazardous materials are finding. Of course, new government rules and regulations are forcing the transportation business to be more careful in rail, road, and river shipments of hazardous materials—some 250,000 shipments each day last year. But the industry has also found that safety measures are cheaper than disaster.

Out of these 250,000 shipments, about 16,000 accidental leakages took place—most of them minor. But the recent flurry of serious accidents points up the importance of better safety equipment and standards.

In Waverly, Tenn., a company shipping by rail was sued for $30 million. An accident there caused extensive damage to the countryside and killed 15 people. Chances are the accident could have been avoided had sufficient safety steps been taken.

The Department of Transportation (DOT) regulates all modes of transport under its Title 49 code list. Most sources feel these are only an introduction to what could be done to prevent accidents.

Many transport companies are implementing safety devices on their own. Some have their own safety research, while others simply keep up with federally funded projects which they feel could be beneficial.

Preston Lockridge, an official with the Transportation Test Center of the Federal Railroad Administration (FRA), says the testing center devises improvements for tank cars and track which "could curb the number of accidents."

One is a flame retardant coating which, when painted on tank cars, inhibits them from igniting. Sometimes when one car gets punctured, it acts like a torch, shooting flame onto other cars. With the coating, they will resist combustion.

A 1,500-foot section of track equipped with devices attuned to potential problematic areas of the train is another testing center safety effort. When the train is run over the track, the devices detect dragging brakes, cracker wheels, and other sources of derailment.

The information is relayed back to a computer area where the signals are read, and defects can be fixed before the train leaves the area.

Mr. Lockridge says that so far only a few rail companies have implemented these improvements, but he reports that "their attitude is quite positive," and he expects greater cooperation.

Different types of toxic materials need different precautionary measures and tank cars, says Gloria Stone, a spokeswoman for the Boston & Maine Railroad. Tank cars are usually owned by the company shipping the chemicals, not the railway, and are built according to safety rules from the FRA and Association of American Railroads.

Boston and Maine has spent $104 million in the past six years on track rehabilitation, and other maintenance.

Regulations for truckers and shippers vary intrastate, but the Federal Highway Administration sets up general interstate guidelines.

State, the highway administration, and various trucking companies combine to evaluate routes and provide transporters with guidelines. Says Russell Toth, hazardous materials liaison officer at the Federal Highway Administration: "Our aim is a good route with minimal exposure to population."

The Aug. 9 propane leak on the George Washington Bridge in New York City highlights the importance of local regulation. With better attention to routing, the incident on the heavily trafficked bridge to Manhattan Island could have been avoided, the experts maintain.

Ralph V. Durham, director of safety and health for the International Brotherhood of Teamsters, sees a problem with local regulation: "There will be a mishmash if it's left to the states. Drivers won't know what routes to take."

As for safer equipment, the Federal Highway Administration is "doing its best," says Mr. Toth. "We don't want something that will run into a concrete wall at 150 miles per hour, but we do want to make sure that a tank truck is safe by having its manufacturers prove the product will withstand rigorous transport."

Many tank trucks now come with vapor release valves which prevent excessive pressure within the tank.

Drivers are most vulnerable to accidents. Many companies are establishing training programs on the special needs of hazardous loads, hoping to lessen the chances of injury. "There is a bewildering array of hazardous materials," says Stephen McDougall, Teamsters Union Industrial hygienist, "and the driver needs to know what he's handling and how to work with it in any emergency."

The Coast Guard also has preventative hazardous materials measures. Chief Richard Griggs of the Pollution Response Branch says regulations touch on chemical control in a number of ways. "No ship is built until we review the company's construction plans," he says. "Once on the water, all ships are inspected frequently at port." Also, the DOT has compatibility tables for cargo storage which, for instance, prevent shippers from loading acid over something flammable.

Local port regulations vary according to geographics. In Boston, where the port is fairly narrow, ships carrying liquefied natural gas take priority over other ships entering the harbor. The port practically shuts down while the tanker pulls in. Port Captain Barry Eldridge says a "two miles ahead and one mile stern collision safety zone" is required as these tankers enter and leave the harbor.

Both Captain Eldridge and Chief Griggs agree that water transport is the safest way to move hazardous loads. The total number of mishaps involving the transport of chemicals in barges, bulk carriers, and cargo ships in 1979 was 4,325, about 25 percent of the accident total.

Radioactive materials are a particularly sensitive regulating area for all transporters. Lee Metcalfe, a hazardous material specialist for the DOT, says radioactive materials in all modes of transport are well regulated compared with chemicals. A truck can hit a rail car with nuclear materials in it at 60 miles an hour and the car wouldn't even bruise.

But the Teamsters Union's Stephen McDougall disagrees: "Radioactives may be well regulated on paper, but studies show drivers and shippers are overexposed. The problem is that no one monitors the radioactivity." Independent truckers are especially vulnerable to illegal exposure since they are more willing to cart dangerous loads in order to keep themselves in business.

SWITCH TO COAL AS FUEL REVIVES POTENTIAL FOR LONG-HAUL SLURRY PIPELINES

(By Clayton Jones)

The newest form of energy transportation, one which works like an ice slush pumped through a soda straw, now has more of a future than one thought.

The idea that pipelines could cheaply carry a slurry of water mixed with crushed coal over long distances has been waiting in the wings for years as King Coal slowly returned to the energy stage.

The biggest block to coal slurry development has been water availability in America's dry but coal-rich West. The slurry industry is confident of securing enough water rights at least to get started, but just how many lines can be accommodated remains uncertain.

But new research into waterless coal pipelines and ways of directly burning coal-water mixtures could fundamentally change the future of the slurry business.

The fact that there are now nine proposals to build coal slurry pipelines to utilities indicates just how promising this new type of transport may in helping the U.S. tap its most abundant nonrenewable resource.

The possibility of slurry pipelines offering healthy competition to coal-carrying railroads has enticed utilities, coal producers, and government energy planners to lobby lately on the pipelines' behalf.

And the present legal barriers to the ability of pipelines to cross private and public lands—including railroad rights-of-way—are expected to be resolved later this year or early in 1981 as Congress considers granting powers of eminent domain to the industry. Such powers will be given to the coal slurry industry as a quid pro quo for benefits given to railroads in the rail deregulation legislation taking shape, report congressional aids.

Considered by most analysts to be cheaper than rail transport for large and consistent coal-users far from the mines, slurry pipelines are expected to start coming on line by 1985, predict industry leaders. (A small one already exists in Arizona.)

The National Coal Association estimates that total coal production east of the Mississippi River will increase 33 percent from 554 billion tons in 1979 to 736 billion tons in 1990. Western coal production, however, will jump some 140 percent from 216 billion tons last year to 514 billion tons in 1990.

Just how much of this increase goes to either rail or slurry could depend to a large part on what comes out of experiments under way in many laboratories.

"In the next five years it will have to be coal-water slurries," says Robert Faddick, civil engineering professor at the Colorado School of Mines. "But possibly in the next decade, we would be looking at alternative carriers."

These alternatives include using liquefied carbon dioxide, synthetic liquid fuels made from coal, compressed air, or even treated sewage as a substitute for water in coal slurries.

Each of these, however, may have its own problems, adds Dr. Faddick, a coal slurry consultant.

The most advanced and perhaps most promising is a liquid CO_2 process patented this year by A.D. Little Inc., a Cambridge consulting firm. Carbon dioxide is available from burning coal at a mine site and can be pressurized to transport crushed coal under low viscosity. At the end of the pipeline, the CO_2 could be recycled for use in enhanced oil recovery, a process now used in oil fields. But, cautions Dr. Faddick, the liquid's flow properties still need study and there is a possible problem in dry ice crystals forming on the coal.

Transporting coal with compressed air so far only works for short distances, says Dr. Faddick. Use of liquefied coal as a pipeline medium seems unlikely because the water needed in liquefaction may be more than the water needed for a slurry pipeline in most cases. Using conventional oil in a coal slurry requires either an oil field near a coal mine, which is very rare, or tapping into an oil pipeline passing through a coal site. And burning such a mixture is not yet attractive.

Officials in Omaha, Neb., are studying the idea of using sewage as a carrier of coal. But the extra cost of shipping it to the Wyoming coal fields could possibly prohibit the practice. One benefit: the sewage receives partial treatment in the enclosed coal slurry.

Using less water and more coal in a slurry pipeline has been tried in the past without success. But in July, the idea got a strong boost. Atlantic Research Corp. of Alexandria, Va., announced that its engineers had developed a slurry able to be pumped with 62 percent coal. Current pipelines on the drawing boards use one ton of water for every ton of coal.

What's more, said Atlantic officials, a specially developed cornstarch added to the slurry makes it burnable in furnaces which rely on No. 6 oil, largely used in industry. The coal combustion quickly evaporates the water, which actually helps the burning by providing hydrogen. The price of a coal-water fuel would be about half the price of oil at $25 a barrel and about one-twentieth the cost of liquid coal, claims Atlantic vice-president Charles B. Henderson.

Backed partially by the US Department of Energy (DOE), the project gives hope to utilities and industries resisting a switch to coal, which requires expensive storage and handling equipment. "Bringing coal back to utilities is almost an impossibility these days. But having a tank filled with a coal-water slurry is much easier," says DOE official William Fedarko.

Pumping coal directly from a mine through a water pipeline and into a furnace has attractive possibilities to DOE. It eliminates the high cost of separating the water from the coal. "We could end up burning it in homes again," suggests Mr. Fedarko.

But direct combustion of coal slurry with 38 percent water still has a long way to go before it is widely used. Mr. Fedarko says the Soviet Union reecntly claimed coal burning with 50 percent water.

Using less water may reduce much of the

water problem for slurry pipelines, "but it won't alleviate the emotional aspect of battling for water rights," says Dr. Faddick.

SPEED IS ESSENCE OF PRODUCE HAULING

(By Wendy Gristmacher)

Most people don't like wilted lettuce, stale bread, moldy oranges, or black bananas. The trick is to get foods from one place to another before they spoil.

This used to be a problem for railroads, which some years ago lost the food transport business to the trucking industry because of the unreliability of rail deliveries.

But now railroads are making a comeback. And one reason is greater reliability. Expedited trains carry produce from cities such as Los Angeles or Chicago in guaranteed delivery times, bypassing railway yards, stopping only for crew changes.

Many regions of the country don't produce a wide variety of foods in their own areas, and food transport is an important economic function. In New England, for instance, 85 percent of food is imported from other regions of the US.

And for a share of this market, the railroads now can compete on freight charges with trucks. Until May 1979, when the Interstate Commerce Commission (ICC) deregulated them, railroads had to publish their rates. Any changes had to go through the ICC—taking about three months. Meanwhile, the trucking industry could underbid the rails by small amounts and get the business.

Also, the trucking industry was able to take advantage of the new Interstate Highway System to move produce quickly across the nation.

As a result, the railroads' share of fresh produce transport plunged from 90 percent in the late 1940s to around 10 percent.

Today the railroads are winning back the business. Woodrow Thompson, an offical of the Association of American Railroads (AAR), noted that railroads had boosted their transport of produce from the West Coast by 25 percent in the first year of deregulation ending last June 1. Their share of the market had risen from 11.2 percent to 13.6 percent.

Mr. Thompson lists three other factors that favor the railroads in their competition with the trucking industry:

Fuel efficiency of railroads over trucks can be as high as 4 to 1. That means the fuel required to carry 50 pounds of food would cost four times more by truck than train.

The increased cost of maintenance and replacement is more affordable for the large rail companies than for smaller trucking outfits.

And, in a look to the future, the impact of rising costs is greater on trucks than trains because small, independently operated rigs can't afford to stay in business.

One of the major innovations in train and truck transport is the piggyback system. Truck trailers placed on rail flatcars are carried quickly and driverless to a distant truck pickup point. There, the trailers are hooked up to a tractor— the motor and cab—and taken to market. The positive impact on food transport is apparent: Under the old system food was manually loaded and unloaded from rail cars, a system that took longer and increased the possibility of damage.

Dorothy Williams, a representative of the National Frozen Foods Association, describes a concept for moving "any kind of food, even frozen," that combines rail and truck. It is an instance of rivals getting together to provide better service. After driving his prescribed hours, a trucker meets a train and drives aboard. As the train continues, the driver sleeps. When the trucker is ready to resume his trip, the train drops him and his rig off that much farther along his route, his load that much fresher. The new service is to be tested next month in food transport from Florida north.

Other innovations include shipper cooperatives which negotiate to move loads of foods by the most expeditious combination of transport modes. For instance, lettuce from California is moved in trailers on railroad flatcars as far as Chicago. Here, contract drivers or barge operators pick up the loads and take them to their next destination.

Russell Hinds, manager of the Transportation and Packaging Research Branch of the Department of Agriculture, says his office, addressing itself to the problems of moving food, has come up with other new ways to improve food transport in all modes.

To "get a better product to the housewife," Mr. Hinds identifies four priorities: better packaging, reduced losses (bruising or spoilage), better fuel efficiency, and ultimately, lower product price.

Mr. Hinds has come up with plans for what he terms "the produce truck of the future." This ideal truck "would carry meat, fruit, vegetables, and frozen foods. All kinds of gimmicks would be combined to produce a lightweight, high volume, state-of-the-art unit that people could afford."

One of the most critical areas of food transport is the refrigeration unit. On trucks, boats, and trains this must be operating at peak efficiency to ensure that produce is fresh when it reaches its destination.

One project Mr. Hinds' office is smoothing out is using outside air as a supplement to refrigeration. "The most important condition," he says, "is that it's colder outside than in. Air must move through the food, not just over the top."

Rail cars may be stripped down to the bare necessities to lighten energy requirements. Some truck-trailer manufacturers like Fruehauf and Great Dane install light foam between plastics for feather-light insulation and better mileage. Airlines use similar methods.

Refrigeration units are run by individual generators within the tank, trailer, or container. But, says James L. Clark, director of corporate terminal relations for Sea-Land Service, Inc., ships have been using a centralized refrigeration power system with deck outlets for 25 years. Containers and trailers simply plug in. On trains, the same idea would involve one generating unit sending power through the train's coupling system to possibly dozens of flatbed cars carrying refrigerated truck trailers.●

OLIVE ANN BEECH—FIRST LADY OF AVIATION

● Mr. DOLE. Mr. President, I wish to take this occasion to pay tribute to a most distinguished lady from Kansas, Olive Ann Beech, upon being selected the 1980 winner of the "Wright Brothers Memorial Trophy" which is awarded annually by the National Aeronautic Association to honor the memory of Orville Wright and Wilbur Wright, and recognizes the most notable leaders in the field of aviation.

Mrs. Beech is chairman of the board of Beech Aircraft Corp., and a member of the board of directors of Raytheon Co.

Since 1924, when she joined the Travel Air Manufacturing Co., a pioneer Wichita airplane manufacturer, Mrs. Beech has devoted her life to the advancement of aviation.

She and her late husband, Walter H. Beech, cofounded Beech Aircraft in 1932. Her achievements have led to her being widely recognized as the "First Lady of Aviation."

Her company's Beechcraft products are internationally respected and have brought esteem to this Nation, the State of Kansas, and the city of Wichita.

Mrs. Beech is one of Kansas' most respected citizens, well known for her activities in business but also in the areas of art, education, religion, and civic affairs.

She has been recognized by a multitude of private, commercial, and Government organizations on both the local and national levels through such honors as being chosen "Woman of the Year in Aviation" by the National Aeronautic Association.

Fortune magazine has named Mrs. Beech as one of the 10 highest-ranking women executives in major corporations in the United States. She has been particularly honored by appointments to advisory councils by three Presidents of the United States. And she is the first woman in history to be selected for the "Wright Brothers Memorial Trophy."

We in Kansas are particularly proud of her roles and accomplishments and appreciative of the progress which her company has brought to our State.

It is most fitting that this gracious lady, outstanding business executive, and leader in aviation be further recognized by being awarded one of America's highest aviation awards—the "Wright Brothers Trophy."●

FEDERAL GRANT REFORM CAN BE A REALITY

● Mr. SASSER. Mr. President, I rise to speak on S. 878, the Federal Assistance Reform Act of 1980, which the Senate passed on December 1. This legislation represents more than 2 years of work by the Subcommittee on Intergovernmental Relations, which I chair. It is unfortunate that the time before adjournment is too short for the House to consider this bill so that it could pass during this session of Congress.

However, I think that the Senate passage of S. 878 is an endorsement by the 96th Congress of the management improvements contained in this legislation. This bill, is therefore, the groundwork to be built upon early in the 97th Congress.

The need for grant reform is great. I think that we are all aware of what has happened to the 1980 Federal-aid dollar. That dollar is being eroded by inflation, resulting in a reduction of its buying power. According to the Advisory Commission in Intergovernmental Relations, the real purchasing power of Federal aid to States and localities may decline by 8.3 percent in 1981.

Caught in this squeeze between reduced Federal money and rising costs due to inflation, State and local governments have indicated their commitment to implementation of the cost savings that could be realized through administrative improvements in running their grant programs.

And what kind of cost savings could be effected? Some grant programs have overhead and paperwork costs which equal 28 percent of available program funds. It is not uncommon for average administrative costs for many categorical programs to range up to 17 percent. And some have estimated that the paperwork costs of applying for Federal grants may run as high as $9 billion annually.

Now reforms like more consolidation of duplicative grant programs, greater simplification of regulations to implement national policies, and more efficient use of audit resources can help reduce these bloated overhead costs. The experience reported by places like the State of Kentucky and the city of Chattanooga where joint funding has been implemented shows that management tools such as the single audit and the consolidation of grant programs and their regulations can make a sizable dent in overhead costs.

The Federal Assistance Reform Act, when it is passed, will give the "green light" to the Federal agencies to encourage more widespread consolidation of grant programs, acceptance of the single audit of an organization receiving Federal grants and coordination of regulations implementing national policies.

Many of these reforms are not new. They are ideas which have already been tested and proved successful on a small scale. Now we are ready to make them available on a national scope. For example, consider the following:

"Integrated grants management," under the Joint Funding Simplification Act of 1974, resulted in a 20-percent cost savings for the State of Kentucky in managing its planning grants program, and a 25 percent savings for the city of Chattanooga in Tennessee for its human services delivery program.

The "single audit" of organizations receiving Federal grant funds is already being implemented under Office of Management and Budget circular A-102, attachment P, which has been in force since 1979.

At least one cross-cutting regulation, uniform relocation regulations developed pursuant to the Uniform Relocation Act of 1970 now require the uniform treatment of persons displaced by Federal assistance programs.

These are ideas that deserve to be refined and backed by a statute enacted by Congress. The Federal Assistance Reform Act of 1980 is designed to do just that.

As the Federal assistance system is constructed today, the Federal Government has become too much like a glorified town hall. Narrow, categorical grant programs have forced Federal bureaucrats to involve themselves in concerns that could be the prerogative of States or localities. The role of the Federal Government has become too broad when specific programs are enacted or proposed for jellyfish control, car pool projects, police pensions and dog and cat spaying.

I do not think programs like those should be run by the Federal Government. And I do not think that the Federal Government wants to run them. I know that such programs have confused and complicated the Federal assistance process for State and local governments.

The sheer number of small, overlapping grant programs causes paperwork burdens because State and local governments must comply with separate reporting and regulatory requirements for each program. This complex system also burdens grant recipients with many, seemingly endless audits of their programs. And the separate requirements attached to each program prevent granting agencies from working with their counterparts to develop compatible grant application procedures or to coordinate the administration of cross-cutting requirements.

Federal assistance has become so costly and complex to administer that many State and local governments, and nonprofit organizations such as universities or social service agencies, simply cannot afford to apply for and manage certain programs. Grant applications can often be measured in inches because the cost of applying for them in terms of staff resources and overhead costs outran the amount of the grant.

The General Accounting Office, in their report on grant auditing, found instances where in a period of 3 years, grantees have been audited more than 50 times, and where grantees have been audited by five or more different audit organizations. These audits did not accomplish effective audit coverage. According to GAO:

> Although most grant recipients received audits, the audits were narrow in scope and did not provide either the Federal Government or the grantee with a meaningful overview of grantees' financial controls and grant management capabilities. . . . Many recipients received far less audit coverage than seemed appropriate—either no audits were made or coverage of their Federal grants suffered major gaps.

This swollen, bloated overblown system does not accomplish its objectives. The reforms proposed in S. 878 promises to reconstruct the categorical grant system, slimming and streamlining its processes so that it can reach some of the management goals we have set for it.

The Federal Assistance Reform Act of 1980, if passed, would allow procedural changes in the management of categorical grant programs which would reduce the paperwork and associated costs of such grants. And in the process, greater flexibility in the use of Federal assistance would be assured for State and local governments. The provisions of this bill:

Encourage congressional consideration of Presidentially proposed consolidations of specific Federal grant programs which would result in better management;

Promote efficient use of Federal assistance audit resources by providing for a single financial audit every 2 years of grant recipients which receive over $100,000 a year in Federal assistance;

Extend and strengthen the Joint Funding Simplification Act of 1974 which permits administrative consolidations of related grant programs for a single State, local or nonprofit organization project; and,

Provide a mechanism for the simplification and standardization of national policy requirements attached to Federal assistance programs.

Funds are scarce. We must conserve. Like a thrifty housewife, instead of spending we must either "make it over or make it do." I think that with the grant system we can make it over and make it better than ever.

That is why I want to thank my Senate colleagues for their passage of S. 878, the Federal Assistance Reform Act of 1980. This puts the Senate on record in this bipartisan effort to improve grant management, encourage productivity and take a conservative approach to Federal spending.

Let us pass this bill early in the 97th Congress.●

JOHN LENNON

● Mr. MOYNIHAN. Mr. President, the world lost last night one of the lyric geniuses of our age, Mr. John Lennon. A man who captured and transformed the cultural spirit of a generation and in doing so touched the hearts of millions, he was tragically murdered in front of his home in New York City.

He was truly one of the leading cultural figures of our times, and just as his life expanded our understanding of the beauty and possibilities of our lives, his loss has diminished them commensurately.

Our Nation finds in large part its justification in the richness and diversity of its cultural experiences. It is flattering then, though not surprising, that Mr. Lennon and his wife wished to live among and with us—in New York City—in surroundings their artistic spirits coveted.

While we join his family, many friends, and even more admirers in grieving his loss, we are consoled by the knowledge that his legacy and his songs shall remain always with us, and by the thought that he will continue to brighten and enrich our lives, the lives of our children, and of their children as well.

As it happens, it was my rare privilege that Mr. and Mrs. Lennon purchased a few years ago the land I had once owned in Franklin, N.Y., only miles from my home in Pindars Corners, N.Y.

It is thus altogether fitting at this time to bring to mind a tribute to an artist of another age but of no less considerable stature. "I weep for Adonais—he is dead!" began Percy Shelley in his moving tribute to John Keats. Today we weep for John Lennon, an Adonais of our age.●

MONTGOMERY BUS BOYCOTT

● Mr. LEVIN. Mr. President, the beginning of this month of December, marks the 25th anniversary of the Montgomery bus boycott, and the courageous actions of Rosa Parks that led to it. I would like to take this opportunity to honor the anniversary of this event which history has already recorded as being the incident that launched the civil rights movement.

On December 1, 1955, a seamstress by the name of Rosa Parks entered a bus in

Montgomery, Ala., paid her fare, and sat down in the first row behind the section designated "white only." The established practice at this time was for blacks to pay their fare at the front of the bus, get off and walk to the back of the bus, where they were allowed to board. The front rows of the bus were reserved only for whites. If the "white only" section became filled, blacks were supposed to relinquish their seats to whites, in the order that they were closest to the front. On this particular day, when the white rows had been filled, Ms. Parks was asked to surrender her seat to a white man. She refused. The busdriver, who had police powers to enforce the bus company's segregation policies, threatened her with arrest. Ms. Parks stayed seated. Witnesses of the incident report that the bus went silent. All eyes were upon her. Ms. Parks was later to state:

> I didn't even know if I'd get off that bus alive.

It is not hard to imagine how much easier it would have been for her to simply get up, to not "rock the boat," to just "go along." Surely, it would have been much simpler, and less hassle for her to go home that night instead, of deciding, in the words of Thoreau, to "no longer lend cooperation to an evil system," and thus be whisked off to jail. But on this day Rosa Parks opted not to do the easy thing. On this day, she decided that she "was tired of being humiliated and degraded." On this memorable day, Rosa Parks sat still, and uttered quietly, but firmly with conviction, "I am not going to move."

Rosa Parks was bailed out of jail by E. D. Nixon, a fearless civil rights fighter, and head of the local chapter of the National Association for the Advancement of Colored People. Nixon immediately became convinced that the nature of the incident, along with the unassailable character of Ms. Parks made this the perfect case to strongly challenge. Thousands of leaflets were distributed, urging blacks to boycott the city buses on December 5, the day Rosa would have her day in court.

The 1-day boycott was a tremendous success. Later that day however, Ms. Parks was found guilty, and fined $14. Local black leaders then met and it was decided that the boycott must go on until the segregated policies of city buses were ended. On December 8, 1955, the Montgomery Improvement Association was organized and a leader was chosen. He was a well-educated, philosophical, and eloquent 27-year-old man by the name of Rev. Martin Luther King, Jr.

While the NAACP was taking the case to the courts, the 50,000 black citizens of Montgomery were taking to the sidewalks. For those who needed rides, black cab drivers gave free rides and special deals, and 350 cars were organized into the "motor pool," which some sympathetic white supporters helped fund. It was an awesome example of community unity and dedication to a cause. The novelty and thrill that people got from the first day of the boycott died off quickly. For most boycotters, the impositions and sacrifices were tremendous, if not painful. Many black workers had to walk up to 2 hours back and forth to work every day. These were not the only hardships and obstacles. Leaders were jailed on false charges, Reverend King's home was bombed, and Ms. Parks and others were fired from their jobs. Yet, they kept walking. They walked through the rainy days, the humid and hot days. They walked through the winter, through the spring and summer, through the fall, and even into winter again. Throughout all this time, neither the force nor the peacefulness of this protest ever waivered. To King, the means were as beneficial to American blacks as the ends they were seeking. According to King:

> Nonviolence had tremendous psychological importance to the Negro . . . This method was grasped by the Negro masses because it embodied the dignity of struggle, of moral conviction and self-sacrifice. The Negro was able to face his adversary, to concede to him a physical advantage and to defeat him because the superior force of the oppressor had become powerless. . . . I am convinced that the courage and discipline with which Negro thousands accepted nonviolence healed the internal wounds of Negro millions who did not themselves march in the street or sit in the jails of the South. One need not participate directly in order to be involved . . . to have pride in those who were the principals . . . to restore to them some of the pride and honor which had been stripped from them over the centuries.

Rosa Parks was one of those principals who generated by her example, pride and inspiration. To blacks, according to King:

> Rosa Parks was their heroine. They saw in her courageous person the symbol of their hopes and aspirations.

On November 13, 1956, over 11 months after the start of the boycott, sweet victory came at last. While the bus company had not given in yet, the Supreme Court, affirmed a special lower court ruling, declaring that the State and local laws of Alabama that required segregation on buses were unconstitutional.

After 60 years, the Plessy against Ferguson, "separate but equal" ruling had finally been overturned. It was a glorious triumph for blacks and civil rights supporters all over the country. Montgomery blacks were forced to continue the boycott right up until December 20, 1956, when the Supreme Court order to end segregation on buses, was finally delivered to Montgomery. The boycott had lasted 382 days. The night of December 20, King proudly told an overflow crowd at a local church—

> We came to see that, in the long run, it is more honorable to walk in dignity than ride in humiliation. So in a quiet dignified manner, we decided to substitute tired feet for tired souls, and walk the streets of Montgomery until the sagging walls of injustice had been crushed.

When one ponders the magnitude of this victory and the positive impact it had on the civil rights movement, it only serves to further highlight the significance of that original valorous act of Rosa Parks that initiated the subsequent chain of events. Today, as much as ever, Rosa Parks serves as an inspiration to many, many people. In these times, when our current problems often appear to be so vast and seemingly insurmountable, it is too often felt that there is simply nothing that one person can do. Rosa Parks, however, is a living testimony to the idea that an individual person, dedicated and committed to a cause, can make a difference. She is symbol to all, of those brave human rights warriors, who though usually unknown, have refused to simply "go along" in the face of injustice, and as a result have helped us keep on course to a more equitable society.

On December 1, 1955, Rosa Parks said "no" to a misguided busdriver, but in doing so she said "yes" to human dignity, and "yes" to the belief that all citizens deserve equal protection under the law. On that day, Ms. Parks, staying seated, was standing tall for concepts and beliefs which are fundamental tenets of our country and Constitution.●

TRIBUTE TO ROSA PARKS

● Mr. RIEGLE. Mr. President, with a singular act of personal courage and determination, Rosa Parks helped lead our entire Nation into a new day of more equal justice for our people. Her decision to take a seat in the front of the bus in Montgomery, Ala., started a process by which black people and other minority people in America could begin the move to the front of the bus in all sectors of American life.

Despite the substantial progress we are making here in America in achieving a full measure of civil rights for our people, much hard work remains in removing barriers that continue to deny full citizenship to many of our people. Rosa Parks stepped forward at a critical moment and by so doing lifted our vision of what was possible. Hundreds of thousands of persons—eventually millions of persons—decided to match her act of courage with other personal acts of courage of their own and a great wave of human progress has followed.

We have a need today for other Rosa Parks to step forward against injustice in other aspects of our national life. Our national commitment to equality and justice are responsibilities that fall to each American citizen to fulfill. In acknowledging the great contribution of Rosa Parks, the most fitting tribute we could pay would be to search those areas of our own daily life where personal initiatives by ourselves could help change things for the better.

We in Michigan are immensely proud to have Rosa Parks among us as a citizen of our State and a living symbol of the timeless fact that one person, acting in conscience, can make a lasting difference.●

BUSING

● Mr. HAYAKAWA. Mr. President, for many years I have been opposed to the practice of busing children to schools outside their neighborhood. I was pleased that the Senate courageously moved to eliminate this practice which has been unfair to so many children for too many years. I participated in the discussion of the amendments offered by my distinguished colleagues, Senator WEICKER and Senator HELMS, to the State, Justice, Commerce, and judiciary appropriations bill, when, in the true spirit of the Senate, the issue of busing was heatedly debated. At this time, I would like to offer to my colleagues an article that I wrote in 1975 which, Mr. President, accurately expresses both my feeling and the feelings of my constituents whose children face lengthy bus rides every day simply to attend school.

The article follows:

LET'S BUS PTA'S, TEACHERS, THEN CHILDREN

(By S. I. HAYAKAWA)

A community is where you know the people and they know you—where, as a child, you knew the kids for blocks around because you went to school with them. As you grew up you learned to cope with a larger world outside because you had first learned to cope with your own community.

For many of us in urban American life, there is little community. We live on streets or in apartments where we do not know our immediate neighbors. Most of us are among strangers the moment we step out of the door.

An American who had lived three years in Japan told me the other day that when he lived in Tokyo the policeman on his neighborhood beat reached retirement age and a younger man was brought in to take over the assignment. For several days the retiring officer took the young man to call on every home and shop in the area to acquaint him with the people he was to serve.

What a wonderful idea, I thought. Whatever the advantages of squad cars and motorcycles—and I grant they have advantages—they create a social distance between the police officer and his public. Apparently in Japan they do not leave the matter of a policeman getting acquainted with his neighborhood to chance. They ritualize his entry into the community, as they ritualize so many things in Japan.

Of course, it takes much more than a cop on the beat to create a sense of community. But what are some of the other necessary ingredients? Certainly a community must have many residents who have lived there a long time—and by a long time one would mean in Japan two or three generations, and in an American city perhaps 10 years.

Churches also add a sense of community—but over half the population doesn't go to church. Public schools are among the few forces in an American city that bring us together in a sense of community.

The 1954 Supreme Court decision outlawed legally enforced segregation of schools by striking down the "separate but equal" doctrine. But the decision did not order integration. However, that is how it came to be interpreted by the eager beavers of egalitarianism.

When busing children across town for the sake of racial integration began to be proposed, a few voices were raised to protest the breaking up of neighborhoods. Let's preserve neighborhood schools, they said. But the pro-busing forces insisted that the demand for neighborhood schools was a disguised expression of racism—and charged on with their program.

Elementary school teachers—they are supposed to be experts on child development--protested surprisingly little against forced busing, no doubt because it was by then by definition a "liberal" cause. Teachers above all know that a child needs neighbor children to play and go to school with and a community to grow up in.

The orthodoxy of schools of education has taught for many decades that it is bad for pupils to have to undergo frequent changes of schools. This is why teachers have always worried over the children of transient construction workers, migratory farmhands and the military.

Nevertheless, busing to produce racial balance became a dogma, and problems arising from trying to mingle children of different cultural backgrounds and income levels were all too often ignored. The result, as everyone now knows, was the flight of many families to the suburbs, much population movement within the cities, neighborhood disintegration—and increased segregation.

Some of the disastrous results of busing might have been avoided, perhaps, by approaching the matter step by step, first by busing Parent-Teacher Associations from one neighborhood to another, so that the black Mrs. Jones and the white Mrs. Jones could prepare their children for the interracial encounters to come. Next, the teachers might have been bused, enabling them to get accustomed to each other, learning from each other the special problems of the other race.

But no, we had to put the whole burden on the children, creating problems so serious as to result in a movement for a constitutional amendment forbidding busing for racial integration! Thus do we have to bring big guns to bear on a problem that could have been solved earlier and better with small bore solutions.

Meanwhile the average level of achievement in reading, writing and arithmetic continues to decline throughout the country. Why? I think it's because we give the schools too much to do—not only to make all children literate, which is a big enough job in itself—but to solve, in a single generation, the results of 300 years of racial injustice.

Let's stop giving the schools too much to do. Let's stop expecting children to solve what adult organizations—businesses, labor unions, lodges, and above all churches—have not yet been able to solve.●

SENATOR LLOYD BENTSEN ON THE ECONOMY

● Mr. RIBICOFF. Mr. President, no one is more knowledgeable and perceptive than Senator LLOYD BENTSEN in the field of economics and the future of our Nation. At the Congressional Economic Conference, Senator BENTSEN gave a speech of great significance. All of us can learn from his thoughts on confronting the problems of inflation, declining productivity, and the competitiveness of the United States in world markets. His remarks point the way to successfully resolve the economic challenges of the 1980's. I submit Senator BENTSEN's speech to be printed in the RECORD.

The speech is as follows:

REMARKS BY SENATOR LLOYD BENTSEN

On behalf of the Joint Economic Committee—and as a member of America's newest minority—I want to thank all of you for joining us today in Washington and contributing to the success of this conference.

You are here during a period of domestic change, and I can tell you it is sometimes difficult adjusting to the new order in the Senate.

Just this morning I had some last-minute scheduling problems, so I called my good friend Howard Baker, told him what a wonderful meal we'd be having this afternoon, and asked if he could switch appearances with me at the conference.

Howard said, "Well, I'd sure like to help you out, Lloyd. But I think we've already eaten your lunch."

So I think it's safe to predict that the next few years will be an interesting time in the Senate. They will also be a very critical period for our nation, which is facing its most difficult and dangerous economic crisis since the Great Depression.

We are here today because we understand that the challenge of the American economy transcends politics. It goes far beyond our special—and legitimate—concerns as labor leaders, businessmen, minorities, consumers, or elected officials of both major parties.

We are here because we recognize that the future of America hinges on our ability to regain control of our economic destiny, to hammer out a new consensus on where this country is headed and how we want to get there.

That is the challenge of the eighties and that is what this conference is all about.

Since I have only a few weeks remaining as Chairman of the JEC, I will throw modesty to the wind and tell you how proud I am of the Committee and the fact we are hosting this conference.

During the past two years the Joint Economic Committee has provided the best evidence I have seen that liberals and conservatives, majority and minority, can actually agree on the economic problems troubling America and the best way to resolve them.

We have demonstrated that it is possible to overcome two decades of partisan bickering and get twenty members of the House and Senate to agree unanimously on bold new economic policies for the future.

The diversity of America is evident in our Committee and at this conference. But so is a deeper sense of unity and shared purpose that has always been the secret of America's success.

Our task is to forge unity from diversity. In the Senate we must demonstrate that bipartisanship can be more than a slogan. I'm confident we can do it; we can work together to turn our economy around.

I'm ready to work with President Reagan, his Administration and the new Senate leadership to restore stability and real growth to the American economy. To provide the incentives for savings and investment that will increase productivity and create millions of new jobs, millions of new opportunities, for all our people.

I'm not going to tell you that we shall always agree; you wouldn't believe me if I did. But I can promise you that we will walk the extra mile in the search for consensus. We will aim at the same objectives and if we can't agree on the best means to attain them we shall offer responsible, constructive alternatives.

We've got to start today, because there will never be a more promising time to attack our economic problems. Years ago American scientists probing the frontiers of space saw a once-in-a-lifetime opportunity. They say the planets of our solar system nearing an unusual alignment in which a single satellite launched from Earth could survey Mars and Jupiter, Saturn and Neptune.

With American technology and know-how, we were able to exploit that opportunity. We created Voyager II; we sent it on a brilliant, flawless mission of more than a billion miles. And today we have opened up new horizons of understanding in our universe.

As President-elect Reagan prepares to assume office next month, he will have the opportunity to take advantage of a promising alignment of forces in our economic universe. We have a once-in-a-lifetime opportunity to succeed in the future where we have failed in the past.

Recent studies, for example, have suggested that we can deal more effectively with even deep-seated inflation if the public is convinced their government has a workable fiscal and monetary plan to stop it.

For the past fifteen years inflation has been a fact of life in this country. We raise prices, wages, rents and interest rates to accommodate it. We jaw-bone, we stimulate demand, we prime the pump and then we pump the prime. The only rational expectation is for more of the same. Policymakers have failed to demonstrate either the will or the means to overcome inflation.

But today we are at a watershed. We await a new Administration that has promised and won a mandate for new approaches to old problems. People are alert and watching. For the first time in a long time they are ready to take a new look at their inflationary expectations. They are willing to give a new Administration the benefit of the doubt.

That's only the beginning of the good news. Back in the days when all the pundits were predicting a cliffhanger on November 4, I was saying we would see a whole new emphasis in economic policy regardless of the election outcome.

Today, in the cold light of December, we can see the clear outlines of agreement on the pillars of a new economic strategy for the eighties.

We see Republicans and Democrats, business and labor lining up behind policies to increase productivity in our economy, to encourage more spending by the private sector and less by government, to reduce the tax burden, to restore freedom and incentives to our economic system and to blow away some of the regulatory fog that shrouds our economic performance.

Sure there are differences—important, vital differences—that must still be resolved.

We must establish that regulatory reform does not mean dismantling the safeguards that have brought America cleaner water, cleaner air, a safer workplace and an honest understanding of product content. Then we can all agree that cost effectiveness has a vital and legitimate place in the regulatory process.

We must establish that "supply side economics" is not some buzz word for a business bias in tax policy. Then we can all agree that policies encouraging our economy to produce goods and services more efficiently will enable us to beat inflation with production lines, not unemployment lines.

We must establish that a tax cut carefully designed to increase productivity, encourage job-creating investment, and help individuals cope with bracket creep and higher social security taxes need not be inflationary. Then we can agree that new depreciation schedules to encourage massive investment in our economic future will pay handsome dividends for all segments of our society.

Our workers and customers, our businessmen and minorities, our public and private sectors will never see eye to eye on every issue. But they can—and they must—stand prepared to bargain with tolerance and good faith to seek the unity and consensus that is vital to our future strength and prosperity.

Congress deals in public policy and may have the easiest job of all. We have heard the voters and they have spoken in angry voices. We have no real choice but to heed the call for some fundamental changes in the way government conducts its affairs.

But the search for solutions to America's problems must extend beyond the realm of public policy. It must reach every group or interest represented at this conference.

We count among our guests today some of the top managers of American business, some of the best educated and most professional executives in the world. But all too often they operate with goals imposed by the financial community that are counter-productive to the long range interest of our economy.

The top levels of American management today have a vested interest in short term success and profitability, because that is the time frame in which their performance is judged. Bonuses and tenure are based on corporate goals as short-term as a politician's next election.

There are exceptions, of course, but too many managers today are reluctant to devote scarce resources to the sort of research, development and global marketing activities that will pay off during the tenure of their successors.

Until the American business community is willing to look and plan beyond the short term, we will have problems with productivity and inflation regardless of what we do in the area of public policy.

Labor has an equally important role to play in the long-term battle against inflation. The word "productivity" has been a red herring for too long. Some people think it means machines replacing workers. Others believe it is a veiled call for American labor to work longer and harder on the job.

Both those stereotypes are wrong. The industries with the highest rates of productivity increases are the strongest, most competitive sectors of our economy. They are the areas where employment opportunities—solid, well-paying jobs—are most readily available.

Increased productivity is a bonus for labor; it is good for business and for the consumer. It is a key element on the road back to stability and real growth to our economy.

No, the American worker is not to blame for the fact that we have the lowest rate of productivity growth in the industrialized world. Lagging productivity in our economy is a result of tax and fiscal policies that discourage investment in new plant and equipment. And the only answer to the problem is incentives for investment that will place the most modern tools of production in the hands of the American worker.

We've lived with our economic problems long enough to recognize that there are no simple or painless answers, no magical cure for the plague of inflation.

A bipartisan Congress will help, but it won't be enough. Bipartisan means two parties—in this case Republicans and Democrats. But we have seen at this conference that both the source of our problems and their solution involve more than two parties.

For a decade our country has been in the grip of a centrifugal force. We have suffered political paralysis; major groups have been warring against each other, straining the fabric of our unity. Labor and management, business and the regulators, the individual and the government, Congress and the bureaucracy, Sunbelt and Snowbelt, consumer and marketer. The list goes on and on. In the absence of consensus, there has been little effective action. We have let our problems build to a critical mass.

This conference will be a success if we can set aside the differences of the past and work together to achieve the unity that is the true strength of America. When we're united, this country has the assets to overcome any challenge and succeed as never before in our history.

I don't know about you, but I get awfully tired of listening to foreign leaders criticize America. With most of them, our problems would be their solutions.

We worry about energy, but it is a fact that we produce half the energy we consume in America. Competitors like Japan and Germany would love to have our energy resources.

We talk about unemployment, but it is a fact that we've created 9 million new jobs in three years. No other nation in the world could even come close to that achievement.

We talk about instability, but it is a fact that the smart money from all over the world is beating a path to our door, seeking to invest in America.

Why? Because this is the greatest market, the most stable democracy, the freest economy in the world. And because America is being sold below book value.

There are over 4 billion people in the world today and half of them would brave any danger to come here tomorrow if they could share in America's freedom and opportunity.

Make no mistake about it. For billions of people, America still represents the dream of a better, freer, brighter tomorrow.

We who are living that dream have an obligation to preserve it. As we stand at the doorway of a new decade and a new Administration, let us resolve to seek a new consensus and work together to build a prosperous, dynamic and secure America that can look with confidence to the challenges of the future.●

FAIR HOUSING AMENDMENTS ACT

● Mr. DOLE. Mr. President, the Senate has voted to end the week-long filibuster of the Fair Housing Amendments Act. As a cosponsor of this legislation, I was deeply concerned about this delay in the consideration of this bill, which would strengthen the weaknesses that exist in our current housing law.

On Friday, December 5, the Senate voted to invoke cloture on the motion to proceed to consideration of the Fair Housing Act. The Senator from Kansas voted for cloture because it was his belief that the differences that existed among the proponents and the opponents of this legislation could be worked out. After negotiating with members of both groups, night and day, it became apparent that a compromise that would be satisfactory to both parties could not be agreed upon. Faced with this reality, the Senator from Kansas voted against invoking cloture. By unanimous consent, the Senate had agreed that if this cloture vote failed, the Fair Housing Amendments Act would be pulled from consideration by this body.

FAIR SCHEDULING

Mr. President, the question of fair housing is not a matter that is new to the Senate. In 1968, the Civil Rights Act was enacted. That act outlawed discrimination in housing on account of race, color, religion, national origin, and sex. It established as a national policy that a black person, for example, who had the money could not legally be denied the purchase or rental of a selected dwelling. Unfortunately, this act provided for inadequate enforcement. The need for strengthening the enforcement of this act has been set forth over the past 10 years in hearings begun by the Subcommittee on Civil and Constitutional Rights in the 92d Congress and in each Congress through the 96th.

Mr. President, for 10 years, this issue of strengthening this Nation's fair housing law has been before this body, and with less than 10 days to go until the scheduled date of adjournment of this Congress this matter was brought up on the floor of the Senate for debate. This bill was reported by the Senate Judiciary Committee in August. The Senate did not have to wait until the 11th hour to consider such an important piece of civil rights legislation. Mr. President, the Senate should debate the real issue here, which is not fair housing but rather fair scheduling.

COMMITMENT TO FAIR HOUSING

The groups that would have benefited most from this legislation should not be disheartened by today's vote. The majority leader elect has stated his commitment to having the Senate consider next year legislation that would strengthen the Fair Housing Act. The Senator from Kansas has been and will continue to be committed to working to remedy the deficits that presently exist in this Nation's housing laws. No house or apartment door should be closed to any American who is in need of a place to live.

Mr. President, housing discrimination persists despite current law. It is incumbent upon us to provide an effective weapon in the struggle for equal housing opportunity. The Senator from Kansas looks forward to the consideration and enactment of legislation that goes beyond a mere statement of principles on fair housing and creates an effective and meaningful enforcement system.●

GOV. OTIS R. BOWEN OF INDIANA

● Mr. LUGAR. Mr. President, on January 12, 1981, Gov. Otis R. Bowen will leave the Governorship of the State of Indiana, after serving 8 distinguished years as chief executive of our State.

Throughout my long friendship with "Doc" Bowen, I have marveled often at his personal witness, his compassion tempered by toughness, and his farsightedness as a public servant genuinely concerned about the future of our State, the future of public service in general, and the future of his political party. Otis Bowen has been courageous in pointing out the things that needed to be done in the long term, and sensationally successful in performing the immediate tasks at hand.

The citizens of Indiana have trusted Doc Bowen because he proved that he was worthy of that trust. Seven years before the term "tax revolt" entered the lexicon, Doc Bowen saw the unfairness of a tax system that loaded an abnormal burden on property owners. He ran for election on a promise of reform. That reform involved raising some taxes that others might be reduced, and tightly controlling local spending.

Political observers chuckled at the naivete of such forthrightness. Opponents in both political parties smacked their lips at the possibilities for distortion and fearmongering opened up by the bold specifics of the Bowen program. Cynics predicted that, even if Doc Bowen should survive his own candor and be elected, his promise would never be fulfilled.

They were all wrong. Doc Bowen was elected, by a large margin. His program was effected, over very tough opposition, through the Governor's own tireless efforts. And the property taxpayers of Indiana were big winners.

Per capita property tax collections in Indiana fell from 11 percent above to 15 percent below the national average as a direct result. By 1978, the average property tax rate in our State was $7.11 per $100 of assessed valuation, compared to an estimated $12.72 if the Bowen program had not occurred. The program is still in place, protecting taxpayers, taming governmental appetites, and attracting new business and jobs to Indiana.

The voters of Indiana expressed their confidence in the Governor by electing him to an unprecedented second term by a massive landslide.

Dr. Otis R. Bowen has displayed throughout his public career a keen sense of personal physical capacity. He has known himself. He has had, perhaps, through his discipline as a physician, a very good idea of the physical capacity and limitation of others. And he has been a student of human nature who had a good sense of humor in his public statements and an equally good sense of humor in private meetings and negotiations.

Courage and dedication run abundant in the Governor's family. His devoted and dedicated wife Beth has also won the praise of Hoosiers, through her tireless efforts and forthrightness, and the warm and personal manner in which she performed her duties as the State's First Lady. Our prayers and good wishes go out now to Beth as she continues to wage a courageous battle against illness. Her role as a generous and loving wife and mother have earned her a place in every Hoosier heart.

Mr. President, Otis Bowen has come to personify the State of Indiana. He embodies our State at its best. Doc Bowen is a man of remarkable intelligence, a man of commonsense, a man who combined so many talents all in one fruitful career of public service. We are humbly grateful that he has been among us, and each of us will always treasure the memories of our friendship and ways in which we served shoulder to shoulder together. Doc Bowen will be deeply missed by the people he served, and we do not expect to see his like again.

Mr. President, I ask that a biography of Gov. Otis R. Bowen, listing his many accomplishments and his service to our State, be printed in the RECORD.

The biography follows:

GOV. OTIS R. BOWEN

Otis Ray Bowen (Republican) was born near Rochester, Indiana, on February 26, 1918. Governor Bowen earned a bachelor's degree in chemistry in 1939 and an M.D. degree in 1942, both from Indiana University. After interning at South Bend Memorial Hospital, he was inducted into the U.S. Army. The Governor was part of an advance medical unit that landed on Okinawa just behind the first wave of American invasion troops. After the war, Governor Bowen settled in Bremen, Indiana, where he maintained a medical practice until he became Governor. He served four years as Marshall County coroner, then served in the Indiana House of Representatives, 1957–58 and 1961–73. He was Speaker of the House from 1967 to 1973. He has been Governor of Indiana since January 1973. When he completes his present term, he will be the first Governor in Indiana history to serve eight consecutive years in the statehouse. Governor Bowen serves on the Executive Committee of the National Governors' Association and is chairman of the Republican Governors Association and the Midwestern Governors' Conference. He is past chairman of the Education Commission of the States, the Interstate Mining Compact, and the National Governors' Association Committee on Criminal Justice and Public Protection.

Member: Indiana Medical Association, American Medical Association, Indiana University Medical Alumni Council, Kiwanis Club, Chamber of Commerce, Alpha Omega Alpha, Phi Beta Pi, Delta Chi. Married, four children. Lutheran.●

FAIR HOUSING LEGISLATION

● Mr. BENTSEN. Mr. President, I am strongly in favor of a fair housing bill. The issue of civil rights is one of the most important that this body must debate and decide. The decisions we make about the provisions of any civil rights bill should be fully discussed and all Senators representing each and every State of this country, must be heard and heard completely.

Mr. President, I voted against cloture for this bill because the debate that must take place on such a fundamental issue cannot take place at such a late date in a lameduck Congress. The views of the people cannot be heard, discussed and resolved. A lameduck Congress in the 11th-hour is not the place for the careful, reasoned and probably prolonged consideration that such a major piece of legislation must have.

A vote against cloture on this bill is in no way a vote against fair housing nor a vote against civil rights. On the contrary, Mr. President, a vote against cloture is indeed a vote for civil rights. It is a vote for the civil rights of all those people and groups who have the right to be heard and to have their concerns incorporated into our action. It is a vote that signifies that the time is too short, the hour too late, to give all these views the full airing that they deserve.

I have been participating in the discussion among Senators and I have found that in each case that there were legitimate concerns that were being raised about the provisions of this bill. There were concerns, for instance, that this bill gave too much power to the executive branch of the Government. It is clear that the American public wants the Government cut back, not spread into more areas of their lives. Most Americans, however, would support the right of citizens to carry their grievances through the judicial system. This difficult issue is only one of the many that were causing Senators to feel that the time it would take to fully air all the concerns of all the people of our States, simply did not exist. There was a feeling that if we rushed into the bill we might end up doing more damage than good.

Mr. President, I believe that the 97th Congress will take up this bill next year and that when we do, we will be able to produce legislation that will satisfy the concerns of all parties. The debate will be long and hard but an issue of such fundamental importance to this country simply deserves no less.●

ONE NATION INDIVISIBLE?

● Mr. HUDDLESTON. Mr. President, with this continuing resolution, we are again addressing the problem faced with the Lau regulations which were proposed by the Department of Education. When the first continuing resolution was passed by the Congress in late September, language was included which I cosponsored to prevent the Secretary of Education from using funds to adopt or enforce any final regulations for bilingual education before June 1, 1981. It was felt that this delay would give the Congress sufficient time to study the issue of bilingual education while examining all of the possible ramifications that the enforcement of the proposed regulations would have on the children and the school districts of our country. This second continuing resolution which we are considering today, also includes this prohibition and again reminds us of our commitment to fully study this issue before imposing arbitrary standards whose validity is questioned even by the best educators in our country.

In discussing the issue of bilingual education, I believe we should also be aware of the long-term results of promoting an educational system in this country that would tend to segregate various groups of people rather than encourage their assimilation into our society. This fact was well stated in a recent article in Newsweek magazine by Henry E. Catto, Jr. I believe that Mr. Catto's ideas should be considered during the coming months as the issue of bilingual education is examined by the Congress.

I ask that the text of the article be printed in the Record at this point.

The article follows:

[From Newsweek, Dec. 1, 1980]

Our Language Barriers

(By Henry E. Catto, Jr.)

By the end of the next decade it is entirely possible that the United States will once again confront the fateful choice it faced in 1860: schism or civil war. The cause this time will be language, and the crisis will have resulted in no small measure from government policy.

Two recent events, coming with dramatic simultaneity, foreshadow this bleak future. The separatist election in Quebec showed the grim danger of two competing languages within one nation. And the Spanish armada of Cubans fleeing their wretched homeland is a clear reminder that it is happening to us. Unfortunately, like some vague vatic dream, the memory will fade and we will do nothing to avert the problem until it is too late.

The American tradition has been, of course, for each wave of immigrants to put aside its language, save for special occasions, and learn English. But in the mid-60's, understandably anxious to overcome the problems of minorities, the Federal government in its zeal unwisely abandoned this tradition.

The beginning of it all was innocuous enough. The Elementary and Secondary Education Act of 1965 was amended by a $7.5 million pilot program that would allow a Spanish-speaking student to be taught his basics in Spanish; as his English improved, he would switch into it and not lag behind his peers.

BRAINCHILD

In 1967 I testified in favor of this project before Sen. Ralph Yarborough's subcommittee. The bill was the brainchild of liberal Democrats. Its sponsors thought the favorable opinion of a south Texas Republican Spanish-speaker such as myself would be helpful. Aware of the benefits of being bilingual, I obliged. I know from experience that command of more than one tongue is enormously useful. In commerce, government or society in general, multilingualism is a helpful tool and a mark of sophistication. The trend in America away from foreign-language study is a cause for legitimate concern. I have, however, come sorely to regret having testified for the pilot program; for, in the way of things governmental, the winsome babe has, in its maturity, turned monstrous.

The problem started in the courts. In 1974, in the case of *Lau* v. *Nichols*, the Supreme Court ruled that Chinese-speaking students in San Francisco were being discriminated against by being taught in English. It ordered relief but did not specify what form the relief should take. The office of Civil Rights of the Department of Health, Education and Welfare could have gone two ways to implement the decision: increase special English instruction or impose teaching in Chinese. With an unerring instinct for disaster, it chose the latter. Consider some of the results.

First, and most bizarre, students now have the right to be taught not only in Chinese or in Spanish, but also in Aleut, Navajo, Apache, Japanese, Yiddish, Russian, Tagalog, or any one of 60-odd additional tongues.

Second, the cost of the program, borne on the wings of the Lau decision, has soared. In 1981 it is projected to be $192 million, a beautiful example of how governmental acorns grow. Thus far, the program has cost $942,063,000.

Third, school districts (some 300 of them throughout the nation) which do not satisfactorily comply with these guidelines face a cutoff of vital Federal funds. A "bilingual/bicultural" program is mandatory if there are twenty or more students of similar linguistic background in a district. There is no compelling law of the land in this loss of local control over local education. There are only proposed Department of Education regulations. Congress, in spite of the perversion of its idea, docilely continues to provide the funding which makes the travesty possible.

Finally, and not surprisingly, a vocal constituency in defense of the status quo has sprung up. The principal defenders are mostly Hispanics, a healthy sprinkling of the New Left reformers and teachers' organizations for whom bilingualism provides the twin treats of a cause perceived as progressive to fight for and thousands of teaching jobs. The whole matter reached the height of absurdity recently when the New Jersey teachers' lobby went to court to overturn a state rule requiring that teachers in bilingual programs be able to speak English. The New Jersey Education Association thought this rule to be racist, and it was clearly inconvenient for many teachers who could not speak English. As The New York Times tut-tutted editorially, bilingual is bilingual: ". . . it is one thing for any group to choose to lead a bilingual life, quite another for it to try to turn America into a bilingual society." The Federal court in Trenton fortunately ruled for inconvenience and upheld the state.

MAGNET

Is there no way to turn the tide? Probably not. Floods of illegal immigrants continue to pour in from Mexico, Central America and South America. While some of these Spanish-speakers are dispersed throughout the country, many remain concentrated near their points of entry—in Florida, Texas, New Mexico, Arizona and California. For these people, assimilation in the historic tradition is difficult. One can listen to Spanish radio, watch Spanish TV and even vote in Spanish. Add education in Spanish as a right, and the melting-pot principle is in danger. Indeed, Dr. Josue Gonzalez, head of the Department of Education's bilingual program, is publicly on record as welcoming its end.

Here then are the ingredients: huge numbers of Spanish-speakers resident in the Southwest, supplemented by uncontrolled immigration; the linguistic magnet of Mexico, and the restless hunger of politicians for votes. Add a government policy whose results inevitably weaken the absolutely basic social cement of language (a policy which, incidentally, condescendingly implies that the Spanish-speaker, unlike the Italian, Swede, or Russian before him, cannot "hack it" in English without special help). The result: trouble. One nation indivisible? Don't count on it.●

TRIBUTE TO PHILIP KLUTZNICK

● Mr. PACKWOOD. Mr. President, it is with great personal pleasure that I commend the performance of Philip Klutznick as Secretary of Commerce. Though he held the job for less than a year, he developed a strong working relationship with members of the Senate Commerce Committee and the full Senate and kindled a spirit of cooperation that often resulted in victories for his causes.

One reason Klutznick was able to bring such a high level of accomplishment and professionalism and such high expectations to the Commerce Secretary's job was that he himself is a successful businessman who understands trade, the marketplace, banking, and finance. He demands high quality work from his associates at the Commerce Department and he is seldom disappointed. Klutznick established very early in his tenure as Secretary the fact that he would tolerate none of the behavior associated, rightfully or wrongfully, with Federal jobs. As a result, mail has been answered on time, absenteeism is down throughout the Department and, because productivity is high, morale is high.

My personal relationship with Phil Klutznick goes beyond the hearing rooms and hallways of the Senate Office Buildings. Over the years we have met frequently and worked together on one cause we share: The preservation of a strong, independent Israel. He and I agree there can be no less.

Klutznick's history of service to his country goes back way beyond this year as Secretary of Commerce. He served on several U.S. delegations to the United Nations under both Republican and Democratic administrations. He also served as an economic advisor with the Committee for Economic Development and as a board member of the National Bureau for Economic Research.

Aside from his public service, Klutznick is one of the prime real estate developers in the Chicago area. He is primarily responsible for developing the Chicago suburb of Park Forest and for the construction of Chicago's Watertower Place, a 74-story building that contains a hotel, condominium apartments, shopping mall, theaters, and offices.

Klutznick's private and public record is lengthy and could fill pages. Let it suffice to say that he has given tirelessly of himself to serve his country both by contributing to the free enterprise system and by lending his personal expertise and brillance to Government service.●

SALT

● Mr. BOSCHWITZ. Mr. President. I submit for the Record a most insightful editorial on the SALT process by Rowland Evans and Robert Novak.

In light of speculation about the future of arms control in the Reagan administration, this editorial is certainly pertinent.

The article follows:

A SALT Ally, Unexpectedly

President-elect Ronald Reagan has found an ally for his prudent, go-slow approach to a new strategic arms control treaty in an unlikely place: President Jimmy Carter's Oval Office.

When Carter last year quietly put his signature on a classified, unpublished presidential directive known as PD50, he radically transformed his administration's pellmell approach to the SALT process. He also unwittingly handed his successor potent political ammunition by ordering that all future arms control proposals be "fully supportive of our national security."

Reagan has every intention of keeping arms talks with the Soviets in limbo until he has analyzed overall national security needs. That will not happen until his new national security team in the State and Defense Departments and at the Arms Control and Disarmament Agency has completed "cleaning up the wreckage" of the last four years (as one Reagan aide told us). That means it will be months from now—possibly late summer—before Reagan is ready for anything resembling serious nuclear talks with Moscow. On Arms control, Reagan is not a man in a hurry.

The President-elect and his top advisers want first things first. Before addressing complex arms control questions with the Russians, Reagan wants to lay out all defense requirements of the United States. That includes force levels for both weapons and manpower, the likely need for futuristic anti-satellite warfare, the possible necessity for a much-expanded nuclear testing program, exactly how the powerful new MX missile should be fitted into the nuclear arsenal and much more.

"There is no SALT negotiating strategy now and won't be for quite some time," one Reagan adviser told us. "Gov. Reagan is not about to move into that area in any haste."

The contradiction between Reagan's first-things-first approach and the unseemly haste that galvanized Carter and his arms control lobby four years ago is both real and symbolic. Even before taking the oath of office, Carter was issuing orders to the Joint Chiefs of Staff for studies pointing to radical reductions of long-range nuclear missiles. SALT came first, and all else hung from it. With Reagan, overall defense strategy comes first.

But Carter had undergone significant change by Aug. 14, 1979, when he approved PD50. That was two months after his SALT II treaty with the Russians ran into a hornet's nest of political opposition. The presidential directive was attacked and ridiculed privately by the arms control lobby still riding high in the Carter administration. But Carter stuck to it.

Written by a senior Soviet specialist on Zbigniew Brzezinski's National Security Council staff, the directive now turns out to be a remarkable fit for the arms control philosophy of President-elect Reagan (who regards SALT II as a dangerous piece of paper he would never have signed).

Carter's switch to caution was signaled in three basic questions spelled out in PD50: Does arms control contribute to achieving U.S. defense and force posture goals? Will it restrain U.S. adversaries and help U.S. allies? Will it truly limit arms competition and truly reduce the "likelihood of conflict"?

How Carter, the convinced arms-controller, became converted from all-out enthusiast to healthy skeptic (despite campaign rhetoric attacking Reagan's alleged warmongerism) is hidden in the mists of contemporary U.S.-Soviet relations. One factor was the gradually emerging folly of the Carter State Department's pushing for Indian Ocean neutralization at the very time the Soviets were building immense new power along the contiguous shorelines of Asia and Africa. Another was the folly of negotiating a U.S.-Soviet limit on conventional arms aid to friendly foreign countries when the Soviets were pushing over $1 billion of arms on Ethiopia.

Whatever it was that changed Carter, his promulgation of PD50 now becomes strong reinforcement for the long, cold look that Reagan is giving the SALT process and other arms control fancies. After studying PD50 recently, one senior Reagan adviser told us: "It's a good document. It helps explain why Reagan would never let arms control drive his foreign policy."●

THE LEGISLATIVE PROCESS

● Mr. MOYNIHAN. Mr. President, as the 96th Congress draws to an end, I invite the attention of the Senate to a remarkable set of propositions concerning the legislative process set forth by Prof. Irving Younger of the Cornell Law School in an adaptation of his Charles Evans Hughes memorial lecture which appears in the current issue of Commentary.

The lecture concerns the near incomprehensibility of the process by which Congress now makes the laws of the land, and the near incomprehensibility of the laws which are made.

Several striking proposals are made. It is proposed for example that the courts begin to hold that no statute is validly enacted unless the Congressmen voting for it have read it.

Such a judicial standard would, I fear, invalidate just about every enactment of the 96th Congress.

Professor Younger hypothesizes that the day may not be far off when a U.S. District Justice will find the Internal Revenue Code unconstitutional on grounds that might be termed functional incomprehensibility thus holding a statute void for excessive complexity.

Written in a light spirit, Professor Younger addresses the most serious problem facing the Congress. I have written about it in other ways, and from different perspectives. I hope I have added something to our understanding of the subject, especially in the Lehman lecture which I gave in 1977 entitled "An Imperial Presidency leads to an Imperial Legislature leads to an Imperial Judiciary." In this I suggested that the migration of conflict techniques between the branches of government which has led to an entropic condition in all branches. What is entropy? It is a measure of the amount of extra work performed by the investment of extra energy in a system. In our system the ratio grows lesser all the time.

I conclude with a simple observation. The 73d Congress took office in March 1933, enacted the New Deal, and went home in March. Here we are in December, still unable to enact a budget.

I ask to have Professor Younger's article printed in the Record.

The article follows:

Socrates and Us

(By Irving Younger)

Socrates never wrote a word. We know of him because he taught Plato, who put him in some of the dialogues. Xenophon's *Memorabilia* mention him, and Aristophanes makes fun of him in *The Clouds*. He served with distinction as a common soldier, returning from the wars to become a nonstop philosopher. His purpose in the world, he thought, was to make himself and his fellow citizens better, and this he set out to do with wit, merriment, gaiety, and an intellect as great as any the world has seen.

The oracle at Delphi had been asked who was the wisest of men. Socrates, came the reply, whereupon Socrates decided to prove the oracle wrong. He roamed the streets and public places of Athens, questioning all he met—poets, politicians, laborers—hoping to find one wiser than himself. He was forced to admit at last that the oracle had been right. All men were ignorant, but Socrates knew that he was ignorant, which made him wiser than the rest.

In 404 B.C.E., the oligarchic party, led by Critias and Alcibiades, won power in Athens. Socrates was on their side. When Anytus's democratic party resumed office a year or two later, Anytus set out to humble Socrates. Because an amnesty barred any prosecution for supporting the oligarchs, Anytus instigated the indictment of Socrates for '"corruption of the young" and for the "practice of religious novelties."

Trial was by a jury of 501 Athenian citizens, a majority controlling. The prosecution spoke first. Then Socrates answered. Plato reports his speech in the *Apology*, a word which here means not to beg pardon but to justify one's life. This is what I am, says Socrates, and accordingly this is what I must do:

> So long as I draw breath and have my faculties, I shall never stop practicing philosophy and exhorting you and elucidating the truth for everyone that I meet. I shall go on saying, in my usual way, "My very good friend, you are an Athenian and belong to a city which is the greatest and most famous in the world for its wisdom and strength. Are you not ashamed that you give your attention to acquiring as much money as possible . . . and give no attention or thought to truth and understanding and the perfection of your soul?"

The jury found Socrates guilty by a vote of 280 to 221.

The trial now proceeded to the question of penalty. First the prosecutor spoke, asking for the death sentence but probably assuming that once the jury heard Socrates' plea, the punishment would be something short of capital. In the mind's eye, every head turns to Socrates. He is elderly, though hardly frail. Short, muscular, with a face almost coarse in its strength, he begins:

> There are a great many reasons, gentlemen, why I am not distressed by this result—I mean your condemnation of me—but the chief reason is that the result was not unexpected. . . . However, we must face the fact that the prosecution demands the death penalty. What alternative penalty shall I propose to you, gentlemen? Obviously it must be adequate. Well, what penalty do I deserve to pay in view of what I have done? I have never lived an ordinary life. I did not care for the things most people care about; making money, having a comfortable home, high rank. . . . Instead, I set myself to do for you individually what I hold to be the greatest possible service: I tried to persuade each one of you not to think more of practical advantages than of his mental and moral well-being. What do I deserve for behaving in this way? . . . Well, what is appropriate for a poor man who is a public benefactor and who requires leisure for giving

> you moral encouragement? . . . If I am to suggest an appropriate penalty which is strictly in accordance with justice, I suggest free maintenance by the state.

Perhaps the jury grew restless at this point, wondering whether Socrates was being satirical. He responded by mentioning the possibility of banishment:

> Perhaps someone may say, "But surely, Socrates, after you have left us you can spend the rest of your life in quietly minding your own business." This is the hardest thing of all to make you understand. . . . I tell you that to let no day pass without discussing all the subjects about which you hear me talking . . . is really the very best thing that a man can do, and that the unexamined life is not worth living.

The jury voted again: 360 to 141. The penalty was death. Socrates spoke a third time. He accepted the sentence. He was content:

> No doubt it was bound to be so, and I think that the result is fair enough. Now it is time that we were going, you to live and I to die. But which of us has the happier prospects, only God knows.

What Socrates said to his friends in prison and the manner of his death may be read in the *Crito* and the *Phaedo* of Plato.

Now, in the thought of that man or woman who makes any pretense at all to humane culture, a central place ought to belong to Socrates. It was he who taught our world that traditional questions have rational answers. It was he who, by his conversation and example, showed that individual striving after the good is among the purposes of life. It was he who demonstrated the morality of each man's aspiration and so laid the groundwork for liberal democracy.

But there is more. The story of the trial of Socrates teaches a double lesson well worth pondering. First, the power of Athens was manifest not in king, emperor, judge, council, parliament, president, prime minister, or first secretary. It lay in the people themselves (which to an Athenian meant all free males). They heard the case; whereupon they voted; and thus the government of Athens had made a decision about Socrates. Popular sovereignty can go no further. This is democracy at its purest.

Second, the Athenian jury was untrammeled in its power. What it chose to do it was entitled to do, because in the people themselves lay its legitimacy. No opposing political force hedged it. No higher law confined it. Here was popular sovereignty supreme, limitless, above each and all; its achievement, the condemnation and death of Socrates. This is democracy at its most dangerous.

We are reminded by the trial of Socrates that power corrupts no matter where power resides, in the people no less than in a tyrant; and so it is that, however they are organized and wherever sovereignty be lodged, all governments need restriction. Without restriction, despotism is inevitable, though it go by the name of the people. Given restriction, liberty has a chance.

The founders of our nation knew as much. Their method of restricting governmental power is called constitutionalism. Above all the other laws of the land is a supreme law, the Constitution, which vests sovereignty in the people, as the first three words of the Constitution's preamble make clear, and which in Article I sets up a Congress of the people's representatives. My purpose here is to speculate upon that principal institution of our democracy, the seat of American sovereignty, and I begin by thinking some more about Socrates' trial.

The Athenian jury was popular sovereignty at its purest and most dangerous. The jury convicted Socrates and sentenced him to death because Socrates was a gadfly, stinging Athens with questions about truth and goodness and justice and how man ought to live. The people of Athens hated Socrates because they hated his questions. They had the power to kill him and they used it. But of course Socrates' questions did not go away. They remained with the Athenians in the person of Plato and his pupils; they are with us still. In short, democracy no less than other forms of government is capable of stupidity, and the chief stupidity a democracy needs to guard against is that exemplified by the Athenians' verdict against Socrates. To eliminate Socrates would eliminate his infuriating questions, the Athenians fancied. It would be so because each Athenian was the receptacle of sovereignty, the power of the state, and since the power of the state was supreme, whatever the Athenians wanted could be had merely by willing it to be so.

The premise of this logic is that the power of the state can accomplish anything. The premise is false. No government has been able to change the moment of sunrise by so much as a second. Sovereign power is political power, subject to the deficiencies and weaknesses of all political enterprise. This, democracy finds it peculiarly difficult to accept, perhaps because to abjure the false premise of omnipotent sovereignty is vividly to acknowledge the personal and specific frailties, imperfections, and sins of each and every one of the citizens from whom sovereignty derives. That is why fatuousness—the attempt to use political power to accomplish ends political power cannot accomplish—is especially a characteristic of democratic governments, as it was when Athens sought to rid itself of Socrates' questions by ridding itself of Socrates.

The prime symptom of democratic fatuousness is the fevered enactment of laws. Lacking all negative capability, the citizens try to use their sovereignty to sweeten every unpleasantness. They do it with statutes. Their response to adversity, to anything that goes wrong, is a law to fix it. In a democracy no longer healthy, government doesn't just throw money at problems. It throws laws.

Thus Tacitus, speaking of Rome, said: "The more corrupt the Republic, the more the laws." No less a thinker than Jean Jacques Rousseau saw the degeneration of Athenian democracy in the proliferation of its laws. In the literature of our times, the truth known to Tacitus and to Rousseau seems to have been misplaced. It is most nearly expressed in C. S. Lewis's *English Literature in the Sixteenth Century:*

> The modern theory of sovereignty is often called Austinian, but might just as well be called Johnsonian, for it is very clearly stated in [Samuel Johnson's] *Taxation No Tyranny:* "All government is ultimately and essentially absolute." On this view, total freedom to make what law it pleases, superiority to law because it is the source of law, is the characteristic of the state; of democratic states no less than of monarchical. That doctrine has proved so popular that it now seems to many a mere tautology. . . .
>
> We take it for granted that the highest power in the state, whether that power is a despot or a democratically elected assembly, will be wholly free to legislate and incessantly engaged in legislation.

How fares American democracy? Excluding private bills, Congress enacted 3,359 laws in the decade just ended. Adding in the product of state legislatures makes a scandalous total monstrous. In the 1970's, the legislature of the state of New York, for example, passed 9,780 laws. If the other forty-nine states are taken into account, the number of laws enacted in the 1970's is some 250,000—a quarter of a million separate statutes in ten years.

When Charles Evans Hughes taught at the Cornell Law School in the 1890's, its library contained about 10,000 volumes. Today it exceeds 300,000. In nine decades, a thirtyfold increase, a collection adding to itself on the average as many books every three years as it had altogether when Professor Hughes was among its users. That is, our generation has thirty times more law than our great grandparents' generation, most of that increase attributable to legislation. Inflation indeed! Will anyone venture to contend that with thirty times more law we are thirty times happier or wiser or better governed or more contented than our great-grandparents were?

What we should do to purge ourselves is obvious but impractical. We ought to declare a national emergency and, as Roosevelt did with the banks in 1933, impose, a moratorium on legislation. Padlock the capitol in Washington and close every state legislature for a year. That will give us the time we need to take stock, assess our purposes, canvass our means, and come to a true rather than a chimercial conception of the possibilities of law.

A more realistic suggestion follows. Legal inflation has corrupted the very process of legislation in ways not so much having to do with the substance of the laws as with the method and style of their enactment. The remedy would be the development of a kind of law of laws, a set of rules enunciating the minimum formal requirements which a purported statute must satisfy before it can be accepted as a statute *de jure*. It would no longer suffice, in the instance of a federal law, for example, merely that it be passed by Congress and duly approved by the President. At least four other rules would come into play, rules which could be brought into existence through litigation under one or another provision of the United States Constitution. Lawyers, get busy.

One. By contrast with Socrates' Athens, ours is a representative democracy. The country is too large and the population too immense for direct participation by the citizenry in the affairs of government. Hence to make the laws we elect representatives, through whom we govern ourselves. With increasing frequency in recent years, Congressmen have been heard to admit that much of the time they do not know what it is they are voting on because there is not enough time to read every bill. They read only those falling within their special fields of interest. Their vote on many bills, then, is at the direction of someone else, be he party leader, lobbyist, or trusted colleague; and that is not representative democracy. When a Congressman votes for a bill, he impliedly warrants that he, as a member of Congress, invokes such and such a power delegated to him by the people in Article I, section 8, of the Constitution. But how can he invoke a power when he is ignorant of the content of the bill? He does not even know which of section 8's eighteen subsections is the relevant one. It is not too much to hope that a court might hold the blind assertion of legislative power no assertion of legislative power, adopting the following as a first requirement of formal sufficiency: *No statute is validly enacted unless the Congressmen voting for it have read it.*

Two. Even when a Congressman reads a bill, he may not know what he is voting on because what he is voting on is not knowable. Many statutes have gone over the edge. They are not merely difficult, they are unintelligible. Here is the sort of opinion some lawyer will one day win from a United States District Judge, thereby establishing a second rule of formal sufficiency, as stated in the opinion's penultimate paragraph:

> This is a class action in which the plaintiff-taxpayer, on behalf of himself and all others similarly situated, sues for a judgment declaring the Internal Revenue Code unconstitutional. His argument is (1) he does not understand it, (2) nobody understands it, and (3) it is therefore invalid. The theory is

novel, to be sure, but not for that reason necessarily wrong.

Let us examine the code.

Item. I doubt that the ordinary citizen of average education and normal mental endowment can grasp the meaning of a sentence more than fifty words long. The code contains sentences of 370 words [sec. 170(b) (1) (A)], of 385 words [sec. 6651 (a)], and of 506 words [sec. 7701 (a) (19)].

Item. Apart from mere length, I doubt that the ordinary citizen can grasp the meaning of a sentence which does not run more or les in a straight line from beginning more or less in a straight line from beginning to middle to end. What then is he to make of

"For purposes of paragraph (3), an organization described in paragraph (2) shall be deemed to include an organization described in section 501(c) (4), (5), or (6) which would be described in paragraph (2) if it were an organization described in section 501 (c) (3)."

I do not wish to expand this opinion unduly, and so, for additional illustrations, I refer interested persons to any page of the Internal Revenue Code selected at random.

The due-process clause means many things. One of them, assuredly, is that the enactments of Congress, whatever their subject-matter, be comprehensible to an ordinary citizen upon the application of reasonable diligence. I find that the Internal Revenue Code does not meet that standard. It is declared unconstitutional.

This may be the first case holding a statute void for excessive complexity. I trust it will not be the last.

Three. It is difficult, we have said, for democracy to face up to the sad fact that we do not know how to ameliorate many of life's vexations and horrors, the consequence being a tendency for democracy to indulge in fatuous law-making. Read the newspaper any morning and you will have examples. Here is a trouble. It is immediately called a "problem," the term preferred by politicians and social theorists, connoting that there is a solution somewhere. The people demand that their representatives find the solution. To tell the people that the problem is insoluble, or that no one yet knows the solution, or that it's not so much a problem as simply the human condition, would be to tell the people the truth but not to win elections. The upshot is that the people's representatives purport to come up with a solution of the only kind available to them—a law, a law to solve the problem, a law invariably along the lines of "The problem shall be and hereby is solved." The law is nothing more than a totem-object for the Congressman to exhibit to his constituents by way of proving to them that he has done something about the problem. When the problem remains unsolved, as of course it does, the results are familiar: a feeling among the people that their representatives have failed them, a mounting distrust in the rule of law, and a diminution of faith in democracy. The dubious reader should consider section 102 of the Full Employment and Balanced Growth Act of 1978:

The Congress hereby declares that it is the continuing policy and responsibility of the federal government to use all practicable means, consistent with its needs and obligations and other essential national policies, and with the assistance and cooperation of both small and larger businesses, agriculture, labor, and state and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions which promote useful employment opportunities, including self-employment for those able, willing, and seeking to work, and promote full employment and production, increased real income, balanced growth, a balanced federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and reasonable price stability. . . .

The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to improve the coordination and integration of the policies and programs of the federal government toward achievement of the objectives of such Act through better management, increased efficiency, and attention to long-range as well as short-range problems and to balancing the federal budget.

The rest of the Act says essentially that to achieve these purposes civil servants shall shuffle papers. Obviously the statute has achieved none of its purposes and cannot, for we are not certain how to achieve them. The Full Employment Act should be declared invalid on the ground that it violates a third rule of formal sufficiency: A statute not reasonably particular as to ends, as to means, and as to the relation between them, is no statute.

Four. Many statutes are onerous. It is a considerable burden to comply with them, which, conceivably, is why Congress has fallen into the habit of exempting itself from the obligation to obey them. The laws the rest of us spend an inordinate amount of time and money trying not to violate do not apply to Congress. What businessman or lawyer has not wrestled with the Fair Labor Standards Act, the Equal Pay Act, the Occupational Health and Safety Act, the Civil Rights Act of 1964, the Equal Employment Opportunity Act? Congress has exempted itself from all of them, and there are no doubt others. Is it necessary to belabor the implications for law and liberty? Rex non debit esse sub homine sed sub Deo et sub lege, wrote Bracton. The King ought to be under no man but under God and the law. What bloodshed, turmoil, and wisdom are packed into that sentence. And here is Congress, America's rex, the seat of our sovereignty as a representative democracy, telling us the law we are under but not they. No rationalization should be held to justify such congressional self-exemption from the statutes that bind the rest of us. The equal-protection clause must mean at least this, a fourth rule of formal sufficiency: Any statute which does not apply to Congress as well as to the people at large is invalid.

American democracy has fallen upon hard times. A chief symptom of its travail is the inflation of the laws. But to be ill is not to be dead. There is hope, so long as we do the things which must be done. We must cease to pretend that political power is infallible and omnipotent. We must think clearly about law and liberty and the limited efficacy of legislation. And, in the name of Socrates, we must do it soon.●

WHITE PAPER OF SENATOR MORGAN

● Mr. MORGAN. Mr. President, when I first sought election to the Senate in 1974, I signed a declaration that I would abide by the Fair Campaign Practice Act.

My Republican opponent also signed the declaration and the result was a fair, ethical campaign.

This year, the Fair Campaign Practices Committee has gone out of business to all intent and purpose.

And in North Carolina this year, the political atmosphere was certainly far different than it was 6 years ago.

Mr. President, I found myself faced with a constant barrage of distortions and misstatements regarding my voting record.

Procedural votes were taken to be substantive votes on an issue, even though in the final analysis, I cast my vote directly opposite the intent of the procedural vote.

Charges that I was weak on national defense were made, and a single vote on the B–1 bomber was used as an example, even though I supported the B–1 consistently until the President announced he was canceling it in favor of the cruise missile. Then a vote on recovering the money that had been earmarked for it—after the B–1 program was dead in the water—was used to say that I was against building the bomber.

Mr. President, from talking to many of my colleagues about the tactics used against them, I know that North Carolina was not an isolated case. Rather, it followed a national pattern of distortions and misstatements that prevailed in many other campaigns.

When I realized what was going on, my staff and I put together a white paper which was distributed to many thousand voters in North Carolina. Looking at the election results, it was not enough.

I suppose I found that material such as the white paper is not enough to counteract 30-second television commercials which drummed these distortions of my voting record constantly to all parts of the State.

But for the record, I would like to submit a copy of this white paper, detailing the charges made and the true facts in each charge and each issue that was raised.

If nothing else, it will place the truth on the record and it may show some colleague who will have to face such tactics in the future what he will be up against.

Mr. President, I submit the aforementioned white paper for the Record.

WHITE PAPER—FACTS RELATED TO CHARGES BY THE CONGRESSIONAL CLUB

Note: During Senator Morgan's reelection campaign, the candidate and spokesmen for the Congressional Club have made charges about his record in the Senate. These distorted charges and the actual record are listed in detail in this paper.

Charge: Voted to slash the defense budget by $1 billion. August 2, 1976. H.R. 14262.

Reply: The harshness of this statement would tend to indicate that Senator Morgan has been weak on defense when the contrary is true. The defense budget adopted by the Senate in August 1976 was the largest defense budget in the history of the United States, and Senator Morgan voted for that budget which was $104 billion for the fiscal year 1977.

On August 2, 1976, Senator Morgan voted for an amendment offered by Senator Eagleton to reduce the overall proposed defense budget by $1 billion from $104 billion to $103 billion, (less than 1 percent of the total budget). The total budget represented a 15 percent increase in defense spending over the previous year, the largest defense spending increase since the Korean War and the largest peacetime increase in our history. It was brought out in the debate on the Eagleton amendment, which was defeated, that $3 billion in the budget was "padding" or "cushion." That is, there was $3 billion in the budget which was not allocated for specific programs, and Senator Morgan felt that this was too large a slush fund to be responsibly spent without the Congress having considered the purposes for which it was to be spent.

On August 9, 1976, the $104 billion appropriations bill was passed by the Senate with Senator Morgan's full support and vote. This defense budget was the largest in the history of the United States as of that year.

SLASH DEFENSE BUDGET

To charge that Senator Morgan is weak on defense is ludicrous. He has been recognized by numerous military organizations and leaders of the United States Senate as one of the strongest supporters of our national defense. The Non-Commissioned Officers Association of the United States in July, 1979 awarded to him at their meeting in New Orleans their annual Vanguard Award for his "outstanding contributions to the military community and especially your continually demonstrating an awareness of the defense needs of our great nation and a willingness to fight for those needs whenever and wherever the need arises." He has also been recognized by the North Carolina National Guard, the Naval Reserve Officers Association, the American Legion, the Air Force Reserve Officers Association, and the Veterans of Foreign Wars for his outstanding contributions to our military preparedness. His selection by his colleagues to serve on the Armed Services Committee is evidence of his commitment to a strong national defense. To imply that Senator Morgan is weak on defense issues indicates a lack of awareness of one of his strongest contributions as a United States Senator.

Charge: Voted against building the vitally needed B–1 bomber. July 18, 1977. H.R. 7933.

Reply: This charge is a fabrication and a distortion of the truth. Senator Morgan campaigned in 1974 as a proponent of a strong national defense, specifically supporting the new long-range penetrating bomber, the B–1. Arriving in the Senate in 1975, he supported the appropriations and authorization bill to continue building the B–1 bomber during the fiscal year 1976. During the debate on these measures, Senator McGovern offered an amendment to delete the funds for the further development and procurement of the B–1 bomber. Senator Morgan opposed and voted against the amendment. The McGovern amendment was defeated by a vote of 57–37.

In May 1976, Senator McGovern offered the same amendment to eliminate any procurement funds for the B–1 bomber. Senator Morgan again voted against the amendment, which was defeated by a vote of 48–33.

Senator Culver in May 1976 offered an amendment to allow the newly elected President, whoever he was to be, to have until February 1, 1977, to cancel the program. Senator Morgan opposed the amendment and voted against it. While the amendment passed in the Senate, it was defeated in the House.

B–1 BOMBER

In July, 1976, the House changed its mind and sent an appropriations bill to the Senate which contained a provision delaying funds for the procurement of the B–1 bomber until the newly elected President had an opportunity to consider it. When the bill came to the Appropriations Committee in the Senate from the House, it contained that provision, and when the bill came to the floor of the Senate from the Appropriations Committee it contained the provision. Senator Morgan and Senator Helms both voted for the Appropriations Bill which contained the amendment allowing the incoming President, whoever he was to be, to make the decision concerning the future of the program. It was necessary to vote for the Appropriations Bill in order to assure continued operations of our military forces.

In 1977, the President announced the cancellation of the B–1 bomber program under the authority granted to him by the Congress in the Appropriations Bill enacted in 1976, which bill both Senator Helms and Senator Morgan had voted for.

After cancellation of the B–1 bomber by the President under the bill, efforts were made, in light of the President's decision, to cancel appropriations for the program. On July 19, 1977, Senator John Stennis, Chairman of the Senate Armed Services Committee, stated on the floor of the Senate that while he supported the B–1 bomber that he and the Armed Services Committee recommended the deletion of the money in the bill for the planes since the planes were not going to be used. Senator Goldwater, in his statement, acknowledged the right of the President to cancel the program, but he said that he was going to vote against the Committee proposal "let my President know that I disapprove of his decision." Senator Goldwater said, "what bothers me is that complete reliance on the Cruise missile, when we are about five or ten years away from having a Cruise missile that will operate."

Senator Morgan shared the same concern as Senator Goldwater, but time has proved both to be wrong in that the Cruise missile has been built by two aircraft companies and tested, and the missile is in production by Boeing Aircraft Company. The missile will fly over terrain at 400 or 500 feet above the ground and at such a speed that it is practically impossible for any radar to pick it up or for any aircraft system to shoot it down.

So Senator Morgan supported the B–1 bomber continually in the United States Senate until the President had absolutely cancelled the program under authority given to him. The only purpose of buying five prototype bombers, which would sit on the ground unused and would be practically useless, was to bail out the airplane contractor.

The vote to delete these funds after the cancellation of the program by the President was no "liberal" versus "conservative" vote. Such strong advocates of national defense as Senators Harry F. Byrd of Virginia, Robert Byrd of West Virginia, James Eastland of Mississippi, Henry Jackson of Washington, Sam Nunn and Herman Talmadge of Georgia, and John Stennis of Mississippi joined Senator Morgan in voting to delete these funds.

Charge: Voted against increasing the Defense Budget by $1.6 billion. April 26, 1978. S. 80.

Reply: The charge that Senator Morgan voted against "increasing defense budget by $1.6 billion" tends to imply again that the Senator is weak on defense. It fails to point out that the Defense budget reported out by the Armed Services Committee, on which Senator Morgan serves, was $129.8 billion, again, the highest Defense budget in history.

On April 26, 1978, the Senate considered an amendment by Senator John Tower to add $1.6 billion (from $129.8 to $131.4 billion) to the Defense budget resolution. This amendment pushed the budget above the amount President Carter requested, above the amount in House bill, and beyond what was recommended by the Senate Appropriations Committee.

Senator Stennis, Chairman of the Senate Armed Services Committee, argued that the lower figure, $129.8 billion, represented "unanimity." He said, "After taking the evidence and after weighing the matter and exchanging views, consulting again with the military, with the White House, with the Budget Bureau, the Chiefs of Staff, and a number of other things, we came up with these figures that I have enumerated."

Senator Henery Bellmon, ranking Republican member of the Senate Budget Committee, agreed with Senator Stennis. Bellmon added that the Defense budget had grown rapidly since 1975.

DEFENSE BUDGET

He pointed out that in 1975 outlays were $85.6 billion, in 1977, $97.5 billion; in 1978, $105.4 billion; and this year, $116.6 billion. The new increase, without Tower's amendment, would be $13 billion more.

Senator Tower, who introduced the amendment, argued that the $1.6 billion in the budget authority was needed because of unspecified emergencies in Europe. The Senators who opposed it argued that the budget process was flexible enough to adjust to later developments. The Tower amendment represented a fairly common tactic during debates on defense or social programs. A Senator often proposed an increase to prove that he was more Hawkish on defense or more in favor of social programs to get favorable publicity at home.

The amendment lost 21–74. This was not a "liberal" versus "conservative" vote. Voting with Senator Morgan were Robert Byrd of West Virginia, James Eastland and John Stennis of Mississippi, Ernest Hollings of South Carolina, Henry Jackson of Washington, Russel Long of Louisiana, Sam Nunn and Herman Talmadge of Georgia, Barry Goldwater of Arizona, John Heinz of Pennsylvania, Chairman of the Senate Republican Campaign Committee, and Henry Bellmon, of Oklahoma, ranking Republican on the Budget Committee.

Charge: Voted for allowing unions to use forced dues for political purposes. August 3, 1977. S. 926.

Charge: Voted to allow union bosses to use $10 million a day in forced dues for political purposes. August 3, 1977. S. 926.

Charge: Voted to rig election laws in favor of unions. March 18, 1976. S. 3065.

These charges, along with the rhetoric of the campaign, are apparently trying to show that Senator Morgan is a tool of the labor unions by using references to S. 926 and S. 3015. The charges are false and pure fabrications. Nowhere in the debates was the figure $10 million a day ever used nor has the law ever allowed union bosses or anyone else to use forced union dues as contributions to political campaigns.

S. 926 cited in the charges was the Campaign Act Amendments considered in August 1977. During the debate on the bill, Senator Helms introduced an amendment that would have prohibited union dues from being used for any politically-related purpose but made no prohibitions against corporate funds being used for such purposes.

Under current law, both unions and businesses are prohibited from contributing to candidates for federal office. Both may use funds from their own treasuries to organize their political action committees and to communicate internally to their membership or shareholders about political matters.

ELECTION LAWS

Under the Helms amendment, only unions would be limited in their ability to use funds from their own treasuries for such purposes—not corporations. The amendment was tabled by a vote of 67 to 25 on the grounds that fairness required that unions and corporations be treated exactly alike and that it would be unconstitutional to do otherwise.

Voting with Morgan to table were James Allen of Alabama, James Eastland of Mississippi, Fritz Hollings of South Carolina, Sam Nunn of Georgia, Russell Long of Louisiana and John Heinz of Pennsylvania, Chairman of the Republican Senatorial Campaign Committee.

The bill finally passed the Senate by a

vote of 88–1, with Senator Helms casting the only negative vote.

Such well-known conservatives as Senator James B. Allen of Alabama, Harry Byrd of Virginia, Robert Byrd of West Virginia, Dennis DeConcini of Arizona, Strom Thurmond and Ernest Hollings of South Carolina, Henry Jackson of Washington, Russell Long of Louisiana, Sam Nunn of Georgia, Howard Baker of Tennessee, Henry Bellmon and Dewey Bartlett of Oklahoma, Carl Curtis of Nebraska, Robert Dole of Kansas, Pete Domenici of New Mexico, Jake Garn of Utah, Clifford Hansen of Wyoming, Sam Hayakawa of California, and others voted as Senator Morgan voted on final passage.

The reference to rigging election laws in favor of unions (S. 3065) is similarly unsubstantiated by the record. The act itself was the Federal Election Campaign Act Amendments of 1976, debated from March 18, 1976, until March 24, 1976.

There were many amendments, none of which could be even remotely considered to be rigging the election laws in favor of unions or corporations. The bill dealt with honoraria, set the membership of the election commission, and set the threshold contribution amounts to be reported by unions and corporations, thresholds which Senators Morgan and Helms agreed upon, voting alike to table a Cranston amendment providing that a corporation or labor union need not report an expenditure of $1,000 or less for communications to their members.

Both Senators Morgan and Helms voted for an amendment offered by Senator Bumpers of Arkansas as a perfecting amendment to Senator Cannon's amendment changing the threshold amount for the reporting by a corporation or labor organizations of expenditures for communications to their respective members in behalf of a candidate from an expenditure of over $1,000 to a cumulative amount of $1,000 per candidate per election. The final bill, S. 3065, passed the Senate on March 24 by a vote of 55–28, with Morgan voting for the bill. Also voting for the bill were Senators Bentsen, Robert Byrd, Huddleston, Long, Nunn, Talmadge and Ford. There is nothing in the bill that can be construed by any reasonable person as rigging election laws in favor of unions.

Charge: Voted for free food stamps. May 24, 1977. S. 275.

Reply: S. 275 was passed by May 1977 and was the Omnibus Farm Bill. To have opposed S. 275 would have been to oppose a major farm bill and thus threaten rural American.

During the debate on the farm bill, an effort was made by Senator Curtis to reinstate the purchase requirement that the Agriculture Committee had done away with. The Agriculture Committee, after hearings and careful study, recommended the deletion of the purchase requirement as part of a reform package to tighten up the administration of the food stamp program. The deletion of the purchase requirement eliminated substantial numbers of people who had received food stamps and made food stamps available to those with a much lesser income. The Senate Agriculture Committee reasoned that if a person was entitled to food stamps by reason of income or lack of income then it was ridiculous and an additional administrative cost to the government to require the person to buy them. This act was a reform package—not a liberalization. There had been tremendous overhead connected with the handling of the money which this reform package eliminated.

This attempt to overturn the recommendation of the Agriculture Committee, chaired by Senator Herman Talmadge of Georgia, failed by a vote of 31–64. Senator Morgan voted with such well-known conservative Senators as Lloyd Bentsen of Texas, Wendell Ford and Dee Huddleston of Kentucky, Ernest Hollings of South Carolina, Bennett Johnston of Louisiana, and 57 other Senators.

PANAMA CANAL

Charge: Voted for the Panama Canal Giveaway. April 18, 1978.

Reply: The rhetoric "Panama Canal giveaway" is used to imply a complete giveaway of a possession of the United States. The Panama Canal Treaty was a revision of an outdated treaty entered into in 1903, a treaty which had been recommended for revision by five Presidents of the United States—John Kennedy, Lyndon Johnson, Richard Nixon, Gerald Ford, and Jimmy Carter. President Nixon appointed the negotiating committee. Negotiations were concluded during the Carter administration. The revised treaty was endorsed by President Nixon, Ford, and Carter. This was an exceedingly complex issue. It dated back to the time when President Theodore Roosevelt obtained the right-of-way for the canal. Senator Morgan personally visited the Panama Canal and was convinced that a revision of the treaty was just and necessary if we were to avoid continued bloodshed.

The Chairman of the Joint Chiefs of Staff testified that our Armed Forces could defend the Panama Canal but because of the close proximity of the Canal to the Republic of Panama it would take approximately 100,000 troops to prevent it being blown up by hand grenades or other such explosive devices thrown from just outside the Canal Zone. In the interest of the continued safety and operation of the canal, upon the recommendation of five presidents and the military chiefs of the United States, Senator Morgan voted for the revision.

Since the treaty has been signed, commerce through the canal has more than tripled. Not a single American life has been lost, and border activities have ceased. In addition, experts in foreign affairs recognize that the treaty has generated goodwill throughout Latin America for the United States.

Besides Senator Morgan, other Senators who voted for the treaty included Lloyd Bentsen of Texas, Robert Byrd of West Virginia, Ernest Hollings of South Carolina, Dee Huddleston of Kentucky, Henry Jackson of Washington, Russell Long of Louisiana, Sam Nunn and Herman Talmadge of Georgia, Howard Baker of Tennessee, Senate Republican leader, and Sam Hayakawa of California, and many others.

PUBLIC DEBT RECORD

Charge: Voted against limiting deficit spending. March 26, 1979. H.R. 2534.

Reply: This charge is one of the most fallacious of all the charges which have been made. H.R. 2534 was a House resolution to set the public debt limit. The permanent debt ceiling of the United States is established by law. Each year it is necessary to increase the debt ceiling on the federal government line of credit so that current obligations of the government may be met. Without increased borrowing power, the government would not be able to make payments under farm support programs, pay the members of our armed forces, issue social security checks, pay government employees their salaries, and carry out any other functions of the government.

During the debate on H.R. 2534, Senator Dole (the former national GOP chairman and the 1976 GOP vice presidential nominee) proposed a strictly party line amendment prohibiting any increase in the debt limit unless the budget was balanced in 1981. The Senate had earlier adopted an amendment by Senator Harry Byrd of Virginia to another bill (Senator Morgan supported this Byrd amendment) requiring that the budget be balanced by 1981. Senator Russell Long, chairman of the Senate Finance Committee who has the primary responsibility in the Senate for financial matters, agreed that everyone was concerned about deficit spending and inflation. Senator Long cautioned against voting to require a balanced budget without knowing which programs would be cut or eliminated, or alternatively, how high taxes would have to be increased to allow a balanced budget.

Senator Long contended in the debate that the actions of the Federal Reserve Board in 1930 and 1931, which in effect did what the Dole amendment would have required Congress to do, had brought on the worst depression in history. The Dole amendment was never voted on but was tabled. H.R. 2534 passed the Senate by a vote of 62–33. The place to decide on spending in the federal government is when each program is considered—not on debt ceilings where provisions are simply made to obtain money to carry out the functions of government.

Voting with Senator Morgan to table the Dole amendment were Senators Bentsen, Robert Byrd, Ford, Long, Nunn, Stennis and Talmadge. They also voted with Senator Morgan on final passage of the bill.

The political dilemma facing each Senator when a resolution to raise the debt ceiling is considered by the Senate is quite real. The factors which must be considered are illustrated by the exchange between Senator Morgan and Senator Long which took place on June 26, 1980, and can be found in the Congressional Record of that date on page S8419.

[From the Congressional Record, June 26, 1980]

The Presiding Officer. The Senator from North Carolina.

Mr. Morgan. Will the distinguished floor leader engage in a little colloquy with me so I can understand what we are doing?

Mr. Long. I will try.

Mr. Morgan. Is my understanding correct that the present debt ceiling limit expires on June 30?

Mr. Long. The Senator is correct.

Mr. Morgan. This, of course, takes care of the national debt that has accumulated over a period of 25, 30, or 40 years, does it not?

Mr. Long. And more than that, yes.

Mr. Morgan. What I want to know is if we do not extend this debt limit beyond June 30, will the 35 million or so people who receive social security in this country be able to get their checks for July?

Mr. Long. They could not be paid.

Mr. Morgan. Why could they not be paid?

Mr. Long. Because the debt limit would revert back to the permanent debt of $400 billion, and the Government could not borrow money to pay its debts. Therefore, there simply would not be enough cash available to pay them.

Mr. Morgan. What the Senator is saying to me, then, is that if we do not extend the debt limit, there will not be enough money to pay, and these elderly people all across the Nation, but especially those that I am concerned about in North Carolina, will not get their social security checks in July, they will not be able to pay their rent or utility bill and will not have any money to buy groceries with from social security, is that correct?

Mr. Long. That is correct.

Mr. Morgan. I have a lot of farmers in my State and we have a number of farm support programs that assist the farmers in agriculture and agricultural conservation practices. But if we refuse to extend this debt limit, or if we fail to extend this debt limit, will there be any money available to pay these farmers to continue on their farming and conservation practices?

Mr. Long. There will not be. We would not have the money available. It would be against the law to borrow any.

Mr. Morgan. In effect, what the Senator is saying to me is that agricultural programs would come to a standstill.

Mr. LONG. They would.

Mr. MORGAN. I am very much interested in rural housing because I believe that housing is one of the greatest problems that this country has ever faced. I know that in the last 4 years the Farmers Home Administration has invested more in rural housing and development than it has in its entire history. I know that in the last 3 years more investment has been made in rural housing than there has been in three decades preceding that time. Will there be any of this Farmers Home Administration money available for the rural housing programs which are sort of my pet projects?

Mr. LONG. None will be available.

Mr. MORGAN. What about the military, the Army, will there be any money available to pay the Army?

Mr. LONG. The Army could not be paid, the Navy could not be paid, and the Air Force could not be paid.

Mr. MORGAN. In North Carolina we probably have more retired military people or as many as there are in almost any State, especially if you judge by the mail I receive on various issues, Mr. President. If we do not increase this debt ceiling will there be any money available to pay the military retirees in this country or the civil service retirees?

Mr. LONG. There would not be.

Mr. MORGAN. In the opinion of the Senator, does a vote to increase the debt ceiling indicate to the Senator that we favor unlimited deficit financing? Is that the way it is interpreted by the Senator?

Mr. LONG. No, not in my judgment. In my judgment, it is simply a matter of voting to pay the bills which have been incurred. We have done all we could to hold spending down, but when the obligations have been incurred, it is my view that we have no choice but to pay them.

Mr. MORGAN. In other words, the time to talk about deficit financing and big government spending is when we deal with these appropriation bills and spend the money?

Mr. LONG. Let me compliment the Senator for analyzing it exactly correctly.

Mr. MORGAN. Does the Senator agree with me that, as a member of the Senate, once we have engaged in debate on these appropriations bills and—whether the Senate and the Congress agree with my personal views or not—in this democratic Congress of ours, where we go by the majority rule, once Congress and the President have, according to law, incurred these obligations, as a Member of the Senate, I have a moral obligation to do whatever is necessary to pay for those obligations?

Mr. LONG. I think so. That is how I feel about it, Mr. President.

Mr. MORGAN. I thank the Senator.

Charge: Voted to override veto of $45 billion HEW budget. January 28, 1976. H.R. 8069.

Reply: Senator Morgan did vote to override President Ford's veto of the HEW appropriations bill. This bill provided programs for comprehensive manpower assistance and public service employment, occupational health and safety (OSHA), maternal and child health, emergency medical services, Public Health Service hospitals, National Institute of Health (NIH) research, alcohol, drug abuse, and mental health programs, public assistance, human development, and community services programs.

The bill was only 2.6 percent over the President's request, and it was below Congress' budget ceiling. This bill originally passed the Senate 60–18, and the veto was overridden by 70–24.

Other senators voting with Senator Morgan were Robert Byrd of West Virginia, Wendell Ford and Dee Huddleston of Kentucky, Ernest Hollings of South Carolina, Henry Jackson of Washington, Bennett Johnston and Russell Long of Louisiana, and John Sparkman of Alabama.

Republicans voting with Senator Morgan were Senator Bellmon, ranking member of the Senate Budget Committee, Senate Republican leader Hugh Scott and Robert A. Taft, Jr.

HATCH ACT

Charge: Voted to weaken the Hatch Act protecting federal employees from union political pressure. March 11, 1976. H.R. 8617

Reply: On March 11, 1976, the Senate passed a bill reforming the Hatch Act by a 47–32 vote. Senator Morgan voted yes. The bill was subsequently vetoed by President Ford and was never enacted into law.

During the 1974 campaign, Senator Morgan promised that he would vote for a Hatch Act "reform bill." When this came before the Senate in 1976, he fulfilled that commitment, although during Senate debate he stated that "I think these changes go far beyond what I had expected."

In 1977, after the House had passed the bill for the second time, with the support of the new President, Senator Morgan publicly switched his position on the Hatch Act. In a newsletter which was widely distributed throughout North Carolina, he said, "Public power should be used for the public benefit, and nothing else. An unenforceable version of the Hatch Act could have serious consequences. . . . It was passed 38 (now 41) years ago because of many proven cases of government employees being coerced into performing partisan political activities, and it would be a mistake to weaken it today."

It is important to realize that the Hatch Act was enacted in 1939 to protect federal employees and the public from Presidential abuses of power, such as were documented in the late 1930s and subsequently took place under President Nixon. Although the same restrictions that prevent Presidential abuses of power also prevent union abuses of power, the unionization of federal employees was not even thought about or considered when the original Act was passed in 1939.

DAVIS-BACON

Charge: Voted to force construction contractors to hire union labor on federal projects. May 20, 1976. S. 3434.

Reply: Apparently, this is a reference to the Davis-Bacon Act which simply provides that on federal jobs the prevailing wages in the area shall be paid to persons employed on such projects. The Davis-Bacon Act does not require the employment of union labor on federal jobs.

Senator Morgan has consistently and uniformly opposed the Davis-Bacon Act on the grounds that it is unreasonable for the Congress to determine wages on any given construction job, the Congress and the various State legislatures having already dealt with minimum wage laws.

As a member of the Senate Banking Committee and the Senate Armed Forces Committee, Senator Morgan has sought constantly to get the Davis-Bacon Act repealed and will continue to do so. The amendment apparently alluded to by his opponent was offered by Senator Tower and was defeated. The amendment had been offered again and again. In this instance it was dilatory, and not germane. As a matter of fact it was so devious that even Senator Harry Byrd of Virginia, the most ardent opponent of Davis-Bacon, voted against the Tower amendment. The amendment was defeated by a one-sided vote of 66–17 and was opposed not only by Senator Morgan and Harry Byrd but by such Senators as Robert Byrd of West Virginia, Ernest Hollings of South Carolina, Herman Talmadge of Georgia, John Stennis of Mississippi, and others. Over half of the Republicans in the United States Senate voted against Senator Tower on this amendment, including Senator Scott, the GOP leader and Senator Bellmon, ranking Republican on the Budget Committee.

SMALL BUSINESS EXEMPTION

Charge: Voted against increasing the exemption for small businesses from inflationary minimum wage. October 7, 1977. S. 1871.

Reply: In 1977, under the law, small businesses with less than $250,000 in sales volume were exempt from federal minimum wage laws, although they might be covered under state laws.

During the Senate consideration, Senator Bumpers of Arkansas offered an amendment to delete the increased figure of $325,000 by reducing it to $275,000 for the first year and then raising it to $325,000 in July 1980. Senator Tower had offered an amendment to increase it to $500,000. It was obvious that the Tower amendment had no chance of support in the House whereas the Bumpers amendment complied with House language and provided that the exemption would be increased in 1980. A majority of the Senate felt that this was the best that could be done under the circumstances. Senator Tower's attempt to table the Bumpers amendment failed by a 51–38 vote.

Those who know the legislative process realize that there are times when if a legislator is unwilling to compromise he may be unable to obtain any relief. A good example was the recently passed Mental Health Bill. The sponsors of the bill refused to compromise with Senator Morgan over Title III, a Bill of Rights for mental patients that would have overridden state laws.

In the end, Senator Morgan's amendment that protected the states carried by a 91–1 vote when his debate convinced his colleagues that the committee provision was unwise. The sponsors lost practically their entire package and Senator Morgan's position prevailed because they refused to compromise.

(Note: In 1977 Senator Morgan opposed the minimum wage law He felt that the increase in the bill was higher than justified by the inflation projection and would contribute to inflation. He felt that the absence of a youth subminimum wage or youth differential was a weakness in the bill. Since that time, he has sponsored legislation that would delay the increases in the minimum wage and create a youth subminimum wage for persons 16 to 18 year olds).

Charge: Voted for a Federal Oil Corporation to compete with private industry. June 27, 1978. S. 419.

Reply: This charge is a complete distortion. This bill (S. 419) was concerned with the establishment of three experimental projects for recovering oil from shale, at a cost not to exceed $600 million. The bill directed the Executive Branch to contract with private industry to build the three experimental plants. Thus all of the money was directly funneled to private industry.

Senator Bellmon, ranking Republican on the Budget Committee, was an original sponsor of the bill. Sponsors of the bill argued that private industry could not bear the cost of setting up such a plant. Senator Jackson, Chairman of the Senate Energy Committee, said that only one company (Atlantic Richfield) had seriously considered building such a plant but decided not to proceed after determining that $500 million would be required. Sponsors of the bill argued further that the United States had to move ahead with oil shale production because the U.S. has 2 trillion barrels of oil locked up in shale. Senator Bellmon pointed out that $600 million was a small sum when compared with the $45 billion being paid that year for imported oil.

The bill passed by a 61–23 vote, and voting with Senator Morgan on this bill were Senators Robert Byrd of West Virginia, Wendell Ford and Dee Huddleston of Kentucky, Ernest Hollings of South Carolina, Sam Nunn and Herman Talmadge of Georgia, John Stennis of Mississippi, and Bennett Johnston of Louisiana.

CONSUMER COOPERATIVES

Charge: Voted for Federally subsidized consumer cooperatives to compete with small business. July 13, 1978. H.R. 2777.

Reply: The Senate approved on July 13, 1978, by a vote of 60–33 a bill to establish a National Consumer Cooperative Bank to make loans to cooperatives. Eligible cooperatives are those chartered on a not-for-profit basis and which were totally composed of the ultimate users of goods. Eligible cooperatives may not pay dividends on voting stock, must distribute to their membership all net proceeds, and may not restrict membership among consumers. The act imposes other limitations on eligible cooperatives.

Senator Morgan has long supported cooperatives which do not compete with private industry. In the area of farming, cooperatives help rural people pool resources and make the financially impossible a reality. There are some 150 active cooperatives in North Carolina that enroll some 125,000 farmers. They vary in size and volume of business from F. C. X., Inc., which recently merged with the Central Carolina Farmers Exchange, to small community oriented groups. There are cooperatives that aid nearly every kind of farming and rural people in general—from the Flue-Cured Tobacco Cooperative Stabilization Corporation to the North Carolina Sheep Breeders Association, from electric cooperatives to telephone cooperatives.

Assistance from the Consumer Cooperative Bank will flow primarily to the rural areas of the country. Consumer cooperatives have helped the elderly get health insurance, and those on limited incomes purchase food at cheaper prices.

The Bank is established along the lines of other successful federal banking entities. It has strict limits on its loan activities. The government provided seed money for the bank, but the bank should become cooperative-owned, similar to the farm credit system. The Senate bill provided for lower funding than the House bill and provided stricter limits on the rates to be charged to cooperatives than did the House bill.

Senator Morgan was joined on this vote by Strom Thurmond and Ernest Hollings of South Carolina, and Herman Talmadge of Georgia.

Republicans voting with Senator Morgan were Senators Dole, Hayakawa and Heinz. Democrats voting with him were Robert Byrd, Ford, Long, and Sparkman. The bill passed, 60 to 33.

RIGHT TO WORK

Charge: Voted against a right-to-work law for school teachers. April 30, 1979. S. 210.

Reply: One of the cardinal conservative principles in labor law has been that each State should be able to decide for itself whether or not it wants a right-to-work law. It was this argument that prevented the Congress from prohibiting all right-to-work laws back in the 1940s in section 14b of the Taft-Hartley Act.

A second cardinal conservative principle has been that each State should have total control over its educational policies—that the Federal government should not be able to tell States how to run their public schools.

Senator Morgan has always supported North Carolina's right-to-work law, and he opposed the establishment of a separate Federal Department of Education.

Senator Jepsen's amendment to the Education Department bill (S. 210) violated both of these principles by purporting to tell the States that they had to adopt certain policies (right-to-work for teachers) if they were to receive federal funds. The practical effect of this would have been to get a foot in the door concerning federal control of State right-to-work laws.

The unions have always argued that Congress, not the States, should decide whether there should be right-to-work laws. By offering the amendment, Senator Jepsen would have strengthened the unions' hand and made it more likely that Congress would choose to override North Carolina's right-to-work law, by repealing Section 14b of the Taft-Hartley Act. Senator Jepsen's amendment would have made it more likely that, down the road, national interest groups would be able to tell North Carolinians how to run their schools.

The amendment was contrary to conservative principles and should never have been offered. The presiding officer ruled the Jepsen amendment was not germane. Senator Jepsen appealed this decision of the chairman but a motion was made to table his appeal of the decision of the chair. The tabling motion passed 68–24 thus defeating the Jepsen amendment. Joining with Senator Morgan in supporting the tabling motion were John Stennis of Mississippi, Herman Talmadge and Sam Nunn of Georgia, Thad Cochran of Mississippi, Pete Domenici of New Mexico, Ernest Hollings of South Carolina, Russell Long of Louisiana, John Heinz of Pennsylvania, Chairman of the Republican Campaign Committee, Henry Bellmon and David Boren of Oklahoma, Wendell Ford and Dee Huddleston of Kentucky, Bennett Johnston and Russell Long of Louisiana and Howell Heflin of Alabama.

NOTE: See the attached newsletter, "Government Meddling" dated June 14, 1979.

NEWSLETTER NO. 214A

GOVERNMENT MEDDLING

The Senate has approved a bill that would create a separate Department of Education.

I opposed the whole idea of setting up a new department and voted against it at every opportunity.

During the time the bill was being debated and acted upon in the Senate, an amendment was offered requiring that school systems adopt right-to-work laws, in order to be eligible for federal education funds.

I opposed the amendment, also, and my vote seems to have been misunderstood by some people, who felt that because I opposed the amendment that I was casting a vote against a right-to-work law.

It has always been my belief that a man should be able to get a job without having to join any organization and that he should be able to hold the job without any interference from anyone.

But if the federal government can pass a law that directs personnel policies be adopted by a school system, then the principle of state and local control over education has been violated. And that is one reason many Senators opposed this proposed separate department, because they felt that control of the schools should remain at the state and local level.

The Taft-Hartley Act says that each state shall decide whether it shall have a right-to-work law. North Carolina, along with many other states, has such a law and it is a good law.

But if the Congress can change Taft-Hartley by an amendment to an Education Bill, then labor unions could also override it if they could muster sufficient votes in the House and Senate.

This very amendment, even to those who support right-to-work laws in their states, was an example of what may be the worst feature of the bill to form this new department, and that is to put the federal government in charge of children's education.

It has been amply demonstrated by the Department of Energy how a newly created department can grow and grow and spend a lot of tax money.

Many are fearful that this is exactly what will happen to a separate Department of Education should the House of Representatives follow the Senate's lead and vote to create it. And there are some of us in Congress who are more interested in cutting back the federal government's powers than in adding to the bureaucracy.

So a vote against the bill was a vote to curtail the activities of the federal government in local school systems and a vote against the amendment was not a vote against right-to-work laws but to keep the government from setting policies that should be set closer to home.

Charge: Voted against cutting wasteful and politically abused CETA jobs program by $500 million. July 20, 1979. H.R. 4389.

Reply: In July 1979, as economists began to forecast a recession, the Senate considered the Labor-HEW Appropriations Bill. During this debate on July 20, Senator Chiles offered an amendment to reduce CETA Title VI funds by $505 million in order to further reduce countercyclical public service jobs.

The CETA program had been cut even before it reached the Senate floor. The President, in his budget, recommended that the program be cut from $3.4 billion to $2.2 billion, a cut of one-third. The House recommended $1.8 billion, and the Senate HEW committee arrived at the figure of $1.6 billion. Senator Magnuson, Chairman of the Senate Appropriations Committee, estimated that in two years CETA jobs had been reduced from 600,000 to 200,000, and this amendment would cut out another 100,000. The committee had recommended a decrease of 70,000 jobs instead of the amount proposed in the Chiles amendment. While Senator Morgan agreed that there had been abuses in the CETA program, he shared the view of other Senators that the committee curtailment was sharp enough, especially with the economic forecasts at that time.

When the Depression struck in 1929, one of the pathways out of hard times was in public service jobs inaugurated by President Franklin D. Roosevelt. There were abuses then also, but in the end these WPA and CCC jobs saved many a family from starvation and allowed the man to continue as breadwinner, preserving his dignity. With economists accurately predicting that unemployment would increase drastically in 1980, and using historical precedent as his guide, Senator Morgan voted to table the Chiles amendment. The present crisis proves the wisdom of his vote. The people who today hold these public service jobs are not unemployed or drawing on the federal government. The money that was spent to keep them on the job is money well spent.

There are times when a Senator must have a broader perspective than the simple urge to be penny wise and pound foolish. Some $505 million could have been saved by adopting this amendment, but it would ultimately have cost the taxpayer more in federal spending for welfare and unemployment compensation, not to mention lost tax revenues.

Senator Morgan was joined in this 50–43 tabling vote by Senators Robert Byrd of West Virginia, Ernest Hollings of South Carolina, Dee Huddleston of Kentucky, Russell Long of Louisiana, and Donald Stewart of Alabama.

Charge: Voted against limiting the power of the OSHA bureaucracy to inspect small businesses with good safety records, July 20, 1979. H.R. 4389.

Reply: During consideration of the appropriations bill for the Department of Labor and HEW, an amendment was proposed by Senator Frank Church of Idaho to exempt "safe" small businesses from the coverage of the Occupational Safety and Health Act. Senator Morgan supported this approach and had supported it in 1978 when the same amendment was attached to a Small Business Administration bill.

In 1970 there was objection to this amendment being offered to an appropriations bill on the grounds that it was not germane. The Parliamentarian so ruled, and Senator Morgan voted to support the chair, which is generally customary. However, the Senate ignored the Parliamentarian's ruling of germaneness. When the amendment was submitted on its merits, Senator Morgan voted for the amendment. To claim that he voted against the proposal on the basis of a parliamentary vote is a distortion of the record.

In newsletters and in speeches, Senator Morgan has made it clear that he supports this small business exemption from OSHA rules. As a member of the Small Business Committee, he has worked to ease the regulatory burden on small businesses and on farms.

Charge: Voted to give $75 million to communist Nicaragua. May 19, 1980. H.R. 6081.

Reply: Nicaragua is one of the small Central American countries with a low level of economic development. For more than forty years it was governed by a dictatorship with a repressive and exploitative regime. The people of Nicaragua overthrew the dictator and he absconded with a substantial portion of the country's wealth. There is no doubt that the new government had external support from Cuba as well as from Moscow.

After this happened, our country was confronted with the alternative of either withdrawing completely and letting Nicaragua become another Soviet satellite in our hemisphere, just like Cuba, or trying to salvage what we could in order to encourage a moderate and democratic form of government.

Consequently, the Carter Administration requested the Congress to pass a $75 million emergency aid package with the condition that the new government respect human rights, encourage early and free elections, stop further expropriations, and institute a system of judicial review in much the same way that we have in our country. Our State Department was given assurances that these were immediate objectives of the new government; as a gesture of their intentions, the new government included two conservatives in their junta: Arturo Cruz, an economist of the Interamerican Development Bank in Washington, and Rafael Cordova, a senior member of the Conservative Party.

This money was not a gift but a loan which can be terminated at any time if Nicaragua violates human rights, cooperates with international terrorist organizations, stations foreign troops on its soil, or systematically limits the freedom of speech and the press. Our State Department is required to report to the Congress every six months about the state of affairs in Nicaragua. Furthermore, the funds will be controlled by our Embassy representatives and must be used to purchase American originated goods or services for the benefit of the private sector.

The bill, H.R. 6081, the Special Central American Assistance Act of 1979, was passed by the Senate with a clear majority of Democrats and Republicans, including Senators Domenici, Lugar, Nunn, Hollings, Zorinski, Bentsen, Baker, and Robert Byrd. This American aid, although minimal, is a calculated risk. If we are successful, then we can help preserve democracy in Nicaragua. We are stimulating their private institutions and offer them a broader spread of assistance than merely relying upon communist help. By improving the economic plight of the people, we may prevent them from turning to communism. But Senator Morgan believes that it is worth the risk rather than admitting defeat and therefore opening the door for another Russian satellite in our hemisphere.

KEY ISSUES—CONSERVATIVE VERSUS LIBERAL POSITIONS

	Kennedy	McGovern	Morgan	Helms	East
Slash defense budget by $1 billion, Aug. 2, 1976 (H.R. 14262).	Yes	Yes	Yes	No	No.
Build vitally needed B-1 Bomber, July 18, 1977 (H.R. 7933).	No	No	No	Yes	Yes.
Increase defense budget by $1.6 billion, Apr. 26, 1978 (S. 80).	No	No	No	Yes	Yes.
Allow unions to use forced dues for political purposes, Aug. 3, 1977 (S. 926).	Yes	Yes	Yes	No	No.
Free food stamps, May 24, 1977 (S. 275)	Yes	Yes	Yes	No	No.
Panama Canal Giveaway, Apr. 18, 1978	Yes	Yes	Yes	No	No.
Limit deficit spending, Mar. 26, 1979 (H.R. 2534).	No	No	No	Yes	Yes.

ROBERT MORGAN AND KEY UNION LEGISLATION

	Morgan	Helms	East
Override veto of $45 billion HEW budget, Jan. 28, 1976 (H.R. 8069).	Yes	No	No.
Rig election laws in favor of unions, Mar. 18, 1976 (S. 3065).	Yes	No	No.
Weaken Hatch Act protecting Federal employees from union political pressure, Mar. 11, 1976 (H.R. 8617).	Yes	No	No.
Force construction contractors to hire union labor on Federal projects, May 20, 1976 (S. 3434).	Yes	No	No.
Allow union bosses to use $10 million a day in forced dues for political purposes, Aug. 3, 1977 (S. 926).	Yes	No	No.
Increase exemption for small business from inflationary minimum wage, Oct. 7, 1977 (S. 1871).	No	Yes	Yes.
Federal Oil Corporation to compete with private industry, June 27, 1978 (S. 419).	Yes	No	No.
Federally subsidized consumer cooperatives to compete with small business, July 13, 1978 (H.R. 2777).	Yes	No	No.
Right-to-work law for school teachers, Apr. 30, 1979 (S. 210).	No	Yes	Yes.
Cut wasteful and politically abused CETA jobs program by $500 million, July 20, 1979 (H.R. 4389)	No	Yes	Yes.
Limit power of OSHA bureaucracy to inspect small businessess with good safety records, July 20, 1979 (H.R. 4389).	No	Yes	Yes.
Limit deficit spending, Mar. 26, 1979 (H.R. 2534).	No	Yes	Yes.

[From the Fayetteville Observer, Aug. 10, 1980]

HORSEFEATHERS

Republican, East Carolina University professor Dr. John East is pursuing Democrat Sen. Robert Morgan's seat in the U.S. Senate. Ideological brother of Republican Sen. Jesse Helms, Dr. East is trying to say his opponent is, of all things, a liberal.

Dr. East in his campaign literature asks for help to "defeat the big-spending liberals who support the irresponsible schemes of the big union bosses and special interest groups." How such a call to arms could rally troops in the state with the least-unionized industrial workforce in the nation is puzzling on the face of it. How one of Harnett County's favorite sons could be linked to "big union bosses" is even more perplexing. Those words might ring true enough around Philadelphia or Chicago, but they are oddly off key, sung out across and green fields of Cape Fear country row crops.

Then there follows a series of legislative examples dating back to the 1976 administration of Republican President Gerald R. Ford. The first is Sen. Morgan's vote to override Ford's veto of the $45 billion U.S. Department of Health, Education and Welfare budget for fiscal 1977.

All campaign literature is intended to make a strong impression, so the East forces can be forgiven, after a fashion, if it didn't quite happen that way. There was a bill appropriating $56.6 billion for HEW, the Department of Labor and related agencies. After Ford's veto, the House voted 312–93 to override. The Senate voted 67–15, so Sen. Morgan did not exactly stand alone. It was Ford's 32nd veto, but only the seventh override by the 94th Congress, a fact which seems to suggest that there was some weight of valid sentiment on the same side with Morgan (if the votes weren't clear enough illustration.)

Then House speaker Carl Albert, D-Okla., no home of impassioned liberalism, charged that the veto "underscores his (Ford's) total lack of compassion for the most vulnerable members of our society." Belaboring Morgan for voting, in effect, with the late Rep. Albert would seem to put East in that same boat.

The list of Sen. Morgan's supposed sins runs on, leaning more heavily on references to the world "union," here and there suggesting the man is anti-small business. If this weren't enough, some photographs are also going around, shots depicting Sens. Morgan, George McGovern and Edward M. Kennedy together. Is it clear? Morgan is this state's Kennedy-McGovern.

East's effort bears a faint resemblance to flight patterns of heavier than air flying machines launched before the Wright brothers tried. Folks laughed, jeered, or just shook their heads in disbelief as various contraptions met what seemed to be their natural fates.

Anybody who has kept half an eye on Robert Morgan's political career knows that as political horseflesh goes, the comparison between Morgan and McGovern or Kennedy is horsefeathers. Workhorse once upon a time for a gubernatorial candidate with segregationalist leanings, a man who labored in the traces for the defunct Speaker Ban Law, past attorney general of North Carolina, Morgan is a solid southern Democrat.

Unless birds have started flying upside down, they aren't liberal. Just leaves you shaking your head, doesn't it?●

THE BUDGET RECONCILIATION SHAM

● Mr. HELMS. Mr. President, a sham is a sham, and the manner in which Congress went about approving the so-called Omnibus Reconciliation Act of 1980 qualifies as a 24-carat, revolving sham. The act was approved December 3 by a vote of 83 to 4, and I did not hesitate to cast my protest vote against this measure, despite my longstanding support of reconciliation as a means of balancing the Federal budget.

The stated purpose of the legislation, as finally passed, was to reduce the Federal deficit by $8.2 billion—nothing more. I would emphasize that this was the "stated purpose." But to get to the truth of the matter, it is essential to read the small print. By reading the small print one discovers that what the House and Senate really did, Mr. President, was sleight-of-hand; under the guise of fiscal restraint, the stage was set for even greater excessive spending of the people's tax dollars in the future.

Unfortunately, Mr. President, the full implications of the so-called Omnibus Reconciliation Act of 1980 were not reported by the news media, perhaps through lack of understanding. As a result, there has been no explanation that, while this bill may save money this year, it actually was converted into a vehicle to permit even greater Federal spending in the near future. Nor has there been any mention that the authorizing functions of various committees of Congress had been subverted and rather callously disregarded.

A friend of mine called me from Raleigh last week and said, in effect, "I see where you voted against some sort of bill to reduce Federal spending." When I explained what I had actually voted against, he asked: "Why doesn't the news media tell us these things?"

I followed up that conversation, Mr. President, with a letter to my friend which explained in some detail the situation involved in the so-called Omnibus Reconciliation Act of 1980. It occurs to me there may be Senators and others who will be interested in the facts I have outlined in the letter. Therefore, Mr. President, I submit my letter to my friend for the Record.

The letter follows:

U.S. Senate,
Washington, D.C.

Dear John: I appreciate your interest in H.R. 7765, the Omnibus Reconciliation Act of 1980. If ever a piece of legislation deserved a protest vote, this one did. That's why I voted against it.

This was one of those times when it's essential to look at the fine print. The proponents of H.R. 7765 talked a great deal about "reducing the budget deficit" by $8.2 billion. But a strange thing happened to this bill on the way to enactment: It was converted instead, into a mechanism that could increase federal spending by untold billions of dollars.

As you know, H.R. 7765 was originally conceived as a bill to balance the federal budget. And following a budget resolution this past spring, Committees in both Houses were instructed to make changes in programs under their jurisdiction which would result in specific savings.

In the Senate Agriculture Committee, we were expected to trim $500 million from the budget of the Child Nutrition programs. We did this.

At the same time, the House Education and Labor Committee underwent a similar exercise. After these changes worked out by the Committees cleared their respective Houses of Congress, we then sat down in conference to work out the differences between the House version and the Senate version.

After several meetings, members reached a complete impasse. Conferees were unable to agree on some very fundamental issues. The Senate took the position that savings should be permanent. The House Education and Labor Committee took the position that the savings should be for one year only. The conference disbanded, unable to reach agreement.

Shortly after election day, we went back to the conference table again to discuss reconciliation—or, methods to bring spending plans in line with very clear directives on savings. It was at this point that the chairman of the conference committee refused to accept any other agreement but one which used the House "compromise" on savings as a means to extend until 1984 all programs scheduled to expire now and in 1982.

To my mind this was an outrage. This maneuver of using a budget bill as a vehicle for extending programs effectively killed another important piece of legislation, H.R. 7664. This bill included a number of import amendments which members of both Houses of Congress had fought long and hard to see adopted. At the same time the maneuver thwarts a new administration and a new Senate from making any substantive reforms whatsoever in food programs for the next four years.

Another thing the so-called money-saving bill did was to remove a $950 million "cap," or spending limit, on WIC, the fastest growing federal feeding program on the books.

To add to the sham, provisions voted on were never agreed to at any conference table. They were certainly never agreed to by even one minority member of the conference committee, House or Senate. And they were never even agreed to by a majority of the members of the House Education and Labor Committee.

In good conscience, I could not vote for a bill which authorized future new and additional expenditures of tax dollars when it was declared to be doing nothing more than reduce expenditures this year. I refused to go along with such budgetary hokus pokus. Thus the reconciliation process becomes a sham if it serves as a means by which members of Congress extend their favorite programs—and the mammoth expenditures that go with them—in exchange for illusory fiscal restraint.

That is why I voted as I did—as a protest against this kind of legislation, which appears to be doing one thing while actually doing the opposite.

Sincerely,

Jesse Helms.

OUR INFLATION IN HISTORICAL PERSPECTIVE

● Mr. STAFFORD. Mr. President, on October 14 of this year, my colleague, Congressman Jeffords, and I had the privilege of attending a luncheon given as part of the University of Vermont's Business Seminar Series in Burlington, Vt. At that time, we were fortunate enough to have as our guest and speaker Arthur F. Burns, the distinguished economist and former chairman of the Federal Reserve Board, and currently the scholar in residence at the American Enterprise Institute for Public Policy Research.

Over the years, Mr. Burns has made many significant contributions to thinking on a vast range of economic issues and has been extremely influential in shaping this country's monetary policies. Accordingly, I thought it would be fitting for me to include his particularly noteworthy luncheon address on the subject of inflation in the Congressional Record.

Inflation remains one of the most pressing problems confronting Congress, a problem which will subside only when this country undertakes and sustains a concerted effort to bring it under control. During his discussion at the University of Vermont, Mr. Burns examined the recorded history of commodity prices and outlined a program for returning general price stability to the U.S. economy. His remarks follow:

Our Inflation in Historical Perspective

(By Arthur F. Burns)

The dimensions of our nation's inflation problem are generally known, and I need not dwell on them. During the eleven years ending in 1978 the consumer price index doubled, which implies an annual rate of increase of 6.5 percent. During 1979 the index rose by more than 13 percent—a pace that would lead to another doubling in just five and a half years. In the early part of this year the consumer price level was reported to be rising at an annual rate of about 18 percent. More recently, the reported increases of consumer prices have been smaller, but there is no reason for complacency on that account. The average rate of increase in the prices of the multitude of items contained in our gross national product has not diminished in the course of this year's recession.

Rising prices are not a new phenomenon. In fact, inflation has been with us so long that it is widely believed to characterize the entire history of our country as well as the history of other nations. Many of our citizens have therefore been urging that it would be wiser to learn how to live with inflation than to fight it.

That is a counsel of despair, and it is based on a mistaken view of history. Tolerable records of commodity prices, which go back to about the middle of the thirteenth century in England, show that over the next two hundred and fifty years the average level of consumer prices kept fluctuating from year to year in response to wars, variations in harvests, high-handed acts of government, and civil disorders. The broad underlying trend of the price level nevertheless moved sidewise; that is, general price increases were soon followed by decreases—they did not cumulate. Hence, the price level around the year 1500 was still about the same as in the 1260s. And the broad trend of the price level in England was again horizontal over the century from about 1650 to 1750.

In our own country the underlying trend of the price level also moved sidewise over a long period. To be sure, the price level from the 1780s to the 1930s was in a state of flux; but the upward movements, whether occasioned by wars or economic developments, were always followed by downward movements of a similar order of magnitude. Our country thus managed to avoid persistent, cumulative declines in the purchasing power of the dollar from the earliest days of the republic until the 1930s.

But a new and momentous chapter in the history of prices began in the 1930s. The depreciation in the dollar's value that has occurred since then marks a unique epoch in the history of our country.

The factor that most emphatically distinguishes the price level since 1939 is its persistent advance. Over the past forty years our nation has experienced what is by far the longest sustained increase of prices in its history. In the century and a half prior to 1939, measures of both the wholesale and the consumer price level moved down in about as many years as they moved up. In the forty-year stretch since then, the consumer price level has gone up in thirty-eight years and the wholesale price level in thirty-five years. In terms of annual figures, the consumer price index has steadily risen since 1955, the wholesale price index since 1963. These recent unbroken strings of price increases are wholly without precedent in American history.

A second factor that distinguishes prices since 1939 is their limited regard for the business cycle. During the nineteenth century and the early decades of this century, the year-to-year movements of the price level were dominated by the business cycle; that is, prices generally rose during expansions and fell during contractions of overall business activity. The last time that prices behaved in this fashion was during the recession of 1948–1949. During the six recessions that have occurred since then, the price level has actually risen, and its rate of increase has tended to be higher and higher in successive recessions.

A third special feature of recent price history involves war episodes. Before 1939, prices rose sharply during every major war—the War of 1812, the Civil War, and World War I. But the huge wartime inflations were followed by major deflations; so that some ten years after the war ended, the price level returned to its earlier position. That did not happen after the major inflation brought on by World War II, and this was indeed the earliest clear signal that a new era in the behavior of prices was under way.

A fourth distinguishing feature of recent history is the rapidity of price advances. By 1979 the consumer price level was more than five times as high as it had been in 1939, and the wholesale price level was six times as high. There is no other forty-year period since the Revolutionary War when advances in the price level even remotely approached this rapid pace. The next largest increase over a forty-year stretch occurred between 1880 and 1920 when the price level doubled—mainly under the stimulus of World War I.

It may be of interest to compare the behavior of American prices since 1939 with that of English prices from 1500 to 1650—a period that historians describe as being marked by a Price Revolution. By 1650 the price level in England was about six times the level that had prevailed in 1500. It thus appears that prices in our country have risen about as much during the past 40 years as they rose in England during the 150 years of the Price Revolution. This comparison conveys a warning. If the average rate of increase in our wholesale price level during the past 40 years were to continue for the next 110 years, prices would reach a level 800 times as high as that of 1939. Hence, if historians can speak of a Price Revolution in Europe between 1500 and 1650, we may justly characterize the behavior of prices in our country since the 1930s as the Great Price Revolution.

There is still another unique feature of recent price history that deserves notice—namely, that inflation in the United States has been part of a worldwide inflation. According to a recent study by the International Monetary Fund, more and more countries have been coming under the sway of rapid inflation since World War II. The international intensification of inflation is starkly demonstrated by an index of consumer prices for the world recently calculated by the Fund. In terms of this index, the annual average rate of increase has moved from 2.8 percent to 3.8 percent, to 5.1 percent, and to 11.1 percent over successive six-year intervals since 1953. The rise for the year 1979 was faster still—11.7 percent. During most of the postwar period the increase in the consumer price level of the United States was well below the average for industrial countries, but in 1978 and 1979 it was conspicuously faster than average.

Economists have not been at a loss in pointing to sources of the inflationary bias in our nation's economy. Among the factors frequently cited are the power and militancy of trade unions, monopolistic tendencies in the business world, stagnation of productivity improvements, increasing intervention of government in the detailed workings of the economy, persistence of federal budget deficits, excessive growth of the money supply, as well as various special factors that achieved prominence during the 1970s—such as the devaluation of the dollar, occasional bad harvests, and the vigorous exercise of monopoly power by the Organization of Petroleum Exporting Countries.

All these factors undoubtedly played a role in the inflation process. But concentration on these factors can be misleading, since it obscures the underlying and fundamental cause of the Great Price Revolution—namely, the philosophic and political currents that were released in our country and elsewhere, first by the Great Depression of the 1930s, then by World War II, and later still by the clamor for a Great Society.

A breakdown of economic order occurred during the early 1930s. With unemployment enveloping one-fourth of the labor force, numerous banks failing, and many thousands of business firms going bankrupt, a radically novel idea began to spread and soon dominated economic thinking—namely, that the federal government had a basic responsibility for mitigating hardships during business depressions and for promoting general economic stability. In 1933 President Roosevelt ushered in the New Deal—under which far-reaching programs of unemployment insurance, old-age pensions, deposit insurance, housing subsidies, minimum wages, and farm income supports were undertaken. These measures of economic and social reform were supplemented by extending special privileges to trade unions, and by subjecting the securities market, commercial banks, and public utility enterprises to intricate controls. The government thus became a much larger factor in the nation's economic life.

The outbreak of World War II further enhanced the government's already large economic role. Unemployment, which still hovered around 17 percent of the labor force in 1939, fell below 5 percent during 1942 and below 2 percent in each of the next three years. Meanwhile, despite a buildup of the armed forces to over 11 million, the number of people in private employment expanded dramatically. As the nation concentrated its energies on producing essential war goods, the construction of new homes nearly halted and shortages of various consumer items developed. Nevertheless, the total output of consumer goods and services kept rising, and our economy thus demonstrated a capacity to produce both "guns and butter" in great abundance.

This remarkable achievement reinforced the philosophic and political currents of thought that had been released by the depression. Just as most Americans were persuaded during the depression that the federal government had a responsibility to mitigate the hardships caused by unemployment and falling incomes, so they were persuaded by the experience of World War II that the government could prevent substantial increases of unemployment from occurring in the first place. To millions of our people it seemed only reasonable that if governmental efforts could bring our economy to a state of full employment during a war, they should also be able to do so under peacetime conditions.

In response to these expectations, Congress passed the Employment Act of 1946—popularly known as the Full Employment Act—by overwhelming majorities of both our political parties. The act declared that "it is the continuing policy and responsibility of the federal government to promote maximum employment, production, and purchasing power," and this act has since then been the magna carta of the nation's economic policy.

The assumption by the federal government of responsibility for maintaining prosperity not only diminished fears of unemployment, it also fostered expectations of steady improvement in living standards. Generally prosperous conditions actually developed between the end of World War II and the mid-1960s. This period was marked by a dampening of the business cycle and by persistent increases in the economic welfare of American families. That experience of economic progress encouraged public expectations or still more rapid progress, as did the agitation of many intellectuals and political leaders for bolder fiscal policies to stimulate growth, to reduce unemployment, and to aid disadvantaged people and troubled regions. Congress responded by pouring out a stream of legislation that kept raising the government's spending and its command over the nation's resources of labor and capital. But neither the general advance of prosperity nor the rising tide of economic and social legislation kept pace with the rising expectations of the American public.

For a time the resistance of the Eisenhower administration to the mood of social activism succeeded in checking the inflationary bias that by then had emerged in our economy. But this resistance also led to an accumulation of social and political discontent, which later exploded in the Great Society programs of the 1960s. Besides fighting a war in Vietnam, our government then boldly undertook to eliminate poverty still in our midst, to assure physical safety in our workshops, to improve schooling at every educational level, to revolutionize medical care, to cleanse our air and streams and otherwise improve the environment—in fact, to try to solve almost every economic and social problem by spending more public money, raising taxes, stepping up its own borrowing, fostering liberal credit facilities for private borrowers, and imposing a maze of costly regulations on private industry.

That, in brief compass, is how the great inflation of our times got started and gathered strength. By now, expectations of inflation have become general. Businessmen, bankers, trade union leaders, ordinary workmen, housewives—practically everyone expects inflation to continue. Workers insist on higher wages to offset expected increases in consumer prices as well as those recently experienced. Employers grant substantial wage increases because they see no choice or because they feel confident that they can recover their higher labor costs by raising prices. Lenders insist on higher interest rates because they expect to be paid back in cheaper dollars. Borrowers typically have similar expectations besides feeling that what they buy today can be obtained at a lower price than will need to be paid tomorrow. By now, therefore, inflation has acquired a momentum of its own—a momentum that is nourished by rapidly spreading arrangements that tie wages, pensions, rentals, and other payments to increases in the price level.

Governmental policy makers have recently become more concerned about inflation, as have the American people generally. Our government, however, has not yet departed sufficiently from the policies that first brought on the inflation and then allowed it to accelerate. The stubborn inflation in our country will not be ended, nor is it even likely to be substantially curbed, until the general public is sufficiently aroused to create a political environment in which the difficult adjustments required to stop inflation can be undertaken.

The urgency of dealing resolutely with inflation can hardly be exaggerated. The signs of havoc brought on by it are all around us. Inflation has eroded the real value of everyone's money income and monetary assets. It has created large and wholly arbitrary redistributions of income and wealth. It has deprived people of effective means of planning for the future and of providing against the contingencies that arise in life. And it has been destroying the self-respect of many of our citizens by forcing them onto the welfare rolls.

Moreover, inflation has been reducing the efficiency of financial markets and of the workshops of our economy by diverting much of the finest energy of businessmen and investors into speculative pursuits. It has been weakening business innovation and capital investment by multiplying risks, driving up interest charges, and causing taxes to be paid on a phantom portion of profits. It has been reducing the value of the dollar abroad, and with it the power and prestige of the United States in the international area. By causing economic imbalances, it has become the primary channel through which recession periodically engulfs our economy, as it has three times during the past decade—in 1970, in 1974, and again this year. In short, persistent inflation has been undermining our nation's economic, moral, and political strength.

In view of the dangerous bearing of inflation on our nation's future, a number of citizens who have had extensive governmental experience in handling economic and financial issues established this June a Committee to Fight Inflation. The Committee is thoroughly bipartisan in its make-up. Its members, now all in private life, represent diverse backgrounds and experience. Five members of the Committee are former secretaries of the Treasury, two are former chairmen of the Federal Reserve Board, one is a former chairman of the Council of Economic Advisers, one is a former Under Secretary of the Treasury, and the remaining four are former members of Congress who had major responsibilities in the economic and financial area. What this group has in common is the conviction, born out of a shared experience stretching over the last three decades, that inflation poses a major threat to the stability of our economic, social, and political system.

In its initial policy statement the Committee to Fight Inflation has urged adoption of a program consisting of the following elements:

1. Revision of the federal budget process so as to require a balanced budget unless a deficit is authorized by more than a simple majority—say, two-thirds—of each house of Congress.

2. Adoption by Congress of a concurrent resolution stressing the importance of restrictive monetary policies in ending inflation.

3. Dismantling or at least weakening restrictions on competition imposed by government—such as restraints on imports, farm price supports, and minimum wage and Davis-Bacon legislation.

4. Reform of regulations concerned with the environment, public health, and safety to ensure that basic national objectives are achieved at minimum feasible cost.

5. Encouragement of productivity-enhancing capital investments by scheduling reductions in business taxes in each of the next five to seven years—the reduction to be quite small this year and next in order to avoid fanning the fires of inflation, but to become substantial in later years.

6. Adoption of other measures to increase productivity, including increased outlays for research and development, improved manpower training programs, and labor-management productivity councils in individual plants and offices.

7. More rapid decontrol of oil prices and perhaps adding of consumption taxes, despite adverse short-run effects on the price level, in the interest of achieving price stability over the longer run as well as regaining national energy independence.

I am confident that if the recommendations of the Committee to Fight Inflation that I have just summarized were acted upon, our country would soon be on the road to regaining general price stability. Our inflation is largely a consequence of government actions; but those actions in turn reflect excessive public demands for the good things of life—rising living standards, better provisions for income security, more assistance to the disadvantaged among us, a cleaner environment, fuller protection of the public's health and safety, and special benefits for a growing number of interest groups. Each of these demands is thoroughly understandable. Together, however, they release strong and persistent inflationary forces—first, by requiring of government greater outlays than tax revenues can finance, second, by demanding of the private economy greater output than its languishing productivity can support.

At best, the task of ending inflation will be difficult. But there is no hope of eventual success unless the American people come to understand the nature of the problem and are prepared to support the stern measures required to solve it. Millions of citizens need to become active inflation fighters. Once such a crusade is under way, our nation will again be able to look forward with confidence to the economic well-being and progress that are attainable in an environment of generally stable prices.

ORDER FOR RECESS UNTIL 8:25 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:25 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REDUCTION OF LEADERSHIP TIME UNDER THE STANDING ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time under the standing order for the two leaders be reduced to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE AND SENATOR BOREN ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees under the standing order, Mr. PROXMIRE and Mr. BOREN each be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I believe the order has been entered already that the Senate resume consideration of the continuing resolution at 9:30 a.m. tomorrow.

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR RECESS UNTIL 8:55 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for convening of the Senate on tomorrow be changed to 8:55 a.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 8:55 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 8:55 a.m. tomorrow.

The motion was agreed to; and at 9:04 p.m., the Senate recessed until Thursday, December 11, 1980, at 8:55 a.m.

EXTENSIONS OF REMARKS

TRIBUTE TO HON. RICHARD H. ICHORD

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PRICE. Mr. Speaker, in January of this year our distinguished colleague from Missouri, Hon. Richard H. Ichord, announced that he would not seek reelection to the next Congress.

It is difficult for me to accept the fact that the 97th Congress will convene without Dick Ichord, an effective legislator who during his 20 years in Congress has served his constituents and, in fact, all Americans with dedication, loyalty, and an unending drive to preserve the American Way.

Mr. Ichord is perhaps best known for the part he has played in keeping America's defense forces strong. He has served with the Armed Services Committee since 1963. In his 17 years of service he has most certainly left his mark on the national security of our great Nation. His unparalleled effort in improving the military weapon system acquisition process and his no nonsense approach toward defense procurement have enhanced the defense posture of this country and saved the taxpayers hundreds of millions of dollars at the same time. I can recall in 1978 when he personally led the charge to cut nearly one-half billion dollars in unwarranted expenses from the LAMPS antisubmarine warfare helicopter program. The Defense Department complied with the Ichord mandate without sacrificing a single performance goal or operational objective.

The Ichord imprint extends well beyond the defense arena. He has been a strong advocate of States rights and decentralization of Federal power. He has consistently supported aid to education, veterans, medical research, social security, rural community and farm programs.

Dick Ichord has long been recognized as a consistent champion of America's small businessmen. He has been active in seeking regulatory reform and Federal paperwork reduction. Many of us remember his part in the Small Business Committee effort to investigate the gasoline practices of the large oil companies to insure that the small independent gasoline retailers retain a fair and equitable share of the market.

Mr. Speaker, I could take the better part of a week and still not cover the broad spectrum of legislation that Dick Ichord has sponsored, cosponsored or supported—legislation that meant a better life for all Americans. We will all miss him when the 97th Congress convenes.

In his departing message to his constituents Dick said, and I quote:

> I have been honored to serve you. No experience of public life could have been more rewarding. You have given me friendships, opportunities, and fulfillment beyond expectation.

Let me say to you, Dick, that you too have given us friendship and many opportunities for us as legislators to better serve our Nation.

You promised your constituents in your departing message that you would never leave public life. We will hold you to that promise because the needs of our country are too great to permit a man of your ability to completely withdraw from public service.

On behalf of your colleagues in the Congress, I wish you the very best and look forward to your continued friendship. Thank you.●

DICK ICHORD—PROTECTOR OF OUR DEFENSE SYSTEM

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PICKLE. Mr. Speaker, in my opinion, Dick Ichord has been a powerful strength of the Armed Services Committee. He has literally been the guardian angel of the need for a strong defense posture. Although we may have temporarily fallen behind the Russians in terms of military might and buildup, this slippage was not due to Dick Ichord. If it were not for Dick, we would be further behind than we are today.

As all Members know, Dick Ichord thinks about each vote and does not ride along to get along. When he makes his position known, there is no need for the leadership or anyone else to fool around with him.

Dick is a strong, able, outspoken American. It may be a cliche to say, but I really think "America can sleep better at night with Dick Ichord around." Thank God he has served us so admirably on the Armed Services Committee.

One of the most reassuring things about Dick's chairmanship of the Research and Development Subcommittee was his capacity to study not only today's defense posture but also future needs and standards. He was able to anticipate the long-range research necessary before viable weapons systems could be developed. This is an expensive and quite proper system of study. Often the actual system is not developed. Some say this is a wasteful exercise. But military preparedness is not an exact science, and we have to make our commitments and take our chances. Ichord had the marvelous talent to look down the road 10 years and point us in the right direction.

On a more personal note, my wife and I have enjoyed and loved the company of Dick and his wife, Penny. Through visits, travels, and work, we have gotten to know them well. The welcome mat will always be out for them in Washington, or Texas, or anywhere in the world.●

TRIBUTE TO THOMAS ASHLEY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying tribute to one of the most knowledgeable and respected Members of U.S. Congress, Lud Ashley. Lud's departure from the House is a tremendous loss, and it is difficult to see how he can be replaced.

Lud's expertise in the area of housing is well known. No other Member of the House or Senate knows more about Federal housing programs and the needs of both the people and the industries affected by this vital area of legislation. The Nation will not easily recover from the loss of Lud's skills and knowledge in this area.

In addition, Mr. Speaker, it has been my privilege over the past 2 years to serve with Lud on the Budget Committee. In that position, Lud used all of his 26 years of House experience to help in the enormous task of fashioning budget resolutions. As a younger member of the committee, I came to admire him a great deal, and I know my fellow committee members felt the same way.

I would like to take this opportunity to wish Lud the best of luck in the future. He leaves a great legacy to the Nation, and he can be extremely proud of his achievements.●

TRIBUTE TO JOE FISHER

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. UDALL. Mr. Speaker, Joe Fisher was one of the most effective legislators to come along in the 1970's. Some say legislators are divided into "showhorses" and "workhorses." If that is true, then Joe could only be called a workhorse.

Joe served northern Virginians and the country well. I hope he has a great future wherever he goes. His quick mind, and his firm and fair dealing will be missed in this House.●

JAMES M. HANLEY

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. MOAKLEY. Mr. Speaker, I would like to join my colleagues in paying tribute to a fine Member of this body, Jim Hanley. Jim decided to retire after 16 years of service. He will be sorely missed by those of us who had the opportunity to work with him over the years.

As chairman of the Post Office and Civil Service Committee, perhaps Jim's greatest triumph was the passage of the civil service reform legislation. This legislation encouraged more responsiveness in the top levels of the bureaucracy. It provided for innovative management of our bureaucratic structure.

Jim's contributions on that committee also were decisive in maintaining Saturday mail delivery in the postal system. Jim worked hard at resisting postal rate increases.

Along with Lud Ashley, another departing colleague, Jim was a member of the Banking Committee. I was fortunate to serve with them on the committee during my freshman term in Congress. As a member of the Subcommittee on Housing and Community Development, Jim worked hard to maintain decent public housing for our elderly citizens. My constituents in Boston, and those in this Nation's cities, are grateful for his work on the subcommittee.

Jim Hanley came to Congress with Lyndon Johnson's landslide victory. He leaves behind him a great body of work. After 16 years of service he will be missed by his constituents in Syracuse and by those of us who knew and worked with him here. I will miss his great Irish wit and I will miss his contributions to this body.●

JOHN W. McCORMACK

HON. HARLEY O. STAGGERS

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. STAGGERS. Mr. Speaker, it was with great sorrow that I learned of the death of my long time friend and colleague, former Speaker of the House of Representatives, John W. McCormack. It was a deep sorrow, for the passing of a man of the utmost integrity and dedication, the end of a career of public service that is the envy of all good men and the loss of a dear and trusted friend.

But it was a sorrow tempered by pride and gratitude.

Pride in the achievements of a man whose career of public service spanned the most turbulent, most dangerous and most production era of our Nation since the Civil War. John McCormack came from simple beginnings, the son of Irish immigrants to Boston. He served his country as a soldier and as a public official in State and National Government. He entered Congress at the beginning of one of the most difficult and trying periods, the Great Depression, and helped to shape the incomparable legislative achievements of the New Deal that restored the Nation to strength and prosperity. He served as Speaker during the wrenching years of Vietnam and did so with a dignity, integrity, and skill that played a major role in the fact that our democratic institutions survived that great test.

The gratitude that tempers my sorrow comes from the fact that I was privileged to know and serve with such a man for nearly a quarter of century of my own public life.

"Atque in perpetuum, frater, ave atque vale."●

FOOD POLICY: SAFETY AND NUTRITION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. HAMILTON. Mr. Speaker, I insert my Washington report for Wednesday, December 10, 1980, into the Congressional Record:

Food Policy: Safety and Nutrition

The United States Congress is increasingly concerned about food. It expends a great deal of its time and energy on food legislation, programs, prices, and supplies.

Consumers, farmers, and representatives of the food industry are constantly pressing members of Congress for a major review of food law. Food stamps for the poor, one of the biggest government programs, helps feed 22 million Americans at an annual cost of $9.3 billion. No one knows quite what to do about the high cost of food, but there are extensive congressional studies on the structure of the food industry and the connections between high food prices on the one hand and corporate size, food processing and packaging, and the cost of transportation on the other. Disappointing harvests in grain-growing nations require the attention of members of Congress because they raise the specters of food shortage and social instability. Members of Congress know that the world must come to grips with the issue of food supplies that are not expanding fast enough to keep pace with the explosive growth of population. But often these days Congress is turning to other aspects of food policy: safety and nutrition.

At least since the government warned people in 1959 that they might get cancer from cranberries contaminated with a chemical weed killer known to cause the disease in laboratory animals, Americans have been aware of the problem of food safety in modern, technological society. Most of us can remember a long line of "food scares": saccharin, cyclamates, red dye #2, nitrites kepone, PCB's, DES, and so on. Announcements that food is being recalled are frequent occurrences. Last year, for example, the Food and Drug Administration monitored the recall of 153 food products that it claimed had adverse effects on health. Consumers can name many food products—among them canned goods, frozen foods, mushrooms, peanut butter, bacon, fish, jelly beans, and baby formula—that have been suspect. Each year changes are demanded in the 20-year-old Delaney Amendment, a law which flatly prohibits any food additive that induces cancer in man or animal. Arguments on the wisdom of a saccharin ban fly back and forth. Initiatives to ban meat preservatives or animal drugs as potential causes of cancer also occupy much of the congressional schedule. Most food scares are tied to cancer, but not all. Botulism is a much-feared form of food poisoning that can be lethal.

As a result of these and other food scares, Ninth District residents indicate to me that they are often confused about what is best for them to eat. They put some of the blame for the confusion squarely on the shoulders of government. Not long ago, for example, the Departments of Agriculture and Health, Education, and Welfare issued a set of dietary guidelines. Two week later the guidelines were disputed by the National Research Council, and several days after that the council's statements were challenged by government experts in nutrition. Americans are kept on edge by intermittent warnings about pesticides and industrial chemicals that contaminate food sources. They feel uneasy with the periodic news about potentially dangerous additives that facilitate food processing or make food more attractive. For Congress, the questions which lie behind these controversies are straightforward: what level of protection should be provided by government to consumers, and what role should government play in warning consumers of unsafe food or banning such food from the market? These questions are enormously difficult because the scientific complexities of food safety are formidable. It is not easy to draft legislation that can take into account the varieties of experience and need.

The government recently prepared dietary guidelines which urge Americans to eat less of what they love most to eat. The guidelines call on them to consume more kinds of food, maintain ideal weight, cut down on fat, sugar, and sodium, take in adequate fiber and starch, and drink alcohol only in moderation. The guidelines, coupled with various warnings and prohibitions, do not meet with universal approval. Some people believe that such initiatives are ill-conceived. They claim that no one really knows whether diet causes disease. They point out that given the present state of our knowledge, it is premature to recommend specific modifications in the diets of most Americans. They argue that the law of food safety is outmoded because it dictates the automatic recall of food linked to cancer in tests on laboratory animals. Yet, these people contend there is nothing that can be fed to animals in huge doses that will not cause some trouble.

Other people strenuously disagree. They believe that Americans can no longer assume a product in the food supply to be safe to eat. These people favor an active government policy on food because of studies which suggest that many diseases may be related to diet. They say that we cannot wait for definitive proof of the benefit of modifying diets. They maintain that reducing dietary risks for the nation as a whole would reduce such risks for each person. Since scientists simply do not know the extent of hazard to people from substances linked to cancer, they argue that some foods should not be considered wholly safe until much more is known.

The character of federal food policy will be debated for a good many years to come. The studies required to prove the value of dietary change are just not that precise, and in issuing dietary advice the government is responding to the demands of a health-conscious public. It is clear to all of us that not all the risks to the food supply can be eliminated, but clearly some of them can be. My guess is that Congress will be looking at both food safety and nutrition more and more closely in upcoming sessions.●

JOE FISHER—A CALM, EFFECTIVE INTELLECT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PICKLE. Mr. Speaker, perhaps the most thoughtful and best balanced person in the House is Joe Fisher of Virginia. He is a kindly and proper man. But do not be deceived by his pleasant demeanor. Joe is an independent man. He offers probably more breadth of experience than just about any other Member. His balance and sense of fairness is unequaled by any other.

Joe is an economist by background, but he is not a fuzzy-headed pie-in-the-sky type. When elected in 1974, Joe was the oldest freshman. But his mind was bright and fresh with new ideas, balanced with the wisdom of his vast experience.

In all debate or discussion, Joe Fisher maintains his calm and control. His qualities are admirable to behold. He knows his subject and presents it like a professor and legal scholar, always in a kind and almost saintly manner. After all the pros and cons, after the high-pitched discussions and wringing of hands, Joe calmly adds a few well-placed thoughts. He artfully sliced through the rhetoric and got to the heart of the matter.

So our Ways and Means Committee will miss the benefit of Joe's thoughtful contributions, his artful expressions of concern, and his practical experience. We will also miss his lovely, and talented wife, Peggy, and wish both of them the very best.●

TRIBUTE TO MIKE McCORMACK

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PANETTA. Mr. Speaker, I would like to join my colleagues in paying tribute to one of the most respected individuals in this body, Mike McCormack.

Mike has been a leader in Congress in searching out new forms of energy to help make our Nation energy self-sufficient. While I have not always been in complete agreement with him on some energy issues, I have always had a profound regard for his intelligence and dedication. I know we will miss him a great deal.

I want to take this opportunity to wish Mike the best of luck in the years ahead. He is certain to bring the same skills that he showed in this body to any future endeavors.●

THOMAS LUDLOW ASHLEY

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. UDALL. Mr. Speaker, "Lud" Ashley has turned in a solid record as a legislative leader. He is a careful, courageous human being. I shall always remember his generosity and kindness to me. His absence in the House will be a great loss to the working families of America.●

TRIBUTE TO MR. ROBERT GIAIMO OF CONNECTICUT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. MOAKLEY. Mr. Speaker, I am particularly pleased to join my colleague from Connecticut, Mr. Cotter, in tribute to the distinguished chairman of the Budget Committee, Bob Giaimo, on his retirement from Congress.

Bob's achievements since his arrival in this body in 1958 have been both notable and significant. He first served on the Education and Labor Committee and, in 1963, was named to the Appropriations Committee. Until his election as chairman of the House Budget Committee, Bob was the ranking majority member on Appropriations and quickly developed an enviable reputation for his balanced and rational approach to spending issues.

Bob's legislative accomplishments are legion. Among other things, he authored the Vocational Education Act, sponsored legislation establishing the Arts and Humanities Commission, worked intensively on the Northeast Corridor project, secured $1 million for the innovative Hospice program to care for the terminally ill, established the Cooley's anemia research fund and made significant effort to end the war in Vietnam.

Bob's most important contribution and the one for which he will long be remembered is his effort to bring order, reason, and management to the formulation of our Federal budget. In a very real sense, Bob has been the midwife to the process borne of the Budget and Impoundment Control Act of 1974. Without his continued watchfulness, the innovative concepts of that most important act would never have become legislative realities.

I can think of no other individual who could have served as well as Bob in the role of budget chairman during these trying economic times. Bob was faced with the impossible and thankless task of controlling Federal spending while, at the same time, setting budget priorities among so many and varied competing interests. To develop consensus and to achieve compromise on these fiscal matters truly demanded legislative genius of the highest order. The passage of the budget resolutions and the enactment of the Omnibus Reconciliation Act attests to the fact that Bob possesses that very genius. His wisdom and advice will be sorely missed by all of us in the 97th Congress.

I join my colleagues in wishing Bob and his lovely wife, Marion, health and happiness in their retirement from Congress. My disappointment in the loss of his presence among us is tempered by the knowledge that he has not retired from political life and that we shall continue to hear his voice and counsel on matters of national importance.●

TRIBUTE TO HON. JOHN BUCHANAN

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BRADEMAS. Mr. Speaker, without question one of the most sorrowful losses this institution suffered this year is that of John Buchanan of Alabama.

John and I served together for many years on the Education and Labor Committee and its Subcommittee on Postsecondary Education.

Although we were of different political parties and from sections of the country with different interests, we came to similar positions on most issues coming before the subcommittee and this House.

John Buchanan is a wise and gentle man. He recognized the needs of his people of every walk of life and sought to assist them.

It is indeed ironic that John Buchanan, a Christian in every sense of the word, will no longer be with us because a politically conservative group that cloaks itself in religion opposed him.

His foes lacked any concept of such Christian virtues as charity and justice, and this House thus will lose a man whose heart and mind embodies both.●

TRIBUTE TO MELVIN EVANS

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. HAMMERSCHMIDT. Mr. Speaker, I am most grateful for the opportunity to express my feelings on the departure of an outstanding Member of Congress—the Delegate from the U.S. Virgin Islands to the House of Representatives, Dr. Melvin H. Evans.

I was privileged to come to know Melvin and his lovely wife, Phyllis, while he served as the first elected Governor of the Virgin Islands. Visiting with him on these Sun-soaked isles of St. Thomas, St. Croix, and St. John surrounded by the aquamarine waters of the Caribbean, one could easily sense the great love and deep appreciation that Melvin had for this territory and its people.

During his brief tenure as Governor, Melvin Evans accomplished more for the Virgin Islands than had been done in the previous half-century. His top priority was to construct much needed schools, roads, and low-income housing. As Governor, he felt his most significant achievement was in eliminating the corruption which had flourished in the island government.

As a graduate of Howard University College of Medicine, a fellow in cardiology at Johns Hopkins Hospital, and commissioner of health in the Virgin Islands, Melvin Evans—the physician—was able to truly advance the quality of health care delivered in the islands. Based upon his first hand experiences he was able to clearly convey the special health problems they faced.

Although I did not have the chance to serve with Melvin on his respective committee assignments—Merchant Marine and Fisheries, Interior and Insular Affairs, and Armed Services—in just 2 short years, he quickly earned the respect and admiration of his colleagues on those panels. Always prepared, many Members sought his wise counsel and informed judgments. He will be sorely missed by them.

Personally, I came to know Melvin, the Governor, the Delegate, and the physician as a very intriguing individual. His pleasant demeanor endeared him to all who had the pleasure of his acquaintance. I came to know him as an unpretentious man, a public servant in the truest sense of the word. During the 96th Congress, I recognized his continued level headedness, superior abilities, and strength. This was a man who never sacrificed his principles and kept the national interest as his uppermost consideration.

As a result of his dedicated service in the House, I know I have a better understanding of the peculiar problems that plague Americans in our offshore areas. And, I know that many of my colleagues share this feeling.

It is my hope that the incoming administration will recognize the immense capabilities of this man, and his natural ability to enter the diplomatic arena. I am sure that his extraordinary accomplishments of the past decade will not go unnoticed. I have great faith that Melvin Evans will proceed to serve his territory and his Nation with distinction.

Mel, as you depart this body, you should take pride in your accomplishments. It was because of your uphill battle in the House that the Virgin Islands will receive a fair deal and remain our "American paradise." In just 2 short years, your work has become legendary.●

AL ULLMAN: OUR RESPECTED CHAIRMAN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PICKLE. Mr. Speaker, Al Ullman was almost too good to be true. As chairman of the outstanding Ways and Means Committee, we expect a person to be knowledgeable, experienced, and hardworking. Al Ullman is all of these things. His quarter century of service in the House has given him the background, training, and expertise to handle this tough job.

For much of Al's tenure here, he was an active member of Ways and Means, to which he dedicated himself completely. Every Member of Congress, lobbyist, and tax organization knows Al Ullman to be knowledgeable, accessible, and cordial.

But Al is more than all of that. He is the epitome of what a chairman should be. Al has kindness, consideration, and concerns for the individual and his program. Over and above being knowledgeable, Al Ullman has that little extra quality of kindness which has caused him to give every Member an audience and willingness to listen. Never once have we heard him say an unkind word about any Member. And never once have we seen him curt or impatient, even when he has 1,000 reasons to be put out at a Member or witness.

Al Ullman is the exemplification of patience. When the Lord taught us to "Do unto others as you have them do unto you," it could have come from Al Ullman himself.

Perhaps it was Al's appearance before and identification with national groups and national concerns that caused his folks to think he had become a national Congressman at the expense of being a district Congressman. Well, I feel being the chairman of such a major committee is a national responsibility. Inevitably, the person who holds that job belongs not only to his or her district, but to the whole Congress and the entire Nation. Regardless of all that, I know the people of Al's district have deep feelings of love and respect for this man. I have visited in the congressional district with Al and have seen his constituents' admiration first hand.

This same respect is held by every Member of Congress. It is hard to believe we have lost "the model." Al might have been too good to be true. But his goodness will remain forever. And his contributions to tax policy will also last forever.●

RICHARD ICHORD

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. RHODES. Mr. Speaker, among our colleagues who will be leaving the Congress at the end of the 96th is a distinguished Member from Missouri, Richard Ichord.

It has been my privilege to have known him well during his 20 years of outstanding and dedicated service in this body. He has served with vigor his district, Missouri, and the Nation. He has taken a great interest in national security, and has worked through the years to push for careful consideration by Congress of our Nation's defense needs and programs. He has been a budget-watcher, concerned over the detrimental effects of inflation on our economy, and he has pushed for policies that would restrain runaway Federal spending and growth. He has been active in urging a balanced budget as a means of putting our governmental fiscal house in order.

I have enjoyed our association during his two decades in the House, and I have been pleased to have known Richard—as a good man, and a good friend.

I know that I join his host of friends on both sides of the aisle in wishing him and his lovely wife, Penny, many happy and fulfilling retirement years.●

TRIBUTE TO AL BALDUS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PANETTA. Mr. Speaker, it is with great regret that we must take this time to pay tribute to Al Baldus. Al's departure is a serious loss to the House and to the Nation, and he will be deeply missed.

It has been my pleasure to work with Al on the Committee on Agriculture for the past 4 years. During that time, he has proven to be a knowledgeable, cooperative, and constructive committee member, as well as an able subcommittee chairman. He has ably represented his own constituents on the committee, and he has been a tremendous resource for his colleagues.

Mr. Speaker, I know my colleagues join me in wishing Al the best of luck for the future. His record is a tribute to his skills and dedication, and I hope his achievements outside the House equal his achievements here.●

TRIBUTE TO RICHARD H. ICHORD

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. JOHNSON of California. Mr. Speaker, I rise to commend the service of the Honorable Richard H. Ichord on the occasion of his retirement after 10 consecutive terms as Representative of Missouri's Eighth Congressional District.

Congressman Ichord is a native of Licking, Mo., where he attended public schools before enlisting in the U.S. Navy, where he served in the Pacific theatre during World War II.

After serving for almost a decade in the Missouri State Legislature, Mr. Ichord was elected to the U.S. Congress in 1960 and was reelected to each succeeding Congress until his retirement this year.

During his tenure in the House, our colleague, now third ranking member of the Armed Services Committee, has chaired that committee's Subcommittees on Research and Development and Military Installations and Facilities; he is a member of the special NATO Subcommittee, and the House Committee on Small Business.

Dick Ichord will be missed by the people of Missouri and by the Nation.●

TRIBUTE TO BILL HARSHA

HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. CLEVELAND. Mr. Speaker, many Members on both sides of the aisle have commented on the contributions made by Bill Harsha on behalf of his constituents, the House, and the country over the past 20 years, including his work on the Committee on Public Works and Transportation.

But as I join him in departing this body, I want to take particular note of his outstanding role as ranking minority member of the committee for the past 10 years. For, in the final analysis, it has been the caliber of his leadership that has made possible a number of legislative accomplishments across the entire public works jurisdiction to which he and all members of the committee can point with pride.

Demanding of himself as of others, Bill Harsha has the energy, tenacity, and grasp essential to mastering the practical implications of often complex provisions of legislation, not to mention the larger policy implications.

This mastery of the facts has accounted for that element of leadership which has served him best—persuasion. In developing a minority position on a controversial issue, persuasion has been an approach, that and a genuine respect for differing views. This has generated a loyalty and a support on our side that, when the chips are down, he has been able to rely on. In my experience, Bill Harsha seldom leans. But when he does, he gets what he wants.

These same qualities have enabled him to lend great strength to the position of the full committee, which ordinarily goes to the floor united, its battles behind it.

And on those infrequent occasions when there has been partisan division within the committee, Bill has always had an instinct for whether honorable compromise was possible.

Bill Harsha is most widely known for his work in transportation, stemming from his long service as ranking minority member on the Transportation Subcommittee, and from his work on navigation and aviation programs. In this he has exhibited a clear recognition of the role of transportation in the economy of this country, which at the local level is translated into job opportunities and purchasing power for the working people of this country.

But for all his advocacy, there is a balance, a restraint. For example, I know of no stronger defender of the highway program than Bill Harsha. Yet he also recognized the extent to which massive Federal spending contributes to the inflation and accordingly has counseled restraint.

While he would seek compromise on numbers, he has not been about to compromise on program integrity, as in the case of the Highway Trust Fund and the Interstate Highway System, whether the depredations originated with a Bella Abzug on the committee or with the Department of Transportation in the departing administration.

During the last Republican administration, Bill played a key role in seeking workable compromises on key legislation between DOT and Congress, attempting to avert a stalemate which would be a credit to neither.

For all his association with transportation, however, Bill has made an outstanding contribution to the environment in the field of water pollution control, ranging from his work on the Water Pollution Control Act Amendments of 1972 to his service of the National Commission on Water Quality and his contributions to the Clean Water Act of 1977. This has won the recognition of environmental groups, excepting only those on the extremist fringe whose enmity stands to his enduring credit as well.

In this connection, his vigor in asserting the House position in conference with the Senate, and his singular lack of awe even in the presence of that body's self-proclaimed proprietor of the Clean Water Act, have been a joy to behold.

Bill Harsha also recognizes another aspect of leadership, the role of the legislator in keeping the record straight, and has been quick to document distortions and misrepresentations of our programs originating with critics who have been less than fastidious with the truth.

One might say that Bill Harsha has been enabled to do these things by the unusually high degree of bipartisanship that prevails on the Public Works Committee. I would turn it around and suggest that to the extent that such a constructive atmosphere prevails on the committee, Bill Harsha is in no small way responsible for it.

It has recently come to my attention that Bill is under active consideration for nomination as Secretary of Transportation. I hope this is true, and would suggest that the same qualities which have made the gentleman from Ohio a national legislator would commend him for the job; that, and an ability to work with the Congress which—whoever is chosen—must be a hallmark of the Reagan administration if it is to succeed where the Carter administration failed.●

A TRIBUTE TO MORGAN F. MURPHY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. BIAGGI. Mr. Speaker, it is with great personal sadness that I wish to pay tribute to my friend and colleague, Morgan F. Murhpy, who voluntarily chose not to return to this body in the 97th Congress. He has made this decision voluntarily, and while I respect his judgment, he should know that a great many of us will miss him.

Morgan F. Murphy has served the people of the Second Congressional District of Illinois with compassion, commitment, and concern since his election to the House in 1971. He has proven himself to be an able legislator on behalf of the interests of his constituents on issues such as narcotics abuse and control, the protection of American jobs and business from unfair foreign competition, and support for efforts to preserve declining urban areas through the prevention of redlining and blockbusting.

Morgan's commitment to a strong and secure United States was also a major theme of his work in Congress. As a member of the Permanent Select Committee on Intelligence, he exercised his customary good judgment in working to enhance our methods of halting Communist aggression abroad while at the same time, assuring that the rights of Americans in this country were not violated by our intelligence networks in operation here.

As chairman of the 132-member ad hoc Congressional Committee for Irish Affairs, I was proud to have Morgan as one of our members. As an Irish American, he is well acquainted with the sentiments of this community on the tragic situation in Ulster. He lent his voice to our efforts to enhance the U.S. role in promoting a solution to the problem of Northern Ireland. The entire Irish American community is deeply appreciative of Morgan's membership on the ad hoc committee and his absence next year will be felt by all of us.

One of the more enjoyable aspects of this job is the fact that we encounter individuals who we would otherwise not have had a chance to meet, and to share with them counsel, friendship, and legislative successes and defeats. Sadly, one of the least enjoyable aspects of this work is saying goodby to those you have come to admire. For me, Morgan is one of those people. He is a man of outstanding character, class, and dedication, an opinion I know is shared by many of our colleagues. I wish him all the best in future endeavors and a happy and healthy retirement.●

LAOS: THE CURRENT DAY PARALLEL TO WORLD WAR II AND THE GASSING OF THE JEWS

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, a tragedy is going on in Southeast Asia equivalent to the merciless slaughter of the Jews in World War II. But because it is a race of people, the H'mong tribe, from a country that is still little known in the United States, Laos, not much is said about the systematic elimination of these brave people by the Communist government in Laos.

Well, what is wrong is wrong. It should make no difference what race a people are, the calculated extermination of anyone is unconscionable. In 1960 in Laos, there were, according to an article in the October 1980 Reader's Digest, 500,000 H'mong. Today, it is believed that only 50,000 H'mong live there. The reason for this is because the Communist regime in Laos is determined to annihilate these people and is engaged in a program to do so.

The evidence is overwhelming that the H'mong are being gassed to death in Laos. And what is the U.S. response? Well, the House Subcommittee on Asian and Pacific Affairs has taken testimony on the matter. The State Department and the Department of Defense have investigated it. But, according to the Reader's Digest article, the State Department and the Defense Department, as well as those in the White House, "refuse to acknowledge that the evidence is conclusive." I truly wonder what more these people need for proof.

Because of the ghastly and hauntingly reminiscent situation in Laos, which has gone largely ignored by the entire free world, I feel compelled to bring the October 1980 Reader's Digest article, "Gas Warfare in Laos," by Jane Hamilton-Merritt to the attention of my colleagues. I urge them to consider it closely. The article follows:

Gas Warfare in Laos: Communism's Drive To Annihilate a People

(By Jane Hamilton-Merritt)

The place is not a pretty sight. I.V.'s drip fluid into skinny arms. Doctors and nurses scurry from one wooden-slab bed to another, responding to pleas for help. I am at Ban Vinai, a refugee camp along the Mekong River just inside northern Thailand. It is populated by some 35,000 H'mong (pronounced Mong) tribal refugees from the mountains of Laos. They suffer from severe malnutrition, malaria, amoebic dysentery, tuberculosis, pneumonia and a host of parasites. For many there is a tragic complication: they have been gassed.

One of them is a friend of mine; yet I don't recognize him, although I have passed his pallet at least 20 times. Finally, through his pain, he recognizes me and sends a realtive to bring me to him.

Nhia Yang Vang, about 40, had once been vigorous, energetic. Now he is a skeleton with sunken, haunted eyes. In a weak voice he tells me he had returned to Laos after I saw him in January. Concerned about relatives, he had gone back there with a party of 19 men for three months. During that time, he says, his team had been in areas sprayed by poisonous chemicals nine times.

Every few minutes his talk is broken by a racking cough that nearly strangles him. He spits bloody sputum into a tin can. A H'mong nurse tells me that he has chest pains, finds breathing difficult, cannot eat.

Nhia continues: "They hit us at the end of May at Nam Khing with the yellow chemicals. It was a white plane like a Soviet helicopter—low enough so that I could see figures of two pilots. Immediately when they dropped the gas I fell to the ground vomiting blood. My eyes burned; I could not see. I have the 'red' diarrhea.

"It was a powder. When it touched my skin it became sticky, like an ointment, and when water is put on it, it becomes liquid." He stops for another bout of coughing. "You know, after a rain the chemicals will get into the water and poison it. Now that it is the rainy season, it will be so easy to poison us all."

JUST LIKE THE JEWS

In 1960, there were at least 500,000 H'mong in Laos. Today, perhaps 70,000 are still alive there, many of them sick or dying of malnutrition. Another 50,000 are in Thai refugee camps, and some 35,000 have been resettled in Western countries. The H'mong survivors in Laos now face a terrible future, for they are the targets of a deliberate, calculated policy of extermination.

This policy is the tragic heritage of the H'mong commitment to America's effort to prevent a communist takeover in Vietnam and Laos. The United States, unwilling to send its own troops into Laos, opted for another kind of army—a guerrilla army recruited mostly from the H'mong, but also from other Laotian tribes, such as the Yao, Lahu, Lao Teung. Trained by the U.S. military and the CIA, the H'mong formed the backbone of the resistance against the communist forces in Laos that were supported by North Vietnam, China and the U.S.S.R. They sabotaged war supplies moving south along the Ho Chi Minh Trail, and rescued American pilots shot down in Laos. They proved adept at intelligence work, gathering vital information on troop, tank and supply movements.

Gen. Vang Pao, who commanded the H'mong forces and now lives in the United States, told me recently that his forces destroyed millions of dollars' worth of military equipment, medical and food supplies moving down the Ho Chi Minh Trail into South Vietnam between 1962 and 1975. "To do that," he said, "my people gave 12,000 lives. All of that was secret, but now I want the American people to know."

When the Americans pulled out of Vietnam and Laos, the H'mong—and the sacrifices they had made—remained largely unknown. But the Vietnamese and Pathet Lao did not forget. Li Chai, who now lives in Denver, Colo., and is a leader of the H'mong refugee group there, tells why: "The communists know that we were the Americans' hands, arms, feet and mouths. That's why they believe they must kill all H'mong—soldiers, farmers, children. We suffer and die just like the Jews in World War II, but the world ignores us."

HIDE IN CAVES

Gen. Vang Pao says, "Communist gassing of the H'mong people began in August 1975, at Mung Om and Nam Fen, south of Phu Bia, where 17,000 men, women and children were killed. I learned from a Pathet Lao defector that from 1975 to 1978 the gassing has killed 50,000 H'mong in the Phu Bia area alone. During that time some 45,000 died from starvation and disease, or were shot trying to escape to Thailand."

Today, in tribal refugee camps in northern Thailand, H'mong refugees tell of starvation, rape, the crippling of children whose fathers worked for the United States, of massacres. But what frightens them most are the poisons, which they call "rain," "gas," or "smoke," for they cannot hide from the chemicals that poison them, their water, animals, plants and fields.

Survivors speak of several kinds of "rain." Yellow and red are very serious, and a direct hit means sure death. Green and blue-green rains are not as immediately lethal. A small bit of opium often enables victims to survive, but they suffer vomiting, bloody diarrhea, fever, bleeding through the nose, and dizziness.[1]

Recently, still another chemical, a light-yellow powder, has been dropped by four-engine planes or by helicopters. The latter, a U.S. military spokeman tells me, resemble Soviet MI-4s or MI-8s.

A H'mong farmer, looking much older than his 40 years, says: "For two years they attack my area in Laos. The planes cover us with red smoke, and the people and animals die. We cannot grow rice or farm. We must hide in caves.

"They drop poison on us 200 times in 1978 and 1979. The first time five people die immediately. Red smoke rolls over the area and everyone is sick. It smells like burning rubber. I swallow a bit of opium, but slide to the ground unable to move. In about an hour I can get up, but I cannot eat or drink. I become very skinny. Twelve more people in my village die of being skinny."

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[1] Opium has for centuries been used medicinally for severe gastro-intestinal disturbances.

CHRONICLE OF HORROR

The stories are countless. One man sits before me in Ban Vinai refugee camp in Thailand carrying "evidence" of the continued gassing in Laos. Trained by the Americans in intelligence in the 1970's this former H'mong lieutenant had crossed the Mekong River to Thailand on June 6. From a miniature diary that he miraculously managed to bring, he quietly reads:

"On 15 May 1980, two Soviet helicopters dropped yellow powder on a H'mong village of 200 at coordinate TF 9376. Thirty-five died within seven days; the remaining are very sick."

He recites another attack. Then, carefully turning the tattered pages of his diary to check dates, figures and locations, he chronicles what happened to him after the American withdrawal from Laos in April 1975:

"The first gas attack was in October 1975. The communists couldn't take our village by fighting, but they came back with airplanes. One carried red gas, another yellow. Those near where the chemical rockets exploded fell unconscious, with bleeding from the mouth and nose. Many died. Soon afterward a yellow water flowed from their bodies.

"They hit us with gas for three days. Seventy-five people died immediately. Five hundred more died within a short time. I was lucky, for I was not in the village at the time.

"For three years we were constantly attacked like this. We must live in the jungle like animals. Since early 1980, people are so hungry that they eat leaves exposed to the chemicals, and 715 people have died in my area. I dig in the ground for roots and water, but many are too weak to do this. We have no cloth to cover our bodies from mosquitoes, so we all have malaria. We have no medicine, so we are all sick."

SHOT IN THE ARM

On a visit to Thailand in January, my friend Nhia Vang, who had just escaped from a Vietnamese prison camp in Laos, told me a story not only of genocide, but of an added horror: medically supervised experimentation that uses chemical agents on imprisoned H'mong men, women and children:

"In November 1978, a Vietnamese force of 3500 captured about 1200 H'mong men, women, and children—including mine—in the jungle where the red and yellow smoke had forced us to live. We were taken to a camp called Tong Mien, which held 2000 H'mong prisoners. We were given only a small portion of rice every 15 days, and many of my people were shot trying to get to the forest for food.

"Then, on March 25, two MiG jets flew low over our prison camp and sprayed us with white rain. One hundred people died immediately. The rest of us had diarrhea for 20 days, then fever; we cannot walk or raise our arms. Many more people die.

"In May, four Pathet Lao medics gave injections in the arm to 30 H'mong, including me. It was the color of water. I immediately became dizzy and could not breathe. Blood spurted from my nose and I fell to the ground unconscious. A relative blew opium smoke over me for several hours and finally the bleeding stopped. In 12 hours I could see again and by the next day I could walk.

"The next day four new medics came. This time they had injections and pills for 40 gassing victims. Some medics gave my people injections and green pills, others injections and white pills. Nothing happened for 12 hours; then they have trouble seeing, can't speak and black out. Fifteen died; the rest are very sick for a long time. The medics wrote reports on the people given medicine." What has been the response of the United States to these atrocities? In my view, it has been appallingly weak and ineffectual.

The House Subcommittee on Asian and Pacific Affairs has taken testimony on the gassings. And the State Department and Department of Defense have made their own investigations. But they and other U.S. officials, including those in the White House, refuse to acknowledge that the evidence is conclusive.

After listening to testimony at the subcommittee hearings in April, Congressman Jim Leach (R., Iowa) stated: "I personally interviewed these refugees. I read State Department and Defense Department reports which are so numerous and so persuasive that they cannot be denied. No one in the White House ever saw a person being gassed in Auschwitz, but we know it occurred. I think this Administration has a moral responsibility to tell the people of the world what is happening."

URGENT MISSION

What government agencies want for "conclusive evidence" is a body for autopsy. But there are serious logistical difficulties in obtaining recently gassed victims and fresh chemicals because the gassing occurs in the remote mountains of Laos, many days' walk through enemy territory to the Thai border. One H'mong found a dispensed gas canister, wrapped it heavily in old clothes, and started to walk it out of Laos to Thailand. The chemical residue in the canister killed him before he reached the Mekong.

I asked Vang Neng, H'mong chief at Ban Vinai, about the U.S. insistence on having a body for autopsy. In a voice of frustration and anger, he said, "Yes, I have bodies for autopsy. I learned yesterday that the communists gassed a village on May 14, killing ten immediately. This is many days' walk from the Mekong. By the time we carry one body out, it will be spoiled."

Last fall, a step in the right direction was made when a team from the office of the Army Surgeon General was sent to Thailand to investigate the gassing allegations. They interviewed 40 men, two women and a 12-year-old girl, all of whom were witnesses to, and survivors of, gassing attacks in Laos, and concluded in a report withheld from the public that chemical agents had been used against the H'mong. Two recommendations were: to "develop a plan whereby blood, tissue or other specimens may be rapidly transported from the suspect area to the Biomedical Laboratory for analysis, and to establish a medical team, on a standby basis, prepared to travel to the site of future allegations to conduct interviews/examinations." The final recommendation read: "From a military defense position, it would seem to be an extremely urgent mission to initiate every effort possible to identify the chemical agents that have been used and to develop appropriate countermeasures, antidotes, etc."

Unfortunately—indeed, unbelievably—those recommendations have been ignored. On June 30, 1980, I reported to the U.S. embassy in Bangkok that I had located two men in a refugee-camp hospital who reported being gassed in the latter part of May. The timing for testing was within the six-week limit recommended by the Surgeon General. After 14 days of evasive and false information by the embassy and other U.S. officials in Thailand, I returned to the camp myself to speak directly to the two men recently gassed and to the camp medical personnel.

Only then did I learn that medical experts familiar with gassing had not conducted the investigations. We had sent a Thai nurse and an American public-health worker, who admitted he was a "novice" with regard to chemical warfare and, in his own words, had "very little" instruction even in how to collect samples. When I left Bangkok on July 18, the specimens were still there.

WILL YOU HELP?

While the West refuses to acknowledge the use of lethal chemical agents by the Soviet-backed regimes of Hanoi and the Pathet Lao, the Vietnamese government applauds its army's chemical-warfare branch by awarding it a Ho Chi Minh medal. According to Hanoi radio monitored in Thailand in April 1980, Gen. Le Trong Tan told the unit. "Chemical weapons contributed to winning the great victory in the great anti-U.S. salvation resistance struggle" and in "tasks in the new situation." The "new situation" undoubtedly refers to Laos, Cambodia—and possibly to Afghanistan.

The State Department calls evidence suggesting a Soviet role "circumstantial," but it is more than that. Independent intelligence sources have confirmed the presence of Soviet Gen. V. K. Pikolov's chemical-warfare forces in Laos—and subsequently in Kabul, Afghanistan. In addition, Soviet chemical-warfare experts are said to have visited several cities and areas in Laos to inspect "chemical explosives"—artillery shells, bombs, rockets. In sum, it is hard to escape the conclusion that the Soviets are involved, certainly in the production and distribution of chemical agents, and probably in on-site surveillance and medical experimentation.

Meanwhile, the H'mong continue to die. A H'mong leader who is responsible for almost 30,000 civilians in Laos recently crossed into Thailand. His words haunt me: "I have come to see if anyone has food, clothing or medicine to protect us from the gassing. Someone must help, soon, or we will all die. We are friends of the Americans. We fought for freedom. Will you help?"

Will we? How?

First, a fully publicized Congressional hearing—both Senate and House—into the gassing of the H'mong should be held. This would inform the U.S. people and attract world-press coverage of the atrocity. And the U.S. government should make communist gas warfare a major issue before the United Nations and every international forum.

Second, direct pressure should be applied on Hanoi by Free World industrial nations on whom Hanoi greatly relies for the technology and financial aid to rebuild Vietnam. This must be done at the highest private "hot-line" leader-to-leader level. Hanoi should be told that this inhuman policy must stop or aid will be halted.

Finally, since Vietnam is a client state of the Soviets (apparently the source of the lethal chemicals), the United States should inform the Soviets that any discussions of other issues will be put off until we are satisfied that chemical warfare in Laos has ceased.

At Ban Vinai camp, Vang Chue, an 18-year-old boy who has been gassed, is carried into the hospital. His chest heaves with erratic contractions and he struggles to breathe. His face is heavy with sweat and I see a tear looming—the first H'mong-soldier tear that I have ever seen. I lean down to talk with him.

"I'm so sorry that my country is dying," he says in a voice of pain. "Please do something."●

TRIBUTE TO CONGRESSMAN AL BALDUS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. JEFFORDS. Mr. Speaker, I want to join my colleagues in honoring Al Baldus as he leaves the House.

We, of course, see many Members leave this body, but the saddest moment is when a friend whom you respect leaves, no matter which side of the aisle he is on. Al is a friend—a friend and a colleague with whom I have worked closely these last 2 years.

Al Baldus has been chairman of the House Dairy and Poultry Subcommittee on the House Agriculture Committee for the last 2 years. I have been the ranking minority member of that same subcommittee. It has been a pleasure to work with Al Baldus; he and I disagree on very few things that relate to agriculture and dairying. In fact, I consider Al Baldus to be a leader on agricultural legislation and especially that legislation related to dairying. He understands the needs of the farmer—he knows what it costs to be a farmer; he knows of the work involved, for Al Baldus was born on a dairy farm in Iowa, and he has sold machinery to farmers.

Yes, we who serve on the House Committee on Agriculture will miss Al Baldus and his practical knowledge of agriculture. However, the loss will be felt the most by the agriculture community, the many farmers who knew that Al Baldus was one of them, and that he was representing their interests in Congress.

As Al leaves this body, I want to express my appreciation to him for his support and guidance. I give Al, his wife Lotti, and their family my best wishes for the future.●

TRIBUTE TO JOHN BUCHANAN

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BRINKLEY. Mr. Speaker, when I was first elected to Congress I had a very important constituent named Anne Jones, who just happened to be John Buchanan's sister. She is an outstanding lady and I had heard from her about her brother in glowing terms.

Mr. Speaker, every word which she uttered was true, and I may, through personal observation, vouch for the uncommonly high caliber of this man.

Each of us in the Georgia delegation alternates in serving as chairman for the Georgia Jaycees Federal Affairs Seminar. When it came my turn, I asked John Buchanan to serve as prayer breakfast speaker at the Skyline. This was one of the finest hours in my congressional service, because it epitomized good values and positive goals.

John Buchanan's life reflected the philosophy of an old song which admonishes:

> You gotta accentuate the positive, eliminate the negative, don't mess with Mr. Inbetween!

A special dimension of that philosophy is that John applies it in his relationships with other people. That is a special kind of man, and all of us have been the beneficiary of his friendship.●

TRIBUTE TO ESC CHAIRMAN JOE FISHER

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. McCLOSKEY. Mr. Speaker, the House and the Environmental Study Conference will be a lesser place for the absence of my colleague and good friend Joe Fisher.

Joe's performance as House cochairman of ESC during the 96th Congress will stand as a benchmark for those who succeed him in this important post. His unflagging dedication to doing what is best and most effective for the environment and the Nation's energy situation served as an inspiration for the Conference.

Under Joe's guidance, ESC attained new excellence in carrying out its responsibilities to its 300-plus congressional Members, keeping them fully briefed on the environmental and energy issues considered by this body during the past 2 years.

In his role as cochairman, Joe transcended partisan and ideological concerns, insuring that the work ESC does is balanced and well-founded, informing the debate rather then seeking to influence its outcome.

The effectiveness of ESC lies in its independence and credibility, and Joe Fisher can take credit for continuing this tradition in the 96th Congress.

Others will remember Joe most for his hard work on the Ways and Means Committee, where he served as a moderating influence on issues ranging from social security to the windfall profit tax on oil. Still others will remember him most for the untiring service he rendered to his constituents.

But I will remember Joe most for the enthusiasm, tempered with manifest good humor, he brought to the job of ESC cochairman.

He will be sorely missed.●

TRIBUTE TO AMERICAN MISSIONARIES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. CONYERS. Mr. Speaker, I join my fellow colleagues in paying tribute to the four American missionaries recently abducted and assassinated in El Salvador. It is very disturbing to learn of the daily violation of human rights which takes place, not only in El Salvador, but throughout the world. The murder of six leaders of the Democratic Revolutionary Front followed by the brutal slaying of the four American missionaries are only the latest manifestations of violence and terror that is rampant in El Salvador. We are also reminded of the slaying of ABC newsman Bill Stewart in Nicaragua last year, the disappearance of Rene Temeson, a Washington radio reporter and Ignacio Rodriguez, a Mexican journalist, who was gunned down by a sniper.

In paying tribute to Ms. Maura Clarke, Ita Ford, Jean Donovan, and Dorothy Kazel, I would like to further bring to the attention of this body and the American people the role which the United States has played in aiding an unpopular, unstable civilian-military junta that has seen over 9,000 violent deaths this year. The President's decision to suspend more than $25 million of military and economic aid to El Salvador is a welcomed one. Until that temporary hold was imposed, however, the United States had pledged more than $90 million in economic aid and more than $11 million in military aid to El Salvador. We simply must not continue to support the murderous, inhumane activities of that nation. The lives of the four missionaries must not have been given in vain.

In a recent article appearing in the December 10 issue of In These Times, John Clements quotes a foreign correspondent in San Salvador as saying, "the atmosphere there is as warlike as it could be without constant shelling and air raids." I would also like to share with you an article entitled "In El Salvador, Why Back Regime Based on Violence?" by Cynthia Arnson. The text of these articles follows:

[From the Los Angeles Times, Dec. 8, 1980]

In El Salvador, Why Back Regime Based on Violence?

(By Cynthia Arnson)

The brutal murders of four American church workers in El Salvador should make us reflect on the role of the United States in that country. Like the death of ABC newsman Bill Stewart in Nicaragua last year, the killing of these four women has demonstrated to Americans a shocking aspect of reality in Central America. Their deaths should raise serious questions about why the United States has supported an unpopular, unstable civilian-military junta that has overseen 9,000 other violent deaths this year.

U.S. policy toward El Salvador thus far has rested on the dubious assertion that the government there is less responsible for violence than, as the State Department puts it, armed groups of the extreme left or extreme right. The murders on Thanksgiving Day of six prominent leaders of the opposition Revolutionary Democratic Front (FDR) should have shattered that myth: 200 uniformed soldiers, members of the National Guard and the national police, surrounded the Jesuit-run high school where the leftists were meeting, while gunmen in civilian dress abducted the unarmed leaders.

The deaths of the four Americans—three nuns and a Catholic laywoman—are similarly suggestive. Government patrols had set up several checkpoints along the road where the women were traveling on the day they died. Their house had been under surveillance before their abduction, and fliers appeared on the church door denouncing priests and nuns as Communists.

U.S. officials were apparently moved enough by the deaths and by what the State Department called "reports of the involvement of the security forces" that they "put a hold" on American economic and military assistance to El Salvador. But it is unclear exactly what this means.

Government repression in the past has been of some concern to U.S. officials. Ambassador Robert E. White once publicly sought a reduction in human-rights violations by the Salvadoran security forces. But by refusing to recognize the 9,000 deaths as human-rights violations, White and other U.S. officials became victims of their own policy. They refused, in the face of contrary evidence, to acknowledge that decisionmaking power in the government lies with the hard-liners in the military, not with reform-minded civilians or progressive officers on the five-man ruling junta.

Filtering the reality of Salvadoran politics through the distorted prism of an old fashioned anti-communism had led to an alarming escalation in U.S. commitments to the junta. Before the State Department's move, economic aid to El Salvador had reached nearly $90 million this year. Recently U.S. officials had pressured reluctant international financial institutions to step up their lending. But most provocative was the upsurge in military support for El Salvador and neighboring Honduras, which threatens to prolong the bloodshed and escalate direct U.S. involvement in Central America.

Until the State Department imposed the temporary hold last week, the United States had pledged more than $11 million in military aid to El Salvador this year. Now the Carter Administration is withholding $5 million of that aid.

Before the killings last week, moreover, the quality of military assistance had begun to change from so-called nonlethal to overtly lethal items. The Carter Administration expected to lease six Bell UH-1H helicopters to the Salvadoran air force, and had programmed $2.7 million to service the aircraft. Salvadoran pilots are currently being trained by the United States in Panama. The shift toward combat readiness is evident in other programs, too.

In early December, the U.S. Army dispatched a two-man survey team to El Salvador to assess the regime's weapons needs, despite the Administration pledge to limit itself to nonlethal assistance.

Most provocative, however, is the presence in El Salvador of a five-man U.S. Army "operational and planning assistance team," which, according to a State Department source, will evaluate what the Salvadoran military needs to defend the harvest against guerrillas. The team is headed by a lieutenant colonel from the U.S. Army Special Forces School at Ft. Bragg, N.C., who specializes in counterinsurgency warfare. The team remains in El Salvador, unaffected by the U.S. suspension of military aid.

The Carter Administration's decision in the first place to send the advisory group should have provoked a storm in Washington, for State Department officials had promised to consult members of Congress about any such move. Since last February, the Pentagon and the U.S. Military Group commander in El Salvador, Army Col. Eldon Cummings, had lobbied hard for the dispatch of Mobile Training Teams (MTTs) into the country. MTTs—U.S. military specialists stationed abroad for training purposes—were to advise Salvadoran troops in communications, logistics and psychological operations. The teams were not sent because of opposition from the U.S. ambassador, some congressmen and U.S. church groups who warned that the presence of U.S. military personnel in El Salvador would add to the volatility of the situation.

U.S. military support for the Honduran army, which has been cooperating with the Salvadoran army for over a year, has also dramatically spiraled. In April the Pentagon leased 10 Bell utility helicopters to Honduras, provided over $2 million for their support, and by late spring had 25 U.S. military personnel on site to train the Hondurans in helicopter maintenance.

In 1930, after the Marines had landed in Nicaragua for the third time in 20 years Will Rogers framed a simple question: "Why are we in Nicaragua, and what the hell are we doing there?"

Half a century later, that question applies equally to El Salvador. Its strategic and economic importance to the United States is minimal, except in the minds of alarmists who see a surging red tide in every struggle for social and economic justice. U.S. interest in a stable, equitable El Salvador should dictate rigid enforcement of a ban on all military commitments. Our economy and security are better served if our neighbors to the south reach their forms of government through self-determination than through our intervention.

[In These Times, Dec. 10, 1980]

Death Squads Up Ante in El Salvador

(By John Clements)

Oakland, Calif.—El Salvador is "The Most hazardous assignment in the world." Newsweek correspondent Beth Nissen said in the Columbia Journalism Review last summer. The New York Times' Alan Riding is under a death threat there. Washington radio reporter Rene Temeson has disappeared, and Mexican journalist Ignacio Rodriguez was gunned down by a sniper.

So it was no surprise that the news of the Nov. 27 murder of five members of the executive committee of the Revolutionary Democratic Front (FDR) came in barebones wire services reports without bylines. And the intimidation of journalists is but one indication of the exteme sensitivity on both sides of the unfolding conflict in Central America to how events are reported and perceived in the U.S.

Was it a coincidence that the Salvadoran right chose Thanksgiving Day—when most Americans' attention was elsewhere—to move on the above-ground leaders of the opposition? Or that the latest attempt against the life of junta moderate Colonel Adolfo Majano took place on Nov. 4, the day of the U.S. elections? The answers to those questions remain speculative. But some things we know for sure:

Dozens of workers, peasants and students are killed every day by Salvadoran government troops and right-wing death squads. On Dec. 4 four American women—two of them nuns—disappeared.

The five leaders of the legal opposition organization were abducted from a press conference Nov. 27, and when their bodies turned up later in the day it was apparent that they had been tortured before they were killed. Forty other people seized at the same time have not been heard from since.

Those reform-minded members of the government who have not been either killed or purged have either gone over to the left or fled the country. Col. Majano, a leading force behind the Oct. 15, 1979, military coup that ousted strongman General Carlos Romero and a major voice for reform, left El Salvador hours after the bodies of the leftist leaders turned up. Many say he will never return.

The Salvadoran army failed after several weeks to drive guerrillas out of the northern province of Morazan. It was met by what one army officer described as a "strong bloc of enemy forces"—not just scattered groups of guerrillas—and some official sources have admitted that the guerrillas now control the four northern-most provinces that border on Honduras and Guatemala.

Honduran military and government sources told the Mexican daily Excelsior that Guatemalan troops are in their country and that a joint Guatemalan-Honduran force will launch "Operation Sandwich"—intended to crush the guerrillas between invaders from the north and Salvadoran government troops from the south—as early as this month.

The U.S. has given Honduras $50 million in military aid this year and its training program for Salvadoran officers in the Panama Canal Zone is the largest in the history of such programs.

In the past several months El Salvador's ruling junta appears to have given up all attempts to establish a popular base of support, abandoning its policy of reform with repression in favor of repression pure and simple.

But the diplomatic efforts of the FDR, which has sent representative teams—including, in some cases, the slain leaders—around the world have succeeded in gaining international support for the opposition. In West Germany, the Social Democratic Party is unequivocably on the side of the front, and the government itself may take that position in the wake of the Nov. 27 killings. Pressures are mounting on the Venezuelan government to end its support of the junta.

The Mexican government makes no secret of its sympathies for the opposition in El Salvador—or of its ambitions to replace the U.S. as the major economic presence in Central America. Mexico's ruling Institutional Revolutionary Party fears continued civil war and the specter of fiercely radicalized guerrillas in the region more than it does a "government of national reconstruction" such as the one in Nicaragua. It would almost surely react violently to foreign intervention in El Salvador.

The impending inauguration of Ronald Reagan has lent a new urgency to events in El Salvador. Both sides would prefer to present the new president with a fait accompli and are making plans for a major offensive before January.

According to a well-informed source in El Salvador—who must remain anonymous—the balance of forces is this: The left outnumbers government forces and the right by two-to-one. But the latter groups are extemely well equipped, as are the Guatemalan and Honduran armies.

The junta has no popular support. The middle class—those who remain in the country—support the left. One indication of that support is the national strike of bus owners called for Dec. 4 to protest the killings.

A foreign correspondent in San Salvador told this reporter that the atmosphere there is "as warlike as it could be without constant shelling and air raids." Every day now sees several guerrilla attacks on army barracks and police stations. The wire services are clattering with reports of these confrontations and of "armed groups entering the country from all sides, presumably to join the guerrillas." A force of 200 reportedly landed Nov. 30 from the Gulf of Fonseca, which links El Salvador and Nicaragua.

Meanwhile, the "productive alliance," which represents conservative landowners and businessmen in El Salvador, met recently with Reagan advisors and presented them with a document saying that the only way to "counteract communist influence in El Salvador is to destroy this current." Junta member Napolean Duarte told Excelsior that the Reagan administration has offered the El Salvadorean government more military aid.

When the junta met in an emergency session Dec. 2, General Jaime Abdul Gutierrez spoke of "a new alternative," a center-left government that would promote justice and democratization. The opposition said Gutierrez' words are "worthless."

Clearly, this situation is about to explode. And if, as most journalists in Central America are saying, the left is heading for a victory, the key question is how other countries in the region will respond. Will Guatemala and Honduras actually intervene? If so, how will Nicaragua react?

A recent "dissent document," presumably emanating from the State Department or the CIA, says that a regionalization of the conflict would provide the perfect environment for greatly increased Cuban and Soviet influence in Central America.

The same document suggests a "Zimbabwe-style solution" for El Salvador. But that would require the junta and the FDR to sit down at the same table. The Nov. 27 killings of the top FDR leaders would seem to preclude such an option—and in fact it appears that was the goal of the killings.

On yesterday, December 9, the Michigan Inter-Church Committee for Central American Human Rights held a rally in Detroit in protest of the killings and to bring to the attention of American citizens the violations of human rights which are taking place. The Inter-Church Committee is located at 1820 Mount Elliott Street, Detroit, Mich. I commend this organization for their efforts.●

TRIBUTE TO JIM HANLEY—EFFECTIVE LEGISLATOR—EXEMPLARY GENTLEMAN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. BIAGGI. Mr. Speaker, It is a special honor and privilege to pay tribute to a great friend and Member of this body, Jim Hanley, the distinguished Representative from the great city of Syracuse, N.Y.

The year was 1964 when the people of Syracuse exercised their good judgment to elect Jim Hanley to the House. Their good judgment was rewarded many times over by the tireless work which characterized Jim's time here. He is a master of constituent service and this is the true mark of a good Congressman.

Jim was an effective legislator especially during his time as chairman of the House Post Office and Civil Service Committee. During his tenure as chairman, important legislation became law, including the famous Civil Service Reform Act. Jim Hanley was a friend of all working men and women, but was especially committed to improving the rights of postal workers and supervisors in this Nation. Having begun my own career as a letter carrier, I am appreciative of the work of Jim Hanley in this area.

Jim and I worked closely together on a number of projects in my 12 years here. However for the past 3 years, Jim and I have been especially close in the struggle to bring peace and justice to Northern Ireland. Jim Hanley a loyal member of the Ancient Order of Hibernians in Syracuse, became one of the original members of the ad hoc Congressional Committee for Irish Affairs which was founded on September 27, 1977. Throughout the sometime tumultuous history of the committee, Jim has been one of the most active and supportive of all our Members. He has made a lasting contribution to the cause of peace, justice, and human rights for Ireland, and it was a distinct pleasure working so closely with him.

Jim Hanley made his choice to retire from the House. He has worked hard—he has earned a change in career or maybe even a rest. His lovely wife Rita Ann has earned some more time with Jim—something which I know he will not object to.

Today I salute a man I respect, admire, and have shared many good moments with over the past 12 years. He is a man of ultimate integrity, infectious charm, and genuine warmth. I will miss him but assure him he will not soon be forgotten.●

TRIBUTE TO ROBERT GIAIMO

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. DUNCAN of Oregon. Mr. Speaker, I join my colleagues in honoring one of the true giants of this Congress, Bob Giaimo. For the past few years, I have watched Bob cajole, wheedle, and bully through one budget crisis after another. I have also observed and applauded a rather remarkable metamorphosis of Bob as the full responsibility of the budget committee fell upon his shoulders. A life-long liberal Bob proved that he is not so enraptured with symbols that he could not perform the very onerous task of trying to balance the budget. I can imagine the abuse Bob must have been subjected to by extreme liberals for what must appear to them as apostasy. I know of no one more deserving of a quiet, peaceful, and happy retirement than Bob Giaimo.●

TRIBUTE TO REPRESENTATIVE SAMUEL L. DEVINE

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. ROBINSON. Mr. Speaker, serving in this House in the 97th Congress without the counsel and the support of the truly distinguished gentleman from Ohio, Mr. Devine, is most difficult for me to envision. God willing, those of us who have been chosen again to represent the people of our great and diverse Nation will take the oath in January and resolve to do our best. We will be conscious, though, of the absence of many good friends who, by their own decisions, or those of the people, will not be taking up again the honorable burdens of this place.

I will not be alone, as the expressions here today, testify, in missing, particularly, Sam Devine. I can recall no one who was more considerate and helpful to me when I reported here for the first time nearly 10 years ago. My regard for Sam Devine has been enhanced steadily over the years by the steadfastness of his generous friendship and the reliability of his judgment.

Our colleague began his public service 40 years ago, shortly after receiving his law degree from Notre Dame. He became a special agent of the Federal Bureau of Investigation. He served three terms in the Ohio Legislature, was a county prosecuting attorney, held the chairmanship of the Ohio Unamerican Activities Commission, and, in 1958, was elected to his first term in Congress.

Sam Devine has been a diligent and effective Member of this House. In addition to his conscientious attention to legislative work, he has been a stalwart in voluntary service on this side of the aisle—on the Republican Policy Committee and the executive committee of the Republican Committee on Commiteees, and, in five Congresses, as vice chairman of the Republican Conference.

To say that our colleague will be sorely missed in an obvious understatement. But the die has been cast, and Sam Devine will be retiring from this House very soon. We wish for him, his charming wife, Betty, and their children every happiness. We know that his concern for the public good will continue active, and that he will find new ways to serve his community, his State, and his Nation.●

MARK NASHPITZ: A CASE STUDY OF HUMAN RIGHTS VIOLATIONS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. GILMAN. Mr. Speaker, I rise to take this opportunity to draw the attention of the House to the disregard of human rights by the U.S.S.R.

The signing of the Final Act at the Conference on Security and Cooperation in Europe (CSCE) on August 1, 1975, brought great hope to the citizens of the signatory states. As each participating nation committed itself to the specific provisions of the third basket, they simultaneously recognized the concept of human rights as a legitimate concern on the international agenda, and gave notice that the implementation of the act would be monitored, each country being made responsible for its failures to live up to the ideals included in the act as well as the overall spirit of Helsinki and that of cooperation between nations and respect for human rights.

The past 5 years have shown that the Government of the Soviet Union has repeatedly and with impunity violated both the provisions and spirit of the CSCE. The citizens of the U.S.S.R. who have, in good faith, attempted to monitor the fulfillment of the Final Act have met with a concerted campaign by the Government of the U.S.S.R. to stifle their voices.

Among the growing number of Soviet "refusenicks" (those refused the right to emigrate), there are many individuals who have sought permission to leave the Soviet Union in order to be reunited with their families, but have been arbitrarily denied permission. There is no valid reason for their refusal or that reasons given so many years ago, should still be considered valid. Let me be more specific.

Among the humanitarian issues covered by the Helsinki Act, the reunification of families has a high priority. The Final Act states that:

> The participating States will deal in a humanitarian spirit with the applications of persons who wish to be reunited with members of their family. (Basket Three, Human Contacts section 1b.)

Furthermore, the Helsinki Final Act contains even more far-reaching provisions on the freedom of movement. The preamble of the Human Contacts section of Basket Three contains the formula: "to facilitate freer movement," and principle VII on respect for human rights and fundamental freedoms, specifically contains the commitment by the participating states to "act in conformity with the * * * Universal Declaration of Human Rights," which stipulates: "Everyone has the right to leave any country, including his own and to return to his country." (Article 13/2.)

Principle VII of the final act further commits the participating states to: "fulfill their obligations as set forth in . . . the International Covenants of Human Rights," one of which, the International Covenant on Civil and Political Rights, provides: "Everyone shall be free to leave any country including his own." (Article 12/2.)

It is obvious that freedom of movement and family reunification are essential parts of the final act. However, the Soviet authorities invoke various international documents selectively, as suits their policy, emphasizing always the respective restriction. They ignore the freedom of movement provision of the covenant, claiming an obligation only to family reunification, as provided by the final act. The Soviets apply restrictions governing degree of kinship for family reunification. Such restrictions are nowhere to be found in the final act. Additionally, the Soviets have made it routine practice to interrupt the delivery of international mail to the Soviet Union. They employ a large number of people who open all the incoming mail, read it, microfilm some of it, and sporadically send it on to the receiver.

The situation has become almost unbearable for the many refuseniks and dissidents who would like to leave the Soviet Union. Following the blatant and brutal invasion of Afghanistan, the Soviet authorities have seen fit to seriously curtail the already restricted flow of emigration. The degree of internal harassment has also been stepped up and all this in full view of the world during the second review of the Helsinki Final Act, presently underway in Madrid.

To provide my colleagues with a better picture of the life of a dissident, I wish to insert in the RECORD a chronology of one Soviet refusenik's life, who many of us have been trying to assist for the past 5 years. Although this case is a sad one, interspersed with acts of great courage and displays of self-discipline, it is by no means unique. There are thousands of people in the same predicament, often worse. The person I am speaking of is Mark Nashpitz, whose problems began at the tender age of 8 when, in 1956, his father defected from the Soviet Union. Mark grew up with his mother in Moscow, studied and practiced dentistry, and in 1970 decided that he and his mother should leave the Soviet Union. What has happened to him since that time is illustrative of the experience of thousands of other refuseniks:

In 1971 Dr. Mark Nashpitz applied for an exit visa to Israel and was refused permission to emigrate by the Soviet authorities.

April 25, 1972, Dr. Nashpitz was called to his district military office to register. On September 19, he was arrested for protesting against the state education tax levied on professionals seeking to emigrate. In October, Dr. Nashpitz, a dentist, is forced to work as a lathe operator.

On March 14, 1973, Dr. Nashpitz and six other Moscow Jews demonstrated at Moscow KGB headquarters. A KGB colonel told him: "The Government does not unify the family of a traitor to the whole country." A reference to Dr. Nashpitz' father who had fought the Nazis in World War II as a soldier of the Soviet Army. In 1956, Nashpitz' father left the U.S.S.R. to settle in Israel, expecting his wife and 8-year-old son to follow.

On March 27, Mark Nashpitz and 16 others visited the office of the editor of Izvestia, the Communist Party newspaper. They asked that the paper publish the story of their cases, which was not done. They also issued an appeal to the U.S. Congress about the Soviets' refusal to permit them to emigrate to Israel.

On May 28, Dr. Nashpitz was summoned to the militia and threatened with a charge of parasitism despite the fact that he was not allowed to work in his profession or any related field.

During the week of June 7, he was called to KGB headquarters and warned to behave during the visit of Chairman Brezhnev to Washington. On June 28 his phone was disconnected. On October 31 and also on November 2, he was arrested to prevent him from any actions during the period preceding the anniversary of the October revolution.

On February 1, 1974, the third anniversary of his application for an exit visa, Dr. Nashpitz sent an appeal to the U.N. Commission on Human Rights describing his situation. For 3 days before and after February 1, he was followed, interrogated, threatened with arrest and harassed by the KGB. As he was returning home on February 3, KGB agents tried to provoke an incident on the street that could result in Dr. Nashpitz' arrest and conviction. In August, Dr. Nashpitz' mother, who had applied to leave with him, left the Soviet Union to be reunited with her husband in Israel, having been told her son would be allowed to follow soon. In December, the KGB told Dr. Nashpitz his emigration would be expedited if he would discredit the leaders of the emigration movement and cause their demonstrations for their rights to fail. He rejected the proposals, refusing to compromise his principles.

On February 24, 1975, Dr. Nashpitz joined a group of refuseniks for a demonstration in front of the Lenin Library, across from the reception hall of the Presidium of the Supreme Soviet. This library was closed for cleaning; the group was a considerable distance from any sidewalk, roadway, or entrance to the building. Participants and witnesses said the demonstration only lasted for 30 seconds as the group held up signs asking for "visas instead of prison," "freedom for the prisoners of conscience," and similar statements. The authorities swooped down and took them into custody. Dr. Nashpitz and Boris Tsitlonak, another demonstrator, were held in prison at the notorious Butyrki prison.

On March 17, the two were charged under article 190(3) of the Russian Criminal Code for "violation of public order," which provides for a 3-year sentence. None of the other participants in the demonstration were allowed to be defense witnesses, and the lawyer that the defendants chose was not allowed to take the case. On March 31, the two young men were sentenced to 5 years in exile. This was the first known case of Jewish activists in Moscow being tried for public protest. The trial, which lasted for less than a day, was closed to the Western press and the defendants' friends. Only Dr. Nashpitz' aunt was admitted to the courtroom.

That verdict was appealed on April 25, and was upheld despite the legal arguments dealing with many improprieties at the trial. Dr. Nashpitz was sent into exile in the remote Siberian settlement of Tupik, which means "dead end." He worked as a health inspector in the hospital in Tupik, checking kitchens and toilets.

1976: In March and again in September, Dr. Nashpitz was visited by refusenik friends from Moscow. They reported that he seemed to be physically well, but was feeling extremely isolated. The authorities in Tupik warned the local populace not to make contact with him.

1977: The local police recommended to the local procurator that Dr. Nashpitz' sentence be reduced because of good behavior, but the recommendation was denied in May. No reason was given for the rejection. In August a friend from Moscow visited and reported that Dr. Nashpitz was well but depressed because of the procurator's action. His mother sent a special appeal to Yugoslav President Tito during the Belgrade review of the Helsinki Accords asking him to help obtain amnesty for her only child.

1978: In October, Dr. Nashpitz was working as a dentist in a polyclinic when, for unknown reasons, he was transferred to work as a woodcutter.

1979: Dr. Nashpitz married in his place of exile. On July 6, he was released, having served his full sentence. Upon his return to Moscow, he and Boris Tsitlonak, his codefendent, filed for exit visas. Tsitlonak received his visa quickly, while Dr. Nashpitz and his pregnant wife were refused even a residency permit to live in Moscow. Without that document they cannot apply to leave the U.S.S.R.

1980: Dr. Nashpitz was told by high officials that he would have a response to his application by January 10. On that date an official at OVIR (the visa office) reported that he had nothing for him. In March, Konstantin Zotov, head of the All Union of OVIR saw Dr. Nashpitz. He said the application had been refused, for the reason that "we do no favors for traitors, nor for their sons." In addition, Dr. Nashpitz was denied a Moscow residence permit as an undesirable element. He and his wife had to move to Strunino, a town far from the capital. In July, after a very difficult pregnancy, Dr. Nashpitz' wife gave birth to a son. Because of the problems caused by the Labor Exchange he cannot obtain work as a dentist, but now works filing mortuary records. As of mid-November the Soviet authorities have not accepted his documents of application for a visa. Dr. Nashpitz, his wife, and the baby son are still waiting to join the elder Nashpitz' in Israel.

It is probably wishful thinking to hope that Nashpitz' predicament will improve and that Mark and his family would be allowed to emigrate without any further heralding of his cause in the world press and various church and political communities. In fact, I have every reason to believe that the overall situation of the dissidents could become worse.

During my visit to the Soviet Union in August 1979, I brought the case of the Nashpitz family to the attention of the Chief Justice of the Supreme Soviet, Judge Y. N. Smirnov. His response was that there really existed no persecution of Jews in the Soviet Union and that we simply had been led astray by a propaganda campaign in the West and, worse yet, used human rights as a vehicle to take the offensive against the Soviet Union. Judge Smirnov then proudly handed over a book to me entitled, "The White Book: Evidence, Facts, and Documents," published by the Association of Soviet Judges and edited by Smirnov himself. The book is a collection of distorted facts and events, with one section devoted entirely to the defusing of the Shcharansky trial, which sparked off an enormously widespread campaign of criticism, perhaps the only thing which has kept Shcharansky alive to this day.

In essence, "The White Book" is obviously anti-Semitic, designed as a warning to those Jews contemplating the idea of emigrating. Those who already have applied and continue to pursue their desire to leave, like Mark Nashpitz, have an ostensibly long road ahead of them, unless the West decides to make their cases known to the rest of the world.

The Madrid Conference is an appropriate platform for the plight of people like Mark Nashpitz, whose kangaroo trial was in essence punishment meted out to a son for a father's prior defection some 25 years ago. The fact that the Soviets tried to torpedo the human rights provision of the Madrid agenda makes it abundantly clear that their violations not only exist, but are a political embarrassment, especially in view of their recent invasion of Afghanistan and the boiling cauldron known as Poland.

Mr. Speaker, I urge my colleagues to help underscore the necessity of making human rights a higher priority among our Nation's foreign policy considerations. In the confrontation of ideologies between the East and the West in international forums, the Soviets are not able to adequately respond to our interventions in support of human rights.

The Soviet's failures to respect human rights begs another important question: If the Soviets do not abide by their commitments in the Helsinki Act, how can we entertain any hope of their following the rules of those evermore complicated and dangerous negotiations in the Strategic Arms Limitations Talks and trade agreements?

If our Nation fails to take a strong stand on human rights, we will be setting a dangerous precedent for the 1980's and will be enhancing the repression of thousands of more people within the tightening grip of totalitarianism. Let us bear in mind that during 1979, 51,000 Soviet Jews were allowed to emigrate from the U.S.S.R., a monthly figure of 4,200. During 1980, however, those emigration figures dropped 53 percent; a total of only 19,000 people being allowed to leave. The latest reports for October 1980 disclose a mere 1,400 of emigrees. It is obvious that the Soviet Union not only believes that "human rights are a propaganda vehicle of the West" but also that human rights have little if any importance in the Soviet way of life.

As we consider our future relationships with the Soviet Union, let us not lose sight of the Soviet's deplorable record on human rights violations, and let us remember the Nashpitzes, the Shcharanskys, the Orlovs, the Nuders, the Shakharovs and the thousands of others whose rights have been cast asunder.●

TRIBUTE TO BOB WILSON

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. CONABLE. Mr. Speaker, the genial gentleman from San Diego had a great deal of impact on my early service in the House through his work as chairman of the Congressional Campaign Committee for my party, through his avuncular advice and the influence of his warm and outgoing personality. One cannot serve with BOB WILSON without feeling affection for his unfailing good nature. A man of many ideas, he has had a great influence in behalf of a sound defense policy and a balanced approach to government in general. I do not feel as sad about his departure as I do of some of my other colleagues, because he has served long here, has given himself fully, has not lost his sense of humor or his capacity for enjoyment and because I am confident that he will be an active and vital part of any community with which he identifies himself. In short, Bob Wilson is an admirable combination of qualities and his contributions to our society will not end with his service here.●

COMMEMORATING JOHN McCORMACK

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. OTTINGER. Mr. Speaker, for 42 years, John McCormack dedicated his life to the legislative process of the House.

He was often quoted on his intense love for the House and on more than one occasion said that he would rather be Speaker of the House than President of the United States.

His dedication and love for this body never interfered with the needs of his district. He knew the slums as well as the fine townhouses, the poor as well as the rich. He was looked upon there, as he was in the House, with praise, admiration, and respect.

As a Representative and Speaker of the House, John McCormack exhibited loyalty, patience, and a shrewd temperate manner. It was these attributes which helped him influence committee selection, shape legislation, and control debate.

John McCormack was indeed a powerful man. The role that he served accorded him this power, yet he never forgot his humble upbringing and prided himself on always having time for his fellow man.

John McCormack's loyalty to his job and his constituents, his respect for the Government he served, and his never ending will to satisfy the needs of his country are but a few of the qualities that he will be remembered for. His passing leaves a void in all of our lives, yet we are all richer for having had the opportunity to know him.●

TRIBUTE TO MEL EVANS AND BILL ROYER

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, the close of the 96th Congress means that we will no longer be colleagues of two highly respected Members, Bill Royer of California, and Mel Evans of the Virgin Islands. I have come to know and respect these fine gentlemen who will be greatly missed in the next Congress.

In view of the incoming Reagan administration, it is especially disappointing to those of us who are Republicans that we will not have their help and keen insight on Republican congressional proposals in the 97th Congress. Beyond a partisan viewpoint, I think it is most unfortunate that the entire House will no longer be able to call on Bill and Mel during House debates for their perspective on the issues before us. This is not just a loss for the Republican party, it is a loss to the U.S. Congress.

Regardless of the unfortunate circumstance by which we will be losing these two fine Members, whom I am pleased to count as personal friends, I hope and pray that Mel and Bill will thoroughly enjoy their future endeavors. I wish them well in their retirement from the Congress.●

SPECIAL ORDER ON SAM DEVINE

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. BRINKLEY. Mr. Speaker, I wish to pay my special respects to Sam Devine, one of the most highly regarded men in the Congress of the United States. For those of us who admired his commonsense philosophy and sat with him at the prayer breakfasts so many times, this year will mark the close of an era with his leaving.

His contributions were those of a man deeply committed to God and country who practiced "minding the store." During his career he was among that circle of people who helped hold the country together during times of many perils.

Sam Devine is a big man and we are the beneficiaries of his friendship.●

TRIBUTE TO HON. DAWSON MATHIS

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, I rise to pay tribute to my dear friend Dawson Mathis, who is leaving the House after 10 years of magnificent service to his constituents and the Nation.

I have served with Dawson on the Interior Committee and we have worked togther on other endeavors. He is one of the toughest, most effective colleagues I have dealt with in Congress. I have the greatest admiration for Dawson and will sorely miss his friendship.

I am certain I join all of my colleagues in wishing Dawson well.●

PHIL KLUTZNICK

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. SCHEUER. Mr. Speaker, I rise to honor outgoing Secretary of Commerce Philip M. Klutznick on the occasion of his impending retirement.

Mr. Klutznick, a prominent attorney and real estate developer from Chicago, has devoted most of his life to a distinguished career in domestic and international public service. He is currently serving as Secretary of Commerce in the Carter administration and has served in other positions in six previous administrations. Mr. Klutznick has also served as a member of the U.S. delegation to the United Nations in the Eisenhower administration and later in the Kennedy administration during which time he was one of Ambassador Adlai Stevenson's principal deputies. His primary responsibility as Ambassador to the U.N. Economic and Social Council (UNESCO) was development problems in the Third World, including efforts aimed at poverty, illiteracy, and disease in developing countries.

As a distinguished businessman, Mr. Klutznick founded and headed the Urban Investment & Development Co. in Chicago and was a limited partner of Saloman Bros.; he was a member of the boards of directors of the Continental Foreign Trade Bank of Geneva, the First Mark Corp., and the Mortgage Guaranty Insurance Corp. of Milwaukee.

Mr. Klutznick's remarkable career has also included service as a member of President Ford's Advisory Committee on Indo-Chinese Refugees, of the National Council of Boy Scouts of America, of the World Jewish Congress, and of the Institute of Jewish Policy Planning. He is also a trustee of the Eleanor Roosevelt Institute and the Adlai Stevenson Institute for International Affairs.

I congratulate Philip M. Klutznick on such distinguished service and wish him many more years of continued success.●

TRIBUTE TO HON. TIM LEE CARTER

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesay, December 3, 1980

● Mr. PATTEN. Mr. Speaker, on several occasions over the years, Ann and I have had the pleasure of traveling with Dr. Carter and his wonderful wife. And during these years, we have established a respectful friendship that has become priceless to me.

I like to feel that my best and most important work in the Congress has been in the field of health and education appropriations. Because of this, I have come to the conclusion that Dr. CARTER's work on the authorizations in these areas was the greatest. Time and time again, it was his voice from the other side of the aisle that helped us pass landmark legislation. He is unsurpassed in the Congress in his support of health services and better health care for all of our people.

Dr. CARTER has left an indelible mark on health legislation and has given direction and impetus to the increases we have been able to provide in funding for health care and medical research.

I love Dr. CARTER and his wonderful wife. I wish them the very best in the coming years. The House will be poorer due to his absence next year.●

TRIBUTE TO HON. GUNN McKAY

HON. E DE LA GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. DE LA GARZA. Mr. Speaker, I am pleased to join my colleagues in paying tribute to GUNN McKAY upon his departure from the House of Representatives after 10 years of devoted and effective service in behalf of the people of the First District of Utah and the Nation.

It has been a pleasure working with and knowing GUNN McKAY over the years. As a good personal friend and as a colleague, I am sorry to see him go.

I certainly wish GUNN McKAY and his family much happiness and prosperity in the months and years ahead.●

TRIBUTE TO HON. TIM LEE CARTER

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. COUGHLIN. Mr. Speaker, it is a pleasure and an honor for me to join my colleagues in paying tribute to the Honorable TIM LEE CARTER, on his retirement from the House of Representatives. After 16 years of distinguished and dedicated service in the House, TIM LEE's presence here will be greatly missed by all those who have had the privilege of serving with him.

As several of my colleagues have noted, the many awards and honors given to TIM LEE over the years represent a well-deserved recognition of the tremendous contributions he has made, especially in health-related areas. His influence in the shaping of national policies in the fields of public and mental health, and his tireless efforts toward advancing health education and medical research will continue to provide inspiration to those who remain here long after TIM LEE resumes his life in Tompkinsville.

As a legislator, a physician, and a man concerned for the common good, TIM LEE merits our respect and admiration. His service to the people of this Nation, and to the people of Kentucky's Fifth District in particular, have been outstanding. I deeply regret seeing TIM LEE leave the House, and I extend to him and to his lovely wife Kathleen, my heartfelt best wishes for a long and happy retirement.●

THE CONSCIENCE OF THE HOUSE—RICHARDSON PREYER

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. PICKLE. Mr. Speaker, we will lose the conscience of the House when RICHARDSON PREYER retires from this body.

Perhaps more than anyone else here, RICHARDSON PREYER has been our conscience. He has accepted assignment of the House Ethics Committee as well as other leadership assignments. In many instances, his task required the judgment and the analysis of one Member as against another Member on behalf of this great institution, the House, itself. In every respect, RICHARDSON PREYER has lived and measured up to his heavy responsibility.

RICHARDSON PREYER is a mixture of the kind of good judges we all hope would sit in judgment of each of us, if the occasion ever arose. He has the dry humor of a Will Rogers, the wisdom of a Solomon, the patience of a Job, the clear reasoning of an Oliver Wendell Holmes and just the right amount of the Almighty.

Perhaps it was his earlier training as a Federal judge, but more likely it has been the deep inner conviction and the integrity of the man himself. This body has never had a man who had a better sense of fairness than our colleague from North Carolina. He, along with his vivacious and personable wife, Emily have endeared themselves to this House.

I rather imagine Members look back on their term in office and wonder why they cast a certain vote or indeed wish they could change some of their votes. I doubt that RICHARDSON PREYER would want to make those kinds of changes. Each of his votes has been done in quietness, meditation, conviction. And when the decision is made and the vote cast, I think RICHARDSON PREYER has turned to other matters and was willing to let the record speak for itself.

Those of us who served with RICHARDSON for years on committee remember his dedication to the Democratic Party and the causes it espouses. I served with him for some 10 years on the Commerce Committee and have had other wonderful relations with him and his wife. No couple has endeared itself more than Emily and RICH PREYER. The best of the House will depart from our midst, but every action this couple has ever taken remains with some of us or this body in some specific way. In my judgment, RICHARDSON PREYER has led the way for many of our reforms and improvements. I think he leaves behind us a legacy of fairness and dignity and dedication that will not be equaled again in our time.●

TRIBUTE TO BOB ECKHARDT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. OTTINGER. Mr. Speaker, it will not be until January, when we arrive for the 97th Congress, that many of us will begin to recognize the true magnitude of losing my good friend and colleague, BOB ECKHARDT. BOB ECKHARDT has been an exceptional Representative, a man dedicated to the pursuit of liberty and justice for all. In refusing to bow down before special interests, and thereby jeopardizing his reelection, he exhibited remarkable courage.

BOB ECKHARDT has spearheaded some of the most heroic legislative struggles of our time. He led the fight against oil and gas deregulation which has cost consumers billions of dollars. To quote Ambassador Andrew Young:

> Maybe the heroic struggle of the 94th Congress was for a Texas Congressman from the heart of the oil kingdom to stand up and represent what he thought was best for the nation and what was best for all of the nation * * *. It took somebody from the heart of the oil kingdom to lead those fights who was knowledgeable of some of the ins and outs of the energy crisis * * *.

Also of major concern to BOB ECKHARDT has been the protection of the land, water, and air. He authored the Toxic Substances Control Act of 1976, now widely acclaimed as one of the great pillars of environmental and safety legislation. He also authorized the most complete study of the hazardous waste disposal problem ever done, and he was one of those responsible for the superfund legislation recently approved in Congress.

Like most great legislators, BOB ECKHARDT has not limited his activities to any one area. He has shepherded through Congress a wide range of legislation, all designed to promote the best interests of the Nation. His efforts were responsible for the Motor Vehicle Cost Saving Act, the Foreign Corrupt Practices Act, the Dispute Resolution Act, and many others.

BOB ECKHARDT's work on the floor and particularly in the House Commerce Committee, has won him the reputation as a thoughtful, highly skilled, brilliant lawmaker. Above all, he has been a legislative perfectionist and a master of the art of parliamentary politics.

Bob Eckhardt was a dedicated liberal, stemming a tide of conservatism particularly severe in his area of the country. He was an able chairman of the prestigious Democratic Study Group during many of the reforms of the 1970's.

Bob Echardt is more than a great Congressman. He is a great person. He takes an interest in young people and has frequently spoken before high school and college audiences. He is also a renaissance man as those of us aware of his countless abilities—from being a cartoonist to his penchant for bicycle riding—are aware.

This body will sorely miss Bob Eckhardt. He richly deserves not merely our warmest wishes but also our deepest gratitude and respect.●

TRIBUTE TO HON. MIKE McCORMACK

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. DUNCAN of Oregon. Mr. Speaker, I am delighted to join my colleagues in paying tribute to Mike McCormack, who has been my neighbor across the Columbia River for the past 6 years. Mike and I have worked closely on a number of issues—nuclear powerplant construction, the veterans' hospital, the Northwest power bill, and our shared vision of another bridge across the Columbia River. I have always found Mike to be blunt, knowledgeable, and honest to a fault. I look forward to a long, continuing friendship with Mike and his lovely wife, Margaret.●

TRIBUTE TO MIKE McCORMACK

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. BRINKLEY. Mr. Speaker, I wish to pay my special respects to our friend and colleague, Mike McCormack, who has demonstrated superb leadership in the field of energy.

I have respected his counsel and have been encouraged by his visionary thoughts for the energy future of the free world. What sets him apart is that he was able to couple his visions to a pragmatic approach. The legislation which he helped shape will pay huge dividends during all the future years in the life of our great Republic.

Mr. Speaker, we are in Mike McCormack's debt in many ways, as well as being beneficiaries of his friendship.●

IN MEMORIAM: IMELDA CHAVEZ—WIDOW OF SENATOR DENNIS CHAVEZ

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. GONZALEZ. Mr. Speaker, I note with great sadness the passing of Imelda Chavez, widow of the late and beloved Senator Dennis Chavez.

Dennis Chavez could trace his forebears to 1598, when the expedition of Juan de Onate entered the territory that became New Mexico. There is no family in America with a greater, more distingushed lineage.

Dennis Chavez married Imelda in 1911; they come to Washington 20 years later, when he began service in the Congress. They were a devoted couple—to each other, and to the State of New Mexico.

The first powerful friend I had in Washington was Dennis Chavez. He and Imelda were kind and gracious to me, and I will always remember their kindness with gratitude.

I regret intensely the passing of this great lady. She earned the love and respect of everyone who knew her. Imelda Chavez was blessed with a long life, but that does not make any less poignant the moment of her passing.

I insert in the Record at this point the obituary notice for Mrs. Chavez, published in the Washington Star for December 9:

IMELDA E. CHAVEZ, DESCENDENT OF EARLY SETTLERS OF NEW MEXICO

Imelda Espinosa Chavez, 90, a descendent of early settlers of New Mexico and a Washington resident since her late husband began serving in congress in 1931, died Sunday at the home of her daughter, Gloria Tristani, in San Juan, Puerto Rico.

Mrs. Chavez, the widow of Sen. Dennis Chavez, D-N.M., had been in good health and died in her sleep after a heart attack. In recent years she lived with her daughter in Puerto Rico and at her home on P Street NW with her other daughter, Ymelda Dixon, a society columnist for The Star.

Mrs. Chavez was born in Del Norte, Colo., and later moved with her family to Albuquerque, N.M., where she was married in 1911. Her husband served four years in the House before entering the Senate, where he served until his death in 1962.

During her years in Washington, Mrs. Chavez was an active member of the Senate Wives Club, the Congressional Club and the Woman's National Democratic Club.

She and her husband were proud of their heritage as descendents of the earliest settlers of New Mexico. Capt. Marcelo Espinosa was with Juan de Onate in 1598 on Spain's first colonizing expedition into what became New Mexico, and Pedro Duran y Chavez also served there during that time. Their descendents re-entered New Mexico with the "reconquest" of De Vargas in 1690.

Besides her daughters, she leaves a sister, Mrs. Edwin V. Kerr of the District; five grandchildren; and four great-grandchildren.

Services will be held at 10 a.m. Thursday in Immaculate Conception Catholic Church in Albuquerque.●

TRIBUTE TO HON. ANDREW MAGUIRE

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. JEFFORDS. Mr. Speaker, I join with my colleagues in expressing appreciation for the good work Andy Maguire has done in Congress.

We were both Members of the freshman class of 1974, and I have many good memories of the energy and commitment with which we tackled our new jobs. Andy began his first term charged with an abundance of vigor and new ideas, and he has spent 6 years demonstrating his staying power.

Andy and I have worked together on many of the energy and environmental reform issues that crowded the agenda of the 94th and 95th Congresses. He helped get the Environmental Study Conference off the ground, and he also struggled to keep the oil and auto industries at bay. It has been a privilege to work alongside of Andy on behalf of these and other important causes.

We will miss the commitment and drive that Andy contributed to the House, but know that he will apply these qualities to many worthwhile causes in future years.●

TRIBUTE TO JERRY AMBRO

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. BIAGGI. Mr. Speaker, for the past several years, it has been an honor and pleasure to have known and worked with Jerry Ambro, my good friend from Long Island, N.Y. I take this occasion to thank him and pay tribute.

Jerry approached his job in an activist fashion—plunging into project after project and emerging with results. He did it here and in the Third Congressional District. Jerry was the highly respected chairman of the Freshmen Caucus and in that capacity, demonstrated great leadership abilities.

Jerry was an especially productive member of the House Public Works and Science and Technology Committees.

On the Public Works Committee, Jerry Ambro acquired an important expertise in the area of mass transportation. This was best reflected just last week when the House passed H.R. 6417, the Surface Transportation Act Amendments of 1980. This legislation makes desperately needed changes in the method by which mass transit funds are distributed. Jerry's contributions to the bill were numerous and substantial and he should be proud.

Let me also cite JERRY's important work as a member of the ad hoc congressional Committee for Irish Affairs. He joined with me in a number of important committee initiatives, aimed at focusing attention on the Northern Ireland situation, especially with respect to human rights. JERRY's commitment to this cause is worthy of special attention and commendation by the Irish American community.

JERRY is a good friend whom I will miss. I wish him a happy, prosperous, and productive future.●

TRIBUTE TO RETIRING PENNSYLVANIA MEMBERS

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues in paying tribute to two distinguished Members of the Pennsylvania delegation, PETER KOSTMAYER and RAPHAEL MUSTO, on the occasion of their departure from the Congress.

They have served their districts, their State, and the Nation with dedication and a sense of purpose. PETE has been an activist Member of the House and an effective spokesman for the issues of concern to his constituents. Both these Members, though their service has been brief in the House of Representatives, have brought to their position enthusiasm, diligence, and hard work.

I salute their contributions to the House of Representatives and wish them every success in all their future endeavors.●

TRIBUTE TO KEITH SEBELIUS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. McCLORY. Mr. Speaker, I represent a district in Congress which includes a fair amount of farmland in addition to a mixture of suburbs and industrial communities. So I have had some occasion to be concerned about agricultural issues and to become knowledgeable about them.

But my partial expertise cannot compare to the great depth of knowledge on farm issues regularly displayed by the retiring Member from the First District of Kansas, known as the big first because it covers 60 percent of a very large State.

Since KEITH SEBELIUS came to Congress in 1968, he has developed a reputation as one of the most knowledgeable Members of Congress on either side of the aisle on agricultural issues. I, along with many of my colleagues, consult him regularly when farm issues come up for decision.

But it is not expertise alone which distinguishes KEITH SEBELIUS. Many Members are expert on some particular issue, but they do not have the general reputation for good judgment which makes KEITH's advice so sought after.

Finally, KEITH's advice is sought out in part just because he's such a nice guy. It is a delight to work with him on any legislative issue because his expertise will always be matched by good humor and enthusiasm. His unique contribution will be greatly missed in the next House.●

TRIBUTE TO BOB WILSON

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. CLAUSEN. Mr. Speaker, I want to bring to the attention of my colleagues a copy of a resolution passed by the county of Hawaii giving special recognition to the dedicated service of our retiring dean of the California Republican delegation, BOB WILSON.

It very succinctly describes his extraordinary service to Hawaii and the country when he served with such great distinction as the ranking Republican on Armed Services Committee.

RESOLUTION NO. 729

Whereas, Congressman Bob Wilson, with 28 years of experience on the influential Armed Services Committee, will be concluding his long and dedicated public service on January 31, 1981; and

Whereas, Congressman Wilson, Minority Leader of the Armed Services Committee, following his visit to the United States Western Command (Pacific Area) and the Big Island in October, expressed that the Big Island could serve as a vital alternative site for absorbing a steadily growing military force on Oahu; and

Whereas, Congressman Wilson has recognized the need to improve the roads connecting Pohakuloa Training Area with the airports to better service the military and because of his concern that military growth and expansion on Oahu shall eventually require an alternate site, strongly favors Federal implementation for this much needed improvement: Now, therefore, be it

Resolved by the Council of the County of Hawaii, That it expresses its sincere appreciation to Congressman Bob Wilson for his enthusiastic support for Federal assistance to upgrade the roadways linking Pohakuloa with the airports; be it further

Resolved, That the County Council bid Congressman Bob Wilson its fondest Aloha and best wishes upon his retirement following a most distinguished career in the U.S. Congress; be it further

Resolved, That the Clerk of the County of Hawaii transmit a true copy of this resolution to Congressman Bob Wilson.

Dated at Hilo, Hawaii, this 1st day of December, 1980.●

A TRIBUTE TO MENDEL J. DAVIS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BIAGGI. Mr. Speaker, one of the more enjoyable aspects of serving in the House of Representatives is establishing friendships with people you would not otherwise meet. One of the sadder jobs in serving here is saying goodby to those who you come to like as friends and respect as colleagues. Such a person is MENDEL DAVIS, who has served in the House since his election to this body in 1971.

MENDEL has distinguished himself as a dedicated and skilled legislator on behalf of the people of the First District of South Carolina. He has been a staunch supporter of our Nation's defense interest through his membership on the House Armed Services Committee. MENDEL has also shown his concern for the internal work of this body through his work on House Administration—a committee which serves his colleagues and Congress. We are deeply grateful for his work in both these areas and his contributions will be conspicuously absent next year.

I wish MENDEL all the best, secure in my own mind that his absence from public life will be brief and his future very bright.●

BALANCING ACADEMICS AND ATHLETICS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. ROUSSELOT. Mr. Speaker, many Members are aware that the Rose Bowl in Pasadena is just outside of my congressional district and is well represented by my colleague CARLOS MOORHEAD. Overlooking these borders, the Rose Bowl parade and game are still both a source of great pride to the Los Angeles community.

This year's Rose Bowl game, however, will not have the same excitement as past games have had. Instead, this year's game will be remembered as one of exception, since neither of the Los Angeles teams will be representing the city in this Pasadena tradition. The main reason for the absence of UCLA or USC is not due to athletics but rather to academics.

Many sport fans and academicians across the Nation were astonished a few months ago to find the PAC 10 reduced to the PAC 5. The number of teams able to vie for the Rose Bowl was cut in half due to discovered violations of relaxed academic and admission standards. Unfortunately, this predicament is not unique to the west coast. Many top academic institutions are compromising the established excellence and integrity of the school by gambling for the high-monetary profits. This practice has been common throughtout the Nation, expecially where the potential money stakes are the highest. This situation has been accurately referred to as a beast out of control that needs to be tamed.

A recent report, "Academic Conduct, Admission, Advisement and Counseling of Student-Athletes at the University of Southern California," was made public by USC President John Zumberge. The president is to be praised for his open investigation into his school's incident. He has described this situation as a crossroad between education and athletics.

This report outlines five major weaknesses prevalent in college sports today. Several valuable points are made about the role of our Nation's higher education amidst athletic competition. It is for this reason, and for the reason that President Zumberge is a constituent residing in California's 26th Congressional District, which I serve, that I recommend portions of this report to the attention of my colleagues in the U.S. House of Representatives.

A university, more than any other unit in society, bases its entire existence on devotion to truth and ethical conduct, and offers itself as an example of principled action. It therefore is incumbent on each institution which has experienced any erosion of its integrity to scrutinize its own priorities and processes and, where necessary, establish reforms. Such introspection, while difficult and sometimes painful, nonetheless is essential to insure future well-being as an ethical, self-correcting, community.

This report is offered with the expectation that all who are associated with the University of Southern California will be strengthened by knowledge of the past and renewed in their commitment to excellence and right conduct by discussion of the future.

COMPETITIVE SPORTS AND HIGHER EDUCATION

Higher education today may have reached a crossroads in its relationship to big-time athletics. The major spectator sports have taken on an existence and momentum entirely of their own and drifted away from the procedures and academic philosophies of the institutions which spawned them. If the present trend is allowed to continue, the potential exists for gradually undermining the integrity and credibility of the educational enterprise as a whole. Therefore, individual institutions, and the intercollegiate athletic system of which they are a part, must explore ways of restoring clear purposes and goals for competitive sports which are consistent with broader educational purposes and societal needs.

The present crisis appears to be related to at least five major weaknesses. All of these, to one degree or another, have been manifested in the recent so-called "scandals" besetting intercollegiate athletics. Some of these weaknesses have been prevalent at USC. All demand our attention.

First, institutional and individual integrity has not always guided action. Colleges and universities have too often taken advantage of athletes either through failing to assist those with marginal skills or failing to confront the less able early in their academic careers with an awareness that academic success may not be viable. Too often, the practice has been to admit athletes with marginal academic motivations and abilities, permit them to drift through the curriculum and, once athletic eligibility is used up, to cast them aside with neither a degree nor much hope of attaining one. The failure to offer opportunities and incentives to students to become academically successful is itself a weakness. But, failure to confront a student-athlete early with the realities of his or her true potential for academic survival is unethical. Such practices are tantamount to exploitation and are unacceptable.

A second prominent weakness has been a failure to understand the seriousness of the present situation. A similar shakeup in college sports occurred during the early 1950's as a result of recruiting violations and classroom cheating. The proportions of the national scandal in 1980 are substantially larger and far less innocent. Today's scenario includes not only cheating and recruiting violations, but manipulation of courses by faculty and coaches, forgery of admissions credentials by outside "merchants," financial mismanagement by athletic program administrators, and more.

A third weakness has been a failure to comprehend the significance of changes that have occurred in competitive sports in America during the past three decades. Colleges and universities today must come to grips with these changes because they are the source of much of the malaise that afflicts intercollegiate athletics today. The earlier brief crisis of the 50's came at a time when national television played a small part; when pro-football and basketball were in a fledgling state, and big-time professional tennis and golf were almost unimaginable; when the largest pro-contracts might total $30,000 per year and agents to negotiate them were rare; when the egalitarian "Great Society" reforms of the 60's, which broadened higher education's accessibility, had not yet begun; when literacy levels in elementary and secondary schools were not declining; and, when Las Vegas-style gambling on collegiate sports outcomes was less prominent. Higher education must begin to comprehend the implications of these major developments if it is to begin to deal more adequately with the present crisis.

A fourth common weakness is that of failing to understand more clearly the purposes served by intercollegiate athletics. Much has been made of the importance of intercollegiate sports for institutional name recognition and fund raising. Such purposes, while often part of the Institutional raison d'etre for sponsorship, have been largely overstated in comparison to the many individual and social values that are derived. Consequently, intercollegiate athletics have remained curiously tangential and their status indefinite. What often has been projected by institutions is doubt, uncertainty, and ambivalence about the relationship between higher education and athletics.

Excellence on the field and excellence in the classroom are not inherently incompatible. Indeed, they often are mutually reinforcing in individual development. The rapid acquisition of new skills; the management of time and energy; the development of collaborative abilities; the development, clarification, and testing of values; and the testing of personal limits of physical and psychological endurance encountered in athletic competition all provide rare learning opportunities for the student-athlete.

Intercollegiate athletics also serve broader institutional and social interests. The role played by sports in providing a common meeting ground, in overcoming racial barriers, and in bridging the generations often have been overlooked and/or significantly understated. The importance of play in human life and education also has too often been given short shrift in discussions of the role of sports. More precision about these and other positive aspects of intercollegiate athletics should help clarify both their relationship to higher education and the reasons for institutional commitment to athletes and athletic competition.

Fifth, strong university leadership has been lacking. Presidents, coaches, athletic directors, admissions officers, academic deans, advisers, and faculty—everyone connected with the enterprise—must share in the responsiblity for individual and institutional conduct. Too often, there has been a tendency to adopt an attitude of laissez faire toward athletes and athletics. This attitude has permitted drift within the system when the mounting pressures and abuses have called for firm action. Each individual, and most certainly presidents of institutions of quality, must accept more active responsibility than in the past for the tenor and conduct of intercollegiate athletics within individual institutions and the system as a whole.

These weaknesses notwithstanding, it is abundantly clear that there is far more that is positive about intercollegiate athletics today than negative. Proper reforms, diligently implemented, can have immediate, positive effects in reversing the general drift and restoring the public's confidence in the capacity of higher education for self-correction and ethical conduct.●

REPRESENTATIVE BILL HARSHA

HON. ANTONIO B. WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. WON PAT. Mr. Speaker, I thank my colleague Representative DELBERT L. LATTA for taking this special order to honor our esteemed colleague, Representative BILL HARSHA, of Ohio, who is retiring.

I have known Congressman HARSHA for some time and have always been proud to work with a man of his outstanding intelligence and sense of fair play. He has served the people of Ohio's Sixth Congressional District with great skill and they and we deeply regret his decision to go on to greener, and hopefully, less hectic pastures.

The contributions of this great Congressman are many, but I think that as the ranking minority member of the House Committee on Public Works he certainly left his impressive mark on much legislation that benefited this country. He is known as a highly skilled legislator—a characteristic which made his advice and counsel welcomed by those of us on both sides of the political aisle here on Capitol Hill.

I wish Congressman HARSHA the happiness and sense of fulfillment in retirement that I am certain he gained during his many years of proud service to his district and to this Nation. He has every reason to be proud for the contribution he made to his country and he will certainly be missed by his many friends in the House.●

TRIBUTE TO HON. BOB ECKHARDT

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. DUNCAN of Oregon. Mr. Speaker, I am honored to join my colleagues in paying tribute to a very fine Member of this body who will not be returning next year, our friend Bob Eckhardt. Bob's speech, dress, and demeanor have always reminded me of Scattergood Baines of the old Saturday Evening Post; his unique style will be missed next year. I have always found Bob to be a very formidable opponent when we have found ourselves on opposite sides of an issue. I remember when I was out of Congress and representing a client in a struggle to amend the Longshoremen and Harbor Workers Act, that Bob was a persistent but gracious adversary. I was eating in the House dining room after the battle was ended, and I still remember Bob's making the effort to come over to congratulate me on my victory.●

JUDGE GEORGE E. GANGLOFF HONORED

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. YATRON. Mr. Speaker, on November 24, 1980, Hon. George E. Gangloff celebrated his 100th birthday. His outstanding accomplishments as the president judge of the Schuylkill County Orphans Court warrant our recognition. I know that my colleagues will join me in paying tribute to this fine American.

The following is an article which appeared in the Pottsville Republican honoring Judge Gangloff which I would like to share with my colleagues in the Congress.

The article follows:

JUDGE GEORGE E. GANGLOFF CELEBRATES 100TH BIRTHDAY

(By Ione Geier)

Hon. George Gangloff has always been an unassuming, no-nonsense sort of person.

In keeping with his lifelong distaste for the limelight, the former president judge of the Schuylkill County Orphans Court decided that his 100th birthday today should be observed with a minimum of fanfare.

Nevertheless, flower arrangements and congratulatory messages, including a citation from the Pennsylvania House of Representatives, have poured into the Leader Nursing and Rehabilitation Center, Pottsville, where the judge has been a guest since December of 1979. This afternoon, officials from the Boy Scouts of America, Hawk Mountain Council, plan to present him with the Silver Beaver, one of Scouting's highest awards.

Through the years, the judge has earned dozens of honors and awards. His life has been one of accomplishments in many different fields.

Ask him about some of the significant events that have marked his 100 years and he replies with courtesy and a characteristic precision. Judge Gangloff never liked fuzzy answers when he was on the bench and he rarely gives them himself.

It was this attribute and the high regard of his fellow lawyers that earned him his appointment to the bench in 1932. The following year, when he ran for election as a sitting judge, he swamped his opponent by an astonishing plurality of 19,600. He won two more 10-year terms before retiring in 1964.

Pride plays very little part in the judge's personality. However, he admits to being proud of his 31 years as president judge of Orphans Court. Although he had the usual number of decisions appealed to the Supreme Court, in every case he was upheld by the high judicial body.

For a conscientious judge, life on the bench can be lonely. Judge Gangloff's office door was always open to lawyers who needed clarification of a legal problem but the judge made it a point never to associate with attorneys on a social basis. To do so, he felt, might influence his decisions when the lawyers appeared before him in court.

It's difficult to find a lawyer who doesn't hold the judge in high regard. In talking about him, they invariably use adjectives such as "conscientious", "punctual", "patient", "impartial" and "hard-working."

HARD WORK A WAY OF LIFE

Hard work has always been a way of life for Judge Gangloff. As a boy of 8, he carried newspapers between Landingville, where he was born, and Adamsdale. Orphaned at 11, he helped to work the family farm after going to live with his grandparents in East Brunswick Township.

After attending area schools and graduating from Kutztown State College, he taught for two years in the McKeansburg Grammar School. The job, which included performing janitorial chores, paid $35 a month.

Following a common practice in those days, he studied law in the offices of local lawyers instead of attending law school. The years between his admission to the bar in 1906 and his appointment to the bench were busy ones.

In 1912, he served as area chairman when Theodore Roosevelt ran for the presidency on the Progressive (Bull Moose) ticket. Two years later, he escorted Roosevelt on a tour of Schuylkill County and received from him a personal letter of thanks, partly typed, partly handwritten. In the Historical Society of Schuylkill County, there is a picture of the tour group that shows the future judge standing beside the large black open car in which Roosevelt is seated.

HELPED CHASE PANCHO VILLA

In 1916, George E. Gangloff was 36 years old but with war imminent he joined the Army. His military career started out in flamboyant fashion when his outfit was sent on horseback in pursuit of Pancho Villa, a Mexican revolutionary who was plundering and terrorizing Texas border towns.

The American troops never did locate the elusive Mexican bandit. What they did find in abundance in Mexico were snakes. Sixty-four years later, Judge Gangloff still has vivid memories of waking up after a night spent sleeping on the ground and finding himself face to face with several hissing reptiles.

The remainder of his military career was less eventful. After serving with the Judge Advocates Corps during World War I, he was discharged in 1919 with the rank of major. From 1920 until his appointment to the bench he practiced law and acted as trust officer of the Schuylkill Trust Co., Pottsville, (now part of the American Bank system). He is still a director of the Pennsylvania National Bank and Trust Co.

A LOYAL PHILLIES FAN

In his long and illustrious life, he has been an active participant and in many cases the head of civic, fraternal and charitable organizations. But he has never been too busy for baseball.

The Phillies are his favorite players. He remained loyal to them through all the years of lost games and dashed hopes although there were times when he couldn't resist referring to them as "those forlorn Phillies". When they finally managed to win the World Series last month, he breathed a heartfelt and fervent, "At last!"

His room at the nursing home is comfortably furnished but by the judge's own choice it is singularly free of the usual accumulations of living—the knicknacks, the souvenirs, the signed photographs, the old letters. With the exception of books, one of the few personal possessions in the room is a baseball obtained for him by John Tinder, a vice president of the Pennsylvania Bank. Signed by Phillies' pitcher Tug McGraw, the message on the ball reads, "To Judge Gangloff, You gotta believe."

WAS STILL OUT FISHING AT 99

The judge believes that baseball is entertaining but fishing is all absorbing. In the company of fellow rod-and-reel enthusiasts Edward Mengle, Clarence Shuey and Paul Feeser, he made his last fishing trip to Canada in July of 1979 when he was approaching his 99th birthday.

From 1966—when his wife, the former Helen Keever, died—until December of 1979, he lived alone in his large brick house on Avenue C in Schuylkill Haven. He cooked his own breakfast and lunch, drove himself to the Pottsville Club for dinner several times a week, attended bank meetings and fished on Lake Wallenpaupack.

These days, much of his time is spent keeping abreast of stock market quotations, studying current legal decisions and corresponding with his son, George II, who lives in Florida.

At 100, he is still a fine-looking man although a bit thinner than usual because of two recent bouts with pneumonia. Tall, with piercing blue eyes and a youthful shock of graying hair, his appearance belies his years.

But it is not only for his age that Judge Gangloff is being honored today. It is also for his many and varied achievements during the past 100 years.●

HONORING JOSEPH FISHER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. OTTINGER. Mr. Speaker, it is with a deep sense of loss that I rise today to pay tribute to my good friend and colleague, Joe Fisher. It has been my distinct privilege to have worked with Joe these past 6 years.

As founder of the Environmental Study Conference, it is with great pride and satisfaction that I can point to the accomplishments of the ESC under Joe's guidance. Under him, the

ESC has grown in size and stature. It has continued the tradition of hard work regarding the environment and has expanded its research and member support in the energy field.

As a past president of Resources for the Future, Inc., JOE has brought to the conference an economic perspective while stressing nonregulative alternatives to sound pollution control.

I know I speak for all my colleagues when I say we will sorely miss JOE FISHER. I wish him the best of health and happiness.●

TRIBUTE TO CHARLES H. WILSON

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues on this occasion to pay tribute to our good friend and colleague from California, CHARLES H. WILSON, who is retiring from the Congress after 18 years of dedicated service to his constituents and the Nation.

As a ranking Democratic member of the Armed Services and Post Office Committees CHARLES H. WILSON has given distinguished leadership to the issues of postal reform and to the Armed Services authorization bills each year. He has always tried to help a fellow colleague with a personal or political problem and is admired by his colleagues for his openmindedness and competence.

We wish CHARLIE well in his retirement, though we are losing the services of a dedicated colleague and one who so ably represented the concerns and interests of his district and the Nation for nearly two decades.●

THE NOBLEST ROMAN

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. CARTER. Mr. Speaker, the Rural Kentuckian, the magazine of Kentucky's electric cooperatives, has a story on the life of former Senator John Sherman Cooper, who was also Ambassador to India, Ambassador Extraordinary and Minister Plenipotentiary to Nepal, and then Ambassador to East Germany. It was my good fortune, as his U.S. Representative for many years, to travel throughout the Fifth Congressional District and many other parts of Kentucky with him. He is one of the kindest, most genteel gentlemen I have ever known. In addition to that, he is highly intelligent, thoughtful, and compassionate. His work in the U.S. Senate was outstandingly, as was his service in India, Nepal, and East Germany.

I include for the perusal of the Members the article, "The Noblest Roman," describing the career of the most wonderful man I have ever known:

THE NOBLEST ROMAN

(By Gary Luhr)

To reporter William S. White he was "a thinking man's politician." To his former colleague, Paul Douglas of Illinois, "the noblest Roman in the Senate." Maryland's Charles Mathias called him "a standard by which we can all measure our actions."

John Sherman Cooper will be 80 next August. His step is a bit uncertain these days and age has robbed him of his hearing. Still, his mind and memory are keen and his always handsome features have grown more distinguished with age. He reports for work regularly at one of Washington's prestigious law firms and comes home just as regularly to be with his family and friends in Kentucky. This fall, he returned to the campaign trail on behalf of Republican presidential candidate Ronald Reagan.

Eight years have passed since Cooper retired from the United States Senate, citing his age and increasing demands of the job.

"I made up my mind in 1966 that the next six years would be enough," he recalled. "I was 71 (in 1972). That now seems quite young, (but) I didn't know if I would have the strength to keep up with the work. As it turns out, I was in perfectly good health during all that period."

In the center of his office are the desk and chair he brought with him from the Senate, large wooden pieces built in the old Senate workshop. One end of the desk is piled high with federal regulations, many relating to tobacco. The walls and bookshelves around them display the momentoes of a long and distinguished career.

FORTUNATE POSITION

"I think I was in a pretty fortunate position; I was a Republican in a Democratic state. If I had been a Democrat I don't think I would have ever been in the Senate. Republicans had no real organization (at the time of his first election in 1946). You didn't have to go in and ask if you could run. So I didn't have to respond to an organization and everything they wanted. Neither did I have to respond to the Democrats. I just had to try to take care of the interests of my state as best I could."

Outsiders who only knew Cooper by his position on certain national issues probably wondered how such a man could have been chosen repeatedly to represent a generally conservative constituency.

"I think a lot of people thought I was too liberal. Of course, I found up here there were all kinds of liberals. There were those who would vote for something just because they thought it was liberal.

"My own feeling was if I thought something was justified and human I'd vote for it. Having come from a rural area, having been a county judge, having served in the Depression, I saw the hardships of people and I had a certain sympathy for them. So I voted for a lot of measures which were looked upon by many of my friends as being too liberal.

"For example, I voted for the poverty program. Of course, it's grown all out of reason today, but it seemed at that time it helped the poorest people. I voted for Medicare because I'd seen people who couldn't pay their bills lie there and die. I had tremendous opposition from the doctors. They were all against it except the country doctors, but I'm glad I voted for it.

"I decided on national issues I couldn't confine myself wholly to the views of the people of my own state. On civil rights—I got very few letters asking me to vote for civil rights. I got 30,000 letters asking me to vote against it. I don't know if that represented the view of the whole state, but I knew it was a national issue."

FOREIGN AFFAIRS

It was in foreign affairs, however, that Cooper earned his greatest reputation. His former junior colleague from Kentucky, former Senator Marlow Cook, attributed this partly to the defeat he suffered the first time he ran for reelection to the Senate in 1948. Shortly thereafter, President Truman appointed Cooper as a delegate to the United Nations.

"It was this act which proved to be the genesis in making the man from Somerset one of America's foremost authorities in the field of foreign affairs," Cook said at the time of Cooper's retirement.

Twice Cooper served in the diplomatic corps—during the 1950s as ambassador to India and Nepal, and more recently as the United States' first ambassador to East Germany. Throughout his career he worked for world peace and arms control. In 1950, he opposed a suggestion that the United Nations be reorganized to exclude communist nations. During his final years in the Senate, he cosponsored several resolutions to cut off funds for the war in southeast Asia.

Such feelings remain strong as Cooper assesses the current world situation. "The Russians are very unpredictable," he said. "They know they've got the strength. They could overrun Iran if they wanted to and there wouldn't be a thing we could do about it, in my opinion, other than use nuclear arms, which is the last thing in the world anybody wants.

"I count these next two years as very critical and dangerous years, ones in which we must care and let the world know that we want to reach agreement with the Soviets on arms limitation and some kind of accommodations which will preserve peace. The problem is, there's no way you can excuse the Russian aggression in Afghanistan."

The son of John Sherman and Helen Tarter Cooper didn't set out to be a United States senator. His first race for statewide office was the Republican gubernatorial primary in 1939. Cooper lost to King Swope of Lexington who, in turn, was defeated by A. B. "Happy" Chandler in November. "I had in mind running again for governor, but when I had this opportunity to run for the Senate, I decided I'd better do it," Cooper said, recalling his election in 1946 to fill the seat vacated by Chandler, who had resigned to become baseball commissioner. His opponent that year was John Y. Brown, Sr., father of Kentucky's present governor.

"I didn't think I'd get elected," Cooper said. "The reason (I did) was war controls (on wages and prices). Brown was supporting them; I was against them. Just before the election, President Truman lifted them and I could say, See, Brown was wrong all the time.'"

Cooper laughed as he recalled the "stinging" letter Brown sent him 26 years later, when he retired from the Senate. In the letter Brown said, "I don't mind you retiring but I do mind you saying you're retiring because of age. You and I are the same age and I never felt better."

When Cooper ran for reelection in 1948, he lost to Virgil Chapman, a member of the House of Representatives for 22 years. Chapman died in office before his term was over and, in 1952, Cooper was again elected to fill the last two years of the unexpired term.

During the interim, Cooper got his first taste of foreign affairs. In 1949, Truman appointed him to the U.N. to replace John Foster Dulles, who had resigned to run for the Senate from New York. In 1950, he was named by Secretary of State Dean Acheson as the principal Republican consultant to the State Department (also replacing Dulles). Later that year, he accompanied Acheson to Europe for meetings that led to the establishment of NATO, the North Atlantic Treaty Organization.

Cooper had been only the third Republican ever elected to the Senate from Kentucky and the first in 22 years. The Republicans had gained control of the Senate in 1947, for the first time in 16 years. In 1954, however, the Democrats regained the majority and Cooper, running again for a full term, lost to the ever-popular Alben Barkley of Paducah.

The following year, President Eisenhower named Cooper ambassador to India and Nepal, one of the most difficult and delicate diplomatic positions of the cold war period. Biographer Robert Schulman attributed Cooper's success with Indian Prime Minister Nehru to a combination of "simple likeability and sensitive finesse." Former Vermont Senator George Aiken wrote, following Cooper's retirement:

"During the period . . . when he was ambassador to India, I feel that John Cooper's low-key and humane approach to the problems of people did much to keep our relations with that country on a more workable plane. Not all of our diplomats have a noninflammatory way of dealing with officials of foreign countries and, in some instances, the United States has paid a rather high price for their lack of tact and consideration."

HISTORY REPEATED

History repeated itself on April 30, 1956, when Barkley died while making a speech in Virginia. Running for the third time to fill an unexpired term, Cooper defeated former Governor Lawrence Wetherby and became a fixture around the Capitol for the next 18 years. He was elected to a full six-year term in 1960 and reelected in 1966, each time by record margins.

Cooper was 55 when he defeated Wetherby. Just a few years before, he had been regarded as one of Washington's most eligible bachelors. A syndicated columnist described him as "handsome, sophisticated and intelligent" but with "a frontierman's practicality." In 1955, he married Lorraine Shevlin, a few years his junior, in Pasadena, California. (A previous marriage to an Army nurse in 1943 had ended with divorce in 1947.)

"Wives can be a great help to you (in the Senate) because they get to know the wives of other senators and make friendships that can lead a little bit toward their husbands' friendships," Cooper said. "A wife can also be a tremendous help in campaigns. I know my wife was for me. Although she never lived in Kentucky (before their marriage), she went down there and I think the people liked her."

Cooper's own ancestors came to Kentucky from Virginia and South Carolina in the late 1700's. His mother was a teacher. His father, a law school graduate, owned timber, coal mines and farmland and was the first president of the Farmers Bank of Somerset. The senior Cooper was also at various times county school superintendent, county judge and Republican congressional district chairman.

Young John, one of seven children, attended both private and public schools, as well as Centre College and Yale University. In 1923, he was voted "best liked" and "most likely to succeed" by his graduating class at Yale. The class included a student from Missouri who later would become one of Cooper's colleagues in the Senate, Stuart Symington.

Following graduation, Cooper spent two years studying law at Harvard. His father's death in 1923 left the family with mounting debts, however, and so he returned to Somerset without a degree. Nevertheless, in 1928 he passed the Kentucky bar examination and was admitted to practice law the same year he had been elected to the Kentucky House of Representatives.

In 1930, Cooper was elected Pulaski County Judge, the fifth member of his family to occupy the office. His compassion became evident during the next eight years. At times, as many as 30 people crowded inside the county judge's office to warm themselves by the pot-bellied stove. Cooper, earning $2,500 a year in the job, provided food and lodging personally for many who were poor and starving.

PRIVATE COOPER

Cooper celebrated his 40th birthday in 1941, two years after his unsuccessful race for governor and less than four months before the Japanese bombed Pearl Harbor, drawing the United States into World War II. Early the next year, he enlisted in the Army as a private, went through officer candidate school and was commissioned a second lieutenant at Fort Custer, Michigan in 1943.

Cooper was assigned to General George S. Patton's Third Army as a courier in the military police. During the next two years, he fought across France, Luxemburg and Germany, participating in five major campaigns and emerging from the war with a Bronze Star and the rank of captain.

While still in Europe in 1945, Cooper was elected in absentia as circuit judge of Kentucky's 28th judicial district. He remained in Germany for another year, however, serving as a legal adviser on the reorganization of the Bavarian courts and the repatriation of 300,000 displaced war victims.

Twenty-eight years later, he returned to that part of the world. "I was always glad I had the opportunity to spend two years in East Germany," Cooper said. "They're tremendous producers because the Germans like to work." In the same breath he said the need for greater productivity by American workers is one of the more serious problems facing this country.

As a diplomat, Cooper worked under the auspices of former Secretary of State Henry Kissinger, whom he called "the toughest fellow I ever ran into."

"I consider Kissinger as really having one of the great minds of this period, not only in this country but abroad, in the field of foreign affairs. I first met him when he was head of the Security Council under President Nixon. I was on the (Senate) Foreign Relations Committee. We disagreed on a number of things—ways to try to bring the war in Vietnam to a close and also on the anti-ballistic missile system.

"He was always very nice to me, but now he's become the subject of a great deal of criticism. I'm not really in a position to say how much of that is justified. When I was ambassador to East Germany I had very little connection with him. He was very busy with the Middle East and with Russia and China."

Cooper also recalled the six presidents under whom he served in the Senate, beginning with Truman.

"I suppose I was like most Republicans in the beginning, I didn't think an awful lot of Truman. But I got to know more about his politics when I was at the U.N. and when I was with Secretary Acheson. He was a very strong personality. He believed it; foreign countries believed it. It looks like now every candidate running for president wants to be compared to President Truman. I consider he's going down in history as one of the great presidents."

HAPPIEST TIME

Eisenhower. "We still had a very strong position militarily and economically. There were two small recessions during his term, but because of his prestige over the world it was a peaceful time and, I think looking back, it was probably about the happiest time among most people. He showed some terribly good sense on a number of things. For example, when Great Britain, France and Israel tried to take the Suez Canal back from the Egyptians, they asked for his support and he refused to go in there. He also refused when the French were defeated in Vietnam to send in our troops."

John Kennedy. "He came to Congress the same time I came to the Senate, but I never really knew him until he came to the Senate and we were on the Labor Committee together. I found that he was the most conservative Democratic on the Labor Committee. While he was pro-labor, he just would not vote for everything they wanted. I was kind of in the middle on the Republican side. I think it kind of led the two of us to get together and talk, and he would tell me things, I'm sure, because he knew I wouldn't tell them.

"He sent me to Moscow and I was able to talk to the Soviet leaders. I got a terribly tough feeling against the United States and I came back and reported all of that. I think he thought I'd exaggerated, but when he met with Khrushchev in Vienna, Khrushchev treated him terribly. He told me later, 'You were right.'

"He showed his honesty when he took the blame for the Bay of Pigs himself, and then he showed his courage when the Russians had placed missiles in Cuba and were attempting to bring in more and he told them they would be stopped. I think he gave hope particularly to the young people in the United States and to young people all over the world. I saw that when I traveled around the world at different times and talked to them. I've seen tears come to their eyes when they mentioned Kennedy.

"Although he did send troops to Vietnam, I don't think he'd have let us get into a war. I think he would have withdrawn them or found some way to reach some kind of accommodation. I just don't believe he'd have taken that chance."

Lyndon Johnson. "He was one of the most human individuals I ever knew. As leader in the Senate, he used every bit of power he could. If he just hadn't had this Vietnam war. His hero was Franklin Roosevelt. He wanted to have a second New Deal at home and he wanted to win a war, and that was his great mistake. (Had it not been for Vietnam) I think he would have gone out remembered chiefly for his victory on civil rights."

Richard Nixon. "He was disliked from the very beginning by so many people. Gradually, chiefly because of his forming some kind of association with Russia and China, I think that, but for Watergate, he would have gone down in history. The Democrats would not have done that because they were always accused of being soft (on communism). He could do it. A lot of people think Kissinger thought it up. I think Nixon did just as much as Kissinger. I talked to Nixon one time before he was inaugurated and he told me that was going to be one of his objectives. I don't know that Nixon would ever have been greatly loved (but) I think you would have to respect him. In Europe they still admire Nixon tremendously."

Regarding Watergate, Cooper said, "I couldn't understand it and I don't understand it now. He'd been reelected by the greatest majority. He had this success with the Russians and the Chinese which had given him great acclamation around the world. Someone said even in the United States people who had disliked him so much were beginning to give him credit for his ability. I cannot understand why with all of that it could ever happen."

COUNSEL SOUGHT

Cooper still talks to former colleagues and others who seek his counsel, particularly on foreign affairs. He said members of President Carter's administration talked with him about the Panama Canal, the Strategic Arms Limitation Talks, arms supply and the situation in Iran. But characteristically, he downplays his role in such matters.

"Having left the Senate, I don't go up there much. I was very fortunate to have an invitation to join this (law) office right away and I've felt my duty was here. I've never been on the floor except twice since I left there. I go in the cloakrooms when I want to talk to a member about public business. When I want to see someone, I never have any trouble seeing them.

"There are only 49 (senators) who were there when I left. A lot of the staff people know me and I know enough not to take up their time. After all, each member has got to wrestle with his own decisions."

He still accepts occasional speaking invitations. "I've got to make a speech now and then to make me think," Cooper chuckled.

He rose to show visitors some of the pictures and memorabilia that decorate his office. There are pictures of his family; pictures of presidents; pictures of Patton, Kissinger and Acheson. There is his picture on a 1954 cover of Time Magazine; a 1979 Christmas card from Nixon with a picture of his grandchildren, and a picture of the Warren Commission that investigated the assissination of President Kennedy. (Cooper was a member of the commission.)

He pointed to a picture of himself presenting his diplomatic credentials to former Indian Prime Minister Nehru. "I think it was the first and last time I ever wore a longtail coat and a silk hat," he said.

On the opposite wall was a large painting he had brought back from New Dehli. The walls and shelves were retrospective of a public lifetime.

"I've been lucky," Cooper said.

So have the people of Kentucky, the United States and the world.●

HON. THOMAS L. ASHLEY

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. YOUNG of Florida. Mr. Speaker, the gentleman from Illinois should be commended for setting aside this time to honor one of our most distinguished colleagues, the Honorable Thomas L. Ashley.

Few Members have more difficult assignments than Lud Ashley, who chairs the Banking, Finance and Urban Affairs' Subcommittee on Housing and Community Development, serves on the Budget Committee, and was recently named the acting chairman of the Merchant Marine and Fisheries Committee. However, in his 13 terms of serving this body Lud has shown that he can handle the many responsibilities that go with his chairmanships.

Lud has been instrumental in helping middle-income Americans realize the dream of owning their own homes, a dream that is becoming harder and harder to reach because of staggering inflation and soaring interest rates. As chairman of the Housing Subcommittee, he was a leading spokesman for legislation that aids middle-income Americans in buying a home by including mortgage assistance and community development grants in the housing authorization bill.

Lud has been dedicated to this body for 26 years, a dedication that he partially inherited from his great-grandfather, who served this Congress during the Civil War.●

TRIBUTE TO HON. JOHN BUCHANAN

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. DUNCAN of Oregon. Mr. Speaker, I am honored to join my colleagues in paying this tribute to our good friend, John Buchanan. John is a man of courage and compassion. He was not afraid to stand against his own party when he felt it was in the wrong; yet he remained a loyal Republican. John, unfortunately, learned a lesson that many of us learned this time—that you can lead your constituency, but you cannot "lap" them. I respect John Buchanan tremendously, and I wish him well for the years to come.●

TRIBUTE TO HONORABLE ANDREW MAGUIRE

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PATTEN. Mr. Speaker, with the closing of this, the 96th Congress, we will be losing the presence of Andy Maguire of New Jersey. Andy Maguire has made quite a name for himself during his time in service in this body. His convictions have caused him to take stands on many issues to which he has been deeply committed.

Perhaps his most dedicated cause, at least for the people of New Jersey, has been his work toward getting a television station for our State. Mr. Speaker, New Jersey is only one of two States in this country without her own television station. Acquiring one means a great deal to many of the people of the State; and Andy Maguire has been the standard bearer in the fight to secure one.

The people of the Seventh District will be losing a strong voice in the Congress next year. I wish Andy well and hope that he will go on to greater successes.●

COMMITTEE ON WAYS AND MEANS

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. CONABLE. Mr. Speaker, because this issue already has been brought to the floor today, I think it is appropriate to focus attention on the historical record with respect to party ratios on the Way and Means Committee.

Going back 15 Congresses—30 years—there has been no party ratio within the committee so disproportionate to the party ratio in the House as that suggested for the 97th Congress. That ratio, as decreed by the Democratic caucus, is 23 Democrats to 12 Republicans. The percentage of majority members serving on the committee thus would be 65.7.

The percentage of majority Members in the House for the 97th Congress will be 55.8.

The difference in percentage points is 9.9.

Over the past 15 Congresses, back to the 82d Congress, the party ratio in the House and in the committee have varied relatively slightly. The disparities have been nowhere near the disparity proposed for next year. As a matter of fact, over the past three Congresses, the ratios in the House and in the committee have varied by very slim margins. In the current Congress, the percentage of majority Members in the House is 63.4. In the committee it is 67.6. In the 95th Congress, the House percentage was 66.7; the committee's 67.6.

In the 86th Congress, the committee ratio was 53.6 percent Democrats, while the House ratio was 64.9 percent Democrats. A chart is attached showing the 30 year history of these relative ratios. The chart speaks eloquently for the historical unfairness, and probably the unworkability of the ill-advised proposal. I hope the Speaker, the caucus, and any others responsible for this outrage will reconsider before confrontation leads to polarization, polarization to paralysis, and paralysis to subversion of the hopes of the electorate for constructive change. The chart follows:

CHART ON COMMITTEE ON WAYS AND MEANS

Congress	House		Percentage of Democrats	Ways and Means		Percentage of Democrats
	Majority	Minority		Majority	Minority	
97th	242	192	55.8	23	12	65.7
96th	276	159	63.4	25	12	67.6
95th	289	144	66.7	25	12	67.6
94th	291	144	66.9	26	12	68.4
93d	239	192	55.4	17	10	62.9
92d	254	180	58.5	16	10	61.5
91st	243	192	55.9	16	12	57.1
90th	247	187	56.9	18	10	64.3
89th	295	140	67.8	17	8	68.0
88th	258	177	59.3	17	11	60.7
87th	263	174	60.1	17	11	60.7
86th	283	153	64.9	15	13	53.6
85th	233	200	53.8	15	10	60.0
84th	232	203	53.3	16	10	61.5
83d	[1] 221	211	48.8	15	[1] 11	44.0
82d	234	199	54.0	15	11	57.7

[1] Republicans.●

TRIBUTE TO THE LATE JOHN W. McCORMACK

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. WON PAT. Mr. Speaker, I ask this time to extend my deepest regrets to the family of the late Speaker of the House, Hon. John W. McCormack.

Our esteemed colleague, Hon. JOHN J. MOAKLEY, has requested general leave to add our comments to a memorial booklet the House is going to issue and I am pleased to add my praise for the late gentleman from Massachusetts.

I first came to know Speaker McCormack as Guam's Washington representative. In those days I did not have the benefit of membership in this august body and it was the generosity of men such as Speaker McCormack which enabled me to perform services for my constituents in some respects as though I were then sitting in the Congress.

At every opportunity, I found the Speaker to be a man of the greatest compassion and understanding. He was a strong supporter of legislation which often benefited my constituents on Guam including legislation which permitted us to elect our own Governor. His own record of support for legislation to benefit the Nation's underprivileged is quite well known. He was a man of the greatest character and under his more than able leadership, this body moved forth to establish numerous programs espoused by Presidents Kennedy and Johnson.

Without a doubt, my own constituents on Guam owe this great man a debt of gratitude for making possible the many public service programs such as food stamps, aid for dependent children, and public service jobs. Speaker McCormack recognized that there were many citizens of this country who were beyond the reach of limited local public assistance efforts. The existence today of newer programs to aid the poor, the handicapped, and others is a tribute to the effective leadership he provided during his time as Speaker. he provided during his time as Speaker.

It was with much regret that I learned recently of his passing. But I am confident that he was satisfied with a rich career of public service. Thank you.●

JOHN SAWHILL AND THE SYNFUELS CORP.

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. GREEN. Mr. Speaker, on November 30 the Chicago Sun-Times ran an excellent editorial on the important question of the future of the Synthetic Fuels Corp. and, just as significantly, the future of its chairman, John Sawhill. As one who was a cosponsor of the orginal House legislation which started the current push to develop synfuels, I am well aware of the promises and problems involved and the editorial makes mention of these.

However, John Sawhill is a man who has performed with distinction under three administrations, and the editorial calls into question the wisdom of replacing him at this time. The editorial is persuasive and I call it to my colleagues' attention and ask that it be printed in the RECORD at this point.

KEEP SAWHILL AT SYNFUELS . . .

As a candidate, Ronald Reagan opposed the new government-run Synthetic Fuels Corp., charged with helping the private sector develop energy supplies. He said it conflicted with his free-market ideas.

Now, as president-elect, Reagan is said to have second thoughts about the agency and its chairman, John C. Sawhill. That's good.

Synfuels and Sawhill certainly don't hold all the answers to energy problems. Reagan's doubts were valid: Synfuels may foul the air and drain limited water supplies. Quick-built plants and a sudden influx of thousands of workers' families can devastate communities.

And if efficient energy use is more important than developing new sources, as some experts say, billions in tax dollars to search for energy could be an outrageous waste.

But, with the growing doubts about the amount of undiscovered oil and about Mideast stability, the betting is still on synfuels to provide a much-needed technological fix.

Given that, we hope Reagan keeps Sawhill as chief of the synfuels agency.

For one thing, Sawhill wants private industry to play the major role in choosing the technologies to be stressed. Add in Sawhill's goal of a "small, lean staff" of quality personnel, and Reagan's fears of a vast, wasteful bureaucracy should be eased.

Also, Sawhill is politically independent. He has served well in both Republican and Democratic administrations. His commitment to getting facts, rather than following an ideology, is a plus for an untested agency still subject to doubt. And at 44, Sawhill is still young in body and spirit—assets that the incoming administration needs.

Sawhill's appointment won't last past 1981. But that's time enough to get the synfuels corporation off on the right foot. He has begun. This is no time for unnecessary leadership disruptions.●

UNIVERSAL DECLARATION OF HUMAN RIGHTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. BONKER. Mr. Speaker, today commemorates the 32d anniversary of the Universal Declaration of Human Rights. On December 10, 1948, the General Assembly of the United Nations adopted the Universal Declaration by a vote of 48 to 0.

As chairman of the only subcommittee in the Congress that oversees human rights—the International Organizations Subcommittee—I want to take this occasion to remind my distinguished colleagues what the preamble of the declaration states, especially at a time when we are hearing discordant views concerning our human rights policy.

The preamble follows:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world;

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people;

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law;

Whereas it is essential to promote the development of friendly relations between nations;

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in large freedom;

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.●

TRIBUTE TO ROBERT BAUMAN

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. McCLORY. Mr. Speaker, as a distinguished observer of the legislative process once said, "Every Congress needs a Bauman." For the past 7 years, we have been privileged to have BOB BAUMAN of Maryland serving in the role of parliamentary watchdog, once filled by Representative H. R. Gross of Iowa.

But BOB BAUMAN has really taken on a more activist role than "H. R." used to. In addition to serving as a fiscal watchdog, BOB BAUMAN has developed an expertise in parliamentary maneuvers which has enabled the Republicans to score some unexpected victories.

It may be that there are one or two Members who know the rules of the House better than BOB BAUMAN does. The Parliamentarian may know them better. But most Members stand in awe of the expertise BOB BAUMAN has developed in this area since he first served as a page at the age of 15.

Now that expertise will serve BOB BAUMAN well as he embarks on a new career of public service outside Congress. As he leaves, he carries with him also the respect of his colleagues. We hope he may return to these Halls—soon.●

PETER KOSTMAYER

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. BRINKLEY. Mr. Speaker, my sentiment on the life and service of our friend and colleague, PETER KOSTMAYER, may be taken from Shelley's definition of poetry, "* * * the record of the best and happiest moments of the happiest and best minds." I have observed the courage of this young man and have admired it. He is a man of compassion and conviction and strength. Individuals such as he in the service of our country always make an indelible contribution and I wish to express my gratitude and respect to him.●

FORMER CONGRESSMAN GORDON SCHERER'S RETROSPECTS ON OUR INTERSTATE SYSTEM

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. HARSHA. Mr. Speaker, for a 10-year period extending from 1952 to 1962, Gordon H. Scherer represented the First Congressional District of Ohio, the Cincinnati area, with honor and distinction. During that period of time, he served as a member of the then Committee on Public Works, the committee on which I have had the honor to serve during my 20 years in Congress.

Gordon H. Scherer served during the period when Congress enacted the Federal-Aid Highway Act of 1956, a great highway program, which included the development of a great Interstate Highway System. His background in the field of transportation and, more specifically in the highway field, made him a leader in that particular area.

Gordon has recently written a very fine article for the Ohio Contractor—the issue of October/November 1980, entitled "The Interstate System—In Retrospect." This article contains Gordon Scherer's usual fine, incisive thought, his careful analysis of a program with forward-looking ideas. It is an article well-worth reading. I commend it to my colleagues and all those across the country interested in the future development of the Interstate System.

Under leave to extend my remarks, I include this article.

[From the Ohio Contractor, November-December 1980]

THE INTERSTATE SYSTEM—IN RETROSPECT

(By Gordon H. Scherer)

The Congress and the administration have fallen into such disrepute that I seldom mention, much less point with pride, that I represented the First Congressional District of Ohio in the Congress of the United States for ten years—from 1952 to 1962.

The low esteem in which the Congress and this administration are held rubs off on one even though he retired almost two decades ago. I often look back and wonder about any mistakes I have made that might have caused some of the mess in which we find ourselves today.

When I received a request from the Ohio Contractor magazine to write this article my ego was flattered and my memory at 74 years was challenged. There came to me the pleasant realization that my participation in developing the legislation which resulted in our great interstate highway system justified, at least to some extent, my ten years in the Congress.

My introduction into the road-building business began at the age of 18 and has a connection with a long-time and highly respected member of the Ohio Contractors Association.

I was a poor boy and had to attend night law school. This was way back in 1925. During the day I worked on a survey squad, laying out streets and highways. My boss was W. L. Harper, then a co-op civil engineering student at the University of Cincinnati. Len Harper was the instrument man; I was his rod man. Using a ten-pound sledge hammer, I smashed my finger trying to get a concrete form on line. I still carry the scar.

Four years later, in 1929, I was admitted to the bar at the age of 22 and Len Harper was starting his contracting business. I rented office space from Len and he became my first client. I'm pleased to say that 51 years later Len is still a well-paying client of our office. He is one of the most successful and capable contractors in the business, in addition to being a great guy.

Two years ago I was reminded of my connection with the interstate highway system. A small remaining segment of the interstate in the Fort Lauderdale, Florida, area was finally being dedicated. The area Congressman was out of the country. Knowing that I was in the Miami area and of my former participation in the development of the interstate system, he suggested I be asked to speak at the dedication.

When I arrived, there were more people in attendance than expected. The committee had not made arrangements for a platform. It was obvious that, if I stood on the highway, only a few people would be able to hear what I said. Some employees of the construction firm saw the predicament and pulled onto the highway a manure spreader from an adjacent farm. As I climbed on the spreader, there were guffaws and snide remarks. I told them this was a new experience for me—that for the first time in 50 years in politics as a conservative, reactionary Republican I had spoken from a Democrat platform.

When I began to write this article, I quickly remembered that the interstate system of highways was the largest public works project in the history of the world; that if one considers the Panama Canal, the St. Lawrence Seaway, and the Hoover Dam as one public-works project, and then multiplies that 36 times, the magnitude of the highway system might be visualized.

When one considers that the interstate highway system traverses every state and in most instances a number of times, over every type of terrain, under and over mountains and rivers, through our densely jungled cities, subjected to all types of weather and earth movements imaginable, the myriad problems and the engineering and construction ingenuity required—it boggles the mind.

The costly and complex financing of this program was equally challenging. In a program of this magnitude, involving the expenditure of more money than ever spent on any public works program, the locating of the highways, the designation of interchanges, with untold economic benefits, the resultant political and other pressures far exceeded those ever dreamed of by this country's notorious and powerful political machines of the past.

Ward chairmen cajoled and threatened, and in some cases used other persuasions, so that an interchange might be established to benefit a brother-in-law's hamburger stand. Mayors wanted the highway to pass through their city's rose garden. The state legislators and members of Congress often demanded that roads be built and money expended where the votes were and not necessarily where the traffic was or a dire need existed.

Those who wanted to build highways so as to stop the traffic in this country from coming to a grinding halt, who wanted to save money and time for those who were to use the highways, who wanted to reduce the ever-growing and frightening number of accidents, injuries, and deaths, and the losses building up daily because of our archaic system of highways, understood the pressures they faced. They understood that highways had to be built where the traffic was, where the need existed, that the old long-time "pork barrel" political expenditure of public funds to buy votes and enrich a favored few had to be abandoned as practices of a not-so-glorious past in this country.

For the first time in the history of our country, perhaps of the world, a trust fund was established whereby the users and beneficiaries of the highways—those who would benefit by the reduction in accidents and deaths—those who would benefit by the savings in time, the savings in tires, batteries, fuel costs, etc.—would pay for these highways and these benefits in proportion to their use of the highways and the benefits received.

Above all, the trust fund assured the users that the money they paid would be used to build and eventually maintain these roads, that the money would not be squandered on other programs and activities. If there had been no trust fund, I assure you that the user assessments would long ago have been used by politicians, pressure groups, and lobbyists on other programs which would have produced more votes from specific segments of the electorate.

The taxes paid by the users of the highways would have been raped for welfare and other giveaway programs if the battle for the trust fund had not been won. Still, the trust fund has been attacked from many quarters.

Originally it was realized the user taxes collected in the first few years of the highway program would not be sufficient to pay costs in the early years engendered by commencement of construction, acquisition of rights-of-way, etc. The creators of the trust fund provided, and wisely so, that during the beginning of the program borrowings could be made from the guaranteed income from the middle and closing years of the program when the income would exceed expenditures.

The first thing that happened to disrupt the trust fund was adding a $2 billion bill which was past due and owing for roads previously built on the A,B,C system. This amount had to be paid from the trust fund.

Then the Senate added 1,000 miles to the system almost at the very beginning, with no provision to pay for these extra nonscheduled political miles.

Next the Senate adopted the Byrd amendment which upset part of the philosophy of the trust fund. It provided that no payments for construction could be made until sufficient funds had been accumulated in the trust fund.

In the beginning of the program, those people who were opposed to the interstate highway system tried to lead the public to believe that the condition of the trust fund at one point was due to the fact that the highway engineers had gone wild with the people's money. It was charged there were too many highly-costly, over-complex cloverleaf interchanges. They said the authorities were deliberately picking out the highest-priced real estate through which and over which to run the new highways.

Charges of waste and inefficiency in the administration of the program were hurled about with abandon. State highway departments were repeatedly accused of squandering money for the highway system for the reason that the federal government was paying 90 percent of the cost.

I would be the last to say that in any program of this size—the biggest public works system in the history of the world, encompassing the whole United States, involving millions of people, both in government and in private industry—there would not be mistakes, waste and inefficiency.

But those of us who were in the program from the very beginning took steps to avoid as much waste and inefficiency as was possible in a program of this magnitude. We pointed out that it was bad enough when a section of a highway went bad on account of oversight on the part of an inspector, or a bridge failed because of defective steel, or when through ignorance or carelessness we paid too much for a parcel of land. But, when these things happened the faith and confidence of the public in the whole program was destroyed.

It was recognized that irreparable harm could be done to a really fine highway program like this by ballooning up and unduly publicizing mistakes and deficiencies, and failing to point out how few they were in proportion to the many fine and successful projects. We had to keep in mind that the political headline hunters realized that incidents of wrong-doing make good press. In the early years we had to point out that it took the trust fund an unusual length of time to get off the ground because it was not contemplated that over $1.5 billion of overdue highway obligations had to be paid from the trust fund on the effective date of the legislation.

We talk about a recession today. We had one shortly after the highway program was started. The recession jitters and inflation resulted in accelerating the program and increasing the cost by $1.6 billion more than contemplated in setting up the trust fund.

Highway standards and requirements were increased to take care of local needs or were forced on the system by political pressures. This was unforeseen in the initial planning.

Motor vehicle use increased far beyond the calculations of the experts who planned the program three years before. Even in those days we thought inflation was running rampant. I don't know what word you would use today to supplant the word "rampant." Inflation increased the cost far beyond what was expected, particularly land values at intersections and access points in the system.

The politicians and interests in the rural areas wanted the money spent on the A,B,C system. Sure, the A,B,C system needed improvement, but the primary need, the critical need, was the interstate system through the highly congested urban areas.

Some people became faint-hearted. They voted to reduce the standards, such as the minimum width of the highways. It was hoped this would reduce land acquisition costs. They claimed there were too many frills in design. It was soon evident that even the 300-foot rights-of-way through the big cities were not sufficient to take care of the increasing traffic. By that time the increased cost of land values added another burden to the trust fund.

Some of us who thought we at least understood the highway problem in this country urged President Eisenhower not to abandon the basic concepts of the interstate system, not to lower the standards. We pointed out that the standards adopted might not be sufficient in the years ahead because even at that time the vehicular traffic was accelerating at a rate not previously contemplated.

I had come to the Congress as an ultraconservative. I had never voted for spending a dime on foreign aid nor did I vote to increase any appropriation bill. In fact, I consistently voted to decrease authorization and appropriation legislation. I have been criticized for being too conservative.

Lo and behold, one day the President asked me to introduce legislation to increase the federal gasoline tax 1½ cents. It was felt my position as ranking Republican on the Highway Committee and my record as a conservative would give the legislation a better chance of passing. I really agonized over this request of the President.

I knew that, if the interstate system was slowed up or halted, there would be dire consequences to the economy of the country, to the accident and death rate, to the strangulation of transportation to and through the big cities of the United States. There was no alternative but that I introduce the legislation to increase this tax.

I am happy to report that in the years since, the interstate system, with a few detours and rough spots, has become a reality and accomplished what the original planners determined was a necessity.

Of course, the building and improvement of the interstate system will never stop as long as this great country of ours continues to grow and expand. I know the members of the Ohio Contractors Association engaged in the business of building these highways will do so efficiently and with the greatest care, that they will continue to build the highways giving the greatest priority to where the greatest need exists and not necessarily where the votes or dollars are. Let's avoid as many mistakes as possible in order to continue America's confidence in the program.

Over the years the assaults have been made on the trust funds for other uses. These assaults and the reasons therefore would require an additional article.

One of the great threats to the continuation of an effective interstate system of roads is the rapid and costly deterioration of the pavement. As of the moment, we have reached a crisis in the continuation and maintenance of the interstate system. The system in many areas is literally crumbling from lack of proper maintenance.

We are all aware that the federal user taxes paid for 90 percent of the construction costs. The maintenance of the system became the responsibility of the various states. Some states have done a miserable job of keeping the highways in repair and adequate state funds have not been provided.

These deteriorating highways have caused the accident and death rate to rise. The economic loss from injuries and deaths, instead of continuing to decline as it did in the early part of the interstate highway program, has mounted immeasurably because of highway neglect. At the beginning of the highway construction program, it was clearly demonstrated that regular maintenance of the highways is far less expensive than repairing or rebuilding roads which have been allowed to deteriorate.

Five years ago just 4 percent of all mileage had pavement which needed major rehabilitation or reconstruction. In 1978, 10 percent of the pavement needed resurfacing immediately. Deferral of these needed repairs exacerbates the problem. If a segment which requires repaving is exposed to just one extra winter season, it could require complete reconstruction, a far more costly proposition. In addition, an average of 2,000 miles a year will reach what is called design age—those 2,000 miles will need complete replacement simply because they are worn out, their life span is over.

Similarly, deficiencies of bridges have increased from just 4 percent to 13 percent. Much of the deterioration of the interstate since 1975 reflects the increased concentration of travel on the system and the disproportionately higher share of truck travel.

Originally the federal government or users tax paid 90 percent of the construction costs of the interstate system. The states paid only 10 percent but the states were charged with the *complete* maintenance and replacement costs of the highways. However, the condition of the pavements got so bad that seven years ago the trust fund had to take over 75 percent of the maintenance and repair costs. The states are now charged with 25 percent of these costs instead of 100 percent.

Unless the present lack of efficient and proper maintenance is reversed, the Congress will allocate 100 percent of the maintenance and repair costs to the trust fund.

One last word—continuing to allow roads to deteriorate, neglecting timely and proper repair and maintenance, increases the cost disproportionately.

It must be remembered that under the present law the trust fund terminates in 1984. If some of these things I have mentioned are not corrected, Congress will extend the trust fund in one form or another. If not, Congress will go back to providing that all highway costs must be taken from the general revenues funds. If this happens, God help the highway program. The old wars in which hundreds of federal agencies and programs fought for the maximum federal dollar will start all over again.

I know that highway contractors and those interested in highways do not want this to happen.●

TOM HENNION'S RETIREMENT

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. PASHAYAN. Mr. Speaker, I wish to bring to the attention of my colleagues the upcoming retirement of one of California's most highly esteemed newspaper editors, Mr. Tom Hennion, who has distinguished himself and the newspaper industry for 35 years as editor of the Tulare Advance-Register.

With the coming of the new year, three and one-half decades of Tom Hennion's personal journalism will end with his stepping aside, but he leaves a strong legacy. He always was an editor-teacher and for 8 years was a member of the California Newspaper Publishers Association's newspaper Recruitment, Education, and Scholarship Committee, serving as chairman during most of that period. He served in the same capacity for the Western Newspaper Foundation.

In the 35 years of Tom Hennion's stewardship, the Tulare Advance-Register has won more than 120 State, regional, and national awards for journalistic excellence. The paper's editorial page has been a frequent winner of CNPA awards and on two occasions, single editorials have received top honors, while on three occasions single editorials have been runners-up.

The personal impact of Tom Hennion on California newspapering has been great, and journalism in the San Joaquin Valley—and the State of California—will not be the same without him.

As a Fresno Bee editorial on the retirement of Tom Hennion noted:

> Personal journalism, in the best sense of the phrase, has declined. The title "editor" no longer has the resonance it once had. Few papers really embody the spirit of the person in charge. The Advance-Register does. Tulare has been well served by Tom Hennion. So have his fellow newspapermen.

I should like to add that so have we all been well served.●

TRIBUTE TO JACK MURPHY—A FRIEND AND COLLEAGUE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. BIAGGI. Mr. Speaker, I rise to pay a special and highly personal tribute to a friend—Jack Murphy, I, along with many of my colleagues, feel the contributions of Jack Murphy are what should be emphasized and recorded for students of history to learn the greatness of his legislative efforts.

Jack came to this Congress after an extraordinary military career during which time he was awarded the Purple Heart and Distinguished Service Medal for service in the Korean war. He was a graduate of West Point. He was a man of great courage and unquestioned patriotism. He loved his country enough to stand on the front lines to defend it—it is this love of Nation that has not diminished in the ensuing years.

Since 1962, the people of the 17th Congressional District in my home city of New York have been provided quality representation in the House by Jack Murphy. In Jack's eyes, a Member was measured by how he worked his district. Jack was one of the finest constituent-service Congressmen I have ever known.

For the entire time that I have served in this House, I have had the pleasure of working with Jack on the House Merchant Marine and Fisheries Committee. When I joined the committee as a freshman Member, I found that Jack Murphy, after only 6 years, had become one of the committee's most respected members.

From 1977 until earlier this year, Jack served as chairman of the Merchant Marine Committee. In that capacity he has been responsible for an impressive array of legislative achievements, including legislation providing for first-time energy exploration and drilling in the area of the Outer Continental Shelf, legislation to promote the development of ocean thermal energy and the successful completion of work on behalf of deep seabed mining. I serve as chairman of the Subcommittee on the Coast Guard. Jack has been a most cooperative and supportive chairman and has helped me steer important legislation through the committee expeditiously.

As a friend, there are few better than Jack Murphy—he is loyal, selfless, and above all, a man of his word. He has great courage and keen wit. He is a fighter for causes. Simply put, I will miss the man and do hope that the future will find all of Jack's friends caring as much as we do today.●

TRIBUTE TO ROBERT GIAIMO

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. JEFFORDS. Mr. Speaker, I am glad to have this opportunity to pay tribute to my good friend Bob Giaimo. The gentlemen from Connecticut has well served the district where I toiled as an undergraduate. My successors at that esteemed institution have no doubt tried his patience on more occasions than he cares to recall.

In addition to suffering these trials, Bob has faced the difficult challenge of supervising the House budget process for the last 4 years. As we all know, these have been years of economic trouble and political change. Bob has had to mediate the conflicting demands for reducing the deficit and for improving Federal programs and services.

Fortunately for the Nation, Bob possesses the qualities of strength, leadership, and accommodation that the job demands. His steadfastness has fostered the development of the budget process, a new and essential part of the legislative system which has become an increasingly effective tool for fiscal control. It is my hope that we can continue to build on this foundation and that we can soon fulfill the promise of a balanced Federal budget. Bob is to be commended for his valiant efforts to achieve this difficult goal; may they inspire the next Congress to equal exertions.●

TRIBUTE TO LUCIEN NEDZI

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. DUNCAN of Oregon. Mr. Speaker, I am sorry to see the retirement of Lucien Nedzi for a number of reasons. Not only is the country and the great State of Michigan losing a very able Representative, but his retirement further decimates that very fine class of the 88th Congress. I feel a particular affinity for Lucien because I attended the University of Michigan Law School and made much use of the Traverse City Airport. I wish Lucien a very happy and productive retirement. He will be missed next year.●

ENERGY CRISIS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. YOUNG of Alaska. Mr. Speaker, the energy problem facing the United States has been publicized, studied, and reviewed almost to the point of abstraction. The truth of the matter is however, the energy crisis is a very real problem. It touches the lives of each American every single day. We cannot turn our backs on this problem nor can we close our eyes and hope that it will go away. We must address this problem with action in the form of energy production, not with pages and pages of Government regulations.

I would like to share with my colleagues a poem written by an Alaskan for whom I have a great deal of love and respect. Her words represent the feelings of many Federal employees throughout the United States.

There's a building in Fairbanks, Alaska
That is controlled by the U.S.A.
With GSA as the landlord and where
Government workers hold sway.
Now there's a Department back in Washington town
That controls a part of our lives
By pushing energy conservation
So the whole world can survive.

Now this is fine and dandy
But this much we all know;
We can't keep warm at 64 inside
When outside it's 32 below.

The building gets chilled throughout the long weekend
When the 'stat is at 55;
So it takes all week to build back to "chilly" and
Barely keep us alive.

Now there's conservation and saving
To the point of no return,
But the well-being and health of a hundred people
Should be of the Government's concern.

As rules can always be altered
And Human Rights is the name of the game,
I think a few degrees higher would help
To save Uncle Sam's name.●

TRIBUTE TO HON. THOMAS LUDLOW ASHLEY

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PATTEN. Mr. Speaker, only one time in the history of the Congress was one individual, chairman of six committees. That man was LUD ASHLEY. We were trying to pass an energy bill and there were six separate committees of jurisdiction. The Speaker appointed Mr. ASHLEY as chairman of the ad hoc committee comprised of the chairmen of the six committees so that we could get a bill passed. And we did. I am convinced that only a diplomat like my colleague, Mr. ASHLEY, could have carried the ball and scored a touchdown on that issue.

I had the pleasure of being with him on a number of occasions overseas when we had important international business which to attend. He always was an asset to the party and to the Nation. He is easygoing and his pleasant disposition helped on every occasion.

He is one Member who is underestimated because of his modesty. But because of the long hours I have worked with him on important legislation, I know that he has a depth of knowledge and background and all of the other credentials I think a great Congressman should possess.

I want to wish him the very best of luck in his future endeavors. I shall miss my colleague and friend.●

TRIBUTE TO ANDY MAGUIRE

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. O'NEILL. Mr. Speaker, I am pleased to join with my colleagues in honoring ANDY MAGUIRE, on the occasion of his departure from the Congress.

ANDY has been a tenacious Member of the House, hard working and diligent. His devotion to duty, his commitment and his outgoing personality helped to make him a leader among the 94th class. Dedicating himself to each legislative task with the full measure of human energy, ANDY has brought honor and distinction to the position of Congressman.

In saying farewell to ANDY, I extend sincere best wishes for his success in all future endeavors.●

TRIBUTE TO REPRESENTATIVE LESTER WOLFF

HON. ANTONIO B. WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. WON PAT. Mr. Speaker, it was with much sorrow that I learned that my good friend and colleague, Representative LESTER WOLFF of New York will not be serving with me in the 97th Congress. His departure from the Capitol Hill scene marks the first time in two decades that his countless friends in the Congress will be without the ever friendly and articulate LESTER WOLFF.

I have long been privileged to know LESTER WOLFF and to have the privilege of working closely with this remarkable man. When I first came to the Congress in 1973, LESTER invited me on his popular television report to his constituents to explain what a territorial delegate does in the House of Representatives. That was a great learning experience for all of us and was an indication of the widespread concern LESTER has for this institution.

In his capacity as chairman of the Select Committee on Narcotics Abuse and Control, Congressman WOLFF led an investigation on Guam into the terrible narcotics abuse there. The hearings, which were held at my request, indicated that Guam was the center of much international drug smuggling. Congressman WOLFF subsequently met with high ranking Federal officials and helped launch an effective war against the use of hard narcotics on Guam. Today, I am proud to report that thanks in part to the assistance of Congressman WOLFF, drug usage on Guam has fallen.

I also had the privilege of traveling with Congressman WOLFF in his capacity as chairman of the Subcommittee on Asian and Pacific Affairs. It was a rewarding experience to work with the chairman on these trips which helped increase understanding here in the Congress of the special problems facing our Asian and Pacific friends.

We on Guam have long recognized LESTER WOLFF as a true friend. We will sorely miss his presence here. I wish him the best of futures in whatever he seeks to do. He has compiled an outstanding record of public service to this Nation and I thank him for taking an interest in Guam.●

THE EPA AND STATES RIGHTS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. SYMMS. Mr. Speaker, during my 8 years in this body, I have risen on many occasions to address the virtually unassailable autonomy of the Environmental Protection Agency. Ever since its inception, the EPA has expanded its perceived role from a partner, assisting the States in the formulation of policy to clean up the environment, to a big brother, dictating policy without regard to the rights of the States. The ironical result is that the adversary environment created by this expansion of power has overshadowed the goals that Congress envisioned when EPA was created to clean up the environment. States like my own home State of Idaho do not and should not find fault with the goals, but they feel, as we all should, that the best way to reach those goals is through cooperation.

Today, I submit, for the benefit of my colleagues in the House, a report done by the American Legislative Exchange Council. It illustrates EPA's expansion of authority, from a strictly administrative body to one which is legislative as well. It points out, through examples from Colorado and New York, how EPA is using literally millions of dollars in sanctions against States in order to force the legislatures to comply with EPA regulations. I commend this article to my colleagues, and urge them to join me in efforts to bring cooperation back into our common goal of a clean environment. The article reads as follows:

THE ENVIRONMENTAL PROTECTION AGENCY VERSUS THE STATES

BACKGROUND

During the past few weeks, the Environmental Protection Agency (EPA) has been at the fore of political news. President Carter proposed a suspension of certain EPA standards for Pennsylvania steel factories. Ronald Reagan called for a review of the regulatory cost of EPA rules. And the U.S. Congress, after the November elections, will consider a substantial increase in the discretionary funding portion of the EPA budget.

The center of these developments, the EPA, was originally created to provide advice and financial aid to the fifty states. President Nixon's Reorganization Plan Number 3, which created the EPA in 1970, was general: "The mission of the EPA will be to organize the fight against environmental pollution on an integrated basis which acknowledges . . . critical relationships . . ." Subsequent federal laws have added to that mandate, instructing EPA to monitor state laws related to water, energy, and agriculture.

IMPORTANCE TO STATES

Recent events indicate that the EPA is no longer a mere regulatory agency. It has evolved into a legislative entity, with legal authority and capital reserves affecting every industrial enterprise across the country.

State and local lawmakers should be aware that every industry in their state must conform to a variety of EPA regulations. In many states, such as Colorado and New York, the EPA is gaining compliance by withholding billions of federal construction grants from projects already started. Areas in 29 states may soon be the target of such sanctions.

The problem with EPA sanctions is that they stimulate investment insecurity within local business communities. They also stall production of public works projects, and impede management of federal and state environmental programs.

A recent study conducted by the U.S. General Accounting Office (GAO) concluded: "Because of the(se) obstacles and the States' perception that they have been ignored by Federal decision-making, the partnership envisioned by Congress between the Environmental Protection Agency and the States for administering Federal environmental programs has not materialized."

STATUS

When the U.S. Congress reconvenes on November 12, it will consider an EPA request for more discretionary funding. If passed by Congress, these increases in the EPA budget will give the agency even greater leverage over state actions than it now has, thereby reinforcing its legislative tendencies.

Since its inception in 1970, the EPA has written an average of 90 regulations a year. In 1980, EPA lawyers are writing 220 "significant" regulations, requiring changes in state laws ranging from highway construction to sewer projects. With the exception of certain pesticide rules, Congress will have no legislative veto over those regulations.

Under current laws, states have little recourse against EPA regulations. These regulations arise from twelve specific, comprehensive federal statutes written over a fifteen-year period. Moreover, the EPA has discretionary authority to (1) withhold federal monies and (2) write conditions under which states may receive federal grants. Federal law also gives the EPA authority to determine whether states have complied with its rules and interpretations of law.

DETAILS OF EPA-STATE RELATIONS

1. Effect on management of Federal and State programs

The EPA was conceived as but one partner in a federal-state-local endeavor. A white House "Fact Sheet" dated July 9, 1970 stated that the newly-created EPA "will serve to upgrade the importance of environmental considerations and pollution programs within the Federal Government (and) to have a similar effect on program priorities within state and local governments." Similarly, Section 102 of the 1977 Amendments to the Clean Air Act directs the EPA Administrator to "encourage cooperative activities by the States and local governments for the prevention and control of air pollution."

In practice, however, the EPA acts as both author and arbiter of state pollution control programs. The EPA not only writes the rules to which the states must adhere, it also establishes strict legislative deadlines for the states to enact an implementation program.

The aforementioned GAO study (concluded in August 1980) frequently described the deadlines as "inflexible," "tight," and "unrealistic." The study observed that "the states, which are basically responsible for implementing (federal environmental laws) are reluctant to react to draft or proposed EPA regulations and guidelines which could be and have been changed substantially (in later months)." The GAO report added that EPA deadlines "often create procedural and administrative problems" because states have only 60 days to analyze proposed regulations.

The EPA takes an average of 18 months to write a regulation, whereas states are allowed only a 60-day "comment period" in which to reply to the regulations. States are given deadlines ranging from two months to one year in which to enact an acceptable implementation program.

2. Enforcement powers of the EPA: 29 States in jeopardy

In contrast to the inherent inflexibility of its regulations, the EPA has a wide variety of enforcement powers which it uses on a selective basis.

The most common power is the EPA's ability to suspend construction grants in any state or community. The grants extend to highway construction, sewage plants, pollution control programs, and permits for industrial expansion. Any state that does not comply with the EPA's regulatory timetable is subject to such moratoriums. In fact, the EPA has targetted the following areas for sanctions if they do not comply with EPA standards within the next year:

State	Area
Arizona	Phoenix; Tucson.
California	Los Angeles; Orange; Sacramento; San Francisco; San Jose; San Diego; Fresno; Monterey; Santa Clara; Oakland; Riverside.
Colorado	Denver; Boulder; Colorado Springs.
Connecticut	Bridgeport; Hartford; Bristol; New Haven; West Haven; Waterbury; New Britain; Norwalk, Stamford.
Delaware	Wilmington.
Georgia	Atlanta.
Illinois	Chicago; St. Louis suburbs.
Indiana	Gary; Hammond; East Chicago; Indianapolis; Louisville suburbs.
Kansas	Wichita.
Kentucky	Louisville.
Maryland	Baltimore; Washington, D.C. suburbs.
Massachusetts	Boston; Springfield; Worcester; Chicopee; Holyoke; Fitchburgh; Nantucket; Leominster.
Michigan	Detroit.
Missouri	St. Louis.
Nevada	Las Vegas; Reno.
New Jersey	Trenton; Camden.
New Mexico	Albuquerque.
New York	New York; Nassau; Suffolk.
North Carolina	Charlotte; Gastonia.
Ohio	Cleveland; Cincinnati; Youngstown; Dayton; Toledo; Drayton.
Oregon	Portland.
Pennsylvania	Pittsburgh; Philadelphia; Bethlehem; Wilkes-Barre; Scranton; Easton; Allentown.
Rhode Island	Providence; Warwick.
Tennessee	Memphis, Nashville; Davidson.
Texas	Houston.
Utah	Salt Lake City; Ogden.
Virginia	Richmond; Washington, D.C. suburbs.
Washington	Vancouver; Spokane; Seattle; Tacoma.
Wisconsin	Milwaukee.

3. Colorado and New York: Two case studies

The leverage of the EPA over the 29 states (see list on page 2) is tremendous. A common characteristic of EPA sanctions is the disparity between (1) the level of EPA funding for the state in question and (2) the amount of federal grants in that state which the EPA may suspend. More simply stated: The EPA withholds millions of dollars more than it actually gives the state. Examples of how this may happen occurred in Colorado and New York.

Under the 1977 Clean Air Act, Colorado, New York, and 29 other states were required to establish pollution control programs for interstate transportation. After two years of hearings and planning in their respective states, New York and Colorado passed such a plan. In the Fall of 1979, the EPA disapproved the laws in Colorado and New York, and ordered both states to make substantial changes in their transportation laws.

In Colorado, the legislature refused to further revise its transportation laws in accordance with EPA regulations because of the cost and practicality. In Spring of 1980, the EPA announced a variety of moratoriums totalling $300 million—even though the state was scheduled to receive only $1.8 million from the EPA. 29 Colorado State legislators secured a temporary court injunction against the sanctions and asked the Tenth Circuit Court to rule on the legality of EPA action against Colorado. In August of this year, the Court affirmed the authority of EPA sanctions, noting that the Colorado lawmakers did not show a harm to the state.

In New York, the legislature refused to comply with EPA recommendations on the grounds that the suggested revisions would cost the state an additional $400 million. The EPA responded by announcing a moratorium on $600 million worth of federal construction grants—a contrast to the $12 million which the EPA was planning to award the state. Largely because of the Colorado court ruling in favor of the EPA, New York legislators have not brought a lawsuit against the EPA sanctions. However, the Governor of New York wrote letters to President Carter and elected officials in 29 other states warning of the powers of the EPA.

4. Impact of EPA regulations on community investments

The public and private sector in every state must contend with an array of rules, prohibitions, guidelines, and directives that cost billions of dollars. No state-by-state breakdown is available, but it is clear from the data that EPA regulations cause businesses to make substantial, expensive modifications.

INCREMENTAL COSTS OF COMPLIANCE WITH FEDERAL ENVIRONMENTAL LAWS

[In billions]

	Fiscal year—	
	1978	1978–87
Public	$5.7	$88.2
Private	21.1	362.9
Total	26.8	451.1

Source: "Tenth Annual Report of Council on Environmental Quality," table 12–4, p. 666. December 1979, Government Printing Office: Washington, D.C.

Beyond the expenses incurred by business, the powers of the EPA give it solid leverage over public and private investments. In particular, the authority to impose moratoriums on active public works projects discourages joint ventures by government and the private sector. Governor Carey of New York made that very point in his June 27, 1980 letter to President Carter:

"Mere announcement of (EPA sanctions) has cast a pall over the region's economy. What construction company, working on federally-aided projects, would purchase additional equipment or hire permanent staff, if it was anticipated that funding for construction would be cut off after the next 60 days? What industry would consider expansion or location in New York if it knew that the Federal government would be continuing the moratorium on construction or modification of major stationary stores?"

In his letter to the Transportation Directors of 28 other states, the New York Commissioner of Transportation made a similar point:

"(Every state) will be put in a position where a federal agency with no responsibility for financing their requirements will be able to dictate to state and local governments the level and distribution of public transportation investments in our major urban areas . . . (The EPA is) dictating to the State of New York and the responsible local officials of New York City major transportation decisions which are clearly beyond EPA's jurisdiction, field of expertise, and competence."

ALTERNATIVES

Since oversight and budgetary review of the Environmental Protection Agency is a federal process, states must use indirect means to make their case against excessive regulatory restraints.

One such method would be the preparation of an annual EPA economic impact statement. This statement would reflect the costs associated with the implementation of EPA regulations in that state.

Federal law requires that the EPA prepare such annual assessments, but does not require a state-by-state analysis of regulatory costs. Moreover, the EPA figures are based on an analysis of regulations which are three years old. The figures for more current fiscal years are only projections, often calculated on low inflation rates and always assuming no change in the number or nature of EPA regulations.

A state economic impact statement on EPA regulations would present two major benefits. First, the Congress would be more aware of state government and business concerns and could reflect those concerns in its review of EPA's budget requests.

Second, the statement would provide state lawmakers with a factual, rational basis for challenging EPA regulations or actions believed harmful—a need made clear in the findings on the Colorado lawsuit.

Text and analysis of a suggested Economic Impact Disclosure Act are included in ALEC's 1977 Suggested State Legislation book.

SUMMARY

In the early 1970s, the President and the Congress intended the EPA to act as a partner of the states in writing and funding environmental programs. In recent years, that partnership has become heavily weighted in favor of the EPA.

States and localities agree on the objectives of federal environment laws. But each state and each county are markedly different in needs, problems, and resources. By applying uniform standards to all the states, the EPA loses the flexibility to address problems unique to those states. By imposing extensive sanctions, the EPA inhibits innovation and investment at the state and local levels.

Unless lawmakers in every state familiarize themselves with the EPA policy in their areas, they may one day experience a loss of millions of dollars from a variety of federal agencies friendly to the EPA.

FOR FURTHER READING

"The Cost of Clean Air and Clean Water," Annual Report of the Environmental Protection Agency, December 1979. U.S. Government Printing Office: Washington, D.C.

"Federal-State Environmental Programs: The State Perspective," Report to the Congress by the Comptroller General of the United States, August 22, 1980. U.S. General Accounting Office: Washington, D.C. CED-80-106.●

REAR ADM. THOMAS JAMES HAMILTON

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. STANTON. Mr. Speaker, on Sunday, December 7, it was my privilege to attend the 16th annual Lake County-Hellriegel's Pearl Harbor Day dinner. Our guest speaker on Sunday was Rear Adm. Thomas James Hamilton (retired).

As we all know, Admiral Hamilton's name is synonymous with the U.S. Naval Academy. His service and dedication to athletics at the Academy are legend; at the same time he is famous for a very distinguished naval career.

Mr. Speaker, 29 former members of the U.S.S. *Enterprise* greeted Admiral Hamilton, their executive officer during operations against the Japanese forces in the Philippine Islands and the battle of Leyte Gulf. His command extended from June 1943 until December 1944.

Admiral Hamilton's remarks at this Pearl Harbor Day dinner will long be remembered by those who heard him. For the benefit of my colleagues who were not present, I am pleased to quote parts of Adm. Thomas Hamilton's timely remarks:

> I am sure that each of us remembers vividly where we were when the news of the attack on Pearl Harbor took place on "that day of infamy," December 7, 1941. I was at the Naval Air Station at Anacostia, D.C., from where I flew two trips to the West Coast in the next week to haul fuses in our transport planes to alleviate a real shortage out West to make our ammunition there operable.
>
> On this anniversary of that fateful day some 39 years later, it is ironic, to say the least, that our nation finds itself again incredibly unprepared to undertake our nation's defense. I live now in San Diego close to the Naval Air Station Miramar, where the fighter planes of the aircraft carriers train when shore-based. Recently I talked to a young Navy pilot of an F-14 squadron. He told me they had difficulty keeping their flying skills up because the squadron can barely keep 2 out of their 12 F-14's flying. The reason is that the squadron has lost most of their competent, experienced mechanics, and there is a great shortage of spare parts. The same situation prevails throughout the Navy, where certain ships have lacked enough competent specialist ratings, so the ships could not put to sea in operational readiness.
>
> The loss of the experienced technically trained ratings and pilots has been due to the low pay scale given service personnel versus civilian pay patterns.
>
> While our Navy has been cut from 950 ships in 1950 to 450 ships in 1980, the Soviets have been frantically building their Navy and maritime power.
>
> The Soviets have 37 cruisers—The United States has 27.
>
> The Soviets have 108 frigates—the United States has 65.
>
> The Soviets have 11 corvettes—the United States has none.
>
> The Soviets have 90 ballistic missile submarines—the United States has 47.
>
> The Soviets have 74 cruise missile submarines—the United States has none.
>
> The Soviets have 154 patrol subs—the United States has 8.
>
> The Soviets have 202 patrol craft—the United States has 7.
>
> The Soviets have 2 carriers, 4 building—the United States has 12, 1 building.
>
> Our Army and Air Force are in the same general condition as our Navy. It is astounding that the United States could make the same mistake three times, being unprepared for World Wars I and II, and now to be unprepared again.
>
> It is heartening to know that President-elect Ronald Reagan is coming into office, and has pledged to make the rebuilding of our national defenses the top priority. We citizens must back him and demand that Congress support him in all the measures that must be taken. I hope that there will be a wholesale cutting of government spending of non-essential programs and bureaucracy, and I believe that the American public will accept the austerity that our economy will demand in order to restore our traditional productivity and competitiveness.
>
> The same type of national unity and patriotism that swept our beloved country after Pearl Harbor day to an undeniable victory is needed, and this anniversary day is a good time to start a resurgence of a national pride, national interest, and down to earth effort and achievement to make the United States strong, and to once again maintain our proper place in upholding a moral and peaceful world.●

A TRIBUTE TO LESTER WOLFF

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. OTTINGER. Mr. Speaker, I am pleased to be able to honor Lester Wolff for his distinguished service and commitment to the betterment of our State and our Nation.

As chairman of the Foreign Relations Committee's Subcommittee on Asian and Pacific Affairs, Lester has stood up time and again for the interests of the United States. He has also been a staunch and vigilant defender of Israel. I have worked with Lester to safeguard the rights of Soviet Jews and the oppressed throughout the world.

Lester has also made a significant contribution in mitigating what has become a severe problem, drug abuse. As chairman of the Select Committee on Narcotics Abuse and Control, he has helped coordinate the agencies and committees concerned with drug abuse, developing them into a formidable team. While stressing the need for effective programs to combat drug abuse, he has fought to restore funding for drug treatment programs and facilities.

I wish Lester well. I am sure he will continue to serve the public and private sectors in the professional and expert manner in which he served his district and the State of New York.●

TRIBUTE TO THE HONORABLE BOB BAUMAN

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. DUNCAN of Oregon. Mr. Speaker, BOB BAUMAN and I have often been on opposite sides of an issue, but I have always been awed by his persistence and skill. BOB'S bluntness has never been calculated to win friends, but everyone must respect his parliamentary knowledge and the courage with which he has exercised it—even to the point of taking over the House at times. Unfortunately, both of us leave as we were beginning a legislative relationship based on mutual respect and trust. I wish him well.●

TRIBUTE TO LUCIEN N. NEDZI

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. BIAGGI. Mr. Speaker, I wish to pay tribute to one of our friends and colleagues who, after a distinguished 19 years of service here, plans to retire at the end of this session, LUCIEN NEDZI of Michigan.

The quality of service and representation provided to the people of the 14th District of Illinois has been exceptional during LUCIEN'S tenure in this House. He is a man of exceptional qualities, found in very few who serve here, and his quiet but effective contributions will be missed in 1981. His service on the Armed Services Committee was widely admired and respected. His efforts on behalf of the jobs of working American men and women are well documented and respected by both his constituents and his colleagues. His assumption as the first chairman of our temporary Select Committee on Intelligence was exemplary of his commitment to a strong intelligence community for combating Communist aggression the world over. LUCIEN has also made his mark through his work as the ranking majority member on the House Administration Committee, particularly as chairman of its Subcommittee on Libraries and Memorials.

LUCIEN'S contributions to this House have been many and varied through a style that has been aptly described as "work horse" rather than "show horse." I am confident that this part of his character will continue to enhance his future endeavors as he leaves to return to his practice of law. We will miss his many and varied contributions to this body and to the Nation. I wish him the best in his new career.●

PRIVATE JOB TRAINING

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. RINALDO. Mr. Speaker, job training programs for young people and minorities have become increasingly important in helping to fill the gap between unemployment and job opportunities for skilled trades. Millions of dollars in Federal assistance have been poured into these job training programs, and sometimes we tend to forget about those companies that have successfully initiated their own privately funded job training programs.

One of the most successful of these is in Roselle, N.J., and is operated by the Garden State Brickface Co., one of the Nation's largest exterior surfacing contractors. Without any Federal job training assistance funds, Garden State Brickface Co. has provided on-the-job training in masonry building surfacing construction to more than 200 unemployed workers.

Garden State Brickface Co., through its director of corporate development, Mr. David Moore, and two of his employees, Stanley Koberski and Michael Johnson, have undertaken several training programs, from teaching basic masonry and plastering skills to leadership and crew leader training. During the winter, when most construction firms shut down and lay off workers, Garden State Brickface Co. runs a full-time winter training program.

What is most impressive is that these employees are paid full-time wages for their training period. The employees develop skills in plastering, texturing, scoring, and decorative masonry; and then, at the termination of the training, the company offers them full-time jobs. They track each employee's skill development, providing a realistic career path that offers substantial growth, responsibility, satisfaction, and income.

On the job, organized training in a basic trade is an invaluable complement to our Nation's formal educational system. It provides many people, who may not have had an opportunity or capacity for higher learning, with the necessary tools to perform an important job.

It is hoped that the initiative displayed by the Garden State Brickface Co. will result in more firms in the construction field joining in this worthwhile effort. By helping the unemployed, by providing skills and a basic trade to hundreds of youths and minorities, and then offering them a full-time job with security, a dent is being made in unemployment and the recession.

Garden State Brickface has twice been named Contractor of the Year in New Jersey and recently was selected National Contractor of the Year by the National Remodelers Association. Their brickface process uses techniques developed a thousand years ago in Europe. Using the same materials coupled with modern equipment and techniques, the process of brickfacing is helping to restore the exteriors of older buildings and creating masonry facades that simulate brick and stone for new ones throughout the Northeast. And in keeping with our Government's drive toward energy conservation, Garden State Brickface Co. has developed new methods and products to help insulate and weatherproof the buildings they service.

The training program at Garden State Brickface Co. is an example to industry how this type of effort can help business while aiding the economy's most hard-hit victims. Garden State Brickface Co. should be proud of its contribution to private as well as to the Nation.●

JOHN LENNON

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. DODD. Mr. Speaker, I rise to ask the Congress to join the country and the world in mourning the death of John Lennon, whose contribution to this generation and to all succeeding generation's cultural achievements is monumental and perpetual.●

TRIBUTE TO HON. TIM LEE CARTER

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. YOUNG of Florida. Mr. Speaker, the gentleman from Kentucky should be commended for setting aside this time to honor one of our most distinguished colleagues, the Honorable TIM LEE CARTER.

Twelve years ago Dr. CARTER came to Washington with a unique combination of talents: A skill in handling legislation and a medical background. During his eight terms in office he used those talents to become a major spokesman for this body's key medical legislation. He eventually became the ranking minority member on the Interstate and Foreign Commerce Subcommittee on Health and the Environment.

Dr. CARTER has often expressed his concern about the future of the Nation's medical schools. At a time when medical school tuition continues to rise, Dr. CARTER has often voiced his concern that future doctors will be priced out of medical school and their careers as doctors. Dr. Carter has also been a spokesman for increased medical research to try and eliminate the tragic diseases that plague people throughout the Nation and the world.

It truly is a shame that one of the people who has fought hardest for improving the health of this Nation, should be forced into retirement by an ailment. We will all miss Dr. Carter and the contributions he has made to this body and to the country.●

GUN CONTROL WOULD BE TRIBUTE TO JOHN LENNON

HON. WILLIAM S. GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. GREEN. Mr. Speaker, it is with great sadness and a sense of loss that I rise today. My remarks are intended for my colleagues, but they are also directed especially at the extraordinary number of citizens across America who share my sadness.

Tragically, the handgun war continues unabated, recently claiming the lives of a New Jersey police officer and a New York State trooper. Some time ago, my friend, high school classmate, and a former Member of this body, Allard Lowenstein, was taken from us by a man with a gun. Just last week, another friend of mine with whom I went to college, the internationally recognized doctor, Michael Halberstam, was murdered during an apparent burglary attempt in Washington. And, as the world knows, John Lennon was killed Monday in my home city.

The tributes for John Lennon are being heard around the globe, and it is fitting that his unique talent and artistry be noted in this fashion. All of us join in expressing sorrow and outrage at this killing. However, I want to offer an expression of hope amidst the grief that is being felt across the Nation. Each of us needs to express sorrow and pay tribute in our own way. But, perhaps the best way for us to pay collective tribute is to use the memory of this extraordinarily creative man to remove from us the instruments of destruction. It is essential that we have some type of reasonable, effective, national gun control legislation.

I call upon the thousands of mourners throughout the country to marshall your energy, contact your Congressmen and Senators, and demand that gun control legislation be enacted. I urge each citizen in every State who is horrified by the tragic murder of John Lennon to rise up and say: "The killing must stop. Congress must act. We need reasonable laws to control guns."●

TRIBUTE TO ELIZABETH HOLTZMAN

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. RODINO. Mr. Speaker, Elizabeth Holtzman's departure from the Congress is a great loss, for she has been a valuable Member since she first entered the House in 1973. I will personally miss Liz since she has served with great distinction on the Judiciary Committee which I am honored to chair.

Not long after Liz joined us the committee undertook the awesome task of determining whether there were grounds for impeachment of President Nixon. During that long and agonizing ordeal Liz Holtzman was outstanding. She spoke out against abuses of power at the highest level of government and articulated lucidly her love for the Constitution and her dedication to the principle that this is a government of laws, not men.

On the committee Liz has been a consistent voice for integrity in government and an unwavering ally in the continuing struggle for equal rights and justice. She was a leader in the effort to enact the equal rights amendment legislation and played an important role in opposing provisions of the Criminal Code reform draft legislation which constituted serious violations of civil liberties. In 1975 several of her amendments to the new rules of criminal procedure for the Federal courts helped assure fair Federal criminal trials.

In recent years she has chaired the Subcommittee on Immigration, Refugees, and International Law, and has compiled an enviable record of thoughtful, innovative work on the complex and increasingly serious issues confronting the Nation in the areas of refugee and immigration policy.

While I am most familiar with Liz' work on legislation coming under the Judiciary Committee's jurisdiction, I am also very much aware of her contributions as a member of our Budget Committee.

She has worked to reorder national priorities, increase spending on human needs, cut unnecessary military expenditures, eliminate waste in Federal programs, and close tax loopholes. There, too, she fought a valiant battle in our mutual effort to extend the countercyclical assistance program to State and local governments.

Her membership on the Select Committee on Aging has given her the opportunity to better push for the goals of legislation to establish a national health insurance program and to improve health, income, and disability programs for older Americans.

While working on major national issues, Liz has at the same time diligently and effectively served the needs and dealt with the problems of the people of her congressional district. She successfully fought to save jobs at the Naval Resale Systems Office in her district, and in 1974 utilized a General Accounting Office report prepared for her to win action by the Federal Housing Administration to repair and sell vacant houses which were causing neighborhood decay and financial loss to the Government.

Mr. Speaker, Elizabeth Holtzman will be sorely missed in the House, but I am confident that any endeavor she may undertake in the future will benefit greatly from the participation of this intelligent, dedicated, and compassionate lady.●

TRIBUTE TO GUNN McKAY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PANETTA. Mr. Speaker, I wish to join those paying tribute to Gunn McKay. As a veteran of 10 years in the House, he will be greatly missed.

Gunn has been a highly effective House Member, and he had ascended to a subcommittee chairmanship on the Appropriations Committee. He was a very able chairman, and I know that we will all miss him in that important position.

In addition, Gunn has maintained a courageous record on the House floor. He has earned both my respect and that of my colleagues. In losing Gunn, the citizens of Utah lose a fine representative. But the Nation and the Congress suffer the greatest loss.

Mr. Speaker, I want to take this opportunity to express my best wishes to Gunn. He still has a fine future ahead of him, and I hope we will see him here in Congress again.●

TRIBUTE TO HON. ALVIN BALDUS

HON. E DE LA GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. de la GARZA. Mr. Speaker, I am pleased to join my colleagues of the House of Representatives in honoring Alvin Baldus upon his departure from Congress after 6 years of devoted service in behalf of the people of the Third District of Wisconsin and the Nation.

It has been a pleasure to work with and know Alvin Baldus as a fellow member of the Agriculture Committee. His knowledge and familiarity with farm and agricultural issues will be sorely missed.

In whatever ALVIN BALDUS decides to do in the months and years ahead, I certainly wish him the best of luck.●

TRIBUTE TO CONGRESSMAN JOE WYATT

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. BROOKS. Mr. Speaker, JOE WYATT has been a conscientious, hard-working Member of the 96th Congress. I want to take this opportunity to join with his many friends in thanking him for his contributions to the work of this body during the past 2 years. He will be missed both here and in Texas.

Congressman WYATT's legislative work has been a credit to the Congress and I appreciate the extent to which he worked in a spirit of mutual cooperation with other members of the Texas delegation.

I know that he will continue his public service activities on behalf of his community and State, and I want to wish him luck in any career that he might choose.●

"SUPERFUND" BILL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, the primary impetus for the superfund bill was a series of anecdotal media accounts of death and disease due to neglected chemical wastes. The graphic portrayal of misery and injury in the Love Canal area provided the motivation for spending hundreds of millions of dollars and creating a massive Federal program to preempt State management of hazardous wastes. Over several weeks we were bombarded with pictures of weeping women and outraged inhabitants who vociferously blamed the Federal Government for failing to solve their problem.

No Congressman delights in being told he is responsible for the deep and personal misery of another. Yet, before we enact an expensive program with sweeping economic and social consequences, we should carefully investigate to determine if the tragedy is an isolated occurrence or if there is a less intrusive and costly way to help those in distress. The following article adds an important dimension to the dialog we should undertake before making the superfund another weighty and unresponsive Federal program:

TOXIC MATERIALS, OR TOXIC JOURNALISM?

(By Fred Boehle)

Reporting both sides of the issue is responsible journalism. Unfortunately, the cover story of the September 22 issue of Time magazine was a frightening story on toxic chemical wastes, "The Poisoning of America," which omitted any mention of why chemicals are used, how beneficial they are, the low incidence of chemical worker-related accidents, and the effective waste disposal methods used today for toxic chemical wastes. The public is educated to believe "chemical" equals "bad".

Up until three months ago, my view of chemical toxicity was that of the Time magazine reader—the consumer. Now, as editor of Chemical Distributor, I view the media coverage of the chemical industry differently, I'm sure. What remain consistent, though, is my belief that many journalists write under the auspices of investigative reporting. I call it good old turn-of-the-century sensationalism—reporters trying to earn their Woodward and Bernstein awards.

I don't mean to suggest that Time magazine hires cub reporters, but I mean to point out that the media has bombarded the public with frightening stories on chemicals—the Time write-up being a prime example.

The Time article says, "Although cause-and-effect relationships between many chemicals and specific illnesses are still difficult to prove, the danger is clearly growing." Difficult to prove, yet clearly growing? That is reasoning I don't understand.

The article also devotes more than two pages to chemical contamination of drinking water. A New Jersey community with more than 100 wells has been "poisoned" by chemicals leaching from the 135 acre Jackson Township dump. Five people in the area have either died with kidney problems or are facing them now. Yet the magazine states no scientific link has been established between the chemicals and the illnesses. I have to wonder then, as a journalist, what editor would let me print that piece of information? I believe my answer can be found on page 7, Section 4 of the September 16 edition of the Chicago Tribune.

A full page ad in the Tribune for Time magazine reprints (thank goodness, only in one color) the gruesome cover illustration for the "The Poisoning of America." More than half the ad is the illustration, followed by copy reading. "Time's penetrating probing of an area that has as much going on below the surface as above it, is another example of why Time is the number one news magazine. Number one in circulation. Number one in newsstand sales. Number one in advertising. Number one around the world."

The Time editor who prints "The Poisoning of America" is in the business to sell, sell, sell, and a gruesome four-color illustration on the cover has the same attraction as did Pulitzer's Sunday World four-color illustrations almost a century ago. The World's illustrator, Morrill Goddard, jazzed up his page spreads, exaggerating and popularizing the factual information, according to journalism historian Edwin Emery.

Time editors are not the only ones who know of the historically proven means of increasing your circulation. But Time, more than most publications, is revered by hundreds of thousands as "the" news magazine.

A large portion of the Time article deals with waste disposal. Though there are enough safe disposal facilities in existence in the U.S., including incinerators and detoxification plants, to handle the toxic wastes, the alarm has been sounded. The problem, it seems, is illegal dumping and tougher federal regulations regarding dump sites. Time writers Ed Magnuson, Peter Stoler and J. Madeleine Nash state that the circle must be complete—the society that created the new chemicals must deal with the new chemicals. Brilliant reporting—except for the missing pages of reports on toxicity testing, both private and government funded; and the missing pages of reports on the benefits of those "new chemicals."

The Chemical Manufacturers Association (CMA) acknowledges the toxicity of chemicals, waste disposal problems, and dangers to human health. Aside from not even being mentioned in the "penetrating probing" story done by Time writers, no mention was made of CMA's brochures, posters, ads and press releases which contain another side of the toxicity story. For example, 20 years ago, the chemical industry analyzed compounds to find traces of unwanted materials at levels of approximately one part in a million. Today, these scientists are able to detect impurities in parts per trillion, says CMA. The Chemical Industry Institute of Toxicity, a $14 million research facility, is working daily with a staff of over 90 people to determine how dangerous each chemical is, one part per million, billion or trillion.

"We're treating aeration, biological treatment, floatation, separation and other methods in various combinations to create multifunction total systems. We're designing and installing more new types of equipment. We're using chemicals to combat pollution (just as chlorine disinfects drinking water). In fact, for every dollar the chemical industry spends on new manufacturing facilities, 25 cents go for pollution control," says the CMA.

Environmentalists, especially in their writing, omits facts like:

The chemical industry is a leader in worker safety. The National Safety Council reports that chemical workers are 2.3 times safer on the job than the average American worker. It ranks the chemical industry as the fifth safest among all American industries—behind the communications, textiles, aircraft, and electronics industries, and ahead of 37 others.

U.S. food production would be cut by at least 30 percent without fertilizers and pesticides, according to the National Academy of Sciences. Another 25 percent would spoil on the way to the market without chemical preservatives.

Diseases common in the past have been almost eliminated by chemical vitamin and mineral additives. Vitamin D in milk has all but eliminated rickets in America, iodized salt has eliminated goiter, and pellegra is almost non-existent due to niacin enrichment of bread.

Medicine depends on sulfas, antihistamine, decongestants, antihypertensives and analgesics—all chemical substances.

Construction materials are dependent on chemicals giving us plywood, glass-wool, interior paneling, wire and cable insulation, laminated countertops, rain gutters, vinyl flooring and safety glass.

About 70 percent of the fibers sent to knitting mills are composed of man-made chemicals.

Chemical plastics make automobiles, trucks and airplanes lighter and more efficient.

Nearly all telephone, TV and powerline insulating materials are made from chemicals, as are components of transmitters and computers.

More than 98 percent of all carpets are produced from chemical fibers. Chemicals also account for 65 percent of the fibers used in such home furnishings as draperies, upholstery, sheets, bedspreads, blankets, tablecloths and towels.

Needless to say, there is good in the chemical industry—much good to report. And regarding the bad news, the Toxic Substances Control Act mandates that chemical companies work to discover and report all potential hazards associated with chemical manufacture and use.

It has been in vogue for over 15 years to climb on the environmentalist soapbox. But more than that, Americans, I believe, are becoming more receptive to horror stories, more eager to sink their teeth into a cause—something to believe in during these unbelievable and potentially frightening news days.

Regarding the toxicity overplay, Jerry Hook of Michigan State University's new Center for Environmental Toxicology said, "We know that ingesting these things is probably not good for you. At the same time, we should not go shooting our mouths off and scare everyone." Time magazine did not heed this warning. Let us hope that other, more responsible presses will do so.●

MIKE McCORMACK—OUR FRIEND AND SCHOLAR

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PICKLE. Mr. Speaker, serving in the House of Representatives is one of the great privileges of a person's life. A Member knows that he or she is associating with individuals who work hard, apply themselves diligently, and who try to make a contribution in their time, worthy of being remembered.

In our associations, we have learned how many Members not only dedicated themselves to the public good but how they made special contributions in a special way—a special expertise. MIKE McCORMACK is such a man. Not only is he a great Member of Congress, but he is one of the Nation's outstanding physicists as well. He brings with him a background of practical involvement in the energy field. Because of this knowledge, many of us have leaned upon MIKE for advice and counsel.

I was personally privileged to work with MIKE McCORMACK closely. We served together for a time on the Science and Technology Committee. I learned early on that he was an expert in nuclear power, fusion, gasification, and any other matter in physics.

In this capacity, he made a contribution that will last forever, particularly in our understanding of nuclear power. I have been privileged to have MIKE as a visitor at the University of Texas, at Austin, where he inspected our Tokamak fusion project. Much of what we were able to do was made possible because of MIKE's interest and concern—and direct help. I will always be grateful.

As one who has worked with MIKE on committee and on the floor, I have followed his leadership and his excellent record. This House has lost an extremely valuable asset. In fact, MIKE McCORMACK has been a national asset for all of us.●

HOUSE NEEDS TO REVISE ARCHIVING POLICY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. GINGRICH. Mr. Speaker, I believe the House needs to change its policies on making historical documents accessible to the public. To give my colleagues an idea of how hard it is to get some of these documents, I have included a letter written by the staff of the Legislative and Natural Resources Branch of the National Archives. The letter is in response to a request for access to certain records over 100 years old. I have deleted the name and address of the requestor to protect the individual's privacy.

The letter requests access to documents which support a claim for military backpay for a colonel which were endorsed by George Washington, the Marquis de Lafayette, and Thomas Jefferson. Despite the age of the documents, they are not easily accessible to persons wanting to see them. In all cases, such as this one, the requestor is referred to the Clerk of the House who decides if access can be allowed. This is due to a resolution, adopted over 30 years ago by the House, that requires the Clerk to make such decisions on all documents, regardless of their age or content. The resolution has never been reviewed or readopted until lately.

I support efforts to amend the House rules to give the House the ability to manage its records through the office of the Clerk, with the oversight of the Committee on House Administration. These efforts to establish new guidelines on access to historical House documents will result in better records management and a fairer shake to the public.

The text of the letter follows:

MARCH 20, 1980.

DEAR MS. HUCKABEE: Your request was referred to our branch by our General Archives Division. We have located the Claim File for Robert Hansen Harrison, which consists of letters from George Washington, Lafayette, Jefferson, and others filed in support of the claim of Colonel Robert H. Harrison against the United States.

Before the National Archives can reproduce this information, you must obtain either directly or through your Representative in Congress, an authorization for copies from the Clerk of the House of Representatives, the Honorable Edmund L. Henshaw, Jr., Room H-105, Capitol Building, Washington, D.C. 20515.

When we receive the authorization, we shall be glad to provide you with the electrostatic copies of the information located, amounting to forty-three (43) pages, for $8.60. To order at that time, please send your remitttance by check or money order made payable to the National Archives Trust Fund addressed to the Cashier, National Archives (GSA), Washington, D.C. 20408.

Thank you for letting the National Archives be a service to you.

Sincerely,

GEORGE P. PERROS,
Civil Archives Division.●

CONGRESSMAN EDWARD STACK

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. BENNETT. Mr. Speaker, Representative EDWARD STACK, in the time that he has been with us in Congress, has done an excellent job as a Congressman and we will all deeply miss him. He came to Congress with an outstanding record in many areas of achievement and he utilized his experience and knowledge in a very constructive way for his district and for our country. We are all deeply indebted to him for this and will miss him greatly.●

CHARLIE VANIK—AN OUTSPOKEN MAN FOR THE PEOPLE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 2, 1980

● Mr. PICKLE. Mr. Speaker, anyone who has ever attended a Ways and Means hearing can expect and not be disappointed with an outburst or observation of concern by CHARLIE VANIK on behalf of the little taxpayer. Often, he raised his voice against big business—the multinational corporations and oil and gas companies. But CHARLIE VANIK was not trying to make headlines and pick a fight as much as trying to get people to think.

CHARLIE knows that comfortably paid attorneys can speak for, and usually can take care of large companies. So he always tried to speak for the individual. And CHARLIE did an admirable job of it.

At least annually, CHARLIE published his list of corporations which paid little or no tax. He became a national figure. Although some of us may not have always agreed with his conclusions, we knew that CHARLIE VANIK did his homework. As constant as his black suit and red bow tie, CHARLIE is constantly reminding us that we should have equity in our tax code. Our committee will miss his prodding, searching inquiry, his refusal to accept the status quo and his willingness to go the extra mile.

But there's another side to CHARLIE VANIK. In spite of his serious vein and constant hammering away, CHARLIE maintains a keen sense of humor. There are some who, feeling as if they must protest the burdens of society, lose their capacity for humor and laughter. But CHARLIE's retorts, quips and one-liners are legend. Whenever our group meets informally or in the cloakroom or socially, CHARLIE is the happy warrior who brings gladness, laughter, and peace of mind. Whether he is playing the piano, or melodian, the music comes from CHARLIE'S instrument as well as his soul.

We will miss CHARLIE as much as any Member who has ever served. Our committee will never be the same. In all of this association, CHARLIE has been supported by his wife, Betty, who is the personification of gaiety, involvement, and concern. They are indeed a beautiful couple.●

STANLEY KAPLAN: THE DEAN OF PREP U

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. SOLARZ. Mr. Speaker, I rise today to bring to my colleagues' attention an article about a trusted friend, Stanley Kaplan, perhaps better known as the dean of Prep U.

The article, which appeared earlier this year in the TWA Ambassador magazine, explains the Kaplan method for helping students of all ages and backgrounds prepare for college entrance examinations. In recent years colleges and universities have made greater and greater use of these test scores in determining students' eligibility for admission. A recent study by the Federal Trade Commission showed that of all the organizations they considered that offered test-preparation, only Kaplan's produced significant improvement in test scores for students.

I would like to take this opportunity to offer my own congratulations to Stanley Kaplan for a job well done, and urge him to keep up the good work in the years ahead. I am sure my colleagues will appreciate the contributions Stanley has made to the American educational system.

Mr. Speaker, the article is as follows:

THE DEAN OF PREP U

(By Martin Abramson)

The door to the classroom swings open and a medium-sized man with a pixyish smile strides in. "There may not be a Betty Crocker or a Sara Lee, but there is a Stanley H. Kaplan," says Stanley H. Kaplan. "Any rumors of my non-existence are greatly exaggerated."

The announcement is greeted with chuckles of understanding: in this age of testing, the name of Stanley H. Kaplan has become so identified with test-preparation that many of the more than 30,000 students who matriculate annually at some 88 Stanley H. Kaplan Educational Centers think of him as some kind of trade name. On one occasion, for instance, an Educational Center administrator who called the airport to leave a message for the soon-departing Kaplan was asked, "How do you spell 'Kaplan'—does it begin with a 'C' or with a 'K', like in 'Stanley H. Kaplan Educational Center?' "

The famed Kaplan is the grand-master and dean of the test-preparation business, a skilled educator who proved to be just as good an entrepreneur. In 40 years, he's turned a one-man operation that began in a Brooklyn basement into an enterprise with a six-story executive headquarters in mid-Manhattan and branches in 40 states, as well as in Canada, Puerto Rico and Switzerland. Today, the Kaplan Centers provide coaching courses for the nationally standardized admission tests—identified by an alphabet-soup of acronyms: SAT for college admission, MCAT for medical school, LSAT for law school, DAT for dental school, and so on. There are also courses to prepare students for exams in the fields of medicine, dentistry, nursing and accounting.

Why the proliferation of tests as an integral part of college and graduate school admissions—and the corresponding surge in test-preparation center enrollments? "Years ago, it was basically the young white male who applied," Kaplan explains. "Now it is the young and those who are older; female as well as males; blacks, Hispanics, Asians and native Americans as well as whites. They're all seeking the challenge of professional careers. The net result is many more applications than the limited number of spaces available. The grade-point average is one criterion used for admissions, but it suffers as a measure because of lack of uniformity of standards and grade inflation. Test scores have thus become increasingly important in determining who does or does not gain admission."

The record of the Kaplan Centers in upgrading those test scores is impressive enough that when it is reported word-of-mouth along the grapevines of academia, it brings a steady flow of new business. Another recent boost came by way of a widely publicized probe by the Federal Trade Commission into the efficacy of private test-coaching organizations, a probe that had originally been aimed at proving Kaplan's claims of test-score gains "unsubstantiated" and "false." To the contrary, however, the FTC report concluded that coaching can be effective for the SAT and LSAT exams, and that, of the organizations studied, only Kaplan's produced significant improvements in scores.

Students who have benefited from Kaplan's assistance have gone on to achieve outstanding reputations as attorneys, judges, corporate executives, space scientists and physicians. Kaplan once encountered one of the latter, an American doctor in Tokyo, when the pedagogue was stricken with strep throat. The doctor flatly refused to accept a fee: he turned out, of course, to be a Kaplan Center graduate.

Many of today's enrollees at Kaplan Centers are "second generation"—offspring of Kaplan alumni. And not all, by any stretch of the imagination, are of standard college-application age. Older students include teachers and engineers whose jobs have vanished in the face of economic upheavals and who are now seeking admission to graduate business school. Many business people have decided that it's not too late for them to enter the professions and are taking admissions test in contemplation of new careers.

In addition, there are preparation programs for licensing examinations required before a professional school graduate may begin practice. These programs attract a host of foreign physicians, dentists and nurses—including refugees from Russia and Vietnam—who need an intensive period of training in order to pass the sophisticated American examinations. Students from such places as Saudi Arabia and Zambia, and from other nations all over the world, add to the Kaplan school's picture as a United Nations in microcosm.

There is understandable frustration on the part of these foreign professionals, who have succeeded in their own nations but run up against a roadblock in the difficult American exams—made doubly difficult because the tests aren't written in the foreigner's native language. One immigrant, a highly regarded Romanian radiologist, has taken the examination to qualify as a radiologist in the United States several times with no success; he could find a job only as a male nurse. After the Kaplan program, however, he passed with banners flying.

Students pay $275 and up for the coaching courses, and the Kaplan Centers bring in a combined annual gross calculated in the millions. It seems hard to believe that there was a time the founder paid students for the opportunity of tutoring them.

"As a child, when others played doctor, I played teacher," Kaplan recalls. "In high school, I would sometimes pay a dime to a friend who was doing poorly in a subject, as a means of getting him to accept my tutoring." The tables had turned by the time Kaplan graduated: he had a clientele of twenty students who paid him 25 cents an hour for instruction. Kaplan was too young to drive to their homes, so his father, a plumbing contractor, chauffeured him to his tutoring jobs.

Kaplan earned a Phi Beta Kappa key at City College of New York and graduated with Bachelor of Science and Master of Science in Education degrees. He chose to remain in private coaching rather than take a public-school teaching job because he enjoyed the one-to-one relationship. He established his "Educational Center" in the basement of the family home in Flatbush and selected an owl, complete with mortarboard, as the logo for his operation.

Kaplan's early abilities as a tutor developed into a unique talent for motivating students. An alumnus, now prominent in the legal profession, says of Kaplan, "He has a knack for making complex problems seem simple, even enjoyable."

As his clientele grew, Kaplan became a seven-day-a-week workaholic—or teachaholic, as the case may be—before finally hiring some help in the person of former "Phi Beta Kaplans," graduates with especially high test scores. He also moved his headquarters out of the cellar and into more commodious quarters, where he pioneered new teaching methods, such as audio tapes to reinforce the learning process. Eventually, too, he launched his programs of coaching for admissions tests, preparing a voluminous number of sample tests and review materials as the backbone of the series.

The normally affable Kaplan demeanor darkens only when references are made to his operation as a "cram school." "Cramming means trying to squeeze an impossible amount of material into an impossibly short period of instruction time," he says. "Our program involves hundreds of hours of work to sharpen skills and to stress conceptualization and 'think power' rather than rote memorization."

Kaplan's math instruction, for instance, schools students in all of the diverse ways a basic problem could be presented on a test. To improve verbal skills for the SAT, he admonishes students to not merely look up definitions, but to associate words with ideas. "Go to mom and tell her that your weekly allowance is paltry, that you are impecunious and want an augmentation," he advise. Students are told not to call a friend "stubborn," but rather to "tell him he is obdurate, contumacious, pertinacious, inexorable, or intransigent."

Enrollees studying for school-admissions tests like the SAT or LSAT are given a three-part learning program. First they attend eight to ten weekly classroom sessions, lasting four to five hours each, with a live lecturer. Tests are given on the lecture material, and then teachers go over the tests with students in a kind of modified Socratic dialogue. Second and most important come 200 to 300 hours of work at the Kaplan Centers with prerecorded tapes, including, of course, more tests over that material. Students select from a "menu" of tapes designed to address their specific needs. "It's like with a tennis coach," Kaplan explains. "We've given them the basics, now they go and practice." Third, all through the course, students are expected to do homework; a printed lesson plan helps them keep up. Those studying for professional examinations also have homework, but they depend entirely on taped instruction to allow maximum flexibility with the work schedules of their current jobs.

"The 'secret,' if you want to call it that, is that we use a long-term approach. Our aim is to improve the student, not just the test score," Kaplan states. "You can't just wave a magic wand and raise those scores."

The evidence seems to show that Kaplan's "secret" works. He claims that students who've written him to report on their success after taking his course average an improvement of about 100 points (out of a possible 800) on SAT scores. The FTC report cited a more modest 25-point figure.

Although he's now offering his method all over the world, Kaplan resisted expansion beyond Brooklyn for many years. "I felt I personally had to be on top of things," he says. When he learned that people were traveling thousands of miles to take his courses, he thought they were "some kind of nuts," and began to open units in major cities only when he was convinced he could faithfully "clone" his programs and maintain their quality.

The expansion process developed like spokes from a wheel. He would open a Center in Chicago and then would come requests to go to St. Louis. St. Louis would open up and he would get calls to start up in Memphis, Louisville, Nashville and so on. Brooklyn became a branch to a new Manhattan headquarters, and the research staff, which constantly develops new tests and materials, grew to 40 members.

A Kaplan production operation turns out all the written materials and tapes and distributes them to the Centers. Kaplan's central role in the operation is still felt, however: he supervises production of study materials and regularly flies from city to city to personally inspect Kaplan Centers, meeting with students as well as advisors.

In fact, the entire Kaplan family is involved in the enterprise. Rita, his wife, helped organize the aptitude program, daughter Susan is the administrator of the Boston Center, son Paul is an executive in New York and younger daughter Nancy heads up the SAT program.

This personal involvement keeps the various Centers in line with the founder's philosophy. Kaplan is proud to point out that his Centers have never turned down a qualified student because of inability to pay—he works with high school, college and professional school advisors to give out hundreds of scholarships. But he has discouraged some applicants from enrolling in his courses because their academic records or lack of prerequisites indicated that they couldn't pass muster on the tests they wanted coaching for.

And then, of course, there was the woman who was politely turned down on the grounds that the Kaplan Educational Center doesn't provide preparation for a test she seemed quite concerned about—the pregnancy test.●

TRIBUTE TO HON. RICHARD H. ICHORD

HON. E DE LA GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. DE LA GARZA. Mr. Speaker, I am pleased to join my colleagues in paying tribute to RICHARD H. ICHORD upon his retirement from the House of Representatives after 20 years of dedicated public service in behalf of the people of the Eighth District of Missouri and the country.

RICHARD ICHORD'S concern and efforts toward improving national security and defense policies has been greatly appreciated. His knowledge and experience will be sorely missed.

I certainly wish RICHARD ICHORD nothing but the best in his career in the months and years ahead.●

TRIBUTE TO JOE FISHER AND HERB HARRIS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PANETTA. Mr. Speaker, I take this time to join in the tribute to two of our colleagues from Virginia, JOE FISHER and HERB HARRIS. Both of these excellent men will be leaving the House this week, and they will be missed tremendously.

JOE FISHER will be best remembered for his fine work on the Ways and Means Committee. JOE'S commitment to an equitable tax code was unsurpassed, and his efforts to achieve that goal made him one of the committee's most valued members. His quiet demeanor masked a determination to end the many injustices of our society, and the enormous amount of special-interest money that contributed to his defeat is an indication of the important role he played in that regard. We will all be worse off for his absence from the 97th Congress.

HERB HARRIS has also left his mark on Congress, and his constituents and the Nation have been ably served by his skills and dedication. HERB has been particularly skillful in bringing to public attention some of the horrible abuses that take place within the Federal Government and that cost the taxpayer billions of dollars. In addition, he has worked very hard to improve the quality of life in the Capital and the surrounding area, and his efforts on the Metro will bear fruit long after he is gone.

As you can see, Mr. Speaker, both HERB and JOE accomplished a great deal in their time here, and we all know that they could have done even more if they were not leaving us. I want to wish them both the best of luck in the future and to express my hope that we will see them once again in Congress.●

LUD ASHLEY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. GARCIA. Mr. Speaker, I would briefly like to take this opportunity to honor publicly a man who has given me and so many other of his colleagues more than he will ever know. That man is Congressman LUD ASHLEY.

One of the occupational hazards of being a Congressman, it seems to me, is that one occasionally watches a colleague face defeat when that colleague is respected universally in the Congress for his insights, his understanding, his compassion, and his knowledge. I must confess that when that colleague who is defeated is a man of the stature of LUD ASHLEY, then the joy and excitement of remaining in public service at any level is tinged with more than a little sadness and thoughts of what might have been.

As you know, my district is one which simultaneously possesses both severe housing problems and numerous individuals wishing to better the quality of their lives. What they often lack is an understanding of Government programs which would assist them in their search for a better tomorrow. Congressman ASHLEY and his consistently excellent staff, time and time again, have helped my constituents, and, I suspect, the constituents of many other Members, in their quest to gain vitally needed information and resources. For this little-commented-upon aspect of LUD'S presence in this congressional community I shall always be grateful.

I was also privileged to serve with LUD on the Housing Subcommittee which he so ably and impartially chaired for many years. In that capacity he served as my mentor, teaching me so much more than he realizes about the Congress and the issues it faces—both in housing, specifically, and domestic policy, generally. I have often been told that it is the fortunate new Member who has the assistance in his duties of a wiser veteran of the legislative wars. For LUD ASHLEY'S assistance, I have indeed been fortunate.

I shall miss serving with him very much.

LUD ASHLEY, thank you for being my great teacher and friend.●

TOM STEED—OKLAHOMA LEGEND

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. PICKLE. Mr. Speaker, I believe Tom Steed probably has the longest service of record in this body of any present Member. He came to Congress as an assistant to a Congressman in the early 1930's in the very depths of the Great Depression. Here he learned the ropes, so to speak, and became one of the best administrative assistants on the Hill. It was during this time he made the acquaintance of a young Congressman, Lyndon B. Johnson, whom he helped elect as Speaker of the "Little House." This relationship started a deep friendship that lasted a lifetime.

Tom Steed has never been a blushing violet. In his days as a reporter and newspaper publisher, he spoke the truth loud and strong and clear. His honesty and outspoken manner helped guide him into the political arena, and he returned here as a Congressman over 30 years ago.

As chairman of the Treasury and Post Office Appropriations Subcommittee, Tom Steed has become one of the stalwarts in the appropriations field. As every Member of the House knows, the members of the Appropriations Committee really hold the pursestrings. Very seldom is there any amendment or change on the floor that is not arrived at during committee deliberations. Once those decisions are made, the committee chairman takes control, and nobody has been more successful over the years than Tom Steed. He is tough, unflappable, and intimately fair. If you need a matter and Tom Steed thinks you have a meritorious case he will quietly and with resolve try to include your needs in a request. And if he gives you his word, you can consider it as secure and sure as the gold in Fort Knox.

We kid Tom Steed a lot about his sense of humor. Everyday he has a new joke or story. If that same story floats around the House and comes back to him at the end of the day, he knows he has had a good day. That sense of humor has helped endear us to Tom. He is pleasant, trying not to look too seriously at life and trying to look at us in true focus. If you have Tom Steed for a friend, you have got the best in the House. Although Steed is an Oklahoman, he was born in Rising Star, Tex. Maybe that is the best part of Tom Steed.

I particularly want to pay my respects to Tom Steed for his willingness to help President Johnson. On requests which affected the good of this republic and which Tom Steed could offer a helping hand, he always met the President much more than halfway. Those of us from the Southwest, those of us who live in Texas, are particularly grateful for Tom for his unfailing, unswerving support of the LBJ Library. This is a magnificent edifice and has been maintained in top condition because of the support of men like Tom Steed. I know how much he loved President and Mrs. Johnson. But the President and Lady Bird also loved Tom Steed.

I want to pay my respects to this good man, who has helped me, guided me and given me counsel and support over the years. I will miss Tom Steed as much as any Member of this House, and I wish him and his energetic, personable wife the very best. I hope they can come see us in Austin or even that we might meet at the happy hunting ground of Dallas for the Texas-OU football game. Better still, I would hope we can see Tom come to Austin and address the LBJ School of Public Affairs, so our young leaders can see one of the giants of Congress and absorb some of his wisdom. The source would not come from a more qualified person.●

ATTORNEY AND STAFF APPRECIATION

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. JENRETTE. Mr. Speaker, a number of outstanding attorneys have been involved in the so-called Abscam trials, and I believe all of them to be outstanding gentlemen, but no one has worked harder to bring out the true facts of Abscam than Kenneth M. Robinson, who has represented me and, unbeknown to many Members of Congress, has represented the Congress with untiring dedication and skill. I deeply appreciate his work in my behalf.

My staff has worked diligently and hard during very trying times and I appreciate all of the extra work that they have done, and I will always be appreciative of their extra efforts in my behalf and in behalf of the people of South Carolina and the Nation.●

SERVING A COMMUNITY WITH ART

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. ADDABBO. Mr. Speaker, Black Spectrum Theatre Co. of southeast Queens and its community involvement has had a magnetizing effect on the residents. It is an integral part of the harmony and coexistence that remain while the area is constantly undergoing demographic changes.

Through their productions one can conceptualize the socioeconomic pressures and challenges confronting this black community and Mr. Carl Clay, executive director of Black Spectrum is committed to testing new ideas and philosophies through his productions.

I commend to my colleagues' attention the following article by Mr. Leo Seligsohn of Newsday, November 16, 1980:

A Company for the People

Linden Boulevard in St. Albans is a microcosm of urban decay. Once a bustling thoroughfare of mama-and-papa stores, movie theaters, fast-food emporiums and supermarkets, it is now an asphalt wound in which graffiti, peeling paint and boarded-up storefronts fester among the few surviving businesses.

Near the intersection of Linden and 205th Street, not far from the hulk of a Jack in the Box restaurant where street gangs rampaged six years ago—breaking windows and doing more than $10,000 worth of damage—there is a storefront bearing the sign "Black Spectrum." Behind the faded front door—locked most of the time against the threat of violence—is a world that has resisted and, some say, helped stem the '70s riptide of blight, crime and drugs in southeast Queens.

Black Spectrum is a black touring company, the only one of its scope on Long Island. In its unadorned, 100-seat theater, it produces original plays about the black experience and then takes them around New York City and sometimes into Nassau County. It also produces films, drawing material from the despair and cynicism of ghetto life and turning it into scripted stories that often have the flavor of morality tales. They are filmed in the streets and buildings of southeast Queens and then shown in schools, churches and wherever community groups gather.

Black Spectrum's influence sometimes extends beyond the borders of southeast Queens—which is 90 per cent black—to the entire New York metropolitan area and as far as the deep South. There is, for example, "Deadwood Dick, Legend of the West—or, Them Niggers Went Thataway," by W. B. Burdine Jr. It is a biting musical satire on white myths about American cowboy heroes and the neglect of black contributions to the settling of the West. It started as a hit early in 1979 in St. Albans and went on to play two of Manhattan's Off-Broadway theaters that summer—the Chelsea and the St. Marks, former home of the Negro Ensemble Company. The show, which then traveled to Mobile, Ala., and Macon and Atlanta, Ga., won three Audelco (Audience Development Committee) awards. Audelco, established eight years ago, honors quality black theater productions.

"Babies Making Babies" is perhaps Black Spectrum's best-known movie. Shot in different sections of Queens in 1978, it is a 21-minute film about the pregnancy of a 15-year-old girl named Yonda. The film premiered at Black Spectrum's theater and then played before groups like the 204th and 205th Street Block Association in St. Albans, of which Black Spectrum is a member. It has been added to materials used by school hygiene classes in the area and, in June of 1979, it was the focus of WABC-TV's "Like It Is," which reran the show in August. That same year WPIX also built a show around "Babies Making Babies." The film is now part of the Donnell Film Library Center of the New York Public Library and copies sometimes are bought or rented from Black Spectrum by organizations around the United States.

The current work in progress is called "Radio." In fact, if you happened to be outside the Radio Shack store at Hillside

Avenue and Edgarton Street in Jamaica the first week of October, you would have seen sound cameras, actors and the Black Spectrum crew shooting the film. This one deals with the popular, status-seeking practice of carrying blaring, portable stereos through the streets. The film, also being filmed at the Jamaica Mall at 165th Street and WWRL in Woodside, makes points about self-image and values.

Unlike the script and actors, the equipment is not part of Black Spectrum. It is rented from the Young Filmmakers Foundation on Rivington Street in Manhattan, an arrangement that makes it possible for non-profit groups like Black Spectrum to use a synchronized-sound 16-mm camera and accessories for about $35 a day, compared to the almost $500 a day it would cost to rent them commercially. A $2,000 deposit, however, is required.

Like many vital enterprises, Black Spectrum bears the stamp of one person's vision. He is Carl Clay, a tenacious, soft-spoken dynamo, who, at 28, plays many parts in his 60-member organization. Founder and artistic director, Clay writes, produces and directs many of the plays and films. He produced "Deadwood Dick," for example, and wrote, produced and directed "Babies Making Babies." He runs his small cultural complex with the help of assistant director Richard Henderson, who also serves as film producer and actor. Other movers and shakers are Earl Samples, a unit manager for NBC network news who is Black Spectrum's board chairman, and Yvonne Brown, a worker with the city-supported Airport Opportunity Training Program in Jamaica. She is board secretary.

Clay, who studied theater at Pace University, Brooklyn College and the Clark Center for the Performing Arts, has also apprenticed with filmmaker Melvin Van Peebles and worked with the Third World Cinema. He started Black Spectrum in his parents' basement 10 years ago, moving it later to St. Alban's Trinity Lutheran Church and then, in 1977, to its present location, once occupied by Cornell Drugs. Clay knew the store well. "I used to work there," he said. "But it has been vacant for over two years. The owner was burglarized so often, he decided to leave."

The son of a subway motorman, Clay's attitudes were forged in the racial strife of the '60s, and urban convulsions of the '70s. "I can't say I was involved in any way that has a name to it," he said recently, "but the people I respected were Malcolm X, Stokely Carmichael, George Jackson and Paul Robeson."

Most of Clay's early plays revolved around black pride and consciousness-raising. One of his first plays was written in 1969. Called "Niggers," it traced the connotations of the word from the days of slavery to the present. As time went by, the relevant themes of Black Spectrum's plays and films began to have impact and the group's reputation grew. "Black Love," one of its first musicals, was about different aspects of love in a community. Clay's "Respect," with music by Earl Summers, which Clay later turned into a 10-minute film, is a response to the mutual distrust that exists between generations. It, too, found a larger audience when WNEW-TV's Bill Boggs ran it on his show.

The staying power and growth of Black Spectrum is unusual in an area where positive change has been glacier slow, despite efforts by civic groups like the Linden Boulevard Development Corporation and the Linden Boulevard Revitalization Committee. In many ways, Black Spectrum reflects the community pride of an older order, one that goes back more than 30 years to a time when the first well-to-do blacks, many of them celebrities, began to move to St. Albans. Many settled in the prime Addesleigh section and their names today are legendary in the community: Count Basie, Fats Waller, Roy Campanella, Jackie Robinson, James Brown and Brook Benton.

Part of that old world can still be seen by stepping a block off Linden Boulevard onto tidy, tree-shaded streets like Murdock Avenue, where beautiful, well-kept homes look very much as they used to, except for their barred windows.

One of the community pillars is Vivian V. Bailey, an energetic grandmother who moved into the area more than 25 years ago. Former president of the St. Albans Civic Improvement Association, Bailey said, "I was part of the beginning of the change to what is now an almost completely black community. Today, we have in our area a larger percentage of professional and business people than any other community its size. An army of civil service employees lives here.

"The special thing about St. Albans—and I include Hollis and other surrounding communities," she said, "is that we have the human resources to create a new and more vital life. Years ago, our schools excelled. Once, we had the highest averages coming out of our schools." Bailey knows Clay's father, who also has been active in community affairs for many years, and she is excited by the cultural hub he has created.

"I feel that Black Spectrum is doing good and creating an image for others to look at. I saw the western ['Deadwood Dick'] and I thought it was amusing. We need theater here. The two movie houses we had are gone. One is a church now and the other is a bowling alley. As for the films, Black Spectrum certainly stepped off in the right direction with 'Babies Making Babies' because that's a problem nobody has been able to solve, nationwide."

The Rev. L. Charles Gray of the Presbyterian Church of St. Albans is pleased by Black Spectrum because it has helped fill a void that he and his church once sought to fill. A playwright himself, Gray came to the church 15 years ago and started writing a play a year. Most of them dealt with church-community themes but, in 1975, he wrote one called "Your Move Next," about a black moving into a white neighborhood. Gray said his theater efforts waned with the departure of a church volunter who was directing the play workshop.

Filmmaker Melvin Van Peebles has good memories of Clay and Black Spectrum, although, he said, he has had little contact recently with them.

"I'm always working on weird stuff in my head and others seem to follow," said Van Peebles who is busy these days preparing for the redistirbution this month of his best-known film, "Sweet Sweetback's Baadassss Song." "If it works out that I'm a role model, fine. I remember Carl working as one of the apprentices on a film I was doing ['Greased Lightning']. And I went out there once to see how 'Deadwood Dick' was coming along."

The importance of Black Spectrum in helping the community revive its salad days has not been lost on leading establishment institutions. The New York Division for Youth, the National Endowment for the Arts, the New York State Council on the Arts, three banks, Consolidated Edison and CETA all provide support. So do some of the few remaining business people on Linden Boulevard, like Harold and Alan Katz, father-and-son owners of Nu-Clear Drive-In Cleaners at 192nd Street. For years, they have cleaned Black Spectrum's costumes free.

The most significant recognition, however, is perhaps that which has come indirectly from the federal government, New York City and the Borough of Queens. Black Spectrum will get a new, bigger theater when St. Albans Veterans Hospital and its surrounding 53.4 acres are converted into a community center and park. The complex will include an outdoor amphitheater and an indoor theater of 300 to 400 seats.

The property was turned over to the city by the federal government in 1977. Now, under the banner of the Southern Queens Park Association, a coalition of community groups, the complex is on the drawing board. The office of Borough President Donald Manes reports that work could begin next year. The city's 1981 capital budget contains $3.2 million to do the job.

The move into the new St. Albans facility will raise Black Spectrum's visibility for the 206,000 residents of southeast Queens, an area mostly bounded by Hillside Avenue to the north, Southern State Parkway to the south, the Van Wyck Expressway to the west and Francis Lewis and Springfield Boulevards to the east. It includes communities such as Laurelton, Springfield Gardens and Cambria Heights, as well as St. Albans.

Already, Black Spectrum has had a chance to give the community a performance on the St. Albans Veterans Hospital grounds. In August, when the New York Shakespeare Festival brought Elizabeth Swados' "Under Fire" to the park, Black Spectrum was asked to provide the curtain raiser, an original play called "Unemployment."

Themes relevant to the black community will, of course, continue to flow into southeast Queens after Black Spectrum moves onto its wider stage. In new works, it will undoubtedly echo and perhaps enlarge on ideas that have galvanized it in the past—ironic plays like "2,000 Black" for example, in which black soldiers are sent on a secret mission to Africa to help put down a revolution. Or "Son of Man," about Christ being born in a welfare hotel. Or "A Land Beyond the River," about a 1954 segregation case before the U.S. Supreme Court. Working with Woodie King Jr. of the New Federal Theater, Black Spectrum hopes to take some of these plays on tour around the country. There is, too, Black Spectrum's involvement with younger members of the community. In addition to the professional company, it runs a Youth Theater Company and a Children's Company plus dance and video workshops.

As an imaginative, productive and tenacious creative force, Black Spectrum provides a different microcosm in southeast Queens. A challenge to the slide into decay, it is representative of other efforts in the area that have, some community leaders say, begun to turn the tide. Black Spectrum knows the job it wants to do and Clay is precise about just what that is.

"I'm committed to the idea that politics and arts can be blended together," he said. "Therefore, I want to see black theater develop a much closer relationship with the primary concerns that affect the black community. It must be a place where new ideas and philosophies are tested, where new life styles are dealt with and new approaches to our problems are delved into. Relevancy and entertainment must be in harmony."●

REAL CONSERVATIVES, PSEUDO-CONSERVATIVES

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. OTTINGER. Mr. Speaker, I am including in today's RECORD an extremely perceptive article by our distinguished colleague, Representative JOHN ANDERSON, which appeared in the New York Times recently. Mr. ANDERSON's essay goes to the core of the policy choices that face the incoming administration and Congress.

I commend Mr. ANDERSON's article to the attention of my colleagues; it is worth consideration by all self-styled liberals and conservatives alike.

[From the New York Times, Dec. 2, 1980]

REAL CONSERVATIVES, PSEUDO-CONSERVATIVES

(By John B. Anderson)

WASHINGTON.—With the coming into power of a new, so-called conservative administration, a key question may be asked: What kind of conservatives will be in charge—real conservatives or pseudo-conservatives? It makes a vast difference in policies and appointments.

Real conservatives believe that special subsidies are inappropriate and hinder the operation of the free-market system. Pseudo-conservatives, in sharp contrast, support special large-scale subsidies for big business. Pseudo-conservatives are sometimes called "corporate socialists" for this reason. Though their rhetoric is about Government waste, pseudo-conservatives vote for a wide range of money projects that benefit business with little trickle-down effect on the population as a whole.

To test this basic but often ignored difference, let's look at some issues of concern to conservationists. The conservation movement, as its name implies, has much in common with the true conservatives, very little in common with the pseudo-conservatives.

True conservatives believe that the Federal Government should not construct uneconomical and expensive public works—dams that make only political sense, shipping channels that no private investor would come near, highways that are inappropriate for an energy-efficient future. Pseudo-conservatives, on the other hand, are happy with big Federal bucks flowing to the builders of pyramids.

Real conservatives believe that, in order to work right, the free-market system must allow all of the costs of products to be included in prices. Such costs must therefore incorporate the price of pollution control, established either through sound regulation or, perhaps better yet, through pollution taxes. The marketplace can then reward the most efficient manufacturer. Pseudo-conservatives believe in eliminating sound regulation and allowing the cost of pollution to be passed on to the public in the form of "hidden taxes," damage to people's health and property and public resources.

Real conservatives believe that the Federal Government should operate its businesses in a sound economic manner. Thus, timber should not be sold at below the cost of taking proper care of the land, building the necessary access roads, and providing for the renewal of the forest. Grazing fees should be at fair market value and include the cost of range maintenance and improvement. Not so, say the pseudo-conservatives. They believe that the loggers and grazers should be allowed unlimited access to public lands, low-cost leases, and inexpensive fees and permits. The public—present and future—should absorb the costs of land degradation and erosion.

True conservatives believe that the prices of energy should be deregulated and that the various forms of energy, including the most important source of "new energy," energy conservation, should be allowed to complete fairly in the marketplace. They maintain that there should not be special subsidies from the Federal Government to bolster some forms of energy and to inhibit others. Pseudo-conservatives by contrast are for energy subsidies—depletion allowances, loan guarantees, purchase guarantees, Federal takeover of the costs of storing nuclear wastes, Federal limits on liability, and so on.

True conservatives do not think the Federal Government should continually bail out those foolish enough to build on flood plains and barrier islands when their property is repeatedly damaged or destroyed by inevitable natural disasters. They assert that it is wasteful for the Federal Government to build roads, bridges, and sewage-treatment plants on unstable, dynamic barrier islands. Pseudo-conservatives believe instead in subsidizing the development of such hazardous places.

Real conservatives believe that businesses releasing hazardous products or materials into the environment should bear the legal responsibility for the damages they cause and that the citizen whose health or property suffers should have reasonable access to the courts for relief. Pseudo-conservatives favor having the individual citizen, or if necessary the taxpayer, pay for the costs of such toxic risks as hazardous-waste dumps.

These distinctions are not academic. They go to the core of the policy choices that face the incoming administration and Congress.

If real conservatives are making these choices, progress can be made in balancing the Federal budget while at the same time providing a healthy, livable environment.

If pseudo-conservatives are in the driver's seat, the taxpayers and their environment will suffer.

The new administration and Congress are worth watching closely in the next few weeks for signs as to which of these types of conservatism is gaining the upper hand.●

CALBRAITH PERRY RODGERS AND THE "VIN FIZ"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. ANDERSON of California. Mr. Speaker, today marks the 69th anniversary of the completion of the first ocean-to-ocean transcontinental flight. In an industry that is so commonplace in today's society, it is rare to have the opportunity to pay tribute to one of aviation's pioneers. The man I speak of is Calbraith Perry Rodgers; his plane bearing the unusual name of the *Vin Fiz.*

Cal Rodgers was a brave man. He started his flight training at the Wright Bros. School of Aviation outside of Dayton, Ohio, and after only 1½ hours of instruction he flew solo. On August 7, 1911, Cal Rodgers was issued pilot's license No. 60, after completing the 60 hours of flight time required at that time to qualify for a license.

The Aero Club of Illinois sponsored a duration flight contest which Rodgers won and was awarded more than $11,000. This enabled him to purchase the first Wright brothers' plane ever sold to an individual. The plane was the only one of its kind—an EX-model biplane. Like most others of the day, the airplane was simple to operate. There were two speeds—wide open and stop. It had two levers, one for banking and the other for ascending and descending. There was only one instrument—a piece of string tied to a crosswire to indicate the wind direction. What a contrast to the current aircraft models.

Rodgers entered another contest, sponsored by William Randolph Hearst. The prize money of $50,000 would go to the first man to fly across the country in less than 30 days. Cal was sponsored by the Armour Co., and in return helped to promote their new soft drink, by giving his plane the same name—*Vin Fiz.* Armour paid him 5 cents per mile flown east of the Mississippi and 4 cents for each mile he flew west of the Mississippi.

Rodgers took off from Sheepshead Bay, Long Island, N.Y., on the September 17, 1911. Following what was known as the iron compass, Rodgers flew over the railroad tracks behind the Vin Fiz special, a private train used to carry the mechanics' repair shop and which had a complete second plane, as well as extra wings, props and spare parts. A pullman car was provided for Rodgers' wife, Armour officials and the mechanics as they traveled west with Cal Rodgers.

In the *Vin Fiz,* which was powered by a 35 horsepower, water-cooled engine, Cal traveled west at an average flying speed of 52 miles per hour. But during much of the elapsed time he was not flying. After 68 hops and 15 crashes he landed safely at the Pasadena Fairgrounds on November 5, 1911, ending his historic transcontinental flight. But about 3 weeks too late to collect the Hearst prize money. Rodgers had recorded 4,321 railroad miles in a plane that, when fully loaded with oil, water, and gas, weighed only 196 pounds. His longest sustained flight time was 40 minutes, a record that held until 1919.

But Rodgers had a burning desire to really fly coast to coast. Having already dipped the wheels of the *Vin Fiz* in the Atlantic, he took off from Pasadena for the Pacific Ocean, wanting to dip the wheels of the *Vin Fiz* in the Pacific. He was forced down in Covina with a broken fuel line. It was late evening before he could take off again. During this next flight, the fuel line clogged, and he crashed in Compton, Calif., breaking both legs, a collar bone and cracking several ribs. During his month long convalescence he was a mere 7 miles from the Pacific Ocean.

On the morning of December 10, 1911, Cal Rodgers set out again for the

Pacific, and shortly thereafter, with his wheels glistening from touching the blue waters of the Pacific Ocean, landed in Long Beach, Calif., on the beach at the foot of Linden Avenue.

Calbraith Perry Rodgers died tragically 5 months later when a seagull flew into the controls of his airplane and caused it to crash at almost the exact place he had landed the *Vin Fiz* on December 10.

Most of us who serve in this Chamber are dependent upon air travel to serve our congressional districts. The ease with which we can travel back and forth is a direct result of the courageous and dedicated men like Calbraith Perry Rodgers. To the pioneers of the aviation industry, both present and past, I give my most sincere thanks and praise.●

JOHN LENNON

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. RITTER. Mr. Speaker, 2 days have passed since John Lennon was murdered, yet the horror that millions of Americans feel at that senseless act of violence has not diminished.

John Lennon was a creator. An artist with a flashing genius, he was one of those very few extraordinary people who create art that transcends style, fashion, or season. Less than any single song or performance, it is the whole body of music that John Lennon produced, alone or with others between 1962 and 1980, that amazes us by its richness, variety, and dazzling talent.

Traditionally, adults have looked on rock music with disfavor, not so much because they dislike it, as because it is often seen as threatening or antiestablishment in tone. Rock and other popular music is often seen as a statement of rebellion. This was no less true during the Beatles golden years. They burst on the scene to the confusion and often disapproval of the older generation even before we knew there was such a thing as a generation gap. Later, some viewed the Beatles as being openly antiestablishment, but perhaps they didn't listen closely enough to the words and the themes.

Yet there was always one important truth about the musical genius of John Lennon that perceptive listeners knew then, and that is as clear as sunlight as we look and listen back today. John Lennon's music may have been sometimes brash, challenging the norm, but it was never negative. His was never the music of chaos, fury, destruction, or despair. John Lennon's music was not the music of a pessimistic man. It was music filled with wit, humor, vigor, and ultimately hope. It was a positive statement and looked at the bright side of the human spirit.

Mr. Speaker, I believe I speak for millions of Americans who enjoyed the music of John Lennon when I express our solemn prayer that the music he wrote and sang be a reminder to all of us that the life and times of John Lennon reaffirmed the irrepressibility of the human heart.

I would like further to ask that the following editorial, which appeared in the Washington Star on December 10, be reprinted in the RECORD:

WE READ THE NEWS TODAY OH BOY

John Lennon, before he was struck down on a New York street by a madman's bullets, was probably struck by divine lightning. How else to explain his music? How else to explain the sense that something irreplaceable has been taken from the world?

Perhaps no one will understand how John Lennon and Paul McCartney suddenly became more than popular songwriters, a change that seemed miraculous; it was often hard to tell who wrote what. But however inexplicable its genesis, their music came powerfully into the world. They spoke, in the truest sense, a universal language.

The body of work left by the Beatles, mostly Lennon-McCartney songs, was extraordinary. The freshness of their lyrics, the grace of their melodies, cast hypnotic spells and astounded other musicians. Leonard Bernstein marveled at such gifts; Arthur Fiedler spoke of their genius. They had, together, a mysterious and wonderful talent.

In any land where radios and phonographs were permitted, people mostly young, were suddenly given a new language to share. It was language subversive, revolutionary, poetic, filled with phrases like the one from "Eleanor Rigby," who "waits at the window, wearing the face that she keeps in a jar by the door." It might shout: "Hey, Bungalow Bill, who did you kill?" It often sounded unlike music written before, as in the haunting "A Day in the Life," which began "I heard the news today oh boy/ about a lucky man who made the grade." In all of it one could hear the voice of John Lennon, the "intellectual Beatle," the one who wrote books and said the Beatles were more popular than Jesus and publicly spent a month or so in a Canadian bed. But the poses ended and the music endured.

F. Scott Fitzgerald has written of seeing life through the world of popular songs. The Beatles made more people do that, perhaps more intensely, than anyone had before. The generation they grew up with discovered later that schooldays, courtship, marriage, the cycle of things, was powerfully touched by Beatle songs. It was a sentimental attachment, but the sentiment was inescapable. It went beyond all those transformations (drugs, pop-mysticism, long hair, anti-war politics, anti-revolutionary declarations, etc.) by which the Beatles shocked their elders and amused their contemporaries.

So John Lennon's murder tears not only at art, but at memory. It was an act of vandalism, slashing out at civilized life. How easily it seems to happen these days. The horror is all the more intense when the life so suddenly ended had created—and still promised—as much as John Lennon's life. Anarchy indeed seems loosed upon the world.●

JUDGE JOHN A. DANAHER

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. COTTER. Mr. Speaker, 2 weeks ago Judge John A. Danaher announced his resignation from his U.S. circuit court of appeals judgeship. Judge Danaher will retire after a long and distinguished career during which he ably served the people of the State of Connecticut and the Nation in many capacities.

Judge Danaher began his career 58 years ago as a Federal prosecutor. He was elected to the U.S. Senate in 1938, and was selected for the appellate court in 1953 by President Eisenhower.

The dedication and determination Judge Danaher brought to his work earned him the respect of all who knew him, and knew his work. He will be missed.

We have been friends for a long time, and he has been a source of wisdom and information that has enriched my life. I wish him the very best during his retirement, which he so richly deserves.

At this point in the RECORD I am inserting an article which discusses a number of the contributions of Judge Danaher during his career.

[From the Hartford Courant, Dec. 1, 1980]

RETIRING JUDGE BIDS FAREWELL TO CAREER

(By Andrew Kreig)

The quiet man with the genial smile, once known for his forceful, partisan voice in the U.S. Senate, won't be seen anymore at Hartford's federal courthouse.

John A. Danaher last week announced his resignation from his U.S. Circuit Court of Appeals judgeship. It ended his public role in the Danaher family tradition of politics and law.

But Danaher, who was a strong contender in 1956 for the U.S. Supreme Court post that went to William J. Brennan Jr., did not quit the appeals court before making an eloquent speech Wednesday in his last courtroom appearance.

It was to swear in his grandson to practice in Connecticut's federal courts. The 81-year-old former U.S. senator told John A. Danaher III that, like other attorneys admitted to federal practice, he has an important public responsibility that requires reporting legal wrongdoing to judicial authorities.

The swearing in, which was authorized by special orders from the U.S. Supreme Court and the U.S. 2nd Circuit Court of Appeals, was an unusual mix of black-robed ceremony and family picnic.

The Danaher clan gathered with cameras to watch as the old judge recounted the family saga to his grandson, a law review editor at the University of Connecticut who is now a clerk to Connecticut's chief U.S. District judge, T. Emmet Clarie.

The elder Danaher began with the story of the 1840s emigration to Connecticut of the family forebear, John Danaher. He ended with the statement that Connecticut's federal courts are "fundamental to the welfare of thousands of people, year-in and year-out."

The Danaher family was among the first Irish Roman Catholics here to become Republicans.

Danaher, in an interview last week, told a story about the 1904 conversion to the GOP of his father, Cornelius J. Danaher of Meriden.

It seems that two Irishmen were standing on a Meriden street corner, and one said, "Did you see that Con Danaher has become a Republican?"

Replied the other, "Glory be to God. And he was at mass only Sunday."

The story illustrates the hold that the Democratic Party had on America's Irish-Americans, who generally viewed the Republicans as the political arm of the dominant Protestant business establishment.

But Cornelius Danaher in 1904 supported Theodore Roosevelt for president in opposition to New York's Democratic Tammany Hall leaders.

Cornelius Danaher, Connecticut's longtime state labor commissioner, stuck with the GOP—along with his sons John Danaher and Francis R. Danaher, who was five-term mayor of Meriden.

Cornelius Danaher, who at the time of his death at 88 in 1958 was reputed to be the oldest practicing attorney in the state, could look at a brood that included one grandson, Robert C. Danaher, a practicing attorney in Hartford, and another, John A. Danaher Jr., who was a career FBI agent. A great-grandson, attorney R. Cornelius Danaher, was West Hartford's deputy mayor until last year.

Judge Danaher began his public career 58 years ago when he was named one of three federal prosecutors in Connecticut. He held that post for 12 years until he decided he shouldn't keep it while holding his other job, secretary of the state for Connecticut.

Danaher, a conservative isolationist and "America First" advocate, was elected to the U.S. Senate in 1938 and became a relentless critic of Franklin Delano Roosevelt's military policies.

Danaher said Roosevelt was trying to sneak the United States into World War II on Great Britain's side.

Even today, Danaher said he thinks Roosevelt intentionally allowed the Japanese to attack Pearl Harbor so that the United States would be brought into the war.

The U.S. never should have entered World War II, said Danaher in last week's interview. He said most of Europe is no better off now than it would have been without our war effort.

But Danaher had vigorous critics in his unsuccessful 1944 campaign for reelection, according to newspaper clippings now yellowed with age.

Even a GOP congressman from Vermont gloated after Danaher's defeat. That congressman said, "The Republican Party never could cover him up as an out-and-out, discredited isolationist. I helped lick him in Connecticut, and I am proud of it."

Danaher, who had a reputation for a sharp tongue, replied that the verbal attack could not be the congressman's "sober judgment."

A workhorse in the Republican Party, Danaher directed the party's generally successful effort nationwide in 1952 to elect senators and house members.

In 1953, Danaher was the first appellate court selection by President Dwight D. Eisenhower.

Danaher, who had wanted to be named to the 2nd Circuit handling federal appeals from Connecticut, New York and Vermont, was instead named to the circuit court for the District of Columbia, which handles many big lawsuits arising out of federal government regulations.

Danaher said he had broad national support among Republicans in 1956 to fill a Supreme Court vacancy.

But Eisenhower in October 1956 picked Brennan, a New Jersey Democrat, because of the request of a close presidential adviser, Danaher explained. The adviser, running that year for a U.S. Senate seat in New Jersey, felt Brennan's selection would aid the GOP in that state, Danaher said.

Brennan is still serving on the high court, and has been in the liberal majority on a number of decisions that have profoundly affected American life in the last quarter century.

Danaher, conservative even by Republican standards, said Brennan was among the justices on the Warren Court who erroneously used the 14th Amendment on due process to create new "rights" for litigants. After the Wednesday ceremony in Hartford, the elder Danaher announced his resignation from the U.S. Court of Appeals for the District of Columbia.

He said this trend clearly became apparent in the 1954 case Brown vs. Board of Education outlawing segregated schools, and has since had many bad effects, mostly in criminal law enforcement.

Under Chief Justice Warren E. Burger, "There is an increasing realization that the 14th Amendment did not create these rights," Danaher said. Burger served many years with Danaher on the Washington federal appeals court.

Danaher, based in a sixth floor office in Hartford's federal building since he took part-time senior status on the appeals court in 1959, has traveled to Washington and New York during that period to work on court appeals.

Since his last case two years ago, he has compiled his papers for collections at Yale and Columbia universities, both of whose law schools he attended.

The precise nature of Danaher's job or career has not been widely known in Hartford's federal building.

There, many know him only as a smiling, unobtrusive fellow who often eats lunch alone in the bare-tabled federal cafeteria.●

GUNS FOR HIRE

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. FORD of Tennessee. Mr. Speaker, a constituent of mine, Mr. Ira A. Lipman, president of Guardsmark, Inc., a security-services firm, has recently published an article in the New York Times of November 23, 1980. I believe that this article will be information to my colleagues, and to those they represent:

GUNS FOR HIRE

(By Ira A. Lipman)

MEMPHIS.—It is a testament either to the adaptability of human nature or the survival instinct that, faced with rampant crime and police cutbacks, businessmen and private citizens have turned to another method of protecting themselves and their property.

Private security guards are in one of the most rapidly expanding occupations in the United States, having grown in number by more than 75 percent since 1970. Remarkably, guards now outnumber policemen.

But the boom in private security has an ominous underside. Everywhere, leaders in the industry are noting an increase in demand for armed guards. This trend is disturbing because, given the nature of most guard assignments, guns are unnecessary and dangerous.

In 1979, California officials reported a more than 50 percent increase over the previous year in firearms applications from security officers, a trend that has continued so far in 1980. Texas has almost 40 percent more registered armed guards than four years ago, despite its strict licensing requirements—state licensing officials estimate that now 1 in 3 guards are toting handguns. In Florida, the ratio is about 1 to 4—well over 10,000 security guards there are carrying a weapon of some sort. One can only guess at the figures in states where licensing requirements are less stringent and records virtually nonexistent.

In a fearful society like ours, there are clear reasons for the growing popularity of armed guards—which is why the myths surrounding them must be exposed.

Contrary to common perceptions, armed guards do not enhance safety. In fact, they often provoke violent confrontations.

A common thief, with no intention of using his weapon, may perceive an armed guard as a threat to his life. Often innocent bystanders are wounded or killed in the panicked shooting that may follow.

Private security officers in most jurisdictions have no more legal power of arrest than common citizens, a crucial fact forgotten by many who equate security guards with police officers. Badge and uniform lend guards authority and influence. Guns no doubt enhance this image. But at the same time, guns invite a transgression of a guard's statutory limitations.

The decision to use a handgun requires split-second finely-honed judgment, usually instilled by public law-enforcement officials during training sessions. For example, in New York City, police cadets are schooled in the discriminating use of "deadly force" in "walk-through" sessions, where targets depicting muggers and bystanders spring from doorways and closets. Police recruits in Los Angeles receive 14 weeks of basic firearm instruction—exactly one-half of their overall training—including an additional eight weeks of special training in the use and abuse of "deadly force."

Few private security firms have the inclination or the resources to provide such training, nor are they required to do so. The only check on the unrestricted distribution of guns to private guards lies with the states. Few have mandatory training requirements. In New York, whose gun-control laws are among the toughest in the country, a security guard can receive a pistol permit simply by meeting requirements established by counties. In Manhattan, there are two: no history of mental illness and of criminal conviction.

Ultimately, it is the security industry that must alert clients to the dangers and fallacies surrounding armed guards, and to provide proper safeguards in rare cases when weapons are genuinely required.

When armed service is mandated—as for nuclear plants and defense sites—or when a gun is vital to the guard's safety, security firms must provide more than what should be normally rigorous training. It is essential to assess a candidate's psychological propensity to use firearms safely.

Where and when possible, an applicant for armed duty should be administered a polygraph ("lie-detector") examination and an appropriate personality profile, such as the Minnesota Multiphasic Personality Inventory. Neither is an infallible indicator of one's fitness to carry weapons, but when professionally administered and interpreted in comparison to police-group scales, the polygraph tests and findings and the Minnesota Inventory can point out tendencies deserving further exploration during subsequent interviews.

The added costs incurred by instituting these safeguards are an investment in public safety. Effective armed service should cost more, to be certain that the necessary controls are provided and to ensure that it is used selectively.

In a society already prone to violence, guns are one more catalyst. In limiting the use of firearms by private security guards, we help protect a frightened society from itself.●

EULOGY FOR ROGER GREEN

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. WOLFF. Mr. Speaker, I rise today, sadly, to remark upon the untimely death of an exceptional and dedicated man, Roger Green. He died in the tragic fire at Stouffer's Inn in White Plains, where Arrow Electronics, of which Mr. Green was executive vice president, was having their annual budget meeting. It is not his brilliance that I want to remark upon, although he was a graduate of Bucknell University and Harvard Business School.

Rather I would like to discuss his unselfish dedication to his fellow man in his work as president of the Cancer Research Institute. Mr. Green held this position for 5 years in addition to his demanding position with Arrow Electronics. Most people with such a job which required so much of their time would say that they simply would not be able to take on extra philanthropic activities. Not Roger Green. The Cancer Research Institute performs valuable research in the area of cancer immunology. It is this kind of unselfish dedication to the plight of other people which can make this world a better place to live.

At this point I would like to insert into the RECORD the eulogy given by Dr. Lloyd J. Old, medical director for the Cancer Research Institute, paying tribute to Roger Green:

> Roger Green. What a lovely, lovely dear man. How superbly gifted with grace, humanity, charm. Where do we find another like you? How do we carry on without you?
>
> We grieve inconsolably for we have lost a most precious being and we cannot make sense out of why you were taken from us. But just as you always allowed us to do, we draw on your strength, your purpose, your direction for solace and for acceptance of what now overwhelms us and floods us with despair.
>
> How inconceivable, how incomprehensible you are no longer here. You come into our thoughts just as you always have, and just the way you came into our lives—confident, youthful, vibrant, sweet, caring. What extraordinary style and taste suffused everything you did. Were there limits to your talents? I saw none. And your enthusiasm—what limitless reserves were you drawing on? And that deep, deep caring and concern for us, each of us, all of us. The strength, purpose, direction you gave us when we were in need. We turned to you in our disappointment, frustration, uncertainty and you protected us and warmed our spirit with your care and patience, your gentleness and understanding, your guidance. You won our hearts over and over and over again to each of us in our own way you were our ever safe harbor.
>
> And what grand, grand accomplishments and gifts you left to this world and how you enriched and enabled everything you touched. We must all come together at a future time to celebrate your achievements in the world of science and medicine and in the world of business. You created structures that will endure and prosper and bring great good to mankind. The Cancer Research Institute flourishes because of you, its promise and influence has never been greater because of your leadership, and its contributions to the eradication of cancer will forever be a living tribute to your memory.
>
> Roger Green. What a lovely, lovely dear man—son, brother, husband, father colleague, friend. How superbly gifted with grace, humanity, charm. Where do we find another like you? How do we carry on without you?●

FIVE FBI AGENTS LIE

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. JENRETTE. Mr. Speaker, a tragic episode in my recent Abscam trial was a spectacle of four FBI agents lying under oath. I can only assume they lied to help insure my conviction. I expected Mel Weinberg, the expert con man, to lie and he did—Melvin Weinberg in 1979 and 1980 received value in excess of $400,000 tax free. Never did I expect agents of our Government to lie as they did.

Tony Amoroso, the field undercover agent, lied on a number of occasions. He stated he did not know who JOHN JENRETTE was until April or May 1979. Documents now clearly show he knew who I was and that I had financial as well as drinking problems in 1978. He also stated under oath that he felt there was no evidence of my willingness to take a bribe in May 1979. This was true. However, on May 15, 1979, incredibly he sent a report to FBI headquarters saying in essence I was willing to take a bribe. This report is completely false. This document was withheld by the Government at my trial. It resulted in the FBI contriving to pursue me based on false information. He lied by saying that he had no recording equipment on the day of a very important telephone call which he made to my codefendant, John Stowe. Later, however, he not only had a tape recorder but recorded two telephone calls from the very same room on that same day. He lied as to not knowing Jim Freer and he also lied as to who made the decision to go after an individual target in their probe. The transcript is full of Anthony Amoroso, also known as Tony DiVito, and his lies. His personnel file with the U.S. Government should reflect his flagrant perjured testimony in the U.S. District Court in Washington.

David Burch, an FBI agent stationed in Washington, D.C., the videotape operator, lied when he said he did not know about JOHN JENRETTE. In fact he interviewed Phil Permenter, a former business partner of mine, some 25 times after a complaint initiated by the then U.S. attorney for South Carolina who was the former campaign manager of Ed Young, my opponent in the election. The complaint alleged unlawful buying practices. No charges were ever filed and Attorney General Levy dismissed the investigation. Burch further lied as to how an important December 3, 1979, tape was handled. This tape was suppose to show that I had the criminal predisposition to sell my office. The fact is that the tape is almost inaudible, even though made on the most expensive equipment owned by the Federal Bureau of Investigation. The portion of the tape that is decipherable shows I was enticed to go to the W Street house. The tape, according to the information personally given to me by the codefendant, was adequate to show that not only did I not know why I was going but that he was reluctant to tell me.

David Burch had other instances of selected forgetfulness, which I think should certainly go in his personal file as he continues to attempt to represent the United States through the Federal Bureau of Investigation. Gunner Askline, an FBI agent stationed in Miami Fla, lied as to what day he knew about JOHN JENRETTE. He lied about his involvement with Joe Meltzer, and he also lied about information relating to a certificate of deposit "buy-bust" deals in the Florida-New York area involving individuals that knew JOHN JENRETTE. These matters should not go unnoticed in the personal file of Gunner Askline.

William Hussey, an FBI agent in Myrtle Beach, S.C., should probably get a gold star for going out of his way to tell a lie at the trial. William Hussey was brought to Washington in an effort to discredit me. Hussey came into court to refute my testimony that I had given, on the scene, assistance to the Federal Bureau of Investigation in capturing one of its 10 most wanted fugitives a few years ago in North Myrtle Beach, S.C. His main purpose of testimony was to state that I had not been on the scene at the time the individual was apprehended when in fact I was on the scene and was involved. What is so incredible about the lie is that William Hussey had talked about the case with other law enforcement agents who has been in all the arrests. Obviously, the Bible means little to Hussey, Askline, Amoroso, and Weinberg, because the Bible condemns tempting one's fellow man, creating sin and lying. Hussey's lie was so unnecessary. It is frightening to think that the FBI would go so far. What did Abscam have to do with helping the FBI years ago? I had used a commendation letter I received from Clarence Kelley to show that as a private citizen I had supported law enforcement and also had gone on to state that my congressional record of support of law enforcemnt was very clear.

William Hussey's lie was a wasted lie but I certainly hope that it will not be wasted and that it will show up on his record.

John Goode, a supervisor from New York, who is in charge of Abscam and who is presently under oath in due process hearings, stated during the first day of hearings that he knew my name in late 1978 or early 1979. The next day he attempted to state that he had been mistaken and that it was April and May 1979 before he had known my name. Ken Robinson, my attorney, under questioning found that in addition to that mistake he had violated a court order and had consulted with the prosecutor Mr. John Kotelly between the first day of hearings and the second day of hearings. Judge Penn has specifically stated that there will be no conversation about the matter and Goode violated this. Goode was good to the extent that he allowed himself to be trapped when he stated that there were in fact 25 volumes of documents relating to Abscam. Tony Amoroso, David Burch, Gunner Askline, and all of the other individuals including Mel Weinberg, testified that there has been no written documents in connection with the Abscam matter. The prosecutor—especially a dishonest zealot from Brooklyn named Tom Puccio—repeatedly told Judge Penn that there was no paper trail of documents in Abscam. Judge Penn continued to question the Government about the absence on any documents and stated it was inherently incredible that on such a case as Abscam that none existed. To our amazement, after my guilty verdict, the documents are beginning to appear. Even more offensive, I hope, to the Congress should be the fact that on November 12, 1980, John Goode testified that he and his colleague, Mike Wilson, had made the decision as to whether or not to go after JOHN JENRETTE. All of the other FBI agents stated that the consideration had gone all the way to the Director, William Webster. Webster testified before the Congress and gave numerous press releases that the decision as to whether to pursue a Member of Congress was made on his level following certain clear-cut guidelines. It is obvious that these guidelines were not followed in my case. Mr. Webster and his crew of creators of corruption, Benjamin Civiletti, Philip Heyman, Irv Nathan, and Charles Ruff, have misled the Congress, the judiciary, the American public, and the media. Their motives are sinister and must be demonstrated.

Mr. Speaker, five individuals remain in my comments here. Four of the individuals mentioned are on the stand under oath in my trial. These individuals are agents paid by the taxpayers of America. The duty I contend is to apprehend individuals suspected of committing a crime and to present to me truthful evidence to the court and the jury to make a determination. I have never believed nor will I ever believe that it is the purpose of law enforcement officers to glorify in the number of successful trials that they participate in. I do not see this as being responsible good law enforcement. Agent John Goode was brought forward only after the trial in our due process hearings; during the trial he refused to speak to us; he has lied. But my attorney, Ken Robinson, was able to elicit from him information that should be of great concern to Members of Congress. There are 25 volumes of documents in New York. These documents, I know, cover the names of many Members of Congress who were mentioned by some individuals and consequently targeted by the abusive, discretionary act of John Goode and the manipulative forces of Amoroso, Weinberg, Pucchio. There were leaks and some of the hunted avoided implication. I suspect that in the 25 volumes that you will find that John Goode or someone of his caliber making decisions not to pursue Members of Congress and making some decisions to pursue Members of Congress. I think the question of great importance is, How was the selection made? What effort were made to create crime?

Mr. Speaker, this is of major concern to the Congress of the United States. I bring this to your attention and the Members' attention as well as the public's attention. It is a matter of great concern and one that should be thoroughly investigated. After I have left this wonderful body of which I have been a Member for 6 years there are answers that the Congress must find if it intends to protect its constituents and itself. Judge Fullam of the Federal court in Philadelphia has stated as much in a recent 63-page opinion directed against Weinberg, Amoroso, Pucchio, and the Government. Find the answers, Mr. Speaker, not for JOHN JENRETTE, as I am no more. Find them for America before it is too late to stop the powerful forces of abusive Government intended to imbalance the scales that weigh our freedom. The executive, judicial, and legislative branches of Government are equal. Make sure that the executive branch always remembers that.●

IN MEMORY OF MABEL BOYLE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. OTTINGER. Mr. Speaker, I wish to commemorate today Mrs. Mabel Hill Boyle, a resident of Ossining, N.Y., just recently passed away, who represented the essence of community spirit.

Mabel Boyle was a newpaper executive in Westchester County until her retirement in 1968, and she was always a community activist. But those descriptions do no justice to the degree of her commitment; nor do they adequately describe the degree to which she loved—and was loved—by her community.

Those of us who knew her, will of course, miss her. But the loss is much greater than that; a vital and interested person is gone, a loss for all of us.

Two articles by Virginia Grinager on the life of Mabel Boyle appeared in the November 22, 1980, Citizen Register of Ossining. I insert them at this point in the RECORD:

[From the Citizen Register, Ossining, N.Y., Nov. 22, 1980]

MABEL BOYLE, VILLAGE "WATCHDOG," DIES

(By Virginia Grinager)

Mabel Hill Boyle, source of comfort to many, symbol of courage and grit to many, and outspoken thorn in the flesh to many others, is dead at 75.

Mrs. Boyle a former Westchester Newspaper executive and a vigorous fighter for what she believed was right for her community, died at 5 a.m. today at Briar Crest Nursing Home. She resided at 36 Wolden Road, Ossining.

Since her retirement in 1968 as vice president of Westchester County Publishers, forerunner of the Westchester Rockland Newspapers of which this newspaper is a member, Mrs. Boyle turned her seemingly inexhaustible energies to working for the betterment of the Village of Ossining.

She was a fairy godmother in the morning, when she stopped daily at the Finast supermarket, picked up day-old food, and distributed it to the poor and needy, or to ill friends.

She was a dragon in the evening, when she turned up at village, town, or school board meetings, armed with detailed information, to challenge authorities when she thought they needed challenging.

Mrs. Boyle was born June 27, 1905, a daughter of George and Maude Acker Hill.

She joined Westchester County Publishers in November 1927, as a secretary, and then became office manager. In 1963 she was named administrative vice president, continuing in that post until her retirement. At the time of her death she was still on the books of Westchester Rockland Newspapers as a consultant.

She loved her years with the newspaper and was dedicated to her work. She often worked on Sundays, and when she was on vacation, called the White Plains company headquarters daily. She knew everybody and often seemed to know everything, fellow workers have said.

Her boss at Westchester County Publishers was William L. Fanning, a resident of Sleepy Hollow Country Club, then president of the newspaper company. "He was a stern boss," she once said, "and scared me to death for the first 35 years. For the last seven," she said, "I'd tell him to go to hell if I wanted to."

As a result of her newspaper career she was listed in Women in Communications, in Who's Who in American Women, and in World's Who's Who in Finance and Industry.

Upon retirement Mrs. Boyle had first thought she might try having a small fling in that stock market, but her eagle eye lit upon the Ossining scene in 1968 and it didn't please her. She didn't like the way the village was being run, and she felt there was too much apathy.

Although she was a Republican, she helped organize the United Ossining Party (UOP) which successfully opposed the Republicans then in office.

As independent as she was feisty, Mrs. Boyle eventually disagreed with and separated herself from the UOP, forming her own organization, Republicans Organized for Active Representation (ROAR).

While most of her active, if late, interest in politics was strictly local, it did branch out to embrace the candidacy of Steven Galef for county legislator.

In the course of a party honoring her on her 71st birthday, she remarked that the largest party ever held in the spacious basement of her Wolden Road home was a celebration of the Galef victory, attended by 102.

That basement was the scene of many gatherings, and decisions reached there, according to her intimates, often affected the village's future. Galef says he can think of no one who has had more behind-the-scenes influence in Ossining.

The ROAR organization gave way in time to the Taxpayers Watchdog Committee which Mrs. Boyle led with her customary energy. Then the death of her husband, James J. Boyle, in June of 1976, came as a terrible blow to the loving wife.

The couple's lives had been organized in a smoothly dove-tailing fashion, each day starting with Mrs. Boyle's trip to Finast while Mr. Boyle went to church. Then they would meet for breakfast at the Highland Restaurant on Route 9 where numerous friends would join them and where they would hash over the previous day's happenings in Ossining.

After that Mrs. Boyle would sort and rewrap the food provided by Finast and its manager, whom Mrs. Boyle held in high esteem. The food was distributed by Mrs. Boyle, with the help of friends, to the Sisters of the Sick Poor at Mariardale for their own sick sisters, to St. Matthew's Day Care Center, and to families and individuals. Mrs. Boyle would always take the trouble to seek out special items or special brands favored by some of those she helped.

In the early afternoon Mr. and Mrs. Boyle would unplug the busy telephone and rest. All the time she had to spare was spent in her busy-looking study where she kept detailed files on everything within her field of interest.

Mrs. Boyle Remembered as Voice of Community

Ossining Mayor Edward M. Wheeler and Town of Ossining Supervisor Richard Wishnie were among those expressing their sorrow today at the death of Mabel Hill Boyle of 36 Wolden Road, Ossining resident who was active in every area of Ossining life—in village, town and schools—for more than 10 years.

"Her passing leaves a void in the community that will be hard to fill," said the mayor. Referring to her 42 years in the newspaper field, Wheeler said belonging to the press and being a lifelong resident of Ossining gave her a unique background.

"She was able to give input based on experience to the community and its leaders," he said. "One didn't always have to agree with Mabel," he added, "but one had to respect her opinions and give credence to her positions. She did her homework, and she knew what she was talking about," he concluded.

Wishnie termed Mrs. Boyle a "citizen leader who cared deeply about our community. She spent countless hours," he said, "investigating issues and educating the community on important decisions to be made.

"I personally valued her opinion, her guidance, and her friendship, and I'll miss her," he said.

Louis H. Engel Jr., former town supervisor and former village trustee who had known Mrs. Boyle ever since he entered public life in 1969, said she was everything that the phrase, "public spirited" embodies.

"Her concern about local government and its effectiveness," he said, "was evidenced by her forthright criticism of any and all actions by elected officials, regardless of party affiliation, if she did not consider them to be in the public interest. She was the voice of the community," Engel said, "and the loss of that voice will be sorely felt."

Jodeine Wang, current president of the Taxpayers Watchdog Committee founded by Mrs. Boyle, called her the "inspiration and the conscience of Ossining. She was tough-minded and forthright on public issues," Mrs. Wang continued, "but warmhearted with all her friends and acquaintances, and very generous with her time and energy. TWC will miss her," Mrs. Wang said, "but will continue to try to measure up to her high standards."

Steven Galef, former county legislator whose first campaign Mrs. Boyle helped to organize, spoke of her wide, behind-the-scenes influence, commenting, "She was adviser to 101 people, and never failed to let anyone know exactly what she thought."

He spoke of Ossining as it is today and as it was in 1968 when Mrs. Boyle, on retiring from the newspaper world, devoted her energies to matters concerning the village, town and schools. He credited her with having provided much of the motivating power behind the rejuvenation that is going on in the village now, and termed her the "mother of modern Ossining."

Brian Donnelly, president and publisher of Westchester Rockland Newspapers, who knew Mrs. Boyle well and had worked with her in her newspaper days, termed her a "remarkable woman. Seldom," he said, "do you find a person who played such an important role both in the company where she worked for more than 40 years and in the community in which she lived all of her life. She was," he said, "a very special person."

Guido Cribari, executive sports editor for Westchester Rockland Newspapers who was also sports editor for the former Westchester County Publishers, and who has been a friend of Mrs. Boyle's for 39 years, said she was a "spectacular person, an incredible woman, and an important one." Mrs. Boyle was way ahead of her time, said Cribari, and in effect a feminist before feminism became popular.

George Kane, former village trustee and old friend of Mrs. Boyle's said simply, "She was an exceptional person. She was like family to me. Ossining has lost one hell of a lady."

Kenneth W. Ritchie, old friend active in Ossining affairs for many years, said every community should have a Mabel Boyle, a person "honestly concerned with every aspect of life for every citizen, every day."

In her own "candid and all too often caustic manner," said Ritchie, Mrs. Boyle voiced thoughts "much of the community wanted to hear but would never say for themselves."

For 75 years, said Ritchie, Ossining was fortunate in having its own Mabel Boyle. "Ossining was blessed," he said, adding, "Now it's heaven's turn."●

TRIBUTE TO RICHARDSON PREYER

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. O'NEILL. Mr. Speaker, I would be greatly remiss if I did not join my colleagues in honoring one of the most decent, honorable, and erudite Members of the House, the Honorable Richardson Preyer, on the occasion of his departure from the House of Representatives.

It is truly regretful that we are losing the services of such a high caliber Member of Congress as Judge Preyer. We are all familiar with the extraordinary legal background that Judge Preyer had as a municipal, State supreme court, and Federal court judge before he came to the House. He has represented the interests of the Sixth District of North Carolina with real dedication and a strong sense of purpose for more than 12 years. He has been one of the most widely respected and admired Members of the House on both sides of the aisle, and he is universally at ease with northerners, southerners, easterners, and westerners. Richardson Preyer is a southern gentleman in the finest and noblest way.

To those of us who have served over the years with Rich Preyer, he has been a Member whose word is golden, whose commitment is genuine and unwavering; he understood fully the complexities of the legislative process and has pursued his chosen political course in a dignified and responsible fashion.

Many adjectives and laudatory phrases could be used to describe Richardson Preyer—conscientious, hard working, dedicated, quiet, and reassuring self confidence, yet, the one descriptive word that stands out above all else is integrity. Richardson Preyer has been, without a doubt, the most decent and honorable Member with whom I have had the privilege to serve.

Because of this remarkable quality I asked him to serve as a member of the Committee on Standards of Official Conduct, an assignment that measures the moral mettle of its Members. Each Member assigned to the Ethics Committee is faced with certain allegations of wrongdoing against one of his colleagues. He has to look at the merits of the specific allegation to determine what disciplinary action is necessary, if at all, and he has to review the individual case in a dispassionate, objective, and impartial manner. It takes an individual of real character and integrity to put aside partisan or personal prejudices and to fulfill the obligations that this committee requires. No other Member fulfilled the responsibilities and obligations of this assignment in a more admirable way than Rich Preyer.

In every kind of measurement, Rich Preyer is a person of high caliber; he has been a top-quality Member of the House, and to those of us who know him well, a superb and compassionate human being.

I wish Rich Preyer health, happiness, and every success in all his future endeavors.●

TRIBUTE TO HON. BENNETT STEWART

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. DUNCAN of Oregon. Mr. Speaker, Bennett Stewart's stay in Congress was all too brief, but I feel particularly privileged to count this distinguished gentleman among my best friends. Benny has been an exceptionally good member of the Transportation Appropriations Subcommittee. He has always been able to ask very searching, ingenious questions of a witness without ever losing his good humor. I regret that the citizens of Chicago will not be so fortunate as to have his services during the next Congress, but I look forward to many years of friendship with this very able Congressman.●

TRIBUTE TO RICHARD ICHORD

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. COLLINS of Texas. Mr. Speaker, I would like to join in paying my respects to my good friend, Richard Ichord of Missouri. Ichord stood firm for Americanism during an era when much of our nationalism was soft.

I will always remember the great leadership that Richard Ichord gave to the House Committee on Internal Security. The House should have listened more closely to the fine hearings with the background that was developed.

Ichord always voted like he talked. He was opposed to big government and big taxes. Around the Hill we hear so many express those sentiments and then vote for every big spending program. Dick Ichord had political courage and you could always count on him when there was a difficult vote.

Dick has the wonderful, friendly spirit of a man raised in the open country of the Middle West. With all his vigor and enthusiasm, we are all going to miss Dick Ichord. When you think of God and country, you think of Dick Ichord. And when you think of a strong America, it is Dick Ichord who is always in the forefront. Ichord of Missouri is a good man. We are going to miss him here in Congress.●

TRIBUTE TO RAY ROBERTS—DISTINGUISHED LEGISLATOR, GREAT FRIEND OF VETERANS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. BIAGGI. Mr. Speaker, the departure of Ray Roberts from the House will truly be a major loss. I am especially pleased to take this opportunity to pay tribute to my good friend Ray and review some of what made him the leader he was in the House.

Ray Roberts entered this House with an immediate sense of notoriety—for he was the man who took the place of the illustrious Sam Rayburn. Ray Roberts, for the entire 18 years he has served here, has provided the people of the Fourth Congressional District of Texas with the highest quality of constituent service.

Ray Roberts will best be remembered by this House and the Nation for his outstanding work as chairman of the House Veterans Affairs Committee. Ray Roberts' commitment to the veterans of this Nation is unparalleled in this House or the Senate. He has fought successfully to allow veterans pensions and those provided to their survivors to keep pace with inflation. Ray Roberts believed, and his actions reflected, a commitment that no man who served his country in the military should be betrayed by that country when they get old. Ray Roberts has worked to insure increased geriatric care for the rapidly aging veterans population. He has established important programs for the Vietnam era veterans.

Ray was also an extremely effective member of the House Public Works Committee. I had the pleasure of working with Ray this past year on behalf of legislation providing compensation for victims of oil spills. Ray working with me sped the measure through our two committees and onto the floor where it was adopted overwhelmingly. Later when the Senate considered a superfund bill, and failed to include the oil spill provision, Ray worked especially hard with me to have it reinserted in the bill. Although we did not prevail, I did appreciate the support which Ray Roberts provided.

Ray Roberts is a steady, dependable, and reliable legislator and colleague. He is a gentleman with great charm and warmth. I will miss him in this House but know his legacy of service will endure for years to come and will serve as an example for future House Members. I wish he and his wife Elizabeth the happiest of times together.●

THANKS TO MY STAFF

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. KOSTMAYER. Mr. Speaker, as the 96th Congress draws to a close, and as I complete my second term in the House, I want to take this opportunity to recognize a group of people who have served me and the residents of the Eighth District of Pennsylvania so ably and so loyally, and that is my staff.

I have been blessed to have had the good fortune to work alongside so many fine men and women who have given of themselves unselfishly in the service of their community and the country.

No matter how long the hours or how burdensome the task, they have responded with enthusiasm. And they have never waivered in their commitment to make Government work for all the people.

I shall always be grateful for their hard work, and their many kindnesses to me and the people I have represented.

Thanks to the following staff members:

Edward Mitchell, Kingston, Pa.; F. H. Brewer III, Wayne, Pa.; John Seager, Perkasie, Pa.; Judith Braunston, Southampton, Pa.; Gary Felder, Yardley, Pa.; Scott Godshall, Southampton, Pa.; Marilyn Lesko, New Britain, Pa.; Michael Mael, Washington, D.C.; Patrick McNamara, Glenside, Pa.; Lynn Nesmith, Washington, D.C.; Clarke Rupert, Quakertown, Pa.; Herbert Sambol, Washington, D.C.; Alisa Sokolis, Southampton, Pa.; Margaret Swanson, Levittown, Pa.; Susan Tamny, Dublin, Pa.; Catherine Voytko, Roslyn, Pa.; Eric Rosenthal, Philadelphia, Pa.; Marianne Kuzma, Yardley, Pa.; and Judy Beck, Perkasie, Pa.●

TRIBUTE TO TIM LEE CARTER

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. JEFFORDS. Mr. Speaker, I am grateful for this chance to express my respect and gratitude for Tim Lee Carter's contributions to the work of this body. It has been a privilege to work with a man of such courage and ability. Tim will be sorely missed by all who shared this honor.

The House is losing a Member of unusual compassion and understanding. Tim will also be remembered for his deep conviction, and for the sturdy way in which he held to his beliefs.

We have all benefited by having a practicing doctor in our midst. Fortunately, our health legislation will continue to bear the mark of Tim's wisdom and ability.●

BUSING PERSPECTIVE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. DERWINSKI. Mr. Speaker, with the great uncertainty over the legislative veto prospects involving efforts of the Congress to bar the Justice Department from further legal suits in busing pupils out of their neighborhoods, I was especially pleased to see the editorial in the Economist newspapers, which serve the suburban Chicago area. In my judgment, the headline of this November 23 editorial, seems to say it all:

CONGRESS FINALLY REFLECTS VOTERS VIEWS ON BUSING

In opposing mass busing for the sole purpose of integration we have often pointed the finger at Congress for not representing the wishes of its constituency and outlawing such practice.

Now it looks like Congress is finally going to do exactly that. The Senate has approved a bill barring Justice Department spending to seek busing of pupils out of their neighborhood to achieve integration. The House has already voted in favor of the busing ban. We think the action is proper and in step with the thinking of the vast majority of citizens throughout the country.

We congratulate Congress for finally doing what it should have done years ago. We regret that neither of Illinois' senators, Republican Charles Percy or lame-duck Democrat Adlai Stevenson, voted in favor of the appropriation bill that included the busing plan. Stevenson soon will be gone from the political scene, though a rumor has started that he may want to run for governor. If so, voters will get a chance to question him about his vote then. Percy will still be around for a while and we trust voters will hold him accountable.

Whatever small gains busing may have contributed to an integrated society, it has not and never will be worth the cost in actual transportation, community conflict and educational deterioration it has left in its wake in many areas. The same amount of money spent on improving the teaching quality and designing a curriculum to meet the needs of individual schools would do much more and avoid the race bitterness that busing has engendered.●

TRIBUTE TO HON. GUNN McKAY

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PATTEN. Mr. Speaker, Gunn McKay will be leaving the Congress at the end of this session. His departure will most certainly mean a great loss to this body.

Gunn came in with the 92d Congress and he has made an impact during his career with the House. I have had the pleasure of serving with Gunn on the House Appropriations Committee. We both sat, for many years, on the Military Construction Subcommittee, and I was always impressed with his dedication and his perception of the problems before us.

Gunn was also the popular and very effective Chairman of the United Democrats of Congress. He will be hard to replace in this role as he made our job a little easier over the years by bringing us together with key personnel from the executive branch to discuss, on an informal basis, the problems confronting us.

Gunn, I hope that your future plans will bring you back into Washington often. I wish you and your family the very best in the years to come.●

TRIBUTE TO GUNN McKAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. BIAGGI. Mr. Speaker, for the past decade, this body has been most fortunate to have as a Member one of our Nation's most productive and upstanding citizens—Gunn McKay. Speaking as a friend and colleague, I deeply regret that he will not be returning next year.

A very religious and devoted family man, Gunn's deep sense of morality and responsibility have allowed him to serve Utah's First Congressional District, the Nation, and this body with great distinction and honor.

As chairman of the House Appropriations Subcommittee on Military Construction, Gunn has provided strong leadership in such sensitive and important areas as the MX missile and Space Shuttle programs, the relocation of U.S. troops in the Panama Canal Zone, development of U.S. military bases around the world, and the positioning and closing of military installations here in the United States. During deliberations on these and other important issues affecting our national security, Gunn has always advocated a policy of strong defense, with secure military facilities. As one who fully shares his belief that peace is only assured through strength, I commend him fully for the excellent and responsible job he has done as subcommittee chairman during a very crucial period of our Nation's history.

In addition, Gunn has served most admirably as the ranking majority member of the House Appropriations Subcommittee on Interior. In this capacity, Gunn has been especially effective as a leader of American energy independence efforts. He has actively supported the increased research and development of fossil fuel resources, and various other alternative energy sources.

Mr. Speaker, Gunn McKay's congressional career and entire life have been characterized by a high level of integrity and hard work. His vast abilities and friendship will be dearly missed, but never forgotten. It is with warm personal sincerity that I wish Gunn, his wife Donna, and their children all the best in the future years ahead.●

TRIBUTE TO EDWARD BEARD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. BIAGGI. Mr. Speaker, I would like to make note of the departure of our friend, Ed Beard, from this House at the end of the session and pay tribute to his work on behalf of the people of the Second Congressional District of Rhode Island.

Ed began his career in public service upon his election to the Rhode Island State Legislature in 1972. Before that, he was a painter and an active member of Rhode Island Painter's Local 195, AFL-CIO. His early association with the working men and women of this Nation provided the basis for his commitment to protecting the interests of laborers everywhere.

I was pleased to have served with Ed on the House Education and Labor Committee where we share many mutual concerns and causes. As chairman of our Subcommittee on Labor Standards, Ed was constant in his support of fair wages and working standards for all Americans. His subcommittee was responsible for issues such as minimum wage, workers compensation, and Federal employees compensation, which were all ably addressed by his fine leadership as chairman.

Ed was also a member of our ad hoc congressional Committee for Irish Affairs, of which I am chairman. As a member of our executive committee, Ed joined us in our efforts to increase the role of the United States in helping to bring peace and justice to all the people of Northern Ireland. As a member of our executive committee, Ed was constant in his contributions and support of our work. On behalf of our 133 members, I want to thank him for his efforts and let him know that the entire Irish American community in this country is grateful for his activity in this vital area.

I know that the future will hold many fine opportunities for Ed and that he will no doubt be back in public service before too long. I wish him the best of health and happiness and extend to him my hope for his continued success.

INKSTER CHURCH CONGREGATION TO HONOR DR. AARON BUTLER, JR.

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. FORD of Michigan. Mr. Speaker, I rise to honor the 350-member congregation of the First Missionary Baptist Church of Inkster, Mich., and their pastor, Dr. Aaron Butler, Jr. Despite innumerable setbacks accompanying a fire which ravaged their entire church in April of this year, the church congregation has completed its plans to honor Dr. Butler for his 15th year of leadership and service to the church on Saturday, December 13, 1980, at the Ramada Inn in Romulus, Mich.

I join the many local residents and Dr. Butler's congregation in congratulating him on this momentous occasion. His superior leadership and strength have been exemplified during these last trying months as the congregation began preparing for the construction of a new house of worship. I trust and hope that we can rely on his outstanding abilities for many more years to come.●

OAK RIDGE WILDCATS

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mrs. BOUQUARD. Mr. Speaker, it is with a great deal of pleasure and a sense of pride that I speak at this time.

As you are aware, I represent the Third District of Tennessee, which includes Oak Ridge. This past Friday, December 5, Oak Ridge High School participated in the State football championship class AAA title. For the second year in a row, the Oak Ridge "Wildcat" football team was victorious, defeating Germantown, an outstanding west Tennessee team from the suburbs of Memphis.

Credit is due Head Coach Emory Hale and his fine coaching staff for the exceptional record the Wildcats have achieved these past 2 years.

But, as in any contest, the greater credit must go to the players, the team, who displayed the dedication and determination necessary to achieve a championship title.

Finally, Mr. Speaker, this message to the Oak Ridge Wildcats: "Twice is nice, but make it three in a row in 1981—Go, Wildcats." ●

TAX LAWS THREATEN MISSIONARY WORK OVERSEAS

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. MATTOX. Mr. Speaker, a recent change in the tax laws poses a threat to the overseas operations of missionary groups as well as other charitable and educational organizations.

The Foreign Earned Income Act of 1978 repealed the provision of the Tax Code that permitted American citizens working abroad to exclude from U.S. taxation the first $20,000 of their income. These people are now subject to double taxation. They must pay taxes to the Government of the country in which they work as well as to the U.S. Government.

Without this exclusion, missionaries now find it very difficult to live abroad on the modest salaries that they make.

I cannot believe that Congress intended to throw obstacles in the way of missionaries when we repealed this exclusion.

We may soon have an opportunity to vote to reinstate the $20,000 exclusion for missionaries. The Senate Finance Committee has attached such a provision to H.R. 4968, the bill dealing with changes in carryover provisions for former real estate investment trusts, which originally passed the House under suspension of the rules on November 17, 1980. The Finance Committee has reported the bill, but the full Senate has not yet acted.

I call upon the Senate to pass this bill now. The time for Congress to act this session is fast running out.

Congress needs to act now to reinstate this $20,000 exclusion for missionaries. Our tax laws should not hinder the work of these good people.●

THE LOUIS MARSHALL AWARD TO ARNOLD SABIN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. SOLARZ. Mr. Speaker, it is not often that I feel compelled to call attention to the accomplishments of a particular individual. But in the case of my good friend, Arnold Sabin, I rise without hesitation to offer my congratulations on his being presented with the Louis Marshall Memorial Medal.

Louis Marshall was a highly esteemed constitutional lawyer who served as chairman of the board of directors of the Jewish Theological Seminary of America during the early years of the 20th century. He was a central figure in Jewish communal and religious life, and the award was established in his name in 1956 to honor men and women whose service to the Jewish Theological Seminary and the Jewish community maintains the traditions he established. Arnold Sabin is certainly a most fitting recipient of the award.

Mr. Sabin is a trustee and vice president of the Park Avenue Synagogue. For the past 3 years he has chaired that synagogue's campaign on behalf of the seminary. He has also served as chairman of the annual Louis Marshall dinner at the seminary, and sits on their board of directors.

Arnold Sabin has come forward as a leader in Jewish and civic circles alike. He has been a longtime supporter of the United Jewish Appeal as well as the Federation of Jewish Philanthropies of New York, and he is also a board member of the Brooklyn Philharmonic and a former officer and board member of the 100 Club.

Arnold has also been recognized as an authority in the coal industry where he has served as an executive for the last 30 years. He is presently secretary-treasurer and a director of Foreston Coal International. In addition, Arnold is a member of the Coal Exporters Association of the United States and has been called upon to serve as a guest lecturer in the field of coal at NYU.

I can think of few others more deserving of the recognition of the Louis Marshall Memorial Medal than my trusted friend Arnold Sabin. Once again, I offer my congratulations, as a friend as well as a Member of Congress, on this happy occasion.●

TRIBUTE TO HON. MIKE McCORMACK

HON. E DE LA GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. DE LA GARZA. Mr. Speaker, I am pleased to join my colleagues of the House of Representatives in paying tribute to MIKE McCORMACK who is leaving after 10 years of dedicated and effective service in behalf of the people of the Fourth District of Washington and the country.

During his tenure in Congress MIKE McCORMACK has distinguished himself for his knowledge and understanding of scientific and technical subjects, a knowledge which he has been more than happy to share with us.

I certainly wish MIKE McCORMACK good fortune in his career in the months and years ahead.●

IN MEMORY OF JOHN LENNON

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. ROTH. Mr. Speaker, when the world loses one of its best artists, as it has in the untimely death of John Lennon, indeed it is time to grieve.

A generation's culture, vision, and self-image were all shaped by the products of Lennon's understanding of the forces that dominated his time.

The dream is not over, but the tangible presence of a man who dared to dream is gone forever. Perhaps in the lingering melody of memory there is the real substance of peace.

John Lennon's gifts to a generation transcend the barriers of time and place as he made his experience and perceptions their own, and put them in the everlasting form of music.

Many will never forget; many will never cease to dream.●

LIVING—AND DYING—WITH GUNS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. OTTINGER. Mr. Speaker, today the world is in shock over the death of the brilliant performer and composer John Lennon. Mr. Lennon was shot several times in the back and in the chest outside his home in New York City.

Yesterday, a customer was shot to death during an exchange of gunfire with a bank robber during a holdup of a Washington bank.

Last Friday, Dr. Michael Halberstam, noted cardiologist, returned home from dinner to an intruder, who shot Dr. Halberstam in the chest and killed him.

These stories have captured the attention and imagination of the American people and the press, yet there are countless incidents of victims of handguns which do not make it to the front pages of our papers. These stories can be found in our hospital emergency rooms and in our morgues.

Our Nation has resisted responsible handgun control laws for far too long. How many of our friends, families, and neighbors must be killed before we band together and declare, "We have had enough."

Prior to his death, Dr. Halberstam started a campaign for the enactment of Federal legislation to control handguns. In a television broadcast made last month, Dr. Halberstam phophetically said:

> Let's put some of the same energy and urgency into controlling handguns as we put into controlling muscular dystrophy. Start now. Don't wait until someone you love and respect has been murdered by a psycopath with a grudge against society and a .32 special in his pocket.

Today, a Washington Post editorial echoed Dr. Halberstam's sentiment and I would like to submit the editorial, "Living—and Dying—with Guns," into the Record for the careful consideration of my colleagues:

LIVING—AND DYING—WITH GUNS

Yes, this is another editorial about guns—and yes, the killing Friday night of Dr. Michael Halberstam, a prominent man in the community, is an obvious occasion to bring up the subject of guns again. But there are occasions all the time in our midst: over the weekend and again yesterday morning in the middle of downtown others were dying by gunfire while their friends and neighbors continued to live in constant fear of it. And the stories of gun deaths will keep on crossing our desk.

Saturday's toll included these reports: on a playground at 20th Street and Benning Road NE, 23-year-old Tyrone Reese of Gales Street NE was found dead, shot in the left side; at a gasoline station on Burroughs Avenue NE, 15-year-old Fitzgerald M. Giles was hit with a blast from a shotgun during a dispute with a friend. And yesterday, during an armed robbery of a bank at 1325 G Street NW, a customer with a gun opened fire on the robber and then was killed in an exchange of shots. Should these deaths—and the next one, and the one after that—be dismissed as an inevitable part of life in a metropolis, or cited as reasons for people everywhere to arm themselves in self-defense?

No; at some point enough people will see through the insanity of a gun-toting society and will demand tough, sensible—and effective—controls on gun traffic. Already, more and more Americans are calling for stricter laws to control the sale and ownership of guns; they are seeing through the highly financed and self-serving propaganda of the gun-makers and lobbyists who falsely portray any effective gun control measures as infringements on individual rights. But whose "rights" are protected when practically anybody can buy an arsenal of deadly weapons?

The promoters of guns love to repeat the simple-minded refrain that "guns don't kill people; people kill people." But, as Dr. Halberstam noted in his television commentary only a few weeks ago, "handguns make it a lot easier—too easy." No single jurisdiction can control the gun menace, either; the manufacturing of and traffic in guns need uniform controls, enacted by those members of Congress with vision and courage enough to recognize that "gun controls" do not mean stripping away any traditions of the West, or any other part of the country, for that matter. On the contrary, those very rights, and the people who cherish them, deserve to live in the peace that sensible firearms controls could help to maintain.

Mr. Speaker, I am ready to work with my colleagues and with the American people to enact careful, thoughtful, and sensible handgun control laws. I have had enough.●

BOB CARR LEAVING CONGRESS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. BLANCHARD. Mr. Speaker, statesmen know how to ask the right questions. But, as all of us who have ever queried too close to an uncomfortable truth know, they do so at their own risk.

As long as he has been a Member of Congress Bob Carr has liked to ask questions. In 1975, when the Congress seemed to be bending to Henry Kissinger's pressure for more military aid to Southeast Asia, Bob Carr asked "why back down?" And so Congress did not back down.

After learning of a nuclear weapons reactor whose only function is to supply cheap steam to the Washington public power customers at the expense of the taxpayers in the rest of the country, Bob Carr asked "why the giveaway?" Now the prospects for ending this blatant Federal subsidy are quite good.

After seeing a Federal hospital with 350 beds and ony 32 patients, Bob Carr asked "why the waste?" Now the hospital is in private hands.

In the face of legislation to radically extend the arm of the Federal Government into electric power production in the Pacific Northwest and to continue the unwarranted sale of Federal electric power at below market rates, Bob Carr asked "why more Federal control, why more subsidies?" That battle is still being fought.

Such probing of the soft belly of the Federal Government does not always win friends. Mr. and Ms. Taxpayer will probably never learn of Bob Carr's efforts to slice away this fat, while bitter attacks have been launched by those who have benefited from these cozy arrangements.

But this is what acting in the public interest is all about. Bob Carr has dared to ask the sensitive questions. And he has dared to follow up on what he has learned.

Although Bob Carr will not be a Member of the next Congress, I will bet 10 to 1 that he will dare to continue being a questioner. And a statesman.●

THE LEGISLATIVE CAREER OF HON. BOB CARR

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. PRICE. Mr. Speaker, one of the less enjoyable tasks associated with being a Member of the House is that of saying farewell every 2 years to colleagues who by reason of age or electoral verdict will not be returning to Congress.

In the case of those who reach the end of the road after long, productive years of service the goodbys of old friends are a little sad but not really tinged with regret because destiny has run its appointed course. But occasionally a periodic riptide of election politics engulfs one of our young, emerging talents just beginning to make a mark on the legislative process. When that happens, it is a cause for regret because the departure is premature.

Having been around this club for 36 years, I am realistic enough to accept the fact that it is often the best and the brightest who are caught up in the tide. But it is always difficult when a casualty of our political system is someone with whom you have worked closely and grown to respect.

These things were on my mind as I began to put my thoughts together on what to say about the departure—at least the temporary departure—of a friend and colleague, BOB CARR.

BOB came to Washington as a member of the boisterous, precocious "Class of '74" which, because of its size and the climate of political reform surrounding its envestiture, made its voice and its views known in a manner rarely associated with a freshman class.

Admittedly, it took some of us old-timers a while to realize that the class of 1974 was not the spearhead of a new French Revolution storming our legislative Bastille. But on the other hand, I think it also took them a while to accept the idea that we carryovers from the Ancien Regime were not all Bourbon reactionaries.

BOB CARR was, in my own experience, the personification of the class of 1974 during our 6-year association on the Armed Services Committee. We disagreed many times on individual programs, but more often than not, I found that the leavening of youth and experience produced more balanced approaches to the complex problems with which we dealt.

Over the years, I watched BOB CARR grow and mature as a legislator—both in his approach to the issues, and in what he was able to accomplish. In his early years, he was typecast by some as antidefense because he often spoke out in favor of alternatives to the conventional wisdom of the defense establishment.

But in recent years, many of BOB'S views have become part of the new conventional wisdom. His work on our NATO Subcommittee was instrumental in stimulating greater emphasis on operation and maintenance funding and the near-term readiness of our forces. And the measurement of my confidence in him is best summed up by the fact that when the Congress decided to make O. & M. funding subject to annual authorization, I asked BOB to chair a panel to make recommendations on how the Armed Services Committee could best meet its oversight responsibilities in that area.

On behalf of the Armed Services Committee, I want to express our appreciation to BOB for his valuable contributions to the process over the past 6 years. And I want to close on a personal note. When you have been around the Hill as long as I have, you develop a sort of sixth sense about these comings and goings. And that old ESP tells me that Washington will hear a lot more from BOB CARR in the years to come.●

JOHN J. DUNCAN, JR., APPOINTED TO COURT POST

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. CARTER. Mr. Speaker, it has been my pleasure to have served with Hon. JOHN DUNCAN of the Second District of Tennessee for the past 16 years. JOHN DUNCAN comes from a family of distinguished Tennesseans. His son recently has been appointed by Gov. Lamar Alexander to the Third Circuit Criminal Court in Knox County, Tenn.

John J. Jr. richly deserves this appointment, and he certainly has honored his father and mother with his accomplishment. I wish to congratulate Congressman and Mrs. Duncan and include for the RECORD the story of their son's appointment from the Knoxville Journal.

[Knoxville Journal, Nov. 15, 1980]

DUNCAN JR. NAMED TO COURT POST

(By Ken Renner)

Gov. Lamar Alexander announced Friday he will appoint John J. (Jimmy) Duncan Jr., a Knoxville attorney, to succeed retiring Criminal Court Judge Joseph J. Nigro.

The son of U.S. Rep. John Duncan, R-Knoxville, and Mrs. Duncan, the younger Duncan will take office in January when Nigro's resignation takes effect.

Alexander said the 33-year-old Duncan "will be carrying on a distinguished family tradition of public service" when he assumes his new post.

"Jim Duncan has made his own way as a lawyer and has earned the respect of the legal profession and the community. He will be a fair and competent judge," the governor stated.

A Knoxville native, Duncan is a former reporter for The Knoxville Journal.

Educated at Holston High School, the University of Tennessee, George Washington University Law School and the National College of Advocacy at Harvard University, Duncan is currently affiliated with the Knoxville law firm of Daniel, Duncan and Claiborne.

He is a member of the Knox County, Tennessee and American bar associations and the Tennessee Trial Lawyers Association.

He is a deacon at Eastminster Presbyterian Church and a captain in the Tennessee Army National Guard.

Duncan has served on the boards of directors for the Girls Club, the Knox County Juvenile court, the YWCA, the Red Cross, the Beck Cultural Exchange, the Epilepsy Foundation, the city Air Pollution Control Board and the Knox Federal Savings and Loan Association.

Duncan's uncle, Joe D. Duncan, served as judge in the same courtroom that his nephew will occupy from 1966 to 1975, Joe Duncan is now a judge on the state Court of Criminal Appeals.

He is married to the former Lynn Hawkins of Sewanee, and they have two daughters, Tara and Whitney, and a son, John J. III.●

TRIBUTE TO JACK WYDLER—LEGISLATIVE LEADER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. BIAGGI. Mr. Speaker, today I engage myself in a bittersweet exercise. I am paying a well-deserved tribute to our beloved colleague JACK WYDLER but at the same time—I am also saying farewell to JACK as a Member of this House.

JACK WYDLER, after 18 years of distingushed service, has decided to retire. Throughout these 18 years, JACK has provided the highest caliber of service to the people of the fabulous Fifth Congressional District—a term he coined. JACK'S newsletters to his constituents were masterpieces; chances are it had to be among the best informed of all congressional districts.

Last month, I attended a farewell party for JACK at the posh Four Seasons Hotel in Washington. Assembled were a group of his House colleagues from both sides of the aisle, united in their warm feelings and appreciation for JACK. That perhaps is the very essence of JACK WYDLER'S career here in Congress—he was a man respected by both sides of the aisle—and because of that respect, he was able to so effectively impact on the legislative process.

JACK is a good and loyal friend. For years, we have traveled together on the Eastern air shuttle and we would take those occasions to talk about our work and our families and life in general. JACK is a man of great wit, commonsense, and compassion. I will miss him as a legislator but more, as a dear friend.

JACK, as the ranking minority member of the House Science and Technology Committee, was involved in numerous legislative initiatives. During these past 20 years, the United States has continued to excel in scientific and technological research and development and this has been aided immeasurably by the leadership of the House Science and Technology Committee.

JACK was a good and effective fighter for causes in which he believed. He was one of this Congress most ardent supporters of general revenue sharing and has performed yeoman work in this Congress to keep the program going.

I would like to pay a special tribute to JACK for his support as a member of the ad hoc congressional Committee for Irish Affairs. As the chairman of this committee, I knew I could count on JACK WYDLER to lend his influential voice to our cause. Today, the prospects for peace in Ireland are better than they were before the ad hoc committee began its work in 1977. JACK WYDLER deserves much credit for the progress we have made so far. He has earned the lasting respect of the Irish-American community.

I extend to my friend Jack Wydler warmest best wishes for a happy future. I know his beloved wife Brenda looks forward to the extra time they will have together. Jack was also speaking at his testimonial pridefully about his son Chris who has a promising future in the new administration. I want Jack to know that I have valued his friendship over the years and will sorely miss him.●

HERB HARRIS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. UDALL. Mr. Speaker, Herb Harris made his mark on this institution. He cared deeply about energy and the environment and about the lot of the Federal retiree. He was sharp in debate, but retained a sense of humor.

Herb was dedicated to this House, and was popular among his colleagues. I will miss him and his counsel.●

HON. RICHARD H. ICHORD

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. SCHULZE. Mr. Speaker, I rise in tribute to the Honorable Richard H. Ichord, who is retiring after two decades of illustrious service in the House of Representatives. He will be missed by his colleagues on both sides of the aisle.

As a freshman, I had the honor to serve with Dick on the Armed Services Committee, where he has labored tirelessly for the past 16 years to insure the security of our Nation. From that point on, I have found his working knowledge and expertise in military matters to be unsurpassed. I am particularly sorry that we will be without his insight and experience at a time when the importance of a strong defense posture is beginning to receive widespread recognition and support.

Although he is, perhaps, best known for his leading role on the Armed Services Committee, Dick Ichord has made a substantive contribution in many areas. From my perspective as a small businessman for 25 years before my election to Congress, I am pleased to have this opportunity to extend my warmest thanks to Dick for his active commitment to the revitalization of America's small business community.

Although we will be without his learned counsel in the House, Dick has promised to continue his active participation in public life. For that, we here in Washington, and I am sure his constituents in the Eighth District of Missouri, are thankful. Dick, I am happy for this chance to wish you and your family all the best.●

A TRIBUTE TO ANDY MAGUIRE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. EDWARDS of California. Mr. Speaker, Andy Maguire is a very dear friend of our environment who will be greatly missed here on the floor of the House of Representatives. First elected in 1974, Andy has established himself as an eloquent and outspoken leader of measures to protect the environment.

Bergen County of New Jersey will be losing one of the Nation's finest's conservationists next month, a person who has fought hard to strengthen the Clean Air Act and the Toxic Substances Control Act, to name just two. I think that it is safe to say that Andy has been a persistent opponent of big oil and gas, as well as a true friend of the consumer. Andy's enthusiasm has not been directed toward environmental matters only. He has been a strong supporter of human rights and racial justice abroad. His worldwide efforts to promote human rights have been largely successful. I would also like to take this opportunity to praise him for his instrumental work in the establishment of the ad hoc Monitoring Group on South Africa. Additionally, his efforts made possible the passage of an amendment earlier this year which transferred money from Federal furniture purchasing to food-for-peace and helped avert death from starvation for thousands suffering from famine in the less fortunate nations of our world.

It has been my pleasure working with you Andy. I hope to continue and improve on the work which you have initiated.●

MR. RICHARD COPE

HON. WILLIAM CARNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. CARNEY. Mr. Speaker, the past weekend America suffered a tragic loss. The official ambassador of goodwill of the Suffolk County chapter of the American Heart Association, Mr. Richard Cope, died peacefully in his sleep on Sunday evening, December 7, 1980.

Richard, whose friendship I have known, and whose personal charisma and unique stamina have been an inspiration to all who have known him, was the second longest living heart transplant patient in the Nation; third longest living in the world. For the past decade, he has been a living testimony to the progress of medical science, and a comfort to others facing the dread of heart disease. Richard received his transplant on October 5, 1970, in surgery performed by Dr. Shumway at the Stanford Medical Center in California.

Following his transplant, Richard, a resident of East Patchogue, N.Y., continued to work as a methods engineer for Long Island's Grumman Aerospace Corp. He served as chairman of the Richard Cope Open Golf Tournament in Brookhaven Township and as a member of the board of directors of the Suffolk chapter of the American Heart Association. Through the golf tournament, and countless other activities, Richard raised hundreds and thousands of dollars for the Heart Association.

"Everyday," said Richard, was a "gift from God." And every day of his life, Richard thought to repay that gift. To those of us who knew him, Richard was a gift: a gift of strength, of a man who truly knew life's meaning.

Richard Cope is survived by his wife, Addie, and son Richard. But his memory, and his gift, remains in the thousands of persons whose lives have been touched by this outstanding American.●

TRIBUTE TO HON. MORGAN MURPHY

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. McCLORY. Mr. Speaker, it is a great pleasure and honor for me to rise today to pay tribute to Morgan Murphy, whom I have come to know well both as a colleague and a friend.

Morgan Murphy has served as the chairman of the Subcommittee on Legislation of the Permanent Select Committee on Intelligence, the same subcommittee on which I have served as ranking minority member.

We have forged a close working relationship in an area which is among the most controversial confronting Congress. We have certainly had disagreements on legislative issues, even strenuous ones, but this has not prevented us from working together to produce important pieces of legislation such as the ones on graymail or the protection of the names of agents.

MORGAN MURPHY has been a fair and effective chairman of the Legislation Subcommittee. He has provided the minority with an opportunity to make its views known and has worked conscientiously to produce a final legislative product capable of receiving a broad consensus of support.

MORGAN MURPHY has also been an excellent Representative for his district. Before I knew CONGRESSMAN MURPHY, I had occasion to know his father, the late Morgan Murphy, Sr., who was a distinguished business and civic leader in Chicago. MORGAN MURPHY's political and family roots in Illinois go very deep.

As he returns to Illinois now, he carries with him the affection and respect of his colleagues on both sides of the aisle. We are confident that MORGAN MURPHY's fine career of public service is only beginning.●

A TRIBUTE TO CHARLES GRASSLEY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. BIAGGI. Mr. Speaker, I would like to pay a special tribute to one of our colleagues who will be leaving this body next session, CHUCK GRASSLEY. I feel somewhat torn in my perspective because while I am sorry that we will not have him here with us next year, I am happy that he will be joining as a Member of the Senate after an outstanding victory at the polls in November.

CHUCK and I have had the opportunity to work together as he serves as the ranking minority member on my Subcommittee on Human Services of the Select Committee on Aging. As members of this committee, we have truly formed a strong bipartisan effort as advocates for the problems and needs of senior citizens across the Nation. This partnership has been effectively translated into many legislative successes in this area ranging from the Older Americans Act amendments through the problem of age discrimination. CHUCK has been a tireless spokesman for the elderly in America and I know we can count on his continued advocacy next year in the Senate.

As a rural populist, CHUCK has also been a very energetic member of the House Agriculture Committee, particularly as the ranking minority member of its Subcommittee on Family Farms, Rural Development and Special Studies. He has served the needs of the farmers of Iowa with special distinction and has also been a leader for the poor and elderly under the food stamp program.

I look forward to working with CHUCK next session as I am confident that we will continue our advocacy in areas of mutual concern and interest. While I regret that we will lose his contributions in this body, I know that the people of Iowa will be well taken care of during his Senate term. His unqualified concern for his constituents, as witnessed by his tireless personal service to them and their needs, is well known to many Iowans. I can only say that while the people of the Third District of Iowa have lost a Congressman, the entire State is the beneficiary of that loss with the election of CHUCK to the Senate. I wish him and his wife and family continued health, happiness, and success in his next career.

TRIBUTE TO FRANK THOMPSON

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. BIAGGI. Mr. Speaker, today I wish to pay tribute to one of our colleagues who has had a most distinguished career in this House since his election in 1954—FRANK THOMPSON of New Jersey.

The contributions he has made to this Nation have been exemplary of the kind of dedication which has characterized his entire public career. THOMPY has been in the forefront of the movement to assure that working men and women receive a fair wage during his service on the House Education and Labor Committee. As our ranking majority member of this committee, THOMPY has not only been a national leader for the labor movment, but has made important contributions to education and the arts as well.

As chairman of the Labor-Management Subcommittee and its pension task force, on which I am privileged to sit, THOMPY has been responsible for major revisions of our pensions laws which millions of Americans depend upon for their retirement. As one of the original members of the Select Committee on Aging and chairman of its Subcommittee on Human Services, I am all too familiar with the fears that many seniors have regarding their pensions. As a result of his efforts, our multiemployer pension systems have been fortified and we can now safely say that their future is guaranteed.

FRANK THOMPSON should also be remembered for the numerous contributions to arts and culture in this Nation that he has made during his tenure on the Education and Labor Committee. He is regarded as a friend and advocate by the arts community. As a result of his work in this area, he is both a trustee of the John F. Kennedy Center for the Performing Arts as well as a regent in the Smithsonian Institution.

The people of the Fourth District of New Jersey have been well served by their Representative, FRANK THOMPSON, during his 26-year career as their Congressman. I know that THOMPY has left us many legislative achievements that will live on long after his departure. The social causes which have been so important to him I am sure will remain a part of his future endeavors, whatever they may be. I will personally miss his leadership, his humor, and most importantly, his commitment to social and civic justice for all Americans. We wish him well.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 11, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 12

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To resume hearings on exploring the use of special taxes on crude oil and petroleum products for the purpose of minimizing the adverse impact on the United States and other oil consuming nations of a major disruption in the world supply of oil and to reduce the long-run demand for imported oil.

2221 Dirksen Building

DECEMBER 15

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings on the use of violence by organized crime, focusing on the operation and management of the Federal witness security program of the Department of Justice.

3302 Dirksen Building

DECEMBER 16

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings on the use of violence by organized crime, focusing on the operation and management of the Federal witness security program of the Department of Justice.

3302 Dirksen Building

DECEMBER 17

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings on the use of violence by organized crime, focusing on the operation and management of the Federal witness security program of the Department of Justice.

3302 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, December 11, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

At this holiday time we celebrate the ancient events and words that recall the hope and aspirations of the people of faith. Yet, during these days of anxiety in our hearts, knowing the tensions between the nations, we still raise our voices in praise for the gift of hope to an uncertain world. We pray, O God, that You will help us keep our eyes on the highest, lift our spirits, sustain our souls through all difficulty, inspire us to activity for peace and justice, that we will never grow weary in well doing or lose patience in service. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5888. An act to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

WASHINGTON, D.C.,
December 10, 1980.

Hon. THOMAS P. O'NEILL,
Speaker, House of Representatives, H-204,
The Capitol, Washington, D.C.

DEAR SPEAKER O'NEILL: I am enclosing herewith a copy of a letter I have transmitted today to the Honorable Richard W. Riley, Governor of the State of South Carolina, resigning as the Representative in the United States House of Representatives from South Carolina's Sixth District, effective this date.

Sincerely,

JOHN W. JENRETTE, Jr.

MASS TRANSPORTATION ACT OF 1980

(Mr. HOWARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOWARD. Mr. Speaker, last week the House overwhelmingly by a vote of 346 to 33 passed an amended version of the Senate bill, S. 2720, mass transportation and energy-efficient highway legislation. It is my understanding that the other body on completion of their work on the continuing resolution will take up this legislation, may make some small changes in it, and send it back here to the House. I would just like to announce that it would be my intention at that time to bring that legislation before the House under suspension of the rules.

REQUEST TO CONCUR IN SENATE AMENDMENT TO H.R. 4231. JOHN D. LARKINS, JR., FEDERAL BUILDING

Mr. ROE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 4231, to designate the "John D. Larkins, Jr., Federal Building," with a Senate amendment thereto, and concur in the Senate amendment to the text of the bill with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the text of the bill, and the House amendment to the Senate amendment, as follows:

Senate amendment: Page 1, after line 8, insert:

SEC. 2. The Public Works and Economic Development Act of 1965 is amended by adding the following new section:

"SEC. 518. (a) (1) The Secretary of Commerce (hereinafter in this section referred to as the 'Secretary') shall, in accordance with the provisions of this section, make a grant to each eligible local educational agency for the construction of school facilities in order to assist such agencies in providing education to immigrant children.

"(2) The amount of the grant to which a local educational agency is entitled under this section shall be equal to the number of immigrant children aged five to seventeen, inclusive, who are enrolled at the schools of that agency and for whom that agency provided free public education during the school year 1978–1979, multiplied by $1,000.

"(3) (A) A local education agency shall be eligible to receive a grant under this section if the number of immigrant children enrolled during such year at the schools of that agency is equal to or greater than fifty and is equal to 7 per centum or more of all children aged five to seventeen, inclusive, who are enrolled at such school during each year.

"(B) No immigrant child may be counted for the purpose of this section by any local educational agency unless—

"(i) the parents of such child reside within the school district of such agency,

"(ii) the guardian of such child resides within the school district of such agency,

"(iii) the individual having lawful control of the immigrant child resides within the school district of such agency, or

"(iv) such child resides within the school district of such agency.

"(C) Determinations with respect to the number of immigrant children by the Secretary under this section shall be made, whenever actual satisfaction data are not available, on the basis of estimates. No such determination shall operate, because of an underestimation, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

"(4) (a) For purposes of this section the Federal share of the grant shall be 100 per centum.

"(b) Notwithstanding the other provisions of this section, a local educational agency shall not be eligible for a grant under this section if the Secretary determines that the amount determined for such agency under subsection (b) is not adequate to provide such agency with any meaningful assistance in the education of immigrant children.

"(c) (1) Not to exceed $22,500,000 per fiscal year of the funds authorized to be appropriated by section 105 of this Act for the fiscal years ending September 30, 1981, and September 30, 1982, may be expended for the purposes of making grants to carry out the program authorized by this section.

"(2) If the sum appropriated for making grants under this section is not sufficient to pay in full the total amount which local educational agencies are entitled to receive under this section, the entitlements of such local educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such entitlements within the limits of the amount so appropriated.

"(d) (1) No local educational agency shall be entitled to any grant under this section unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may require. Each such application shall—

"(A) provide that the grant made under this section be used for the construction of school facilities to be administered by such agency;

"(B) provide assurances that the application will be submitted to be the appropriate State educational agency for comment;

"(C) provide that such fiscal control and fund accounting procedures will be established as may be determined by the Secretary to be necessary to insure the proper disposal of, and accounting for, Federal funds paid to the agency under this section; and

"(D) provide for the furnishing of such other information and reports as the Secretary may reasonably require to perform its functions under this section.

"(2) The Secretary shall approve an application which meets the requirements of paragraph (1) of this subsection. The Secretary shall not finally disapprove an application of a local educational agency except after reasonable notice and opportunity for hearing to such agency.

"(3) Whenever the Secretary after a reasonable notice and opportunity for a hearing to any local educational agency, finds that there is failure to meet the requirements of this section, the Secretary shall notify that agency that further payments will not be made to the agency under this section until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied no further payment shall be made to the local educational agency under this section.

"(e) As used in this section—

"(1) the term 'construction' means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency making application for assistance under this section; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

equipment) of existing structures; or (D) a combination of any two or more of the foregoing;

"(2) the term 'elementary school' means a day or residential school which provides elementary education, as determined under State law;

"(3) the term 'secondary school' means a day or residential school which provides secondary education, as determined under State law;

"(4) the term 'free public education' means education which is provided at public expense under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State;

(5) the term 'local educational agency' means a public board of education or other public authority legally constituted within a State which is a member of the South West Border Regional Commission, and located in a county designated for inclusion in such Commission on the date of enactment of this section, for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivisions of such State, or such combination of school districts or counties as are recognized in such State as an administrative agency for its public elementary or secondary schools, and such term also includes any other public institution or agency in such State having administrative control and direction of a public elementary or secondary school;

"(6) the term 'immigrant child' means a child born in the Republic of Mexico and who has legally immigrated to the United States, or born of parents who have legally immigrated from the Republic of Mexico and are not citizens of the United States (other than a child in a family which is in the United States for the purpose of representing another government in a diplomatic or similar capacity), and who is provided free public education by a local educational agency of a State;

"(7) the term 'school facilities' includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes; but such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public;

"(8) the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law; and

"(9) the term 'meaningful assistance' means a minimum grant of $50,000.".

House amendment: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

Sec. 2. (a) (1) The Secretary of Commerce (hereinafter in this section referred to as the 'Secretary") shall, in accordance with the provisions of this section, make a grant to each eligible local educational agency for the construction of school facilities in order to assist such agencies in providing education to immigrant children.

(2) The amount of the grant to which a local educational agency is entitled under this section shall be equal to the number of immigrant children aged five to seventeen, inclusive, who are enrolled at the schools of that agency and for whom that agency provided free public education during the school year 1978–1979, multiplied by $1,000.

(3) (A) A local education agency shall be eligible to receive a grant under this section if the number of immigrant children enrolled during such school year at the schools of that agency is equal to or greater than twenty and is equal to 7 per centum or more of all children aged five to seventeen, inclusive, who are enrolled at such school during each year.

(B) No immigrant child may be counted for the purpose of this section by any local educational agency unless—

(i) the parents of such child reside within the school district of such agency,

(ii) the guardian of such child resides within the school district of such agency,

(iii) the individual having lawful control of the immigrant child resides within the school district of such agency, or

(iv) such child resides withiin the school district of such agency.

(C) Determinations with respect to the number of immigrant children by the Secretary under this section shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimation, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(4) For purposes of this section the Federal share of the grant shall be 100 per centum.

(b) Notwithstanding the other provisions of this section, a local educational agency shall not be eligible for a grant under this section if the Secretary determines that the amount determined for such agency under subsection (a) (2) is not adequate to provide such agency with any meaningful assistance in the education of immigrant children.

(c) (1) For the fiscal years ending September 30, 1982, and September 30, 1983, there are authorized to be appropriated to the Secretary not to exceed a total amount of $22,500,000 per fiscal year for grants pursuant to this section. These funds shall be available until expended.

(2) If the sum appropriated for making grants under this section is not sufficient to pay in full the total amount which local educational agencies are entitled to receive under this section, the entitlements of such local educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such entitlements within the limits of the amount so appropriated.

(d) (1) No local educational agency shall be entitled to any grant under this section unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may require. Each such application shall—

(A) provide that the grant made under this section be used for the construction of school facilities to be administered by such agency;

(B) provide assurances that the application will be submitted to the appropriate State educational agency for comment;

(C) provide that such fiscal control and fund accounting procedures will be established as may be determined by the Secretary to be necessary to insure the proper disposal of, and accounting for, Federal funds paid to the agency under this section; and

(D) provide for the furnishing of such other information and reports as the Secretary may reasonably require to perform its functions under this section.

(2) The Secretary shall approve an application which meets the requirements of paragraph (1) of this subsection. The Secretary shall not finally disapprove an application of a local educational agency except after reasonably notice and opportunity for hearing to such agency.

(3) Whenever the Secretary after a reasonable notice and opportunity for a hearing to any local educational agency, finds that there is failure to meet the requirements of this section, the Secretary shall notify that agency that further payments will not be made to the agency under this section until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied no further payments shall be made to the local educational agency under this section.

(e) As used in this section—

(1) the term "construction" means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency making application for assistance under this section; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) a combination of any two or more of the foregoing;

(2) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law;

(3) the term "secondary school" means a day or residential school which provides secondary education, as determined under State law;

(4) the term "free public education" means education which is provided at public expense under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State;

(5) the term "local educational agency" means a public board of education or other public authority legally constituted within a State which is a member of the South West Border Regional Commission, for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivisions of such State, or such combination of school districts or counties as are recognized in such State as an administrative agency for its public elementary or secondary schools, and such term also includes any other public institution or agency in such State having administrative control and direction of a public elementary or secondary school;

(6) the term "immigrant child" means a child born in the Republic of Mexico and who has legally immigrated to the United States, or born of parents who have legally immigrated from the Republic of Mexico and are not citizens of the United States (other than a child in a family which is in the United States for the purpose of representing another government in a diplomatic or similar capacity), and who is provided free public education by a local educational agency of a State;

(7) the term "school facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes; but such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public;

(8) the term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law; and

(9) the term "meaningful assistance" means a minimum grant of $50,000.

Sec. 3. Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1187), shall hereafter be known as "Sardis Lake". Any law, regulation, map, document, or record of the United States in which such lake is referred to shall be held and considered to refer to such lake as "Sardis Lake".

Sec. 4. The project for navigation, Humboldt Harbor and Bay, California, authorized by section 101 of the River and Harbor Act of 1968 is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct needed protection works to prevent shoreline erosion damage to public and private facilities at and near Buhne Point, California, totally at Federal cost, at an estimated cost of $1,000,000.

Mr. ROE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment and the House amendment to the Senate amendment be dispensed with and that they be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Mr. Speaker, I reserve the right to object. Under the reservation I would ask my colleague, the gentleman from New Jersey (Mr. Roe), if there is anything in this bill that was attached in the Senate that would be nongermane in the House, or is the House amendment germane?

Mr. ROE. If the gentleman will yield, the House amendment I would think would be germane.

Mr. ASHBROOK. Further reserving the right to object, was anything added in the Senate that would not be germane under our rules?

Mr. ROE. If the gentleman will yield further, not that I can see. If the gentleman would suspend and hold his reservation of objection, and let me give the explanation, it might answer his question.

Mr. ASHBROOK. With that statement, I will withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey (Mr. Roe) to dispense with further reading of the Senate amendment and the House amendment to the Senate amendment and that they be printed in the Record?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from New Jersey (Mr. Roe) for consideration?

Mr. CLINGER. Reserving the right to object, and I will not object, I do so only for the purpose of asking the chairman, the gentleman from New Jersey (Mr. Roe), to explain what the purpose of this amendment is and what it will accomplish.

Mr. ROE. If the gentleman will yield, Mr. Speaker, I think that this explanation will clarify the matter.

Section 2 of this amendment authorizes $22.5 million for each of the fiscal years 1982 and 1983, for the construction of educational facilities along the southwest border. This amendment is similar to language passed by the Senate earlier this year in a more comprehensive economic development measure. The House conferees in negotiations on this more comprehensive measure agreed in principle that additional support should be given for the construction of southwest border educational facilities. Other differences in the House and Senate economic development legislation prevented final approval of the conference report.

Today's action provides a free-standing authorization for this purpose. Funds would still have to be appropriated and the normal appropriation process would be followed.

In addition, section 3 of this amendment will name Clayton Lake, which is part of the flood control project for the Clayton and Tuskahoma Reservoirs in Oklahoma, Sardis Lake. The present name for the lake causes confusion because of another Clayton Lake which is operated only 5 miles away by the State of Oklahoma. The choice is a particularly fitting one because the town of Sardis, Okla., was moved out of the lake area as part of the project relocation requirements. The name change would thus commemorate that town and would be in accord with local desires.

Finally, section 4 of this amendment authorizes the Corps of Engineers to take action necessary to prevent shoreline erosion damage at and near Buhne Point, Calif. There has been a serious erosion problem in the Humbolt Harbor and Bay, Calif., areas and corrective steps must be taken now.

I urge your support of this amendment.

□ 1010

Mr. CLINGER. I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I am hearing an awful lot about rules changes in the next session. This would appear to be that type of a bill that the majority seems concerned about, tacking amendments on in the Senate. As I understand it, the proposal is that in the future, next year, these will have to go to committee. I cannot believe that a bill that was entitled Sardis Lake ends up as an education bill. I am on the Education Committee, and I do not know anything about this, so I am going to be constrained to object.

Mr. ROE. If the gentleman will yield, it is a measure that the Senate had discussed in quite some depth in all of our negotiations on economic development legislation, and it was definitely considered at that point to be part of the economic dynamics of the State of Texas and along the Mexican border.

In effect, we in our committee have rebuffed the original proposal which was to include those schools with definitive appropriations made available out of the EDA title I section. We came back and said we really had no objection to the issue, provided it was put in the form of being an authorization for further consideration by the Congress in the committees of jurisdiction vis-a-vis the point of the appropriations necessary.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, as I understand it, the gentleman is talking about spending $45 million in Federal money for schools. Every school in this country is in trouble. I see no reason at all to pinpoint one area, one school or a series of schools for Federal money. This has not even been considered in the House, as I understand it. Is that correct?

Mr. ROE. If the gentleman will yield further, it was considered in the Senate and it was considered in conference for about 8 months. I can tell the gentleman that the conferees would have agreed to this issue if we could have ameliorated the differences between the House and the Senate on broader based issues.

Mr. ASHBROOK. Further reserving the right to object, my colleague did not answer my question. This has not been considered in the House, as I understand it, and I am on the Education Committee and I do not know anything about it.

Mr. ROE. It has not been a matter of hearing before the House, that is correct.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. Further reserving the right to object, I yield to the gentleman from Texas.

Mr. de la GARZA. Mr. Speaker, I would like to tell the gentleman that I have been involved with this amendment and this part of the legislation, and perhaps, if the gentleman will allow me, I could give the gentleman a little history of the problem.

This amendment is not new to this legislation. The gentleman might recall that several years ago, under the economic development legislation, a category for assistance for plant, for buildings, was allowed under that emergency bill that I think we had for 4 years or 6 years. Now, granted, this amendment was added in the Senate. We have discussed it here with the chairman and the other Members.

The problem is this: In my area, in the State of Texas, the Federal laws related to immigration have allowed a tremendous amount of legally accepted aliens—we are not talking about illegal but legally accepted aliens—who have impacted mostly on the border the schools to such an extent that it has become impossible to even house them. In the State of Texas, the State legislation provides no assistance at all for buildings or plant, only for the technical part, teachers pay, and so forth. All of the plant building comes from local taxation, and in areas as poor as mine, the tax burden, as everywhere, I am sure, the local tax burden is such that it is impossible now to accommodate bonds to build new plants. The consensus of all of the people, at least in our area, regardless of political affiliation or whatever, is that this problem is a problem of the local school district because of the Federal legislation allowing the impact to come from the entrance of legal aliens. This is a one-shot—modest, as I think the gentleman will agree—a one-shot proposition to give some assistance to those school districts which have no place else to go.

Now, later we will have other legislation before the gentleman's committee, because the courts now have ruled, at least for the time being, that illegal aliens must be educated. Whether we agree or disagree with that, that is now the law of the land under a court decision in the Federal district court. It is now up on appeal. If this should become law by judicial fiat, then it would double the problem.

So I would very sincerely and very humbly ask the gentleman's cooperation in this respect. We do not know what to do in the local area, and, like everywhere else, rightly or wrongly, you look to the Federal Government. Here there is some cause to look to the Federal Government because it has been the Federal law that has thrown this burden on the local school districts. The local people cannot finance it. The States of Texas and Arizona and New Mexico—I do not know about California—cannot finance it. So our only recourse here is, you let the local school district go bankrupt, no classrooms for the children who have been thrown upon them by the Federal laws, or one 2-year modest attempt to give them some assistance.

Mr. ASHBROOK. To respond to my friend, the gentleman from Texas, and further reserving the right to object, I am indeed sorry to learn that this is in the gentleman's district. I think it is a travesty of the legislative process. The gentleman could come to my State and find many school districts in trouble, and they do not get a $45 million bailout from the Federal Government.

Mr. ROE. Mr. Speaker, in view of the controversy that has arisen on this issue, I will now withdraw my unanimous-consent request.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under the provisions of House Resolution 821, the House stands in recess subject to the call of the Chair.

The Chair would anticipate that the call of the Chair would come somewhere between 2:30 and 3 o'clock.

Accordingly (at 10 o'clock and 20 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1600

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 4 o'clock and 3 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make the following announcement:

The Chair has been in consultation with the majority leader of the Senate. The continuing resolution is still being debated there and amended. There are at least 80 amendments added to it or as many as 120 amendments to be added to it by the other body.

It is the Chair's understanding the other body hopes to conclude at some time either tonight or in the wee early hours of the morning and it will take 6 to 8 hours for the printing of Senate amendments and at 10 o'clock tomorrow morning the House might agree to go into conference and conferees would be appointed. At that particular time, knowing that some of the staff people have been going over it, it is impossible for the Chair to judge exactly whether the House can dispose of the conference report tomorrow or not, but the House will be in session tomorrow. The leadership will make a judgment after the conferees have been appointed, as to how long they think it would be.

MEETING OF THE HOUSE ON MONDAY, DECEMBER 15, 1980

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, the gentleman from Maryland just heard a rumor we may not be able to conclude this week and that there might be a session on Monday. Is there some truth to that rumor?

The SPEAKER. There is some truth to that. That is what the House is confronted with at the present time.

Mr. BAUMAN. I would wish the Chair a Merry Christmas in view of the developments that are occurring.

The SPEAKER. The Chair wishes for the gentleman a Merry Christmas.

The Chair cannot believe that without sine die adjournment the gentleman from Maryland would leave this Chamber.

Mr. BAUMAN. Absolutely not. I will watch until the end.

The SPEAKER. Then the gentleman has plenty of time to wish the Speaker a Merry Christmas.

DISTINGUISHED SERVICE OF THE HONORABLE EDWARD J. STACK OF FLORIDA

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I would like to take this opportunity to offer some remarks on the distinguished service of Congressman ED STACK, my friend, colleague, and neighbor in south Florida.

ED STACK was elected to the 96th Congress as the oldest freshman Congressman entering the House in a number of years. His experience and wisdom ably served south Floridians, especially through his support for the elderly as a member of the Select Committee on Aging.

He has been throughout this Congress a strong supporter of legislation to assist the less fortunate in our society, and has worked diligently to enhance measures of particular assistance to Florida.

Although Congressman ED STACK will not be with us in the 97th Congress, his presence will be missed. It is, indeed, fitting that his distinguished public service career has been capped by service as a Member of the House of Representatives.

Mr. Speaker, I must add a sad note to my brief remarks here. Just last week ED STACK's lovely wife, Jean, passed away. I know that I can speak in behalf of all Members in extending our deepest sympathy to Congressman ED STACK. Our thoughts and prayers are with him.

Mr. NELSON. Mr. Speaker, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Florida.

Mr. NELSON. Mr. Speaker, I rise to associate myself with the remarks of my colleague, Mr. MICA, and to add a few remarks of my own regarding our colleague, Mr. STACK.

ED STACK began his service in the House after a very distinguished career in local government. For 10 years he served as sheriff of Broward County, one of Florida's largest and fastest growing counties. Prior to being elected sheriff, he served as a city commissioner and mayor of Pompano Beach, Fla.

His service on the House Committee on Education and Labor came at a crucial time for the citizens of our State. As Florida was bearing the greatest impact from the influx of Cuban refugees, it was ED STACK who led the effort to have the Federal Government assume its share of the responsibility for the education of incoming Cuban students. He sponsored and passed the Refugee Education Assistance Act, H.R. 7859, which was signed into law by the President in a ceremony in Florida's State capital. His service on the House Committee on Merchant Marine and Fisheries and the Select Committee on Aging has also been exemplary. The Speaker has recognized the abilities of ED STACK and appointed him one of only four Members of this House to serve on the National Commission on Alcoholism, which has special significance because ED STACK is a member of Alcoholics Anonymous, a fact he never attempted to conceal.

Gentlemen of ED STACK's caliber are all too rare. His contribution on behalf of the less fortunate will be missed by all Americans and particularly the citizens of Florida.

Lastly and sadly, as we bid farewell to ED STACK we must also add our sincere sympathies for the passing of his wife who was this past weekend relieved from the burden of a long illness. It is truly a shame that Jean Stack never had the pleasure of joining her husband in Washington during his tenure in this body. She would have been proud.

NATIONAL TOURISM POLICY ACT

Mr. FLORIO. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 1097) to establish a national tourism policy, a Cabinet-level coordinating council and a nonprofit corporation as an implementing agency to carry out the national tourism policy.

The Clerk read the title of the Senate bill.

The SPEAKER. Is a second demanded?

Mr. BROYHILL. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

(For conference report and statement, see proceedings of the House of December 10, 1980.)

The SPEAKER. The gentleman from New Jersey (Mr. FLORIO) will be recognized for 20 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, both the House and the Senate have passed bills in the 96th Congress (S. 1097 and H.R. 7321) dealing with a national tourism policy. In fact, the conference substitute is very similar to the bill that passed the House last July.

The conference report sets forth a new tourism policy for the Federal Government, aimed at encouraging foreign tourism to the United States.

International tourism is one of the world's major growth industries, yet, the growth in the number of foreign travelers to the United States have been slower than the world's international tourism growth. Presently, the United States receives only 6.7 to 8 percent of the world's tourists. International tourism also has an important impact on employment because the industry is made up of diverse component parts related to transportation, lodging, food, and recreation which are highly labor intensive and tend to employ a high proportion of persons in the "hard to employ" category who have limited skills, thus it helps in a critical employment segment. It is also an essential element in helping to reduce our balance-of-payment deficit.

The conference substitute replaces the existing U.S. Travel Service in the Department of Commerce with a new U.S. Travel and Tourism Administration to assume the functions of the Travel Service. We believe this will give tourism policies the stature and emphasis they deserve within the Federal Government.

The new Tourism Administration will assume the existing functions of the U.S. Travel Service within 180 days after enactment. An advisory board composed of industry, consumer labor, and other public representatives will assist the Administration in setting policy and reviewing the functions of the Administration.

Let me point out that this legislation is a result of over 6 years of deliberation by the Congress, and is based on numerous hearings and data received from several comprehensive studies. It has achieved broad bipartisan support because Members recognize that an aggressive program to stimulate tourism to the United States provides tremendous economic and social benefits.

Not later than April 15, 1982, the new Administration is required to develop and submit to the Congress a comprehensive and detailed tourism plan designed to stimulate and promote tourism to the United States. Upon its approval by Congress, it is hoped that the plan will become the basis for a vigorous new effort to encourage tourism.

We believe that the National Tourism Policy Act heralds a new beginning for U.S. tourism policy and we request your support.

□ 1610

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I frankly am concerned about this conference report. We have only just had a copy made available, and as chairman of the Subcommittee on International Economic Policy and Trade of the Committee on Foreign Affairs, I am concerned that this legislation is of rather sweeping character. It has an impact on the conduct of the foreign relations of the United States that is not entirely clear to me.

It seems to require that the plan that will be submitted includes certain very specific elements, and I was just reading the bill.

For example, it requires that the plan shall require the establishment of posts in foreign countries to promote tourism, that other aspects of the plan are mandated.

Mr. FLORIO. I would make the point that USTS already has that responsibility and this administration is assuming the responsibility of USTS, so there is nothing new that is being achieved by that particular language.

Mr. BINGHAM. But the USTS now is within the structure of the existing governmental department.

What concerns me is that this establishes a new independent agency and title II so states, to establish an independent agency of the United States to be known as the U.S. Travel and Tourism Administration.

In the formulation of the plan, that is required to be submitted, to what extent will the Secretary of State and the Secretary of Commerce be involved in the preparation of that plan?

Mr. FLORIO. If the gentleman will continue to yield back, the Administrator of this Administration which will preside over the formulation of the plan is appointed by the President and accordingly, will be under the obligation, I am sure, to coordinate his activities with the rest of the new administration, and over and above that the gentleman's concerns, I think, have to be addressed and the previous concerns that have been expressed by others will be addressed when the plan comes to the Congress. The Congress has the ultimate say.

Mr. BINGHAM. What is the type of review that is required of the Congress? I have not been able to locate that in the bill. Is it approval by joint resolution?

Mr. FLORIO. Approval by the full Congress as part of the appropriations process.

Mr. BINGHAM. Would that require the approval as a matter of law, or is it an automatic approval unless the Congress disapproves?

Mr. FLORIO. As a matter of law.

Mr. BINGHAM. With the approval of the President.

Mr. FLORIO. Yes.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Where does the gentleman find that in the conference report? In response to the gentleman from New York, where does the gentleman find that in the conference report, because under the language of the conference report this agency is not responsible to OMB.

Mr. FLORIO. The gentleman's question to me was the enactment of the plan. When the plan is submitted to the Congress, the Congress is charged with approving the plan as it would approve any other initiative, legislative initiative, and is charged with funding the plan as it would fund any other authorization, through the full legislative process.

Mr. BROYHILL. However, the gentleman from New York is correct in that the Secretary of State is not involved in the formulation of that plan, whereas, at the present time, the Department of Commerce being involved in administering a program promoting tourism, as the coordinating agency, the Department of State does have a voice in that formulation of any plans for the promotion of tourism.

Mr. FLORIO. To the contrary, one of the difficulties we attempted to address was the absence of formulated, coordinated efforts by the different agencies which have some involvement in tourism.

This bill is designed to correct that and contemplates giving to this administration that overall coordinating function.

Mr. Speaker, at this time I yield 3 minutes to the gentleman from Nevada (Mr. SANTINI.)

Mr. SANTINI. Mr. Speaker, as the able chairman summarized, this is in essence the same legislative thrust that this body passed by a vote of 347 to 55. This is the vote, the issue, the time, that those who are concerned about the future and the viability of tourism and travel in the United States of America have been waiting and looking for, a declaration of national policy that instead of the Federal Government functioning in its characteristic impediment role, that we will try and use the Federal institution to advance and further enhance the interests of tourism and travel.

The new Administration is designed to accomplish that goal. There is not one dime of additional moneys that would be authorized or stimulate appropriations for under this bill.

The tourism and travel people, whether in New York City, Florida, Wisconsin, the State of California, the State of Nevada, to cite an eminent example, are all very much concerned that this critical piece of national profile legislation pass.

Many of the Members, I hope, have had communication and contact from those who are concerned in their backyard about this fundamental problem of tourism and travel and its future in America, a $147 billion industry last year employing over 6 million people, 1 of the top 3 industries in 40 States in this Union; and all they are asking for is a national declaration of policy that it is important to the economic health of this Nation that we recognize and appreciate the contributions of tourism and travel.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

But surely this is much more than just a simple declaration of policy.

I could not agree more with the kind of policy the gentleman is interested in, but we have here a 16-page bill establishing an independent agency, providing that that agency will report back a plan, and there are six or seven subparagraphs describing what is to be in that plan.

This is quite different from the bill that passed the House before. That bill simply called for a study.

Mr. SANTINI. If I may reclaim my time, it is not. It is simply a modification as a consequence of conference discussion of the existing proposal.

As the gentleman will recall, and I appreciated his support at that time, title II provided a coordinating counsel. The Senate set up a quasi corporation entity in an attempt to sort of accommodate and weld the two concepts together, the Administration was created.

The creation of an independent administration is imperative, because under its existing house, the landlord there suggested that the tenant ought to have been evicted by shutting down all of our international foreign tourism and travel proposal entities.

Mr. BROYHILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am in opposition to this conference report for several reasons.

It has been conceived in some haste. We passed a bill earlier in this House that provided for a year's extension of the U.S. Travel Service and provided for an orderly study of what the future of this agency and this program should be.

What happened here is that the conference and the conferees met for just a very few minutes and they brought back to us a bill which has sections in it which are out of scope that go beyond either of the bills that passed either House and sections that are not germane.

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What they are doing here is creating an independent agency that has a board that is dominated by members of the industry, that will be making recommendations as to the expenditure of Federal funds. I can appreciate the argument of the proponents of this conference substitute who are calling for substantial changes in the U.S. Travel Service and the program that agency administers. In other words, I can appreciate the arguments of those who are in effect saying that the present program is ineffective or not effective.

But this is simply not the way to go. Those who are advocating passage of this legislation are saying that we should eliminate one agency, the U.S. Travel Service, and that we turn around and create a new one. This just does not make good sense.

The proper approach is to vote down this conference substitute, let the new administration develop a meaningful program for the promotion of tourists who are visiting the United States from abroad and let us find out the direction in which we ought to be heading before we leap blindly forward and create a new agency.

I believe that each one of us here today in the House recognizes the importance of the U.S. tourist industry and that is not to be underestimated. But, at the same time, I think we owe it to the taxpayers of this Nation to develop a less expensive, a more sensible Government policy, and this conference report is an excellent opportunity for us to look at more commonsense approaches to the problem.

I would urge its defeat.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield.

Mr. FLORIO. I am sure the gentleman is aware when he says a less expensive approach that that conference report in no way entails an expenditure of any more money than has previously been authorized. The $8.6 million which was going to the USTS will fund this bill. No additional moneys will be required.

Mr. BROYHILL. I think the gentleman would agree that this conference report calls for the creation of a new, independent agency outside of the executive branch of government that would have the responsibility of expending these funds and that, second, there is statutory language contained in this conference report which says that the agency is not bound by any of the directives from the President or from the Office of Management and Budget that all other agencies of government are.

Mr. FLORIO. If the gentleman will yield further, I think it is necessary to correct that statement. The fact of the matter is, talking about a new agency, the new agency is being phased in as the old agency is being phased out. The new agency is getting the same amount of money the old agency got.

Mr. BROYHILL. If I may reclaim my time, Mr. Speaker, that is not correct because the old agency is required to turn over all of its assets and the program to the new agency and then the new agency is going to be outside of any purview of the President or of the Office of Management and Budget.

I have a letter in my hand from the administration expressing its strong opposition to the substitute. They go on to say that they believe it is highly undesirable from the standpoint of conduct of foreign relations to grant to an independent agency of this type the ability and mission to deal directly and independently of the State Department with foreign governments.

Mr. Speaker, I am in opposition to this, but we do have some Members on our side that are in favor. I would yield 3 minutes to the gentleman from New York (Mr. LEE), to express his viewpoint.

Mr. LEE. Mr. Speaker, I rise in support of the adoption of the conference report on S. 1097. Year after year, since 1965, the balance of payments between the United States and other countries has become progressively worse. Not a day goes by when we do not read of the tremendously adverse effects the OPEC oil prices have had on our balance of payments.

The promotion of tourism—particularly of tourists from other countries visiting the United States, represents one way to combat our worsening balance-of-payments problem. None of us have ever held out this remedy as a cure to the balance-of-payments problem, but it does represent one small step toward stemming the tide of dollars leaving the United States.

Over the years the U.S. Travel Service, at the Department of Commerce, has been the subject of controversy. At one time, that agency was funded with a budget of $34 million. In constant dollars that would be equivalent to $70 to $80 million a year at the present time. What has happened, however, has been that the U.S. Travel Service has been a target for budget reductions during the last decade. Presently it is funded at around $8 million a year.

Our committee held extensive hearings over the last 2 years and it became clear that a major change needs to take place if we are to maximize this Nation's ability to encourage tourism from abroad. In short, it was recognized that the benefits from the U.S. Travel Service were very limited and there should be a better way to do the job. The conference substitute ends the U.S. Travel Service. To provide for an orderly transition, many of its functions will be taken over by the new U.S. Tourism Administration. The new Tourism Administration has been created as an independent administration, primarily for the purpose of providing the Congress with recommendations for a long-term solution of the problem of tourism promotion. Those long-term solutions must be reported to Congress within a year, at which time the Congress will decide, what, if any, program there should be for the promotion of tourism.

Mr. Speaker, I urge adoption of this bill as a sensible and rational approach for ending the U.S. Travel Service and creating the machinery for solid recommendations as to the future role of both Government and the private tourism industry in promotion of tourism. I think all of us will agree that tourism is important to the economy of this country and we should do all we can to encourage more people from the rest of the world to visit the United States.

I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman yields back 1 minute.

Mr. BROYHILL. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Speaker, I think every Nation in the free world recognizes the value of tourism. I do not think the United States is any exception to that except when it comes to making some investment in it.

My colleagues may be interested in knowing that the U.S. Travel Service which is operated by the State Department responded to the devaluation of the dollar in relation to the British pound by closing the U.S. Travel Service office in London.

My colleagues may be interested in knowing that the busiest commercial seaport in the world, which is Rotterdam in the Netherlands, has no office there that would in any way make available to anyone information that would assist them in traveling to the United States.

My colleagues may be interested in knowing that every nation in the free world operates a travel service office in Japan trying to encourage people to travel from Japan to their country.

Every country in the free world does that except the United States.

That is the record of the U.S. Travel Service.

What we are trying to do is to eliminate the U.S. Travel Service and create this agency to take its place. We have been trying to do that for almost four years. This is the culmination of that work.

The gentleman from New York (Mr. Lee) was charged with representing the minority on this conference committee and charged with getting five things changed in the proposed conference report. He got each of the five changes that he was charged with getting. What he has brought back to us is exactly what we asked him to get. It is a concept that has been embraced by the most conservative Members of the other body on both the Republican and Democratic side of the aisle.

I think this is a worthy bill and I do not think we ought to cut the feet out from under the gentleman from New York (Mr. Lee). I think we ought to support this bill which is supported by the airline industry, the hotel and motel industry, the restaurant industry, the car rental industry, and all kinds of industry in the United States that literally employs hundreds of thousands of people who are taxpayers and who are hoping to have a good economic future under this new administration.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield to the gentleman from Illinois.

Mr. RUSSO. I want to compliment the gentleman on his statement.

Just for the information of the Members of this body, for every $1 the Federal Government spends on tourism we get a return to the Treasury of $18.70. I think that is one of the finest investments we can make of taxpayer dollars. If we could do that with the other agencies in this Government we would not have the deficits that we have today.

I thank the gentleman in the well and also the gentleman from New Jersey (Mr. Florio) and the gentleman from Nevada (Mr. Santini) for their leadership in this area.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I am running out of time, but the gentleman has quite a bit.

Mr. FLORIO. I would just like to get the gentleman's verification of the point we have worked very hard to achieve, that the Congress should have control over any plan or over any entity created in the bill that passed.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. Madigan) has expired.

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Mr. FLORIO. I yield 2 additional minutes to the gentleman from Illinois (Mr. Madigan).

Mr. MADIGAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. I appreciate the gentlemans yielding.

The Senate bill that originally came here was very seriously flawed in the sense that it did not satisfy the concerns that many of us had that there should be public control over planning for tourism, over the spending of money for tourism, and we worked very hard in the conference to insure that there would continue to be public control over the planning process and the actual planning. The gentleman from New York (Mr. Lee), the gentleman from Illinois (Mr. Madigan), and other Members played a very important role in assuring that the plan that will be formulated by this administration will come back to the Congress, and if the Congress sees fit to do nothing, nothing will be done. If the Congress sees fit to accept the plan, modify the plan, authorize money for the plan, it will go through the normal legislative process.

So I would offer that, and I would assume that the gentleman would verify that as the intention of the conferees in the conference report to insure that there would be no opportunity for this Congress to ever lose full control over the process that we are setting in motion. I thank the gentleman for yielding.

Mr. MADIGAN. I certainly agree with what the gentleman has said. I will just say in conclusion that if we leave this promotion of travel to the State Department, travel to the United States is never going to be promoted. It is just simply that simple. When they had the best opportunity they could ever have had, they responded to that opportunity by closing the office in London. I do not think we need any other evidence than that, that we need to do something different to maintain the status quo.

As I have indicated, this is the product of 4 years of deliberations. The principal concept here was conceived by Senator Warner over in the other body, a very conservative Republican from Virginia. Democrats and Republicans have embraced it, and I would urge its support.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield to the gentleman.

Mr. ZABLOCKI. I thank the gentleman for yielding. The gentleman from Illinois had stated that the U.S. Travel Service will be replaced with this administration.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FLORIO. I yield 1 additional minute to the gentleman from Illinois (Mr. Madigan).

Mr. ZABLOCKI. If the gentleman will yield, the gentleman from Illinois had stated that the U.S. Travel Service will be replaced by the administration in the matter of travel. Did I understand the gentleman correctly?

Mr. MADIGAN. But I say that would be created in this legislation.

Mr. ZABLOCKI. And where would this agency be in our Federal Government system? Would it be in Commerce? Would it be under the Secretary of State? What is the structure? How will it remain public?

Mr. MADIGAN. It would be an independent agency responsible for submitting to this Congress a plan which the Congress would either approve or reject.

Mr. ZABLOCKI. But at the present time having the U.S. Travel Service under the Secretary of State, there is better control.

Mr. MADIGAN. If the gentleman will allow me to reclaim my time, there is absolute control, and the result of that control has been that travel to the United States has not been promoted at all. If the gentleman will allow me to continue, as part of their union contract in the country of Japan, all factory workers are entitled to travel outside of that country and have their travel paid for in groups by their employer. As I have indicated earlier, every nation in the Free World is there promoting travel back to their country except the United States of America. That is what the State Department has done with the U.S. Travel Service.

Mr. BROYHILL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, my concern about this independent agency is similar to that which is being expressed by the gentleman from Wisconsin (Mr. Zablocki). That is that we are setting up an independent agency here that has no requirement by statute to deal with these other Cabinet officers who have a legitimate and proper role to play under the direction of the President in our foreign policy. This agency would have the ability to deal independent of the Department of State in its relationships with other nations of the world.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding. May I ask is it not true that during the period until this plan is to be submitted, which is April 1982, this new agency is going to be operating?

Mr. BROYHILL. That is correct.

Mr. BINGHAM. Under the terms of this law, operating without any constraints whatever in a normal fashion, operating in a way that is totally out of the ordinary in terms of governmental structure; is that not the case?

Mr. BROYHILL. That is correct.

Mr. Speaker, I would point out to the Members that the reason that this bill is under suspension is that the managers of the bill, for whatever reason, did not go to the Committee on Rules to seek a waiver of the rules of the House. There is language in this bill that is out of scope and is not germane. For that reason it is under suspension. It will take two-thirds to pass it, and I would hope that one-third or over will join me in opposing this bill. Let us take a look at it next year.

Mr. FLORIO. I yield 1 minute to the gentleman from Florida (Mr. Nelson).

Mr. NELSON. Mr. Speaker, I rise in strong support of the National Tourism Policy Act. conference report to S. 1097.

In the State of Florida, travel and tourism ranks as the No. 1 industry. It employs half a million individuals in Florida—14 percent of the total work force—we in Florida recognize the need to nurture the growth and development of an industry that contributes so vastly to our economy and society.

It is important to stress that tourism is also vital to the entire Nation. It is the third largest retail industry in the United States and employs some 6.5 million Americans. It produces more than $140 billion in revenues. Additionally, this industry is either the first, second, or third largest industry in more than 40 of the 50 States, so not only is it a major economical contributor nationwide, but also a significant contributor to every State in our Nation.

The National Tourism Policy Act will, for the first time in history, give this industry the recognition it so deserves. It will insure that this industry is no longer grossly neglected in the policymaking process, endangering its very existence to the detriment of our national well-being.

The Tourism Policy Act eliminates the U.S. Travel Service and transfers its functions and assets to a new Travel and Tourism Administration. The first task of the Travel and Tourism Administration will be to explore the flow of dollars to the United States from the foreign traveler. Dollars which will help us reduce unemployment, reduce the balance of trade deficit and stimulate our economy.

This study, when completed, will be submitted to Congress for review and evaluation. No additional funds are required by this legislation and in fact the authorization for the Travel and Tourism Administration is at the same level as that granted the U.S. Travel Service last year.

We have an opportunity of a lifetime to initiate the process that will make the United States the hub of international travel.

We have the opportunity to properly recognize the important role travel and tourism plays in every congressional district.

We have the opportunity to encourage the more than 50 Federal agencies that have an impact on travel and tourism to cooperate and coordinate their efforts—reducing redtape and making our programs more effective and responsive.

I intend to vote for conference substitute S. 1097 and encourage each of my colleagues to do the same.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. NELSON. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

Mr. Speaker, I am proud to support the National Tourism Policy Act, conference report on S. 1097.

This legislation has been long-needed and long-awaited by our Nation's third largest retail industry—travel and tourism. Travel and tourism provides billions of dollars to our national economy and employs millions of Americans. It is a very diverse industry, made up of 99 percent of small businesses.

Travel and tourism holds tremendous potential if it is allowed to grow and develop. The national tourism policy will establish for the first time in history, its importance to our national well-being—economically, socially, and in terms of the vast number of jobs it creates, particularly for difficult-to-employ individuals such as minorities and unskilled workers.

We in Arizona are fully aware of its value to our great State. Close to 200,000 people in Arizona are employed directly or indirectly by travel and tourism. This industry generates more than $3.1 billion in spending annually in Arizona.

I urge my distinguished colleagues to join with me in support of this most important industry by voting in favor of the conference report on S. 1097, the National Tourism Policy Act.

Mr. BROYHILL. I yield 3 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. I want to thank the gentleman very much and say I tried to get time and was offered the possibility of 1 minute.

Mr. Speaker, when the House passed H.R. 7321 on July 1 of this year, I hoped that we had heard the last of the National Tourism Policy Act and its plan to subsidize the private tourism industry with taxpayers' dollars.

Less than 2 months after the American people hit Congress over the head with their concern about the growth of Government, the intrusion of Government in private industry, and the costs of the Federal Government, it is inconceivable to me that we would pass this conference report. The conference report establishes a U.S. Travel and Tourism Administration to promote the interests of the tourism industry. The Administration is created as an independent agency. The Office of Management and Budget and all other Federal officers and agencies are specifically prohibited from exercising any advance control over the Administration's budget requests or estimates, legislative recommendations, testimony for congressional hearings, or other actions.

We in Congress like to talk about Federal offices that started small and grew to become "bloated bureaucracies." Well, the conference report on S. 1097 gives us a chance to establish a bureaucracy that starts out overstuffed. The bill authorizes $6.6 million in fiscal year 1981 for the U. S. Travel Service, which then is to be folded into the new Administration within 6 months. In addition, USTS is required to make available to the new Administration $1 million within 30 days after the enactment of this act. What is the need for so much money so quickly? For one thing, it will go to pay for an Administrator at a rate of level II of the Executive Schedule—which happens to be the same rate as the Director of the Central Intelligence Agency, the Secretaries of the Air Force, Army, and Navy, the Chairman of the Nuclear Regulatory Commission, and the Director of the Office of Management and Budget.

The Deputy Administrator is to be paid at level III of the Executive Schedule. I seriously doubt that his responsibilities will be comparable to those of the Comptroller of the Currency, the Chairman of the Federal Communications Commission, and the Commissioner of Internal Revenue, who are also level III's.

The conference report provides for an advisory board, to be appointed by the Administrator. But, 14 of the 17 appointees must be "senior executive officers of organizations engaged in the travel and tourism industry." This industry-dominated group is to direct oversight of the Administration and review of the Administration's preliminary plans and final budget requests.

There is no need to establish this elaborate bureaucratic structure, financed by taxpayer dollars, to do a promotional job that is being done and should be done by the private tourist industry.

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Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. Mr. Speaker, I think I can understand the concern and from some quarters the opposition to this legislation, because, after all, tourism is an invisible industry in America. Unlike the auto industry, when it falters and thousands of jobs are threatened, the Government quickly rides to the rescue. When the steel industry is threatened, we can see at a glance in one city 15,000 people. But the tourism industry, despite the fact that it is among the three largest industries in 40 of the 50 States of the Nation, is made up of thousands and thousands of people spread across this country in hotels and motels, in restaurants and stores, so that it is no wonder that the fireworks do not go off when the tourism industry is in a slump, as it has been in desperately for the past 24 months. But nonetheless, now we know what the tourism industry is, now we know the difficulty that comes to people when it is in a slump. And today, not the next Congress, is the time for us to say, "Let us pass this reasonable and prudent legislation that will begin, only begin, a concerted effort to coordinate Federal help to this great and threatened industry."

Mr. BROYHILL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. I thank the gentleman for yielding.

Mr. Speaker, I oppose this conference report, and I do so very reluctantly. I wish that our committee had had some input into this legislation along the way. This involves foreign relations. The plan calls for the establishment of branch offices abroad, and I would pledge that if this conference report is turned down, as I hope it will be because I think this is the wrong way to legislate on such an important matter, that my subcommittee—and I am sure that I speak for the chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. ZABLOCKI)—the entire Foreign Affairs Committee will be happy to work with the chairman and the members of the Commerce Committee in working out a plan that would be an orderly approach to this very important problem. Nobody quarrels with the importance of the tourism industry. In my city of New York, it is one of our major industries. And, incidentally, if you have tried recently to get a hotel room in New York, you are doing pretty well. We have a lot of tourists coming in. I do not know how they are getting there, but they are coming in.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman from New York for yielding.

Mr. Speaker, I certainly want to promote tourism for our country. But in this far-reaching legislation, which I believe, and I would like to ask the chairman, may very well be vetoed, at any rate, in our closing hours, the 11th hour, of this 96th Congress, we are spending $8 million that we are not sure is going to be well spent. Is it true, as I understand, the President, at the behest of the Secretary of Commerce and the Secretary of State, will veto the bill?

Mr. FLORIO. If the gentleman would yield, I have no information to that effect, and I do not think that anyone has gotten any authoritative word. The main concerns of the administration were the provisions that were contained in the Senate bill which established a totally different type of a concept. There has been a lot that has been said today that we are not going to be able to address, the specific points about the expansion of money, and I would just say that those questions are legitimately dealt with in this bill.

Mr. BROYHILL. Mr. Speaker, I yield one-half minute to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I am glad to have the opportunity to rise in support of the conference report to accompany S. 1097, the National Tourism Policy Act of 1980.

Travel and tourism are clearly vital to the great State of New York. The statistics speak for themselves. More visits are made to the metropolitan New York area by air than to anywhere else in the Nation. Some 9.5 million people traveled to New York this year by air alone—8 million Americans from all over the United States and 1.5 million others from foreign countries. Dollars generated from travel and tourism in the State of New York alone have now reached close to $2 billion a year.

New York is not, however, the only State in the Nation to reap important benefits from this most important industry. Tourism generates approximately $140 billion a year in the general economy and, of equal importance, is responsible for 6.5 million jobs for Americans.

This National Tourism Policy Act will insure that this, our Nation's third largest industry, will remain strong. It is vital that the Federal Government recognize that this industry, as important as it is to our national economy, should remain a national priority and adoption of this conference report will insure the health of the industry as a whole.

The Travel and Tourism Administration mandated by this legislation will assume the responsibilities currently held by the U.S. Travel Service of the Department of Commerce. This newly created Administration will immediately begin developing a marketing and implementation strategy for the promotion of travel to and within the United States. The money appropriated for this newly created Administration will remain at that level set for the U.S. Travel Service already, and yet our Nation will have a much-improved tourism promotion program, enhancing our national economy and reducing our balance of payments deficit.

I strongly support the conference report to S. 1097, and I urge my colleagues to do the same.

Mr. BROYHILL. Mr. Speaker, I yield one-half minute to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, it is unimportant in my view whether this agency is part of Commerce or reestablished as an independent agency. The most important consideration is to promote tourism in America.

The United States is losing out on potential tourist business because of a lack of an understandable policy.

Let me simply make three points:

First: The United States has no tourism policy.

In 1973, the National Tourism Resources Review Commission recommended that "Congress establish and the President carry out a national tourism policy."

Nothing has been done to establish such a policy.

There are presently an estimated 50 Federal agencies involved in 115 programs that directly concern tourism; their efforts are totally uncoordinated.

The lack of a policy makes "programs aimed at enhancing tourism to the United States, ineffective to moderately effective."

Lack of coordination has resulted in increased paperwork and inefficient use of government and private resources having to answer to so many agencies.

Second: This bill does not create a new bureaucracy.

It merely transfers the authority, assets, and responsibilities of the existing U.S. Travel Service.

It adds only the responsibility to conduct a study, to develop a comprehensive and detailed marketing and implementation plan on national tourism policy.

The plan will be subject to congressional approval.

Until the plan is submitted and approved, funding and staffing would remain at present levels; even at that time, any proposed changes would be subject to congressional approval.

This bill does give the new agency a legislative mandate, in the form of a statutory commitment to travel and tourism; such a commitment has been absent in the past.

The bill eliminates the one questionable provision, which would have set up a Cabinet-level National Tourism Policy Council.

Third. The United States is losing out on potential tourists—and potential dollars—because, unlike most nations, we do not have a coherent tourist policy.

We get only 7 percent of the world's tourists.

In 1979 we earned only $10 billion on international tourism.

We get over an 18-to-1 return on dollars now invested in promoting tourism to the United States.

With devaluation of the dollar, and lower air fares, it now costs less for a European to spend 1 week in the United States than in Europe.

We do a very good job of attracting tourist dollars for our many attractions once we get the tourists here; we do a poor job of getting them here to begin with.

The Committee on Interstate and Foreign Commerce found that "little effort has been advanced to maximize the contributions that can be realized from a full endorsed and supported tourism program based on adequate and sound market research."

Mr. BROYHILL. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I rise in opposition to this conference report, as I did to the original bill. It is much worse than the original bill. There is not any business in America with which I am familiar that ever gained anything out of going into partnership with the U.S. Government. You can think long and you can think hard. Here we have one of the great, successful enterprises of our country. We have just heard the gentleman say that it is one of the top three in his State, and in many States it is among the top three. Twenty-two million people are supposed to come here from abroad this year. Over $130 billion is supposed to be spent in local tourism. And here we are, talking about ruining this great business by putting them under excessive regulation.

There is nothing in the world to be gained by creating another agency of Government.

Mr. BROYHILL. Mr. Speaker, I yield the balance of my time to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I not only am going to vote against this bill, I object to its being brought up on the floor in this manner, creating a new department, bringing a bill which has nongermane material, contrary to the Budget Act. I do not believe the Federal Government is going to help tourism. American tourism is doing very well. We have never had more people from abroad coming to this country. The reason is pure economics. I do not think the Government can help. I am really dismayed that we are going against OMB, we are going against the President, creating a new agency and particularly creating a new agency when a new administration is coming to town sworn to defend against the creation of new agencies.

I urge the defeat of this misbegotten bill.

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Speaker, I rise today to express my support of the conference report on S. 1097, the National Tourism Policy Act.

On July 1, 1980, the House passed its version of the Tourism Policy Act, H.R. 7321, by an overwhelming vote of 347 to 55. The Senate agreed to the conference report on the Tourism Policy Act by voice vote earlier this week.

The passage of this piece of legislation will insure that the importance of tourism to the Nation's social and economic welfare is officially recognized. Currently, travel and tourism is the United States third largest industry; it generates over $140 billion in revenues annually and provides employment for more than 6 million Americans.

The importance of the tourism industry to Hawaii is just as significant. Tourism is the State's largest industry, employing over 90,000 people and contributing over 30 percent of State and county revenues. In addition, Hawaii's tourism industry has been rapidly expanding since the State was admitted to the Union. The annual rate of increase has averaged over 16 percent for the past 20 years.

I believe the Federal Government has been delinquent in responding to the needs and concerns of the important tourism industry. The national tourism policy act will encourage the coordination of the more than 100 Federal programs and 50 Federal agencies which currently affect the tourism industry.

The tourism policy act will also transfer the authority of the U.S. Travel Service to an independent agency—the U.S. Travel and Tourism Administration. This new agency will be responsible for developing a comprehensive marketing and implementation plan to stimulate foreign travel to the United States. Our country presently spends the least of any major nonsocialist country to promote foreign tourism—approximately 4 cents per capita. As a result of such limited spending, in 6 recent years the United States has run a balance-of-payments deficit of $3 billion in tourism. The U.S. Travel and Tourism Administration will insure that this economic imbalance does not continue.

It is time for Congress to make a firm commitment to the vital tourism industry. I urge my colleagues to join with me and express their support by adopting this necessary piece of legislation.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. AKAKA. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, it is regrettable that I am unable to support our colleague from New Jersey, Chairman James J. Florio for whom I have great respect and regard.

As chairman of the Committee on Foreign Affairs, I am constrained to object to the conference report on S. 1097, the National Tourism Policy Act, as it is a bill the House has not had time to adequately consider.

For example, the House version of this bill, H.R. 7321, would have established a board to study and make recommendations on how to organize the Government to better promote tourism in the United States. That is an important goal, and the House bill would have pursued it in a logical, reasonable manner.

In contrast, the conference report before the House today is an entirely different bill. It creates an independent agency which is required to submit to the Congress a recommendation for a national tourism plan without any review or input from the established executive agencies or departments, or even the President. Further, it circumvents the normal role of the Office of Management and Budget in coordinating executive branch legislative and budgetary recommendations to the Congress.

Mr. Speaker, on November 21, I wrote to the able gentleman from New Jersey (Mr. Florio), expressing the concern of members of the Committee on Foreign Affairs that language before the conferees would permit the proposed tourism entity the sole discretion to engage in activities which normally require the approval or at least the cooperation of the Department of State—activities such as establishing offices overseas, consulting with foreign governments, representing U.S. interests at international meetings and conferences.

Because the Senate bill had specifically provided that such activities be undertaken without consultation with the Secretary of State, I felt it was important that the legislation spell out that the role of the Secretary of State not be circumvented.

We have run into similar situations with legislation before other House committees, most recently with a bill to expand agricultural exports that was considered last year by the Committee on Agriculture and by the Committee on Foreign Affairs, and we have always been able to resolve any differences which affect the role of the Secretary of State.

However, this bill does not protect the appropriate and necessary role of the Secretary. It therefore raises the prospect of an entity run by managers who are unfamiliar with operating in the international arena and who are moving around the world committing the United States to programs and policies over which they have no input or authority. The bill does make reference to "in accordance with applicable law"—but that in no way insures consultation with and cooperation with the Department of State.

Also, the bill would create an industry dominated advisory board—14 of the 17 members would be from the tourism industry—specifically to look over the shoulder of the independent agency and report to the Congress. An advisory committee—fine; with some industry representation—fine; but with total industry domination—quite irregular.

Furthermore, the Committee on Foreign Affairs, which has jurisdiction over U.S. international economic policy and foreign affairs, has not had the opportunity to review adequately this legislation to determine its impact on U.S. relations with other countries and with U.S. international economic interests. In fact, no committee has had an opportunity to review adequately the version of the bill which is before us today.

As this clearly is an important matter, which deserves further study, I would urge the Members to reject the conference report and to consider more appropriate action early in the 97th Congress.

Mr. ROTH. Mr. Speaker, will the gentleman yield?

Mr. AKAKA. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, I rise in support of the conference report on the National Tourism Policy Act as attached to S. 1097.

The enactment of the National Tourism Policy Act is of vital importance not only to the travel and tourism industry, but to the health of our economy as a whole.

The far-reaching impact of the travel and tourism industry on our Nation can be seen in the fact that it is the largest retail industry in the United States; ranking as one of the top three retail industries in 40 of the 50 States. In 23 of those States it is the largest employer.

Further underlining the necessity to vigorously promote tourism in the United States, which the conference report outlines, is the fact that domestic and foreign travelers in the United States spent more than $140 billion in 1979, creating more than 6.5 million jobs, $29 billion in wage and salary income, and nearly $17 billion in Federal, State, and local tax revenues. Moreover, projections indicate the travel and tourism industry to be the most important economic activity in the United States by the year 2000.

Bringing diverse and separate activities that relate to tourism under one comprehensive umbrella designed to stimulate and encourage travel and tourism in the United States is the fundamental purpose of the National Tourism Policy—a timely and worthwhile undertaking of the Federal Government.

The abolition of the U.S. Travel Service and transfer of its authority to an independent agency called the U.S. Travel and Tourism Administration can be accomplished at no increased cost to the taxpayer. In fact, the provisions of the act are completely within the bounds of frugality in Federal spending with which we are all so concerned.

The advantages of such a program are significant in terms of reducing Federal paperwork, more efficient use of Government resources, encouraging the prosperity of small business—of which 99 percent of travel and tourism businesses are a part—and insuring that the varied sectors of the travel and tourism industry cooperate toward positive goals in the best interests of the traveler, the industry, and the Nation.

Mr. Speaker, the National Tourism Policy Act is an initiative whose time has come. I urge my colleagues to vote in favor of the conference report to S. 1097. By doing so we can make significant progress toward recognizing the tourism and travel industry's vital importance to the continuing prosperity of our Nation on many economic levels, and allow the Federal Government to act to encourage what is proving to be a most vital sector of our economy in these troubled times.

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. Leland).

Mr. LELAND. Mr. Speaker, I am pleased to have the opportunity to appear before you today, and address a subject of great importance to the U.S. economy: the travel and tourism industry. Travel and tourism is currently the third largest industry in the United States, and it is projected that it will play an even greater role in the future. We will have a clear economic interest in international tourism. The money we earn from foreign tourists expands American export earnings and helps to offset the cost of imported oil. Last year, these earnings exceeded $10 billion, enough to pay for about 538 million barrels of oil. Domestic and foreign travelers in the United States spent over $140 billion in 1979, generating over 6.5 million jobs, $29 billion in wages and salary income, and nearly $17 billion in Federal, State, and local tax revenues.

In order to further the development of the travel and tourism industry, it is important that our Nation establish a cabinet-level, cordinating council, and a nonprofit corporation as an implementation agency to carry out national tourism policy. S. 1097 provides such a system. This legislation would replace the U.S. Travel Service with a new agency designed to provide a much needed, aggressive, promotion program. With an estimated 20 million foreign tourists coming to the United States last year alone, a Federal role in tourism is essential. We must establish a formal line of communication with the Department of Transportation, the Census Bureau, the Department of Immigration and Naturalization to achieve this goal.

I urge my colleagues to join me in support of this important legislation. The time has long passed for the Federal Government to realize the health of the travel and tourism industry is important to the economic well-being of the Nation.

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Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I thank the able gentleman for yielding to me.

This bill to establish a national tourist policy and a cabinet level coordinated council and a nonprofit corporation as an implementing agency to carry out the policy seems to me to be a very reasonable bill to foment and forward tourism to the United States. It is one of the best ways to bring foreign exchange into our country. It is also one of the best ways to create understanding and good will between our country and the people of the country from which the tourists come to our country.

My area particularly is very significantly affected by the volume of tourism that we have. It is the very lifeblood of our area. The Government has been making some contributions to that program for many years. This is the best approach that we have ever made, and I hope that this legislation will be adopted.

Mr. FLORIO. Mr. Speaker, to conclude the debate I would yield to the gentleman from Nevada (Mr. SANTINI), who has been a very, very helpful member of the subcommittee and has been in the forefront of efforts for this bill.

Mr. ROYER. Mr. Speaker, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California.

Mr. ROYER. Mr. Speaker, according to the 1977 census study, more travel takes place in California than in any other State. In 1977 there were more than 51 million person-trips—of 100 miles or more from home with destinations in California.

Most of these trips are for Californians traveling in California. California originating in other States were 9.8 million. One reason for California's relatively small number of out-of-State visitors is its lack of a State-funded promotional campaign. In California the promotion is left to the cities and local communities. For foreign promotion the State depends on Washington, D.C. We need a strong and aggressive effort to bring foreigners to the United States.

Realizing the important role travel and tourism plays in California, I rise to encourage support for conference substitute S. 1097, the National Tourism Policy Act. In my State alone, it employs close to 500,000 people and generates well over $2 billion in business receipts. It also generates well over $2 billion in taxes to help support the cost of Government in our society.

S. 1097 will help the residents not only in my district, but throughout my home State to insure a strong and viable role in our economy. There is no question in my mind that travel and tourism will continue to grow in importance in our country, due to the many fine facilities, attractions and ideal climate. We can either encourage this process through proper policies and programs or retard it through lack of attention and disregard. The choice is ours, and I intend to make the one that makes the most sense: to support S. 1097. I hope that each of you will do the same.

Mr. SANTINI. Mr. Speaker, this legislation is to the tourism and travel industry the first positive sign on the legislative horizon that they have been able to see in three decades of dereliction and neglect. Part of the reason for that is that the USTS has failed so miserably to do the job it was assigned. Now we have a chance to redeem, to salvage, to move forward responsibly and aggressively, to treat that problem.

There is no new agency. It is a transfer agency. There is not one dime of additional expenditure. It is the same authorization. What it is, it is for the first time recognition in the United States of America that tourism and travel is a reputable business. It deserves to be accorded that same distinction that we give to any other industrial or retail segment of our economy. Tourism and travel needs your help individually, and your vote now.

● Mrs. HECKLER. Mr. Speaker, I rise in strong support of the National Tourism Policy Act conference report. I commend my distinguished colleagues on the Interstate and Foreign Commerce Committee, and my colleague from Nevada (JIM SANTINI), on this legislative achievement.

It will be argued today that this bill adds to the Federal bureaucracy and that it will lead to increased costs.

But this is simply not the case. It takes responsibility for tourism policy out of the awesome bureaucracy of the Commerce Department, so that it can act more efficiently. Rather than adding to costs, it holds them even with the U.S. Travel Service (which it will supersede) authorization.

So the legislation before us is of a unique character: Without increasing costs, without adding to the size of the Federal bureaucracy, it will provide financial benefits to the country, as well as to nearly every State in the Union.

Tourism and travel ranks third among American industries. It composed 5.8 percent of the 1979 GNP. It generates $29 billion in wage and salary income, and accounts for 4.3 percent of the nonagricultural payroll. It accounts for $1.9 billion in taxes, and helps to adjust the balance of payments tipped by oil imports.

And whatever action is taken to promote this industry will have longstanding spillover effects: For every 100 jobs generated in tourism, an estimated 48 more are generated in supporting services.

And the benefits of this act will not remain illusive, statistical advances. Our own States will see prompt, tangible benefits as well.

Massachusetts, for example, provides clear proof of the beneficial effects of tourism. Its $3 billion per year industry provides 90 to 115,000 full time jobs and generates $145 million for the Commonwealth in tax revenues tied to sales. With the multiplying effects of jobs generated in travel and tourism, Massachusetts provides an indication of the statewide benefits that can accrue with an increased focus on the industry.

To be sure, Massachusetts has particular appeal as a tourism center. It has the distinct advantage of being a four-season vacation State—skiing in the winter, spring festivals, summer beaches, fall foliage, and year round historical sites—which draws people to Massachusetts all year long.

But notwithstanding Massachusetts' unique attractions, every State would benefit from a cost-free effort to promote this national industry. By articulating a national policy to promote travel to the United States (where our current national efforts are surpassed by such countries as Belgium, Ireland, Spain, and Canada) and by taking this industry out of a cubbyhole in the Commerce Department, we will encourage an already thriving national industry.

Without spending more money, this bill will help to provide more jobs, more tax revenues, more foreign exchange—clear benefits to our States and to our country as a whole.●

● Mr. GOLDWATER. Mr. Speaker, I do not think there is any doubt that I am a firm and longtime supporter of the tourism industry. My voting record and my work on transportation and energy related committees bear this out.

I am a great supporter because I am also a great supporter of the free enterprise system, and free enterprise means an acceptance of free market forces. This is the reason I have opposed such anti-free market proposals as gasoline rationing and allocation programs. It is the reason I opposed mandating the installation of airbags in automobiles or proposals to tax so-called gas-guzzlers. It is the reason I have been in the fight against overregulation and the reduction of the tax burden on business and investment.

It is also the reason I voted against bailing out the Chrysler Corp.

If I believe in the forces and the creativity of the free market, how do I justify advocating getting Government off the backs of private enterprise and then in the next breath advocate a Government agency to promote, advertise, and lobby for any business?

One of the largest problems facing tourism is inflation. People simply have less money for vacations, and the absolute No. 1 reason for inflation is Federal deficit spending.

Someone recently described the Federal budget as "hemorrhaging" and it was by no means an understatement.

How did we arrive at this disastrous epoch? How did we lose control of Government spending so totally?

The food stamp program did not start out costing $8 billion.

New York City did not intend to come back and ask for a second loan.

Student loan programs were not expected to increase by over 7,400 percent in 15 years and housing programs by 9,500 percent.

All these—and most others—started as modest efforts, but just like a brick wall is built one brick at a time, the Federal bureaucracy was created one program at a time.

This year's deficit approaches $60 billion and the debt will finally exceed a trillion dollars. In this regard, how can anyone advocate creating another agency with a mutimillion dollar price tag and particularly one with the potential this one has for enormous growth.

Finally, there is the question of Federal regulation. When local school districts first came to Washington in the early 1960's asking for Federal aid, do you think they had in mind school busing, bilingual directives, the banning of mother-daughter dinners, mountains of paper-work, and outrageous compliance and recordkeeping orders?

That may not be what they had in mind, but that is what they got along with the Federal money. The two are inseparable. Federal money means Federal regulations, and it does not take much imagination to foresee the kind of regulations that might be imposed on the tourism industry if this new agency ever grew to its potential with all the attendant bureaucrats, activists, and regulators.

In all candor, I cannot imagine why any business would voluntarily invite the Federal Government into the business, particularly in areas where the industry itself can and should be responsible.

In short, Mr. Speaker, I do not believe this legislation is wise in terms of what is good for this industry and I know it is not wise in terms of the Federal budget and the bureaucracy.

I urge my colleagues to defeat this legislation. It is the wrong bill at the wrong time.●

● Mr. BADHAM. Mr. Speaker, I wish to share with the Members of the House my enthusiastic endorsement of this legislative proposal—the conference report on S. 1097, the National Tourism Policy Act.

In my capacity as vice chairman of the U.S. Congressional Travel and Tourism Caucus and, in addition, as an ardent supporter of the travel and tourism industry, I want every Member to appreciate the importance of this landmark legislation. Realizing that earlier this year, this body, by a vote of 347 to 55, passed H.R. 7321, the House version of the national tourism policy legislation, I will not reiterate the long and obvious list of reasons why you should support this legislation. I know you share my excitement.

It is important, however, to stress that title I of this legislation establishes as a matter of Federal policy the importance of travel and tourism to our social and economic well-being. It further stresses the need for coordination and cooperation within and outside the Federal Government to insure this vital industry remains a strong and viable segment of our economy.

In order to insure the United States takes advantage of the true potential travel and tourism holds for us in the areas of: First, reducing the balance of payments; second, stimulating the economy; and third, reducing unemployment (especially the "hardcore" segments of the unskilled and minority groups), a comprehensive Federal approach is a must.

The potential of travel and tourism being the No. 1 industry in the United States (and the world) by the year 2000, as many economists have projected, is there. We are truly, as I have said numerous times, sitting on "an untapped vein of gold."

We will not be able to realize this potential, however, without aggressive innovative efforts to coordinate the many Federal efforts that impact this aspect of our economy.

Title I is the first step in this process. It identifies and recognizes travel and tourism as a important and significant segment of our economy and society and encourages the more than 50 different Federal agencies having an impact on travel and tourism to work with this industry toward realizing its true potential.

Title II eliminates the existing U.S. Travel Service and transfers its authority, responsibility, assets and liabilities to an agency called the U.S. Travel and Tourism Administration. Basically, no new authority or responsibility, for the most part, will be granted to the new Travel and Tourism Administration.

What this legislation does is merely transfer the responsibility for promoting the United States as a travel destination for foreign visitors from one entity to another. This transfer is necessary if we are to provide the identity and emphasis for this program that is necessary in order to reduce the balance of payments and stimulate our economy. In the past, this activity was hidden or ignored, as the case may be, in the bowels of the Commerce Department. The administration, over the last 2 years in fact, has tried to eliminate this foreign promotion activity and then when this failed, they attempted to lessen its status by moving it under another commerce activity. In both cases, the House rebuked these efforts and stressed the importance of this activity.

The time has come for us to properly recognize and emphasize the importance of promoting the United States as a destination for foreign travelers to visit and spend their money. With the transfer of these responsibilities to the Travel and Tourism Administration, this legislation will be providing equal status for the United States. All other major foreign governments have recognized the potential and importance of this activity and all spend more money to encourage foreigners to visit their countries. The creation of the U.S. Travel and Tourism Administration will greatly assist us in increasing the amount of dollars foreigners spend in the United States.

When one realizes that this piece of legislation will not require any additional Federal funds—appropriations will be held at $8.5 million—every Member of this House should join me in supporting this proposal.

Mr. Speaker, I believe the time has come for the Federal Government to recognize the important role travel and tourism plays in our economy. I believe this compromise proposal, although it does not contain everything I would have hoped for, is a major step in the right direction. The gentleman from New Jersey (Mr. FLORIO), and the gentleman from Illinois (Mr. MADIGAN) as well as the other conferees in the House and Senate who participated in developing this masterful proposal deserve a vote of recognition and appreciation. This package will do much to accomplish our common goal of a healthy and strong economy and realize the true potential of travel and tourism, and I urge your enthusiastic vote of support.●

● Mr. MONTGOMERY. Mr. Speaker, I am supportive of the conference report on S. 1097, the National Tourism Policy Act, and I would like to urge my colleagues to join me in this support.

S. 1097 is critical to the travel and tourism industry in the United States. This industry plays a very important role in our society and economy, and the bill for the first time legally recognizes this importance through the establishment of an independent agency to promote travel and tourism issues. The U.S. Travel Service will be transferred to the Travel and Tourism Administration which will be responsible for the coordination of the more than 100 Federal programs and 50 Federal agencies that work on tourism in the United States. The new agency is required in the bill to develop a comprehensive and detailed plan for congressional approval that will stimulate foreign travel to the United States. Such a plan would be designed to improve our balance of trade as well as make significant contributions to our economy.

Travel and tourism is already the Nation's third largest industry, generating well over $140 billion in revenues nationally. It is also a major part of local economies, with tourism related businesses ranking among the top three industries in 40 out of the 50 States. The industry is mostly small business, employing more than 6½ million people. The major thrust of this bill is to recognize the potential U.S. travel still has for our economy and to encourage the tapping of resources that are yet untouched.

The most positive aspect of S. 1097 is that although it is opening up avenues for large economic growth, it will cost no additional funds. Since there are already appropriations for the U.S. Travel Service the bill will simply transfer those funds to the new agency, allowing them to be used to better promote travel in the United States.

Mr. Speaker, I do hope my colleagues will recognize the merits of this bill and join me in my support.

Thank you.●

● Mr. RITTER. Mr. Speaker, this National Tourism Policy Act, conference substitute S. 1097, is vital to the economic welfare of the Nation. And to my own State of Pennsylvania and to the Lehigh Valley which I represent.

In Pennsylvania alone, in 1979, tourism employed some 173,000 individuals. It is either the first, second, or third largest industry in more than 40 of the 50 States.

In the past we have failed to paint the compelling picture of the importance of an industry which provides revenues of $140 billion and employs over 6 million Americans. We have failed to build upon its collective strength and vitality. Although a small step, S. 1097 will assist this Nation in forming the latent strength of travel and tourism which will in turn strengthen and stimulate the U.S. economy.

This bill is critical to those engaged in travel and tourism because it:

Officially recognizes the importance of tourism to the Nation's social and economic welfare;

Encourages the coordination of the more than 100 Federal programs and 50 Federal agencies having an impact on tourism-related activities;

Eliminates the U.S. Travel Service and transfers its authority, assets and responsibilities to an independent agency called the U.S. Travel and Tourism Administration; and

Requires the U.S. Travel and Tourism Administration to develop a comprehensive and detailed marketing and implementation plan to more aggressively stimulate foreign travel to the United States. The plan will be brought back to Congress for approval.

This bill, however, does not increase the bureaucracy (merely transfers responsibility and authority) or require any additional Government expenditures.

This approach is an important step, albeit a modest one. It sends a clear message throughout the Nation that travel and tourism is recognized for its significant contribution to our economy. One that is worthy of our support.●

● Mr. MARRIOTT. Mr. Speaker, I rise in support of S. 1097, and I do so for four reasons. First, the travel and tourism industry is the Nation's third largest industry, with an impact on our economy far beyond what most people realize. In fact, it is among the top 3 industries in over 40 States, and is the largest employer in 23 States. Overall, travel and tourism employs about 6.5 million people, many of them with limited skills, and among the hardest to employ in our society.

Travel and tourism produces well over $140 billion annually in revenues and generates nearly $17 billion in tax revenues. That is a staggering sum when you consider that 99 percent of those who make up this industry are small businesses.

In my home State of Utah, travel and tourism is the second largest industry, second only to Government. Around 45,000 jobs in my State are tourism related. We host about 10 million tourists annually. The industry produces over $450 million a year in revenues, and generates nearly $63 million in taxes.

Yet, as important and as large an industry as is reflected by these figures, travel and tourism in the United States is only a shadow of what it could be. This leads me to my second point: The United States has no coherent policy for this industry, despite a mandate to develop one.

In 1973, the National Tourism Resources Review Commission recommended that "Congress establish and the President carry out a National Tourism Policy." Nothing, I repeat, nothing has been done to establish such a policy. This inaction becomes even more incomprehensible when you consider that there are presently an estimated 50 Federal agencies involved in 115 programs that directly concern tourism. At the present time, their efforts are totally uncoordinated.

A House Interstate and Foreign Commerce Committee report states that, "because of this lack of coordination, programs aimed at enhancing tourism to the United States ranged from ineffective to moderately effective * * *." It has also resulted in increased paperwork and in inefficient use of Government and private resources, particularly when the private resources are answerable to so many different agencies.

Third, because of this lack of policy and coordination, the United States is losing out on potential tourists and potential tourist dollars. As the only major nation without a tourism policy, we get only 7 percent of the world's tourists. That is despite the many unique attractions, both historical and natural, offered by our country. It is also despite the fact that, with the devaluation of the dollar and lower air fares, it now costs less for a European to spend 1 week in the United States than in Europe.

We do a good job of attracting tourist dollars for our many attractions once we get the tourists here: it is simply that we do such a poor job of getting them here to begin with. In fact, the Committee on Interstate and Foreign Commerce found that "little effort has been advanced to maximize the contributions that can be realized from a fully endorsed and supported tourism program based on adequate and sound market research."

Although we realize an 18 to 1 return on dollars invested in promoting tourism to the United States, our small share of world tourism meant that, in 1979, we earned only $10 billion on international tourism. Consider what an increase in our share of only a few percent would do to our income figures.

Fourth, this bill officially recognizes the importance of tourism, encourages Federal agencies to coordinate their travel and tourism related activities, and provides a mandate to the Federal agency in charge of this area, all without enlarging the bureaucracy.

This bill merely transfers the authority, assets, and responsibilities of the existing U.S. Travel Service to a new, independent agency, the U.S. Travel and Tourism Administration. The bill adds only the responsibility to conduct a study, to develop a comprehensive and detailed marketing and implementation plan on national tourism policy. Any plan developed will be subject to congressional approval.

Until the plan is submitted and approved, funding and staffing for the new agency will remain at present levels. At all times, proposed changes will be subject to congressional approval.

Perhaps most important, the bill does give the new agency a legislative mandate, in the form of a statutory commitment to travel and tourism. Such a commitment, as I noted earlier, has been absent in the past. And its absence has had a very negative impact on U.S. international tourist trade.

I would also like to point out that this bill eliminates the one provision of the original legislation with which some Members were concerned. That provision would have set up a Cabinet-level National Tourism Policy Council. It is not in the measure now under consideration.

I hope my remarks will serve as a brief overview of the situation facing us in this area that is so important to our economy. In the final analysis, we are really trading a system that has been a proven failure for one which at least shows some promise of success, in part because it will be an independent agency and in part because we have made a commitment to tourism a part of its birth certificate, S. 1097. I ask my colleagues to join me in support of this effort and to vote for the measure before us.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO) that the House suspend the rules and agree to the conference report on the Senate bill, S. 1097.

The question was taken.

Mr. BROYHILL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 218, nays 84, answered "present" 1, not voting 128, as follows:

[Roll No. 677]

YEAS—218

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashley
Bailey
Baldus
Barnard
Barnes
Bauman
Benjamin
Bennett
Bevill
Blanchard
Boggs
Boland
Bolling
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Carney
Carr
Carter
Chappell
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Conte
Conyers
Coughlin
Crockett
D'Amours
de la Garza
Dellums
Derrick
Dicks
Dixon
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fowler
Frost
Garcia
Gaydos
Gephardt
Gingrich
Ginn
Gonzalez
Gore
Gray
Guarini
Gudger
Guyer
Hagedorn
Hammerschmidt
Harkin
Harris
Harsha
Hawkins
Hefner
Hightower
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Ireland
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Kildee
Kostmayer
Kramer
Lagomarsino
Leach, La.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, La.
Lott
Lowry
Lujan
Lundine
McDade
[illegible]
McHugh
McKinney
Madigan
Markey
Marks
Marriott
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Montgomery
Murtha
Musto
Natcher
Nelson
Nowak
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pepper
Perkins
Petri
Peyser
Price
Pritchard
Pursell
Rangel
Ratchford
Rinaldo
Ritter
Rodino
Roe
Rosenthal
Roth
Roybal
Royer
Rudd
Russo
Santini
Sawyer
Scheuer
Schulze
Sensenbrenner
Shannon
Shelby
Shuster
Simon
Skelton
Smith, Iowa
Solomon
Spence
Staggers
Stangeland
Stokes
Stratton
Studds
Synar
Taylor
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walker
Watkins
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Yatron
Young, Fla.
Zeferetti

NAYS—84

Ashbrook
Aspin
AuCoin
Bedell
Bereuter
Bethune
Bingham
Bonior
Brodhead
Brooks
Broyhill
Butler
Campbell
Cleveland
Collins, Tex.
Conable
Corcoran
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Dickinson
Dingell
Edwards, Okla.
Fenwick
Forsythe
Fountain
Frenzel
Giaimo
Glickman
Goldwater
Gradison
Gramm
Hall, Ohio
Hall, Tex.
Hance
Hutchinson
Jacobs
Jeffries
Kindness
Leach, Iowa
Leath, Tex.
Livingston
Loeffler
Long, Md.
Lungren
McCloskey
Maguire
Mazzoli
Michel
Miller, Ohio
Moffett
Moore
Myers, Ind.
Murphy, Pa.
Nichols
Obey
Pashayan
Pease
Porter
Quillen
Rahall
Regula
Reuss
Robinson
Rousselot
Satterfield
Schroeder
Seiberling
Sharp
Shumway
Smith, Nebr.
Stanton
Stenholm
Symms
Tauke
Wampler
Weiss
White
Winn
Wolff
Wylie
Zablocki

ANSWERED "PRESENT"—1

Thompson

NOT VOTING—128

Abdnor
Ambro
Anderson, Ill.
Applegate
Archer
Atkinson
Badham
Bafalis
Beard, R.I.
Beard, Tenn.
Beilenson
Biaggi
Boner
Bonker
Broomfield
Brown, Ohio
Byron
Cavanaugh
Chisholm
Collins, Ill.
Corman
Cotter
Crane, Daniel
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Derwinski
Devine
Dodd
Donnelly
Dornan
Eckhardt
Emery
Erlenborn
Evans, Ga.
Ferraro
Ford, Mich.
Fuqua
Gibbons
Gilman
Goodling
Grassley
Green
Grisham
Hamilton
Hanley
Hansen
Heckler
Heftel
Hillis
Hinson
Holland
Holt
Holtzman
Hughes
Hyde
Ichord
Jeffords
Jenkins
Johnson, Colo.
Kastenmeier
Kelly
Kogovsek
LaFalce
Latta
Lederer
Luken
McClory
McCormack
McDonald
McKay
Marlenee
Martin
Mathis
Mattox
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Neal
Nedzi
Nolan
O'Brien
Paul
Pickle
Preyer
Quayle
Railsback
Rhodes
Richmond
Roberts
Rose
Rostenkowski
Sabo
Sebelius
Snowe
Snyder
Solarz
Spellman
St Germain
Stack
Stark
Steed
Stewart
Stockman
Stump
Swift
Tauzin
Thomas
Traxler
Trible
Ullman
Van Deerlin
Walgren
Waxman
Weaver
Whitehurst
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wydler
Yates
Young, Alaska
Young, Mo.

☐ 1710

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Wydler.

Mr. Applegate with Mr. Hyde.

Mr. Lederer with Mrs. Heckler.

Mr. Kastenmeier with Mr. Abdnor.

Mr. Rostenkowski with Mr. Beard of Tennessee.

Mr. Rose with Mr. Broomfield.

Mr. Richmond with Mr. Deckard.

Mr. Mottl with Mr. Green.

Mr. Danielson with Mr. Gilman.

Mr. Ambro with Mr. Latta.

Mr. Davis of South Carolina with Mr. Marlenee.

Mr. Beilenson with Mr. O'Brien.

Mrs. Byron with Mr. Quayle.

Mrs. Chisholm with Mr. Sebelius.

Mr. Corman with Mr. Bob Wilson.

Mr. Murphy of New York with Mr. Trible.

Mr. St Germain with Mr. Davis of Michigan.

Mr. Stack with Mr. Archer.

Mr. Hanley with Mr. Erlenborn.

Mr. Fuqua with Mr. Martin.

Ms. Ferraro with Mr. McClory.

Mr. Donnelly with Mr. Hinson.

Mr. Walgren with Mr. Railsback.

Mr. Traxler with Mrs. Snowe.

Mr. Weaver with Mr. Stockman.

Mr. McCormack with Mr. Hillis.

Mr. Mathis with Mr. Grisham.

Mr. Ichord with Mr. Goodling.

Mr. Hughes with Mr. Badham.

Mr. Atkinson with Mr. Bafalis.

Mr. Cavanaugh with Mr. Brown of Ohio.

Mr. Cotter with Mr. Derwinski.

Mr. Neal with Mr. Whitehurst.

Mr. Pickle with Mr. Jeffords.

Mr. Roberts with Mr. Snyder.

Mr. Nolan with Mr. Thomas.

Mr. Boner of Tennessee with Mr. Daniel B. Crane.

Mr. Dodd with Mr. Devine.

Mr. Jenkins with Mrs. Holt.

Mr. Kogovsek with Mr. Johnson of Colorado.

Mr. LaFalce with Mr. Dornan.

Ms. Holtzman with Mr. Paul.

Mr. Nedzi with Mr. Moorhead of California.

Mr. Moorhead of Pennsylvania with Mr. Hansen.

Mr. Peyser with Mr. Williams of Ohio.

Mr. Sabo with Mr. Young of Alaska.

Mr. Murphy of Illinois with Mr. Emery.

Mr. Waxman with Mr. Kelly.

Mr. Van Deerlin with Mr. Yates.

Mr. Young of Missouri with Mr. Charles H. Wilson of California.

Mr. Mollohan with Mr. McKay.

Mr. Luken with Mr. McDonald.

Mr. Steed with Mr. Stark.

Mr. Solarz with Mr. Stewart.

Mr. Bonker with Mr. Beard of Rhode Island.

Mrs. Collins of Illinois with Mr. Eckhardt.

Mr. Daschle with Mr. Evans of Georgia.

Mr. Ford of Michigan with Mr. Gibbons.

Mr. Heftel with Mr. Holland.

Mr. Stump with Mr. Mattox.

Mr. Swift with Mr. Tauzin.

Mr. Ullman with Mr. Anderson of Illinois.

Messrs. MOORE, STENHOLM, WHITE, LONG of Maryland, and PORTER changed their votes from "yea" to "nay."

Mr. DELLUMS changed his vote from "nay" to "yea."

Mr. THOMPSON changed his vote from "yea" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill, S. 1097.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNOUNCEMENT AS TO LEGISLATIVE PROGRAM

(Mr. ROE asked and was given permission to address the House for 1 minute.)

Mr. ROE. Mr. Speaker, with the concurrence of the Speaker, I intend to call up the bill (H.R. 4231) to designate the "John D. Larkins, Jr., Federal Building," under suspension of the rules at the appropriate time, either today or tomorrow, and to dispose of a Senate amendment.

DIRECTING SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN ENROLLMENT OF S. 2363

Mr. PHILLIP BURTON. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 458) directing the Secretary of the Senate to make corrections in the enrollment of the Senate bill (S. 2363) to authorize the establishment of the Georgia O'Keeffe National Historic Site, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LAGOMARSINO. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I reserve the right to object to ask the gentleman from California, the chairman of the committee, to explain what is being done here.

Mr. PHILLIP BURTON. This bill, a previously passed proposal (S. 1910) sponsored by the junior Senator from Falls land conveyance further treats the National Capital boundary stones legislation previously passed by this House by our distinguished colleague, the gentlewoman from Maryland (Mrs. SPELLMAN).

It also provides for an extension of the Park Advisory Commission in New York that would have expired in the absence of this legislation, and it further deals with the Historic Camden assistance in South Carolina, a program that we some 2 years ago authorized and directed the Parks Service to study.

Mr. LAGOMARSINO. Further reserving the right to object, is my understanding correct that the provisions in this piece of legislation are without opposition as far as the gentleman knows?

Mr. PHILLIP BURTON. I assume the answer is "yes," but I would like to have heard the question before I respond that way.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. CLAUSEN. Mr. Speaker, I reserve the right to object.

I understand the gentleman has discussed this matter with the Senator from Idaho (Mr. MCCLURE) and he is in concurrence?

Mr. PHILLIP BURTON. The gentleman is correct.

I should also note that the FDR historic site study in Warm Springs, Ga., is also included, thanks to the effective efforts of our colleagues from Georgia; JACK BRINKLEY joined with BO GINN, DAWSON MATHIS, and other members of the Georgia delegation as well as Congressman SKELTON from Missouri.

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PHILLIP BURTON)?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 458

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 2363), to authorize the establishment of the Georgia O'Keeffe National Historic Site, and for other purposes, the Secretary of the Senate shall make the following corrections:

After title XVII, insert the following:

TITLE XIX—AMERICAN FALLS LAND CONVEYANCE

SEC. 1901. The Secretary of the Interior is hereby authorized and directed to convey by quitclaim deed to the city of American Falls, Idaho, without cost, the following real property located within or adjacent to the city limits of said city of American Falls, reserving all right-of-way and oil and gas in land to the United States:

(a) The area identified as the Campbell Stebbins Park, containing approximately 41.5 acres, including the park area located between the Oregon Trail Highway and the Oregon Short Line Railroad, and the area identified as a Public Square, containing approximately 8.8 acres, all as shown on the official plat of the Reclamation Addition to the city of American Falls approved October 18, 1923, and recorded in the county of Power, Idaho, as instrument No. 32042.

(b) Block 44 of the original townsite of American Falls; continuing approximately 3.3 acres.

(c) A tract of land containing 11.7 acres, more or less, described as follows:

Beginning at the northwest corner of the southwest quarter of section 21, township 7 south, range 31 east, Boise meridian;

thence south 45 degrees 16 minutes east, a distance of 1,870.3 feet, more cr less, to the southeast corner of said southwest quarter;

thence north 58 degrees 28 minutes west, a distance of 96.3 feet;

thence north 68 degrees 17 minutes west, a distance of 1,339.2 feet, more or less, to a point on the west section line of said section 21, said point being 548.2 feet north of the southwest corner of said section;

thence north along the west section line a distance of 770.5 feet, more or less, to the northwest corner of the southwest quarter of said section 21, the point of beginning.

(d) A tract of land containing 8.79 acres more or less in the south half of the southwest quarter, section 28, township 7 south, range 31 east, Boise meridian, Idaho, and more particularly described as follows:

Beginning at the southwest corner of said section 28;

thence north 44 degrees and 38 minutes east 1,868.6 feet to the 16/17 corner of said section;

thence east along the north boundary of the southeast quarter southwest quarter of said section 28, 367.2 feet to a point;

thence south 324.9 feet to a point;

thence north 89 degrees and 59 minutes west, 92.8 feet to a point;

thence south 49 degrees and 23 minutes west, 361.9 feet to a point;

thence south 78 degrees and 34 minutes west, 708 feet to a point;

thence south 26 degrees and 55 minutes west, 333.7 feet to a point;

thence south 61 degrees and 51 minutes west, 271.6 feet to a point;

thence south 43 degrees and 29 minutes west, 280.3 feet to a point on the south boundary of said section 28;

thence south 89 degrees and 59 minutes west along the south boundary of said section 28, 34.9 feet to the place of beginning.

(e) A tract of land containing 8.0 acres, more or less, located in the west half of the southwest quarter, section 28, township 7 south, range 31 east, Boise meridian, Idaho, and more particularly described as follows:

Beginning at the southwest corner of section 28;

thence north 44 degrees 38 minutes east, a distance of 1,886.6 feet to the northeast corner of the southwest quarter southwest quarter, of section 28;

thence north a distance of 1,320 feet to the northeast corner of the northwest quarter southwest quarter of section 28;

thence west, a distance of 30 feet to a point on the east edge of Hillcrest Avenue;

thence southwesterly along a curve on the side of Hillcrest Avenue a distance of 2,955 feet to a point on line between sections 28 and 29;

thence south 65.0 feet to the southwest corner of section 28, the place of beginning.

Such property shall be conveyed subject to the reservation of rights-of-way for ditches, canals, and pipelines constructed by the authority of the United States and to other existing rights-of-way of record. The conveyance of such property shall contain a reservation to the United States of all oil and gas in the land, together with the right to prospect for, mine, and remove the same under such regulation as the Secretary of the Interior may prescribe.

TITLE XX—NATIONAL CAPITAL BOUNDARY STONES

SEC. 2001. (a) Congress finds that because of the deteriorating condition and neglect of the forty original boundary stones delimiting the ten-mile square first set aside by the State of Maryland and the Commonwealth of Virginia as the "seat of government of the United States", there is a need to provide for the preservation, protection, and maintenance of such stones.

(b) The purposes of this title are—

(1) to assure the perpetuity and the retention of the integrity of these existing important historic boundary stones for future generations of Americans to view and enjoy and to restore the complete system (including the replacement of missing stones);

(2) provide an adequate mechanism and assign responsibility for ensuring that the boundary stones are adequately preserved, protected, and maintained; and

(3) make available to the public, information, data, and items involving or pertaining to the history of the original survey of the Nation's Capital.

SEC. 2002. (a) The Secretary, acting through the Director of the National Park Service (hereinafter in this Act referred to as the "Director"), shall have responsibility for the preservation, protection, and maintenance of the boundary stones referred to in section 2001 of this title.

(b) Within the twelve-month period following the date of enactment of this title, the Director shall prepare and submit to the Secretary for his approval, a plan for preserving, protecting, and maintaining such boundary stones. The plan shall be prepared in consultation with the District of Columbia Daughters of the American Revolution. The plan shall be considered as approved by the Secretary unless he disapproves the plan within ninety days from the date of its submittal to him by the Director. Such plan shall include:

(1) a description of the location and physical condition of each corner stone and boundary stone, including a survey referenced to the appropriate State plane grid coordinate system with appropriate ties to property lines and plats in such form as may be suitable for recording purposes;

(2) programs for both the immediate and the long-term preservation, protection, and

maintenance of such stones, including the stones located at each of the four cardinal points of the compass at the corners of the ten-mile square delineating the original site of the Nation's Capital, which programs may include written agreements between the Federal Government and private individuals, State or local governments having jurisdiction over areas in which the boundary stones are located, or any combination or combinations thereof;

(3) a program for the relocation and replacement or site marking of those boundary stones which have been moved, are missing, or which cannot be placed in their original location;

(4) a schedule and financial program for providing adequate preservation, protection, and maintenance of such boundary stones;

(5) a program, developed in coordination with the Smithsonian Institution, for a public information display related to the history of the survey of the District of Columbia as conducted during the years 1791 and 1792, including information related to the original surveyors, the instruments and techniques used by such surveyors, and surveying methods and techniques currently in use; and

(6) such other plan elements as the Director deems necessary.

(c) Following the approval of the plan by the Secretary pursuant to subsection (b) of this section, the Secretary, acting through the Director, shall, in consultation with the District of Columbia Daughters of the American Revolution, implement such plan to provide for the preservation, protection, and maintenance of such boundary stones.

Sec. 2003. In carrying out the plan approved pursuant to section 2002 of this Act, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, such lands and interest therein (including easements), together with improvement thereon, as may be necessary to carry out such plan. Lands and interests therein so acquired shall be administered as part of the National Park System, in accordance with the provisions of this title and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 and following), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 901–7).

TITLE XXI—GATEWAY NATIONAL RECREATION AREA ADVISORY COMMISSION

Sec. 2101. The Act entitled, "An Act to establish the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes", approved October 27, 1972 (86 Stat. 1308), as amended (16 U.S.C. 460cc), is further amended in section 4 by striking out "ten years" in the second sentence of subsection (a) and inserting in lieu thereof "twenty years".

TITLE XXII—HISTORIC CAMDEN ASSISTANCE

Sec. 2201. (a) In order to assist in the preservation of the nationally significant historic resources associated with the town of Camden, South Carolina, a key location in the development of South Carolina and in military operations in the South during the American Revolution, the Secretary is authorized, in accordance with subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666), to enter into a cooperative agreement or agreements with the Camden Historical Commission, the Camden District Heritage Foundation, or other appropriate public, governmental, or private nonprofit entities pursuant to which the Secretary may assist in the protection, restoration, and interpretation of such resources for the benefit of the public.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE XXIII—WARM SPRINGS, GEORGIA, STUDY

Sec. 2301. (a) In order to reserve and interpret for the benefit and education of the people certain properties in Warm Springs, Georgia, historically associated with the life of Franklin Delano Roosevelt, Thirty-second President of the United States, in a manner which will commemorate, on a continuing basis, President Roosevelt's life and his commitment to the eradication of physically disabling diseases, the Secretary shall, within one complete fiscal year from the date of enactment of this Act, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the use and development of the property known as the "Little White House" built by Franklin Roosevelt in 1931, the associated pools and springs, the Roosevelt Warm Springs Institute for Rehabilitation and the FDR State Park consisting of approximately ten thousand acres (hereinafter in this section referred to as the "historical area"), indicating—

(1) any sites, structures, and objects within the historical area which are deemed to require restoration in order to preserve their historical significance;

(2) the lands and interests in any privately owned lands adjacent or related to the historical area which are deemed necessary or desirable for the purposes of resource protection, scenic or historic integrity, or management and administration of the area in furtherance of the purposes of this section, and the estimated cost thereof;

(3) the number of visitors and types of public use within the historical area which can be accommodated in accordance with the protection of its resources; and

(4) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

(b) Not later than one complete fiscal year from the date of enactment of this section the Secretary, in consultation and cooperation with the Secretary of Education and the Governor of the State of Georgia, shall transmit, to the committees named in subsection (a) of this section, a report of his investigation of the feasibility and desirability of further developing facilities and establishing programs for the rehabilitation of the physically disabled within the historical area and adjoining State-owned lands and facilities, with particular emphasis on programs to foster, enhance, and encourage the participation of persons who are physically disabled in recreational pursuits and in the identification of ways in which the historical area and adjoining State-owned lands and facilities may serve as a model of rehabilitation techniques for all people who are physically disabled.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE XXIV—NATIONAL PARK SYSTEM ADVISORY BOARD

Sec. 2401. The Act of August 21, 1935 (49 Stat. 666), as amended (16 U.S.C. 461–467), is further amended in section 3 by changing the phrase "twelve persons" to "thirteen persons".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PROTECTION OF JOHN SACK CABIN, TARGHEE NATIONAL FOREST

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 924) to provide for protection of the John Sack Cabin, Targhee National Forest in the State of Idaho, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LAGOMARSINO. Mr. Speaker, I reserve the right to object.

I would ask the gentleman to explain what changes have been made in the legislation which he now brings before us, what is the difference from the House-passed bill?

Mr. PHILLIP BURTON. This is the wild and scenic river bill passed by the House that our colleagues in the Senate have proposed cutting down, I regret to observe. It, among other things, includes a deletion of a river in our State which I would have preferred they had not done; but it does represent what has been represented to me by Members of the other body on the full committee to be in a form acceptable to them.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of providing for the public use and enjoyment of the John Sack Cabin, Targhee National Forest, State of Idaho, and to protect and preserve such cabin as a unique example of craftsmanship, the Secretary of Agriculture, in consultation with the Fremont County Historical Society and other interested organizations, is authorized to take such action as may be necessary in order to provide for the protection and maintenance of the John Sack Cabin and associated structures. In carrying out the requirements of this Act, the Secretary is authorized, in accordance with existing law, to enter into a cooperative agreement with, or to issue a special use permit to, an appropriate person or organization pursuant to which such person or organization shall provide such protection and maintenance.

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AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Phillip Burton: Strike all after the enacting clause and insert in lieu thereof:

TITLE I—AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT

Sec. 101. Section 3(a)(21) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) is amended by striking out "agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President." and substituting "the Secretary of Agriculture. All Federal lands within the wild and scenic river corridor west of range 11 east shall hereafter be national forest lands to be administered by the Secretary of Agriculture as part of the Tahoe National Forest, the boundary of which is modified as generally depicted on a map entitled 'Tahoe National Forest inclusion of North Fork American Wild and Scenic River, September 1980'.".

Sec. 102. (a) Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) is amended by adding the following new paragraphs at the end thereof:

"(77) Myakka, Florida: The segment north of the southern boundary of the Myakka River State Park.

"(78) Saint Lucie, Florida: The South Fork.

"(79) Salmon, Connecticut: The entire main stem.

"(80) Farmington, Connecticut: The main stem and the west branch from the Charles A. Goodwin Dam downstream to its confluence with the Connecticut River.

"(81) Parker, Massachusetts: The main stem from Plum Island Sound to Interstate 95 including Plum Island River from Plum Island Sound to above Little Pine Creek.

"(82) Caney Fork, Tennessee: The main stem from Tennessee State Road 4251 to its headwaters.

"(83) Dan, North Carolina and Virginia: The segment from above the United States Highway Bridge 311 at river mile 130 to its headwaters.

"(84) Satilla River, Georgia: The main stem.

"(85) Cimarron, Kansas: The main stem from the Colorado-Kansas State line to the Kansas-Oklahoma State line, in Comanche County, Kansas, including its tributaries Buff Creek and Crooked Creek, except those portions of the river located in Oklahoma.

"(86) Hoh, Washington: The segment between the boundary of the Olympic National Park, near the confluence of the Hoh River and the South Fork of the Hoh River, downstream to its confluence with the Pacific Ocean.

"(87) Dosewallips, Washington: The segment from the eastern boundary of the Olympic National Forest to the mouth.

"(88) Quillayute, Washington: The segment of the main stem and its Soleduck, Bogachiel, and Calawah tributaries outside the boundaries of the Olympic National Park, but including the segment within the Olympic National Park coastal unit.

"(89) Wood, Rhode Island: The segments from Alton Pond to Interstate 95 and from KG Ranch Road to the headwaters.

"(90) Black, Wisconsin: The main stem from a point one and four-tenths miles from its confluence with the Mississippi River to Black River Falls Dam.

"(91) Humptulips, Washington: The entire river including the West Fork.

(b) Section 5(b)(3) of such Act is amended by adding the following at the end thereof: "The studies of the rivers named in paragraphs (77) through 8(4) and in paragraphs (89) through (91) of subsection (a) shall be completed not later than October 1, 1984. The studies of the rivers named in paragraphs (85) through (88) of subsection (a) shall be completed not later than October 1, 1983.".

(c) Section 5(b)(4) of such Act is amended by striking out "(76)" and substituting "(91)".

(d) The study of the river named in paragraph (80) of section 5(a) of the Wild and Scenic Rivers Act shall include an analysis of whether low-head hydroelectric generating facilities can be installed on such river at dams existing on the date of enactment of this subsection without having a direct and adverse effect upon the fish, wildlife, recreational, and esthetic values of the river. For purposes of such analysis, the Secretary of the Interior shall consult with the Secretary of Energy. Nothing in section 7, or in any other provision, of the Wild and Scenic Rivers Act shall preclude the development of any low-head hydroelectric facility at any such existing dam on such river during the study period or during the period for congressional consideration thereof referred to in section 7(b)(ii) of such Act.

(e) Section 5 of such Act is amended by adding the following new subsection at the end thereof:

"(e) The study of the rivers named in paragraphs (79), (80), (86), (87), (88), and (91) of subsection (a) shall include an analysis of the various means which may be practicable and appropriate, consistent with other provisions of this Act, to maintain and enhance the fisheries resources of such rivers.".

(f) With regard to the river named in paragraph (77), no permits or licenses currently approved for mining and related activities permitted thereby shall be affected for the duration of the study.".

Sec. 103. (a) Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1277) is amended by inserting the following new paragraphs at the end thereof:

"(2) Illinois, Oregon.—The segment from the boundary of the Siskiyou National Forest downstream to its confluence with the Rogue River, as generally depicted on a map entitled 'Illinois River Study' and described in a report entitled 'A Proposal: Illinois Wild and Scenic River'; to be administered by the Secretary of Agriculture. In carrying out subsection (b) of this section, the Secretary shall carefully consider management options which will maintain and enhance the river fisheries. For the purposes of the segment designated by this paragraph there are authorized to be appropriated not more than $2,100,000 for the acquisition of lands or interests in lands, and such sums as may be necessary for development.

"(25) Dosewallips, Washington.—The segment from the boundary of the Olympic National Park to the eastern boundary of the Olympic National Forest; to be administered by the Secretary of Agriculture. In carrying out subsection (b) of this section, the Secretary of Agriculture shall carefully consider management options which will maintain and enhance the river fisheries. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated such sums as may be necessary for development.

(b) Section 3(b) of such Act is amended as follows:

(1) strike out "within one year from the date of this Act" and substitute "within one year from the date of designation of such component under subsection (a)";

(2) strike out "river); determine which" and substitute "river); and determine which";

(3) strike out "; and prepare a plan for necessary developments in connection with its administration in accordance with such classification" and substitute a period and "Within three complete fiscal years of the date of the enactment of this sentence in the case of the rivers numbered (1) through (23) in subsection (a), and within three complete fiscal years of the date of their designation in the case of the other rivers designated under subsection (a), the agency charged with the administration of each such component shall prepare a comprehensive protection and management plan to guide the agency's administration in accordance with the classification made under this subsection. Such plan shall include the identification of, and plans for implementation of, user carrying capacities for all types of public use activities within the boundaries of the river. Such plan shall be prepared after consultation with State and local governments and the interested public."; and

(4) strike out "and development plans" and substitute "and notice of completion of the plan described in this subsection".

(c) Subsection (a) of the first section of such Act is amended by inserting "National" before "Wild and Scenic".

Sec. 104. Authorization of money to be appropriated under this title shall be effective on October 1, 1981. Notwithstanding any other provision of this title, authority to enter into contractual agreements, and to make payments under this title pursuant to such contractual agreements shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—AMENDMENTS TO THE NATIONAL TRAILS SYSTEM ACT

Sec. 201. This title may be cited as the "National Trails System Act Amendments of 1980".

Sec. 202. Section 2 of the National Trails Systems Act (82 Stat. 919; 16 U.S.C. 1241 et seq.) is amended—

(1) in subsection (b), by striking out "the purpose" and inserting in lieu thereof "The purpose"; and

(2) by adding at the end thereof the following new subsection:

"(c) The Congress recognizes the valuable contributions that volunteers and private, nonprofit trail groups have made to the development and maintenance of the Nation's trails. In recognition of these contributions, it is further the purpose of this Act to encourage and assist volunteer citizen involvement in the planning, development, and management of trails.".

Sec. 203. Section 3 of the National Trails System Act is amended—

(1) by redesignating paragraphs (a) through (d) as paragraphs (1) through (4), respectively, and by inserting "(a)" after "Sec. 3.";

(2) in paragraph (2) of subsection (a) (as so redesignated), by adding at the end thereof the following: "National scenic trails may be located so as to represent, but need not be limited to, desert, marsh, grassland, mountain, canyon, river, or forest areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.";

(3) in the fourth sentence of paragraph (3) of subsection (a) (as so redesignated), by striking out "Act, are established as initial" and inserting in lieu thereof "Act are included as";

(4) in the fifth sentence of paragraph (3) of subsection (a) (as so redesignated), by striking out "subsequently"; and

(5) by adding at the end thereof the following new subsection:

"(b) For purposes of this section, the term 'extended trails' means trails or trail segments at least one hundred miles in length, except that historic trails of less than one hundred miles may be designated as extended trails. While it is desirable that extended trails be continuous, studies of such trails may conclude that it is feasible to propose one or more trail segments which, in the aggregate, constitute at least one hundred miles in length.".

Sec. 204. Section 4 of the National Trails System Act is amended—

(1) in subparagraph (b), by striking the period at the end of clause (ii) and substituting in lieu thereof ", and";

(2) in subparagraph (b), by adding the following:

"(iii) trails on privately owned lands may be designated 'National Recreation Trails' by the Secretary of the Interior with the consent of the landowners."; and

(3) by adding at the end thereof the following new subsection:

"(c) As used in this section, the term 'reasonably accessible' means accessible by local public transportation, or accessible within three hours driving time by major portions of the population to be served by the trail.".

SEC. 205. (a) Section 5(a) of the National Trails System Act is amended by adding at the end thereof the following:

"(11) The Santa Fe National Historic Trail, a route extending from Independence, Missouri, to the New Mexico State line, following the route as depicted on a map identified as 'The Santa Fe Trail' (figure 2), excluding those portions in the State of New Mexico, in 'The Santa Fe Trail', a study report prepared by the Department of the Interior and dated July 1976. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.

"(12) The Chisholm, Shawnee, and Western National Historic Trails, consisting of—

"(A) the Chisholm National Historic Trail, a trail of approximately six hundred and forty-eight miles extending from San Antonio, Texas, to Abilene, Kansas;

"(B) the Shawnee National Historic Trail, a trail of approximately four hundred and sixty miles extending from Belton, Texas, to Baxter Springs, Kansas;

"(C) the Western National Historic Trail, a trail of approximately six hundred and fifty-two miles extending from San Antonio, Texas, to Dodge City, Kansas;

which trails follow routes as depicted on a map identified as 'Old Cattle Trails of the Southwest: Western-Chisholm-Shawnee (figure 1)' in the 'Old Cattle Trails of the Southwest', a report prepared by the Department of the Interior and dated April 1975. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The Secretary may also designate an additional segment of the Chisholm trail consisting of approximately one hundred miles and extending from Cuero, Texas, to San Antonio, Texas, by publication of a route description thereof in the Federal Register. The trails shall be administered by the Secretary of the Interior.

"(13) The Potomac Heritage National Scenic Trail, a corridor of approximately seven hundred and four miles following the route as generally depicted on the map identified as 'National Trails System, Proposed Potomac Heritage Trail' in 'The Potomac Heritage Trail', a report prepared by the Department of the Interior and dated December 1974: *Provided*, That no designation of the trail shall be made in the State of West Virginia. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall initially consist of only those segments of the corridor located within the exterior boundaries of federally administered areas. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Potomac Heritage Trail. The Secretary of the Interior may designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local governmental agencies involved, if such segments meet the criteria established in this Act and are administered by such agencies without expense to the United States. The trail shall be administered by the Secretary of the Interior.

"(14) The Natchez Trace National Scenic Trail, a trail system of approximately six hundred and ninety-four miles extending from Nashville, Tennessee, to Natchez, Mississippi, as depicted on the map entitled 'Concept Plan, Natchez Trace Trails Study' in 'The Natchez Trace', a report prepared by the Department of the Interior and dated August 1979. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.

"(15) The Florida National Scenic Trail, a route of approximately thirteen hundred miles extending through the State of Florida as generally depicted in 'The Florida Trail', a national scenic trail study draft report prepared by the Department of the Interior and dated February 1980. The report shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington, District of Columbia. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Florida Trail except with the consent of the owner thereof. The Secretary of Agriculture may designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local governmental agencies involved, if such segments meet the criteria established in this Act and are administered by such agencies without expense to the United States. The trail shall be administered by the Secretary of Agriculture.".

(b) Section 5(b) of the National Trails System Act is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting the following after the second sentence "The feasibility of designating a trail shall be determined on the basis of an evaluation of whether or not it is physically possible to develop a trail along a route being studied, and, if so, whether the development of the trail would be financially feasible.";

(3) by striking out "The studies listed" and inserting in lieu thereof "Subject to paragraph (2), the studies listed";

(4) by striking out "Such studies, when submitted" and all that follows down through the colon and inserting in lieu thereof the following:

"(2)(A) If, during the course of conducting a study under this section, the appropriate Secretary determines that it is not feasible to develop a national scenic or national historic trail along the proposed route and that there is no significant need for such a trail, he shall submit a report containing such determination to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate. Unless a resolution of disapproval of the determination is adopted by either of such committees within the period of 30 calendar days of continuous session of Congress after the date of their receipt of the report, the Secretary may terminate further study of the proposed trail by publication of notice thereof in the Federal Register.

"(B) Before submitting any report under subparagraph (A) containing a recommendation against designation of a trail, the Secretary shall examine (i) whether the route affords an opportunity to commemorate a significant event in the development of the Nation or the region or to memorialize an individual whose activities had a far-reaching effect on the development thereof, and (ii) whether any segments of the route have the potential to be developed as national recreation trails. Based on such examination, any such report containing a recommendation against designation of a trail shall indicate whether the route provides an opportunity to memorialize or commemorate such an event or individual or whether any segments of the route could potentially be developed as national recreation trails, and, if so, shall contain suggestions for appropriate methods for carrying out the memorialization or commemoration or the trail development, including an estimate of the anticipated costs for each such activity.

"(C) For the purpose of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"(3) Completed studies, when submitted under paragraph (1), shall be printed as a House or Senate document, and shall include, but need not be limited to—";

(5) by redesignating paragraphs (1) through (10) as subparagraphs (A) through (J);

(6) in paragraph (3)(C) (as so redesignated), by inserting "16" before "U.S.C.";

(7) in paragraph (3)(I) (as so redesignated) by inserting "and" after the semicolon at the end of the paragraph;

(8) in paragraph (3)(J) (as so redesignated), by striking out "; and" and inserting in lieu thereof a period;

(9) by striking out "(11) to" and inserting in lieu thereof "(4) To"; and

(10) in paragraph (4) (as so redesignated) by inserting "exploration," after "commerce" in the first sentence of subparagraph (P).

(c) Section 5(c) of the National Trails System Act is amended—

(1) in paragraph (9), by striking out "Sante Fe" and inserting in lieu thereof "Santa Fe"; and

(2) by adding after paragraph (23) the following:

"(24) Juan Bautista de Anza Trail, following the overland route taken by Juan Bautista de Anza in connection with his travels from the United Mexican States to San Francisco, California.

"(25) Trail of Tears, including the associated forts and historic properties, extending from the vicinity of Murphy, North Carolina, through Georgia, Alabama, Tennessee, Kentucky, Illinois, Missouri, Arkansas, to the vicinity of Tahlequah, Oklahoma.

"(26) Illinois Trail, extending from the Lewis and Clark Trail at Wood River, Illinois, to the Chicago Portage National Historic Site, generally following the Illinois River and the Illinois and Michigan Canal.

"(27) Jedediah Smith Trail, to include the routes of the explorations led by Jedediah Smith—

"(A) during the period 1826–1827, extending from the Utah-Wyoming border, through the Great Salt Lake, Sevier, Virgin, and Colorado River Valleys, and the Mojave Desert, to the San Gabriel Mission, California; thence through the Tehachapi Mountains, San Joaquin and Stanislaus River valleys, Ebbetts Pass, Walker River Valley, Bald Mount, Mount Grofton, and Great Salt Lake to Bear Lake, Utah; and

"(B) during 1828, extending from the Sacramento and Trinity River valleys along the Pacific coastline, through the Smith and Willamette River valleys to the Fort Vancouver National Historic Site, Washington, on the Columbia River.

"(28) General Crook Trail, extending from Prescott, Arizona to the Arizona-New Mexico State line.

"(29) Beale Wagon Road, extending along U.S. Highway 66 (Interstate 40) through Arizona.".

(d) Section 5(d) of the National Trails System Act is amended—

(1) by inserting after the first sentence the following: "If the appropriate Secretary is unable to establish such an advisory council because of the lack of adequate public interest, the Secretary shall so advise the appropriate committees of the Congress."; and

(2) by redesignating paragraphs (i) through (iv) as paragraphs (1) through (4), respectively, and by amending paragraph (1) (as so redesignated) to read as follows:

"(1) the head of each Federal department or independent agency administering lands through which the trail route passes, or his designee;".

(e) Section 5(f) of the National Trails System Act is amended—

(1) in paragraph (1), by striking out "national recreational" and inserting in lieu thereof "national historic", and by striking out "and" after the semicolon;

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(3) a protection plan for any high potential historic sites or high potential route segments; and

"(4) general and site-specific development plans, including anticipated costs.".

Sec. 206. Section 6 of the National Trails System Act is amended—

(1) in the first sentence, by inserting "by the appropriate Secretary" after "marked"; and

(2) by striking out ": *Provided*" and all that follows through the period and inserting in lieu thereof the following: ", or, where the Secretary deems necessary or desirable, in privately owned lands with the consent of the landowner. Applications for approval and designation of connecting and side trails on non-Federal lands shall be submitted to the Secretary of the Interior.".

Sec. 207. (a) Section 7 of the National Trails System Act is amended—

(1) by striking out "Sec. 7. (a)" and inserting in lieu thereof "(2)"; and

(2) by inserting immediately after the section heading the following new paragraph:

"Sec. 7. (a)(1)(A) The Secretary charged with the overall administration of a trail pursuant to section 5(a) shall, in administering and managing the trail, consult with the heads of all other affected State and Federal agencies. Nothing contained in this Act shall be deemed to transfer among Federal agencies any management responsibilities established under any other law for federally administered lands which are components of the National Trails System. Any transfer of management responsibilities may be carried out between the Secretary of the Interior and the Secretary of Agriculture only as provided under subparagraph (B).

"(B) The Secretary charged with the overall administration of any trail pursuant to section 5(a) may transfer management of any specified trail segment of such trail to the other appropriate Secretary pursuant to a joint memorandum of agreement containing such terms and conditions as the Secretaries consider most appropriate to accomplish the purposes of this Act. During any period in which management responsibilities for any trail segment are transferred under such an agreement, the management of any such segment shall be subject to the laws, rules, and regulations of the Secretary provided with the management authority under the agreement, except to such extent as the agreement may otherwise expressly provide.";

(3) in the first sentence of paragraph (2), by striking out "thereof", and inserting in lieu thereof "of the availability of appropriate maps or descriptions", and striking out ", together with appropriate maps and descriptions"; and

(4) in the second sentence of paragraph (2) of subsection (a) (as so redesignated), by inserting before the period "consistent with the purpose of this Act".

(b) Section 7(b) is amended by inserting after "notice" the words "of the availability of appropriate maps or descriptions", and striking out "together with appropriate maps or descriptions,".

(c) Section 7(c) is amended by adding at the end thereof the following: "The appropriate Secretary may also provide for trail interpretation sites, which shall be located at historic sites along the route of any national scenic or national historic trail, in order to present information to the public about the trail at the lowest possible cost, with emphasis on that portion of the trail passing through the State in which the site is located. Wherever possible, the sites shall be maintained by a State agency under a cooperative agreement between the appropriate Secretary and the State agency.".

(d) Section 7(f) of the National Trails System Act is amended by inserting "(1)" after "(f)" and by adding at the end thereof the following:

"(2) When a tract of land lies partly within and partly without a national scenic or national historic trail right-of-way, the appropriate Secretary may, with the consent of the owner thereof, acquire the entire tract. Land so acquired outside the right-of-way may be exchanged for non-Federal land within such right-of-way, and any portion of the land not used for such exchanges may be disposed of in accordance with the provisions of section 5 of Public Law 90–401. The proceeds from any such disposal shall be credited to the appropriation account bearing the cost of land acquisition for the affected trail right-of-way.".

(e) Section 7(g) of the National Trails System Act is amended—

(1) in the last sentence by striking out "No" and inserting in lieu thereof "Except for designated protected components of the trail, no"; and

(2) in the last sentence by striking out "or" the second place it appears and inserting in lieu thereof ",".

(f) Section 7(b) of the National Trails System Act is amended—

(1) by inserting "(1)" "(h)";

(2) by inserting after the second sentence, the following: "Such agreements may include provisions for limited financial assistance to encourage participation in the operation, development, or maintenance of such trails, provisions providing volunteer in the park or volunteer in the forest status (in accordance with the Volunteers in the Parks Act of 1969 and the Volunteers in the Forests Act of 1972) to individuals, private organizations, or landowners participating in such activities, or provisions of both types. Such Secretary shall also initiate consultations with affected States and their political subdivisions to encourage the development and implementation by such entities of appropriate measures to protect private landowners from trespass resulting from trial use and from unreasonable personal liability and property damage caused by trail use, and the development and implementation by such entities of provisions for land practices, compatible with the purposes of this Act, for property within or adjacent to trail rights-of-ways. After consulting with States and their political subdivisions under the preceding sentence, the Secretary may provide assistance to such entities under appropriate cooperative agreements in the manner provided by this subsection."; and

(3) by striking out "Whenever the" in the last sentence of such subsection and inserting in lieu thereof the following:

"(2) Whenever the".

(g) Section 7(i) of the National Trails System Act is amended by adding at the end thereof the following new sentence: "The Secretary responsible for the administration of any segment of any component of the National Trails System (as determined in a manner consistent with subsection (a)(1) of this section) may also utilize authorities related to units of the national park system or the national forests, as the case may be, in carrying out his administrative responsibilities for such components.".

(h) Section 7 of the National Trails Systems Act is amended by inserting after subsection (i) the following:

"(j) Potential trail uses allowed on designated components of the national trails system may include but not be limited to bicycling, cross-country skiing, day hiking, equestrian, fitness/jogging, four-wheel drive or all terrain off-road vehicles, handicapped, historical, motorcycle/trail biking, nature, overnight/long-distance backpacking, snowmobiling, surface water and underwater trails, except where otherwise provided in this Act or in other Federal, State and local laws and regulations.".

Sec. 208. Section 8 of the National Trails System Act is amended—

(1) by redesignating subsection (d) (and any reference thereto) as subsection (e); and

(2) by inserting after subsection (c) the fcllowing:

"(d) The Secretary of Transportation, in administering the Federal aid program, together with the Chairman of the Interstate Commerce Commission and the Secretary of the Interior, in administering the Railroad Revitalization and Regulatory Reform Act of 1976, shall encourage State and local agencies and private interests to establish such trails using the provisions of such programs. Consistent with the purposes of that Act, and in furtherance of the national policy to preserve established railroad rights-of-way for future reactivation of rail service, to protect rail transportation corridors, and to encourage energy efficient transportation use, interim use of an established railroad rights-of-way pursuant to donation, transfer, lease, sale or otherwise in a manner consistent with the National Trails Systems Act, if subject to restoration or reconstruction for railroad purposes, shall not constitute an abandonment of such rights-of-way for railroad purposes. If a State, political subdivision, or qualified private organization is prepared to assume full responsibility for management of such rights-of-way and for any legal liability arising out of such transfer or use, then any legal liability arising from such transfer or use shall revert to the State, political subdivision or private organization who assumes full responsibility.".

Sec. 209. Section 10 of the National Trails System Act is amended—

(1) by inserting "(a)(1)" after "Sec. 10.";

(2) by striking out "(a) The" in the second sentence and inserting in lieu thereof "for the";

(3) by striking out "It is the express intent" and inserting in lieu thereof the following:

"(2) It is the express intent";

(4) in subsection (a)(2) (as so redesignated), by inserting "Appalachian" before "Trail"; and

(5) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by inserting before the period at the end of paragraph (1) (as so redesignated) ", except that funds may be expended for the acquisition of lands or interests therein for the purpose of providing for one trail interpretation site, as described in section 7(c), along each such trail in each State crossed by the trail"; and

(C) by adding at the end of such subsection the following:

"(2) Effective October 1, 1981, there is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs (9) through (15) of section 5(a) of this Act. Not more than $3,000,000 may be appropriated for the purposes of acquisition of land and interests therein for the trail designated by section 5 (a)(14) of this Act, and not more than $4,000,000 may be appropriated for the purposes of the development of such trail. The administrating agency for the trail shall encourage volunteer trail groups participation in the development of the trail.".

SEC. 210. The National Trails System Act is amended by adding the following new sections at the end thereof:

"Volunteer Actions Trails Demonstration Program.

"SEC. 11. (a)(1) In addition to the cooperative agreement authority contained in this Act, there is authorized to be established a volunteer action trails demonstration program (herinafter in this section referred to as the 'program') to encourage volunteers and volunteer organizations to plan, develop, and manage trails throughout the Nation. The program shall be administered by the Secretary of the Interior (with respect to lands and programs primarily under the jurisdiction of such Secretary) and by the Secretary of Agriculture (with respect to lands and programs primarily under the jurisdiction of such Secretary).

"(2) Together with the grant authority provided under this section, the Secretaries are encouraged to utilize wherever appropriate, in furtherance of the purposes of this section, existing authorities available to them under the Volunteers in the Parks Act of 1969, the Volunteers in the Forests Act of 1972, and section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of Statewide Comprehensive Outdoor Recreation Plans).

"(b)(1) Under the program each Secretary may make grants of not more than $25,000 to volunteer trail groups which are committed to managing, maintaining, or developing trials, or which agree to conduct such activities. During any fiscal year, no volunteer trail group may receive under this section, in the aggregate, an amount exceeding $25,000. Grants under this section may be made available, as provided under paragraph (2), only for the purposes of—

"(A) developing or maintaining (i) trails which are components of the National Trails System, or (ii) trails which, if so developed and maintained by such groups, could qualify for designation as components of the National Trails System; or

"(B) operating programs to organize and supervise volunteer trail building efforts with respect to the trails refered to in subparagraph (A), conducting trail-related research projects, or providing education and training to volunteers on methods of trail planning, construction, and maintenance.

"(2) Financial assistance made available to volunteer trail groups under this subsection for the purposes described in subparagraphs (A) and (B) of paragraph (1) shall be used for—

"(A) providing tools to volunteers engaged in trail-related work projects organized by the group:

"(B) providing reimbursement for incidental expenses incurred by volunteers, such as transportation, lodging, and subsistence;

"(C) providing resource materials for the programs referred to in paragraph (1)(B);

"(D) assisting in defraying the incidental costs of office operations of the group (including postage, telephone expenses, duplicating, and clerical supplies), other than the costs of salaries or benefits for staff or the costs of rent, insurance, or similar charges for office space;

"(E) constructing or maintaining trail-related public use facilities, including historic features where appropriate;

"(F) providing insurance protection for the trail group and its volunteers (as determined to be adequate by the Secretary); or

"(G) any combination of the items specified under subparagraphs (A) through (F).

"(3) No grant shall be made available under this section to a volunteer trail group unless the group submits an application to the appropriate Secretary. The Secretary shall not approve any such application unless—

"(A) in the application, the group (i) agrees to provide funds, or services pertaining to trails, the value of which is equal to the amount of the grant (as determined under criteria established by the Secretary), and (ii) describes the services, if any, to be provided under clause (i);

"(B) in the application, the group agrees to abide by such procedures as the Secretary may establish under subsection (c) to ensure accountability for any funds made available to the group under this section; and

"(C) the application specifies the manner in which the funds sought by the group would be used if made available under this section.

"(c)(1) The Secretaries shall develop a uniform format for the grant applications required under this section and for any reports required to be submitted by grant recipients, and the secretaries shall establish such uniform procedures and requirements as may be necessary to ensure that funds made available under this section are used for the purposes for which the grant was made. Each Secretary shall be responsible for establishing such criteria as may be necessary to evaluate applications submitted under this section.

"(2) To the maximum extent practicable, applications and program information shall be made available, and grants shall be administered, at appropriate agency field offices.

"(3) The program shall be carried out, to the maximum extent practicable, in consultation with interested State and Federal agencies and volunteer trail groups.

"(d)(1) There is authorized to be appropriated to the Secretary of the Interior to carry out the program not more than $400,000 for the fiscal year ending September 30, 1982 and not more than $425,000 for the fiscal year ending September 30, 1983, except that the difference between the foregoing amounts and the actual appropriations in any one fiscal year shall be available for appropriation in subsequent fiscal years.

"(2) There is authorized to be appropriated to the Secretary of Agriculture to carry out the program not more than $400,000 for the fiscal year ending September 30, 1982 and not more than $425,000 for the fiscal year ending September 30, 1983, except that the difference between the foregoing amounts and the actual appropriations in any one fiscal year shall be available for appropriation in subsequent fiscal years.

"(e) For purposes of this section, the term 'volunteer trail group' means any private organization—

"(1) which is devoted to providing for or fostering the development, management, maintenance, or public appreciation of trails;

"(2) which has a membership composed of citizens willing to donate services in order to further the trail-related objectives of the organization:

"(3) which has a staff composed of either volunteers or paid employees; and

"(4) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(f) No grants may be made, or contracts entered into, under this section except to such extent, or in such amounts, as may be provided in advance in appropriation Acts.

"DEFINITIONS

"SEC. 12. As used in this Act:

"(1) The term 'high potential historic sites' means those historic sites related to the route, or sites in close proximity thereto, which provide opportunity to interpret the historic significance of the trail during the period of its major use. Criteria for consideration as high potential sites include historic significance, presence of visible historic remnants, scenic quality, and relative freedom from intrusion.

"(2) The term 'high potential route segments' means those segments of a trail which would afford high quality recreation experience in a portion of the route having higher than average scenic values or affording an opportunity to vicariously share the experience of the original users of an historic route.

"(3) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

"(4) The term 'without expense to the United States' means that no funds may be expended by Federal agencies for the development of trail related facilities or for the acquisition of lands or interests in lands outside the exterior boundaries of Federal areas. For the purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Fund Act of 1965 or any other provision of law shall not be treated as an expense to the United States.".

SEC. 211. Section 6(a) of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–6a) is amended at the end of the first paragraph by adding the following new sentences: "Notwithstanding any other provision of law, no Federal fee shall be imposed for entrance or admission to any national recreation area, any unit of the National Wild and Scenic Rivers System, or any unit of the National Trails System. Notwithstanding any other provision of law, effective June 1, 1981, no Federal fee shall continue to be imposed for entrance or admission to any unit of the National Park System at which the cost of collection of such fee exceeded the receipts collected in calendar year 1979 (as determined by the National Park Service report entitled 'Report of Entrance Fee Rates, Collections and Costs to Collect CY 1979' and dated May 13, 1980): *Provided*, That, if the Secretary of the Interior, prior to April 1, 1981, makes a specific determination that fee collection will be reasonably necessary to protect park resources in an individual unit affected by this sentence, he may continue an entrance fee at that unit after providing notice of his intention to do so to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.".

SEC. 212. Section 3(a) of the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), is amended in the first sentence by—

(1) striking out "to include but not be limited to representatives competent in" and inserting in lieu thereof "each of whom shall possess knowledge and expertise related to the protection and management of the National Park System, including but not limited to"; and

(2) by striking out "and natural science, who" and inserting in lieu thereof "resources management and the natural sciences, who".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. (a) The Secretary of the Interior is authorized to accept a conveyance of approximately four acres of land adjacent to the Effigy Mounds National Monument in the State of Iowa, and in exchange, convey to that grantor, without monetary consideration, approximately three acres of land presently within the monument, as described in subsection (b) of this section. Effective upon consummation of the exchange, the land accepted by the Secretary shall become part of the Effigy Mounds National Monument, subject to the laws and regulations applicable thereto, and the land conveyed by the Secretary shall cease to be part of the monument and the boundary of the monument is revised accordingly.

(b) The land referred to in subsection (a) which may be accepted by the Secretary is more particularly described as that portion of the southeast quarter of the southeast quarter of section 28 lying south and east of County Road numbered 561, and the land referred to in subsection (a) which may be conveyed by the Secretary is more particularly described as that portion of the northeast quarter of the northeast quarter of section 33 lying north and west of County Road numbered 561, all in township 96 north, range 3 west, fourth principal meridian, Allamakee County, Iowa.

TITLE IV—JOHN SACK CABIN

Sec. 401. For the purpose of providing for the public use and enjoyment of the John Sack Cabin, Targhee National Forest, State of Idaho, and to protect and preserve such cabin as a unique example of craftsmanship, the Secretary of Agriculture, in consultation with the Fremont County Historical Society and other interested organizations, is authorized to take such action as may be necessary in order to provide for the protection and maintenance of the John Sack Cabin and associated structures. In carrying out the requirements of this section the Secretary is authorized, in accordance with existing law, to enter into a cooperative agreement with, or to issue a special use permit to, an appropriate person or organization pursuant to which such person or organization shall provide such protection and maintenance.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALBERT AND EULALIA RODRIGUEZ

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2261) for the relief of Albert and Eulalia Rodriguez, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I do so to ask the gentleman from California if he will explain what changes have been made in the bill that was passed by the House earlier this year.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, the amended version of the Indiana Dunes National Lakeshore expansion which is included in S. 2261 references a map numbered 626–91014 and dated December 1980. This map should include the area in the existing lakeshore, and the following additional units:

First. The Mount Baldy staging area, 83 acres;

Second. The Nipissing addition, 161 acres;

Third. A campground site, 182 acres;

Fourth. The Gary access corridor, 60 acres; and

Fifth. The Highway 51 corridor extension, 2 acres.

The estimated land acquisition cost of these additions is $3,120,000.

Mr. Speaker, this is the third time in this Congress we have dealt with this matter. The first time we dealt with the Indiana Dunes it was a matter consisting of acquisition authority, something in the order of $40 million.

The second time we dealt with the matter, we reduced the amount to some $30 million. All those bills were subject to a "hold" in the other body because of the contention with reference to the proposal.

This proposal now authorizes $3 million and it has been represented to me that this has finally been cleared by all parties in the Senate. Of our earlier proposals the second version was supported by both the the Republican and Democratic Senators from Indiana. They were unable to get the support of colleagues from other sections of the country and this is our last gasp effort.

The other body can accept this now radically reduced proposal or we will just have to deal with it in the next Congress.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, am I correct in my understanding, Mr. Speaker, that as the gentleman just said, all of the parties concerned with this legislation are now in support of the version that is before us?

Mr. PHILLIP BURTON. Well, at least it may be true in the other body. As I stated earlier, a much better design was approved by Senators LUGAR and BAYH, but other Senators from other States put a hold on it. This is all they could get agreement on in the other body.

As I said, we processed this matter three times now. It has gone from $40 million to $3,120,000. I have agreed at the insistence of our colleagues from Indiana Mr. FITHIAN, Mr. SHARP, and Mr. BENJAMIN to make this one last-gasp effort; but have refused to add this to any other pending business, because every time we send the Indiana Dunes to the Senate, the whole package goes down the tube, hence, this rather bizarre procedure using this bill number, the substance of which has already been enacted into law.

The original text of S. 2261 affected the relief of two people in New Mexico.

The original text of this bill has been passed and signed into law, but this is the only vehicle we will not have to worry about if this dunes bill gets torpedoed.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

Sec. 101. The Secretary of the Interior is authorized and directed to reimburse Albert and Eulalia Rodriguez for improvements to land situated in section 5, township 25 north, range 13 east of the New Mexico principal meridian within the Taos Pueblo Grant, State of New Mexico.

Sec. 102. Beginning October 1, 1981, there is hereby authorized to be appropriated not more than $20,000 for the purposes of this Act.

TITLE II

Sec. 201. (a) The Congress finds that—

(1) many areas of undeveloped public lands in New Mexico possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved. contribute as an enduring resource for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the National Forest System in New Mexico have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location will help to fulfill the National Forest System's share of the National Wilderness Preservation System;

(3) review and evaluation of roadless and undeveloped lands in the National Forest System in New Mexico have also identified those areas which should be available for multiple uses other than wilderness; and

(4) review and evaluation of roadless and undeveloped lands in the National Forest System in New Mexico have also identified those areas which should be designated for further study.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in New Mexico for inclusion in the National Wilderness Preservation System in order to promote, perpetuate, and preserve the wilderness character of the land, to protect watersheds and wildlife habitat, preserve scenic and historic resources, and to promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people;

(2) insure that certain other National Forest System lands in New Mexico be promptly available for nonwilderness uses including, but not limited to, campground and other recreation site development, timber harvesting, intensive range management, mineral development, and watershed and vegetation manipulation; and

(3) designate certain other National Forest System land in New Mexico for further study in furtherance of the purpose of the Wilderness Act.

Sec. 202. (a) In accordance with subsection 3(c) of the Wilderness Act of 1964. (78 Stat. 892), the following National Forest System lands in the State of New Mexico are designated as additions to the National Wilderness Preservation System:

(1) the Aldo Leopold Wilderness, consisting of approximately two hundred eleven thousand three hundred acres in the Gila National Forest, as generally depicted on a map entitled "Aldo Leopold Wilderness Proposal", dated August 1980;

(2) the Apache Kid Wilderness, consisting of approximately forty thousand acres

in the Cibola National Forest, as generally depicted on a map entitled "Apache Kid Wilderness Proposal", dated August 1980;

(3) the Blue Range Wilderness, consisting of approximately thirty thousand acres in the Apache-Sitgreaves and Gila National Forests, as generally depicted on a map entitled "Blue Range Wilderness Proposal", dated August 1980;

(4) the Capitan Mountains Wilderness, consisting of approximately thirty-four thousand acres in the Apache-Sitgreaves and Gila National Forests, as generally depicted on a map entitled "Capitan Mountains Wilderness Proposal", dated August 1980;

(5) the Dome Wilderness, consisting of approximately five thousand two hundred acres in the Santa Fe National Forest, as generally depicted on a map entitled "Dome Wilderness Proposal", dated August 1980.

(6) the Gila Wilderness Additions, consisting of approximately one hundred and thirty thousand three hundred acres in the Gila National Forest, as generally depicted on a map entitled, "Gila Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the Gila Wilderness as designated by Public Law 88-577;

(7) the Latir Peak Wilderness, consisting of approximately fifteen thousand six hundred acres in the Carson National Forest, as generally depicted on a map entitled "Latir Peak Wilderness Proposal", dated August 1980;

(8) the Pecos Wilderness Additions, consisting of approximately seventy thousand seven hundred and thirty acres in the Carson and Santa Fe National Forests, as generally depicted on a map entitled "Pecos Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the Pecos Wilderness as designated by Public Law 88-577;

(9) the Wheeler Peak Wilderness Additions, consisting of approximately nine thousand one hundred acres in the Carson National Forest, as generally depicted on a map entitled "Wheeler Peak Wilderness Additions—Proposed", dated August 1980; which are incorporated in and shall be a part of the Wheeler Peak Wilderness as designated by Public Law 88-577;

(10) the White Mountain Wilderness Additions, consisting of approximately sixteen thousand eight hundred and sixty acres in the Lincoln National Forest, as generally depicted on a map entitled "White Mountain Wilderness Additions—Proposed", dated August 1980, which are incorporated in and shall be a part of the White Mountains Wilderness as designated by Public Law 88-557; and

(11) the Withington Wilderness, consisting of approximately nineteen thousand acres in the Cibola National Forest, as generally depicted on a map entitled "Withington Wilderness Proposal", dated August 1980.

(b) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in this Act and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map and legal description shall have the same force and effect as it included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

(d) The previous classifications of the Black Range Primitive Area, the Blue Range Primitive Area and the Gila Primitive Area are repealed.

SEC. 203. (a) The Secretary of Agriculture shall review in accord with the requirements of section 6 of the National Forest Management Act of 1976 (Public Law 94-588), and no later than January 1, 1986, shall report to the President and the Congress in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964 (78 Stat. 892), his recommendations on the suitability or unsuitability for inclusion in the National Wilderness Preservation System of the following lands:

(1) the San Francisco Wilderness Study Area, consisting of approximately twenty-five thousand six hundred acres in the Apache and Gila National Forests, as generally depicted on a map entitled "San Francisco Wilderness Study Area Proposal", dated August 1980.

(b) These lands may continue to be available for uses other than wilderness during the conduct of the study under the existing Forest Service plans applicable to the National Forests within which such lands are located.

SEC. 204. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of New Mexico and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than New Mexico such statement shall not be subject to judicial review with respect to National Forest System lands in the State of New Mexico;

(2) with respect to the National Forest System lands in the State of New Mexico which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those areas designated for further planning by section 4 of this Act, or areas listed in section 3 of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans, and in no case prior to the date established by law for completion of the initial planning cycle.

(3) areas reviewed in such Final Environmental Statement and not designated as wilderness or for study by this Act are not intended by Congress to be designated for inclusion in the National Wilderness Preservation System, and need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the land management plans;

(c) Unless expressly authorized by Congress, the Secretary shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of New Mexico for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(d) Nothing in the land management planning process required by section 6 of the National Forest Management Act of 1976 (Public Law 95-588) shall be deemed to preclude multiple use management for uses other than wilderness on any land subject to such planning process except those areas designated for further study in section 4 of this Act.

SEC. 205. (a) Subject to valid existing rights, each wilderness area and wilderness addition designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 206. Congress does not intend that designation of wilderness areas in the State of New Mexico lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. PHILLIP BURTON: Strike everything after the enacting clause and insert the following:

"That the Act entitled, 'An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes', approved November 5, 1966 (80 Stat. 1309), as amended (16 U.S.C. 460u), is further amended as follows:

"(1) A new section is added at the end thereof to read as follows:

" 'SEC. 20. (a) The Indiana Dunes National Lakeshore is hereby dedicated to the memory of Paul H. Douglas in grateful recognition of his leadership in the effort to protect, preserve, and enhance the natural, scientific, historic, and recreational value of the lakeshore for the use, enjoyment, and edification of present and future generations.

" '(b) To further accomplish the purposes of subsection (a) of this section, the Secretary of the Interior shall designate the west unit of the lakeshore as the "Paul H. Douglas Ecological and Recreational Unit" and shall, subject to appropriations being granted, design and construct a suitable structure or designate an existing structure within the lakeshore to be known as the "Paul H. Douglas Center for Environmental Education" which shall provide facilities designed primarily to familiarize students and other visitors with, among other things: (1) the natural history of the lakeshore and its association with the natural history of the Great Lakes region; (2) the evolution of human activities in the area; and (3) the historical features which led to the establishment of the lakeshore by the Congress of the United States.

" '(c) To inform the public of the contributions of Paul H. Douglas to the creation of the lakeshore, the Secretary of the Interior shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate.'.

"(2) Section 1 of the Act is amended by changing 'September 1976 and bearing the number "626-91007" ' to 'December 1980, and bearing the number 626-91014'.

"(3) Section 2(a) of the Act is amended by adding the following new sentence at the end thereof; 'The Secretary is expressly authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands or interests therein which are owned for school or educational purposes by a State or a political subdivision thereof.'.

"(4) Section 2(b) of the Act is amended by changing the phrase 'section 10' to 'section 9'.

"(5) In the first sentence of section 4 of the Act, preceding the word 'February' insert: 'January 1, 1981 or, in the case of improved property located within the boundaries delineated on a map identified as "Boundary Map, Indiana Dunes National Lakeshore", dated September 1976 and bearing the number "626–91007", before'.

"(6) The first sentence of section 5(a) of the Act is amended to read as follows: 'Except for owners of improved property within the area on the map referred to in the first section of this Act as area II–B, any owner or owners of record of improved property may retain a right of use and occupancy of said improved property for noncommercial residential purposes for a term (1) ending on his or her death or the death of his or her spouse, whichever occurs last, or (2) for a fixed term not to extend beyond September 30, 2010, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary: *Provided*, That the retention of a retained right under clause numbered (1) shall only be available to homeowners of record as of October 1, 1980, who have attained the age of majority as of that date and make a bona fide written offer not later than October 1, 1985, to sell to the Secretary.'

"(7) Section 5 of the Act is amended by adding a new subsection (c) as follows:

"'(c) With respect to improved properties acquired prior to the enactment of this subsection and upon which a valid existing right of use and occupancy has been reserved for a term of not more than twenty years, the Secretary may, in his discretion, extend the term of such retained right for a period of not more than nine years upon receipt of payment prior to September 30, 1983, from the holder of the retained right. The amount of such payment shall be equivalent to the amount discounted from the purchase price paid by the Secretary for the identical period of time under the terms of the original sale adjusted by a general index adopted by the Secretary reflecting overall value trends within Indiana Dunes National Lakeshore between the time of the original sale and the time of the retained right of extension offered by this subsection.'.

"(8) Section 7(a) of the Act is amended by changing 'ten years after the date of establishment of the national lakeshore pursuant to this Act' to 'on September 30, 1985'.

"(9) Section 7(b) of the Act is amended as follows:

"(a) by striking out 'eleven members' and inserting in lieu thereof 'thirteen members';

"(b) by striking out 'one member who is a year-round resident' in clause (4) and inserting in lieu thereof 'two members who are year-round residents'; and

"(c) by striking out 'one member who is a year-round resident' in clause (7) and inserting in lieu thereof 'two members who are year-round residents'.

"(10) Section 9 of the Act is amended as follows:

"(a) in the first sentence, change '$9,440,000 for development' to '$11,000,000 for development: *Provided*, That not more than $500,000 of said amount may be appropriated for the development of the Paul H. Douglas Environmental Education Center authorized pursuant to section 20 of this Act.'; and

"(b) at the end thereof, add a new paragraph as follows:

"'In addition to any sums heretofore authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act, there are further authorized to be appropriated an additional $3,120,000.'.

"(11) A new section 21 is added to the Act as follows:

"'Sec. 21. (a) The Secretary in consultation with the Secretary of Transportation, shall conduct a study of various modes of public access into and within the lakeshore which are consistent with the preservation of the lakeshore and conservation of energy by encouraging the use of transportation modes other than personal motor vehicles.

"'(b) In carrying out the study, the Secretary shall utilize to the greatest extent practicable the resources and facilities of the organizations designated as clearinghouses under title IV of the Intergovernmental Cooperation Act of 1968 as implemented by Office of Management and Budget Circular A–95, and which have comprehensive planning responsibilities in the regions where the lakeshore is located, as well as any other agencies or organizations which the Secretary may designate. The Secretary shall make provision for timely and substantive consultations with the appropriate agencies of the States of Indiana and Illinois, local elected officials, and the general public in the formulation and implementation of the study.

"'(c) The study shall address the adequacy of access facilities for members of the public who desire to visit and enjoy the lakeshore. Consideration shall be given to alternatives for alleviating the dependence on automobile transportation. The study of public transportation facilities shall cover the distance from cities of thirty-five thousand population or more within fifty miles of the lakeshore.

"'(d) The study shall include proposals deemed necessary to assure equitable visitor access and public enjoyment by all segments of the population, including those who are physically or economically disadvantaged. It shall provide for retention of the natural, scenic, and historic values for which the lakeshore was established, and shall propose plans and alternatives for the protection and maintenance of these values as they relate to transportation improvements.

"'(e) The study shall examine proposals for the renovation and preservation of a portion of the existing South Shore Railroad passenger car fleet. The study shall consider the historic value of the existing rolling stock and its role in transporting visitors into and within the lakeshore.

"'(f) The study shall present alternative plans to improve, construct, and extend access roads, public transportation, and bicycle and pedestrian trails. It shall include cost estimates of all plans considered in this study, and shall discuss existing and proposed sources of funding for the implementation of the recommended plan alternatives.

"'(g) The study shall be completed and presented to the Congress within two complete fiscal years from the effective date of this provision.

"'(h) Effective October 1, 1981, there is hereby authorized to be appropriated not to exceed $200,000 for this study.'.

"(12) A new section 22 is added to the Act as follows:

"'Sec. 22. In exercising his authority to acquire property under this act, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the lakeshore to sell such property, if such individual notifies the Secretary in writing that the continued ownership of such property is causing, or would result in, undue hardship.'.

"(13) A new section 23 is added to the Act as follows:

"'Sec. 23. (a) The Secretary may acquire only such interest in that portion of area VII–A which is described in subsection (b) as the Secretary determines is necessary to assure public access over said portion of area VII–A.

"'(b) The portion of area VII–A, as designated on the map referred to in section 1, to which subsection (a) applies is a parcel of land bounded—

"'(1) on the east by a line three hundred feet east of the electrical transmission line crossing area VII–A on January 1, 1979;

"'(2) on the west by a line fifty feet west of such electrical transmission line; and

"'(3) on the north and south by the northern and southern boundaries, respectively, of area VII–A.

"'(c) Area VII–A includes the bed of the railroad tracks forming the northern and northwestern boundaries of this area and extends to the northern edge of the bed of the railroad tracks forming the southern boundaries of this area.

"'(d) Area I–D includes the bed of the railroad tracks along the northern boundary of this area.

"'(e) The area designated as area VII–C on the map referred to in section 1 does not include approximately 1.3 acres of land on which the Linde Air Products plant is situated, nor does it include approximately 1 acre of land on which the Old Union Station building and the adjacent REA building are situated. Except as provided in the foregoing sentence, area VII–C extends to, but does not include, the beds of the railroad tracks forming the northern and southern boundaries of such area.'

"Sec. 2. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1981. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts."

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the act providing for the establishment of the Indiana Dunes National Lakeshore, and for other purposes."

A motion to reconsider was laid on the table.

ISAAC N. HULVER

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 442) for the relief of Isaac N. Hulver of Kansas City, Mo.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I understand that an amendment is to be proposed to cut the award to Mr. Hulver in half.

Is my assumption correct?

Mr. COLEMAN. Mr. Speaker, will the gentleman yield to me?

Mr. SENSENBRENNER. I yield to the gentleman from Missouri.

Mr. COLEMAN. The gentleman from Wisconsin is correct. As he knows, we have been in discussion. I have an amendment prepared to do the very thing that the gentleman stated.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Isaac N. Hulver, of Kansas City, Missouri—

(a) the sum of $202,298.12, in full settlement of all claims of the said Isaac N. Hulver against the United States arising out of permanent personal injuries, pain and suffering, medical expenses, and future loss of earnings sustained by the said Isaac N. Hulver as the result of an operation on his left leg which was performed without his permission and in a negligent manner by a surgeon at a Veterans' Administration hospital; and

(b) the sum of $6,702.51, in full settlement of all claims of the said Isaac N. Hulver for costs incurred for legal representation rendered in connection with his claim.

SEC. 2. No part of the amount appropriated by the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

AMENDMENT OFFERED BY MR. COLEMAN

Mr. COLEMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN: Page 1, line 6, strike out "$202,298.12" and insert in lieu thereof "$101,149.06".

Page 2, line 3, strike out "$6,702.51" and insert in lieu thereof "$3,351.26".

Mr. COLEMAN. Mr. Speaker, I offer this amendment to the private bill for Mr. Isaac Hulver which would reduce by 50 percent the compensation sought, from $209,000.63 to $104,500.32.

In order to prevent an objection by the gentleman from Wisconsin (Mr. SENSENBRENNER), an objector, this amendment is offered. The terms have been agreed to by the bill's sponsor in the other body, Mr. EAGLETON, and by Mr. Hulver himself.

While I feel Mr. Hulver is entitled to the full amount originally sought—and determined by a Federal district judge based on lost earnings, and pain and suffering—I am willing to support this compromise in order to move this important legislation before we adjourn.

Mrs. FENWICK. Mr. Speaker, reserving the right to object, I would like to make an inquiry, if I may.

We are suddenly presented with something on the floor I have never heard of before, a private bill for a gentleman who is to receive some $100,000 or $200,000.

I gather this must be from the taxpayers of the United States.

I would like to know what act of this Government caused whatever damage it might be to this gentleman. What is in back of it?

Mr. COLEMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Missouri.

Mr. COLEMAN. The gentlewoman has a good question. I will be glad to answer it.

Mr. Hulver is a World War II veteran who sustained major combat wounds during the Second World War in service in Germany. As a result, he was disabled 80 percent.

Subsequent to that, he has had operations in a VA hospital, upon one occasion where he was negligently treated by a VA physician. Because of the extensive injuries he sustained under the Tortous Claims Act and others, we have offered this bill in some sort of compensation for this man's contribution to his country.

Mrs. FENWICK. I understand. In other words, the physician in the veterans' hospital was delinquent or deficient or in any case to some extent actionable, and this is to compensate him for that.

Mr. COLEMAN. Yes.

Mr. GLICKMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Kansas.

Mr. GLICKMAN. The majority accepts the amendment, but the finding of loss as to liability was acknowledged by a court. It was just the statute of limitations as to when the loss was actually discovered. There is no question this man suffered enormous loss.

Mrs. FENWICK. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. COLEMAN).

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THE HIGH INTEREST RATE SITUATION

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, I rise for the purpose of stating that I have again addressed myself to the President, Mr. Carter, with respect to the question of interest rates and related phenomenon is an act of God, according to the Washington Post editorials. That is so ridiculous that I have implored the President not to wait until he relinquishes power on January 20 but to do certain specific things he can do that is within his power to defend the public interest with respect to the excessive, usurious, and unconscionable high interest rate situation wrecking our economy and country. I offer my letter to the President:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 8, 1980.

Hon. JAMES E. CARTER,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Chief Executive Officer of the Chrysler Corporation, certainly no economic illiterate, said a few days ago that the high-interest policies of the Federal Reserve Board are "madness." There is no way that his company, or any other automaker, can achieve sales goals in today's climate of fantastic interest rates.

In the year ending last October, home sales fell by 19 percent. Housing sales have all but disappeared in the wake of the latest skyrocketing of interest rates. Businesses, large and small, all over the country, are turning off their lights and bolting their doors.

Economists and bankers sagely nod and intone that interest rates merely reflect the market, and would have us believe that the prime rate is an act of God, something they have no control over. The truth is that the prime rate is meaningless in the real world of business transactions. A fellow Georgian of yours discovered that while he was being charged one per cent above the prime rate, his bank was making loans to favored customers well below the prime rate. The market, it seems, respects clout.

You know how the economy is affected by interest rate gyrations. You have seen the closed factories, the out-of-work people, the desperate farmers. You have seen the multibillion dollar rises in Federal expenditures required to pay higher debt service costs and provide support to those out of work, and even to giant corporations that find themselves crushed between the vise of higher money costs and dropping sales.

The Chairman of the Federal Reserve Board surveys the scene and says, well, all this hardship is the price of ridding ourselves of inflation. He promises a future of even greater hardship—not merely one of slow growth, but if need be, a policy tight enough to "squeeze out real growth as well."

I need not remind you that those who call for sacrifice are almost never the ones to bear its pain. Those who are the closest admirers of market forces are those who are least exposed to them, or to their social and political effects.

I mentioned that the market, as perceived by bankers at any rate, respects clout. That is why some bank customers, no matter how credit-worthy they may be, find themselves priced out, or locked out, of loan markets while other customers find ready loans at attractive rates.

You have clout. You are the only person in America who has the position from which to turn around the drift into disaster. I urge that you use your platform to initiate a new beginning. After all, it is the policies that are in effect right now that will create the forces most felt six months from now, and that more than anything else causes national despair and disaffection. A change in direction today can have great benefit months from now.

I do not believe you should remain silent while the Federal Reserve resumes the harsh and ineffectual policies it has followed for the last year. History has shown that wisdom does not by divine rule reside in the Federal Reserve; its policies have been wrong far more often than right, misdirected more often than not, counterproductive more often than beneficial.

Our economy has functioned best with policies designed to assure full production and full employment. Inflation has been lowest when the economy has been working hardest. I do not believe this country can starve itself into stability; I believe we can work ourselves into stable prosperity.

That is the kind of program you should call for. It is not too late to renounce the ill-advised, inhumane, and ineffective policies of the Federal Reserve. You, like a well-beloved predecessor of yours can, by shedding light on the realities and possibilities of these times, set the agenda for the future.

With best wishes and warm personal regards, I remain

Sincerely and respectfully yours,
HENRY B. GONZALEZ,
Member of Congress.

JOHN LENNON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, I rise today to lament the violent murder of an artistic genius and man of peace, John Lennon.

An entire generation touched by John Lennon's music, his mind, and his humanity now gather in small groups across the globe to sing in hushed tones, "Give peace a chance." But peace will never have a chance in the streets of America until the vicious roar of handgun fire has been silenced, until the senseless carnage has been stopped.

Each time a hail of bullets robs us of one we love, be it a personal friend or public figure, we remorse and speak of ways to stop such barbarism. I wish to say something to you here today, in what may be my last speaking role on the floor of this Chamber. I wish to say that we must no longer seek scapegoats for our failure to act. It is, first of all, you and I, the people responsible for writing the laws of this Nation, who have failed in our duty to protect the citizens of America. We have failed through our unwillingness to enact sensible gun control legislation. But even more so it is the National Rifle Association which must share the responsibility because of the tremendous power it wields over the Members of this body through its well-financed lobbying efforts against such controls.

Today, in personal letters and from the floor of this assembly, I am asking the three remaining members of the Beatles to lend their enormous power to the gun control effort in this country, a country John Lennon adopted as his own. I am asking Paul McCartney, George Harrisson, and Ringo Starr to use their influence to help us counteract the negative effects of the NRA's well-financed and successful efforts to make handguns readily available to every potential assassin in America.

I have suggested to these former members of the Beatles that their work, in honor of John Lennon, could entail fundraising concerts for handgun control, writing songs advocating such controls, or simply lending their names to organizations working for sensible gun control legislation. The important thing is too keep this matter before the public mind.

We must, all of us, never allow such gruesome, unnecessary violence to dull our sense of horror to become an accepted and inevitable part of life. It is not inevitable. It is controllable to a great extent, if we work together.

John Lennon once wrote a song in which he asked, "Come together, come together, over me." It is my thought that this artist, this man of gentle mind, would want us to "come together" in his memory over an issue which could save many human lives, the issue of handgun control.

I would also like to express my deepest sympathy to Mr. Lennon's wife and family.

FUTURE OF AND PROSPECTS FOR THE BUDGET PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 5 minutes.

Mr. GIAIMO. Mr. Speaker, this is the last time I will have an opportunity as chairman of the House Budget Committee to share my thoughts with the Members of the House of Representatives on the future of and prospects for the budget process. It has been a great personal honor to chair the Budget Committee. But the budget process does not, nor should it ever, depend on the efforts of any individual. In every sense, the budget process is and must remain a shared responsibility, a truly collective endeavor. To be effective, the process must have the commitment and support of all Members, regardless of how they may view any particular budget resolution.

This is true for some very fundamental reasons. The budget process is the ultimate test of the capacity of Congress to participate fully and meaningfully in the formulation of this Nation's fiscal policy. The congressional budget is Congress principal instrument to exercise control over the direction and impact of that policy. Though its procedures may at times be laborious and lengthy, the budget process is the only way the Congress can take on the herculean task of establishing national priorities and blend into them the many and diverse interests of this Nation. Through the budget process, the Congress can formulate and deliver its message. But with this comes the heavy responsibilities of fiscal self-discipline. Budget resolutions are covenants among ourselves. There are strong forces in Congress and out of Congress to support them.

Through the many trials which the budget process has faced in the past 6 years, I have been impressed by the commitment which the majority of Members have made to make the process work. The reconciliation effort is still fresh in my mind. When Congress directed a number of its committees to examine the laws within their jurisdiction and suggest ways where savings could be achieved, some felt this could never be accomplished. Yet a majority of Members felt this had to be done to help to break the momentum of Federal spending. Reconciliation had its ups and downs as we broke new ground, but the result was the Omnibus Reconciliation Act of 1980. This historic bill, which was signed into law last Friday, will save American taxpayers billions of dollars.

We may not all agree on each and every provision, but who would have ever thought eight committees of the House and eight committees of the Senate would, at the direction of their respective bodies, sit down and diligently rewrite basic spending or revenue raising laws that were within their jurisdiction? To me, it still is almost unbelievable. The passage of the Omnibus Reconciliation Act constitutes a major breakthrough for the budget process, underscoring that the Congress is capable of decisive and far-reaching action and self-discipline through shared responsibility. That is what the budget process is all about.

But there is no question that more needs to be done. In my view, Federal spending is out of control. But I might remind Members that spending is not out of control because of the budget process. We will not bring spending into control by eliminating or ignoring the process. On the contrary, the congressional budget process is our principal instrument for identifying our will to control spending and for developing a shared plan for carrying out that will.

Let me at this juncture speak to a criticism frequently leveled against the budget process: that the Budget Committees of the House and Senate have become too powerful, that they are dictating policy to other committees. From my perspective, nothing could be further from the truth. Indeed, if that were true, I do not believe the budget process would be entering its 7th year of existence. Beyond that, I am extremely pleased that such is not the case, for nothing would be more damaging than to have an omnipotent Budget Committee in each body of the Congress.

Throughout its existence the House Budget Committee has viewed its role as one involving reliable information, negotiation, persuasion, and compromise. The Budget Committee has not sought nor used rules to enforce conformity to its views. Furthermore, under the procedure of the budget process, every decision is submitted to the scrutiny of the full body. I need not recount here how close that scrutiny has been. Resolutions have been debated and debated, amended, amended again, and amended further. Resolutions have been rejected and then rejected again. If anyone thinks the Budget Committees have been all powerful, I suggest that he or she look at the record.

Even if the Budget Committees were to be given this kind of power, they could not possibly exercise it intelligently. The vastness and complexity of the Nation's economy, coupled with a number of private and governmental agencies outside the Congress who can regulate or affect it, prohibits any group within the Congress, or Congress itself, from taking over. This kind of power simply does not exist.

Nor does it exist institutionally. To be specific, the Budget Committee cannot and should not write tax legislation. The Budget Committee cannot and should not write programs into law. The Budget Committee cannot and should not exercise the oversight responsibilities of standing committees. Without belaboring the point, there is plenty of work to do for all committees and the role of the Budget Committee is dependent in a large part on whether the work of other committees is done properly and effectively.

Finally on this point the Federal budget is a composite of a bewildering array of facts and figures. Computers may be capable of prodigious calculations, but these machines require human inputs. It takes quite an array of experts just to analyze the budget. So you see, the Budget Committee can only be one cog in a giant wheel.

In essence, what I am saying is this: The budget process, given the variety and spontaneity of activity it encompasses, will always be a fragile and delicate instrument. It requires that each Member become informed and knowledgeable. It demands that we keep ourselves up to date, that we do our homework. With knowledge comes power, power that can be exercised to serve the public's many and varied interests.

To me, the real promise of the budget process is even greater than most of us first imagined—that is, it will become an instrument for extending the public's understanding of the decisions that affect them, for allowing more freedom for a creative response to our problems, for providing an opportunity for wider participation in decisionmaking, and for making efficiency and sound management a must for all governmental programs. We should never, never lose sight of the educational potential of the budget process. Is not that the promise of representative government?

There is an ominous part of my forecast that I believe I should share with you. If the special interests, particularly those that follow one political persuasion to the exclusion of others, ever gain control over the budget process and make the Budget Committees a haven for special interest groups, an enormous evil will be inflicted upon the American people. There are always those special interests willing to conspire to take whatever instruments of power they can to use to their advantage. We must be ready to sound the alarm when such attempts are made. That democracy requires constant vigilance may, to some, be a tired or timeworn cliche, it nevertheless reflects the truth.

Equally dangerous, in my view, is allowing the budget process to become the exclusive domain of "experts" and economic forecasters. I do not question for a moment the need for expertise, for sophisticated analysis, or for the capability to assemble and examine critically complex data. These are musts. But if we permit the experts to call the shots, they will be making our decisions. We will assure the destruction of the very foundation of our political system.

I hope budget resolutions are not used for cheap-shot negative votes against a deficit in order to prove fiscal responsibility. The path to fiscal responsibility must come through the appropriations and revenue-raising processes, as recently exemplified by the Reconciliation Act. That is the only true path of fiscal responsibility which the American people have demanded.

I do not wish to end, however, on a note of pessimism. I am confident that the budget process and the Budget Committee in particular will be in good hands.

I believe there is an ever increasing awareness both in the Congress and in the Nation that we must get better control of Federal spending. We have a hemorrhaging budget especially with our entitlement programs and our mandatory programs which consume too large a percentage of our Federal budget. We must scrutinize them and reevaluate them with a view to changing, reducing or eliminating those entitlement and mandatory programs which are unjustifiable. Only in that way can we make room for higher priority programs which can be justified. Only in that manner can we keep our budgets from unwarranted growth. It can be done. It must be done and it will be the role of the budget process to lead the way.

I have been most fortunate. I have had a dedicated group of members to work with, members who were willing to take the heat for hard decisions. I cannot understate that I have had great and loyal staff, who put in long hours to help make our decisions. I salute them for a job well done.

The Members who must deal with excruciatingly painful decisions confronting all of us in the 1980's will not have an easy time of it. Yet, as I look to the future, I know they will more than rise to the occasion. To my successor as chairman, in the lyrics of Sammy Kahn, I give this advice: "If you don't make a noise or don't make a sound, they will never know you've been around."

□ 1740

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding. I want to commend the gentleman for his leadership and the role that he has performed as Budget Chairman, and also for the comments that he is making. The fact is that he points out that the tools of the budget process are useful. There are many Members who talk about the need for reforms in the budget system. There are many Members who talk about limitations, and sunset laws, and sunrise laws, legislative vetoes, and what have you. But the fact is that the tools are in place.

If the Members are willing to use those tools, as we prove with reconciliation, as we prove with the Budget Act itself, the biggest test of the budget process lies not in the procedural performance; it lies in the willingness and guts of the Members to be willing to cast tough votes.

I think if there is any tribute to the chairman, it is that he has been able to take the tools available to him and make the process work and make reconciliation work, and that is a symbol of encouragement for all of us, that the system can work and that we can truly gain control of spending if we have the will to be able to make it work.

I thank the gentleman.

Mr. GIAIMO. I thank the gentleman from California, a very able member of the Committee on the Budget, who has worked so hard on the budget and also on the reconciliation process.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, I was unavoidably absent from the House floor on December 4 and 5 due to a death in my family. Had I been present, I would have voted as indicated:

On rollcall No. 664, December 4, 1980, adoption of rule waiving certain points of order against conference report on S. 1159, motor vehicle safety authorization, "no";

On rollcall No. 665, December 4, 1980, amendment to H.R. 6417 that sought to provide formula grants funds for urbanized areas at not less than the amounts apportioned to it for the fiscal years ending September 30, 1981, "no";

On rollcall No. 666, December 4, 1980, amendment to H.R. 6417 that requires project contracts over $500,000 to use articles, materials, and supplies manufactured or produced in the United States, "yea";

On rollcall No. 667, December 4, 1980, amendment to H.R. 6417 that sought to provide transportation for the handicapped with comparable trip time on an alternate system, "nay";

On rollcall No. 668, December 4, 1980, passage of H.R. 6417, Surface Transportation Authorization Act, "yes";

On rollcall No. 669, December 4, 1980, adoption of conference report on H.R. 7591, agriculture appropriations for fiscal 1981, "yes";

On rollcall No. 670, December 4, 1980, adoption of conference report on H.R. 7018, FIFRA authorization, "yes";

On rollcall No. 671, December 5, 1980, motion to recommit S. 1615 to the committee of conference with instructions to report it back with an amendment that sought to reduce the amount of compensation by $190,000, "yes";

On rollcall No. 672, December 5, 1980, adoption of conference report on S. 1615, private bill, "yes";

On rollcall No. 673, December 5, 1980, adoption of conference report on H.R. 8105, defense appropriations for fiscal 1981, "yes";

On rollcall No. 674, December 5, 1980, motion ordering a second on H.R. 8379, motor vehicle safety authorization, "yea"; and

On rollcall No. 675, December 5, 1980, motion to suspend the rules and pass H.R. 8379, motor vehicle safety authorization, "yea."●

ADDRESS BY STUART E. EIZENSTAT ON THE FUTURE OF THE DEMOCRATIC PARTY

● Mr. BRADEMAS. Mr. Speaker, one of the ablest persons serving in the Federal Government is Stuart E. Eizenstat, Assistant to the President for Domestic Affairs and Policy.

On December 4, 1980, Mr. Eizenstat, in an address before the National Press Club, in Washington, D.C., made a most thoughtful analysis of the problems and prospects of the Democratic Party.

I believe that Members of Congress will read with great interest Mr. Eizenstat's views and I insert his remarks at this point in the RECORD:

ADDRESS BY STUART E. EIZENSTAT

Winston Churchill said "Politics are almost as exciting as war and quite as dangerous. In a war you can only be killed once but in politics many times". I know what he meant. I'm about where Adlai Stevenson was in another election year when he quoted the Boy Scout who stubbed his toe: "I'm too old to cry but it hurts too much to laugh".

There's an old Yiddish saying—domestic advisors never die, they just fade away.

Before I do that, I thought I would utter my dying breath about the future of an organization that I care very deeply about—the Democratic Party.

As election results poured in many analysts wondered if the 1980 Presidential and Congressional elections spelled the permanent demise of the modern Democratic Party as the nation's majority party. I say it does not—certainly not if we do what we must. This is what I want to talk about today.

I. YESTERDAY

The Democratic Party has traditionally rejected isolationism and believed that America should take an active role in the world. At home it has rejected laissez faire economic and social policy and believed that government should help assure a sound economy. This was best expressed in Franklin Roosevelt's words, "as new conditions and problems arise beyond the power of men and women to meet, it becomes the duty of government itself to find new remedies with which to meet them."

The Democratic Party has been the most successful political party in recent Western history because it has been a Party of practical action—a Party that faces the future—a Party that seeks to represent the widest range of people. The whole fabric of American life has been shaped by a Democraic philosophy in which:

First, economic conditions have been enhanced by efforts ranging from securities laws protecting investors and Federal insurance for our bank deposits, to protections which permit workers to organize, receive training, and secure a minimum wage, and by assuring support for those unable to work and for those who have retired from work;

Second, social conditions have been dramatically enhanced by providing health care for every elderly American and for the poor, by nutritional assistance, educational aid that helps a broad range of youngsters receive help through a post-graduate degree, and by protection of basic human and civil rights.

Third, environmental conditions have been improved by a wide range of programs to protect our land and clean our air and water.

As some prepare to sound prematurely the death-knell of the Democratic Party, we should remember that only six years ago the same was said of the Republican Party.

But it is obvious that pride in our past Democratic accomplishments is not a prescription for electoral success in the future. Americans look forward not back.

The Democratic programs of the last 5 decades are accomplishing many of their goals. But they are such accepted parts of our system they no longer are reminders to elect Democrats. Voters today are looking for solutions to the new problems of persistent inflation, inefficient delivery of public services, and increasing challenges from abroad.

II. TODAY

In years to come, I believe that President Carter will be seen to have achieved significant domestic accomplishments. Of equal historic importance is his contribution to the Democratic tradition. He enriched and adapted the Democratic Party's traditions to the new realities of the 1980's—new realities which sharply differentiate our world from that of FDR, JFK or LBJ. From the outset of his campaign for President in 1975 he stressed the need for fiscal prudence, civil service reform and government efficiency as well as the need for improved social conditions.

And from the beginning of his Administration he stressed the need to synthesize Democratic traditions of compassion for the needy with acceptance of the new realities he saw the Nation facing.

First, he saw before others the profound transition from a 200-year era of cheap, plentiful natural resources to a period of expensive and more scarce energy—and got the Nation to recognize the centrality of our energy crisis to our national security. Over a painful period he and the Congress put into place clear incentives for domestic production through phased deregulation of natural gas and crude oil and recognized the central role of coal. In addition his leadership provided the Nation's first series of credits, penalties and loans to encourage conservation; safer nuclear energy; and a massive series of private sector incentives for renewable and synthetic energy. All of this was accomplished while building an environmental legacy unmatched since Theodore Roosevelt—capped this week by the Alaskan Lands legislation.

Second, he saw that after decades of growth under Democratic and Republican Presidents, there was a need to unsnarl programs from red tape, stimulate the bureaucracy, and substantially reduce Federal regulation and Federal intrusion. As a result he achieved with the Democratic Congress the most fundamental reordering of the relationship betwen government and industry since the New Deal by deregulating major sectors of the economy—airlines, trucking, rail, banking, communications—instituting cost-benefit analysis for new regulations, and reducing government-imposed barriers to free trade through the Multilateral Trade Negotiations. Major reorganization plans were passed, a paperwork reduction program was enacted, Inspectors General began to root out fraud and waste, civil service reform transformed the way in which Federal employees were hired, fired, paid and promoted.

Third, he kept faith with the Party's social traditions while facing the harsh new economic reality of the 1970's—stagflation, both high inflation and high unemployment together. While many of the constituencies for the Democratic Party pressed for another outburst of domestic spending, the budget resources were unavailable. The Great Society was launched with an inflation rate of 1.5 percent virtually no deficit. We inherited different conditions. Nonetheless, he expanded education, nutrition and social services. And as the first President in over a hundred years from the Deep South, took great steps to complete the Civil Rights revolution that began in his region. But he insisted that new social programs be phased-in carefully, increasingly relied on stimulating private resources for positive social ends, and targeted programs to where they were most needed.

Fourth, he recognized that unless the economic pie continued to grow America's workers would suffer and Americans would be unwilling to share their resources with the disadvantaged. He put into place innovative employment and training programs like the targeted jobs tax credit and the private industry council program. Later in the President's Administration he recognized that inflation itself was the greatest threat to economic growth. He developed an industrial revitalization program that held hope of attacking both inflation and unemployment simultaneously.

III. TOMORROW

But the past is prologue. Let's turn to the future. The election of 1980 sent an unmistakable message. The taxpayers of America—the great American middle class—are frustrated at persistent high inflation and its corrosive impact on their incomes and savings, their inability to buy a home, to plan for tomorrow, to retire when they hoped, and, once retired, to maintain a reasonable standard of living. They are frustrated at heavy pockets of unemployment in basic industries which are losing their competitive edge. Many believe the Democratic Party has lost touch with their concerns. They took out their anger at those in power.

Yet, ironically some of our problems are the result of our success. The programs and protections we provided are taken for granted. The success of Democratic programs moved masses of people up the economic ladder. They then moved to the suburbs to leave behind the problems of the cities. They now see their taxes going more to them than for them. They believe many programs fail to accomplish their goals.

The Democratic Party must take these concerns seriously. In our legitimate passion to represent the dispossessed—which I strongly share—we must also concentrate on the concerns of the middle class who pay for the programs for the disadvantaged.

The loss of a national election and control of the Senate gives us an occasion to figure out what we are not doing that we should be doing. I recommend we pursue the following agenda.

Party reforms

First, the Party must achieve a greater degree of political and intellectual cohesion. Will Rogers said "I belong to no organized political party. I'm a Democrat." We certainly proved that but somehow the humor is missing. It must reassert its role as a harmonizer and compromiser. It has been debilitated by the false glorification of independence from Party labels, the primary system, television's impact, the exclusion of elected officials from the nominating process, the growing financial influence of political action committees and single issue groups. We are a Party of coalitions and each element of that coalition must be more sensitive to the reaction of the others as it pursues its goals. There is an absence of Party identification and discipline which has impaired our Party's effectiveness. To remedy these problems we should do the following:

The Party's rules should be revised so every Democratic Congressman, Senator and Governor is automatically a voting delegate to the Mid-term and National Convention and participates in all facets of the Convention process, including the drafting of the Party Platform. In New York City in 1980 only 45 of the 3,331 delegates were Congressmen and Senators. They had no part in selecting their Party's nominee and the candidate had no obligation to them for his nomination. A Democratic President and Democratic Congress must become more dependent on each other.

The Platform was drafted by able people—but by and large they had no legislative responsibility for implementing it. The Platform must not become the sum total of the maximum demands of every group. If our Party runs on such Platforms it will not consistently win or if it wins will have great difficulty implementing all of its planks at once. Greater Congressional input will instill a greater sense of balance in the Platform and a greater sense of Congressional responsibility to implement it.

While primaries serve a useful purpose in democratizing the nominating process, this has come at a price of less involvement by Party officials. They should be held within a narrower window of time to shorten the campaign. States should be permitted to reserve up to 10 percent of their delegates by selection from State party organizations.

Caps should be enacted on the maximum contribution candidates for Congress can accept from political action committees, as contained in the Obey-Railsback bill, while limits should be eliminated for giving through National Committees. In 1980, PAC's donated over $50 million to Congressional candidates. The D.N.C. spent less than one-tenth that amount for Congressional and other non-Presidential campaigns. This imbalance weakens the role of a broad-based political party. Will Rogers said "Politics has got so expensive that it takes lots of money to even get beat with."

The Party's able leadership in Congress should become the focal point of Democratic Policy. I recommend, toward this end, that the Democratic leadership convene a group of leading figures in our Party to develop a policy agenda for the Democratic Party.

Congressional Democrats should develop ways to invoke greater Party discipline. For instance, the Democratic leadership might consider a rule requiring Democrats to permit a limited list of legislative priorities to come to the floor for votes without such bills being stymied in Committee.

The D.N.C. Chairman must work with the Democratic leadership in Congress and concentrate on electing Democrats at all levels by identifying and encouraging Democrats to run, developing modern computer services, and providing organizational support.

The Party must make a special effort to avoid becoming a regional Party. We cannot cede the States west of the Mississippi to the opposition and expect to win national elections. Special efforts must be made to show the Western States that the Democratic Party understands their special needs and is prepared to help meet them.

Focus on inflation and growth policies

Second, the Democratic Party must give its primary focus to the development of policies which lead to non-inflationary, balanced growth. We must reject a no-growth philosophy. Only through economic growth can the disadvantaged and minorities (who remained faithful to the Democratic Party when others left it) be brought into the mainstream of American life; only through economic growth can the revenues be generated to fund the social programs to which we are committed; can social frictions be mitigated in the scramble for a cut of a slower growing pie. The American Dream progress for all must remain alive. Democrats must assure that growth respects our environment and that growth is not at the risk of worker safety, health or other protections. Balanced growth must be our goal.

We must recognize that sustained growth cannot come without controlling inflation. Until President Carter began to shift it in the late 1970's, the Party's emphasis since the New Deal was on unemployment and not inflation—logical, given the Depression and succeeding recessions, and the low rates of inflation until the '70's.

Democratic policy must recognize the centrality of the inflation problem—not simply as voter concerns, but as the root of our economic and unemployment problems. High inflation breeds public fear of the future, high interest rates, an uncertain investment climate, depleted savings, and ultimately high unemployment.

Now is the time we must rethink our policies. We must shift our emphasis from consumption-oriented stimulus policies, which during past times of low inflation, kept unemployment low, to policies which encourage greater investment in productivity of both capital and labor. We cannot adopt the policies of the past in a climate of persistently high inflation; such action may only assure the next recession.

Inflation is significantly due to declining productivity, outside shocks like oil price increases, and the psychological wage-price spiral which follows. We need not adopt old shibboleths calling for Constitutional amendments to balance the budget, to recognize that fiscal policy must be prudent while inflation is high.

We must recognize that our economic problems cannot be solved without cooperation from business and labor. Business needs to develop long-range management concepts, improve productivity and exercise price restraint. The American labor movement, the backbone of the Democratic Party, must help us develop wage-price policies to assure that wage increases are accompanied by productivity improvements.

Government should be a partner with the private sector in dealing with both inflation and unemployment:

It can help business and labor organize committees, like President Carter's steel and auto committees, to deal with economic problems on a sectoral basis. We must move from an era of confrontation to one of cooperation with the private sector.

It can develop income policies to moderate inflationary wage and price behavior and use the tax reductions which will be needed in the future to encourage such behavior.

It can enact incentives to improve both the productivity of capital resources—through accelerated depreciation, greater support for research and development, a sound regulatory climate, and a strong antitrust policy—and the productivity of our human resources through creative employment and training programs for young people and the hard-core unemployed.

It can provide incentives for the private sector to engage in ventures vital to our national interest, such as solar or synthetic energy, or investments in high unemployment areas.

A unifying economic theme for Democrats can be industrial revitalization and all the productivity-oriented activities that entails. But let's not put all our resources into fighting the last war. We live in a post-industrial, service and information-oriented economy where much of our new employment growth will come in newer industries.

The free market and Democrats

Third, we must reduce government-created constraints in the free market while still protecting consumers from those who abuse the market and the helpless from the market's negative impacts. We need an active Federal government to protect civil rights, secure social advances, develop creative economic policies, to enhance the "conditions and problems . . . beyond the power of men and women to meet". But we must demonstrate a willingness to remove the government from certain sectors of American life. Our Party traditionally viewed economic regulation as a means of protecting the public—and it often was. But over the years industries were protected from the crucible of competition while the public suffered from its absence. Artificial constraints in many sectors meant less competition, higher prices, less service. The President and broad elements of the Democratic Party recognized the need to remove these constraints and permit the free market to operate. This must continue in the future.

In the energy field, while economic controls on natural gas and crude oil kept prices down to consumers they came at a national cost: less production of domestic sources, increased dependence on imports, a disincentive to conserve dwindling resources of energy. Ultimately it is no favor to consumers to attempt to protect them from reality.

We should avoid precipitous and immediate crude oil decontrol because of the shock effect that it might have in an already inflated society. We should support the gradual, phased, predictable steps toward decontrol the President began.

Likewise, we should face the realities of the marketplace in housing by embracing the movement by the Federal Home Loan Bank Board toward the flexible rate mortgages which adjust to changing economy conditions.

But Democrats can remain true to their traditional concern for the disadvantaged and the consumer while still reducing the heavy hand of government from the market place.

For example, in transportation deregulation Democrats supported stand-by protections to prevent unfair pricing. In decontrolling crude oil, Democrats championed a windfall profits tax to recycle some of the revenues derived from decontrol for broader public use and low income energy assistance to offset the impact of higher energy prices on the poor.

In exports, as we move toward expanding our trade relations with other nations, we can protect against unfair trade by strictly enforcing anti-dumping laws and dealing with economic dislocations through positive adjustment strategies to retrain and locate workers for new careers.

Consumers need special assistance in assuring their voice is heard in agency decision-making, and in securing protection from hazardous products and certain drugs.

Just as we should seek a less intrusive Federal role in economic regulation, we should continue to avoid government intrusion in the private lives of individuals. Many who most loudly proclaim the need for government non-interference with business would have government be the arbiter of highly personal and indeed religious decisions.

The Democratic Party in the 1980's should champion individuals' rights of privacy. Passage of privacy legislation dealing with medical, insurance, and other records is an important beginning.

We should stand firmly against government involvement in dictating the most personal decisions by women, preferable moral standards for society, or particular prayers for public schools. But we can believe in age-old standards of proper moral behavior without believing that in every instance it is the role of government—rather than churches, the family and other private institutions—to enforce particular standards of general morality or to make people believe they are part of an immoral minority if they hold dissenting views. The Democratic Party must be sympathetic to concerns shared by all Americans worried about crime, the breakdown of family stability, drug abuse by young people, the instabilities of modern American life. These are issues which should not be ceded away. They are fundamental issues to which Democrats must respond.

Concentrate on making Government programs work and establishing priorities

Fourth, we must not retreat from our commitments to social and economic justice, the full extension of equal opportunity for minorities, and a safe and clean environment, but we must do more to convince Americans their tax dollars are going for well-run programs which effectively deliver services to their beneficiaries and accomplish their intended results.

The soul of our Party is its sensitivity to those in need. One of the major reasons the Democratic Party has been the majority party for so long is that Americans saw reflected in our policies their own compassion for others. A society must ultimately be judged by how it treats its most disadvantaged not its most privileged citizens.

We must avoid the erroneous thinking that on the one hand our problems have come because all of our programs have failed or, on the other, that we will succeed if we simply promise more new programs.

To regain a mandate for continued progress we must do the following:

One—stoutly defend against any onslaught those New Deal, Great Society and Carter programs which are working like the Clean Air and Clean Water Act, Food Stamps, Medicare, Medicaid, nutrition efforts, student aid programs, Head Start and many more. They have immeasurably strengthened the fiber of our society and provided the basic necessities of life for millions. We must base our policies on today's facts, not those of the past—progress has been made in eradicating hunger, poverty, inadequate health care, and environmental dangers. But we should not let Americans think that every social problem has been solved, every injustice righted, every environmental danger treated. Nor can we deregulate the Federal role in protecting and enhancing basic civil and worker rights. Affirmative action remains an imperative.

Two—adequate resources must exist for the new programs we believe are necessary so that the Nation can afford them. Every worthwhile advance brings with it not only important advantages but also some costs which must be balanced in the equation. Every resource we use to accomplish one goal must be weighed against what resources will be left for competing goals. We do not have the resources to do everything all at once—nor should we promise we can. Priorities must be set. So too we can phase-in new programs to fit existing resources, use limited Federal funds to leverage greater private sector resources, and better target Federal programs.

Three—just as Democrats should fight to preserve and expand those programs which work, we must put equal energy into modifying those which are not effectively delivering services. We cannot allow our Party to be identified with poorly run programs nor can we allow others to claim a monopoly on government reform and efficiency. Democrats must be at the forefront of requiring accountability in Federal programs through regular evalaution and sunset reviews; rooting out what mismanagement or abuse exists (much less than some believe); developing more flexibility for State and local implementation of programs; consolidating overlapping categorical programs. Only by convincing the public our programs work will we sustain broad public support for them.

CONCLUSION

The Democratic Party has erected sound social and economic structures which are an accepted part of our society. But in a country as dynamic as ours those past accomplishments are not by themselves sufficient reason for continued voter loyalty.

I believe our Party will rise to the challenge, will develop a positive, hopeful and realistic agenda for the future and will command the support of a majority of Americans—sooner than some doomsayers may believe.

Let me conclude on a personal note. This country is a wonderful and great country. It permitted my immigrant grandparents who spoke hardly a word of English to leave a regime of repression and to leave with full religious and personal freedom; it permitted my parents to enter the great American middle class, and me to be at the right hand of the President of the United States for four years. If in all the hours of my toil I have been able to return to my country and to others less fortunate some of the blessings and opportunities my country has given to me and to my family then it was all worth the effort.●

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, on December 2, 1980, President Carter signed into law the Alaska National Interest Lands Conservation Act (Public Law 96–487). As you know, the act is composed of an amendment to H.R. 39 developed by the Senate combined with two House concurrent resolutions which I introduced, and which were passed by the House of Representatives on November 21, 1980, and the Senate on December 1, 1980. Certain provisions of House Concurrent Resolution Nos. 452 and 453 appear for the first time in the so-called d–2 process, and, consequently, are worthy of additional discussion and explanation.

JUDICIAL ENFORCEMENT

Of particular importance is the redraft of the "judicial enforcement" provision established by section 807 of the act to insure that the Federal Government will conform its management of public lands resources, and the State government its responsibilities related to fish and wildlife on the public lands in Alaska, to the requirements of the subsistence priority established by section 804.

As I explained on November 21, 1980, the new section 807 is a joint effort by members of the House and Senate and the State of Alaska. Because the section is specifically intended to create a Federal right of action to permit residents of Alaska and other persons and organizations, including, but not limited to, local State fish and game advisory committees and regional councils, to compel the State of Alaska to conform its regulation and other management of fish and wildlife to the requirements of section 804, the section has been carefully drafted to satisfy the requirements of the 11th amendment and the case law which has expanded its purview.

Although a State generally may not be sued in Federal court by citizens of another State or by its own citizens without its formal consent, the U.S. Supreme Court has recognized several exceptions to this rule. In a line of cases beginning in 1964 with Parden against Terminal Railway of the Alabama State Docks Department the Court has indicated that if the Congress specifically subjects a State to a private right of action as part of a regulatory scheme which is a proper constitutional exercise of congressional authority and which regulates an area not wholly within the sphere of authority of the States, and a State knowingly continues to operate within the area over which Federal jurisdiction has been exercised, then as a matter of Federal law the State will be held to have consented to suit as part of the regulatory scheme.

While it is unnecessary to repeat here the precise parameters of the respective authority of the Federal Government and the various States to manage fish and wildlife, the U.S. Supreme Court in Kleppe against New Mexico settled once and for all that the management of fish and wildlife populations at least to the extent such management has a nexus to the property clause or a similar basis for congressional regulatory activity, is a constitutionally appropriate area for Federal regulation not exclusively within the jurisdiction of the States.

In the instant case, title VIII in general, and sections 804 and 807 in particular, are based upon an exercise of Congress authority under not only the property clause, but also the commerce clause and the exclusive authority of the Congress to regulate Indian, in this case Alaska Native, affairs.

The intent of the Congress to subject the State of Alaska to a private right of action in section 807 to insure proper implementation of the subsistence priority established by section 804 is clear on the face of the statute. Consequently, it is the intent of the new section 807, and I might add an intent with which the State of Alaska is in agreement, that continued regulation by the State of Alaska after the date of enactment of the Alaska National Interest Lands Conservation Act of subsistence resources which are within the jurisdictional purview of section 804 is to be deemed consent by the State to suit pursuant to section 807.

Although not specifically stated, it is our intent and assumption that the Federal land management agencies—and not an ancillary agency such as the Bureau of Indian Affairs—will be responsible for administering Federal participation as related to subsistence, not only pursuant to section 807, but title VIII in its entirety. The Congress, of course, has plenary authority over the creation of a private right of action against the Federal Government itself.

ALLOTMENTS

Paragraph 36 of House Concurrent Resolution 452 amended section 905(a) (1) of the act to include allotments located within the national petroleum reserve—Alaska (NPR-A) within the purview of the Alaska Native allotment amendment. The amendment resolves an historical difficulty peculiar to land status within the NPR-A. The purpose of the amendment is to provide that all land within the NPR-A shall be considered as "vacant, unappropriated and unreserved" within the meaning of the act of May 17, 1906 (34 Stat. 197 as amended) for the purpose of adjudicating entitlement to an allotment under that act.

The amendment removes any impediment to consideration of an allotment application describing land within the NPR-A presented by any land status which was or may have been created, if at all, by any executive withdrawal order including, but not limited to, Executive Order 3797-A, Public Land Order 82, and Public Land Order 2215. It is the intent of the amendment that the decision of the Congress that land within the NPR-A be considered "vacant, unappropriated and unreserved" within the meaning of the act of May 17, 1906, is determinative of the land status issue, and, consequently, such issue is outside the purview of any adjudicative proceeding conducted pursuant to subsection (5) of section 905.

House Concurrent Resolution No. 453 includes a new section in the act which summarily approves a number of applications for entry upon the public lands. This amendment is based in large measure upon section 905 of the act which establishes a similar system for the approval of Alaska Native allotment applications. However, it is important to understand the relationship between the two sections. Section 905 approves certain allotment applications "subject to valid existing rights." Similarly, section 1327 approves certain public land entries also "subject to valid existing rights." Consequently, section 905(e) requires the Secretary to identify and adjudicate any record entry or application for title to lands which would otherwise be approved pursuant to section 905(a)(1). Such entries and applications may infrequently include entries and applications which otherwise would be summarily approved pursuant to section 1328. It is the intent of House Concurrent Resolution No. 453 that all applications described in section 1328(a)(1) which describe land which also is the subject of an application described in section 905(a)(1) will be adjudicated by the Secretary.

Finally, Mr. Speaker, in order to provide guidance to management agencies, I believe it to be important to clarify and document the intent of two other provisions of Public Law 96-487 which had their origin in the House.

NATURAL DIVERSITY

The first of these provisions relates to a purpose of each national wildlife refuge unit established, enlarged or confirmed by the act which states: "to conserve fish and wildlife populations and habitats in their natural diversity * * *." Since the U.S. Fish and Wildlife Service soon will be engaged in preparing policies and regulations intended to guide administration of national wildlife refuge system units in Alaska, it is important that the agency be guided by a brief history of the development of this important purpose—specifically as regards the phrase "in their natural diversity"—thereby assuring that the intent of the Congress is fully understood and implemented.

During the spring and summer of 1977, the Subcommittee on General Oversight and Alaska Lands of the House Committee on Interior and Insular Affairs conducted an extensive series of public hearings and meetings and field inspections in the State of Alaska with the intent of drafting a new bill in the fall of that year, reflecting, wherever possible, the principal concerns of Alaskan residents. During the course of field inspections in interior Alaska and at numerous town meetings in small villages it became apparent that the large size alone of proposed national wildlife refuges and national parks dictated that new and innovative management systems would be required.

In addition, all of the new—and also the existing—wildlife refuge areas contained many diverse values ranging far beyond specific fish and wildlife population values including, but not limited to, archeological, paleontological, historical, scenic, watershed, wilderness, and so forth. A prime value of most of the proposed wildlife refuge areas was protection of resources on which Native peoples—and other bush residents—depended for subsistence purposes. In particular, the committee was struck by the natural wilderness condition of the land, a condition in which for eons natural processes had maintained a wide variety of natural, diverse habitats on which equally diverse fish and wildlife populations were dependent for survival.

The committee was impressed by the almost symbiotic relationship of rural residents, particularly Native peoples, with the land and fish and wildlife. Most Native villages are located in places where fish and wildlife are more abundant than elsewhere, a condition which also made the area a prime candidate for wildlife refuge status. Many of the wildlife refuge units established or expanded by Public Law 86-487 contain a varying amount of Native Village lands within their boundaries—in Yukon Flats, for example, over 3 million acres of village corporation lands are within the external boundaries of the wildlife refuge.

Since lower 48 wildlife refuges do not contain land holdings to any substantial degree, this fact alone would dictate that new and innovative management programs, sensitive to the needs of permanent rural residents, have to be initiated. Fish and wildlife do not range in accord with artificial land ownership boundaries, so it is important that the agency fully consider possible consequences of management decisions not only on fish and wildlife habitats and population diversity, but possible impacts on people permanently residing in the area.

The committee was mindful that in administering wildlife refuges in the lower 48—and in Alaska—in the past, the U.S. Fish and Wildlife Service had not always taken into account the multiple values of individual areas and more often than not, had emphasized certain management activities—such as constructing impoundments or manipulating habitats artificially—favoring a single wildlife species—or groups of species—such as waterfowl, to the detriment of other values, including other fish and wildlife species utilizing an area.

Because of the findings listed above, the committee concluded that a different and innovative management regime had to be developed for the new Alaskan areas so that the needs of all fish and wildlife species utilizing an area would be maintained through protection of those natural and diverse processes which made the area so attractive to fish and wildlife in the first place.

In October 1977, a committee print was prepared for review by the subcommittee prior to later formal markup proceedings. That print contained the phrase: "shall be managed to maintain the multiple values of the area," which was intended to guide management of each national wildlife refuge unit addressed by the print. A primary concern of the subcommittee was to provide management direction so that all natural, diverse resource values of each wildlife refuge would be considered in the decisionmaking process. During the course of subcommittee and committee reviews and markup sessions, the term "multiple values" was changed to "maintain the diversity of natural values," since the latter phrase more clearly stated the intent of the committee.

Identical language was included in H.R. 39, as introduced on January 15, 1979, and in the bill which was passed by the House on May 16, 1979. Subsequently, the Tsongas-Roth substitute—amendment No. 626, November 15, 1979—contained the same language. Later, in an attempt to further clarify intent, the Tsongas-Jackson-Hatfield amendment—No. 1961, August 4, 1980—contained the phrase "to conserve fish and wildlife populations and habitats in their natural diversity," which is also the language in Public Law 96-487.

In summary, it is the intent of the above language to direct the U.S. Fish and Wildlife Service to the best of its ability to conserve, protect and manage all fish and wildlife populations within a particular wildlife refuge system unit in the natural "mix" as occurring now and not to emphasize management activities favoring some species to the detriment of others; to manage wildlife refuges to assure that habitat diversity is maintained through natural means, avoiding artificial developments and habitat manipulation programs—example: since wildfire is a natural process maintaining natural habitat diversity, prescribed burning may be an appropriate management tool where as use of heavy equipment may be an appropriate management tool where as use of heavy equipment to clear "openings" would not; to assure that wildlife refuge management fully considers the fact that humans reside permanently within boundaries of some areas and are dependent, in varying degrees ranging from zero to substantial, on wildlife refuge subsistence resources; and to allow management flexibility in developing new and innovative management programs different from lower 48 standards, but in the context of maintaining natural diversity of fish and wildlife populations and their dependent habitats for the long term benefit of all citizens.

WILDERNESS BOUNDARIES

The other provision, Mr. Speaker, concerns wilderness boundaries as related to marine waters. The Wilderness Act is clear in its intent that only federally owned lands are to be included in a wilderness area. Thus, if Federal ownership extends to mean high tide the wilderness boundary extends to the mean high tide line; and, conversely, if Federal ownership extends to mean low tide, the wilderness boundary extends to the mean low tide line. Insofar as submerged lands are concerned, only those submerged lands which are federally owned are designated as wilderness.

Public Law 96-487 designates two wilderness areas containing submerged lands—Semidi and Nunivak—which are federally owned and which were initiated by the House and adopted by the Senate. Semidi Wilderness contains all of the federally owned submerged lands surrounding this island group. Nunivak Wilderness encompasses a portion of the Federal submerged lands which surround Nunivak Island some 25 miles in extent. The Nunivak Wilderness is as described on page H10544 of the CONGRESSIONAL RECORD of November 12, 1980.

There is ample precedent for designating submerged lands as wilderness, since previously the Congress has designated Everglades, Fla.; Chassahowitzka, Fla.; and, in Alaska, Simenof Island as wilderness. Only the federally owned submerged lands are designated as wilderness; the column of water and surface uses remain in the same status as before wilderness classification.

THE PROGRESSIVE CASE AND THE ATOMIC ENERGY ACT: WAKING TO THE DANGERS OF GOVERNMENT INFORMATION CONTROLS

(Mr. McCLOSKEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. McCLOSKEY. Mr. Speaker, I have asked permission to have printed in full in today's CONGRESSIONNAL RECORD the Law Review article of Mary Cheh, associate professor of law at George Washington Law School, because of the immense importance Miss Cheh's comments have on a major issue now pending before Congress.

This involves the famous Progressive case. You will recall that in 1979, a Federal court in Wisconsin issued a precedent-setting order restraining publication of an article on the hydrogen bomb by the Progressive magazine. Subsequently the Peninsula Times Tribune published a letter relating to the controversy which caused the Department of Energy to try to classify all 60,000 copies of the Times Tribune, but which rendered the Progressive issue moot.

The author of the original article, Howard Morland, contended that he had done no more than draw on lawfully published documents and sources, as did the private citizen who had written to the Times Tribune.

When the Justice Department dismissed the Progressive case, the Department of Energy requested a criminal investigation of the newspapers, the private citizens, and reputable Government scientists to whom the writers had talked.

This presents a difficult problem for private citizens and the press, and the theme of Miss Cheh's article is that Congress must now act to resolve the dangers to freedom of the press and freedom of individuals raised by the positions taken by the Energy and Justice Departments.

I agree.

Hopefully, Miss Cheh's article will provide the same stimulus that the Government Operations Committee report of August 21, 1978, did for H.R. 3486, signed into law as Public Law 96-440 by President Carter on October 13, 1980.

In that matter, involving the Stanford Daily case, Congress based its response upon the dissenting views of Supreme Court Justice Stevens. In the Progressive case, Miss Cheh's position justifies the same sort of effort, if not more so, as the freedoms of the press and private citizens are even more in jeopardy. In Miss Cheh's words:

> Given the unsatisfying conclusion of the *Progressive* litigation, it is *imperative* that Congress now confront the uncertainty it created when it first wrote a law with such sweeping yet ambiguous information control provisions. (Italic added.)

THE PROGRESSIVE CASE AND THE ATOMIC ENERGY ACT: WAKING TO THE DANGERS OF GOVERNMENT INFORMATION CONTROLS

(By Mary M. Cheh*)

I. INTRODUCTION

The Atomic Energy Act (the Act) has been with us since 1946.[1] No law passed before or since gives the government such sweeping authority to keep information secret. Under the information control provisions of the Act, practically all information related to nuclear weapons and nuclear energy is "born classified": it is a government secret as soon as it comes into existence.[2] No governmental act is necessary to classify the information.[3] Moreover, the information, defined as Restricted Data, remains secret until the government affirmatively determines that it may be published.[4]

A question latent in the language of the Act is whether privately developed or privately generated atomic energy information—information developed or generated without government funds and without access to classified government documents—is Restricted Data and thus subject to the Act.[5] If it is, a scientist in a university laboratory, a researcher in a private industrial plant, or an enterprising journalist in the public libraries can independently compile, develop, or invent Restricted Data. Communication of this "secret" information contrary to the provisions of the Act consequently may be enjoined or may lead to a fine or imprisonment.[6]

The Atomic Energy Commission (AEC), now the Nuclear Regulatory Commission (NRC), and the Energy Research and Development section of the Department of Energy (DOE)[7] always assumed that the statutory definition of Restricted Data was broad enough to permit them to control any information falling within that definition, whether it originated within the government or elsewhere.[8]

Until recently, however, the government had never pressed this view in court. In *United States v. The Progressive, Inc.*,[9] DOE invoked the information control provisions of the Atomic Energy Act and successfully enjoined a small but highly respected monthly news magazine[10] from publishing an article about government secrecy and the proliferation of thermonuclear weapons.[11] Entitled *The H Bomb Secret: How We Got It, Why We're Telling It*, the article contained information describing the theory and design of a hydrogen bomb.[12] Although all of the information in the article was based on private research, interviews with government officials, and examination of documents placed in the public domain by the government,[13] the United States District Court for the Western District of Wisconsin concluded that it was Restricted Data that could not be published consistent with the Atomic Energy Act.[14]

Although seemingly predestined for Supreme Court review the *Progressive* case was suddenly mooted by the publication of the same information in another newspaper.[15] The case nevertheless is important not only because it is the first case in which a prior restraint has been issued in the name of national security,[16] but also because it marks the first time the government has sought and obtained judicial imprimatur to extend security controls to private, nongovernmen-

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Footnotes at end of article.

tal, industrial, scientific, university, or journalistic activities.[17]

This article outlines the historical and legislative background of the Atomic Energy Act's controls over privately developed information, examines how these controls have been applied, and discusses whether they are justifiable as a matter of law or policy. A central inquiry is whether Congress, in enacting the Atomic Energy Act, intended to depart from customary classification practice and impose secrecy on non-governmental, privately developed information.

II. OVERVIEW

A. The Atomic Energy Acts of 1946 and 1954

Atomic energy information controls are one facet of comprehensive government regulation of all atomic energy activities. The first atomic energy legislation was the Atomic Energy Act of 1946.[18] It gave the government an absolute monopoly over all aspects of atomic energy research, development, and production.[19] Private enterprise was relegated to a relatively narrow ambit of permissible activity, and no patents were permitted for inventions or discoveries useful in the production or utilization of atomic weapons or fuels.[20] Information relating to atomic energy was called Restricted Data and, as such, classified as secret.[21]

From an historical perspective it is not surprising that the 1946 Act emphasized national security concerns. Nor is it surprising that security was thought to depend on absolute government control of atomic energy materials and maintenance of secrecy over atomic energy information. In 1946, atomic energy was still a relatively new and little understood force.[22] Only the atomic scientists and military personnel who had worked on the Manhattan project [23] had any depth of understanding or sophistication about its problems and potential.[24] The public knew only that atomic energy was harnessed to make a bomb of unimaginable destructiveness and that the United States was the only nation with the "secret" of the bomb. The idea quickly developed that security and world stability turned on keeping other nations from learning our atomic energy "secrets." [25] Congress was not immune to these sentiments. Although atomic scientists had some success convincing legislators that secrecy was futile or actually inimical to security, [26] the final version of the Atomic Energy Act of 1946 strongly emphasized secrecy.

In the years following the passage of the 1946 Act two developments signaled a changed perspective. First, the Soviet Union joined the United States as an atomic power.[27] Second, the United States gave increasing attention to harnessing atomic energy for peaceful purposes.[28] Indeed, there was hope that atomic energy would provide an extremely inexpensive source of electricity.

Accordingly, in 1954, Congress substantially amended the 1946 Act. The new version of the law, renamed the Atomic Energy Act of 1954,[29] ended the government monopoly over the production and development of atomic energy by authorizing the participation of private enterprise in all atomic energy technologies, except weapons development.[30] It also relaxed patent restrictions [31] and authorized cooperative agreements permitting the exchange of information with other nations.[32]

Creation of a viable private atomic energy industry necessarily meant easing the government's tight control over Restricted Data.[33] The 1954 Act did not, however, amend the definition of Restricted Data or materially change the information control provisions of the 1946 Act. Nor did it authorize declassification of information previously thought protective of national security. Rather, it broadened the class of persons to whom access to Restricted Data would be given. Under all other government programs, the 1946 Act included, access to classified information was [34] (and still is [35]) limited to government employees and to government contractors or licensees who demonstrated a "need to know" [36] the information. Under the 1954 Act, however, Congress provided a basis under which private entities licensed by the AEC to develop peaceful uses of nuclear energy, such as nuclear reactor licensees, could also be given access to Restricted Data.[37] Although this development meant that large numbers of persons not involved in government programs might be permitted to share in classified information, Congress apparently believed that security could be tightly maintained so long as all such persons were investigated, cleared, and made subject to criminal sanctions for violating security rules.[38]

Soon after the passage of the 1954 Act, the AEC, pursuant to section 3(b)'s exhortation to broadly disseminate Restricted Data "so as to encourage scientific and industrial progress," [39] extended even further the class of persons to whom access to Restricted Data could be provided. Under the Access Permit Program,[40] the AEC provided access to Restricted Data to any person who could show a potential use for the information in his trade, business, or profession.[41] Thus, under the 1954 Act, large numbers of persons not involved in government programs were permitted to share in Restricted Data after obtaining appropriate security clearance and agreeing to adhere to all security controls.[42]

B. The information control provisions

The information control provisions have remained virtually unchanged since the 1946 Act. They remain keyed to the concept of Restricted Data defined as "all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category . . . ." [43] Although this definition appears specific, it is fraught with imprecision, primarily because of the word "concerning", meaning "related to" or "about" atomic weapons or special nuclear material.

The Act defines an atomic weapon as "any device utilizing atomic energy . . . the principal purpose of which is for use as, or for development of a weapon, a weapon prototype, or a weapon test device." [44] Special nuclear material is "plutonium, uranium enriched in the isotope 233 or in the isotope 235 . . . or . . . any material artificially enriched" [45] by plutonium or uranium 233 or 235. Other component parts of the Restricted Data concept have a similarly broad sweep. The word "design," for example, include "(1) specifications, plans, drawings, blueprints, and other items of like nature; (2) the information contained therein; or (3) the research and development data pertinent to the information contained therein," [46] and "research and development," in turn, includes "(1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes including the experimental production and testing of models devices equipment materials and processes." [47] Informational sources such as a college class discussion in physics [48] or even the day-to-day reporting of the events surrounding the Three Mile Island reactor incident in March 1979 [49] conceivably could fall within this expansive definition of Restricted Data. Given the breadth of the Restricted Data concept it therefore is not surprising that one expert characterized the term Restricted Data as including "virtually all atomic energy information which the AEC believes warrants protection in the interest of security" [50]

During hearings on the Atomic Energy Act of 1954, at least one legislator expressed concern over the breadth of the Restricted Data definition, but his colleagues did not seem to share his sense of alarm.[51] Furthermore, even though by 1954 Restricted Data had found its way into the public domain without having been officially declassified, Congress made no effort to amend the definition of Restricted Data to reflect this reality.[52] The definition in the 1946 Act was simply reenacted in the 1954 Act with minor alterations.

Once information falls within the broad definition of Restricted Data, it becomes subject to statutory restrictions. First, dissemination of the information is controlled by rules and regulations governing its possessions, transmission, and safekeeping, which the Act authorizes DOE and NRC to promulgate.[53] Second, access to or continued possession of the information is conditioned on obtaining a security clearance from the government.[54] Finally, unauthorized communication of the information may be enjoined or criminally punished.[55]

Currently, DOE and the NRC share the responsibility for safeguarding Restricted Data.[56] Their primary duty is "to assure the common defense and security," [57] but, consistent with that objective, they must permit and encourage the dissemination of scientific and technical information "so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding. . . ." [58]

Indeed, the Act mandates a continuous administrative review of Restricted Data and any classification guides [59] so that determinations of which information may be properly declassified are kept current.[60]

Information constitutes Restricted Data by statutory definition alone. No affirmative classification by DOE or the NRC is contemplated or authorized. DOE and the NRC may prescribe regulations to protect Restricted Data [61] and they may establish degrees of sensitivity within the Restricted Data concept,[62] but they have no power to classify or reclassify information as Restricted Data.[63] They declassify information from the Restricted Data category only on a finding that it can be published without undue risk to the common defense and security. Unless such a finding is made, the information remains classified.[64]

This procedure is precisely the opposite of that which governs the classification of all other government documents. United States security classification practice is based principally on executive orders that apply, with a single exception,[65] only to information owned, produced or controlled by the government. The current order, Executive Order Number 12,065,[66] provides that government information may be withheld from public disclosure if there is an affirmative determination that it fits within one of the enumerated categories of classifiable information,[67] if disclosure would reasonably be expected to cause at least identifiable damage to the national security,[68] and if the identifiable harm is not outweighed by the public interest in disclosure.[69] Classified documents are automatically declassified after six years [70] or, at most, after twenty years.[71]

The Atomic Energy Act controls Restricted Data in two ways. First, espionage-like activities are prohibited. The espionage controls, sections 2274(a), 2275, and 2276, provide that communicating, disclosing, receiving, or tampering with Restricted Data with

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Footnotes at end of article.

the intent to injure the United States or to secure an advantage to a foreign nation is punishable by a maximum term of life imprisonment.[72] Section 2274(b) punishes reckless or negligent disclosure—communication "with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation".[73] Under this standard of culpability, prohibited communication could include activities such as public discussion about the efficacy of the government's atomic weapons program, publication of scientific discoveries in the atomic energy field, behavioral or other studies done on victims of atomic bombing or testing, or simply publication of any atomic energy material prior to ascertaining whether it included Restricted Data not yet officially declassified. Violation of section 2274(b) carries a maximum fine of $10,000, imprisonment for ten years, or both.[74]

Second, security controls limit access to Restricted Data to persons who have undergone a security investigation and who have obtained the proper security clearance.[75] Any present or former government employee, contractor, or licensee who knowingly discloses Restricted Data to persons unauthorized to receive it, that is, persons without clearance, is subject to a maximum fine of $2,500.[76] Futhermore, the DOE and the NRC may impose "such regulations or orders as [they] may deem necessary . . . to protect Restricted Data received by any person" under the terms of the Act.[77] Willful violation of such orders or regulations is punishable by a maximum fine of $5000, two years imprisonment, or both.[78] Violations of either the espionage controls or the security clearance controls may also be enjoined under section 2280.[79]

The information controls of the Atomic Energy Act raise important questions of statutory interpretation. The major question, long latent in the Act and finally raised in the *Progressive* case, is whether the Act applies to information developed by private citizens without government funding or access to classified government documents.[80] More specifically, does the "all data" terminology in the definition of Restricted Data mean all data, including privately developed data, or does it mean only all government data?

Furthermore, if the information controls of the Atomic Energy Act *do* apply to privately developed data, additional questions arise concerning the scope of those controls. For example, if a private citizen independently creates Restricted Data, is he subject only to the espionage controls of the Act, or is he also subject to the security clearance controls? More specifically, is he only prohibited from communication of the data with intent or reason to believe it will injure the United States or secure an advantage to a foreign nation, or must he obtain clearance to continue to possess his information and agree to communicate it only to others who also have clearance? Moreover, even if he is only prevented from engaging in espionage-like activities, does the prohibition against communication include a prohibition against publication?

These statutory questions should be discussed before addressing any of the constitutional issues raised by applying the Act to privately developed information because the constitutional questions need not be reached if the Act does not so apply. The statutory and constitutional issues are intertwined, however, and will be considered together because the very existence of serious constitutional objections triggers the application of particular canons of statutory construction. As every law student knows, if two interpretations of a statute are possible, one of which leads to a finding of unconstitutionality and one of which leads to a finding of constitutionality, a court must construe the legislation so as to uphold its validity.[81] Put another way, in the absence of a clear, express congressional statement, a court may not read a statute to authorize government action of doubtful constitutionality.[82] Before turning to the questions of statutory interpretation, however, it is helpful to examine how the government has actually tried to control privately developed information as Restricted Data.

III. APPLICATIONS OF INFORMATION CONTROLS TO PRIVATELY DEVELOPED INFORMATION

Government attempts to control privately developed information fall into two categories. First, the government has moved on at least two occasions to prevent the media from publishing information it believed fell into the Restricted Data category. Second, the government has from time to time imposed security clearance controls on such data in the hands of private enterprises.

In 1950, *Scientific American* magazine was about to publish, as part of its April issue, an article on the hydrogen bomb written by a noted atomic energy scientist and AEC consultant, Dr. Hans Bethe.[83] The editors of *Scientific American* did not submit the article to the AEC for security review because, in their view, "all the technical information in it was well known to physicists the world over and had been widely published."[84] The AEC nevertheless obtained a prepublication copy[85] and requested the deletion of certain portions of the article.[86] *Scientific American* complied, though reluctantly, and the offending portions of the article were removed.[87] At the AEC's request, and under its supervision, all copies of the original article together with the type and printing plates have destroyed.[88]

The facts of the *Progressive* case are similar.[89] In 1978, *The Progressive* commissioned a free-lance journalist to write a series of articles about secrecy in the United States nuclear weapons program. The first article appeared in February 1979[90] and, though it contained some details of a hydrogen bomb production process, the government raised no objections to it.[91]

The second article, originally scheduled to appear in May 1979, contained further descriptions of hydrogen bomb manufacture including sketches showing how the bomb works. This time the government did object.[92] DOE informed the magazine that about twenty percent[93] of the article involved Restricted Data and offered to rewrite the piece to delete the "secret" information.[94] When *The Progressive* refused, the government invoked the Atomic Energy Act and obtained a preliminary injunction preventing publication.[95]

Magazines like *Scientific American* and *The Progressive* view privately developed atomic energy data as information within the public domain.[96] They claim the right to print as much of it as they consider newsworthy. The government, however, takes the position that under the Atomic Energy Act, communication of such information may be enjoined or punished because it falls within the espionage provisions of the Atomic Energy Act.[97] The government claims that by publishing articles about the hydrogen bomb, the magazines are communicating Restricted Data with reasons to believe it will harm the United States or secure an advantage to a foreign nation. And, in Catch-22 fashion, the magazines are said to have "reason to believe" because the government notified them that *it* has reason to believe that harm will result.[98]

The government's attempts to control privately developed atomic energy information in the hands of private enterprise other than the press have followed a different, perhaps more invidious, pattern than its attempts to control media publication. The government apparently has seen no need to seek injunctions against private groups such as corporations to prevent them from working in the atomic energy field, nor has it instituted prosecutions for alleged espionage-like activities.[99] Rather, it has claimed the authority to impose security controls on private groups that independently generate information falling within the broad definition of Restricted Data.[100] Corporations, for example, may continue their work, but must first obtain security clearances for their personnel, agree to conform to all security regulations, and submit plans for safeguarding the data generated.

The administrative mechanism to implement this control is the Access Permit Program.[101] Under this program,[102] persons unassociated with government programs are given access to Restricted Data upon a showing of potential use or need for such data in their business, trade, or profession.[103] The government has administered the program not only as a means of permitting persons to gain entry to government information, but also as the basis for "permitting access" to information that someone develops and already possesses on his own[104]—a highly unusual notion of access.[105]

Just how does a company become involved in the net of security regulations? First, the government must learn in some way that a company is performing research in an area thought to include Restricted Data.[106] Consider the following, perhaps typical, hypothetical: Company X is performing research on advanced nuclear reactor design or engaging in some other activity arguably related to the production or use of atomic energy. The company either wants to check the reliability of its research findings with the government or is sufficiently informed about the Atomic Energy Act to wonder whether its research is patentable or even permissible. In either event, the company notifies DOE of its activities. DOE then informs the company that because the company's research findings fall within one of the categories considered to involve Restricted Data, it must obtain an access permit before it can continue its work or even remain in possession of its own information. Company X, believing there are no serious costs involved, follows the line of least resistance and complies.[107]

The costs of compliance, however, are substantial. The government immediately places limitations on the persons to whom the company may communicate Restricted information.[108] In addition, what the government giveth, the government can taketh away. Termination[109] or revocation[110] of the access permit is, in effect, a prohibition against the continued use or development of the information considered Restricted Data, and may mean a loss of whatever proprietary rights the company may have had in the data.[111]

The potential loss of the use of or control over one's own information is illustrated by the experience of four companies conducting private research on gas centrifuge enrichment technology in the 1960's.[112] The companies initially were granted access permits to carry on their research and later, after gas centrifuge research was removed from the Access Permit Program, were permitted to continue as "government contractors" under a "no-funds contract."[113] This arrangement proved mutually satisfactory until the government decided that "national security interests would be best served if privately sponsored work in the gas-centrifuge process for the separation of isotopes was discontinued."[114] Deprived of the right to use information developed by their own research, the companies suffered an obvious economic loss, with the result for one catastrophic because its entire busi-

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ness was development of gas centrifuge technology.[115]

Resistance to government imposition of atomic energy information controls on privately developed atomic energy information has been rare.[116] The *Progressive* case is the only instance of litigation brought against a noncomplying private party. The government may have been uneasy about litigating its authority in the face of resistance but, more likely, the goverment has found little need to go to court, given almost complete voluntary acceptance of information controls by private enterprise.[117] In any case, the government has never disavowed its authority to control private developed atomic energy information.[118] Nevertheless, whether this authority was actually granted by the Atomic Energy Act must still be determined.

IV. STATUTORY INTERPRETATION

A. The scope of the restricted data definition

The central question of statutory interpretation is whether Congress intended the information controls of the Atomic Energy Act to apply to privately developed information. The government has long assumed that the controls so apply,[119] but the language and legislative history of the Act cast doubt on the inevitability of that conclusion.[120] Whether the act so applies depends upon whether Congress intended the concept of Restricted Data to embrace all atomic energy information or whether it intended such data to include only government owned or controlled atomic energy information.

1. The statutory language of the current law. The most direct support for an expansive interpretation comes from the all-encompassing definition of Restricted Data itself. Restricted Data is "all data" concerning atomic weapons and the use or production of special nuclear material.[121] The definition contains no qualification on exception concerning the source of the data—privately generated or government, generated. Indeed, section 2162(e) of the United States Code implies that Restricted Data is not limited to data developed within the United States atomic energy program. Section 2162(e) provides a means of removing data "concerning the atomic energy programs of other nations" from the Restricted Data category and thus suggests that information generated outside federal programs is within the initial scope of the Restricted Data definition.[122] Similarly, section 2164, which sets out the terms of international cooperation in the atomic energy field, speaks of the "exchange" of Restricted Data with other nations.[123]

The patent sections of the Act offer further support for interpreting Restricted Data to include privately developed information. These sections presuppose that patent applications from private citizens can include Restricted Data.[124] For example, section 2223 provides that "[i]n the event that the [Atomic Energy] Commission communicates to any nation any Restricted Data based on any patent application not belonging to the United States, just compensation shall be paid. . . ." [125]

Despite these indications that the definition of Restricted Data includes privately developed information, other provisions of the Act fail to support an expansive view of Restricted Data. These provisions presume that such data is strictly government originated and controlled. To illustrate, the Act sets out the terms and conditions under which government employees, private enterprises, and private persons may obtain access or admittance to Restricted Data.[126] The Act requires government contractors and licensees to agree not to permit unauthorized individuals to have access to Restricted Data.[127] The act also prohibits present or former government employees and agents from disclosing Restricted Data to persons not entitled to receive it.[128] These and similar provisions [129] make sense only on the assumption that the government is the sole source and repository of Restricted Data.[130]

2. Legislative history—The 1946 Act. The concept of Restricted Data originated in the Atomic Energy Act of 1946 and has remained essentially unchanged since then.[131] The legislative history of the 1946 Act offers indirect but ultimately inconclusive support for the view that atomic energy information controls were meant to supply to privately developed information.

The Atomic Energy Act of 1946 began as S. 1717, drafted by Senator Brien McMahon, Chairman of the newly created Senate Special Committee on Atomic Energy.[132] A major task in drafting S. 1717 was to write information controls that would reconcile security needs with scientific freedom.[133] Initially, S. 1717 distinguished between "basic scientific information", defined as theoretical knowledge of physics, chemistry, biology, and therapy in all fields of atomic energy research, and "related technical information", indirectly defined as the "processes or techniques" incorporating theoretical atomic energy information.[134] Under section 9 of S. 1717, all basic scientific information was completely in the public domain, but all related technical information was controlled by the Atomic Energy Commission.[135] Moreover, security protections for these technical data were tied to the Espionage Act.[136]

The Special Committee on Atomic Energy held extensive hearings on S. 1717.[137] References to the desirability of keeping certain privately generated atomic energy information under government control were general and not tied to specific provisions of S. 1717.[138] The chief concern expressed by both committee members and witnesses was the need to protect secrets about atomic bomb manufacture, which only the government would possess.[139] Witnesses also noted the conflicting need to disseminate atomic energy information freely to foster scientific progress.[140]

Following the hearings, the Special Committee substantially revised S. 1717, including its information section.[141] The new information section, renumbered section 10, scrapped the distinction between basic scientific information and related technical information.[142] A new term, Restricted Data, was coined and defined to include "all data concerning the manufacture or utilization of atomic weapons, the production of fissionable material, or the use of fissionable material in the production of power, but shall not include any data which the Commission from time to time determines may be published without adversely affecting the common defense and security." [143] All references to the Espionage laws were dropped and special criminal provisions, paralleling those of the Espionage Act, were added and made applicable to the misuse of Restricted Data." [144]

Senate debate on the revised S. 1717 was brief.[145] The sense of the debate, like the testimony of witnesses before the Special Committee, was that all such information was government owned and controlled. The debate did not mention the need to preserve secrecy over privately generated atomic energy information. The House debates on S. 1717 were similarly silent.[146] The implication, therefore, is that Congress did not consider privately developed information to be in need of the same protections as government owned data.

The only direct and unequivocal support for construing the atomic energy information controls to apply to privately developed information is found not in the language or legislative history of the 1946 Act, but in a book written by James R. Newman, Counsel to the Special Committee, and Byron S. Miller, staff member of the committee and a draftsman of S. 1717.[147] They state:

> "Restricted data," as the Act defines the term, goes far beyond the classification of atomic weapons and includes data "relating to the production of fissionable material, or the use of fissionable material in the production of power." These categories cover a very large area of nuclear science and embrace much that is of general importance to fundamental as well as to applied research. It does not matter whether these data are discovered or compiled in a government laboratory or in connection with the private research of an individual scientist; the interdict covers them in either case.[148]

The views of Newman and Miller must be given weight, but precisely how much is uncertain. No doubt, Senator McMahon and other members of the Special Committee knew of Newman and Miller's views. There is no evidence, however, that the Committee shared their interpretation, and, more importantly, there is no evidence that Congress as a whole similarly understood or interpreted the provisions of section 10.

3. Legislative history—The 1954 Act. After 1946, rapid advances were made in the development of peaceful and military uses of atomic energy both in the United States and worldwide. Congress kept abreast of these developments through the work of its Joint Committee on Atomic Energy, a special committee created by the 1946 Act.[149] In 1954, the Committee began drafting major amendments to the 1946 Act. Their work was embodied in two companion bills introduced as S. 3323 and H.R. 8862.[150]

The Joint Committee held two sets of hearings on the proposed bills.[151] The testimony indirectly reflected a certain measure of confusion among committee members and witnesses about whether and to what extent information controls over Restricted Data encompassed privately generated information. For example, by written statement, E. Blythe Stason, Dean of the University of Michigan Law School, posed the following question to the committee: "Does 'Restricted Data' include data developed prior to the time it is reported to the Commission under section 103 and classified then as restricted?" [152] He continued, "This is important especially since the penalty provisions of section 223 [new criminal penalties] are severe. If private operators are to proceed in such cases at their peril it should be made clear in the act." [153] Unfortunately, his question was either overlooked or simply ignored. The committee also heard from Jerome Luntz, editor of *Nucleonics* magazine, and Oscar Reubhausen, Chairman of a Special Committee of the New York City Bar Association. Both witnesses seemed to think that Restricted Data could be created by private persons but, again, their testimony exhibited a considerable degree of uncertainty about the issue.[154]

Both houses passed the bills, redesignated H.R. 9757 and S. 3690, after extensive debate and numerous amendments.[155] Relative to the total amount of discussion on the proposed bills, the debate concerning Restricted Data was quite limited [156] and centered almost entirely on three points: Concern over the United States giving Restricted Data to other nations under the new provisions for international cooperation, [157] support for tightening the criminal provisions to prevent government employees from giving Restricted Data to persons not authorized to receive it, [158] and support for permitting the Atomic Energy Commission to tailor its clearance procedures and harmonize its classification responsibilities with the classification regime of the Department of Defense.[159] There was no debate about application of Restricted Data controls to privately developed information and, again, all references to Restricted data implicitly assumed that all such information was government controlled, developed, or owned.[160]

The central conclusion to be drawn from the statutory materials of the 1946 and 1954 Acts is that, if Congress intended to control privately developed atomic energy informa-

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tion, it did so in a highly ambiguous, equivocal, and uncertain way. The legislative history does offer some support for the view that Congress did intend this result, but such a broad interpretation is hard to square with the almost complete silence on the matter in the legislative hearings, reports, and debates. Moreover, assuming that Congress contemplated some means of controlling highly sensitive or important new discoveries in the atomic energy field, that control was arguably provided for in both the 1943 and 1954 Acts in provisions requiring certain reporting of new discoveries and in provisions limiting patents in specific areas.[161] Finally and most significantly, the language of the current law, practically unchanged since 1954, reflects the view that Congress believed Restricted Data was only government data.[162]

B. Security clearance controls over privately developed information

Assuming that the Atomic Energy Act does reach privately developed atomic energy information, a second question of statutory interpretation arises: is this information subject only to the law's espionage controls or is it also subject to the law's security controls? The answer carries significant practical consequences for companies or other private groups such as universities working in the atomic energy field.[163] If a company generating Restricted Data is subject only to the prohibition against engaging in espionage-like activities, then it is only prevented from communicating its research information with intent to injure or with reason to believe such communication will injure the United States or secure an advantage to a foreign nation.[164] Because the espionage prohibitions require proof of criminal intent, they are not likely to create a substantial threat of criminal prosecution for communicating Restricted Data in the ordinary and customary context of a domestic business.[165] If, however, the company is also legally subject to security controls, then the company must be admitted to the Access Permit Program before it may continue its work.[166] In other words, it must have its personnel undergo security investigations and obtain security clearances, it must agree to all rules and regulations of DOE or the NRC governing the safeguarding of Restricted Data, and it risks the loss of its information if the government revokes or terminates the Access Permit.

The question whether security controls apply to privately developed information turns on the more specific question whether Congress intended to confer such powers on DOE, the NRC, or the former AEC. Under the 1946 Act, the AEC had no authority to control restricted data in the hands of persons unassociated with the government. The 1946 Act provided only that before the AEC entered into any contract, granted any license, or hired any person, the prospective contractor, licensee, or employee had to undergo an investigation by the FBI and be found trustworthy by the AEC.[167]

In 1953, the Act was amended to permit the AEC to promulgate such rules and regulations "as may be necessary to carry out the purposes of the Act." [168] In 1967, the AEC relied on this provision as statutory authority for proposed regulations aimed at controlling "private Restricted Data." [169] Nothing in the legislative history of the amendment, however, supports the AEC's view that it was a grant of authority to control this kind of information. To the contrary, the legislative history reveals that the amendment was designed to confer on the AEC only those powers "ordinarily granted to administrative agencies" [170] and specifically that it was not meant to "enlarge any powers of the Atomic Energy Commission to issue rules and regulations that would subject violators thereof to criminal punishment." [171]

In the Atomic Energy Act of 1954, one new provision offered some superficial support for the view that the AEC was granted authority to control privately developed information. The new provision read:

"Except as authorized by the Commission or the General Manager upon a determination . . . that such action is clearly consistent with the national interest, no individual shall be employed by the Commission *nor shall the Commission permit any individual to have access to Restricted Data until . . . the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.*" [172]

This language could be interpreted to mean that the AEC's authority to control the dissemination of Restricted Data extended beyond its own employees, licensees, and contractors to include "any individual." On close analysis, however, this provision proves inadequate to support such a broad reading of the AEC's authority. The better view is that the new provision was intended to limit only persons who may have access to *government* controlled Restricted Data. Almost every reference to Restricted Data in the legislative history of the 1954 Act implicitly reflects the view that the government's atomic energy program was the source and repository of Restricted Data.[173] Thus, Congress contemplated that Restricted Data was something to be obtained from and given by the AEC. It was not something the AEC was to control when it originated in the private sector.

Two other provisions, new in the 1954 Act, support the view that the AEC's regulatory authority over Restricted Data is limited to controlling such information in the hands of its employees, licensees, and contractors. First, section 161(i) authorized the AEC to prescribe such regulations and orders as it may deem necessary ". . . to protect Restricted Data *received* by any person in connection with any activity authorized pursuant to this Act. . . ." [174] The clear import of this language is that such orders or regulations will be applicable only to persons engaged in some activity authorized under the Act.[175] Therefore, it would not apply to a private person (who is not a contractor or a licensee, or one with whom AEC had entered into an arrangement) who is engaged in an activity that does not require AEC authorization. Moreover, an order or regulation would not apply only to Restricted Data that is internally generated rather than "received" from an external source; moreover, it would not apply to Restricted Data that is "received" other than in connection with an authorized activity.

The second and most important provision of the 1954 Act relevant to construing the scope of AEC's regulatory authority is section 2166(b), which provides that "The Commission shall have no power to control or restrict the dissemination of information other than as granted by this or any other law." [176]

Although neutral on its face, this provision reveals the sense of Congress that the AEC's authority was to be narrowly construed and specifically limited to those powers expressly granted.[177] A power not expressly granted was the power to control privately developed information.

Viewing the statutory provisions as a whole and in light of their legislative history, the AEC had (and DOE and the NRC now have) no statutory authority to control the use, handling, or dissemination of Restricted Data generated by persons unassociated with the government. If this information is governed by the Atomic Energy Act at all, it is governed only by the law's espionage controls.

C. Espionage controls over privately developed information—Communication as publication

Assuming, again, that the information controls of the Atomic Energy Act apply to privately developed information, the final question of statutory interpretation is whether the espionage prohibitions against communicating Restricted Data include prohibitions against publishing it. In *United States v. The Progressive, Inc., The Progressive* magazine argued unsuccessfully that even if its hydrogen bomb article contained Restricted Data, the Atomic Energy Act did not prevent the "publication" of this information because it proscribed only the "communication" of Restricted Data.[178] In *The Progressive*'s view, publication and communication are not synonymous; if Congress intended to prohibit publication, it would have said so specifically.[179]

The genesis of the *Progressive* argument was dicta in the opinions of several justices in *New York Times Co. v. United States.*[180] There, in three separate opinions, five justices agreed that the Espionage Act did not prevent the publication of the Pentagon Papers because it provided: "[w]hoever having unauthorized possession of . . . information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates . . . the same to any person not entitled to receive it . . . [s]hall be fined . . . or imprisoned.[181]

The Act did not expressly provide that publication was similarly proscribed.[182]

Although the criminal provisions of the Atomic Energy Act are modeled after the criminal provisions of the Espionage Act, there are significant differences in the proper construction of the two statutes. The Atomic Energy Act, like the Espionage Act, punishes certain "communication" of information.[183] Unlike the Atomic Energy Act, however, the Espionage Act contains other sections that do proscribe publication of information.[184] Moreover, the legislative history of the Espionage Act reveals that Congress considered, but rejected, a broader version of section 793 that would have authorized media censorship.[185]

Standing alone, the language of the Atomic Energy Act gives no hint whether Congress meant the word communicate to include the word publish. Under a plain meaning rule, however, it is difficult to see why publication would not be considered a form of communication. Commonly understood, publication is a subset of communication, one means of accomplishing it.[186] Moreover, if harm may result from disclosing atomic energy information, it will result as surely from publication as from any other form of communication. Finally, the legislative history shows that both witnesses and Congressmen used the terms interchangeably [187]—though no one apparently anticipated that the prohibitions of section 2274 would be read together with the injunction section to permit prior restraints.

The legislative hearings on the 1946 Act indicate that, to the extent that Congress may have considered the information controls applicable to privately developed information, it had the work of scientists in mind.[188] Congress was well aware that scientists routinely publish their results. In this sense, Congress may have used communication as a generic term encompassing this form of publication.

The legislative hearings on the 1954 Act offer more direct evidence. The testimony of the editor of *Nucleonics* magazine, together with correspondence from The American Society of Newspaper Editors, The Associated Business Publications, and others, shows that the media read communication to include publication.[189] In 1954, media representa-

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tives expressed concern that the new provisions punishing the communication of Restricted Data received from present or former government employees would impose a burdensome obligation on the media by requiring prepublication determinations whether information to be published was restricted.[190]

In sum, all available statutory evidence, though admittedly meager, leads to the conclusion that prohibitions against communicating Restricted Data include, and were meant to include, prohibitions against publication of that data. The statutory history, however, again presents no evidence that Congress was aware that the injunction section of the Act could or would be used to impose prior restraints on newspapers or magazines.

D. Conclusion

Deciphering Congressional intent is always a precarious task. Language is often ambiguous, statutes may be poorly drafted, and legislators rarely contemplate every application of their words. Yet several general conclusions can be drawn from the language and legislative history of the information control provisions of the Atomic Energy Act. First, though the definition of Restricted Data is broad enough to encompass privately generated atomic energy information, other language in the Act and related statutory materials point to a narrower reading. The evidence that Congress believed Restricted Data was information owned and controlled by the government is considerable. At a minimum, sufficient ambiguity surrounds the intended scope of the Restricted Data concept to invoke the principle of *Greene v.* McElroy,[191] that in the absence of a clear, unequivocal, and express statement, a congressional act may not be read to authorize governmental action of doubtful constitutionality.[192]

Second, even if the Act does apply to privately developed information, certainly neither DOE nor the NRC have authority to impose security clearance controls over such information. This information is subject only to the espionage controls of the Act—a distinction of considerable significance to private groups working in the atomic energy field.

Finally, the principle of *Greene v. McElroy* [193] also may be applied to the communication/publication problem, though with less force. Although the evidence that Congress intended communication to include publication is strong, Congress did not show "careful and purposeful consideration" [194] or even awareness—that the Act might be interpreted to authorize prior restraints. In *New York Times Co. v. United States,*[195] the Supreme Court refused to restrain publication of the Pentagon Papers in part because Congress had not passed a precise, narrowly tailored, specifically considered law authorizing such a restraint.[196] For the same reasons, therefore, the federal courts should not read the Atomic Energy Act's definition of communication expansively to include all forms of publication, absent clear statutory language authorizing such an interpretation.

V. CONSTITUTIONAL ISSUES

If the information controls of the Atomic Energy Act are read to apply to privately generated data, they almost certainly run afoul of the free speech guarantee of the first amendment. Their chief vice is overbreadth. On their facet, they authorize the prosecution of or an injunction against communication of all atomic energy information falling within the definition of Restricted Data, if this information is communicated with reason to believe it will harm the United States or advantage a foreign nation. The definition of Restricted Data is so broad [197] and the "reason to believe" culpability standard is so easy to satisfy [198] that public debate concerning atomic energy issues is seriously imperiled. Moreover, the Act authorizes security clearance controls over the communication of Restricted Data without regard to the speaker's state of mind.[199] No matter what intention a person may have, he may not communicate Restricted Data unless he has a security clearance and then, he may communicate only to persons with like clearances.[200] In sum, the information controls are not narrowly drawn to punish or control only the kinds of speech unprotected by the first amendment,[201] the most relevant of which is speech that poses a clear and present danger [202] of harm to national security.[203]

The issue of prior restraint is especially troublesome. If the Atomic Energy Act permits the government to enjoin the publication of any newspaper or magazine article because it contains information within the definition of Restricted Data, this broad statutory authorization directly contravenes the constitutional precept that no national security prior restraint may issue unless the government convincingly proves that publication "will surely result in direct, immediate, and irreparable damage to our Nation." [204]

A. Overbreadth

Congress has broad power to protect national security and provide for the common defense.[205] This power undoubtedly includes the authority to establish a classification scheme over government documents and to regulate expression in certain circumstances. By relying on its interest in national security to enact the information control provisions of the Atomic Energy Act,[206] Congress assumed a relationship between communication of atomic energy information and serious harm to the nation. Of course, it is possible that certain privately developed atomic energy information, if made available to terrorists or foreign governments, could seriously harm the United States. Because widespread dissemination of atomic energy information has already occurred [207] and because privately developed atomic energy information is probably easily duplicated,[208] the amount of atomic energy information capable of causing serious harm is quite small. Yet, the scope of the information control provisions is not limited to information that, if communicated, will present or will likely present a clear and present danger of harm to national security. The law simply assumes that every piece of atomic energy information is *per se* harmful. The communication of all atomic energy information, whether harmful, helpful, or innocuous is prohibited.[209]

This sweeping rule of prohibition undermines one of the most significant developments in American constitutional law: the idea that individual rights are best protected by legislation that is specifically and narrowly tailored to an appropriate governmental objective.[210] The idea has particularly strong roots in first amendment doctrine.[211] In *United States v. Robel,*[212] for example, the defendant was prosecuted under a federal statute [213] that prohibited employees in certain defense plants from continuing to work once they had knowledge that they belonged to "communist action" organizations as defined by the Subversive Activities Control Board.[214] In holding the statute unconstitutional, the Supreme Court did not deny that protecting against sabotage in defense facilities was a proper governmental purpose.[215] Nor was the Court concerned with whether Congress could reasonably have found that communists might use their positions to engage in sabotage.[216] Rather, the Court was "concerned solely with determining whether the statute . . . has exceeded the bounds imposed by the Constitution when First Amendment rights are at stake." [217] The Court noted that it had only to determine whether Congress had adopted a constitutional means to achieve an admittedly legitimate goal.[218] The Court held that "the Constitution requires that the conflict between congressional power and individual rights be accommodated by legislation drawn more narrowly to avoid the conflict." [219]

Robel, and cases decided in its wake,[220] indicate that the fundamental vice of an overbroad statute is that both the person immediately affected, as well as others who may want to express ideas, are inhibited or "chilled" from exercising their constitutional rights. The atomic energy information controls have recently been applied only against *The Progressive* [221] magazine, but the law also inhibits the expression of scientists, researchers, and anyone who works with atomic energy information. Worse, by potentially cutting off almost all communication involving atomic weapons, the statute necessarily inhibits politically relevant discussion about whether the government is adequately protecting against nuclear proliferation.[222]

B. Prior restraint

Ultimately, the breadth of the concept of Restricted Data also condemns the use of the information controls to restrain publication of atomic energy information. Prior restraints are highly disfavored and carry a heavy presumption of unconstitutionality.[223] Although not absolutely prohibited, they are "recognized only in exceptional cases." [224] If the Atomic Energy Act permits prior restraints, injunctions could issue prohibiting the publication of articles about the Salt II Treaty, speculation that the United States is developing new or different nuclear weapons, evidence that nuclear reactors are unsafe, a new discovery that would make the production of nuclear power safer, or studies showing that workers in nuclear plants or in weapons development programs run higher risks of cancer. All of these articles would contain information "concerning" the design, manufacture, or utilization of atomic weapons or the production or use of enriched uranium or plutonium in the production of energy.[225] The publisher probably would have reason to believe that publication will harm the United States or secure an advantage to a foreign nation—even if that advantage is only knowing what the United States knows or confirming what the foreign country already knew.[226] If security clearance controls apply to privately developed information falling within the definition of Restricted Data, then no such information could ever be generally published, not because of reason to believe a foreign nation would be advantaged, but because readers would not have the requisite security clearance.[227] The government might respond to this by saying that it has not and would not apply the act so broadly. The evil of such a statute, however, lies not necessarily in what has been done but rather in what could be done.

In *New York Times Co. v. United States,*[228] the single case prior to the Progressive in which the government sought a prior restraint on national security grounds, the Supreme Court adhered to and reaffirmed its view that prior restraints are presumptively unconstitutional and that the virtually total ban against this form of control of expression has only extremely narrow exceptions.[229] The government claimed that the *New York Times* and the *Washington Post* had published and were about to publish top secret documents that would allegedly prolong the Viet Nam War, embarrass the United States and other governments, lead to the death of soldiers and government agents, and destroy sensitive foreign alliances and contacts.[230] Despite Justices Stewart and White's concern that, in the national interest, some documents should not be published,[231] and Justice Blackmun's fear that publication could result in the death of soldiers, the

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Footnotes at end of article.

destruction of alliances, and the greatly increased difficulty of negotiation with our enemies,[232] the Court, in a six to three decision, denied the government's request for an injunction.[233]

Although no single test emerged from the separate opinions of the majority members[234] a majority agreed that a prior restraint is justified, if at all, only on a government showing that publication will immediately and inevitably cause grave harm to national security.[235] Further, the government must prove these harmful effects by clear and convincing evidence.[236] To show that publication could, might or may cause serious harm would not be enough to meet these strict standards.

If the Atomic Energy Act permits prior restraints, it permits them in circumstances far broader than those narrowly and specifically identified in *New York Times.* Even in the *Progressive* case, which the government undoubtedly believes to be its strongest possible prior restraint case, the "exceptional" circumstances that would justify a national security prior restraint are absent. The trial court found only that the magazine article "*could* accelerate the membership of a candidate nation in the thermonuclear club,"[237] that "once basic concepts are learned, the remainder of the process *may* easily follow,"[238] that the article *could possibly* provide sufficient information"[239] to enable a nation to construct a hydrogen bomb, and that "[p]ublication of the Restricted Data contained in the article *could* materially reduce the time required by certain countries to achieve a thermonuclear capability."[240]

Several general observations can be made about the factual weaknesses in the government's case over and above these conclusions drawn by the trial court. The basic question is whether publication of information on how to make an H-bomb is equivalent to giving the H-bomb to a foreign country. Will publication directly cause immediate and serious harm to national security? The answer depends on a number of factors. First, is the information already publicly available? If it is—and there is evidence that the information that *The Progressive* wanted to publish was publicly available—[341] the harm existed before publication. Second, even if the information is not publicly available, is it readily derivable from public sources? Some assessment must be made of how easy or difficult it would be for another person to put the information together.[242] If the information is readily derivable then the harm, again, existed before publication. Finally, is the theory of how to make an H-bomb the equivalent of having the bomb, or is it at least a significant step in obtaining it? Experts on nuclear proliferation agree that the obstacles preventing production of a nuclear weapon are not informational.[243] Rather, they lie in acquiring the cadre of skilled scientists needed to reduce the information to application, building the sophisticated and expensive facilities needed for production, and obtaining the necessary plutonium or weapons grade uranium.[244] If this is true, then describing the theory of the H-bomb can not be the equivalent of providing an H-bomb nor will it lead directly and immediately to providing one. Given the trial court's own conclusions and from what is currently known, it appears impossible that any court could find that publication of an article like *The Progressive* article would inevitably lead to great harm to the nation. That the trial court granted an injunction against publication shows quite clearly that the court misapplied the *New York Times* rule.

Although acknowledging that *New York Times* governed,[245] the trial court in fact succumbed to the danger that the *New York Times* test was designed to prevent. Instead of requiring that the government meet its heavy burden of proof with clear and convincing evidence, the court weighed the interests on both sides. It balanced the gravity of the risk, posited to be death from nuclear annihilation, against the importance to the public of knowing the specific details of hydrogen bomb manufacture.[246] With the issue thus presented, the result was a foregone conclusion. Case-by-case determinations of whether the government's or the speaker's interest has more weight or is more important will almost always mean that the infringement on free speech will be upheld. The perceived public interest—peace, order, national security, life—will almost always outweigh a single instance of censorship. When the question is, "In light of the possible harm, do we need to know *that particular information, that specific data*?," the answer will invariably be "no." The *New York Times* rule and the long accepted presumption against prior restraints rest on the realization of the risks involved in arguing freedom of speech from the individual perspective.

Although far from clear, the trial court may have concluded that the injunctive authority granted by the Atomic Energy Act lessened the government's burden of proof below the level articulated in *New York Times.*[247] If this is true, there are two responses to the district court's position. First, statutory authorization should not immunize a prior restraint from constitutional disfavor. This disfavor has strong historical roots,[248] has been consistently expressed in a long line of unbroken precedent,[249] and, as a practical matter, is a reaction against the devastating efficiency with which prior restraint suppresses expression.[250] It is also a recognition of the strong tendency of all systems of prior restraints, once established, to expand beyond their original boundaries.[251]

Even in *New York Times*, in which the Justices discussed the possible relevance of congressional legislation to the issues raised by publication of the Pentagon Papers,[252] no suggestion was made that the existence of such legislation could or would lower the constitutional standard employed by the judiciary to measure the validity of national security prior restraints. Rather, the Justices lamented the lack of congressional guidance and suggested that Congress could, after appropriate fact finding, define a very narrow and specific class of information, disclosure of which in Congress's judgment would lead to grave, immediate, and irreparable harm to the national security.[253] The constitutional standard thus would remain the same. Although the prior restraint may be embodied in a legislative judgment, the legislative judgment itself would remain subject to judicial scrutiny.[254] Justice Harlan was the sole proponent of a very narrow scope of judicial review when issues involving publication of defense information were involved.[255] His view was premised on a general notion of judicial deference to presidential judgments in the area of foreign affairs.[256] This was not the view of other members of the Court, however, and the general argument of lack of judicial competence[257] has been rejected before in free speech cases.[258]

The second response to the *Progressive* court's lower standard of proof is that the Atomic Energy Act is not, in any event, the kind of specific, narrowly tailored guidance the Court sought in the *New York Times* case.[259] Returning to the problem of overbreadth, the information controls of the Act, no matter what standard of proof is employed, simply sweep too broadly.[260]

VI. A POLICY PERSPECTIVE

The information control provisions of the Atomic Energy Act are premised, in part, on the idea that secrecy preserves security.[261]

The need for secrecy is not limited to weapons design nor is it confined to so-called "census" secrets, such as number variety, or location of weapons. It covers a vast amount of atomic energy data in both military and non-military spheres. If the government's position is correct, it may even include information privately developed, making no distinction between a highly dangerous and sophisticated new technology, and basic scientific and technical data.

The Progressive published its H-bomb article to question the wisdom of attempting to maintain, or purporting to maintain, secrecy over this second kind of information.[262] In its view, there are no basic nuclear energy secrets to be kept, and if the government thinks otherwise, it is either behaving foolishly or trying to divert the public from confronting the real problems of nuclear nonproliferation.[263] To dramatize its point, *The Progressive* detailed the steps of H-bomb construction to prove that one need not have access to classified documents nor a doctorate in physics to make a working bomb.[264]

No matter what one thinks of *The Progressive's* editorial judgments, the article raises a fundamental question: Does secrecy over privately developed information make any sense? Congress has promised to review this question as a result of *The Progressive's* actions.[265] It can only be answered in light of two basic observations: 1) the amount of privately developed information that can be kept secret is extremely small, and 2) the costs of maintaining secrecy are extremely high.

With regard to the first observation, privately developed nuclear energy secrets can not include information already in the public domain or information readily derived therefrom because, by definition, a secret is not widely known. In 1954 and afterwards, the United States opened the nuclear energy field to private interests and encouraged nuclear development internationally.[266] Thousands of persons were given access to Restricted Data, and free, wordwide exchange of specified nuclear information among scientists and officials began.[267] The result is that today a spectacular amount of nuclear energy literature is freely available.[268] To illustrate, information about fission bombs[269] is so comprehensive that a recent article concluded that "all the basic information for the design and construction of a wide variety of fission explosives has now been published in the open technical literature."[270]

Last year the Senate Committee on Governmental Affairs held hearings on terrorism and, in that regard, considered DOE practices regarding protection of nuclear weapons "secrets."[271] The testimony made it clear that the basic theory and design of nuclear weapons, including the hydrogen bomb, can and has been gleaned from publicly available information.[272] The real obstacles that a nation desiring to acquire nuclear weapons faces are not theoretical or informational.[273] These countries need the wherewithal,—*i.e.*, money, industrial capability, and experience—to manufacture a weapon.[274] Most important, they need nuclear fuel—plutonium or weapons-grade uranium.[275]

During the *Progressive* litigation, the government admitted that it had declassified and placed on the public shelves documents that contained precise details of the design of the hydrogen bomb and a description of the devices that trigger it.[276] Indeed, because nuclear information is so widely available, many proponents of nuclear nonproliferation do not focus at all on information controls. Rather, they argue for materials controls and international agreements.[277]

As to the second relevant observation, secrecy over privately developed information generally must be limited because, as with all secrecy, enforcement is effective only in small doses. As Justice Stewart observed in the *Pentagon Papers* case, "[w]hen everything is classified, then nothing is classified, and the system becomes one to be disregarded by the cynical or the careless, and to be

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Footnotes at end of article.

manipulated by those intent on self-protection or self-promotion".[278] Ironically, though, keeping all privately developed information secret would necessarily require an impossibly broad monitoring program. The government would have to review all research projects, all industry developments, all newspaper articles, and all individual speculations to see whether they contained Restricted Data. Anything less would make enforcement a hit or miss proposition dependent on the private person somehow giving notice to the government of his possession of restricted information.[279]

It is understandable that, in 1946, Congress did not exempt information readily discoverable from or freely available in the public literature from secrecy controls because, at that time, all important nuclear energy information was under government control.[280] That assumption is no longer valid. What has not changed is that governmental secrecy exacts higher costs in a domocratic society. The costs are especially high when the government imposes secrecy on privately developed information. If, as Justice Douglas stated, "[s]ecrecy in government is fundamentally anti-democratic"[281] then, government secrecy over a private person's ideas and communications is tyrannical. It is based on the discredited principle that national security is enhanced more by the suppression of ideas than by the vigorous and free interchange of scientific and technological developments.

Secrecy limitations seriously impair scientific progress by chilling or actually preventing scientific inquiry into fundamental questions, the answers to which may or may not be used militarily.[282] All science proceeds incrementally and builds on what has come before. The thousands of scientific journals on library shelves testify to the importance of knowing the latest experiments and theories in a given field.[283] Secrecy over basic scientific and technological information freezes the ability to go beyond current scientific knowledge. Ultimately, secrecy impairs the United States ability to remain a world leader in the nuclear technology field. Not only will United States scientists be inhibited in their research, but also other countries will move quickly to assume a nuclear role that the United States is either unwilling or unable to assume.[184]

Secrecy also works in a less direct but equally negative way by contributing to the public perception that nuclear energy data is not to be known or questioned or that nuclear energy matters are to be left to government experts.[285] This renders the average citizen unable to judge whether governmental action is wise or foolish.[286] Governmental preoccupation with secrecy may also serve to deflect the public's attention from more fundamental questions and insulate decisionmakers from criticism.[287] Finally, government secrecy over privately developed information creates a precedent for suppression that can be used to support like measures in other scientific and research fields.[288]

Against this background, the benefit of keeping privately developed information secret is particularly hard to discern. If a private citizen can derive the basic theory and design of a nuclear weapon, a law preventing communication will not change the fact that others could similarly derive information. Moreover, if A can do it, then B can do it, and B may not be a United States citizen. Arguably, at least, the nation's security would be better served by knowing that such derivations are possible. Efforts could then be focused on more effective ways of limiting proliferation of nuclear weapons.

Meaningful and effective information controls require that the government recognize, as far as possible, which atomic energy information is or is not publicly available or readily derivable. It should then isolate very limited and specific areas of military important developing technologies[289] and, as to these, require that all research be performed under a government license. No need for privately developed information controls would exist because the government would eliminate the private character of this kind of research in the first instance. As a practical matter, this development would mean simply that any corporations working on the forefront of military significant nuclear energy projects would have to obtain a government license to proceed. Minimally, however, Congress must take a look at the expansive definition of Restricted Data and confine it to government information that the United States affirmatively determines must be kept secret in the interests of national security.

In sum, the information controls of the Atomic Energy Act, if read in the way the government suggests, make little sense because they sweep too broadly. They exact unnecessary costs by trying to keep secret what is not or can not be secret. A legislative second-look is long overdue.

VII. CONCLUSION

Serious doubt has existed about the proper scope of the information control provisions of the Atomic Energy Act since the law's enactment in 1946. Do they or do they not authorize the government to impose secrecy on atomic energy information developed, generated, or created by individuals working without government funds and without access to classified government documents? Although there is some support for the view that the act does not apply to privately developed information, the language of the law and the general legislative silence on this question point to an interpretation limiting the act to controls over only government information. Until recently, the inherent uncertainty about the law's scope has commanded little attention. Congress has not been pressed for clarification, and the courts have not faced the issue in litigation.

United States v. *The Progressive, Inc.*, marked the first time the government sought judicial aid in applying the atomic energy information controls to privately developed information. The case promised to be the opportunity to reexamine congressional intent with respect to the scope of the Atomic Energy Act and, once reexamined, to decide that the law applies only to government owned or government generated information. Such a decision would have avoided the serious constitutional and policy objections raised by applying the Act more broadly and would have brought the Atomic Energy Act in line with the historical American practice of applying security controls only to government information.

As it happened, the case proved to be a victory for no one. At the district court level, the government successfully prevented the publication of *The Progressive's* hydrogen bomb article, but its case was mooted and the injunction lifted when essentially the same information appeared elsewhere. Further, though *The Progressive* did ultimately publish the article, it lost the opportunity to challenge the lower court's decision. The public, meanwhile, is left to wonder whether and to what extent the Atomic Energy Act really does permit the government to impose secrecy over a citizen's privately developed information. The district court impliedly held that the Act does reach this kind of information. The court's overall reasoning was so flawed, however, that its conclusions probably would not have been upheld on appeal. Of course, this contention is only speculative. Its persuasiveness is further undercut by knowledge that the *Progressive* case was probably the worst case for testing the proper scope of the Atomic Energy Act, as it involved the release of information about one of the most destructive weapons known. In this regard, public reaction to the case merits some analysis. When *The Progressive* announced it would resist the government's censorship, legal experts and some newspapers were sharply critical.[290] Because the issue was nuclear weaponry, many quickly concluded that the government had a winning case. This conclusion was not startling in and of itself: rather, it was surprising because it was so automatic, so reflexive. These critics undoubtedly did not review the language and legislative history of the Atomic Energy Act, and they could not have reviewed the sealed record of the case. They simply concluded that discussion of how a hydrogen bomb works, without more, was off limits. This kind of reaction, of course, has no place in adjudication, but it obviously played some part in the trial judge's decision in the *Progressive* case. The court's view of the case as "a stark choice between upholding the right to continued life and the right to freedom of the press"[291] illustrates the point.

In any event, given the unsatisfying conclusion of the *Progressive* litigation, it is imperative that Congress now confront the uncertainty it created when it first wrote a law with such sweeping yet ambiguous information control provisions. As a congressional committee observed, "[h]owever well intentioned, however loosely or intelligently enforced, such a law is a latent danger to the life of this democracy."[292]

FOOTNOTES

[1] Atomic Energy Act of 1946, ch. 724, §§ 1–21, 60 Stat. 755 (current version at 42 U.S.C. §§ 2011–2296 (1976)).

[2] 42 U.S.C. §§ 2014(y), 2162 (1976). The statute does not use the term "born classified"; this term is merely descriptive of the statute's operation. *See* notes 61–64 *infra* and accompanying text.

[3] 42 U.S.C. §§ 2014(y), 2162 (1976). *See* notes 61–64 *infra* and accompanying text.

[4] 42 U.S.C. §§ 2014(y), 2162 (1976). *See* notes 61–64 *infra* and accompanying text.

[5] This article will not discuss the scope of the government's authority to impose secrecy on its own information. Such secrecy has long been accepted as a necessary corollary to the effective and efficient discharge of governmental responsibilities, particularly in the military and diplomatic spheres. Of course, a strong argument can be made that the public has a first amendment right of access to government information. *See* Emerson, *Legal Foundations of the Right to Know*, 1976 WASH. U.L.Q. 1. Until recently, the Supreme Court has rejected such a view. *See, e.g.*, Houchins v. KQED, Inc., 438 U.S. 1, 14, (1978). The rejection has come, however, primarily in the context of the media seeking access to prisons and prisoners. Last term however, the Court found a first amendment right of access to criminal trials. *See* Richmond Newspapers, Inc. v. Virginia, 48 U.S.L.W. 5008, 5014 (U.S. July 2, 1980). It remains to be seen whether *Richmond Newspapers* signifies recognition of a general first amendment right of access to other traditionally public institutions. Congress has, by statute, granted a limited right of access to governmental information. The Freedom of Information Act, 5 U.S.C. § 552 (Supp. II 1978).

[6] 42 U.S.C. §§ 2274, 2277, 2280 (1976). *See* notes 72–74 *infra* and accompanying text.

[7] The Atomic Energy Commission (AEC) was created in 1946, Act of Aug. 1, 1946, § 2, 42 U.S.C. § 2031 (1970) (original version at ch. 724, § 2, 60 Stat. 756) (repealed 1974). In 1974, it was divided into the Nuclear Regulatory Commission (NRC), 42 U.S.C. § 5841(a) (1976), which took over the AEC's regulatory functions overseeing the nuclear power industry, 42 U.S.C. § 5842 (1976), and the Energy Research and Development Administration (ERDA), 42 U.S.C. § 5811 (1976), which assumed the AEC's research and development responsibilities, 42 U.S.C. § 5813 (1976). In addition, ERDA brought together programs

from the Interior Department, the National Science Foundation, and the Environmental Protection Agency. In 1977, Congress passed President Carter's request for a new Cabinet-level Department of Energy. 42 U.S.C. § 7131 (1976). This department was given all powers then held by the Federal Power Commission (FPC), the Federal Energy Administration (FEA—a hybrid created in 1974, composed largely of the Federal Energy Office and several Interior Department offices), and ERDA. Those three agencies were thereby abolished. Dept. of Energy Organization Act, Pub. L. No. 95–91, 91 Stat. 582, 42 U.S.C. §§ 7301–7352 (Supp. I 1977).

[8] For example, in 1967 the AEC prepared an internal memorandum entitled "Authority to Control Dissemination of Private Restricted Data" in support of proposed but never adopted regulations applicable to privately developed atomic energy information in four specific categories. *See* note 118 *infra. See also An Act to Combat International Terrorism: Hearings on S. 2236 Before the Committee on Governmental Affairs,* 95th Cong., 2d Sess. 281–83 (1978) (testimony of Donald Kerr, Acting Assistant Secretary for Defense Programs, Department of Energy) (hereinafter cited as *Hearings on S. 2236*); *Hearings before a Subcomm. on Reorganization of the Senate Comm. on Government Operations on S.J. Res. 21 to Establish a Commission on Government Security,* 84th Cong., 1st Sess. 268–70 (1955) (testimony of William Mitchell, General Counsel of the Atomic Energy Commission) (hereinafter cited as *Hearings on S.J. Res. 21*).

During the hearings on S. 2236, Senator Glenn questioned a DOE official on a central issue addressed in this article, whether and to what extent the Atomic Energy Act applies to privately generated atomic energy information:

Sen. Glenn: . . . How do you make your judgments in the aggregate on what are unclassified component parts? Is there a situation . . . that information drawn from public records or public sources is then put together in such a way as to become classified? How do you make a decision like that?

I am thinking of this situation . . . [in which] all the material came from individually unclassified parts. How do you make a judgment on that?

Mr. Kerr: . . . The first nuclear weapons were developed using unclassified principles of physics. What we are really concerned with is the assembly of information into a confirmed working design. Those parts that go with such a confirmed design are restricted data and protected as such, as are the detailed drawings and fabrication techniques for making them.

Sen. Glenn: What rights would an author retain in a work that he developed from public sources but which later became classified?

Mr. Kerr: If it were restricted data, he would have no rights to publish it and disseminate it unless it were within the classification system.

With respect to materials that are already in the public domain, which have been distributed to libraries and which have been duplicated in part through other countries' publications in the same technologies as part of their reactor programs, I don't think there are acceptable and practical means restriction on access to this information.

Hearings on S. 2236, supra, at 282–83.

[9] 467 F. Supp. 990, 1000 (W.D. Wis. 1979).

[10] *The Progressive* is a monthly magazine with a nationwide circulation of about 40,000. It was founded in 1909 by Robert M. LaFollette, Sr. and, since that time, has established a national reputation for political commentary and analysis. *Id.*

[11] 467 F. Supp. at 999. *The Progressive* promptly appealed the decision to the Seventh Circuit, which heard argument on September 10, 1979. Before the court of appeals announced a decision, a Wisconsin newspaper, the *Madison Press Connection,* published hydrogen bomb information so similar to that contained in *The Progressive* article that the case was effectively mooted. N.Y. Times, Sept. 18, 1979, at 1, col. 6. The information published in the *Madison Press Connection* was a letter written by a computer programmer and sent to Senator Charles H. Percy. *Id.* It included a wealth of technical detail on hydrogen bomb assembly, but it had no relationship to *The Progressive* article. *Id.* After publication of the letter, the United States moved to lift the injunction against *The Progressive* and dismiss the case. *Id.* The government left open the possibility of bringing criminal charges against "anyone" for violation of the Atomic Energy Act. *Id. The Progressive* subsequently published the article in its November, 1979 issue.

[12] The Progressive, May, 1979, at 14. While the *Progressive* case was still in litigation, few persons other than those associated with the proceedings read the article. *Id.* One day after the government commenced its action for an injunction, the trial judge issued a temporary restraining order preventing publication. *See* 467 F. Supp. at 991. On the same day, March 9, 1979, he also issued a protective order directing the defendants, their attorneys, and experts not to disclose anything contained in the article. *Id.* Significant portions of the record including the article and various affidavits were sealed. Nevertheless, it was publicly known that the article was approximately 18 manuscript pages in length and that it contained seven sketches hand-drawn by the author and captioned, *How a Hydrogen Bomb Works.* The Progressive, May, 1979, at 14.

[13] 467 F. Supp. at 993. The *Progressive* case did not involve the theft or compromise of any information possessed or owned by the government, *see, e.g.,* Rosenberg v. United States, 346 U.S. 273, 289 (1953), nor did it turn on the right of the government to protect its information by adopting a classification system or other security measures preventing its employees or agents from disclosing such information, *see, e.g.,* EPA v. Mink, 410 U.S. 73, 79 (1973); United States v. Marchetti, 466 F.2d 1309, 1318 (4th Cir.), *cert. denied,* 409 U.S. 1063 (1972). This article does not question the government's authority to protect information that it owns, possesses, or generates.

In this regard, Alexander Bickel perceptively observed that it is paradoxical to say that the government has a right to safeguard the confidentiality of its own information by keeping it secret at its source and by punishing those who steal or leak it and, at the same time, to say that the government has no authority, except in grave circumstances, to prevent someone from making the same information public regardless of how possession was obtained. He attributed the paradox to the attempt to reconcile two irreconcilable goals, privacy and public discourse, and the need for both in our system of government. The government may do all it can to protect information at its source, but the press, given its presumptive duty to publish, may do all it can to publicize the same information. A. Bickle, The Morality of Consent 78–82 (1975). The point is that once the press or the public comes into possession of information, it is no part of the effective or legitimate operation of government to suppress that which by definition is not suppressible. An exception is made only if the information will lead to grave, immediate, and irreparable harm. *See* notes 234–36 *infra* and accompanying text.

[14] 467 F. Supp. at 999. The trial court also rested its decision on the inherent authority of the President to protect national security, stating, "[i]n view of the showing of harm made by the United States, a preliminary injunction would be warranted even in the absence of statutory authorization. . . ." *Id.* at 1000. This article will not directly consider whether this inherent authority exists or, if it exists, whether it was properly exercised in this case. For a general discussion of such inherent executive authority, see Rubin, *Foreign Policy, Secrecy, and The First Amendment: The Pentagon Papers in Retrospect,* 17 How. L.J. 579 (1972); Junger, *Down Memory Lane: The Case of the Pentagon Papers,* 23 Case W. Res. L. Rev. 3 (1971); *The Supreme Court, 1970 Term,* 85 Har. L. Rev. 199 (1971).

[15] *See* note 11 *supra.* The *Progressive* case is still pending only with respect to whether and to what extent materials submitted by the parties should remain in camera under the trial court's original protective order of March 14, 1979. As part of its order vacating the preliminary injunction and dismissing the appeals, the Seventh Circuit remanded the issue of the continuing scope and applicability to the protective order to the trial court. United States v. The Progressive, Inc., No. 79–1428 (7th Cir., Oct. 1, 1979) (unpublished order).

In addition, while the *Progressive* case was on appeal, the government obtained a temporary restraining order against the intended publication of hydrogen bomb information by a California paper, *The Daily Californian.* The events leading to the dismissal of the case against *The Progressive, see* note 11 *supra,* also led to a dismissal of the case against the *Daily Californian.* N.Y. Times, Sept. 18, 1979, at 1, col. 6.

[16] In June 1971, the United States did obtain national security temporary restraining orders preventing the publication of the Pentagon Papers, but the orders were dissolved by the Supreme Court within days. See New York Times Co. v. United States, 403 U.S. 713, 714 (1971) (per curiam). A chronology of the events leading up to the Supreme Court's decision can be found in M. Shapiro, The Pentagon Papers and The Courts 1–16 (1972). *See also* S. Ungar, The Papers and The Papers (1972).

[17] The only statute that specifically permits the government to impose secrecy on privately developed information in the name of national security is the Invention Secrecy Act, 35 U.S.C. §§ 181–188 (1970). This Act applies, however, only to patent applications and then only in limited circumstances. The constitutionality of this law has never been directly challenged, but the Act has been impliedly upheld in litigation questioning whether it was properly applied. *See, e.g.,* Halpern v. United States, 258 F.2d 36, 38–39 (2d Cir. 1958).

[18] Atomic Energy Act of 1946, ch. 724, §§ 1–21, 60 Stat. 755 (1946) (current version at 42 U.S.C. §§ 2011–2296 (1976)).

[19] *Id.* §§ 3–7, 9–12, 42 U.S.C. §§ 2051–2135.

[20] *Id.* § 11, 42 U.S.C. §§ 2181–2190.

[21] *Id.* § 10, 42 U.S.C. §§ 2161–2166.

[22] *See* R. Hewlett & O. Anderson, Jr., The New World xi–xii, 7–8 (1962); S. Rep. No. 1325, 88th Cong., 2d Sess. 5, *reprinted in* [1964] U.S. Code Cong. & Ad. News 3105, 3109.

[23] The "Manhattan Engineer District" was the name given to the United States atomic bomb development project. Begun in 1942, the project enlisted the aid of scientists from around the world, employed 150,000 persons, cost approximately two billion dollars, and ultimately led to the discovery, construction, and detonation of an atomic bomb in 1945. *See* B. Goldschmidt, The Atomic Adventure 26 (1964). Despite the size of the project, secrecy was tight and the atomic bombing of Hiroshima on August 6, 1945, took the world almost completely by surprise.

[24] *See* Miller, *A Law Is Passed—The Atomic Energy Act of 1946,* 15 U. Chi. L. Rev. 799, 801 (1948).

[25] *Id.* at 810.

[26] *See, e.g., Hearings on H.R. 4280 Before the House Comm. On Military Affairs,* 79th Cong., 1st Sess. 80–82, 97–100, 118 (1945). The scientists argued that secrecy was futile because of the inevitability that other nations would learn the basic scientific information needed to make an atomic bomb. In addition, they insisted that secrecy would actually harm national security because it would retard scientific progress and thereby nullify the United States head start position. *Id.*

[27] *See* Feld, *Nuclear Proliferation—Thirty Years After Hiroshima,* Physics Today, July 1975, vol. 28, no. 7, at 23. The Soviet Union successfully detonated an atomic bomb in September 1949. Great Britain followed three years later, in October 1952. The United States successfully detonated a *hydrogen* bomb in November 1952. The Soviet Union followed in August 1953, and Great Britain followed in May 1957. Currently five countries, the United States, the Soviet Union, Great Britain, France, and China, are known to have exploded a hydrogen bomb and an atomic bomb. India successfully exploded an atomic bomb once, in March 1974. *Id.;* Congress of the United States Office of Technology Assessment, Nuclear Proliferation and Safeguards 93–111 (1977).

Although only six countries have successfully detonated nuclear weapons, roughly twenty are believed to be involved in some form of nuclear weapons development. Israel and Pakistan, for example, are believed to have the current capability of detonating an atomic bomb. *See* N.Y. Times, July 1, 1979, at A 21, col. 2; *id.,* Mar. 2, 1978, at A 5, Col. 1. Experts in the Carter administration predicted recently that, within five years, Taiwan, South Korea, South Africa, Brazil, and Argentina would join the nuclear arms club, *Id.* Apr. 7, 1980, at A 1, col. 5. Some of these experts maintained that by 1990, Egypt, Libya, Iran, and Iraq could acquire the means to make nuclear weapons, *Id.*

[28] *See* S. Rep. No. 1699, 83d Cong., 2d Sess. 2 *reprinted in* [1954] U.S. Code Cong. & Ad. News 3456, 3457–58.

[29] Atomic Energy Act of 1954, ch. 23, 68 Stat. 921 (codified at 42 U.S.C. §§ 2011–2296 (1976)). For a general discussion of the 1954 Act, see Green, *The Atomic Energy Information Access Permit Program,* 25 Geo. Wash. L. Rev. 548, 548–52 (1957); Scientific Amer., Nov. 1954, at 31.

[30] Atomic Energy Act of 1954, §§ 31, 101–104, 42 U.S.C. §§ 2051, 2131–2134 (1976).

[31] *Id.* §§ 151–153, 42 U.S.C. §§ 2181–2183 (1976).

[32] *Id.* §§ 121–124, 42 U.S.C. §§ 2151–2154 (1976).

[33] *See Ruebhausen & von Mehren, The Atomic Energy Act and the Private Production of Atomic Power,* 66 Harv. L. Rev. 1450, 1482–83 (1953).

[34] *See, e.g.,* Exec. Order No. 10,501 § 7, 22 C.F.R. § 212 (1953).

[35] Exec. Order No. 12,065 §§ 1–4, 3 C.F.R. §§ 190, 199 (1979).

[36] *See* Green, *supra* note 29, at 550.

[37] Atomic Energy Act of 1954, §§ 145(a), 145(f), 42 U.S.C. §§ 2165(a), 2165(g) (1976).

[38] *See* Green, *Information Control and Atomic Power Development,* 21 Law & Contemp. Prob. 91, 96 (1956).

[39] Atomic Energy Act of 1954, § 3(b), 42 U.S.C. § 2013(b) (1976).

[40] For a detailed discussion of the Access Permit Program, *see* Green, *supra* note 29, at 548–67. The program remains in operation today. *See* 10 C.F.R. App. A § 725.1 (1978) (describing the categories of information encompassed by the program).

[41] 10 C.F.R. § 725.15 (1978).

[42] *See* note 150 *infra. See generally* Green, note 38 *supra.*

[43] 42 U.S.C. § 2014(y) (1976).

[44] *Id.* § 2014(d).

[45] *Id.* § 2014(aa).

[46] *Id.* § 2014(1).

[47] *Id.* §2014(x).

[48] Testifying before the Joint Committee on Atomic Energy on the sweeping secrecy provisions of the Atomic Energy Act, atomic scientist and teacher Dr. Enrico Fermi stated:

> But this secrecy acts as a tremendous brake on progress. If I may give you an example. I am teaching a course in nuclear physics at the University of Chicago, and I would have liked to give my students certain background to the work in atomic energy.
>
> I have a fair notion of what is classified and what is not classified, but still the feeling that I would have had to weigh my words very carefully—I could have been asked embarrassing questions, and I would have been faced with the choice of either telling a student in the open classroom, "I am sorry, my boy, but this is something that I am not allowed to answer." And just this uneasiness drove me to stay off the subject. . . .
>
> Perhaps the belief is that in basic science much more is kept under wraps than actually is. But just the feeling of this blank wall—the fact that nobody knows exactly where the wall begins, how far one can go without overstepping the limits—acts as an extremely serious psychological block against what would be a very natural and very appropriate field for free investigation.

Hearings Before the Joint Comm. on Atomic Energy Pt. 21. 81st Cong., 1st Sess. 871 (1949) (testimony of Dr. Enrico Fermi). *See Hearings Before the Joint Comm. on Atomic Energy on Development, Growth and State of the Atomic Energy Industry,* 85th Cong., 1st Sess. 177 (1957) (testimony of V. Lawrence Parsegian, Chairman Engineering Faculties and Professor Nuclear Engineering of Rensselaer Polytechnic Institute).

[49] *See* N.Y. Times, Mar. 29, 1979, at 1, col. 2.

[50] Green, *supra* note 38, at 92; *see* Newman, *Control of Information Relating to Atomic Energy,* 56 Yale L.J. 769, 777–79 (1947) (calling the Restricted Data concept "sweepingly inclusive in scope").

[51] *See Hearings on S. 3323 and H.R. 8862 To Amend The Atomic Energy Act of 1946 Before The Joint Committee On Atomic Energy—Part I,* 83d Cong., 2d Sess. 386–88 (1954) (hereinafter cited as *Hearings on S. 3323 and H.R. 8862*) (colloquy between Dr. William A. Higinbotham, Member, Executive Committee, Federation of American Scientists, and Representative Chester Holifield). As a way to limit the definition of Restricted Data, one witness suggested that data concerning "the use of special material in the production of power" be deleted from the definition. Restricted Data would then have been limited to weapons information and information concerning the production of plutonium and enriched uranium. *Id.* at 240 (statement of Theodore S. Kenyon, Chairman of the Atomic Energy Committee of the New York Patent Law Association). The suggestion was never adopted.

[52] *Id.* at 407.

[53] *See* notes 56–64 *infra* and accompanying text.

[54] *See* note 75 *infra* and accompanying text.

[55] *See* notes 76–77 *infra* and accompanying text.

[56] 42 U.S.C. § 2161–2163 (1976). Functions formerly performed by the AEC are now performed by DOE and the NRC. *See* note 7 *supra;* 10 C.F.R. § 795 (1979).

[57] 42 U.S.C. § 2161 (1976).

[58] *Id.* § 2161(b).

[59] *Id.* § 2162(b). DOE apparently has taken its declassification obligations seriously. Thousands of documents have been declassified and whole areas of research have been freed of security restraints. *See, e.g.,* [1970] AEC Ann. Rep. 229 (1971). Despite such efforts, however, declassification will necessarily fall short of the statutory goal of making public all data that can be published "without undue risk to the common defense and security." 42 U.S.C. § 2162(a) (1976). Two basic reasons explain the inadequacy of the declassification program. First, the dynamics of administering any governmental secrecy program insure overclassification of information. Strong political and psychological forces impel classification officers to travel a safe path. The tendency, when in doubt, is to err on the side of secrecy. It is always easier to explain caution than it is to justify liberality, in part because the consequences of an error in favor of declassification seem far greater than an error in favor of secrecy. Once information is made public, it is forever compromised. If, however, it is mistakenly kept classified, it can be reviewed again. The strength of these tendencies is magnified under the Atomic Energy Act information control system because, unlike other government classification schemes, it is premised on Restricted Data being classified at birth. Declassification, not classification, takes an affirmative act. So, in addition to the usual leaning toward secrecy, atomic energy declassification must also overcome the force of inertia. Two features of the current declassification practice manifest the over-classification tendency. The first is known as derivative classification. Under derivative classification, persons who know the truth of a classified matter may not identify or indicate whether information in the public domain is in fact correct or accurate. If this is done, the identification or indication itself becomes classified. In addition, under derivative classification, the incorporation of any classified material directly or indirectly into an unclassified document renders the entire document classified. The second manifestation of the overclassification tendency is DOE's practice of declassifying an area of research only if the chance of developing classified information in that area is "essentially zero." *See* Atomic Energy Commission, Division of Classification, Guide to the Unclassified Fields of Research 6 (1972).

The second inadequacy inherent in the atomic energy declassification program is the sheer volume of material that must be reviewed. Because the Restricted Data category is so broad, "continuous review" of such data, even if conducted in the utmost good faith, must always be cursory and out of date. For example, the only currently available document listing information that has been removed from the Restricted Data category is over six years old and acknowledged by DOE to be "obsolete." Letter from Murray L. Nash, Deputy Director, Office of Classification, Dept. of Energy, to author, March 15, 1979.

[60] 42 U.S.C. § 2162(b) (1976).

[61] *Id.* § 2201(1).

[62] *Id.* § 2165(g).

[63] *Id.* § 2162. This section is titled "Classification and declassification of Restricted Data—Periodic determination." The title is misleading; no power to classify is actually conferred. The original version of § 2162 did provide for classification authority but it was later amended. By a drafting oversight, the title was not similarly amended. *See* note 155 *infra.*

After the trial court had rendered its opinion in the *Progressive* case, *The Progressive* magazine discovered that the hydrogen bomb information the government successfully suppressed was actually contained in a document that had been available to the public at the government library in Los Alamos, for over four years. The government admitted that the publicly available information did indeed include such data, but it said that declassification, *i.e.,* publication, of the information was a "mistake." *See* note 276 *infra.* This turn of events appeared to raise the question whether DOE had the authority under the Atomic Energy Act, to reclassify information that it had previously declassified. The answer is clearly no. Under the Act, DOE has no authority to reclassify information. *See* S. Rep. No. 1211, 79th Cong., 2d Sess. 23-24 (1946); *Hearings on S. 2236, supra* note 8, at 305; Green, *supra* note 38, at 92.

[64] 42 U.S.C. § 2162(a) (1976).

[65] The Invention Secrecy Act of 1951, 35 U.S.C. § 181–188 (1976); *see* note 71 *infra*.

[66] Exec. Order No. 12,065, 3 C.F.R. § 190 (1978). The order defines classified information as information "that is owned by, produced for or by, or under the control of, the United States Government, and that has been determined pursuant to this Order or prior Orders to require protection against unauthorized disclosure. . . ." *Id.* § 6–102, 3 C.F.R. § 204. The order is the exclusive means of classifying government documents other than information governed by the Atomic Energy Act. *Id.* § 1–101, 3 C.F.R. § 191.

The order specifically prohibits classification of "basic scientific information not clearly related to the national security." *Id.* § 1–602, 3 C.F.R. § 194. Basic scientific information, however, is not defined. Moreover, the order specifically prohibits classification of privately developed information: information in which the government has no proprietary interest and that was developed without access to classified government data. An exception is made for information governed by the Invention Secrecy Act. *Id.* § 1–603, 3 C.F.R. § 194. Thus, under the order, the government may not impose secrecy on privately developed information even though that same information, in the hands of the government, would be classified. In short, no Official Secrets Act exists in the United States. For a general discussion of Exec. Order No. 12,065, see Fox & Weiss, *The FOIA National Security Exemption and the New Executive Order*, 37 FED. BAR. J. 1 (1978).

[67] Exec. Order No. 12,065 § 1–301, 3 C.F.R. § 193 (1978).

[68] *Id.* § 1–302, 3 C.F.R. § 193.

[69] *Id.* § 1–303, 3 C.F.R. § 193.

[70] *Id.* § 1–401, 3 C.F.R. § 193.

[71] *Id.* § 1–402, 3 C.F.R. § 193. A classification of foreign government information, however, can last as long as thirty years.

Similar in operation to Exec. Order No. 12,065 is the Invention Secrecy Act, 35 U.S.C. §§ 181–188 (1976), the only statute that explicitly permits imposition of government secrecy over privately developed information. Under this Act, the government may impose a secrecy order over certain patents and patent applications whenever publication or disclosure of the invention might "be detrimental to the national security." *Id.* § 181. But under this Act, like Exec. Order No. 12,065 and unlike the Atomic Energy Act, a secrecy order issues only after an affirmative determination of possible detriment to national security. *Id.* Moreover, such orders may not last longer than one year unless a further finding of possible detriment to national security is made. *Id.*

[72] 42 U.S.C. §§ 2274(a), 2275–2276 (1976).

[73] *Id.* § 2274(b). The courts have not construed the meaning of this language in the Atomic Energy Act, but they have interpreted almost identical language in the Espionage Act, 18 U.S.C. § 973 (1976). "Advantage" has been broadly interpreted to mean help or assistance, and one may advantage a foreign nation without harming the United States. *See, e.g.*, Gorin v. United States, 312 U.S. 19, 29–30 (1941) (holding that the transfer of any national defense information helping a foreign nation was sufficient to establish a violation of the Act). Thus, communication may be proscribed if it in some sense "helps" another nation even though the communication does not harm the United States. *Id.* An article reviewing the espionage statutes at length concludes that the practical consequences of such a broad interpretation "is that if secret information relating to the national defense is transferred, reason to believe that advantage will result follows automatically. Other nations like to know what is going on and regard themselves as benefited by whatever information they can obtain." Edgar & Schmidt, *The Espionage Status And Publication of Defense Information*, 73 COLUM. L. REV. 929, 987 (1973).

The "reason to believe" language has also been construed broadly. One has reason to believe communication will advantage a foreign nation if he is aware that an advantage will result. *See, e.g.*, Gorin v. United States, 312 U.S. at 27–28. Thus, one may want to reveal information to assist the United States, such as a new scientific discovery in the atomic energy field, but if he is aware that the revelation may also help other countries, he has satisfied the reason to believe standard.

[74] 42 U.S.C. § 2274(b) (1976).

[75] *Id.* § 2165(b). See 10 C.F.R. §§ 10.1–37, 710.1–.38, 725.1–.31 (1979).

[76] 42 U.S.C. § 2277 (1976).

[77] *Id.* § 2201(i).

[78] *Id.* § 2273.

[79] *Id.* § 2280.

[80] *The Progressive* raised only a narrow question of statutory interpretation in defending against the government's prior restraint action. It questioned only whether the Atomic Energy Act prohibits publication, as opposed to communication, of Restricted Data. 467 F. Supp. at 994. It did not ask the broader question, taken up here, whether the Act applies to privately developed information under any circumstances. *Id.*

[81] *See, e.g.*, Lorillard v. Pons, 434 U.S. 575, 577 (1978); Johnson v. Robinson, 415 U.S. 361, 366–67 (1974).

[82] *See, e.g.*, Greene v. McElroy, 360 U.S. 474, 507 (1959); notes 191–92 *infra* and accompanying text.

[83] Dr. Bethe's position in the *Scientific American* incident is somewhat ironic considering that he filed an affidavit on behalf of the government in the *Progressive* case. Indeed, his opinion that sizeable portions of *The Progressive* article should be classified carried great weight with the trial court. 467 F. Supp. at 993.

A major difference between the *Scientific American* and *The Progressive* articles is that the author of the *Scientific American* article, Dr. Bethe, served as a consultant to the AEC both before and after writing his article. As a consultant, he had a special relationship with the government and, presumably, access to secret government data. Consequently, his article cannot accurately be described as privately developed.

In 1956, the AEC requested that its employees and consultants cease public discussion about thermonuclear reactions related to the then proposed hydrogen bomb project. The request stated that it applied to unclassified as well as classified information. The objective, as explained in telegrams to AEC managers, was "to avoid release of technical information which, even though itself unclassified, may be interpreted by virtue of the project connection of the speaker as reflecting the Commission's program with respect to thermonuclear weapons." *See* SCIENTIFIC AMER., May 1950, at 26. The AEC sent its request to all persons then or previously associated with the United States atomic energy program, which at that time included most of the atomic physicists in the country. *Id.*

[84] *Id.*

[85] *Id.* Dr. Bethe sent copies of his article to fellow scientists and colleagues, including a member of the AEC.

[86] *Id.*

[87] *Id.*

[88] *Id.*

[89] *But see* note 83 *supra*.

[90] THE PROGRESSIVE, Feb. 1979.

[91] Presumably the government had no notice that the article was about to be published. It did have such notice with respect to the second article. *See* note 92 *infra*.

This problem of notice underscores one of the absurdities of applying information controls to privately developed information. The government can only prevent publication of information that it somehow learns will be published. Short of applying an unprecedented and unconstitutional screening of publications, the government can reach only those bits of information that the prospective publisher purposefully or inadvertently calls to its attention.

[92] The managing editor of *The Progressive* sent draft copies of the hydrogen bomb article to several persons. One copy found its way into the hands of an MIT professor who, on his own initiative, sent it to DOE's Director of Classification. Learning of this, *The Progressive* decided to send DOE the sketches that were to accompany the article and ask whether the facts and sketches were accurate. Brief for the Defendant at 6, United States v. The Progressive, Inc., 467 F. Supp. 990 (W.D. Wis. 1979).

[93] Prior to the issuance of the temporary restraining order, DOE refused to specify which portions of the article it found objectionable. It told *The Progressive* only that about 20% of the text, about six pages, and all of the captioned sketches contained Restricted Data. *Id.* at 5.

[94] *Id.*

[95] 467 F. Supp. at 1000.

[96] Brief for the Defendant at 16–20, United States v. The Progressive, Inc., 467 F. Supp. 990 (W.D. Wis. 1979).

[97] Brief for the United States at 3–11, United States v. The Progressive, Inc., 467 F. Supp. 990 (W.D. Wis. 1979).

[98] *Id.* at 6–8.

[99] Research has disclosed no reported instance of any such proceeding.

[100] *See* Green, *supra* note 38, at 105–06.

[101] 10 C.F.R. § 725 (1979).

[102] *See* Green, *supra* note 38, at 98–112.

[103] 10 C.F.R. § 725.5(a) (1979).

[104] *See Hearings on S.J. Res. 21, supra* note 8, at 268–70 (testimony of AEC General Counsel William Mitchell). *See also* Green, *supra* note 38, at 105–08.

[105] *See* note 130 *infra*.

[106] *See* note 91 *supra*; note 279 *infra*.

[107] *See* Green, *supra* note 29, at 564–65.

[108] *See* notes 126–28 *infra* and accompanying text. Complying with DOE regulations governing the safeguarding of Restricted Data, 10 C.F.R. § 795 (1976), also involves costs. *See* Green. *supra* note 29, at 562–64.

[109] 10 C.F.R. § 795.38–39 (1979).

[110] *Id.*

[111] *Id.*

[112] Wash. Post, Mar. 22, 1967, at A 3, col. 3.

[113] Wall St. J., Mar. 23, 1967, at 10, col. 2.

[114] *Id.*

[115] *Id.*

[116] *See Hearings on S. 2236, supra* note 8, at 281–82. The government has released no statistics to indicate how often it has imposed controls on privately developed atomic energy information. It appears, however, that the government has imposed these controls very infrequently. *Id.*

[117] See Green, *supra note* 29. at 556, 564–65,

[118] On the contrary, it has specifically claimed such authority. *See, e.g.*, *Hearings on S.J. Res. 21, supra* note 8, at 268–70 (testimony of AEC General Counsel William Mitchell); *Hearings on S. 2236, supra* note 8, at 283.

[119] *See* note 8 *supra*.

[120] *See* notes 126–61 *infra* and accompanying text.

[121] 42 U.S.C. § 2014(y) (1976).

[122] *Id.* § 2162(e).

[123] *Id.* § 2164(c). It would be incorrect, however, to make too much of the idea that Restricted Data can originate in foreign hands. Although the provisions dealing with Re-

stricted Data of foreign origination presuppose that Restricted Data is not limited to information developed in the United States atomic energy program, they can be read as assuming that the Restricted Data of other nations is foreign-government-controlled and that this data comes to the United States under wraps, government to government, or government to spy to government, just like any other secret foreign government information.

[124] *Id.* §§ 2181–2190 (1976). Significantly, these sections do not speak of patents in terms of Restricted Data. Rather, they speak of inventions or discoveries "useful in the production or utilization of special nuclear material or atomic energy." *Id.* § 2181(c). Of course, Restricted Data is "all data" related to such matters, but Congress's failure to use the Restricted Data terminology may indicate that it understood that information "useful in the production or utilization of special nuclear material or atomic energy" could not be Restricted Data while in private hands.

[125] *Id.* § 2223. Again, however, this language may be read consistently with the view that Restricted Data is only government data. First, a patent may not belong to the United States and yet be based on research performed by the inventor while serving as a government contractor or licensee. *Id.* § 2182. Second, the patent provisions provide a means by which the government may, upon payment of just compensation, appropriate patents related to atomic energy inventions. *Id.* § 2181(b). Once such an appropriation is made under the special procedures of the patents section, the data involved may become government data, and hence Restricted Data.

[126] *Id.* § 2163 (1976).

[127] *Id.* § 2165(a).

[128] *Id.* § 2277.

[129] *See, e.g., id.* §§ 2165(b), 2201(i).

[130] It might be argued that the word "access" was used to mean "legal access." A private citizen, for example, can generate information on his own and thus by definition have access to it, but, unless and until he obtains the government's permission to maintain possession, he does not have the requisite "legal access." Not only is there no evidence that Congress intended to use the word access in this unusual way but, if the word is so used, the provision requiring government contractors to agree not to permit unauthorized individuals to have access to Restricted Data would become unintelligible. Government contractors would be agreeing not to give unauthorized persons "legal access"—something they are not empowered to give under any circumstances.

[131] *See* notes, 43, 51–52 *supra.*

[132] S. 1717, 79th Cong., 2d Sess. §§ 1–17 (1946). McMahon's bill was not, however, the first comprehensive atomic energy legislation proposed in Congress. The first was a bill drafted by the War Department and introduced in the House as H.R. 4280 on October 3, 1945. Known as the May-Johnson bill, it would have created a nine-member Atomic Energy Commission with sweeping authority to control all aspects of atomic energy production, research, and development. *See* H.R. 4280, 79th Cong., 1st Sess. (1945). The Secretary of War and the sponsors of the legislation hoped to speed the bill through Congress but stiff opposition from scientists plus a jurisdictional wrangle in the Senate stalled and ultimately killed the bill after only two days of hearings before the House Committee on Military Affairs. *See* Miller, *supra* note 24, at 801–05. *See generally Hearings Before the House Comm. on Military Affairs on H.R. 4280*, 79th Cong., 1st Sess. (1945). Scientists and others testifying on H.R. 4280 made clear that the "secret" of the atomic bomb was basic scientific information that was open to anyone else to discover in time and that the real "secret"—that an atomic bomb could be built—was already known. The secrets remaining to be protected were secrets of know-how and information related to the direction of the United States's atomic energy research. *See, e.g., id.* at 12–13, 80, 117–18.

[133] 92 Cong. Rec. 6096 (1946).

[134] S. 1717, 79th Cong. 2d Sess. § 9 (1946). Atomic scientists endorsed this approach. *See* Hewlett & Anderson, *supra* note 22, at 483.

[135] S. 1717, 79th Cong., 2d Sess. § 9 (1946). S. 1717 directed the Commission to establish a Board of Atomic Information that would be responsible for regulating the dissemination of related technical information. *Id.*

[136] *Id.* §§ 3, 9.

[137] *Hearings Before the Special Senate Comm. on Atomic Energy on S. 1717*, 79th Cong., 2d Sess. (1946) (hereinafter cited as *Hearings on S. 1717*).

[138] *See, e.g., id.* at 404–10, 492. For example, Major General L. R. Groves, head of the wartime atomic bomb project, stated, "I don't believe that if we make some startling discovery in a college laboratory that that should necessarily be published if it is going to upset our national defense. . . ." *Id.* at 492.

[139] *See, e.g., id.* at 404, 407.

[140] *See, e.g., id.* at 122–23, 404, 407.

[141] *See* Hewlett & Anderson, *supra* note 22, at 512. The members of the Special Senate Committee apparently viewed the information controls with disfavor. They seemed to think that more comprehensive controls were needed and they doubted whether the Espionage Act could be made applicable to the protection of atomic energy information during peacetime. *Id.* Ironically, while the Committee was considering the McMahon version of S. 1717, Canadian authorities announced the arrest of 22 persons in connection with passing very sensitive United States atomic energy information to the Soviet Union. No American citizen was involved but the event created a stir in the press and presumably hardened the Committee's attitude toward information controls. *Id.*

[142] S. 1717, 79th Cong., 2d Sess. § 10(b)(1) (1946), *reprinted in* [1946] U.S. Code Cong. Serv. 722, 732–34.

[143] *Id.*

[144] *Id.*

[145] 92 Cong. Rec. 6096–98 (1946).

[146] *Id.* at 9249–75. Like the Senate debates, the House debates reflect congressional concern with preserving the secret of the atomic bomb lest that secret fall out of government hands. The legislative reports on S. 1717 offer no guide to or hint about the proper scope of the concept of Restricted Data. S. Rep. No. 1211, 79th Cong., 2d Sess., *reprinted in* [1946] U.S. Code Cong. Serv. 1327. In the House, S. 1717 was referred to the Committee on Military Affairs. The Committee held no hearings and reported the bill favorably after adopting amendments to insure military participation on the Atomic Energy Commission. The Committee report on S. 1717 is a straight-forward section-by-section description of the legislation, and is largely irrelevant to the present discussion, *See* H.R. Rep. No. 2478, 79th Cong., 2d Sess. (1946). On the floor, the House amended S. 1717 in several ways. With respect to information controls, it added a provision requiring FBI investigation and clearance of all AEC Commissioners, employees, licensees, and contractors, and it increased the penalties for espionage activities from a maximum of 20 years imprisonment to death. 92 Cong. Rec. 9482 (1946). The Senate agreed to these amendments, refused others, and the Atomic Energy Act finally passed both houses on August 1, 1946, *Id.* at 10329, 10411 (1946).

[147] J. Newman & B. Miller, The Control of Atomic Energy (1948).

[148] *Id.* at 15; *see id.* at 224–25.

[149] *See Hearings Before the Joint Comm. on Atomic Energy on Investigation into U.S. Atomic Energy Project—Part III*, 81st Cong., 1st Sess. 104–39 (1949). For example, in 1949 the Joint Committee held extensive hearings on all aspects of the United States atomic energy program. The concept of Restricted Data was discussed at some length but the focus was on emergency clearance procedures used by the AEC that enabled persons to work for the Commission temporarily without clearance. The question was whether the procedures were being employed too loosely. Significantly, the discussion was exclusively in the context of access to Restricted Data as controlled and possessed by the government. *See Hearings before the Joint Committee on Atomic Energy on Investigation into U.S. Atomic Energy Project—Part III*, 81st Cong., 1st Sess., at 104–39 (1949).

[150] *See* H.R. 8862, 83d Cong., 2d Sess. (1954); S. 3323, 83d Cong., 2d Sess. (1954) These bills originated as a Joint Committee print entitled "A Proposed Act to Amend the Atomic Energy Act of 1946." Joint Comm. on Atomic Energy, 83d Cong., 2d Sess. (Comm. Print 1954) (hereinafter referred to as Comm. Print). H.R. 8862 was introduced in the House by Rep. Cole on April 15, 1954 and S. 3323 was introduced in the Senate by Sen. Hickenlooper on April 14, 1954. H.R. 8862, 83d Cong., 2d Sess. (1954); S. 3323, 83d Cong., 2d Sess. (1954). The bills proposed several changes with respect to Restricted Data and the controls on atomic energy information. First, the definition of Restricted Data was changed slightly. Comm. Print § 11(q). It was expanded to include all data concerning the "design" of atomic weapons as well as the manufacture and utilization of such weapons, and fissionable material was renamed special material. *Id.* § 11(s). A second and more fundamental change was the addition of a provision for automatic declassification of Restricted Data after three years "unless there is a specific finding made . . . that the common defense and security require that the Restricted Data retain its classification for an additional . . . three years." *Id.* § 145(c). This provision was ultimately scrapped. *See* note 155 *infra.* Third, the AEC was empowered to tailor its security clearance procedures in accordance with the degree of sensitivity of Restricted Data "to which access will be permitted." Comm. Print. § 142(f); *see* notes 61–63 *supra* and accompanying text. This change reflected the fact that private enterprise was about to be admitted to the atomic energy field. Fourth, new criminal provisions were added making it a crime for current or former government employees to communicate Restricted Data to persons not entitled to receive it and making it a crime to receive Restricted Data from such a person. Comm. Print §§ 223(d), (e). Finally, a new section on international cooperation was proposed. Under certain circumstances the United States could exchange Restricted Data with other nations, but, in no event, could the Restricted Data involve weapons information. *Id.* § 144(a).

[151] *Hearings on S. 3323 and H.R. 8862*, note 51 supra.

[152] *Id.* at 63.

[153] *Id.*

[154] *Hearings on S. 3323 and H.R. 8862 supra* note 51, at 51–53. Mr. Luntz, for example, seemed to think that publishers could publish all information revealed to them by the AEC through proper channels and any other information they discovered, provided they were not put on notice, constructive or otherwise, that it was classified. He believed that the new criminal provisions, which made it a crime to receive Restricted Data from present or former government employees, might change the rule as he understood it. He testified, in part, as follows:

Mr. Luntz: As far as publishers are concerned, we on Nucleonics have never had any problem regarding the classification of material we planned to publish. Articles that come to us from AEC labs are cleared through routine channels. Anything that we write on our own is publishable because we have no clearance and are not obligated nor permitted to know what is classified.

Chairman Cole: What do you mean, you are not permitted to know what was classified? If I wanted to tell you something that was classified, you wouldn't let me tell you?

Mr. Luntz: We are legally not permitted to be told it by someone who has the information.

A more specific example of something that might happen to the press is this: Suppose we asked the AEC about the possibility of our getting an article on something like the fabrication of fuel elements for reactors. And suppose that we were advised that this is a classified area. . . . Then, suppose that shortly thereafter we received an unsolicited article from a foreign nation on this very subject

Because we might have reason to believe that the article contained restricted data, my question would then be: What is our fate if we were to publish this article?

I believe that the primary accomplishment of sections 223d and 223e would be to create an atmosphere of intimidation and harassment. The relatively low fine of $2,500 implies to me that much more than this may not have been intended.

Coverage of the atomic energy field by the nonspecialist technical and non-technical press has to date been inadequate, in my opinion—inadequate from the point of view of providing the technical and nontechnical public with information they need for their guidance, and, what may be more important, information they need to provide intelligent and constructive criticism of the Government program.

One of the reasons for the poor coverage of this field by the press, and I have observed this repeatedly, is the prevalent feeling that this whole thing is too secret and the effort to develop a story just isn't worth it. One effect of the new amendments might be to reduce what little coverage there is.

Id.

Mr. Ruebhausen also was uncertain about the effect of the new criminal provisions and the following testimony illustrates that he was not alone in his uncertainty:

Rep. Durham: Do you think it would be possible, or would it be reasonable, for a physicist who has of course full knowledge of practically all of these developments, who has never had contact with the AEC, who has never seen a classified document, to write an article in a newspaper which could be construed as being classified material? It looks to me like it is possible. And that is the point that worries me so as to this "has reason to believe." I do not know how you are going to get at it, because I think it is one of the most difficult problems we face in the whole writing of the act. I mean by that if we write it to the point where we are going to let people freely receive some type of information, I think we will not reach the goal which we are trying to accomplish here.

Mr. Ruebhausen: I am very troubled by it, too, sir. . . . It is the complete absence of any exception for the wholly innocent communication which bothers me. Maybe we have no other alternative than to penalize the innocent with the guilty. But before we do it, it is a very drastic step, and I know the committee will search for ways to soften it.

Rep. Holifield: Mr. Ruebhausen, I am also concerned with this particular subject of declassification of restricted data, particularly in view of the all-inclusive meaning of the word "design" in the definitions section, particularly using the word "design" in the restricted data section. It seems to me that it covers almost the complete field of research and development as well as application. And then placing the punitive section with relation to these people—it seems to me that it does present us a real problem. I believe with Congressman Hinshaw that there are a great many articles that are printed today in different magazines which, in effect, too, reveal either speculatively or from some source that I know not of, restricted data.

Id. at 405–06.

[155] At the close of Part I of the hearings, the Joint Committee met in executive session and amended the information control sections of the Committee Print in two significant ways. First, it deleted the automatic declassification provision and, in its place, empowered the AEC to classify as well as declassify information as Restricted Data. *See Hearings on S. 3323 and H.R. 8862, supra* note 51, at 713. Under the new language, Restricted Data would no longer be classified automatically by statutory definition. *See* 42 U.S.C. § 2162 (1976). Rather, the AEC would have to make an affirmative classification decision. *Id.* Second, the Committee tightened the new criminal provisions proscribing the communication of Restricted Data by present or former government employees to persons unauthorized to receive it. *See Hearings on S. 3323 and H.R. 8862, supra* note 51, at 708. The new language added that, as an element of the crime, the person communicating the Restricted Data must know or have reason to know the information was Restricted Data and the person receiving it was unauthorized. 42 U.S.C. § 2277 (1976). After the second round of hearings, the Committee made only one major change relating to Restricted Data. The Committee voted to retain the existing language of the 1946 Act which classified Restricted Data by statutory definition alone. In other words, it eliminated the provision whereby the AEC was charged with classification and declassification. Apparently, the Committee was persuaded by the testimony of Assistant Attorney General J. Lee Rankin, who testified that a Commission obligation affirmatively to classify information would jeopardize prosecutions of espionage violations of the Act. *See Hearings on S. 3323 and H.R. 8862, supra* note 51, at 718–20. He claimed that the new provision would require the prosecution to show that the allegedly compromised information was properly classified as Restricted Data. *Id.* at 718. Such proof, he said, might force the government to introduce into evidence its Classification Guides—some of which are themselves classified. *Id.* at 718.

The Senate and House Reports on S. 3323 and H.R. 9757 are of little help in deciding whether Congress intended the information controls to extend to privately developed information. They support only the implication that Congress was assuming that Restricted Data was exclusively government owned or controlled. *See* S. Rep. No. 1699, 83d Cong., 2d Sess. 6–9, 21–22, 23–24 (1954); H.R. Rep. No. 2181, 83d Cong., 2d Sess. 6–9, 21–22, 23–24 (1954). Finally, the Conference Reports are essentially uninformative on the question. *See* Conf. Rep. No. 2639, 83d Cong., 2d Sess. 24–27 (1954); Conf. Rep. No. 2666, 83d Cong., 2d Sess. 24–27 (1954).

[156] *See, e.g.*, 100 Cong. Rec. 10564–66, 11580, 11655–60, 11671–72, 11719–20 (1954).

[157] *See, e.g.*, *id.* at 10564–68.

[158] *Id.* at 11671, 11750–51.

[159] *Id.* at 10565.

[160] *Id.* at 10564–66, 11580, 11655–60, 11671–72, 11719–20.

[161] Atomic Energy Act of 1954, §§ 151–160 (current version at 42 U.S.C. §§ 2181–2190 (1976)); Atomic Energy Act of 1946, § 11 (current version at 42 U.S.C. §§ 2181–2296 (1976)).

[162] *See* notes 127–30 *supra* and accompanying text.

[163] *See* notes 101–16 *supra* and accompanying text.

[164] *See* 18 U.S.C. § 793 (1976). Note, however, that the similar but different provisions of the Espionage Act also may apply.

[165] A business could substantially reduce, if not eliminate, such a threat by adopting internal procedures to limit access to certain employees and to specify how such information should be handled. First, access could be limited to persons with a proven record of loyalty and reliability and with a business need to know the information. Second, all documents containing Restricted Data could be stamped with a legend notifying employees that wrongful communication could result in criminal prosecution. Finally, information could be stored in a manner to insure its integrity.

[166] *See* notes 101–05 *supra* and accompanying text.

[167] S. 1717, 79th Cong., 2d Sess. § 10(b)(5)(B) (1946). These requirements originated as House floor amendments and consequently received little study or attention. *See* Hewlett & Anderson, *supra* note 22, at 527–30.

[168] Act of July 31, 1953, ch. 283, § 7 (amending § 12(a)(10)), 67 Stat. 240 (current version at 42 U.S.C. § 2201(p) (1976)).

[169] 32 Fed. Reg. 6702, 6706, 6710, 20868 (1967).

[170] S. Rep. No. 603, 83d Cong., 1st Sess. 4 (1953).

[171] *Id.*

[172] Atomic Energy Act of 1954, § 145(b) (current version at 42 U.S.C. § 2165(b) (1976)) (emphasis added). Section 145(b) of the 1954 Act amended former section 10 (b)(3)(ii) of the 1946 Act, which directed the AEC to require security clearance and investigation of all AEC employees. *See id.*

[173] *See* notes 156–60 *supra* and accompanying text.

[174] Atomic Energy Act of 1954, § 161(i) (current version at 42 U.S.C. § 2201(i) (1976)) (emphasis added).

[175] *See* Reynolds v. United States, 286 F.2d 433 (9th Cir. 1960). In *Reynolds*, the Ninth Circuit concluded that § 161(i) applied only to Commission licensees. *Id.* at 438.

[176] Atomic Energy Act of 1954, § 146(b) (current version at 42 U.S.C. § 2166(b) (1976)).

[177] The provision was so interpreted by AEC officials. The AEC opposed the inclusion of § 146(b) in the 1954 Act, arguing that it "seems intended to deprive the Commission of implied or inherent authority" and "might have most undesirable consequences, particularly with respect to security matters." *Hearings on S. 3323 and H.R. 8862, supra* note 51, at 605. In spite of such testimony the Joint Committee rejected the AEC's plea to eliminate § 146(b).

[178] Brief for Defendant at 26, United States v. The Progressive, Inc. 467 F. Supp. 990 (W.D. Wis. 1979).

[179] *Id.*

[180] 403 U.S. 713 (1971).

[181] *Id.* at 720 (quoting 18 U.S.C. § 793(e) (1976)).

[182] 403 U.S. at 720–22 (Douglas, J., concurring); *id.* at 733–34 (White, J., concurring); *id.* at 746 (Marshall, J., concurring).

[183] *Compare* 42 U.S.C. § 2274(b) (1976) *with* 18 U.S.C. § 793(e) (1976).

[184] 18 U.S.C. §§ 794(b), 797–798. *See* Edgar & Schmidt, *supra* note 73, at 944, 1064, 1069.

[185] *See* Edgar & Schmidt, *supra* note 73, at 1019.

[186] *See* Webster's Third New International Dictionary 1836 (1963). Publication has been defined as "communication (as of news information) to the public."

[187] *See e.g., Hearings on S. 1717, supra* note 137, at 117, 155, 165; *Hearings on H.R. 8862 and S. 3323, supra* note 51, at 40, 51–53, 240, 396.

[188] *See Hearings on S. 1717, supra* note 137, at 128–34.

[189] *See, e.g., Hearings on H.R. 8862 and S. 3323, supra* note 61, at 52, 540–42.

[190] *Id.* at 541.

[191] 360 U.S. 474 (1959). In *Greene,* the Supreme Court held that the Department of Defense could not fire an employee without affording him the right to confront the sources of derogatory information about him. *Id.* at 508. The court stated that neither the Congress nor the President had explicitly authorized the Department's proceedings. *Id.* The court required such authorization to be explicit, especially in areas of doubtful constitutionality. *Id.* at 507.

[192] *Id.*

[193] *See* notes 191–92 *supra* and accompanying text.

[194] *See* Greene v. McElroy, 360 U.S. at 509.

[195] 403 U.S. 713 (1971); *See* notes 228–32 *infra* and accompanying text.

[196] *See* 403 U.S. at 720–22 (Douglas, J., concurring); *id.* at 730 (Stewart, J., concurring); *id.* at 740 (White, J., concurring); *id.* at 747 (Marshall, J., concurring).

[197] *See* notes 43–50 *supra* and accompanying text.

[198] *See* notes 73–74 *supra* and accompanying text.

[199] *See* notes 75–78 *supra* and accompanying text.

[200] *See* notes 75–78 *supra* and accompanying text.

[201] Although members of the Burger Court have hinted that a new free speech methodology is on the way, *see* Young v. American Mini Theatres, Inc., 426 U.S. 50, 84 (Stewart, J., dissenting) (1976), the Court continues to apply the so-called categorization test it inherited from its predecessors. *Compare In re* Primus, 436 U.S. 412 (1978) *with* Ohralik v. Ohio State Bar Ass'n, 436 U.S. 447 (1978). Under the categorization test, speech is absolutely protected against content-based regulation unless it falls within one of several narrowly defined categories of speech held to be outside the scope of first amendment protection. The categories include obscenity, *see, e.g.,* McKinney v. Alabama, 424 U.S. 669, 673–74 (1976) (obscene materials are beyond the first amendment), defamatory falsehoods, *see, e.g.,* Time, Inc. v. Firestone, 424 U.S. 448, 457 (1976) (inaccurate and defamatory reports of facts deserve no first amendment protection), and speech that presents a clear and present danger of producing a substantive harm, *see, e.g.,* Schenck v. United States, 249 U.S. 47, 52 (1919) (original formulation of the clear and present danger doctrine).

[202] The clear and present danger doctrine is an infrequently invoked, but still viable, first amendment tool that permits courts to distinguish between the protected advocacy of ideas and the unprotected incitement of violence. It has had an uneven, checkered development but, in the Warren Court era, finally emerged as an effective and broad protection of so-called subversive speech. *See generally* Brandenberg v. Ohio, 395 U.S. 444 (1969). Regulation of this form of speech is permitted only if it is "directed to inciting or producing imminent lawless action" and is "likely to incite or produce such action." *Id.* at 447. Essentially three facts must coexist before expression is deemed a clear and present danger. The words of the speaker, objectively viewed, must be (1) intended to produce (2) and likely to produce (3) imminent violent or unlawful activity. A fourth factor, implicit in the doctrine but never explicitly set forth, is that the harm must be serious. Although questioning its relevance in certain contexts, and misapplying it on occasion, *see, e.g.,* Landmark Communications, Inc. v. Virginia, 435 U.S. 829, 842–45 (1978); Madison School Dist. v. Wisconsin Employment Relations Comm'n, 429 U.S. 167, 173–74 (1976), the Burger Court has made no attempt to abandon the clear and present danger doctrine.

Commentators have argued that the categories of unprotected speech are too broad, *see, e.g.,* T. EMERSON, THE SYSTEM OF FREEDOM OF EXPRESSION 7, 16 (1970) (all expression which is not action should be protected), and too narrow, *see, e.g.,* Bork, *Neutral Principles and Some First Amendment Problems,* 47 INDIANA L.J. 1, 8–9 (1971) (only purely "political" speech should be protected, "speech concerned with governmental behavior, policy or personnel" but not "scientific, educational, commercial or literary expressions as such").

[203] With respect to the Atomic Energy Act, the question is whether communication of privately developed atomic energy information presents a clear and present danger of immediate and serious harm to national security. More specifically, taking the *Progressive* case as an illustrative fact scenario, the crucial issue is whether publication of how to build a thermonuclear weapon presents a clear and present danger of immediate and serious harm to national security.

As a beginning, it should be apparent that this kind of communication cannot be an incitement in the usual sense. It is not advocacy of action, *see, e.g.,* Yates v. United States, 354 U.S. 298, 320 (1957), nor an exhortation of any kind. *See generally* Brandenberg v. Ohio, 395 U.S. 444 (1969). The speaker or publisher is simply setting out the facts and, at worst, is indifferent to what action may follow. To amount to an incitement, then, the communication would have to be viewed as so facilitative of harm that it was no different from incitement. To be more direct, the communication must be so facilitative of harm that it is equivalent to it. In this view, telling someone how to make a nuclear weapon is equivalent to giving that person a bomb already constructed.

Before factually considering whether these assertions are true, some immediate legal objections arise. First, the scope of a facilitation rule would be hard to confine. It could include publication of scientific formulas of any number of chemicals, such as those for nerve gas or napalm. It might even embrace a set of instructions for making Molotov cocktails. Moreover, no logical limit would confine the rule to information that facilitates the construction or use of weapons. It could extend as well to any aids or guides about how to succeed in crime affecting national security, such as sets of instructions for effecting a kidnapping or hijacking or a discussion of the latest and most successful terrorist methods.

Second, a facilitation rule would completely attenuate the causality requirement in the clear and present danger test. Making something easier for someone to do is not the same as causing him to do it. Giving someone an idea to act in a certain way is not the same as inciting that action. Assuming that the publication of certain information might present serious hazards to public safety by giving others the capacity to inflict harm, the clear and present danger doctrine, and indeed first amendment values, require that the causal connection between the publication and the harm be quite direct. *Cf.* Scanlon, *A Theory of Freedom of Expression,* 1 PHIL. & PUB AFF. 204, 211–15 (1972) (explaining the different routes by which expression can lead to action). For example, in United States v. Featherson, 461 F.2d 1119 (5th Cir.), *cert. denied,* 409 U.S. 991 (1972), the Fifth Circuit upheld the constitutionality of a Florida statute that made it unlawful to teach or demonstrate to any person to use, application, or making of any firearm or explosive or incendiary device with knowledge or reason to know that the firearm or device would be unlawfully used in or to further a civil disorder. The court upheld the conviction of the defendants under the statute on evidence that showed a direct link between the dissemination of information and immediate and serious harm. Specifically, the record showed that the defendants were leaders of a cohesive organized group known as the Black Afro Militant Movement, that they instructed members on how to make and assemble explosive and incendiary devices, and that this group was standing ready to strike transportation and communication facilities at a moment's notice. *Id.* at 1122–23.

Leaving the difficult legal issues of scope and causality aside, two questions remain: is publishing how to make an H-bomb equivalent to giving the H-bomb to a foreign country and, if so, will it directly lead to immediate and serious harm to national security? The answers depend on a number of factors. *See* notes 241–44 *infra* and accompanying text (answering both questions in the negative).

[204] New York Times Co. v. United States, 403 U.S. at 730 (Stewart, J., concurring); *see* notes 228–36 *infra* and accompanying text.

[205] U.S. CONST. art. I, § 8, cl. 1.

[206] *See* 42 U.S.C. § 2161 (1976).

[207] *See* notes 266–77 *infra* and accompanying text.

[208] *See* notes 278–79 *infra* and accompanying text.

[209] *See* notes 72–78 *supra* and accompanying text.

[210] *See, e.g.,* Gunther, *Forward: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection,* 86 HARV. L. REV. 1, 20–24 (1972). *See generally* United States v. Carolene Products Co., 304 U.S. 144, 152 n.4 (1938).

[211] *See, e.g.,* Spence v. Washington, 418 U.S. 405, 414 n.9 (1974); United States v. O'Brien, 391 U.S. 367, 381–82 (1968); Shelton v. Tucker, 364 U.S. 479, 488 (1960); Cantwell v. Connecticut, 310 U.S. 296, 311 (1940). *See also* Ely, *Flag Desecration: A Case Study in the Roles of Categorization and Balancing in First Amendment Analysis,* 88 HARV. L. REV. 1482, 1483–84 (1975).

[212] 389 U.S. 258 (1967).

[213] *Id.* at 259–60. The defendant was prosecuted under the Subversive Activities Control Act of 1950, § 5(a) (1) (D), 50 U.S.C. § 784(a) (7) (D) (1976).

[214] 389 U.S. at 259–60.

[215] *Id.* at 264.

[216] *Id.* at 266–67.

[217] *Id.* at 267

[218] *Id.* at 268 n.20.

[219] *Id.*

[220] *See, e.g.,* Gooding v. Wilson, 405 U.S. 518, 520–1 (1972). *See also* Note, *The First Amendment Overbreadth Doctrine,* 83 HARV. L. REV. 844 (1970). The Burger Court has not recast the basic and classic formulation of the overbreadth doctrine that a statute is facially invalid if it "does not aim specifically at evils within the allowable areas of [government] control but, on the contrary, sweeps within its ambit other activities that . . . constitute an exercise of freedom of speech." Thornhill v. Alabama, 310 U.S. 88, 97 (1940). It has, however, made explicit the idea that a law should not be held facially invalid unless the chill on deterrence of protected activities is substantial. *See* Broadick v. Oklahoma, 413 U.S. 601 (1973). In *Broadick,* the Court held that when a statute regulates conduct involving more than "pure speech", its overbreadth must "not only be real, but substantial as well, judged in relation to the statute's plain legitimate sweep." *Id.* at 615.

[221] The Justice Department has indicated that it may file criminal charges against persons involved with the recent publication of "secret" atomic energy information in the MADISON PRESS CONNECTION. *See* note 11 *supra.*

[222] Even if it were true that one need not have the details of bomb manufacture to discuss nuclear weapons issues, the point is that

the Act does not limit its reach to such matters but, rather, cuts broadly into all information related to atomic energy and atomic weapons. Consider, for example, a recent case in which residents of Hawaii sued, unsuccessfully, to enjoin the United States from using facilities at the Pearl Harbor Naval Base for the storage of nuclear weapons. Catholic Action of Hawaii v. Brown, 468 F. Supp. 190, 191 (D. Hawaii 1979). The citizens' group suit was aimed at forcing the Navy to submit an environmental impact statement on the weapons storage project. The district court held, however, that the submission of an environmental impact statement was not required because it would conflict with the Restricted Data provisions of the Atomic Energy Act. *Id.* at 193. Although the case involves government information as opposed to privately developed information, it nicely illustrates one way in which the Atomic Energy Act operates to shield government action from public scrutiny.

[223] *See, e.g.*, New York Times Co. v. United States, 403 U.S. 713, 714 (1971); Organization For A Better Austin v. Keefe, 402 U.S. 415, 419 (1971).

[224] *See* Near v. Minnesota, 283 U.S. 697, 716 (1931).

[225] *See* 41 U.S.C. § 2014(y) (1976); notes *32–50 supra* and accompanying text.

[226] *See* Edgar & Schmidt, *supra* note 73, at 987–88.

[227] *See* notes 75–78 *supra* and accompanying text.

[228] 403 U.S. 713 (1971) (per curiam).

[229] *Id.* at 714 (per curiam).

[230] Brief for the United States in the Supreme Court at 6, 16–18, 23–25, New York Times Co. v. United States, 403 U.S. 713 (1971).

[231] 403 U.S. at 728–29 (Stewart, J., concurring); *id.* at 730–40 (White, J., concurring).

[232] *Id.* at 763 (Blackmun, J., dissenting).

[233] *Id.* at 714 (per curiam).

[234] The judgment of the Court was announced in a brief per curiam opinion. Justices Black, Douglas, Brennan, Stewart, White and Marshall wrote separate concurrences and Chief Justice Burger and Justices Harlan and Blackmun wrote separate dissents.

[235] 403 U.S. at 730 (Stewart, J., concurring); *id.* at 726–27 (Brennan, J., concurring). Justices Black and Douglas believed that prior restraints were absolutely prohibited. *Id.* at 717 (Black, J., concurring); *id.* at 724 (Douglas, J., concurring).

[236] *Id.* at 714.

[237] United States v. The Progressive, Inc., 467 F. Supp. 990, 994 (emphasis added).

[238] *Id.* (emphasis added).

[239] *Id.* at 993 (emphasis added).

[240] *Id* at 999 (emphasis added).

[241] *See* notes 266–73 *infra* and accompanying text.

[242] *See* notes 727–75 *infra* and accompanying text.

[243] *See Hearings on S. 2236, supra* note 8, at 259. *See also* notes 271–75 *infra* and accompanying text.

[244] *See Hearings on S. 2236, supra* note 8 at 259.

[245] *See* United States v. The Progressive, Inc., 467 F. Supp. at 994. The trial court, however, did attempt to distinguish the *New York Times* case. First, it said that the nature of the information in each case was different: the *New York Times* case involved an historical account of United States involvement in Viet Nam and the *Progressive* case, unlike the *New York Times* case, involved a directly applicable statutory authorization of a prior restraint. The court failed to explain whether or why these distinctions may have justified a departure from the *New York Times* rule *Id.* at 999.

[246] *Id.* at 995-96.

[247] *Id.* at 994, 996.

[248] *See* Grosjean v. American Press Co., 297 U.S. 233, 245–50 (1936); Near v. Minnesota, 283 U.S. 697, 713-15 (1931); 4 W. Blackstone. Commentaries on the Laws of England 151-52 (2d ed. rev. 1872). *See generally* L. Levy Legacy of Suppression: Freedom of Speech and Press in Early American History (1960):

[249] *See, e.g.*, Nebraska Press Ass'n v. Stuart, 427 U.S. 539 (1976); New York Times Co. v. United States, 403 U.S. 713 (1971); Organization For A Better Austin v. Keefe, 402 U.S. 415 (1971); Grosjean v. American Press Co., 297 U.S. 233 (1936); Near v. Minnestota, 283 U.S. 697 (1931).

[250] *See* T. Emerson, The System of Freedom of Expression 506 (1970). Professor Emerson put the case best:

> A system of prior restraint is in many ways more inhibiting than a system of subsequent punishment: It is likely to bring under government scrutiny a far wider range of expression; it shuts off communication before it takes place; suppression by a stroke of the pen is more likely to be applied than suppression through a criminal process; the procedures do not require attention to the safeguards of the criminal process; the system allows less opportunity for public appraisal and criticism; the dynamics of the system drive toward excesses, as the history of all censorship shows.

Id. See also A. Bickel, The Morality of Consent 61 (1975). Alexander Bickel has stated: "Prior restraints fall in speech with a brutality and a finality all their own. Even if they are ultimately lifted they cause irremedial loss—a loss in immediacy, the impact, of speech. . . . A prior restraint, therefore, stops more speech more effectively. A criminal statute chills, prior restraint freezes." *Id.*

[251] *See e.g.*, T. Emerson, *supra* note 250, at 9–10.

[252] New York Times Co. v. United States, 403 U.S. at 720–22 (Douglas, J., concurring); *id.* at 730 (Stewart, J., concurring); *id.* at 732–40 (White, J., concurring); *id.* at 743 (Marshall, J., concurring).

[253] *See* 403 U.S. at 730 (Stewart, J., concurring); *id.* at 732–40 (White, J., concurring); *id.* at 742–44 (Marshall, J., concurring).

[254] *Id.* at 730 (Stewart, J., concurring). Justice Stewart noted that "if Congress should pass a specific law authorizing civil proceedings in this field, the courts would likewise have the duty to decide the constitutionality of such a law as well as its applicability to the facts proved." *Id.*

[255] *Id.* at 757 (Harlan, J., dissenting).

[256] *Id.* at 756 (Harlan, J., dissenting). At least two commentators have expressed agreement with the view that in the area of national security, the judiciary lacks the competence to fashion appropriate and satisfactory constitutional rules. These two have argued that "[t]he judicial process is not well suited to judge the risks inherent in releasing particular secrets. The task necessarily requires conjectures, and adequate conjectures cannot be made without an overview of the substance and interrelationship of military and diplomatic policy that the judicial process cannot provide. . . ." Edgar & Schmidt, *supra* note 73, at 933 (footnote omitted).

[257] *See* note 256 *supra*.

[258] *See, e.g.*, Brandenberg v. Ohio, 395 U.S. 444 (1969), *overruling* Whitney v. California, 274 U.S. 357 (1927). *Compare* Chaplinsky v. New Hampshire, 315 U.S. 568 (1942) (Court willing to accept the implied legislative judgment that there is an almost certain link between certain fighting words and the outbreak of violence) *with* Gooding v. Wilson, 405 U.S. 518 (1972) (Court applied a more penetrating scrutiny and found a state law proscribing the use of opprobrious words and abusive language overbroad).

Of course, the problem of judicial competence may be the most troubling aspect about the *Progressive* case or, indeed, any case in which a court is asked to review, or second guess, an executive judgment that certain actions must be taken to protect the national security. The adjudicatory process is probably ill-suited to informed decision-making in this area, but what is the alternative? To refuse to decide such cases is only to decide that the decisions will be made elsewhere. In that event, the judiciary can either treat these issues as a species of political question and withdraw completely, *see, e.g.*, A. Bickel, The Least Dangerous Branch 184 (1962), or it can follow a course of limited review and vest government determinations in this area with a presumption of validity. In either event, given the government's tendency to see national security implications in an enormously wide range of actions, the courts would abdicate a broad measure of their special responsibility to preserve and protect individual rights. In this regard, the comments of Justice Jackson are instructive:

> [F]reedoms of speech and of press . . . may not be infringed on such slender grounds. They are susceptible of restriction only to prevent grave and immediate danger to interests which the State may lawfully protect. . . .
>
> Nor does our duty to apply the Bill of Rights to assertions of official authority depend upon our possession of marked competence in the field where the invasion of rights occurs. . . . [W]e act in these matters not by authority or our competence but by force of our commissions. We cannot because of modest estimates of our competence . . . withhold the judgment that history authenticates as the function of this Court when liberty is infringed.—West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624, 639–40 (1943).

[259] *See* note 253 *supra*.

[260] *See* notes 204–22 *supra* and accompanying text.

[261] *See* 42 U.S.C. § 2161 (1976); notes 24–25 *supra* and accompanying text.

[262] The Progressive, May 1979, at 15, 21-22; Knoll, *Nuclear "Secrets" . . .*, Wash. Post, March 13, 1979, at A 17, col. 2.

[263] The Progressive, May 1979, at 15, 21–22. The Progressive's view has been publicly supported by physicists with backgrounds in nuclear weapons and arms control policy. *See, e.g.*, N.Y. Times, Oct. 8, 1979, at A 18, col. 3.

[264] *See* Wash. Post, Mar. 13, 1979, at A 17, col. 2. The Progressive stated that its purpose is not merely to demonstrate that there is no rational justification for the secrecy mystique that the government has invoked, but also to disseminate information that is, in our judgment, indispensable if Americans are to make informed decisions on urgent issues of public concern—such issues as potential environmental damage, occupational health and safety risks, arms control and disarmament negotiations and federal spending priorities.—*Id. See also* Wash. Post, Mar. 28, 1979, at A 23, col. 2.

[265] N.Y. Times, May 18, 1979, at A 12, col. 1; Wash. Post, May 18, 1979, at A 1, col. 1.

[266] *See Bulletin of the Atomic Scientists*, March 1978, at 28. The government's efforts fell under the Eisenhower program known as "Atoms for Peace". The objective was to give other countries information sufficient to exploit the commercial use of nuclear energy. Although information about weapons design and manufacture was not shared under this program, the basic information needed for commercial activity included certain data transferable to military application. *See Hearings on S. 897 and S. 1432 Before the Senate Subcomm. on Energy Research and Development*, 95th Cong., 1st Sess. 84

(1977) (testimony of Myron Kratzer, International Energy Ass'n) (hereinafter cited as *Hearings on S. 897 and S. 1432*). *See* NUCLEAR ENERGY POLICY GROUP, NUCLEAR POWER ISSUES AND CHOICES 275 (1977). *See generally* Wohlstetter, *Spreading the Bomb Without Quite Breaking the Rules*, 25 FOREIGN POLICY 88 (1976–77).

[267] *See Hearings on S. 897 and S. 1432, supra* note 266, at 84. The United States even trained 169 foreign nationals, now working in their own countries, to use and apply the United States's reprocessing technology to separate plutonium from fission products in irradiated fuel. Because nuclear weapons can be made from small amounts of plutonium, restrictions on the further dissemination of reprocessing technology would be ineffective in reducing the danger of nuclear proliferation made possible by earlier programs. *Id. See generally Wohlstetter*, note 266 *supra*.

[268] *Id. See* Nuclear Energy Policy Group, *Nuclear Power Issues and Choices*, at 277 (1977). Even without the United States's willingness to share atomic energy information, other nations probably could have or would have acquired the information anyway. First, secrets often leak or, if they are important enough, are stolen. More fundamentally, however, basic scientific information about how nuclear fission or fusion occurs, like any other basic information about the physical world, can not really be "secret." If someone discovers a certain scientific principle or phenomenon, he can not truly keep it secret because others remain free to discover the very same principle or phenomenon. The original discoverer can only refuse to disclose what he has learned. As a practical matter, an original discovery may be tantamount to having a secret if the time it takes to rediscover the principle is anything approaching eternity. In all but a few highly exceptional cases, however, rediscovery of basic scientific and technological advances can be expected either simultaneously or in a very short period. This is so because virtually all science and technology is an extension of discoveries previously made and because the general principles underlying any particular development are likely to be widely known. Indeed the inevitable interchange of scientific information coupled with intelligence activities ensures, contrary to public perception, that no country could carry a weapons research project to conclusion in utter secrecy. Even with respect to a society as closed as the Soviet Union, intelligence experts can describe the direction of weapons research, indicate the probable stage of development, and even predict ultimate capabilities.

In most cases, therefore, the most that can be gained from keeping a scientific discovery "secret" is a small time advantage over a nation's competitors. Even such a minimal advantage, however, is arguably important and, in rare situations, it may prove highly valuable to a nation's defense or to its foreign policy. For example, the United States had a temporary monopoly over atomic weapons at a crucial period in world history. It is not too speculative to suggest that, had Germany or Japan been in the United States' position, a far different world order might have resulted. Or, consider the importance of even a temporary monopoly over new forms of warfare that would make the nuclear variety obsolete. Both of these examples, however, are of the rare sort involving original discovery in a completely new field, a state of the world that has long ceased to exist with respect to atomic energy.

[269] Fission bombs, often called atomic bombs, derive their explosive energy from the uncontrolled splitting of the nuclei of certain fissionable materials, principally isotopes of uranium and plutonium. The bombs dropped on Hiroshima and Nagasaki were fission bombs. Fusion bombs, often called hydrogen bombs, derive their explosive energy, which is many times greater than that of an atomic bomb, from the joining of the nuclei of certain light isotopes to produce a more massive one. An atomic bomb provides the tremendous energy needed to trigger the hydrogen bomb, *i.e.*, to fuse the hydrogen nuclei. *See* NEWSWEEK, Oct. 19, 1953, at 34.

[270] BULLETIN OF THE ATOMIC SCIENTISTS, March 1978, at 28. *See* Taylor, *Nuclear Safeguards*, 25 ANNUAL REVIEW OF NUCLEAR SCIENCES 407–21 (1975).

[271] *See Hearings on S. 2236, supra* note 8, at 249–308.

[272] *See id.*

[273] *See id.* at 259, 285; M. WILLRICH & T. TAYLOR, NUCLEAR THEFT: RISKS AND SAFEGUARDS, 6 (1974).

[274] *See Hearings on S. 2236, supra* note 8, at 259; Nuclear Power Issues and Choices, *supra* note 266, at 277–81. The trial court in the *Progressive* case recognized that information alone is not enough to enable a country to construct a hydrogen bomb. The court stated: Does that article provide a "do-it-yourself" guide for the hydrogen bomb? Probably not. A number of affidavits make quite clear that a *sine qua non* to thermonuclear capability is a large, sophisticated industrial capability coupled with a coterie of imaginative, resourceful scientists and technicians. One does not build a hydrogen bomb in the basement.

467 F. Supp. at 993. The current "classic" example of the relative unimportance of publicly available bombmaking information is Pakistan. Notwithstanding its possession of sufficient information about how to build a bomb, Pakistan has only advanced toward actual manufacture by acquiring, sometimes surreptitiously, the sophisticated equipment and machinery needed for its project. *See* N.Y. Times, Aug. 24, 1978, at 43, col. 1; *id.*, Jan. 27, 1978, at 5, col. 1. Pakistan, like India before it, used its "peaceful" nuclear power program as a subterfuge to obtain the indispensable, and probably otherwise unobtainable, nuclear weapons equipment. Pakistan denies it is building a nuclear weapon. *Id.*, Apr. 4, 1980, at A 1, col. 5; Apr. 9, 1979, at A 1, col. 2.

[275] *See* NUCLEAR POWER ISSUES AND CHOICES, *supra* note 266, at 277–31. Plutonium exists in nature only in minute quantities. It is a by-product of certain atomic reactions. Because producing plutonium requires both a nuclear reactor and a nuclear waste reprocessing capibility, it is not easily obtainable. Uranium does occur naturally, but the fissionable isotopes occur in such minute quantities that, as an energy source, natural uranium is of little value. Enriching uranium to usable levels requires facilities even more complex than those required to generate and isolate plutonium. Only a very few nations have the capability to produce either. *See* Gilensky, *Military Potential of Civilian Nuclear Power*, in NUCLEAR PROLIFERATION: PROSPECTS FOR CONTROL 41 (1970).

Weapons-grade materials are controlled by a handful of nations, including, obviously, the United States and the Soviet Union. Unless these nations donate these materials for political reasons, or lose them by theft, or allow nations such as Pakistan and India to obtain them under the pretext of "peaceful" nuclear power programs, there is, as a practical matter, no way that other nations or subnational organizations such as terrorist groups, can construct nuclear weapons—no matter how much theoretical and design information they possess. *See Hearings on S. 2236, supra* note 8, at 259, 285–86, 304–05; A. GUHN, NUCLEAR PARADOX SECURITY RISKS OF THE PEACEFUL ATOM 26–27 (1976).

[276] N.Y. Times, June 9, 1979, § L, at 14, col. 1; Wash. Post, June 9, 1979, at A 1, col. 6.

[277] *See, e.g.*, A GUHN, *supra note* 275, at 37–66; *Hearings on S. 897 and S. 1432, supra note* 266, at 92–93 (testimony of Dwight Porter, International Government Affairs, Westinghouse Electrical Corp.)

[278] New York Times Co. v. United States, 403 U.S. at 279 (Stewart, J., concurring).

[279] As indicated, THE PROGRESSIVE article probably would have gone to print without any government review had not the magazine and one recipient of an advance copy brought it to the attention of Energy Department officials. *See* note 92 *supra*.

[280] *See* notes 22–26 *supra* and accompanying text.

[281] New York Times Co. v. United States, 403 U.S. at 724 (Douglas, J., concurring).

[282] *See, e.g., Hearings on S. 1717, supra* note 137, at 155, 277. This theme was sounded repeatedly in the testimony of the atomic scientists who testified on atomic energy legislation in 1946. *Id.* Albert Einstein once said, "[t]he progress of science presupposes the possibility of unrestricted communication of all results and judgments—freedom of expression and instruction in all realms of intellectual endeavor". A. L. MACKAY, SCIENTIFIC QUOTATIONS 51 (1977), quoting A. EINSTEIN, OUT OF MY LATER YEARS (1950).

[283] *See, e.g.* HARVARD UNIVERSITY LIBRARY, CURRENT JOURNALS IN THE SCIENCES (6th ed. 1975). This publication lists over 7,100 entries.

[284] *See Hearings on S. 897 and S. 1432, supra* note 266, at 93, 96. This latter development can be readily seen by the expanding role assumed by France and Germany in supplying reprocessing technology to other nations in the absence of the United States willingness to serve as a supplier. *Id.*

[285] *See* H. P. GREEN & A. ROSENTHAL, GOVERNMENT OF THE ATOM: THE INTEGRATION OF POWERS 199–201 (1963).

[286] *See, e.g.*, Catholic Action of Hawaii v. Brown, 468 F. Supp. 190, 193 (D. Hawaii 1979) (nuclear weapons storage project exempt from environmental impact statement requirements); **Ruebhausen & von Mehren**, *The Atomic Energy Act and the Private Production of Atomic Power*, 66 HARV. L. REV. 1450, 1482–83 (1953); Marks, *The Atomic Energy Act: Public Administration Without Public Debate*, 15 U. CHI. L. REV. 839, 841–43 (1948).

[287] *See* Marks, *supra* note 286, at 841–43. For example, only recently it has come to light that the government withheld information and purposefully confused the public about the effect of radioactive fallout and other ills associated with above-ground nuclear weapons testing conducted during the 1950's and 1960's. *See* N.Y. Times, May 13, 1979, at A 1, col. 5. Similarly, particularly since the incident at the Three Mile Island Power Plant, questions have been raised about the candor and completeness of government disclosures about the safety and reliability of nuclear facilities. *See, e.g.*, N.Y. Times, May 8, 1979, at A 1, col. 5; *id.*, Apr. 13, 1979, at A 1, cols. 1–2; *id.*, Apr. 4, 1979, at A 16, cols. 1–2.

[288] *See e.g.*, Green, *The Recombinant DNA Controversy: A Model of Public Influence*, BULLETIN OF THE ATOMIC SCIENTISTS, Nov. 1978, at 12. Professor Green specifically discusses the parallel between attempted regulation of DNA research and control over atomic energy research. *See also* T. EMERSON, THE SYSTEM OF FREEDOM OF EXPRESSION 9–11 (1970) (the dynamics of articulating and applying restrictions on freedom of speech necessarily result in greater or more widely applicable restrictions).

[289] Of course, no clear line can be drawn between information that is useful militarily and information that is useful in peaceful applications. *See Hearings on S. 2236, supra* note 8, at 305. This does not mean, however, that the effort to narrow the reach of the Restricted Data concept should be **abandoned**.

[290] Typical of the negative reactions were those printed by the leading papers published in Washington, D.C. The Washington Post called *The Progressive* action "John Mitchell's Dream Case," Wash. Post, Mar. 11, 1979, at A 1, col. 2, and The Washington Star described it as a "flawless case for censors," Wash. Star, Mar. 13, 1979, at 8, col. 1. Other papers rallied to *The Progressive's* defense immediately, *see, e.g.*, N.Y. Times, Mar. 29, 1979, at A 22, col. 1. The ranks of supporters steadily increased as the implications of permitting the government to impose secrecy on the discussions and writings of scientists and writers outside of government became clear. Indeed, the New York Times Co., the American Society of Newspaper Editors, the Association of American Publishers, Inc., the National Association of Broadcasters, the Association of American University Presses, the Globe Newspapers Company, the Chicago Tribune Co., the Reporters Committee for Freedom of the Press, the Freedom to Read Foundation, and Scientific American Magazine filed briefs as amici curiae supporting *The Progressive's* position before the court of appeals.

In this regard, the *Progressive* case is a somewhat anomalous prior restraint case in that the passage of time between the trial court's decision and the appellate court's consideration of the matter helped rather than hurt the magazine. Ordinarily, the assumption is that prior restraints are particularly objectionable because, even if ultimately lifted, they cut off the immediacy of speech. *See, e.g.*, A. BICKEL, THE MORALITY OF CONSENT 61 (1975). This objection was not present in the *Progressive* case because the timing of the speech was not a major factor in the controversy. The impact of releasing hydrogen bomb data would be essentially the same whether the release occurred in May or November. Indeed, the government's actions almost insured a wider, more interested audience for the piece. What was occasioned by the months between the trial court's decision and later review was an opportunity for everyone—the press, the public, and the legal community—to take a closer, more rational look at the interests of both sides.

[291] 467 F. Supp. at 995.

[292] H.R. REP. No. 1758, 85th Cong., 2d Sess. 18 (1958). ●

REPORT ON FBI REVIEW OF ACOUSTICAL REPORTS PUBLISHED BY HOUSE SELECT COMMITTEE ON ASSASSINATIONS

(Mr. STOKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. STOKES. Mr. Speaker, on December 1, 1980, I was provided with a report prepared by the Technical Services Division of the Federal Bureau of Investigation. Dated November 19, 1980, this report was entitled "Review Requested by the Department of Justice of the Acoustical Reports Published by the House Select Committee on Assassinations".

As the former chairman of the former House Select Committee on Assassinations, I want to bring the report to the attention of my colleagues in the House. This report and the letter of transmittal from Robert L. Keuch, special counsel to the Attorney General, are hereby made a part of the RECORD.

Mr. Speaker, I also file, herewith, a copy of a news release by Bolt Beranek & Newman, Inc. dated December 4, 1980.

Mr. Speaker, it is anticipated that in the 97th session of Congress, I will have further and additional information for the House regarding this entire matter.

The material follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., December 1, 1980.

Hon. LOUIS STOKES,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STOKES: On November 8, 1979, the Department requested that the Technical Services Division of the Federal Bureau of Investigation review the acoustical research performed for the U.S. House of Representatives Select Committee on Assassinations. As you may recall, that review was initiated on December 10, 1979.

The FBI released its report, a copy of which is attached, to my office today. Copies are being provided to the National Academy of Sciences and to the National Science Foundation. The report will also be released to the public. The Department does not intend to formulate any final conclusions or proposals in the John F. Kennedy assassination investigation prior to receipt of the National Academy of Sciences report, which report was described in my October 7, 1980 letter to you.

Your continued cooperation in the John F. Kennedy assassination investigation is appreciated.

Sincerely,

ROBERT L. KEUCH,
Special Counsel to the Attorney General.

REVIEW REQUIRED BY THE DEPARTMENT OF JUSTICE OF THE ACOUSTICAL REPORTS PUBLISHED BY THE HOUSE SELECT COMMITTEE ON ASSASSINATIONS

(Review prepared by the Technical Services Division, Federal Bureau of Investigation, November 19, 1980)

ABBREVIATIONS USED IN REVIEW

BBN: Bolt Beranek and Newman, Inc.
The Committee: The House Select Committee on Assassinations.
dB: Decibels.
DPD: Dallas Police Department.
ft: Feet.
mph: Miles Per Hour.
sec: Seconds.
TSBD: Texas School Book Depository.

I. The findings of the Federal Bureau of Investigation's Review of the Accustical Reports Published by the House Select Committee on Assassinations:

1. The analyses of acoustical evidence by Bolt Beranek and Newman, Inc., Mark R. Weiss, and Ernest Aschkenasy did not scientifically prove that a gunshot was fired by a second gunman from the grassy knoll area of Dealey Plaza during the assassination of President Kennedy on November 22, 1963. Therefore, the House Select Committee on Assassination's finding that "scientific acoustical evidence establishes a high probability that two gunmen fired at President John F. Kennedy" is invalid.

2. The analyses of acoustical evidence by Bolt Beranek and Newman, Inc., Mark R. Weiss, and Ernest Aschkenasy did not scientifically prove that the Dictabelt recording of Channel 1 of the Dallas Police Department radio system contains the sounds of gunshots or any other sounds originating in Dealey Plaza during the assassination of President Kennedy on November 22, 1963.

II. Summary of Bolt Beranek and Newman, Inc., Report Entitled "Analysis of Recorded Sounds Relating to the Assassination of President John F. Kennedy," Dated January 1979:

In May, 1978, the House Select Committee on Assassinations (the Committee) asked Bolt Beranek and Newman, Incorporated, (BBN) to conduct an examination of several items of evidence involved in the assassination of President John Fitzgerald Kennedy in Dealey Plaza, Dallas, Texas, on November 22, 1963. One of the items of evidence was a recording made on a Dictabelt recorder which had continuously recorded Dallas Police Department (DPD) radio traffic on channel 1 directly before, during, and after the assassination of President Kennedy. During the assassination the radio of a DPD motorcycle, that may have been in the Presidential motorcade, was thought to have been stuck in the transmitting mode for approximately five minutes. BBN was asked to analyze the recording to determine if it contained the sounds of gunfire, and if so, how many gunshots were recorded by the DPD Dictabelt recorder and from what locations did the gunshots originate.

BBN used a bandpass and a digital adaptive filter to process the DPD channel 1 recording during the specified five minutes, and then displayed this enhanced signal in the form of a time-continuous waveform. This waveform displayed five impulsive noise patterns thought to be different from motorcycle sounds, according to BBN, and then the report reflects that four of these patterns appeared to be "similar to the expected characteristics of a shock wave and of a muzzle blast" of a discharged weapon. The other pattern was eliminated as a possible gunshot, according to the report, since it "was sufficiently different in amplitude and duration as to have been caused by a different source."

The BBN report states that a discharge from a rifle firing a supersonic bullet creates two sources of impulsive sound—the muzzle blast and the shock wave of the projectile as it travels faster than the speed of sound. These two sounds plus the proceeding echoes of these sounds reflecting and diffracting off surfaces, such as the sides of buildings, the ground, and automobiles, result in a particular echo pattern of sound impulses.

If a gunshot had been sensed by a DPD motorcycle microphone then "all sound impulses arriving at the [DPD motorcycle] microphone that are loud enough to be heard over the environmental noise would be transmitted over the radio connected to the microphone. In this case, the environmental noise consisted primarily of the very loud, repetitive noise made by the engine of a moving motorcycle . . ."

"The loudest sound impulses from gunfire are considerably louder than the loudness of speech, for which the [DPD] radio was designed to operate. These loud impulses overdrive the radio circuitry. Because of the limiting circuits in the radio transmitter, very loud sounds are recorded in distorted fashion and appear as much weaken signals than they really are . . ."

"After the sounds that are picked up at the microphone had been transmitted to the DPD radio receiver, the output of the receiver was recorded on a Dictabelt recorder. The circuitry of the receiver and the characteristics of the recorder also affected the transmitted signals. The recorded loudness of the sounds transmitted from the motorcycle radio with the stuck microphone were additionally affected somewhat by simultaneous transmissions from other officers in the motorcade. An FM radio receiver, such as the one in DPD headquarters, receives best from the transmitting radio having the strongest transmitted signal . . ."

"Thus, the effects of severe environmental noise, of the limiting circuitry of the radio transmitter, of simultaneous radio transmissions, and of the recording characteristics of a Dictabelt recorder were such that any waveforms that would emerge from an analysis of the tape would be severely distorted."

Tests performed by BBN on a radio system similar to that used by the DPD and depicted in Figure 10 of the BBN report showed considerable distortion of loud impulsive sounds, such as gunshots, which resulted in elimination of impulse peaks, changing the position of peaks, and even producing new peaks where no impulse peaks previously existed.

Preliminary tests by BBN determined that the four chosen impulse patterns occurred at approximately the same time as the known gunshots in Dealey Plaza, that no other sufficiently characteristic patterns were located in the pertinent five-minute segment, that the time span between the first and fourth patterns did not contradict photographic evidence concerning the timing of the first and last gunshots, that the distorted patterns approximated test patterns of gunshots, and that the amplitudes of the impulse patterns were in the same range as test gunshots.

On August 20, 1978, BBN fired a total of 12 test gunshots with weapons located only in the Texas School Book Depository (TSBD) and on the grassy knoll area in Dealey Plaza. Using 36 microphones located 18 feet apart on Houston and Elm Streets in Dealey Plaza, BBN recorded these test gunshot blasts in an effort to reconstruct acoustically the impulse patterns recorded by the DFD radio system during the assassination of President Kennedy. Even though few physical changes had been made in Dealey Plaza since 1963, producing comparable test patterns was very difficult since the impulse patterns on the DPD recording were like "badly smudged 'fingerprints'," due to the noisy environment in the vicinity of the transmitting DPD radio microphone, the poor quality of the DPD recording system, and a number of other problems.

Using the 12 different test gunshots from the TSBD and the grassy knoll and the 36 different microphone locations used by BBN, a total of 432 gunshot patterns were recorded (12x36=432). These 432 test gunshot patterns were then compared to the impulse patterns isolated on the channel 1 DPD recording using the statistical analysis technique of binary correlation. "The binary correlation coefficient of two sequences is a number that is exactly 1.0 if the sequences are identical and that rapidly approaches zero as they grow more dissimilar." This comparison provided a total of 15 matches with a correlation coefficient equal to or exceeding 0.6; however, the expected average number of false matches for such a comparison was 13, due to random noise impulses present throughout the DPD tape.

BBN then stated that at least six of the 15 correlations were false matches, because one gunshot would have been fired at the wrong target, one would have occurred only 1.05 seconds after earlier correlations which is too fast a firing rate for the tested rifle, three would have required a motorcycle with the open microphone to travel at 16 mph, and one would have required the motorcycle to travel at 55 mph. The motorcade was thought to have been traveling at approximately 11 mph. The remaining nine correlations sufficiently matched the four designated impulse patterns on the DPD recording to show a DPD microphone location varying between 120 and 160 feet behind the Presidential limousine. Further, the BBN analysis found that the four impulse patterns may have been gunshots fired as follows:

"1. time 0.0 sec—one shot from the [TSBD] . . ."

"2. time 1.6 sec—one shot from the TSBD . . ."

"3. time 7.8 sec—one shot from behind the fence on the knoll . . ."

"4. time 8.3 sec—one shot from the TSBD . . ."

The BBN conclusions were presented in oral testimony to the Committee on September 11, 1978, reflecting that the radio on a DPD motorcycle in the Presidential motorcade had received and transmitted the four specified impulse sounds, and that each of these impulse sounds was possibly a gunshot. Due to the false matches produced by the binary correlation detector at a "50%" rate per match, the probabilities, according to BBN, that a gunshot occurred at the four times are:

"Shot 1. 88% based on three matches.

"Shot 2. 88% based on three matches.

"Shot 3. 50% based on one match.

"Shot 4. 75% based on two matches."

BBN stated that the probability that all four gunshots occurred is only 29%.

The final findings of the BBN analysis, which also includes a review of the work of Weiss and Aschkenasy (summarized in Section III) are:

1. The impulse patterns on channel 1 of the DPD radio system recording probably include the sounds of four gunshots fired in Dealey Plaza on November 22, 1963.

2. The impulse patterns were received and transmitted by a radio mounted on a DPD motorcycle in the Presidential motorcade and the motorcycle was located from 120 to 160 feet behind the Presidential limousine.

3. "The first probable shot was fired at about 12:30:47 from the TSBD . . . [but] no conclusion can be drawn about whether this first acoustic disturbance was due to a rifle or to a sound impulse as loud as the report of a rifle. . . ."

4. "The second probable shot was fired about 1.6 sec after the first one, also from the TSBD . . ."

5. "The third probable shot was fired about 7.6 sec after the first one, and it was fired from behind the fence upon the 'grassy knoll' . . . [and] the third shot is probably from a rifle."

6. "The fourth probable shot was fired about 8.3 sec after the first one, and it was fired from the TSBD . . . [and] the fourth shot is probably from a rifle."

7. "Additional police radio transmissions are intermittently recorded on the tape during and after the last two probable shots. These transmissions contribute a few electrical impulses to the noise background in which the impulses of gunfire are set. However, these noise impulses are too few in number to have a material effect on the accuracy by which the echo patterns of the acoustical reconstruction match the impulse patterns on the DPD tape."

III. Summary of Mr. Mark R. Weiss and Mr. Ernest Aschkenasy's Report Entitled "An Analysis of Recorded Sounds Relating to the Assassination of President John F. Kennedy," Dated February 1979:

On October 24, 1978, the Committee authorized Mark R. Weiss and Ernest Aschkenasy, Department of Computer Science, Queens College, City University of New York, to conduct an independent analysis of specified sounds recorded on channel 1 of the DPD radio system. The purpose of the analysis was to determine with greater accuracy whether certain sounds on the DPD recording were indicative of a gunshot from the grassy knoll in Dealey Plaza, Dallas, Texas, on November 22, 1963, during the assassination of President Kennedy. The BBN report (summarized in Section II) had reflected "that, with a probability of 50 percent, the recording contains sounds of a gunshot, or at least sounds as loud as a gunshot, fired from the so-called grassy knoll area of Dealey Plaza in Dallas; they were received by a microphone on a DPD motorcycle that was moving on Elm Street at a speed of about 11 mph in the same direction as the Presidential motorcade."

To conduct their analysis, Weiss and Aschkenasy received from the Committee high quality magnetic tape copies of the DPD recording, a high quality tape copy of the gunshot sounds recorded by BBN during the acoustical reconstruction tests performed in Dealey Plaza on August 20, 1978, a topographical survey map of Dealey Plaza (scale: 1 inch to 10 feet), a map of Dealey Plaza (scale: 1 inch to 40 feet) with microphone locations used by BBN in their gunshot reconstruction tests, and aerial and ground-level photographs of Dealey Plaza and the surrounding areas. The Committee also provided them with additional information "such as the heights of buildings in Dealey Plaza, the distance to objects not shown on the maps, the location of the DPD shooter during the BBN reconstruction experiment and the air temperature in Dealey Plaza at the time of the assassination and during the reconstruction experiment."

Weiss and Aschkenasy's report reflects that during the assassination of President Kennedy the radio of a DPD motorcycle, that may have been in the Presidential motorcade, was thought to have been stuck in the transmitting mode for approximately five minutes. During this five-minute interval, staticlike sounds that might be distorted gunshots were heard, including the impulse pattern that BBN had identified as having a 50-percent probability of being a gunshot or an equally loud sound in the area of the grassy knoll in Dealey Plaza. Weiss and Aschkenasy attempted to determine whether these staticlike sounds represented a gunshot sound and not another type of loud sound, whether the origin of these sounds could be more precisely located on the map, and whether a higher probability value could be computed.

Their report states that "the DPD recording [being examined] contains a wide range of sounds—speech, clicks, whistles, motor noises, sirens, and even the sound of a carillon bell. Mostly the recording contains sounds generated during normal communications on channel 1 of the DPD radio dispatching system. . . . At the time that the BBN analysis estimates to have been about 12:28 p.m., a microphone on a mobile unit apparently became stuck in the 'on' position and began to transmit a continuous noise that is believed to be the sound of a motorcycle engine."

Weiss and Aschkenasy state that the staticlike sounds on the DPD recording could be distorted gunshot sounds, since the DPD radio system would have ". . . compress[ed] the peak amplitude of the sounds of the muzzle blast and of its strongest echoes, making them only slightly louder than those of some of the weaker echoes. Furthermore, if the microphone was on a DPD motorcycle in the motorcade, most of the many very weak echoes of the muzzle blast would have been obscured by the noise of the motorcycle engine (which is possibly the source of the continuous noise on the DPD recording). Consequently, the sounds of a gunshot would have been recorded as a sequence of very brief impulse sounds (the muzzle blast and its loudest echoes), only a few of which would have been larger than the accompanying engine noise, and none of which would have sounded to the ear like gunshots after being distorted by the limiting circuitry of the DPD radio and recording equipment."

The report states that the higher impulse sounds on the DPD recording could be generated by a number of sources including misfiring of a motorcycle engine, noise produced by the motorcycle's ignition system, radio on-and-off clicks, scratches on the Dictabelt and electrical or mechanical disturbances in the system. Weiss and Aschkenasy, in an effort to differentiate these sounds from a gunshot, stated that "the most effective and most reliable" characteristic to determine if a sound is a gunshot is the presence or absence of an array of echo-delay times of the muzzle blast. This array is produced since firing a gun produces a loud impulse sound about 5 milliseconds (5/1000 of a second) in length that spreads out in all directions.

This sound is then reflected and diffracted off any structures in the area, producing echoes which arrive at the microphone later than the direct muzzle blast impulse. Weiss and Aschkenasy's report states that the specified impulse pattern on the DPD recording had this array of echo delay times, thus reflecting that it was gunshot.

However, in public testimony before the Committee on December 29, 1978, Weiss stated that it is ". . . not so much the echo pattern as the evidence of a [supersonic] shock wave" that would characterize a gunshot sound, and eliminate other sounds like the backfire of a motorcycle. Weiss further stated he ". . . cannot think of any [other sound] that might resemble . . ." the pattern he determined to be a gunshot due to the presence of the supersonic shock wave and the muzzle blast impulses.

Weiss and Aschkenasy state in their report "if we now assume that the sound source (the gun) and the listener are located in a typical urban environment, with a number of randomly spaced echo-producing structures, it is possible to see that the pattern of sounds a listener will hear will be complex and unique for any given pair of gun and listener locations. For example, assuming a fixed location of a listener, the echoes that he hears and the times at which he hears them will be related uniquely to the location of the gun, since for each different location of the gun, even though the distances from the listener to the various echo-producing objects are the same, the distances from these objects to each gun location are different.

Consequently, the times at which the echoes are heard will be different for each location of the gun. Similarly, assuming a fixed location of the gun, any change in the location of the listener will change the distances between him and the echo-producing structures, and thus the timing of the pattern of sounds he hears. If the listener is in motion as the muzzle blast and the various echo sounds reach him, the times at which he hears the muzzle blast and its echoes will be related uniquely to his location when he hears each sound. . . . The "listener" that we have discussed, of course, could be either a human ear or a microphone. If a microphone receives the sounds and they are subsequently recorded, the recording becomes a picture of the event, not unlike a "fingerprint," that permanently characterizes the original gun and microphone locations.

Using the topographical map of Dealey Plaza and the BBN reconstruction results (test gunshots fired only from the TSBD and the grassy knoll), Weiss and Aschkenasy attempted to predict a pairing of a shooter and a microphone that would produce a sound pattern that would match the specified impulse pattern on the DPD recording. To calculate these predicted echo-delay sequences or patterns of a particular shooter and microphone location in Dealey Plaza, three pieces of information were needed: "(1) Which objects in Dealey Plaza would produce echoes in the region of interest on Elm Street for a gun fired from the vicinity of the grassy knoll[?]; (2) how far these objects were from the locations of the gun and of the microphone[?]; and (3) what was the speed of sound under the conditions for which the echo travel times were to be predicted[?]." First, a close examination of the topographical map revealed many of the reflecting and diffracting surfaces within Dealey Plaza. Second, direct measurement on the map determined the distances from the gun to the reflecting and diffracting surfaces and then to the microphone location. Third, the speed of sound was determined to be approximately 1,123 feet per second, principally by using the known air temperature near Dealey Plaza on November 22, 1963, of approximately 65 degrees Fahrenheit.

To make a comparison of predicated echo-delay patterns to the specified pattern on the DPD recording, the error in time accuracy of the DPD recording had to be determined. Weiss and Aschkenasy used a plus or minus 1.0 percent error for the speed of sound due to temperature variations (plus or minus 10 degrees Fahrenheit) and a minus 4.0 percent to minus 6.0 percent error for speed variations on the DPD Dictabelt recorder, since the average speed of the recorder over a 15-minute segment was 5.0 percent too slow. These two errors combined to give a maximum possible time error range of minus 3.0 percent to minus 7.0 percent. Weiss and Aschkenasy then state that since any value within this maximum error range is ". . . theoretically valid, it was permissible to choose the value between those limits that created the best match between the impulse and [predicted] echo sequences;" a minus 4.3 percent error factor ". . . gave the best match, and we therefore used that factor."

"After numerous comparisons between the echo-delay times for the sounds on the DPD recording and various predicted patterns for assumed motorcycle and shooter locations that did not match, a combination of motorcycle and shooter locations was found which mathematically produced a predicted pattern that showed strong similarities to the pattern of impulses on the DPD tape. However, to determine with a high level of certainty if these two sequences of echo-delay times, which were derived from different data, represented the same source, it was not enough to show that the sequences looked alike. They had to be shown to be alike in an objective sense, that is, by use of a method of comparison that disregarded potentially misleading appearances. Such a method [according to Weiss and Aschkenasy] was provided by a computation of the binary correlation coefficient of the two sequences. The binary correlation coefficient of two sequences is a number that is exactly 1.0 if the sequences are identical and that rapidly approaches zero as they grow more dissimilar. As used in this analysis, the binary correlation coefficient takes into account the number of echo-delay times in each of the sequences and the number of echoes that coincide. Echoes in the two sequences are said to coincide if their delay times differ by a small amount. The smaller this amount, or 'coincidence window,' can be made while maintaining a high binary correlation coefficient, the greater will be the probability that the DPD sequence represents a gunshot from the grassy knoll."

According to Weiss and Aschkenasy, the binary correlation coefficient is defined as the number of echoes that coincide between the predicted echoes and the specified sound impulses on the DPD recording using the coincidence window, divided by the square root of the product of the total number of predicted echoes and the total number of sound impluses.

Weiss and Aschkenasy then made two comparisons between the pattern of impulses, specified as possibly the third gunshot by BBN, and the most similar predicted echo pattern as computed on the topographical map for a particular shooter and microphone pair. The first comparison was between the DPD recorded impulses ". . . that were significantly louder than the average background noise [a total of 15] and those predicted echoes that would have been recorded with comparable loudness" (a total of 13). Eleven of the recorded impulses and predicted echoes matched (with "impulse peaks that [were] less than one millisecond apart considered to be part of the same impulse"), which produced a binary correlation coefficient of 0.79 (11 divided by the square root of [13 x 15]). "In the other comparison, the delay times of all the recorded sounds [18] and of all of the predicted echoes [12], up to a total delay of 50 milliseconds from the muzzle blast, were compared." Eleven of the echoes and impulses matched, which produced a binary correlation coefficient of 0.75 (11 divided by the square root of [12 x 18]).

"In both of the comparisons described above, the coincidence window was set at plus or minus 1 millisecond. That is, a measured echo-delay time and a predicted one were said to coincide only if they were no more than 1 millisecond apart. For sequences that correlated at levels greater than 0.7 with a coincidence window of plus or minus 1 millisecond, the statistical probability was 95 percent or more that the sequence represented the same source—a sound as loud as a gunshot from the grassy knoll. Put alternatively, the probability that the sounds on the DPD recording were generated by sources other than a sound as loud as a gunshot originating from the grassy knoll is 5 percent or less."

The findings of Weiss and Aschkenasy concerning the specific sounds on the DPD recording are:

"1. The recording very probably contains the sound of a gunshot that was fired from the grassy knoll. The probability of this event is computed to be at least 95 percent.

"2. The microphone that picked up the sounds of the probable gunshot was on Elm Street and was moving at a speed of about 11 miles per hour in the same direction as the motorcade. At the time the probable gunshot was fired, the microphone was at a point about 97 feet south of the TSBD and about 27 feet east of the southwest corner of the building. (For both distances, the uncertainty is about plus or minus 1 foot).

"3. The probable gunshot was fired from a point along the east-west line of the wooden stockade fence on the grassy knoll, about 8 feet (plus or minus 5 feet) west of the corner of the fence."

In testimony in a public hearing before the Committee on December 29, 1978, Weiss listed two additional findings that were not in his report of February, 1979, as follows:

1. The specified pattern found to be a gunshot from the grassy knoll was most likely supersonic, and probably fired by a rifle. However, Weiss and Aschkenasy stated in their report that no analysis was made ". . . of the type of weapon fired."

2. The weapon fired on the grassy knoll ". . . would have been fired in a general direction of [President Kennedy's Limousine]."

Aschkenasy stated at the public hearing on December 29, 1978, that he was so sure of their results that ". . . if someone were to tell me that the motorcycle was not in Dealey Plaza, and he was, in fact, somewhere else, and he was transmitting from another location . . . I would ask to be told where that location is, and once told where it is, I would go there, and one thing I would expect to find is a replica of Dealey Plaza at that location. That's the only way that it can come out."

IV. Federal Bureau of Investigation's critique of the Findings of the Acoustical Analyses Performed by Bolt Beranek and Newman, Inc., Mark R. Weiss and Ernest Aschkenasy:

A review of the written findings and oral testimony of BBN, Weiss and Aschkenasy reflects that the following two basic, underlying premises must both be valid for their findings to be accurate:

1. That the specified impulsive information recorded on Channel 1 of the DPD radio system during the assassination of President Kennedy on November 22, 1963, must have originated in or very near Dealey Plaza, Dal-

las, Texas.* If this premise is not true, then the information analyzed could not have been generated within Dealey Plaza, and thus the findings of BBN, Weiss and Aschkenasy concerning the gunshots fired during the Presidential assassination would be invalid.

2. That the four specified impulsive patterns identified by BBN on the DPD recording are gunshot blasts, and are not other sounds or electrical impulses produced internally by the DPD radio system. The third designated impulse pattern was the only one utilized by Weiss and Aschkenasy in their analysis. If this premise is not true, then the information analyzed did not represent gunshots, and thus the findings of BBN, Weiss and Aschkenasy concerning the possible gunshots fired during the Presidential assassination would be invalid.

There are at least two known acoustical and one nonacoustical method that could determine whether the four specified impulsive patterns on the DPD recording originated from Dealey Plaza, Dallas, Texas, during the Presidential assassination on November 22, 1963. If it can be shown acoustically that the other information on the DPD recording just before, during, and just after the pertinent time period was exclusively from Dealey Plaza, then there is a very high probability that the four impulsive patterns also represent sounds produced in Dealey Plaza. It can also be acoustically proven that the patterns represent sounds from Dealey Plaza if the information being analyzed is unique to Dealey Plaza, to the exclusion of all other locations within the range of the DPD radio system. The non-acoustical method requires proof from eyewitness testimony.

The first acoustical method cannot be used to validate that the designated impulsive information originated in Dealey Plaza, since other sounds during the pertinent portion either did not originate from Dealey Plaza or their origin is unknown. The two reports to the Committee reflect that a carillon bell is heard approximately seven seconds after the last gunshot and no known carillon bells have been located in the vicinity of Dealey Plaza; that ". . . there are brief voice signals from other remote transmitters. Sometimes these signals are too faint to be understood, . . . sometimes they are loud but very distorted, and sometimes they are quite intelligible. These competing transmissions are often, but not always, accompanied by heterodynes, which are tones caused by slight differences in frequency among the competing transmitters;" and that no sounds are heard on the recording that would reflect that the specific information originated in Dealey Plaza, such as crowds cheering, recognizable voices, etc. Clearly this method does not show that the designated patterns originated from Dealey Plaza, and in fact, reflects contrary information.

The second acoustical method utilizing the alleged uniqueness of the designated sounds as applied by Weiss and Aschkenasy, also cannot validate that the implusive information is from Dealey Plaza. Weiss and Aschkenasy stated that "If we now assume that the sound source (the gun) and the listener are located in a typical urban environment, with a number of randomly spaced echo-producing structures, it is possible to see that the pattern of sounds a listener will hear will be complex and unique for any given pair of gun and listener locations." Other than explaining this statement in more detail, they do not provide any empirical or theoretical data to prove this uniqueness.

By locating the sound source in the general vicinity of the grassy knoll and the listener in the approximate location of the motorcycles in the Presidential motorcade, Weiss and Aschkenasy then computed the expected delay times for different echo paths using string on the topographical survey map of Dealey Plaza. The echo delay times occur because it takes a longer period of time for a sound to travel from the sound source to a reflecting surface and to the listener, than to go directly from the sound source to the listener. By shifting the sound source and listener locations slightly, they computed the best match with the impulsive pattern on the DPD recording by maximizing the binary correlation coefficient, a statistical analysis which equals 1.0 when two sequences match perfectly.

In one correlation of the first 50 milliseconds, Weiss asked Aschkenasy compared the impulsive pattern of 18 impulse peaks on the DPD recording, each with a very wide plus or minus 1 millisecond window, to the 12 computed echo delay times, and found 11 matching peaks which, according to them, results in a probability of 95 percent or better that the impulsive pattern on the DPD recording matches the predicted echo pattern in Dealey Plaza. In other words, the predicted sequence for a gunshot fired on the grassy knoll in Dealey Plaza and received by a microphone on a DPD motorcycle, also in Dealey Plaza, matches the designated impulsive sequence on the DPD recording with a probability of 95 percent or better. It is noted that the 18 impulse peaks, each with a plus or minus one millisecond-wide window, would result in approximately 36 milliseconds of the 50-millisecond time period being covered by the windows of the DPD impulses, since Weiss and Aschkenasy considered impulse peaks less than 1 millisecond apart to be part of the same peak.

In November, 1979, a violent confrontation occurred between members of the Ku Klux Klan, the Nazi Party, and the Communist Workers Party in a residential area of Greensboro, N.C., in which five people were killed (the FBI investigation in this matter is being handled under the caption "GREENKIL"). Using professional equipment, local TV personnel on the scene filmed and video taped the events as they happened, including known gunshots and other impulsive sounds that were not gunshots. One of the known gunshots in GREENKIL was compared by FBI acoustical experts to the alleged third shot on the DPD recording, using the same correlation method advocated by BBN, Weiss and Aschkenasy. A probability of 95 percent or better was found that this gunshot in Greensboro, N.C., in November, 1979, also represents the same impulsive pattern found on the DPD recording during the Presidential assassination in November, 1963.

If Weiss and Aschkenasy had used slightly smaller windows of plus or minus 0.9 millisecond instead of 1.0 millisecond windows, their binary correlation coefficient would have dropped to 0.54, or a probability of only 44 percent that the sound pattern on the DPD recording would match the predicted echo sequence from the grassy knoll; whereas the plus or minus 0.9 millisecond windows would have resulted in the same 95 percent or better probability for the gunshot in the Greensboro, N.C. matching the impulsive pattern on the DPD recording. In other words, using the 0.9 millisecond windows and the binary correlation method advocated by BBN, Weiss, and Aschkenasy, the gunshot in 1979 in Greensboro, N.C. had a much higher probability of matching the designated pattern recorded on the DPD recording than the predicted echo pattern of a gunshot from the grassy knoll in Dealey Plaza.

Aschkenasy stated in his oral testimony that if another sound pattern was found that matched the designated pattern on the DPD recording, he ". . . would expect to find . . . a replica of Dealey Plaza at that location. That's the only way that it can come out." However, Dealey Plaza is an urban area with small parks, tall buildings and a number of intersecting wide streets; whereas, the residential area in Greensboro, N.C. has two narrow streets meeting in a "T" intersection, one- and two-story buildings, and small residential lots with fences. The residential area in Greensboro, N.C. is definitely not a replica of Dealey Plaza.

The analysis in the Greenkil investigation clearly disapproves the uniqueness assumptions as applied by BBN, Weiss and Aschkenasy, to show that the impulsive patterns originated in Dealey Plaza. The unplanned occurrence of a gunshot in a residential section of Greensboro, N.C. 16 years after the Kennedy assassination produces an excellent match, using the binary correlation method employed by BBN, Weiss and Aschkenasy, with the designated pattern on the DPD recording that is allegedly the gunshot from the grassy knoll. It is probable then to expect that many of the urban areas within range of the DPD recording system could produce numerous sets of sound sources and microphone locations that would have a very high correlation when compared with the patterns on the DPD recording.

A third, nonacoustical method to determine that the information came from Dealey Plaza is by eyewitnesses who can testify that a DPD motorcycle microphone was "stuck open" in Dealey Plaza on channel 1 and that the information from this particular microphone was being received and exclusively recorded at DPD Headquarters. No conclusive testimony to support this eyewitness method was presented to the Committee.

Therefore, BBN, Weiss and Aschkenasy did not prove that the information on the DPD recording during the Presidential assassination on November 22, 1963, originated in or very near Dealey Plaza, Dallas, Texas.

To prove that a particular sound is a gunshot blast, some unique characteristics must be found that differentiates a gunshot blast from other sounds, especially ones that are impulsive. Weiss and Aschkenasy stated in their written report that "the most effective and most reliable" characteristic to determine if a sound is a gunshot and not some other sound "is the sequence of delay times of the muzzle-blast echoes." However, in contradiction of their written report, Weiss in oral testimony before the Committee on December 29, 1978, stated that ". . . not so much the echo pattern as the evidence of a [supersonic] shock wave . . ." would differentiate a gunshot from other impulsive sounds. Again contradicting themselves, Weiss and Aschkenasy stated in their written report that they made no serious examination to determine if there was a shock wave present before the designated third pattern on the DPD recording. It is not possible to determine from the above which method, if any, Weiss and Aschkenasy used to determine if an impulsive pattern represents a gunshot blast.

If Weiss and Aschkenasy used ". . . the sequence of delay times" as "the most effective and most reliable" characteristic to determine if an impulsive sound is a gunshot, then their theory fails. Figure 1 shows a known gunshot pattern and figures 2 and 3 show patterns from other impulsive-type sounds in the Greenkil investigation, all with a set of delay echoes; therefore this empirical data reflects that other impulsive sounds also produce echoes off buildings, vehicles, etc. Scientific literature also reflects that all sounds, especially impulsive, produce diffractions and reflections or echoes off hard surfaces.

If Weiss and Aschkenasy used the presence of a "shock wave" as the best characteristic to determine if an impulsive sound is a gunshot, then their theory again fails. Analysis in the Greenkil examination determined that to detect a shock wave accurately is very difficult, even under high quality forensic conditions, since the shock wave itself produces a set of delay echoes which combine and change many of the characteristics of the muzzle blast sound signal. Under the poor conditions encountered on the DPD recording, making any statements concerning the shock wave would be extremely questionable. This may be why Weiss and Aschkenasy decided not to comment on the possible presence of a shock wave in their written report. Dr. Barger, in his oral testimony before the Committee on December 29, 1978, stated that there is a 75 percent to 80 percent chance that a shock wave exists before the distorted waveform examined by Weiss and Aschkenasy on the DPD recording. Again the distorted waveform examined on the DPD recording cannot support even this lower percentage estimate.

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*That is, the impulsive sound must have been loud enough to have been received within Dealey Plaza.

[Figures not printed in RECORD.]

There is no proof provided by BBN, Weiss and Aschkenasy that the four patterns on the DPD recording represent gunshot blasts and not some other sounds or electrical impulses produced internally by the DPD radio system.

Since both necessary premises were not proven by BBN, Weiss and Aschkenasy, then their findings must be considered invalid. They neither proved that the impulses on the DPD recording were generated within Dealey Plaza nor that they were the sounds of gunshots. Therefore, the Committee's finding that "scientific acoustical evidence establishes a high probability that two gunmen fired at President John F. Kennedy" is also invalid.

Numerous other problem areas and inconsistencies were noted in the reports of BBN and Weiss and Aschkenasy, including the following:

1. Weiss and Aschkenasy stated on page 14 of their written report that "Impulse peaks that are less than 1 millisecond apart are considered to be part of the same impulse." However, in Table 4 on page 27 of their report they listed separate impulses at 19.3 and 20.1 milliseconds, which are only 0.8 milliseconds apart.

2. Figure 10 on page 76 of the BBN report reflects the considerable convolutional change that occurs to the sound of a gunshot blast transmitted and recorded by a police radio system similar to the one used by the DPD in 1963. This considerable change in the sound pattern is such that accurate analysis of any impulsive sounds produced by this system would be very difficult.

3. No known microscopic examination of the original DPD Dictabelt has been conducted to determine if any of the patterns analyzed may have been caused by surface imperfections on the Dictabelt and then distorted by the equipment's poor amplification system.

4. BBN eliminated a number of possibly useful impulsive patterns because they presupposed that gunshots originating on the grassy knoll and in the TSBD were aimed at President Kennedy and that these gunshot sounds were transmitted by a DPD motorcycle microphone located in the Presidential motorcade. One pattern was not further analyzed because it would represent a gunshot ". . . fired in a direction opposite to that of the logical target." Another pattern was eliminated ". . . because it occurred only 1.05 sec later than earlier correlations also obtained from the TSBD. The rifle cannot be fired that rapidly." BBN did not consider whether a second gunman could have been at the same location. Four impulsive patterns were eliminated because the specified motorcycle would probably be traveling too fast to be in the motorcade; however, the impulse could have been received by another motorcycle with an open microphone or in another part of the city. In other words, six other gunshots may have occurred in Dealey Plaza, according to the BBN analysis, though not necessarily aimed at President Kennedy or received by the specified motorcycle.

5. Weiss and Aschkenasy, after determining that the error range for temperature and recorder speed variations was minus 3.0% to minus 7.0%, stated that a minus 4.3% correction "gave the best match, and we therefore, used that factor." Rigorous scientific research would not allow adjusting the error factor to make the best fit with the presupposed positions of a sound source and a listener.

V. Reply to Department of Justice Requests of November 8, 1979:

By letter dated November 8, 1979, from Robert L. Keuch, Special Counsel to the Attorney General, to the Director, FBI, and captioned "Report of the Select Committee on Assassinations," the following requests were made of the FBI's Technical Services Division.

1. Provide any information concerning the theory and application of acoustical principles as they relate to the analysis of the DPD tape.

2. Advise whether further scientific tests and analyses should be conducted of the DPD recording. If further analyses are recommended, advise who should conduct the examinations.

3. Provide any additional recommendations that are pertinent to the acoustical examinations.

Sections II, III, and IV of this review set forth a summary of the acoustical reports of BBN and Weiss and Aschkenasy, and a critique of their reports. The critique reflects that these acoustical reports failed to scientifically prove the location or even the existence of any gunshots on the DPD recording made during the assassination of President Kennedy. The critique also lists a number of other major faults in the acoustical reports of BBN and Weiss and Aschkenasy; however, to list and document all of the numerous errors found would require a considerable amount of time beyond that presently available to Technical Services Division personnel.

Visual examination of the waveforms displayed in the acoustical reports reflect that they are of very poor quality, probably due to the limited quality of the transmitting, receiving, and recording facilities of the DPD radio system. Due to this poor quality, it is considered highly unlikely that any valid scientific conclusions would be reached as to the exact nature of the designated impulsive patterns recorded on the DPD Dictabelt or their sources.

If the Department of Justice (DOJ) decides that a thorough examination should be conducted of the DPD recording, even with the high probability that no valid conclusions could be reached, then the choices are very restricted. The organization or independent consultant conducting such an examination must have considerable knowledge and the appropriate experience in the fields of forensic acoustics, especially as it relates to gunshot blasts; forensic signal analysis; tape recorder and microphone theory; radio communications, RF propagation, receivers and antennas; forensic firearms and ballistics; digital signal processing; and statistical analysis. The organization or consultant would also need a high speed digital processing system, a complete forensic acoustics laboratory, a firearms test range, and appropriate radio equipment, tape recorders, microphones, and digital waveform analysis equipment.

The FBI's Signal Analysis Unit, in the Engineering Section of the Technical Services Division has been involved on a full-time basis in the fields of forensic acoustics, signal analysis, ballistics, and engineering for a number of years. FBI acoustical experts have examined and analyzed a number of recordings containing gunshots and other impulsive-type sounds. In the GREENKIL investigation, the FBI acoustically examined over 100 impulsive-type sounds that had been recorded on site in Greensboro, N.C., with professional recording equipment. The examination determined that 39 gunshots had been fired and specified the location of each gunshot fired by members of the Ku Klux Klan, the Nazi Party, and Communist Workers Party. This examination took approximately one and one half man-years and the results were presented in criminal court in Greensboro, N.C., in September, 1980, by an FBI acoustical expert. The FBI has the necessary expertise, but a full scale examination of the acoustic evidence, including additional tests, if needed, in Dealey Plaza, would be a tremendous undertaking, especially considering the probable inconclusive results. It would take at least two to three years, require 10–12 man-years of work, cost in excess of $1,000,000 for travel and specialized equipment and require a number of new personnel to be assigned to the Signal Analysis Unit of the Engineering Section to replace the experts that would be involved on the project.

Due to the very limited quality of the DPD Dictabelt recording, and the remote possibility that further scientific research would produce valid results, no additional recommendations are being made at this time.

Acoustics Experts Reject FBI's Findings in JFK Assassination Tape Analysis

Cambridge, Mass., December 4, 1980.—Bolt Beranek and Newman Inc., together with Professor Mark Weiss of Queens College, City University of New York and Mr. Ernest Aschkenasy of New York City, today announced that they have reviewed the FBI report made available to the public earlier this week and said:

"We received the FBI report on December 2, through the courtesy of Congressman Louis Stokes. We are firmly convinced that the findings we presented in our written reports and in oral testimony before the House Select Committee on Assassinations are logically and scientifically correct and we disagree completely with the conclusions of the FBI report. A point-by-point response explaining our disagreements with the FBI report will be issued as soon as is feasible.

Many out-of-context quotations in the report and the omission of any scientific data with which to refute our findings indicate that the FBI has not fully understood the techniques and underlying concepts of our analysis. We are also disturbed to find that in light of the FBI's sweeping contrary conclusions, they made no attempt to discuss our work with us in order to verify their understanding of our analysis. Just as we welcomed questioning by the members of the House Select Committee on Assassinations in executive and public sessions, we would have welcomed a request from the Technical Services Division of the FBI to provide them with explanation and clarification of our work."

The acoustics experts further stated that they look forward to seeing the results of the ongoing review of their findings by a committee of the National Academy of Sciences, which is currently conducting a study of acoustical evidence related to the Kenendy assassination. The study, which is being paid for by the Department of Justice and administered by the National Science Foundation, was commissioned in response to a recommendation by the House Select Committee on Assassinations.

Bolt Beranek and Newman Inc., Professor Weiss, and Mr. Aschkenasy said that they strongly urge the Department of Justice to include the FBI's report in the current review by the committee of the National Academy of Sciences.●

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and to include extraneous matter on the 1-minute speech today by the gentleman from Florida (Mr. Mica) on the retirement of our colleague, the gentleman from Florida (Mr. Stack).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Lederer (at the request of Mr. Wright), for today, on account of a necessary absence.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Drinan, for 5 minutes, today.

Mr. Giaimo, special order, 5 minutes, today.

(The following Members (at the request of Mr. Tauke) to revise and extend their remarks and include extraneous material:)

Mr. Porter, for 5 minutes, today.

Mr. Buchanan, for 15 minutes, today.

Mr. Miller of Ohio, for 30 minutes, on December 12.

(The following Members (at the request of Mr. Matsui) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 30 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. White, for 5 minutes, today.

Mr. Mica, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Udall, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. McCloskey and to include extraneous material not withstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $7,680.

(The following Members (at the request of Mr. Tauke) and to include extraneous matter:)

Mr. Wampler.
Mr. Porter.
Mr. Forsythe.
Mrs. Heckler.
Mr. Walker.
Mr. Dougherty.
Mr. Rudd.
Mr. Thomas.
Mrs. Smith of Nebraska.
Mr. Miller of Ohio in four instances.
Mr. Stangeland.
Mr. Ritter.

(The following Members (at the request of Mr. Matsui) and to include extraneous material:)

Mr. Shannon.
Mr. Mica.
Mr. Rodino.
Mr. Kildee in two instances.
Mr. Fazio in four instances.
Mr. Fisher.
Mr. Skelton.
Ms. Ferraro.
Mr. Weaver.
Mrs. Boggs.
Mr. Weiss.
Mr. Barnes.
Mr. Giaimo in 10 instances.
Mr. Edgar.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following title:

S. 1142. An act authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes;

S. 1985. An act to authorize the Secretary of Agriculture to convey lands in the State of Arizona, to authorize the Secretary of the Interior to convey certain interests in lands in the State of Arizona, to amend the act of March 14, 1978 (92 Stat. 154), and for other purposes; and

S. 2726. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1981, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following title:

On December 10, 1980:

H.R. 2170. An act to provide for the reimbursement of legal expenses incurred by the city of Fairfax with respect to a 1971 entry and search by employees of the Federal Government;

H.R. 5487. An act to designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes;

H.R. 7147. An act to provide that certain land of the United States shall be held by the United States in trust for certain communities of the Mdewakanton Sioux in Minnesota;

H.R. 8173. An act to provide for distribution in the United States of certain International Communication Agency films relating to President Lyndon Baines Johnson; and

H.R. 8386. An act for the relief of Roy P. Benavidez.

On December 11, 1980:

H.R. 999. An act to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes;

H.R. 4522. An act for the relief of Annette Jutta Wohrle;

H.R. 4941. An act to name a dam and reservoir on the San Gabriel River, Texas, as the "North San Gabriel Dam" and "Lake Georgetown", respectively;

H.R. 5182. An act to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date ten years after the effective date of such act to the date twenty years after such effective date;

H.R. 5687. An act for the relief of Michael G. Macdonald;

H.R. 5788. An act for the relief of Jun Ae Hee;

H.R. 7217. An act to establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes;

H.R. 7306. An act to provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes;

H.R. 7591. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 7626. An act to amend title 37, United States Code, to improve certain special pay and allowance benefits for members of the uniformed services, and for other purposes;

H.R. 7682. An act to amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes;

H.R. 8105. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 8404. An act to designate the Federal Building-U.S. Courthouse in Sacramento, Calif., the "John E. Moss Federal Building-U.S. Courthouse"; and

H.J. Res. 337. Joint resolution designating February 11, 1981, "National Inventors' Day."

ADJOURNMENT

Mr. PANETTA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Friday, December 12, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5827. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment to Greece (Transmittal No. 81—06), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

5828. A letter from the Assistant Secretary of State for Congressional Relations, transmitting Presidential Determination No. 80–30, authorizing the furnishing of certain defense articles and services to Liberia under section 506 (a) of the Foreign Assistance Act of 1961, pursuant to section 652 of the act; to the Committee on Foreign Affairs.

5829. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Greece (Transmittal No. 81–06), pursuant to section 36(b) of the Arms Export Control Act, together with certification that the sale is consistent with the principles contained in section 620C(b) of the Foreign Assistance Act, pursuant to section 620C(d) of the act; to the Committee on Foreign Affairs.

5830. A letter from the Acting Secretary of Energy, transmitting the annual report covering fiscal year 1980 on energy conservation programs for schools, hospitals and buildings owned by units of local government and public care institutions, pursuant to sections 399(b) and 400I(b) of the Energy Policy and Conservation Act, as amended; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on TVA's Columbia Dam project on the Duck River in Tennessee (Rept. No. 96–1533). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. Report on allocation of budget totals for fiscal year 1981 (Rept. No. 96–1534). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on international information flow: forging a new framework (Rept. No. 96–1535). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 or rule XXII, public bills and resolutions were introduced and severally referred as follows:

Mr. SEIBERLING introduced a bill (H.R. 8452) to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974, which was referred to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8449: Mr. Tauzin.

H.J. Res. 488: Mr. Jones of Tennessee.

H.J. Res. 602: Mr. Ashley, Mr. Emery, Mr. Simon, Mr. Hyde, Mr. Derrick, Mr. Oberstar, Mr. Guyer, Mrs. Snowe, Mr. Kostmayer, Mr. Corrada, Mr. Fazio, Mr. Campbell, Mr. Gore, Mr. Scheuer, Mr. Regula, Mr. Hollenbeck, Mr. Hutchinson, Mr. Horton, Mr. Weaver, Mr. Lederer, Mr. Bethune, Mr. Petri, Mr. McKay, Mr. McCormack, Mr. Myers of Indiana, Mr. Wolpe, Mr. Panetta, Mr. Zablocki, Mr. Santini, Mr. Paul, Mr. Erdahl, Mr. Brown of Ohio, Mr. Bafalis, Mr. Moore, Mr. Duncan of Tennessee, Mr. Roth, Mr. Wirth, Mr. Akaka, Mr. Murphy of Pennsylvania, Mr. Conte, Mr. Frenzel, Mr. Watkins, Mr. Frost, Mr. Rose, Mr. Burgener, Mr. Nelson, Mr. Stratton, Mr. Mineta, Mr. Lujan, Mr. Heftel, Mr. Gramm, Mr. Luken, Mr. Andrews of North Dakota, Mr. Sawyer, Mr. Stangeland, Mr. Hughes, Mr. Baldus, Mr. Nowak, Mr. Sabo, Mr. Pickle, Mr. Vento, Mr. Shumway, Mr. Conyers, Mr. Bedell, Mr. Snyder, Mr. Van Deerlin, Mr. Johnson of California, Mr. LaFalce, Mr. Hopkins, Mr. Gradison, Mr. Pepper, Mr. Kemp, Mr. Traxler, Mr. Marriott, Mr. Aspin, Mr. Sharp, Mr. Musto, and Mr. Coleman.

H.J. Res. 633: Mr. Gramm.

H.J. Res. 638: Mr. Roe, Mr. Gilman, Mr. Forsythe, Mr. Rinaldo, Mr. Kildee, Mr. Addabbo, Mr. Frenzel, Mr. Stratton, and Mr. Lederer.

H. Con. Res. 442: Mr. Erdahl.

H. Con. Res. 454: Mr. Robert W. Daniel, Jr., Mr. Coughlin, and Mr. Courter.

SENATE—*Thursday, December 11, 1980*

(Legislative day of Thursday, November 20, 1980)

The Senate met at 8:55 a.m., on the expiration of the recess, and was called to order by the Honorable Quentin N. Burdick, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, who hast promised that in quietness and confidence shall be our strength, be present with us this day. We thank Thee for the peace of our homes and the peace of our hearts and for all the earthly symbols by which heavenly realities lay hold upon our souls. Let Thy purifying power flow through us that, as we return to the cycle of common tasks, Thou mayest be the fountain of inner strength.

Have regard for the President and the President-elect and guide them in their common task for this Nation and the world. Send us to today's duties with the edges of our minds keen, our thinking straight and true, our passions controlled by Thy love, our wills disciplined by Thy Holy Spirit, that Thou mayest be forever the light of our pathway. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., December 11, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Quentin N. Burdick, a Senator from the State of North Dakota, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

THE JOURNAL

Mr. FORD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. FORD. Mr. President, I have nothing more. I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, will the acting majority leader yield me 2 additional minutes? I have 15 minutes and would like some additional time.

Mr. BAKER. If the Senator will yield, Mr. President, I think we only have 2 minutes today. I shall be delighted to yield mine to the Senator from Wisconsin.

Mr. FORD. Mr. President, I am delighted to yield my time, too, to the Senator from Wisconsin.

RECOGNITION OF SENATOR PROXMIRE

Mr. PROXMIRE. Mr. President, it is my understanding that I have 15 minutes under the regular order.

The ACTING PRESIDENT pro tempore. The Senator is correct.

WHY THE CONGRESS IS TO BLAME FOR HIGH INTEREST RATES

Mr. PROXMIRE. Mr. President, throughout the country, Americans are suffering from high interest rates. Hard working, efficient homebuilding firms are going out of business. Farmers who are among the biggest borrowers in the Nation find it impossible to pay 20-percent interest. The mammoth automobile industry suffers layoffs, dealer bankruptcies. and huge losses by every big auto producer because there is no way they can profitably finance automobile sales with 20-percent interest rates and three out of every four auto buyers buy on time.

Millions of small businessmen must borrow capital in this credit economy of ours and sky-high interest rates knock them flat on their backs.

It goes without saying that newlywed couples in every community in our country who have dreamed of buying that home find that dream drowned in mortgage rates that average now about 15 percent nationwide. There is no way the vast majority of American couples can afford the monthly payments such rates require.

Mr. President, prime rate has hit 20 percent once again, from an announcement just made in this morning's papers. Last January it hit 20 percent and began to paralyze business as it is doing today. That paralysis led to the recession of last spring and early summer.

This time, the interest rate momentum may push the prime rate higher than 20 percent. It could go to 25 percent or more. The recession will be deeper and longer than the economic setback we suffered this year.

Mr. President, that, unfortunately, will not be the end of it. This country is likely to have the prime rate continue to rise higher and higher—to 30 percent or more in future periods of economic recovery no matter how short or anemic they may be. And the pathetic little recoveries will be choked off just as our present mild resurgence seems to be dying in infancy.

Now the cry has gone up on the Senate floor as it has all over the country: "Stop these rising interest rates." In the words of Lee Iacocca, the Chrysler president, "the Federal Reserve Board has gone mad." Many Members of Congress see the Federal Reserve as the culprit. Their message: Get the Fed to ease up on their tight-money policy and interest rates will fall, and we can put the country back to work again.

Mr. President, for the past 23 years I have served on the Senate Banking Committee and for the past 6 years I have been chairman of that committee. Our committee has jurisdiction over the Federal Reserve, and that jurisdiction is especially significant. Unlike almost every other agency of Government the Federal Reserve cannot be limited or controlled by the executive branch. The constitution gives the Congress the sole and exclusive power over "coining money and regulating the value thereof." Those are precisely the words in the Constitution. The independence of the Fed is not a myth or the invention of bankers or Wall Street, it is a constitutional fact.

But the Fed enjoys independence of the executive branch. It does not enjoy independence of the Congress. Years ago the most eminent economist in the country graced this body, a great Senator named Paul Douglas. Senator Douglas was chairman of the Joint Economic Committee. On one occasion he called the chairman of the Federal Reserve, William McChesney Martin before him for testimony. Senator Douglas instructed Chairman Martin to write on his mirror in his bathroom so he would see it every morning when he shaved, the words:

> I am a creature of the Congress.

Mr. President, if we in Congress want to direct the Federal Reserve Board to follow an easy-money policy, all we have to do is pass a resolution telling them to do that, and they would have no alternative except to follow our dictation. Neither President Carter nor President-elect Reagan have any authority to change Federal Reserve policy. We do. So if at any time any Senator or any Representative wants to change the Fed's policy, let him introduce a resolution directing the Fed to change. These speeches blaming the Fed might make sense for a farmer or small businessman or a homebuilder, or even for the President of the United States. But here in the Congress we have the power to change monetary policy. They do not. We have the power to stop the so-called tight money policy. We do not have to gnash our teeth and pound the desk and inveigh against the Board. We can if we wish abolish the Federal Reserve Board and we can certainly tell them what they must do and require them to do it.

Now having said all this, Mr. President, I should make it emphatically clear that I do not believe we should pass such a resolution. The fact is that the Fed is the only agency in Washington that is fighting inflation. And, Mr. President, if we should wipe out the present Fed Board and replace it with seven Members of Congress or seven intelligent homebuilders or automobile executives, there is no way the new Fed Board could fight inflation without following the same monetary restraint, the same tight money policy that the present Board follows.

How does the Fed fight inflation? Answer: It slows down the rate of increase in the money supply and credit. The price of money and credit is interest. The more the supply slows down, the higher the price of the money or interest goes. So why does the Fed not step up the rate increase in the supply of money? More money—which is another way of saying more credit would bring down the price of that credit or the interest rate.

We want lower interest rates, so why not turn on the printing presses and make more credit available? The answer: Such a policy would certainly in the short run bring interest rates down. But it would also certainly increase inflation and this would eventually lead to still higher interest rates. Mr. President, no one disagrees that the one sure and certain way to increase the price level is to increase the money supply. So an easy money policy will give us more inflation. A tight money policy will give us higher interest rates. Now, what makes matters worse is that the easy money policy will not only give us higher prices, but the lower interest rates that policy will give us will, as time passes, turn to higher interest rates as inflation inevitably will require the lenders to protect the real value of their loans by charging interest rates that will return them their principle intact and an additional rate for pure interest. This, Mr. President, is why interest rates have gone so sky high. Interest rates will always move to a level above the anticipated inflation rate.

So what are we to do? A tight money policy gives us high interest rates today—right now. An easy money policy reduces those interest rates but gives us inflation and in the long run even higher interest rates.

I repeat the question: What are we to do? Answer: Recognize that the one way we can bring down interest rates is to persist in a policy of only slowly increasing the supply of money. Yes, indeed, that will bring high interest rates for a few months. But if we persist, and now, Mr. President, we come to the real congressional responsibility, if the Fed persists in increasing the money supply only slowly and if, I repeat if, the Congress complements that policy by reducing Federal spending and balancing the budget, then interest rates will fall. Reducing Federal spending and balancing the budget are absolutely essential components of an effective anti-inflation policy. And this would lead to a break in the wage-price spiral.

It is incredible that Members of the Congress can vote for ever higher Federal spending, as we have just done by passing a more than $150 billion defense bill, and a multibillion-dollar revenue-sharing bill, and on top of that multibillion-dollar continuing budget resolution, and vote to defeat the budget balancing amendment this Senator offered a couple of weeks ago, and go on to promise to vote to cut taxes by tens of billions, in a word follow a completely irresponsible fiscal policy, driving the debt sky high, and then raise the dickens with the Fed for high interest rates. What type of example is that to set for the public?

Mr. President, the Congress has given this country 19 deficits in the last 20 years. Mr. President these were years of rising inflation and in 14 of those years we had better than normal economic growth. During these last 20 years we should have run a surplus in at least 14 and probably in 16 of those years. We should have sharply reduced the national debt.

But what have we done? We have increased the national debt to an astronomic figure close to a trillion dollars. We have made the Federal Government by far the biggest factor in the credit market. With the Federal Government borrowing close to a trillion dollars a year, of course interest rates are sky high. With one mammoth Federal deficit after another, the Fed has had little alternative. They either monetize the debt by buying the Treasury obligations, thereby driving up the money supply and the price level, or they refuse to buy the new Treasury debt, the value of the Treasury obligations drop and interest rates go through the roof.

The answer to all this is that the one sure way to bring down interest rates is to reduce Federal spending and balance the budget. If we continue voting to spend more Federal money we are either stupid or demagogic when we turn on the Federal Reserve and condemn them for high interest rates. If every Pogo's observation that "we have identified the enemy and he is us" had currency, it is now. The Congress and the explosion of the Federal budget from less than $100 billion 17 years ago to more than $600 billion today, that is the cause of high interest rates.

Mr. President, anyone who doubts that this kind of tough painful medicine of balanced budgets and strict control of the money supply will work, should consider the experience the Republic of Germany had in stopping the worst inflation in history after World War I. Here was the acid test. The German economy suffered an inflation far worse than most of us can imagine. And what stopped it? Consider:

From a 1914 base of 100, the German wholesale price index reached 234 when the war ended in 1918. By December 1921, the wholesale price index had reached 3,490. One year later it hit—and hold on to your hats—147,480, and then it really took off. In June 1923, the wholesales price index reached 1,938,500; in September, 2,394,889,300. And in December 1923 index reached 126,160,000,000,000. German workers were paid several times a day because the value of their money fell so quickly. A loaf of bread cost a wheelbarrow full of currency.

Now comes the astonishing part of this story. That inflation stopped, and stopped cold. In the first 6 months of 1924, the German wholesale price index flattened out, and even came down gradually. By June of 1924 it was actually down by 8 percent.

What happened? And listen carefully. The German Government at last adopted a credible fiscal and monetary policy, decreed on October 15, 1923. And how did they do that? First they established a new monetary institution, the Rentenbank, to take over the function of issuing notes of the German central bank, the Reichsbank. And most important they set a limit on the total volume of new marks that could be issued, 3.2 billion, and the maximum amount that could be issued to the Government: 1.2 billion. This stringent limit was imposed on a government that had been financing virtually all its debt by issuing notes rather than collecting taxes.

When in December 1923 the Rentenbank pledged that it would respect those limits absolutely, three things happened, abruptly and simultaneously; Government borrowing from the central bank stopped; the Government budget was brought into balance. And the inflation stopped.

To balance the budget the Government slashed payrolls. For instance the state-owned railroads dismissed 180,000 workers. The postal administration dropped 65,000.

And consider this happy note. As German inflation flattened out and the mark stabilized, output and employment rose gradually and unemployment declined.

Mr. President, as someone has said, those who do not learn the lessons of history are destined to repeat the terrible mistakes of our forebears.

The lesson is clear. We should stop giving unshirted hell to the Fed. We should support their efforts—however painful and unpopular—to slow down the rate of increase in the money supply. We should reduce the rate of increase in Federal spending, and we should start and start promptly running Federal surpluses. Then, as in Germany, we will stop this inflation—and, as in Germany, economic growth and employment will resume on a sound basis.

Mr. President, I ask unanimous consent that an article from the November

26 New York Times by the superb economic commentator, Leonard Silk, be printed at this point in the Record. I have plagiarized that article shamelessly in describing the German inflation.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Nov. 26, 1980]

Finding a Quick End to Inflation

(By Leonard Silk)

The most serious economic problem facing the Reagan adminstration is how to stop an inflation that, after a decade and a half, is so deeply imbedded in the system it seems to run its own momentum—and how to stop it in a way that will not cost millions of jobs and hundreds of billions of dollars in lost production, as many economists fear. Recent efforts in Britain to stop inflation suddenly by a restrictive monetary policy have intensified such fears by raising unemployment to its highest level since the 1930's.

Has a major inflation ever been stopped in its tracks except by a depression? A young group of American economists, the so-called rational expectations school, contends that inflation has been and can again be stopped quickly, and without much pain, if the public can be convinced that the Government has a workable fiscal and monetary plan to stop it. Until now, members of this school contend, people have rationally expected inflation to continue, and thus have raised their prices, wages, rents or interest rates to stay even with or ahead of it.

In a study titled "The Ends of Four Big Inflations," prepared for the National Bureau of Economic Research, Thomas J. Sargent of the Federal Reserve Bank of Minneapolis and the University of Minnesota, who is a leading member of the rational expectations group, contends that the hyperinflations in Germany, Austria, Poland and Hungary were quickly ended after World War I by Government policies that changed the public's rational expectations.

The German hyperinflation was the most spectacular case. It took a long time for it to build to hurricane force. From an early 1914 base of 100, the German wholesale price index had reached 234 when the war ended in November 1918. A combination of blunders, including huge reparation demands by the Allies, deep deficits incurred by the socialists in Germany, the invasion of the Ruhr by the French, and the outpouring of funds by the German Government to support the unemployed, drove the German inflation ever higher.

By December 1921, the wholesale price index had reached 3,490. One year later it hit 147,480, and then really took off. In June 1923, the wholesale price index reached 1,938,500; in September, 2,394,889,300. And in December 1923, the index reached 126,160,000,000,000.

Astonishingly, that's where the inflation stopped. In the first six months of 1924 the German wholsesale price index flattened out, and even came down gradually. By June 1924, the index had dropped by 8 percent, although it was still at the astronomically high level of 115,900,000,000,000.

What stopped the inflation was a credible fiscal and monetary policy that had been decreed on Oct. 15, 1923. A new German mark was substituted for the old one with the new "Rentenmark" equal to 1 trillion old marks. The old mark, which by December had fallen to a value of .000000000022 of a United States cent, was now declared to be worth 22 cents, and it stayed close to that value.

But what stopped the inflation in its tracks was not the psychological effect of the issuance of the new mark; it was the establishment of a new monetary institution, the Rentenbank, to take over the function of issuing notes of the German central bank, the Reichsbank. The decree creating the new institution also set a limit both of the total volume of new marks that could be issued—3,200,000,000—and the maximum amount that could be issued to the Government—1,200,000,000 marks. This stringent limit was imposed on a Government that had been financing virtually all its debt by issuing notes rather than by collecting taxes.

When in December 1923 the Rentenbank pledged that it would respect those limits absolutely, three things happened, as Mr. Sargent says, "abruptly and simultaneously": Government borrowing from the central bank stopped; the Government budget was brought into balance and the inflation stopped; the Government stopped creating unbacked fiat money. Instead, the German money was now largely backed by discounted commerical bills; thus the nature of the system of promises and claims behind the central bank's liabilities was changed.

To balance the budget, the Government slashed payrolls. For instance, the state-owned railroads dismissed 180,000 workers. The postal administration dropped 65,000.

And perhaps most important, at the end of 1923 the Allies agreed to halt German reparation payments temporarily, and the Dawes Agreement gave Germany a more manageable repayment schedule. (Is there an analogy here to Western payments for oil from the Organization of Petroleum Exporting Countries?)

As German inflation flattened out and the mark stabilized, output and employment rose gradually and unemployment declined. While 1924 was not a good year for German industry, as Mr. Sargent observes, it was a lot better than 1923.

The actions that halted the hyperinflation in Austria, Poland and Hungary were essentially the same as those in Germany. All four hyperinflations were stopped without serious damage to production or employment.

Mr. Sargent observes that because these inflations were so extreme many people do not believe that they have contemporary relevance. But he contends that it is precisely because those inflations were so extreme that they do have relevance. How do the lessons of the ending of hyperinflations after World War I bear upon the problems facing the Reagan administration? We shall consider this in a second article.

MEMORIES OF THE HOLOCAUST STILL REMAIN

Mr. PROXMIRE. Mr. President, it is 34 years since the liberation of the survivors of the Nazi concentration camps, yet time has not eradicated the pain and horror that the victims suffered.

In fact, the flood of literature on the Nazi atrocities has not slackened. It is hard to give a meaningful estimate of the number of volumes that comprise holocaust literature, however, holocaust survivors of every description—lawyers, sociologists, historians, psychiatrists, theologians—have published books describing life in the concentration camps.

In the United States, alone, there are over 80 holocaust-related titles now in print and recently three more titles have been added to this list. The three new publications serve as examples of the continued interest of the holocaust from widely diverse viewpoints.

Anus Mundi is a sober documentary of 1,500 days in Auschwitz by a Polish Christian who survived the camp and became a filmmaker in Poland.

Avenue of the Righteous is a set of profiles of those Eurpoean Christians who risked their lives to aid Jews. Its author is a young American journalist who was intrigued by these largely unsung heroes.

The Survivor is a melodramatic and sentimental memoir of an adolescence in the Warsaw ghetto by a New York businessman who has not only financed the promotion of his book, but has underwritten a Broadway play and movie on the same subject.

It is clear that people have not forgotten the atrocities that the Nazis perpetrated on fellow human beings during World War II. The camps and the memories still remain. However, detailed memories and personal accounts are not necessary to understand the importance of preventing a recurrence of the Nazis' wholesale slaughter.

As we read the many books concerning the holocaust, let us also remember that the United States is one of the few nations that has failed to ratify the Genocide Treaty. The survivors of the concentration camps have made their experiences known through their writing. Let us recognize these efforts and make sure that their plight does not get repeated.

The time has come to ratify the Genocide Treaty.

FLEECE OF THE MONTH GOES TO THE FEDERAL HIGHWAY ADMINISTRATION

Mr. PROXMIRE. Mr. President, I am giving my Golden Fleece Award for December to the Federal Highway Administration. They are spending $241,764 to produce a computerized system that gives local travel directions to people who cannot or will not read maps. This complex system is no substitute for asking at the nearest gas station.

While the system is intended to aid lost motorists and save gasoline, it helps those who need it least. In order to use it, you have to know where you are and where you are going. If you have that much information, you can use a map.

The Fleece of the Month is given to the biggest, most ridiculous or most ironic example of wasteful Federal spending for the period. As a member of the Senate Appropriations Committee which has jurisdiction over Federal Highway Administration funding, I have been keenly interested in how the FHwA uses its funds.

The effect of this program is to substitute a very sophisticated, overly complex and expensive system for one that is simpler and already available—a map. This is not only paternalistic but also is an example of technological overkill at its worst.

The system throws up many roadblocks between the hapless, mapless and their ultimate destinations. To operate it, the user is presented with a list of 16 instructions, each with its own potential detours. The user first contacts the computer by telephone—dialing the correct number; second, punches in code numbers for both present and desired destinations—carefully checking the destination map; and third, adds other codes for such commands as "yes," "no," "stop," and "go." The process takes several steps to complete and may require many more where instructions are complicated. Of course, each additional step increases the chance of making an error.

Aside from complexity there are at least three other defects to this system which limit its usefulness.

First, it does not help much with the hardest part of the trip—those confusing local roads close to your destination where most people go wrong.

Second, on the other hand, in order to make the system specific enough to be helpful, it would have to be very detailed and very costly. Imagine having to update it for every short-term detour or to provide exact instructions for complicated cloverleafs. If this sounds difficult for one city, imagine using it for all cities—and at what cost.

Finally, the driver who will not or cannot read a map is probably not likely to benefit from this system either. The chances are great that he will ignore it altogether or get confused because he cannot talk back to the computer or get answers to his questions.

While I appreciate the motives that would lead the Federal Highway Administration to spare us the frustration of being lost, I am sure the American taxpayers will be more frustrated by the loss of the $240,000 the study cost them.

RECOGNITION OF SENATOR BOREN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma is recognized.

INTEREST RATES AND INFLATION

Mr. BOREN. Mr. President, our colleague, Senator Robert Dole, soon to be chairman of the Senate Finance Committee, suggested last Sunday on "Meet the Press" that President Reagan should declare an economic emergency when he takes office.

Mr. President, I support the recommendation made by Senator Dole. He went on to say that the new President needs to find something to dramatize the problem we have. A declaration is not enough, according to Senator Dole—

> It must be followed by some action to really shock the American people because we are in deep trouble.

I could not agree more.

If interest rates stay at their present high level, ranging between 15 and 20 percent—reaching 20 percent as of this morning—our country will be on the brink of economic collapse before the new President even has a chance to work toward a long-range cure.

The signs are clear to any one who will pause to look at our economic situation. A continuation of the present high-interest-rate policy is a blueprint for disaster.

The question is not will high interest rates cause our economy to snap. The question is how soon will it happen. Already, high interest rates have inflicted severe damage.

The basic industries of this country have already been drained by the high interest rates prevailing at this time last year. Many businesses do not have assets left to liquidate to tide them over. The automobile and housing industries which impact upon so many others are on the verge of complete destruction.

Small farmers and ranchers must use credit to plant crops and feed livestock. Small businesses use credit to finance inventory floor plans. The present high interest policy is destroying the very backbone of our free enterprise system.

Savings and loan associations and other financial institutions are severely squeezed by eratic interest policies which allow rates to soar to unconscionable levels.

I for one am prepared to support the delegation of extraordinary powers to the new President if he needs them to compel a reduction of interest rates and a rapid reduction of Federal nondefense spending. Of course, high interest rates are a reflection of runaway inflation caused largely by excessive Government spending which has led to excessive Government borrowing as well. Over the past 20 years, the Government has increased its borrowing to the point that it now consumes over 20 percent of all the money loaned in this country each year. This crowds out some private borrowers and increases credit costs for all of the rest.

I listened a few moments ago to our distinguished colleague from Wisconsin, the chairman of the Banking Committee. I certainly agree with him that the long-range solution can come only through reduction of Federal spending and that we must be careful not to do anything that would fuel inflation in the short run.

However, I cannot agree with his conclusion that emergency action should not be taken to bring down the interest rate. I fear that we could face a total collapse of our economy, brought on in the short run by the high interest rates, if we do not do something to bring them down.

We would never have a chance, never have the opportunity, to begin to work on the long-range solution proposed by the Senator from Wisconsin and a long-range solution with which I strongly agree.

The Federal Reserve is behaving as if it thinks that monetary policy alone can stop inflation. It obviously cannot do so. A continuation of the current high interest policy of Mr. Volcker and the Federal Reserve amounts to economic insanity.

I hope that the new President will take quick action on an emergency economic package to: First, reduce interest rates for necessary credit to finance small farm and business operations, and home and automobile purchases, second, increase savings and investment ratios, third, reduce Federal spending to control inflation through fiscal rather than monetary policy alone, and fourth, it is imperative that our new President establish an emergency plan, because I am convinced in the very near future we will face a severe economic emergency in this country, to shore up troubled financial institutions in the event of economic panic or large defaults on international loans that would spell severe trouble for our international banking system.

Only a President can provide the leadership necessary. The new President will find that he already faces a critical situation by the time he takes office. I am sorry to say that I for one feel that the situation will be far more critical on Inauguration Day than it is even as we meet in the Senate today. Bold, decisive and immediate action will be necessary. It is my sincere hope that the new President will provide that bold action and that Congress in a bipartisan spirit will be willing to take whatever steps are necessary to restore economic health to our Nation.

I thank the Chair, and I yield the floor.

Mr. FORD. Mr. President, will the Senator from Oklahoma yield to me for just a minute since he has some time and I do not see anyone else here yet?

Mr. BOREN. I am happy to yield.

Mr. FORD. The Senator from Oklahoma makes very good points this morning along with the distinguished Senator from Wisconsin. The Senator from Wisconsin says that we have the power here in Congress to deal with the Federal Reserve. Yet he advises that we should not. He says that if interest rates come down, inflation goes up.

We hear the Senator from Oklahoma saying that the new President should declare an economic emergency.

I wonder when we are going to find someone who is smart enough to give us the right direction here. I think the Senator from Oklahoma and I want the same thing, the slow, gradual reduction of interest rates and the balancing of the Federal budget; but all of the smart think tanks say that when the budget is balanced, there is less than a half percent reduction in inflation.

Does the Senator from Oklahoma have any kind of answers to what I am pitching out here? As former Governors we remember balancing our budgets in the States and leaving a surplus in the kitty. I know the Senator from Oklahoma did that, and his State is still much better than many other States.

Mr. BOREN. Mr. President, I think my good friend from Kentucky has asked a question that all of us wish we had the full answer to. But I think there are certain portions of the answer that we can isolate. I think we do see what the long-range solution is and it is to bring Federal spending under control. It is to live within our means and that will certainly help, but it is not the full answer, as the Senator from Kentucky has said. That alone will not by itself control inflation nor will it restore health to the economy.

Along with it, we need some changes in our tax laws that will encourage savings. I think we need further tax exemption for interest on savings in amounts that go far beyond the $200 exemption that we passed this year, which was a good first time. Certainly we need to speed depreciation ratios to encourage investment.

I say to my friend from Kentucky I think if we do not find a way to look after the interest rate situation in the meantime we can well drive this economy over the brink in the short run. We could well bring on economic panic. We could bring on severe trouble for our financial institutions.

I honestly think that last spring when the interest rates were so high we were probably within 30 days of a complete break in our economy. I think we are approaching that same kind of situation now.

We also have a number of international loans in the less developed countries by major financial institutions that are not all that secure. Either one of those two factors could lead to an economic panic in this country, and I urge the new administration to immediately develop an emergency plan to deal with it.

I have my own pet idea for how we could bring down the interest rates. I think we should try to target an interest rate reduction for the purposes that are really needed to keep the economy going, and my proposal would be that we allow banks and savings and loans and other institutions to offer tax-free savings accounts, in essence up to maybe as much as $25,000.

Mr. FORD. That is provided that money goes for home financing.

Mr. BOREN. That is correct, providing that the financial institutions then use that money which would be at a lower rate of interest. Their costs would be lowered, let us say, to 8 percent. That would be attractive if it were tax free. Then if the bank would agree, they could go over that account if they would agree to turn around and use that money and lend it out at maybe 2½ percent above what they were paying for it, at maybe 10 or 10½ percent, for home purchases, automobile purchases, inventory financing, and small farm financing, the life blood of the economy.

Mr. FORD. I think we noticed when the interest rates came down below 11 percent we began to see the purchase of homes, the sale of automobiles, the restoration of inventories and the employment of workers who had previously been laid off.

I think the Senator from Oklahoma and I are on the same wavelength. Not only do we wish the new administration well in this endeavor, but we will do those things that are necessary to support this effort as it relates to the economy.

I am just wondering out loud, however, about the deadline set for the announcement of new appointees for the administration. The deadline for those appointments keeps slipping, and I have noticed that the new administration is now 2 weeks or more behind John Kennedy, at least a week or so behind the dates that the Carter administration began to make their announcements, and also behind the dates of President Nixon when he came into office. In addition, we have $2 million available for use by the incoming administration for the transition team. President Carter returned to the Treasury a large amount of that $2 million, while this incoming administration has already spent $2 million and is now resorting to private contributors to have enough money for the transition team. Something about this situation begins to make me a little bit nervous Previous administrations have turned the money back and this group has already gone over the budget and is now soliciting additional funds.

So as I listen and observe I wonder if there is a handle on the beginning of the next year?

Mr. BOREN. I understand what the Senator is saying and I agree with him that it is imperative that they move very quickly now to put in place the Government for the country and to make the final decisions about the Cabinet.

I hope that the timetable of announcing some of those key appointments today which was apparently expected will be followed. I hope we learn the identity of the Secretary of the Treasury and others, particularly in the economic area because I do sincerely believe that we are already far behind schedule in dealing with this economic crisis and I think it is imperative that that team, those who will be responsible for making economic policies in the new administration be put in place immediately, and I hope they will go to work today to devise emergency steps to deal with the crisis that is upon us because I say to my friend from Kentucky not only is it the marginal people in our economy who are now experiencing problems, not only is it the farmers and ranchers that we might describe as marginal or business people that we might describe as marginal, we now have in my State some of our most solid business people, some of the people who have been in farming and ranching and survived many of the crises in the past who are now nearly at the edge of financial disaster if something does not change.

They have no more assets to liquidate. They were barely able to get through the high interest rate policies in the spring and if they do not have relief now we are going to see a situation that will, I think, really bring down the whole housc of cards, and I just hope that the new President will have an emergency plan ready so that he will have the opportunity to take action on balancing the Federal budget, reducing taxes and some of the other things to bring on a long-range cure.

I yield back the remainder of my time.

CONTINUING APPROPRIATIONS, 1981

The ACTING PRESIDENT pro tempore. The clerk will state the pending business, House Joint Resolution 637.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981, and for other purposes.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER (Mr. Metzenbaum). Under the previous order, the Senator from Montana (Mr. Melcher) is recognized.

Mr. MELCHER. Mr. President, under the order, my amendment would be the first one up, but there are some amendments that will not take any time. When the managers of the bill are present I am going to yield to other Senators to present their amendments that will be accepted, but I think we are going to have to wait until the managers of the bill show up, and for that reason, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2917—TAXATION OF FRINGE BENEFITS

Mr. ARMSTRONG. Mr. President, while we are awaiting the distinguished managers of the bill, I have one bit of business that I can put in the Record at this point just by way of explanation.

I had intended to offer printed amendment No. 2917 which has to do with a revenue procedure adopted by the IRS recently having an effect on the taxation of fringe benefits.

I am going to withhold the offering of this amendment because I have been assured by the IRS that there is nothing in this revenue procedure which in any way undermines the intent of Congress to freeze fringe benefit taxation as that freeze has been expressed in amendments which I have offered and which have been previously accepted by the Senate.

My concern was that it might appear that the IRS was attempting to do through a revenue procedure that which had been prohibited to it in another way.

Mr. President, just to make the Record, I ask unanimous consent to have printed in the Record a letter which I received from the Department of the Treasury, and with that explanation it will not be my intention to offer my amendment No. 2917.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of the Treasury,
Washington, D.C., December 10, 1980.

Hon. William L. Armstrong,
U.S. Senate,
Washington, D.C.

Dear Senator Armstrong: I understand you have expressed concern over Rev. Proc. 80–53.

The Rev. Proc. specifically recognizes the existing freeze on regulations, rulings and revenue procedures related to taxation of fringe benefits.

The purpose of Rev. Proc. 80–53 is to inform employers of how to report benefits which, under existing standards, are includable in income on form W–2 in light of the Supreme Court decision in Central Illinois Public Service Co. v. United States.

The Rev. Proc. does not change existing standards for the inclusion of fringe benefits in gross income under section 61. The Rev. Proc. states that the Service will continue to follow existing regulations, revenue rulings, revenue procedures, and case law in determining whether particular fringe benefits are compensation includable in gross income under section 61 of the Code.

If you have any questions, I will be pleased to try to answer them.

Sincerely,

Donald C. Lubick.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that I might yield to the Senator from Washington without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1871

(Purpose: To increase the appropriation for the Trident Community Impact Assistance)

Mr. JACKSON. Mr. President, I ask unanimous consent to call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER (Mr. Metzenbaum). The Chair, in his capacity as a Senator from the State of Ohio, reserves the right to object. Will the Senator from Washington state whether this is an amendment having to do with the tax revenues of the United States?

Mr. JACKSON. No. This is an amendment to appropriate additional funds for an access road to the Trident Submarine Base.

The PRESIDING OFFICER. I have no objection.

Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Washington (Mr. Jackson) proposes an unprinted amendment numbered 1871.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

Sec. . Notwithstanding any other provision of this joint resolution, there is appropriated an additional amount of $2,500,000 to be merged with appropriations of Public Law 96–436 for Trident Community Impact Assistance for the Naval Submarine Base, Bangor, Washington, for highway construction under cost variation provisions of Public Laws 95–356, 96–125, and 96–148 to increase the Navy's share of community assistance related to Trident Submarine support in accordance with section 608 of Public Law 95–553. Such funds shall remain available through September 30, 1985.

Mr. JACKSON. Mr. President, this is an amendment for $2.5 million to cover a cost overrun in connection with access road facilities to the Trident base in the State of Washington.

Over the past few years, the Department of Defense has been working with State and local governments in the area around the Trident submarine base to mitigate the impacts of that installation on the local community. Part of this effort involved improving the local road and highway system to meet increased traffic brought about by the base. In Kitsap County, the Department of Defense agreed to fund the necessary improvements for the Bucklin Hill Bypass, a crucial transportation link between East Bremerton and the Trident base. The county agreed to take care of all other necessary road and highway improvements in its jurisdiction.

The estimated cost of the Bucklin Hill Bypass in 1977 was $9.6 million; however, due to circumstances beyond the control of the local governments, this cost has increased by $2.5 million. This amendment would cover that increased cost by increasing the Navy's share of the community assistance for highway construction related to Trident submarine support under the cost variation provisions of Public Laws 95–356, 96–125, and 96–418. This amendment is in accordance with section 608 of Public Law 93–553 which is the basic authorization for Trident impact assistance and I know of no objection to the amendment from the Armed Services Committee.

Mr. President, this amendment has been cleared by the minority and majority sides of the Defense appropriations subcommittee as well as by the Armed Services Committee. There is no objection to it.

Mr. YOUNG. Mr. President, I understand that it is a road that is necessary and I think we should accept the amendment.

Mr. ROBERT C. BYRD. Mr. President, speaking on behalf of Mr. Magnuson, I am told that there is no objection to the amendment. I, therefore, have no objection.

Mr. JACKSON. Mr. President, I ask that the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington (Mr. Jackson).

The amendment (UP No. 1871) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, a point of information. Does the Senator from Montana (Mr. Melcher) have the floor?

The PRESIDING OFFICER. He has the right to the floor.

Mr. FORD. Mr. President, may I address a question to the Senator from Montana?

The PRESIDING OFFICER. Please proceed.

Mr. FORD. Mr. President, will the Senator from Montana be so good as to set aside his amendment and allow the Senator from Oklahoma (Mr. Bellmon) and I to indroduce a very important, noncontroversial amendment as it relates to future legislation the Senate might take up?

Mr. MELCHER. Mr. President, in answer to the Senator from Kentucky, I will be delighted to do that. I am aware that it is the farm credit amendment and I am very much aware of it and very much in support of it. But I have agreed to a list here. If the Senator would just be patient for about 5 minutes, I will be happy to yield to him.

Mr. FORD. Mr. President, the Senator is delighted to be patient, because he is only trying to be as good as the Senator from Montana is to him.

Mr. MELCHER. I thank my friend from Kentucky.

Mr. President, I yield to the Senator from Maryland for the purpose of an amendment, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1872

Mr. SARBANES. Mr. President, I ask unanimous consent to call up an amendment that Senator Mathias and I have pending at the desk.

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from the State of Ohio, reserves the right to object.

Mr. SARBANES. Mr. President, I would inform the Chair that the amendment does not involve anything concerning the change in the Tax Code.

The PRESIDING OFFICER. I have no objection.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maryland (Mr. Sarbanes), for himself and Mr. Mathias, proposes an unprinted amendment numbered 1872.

Mr. SARBANES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. Zorinsky). Without objection, it is so ordered.

The amendment is as follows:

Insert the following new section at the end thereof:

Sec. . For an additional amount for the Department of Agriculture, Animal and Plant Health Inspection Service, "Salaries and expenses", $2,000,000.

Mr. SARBANES. Mr. President, I am submitting this amendment on behalf of myself and Senator Mathias to address a most serious funding problem which the Animal, Plant, and Health Inspection Service of the Department of Agriculture is facing in its efforts to control the Khapra beetle infestation which has been discovered very recently.

This beetle infestation has occurred in two spice companies in Baltimore, McCormick and Co. and Baltimore Spice Co., as well as the Premium Bag Co. Unfortunately, due to an unexpected outbreak of Mediterranean fruit flies on the west coast, the contingency fund which would be utilized to fund and eradicate these beetles, has been exhausted. The Department is reacting to the presence of these beetles by inspecting most of the spice companies in the United States. However, the USDA has stated that it does not have the funds to do the necessary fumigation which destroys the beetles because of demands which have already been made on the contingency fund. I have been informed that this beetle has been found in other parts of the United States including Kalamazoo, Mich., and in the Glassboro area of New Jersey. It has also been found in one of the piers of the Port of Baltimore.

Mr. President, the presence of the Khapra beetles in agricultural commodities such as grains and spices, or in containers, poses a severe threat to an important element of the agricultural sector of our economy. This is especially true if the beetle cannot be destroyed soon and becomes present in grain supplies. Foreign nations which import our agricultural commodities will simply go elsewhere for these products if they cannot be assured the Khapra beetle is contained.

Mr. President, the Baltimore firms are now under quarantine and cannot ship any products until fumigation has been completed. This fumigation is costly and is a responsibility which the USDA is charged with meeting. I urge my colleagues to support this amendment so that USDA can move quickly in this important effort.

The Department's contingency fund to address such problems has been exhausted. This amendment would add an additional $2 million to the contingency fund for the purposes of addressing this question.

This amendment has been cleared with the chairman and the ranking member of the Agriculture Subcommittee of the Appropriations Committee and with the chairman and ranking member of the committee. I think they agree it is meritorious.

Mr. President, I ask unanimous consent that a statement by Senator MATHIAS be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MATHIAS

I support the amendment offered by my colleague from Maryland. It is important because in the last few months the khapra beetle, a destructive insect commonly found in the Far East, has been found in several warehouses in the United States.

The last major threat of khapra beetle infestation was in the mid 1960s. That threat was stamped out in the American southwest by the U.S. Department of Agriculture at a cost of approximately $15 million.

In the last few months there have been indications that some of these insects have been brought into the United States, presumably on imported commodities, probably wrapped in burlap and originating in south Asian or southeast Asian countries. The U.S. Department of Agriculture is again making efforts to deal with the insect in order to eradicate the pest and avoid the threat to American grain supplies.

I understand that Department of Agriculture grain inspectors are keeping a close watch for khapra beetles at grain shipping facilities in Michigan, New York, New Jersey, and Maryland. In Baltimore traces of the beetle have been found at plants of McCormick Spice, Baltimore Spice, and Premium Bag Co. Almost any trace of the beetles in the grain elevators could bring all grain shipments from those ports to an abrupt halt.

I want the Animal and Plant Health Inspection Service to direct increased funding toward the problems posed by the khapra beetle and believe such an effort should be carried out promptly and as a high priority.

I urge acceptance of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland (Mr. SARBANES).

The amendment (UP No. 1872) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MELCHER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, I yield to the Senator from Tennessee, without losing my right to the floor.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Montana for yielding to me.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I will object unless I am assured that this does not relate to the tax revenues.

Mr. SASSER. Mr. President, this does not relate to tax revenues.

Mr. METZENBAUM. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Senator from Tennessee.

UP AMENDMENT NO. 1873

(Purpose: Relating to the William Levi Dawson Chair of Public Affairs at Fisk University in Nashville, Tenn.)

Mr. SASSER. Mr. President, on behalf of myself and Senator BAKER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. SASSER), for himself and Mr. BAKER, proposes an unprinted amendment numbered 1873.

Mr. SASSER. Mr President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there is hereby appropriated $750,000 for the William Levi Dawson Chair of Public Affairs at Fisk University in Nashville, Tennessee, as authorized by Public Law 96–374, the Higher Education Amendments of 1980.

Mr. SASSER. Mr. President, the amendment at the desk would provide $750,000 for the William Levi Dawson Chair of Public Affairs authorized by the Higher Education Act of 1980.

I hope that the distinguished chairman of the Appropriations Committee can accept my amendment and I thank him for his consideration in this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Tennessee (Mr. SASSER).

The amendment (UP No. 1873) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that a factsheet relating to my amendment be printed in the RECORD.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS FACTSHEET

Authorized by Public Law 96–374, the Higher Education Amendments of 1980, the William Levi Dawson Chair of Public Affairs would be established at Fisk University in Nashville, Tennessee.

The Dawson Chair is authorized a one-time appropriation of $750,000, and no subsequent authorization or appropriation will be required once the initial funding is received. Total estimated outlays there equal the fiscal year appropriation of the chair.

Precedence for the William Levi Dawson Chair of Public Affairs was set in 1976, when the Congress authorized the Wayne Morse Chair of Law and Politics. $500,000 was appropriated for the Morse Chair in 1976, to provide quality education in the rule of law, representative government, and world peace.

The full appropriation of $750,000 for the William Levi Dawson Chair of Public Affairs is supported by the National Association for the Advancement of Colored People; the Urban League, under the direction of Mr. Vernon Jordan; the United Negro College Fund; and Fisk University.

The William Levi Dawson Chair of Public Affairs will enhance the employment and educational opportunities for black youth, by giving black youth in attendance at Fisk University the opportunity to study public administration. In increasing numbers, black persons are filling positions of responsibility in state, local, and national government. Administrative training will help them meet the challenges of these new jobs.

William Levi Dawson, distinguished black Congressman, was only the second black person since Reconstruction to be elected to the House of Representatives. His 28 years of public service in the House were marked by a concern the adequate training in the business of politics must be available to black youth, to enable them to take an active, rather than reactive, role in American society.

Mr. SASSER. Mr. President, I again thank the distinguished Senator from Montana for his courtesy this morning.

Mr. MELCHER. Mr. President, without losing my right to the floor, I yield to the Senator from Washington, the chairman of the committee.

UP AMENDMENT NO. 1874

Mr. MAGNUSON. Mr. President, I have two amendments to the bill. I send the first amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON), for himself, Mr. SARBANES, and Mr. MATHIAS, proposes an unprinted amendment numbered 1874.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following: "Notwithstanding the provisions of section 311 of the Civil Service Act of 1978 (92 Stat. 1111), the services of individuals who provide patient care may be obtained as necessary.".

Mr. MAGNUSON. Mr. President, this is a simple amendment. It excludes personnel who provide patient care services from personnel ceilings. Senators MATHIAS and SARBANES join with me in sponsoring this amendment.

I ask that the amendment he agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington (Mr. MAGNUSON).

The amendment (UP No. 1874) was agreed to.

UP AMENDMENT NO. 1875

Mr. MAGNUSON. Mr. President, I send a perfecting amendment to the desk.

This relates to nursing student loans. The Department of Health and Human Services' Office of General Counsel will be taking the position that under the continuing resolution currently being considered, no new nursing student loans authorized by the Nurse Training Act under title VIII of the Public Health Service Act can be approved because the legislative authority for this program has expired.

This opinion by the Department would prevent any new nursing student from being eligible for the program in fiscal year 1981. This opinion is contrary to the intent of the continuing resolution to continue programs at the current rate.

This technical amendment is necessary to insure that new loans can be made to eligible nursing students under this program.

This amendment has been cleared on both sides. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1875:

On page 2, line 12, after "program" insert: "and new nursing student loans."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1875) was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I yield to the Senator from Kentucky without losing my right to the floor.

UP AMENDMENT NO. 1876

(Purpose: To provide for limitations with respect to the activities of the Farm Credit Administration, and for other purposes)

Mr. FORD. Mr. President, the distinguished Senator from Oklahoma (Mr. BELLMON) has an amendment to present on behalf of both of us. I yield to him for that purpose.

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON), for himself and Mr. FORD, proposes an unprinted amendment numbered 1876.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After line 7, on page 51, insert the following:

"SEC. . The Farm Credit Act of 1971 is amended by inserting after section 4.16 the following new section 4.16A:

"'SEC. 4.16A. Notwithstanding any other provision of law, the Farm Credit Administration shall not adopt or enforce regulations that would—

"'(1) permit any production credit association or Federal land bank to make any loan for financing of processing or marketing facilities or operations to any applicant whose operations supply less than 50 per centum of the total processing or marketing for which financing is extended, which loan would cause the total amount of such loans outstanding to the applicant to exceed $10,000,000; or

"'(2) permit the aggregate amount of loans and commitments outstanding from banks for cooperatives to any one foreign entity or domestic non-cooperative entity in connection with the import or export transactions of cooperative associations that are voting stockholders of the banks for cooperatives, to exceed $30,000,000 at any one time;

nor shall the Farm Credit Administration enforce against any Federal intermediate credit bank or any Federal land bank any liability under section 4.4 of the Farm Credit Act of 1971 for which such banks are not directly liable and which liability is the result of bank for cooperatives lending to foreign entities or domestic non-cooperative entities with respect to transactions of cooperative associations that are voting stockholders of the banks for cooperatives for the export or import of agricultural commodities, farm supplies, or aquatic products.'.".

Mr. BELLMON. Mr. President, this amendment is an effort to work out some problems with the Farm Credit Act. I believe the amendment has been cleared pretty much with those who are concerned about that problem.

The amendment would—

First, place a $10,000,000 ceiling on the authority of production credit associations and Federal land banks to extend a line of credit to an applicant farmer to finance the marketing or processing facilities of the applicant where the applicant's own production amounts to less than 50 percent of the total volume of the commodities processed or marketed by the facility being financed;

Second, place a $30,000,000 ceiling on the amount of credit to be outstanding from banks for cooperatives to any noncooperative entity in connection with import or export transactions of U.S. cooperatives that borrow from the banks for cooperatives; and

Third, relieve Federal land banks and Federal intermediate credit banks of any liability with respect to losses that may result from bank for cooperatives financing of foreign or domestic noncooperative entities in connection with import or export transactions of U.S. cooperatives.

The reason for this amendment is to try to make certain that if the farm credit system goes into the business of financing large export transactions or large processing plants and make bad loans, it will not fall upon the backs of the farmers who borrow from the Production Credit Administration and Federal land banks to make up those losses. I believe it has been generally agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, the purpose of this amendment is to overcome some of the difficulties that have arisen with the farm credit legislation that is awaiting action by the Senate. It is my feeling that if we can enact some modest amendments to the existing Farm Credit Act that was passed in 1971, we can clear the way for the final passage of the Farm Credit Act Amendments of 1980 (S. 1465).

This amendment will do three things: First, prohibit any production credit association or Federal land bank from making any individual loan for financing processing or marketing facilities in excess of $10 million where the applicant's own production amounts to less than 50 percent of the total volume of the commodity processed or marketed by the facility being financed; second, prohibit any bank for cooperatives from making any export financing loan in excess of $30 million; and third, limit the liability for losses sustained on export financing loans to the banks for cooperatives.

Mr. President, no one here needs to be reminded that the farm credit system is now the cornerstone of the essential financing system necessary to meet the unique needs of American farmers. The loans made by the Federal land banks, production credit associations, and banks for cooperatives are absolutely essential in keeping America's farmers operating in today's world of double-digit inflation and prime interest rates approaching 20 percent. Unless we keep the farm credit system in solid working order, we endanger the future of our food and fiber supplies.

This amendment is needed now in order to secure passage of the Farm Credit Act Amendments of 1980. I realize there has been concern over some of the provisions in the new Farm Credit Act amendments and frankly I share some of this concern. However, I also feel it absolutely essential that the Congress not fail our responsibility to the thousands of American farmers who annually borrow billions of dollars from these farm credit banks.

Let me say a couple of words about what this amendment does not do. First, it does not amend the Farm Credit Act Amendments of 1980. Any amendment of that kind would, of course, deal a death blow to that legislation since it is apparent to me and many of my colleagues that there will be no time for any conference with the House over differences.

Second, this amendment does not affect any appropriation. We accomplish our purpose by denying the Farm Credit Administration the ability to implement any regulations on member banks that exceed the caps specified above.

Adoption of the pending amendment will not, of course, preclude congressional review of the new financing programs that would be carried out by the Farm Credit Administration under the Farm Credit Act Amendments of 1980, and the enactment of any necessary changes.

Finally, Mr. President, I want all my colleagues to know that unless this amendment is accepted and sustained in the conference the Farm Credit Act Amendments of 1980 are dead. This would be a shame. American agriculture deserves better and my people back home have been sending me this message for months now. Our farm credit financing must adapt to meet the changing needs of agriculture. If we fail today, we fail the people we serve and the people who deserve a strong credit system that is able to meet the challenges of the 1980's.

I might add that the action we are taking today has been discussed with Senator TALMADGE, the distinguished chairman of the Committee on Agriculture, Nutrition, and Forestry, and that he supports this endeavor.

Mr. President, I do not believe there is any objection to this amendment. I will also say to my colleagues that unless this amendment is accepted in the conference, the Farm Credit Act Amendments of 1980 are dead.

Mr. President, if there are no questions, I am ready to yield back my remaining time.

Mr. METZENBAUM. Mr. President, are we on limited time?

The PRESIDING OFFICER. We are not on limited time.

Mr. METZENBAUM. Will the Senator from Oklahoma be good enough to explain paragraph 3 of the explanation which talks about relieving Federal land banks and Federal intermediate credit banks of any liability with respect to losses that may result from the bank for cooperatives financing of foreign or domestic noncooperative entities in connection with import or export transactions of U.S. cooperatives?

What would be the impact upon the Federal Treasury?

Mr. BELLMON. Mr. President, I am glad to respond. First of all, there will not be any impact on the Federal Treasury.

Mr. President, the farm credit system operates entirely on its own money. There is no appropriated money involved in the operation of the Federal land banks, the Federal intermediate credit banks, or the bank for cooperatives. But the system is all tied together. If the bank for cooperatives should make a large loan to an exporter and the loan goes sour for any reason, perhaps because of the fault of the Government or the outbreak of war, something of that kind, under the bill as it now stands, that loss would have to be shared by the Federal land banks and by the intermediate credit banks, which means that farmers who borrow money on their land or on their chattel would have their interest rates on loans increased.

The purpose of that section of the amendment is to make certain that the bank for cooperatives will have to pay its own losses and not pass them on to the other parts of the system.

Mr. METZENBAUM. Where will the money come from to cover the loss?

Mr. BELLMON. The bank for cooperatives, as I understand it, now has reserves of somewhere over $200 million. Those reserves will be drawn down to pay for whatever losses occur.

Mr. METZENBAUM. I thank the Senator.

Mr. YOUNG. Mr. President, I would like to ask a few questions.

I understand this will clear the way for the passage of the farm credit legislation, is that correct?

Mr. BELLMON. Mr. President, it is my understanding that if this amendment is agreed to on the continuing resolution, and the continuing resolution goes to conference with the House and this amendment survives, the Senator from Oklahoma would have no objection to approving the farm credit bill.

Mr. YOUNG. Mr. President, I have a little problem with the last statement, if it survives the conference. We do not know when the conferees will complete its work. Maybe it will be the last hour of the session. That would be too late for the farm credit bill to be considered by the Senate.

Mr. BELLMON. Mr. President, the bill we have before the Senate is a House bill. If the Senate approves it, it will go right on to the President. It does not need to go back to the House.

Mr. YOUNG. Will the pending bill for the Farm Credit Administration soon be considered?

Mr. BELLMON. As soon as we finish the conference on the continuing resolution.

Mr. YOUNG. Mr. President, I am not going to object, but I am opposed to that kind of procedure. That means the end of the Farm Credit Administration bill, as I see it.

Mr. EXON. Mr. President, will my friend from Oklahoma yield for a question or two on this matter?

Mr. BELLMON. Mr. President, I am happy to yield.

Mr. EXON. As I understand it, the matter before us is the amendment offered by the Senator from Oklahoma and the Senator from Kentucky. Is that correct?

Mr. BELLMON. That is correct.

Mr. EXON. I would ask my friend from Oklahoma, on what rationale is this matter being attached to the continuing resolution since it is legislation?

Mr. BELLMON. The answer is obviously that it is legislation, but it is also true that there are numerous sections of the continuing resolution that are legislation.

Mr. EXON. I would pose the question to the Chair, is the amendment of the Senator from Oklahoma germane to the subject now before the Senate?

The PRESIDING OFFICER. Under rule XVI the Chair is not allowed to rule on the germaneness of an amendment to an appropriations bill. Under that rule, that must be decided by the Members of the Senate.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent, if the Senator from Kentucky is agreeable, that the amendment be temporarily laid aside and that we move to other business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAILROAD RETIREMENT ACT AMENDMENT

Mr. BELLMON. Mr. President, I have an amendment at the desk. I ask unanimous consent that it be stated.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object, Mr. President, will the Senator from Oklahoma be good enough to explain it, first?

Mr. MELCHER. Mr. President, I want to establish that I still have the floor. I do yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, the amendment I have at the desk would put a cap on the appropriation to the railroad retirement fund as provided under sections 15(b) and (d) of the Railroad Retirement Act of 1974. It has been cleared with the chairman of the Appropriations Committee.

Mr. MAGNUSON. Mr. President, I think this is a good amendment.

Mr. YOUNG. Mr. President, I have no objection. It is a good amendment.

Mr. METZENBAUM. Mr. President, would this put a cap upon the amount of benefits that could be received under railroad retirement?

Mr. BELLMON. It puts a cap on the amount of contributions from the U.S. Treasury at not to exceed $350 million.

Mr. METZENBAUM. Has the chairman of the Committee on Labor been consulted in this matter, Mr. President?

Mr. MAGNUSON. Well, Mr. President, I want to say to the Senator from Ohio that the Labor Committee does not clear anything. It procrastinates and everything else and they always come up with amendments to the appropriations bill. I cannot answer a question about the Labor Committee. They never clear anything.

Mr. METZENBAUM. Since this apparently will have some impact upon the amount of benefits that might be received by railroad retirees, and since I am totally taken by surprise by it, I shall have to object at this time.

Mr. BELLMON. Will the Senator withhold for just a moment?

Mr. METZENBAUM. Certainly.

Mr. BELLMON. Mr. President, while it does cap the Federal contribution, it does not necessarily put a cap on the amount of benefits to an individual. This is the amount of money the President has recommended. We are still going to the administration numbers.

Mr. MAGNUSON. I understand it does not affect the retirement pay of the railroad people, the workers.

Mr. BELLMON. That is correct.

Mr. MAGNUSON. It does not affect that.

Mr. METZENBAUM. Mr. President, I am not clear as to why we need to put a cap on. If we put a cap on, we limit the amount of money and, indirectly, it would seem to have an impact upon the dollars available. I am questioning the need for the amendment and why it should be put on this legislation.

Mr. BELLMON. If it appeared that the amount available after the amendment was passed was not adequate, they obviously could request a supplemental.

Mr. President, I understood this amendment was cleared. If it is going to be objected to, I shall not call it up at this time.

Mr. METZENBAUM. I say to my friend from Oklahoma, I shall be happy to discuss the matter with him. I was only taken by surprise. It is very likely that as the day wears on, I shall not object to it.

Mr. BELLMON. I shall not call it up at this time, Mr. President.

ORDER OF BUSINESS

Mr. MELCHER. Mr. President, I yield to the Senator from Colorado (Mr. Armstrong) without losing my right to the floor.

Mr. METZENBAUM. Reserving the right to object, Mr. President, I intend to object if the Senator is yielding his time for the purpose of calling up the amendments of the Senator from Colorado numbered 2921, 2920, or 2918.

I shall explain to my friend from Colorado why.

This is an appropriations bill.

The PRESIDING OFFICER (Mr. Chiles). The Senator has objected.

The Senator from Montana has the floor.

SCHMITT AMENDMENT

Mr. MELCHER. Mr. President, I now yield to the Senator from New Mexico (Mr. Schmitt) without losing my right to the floor.

Mr. METZENBAUM. Mr. President, reserving my right to object, does the Senator from New Mexico intend to offer an amendment precluding the IRS from using its funds for any special purpose?

Mr. SCHMITT. No, Mr. President, the Senator does not.

Mr. METZENBAUM. Would the Senator from New Mexico be willing to explain the thrust of his amendment?

Mr. SCHMITT. Mr. President, the Senator from New Mexico is sending his amendment to the desk. It has to do with restricting the use of funds to enforce any regulations that have been disapproved pursuant to a resolution of disapproval adopted in accordance with the applicable law of the United States.

Mr. METZENBAUM. Since I do not understand, I shall object, Mr. President.

Mr. STEVENS. Regular order, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 2636

(Purpose: To prohibit the use of funds appropriated under this bill to implement proposed regulatory increases in imputed interest rates for tax purposes on loans between related entities and on deferred payments in the case of certain sales of property)

Mr. MELCHER. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. Melcher), for himself and Mr. Boschwitz, Mr. McGovern, Mr. Baucus, Mr. Jepsen, Mr. Durenberger, Mr. Pressler, Mr. Lugar, and Mr. Pryor, proposes an amendment numbered 2636:

At the appropriate place in the bill add the following new section:

Sec.   . None of the funds appropriated by this bill shall be used to issue regulations in final form after the date of the enactment of this Act modifying the imputed interest rates under section 482 or 483 of the Internal Revenue Code of 1954 which has the effect of increasing the rate of imputed interest under such section. Further, none of the funds appropriated in the bill shall be used to administer sections 482 and 483 of the Code other than in accordance with the rules and regulations in effect on January 1, 1980.

Mr. MELCHER. Mr. President, I have been joined in sponsoring this amendment by Senators Boschwitz, McGovern, Baucus, Jepsen, Durenberger, Pressler, Lugar, and Pryor.

I ask unanimous consent that Senators Heflin, Hatch, and Ford may be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MELCHER. Yes, I yield.

Mr. STEVENS. Does the Senator from Montana have copies of that amendment available?

Mr. MELCHER. Yes, Mr. President, it is at the desk.

Mr. STEVENS. Is it printed, Mr. President?

Mr. MELCHER. It is a printed amendment and I ask the Chair to advise me of the number.

The PRESIDING OFFICER. The amendment is numbered 2636.

Mr. STEVENS. Has the amendment been modified in any way from the time it was printed, Mr. President?

The PRESIDING OFFICER. No, there is no modification.

Mr. STEVENS. I thank the Chair.

(Mr. EXON assumed the chair.)

Mr. MELCHER. Mr. President, the amendment I am offering today will prohibit the use of funds by the Internal Revenue Service for issuing new regulations increasing the imputed interest rates on loans between related entities under section 483 of the Internal Revenue Code of 1954, and on deferred payments in the case of certain sales of property under section 483 of the code. It also requires the Internal Revenue Service to administer sections 482 and 483 of the code in accordance with the rules and regulations in effect on January 1, 1980.

On August 29, 1980, IRS issued proposed regulations that will set imputed interest rates on loans between financially related entities at 12 percent if the stated interest rate is at least 11 percent; and they will set imputed interest rates at 10 percent on deferred payments in the case of certain sales of property, if the stated interest rate is below 9 percent.

Mr. YOUNG. Mr. President, may we have order? We cannot know what this amendment is with all the commotion.

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order so we may hear the Senator from Montana properly explain his amendment.

The Senator from Montana.

Mr. MELCHER. Mr. President, the Internal Revenue Service will set imputed interest rates on loans between financially related entities at 12 percent, if the stated interest rate is at least 11 percent; and they will set imputed interest rates at 10 percent on deferred payments in the case of certain sales of property, if the stated interest rate is below 9 percent. The proposed IRS modifications to these sections of the law will increase imputed interest rates in the sale of property 50 percent over existing levels.

Mr. President, the point here is that the Internal Revenue Service is adopting a set of new regulations that is going to set interest rates on sales of property under contract for deed—something that they determine, rather than the sellers of the property. You cannot imagine how awkward that is and how overbearing it is until it goes into effect.

At present, Mr. President, it is not in effect; these are proposed regulations. The purpose of this amendment is to stop the IRS from implementing their judgment on what interest rates should be on contracts for sales of property. It is, of course, only for the period of time that this continuing resolution covers.

During that period of time, it is my hope that the committees—the Ways and Means in the House and the Finance Committee in the Senate—will take a good look at this and, by law, tell IRS what should be done on the matter—not let IRS draw their own regulations.

Mr. President, I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, this amendment appears to be a very good one to me. IRS has gotten into the business of setting what interest rates that have to be applied to a sale of a piece of land or other property. I think they have gone too far. That judgment should be at least a little more with the seller and the buyer of a certain piece of property. I think the IRS has gone too far in demanding much higher interest rates than the owner of the property selling it wants to place on it.

So I think it is a good amendment and

this will give the legislative committee time to work out something reasonable.

Mr. MELCHER. I thank my friend from North Dakota.

Mr. President, that is exactly the purpose of the amendment, to allow Congress to have some time to look at the matter and then direct IRS what should be the regulations if they are going to be changed.

Mr. MAGNUSON. Mr. President, I think this is a good amendment. But this brings to my mind the fact that the legislative committees are just not operating. They will not face up to things. They wait until the Appropriations Committee comes along and requires the Senator from Montana to do this, who probably presented this to the Finance Committee, and the other committees, and they are not doing anything.

It is just getting ridiculous. We are becoming the legislative committee for everything.

I think it is a good amendment. I think the Finance Committee should have addressed itself to this matter, and the Ways and Means Committee. But they did not. They just sat.

So I am happy to endorse the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to indicate my opposition to the amendment, but not particularly because of its substance, although the amendment itself goes far further than it should.

Mr. President, I would like to have the attention of my good friend from Montana.

The Senator's concern, and understandably so, about the imputed interest rules as relate to transactions between members of the family, but, as I understand the amendment, it would also eliminate the imputed interest rules where there is a transaction between General Motors and the company with which it is doing business, has an affiliation with them, or Texaco, or Exxon, or whatever the case might be.

As I indicated to the Senator prior to that, I understand his point about being concerned about putting this into effect immediately.

I think Treasury may be willing to agree to some letter indicating a willingness to delay so that the normal legislative processes may work, as suggested by the distinguished chairman of the Appropriations Committee a moment ago.

But I intend, and I say this to all of my fellow Members of the Senate, I intend to resist, keeping this appropriations bill from being an alternative to the finance bill, or a bill coming out of the Finance Committee, a taxing measure on a bill to change the tax laws of this country.

I have on my desk several different measures that are being proposed, all of which start off, "None of the funds appropriated by this bill shall be used," and then it goes on to tell the IRS what they cannot use their funds for.

I do not think that is the way we ought to legislate.

One of the amendments proposed would cost $2 billion—not this one—but one would cost $2 billion.

I believe we ought to use the normal legislative process and go through the Finance Committee with respect to changes of this kind.

So I say to my friend from Montana that I am prepared to try to help him obtain from the Treasury Department some letter indicating a delay since he indicates these regulations are about to go into effect, but delay only with respect to the family related transactions, not a delay with respect to the corporate related transactions.

I will be on the floor to oppose whoever may come forward with an amendment that will indirectly attempt to do that which this body has not directly indicated it wanted to do, and that is to change the tax laws of this country, whether or not the proposal has merit.

Mr. MELCHER. I thank my friend from Ohio for his observation. I note that he has some logic, as he always does, to his overall policy.

But in this particular instance we are dealing with regulations that were proposed August 29 of this year, almost the last day of the month of August. They are to go into effect January 1.

In all fairness to the two committees, that does not give the Ways and Means Committee of the House or the Finance Committee of the Senate much time to look at those proposed regulations before we adjourn.

Getting a letter from the Treasury Department saying they will delay their regulations, the implementation of the regulations, to, say, July 1, or August 1, or something, would be very acceptable to me.

But I say to my friend from Ohio, if he can get that letter, good luck. We wrote to the Treasury Department in October asking them to delay, asking them to give us a rational statement as to why they should not delay, asking them to cooperate with us, and as of right now we have not had a reply from them.

Mr. STEVENS. Will the Senator yield?

Mr. MELCHER. I am delighted to yield to the Senator.

Mr. STEVENS. I say to the Senator from Montana that we have had discussions with Members of the other body concerning the whole problem of regulations that are being implemented during this period.

I think he does have a meritorious situation because of the fact that it was impossible to get committees to meet and review regulations of this type during this period.

I hope that the Senate will support his amendment and others that deal with the same process.

We are looking for a generic amendment that will cover all regulations of this type to see if we can postpone the implementation of those regulations until the Congress has had a chance to take a look at them.

With all due respect to my friend from Ohio, I see no reason to refer matters to the Finance Committee if the Finance Committee is not going to be able to meet. It is not a question that they did not meet. They were not able to meet during this period.

We have had an avalanche of proposed regulations come to our attention that have been promulgated and published to be implemented sometime after the first of the year, and most of them were published sometime following the conventions.

It seems to me that it is wrong to have that type activity take place in an election year, and we ought to do what we can to suspend the implementation of this that Members of Congress want to have a chance to look at in the normal committee process.

I say to my friend, the chairman, it is legislation, but the legislative committees have just not had a chance to work on them in the election period.

So I hope we will either accept the amendment or, if the Senator from Ohio wishes a vote, I hope we will be able to get one.

I say to my good friend, the chairman, that we do have some people involved in the transition team who asked if we have any votes ordered between now and 11:30, that they commence at 11:30, go on to another amendment and not hold up the processes in the Senate. But we would hope the leadership would agree that any votes this morning will start at 11:30 so they can return from the meeting.

Mr. MAGNUSON. I am perfectly willing to accommodate the Senator, or anybody, on a vote.

But I still contend, when the Senator says it is impossible for the Finance Committee to meet on these things, that they just will not do it. They will not shape up. They procrastinate. They could have met. They could have met any time they wanted to. They did not have to wait.

The Appropriations Committee meets all the time. It is getting so that the Senator from North Dakota and I—I do not know—maybe they are doing us a favor to let us retire to the pasture. Because this is getting ridiculous. Every single piece of legislation that is controversial, the legislative committees pass it up. They will not meet, or they will not face up to it.

So along comes the Appropriation Committee bill and, bing, the sponsors want to do it there.

The Senator was very charitable. He said it was impossible for them to meet. It was not impossible at all. They just did not meet. They do not want to face up to these things.

Mr. STEVENS. It was impossible to meet on all these matters.

Mr. MAGNUSON. Why? That is their job. Why should they not meet on it? That is their job. It is their responsibility.

Mr. STEVENS. Perhaps the Senator is right. It is within their jurisdiction. But to say that each and every one of these could have been reviewed since this period of time, I think, is an impossibility.

Mr. MAGNUSON. It is impossible because they let them pile up.

Mr. STEVENS. That is what happened—they all piled up.

Mr. MAGNUSON. And they do not act. We in the Appropriations Committee are always faced with these problems. I do not like to repeat myself, but the Appropriations Committee is getting to be the legislative committee.

Mr. STEVENS. There are funds in this bill for this purpose. It is a limitation on the use of these funds for this year. It is not legislation. Therefore, I believe it is a matter that is proper to raise.

Mr. MAGNUSON. Nothing becomes legislation when they say "None of these funds shall be appropriated."

Something has to change. They let things pile up. With respect to the Labor Committee, Senator JAVITS and Senator WILLIAMS proposed an amendment yesterday on a matter they should have faced up to months ago. But they will not do it.

Take the abortion issue: that is a policy matter that the Committee on Labor and Human Resources should face up to. No, they will not do it.

We are faced with a problem that we have to do this now. But to excuse the Finance Committee for not doing it is wrong, because they let these things pile up. They are more concerned with tax exemptions and tax loopholes and things of that kind. They are responsible for the Internal Revenue, and they let things pile up. They meet and they say, "Well, let's leave that alone. We'll put it on appropriations."

The Senator from North Dakota and I will not be here next year, but I believe it is time the Senate changes its rules somehow to keep legislation off appropriations bills.

Mr. YOUNG. I say to my friend from Ohio that I hope he will let this amendment go through.

This is a new regulation which has not been in effect, and this would only postpone the effectiveness for a short while. A time limit could be put on it. It is a new, far-reaching regulation that IRS should not impose this way. I hope the Senator will let the amendment go through.

Mr. METZENBAUM. Mr. President, I have great respect for the Senator from North Dakota, and I certainly respect the Members of this body; yet, I want to respond, and I believe it may solve the problem.

I now have been assured by the Treasury Department that, in connection with this amendment—that is not to say all amendments—a letter will be forthcoming indicating that they will delay implementation of it until July 1, so that Congress may have an opportunity to act in connection with it.

It is my understanding from the proponent of the amendment and from the circumstances he indicated to me that he would be willing to take down the amendment. Until such time as the letter is forthcoming, I would not expect him to do that.

I should like to respond further to the distinguished acting minority leader, and that is on the question of the avalanche of regulations coming from the IRS.

Mr. STEVENS. The whole administration, not just the IRS.

Mr. METZENBAUM. Far be it from me to stand here and defend the previous administration or the IRS. The fact is that this regulation did not come after the election. This regulation, I believe, came back on August 28. If the IRS had not been doing its job, I believe that my good friend from Alaska and I and many others would have been challenging the IRS for failing to meet their responsibilities.

Under the circumstances, they are willing to give a letter in connection with this particular amendment, having to do with imputed interest. But I point out that it relates not only to family relationships but also to intracorporate relationships and intercorporate relationships.

I hope that, under those circumstances, the distinguished Senator from Montana will see fit to set aside his amendment, without losing his right to the floor and the right to bring it up, until the letter is forthcoming, and that under those circumstances he then would withdraw the amendment.

Also, I commend the Senator from Montana for bringing up this subject. I understand full well his concern about the transactions between family farmers. It is not my desire to attack that concern or to challenge the propriety of his position. It is to attack the propriety of legislative changes in the Internal Revenue laws by an indirect manner of providing that none of the funds shall be used to implement a particular IRS order. If we want to start down that road, it seems to me that there is no limit as to how far we can or will go.

Mr. MELCHER. Mr. President, these regulations affect all deeds for contract and sales of property where the seller takes back any part of the mortgage, and will have a litany of negative effects:

They will make it more difficult for young people to purchase homes.

They will lead to further decline in family farming and businesses.

They discriminate against family transactions by requiring higher interest rates on loans for the sale of property to members of their families than rates for perfect strangers.

That is the most weird situation I can imagine—that the proposed regulations are going to force a higher rate of interest if it is a sale between family members than if you never saw the people before. Nevertheless, that is a proposed regulation.

The regulations also are highly inflationary.

They will further depress the housing and real estate industry.

These proposed changes do not reflect historic and regional market interest rates for the kinds of deferred payment sales they regulate, but are set on the basis of current artificially inflated national prime interest rates that are being manipulated by the Federal Reserve Board as part of their policy on inflation. That scares me, because the prime interest rate on yesterday was 20 percent again. Some people are predicting that it will go higher.

Inflation and high interest rates have already combined over the past few years to push the cost of housing beyond the means of most young couples looking to purchase their first home. Now the IRS arbitrarily proposes to push up the interest on yet another type of purchase contract—that where the seller takes back all or part of the mortgage on the property and permits the buyer to pay it off over time. These regulations will mean, in more than just a few cases, that young couples will be unable to purchase their first home.

These regulations also hit hard at small businesses, farms, and ranches. The continued existence of the small business—whether commercial or agricultural—during this period of record-high inflation is already threatened. The cost/price squeeze faced by most businessmen today, coupled with skyrocketing interest rates on operating loans, is leading to the virtual disappearance of the family-owned business. The higher interest rates proposed by IRS on the deed for contract sale of small businesses, farms, and ranches will further increase the cost of operation and result in a decline of the small family-owned business in favor of the large corporation. This policy is a near-perfect example of how the "rich get richer and the poor get poorer." I do not think that is good Government policy.

These regulations are particularly unfair to the son or daughter who wants to purchase the family business. Because these regulations do not differentiate between the transactions of a national or multinational corporation and one of its subsidiaries on the one hand, and between a parent and child on the other hand, a son or daughter is forced by the IRS to pay higher interest on the purchase of the family business than some perfect stranger who comes down the road. Congress' failure to realistically adjust inheritance and gift taxes for inflation has already made it more difficult than ever for parents to pass the family estate on to their children. Now the IRS is proposing to arbitrarily increase the cost of selling the family business to a son or daughter, thus further insuring the disappearance of such enterprises.

These regulations will bring about a further decline in the housing and real estate industry, which is already suffering perhaps more than any other segment of our economy, from the Federal Reserve Board's policy of high interest rates. It simply is not realistic or fair to continue to discriminate against one particular segment of our economy through restrictive monetary policies.

Finally, by artifically raising the minimum interest rate to 9 percent or 11 percent between financially related parties, the IRS will have, in effect, guaranteed that yet another segment of our economy is victim of high inflation. This proposal will insure that our economy will not return to more reasonable interest rates. Even when we are successful in controlling the other elements of inflation, anyone who purchases property under these regulations will be locked into a contract or deed at these proposed high interest rates for perhaps the next 20 to 30 years.

I think it is foolish policy, at a time when we are all trying to fight inflation, for the Federal Government to propose another increase in interest costs and to make it more difficult for young families to purchase their first home or business. I hope that my colleagues will agree with me and support this amendment.

Mr. President, I understand that attaching this amendment to the continuing resolution will only provide temporary relief. However, this will give us until next summer or fall to review the law and make corrections. I have already contacted the Joint Tax Committee and asked them to look into the question of this portion of the Code and come up with new proposals to insure that we do not hurt family farming and businesses, or further depress the housing industry.

● Mr. BOSCHWITZ. Mr. President, this amendment deals with a recent IRS ruling which will have a major impact on farms and businesses, and particularly on those that are family-owned.

Specifically, the IRS recently proposed a rule that any contract sale closed after September 28, 1980 not showing an interest rate of at least 9 percent will be taxed as though the interest rate were at least 10 percent. The old ruling, dating back to 1975, was that parties to a contract showing less than a 6-percent rate were taxed as though the interest rate was 7 percent.

This proposed rule is even tougher on family sales. On sales between parties, the IRS wants to see an 11-percent or higher interest rate or else they will recalculate it at 12 percent. It is my understanding that this rule is being made retroactive to August 28.

The amendment would prohibit the IRS from making any changes in the regulations on imputed interest rates. It says that the IRS must comply with the requirements in effect on January 1, 1980, which sets interest at the 6-percent level.

These regulations will affect all sales where the payments are spread out over more than 6 months. So although the 9-percent minimum they establish may now seem like a bargain compared to the 14-, 15-percent rates we are currently experiencing, it also means that rates cannot in the next few years go below 9 percent.

In other words, the IRS is telling us that inflation, which underlies interest rates, is going to remain at or near double-digit levels for some time to come.

Let me remind my colleagues that the interest rate on contract sales has only been changed twice by IRS since 1964. So you can regard the 9 percent as tantamount to a permanent change.

Not only is IRS now setting national policy that interest rates cannot go below 9 percent, they will shut off what has up to now been an alternative means of financing to many people.

Very few persons can afford interest rates at 14 or 15 percent, or even at 12 or 13 percent. However, buyers have been able to arrange seller financing at a more attractive, reasonable rate. The most common form of this is when a homeowner takes back a second mortgage at a below-market rate. Oftentimes this is the only way a buyer can afford a home, and the only way a seller can obtain a qualified buyer. And oftentimes this seller-financed rate is less than 9 percent.

In Minnesota, more than half of contract farm sales have been negotiated at around 8 percent.

The proposed regulation would increase interest rates by 50 percent over existing levels. This is a particularly unfortunate time, when loanable funds are hard to come by at any interest level, to discourage private financing of sales. Forcing the seller/lender to calculate interest at higher rates may well close off that option in many cases. If sellers must pay the higher tax on interest received rather than the lower capital gains rate on the principal, they are likely either to decide against using the installment method, thereby closing some buyers out of the market, or the lenders would increase the overall payments, again meaning that some buyers could not meet that price. I simply do not comprehend why the IRS wants to foreclose on the one available option that allows the seller to finance a purchase that the buyer could not otherwise afford under market interest rates. This will push many young homebuyers trying to purchase their first home right out of the market, and will further depress the already hard-hit housing industry.

As long as both buyer and seller are fully aware of the payment price and method, I believe we should encourage private financing.

Further, why are family sales discriminated against? According to the proposed regulations, sales between family members must carry an interest rate of at least 11 percent. Why should parents have to charge their son or daughter 2 percentage points more in interest than the 9 percent they would have to charge someone else who was interested in buying the farm or business? Do we really want the IRS to be encouraging the sale of family farms or small family businesses to outside interests? I think not.

It is virtually impossible not for a small farmer, or a small business, to compete on a purchase with a large established business or farmer. If these new rules are enacted, it will become even more difficult for a buyer and seller to obtain a mutually beneficial agreement.

Additionally, because these regulations would reduce the number of purchases financed by the seller, it will place more pressure on the money market. We will have more persons who, in the absence of private financing, will have to rely on conventional financing. Financial institutions are already overburdened with loan demands; this is one of the reasons why the prime rate has again jumped to over 18 percent. More requests at the loan windows will only force interest rates for everyone even higher.

Again, I do not believe the IRS should be in the business of artificially setting interest rates by fiat. Interest rates should be set by the marketplace.

I urge my colleagues to support this amendment.●

Mr. STEVENS. Mr. President, I inquire if there will be a rollcall vote on this matter. Does the Senator from Ohio request a rollcall vote?

Mr. METZENBAUM. I am not requesting a rollcall vote, because I am requesting that the amendment be taken down in view of the fact that the Senator from Montana has indicated that if the Treasury Department would be willing to give a letter indicating that they would delay implementation for a period of 6 months—it will be more than 6 months, actually—he will be perfectly agreeable, then, to let the normal legislative process proceed. Such a letter will be forthcoming. I understand that the Senator from Montana wants to wait to see exactly what the letter says.

Under those circumstances, it would be my expectation that the amendment would be withdrawn, after the letter has been received.

Mr. MELCHER. Mr. President, it is my intention to call down the amendment and wait for the letter to get here. I trust that it will be here by 1 o'clock.

Mr. President, I ask unanimous consent that this amendment be set aside until 1 o'clock and that at that time it follow immediately after whatever business we are on.

Mr. STEVENS. Mr. President, reserving the right to object, does the Senator indicate that he desires his amendment to be called up following the disposition of any matter that is pending before the Senate at 1 o'clock?

Mr. MELCHER. Yes; that is exactly my request.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the Chair.

Mr. STEVENS. Was the matter disposed of?

The PRESIDING OFFICER. Is there objection to the request?

I assumed that the Senator from New York was addressing that subject.

Mr. STEVENS. That is my assumption also.

We do have a pending unanimous-consent request.

The PRESIDING OFFICER. Is the Senator from New York objecting?

Mr. MOYNIHAN. The Senator from New York was out of order and apologizes to the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question recurs on the amendment of the Senator from Oklahoma (Mr. BELLMON).

Mr. METZENBAUM. Mr. President, is it the amendment of the Railroad Retirement Board?

Mr. BELLMON. Mr. President, as far as I know I am not prepared at this point. My amendment has not been cleared.

Mr. President, I ask unanimous consent that it be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the Chair.

UP AMENDMENT NO. 1877

(Purpose: To provide $2.7 million to the Lake Placid Organizing Committee to pay costs in connection with the 1980 Winter Olympics)

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Moynihan) for himself, Mr. Javits, Mr. Leahy, Mr. Pell, Mr. Chafee, and Mr. Stafford) proposes an unprinted amendment numbered 1877.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. STEVENS. Mr. President, I object. I wish to hear the reading of the amendment.

Mr. MOYNIHAN. I am sorry. Does the Senator from Alaska wish it to be read?

Mr. STEVENS. Mr. President, I say with due respect we wish to hear the text of this amendment since we do not have copies. This is not a printed amendment.

Mr. MOYNIHAN. No, it is not. It is a short amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the appropriate place in the bill, insert the following new section:

Sec. . Notwithstanding any provision of this joint resolution, $2,700,000 of the funds available under this joint resolution or under any other Act making appropriations for fiscal year 1981, to the Economic Development Administration for economic development and adjustment assistance under the Public Works and Economic Development Act of 1965, and title II of the Trade Act of 1974, shall be made available to the Lake Placid Olympic Organizing Committee for the payment of costs relating to the 1980 Winter Olympics on such conditions as the Secretary of Commerce may reasonably require.

Mr. MOYNIHAN. Mr. President, I hope the Senator from Alaska might have the opportunity to hear me.

I am in the not altogether happy situation of having to report to the body that the Lake Placid Olympic Organizing Committee is soon to be forced to declare bankruptcy in the absence of a relatively small amount of money which is overspent in the course of the Olympics but for which they have no available resources.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. STEVENS. Is this the amendment the Senator discussed yesterday that he would be willing to have a shorter time limit on?

Mr. MOYNIHAN. I am happy to have a time limit on it, yes.

Mr. STEVENS. Will the Senator state for the manager of the bill what time he would be willing to have on this amendment?

Mr. MOYNIHAN. The case can be made or not made in 20 minutes, 10 minutes to either side.

Mr. STEVENS. Is that agreeable?

With the approval of the manager of the bill I ask unanimous consent that there be 10 minutes on each side and the vote, if one occurs, the rollcall vote will commence at 11:30.

Mr. MOYNIHAN. Fine.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, I inquire of the distinguished Senator from Alaska have we abandoned the earlier plan of taking up consideration of amendments which are not expected to require rollcalls?

Mr. STEVENS. I did not say a rollcall vote would take place. It is just that we have a request to protect Senators who are involved in a transition meeting downtown that votes start at 11:30 a.m. So if there is a vote I ask that it take place at 11:30 a.m. We do not know that there will be a vote. I am hopeful that this amendment will be accepted.

Mr. ARMSTRONG. Then I have no objection.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I rise to propose an amendment to House Joint Resolution 637—an amendment that would make available $2.7 million to the Lake Placid Olympic Organizing Committee to prevent the bankruptcy of the committee.

The LPOC was responsible for staging the 1980 winter Olympics. The committee and the State of New York, with the assistance of the accounting firm of Peat, Marwick, Mitchell & Co. have determined that $5.9 million is necessary to avoid this bankruptcy. The committee's $6 million deficit is the result of reductions in contributions due to the Moscow Olympic boycott, last minute changes in procedure mandated by the International Olympic Committee, unanticipated construction costs, and a lack of snow necessitating expensive snowmaking machinery.

All of us shared the thrill of the spectacular competition that rekindled national pride during the Olympic games. When it became clear that the committee was in financial difficulty, several of my colleagues, officials from the White House, the State of New York, the town of North Elba, and the Lake Placid Olympic Organized Committee tried to work out an equitable solution. After months of negotiation, it became clear that the only solution meant an additional appropriation from this Congress.

The State of New York has agreed to provide $2.7 million. The town of North Elba will provide $500,000. It is indeed appropriate for the Federal Government to participate in this effort to aid the Lake Placid Olympic Organizing Committee, if the committee files in bankruptcy, the litigation could take several years, many small- and medium-sized contractors throughout the Nation would be the losers. In addition, the potential for later use of the ERA-constructed sports facilities would be jeopardized by the continuing doubt about the property title.

I urge you to support this amendment, which will assure the solvency of numerous U.S. businesses and which will preserve the vast investment in winter sports facilities for future use by athletes throughout the United States and the world.

Mr. President, I am in a somewhat embarrassed situation. I have just been told that Senator Hollings wishes to be here, and in the 10 minutes involved that may not be possible. I wonder if it would be reasonable that we take this back down and I may submit another amendment which I also have, in order that Senator Hollings—I did not know that Senator Hollings wished to be here in the Chamber—may be here. Is that agreeable? I have another amendment which is a 20-minute one. It is equally agreeable to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1878

(Purpose: To prevent the IRS from implementing Revenue Ruling 80-60 with respect to book publishers and small businessmen)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Moynihan), for Mr. Nelson, Mr. Ribicoff, Mr. Javits, Mr. Tsongas, and Mr. Bradley, proposes an unprinted amendment numbered 1878.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place in the Act, add the following:

"Sec. (a) General Rule.—No funds provided in this Act shall be used to require any taxpayer who is obliged under Revenue Ruling 80-60 and Revenue Procedure 80-5 to change his method of accounting for his first taxable year ending after December 24, 1979 to change such method for taxable years beginning before January 1, 1981.

"(b) Applies Only to Book Publishers and to Small Businessmen.—This section shall apply only with respect to inventory consisting of books, maps, sheet music, monographs, periodicals or similar printed materials, or to taxpayers whose gross sales in tax year 1979 were $5 million or less.

"(c) Does Not Apply to Taxpayers Under Audit.—This section shall not apply to taxpayers to whom Revenue Procedure 80-5 does not apply by reason of section 3.06 thereof."

Mr. MOYNIHAN. Mr. President, I ask the Senator from Alaska if he wishes to have a time agreement on this matter. I have no objection.

Mr. METZENBAUM. Mr. President, may I just have an opportunity to examine that amendment before agreeing to any time limit? I am trying to get a copy.

Mr. MOYNIHAN. Does the Senator have a copy?

Mr. METZENBAUM. I do not have a copy.

Mr. MOYNIHAN. Mr. President, while a copy is being made for the Senator from Ohio, let me explain that the simple purpose of this amendment is to prevent the IRS from spending moneys to implement the Thor Power Tool tax ruling with respect to 1979 and 1980 tax years.

The Thor Power Tool ruling was issued on February 8, 1980 and will force many taxpayers to change the way they do their inventory accounting for tax purposes. The ruling, and a related revenue procedure, ordered taxpayers to make these accounting changes beginning with the 1979 tax year.

Under the amendment, the IRS would still be able to force taxpayers to adopt new accounting practices in 1981 but not before then.

Mr. STEVENS. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. STEVENS. I say to my good friend I do not wish to be abrasive about it but I do think that the chairman and ranking minority member of the Finance Committee should be present when we are discussing amendments that really are within the jurisdiction of the Finance Committee and neither one of them would be here. We are not prepared to accept this amendment without their consent.

Has he cleared this matter with the Finance Committee?

Mr. MOYNIHAN. This is a matter which has been reported from the Finance Committee.

Mr. STEVENS. I thank the Senator.

Mr. MOYNIHAN. And I explained the particular urgency of the matter. There are many small businesses in the Nation which has suddenly found the rules have been changed for them by the Internal Revenue Service in ways that are exceptionally destructive to the particular business patterns of the small enterprises. Of these enterprises none are more affected in ways that we would not wish them to be than the publishing businesses.

The Thor Power Tool ruling would have the effect of making it impossible for book publishers to maintain what are called back lists.

The back list of a publisher has to do principally with books for which there is a relatively small demand, but a demand that proceeds over a long period.

It is the nature of most scientific and technical books that they are this kind.

It has been the practice of book publishers, in the main, to write off as losses after several years the books they have not sold, and then when they sell them to pay taxes on the full sale price. The Treasury does not lose anything in the long run.

What is at risk is an entire publishing practice which is the basis of some of the most valuable intellectual and scholarly resources we have.

Mr. President, this subject, the prospect of publishers having to pulp books at the end of this year, has brought forth an extraordinary amount of editorial comment. The Washington Star has a long editorial called "Books Into Pulp." The New York Times has a long editorial called "Taxing Books to Extinction."

I ask unanimous consent, Mr. President, that these and other editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD. as follows:

[From The Washington Star, Oct. 8, 1980]

BOOKS INTO PULP

It is not uncommon for a law to effect human life and commerce far beyond what its sponsors intended. So it may be with the case of the *Thor Power Tool Company* vs. *Commissioner of Internal Revenue*, decided last year by the U.S. Supreme Court.

The case seemed unexceptional. The Court decided that the valuation of warehouse inventories could not be reduced for tax reasons—unless the stock itself was sold at reduced prices. The logic seems indisputable.

But what are the likely effects?

One is that the cost of doing business will go up—which means higher prices for everyone. Another is that basic inventories may be reduced. It could, for instance, be harder to get the spare parts one may need for a car or refrigerator.

The Internal Revenue Service subsequently made the *Thor Power* decision retroactive to 1979—a ruling now opposed by bills in Congress. And with what appears to be some glee, the IRS applied the ruling to all kinds of companies—including book publishers.

Publishing houses accordingly plan to destroy or "remainder" millions of books in the next few months because they can no longer depreciate their inventories for tax purposes. They are expected to print fewer books in the future, to avoid the chance of overstocking, and to permit titles to go out of print sooner. They are likely to offer fewer contracts for "non-commercial" books.

Some publishers, it has been reported, have already increased their sales to remainder houses (where the wholesale price is often 10 cents on the dollar). A great many books—some estimate millions—will be ground into pulp. Backlists—titles which sell steadily and yield profits over a long period—are in danger.

Yet backlists are vital to publishers who don't rely upon best sellers for profits. For every *Princess Daisy*, which may sell thousands of copies a week, there are hundreds of slower-selling histories and biographies from which the IRS wishes to extract the full tax dollar.

Paradoxically, the tax dollars may not be there. If publishers cannot afford to pay higher taxes on non-depreciated stock, they will get rid of it. There is not much of a tax—at least not yet—on pulp and shredded paper. Yet pulp is what the IRS will encourage if its ruling remains in force.

One must be grateful that such broad rulings were not being made by IRS in the days of Melville, Thoreau and Hawthorne; or Faulkner, Hemingway and Fitzgerald. One must also be grateful that the IRS does not have the final say.

Sen. Daniel P. Moynihan, a writer of note (whose books do not, alas, rival those of Irving Wallace on the best-seller lists) plans to introduce a bill exempting publishers from the *Thor Power* decision when the new Congress convenes in January. He has said it will be the first item on his agenda. We hope he succeeds.

Others may wish to re-examine the original ruling, but Mr. Moynihan recognizes that the immediate danger is to the printed page and the life of the mind in modern America.

[From the New York Times, Aug. 31, 1980]

TAXING BOOKS TO EXTINCTION

Anyone who has looked for a special book lately knows the probable outcome: it is out of print. The changing economics of the book business have sharply raised the cost of holding inventories, and publishers are reluctant to maintain extensive "backlists." As a result, people who want (or need) to read older books must increasingly depend on libraries—which have financial troubles of their own.

There is not a great deal that can be done to reverse this unfortunate publishing reality. But it is certainly possible to decelerate the trend by offering modest tax incentives to publishers who would rather sell books than shred them.

Federal law says that profits should be taxed only when they are realized. An investor, for example, need not pay taxes on the increased value of securities until they are sold. This principle also works in reverse, to the detriment of the book industry. When a book fails to sell as well as expected, its publisher would like to write off the remaining inventory by deducting the loss from current taxable income. But Internal Revenue argues that, to be consistent, such anticipated business losses should not be deductible until the losses are actually realized—that is, when the books are either dumped below cost or destroyed.

This quarrel has been fought in the courts for years. In 1979 the Supreme Court ruled that the Thor Power Tool Company could not carry inventories of its products at a loss. And last February the IRS informed publishers that, for tax purposes, unsold novels were no different from unsold drills.

It is hard to quarrel with the Government's logic or, for that matter, its forbearance in this case. And there may be more than a touch of hyperbole in the comment of George Brockway, the chairman of W. W. Norton, that the IRS ruling "could blow the business apart." But there is little doubt that, uncushioned, the ruling will make it harder to find that special volume of art criticism or monograph on cell biology.

What cushion is possible? Publishers seem to be banking on a bill sponsored by Senator Nelson of Wisconsin and Representative Conable of New York, which would provide a one-year delay in the imposition of the Thor ruling for all affected businesses. That is an unfortunate wagon to which to hitch the future of book industry taxes. There is no good reason to give a costly tax reduction to, say, the auto spare parts business. In any case, such a one-shot delay would in no way improve the long-term incentive to keep good but slow-selling books available.

What publishers really need is legislation that provides special treatment for a truly special situation, allowing them to write off inventories after three or four years without having to dump books. Such legislation, just for publishing would cost the taxpayers only a few million dollars a year. It would be money well spent.

[From Time magazine, Nov. 3, 1980]

TAXMAN'S AX—AN IRS RULING MAY PROMPT PUBLISHERS TO DESTROY STOCKS

Some pens are mightier than other pens. Last year the Supreme Court handed down an opinion that spelled harder times for thousands of publishers and their authors. In *Thor Power Tool Co.* vs. *Commissioner of Internal Revenue*, the court ruled that the company could not claim a reduced value on warehoused stock in order to lower its taxes. The accounting procedure, known as a write-down, was a standard legal loophole. Its plugging has allowed the IRS to move with its customary even heavyhandedness. "All the IRS is doing is carrying out regulations that have been in force for many years," counters Jerome Kurtz, commissioner of Internal Revenue.

All this came as one more piece of bad news to U.S. publishers, already whipsawed by inflation and recession. The IRS edict made it more costly to maintain backlists, the reserve of older and usually high-quality books that sell slowly but steadily year after year. To such houses as Knopf, Random House, Houghton Mifflin, Scribner's, and Little, Brown, backlists confer a sense of tradition and continuity whose value cannot be entirely tallied in dollars. Says Knopf Editor in Chief Robert Gottlieb: "Our intent is to keep our backlist in print as long as possible and to make those books available to bookstores and libraries. We'd cease being Knopf if that were to change."

Less feisty bookmen admit that they are already moving unsold books out of their warehouses at an accelerated pace. Says Viking Treasurer Theodore Flam: "We're talking about a reverse effect on cash flow. We are losing money on our inventory, and we can't afford to. We might not be publishing the marginal, slower-selling books any longer. It's costing publishers tax money up front now. Publishing, in the end, will lose out." Hardpressed houses are being forced to remainder their stock (sell it at a large discount and turn the loss into a tax deduction). Few publishers are known to have sent books to the pulpers. When and if they do, the unwanted volumes would be dumped into vats. There, acids would bleach the words from pages before they are processed into such products as toweling and tissues.

The vision of scholarly and scientific books being reduced to toilet paper was instant grist for Russell Baker's saturnine mill. Observed the humorist in his New York Times column: "Thus is the product of the most fertile brain placed at the disposal of the masses. The most advanced mind is able to serve the humblest illiterate by being applied to contain a sneeze, to comfort some tender portion of the flesh, to absorb perhaps a dollop of fish grease which has landed on the kitchen floor."

The recent tax regulation will be even harder on first novelists, and is certain to curtail lesser-known writers' advances against royalties. The Hollywoodizing of publishing and the boom-or-bust psychology that pervades the industry have made it more difficult to place first novels and nonfiction without mass appeal. The Thor decision can only quicken this trend. Few publishers are likely to take risks on little-known authors without at least a guarantee of a tax break on his unsold books. First printings will be smaller, and second printings may become a rarity for trade books that are not best-sellers. In addition, declining backlists are sure to harm the small, independent bookstore that attracts readers looking for hard-to-find literary works. The result: an economy of scarcity in which prices can only rise. Auto-parts dealers, who must operate under the same tax law, may not suffer at all. A new alternator is a necessity; a new author may be a luxury that can be deferred.

Fortunately, there is one author in a position to do something about this situation. Senator Daniel P. Moynihan (Maximum Feasible Misunderstanding) plans to introduce special legislation that would exempt publishers from the Thor ruling. The bill would join one sponsored by Senator Gaylord Nelson, who favors a moratorium on implementing Thor. In the meantime, publishers searching for loopholes might consider the tax credits available for energy conservation. Books stacked against the walls of warehouses might be considered insulation. For the more literary, who prefer a Swiftian modest proposal, there is always the book-burning stove.

[From Newsweek, Oct. 20, 1980]

The Tax Man Cometh To Publishers' Row

"The power to tax involves the power to destroy," wrote John Marshall, fourth Chief Justice of the United States—and these days, American book publishers are becoming reluctant true believers in those 161-year-old words. The publishers are locked in battle with the Internal Revenue Service, which has ordered some changes in their accounting procedures. If the IRS gets its way, the publishers warn, hundreds of authors will never see their work in print and millions of books may have to be destroyed.

Oddly enough, the publishers' troubles started with an IRS case unrelated to their trade. Early in 1979 the tax men won a Supreme Court ruling against the Thor Power Tool Co., a small manufacturer in Aurora, Ill., with annual sales of $25 million. The court upheld the IRS contention that Thor was improperly "writing down" its inventory by claiming sharply depreciated values for unsold stocks to reduce its tax load. Then, this year, the IRS issued a clarifying ruling that extended the Thor decision to all other American businesses. Henceforth, it declared, every company must pay taxes on the full value of its unsold inventory unless it actually disposes of the stocks or sells them at a discount.

OUTLAWED

The IRS ruling has caused widespread alarm in a publishing industry already beset by a host of other woes—from flagging sales in the economic slump to the growing power of chain retailers that can dictate the financial terms of distribution. Most publishing houses maintain warehouses of slow-but-steady sellers and new books that do not immediately sell out in the stores, and for tax purposes, the publishers have traditionally marked down the value of this "backlist" to as litle as 5 per cent of the wholesale prices. Now with that practice outlawed, they face millions of extra dollars in extra taxes every year.

Rather than pay, the publishers are taking painful steps to cut backlists and avoid future buildups. Some companies are "remaindering" their slow-selling titles—selling them through discount stores at dramatically lower prices—much more quickly than they have in the past. That gives authors less exposure and sharply reduces their royalty earnings. Other publishers are reluctantly planning to shred poor sellers and peddle them as pulp. Still others are informing their authors, especially those who are commercially unproven, that the size of their printings must be small to guard against leftovers. Eventually, publishing executives say, they may have to cut down on books of high literary or technical merit simply because there is no big market—and no economical way to store them for future demand.

BAILOUT

The outcry against the IRS policy has been heard in Washington. Democrat Daniel Patrick Moynihan of New York plans to introduce a Senate bill early next year that would exempt publishers from the accounting rule, and the Senate's Small Business Committee is investigating whether the IRS policy might cause irreparable harm to other businesses as well. "I'm hopeful," says Aaron Asher, editor-in-chief of Farrar Straus & Giroux. "The government has made exemptions in the past—Chrysler, for instance." But Congressional gears grind slowly, and Asher and his colleagues in the publishing trade fear that help may not arrive before considerable damage has been done.

[From the New York Times, Aug. 7, 1980]

Burn Data, and Save

(By Daniel N. Fischel)

As a publisher of scientific monographs and journals, it is my business to distribute reports of research as broadly and effectively as possible. So why has my treasurer recommended that 153 of our book titles be destroyed?

This is a business, which means we can't operate without money. But if we kept the luckless 153 in the warehouse, we'd sell at least a few thousand in time and that would bring us money, wouldn't it?

I will try to explain this bizarre situation. In past years, when editors overestimated the demand for a book, my accountant said it was my duty to the stockholders to "write down" the value of these slow-selling inventories. When products move to market so slowly that some may never be sold at all, it's necessary to set up an accounting reserve for them. This reserve, or "write down," which reduces the value of my excess inventories to zero, also reduces my shareholders' profits—and, incidentally, my firm's income tax. But I keep the books because they're no longer a financial burden, and eventually some of them will be sold.

Enter the Internal Revenue Service. In a court battle to which no publisher was a party (Thor Power Tool Company v. Commissioner), the United States Supreme Court decided that it was legitimate to take such deductions for tax purposes only if the overstock is sold at less than cost or destroyed. My colleagues and I, as publishers of professional books, can't enlarge our highly specialized markets by selling books below cost, as general-interest publishers can, so remaindering is not a solution. Destruction is.

Now, the notion of destroying socially useful books is abhorrent to me. But the Thor decision is retroactive. If I don't destroy my overstock, the Internal Revenue Service and its Commissioner will disallow my past deductions. We're a medium-sized house, and the increase in our taxable income will be well over a million dollars. I have no choice.

It isn't, I reflect resentfully, as if those inventory "write downs" were taken because I wanted to avoid paying taxes. My C.P.A. insisted. What's more, he still does.

Senator Gaylord Nelson has introduced a bill that would prevent Thor from being applied retroactively. But I hear it is given little chance of passage in this election year. Maybe it's too technical to interest the voters.

But even if the Senator's bill passes, we still have Thor to reckon with in the future. I think of what it will mean to those who need the books destined for premature destruction. How many scientists, doing their literature searches, will be unable to track down each citation and will therefore waste time exploring previously mapped blind alleys? How many will miss a vital clue pointing out a new direction? Might one of them have led to a breakthrough in solving our energy problems? And how many physicians, conscious of their need to learn more about a patient's condition but constrained by the pressures of their appointment books, will give up trying to locate that out-of-print monograph that just might have held the answer?

Then there are the authors. How do I explain to them that hereafter our order department will be reporting that their books are "out of print forever"? Do I try to explain that we're both victims of a tax ruling?

Finally, I must change my way of doing business. Book publishers bring out such an extraordinary number of new products that it becomes impossible to predict sales and to print just the right quantities. Success in publishing is a function of the averages; no one guesses right all the time.

What will we do in the future? Since our ability to forecast sales hasn't improved, and the Commissioner will penalize us harshly for our mistakes, we must become more cautious. That means we'll reject more manuscripts and print fewer copies of those we accept. Either way, society will suffer. An economy of scarcity means fewer goods at higher prices.

Paradoxically, the I.R.S. won't benefit, at least in the long run. In the past, many of the books that had been written down were ultimately sold and therefore produced a taxable profit. But a book that has been destroyed can't generate a tax payment.

Oh, yes, I know. I realize the I.R.S. doesn't want me to destroy my thousands of books. Nor those that I'll have to destroy, or not publish, next year. That's my decision if I want to reduce taxes and preserve my cash flow—frozen solid on those warehouse shelves—so I can finance next year's books. Suddenly I recall a ringing comment made by Chief Justice John Marshall in 1819: "The power to tax involves the power to destroy." Where is he now? Must I burn the books?

[From the New York Times, Oct. 23, 1980]

HERS

(By Lynne Sharon Schwartz)

Two and a half centuries ago, in his beloved and starving Ireland, where beggars crowded the city thoroughfares with children at their skirts, the savage-tongued ironist Jonathan Swift, put forth what he termed "A Modest Proposal": If the Irish babies can't be fed, then let them be sold as food for others, a suggestion anticipating Eldridge Cleaver's dictum that if you're not part of the solution you're part of the problem. His public-spirited notion, Swift reasoned, would yield a double harvest: The poor would have a reliable source of income, and the rich landlords a tempting new delicacy.

Unwittingly, perhaps, our Internal Revenue Service in a recent ruling that governs unsold books in publishers' warehouses has issued a modest proposal of its own. Its ramifications are more subtle than Swift's: not the murder of the body but the murder of the spirit.

Following a 1979 Supreme Court decision in the case of the Thor Power Tool Company, the I.R.S. has decreed that from now on all businesses, publishers included, must pay taxes on the full sale value of warehouse stock, rather than a lesser value as in the past. But since publishers claim they cannot afford the resulting charges, they are instead destroying millions of books in their inventories. No matter; no exceptions, says the I.R.S., "whether they're widgets, gadgets, cars or books."

Now the immediate effects of the ruling are all too evident: publication of fewer books that are not potential best sellers; smaller printings and higher prices; the gradual disappearance of noncurrent books, and reduced royalties to authors, to name only a few. In short, the ruling means a more precarious existence for both publishers and writers, as well as being official confirmation that a book, contrary to outmoded illusions, is a commodity.

Before we leap to a wholesale condemnation of the I.R.S.'s modest proposal, though, it might be instructive to examine some of its long-range consequences in the reasonable manner of Swift. Indeed, with careful thought we may be able to discern a number of far-reaching advantages not readily apparent.

First, the mass destruction of books that do not sell rapidly and in huge quantities would effectively silence irritating special-interest groups—women, blacks, Hispanics, homosexuals—who lately have been articulating in print a highly unsettling self-awareness. With the I.R.S. policy in force we could rest assured that these disruptive notions would soon pass out of print, and with them, perhaps, the attendant demands for a greater stake in the commonweal.

Secondly, the emptying of publishers' warehouses would yield acres of space that might be devoted to more pressing needs: either (a) the stockpiling of arms, or (b) the alleviation of the urban housing shortage. If it were found commodious to shelter large numbers of the poor in warehouses, we might then consider making available the spaces in university and public libraries. Imagine the vast amount of space that would be released by shredding the Library of Congress alone!

Thirdly, the ecological benefits might well be beyond our wildest hopes. For one thing, the recycling of paper could help preserve our forests. On the other hand, if the major portion of printed matter were burned rather than shredded, books might become a viable substitute for oil, thereby eliminating our worrisome dependence on the OPEC nations.

Books—the panacea that politicians have been yearning for to solve the energy crisis?—could heat commercial and residential buildings, supply electricity, even to run cars. Landlords could order several hundred thousand copies of "Moby Dick," for example, to get them through the winter; independent gasoline station owners would reserve weekly supplies of Elizabethan poetry to be converted into fuel. The dangers of nuclear energy plants, so loudly protested of late, would be a thing of the past; instead of health-threatening radiation, mere smoke, the effluvium of words, would suffuse the air.

The research and development necessary for the above metamorphoses would constitute the fourth great benefit of book destruction: the solution of the unemployment problem. Not only would manual and machine-operating shredders find ample job opportunities, but hordes of technicians would be needed to invent ways of converting books to practical use. Perhaps even writers forced out of work might be retrained for these more gainful occupations. Publishers could operate their own crematoria, providing a new trade for disaffected young dropouts—burning books rather than reading them. (For those inevitable marginal types who cling sentimentally to antiquated values, we might institute the return of the professional scribe, on a small scale, naturally.)

Fifthly, since books have always served as the documentation of their age for future generations, and since our age has been guilty of so many acts of mayhem, we would be spared the censure of posterity. What better way to obliterate our mistakes than to shred or scorch our experience out of history?

And lastly, destroying books would be a far quieter, more humane and less painful way of unraveling civilization than, say, nuclear warfare, until now the seemingly preferred method. Once again, our nation should be commended for its originality as well as its restraint. Granted, this way may take more time, but it will surely prove efficacious in the long run.

With all these social boons, our government would recoup many times over—if indirectly—the money it now grants writers to write books, through the National Endowment for the Arts, for instance. And writers, whose social utility has always been in doubt anyhow, would become an essential link in a circular chain of paper processors.

"When you sell a man a book," said Christopher Morley, "you don't sell him just 12 ounces of paper and ink and glue—you sell him a whole new life." Now it appears that the paper and glue, not the reader, are destined for a new life. A recent news article describes the reincarnation of a book: "The covers are stripped and the glue is removed, and the texts are shipped to mills . . . where they are dumped into great vats of chemicals that bleach the print off the pages and reduce the paper to pulp to be recycled, possibly as paper towels or tissues." In other words, please don't squeeze the Charmin, it might be Flannery O'Connor.

So when I recall what a book meant in my childhood I feel like an anachronism. I remember my mother saying, "Don't disturb her, she's reading." A book was a sacred object—we were not permitted to throw one away. But if my father found a Classic Comic in the house, he would shred that with his own two hands, and vociferously explain why. If we were bored, they told us, "Go to the library."

I wrote my first story when I was 7 years old. It was about the creation of humanity by a "kind scientist." Probably at no other age would I have dared attempt such a mighty theme. I completed it at about 8 one morning and immediately brought it to show. my father, who was shaving. To his eternal credit, he put down his razor and, standing in a steamy bathroom wearing a towel, his face covered with lather, read the two pages through, then gave them the silver praise writers so badly need. I came away feeling I had achieved one of the few things in the world whose importance was beyond question—not merely the writing of the story, but having had it read and comprehended.

A couple of years later I was so enthralled by "Little Women" that I began copying it in order to take possession of its magic: "Christmas won't be Christmas without any presents"—words that unsealed an incorporeal universe mirroring our own, only better, because all the feelings and sensations were miraculously articulated and transferred: ink on the page set off vibrations in the blood.

I mention these experiences not because they are unique, but on the contrary, because they are shared by thousands. Anyone who writes a book is offering, with hesitation and with hope, a gift with no strings attached, only a crucial question: Here is how I try to make sense of it all; how about you? That is why the destruction of books makes a writer's blood run cold. It lays waste not only our words but our gifts.

[From the New York Times, Oct. 25, 1980]

WRITER'S GROUPS SEEK HALT ON EFFECT OF TAX RULING

(By Herbert Mitgang)

Independently, three organizations of writers and artists in the United States—the American Academy and Institute of Arts and Letters, the Authors Guild and P.E.N., or Poets, Essayists, Editors and Novelists—are rallying their members to urge Congress to avert the effects of the Supreme Court's decision in the Thor Power Tool case. Although their combined membership is 10,000, the three groups represent the best-known and most influential authors.

The Thor decision affects tax write-downs on products from monkey wrenches to car bumpers to unsold books in warehouses. Some publishers, especially those in the comparatively slow-moving field of scholarly books, maintain the application of the case to their stock would result in the disposition of many more books than usual to discount and remainder houses or, worse, the destruction of millions of dollars worth of books that would otherwise remain on the shelves for possible orders.

A statement by Barbara W. Tuchman, president of the American Academy and Institute of Arts and Letters, expanded the effects of the case to other artistic areas:

"The ruling seems especially ominous to members of our departments of literature and music, although, of course, all the arts and sciences will suffer." It called on Congress to reverse the effects of the decision in its next revenue bill.

SPECTRUM OF THE ARTS

Mrs. Tuchman was joined in her appeal by the academy-institute's board, including Jack Beeson, Elizabeth Hardwick, William Meredith, I. M. Pei, Raphael Soyer, John Updike, Hugo Weisgall and Eudora Welty.

On behalf of the Authors Guild Council, Robert A. Caro, president, and other officers, including Roger Angell, John Brooks and

John Hersey, sent messages to all the members of the Senate Finance Committee and other Washington officials to protest the case's consequences. The guild pointed out constitutional issues were involved:

"The Authors Guild believes that Congress should not, for tax purposes, equate literary works with tool parts, accessories or other inventories of merchandise or raw materials. It should not treat cultural materials as if they were commercial products because it is difficult enough to create a book that will endure for a few years, let alone for decades."

COPYRIGHT ACT CITED

As part of the seven-page statement prepared under the guidance of Irwin Karp, the guild's lawyer, the council offered the argument that "the application of Thor to book publishing is not consistent with the cultural, literary and educational values which the First Amendment and the Copyright Act are intended to preserve." The copyright law that was revised by Congress several years ago lengthens the protection afforded to authors for their creative works and is rooted in the Constitution.

In addition, the council said that the decision affected not only authors and publishers, but also individual readers, scholars, teachers, libraries and schools, and that these professionals and institutions would seriously be harmed unless books were kept available.

The American center of P.E.N., whose president is Bernard Malamud, also expressed its concern. A meeting of the international organization, whose American branch is in New York, called for support of the bills in Congress to exempt books from the ruling. At a panel held before the membership on the publishing industry in the 80's, several speakers deplored the decision and urged action by writers and publishers to reverse its effects.

[From the New York Times, Oct. 5, 1980]

MILLIONS OF BOOKS ENDANGERED AS RESULT OF TAX RULING

(By Michiko Kakutani)

Publishing houses say that within the next few weeks they will destroy or sell at a discount millions of books in their warehouses. They say that they must do this because under a recent Internal Revenue Service ruling they can no longer write down the value of their inventories for tax purposes.

Publishers and their authors say that the ruling will seriously affect their business in the following other ways:

Publishers will become increasingly reluctant to sign contracts for slower-selling noncommercial and scholarly books, including biography, history, poetry and belles-lettres.

Titles will go out of print soon and will be unavailable to researchers and students.

Publishers will tend to order smaller first printings as well as fewer second printings, forcing an increase in the prices of individual books.

In the last few days, some authors have been notified by their publishers that books of theirs on backlists would be disposed of unless the writers preferred to buy them at reduced prices. A backlist consists of books stored in warehouses and sporadically sold over the years to libraries and stores, as well as to individuals.

The situation came about because of a decision by the United States Supreme Court last year that on the surface had nothing to do with publishing. In the case of the Thor Power Tool Company v. Commissioner of Internal Revenue, the Court said that the valuation of warehouse book could not be reduced for tax reasons unless it was disposed of or sold at reduced prices. One result of this will be to increase the cost of business for concerns that maintain inventories of parts for a variety of products ranging from automobiles to lawn mowers and lead them to reduce their inventories. [Page 80.]

The decision was then applied to book publishers last February, when the I.R.S. issued a ruling not only making the Thor Power decision retroactive to the calendar year 1979, but also applying it across the board to every kind of company, publishers as well as toolmakers.

"There was never a question of making exceptions," Wilson Fadely, an I.R.S. public-affairs officer, said. "The ruling deals with a method of accounting, not with the kinds of inventory—it doesn't matter whether they're widgets, gadgets, cars or books."

As a result, many publishers, who are not willing to pay the extra taxes on their warehouse inventories, have decided to go ahead and dispose of books in their inventories. Some have already increased their sales by 30 percent or more to remainder outlets, which sell books at a discount. Others are grinding books into pulp. At one major house, the trade books alone that will be disposed of total as many as a million copies.

"The social consequences of this ruling are clear and clearly undesirable," Townsend Hoopes, president of the Association of American Publishers, said in his testimony before the Senate Committee on Small Business. "It will, in a word, leave creators, the publishing industry and the country economically and culturally poorer."

BILLS IN CONGRESS

Senator Gaylord Nelson, Democrat of Wisconsin, and Representative Barber B. Conable, Jr., Republican of New York, have introduced bills in Congress, prohibiting the retroactive application of the Thor Power decision to all affected businesses, including publishing—legislation strongly supported by the publishers' association, the Author's League and PEN, as well as the National Association of Wholesalers. The proposal, however, is attached to the general tax cut bill in the Senate, and, given Congress' schedule, according to Washington lobbyists, is unlikely to even reach the floor this year.

In any case, what publishers are really hoping for is special legislation aimed not only at alleviating their tax situation retroactively, but also in the future. Senator Daniel Patrick Moynihan, Democrat of New York, said that the first thing he would do when the new Congress convenes in January would be to introduce a bill permanently exempting publishers from the ruling.

The decision, publishers said, is particularly upsetting because of the way their industry operates. Because it is difficult to predict sales and print an appropriate number of books with any degree of reliability, they have routinely placed their excess inventory in warehouses, in hopes that some of the books would eventually be sold.

MARKDOWNS TO AS LITTLE AS 5 PERCENT

In the past, many publishers used an accepted accounting procedure to write-down the value of unsold books—marking down a title to as little as 5 percent of its wholesale price. By writing down a book, they effectively increased the cost of doing business and thereby reduced the amount of taxes paid.

Under the new ruling, they will no longer have the option. Instead, they will have to either continue to carry the book at original cost and pay higher taxes—which can run into millions of dollars—something many publishers feel is economically unfeasible, or sell the books at less than cost to remainder outlets or physically scrap them.

Ironically, the I.R.S. will probably not profit from the ruling either. If a book is kept in the warehouse, there is always the chance that it will eventually sell, generating taxable income; disposed of, it could not earn profits or yield taxes.

SEVERE EFFECTS FORECAST

According to publishers, the long-term effects of the Thor decision are likely to be severe. As books go out of print more quickly, the authors will be deprived of financial and psychological support, and readers and scholarly researchers will find it more difficult to obtain the titles they want. Authors' royalties, which accumulate over the years as a book sells, would be reduced, as would the working capital used by publishers to acquire new works.

Had the ruling been in effect in the past, publishers said, it is unlikely that Herman Melville and William Faulkner—or, for that matter, any author who took a considerable amount of time to develop an audience—would have stayed in print for very long. As it is, under the Thor Power decision, books by little-known authors are not being kept in stock at all.

"Books have two kinds of lives," Victor Navasky, an author and editor of The Nation magazine, said, "vertical lives and horizontal lives. A classic sells over time, a best-seller sells over a period of weeks. With this decision, some publishers will just not be able to keep certain classics. It will make so-called literary publishing more difficult."

Farrar, Straus & Giroux has begun to cut its backlists. Whereas the company used to keep at least a five-year supply of books by such authors as Philip Roth, Bernard Malamud and Susan Sontag on hand, it is planning to keep a two- to three-year supply.

"It affects books across the board," Roger Straus, Jr., president of the house, said. "Everyone's dumping like crazy. Unfortunately, publishers are going to look even more severely at those books they realize will not have immediate commercial appeal. If someone has to work backward from a profit-and-loss statement, it will be hard to justify the publication of such books. It will have a devastating effect on culture."

George Brockway, chairman of W. W. Norton, tended to agree: "The ruling is going to have its heaviest impact on the commercial publication of scholarly works. In the past, if we weren't selling 250 copies of a book a year, we wouldn't think of reprinting it. With inflation and Thor Power, it's now nearer 1,000 copies."

LOW PROFITABILITY

The Thor Power decision aggravates an already difficult condition, people in the publishing community said. Even without the ruling, there are high return rates on books, and about a quarter of the 40,000-odd titles published annually actually make a profit. "The uncommercial book is already on the run," Wilfrid Sheed, the author and critic, said. "We didn't need this to make it worse. It's just one more bit of bad news."

As the Sept. 15 extension of the deadline for filing corporate income-tax returns passed, many publishers began accelerating their sales of inventories to remainder outlets. Although they see this as a preferable alternative to destroying books outright, it is a losing proposition financially.

Publishers generally receive 20 percent or less of the original retail price for remainder sales and rarely recover their original manufacturing costs; the author usually receives no royalties.

REMAINDERING STEPPED UP

The Viking Press has stepped up its remainder sales by 30 percent. "We used to go through the remainder process once a year," Theodore Flam, treasurer of the house, said. "This year, we'll have to do it twice, next year probably three times."

Similarly, Farrar, Straus & Giroux has increased its remainder sales by 30 percent—sales involving a total of 150,000 books and 25 to 30 titles, the majority of which would have ordinarily been kept in the warehouse.

It will cost the company, Mr. Straus estimated, $500,000 in potential sales.

Harper and Row has set an in-house deadline of Oct. 31 for inventory reduction. "It affects all our authors," Edward Burlingame, vice president and publisher of the company's trade division, said ."This decision has major financial consequences for the publishing community and the longterm support of writers' work. There's unfortunately a stigma attached to remainder sales, but at least those books are read. We won't destroy a single book as long as there is hope of finding it a home—even if we have to give them away."

CONTRACT PROBLEM FOR TEXTBOOKS

Some publishers, however, point out that they do not even have Mr. Burlingame's options. In many cases, textbook publishers are actually prevented from disposing of their excess inventories because contracts with certain state elementary and high-school systems stipulate that books remain available in stock for several years. Therefore, these pubilshers have no choice under the Thor Power ruling but to pay extra taxes.

What's more, many textbook houses that can dispose of their books have found that scholarly and scientific books do not appeal to the average reader and, thus, have no remainder market. So, the books are destroyed. The covers are stripped and the glue is removed, and the texts are shipped to mills in New Jersey or on Long Island, where they are dumped into great vats of chemicals that bleach the print off the pages and reduce the paper to pulp to be recycled, possibly as paper towels or tissues.

John Wiley & Sons, which issues technical, research and reference works, has allowed several hundred titles to go out of print. "It's frankly criminal to destroy stuff that has intellectual value, but we had no choice," Andrew Neilly Jr., president of the company, said. "The books are generally pulped—we sell them to some guy and then make sure he really does destroy them. He issues a certificate of destruction so we'll have proof for the I.R.S."

DESTRUCTION IN ABEYANCE

There are similar problems at Harcourt Brace Jovanovich. "For a variety of reasons, including contracts with authors and state education departments," Jack Snyder, executive vice president, testified to the Senate Select Committee on Small Business, "we are prevented from disposing of such excess inventory for periods of time, which could be as long as five years."

Faced with paying additional taxes of up to $5 million, he said, the company could be forced to destroy several million books if the Thor Power ruling were allowed to stand. Although destruction notices have been prepared for several thousand titles, the books have not been destroyed because the company's executives, who have hired a lawyer to plead their case before Congress, say they remain hopeful of an exemption, or at least a reprieve.

Senator Moynihan is optimistic that Congress will pass legislation next year exempting publishers from the ruling.

"I was appalled by the ruling," he said. "I speak as an author, too—some of my books have been on remainder. Publishing is such a cottage industry. No one has any idea how difficult it is—the small numbers involved and the tiny margins. The Court had grounds for its decision, but it turns out it applied to publishers in a way that hurts them, and we have to set that right. The danger is one of making a marginally profitable industry even more marginal."

Statement of The Authors Guild Council

The Authors Guild, the national organization of 6,000 professional authors, urges Congress to avert the devastating effects of the Supreme Court's "Thor Power Tool" decision upon authors and publishers, and on the traditional inventory system, which has kept books of lasting literary, social and educational value in print and thus available to readers, scholars, libraries and schools to the benefit of our society.

In the Thor case, the Supreme Court ruled that a machine tool manufacturer could not "write down" the value of its excess spare-parts inventory below the replacement cost, thereby reducing its taxable income, because it had not sold or offered the parts for sale at prices that established this lower value. The Thor decision affects all companies that use the "cost-or-market" basis for inventory valuation—including many book publishers who followed the generally accepted accounting practice of writing down the value of their excess inventories on a periodic basis although they had not sold or offered these books for sale at prices that supported the reduced valuation.

The Court's decision, therefore, will apply to these publishers unless Congress recognizes that the impact of the Thor doctrine on the unique conditions of book publishing will seriously impair the dissemination of works of literary value and inflict severe injury on American authors and publishers.

The Thor decision, and an IRS ruling retroactively applying it, already have harmed many authors and prematurely ended the lives of many books. To avoid heavy additional taxes on their 1979 income, many publishers are selling at remainder or destroying copies of books that otherwise would have been held in inventory for several years. Authors thus have been deprived of royalties and the right to have their books remain alive so long as there is a reasonable demand for them.

Unless Congress acts, the Thor doctrine will continue to inflict great injury, by making it economically unfeasible for publishers to retain inventories of many worthwhile books that could be sold in modest quantities over a period of years. Many of these intellectually valuable works will be eliminated from inventory after the initial period of publication—by remainder sales or by destruction—so the publisher can exclude from its taxable income the replacement value of these excess copies, and thereby avoid additional taxes. Publishers accomplished this same tax result prior to Thor—without ending the lives of these books—by writing down the value of the inventory on a periodic basis while retaining the copies for sale in the future.

The direct effect on authors, as recent bitter experience proves, will be the loss of royalties and the premature deaths of many books that, prior to Thor, would have survived on publishers' backlists for several years. The ultimate effect will be a drastic reduction in the publication of books of significant literary, social and educational worth because these are works which, by their very nature, are destined to be sold in modest quantities over a period of years. Publishers will be increasingly reluctant to risk publishing books with modest sales prospects that must be held in inventory for several years before recovering their costs and earning any profit, since the Thor decision makes it more costly to retain the necessary inventory.

The Authors Guild Council urges that when Congress reconvene, it should enact the Bills introduced by Senator Nelson and Representative Conable to prevent the Thor decision from applying to any tax year commencing prior to January 1980. As a permanent solution, Congress should enact legislation permitting publishers who employ the "cost-or-market" basis of valuation to write down the value of their inventories on a periodic basis, while retaining books to fulfill future orders.

BOOKS SHOULD NOT BE EQUATED WITH SPARE PARTS FOR INCOME TAX PURPOSES

The Authors Guild believes that Congress should not, for tax purposes, equate literary works with tool parts, accessories, or other inventories of merchandise or raw materials. The broader social, cultural and First Amendment values that are threatened by Thor's impact on book publishing, as well as the unique conditions of book publishing, make it essential that Congress exempt publishing from the Supreme Court decision and the implementing IRS Revenue Ruling (80–60) and Revenue Procedure (80–5).

The Supreme Court's Thor decision interpreted IRS Regulations governing the method of valuing inventory at the lower of cost or "market" (i.e., replacement value). Under the Thor decision, publishers using the "cost-of-market" method cannot value books held in their year-end inventories below their replacement cost—and thus reduce their taxable income—unless they actually have sold or offered copies for sale at prices that support that lower amount. (One alternative is to eliminate copies from inventory before the closing date by destroying or remaindering them.) This means that when copies of a book are retained in the year-end inventory and offered at regular prices, the publisher must value them at their replacement cost even though many of the copies may never be sold for that price and ultimately may be disposed of through remainder sales or destruction.

These limitations of the Thor decision should not be applied to book publishing, and Congress should permit book publishers to follow their long-standing practice of writing down the value of inventory on a periodic basis.

Prior to Thor: publishers' decisions to hold books in inventory were not made to gain a substantial economic advantage through the periodic write-down of inventory. If a book proved to be a commercial failure and also had no significant cultural or social value, the publisher would remainder it or destroy the stock, to reduce the value of the inventory, and to save the increasing costs of warehousing inventory.

The opportunity to write down inventory was not the motive for the publisher's decision to retain copies of a work of merit that had not been commercially successful in its initial period of publication. If the publisher had only wanted to reduce taxes, it could have done so more economically (even before Thor) by remaindering or destroying the copies. Such a work was retained in inventory because the publisher thought it had literary merit; should be kept alive; and might continue to reach an audience through modest sales in the future.

The publisher hoped to earn back its costs and a profit by keeping the book on its backlist. but there were risks in keeping the book in inventory. It was not certain that income from future sales would be sufficient. And retaining the inventory was costly, requiring warehousing, labor and other expenses.

The Thor decision will add another, and prohibitive expense. If the publisher cannot write down the value of its inventory, it must pay a greater amount of income tax than if it had remaindered or scrapped the book. It has thus lost the use of that additional money until it ultimately eliminates the remainder of the copies from its inventory. Furthermore, writing down the value of the inventory of such books on a periodic basis is justified. At the end of the initial period of publication, much of the inventory could not be sold at the original price or even at replacement cost; it actually has a lower value. Sales at regular prices would come only in future years in modest quantities. And a large part of the inventory ultimately might remain unsold.

Permitting publishers to write down inventory on a periodic basis does not entitle them to avoid tax on the gains from sales of copies in future years. The proceeds of those sales are reported as part of the publisher's gross income when they are made, and prior reductions in the value of the inventory may increase the amount of taxable profit.

In its Thor decision, the Supreme Court indicated that the manufacturer had the choice of retaining its excess inventory and valuing it for tax purposes at replacement cost—or of offering the inventory for sale and selling it at lower prices, in which event it was entitled to value the inventory at that lower price level. Only the manufacturer's interest was involved in making this decision. However, a book publisher's decision to remainder or destroy the excess inventory of a book affects the rights and interests of other persons. It withdraws the book from our collective cultural and literary resources to the detriment of readers, schools and libraries. It also deprives the author of royalties. Moreover, publishers are not always free to remainder or destroy excess inventories of given works. Express or implicit obligations to an author to work the copyright by keeping the book in print may prevent the publisher from eliminating excess copies that have a much lower actual value than the cost at which they must be carried in the publisher's inventory. And contracts with third persons may also oblige the publisher to retain a supply of the work.

The application of Thor to book publishing is not consistent with the cultural and educational values which the First Amendment and the Copyright Act are intended to preserve, and with which the Congress should be concerned. When the tax laws require a power tool manufacturer to scrap an inventory of parts in order to reduce their value for tax purposes, the social impact is negligible or nonexistent, and thus substantially different than that involved when the decision is forced on the publisher of books. Machine tools parts, no matter how valuable, can be replaced by other machine tool parts or other machine tools. Literary works of merit cannot be "replaced" by other works. Each has its own special value, and makes its own contribution to our literature and culture. When the supply of a book is destroyed by its publisher, and the book is doomed to the oblivion that usually follows, a valuable part of our collective literary and cultural resources is destroyed.

The impact of the Thor decision on book publishing also affects individual readers, scholars, teachers, libraries and schools. Its pressure on book publishers to remainder or scrap inventories of valuable literary works is harmful to the interest of all of these individuals and institutions, and to the entire process by which books are kept available to supply their needs.

ROBERT A. CARO,
ROGER ANGELL,
JOHN BROOKS,
JOHN HERSEY,
For the Authors Guild Council.

Mr. MOYNIHAN. Mr. President, I would like to add, and have it recorded, that I submit this amendment for myself, Mr. LUGAR, Mr. NELSON, Mr. RIBICOFF, Mr. JAVITS, Mr. TSONGAS, and Mr. BRADLEY.

Finally, Mr. President, I make the point that the amendment would apply to small book publishers and small businesses, small businesses being those with gross sales in the tax year of 1979 of $5 million or less.

When I say publishers, I would also like it to be clear, as the law states, that this applies to publishers of sheet music and monographs, sheet music being particularly important in this regard.

● Mr. LUGAR. Mr. President, I am pleased to cosponsor the amendment of the Senator from New York. Adoption of this amendment will allow the Congress an opportunity to consider a substantive tax law change in this area without causing major disruptions in the way in which the publishing industry conducts business.

This perplexing matter came to my attention through several articles concerning the impact these Internal Revenue Service actions would have on books and other educational materials. To allow the IRS to proceed in the manner announced earlier this year would conflict with what has been our national policy of encouraging scholarly publication and fostering education in general.

Tax policy has an enormous influence on the way firms and individuals conduct their lives. This is certainly obvious in the case of revenue ruling 80-60. and revenue procedure 80-5 which were issued by the IRS to implement Thor Power against Commissioner, a 1978 U.S. Supreme Court case.

The question in Thor Power involves the treatment of inventory for tax purposes. In accordance with generally accepted accounting principles, it has been the practice for some industries which carry significant inventories and which value inventory on the lower of cost or market for tax purposes, to write-down inventory on a periodic basis to eliminate excess inventory. Indeed, such practice is a virtual necessity in order to avoid misleading creditors or investors as to the true value of current inventory. The practice has been widespread in the publishing industry, especially among publishers of scholarly, scientific, and technical works.

These books are typically not best-sellers and therefore, the stock of books in print tends to be slow moving. Prior to Thor Power, the practice of writing down inventory resulted in an increase in the cost of goods sold, and therefore a decrease in gross profits reported for tax purposes. Although book publishers wrote down their inventory, the books were retained against the possibility of future sales. If sold, the profits from these slow moving books were of course, duly reported as a part of gross profits at the time of sale.

Thor Power changes all of this. By applying the Thor Power rule to all industries, including publishing, the effect will be to require publishers either to sell their books at less than cost or physically scrap them. The first of these options is sometimes referred to in the publishing trade as remaindering. But, this is an option which is by no means routinely available to publishers. Some books—notably scholarly, technical or scientific works—simply do not appeal to readers who patronize remainder shops; and there is thus no market for remaindering. In all too many cases, the effect of the IRS rulings and Thor Power will be to require publishers to scrap the books—to destroy, shred or burn them.

The social consequences of this IRS action are clearly undesirable. The ruling will force publishers, especially small publishers to destroy inventories of slow selling books. This will reduce the Nation's knowledge resources; it will restrict profits to publishers upon which new books must depend; and it will limit royalties payable to authors for their creative efforts. It will, in a word, leave creators, the publishing industry, and our country, economically and culturally poorer.

Mr. President, I believe that this is the critical issue. I appreciate the IRS's responsibility to enforce tax laws. It is the Congress responsibility to establish public policy. Adoption of this amendment will give added time necessary to consider a substantive change to the Tax Code. I look forward to working with my colleague from New York on this issue in the near future.●

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I would be happy to yield. How much time have I remaining?

The PRESIDING OFFICER. There is no time limit.

Mr. MOYNIHAN. I am happy to yield to the Senator.

Mr. ARMSTRONG. I commend the Senator from New York for his initiative in this matter. His amendment addresses a problem which also greatly concerns me. But I must admit I am baffled by the exact form of his amendment.

I am particularly concerned, and would ask a question about the subsection (b) which limits the effectiveness of it only to book publishers and certain small businesses. It seems to me—and perhaps the Senator can explain—that the IRS is really breaking some new ground in this proposed ruling in which they say if you revalue your inventory you have to sell it at that price or offer it for sale at that price, so that the general theory of the Senator's amendment is to provide relief from that new ruling.

Why, I ask the Senator from New York, does he limit it to book publishers and businesses with less than $5 million of sales?

Mr. MOYNIHAN. I thank the Senator from Colorado for his question, and I respond simply by saying this is a measure that is likely to have its most severe immediate effect on small businesses. Next year the Finance Committee is going to bring up a revision of the law itself. I think the Senator is absolutely correct that the ruling has taken a great many businesses by surprise when they might have prepared for this matter in the courts. But still a very powerful case can be made that this is not good tax policy, and the Finance Committee will take up next year a change in the law.

What we wish to do is to simply hold off the implementation for the 2 years now involved. It is our purpose to limit the exclusion to small businesses.

Mr. ARMSTRONG. The explanation which the Senator has given seems to me really would lead one to think this would be a better amendment without subsection (b). I certainly would agree that this amendment is something the Finance Committee ought to look at.

Clearly this is a change in the law of great significance to a lot of taxpayers in this country.

As a matter of policy, this is something that really ought to be within the purview of Congress, which would act upon the recommendation of the Senate Finance Committee. But it still does not seem logical to me to delay the implementation of this new ruling only for a certain group of taxpayers.

It would be my thought, Mr. President, to offer an amendment to delete section (b) of the Senator's amendment unless he can explain why that would not be a good proposal.

It seems to me that what the Senator is seeking to do is simply to delay the implementation of the amendment to give the Finance Committee briefly, temporarily, time to look into this matter and make his recommendations to Congress for its ultimate disposition.

Would the Senator be disposed to agree to such an amendment?

Mr. MOYNIHAN. The Senator would simply recognize that a case could be made for exempting everyone. But there is also the case that larger enterprises can mitigate the effects of the ruling by what is known as the LIFO accounting method. They have available the resources to minimize the impact of the ruling on their tax returns for these 2 years, but smaller businesses do not.

The Senator from New York would accept it either way. I believe there are those in the body who feel very strongly that it ought to be confined as a general rule to smaller businesses, and I think this is a matter we can debate and should debate and see what the body thinks.

Mr. ARMSTRONG. Mr. President, in order to get the matter before us, I would be happy to move that the amendment of the Senator from New York be amended by striking subsection (b), and I do so move.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I want the Senate to understand the significance of the amendment that was just offered. That amendment will cost $2 billion. I am a little bit amazed that my friend from Colorado would come forward with an amendment that would cost the Federal Treasury $2 billion without recognizing its impact upon our ability to get out from under the inflationary spiral we are in and the impact upon the total budget.

What we are really talking about here has to do with a Supreme Court decision which is called the Thor decision. On January 16, 1979, the Supreme Court unanimously ruled in Thor Power Tool Company against The Commissioner that taxpayers could not artificially reduce their income by writing down so-called excess inventory, that is, inventory that the taxpayer is no longer producing but has not yet sold.

The Court held that such excess inventory could be written down only if it was actually offered for sale below market price or was actually scrapped.

This amendment and this entire subject of reversing the Thor decision have been the subject of an intense lobbying effort in recent days. As a matter of fact, I know of no matter that is being considered that has brought forth as many special interest lobbyists as has this one.

As a matter of fact, I believe there is some merit to the point that has been made with respect to the publishers, although I am not totally convinced of the merits of that position, but I think it is arguable.

I think there is more merit probably with respect to the impact upon the small business person, and the difficulty that the small business person would have. But I again believe, as I said earlier this morning, that we ought not to be fashioning legislation that properly belongs before the Finance Committee on one of these negative or reverse twist amendments that provides that no part of these funds shall be used to implement a particular regulation of the Treasury Department.

I would say that I cannot think of a worse way for this body to legislate.

When the issue came before us and the matter was being discussed, I made it very clear that insofar as I was concerned if we were going to attempt to reverse the Thor decision, then I was going to attempt to at least bring the impact of that repeal of the decision to the attention of the Members of this body no matter how much time it took.

I think it is wrong. I think it is the wrong way to do it. Furthermore, I do not support the legislative concept at all.

The distinguished Senator from New York has worked arduously in connection with this matter and has attempted to draft a compromise that is in the nature of the agreement that the Senator from Ohio has helped to work out with the Treasury Department and the Senator from Montana that there would be a lag period so that the Treasury Department's regulations might be implemented for 6 months in connection with the issue that he brought to the floor.

In connection with this matter, the amendment of the Senator from New York would be applicable on an interim period until this matter could be brought before the Finance Committee. The period is actually a longer one, but it has to do with the taxable years beginning before January 1, 1981.

I will ask the Senator from New York at this point whether it was not his intent to limit the application of this particular proposal for a 1-year period or a 2-year period?

Mr. MOYNIHAN. A 2-year period which would end December 31 of this year.

Mr. METZENBAUM. That would be the period?

Mr. MOYNIHAN. Yes.

Mr. METZENBAUM. And I understand that approach. But at least it would not go on into the future.

The Senator from Colorado is proposing that we go whole hog. He is proposing that this small business exemption and the publishers exemption be excluded. I think that that would be the worst thing for us to do.

The $2 billion figure that I referred to comes from the Treasury Department. This is a major issue, as they put it. The total revenue effect for all taxpayers of the Thor Power decision is estimated to be approximately $2 billion. A 1-year delay for all taxpayers involves about $400 million in revenue.

I can see some merit to the Moynihan proposal or to compromise. I can see no merit to the Moynihan proposal if it were to be amended.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. METZENBAUM. Yes.

Mr. STEVENS. Mr. President, I address this to the Senator from New York. Last evening the chairman and ranking member of the Appropriations Committee indicated that they would like to have those who have noncontroversial amendments come here this morning and try to see if they could be accepted. That was the reason these other meetings were set. Is it possible, in view of the fact that this is a controversial amendment, that we could go on to those which are noncontroversial, which will not require a vote, and see if we can dispose of them this morning? Will the Senator accede to that?

Mr. MOYNIHAN. Yes, the Senator will—because I was not aware of that agreement—if it is understood that this matter will be brought up at a later time. I do not want to interrupt anything, any agreement that was made.

Mr. PROXMIRE. Mr. President, before the Senator withdraws his amendment, may I just say to the distinguished Senator from New York that I would have to oppose his amendment very strongly and at some length. This is going to cost, as I understand it, $50 million to $60 million. It is precisely the same action as the Senator from Colorado is proposing, only it is for a narrower group.

The Treasury has opposed this. It violates a Supreme Court decision. It certainly is tax legislation. It should be on a tax bill.

Under the circumstances, Mr. President, for us to put on an appropriations bill a very controversial tax measure, it seems to me to be wrong. I will do my best to oppose it when the Senator revives his amendment.

Mr. MOYNIHAN. Mr. President, may I say that I understand the Senator's opposition, but not his consternation or notion that something should be on an appropriations bill.

Mr. PROXMIRE. I am certainly not consternated or surprised, but I think that we just have to oppose these things on appropriations bills. They have no business on appropriations bills, and the Senator knows that. Until we begin as a body to show some discipline here, we are going to be here forever on these amendments.

Mr. MOYNIHAN. If others will stop, the Senator from New York will stop.

I would like the body to know that what we have evolving here is going to be an act of barbarism. We are going to have scholarly presses, publishing houses all over this Nation, shredding their back stock in a few weeks' time. We are going to look up and be appalled at what we did.

If I may say, the estimate of $50 million was a Joint Tax Committee estimate for the whole universe. The bill I have here probably would not cost $5 million. And every penny will come back to the Treasury. I say that this body will feel ashamed of itself. But I am going to withdraw——

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. STEVENS. I intend to support the Senator's amendment. I think it is one that is very much needed, because of the impact on the small publishers and those who have written their first book. It really is a disaster for these people. I think the Senator should pursue this, but I hope the Senator will withdraw the amendment.

Let me again make the request, Mr. President, that those Senators who have amendments that they know the managers of the bill will accept, that they come forward and try to get those amendments disposed of in this period of time.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Alaska.

● Mr. TSONGAS. Mr. President, I rise in support of this amendment which I have cosponsored. Rejection of this amendment may result in the wasteful destruction of thousands of important academic works. We cannot let this occur.

As a Senator representing a State that is blessed with a multitude of academic scholars, I believe I am especially sensitized to their concerns. But this issue touches all of us. When the Thor Power Tool court decision was announced a shudder passed through scholars throughout Massachusetts. Professors at MIT, Harvard, and many other universities began contacting me.

They explained that the Thor Power Tool ruling places publishers in the position of choosing between carrying warehouse stocks of unsold books, which are taxed at full value, or shredding the books for pulp.

Many professors feared that their works, scholarly tomes, out of print and in publisher's warehouses, would be shredded because such works no longer could be labeled "losses." Moreover, they suggested that such a tax law change could make publication of academic treatises all the more difficult.

I believe, and I am hopeful my colleagues share this belief that we should rethink this decision, a decision whose effect may be to destroy some of our store of knowledge. Indeed, there is much irony in such decision. As a nation we are increasingly becoming aware of our need to compete internationally with the Japanese. As such we have begun to study the Japanese system to see where we might emulate their competitors, in order to match them in the marketplace. Eyra Vogel, the reigning Japan expert in the United States has provided us with his insights in his book "Japan as Number 1." He states, and I quote:

> If any single factor explains Japanese success, it is the group directed quest for knowledge. It is not always clear why knowledge is needed, but groups store up available information nonetheless on the chance that some day it might be useful.

Knowledge, then, is the replacement of capital as society's most important resource. And yet today we in the Senate are close to permitting a court decision to effectively begin mandating the destruction of a fundamental store of knowledge, books, and to render the process of creating additional books more difficult.

Mr. President, that would be a thoughtless act.

The amendment before us provides the Congress with some time. The amendment provides a 2-year reprieve, for 1979 and 1980, for those affected by the Thor ruling.

The Congress then is afforded the opportunity to hold hearings on this issue, and hopefully resolve it in a much more responsible manner.●

Mr. MOYNIHAN. Mr. President, I will withdraw the amendment, with the general understanding that it can be brought up at a later time, just as the earlier amendment which was set aside will be brought up at a later time.

I do have the amendment on public buildings which I think the Senator from Washington might wish me to bring up at this time, is that right?

Mr. MAGNUSON. Mr. President, I am pleased that the Senator withdrew his amendment, because I have been sitting here listening to all of this all morning and all day yesterday. I was threatening to move that the Appropriations Committee be set aside and that we have a meeting of the Finance Committee on the Senate floor so that they can get their business done.

Mr. MOYNIHAN. Does the Senator from Washington wish to make that motion?

Mr. MAGNUSON. I am glad the Senator withdrew the amendment, because all these Finance Committee amendments—again, I do not know why the Finance Committee does not face up to these matters. They just will not. They procrastinate and will not do it.

But I was going to ask unanimous consent that the Appropriations Committee be set aside and that we have a meeting of the Finance Committee on the Senate floor and let them come to a decision on these matters. But I will withdraw that.

I yield to the Senator from New York.

Mr. MOYNIHAN. I thank the Senator.

Mr. President, in that case, I will ask that the amendment pending be set aside.

The PRESIDING OFFICER (Mr. MORGAN). Is there objection?

Mr. STEVENS. Mr. President, I hope that it would be withdrawn. We have three set aside already.

Mr. MOYNIHAN. With a good faith understanding that I can bring it up again, of course, I will withdraw it.

The PRESIDING OFFICER. The Senator has already withdrawn his second amendment. Is the Senator now withdrawing the last amendment?

Mr. MOYNIHAN. No, I believe I withdrew the first and now I withdraw the second.

The PRESIDING OFFICER. Both are now withdrawn.

UP AMENDMENT NO. 1879

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1879.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) Notwithstanding any other provisions of this joint resolution, out of the funds available to the Federal Building Fund, limitations on the availability of revenues and the associated building projects are approved as follows:

Construction and Acquisition of Facilities: $100,178,700, as follows:

New Construction:

California:

Otay-Mesa, Border Station, $12,105,700

Redding, Federal Office Building/Courthouse, $12,844,000

Kentucky:

Ashland, Federal Office Building/Courthouse, $6,938,000

Maine:

Houlton, Border Station, $3,409,000

Nebraska:

Omaha, Federal Office Building, $40,733,000

Wisconsin:

Madison, Federal Building/Courthouse, $2,827,000

Illinois:

East St. Louis, Courthouse and Parking Facility, $2,460,000

Purchase:

Virginia:

Charlottesville, Federal Executive Institute, $3,070,000.

Acquisition and improvements of United States Postal Service Properties, $15,792,000;

Repairs and alterations: $94,918,000, as follows:

Arkansas:

Little Rock, Federal Post Office/Courthouse, $8,180,000

California:

Pasadena, Federal Center, $9,864,000

Connecticut:

New Haven, Courthouse, $6,800,000

District of Columbia:

Department of Agriculture South, $2,545,000

Health, Education, and Welfare North, $3,934,000

Department of Justice, $1,740,000

Lafayette, $864,000

Old Post Office, $12,445,000

Mary E. Switzer, Federal Building, $3,928,000

Florida:

Miami, Post Office, Courthouse, $2,670,000

Tallahassee, Post Office, Courthouse, $961,000

Tampa, Federal Building, Courthouse, Post Office, $2,008,000

Georgia:

Savannah, Federal Building, Courthouse, $1,363,000

Illinois:

Chicago, Federal Building, 536 South Clark Street, $550,000

Kentucky:
Lexington, Post Office, Courthouse, $1,500,000
Louisiana:
Baton Rouge, Federal Building/Courthouse, $700,000
New Orleans, Hale Boggs Federal Building, Courthouse, $1,425,000
Missouri:
Kansas City, Courthouse, 811 Grand Avenue, $735,000
New Jersey:
Newark, Federal Office Building, 20 Washington Place, $560,000
New York:
New York, Federal Office Buidling, 201 Varick Street, $5,661,000
New York, Customhouse, One Bowling Green, $7,192,000
Ohio:
Cincinnati, Post Office, $6,485,000
Oregon:
Portland, Courthouse, $2,634,000
Texas:
Dallas, Earle Cabell Federal Building, Courthouse, $900,000
Houston, Federal Building, Courthouse, 515 Rusk Avenue, $2,446,000
Virginia:
Arlington, Pentagon, $2,969,000
McLean, CIA Headquarters, $2,274,000
Washington:
Seattle, Courthouse, $1,585,000

(b) Notwithstanding any other provisions of this joint resolution, out of the funds available to the Federal Buildings Fund, the limitations on the availability of revenues for non-prospectus repair and alteration projects is reduced by the sum of $7 million.

Mr. MOYNIHAN. Mr. President, I am today proposing an amendment to the continuing resolution to provide appropriations for public buildings which require line item appropriations in fiscal year 1981. I have been assured that this amendment is acceptable to Senator CHILES, the chairman of the Appropriations Subcommittee.

I would like to explain the rather long list of projects included in my amendment. All but three of the 28 are repair and alteration projects, are projects authorized in previous years included in the General Services Administration budget for 1981, and approved by the Appropriations Committee in its markup of the fiscal 1981 Treasury, Postal Service appropriation bills.

If the Senator attending the matter will listen, these appropriations were included in the Treasury, Post Office bill which, of course, has not come forward.

Similarly, the seven new construction projects and the purchase of a building in Virginia have been approved this year by actions of the Congress. The amounts provided for courthouses at Madison, Wis., and East St. Louis, Ill., are increased appropriations for buildings already underway.

Finally, I note that the amounts provided for these projects are within the limit on appropriations out of the Federal Building Fund that is carried over into fiscal year 1981 from fiscal year 1980. This amendment simply provides the appropriations necessary for those large projects that will constitute the public buildings program in fiscal year 1981.

Mr. MAGNUSON. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. MAGNUSON. Mr. President, I am sure the Senator from North Dakota and I understand this amendment and we are glad to accept it. It is to remodel courtrooms, and we do have a lot of new judges. It is a matter that should be taken to conference. I do not think the House is aware of the need for remodeling and things of that kind. This matter comes out of the Public Works Subcommittee.

Mr. MOYNIHAN. That is correct.

Mr. MAGNUSON. This is very important.

Mr. MOYNIHAN. May I correct the Senator, that this has been done by the full committee.

Mr. MAGNUSON. Mr. President, I think we ought to accept the amendment.

As I always heard when I was a lawyer, quit talking when the judge is with you.

● Mr. ZORINSKY. Mr. President, as a cosponsor of this amendment, I rise today in support of the amendment offered by Senator MOYNIHAN to the continuing appropriations resolution.

This amendment simply provides the necessary funding for Federal buildings already authorized by the Senate and the House.

The construction projects contained in this amendment were accepted by the full Senate during consideration of the Public Buildings Act of 1980, S. 2080. It is evident that these projects have received a strong vote of confidence by virtue of the overwhelming approval of the Public Buildings Act earlier this year. These projects have also received House resolutions of approval by the House Committee on Public Works and Transportation. Additionally, it is my understanding that the repairs and alterations projects included in this amendment have received approval under committee procedures by the Senate Environment and Public Works Committee.

Mr. President, this amendment is not a new idea. It is the culmination of a 6-year effort, in the case of the Omaha project, to find a solution to the overcrowded and high cost of leased Government space in Omaha.

We have worked diligently and patiently with the Senate Environment and Public Works Committee to gain committee approval, and I must commend my distinguished colleague, Senator MOYNIHAN and the other members of the committee for their persistence in their efforts to work with us to produce an excellent proposal.

Two hearings were held before the Senate committee in 1978 and 1980 on the Omaha proposal. Both times the committee and the General Services Administration highly recommended the project for a new and/or renovated Federal office building in downtown Omaha. The need has been documented over and over again, and with time, the need grows even greater.

Mr. President, I am pleased to note that Senator CHILES has agreed to accept the amendment for, with any further delay, the construction costs involved in all projects can only escalate.

I would urge the favorable consideration of this amendment.●

Mr. SIMPSON. Mr. President, I must seriously question the merits of a specific project included in Senator MOYNIHAN's amendment to the continuing appropriations resolution, House Joint Resolution 637.

The amendment would provide for an appropriation of $3,070,000 for the purchase of a facility currently being occupied under a lease agreement as a permanent site for the Federal Executive Institute (FEI) of the Office of Personnel Management (OPM). This present lease agreement was due to expire September 30, 1980, without the right to renew.

Mr. President, for the last dozen years the FEI has been just struggling along in plush, country-club style facilities in Charlottesville, Va., at a current annual lease cost to the taxpayers of about $300,000. This lease expires September 30, 1980, and the owners have informed the Government that they wish to terminate the lease upon expiration and that they will sell the facility. The General Services Administration (GSA) has only recently sent to the Senate Committee on Environment and Public Works a prospectus to purchase the building for $3,070,000—$2,270,000 for the facility plus $800,000 in renovation and alteration costs.

In a fashion that has become characteristic of the GSA, this proposal was submitted to the Congress at the last possible minute with a "do it or be damned" or "doomed" attitude. I never know which. Even though the GSA knew in January of 1980 that the owner would not be renewing the lease, it was not until the last good days of the session before the October recess that GSA presented the request to the Environment and Public Works Committee. I was informed by the OPM that the committee must act by September 30—both to authorize and appropriate—or else the building would be sold to another client. Furthermore, the committee is being led to believe that there are absolutely no other alternatives but to purchase the current facility.

This is indeed par for the course. Nearly every GSA prospectus I have ever seen always contains the same "boiler plate" language rejecting all alternatives other than the one predetermined by GSA.

I have never seen more blatant arrogance in any Federal agency, and not the fault of Admiral Freeman and Admiral Marshall. They have tried, but some of the crafty troops in the fourth and fifth rank of that agency will bring them down, too.

The prospectus was submitted so late that it missed the last committee markup prior to the lease cancellation, and the project was then "polled" from committee—a procedure which I most generally shun. And the chairman supports me. This "polling" process does not give committee members the opportunity to express our individual views, to confront and communicate with each other, to offer amendments, or to be on the public record.

I did not vote to disapprove the building acquisition in order to strike a blow at the FEI—but only at their delightful quarters. If this building prospectus were struck down, I am totally confident that GSA and FEI would find alternative space, and as is their propensity, most likely at greater cost to the taxpayers.

Mr. President, I am curious as to how many of my colleagues in the Senate—or in the House—have ever heard of the FEI or have any true idea as to the exact mission of this curious Institute. I was only recently made aware of its existence when the "pressing" need for the $3 million building purchase was brought to my attention. As a member of the Senate Committee on Environment and Public Works I was one of those chosen few to be contacted by the OPM on this urgent matter.

When I was first presented the opportunity to review this request, I had several serious questions. Now that I have had a chance to further investigate this $3 million request, I have a myriad of serious questions and find myself completely appalled with the entire matter of the purchase and with the FEI itself. It is simply riddled with absurdities.

The FEI is an executive training facility of the Office of Personnel Management (OPM). It was originally created in 1968 by President Johnson to train "top-notch" public servants to assume executive responsibilities in the Federal Government. At its current facility in Virginia, the Government "supergrades"—the GS 16's and up—as well as a select group of executives from State and local government—attend a series of workshops and seminars designed to assist these public servants in their quest to polish their skills in executing their duties—skills I maintain should already be rather well developed by the time such an executive position is achieved.

The FEI facility is located on 5.2 "picturesque, wooded acres" in Charlottesville, Va. The building, a former hostelry called the Thomas Jefferson Inn, provides 40,115 square feet of occupiable space, and consists of 68 living/sleeping units, various training/seminar rooms, a dining room and kitchen and "faculty support space." Also included at the inn are those important outdoor recreation areas including a volleyball court, a shuffleboard area as well as a swimming pool.

Mr. President, this FEI facility is not the average motel located off some busy interstate. Rather, it resembles the posh Greenbrier resort in West Virginia—in fact, I am inclined to think that it may be cheaper to just rent the Greenbrier for these seminars.

Government agencies foot the individual tuition bill of $4,000 to send a top-grade executive to a 7-week "senior executive program" at the facility. Agencies on a tighter budget may pay $2,000 for a 3-week "executive leadership management program." In all, four categories of programs are conducted by the FEI—all are "package deals" and include costs of training, housing, and meals.

According to officials at the FEI and the Office of Personnel Management, the courses offered at the facility concentrate on gaining knowledge and having skills that are "essential to executive effectiveness in responsible and responsive government." A partial listing of the curriculum offered at the FEI includes "program implementation, productivity management, work force management, labor relations, budgeting, communications, personal development, and leadership effectiveness."

Mr. President, I could go on and on with a listing of the various courses offered at the FEI but I shall refrain—for if you were to pick up any college graduate program catalog you would find the same programs offered. It is distressing to hear the FEI referred to as a "Government Charm School" and a place for "rest and relaxation." I firmly believe that it is time for Congress to seriously examine the merits of this exercise.

In light of our Nation's current economic climate, I must seriously question and challenge the matter of an appropriation of $3 million of the taxpayers' funds to finance this rapid concept of executive training. Stuff like this is the basic root cause of this ghastly inflation gripping our national throat.

Mr. President, I consider the FEI to be a classic instance of Government waste—indeed another absurd example for Members of Congress and the American public to be aware of. I do not believe the Federal Government has the obligation or the responsibility to provide such surroundings to top Government executives earning $50,000 per year and up.

I oppose this continuing $3 million adventure and express my grave reservation about the actual accomplishments—and even the need for the FEI.

If the executives in attendance do not already possess these skills intended to be taught by the time they enter the FEI training center, these public servants have no right to be employed in a super level position within their respective agency.

There may well be merit for a type of "continuing education" for these and other Government—as well as private sector—personnel. I am a real believer in the necessity of continuing to hone and develop one's skills and education—especially when the courses selected will assist in personal development and in improving relations with one's coworkers and in promoting efficiency. However, Mr. President, I must seriously question the need to spend $3 million to purchase a special facility for these classes when so many easily accessible convention, meeting rooms, and colleges and university facilities exist in the Washington, D.C., area.

I have tried to find the hard details on the consolidated budget for the FEI. It is extremely difficult to find out since the costs of the FEI are spread throughout the bureaucracy that sends its executives off into the woods to be "trained".

It is too late to call for specific actions by this Congress. In fact if we don't shut this shop down soon we'll spring the hinges on the door to Fort Knox. I would only hope that my comments might spark some curiosity and interest in the minds of my colleagues, when the FEI comes up for reauthorization next year. I trust that many will join me in seriously questioning this absurd waste.

● Mr. PRYOR. Mr. President, I speak in support of the amendment to include funds for the Little Rock Arkansas Federal Courthouse renovations and repairs.

The funds provided by the amendment are critical to the administration of justice by the Federal courts in Arkansas. The amendment would authorize $3.6 million for courtrooms and extension of the building and $4.57 million for renovation of the building. This project is designed to meet the needs of the existing caseload of the Federal judges and to provide adequate facilities to conduct the duties of Federal courts.

I want to assure my colleagues that the problem is very serious and prompt congressional action is needed.

I urge the approval of this amendment and sincerely thank the distinguished Senator from New York, Senator MOYNIHAN, for his assistance in this much needed project.●

● Mr. HUDDLESTON. Mr. President, this amendment includes an item providing funds for the construction of a new courthouse and Federal Office Building in Ashland, Ky., at a total cost of $6,938,000. Construction of this facility is needed to consolidate and provide adequate space for Federal agencies and operations of the U.S. District Court for the Eastern District of Kentucky.

The present courthouse, built in 1910 and located 6 miles from Ashland, in Catlettsburg, Ky., is unsafe and totally inadequate for normal court proceedings. There are no fire escapes in the building and entrance and exit is by means of one stairway or small elevator.

This 70-year-old courthouse cannot be made adequate or safe without major renovation. The General Services Administration determined in 1972 that total renovation was not warranted owing to the limited space and weight bearing capacity of the structure.

I strongly urge the Senate to approve the funds for the construction of the new Ashland Courthouse and Federal Office Building and the other Federal facilities in this amendment.●

● Mr. HAYAKAWA. Mr. President, I am pleased to support this amendment by my distinguished colleague from New York. For several years, many of my constituents in southern California have brought a very serious problem to my attention: the inadequacy of the inspection capabilities at the San Ysidro and Calexico ports of entry linking the United States with Mexico.

This amendment appropriates funds for the construction of a new port of entry at Otay Mesa, approximately 8 miles east of the San Ysidro port. I would like to emphasize that Otay Mesa will supplement, not replace, San Ysidro. Otay Mesa will become the main commercial inspection station for San Diego and will also have primary and secondary inspection capabilities for pedestrians and passenger vehicles.

The need to alleviate the congestion and resultant delays encountered at the San Ysidro port of entry has been recognized for many years. Unfortunately for both Mexico and the United States, the previously proposed solutions have not been successful. The San Ysidro port, being located near Tijuana, Mex., is known to be the busiest port in the United States. Delays of 2 and 3 hours are predominantly caused by limited staffing and inadequate facilities. This intolerable wait is believed to be a main cause of the business decline in Tijuana. By decreasing traffic backlogs, more business will be generated on both sides of the border.

Otay Mesa is one of the many important steps to be taken to assure the continuation of a spirit of mutual cooperation with our neighbor, Mexico.●

Mr. CRANSTON. Mr. President, the Senate's action today culminates over 15 years of discussions and work between our Federal, State, and local governments and those of the Mexican Government about the need for a second border crossing in the Chula Vista sector. San Diegans have sought a second border crossing located at Otay-Mesa in order to relieve the seriously crowded conditions at the present inspection station at San Ysidro, Calif. Construction of the Otay-Mesa station is a substantive matter affecting relations between the United States and our neighbor Mexico.

The Otay-Mesa border station will be the main commercial inspection station for San Diego. As such, it will relieve San Ysidro of heavy truck traffic. It will also have primary and secondary inspection capabilities which will allow for much of the passenger vehicle traffic to be diverted from the heavily traveled port of entry at San Ysidro. Yearly traffic estimates by the Immigration and Naturalization Service state that 35 million people and approximately 12 million vehicles cross the international boundary northbound through San Ysidro. The congestion at this site is so heavy that U.S. citizens visiting the neighboring border State of Baja California, have experienced more than 3-hour waits to reenter the United States.

Mr. President, the construction of a second border crossing at Otay-Mesa will not only relieve the congestion at the present site, but also facilitate trade between Mexico and the United States, which, in turn, will stimulate both Mexican and American private investment in the Otay-Mesa area. New construciton will increase employment and create the climate to induce further investment. The Mexican Government also believes the second border crossing to be a crucial element in its development strategy for the Mexican border region. Implementation of these major public projects has been underway since 1976 within Tijuana. The projects, Rio Tijuana, Mesa de Otay, and Ciudad Industrial Nueva Tijuana, are all contingent in some way on the construction of the new border gate.

Mr. President, I thank Senators MOYNIHAN and STAFFORD for their cooperation and assistance in this matter.

Mr. MOYNIHAN. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1879) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I thank the distinguished chairman and the minority whip.

May I recall, if it is not out of order, the time that President John F. Kennedy remarked, "It is a wonderful thing about Maggy. He stands up on the floor and goes, 'Burble, burble, burble,' and the next thing you know you have the Grand Coulee Dam."

[Laughter.]

UP AMENDMENT NO. 1880

(Purpose: To prohibit the implementation of any rules or regulations disapproved by the Congress under U.S. law)

Mr. SCHMITT. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It has nothing to do with the Grand Coulee Dam.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 1880:

At the end of the bill, insert the following:

"SEC. . No part of any of the funds appropriated by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States."

Mr. SCHMITT. Mr. President, the Department of Education has recently made it plain that it intends to implement several regulations which have been the subject of legislative vetoes unanimously agreed to by the Human Resources Committee of the Senate and the Committee on Education and Labor of the House and passed by the respective Houses. The Congress cannot stand by and watch this usurpation of congressional authority. My amendment would prohibit the expenditure of any funds appropriated to the Department of Education, or any other agency, for the purpose of implementing any rule which has been disapproved by the Congress.

This amendment does not address the question of whether the legislative veto is a good policy or not. It simply says that once the Congress has spoken—once it has gone on record that a particular regulation ought not to be implemented—the agency in question must abide by that judgment.

In the present instance, the Department of Education has signaled to the Congress that it intends to blindly ignore the expressed will of both Houses. The Department of Justice has, regrettably, encouraged the Department of Education in this direction with an opinion issued on June 5, 1980 which concludes with a recommendation that the Department implement the regulations in question.

I suggest, Mr. President, that this is outrageous. The law is very clear. The law, signed by the President, provides for a congressional disapproval procedure of Department of Education regulations. It is not up to this administration, this Secretary or this President to decide which laws they are going to follow and which laws they are not going to follow.

If there is a constitutional problem with legislative vetoes, let the courts decide it. Let the Supreme Court make the decision. But even those of us who would disagree with the legislative veto—and I suppose there are one or two people left who fall in that category—must unanimously be in accord that once a veto has been exercised, that regulation is disapproved, and we should not fund the administration to implement disapproved or vetoed regulations.

Mr. President, I have offered this amendment so that we may be certain that the laws we have set forth with regard to legislative vetoes are enforced and not ignored. We are facing a significant challenge to our constitutional powers, and we must rise to meet it. My amendment will do so in simple, direct fashion. I urge every Member of this body to support its passage.

Mr. President, the Senate agreed to an amendment identical to this one on the State, Justice, Commerce appropriation bill by a vote of 85 to 7. It is obviously not a legislative veto; it is just to make sure that the applicable laws of the United States are adhered to by the various agencies. I believe this amendment is acceptable to the managers of the bill.

Mr. MAGNUSON. Mr. President, I think this is a good amendment. I am willing to accept the amendment.

Mr. YOUNG. Mr. President, I have no objection.

Mr. SCHMITT. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1880) was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2918

(Purpose: To limit the funding available for the Denver income maintenance program)

Mr. ARMSTRONG. Mr. President, I call up my amendment numbered 2918 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an amendment numbered 2918.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . None of the funds appropriated by this joint resolution may be used for the purpose of carrying out the Denver Income Maintenance Program, authorized under section 1110 of the Social Security Act after January 5, 1981.

Mr. ARMSTRONG. Mr. President, the amendment I am now offering to the continuing resolution (H.J. Res. 637) simply eliminates funding for the last remaining component of the Denver income maintenance program. The Federal agencies which have been responsible for administering this program admit that it has been a failure. However, instead of eliminating this program this year, they have decided to phase the program out over a 3-year period.

The adoption of this amendment will eliminate this wasteful and useless program on January 5, 1981 with the resulting savings of $1.3 million to the American taxpayer.

This program began in 1971 when the Department of Health and Human Services embarked upon an ambitious testing program, in Denver, of the effects of a guaranteed annual income—this testing project became known as the Denver income maintenance program, DIME. Since that time, approximately $60 million has been spent to study families in 3-, 5-, and 20-year programs.

The 3- and 5-year programs were terminated by 1978, after HHS found that the provision of such a guaranteed annual income undermined work effort and caused marital breakups. This spring, in part to my urging, the Department announced the intention to discontinue the 20-year program, admitting that no further research value could be realized by continuing a program of this length.

The problem, however, is that they then announced a 3-year phaseout of the 20-year program at a cost of $1.3 million to be paid to 239 families remaining. Nothing in Health and Human Services' original income program requires a 3-year phaseout; it could be immediate.

Mr. President, I believe every Member of Congress is aware that the American public is fed up with wasteful Government spending. This amendment eliminates a program which even the bureaucracy admits is worthless. On September 26, 1980, when the Senate considered House Joint Resolution 610, continuing resolution, I offered this same amendment and it was adopted by my colleagues. The amount of money is not large by comparison with the total amount of this bill, but this amendment represents a small step by Congress in reducing wasteful Government spending. I urge its adoption.

Mr. MAGNUSON. Mr. President, this is an amendment which has been approved on a prior occasion. Is that correct?

Mr. ARMSTRONG. That is correct.

Mr. MAGNUSON. Mr. President, I am willing to accept the amendment.

Mr. YOUNG. Mr. President, I accept the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Will the Senator from Colorado be good enough to advise me, would the adoption of this amendment have any impact beyond the geographical parameters of the city of Denver?

Mr. ARMSTRONG. It would have no impact beyond the borders of the State of Colorado.

Mr. METZENBAUM. Will the Senator repeat that?

Mr. ARMSTRONG. This relates only to the Denver income experiment and only with reference to the State of Colorado. I cannot say that it is all confined to within the city of Denver.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2918) was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2921

Mr. ARMSTRONG. Mr. President, I call up my amendment No. 2921 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes amendment numbered 2921:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, none of the funds contained herein shall be used to require members of the Armed Forces serving on active duty to pay parking fees imposed by Office of Management and Budget Circular A–118, dated August 13, 1979.

Mr. ARMSTRONG. Mr. President, my explanation of this amendment will be quite brief. This is a matter we have talked about before, which has been adopted previously, and about which, so far as I know, there is no controversy.

Mr. President, I offer this amendment to remedy an injustice which is being done to a relatively small number of military personnel.

This is, in the larger scheme of things, a small matter. But to those service men and women affected by it, it is an important source of concern.

Military personnel in a number of metropolitan areas, but primarily here in Washington, D.C., are required to pay monthly fees for parking ranging from $10 to $12.50 per month. These fees are expected to climb to $15 to $35 a month at the start of the 1982 fiscal year.

The payment of parking fees came about when the President a year ago directed the General Services Administration to impose fees for parking at each Federal installation where the GSA determined the value of parking to be more than $10 a month. That OMB order applied to 130,000 to 140,000 parking spaces nationwide.

It may or may not be wise to impose parking fees on the civilian employees of the Federal Government. But the extension of this order to include military personnel clearly is a mistake.

To begin with, military personnel generally earn far less, in pay and benefits, than their civilian counterparts who are performing exactly the same work, at exactly the same location.

Furthermore, civilian employees at least have the option of seeking work elsewhere, if they believe their conditions of employment have become too burdensome. That option is not available to service men and women, who are ordered to duty at the Pentagon and the other places where these fees are imposed, for a specified period of time.

The fact that payment of parking fees applies primarily to service men and women stationed in high cost of living areas adds real injury to the insult. Even with the increase in benefits that went into effect last October, allowances for housing and subsistence are far below the actual cost of living of servicemen in these areas. To add the parking fee to the already onerous financial burden these servicemen bear for serving their country causes real hardship in many military families.

Putting an end to this injustice will have no impact on the Federal Treasury. The cost of collecting these parking fees approaches, and in some cases exceeds, the actual receipts at most military installations where they are applied.

The Senate saw the wisdom of this amendment last July when it added it by voice vote to the defense authorization bill for fiscal year 1981. Unfortunately, the amendment was dropped in conference. If the Congress as a whole gives its approval to this overdue reform now, it will make Christmas much merrier for many area military families.

Mr. MAGNUSON. Mr. President, this is an unusual amendment for an appropriations bill. It exempts the Armed Services on active duty from paying parking fees. If you exempt one, someone will come along and want to exempt the civil service employees, and everyone else. I do not understand why the Senator from Colorado brings this up on a continuing resolution.

Mr. STEVENS. Will the Senator yield to me?

Mr. MAGNUSON. Yes. First, however, I want to yield to the Senator from North Dakota who is the ranking minority member on the Appropriations Committee. They have discussed this matter. I think it is an unusual amendment.

Mr. YOUNG. Mr. President, this amendment exempts all of the members of the armed services from paying parking fees while not relieving other civil service employees. In the armed services, we have 800,000 or 900,000 civil service employees. They would be exempt, but a civil service employee working downtown would not be exempt.

Mr. President, I have to oppose it. I think the Senator from Alaska has some comment on it.

Mr. STEVENS. Mr. President, if the Senator from Colorado will yield to me, I am very interested in this, as the person who will be the chairman of the Defense Appropriations Subcommittee and also the chairman of the Civil Service Committee next year. I hope to have a joint hearing on the impact of these parking fees to see what to do.

It does seem to me to be unfair to charge the civil service people at the Pentagon parking lot and not those in the armed services. On the other hand, I do think it is unfair, where local ordinances require offstreet parking and the municipality wants these people not to park on the streets, that we charge either military or civil service personnel for the parking that was constructed so the cars would not be on the streets.

I think we need to adopt a uniform policy. I hope the Senator will allow us to have the opportunity to do that next year.

Mr. ARMSTRONG. Mr. President, first, let me apologize to Senators, because it seems to me we are proceeding at a time when we understand we would be taking up those matters which are not contained within these amendments which have been floating around for a few days. I understand this was approved on both sides.

Let me say to the Senator from Alaska that I shall be happy to take the amendment down now, but I intend to press for a conclusion, either now or next year in a bill. This is a real injustice to the armed services. While I have no desire to press parking fees on civil employees, I think it is a rank injustice to military personnel. Military employees are ordered to their stations and moved around at the order of the people who are their employers. That is much less true of civilian personnel.

Second, in many cases, we are talking about sergeants, corporals, junior officers, doing the same work as their civilian counterparts, working side by side with them, earning a third to half less than people not in uniform.

This is really, Mr. President, not to change historic policy but to put a stop to a recently imposed parking fee which is really an injustice to them; $10 a month to a Senator is not very much; we get free parking. Even if we had to pay $10 or $15 a month, it would not amount to anything, because, after all, Senators get $60,000 a year. But if you are a sergeant or a corporal trying to raise a family on $10 or $12 thousand a year, a parking fee of $100 a year is a substantial matter. I hope managers of the bill will agree to this amendment.

Mr. MAGNUSON. Does the Senator yield?

Mr. ARMSTRONG. Yes.

Mr. MAGNUSON. Does this include a city which has parking fees—Seattle, for example? Does this exempt active service people from city parking fees? What does it apply to?

Mr. ARMSTRONG. It applies only to a handful of parking areas specified in the OMB Circular A-118. In other words, only Federal parking facilities on which the President, on August 13, 1979, decided to impose a parking fee for the first time.

Mr. MAGNUSON. Why does it have to be on a continuing resolution? I do not understand this.

Mr. YOUNG. If the Senator will yield, my problem, my big problem, is this: There are some 800,000 or 900,000 civilian employees in the armed services. They would be exempt from parking fees while other civilian employees downtown would have to pay. How would police distinguish between the two when they park downtown?

Mr. ARMSTRONG. This has nothing to do with civilian employees. The amendment as written applies only to uniformed personnel while serving on active duty.

Mr. YOUNG. It does not say that in the amendment. It says members of the Armed Forces, and civilians are members of the Armed Forces.

Mr. STEVENS. Mr. President, there is a court decision on that, which ruled a portion of these fees are illegal. We have to review the whole subject now. I think just to legislate piecemeal for those, if it is those in uniform—and the Senator from North Dakota has a good point. I am not certain the civilian employees of the Department of Defense would not be considered part of the Department of Defense as far as this amendment is concerned.

Mr. ARMSTRONG. Well, Mr. President, it seems to me these matters are always very complex, always very difficult, always require a hearing. I bet the President did not have a hearing when he decided he was going to put this parking fee on these people.

Mr. STEVENS. Mr. President, the President put the Executive order out after the Senate and Members of the House pushed him to do it.

Mr. ARMSTRONG. Mr. President, I do not doubt that is true, but I note with interest that Senators do not pay for their parking spots. I do not know what the practice is over at the Executive Office Building, but I bet the President does not pay for his parking spot and I bet the Cabinet members do not pay for theirs. The fact of the matter is that this was imposed upon a bunch of people who really can least afford it, people whose cost-of-living pay increases have been withheld, people whose pay comparability has fallen by 20 percent within the last 6 years.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I am, in a moment, going to ask unanimous consent to withdraw this amendment. I am not really sure it is the right thing. I always, on occasions like this, find there is some rationalization for avoiding the problem. This is not a very complicated issue. It is a very simple issue in my mind: either we want to have these sergeants, lieutenants, captains—who are serving their country, working long hours at very, very low pay—pay another $150 or $180 a year in parking fees or we do not. I can say I do not. I do not have to have hearings about it.

I think the soldiers in this country have been treated very badly. They have been pushed around, they have been underpaid, and they have been ignored. I do not have to agonize very long about whether this is a preposterous imposition upon them to have to pay a parking fee, as ordered by the OMB Circular A-118. Nevertheless, I am going to defer to the recommendations of the Senator from Alaska, who promises me he will have a hearing and act promptly on this early next year, simply in the interest of speeding the business of the Senate.

I must say, Mr. President, frankly that if I were to push it to a vote today, I cannot imagine there are very many Senators who want to be recorded as opposing an amendment as obviously meritorious as this one.

In the interest of time, I ask unanimous consent to withdraw it. I promise the Senate that if we do not get this resolved, I am going to bring it back and ask for a rollcall vote at an early date next year, because this is really an offense to people who deserve better.

The PRESIDING OFFICER. The Senator's amendment is withdrawn.

It does not take unanimous consent. The Senator has the right to withdraw his amendment.

The amendment (No. 2921) was withdrawn.

The PRESIDING OFFICER. The question recurs to the amendment of the Senator from Oklahoma, which has been temporarily laid aside.

Mr. BELLMON. Mr. President, negotiations are still under way on the amendment. I ask unanimous consent that it be further laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2922

Mr. ARMSTRONG. Mr. President, I have other amendments to offer.

Are there others who wish to proceed with amendments not controversial? If there are not any others who have amendments, I am prepared to offer one at this time.

Mr. President, are there other Senators seeking recognition to offer amendments that would not be opposed?

Mr. President, hearing none, I will at this time call up my amendment No. 2922.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes amendment numbered 2922.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . Notwithstanding any other provision of this resolution or any other Act, the following appropriations reductions are made: (1) In the case of supplemental appropriations, each amount provided by this resolution is hereby reduced by 4.7 per centum; (2) in the case of programs and activities continued at a rate established in this resolution, the rate is hereby reduced by 4.7 per centum; and (3) of the amounts provided in any other bill or resolution providing appropriations for the fiscal year beginning October 1, 1980, from each appropriations account, activity, and project, there are hereby rescinded 4.7 per centum: *Provided, however,* That no reduction shall be made in appropriations for payments the United States is obligated to make to or for any person or government meeting requirements established by law: *And provided further,* That no reductions shall be made in appropriations for the Department of Defense: *And provided further,* That budget outlays provided by this joint resolution when added to the budget outlays of other Acts, shall not exceed the total outlays contained in the most recently adopted concurrent resolution on the budget.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that that rollcall not take place until noon, now that it is ordered.

Mr. ARMSTRONG. I have no opposition to withholding the rollcall until noon, or thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The rollcall will not be held prior to noon.

Mr. STEVENS. It will not be before noon, is my request.

Is the Senator willing to have a time limit?

I understand this is an across-the-board cut?

Mr. ARMSTRONG. The Senator is correct.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ARMSTRONG. Mr. President, on yesterday, we adopted an amendment which was proposed by the distinguished chairman of the Budget Committee, with the support of the Senator from New Mexico (Mr. DOMENICI), and others, the effect of which was to put the Senate on record that we want to reduce the budget outlays in this bill in some way to an amount which would conform to the budget resolution which has been approved by the Congress.

Senators will recall we adopted a budget resolution calling for outlays in the current fiscal year of some $532 billion. It happens that if we add up the appropriations already passed, the entitlement programs which are already in place, the expected total of the continuing resolution which is now under consideration, we come up with spending which totals not $532 billion, but between $555 billion and $560 billion.

The question that obviously suggests itself is, What is going to happen? So far as I can see, there are only three possible alternatives, only three ways we are going to reconcile these two numbers.

Either Congress itself is going to provide some reductions in the spending in this bill, or in other bills, in order to get under the $532 billion, or the President will submit recisions next year. As we discussed yesterday, that is not a very optimistic approach to the problem, because during the years the recision process has been in place, practically none of the Presidential recisions have, in fact, been approved.

As a matter of fact, only about 15 percent of all the recisions which have been submitted by the Presidents over the years have been approved. So, 85 percent have been turned down. It appears most unlikely to me that there is any way we would ever reconcile the estimated $555 billion to $560 billion in expenditures with the $532 billion budget ceiling by that manner.

The third possibility, as I see it, is that we could amend this resolution in a way which would bring the spending total within the amount which has been budgeted.

I suggest to Senators, this is a basic test of how serious we are about the $532 billion budget we adopted a few days ago.

Senators will recall that I thought that figure was too much. It seemed to me, at a time of financial restriction in the country, when virtually every economist in the Nation believes Federal spending must be restrained, when businessmen and women have testified eloquently both in official and unofficial senses about the need to restrain the growth of Federal spending, when by every observation of economic data and everyday experience we can see that Federal spending is too much, I thought, under those circumstances, that the budget resolution we adopted of $532 billion was excessive.

But it is not my purpose to suggest that we would go below that number, although I would personally like to do so.

The purpose of my amendment is merely to bring this legislation into conformity with the prior policy decision of the Congress in the budget resolution.

Mr. President, in describing the budget resolution, I have referred to it as $532 billion. In fact, the correct number is $632 billion. That just goes to show how fast inflation is actually moving. I lost track of $100 billion temporarily.

Mr. President, I do not think this matter requires a great deal of argument. I will just explain the exact technique by which my amendment seeks to conform spending to the budget resolution. It is very simple.

It simply says that we are reducing across the board the items in this supplemental appropriation in the amount of 4.7 percent.

The exceptions to that are the entitlement programs and national defense. These would not be reduced. But, by reducing everything else in an across-the-board manner of 4.7 percent, we will bring the spending total within the budget resolution.

So that is what we are doing. I urge support of the resolution.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I congratulate the Senator on this amendment. It is an appropriate, relevant amendment.

It would cut the appropriation by a substantial amount. What the Senator would do is drastic and painful. But I think we ought to realize what it is.

He proposes, I understand, a 4.7-percent reduction in nonentitlement and nonmilitary programs. My staff informs me that would be only 20 percent of the budget affected. It would affect some areas which I think all of us support that would have to be cut. We do not like it. For instance, the NIH, the basic opportunity grants for education, salaries and expenses, foreign aid, State Department, assisted housing, EPA.

All these agencies serve a very useful purpose, as we all know. But if we are going to hold down spending, we have to stand up and say what we would cut. It is easy to vote for a budget resolution that makes a reduction. It is something else to have to vote for the specific reductions the Senator from Colorado is calling on us to make.

I congratulate the Senator on this. It is a direct, frontal reduction of spending. I, certainly, enthusiastically support it.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. MAGNUSON. Will the Senator yield?

Mr. SCHMITT. I am happy to yield to the distinguished chairman of the committee.

Mr. MAGNUSON. Mr. President, I point out that the Senator from Wisconsin just mentioned that the Appropriation Committee is only responsible for about 36 percent of the budget. That is all we have control over.

The Senator's amendment eliminates the Department of Defense, which I think cuts it down to 20 percent. So we have to remember that any across-the-board cuts are only going to deal with 20 percent of the budget. These are mainly programs we call social needs.

I want that clear, that 36 percent is all we are responsible for. The rest are entitlements.

If we want to cut entitlements, that is one thing. But this is not the place to do that.

So that eliminating Defense, I think will put it down to 20 percent.

So you are cutting deeply into the heart of social programs.

A 4-percent cut across the board does

not mean every agency will be cut by 4 percent. Some agencies may be reduced by much greater percentages. Actually, a 4-percent cut taken out after one-fourth of the year has passed is actually a greater reduction to the program level than 4 percent. For programs which have been obligated at a higher level, the reduction will be more than 8 percent.

The Senate should know what it is doing here. It is dealing with about 20 percent of the budget—that is all.

This zeros in on all the social programs—NIH, the disabled, vocational education, all student assistance programs. They would be reduced below the 1980 levels.

Instead of giving arbitrary cuts in the social needs programs, you should say what program you want to cut or what program you may want to abolish. But you are dealing solely, are you not, with social needs programs—nothing else? No entitlements, no defense.

You are cutting up to 8 percent in some of these social programs. Why do you not say so? Why do you not say, "I want to cut the aid to the handicapped 8 percent; I want to cut NIH 8 percent; I am going to cut all these social needs programs"? Why do you not say so, instead of just having it across the board?

Mr. SCHMITT. Mr. President, I yield to the Senator from Colorado.

Mr. ARMSTRONG. I thank the Senator from New Mexico.

In response to the Senator from Washington, the distinguished chairman, I make a couple of points:

First, the amount of the reduction is not 8 percent; it is 4.7 percent; and some items are exempted.

Mr. MAGNUSON. Twenty-five percent of the year is gone.

Mr. ARMSTRONG. We are only reducing 4.7 percent of the money in this resolution.

Mr. MAGNUSON. It will be out the window. You are dealing solely with what we call the social needs programs.

Mr. ARMSTRONG. I explain to the Senator that it is my conception that the budget overall, the entire $600 billion, deals with programs of social needs. For example, I regard providing national defense as a social need—a different kind of social program from some the Senator has mentioned, but one which is equally worthy. I reject the notion that we should contrast some programs as people programs and some programs as something else.

With respect to the programs which the Senator has mentioned as being deserving, I point out that there has been such a tremendous increase in these programs that the effect of my modest amendment is only to reduce slightly the rate of increase and that we are not talking about cutting anything. These programs have ballooned in recent years.

Mr. MAGNUSON. I do not argue the merits of cutting the programs, but I think the Senator should specify the programs he is going to cut. Probably there should be some cuts in entitlements. You have to change the basic law.

Mr. ARMSTRONG. I want the Senator from Washington to understand that I agree with him that there should be cuts in entitlements. My amendment does not do that. There should be such cuts. But were I to propose an amendment which amended the entitlement program, the chairman of the Appropriations Committee would be the first to rise to his feet to complain that we are legislating on an appropriations bill.

Next year, I, for one, will back a change, a basic reform, in the entitlement program. What we have before us now are the dollar appropriations in a continuing resolution, and that is all I am proposing to reduce.

Mr. MAGNUSON. I may agree with the Senator from Colorado that the entitlement programs probably should be cut, but this is not the place to do it. The Senator's amendment is only going to deal with 20 percent of the budget.

Mr. SCHMITT. Mr. President, I have permitted this interesting colloquy to proceed because I believe it does illustrate many of the points that need to be brought out before the Senate considers final action on this amendment.

The Senator from Colorado, once again, has put his finger on a very basic problem.

We have an appropriations and a budget process that so far has been operating in ways mutually incompatible.

It is my belief, however, that in the actions taken yesterday, in which the Appropriations Committee and the Budget Committee agreed to an innovative approach to handling this problem over the next several months, we have done not only what is necessary but also what is most appropriate within the legislative prerogatives in Congress.

What basically happened yesterday was that we established a floating expiration date estimated by CBO now to be about August 11. That is the date when, at the current rate of spending, at the enacted rate of spending, the Government would run out of funds. That gives the authorizing and appropriating committees of Congress until that time to find ways—through rescissions, through deferrals, through legislative reductions in entitlement and other programs—to bring the appropriations within the umbrella set by the second concurrent budget resolution.

I believe that the new administration and Senator HATFIELD and the members of the Appropriations Committee for next year are committed to an extensive effort—a successful effort, it is hoped—to push that August 11 expiration date, as it now stands, closer and closer to September 30, until it coincides. The safety valve in that procedure, of course, is enactment of a third concurrent budget resolution some time next year, if it becomes necessary.

The problem is difficult. I do not want to underestimate or cause anybody to think that it will be easy to meet the levels imposed by the second concurrent budget resolution; because, as the Senator from Colorado knows, that is a totally unrealistic umbrella. The actual deficit, should we continue at current spending rates, almost certainly will be more than $50 billion.

So our task is far greater than just numbers might indicate, when we compare the levels in the second concurrent budget resolution with those that would exist under current spending rates or enacted spending rates.

However, given those unrealistic economic assumptions that are inherent in the second concurrent budget resolution, I believe it is critical, nevertheless, that Congress not abdicate its legislative authority to the Office of Management and Budget, to the executive branch, to find a way out of this mess.

If we take an across-the-board cut at this time, we will create tremendous problems for the Appropriations Committees right at the beginning of our first opportunity—the new majority's opportunity—to begin to get control of this very fundamental incompatibility between the budget process and the appropriations process.

The proposal for an across-the-board cut in the mind of this Senator has the following major objections:

It calls for reduction in program levels for all, and when I underline and italicized "all" enacted spending legislation with the exception of the Department of Defense legislation, that is including seven regular fiscal year 1981 appropriations bills.

It results in an effective cut that is far larger than the 4.7 percent number mentioned in the program because we only have 9 months remaining in the fiscal year because many programs are entitlement programs and not subject to these cuts.

Third, this amendment will allow no flexibility to adjust the percentage reduction to program realities such as salaries, expense accounts, and other problems that we know are going to exist. Even this cut will be inadequate due to the inadequate assumptions of the second concurrent budget resolution.

We are going to have to deal with a problem of rescissions, deferrals, and legislative reductions anyway next year. We might as well do it in a systematic way that looks at the total problem and not just a piece of it.

There are many, maybe not necessarily including this Senator, but there are many in this body who would object and clearly will object to exempting defense from the cuts proposed in this amendment, and for that reason again it reinforces the importance of using our normal legislative processes of rescission, deferral, and legislative reductions to handle this problem that we have created for ourselves this year.

Fifth, as I have indicated before this amendment would short-circuit the responsibility of Congress to make selective reductions through the regular process of legislation. It represents another quick fix to keep spending levels within those established by the second concurrent budget resolution without dealing with a faulty economic assumption contained in that resolution.

Reestimates will no doubt drive the fiscal year 1981 spending above the ceiling in the second concurrent budget resolution and, therefore, the proposed amendment will not even be sufficient to accomplish its stated objective.

Mr. President, it is, I think, commendable that the Senator from Colorado has once again focused our attention on this extraordinarily important and extraordinarily difficult problem facing next year's Appropriations Committee.

However, I do not believe that at this point there is any merit to this particular approach.

The amendment really is unnecessary since the amendment that was agreed to yesterday, not only by the Budget Committee members but those of the Appropriations Committee or the chairman and ranking members of the Budget Committee and the Appropriations Committee and this was accepted yesterday, will assure if we do our job that the second concurrent budget resolution ceilings will not be exceeded by this continuing resolution or we will through rescissions, deferrals, and legislative reductions insure that the expiration date of the Federal funding for programs will actually be September 30 as called for in this measure.

Again, the safety valve for this process is a second concurrent budget resolution. Hopefully that will not be necessary.

This Senator certainly pledges to the Senator from Colorado and all others that he will do everything he can as the new chairman of the Labor, Health, Education, and Welfare Committee to assure that a third concurrent budget resolution is unnecessary.

However, at this time I am very reluctant to agree to the proposal of the Senator from Colorado because frankly, as I said in informal and formal meetings over the last few days, I cannot tell what it means for an across-the-board cut in the major appropriations bill that I have to deal with next year.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, a point of information.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. FORD. What is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from Colorado.

Mr. FORD. Is there a time limit on that amendment?

The PRESIDING OFFICER. There is not.

The only time limit is the agreement that this vote will not occur before 12 o'clock.

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Earlier this morning, the amendment by the Senator from Oklahoma (Mr. BELLMON) and myself was temporarily set aside and when this amendment is accommodated, does that amendment then become the pending business?

The PRESIDING OFFICER. The amendment will once again become the pending business.

Mr. FORD. I thank the Chair, and I thank the Senator from Oregon.

Mr. HATFIELD. Mr. President, I reluctantly rise to oppose the amendment offered by the Senator from Colorado. There are a number of substantive reasons as well as procedural reasons for opposing this amendment at this time.

I think one of the significant procedural reasons, of course, is that this constitutes legislation on an appropriations bill. It modifies existing law by requiring cuts enacted in bills.

I think it also represents an unnecessary action at this time by the Senate because Senator HOLLINGS' amendment accepted yesterday assures that the second budget resolution ceilings will not be exceeded by the continuing resolution.

Mr. President, I also must raise this question as to the exemption of one of the largest of all portions of this budget, and that is the military budget.

I think we are going to have to face up to the reality of what that represents by not only this amendment but by many other expressions of this same viewpoint in Congress, and that is for many years the Republican Party has challenged and has criticized the New Deal, Fair Deal, all the other deals the Democratic administrations have offered the American people.

Among other reasons of criticism has been the basic criticism that the Democratic Party and these Democratic administrations have adopted the idea that if you throw enough money at a social problem, you will correct or you will cure the social problem.

This is precisely what we see happening now in Congress, only the situation is if you throw enough money at a military or the national security issue, you correct the problem.

All we hear around here is, we have to increase the military budget. It does not say anything about how much we are going to get in national security. It does not say how cost effective these programs are. It does not challenge or call for the scrutiny of the military spending levels. It just says throw more money at the military and we will get more security.

It is as fallacious argument to use for military and security purposes as it was for the Democrats and the New Deal and the other deals to try to correct social problems by merely throwing quantities of money at the problem.

To exempt the military from any such cut today is in keeping with that kind of philosophy, and I wish to say I am going to oppose it, I am going to fight it every inch of the way. I will not go into all the illustrations today that I could cite, but I am awfully happy to see that Cap Weinberger is being proposed or at least to this point it has been reported in the press that he will be the next Secretary of Defense because I know Cap Weinberger is going to take the same approach to the military spending that he has taken to other methods and other programs of spending, and that is they are going to prove the justification of the dollar.

I think it would be ludicrous for this body to say that we are fiscally responsible by adopting a cut in the continuing resolution, with the exception of the military. No one can stand here on this floor and say that they can give us any evidence that every dollar the military is spending today is a wisely spent dollar.

I would not doubt for 1 minute that they could cut out of their petty cash fund and their pencil and paper and their eraser fund enough money to probably reduce their budget by 2 percent, and to exempt the military from this kind of thing is not only fiscally irresponsible, in my view, but it certainly begs the basic question, and that is: Why should we not have the same demand for cost-effective spending of the taxpayers' money for military weapons and programs that we demand from those programs that are trying to feed the poor?

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HATFIELD. Or trying to help the needy or trying to give people some support and to undergird people in programs that we sort of categorically brush aside as welfare programs?

I want the same cost effectiveness out of the food stamp program that I want out of the military program, and no more and no less.

To assume that the military is wisely spending all the money whereas the welfare agencies are wasting money, I think, is also begging the question and not facing up to reality.

Yes, I would be happy to yield.

Mr. PROXMIRE. Will the Senator yield? There is a great deal of sense, as there always is, to what the Senator from Oregon has said. But I think he must realize what little possibility the Armstrong amendment has—and I am going to support it because I think it is right—and any chance of passing would completely disappear if Senator ARMSTRONG should include in it the military.

If the Senator will remember, I put in an amendment 2 weeks ago which contained provisions to balance revenues to expenditures, and I was told by a dozen Senators that they might have voted for it, but since it would affect the military they would not. So if you are going to have a sensible fiscal policy you have to cut what you can cut, and the only way we can do that that is available is to do exactly what the Senator from Colorado is proposing.

We cannot cut the entitlement program now in the limited time we have, unfortunately. We know with respect to the present attitude in the country and in Congress that you cannot cut the military, so you have practically what you can do, and what we can do is to cut by a modest percentage, 4.7 percent, the other programs, and that would amount to several billion dollars, and it would help to make this a far more fiscally responsible resolution.

Mr. HATFIELD. Well, I appreciate the Senator's explanation, but I thoroughly and completely disagree with it. I think the Senator is not facing the situation by saying that we are going to get some fiscal responsibility by cutting where we can but excepting the military.

We are inviting the military to be less of a good steward of the money we appropriate by this kind of action because we are saying, in effect, two things: We do not care to have the kind of fiscal responsibility in the military that we demand in these other agencies because we have exempted them from this kind of a cut.

We are saying, "Go ahead and spend more money because we are always going to appropriate what you call for in the name of national defense."

The Senator from Wisconsin and the Senator from Colorado are, in effect, by supporting this amendment, with the exemption of the military, presenting the proposition for an invitation to be sent out for carte blanche for any amount of money or any spending level they want, because they say, "Well, we can get through the Congress of the United States any kind of fiscal control, any kind of fiscal restraint, any kind of fiscal responsibility on the military."

I am not ready to throw in the towel on that kind of an argument because I believe we have to recognize that when we exempt the military, which is the largest single item of the controllable part of the entire budget, we are then going to impose upon all these other programs the full brunt, the full load, of having to reduce expenditures where in some cases they may well be able to do so without hurting people, but the likelihood is not very great.

I am not ready to trade the military hardware off for the food, the clothing, and the shelter, and other things that people need in this country, because I have not yet adopted what I think is a rather benighted viewpoint that the Nation's security is found only in the Nation's military hardware. What good would it be to have military hardware if we did not have a strong economy, a productive economy, if we do not have a well-fed people and well-housed people?

This idea of trading off people programs for military I think has to be confronted, and it might as well be confronted in a lameduck session as in a new session.

I also have to recognize that one of the greatest of all of our military leaders gave us a warning, a clear warning, and it was General Eisenhower, when he said very clearly that there will come a time in the Nation's history when more money spent for rockets and for bombs in the name of national security at a time when people are hungry and are not fed, when people are cold and not clothed, far from strengthening our national security will actually weaken our national security.

That is exactly where we are. When the Senator from Wisconsin and the Senator from Colorado are willing to stand here on the floor of the Senate and ask us to take this kind of fiscally irresponsible act of cutting every other part of the budget but exempting the military, probably the one area of the budget which we really could tighten up and make more lean and mean, then I do not think we are really fulfilling our defense needs nor are we fulfilling the congressional responsibility of setting priorities on spending.

I think again this must be confronted, and I would invite the Senator from Wisconsin to review his position because I know his philosophy, I know his commitment, and I think frankly the Senator from Wisconsin is being misled at this point, if I may be so blunt, as to adopt and to support this kind of an approach which invites unlimited and higher rates of spending by a military that is already bloated and already overspending and probably contributing mostly to the inflation of any Federal tax dollar that we are investing because it is the least multiplier of any Federal tax dollar we spend in the general economy.

Mr. PROXMIRE. Mr. President, if the Senator will yield——

Mr. HATFIELD. Yes.

Mr. PROXMIRE. The Senator is saying if we cannot cut everything we cut nothing. That is, as a practical matter what the Senator is saying. As I said when I offered my amendment the other day, I got 18 votes out of 100, 18 Senators, and I venture to say that if the Senator from Colorado amends his amendment to include the military he will get 18 votes or less.

We will have no chance. This is the one chance we have to show some fiscal responsibility. The Senator calls it fiscal irresponsibility. How can it be fiscal irresponsibility to reduce spending when we are running this enormous deficit, when we are facing a $50 billion deficit, and if we cannot cut the military we cannot cut anything else?

Mr. HATFIELD. I will tell the Senator why it is fiscally irresponsible. When you look at a problem and you analyze what the best method is, you do not use a meat cleaver when you can use a surgical instrument. You do not use a sledge hammer when you ought to use something a little more delicate, when you know where the problem is, and the problem is we are looking at the whole budget, at an uncontrollable budget or at least a major portion of it, and if you begin to extrapolate what we call the so-called controllable part of our budget, it gets down to about $100 billion, I call this fiscally irresponsible, and I will stand on that because what the Senator from Wisconsin and the Senator from Colorado are proposing right here today, and I will repeat, is they are saying we are not really identifying the problem. We just want to use an across-the-board cut, except for the military.

What does that mean? It means simply that you are going to hit right at the point of where people are getting programs where they have no alternatives; how to halt the lame, the blind, the poor, the elderly, and some of these others who may be affected by these programs, and I mean outside these entitlement programs, where are we going to get alternatives, and I am not saying they cannot be tightened up. I am just saying to put the full burden of a so-called cut of the budget on that group of people and on that part of the budget is irresponsible from a human point of view and from a fiscal point of view because by exempting the military you are inviting the military to merrily go down the road unchallenged, until Cap Weinberger gets on board and, hopefully—and I do not think I am misplacing my expectations or my hopes—he will begin to put things under a little control there.

So I am very hopeful the Senate will not buy this kind of action at this time.

I yield the floor.

Mr. METZENBAUM. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I would just like to rise and commend the Senator for his statement which is not only logical but forward looking, and certainly speaks well for his future leadership of the Appropriations Committee of this body.

I think he has zeroed in on the problem about the meat cleaver approach, and I think his referring to our failure to include in this amendment or rather the proponents' failure to include the Department of Defense is extremely commendable.

Because certainly the $160 billion appropriations bill that was recently passed having to do with the Department of Defense has plenty of fat in it.

As a matter of fact, I think the colloquy that occurred just prior to this one is interesting because no man in this body has been more astute, more critical, more in a leadership role in pointing out the wastefulness of the Department of Defense in not using competitive bidding than has been my good friend from Wisconsin. He has been the leader. I have supported him on many occasions and have joined with him.

The Department of Defense's failure to use competitive bidding is one simple example of a manner in which we could actually eliminate much of the expense and save billions of dollars. My good friend from Wisconsin has also addressed himself, on occasion, to the procedure of cost overruns by the military. No less a person than Admiral Rickover has aptly described that procedure as indicating that you cannot lose money on a Department of Defense contract, because once you get it you know that you can always go back in and get a supplemental contract providing for a larger amount of dollars.

In one study that I remember that was done not too long ago, cost overruns alone were running $6 billion a year. That is over and above the inflationary aspect.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. METZENBAUM. Yes.

Mr. PROXMIRE. Mr. President, I thank the Senator very much. I agree there are areas of waste in all programs and especially in military. But I think we have to face certain facts.

One fact is that we have to pay our military people more, much more. It is disgraceful what we pay them now. Fifty-eight percent of our military cost is the personnel cost.

We need more tanks. We need more planes. We need more ships. It is going to cost more money for us to do it.

I agree that we should follow competitive bidding. I agree wholeheartedly and the Senator is absolutely right that the overruns have been a disgrace.

But a fact is that if we are going to have the kind of military force that the present world conditions demand, unfortunately, we are probably going to have to spend more on the military.

On the other hand, I think in these other areas we are just going to have to find a way to make reductions, however heartbreaking it is.

Mr. METZENBAUM. Mr. President, I agree that we need to spend more in the areas of tanks and planes and other materiel, and I agree we have to pay our members of the military force more. But I also agree that some of the points the Senator has made in the past as to the perks and the special kinds of privileges and the special kinds of wastefulness of some of the military leadership and their having all sorts of chauffered limousines and waiters and persons to take care of them and their special kinds of housing accommodations, all of these areas, none of which do I care to address directly, but in all of these areas I believe support the Senator from Oregon in his concern about trying to make an across-the-board cut against other programs and not try to provide some economies in the defense spending, as well.

So I rise to commend him for his leadership and his new role, which looks very encouraging.

I also wish at the same time to commend my friend from Wisconsin for the role that he has played over the years in attempting to save our defense dollars from wastefulness.

Mr. HATFIELD. Mr. President, let me add a few other programs to the impact of this resolution that is pending before us.

For instance, we take in the NASA program that is vital not only to our space program generally, but has its defense implications and its connections. According to the 4.7 percent across-the-board cut—and, by the way, let me inject here that this includes those appropriations that are already enacted, so it is not just on the continuing resolution—this would mean that the NASA Space Shuttle program of $1.8 billion would be cut $84.6 million, which would involve a 6 to 9 month delay in delivery date of the second and third orbiter and schedule.

It also involves a cut of medicare for the veterans. This resolution that is offered by the Senator from Colorado, supported by the Senator from Wisconsin, does not exempt the veterans. That means, simply, that we would have in the medical care program a $282.9 million cut, or a layoff of over 25,000 medical personnel in the last 6 months of fiscal year 1981. That is the Veterans' Administration.

Now everyone who votes for this and stands for this, let us be very clear what you are going to get very shortly out of the Veterans' Administration programs and the veterans' organizations as a reaction to what it would mean by 25,000 medical care personnel being laid off in the last 6 months of fiscal year 1981 in order to comply with this.

What does it do to HUD? Well, in the housing for the elderly or the handicapped, $37.8 million is cut. And that reduces the number of units by 881 out of a total of 18,000 units. That is for the housing of the elderly and the handicapped, a loss of 881 units out of 18,000 units. And the 18,000 units are very inadequate to meet the current need.

What does it do to disaster relief? I hope the Senators from California and others who are qualifying for disaster relief and other areas of the country which could easily be struck will hear this. As far as FEMA is concerned, it is going to mean a $17.7 million cut. Most of these funds are already committed to pay back agencies and governments for incurred expenditures.

So here are just a few examples of what the so-called innocent request of cutting this across the board by 4.7 percent would mean. At the same time, we are exempting the largest single budget of all.

I yield to the Senator from New Mexico.

Mr. SCHMITT. I thank the Senator from Oregon and the distinguished chairman-to-be of the Appropriations Committee.

As the Senator is well aware, we have begun to look at the problem of how to accommodate the kind of reductions that are going to be necessary in order to not only begin the process of balancing the budget once again but to live within the constraints of the second concurrent budget resolution and any other resolution that might come forth next year.

It is important to recognize—and these are of course rough and preliminary calculations—that because of the exemption that is contained in the amendment and because of the so-called uncontrollables or entitlement programs, the actual cuts that will come out of various discretionary funds within the Labor, Health, Education and Welfare bill will be a much higher percentage.

For example, the cut in budget authority would be required in the labor programs to be $526 million; health and human services, $545 million; education, $601 million. The total would be about $1.6 billion.

This is a cut of $1.6 billion out of those three areas. In discretionary funds, it amounts to $35.6 million.

So we can see the kind of problem that is developing for a committee that clearly has its work cut out for it.

I think it is far better to attack this problem systematically as we have already begun and as the administration has pledged to do, again, through the rescission, deferral, and legislative reduction process. That is the responsibility of the Congress in which, at least on this side of the Congress in the Senate, I think there is an unwavering commitment to do.

But I, frankly, appeal to the sponsor of this amendment and others that are supporting it to look at that alternative; that is of a clear dedication next year to not only reducing the cost of the programs under the jurisdiction of the various appropriation subcommittees and their associated authorizing committees, but to make sure that, in the process of reducing those costs, those persons who have no other alternative but Federal services, clearly have those alternatives and those who with time to develop new alternatives to Government services are encouraged to do so. I believe we can make great progress next year, but it will be very, very difficult if this kind of an approach is imposed upon us before we even get started.

(Mr. MITCHELL assumed the chair.)

Mr. ARMSTRONG. Mr. President, I would remind the Senator from Oregon and others that on to all things there is a season. There is a time for fine tuning but there is a time for a meat cleaver, too. I would like to say a few words on behalf of the meat cleaver time for budgeting.

I have watched this budget thing for a long time. I have watched them try to fine tune. I have watched them hold hearings on oversight and try to put in minor reforms, and every year the deficit grows larger. This is not for lack of effort, dedication, or skill, or hour after hour of grinding work in the Appropriations Committee or the Budget Committee. It is because basically you cannot solve the problem by fine tuning these programs or taking them by increments. Why is that? Well, I am prepared to reveal that right here and now. The answer is very, very simple: Because those of us who are trying to restrain spending when we fine tune, those who are trying to decrease spending, do not have a similar degree of restraint.

Did you ever hear anybody stand up when a large increase in spending was proposed and say, "Wait a minute, let us not have a meat cleaver approach to increasing spending"?

Well, I am going to say we have had something worse than a meat cleaver increase in spending. We have had deficits every year for so long that you cannot remember when we did not, and every year we have been told that a balanced budget was right around the corner, 2 or 3 years from now.

As recently as May, in this very Chamber, I listened to the distinguished majority leader give us a wonderful speech praising the Congress of the United States for at last balancing the Federal budget. I would urge my colleagues, every one of the Members of the Senate, to go back and read what the majority leader said about the importance of a balanced budget, and read what other Senators said.

You might go back and read what some of us who were skeptical at the time said, that the budget was out of balance, that the course we were on could not possibly lead to a balanced budget, that we were deceiving ourselves in our economic assumptions, that programs were running out of control.

The only way we are ever going to get this spending under control is by taking what some have characterized as a meat cleaver approach but what I think is more properly termed a policymaking approach to providing for Federal spending.

Mr. President, it comes down to this: If you come up with an amendment to reduce a specific program, somebody stands up and says, "Wait a minute, do not cut this. This is a good program. This is a needed program."

More often Members of this body will say privately, "I cannot vote to cut this particular program in isolation. The only way I can ever vote for a cut of 4 percent or 5 percent or 25 percent, or whatever it is, is if it is all packaged up, because I cannot be in a position of voting against my own program in isolation.

"But I could, if it was put in a package, if it was all rolled together, so that it would be clearly understood by my constituents at home, by the Senate, by the media, by the Nation, as a part of a broad-gauged attack on the most serious problem facing our country, which is inflation."

Well, that is what this amendment is all about.

Second, I would like to suggest to Senators that this vote and this issue is really a test of credibility. Yesterday we adopted the Hollings-Domenici amendment in which we said we intended to somehow get the spending for this fiscal year within the amount which has been approved by this body in the budget resolution, $630-some billion, that we are going to do it.

The amendment we adopted yesterday says that is our policy, but what it does not say is how we are going to get there.

There are really only a couple of possibilities. Either we are going to have rescissions—and we all know that is not going to work. The record of Congress acting on Presidential rescissions could scarcely be worse. Eighty-five percent of all the rescissions proposed by Presidents have been turned down by the Congress. In any case, it will be months before the new President can prepare to offer those rescissions, even if Congress were prepared to take every one of them.

Or, we can, under the terms of the amendment we adopted yesterday, just let things go on at their present rate of spending until about the 15th of September next year when we just run out of money and then I suppose, theoretically, we could shut down the Government for 15 days. That would be a way to get us under the budget ceiling but everybody knows that will not happen and should not happen.

The real question comes down to this: Either we are or are not going to cut the spending and trim it down to the level which we have adopted as our budget ceiling.

Every time somebody comes up with a suggestion to cut, there is a parade of horribles—you are going to be cutting housing programs, the people programs.

Well, that is not correct. That is not what this amendment does. What we are talking about is moderating the rate of increase for these spending programs. I regret that the Senator from Oregon is not here because I listened with great interest to his impassioned plea not to have a trade off between military programs and people programs.

At the risk of repeating, I would like to make the point once again that first of all national defense is a people program. That is the program by which we defend the people of this country from foreign invasion and defend this Nation's security interests. However, the more important point in the context of this debate is that there is no trade off between these two programs. It is not as if they are both equal in size or as if they have both grown at equal rates. The implication of what has been said here today is that military spending has been growing rapidly while spending for other kinds of programs has not, when exactly the reverse is the case.

I would invite the attention of my colleagues to the report of the Budget Committee on the first concurrent budget resolution for fiscal year 1981. In this report there is spelled out in some detail the trends of the last 20 years. I am not going to go into that in detail, but I would direct the attention of Members to pages 366 and 367 of that report, which shows clearly what has happened. In constant dollars, that is, dollars after adjustment for inflation, spending for national defense has been declining in this country for a number of years. It is not going up. We are spending less today for national defense than we were 5 years ago, less than we were 10 years ago.

Incredibly, as the world grows more dangerous, we are spending less for defense today than we were 20 years ago.

What has happened to spending for the so-called social programs compared to the total of nondefense spending in the same period?

Again, measured in constant 1972 dollars, 20 years ago we were spending approximately $140 billion for such programs and today we are spending roughly double that.

Let us keep that perspective in mind when somebody comes up with an amendment which seeks to moderate the rate of increase in nondefense spending. Defense spending measured in constant dollars is going down and has been going down. Nondefense spending has been increasing.

Mr. President, I am also surprised, and I must say disappointed, that anyone would find it difficult to accept a spending reduction of such modest proportions.

As I think we are ready for the vote, I would merely close the debate with the thought that it really comes down to whether we are serious about getting spending under our budget ceiling. The issue is not a balanced budget. Under no circumstances that I can foresee will the budget be balanced in the current fiscal year. There is just no way that it is going to happen. I am resigned, reluctantly, unwillingly, to the fact that we are going to be hugely in deficit for the current fiscal year. There is no question about it. The question is whether or not we are going to be an additional $25 billion or $30 billion in deficit over and above the deficit which we have already admitted in our budget resolution.

Unless we take an action of the kind which is contemplated by my amendment, I can see no possible way that we can prevent this from happening. The hope of rescissions by the President, although I expect I will support them, is not a realistic approach. The probability that the Appropriations Committee can come in and reorganize the place in January and have hearings and bring bills to the floor to rescind prior appropriations during a time frame which will do something to the current fiscal year is not realistic.

The thought that we can reform and thereby reduce spending for the entitlement programs in a time frame to aid the current fiscal year is not realistic, and we all know it.

All of those things need to be done, Mr. President. The President must rescind, the Appropriations Committee must pass some bills to rescind prior spending, the authorizing committees need to bring to the floor legislation which will reform these programs which are running out of control. But none of those things will help us in the current fiscal year. It is going to take this kind of broad-gage policymaking amendment, an amendment which some have characterized as a meat-cleaver amendment, to solve the problem.

Mr. President, I hope the Senate will adopt this amendment.

Mr. MAGNUSON. Mr. President, as long as no one else wants to speak on this amendment, I move to lay the amendment on the table.

Mr. BELLMON. Mr. President, will the Senator withhold for a moment?

Mr. MAGNUSON. Yes, I yield.

Mr. BELLMON. Mr. President, I have a statement in support of the Armstrong amendment.

Mr. President, I have been a strong opponent of across-the-board cuts. But for reasons I will explain, I support the Armstrong amendment. This amendment gives the Senate the opportunity to live within the congressional budget approved less than a month ago. If spending were to continue throughout fiscal year 1981 at the rates established by this continuing resolution and by other legislation, Federal spending would exceed the ceilings in the second budget resolution by $8.4 billion in budget authority and $4.6 billion in outlays.

Let me emphasize, Mr. President, that these figures are the minimums by which spending is likely to exceed the congressional budget. These numbers have not been updated for all the recent bad economic news.

I agree with Senator SCHMITT that the second budget resolution is unrealistically low, given the current state of the economy, but not all of the problem stems from the economy. Congress has not restrained fiscal year 1981 spending as it could have. We did make progress—the nearly $5 billion in reconciliation savings in fiscal year 1981 being a major accomplishment.

The Armstrong amendment strikes another blow for fiscal responsibility. Taking the actions he proposes—reducing budget authority by 4.7 percent in all nonentitlement programs except defense—will greatly relieve the pressure on Congress when President Reagan sends up his budget cuts, as he has stated that he will do.

Mr. President, the amendment the Senate approved yesterday, offered by Senator Hollings, brought the continuing resolution into technical compliance with the budget.

Let me stress that, Mr. President, yesterday's Hollings amendment cured the budget average in only a technical sense. It provides, in effect, that Federal spending will continue without reduction until the budget ceilings are reached. We all know that the Government will not shut down when the spending reaches the budget ceilings, as yesterday's amendment literally provides.

The Armstrong amendment offers the Senate the opportunity to be consistent.

I do not like across-the-board amendments, Mr. President. I think it is much more responsible to make specific cuts in the programs that are the fattest and least needed.

In this case, though, I am going to vote for the Armstrong amendment. Frankly, I see it as a way of holding back spending until Congress gets the new President's budget proposals. I think the job Congress will have to do next spring will be a lot more feasible and more orderly if it approves the Armstrong amendment.

I agree with Senator Hatfield that defense and entitlement programs must share the burden of budget restraint. I think they will be scrutinized by the Reagan administration just as critically as Senator Hatfield suggests. But let us face it, Mr. President, the Armstrong amendment—which excludes defense for now—is probably the only approach that has a chance here in the Senate today.

I urge approval of the Armstrong amendment.

Mr. MAGNUSON. Mr. President, I move to lay the amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Alaska (Mr. Gravel), the Senator from Kentucky (Mr. Huddleston), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. Jepsen), the Senator from Maryland (Mr. Mathias), the Senator from Pennsylvania (Mr. Schweiker), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 45, nays 42, as follows:

[Rollcall Vote No. 530 Leg.]

YEAS—45

Baucus
Biden
Bradley
Burdick
Byrd, Robert C.
Chafee
Cochran
Cranston
Danforth
Durkin
Eagleton
Ford
Glenn
Goldwater
Hart
Hatfield
Heinz
Jackson
Javits
Kassebaum
Leahy
Levin
Long
Magnuson
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Nelson
Pell
Pryor
Randolph
Ribicoff
Sarbanes
Schmitt
Stafford
Stennis
Stevens
Stevenson
Stewart
Tsongas
Weicker
Williams
Young

NAYS—42

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Chiles
Cohen
DeConcini
Dole
Domenici
Durenberger
Exon
Garn
Hatch
Hayakawa
Heflin
Helms
Hollings
Humphrey
Laxalt
Lugar
McClure
Melcher
Mitchell
Nunn
Packwood
Percy
Pressler
Proxmire
Riegle
Roth
Sasser
Simpson
Stone
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—13

Bayh
Church
Culver
Gravel
Huddleston
Inouye
Jepsen
Johnston
Kennedy
Mathias
Schweiker
Talmadge
Tower

So the motion to lay the amendment on the table was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1876

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. What is the pending business?

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Oklahoma.

The Senate will be in order.

Mr. FORD. Mr. President, I do not see the distinguished Senator from Oklahoma in the Chamber, but we discussed this earlier. This is his amendment and mine. There were objections earlier. This relates to the farm credit legislation.

I yield back the remainder of my time.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. There were two amendments that the Senator from Oklahoma set aside. One is the farm credit matter. Is that the one that is before the Senate at the moment?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. Mr. President, I was the one who objected earlier to the consideration of this amendment. After talking it over with a group of people, I have decided to withhold any objection I might have.

The PRESIDING OFFICER. The Senator will suspend. Other Senators are unable to hear the Senator. The Senate will be in order. The Senator is entitled to be heard.

Mr. EXON. Mr. President, there has been a great deal of controversy surrounding the farm credit bill. I am withholding my objection because I believe the bill in toto is a good one and therefore should go ahead. Therefore, I have agreed not to press further the hold that I had on this bill.

Though we may be taking care of some portion of the farm credit bill through the continuing resolution and some portions of the bill itself, which I assume will come along in the next few hours, if not the next few days, we may need some oversight hearings on the part of the Committee on Agriculture in the next year. I have assurances that those hearings will take place; and, if necessary, we can make further amendment to this act next year.

With that understanding, we can go ahead at this time.

Mr. HELMS. I thank the Senator from Nebraska. I assure him that that will be done.

Mr. GARN. Mr. President, I rise not to question the substance of the legislation before us but to express my concerns over the procedures followed in the consideration of the Senate bill.

Approximately 1 year ago, Senator Proxmire requested of Senator Talmadge that "if and when the bill (S. 1465) is reported from the Agricultural Committee," he agree to a unanimous-consent motion granting the Banking Committee sequential jurisdiction over the bill. Senator Talmadge responded by indicating that the Agricultural Committee would continue to exercise sole jurisdiction over the bill and, in that event, would welcome any comments the Banking Committee might have on the legislation.

Mr. President, I ask unanimous consent to have printed in the Record, at the conclusion of my remarks, two letters in connection with this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GARN. Mr. President, because numerous provisions of S. 1465 deal with matters affecting financial institutions, such as the increased domestic and the proposed international credit powers of the Farm Credit System, the Banking Committee held a hearing on June 26, 1980, on the legislation. Much of the discussion during the hearing centered on the Farm Credit System's need for additional credit powers and, if provided, what impact such powers would have on other types of financial institutions.

With the passage of these Farm Credit Act amendments, the Farm Credit System will maintain its position as a major source of agricultural credit.

As a major financial institution competing with commercial banks and other depository institutions, I believe it is important that any future legislative action affecting the Farm Credit System include referral, sequential or concurrent, to the Banking Committee.

Thus, I ask the chairman and ranking member of the Agriculture Committee whether they agree with me that hereafter such legislation should be subject to the jurisdiction of the Banking Committee, as well as the Agriculture Committee?

Mr. HELMS. Mr. President, I say to my friend from Utah that, just as a matter of philosophy, I believe that all interested committees should cooperate; and it would be my intent, as chairman, to recommend to my committee that there be sequential referral in instances such as he has mentioned.

As a matter of fact, there were some concerns because this was not done this year. I was pleased, however, that we were able to work with the Banking Committee and accommodate their concerns with respect to S. 1465 without there being a formal referral of that bill to the Banking Committee. The two amendments developed by the Banking Committee were adopted during the Senate debate of S. 1465 and are also contained in the House amendment to the bill. I assure the Senator from Utah that in matters of this kind, he and I will work together.

Mr. GARN. I thank my distinguished colleague from North Carolina for his cooperation. I look forward to working with him on these types of matters in the future.

EXHIBIT 1

DECEMBER 10, 1979.

Hon. HERMAN TALMADGE,
Chairman, Senate Committee on Agriculture,
Washington, D.C.

DEAR MR. CHAIRMAN: I have been reviewing S. 1465, the Farm Credit Act Amendments of 1979, and note that the bill contains numerous provisions to increase the deposit-taking and credit powers of Farm Credit System institutions, including mortgage lending, export financing and aquatic financing. Because the legislation would have a substantial impact on financial institutions and other matters within the jurisdiction of the Banking Committee, I believe this Committee should consider S. 1465, if and when the bill is reported from the Agricultural Committee. I hope you will agree to a unanimous consent motion to that effect.

All best wishes,
Sincerely,
WILLIAM PROXMIRE,
Chairman, Committee on Banking,
Housing, and Urban Affairs.

FEBRUARY 25, 1980.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing,
and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter concerning S. 1465, the Farm Credit Act Amendments of 1979, in which you state your belief that the Committee on Banking, Housing, and Urban Affairs should consider the bill upon its being reported by the Committee on Agriculture, Nutrition, and Forestry.

While I recognize the legislative jurisdiction of the Committee on Banking, Housing, and Urban Affairs with respect to banks, banking, and financial institutions, I hope that a referral of S. 1465 to your Committee will not be necessary.

At the outset, I think it is important to note that S. 1465 was correctly referred to the Committee on Agriculture, Nutrition, and Forestry. The bill would make changes in the Farm Credit Act of 1971, the basic legislation under which the Farm Credit System extends loans to farmers, ranchers, and their cooperatives. The Farm Credit Act of 1971 clearly relates to farm credit and farm security, a matter within the legislative jurisdiction of our Committee under the rules of the Senate. Moreover, our Committee exercised sole jurisdiction in the Senate with respect to the Farm Credit Act of 1971 and all predecessor legislation affecting the Farm Credit System.

Nevertheless, I understand your interest in any legislation affecting banks and financial institutions. Any concerns you may have concerning S. 1465 will, therefore, be given careful attention during our consideration of the legislation, and I look forward to working with you on the bill.

The Subcommittee on Agricultural Credit has completed its hearings on S. 1465 and has scheduled a markup of the legislation for March 14, 1980.

With every good wish, I am
Sincerely,
HERMAN E. TALMADGE,
Chairman.

Mr. FORD. Mr. President, I ask for consideration of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1876) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1881

Mr. SCHMITT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 1881.

Mr. SCHMITT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution insert:

Not withstanding any other provision of law or any other provision of this joint resolution, no funds appropriated for uses by the Department of the Interior or any other agency of the United States Government may be used for any administrative act by any agency of the United States or agent thereof which would apply either the acreage limitation or any other provision of the Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388 and acts amendatory thereof or supplementary thereto), in the fiscal year commencing October 1, 1980, to land holdings receiving benefits from Federal water resource projects constructed by the United States Corps of Engineers other than those such projects which:

(1) by Federal statute, have been explicitly designated, made part of, or integrated with a Federal reclamation project, or

(2) The Secretary of the Interior, pursuant to his authority under the Federal Reclamation Law has provided project works for the control or conveyance of an agricultural water supply for the lands involved, or

(3) the provisions of the Federal Reclamation Laws are by Federal statute, explicitly made applicable to the lands involved.

Mr. SCHMITT. Mr. President, the amendment which I am offering today will restrict the Government from using funds to implement the present Reclamation Law as it has been interpreted to apply to Corps of Engineers water projects. The language of this amendment is consistent with other provisions of the continuing resolution.

The issue of reclamation law reform was debated on September 15, 1979, when the Senate considered and passed S. 14. The provision that I am offering would basically exempt Corps of Engineer projects from Reclamation Law. This corps exemption is warranted because corps projects generally have flood control as their primary purpose rather than reclamation of arid lands. The amendment I am offering is virtually identical to the corps exemption contained in S. 14. The amendment exempts corps projects unless:

First, by Federal statute, those projects have been explicitly designated, made part of, or integrated with a Federal reclamation project, or

Second, the Secretary of the Interior, pursuant to his authority under the Federal Reclamation Law has provided project works for the control or conveyance of an agricultural water supply for the lands involved, or

Third, the provisions of the Federal Reclamation Laws are by Federal statute, explicitly made applicable to the lands involved.

This exemption for corps projects is also contained in H.R. 6520 which was favorably reported by the House Committee on Interior and Insular Affairs this past July. The most controversial issue surrounding the corps exemption has focused on the status of the Kings River projects in California. At the time that the Senate was considering S. 14 the Carter administration opposed including Kings River in this exemption. Recently, Secretary Andrus changed his position on that issue thus diffusing any controversy that could seriously be considered as part of the debate on this important issue.

It is my feeling that the 96th Congress should not adjourn without laying this matter to rest and thus I urge Senators to support this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Secretary of the Interior, Mr. Andrus, dealing with one aspect of this matter, the Kings River area in California. This letter is addressed to MORRIS K. UDALL of the House of Representatives.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., November 19, 1980.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of September 30 pertaining to H.R. 6520, the Reclamation Reform Act of 1980, has been held at my desk awaiting an indication that Congress would act on this needed legislation before adjournment. It now appears that the House may well resolve the issue so permit me to respond to the Army Corps' provision of the bill.

Although we oppose the blanket exemption sought by some interests, I have revised our position with regards to the Kings River region in California. This is a unique area and difficult to understand unless you have actually visited the entire project as both you and I have done.

I have concluded that in the Tulare Lake Basin small-scale farming is not economically feasible. The high risk of economic loss is a practical and unavoidable obstacle for which there is no remedy now or in the foreseeable future. Only large farming operations can financially sustain the high costs of diverting the flood waters into selected large tracts of land divided into cells (and have the land to do so). The costs of having this acreage under water for long periods of time and the financial loss of the crops in the flooded areas are financial risks which can only be offset against other profitable operations. Without large farms in Tulare Lake, large amounts of acreage would not be in agricultural production, and that would in no way further the purposes and goals of the reclamation program.

Based upon additional and confirmed information, we have made two significant factual findings which compel us to support application of a Corps exemption of Kings River.

First, almost 200,000 of the total 1.1 million acres irrigated from the Kings River are located in a flood plain known as Tulare Lake Basin. Despite the construction of the Pine Flat Dam for flood control purposes, this basin continues to be inundated by massive flooding every few years. There is also more frequent and serious flooding between the large flood years, such as this year when there were large crop areas inundated.

Second, in the remaining 80 percent of the area irrigated from the Kings River outside the Tulare Lake Basin, there are over 46,000 nonexcess ownerships that are in farming operations similar to those in most other areas in the Central Valley Project where family farming predominates.

There are 868 owners of excess land in the Kings River service area with the largest in the Tulare Lake Basin where almost one-half of the excess land is situated. These lands are in farm operations which could operate on a "run of the river" schedule and be exempt from Reclamation law, but such a procedure would impair the productivity of the small farm operations that are upstream of the Tulare Lake Basin.

I, therefore, support the exemption of the lands in the Kings River area receiving water from the Corps of Engineers Pine Flat Dam from acreage limitation. To do otherwise would be irresponsible and would most likely jeopardize the many small operators to get at a few large operators.

Sincerely,

Cecil D. Andrus,
Secretary of the Interior.

Mr. SCHMITT. Mr. President, I yield to the distinguished chairman.

Mr. MAGNUSON. Mr. President, I understand it is agreeable with the Senator from Missouri. If it is agreeable with him it is agreeable with me. I accept the amendment.

Mr. SCHMITT. I thank the Senator. I know that the various committee chairmen and others have been interested in this project.

Mr. MAGNUSON. The Senator cleared it with them all?

Mr. SCHMITT. Yes, I have, and I appreciate also the Senator from Ohio allowing us to proceed with this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP No. 1881) was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2636

Mr. METZENBAUM. Mr. President, earlier today the distinguished Senator from Montana brought up a matter of great importance to the farmers of his State as well as the farmers of the Nation, and the amendment concerns the question of the imputed interest in transactions between families where property is sold from one to the other. It also concerned a question of sales and imputed interest between corporations and affiliated companies.

The Senator from Montana indicated that he was concerned that the Internal Revenue Service regulations would be going into effect at an early moment if some action were not taken and that what he was seeking to do was to afford Congress an opportunity to deal with this matter in a normal manner.

He and I and our staffs have been in discussions with the Treasury Department and as earlier indicated, the Treasury Department was prepared to furnish the Senator from Montana with a letter on this subject. The letter reads, and it is brief:

Dear Senator Melcher: Pursuant to our discussion with you today concerning proposed regulations raising the rates of interest on transactions affected by sections 482 and 483 of the Internal Revenue Code of 1954, we agree that such regulations will not be issued in final form before July 1, 1981. The purpose of delay in issuing final regulations is to allow adequate time for congressional review of the proposed regulations and the issues raised thereby.

Sincerely,

Donald C. Lubick.

Mr. President, I wish to commend the Senator from Montana for his leadership role in this effort in protecting the concerns of the family farmers of the country.

I join him in that effort and I hope he will be satisfied that with this letter he will not find the need to press forward with his amendment at this time.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Montana.

Mr. MELCHER. I thank my friend from Ohio very much for his statement just made and for reading the letter into the Record.

The letter accomplishes what we sought out to accomplish under the amendment. We wanted to allow the committees with jurisdiction in both the House of Representatives and the Senate the opportunity to review these regulations and we believe leaving the regulations ineffective and available for review until July 1 of next year accomplishes what the amendment sought to do. The regulations if they would go into effect would have some bearing. They would probably raise the interest rates or could have the effect of raising interest rates on almost any contract for deed for any property that was sold.

So I think such a far-reaching step by the IRS should be reviewed by Congress itself. This letter assures that that opportunity will be given.

Mr. President, for that reason I ask that my amendment No. 2636 be withdrawn.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. MELCHER. I thank the Chair.

UP AMENDMENT NO. 1882

(Purpose: To modify the provisions of section 172 to assure a more equitable use of funds under the Refugee Education Assistance Act of 1980)

Mr. WILLIAMS. Mr. President, I ask unanimous consent to send to the desk and have considered an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. Williams) for himself and Mr. Pell proposes unprinted amendment numbered 1882.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, line 9, beginning with the colon, strike out through the word "period" on line 15 and insert in lieu thereof "*Provided,* That no less than 25 percentum of such funds shall be used to provide educational services to eligible children in any school district enrolling at least ten thousand such children". On page 47, line 6, strike out "$15,000,000" and insert in lieu thereof "$30,000,000".

Mr. WILLIAMS. Mr. President, I propose this amendment for myself and the Senator from Rhode Island, Senator Pell. The amendment deals with the refugee education assistance.

Mr. President, this amendment is a very simple one. The present language of this resolution calls for $15 million to be spent on refugee education assistance. This amendment increases this amount to $30 million.

In addition, this amendment is necessary to make the appropriations language conform with the refugee education program as authorized only 2 months ago.

The present language of this resolution flies in the face of the clear intent of the Refugee Education Assistance Act of 1980. This act was designed to help school districts throughout the country which have been affected by the massive influx of Cuban-Haitian and Indochinese refugees.

The language of this resolution which alters the eligible school districts would limit assistance to very few districts. In fact, it is fair to say that the principal beneficiary of funding under this resolution, as it is presently constituted, is Dade County, Florida.

Frankly, Mr. President, I think it is totally inappropriate that this continuing resolution for appropriations turn the authorizing legislation on its head. The Refugee Education Assistance Act was carefully constructed to take into account the unique problems of several refugee communities throughout the Nation. The House Education and Labor Committee held extensive hearings documenting these problems and which formed a sound basis for the authorizing legislation.

Based on this careful review of the problem it was decided that any school district with more than 500 refugee students or which has 5 percent of its daily attendance comprised of refugee students should receive special impact assistance. This latter criteria, of 5-percent student population, is very important because even fairly small numbers of refugee students can have extremely serious impacts on local school budgets in very small districts.

The present language of the continuing resolution eliminates assistance to all of these small districts. Instead, it limits the special impact assistance to only those school districts that have received 1,000 or more Cuban-Haitian and Indochinese refugees and only in the last 12 months.

Mr. President, this is a very severe limitation. At the present, there are only 10 school districts with a total of about 25,000 students that would receive assistance under the continuing resolution. Under the present language, Florida would receive 50 percent of all the special assistance funds and California would receive only 17 percent, despite the fact that California has received more than twice as many refugee students during the last 2 years.

Mr. President, my amendment would correct this allocation problem. Under my amendment, the enacted language of the Refugee Education Assistance Act of 1980, at least 60 school districts throughout the country would receive at least some special assistance, allowing us to serve 80,000 refugee students. These added districts include: Chicago, Hawaii, Long Beach, Seattle, Houston, New Orleans, Wichita, Denver, Des Moines, Arlington, Memphis, Dallas, Oakland, Montgomery, Maryland, Newark, Minneapolis, and Providence. In addition to these large, recognizable districts, another 15 to 20 small districts would also be included.

Mr. President, in summary I again state that my amendment increases the appropriations for refugee education, so that the 60 eligible districts nationwide may be served. Which brings the appropriations language into conformity with the clear intent of the authorizing legislation. It would be unfair and inequitable to fund concentrations of refugee schoolchildren in one part of the country and exclude such children in other areas. The Refugee Education Act was passed to provide relief wherever it is needed, and this amendment will assure an equitable distribution.

Mr. PELL. Mr. President, I fully support the amendment.

Mr. WILLIAMS. Mr. President, the Senator from Florida, Senator CHILES, has agreed that this is a necessary, equitable wav to proceed.

Mr. MAGNUSON. Senator CHILES is the recognized authority on refugee programs on the Appropriations Committee. As long as he agreed to it it is acceptable to me.

Mr. WILLIAMS. I certainly thank the most distinguished chairman and applaud the very able way he is handling this most complex continuing resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1882) was agreed to.

UP AMENDMENT NO. 1883

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment numbered 1883:

Insert the following new section in the appropriate place:

SEC. . (a) The annuity of an employee retiring under the civil service retirement system with at least 5 years but less than 20 years of service as a law enforcement officer or firefighter under the civil service system, or any combination thereof, shall be computed with respect to the service of such employee as such a law enforcement officer or firefighter, or any combination thereof, by multiplying 2½ percent of such employee's average pay by the years of such service.

(b) This section shall apply with respect to individuals who become entitled to receive an annuity on or after the date of the enactment of this Act.

Mr. DOLE. Mr. President, the amendment I am offering today would simply correct a present inequity in the computation of Federal law enforcement retirement benefits.

Because Federal enforcement officer retirement benefits do not vest after 5 years, an employee could make contributions at the 2½ percent rate for 10 or more years, leave law enforcement, and at the time of retirement he would receive benefits computed at a rate of 1½ percent for the first 5 years and 1¾ percent for the remaining years of employment. The amendment I am proposing would correct this hardship and enable the employee's retirement benefits to vest at the rate at which he contributed, provided he completes 5 years in the program.

This brings the benefits of law enforcement officers and firefighters in line with legislative branch requirements.

Mr. President, let me state very quickly that this amendment does not add any costs. It corrects the inequity. It is one that we have discussed on a staff level. It is a technical amendment. It corrects an inequity in the computation of Federal law enforcement retirement.

Let me say very quickly what it does. Federal law enforcement officers' retirements do not vest after 5 years and as a result an employee can make contributions at 2½ percent rate for 10 or more years, leave law enforcement and at the time of retirement they receive a retirement computed at the rate of 1½ percent for 5 years and 1¾ percent for 5 years.

This amendment, as I have indicated, is technical in nature. It corrects this inequity and enables the employees' retirement to vest at the rate contributed provided he completes 5 years' service and the program is similar to the legislative branch requirement as we complete 5 years' service.

Again I underscore it does not cost anything. It corrects an inequity and I think it is an amendment that should be adopted.

Mr. MAGNUSON. Mr. President, I checked with Senator EAGLETON and others and they think the amendment is all right. It is agreeable with me.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 1883) was agreed to.

UP AMENDMENT NO. 1884

(Purpose: To prevent the non-beneficial transfer of the FAA Engineering Field Office from Helena, Montana)

Mr. MELCHER. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes unprinted amendment numbered 1884.

Mr. MELCHER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, immediately after line 7 insert a new section as follows:

"SEC. 186. Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 31, 1981, by this joint resolution or any other appropriation Act, may be used for the payment of expenses incurred by the transfer of personnel or the movement of operations from the Helena, Montana Engineering Field Office of the Federal Aviation Administration."

Mr. MELCHER. Mr. President, this is an amendment which simply says that we are not going to use any of the funds in this bill to pay for a transfer of the personnel or the movement of operations of an engineering field office in Montana of the FAA. Where this office is located is absolutely essential to insure sound fiscal operations at Montana's airports.

Mr. President, this summer the following occurred at Montana's airports: At West Yellowstone, an insufficient curing time was utilized on the runway surface before the flesh coat was applied; at Butte, oil not compatible with the runway aggregate was applied; at Helena and Great Falls, a runway cover was laid down which was too coarse and threatened to puncture airplane tires. All of these actions negatively impacted use of these airports by general aviation and commuter and trunk airlines. But worse yet, it also meant waste of public funds.

These actions occurred because this engineering field office staff is spread so thin. The FAA's answer to this past summer's events is to close this office. That only makes a poor situation simply intolerable.

Mr. President, this amendment is a limitation of spending money to transfer personnel or the movement of operations of an engineering field office in the Montana Federal Aviation Administration. To be very frank about this, they are making a mistake trying to move those engineers out. We had some problems in Montana at some of our major airfields that tell us that we need to keep that engineer staff there.

I cleared this with Senator BAYH who has jurisdiction of this in the Appropriations Committee, and I have discussed it with Senator MCCLURE. I am assured that Senator BAYH thinks it is a proper step to take. I believe Senator MCCLURE would agree, but he is not here.

Mr. MAGNUSON. Without objection, the amendment will be agreed to.

The PRESIDING OFFICER. The chairman just stated the question.

The amendment (UP No. 1884) was agreed to.

Mr. MAGNUSON. All right.

Mr. MELCHER. I thank the chairman.

Mr. MAGNUSON. Mr. President, if there are no further amendments, I am going to move to third reading.

UP AMENDMENT NO. 1885

(Purpose: Prohibit the Postal Service from implementing a nine-digit zip code system)

Mr. DURENBERGER. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER), for himself, Mr. BAUCUS, Mr. BOREN, Mr. COHEN, Mr. DOLE, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HUMPHREY, Mr. JEPSEN, Mr. LEAHY, Mr. MELCHER, Mr. PRYOR, and Mr. SASSER proposes an unprinted amendment numbered 1885:

On page 51, after line 7, add the following new section:

"SEC. 186. None of the funds appropriated by this joint resolution shall be used by the Postal Service to expand the existing zip code system."

Mr. DURENBERGER. Mr. President, the amendment I am offering today will stop at this time the implementation of the nine-digit ZIP code system by the U.S. Postal Service.

I am pleased that 11 of my colleagues have joined me in cosponsoring this amendment.

The issue at stake here is not just an additional four numbers on letters that we send in this country. The issue is increased productivity for the Postal Service, the cost of new machines and their output if it is subtracted from the cost of the 60,000 mail handlers.

Mr. MAGNUSON. Mr. President, if the Senator will yield, I have conferred with Senator CHILES and members of the subcommittee. They think the amendment is all right and we can save some time.

Mr. FORD. Mr. President, will the Senator from Minnesota yield for a question or two?

Mr. DURENBERGER. Yes.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, it is my understanding that we are just delaying the implementation of the nine-digit ZIP code, am I correct, in the Senator's amendment?

Mr. DURENBERGER. The Senator is correct. We are delaying the implementation at least through the fiscal year 1981.

Mr. FORD. There is something about this that I think may be good for everyone, and I would like for the Senator to think about it, and I have been looking at the Senator's amendment. I thought it was coming from some other source, I thought the chairman of the subcommittee, Senator GLENN, would be bringing this amendment in, and I had not had a chance to discuss it with him, and maybe we should add to it to have a GAO study of this in the interim. Let them come back, and while we are delaying it at least we could have something done.

Does it save personnel, as the Postal Service says it can save? Will it save the kind of money that they say it will save? Will is really improve the Postal Service? We could have answers to those sorts of questions. While we are delaying this why could the Senator not modify his amendment to ask for the GAO to make a study and a report by the end of 1981 or by a date certain so that we can have this information before us as an intelligent body rather than saying, "No, we do not want it." We could have an opportunity then to make some kind of a judgment at the end of the period for which you are asking more time.

Mr. DURENBERGER. I will say to my colleague from Kentucky that I certainly have no objection to his suggestion. I do have a concern that at this point in time there may be little for the General Accounting Office to examine because the Postal Service has little of the facts in hand even on costs or on savings, and that is one of the reasons I stand here to object to its implementation.

If the study is to go on, along with the process by which the Postal Service and the Postal Board of Governors will examine the costs and the savings and, in coincidence with whatever recommendations they may make, there will be a report by the GAO, I would have no objection to adding that to my amendment.

Mr. FORD. Mr. President, will the Senator agree then to set his amendment temporarily aside, and it will be the next amendment up, to give us an opportunity to modify his amendment? I agree with what the Senator is trying to do. I have heard a lot of wailing and gnashing of teeth from small businessmen and the newspapers about the nine-digit ZIP code. I think we ought to find out. I am not here to do anything to small businessmen or to the newspapers, and I do not want the Postal Service to do anything during the implementation of the nine-digit ZIP code system.

I would be hopeful that the Senator would set this aside and give us an opportunity to find the right kind of language in the Senator's amendment.

Mr. DURENBERGER. I am not anxious to set it aside for more than 5 minutes, if that is the length of time.

Mr. FORD. I would be glad to talk for 5 minutes while the Senator figures it out, but there is no time agreement, and I was trying to expedite the procedure so we can bring it back up.

There is another amendment that probably will be proposed while we are working out the language as it relates to modifying the Senator's amendment. I am not trying to delay it. I just think it is important that during that delayed time we do have a study.

Senator GLENN is on his way to the floor and should be here shortly. If the Senator does not object, I am going to ask unanimous consent that we set the Senator's amendment aside and it will be the next pending amendment after that which follows other amendments.

Mr. DURENBERGER. With that undestanding I have no objection.

Mr. MAGNUSON. Senator GLENN wants to speak on this. I did not know about that. I am hoping that the Senator will set it aside until Senator GLENN arrives.

Mr. FORD. The Senator has agreed to it.

Mr. MAGNUSON. I would like to give the Senator from Ohio an opportunity to speak, so I have no objection.

Mr. FORD. I ask unanimous consent that this amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1886

(Purpose: To rename the Veterans' Administration Medical Center in Topeka, Kans., as the "Colmery-O'Neil Veterans' Administration Medical Center")

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FORD). The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mrs. KASSEBAUM, proposes an unprinted amendment numbered 1886.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

SEC. . (a) The Veterans' Administration Medical Center in Topeka, Kansas, is designated as the "Colmery-O'Neil Veterans' Administration Medical Center", in honor of the late Harry W. Colmery and Ralph T. O'Neil.

(b) Any reference to such center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed a reference to the Colmery-O'Neil Veterans' Administration Medical Center.

(c) The Committee on Rules and Administration shall place appropriate markers or inscriptions at suitable locations within the clinical center referred to in the first section of this resolution to commemorate and designate such building as provided in this resolution. Expenses incurred under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

Mr. DOLE. Mr. President, my distinguished colleague from Kansas, Senator KASSEBAUM, and I are offering an amendment today that will rename the Topeka, Kans., Veterans' Administration Hospital after the late Mr. Harry W. Colmery and Ralph O'Neil.

Mr. President, this proposal has been approved by the Senate twice this year by unanimous consent, once as a separate piece of legislation. Unfortunately, the House has not acted and the bill has died in the House Veterans' Affairs Committee. However, I know of no opposition. It has been cleared by Senator CRANSTON.

Mr. President, for those who have had any interest or involvement in veterans' affairs, the names of Harry Colmery and Ralph O'Neil should require no explanation as to their many contributions to country and fellow man. For those who did not have the good fortune of knowing these men, I would like to tell you briefly about these great Americans, and why we are proposing this legislation:

HARRY W. COLMERY

Harry Colmery devoted his entire life to championing the cause of the veteran. During his military duty he served as instructor of officers in infantry drill regulations, squadron commander, assistant adjutant and acting adjutant of Carrothers Field, and as judge advocate and defense counsel before general and special courts martial. He also served in the Officers' Reserve Corps, air service.

As past national commander of the American Legion, Harry provided the inspiration and leadership which have become the cornerstone of this veterans' organization. Harry Colmery is also regarded as one of the principal drafters of the GI bill of rights and one who also spent much of his life orchestrating veteran benefit programs.

The insight and compassion evident in this important document are typical of the forces which guided his life. No matter what the undertaking, Harry pursued it with a spirit of reaching out to help his fellow man.

He further displayed his commitment to the principles which made this country great through his active participation in numerous civic and professional groups. Harry was also an active member and leader in the Republican Party. He was a member of the National Republican Policy Committee, a delegate to the 1936 National Republican Convention—at which Alf Landon was nominated—and a Republican primary candidate to the U.S. Senate in 1950.

RALPH T. O'NEIL

Ralph O'Neil was also a man who devoted a great deal of his life to the interest and involvement in veterans' affairs His sterling career in the military was only the beginning of a lifelong participation in public service activities and organizatons.

His services as a soldier may be summarized by the statement that he served in six major engagements and led in person the first detachment of American troops which crossed the Meuse River near the historic city of Sedan and established the bridgehead at Dun-Sur-Meuse. Ralph was gassed, injured in action, cited for gallantry in action on the field of battle, recommended for the DSC, decorated with the Silver Star, and with the Order of Commander of the Crown of Italy.

As past national commander of the American Legion, Ralph's dedication and hard work led to the improvement of veterans' medical care. Ralph traveled throughout the country urging that we needed "beds awaiting veterans—not veterans awaiting beds." His concern and diligent efforts led to a provision by Congress that established some 8,000 additional hospital beds for veterans.

A lifelong member of the Democratic Party, Ralph actively participated in the councils which formulated the policies of the party. His influence in national affairs was also recognized and utilized by his party in many Presidential campaigns; particularly in 1932, when he was the national head of the ex-servicemen's organization and assistant to National Chairman Farley.

I am very honored serving a State that has such a strong tradition of veterans who continue in service to their fellow men after their military service. Therefore, the task of choosing only two men to immortalize at our Topeka, Kans., Veterans Hospital was extremely difficult.

Mr. President, I urge prompt consideration and passage of this amendment.

Mr. President, I yield back my time.

Mr. METZENBAUM. Mr. President, may I take a look at the amendment?

Mr. DOLE. It names the hospital after two deceased former American Legion commanders.

Mr. METZENBAUM. I could not care less.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 1886) was agreed to.

MEDICARE REIMBURSEMENT, FOR PNEUMOCOCCAL VACCINE

Mr. DOLE. Mr. President, is it all right at this time to make a point of order against a provision in the bill which is unquestionably legislation and which we hope to take care of sometime before we adjourn on a tax bill?

In the bill before us there is a provision for pneumococcal vaccine under the medicare program. Its costs will probably be about $100 million. There is no authorization for that program.

Two weeks ago in the reconciliation we came to grips with that issue and decided we just could not afford to do it and we dropped it.

It seems to me that before we appropriate funds, we ought to make certain that the House is willing to accept an amendment we will offer to authorize this program if, in fact, they will accept savings which will pay for the program. I am for the program, but I am for it primarily if we can save enough money in other areas to pay for it. I think this position is shared by my chairman, Senator LONG.

Mr. President, H.R. 8406, a bill to provide coverage for pneumococcal vaccine under the medicare program, was previously included as a provision not agreed to by the conferees on the budget reconciliation legislation. At that time, the Senate conferees made every effort to resist new spending programs.

This vaccine provision has projected cumulative costs totaling $100 million over the ensuing 5 years. Whereas I believe preventive care is important and can be cost effective, however, in this particular incidence, we lack the necessary scientific evidence to support the actual benefits associated with such a cost outlay. Furthermore, lest we fall prey to another vaccine debacle such as that which occurred with the swine flu vaccine, I believe it would be important to hold hearings in the coming Congress on a more comprehensive review of scientific studies which would address the vaccine's efficacy and effectiveness as well as its safety.

Therefore, in the interest of allocating limited public health resources more efficiently, adequate cost effectiveness analysis of the pneumococcal vaccine should precede legislative decisionmaking concerning H.R. 8406.

Mr. LONG. Mr. President, if the Senator will yield to me on that point, there is no doubt about it. We went to conference and we had amendments approved—by the Senate by overwhelming votes which would have saved a great deal more than it would take to do this. Our amendments did not include any harsh cruelty to anybody in order to economize in the programs within the jurisdiction of the Committee on Finance.

But the House was adamant and I think the House was unreasonable about the matter in rejecting our amendments.

I think the Senator is completely within his rights to insist that if we are going to add this program to spend more money on a meritorious program, that they ought to take some of the amendments that the Senate had recommended and approved, which the House refused to accept, that would save enough money to pay for this thing.

I think the Senator has every right in good faith to suggest exactly what he is suggesting.

Mr. DOLE. Mr. President, on that premise, I make the point of order that section 171 on pages 46 and 47 of the bill as reported by the committee is in violation of paragraph 4 of rule 16 of the Senate rules, because it proposes general legislation on an appropriations bill.

The PRESIDING OFFICER. The section in question is legislation on an appropriation bill and, therefore, is not in order.

Mr. DOLE. Is the point of order sustained?

The PRESIDING OFFICER. The point of order is sustained.

UP AMENDMENT NO. 1887

(Purpose: To prohibit the use of fiscal year 1981 funds to enforce the provisions of Federal Reclamation Law in the Imperial Irrigation District)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Durenberger amendment will be set aside.

The clerk will report the amendment of the Senator from California (Mr. CRANSTON).

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) purposes an unprinted amendment numbered 1887.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution insert a new section as follows:

SEC. . Notwithstanding any other provision of law or any other provision of this joint resolution, no funds appropriated for uses by the Department of Interior or any other agency of the United States Government may be used for any administrative act by any agency of the United States or agent thereof which would apply either the acreage limitation or any other provision of the Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388 and acts amendatory thereof or supplementary thereto) in the fiscal year commencing October 1, 1980, to lands in the Imperial Irrigation District of California.

Mr. CRANSTON. Mr. President, this is a technical amendment. Its substance has been passed before by the Senate but got bogged down in the bill that did not move in the House. It would prohibit the use of fiscal year 1981 funds to enforce the provisions of the Federal reclamation law in the Imperial Irrigation District of California.

The reason for needing this amendment is as follows:

On June 16, 1980, the U.S. Supreme Court in a unanimous decision held that the excess land restrictions of Federal reclamation law do not apply to the 424,145 acres in the Imperial Irrigation District which were being irrigated when the Boulder Canyon Act was enacted in 1929. The Supreme Court left in question, however, some 14,000 acres of land in the Imperial Valley which were not being irrigated at that time.

The Supreme Court's decision will be difficult—if not impossible—to enforce since there is no way to identify which lands comprise the 14,000 additional acres.

It is a technical problem of where are those acres. The confusion and inability to identify where these 14,000 acres are stems from the fact that prior to the court's decision, this Senate adopted an amendment to S. 14 to exempt all lands in the Imperial Valley from Federal reclamation law except that future owners of land in excess of acreage limitation would have been required to pay the interest on the unpaid balance of the district's indebtedness for project costs attributable to their excess lands.

Given the Supreme Court's decision I no longer find a justification for this distinction between current and future owners of land in the Imperial Valley, nor does anyone else.

Mr. President, the amendment I am offering today would prohibit the Secretary of Interior from using fiscal year 1981 funds to enforce Federal reclamation law to any lands in the Imperial Irrigation District, including the 14,000 acres left in limbo by the Supreme Court's decision.

I know of no opposition to this amendment and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California (Mr. CRANSTON).

The amendment (UP No. 1887) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Minnesota (Mr. DURENBERGER).

Mr. MELCHER. Mr. President, I ask unanimous consent that that amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

Mr. MELCHER. Mr. President, while the Senator from Oklahoma (Mr. BELLMON) is in the Chamber, I would like the opportunity to clean up this continuing resolution bill a little bit.

There is some language in here involving the Corps of Engineers and subordination of mineral interests that is clearly legislation on an appropriation bill. Not that that is so new to this particular bill, but before we get any further, I would like to draw to the attention of the Senator from Oklahoma that it states on page 12 of the bill:

The Secretary of the Army is hereby authorized to acquire, by subordination, such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians, or held in trust for said tribe, necessary for the construction, operation, and maintenance of the Verdigris River and tributaries project, Oklahoma and Kansas, authorized by section 203 of the Flood Control Act of 1962 and the project for the Shidler Reservoir, Salt Creek, Oklahoma, authorized by section 204 of the Flood Control Act of 1965;

The general counsel of the Corps of Engineers advises me that they do not need this kind of language for subordination.

If that is true, the language does not have any reason for being there. If it is not true and they do need it for subordination of mineral interests, then I think it should be debated on the floor and it should be thoroughly considered whether or not that is proper public policy to include such language and possibly jeopardize a property right in this case owned by the Osage Tribe.

I am very much open for discussion on this and I am sure the Senator from Oklahoma can enlighten me why it is in this bill or why he reads it as it should be in this bill.

Mr. BELLMON. Mr. President, I am very happy to discuss the matter with my friend from Montana. The situation is, the Skiatook Dam and Lake was authorized for construction by the Flood Control Act of October 23, 1962.

The project is going to cost a total of $102.7 million, using 1980 numbers. The corps has already spent $48,168,000 on the project.

There was a court action having to do with the Winnebago tribe properties, I believe, in Nebraska and Iowa. Based on that, at least the Tulsa office of the Corps of Engineers has concluded that unless Congress specifically gives the corps authority to subordinate the mineral interests of the Osages that they cannot proceed with the construction of this project.

Now, it is a matter involving appropriations. I would not hazard a guess as to whether or not it would be considered legislation on an appropriation bill.

But we have spent $50 million, or right at $50 million. The project is in suspense until the authority of the corps to subordinate these mineral interests is finally decided.

I might say to my friend from Montana that I have discussed this matter with the Tribal Council of the Osages and they understand what we are proposing to do, although I would say that they are not particularly enthusiastic about it. They realize this is not an unreasonable way to go. The matter of the settlement, of course, will have to be finally determined by a proper court. But until Congress specifically gives the corps the authority to proceed with subordination, then our project on which we spent roughly $50 million is sitting there and will not be completed.

Mr. MELCHER. Mr. President, I thank the Senator for his explanation. But the corps advises me, as far as using subordination in a friendly way——

Mr. BELLMON. In a friendly way?

Mr. MELCHER. In a friendly way. They have that authority and they do use it for purposes of negotiations. What that means, I am not quite sure.

Mr. BELLMON. I think it means if the tribe is agreeable to that; in this case, the tribe is not.

Mr. MELCHER. The other method, of course, would be whether Congress should authorize condemnation of this property. That is a proper consideration for Congress to make. We have not made that consideration. In fact, we have avoided making it. I know the Senator from Oklahoma has introduced a bill that would authorize condemnation in this case.

Mr. BELLMON. If the Senator would allow me, the question of rights in this case, is not indicated because the corps is willing for the tribe to continue to own the mineral rights, but the corps would like to subordinate the mineral interests to the construction of the project. The Osages will continue to have rights to the mineral interests and will be able to develop them perhaps by drilling in the waters of the lake or building islands in the lake or by slant drilling. The mineral interests still belong to the tribe, but this proposal would allow the construction of the reservoir to be completed. We are not taking the mineral rights from the Osages. Of course, they will have a greater difficulty in developing them. Clearly, the tribe will be entitled to payment because of the loss of their access to these minerals.

Mr. MELCHER. I would like to state that the Senator from Oklahoma, Senator BELLMON, and also his former colleague, the late Senator Dewey Bartlett, are two of the finest Senators to serve in this body to my knowledge. I commend Senator BELLMON for his excellent work here. I regretted the passing of Senator Bartlett very much.

In this instance, I think it is important to bring to the attention of the Senate the objection to this amendment that was put into the continuing resolution, and the fault that the Department of Interior finds in this language. I will submit their entire letter for the RECORD, but I will only read one or two points in it. The letter is signed by the Deputy Assistant Secretary on behalf of the Secretary of Interior.

> Subordination of the tribe's mineral interests would mean that the oil and gas could only be extracted if and in a manner which the Corps determine to be compatible with their project. It is not clear to what extent the tribe's rights would be impaired and the potential cost to the United States if the amendment cannot be determined at this time.

The letter concludes:

> Therefore, in light of the potential actual costs which will be involved in subordinating or condemning this property, the vast energy resources which will be forfeited by flooding this property, and in light of the severe economic impact on the local oil and gas industry, as well as the devastating effects this legislation would have on the Osage Tribe of Indians, we strongly oppose the amendment. Such a serious action is not justified without an opportunity for a hearing and careful consideration of all aspects of the issues involved.

The Corps of Engineers advises me that the oil being produced at this time, which area would be flooded——

Mr. BELLMON. Three hundred barrels per day is 1 percent of the total production.

Mr. MELCHER. A sum of 350 barrels.

Mr. BELLMON. A sum of 300 barrels per day, which amounts to 1 percent of the total production on the Osage tribal lands.

Mr. MELCHER. Yesterday they said it would be 50 barrels at Candy Creek and 300 at Skiatook Reservoir. I am using the Corps of Engineers figures as of yesterday. The tribe maintains it is in excess of 400 barrels per day. Well, they are getting pretty close.

Mr. BELLMON. When one realizes that the producing properties on the Osage Reservation produce some 30,000 barrels a day, this is not, to use a word used earlier, devastating to the tribe. The tribe will be compensated for any economic injury.

Mr. MELCHER. First of all, we want the oil produced. It is in the national interest that the oil be produced. Second, it could be produced under certain circumstances, which are unknown at this time. They could be arranged for and they could be negotiated out. But it would be more costly for the tribe if you are going to have slant drilling or some method of drilling after the land is flooded. It will be more costly.

That could all be negotiated.

I do not want to see an interruption in the production of the oil and I am certain that the Senator from Oklahoma does not. I think the amendment, first, really does not add anything to what the corps said is already their authority, that they are going to negotiate anyway, not using subordination except on a friendly bearing. Then it has no particular value. But, second, if the language does appear to be more far reaching than that, and actually interferes with the property right, dilutes the property right of these citizens of the United States, then I do not think we ought to do it.

Mr. BELLMON. If the Senator will yield, I would like to say that there is no question that, first of all, the amendment is not necessary. Our office has spent literally months on this question. We did not realize there would be a Winnebago-type decision when this project was authorized many, many years ago or even when the contracts were let and construction begun. That is a development that has come on since that time. I can assure my colleague from Montana that without this legislation giving the corps the right to proceed in the Osage Reservation, the project will not go forward.

There is not any question but that there will be some economic injury to the tribe and the courts will determine the amount of that injury. It is not for us in the Senate to say it will cost x number of dollars, because none of us know. It requires thorough studies and witnesses. The court will ultimately set the price. It is possible that the court may set such a high price on the subordination of these mineral rights that it will not be economic to build the reservoir. Skiatook is the only one immediately involved. Candy and the other construction is not underway. Skiatook is more than half built. More than $50 million has been spent.

The project on the other dam cannot go forward until Congress makes a decision on this matter.

Mr. MELCHER. Will the Senator let me comment on a couple of those points? First of all, after the Winnebago case I do not know how one gets to court. The Congress would have to authorize condemnation to get into a court on the basis of condemnation, and this does not authorize condemnation. This is subordination. This is something else. The corps advises that they already have authority for subordination, so I do not know exactly what this does.

But what it does as far as the Osage Tribe is concerned is seemingly to interfere with their property right. I think perhaps that would be counterproductive.

Mr. BELLMON. I have spoken with the tribal council at great length on this matter and they are not unaware of what the amendment would do. I hasten to add they are not necessarily happy about it, but it will not cause any serious rupture of relations between the tribe and the corps. I might say to the Senator from Montana that if this property belonged to a citizen of the country, to the Senator or to me, the corps would be able to proceed to subordinate without any action by Congress. The fact that there is a trust relationship between the Osages and the Federal Government gives them a special status and that is the reason legislation is necessary.

Mr. MELCHER. Mr. President, I am afraid this legislation does not accomplish what the Senator wants to do, if he is trying to get beyond the Winnebago case, because the corps general counsel tells me it does not. If it were determined that Congress should grant condemnation procedures to the corps, it would have to be explicit.

The amount of money involved in this field is in dispute—or the value of the field. The tribe thinks it might be $400 million. I do not know whether that is accurate or not, but obviously, when you are producing around 400 barrels a day, if it is oil that is worth $35 a barrel, that is quite a bit of value per day. If it is a field where tertiary recovery would allow for more production, then their figure of the value might be accurate.

The corps has not zeroed in on the value because they said, as of yesterday, that their latest figure was $10 million value, which obviously is low, too low even to start as a point of negotiation.

Mr. President, I suggest to the Senator from Oklahoma that we would be better off not antagonizing any further the owners of this oil—the Osage Tribe—and allow the corps some opportunity to negotiate further with them without waving a red flag at them. I do not think this red flag is going to get anywhere, and I do not believe that the project could go ahead anyway, under any circumstances, without some sort of settlement with the owners of this property.

Mr. BELLMON. Mr. President, the Senator is entirely right. The project cannot go ahead until subordination has been accomplished. I can assure him that lengthy, almost endless negotiations have taken place with the corps and so far, no resolution has been possible.

I assure the Senator this is not a pleasant thing for the Senator from Oklahoma to do, to offer this amendment, but the fact is, $50 million has been spent to build a badly needed flood project and there it sits, half finished.

I might say to the Senator, a perfecting amendment was approved last night which gives the corps the right to condemn for subordination. It goes a little farther than the language of the bill. So there is no question that we are accomplishing what is being asked here.

Mr. MELCHER. Can the Senator advise me what the perfecting language is?

Mr. BELLMON. I am not sure of it exactly, Mr. President, but it uses the language the corps wanted, saying we give the corps the right to go to court and ask for condemnation of these properties. I shall be glad to get a copy and send it to the Senator.

Mr. MELCHER. Mr. President, I would appreciate that.

Mr. PROXMIRE. Mr. President, does the Senator want to set aside his amendment?

Mr. BELLMON. It is not my amendment.

The PRESIDING OFFICER. There is no Bellmon amendment pending. The pending amendment now is the amendment of Senator DURENBERGER of Minnesota.

Mr. JAVITS. Mr. President. I ask unanimous consent that the Durenberger amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1888

Mr. JAVITS. Mr. President, I send an amendment to the desk on behalf of Senator MATHIAS of Maryland and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for Mr. MATHIAS, proposes an unprinted amendment numbered 1888:

Page 5, line 1, immediately following the word "that" insert: "for appropriations made available by this joint resolution for International Organizations and Programs for the fiscal year 1981 shall be increased by $6,100,000 which shall be available only for the United Nations Development Program and except that".

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, this amendment simply corrects a situation whereby the language of the continuing resolution inadvertently reduces the amount available for the United Nations development program. This $6.1 million brings it up to the identical level of funding provided for this activity in fiscal 1979 and fiscal 1980. It is my understanding from Senator MATHIAS that without this amendment, the program would suffer a $6.1 million decrease on top of the material decrease it has suffered already because of inflation over the last 2 years.

It is also my understanding, Mr. President, that Senators INOUYE and GARN, the chairman and ranking member of the relevant subcommittee, have no objection to this amendment.

Mr. PROXMIRE. That was my understanding, too, that the chairman and the ranking member have no objection to the amendment.

Mr. President, could the Senator explain to the Senate why this was inadvertently omitted by the subcommittee?

Mr. JAVITS. I can give the Senator first an amusing explanation. I was told it was a typewriter mistake. That is the amusing part of it.

I think the reason is that it is 120 in the House and somebody just paralleled the 120 in the House and failed to deal with the situation which the committee wanted dealt with in the Senate.

I gather that the committee, having looked over these operations, feels satisfied that they represent a great deal of leverage, as indeed they do, for both public and private investment. It furnishes the technical basis for a great deal of development in the developing countries at what is considered to be an economical course on the part of the United Nations.

Mr. PROXMIRE. May I say, Mr. President, that I have had a chance to discuss this briefly with the ranking minority member of the Appropriations Committee (Mr. YOUNG). It is my understanding that he is willing to take this to conference.

Mr. JAVITS. I thank my colleague very much.

Mr. YOUNG. I have no objection, Mr. President.

● Mr. MATHIAS. Mr. President, the United Nations development program has made an enormous contribution to Third World development. It is ably administered by Brad Morse, who deserves much of the credit for UNDP's success in recent years.

It is especially unfortunate, therefore, that the continuing resolution passed by the House of Representatives singles out the United Nations development program for a completely unwarranted cut in funding.

During the past 2 years, UNDP has been funded under continuing resolutions at $126.1 million. The House has cut this figure to $120 million. I believe it vitally important that the Senate restore the $6.1 million taken out by the House. Not to do so would be to send a dismal message to the developing world that the United States is turning its back on one of the best development organizations operating today.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1888) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Minnesota.

Mr. HELMS. Mr. President, would it be agreeable to the Senator from Minnesota to lay that aside so I may call up an amendment?

The PRESIDING OFFICER. Without objection, the amendment is set aside.

UP AMENDMENT NO. 1889

(Purpose: To prohibit the use of funds under the continuing resolution to promulgate proposed regulations as final regulations by the Department of Labor)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1889:

At the appropriate place in the bill insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, no funds made available under this joint resolution, prior to February 1, 1981, may be used to promulgate final regulations of the Department of Labor.

Mr. HELMS. Mr. President, this amendment obviously would prohibit the Department of Labor from using any of the funds from this continuing resolution to promulgate final regulations prior to February 1, 1981. Its effect would be to delay implementation of a host of controversial regulations about to be made final by lameduck officials at the Department of Labor between now and January 20, 1981.

Labor's intentions were reported last week in the Wall Street Journal, Washington Star, and Legal Times of Washington, among other publications. I have copies here of the articles I am talking about, and I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 2, 1980]

LABOR LETTER

A SPECIAL NEWS REPORT ON PEOPLE AND THEIR JOBS IN OFFICES, FIELDS AND FACTORIES

Final days: Carter labor chiefs push some regulations as the clock runs out.

Before Reagan's takeover, the Labor Department hopes to make several rule changes. One would discourage federal contractors from paying dues to country clubs that discriminate against minorities. Others would raise the salary test above which overtime doesn't have to be paid to managers and would cut paper work for pension plans. The department also is striving to finish noise-monitoring regulations.

Reagan's transition team asks labor officials to clear all major decisions with them. "We don't want to get blind-sided," a transition leader says. They have found some surprises, including ballooning trade adjustment assistance costs. Carter's people promise cooperation, but one regulator says: "We're in charge until Jan. 20."

Reagan's people detour the labor agency's news-making efforts: they convert the press briefing room into their headquarters.

[From the Washington Star, Dec. 4, 1980]

LABOR DEPT. WANTS CARTER TO RAISE MINIMUM WAGE OF SOME MANAGERS

(By Lance Gay)

The Labor Department is proposing that the Carter administration act on several new regulations that have raised bitter objections from members of the business community rather than allow the Reagan administration to deal with them.

Among proposals sent to the White House for final approval is one that would raise wages of low-paid "executives" and managers—those who work in fast-food operations and hotels, for example—by more than 50 percent.

Agencies within the Labor Department also are working on new proposals that would:

Establish the first phase of noise standards under the Occupational Safety and Health Administration.

Require employers to pay workers for time spent showing OSHA inspectors around a plant as they investigate a complaint.

Expand regulations to require labor-management consultants to report the source of their income.

A senior department official said yesterday that from 6 to 10 proposals are "well under development" and that some have been sent over to the White House for approval.

He said that the proposals had been in the works for several years and that the election did not change the merits of the proposed changes in regulations, in the view of the Carter administration officials.

"We thought they should be done, and we've been developing proposals for doing them. We would look foolish after all this time and effort to defer doing them," he said. He added that by putting the regulations into effect in the next six weeks, it would be difficult for the new Reagan administration to pull them back.

John Tysse, director of labor relations for the U.S. Chamber of Commerce, said that the business community is aware of the activity at the Labor Department and has launched a protest with Reagan's transition team working there.

"All of these issues have been brought to the attention of the transition team with a recommendation that the transition team do all it can to prevent final issuance of these regulations," Tysse said. "There seems to be an incredible amount of activity going on over there."

Some of the proposals have created controversy within the Carter administration itself and Charles Schulze, head of the Council of Economic Advisers, has reportedly objected to the proposal to raise wage rates for low-paid executives.

The minimum wage is slated to increase to $3.35 an hour Jan. 1 and Labor Department officials argue that with that increase, there will be situations where employees will earn more than the people who supervise them unless the current regulations are changed.

Under current regulations, managers earn a minimum of $155 a week. That would be increased to a minimum of $250 a week. The 1978 increase proposed boosting this wage to $225.

For professional employees and executives currently earning a minimum of $170 a week, the wage would be increased to $280 a week under the proposal.

Tysse protested that in planning to go ahead with some of the regulations, the Department of Labor has not provided enough comment time as required under the law and he said that the Chamber would consider filing law suits if some of them are published.

Paul Jensen, executive assistant to Labor Secretary Ray Marshall and the Carter administration's liaison with the Reagan transition team at the Labor Department, said yesterday that the Republicans will be given time to comment before any regulations are completed.

[From the Legal Times of Washington, Dec. 1, 1980]

OFCCP MOVING ON REGS DESPITE INCOMING GOP

(By Kim Masters)

The Labor Department's Office of Federal Contract Compliance Programs (OFCCP) reportedly intends to issue a batch of regulations by Jan. 18, including a long-delayed revision of enforcement regulations and, possibly, new rules on club membership.

The enforcement regulations proposed Dec. 28, 1979 (44 Fed. Reg. 77006), incorporate controversial Equal Employment Opportunity Commission (EEOC) guidelines on sexual harassment and other rules that are likely to irritate employers. As of last week, Labor was considering adding another highly controversial rule requiring federal contractors to provide employees health benefits for abortion.

The club rules are designed to prevent employers from paying dues for employees who will gain business advantages through memberships in discriminatory clubs (see Legal Times, April 21, 1980, p. 8). These rules are not as far along in the pipeline as the others, however, and are considered less likely to be finalized before the Reagan administration takes office.

The enforcement rules, on the other hand, were already sent to EEOC, Nov. 17 for final clearance. EEOC, which is authorized to coordinate all equal employment regulations promulgated by other federal agencies, is to review the rules for no less than 15 days from the date of receipt. Labor staff said a meeting with EEOC to discuss the regs was set for Dec. 1.

Reagan transition staff members last week said they would prefer that Labor refrain from issuing any regulations before the new administration takes office, but took OFCCP's contrary intentions in stride. "There's obviously nothing we can do to make them stop," one transition team member said. Asked if the new administration would repeal any regulations issued at the last minute, he replied that "it is a hell of a lot harder to withdraw regulations than it is to issue them."

Labor Solicitor Carin Clauss commented that it would be unfair for Labor to "dream up new regulations," but said the administration is not barred from issuing most of the regulations that are already in the works. Labor might hesitate to issue a pending regulation if "it's so distasteful to the new administration that the first thing they'd do would be to withdraw it," she said.

The bulk of the revision of OFCCP's enforcement regulations is relatively non-controversial, Clauss added. "Basically, it would be viewed by everyone as a massive improvement," she said. She added that the club rules may also be issued, but said that controversial proposals on reproductive hazards would probably fall by the wayside (see Legal Times, Feb. 4, 1980, p. 7).

BEYOND TITLE VII

Although the final version of the rules sent to EEOC for clearance on Nov. 17 follows EEOC guidelines under Title VII of the 1964 Civil Rights Act for dealing with pregnant employees, sources say Labor is still considering whether it should change the rules to exceed Title VII's scope by requiring employers to provide health benefits for abortion. Title VII specifically permits employers to deny employees benefits in such cases.

Earlier this year, it was reported that Clauss promised women's groups that the rules would not include Title VII's exception for abortions (See Legal Times, Sept. 29, 1980, p. 7). The election results have apparently sparked concern, however, that OFCCP would endanger its very existence by issuing a controversial rule on abortion.

Some observers say the OFCCP regulations could act as a "lightning rod" to the program if Congress, in a conservative mood, is confronted with the abortion rule. "They'd bring the program under more pressure if they involve it in that collateral issue," one attorney said. "It seems to me that you bring the Moral Majority on your head, and that's the craziest thing I've ever heard."

Donald Elisburg, Labor's assistant secretary for employment standards, acknowledged last week that a potential congressional backlash against the rule is "a consideration" that Labor is taking into account. He said Labor is trying to make a policy decision regarding the degree to which Executive Order 11246, which imposes the affirmative action obligation on federal contractors, should stand separate from Title VII.

According to Donna Lenhoff, an attorney for the Women's Legal Defense and Education Fund, her organization is polling women's groups to determine whether they want to stand by their original position that the regulations should exceed Title VII on the abortion issue. "We are re-evaluating our position in light of the election," she explained.

UNION PARTICIPATION

Another issue that was unsettled when the regulations were sent to EEOC focused on language requiring that unions be permitted to participate in conciliation discussions between an employer and OFCCP if the discussions could result in changes in the collective bargaining agreement.

Unions had criticized language in the proposed regulations for inconsistencies on this subject that apparently were not eliminated when the regulations were sent to EEOC. Also, the unions thought the rules did not clearly give the unions as broad a right to participation as they should have.

When unions learned that the proposals had been transmitted to EEOC, they raised the issue with Labor officials, including Secretary Ray Marshall. The Justice Department joined several unions in urging that the language be broad and consistent. Last week, the parties reached a solution that entailed taking the broadest language in the proposed regulations and using it throughout the final rules.

The unions contend that their early participation in the conciliation process could lead to better agreements, and prevent possible union lawsuits challenging changes in the terms of a collective bargaining agreement. According to a private management attorney, however, the union role hampers conciliation.

"If the union has objectives that can be dovetailed with the government's, you've got a problem," he said. "If it's recalcitrant, you've got another problem. Either way, [the union] is pushing too hard in one direction or another."

Mr. HELMS. Mr. President, final regulations are expected to be promulgated by Labor's Office of Federal Contract Compliance Programs, Occupational Safety and Health Administration, pension and welfare benefit programs, Wage and Hour Division, and Labor Management Services Administration.

Many of the regulations expected to be made final have been under study for quite some time without any action.

Now, here, in the bottom half of the ninth inning, come the bureaucrats with a flurry of activity that began suddenly, right after November 4. These regulations are being moved toward final promulgation.

What are the regulations, for example, Mr. President, which are being considered by the Labor Department, and, unless this Senate acts, likely to be made final before the current administration leaves office? Let me specify a few of them.

Among the regulations now being considered by Labor, and likely to be made final before the current administration leaves office, are regulations that would—

Bar Government contractors from paying employee dues to private clubs that are alleged to have discriminatory membership policies;

Require an employer to pay an employee for time spent voluntarily accompanying an OSHA inspector on a walkaround site inspection;

Expand the Service Contract Act to allow the Secretary of Labor to set wages for highly skilled employees of Government contractors, and in some cases establish a national prevailing wage;

Broaden application of the Landrum-Griffin Act against management consultants and attorneys who aid an employer during a union organizing campaign.

Set new white collar salary tests for determining exemptions from the minimum wage.

Those are a few. There are others under consideration. But the ones I have just mentioned, Mr. President, are among the most controversial. Obviously, there are important policy considerations involved on which the incoming administration should have input.

Let me take just a moment to discuss in detail three of the proposed regulations.

Labor's Office of Federal Contract Compliance Programs (OFCCP) has proposed regulations to bar Government contractors from paying employee membership dues to private clubs that are alleged to have discriminatory membership policies.

I stress "alleged to have discriminatory membership policies."

It seems to me, Mr. President, that this proposed regulation is, on its face, a violation of a basic constitutional guarantee—the right of freedom of association.

If implemented, it would subject contractors to a vague, yet cumbersome six-point analysis to prove that they are not in violation of the regulations. In other words, you are not guilty if you can prove it.

This regulation would, in effect, require a contractor to police the activities and membership practices of private organizations. This would place an intolerable legal and financial burden on Government contractors.

This proposal has been kicked around for years by DOL. The question is evident. Why should they move quickly on it now?

Why is it so essential they move now, between this day and February 1. I will say why, Mr. President: These lameduck bureaucrats pushing this regulation, and others, have been repudiated, I think rather clearly by the voters of this country. Yet they are at this moment moving to implement this regulation, and others.

Labor's Occupational Safety and Health Administration (OSHA) is pressing ahead with reissuance of its walkaround pay regulation. This regulation would require employers to pay employees and employee representatives for their time spent voluntarily, let me repeat, voluntarily accompanying OSHA inspectors on walkaround tours. Under this regulation employers would have to pay employees for time not within the employers' control and for service not performed primarily for the benefit of the employer.

An earlier version of this regulation was struck down by the D.C. Circuit Court of Appeals on July 10, 1980, as it should have been.

The present OSHA administration has made every attempt to "railroad" this regulation through. No hearings have been held on it. Despite the fact that guidelines of the Department of Labor and Executive Order 12044 recommend a minimum 60-day period for public comment, OSHA reduced the comment period for this regulation to only 45 days.

Not only is this regulation substantively flawed, but it is procedurally marred as well. OSHA's refusal to abide by the Administrative Procedúres Act reveals the effort to reissue the walkaround pay regulation as an obvious political ploy.

Labor's Wage and Hour Division, Employment Standards Administration, has proposed regulations to broaden the coverage of the Service Contract Act (SCA).

The Service Contract Act is a Davis-Bacon-type wage law that applies to service employees working on Government contracts. The act requires Government contractors to pay a locally prevailing wage to specified categories of service employees, such as janitors, food service employees, and even clerical workers.

The proposed regulations would extend coverage of the act to many highly skilled employees, such as technicians, scientists, engineers, and computer specialists. While there may be some justification for protecting blue collar employees, and even clerical and secretarial employees, with a Government-imposed minimum wage, there is no justification whatsoever for applying the same protections to highly paid professionals.

Perhaps the most onerous aspect of the proposed regulation is a provision that would allow the Secretary of Labor to establish a wage scale based on a national average pay for the job being performed. Aside from being a monstrous administrative undertaking, this provision would result in unusually high salaries being paid to employees of Government contractors in States where salaries were below the national average.

The wage-and-hour folks, like their cohorts at OSHA, have done their best to ignore the procedures required by law for advancing a regulation.

Presidential Executive Order 12044 requires the Department of Labor to perform a regulatory analysis for any "significant regulations. I understand that changes anticipated by this regulation could have a $100-million impact on the economy. In my book, $100 million is "significant." Yet, Labor performed no regulatory analysis on this regulation.

There is one other potential result of this regulation that I would like to mention. Heretofor, contractors cutting timber on federally owned land have been exempt from the provisions of the Service Contract Act. The proposed regulation would end this exemption.

If this occurs, the timber industry will suffer, and the cost of wood products will undoubtedly increase.

Mr. President, I could continue with descriptions of some of the other regulations likely to be made final by the lameduck administration. But I hope that by this time I have made my point.

All of the Labor's proposed regulations involve important policy considerations and most are controversial. A substantive case can be made against each.

But aside from the merits of these regulations, it is unconscionable for officials just repudiated by the American people to impose their pet policies in this fashion. Any new policies should be left for the new administration.

Mr. President, in closing, I would like to call my colleagues' attention to an editorial that I have here.

This editorial appeared in the Washington Post, and the subject of it is a regulation by the Department of Labor's Office of Federal Contract Compliance.

The editorial is entitled "Civil Rights Compliance," and it reads in part as follows:

> CIVIL RIGHTS ENFORCEMENT
>
> Much to the chagrin of several civil rights organizations, the Labor's Department Office of Federal Contract Compliance has been working for several weeks to change the federal regulations under which it operates. The argument for the changes is that the federal civil rights enforcement effort would be "streamlined" in the process. But since late summer, the civil rights community has been arguing . . . that the changes would make a lackluster performance on the part of the government even worse in the future. Now, the question is why this effort shouldn't be put off until the new administration comes into office next January.
>
> Not all the provisions of the proposed regulation changes are controversial . . . but all of them together raise the larger question of whether this is a proper exercise to pursue in light of the fact that a new President and cabinet will undoubtedly wish to look at the entire question of civil rights enforcement, in the federal government and in the society as a whole.
>
> The director of the OFCC, takes the position that some of these changes have been in the making for a long time and that they can always be scrapped by those who come after him. To the director these changes represent a kind of recodification of OFCC regulations that are long overdue. . . . In other words, the director sees his efforts being a neutral and essentially technical job.
>
> If a new administration were not around the corner, then this effort would make more sense. But as it is, the Labor Department is spending a lot of time and energy going through the difficult process of changing regulations that a new administration will almost certainly want to review from top to bottom. That doesn't seem to us to make much sense.

Mr. President, this editorial appeared in the Washington Post on November 9, 1976, just 5 days after Jimmy Carter was elected President of the United States.

Interestingly, one of the regulations under consideration by the Department at this moment, and likely to be made final by the lameduck administration, is the OFCCP regulation regarding civil rights enforcement—the very regulation that is the subject of the Post's November 9, 1976, editorial.

I do not always agree with the principles espoused on the editorial page of the Washington Post, but this is one editorial with which I agree wholeheartedly:

> Now, the question is why this effort shouldn't be put off until the new administration comes into office next January." Indeed, "if a new administration were not around the corner, then this effort would make more sense. But as it is, the Labor Department is spending a lot of time and energy going through the difficult process of changing regulations that a new administration will almost certainly want to review from top

to bottom. That doesn't seem to us to make much sense.

I fear, Mr. President, that the lame-duck officials at the Department of Labor are trying to get in their last licks. It is up to Congress to stop them.

I urge my colleagues to vote to delay implementation of any Department of Labor regulations.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, this has to be the most sweeping and far-reaching proposal of the year.

I think Senator HELMS is a delightful man. I agree with him on many things. I think he has done a great job in the Senate this year. I suppose we would call it the Helms Senate in many ways. He has prevailed on many occasions. I am sure in the coming years he will be even more potent as chairman of the Agriculture Committee, and in many other capacities.

But, for the life of me, it seems to me if we do this, we might as well close the Department of Labor if they cannot issue regulations, and will have to stop business. I have not heard it proposed for any other department before.

There are no hearings. No record. We do not know the position of the Department of Labor, or what regulations they may have.

This is very appealing. Frankly, I would like to support something that was discriminating and eliminate about 90 percent of the regulations. But to come on the floor with an amendment to the continuing resolution, and to knock out all regulations to be proposed for almost 2 months, a month and a half, without a hearing or record, without an opportunity to modify regulations, may be very important for the safety and health and protection in some cases of employers.

This paralyzes the department. It says that they can do nothing so far as regulations are concerned.

So I hope the Senate will be very careful about this regulation. It has a lot of appeal, and many of us would like to support something like this if we could have a hearing on it and have a record and now precisely what we are doing and pinpoint the kind of regulations we would like to prevent. So I have to urge the Senate to resist this and to resist it vigorously.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. HELMS. I want to make sure that the Senator understands, first, that this is only until February 1.

Mr. PROXMIRE. I understand that. A month and a half.

Mr. HELMS. Yes. And it applies only to final implementation.

Mr. PROXMIRE. What does "final" mean? "Final" means something that is going to have effect.

Mr. HELMS. That is right.

Mr. PROXMIRE. So that they cannot take any action that would have any consequences between now and February 1 on any labor or employment situation in our country.

Mr. HELMS. That is correct.

Mr. PROXMIRE. I must say, as I said before, that maybe the Senator can come up with some precedents on that. It would be very interesting. I would be very surprised if we ever have done this.

As I said, there is some merit to it, but it should not be done without any record, without any hearing, without any opportunity for the Labor Department to come in and tell us what effect it would have. I believe the Senator has an excellent idea. Perhaps we would like to do something like this, but we should know precisely what we were doing and what the effect would be.

Mr. HELMS. I say to the Senator that I do not see any adverse effect in saying to them on these controversial proposals—some of them have had little or no hearings, such as the Senator mentioned, by the Department of Labor—"Why don't we just put a peg down until the public can respond and we can see the adverse effects of these proposals?"

Mr. PROXMIRE. That is not what the Senator's amendment would do, as I understand it. It says no regulations—none.

Mr. HELMS. Until February 1.

Mr. PROXMIRE. My good friend on the Committee on Labor and Human Resources, Senator WILLIAMS and Senator JAVITS, are far better informed on this than I am.

Mr. JAVITS. Mr. President, I am willing to wait if Senator WILLIAMS wants the floor.

Mr. WILLIAMS. I will speak after the Senator from New York.

Mr. JAVITS. Mr. President, I feel just as Senator PROXMIRE does. I wish we could find some way to do this. But, with all respect, it seems to me to defy all prudence, and I must say that it defies Governor Reagan's own definition of transition. He says the Government has to operate. He says, in fact, more important things, such as the release of the hostages or the matters of peace and war, and so forth. The Government has to operate—the President is the President. So it seems to me that that certainly should be the principle upon which we must proceed.

To me, however, the point bigger than that is the question of providence. The burden of proof, it seems to me, would be on the proponents, and the proponents cannot be the trier of the facts and the advocates. That is exactly what we are asked to do here.

The Senator recounts to us a list of things which he thinks are wrong. There are many such, I am sure, not only in the Labor Department. Why not make it all departments? What is wrong with making it all departments? If it is right for Labor, it is right for Agriculture and every other department in the Government. Let us stop them all. Obviously, the burden, then, is on us, an advocate and a trier of the facts.

I would say that we Republicans have been very scrupulous about that. We have always tried to divide those functions. Yet, I do not see them divided.

The Senator proposes this. He argues that certain things are wrong. Nobody is around to answer; nobody gets due process.

Let us remember that this is not just some ugly bureaucratic department. This is millions upon millions of people. The fact is that ERISA, with which I had a lot to do, as did Senator WILLIAMS, affects 30 million people. The fact is that there are 100 million workers, in round figures, in this country.

Therefore, I believe that the question of prudence and providence becomes a critical factor.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HELMS. I say to the Senator that what we are talking about are eight regulations. I am advised that there may be as many as 20, but 8 are controversial.

I do not believe saying to the Labor Department, "Just put a peg down and wait until February 1," is going to stop the Labor Department from enforcing all the other thousands upon thousands of regulations which already are in effect.

All this amendment proposes is that they hold up on these regulations, which they have delayed for months and even years. All of a sudden, after the election, beginning on November 5, they said, "Let's go with them."

Mr. JAVITS. I say to the Senator that, at the very least, as I believe he has a sense of great responsibility, this amendment should not be acted on here and now. The committee at least should have an opportunity to go to the Labor Department and say, "What is this going to do to us? What isn't it going to do to millions of Americans?"

Mr. HELMS. I wish we had the time.

Mr. JAVITS. We do have time. This is not going to be settled today.

The PRESIDING OFFICER. The Senate will be in order. The Senators speaking deserve the attention of other Senators.

Mr. HELMS. I thank the Senator from New York.

Mr. WILLIAMS. Mr. President, I join with the analysis of the Senator from Wisconsin (Mr. PROXMIRE), the manager of the bill, and the Senator from New York (Mr. JAVITS).

Mr. President, I strongly oppose the amendment offered by the Senator from North Carolina. This amendment poses a serious and dangerous threat to our constitutional form of government by threatening the orderly transition of power between the President and the President-elect. This amendment would establish an invidious precedent by denying the current President, and one of the agencies of the executive branch with the authority to fully administer laws under its jurisdiction, during a period of transition of power.

The history of our Nation has been characterized by a comity between parties and between administrations during a period of transition of power. This comity is not merely desirable, it is vital to the effective administration of our Federal Government.

On November 20, 1980, President Carter and President-elect Reagan met to establish procedures and understandings for the orderly transition of power. Following that meeting, the following statements were made:

> The PRESIDENT. I would like to say while the press are here that we've had a very enjoyable and a very productive hour or so together, not only describing to one another the commitment that we share for a good transition period, but also I've outlined to Governor Reagan some of the issues that I've faced as President that will be shared with him in the transition period and inherited by him on inauguration day.
>
> One of the wonderful things about our country, being a democracy, is the orderly transition of authority and responsibility. He and I understand very well that I will be the President in the fullest sense of the word until inauguration day, and then instantly at the time he takes the oath of office, he will have the full responsibilities. We have a very good working relationship personally and also a very fine transition commitment, which has been in effect for several weeks now.
>
> The PRESIDENT-ELECT. I want to express my appreciation to the President. He has been most gracious and most cooperative, he and his people, with regard to this transition and has certainly made it a much easier time than it could otherwise have been. And we're deeply grateful, appreciate it very much.

The amendment offered by the Senator from North Carolina seeks to renege on the commitment given by President-elect Reagan.

This amendment undermines the very basis for understanding that exists between the current President and the President-elect in future transitions of power, the comity that is so essential to the orderly transfer of office could well be replaced by an animosity that could cripple our Government during this period.

It should be recognized that should this amendment be adopted it would virtually halt the regulatory powers of an executive agency. Such an action would establish a precedent that could well be extended to other agencies in future transitions of power. Viewed in this light, this amendment calls into question the very stability of our government in the eyes of other nations when we are faced with a transition of power.

In fact the amendment does not even make provision for the promulgation of emergency regulations should a national emergency arise or should an emergency arise under the jurisdiction of particular laws that the Department of Labor administers.

Likewise, it is clear that the scope of this amendment may extend far beyond prohibiting the issuance of major final regulations for programs administered by the Department of Labor.

The language of the amendment makes no attempt to define the term regulation. For this reason, the term "regulation" raises serious questions about the wide range of agency statements, interpretations, and organizational requirements that could be affected should this amendment be adopted. For example, the term rule under the Administrative Procedures Act is defined under 5 U.S.C. section 551 (4) as meaning:

> (4) "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, practices bearing on any of the foregoing;

If the scope of this amendment is as broad as would be suggested by the definition of a "rule" in the Administrative Procedures Act, this amendment could cause havoc for our Federal Government operations.

The practical effects of this amendment could be devastating not only on the operations of the Department of Labor, but on the operations of many other Executive agencies as well. For example, under law the advertised specifications of most Federal construction contracts must contain a provision specifying minimum wages to be paid various classes of laborers and mechanics.

To proceed with a construction contract without providing these specifications would open that contract to a suit for termination. Yet this amendment could prevent the Department of Labor from issuing the determinations of the applicable minimum wages to be incorporated in such a Federal construction project. The practical effect of this amendment could be to halt the progress of many of our most essential construction projects for the duration of this amendment. This amendment could halt such projects as our vital military construction projects, our synfuel projects, highway and dam projects, housing projects, and many others.

There is a truly wide range of other programs that could be affected by the scope of this amendment. This amendment could affect the issuance of many agency statements of particular applicability including certifications for trade adjustment assistance, exemptions under the prohibited transaction provisions of ERISA, and variances from standards and certifications of State plans under the Occupational Safety and Health Act and the Mine Safety and Health Act. In fiscal year 1979, the mine safety and health administration issued 101 variances from standards.

These variances probably could not have been granted under the provisions of this amendment. There are now approximately 100 applications for variances pending before MSHA, all of which may have to be held in abeyance for the duration of this amendment. Similarly, variances from occupational safety and health standards such as those that have been granted for General Motors and Chrysler for lead and inorganic arsenic probably could not have been granted. The effect of this amendment could be that employers would be held to the strict language of standards of regulations now in existence, regardless of special circumstances that may exist at their particular facilities. This amendment would destroy the flexibility that has been carefully crafted into our laws. In a practical sense, many of the day-to-day operations of the Department of Labor may have to be suspended for the duration of this amendment.

Many of the day-to-day interpretations and statements of policy that are essential for employers and others to determine whether their actions would be in compliance with our Federal laws such as the Fair Labor Standards Act, the Employee Retirement Income Security Act, the Equal Pay Act and other laws could be affected by this amendment.

In the absence of these statements and interpretations of general applicability, the only way that an employer will know whether conduct is in violation of the law is when that employer is charged with a violation of the law and faces whatever penalties that law carries.

Indeed, in my judgment, adoption of this amendment would constitute a major breach of the Executive power authorities embodied in article II of the Constitution. It is to suggest that the President and the Executive agencies lose their power to govern upon the loss of a Presidential election. It is to suggest that the Executive power of our Federal Government may be exercised only for 3 years, 9½ months, not the 4-year term designated in article II of the Constitution.

It is important to recognize that there is no attempt to ramrod through surprise regulations in the last moments of the administration. Each of the regulations being considered for adoption are important in their own right, for the simplification or clarification of rules for the benefit of employers and workers alike.

These regulations have been scheduled and published in the Federal Register under the regulatory reform procedures, published months in advance, have undergone extensive hearings and public comment. If regulations are promulgated during the period of transition, they will simply represent the completion of work that has been done long in advance. Such actions are clearly part of the necessary and proper exercise of Executive power vested in the incumbent President under the Constitution until his successor takes office.

There is nothing improper or unusual about the issuance of regulations during a period of transition. During the last transition period, between the days of November 5, 1976, and January 20, 1977, the Federal Register contains 13,000 pages of regulations, proposed regulations, and notices.

At no time did the Democratic Party attempt to prohibit the issuance of these regulations or otherwise interfere with the orderly exercise of Executive power of the incumbent President.

During the 1976–77 transition period, the Department of Labor issued final major regulations in many areas including:

The entire operation of the CETA program and all its titles;

The operation of the U.S. employment service;

Many major regulations in the occupational safety and health area including revisions of the electrical code, required training of State plan enforcement personnel, and certification of several State plans; and

The complete revision of Employment Retirement Income Security Act minimum standards for pension plans including vesting requirements, benefit accrual, participation, plan administration, relationship between ERISA and the Internal Revenue Code, the application of ERISA to the maritime industry, the determination of service to accredited employees and regulations dealing with 1 year break in service.

Mr. President, the amendment offered by the Senator from North Carolina would undermine the comity that has existed between the parties during the period of transition.

It would establish a dangerous and possibly unconstitutional precedent of interfering with the orderly administration of the Government during this period. In a zeal to attack the programs which the Department of Labor administers, this amendment would attack the powers of an incumbent President. It seeks to say that the Government must stop when there has been a change in the Presidency. Well, the Government has not stopped in the past and we must not allow it to happen now or in the future. I urge the Senate to resoundingly reject this amendment.

Mr. President, it seems to me that this is a quasi-constitutional amendment. The Constitution clearly provides that the Executive power shall be vested in the President of the United States, to hold his office during the term of 4 years, together with a Vice President chosen at the same term, to be elected as the Constitution provides.

What this amendment does is to undermine the Executive powers vested in the President of the United States to administer the laws under the jurisdiction of the Labor Department for over a month.

I suggest it is a quasi-constitutional amendment and, if we are going to have this sort of revolutionary approach to Executive authority, it should have the dignity of a constitutional amendment and not a simple amendment on a continuing resolution.

I yield the floor.

Mr. LEVIN. Mr. President, I oppose the amendment of my good friend from North Carolina. I am sensitive to the frustration and concern from which this amendment is born. I have fought for regulatory reform legislation for the past 2 years and I know what our constituents are saying about the growth and interference of the Federal bureaucracy. It has been, in fact, my prime concern. And I can understand Senator HELMS' concern about any regulations that might be issued during this upcoming period. But I do not think that this amendment is the responsible way to meet these concerns. Indeed, it may well be unconstitutional.

What I have been trying to offer during this lameduck session and have been unable to bring to the floor, is a measure that would eliminate any need for this type of amendment, but at the same time would address the underlying problem. I am referring to S. 1945, the so-called Levin-Boren legislative veto bill which was voted out of Governmental Affairs and has been long on our calendar. Were this measure now in place, then during the period between sessions, major rules would not take effect, unless in emergency situations, until at least 20 legislative days in the 97th Congress had passed, during which time, the appropriate committee of Congress could pass a joint resolution of disapproval. The Senator from North Carolina and the cosponsors of his amendment would not have to fret over the extent to which one agency would regulate during this interim period, because Congress would have the opportunity for disapproval in the next Congress, before any major rule took effect.

Recently, 16 Senators wrote to the majority and minority leaders, asking that S. 1945 be brought to the floor before we adjourn sine die. The majority leader has been making every effort to respond to that request. But he has been frustrated in this pursuit by opposition from a number of our colleagues on the other side of the aisle, and he has not been able to secure a time agreement on S. 1945. It is disappointing that we cannot as a result bring this issue to the floor this Congress.

S. 1945 would have made a real structural change in the operations of Government. It would send a message to the public that we are not going to continue to do business as usual; that Congress, the elected officials, are reclaiming control of the Government; that the public will have responsive, accountable people to go to the protest unacceptable agency regulation actions.

The amendment of Senator HELMS is a message that the frustration over unwarranted agency interference in our lives will not go away, that it is real and that it must be addressed. But it is not the appropriate response to the problem because it sets a precedent by singling out one agency and probably bring to a grinding halt the administrative rulemaking functions of that agency. I hope we will defeat this amendment, and I hope we will instead work together in the 97th Congress to pass a responsible, rational legislative veto mechanism.

We have attached approximately 10 legislative vetoes to statutes in the 96th Congress; more than 130 bills or amendments have been introduced in the 96th Congress extending or modifying the authority of Congress to approve or disapprove regulations. There are over 160 laws with more than 200 separate legislative veto provisions now on the books. Approximately 34 States have agency-wide legislative veto procedures. We have held six separate hearings and received testimony from at least 35 witnesses on the subject of an agency-wide legislative veto. It is time we move on this issue. We owe it to the public. While we may be frustrated, however, over the opportunity that has been lost in this Congress, we will strive to make legislative veto a primary and urgent legislative issue in the next Congress.

Mr. PROXMIRE. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin to lay on the table the amendment of the Senator from North Carolina.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from North Carolina (Mr. MORGAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Iowa (Mr. JEPSEN), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 30, as follows:

[Rollcall Vote No. 531 Leg.]

YEAS—54

Baucus
Bellmon
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Danforth
Durenberger
Eagleton
Ford
Glenn
Goldwater
Hart
Hatfield
Hollings
Inouye
Jackson
Javits
Leahy
Levin
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stewart
Tsongas
Weicker
Williams
Zorinsky

NAYS—30

Armstrong
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cochran
DeConcini
Dole
Domenici
Exon
Garn
Hatch
Hayakawa
Heinz
Helms
Humphrey
Kassebaum
Laxalt
Long
Lugar
McClure
Pressler
Roth
Schmitt
Simpson
Stevens
Stone
Thurmond
Wallop
Warner
Young

NOT VOTING—16

Baker
Bayh
Culver
Durkin
Gravel
Heflin
Huddleston
Jepsen
Johnston
Kennedy
Magnuson
Mathias
Morgan
Schweiker
Talmadge
Tower

So the motion to lay on the table Mr. Helms' amendment (UP No. 1889) was agreed to.

Mr. STONE addressed the Chair.

The PRESIDING OFFICER. Will the Senator suspend momentarily?

Will the Senate please be in order? Will the Senate please be in order?

The Senator from Florida is recognized.

Mr. STONE. Mr. President, I ask unanimous consent that the pending amendment by Senator Durenberger be temporarily set aside pending action on an amendment which I have at the desk and will offer and that upon its disposition the Durenberger amendment again be made the pending business.

The PRESIDING OFFICER. Is there objection to the request? If not, it is so ordered.

UP AMENDMENT NO. 1890

Mr. STONE. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. Stone) proposes an unprinted amendment numbered 1890:

On page 5, insert the following at the end of line 11: "*Provided further*, That the rate for Peacekeeping Operations shall be at the rate and manner contained in H.R. 7854 as reported by the Committee on Appropriations July 29, 1980:".

Mr. STONE. Mr. President, the cost of this amendment would be $3.9 million in order to fully support the Sinai support mission so as to implement the continued performance under the Egyptian-Israel peace treaty.

Mr. President, before I more fully describe this amendment, I want to offer the apologies of the State Department who brought this matter to the attention of the Senator from Florida quite late and who brought this matter to the attention of the committee more than a day-and-a-half after it had completed action on related items.

The reason apologies and criticisms are in order is that this is the second year that that happened. And the Senator from Hawaii, Senator Inouye, and the Senator from Utah, Senator Garn, have proper reason to have provided extra scrutiny for this amendment in the light of the way that the proposal was made not timely.

Therefore, I would add, as the sponsor of the amendment, my criticism and request that next year this item and similar items be timely prepared and offered to the appropriate committees so that this kind of floor amendment would not be necessary.

Having said that, Mr. President, this item is necessary. The shortfall of $3.9 million, if it were further reprogramed, would fall in on a situation which is approaching $40 million of shortfall in security assistance already. And the support mission is a legal and moral commitment—let me just say it is a commitment of the United States in order fully to implement the performance under the peace treaty.

As I understand it, the Senator from Hawaii and the Senator from Utah reluctantly have agreed with me that this is an appropriate item in substance although they would, I am sure, agree with me that criticisms are in order for the lateness of the hour that it is offered.

Mr. PROXMIRE. Will the Senator yield?

Mr. STONE. I yield.

Mr. PROXMIRE. Mr. President, I have had an opportunity to discuss this with the chairman of the subcommittee, Senator Inouye, and I understand Senator Garn also approves the amendment. It is necessary in order to provide the proper level of funding. I know of no opposition.

Mr. YOUNG. Mr. President, I understand the amendment is necessary.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1890) was agreed to.

Mr. STONE. Mr. President, I thank the manager of the bill and the ranking minority member of the subcommittee.

UP AMENDMENT NO. 1891

(Purpose: Limitation on the use of CETA funds)

Mr. HOLLINGS. Mr. President, I ask unanimous consent to add a little language to the joint resolution relative to the employment and training of persons advocating the violent overthrow of the U.S. Government. Someone will ask where in the world that occurred.

It has come to our attention that down in Martinsville, Va., the area of Congressman Dan Daniels and the distinguished Senator from Virginia, Harry F. Byrd, Jr.—they are vitally interested in this—that several on the CETA payroll are apparently doing this.

I am not making any charge or verifying anything.

Quite to the point, we want to make absolutely certain that training program moneys are not used to train and employ those who would advocate the violent overthrow of the U.S. Government.

I ask unanimous consent to present this amendment on behalf of myself and the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.), that no funds appropriated under this act shall be expended to provide employment or training to any person who publicly advocates the violent overthrow of the U.S. Government.

I just checked with the distinguished senior Senator from North Dakota. I ask unanimous consent that I may present this amendment at this time.

Mr. PROXMIRE. Mr. President, is the amendment in order?

Mr. HOLLINGS. Mr. President, I did not want to interrupt.

The PRESIDING OFFICER. It would take unanimous consent to set aside the amendment of the Senator from Minnesota.

Mr. PROXMIRE. Mr. President, I ask such unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. Hollings), for himself and Mr. Harry F. Byrd, Jr., proposes an unprinted amendment numbered 1891:

Insert at end of bill: "No funds appropriated under this act will be expended to provide employment or training to any person who publicly advocates the violent overthrow of the United States Government.".

Mr. PROXMIRE. Mr. President, I do not know how anybody could possibly object to this amendment. I do not know of anybody in the Senate who would favor our spending CETA money to pay someone who advocates the violent overthrow of the Government.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that press accounts referring to that kind of activity be printed at this point in the Record.

There being no objection, the information was ordered to be printed in the Record, as follows:

Press Accounts

Since the first announcement of C. W. P. activists on CETA payroll (November 10, 1980), the following statements have been quoted in the press:

1. Martinsville Bulletin, November 12: "Yes, we stand on our position that there must be a revolution in the United States," the statement added. She (Mrs. Blitz) said the revolution should be by force of arms if necessary.

2. Martinsville Bulletin, November 13: The statement said, "Yes, we do stand on our position that there must be a revolution in the U.S." Mrs. Blitz told a reporter, "the Revolution should be by force of arms if necessary."

3. Martinsville Bulletin, November 30 (letter to the editor signed by Dorothy Blitz): "We stand on our position that the government must be overthrown. The United States government does not serve the interests of the majority of the American people but only the American people will be able to overthrow the government and will do so as it becomes more and more evident that it is in their best interests to do so. CWP is pointing the direction, providing the leadership and leading the fight, but the American people will revolt because they have no other choice."

Mr. HOLLINGS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (UP No. 1891) was agreed to.

Mr. HOLLINGS. Mr. President. I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1885, AS MODIFIED

Mr. DURENBERGER. Mr. President, I send a modification to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. Durenberger) proposes an unprinted amendment numbered 1885, as modified:

Add a new section 186:

"Prior to June 1, 1980, none of the funds made available by this joint resolution may be used by the United States Postal Service to implement a 9-digit zip code system."

Mr. DURENBERGER. Mr. President,

the amendment that I am offering today will stop at this time the implementation of the nine-digit ZIP code by the U.S. Postal Service. I am pleased that 11 of my colleagues have joined me in cosponsoring this amendment.

Mr. President, the issue at stake here is not just an additional four numbers on the letters we send. Nor is the issue increased productivity for the Postal Service. If the cost of the new machines times their output is subtracted from the cost of 60,000 mail handlers times their output, the result is a savings which can be measured in dollars and cents and called a productivity increase: More pieces of mail processed at less cost per piece. But, that is not the issue.

The issue we must confront is the competitive standing of the U.S. Postal Service with private carriers, advertising inserts in newspapers, electronic transfer of communications and other media and services competing with the USPS for the same business. Improved productivity alone will not make the USPS more competitive.

No one has yet convinced me that the USPS is proposing the best plan with the best technology to achieve its goals. My concern is that we are spending at least $1 billion, and probably more, to buy the USPS a model T for an Indy 500 race. We may get the Postal Service on the track, but it will hardly be in the race.

I am hardly alone in my skepticism over the nine-digit ZIP code. There has been overwhelming opposition to the proposal from individuals and businesses. The National Federation of Independent Businesses, for example, found that about three-fourths of its members objected to the nine-digit proposal. I am at a loss to explain why this stunning opposition to a system that depends on voluntary compliance for its success has not raised more questions among my colleagues.

Even the Postal Board of Governors apparently has considerable doubt over the merits of the nine-digit proposal. In a December 2 letter to me, Mr. Mike Wright, chairman of the board wrote:

> The action which the Board of Governors took today approved a $316 million capital investment and related expenditures for optical character readers and associated equipment. This action was simply an approval of a proposal to invest in up-to-date equipment—and not a decision on use of four additional digits in the ZIP code. . . . Of course, we recognize that today's action leaves open the possibility of ZIP code expansion to nine digits.

I ask that Mr. Wright's letter be printed in full in today's RECORD following my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURENBERGER. What disturbs me is that the Board of Governors has approved the expenditure of $316 million knowing full well that the money will be spent on equipment basic to the nine-digit ZIP code. But, the board has never taken a position in favor of the code itself. If the governing board of the Postal Service—the men and women appointed by the President and confirmed by the Senate to make policy decisions for the Postal Service—do not think enough of the nine-digit ZIP code to endorse it, why should we be asked to give the Postal Service a subsidy to implement the system? Why should we allow taxpayers' dollars to be spent on a system which will impose more numbers, more costs, more government regulation and more frustration into their lives? If the election on November 4 taught us anything, it taught us that the people of this country are fed up with bureaucratic schemes conceived in the name of productivity, delivered by electronic gadgetry and raised on the backs of consumers.

The changeover to a nine-digit ZIP code will profoundly affect everyone who uses the mail—individuals, businesses, and government. The expanded ZIP will be expensive—to the Postal Service, to all mailers, and ultimately to all taxpayers. Even though this scheme has been around allegedly since 1976, there is as yet no evidence that the expense will be offset by potential benefits.

The costs of converting to a nine-digit ZIP code cited by private and public institutions are astounding. A Minnesota power company estimates that a $100,000 investment will result in a $900-per-month gross savings. A small trade organization figured its conversion cost to be $1,742. A vice president of the group says:

> Obviously, this $1,742 would not be a high priority expense item for us unless our mailing service provided by the USPS were to be improved.

The USPS, I might add, has said that the nine-digit ZIP code will not improve service. Other estimates by small businesses range from $8,000 to $50,000 for conversion.

The USPS is asking private businesses to put out huge amounts of money and in return will give them no better service at no lower cost. What we will receive for our investment are four more numbers on every letter, an "800" national phone number at an uncertain cost, more than 18 million new ZIP codes, and a 30,000-page directory.

Mr. President, I ask my distinguished colleagues to ponder one point before casting their votes on my amendment. Consider the horror of poring over 18 million ZIP codes listed in a 30,000-page directory—a directory that is more than 40 times the size of the District of Columbia white pages—to send one letter. We can be thankful that we will at least be spared this agony when we send out this year's holiday cards.

The lack of information, the amount of misinformation, and the shock of the bits of correct information on this proposal make it clear to me that it is, at best, irresponsible to proceed with the nine-digit ZIP code scheme.

On November 25, Senator GLENN chaired hearings on the nine-digit ZIP code in the Energy, Nuclear Proliferation, and Federal Services Subcommittee of the Governmental Affairs Committee. Those hearings were scheduled at my request, to give the Postmaster General an opportunity to explain more fully the costs and the benefits of the nine-digit proposal, and to hear from large-volume mailers.

It was obvious at that hearing that the Postal Service has not done its homework. The Service has not prepared a comprehensive cost/benefit analysis of the proposal. It did prepare a briefing package describing some of the costs and presented it to the Postal Board of Governors on November 6. I have examined that proposal thoroughly. It does not even itemize the major expenses the Postal Service would have to incur—and already has incurred—to implement an expanded ZIP code.

During the hearing, I asked the Postmaster General about the costs of implementing the ZIP code. I compared these answers to others which the Postmaster General furnished in writing. The two sets are not consistent.

At the hearing, the Postmaster General said he could not pin down "every nickel and dime" spent so far to develop the new system, but estimated the expenditure at $4 to $5 million. In response to written questions, he gave an amount of $8 million.

At the hearing, the Postmaster General said the estimated cost of an optical character reader was $500,000. In response to written questions, the cost per unit was estimated at $650,000 for phase I and $865,000 for phase II.

At the hearing, I asked the Postmaster General to give the estimated cost of the toll-free telephone system, an element of the proposal critical to its success. The response was, "The toll-free telephone system, I do not know yet what it is going to be because we have bids in and we will see where the prices come out."

Now, Mr. President, I ask you to judge: Has the Postmaster General given clear-cut answers to the questions of costs?

I have had cause to question the assumptions used by the Postal Service about the popularity of the expanded ZIP code. The Postal Service assumes a 50-percent use rate by 1982. I asked about the 50-percent rate and was given different answers. During the hearing, I asked the Postmaster General what the 50-percent use rate was applied to. The response: All first-class mail. But, in answers to written questions, the Postmaster General changed his mind. In answer to this same question, the Postmaster General wrote:

> The 50 percent use rate assumption was based upon the machineable first-class letter mail volume characteristics and nine-digit usage at only the largest 211 sites at which the automated system will be deployed. The (50 percent) figure is for machineable, first-class mail only.

Mr. President, I point out that a significant percentage of first-class mail is not machine readable. So we really do not know how much mail the new system will handle. For example, the letters we write each other every day in pen and ink are not machine readable. So we really do not know how much mail the new system will handle.

In any case—and I think this is crucial to the investment decisions this Congress has delegated to the Postal Board of Governors—the use assumption can only be realized if the large-volume first-class mailers decide to convert to the new system. If these mailers do not accept the expanded code, the Postal Service will be left with 560 optical character readers—a $1 billion bill—with no characters to read.

To date, no large-volume first-class mailers have given the Postal Service a commitment to convert. In fact, as I said, many have stated their reluctance to convert.

When pressed on this fact, the Postal Service responds that it plans to offer a discount to the mailers who use the nine-digit code. But, there are severe problems with this response. The Postal Service has not priced the discount.

Right now, the Postal Service provides a discount of 2 percent for pre-sort on first class mail. If they are going to offer more than 2 cents per letter to convert to nine-digit ZIP, I suspect that a great deal of this proposed savings would be lost.

I asked the Postmaster General if the Service knew how much mailers would need to spend to convert to the new system, and I asked if the Postal Service had developed a document setting out the costs to mailers. The response was, "I have a sheet of paper, a briefing sheet they (my technical people in-house) gave me."

Mr. President, the Postal Service does not have the authority to offer a discount without presenting a proposal to the Postal Rate Commission. I asked the Postmaster General when the Service expected to present its case to the Rate Commission. This was his response:

> The implementation date of a discount proposal would be largely determined by the deployment schedule of the equipment.

In other words, the Service will buy the equipment and then hope to find a way to recoup expenses by determining how much users are willing to pay to utilize the system.

Mr. President, I realize that many of my colleagues do not want to focus on the technicalities of the nine-digit ZIP code. Frankly, I do not, either. I do not want to second-guess the Postal Service; my predecessors in this body years ago decided that the management of the Postal Service should be in the hands of the Board of Governors, not in our hands as policymakers.

But in this case, I can find very little evidence—if any—that the Postal Service has spent the effort it should in developing this proposal, and in clearly demonstrating its merit. The Postal Service has not given anyone enough information about the system; it has not given clear-cut answers to questions; it has contradicted itself with its responses. Some institution must assume responsibility for overseeing this kind of decisionmaking. The Postal Board of Governors clearly has not.

Mr. President, let me stress that my intention in offering this amendment, on behalf of myself and 11 of my colleagues, is not to stand in the way of progress, and certainly not in the way of the U.S. Postal Service. This service is one of the most unique communications institutions in the world. I would be the first to suggest that the Postal Service move ahead, in every feasible way, to be competitive with private delivery systems. My intention in offering this amendment is to cause the Postal Service management and especially its governing board to think long, hard, and carefully before going down this path of expanding the ZIP code. It will cost a lot of money—to the Postal Service, to businesses and especially to all taxpayers. It should not be done in haste, nor without the proper research and analysis. To date, I simply have not been convinced that the Postal Service has done its homework.

EXHIBIT 1

BOARD OF GOVERNORS,
Washington, D.C., Dec. 2, 1980.

Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: This is in response to your letter of December 1 concerning the proposed expansion of the Zip Code. The action which the Board of Governors took today approved a $316 million capital investment and related expenditures for optical character readers and associated equipment. This action was simply an approval of a proposal to invest in up-to-date equipment—and not a decision on use of four additional digits in the Zip Code. The Board approved the proposed investment after emphasizing the point that the return on investment deriving from more efficient mail processing would amply justify the purchase of the equipment in question even if the expanded Zip Code were never adopted.

Postal management estimates a return on investment of about 48.5 percent if 90 percent of machinable letter-size First-Class Mail were addressed with the four additional digits, 30 percent if 50 percent of such mail were so addressed, and most importantly 22 percent if the four digits are not used at all. These estimates, which compare costs to be avoided with the present value of the capital needed to acquire the equipment, are calculated on the same system that the Postal Service employs in analyzing all of its capital investment proposals.

Of course we recognize that today's action leaves open the possibility of Zip Code expansion to nine digits. But the Board is well aware of the Postmaster General's definitive commitment that use of the expanded Zip Code would be voluntary, just as use of the five-digit Zip Code is voluntary. I am sure that the Postal Service will do everything in its power to make it clear that no one who has even the slightest objection to the nine digits would be required to use them.

I wanted you to know that the Board considered your letter and today's action is in no way inconsistent with the concerns you expressed.

Sincerely,

M. A. WRIGHT,
Chairman.

● Mr. DOLE. Mr. President, I am pleased to cosponsor the amendment offered by Senator DURENBERGER to deny funding for the Postal Service's plan to implement a nine-digit ZIP code.

Because this proposal would cost both the Government and private business hundreds of millions of dollars, it deserves more careful scrutiny than the Postal Service has given it. In addition, this is the type of proposal which angers and frustrates the people we represent. Such seemingly unimportant matters touch our constituents many times each day and foster public frustration at Government overkill. Further study can help us determine if the frustration is merited.

Postmaster General Bolger has said that this system will be voluntary, that individual citizens will not be asked or expected to use nine digits in their personal correspondence. I take him at his word, for I think it is clear that Americans will not stand for or comply with such a directive. It is too much to ask of our constituents to tolerate the silly inconvenience of numerical proliferation, and if this plan should be implemented for heavy mail users, I think it is important that this not become the first step toward a requirement that all of us use the nine-digit ZIP when we write home.

My primary concern lies with the cost to business men of gearing up for the nine-digit ZIP code. By all accounts it will cost businessmen and nonprofit corporations up to a billion dollars to convert their mailing lists. A quick telephone survey of businessmen and newspapers in my State of Kansas confirms the great expense of this change, running in the thousands of dollars for each business. Telephone conversations also reveal another fact—not many businesses intend to comply if they have a choice. If the nine digits are to be voluntary, as Postmaster General Bolger states, I am not sure enough businesses will use nine digits to justify the purchase of hundreds of millions of dollars in new postal equipment.

But, the use of the new, longer ZIP code will not be voluntary. In his letter of November 17, Mr. Bolger says the following:

> This voluntary participation factor makes it difficult for the Postal Service to estimate the cost impact of the implementation of this program on business mailers. However, the Postal Service will offer appropriate rate incentives to those mailers to encourage participation.

Translated, this means that large mailers will have to pay higher postal rates if they do not agree to use all nine digits. This is hardly "voluntary." The Postal Service will penalize those who cannot afford to comply with its new system.

Given the pressure the Postal Service is going to bring to bear on businessmen to spend thousands of dollars in making the conversion, we had better be certain that the Post Office's savings will heavily outweigh the cost to the private sector. I see no need for this country's taxpayers to pay half a billion dollars a year in converting so that the Postal Service can save half a billion dollars in expenses.

House and Senate committees have conducted hearings to consider the proposal, but the Postal Service has failed to make a convincing case. The burden is on the Government to convey the need for the plan, and the benefits must be clear. In the coming months, Congress and the Postal Service can give the proposal more study. The need for it is doubtful enough that we need further answers.●

○ Mr. SASSER. Mr. President, I urge my colleagues to support the amendment by Senator DURENBERGER and several of my colleagues which is designed to prevent the U.S. Postal Service from putting into effect a nine-digit ZIP code system beginning in February 1981.

Recently, the Subcommittee on Energy, Nuclear Proliferation and Federal Services, chaired by Senator JOHN GLENN, held hearings on this matter. The testimony we heard was most illuminating.

We found that business mailers had serious concerns about the workability of the ZIP code system, doubting the utility of going to a nine-digit ZIP code system where there would be enough ZIP codes to fill a 10 volume, 30,000 page book.

We found that business mailers estimated that the average cost per business of converting to the system would range from $500,000 to $1 million and that the Postal Service will have to go back to the Postal Board of Governors to further reduce postal costs to have business comply with the system.

We found that the Postal Service does not expect to realize $500 million annual savings from the system until 1986 though the Postal Service expects to spend over $1 billion before that time to put the system in place and though the Postal Service has not even estimated the overall postal rate reductions it will have to give the business community to comply with the system.

We found serious reservations by large mailers whether the performance of the Postal Service would be improved since many of these large mailers already have presort programs that seem to be as efficient as the proposed nine-digit ZIP code system.

Thus, while the Postal Service claims to have looked at this system for 4 years, the recent Governmental Affairs Committee hearing was the first opportunity that the Postal Service has taken to brief the Congress on the system—even though they propose to put the system into effect this coming February.

In short, the Postal Service is ready to embark into the unknown and there is very little in the public record at this point to prove conclusively that the nine-digit ZIP code will be cost efficient or improve productivity in moving the mails.

Mr. President, until the public record is set forth with more clarity and persuasiveness, I would urge my colleagues to support this amendment lest we plunge the American public into a chaotic and counterproductive nine-digit ZIP code experiment.

Until the Congress is given a full-scale explanation of the costs and benefits of moving to this nine-digit ZIP code system, we should take this step here and now to prevent the expenditure of any Federal funds for this ill-conceived Postal Service plan. Therefore, I urge my colleagues to give their wholehearted support to this amendment.●

● Mr. PRYOR. Mr. President, I speak in support of the amendment Senator DURENBERGER has offered to House Joint Resolution 637 to delay any funds for the implementation of the nine-digit ZIP code until after fiscal year 1981.

I want to commend the U.S. Postal Service for their efforts in trying to find a system to save mail processing costs, but I question the capital expenditure at this point in time. It has been stated that the U.S. Postal Service will pay approximately $1,000,000,000 for the new automated, mail sorting equipment and for the related changes required to expand the ZIP code. It also has been stated that the cost to businesses, nonprofit organizations, institutions, and individuals to convert their mailing lists and make other changes necessary to implement the nine-digit code has not been fully examined. Further, it has been stated that the use of the expanded ZIP code will not speed the delivery of mail and that the U.S. Postal Service has not studied alternatives, such as providing incentives to business mailers to imprint special bar-coding on billing and reply mail. Further, the U.S. Postal Service states that the success of this plan depends upon the amount of acceptance it receives from individuals and businesses.

Mr. President, I am very concerned about spending that much money on such a plan. I believe questions have not been answered and further planning and research is necessary. Senator GLENN's Subcommittee on Energy, Nuclear Proliferation and Federal Services has held hearings on this subject, and I beleive we should allow the subcommittee to study the testimony presented and give the public a chance to consider the issue. I am concerned that many unforeseen problems will arise if we simply allow the extended ZIP code to go into effect in February 1981 without further review and consideration.●

Mr. BURDICK. Mr. President, we are considering on the floor of the Senate today the Treasury-Postal Service section of the continuing appropriations resolution, 1981. My colleague from Minnesota (Mr. DURENBERGER) has offered an amendment to this legislation to delay the Postal Service's plans for a new nine-digit zip code system until further study of this matter has been undertaken. I support Senator DURENBERGER's amendment.

The Postal Service plans to spend almost $1 billion over the next 5 years for a new ZIP code system whose success or failure is not known. We are told that the benefits to both individuals and businesses will be both lower rates in the long run and greater efficiency in the operation of the Postal Service. I am always happy to see improvements in our mail service; however, not at the expense of individuals. In this case, I think the impact of such a new system on individuals may be more than they should be asked to bear. The inclusion of an additional four numbers on each letter mailed by the public leaves many questions. How can my constituent in rural North Dakota easily obtain these new and different numbers for each letter he/she mails? What happens to this letter if these four numbers are not included?

I think that we all have to think about holding down costs in Government. But, there must be ways of holding down costs other than purchasing millions of dollars in new equipment to implement a new system of ZIP codes, and I believe these other avenues must be fully explored before we undertake such a new and expensive system.

Mr. DURENBERGER. Mr. President, I yield to the distinguished Senator from Iowa.

Mr. JEPSEN. Mr. President, I support the amendment offered by my distinguished colleague from Minnesota, Mr. DURENBERGER. I am pleased to be a cosponsor of this amendment.

Although the Postal Service's plan to convert to a nine-digit ZIP code is not one of the critical issues facing the Senate, its implementation concerns all Americans. That is why I believe it is important for my colleagues to support the Durenberger amendment.

As you may know, Mr. President, I introduced a sense-of-the-Congress resolution calling for the postponement of the nine-digit proposal until all the economic, social, and technical ramifications can be examined. Hearings were held on this issue last week, and I am convinced now, more than ever, that this change is wrong at this time. The testimony given at last week's hearing was overwhelmingly opposed to the nine-digit ZIP code.

It should be made clear that Senator DURENBERGER and myself are not trying to prevent this plan from ever being implemented. What we are saying is that more thought should be given to this idea before we commit ourselves to spending billions of dollars on a plan that may ultimately prove to be premature.

I point out, Mr. President, that I have received over 500 letters on this issue. The overwhelming majority oppose the conversion to the nine-digit ZIP code. Americans are recognized as being practical in their approach to most issues. If they are presented with sufficient information, they can make a reasonable decision. Show them a better way, a more economical way of doing business, and they will accept it. But if they are not convinced that the proposed changes will save money, then they will oppose them.

Even the Postal Service admits that their plan cannot work without the help, confidence, and a degree of patience on the part of their customers. If the letters I have received are any indication of the sentiment in other parts of the country—and I think they are—then this plan is doomed before it even begins.

To me, and to a great many people, it appears that the Postal Service has completely ignored the extreme costs that individuals and businesses will have to absorb. These are costs that should not only be measured in dollars but also in terms of the inconvenience involved.

The Postal Service estimates that it will cost them about $1 billion to implement this program. You know, Mr. President, as well as I do, that it is really the American taxpayer, not the Postal Service, who is going to pay for this program. Furthermore, it has been estimated by the House Government Information and Individual Rights Subcommittee that it will cost businesses another $1 billion to convert their mailing lists. Once again, it is important to point out who will really pay for this: The people.

It is a documented fact that as you increase the amount of numbers an individual must remember or even transpose, the possibility for error increases.

To my knowledge, the Postal Service does not know what kind of potential error rate they can expect.

Along this same line, Mr. President, I understand the number of ZIP codes will increase from 40,000 to almost 20 million. In addition, it will take an encyclopedia-like set of books to list all of the new ZIP's. The Postal Service has, however, come up with a brilliant plan to deal with this problem.

This is the plan. The mailer will call a new toll free telephone number. The operator will give the caller the ZIP code he or she needs. This means that an individual calls a 10-digit number—which, of course, the person will have memorized—to get the correct 9-digit number that must be placed on the letter to replace the 5-digit number. Now if people cannot remember the 10-digit number to get the 9-digit number, they can always dial a 3-digit number (411) to find out how to get the 10-digit number to get the 9-digit number to replace the 5-digit number.

Of course, if all else fails, you remember, you dial one digit, 0, to find out what the 3-digit number—411—is to get the 10-digit number which will then give you the 9-digit number to replace the 5-digit number with.

Mr. President, as I mentioned in my testimony before the Senate Subcommittee on Energy, Nuclear Proliferation, and Federal Service, if we are trying to hasten the day when George Orwell's predictions in his book, "1984" come true, then this seems like an excellent way of doing it. I hope this is not the intention of the Postal Service, but, rather, a case of misplaced priorities.

If the recently concluded national elections tell us anything, it should be that people are fed up with this type of bureaucratic nonsense. That means fewer demands by the Federal Government. That being the case, I urge my colleagues to support the Durenberger amendment.

Mr. President, I am a cautious man, especially when the Federal Government is involved. I get particularly cautious when a Government agency says—"trust us." Well, trust us is exactly what the Postal Service is telling Congress and the American people.

At the hearing held last week, Postmaster General Bolger was asked a number of questions about the nine-digit proposal. Unfortunately, his answers raised more questions than they answered.

For instance, Postmaster General Bolger told us the Postal Service expects 50 percent of all first-class mail to carry the nine-digit ZIP by 1982. This would be quite an accomplishment since he also said the Postal Service will not be ready to implement the proposal until October 1, 1981. Are we to believe the program will be on line and operational and achieve 50-percent acceptance in 3 months? Sure—trust them.

Postmaster General Bolger also told us that 90 percent of all first-class mail will carry the nine-digit ZIP by 1987. In light of the fact that it took 17 years to get 97 percent of the people to use the five-digit ZIP, I find this hard to believe. But—trust them.

When asked for a specific dollar amount on the cost of the optical character readers, Postmaster General Bolger was only able to come up with an estimate. He told us they would probably cost $500,000, but he could not be certain—trust him.

When asked how much the toll-free telephone system would cost, Postmaster General Bolger told us he could not give a figure. But it should not be too expensive—trust him.

When asked what kind of incentives would be offered to mailers, Postmaster General Bolger told us that he could not provide the specific information but the incentives would be sufficient to encourage mailers to use the new system—trust him.

Finally, when asked what proof he would give the Postal Rate Commission to justify reduced rates for people who use the new nine-digit ZIP, Postmaster General Bolger said he did not have any. Apparently we should just trust him when he says he will.

Mr. President, I would like to remind my colleagues of another plan the Federal Government had to save the American taxpayer's a great deal of money. I am referring to the Susan B. Anthony dollar. Here was a plan that proclaimed that if we switched to coins, we had the potential to save $50 million a year. Unfortunately, the American people did not see it that way, and refused to use the coins. Now, the only ones who want the coins are coin collectors. Unless changes are made, I am afraid the nine-digit ZIP code will become the 1981 version of the Susan B. Anthony dollar.

Mr. President, I close by quoting a constituent of mine who says, "Government has an uncanny way of turning a simplification into a nightmare." I cannot urge my colleagues enough to support the Durenberger amendment.

Mr. DURENBERGER. Mr. President, I ask that the modification I sent to the desk be further modified by changing the date 1980 to 1981.

The PRESIDING OFFICER. The amendment is so modified.

The amendment as further modified is as follows:

> Add a new section 186: "Prior to June 1, 1981, none of the funds made available by this joint resolution may be used by the United States Postal Service to implement a 9-digit ZIP code system."

Mr. GLENN. Mr. President, at the opening of my remarks, I will say that I like the 1980 better than the 1981 version of the Senator's amendment.

Mr. President, there has been much misinformation about this particular proposal of the Postal Service. It has been very confusing. There is one objective the Postal Service has in what they are trying to do, and that is to give better service at less cost in the future, and that is the bottom line.

The scare tactic of saying that 30,000 pages and 80 pounds of directory will be necessary, and that somehow every person will have to have that 80-pound directory and go through 30,000 pages is preposterous.

The old system, Mr. President, remains in place if we go to the nine-digit system. The old system of ZIP codes that we are familiar with will not be replaced.

If we have a ZIP code that is 43215, it would be expanded to 43215 and whatever the new digits are. If we prefer not to use the new digits, the old ZIP code remains in place.

In examining the Postal Service proposal, we must keep in mind the fact that some 80 percent of first-class mail is business mail. Over a period of time, it is anticipated that large businesses, at least, and most middle sized, that have computerized or indexed mailing systems would, in fact, have their costs held down and get better service through the nine-digit ZIP code.

Mr. President, I rise in opposition to this amendment of the Senator from Minnesota.

As we are aware, controlling the costs of the Nation's postal system, while still providing first-rate service, is the most important challenge facing postal management—a challenge which we must help the Postmaster General and his staff meet. Amendments such as the one before this body are hardly helpful in that regard.

I will say that in regard to the amendments, the first one the Senator proposed, is that none of the funds appropriated by this joint resolution could be used by the Postal Service to expand the existing ZIP code system.

At least the present version is an improvement since it is prior to June 1, 1981, that none of the funds may be used by the Postal Service to implement the nine-digit ZIP code. So we have made progress in that regard.

Since postal reorganization, the Postal Service has engaged in an ambitious mechanization program in an effort to increase productivity and make less labor-intense the business of processing the public's mail. This program has developed to the point where 70 percent of the mail at the largest postal installations is machine processed—as opposed to 20 percent in 1970—and productivity has increased an aggregate of 27 percent. Additional productivity gains in a business as labor intensive as the Postal Service requires a move to automation. The expanded ZIP code program is the centerpiece of this move.

Another factor is that 86 percent of the costs of the Postal System are labor—86 percent of the costs of the USPS goes to labor.

The Congress has been advised of the program in the annual report of the Postmaster General for 1978 and 1979 and the last two Comprehensive Statements on Postal Operations.

In other words, Mr. President, we have had 3 long years to look at this proposal by the Postal Service. Now, on the last day of discussion on a continuing resolution, we bring this proposal up after having had 2 years to look at it. Now we want to stop it when we have said not one word in opposition to it in the past.

I confess that when I originally heard about this proposal some 2¾ years ago, this nine-digit ZIP code, that I thought it was patent nonsense. I was every bit as opposed as the Senator from Minnesota.

But I did say that I would look into it, and I did. I talked to the Postmaster General, and the more I found out, the more I came around to see its wisdom, and I changed.

That is why I stand on my feet here today to support what the Postmaster General is trying to do.

I reiterate that this is not some new item they are springing on us. It has been known over 3 years, has been reported to us in their comprehensive statements in the last 2 years, and here we are, literally almost on Christmas Eve, trying to debate whether or not we will hold this up.

The current mail processing system requires each piece of mail to be handled several times on machinery which, at its most efficient, can work 1,600 to 1,850 pieces per work-hour. In addition, the current system requires that postal employees memorize groupings of ZIP codes so that they can sort mail down to delivery routes. Understandably, where hand-keying, memorization, and manual sorting are involved, missorting errors will occur. For some years now, the Postal Service has been testing optical character readers (OCR's) and bar code sorters (BCR's) which, when employed in an integrated mail processing system, read the ZIP code on incoming mail, imprint a bar code on it, and sort the mail automatically in accordance with the bar code instructions.

After live tests involving almost 30 million pieces of mail, the Postal Service is satisfied with the reliability of the equipment and convinced that the OCR's and BCR's can function at 10,000 pieces per hour and 4,000 pieces per hour, depending on the stage of the processing system at which they are employed. Notwithstanding reports to the contrary, the Postmaster General intends to require that the equipment selected for procurement be manufactured in the United States.

The new equipment will provide a 20-percent return on investment when used to process mail bearing a five-digit ZIP code, a figure which would certainly justify the equipment's purchase. However, when mail bearing the proposed expanded ZIP code, which will consist of the current five-digit code and a four-digit addition, is processed through the new machines, the return on investment more than doubles to 48 percent.

There has been much misunderstanding about this. Fears have been generated that the five-digit ZIP code was going to disappear, and we all would have to learn a new set of numbers. That is not correct. The use of the new system will be viewed mainly as a voluntary system oriented toward businesses that can use it and expand their coverage. But every person who now has a five-digit ZIP code can continue to use it.

I agree with the Senator from Minnesota when he said that the projected use may be subject to some debate; but even with that projected use being cut down somewhat, it means we get better service eventually at less cost, even though it might be fully implemented a few years later than anticipated.

Under the new system, the distribution cost per thousand pieces of mail is estimated to improve from the current $25 to $17.

Postal management hopes to save $597 million in 1987 as a result of the deployment of the expanded ZIP code program, with increasing savings in succeeding years. This is money which will not have to be paid by postal ratepayers, resulting in more moderate and less frequent postal rate increases. In addition, the Postal Service believes that it can reduce the current number of missorting errors and achieve greater consistency in meeting its posted service standards. There has been much discussion of the cost to businesses of converting to the expanded code. I would here point out that the Postmaster General has given us his personal assurance that the use of the Expanded ZIP code will be voluntary, with businesses able to make their own decisions on whether to convert based on their particular financial situations. He has also indicated that the current presort program, which is of great benefit to many mailers, will remain in effect, and that the Postal Service will provide tapes to mailers to assist them in converting their mailing lists to the expanded code, should they decide to do so, and propose an appropriate incentive package to encourage mailers to convert.

I have told the PMG that it is important for the incentive package to be developed and implemented as soon as possible. In any event, the Postal Service estimates the conversion costs to mailers to be one-half to 1 cent per address; accordingly, the maximum conversion cost for all 80 million addresses in the United States, each of which appears on approximately 100 lists, would be $40 million to $80 million. This cost would probably be spread over several years by the mailers involved. If these figures are correct, the total savings for 1 year alone far exceeds the estimate of the cost of adapting the Nation's mailing system to the new ZIP code.

The bottom line is still better service at less cost.

Some critics of the proposed program have cast doubt on whether a sufficient number of mailers will convert to the program, asserting that those most likely to consider converting are now heavily involved in the presort program. In the first place, there are many large volume mailers which, for a variety of reasons, cannot now take advantage of the presort program and would relish the prospect of being able to take advantage of financial incentives.

Second, it seems to me to be good business to give your customers a range of discount programs so that they might select the one most advantageous to them. Last, those who have criticized the projected use rate are mostly third-class mailers who have incorrectly assumed they were counted among the possible early users of the expanded code. This is not the case. The use rate is based on first-class mail volume susceptible to machine processing at the 211 installations where the advanced equipment would be deployed.

Third-class mail volume was not even considered in arriving at the user estimate.

Quite apart from the likes and dislikes of the business community, many citizens have expressed concern over the expanded ZIP code program in that it would add more numbers to their lives and thus perpetuate what they see as an impersonal Government and commercial atmosphere. I certainly sympathize with these individuals. They can continue to use existing ZIP codes. However, as I noted at the November 25 hearing before my subcommittee, our population growth and our desire for orderly communication and orderly government have thrust us into the age of the computer whether we like it or not. Perhaps some day we can reach an accommodation between personal identity and commercial efficiency, but technology has not furnished us with that luxury as yet.

Mr. President, there is not a person in this Chamber today who does not have one or more credit cards in his or her pocket. If you look at one of those cards, you will find between 12 and 14 digits in the credit card number. We do not look at that as any great impersonal attempt by Government or business to impinge on our personal lives.

The other day, I saw fit to make a call to our Embassy in Tokyo. I looked it up in the directory, pushed buttons for 12 numbers, and wound up, within a few seconds, with a call in Tokyo. We do not object to those numbers.

My social security number, which I looked up a little while ago, has 9 digits in it. We do not object to numbers that make our convenience and the service we receive cheap and good. I believe that is what we are aiming for here.

Mr. President, the Durenberger amendment would mandate a halt to the process of Postal Service automation for at least 6 months unless a law to the contrary was passed early in the 97th Congress. Our oversight committees in the House and Senate will no doubt be scrutinizing USPS plans for automation early next year when the PMG by law must make his annual report to Congress by March 15. Would it not make more sense to allow the Postal Service to proceed until then and reexamine the situation at that time rather than to call a disruptive halt to its automation activities today?

Mr. President, I do not believe a delay in the development or implementation of modernization plans by the Postal Service is in the public's interest, and that is why I oppose the amendment of the Senator from Minnesota.

I noted that when the Senator from Iowa was delivering his speech earlier, he indicated that he had received some 500 letters from his constituents that spoke to this matter of the nine-digit ZIP code.

I think it is well to point out the nature of those 500 letters which he indicated were voluntary responses from his constituents motivated by their concern with this nine-digit ZIP code.

Indeed, in yesterday's article in the op-ed piece that was in one of the papers, I noticed that he stressed the 500 letters he had received from his constituents.

Mr. President, I think I need to read into the RECORD part of the testimony that was given at our hearing on this matter.

The Senator from Iowa had indicated he had some 500 letters and I asked him at that hearing whether those letters were received in response to a query from him, and I quote as follows from the hearing record:

> Senator GLENN. On the questionnaire that you sent out, did you point out that the old system could still be used or did you explain it or did you just ask if people wanted a nine-digit code as opposed to a five-digit code?
>
> Senator JEPSEN. I will give you a copy of my questionnaire for the files. I think that is a good question.
>
> If the chairman would permit, I will read what I sent out.
>
> Senator GLENN. Fine.

And this quotes from the question that resulted in 500 responses. The question to the constituents was as follows:

> Dear Friend. In what the U.S. Postal Service officials describe as an effort to save time and money, plans are under way to change the five-digit zip code to a nine-digit number. Under the new system, the existing five digits would be followed by a hyphen and four new digits. It seems to me that while well-intended, this could prove very costly to both individuals and businesses. Because this change would affect you, I would like to hear your views on this proposal. Would you agree with a taxpayer from Houston who testified before the House Government Operations Subcommittee that this is another Washington Monument to stupidity, or would you agree with the Postal Service that defends the nine-digit zip as a means to hold down postal rates and increase efficiency? I want to hear from you and other interested individuals you might contact concerning this issue.
>
> That was the letter.
>
> Senator GLENN. Is it your position that was an unbiased question?
>
> Senator JEPSEN. Well, certainly it presented all the facts, Senator. I used a third party, when I used the testimony of the House Government Operations Subcommittee, and then I followed up immediately with the Postal Service's contention, to be fair, that it says the nine-digit zip will hold down postal rates and increase efficiency. I asked them if they agree.
>
> Yes, sir, they had a choice. It is very fair.

Mr. President, I submit that if that is a fair question, I think we might have gotten a better unbiased response had we asked, do we want better service at less cost in the Postal Service? And that is the bottom line question.

Rather than referring to "monumental Washington stupidity" and then asking people to give their unbiased opinion and then standing up on the floor of the Senate and saying, "We have 500 letters that came in," if I had received a question like that, I would have answered right along with those 500 that if I am being asked to vote on whether I want more Washington "monuments to stupidity," obviously I am going to vote against that.

But, Mr. President, I come back to the bottom line of the opening of my statement, that what we are trying to do is give better postal service at less cost. I think we can do that if we go along with the Postal Service on this, and I come as a convert to the Postal Service views on this because I started out in agreement with the Senator from Minnesota and the distinguished Senator from Iowa in my opposition to this. But after hearing from the Postal Service on this subject in detail and talking about it with them I think we should go ahead. I do not agree that we should hold this up until next June.

What I am afraid of is that this will stop some of the procurement of equipment, make it more expensive in the long run, and delay the reduction of some of the expenses of the postal system that now go 86 percent to labor. I cannot guarantee what date we will get all our money back on this, but if we are to stop what I see as progress, if we are to stop the study and the research, the design of the rather incentive package, the purchase of optical character equipment which is already approved by the Board of Governors and would be usable under the nine-digit ZIP code as well as five digits, if we are to stop consultation with mailers on this proposal, I think we are taking a step backward. The result will be that instead of being asked to contribute to the Postal Service some $736 million a year of public funds, we will be faced with requests for much larger sums if we are to have a viable postal system in this country.

So, I support the postal service in what they are trying to do. I hope we will defeat the amendment which would hold up any work on this until June 1981.

Mr. PROXMIRE. Mr. President if the Senator will yield I think we are having an excellent debate on this subject but I do hope the Senator will realize that the House of Representatives has indicated that they will be willing to stay in to a reasonable hour tonight but if the Senate cannot conclude business on this tonight they will go out until Monday. That means we will have to come back Monday and therefore a great deal depends on whether we can bring this bill to a conclusion within the next couple of hours and I earnestly hope we can.

I hope Senators will limit their remarks as much as possible and that we proceed to finish this bill within the next couple of hours if at all possible.

Mr. GLENN. Mr. President I respond to the distinguished Senator from Wisconsin saying it is not my choice to bring this up. I am responding to it. I would be quite happy if the Senator from Minnesota would see fit to go along with those sage words of advice and withdraw the amendment rather than going ahead with a vote this afternoon on it but that is his option, of course.

Mr. DURENBERGER. Mr. President, I am going to be very brief.

I heard all the advice. I am not going to withdraw the amendment. In fact. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. LEAHY). Is the Senator asking for the yeas and nays?

Mr. DURENBERGER. I am.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DURENBERGER. Mr. President, this is no last minute deal. This is not something I pulled out when I found out the continuing resolution was coming on the floor. I will admit that I have not had 3 years to look at the problem the way Senator GLENN has. I have been on his committee for 2 years, and I have not even heard about this until the last 3 months. But I strongly suggest that I heard them in detail. I do not know whether the Senator from Ohio heard them in detail, but I heard them in detail in 3 hours of hearing. I heard them in detailed responses, and I am just here to reiterate for my colleagues the fact that, on the basis of what I heard, I would not make a billion dollar decision. The equipment has not been costed out. The directory system has not been costed out. The scanners have not been costed out, and more importantly, the incentives to get people to use this system have not been costed out.

The incentives again are an extremely important part of this whole process. This system can be voluntary and the Postmaster General can say it is voluntary, but incentives are used by the Postal Service to get people to force them to use the process, and that is the most important part of this whole process of which there has been no decision and no recommendation on the part of the Postal Service.

So, Mr. President, I will move the adoption of my amendment.

Mr. STEVENS. Mr. President, will the Senator withhold?

Mr. DURENBERGER. I withhold.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. DURENBERGER. I yield for a question.

Mr. GLENN. Mr. President, I ask the Senator did he not send the Postmaster General a series of questions following our hearing on November 25?

Mr. DURENBERGER. I have received a set of responses to questions that I submitted to the Postmaster General, yes.

Mr. GLENN. Mr. Bolger responded to the Senator's letter on November 26 which I believe is a day after our hearings and responded in considerable detail.

Are there any other questions that the Senator knows of he wishes to ask the Postmaster that were not taken care of by the Postmaster General's response to the Senator's question?

Mr. DURENBERGER. I have no questions now, but if the Senator wants me to take the time, and obviously our colleagues do not, the statement that will appear in the RECORD sets out the inconsistencies between statements made at the hearing and statements made a day later. It also sets out hypothetical or approximate answers to questions, and it is this lack of specificity that leads me to believe that the Postal Service needs some time to demonstrate to the Nation the value of this system.

Mr. GLENN. In response to the Senator's comment about not knowing where I heard about this, I heard about it almost 3 years ago now, and I took the initiative going into it with the postal department because of my responsibility as the chairman of the subcommittee.

I became convinced it was a good idea and thought we should move ahead on it, and it has been before us. It has generally been public knowledge that USPS was moving in this direction for, I believe, almost 3 years. That is the reason why I hate to see us taking up this issue on a continuing resolution after this period of time.

Mr. DURENBERGER. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I do not want to belabor this, but we have a substitute, I hope, a modification of this amendment, which will be forthcoming.

I am sympathetic to the comments made by my good friend from Ohio and, as a result of the changes, next year I will be the chairman of the subcommittee which will have jurisdiction over this matter.

I do hope the sponsors will modify it so we will accomplish two objectives: one is to keep pressure on the Postal Service to continue its research and development activities so that we can be convinced as to whether or not the nine-digit ZIP code is in the public interest.

Two, to assure that the decisions that have been made by the Board of Governors of the Postal Service with regard to acquisition of equipment to date will not be disturbed by this amendment.

My understanding is that the latter is agreed to by my good friend from Minnesota, that this amendment does not disturb the decision made to purchase the equipment which was approved at the last meeting of the Board of Governors; is that correct?

Mr. DURENBERGER. It is my understanding that the Postal Service will go forward with the expenditure of money regardless of whether or not they go to the nine-digit ZIP code system.

Mr. STEVENS. I do not want to belabor this. I appreciate what the Senator from Minnesota is doing. I understand the problems articulated by the Senator from Ohio. I do not oppose a delay in the availability of funds for the purpose of the nine-digit ZIP code so long as it is a reasonable delay and so long as we do keep the pressure on the Postal Service to complete the research and development process that is underway in the Postal Service at this time.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the senior Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2915 (AS MODIFIED)

(Purpose: To cap the Railroad Retirement Board windfall subsidy appropriation)

Mr. BELLMON. Mr. President, is it in order for me to call up amendment No. 2915?

The PRESIDING OFFICER. An amendment is currently pending. It will take unanimous consent to set it aside.

Mr. BELLMON. Mr. President, I ask unanimous consent to set aside the pending business temporarily so that amendment 2915 will be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Oklahoma is recognized.

Mr. BELLMON. I ask that the clerk state the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an amendment numbered 2915, as modified:

On page 49, after line 2, insert a new section to read as follows:

SEC. . Notwithstanding any other provision of law, for the payment to the Railroad Retirement Account, as provided under sections 15(b) and 15(d) of the Railroad Retirement Act of 1974, the maximum amount reimbursable for the subsidy for fiscal year 1981 costs shall not exceed $400,000,000.

Mr. BELLMON. Mr. President, the amendment is relatively self-explanatory. It limits the Federal windfall payment to the rail industry pension plan to $400 million, which is $50 million above the President's request.

This would provide a $37-million increase for these payments for fiscal year 1981.

This windfall subsidy has more than doubled from $425 per worker in 1974 to $1,000 per worker in 1980.

The administration supported the lower cap. We have been able to work out this $400 million with the distinguished Senator from New Jersey and others interested in this matter, and I believe the amendment is acceptable to the distinguished Senator from Washington.

Mr. MAGNUSON. Mr. President, I understand that the Senator has cleared this now and has gotten an agreement with the chairman of the committee.

Mr. BELLMON. The Senator is correct.

Mr. MAGNUSON. The Senator worked it out. Therefore, I am glad to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 2915), as modified, was agreed to.

Mr. BELLMON. Mr. President, I intentionally am not going to make the motion to reconsider in case there is any problem in working this out.

Mr. STEVENS. What is the parliamentary situation now?

The PRESIDING OFFICER. The question now recurs on the amendment of Mr. DURENBERGER.

UP AMENDMENT NO. 1885

Mr. STEVENS. Mr. President, has there been a modification filed?

The PRESIDING OFFICER. The amendment has been modified.

Mr. DURENBERGER. Mr. President, I am sending to the desk a modification of the amendment. I do not have it yet. It must be in the mail. [Laughter.]

The PRESIDING OFFICER. The Chair would note that the modification would be a modification of the modification, as further modified.

Mr. DURENBERGER. Mr. President, I send to the desk the modification and ask unanimous consent that we dispense with the reading of the modification. I understand that both Senator GLENN and Senator STEVENS have reviewed the modification and understand it. It is designed principally to clarify the words "implement the nine-digit ZIP code," and making it clear that studies of the nine-digit ZIP code, analyses of the costs of the ZIP code, are not prohibited by my amendment.

The PRESIDING OFFICER. The Chair will note that it will take unanimous consent to have the modification of the modification, as modified.

Mr. DURENBERGER. I ask unanimous consent that it be so modified.

Mr. STEVENS. Is the modification at the desk?

The PRESIDING OFFICER. The modification is not yet at the desk. The Chair understands it is on the way.

Mr. GLENN. Mr. President, I have seen the modification, and I might go ahead and discuss it in the interest of saving time.

I would like to say to the Senator from Minnesota, as I understand it, the modification would not prohibit study and research during this period; is that correct?

Mr. DURENBERGER. That is correct.

Mr. GLENN. It would not prohibit the rate design of incentives during this period?

Mr. DURENBERGER. It would not inhibit the design of those, that is correct.

Mr. GLENN. It would not prohibit the purchase of optical character reading equipment already approved by the Board of Governors, which would be usable under the five-digit ZIP code? Of course, all those would have nine-letter adaptations, but it would not prohibit the OCR equipment already approved by the Board under the five-digit ZIP?

Mr. DURENBERGER. If the Senator is referring to that equipment which was approved in a resolution by the Board of Governors at its meeting on December 2, 1980, the Senator is correct.

Mr. GLENN. It would not prohibit the work of the mailers, to assess the acceptability, the costs, and so forth?

Mr. DURENBERGER. That is correct.

Mr. STEVENS. If I might add, it does not prohibit the continued development of the various rates under the seven-digit system, if that is approved by the Board of Governors.

Mr. DURENBERGER. The Senator is correct.

Mr. GLENN. One further question, Mr. President. It would not prohibit the design of a system for informing the public of the proposed system and what problems there might be; is that correct?

Mr. DURENBERGER. I guess that

needs a little clarification, Senator. If there is a presumption in the clarification that the system is going into effect, obviously that material, putting in that type of material——

Mr. GLENN. This would not prohibit it.

Mr. DURENBERGER. The cost of soliciting opinions of members of the public on the design of the system or on the manner in which the Postal Service proposes to implement the system would not be prohibited.

Mr. GLENN. All right.

Mr. President, I think with those understandings of the amendment, which we might now have read so that everyone will understand what it is, I would go along with the Senator from Minnesota. I do not think this will do irreparable harm. In any event, we will have this decided by June 1, 1981, for certain.

With these assurances from the Senator from Minnesota, I would agree to the amendment and will vote for it myself, with these understandings, and I would also hope that he would withdraw the call for the yeas and nays.

Mr. DURENBERGER. Mr. President, I move the adoption of the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered. The Senate cannot act upon this until the amendment is before the Senate.

Mr. DURENBERGER. Mr. President, I am sending up the modification of the modification of the amendment.

The PRESIDING OFFICER. As modified.

The Chair would inquire: Is this a substitute for the other amendment? Is this in the form of a substitute for the other amendment in its entirety?

Mr. DURENBERGER. Yes. This is a substitute for the modification in its entirety.

The PRESIDING OFFICER. The clerk will report the substitute.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER) proposes an unprinted amendment numbered 1885 as further modified.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the substitute be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment as further modified is as follows:

Add a new section 186:

"Prior to June 1, 1980, none of the funds made available by this joint resolution may be used by the United States Postal Service to implement a 9 digit ZIP code system, provided that nothing included herein shall be construed to prohibit the Postal Service from the development of postal rate design for the nine digit ZIP code, the purchase of equipment to increase the productivity of the 5 digit system, consultation with large mailers on such a system, and the perfection of a design system for dealing with the implementation of the nine digit ZIP code.".

Mr. STEVENS. Mr. President, I might state that Senator GLENN and I have each examined this and, as indicated by our colloquy, we are prepared to support it and ask the whole Senate to support it.

Mr. MAGNUSON. Mr. President, I do not think we need the yeas and nays on this. We are all going to agree to the amendment. Why take up much more time? Time is running out on us.

Mr. DURENBERGER. Mr. President, I would be happy to agree to a 10-minute rollcall.

As Senator GLENN indicated earlier in his comments, the problems here are not going to be in this body as much as they are in the House with the House conferees. I think it is important that all Members of the Senate express themselves to the conferees on this amendment.

Mr. MAGNUSON. We are all agreed on the amendment. Why have a rollcall?

Mr. DURENBERGER. I would like the House conferees to see the totality of this agreement in the form of a rollcall vote.

Mr. GLENN. Mr. President, I urge everyone to vote for this and have it 99 to 0.

Mr. MAGNUSON. Why have a rollcall?

Mr. DURENBERGER. I think I have explained my reasons.

Mr. MAGNUSON. We are running out of time.

Mr. DURENBERGER. We are running out of time talking about it, I say to the Senator.

Mr. MAGNUSON. Well, why have a rollcall?

Mr. DURENBERGER. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota (Mr. DURENBERGER) as further modified. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Alabama (Mr. HEFLIN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted who wish to vote?

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 532 Leg.]

YEAS—90

Armstrong
Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—10

Bayh
Gravel
Hatfield
Heflin
Johnston
Kassebaum
Kennedy
Mathias
Talmadge
Tower

So Mr. DURENBERGER's amendment (UP No. 1885) as further modified was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote.

Mr. GLENN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is not in order.

Mr. ROBERT C. BYRD. Mr. President, we have just had a rollcall vote; 90 to 0 is the final tally. I say what I am about to say without casting any aspersions on any Senator who insists on a rollcall vote. I merely take the floor at this time to point out the needless, profane waste of time consumed in having a rollcall vote on an amendment which is acceptable to the managers and against which nobody has voted. The Senate simply does not have this kind of time. I wonder if Senators would carefully consider cutting down their amendments and avoiding requests for rollcall votes where possible.

Mr. President, it is absolutely necessary that this resolution be enacted into law and sent to the President before the Senate can adjourn sine die. The House is marking time, waiting on the Senate to complete action on this legislation.

Mr. President, the legislation has to be printed before it can go to conference and it would be necessary, if the Senators hope to have a conference tomorrow in time for the House to act before it goes over until Monday, for this resolution to be passed at a relatively early hour today, sent to the printer, printed, and put in form for conference action.

I hope that Senators will stop their games of calling up all kinds of amendments at this time, making a Christmas tree out of the legislation. Ninety percent of these amendments are going to be dropped in conference. That is just picking a figure out of the air. It may be 85 or 80 percent. So what are we doing? Playing to the headlines back home. We are delaying the Senate and delaying the sine die adjournment of Congress.

Mr. President, I hope the Senators will accept what I have said in the proper spirit. We have spent all day on this and I hope we can devise some way, if I may suggest to the distinguished minority leader, to try to get some idea of what amendments remain and see if we cannot get some time agreements thereon and get on with our business and dispose of this measure so some kind of conference can be held and we get on with the sine die adjournment.

Mr. DeCONCINI. Mr. President, I agreed to yield for a unanimous-consent request to the Senator from Minnesota.

TECHNICAL CORRECTION—UP AMENDMENT 1885

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I may make a technical correction in the amendment just adopted to make the date read June 1, 1981.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1892

(Purpose: To exempt law enforcement activities of the Department of Justice from overall travel reduction)

Mr. DeCONCINI. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DeConcini) proposes an unprinted amendment numbered 1892:

On page 39, line 15, strike the period and insert: , nor to the Department of Justice for expenses necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, unless legislation containing a restriction or limitation on such expenses is enacted after the date of enactment of this Act which specifically refers to this section.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. DeCONCINI. I yield.

Mr. MAGNUSON. I hope the Senator will put his remarks in the Record and save some time. We are going to accept the amendment.

Mr. DeCONCINI. I rest my case.

Mr. METZENBAUM. Mr. President, could the Senator be good enough to tell us what the amendment is about, at least?

The PRESIDING OFFICER. May we have some semblance of order?

Mr. DeCONCINI. Mr. President, I think the Senator from Ohio has a point. This amendment would exempt the Department of Justice, for expenses necessary for the prosecution of cases, apprehension and retention of prisoners and deportation activities, from the $2 billion reduction on travel.

Mr. METZENBAUM. I thank the Senator.

Mr. DeCONCINI. Mr. President, I yield the floor only for this amendment, because I have another amendment we are going to take up.

Mr. MAGNUSON. Mr. President, I move the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP 1892) was agreed to.

Mr. DeCONCINI. I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1893

Mr. DeCONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DeConcini) for himself and Mr. Goldwater, proposes an unprinted amendment numbered 1893:

To unprinted amendment No. 1879 previously adopted after the words "new construction" insert the following:

"Arizona:

"San Luis, Border Station, $6,242,000".

And to strike the number "$100,178,700" found on line 5 and insert in lieu thereof "$106,420,700" and to strike the number "$7,000,000" found on the last line of paragraph (b) and insert in lieu thereof "$13,242,000".

Mr. DeCONCINI. Mr. President, the purpose of this amendment is to fund a project authorized by the Senate and of vital importance to the citizens of my State as well as to international commerce between this country and Mexico. It would modify Senator Moynihan's amendment to include $6,242,000 for the construction of a badly needed border station at the San Luis, Ariz., port of entry. This amendment has been cleared with Senator Moynihan and Senator Chiles, the distinguished chairman of the Treasury, Postal Service and General Government Subcommittee, as well as the ranking member on the other side of the aisle, (Mr. Schmitt). I, therefore, urge its adoption.

Mr. President, I want to state that it is an offset of like funds taken out of operating expenses. I believe it is acceptable.

Mr. MAGNUSON. Mr. President, for a delightful change, this is a money amendment.

Mr. DeCONCINI. That is right.

Mr. MAGNUSON. We have looked at the matter and have decided to accept it, Mr. President.

Mr. DeCONCINI. Mr. President, I thank the distinguished manager of the bill.

The PRESIDING OFFICER. The Chair advises the Senator from Arizona that it will take unanimous consent to consider the amendment, as it amends an amendment previously agreed to.

Mr. DeCONCINI. I thank the Chair, and I apologize.

Mr. President, I ask unanimous consent to further amend an amendment offered by Senator Moynihan and adopted earlier today by this body. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is in order. The question is on agreeing to the amendment.

The amendment (UP No. 1893) was to.

Mr. DeCONCINI. I move to reconsider the vote.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1894

(Purpose: To make certain technical amendments)

Mr. BELLMON. Mr. President, I have an amendment at the desk which I ask to have considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon) proposes an unprinted amendment numbered 1894:

On page 12, line 21, strike ", by subordination," and insert in lieu thereof "a subordination, by condemnation proceeding after Sept. 1, 1981, of".

Mr. BELLMON. Mr. President, I offer the amendment on behalf of myself and the distinguished Senator from Montana (Mr. Melcher). It has to do with giving the corps the right of subordination by condemnation proceedings in the Skiatook reservoir in Oklahoma, where $50 million has already been spent. It has been worked out throughout the day with the Corps of Engineers, people from the Department of the Interior, and representatives of the Committee on Indians.

I believe it is agreeable. But I believe the Senator from Montana would like to be recognized.

Mr. MELCHER. I thank the distinguished Senator from Oklahoma for his remarks and for working on the amendment which I think does improve the existing language and does permit additional time before it becomes effective to see whether negotiations between the corps and the tribe can become fruitful.

I think it has great merit in encouraging that negotiation to take place.

Mr. MAGNUSON. Mr. President, let us get the amendment adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1894) was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Without objection, the motion to reconsider was laid on the table.

UP AMENDMENT NO. 1895

(Purpose: Authority to carry out the Hostage Relief Act of 1980)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk on the Hostage Release Act.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. Hollings) proposes an unprinted amendment numbered 1895.

The amendment is as follows:

At the end of the joint resolution add the following new section:

Sec. . Notwithstanding any other provision of this Act, funds made available by this Act or any other Act shall be available for activities of any agency to carry out the Hostage Relief Act of 1980 (P.L. 96-449).

Mr. HOLLINGS. Mr. President, I have checked this with the distinguished chairman of the Appropriations Committee and the minority side. This has to do with the act we passed October 14, special benefits, not only education, medical, and otherwise, particularly activities on behalf of the State Department.

The various departments are very concerned that without this language, should we get a break in the crisis, they would not be able to expand.

So this language is necessary to be included in the continuing resolution.

The Hostage Relief Act of 1980 (Public Law 96–449) was enacted October 14, 1980 in view of the nationwide concern for the American hostages and the effects on their families. The bill provides medical and educational benefits, and other forms of relief.

Additional language is urgently necessary in the continuing resolution to permit the Government to provide these benefits both to the hostages and to their families during this period of national stress.

While the total new obligational authority is limited—estimated by CBO to be between $500,000 and $1,000,000 for fiscal year 1981—the absence of authority in the continuing resolution will place the Government in a most difficult position and would result in a failure to carry out a congressional mandate and our commitment to the American hostages.

I thank the distinguished chairman of the Appropriations Committee.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1895) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1896

Mr. SCHMITT. Mr. President, if I can have the attention of the distinguished Senator from Idaho and the distinguished senior Senator from New Mexico, we could engage in a small colloquy on an amendment that will take very little time.

Mr. President, this continuing resolution contains $45 million to be made available for the waste isolation pilot plant as authorized in S. 3074.

Funding for the WIPP program was first authorized in Public Law 94–187, enacted in 1976. As anyone who has been involved with this program can testify, the framework of this project has been highly complex and undergone considerable change in scope and concept since its inception.

Additionally, the State of New Mexico has worked with the Federal Government to insure that its siting, safety, and operation concerns are adequately addressed. A continual change in administration positions on the scope of WIPP, as well as congressional positions which differ from the administration's has, understandably, resulted in delay and confusion.

In an effort to work out problems on this project as expeditiously as possible, the New Mexico delegation along with State representatives worked hard last year to reach an agreement that met the legitimate concerns of the State, as well as our Nation's needs to move toward a positive defense waste policy.

The outcome of these negotiations resulted in permitting the State of New Mexico to be consulted and to cooperate in the development, construction and operation of the project, with respect to public health and safety concerns. This was accomplished by establishing a process for reaching a suitable agreement between the State and the Federal Government that would specify the procedures to be used in the consultation and cooperation process.

During the debate on this conference report the floor manager of the bill responded that "if for some reason agreement is not reached (between the State and the DOE) it will be necessary through the hearing process to determine why it was impossible to reach agreement and propose the necessary legislation to remedy the situation."

The negotiations between the State and the DOE has progressed reasonably well. Although the agreement was not worked out by September 30, 1980, both parties are working together to try to reach accommodation on the few unresolved issues. In fact on November 17, 1980, the Governor of New Mexico sent a letter to the Department of Energy which reads in part—"I am confident that a mutually satisfactory agreement can be completed in the very near future."

Both the State and the DOE have worked in good faith to try and reach an agreement and I hope that the floor manager will agree that this amendment adding $45 million to this bill is not an attempt to thwart these efforts.

I actually address that question to the distinguished Senator from Idaho, who offered the amendment.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. SCHMITT. I am happy to yield.

Mr. McCLURE. The Senator is correct. I did offer that amendment.

The amendment was not offered in any attempt to thwart the ongoing negotiations, and I think should be understood in the context which the Senator has outlined.

Mr. SCHMITT. I believe all parties recognize the unique circumstances surrounding the WIPP program and I believe this statement by the distinguished Senator from Idaho further recognizes that.

I hope the Congress will continue to act in a responsible manner by letting both parties continue their negotiations with the undertanding that no construction of the facility will begin until this agreement is reached or some other action forthcoming. Let me clarify and emphasize two points in relation to this statement. First, in this context, the term construction, it has been agreed, excludes site characterization and design activities and the exploratory shaft work.

That is, under the R. & D. site characterization and design activities currently underway, some exploratory shaft work will be conducted, but is not considered to be construction.

Mr. McCLURE. The Senator is correct.

Mr. SCHMITT. Second, the State has shown no evidence of not acting in good faith to attempt to work out their concerns relative to this project and under the umbrella previously agreed to by the conference.

Mr. McCLURE. That is the understanding of the Senator from Idaho.

Mr. SCHMITT. In light of this, it is my understanding that this additional funding will be in line with previous commitments, is that correct?

Mr. McCLURE. The Senator is correct.

Mr. SCHMITT. And further that the money will be spent according to the breakdown we were given by the Department of Energy?

Mr. McCLURE. I have looked at that breakdown and it is the same one given me as I was developing the dollar amount for the amendment I offered in committee and which was adopted in the committee and fully considered.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the breakdown just referred to be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

ADDITIONAL FISCAL YEAR 1981 FUNDING FOR WASTE ISOLATION PILOT PLANT PROJECT[1]

Capital items	Additional funding (millions)	Summary description
1. Site and preliminary design validation (SPDV)	$11	Exploratory shaft drilling to repository level; place mining contract for room excavation; temporary utility services; long-lead procurement for SPDV mining-related items.
2. Site protection	12	Provides funds for lease condemnation court settlements (superior oil).
3. Architect-engineering (Bechtol)	5	Title II design (title I design complete).
4. Technical support (Westinghouse)	2	Design review; quality assurance; safety analysis and documentation; environmental review and analysis.
5. Long-lead procurement	15	Placement of competitive contracts for site improvements, utility services, and other equipment related to research facility and SPDV requirements which will be compatible with potential full WIPP.
Total	45	

[1] Sandia receives expense funding separately for technical support of this project.

Mr. SCHMITT. Mr. President, finally, it is my understanding that none of these funds will be used for direct construction, is that the understanding of the Senator from Idaho?

Mr. McCLURE. The Senator from New Mexico is correct.

With the term "construction," as defined, as the Senator has previously defined that term, the Senator is correct.

Mr. SCHMITT. Mr. President, I yield to the senior Senator from New Mexico.

Mr. DOMENICI. I thank my good friend.

Mr. President, I say first to Senator SCHMITT and my good friend from Idaho (Mr. MCCLURE), that I think New Mexico will appreciate the remarks of its Senator and the other Senator's understanding of the efforts to this point.

Since we have agreed in this colloquy as to what the $45 million will be used for, I will send an amendment to the desk on behalf of Senator SCHMITT and myself.

This amendment, while it is being transmitted to the desk, I will say to my friends on the floor, merely puts into the statute precisely what the Senator said with reference to what the money will be used for.

Mr. President, I ask that the amendment be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and Mr. SCHMITT, proposes an unprinted amendment numbered 1896.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

The amendment is as follows:

On page 11, on line 15, after "1981" insert the following: ", except that of this amount $45,000,000 shall be available for the Waste Isolation Pilot Plant, Delaware Basin, Southeast New Mexico (Project 77-13-f) of which $11,000,000 shall be expended for Site and Preliminary Design Validation, $12,000,000 for Site Protection, $5,000,000 for Architect-Engineering Studies, $2,000,000 for Technical Support, and $15,000,000 for Long-lead Procurement"

Mr. DOMENICI. Mr. President, the amendment we offer today is intended to clarify an amendment which was made in the Senate Appropriations Committee. That committee amendment added $45 million to the funds for atomic energy defense activities in order to provide further funds in fiscal year 1981 for the waste isolation pilot project (WIPP) in southeast New Mexico. The amendment we are offering today will clarify this addition. It lays out just how this $45 million will be spent. I will add a further description of the five categories of spending for this project to the record in a moment, but first let me explain our concern about the committee amendment which prompts us to offer our amendment.

The State of New Mexico is presently negotiating a written agreement authorized under Public Law 96-164 for the purpose of delineating the State's role in all the aspects of the WIPP project. That agreement is close to being completed and appears to be a very useful document. My concern in offering this amendment is that it be clear that no funds for the full-construction phase of the project are being appropriated in this bill. It would be an unacceptable situation if New Mexico were to be placed in a position where it was negotiating as to how it would participate in the project when indeed the project construction had begun. The amendment we offer makes clear how the appropriated funds are being spent and that they are not, in fact, for the full-construction phase.

Mr. President, I ask Senator SCHMITT if he had printed in the RECORD the funding schedule, starting with site and preliminary design, and ending with long-lead procurement?

Mr. SCHMITT. Yes, that has been made a part of the RECORD.

Mr. DOMENICI. Mr. President, I move the adoption of the amendment.

Mr. MAGNUSON. Mr. President, may I ask the Senator what this amendment has to do with the continuing resolution?

Mr. DOMENICI. The continuing resolution has an item in it of $45 million for the waste isolation pilot project in our State. This amendment merely states how the $45 million will be used. In every respect it is germane, and it is precisely what the Department says they will use it for. That is why we put it in.

Mr. MAGNUSON. Why have an amendment, then?

Mr. DOMENICI. Because we have had trouble in the past, and our people in New Mexico——

Mr. MAGNUSON. You are not sure they are going to carry it out?

Mr. DOMENICI. We want to make sure they are.

Mr. MAGNUSON. All right, I agree.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS ACT OF 1934, AMENDMENT

Mr. INOUYE. Mr. President, I ask unanimous consent that House Joint Resolution 637 be temporarily set aside and that the Senate proceed to the immediate consideration of S. 3261, a bill to amend section 222 of the Communications Act of 1934.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3261) to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the first and second times.

Mr. INOUYE. Mr. President, this measure has been cleared on both sides, and I urge its passage.

For the past 37 years, Hawaii has been considered a foreign country so far as certain provisions in the Communications Act are concerned. It may interest Senators to know that for purposes of section 222 of that act Canada and Mexico are treated the same as Alaska and the mainland States, but Hawaii is not. This amendment corrects that discrimination. We feel that after 21 years of statehood, Hawaii deserves to be considered part of the United States.

Mr. President, this measure unanimously passed the Senate twice in the 95th Congress, but the House failed to act.

Section 222 was enacted in 1943, in the light of special circumstances then prevailing and 16 years before Hawaii was admitted to the Union. It is now 21 years since Hawaii became a State. Experience in these years has shown that the designation of Hawaii as an international point for the purposes of section 222 has frustrated the efforts of the Federal Communications Commission and private industry to afford Hawaii similar treatment as her sister States. This disparity has resulted generally in higher rates for interstate communications to and from Hawaii, and in fewer services and facilities.

Exclusion of Hawaii from the definition of "Continental United States" restricts the classes of carriers which are allowed to provide services to Hawaii. This amendment seeks to make available to Hawaii the same modern telecommunications facilities, services, and ratemaking principles which are now or will be enjoyed throughout the Continential United States. The amendment will accomplish this by including Hawaii within the definition of "Continental United States," thereby removing artificial constraints on the availability of telecommunication offerings, the entry of new carriers into the Hawaiian market and service integration into the mainland structure.

Mr. METZENBAUM. Mr. President, will the Senator from Hawaii yield for a question?

Mr. INOUYE. I yield.

Mr. METZENBAUM. There is another measure kicking around—I think it is S.6228——

Mr. INOUYE. This has nothing to do with that.

Mr. METZENBAUM. I thank the Senator from Hawaii.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. PACKWOOD. The amendment offered by the Senator from Hawaii is fine with me, speaking for the minority on the Commerce Committee, but I did not hear what transpired earlier. To what measure did the Senator offer this?

Mr. INOUYE. I asked to set aside the continuing resolution temporarily in order to take up this matter.

Mr. PACKWOOD. As a bill?

Mr. INOUYE. As a bill.

Mr. PACKWOOD. All right, I have no objection.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. GOLDWATER. Mr. President, as chairman of the Subcommittee on Communications, I point out that what the Senator from Hawaii is asking is already incorporated in language we have on the floor; and I hope we can expedite things by allowing the immediate passage of the measure suggested by the Senator from Hawaii. It is long overdue.

Mr. INOUYE. I thank the Senator.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 222(a)(10) of the Communications Act of 1934 (47 U.S.C. 222(a)(10)) is amended by striking out ", except Hawaii".

Sec. 2. Section 222 of the Communications Act of 1934 (47 U.S.C. 222), as amended, is further amended by adding at the end thereof the following new subsection:

"(g)(1) The authority of any carrier to provide any service or operate any facilities which it is authorized to provide or operate on the date of enactment of this subsection shall not be altered solely by the inclusion of Hawaii within the definition of 'Continental United States', nor shall such inclusion restrict or impair any carrier's eligibility after the date of enactment of this subsection for new or additional authority.

"(2) Whenever, upon a complaint or upon its own initiative, and after opportunity for a hearing, the Commission finds that any charge, classification, regulation, or practice relating to intercarrier arrangements of any carrier serving Hawaii is or will be unjust, unreasonable, discriminatory, or not in the public interest, the Commission shall determine and prescribe what charge, classification, regulation, or practice, or such other remedy as is or will be just, reasonable, nondiscriminatory and in the public interest to be thereafter followed.".

CONTINUING APPROPRIATIONS, 1981

The Senate continued with the consideration of House Joint Resolution 637.

Mr. RANDOLPH. Mr. President, I ask unanimous consent for consideration of an amendment offered by Senator Robert C. Byrd and me, which is at the desk.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Mr. DOMENICI. Mr. President, reserving the right to object——

Mr. CHAFEE. Mr. President——

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President——

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, it is my understanding that this amendment deals solely with adding three administrative law judges. Is it to handle black lung and longshoremen's problems?

The PRESIDING OFFICER. First, is there objection to setting aside the amendment of the Senator from New Mexico?

Mr. DOMENICI. Mr. President, reserving the right to object, I say to my good friend that we just set aside my amendment once, and I want to finish it, and I then will yield to the Senator.

Does the Senator from Ohio (Mr. Metzenbaum) still object to my amendment?

Mr. METZENBAUM. What I am trying to do is to work out an arrangement with the Senator from New Mexico.

I understood that they were sending for somebody to come to the Chamber. I ask the Senator from New Mexico if we can have a unanimous consent agreement to set aside the amendment temporarily and then come back to it.

Mr. DOMENICI. Mr. President, let me say to my good friend from Ohio I want to accommodate. He has told me about his situation, and it really is not like mine.

I ask that he not hold mine up. But if he insists I will withdraw it. It is not that important, and I will just not stay here and wait. So if he still wants to object—and does he?

Mr. METZENBAUM. I will object under those circumstances, but I am perfectly willing to accommodate my friend as soon as Senator Huddleston comes to the floor which I believe he has been sent for.

Mr. DOMENICI. I ask to set the Domenici amendment aside.

I will not object to the unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 1897

(Purpose: to establish an additional panel of three (3) members to serve on the Benefits Review Board of the Department of Labor)

Mr. RANDOLPH. Mr. President, I wish to know what is taking place.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. MAGNUSON. The pending order of business is Senator Randolph's amendment. Is that correct?

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Randolph) for himself and Mr. Robert C. Byrd proposes unprinted amendment numbered 1897:

H.J. Res. 637 is amended by inserting at the end thereof:

Sec. . Notwithstanding any other provision of this joint resolution the Secretary of Labor shall appoint three additional members to the Benefits Review Board of the Department of Labor to serve as a separate panel and employ such additional supporting staff as may be necessary. The additional members shall be compensated at the rate of compensation prescribed for the members of the Benefits Review Board serving on the date of enactment of this joint resolution.

For the purpose of carrying out this section there is appropriated $250,000.

Mr. RANDOLPH. Mr. President, I asked that the amendment be read so that we thoroughly understand its content.

I want Senator Chafee, who has an interest in matters in connection with the black lung laws, to know that this amendment deals solely with the Department of Labor's benefits review board. It provides for a necessary number of members to review decisions in cases of black lung claimants and longshoremen claimants. It is very important that this be done. It is in the interest of the orderly and expeditious handling of cases by the review board.

I am grateful for the able chairman of the Appropriations Committee and others who are in the Chamber now who recognize the necessity of this action.

Mr. CHAFEE. Mr. President, I wish to ask the Senator from West Virginia a question, if I may.

Mr. RANDOLPH. Yes.

Mr. CHAFEE. My question is this: I understand that this legislation solely deals with these three administrators as it were within the Department of Labor and has nothing to do whatsoever with nor will anything be added to this that deals with changing the law as it pertains to those claimants from 1970 to 1973 which have been discussed previously. Am I correct in that understanding?

Mr. RANDOLPH. Mr. President, the knowledgeable Senator from Rhode Island is correct. This is not amendment number 2909. That measure may well be raised at a later time.

Mr. CHAFEE. I thank the Senator.

I have no objection.

Mr. RANDOLPH. Mr. President, the Benefits Review Board of the Department of Labor is charged with review of administrative law judges' decisions under the Black Lung Act and the Longshoremen and Harbor Workers Act. For the past few years the BRB has rendered sound yet expeditious decisions. In the area of black lung cases this has been most important because of the inordinately long delays at lower levels in processing the claims of individuals who are, for the most part, of advanced years. For these men and women it can truly be said that "justice delayed is justice denied."

Similarly, in cases where a claimant has been placed into "interim pay" from the Black Lung Disability Trust Fund following an initial determination of eligibility by the Department of Labor, it is similarly important that a responsible operator be able to fully adjudicate a case as expeditiously as possible.

Over the past 2 years the Department of Labor has made a concerned effort to eliminate the backlog of cases which resulted from passage of the Black Lung Benefits Reform Act of 1977. These cases will now be moving through the adjudicatory process to the Benefits Review Board. Between fiscal years 1977 and 1979, the total numbers of new appeals each year to the Benefits Review Board ranged between 700 to 800. In fiscal year 1980 appeals rose 65 percent to 1,200 and are projected to rise 411 percent over fiscal year 1979 to 3,200 in fiscal year 1981.

I strongly encourage your acceptance of this amendment to direct the Department of Labor to appoint three additional members to the Benefits Review Board and to assign support staff to each until the huge influx of cases has passed. These temporary positions would only require an additional appropriation of approximately $250,000 for fiscal year 1981. When the increased caseload has passed the positions can be eliminated.

This level of funding will assure that each new member will be assisted in his work by a counsel and necessary support staff for the remainder of this fiscal year. It is anticipated that the Department of Labor will maintain these positions until such time that the caseload of the Benefits Revised Board returns to its 1977–79 levels.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1897) was agreed to.

Mr. **RANDOLPH.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **MAGNUSON.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER.** The question now recurs on the amendment of the Senator from New Mexico.

The Senator from South Dakota is recognized.

Mr. **McGOVERN.** Mr. President, in view of the colloquy here a while ago I ask unanimous consent that we set aside momentarily the amendment of the Senator from New Mexico.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

THE CENTRAL ARIZONA PROJECT

Mr. **McGOVERN.** Mr. President, I raise a point of order against a committee amendment that was added to the bill that is contained in section 1(e)2, and I raise this point of order on the grounds that it is clearly positive legislation on an appropriation bill. It restricts other appropriation authority. It presents the Secretary of the Interior from implementing allocation of water under the central Arizona project that the Secretary has the authority to allocate, and I think that the point of order makes clear that this particular committee amendment violates the rule XVI and therefore is out of order on this particular bill.

I might just say, by way of information to the Senate, Mr. President, that what is involved here is an effort to delay for 60 days until February 1 an allocation of water that the Secretary of Interior has breached after more than 3 years of investigation and research and negotiation with both Indians and non-Indians and perhaps the best summary of the issue is Secretary Andrus' letter to the chairman of the House Committee on Appropriations dated December 5.

I wish to read three or four sentences.

Mr. **DeCONCINI.** Mr. President, will the Senator yield for a question?

Mr. **McGOVERN.** I yield.

Mr. **DeCONCINI.** Is the Senator raising a point of order?

Mr. **McGOVERN.** I will raise a point of order momentarily, I say to the Senator.

Mr. **DeCONCINI.** I thank the Senator.

Mr. **McGOVERN.** Mr. President, the Secretary states:

> I oppose the restrictions on implementing the CAP allocations because delay now in implementing my allocation decision risks a complete reopening of the allocation issue, more years of litigation and delay, and potential rapid escalation in the project construction cost which is already estimated to be $2.2 billion. The allocations I have made will enable Indian users to share CAP water with non-Indian municipal and industrial users on an equitable and stable basis during good years as well as during periods of water shortage. The allocations I have made resulted from an open process including three years of study, public consultation and careful deliberation. I believe they right serious previous wrongs by allocating water to seven reservations that can beneficially use the water but did not previously receive an allocation and by better protecting Indian interests in water during water short years. This latter aspect is critical to the beneficial use of the water since the Indian Reservations involved have remained largely undeveloped due to a lack of adequate reliable water supplies.

In any event, Mr. President, I have discussed this matter with the two Senators from Arizona, both of whom are cherished personal friends of mine. I know they feel differently about this matter than I do. But on the merits I think the Secretary of the Interior was discharging his obligations conscientiously, fairly, and justly in trying to arrive at an allocation that was fair not only to the Indians but the non-Indians, the municipal and industrial users as well.

This is a process that has been arrived at after the most careful deliberation and if this particular provision of this amendment were allowed to stand in the bill it could set the stage for re-opening another long process of litigation and delay, possible court action that could cost the government a great many thousands of dollars before we are through and, as the Secretary has said, during this inflationary time any further delay only means a greater cost in the ultimate completion of the central Arizona water project which is already a very expensive project.

So under these circumstances, Mr. President, I make a point of order that section 182 is in violation of Senate Rule XVI and therefore is out of order and does not belong in this bill.

Mr. **DeCONCINI.** Mr. President, I wonder if the Senator will withhold the point of order so we may discuss it a short period of time.

Mr. **McGOVERN.** I hold it.

Mr. **DeCONCINI.** Mr. President, we are faced with the severe problem in Arizona, as those of our colleagues who have visited our State realize, of the immense growth and dependence on water. I could go into the history of the central Arizona project but my senior colleague here was one of the gentlemen who initiated this project and I will defer to him, and, of course, the venerable Carl Hayden sought this all through his career.

This project is to help everyone in Arizona, and actually many people outside of Arizona, not only those who will come and live in Arizona but the productivity from reclamation projects which have been put in the record before and how successful they have been.

The problem we face here, Mr. President, is simply this: The present Secretary and the present administration, after attempts to consult with the Governor of the State of Arizona, could not reach an agreement on the allocations, and they came very close. The Governor has stated, and I support the Governor's position, that he has no quarrel with the quantity of those allocations. That means, Mr. President, he has no quarrel with the actual acre-feet of water that would be contracted with the various Indian tribes.

No one likes to divide water because when you divide water, someone is unhappy. In 1976, Secretary Kleppe divided the water, and on one was very happy.

This proposed division that the present Secretary is making continues the Kleppe allocations, and adds about 51,000 or 52,000 acre-feet of additional water to the Indians.

I think it could be questioned and debated whether or not that is fair to the industrial users, to the non-Indian farm, agricultural users, but that is not the point here.

The point is what happens when there is a shortfall of water? What happens when the Colorado River cannot deliver the water that Arizona is entitled to by court decision, and the CAP, by Public Law 94–37, has under consideration right now? The problem is this: Is it in the best interests of Arizona to have an equitable division of that short water? Now, the agricultural interests, non-Indian agricultural interests, have already reluctantly accepted that they will take the burden of the shortfall first. In other words, Mr. President, when there is a shortfall the non-Indian agricultural water will be eliminated first.

Next are the industrial uses, M. & I. uses, they are referred to, municipal and industrial use; and then the Indian allocation of water.

These two important areas of our State, it seems to me, ought to stand on equal grounds, and there should be a proportionate share of reduction from each of these particular facets.

This particular order of projected order that the Secretary is about to enter into negates the idea of being fair, fair to Indian users, and fair to municipal and industrial users.

What the amendment that is in the bill, that the committee has approved, it was approved unanimously, I might add, with no objection at the full committee meeting, says only is that the funds will not be used to implement the Secretary of the Interior's allocations before February 1981.

Mr. President, as we all know, that is

not very far away. This is not a stall to see that the allocations do not occur; it is not an effort to take anyone's water. It is an effort to let a new Secretary, who is going to be in for at least 4 years and, perhaps, longer, have an opportunity to work with the people of Arizona.

What is more fair for this body to agree to than for a new Secretary to have an opportunity to work with my colleague, the senior Senator from Arizona, with the Governor of Arizona, with other members of the delegation to resolve the water allocation problem?

I would earnestly hope that the Senator from South Dakota, well-intended as he is here, might withdraw his point of order.

I can make a number of arguments, and will be glad to do so, on legislation on appropriation bills. This is not something that is unknown. I cannot cite to you right now, but I would not be surprised to find that the good Senator from South Dakota might on occasion over his long and distinguished career in this body had done some legislating on appropriation bills.

This is fair for Arizona. We are not asking anyone in this country to bear a burden here. We are only asking for the new administration, the new Secretary, to have an opportunity to make these allocations and to put off this order prior to, not to be done before, April 1, 1981.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. DeCONCINI. I yield.

Mr. GOLDWATER. Mr. President, I join with my colleague in begging Senator McGovern not to raise this issue. I discussed this same issue with the Parliamentarian quite some time ago, and he informed me that if it were worded in the way it is worded now it would be consistent with the germaneness we have been witnessing here, as recognized by the Chair in practically every amendment that has been offered.

I will say this is probably more germane than how many digits we are going to add to the address in the Post Office bill. So I do not believe that the Chair can hold that it is nongermane.

As a member of the very first Interstate Streams Commission Arizona ever had I practically lived with the birth of the central Arizona project, although I have to admit it was started back in 1924 under Herbert Hoover with the first of the basin acts, acted on in Albuquerque, and which we in Arizona did not join, and did not join until 1944.

But I can recall, for the information of my friend, the very first act we performed as the Interstate Streams Commission was to recognize the rights of every Indian tribe living on a tributary of the Colorado, and they numbered 28. One of these tribes that Secretary Andrus wants to give water to we have already allocated water to, yet they do not live on a tributary of the Colorado. So we have been overly generous in this respect.

I might point out one other thing. The Senator has referred to this as a reclamation project. It was. But by the time we get a drop of water out of the Colorado River into central Arizona it is going to be for human consumption, and probably human consumption only. There is not enough water left in that river to provide the reclamation needs that we once needed in Arizona.

As my colleague said, we are growing so fast—the second fastest growing State in the Nation, the second fastest growing industrial State—that we have to have this water now for purposes other than reclamation.

I might add that every reclamation project Arizona has ever had funded by the Federal Government has been paid back.

I will also go a step further for those who doubt the wisdom of reclamation projects. The Salt River project, that was once for the Salt River Valley users, where I live, we have not only paid back all the Federal funds but all the private funds, and out of that piece of land, reclamation land, came $404 million in income taxes last year. So reclamation in my part of the West is not a failure. It is a tremendous success.

I think if the Senator insists on questioning the germaneness of this, and if the Chair rules that it is nongermane, and if we are not able, my colleague and I, to convince our colleagues that it is germane and should be acted on, we are not going to achieve what the Senator thinks we will achieve. We are going to achieve utter chaos.

I attended a couple of those hearings held in Phoenix by Secretary Andrus, and I would not have called them fair under any circumstances. They do not represent what the people of Arizona want. They do not even represent what the Indians want.

So I hope that my friend, Senator McGovern, with whom I have had very little to argue about in the past, would not start something now that we might continue over to our morning broadcast. I hope he will withdraw this request.

Mr. McGOVERN addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ROBERT C. BYRD. Mr. President, may I ask the Senator could we get a time-limitation agreement?

Mr. McGOVERN. I am about to make a point of order.

With all due respect to the two Senators from Arizona, I want to make it clear that I fully support the central Arizona project. I voted for it originally, I still support it, and I am fully committed to water development in the West. I come from a Western State and I understand the importance of water development.

The questions of water development also raise the related issues of allocation of water. To whatever extent water is in short supply it is all the more important that it be allocated to the various interests in an orderly way, in an equitable fashion.

I simply do not buy the line that after more than 3 years of study, investigation, and hearings on this matter by the present Secretary of the Interior and his staff, and the duly reached decision on their part, that there is any greater wisdom that is going to reside in the next administration.

All this amendment in the bill does is to defer this judgment one more time to the next administration. So apparently we will go through another two or three or God only knows how many years of litigation and consideration of this matter.

I think it has been equitably resolved by the Secretary of the Interior. But in any event what I am challenging here now is a procedure that I think clearly is in violation of Senate rules, and I make the point of order that the committee amendment, which is contained in section 182, is out of order and should be ruled out of the bill.

The PRESIDING OFFICER. A point of order has been made.

The amendment does contain legislation. The point of order is well taken and the amendment falls.

Mr. DeCONCINI. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair, as advised by the Parliamentarian, stand as the judgment of the Senate?

Mr. ROBERT C. BYRD. Vote.

The PRESIDING OFFICER. All those in favor of the Chair's ruling, say "aye."

Opposed?

The Chair is in doubt.

Mr. McGOVERN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, could we get a time limit on the rollcall votes for the rest of the day?

Mr. STEVENS. Mr. President, on this one we could get 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that rollcall votes be limited to 10 minutes.

Mr. DOMENICI. Mr. President, reserving the right to object, I ask Senator Metzenbaum if he still objects to my amendment?

Mr. METZENBAUM. I will not object.

UP AMENDMENT NO. 1896

Mr. DOMENICI. Mr. President, reserving the right to object, I wonder if the proponent of the appeal would object to setting aside his vote so that my amendment can be adopted? I had set my amendment aside to permit the Senator to proceed. It would not take but a few seconds. Does the Senator have any objection to that?

Mr. McGOVERN. Mr. President, what was the request?

Mr. DOMENICI. The pending amendment is a Domenici amendment that is now uncontested. We had set it aside by unanimous consent to take up the Senator's amendment. I merely was inquiring whether or not the Senator would agree that we could dispose of my amendment before a rollcall vote on his.

Mr. McGOVERN. There is no dispute on the Senator's amendment?

Mr. DOMENICI. No.

Mr. DeCONCINI. Will there be a rollcall vote?

Mr. DOMENICI. There will be no rollcall vote.

Mr. DeCONCINI. I have no objection.

Mr. McGOVERN. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico (Mr. Domenici).

The amendment (UP No. 1896) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CENTRAL ARIZONA PROJECT

Mr. ROBERT C. BYRD. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection to a 10-minute rollcall?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Alabama (Mr. Heflin), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Georgia (Mr. Talmadge), the Senator from New Jersey (Mr. Bradley), the Senator from Mississippi (Mr. Stennis), the Senator from Montana (Mr. Melcher), and the Senator from Washington (Mr. Jackson) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Hatfield), the Senator from Pennsylvania (Mr. Heinz), the Senator from Kansas (Mrs. Kassebaum), the Senator from Maryland (Mr. Mathias), the Senator from Illinois (Mr. Percy), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 25, nays 57, as follows:

[Rollcall Vote No. 533 Leg.]

YEAS—25

Biden
Bumpers
Burdick
Byrd, Robert C.
Chiles
Church
Cranston
Culver
Glenn
Hart
Huddleston
Leahy
Levin
Matsunaga
McGovern
Metzenbaum
Mitchell
Nelson
Proxmire
Randolph
Riegle
Sarbanes
Stewart
Tsongas
Williams

NAYS—57

Armstrong
Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Byrd, Harry F., Jr.
Cannon
Chafee
Cochran
Cohen
Danforth
DeConcini
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Helms
Hollings
Humphrey
Inouye
Javits
Jepsen
Laxalt
Long
Lugar
Magnuson
McClure
Morgan
Moynihan
Nunn
Packwood
Pell
Pressler
Pryor
Ribicoff
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stone
Thurmond
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—18

Bayh
Bradley
Dole
Durkin
Gravel
Hatfield
Heflin
Heinz
Jackson
Johnston
Kassebaum
Kennedy
Mathias
Melcher
Percy
Stennis
Talmadge
Tower

So, the ruling of the Chair was not sustained as the judgment of the Senate.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I wonder if we can get an agreement on time for some amendments. It is the intention of the leadership to complete action on this measure tonight, regardless of how late it may be. I hope Senators will not keep the Senate in too late.

It is necessary that action be completed on this measure today before the Senate goes out for the year.

TIME LIMITATION AGREEMENTS

Mr. President, I ask unanimous consent that on three amendments by Mr. Moynihan—this request has been cleared with him—there be the following time limitations: 30 minutes to be equally divided on the CETA amendment.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I advise the majority leader that I have a list here that he gave me earlier. That item is cleared on this side. We have no objection to that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment by Mr. Moynihan on Thor Power, there be a time limitation of 30 minutes to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I do not wish to rise in opposition, but I think the Senator from Wisconsin had indicated earlier that he wished to be protected on this particular amendment. For that reason, I want to reserve his right to object. I ask that that be put aside until he comes to the floor.

Mr. BAKER. Reserving the right to object, not in relation to this matter, may I inquire of the majority leader if we may understand that on this rather extensive list of amendments we are going to try to do, we alternate on sides so we do not do all of one list, then start on another, but interlace with each other?

Mr. ROBERT C. BYRD. That is perfectly all right with me.

Mr. BAKER. We can have that informal understanding if that is agreeable with the majority leader.

Mr. METZENBAUM. Mr. President, I have no problem. Just on this particular amendment, I reserve my right to object. Although I shall not, I believe the Senator from Wisconsin wishes to be protected.

Mr. ROBERT C. BYRD. For the moment, I withdraw my request on that amendment.

Mr. President, I ask unanimous consent that on an amendment by Mr. Moynihan on Lake Placid, there be a 10-minute limitation, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the Levin amendment, there be a 20-minute time limitation equally divided in the usual form. That is on SBA loans.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on an amendment by Mr. Eagleton, a technical amendment, I suggest 10 minutes equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, Mr. Metzenbaum has an amendment. Would he be interested in entering into a time agreement?

Mr. METZENBAUM. I shall.

Mr. ROBERT C. BYRD. Will the Senator make a suggestion?

Mr. METZENBAUM. Ten minutes. It has to do with an Akron waste plant.

Mr. ROBERT C. BYRD. Does it involve money for such a facility?

Mr. METZENBAUM. It involves the allocation of moneys already heretofore appropriated and authorizes them to be used in order to keep the facility—which is a garbage disposal plant, turning garbage into energy—operating. There may be opposition.

Mr. BAKER. Reserving the right to object, I am reluctant to do this, but I am told we have not cleared a time limitation on that item. I hope the majority leader will withhold his request.

Mr. ROBERT C. BYRD. I shall hold back the request.

Mr. President, three amendments by Mr. Stevens: One dealing with Union Station, on which there will be a 10-minute time limitation to be equally divided.

The PRESIDING OFFICER (Mr. Levin). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. One which deals with the Merit Protection Board, 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. One deals with Senate funds—I withhold that.

One amendment by Mr. McClure and Mr. Packwood; subject is IRS ruling on religious schools.

Mr. METZENBAUM. Mr. President, I would have objection to a time limitation on that one.

Mr. ROBERT C. BYRD. One amendment by Mr. Hatfield dealing with the Siletz Indians—I do not know whether it cedes half the State or three-fourths. Ten minutes equally divided.

Mr. METZENBAUM. Is it an Indian matter?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. Armstrong, two amendments, one-half hour each. One deals with family rental, the other with COWPS. One-half hour, to be equally divided in accordance with the usual form on family rental. On the one dealing with COWPS, 30 minutes equally divided.

Mr. METZENBAUM. Reserving my right to object.

Mr. CHILES. Mr. President, I know about the COWPS amendment. I think that can be handled in a lot less than 30 minutes. I think we can handle that amendment in 15 minutes—5 minutes to a side.

Mr. ARMSTRONG. Mr. President, I agree with the Senator from Florida. If this time agreement was granted, I would endeavor to use only a small fraction of it. But since it is uncertain what other speakers want to do, I requested 30 minutes equally divided.

Mr. CHILES. We can do that in about 20 minutes.

Mr. ARMSTRONG. Twenty minutes will be fine.

Mr. ROBERT C. BYRD. Twenty minutes equally divided on the COWPS amendment.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object, will the Senator from Colorado tell us what this family rental amendment is?

The PRESIDING OFFICER. Is there objection to the COWPS amendment and the ones before that? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. On the family rental amendment——

Mr. METZENBAUM. I object.

Mr. ROBERT C. BYRD. Mr. President, Mr. Wallop has an amendment on grazing lands 20 minutes equally divided in accordance with the usual form. That deals with grazing lands.

Mr. METZENBAUM. Does it have to do something with the tax treatment of grazing lands?

Mr. WALLOP. Mr. President, let me assure the Senator it does not. If the majority leader will yield to me, I have talked with majority and minority staff on it. They are willing to permit that to go by voice vote. I think we can cut the 20 minutes down to, say, 8 minutes.

Mr. METZENBAUM. Will my friend be good enough to explain if it has to do with the tax limitation on grazing?

Mr. WALLOP. No, Mr. President, it has nothing to do with that.

Mr. ROBERT C. BYRD. Ten minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, an amendment by Mr. Boschwitz on family farm estate tax, 30 minutes equally divided.

Mr. METZENBAUM. I have no objection. It is my understanding that Treasury does not object to that.

Mr. ROBERT C. BYRD. I change it to 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the minority leader and all Senators.

Mr. MORGAN. Mr. President, I ask unanimous consent that I may yield to the Senator from Delaware (Mr. Roth) for a minute without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Will the Senator from Delaware withhold for a moment until we can hear him?

The Senate will be in order.

OPPOSITION TO ANY ATTEMPT BY THE SOVIET UNION TO INVADE POLAND—SENATE RESOLUTION 562

Mr. ROTH. Mr. President, I rise to submit a resolution for the consideration of the Senate which supports a strong and unequivocal stand by the United States and its allies against the threat of a Soviet-led invasion of Poland by Warsaw Pact forces.

As cosponsors, I am joined by the Senator from Georgia (Mr. Nunn), the Senator from New Mexico (Mr. Domenici), the Senator from Ohio (Mr. Glenn), the Senator from Florida (Mr. Chiles), the Senator from Virginia (Mr. Warner), the Senator from Indiana (Mr. Lugar), and the Senator from West Virginia (Mr. Randolph).

I understand that the resolution will be referred to the Foreign Relations Committee which is scheduled to meet tomorrow morning. I strongly urge the committee and the Senate to act quickly on this important resolution.

I would remind my colleagues that it was just a year ago during the Christmas recess that the Soviet Union invaded and brutally occupied Afghanistan. Let the Senate this year join with the President in sending a clear, bipartisan signal to the Soviet Union that a similar invasion of Poland will come only at a very high cost to the full range of its relations with the free world.

Mr. NUNN. Mr. President, I am pleased to join Senator Roth and my other colleagues in this bipartisan expression of grave concern over the situation with respect to Poland.

In addition, I believe it is important for the Senate as a body to indicate our support for the President in his efforts to convey to the Soviets the firm opposition of the United States to any violation of the territorial integrity of Poland.

Mr. President, this resolution is an opportunity for Members of the Senate to recognize the positive changes underway in Poland and to indicate our support for Presidential initiatives to diminish the possibility of a Soviet invasion.

Mr. President, I talked with the chairman of the committee (Mr. Church). It will, I hope, be considered tomorrow morning in the Foreign Relations Committee. I am hopeful we will be able to pass it sometime tomorrow after the committee considers it.

I urge my colleagues to look at it and determine whether or not they want t cosponsor it.

CONTINUING APPROPRIATIONS, 1981

Mr. ROBERT C. BYRD. If the Senator will yield to me for one other request, Mr. President, I ask unanimous consent that the time on all of the remaining rollcall votes today be limited to 10 minutes each, with the warning bell to sound after the first 2½ minutes.

Mr. President, do I hear an objection?

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I must object.

Mr. PACKWOOD. I object.

UP AMENDMENT NO. 1898

(Purpose: To provide funds for the relief of Swain County, North Carolina)

Mr. MORGAN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Morgan) proposes an unprinted amendment numbered 1898.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert tho following:

Sec. . (a) In addition to any sums appropriated in this joint resolution or any appropriation Act, there is hereby appropriated $9,500,000 to be paid by the Secretary of the Treasury to Swain County, North Carolina in order to fully resolve the agreement (commonly known as the 1943 Agreement) between the Department of the Interior, the Tennessee Valley Authority, the State of North Carolina, and the County of Swain, North Carolina, which provided that the Department of the Interior would construct a road along the North Shore of the Fontana Lake to replace the road flooded by the construction of a reservoir, but was never completed.

(b) Such amount shall be paid only if Swain County agrees that the cash settlement will be deposited in an account in accordance with all rules and regulations established by the North Carolina Local Government Commission, and that all principal of such cash settlement will only be expended by Swain County if such expenditure is approved in a resolution approved by an affirmative vote of two-thirds of the registered voters of the County, while interest earned on the cash settlement may be expended by a majority vote of the County's commissioners.

(c) Swain County, North Carolina, is relieved of any liability to make payments of principal and interest which become due after the date of enactment of this Act with respect to the loan (case number 388700027-1600, code number 9704) obtained on October 12, 1976, from the Farmers Home Administration.

(d) The payment and relief of liability provided under subsections (a), (b), and (c) shall constitute full settlement of all claims against the United States Government by Swain County arising from the failure of the United States Government to complete construction of the road along the northern shore of the Fontana Lake in the Great Smoky Mountains National Park.

Mr. MORGAN. Mr. President, I might say facetiously that this afternoon, in trying to get this amendment up and experiencing what has been going on, has substantially diminished my disappointment in losing the election.

But, Mr. President, if we were in court, this matter I bring up would be called an old dog. It has been around for 37 years.

The reason I offer it is because I think it is important and I believe everybody will agree we should try to conclude it.

I do not know whether it has been cleared, or not. I had the impression that maybe we will get it cleared. I have talked to people. But I will try to state what it is in 1 minute.

Thirty-seven years ago, when the Tennessee Valley Authority and the National Park Service was taking land for the Fontana Dam, they took 44,000 acres of a very small county that is on the Tennessee border called Swain County.

In taking that land, they also flooded a road that went along that, in that section. It took the biggest share of taxable property in the county.

There was an agreement entered into with the Department of the Interior, a very legal agreement, a very legalistic agreement, whereby the Department of the Interior and the Federal Government agreed to build a road along the north shore, because they were taking this property and were flooding a road that was already there, and because there would be less taxable property.

For 37 years, it has been a very controversial matter. In all of that period of time they have only built 9 miles of road, and the State built 2 more miles to connect the outside of the parkway.

Since that time, the environmentalists have gotten involved and there is a great dispute over whether or not the road should be built.

I, frankly, think it would damage the park to build it. But on the other hand, we have left a very small area in a very poor county, with almost no taxable base.

Even back in the fifties, when the distinguished Senator from Alaska was with the Department of Interior, I believe chief counsel, he was trying to work it out. Years later, when I was attorney general, I sat down with the Secretary of the Department of the Interior and we almost had it worked out. I believe there was a change in the department.

But to make a long story short, the Department of the Interior, the commissioners, the public officials of Swain County, and the State of North Carolina, last week signed off on an agreement whereby they would settle the entire matter that has been pending for 37 years by the Federal Government paying the county $9.5 million, which could not be used by the authorities of that county except for school purposes, and only then by a vote of two-thirds of the people, and it includes the forgiveness of $3.5 million farmers home debt.

That, essentially, is what it is. But it concludes 37 years of dispute and controversy.

More importantly, it helps one of the poorest areas of my State. I think, probably, it has the lowest per capita income because people cannot get into it or get out of it, and the environmentalists do not want the road built.

So if we want to make a lot of people happy, including environmentalists, the local people, the Governor, the Department of the Interior, I think we could do it by adding this to it.

Mr. President, I ask unanimous consent to have printed in the Record a copy of a letter from the Governor of North Carolina to me dated December 9, 1980; a copy of a letter from the Secretary of the Department of the Interior, Mr. Andrus, dated December 9, 1980; and a copy of a letter I addressed to Senator Robert C. Byrd on December 8, 1980, which I think more clearly and succinctly explains the problem than I have been able to explain it.

There being no objection, the material was ordered to be printed in the Record, as follows:

State of North Carolina,
Office of the Governor,
Raleigh, N.C., December 1980.
Hon. Rorert B. Morgan,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

Dear Robert: This is to thank you for your efforts to secure Senate approval of the settlement to the long-standing dispute between the federal government and Swain County, North Carolina.

As you know, Interior Secretary Cecil Andrus has signed an agreement and approved legislation introduced by Congressman Gudger (HR 8419) under which the federal government would say Swain County $9.5 million to compensate for its failure to build a road along the north shore of Fontana Reservoir linking Bryson City to Fontana. The Department had agreed in 1943 to build the road to replace one that had been flooded by construction of upper Fontana Reservoir.

Since the 1960's, Swain County officials have been working with the National Park Service, Tennesee Valley Authority, the State of North Carolina, and private citizens to reach a settlement on the 1943 agreement. The actions of the Interior Department under Secretary Andrus have greatly expedited the resolution of this complicated problem and all parties are now most anxious to secure the necessary legislation finalizing this situation at the earliest possible date. Among the items that have been agreed upon are: 1) payment of $9.5 million to compensate for the failure to build the road, 2) elimination of a debt of $3 million owed by Swain County to Farmers Home Administration, and 3) agreement on a series of improvements in the county which will be financed by the Department of Interior but will not require legislation.

After 30 years of negotiation, it seems that we have this final resolution within reach. I cannot urge you too strongly to do everything within your power to secure the passage of this legislation during the closing days of the 96th Congress.

My warmest personal regards.

Sincerely,

James B. Hunt, Jr.,
Governor.

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., December 9, 1980.
Hon. Robert B. Morgan,
U.S. Senate,
Washington, D.C.

Dear Senator Morgan: In an effort to resolve the longstanding issue of constructing a road along the North Shore of Fontana Reservoir in Great Smoky Mountains National Park as agreed to in 1943 by the State of North Carolina, Swain County, the Department of the Interior, the National Park Service and the Tennessee Valley Authority, I appointed a task force to make recommendations to me to settle the problem. Among other things, the task force recommended legislation for a cash settlement to Swain County based upon a fair and equitable formula to reimburse the county for the road which was never completed and for funds they had to repay to retire a bonded indebtedness for an existing road which was flooded out by Fontana Reservoir.

The formula for this proposed cash settlement is based upon the dollar value of the road that existed in 1940 and which was later flooded by construction of the reservoir. The value of the road in 1940 was used as a base and was compounded at an annual rate of 5 percent from then to the present date.

It is our feeling that the $9.5 million arrived at under this formula would be a fair and equitable cash settlement to Swain County.

Since this position has not been cleared by the Office of Management and Budget, you will understand, I am sure, that we can make no commitment at this time concerning the position of the Administration on this matter.

Sincerely,

Cecil D. Andrus,
Secretary.

U.S. Senate,
Committee on Armed Services,
Washington, D.C., December 8, 1980.
Hon. Robert C. Byrd,
U.S. Senate,
Washington, D.C.

Dear Robert: Nearly 40 years ago, Swain County, North Carolina entered into a contract with the Department of Interior under which the Department agreed to build a road across the county and connect it to Tennessee. In exchange, 44,000 acres of land, over half of Swain County's taxable land base, was given to the Federal government for the Great Smoky Mountain National Park.

Unfortunately, the Interior Department never fulfilled its commitment to the people of Swain County and repeated efforts to resolve this problem have failed.

Finally, on November 28 of this year, the Interior Department, the State of North Carolina, and Swain County officials reached an agreement acceptable to all parties.

Two parts of this agreement require Congressional approval. First, Swain County is to receive $9.5 million in cash. Secondly, the county is to be forgiven a debt of about $3 million which it owes the Farmers Home Administration.

For the first time since 1943, we have an agreement that is strongly supported by all parties involved in the controversy. I strongly feel that it should be implemented as rapidly as possible. Failure to do so could only serve to prolong the dispute, particularly as new officials in the Department of Interior might insist on reviewing the entire matter.

Therefore, I intend to offer an amendment during the consideration of H.J.Res. 637, the continuing resolution for fiscal 1981, which would implement the agreement. This amendment has the strong support of Secretary Andrus, Governor Hunt, Congressman Gudger, and the citizens of Swain County. I have also discussed this matter with Senator Stevens, who dealt with this problem while working in the Interior Department during the Eisenhower Administration, and he finds it acceptable.

It would be extremely helpful if you, as Chairman of the Interior Appropriations Subcommittee, would support my amendment. Robert, it just seems to me that this matter is too sensitive to be delayed any now that a solution is at hand.

Your attention to this matter is greatly appreciated.

Sincerely,

ROBERT MORGAN.

Mr. MORGAN. Mr. President, I believe that covers it. I hope that the Senate, on both sides, will be able to accept it.

Mr. HUDDLESTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, it is with a great deal of reluctance that I rise to raise some concern and reservation about the proposal at this particular time by the distinguished Senator from North Carolina.

Mr. President, the Senator from North Carolina has very ably described the situation as it has developed over the years. It is readily recognizable as a situation that does cry out for a final resolution.

The matter would come under the subcommittee on which I have served as acting chairman on behalf of the majority leader, the Appropriations Committee. The problem we find with moving in this particular manner, as the Senator will recognize, is that while the agreements have finally been arrived at, and have just done so recently, the amount is not authorized.

I do not know how action at this particular time would necessarily expedite the final resolution.

If I understand the House and my previous experience with them in conference, they would be very reluctant to accept this kind of amendment, absent the authorization that would be necessary to expend these funds.

I am wondering whether or not it would be advancing the cause to any great degree here by taking this action this afternoon.

We have been very careful in our subcommittee deliberations, in the consideration of the Interior bill, during the full committee considerations and during consideration on the floor, to avoid those items that were not authorized. This would be a departure from that procedure, if we accept this amendment today.

Mr. MORGAN. I say to the Senator that I would have discussed it with him, but no one had told me. I approached the majority leader earlier on it, and no one told me that the Senator from Kentucky was handling this matter for them.

As a matter of fact, one reason why I decided to proceed with it is that I really could not get much satisfaction from talking to anyone. I suppose everyone has been busy, and it has been hectic.

The reason why I would like to get it through is that before Congress meets again, we will have another Secretary of the Interior. I would hope they would honor and abide by this.

I believe the present negotiations started back in 1978. I feel that, since everybody has agreed at this point, if the Senate accepts it and the House of Representatives rejects it, we will just have to start all over again. But it has gone all these years, and it was not a question of waiting until the last minute to try to slip something through that nobody knew anything about. It is just that they were able to sign off on it this week. For that reason, I should like to pursue it.

As I say, I hope that if the Senate adopted it, the conferees would try to persuade the House to go along.

I was not a party to these negotiations. I did not know about it until the date of the Governor's letter. I would hope they would be able to persuade him to do it. If we got it to the House and if they cannot make it stick on the House side, it would be a question that we just could not do it.

Mr. HUDDLESTON. I inquire of the Senator whether or not it is his judgment that even if the matter were included in the bill and were accepted in conference, they could go ahead and expend the funds without the necessary authorization.

Mr. MORGAN. I say to the Senator that I am not a legal expert in this area, but judging by some of the amendments that have been adopted here today, I have just about concluded that legislating on an appropriation bill has become almost the rule rather than the exception.

Mr. HUDDLESTON. Probably a good many amendments adopted today may not see the light of day after the adjournment of the Senate.

Mr. MORGAN. I have had a number in that category in years past.

Mr. HUDDLESTON. Our major problem is the question of precedents so far as our committee deliberations are concerned. It seems to me that it would be more appropriate, now that the agreements have been signed, to go directly to the authorization committees and get a quick authorization next year for which the appropriations can be sustained.

Mr. MORGAN. I ask the Senator this: Let us assume that we did not do anything. Would it not probably be this time next year or September before anything would have come out of it? If that is true, here is a country that is destitute in every area of poverty, and it would have to delay improving its schools that much longer. I believe there is some emergency.

Mr. HUDDLESTON. My problem is that there are Members who have numerous projects with great merit which, in the last few days of the session, they would like to have included in the appropriations. This amendment, looking it over, is essentially legislation and presumably would provide for the authorization as well as for the appropriations.

As I say, I have no idea of what the position of the House might be. I am sympathetic to the Senator from North Carolina. I know that he wants to serve his constituents well.

Having said what I have said so far as the lack of authorization at this point is concerned, I am willing to let the Senate decide on a voice vote as to what it wants to do here.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I call for the question.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1898) was agreed to.

UP AMENDMENT NO. 1899

(Purpose: To reduce funds for the Council on Wage and Price Stability)

Mr. ARMSTRONG. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG), for himself, Mr. DOLE, Mr. HEINZ, and Mr. COCHRAN, proposes an unprinted amendment numbered 1899.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 25, strike the semi-colon, insert a comma and add the following: "but after January 20, 1981 limited to reviewing proposed and existing federal regulations and other purposes not related to the establishment or continuation of any program of guidelines regarding wage and price behavior, except that funds shall only be available to the Council under this resolution from December 15, 1980 until March 31, 1981 in an amount not to exceed $3.25 million".

Mr. ARMSTRONG. Mr. President, this amendment limits the Council on Wage and Price Stability to what I believe to be its proper function of monitoring Federal activities which contribute to inflation. The amendment also phases out funding for COWPS on March 31, 1981.

Five years ago, Congress created COWPS with the idea that it would be an advisory body which would review, analyze, and monitor such issues as industrial capacity, wage and price data bases, economic growth and intervene in Government rulemaking which was not in the best interests of fighting inflation.

COWPS is no longer fulfilling this function, and I regret to report has launched into areas going far beyond this mission.

Therefore, I am offering this amendment today.

COWPS has, to a large extent, abandoned its statutory responsibility for advising Presidents on economic issues. It now is engaged in a broad scale effort to monitor wage and price increases, and to force compliance with its complicated schedules for what constitutes a fair and legal wage and price increase.

COWPS monitored 1,200 American firms in 1978. COWPS required those firms to supply more than 6,500 reports on wage and price increases during the year. Less than 1 percent—that is right, less than 1 percent—were found to be not meeting COWPS complicated wage and price schedules.

Does a 1-percent rate of noncompliance justify the existence of COWPS? No.

This point is underscored by a May 12 Wall Street Journal article which reported that TRW, Inc. annually spends $1 million in company profits in complying—and reporting compliance—with the COWPS guidelines. Worse, TRW asserts that the COWPS guidelines have reduced employee morale by distorting pay scales.

Six former Chairmen of the Council of Economic Advisers told the Senate Banking Committee in April of this year that the voluntary guidelines imposed by COWPS have had no significant effect on the inflation rate.

Despite statutory direction to do so, COWPS has not allocated much of its resources to monitoring the Government's role in causing inflation. In fact, less than 10 percent of COWPS employees examine the effects of Government activities on the inflation rate.

This means that the rest of the COWPS staff is free to harass American business and labor. One COWPS memo which surfaced to the public proposed that COWPS ought to take action against one company which allegedly charged high oil prices to customers. The suggested COWPS action includes:

First, prohibiting an oil company that violates COWPS standards from selling entitlements or earning entitlement credits.

Second, reimposing mandatory price controls on crude oil produced by a firm which violates the COWPS standards.

Third, prohibiting the phased decontrol of crude production by an oil company violator.

Fourth, denying import licenses for, or imposing stiffer fees on oil imports by oil company violators.

Incredibly, COWPS was suggesting such actions despite the restriction in current law which states:

> Nothing in this act authorizes the continuation, imposition or re-imposition of any mandatory economic controls with respect to prices, rents, wages, salaries, corporate dividends or any similar transfers.

Congress needs to trim the sails of COWPS before it starts making waves against American business.

Ironically, COWPS diverts efforts which are truly needed to combat inflation. To control inflation, excessive Federal spending and borrowing must be curbed, capital must again be allocated by economic rather than by political forces, Federal regulation must be curbed, productivity must be enhanced, and sharp declines in savings must be reversed.

COWPS impedes on all of these goals.

It is interesting to correlate the increases in the Consumer Price Index to increases in COWPS budgets. In 1975, COWPS spent $1 million, and the CPI increased 6.8 percent. In 1977, COWPS earned $2.1 million, and the CPI increased 9 percent. In 1979, COWPS received $7 million, and the CPI jumped 13.3 percent.

I am not alone in believing the COWPS is not serving any useful purpose. Here are two quotes from such diverse people as Dr. Arthur F. Burns and Lane Kirkland of AFL–CIO:

> Dr. Burns: I would be opposed . . . to any increase in appropriation. Even now, COWPS is imposing heavy burdens of reporting on private firms.
>
> And, as recent verbal and financial punishment of Mobil suggests, due process is not always sufficiently observed by this agency. Any enlargement of its staff may lead to more harassing of business firms, and perhaps of trade unions as well without commensurate benefits to the general public. To the extent that this occurs, the so-called voluntary program may become increasingly mandatory. In short, there are better uses of government money."

And in material printed in the CONGRESSIONAL RECORD on June 2, 1980, the AFL–CIO said:

> The AFL–CIO has repeatedly urged the Congress not to extend the life of the Council. Extension and large increases in the budget of the Council are simply not warranted. Throughout its existence this agency has given the public a false sense of action; narrowly focusing on wages while price increases have gone on unabated. Further, the real inflationary forces are beyond its scope.

I urge support of this amendment.

Mr. President, I sum up by saying that this is an agency which to whatever extent it had a purpose at the outset has strayed far from its original mission. The phasing out of its functions at the end of March would be greeted, I think, with approval by the business community, by many economists such as Dr. Burns, and by the AFL–CIO, and I am advised would be approved by the incoming administration.

So with that word of explanation, I ask for adoption of the bill.

Mr. CHILES. Mr. President, I find this rush to abolish an agency that the Senate unanimously reauthorized only 3 weeks ago, on November 19, most peculiar, to say the least. When you look at the legislative history of the Council's reauthorization, the intent of the Congress is not at all in doubt.

The Senate first reauthorized the Council on June 2 by a vote of 72 to 11—hardly a partisan vote. On September 24, the House followed suit by a vote of 229 to 165. Further, the Senate on September 30 again reauthorized the Council unanimously, and the House passed a second reauthorization—unanimously this time—on October 1.

Now that the President has signed the Council's reauthorization into law, we find a pell-mell rush here at the last minute to abrogate the clearly expressed will of the Congress by this ill-considered amendment which does away with the Council's funding by March 31.

Mr. President, I would be the last person to deny President-elect Reagan the opportunity to decide just what his own anti-inflation program will be, but I believe that by supporting this amendment to force the Council out of business by March 31 that we are doing just that. The new administration will have every opportunity to decide just what they want the Council on Wage and Price Stability to do when the new President takes office. If they decide to abolish the Council on Wage and Price Stability, it should be done in an orderly, thoughtful manner, not in a last-minute method like this.

I might also point out that the Council on Wage and Price Stability is the only agency in the Government that is involved in assessing the costs and the benefits of proposed Government regulations. The Council recommends ways to hold down the costs of Government regulations with savings to business—and ultimately, of course, to the taxpayer—running into millions of dollars.

When the Council was reauthorized, my colleagues on the other side of the aisle sponsored an amendment to increase the size of the Council's regulatory analysis staff by 50 percent—an amendment that I enthusiastically supported.

Furthermore, the Appropriations Committee agreed unanimously in its fiscal year 1980 supplemental conference report and its fiscal year 1981 Treasury, Postal Service report to provide greatly increased funding for this staff to analyze regulatory costs of proposed legislation so that the Congress might get a handle on just what our bills might ultimately cost American business and the public. The Council's staff has already begun this work.

Therefore, by accepting Mr. ARMSTRONG's amendment which does away with all Council personnel by March 31, we are depriving the new President of a highly trained cadre of professional economists, most of whom joined the Council under the Ford administration.

Finally, whether or not one agrees philosophically about the idea of wage and price guidelines in fighting inflation, I think we can all agree that there are lessons to be learned from such a program. Ending the Council in an orderly fashion instead of such a precipitous one will enable the Council to prepare the evaluations of the program and assemble the historical working papers that will be of infinite value to future policymakers, whatever their political persuasion. Inflation is going to remain a problem for some time no matter what political party is in office and I believe that we owe it to the American people to have available all of the information possible in our efforts to fight it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment (UP No. 1899) was agreed to.

Mr. ARMSTRONG. Mr. President, I

move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1900

Mr. GARN. Mr. President, I send an unprinted amendment to the desk, and so there is no confusion on this I offered an amendment which was unanimously adopted by the Appropriations Committee. There was an error in one sentence of this amendment. I have checked this with Senator PROXMIRE. As a matter of fact, it was his staff that picked up the error.

So I wish to send this amendment to the desk to correct that error that was created in the Appropriations Committee and ask for its immediate consideration.

I understand both sides have agreed to accept this correction.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1900.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, strike section 139 and insert in lieu the following:

SEC. 139. No funds provided in this Act shall be utilized for the publication, implementation, or enforcement of any Internal Revenue Service Ruling, or Treasury Department Regulation or decision, issued on or after August 31, 1980, relating to the Federal income tax treatment of the assumption of indebtedness upon the incorporation of a holding company, of indebtedness incurred to acquire stock or securities transferred to that holding company.

Mr. PROXMIRE. Mr. President, I offer an amendment to clarify the intent of section 139 as approved by the committee. Section 139 would prohibit the Internal Revenue Service from enforcing any ruling issued after August 1, 1980, relating to the Federal income tax treatment of the assumption of debt by a holding company. The amendment offered by Senator GARN was, as I understand it, intended to preserve the present method for forming one-bank holding companies.

Under current banking practice, it is common for many banks to convert themselves into a one-bank holding company form of ownership. The holding company form of organization allows the institution more flexibility in the range of services it offers so that it may compete more equally with larger banks. In order to effect the reorganization, the stockholders of the bank exchange their stock in the bank for an equivalent amount of stock in the holding company. At the same time the holding company frequently assumes any debt used to finance the acquisition of the bank stock.

In the past, the Internal Revenue Service has considered these assumptions of debt to be tax-free. However, recent and proposed rulings have threatened to treat these debt assumptions as dividends and to subject them to Federal income tax. Such an interpretation would discourage the formation of one-bank holding companies, thereby placing many small banks at a permanent competitive disadvantage compared to large bank holding company organizations.

Section 139, as approved in committee, would allow any indebtedness to be transferred tax-free to the new holding company. My amendment would clarify that only indebtedness incurred to acquire stock or securities in the entity to be controlled by the holding company would qualify for the tax-free transfer. This amendment is needed to preserve the authority of IRS to prevent tax-free exchanges that are arranged purely for tax avoidance purposes without any other economic benefit. At the same time it would still prevent the IRS from discouraging the formation of one-bank holding companies—a practice that is entirely legitimate under our tax and banking laws.

Mr. President, I have discussed this amendment with the sponsor of the original amendment, Senator GARN, and I understand he concurs in the need for this clarification. I therefore move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1900) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1901

Mr. CHILES. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 1901.

Mr. CHILES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 18 strike the words "current rate" and insert in lieu thereof the words "Senate Committee on Appropriations".

At the appropriate place insert the following:

Sec. . Notwithstanding any other provision of this joint resolution, the amount available for the Office of the Secretary, Department of Treasury, shall be $40,075,000.

Mr. CHILES. Mr. President, the purpose of this amendment is technical in nature.

The purpose of this amendment is to change the spending rate for the agencies included in H.R. 7583 to "House or Senate committee passed rates whichever is less" instead of "House or current rate whichever is less." This change is necessary to permit funding of the national defense stockpile and to meet our treaty commitments to help fund the international buffer stock for rubber. As the current rate for both of these items is zero, funding for them would need to be delayed until next year.

Associated with this amendment, it is also necessary to provide a funding rate for the Office of the Secretary at the Department of Treasury at the level of $40,075,400. This is because the Senate bill transferred approximately $8.4 million from international affairs to the Office of the Secretary at the Department of Treasury and without the amendment the lower rates would apply and international affairs would effectively be cut by $8.4 million contrary to the intent of either the House or the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment (UP No. 1901) was agreed to.

Mr. CHILES. Third reading.

The PRESIDING OFFICER (Mr. RIEGLE). The Senator from Michigan.

UP AMENDMENT NO. 1902

(Purpose: To increase the SBA pollution control guarantee authority)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself and others, proposes an unprinted amendment numbered 1902.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Section 20 (h) (9) of the Small Business Act is amended by striking out "$110,000,000" and inserting in lieu thereof "$250,000,000".

Mr. LEVIN. Mr. President, on behalf of myself, Mr. NELSON, and Mr. HAYAKAWA, I offer this amendment which would increase the guarantee level of the Small Business Administration's pollution control financing guarantee program from $110 million to $250 million. On December 2, 1980, the Senate adopted the same amendment to H.R. 6626, a small business committee bill, but because of differences in the Senate and House versions of this bill, a compromise has not been worked out. However, as I understand it, the controversy does not revolve around this provision. I believe it to be important to try to get this ceiling raised as quickly as possible and I urge my colleagues to support this provision as they did earlier in the month.

This program is important to small business as it allows firms to finance pollution control equipment at a reasonable rate of interest. Since Congress authorized this program in 1976 there has been a great demand for the guarantee and a real need has been met in the small business community. Because of this demand, it is necessary to increase the ceiling to $250 million. Already in this fiscal year, $52 million have been committed in guarantees. SBA has another $75 million in requests pending of what they consider to be worthy applications for this program. As you know, we are barely 2 months into this fiscal year.

Basically, the way this program operates is that a public entity sells tax free pollution control revenue bonds. The proceeds are loaned to the business for the planning, design, financing or installation of pollution control facilities or equipment. SBA guarantees the repayment. Many of these guarantees are used to finance pollution control equipment that will enable a small firm to comply with various types of pollution regulations. SBA estimates that this is the case in over 80 percent of the loans made to date in this program. We have a dual purpose served by this program—helping small businesses with their financing needs and helping small business, and in turn the general public, comply with antipollution regulations.

This amendment will not increase the budget authority needed for the Small Business Administration. In fact this program has made money for the Government. Over $11 million in guarantee fees have been collected; $58,000 has been made in interest on funds invested. This is contrasted with only one default which has resulted in $26,000 being paid out. This is a well run program, a moneymaker, and I urge my colleagues to adopt this amendment and meet the expectations of a great many businesses throughout the Nation.

I understand there is no objection.

Mr. PROXMIRE. My understanding is that this amendment passed the Senate without objection.

Mr. LEVIN. That is correct.

Mr. PROXMIRE. It is also an amendment that, on the basis of experience we have had so far, has brought in far more than it cost, almost $11 million, and the cost is less than $100,000.

Mr. LEVIN. The Senator is correct.

We brought in $11 million in guarantee fees, and have had one default—one default only in this entire program, and that cost the Government only $26,000. We picked up $11 million in fees.

Mr. PROXMIRE. It is also my understanding that the chairman of the Appropriations Committee, Senator MAGNUSON, agrees with the amendment?

Mr. LEVIN. I understand there is no objection.

Mr. GARN. Mr. President, on behalf of the minority we are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 1902) was agreed to.

Mr. LEVIN. I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion in the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. I thank the Chair very much for his courtesy.

UP AMENDMENT NO. 1903

(Purpose: To enable the Secretary of the Interior to erect permanent improvements on land acquired for the Confederated Tribes of Siletz Indians of Oregon)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. LEVIN). The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN), for Mr. HATFIELD, proposes an unprinted amendment numbered 1903.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, after line 7, add the following new section:

SEC. . Notwithstanding any other provision of law or regulation, the Attorney General shall approve any deed or other instrument conveying to the United States a defeasible or indefeasible interest in the land described in section 2 of the Act entitled "An act to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon", approved September 4, 1980 (94 Stat. 1703). The Secretary of the Interior or the Confederated Tribes of Siletz Indians of Oregon may erect permanent improvements, improvements of a substantial value, or any other improvements authorized by law on such land after such land is conveyed to the United States.

Mr. GARN. Mr. President, may I say at the outset that I am offering this amendment on behalf of Senator HATFIELD who is not able to be here. It is my understanding this is not controversial. It has been accepted by both sides. I would like to read the statement of Mr. HATFIELD into the RECORD:

STATEMENT OF SENATOR HATFIELD

Mr. President, today I rise to offer an amendment to the continuing resolution which is non-controversial and will remedy a problem for the Confederated Tribes of Siletz Indians of Oregon.

Signed into law on September 4th of this year, the Siletz Reservation Act established a reservation for the Siletz Tribe. Part of the reservation is an area in the City of Siletz known as Government Hill. It was once the site of all tribal activities until 1954, when the Tribe was terminated from federal recognition, at which time the land was given to the City. When planning for the reservation commenced, the City agreed to return Government Hill to the Tribe with the condition that if the land should ever leave the hands of the Tribe again, it would revert to the City. With the support of Congress and the Bureau of Indian Affairs, the Tribe plans to build various community facilities on the land which now is the site of only an old cemetery.

It was the express Congressional intent that the Siletz Tribe have the opportunity to reestablish its tribal headquarters with the construction of an office, a community center and a health clinic. However, after the enactment of the Reservation Act it was determined by the Attorney General that certain regulations prohibit the construction of permanent improvements on federal lands which have a restricted title. Express authorization from Congress to allow the Attorney General to accept the title with the City's reverter clause would alleviate the problem and this amendment achieves that end.

Not only does this present an unnecessary obstacle for the Tribe, but it thwarts the intent of the Reservation Act. The Tribe is prevented from implementing plans that have been in the making for three years. Funds to proceed with the reservation plan are in jeopardy from HUD as well as EDA. It is my hope that the Senate will accept this amendment which will facilitate compliance with the Siletz Reservation Act and allow the Siletz Tribe the opportunity to administer its vital programs from a tribal headquarters.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. GARN. I would be happy to yield.

Mr. PROXMIRE. It is my understanding that the amendment is acceptable to the Interior Subcommittee of the Appropriations Committee. The amendment costs nothing, as I understand it.

Mr. GARN. That is correct.

Mr. PROXMIRE. It is my understanding that the chairman of the Appropriations Committee approves of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 1903) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1904

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for himself and others, proposes an unprinted amendment numbered 1904:

On page 20, on line 21, strike "$335,000,000" and insert in lieu thereof "$940,000,000."

Mr. MOYNIHAN. Mr. President, I would like to list as cosponsors the following Senators: Senators WILLIAMS, FORD, SARBANES, RIEGLE, METZENBAUM, LEVIN, and EAGLETON.

Mr. President, there is a 30-minute time agreement on this matter to be equally divided. I have a statement which I would like to read to the Senate at this point.

The purpose of the amendment is to restore $605 million to the CETA title VI, countercyclical public service program.

The Senate Appropriations Committee, in a close vote of 12 to 11, voted to reduce funds for title VI from the House-passed level of $1.3 billion, the level agreed to in the first continuing resolution, to $335 million, a reduction in round terms of $1 billion.

This would eliminate 149,000 job positions, 118,000 of which are currently filled.

My amendment would retain those 118,000 jobs while it would eliminate the 41,000 empty slots. It would insure that no employed CETA title VI worker in that program is thrown out of work.

I find—and I think I speak for my cosponsors—the committee's action to be stunning, an action by a margin of one vote. It voted to throw 118,000 men, women, and teenagers out of jobs when this country is in the midst of a period of high unemployment, a period that has been with us in one form or another for the last quarter century. It voted to throw 118,000 men, women, and teenagers out of work when there is a 7½-percent unemployment rate for all workers.

I can recall from the period I served as Assistant Secretary of Labor under President Johnson and President Kennedy that the idea of a 4-percent unemployment rate seemed unacceptably high and was established as an interim goal by the Council of Economic Advisers—7½ percent would have been considered a disastrous, an altogether unacceptable rate of unemployment.

These rates are very much higher. In general terms they are double for minorities, 15 percent for black adults, 36 percent—an astonishing figure—for minority teenagers.

Consider that 46 percent of the 118,000 workers we would throw out of jobs are minorities, and 21 percent of them are teenagers, and you have a clear picture of what the committee has done. It has voted to eliminate jobs primarily held by those who have the hardest time finding them.

Mr. President, it seems to me that not only is this an unfeeling policy but a wrong one. These workers will become jobless at the very time when jobs are becoming harder to find even than they have been, and when we face a gloomy winter.

Just yesterday the major banks across the Nation raised their prime lending rates to 20 percent, reaching the record set last April, and they say it could go even higher. This, a symptom of disorder, has led the President-elect's advisers in these matters—Mr. David Stockman, whom, some of us are pleased to learn, will be the new Director of the Office of Management and Budget, and Congressman JACK KEMP, who has spoken so eloquently on this—it has led them to suggest that there is a national economic emergency.

Our own highly regarded, distinguished Senator from Kansas, who will soon be chairman of the Senate Finance Committee, has proposed publicly that the incoming President declare a national economic emergency.

It ought to be axiomatic that in such an emergency the economic opportunities will decrease in the aftermath of the interest rates and other such disorders. It is equally axiomatic that this increase will be heaviest for the black and Hispanic workers of the country who benefit disproportionately from the CETA program because they are injured disproportionately by the economic malaise which has settled on this Nation.

Mr. President, it is claimed that the reduction in jobs proposed by the committee can be obtained by attrition, that no worker will be laid off by this action. This is not the case. The experience of the Labor Department during the job freeze last year showed a normal attrition of 6 percent a month. The committee action would result in a reduction of CETA workers by 17 percent a month, far too much to achieve an orderly reduction.

The committee action appears to save—appears to save—the Federal Government $894 million. But the actual cost in lost revenues, unemployment compensation, and public assistance payments has been estimated by the committee itself, under the direction of the chairman, to be more like $3 billion in added costs to the public—a cost three times the apparent savings.

Mr. President, it has been said by the proponents of a reduction in CETA funds that the Senate has announced its intention to phase out the program. And yet, of the seven attempts on the floor of the Senate to reduce this program, only the last was successful, and that only by the slimmest of margins—one vote—and this was in the preelection period when many Senators were absent. I feel, had the Senate been fully represented that day, the matter would not have carried.

This legislation expires next year. I suggest that that is the time to debate and decide changes in the program. That is the time to hear from the new administration and its views on the matter. But a continuing resolution, intended to insure the orderly operation of Government in the absence of the normal appropriations bill, is not a good method of effecting a cut. Nor is it an appropriate way to provide for transition from one administration to another.

The Senate will have time enough to work its will and the new administration to make its own judgment in this matter in the coming year when the legislation expires and must be renewed.

Accordingly, I hope my colleagues will join me in voting for restoring part of the funds of the CETA program which were cut by the committee.

I point out that the reduction is only to the level of the current program and only for the duration of the continuing resolution now on the floor.

Mr. President, I would be interested to hear the views of other Senators in support or in opposition. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield to the distinguished Senator from Florida such time as he may require.

Mr. CHILES. Mr. President, we have discussed this issue so many times that I do not think that we really need to take a world of time. Every Senator in the Chamber and every Senator who is not in the Chamber who is going to vote has voted on this issue a number of times.

We are talking about title VI, what was to be the temporary jobs program. If there ever has been a program that has been a colossal failure, it has been title VI of CETA.

Some of the things at CETA, I think, have been very good and some I support very much—job training. But if you look at title VI for the amount of money that we put in it, if you look at the waste, the outright fraud, the inefficiency, the corruption, it has done more to bring down the Government than anything.

Are we talking about a program like this now as we look forward to what we are trying to do in getting the economy moving?

As the Senator from New York said, we have a high unemployment rate. But nobody is talking about now trying to go into another temporary jobs program. We are basically talking about what we have to do in capital formation, what we have to do in some tax incentives, what we have to do in research and development, and what we have to do to create some real jobs.

Title VI has not created any real jobs. Less than 19 percent of the people that went through title VI ever got a gainful job or went off and got a job in the private sector. So, again, for the amount of moneys that we put in—and we kept saying it was going to be a temporary program. But, my goodness, we have never gotten rid of that temporary program.

What this amendment does and what the committee structured was that we are going to add 26,000 youth jobs in the $200 million that we are adding for youth training, youth employment and training. That is the ability to try to take those hard-core unemployed, to try to give them some real job skills and to try to break that cycle.

CETA VI has not done that. It has not done anything. We see that tremendous high unemployment that we still have always in the youth sector, always in the underprivileged, because we never trained them. We never gave them any training.

What we are trying to say here is take $200 million and do that and allow the rest of the program to phase out. It will phase out. It has already phased down 20,000 jobs below where the administration thought it was going to phase down. Allow it to phase down the rest of the way, which this will do.

Certainly it gives us a chance to take away some of the bloat of this budget. We know that this budget is over the budget resolution.

Mr. President, I urge Senators to support the committee amendment, create the 26,000 youth jobs that we are going to give some new training for and that they are going to be able to go out and get meaningful employment, and do away with the program that simply never has worked.

Mr. METZENBAUM. Mr. President, the continuing resolution, as reported by the committee, is perhaps one of the most astonishing documents that we have had before us. There are sections of this document—

Which prohibit the Labor Department from protecting the rights of migrant and agricultural workers;

Which prohibit the enforcement of the Mine Health and Safety Administration;

Reduce low energy income assistance below the amount assumed in the budget; and

Stop the IRS from promulgating pension plan vesting regulations designed to protect women and minorities who tend to work in high-turnover, low-paying jobs.

However, the committee's action in regard to CETA title VI was perhaps the most brutal of all the misdeeds done in the name of the public interest. My State, perhaps one of the hardest hit by this economic slowdown, is currently experiencing an unemployment rate far above the national average.

We have unemployed autoworkers, steelworkers, coal miners—thousands of hard-working Americans walking the streets in search of employment.

If permitted to stand, the committee's action would send a clear message to those workers. It would tell them that while their homes are being repossessed, while they are standing in foodstamp lines and filing for bankruptcy, this Congress is going to eliminate one of our major jobs programs.

I do not think that we want to send such a callous and unfeeling message. And I do not believe that we serve the public interest by turning unskilled disadvantaged CETA participants out on the streets to try to compete with skilled workers for the jobs that may be available.

Who are the people that the committee's bill would throw into the streets? Over 93 percent of the new enrollees are economically disadvantaged; 46 percent of the participants are minorities, and 21 percent of the participants are young people.

The prospects for these individuals are not bright. Minorities face unemployment rates twice that of their white counterparts. And we know that minority youth unemployment in many inner cities is running as high as 40 to 60 percent. These are the people that the committee has said must hit the bricks and find employment. We are talking about 142,000 jobs for minorities and 65,000 jobs for youth.

Another aspect of the committee's action is its disregard for the valuable services provided through the CETA title VI program. Many of the participants serve the elderly in nutrition programs. Others provide day care services for working families and render other valuable services to our communities.

I would think that we would want to continue—not curtail—these services. And I would think that the Senate would want to avoid the obvious results of this action—the welfare rolls will climb, mothers with children will no longer be able to provide income for their families. And once again, Mr. President, neediest people in our society will be called upon to make a disproportionate sacrifice.

For these reasons, I join Senator MOYNIHAN in urging the Senate to restore $605 million which would permit the program to remain at its current level of 118,000 jobs. This is a cut from the level authorized 2 months ago in the continuing resolution. And I believe that is a fair compromise that deserves favorable consideration by the Senate.●

● Mr. WILLIAMS. Mr. President, I support the Moynihan amendment to reduce funding for public service jobs under title VI of CETA by $289 million rather than $894 million as recommended by the committee on a vote of 12 to 11.

The amendment of the Senator from New York would permit the current level of enrollment in the program to be continued at 118,000 for the balance of this fiscal year.

This represents a reduction of 25,000 jobs from the level approved by the Congress just 2 months ago in the first continuing resolution; a cut of 65,000 from the level authorized in fiscal year 1980; and a reduction of 75 percent in this important program since fiscal year 1979.

Any further reduction in the program at this time takes direct aim at the fortunes of poor families in a time of high unemployment and at the doorstep of a long and difficult winter season.

The economic outlook for the next year is bleak. All of the forecasts are similar: High inflation, high interest rates, and high unemployment.

The prognosis is that unemployment will remain at least as high as it is now—7.5 percent—for the next year or two—a long, long time.

Each month, some 14 million workers will suffer joblessness to some extent—8 million officially counted as unemployed, 1 million discouraged workers who have lost hope of finding a job, and 4 million others forced to work only part time.

Job opportunities in this environment will be scarce, particularly for low-skilled, low-income workers. Even during times of strong economic growth, these workers have difficulty finding employment. They are now at the end of the employment line with millions of better skilled workers ahead of them and with no means other than public welfare programs to support themselves and their families and see to their extra needs for clothing, fuel, and food during the winter months.

Against this background, the Senate has before it a provision of the continuing resolution that would force rapid phaseout of public service employment under title VI of CETA.

This phaseout cannot be accomplished by attrition alone. For every one worker who leaves the program voluntarily, three workers will have to be laid off in order to achieve the funding reduction proposed in the bill.

Bear in mind that the overwhelming majority of title VI participants—nearly 95 percent of them—are economically disadvantaged. They are members of households with incomes below 70 percent of the lower living-standard family budget.

Bear in mind also that 46 percent of the participants are members of minority groups, whose unemployment rate is now nearly 14 percent; and 21 percent are youth, whose unemployment rate ranges from a national average of 37 percent to levels of 50 percent or more in depressed urban and rural areas.

Cutting the title VI program at this time, therefore, takes direct aim at the poor, the desperate.

Where will they turn? The Department of Labor estimates that for each loss of 100,000 jobs, the public cost for unemployment benefits, welfare payments, and food stamps, combined with lost tax revenues, is $3 billion per year.

Since we are considering the elimination of 118,000 jobs in the CETA program, the resulting additional cost will be on the order of $3.5 billion. It makes no sense for us to incur costs of this magnitude in order to save about one-fourth that much in spending through this vital temporary employment program.

Mr. President, I should also like to take a moment to explain how two recent congressional enactments are likely to reduce the number of jobs in the title VI program even if there were no reduction in funds.

A few days ago, the Congress passed the reconciliation bill, H.R. 7765, and provided therein that unemployment benefits for CETA participants no longer be reimbursed through a special appropriation for this purpose, thus requiring that they be paid out of the CETA appropriations. Prime sponsors thus will be required, for the first time since 1976, to reserve part of their funds for public service employment to cover the cost of any unemployment benefits paid to laid-off participants.

The amount of this reservation of funds will vary from prime sponsor to prime sponsor. It will depend on the success of the local prime sponsor in placing participants in permanent jobs and thus eliminating any need for unemployment benefits and on the level of joblessness in the prime sponsor area which will bear heavily on prospects for successful placement of participants.

Where unemployment rates are high, placement obviously will be difficult if not impossible, unemployment benefits payments will be high, and the amount of funds left to support workers in their jobs will be reduced more significantly. As a result, job reduction caused by this provision of the reconciliation bill will be greatest in the depressed cities and rural areas of the Nation.

The second recent congressional enactment was included in the bill H.R. 6796, which extended the private sector initiative program under CETA for 2 more years. In that bill, Congress raised the base for calculating the average wage index for public service employment from $7,200 to $8,000.

This change was necessary, in my view, in order to permit prime sponsors to provide better, more challenging work for participants in the program. The $7,200 limitation clearly was unrealistically, allowing only menial, simple jobs in many areas, denying participants an opportunity to learn new jobs skills. The limitation also held allowable wage levels in many areas below the level of public assistance payable under State law, and as a result, public service jobs have offered little incentive in those States for welfare recipients to accept employment.

Although it was recognized that this provision would result in fewer jobs—

perhaps 10 percent fewer—the Committee on Labor and Human resources recommended its enactment in the belief that, on balance, it would be desirable to expand the range of meaningful jobs and to reduce the number of menial, deadend opportunities for participants in the program.

Mr. President, as I indicated earlier, the title VI program has been reduced by 75 percent over the past 2 years, by 65,000 jobs from the fiscal 1980 level, by 25,000 jobs in just the last 2 months—all as a result of funding restrictions applied by the Congress. Further reductions will occur in the months ahead as a result of the two changes in law that I have outlined above, even if the level of funding is not further restricted.

The Senator from New York is proposing a further reduction of $289 million in the program, and I believe that the $940 million funding level that would result is the rock bottom that should be provided at this crucial and difficult time.●

The PRESIDING OFFICER. Who yields time?

Several Senators. Vote!

Mr. MOYNIHAN. Mr. President, if there is no Member in the Chamber who wishes to speak, I am prepared to yield back the remainder of my time.

Mr. CHILES. Mr. President, I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York (Mr. Moynihan). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Alabama (Mr. Heflin), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher), the Senator from North Carolina (Mr. Morgan), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Minnesota (Mr. Durenberger), the Senator from Pennsylvania (Mr. Heinz), the Senator from New York (Mr. Javits), the Senator from Maryland (Mr. Mathias), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER (Mr. Baucus). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 28, nays 54, as follows:

[Rollcall Vote No. 534 Leg.]

YEAS—28

Biden
Bradley
Burdick
Cranston
Culver
DeConcini
Eagleton
Ford
Huddleston
Inouye
Jackson
Leahy
Levin
Magnuson
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Randolph
Ribicoff
Riegle
Sarbanes
Stewart
Tsongas
Weicker
Williams

NAYS—54

Armstrong
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Danforth
Dole
Domenici
Exon
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Long
Lugar
McClure
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—18

Baker
Bayh
Church
Durenberger
Durkin
Gravel
Heflin
Heinz
Javits
Johnston
Kennedy
Mathias
McGovern
Melcher
Morgan
Talmadge
Tower
Young

So Mr. Moynihan's amendment (UP No. 1904) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1905

Mr. WALLOP. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. Wallop) proposes an unprinted amendment numbered 1905.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution, insert a new section as follows:

Sec. . Notwithstanding any other provision of law, the period for the receipt of public comment on proposed regulations governing grazing administration and trespass on public lands, as proposed on October 15, 1980, in the Federal Register (pages 68506–68511) shall be extended to February 1, 1981, and no funds appropriated for use by the Department of the Interior shall be used to promulgate or implement said regulations in final form before that time.

Mr. WALLOP. Mr. President, I have talked with the minority and the majority on this. We have agreed to allow it to go to a voice vote.

Mr. President, this amendment would require the Department of the Interior to extend the current comment period on proposed BLM grazing regulations until February 1, 1980. The amendment would prohibit the Department from spending appropriated funds to promulgate or implement the final regulations until after that time.

For several months the BLM has been working on proposed revisions to the grazing regulations which affect livestock producers on approximately 170 million acres of Federal rangeland administered by the BLM in 16 Western States. These revised regulations will have a broad impact on the way BLM implements adjustments in livestock grazing use.

On October 15, 1980, BLM published these proposed revisions to the existing livestock grazing regulations in the Federal Register and set a comment deadline of December 1, 1980. However, livestock producers and others who would be seriously affected by these proposals in my State and across the West were concerned that this comment period did not provide adequate time to fully evaluate, review, and comment on the proposed changes. October and November happen to be extremely busy times for the livestock industry because of cattle shipping in progress, bull sales to attend, and related industry activities. Furthermore, at least some of the livestock industry feel the proposed regulations are different than what they had been led to believe would be proposed, and they felt caught off guard by the proposed changes without sufficient time to thoroughly examine them.

In response to the constituents' requests for more comment time, Members of the Senate and House wrote letters in late November to BLM Director Frank Gregg asking that the comment period be extended up to 60 days. In the House 15 Members from western public lands States signed such a request, and in the Senate 11 Senators, including myself, made a similar request of Mr. Gregg.

We noted that inasmuch as there already is an existing set of regulations governing public lands grazing in effect, BLM does not need to rush to implement these changes.

On December 1, 1980, a few days after the House and Senate letters were sent, a notice appeared in the Federal Register which extended the comment period for only 15 days, to December 15. Just today, no doubt in reaction to this pending amendment, Director Gregg has sent me and other western Senators a letter indicating he is prepared to now extend the comment period an additional 17 days, until January 2, 1981, and he will hold a big hearing this month to elicit more public comment. That hearing would be in the middle of Christmas, New Year season.

Mr. President, while this is an improvement, I continue to feel strongly that the comment period should remain open until February 1. There is no good reason why BLM should refuse to permit additional discussion and analysis of these proposed changes. There is an existing set of regulations which will continue to be in force until the changes take effect, so it is not as if there would be any regulatory hiatus. Furthermore, it makes eminent sense to me to permit the new administration, which after all will have to live with them for at least 4 years, to take a look at these far-reaching proposals before they become final.

BLM officials have taken the position that since they have been working on these revisions for several months, there is no need for further lengthy review and discussion. But I would say to them that while they have been intimately involved in this process for some time, that is not the case for the people out West who will be directly affected by the changes. They have been busy with other things, such as making a living, and now they deserve sufficient time in which to figure out how these changes would affect their ability to continue making a living. There is no justification for departing Interior officials to rush these changes into effect in the waning days of the administration.

Mr. President, the public and the new administration needs more time to make a judgment on these regulations, and there is no reason why they should not have it. Adoption of this amendment should give everyone plenty of time to carefully review them and offer any suggestions, and I would urge my colleagues to adopt it.

I ask that the Senate consider this favorably. It is a reasonable request. We are not trying to stop the implementation, simply postpone it by an additional comment period.

Mr. SIMPSON. Mr. President, I wish to associate myself with the remarks of my senior colleague from Wyoming in requesting this extension of time. I think it is most appropriate.

This amendment is based upon the historical proposition that no citizen is to be adversely affected by Government action unless such citizen has been given a full and fair opportunity to express his views. No one can disagree with that proposition. Yet stockgrowers throughout the Western States—who depend on Federal grazing rights to survive economically—are facing the prospect of a major change in grazing procedures and regulations without any practical opportunity to present their position on the issue.

I acknowledge that Mr. Frank Gregg, the Director of the Bureau of Land Management, has attempted to correct a difficult situation once it was brought to his attention—but in my opinion he has not gone far enough. To extend the "comment period" from November 1 to December 15, and to January 2, simply does not afford the stockgrower—engaged in a full time, 7 days a week occupation—a meaningful method to adequately express his concerns about the sweeping impending changes in regulations in which he is so vitally interested.

I realize there will soon be a changeover of administrations and it is perfectly natural that Mr. Gregg would only wish to "tidy up" a few things and bring to a conclusion any unfinished business of his agency. Mr. Gregg's commendable zeal, however, has resulted in this instance in an inequitable situation—one which borders on the denial of due process to agricultural interests in many States.

Mr. President, in my opinion it is most important that the interests of stockgrowers and those engaged in agriculture throughout the West be given an opportunity to have their complete "day in court" in fairness and respect to their position.

Mr. President, I would expect that this amendment could be approved by voice vote and I do encourage any colleagues to correct this inequity by this very expeditious method.

Mr. WALLOP. Mr. President, I ask unanimous consent that Senator Armstrong be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1905) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1906

(Purpose: To provide $2.7 million to the Lake Placid Organizing Committee to pay costs in connection with the 1980 Olympics)

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Moynihan), for himself and Messrs. Javits, Leahy. Pell, and Stafford, proposes an unprinted amendment numbered 1906.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

Sec. . Notwithstanding any provision of this joint resolution, $2,700,000 of the funds available under this joint resolution or under any other Act making appropriations for fiscal year 1981, to the Economic Development Administration for economic development and adjustment assistance under the Public Works and Economic Development Act of 1965, and title II of the Trade Act of 1974, shall be made available to the Lake Placid Olympic Organizing Committee for the payment of costs relating to the 1980 Winter Olympics on such conditions as the Secretary of Commerce may reasonably require.

Mr. MOYNIHAN. Mr. President, this amendment is submitted for myself, Senator Javits. Senator Leahy, Senator Pell, and Senator Stafford, and I ask unanimous consent that Senator Chafee be added as a cosponsor.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. MOYNIHAN. Mr. President, I rise to propose an amendment to House Joint Resolution 637—an amendment that would make available $2.7 million to the Lake Placid Olympic Organizing Committee to prevent the bankruptcy of the committee.

The LPOOC was responsible for staging the 1980 winter Olympics. The committee and the State of New York, with the assistance of the accounting firm of Peat, Marwick, Mitchell and Co. have determined that $5.9 million is necessary to avoid this bankruptcy. The committee's $6 million deficit is the result of reductions in contributions due to the Moscow Olympic boycott, last minute changes in procedure mandated by the International Olympic Committee, unanticipated construction costs and a lack of snow necessitating expensive snowmaking machinery.

All of us shared the thrill of the spectacular competition that rekindled national pride during the Olympic games. When it became clear that the committee was in financial difficulty, several of my colleagues, officials from the White House, the State of New York, the town of North Elba and the Lake Placid Olympic Organizing Committee tried to work out an equitable solution. After months of negotiation, it became clear that the only solution meant an additional appropriation from this Congress.

The State of New York has agreed to provide $2.7 million. The town of North Elba will provide $500,000. It is indeed appropriate for the Federal Government to participate in this effort to aid the Lake Placid Olympic Organizing Committee. If the committee files in bankruptcy, the litigation could take several years, many small and medium-sized contractors throughout the Nation would be the losers. In addition, the potential for later use of the EDA-constructed sports facilities would be jeopardized by the continuing doubt about the property title.

I urge you to support this amendment, which will assure the solvency of numerous U.S. businesses and which will preserve the vast investment in winter sports facilities for future use by athletes throughout the United States and the world.

Mr. President, it is my understanding that this matter has been approved on all sides. If that is the understanding of the managers of the legislation, I ask that it be agreed to.

Mr. PROXMIRE. Mr. President, it is my understanding that Mr. Hollings, chairman of the subcommittee, approves this amendment, and there is no objection. as I understand it, with the minority side.

Mr. GARN. Mr. President, on behalf of the minority, we are willing to accept this amendment.

Mr. CHAFEE. Mr. President, I am pleased to join the Senator from New York, Mr. Moynihan, in cosponsoring this amendment to the continuing resolution.

This amendment would not involve the appropriation of additional funds by the Federal Government, but would simply earmark money already in the bill, to help offset the deficit incurred by the Lake Placid Olympic Organization Committee in their sponsorship of the 1980 winter Olympics.

Mr. President, the LPOOC is in a precarious financial condition. Unanticipated construction costs, a lack of snow necessitating expensive snowmaking machinery, reductions in public contributions due to the boycott of the Moscow Olympics, and last minute changes in procedure mandated by the International Olympic Committee all contributed to the present deficit of almost $6 million.

Should the LPOOC be forced to file for bankruptcy, litigation to resolve the situation will undoubtedly take several years. Private contractors in 25 States throughout the country will be faced with with partial or nonpayment for work they have already performed.

Meetings have been taking place between all the involved parties—the town of Lake Placid, the State of New York, and officials of the Federal Government —in an effort to find an equitable solution.

At a meeting earlier this week, these parties came to an agreement. In addition to the money contained in this amendment, the State of New York will contribute $2.7 million, and the town of Lake Placid will put in $500,000.

Mr. President. The winter Olympics at Lake Placid marked the beginnings of a rekindling of American pride. From the great individual performances of athletes like Eric Heiden, to the incredible victory of the U.S. hockey team, Americans everywhere drew renewed strength and encouragement from this competition. Memories of this competition would be tarnished if the LPOOC is allowed to sink into bankruptcy.

I support this amendment and urge its adoption by my colleagues.

Mr. LEAHY. Mr. President, I am pleased to cosponsor this amendment to provide financial assistance to the Lake Placid Olympic Organizing Committee (LPOOC). For a number of reasons—many of which were beyond the control of the organizing committee—revenues from the 1980 winter Olympics were less than the committee had anticipated. As a result, the committee is faced with over $5 million in debts and the threat of bankruptcy.

Many of the problems the committee encountered were unforeseeable. An unseasonal lack of snow necessitated expensive snow-making equipment and harmed attendance. The International Olympic Committee mandated last minute changes in operating procedure. and the announcement of the U.S. boycott of the summer Olympics in Moscow slowed sales of revenue-raising souvenirs and promotional items.

The Lake Placid Olympics Committee has worked hard during recent months and has explored many ways to raise these revenues with little success. However, the tiny town of Lake Placid has agreed to provide some $500,000 to this effort. The State of New York will purchase the ski jump at the Olympic site for another $2.7 million. Despite these contributions, another $2.7 million of debts remains—threatening bankruptcy for the organizing committee.

Mr. President, I am bothered by this problem because it will signify that we are reneging on our commitment to help stage the winter Olympics. These games were exciting, enjoyed by millions of Americans and families around the world, and I think it was a positive action for us to take. I do not think that allowing the Olympic Organizing Committee to go bankrupt will make sense to the millions here and abroad who profited from watching or participating in them.

I am even more concerned by the effect that our failure to resolve this problem will have on the many businessmen and contractors who agreed to help stage the games—and who, unless we act today—will not receive the compensation they expected and deserve. In effect, these private concerns will be shouldering the burden of paying the bills for presenting the Olympics to the general public. In my State of Vermont there are a number of businesses that will be affected—printers, medical suppliers, and construction companies. Most of these companies are very small—too small to easily absorb these losses. In fact, I think it is very possible that bankruptcy of the Lake Placid Olympic Organizing Committee could have a domino effect on these small businesses and on their own financial stability. I do not think that would set a healthy precedent for the 1984 summer games in Los Angeles—I doubt contractors and small business in California will be eager to enter agreements for which they fear they may not be paid.

Mr. President, I feel very strongly that assistance should be provided to the Lake Placid Olympic Organizing Committee. A number of companies across the country provided services in good faith to help stage the winter Olympics—we must not let them down.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment (UP No. 1906) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1907

(Purpose: To provide that certain regulations under section 2032A of the Internal Revenue Code of 1954 be applied without regard to the provisions affecting rental to family members)

Mr. BOSCHWITZ. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. BOSCHWITZ) proposes an unprinted amendment numbered 1907.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

"SEC. . No amounts appropriated by this Act may be used to carry out that portion of Internal Revenue Regulation 20.2032A-3 which would have the effect of excluding from the definition of the term trade or business (as such term is used for purposes of determining a qualified use) the passive rental of property by a decedent to a member of the decedent's family (within the meaning of Section 2032A (e) (2) of the Internal Revenue Code of 1954)."

Mr. BOSCHWITZ. Mr. President, this amendment is one that has been agreed to by all sides. It is an amendment that deals with the valuation of farm property for estate tax purposes.

I believe the House continuing resolution contains similar language.

Mr. President, the purpose of this amendment is to prohibit the Internal Revenue Service from implementing regulations that are contrary to legislation passed by Congress and enacted into law in 1976; legislation which was designed to provide necessary estate tax relief to small family farms.

Prior to 1976, farms, for estate tax purposes, were valued at the "prevailing market price"; that is, they were valued at the highest price for which they could be sold which, due to land speculation and the generally escalating price of farmland, often bears no relation to its earnings capacity. Families of deceased farmers, faced with enormous estate tax bills incurred as a result of the "prevailing market price" valuation method most often were forced to sell the family farm to pay off the Federal Government.

Recognizing the vital role farmers play in our national economy and the need to retain existing crop land, Congress in 1976 passed the "farm use valuation" provision, now known as section 2032A of the Internal Revenue Code. This provision allows farms, for estate tax purposes, to be valued on the basis of "productive farm capacity"—which is based on the farm's income potential—rather than the "prevailing market price." At the time section 2032A was passed, it was estimated that substantial additional members of family farms—many hundreds of thousands—would disappear the next 20 years if the law were not changed.

Unfortunately, a large part of the intent of Congress in passing section 2032A has been thwarted by the Internal Revenue Service in its narrow interpretation of the legislation.

Before getting into the specifics of section 2032A, two terms should be clarified. "Passive rental" of farmland is an arrangement by which the owner leases his land to another for a specific number of dollars per acre. This is to be distinguished from an arrangement by which the owner maintains an "equity interest" in the crop; that is, his rent is based on a certain percentage of the income produced by the crop—a share arrangement.

The IRS has issued regulations disallowing the "productive farm capacity" valuation if the passive rental method has been used by the decedent. But, as can be seen from the legislation creating section 2032A and the accompanying committee report, passive rental of the farm was not meant to disqualify the estate in all circumstances.

Section 2032A states that in order for real estate to be granted the favorable estate tax valuation, it must have been put to a "qualified use" for at least 5 of the 8 years preceding the decedent's death and on the date of the decedent's death. Qualified use, according to section 2032A, means "the devotion of property to any of the following:

> First, use as a farm for farming purposes; or
>
> Second, use in a trade or business other than the trade or business of farming.

The committee report accompanying the 1976 law expands on this definition and says "in the case of either or those qualifying uses, the Congress intended that there must be a trade or business use. The mere passive rental will not qualify." IRS is using this second sentence as its justification for the new regulations. But such an interpretation ignores the very next sentence in the committee report which states, "However, where a related party leases the property and conducts farming or other business activities on the property, the real property may qualify for special use valuation."

Clearly, Congress intended that passive rental to a relative would qualify that estate for 2032A valuation as long as the other conditions of section 2032A were met. Yet, the IRS has taken a different, a very narrow and in my judgment, clearly erroneous position, one not intended by the Congress.

This situation is a classic example of provisions of the Code contradicting one another. In section 2032A, the primary method of valuing farmland is by a formula based on cash (or passive) rental of farms. Congress explicitly included this formula so that farmland could be valued on an objective, not subjective, basis. Yet, if enforcement of the IRS regulation were to continue, the number of farms involved in the cash rentals would be severely limited or eliminated altogether.

Furthermore, discouraging the cash rental of farms to family members would be totally inconsistent with other provisions of the Code. Under the Social Security Act, a crop-sharing arrangement may cause a farmer's rental income to be treated as self-employment earnings, thereby reducing or eliminating social security benefits to which that farmer may be entitled. On the other hand, cash rental is not treated as self-employment earnings. Therefore, one provision of the Internal Revenue Code clearly encourages elderly citizens to cash rent their farms, while the current regulation under section 2032A imposes a severe financial hardship on the estate of the decedent who rented on a cash basis.

Should the IRS prevail in disallowing cash rentals under 2032A, the farmer who crop shares to his heirs in order to reduce his heir's estate tax liability might well have to take a cut in his own social security retirement income. I do not believe this is the effect Congress intended.

Again, this amendment is designed only to implement the clear intention of legislation passed 4 years ago—that is, to protect and preserve the family farm.

Knowing the reservations my colleagues on the Appropriations Committee may have to attaching this type of amendment to an appropriations bill, just let me say that I regret having to take this particular course of action. However, the actions of the IRS and its stated intention to begin enforcing this new regulation immediately, forces us in Congress to immediately take action prohibiting this implementation.

I urge Senators to support this amendment.

Mr. PROXMIRE. Has the Senator had an opportunity to discuss this with Senator Metzenbaum?

Mr. BOSCHWITZ. I have, indeed. I have discussed it also with the distinguished chairman of the committee (Mr. Magnuson).

Mr. PROXMIRE. Senator Metzenbaum indicated he approved the amendment?

Mr. BOSCHWITZ. He said he would not object to the amendment.

Mr. President, I ask unanimous consent to add as cosponsors Messrs. Talmadge, Thurmond, Percy, Lugar, Baucus, Pressler, Heinz, and Melcher.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (UP No. 1907) was agreed to.

Mr. BOSCHWITZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I am not going to offer an amendment.

Earlier today, this body acted on an amendment offered by our colleague from North Carolina, Senator Helms, which would have forbidden the Department of Labor from promulgating final regulations prior to February 1, 1981. This amendment was tabled. Without commenting on the merits of Senator Helms' amendment, I wish to say that I would have liked to offer a similar amendment prohibiting the use of funds under the continuing resolution to promulgate proposed regulations as final regulations by the Department of Education, prior to February 1, 1981.

Time is short, however, and I do not wish to impose further on the patience of my colleagues. Instead of offering an amendment, therefore, I wish to place on record my objections to the incredibly extravagant student loan program and the even more incredibly extravagant parent loan programs for students in postsecondary and graduate education. These programs seem to have been formulated with no regard for the national budget, costing up to $48 billion in the next 5 years, and even less regard for the effect of these programs in corrupting the character of students and parents when they find that a college education, apart from its intellectual benefits, is a very sweet handout to the affluent, accompanied by severe squeeze on low-income families. The details are enlarged upon in an educational magazine Change, in an article entitled, "What Has Congress Wrought?" in the October 1980 issue.

I ask unanimous consent that this article be printed in full in the Record for the information of my colleagues.

There being no objection, the article was ordered to be printed in the Record, as follows:

What Has Congress Wrought?

(By Lawrence E. Gladieux)

Just before going home to face the voters, the 96th Congress maneuvered itself out of a stalemate on the issue of aid for colleges and students. A bill giving federal higher education programs a new lease on life through 1985 survived both the customary House-Senate disagreements over statutory details and extraordinary entanglements in new Congressional procedures designed to control the federal budget. Only last minute concessions overcame a serious challenge by Senate budget committee leaders, who argued the legislation failed to put a rein on the soaring costs of federally-subsidized student loans.

So the Education Amendments of 1980, two years in the making, became public law P.L. 96–374 with President Carter's signature on October 3. Higher education's Washington representatives mutually worked hard for a bill that authorizes a potential $48 billion in its behalf over the next five years. Periodic (every four to five years) reauthorization of the Higher Education Act—the basic federal higher education statute first passed in 1965—has become something of a ritual. Each time the measure is amended, expanded, and elaborated; and each time supporters hail the result as "landmark" legislation, evoking strains of the mid-1960s and early 1970s when Congress truly did break new ground in a series of dramatic thrusts in social policy, including federal aid to education.

The new higher education law is without question ambitious in addressing a range of complex issues having to do with the management, delivery, and targeting of federal assistance. The mechanics alone of putting such legislation together are intricate, and the politics of getting it passed are vigorous. The stakes are high for several thousand postsecondary institutions and several million parents and students struggling to pay college bills.

TOO MUCH?

In 1980 Congress cannot fairly be accused of doing too little for higher education. The question is whether by trying to do *too much* the most recent legislation may blunt the effectiveness of federal efforts to equalize educational opportunity, the overriding objective of federal higher education policy for more than a decade. There is a real danger that federal benefits will drift increasingly toward the relatively well-off at the expense of the poor and the neediest.

If this drift occurs, it will not be because Congress has supplanted or abandoned past commitments outright; in fact, the new measure seeks to build on those commitments, broadening the base of the programs, attempting to correct perceived inequities in their operation, and generally expanding eligibility for federal relief. Nor has Congress deliberately decided to trade one group off against another—for example, the needs of middle and upper income students and families over those of low-income students and families. But such unintended "trade-offs" may occur, because the bill appears to promise considerably more than can be delivered in the first half of the new decade.

If this authorizing legislation by itself actually determined who gets what, when, and how from federal higher education programs—that is, if everything authorized in the bill were automatically fully implemented and funded—it would be a different story. But there are other hurdles in the Congress. Decisions on budgets and appropriations will determine how much expansion is possible, which portions of the new bill are carried out and which remain dormant, which types of students and institutions tend to gain and which tend to lose.

A corollary risk in the new legislation is that it will spur a major shift—already evident in some measure—in the burden of financing higher education, placing less and less obligation on parents to save and help pay for their children's schooling beyond high school and more and * * * students themselves primarily by way of increased future indebtedness.

STUDENT LOAN EXPLOSION

To be more specific, what does the new bill provide and where do the hard choices remain for policy-makers in the early 80s? The heart of P.L. 96–374 is the revision of the major federal student aid programs under Title IV of the Higher Education Act, programs that now cost around $5 billion annually. The bill also refocuses adult education programs under Title I of the Act, overhauls the trouble-ridden Title III program for "developing institutions," attempts to rejuvenate international education programs under Title VI, and broadens graduate fellowship programs in Title IX. In recent years the Title IV student aid programs have claimed the great bulk (well over 90 percent) of the money appropriated under authority of the Higher Education Act. Not surprisingly, this is where the reauthorization debate mostly centered. And not surprisingly the hottest issue of all was student loans because federal costs in this area have been skyrocketing and are difficult to control.

Escalation in the loan program began when Congress passed the Middle Income Student Assistance Act (MISAA) of 1978. Much of the debate in 1980, in fact, came down to a debate about the consequences and merits of legislative changes made two years ago. Congressional proponents of tuition tax credits, determined to ease the burden of college costs for middle America by means of a federal tax break, had built a head of steam in 1978. But education committee leaders Bill Ford (D.-Mich.) in the House and Claiborne Pell (D.-R.I.) in the Senate, with Carter Administration support, cooked up MISAA as a counterproposal.

MISAA did two major things: It liberalized eligibility for the principal student grant program (Basic Educational Opportnuity Grants, or BEOG), and it gave all students potential access to private bank and other loans subsidized and guaranteed against default by the federal government. Before 1978 only students from families with under $25,000 income were eligible for fully subsidized loans. MISAA removed the income limitation. Thereafter any student attending college at least half-time, regardless of economic circumstance, could borrow up to $2,500 on quite lenient terms: no interest charged while enrolled, then 7 percent during the repayment period beginning nine months after the student leaves school.

No one fully anticipated the explosion in student borrowing that was to follow. Pre-MISAA, about one million students borrowed under the Guaranteed Student Loan Program; more than 2.5 million are currently borrowing and the number is growing. Total volume of guaranteed loans, less than $2 billion in fiscal year 1978, jumped to $3 billion in 1979 and will probably reach over $5 billion in 1980. The total could be as high as $7–8 billion in 1981.

FAVORABLE CONDITIONS

Several factors have made both supply and demand conditions extremely favorable in the student loan market. On the supply side, the 1978 changes simplified the process from the point of view of banks, which had always complained about red tape in the program. Now the income test was gone, banks were free to lend to any of their customers and they no longer had to cope with the extra paperwork that previously resulted from having two categories of loans (one with the in-school interest subsidy and one without).

Another factor boosting lender participation has been the role of state governments; many of them, with federal incentives, have recently created agencies to help insure and buy up student loans. Above all, participating banks are now getting a "special allowance" from the federal government that makes student loans a risk-free investment for the lender at a favorable rate of return. Until 1979 the added payment to the banks could not exceed 5 percent over and above the 7 percent charged on the loan. However, when commercial interest rates began climbing in the spring and summer of 1979 Congress removed the limit and let the special allowance float in relation to the rate paid on U.S. Treasury bills. (The special allowance reached a peak of 10⅞ percent in March of 1980). In earlier years the commitment of private lenders to the student loan program was often shaky; some viewed participation as a public service obligation, others could not be bothered. The recent changes have made the program much more attractive to the lending community.

On the demand side, of course, 7 percent interest (and nothing to pay during the period of enrollment) becomes still a better bargain as market rates rise. That more and more students have taken advantage of it during the past two years is hardly surprising. House and Garden magazine seemed to reflect the appeal to upper middle income families when it ran an investment column last winter on "how you can make a substantial profit from a student loan." Readers were advised not to miss "what amounts to a once-in-a-lifetime opportunity to invest with 100 percent margin. Here's how the deal works: Your child uses the proceeds of the loan to pay for some college costs. Money that would have come out of your pocket for those expenses will hence be free for investments. Later when the loan comes due, you can pay back the loan for your child. This gambit works because the terms of a federally guaranteed student loan are incredibly generous. Any student, regardless of how wealthy his parents may be, can borrow as much as $2,500 a year . . . ."

With the income test removed, it seems likely that a great many of the new borrowers under the program are from relatively high income levels. But MISAA also triggered much general publicity about financial aid opportunities and it could be that all kinds of students are applying who never had before. No data are yet available to show who is actually getting the loans. All we know is that loan volume has ballooned.

CASH AND TRADE-OFFS

And as lending has shot up, so have federal expenses associated with the program—interest subsidies (the interest paid by the government while the borrower is in school), special allowances to the banks, and default claims. These costs totalled less than $500 million in fiscal 1978. They come to an estimated $1.6 billion in 1980—more than tripling in two years. The price tag could be $2 billion in 1981—almost as much as the BEOG program provides in need-tested grants.

Along with issues like funding for the MX missile and federal pay increases, the costs of student aid became one of the flash points in this year's battle of the federal budget in Washington. Faced with news of a 20 percent annual inflation rate early in the year, President Carter called for new spending cutbacks. The New York Times editorialized in March: "One way to save a great deal of Federal money is for Congress to reform the college student aid program. . . . The present system is getting out of hand."

The insured loan program attracted particular attention not only because appropriations for it were rising but because those appropriations are "uncontrollable" in the parlance of the federal budget process. The way the program is written in the authorizing statute, the federal government is obligated to finance whatever costs are incurred year to year. In effect, the program functions as an entitlement for student borrowers who can find a willing lender. Such entitlement programs (Social Security and Medicare are only the biggest in a long list of them) now claim almost half the federal budget, confounding efforts to reduce federal spending. These days any proposed or recent expansion of an entitlement benefit is likely to come under close scrutiny by the Congressional budget committees.

This was the setting when the Senate began work last spring on its version of a higher education reauthorization bill. Proposals for restructuring the loan programs had already been offered by Senator Ted Kennedy (D-Mass.) and the Carter Administration, and the Senate budget committee was beginning to mount pressure for bringing spending in the loan area under control. Senator Pell's education panel finally reported a bill with some concessions to fiscal restraint, including an increase in the guaranteed loan interest rate from 7 to 9 percent. The bill also included a complicated new scheme for financing the campus-administered National Direct Student Loan Program, with the aim of relieving some of the pressure on the guaranteed program and possibly showing savings in the federal budget by recovering collections on past national direct loans (money that until now has accumulated in campus revolving funds).

When the bill reached the Senate floor in June, however, Senator Howard Metzenbaum (D.-Ohio) was successful in amending the measure to reinstitute a needs test to determine eligibility for the interest subsidy in the guaranteed loan program. The Metzenbaum amendment set the stage for confrontation with the House, which had earlier passed a reauthorization bill that preserved both loan programs essentially intact, only with the addition of a parent loan option under the guaranteed program. Rep. Ford pressed the House position in conference with the Senate, arguing that any limitation on access to guaranteed loans would be to "renege" on promises made to middle-income students in MISAA. The House prevailed, the Metzenbaum needs test was dropped, and the conference committee reached a compromise on the bill. But the Senate thereupon rejected the conference report by a margin of one vote. The conference committee had to be reconstituted and a new package hammered out to show increased cost savings—still, however, without anything like the Metzenbaum restriction on loan eligibility. On second try the conference report won Senate clearance, 83–6.

This quick scenario telescopes a great deal of convoluted bargaining and sometimes heated debate that preceded final passage of the bill. However, the bottom line is what is important: In their final incarnation the Education Amendments of 1980 do not really get a handle on the surging costs of student loans. The House-Senate conferees finally accepted the modest, Senate-proposed increase to 9 percent interest in the guaranteed program—for new borrowers only. All past loans, of course, plus additional loans taken out by previous borrowers will continue to be subsidized at 7 percent. In addition, parents will now be able to take out guaranteed loans of up to $3,000 a year over and above what the student may borrow under the program. The parent loan will be much less heavily subsidized than the student loan because the government will not pay the interest during the school years; repayment at 9 percent must begin within 60 days. Still the cost of parent loans to the government will not necessarily be incidental, depending upon demand for the program and the amount of the special allowance to banks that must be paid in any given year.

The conferees adopted a variation on the Senate financing option for the National Direct Student Loan Program, but whether it is administratively practical and whether the Administration will even exercise the option remain to be seen. Even if the scheme were to produce short run (fiscal 1981) savings of almost $400 million as it is supposed to, the Congressional Budget Office estimates that the overall costs of the loan plan in the bill, if implemented, would be greater in the long run than if current policies were maintained. This is so primarily because interest charged national direct loan borrowers under the bill will be 4 percent, much lower than the rate the government would have to pay to raise the necessary funds (through the Federal Financing Bank) for lending under the proposed scheme; annual appropriations would be required to cover the government's interest expense.

Senator Ernest Hollings (D.–S.C.), chairman of the Senate budget committee, warned of budgetary trade-offs when he opposed the first conference agreement on the Senate floor: ". . . student loan programs under this conference report are shamelessly biased toward upper income families. The higher income benefits are guaranteed through the entitlement structure of the guaranteed loan program—well insulated against pressures to cut the budget. But the benefits for lower-income people are provided primarily through grant programs, over which the Congress has more control. So when pressure occurs to cut the budget, these programs are more susceptible to reductions than the loan programs. . . ."

Guaranteed student loans are the only item under the Higher Education Act for which appropriations are mandatory. The other programs may have sky-high authorization levels, but yearly appropriations determine how much they actually get and they are not immune to spending cuts.

The issue here is not just hypothetical. A case in point occurred last spring when Congress passed a supplemental appropriation bill for 1980 containing almost $650 million to meet unanticipated expenses of guaranteed loans. There was no choice about adding these funds. At the same time cutbacks were made in other areas. The BEOG program absorbed a $140 million reduction, achieved by cutting every award $50.

A *National Journal* survey recently documented the difficulty Congress has had trying to curb budget-busting entitlement programs. It is never easy for Congress to cut back a benefit once it has been extended. Politically there are no painless solutions to the dilemma of student loan policy in the early 80s. Administratively almost any solution will run into objections from the banks (as did the Metzenbaum amendment, which was unnecessarily cumbersome) and the bank's cooperation is crucial to the guaranteed program. But the fact remains that, unless checked, loan costs will almost surely restrain the growth or even threaten the future of other important programs supporting students and colleges. The Congressional budget committees will no doubt keep a close watch on loan cost projections and will come back to the issue in the next Congress.

NEED ANALYSIS

The new legislation leaves other issues hanging as well.

Outside the loan area, much of the higher education community riveted its attention on competing proposals for raising the half-cost limit as well as the award ceiling in the BEOG program.* These issues seem to be a lightning rod for tensions between the public and private sectors of higher education. A delicate compromise finally emerged on these points as well as the funding commitment to Supplemental Educational Opportunity Grants a key priority for independent colleges concerned with insuring student "choice" as well as "access."

Fairly little attention has been paid to crucial provisions in the law setting the terms for measuring student need under the aid programs. P.L. 96–374 calls for a single standard to determine eligibility for both BEOGs and the three federal student aid programs traditionally administered on the campuses—Supplemental Grants, College Work-Study, and National Direct Student Loans. Heretofore BEOGs have been based on federally developed criteria applied uniformly nationwide, while in the remaining programs the colleges have been free to use a number of other systems for gauging student need and making awards. Under the 1980 legislation one "schedule of expected family contributions" is to govern all the programs, the intent being to end confusion for parents and students.

Lawyers and regulation-writers in the Department of Education will now have to puzzle through this part of the law to clarify legislative meaning and implement the new mandate in ways that are both legal and administratively practical. There are some technical quirks. The bill is quite specific on certain features of the new standard, such as the amount which families will be expected to contribute out of their discretionary income to help pay college expenses. The rate of assessment is to be 14 percent or less for families with up to $25,000 adjusted gross income, instead of the current 10.5 percent under BEOG. But the bill allows the Secretary of Education to set other rates for families with income over $25,000—a provision written in such a way that there are bound to be problems of equity and consistency in the treatment of families above and below the threshold. In calculating income available to the family, the bill makes allowance for state and local income taxes but not other types of state and local levies—an inequity for residents of parts of the country that rely heavily on property and sales taxes.

The technical problems are probably surmountable. The larger issue is how far the newly mandated federal "need analysis" will stretch student eligibility for campus-based programs up the economic ladder. Need for student aid has traditionally been determined by a process of measuring the overall financial strength of the family, establishing an amount the family ought to be able to contribute to postsecondary schooling, and subtracting that figure from the estimated costs of attending the institution of the student's choice. In the more than two and a half decades since the privately-based College Scholarship Service was created to perform this task on behalf of colleges, the assumption has been that parents have the primary responsibility, to the extent of their ability, to pay for their children's college education.

Well before 1978, CSS and other non-federal systems of need analysis were liberalized to recognize greater need among middle-income families. Then MISAA loosened eligibility for BEOG. Now a comprehensive federal standard will further ease the expectations made of parents to pay college expenses.

The extent of liberalization in upper income ranges will depend in part on what income assessment rates the Secretary of Education may set other than the specified 14 percent up to the $25,000 level. If the 14 percent rate were applied across the board, students from quite wealthy families, earning as much as $100,000 a year, might actually qualify for a federal campus-based grant at an Ivy League or other high-tuition college. Hardly anyone would support this as a matter of public policy, and Congress presumably did not intend such a result.

Whatever rates are set by the Secretary, many well-off families will be brought into the "needy" category because of one key provision in the law: The new federal need analysis will not weigh equity in a "single principal place of residence"—the family home, no matter what its value. This change springs from the view that it is unfair to exclude families who otherwise might show need for aid simply because they own their home—a non-liquid asset. Such complaints have been particularly strong from California and other parts of the country subject to runaway inflation of housing prices. But the solution to one apparent inequity often creates another. Homeowners now get a break in the system; renters, who may never have been able to save enough to buy a house, do not (and, in fact, may lose out because their savings above $10,000 will be taken in consideration).

Campus financial aid officers sometimes wonder aloud these days if the system is not increasingly "letting parents off the hook." If this is the trend, P.L. 96–374 takes it several steps further, potentially establishing higher levels of "documented need" at higher income levels than ever before.

While reducing what is expected from parents of dependent students, the bill also liberalizes eligibility for self-supporting students. Here the legislation addresses the seeming unfairness of a financial aid system geared to the traditional, 18–22 year old college age group but not the growing army of older, independent college enrollees. The adjustments made on behalf of the latter group are substantial. Under BEOG alone, if fully funded, they would cost the federal government $300 to $500 million.

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*The new legislation renames BEOGs in honor of the program's original sponsor, Senator Claiborne Pell of Rhode Island. BEOGS are now to be known as "Pell Grants."

THE LOW-INCOME SQUEEZE

In the mid 70s, in the build-up to passage of MISAA, and still today, one hears of a "middle-income squeeze" in higher education: that the rich can pay to go anywhere they want, the poor get a "free ride," and the middle-class is being squeezed out. Generalities of this sort are hardly satisfactory to describe the complicated, crazy-quilt reality of student finance in 1980. There is no cause here for rehashing the research and arguments of two years ago to try to settle what it meant by "middle-income" and whether, in fact, middle-income people have suffered compared to others in their ability to finance higher education over the past decade. Such questions quickly bog down empirically.

There can be no doubt that many families who would describe themselves as middle-income have very real problems meeting college costs; the expense of attending different institutions varies enormously, as do specific family circumstances. But there can also be no doubt that a great deal of aid from state, federal, and private sources has been available to such families, and not just since MISAA has done much to make people aware of their opportunities for help.

The greater hazard of public policy in the early 80s is a squeeze on lower-income families. Note these factors:

Budget trade-offs could seriously diminish federal aid for needy students. The costs of highly subsidized loans for middle and upper-middle income students—essentially loans of convenience rather than loans of need—are swallowing a bigger and bigger piece of the federal pie for higher education. The pie may get larger, but if budget constraints persist and if loan costs are not brought under control, grant and other programs designed to equalize educational opportunity will likely suffer.

The single measure of student need now called for in federal legislation to determine eligibility for both BEOG and campus-based federal aid will be relatively stringent in the lower-income brackets. Compared with the College Scholarship Service and other private need analysis systems, the federal standard will expect larger contributions from families with incomes below $15,000.

At the same time the new federal standard will enlarge eligibility and extend it to new groups by the exclusion of home equity and more liberal treatment of self-supporting students, among other changes. In the case of BEOG, what if Congress in any year does not appropriate enough money to make all the awards for which students qualify according to the formula? The authorizing legislation contains a "hold harmless provision designed to protect the grants of the neediest in such a situation. But, there is no assurance that this provision will be followed. When Congress voted to cut $140 million from BEOG in the current school year, the appropriation committees ignored the reduction method called for in the authorizing statute and ordered all 2.5 million awards chopped by a flat amount.

At the campus level, reactions to the newly mandated federal "need analysis" will vary. Many colleges, particularly private higher-priced ones, invest a great deal of their own resources in student assistance. These schools may feel the federal standard is too loose and recognizes more need at middle and high income levels than they can afford to meet. They will have no choice about using the federal criteria for awarding federal monies, but may choose to devise their own or use other existing systems for awarding non-federal student aid funds. Other institutions, while they may not like it, will be tempted to swallow hard and adopt the federal standard all the way, if only for the sake of consistency and simplicity of administration. Then, too, it is a fact that many intsitutions are going to be facing severe challenges in the period just ahead. A standard of need that facilitates giving two middle-income students partial aid, as against a full package for one low-income student, might serve enrollment-maximizing objectives of some institutions.

The effects of the new federal legislation cannot be foreseen with any certainty. Regulations have yet to be written; the work of translating legislation into concrete results has scarcely begun. But some of the legislative directions do not bode well for the poor.

IN CONCLUSION

The 1980 higher education bill came close to complete demise in Congress. The debate contained a good dose of election-year posturing and wrangling, but it was also a microcosm of the national argument over spending, taxes, and the role of government. Almost the entire country seems in some sense to agree that the federal budget should be cut or at least tightened. But where? Which programs? Should social benefits be concentrated on those needing them the most? Or should they be progressively broadened to reach the middle class and even the rich? Can Congress succeed in bringing order and discipline to its own budget-making process? Or are the new procedures only obstructing the flow of legislation? Party or ideological identification is no guide here; Republicans and Democrats, conservatives ("new" and "old") and liberals ("new" and "old") criss-cross in such debates.

In at least one respect it is lucky for all concerned with higher education that the bill survived the Congressional maelstrom this year. Otherwise, next spring would have rolled around and without new authority, no appropriations could have been considered for higher education programs. Delay and discontinuity in federal aid would have resulted.

The legislation's passage, however, does not mean that all the policy questions have been settled for the five-year duration of the law. The issues of costs, priorities, and the proper targeting of assistance for higher education will not go away nor should they. One way or another they will be under debate next year—whoever is in the White House and whatever the complexion of the 97th Congress.

UP AMENDMENT NO. 1908

Mr. WEICKER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 1908.

Mr. WEICKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Starting with line 18 on page 19, strike all through line 15 on page 20 and insert in lieu thereof the following:

"SEC. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape has been reported within seventy-two hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided, however,* That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.".

Mr. WEICKER. Mr. President, I am going to take 1 minute, and I hope that anybody else who wants to speak will take 1 minute.

This amendment is language identical to that which was placed on the last continuing resolution as it relates to the subject of abortion. It does not satisfy me. It does not satisfy Senator PACKWOOD. It does not satisfy Senator HELMS. It probably satisfies nobody in this Chamber. Since it satisfies nobody, it should be adopted, and I recommend to my colleagues that it be adopted.

Mr. PACKWOOD. Mr. President, I join the Senator from Connecticut in supporting this amendment, not because I am overjoyed or overly enthusiastic about its provisions. But it is a step forward from the language we have received from the House, which is truly horrendous language.

I hope the Senate will adopt this language, which is the same language we have had in the last continuing resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1909

(Purpose: To complete urgent roof repairs at the National Visitor Center)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1909:

At end of resolution, insert the following:

SEC. . Notwithstanding any other provision of this joint resolution, $6,500,000 is appropriated to the Department of the Interior, National Park Service, "Construction", to remain available until expended, for the completion of roof repairs to the National Visitor Center, Washington, D.C.

Mr. STEVENS. Mr. President, legislation is now pending before the Congress and is expected to be enacted that will authorize an additional $11 million appropriation to complete urgently needed repairs to the National Visitor Center. The authorization would provide some $6.5 million for roof repairs, $1.7 million for structural repairs to the north wall of the concourse, $1.2 million for structural repairs to the main entrance ceiling and electrical vaults, and some $1.6

million for repairs to the electrical system and installation of needed fire suppression systems.

Normally, the committee would await the complete authorization and a submission of budget estimates and justifications before recommending any appropriation. In this instance, however, as most Senators know the National Visitor Center housed in Union Station has fallen into serious disrepair. I believe it is essential that Congress act now to provide at least enough funds to continue the emergency roof repairs begun with an initial $2.3 million appropriation in fiscal 1980. Providing this funding now will also save more than $750,000 by keeping the contractor on the job and avoiding further delays.

As all Senators know, the National Visitor Center project has been a tragic failure, and the Congress must shoulder a major share of the blame. Poor planning and indefensible cost overruns can be laid at the feet of the Park Service and other executive agencies. But it has been congressional indecision over the past several years that has aggravated the situation.

I recognize the continuing resolution is not the ideal approach to this funding, but if we do not act now I fear that the cost will only escalate further and there could be serious damage and personal injury if the roof repairs are neglected any longer.

The Park Service would be expected to use available construction funds to supplement this appropriation and provide for the required planning costs that will go along with the expanded roof repairs. The balance of the authorization, I would expect, can be funded in a supplemental appropriation bill in the next Congress, and the committee would expect a budget estimate and complete justifications for the proposed spending.

The committee will also expect the Department and the Park Service to provide by tomorrow more complete justifications for this initial appropriation so that this information will be available to House and Senate conferees on the continuing resolution.

Mr. President, I believe this amendment is supported on both sides of the aisle, and I urge its adoption.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. MOYNIHAN. Mr. President, the Committee on Environment and Public Works has reported a bill which authorizes this expenditure. It is our understanding that we cannot bring the bill to the floor until the continuing resolution is passed.

I very much appreciate the Senator from Alaska doing this. It is a great building, and we have to fix the roof. This has nothing to do with the other arrangements. The roof is 70 years old. If this amendment is adopted, and I hope it will be—I am sure it will be, considering the sponsorship—it is my hope that we may put the authorizing legislation in later in the session.

Mr. STEVENS. It is an emergency repair, and they would proceed on an emergency basis.

Mr. MOYNIHAN. I appreciate the Senator taking this action.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1909) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I intended to offer an amendment, at the request of Members of the House—what we would call a generic amendment—concerning the question of rules and regulations that would become final in the period between now and, roughly, February 15. Since the matter seems to be one of controversy, I do not intend to pursue it, inasmuch as it is controversial.

We have a mass of amendments in this bill that deal with the same subject, and the desire of the House to consolidate them into one generic amendment is valid. I will do it as soon as there is an agreement on it. I see no reason to get into a fight on it. If we do not put in a generic amendment, I anticipate that the Members of the House will object to every one of the other amendments in the bill.

Mr. President, a question has been raised about an item in this bill that now covers the armed services, as to whether or not that item covers the Coast Guard. It is on page 39, and the reference in this bill is to the Department of Defense. The reference in the House bill is to the armed services.

I should like to make certain that the provisions on lines 14 and 15, at page 39, apply to the Coast Guard also. I am sure that my good friend from Washington would agree that that was our intent. Has that been amended so far, Mr. President?

The PRESIDING OFFICER. On page 39, line 15, the words "Department of Defense" are stricken and replaced by the words "Armed Forces," which have been inserted.

Mr. STEVENS. Mr. President, I wish to send an amendment to the desk to clarify that, to make certain that it includes the Coast Guard.

UP AMENDMENT NO. 1910

Mr. President, I have an amendment at the desk and I ask to delete the period at the end of line 15 and insert a comma and after the words "Armed Forces" add "including the Coast Guard.". I consider that to be a technical amendment and I ask for its adoption.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1910:

Line 15, page 39 delete period and add ", including the Coast Guard."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1910) was agreed to.

Mr. MAGNUSON. Mr. President, if there be no further amendment——

Mr. METZENBAUM. I have one.

Mr. MAGNUSON. I am going to call for third reading. There have been enough amendments here these last 2 days.

Someone else has another amendment?

Mr. METZENBAUM. A very small one.

Mr. MAGNUSON. A very small one.

Mr. METZENBAUM. Instead of 15.

Mr. MAGNUSON. Present it.

UP AMENDMENT NO. 1911

(Purpose: To provide funds for certain energy recycling systems)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1911.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with and the Senator from Ohio can explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place insert the following:

Notwithstanding any other provision of this joint resolution there is appropriated an additional amount of $3,500,000 to the Administrator of the Environmental Protection Agency to provide a grant under provisions of Section 8001 of the Resource Conservation and Recovery Act, as amended (PL–94–580) for the "Recycle Energy System" project established by the City of Akron, Ohio.

Mr. METZENBAUM. Mr. President, this is a very simple amendment. There is a waste facility that takes garbage in Akron and converts it into energy. It is operating, but it is in financial difficulties and it cannot get its application through the Departement of Energy in time to keep it from having to shut down for lack of money.

This is just a holding operation, and I hope that the Senate will see fit to adopt it.

It would be very meaningful, and I think it is in the best interest of the energy programs of our country and conservation.

The amendment I am offering is needed to maintain the financial viability of the recycle energy system in Akron, Ohio. It appropriates $3.5 million to the Administrator of the Environmental Protection Agency to be used as a grant for the Akron project, under authority of the Resource Conservation and Recovery Act, Public Law 94–580, section 8001.

This demonstration project is one of only two such projects that are currently operating in the country. It already processes 1,500 tons per day of solid waste, which is then used to fuel a steam generation plant. Energy from that plant is distributed to 243 customers in Akron's central business district and actually provides energy for 90 percent of the buildings in that district. It is expected to provide enough energy to directly replace the fuel oil and natural gas now used by B. F. Goodrich, the University of Akron, Akron City Hospital, Akron General Hospital, and the Children's Hospital.

To date the plant has processed 90,000 tons of municipal solid waste and generated 500 million pounds of steam. Significantly, it is showing other cities what can be done in this area of providing energy from municipal waste.

However, a problem has developed in recent weeks which threatens the project in Akron. It is simply a matter of timing. Unless the city is able to provide the bondholders on this project with some assurance that it will receive assistance from the Federal Government, they will be very reluctant to maintain the long-term funding needed for this project. This amendment would make funds available immediately and would eliminate the problem that has developed.

Let me be more specific about the project's problems. The Akron recycle energy system was initially conceived as a project that would not need Federal assistance. Accordingly, it has been financed with $5 million in bonds issued by the city of Akron, $5 million in bonds issued by Summit County, and another $46 million in bonds issued by the Ohio Water Development Authority.

Problems have developed, however, because of rising costs and construction delays. As a result, outside assistance is needed before additional debt can be borrowed to complete the facility. We are faced in Akron with the real danger that a facility now operating at 70 percent of its capacity will not be completed and outstanding debt will be defaulted on unless Federal assistance is provided.

The city of Akron has applied for such assistance in the form of a price support loan from the Department of Energy, and has received encouragement from DOE. But DOE does not have its regulations in place to administer the waste-to-energy program under section 234(b) of the Energy Security Act. Consequently, DOE will not be able to provide financial assistance by February 15, 1981. That is the date when bondholders on the Akron project must have assurance that Federal assistance is forthcoming. The amendment I am offering provides that assistance. It does so without prejudicing the Arkon application for additional funds under the Energy Security Act program and it does so without the integrity of that DOE municipal waste program.

I would like to point out that officials from both the Department of Energy and the Environmental Protection Agency have indicated that the Akron project has great merit and have expressed their concern that it not be allowed to fail. This amendment is necessary to keep that plant up and operating. I urge my colleagues to accept this amendment.

Mr. DECONCINI. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. I yield.

Mr. DECONCINI. Is this an ongoing program now?

Mr. METZENBAUM. The answer is "Yes."

Mr. DECONCINI. Where is it located?

Mr. METZENBAUM. Arkon, Ohio.

Mr. DECONCINI. It is in the State of Ohio. How far along is it?

Mr. METZENBAUM. It is operating. If you go there now you see the garbage being dumped and you see it being converted into energy.

Mr. DECONCINI. Is it a totally federally funded program?

Mr. METZENBAUM. No. I think it is partially locally funded as well and the reason we have asked for this is that they cannot get the application in for a $13 million support loan. So what we have attempted to do by this is keep it going. Originally I had an amendment that provided $13 million. But this is $3.5 million which would at least make it possible to keep the doors open and not go in default. Otherwise, it is going to have to close down.

Mr. DECONCINI. Mr. President, if the Senator will yield for one additional question, What will the $30 million plus do actually?

Mr. METZENBAUM. It will be able to meet its debt service charges.

Mr. DECONCINI. For how long?

Mr. METZENBAUM. Long enough so that the application itself may be properly handled by the Department of Energy which will by that time have its regulations out and be able to consider the application which has already been made for an amount in excess of this, but that cannot be handled at the moment because the regulations have not been so promulgated and, therefore, they could not move forward. This is just a holding operation.

Mr. DECONCINI. I have no objection.

Mr. METZENBAUM. I appreciate it.

Mr. PROXMIRE. Mr. President, if the Senator will yield, this would affect the appropriations for the Environmental Protection Agency which is under the jurisdiction of the HUD Subcommittee as I understand it.

Mr. METZENBAUM. The Senator from Wisconsin is correct, and I respect the fact that this is under his jurisdiction and say to him that I had attempted to offer an amendment for about four times that amount which would have been in the loan support program which would not have been in that same area.

I think that this is one of those programs. The procedure is somewhat unusual, but I think it meets the exigencies of the moment because otherwise the facility will be forced to close.

Mr. PROXMIRE. The difficulty is that the Environmental Protection Agency has had no opportunity to comment on it. It affects their budget substantially.

It seems to me to put this through without an opportunity for them to make any comment or a record would be unfortunate.

Mr. METZENBAUM. The reason we started that way is we started actually through the Department of Energy funding procedures but that proved some difficulty with some other Members of the Senate and this was a last-minute procedure that we did not get a chance to clear with the EPA.

If it becomes that serious a problem, I am certain my friend from Wisconsin will be on the conference committee, but I hope that by that time he could get the matter worked out and could see fit to permit it to go forward.

Mr. PROXMIRE. I understand the earmarking has to be authorized by law. Has it been authorized?

Mr. METZENBAUM. I cannot say that it has. I cannot answer that question either in the affirmative or the negative.

Mr. PROXMIRE. Also it is my understanding that the Senator from New Jersey, Senator BRADLEY, was concerned about this amendment.

Mr. METZENBAUM. I think he was concerned about another amendment.

Mr. PROXMIRE. I happened to be on the floor when the amendment was brought up.

Mr. METZENBAUM. I do not believe the Senator from New Jersey is concerned about this $3.5 million item. He was concerned about the $13 million item that had to do with the DOE funds. These are different funds.

Mr. PROXMIRE. In view of the fact the Senator from New Jersey is on his way to the floor I appreciate if the Senator will either permit us to withdraw the amendment temporarily or have a quorum call.

Mr. METZENBAUM. As a matter of fact, I would not have offered the amendment without calling the Senator from New Jersey had the chairman of the committee not suggested third reading which would have precluded any opportunity for amendments at all. I certainly would be happy to set it aside temporarily.

Mr. MAGNUSON. Mr. President, in view of the fact the Senator from New Jersey wants to speak on this, I ask unanimous consent that this amendment be set aside temporarily and yield to the Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I thank the Senator.

UP AMENDMENT NO. 1912

(Purpose: To make certain technical amendments to section 155 of the joint resolution)

MR. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment numbered 1912.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Subsection (m) of section 155 of this joint resolution is amended by inserting "the Office of the Secretary of the Senate, and the Office of the Sergeant at Arms and Doorkeeper of the Senate," immediately after "Office of the Vice President,".

Subsection (p)(1) of section 155 of this joint resolution is amended—

(1) by inserting "or in the President Pro Tempore of the Senate's office" immediately after "in a Senator's office",

(2) by inserting "or the President Pro

Tempore's service ceases (as the case may be)" immediately after "the Senator's service as a Member of the Senate ceases", and

(3) by inserting immediately before the period at the end thereof ", or (in the case of an individual who is an employee in the President Pro Tempore's office) as the President Pro Tempore shall certify to the Secretary of the Senate to be due to such individual".

Subsection (p)(2) of section 155 of this joint resolution is amended by inserting "or in the President Pro Tempore's office" immediately after "Senator's office".

Subsection (p)(3) of section 155 of this joint resolution is amended by adding at the end thereof the following new sentence: "In case a Senator terminates his service after November 1, 1980, and prior to January 3, 1981, any funds which would have been available to pay for clerk hire or any other expenses of such Senator if his service had continued to January 3, 1981, shall be deemed to be available to him for purposes of making payments under this subsection.".

Mr. STEVENS. Mr. President, this corrects a technical error in the amendment offered yesterday concerning the severance pay. Also it deals with the question of a Senator who retires early as one of the Members on our side will and his rights under that amendment. It is a technical amendment and I ask that it be considered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1912) was agreed to.

Mr. YOUNG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I understand the Senator from Oregon has an amendment and I wish for the Chair to recognize him.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

UP AMENDMENT NO. 1913

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1913.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Notwithstanding any other provision of the joint resolution or any other Act there is appropriated an additional amount to provide a payment to each American hostage in Iran in the amount of $100.00 for each day of captivity in Iran, to be paid upon the release and return of the hostages to the United States.

Mr. HATFIELD. Mr. President, Congressman HAMILTON FISH has communicated with me a few moments ago in which he requested that I offer this amendment at this time.

I suppose one could say that since we are building a Christmas tree that this perhaps would be one of the most meaningful of all the things that we would hang on that Christmas tree.

What this amendment proposes to do is to provide $100-a-day for each day that the hostages are incarcerated, and the reasoning behind this is that we have provided for some tax breaks for the hostages during their incarceration. But I believe that this is a modest amount to be paid upon their return to the United States, a lump sum.

I think probably these people are going to have even greater difficulties ahead in terms of readjustment and getting themselves put back together again to pick up their life where they left it off and their families as well.

There has been much discussion about providing some kind of a bonus to the hostages based upon their salaries or their wages that they had earned prior to being taken hostage. I think this provides for a more equitable at least recognition that as far as incarceration is concerned they have all suffered probably pretty much equally and therefore this would recognize the fact that they are basically American citizens regardless of what their economic position has been or whatever their former salary may have been.

So I offer this amendment on behalf of Congressman HAMILTON FISH and myself and others who may wish to join as a Christmas present, you might say, hopefully that they will be home if not by Christmas time soon thereafter.

I ask for its immediate consideration and I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

Mr. PROXMIRE. Mr. President, will the Senator from Oregon yield? This is $100 per day for the hostages?

Mr. HATFIELD. Yes.

Mr. PROXMIRE. They have been gone a little over 400 days, and it would be $40.000 per hostage for a total of $2 million?

Mr. HATFIELD. This is a commitment that would be made. It would be paid in a lump sum when they return. I do not know how many more days they will be incarcerated. I hope not many more, but it would be something, in my opinion, that a grateful Nation would be cognizant, especially at Christmas time, to realize that these people have represented more than just their own individual difficulties or problems but, in effect, they have become symbolic of the whole American foreign policy in the Middle East.

Mr. YOUNG. Mr. President, will the Senator permit me to join as a cosponsor?

Mr. HATFIELD. I would be very happy to have the Senator from North Dakota join.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, is there a time limit on this measure?

The PRESIDING OFFICER. No limit.

Mr. CHAFEE. Mr. President, as I understand it, the suggestion is that we would pay these particular hostages $100 a day for each day they have been held hostage?

Mr. HATFIELD. That is correct.

Mr. CHAFEE. Mr. President, I have obviously great sympathy, as we all do, and compassion for those who are held hostage, but I think this sets the kind of precedent we ought to be quite careful about. With regard to the situation in Iran, Congress has already enacted the Hostage Relief Act to assist with some of the financial difficulties these individuals may face when they come home.

What do we do for those who are held hostage in Colombia? Our American Ambassador was held there for some [illegible] and I think we ought to have a set procedure for something like this. In connection with the POW's, as you know, we provided that they were relieved of their income taxes during the period they were POW's in Hanoi. That possibly is an approach.

But just how do we handle this? We might well have hostages for a day, hostages for a week, hostages for a month. Is the policy that each of them will receive $100 as a bonus for every day or part of a day they are held hostage?

Mr. HATFIELD. No; in response to the question, this sets no such policy at all. It merely addresses the situation on an ad hoc basis, and it involves the 50 hostages in Iran.

As we have dealt with other cases on an ad hoc basis, I suppose we would have reason to raise this in the future under any future circumstances, and we would determine each one of those circumstances on the merits of the case and under the situation at the time.

I see no precedent we have established before nor any precedent we will be establishing in this case.

Mr. CHAFEE. Well, Mr. President, an action is a precedent. That is what precedents are. To me, Mr. President, it is premature to get into this type of discussion. Frankly, the hostages are not home yet, and I think this is not the proper way to proceed.

Mr. President, at the proper time we will have further discussion of this, and I will be glad to hear further discussion——

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

Mr. CHAFEE. I am not prepared to proceed with the question. Are there any others who wish to be heard? If not, Mr. President, I move that the amendment be tabled, and I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on the motion of the Senator from Rhode Island to lay on the table the amendment of the Senator from Oregon. The yeas and nays have been requested. Is there a sufficient second? There is not a sufficient second.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Rhode Island to lay on the table the amendment of the Senator from Oregon. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Alabama (Mr. HEFLIN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Maryland (Mr. SARBANES), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. BRADLEY). Are there any other Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 44, nays 35, as follows:

[Rollcall Vote No. 535 Leg.]

YEAS—44

Bellmon
Bentsen
Biden
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Eagleton
Exon
Glenn
Goldwater
Hayakawa
Helms
Hollings
Huddleston
Inouye
Jackson
Laxalt
Lugar
Matsunaga
McClure
Mitchell
Morgan
Nunn
Pell
Percy
Proxmire
Roth
Stennis
Stewart
Thurmond
Wallop
Warner
Zorinsky

NAYS—35

Armstrong
Baker
Baucus
Boren
Bradley
Burdick
Ford
Garn
Hart
Hatch
Hatfield
Humphrey
Jepsen
Leahy
Levin
Long
Magnuson
Melcher
Metzenbaum
Moynihan
Packwood
Pryor
Randolph
Riegle
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stone
Tsongas
Weicker
Williams
Young

NOT VOTING—21

Bayh
Church
Culver
Durenberger
Durkin
Gravel
Heflin
Heinz
Javits
Johnston
Kassebaum
Kennedy
Mathias
McGovern
Nelson
Pressler
Ribicoff
Sarbanes
Stevenson
Talmadge
Tower

So the motion to lay on the table Mr. HATFIELD's amendment (UP No. 1913) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am prepared to go forward, but my amendment is pending and I think the Senator from Wisconsin had a question about it. I ask unanimous consent that it be temporarily set aside.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Ohio will be temporarily set aside.

Mr. ROBERT C. BYRD. Mr. President, I have not asked anyone about this request, but I ask unanimous consent that the Senate vote on final passage of this measure no later than 9 o'clock this evening.

Mr. MAGNUSON. Make it 8 o'clock.

Mr. ROBERT C. BYRD. 8 o'clock.

Mr. BAKER. Mr. President, reserving the right to object, I would devoutly wish for the opportunity not to object but I must tell the majority leader that before I can agree I need to do an inventory on our side and see what the situation is. I might even join him later in that request, but I cannot do so right now.

Mr. ROBERT C. BYRD. I can understand that.

Mr. President, I ask unanimous consent that the Senate complete action on this measure no later than 10 p.m. tonight.

Mr. BAKER. Mr. President, reserving the right to object again, I would hope we can meet that, but if the majority leader would give me about 10 minutes to inventory our side, I would be prepared to speak for cooperatively.

Mr. MAGNUSON. I would amend that and make it 8 o'clock.

Mr. ROBERT C. BYRD. It is the intention of the leadership to finish this measure tonight. The deadline when some of the Government will run out of money is midnight on Monday. This Senate cannot adjourn sine die until action on this conference report has been brought back and adopted. I do not know that I can remember ever seeing so many amendments, legislative in nature, offered to a continuing resolution, with the full knowledge that this thing has excess baggage that it simply cannot carry beyond the conference.

On this last amendment, nobody wants to do right by the hostages any more than I do, but to bring that amendment up and attempt to tack it onto this continuing resolution is unreasonable. That is precisely right. It should not be on this measure. This Senate will do right by the hostages but this is not the right way to go about it. We talk about balancing the budget. We talk about fiscal responsibility. And then we come up here and on a continuing resolution of this nature that must be enacted into law by midnight Monday night, amendment after amendment is called up, without previous hearings, legislative in nature, and without any consideration for budgetary implications, the Senate adds the amendments to the resolution. Where is the self-discipline of the Senate?

We have spent 2 days on this continuing resolution and we are going to finish it before we go out, if it is midnight or if it is 4 o'clock in the morning. It has to be done. So, I urge the Senate to act responsibly and face up to our duty. And I urge Senators to restrain their self-indulgence and stop calling up amendments that are not going anywhere.

I have repeatedly stated the need for completing action on this continuing resolution. The current continuing resolution expires on Monday, December 15. That is 4 days from today. The Senate still must complete action on this measure, appoint conferees, go to conference with the House, and agree to the conference report in this very short period.

The clock is running out on numerous Federal activities and programs affecting millions of Americans. We face a serious disruption of these programs if funding is not provided by December 15.

The paychecks for nearly 2 million Government employees will be in jeopardy. More important, the entitlements of millions of young children and adults will be in jeopardy: 27 million school lunch recipients; 4 million individuals covered by the blind, aged, and disabled programs, and nearly 400,000 black lung beneficiaries—26,000 in my own State of West Virginia.

Let me point out some other important programs which will be disrupted if we do not reach agreement on this measure and, more important, adopt a conference report before midnight, Monday, December 15.

There is the food for peace program, Public Law 480. There are education programs, and medicaid and medicare programs which are dependent upon this resolution for continued funding.

The Defense appropriations for fiscal year 1981 are included in this bill. While the conference report has been passed and the bill has been sent to the President, it has not been signed and enacted into law.

Numerous activities and programs conducted by the Agriculture Department are funded in this continuing resolution. While the Agriculture appropriation bill has also been sent to the President for his signature, it, too, has not been enacted as of this date.

I need not continue listing all the other Federal programs and activities which will be adversely affected if we do not approve this bill and send it to the President by Monday.

And I need not remind my distinguished colleagues of the Attorney General's ruling in April that "during periods of 'lapsed appropriations,' no funds may be expended except as necessary to bring about the orderly termination of an agency's functions."

I am sure that none of us in the Senate want to be responsible for forcing the Federal Government to close its doors. So I again urge my colleagues to expedite action on any remaining amendments, vote on final passage of the resolution, and appoint conferees so they can meet with the House conferees to resolve differences.

I would hope that Senators would restrain themselves from calling up amendments which are legislative in nature and voting for such amendments.

Mr. MAGNUSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I hope everybody will heed the warning of the majority leader. The Senator wondered why people were doing these things. The Senator from Washington and the Senator from North Dakota are about to lose their patience. We are going to move to table every amendment that shows up. That is the only way to do it. Or we will make a point of order. I have been patient and the Senator from North Dakota has been very patient. I think we should finish this by 8 o'clock if everybody will desist and instead of making statements orally just put them into the RECORD. There is nobody up there looking at us anyway, not a soul is up there. [Laughter.] Well, there are a couple of them, but nobody is listening. Just put the statements into the RECORD. They will be there, and they will be there permanently. I hope that on all these amendments we can get to them and get them done.

There are going to be 71 differences between the Senate and the House. We started out with 71 but now there will be 153. I have just been corrected. How are we going to get this done? Everybody has an amendment.

Two Senators came up to me tonight and said, "Look, we did not have an amendment." I said, "I congratulate you. You are the most marvelous Senators in the body. You do not have amendments."

Everybody else has an amendment. I do not know what they are thinking about. Most of these amendments are going to be lost in conference. I want to warn Senators.

Mr. YOUNG. Will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. YOUNG. I wonder if Senators realize what a problem it is going to be to even explain these amendments to the House conferees. That will take 2 or 3 days. We will have to call all Senators who offered the amendments to explain the amendments. It will be an impossible situation.

Mr. MAGNUSON. I am sure there are some amendments that the Senator from North Dakota and I have never heard of, that we do not understand. And yet we are running against a deadline. I do not know why everybody has an amendment.

Mr. GOLDWATER. Will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. GOLDWATER. Mr. President, by virtue of years I guess I might be considered to be what is called a senior statesman.

I do not know what that means, but as one who has been around this body a long, long time, I think it entails a little responsibility to call to the attention of my colleagues that commonsense should enter into this whole thing.

Mr. President, we have been sitting here this whole day.

Mr. MAGNUSON. And yesterday.

Mr. GOLDWATER. I shall let the Senator get in in a minute. He is senior, too.

We have accomplished nothing. I call the attention of my colleagues to the fact that we are supposed to be the greatest deliberative body in the world, and, frankly, we are looking in a hell of a shape.

Mr. President, I would like to suggest that we look at every amendment we have and ask ourselves, do we have to have this? Election is 2 years away. We do not have to start kissing this and rubbing that to get elected next time. And, thank God, I do not have to do it ever again. [Laughter.]

Mr. President, I implore my colleagues, many of whom I have served with through many, many delightful years in the Senate, that we show some sense. We have been here, now, since 9 o'clock this morning. It is 7:20. How can anybody or any group—in business or politics or family—sit around for 12 hours and argue about stupidity and not come out with the result, total stupidity?

I wish my colleagues could bring themselves to resist the temptation to stand up and make long, detailed explanations about amendments that we shall accept and the House will throw right out. Why can we not be smart? Why can we not learn, after years and years of experience, that decorating this Christmas tree is just a labor of ornaments?

I hope that in the coming Republican control of the Senate—with no disrespect to the control the Democrats have had, but with some opinions—we learn to not tolerate those things which are extraneous and those things which do not add to the good of our country.

I have to admit, Mr. President, that the Republicans have been more guilty of extraneous, rather useless, amendments than have the Democrats. It has been a long time since I could do that.

Please, I implore you, it is not that I am an acting bachelor and have to go home and cook my own dinner. It is a pretty good dinner, too. But let us get some sense to this operation. Can we not do that, gentlemen? Can we not look to the practicalities of things? Can we not realize that we are not going to go home tomorrow night or the next night? And those of us who live out in the Rocky Mountain West, and beyond, cannot get airline reservations because of that wonderful thing we did, deregulate the airlines, which screwed them up more than anything else since the balloon.

[Applause.]

Mr. GOLDWATER. Mr. President, I am standing here imploring my colleagues; Let us go home. My God, it is 7:30. And let us come back tomorrow resolved that we will not introduce that silly amendment. OK?

That is all I have to say.

Mr. MAGNUSON. Mr. President, the chairman of the committee says "amen" to that speech.

UP AMENDMENT NO. 1914

Mr. EAGLETON. Mr. President, I am in the unenviable position of offering two technical amendments, which I was to offer earlier today, but I was told to wait until later in the evening. Anyway, these are two which I understand will be accepted. They will be very brief. May I have the clerk state the first one?

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted technical amendment numbered 1914:

On page 9, line 16, strike everything after the comma and insert in lieu thereof "all terms and conditions under Part D of".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MAGNUSON. Mr. President, I have read the amendment. I accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. LONG. Mr. President, reserving the right to object, I think the Senator ought to tell us what this amendment is. He does not have to take a long time just to tell us what it is.

NDSL INTEREST RATE

Mr. EAGLETON. Mr. President, the continuing resolution and the companion House measure include a provision which changes the effective date of the increase in the national direct student loan interest rate from October 1, 1980, to July 1, 1981. However, it does not delay the effective date of other changes such as the deferral period, grace period, et cetera. All these program modifications are creating a severe administrative burden on colleges and universities.

Shortly after the Education Amendments of 1980 were signed into law on October 3, a letter went out from the Department of Education instructing student financial aid officers to modify any NDSL promissory notes signed after October 1 to reflect the various changes. This letter was dated October 22. Thus, there was roughly a 25-day period during which loans were signed at the old 3 percent interest rate under the old terms and conditions. While some institutions have made an effort to comply with the October 22 "Dear Colleague" letter, others simply have not been able to make the modifications to the original loan agreements. In order to assure an orderly implementation of the new law, the delay of the effective date of not only the increased interest rate, but the other changes in the program to July 1 is extremely important.

However, the provision in the bill before us only delays the effective date of the new interest rate. The technical amendment I propose would broaden the reference to the Education Amendments of 1980 to include the other modifications made in the loan program. If this amendment is not agreed to, the delays in the effective date on the new interest rate, as it is in this bill and the companion House bill, will not reduce the administrative burden on institutions at all.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1914) was agreed to.

UP AMENDMENT NO. 1915

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1915:

On page 8, line 17, strike "title III,".

On page 21, line 2, insert before the period: "; and activities under title III of the Comprehensive Employment and Training Act shall be conducted at an annual rate of new budget authority of $825,000,000".

TITLE III, CETA

Mr. EAGLETON. Mr. President, this amendment is simply a technical amendment to insure that the committee's intent can be effected. The committee action was intended to restore the $20 million cut that the House made in title III national programs. To effect this intent, the committee set title III at the current rate. Now, however, the final Treasury data for fiscal year 1980 leaves some doubt as to whether the current rate would be set at the level intended by the committee. Therefore, this amendment sets the exact dollar level intended by the committee—$325 million.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1915) was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. BAKER. Mr. President, there are four amendments that I know of on this side. There is a fair chance two will not be offered. We are trying to ascertain that. There are two that apparently will be. I am prepared, as soon as the majority leader returns to the floor, to propose to him the possibility of a time agreement on one of them, on which we do not now have a time agreement. That includes the Packwood amendment.

Mr. President, I do not find the principals involved in any of these four amendments on the floor. If there is another amendment that someone can call up, I shall be glad to relinquish this place. Otherwise, I am prepared at this moment to suggest the absence of a quorum.

Mr. President, I do suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

UP AMENDMENT NO. 1911

Mr. MAGNUSON. I yield to the Senator from Idaho. He and Senator PACKWOOD have an amendment. Let us get going.

The PRESIDING OFFICER. The Chair is advised that the pending business is an amendment that was temporarily laid aside by unanimous consent. It is an amendment of the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am prepared to go forward.

This is an amendment that has $3.5 million for a waste facility in Akron that was forced to close down.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I strongly oppose this amendment. It is an amendment that would earmark $3.5 million for a facility in Akron.

There is no Senator I have greater respect or affection for than Senator METZENBAUM. I would like very much to help him under these circumstances.

But if it is earmarked for that facility, and perhaps the Senator has modified his amendment, it would be legislation on an appropriation bill and I would have to make a point of order against it.

May I inquire of the Chair whether or not the amendment submitted by Senator METZENBAUM is earmarked for a particular facility?

Mr. METZENBAUM. Mr. President, I amend the amendment to take out the earmarking language.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Chair is advised that would require unanimous consent to modify the amendment.

Mr. PROXMIRE. Mr. President, I object to that. This is clearly legislation on an appropriation bill.

All night, the leadership has been telling us we should not legislate on an appropriation bill. We cannot reach the agency now. There is every indication they would probably oppose it.

At any rate, to move ahead without a look at it, or the agency having an opportunity to testify, and earmark it for a particular project, it seems to me this is special interest legislation of the kind the Senate certainly should not adopt at the last minute in this way with the kind of record we have.

So I have to persist in my point of order and object to modifying the amendment.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry, before the Chair rules.

The PRESIDING OFFICER. Does the Senator raise a point of order?

Mr. PROXMIRE. I raise the point of order.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Is it not permissible for any Member of the Senate to amend his own amendment without requiring unanimous consent?

The PRESIDING OFFICER. The Senator lost his right to modify the amendment when the amendment was laid aside. It takes unanimous consent.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Would it not be appropriate for the Senator to then submit a new amendment which adopts that language?

The PRESIDING OFFICER. The Senator, having lost the right to modify his amendment, may propose an amendment to his amendment.

Mr. METZENBAUM. Would the Chair be good enough to explain the difference between modifying your amendment and amending your amendment?

The PRESIDING OFFICER. An amendment takes affirmative action by the Senate. A modification is something that a Senator may do as a matter of right.

Mr. METZENBAUM. Mr. President, before the ruling, I ask to modify my amendment by deleting the language having to do with the facility being named

The PRESIDING OFFICER. The right of the Senator from Ohio to modify his amendment has been lost, without unanimous consent, because the amendment has been set aside.

Mr. METZENBAUM. Under those circumstances, may the Senator from Ohio take his amendment down?

The PRESIDING OFFICER. That would require unanimous consent.

Mr. METZENBAUM. I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. Mr. President, reserving the right to object, would the Senator from Ohio be free to offer another amendment which dealt with the same subject matter and which was designed to avoid the point of order by not earmarking funds?

The PRESIDING OFFICER. If the amendment is taken down, the Senator may offer—as may any other Senator—any other amendment he so wishes.

Mr. PROXMIRE. Suppose the amendment is not taken down.

The PRESIDING OFFICER. If the amendment is not taken down by unanimous consent, the Senate will have to dispose of the amendment.

Mr. PROXMIRE. In that event, I would not object to the Senator taking down his amendment. But I want the Senator to be on notice that if he offers another amendment, I have no alternative but to oppose it vigorously and at length.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1916

(Purpose: To protect private schools from encroachment by the Internal Revenue Service)

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Mr. PACKWOOD and myself.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), on behalf of himself and Mr. PACKWOOD, proposes an unprinted amendment numbered 1916:

On page 28, strike, lines 6 through 9, and renumber all succeeding sections accordingly.

Mr. McCLURE. Mr. President, my amendment would reinstate the provision in the 1980 appropriations bill which prohibits the Internal Revenue Service from promulgating a revenue ruling concerning the deductibility of general purpose contributions to private schools.

The argument for deletion of this provision of current law is that it is no longer necessary in view of the proposed revenue ruling on this subject being circulated by IRS. I have seen the proposed ruling. It not only fails to answer congressional concerns reflected in last year's law. It raises a whole new problem of IRS attempts to dictate the nature of fund raising activities as a condition of deductibility.

In example 4 of the IRS proposal, the Service denies deductibility on the grounds of "the pressure placed on parents through the personal solicitation of the school treasurer." In other words, an officer of a tax-exempt private school would not be allowed to ask parents for contributions, at the risk of disqualifying the tax deductibility of their gift.

Is the implication that a college president, dean, or professor is now forbidden from contacting parents and alumni in a fund raising appeal? If I were a college president, I would be deeply disturbed by the notion that the deductibility of a contribution to my colleague will depend on the nature of my fundraising appeal.

In the IRS example which I cited, it was expressly stated that "no student is refused admittance to the school because of the failure of his or her parents to contribute to the school." Where does the IRS draw the line between acceptable fund raising efforts, and procedures it would prohibit through threats to remove deductibility because it views them as too "high pressure."

Is a 2.2-cent mass mailing considered a high pressure tactic? Or a word from the pulpit? Or a quote from scripture? Or a compilation of contributors and noncontributors (as some law schools currently do)?

By creating a high-pressure, non-high-pressure standard of deductibility, the IRS is opening up a whole new series of unanswerable questions, and distinctions never authorized or contemplated by Congress.

The Constitution vests Congress—not the IRS—with authority to write the Nation's tax laws. By attempting to circumvent the will of Congress with its peculiar new standards, the IRS has invited Congress to reinsert its constitutional role. To do otherwise would be to plunge private education in America— at the elementary, secondary, and college levels—into a new bureaucratic nightmare triggered by an amorphous, slippery, and overly broad set of standards.

Mr. President, I ask unanimous consent to have printed in the Record certain material in connection with this matter.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Facts

In the situations described below, the donee organization operates a private school and is an organization described in section 170(c) of the Internal Revenue Code. In each situation a taxpayer who is a parent of a child who attends the school makes a payment to the organization. In each situation, the cost of educating a child in the school is not less than the payments made by the parent to the organization.

LAW AND ANALYSIS

Section 170(a) of the Code provides, subject to certain limitations, for the allowance of a deduction for charitable contributions or gifts to or for the use of organizations described in section 170(c), payment of which is made during the taxable year.

A contribution for purposes of section 170 of the Code is a voluntary transfer of money or property that is made with no expectation of procuring a financial benefit commensurate with the amount of the transfer. See section 1.170A–1 (c)(5) of the Income Tax Regulations and H.R. Rep. No. 1337, 83d Cong., 2d Sess. A44 (1954). Tuition expenditures by a taxpayer to an educational institution are therefore not deductible as charitable contributions to the institution because they are required payments for which the taxpayer receives benefits presumably equal in value to the amount paid. See *Channing* v. *United States,* 4 F. Supp. 33 (D. Mass)., aff'd per curiam 67 F.2d 986 (1st Cir. 1933), cert. denied, 291 U.S. 686 (1934). Likewise, payments made by a taxpayer on behalf of children attending parochial or other church-sponsored schools are not allowable deductions as contributions either to the school or to the religious organization operating the school if the payments are earmarked for such children. Rev. Rul. 54–580, 1954–2 C.B. 97. However, the fact that the payments are not earmarked does not necessarily mean that the payments are deductible. On the other hand, a charitable deduction for a payment to an organization that operates a school will not be denied solely because the payment was, to any substantial extent, offset by the fair market value of the services rendered to the taxpayer in the nature of tuition.

Whether a transfer of money by a parent to an organization that operates a school is a voluntary transfer that is made with no expectation of obtaining a commensurate benefit depends upon whether a reasonable person, taking all the facts and circumstances of the case into account, would conclude that enrollment in the school was in no manner contingent upon making the payment, that the payment was not made pursuant to a plan (whether express or implied) to convert nondeductible tuition into charitable contributions, and that receipt of the benefit was not otherwise dependent upon the making of the payment.

In determining this issue, the presence of one or more of the following factors creates a presumption that the payment is not a charitable contribution: the existence of a contract under which a taxpayer agrees to make a "contribution" and which contains provisions ensuring the admission of the taxpayer's child; a plan allowing taxpayers either to pay tuition or to make "contributions" in exchange for schooling; the earmarking of a contribution for the direct benefit of a particular individual; or the otherwise-unexplained denial of admission or readmission to a school of children of taxpayers who are financially able, but who do not contribute.

In other cases, although no single factor may be determinative, a combination of several factors may indicate that a payment is not a charitable contribution. In these cases, both economic and noneconomic pressures placed upon parents must be taken into account. The factors that the Service ordinarily will look to include, but are not limited to, the following: the absence of a significant tuition charge; substantial or unusual pressure to contribute applied to parents of children attending a school; contribution appeals made as part of the admissions or enrollment process; the absence of significant potential sources of revenue for operating the school other than contributions by parents of children attending the school; and other factors suggesting that a contribution policy has been created as a means of avoiding the characterization of payments as tuition.

On the other hand, if a combination of such factors is not present, payments by a parent will normally constitute deductible contributions, even if the actual cost of educating the child exceeds the amount of any tuition charged for the child's education.

SITUATION 1

Organization *S*, which operates a private school, requests the taxpayer to contribute $400*x* for each child enrolled in the school. Parents who do not make the $400*x* contribution are required to pay $400*x* tuition for each child enrolled in the school. Parents who neither make the contribution nor pay tuition cannot enroll their children in the school. The taxpayer paid $400*x* to *S*.

Holding:

The taxpayer is not entitled to a charitable contribution deduction for the payment to Organization *S*. Because the taxpayer must either make the contribution or pay the tuition charge in order for his or her child to attend *S*'s school, admission is contingent upon making a payment of $400*x*. The taxpayer's payment is not voluntary and no deduction is allowed.

SITUATION 2

Organization *T*, which operates a private school, solicits contributions from parents of applicants for admission to the school during the period of the school's solicitation for enrollment of students or while the applications are pending. The solicitation materials are part of the application materials or are otherwise in a form indicating that parents of applicants have been singled out as a class for solicitation. With the exception of a few parents, every parent who is financially able makes a contribution or pledges to make a contribution to *T*. No tuition is charged. The taxpayer paid $400*x* to *T*, which amount was suggested by *T*.

Holding:

The taxpayer is not entitled to a charitable contribution deduction for the payment to Organization *T*. Because of the time and manner of the solicitation of contributions by *T*, and the fact that no tuition is charged, it is not reasonable to expect that a parent can obtain the admission of his or her child to *T*'s school without making the suggested payment. Under these circumstances, the payments made by the taxpayer are in the nature of tuition, not voluntary contributions.

SITUATION 3

Organization *U*, which operates a private school, admits or readmits a significantly larger percentage of applicants whose parents have made contributions to the organization than applicants whose parents have not made contributions. The taxpayer paid $400*x* to Organization *U*.

Holding:

The taxpayer is not entitled to a charitable contribution deduction. The Service will ordinarily conclude that the parents of applicants are aware of the preference given to applicants whose parents have made contributions. The Service will therefore ordinarily conclude that the parent could not reasonably expect to obtain the admission of his or her child to the school without making the transfer, regardless of the manner or timing of the solicitation by the organization. The Service will not so conclude, however, if the preference given to children of contributors is principally due to some other reason.

SITUATION 4

Organization *V*, a society for religious instruction, has as its sole function the operation of a private school providing secular and religious education to the children of its members. No tuition is charged for attending the school, which is funded through V's general account. Contributions to the account are solicited from all society members, as well as from local churches and nonmembers. Persons other than parents of children attending the school do not contribute a significant portion of the school's support. Funds normally come to V from parents on a regular, established schedule At times, parents are personally solicited by the school treasurer to contribute funds according to their financial ability. No student is refused admittance to the school because of the failure of his or her parents to contribute to the school. The taxpayer paid $\$400 x$ to V.

Holding:

Under these circumstances, the Service will generally conclude that the payment is nondeductible. Unless contributions from sources other than parents are of such magnitude that the school is not economically dependent upon parents' contributions, parents would ordinarily not be certain that the school could provide educational benefits without their payments. This conclusion is further evidenced by the fact that parents contribute on a regular, established schedule. In addition, the pressure placed on parents through the personal solicitation by the school treasurer further indicates that their payments were not voluntary.

SITUATION 5

Organization W operates a private school that charges a tuition of $\$300x$ per student. In addition, it solicits contributions from parents of students during periods other than the period of the school's solicitation for student enrollments or the period when applications to the school are pending. Solicitation materials indicate that parents of students have been singled out as a class for solicitation and the solicitation materials include a report of the organization's cost per student to operate the school. Suggested amounts of contributions based on an individual's ability to pay are provided. No unusual pressure to contribute is placed upon individuals with children in the school, and many parents do not contribute. In addition, the organization receives contributions from many former students, parents of former students, and others. The taxpayer paid $\$100x$ to Organization W in addition to the tuition payment.

Holding:

Under these circumstances, the Service will generally conclude that the taxpayer is entitled to claim a charitable contribution deduction of $\$100x$. Because a charitable organization normally solicits those known to have the greatest interest in the oganization, the fact that parents are singled out for a solicitation will not in itself create an inference that future admission or any other benefits depend on a contribution from the parent.

SITUATION 6

Church X operates a school providing secular and religious education that is attended both by children of parents who are members of X and by children of nonmembers. Church X receives contributions from all of its members, which are placed in its general operating fund and are expended when needed to support all church activities, a substantial portion of which are unrelated to the school. Most members of Church X do not have children in the school, and a major portion of Church X's expenses are attributable to its nonschool functions. The methods of soliciting contributions to Church X from church members with children in the school are the same as the methods of soliciting contributions from members without children in the school. Church X has full control over the use of the contributions that it receives. Members who have children enrolled in the school are not required to pay tuition for their children, but tuition is charged for the children of nonmembers. Taxpayer, a member of Church X whose child attends Church X's school, contributed $\$200x$ to Church X during the year for its general purposes.

Holding:

The Service will ordinarily conclude that the taxpayer is allowed a charitable contribution deduction of $\$200x$. Because the facts indicate that the school is supported by the church, that most contributors to the church are not parents of children enrolled in the school, and that contributions from parent members are solicited in the same manner as contributions from other members, the taxpayer's contributions will be considered charitable contributions, and not payments of tuition, unless there is showing that the contributions by members with children in the school are significantly larger than those of other members. The absence of a tuition charge is not determinative in view of these facts.

EFFECT ON OTHER DOCUMENTS

The facts in Situation 4 are essentially the same as in the cast of *Oppewal v. Commissioner*, 468 F. 2d 1000 (1st Cir. 1972), on which Rev. Rul. 79–99 was based. Certain facts were not stated in that ruling. First, the sole function of the organization was the operation of a school. Second, there was an absence of significant potential sources of revenue for operating the school other than contributions by parents. Third, funds normally came to the organization on a regular, established schedule. Fourth, when solicitations were made, parents were solicited on a personal basis by the school treasurer. Rev. Rul. 79–99, 1979–1 C.B. 108, is hereby superseded.

Mr. PACKWOOD. Mr. President, I join the Senator from Idaho in supporting this amendment. It is based upon long experience in dealing with the Treasury Department and the Internal Revenue Service and their attitude about private schools in general and religious schools in particular. They do not like them.

When we had this before Congress in 1978, the issue of tuition tax credits, the Treasury Department and the Internal Revenue Service were vehemently opposed. That issue will rise again in the new Congress. That issue did not pass.

However, last year, the Internal Revenue Service and the Treasury Department attempted to issue regulations which, for all practical purposes, would have made it impossible for a donor to a private school to know whether or not that donor was entitled to take a deduction.

I will read one of their examples. Bear in mind that this is written in layman's language. This is not the law. This is the layman's language, to explain to you, Mary Jones, or John Smith, whether or not you, as a taxpayer, are entitled to take a deduction because you made a contribution to a school.

Situation 4. Organization V, a society for religious instruction, has as its sole function the operation of a private school providing secular and religious education to the children of its members. No tuition is charged for attending the school, which is funded through V's general operating account. Contributions to the account are solicited from all society members, as well as from local churces and nonmembers. Parents of children attending the school contribute a significant portion of the school's support. Funds normally come to V from parents on a regular, established schedule. At times, parents are personally solicited by the school treasurer to contribute funds according to their financial ability. No student is refused admittance to the school because of the failure of his or her parents to contribute to the school. The taxpayer paid $\$400$ to V.

Holding: Under these circumstances, the Service will generally conclude that the payment is nondeductible.

I want you to think to yourself: You are the taxpayer. You have made the contribution. The Internal Revenue Service is saying it is nondeductible—

Unless contributions from sources other than parents are of such magnitude that the school is not economically dependent upon parents' contributions, parents would ordinarily not be certain that the school could provide educational benefits without their payments. This conclusion is further evidenced by the fact that parents contribute on a regular, established schedule. In addition, the pressure placed on parents through the personal solicitation by the school treasurer further indicates that their payments were not voluntary.

How does parent know, when taking the deduction, whether or not he or she is entitled to the deduction?

These examples are deliberately written to make sure that there is confusion in this field. They have attempted, and I will say this very crassly, to draft these regulations in the hope of splitting the religious movement in this country and they have attempted to draft these examples in such a way that the parents of those children who attend Catholic or Lutheran schools will probably be entitled to a deduction, and that is only because of the history of parochial education in this country.

Most Catholic schools and most Lutheran schools, and they are by and large older, more established schools, charge tuition. A fair portion of their operating cost comes from tuition. A smaller portion of it comes from contributions. Some of it comes from the churches. Some of it comes from general community solicitation.

Under the example given by the Internal Revenue Service, if you contribute to that kind of a school probably—now I am going to emphasize probably—they do not guarantee it is a deduction, but it is probably a deduction.

Most of the newer Evangelical Christian schools do not charge as much tuition as the older established schools, although interestingly in the days when the Catholic schools and the Lutheran schools were first founded they did not charge much tuition either. It is just a situation these are newer schools coming along. The people involved in them feel very fervently about their religion and they want to charge as little tuition as possible in the hopes that most of their children will be able to get into the schools whether or not the parents can afford tuition or even a contribution.

Maybe the day will come 25, 30, 40, or 50 years from now when those schools operate principally on tuition also.

The Internal Revenue Service knew

that it could not possibly get this regulation through as it was originally written which meant that parents of any child going to any of these schools would get a deduction.

I think it is crass and hypocritical that they tried to divide the religious community in the fashion that they have written them.

The people who are running basically these Evangelical Christian schools are running them because they have a variety of good reasons. They want their children to be religiously educated. They may have some misgiving about the public school system, but the people who give to those schools are giving to organizations worthy of support.

The Internal Revenue Service does not want those schools to flourish.

If this amendment is not adopted, if the regulations of the Internal Revenue Service are adopted, it is going to make it very, very difficult for these schools to start or continue, and in a society that has seen the number of students in private schools diminish, diminish, and diminish until today they represent only 9 percent of those going to primary and secondary schools, this amendment will be one more step along the way to guarantee that all of those schools will one day cease to exist.

Mr. EAGLETON. Mr. President, last week when the Appropriations Committee was marking up the continuing resolution, I offered an amendment that was accepted by the committee pertaining to the subject of charitable contributions to religious tax-exempt organizations. The purpose of my amendment was to delete section 614 of Public Law 96–74 which was included last year in the Treasury appropriations bill at my recommendation and was included again in identical form in the 1981 Treasury-Post Office appropriations bill.

Section 614 of Public Law 96–74 prohibits the Internal Revenue Service from using funds which would disallow a charitable deduction for general purpose contributions used for educational purposes by a tax-exempt religious organization. During the past year, with the Dornan-Eagleton rider on the books, the Internal Revenue Service, working with the U.S. Catholic Conference, the Lutheran Church-Missouri Synod, and the Council for American Private Education, and many religious and private schools, have formulated new regulations which they and I have reviewed and find to be reasonable.

The Council for American Private Education speaks as well for the American Lutheran Church, the National Association for Episcopal Schools, the National Catholic Education Association, the National Society for Hebrew Day Schools, the Seventh-day Adventist Board of Education, the National Association of Independent Schools and other religious and private organizations, which I have enumerated because they have written me additional letters of support.

Mr. President, if one were to hear and listen to the statement of the Senator from Oregon, my esteemed colleague, Mr. Packwood, one would get the impression that we were on the threshold of a holy war. That is not the case.

This issue relates to an improvident Internal Revenue Service ruling of 2 years ago, so far reaching, so broad in its scope and sweep as to engender the kind of opposition which is received originally from me.

I was the first Member of Congress to protest that regulation of 2 years ago. I was the first Member of Congress to write a letter to the IRS denouncing their improvident regulation of 2 years ago.

Later Congressman Dornan in the House of Representatives offered an amendment and cited as the basis of his amendment the letter that I wrote to the IRS decrying the broad reach of that ruling. The Dornan rider then stopped the IRS from taking further action; I supported the Dornan rider since I had given birth to it when it came over here to the Senate.

But since that time the Internal Revenue Service and the Treasury Department have been working with private educational establishments to try to work out a rational accommodation jointly with the U.S. Catholic Conference, the Lutheran Church, the Hebrew Day Schools, the Seventh-day Adventists, and the National Association of Independent Schools. The Council of American Private Education also represents the American Lutheran Church, the American Montessori Society, the Association of Evangelical Lutheran Churches, the Association of Military Colleges and Schools in the United States, Christian Schools International, Friends Council on Education, Lutheran Church-Missouri Synod, the National Association of Episcopal Schools, the National Association of Independent Schools, the National Association of Private Schools for Exceptional Children, the National Catholic Educational Association, the National Society for Hebrew Day Schools, the Seventh-day Adventists Board of Education, Solomon Schecter Day School Association, U.S. Catholic Conference, assorted State associations in Arizona, Connecticut, District of Columbia, Florida, Georgia, Indiana, Kansas, Maryland, Michigan, Missouri, New Mexico, Oregon, Puerto Rico, Tennessee, Virginia, Washington, and Wisconsin.

I believe that this list of schools demonstrates the widespread support that my amendment has.

I think the accommodation that has been worked out by the Treasury Department and the Internal Revenue Service with this wide array of religiously affiliated schools is a rational accommodation to the current situation.

I ask unanimous consent that a series of letters previously referred to be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

CAPE,
Washington, D.C., November 17, 1980.

Re Revenue Ruling 79–99.
Hon. Thomas F. Eagleton,
U.S. Senate,
Washington, D.C.

Dear Tom: A matter of great importance to private schools in which you've been previously involved and on which CAPE's member organizations have been working with the Treasury Department since January has reached a critical point. Your help at this juncture would be of great value. Here's the situation:

In January, 1980 members of CAPE met with Daniel I. Halperin, Deputy Assistant Secretary of the Treasury (Tax Policy) seeking his help in resolving the impasse between private schools and the Commissioner of Internal Revenue concerning Revenue Ruling 79–99, which limits the deduction of contributions to a church by members of the church who have a child attending the school operated by the church. Mr. Halperin and his staff provided that help, and during 1980 members of CAPE and Mr. Halperin exchanged several discussion drafts of a Revenue Ruling which would replace Revenue Ruling 79–99. Other meetings, discussions, and exchanges of memoranda occurred with Mr. Halperin and his staff, including Collette Goodman, the staff attorney who had primary responsibility for the matter, David Shakow and Harry Gutman.

These efforts culminated in a revised discussion draft of a new Revenue Ruling which was forwarded to me by Mr. Halperin on November 6, 1980. The new Revenue Ruling would supercede Revenue Ruling 79–99. (A copy of Mr. Halperin's letter and the revised draft is attached.) After contacting the members of CAPE, I sent the attached letter to Mr. Halperin on November 10, informing him that CAPE and its members approved the new draft of a Revenue Ruling. I also asked that the draft be issued as a Revenue Ruling as soon as possible. However, the Treasury Department has indicated that it cannot issue the Revenue Ruling at this time because of the constraints imposed by the rider to the Treasury Department Appropriations Bill.

CAPE and its member organizations have appreciated your leadership role in opposing Revenue Ruling 79–99. In light of the agreement between Mr. Halperin, CAPE and its members on a new Revenue Ruling, we believe the best approach for eliminating Revenue Ruling 79–99 is the deletion of the rider to the Treasury Department Appropriations Bill and the issuance of the new Revenue Ruling. We also understand that the Appropriations Committee of the Senate is likely to follow your lead as a principal sponsor of the rider.

CAPE, therefore, respectfully requests that you sponsor an amendment to the Treasury Department Appropriations Bill to delete the rider dealing with Revenue Ruling 79–99.

In the interest of clarity, we point out that another rider to the Appropriations Bill deals with the proposed Revenue Procedure issued by the Internal Revenue Service concerning racial non-discrimination in private schools. We are not asking that the racial non-discrimination rider be deleted.

Thank you once again for your strong efforts in behalf of private schools in the United States.

With all best wishes.
Cordially,

Robert L. Smith,
Executive Director.

U.S. Catholic Conference,
Washington, D.C., November 18, 1980.

Hon. Thos. F. Eagleton,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Eagleton: Please refer to the enclosed copy of a letter dated November 14, 1980 which was sent to Congressman Dornan by Donald C. Lubick, Assistant Secretary of the Treasury (Tax Policy). This will advise that we have no objection if the Senate, in accordance with Mr. Lubick's letter, deletes the amendment presently attached to H.R. 7583 which would prohibit the Internal Revenue Service from enforcing

Rev. Rul. 79-99. Our reasons are the following.

We have been actively involved in the discussions with the Treasury Department which have culminated in the "Discussion Paper" referred to in Mr. Lubick's letter. We are satisfied with the contents of that Discussion Paper which, Mr. Lubick advises, will form the basis for a new Revenue Ruling that would supersede Rev. Rul. 79-99. Based on its contents, as well as representations made by representatives of the Department of the Treasury in connection with its preparation and issuance, we regard Mr. Lubick's letter as a firm commitment that Rev. Rul. 79-99 will be promptly superseded by a new ruling which will effectuate the Discussion Paper in all particulars.

We are much obliged for your considerate appreciation of the problems faced by the parents of children who attend nonpublic schools.

Sincerely yours,

WILFRED R. CARON,
General Counsel.

NOVEMBER 14, 1980.

Hon. ROBERT K. DORNAN,
House of Representatives,
Washington, D.C.

DEAR MR. DORNAN: At the request of the Council for American Private Education (CAPE), I am writing to confirm Treasury's position with respect to an amendment that currently is attached to pending FY 1981 Treasury appropriations legislation. The amendment would prohibit the Internal Revenue Service (IRS) from enforcing during FY 1981 a 1979 IRS ruling, Rev. Rul. 79-99, which held that certain contributions made by parents to a tuition-free school attended by their children were nondeductible, because they were more in the nature of tuition payments rather than voluntary contributions.

Since Congress initially enacted this ban as part of the FY 1980 Treasury appropriations bill, the Office of Tax Policy has been meeting with representatives of private school organizations to discuss their concerns about the possible broad interpretations that might be given to Rev. Rul. 79-99. Enclosed is a copy of a Discussion Paper that has been developed in conjunction with these groups with a view to forming the basis for a new revenue ruling that would clarify and supersede Rev. Rul. 79-99.

It is our view that it would be desirable from the standpoint of both taxpayers and the government to provide a clarification of Rev. Rul. 79-99. Moreover, the IRS has indicated its willingness to issue such a ruling of Congress removes the current ban with respect to Rev. Rul. 79-99.

Furthermore, as you are aware, the private school organizations that have expressed concern about Rev. Rul. 79-99 support the deletion of the appropriations bill rider, in order that a new ruling may be published. A copy of a letter forwarded to us dated November 10 by CAPE is enclosed.

For these reasons, we hope that the rider might be reconsidered by Congress before adoption of any further FY 1981 Treasury appropriations measure.

Sincerely yours,

DONALD C. LUBICK,
Assistant Secretary.

THE LUTHERAN CHURCH-MISSOURI
SYNOD
Saint Louis, Mo., November 16, 1980.

Re Rider to Appropriations Bill, Revenue Ruling 79-99

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: You have provided a strong voice in opposing Revenue Ruling 79-99, which holds that parents of a child who attends a church school cannot deduct contributions to the church which operates the school unless the amount of the contribution exceeds the fair market value of the child's education. The Lutheran Church-Missouri Synod (the "Synod") thanks you for your leadership in opposing the Ruling, which would threaten the financial structure of both church schools and other private schools.

You were a principal sponsor of a rider to last year's Appropriations Bill for the Treasury Department which prohibited the Internal Revenue Service from implementing Revenue Ruling 79-99. A similar rider is contained in the Treasury Department Appropriations Bill recently passed by the House of Representatives. It is our understanding that in the next few days the Senate will consider that Bill, which includes the rider. For the reasons stated later in this letter, the Synod believes the Rider is no longer desirable and urges you to sponsor an amendment deleting the Rider.

Synod officials and its counsel, Lewis E. Striebeck, Jr., the other principal organizations which represent private schools in the United States, and the Council for American Private Education ("CAPE") have been working for a year with Daniel I. Halperin, Deputy Assistant Secretary of the Treasury (Tax Policy) to develop a replacement for Revenue Ruling 79-99. The good faith and hard work of all concerned have now reached fruition.

On November 6, 1980, Mr. Halperin sent Robert L. Smith, the Executive Director of CAPE a revised discussion draft of a new Revenue Ruling which would supercede Revenue Ruling 79-99. The Synod has approved the new draft Revenue Ruling and understands that the other members of CAPE have also done so. Through Cape, we have requested that the new draft be published as a Revenue Ruling.

Ironically, the Treasury Department believes it is precluded at this time from issuing the new Revenue Ruling which would supercede Revenue Ruling 79-99 because of the rider to the Appropriations Bill which was conceived in opposition to Revenue Ruling 79-99.

In view of the fact that the Treasury Department has agreed to a new Revenue Ruling which is satisfactory to the principal organizations representing private schools in the United States, the Synod believes that the rider to the Appropriations Bill is no longer necessary. The Synod believed that the threat posed by Revenue Ruling 79-99 was serious and required action by the Congress. To that end, the Synod sought your assistance, which was generously given. The rider was a logical first step to a legislative solution since it preserved the status quo until Congress had the opportunity to consider the matter.

If the new Revenue Ruling is issued, the Synod believes there will be no further need for legislation. Because legislation is not required, a rider designed to preserve the status quo pending action by Congress is no longer required.

Moreover, the Synod believes that continuation of the rider would be counterproductive at this point. The rider will result in postponement of a substantive resolution of the issues and cause continued uncertainty. The new Revenue Ruling will provide acceptable substantive rules on which private schools can rely and base their plans.

On Friday, November 13, the Synod's counsel spoke with Mike Hall of the Appropriations Committee Staff. Mr. Hall expressed the belief that the Appropriations Committee would look to you, as a principal sponsor of the rider, for guidance with respect to the rider.

Once again we extend our thanks to you for your support and leadership in this area of great concern to private schools in the United States.

Very truly yours,

Dr. J. A. O. PREUSS.

NATIONAL SOCIETY FOR HEBREW
DAY SCHOOLS,
New York, N.Y., November 21, 1980.

Attention Ms. Ellen Lessard.

Hon. THOMAS EAGLETON,
Dirksen Senate Office Building,
Washingtin, D.C.

DEAR SENATOR EAGLETON: We are pleased to inform you that the National Society for Hebrew Day Schools has participated actively in the development of the November 6th discussion paper prepared by the Treasury Department dealing with Revenue Ruling No. 79-99.

As a member of the Council of American Private Education, we do support the discussion paper and urge its publication as a replacement for 79-99. Furthermore, we also urge deletion of the Dornan Amendment to the Treasury Department Appropriation Bill.

Many thanks for your consideration and cooperation.

Sincerely yours,

Rabbi BERNARD GOLDENBERG,
Chairman, Executive Staff.

ST. JOHN'S PARISH SCHOOL,
Olney, Md., November 19, 1980.

Hon. THOMAS EAGLETON,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR EAGLETON: As a member of the Council for American Private Education, the National Association of Episcopal Schools has participated in the development of the November 6 discussion paper recently prepared by the Treasury Department to supercede Revenue Ruling 79-99.

This Association enthusiastically supports the publication of this discussion paper as a replacement for Revenue Ruling 79-99 and to this end urges the Senate to delete the Dornan Amendment from the Treasury Appropriation Bill.

Sincerely,

FREDERIC W. T. RHINELANDER,
CAPE Director for the National Association of Episcopal Schools

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NOVEMBER 17, 1980.

Hon. THOMAS F. EAGLETON,
United States Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: I am writing, on behalf of the National Association of Independent Schools (NAIS), to encourage your leadership of the Senate effort to defeat the so-called Dornan amendment to the Treasury-Postal Service appropriations bill.

Independent schools are excluded by law from significant public financial assistance, and by policy and practice from any large-scale support from corporate or foundation sources. Consequently, they are—unlike colleges and universities—dependent almost entirely upon contributions from individuals for support over and above tuition charges and other fees.

Our association, over a long period of years, has encouraged good practice in charitable solicitation by member schools. We believe the time has come for the Internal Revenue Service to be free to develop appropriate guidelines and revisions governing the deductibility of contributions from parents. Therefore we would oppose any riders to the appropriations bill which prohibit IRS action in this area.

John Esty, the President of NAIS, has authorized this letter as an expression of our position, and he asks that I convey to you his warmest personal regards.

Sincerely yours,

JOHN W. SANDERS,
Director of Government Relations.

Department of the Treasury,
Washington, D.C., November 19, 1980.
Hon. Thomas F. Eagleton,
U.S. Senate,
Washington, D.C.

Dear Senator Eagleton: I am writing to confirm Treasury's position with respect to an amendment that currently is attached to pending FY 1981 Treasury appropriations legislation. The amendment would prohibit the Internal Revenue Service (IRS) from enforcing during FY 1981 a 1979 IRS ruling, Rev. Rul. 79–99, which held that certain contributions made by parents to a tuition-free school attended by their children were nondeductible, because they were more in the nature of tuition payments rather than voluntary contributions.

Last year, Congress enacted a similar ban as part of the FY 1980 Treasury appropriations bill. In addition, S. 1705 was introduced by you and Senators Packwood and Moynihan in response to concerns that Rev. Rul. 79–99 might be interpreted to disallow a deduction for any contribution to an organization from which the donor receives a service.

In light of these concerns, and in response to specific questions that you raised, earlier this year the IRS issued Rev. Rul 80–77 (copy enclosed). The ruling makes it clear that traditional contributions to organizations from which the donor does receive some benefit, like the Red Cross, a volunteer fire department, the Girl Scouts, and a combined charity fund whose members include a home for the elderly, are deductible.

In addition, during the past several months, the Office of Tax Policy has been meeting with representatives of private school organizations to discuss their concerns about the possible broad interpretations that might be given to Rev. Rul. 79–99. Enclosed is a copy of a Discussion Paper that has been developed in conjunction with these groups with a view to forming the basis for a new revenue ruling that would clarify and superspect to Rev. Rul. 79–99.

It is our view that it would be desirable from the standpoint of both taxpayers and the government to provide a clarification of Rev. Rul. 79–99. Moreover, the IRS has indicated its willingness to issue such a ruling if Congress removes the current ban with respect to Rev. Rul. 79–99.

Furthermore, as you are aware, the private school organizations that have expressed concern about Rev. Rul. 79–99 support the deletion of the appropriations bill rider, in order that a new ruling may be published. A copy of a letter forwarded to us dated November 10 by the Council for American Private Education is enclosed.

For these reasons, we hope that the rider might be reconsidered by Congress before adoption of any further FY 1981 Treasury appropriations measure.

Sincerely yours,
Donald C. Lubick,
Assistant Secretary.

Section 170.—Charitable, Etc., Contributions and Gifts

26 CFR 1.170A–1: Charitable, etc., contributions and gifts; allowance of deduction.

Charitable contributions. Situations are presented in which payments to the Red Cross, a volunteer fire department, the Girl Scouts, and a combined charity fund are charitable contributions under section 170 of the Code.

Rev. Rul. 80–77.

ISSUE

Is a charitable contribution deduction allowable under section 170 of the Internal Revenue Code under the circumstances described below?

FACTS

Situation 1: A tornado destroys several homes in a town. The local chapter of the American National Red Cross provides food and temporary shelter to a taxpayer whose home was destroyed. The taxpayer, motivated by gratitude, makes a contribution of 5x dollars to the local chapter of the American National Red Cross.

Situation 2: A taxpayer owns a home in an area served by a volunteer fire department. No state or local taxes are used to support the fire department. The taxpayer makes a contribution of 5x dollars to the volunteer fire department's annual fund drive.

Situation 3: The taxpayer's daughter is a member of a local unit of the Girl Scouts of America. The taxpayer makes a contribution of 5x dollars to the Girl Scouts of America.

Situation 4: The taxpayer has a dependent parent who is a resident of a home for the elderly which is a member organization of a combined charity fund. The taxpayer makes an unrestricted contribution of 5x dollars to the combined charity fund that distributes the contributions to the member organizations according to a formula.

HOLDING

In each of the four situations, the taxpayer is allowed a charitable contribution deduction under section 170 of the Code, subject to the percentage limitations of section 170(b)(1).

CAPE,
Washington, D.C., November 10, 1980.
Mr. Daniel I. Halperin,
Deputy Assistant Secretary, Tax Policy, Department of the Treasury, Washington, D.C.

Dear Mr. Halperin: The Council for American Private Education (CAPE), which is an umbrella group of private school organizations, has carefully reviewed your November 6 Discussion Paper concerning the deductibility in certain situations of payments made by parents to private schools attended by their children. We understand that the Discussion Paper has been developed with a view to being published as a Revenue Ruling that would supersede Rev. Rul. 79–99.

CAPE and its member organizations approve the Discussion Paper and urge the Treasury to publish it as a Revenue Ruling as soon as possible. In furtherance of this goal, CAPE would support a legislative initiative by Treasury to delete a rider from the pending fiscal year 1981 Treasury appropriations bill which would prevent the publication of the Discussion Paper as a Revenue Ruling.

CAPE appreciates the cooperative efforts of the Treasury to work with private school organization to replace Rev. Rul. 79–99.

Respectfully,
Robert L. Smith,
Executive Director.

Department of the Treasury,
Washington, D.C., November 6, 1980.
Mr. Robert L. Smith,
Executive Director, Council for American Private Education, Washington, D.C.

Dear Mr. Smith: Enclosed is a revised version of the May 29 Discussion Paper concerning the deductibility in certain situations of payments made by parents to private schools attended by their children. We believe that this revised version incorporates most of the suggestions made at the June 30 meeting.

Treasury's purpose in meeting with representatives of private school organizations and developing this Discussion Paper has been to discuss, with a view toward issuing a new ruling, concerns about the possible broad interpretations that might be given to Revenue Ruling 79–99. We continue to believe that it would be desirable, from the standpoint of both taxpayers and the government, to attempt to clarify Revenue Ruling 79–99.

However, as you are aware, a rider that has recently been added to the Treasury appropriations legislation currently pending in Congress would, it enacted, nullify any new ruling. Therefore, while Congress has yet to take final action on the appropriations bill, the prospects for an administrative solution are not encouraging at the present time.

Sincerely yours,
Daniel I. Halperin,
Deputy Assistant Secretary.

Discussion Paper

FACTS

In the situations described below, the donee organization operates a private school and is an organization described in section 170(c) of the Internal Revenue Code. In each situation a taxpayer who is a parent of a child who attends the school makes a payment to the organization. In each situation, the cost of educating a child in the school is not less than the payments made by the parent to the organization.

LAW AND ANALYSIS

Section 170(a) of the Code provides, subject to certain limitations, for the allowance of a deduction for charitable contributions or gifts to or for the use of organizations described in section 170(c), payment of which is made during the taxable year.

A contribution for purposes of section 170 of the Code is a voluntary transfer of money or property that is made with no expectation of procuring a financial benefit commensurate with the amount of the transfer. See section 1.170A–1(c)(5) of the Income Tax Regulations and H.R. Rep. No. 1337, 83d Cong., 2d Sess. A44 (1954). Tuition expenditures by a taxpayer to an educational institution are therefore not deductible as charitable contributions to the institution because they are required payments for which the taxpayer receives benefits presumably equal in value to the amount paid. See *Channing* v. *United States,* 4F. Supp. 33 (D. Mass.) aff'd per curiam 67 F.2d 986 (1st Cir. 1933), *cert. denied,* 291 U.S. 686 (1934). Likewise, payments made by a taxpayer on behalf of children attending parochial or other church-sponsored schools are not allowable deductions as contributions either to the school or to the religious organization operating the school if the payments are earmarked for such children. Rev. Rul. 54–580, 1954–2 C.B. 97. However, the fact that the payments are not earmarked does not necessarily mean that the payments are deductible. On the other hand, a charitable deduction for a payment to an organization that operates a school will not be denied solely because the payment was, to any substantial extent, offset by the fair market value of the services rendered to the taxpayer in the nature of tuition.

Whether a transfer of money by a parent to an organization that operates a school is a voluntary transfer that is made with no expectation of obtaining a commensurate benefit depends upon whether a reasonable person, taking all the facts and circumstances of the case into account, would conclude that enrollment in the school was in no manner contingent upon making the payment, that the payment was not made pursuant to a plan (whether express or implied) to convert nondeductible tuition into charitable contributions, and that receipt of the benefit was not otherwise dependent upon the making of the payment.

In determining this issue, the presence of one or more of the following factors creates a presumption that the payment is not a charitable contribution: the existence of a contract under which a taxpayer agrees to make a "contribution" and which contains provisions ensuring the admission of the taxpayer's child; a plan allowing taxpayers either to pay tuition or to make "contributions" in exchange for schooling; the earmarking of a contribution for the direct benefit of a particular individual; or the otherwise-unexplained denial of admission or readmission to a school of children of taxpayers who are financially able, but who do not contribute.

In other cases, although no single factor may be determinative, a combination of several factors may indicate that a payment is not a charitable contribution. In these cases, both economic and noneconomic pressures placed upon parents must be taken into account. The factors that the Service ordinarily will look to include, but are not limited to, the following: the absence of a significant tuition charge; substantial or unusual pressure to contribute applied to parents of children attending a school; contribution appeals made as part of the admissions or enrollment process; the absence of significant potential sources of revenue for operating the school other than contributions by parents of children attending the school; and other factors suggesting that a contribution policy has been created as a means of avoiding the characterization of payments as tuition.

On the other hand, if a combination of such factors is not present, payments by a parent will normally constitute deductible contributions, even if the actual cost of educating the child exceeds the amount of any tuition charged for the child's education.

Situation 1:

Organization *S*, which operates a private school, requests the taxpayer to contribute $400*x* for each child enrolled in the school. Parents who do not make the $400*x* contribution are required to pay $400*x* tuition for each child enrolled in the school. Parents who neither make the contribution nor pay tuition cannot enroll their children in the school. The taxpayer paid $400*x* to *S*.

HOLDING

The taxpayer is not entitled to a charitable contribution deduction for the payment to Organization *S*. Because the taxpayer must either make the contribution or pay the tuition charge in order for his or her child to attend *S*'s school, admission is contingent upon making a payment of $400*x*. The taxpayer's payment is not voluntary and no deduction is allowed.

Situation 2:

Organization *T*, which operates a private school, solicits contributions from parents of applicants for admission to the school during the period of the school's solicitation for enrollment of students or while the applications are pending. The solicitation materials are part of the application materials or are otherwise in a form indicating that parents of applicants have been singled out as a class for solicitation. With the exception of a few parents, every parent who is financially able makes a contribution or pledges to make a contribution to *T*. No tuition is charged. The taxpayer paid $400*x* to *T*, which amount was suggested by *T*.

HOLDING

The taxpayer is not entitled to a charitable contribution deduction for the payment to Organization *T*. Because of the time and manner of the solicitation of contributions by *T*, and the fact that no tuition is charged, it is not reasonable to expect that a parent can obtain the admission of his or her child to *T*'s school without making the suggested payment. Under these circumstances, the payments made by the taxpayer are in the nature of tuition, not voluntary contributions.

Situation 3:

Organization *U*, which operates a private school, admits or readmits a significantly larger percentage of applicants whose parents have made contributions to the organization than applicants whose parents have not made contributions. The taxpayer paid $400*x* to Organization *U*.

HOLDING

The taxpayer is not entitled to a charitable contribution deduction. The Service will ordinarily conclude that the parents of applicants are aware of the preference given to applicants whose parents have made contributions. The Service will therefore ordinarily conclude that the parent could not reasonably expect to obtain the admission of his or her child to the school without making the transfer, regardless of the manner or timing of the solicitation by the organization. The Service will not so conclude, however, if the preference given to children of contributors is principally due to some other reason.

Situation 4:

Organization *V*, a society for religious instruction, has as its sole function the operation of a private school providing secular and religious education to the children of its members. No tuition is charged for attending the school, which is funded through *V's* general operating account. Contributions to the account are solicited from all society members, as well as from local churches and nonmembers. Persons other than parents of children attending the school do not contribute a significant portion of the school's support. Funds normally come to *V* from parents on a regular, established schedule. At times, parents are personally solicited by the school treasurer to contribute funds according to their financial ability. No student is refused admittance to the school because of the failure of his or her parents to contribute to the school. The taxpayer paid $400*x* to *V*.

HOLDING

Under these circumstances, the Service will generally conclude that the payment is nondeductible. Unless contributions from sources other than parents are of such magnitude that the school is not economically dependent upon parents' contributions, parents would ordinarily not be certain that the school could provide educational benefits without their payments. This conclusion is further evidenced by the fact that parents contribute on a regular, established schedule. In addition, the pressure placed on parents through the personal solicitation by the school treasurer further indicates that their payments were not voluntary.

Situation 5:

Organization *W* operates a private school that charges a tuition of $300*x* per student. In addition, it solicits contributions from parents of students during periods other than the period of the school's solicitation for student enrollments or the period when applications to the school are pending. Solicitation materials indicate that parents of students have been singled out as a class for solicitation and the solicitation materials include a report of the organization's cost per student to operate the school. Suggested amounts of contributions based on an individual's ability to pay are provided. No unusual pressure to contribute is placed upon individuals with children in the school, and many parents do not contribute. In addition, the organization receives contributions from many former students, parents of former students, and others. The taxpayer paid $100*x* to Organization *W* in addition to the tuition payment.

HOLDING

Under these circumstances, the Service will generally conclude that the taxpayer is entitled to claim a charitable contribution deduction of $100*x*. Because a charitable organization normally solicits those known to have the greatest interest in the organization, the fact that parents are singled out for a solicitation will not in itself create an inference that future admission or any other benefits depend on a contribution from the parent.

Situation 6:

Church *X* operates a school providing secular and religious education that is attended both by children of parents who are members of *X* and by children of nonmembers. Church *X* receives contributions from all of its members, which are placed in its general operating fund and are expended when needed to support all church activities, a substantial portion of which are unrelated to the school. Most members of Church *X* do not have children in the school, and a major portion of Church *X*'s expenses are attributable to its nonschool functions. The methods of soliciting contributions to Church *X* from church members with children in the school are the same as the methods of soliciting contributions from members without children in the school. Church *X* has full control over the use of the contributions that it receives. Members who have children enrolled in the school are not required to pay tuition for their children, but tuition is charged for the children of nonmembers. Taxpayer, a member of Church *X* whose child attends Church *X*'s school, contributed $200*x* to Church *X* during the year for its general purposes.

HOLDING

The Service will ordinarily conclude that the taxpayer is allowed a charitable contribution deduction of $200*x*. Because the facts indicate that the school is supported by the church, that most contributors to the church are not parents of children enrolled in the school, and that contributions from parent members are solicited in the same manner as contributions from other members, the taxpayer's contributions will be considered charitable contributions, and not payments of tuition, unless there is showing that the contributions by members with children in the school are significantly larger than those of other members. The absence of a tuition charge is not determinative in view of these facts.

EFFECT ON OTHER DOCUMENTS

The facts in *Situation 4* are essentially the same as in the case of *Oppewal v. Commissioner*, 468 F. 2d 1000 (1st Cir. 1972), on which Rev. Rul. 79-99 was based. Certain facts were not stated in that ruling. First, the sole function of the organization was the operation of a school. Second, there was an absence of significant potential sources of revenue for operating the school other than contributions by parents. Third, funds normally came to the organization on a regular, established schedule. Fourth, when solicitations were made, parents were solicited on a personal basis by the school treasurer. Rev. Rul. 79-99, 1979-1 C.B. 108, is hereby superseded.

Department of the Treasury,
Washington, D.C., November 20, 1980.

Hon. Thomas Eagleton,
Dirksen Building,
Washington, D.C.

Dear Senator Eagleton: This letter confirms my verbal commitment made at our meeting in your office on Thursday, November 20, 1980 as follows:

Promptly upon completion of action by both the Senate and House to remove the rider which is contained in section 107 of the FY 1981 Treasury Appropriations Bill (HR 7583), the Service will announce by news release a revenue ruling which will supersede Revenue Ruling 79-99. The ruling to be issued is the draft which was agreed to by all parties represented at the meeting with you on this date.

We very much appreciate your personal interest in seeking to resolve this difficult problem.

Sincerely,

Gerald G. Portney.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. PACKWOOD. On the list of organizations which have endorsed the new revenue ruling there is one on the letterhead of the Council for American Private Education.

Mr. EAGLETON. That is the letterhead of the Council for American Private Education. I have spoken with the executive director of CAPE, Mr. Robert Smith—who says that the Council for American Private Education speaks for all of the organizations I mentioned.

Mr. PACKWOOD. I understand CAPE. But they have supported tuition tax credits and have worked with me before.

What I want to know is is the Senator saying that every organization he read supports the position the Senator is espousing?

Mr. EAGLETON. I was told by the executive director that their organization unanimously supports the position I am espousing.

Mr. PACKWOOD. That is not my question. Does every organization you read support your position?

Mr. EAGLETON. That is my understanding. I have CAPE's letter and I will read a portion of this letter:

> CAPE and its member organizations have appreciated your leadership role in opposing Revenue Ruling 79–99. In light of the agreement between Mr. Halperin, CAPE and its members on a new Revenue Ruling, we believe the best approach for eliminating Revenue Ruling 79–69—

That is the old, bad one—

> is the deletion of the rider to the Treasury Department appropriations bill and the issuance of the new Revenue Ruling.

The letter is addressed to me, and it says that CAPE and its members want the new ruling. It is signed by Mr. Robert L. Smith, and dated November 17, 1980.

Mr. McCLURE. Mr. President, I think the Senator from Missouri has stated his case very well and persuasively, and I think he again has stated that all of these organizations it has been recommended to him support the regulations as being proposed by IRS. I think the Senator from Missouri believes in that.

But I think the Senator from Missouri has been misled because there are member organizations of the groups that he has listed here today are violently opposed to the proposed regulations. Some have been intimidated into a position of silence, some have simply not had their voices heard at all. But there are in addition to the organizations the Senator from Missouri has listed the American Association of Christian Schools, the Association of Christian Schools International, the Accelerated Christian Education, and Citizens for Educational Freedom, which is a national association of parents supporting private education, all of whom are bitterly opposed to the proposed regulations and remain bitterly opposed to the proposed regulations.

I am not saying that the Senator from Missouri knows that and is misrepresenting. I believe it has been misrepresented to the Senator from Missouri.

For that reason I believe that it is important for us to maintain the status quo with respect to the proposed regulations at least until that fact can be ascertained very clearly rather than on a continuing resolution changing what everybody in America has believed to be the case with respect to a suspension of the regulation authority of IRS in this field and, therefore, I urge the adoption of my amendment.

Mr. EAGLETON. Mr. President, all I can say to my colleagues and to Senator McClure and Senator Packwood is that I think I can read the English language, and I think I can understand it. I would just read this one paragraph from CAPE's letter. CAPE is the acronym for the Council for American Private Education.

Their executive director, in a current letter dated November 17, 1980, said:

> CAPE and its member organizations have appreciated your leadership role in opposing Revenue Ruling 79–99. In light of the agreement between Mr. Halperin, CAPE and its members on a new Revenue Ruling, we believe the best approach for eliminating Revenue Ruling 79–99 is the deletion of the rider to the Treasury Department appropriations bill * * *

So this matter has been well considered, Mr. President.

These negotiations with the IRS have gone on over a period of a calendar year—as I understand it has been going on for 2 years—so this is not a sudden or late-blooming discussion. It is a discussion which has gone on for a considerable period of time, and I submit the accommodation which has been worked out between this wide array of private and religious educational groups and the Treasury Department is the best way to resolve it. That is all I have to say on the subject, Mr. President.

Mr. HATCH. Mr. President, I rise in support of the amendment offered by the Senator from Idaho. As my colleagues know, I have long been concerned about the intention of the Internal Revenue Service to revise the tax-exempt status of religious and private schools. The amendment offered by Mr. McClure rightly strikes section 140, having the effect of prohibiting the IRS from implementing regulations which would jeopardize the tax status and, indeed, the economic viability of many private schools.

The IRS claims that it has solved the problems of its first proposal which was issued in 1978. The first proposal drew the objections of a majority in Congress and an amendment introduced by Congressmen Dornan and Ashbrook to prevent the promulgation of this plan has been a part of every appropriation act since then. I am dismayed that the provision has been deleted from the continuing resolution appropriating funds for the Treasury Department and its IRS component.

Unfortunately, Mr. President, the second plan suggested by the IRS does not address the fundamental issue which spurred opposition to the initial regulations. This issue is simply the propriety of a Federal executive agency to determine and enforce social policy without any congressional mandate for doing so. The regulations now proposed by the IRS have in common with the first proposal the assumption of prima facie discrimination on the part of private schools as well as the ability to inflict economic punishment on the schools in the revocation of their tax-exempt status.

We have been warned many times about the potential for the abuse of power by the IRS and Congress should surely reject this agency's efforts to circumvent the legislative process and to aid a so-called review procedure which demands our citizens to prove their innocence.

Further, Mr. President, it is a myth that private schools are havens for the rich to avoid contact with minorities in our public school systems. This belief has been popularized without a good analysis of the recent characteristics and developments in either our public or private schools. I think such an analysis would show that most students now attending private schools are of basically middle class backgrounds whose parents are sacrificing financially to send them there. Why? The public schools in many areas are not providing the kind of learning environment parents seek for their children such as a disciplined, self-contained classroom, a curriculum which emphasizes a proficiency in the basic skills, and an opportunity to participate in cultural enrichment activities like music and art. Many of these attributes are, for one person or another, no longer found in our public schools.

Mr. President, I also maintain that if a tuition tax credit were available to parents that two things very important to education in our country would occur: First, that more parents of lesser means, including minority parents who might also prefer a private school for their children, would take advantage of that choice; and second, that the presence of such a choice would enhance the quality of a public school education as well. It would cause us to pay more attention to the critical needs of public schools.

I cannot support the regulations proposed by the Internal Revenue Service because they are based on a myth. They assume the intent to discriminate and they try to impose a quota system on private schools in order for them to avoid the economic hardship of revocation of their tax exempt status. They contribute to the dependence of parents on what they perceive to be a currently inadequate and unresponsive public school system. These regulations delay the improvements which can and ought to be made in our public school systems, which I heartily support as the hope of future generations of Americans.

Mr. President, I urge all Senators to support the McClure amendment. It preserves the same language we have previously approved and which has been approved by the House. If any action is taken to revise or revoke the tax-exempt status of private or religious schools, the Congress should debate and decide that action. The IRS should not be responsible for making social policy, deciding where there is or is not discrimination, or how to alleviate it. Congress will be unadvisedly delegating its powers if it permits the promulgation of these regulations.

Mr. EAGLETON. Mr. President, I ask for yeas and nays on the McClure amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I ask that this vote be confined to 10 minutes.

The PRESIDING OFFICER. Is there objection to the request for a 10-minute rollcall? If not, it is so ordered.

The question is on agreeing to the amendment of the Senator from Idaho. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Alabama (Mr. Heflin), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Maryland (Mr. Sarbanes), the Senator from Georgia (Mr. Talmadge), the Senator from Oklahoma (Mr. Boren), the Senator from South Dakota (Mr. McGovern), the Senator from Wisconsin (Mr. Nelson), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. Durenberger), the Senator from Pennsylvania (Mr. Heinz), the Senator from New York (Mr. Javits), the Senator from Kansas (Mrs. Kassebaum), the Senator from Maryland (Mr. Mathias), the Senator from South Dakota (Mr. Pressler), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 54, nays 24, as follows:

[Rollcall Vote No. 536 Leg.]

YEAS—54

Armstrong
Baker
Biden
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Cochran
Cohen
DeConcini
Dole
Domenici
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Helms
Humphrey
Jackson
Jepsen
Laxalt
Long
Lugar
Magnuson
Matsunaga
McClure
Melcher
Mitchell
Morgan
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stone
Thurmond
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—24

Baucus
Bellmon
Bentsen
Bradley
Burdick
Chiles
Cranston
Culver
Danforth
Eagleton
Glenn
Hart
Hollings
Huddleston
Inouye
Leahy
Levin
Metzenbaum
Moynihan
Nunn
Riegle
Stewart
Tsongas
Williams

NOT VOTING—22

Bayh
Boren
Church
Durenberger
Durkin
Gravel
Heflin
Heinz
Javits
Johnston
Kassebaum
Kennedy
Mathias
McGovern
Nelson
Pressler
Ribicoff
Sarbanes
Stennis
Stevenson
Talmadge
Tower

So Mr. McClure's amendment (UP No. 1916) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. BRADLEY. Mr. President, on rollcall vote 536, I voted "yea." I should like to change my vote to "nay." I ask unanimous consent to change my vote.

There will be no change in the outcome.

Mr. METZENBAUM. Mr. President, on what is the request?

The PRESIDING OFFICER. The request is to change a vote on a rollcall.

Mr. BAKER. Mr. President, reserving the right to object. I shall not object. I said earlier I shall not object to the wording of a consent request to change votes. In this case, I am told it will not change the outcome.

The request has been cleared, I believe, on both sides and this is not the time to start a new precedent. So I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The above tally has been corrected to reflect the foregoing order.)

Mr. BUMPERS. Let us go to third reading, Mr. President.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

UP AMENDMENT NO. 1917

(Purpose: To provide funds for certain energy recycling systems)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. Metzenbaum) proposes an unprinted amendment numbered 1917.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place insert the following:

Notwithstanding any other provision of this joint resolution there is appropriated an additional amount of $3,500,000 to the Administrator of the Environmental Protection Agency under provisions of section 8001 of the Resource Conservation and Recovery Act, as amended (Public Law 94-580).

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, after much effort and cooperation among Members on both sides of the aisle, I think this amendment is now acceptable, subject to certain comments of the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, this amendment was originally designed to provide $3.5 million for a project in the city of Akron, Ohio. Obviously, this would have been earmarking the funds and, therefore, would have been a violation of the rules. It would have been providing an earmarking that was not in the authorization bill.

The Senator from Ohio has modified his amendment to provide $3.5 million and it is clear that there is no intention to earmark this. This is not necessarily designed for Akron, Ohio, but it is to go to the highest priority projects that the EPA may have.

Is that the understanding of the Senator from Ohio?

Mr. METZENBAUM. That is the understanding.

Mr. PROXMIRE. Mr. President, so far as I am concerned, I am willing to accept the amendment.

Mr. METZENBAUM. I thank the Senator from Wisconsin, the Senator from Alaska, the Senator from Idaho, and others who have helped in this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1917) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1918

(Purpose: To reduce appropriations for Merit Systems Protection Board)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes an unprinted amendment numbered 1918:

On page 51, after line 7 add the following:

"Sec. 186. Notwithstanding any other provision of this joint resolution not to exceed $12,835,000 shall be available for the Merit Systems Protection Board."

Mr. STEVENS. Mr. President, this is an amendment to cut the moneys in the bill that are for the Merit Systems Protection Board back to the President's budget request. The House added additional money. We have another amendment in this bill pertaining to that Board. We would like to have this matter be in conference as well as the Senate amendment so that we can determine the matter in full in conference.

This does cut the money from $15 million down to $12,835,000, which was the President's budget request.

The PRESIDING OFFICER. Is there objection to the amendment? If not, without objection, the amendment is agreed to.

The amendment (UP No. 1918) was agreed to.

UP AMENDMENT NO. 1919

Mr. STEVENS. Mr. President, as the last subject I want to raise, I did discuss a request made to me by Members of the other body who will be members of the conference committee. They asked that I attempt to put into this continuing resolution a generic amendment dealing with the problem of the enforcement of rules that will become final after the date of this joint resolution into some date into next year. I do have such a generic amendment.

I have accommodated the desires of the Senator from Wisconsin. Is there any other Senator who will object to it? I do not want to cause controversy.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes an unprinted amendment numbered 1919.

The amendment is as follows:

At the end of the resolution:

(a) Prior to February 15, 1981, none of the funds made available in this or any other Act may be used to enforce any rule as defined by section 553 of title 5, United States Code, or any interpretive rule promulgated by the Internal Revenue Service if such rule becomes final after the date of the enactment of this joint resolution.

(b) Subsection (a) shall not apply to any rule which the agency head determines is being issued in response to an emergency situation or other exceptional circumstances requiring immediate agency action in the public interest, or any rule approved directly by the President.

Mr. STEVENS. Mr. President, I ask that the amendment not be read.

Mr. LONG. I object. What is the amendment?

Mr. STEVENS. I will be glad to have it read or I can explain it .

Mr. LONG. Explain it.

Mr. STEVENS. What this does is this: The Members of the House believe that we can consolidate all of these amendments that concern not having rules become effective or regulations be promulgated into one generic amendment, but they say because of their rules they would like to have a generic amendment in this bill as it comes over. This is that type of amendment. If we can get an agreement in conference that will, in effect, consolidate all of these amendments we have been dealing with for 2 days, it would be a good thing. They say it has to be in the bill as it comes over.

This covers administrative rules and rules of the IRS, saying if they would become effective after the date of this act and prior to February 15 they cannot be put into effect except by declaration of emergency by the agency head or upon approval by the President himself. That is for the purpose of having a vehicle so we can discuss it in conference.

Several Senators. Vote! Vote!

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. CHILES. Mr. President, is the Senator going to combine all of these?

Mr. STEVENS. I am not trying to combine them. We are trying to combine them for when we get to conference.

Mr. CHILES. Will the Senator tell me that again?

Mr. STEVENS. The amendment says that any regulation or rule that would become final between the date of this act and February 15 cannot be enforced using funds under this act except by approval of the agency head or the President upon a finding that there is an emergency, in effect. I will be glad to have the amendment read so there will be no question. We have had it checked around today. If the Senator has objection, I will drop it.

I am saying from the point of view of scope, they want it in there.

Mr. CHILES. Mr. President, I object.

Mr. STEVENS. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. Objection is heard. The amendment is withdrawn.

UP AMENDMENT NO. 1920

(Purpose: Providing revenue sharing accounts for local governments of noncontiguous States)

Mr. MATSUNAGA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. Matsunaga), for himself, Mr. Inouye, and Mr. Stevens, proposes an unprinted amendment numbered 1920.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 25, following "$4,566,700,000" insert the following: "*Provided*, That there is hereby appropriated an additional $3,249,000 to be available for such entitlement period for allocation to non-contiguous States in the manner prescribed in section 105(c) of the State and Local Fiscal Assistance Act of 1972 as amended and as further amended by H.R. 7112 as passed by the Senate on December 9, 1980.".

Mr. MATSUNAGA. Mr. President, the amendment which I am offering is intended to correct an omission which was inadvertently made when the Senate yesterday considered and adopted amendment No. 1862 to the pending continuing appropriations resolution, (H.J. Res. 637). The amendment was offered by the distinguished chairman of the Finance Committee, Mr. Long, to insure the continued funding of programs under the State and Local Fiscal Assistance Act of 1972, as amended, including the payment adjustments for noncontiguous States. The Long amendment inadvertently omitted to include $3.2 million for payment adjustments to Hawaii and Alaska.

The amendment which I am offering will correct this omission by adding $3,249,000 to the amount earlier appropriated for the revenue-sharing program by the Long amendment.

Mr. President, my amendment is cosponsored by Senator Inouye and Senator Stevens and has the approval of the floor managers on both sides of the aisle. I urge its adoption.

The PRESIDING OFFICER. Is there objection to the amendment? Without objection, the amendment is agreed to.

The amendment (UP No. 1920) was agreed to.

The PRESIDING OFFICER. Are there further amendments? If not, the Senate will proceed to third reading.

Mr. MAGNUSON. Mr. President, I think we have had enough amendments.

Mr. MOYNIHAN. Mr. President, I have an amendment.

Mr. MAGNUSON. All right. The Senator from New York has an amendment.

Mr. PROXMIRE. Mr. President, this amendment will take quite a while.

UP AMENDMENT NO. 1921

(Purpose: To prevent the IRS from implementing Revenue Ruling 80-60 with respect to book publishers and small businessmen)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. MAGNUSON. I thought we were through with all of our amendments. We have had enough of them. We have 154 amendments by the Senate. I guess 155 will not make any difference.

Mr. MOYNIHAN. I thank the magnanimous chairman.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Moynihan), for himself, Mr. Lugar, Mr. Nelson, Mr. Ribicoff, Mr. Javits, Mr. Tsongas, and Mr. Bradley, proposes an unprinted amendment numbered 1921.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place in the Act, add the following:

"Sec. . (a) General Rule.—No funds provided in this Act shall be used to require any taxpayer who is obliged under Revenue Ruling 80–60 and Revenue Procedure 80–5 to change his method of accounting for his first taxable year ending after December 24, 1979 to change such method for taxable years beginning before January 1, 1981.

"(b) Applies Only to Book Publishers and to Small Businessmen.—This section shall apply only with respect to inventory consisting of books, maps, sheet music, monographs, periodicals or similar printed materials, or to taxpayers whose gross sales in tax year 1979 were $5 million or less.

"(c) Does Not Apply to Taxpayers Under Audit.—This section shall not apply to taxpayers to whom Revenue Procedure 80–5 does not apply by reason of section 3.06 thereof."

Mr. MOYNIHAN. Mr. President, I do not wish to delay the Senate in this matter, and if it agrees that no agreement can be reached I will not delay the Senate.

This is a matter which has been reported from the Committee on Finance by the vote of 16 to 1. The question is whether we are going to be burning books all over this Nation in the next weeks.

The amendment is a very simple one. It would delay for 2 years—the last year and the pretax year—the application to small businesses and to publishers of the Thor Power ruling. It would mean that enormous stocks of spare parts and books and sheet music would not be destroyed. It would give the Committee on Finance the opportunity in the coming year to decide whether the law should be changed. If that decision is made, then there will be no problem. This sudden event will be behind us.

At this moment, small businesses all over America and book publishers—the publishers of serious books which remain in stock 5, 10, and 20 years—are facing an awful decision.

The cost to the Treasury in this fiscal year would be $20 million by the best estimate of the Joint Committee on Taxation. That money will be recovered.

The Senator from Wisconsin properly notes that that recovery will be without interest. Yes; there will be some cost to the Government, but we will not destroy valuable books, and other inventory.

The amendment does not say what happens to businesses that have already filed their 1979 returns. Let me make clear that I intend for these businesses to be able to file amended returns.

Mr. DOLE. Will the Senator yield?

The PRESIDING OFFICER. The Senate is not in order and we shall not continue until there is order. Those who wish to go home tonight would be well advised to maintain order.

Mr. DOLE. Mr. President, I say to the Senator from New York that I hope we can accommodate the Senator on some of the bills we have coming up tomorrow. The Senator from Kansas indicated his support. I hope that the Senator from New York might withdraw the amendment and try to work it out tomorrow and let us go to third reading.

Mr. PROXMIRE. Mr. President, I hope the Senator will do that. This is not an appropriation matter, this is a Finance Committee matter. If we accept it on this particular bill, it means we go to conference with the House committee. They have no knowledge of it, no background. The Finance Committee will go to conference with the Ways and Means Committee. That is where it belongs.

Mr. MOYNIHAN. Do I understand from the distinguished managers that we shall be taking up tax legislation tomorrow?

Mr. DOLE. We may. My leader is here.

Mr. LONG. Mr. President, I hope that we shall have an opportunity to act on revenue bills tomorrow, but I suspect that the amendment the Senator has is not one that is likely to pass as an unobjected-to amendment. I fear that the amendment would be opposed. If that were the case—as a matter of fact, I believe the Treasury Department does object to the amendment. Is that correct? The Treasury opposes it?

Mr. MOYNIHAN. I believe that may be the case.

Mr. PROXMIRE. Mr. President, that is the case.

Mr. LONG. Then I say to the Senator from New York that I shall have to say that, although the Senator can offer the amendment on a revenue bill, if we get some up—and I hope we do get some up—his chances are very, very poor of getting action on this matter on a revenue bill or tax measure because, frankly, we do not have a strong enough horse to carry the rider. I suspect that whatever he puts the bill on, neither the rider nor the horse is going anywhere. While I should like to offer him some assurance, I fear that if he does not put it on this bill, he is not going to get a horse big enough to carry his amendment.

Mr. MOYNIHAN. I hear my chairman very clearly.

Mr. President, I have been 4 years in this body. I have never once prolonged the deliberations of this body. I have never gone near to something called extensive debate. I have never insisted on having my way in anything. But I say we should not burn books and this is what we are going to do. It is a small effort to put that prospect off until there is a true judgment in Congress that it be so.

Mr. President, it is not just a matter of burning books. Small businesses all over the country are being asked to do something utterly uneconomical. The distinguished Senator in the chair at the moment is one of the sponsors. I happen to know that the Senator from Alaska this morning expressed his support for this.

All I ask is a vote, Mr. President. I shall say not another word if we can have a vote. I shall accept a voice vote; I would accept a rollcall vote; I would accept a division.

Mr. BENTSEN. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. BENTSEN. Mr. President, I should like to be a cosponsor; I agree that it is ethical and right.

The PRESIDING OFFICER. Without objection, the name of the Senator is added as a cosponsor.

Mr. MOYNIHAN. May I say to the distinguished Senator from Texas that the chairman has clearly indicated that that will not work tomorrow. Can we not have a vote tonight? May we not have a voice vote?

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. PROXMIRE. On an appropriation bill, it just seems there is no way we can accept this. As I say, this would overrule a unanimous Supreme Court decision. As the Senator has agreed, it is opposed, strongly opposed, by the Treasury Department. Sixteen hundred firms have complied. As the Wall Street Journal points out,

> Despite all the talk of book burnings, few works yet owe their doom to the IRS. Farrar, Strans & Giroux Inc. provides an exception. Its Octagon Books unit, which reprints academic works, has shredded 11,000 books, including 200 copies of "The Tennessee Yeomen, 1840–1860" and 100 copies of "Baudelaire the Critic," both works that weren't likely to make a hit on the remainder market. They were each selling only five copies a year.

So, yes they may burn some books, books they cannot sell.

Mr. President, the case against this, which we could make at some length, is very impressive. I think the Senator indicated earlier tonight that in the event there is strong opposition, he would not detain the Senate. I hope he will follow that principle he agreed to a little earlier.

Mr. MOYNIHAN. Mr. President, I have to say I never indicated anything of the kind. I do not want to turn the Senate against this subject. I have never seen anyone else in this body hesitate to stand up for economic interests. I think we are standing up for something more important: The cultural tradition of the United States. Is it going to be judged that the Senate was not prepared to vote on such a simple matter as this? I am ready to vote. I shall take a voice vote, I shall take a rollcall, I shall take a division. I do not ask more than that. I ask it in the name of an important principle.

We shall not be proud of ourselves, Mr. President, when we learn what we have done. Can we not vote?

SEVERAL SENATORS. Vote!

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

Mr. PROXMIRE. Mr. President, the Senator has just indicated he will take a voice vote.

Mr. MOYNIHAN. Mr. President, a voice vote—I move the amendment.

Mr. METZENBAUM. Mr. President, may I ask the distinguished Senator, has the amendment of the Senator from Colorado been attached to this?

Mr. MOYNIHAN. No, it has not. Mr. President, I move the amendment. I understand there will be a voice vote.

Mr. METZENBAUM. Is that a correct statement, Mr. President? What happened to the amendment of the Senator from Colorado in the second degree?

Mr. MOYNIHAN. It was not offered. The Senator is not here.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New York. (Putting the question.)

It is the opinion of the Chair that the yeas have it.

The amendment (UP No. 1921) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1922

(Purpose: Relating to employment of consultants by certain Senate officers)

Mr. BAKER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for himself and Mr. ROBERT C. BYRD, proposes an unprinted amendment numbered 1922:

At the end of the joint resolution, add the following new section:

SEC. . (a) Section 101 of the Supplemental Appropriations Act, 1977 (Public Law 95--26) is amended by striking out "two individual consultants" and inserting in lieu thereof "three individual consultants".

(b) The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

Mr. BAKER. Mr. President, this amendment is offered for myself and the majority leader. It is a technical amendment. Under current law, the majority leader, the minority leader, and the Secretary of the Senate may each appoint two individual consultants. These are appointed on a temporary or intermittent basis, to carry out specific research projects or to carry out assignments which arise from time to time, which would otherwise require the employment of a full time individual.

This amendment would allow the employment of three individuals rather than the two now authorized.

I ask adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1922) was agreed to.

THE WEST FRONT OF THE CAPITOL

Mr. HOLLINGS. Mr. President, last week the distinguished junior Senator from New York, (Mr. MOYNIHAN) made a statement to the Senate regarding the West Front of the Capitol. I commend the Senator for interest in the west front. As one who has long been interested in the west front I must tell him that his conclusions are all wrong. It is unfortunate that the distinguished Senator has apparently allied himself with the "Chicken Littles" who have long peddled the idea that the west wall of the Capitol is in danger of falling down. That thought was disproved several years ago when 5 sticks of dynamite were exploded in the Capitol without any effect on the wall, nor did vibrations from passing helicopters have any effect.

Mr. President, the wall is definitely in need of repair. The condition of the wall has been apparent for 25 years. Instead of letting the necessary work proceed on the last remaining part of the original Capitol, those interested in expanding the Capitol have blocked the essential repairs in order to pursue their idea of extending the west front of the Capitol.

Mr. President, the matter of the west front has been pending since August 5, 1955 when Public Law 84-242 established the Commission for the Extension of the U.S. Capitol and authorized the "extension, reconstruction, and replacement of the central portion of the Capitol". Little was done under that authorization until 1965 when $300.000 was appropriated to prepare the preliminary plans and estimates of the costs of extension.

In 1969 the Commission directed the Architect of the Capitol to request $2,000,000 in planning funds for extension of the Capitol. Under the excellent leadership of the Senator from Wisconsin, (Mr. PROXMIRE) the appropriation was enlarged to $2,275,000 in order to provide for an outside firm to study if restoration could be completed for less than $15,000,000. The outstanding firm of Praeger-Kavanaugh-Waterbury reported that restoration could be accomplished for approximately $13,500,000. This recommendation, however, was summarily dismissed by the Commission who chose instead to direct the Architect to request $58,000,000 for extension in 1972.

The junior Senator from South Carolina was the chairman of the Legislative Branch Appropriations Subcommittee when that request was made. Our hearings that year are without doubt the most comprehensive investigation of the condition of the west central front. The witnesses testified that the shoring erected by the former Architect of the Capitol was "more theatrical than structural". Those beams were put in place to frighten the Members into extending the west wall on the basis that the new structure—that would protrude out some 88 feet in places—was necessary to hold up the original wall.

Mr. President, we found that the posts holding up those braces had long ago rotted in the ground. Recently the Architect removed all of the braces to the wall as part of the preparation for holding the Inaugural on the west front. It must come as a surprise to those who have declared that the "wall is falling" to find that the wall still stands as a strong and viable part of this national treasure that we are privileged to work in.

Mr. President. the painting and other improvements that the Architect is now making to the west central front in preparation for the Inauguration on June 20. 1981, are long overdue. Of course, they are cosmetic and not a solution to the real problem. The wall has deteriorated and does need to be repaired, but I do not share the alarm of the junior Senator from New York that the President-elect or any of those attending the Inauguration ceremonies are in any peril out on the west front.

Hopefully the Senator had his tongue in his cheek when he made his statement. I join him in the hope that the Inaugural ceremonies will focus the attention on the west front that it so desperately needs, and I am sure that any thoughtful consideration will persuade us to at last proceed with restoration of the wall.

If the other body would have allowed us to move ahead as we proposed in 1973, and again in 1974—with the full support of the American Institute of Architects—the west front would have been restored for approximately $20,000,000 and would have been a site worthy of the Inauguration. Instead. over the last several years the project has been virtually ignored except by the intrepid Architect of the Capitol who has reduced the original scheme to his so-called miniextension. While we are fortunate that no serious consideration is being given to the "George White addition" to the U.S. Capitol, it is at the same time unfortunate that no progress has been made on the vitally needed repairs necessary to restore the west central front.

Mr. President, I ask to insert in the RECORD an editorial from the Washington Post of December 2, 1980, entitled "Inaugural for the West Front".

The editorial follows:

INAUGURAL FOR THE WEST FRONT

A fresh touch in the inauguration of Ronald Reagan as president next month will be the location of the ceremony, at the beleaguered West Front of the Capitol. The tradition for almost two centuries has been for presidents to take the oath at the other side of the building. (An exception was Franklin Roosevelt's last swearing-in, on the South Portico of the White House.)

We don't lightly discard such a tradition as that associated with Lincoln's Second Inaugural Address ("With malice toward none . . ."). The suddenly fashionable denigration of the East Front as overlooking a mere parking lot is uncalled for. The pavement tends to get covered over with people on Inauguration Day, and even on ordinary days the place is a merry mixture of congressional payrollers, TV news crews and high school bands. There are also expansive lawns and noble trees to the east and, across First Street, the Supreme Court and Library of Congress.

But there are reasonable grounds, too, for shifting the event a few feet to the less trafficked side of the Capitol, at least to try it out. The view toward the Washington Monument and Lincoln Memorial is majestic and has been improving over the years with the eradication of temporary government buildings and other eyesores, and the flowering of the museums along the Mall. The Capitol on that side rises high above the terrain, proving that the institution known as The Hill is really on a hill. The terraces on the west can handle more spectators at less cost for specially built stands.

Some Reagan people have been chattering about the symbolism of their man facing the Rocky Mountains and the West Coast as he assumes office. But that is after-the-fact symbolism. The decision to use the West Front was made before the nominating conventions, in a little-noticed body called the Joint Congressional Committee on Inaugural Ceremonies. And we doubt that Mr. Reagan would be a party to the corresponding symbolism of turning his back on, say, Salisbury, Md.

There are disadvantages, as well, in moving the inauguration ceremony to the west. If the wind on January 20 should choose to howl from that direction, the wide-open Mall will block none of it. The old sand stone on the unreconstructed West Front has crumbled lamentably over the decades, and has had to be shored up at points with unsightly wooden supports. There will be some concealing of the worn-out spots. Let's not attach any symbolism to that.

One possible result of the West Front inauguration needs to be headed off before it is given a serious chance. Architect of the Capitol George White is said to hope that the increased attention to that side of the building will give new life to a $58 million plan to replace the original stone while extending the West Front and creating 160.000 square feet of additional office space (including more "hideaways" for favored congressmen). We're counting on a different public reaction—a redoubling of historic appreciation for the original. weather-beaten walls. and an insistence on their preservation.

REFUGEE EDUCATION ASSISTANCE ACT OF 1980

● Mr. PELL. Mr. President. I am pleased to cosponsor the amendment proposed by the Senator from New Jersey (Mr. WILLIAMS) to remove the limitations placed on funds for the education of Cuban and Haitian refugee children and Indochinese refugee children by section 172 of House Joint Resolution 637.

When this legislation was considered by the Committee on Labor and Human Resources, we developed an allocation formula which we considered to be equitable to school districts across the Nation which have experienced a substantial increase in enrollment due to the arrival of refugee children. Eligible children included those Cubans and Haitians who had arrived in the United States on or after November 1, 1979, and those Indochinese children arriving on or after January 1, 1979. In order to assure that school districts aided had truly suffered substantial impact from the refugees' arrival, the law requires that the number of children be at least 500 or 5 percent of the district's total enrollment.

Section 172 changes both of these requirements, limiting aid to children who arrived within the past 12 months and to school districts enrolling more than 1,000 such children. This means that some 50 school districts financially unable to provide education for large numbers of refugee children will be denied assistance, if the language of the continuing resolution is not changed to conform to the authorizing legislation.

Those districts that would be denied assistance are located in the following States: Illinois, California, Washington, Texas, Louisiana, Kansas, Colorado, Iowa, Virginia, Maryland, and my own home State of Rhode Island. The Providence, R.I., School District, for example, enrolls approximately 600 eligible refugee children. But unless this amendment is adopted, Providence, like some 50 other districts throughout our Nation, will not get one nickel of aid.

The compromise we have worked out recognizes the special impact which Cuban refugees have had upon Dade County, Fla., but it also would enable assistance to be provided to other districts throughout our Nation that need help in providing educational services to refugee children.●

CONTINUING RESOLUTION

● Mr. DOLE. Mr. President, the Senator from Kansas is concerned about a trend in the Congress toward resolving tax issues by use of appropriations measures.

The tax laws are complicated and interrelated. It seems to this Senator that the taxpayers of this Nation would be better served in most instances by having the benefit of the full legislative process including hearings and opportunity for public comment before tax legislation is adopted. Recently, we have seen a preference to take the easier way out. Rather than addressing the substantive tax laws, the Congress has dealt with issues by prohibiting funding to enforce controversial laws for a period of time.

Sometimes this course of action is appropriate. There are situations where this Senator feels the Internal Revenue Service is not accurately following congressional intent in implementing portions of the tax code. In situations like these, it may be necessary to stop the IRS from acting to the detriment of taxpayers until the Congress has the opportunity to clarify the statute. However, I strongly believe that amendments to appropriations measures should not be used as a substitute for the full legislative process intended for enacting tax legislation.

We should be extemely reluctant to legislate on tax matters by means of appropriating or denying funds. This type of action should be saved for emergency situations which cannot wait for the full legislative process.●

INTERNATIONAL DEVELOPMENT CORPORATION

● Mr. GARN. Mr. President, when the full Appropriations Committee considered the continuing resolution I offered an amendment, which was defeated by one vote, which would have phased out of existence the International Development Cooperation Agency, an agency created a year and a half ago as a sort of super bureaucracy above the foreign assistance program.

This recommendation was made basically because this bureaucracy has proven to be a failure and a waste of the taxpayer's money. Even my good friend, the chairman of the subcommittee, in making arguments against my amendment started off by saying he did not want to do so on the merits. I suspect the reason he did not want to discuss the merits was because most of those merits are on my side of the argument. Instead, he opposed it on the basis that doing this in a continuing resolution was not good procedure.

While I would agree that it is not ordinary procedure, I might also point out that he and I have had to utilize some very unusual procedure in order to try and get a decent foreign assistance program over the last year and a half. Namely, we sought to pass the fiscal year 1980 bill by putting it on the regular supplemental, an approach which succeeded in the Senate but was rejected in conference. Indeed, this very continuing resolution for foreign assistance is based on a conference report which has not even passed Congress. I did not hear too much about procedure when we took those two actions.

Support for my amendment has grown, but at the same time there is some concern that by putting this in the continuing resolution we will delay the conference and may well delay the adjournment of Congress. I do not relish the thought of being blamed for such an event, and while I believe the amendment I offered is a good one I am not going to offer it on the floor out of deference to those who feel that it would take up too much of our time. In doing this, I am of course cognizant of the fact that the incoming Reagan administration has indicated that it agrees with my position that this bureaucracy be eliminated. Therefore, while I will not push my amendment, I have every expectation that the action it seeks will be accomplished by the incoming administration.●

NCAT FUNDING

● Mr. MELCHER. Mr. President, Public Law 96–369 contained a provision I authored providing funding for CSA's emergency energy conservation programs at a $3.7 million level. It is that item under which the National Center for Appropriate Technology is funded.

NCAT has been an enormously successful program. In fact I have received a letter from Richard J. Rios, the Director of the Community Services Administration strongly praising NCAT Mr. Rios said, in part:

> NCAT has established an effective capacity for addressing the energy needs of the poor through low cost, environmentally benign technologies appropriate to the needs and resources of low income communities.

Mr. Rios concluded by saying:

> I would endorse congressional efforts to provide for NCAT through Fiscal Year 1982.

I believe we have accomplished that already and I would welcome the thoughts of the distinguished floor manager on that issue.

Mr. MAGNUSON. NCAT has, indeed, been a worthwhile program and the Appropriations Committee has often taken extra steps to guarantee its continued operation. It is my understanding that funds for emergency energy conservation have been warranted by the Treasury to CSA. That means to the committee that the dollars are there to be obligated. As a result, there is no need to make additional provisions in House Joint Resolution 637 to provide any additional funding through September 1, 1981. That has already been achieved and it remains our clear understanding that the joint resolution before us preserves NCAT funding at the $3.7 million level through September 30, 1981.●

EXPERTS AND CONSULTANTS

● Mr. PRYOR. Mr. President, I would like to speak in strong support of the proposal by the distinguished Senator from Washington, Senator MAGNUSON and the distinguished Senator from Tennessee, Senator SASSER, providing a reduction in expenditures for transportation and the cost of experts and consultants and savings from improved collection procedures. In particular, I would like to commend them for that portion of the proposal which calls for a reduction in the amount to be spent in fiscal year 1981 on "expert and consulting services."

During the course of the 96th Congress, the Senate Subcommittee on Civil Service and General Services, which I chair, investigated those contractors who were relied upon to perform work which the average citizen would consider the "basic" activities of government. The subcommittee found that contractors are playing a large role in the performance of basic tasks of government planning, budgeting, drafting and carrying out laws and regulations, preparing "official" presentations to Congress, and even managing other contractors and the civil service itself.

I began my investigation of the Federal Government's use of consultants when I became aware of duplicative, senseless, and overpriced work. It is now apparent that what I observed was not random waste, but the byproduct of a basic change in the way our Government does its work. Today, the passage of each new law, the emergence of each new "crisis," the creation of each new program, is cause for further wholesaling of the basic work of Government to an ever growing contractor workforce that, by default, is becoming the intelligence of Government.

It may be that the Government should continue to rely extensively on contractors to do its basic work. At present, however, the country and this Congress lack the information needed to know how and where contractors are used—much less whether their use enhances the efficiency and integrity of Government.

In introducing the Consultant Reform Act of 1980, I, along with 17 cosponsors, proposed legislation which would, for the first time, bring the contract bureaucracy into the sunshine. The legislation would have resulted in the production of the basic information that is absolutely necessary if we are to begin to understand and control the activities of the contract bureaucracy.

That legislation has yet to be enacted. In the absence of the information it would have provided, I feel compelled to demonstrate my concern for a situation "out of control" by supporting the cuts contained in this legislation. In doing so, I should note that the proposed reductions are consistent with the agency-by-agency cuts in consulting expenditures proposed earlier by Senator MAGNUSON, and considered by this body in recent months. The previous reductions proposed by Senator MAGNUSON were based on calculations developed by the Appropriations Committee, with the assistance of my Subcommittee on Civil Service. Those calculations show that a $400 million cut would still leave hundreds of millions—and probably billions of dollars—for the Federal Government to spend on consulting services.

The time is long overdue for Congress to address the activities of the Federal workforce as a whole. The best way to address these activities is the production of the necessary information upon which reforms can be based. Until this information is produced, we can only express the magnitude of our concern by acting directly on the budget process, as presently proposed.●

USDA OFFICE OF CONSUMER AFFAIRS

● Mr. ARMSTRONG. Mr. President, I had intended to offer an amendment prohibiting establishment of an Office of Consumer Affairs at the Department of Agriculture.

Such an amendment was approved by the Senate on the 1981 agriculture appropriations bill, but was dropped in conference. I regret very much that I have to bring this matter before the Senate once again. The view of the Senate was quite clear in the earlier rollcall vote. However, it is my understanding that the amendment was dropped in conference because the House believed that the amendment unfairly "singled out" USDA's Office of Consumer Affairs for elimination, without taking similar action with respect to other consumer affairs offices established bv the same executive order at other Federal agencies.

Mr. EAGLETON. That is basically what happened in conference. The House did not want to recede to the Senate on the amendment.

Mr. ARMSTRONG. Would the Senator agree that USDA has other offices that appear to be capable of performing the functions of the Office of Consumer Affairs?

Mr. EAGLETON. USDA does have other offices that would appear to be able to do that, but before summarily eliminating the Office, I would like to have an opportunity to look at this closely in the hearings to be held by the Appropriations Committee early next year. Furthermore, I would like to write to the Secretary of Agriculture and ask him to reexamine the issue and report to us within 30 days, in view of the interest of the Senator from Colorado and the action taken on the 1981 Agriculture appropriations bill. Perhaps the Secretary can find a way to accommodate the executive order without a separate office. As I understand it, the executive order did not actually mandate the creation of separate offices, it simply indicated that certain functions were to be performed.

Mr. ARMSTRONG. I appreciate the comments of the Senator from Missouri, and with that understanding that the issue will be reexamined by both the Secretary and the Appropriations Committee. Rather than offering my amendment again I would simply submit for the RECORD a brief explanation of my position.

STATEMENT BY WILLIAM L. ARMSTRONG

Mr. President, the amendment I had intended offering to the Continuing Resolution (H.J. Res. 637) restates the Senate's opposition to the funding of an Office of Consumer Affairs within the Department of Agriculture. Two weeks ago on November 25, 1980, the Senate once again addressed the question of funding of an Office of Consumer Affairs. On this date, the Senate adopted an amendment I proposed by a solid margin of 39–32, which prohibited any funds in the Agriculture Appropriations bill to be used for an Office of Consumer Affairs as directed by Executive Order 12160. However, this amendment was later dropped in conference even though the Senate by a recorded vote strongly opposed funding of such an office.

I would like to remind my colleagues that the creation of an Office of Consumer Affairs has been debated on several occasions by Congress. For example, on February 8, 1978, the House of Representatives defeated the Administration's proposed Office of Consumer Affairs by a vote of 189–227. This action clearly indicated Congress' opposition to the establishment of an Office of Consumer Affairs.

However, the Administration has refused to heed Congress' position on this issue. On September 26, 1979, President Carter issued Executive Order 12160 entitled "Providing for Enhancement and Coordination of Federal Consumer Programs" which directed the Secretary of the major departments to establish in their department an Office of Consumer Affairs.

As a result of this directive, the Secretary of Agriculture appointed a special assistant to develop a USDA Office of Consumer Affairs. In FY 1980, USDA spent $40,000 from the Office of the Secretary's fund to implement this program. On June 9, 1980, USDA published in the Federal Register, its "Final Consumer Affairs Plan."

To fully implement this program in FY 1981, USDA requested $200,000 for an Office of Consumer Affairs.

Although the Senate has recently spoken out against the creation of an OCA, USDA will now be able to continue the operations of the OCA in FY 1981.

I would like to point out to my colleagues that the USDA already has a functioning Office of Public Participation. This office informs the public of proposed USDA hearings and actions, provides statements describing the impact of proposed regulations, and attempts to insure that regulations are written in "plain English." The responsibilities of this office are sufficient to insure increased consumer participation in the development and implementation of USDA policies.

Establishment of an additional office would only add to the Federal deficit with no benefit to American consumers.●

HEALTH INCENTIVE GRANT PROGRAM

● Mr. BUMPERS. Mr. President, the Senate Appropriations Committee restored the funds for the health incentive grant program, which is authorized by section 314(d) of the Public Health Services Act, to the fiscal 1980 level of $68 million There is some question whether we intended to include within that $68 million the utilization of the 63 public health advisers. Their inclusion would add no additional money to the program. I simply want to make clear that the distinguished chairman of the committee is in agreement that we wanted to retain the 63 positions. Was that the understanding of the Senator from Washington?

Mr. MAGNUSON. Yes. We wanted the Public Health Service to use the comprehensive health grant funds for this purpose. It will require no increase in expenditures. Funds for the 63 public health advisers will simply be taken out of the program's overall $68 million appropriation.

Mr. BUMPERS. I thank the Senator. This will send a clear message to the administration about our intent.●

THE MERIT SYSTEMS PROTECTION BOARD

Mr. STEVENS. Mr. President, approximately 2 years ago I reluctantly supported the passage of civil service reform. My support, however, was only achieved after the original proposal was dramatically changed. My fear was that the bill as introduced would make politicization of the civil service easier. The bill which passed the Senate and was signed into law went a long way to allay some of my initial fears.

Two of the most important changes incorporated into the final legislation were the empowering of the Merit Systems Protection Board to review OPM regulations to insure compliance with the law's merit principles and the insulation of the Special Counsel's Office from executive branch political pressures. Apparently, however, the implementation and administration of these provisions of law have been poor.

The Reform Act was enacted into law in October 1978, and in conjunction with Reorganization Plan No. 2, among other things, established the Office of Personnel Management, the Merit Systems Protection Board, and the Office of Special Counsel. Yet, it is my understanding that the Board did not even begin to review OPM regulations until this past spring. In fact, none of the regulations brought to the attention of the Board has as yet been ruled on. What is particularly troubling is the fact that most if not all the OPM rules implementing the reform were issued long ago.

What is worse, however, is the Merit Board—Special Counsel travesty. It was the clear intent of Congress that these two offices cooperate in protecting the rights of Federal employees. Pursuant to the reorganization plan, the Special Counsel was granted a certain degree of independence from the Board because of the sensitive issues the Special Counsel handled. It was assumed by the Congress that where the plan and the legislation did not speak directly to the functional relationship of the offices, both offices, in their mutual interests, would come to a working relationship. Apparently, this has not happened.

During this past summer, when it became evident that the Office of Special Counsel was approaching a deficiency situation, the Chairwoman of the Merit Board proposed certain changes in the Board's relationship to the Office of Special Counsel to assure this would not occur again. Numerous members of the Senate Governmental Affairs Committee became concerned over the extent of the proposed changes. To assist both offices in reconciling their divergent views of their relationship, on September 9, 1980, we sent a letter to the Chairwoman of the Board delineating our views of what the reorganization plan and the legislation intended. The letter appears on page 29734 of the November 17, 1980, CONGRESSIONAL RECORD.

To my and others' dismay, apparently, our views were ignored. We just learned that the Board has filed a complaint in the Federal district court in the District of Columbia asking for a declaratory judgment and injunctive relief to prevent, in their words:

> The Board's Acting Special Counsel, Mary Eastwood, from continuing to obligate government funds illegally and from otherwise continuing to act in derogation of her statutory duties.

This action is shocking. The two primary offices established under civil service reform to protect Federal employees are literally cutting each other's throats and now will be wasting taxpayers' money by pursuing this litigation. There were numerous other avenues available to the Board to resolve these differences without transforming this internal controversy into a major court battle. Only institutional damage can result from such actions.

This past week I directed my staff, the staff of the Governmental Affairs Committee, the Merit Board, and the Special Counsel to discuss the proper roles of these two offices and draft a temporary legislative solution to add to the continuing resolution. As I understand it, they met all day Tuesday and Wednesday morning and apparently ironed out the major differences, only to find out one-half hour before the Appropriations Committee met that the Board said no to the deal.

Mr. President, I offered an amendment in committee which was adopted which makes it clear that no Government funds may be used to interfere with the investigative and prosecutorial independence of the Office of the Special Counsel. It also cuts off the use of Government funds to continue the lawsuit. My staff has continued to try to work out an amicable solution with the Board today; the Board, however, has refused to cooperate.

Mr. President, in response to the situation I have outlined, I am reluctantly offering an amendment cutting the committee's recommended funding for the Merit Systems Protection Board from $15 million to $12,835,000, the President's budget request.

Mr. ARMSTRONG. Mr. President, during the course of debate on the continuing resolution I had intended to offer an amendment which would have precluded the Internal Revenue Service from enforcing the provisions of section 280 of the Internal Revenue Code.

That amendment was to be introduced by myself on behalf of my colleagues, Mr. EXON, Mr. DOLE, Mr. MATHIAS, and Mr. GOLDWATER.

Mr. President, you will recall at the time I discussed this the Senator from Ohio (Mr. METZENBAUM) expressed some reservations about it, and I wish to report to the Senate the reason for which I withheld the offering of the amendment. It was that with the assistance of the Senator from Ohio I have received assurances from the Department of the Treasury that the offending regulations, that is the proposed regulations under Code section 280(a) will not be implemented and that final regulations will be withheld until July 1, 1981.

The purpose of delaying the implementation of these regulations as would have been the case under my amendment or as will now be the case under the assurances that we have received from the Department is simply to permit the Finance Committee and the Senate and Congress itself to work its will and to resolve this question.

So, Mr. President, with that word of explanation I ask unanimous consent to have printed in the RECORD at this point the statement which I would have made in support of the amendment and which explains fully the problem about which I and my colleagues are concerned and also to have printed in the RECORD a letter from Donald C. Lubick, of the Treasury, explaining the Treasury's assurances of withholding action on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT

Mr. ARMSTRONG. Mr. President, if a proposed ruling by the Internal Revenue Service is allowed to stand, taxpayers will almost always pay higher taxes if they choose to rent homes to family members rather than non-family members, or if they choose to operate part-time businesses in their homes.

This anti-family, anti-small business policy is unwise.

That is why my colleagues and I offer this amendment to limit the so-called Family Rental/Home Business Tax.

This tax stems from provisons included in the 1976 Tax Reform Act, and as those provisions were subsequently interpreted by proposed IRS rules. Included in these provisions are three particularly objectionable features:

First, individuals who rent homes to family members will almost certainly pay higher taxes than if they rent to non-family members.

Second, a homeowner who operates a legitimate part-time business from a home will no longer be able to deduct business-related expenses for that office.

Third, property owners who rent their property will be charged with a full day of personal use (and, therefore, excluded from normal business deductions for that day) for every visit if almost all of the time of every accompanying individual is devoted to repairing or maintaining the property.

The amendment I am offering simply limits IRS enforcement within these three areas. This common sense solution follows enactment of the Continuing Resolution, H.J. Res. 610, which includes a provision barring IRS from implementing or enforcing the Family Rental Tax through December 15th.

DEPARTMENT OF THE TREASURY,
Washington, D.C., December 11, 1980.

Hon. WILLIAM L. ARMSTRONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ARMSTRONG: Pursuant to our discussion with you today concerning proposed regulations under Code section 280A, we agree that such regulations will not be issued in final form before July 1, 1981. The purpose of delay in issuing final regulations is to allow adequate time for Congressional review of section 280A, the proposed regulations and the issues raised thereby.

Sincerely,

DONALD C. LUBICK.

MILITARY EXEMPTION FROM FEDERAL PARKING CHARGES

Mr. PERCY. Mr. President, I am sure that all of my colleagues in the Senate are aware of my feelings about the availability of free parking privileges for the Federal Government. In both the last Congress and this Congress, I introduced bills to require that Federal employees pay for parking. Although such legislation has been unpopular with too many of my congressional colleagues, the administration has taken steps to reduce the burden that taxpayers have felt because of free Federal parking. In April of last year, President Carter announced a new policy of requiring parking fees for the executive branch of Government, and this policy went into effect last November.

We are now faced, however, with an attempt to weaken the positive steps that have been taken by the current administration. The amendment currently under consideration would exempt active military personnel from the requirement to pay for their parking privileges. While I feel that we must provide adequate incentives for those who are serving in America's Armed Forces, I do not believe that free parking should be a military benefit.

By exempting military personnel from parking payments, we would be setting an unfortunate double standard at our Nation's military installations which employ both civilian and military personnel. In many instances, for example, the civilian secretaries of military officers would be required to pay for parking while their well-paid bosses would park for free.

Additionally, the proposed amendment could be very difficult to implement in a fair manner. For example, it is unclear whether a two-person carpool containing one member of the military would receive an exemption from parking payments. Other administrative questions also appear troublesome to the staff of the OMB, which has concluded that this amendment could lead to an administrative "nightmare." I feel that we have enough bureaucracy in the Federal Government already; in my opinion, adding administrative complexity to the Federal parking system would be a step in the wrong direction.

Mr. President, I am afraid also, of the type of message that the Senate would be sending to the Nation if we accept this amendment. Since free parking encourages the waste of gasoline, we would in effect be saying that our energy crisis is not really severe. We would be indicating that it is now OK to go back to our wasteful ways. This would be a terrible signal to send to the American people—we need instead to encourage energy conservation in every way possible. Our energy vulnerability and the dangerous situation in the Middle East require that we make the tough choices that will help to reduce our energy consumption.

Mr. President, I am sure that when my colleagues consider all of the facts, that they will not support the amendment now before them.

FAMILY FARMS

Mr. PERCY. Mr. President, I am pleased to cosponsor the amendment offered by the Senator from Minnesota (Mr. BOSCHWITZ) to prohibit implementation of Internal Revenue Service regulations dealing with the family farm provisions of the estate tax code.

The problem that this amendment addresses is just one of several that have arisen with the IRS interpretation of congressional intent when it passed the Tax Reform Act of 1976.

Prior to 1976, family farms, like other property, were valued at their highest and best use for estate tax purposes, creating a financial burden which made the continuation of farming impossible. Many family farmers were put out of business; they were forced to sell their land to pay the tax bill.

The Tax Reform Act recognized the importance of keeping the family farm intact by writing into the law a special provision—the special use valuation—which valued the family farm on its income potential as a farm; not on its value as a subdivision or its speculative agricultural value when it does not bear a reasonable relationship to its earning capacity. This act eased the estate tax burden on heirs of family farms and I fully supported it.

Unfortunately, the final regulations issued by the Internal Revenue Service last July interpreting the special use valuation have thwarted the intent of Congress to help the family farm and in fact, create new problems for farm estates.

The problem before us today, the one addressed by this amendment, pertains to the IRS interpretation that disqualifies a farmer from using the special use valuation if before his death he cash rents the farm to a member of his own family. On the other hand, the IRS takes the position that a farmer can qualify if he maintains an "equity interest." This would be possible under the regulations if he crop shared the farm. I find this distinction unfair and unacceptable, and I support the amendment offered by the Senator from Minnesota.

I would also like to say that this is not the only objection I have to the regulations. Last year, Senator DOLE and I introduced legislation to correct another inequity in what were then only proposed regulations. That bill addressed a problem with the formula provided by the Tax Reform Act to calculate the special use valuation. Rather than take time explaining this problem, I would like to submit for the RECORD a copy of my testimony before the Subcommittee on Taxation and Debt Management which held hearings on my bill earlier this year.

I am, of course, very disappointed that the Finance Committee was not able to consider S. 1859 this year. But I hope the committee will make legislation designed to correct these problems with the special use valuation a matter of top priority in the 97th Congress.

I ask unanimous consent to have printed in the RECORD my statement on this subject.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF HON. CHARLES H. PERCY, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Mr. Chairman, the testimony that I will give this morning really depends upon our acceptance of two principles. The first principle being that agriculture is extraordinarily important to this country, is absolutely vital to our balance of payments situation. It certainly constitutes one of our largest exports and that the incentive that we have provided for the American farmer in a variety of ways has given us the most productive agriculture in the world today.

We export more than all other exporting nations put together and there are only six nations out of 165 at the UN that actually export food at all. So that is the first premise, and the second premise is that the family farm is the heart of our agriculture system.

The incentive provided by family ownership of a farm and the ability of that farm to stay in the family and to have our young farmers be able to succeed their parents is an integral part of this and that is the heart and backbone of midwestern agriculture, and certainly in the state of Illinois, which is the largest exporting state in the nation.

I, therefore, deeply appreciate the opportunity to bring to your attention a very serious inequity on the implementation of a provision in our estate tax laws, the special use valuation for family farms.

A recent IRS interpretation of the law has posed a new threat to family farmers which was clearly not the intent of Congress and should be corrected as soon as possible.

In 1976, we enacted the Tax Reform Act which made a fundamental change in estate tax policy for family farms. Prior to 1976, family farms, like other property, were valued at their highest and best use for estate tax purposes which made the continuation of farming financially impossible. Many family farmers were put out of business; they were forced to sell their land to pay the tax bill.

The Tax Reform Act recognized the importantce of keeping the family farm intact by writing into the law a special provision—the special use valuation—which valued the family farm on its income potential as a farm; not on its value as a subdivision or its speculative agricultural value when it does not bear a reasonable relationship to its earning capacity. This act eased the estate tax burden on the heirs of family farms and made it possible for them to continue contributing to the agricultural productivity of the nation. I fully supported this change.

Unfortunately, as too often happens with laws of good intent, the 1976 Act is complex and its administration has been difficult. And, in one particular case before the subcommittee today, I believe it has been grossly unfair.

As you know, Mr. Chairman, the Tax Reform Act provided a formula to calculate the special use valuation and another method which I will discuss later

The formula simply divides the net annual gross cash rent for comparable farmland in the area of the farm in question by the average annual effective interest rate charged by Federal land banks on new agricultural loans to farmers and ranchers. The estate tax value is the average of the resulting amount for the five most recent calendar years ending before the decedent's death.

Mr. Chairman, so the committee may readily understand the difference that the formula makes for evaluating the farm for estate tax purposes, I am submitting the statistics from an actual appraisal in Champaign, Illinois. The formula, in this instance, resulted in a difference of $503,200 in the value of the farm.

I would ask unanimous consent that the entire example be incorporated in the record.

Senator BYRD. Without objection, so ordered.

(The material referred to follows:)

The statistics below are taken from an actual appraisal of a 200-acre farm south of Champaign, Illinois. The valuation under the formula provided by the Tax Reform Act of 1976 Section 2032A(e)(7) is based on cash rents paid each year on a cash-rented farm in the same township. If no cash-rented comparable farmland could have been located by the appraiser, crop share values could not have been substituted in the formula under the IRS interpretation of the statute and fair market value would have been used. The statistics below show the $503,200 difference in the value of the farm under the two valuation methods.

Formula provided by the Tax Reform Act 2032A(e)(7):

5-year average per acre cash rent equal $86.80.

Less: 5-year average real estate taxes equal $15.37.

Total $71.43.

Divided by: the average Federal Land Bank Interest charge for previous five years equal 8.08 percent.

$86.80 less $15.37 equal $71.43 divided by 8.08 percent equal $884.03 per acre.

For estates that do not qualify for the formula, fair market value is used:

Fair market value, $3,400.00 per acre.

Value of farm:

Formula, $176,800.

Fair Market, $680,000.

Difference, $503,200.

Savings under the formula is the estate tax not paid on $500,000 (the most the special use valuation may reduce the estate).

Senator PERCY. It demonstrates what we are really talking about, the difference between heirs being able to carry on that farm or having to be forced to liquidate the farm just to be able to pay taxes.

A problem has arisen in Illinois, Kansas, South Carolina, Oklahoma and several other states where little farmland is cash rented. Most farmland in these states is share leased on a percentage basis in which the lessor and lessee divide the expenses and profits of the farm operation.

It gives the tenant a real feeling of participation and gives him the incentive to maximize his yield. That is the way most Midwestern farms operate.

The Internal Revenue Service in 1978 recognized that cash rent figures would be difficult to find in many states and allowed crop share leases to be substituted in the formula when no farm property existed in the particular locality that was both comparable and leased on a cash basis.

However, last September, the IRS reversed itself in new proposed regulations and prohibited the use of crop share lease figures in the special formula. If these regulations are finalized, the estate wil not be permitted to use the formula if no comparable cash rents can be found.

The 1976 Act provided a second method to value farm property in such cases. But I have been told by experts in Illinois that it is overly complicated and confusing. It requires five factors to be used in valuing the farm. But the law does not state how one should weigh the factors. One such factor when applied to farms not located near metropolitan areas would provide values substantially the same as the fair market value method used prior to 1976. The use of this method would in many cases result in much higher values than those figured by the special formula.

The intent of Congress in providing the formula in the first place was to reduce subjectivity in farm valuation; eliminate the potential nonagricultural value and eliminate any amount by which land is bid up by speculators in situations where nonagricultural use is not a factor in inflated farmland values.

Mr. Chairman, since this alternative method does not accomplish these objectives, it simply underscores the inequity in the IRS ruling. Why should an Illinois farm worth an identical amount as one in Virginia be subject to a substantially higher estate tax?

Mr. Chairman, I am happy that we have been able to save the family farm in Virginia and I would like to see us do the same in Illinois.

I am certain the Congress did not intend to deny equal treatment to farmers in Illinois, Kansas and other areas where share leasing of farmland is predominant and local cash rents are difficult, if not impossible, to find.

According to data compiled by the University of Illinois last year, only about 12 percent of farmland in Illinois is cash-rented. That figure is only 10 percent in central Illinois, the heart of our productive land.

The same situation exists in Kansas. The Kansas Farm Bureau has documented that cash rental arrangements are very rare. Most land lease arrangements in Kansas are cropshare. In addition, data being required by IRS field service personnel would disallow most of the comparable cash rentals that can be located in Kansas.

S. 1859, which I introduced with Senator Dole and which is cosponsored by Senators Kassebaum and Thurmond, allows the use of crop share rentals in the special formula. This bill is identical to one introduced by Congressman Ed Madigan of Illinois, which has 33 cosponsors.

* * * * *

with the intent of Congress to allow family farms to continue to exist after the death of the original owner. I hope the distinguished members of the Finance Committee will agree and act quickly on this bill.

Mr. ROBERT C. BYRD. Mr. President, House Joint Resolution 637 makes continuing appropriations for many Federal programs and activities contained in regular appropriations bills for which final action has not been completed. It is complicated and extensive in scope. Its programs affect the lives of millions of Americans.

I want to commend the distinguished chairman of the Appropriations Committee, Mr. MAGNUSON, and the ranking minority member, Mr. YOUNG, for the prompt consideration they gave to this matter in committee. I also want to commend the other members of the Appropriations Committee for their work. I know that without their assistance and cooperation, committee action on this measure could not have been completed in an expeditious manner.

The continuing resolution is essential legislation. Many agencies and programs of the Federal Government will be disrupted if this measure is not enacted by midnight, Monday, December 15.

Numerous health and education programs are funded in this measure. There is medicare and medicaid; the school lunch program; programs for the blind, disabled, and handicapped; education programs for the disadvantaged; the black lung program, which is important to the 26,000 black lung beneficiaries in my own State of West Virginia; and many, many more.

This bill provides funding for important agriculture programs, such as the food for peace program. It provides funding for programs conducted by the Department of State, the Department of Education, the Department of Labor, and several others.

Another important provision of the bill, one that has not been mentioned during these last 2 days of debate, is that provision which requires cutbacks in nondefense travel by Federal employees, reduction in consultant costs, and more vigorous efforts to collect Federal debts. These efforts will go far to help reduce some of the wasteful spending that occurs. I am pleased that the committee gave these important efforts the importance and attention they deserve.

The Senate has spent 2 full days on this measure. Most of that time was taken up by amendments of a legislative nature. I regret that Senators chose to use the continuing resolution as a vehicle for their legislative amendments. Considerable time was spent debating amendments which have no relation to this continuing appropriations bill.

I compliment the manager for the majority, Mr. MAGNUSON, and the manager for the minority, Mr. YOUNG, for their diligent attention to this measure during the last 2, long days. They deserve our thanks and appreciation for the many hours of their time given to consideration of this very complicated bill.

The bill must now go to conference with the House, and I am confident that Senators MAGNUSON and YOUNG will guide the conferees to a quick resolution of differences.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia has 20 minutes for debate.

Mr. HARRY F. BYRD, JR. Mr. President, I believe that under the unanimous-consent agreement I have 20 minutes immediately prior to the rollcall vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRY F. BYRD, JR. I shall speak for only a moment.

Mr. President, the legislation now before the Senate dramatizes the failure of the Congress to deal responsibly with the critical issues of Federal finances. I shall vote against the continuing legislation.

No one can say with any certainty how much money is contained in this bill. That issue was raised on the floor of the House during its consideration there, and the chairman of the House Appropriations Committee acknowledged that the amount being appropriated cannot be exactly pinned down.

It has been asserted on the floor of the Senate by the next chairman of the Budget Committee that this resolution provides for $4.6 billion in spending and beyond the recently enacted budget resolution and $8.4 billion in additional budget authority.

Furthermore, this resolution ought not to be necessary.

Under the provisions of the Congressional Budget Act, all appropriations bills were supposed to have been cleared by September 15. Now, almost 3 months after that deadline, we are called upon to enact a bill substituting for at least six of the regular appropriations bills for fiscal 1981. This makes a mockery of the whole budget process. The resolution is a hodgepodge of individual provisions, almost defying rational analysis.

At one end of the spectrum, it provides funding the entire operation of the gigantic Department of Health and Human Services; at the other end, it makes special provisions for the consultative group on United States-Japan economic relations.

If this be sensible fiscal planning—if this be the much-heralded rational ordering of priorities to which the Congress committed itself 6 years ago—I am driven to wonder what the Congress would consider confused or irrational.

As reported by the Appropriations Committee, this legislation provides a 17-percent pay raise for Members of Congress, and comparable increases for Federal judges and top officials of the executive branch; provides severance pay for committee staff members "displaced" by the change in majorities in the Senate; and authorizes individual Senators to transfer funds not used for staff salaries to be transferred to their travel accounts.

The pay raises were deleted by the Senate but what kind of example do these things set for the Nation?

The signal sent out by this legislation is that despite the results of the elections, despite roaring inflation, despite a national debt approaching $1 trillion and skyrocketing interest rates, it is still spending as usual in Washington, D.C.

During the last fiscal year, the Government recorded the largest spending increase in the Nation's history—$85 billion. And it ran a deficit of $59 billion.

Already the Congress has approved a budget for fiscal 1981, the current year, with a new spending increase of $53 billion and a deficit of over $27 billion. Most believe that these figures will greatly increase. I think you may count on it.

On November 4 the people of the United States sent a clear message to Washington, demanding responsible leadership, especially in our fiscal affairs.

The legislation before us is in no way a response to that message. On the contrary, it is a symbol of much that is wrong with our Government's finances.

This resolution is a resolution of congressional failure.

I shall vote against the continuing appropriations resolution.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Alabama (Mr. Heflin), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Wisconsin (Mr. Nelson), the Senator from Connecticut (Mr. Ribicoff), the Senator from Maryland (Mr. Sarbanes), the Senator from Georgia (Mr. Talmadge), the Senator from Oklahoma (Mr. Boren), and the Senator from Kentucky (Mr. Huddleston) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. Durenberger), the Senator from Oregon (Mr. Hatfield), the Senator from Pennsylvania (Mr. Heinz), the Senator from New York (Mr. Javits), the Senator from Kansas (Mrs. Kassebaum), the Senator from Maryland (Mr. Mathias), the Senator from South Dakota (Mr. Pressler), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 22, as follows:

[Rollcall Vote No. 537 Leg.]

YEAS—56

Baker
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Culver
Danforth
DeConcini
Dole
Exon
Ford
Glenn
Hollings
Inouye
Jackson
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Packwood
Pell
Percy
Pryor
Randolph
Riegle
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams
Young
Zorinsky

NAYS—22

Armstrong
Baucus
Byrd, Harry F., Jr.
Cohen
Domenici
Eagleton
Garn
Goldwater
Hart
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Laxalt
Nunn
Proxmire
Roth
Simpson
Thurmond
Wallop
Warner

NOT VOTING—22

Bayh
Boren
Church
Durenberger
Durkin
Gravel
Hatfield
Heflin
Heinz
Huddleston
Javits
Johnston
Kassebaum
Kennedy
Mathias
McGovern
Nelson
Pressler
Ribicoff
Sarbanes
Talmadge
Tower

So the joint resolution (H.J. Res. 637) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the continuing resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Tsongas) appointed Mr. Magnuson, Mr. Stennis, Mr. Proxmire, Mr. Inouye, Mr. Hollings, Mr. Bayh, Mr. Eagleton, Mr. Chiles, Mr. Sasser, Mr. DeConcini, Mr. Young, Mr. Hatfield, Mr. Stevens, Mr. Mathias, Mr. Schweiker, Mr. Bellmon, Mr. Weicker, and Mr. McClure conferees on the part of the Senate.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for transaction of routine morning business not to extend beyond 30 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEVISION JUSTICE FOR NEW JERSEY

Mr. BRADLEY. Mr. President, for two decades New Jersey has had the dubious distinction of being one of only two States, Delaware being the other, which has not had the benefit of a VHF television station assigned to a city within the State. As Members of this body know well, there is no single medium of communication which is a more powerful technique for information, instruction, and entertainment. Although UHF and cable television have both made great strides in recent years, it is still true that a VHF television station better and more effectively conveys news, public affairs, cultural information, and other matters to the community it serves. As an instrument for integrating and informing a community about itself, a VHF television station is critical if not indispensable.

Unfortunately, as I have said, New Jersey has no such VHF station. Citizens of my state rely for their information about themselves and their community upon what little comes to them from the television stations of New York and Philadelphia. Those stations, of course, have a primary responsibility to serve the interests of their own residents. Very little about New Jersey gets on those stations. Thus it becomes true that many citizens of New Jersey know more about what goes on in their neighboring States, and are more conversant with the public affairs and issues of Pennsylvania and New York, than of New Jersey and the towns and cities in which they live.

For many years, citizens of New Jersey have been laboring unsuccessfully to remedy this situation. Until recently neither the Congress nor the FCC has shown much regard for our problems. But there has been some improvement in the last 2 years. Last year the Senate Communications Subcommittee held hearings at which the Chairman of the FCC underwent questioning about the New Jersey television issue. The senior Senator from New Jersey (Mr. Williams) and I both testified. The hearing record is now complete as to the issue.

Further, the chairman, the Senator from South Carolina, and the ranking minority Member, the Senator from Arizona, both were most generous in their expressions of support. They expressed their interest in looking into a solution, either through the FCC or through legislation. Until recently, however, there has not been an opportunity for the Senate to express itself.

Early this year another event happened which bodes well for New Jersey. The FCC ruled that the holder of the license for chapter 9 was not eligible for renewal, and must lose its license. That decision is on appeal, but when the appeals are concluded, and if the FCC is upheld, for the first time there will be a frequency which can be assigned to New Jersey without depriving the holder of an existing license. Following this, the senior Senator from New Jersey and I submitted a petition to the FCC on behalf of the citizens of New Jersey asking that the FCC reassign the frequency of channel 9 to New Jersey should the present holder's disqualification be upheld. Just last month the FCC issued a notice of proposed rulemaking—in effect they took our request under advisement and asked for public comments. New Jersey is closer than it has been in many years.

Also in the last few weeks, the House Commerce Committee approved a bill which contained an amendment which would direct the FCC to allocate a frequency to New Jersey should one become available. The House voted by a majority to accept this bill with the New Jersey amendment included. Unfortunately, the bill was on suspension and it just missed the needed two thirds. But a majority of the House has approved it, as has the House Commerce Committee. Should the Senate also speak, we can end this Congress with a legislative endorsement of a fair solution to New Jersey's problem.

There is an opportunity for the Senate to join the House. The only bill reported from committee addressing broadcasting issues is now on the calendar and awaits action. It is H.R. 6228. I believe that the Senate could act expeditiously on the bill should the managers join with me, Senator WILLIAMS, and Senator BIDEN in supporting the amendment we have submitted. Their support would be critical to its successful considerations by the Senate. I urge them to consider whether this is not the best way of granting justice to New Jersey, and of making concrete the support they expressed last year.

If the bill is passed with the addition of the amendment, I have little question that it would be acceptable to the House. As I said, the House committee has already approved the amendment, and the House itself voted by a majority in its favor. Certainly little stands in the way of our amendment, and consequently, little stands in the way of final Senate approval of H.R. 6228. I urge those who have an interest in the bill to consider how quickly and easily our mutual interests can be accommodated. Although little time remains, this problem can easily be remedied. There may be other problems which prevent final enactment of H.R. 6228, but I am confident our amendment need not be one of them.

THOR POWER: PUBLISHING, AND THE FIRST AMENDMENT

Mr. BRADLEY. Mr. President, I am pleased to be a supporter and a cosponsor of the amendment of my colleague on the Finance Committee, the Senator from New York, Mr. MOYNIHAN. He has offered an amendment to the resolution which would suspend the impact of the Supreme Court's Thor Power decision for the time being. Thor Power is an obscure decision, known to a few tax lawyers and other interested parties. But like so much in the tax field, it has profound implications for a great many industries, particularly that of publishing, and could harm the interests of all Americans.

What the case says, briefly and in general, is that when a taxpayer has an inventory which it marks down in price, it must take certain actions before it can take as a tax loss the reduction in value for its inventory. What it must do is to prove it has an actual loss and not merely a paper loss. One of the ways to have an actual loss is to sell at the lower price. Now for some industries, that may be easy. But for publishers, their old inventory consists of books that no longer sell, but are kept in print in case they are needed. If and when these back lists are sold, it will normally be at a reduced price. But the economics of publishing are such that publishers have to be able to take the tax loss as their back-lists become stale, so as to enable them to have the resources for publishing the new titles. Publishers could not afford to keep their warehouses full of last year's books, and publish next year's, unless they can reduce the value and take the loss. And of course, they bear the storage costs of old books that might sell, but most likely slowly and in tiny quantities.

Of course, there are three ways a publisher can abide by the Thor Power decision. It can dispose of the books immediately, if it can find a buyer. But that is not easy, and it would mean in most cases that the buyer of the discounted old books would try to sell a few and then quickly destroy the rest. In effect, the books would rapidly go out of print and be unavailable a year or so after publishing. Books would be like newspapers—available briefly and then good only for fish.

The second way a publisher could abide by Thor Power would be to destroy the inventory themselves. The final way to comply with Thor Power is not to publish these titles in the first place. If only guaranteed sellers are published, there is no problem about keeping an inventory of books that do not move.

Thus we can see that if the full import of the Thor Power decision is implemented, the ability of Americans to obtain older books and especially books with limited general appeal might be seriously curtailed, and, in any cases, eliminated entirely. The decision might have the effect of ending the publication of obscure but important books. Certainly we do the Nation no favor if the only books published are bestsellers. Poetry rarely pays its way, but the Nation would be far poorer if it traded tax revenues at the expense of poetry. For another thing, what would happen to the campaign biography? Clearly this is a matter that concerns all Members of this body.

On a more serious note, we cannot fault the IRS for pursuing the letter of the tax law. That is its function. It is not the IRS's province to consider larger public policy and the effects on our culture when it applies the code. But it is the province of Congress to reconcile the unintended consequences of technical tax provisions.

The amendment of my friend from New York would give Congress that opportunity. I have supportd his efforts in the Finance Committee, and I support them now. I urge the Senate to give itself time to reconcile the demands of the purse with freedom of the press.

RECENT MURDERS UNDERSCORE NEED FOR HANDGUN CONTROL LAWS

Mr. PERCY. Mr. President, the recent, tragic, and senseless murders of Dr. Michael Halberstam and John Lennon underscore, in my judgment, the need for speedy legislative action on the federal level to control the proliferation and use of handguns.

I realize that such a suggestion is enormously unpopular in many quarters. Opponents of handgun control legislation are organized and persistent. They have prevailed thus far against congressional efforts to legislate handgun controls, basing their arguments on "the freedom" of all Americans to carry and use these guns.

Mr. President, what about the right upon what little comes to them from the fear of a senseless and violent death on a city street within a few feet of their own homes? This question has never been satisfactorily answered in all the debates that occur on the issue.

I was interested in particular this evening in an article appearing in today's edition of the Washington Star by James J. Kilpatrick. In the middle of a moving and beautiful tribute to the late Dr. Michael Halberstam, Mr. Kilpatrick writes:

> In a nation of 225 million people, there is bound to be some person wise enough to figure out a way of controlling the easy availability of handguns.

Although he goes on to say he did not agree with Dr. Halberstam's own proposal for the licensing and registration of handguns, he concluded with:

> I don't know what the answer is, but I persist in believing there must be some workable answer if only we could come up with it.

Mr. President, this comes from one of the most distinguished journalists in America today, a man who deeply believes in conservative principles and has always believed in those principles.

But I believe we can find a moderate, a conservative, call it whatever ideological adjective you want to, and I think we must find an answer to this needless, senseless, murder that is going on taking the lives of so many of my citizens in the city of Chicago, the city of East St. Louis, and other cities in Illinois as well as across the country.

Mr. President, I believe the next Congress should make every effort to face this issue. Reasonable people will differ on what the answer is, but the two murders of the last weekend make it incumbent on us to try to find one. This same sentiment also is expressed in the excellent lead editorial of tonight's Washington Star.

Several years ago, Senator JAVITS and I sponsored legislation that would have banned the manufacture, importation, and distribution of the so-called "Saturday Night Specials." It would have established specific controls on all handguns in high-crime areas only, where such controls are most needed, and would have established rules governing the purchase and sale of handguns. It represented years of thought and research by former Attorney General Ed Levi. I think the time has come to consider that, or similar, legislation again, and I certainly will do all I can to contribute to a solution of this very serious problem.

I call the attention of my colleagues to the message of both the column and the editorial and ask unanimous consent that James Kilpatrick's column on Dr. Halberstam's death and extracts from the Star editorial be printed in the article at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE MURDER OF MICHAEL HALBERSTAM

(By James J. Kilpatrick)

Mike Halberstam died a Friday night and was laid to rest on Monday. It was a position he never knew in life. Now I am minded to brood about men and laws and institutions, and to wonder what might be done by way of deterrence.

To say that he died is to lend a weak word to a hard fact. Michael Halberstam was murdered here in Washington in cold blood, apparently by a professional burglar and ex-con by the name of Bernard Welch. Two lead slugs in the chest, and that was that.

In one sense there was nothing especially unusual about Mike's death. More than 20,000 persons are murdered every year in our country—one every 24 minutes—and half of them die by gun. Of those 20,000 victims, about 2,000 are slain as he was slain, by criminals engaged in crime. It is hard to think of Mike as a statistic in an FBI report.

For Dr. Halberstam was a most unusual man. He was 48, tall and rangy, his dark hair beginning to gray. He was above all else a doctor, the kind of doctor every patient would love to have, a crack cardiologist, skilled at his craft, blessed with the tough kindness that gives sympathy but sheds no tears. If he hadn't gone into medicine, he might have driven a Formula 1 Ferrari in any man's Grand Prix, for he did everything full throttle, flat-out, pedal to the metal. He was an author, critic, commentator, lecturer, gadfly. He was a fisherman, an oarsman, a tennis player who poached at the net and loathed a soft second serve. Hell, he even played the harmonica. Now he's dead.

Mike and his wife came home Friday night to find a burglar in their house. It turned out to be Welch, 42, a career criminal who had escaped in 1974 from a New York prison where he was serving a 10-year term for burglary. The FBI had described the fugitive as "armed and dangerous," and the FBI was right. According to police, Welch shot Mike twice with a .32 revolver and fled. Bleeding terribly, Mike got behind the wheel of his own car, with his wife at his side, and undertook to drive to Sibley Hospital. He careened down the street, saw Welch running and ran him down, but his luck gave out. He didn't kill Welch, only bruised him. Mike died on an operating table.

In a nation of 225 million people, there is bound to be some person wise enough to figure out a way of controlling the easy availability of handguns. By ironic coincidence, only two weeks before he was murdered, Mike had done one of his commentaries on gun control. He favored licensing and registration of pistols. As it happens, I disagreed with him on this, out of a general prejudice against futile and unenforceable laws. I don't know what the answer is, but I persist in believing there must be some workable answer if only we could come up with it.

Maybe this kind of homicide could be deterred if we restored the death penalty everywhere for murder committed in the course of a felony. Capital punishment wouldn't be much of a deterrent in murder cases that develop out of arguments in the bedroom or barroom. Such crimes of passion are beyond the reach of reason.

But people like Welch are different. Crime is Welch's business—he steals silver, jewelry and antiques—and businessmen ordinarily cut their risks. If the robber, burglar or rapist knew with reasonable certainty that killing his victim could result in his own execution, maybe some rudimentary sense of prudence would prevail. I don't know. Nobody knows.

But I believe the death sentence is the only appropriate sentence in cases of this sort. My own thought would be to restore public hangings. Maybe the guillotine would do well. Public contemplation of the snapped neck, the severed head, might fix an awful image in the mind's eye.

I venture these reflections in no spirit of vengeance, or retribution, or even of punishment as such. Protection of the public from such criminals is poorly served by prison sentences—even by long-term sentences. Prisoners escape, even as Welch escaped; parole boards err, and it costs a fortune to maintain a top-security prisoner. The unregenerate murderer, beyond rehabilitation, is at once a burden and a danger that society need not assume. If I were a juror in such a trial convinced of guilt beyond a shadow of a doubt, I'd vote for the gallows without leaving the box.

THE DAY OF THE GUN

According to Handgun Control, Inc., 10,728 Americans were murdered with handguns in 1979. But numbers alone have no power to agitate us. Only the names and faces of friends, or admired public figures, coldbloodedly killed in their homes or in the streets can do that. And that is one of the few redeeming benefits of the deaths of Dr. Michael Halberstam in this city, and of John Lennon in New York. They arouse the sleeping wrath of those of us who find no sense in the licentiousness of U.S. law on handguns—the question of handgun control often reduces us to sour raillery when sweet reason is called for. And the oddity is that for decades every reliable poll has shown that an overwhelming majority of us—even, we must assume, gun-conscious Westerners—can be reasoned with about ultra-permissive gun laws.

And if that is true, why is it that the recent handgun murders of Dr. Halberstam and Mr. Lennon, which have flooded the switchboards of citizens groups working for tighter laws, find 60 or more U.S. senators supporting an effort to weaken them? The only plausible answer is that in the matter of handgun control the U.S. is submissive to a shrill minority with a stock of bogus arguments who overbear a substantial national consensus.

Is it proposed, for instance, to register or license handguns so that we know who owns them and why? This, we are told, would be an intrusion upon privacy and an act of aggression against the Bill of Rights. But how so? Unlike Saturday night specials, cars, while deadly enough, are not made for killing and are necessities of everyday life for most Americans. Yet driving is regarded as a revocable privilege, not a right; and the licensing of cars and drivers—with special limits on the young and infirm—is deemed a measure of minimal community protection, not a plot to subvert the Constitution.

How different, in the eyes of gun-lobby propagandists, are pistols, though they are scarcely necessities, and their owners, who must be the most coddled and cosseted class in American legal history, considering the horrors and heartbreak their toys cause when they fall into the wrong hands.

It is, we are told, an issue of freedom. But what is it other than the "freedom" to walk the streets of every city in fear of being assaulted by a thug with a concealed handgun? Strict licensing or registration, we are told, would be a step towards "confiscation." It is a false fear, where it is not cynical sloganeering. Advocates of handgun control laws haven't the slightest interest in depriving sportsmen of their weapons or sport. The clear and present danger, the real fear, is not "confiscation"; it is being shot by a burglar, a madman or a mugger.

When these bogus arguments are set aside, we are told that even if there might be a case for federal handgun control no law would be enforceable—it would merely disarm the law-abiding citizen while leaving the criminal and psychopath free to procure their weapons illicitly. But, of course, all laws are imperfect and imperfectly enforced. This argument is equally an argument against every law that limits individual liberty for a larger social benefit. It's the equivalent of the argument that drivers and cars should not be licensed because drunks will find their way behind the wheel. It's the equivalent of the argument that we ought to scrap drug laws because there will always be an illicit traffic in harmful narcotics. It is, in short, the argument that where law enforcement can't be foolproof it is pointless.

We do not, in fact, imagine that the gun lobby's boiler-plate arguments are taken seriously by vast numbers, gun-owners or not. They *are*, alas, taken seriously by the gun lobby and its thoroughly intimidated lapdogs on Capitol Hill.

Very well. Let the overwhelming judgment of the nation continue to be cynically and flagrantly ignored, while murder and mayhem mount and more and more of us lose friends to the thugs and lunatics with concealed pistols. In God's good time, people who use guns for recreation will awaken to the realization that the real enemies of their sport are not the friends of effective handgun control but those who purport to speak for a continuing form of frontier anarchy. And that day will come; we count on it.

BLACK LUNG BENEFITS ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH and myself I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of H.R. 7745, the black lung benefit bill.

Mr. CHAFEE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. RANDOLPH. Mr. President, is it within the rules at this time for me to ask permission to present, not the arguments in behalf of the measure to which understandably our able colleague has objected, but as just a part of the record my statement in reference to it?

The PRESIDING OFFICER. The Senator may place the statement in the RECORD.

Mr. CHAFEE. Mr. President, I have no objection to the statement being placed in the RECORD. Indeed I think he has a right to do that anyway. Am I not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. I do object to the discharge of the measure.

The PRESIDING OFFICER. The Senator's statement will be put in the RECORD.

Mr. RANDOLPH. Mr. President, prior to the 1977 amendments to the Black Lung Benefits Act, approved claims filed prior to July 1, 1973, were paid by the Federal Government out of general revenues. Approved claims filed on and after that date were the financial responsibility of coal operators directly.

The 1977 amendment made a number of significant changes in the program. They broadened the eligibility criteria under which claims were evaluated. They mandated a review of all previously denied or pending claims—whether they were filed originally under that part of the law prescribing Federal liability (prior to July 1, 1973) or under the part prescribing direct coal operator liability (on or after July 1, 1973).

The revenue amendments (Black Lung Benefits Revenue Act of 1977) established the black lung disability trust fund—supported by a tax on all coal operators based on production which was made responsible for paying claims in cases in which the miner's last coal mine employment was before January 1, 1970. The 1977 amendments also provided that all claims approved pursuant to their mandatory review provisions (that is, of all previously denied or pending claims) under the broadened eligibility criteria be paid either by a responsible coal operator directly or by the trust fund—without regard to whether the claim was filed orginally prior to July 1, 1973, the period of presumed Federal liability.

The combined effect in the 1977 law of requiring the automatic review of old (Federal) claims, under new, liberalized eligibility criteria, and of directing that those approved be paid by coal operators—either directly or through the trust fund—has produced a harsh result on operators (and on their commercial insurers) who had no reason to anticipate that they would be held directly liable for a claim filed before July 1, 1973, but who now must pay such claims in cases where the miner's last employment occurred between January 1, 1970, and June 30, 1973.

H.R. 7745 proposes to redress the inequity by advancing the cutoff date for trust fund claims liability from January 1, 1970, to July 1, 1973, in order that it be congruent with the time parameters in the underlying law. It would require that claims approved be paid out of the trust fund in cases where the miner's last coal mine employment was before July 1, 1973. The bill does not transfer any liability from coal operators to the Treasury, rather it only transfers liability from coal operators directly to coal operators indirectly and proportionately, that is, through the revenues derived from the taxes paid by all coal operators to the black lung disability trust fund.

THE KENNEDY CENTER

Mr. PERCY. Mr. President, would it be possible for the leader to yield just for one question?

Mr. ROBERT C. BYRD. I yield.

Mr. PERCY. Mr. President, while Senator STEVENS is on the floor, as the leader knows, the Public Works ond Environmental Committee reported out unanimously on the bill which resolves the problem which has hung over the Kennedy Center Board's head for 14 years.

The Senator from Illinois understands that by tomorrow the Senator from Alaska will have possibly resolved a problem that has arisen in connection with that legislation, but if it is at all possible to move that legislation tomorrow the House of Representatives has indicated that it will pass that legislation and end a problem that has hung over the Board's head and Congress head for many, many years.

In essence, what it would do is cause us to accelerate the payments on principal on the bonds that are owed by the Kennedy Center to the Federal Government from the year 2015 when the first payments are due to begin payment immediately so that we can pay those bonds off and devote entirely 100 percent of the revenue of the parking facilities of the Kennedy Center to pay those off.

It would forgive all past and future interest as was done in the St. Lawrence Seaway, and there is other precedent for it, but there is no way.

This has been backed by OMB, backed by the President, backed by the entire Board, and I earnestly urge the leadership to see that we give speedy action on this so that the House of Representatives can act and we do not once again in the next Congress have to raise this issue.

Is it possible that the leadership can give assurance to the Senator from Illinois who has been privileged to serve at the request of the President and the Senate for 14 years on that Board, and I will be joined by other Senators, and Senator WILLIAMS and Senator KENNEDY have served with me for many years. We would really on behalf of the Senate and Board like to get this matter resolved.

Everyone seems to agree on it now. I hope everyone does. It just is now a matter of hours whether we can actually get it into law this year.

Mr. ROBERT C. BYRD. Mr. President, in response to the able Senator, efforts have been going forward to secure clearance on this matter, but up to this moment unanimous-consent clearance has not been secured. Those efforts will continue.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

NOMINATION OF CHARLES B. WINBERRY

Mr. MORGAN. Mr. President, late in 1978 I recommended to President Carter that he nominate Charles B. Winberry of Rocky Mount, N.C., to fill a vacancy on the U.S. Court for the Eastern District of North Carolina.

I have known Mr. Winberry for many years. I had then as I have now, complete and wholehearted confidence in his character and ability.

I will not recount Mr. Winberry's biography for you, as you can read a detailed history of his accomplishments in the documents I am about to put forth. But suffice it to say that he has excelled in virtually every area in which he has endeavored. At Wake Forest University, Mr. Winberry was president of the junior class, senior editor of the university newspaper, named outstanding public speaker on the campus, tapped into "ODK Honorary Leadership Society," where he served as president, selected as 1 of the 10 outstanding seniors, and picked for the charter group of State government interns.

His accomplishments continued during law school. He served as justice of Phi Alpha Delta Law Fraternity, earning for it the title of "Outstanding Chapter" in the Nation; won the statewide will drafting and estate planning competition and graduated in the top 20 percent of his class.

Mr. Winberry's law school record qualified him for a Federal clerkship in the eastern district of North Carolina. For 15 months, as chief law clerk for Judge John D. Larkins, he was involved in daily research, the drafting of charges and opinions and the reviewing of motions and orders. He resigned to become chief district court prosecutor of a three-county area, trying, personally, thousands of cases before joining the private firm of Biggs, Meadows & Batts where in less than 2 years he became a partner.

Charles Winberry's legal experience is impressive. He has practiced as extensively in the Federal courts as any other lawyer in his district, handling felonies and misdemeanors, criminal and civil tax fraud cases, environmental litigation, personal injury suits, contract cases and others. He has practiced at every level of the State court system, before the U.S. Fourth Circuit Court of Appeals in Richmond, the North Carolina Industrial Commission, the North Carolina Utilities Commission, the Board of Contract Appeals of the GSA and filed motions and briefs in the U.S. Tax Court.

Martindale-Hubbell rates Mr. Winberry "A V", which is its highest rating for professional skills and abilities and reputation for integrity and character.

Charles B. Winberry, Jr. has been a leader in the area of judicial improvement. He is a permanent member of the Fourth Circuit Judicial Conference; served on the North Carolina Judicial Council which monitors the operation of the State court system and makes recommendations for improvements; served on the State Criminal Code Commission, charged with revising both the procedural and substantive criminal law of the State; lectured at seminars and training sessions for State court officials; personally prepared the first draft of the uniform traffic citation now used by all North Carolina law enforcement agencies; and chairs the Committee on the Local Rules of Practice of the U.S. District Court for the Eastern District of North Carolina which finished rewriting the eastern district's local rules this past spring.

In politics, Mr. Winberry has also excelled. He served as chairman of the State's College Federation of Young Democrats; as president of the North Carolina Young Democrats; chairman of the State Democratic Party Convention; chairman of my successful senatorial campaign; and legal and legislative counsel to Gov. James B. Hunt, Jr., where he was responsible for drafting the Governor's legislative programs.

Charles Winberry is held in the highest regard by those who have been associated with him over the years and has a reputation in North Carolina for being an untiring worker, a skilled and effective attorney, a forceful advocate, and a person of complete integrity and good character.

When I first decided to recommend to President Carter that he nominate Mr. Winberry for the Federal judiciary, I went to Griffin Bell who was then Attorney General. Due to Mr. Winberry's age, Judge Bell decided to ask the American Bar Association for a preliminary report. Mr. Winberry was 38 at that time and admittedly that is a younger age than most appointees to the Federal bench.

The preliminary and final ABA reports were both approving of Mr. Winberry's nomination. There was a minority report of Mr. Winberry's nomination but such reports are not unusual. Upon investigation I found that the minority report mainly concerned itself with Mr. Winberry's age, an alleged ex parte communication with a law clerk, his support of one judicial candidate over another in the Democratic primary, and his involvement in a 1971 automobile accident, in which a motorcycle driver was killed.

I must admit, though, that I thought these charges would in no way hinder Mr. Winberry's nomination since I knew they were of such a superfluous nature. The thorough FBI check required of all nominees to the Federal bench, gave Mr. Winberry a clean bill of health.

In March of last year President Carter submitted Mr. Winberry's nomination to the Senate where it went to the Judiciary Committee. As a matter of policy, the Judiciary Committee also began to investigate Mr. Winberry's background. But for reasons which I still cannot fully comprehend, it soon became apparent that the committee's investigators were spending much of their time looking into unfounded charges against Mr. Winberry. Now, I would have been the first to applaud an investigation of any charges which might have carried with them credible evidence, but for all their efforts, the best the committee staff could do was produce a series of unfounded allegations.

As the weeks wore on, I was deeply hurt to see how the Judiciary Committee was dwelling on these unfounded allegations and ignoring the tremendous accomplishments of Charles Winberry. Finally, the committee voted against Mr. Winberry's nomination and the President withdrew it.

But my purpose in making this speech is not to rehash the past, rather, I want to set the record straight. I feel compelled to do this because I am the Senator who recommended Mr. Winberry's nomination to the President. Because I believe that the committee's investigation did a great disservice to Mr. Winberry and to the integrity of the Judiciary Committee as a whole. And finally, because Charles Winberry is my friend, I have trusted his counsel for many years and I shall always be saddened over the committee's failure to approve his nomination.

Shortly after the committee rejected Mr. Winberry's nomination last spring, I asked the North Carolina Academy of Trial Lawyers to appoint a select committee to review the procedures utilized by the Senate Judiciary Committee in considering Mr. Winberry's nomination. I took this action because of the grave questions in my mind and the minds of others as to the fairness and accuracy of the Judiciary Committee's actions. I felt the matter deserved an outside objective appraisal.

The North Carolina Academy of Trial Lawyers itself is an organization of unquestioned integrity. With 2,100 members, it is the sixth largest organization of trial lawyers in the country although North Carolina ranks 20th in the total number of lawyers. For service on this academy committee, the academy selected five of its most able members, three of whom sit on the academy's board of governors. These lawyers do not practice in the eastern district of North Carolina, nor do they have any close personal or professional association with Mr. Winberry or myself. Indeed, at least one of the members is a Republican, and even supported my opponent in this past election.

The academy committee's only purpose was to look into the method under which Mr. Winberry's investigation was handled and not to decide his merit as a selection for the Federal judiciary. They spent several months carefully sifting through the evidence, examining for themselves the charges against Mr. Winberry, and the way in which the Judiciary Committee investigated these charges. Today I am making public the academy committee's findings.

A simple summary of the report would be to say that the academy committee found nothing admirable about this investigation. To be more specific, they cite four major discrepancies within the Judiciary Committee investigation.

The first finding of the academy committee is that the investigation by the Judiciary Committee was extremely one-sided in nature. Basically there were two charges for the Senate investigators to check out. One was that Mr. Winberry had escaped prosecution for an accident 8 years ago in which a motorcyclist had been killed. The other charge was that Mr. Winberry had made false statements, encouraged his client to do the same, and even bribed a judge in a criminal case that he handled 3 years earlier. These are, of course, very serious charges and in the words of the trial lawyers report, "they required a thorough, even-handed investigation, but what they received was just the opposite."

With regard to the auto accident, the district attorney, state highway patrolman, and even the attorney for the estate of the young man killed in the accident agree that there is no evidence to prove Mr. Winberry guilty of a stop-sign violation, speeding, intoxication, loss of control, or any other criminal recklessness. It was simply a case of Mr. Winberry stopping his car at what was statistically proven to be one of our State's most dangerous highway intersections, then pulling onto the highway without noticing the lights of an approaching motorcycle. But the committee investigators ignored the face that the existing evidence did not justify prosecuting any one for manslaughter or for that matter, any other crime.

The investigators instead spent weeks bringing out irrelevant information such as that the district attorney was the nephew of the traffic court judge, most of the jurors involved in the coroner's inquest were elderly, and the illfounded surmise that the dates for the coroner's inquest were moved up by Mr. Winberry, which is simply untrue.

With regard to the allegations of false statements, the committee investigators went one step further in their one sidedness by using unreliable second-hand and even third-handed hearsay evidence when merely examining the trial itself, where the alleged offense took place, would have exonerated Mr. Winberry.

The Trial Lawyers Association report's next charge is in relation to a rather infamous memo dated January 31, 1980. The memo was addressed to only two members of the Judiciary Committee though it was actually sent to all the committee members. The memo came from the chief counsel to the committee and was grossly unfair to Mr. Winberry in three areas:

First, the memo did not weigh the evidence of the charges against Mr. Winberry in terms of pros and cons; rather, it said that his guilt had been "convincingly" proven by the gathered evidence. The memo then used what the report terms "overreaching distortions and even some falsehoods" to support the charges.

The third criticism was that the memo was supposed to be confidential to the committee members and staff only; yet, it was almost immediately leaked to the press. Since the memo was almost all derogatory to Mr. Winberry, it was a great embarrassment to him and to the distinguished Federal judge he was falsely alleged to have bribed.

The next section of the "Academy of Trial Lawyers" report concerns the slanderous newspaper articles that were unfairly generated by the staff or members of the Senate Judiciary Committee. One series of articles was based on the January 31, 1980, memorandum which I mentioned a moment ago. Those articles went so far as to say that members of the Judiciary Committee staff had concluded that Mr. Winberry was guilty of the allegations which had been raised against him. The evidence used in those articles is fanciful and far-fetched at best and clearly this was an attempt by some member of the committee or the committee staff to leak this information to the press in the hopes of embarrassing Mr. Winberry.

The Academy of Trial Lawyers report finally states that there was a marked prosecutorial nature to the hearings. As they reviewed the testimony, they saw that virtually none of the evidence favorable to Mr. Winberry was recognized or developed during the hearing. At the same time adverse testimony, which the trial lawyer's report found implausible and unreliable, was developed far beyond a reasonable proportion.

The conclusion of the North Carolina Academy of Trial Lawyers report reads:

These proceedings were not just casually, incidentally, or technically unfair to the nominee. They reeked of unfairness at every turn from beginning to end, and our study left us with the conviction that they were very shabby proceedings, indeed, quite unworthy of the Senate Judiciary Committee, or, for that matter, any organization that has lawyers connected with it.

I agree with the Academy of Trial Lawyers in saying that all governmental officials in this country who evaluate the fitness and characters of others have a duty to follow some basic standards of fairness:

They should take equal note of facts that tend to exonerate a man as well as those that tend to incriminate him.

They should keep investigations confidential so as not to slander or embarrass individuals with charges that have no reasonable basis.

They should conduct hearings in a fair minded and even handed manner, giving equal zeal to both sides of a question.

And finally, they should draw conclusions based upon reliable and relevant evidence and not from innuendo, rumor, speculation, second and third-hand hearsay, and conclusions drawn by clerks and investigators whose job it is to gather and report information, not to decide guilt or innocence.

These standards of fairness were not followed by the Senate Judiciary Committee in the investigation of and the hearings on the nomination of Charles B. Winberry. To me, that is a tragedy, for I have no doubt that Mr. Winberry would have made one of our Nation's outstanding jurists. On the Federal bench, we would have had the chance to display the dedication to the law, the maturity, the honesty, and the compassion that make him a truly exceptional individual and someone whom I am proud to call my friend.

But now, he will not have that chance.

As I close my career in the Senate, I leave with the hope that the Senate Judiciary Committee which scrutinizes the appointees to the Federal bench will adopt a more deliberative, fair minded, and compassionate approach to its business.

The American people ask for nothing more—and deserve nothing less.

Mr. President, I ask unanimous consent to have printed in the RECORD the special report from the North Carolina Academy of Trial Lawyers on the U.S. Senate Judiciary Committee proceedings in regard to the nomination of Charles B. Winberry.

Mr. President, during the course of the investigation by the Senate Judiciary Committee, a committee comprised of attorneys of the Seventh Judicial District of North Carolina conducted its own investigation of Mr. Winberry's background. I ask unanimous consent to have printed in the RECORD this report and its accompanying resolution as well as the attached letters of support.

Finally, Mr. President, I ask for unanimous consent to print in the RECORD the letter and accompanying material which I sent to each member of the Judiciary Committee regarding Mr. Winberry's nomination.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BLANCHARD, TUCKER,
TWIGGS, DENSON & EARLS,
Raleigh, N.C., November 27, 1980.

Re U.S. Senate committee
proceeding in regard to the nomination
of Charles B. Winberry.

Hon. ROBERT MORGAN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR MORGAN: The special committee of our members that you asked to be appointed to study the above has completed their work and their report is attached. The many papers and the tape recording that were received from your office in this connection have all been returned to Eugene Boyce.

Recognizing the importance of this task, some of our most outstanding members, three of which are also members of our Board of Governors, were appointed to do it. All are able veteran trial lawyers of wide experience, none are from the Eastern District or have any close connection with either you or Mr. Winberry, and we have every reason to believe that this study was accomplished objectively and professionally in a most exemplary way, and the Executive Committee of the North Carolina Academy of Trial Lawyers unhesitatingly endorse their report for your consideration.

The Academy was glad to be of service to you in this matter.

With kindest regards and best wishes, I remain,

Very truly yours,
HOWARD F. TWIGGS,
President, North Carolina Academy of Trial Lawyers.

THE NORTH CAROLINA ACADEMY OF TRIAL LAWYERS

NOVEMBER 21, 1980.

To: The Officers and Board of Governors of The North Carolina Academy of Trial Lawyers

Re: United States Senate Judiciary Committee Proceedings in Regard to the Nomination of Charles B. Winberry

From: Arthur J. Donaldson, Walter E. Clark, Jr., Clarence E. Horton, Harry J. O'Connor, Jr., and Eugene H. Phillips

The study of the above that you requested us to make for Senator Morgan has been concluded. As directed, our focus was limited to the fairness of the various proceedings, and no consideration was given to whether Mr. Winberry should have been nominated for a federal judgeship in the first place, or whether his nomination should have been consented to by the Senate in the second. In doing this work, we were as thorough, objective, and systematic as we know how to be. Each of us, on his own, studied the transcripts of the several Committee hearings that were held, the transcript of the federal court proceeding in which Mr. Winberry supposedly acted improperly, and the multitudinous other papers relating to this matter that Senator Morgan was able to obtain; we also listened to the recording of the interrogation of Mr. Winberry by Committee investigators, and read many of the newspaper articles that these proceedings generated. After this was done, we met together twice and collectively discussed, at length, each's separate impressions and opinions about various parts of the proceedings; and after eliminating things that some, but not all, thought were unfair, it was unanimously concluded that these proceedings were grossly unfair to the nominee in the several respects discussed below.

In so deciding, we did not take into account any rules that the Senate Judiciary Committee might have for conducting its own business or any guidelines that might have been issued to its investigators or other employees, as we have no knowledge of any such rules and guidelines and believe that they would be largely irrelevant, in any event. Because it is fundamental, we think, that all government officials, whatsoever, in this country that investigate and evaluate the fitness and character of others have the duty to be fair in the following basic respects, at least.

In investigating rumors or charges, to look for and take heed of reliable facts that tend to exonerate a nominee, as well as those that tend to incriminate him;

To keep such investigations, while they are in process, confidential, so that those being investigated are not publicly embarrassed or slandered, by the media or anyone else circulating scandalous claims that have no reasonable basis;

To conduct any hearings in a fair, even handed manner, by covering both sides with equal zeal, by presenting and receiving only evidence that is relevant and reasonably reliable, and by neither presenting nor receiving mere gossip, hearsay, rumor, and suspicion;

To decide and evaluate from such reliable relevant evidence as is received, rather than from irrelevant, unreliable hearsay, innuendo, rumor, or speculation, and to do so without being led or guided by others, including their own clerks and investigators, whose duty is to gather and report information, rather than to draw or argue conclusions from it.

Judging these proceedings against only these basic fairness standards, we are of the opinion that they violated all of them, as explained below.

I. THE INVESTIGATION WAS ONE-SIDED

As every lawyer and investigator worth his salt knows, a one-sided investigation is an unfair investigation. This investigation was extremely one-sided. What it mainly required was checking on just two so-called charges or rumors of improper conduct by Mr. Winberry. One charge was that he improperly escaped prosecution and conviction in an automobile accident and traffic case that he was a party to eight years earlier; and the other that he unlawfully and unethically made false statements, permitted his client to do likewise, and even bribed the judge, in a criminal case that he handled three years earlier. These, of course, were grave matters, indeed, calling into question not only the nominee's honesty, character, and fitness to be a judge, but also his right to continue being both a lawyer and a free, unjailed person; and in fairness to both the public and the nominee, they required a thorough, even handed investigation, but what they received was just the opposite.

Though the task required was important, it was nevertheless quite simple. Neither rumored offense was very complicated, each had key elements, the existence or absence of which were peculiarly subject to easy determination, and the circumstances were such that the pros and cons of both rumors could have been fairly and thoroughly checked out and evaluated by any ordinarily competent, objective police officer, deputy sheriff, or other investigator in a few days time. If such an investigation had been made, and if the investigation had been as ready to recognize actual, glaring absences and weaknesses in the so-called evidence as they were to imagine its strengths and make illogical, unwarranted surmises from them, it would have been established that these rumors and suspicions had no real foundation and the rest of the proceedings could have been devoted to a consideration of whether the nominee's diligence, dedication, experience, scholarship, temperament, objectivity, philosophy, and other such characteristics merited the confirmation of his appointment. Yet, as though evidence and implications favorable to the nominee were beyond the scope of their job, the investigators either ignored or attached no significance to credible facts favorable to the nominee, and spent weeks gathering implausible, unreliable irrelevancies adverse to him, and making fanciful, farfetched surmises from them. And when the final hearings upon the nomination were eventually held, these two rumors and suspicions, embellished and supported by the staff's distorted appraisal of their own one-sided gatherings, were the main things discussed by the Senators in attendance and by the newspapers that reported the hearings.

(A) *The investigation of the fatal automobile accident and traffic case*

The rumor that Winberry improperly escaped being convicted of a traffic crime and avoided a manslaughter indictment and prosecution was, in essence, based upon these facts:

He was involved in a fatal traffic accident at night at a bad intersection, surrounded by lights of all kinds, when he pulled into a dominant highway from a stop sign and collided with a motorcycle; he was charged only with failing to yield the right-of-way and a coroner's inquest was ordered; the traffic case and coroner's inquest, initially scheduled for the morning and afternoon of November 15, 1971, were later moved up to the morning and afternoon of Monday, October 19, 1971, and the traffic case was rescheduled still again for the next morning, October 20, 1971; the coroner's inquest resulted in a finding of "no probable cause," the traffic case in a "not guilty" verdict by the trial judge, and he was never indicted or prosecuted for manslaughter.

Obviously, in investigating this rumor, the first thing that the investigators should have done was determine whether or not he *ought* to have been convicted of a traffic crime, or indicted and prosecuted for manslaughter. If credible evidence of criminal recklessness existed, then it would have been apparent that the rumor *might* have a solid foundation. But if no such evidence existed, then manifestly it would have been foolish to think, much less claim, that he was not indicted, prosecuted, and convicted because improper influence was exerted by or for him. If the investigators ever considered this threshold question, the record that we have does not show it. The record does show, however, that if they did learn what the criminality elements were in this instance that they should have readily recognized that the charge was without its first cornerstone. Because they did learn very early (from the two state highway patrolmen and the able, experienced lawyer that investigated and handled the civil wrongful death claim, who had every reason to allege and prove recklessness and criminality if he could, as well as from those that were thought to have witnessed the accident or its aftermath) that there was absolutely no evidence of either running the stop sign, speeding, intoxication, loss of control, or any other criminal recklessness; and that, so far as the evidence disclosed, it was simply a matter of Mr. Winberry stopping his car at one of the state's most dangerous and poorly arranged intersections and then inadvertently pulling out into the highway without noticing the light of the approaching motorcycle.

Nevertheless, instead of recognizing and reporting that such evidence did not justify prosecuting anybody for manslaughter, or, indeed, convicting anybody of a crime, and therefore that the rumored offense could not possibly be established as true, the investigators spent weeks checking into and surmising about a variety of irrelevant, peripheral circumstances that they apparently thought incriminated the nominee in some way. Among the circumstances so dwelt upon were that the District Attorney was a nephew of the traffic court judge, that most members of the coroner's jury were elderly, and their own ill founded surmise that the dates for the coroner's inquest and traffic case were moved up by the defendant, and thus for a sinister purpose, rather than by the State, which, by grossly leading questions, they tried to get Winberry to admit when they interrogated him. Which was odd. Because, even if they did not learn, as they should have, that the State is invariably the one that accelerates such trial dates here, they were told at the outset by the complainant, John Fowler, the father of the injured motorcycle rider (as he testified before the Committee February 28, 1980), that the hearing dates were advanced by the State for the sole convenience of his son, who had been released earlier than expected from a Raleigh hospital, so he would not have to travel back there later from his Virginia home.

(B) *The investigation of the false statement charges*

This part of the investigation was even more unfair than the other one. Because, in addition to again ignoring or discounting reliable evidence favorable to the nominee and again gathering obviously unreliable second and even third-handed hearsay statements adverse to him, the staff had the effrontery to decide that he was guilty of these very grave offenses, and in their adversarial, one-sided attempt to prove themselves right, sound investigative methods went by the board. Though the charges were based upon what supposedly was said and done in particular federal court proceedings, prosecuted by a district attorney and presided over by a judge, the investigators' conclusions and surmises for the most part were based, not upon what the court records and transcripts showed or upon what the judge and district attorney recalled doing and saying, but upon what a postal inspector that wasn't even present on one key occasion said somebody told him; and even when they read a court transcript, as they did of the proceedings wherein the postal inspector supposedly testified as to Windham being a front and Windham supposedly, with Winberry's connivance, testified falsely that no one else was involved, they apparently did so with blinders that prevented them from seeing exactly what was said and that obliterated testimony that was incompatible with their theory of Winberry's guilt. To avoid undue duplication and burdensome prolixity, however, this point is discussed more fully in the section that deals with the staff memorandum, as the main purpose of that document was to persuade the Senators that Winberry was guilty of these particular offenses.

II. THE STAFF MEMORANDUM

Though the 31-page memorandum dated January 31, 1980 was addressed to the two Senators that were handling the processing of this nomination, it was sent to all Committee members for their consideration before voting on the nomination. The memorandum, prepared by the Committee's Chief Counsel, purported to be an analysis of the inter-staff report made by the investigators with regard to all their gatherings about Mr. Winberry, and purported to represent the views of the entire Committee bureaucracy. The three most striking things about this memorandum, all grossly unfair to the nominee, were:

It told the Senators for the most part not what the factual pros and cons were in regard to the various charges made against the nominee, but that his guilt on two charges, one a potential felony had been "convincingly" proven by the evidence that had been gathered.

The many overreaching distortions, exaggerations, and even some falsehoods, that it contained in support of these conclusions, and the many absurd, fanciful, and illogical inferences that were made from them.

Though the memorandum was supposed to be confidential to Committee members and employees and available only to them, all its conclusions, derogatory to the nominee, were almost immediately leaked by "a reliable Committee source" to the newspapers, to the great embarrassment of the nominee and a federal judge that he was rumored to have bribed.

(A) *The bureaucracy's attempt through the memorandum to influence and control the Senator's decision*

Even if this memorandum had been otherwise fair and objective, which it wasn't, that it presumed to tell the Senators how to evaluate and decide unethical and even criminal charges that were made against the nominee was grossly improper. The advice and consent powers and duties under the Constitution belong to Senators and it is their duty, rather than that of their employees, to weigh, consider, and evaluate evidence concerning the character and fitness of Presidential nominees. That the employees in fact undertook to weigh and evaluate conflicting evidence for the purpose of influencing and controlling the Senators' votes is self-evident from the memorandum itself. On the very first page of the memorandum is the conclusion, "There is convincing evidence that Winberry . . . knowingly made false statements . . . This conduct was probably unethical and conceivably unlawful"; on the next page, it was concluded "There is convincing evidence" that he let his client lie also and "this course of conduct was probably unethical and conceivably unlawful"; and there were a number of other statements in the same tone and to the same effect.

The nominee flatly denied making any false statement, or knowingly permitting his client to, or doing anything else improper, and that any staff employee or group of employees would have the effrontery to decide that the nominee had lied and that someone else, no matter who, had told the truth was not only unfair to the nominee's good name and reputation, it was also an open affront to the members of the United States Judiciary Committee, whose duty it was to decide that very point. That most of the Senators involved accepted, and, in effect, even condoned this usurpation and effrontery, accentuated its unfairness, the grossnesses of which beggars description, in our opinion.

(B) *The memorandum—A distorted brief for conviction*

Even though it was purportedly written from an objective middle ground (as it really should have been, since it was composed by the Committee's Chief Counsel, whose duty was to dispassionately and professionally advise the Committee about legal questions that their work involved), this document is one of the most slanted, distorted, overreaching pieces of legal writing that we have ever seen. But only the worst part of it—(the first seventeen pages, which purport to report Mr. Winberry's activities in handling the David Windham case, from which the false statements charges and the suspicion about bribing the judge emanate)—will be discussed here, and that part in no great detail. Because the purpose of this report is not to catalog and fully discuss all the many unfair things that happened during these proceedings—(which neither time nor practicality permit, since a distortion, exaggeration, or falsehood that can be perpetrated by a line, a phrase, a word, a symbol, or even by leaving something out, often requires a tome to refute)—but only to show that the proceedings were unfair and in what major respects.

The main thrust of the memorandum is that: The nominee, in ostensibly representing David Windham in a criminal tobacco sale case in the United States District Court for the Eastern District of North Carolina in November of 1976, was really representing Windham's secret "boss," Gordon Dildy; and when, before trial, he disputed the Postal Inspector's claim, as the main prosecuting witness, that Windham had "silent partners" (which conversation Winberry denied), and when he permitted Windham, when being questioned by the judge as to his understanding of the charge and his willingness to plead to it, to respond that he was the sole owner of the illegal corporation, and thus was guilty as charged, that Winberry was knowingly and corruptly trying to protect Dildy from further investigation and prosecution, rather than acting in the best interests of Windham, and thus "probably" violated legal ethics and "conceivably" committed felonies under Sections 1001 and 1503, Title 18, United States Code.

That this charge is both overdrawn and inadequately supported is really self-evident on the face of the memorandum itself to any experienced trial lawyer; and that this was not noticed by more members of the Senate Judiciary Committee is surprising. First of all, the charge itself is the type of thing that is concocted and pieced together only by inexperienced Assistant District Attorneys anxious to accomplish a miracle, and then just once, as such broad outer limits and beyond claims, each part of which rests on another, almost invariably fall apart on their own and are rarely established. But beyond that, the memorandum itself shows, at least when read with a lawyer's eye, that these overdrawn claims have no real foundation. Because, in reciting what are claimed to be central, pivotal *facts* establishing Winberry's criminality and breach of ethics, the words "if," "apparently," "may have," "must have," and "evidently" were repeatedly used. On page 7, for example, these qualifying, equivocal, and argumentative words were used seven different times in regard to as many claimed facts. "Convincing" or even "believable" evidence is not composed of such speculative, doubtful, and argumentative ingredients; and the Committee members that read this document should have recognized immediately, it seems to us, that it was an unreliable, one-sided accusation and over-reaching argument, rather than an objective, factual analysis.

With no evidence of any real probative force to go on (and, indeed, contrary to the evidence, as shown below), it was arbitrarily declared that Winberry really represented and acted for Dildy, rather than Windham, and—

(1) that though Winberry's client, Windham, had formed and apparently owned and operated the illegal corporation, that he was merely a "front" man for Dildy, who had an illegal "ring;"

(2) that Winberry knew this;

(3) that though Winberry was ostensibly paid by Windham delivering him a check on his corporation, that he was really paid by Dildy, since Dildy owned the operation;

(4) that Winberry knew this, too;

(5) that in disputing the Postal Inspector's claim about Dildy and others being "silent partners" or "involved" in the operation, Winberry did so knowingly and corruptly, mostly to protect Dildy and "his ring" from further investigation and prosecution;

(6) that in permitting Windham to plead nolo contendre to the sole offender charge and answer the judge's questions about him being the sole owner, that he was knowingly and corruptly protecting Dildy, rather than representing Windham.

Even when considered by itself—without taking any heed at all of evidence that renders all these points doubtful—this is no more than fanciful, speculative nonsense. Because, even if the first four underpinnings of this Rube Goldberg type structure were solidly admitted (which they weren't—neither were they established), that still would not prove, as the memorandum assumes, that Winberry was acting for Dildy, rather than Windham, in Windham's court case. Even from the memorandum, it's obvious that Winberry protected Windham's interests very well, indeed. He got Windham's case disposed of without it being complicated and prejudiced by the Postal Inspector's suspicions (which is all they were, as it was several months later before enough information was obtained to support an indictment) about Windham being guilty of the additional crime of conspiracy, and the claim that he was really protecting Dildy is transparently absured on its face.

Furthermore, the theory is utterly at variance with the way criminal law is practiced, as virtually all lawyers that practice in that field would agree, we feel sure. People who hire others to commit crimes, even when they recommend and personally pay lawyers for them (*which didn't happen here, Winberry being paid by Windham's check, personally delivered*) do not usually tell the lawyers that they are "the ring" owners and operators and want their interests protected, or, for that matter, that they even have a proprietary interest. About all that such people usually say in such situations (from our experience and knowledge) is simply that they like or feel sorry for the defendant, or his family, and hope that the lawyer can get the defendant off as lightly as possible. And though lawyers in such situations often *suspect* that the indicted client is a front, they very rarely *know* it; and, there usually being no sensible or necessary reason for them to know the indictee's precise status, which is nearly always secondary, if not irrelevant, to the indictee's guilt, particularly in *single offender* cases like this, they rightfully accept the indictee's word on that point and deal with the court and all others accordingly. And their doing so is neither unlawful, unethical or improper. Certainly, there is nothing about this case, even as the memorandum describes it, that would have required Winberry or any other lawyer to ferret out and determine whether Windham was a front, or, indeed, to even concern himself about it, or, for that matter, that would have required him to admit to Gulas that others were involved—*even if he knew it.* That the staff thinks otherwise only reflects their lack of knowledge and judgment in this field—which may be one reason for these proceedings developing as they did.

The memorandum has another obvious, inherent flaw on its face. When condemning Winberry for supposedly representing Windham's "boss," Dildy, to Windham's detriment, the memorandum claims as a "basic fact" that Dildy was the sole owner of the illegal operation and its funds, including those used to pay Winberry's fee for representing Windham; but at other times the memorandum follows the Postal Inspector's testimony (itself of doubtful veracity, but all that the staff had on the point) that he told Winberry that Dildy, Powell, and Peeden were Windham's "silent partners." Obviously, "bosses" and "partners" are not the same thing, and a charge claiming the former status is nullified and rendered unbelievable by evidence from the prosecutor showing the latter.

But whatever Dildy's status was, there is nothing in the memorandum to cause any fair person to doubt that Winberry properly, lawfully, and ethically acted in Windham's best interest in handling Windham's case, or to cause any experienced lawyer to believe that anything that Winberry did in regard to the David Windham case was either unlawful or unethical.

But the memorandum's unfairness did not stop with the overdrawn and fallacious charges of wrongdoing and criminality. In claiming that they had been proven or otherwise had a solid foundation, there was even more distorting, misstating, and overreaching—as anyone that reads the rest of the record against this memorandum will readily see. The following are but a few examples:

(1) In reciting the so-called "basic facts" on pages 3 and 4, the memorandum does so in generous terms from what Gulas, the Postal Inspector, had learned during the three and a half years after November 15, 1976, even though Winberry's conduct must be judged by what he knew on that date. The so-called facts so recited do not even bear a coincidental resemblance to the facts that were actually known, even by Gulas, much less Winberry, on November 15, 1976. For example, though Gulas now claims that, at that time, he knew all about Windham being a front for Dildy or involved with him, Peeden, and Powell, the evidence fairly shows (as is more specifically documented below) that in November, 1976, Gulas only *suspected* that, it not being until several months later that "they knew enough to have the others arrested." (Gulas' testimony—February 27. 1980 Committee Hearing, page 105).

(2) In arbitrarily and dogmatically declaring that Gulas knew that Windham was a front for Dildy by November 15, 1976, that he so told Winberry on that date and that Winberry lied when he disputed that claim (because he knew, supposedly from Dildy), evidence of great weight that shows that Gulas' version of things now is almost certainly not so, or at least is not very "convincing," was utterly disregarded.

(a) When Gulas testified in the Windham case that very day, November 15, 1976, he did not say that he knew that Windham was a front for Dildy or anybody else. Indeed, not one word did he say about Dildy or anyone else being investors, co-owners, silent partners, or having any other interest in the business; nor did he say anything about Windham being merely a front for anybody. The only thing that he did say along this line, as the court transcript shows, was that Peeden and two other persons (not Dildy) were seen on one occasion loading cigarettes and that a picture was taken of the car license tag. Not having mentioned Dildy in his testimony then, we doubt that any disinterested, rational person would be "convinced" that he had just gotten through telling Winberry he "knew" Windham was a front for Dildy, or that he really knew any such thing, in any event.

(b) The Assistant District Attorney that handled Windham's so-called plea bargaining conference, in testifying before the Committee February 27, 1980, had no recollection of the conversation reaching the "knowledge" point that Gulas claimed, and in refutation thereof positively stated several times that at that time they only "suspected" others were involved and had no proof, and that their conversation with Winberry was on that basis. (Pages 200–205).

(c) In a long, rather detailed written report that Gulas made to his superior in the Postal Department December 29, 1976 (six weeks after the trial involved) about the status of various cigarette investigations he was handling in eastern North Carolina, though he expressly mentioned the David Windham case, said he was interviewing witnesses in anticipation of trial when he was told that the judge had accepted a plea, deplored the fact that Windham was not sent to jail. and mentioned Winberry's friendship with the judge, *he did not say one word about any purported conversation with Winberry, nor did he say anything about it being even suspected that Windham was a front for someone else, or that his effort to implicate others in that case and run "the whole ring to ground" was frustrated by Winberry's* *dishonesty, and the name of Gordon Dildy, around which the false statements charges revolved, was not even mentioned.*

(3) The statement that Gulas "testified that his surveillance revealed Vernice Ray Peeden and two grandsons were also *involved* in the operation of the ring" (page 16) is a distortion and a falsehood. What Gulas actually testified to, as the court transcript shows, was, "All that I can say is that pictures showed them loading cigarettes and they were there all that day." But he refused to say, when given the opportunity by the judge, that they were either employed, involved, or were partners, or anything else, and certainly did not mention a "ring."

(4) The statement that "Bob Windham denied ever speaking to Winberry" (page 6) is apparently a bald faced falsehood. Robert Windham, in the Committee Hearing February 28, 1980 (pages 114–128) testified about going to Winberry's office and speaking with him about representing David Windham, and was not confronted by any prior statement to the contrary.

(5) The statement (on page 8) that Winberry, in his initial statement to the staff investigtaor, "suggested that he did not know Dildy" is a falsehood. Both the tape and the transcript of the investigator's interview of Winberry contain Winberry's clear statement that he did know Dildy casually.

(6) In citing the informant, James McTighe, as an authority for various so-called facts stated in the memorandum, the staff was irresponsible. This man's word, completely uncorroborated as it was, could not possibly be believed by any rational person. In addition to being an admitted criminal, currying favor with the authorities by selling information, he is also an obvious liar, and the facts that he claimed—(that he heard Dildy say that he had Winberry and Judge Larkins in his pocket)—were hearsay of the rankest and most dubious kind. Even if Dildy said that, it is still unbelievable, since criminals often say such things only to impress those that they get to work for them. But who could possibly believe from this "evidence" that Dildy even said it? At the time that Dildy supposedly made his boast, McTighe was doubly wired for sound (with two independent tape recorders affixed to his body), and though both recorders worked splendidly during the rest of the evening, they both inexplicably went on the blink during the few moments that Dildy's incriminating remarks were supposedly made! And to cap things off, this man even denied under oath when he testified before the Committee that Dildy had paid him anything for the illegal services that he had admittedly performed for him.

(7) In selecting a heading for the part of the memorandum that deals with the rumored bribe of Judge John Larkins by the nominee—(a charge supported only by double hearsay of an informant that was himself both a criminal and an obvious liar)—the Committee's chief legal advisor chose "*The Bribe*" (page 16); not "The Alleged Bribe," or "The Suspected Bribe," but "*The Bribe*."

(8) The implication (on page 16) that Judge Larkins' failure to send Windham to jail was unusual and that other tobacco defendants invariably went to jail was dishonest. Only two out of eighteen such offenders were given prison terms, as the court records show, and U.S. Attorney Tilghman testified that the disposition of the Windham case was "typical" for a case of that kind.

(9) The statement, "After Judge Larkins' decision (in the Windham case), Tilghman, the U.S. Attorney, was dismayed to the point where he decided not to prosecute Windham for his involvement in a different cigarette fraud firm called NUCO" (page 17) is a falsehood. The truth is, as the court records in other tobacco cases show and as Tilghman testified (February 28, 1980 Committee Hearing), the Windham disposition was "a typical disposition" (page 202) and he decided not to prosecute the NUCO case there in Wilson because Florida was more convenient for the witnesses and an easier place to get a conviction than Wilson, North Carolina, where everybody is economically dependent upon tobacco (page 209).

(10) The statement that "Judge Larkins announced that henceforth he would give jail sentences to those involved in cigarette fraud" (page 16) is almost certainly not so, and is a good example of the sorry way this entire matter was investigated, analyzed, treated, and handled from beginning to end. This statement is not based upon any court transcript, an interview with the judge, or even upon the statement of somebody that purportedly heard the judge say that; it is based upon a postal inspector's claim that that is what the U.S. Attorney told him. But the U.S. Attorney's own recollection of what the judge said (according to his testimony before the Committee) was only to the effect that those offenders that insisted upon trying out their cases and again testing the applicability of the Jenkins Act would have less chance of receiving probation than those that didn't. We have never known of a judge making the all embracing, wholesale declaration that is claimed here, and that Judge Larkins said no such thing is almost certainly proven by the incontestable fact that most Jenkins Act violators that pleaded nolo or guilty before him were put on probation. Nevertheless, from the beginning of these proceedings until the very end, it was repeatedly assumed that Judge Larkins did say that and that Winberry's client was the only Jenkins Act offender that didn't go to prison; according to staff investigator, Bellino, in first interrogating Winberry, the judge's statement was already "a known fact," and argumentative, leading questions based on that false premise were asked at Committee hearings until the very end.

III. THE SLANDEROUS NEWSPAPER ARTICLES THAT WERE UNFAIRLY GENERATED BY ONE OR MORE EMPLOYEES OR MEMBERS OF THE COMMITTEE

That these proceedings were grossly unfair to the nominee in this respect is really a matter of common knowledge in this state, and perhaps elsewhere, as well, where many newspaper articles slanderous to the nominee appeared that were necessarily based upon information obtained from or through a member or employee of the Senate Judiciary Committee. While some of the articles may not have been based on the *improper* assistance or participation of a Committee member or employee, there were certainly two such groups of articles that could not have been published without such connivance or participation.

One group of articles was about the staff of the Senate Judiciary Committee having "found" that Winberry was guilty of making false statements and other offenses and improprieties. These articles, based directly upon the 31-page staff memorandum discussed above, were published by the Associated Press and many newspapers that have their own Washington correspondents around February 15, 1980, and appeared in newspapers on different days near that time. Whether stamped confidential or not, by any fair standard of official or personal conduct and human decency, the purported "findings" recited in the staff memorandum (which should never have been made in the first place, as previously shown) certainly should have been kept confidential by everybody connected with the Committee, at least until the confirmation vote was over. That the nominee's confidence was not maintained irresistibly means to us that some Committee member or employee that is without honor deliberately leaked the findings to the press, in order to prejudice and embarrass the nominee. Nobody else having lawful access to the memorandum, it being their duty to keep it confidential, and there being no report or claim about Committee secrets being wrongfully pilfered by some outsider, there is no other reasonable conclusion. Though a shabby business, indeed, it nevertheless was totally in keeping with the overreaching, prosecutorial tone of these entire proceedings.

The other articles are those that quoted Carmine Bellino, the Committee's chief investigator, as saying that "the contradictory testimony of Gulas and Robert Windham could be used by the Committee to push a perjury charge against Winberry." That Mr. Bellino was, indeed, the source of that perjury prosecution publicity is not doubted, since we have neither seen nor heard of any denial made by him with respect thereto. These articles, again by the Associated Press and others, appeared during the first two or three days of March, 1980, immediately after Gulas and Robert Windham testified before the Committee February 28, 1980. Even if the contradictions referred to in the articles showed that Winberry swore falsely, it was manifestly not up to this staff employee to so declare to the public; but that he in fact did so is again in keeping with the prosecutorial character of these proceedings.

The truth is, however, that Mr. Bellino had no reasonable basis for making any such statements, even had he been authorized to do so. As shown elsewhere herein, Gulas' version of things now is quite implausible and certainly would not support a perjury prosecution. The very day that Gulas claimed that he knew Dildy was involved and so told Winberry, he failed to testify to that effect when given the opportunity, as the court transcript shows, and could only say that he had seen someone else loading cigarettes and had taken a photograph of that person or his car. And six weeks after Winberry supposedly lied to him and disrupted his plan "to clean the whole ring out," in reporting to his superiors in writing about this very case, he didn't even mention Dildy or Windham being a supposed front for anybody, or Winberry's supposed misconduct. And as to Robert Windham supposedly testifying that he told Winberry that Dildy really owned the illegal operation, a close analysis of his testimony shows that, despite the many leading questions put to him by the hearing managers in a manifest effort to obtain testimony to that effect, he still only said that he *assumed* that Dildy was involved and only thought that Winberry knew it. Which is no proper basis for a perjury indictment based on actual knowledge, as even a good law student knows. And that under these circumstances any government functionary or anybody else, for that matter, would take it upon himself to announce to the world that such testimony might result in "a perjury prosecution being pushed" against any human being, much less a reputable lawyer and judicial nominee, is monstrous. And that he was not publicly castigated by his superiors for this unwarranted effrontery also shows something about how the Senate Judiciary Committee and staff functioned.

IV. THE PROSECUTORIAL NATURE OF THE COMMITTEE HEARINGS

The hearings held by the Committee during these proceedings also had a marked prosecutorial tone, rather than an inquisitive or deliberative one befitting the Senate Judiciary Committee. This was manifested in several ways that no lawyer could mistake, including the following:

(1) Hardly any of the circumstances or positions favorable to the nominee were either recognized or developed during the hearings. That the hearings would follow the investigation to some extent was inevitable, of course, but that its twisted, fallacious course would be followed so closely was

not. Yet, it was typical of these hearings that while nearly all of the many circumstances favorable to the nominee, many of which were literally shrieking for attention, went unnoticed, that unreliable, implausible testimony adverse to him was being developed to its outer limits and beyond, several examples of which have been heretofore given. Another is that to add color to Gulas' claim that he knew about Dildy's involvement November 15, 1976 and so told Winberry, and to the suspicion about the FBI not following up on postal department letters and reports, several such letters and reports written after November 15, 1976 were introduced into the record; *but that one of those written reports, by Gulas himself December 29, 1976, six weeks after Winberry supposedly foiled his attempt to "clean up the entire ring," obviously should have mentioned that infamous event if it had really occurred, but didn't, was not pointed out by anybody.*

(2) In presenting the testimony of James Anthony McTighe and John Fowler (as was done February 28, 1980, near the end, when good lawyers try to present their most solid and convincing evidence), obviously irrelevant, unreliable hearsay testimony, whose only possible effect was to slander and prejudice the nominee, was submitted. This evidence was clearly of a type that responsible lawyers don't even offer, even in hotly contested court cases, and when offered by others is followed by immediate reprimand from the bench. McTighe's claim that he heard Gordon Dildy say that he had bribed the judge with Winberry's assistance was not only unverifiable, unreliable hearsay of the rankest kind, by a confessed felon given immunity for expected information, who obviously wanted to please a gullible, overzealous postal inspector, it was also incredulous and unworthy of belief for other reasons, as well. McTighe's veracity, for hearsay gatherings or anything else, already at a low level, was rendered laughable to any trial lawyers by his claim that, though doubly wired for sound, both recorders, which worked well during the rest of his staged conversation with Dildy, inexplicably failed to work during the few minutes while Dildy was supposedly making his boast; and by his further claim that he was never compensated by Dildy for any of his illegal work, but was just merely reimbursed for "expenses." Fowler, who was not there when the automobile accident happened injuring his son, had no relevant information to present, with no no rational basis, vented his spleen on the nominee for not being convicted of a crime, and reported the hearsay suspicion of a dead coroner about the inquest and traffic case being wrongfully manipulated, for some unknown but devious purpose. That McTighe's testimony resulted in another round of newspaper articles besmirching the nominee and a widely respected federal judge (the headline of one article being "*Winberry Tied to Fix*"), and Fowler's testimony resulted in another round of newspaper articles about Winberry supposedly escaping prosecution and conviction for manslaughter, should have surprised no one.

(3) In claiming during the February 19, 1980 hearing that Winberry said he *knew* Dildy was involved in Windham's illegal operation (page 17), Senator Hatch misstated the facts. In claiming during the March 4, 1980 hearing that Winberry had *testified* that Gordon Dildy *employed* his client, David Windham, and was the real owner or man behind General Distributing Company (pages 27–30), Senator Leahy misstated his testimony. What Winberry had admitted and said in each instance was that he *suspected* or *surmised* that Dildy was the controlling party, but did not know that when the case was tried, and did not even know it then; a difference any lawyer should recognize and appreciate. Though whether Winberry did or did not know about Dildy's involvement should never have been even a side issue in these proceedings—(and perhaps wouldn't have been if the investigators and staff lawyers had known much about practicing criminal law, the claim that Winberry's supposed knowledge made his conduct unlawful or unethical, either under the circumstances that existed or were theorized being nonsensical and fallacious, as earlier explained)—it nevertheless was a major issue in the way these proceedings developed; and that the two hearing managers both incorrectly claimed before the other Senators, most of whom had not followed the proceedings, that Winberry had, in effect, earlier admitted his supposed culpability, and thus had been lying about it since, was terribly unfair. And since *surmising* is one thing and *knowing* another, and accusations of crime, however frivolous, were involved, it was also inexcusable.

(4) In reading into evidence (during the February 28, 1980 hearing) the postal inspector's letter to Assistant Attorney General Civiletti about the rumored bribe, and in stating that nothing had been done by the FBI about it, the suspicions about this entire matter that the staff had largely created were unfairly enhanced. According to the appendix to the staff memorandum, especially prepared for the use of the hearing managers, the FBI had extensively investigated these and other rumors and had a 400-page confidential report that took the investigators several days to study.

(5) Instead of limiting their participation to the usual opinions of general fitness, the ABA, through its representative, James C. Parham, Jr., was permitted and even enlisted to assist in the prosecution, as it were, thereby unfairly adding its prestige to the spurious claims of misconduct made by the staff. At the March 4, 1980 hearings, Mr. Parham was permitted to analyze the evidence and tell the Senators what it meant, as well as to argue various of the issues involved. Before doing this, he was "briefed" by the staff, and that Mr. Parham accepted that briefing at face value, as his testimony, completely in keeping with the staff memorandum, indicates, does not reflect well upon his capacity or that of his committee to pass on the activities of any trial lawyer. Warming to his assignment, Mr. Parham, too, viewed Mr. Winberry's "impression" or "surmise" that Dildy was involved as being the same thing as *knowledge* of that supposed fact; and he even went so far as to categorically state that from his review of the evidence that Winberry falsely testified when he said that he knew of no documents showing Dildy's involvement because *Gulas had shown him photographs of Dildy's involvement*. (page 47, March 4, 1980 hearing). Which was as unlawyer-like a statement as one could make, and but another example of the loose way that pivotal facts in this matter were treated throughout by lawyers acting for the Committee. The only photographs that Gulas showed Winberry or tried to show Winberry or had even taken, as the transcript of Gulas' testimony in court clearly shows, was not of Dildy at all, but of Peeden or Peeden's car. Nevertheless, this false interpretation of very crucial evidence, with the prestige of the ABA behind it, was not corrected by those who offered this "testimony," or, for that matter, by anybody else.

(6) In presenting the witness Robert Windham, overreaching efforts, by grossly leading questions, were repeatedly made to get him to testify that Winberry "knew" that Gordon Dildy was "involved" in the illegal operation and he had explicitly told Winberry that, when it was obvious that he really didn't know what Winberry knew, and, for that matter, only had an *impression himself* that Dildy controlled the operation. (February 28, 1980 hearing, pages 114–128).

(7) In demanding to know of the nominee, and also of several people that testified favorably for him, whether Winberry was "the best available person in the Eastern District for that job, "the nominee was gratuitously belittled and demeaned. Being "the best" was not the question before the Committee (and it's doubtful if it ever has been in such situations), and asking that question merely put the nominee and his supporters in the impossible and absurd position of having to prove the unprovable.

CONCLUSION

These proceedings were not just casually, incidentally, or technically unfair to the nominee. They reeked of unfairness at every turn from beginning to end, and our study left us with the conviction that they were very shabby proceedings, indeed, quite unworthy of the Senate Judiciary Committee or, for that matter, any organization that has lawyers connected with it.

Arthur J. Donaldson,
Salisbury, N.C.
Clarence E. Horton, Jr.,
Concord, N.C.
Eugene H. Phillips,
Winston-Salem, N.C.
Walter E. Clark, Jr.,
Greensboro, N.C.
Harry J. O'Connor, Jr.,
Greensboro, N.C.

Report to Seventh Judicial District Bar by the Special Committee Appointed to Study and Comment on the Appointment of Charles B. Winberry, Jr., Esquire, to Serve as a U.S. District Court Judge in the Eastern District of North Carolina

The undersigned members of a Special Committee of the Seventh Judicial District Bar of the State of North Carolina commencing on the 19th day of November, 1979, has made inquiry into certain matters pertaining to the appointment of Charles B. Winberry, Jr., Esquire, of Rocky Mount, North Carolina, to serve as a United States District Court Judge in the Eastern District of North Carolina, and reports to the Seventh Judicial District Bar at a special called meeting held on December 3, 1979, as follows:

Background of the Winberry Appointment: Mr. Winberry was appointed by President Carter to serve as a United States Judge for the Eastern District of North Carolina on the 28th day of March, 1979. The matter of his appointment was referred to the Judiciary Committee by the United States Senate to determine whether Mr. Winberry should be confirmed. Thorough investigations were made by both the Federal Bureau of Investigation and by a Committee of the American Bar Association after Mr. Winberry was nominated but prior to the time that President Carter made the appointment. The results of these investigations were carefully considered by the President, the Attorney General of the United States and staff advisors to the President and Attorney General. After the matter was referred to the United States Senate and its Judiciary Committee, further investigations into the fitness of Mr. Winberry to serve in this office have been made by investigators for the Senate Judiciary Committee. These investigations have continued over many months.

Members of this Special Committee are concerned with a series of unsupported allegations made against Mr. Winberry. The first allegation involves a matter that was thoroughly investigated by the Postal authorities and the Federal Bureau of Investigation and was found to be totally unfounded. A spokesman for the Senate Judiciary Committee subsequently stated there was no evidence to support these allegations. Notwithstanding the complete absence of any evidence, unidentified sources gave news releases to the media that investigators for the Judiciary Committee were looking into a report that Mr. Winberry was the conduit for improper considerations paid to The Honorable John D. Larkins, a United States Judge, who has served with honor and distinction.

A spokesman for the Senate Judiciary Committee also stated to the Press prior to hearings on Mr. Winberry's appointment that the Committee was concerned about Mr. Winberry's involvement in an accident in 1971 in which the driver of a motorcycle was killed. It was suggested that Mr. Winberry had sought and obtained favored treatment that enabled him to avoid a proper prosecution of the criminal charges brought against him. It is this Special Committee's understanding that a report of all of the circumstances surrounding this accident was made available to the President and his advisors prior to the time of Mr. Winberry's appointment. The Senate Committee's staff report indicates no evidence to substantiate the suggestion of any such improprieties.

The matter of Mr. Winberry's appointment has been in the hands of the Senate Judiciary Committee for many months and this Special Committee has concluded from the information available that the delay in acting on Mr. Winberry's appointment results from political considerations that do not directly relate to Mr. Winberry's qualifications to serve or the lack thereof.

At the hearings held by the Senate Judiciary Committee on the 7th day of November, 1979, Senator Leahy stated at the outset that questions concerning the alleged payment of improper consideration to Judge Larkins and about the accident had been investigated and that nothing had been found to substantiate any suggstion that Mr. Winberry had acted improperly. Notwithstanding, however, Senators Leahy and Hatch, of the Judiciary Committee, questioned Mr. Winberry at length about the unsubstantiated charges, with the questioning about the accident having been conducted outside the hearing of the Press and Public. Mr. Winberry was questioned extensively during the hearing about his professional qualifications, and a reading of the transcript of those proceedings indicates that Mr. Winberry's comparative young age and political involvement were matters of concern.

Prior to the time that President Carter appointed Mr. Winberry to serve as a United States Judge, several hundred letters from members of the Bar and others were sent to the President and the Attorney General expressing their strong and unqualified support for Mr. Winberry for the appointment, but the Special Committee is uncertain whether or not these supporting documents were available to the Senate Judiciary Committee. The Special Committee understands that many letters have also been written to the Senate Judiciary Committee expressing these same sentiments.

The Purpose of This Special Committee: The Executive Committee of the Seventh Judicial District Bar has become greatly concerned about the treatment that has been accorded to Mr. Winberry by the Senate Judiciary Committee and its spokesman, including the unusual and unexplained delay in acting on his appointment, the continued references in Press statements to incidents that have been fully investigated and have been admittedly found to involve no improper conduct on the part of Mr. Winberry, and the inquisitorial questioning of Mr. Winberry about suggested improprieties that by the Judiciary Committee's own admission had been fully investigated and had been found to be unsubstantiated.

It was felt by the Executive Committee of this Seventh Judicial District Bar that these actions have created erroneous impressions about Mr. Winberry and have resulted in undeserved injury and damage to Mr. Winberry's character and reputation. Without meaning to be disrespectful of the Senate Judiciary Committee or the Senate of the United States, in making these remarks, the Executive Committee felt that it was necessary for this Seventh Judicial District Bar to have a Special Committee comprised of experienced practicing lawyers from each of the counties in the District to inquire into these matters and report to the members of Seventh Judicial District Bar at a specially called meeting held on December 3, 1979.

It has already been determined that thorough investigations were made by the FBI, the postal service authorities, a committee of the American Bar Association and the investigators for the Senate Judiciary Committee, all of which have resulted in findings previously announced by the Senate Judiciary Committee that Mr. Winberry has not been found to have engaged in any improper conduct of any kind.

The Membership of This Special Committee: As stated, the members of this Committee are lawyers who are members of the Seventh Judicial District Bar and have practiced law in the District for many years. The members of the Committee, their ages, their addresses, and some of their professional qualifications and involvements are hereafter mentioned:

1. I. T. Valentine, Jr., Chairman of the Committee, age 53, admitted to the Bar of North Carolina in 1952, Senior Partner in Valentine, Adams & Lamar, Attorneys at Law, 109 North Court Street, Nashville, North Carolina.
2. Herbert H. Taylor, Jr., age 68, admitted to the Bar of North Carolina in 1935, former President of the North Carolina Bar Association, Senior Partner in Taylor, Brinson & Aycock, Attorneys at Law, 210 East Saint James Street, Tarboro, North Carolina.
3. William W. Aycock, Jr., age 42, admitted to the Bar of North Carolina in 1961, Partner in the firm of Taylor, Brinson & Aycock, 210 East Saint James Street, Tarboro, North Carolina.
4. L. H. Gibbons, age 58, admitted to the Bar of North Carolina in 1948, a Senior Partner in Carr, Gibbons & Cozart, Attorney at Law, Cunningham Building, Wilson, North Carolina.
5. Louis B. Meyer, age 46, admitted to the Bar of North Carolina in 1960, Partner in the firm of Lucas, Rand, Rose, Meyer, Jones & Orcutt, First Union National Bank Building, Wilson, North Carolina.
6. Quentin T. Sumner, age 29, admitted to the Bar of North Carolina in 1975, a partner in the firm of Sumner, Evans & Lawrence, 408 Sunset Avenue, Rocky Mount, North Carolina.
7. Charles T. Lane, age 47, admitted to the Bar of North Carolina in 1956, a partner in the firm of Spruill, Trotter, Lane & McCotter, Peoples Bank Building, Rocky Mount, North Carolina.
8. William L. Thorp, age 54, admitted to the Bar of North Carolina in 1951, a member of the International Academy of Trial Lawyers and Senior Partner in Thorp, Anderson & Slifkin, with offices at 1605 West Thomas Street, Rocky Mount, North Carolina, and Branch Bank and Trust Company Building in Raleigh, North Carolina.

What This Committee Did and Considered: The Committee asked for, obtained, reviewed and considered copies of several hundred letters written by various attorneys to President Carter and the Attorney General in connection with the nomination of Mr. Winberry and, in particular, it identified and considered about one hundred of these letters from practicing lawyers and judges who spoke to the professional skills and integrity of Mr. Winberry. These letters demonstrate the widespread and strong support enjoyed by Mr. Winberry among the lawyers and judiciary of North Carolina.

Mr. Winberry was asked to furnish to the Special Committee a listing of practicing lawyers, District Attorneys and others involved in the administration of justice, with whom he has had professional dealings. These individuals were sent a letter by the Chairman of this Committee, asking them to give their comments about Mr. Winberry as a lawyer. Copies of the letter thus sent and of the replies received are submitted with this report.

With respect to the accident in which Mr. Winberry was involved in 1971, the Special Committee obtained statements from Mr. W. G. Ransdell, the District Attorney whose office handled the prosecution of a criminal charge made against Mr. Winberry by the investigating officer; Mr. Wade Smith, the Attorney in Raleigh who defended Mr. Winberry on these charges; Mr. Charles Blanchard, the Attorney in Raleigh who represented the estate of the deceased motorcycle driver who filed a civil action against Mr. Winberry; Mr. Jerry Alvis, the Attorney in Raleigh who represented Mr. Winberry in the defense of the civil action brought against him, and Mr. Kyle S. Hall, an Assistant District Attorney who participated in the inquest and Mr. Zoro Guice (now District Court Judge, Henderson County, N.C.) who prosecuted the criminal charge preferred against Mr. Winberry by the investigating officer.

The Special Committee considered the transcript of the hearings conducted by the Senate Judiciary Committee on the 7th day of November, 1979, at which Mr. Winberry was questioned extensively. The Special Committee further considered the letter written by The Honorable John D. Larkins, Senior United States District Court Judge, Eastern District of North Carolina, to The Honorable Edward M. Kennedy and The Honorable Strom Thurmond, Chairman and ranking minority member of the Senate Judiciary Committee.

The Special Committee's Findings: (a) With respect to Mr. Winberry's professional qualifications to serve: On the basis of the personal knowledge that the members of the Committee have of Mr. Winberry, the comments received by the Special Committee from those lawyers, court personnel, law teachers, and others involved in the administration of justice who have dealt personally with Mr. Winberry, and the multitude of letters that were written about Mr. Winberry to the President and the Attorney General, the Special Committee concludes as follows:

(i) That Mr. Winberry, the son of a distingiushed lawyer and judge in Statesville, North Carolina, gradauted from Wake Forest University School of Law in 1967 with a degree of Juris Doctor, graduating in the top 20 percent of his law class; that following his graduation Mr. Newberry served for two years as Chief Law Clerk to The Honorable John D. Larkins, United States Judge, Eastern District of North Carolina (1967–1969); that Mr. Winberry was Chief Prosecutor in the State Courts of the Seventh Judicial District (1970–71); that he became associated with the law firm of Biggs, Meadows & Batts in 1971 and became a partner in the firm of Biggs, Meadows, Batts, Etheridge & Winberry in 1972; and that he has continuously practiced as a partner in said law firm, dealing primarily in criminal and civil trial matters, since 1971.

(ii) That in addition to his work as a Law Clerk, Chief Prosecutor and practicing lawyer, Mr. Winberry has served since 1969 as a member of the North Carolina Judicial Council, and served as a member of the North Carolina Criminal Code Commission from 1970 to 1975; and he currently serves as Chairman of the Committee on the Local Rules of Practice of the United States District Court for the Eastern District of North Carolina.

(iii) That in 1978, after the minimum

time allowed under the rules of Martindale-Hubbell, he was given the rating of "A v" in the Martindale-Hubbell Law Directory, a rating that is essentially conferred by members of the practicing Bar.

(iv) That since 1972, Mr. Winberry has been primarily responsible for trial litigation, both criminal and civil; that he has been involved in many civil and criminal cases in both the state and federal courts, with the primary responsibility for their handling; that he is licensed to practice in all of the state courts in North Carolina, the United States District Court for the Eastern District of North Carolina, the United States Court of Appeals for the Fourth Circuit, the United States Tax Court, the United States Court of Claims, and the United States Supreme Court; that he is a member of the Nash-Edgecombe Bar Association, the Seventh Judicial District Bar Association, the North Carolina State Bar, Inc., the North Carolina Bar Association, the North Carolina Academy of Trial Lawyers, and the American Bar Association; that he has served as legislative and legal counsel of The Honorable James B. Hunt, Jr., Governor of North Carolina; and he was a member of the Criminal Code Commission of the State of North Carolina from 1971 to 1976, which Commission prepared and submitted to the General Assembly of North Carolina a complete revision of pre-trial and trial criminal procedure; that he was a member of the Attorney General's Ad Hoc Committee on the revision of the criminal laws in 1969–1970; that he currently serves as Chairman of the Committee on the Local Rules of Practice of the United States District Court for the Eastern District of North Carolina; that he was a lecturer in criminal law at the Training School for North Carolina State Bureau of Invesitgation in 1970; that he was a lecturer at the Seminar on Estate Planning and the new Tax Reform Act of 1976 sponsored by the Wake Forest University School of Law in May 1977; that he has lectured at various institutes and training sessions for District Attorneys, Magistrates and Clerks of Court sponsored by the Institute of Government, Chapel Hill, North Carolina and the North Carolina District Attorney's Association; and that he now serves as a member of the Board of Directors of the North Carolina Justice Foundation.

(v) That in addition to his work as a practicing lawyer and as a contributor and participant in the work of important activities associated with the administration of justice, Mr. Winberry has an outstanding record of service in his community and state in many other non-political respects. He is an Eagle Scout with silver-gold palms, the God and Country Award, and the silver award in exploring; he is an active member at Lakeside Baptist Church, Rocky Mount, North Carolina, where he has taught Sunday School and served on the Board of Finance; he served as Chairman of the Task Force on Highway and Transportation needs of the Rocky Mount Area Chamber of Commerce; he was a member of the Rocky Mount Human Relations Council; he was a member of the Organization Steering Committee on the North Carolina Science and Math High School; he was Senior Editor of the Old Gold and Black, an award-winning campus publication at Wake Forest University.

(vi) That the extensive involvement of Mr. Winberry in the trial related matters of his law firm, which include appearances in not only the Courts but also before the North Carolina Utilities Commission and the North Carolina Industrial Commission; his deep involvement in the work of Commissions and Committees seeking codification or recodification of rules, regulations and law and his participation in the continuing instruction of persons involved in the administration of justice; his current Chairmanship of the Committee to rewrite the local rules of the United States District Court for the Eastern District of North Carolina; the excellence of his academic record and of his performances in all of these respects; his demonstrated ability to analyze and articulate the law as it applies to a body of evidence or stated facts, and the great productivity of his mind, time and talent, the Special Committee concludes that Mr. Winberry possesses a maturity and wisdom far beyond his 38 years—a wisdom and maturity that imminently qualifies him to serve as a United States Judge in the Eastern District of North Carolina.

(vii) That the Special Committee is mindful of the extensive political activities in which Mr. Winberry has been involved, including his service to the Democratic Party in North Carolina and his management of the Statewide Political Campaign of The Honorable Robert Morgan, United States Senator; that the Special Committee does not believe that Mr. Winberry's involvement in these political activities should in any way disqualify him from service as a United States Judge, believing rather than these activities demonstrate his unique ability to organize, plan and carry through objectives and qualities that are greatly needed in the service of a United States Judge who is charged with major administrative responsibility.

(viii) That Mr. Winberry, a bachelor, has demonstrated his complete devotion to the rule of law, the application of the law in a compassionate yet forceful way to persons of all color and creed, and a faithful adherence to the oath that he took as a practicing attorney "to uphold and defend the Constitution of the United States and the Constitution of North Carolina that is not inconsistent therewith."

The members of the Special Committee are convinced, without any reservation or doubt, that Mr. Winberry is fully qualified to serve as a United States Judge; possesses the intellectual skills, the temperament and the emotional stability to become one of the great jurists in this country; has the dedication and fervor to apply himself to the task of bringing the dockets in the Eastern District of North Carolina to a current status; will faithfully abide by the code of judicial conduct and all other cannons that are applicable to the performance of his duties as Judge; and will courteously and patiently hear all matters that may come before him with fairness and impartiality.

(b) With respect to the 1971 accident: The Special Committee knows that Mr. Winberry was involved in a tragic accident that occurred in September, 1971. The accident occurred during nighttime at the intersection of U.S. Highway 264 and N.C. Highway 97 a short distance east of the Town of Zebulon, North Carolina, as Mr. Winberry was returning to his office in Rocky Mount. The intersection is known to be dangerous because of the manner in which the two roads intersect, it being what is commonly known as a "Y" intersection. At the time the accident occurred, a motorist traveling east on U.S. Highway 264 and desiring to go to Rocky Mount on N. C. Highway 97 was required only to veer slightly to his left in order to enter Highway 97. A service station located in the vee formed by the two intersecting roads had bright pole lights located on the station yard and at the pump islands which shined directly toward the intersection. At the point where the two roads came together, the pavement of the road had just been resurfaced, and there was a broad expanse of pavement that was not well marked by painted lines. It is clear to the Special Committee, from statements given by the lawyers who were involved in the handling of criminal and civil cases that grew out of the accident, that there was a serious question as to whether there was even any simple negligence on the part of Mr. Winberry when the front of his car was struck by a motorcycle proceeding west on U.S. Highway 264. Although it is apparent from the physical evidence that the collision occurred in the west bound lane of U.S. Highway 264, it seems apparent that the small light on the motorcycle would have been difficult to see against the various lights on the service station premises.

Mr. Charles F. Blanchard, a prominent lawyer in Raleigh, who represented the estate of the deceased motorcycle driver, has written this Special Committee that his law firm spent many hours investigating the accident and interviewed at least seven persons who either witnessed the accident or came up to the scene shortly afterwards, as well as the highway patrolman who investigated the collision, and that no evidence or suggestion was ever found that anyone even smelled the odor of alcohol. Mr. Blanchard further wrote to this Committee that Mr. Winberry had been involved in "the type of automobile accident that could happen to law-abiding citizens of all rank, particularly at this intersection, which, since the accident, has been modified to lessen the danger to motorists."

It is very clear to this Special Committee that there is no suggestion or evidence that Mr. Winberry had consumed any intoxicating beverage of any kind prior to his involvement in the accident and he was fully alert and the accident could have happened to anyone.

The Special Committee is aware that Mr. Ransdell, the District Attorney in Raleigh, was called by one of Mr. Winberry's law partners immediately after the accident occurred and encouraged to see that the matter was fully investigated. In an effort to make certain that no one could say that Mr. Winberry received any favored treatment, the District Attorney's Office called for a coroner's inquest; and a coroner's jury, upon a consideration of the testimony of the investigating officer and the passenger on the motorcycle, found "no probable cause." The investigating officer issued a citation to Mr. Winberry, charging him with failing to yield the right of way. This case was tried out before Judge N. F. Randsdell (now deceased), who heard the testimony of the officer, the passenger on the motorcycle and Mr. Winberry and returned a verdict of "not guilty." Mr. Winberry was represented by Mr. Wade Smith, a highly respected attorney in Raleigh, and the prosecution was handled by Mr. Zoro Guice, at the time, an Assistant District Attorney in Raleigh.

The Special Committee understands that the Senate Judiciary Committee questioned been moved up from the date set forth in Mr. Winberry about the trial date having the original citation issued by the officer. The statements of Mr. Ransdell, Mr. Smith and Mr. Hall affirm that the change in trial date was requested by the prosecution in order to accommodate the injured passenger on the motorcycle, who was being discharged from the hospital for return to his home in Virginia. The parents of the injured young man did not want him to return to North Carolina for a later trial. Mr. Winberry and his attorney were advised of the new trial date only shortly before the hearing of the matter and in no way requested the change.

It is the opinion of all of the lawyers who were involved in the criminal and civil cases that arose out of this accident, including the attorney who represented the estate of the deceased motorcycle driver in the civil action, that there was no criminality on the part of Mr. Winberry of any kind, and it is clearly indicated that rather than getting favored treatment, Mr. Winberry was dealt with less favorably than he might have been if he had not been a politically prominent person. The Committee concludes from a consideration of all the circumstances that this unfortunate accident affords no basis for questioning the appointment of Mr. Winberry to serve as a United States Judge.

(c) With respect to an alleged payment

to Judge Larkins: The Special Committee does not have access to the records made by the Federal Bureau of Investigation, the Postal Service authorities and of the Senate Judiciary Committee investigators, but it is believed this matter has been thoroughly investigated. The Special Committee has noted the statement of Senator Leahy that the allegations have not been substantiated, and the Special Committee firmly believes that they are totally unfounded.

The Special Committee is informed by Mr. John Clark, who represented David Windham along with Mr. Winberry, that the person who is alleged to have made the accusation against Judge Larkins and Mr. Winberry, called him after reading statements about it in the Press and emphatically denied that he had ever made any such statements and sought to engage Mr. Clark to prosecute an action against somebody for slandering him.

This Special Committee cannot understand why any spokesman for the Senate Judiciary Committee ever issued any statement to the Press about the matter, because at the time the statement was issued the investigative reports of the FBI and the postal authorities were available and clearly indicated that the allegations were completely refuted. It was then stated by the Judiciary Committee spokesman that the matter was being further investigated, but the only further investigation that this Committee knows of was the questioning of Mr. Winberry by the Senate investigator. It is difficult to understand why the Judiciary Committee has permitted the good name of Mr. Winberry to be tarnished by the innuendo that its Press statements create.

The Special Committee is aware of the amount of the fee which Mr. Winberry charged the defendant in the cigarette smuggling case and recognizes that the setting of the fee was a matter of contract between a lawyer and his client who was willing and able to pay. Recognizing that fees in criminal matters are usually set and collected in advance, and are therefore not based on hourly rates, and recognizing that the time for handling and the results that may be obtained vary rather widely from case to case in criminal matters, this Committee has determined that the entire fee was received by Mr. Winberry's law firm and applied to the legitimate expenses of the firm and compensation of its personnel.

Although this Special Committee has not investigated the sentencing practices of Judge Larkins for cases like the one involving David Windham, it understands from the independent investigation of reporters from The News and Observer that the sentence meted out to Mr. Windham in the case handled by Mr. Winberry was consistent with those meted out to other persons charged with the same or similar crime.

After considering all things, the Special Committee firmly concludes that nothing has been disclosed which should discredit Mr. Winberry in any way in his handling of the Windham matter or that suggests that any special treatment was gained in such handling.

SUMMARY AND RECOMMENDATIONS OF THIS SPECIAL COMMITTEE OF THE SEVENTH JUDICIAL DISTRICT BAR

Because of news media accounts of the Senate Judiciary Committee hearings on the confirmation of the appointment of Charles B. Winberry, Jr. as a United States District Court Judge for the Eastern District of North Carolina, the President of the Seventh Judicial District Bar appointed a Special Committee to inquire into certain matters pertaining to the fitness and qualifications of Mr. Winberry for that position and the Executive Committee of the Seventh Judicial District Bar called a special meeting of the Bar to receive the report of the Special Committee.

The Committee has met six times, has investigated the matters which it has reported on to the fullest extent of its ability to do so, has satisfied itself as to the facts and has presented its unanimous report to this Bar, and the report is summarized as follows:

1. The Special Committee is informed that the Federal Bureau of Investigation and the United States Postal Service each investigated a report that Mr. Winberry had been the conduit of a bribe from a Defendant he represented to the Federal District Court Judge who was tying the case. Each investigative body found that there was no merit or substance to the report and their findings were reported to the United States Attorney General and to President Carter prior to the appointment of Mr. Winberry. A spokesman for the Senate Judiciary Committee has reported to the news media that no evidence has been found to support the alleged bribery in any manner. Based upon this information and its members' knowledge of Mr. Winberry and the District Court Judge who tried the case the Committee has concluded that there is no basis for the rumor and the rumor ought to be fully dismissed as unfounded.

2. The Special Committee is aware of the amount of the legal fee paid Mr. Winberry by the Defendant in the above-mentioned case and recognizes that it was a transaction between a lawyer and his client who was able and willing to pay. The Committee has determined that the entire fee was transmitted to Mr. Winberry's law firm and used entirely for legitimate purposes.

3. It has been intimated that because of his political prominence, Mr. Winberry received favored treatment in the handling of a highway accident in which a man was killed when his motorcycle collided with an automobile driven by Mr. Winberry. The Special Committee has examined written statements of the District Attorney of Wake County, the attorney who represented Mr. Winberry in a civil suit arising from said accident, the attorney representing the estate of the deceased, Plaintiff in said case, and the statement of the Assistant District Attorney who prosecuted the charge against Mr. Winberry for failure to yield the right of way, which charge resulted in a Court verdict of not guilty, has heard the comments of others familiar with the case, has considered the physical facts at the location of the accident, and the results of the coroner's inquest. It has unanimously concluded that there was no criminal liability on the part of Mr. Winberry and only doubtful civil liability and that Mr. Winberry was not accorded any favored treatment. On the contrary, it appears from statements of the District Attorney that had Mr. Winberry been less prominent, no inquest would have been held and no charge filed. The Special Committee has concluded that the actions of the Court and law enforcement officers were entirely proper and that neither the handling of the matter by them nor the accident itself ought to be considered in any way detrimental to Mr. Winberry.

4. The Special Committee is of the opinion that the unfounded rumors that Mr. Winberry was involved in a bribery and received favored treatment in the proceedings growing out of the tragic motor vehicle accident have been given unwarranted publicity and undeserved consideration to the unjustified detriment of Mr. Winberry and ought to be finally and forever dismissed as unworthy of consideration.

5. A spokesman for the Senate Judiciary Committee has stated that because Mr. Winberry is only 38 years of age he could not have the maturity, experience and professional qualifications essential to the position of a Federal District Court Judge. All of the members of the Special Committee are personally acquainted with Mr. Winberry and have personal knowledge as to his age, maturity, experience and professional ability. In addition, members of the Committee have examined several hundred letters written to or on behalf of Mr. Winberry attesting to his personal integrity and professional ability. It is noted that Mr. Winberry has been active in an unusually large number of cases during his years of practice and that he has been able to acquire court room and legal experience during this time that surpasses that of many older attorneys. The Committee has concluded unanimously that Mr. Winberry possesses the integrity, experience, temperament and professional ability that fully qualifies him to hold the office of a Federal District Court Judge.

The report of the Special Committee and its documentary evidence has been presented to this meeting of the Seventh Judicial District Bar.

Now, therefore, be it resolved by the Seventh Judicial District Bar of North Carolina, at a duly called special meeting, that it accept and approve the report of the Special Committee, that it find and conclude that Charles B. Winberry, Jr. has the integrity, maturity, experience and professional ability requisite to the office of Judge of the Federal District Court, that it endorse his nomination without reservation and urge his confirmation by the United States Senate.

Further resolved, that a copy of this resolution and the report of the Special Committee be delivered to the United States Senate Judiciary Committee.

Respectfully submitted this 3rd day of December, 1979.

I. T. VALENTINE, Jr.,
WILLIAM W. AYCOCK, Jr.,
L. H. GIBBONS,
C. T. LANE,
LOUIS B. MEYER,
QUENTIN T. SUMNER,
HERBERT H. TAYLOR, Jr.,
WILLIAM L. THORP.

Mr. MORGAN. I thank my distinguished colleague.

COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1038, Senate Resolution 448.

The PRESIDING OFFICER. Is there objection?

Mr. MORGAN. Mr. President, reserving the right to object.

Mr. PERCY. What is it?

Mr. ROBERT C. BYRD. This has been cleared on both sides. It is a resolution extending the life of the Indian Affairs Committee.

Mr. BAKER. Mr. President, reserving the right to object, what is that? I have no objection.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 448) to make the Select Committee on Indian Affairs a permanent committee of the Senate.

There being no objection, the Senate proceeded to consider the resolution which had been reported from the Committee on Rules and Administration with an amendment to strike out all after the resolving clause and insert the following:

That section 105(a)(1) of the Committee System Reorganization Amendments of 1977 (Senate Resolution 4, Ninety-fifth Congress, agreed to February 4, 1977) is amended to read as follows:

"SEC. 105. (a)(1) There is established a Select Committee on Indian Affairs (hereafter in this section referred to as the 'select committee') which shall consist of five members and, effective beginning with the Ninety-seventh Congress, such members and the chairman of the select committee shall be appointed in the same manner and at the same time as the members and chairman of a standing committee of the Senate. The select committee shall be considered a standing committee for the purposes of paragraph 1 of rule XXV of the Standing Rules of the Senate. The Senators who were serving as members of the Temporary Select Committee on Indian Affairs on the date preceding adoption of the Senate resolution to make the Select Committee on Indian Affairs a permanent committee of the Senate (Senate Resolution 448, Ninety-sixth Congress) shall serve as members of the permanent select committee from the date of adoption of such resolution until the commencement of the Ninety-seventh Congress.".

SEC. 2. Sections 105(a)(4) and 105(d) of the Committee System Reorganization Amendments of 1977 are repealed.

SEC. 3 (a) Paragraph 3(c) of rule XXV of the Standing Rules of the Senate is amended by striking the line that reads:

"Indian Affairs________________________ 5".

(b) Paragraph 3(b) of rule XXV of the Standing Rules of the Senate is amended by inserting "Indian Affairs______5" immediately below "Aging______ 12".

SEC. 4. Rule XXV of the Standing Rules of the Senate is amended by adding a new paragraph 4(1)(5) as follows:

"(5) Notwithstanding the provisions of paragraph 4(a)(2) of this rule, a Senator who on the last day of the Ninety-sixth Congress is serving as a member of the Select Committee on Indian Affairs may, so long as his service as a member of such committee is continuous, continue to serve on such committee, subject to the approval of his respective party caucus.".

UP AMENDMENT NO. 1923

(Purpose: To extend the mandate of the temporary Select Committee on Indian Affairs for an additional three years, and expand the size from 5 to 7 members)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment by Mr. CANNON and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. CANNON, proposes an unprinted amendment numbered 1923.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the matter beginning on page 2, line 5 and ending on page 3, line 21 and substitute the following:

SEC. 1. That section 105(d) of the Committee System Reorganization Amendments of 1977 as amended (Senate Resolution 4, Ninety-fifth Congress, agreed to February 4, 1977) is amended by striking "1981" each time it appears and substituting "1984".

SEC. 2. Section 105(a)(1) of the Committee System Reorganization Amendments of 1977 is amended by striking out beginning with "five members" through "minority party" and inserting in lieu thereof the following: "seven members, four to be appointed by the President of the Senate, upon the recommendation of the majority leader, from among members of the majority party and three to be appointed by the President of the Senate, upon the recommendation of the minority leader, from among the members of the minority party".

SEC. 3. Paragraph 3(c) of rule XXV of the Standing Rules of the Senate is amended by striking out

"Indian Affairs__________________________ 5"

and inserting in lieu thereof

"Indian Affairs__________________________ 7".

● Mr. CANNON. Mr. President, specifically, this amendment would extend the life of the Select Committee on Indian Affairs for 3 years and expand the size of that committee from five to seven members. At the end of that period, the jurisdiction of the select committee would be transferred to the Committee on Labor and Human Resources in accordance with the previous decisions of the Senate on this matter. In this way the Select Committee on Indian Affairs will have an additional 3 years to complete its mandate and prepare for an effective transition of jurisdiction over the many issues of concern to Native Americans. This will assure that the interests of our Indian population will be considered in the most effective manner in future Congresses. Equally important, it will not do any permanent damage to the efficiency of the Senate or to the hard-won reforms of the committee reorganization of 1977.

In short, Mr. President, this amendment represents a sound compromise between the opponents and proponents of Senate Resolution 448. It manages to protect and enhance the legitimate needs of the American Indian and the need to preserve the committee reforms of 1977.

I hope that the Senate's action today will result in constructive and concerned oversight of the important, and in many ways unique issues, related to Indian affairs.●

Mr. METZENBAUM. Mr. President, will the Senator from West Virginia be good enough to apprise us as to what the subject of the Cannon language refers to?

Mr. ROBERT C. BYRD. It reduces the permanency of the committee to 3 years.

Mr. METZENBAUM. I thank the Senator.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. DECONCINI. Mr. President, I support Senate Resolution 448, as amended, and I want to extend my appreciation to Senator CANNON for his willingness to work at this effort, and to the majority leader for his diligence in pursuing this and for his cooperation with the committee in accepting this amendment, and certainly the minority leader—soon to be the majority leader.

Mr. President, I support Senate Resolution 448, which would establish the Senate Select Committee on Indian Affairs as a permanent committee of the Senate. Before I give my reasons for supporting Senate Resolution 448, I want to emphasize that I supported the efforts of the Senate in 1977 to reorganize and consolidate the committee structure, which was accomplished by the adoption of Senate Resolution 4. It is imperative that this institution make the most efficient use of its personnel and facilities. However, occasionally unique circumstances cause us to create forums so that we can more adequately consider the needs of various groups within our Nation.

In my judgment, the special relationship between the United States and Indian tribes is one of those unique circumstances that behooves us to make the Senate select committee a permanent committee. As far as I am aware, no other identifiable group has had the U.S. Government assume a trust responsibility on its behalf—this in and of itself places the American Indian in a special relationship with the Federal Government, one that is not comparable to the relationship between the Federal Government and other ethnic or minority populations. Thus, if a permanent committee were to be established to assume jurisdiction over Indian issues, I do not believe that the next logical step is to create a permanent committee for Hispanic affairs, or black affairs, nor have I heard these groups advocate these kinds of committees. I am not arguing against the Senate devoting an ample portion of its time and resources toward assisting these groups—indeed, the Senate should. What I am saying is that because of the Indians' unique status a permanent committee should be established so we can meet our historical, constitutional, and legal responsibilities in the area of Indian affairs.

Enactment of Senate Resolution 448 is very important to Indian tribes nationwide. Most people who are familiar with the relationship between American Indians and the Federal Government understand that it has been a checkered relationship. Ths Senate, by adopting Senate Resolution 448, will clearly demonstrate to the tribes that it is sensitive to these past problems, and that it intends to elevate consideration of Indian issues to a position which will assure that the Government will not in the future treat lightly its treaty and moral obligations.

Representing the State of Arizona, which has the largest Indian population in the Nation, I believe, allows me to speak with a certain amount of expertise on Indian issues. A great many of the issues are complicated and require great amounts of time to research past court decisions, legislation, and administrative policy to determine a proper course of action. If the jurisdiction for Indian affairs were transferred to a subcommittee, I do not believe that sufficient, knowledgeable staff would be available to deal with the many issues at hand. Further, the committees to which the jurisdiction might be assigned already are overburdened with controversial issues that would take priority over Indian matters.

My experience over the past 4 years with the Senate Select Committee on Indian Affairs has been very positive. Although I was not a member of the committee during the 95th Congress, the committee expeditiously acted on bills

I sponsored. Further, the staff was extremely attentive to Indian issues within the State of Arizona. Since becoming a member of the committee at the beginning of this Congress, I can unequivocally state that the committee, its members, and the staff, continue to be attentive to the interests of Senators who are not on the committee.

I urge my colleagues to support this measure.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1923) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Montana.

Mr. MELCHER. I thank the majority leader for yielding.

Mr. President, I support the resolution and support the amendment as a good compromise.

Mr. President, as chairman of the Select Committee on Indian Affairs and as a Senator from a State with seven Indian reservations and an approximate Indian population of some 45,000, I am pleased to speak in support of Senate Resolution 448, establishing the Select Committee on Indian Affairs as a permanent committee of the Senate. I introduced the measure on May 22, 1980, and 29 of our colleagues have joined me as cosponsors. Senate Resolution 448 was referred to the Committee on Rules and Administration which considered it at a hearing on June 25, 1980.

At that time, testimony was taken from a number of Senators and Indian representatives which pointed out the compelling logic of permanently consolidating jurisdiction over Indian affairs in one committee in the Senate. These witnesses made it clear that the select committee has served the Congress, the country, and the Indian people efficiently and effectively for over 3 years by providing a focal point for the Senate's work in addressing issues concerning both Indians and non-Indians.

This position presented to the Rules Committee emphasized the totally unique nature of the Federal Government's responsibility in Indian affairs. The Rules Committee was told that the range and complexity of Indian issues before the Senate argue for the select committee's continuation and with equal force lead to the conclusion that none of the standing committees in the Senate can be expected to devote the specialized expertise and interest to this field.

The Rules Committee was convinced of the necessity to establish a permanent Select Committee on Indian Affairs and Senate Resolution 448, as amended, was reported favorably on September 16, 1980, by a 7 to 1 vote. The committee report indicated "* * * that the performance of the Select Committee on Indian Affairs during the past Congresses has justified its decision and that of the Senate in establishing the select committee." and that "there are significant efficiencies of operation which the permanent select committee will serve, such as minimizing the overlap or duplication of effort by committees and encouraging expeditious committee action."

The Rules Committee also recognized that a permanent Indian Affairs Committee does not "create a precedent for the establishment of other committees since the history and relationship of Native Americans to the Federal Government is unique enough that no other group and no other subject matter would qualify for a committee designation under the limits of this resolution."

Mr. President, Senate Resolution 448 has the bipartisan support of 30 cosponsors who believe that through the continuation of the Select Committee on Indian Affairs the Senate can best address itself diligently, creatively, and fairly to its responsibilities in matters concerning Indian affairs.

It has been my experience that the Select Committee on Indian Affairs has proved to be an excellent and versatile forum for exploring alternative ways of meditating serious conflicts which continue to arise between federally connected Indian interests and other public and private interests in ways consistent with the legal rights of Indian tribes and the overriding Federal responsibility. In addition, the committee, through its oversight functions, has continued to seek solutions to the varied problems Indians have encountered in the administration of Federal trust and social service responsibilities.

As an illustration, let me refer to just a few legislative proposals which were considered and reported by the committee and passed by the Senate during the 96th Congress: First, legislation which settled a longstanding dispute between the Navaho and Hopi Tribes; second, legislation which would have established a precedent setting Native Hawaiian education program; third, legislation which extended the statute of limitations for the filing of claims by the Federal Government on behalf of Indian tribes; fourth, legislation which would have corrected serious defects in the Tribally Controlled Community Colleges Act; fifth, legislation which settled a longstanding and extremely complicated land claim made by the Indian tribes in the State of Maine; sixth, legislation which liberalized the rules under which an Indian may devise trust property; seventh, legislation which reauthorized the Indian Health Care Improvement Act; eighth, legislation to waive technical defenses of res judicata and collateral, estoppel in order to allow three Indian tribes to have their claims to interest on taking of their lands in violation of the fifth amendment considered by the Court of Claims on the merits of their case; ninth, legislation providing for distribution of funds awarded the Delaware Tribe by the Indian Claims Commission on an equitable basis, thus bringing to a close a controversy which had been before the Federal courts, the executive branch, and the Congress for over 15 years; and, tenth, legislation canceling contested coal leases on the Northern Cheyenne Indian Reservation so that the tribe can secure an equitable basis for the development of their coal reserves.

The committee also entered the thicket of jurisdictional conflict between the States, Indian tribes, and the Federal Government by reporting and passing through the Senate legislation which would have relaxed the Federal law governing jurisdiction in Indian country and provided necessary flexibility to States and Indian tribes to achieve solutions to jurisdictional conflicts at a local level. In addition, the committee developed and I introduced a bill to strengthen the enforcement of Federal laws governing criminal conduct on Indian reservations by establishment of a special magistrate with jurisdiction over Indian country and providing necessary enforcement authority to tribal and State police officers as well as Federal law-enforcement authorities.

In addition to these accomplishments, the committee has also actively considered and, in most cases, reported bills addressing long-overdue needs of individual Indian tribes in such areas as restoration of federally recognized status, transfer of lands to be held in trust for certain tribes, and special laws governing inheritance of trust property within a specific reservation as requested by that tribe.

The committee has conducted 22 oversight and investigative hearings and this attention to the committee's oversight responsibilities has begun to provide a significant opportunity for bringing to light long-dormant problems and suggestions for their alleviation.

I think it is clear from the legislative record of this committee that not only do the best interests of the Indian people lie in the establishment of the committee as a permanent, on-going committee, so also lie the best interests of the American people and the U.S. Senate. Resolution of the Maine Indian land claims dispute and the Narragansett Indian claims in Rhode Island; extension of the statute of limitations to avoid the filing of some 9,500 claims so that the claims could be considered on their merits and efforts made at negotiated settlement; settlement of disputes between competing Indian claimants to lands or to funds awarded by the Indian Claims Commission in satisfaction of past wrongs: Each of these items of legislation has resulted in enormous savings in legal expenses and costs to the United States. State, and local governments, Indian tribes, and private individuals.

This kind of legislation will be a continuing responsibility of this committee. In the next Congress we may expect settlement legislation of the Cayuga claim in New York, the Catawba claim in South Carolina, land disputes in the State of Minnesota, and water disputes in Arizona. Settlement legislation to divide funds between the Seminoles of Florida and the Seminoles of Oklahoma has already been introduced in this Congress and will undoubtedly be reintroduced in the next Congress.

In addition to this legislative function and the oversight functions of this committee, the staff of the committee has become recognized by both House and Senate staffers and by Indian and non-Indian constituents as a ready source of information for the innumerable questions that occur in the daily life of the Congress. The financial worth of the committee is beyond question. The breadth of activities of the committee simply defies assignment to a subcommittee.

The Select Committee on Indian Affairs has prepared for the information of the Senate a description of the activities of the committee during the 95th and 96th Congresses.

Mr. President, I ask unanimous consent that the history, jurisdiction, and a summary of the legislative activities of the Select Committee on Indian Affairs be included in the Record immediately after my statement.

Although Indian people comprise only a very small segment of the total U.S. population, this country's responsibility in the field of Indian affairs is great. However, for too many years, this Government's Indian policy has been one of neglect resulting in an incoherent, often confusing and haphazard patchwork of outdated laws, inefficient and stifling bureaucracies, and conflicting administrative policies. In addition, serious conflicts have arisen in many parts of the country following the assertion of legal rights by the Indian tribes and often these conflicts can only be resolved by the Congress. After all, Congress has not only ultimate responsibility for Federal Indian policy, but also, under the law and the Constitution, Congress has plenary authority in this area.

While significant progress has been made by the Select Committee on Indian Affairs, our major work has just begun in providing the legislative solutions necessary to lay the foundation of a sound Federal Indian policy. Senate Resolution 448 as passed by the Senate, provides the potential for careful and equitable consideration of Indian issues through the work of the committee. Passage of my resolution provides the needed continuity for the steady and responsible legislative progress of this Committee. It does not provide as amended by the Cannon amendment for permanent status but continues the committee for 3 years and enlarges the committee to seven members.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 448) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may I say that I will now be able to get a little rest. I have been pummeled, kicked, cuffed, beaten, and restrained, and mayhem has been committed on me by the distinguished Senator from Arizona (Mr. DeConcini), and equally by the distinguished Senator from Montana (Mr. Melcher).

I thought it most unfair that I be daily ganged upon and nightly beaten and cudgeled. But finally I have submitted, kicking and screaming, to their requests, and called up the resolution.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CRANSTON. I would like to thank the majority leader for his cooperation, after all that pummeling, and I want to praise the Senator from Montana and the Senator from Arizona for their leadership and their persistence in finally bringing about the continued life of this very important committee.

Mr. DeCONCINI. Mr. President, will the Senator yield? Let me just say—I know everyone wants to leave—I realize a little bit the pressure that the able majority leader has been under, and I can understand his commitment to reorganization, and I am very aware of the pressures and the beating that have been supposedly inflicted upon him.

Let me assure him that by the looks, physical looks, of the majority leader you would not know he had been physically abused, but I understand there are scars inside sometimes. But I can assure the majority leader that the people of Arizona, both Indian and non-Indian—and I think that is true of many other States—will give their thanks that the majority leader was willing to work this out in behalf of the Native Americans and on behalf of this Nation. I thank him for it.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his statement of pity, and I feel greatly humbled.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1037, Senate Resolution 510.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will state the resolution by title.

The legislative clerk read as follows:

Calendar 1037, Senate Resolution 510, authorizing supplemental expenditures by the Select Committee on Indian Affairs, reported without amendment.

Mr. BAKER. I have no objection.

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That Senate Resolution 357, Ninety-sixth Congress, agreed to March 4 (legislative day, January 3), 1980, is amended as follows:

(1) In section 1, strike out "January 2, 1981,", and insert in lieu thereof "February 28, 1981,";

(2) In section 2, strike out "$525,300", and insert in lieu thereof "$630,360"; and

(3) In section 3, strike out "January 2, 1981.", and insert in lieu thereof "February 28, 1981.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF DAVID C. ACHESON AS A CITIZEN REGENT OF THE SMITHSONIAN INSTITUTION

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Pell I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of House Joint Resolution 615 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. Melcher). Is there objection? The Chair hears none, and it is so ordered.

The clerk will state the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 615) providing for the appointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Senate proceeded to consider the joint resolution.

● Mr. PELL. Mr. President, House Joint Resolution 615 would provide that the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the expiration of the term of Caryl P. Haskins of the District of Columbia on August 30, 1980, be filled by the appointment of David C. Acheson of the District of Columbia for the statutory term of 6 years.

The Board of Regents, pursuant to 20 U.S.C. 42, 43, is composed of the Vice President, the Chief Justice of the United States, three Members of the Senate, three Members of the House of Representatives, and nine other persons, other than Members of Congress. The nine citizen regents, two of whom shall be residents of the District of Columbia and seven of whom shall be inhabitants of same State, but no two of the same State, are appointed by joint resolution of Congress and serve 6-year terms.

COST ESTIMATE

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration does not consider that enactment of House Joint Resolution 615 would entail any cost to the Government.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration does not consider that enactment of House Joint Resolution 615 would have any regulatory impact.

A letter in support of the proposal contained in House Joint Resolution 615 addressed to Senator Claiborne Pell, chairman of the Senate Committee on Rules and Administration, by S. Dillon Ripley, Secretary of the Smithsonian Institution, enclosing a biography of Mr. Acheson, is as follows:

Biography of Mr. Acheson

Acheson, David Campion, lawyer; b. Washington, Nov. 4, 1921; s. Dean G. and Alice (Stanley) A.; B.A., Yale, 1942; LL.B., Harvard U., 1948; m. Patricia Castles, May 1, 1943; children—Eleanor Dean, David Campion, Peter Wesley. Admitted to D.C. bar, U.S. Supreme Ct. bar; with Office Gen. Counsel, AEC, 1948–49; with firm Covington & Burling, Washington, 1949–61, mem. firm, 1958–61; U.S. atty. for D.C., 1961–65; spl. asst. to Sec. Treasury, 1965–67; v.p., sr. v.p., gen. counsel Communications Satellite Corp., 1967–74; partner Jones, Day, Reavis & Pogue, Washington, 1974–78, Drinker Biddle & Reath, Phila. and Washington, 1978—. Democrat. Episcopalian. Clubs: Metropolitan, Yale (Washington); Century Assn. (N.Y.C.). Home: 3101 Garfield St. N.W. Washington, D.C. 20008 also South Yarmouth MA 02664 Office: Suite 805 1901 L St., N.W., Washington, D.C. 20036.●

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 615) was ordered to be read a third time, was read the third time, and passed.

ROBERT C. McEWEN U.S. CUSTOMS HOUSE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 8345.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 8345) entitled "An Act to name the United States Customs House in Ogdensburg, New York, the 'Robert C. McEwen United States Customs House,' " with the following amendment:

Page 2, after line 18 of the Senate engrossed amendment, insert:

SEC. 4. In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorzed to be appropriated $2,459,300 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for the repair and alteration of the U.S. Postal Service Building at 115 East Sixth Avenue, Gary, Indiana.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

ADLAI E. STEVENSON III

Mr. SCHMITT. Mr. President, in coming to the Senate in 1977 each of my three committee assignments brought me into close contact with ADLAI STEVENSON, and individual I have grown to admire as a Senator, a colleague, a friend, and, of course, as a man.

Many complimentary observations have been made about the Senator by colleagues who have served with him during his 10 years of service here, but the predominant theme, in which I concur, is that ADLAI STEVENSON is an individual of vision, a person whose outlook is far ahead of the times. It is this outreaching quality of his, I and others have observed, which has marked the legislation he has committed his efforts to pass.

I have served with him on the Subcommittee on International Finance of the Banking Committee as well as on the Subcommittee on Science, Technology, and Space of the Committee on Commerce, Science, and Transportation. I have had the privilege of watching the fruits born out of his abiding interest in such areas as competitiveness of the U.S. economy, development of industrial policy, achievement in space science technology, and the strengthening of international monetary policy. Examples of his work are seen in reform of the Export-Import Bank, the Export Administration Act, the International Banking Act, the Sevenson-Wydler Technology Innovation Act of 1980, and the Export Trading Company Act. Although we have not always agreed—I add, it is rarely we have not agreed—on the direction of legislative issues, I highly regard his sense of commitment and the creativeness of his thinking.

Mr. President, it is remarkable when one looks at our comparative voting records and then compares the philosophy with which Senator STEVENSON and I approached our mutual legislative task, that there would never appear to be much difference in our political outlook. In fact, I do not believe there is a major difference in outlook.

We both, on various occasions, have upon questioning found ourselves referring to one of our principal heros, if you will, that of Thomas Jefferson. I think we are both committed to a basic Jeffersonian philosophy in the republic of this country.

In addition to legislative leadership, the Senate has called upon ADLAI STEVENSON to devote a large part of his time to difficult institutional questions. This is a compliment to his leadership, his steadfastness, and his abundant fairness to all concerned. He chaired the Select Committee To Study the Senate Committee System which made recommendations, adopted by the Senate, resulting in the most extensive reorganization since the committee system was created in the early 19th century. This progressive and meritorious step benefited us all and improved the manner in which the institution functions.

It is unfortunate that the Senate over the last 4 years has chosen to ignore many of the recommendations and, in fact, the rule changes that were made under Senator STEVENSON's guidance.

Senator STEVENSON was also asked to chair the newly created Select Committee on Ethics in 1977.

Joining him as vice chairman of the committee in that thankless and sensitive task he displayed a fairness and deep concern regarding each question to come before the committee. He sought and succeeded in establishing a bipartisan oversight with respect to the Code of Conduct and other aspects of Senate ethics during the 3 years I served with him as vice chairman.

What he has accomplished legislatively has and will continue to benefit our country and other citizens of the world. What he has given to this body body has immeasurably improved it. Although it is his nature to look forward, I hope he will take some time in the years ahead to look back and find satisfaction in these achievements in the U.S. Senate. We will miss him.

I am sure his life will remain a life of public service. We look forward to his contributions.

Unfortunately, we will all miss him in the Senate.

TRIBUTE TO BIRCH BAYH

Mr. KENNEDY. Mr. President, I am pleased to take this opportunity to pay tribute to one of my closest friends and most admired colleagues in the U.S. Senate, the distinguished Senator from the State of Indiana, BIRCH BAYH.

BIRCH BAYH will always be remembered as a man of tremendous political courage. In his 18 years in the Senate and his 9 years as chairman of the Subcommittee on the Constitution in the Judiciary Committee, BIRCH BAYH has been one of the Nation's greatest defenders of our constitutional rights and our constitutional system of government.

The 25th amendment, providing needed reforms in the process of Presidential succession; the 26th amendment, lowering the voting age to 18; and the pending 27th amendment—the equal rights amendment, now awaiting ratification—are landmarks of BIRCH BAYH's concern for the Constitution and his skill in legislation.

He has been equally effective in the struggle to protect basic constitutional rights against those who would undermine them. He sees the Bill of Rights as the Founders saw it—the ultimate protector of the people from the excesses of those in power.

There are those today who decry the involvement of the Federal Government in the affairs of its citizens. Yet many of these same voices now seek to divert the Constitution—the very foundation of individual freedom in this country—to their own particular philosophies, and to project government decrees into the family life, the personal relations, and the spiritual beliefs of all Americans.

BIRCH BAYH was always there to hold the line. He knew the political costs he was facing. The special interest groups that opposed him were well-financed and well-organized. He knew that he was "targeted" for the courageous stands that he had taken.

As Wendell Phillips, the great abolitionist and humanist from Massachusetts, stated: "Eternal vigilance is the price of liberty." BIRCH BAYH was always vigilant on behalf of all our rights. He fought to insure that only the highest quality jurists were appointed to the Supreme Court. He led the successful fight for extension of all civil rights to minorities, and the still unfinished fight for the equality of women. He successfully fought for the establishment of a Special Prosecutor, to oversee the actions of highly placed officials who thought they were above the law. And in the closing days of this session, he was on this very floor until the small hours, fighting to insure that all Americans can choose their homes without fear of discrimination. I am proud to have stood with BIRCH BAYH on these and so many other issues, and I will miss his counsel and effective advocacy in all the fights to come.

In many other areas Senator BAYH has made a lasting mark. Long before the goal of reducing our dependence on foreign energy sources became a unanimous national objective, BIRCH BAYH was warning us of the coming crisis and proposing creative alternatives such as gasohol and clean coal. He worked hard for gun control, and an end to the senseless slaughter that handguns have brought to so many communities in our land. For all of his 18 years in this body, BIRCH BAYH has consistently championed the cause of the small farmer, the individual taxpayer, the working man and woman, and the minorities of this land.

Above all, he has been a Senator of principle. He never shrank from the hard fights for what he believed. Because he cared enough to take a stand, he constantly advanced the cause of the great principles he knew were right.

Mr. President, BIRCH BAYH's achievements over nearly two decades in the Senate are written into law and are part of our national consciousness. They are a lasting monument to the kind of man he is and the kind of public servant he has been.

I will miss my friend in this Chamber, as I will miss his voice in the Committee on the Judiciary. We shall carry on the struggle for the goals he has so ardently and effectively advocated. And that is the kind of farewell that BIRCH BAYH will most appreciate.

TRIBUTE TO GAYLORD NELSON

Mr. KENNEDY. Mr. President, I want to take this opportunity to say farewell and pay tribute to the distinguished Senator from Wisconsin, GAYLORD NELSON, a colleague and a friend whom I shall deeply miss. These Chambers will not be the same without his thoughtful and eloquent insight, his considerable diplomatic skill, and the extraordinary eloquence of his presence in debate.

GAYLORD NELSON served the Nation and Wisconsin well. His 18 years in the Senate have been years of great purpose and high achievement. On all of the central issues of our time, he has demonstrated the wisdom and ability that are the hallmark of leadership. Three examples show the kind of Senator he has been—ahead of his time; caring for people; unswayed by political expediency or quick-fix answers.

The first example is the political struggle over our tragic involvement in Vietnam. The Vietnam war was one of America's greatest tragedies, because of the tens of thousands of American lives that were lost, the thousands of young men who came home physically and emotionally scarred, the billions of dollars wasted, and the deep divisions it created in our society. In 1965, when the Senate debated the first supplemental appropriations bill containing the funds to pay for America's growing involvement in the war, GAYLORD NELSON stood almost alone—accompanied by barely a handful of Senators—in eloquent opposition to the emerging tragedy. His words at that time not only demonstrated his foresight but his deep moral commitment:

> At a time in history when the Senate should be vindicating its historic reputation as the greatest deliberative body in the world, we are stumbling over each other to see who can say "aye" the quickest and the loudest. I regret it, and I think someday we shall all regret it. I express my opposition to our procedure here by voting "no." Obviously, you need my vote less than I need my conscience.

Although he knew that he was risking his political career by speaking as he did, GAYLORD NELSON was convinced that his position, though unpopular at the time, was in the Nation's long term interest.

The environmental movement is the second great example of Senator NELSON's leadership. During all the years of his public life, he was deeply involved in the great struggle to preserve our national environment. Born and raised in the small town of Clear Lake in Wisconsin's beautiful Northland, he loved the mountains and lakes, streams and prairies of America. As a Senator, this meant a devotion to the equality of American life and an early dedication to the cause of the environment.

As early as the 1950's, GAYLORD NELSON was warning that the most important domestic challenges facing America was the conservation of our natural resources. As Governor of Wisconsin he worked with the legislature to create the outdoor resources acquisition program, a bold innovation that set aside $50 million so that Wisconsin could purchase park and recreational land for all its citizens. In doing so, Wisconsin set an example which the country was to follow in the years ahead.

Since that time, GAYLORD NELSON has been in the forefront of the fight to safeguard our precious American environment. Down through the years, the distinguished Senator from Wisconsin was a leader in the fight to clean up the Nation's air and water. And he was proud to watch the environmental movement—his environmental movement—take hold among Americans of all ages.

Ten years ago, Senator NELSON organized Earth Day, a nationwide celebration and commitment to preserving the environment. Earth Day has since become a part of our consciousness and a capstone to the efforts of GAYLORD NELSON.

More than 50 years ago, the great progressive Robert LaFollette dreamed of creating a national park in the Apostle Islands off the tip of Wisconsin's Bayfield Peninsula. This dream was accomplished under the leadership of GAYLORD NELSON, whose legislation made the Apostle Islands the first national park in Wisconsin. Few public officials have a finer tribute than eternal preservation of these beautiful islands.

Senator NELSON has been an equal leader on a third great issue of our time—the dangerous and costly dependence of our country on foreign oil producers Long before there was any national discussion of the energy crisis, and before the first Arab oil embargo, GAYLORD NELSON warned of the crisis that eventually came:

> The evidence overwhelmingly shows that we had better start coming to grips with the energy issue quickly, or the situation is going to go from bad to worse. This country must immediately launch a crash effort to bring order and planning to the present chaos in our energy affairs; to develop massive new, clean supplies of energy and to conserve the tremendous amounts of energy we now waste.

Senator NELSON proposed action that matched his eloquence. He sponsored legislation to encourage the conservation of energy and the development of new forms of energy—gasohol and synthetic fuels, as well as energy from the Sun, wind, and water. He was one of the first advocates of converting the Nation's oil-fired powerplants to coal, one of America's few truly abundant resources.

GAYLORD NELSON also introduced the first legislation to require automakers to improve the fuel-efficiency of cars and trucks. He has been a leader in efforts to expand the national strategic petroleum reserve, which will serve as a cushion against the arbitrary oil shocks devised by OPEC's ministers. And he has called for the creation of a natural resource information system to monitor the supply and demand situation for all of our critical resources and raw materials.

And these three significant areas are only the beginning of the list of GAYLORD NELSON's record of achievement. I was proud to serve with him on the Labor Committee. We worked together on new ways to improve the Nation's laws on prescription drugs. He was a constant leader in the efforts to reduce the cruel burden of unemployment and poverty that afflict so many of our citizens. And he was a giant in the small business community, guiding the Small Business Committee to some of its greatest successes during his tenure as chairman.

In ways like these, GAYLORD NELSON has been a Senator for all seasons. His eloquence and foresight will be missed by all of his colleagues, on both sides of the aisle. He leaves a record of unsurpassed dedication and vision. His loss is a loss to the Senate, Wisconsin, and all the people of this country.

NAVY PERSONNEL PROBLEM

Mr. THURMOND. Mr. President, it is no military secret that this Nation is faced with a serious military manpower crisis.

An article in the November 3, 1980, issue of Navy Times sets forth in simple terms one aspect of our serious military personnel problems. The article "Out There Is Over the Hill" discusses the recently published desertion and AWOL totals in our armed services for last year. I do not believe that any Member of this Senate can read this article and not be concerned over our military personnel predicament.

The author of the article, Brig. Gen. J. D. Hittle, USMC (Ret.), is well known to many in the Senate. His credentials as an authority in military personnel matters are well recognized. He has served as Special Counsel to the Senate Armed Services Committee and conducted its investigations of desertion and AWOL during the Vietnam War. Later he served as Assistant Secretary of the Navy for Manpower and Reserve Affairs.

Mr. President, it is worth noting that the former chairman of the Special Subcommittee on Desertion and AWOL was our distinguished colleague from Hawaii (Mr. INOUYE). The minority member was our distinguished colleague from Texas (Mr. TOWER). That report, noted for its thoroughness and clarity, could well serve as a model for a similar investigation of our current desertion and AWOL situation.

In his article, General Hittle has made cold statistics simple and understandable. For instance, when he explains that the totaled Navy desertions and AWOL's in 1979 come to about the number in the crews of 10 *Nimitz* class carriers, one can really grasp the seriousness of our manpower crisis.

Mr. President, I ask unanimous consent that the text of this article from the Navy Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"OUT THERE" IS "OVER THE HILL"

(By Brig. Gen. J. D. Hittle, USMC (Ret.))

There is a lot of manpower being wasted "out there." The exact location of this "out there" isn't known. But it is known how to get there. The route is by going over the hill.

Recently, the Navy Times published AWOL and desertion totals for 1979. It wasn't a very pleasant report to read in terms of national security. The large numbers of those who ran from duty in 1979 helps explain why the Army has been labeled a "hollow Army" by its Chief of Staff and why a Navy ship couldn't sail on schedule. Of course, the over-the-hill parade isn't the only reason for the manpower difficulties. But it is a major factor in the continuing manpower crisis. In a very fundamental sense, it is symptomatic of policies and conditions that strike the very heart of military preparedness.

Let's take a look at what happened to too many of our military personnel last year.

The Army reportedly had 11.889 deserters (over 30 days absence) and 24,897 AWOL (up to 30 days absence); the Navy 13.552 deserters and 38,200 AWOL; the Marines 6241 deserters and 14.512 AWOL, and the Air Force, which has historically had much lower totals, 494 deserters and 2765 AWOL.

Now, let's try to put these figures into meaningful perspective. Totals by themselves—although far too high for optimum military efficiency—don't tell the whole story.

It's the rate of desertions and AWOLs per thousand that relate the problem proportionately to the total personnel in each service.

The Army AWOL rate was reported down in 1979, from 1978, to 38 incidents per thousand. The Navy jumped five points from 1978 to 83.4 per thousand in 1979, and the Marine Corps, while reduced from the previous few years, was at 86.7. The Air Force AWOL rate, while increased from 1978, was still relatively low at 5.9 in 1979.

The desertion rate per thousand is not used here for good reason: There is the possibility of a statistical overlap between AWOLS and those in an administrative deserter status. This results in part from the fact that those in an administrative deserter status are put there after 30 days as AWOL. These total incidence figures and rates, are even at a glance, alarming (except possibly for the Air Force) as an indication of the chronic manpower crisis. But, it's when these statistics are translated to practical terms that they become more understandable and even more shocking.

For example, let's take the case of the Navy. With an AWOL rate of 83.4 per thousand, it means on an average, for every 1000 lined up on the carrier deck or parade ground in 1979, more than 83 went AWOL somewhere in the Navy for anywhere from part of a day to 30 days.

Here's another example: The total number of Navy 1979 desertions was reported as 13,552. This means that almost the total manpower in the crews of three Nimitz-class carriers deserted and went over the hill for anywhere from 30 days to eternity.

But, that's not all of the sorry story. If we take the combined totals of Navy deserters, 13,552, and AWOL, 38,200, for 1979, it comes to 51,752. Now, try to imagine the total crews of 10 Nimitz-class carriers lined up in single formation. This is about how many Navy personnel went absent without authority some time in 1979.

Marine Corps deserters total 6341. With a Marine Corps battalion having about 900, it means that the equivalent of more than seven battalions deserted, gone from 30 days to always. The AWOL total of 14,512 means that close to the equivalent of about 16 battalions were in an AWOL status some time in 1979. The combined total of deserter and AWOL incidences amounted to about 23 battalions.

NOMINATION OF RICHARD S. SCHWEIKER AS SECRETARY OF DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. THURMOND. Mr. President, I rise today for the purpose of extending my heartfelt congratulations to the senior Senator from Pennsylvania (Mr. SCHWEIKER) on his selection by President-elect Reagan to become Secretary of Health and Human Services.

DICK SCHWEIKER has been a hardworking and dedicated Member of this body, and I am confident that he will display these fine qualities as a top member of the new administration.

I am sorry that DICK SCHWEIKER has chosen to leave the Senate at this time, but I am happy to take this opportunity to offer my congratulations to him on his new position, in which he will continue to serve the people of this country.

TECHNOLOGY TRANSFER TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. THURMOND. Mr. President, notwithstanding President Carter's statement that the United States has not and will not play a "China card," the Carter administration has indeed played it and is overplaying its hand.

In spite of official downplaying, the administration's actions clearly demonstrate that many specific moves toward a close military relationship with the People's Republic of China—PRC—have been implemented since 1977. These moves include the publicly announced approval to our allies to sell armaments to PRC, encouragement of Japan to transfer some key military-related technologies to Communist China, and the U.S. sale to Red China of advanced dual-purpose technologies with definite military applications as well as military equipment itself.

Mr. President, Congress has, over the past several years, been presented during various committee hearings with vast evidence of significant military assistance from the United States and its allies to the Soviets and their proxy states. This witting and unwitting assistance has taken place within the framework of so-called peace trade. We have aided the Soviet Union in becoming a superpower and a menace to the free world through transfer of Western technology. Moreover, this aid has been financed, in many instances, by concessionary credit.

Mr. President, it seems to me that we have learned very little from our past mistakes. We appear to be on a much more serious course of a conscious policy of arming a Communist-dominated country. How else can one explain the announcement by the State Department—contained in Munitions Control Newsletter, No. 81, March 1980, signed by William R. Robinson, Director, Office of Munitions Control—making available for export to Communist China items and technology covered in the U.S. Munitions List. How else is one to interpret Secretary of Defense Harold Brown's statement, upon his January visit to the PRC, that—

> The U.S. is prepared to sell to the Chinese civilian technology which we would not approve for sale to the Soviet Union.

Secretary Brown also stated, "it is recognized that some of the technology could be used for military purposes" and that the United States would consider the sale of military support equipment. On January 24, Assistant Secretary of Defense Thomas Ross said—

> These sales could consist of trucks, communication gear and certain types of early warning radar . . .

Mr. President, on May 29, the Carter administration announced plans for selling Red China a range of battlefield and other military equipment to improve their air defenses, communications and mobility of the so-called PRC People's Liberation Army. Defense Secretary Brown, who announced the plans for selling military equipment, said—

> The material involved was an important part of PRC military capability.

Subject to details to be worked out by Chinese Communist authorities and American manufacturers, Secretary Brown announced approval of export license applications for:

Tactical air defense radar sets, which officials said would be mobile and suitable for battlefield use.

Transport helicopters, which could improve the battlefield mobility of Chinese army forces.

Equipment for testing jet engines.

Truck tractors for moving heavy equipment.

An antenna to be used with an early-warning radar installation being provided by another, unspecified country.

Tropospheric communications equipment, for long-distance communications in which waves are bounced off the troposphere.

Tactical radios.

Transport aircraft.

Countermeasure devices for blotting out enemy radar, such as flares and electronic chaff.

Administration defense officials said that the sale of military equipment would involve hundreds of millions of dollars. The Chinese Vice Premier Geng Biao, winding up 3 days of top-level conferences in Washington in May of this year, aimed at strengthening military ties, said he did not think he would be allowed to buy U.S. weapons now, "but I believe there might be such a possibility in the future."

Besides the military equipment, Secretary Brown announced approval of export license applications for certain dual-use—military and civilian—items. These include setting up facilities in Communist China to assemble integrated circuits for computers and other military use and to manufacture transport helicopters.

Mr. President, it is important to realize that what Red China needs to improve its strategic forces, is not purely military in character. What China needs is certain key applied technology to improve guidance systems—for missiles, aircraft and satellites—avionics, missile technology, and key nuclear warhead components. Such technology—dual-purpose technology—is now available in commercial applications from the United States, Japan, France, Germany, and the United Kingdom.

Until 1977 most of it was denied to the PRC by U.S. export controls regulations. Now, the Carter administration has removed existing barriers to high-level technology transfer to Red China. The withdrawal of U.S. controls on the key exports involved will allow the PRC to get the "nonmilitary" technology it needs from the West. This should enable China to rapidly deploy the ICBM it has been trying to develop for a decade; allow it to quickly upgrade its IRBM, MRBM, and bomber forces; and allow it to make rapid improvements in its targeting and warning technologies.

Most importantly, it will probably allow the PRC to deploy an effective SLBM and mobile MRBM force within the next 8 to 10 years. Ironically, the nonproliferation Treaty has virtually no effect on such technology transfers, and improved relations with the United States are thus worth years and billions of dollars to the Chinese Communist strategic effort.

Mr. President, this year, alone, over 400 export licenses have been approved for export to Red China, and another 500 are being expedited for approval.

Mr. President, most unfortunately, President Carter and his administration have failed to fully consider the long-term implications of such aid to Communist China. Our strategic and bilateral interests remain vague and ill-defined. With regard to our relationship with the PRC, the preeminent issue must be the one of national interest and the question arises, "What do we get from the relationship?" The administration has failed adequately to address these issues. The United States-China policy has been advanced without public or congressional debate and consideration of the possible international and strategic consequences of our actions.

Mr. President. I urge the outgoing administration of President Carter to issue a moratorium on any further transfer of technology to PRC. It is imperative to allow the 97th Congress and the new administration the time to thoroughly examine and evaluate the on-going policy vis-a-vis the People's Republic of China, the nature of our military assistance to that Government, and the ramifications involved. Mr. President, I intend to take a hard look at this problem in the days ahead and will request that the Senate Armed Services Committee look into this extremely important area, an area vital to the national security interests of the United States.

MINERALS CRISIS

Mr. SCHMITT. Mr. President, many individuals in this country as well as an increasing number in Congress, have become concerned about what is variously called strategic minerals crisis, the resource war, and so forth.

Recently the World Affairs Council of Pittsburgh held their 18th annual world affairs forum and produced a remarkable compilation of papers by some of the leading thinkers and actors in this particular arena.

The forum general chairman is William R. Roche, president of the United States Steel Corp., and the panelists involved in this remarkable effort are as distinguished as they are varied.

Mr. President, I ask unanimous consent that the rapporteur's report by Herbert E. Meyer be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

RAPPORTEUR'S REPORT

(By Herbert E. Meyer)

One of the most striking fetaures of our age—and one of the most frightening—is the velocity at which we move forward toward the future. Countries, like today's high-performance jets, encounter new conditions and traffic patterns almost too quickly to do anything except react so as to avoid collision and catastrophe. Hence national leaders, rather like jet pilots, are increasingly dependent on early-warning systems to alert them to dangers that loom just over the horizon. It is the purpose of this study effort to serve as an early-warning system, so to speak. Our objective: to alert leaders of the business community, the labor movement, the government and the general public to a danger that now looms just over our national horizon.

The danger involves our access to strategic minerals—those two dozen or so subterranean elements and compounds without which a modern civilization cannot for long survive; this in addition to our reliance on imported oil. The distinguished participants in this project are convinced—based not only on earlier evidence, but on startling new evidence uncovered in the course of preparing this final report—that in coming years the U.S. and its allies may not enjoy the necessary access to strategic minerals. To be sure, in any group as diverse and as knowledgeable as these sixteen panelists, there is a wide range of judgments and opinions concerning the precise nature of the threat. Hence, it is especially noteworthy that these central points have won unanimous agreement among the panelists:

Today non-fuel minerals import dependencies exist that threaten not only our country's economic well-being, but the national security as well; this coupled with the oil dependency problem already perceived by the nation's leadership.

Insofar as access to strategic minerals (including oil) is concerned, the Soviet Union must be regarded as a hostile state, whose leaders may be attempting to injure the U.S. and its allies by impeding their access to strategic minerals.

The U.S. needs a national initiative to develop a resource strategy that recognizes our minerals vulnerabilities and is designed to overcome them.

In this regard, it is imperative that our country's defense/national security posture be upgraded.

It is equally important that our foreign policy be reoriented and perhaps restructured to accommodate the Free World's growing dependency on imported strategic minerals.

At the same time, we need to forge closer action, policy and institutional linkage between the economics of our resource needs and our foreign and national security policies.

The U.S. must approach this challenge in concert with our allies in Western Europe, Japan and other Pacific countries. We must not opt for a "beggar-thy-neighbor" solution in which we would attempt to save ourselves while casting our allies to their own fates. This is a Free World problem, and it must be solved by a Free World alliance.

The time to act is now. For the sooner we begin, the less sacrifice Americans will be required to make.

The threat of inadequate supplies of strategic minerals comes from several directions:

As the members of Panel I have brought out in their report and discussions, the Soviet Union's minerals trading pattern is changing in a way that endangers Free World access to many strategic minerals. In essence, Soviet exports of certain raw materials to the West are declining sharply and, in some cases, stopping altogether. And the Soviet Union—widely regarded up to now as a source of supply—has begun to import certain strategic minerals for itself and for its East Bloc allies from countries whose output traditionally has gone mainly to the U.S. and its allies. Indeed, in just the last few years the Russians have negotiated, either on their own or through CMEA, the East Bloc Council of Mutual Economic Assistance, over thirty technical and economic assistance agreements with Third World countries that produce strategic minerals or have deposits. Nearly half of these agreements feature large-scale Soviet technical aid for exploration and development of new mines, with eventual payment in the form of recovered minerals.

Panel I members have concluded, with the general concurrence of the other participants, that the new Soviet minerals trading pattern probably is not a temporary phenomenon. That is, the new pattern does not reflect temporary shortages of minerals within the Soviet Union itself, or short-term speculation by Soviet trading organizations to take advantages of swings in world prices. Rather, panelists believe, the new pattern may well signal an historic shift. In the words of one panel member: "The mineral resource balance of the U.S.S.R. is following oil into a new era of less-than-self-sufficiency." Consequently, he concludes that the Soviets have devised a strategy of "outward" access toward world mineral resources.

This new pattern clearly spells trouble for the West. At the very least, it means that in coming years our supplies of strategic minerals may be disrupted both in price and certainty of access. At worst, panelists generally agree, the new Soviet international minerals behavior could become an effective strategy for crippling Western industrial production by cutting off access to strategic minerals.

The importance of non-fuel minerals to

American expectations of progress is central to all of the participants' concerns. Observing that the late George Meany once said, "everything has to do with the workers," one panelist stresses that the condition of the labor force influences everything else, including oil and minerals, in our society. In recognition of this, all participants support labor's view that labor and management need to cooperate in developing a national resource strategy. They also note that non-fuel minerals are essential in high-technology manufacturing enterprises from which flow products ranging from hi-fi's to computers to the most sophisticated aerospace systems. Many other products and services intimately familiar to the average American are dependent on these critical minerals, now as much as 90 percent or more imported by the U.S.—from medical and dental care equipment and food processing, to house paint, dry cell batteries and fertilizers.

As the members of Panel II demonstrate in their report, our country's present ability is dangerously limited to project force to protect access to petroleum and non-fuel minerals sources outside the geopolitical area of NATO responsibility. The relative decline of American and British sea power must be contrasted with the surge of the U.S.S.R.'s four-ocean navy which gives Moscow a global reach for the first time in history. In this context, all participants generally concur, there is a growing perception that the U.S. no longer possesses the capability to guarantee an international climate for securing minerals supplies.

To counter this trend, the U.S. must take immediate steps to recover from a decade of neglect of our military capabilities. U.S. nuclear/strategic forces must be maintained or else our credibility and influence—both with the Soviets and in the Third World—will be seriously impaired. Another imperative is to provide a consenting "power projection shield" to Third World theaters vital to the mutual economic interests of the U.S., Europe and Japan.

The crucial issues of the "geopolitics of natural resources," all study participants agree, are energy in the Mid-East/Persian Gulf region and strategic non-fuel minerals in the southern Africa region. Indeed, it is crucial for Americans to keep in mind that access to subterranean wealth of these two regions is imperative for the very survival of the Free World. The Mid-East/Persian Gulf region supplies the majority of Free World oil, and the southern African region supplies the majority of Free World strategic non-fuel minerals.

As the members of Panel III cite in their report, there is much the U.S. could do here at home to reduce our dependency on imported strategic minerals and thus to lessen our present vulnerabilities. However, members of Panel III conclude, many of the U.S. government's present policies—or lack of policies—impedes the effectiveness of such efforts to take positive action. Hence we will need to make some fundamental changes in our domestic policies; changes that will work to encourage domestic production of strategic minerals.

Our strategic stockpile of raw materials is now short of its objectives in a number of highly critical mineral commodities, such as cobalt. At the same time, federal lands and other policies have made it increasingly difficult to explore for and recover strategic minerals that lie within our borders (cobalt, chromium, platinum group). Panel III reports that today more than 70% of federal lands are closed or restricted to appropriation and use of mineral development under the mining and minerals leasing laws.

U.S. government policies on international agreements and treaties also tend to increase our strategic minerals vulnerability. For instance, according to some authorities, deep seabed mining of "manganese modules" could make the U.S. virtually self-sufficient in cobalt, manganese, nickel and copper by the end of this century. However, members of Panel III conclude, investments in deep seabed mining might be endangered by international agreements and treaties presently under negotiation. In addition, Panel III members observe, the U.S. State Department has been reluctant to defend the rights of U.S. commercial firms operating abroad. More precisely, U.S. policies toward Third World countries have all too often been motivated by human rights and essentially "political" considerations to the exclusion of economic and national security considerations.

Also, Third World nations generally have been proclaiming an exclusive right to determine the minerals and raw materials economics of their respective nations—even if they cannot make the requisite capital and technological inputs. The paradox is that most Third World suppliers have been calling on Western enterprises to provide the capital, technology and management to do the risky minerals exploration and development, while simultaneously seeking autonomous economic control. However, on the positive side, there are signs that some nations are beginning to search for accommodation with Western enterprises.

The participants express the hope that this trend will continue and that Third World nations will convince themselves to work with us to achieve a more equitable world oil supply and pricing situation and to create a system of insured access to raw materials designed to stimulate—not discourage—U.S. and Western investment for Third World economic benefits.

In pointing the way toward an effective national response to our strategic minerals vulnerability, project partiicpants raise several issues that will need to be resolved:

First, we must determine just what "rights" we have to Third World resources. In general, participants believe we have the right to bid freely for these resources—and to oppose any power that would attempt to deny us this right. (A number of participants note that Third World countries with strategic minerals to sell want desperately to do business with the U.S.; they need our dollars to buy oil at OPEC prices.)

Second, we must determine the extent to which federal government policies should be restructured so as to cope effectively with the danger of a minerals cutoff. In this regard, some participants feel that the present structure is adequate to implement whatever new policies may be adopted. Other participants argue that it would be immensely helpful to locate the strategic minerals issue within the Department of Defense, as this agency is by far the strongest bureaucracy and, therefore, the only one most likely to achieve success.

Third, there is the question of whether the U.S. should attempt to "draw a line" of sorts, in an effort to let our adversaries know in advance what actions we would oppose. In general, participants conclude that it would be a mistake to draw such a line, since by definition we would need to exclude certain areas and thus leave them especially exposed to danger.

Complex though the strategic minerals problem is, conference participants are convinced that it can be solved at an acceptable political and economic cost. We are not aiming for a big document with a "ribbon" around it that we can call a "minerals policy." We are suggesting the need for minerals to become an integral part of our national decision making. We must integrate our economic policies with our foreign and defense policies. This means things like a "tri-oceanic alliance." Japan and Western Europe are presently talking more about such an alliance than we are.

Unless we can assure continued access to strategic minerals, both abroad and here at home, our civilization in its present form may not be able to survive. Entire industries may well be forced into heavy shutdowns with many millions of workers losing their jobs, and in the long run our basic freedoms, accordingly, may evaporate. In short, unless we take those steps necessary to assure continued access to strategic minerals, our economic health and our national security—and the security of our allies in Western Europe and Japan—will be endangered. We will lose the power to protect human rights anywhere, even in our own country.

Assuring access to critical raw materials will not be easy for a democracy. All of the panelists agree that we must not undermine our democracy. But we think we can make the necessary changes. We must bring the people along to learn and then act concerning this problem. We have to overcome inertia.

Another aspect of the problem is that our public policymaking has been heavily influenced in the past by groups who say that the United States, itself, is the problem. They say we need to limit our growth. They say the poor of the world are poor because the rich are rich. They say it is wrong for us with some 6% of the world's population to consume over 30% of the world's wealth.

The participants in this project, I believe, would disagree. A rising tide lifts all boats. The Third World would be worse off if we did not buy their raw materials. They need us to buy from them as they, in turn, need to buy food and oil. Thus, we must preserve, besides our access to Third World materials, the access of the Third World to our Western economy. We have to convince them that the health and economic survival of the Third World depends ultimately on Western security and economic well-being.

We have a political problem. Assuring access is difficult. But we know *how* to do it. Now we need the *will*.

Mr. SCHMITT. This report, Mr. President, is an excellent summary not only of the findings of the forum but also of the degree to which we face a major crisis in minerals and materials resource supplies.

I am sure my colleagues are aware that we now import approximately 65 percent of our strategic mineral resources largely from areas that are either politically unstable or politically unfriendly to the United States.

MESSAGE FROM THE HOUSE

At 5:12 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks announced that the House agrees to the amendments of the Senate numbered 17, 18, 19, and 29 to the bill (H.R. 7112) to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes; it agrees to the amendments of the Senate numbered 20, 21, 22, 23, 24, 27, 28, 32, 35, and 36 to the bill, with further amendments in which it requests the concurrence of the Senate, and disagrees to the amendments of the Senate numbered 1 through 16, 25, 26, 30, 31, 33, and 34 to the bill.

ENROLLED BILLS SIGNED

At 5:49 p.m., a message from the House delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1142. An act authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes;

S. 1985. An act to authorize the Secretary of Agriculture to convey lands in the State of Arizona, to authorize the Secretary of the Interior to convey certain interests in lands in the State of Arizona, to amend the Act of March 14, 1978 (92 Stat. 154), and for other purposes; and

S. 2726. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1981, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. Burdick).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5096. A communication from the Deputy Assistant Secretary of Defense (Information Operations and Reports), transmitting, pursuant to law, notice that the Department of the Navy plans to exercise a provision of law for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC–5097. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the family housing maintenance function at Ellsworth Air Force Base, S. Dak., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–5098. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the military family housing maintenance function at Mountain Home Air Force Base, Idaho, and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–5099. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Long-Term Economic Planning Needed in Oil- and Gas-Producing States"; to the Committee on Environment and Public Works.

EC–5100. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Long-Term Planning Needed in Oil- and Gas-Producing States"; to the Committee on Environment and Public Works.

EC–5101. A communication from the Procurement and Assistance Management Directorate, Department of Energy, transmitting, pursuant to law, the annual report of the Department on the disposal of foreign excess property for fiscal year 1980; to the Committee on Governmental Affairs.

EC–5102. A communication from the Custodian, U.S. Army Nonappropriated Fund Retirement Plan, transmitting, pursuant to law, the annual report on the condition of the plan for fiscal year 1979; to the Committee on Government Affairs.

EC–5103. A communication from the Retirement Plan Administrator, U.S. Air Force Nonappropriated Fund Retirement Plan, transmitting, pursuant to law, the annual report on the condition of the plan for calendar year 1979; to the Committee on Governmental Affairs.

EC–5104. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed new system of records for the General Services Administration for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC–5105. A communication from the Secretary General of the North Atlantic Assembly, transmitting, pursuant to law, texts of recommendations adopted by the Assembly at their 26th annual session in Brussels from November 16 through 21, 1980; to the Committee on Foreign Relations.

EC–5106. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the administration of certain provisions of the Public Health Service Act dealing with the current state and progress of health services research, health statistics and health-care technology; to the Committee on Labor and Human Resources.

EC–5107. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals for the month of December 1980; pursuant to the order of January 30, 1975; referred jointly to the Committee on the Budget and the Committee on Appropriations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–943. A concurrent resolution of the Legislature of the State of Pennsylvania; to the Committee on the Judiciary.

"Resolution

"Whereas, The Federal Government was created by the voluntary association of the several states; and

"Whereas, The Constitution of the United States of America provides for the autonomous functioning of the state legislative bodies on issues of local concern and importance; and

"Whereas, This state legislative authority is often preempted, circumvented, or otherwise superseded by Federal statute and especially by the promulgation of Federal agency rules and regulations carrying the impact of law; and

"Whereas, The fabric of our constitutional Federal system has been progressively destroyed by the acts of preemption and coercion; therefore be it

"*Resolved (the House of Representatives concurring)*, That the General Assembly of the Commonwealth of Pennsylvania memorializes the United States Congress to take action to guarantee the return of policy making authority to state legislative bodies in the areas delegated to the states by constitutional provisions; and be it further

"*Resolved,* That the United States Congress take immediate steps to amend appropriate statutes to end practices whereby Federal governmental agencies, acting through the promulgation of administrative rules and regulations, restrict the ability of state legislative bodies to function in the areas reserved to the states; and be it further

"*Resolved,* That the General Assembly of the Commonwealth of Pennsylvania calls upon its Congressional delegation to seek immediate means to halt this erosion of the states' constitutional responsibilities, and restore to the states the powers granted them by our founding fathers, and be it further

"*Resolved,* That the Secretary of the Senate is directed to transmit copies of this resolution to the presiding officers of the House of Representatives and Senate of the Congress of the United States of America, to each member of Congress from the Commonwealth of Pennsylvania, and to the Director of the Federal Trade Commission."

POM–944. A petition from a citizen of Fredericksburg, Va., relating to the appointment of certain individuals in the Reagan administration; to the Committee on Labor and Human Resources.

POM–945. A petition from a citizen of Fairfax, Va., relating to the appointment of certain individuals in the Reagan administration; to the Committee on Labor and Human Resources.

ADDITIONAL COSPONSORS

SENATE JOINT RESOLUTION 211

At the request of Mr. Hatch, the Senator from Arizona (Mr. DeConcini), the Senator from Alabama (Mr. Heflin), the Senator from Pennsylvania (Mr. Heinz), the Senator from Michigan (Mr. Riegle), the Senator from Wyoming (Mr. Wallop), the Senator from Texas (Mr. Bentsen), the Senator from Oklahoma (Mr. Boren), the Senator from Kansas (Mrs. Kassebaum), the Senator from Oregon (Mr. Hatfield), the Senator from Hawaii (Mr. Inouye), the Senator from California (Mr. Cranston), and the Senator from Oregon (Mr. Packwood) were added as cosponsors of Senate Joint Resolution 211, a joint resolution designating the week beginning March 8, 1981, as "Women's History Week."

AMENDMENT NO. 2636

At the request of Mr. Melcher, the Senator from Utah (Mr. Hatch), the Senator from Kentucky (Mr. Ford), and the Senator from Alabama (Mr. Heflin) were added as cosponsors of amendment No. 2636 proposed to House Joint Resolution 637, a joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

SENATE RESOLUTION 562—RESOLUTION IN OPPOSITION TO ANY ATTEMPT BY THE SOVIET UNION TO INVADE POLAND

Mr. ROTH (for himself, Mr. Nunn, Mr. Domenici, Mr. Glenn, Mr. Chiles, Mr. Warner, Mr. Lugar, Mr. Levin, and Mr. Randolph) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 562

Whereas the Polish people and government have an inherent right to manage their own affairs, free from threats of external intimidation or invasion; and

Whereas the people of Poland have expressed their determination to control their economic system, and to effect change for economic and social progress; and

Whereas, the expressions for such change have been through collective bargaining and have shown moderation and restraint; and

Whereas the citizens of the United States feel a strong bond of friendship with the citizens of Poland; and

Whereas the United States has traditionally supported the principles of self-government and of non-intervention in the internal affairs of other nations; and

Whereas Poland has historically played a key role in the peace and security of Europe and the World; and

Whereas respect for territorial integrity is crucial to the reduction of East-West tensions and basic to the agreements of the Conference on Security and Cooperation in Europe; and

Whereas the Soviet Union has demonstrated by its invasion and occupation of Afghanistan a pattern of disregard for sovereign rights which may portend an attempt to invade the Polish People's Republic; either overtly or through the guise of false invitation; and

Whereas the massing of Soviet and Warsaw Pact forces on Poland's borders constitutes a clear attempt to intimidate the people and government of Poland from their determined course of moderate reform: Now, therefore, be it

Resolved, That it is the sense of the Senate that it supports the President of the United States in his efforts to:

(1) Communicate the firm opposition of the United States to any attempt by the Union of Soviet Socialist Republics to violate the political independence, territorial integrity, or basic sovereignty of the Polish People's Republic; and to

(2) Pursue appropriate diplomatic initiatives to encourage other nations to affirm their support for respect to these basic principles of international relations; and to

(3) Consider in cooperation with allies and friends of the United States measures to be taken jointly in the event of a military invasion of Poland by Warsaw Pact forces; and to

(4) Inform the Soviet Union that such an invasion, under any pretext or disguise, would destroy progress in East-West relations realized during the past thirty-five years, would drastically imperil the chances for nuclear arms control, and would pose a dangerous threat to world peace.

(The remarks of Mr. Roth upon the submission of this resolution are printed earlier in today's Record.)

ADDITIONAL STATEMENTS

CENSORSHIP OF LIBRARY BOOKS

● Mr. BURDICK. Mr. President, the Forum, the Pulitzer Prize-winning daily paper in Fargo, N.D., printed an editorial earlier this week which I would like to share with my colleagues. The editorial speaks to a rise in the censorship of library books in the past few weeks since the November elections. I view this trend with alarm, for I believe that freedom of information and freedom of speech are basic to a democratic citizenry.

This editorial calls for commonsense to govern censorship decisions. I join in this call and hope that other voices of moderation will join as well. I ask that the editorial from the Forum be printed in the Record.

The editorial follows:

Censorship of Library, School Books Reaches Ridiculous Lengths

The American Library Association reports a rapid increase in the number of censorship attempts since Ronald Reagan won the presidency Nov. 4. The Library Association's Office of Intellectual Freedom said there have been five times as many censorship reports since the election.

Judith Krug, who directs the Intellectual Freedom office, says that it's as if people see Reagan's victory as a mandate to "superimpose their beliefs on the entire nation."

The censorship problem is one of contrasting and often opposing rights. Courts have had a lot of trouble with the few cases that have reached them. Judges are faced with measuring the First Amendment right of freedom of speech and freedom of access against a school or community's right to decide how children should be educated. There are rights on both sides of the question, and with the education of minors involved, parents' rights need to be considered.

It is discouraging, though, to see the list of books which have been banned from libraries or classrooms and realize that young people will be deprived of classic literature and be inhibited in maturing as discerning individuals.

Some of the books whch have been banned are Red Badge of Courage, To Kill a Mockingbird, Death of a Salesman, Grapes of Wrath, Huckelberry Finn, The Good Earth, Catcher in the Rye, Brave New World, Of Mice and Men.

We cannot expect that all of these classics will appeal to everyone's idea of good taste, but common sense should dictate that young people be given the opportunity to read them.

Such classics should be read and discussed in class and in the home. Maturity, moral values, an appreciation for literature, a sense of tolerance—all of these good results usually follow.

Censorship, or even the rewriting or bowdlerizing of literature—from dictionaries to Shakespeare—has been forced upon publishers and libraries by militants. And it is not only the new right that is behind it. Members of minority groups and even the more fanatical fringe of the women's movement have engaged in this, according to the Libraries Association.

There is no magic wand to be waved in order to enforce a rule of common sense. The hope is that most parents, most boards of education, most concerned groups will achieve some common sense on this question.

A cartoon on this page gives another slant to the picture. The sleazy pornographer continues to be a major problem.●

THE JEFFERSONIAN CLOGGERS

● Mr. NUNN. Mr. President, I am delighted to bring to the attention of my colleagues an unusual accomplishment by a group of young people from the State of Georgia. The Jeffersonian Cloggers from Smyrna, Ga., have had an exceptional year. On August 9, 1980, they won the national clogging championship, and on October 19, 1980, they were awarded the world championship title at the international competition held at Fontana Dam, N.C.

The nine member team—ages 13 to 19—have toured throughout the United States and Costa Rica. Members of the clogging dance team include: Carrie Jones, Dawn Wade, Ray Eaton, Alicia Abernathy, Troy Bailey, Pam McBath, Chip Calhoun, Barry Bracey, and Tammy Wallace.

Such dedication to individual excellence and achievement is to be encouraged, and I am delighted to congratulate these young people upon their great success.●

SAVINGS THE ALL-VOLUNTEER FORCE

● Mr. DURENBERGER. Mr. President, one of the most significant developments of the past year has been the emergence of a deep and genuine bipartisan consensus in support of increased defense spending. While particular defense programs are likely to engender controversy, and while Americans may disagree about the relative emphasis given to various components of our overall defense posture, there is a widespread conviction that we have engaged in unilateral and incremental disarmament for too long. Each year, we have devoted fewer and fewer real resources to defense, with the result that each year the services have found it more difficult to maintain their authorized strengths much less to grow as circumstances demand.

One of the most important reasons, in my opinion, for the widespread support for increased defense spending is that we have been able to put the defense budget into very human terms. I refer, of course, to the fact that while overall personnel costs consume roughly 55 percent of the defense budget, the men and women of our armed services are living lives of penury. By now, thanks to the efforts of a number of concerned Senators and others, we are all aware of the grim statistics of military compensation. That we have understood these figures is reflected in the recent success of the Congress in providing a pay raise for the career volunteer force. We can pride ourselves that we recognized the dimensions of this problem before executive branch officials were willing to discuss it in public.

Aside from the issue of equity which was involved in trying to pay our skilled servicemen and women at least as much as we pay our janitors and cashiers at fast-food restaurants, there was—and is—another aspect to this issue. As many of us recognized at the time of the debates over a pay raise, the All-Volunteer Force is in serious trouble. Recruiting sufficient numbers of people to man the services is becoming increasingly problematic, and recruiting people of sufficient character and ability is perhaps even more difficult. We are all familiar with the debate over skill levels among first-term recruits, an issue raised anew by the Army's recent admission that it has not properly evaluated test scores.

Recruiting problems, however, are compounded because recruiting interacts with retention. In other words, the fewer people who remain in the military services, the more people who must be recruited to make up the difference. There is an added problem here, however, for those who come in as first-term recruits simply cannot take the place of those who leave with skills accumulated over 10 to 15 years. In other words, attention to simple numbers cannot fully encompass the manpower issues posed by the All-Volunteer Force.

Finally, of course, we face serious problems with our Reserves and National Guard. We must never lose sight of the fact that these forces are crucial to our security. They will provide the source of immediate reinforcement and replacement in the event of an emergency. As a rough indicator, the Reserves and Guard provide one-half of the Nation's combat forces, and two-thirds of our combat support capability. So long as we are committed to a "total force," we must be concerned about the alarming personnel shortages in the Guard and Reserves.

Consequently, any steps which we can take to restore the level of compensation to that first imagined by the Gates Commission are all to the good. As I have noted in the past, we failed to keep faith with our military personnel for many years, imposing pay caps on their salary adjustments with the result that the real purchasing power of a military salary was systematically undercut. Few people will remain in the military when they are simply unable to afford the financial burdens of service, and it makes eminent sense therefore to insure that salaries are adjusted with inflation.

However, I do not believe that we can approach the issue of military manpower solely through the perspective of labor economics. To do so can create two serious distortions. First, we can easily lose sight of the fact that a career in the military is qualitatively different from any other career. The profession of arms involves the management of violence. It calls for unique skills, and it draws upon an ethos of service rather than the tradition of contracts. In other words, those who serve in the military are bound by more than the terms of an enlistment agreement; they have chosen to serve their country at great personal risk in a profession which demands an emotional and personal commitment rather than a mere exchange of salary for services rendered.

Consequently, those who would treat the military as merely another job both denigrate a soldier's professional obligations and hamper the prospects of a long-term military career. Salaries and benefits will not motivate men to die in the service of their country. Men must be led, not managed by executives and labor economists, if they are to be successful professional soldiers. Therefore, those who argue that the weaknesses of our All-Volunteer Force can be solved by increased compensation alone, rather than by emphasizing leadership and ethics which are uniquely military in nature, are offering only half a solution.

I am therefore pleased that recent recruiting campaigns for the services have focused less on the financial rewards than on the personal challenges of a military career. We are seeing less of such statements as "the Army wants to join you," and more of such statements as "it's not a career, it's an adventure." This strikes me as all to the good, for it is reinforcing the martial and service aspects of the military profession.

Second, to the extent that we concentrate on the economic side of the military manpower problem, it is easy to fall into a related trap. Studies dating back to World War II demonstrate that a major source of fighting ability lies in the unit cohesion of a military force.

In other words, the more that men identify with their military organizations, whether at the squad, platoon, battalion, or even service level, the more likely they are to perform well in combat. Ideally, therefore, our military manpower policies will foster a sense of unit pride rather than a sense of individualism. This, of course, requires a commitment from the military services themselves, and I am pleased to note that the Chief of Staff of the Army, General Meyer, is adopting programs designed to keep units together and to develop greater unit cohesion.

But it also requires that we approach the question of military manpower through more than the framework of labor economics. To the extent that salary structures and recruiting practices emphasize individual earning opportunities rather than service in a given unit, we are diminishing rather than strengthening the military. To the extent that we promote a free market ethic within the military, encouraging transfers from unit to unit or from job to job solely on the grounds of economic opportunity, we undercut precisely that which we ought to encourage.

In other words, Mr. President, we obviously cannot overlook the necessity to provide our career military personnel with a decent standard of living. We have done so, and we have seen the effects. Equitable and attractive compensation is clearly a necessary element of a sound military manpower policy. But while compensation is necessary, it is not sufficient. We must do more than merely offer high salaries and benefits, for these alone will not produce a competent fighting force. We must encourage those policies which speak to the soul as well as the stomach of the military.

In this regard, Mr. President, I wish to call the attention of my colleagues to an article by Charles Moskos which appeared in a recent edition of the Public Interest. Dr. Moskos is a preeminent sociologist who has made a lifelong study of the military. Indeed, he is one of the few sociologists who has chosen to concentrate on this vital topic. In his article, Dr. Moskos advocates a number of approaches—both financial and nonfinancial—designed to strengthen the All-Volunteer Force. As he notes, the military services face problems which derive from more than congressional neglect of salaries, and he astutely points out that the discipline of economics cannot offer the whole solution to our manpower problems. I believe that Dr. Moskos has offered a number of first-rate suggestions, and I therefore ask that his article be printed in the RECORD.

The article follows:

[From the Public Interest, fall 1980]

How To Save the All-Volunteer Force

(By Charles C. Moskos)

The All-Volunteer Force is on the ragged edge of survival. Since the end of the draft in 1973, the military services have been hard pressed to meet recruitment goals. Enlistment shortfalls are keenly felt among ground combat units and aboard warships. Educational levels of new recruits continue to drop. More than one in three service members do not complete their initial enlistments. A growing number of skilled technicians are leaving the military; retention of qualified people in the career force has become an acute problem. Army Reserve and National Guard units are some 125,000 members short of the goals set by Congress. The Individual Ready Reserve—soldiers with prior military training who are to be available in the event of mobilization—is more than 300,000 under stated requirements.

The most important, but least commented upon, effect of the shift to the AVF has been the sharp decline in the peacetime military-force level, from over 2.6 million on active duty in the early 1960's to slightly over 2 million in 1980. To maintain an active-duty force even at this reduced level, with attendant understrength units, the military must recruit around 350,000 enlisted persons annually. In 1979, a year with a 20,000 enlistment shortfall, the Army recruited 142,000 persons, the Navy 86,000, the Air Force, 67,000, and the Marine Corps 41,000. Over 80 percent of enlisted military entrants are non-prior-service (NPS) males.

It is little wonder that the reintroduction of draft registration in the summer of 1980 was seen by many as signaling a return to full-fledged conscription. Yet for seven years the Defense Department reported that the AVF was working well and, indeed, was attracting a quality of youth as good if not better than that of the draft era.

THE SOCIAL COMPOSITION OF THE ALL-VOLUNTEER FORCE

Mental Group and Educational Levels. It has been a stock argument among defenders of the AVF that the mental quality of recruits, as measured by aptitude tests, has improved over that of the draft era. There was always a certain amount of misdirection in this argument. No one could deny that the proportion of recruits in the top mental categories of I and II had declined, from 42 percent in 1964 to 27 percent in 1979. But this was countered by the purported drop in those scoring in mental category IV, the lowest from which the military is allowed to recruit. In testimony given in the House in early 1980, the Assistant Secretary of Defense for Manpower reported that the aptitude tests may have been "misnormed" and that category IV recruits may be increasing rather than decreasing. Conclusive evidence on this issue is not yet available but revised test results could further reinforce concerns about the quality of enlisted recruits.

Data on educational attainment is more clearcut, and trends show major differences among the services. Over the course of the all-volunteer era, the number of non-prior-service males with a high school diploma has averaged about 88 percent for the Air Force, 71 percent for the Navy, 62 percent for the Marine Corps, and 58 percent for the Army. There are studies which show, moreover, that among high school graduates who do enter the military, the tendency is to come from the lower levels of their graduating class, especially for those entering the Army. But even if we look only at the high school completion rates, it is indisputable that the educational levels of male enlistees in the all-volunteer Army are far lower than either the equivalent civilian population or the Army entrants of 1964, the last year before the war in Vietnam. Since the end of the draft, an average of over 40 percent of NPS males have not had a high school diploma (See Table I, on the following page) compared with 25.4 percent non-graduates among 19-year-old males in the general population, and 28.7 percent of draftees and 39.9 percent of volunteers in 1964. The contrast between the educational levels of the all-volunteer Army and the peacetime-draft Army is even greater when considered in light of the proportional increase in male high school graduates from 66 percent of males aged 18 to 24 years in 1965, to 76 percent in 1977. Thus while the national trend has been toward a higher percentage of high school graduates, the percentage of graduates among Army enlistees has been dropping.

TABLE I.—THE EDUCATIONAL LEVELS OF ARMY MALE ENTRANTS (NONPRIOR SERVICE)[1]

[In percent]

	Some college	High school graduate	Nonhigh school graduate
1964 draftees	17.2	54.1	28.7
1964 enlistee	13.9	46.2	39.9
Fiscal year 1975	5.7	48.6	45.7
Fiscal year 1976	4.1	51.5	44.4
Fiscal year 1977	5.1	51.1	43.8
Fiscal year 1978	4.5	65.5	30.0
Fiscal year 1979	3.2	55.4	41.4
18- to 19-yr-old males (1978)	40.1	39.9	20.0

[1] Source: Accession data from Department of Army statistics Civilian data from U.S. Census, Current Population Report P-20, No. 335.

The data in Table I also reveal an even sharper decline in the proportion of Army entrants with some college from the pre- to the post-Vietnam periods. Where 17.2 percent of the draftees and 13.9 percent of the enlistees in 1964 had some college, the corresponding figures in the all-volunteer Army have been around 5 percent. It is startling to learn that in 1980 among first-term enlisted personnel in the entire U.S. Army there were only 276 college graduates (out of 339,678 members), and only 25 college graduates in all the combat arms (out of 100,860 men).

Racial Composition. The various services differ in their racial composition. The pattern has been for the Army to have the highest proportion of blacks, followed in order by the Marine Corps, Air Force, and Navy. In 1979 blacks accounted for 28.9 percent of the Army, 19.8 percent of the Marine Corps, 13.8 percent of th Air Force, and 9.7 percent of the Navy. These percentages include both officer and enlisted personnel. The issue of racial content has been most prominent in the Army, the largest of the services. As shown below in Table II, black participation varies by pay grade, although the overriding trend has been toward greater black participation at all levels. Blacks made up 11.8 percent of enlisted personnel in 1964, 17.5 percent in 1972 (the last year of the draft), and 32.2 percent in 1979.[1]

TABLE II.—BLACK PARTICIPATION IN THE ARMY BY PAY GRADE, 1964–79 *

[In percentages]

	1964	1972	1979
Officers:			
0–7 and above (general)		1.8	5.2
0–6 (colonel)	.2	1.5	4.3
0–5 (lieutenant colonel)	1.1	5.3	5.3
0–4 (major)	3.5	5.0	4.5
0–3 (captain)	5.1	3.9	6.9
0–2 (1st lieutenant)	3.6	3.4	9.7
0–1 (2d lieutenant)	2.6	2.2	9.4
Warrant	2.8	4.5	5.9
Total, officers	3.3	3.9	6.8
Enlisted:			
E–9 (sergeant major)	3.3	8.6	19.0
E–8 (master sergeant)	5.8	14.4	23.9
E–7 (sergeant 1st class)	7.9	19.9	25.2
E–6 (staff sergeant)	12.2	23.9	22.8
E–5 (sergeant)	14.8	16.9	28.6
E–4 (specialist 4)	12.5	14.1	33.7
E–3 (private 1st class)	11.9	16.7	37.8
E–2 (private)	11.6	18.5	37.9
E–1 (private)	6.4	18.4	37.3
Total enlisted	11.8	17.4	32.2

* Source: Department of Army statistics.

It is a well-recognized fact that the educational levels of blacks in America have trailed behind that of whites. But, the intersect of race and education is quite different among entrants in the all-volunteer Army. Since the end of the draft, the proportion of NPS black males with a high school diploma has been 65 percent compared with 54 percent for whites. In point of fact, today's Army enlisted ranks is the only major arena in American society where black educational levels surpass those of whites and by a significant degree. Whereas the black soldier seems fairly representative of the black community in terms of education and social background, white entrants of recent years are coming from the least educated sectors of the white community. My stays with Army line units also leave the distinct impression that many of our young enlisted white soldiers are coming from non-metropolitan areas. I am even more impressed by what I do not often find in line units—urban and suburban white soldiers of middle-class background. In other words, the all-volunteer Army is attracting not only a disproportionate number of minorities, but also an unrepresentative segment of white youth, who are more uncharacteristic of the broader social mix than are our minority soldiers. Though put far too crassly, there is an insight in the assessment given me by a longtime German employee of the U.S. Army in Europe: "In the volunteer Army you are recruiting the best of the blacks and the worst of the whites."

Women. No change in the makeup of the AVF has received as much media attention as the growing number of women service members. An argument could be made that the margin of success in AVF recruitment has been in the sharp rise of female entrants, virtually all of whom until late 1979 were high school graduates. Before the Vietnam War, the utilization of women as military personnel was essentially token. In 1964, only 1.1 percent of uniformed personnel were female. In 1974, the figure had risen to 3.5 percent, and by 1979 it reached 7.5 percent. Projections for 1984 are for women to comprise about 12 percent of the enlisted force. The role of females has been expanding rapidly in the first phase of the AVF. That many male soldiers believe women shirk full responsibilities, and that the men end up with added workloads and late night shifts, may speak more to informal policy and personal preference than to innate capabilities. But in the years to follow the increase in female utilization will in all likelihood be much slower than anticipated. One important factor in this regard is the emotionally ladened decision as to whether women will be recruited for combat roles, even though there has already been an undeniable movement of females into jobs near combat.

There have also been difficulties in incorporating enlisted women into non-traditional assignments even outside the combat arms. These include rates of attrition much higher than for comparably educated males, the incidence of pregnancies, and the reluctance on the part of many women to accept permanent assignments outside clerical and health settings. There is also the fact that women in the military, as is true for all service members, are paid according to rank, not whether they are in traditional or non-traditional roles. Thus the appeal of higher salaries in non-traditional work that occurs for females in the civilian economy does not apply to military women. This is not to argue that the ceiling on female personnel has been reached, but that further expansion into non-traditional tasks will be very gradual. The 1979 policy change to accept female high school dropouts will only further complicate the utilization of women soldiers.

Marital Status. Though usually neglected by students of all-volunteer trends, there has been a significant change in the marital composition of the junior enlisted ranks. Since the draft's end, the proportion of marrieds at grade E–4—the modal junior-enlisted pay grade—has about doubled, to around 45 percent. The high incidence of junior-enlisted married personnel is all the more noteworthy in that it runs directly counter to national patterns, where the clear trend is toward later marriage. Today just about every major military base in the United States is ringed by trailer camps or shoddy apartment complexes where many of the young enlisted marrieds live an existence close to or below the poverty line. Overseas—such as in Germany, where young military couples live "on the economy"—they face cultural isolation as well as financial distress. Moreover, the new phenomena of intra-service marriages, and fraternization between officers and enlisted personnel of the opposite sex, have hardly been acknowledged, much less appraised for their effects on organizational readiness.

ECONOMETRICS GOES ROLLING ALONG

Ultimately, the problems of the AVF are not explained by the end of conscription, nor the declining youth cohort of the 1980's, nor a failure of service recruiters—who have accomplished a task of immense proportions. The crucial flaw has been a redefinition of military service in overly econometric concepts and models. The redefining process was given powerful expression by the 1970 President's Commission on the All-Volunteer Force—the Gates Commission. It is a theme that recurs in officially sponsored assessments of the AVF. This has contributed to moving the American military away from an institutional format to one more and more resembling that of an occupation. It has led to ignoring or glossing over the difficulties the AVF has confronted since its inception. The main fault stems from the economists' assumption that the armed forces are just another part of the labor market, and from an unwillingness to grasp the essential distinctions between military service and civilian occupation. It is this faulty theoretical underpinning, not the end of conscription, that has brought the American military to its present plight.

Sustained by their authority among civilian policy makers in the Pentagon (under both Republican and Democratic administrations), the econometricians have overcome the collapse of their arguments with remarkable ease. Though the econometricians do not say it in so many words, it is hard to miss in their analyses the premise that middle-class youth participation in the rank and file is irrelevant to AVF manpower issues. And so declines in the representativeness of the force (when Defense Department officials are candid enough to admit such declines) are dismissed if end-strength goals are met. If initial-strength targets are not achieved, then new ones are set forth with downward adjustments. If even these lowered goals are not met, it is argued that marketplace mechanisms were never tried. Instead of rethinking their propositions or admitting their earlier data were distorted, the econometricians admonish us to try more of the same, to continue to recruit at the margin to fill empty spaces. Under no circumstances, however, are their assumptions allowed to be challenged.

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[1] Among Army senior sergeants blacks are considerably better represented in 1979 than at any earlier time. This reflects the black reenlistment rate in the 1970's being 1.6 times greater than that of whites. At the non-commissioned officer level, we can expect blacks to play an increasingly important and stabilizing role. Blacks continue to be underrepresented in the officer corps, with the partial exception of company-grade officers. A disproportionately white officer corps with a disproportionately black enlisted component will be one of the sociological considerations in the Army leadership of the 1980's.

One of the main presumptions of the Gates Commission was that, with longer-term enlistments, there would be less personnel turnover than in a military system heavily dependent upon draftees and draft-motivated volunteers. This has turned out not to be the case. Since 1973 over 600,000 young people have been prematurely discharged from the military for reasons of indiscipline, personality disorders, job inaptitude, and the like. The striking finding is that high school graduates are twice more likely than high school dropouts to complete their enlistments. More revealing, this finding is virtually unchanged when mental aptitude is held constant. High school graduates from the lower aptitude levels are actually much more likely to finish their tours than high school dropouts in the higher aptitude levels. Overall attrition rates between the races are comparable, with the main exception that blacks in the lower aptitude levels do better than their white counterparts. Other measures of soldierly performance, such as greater productivity and fewer disciplinary problems, show precisely the same correlates as found for attrition rates. In the aggregate, high school graduates significantly out-perform high school dropouts. Possession of a high school diploma, it seems, reflects the acquisition of social traits (work habits, punctuality, Sitzfleisch) which make for a more successful military experience. The facts are also unambiguous that higher-educated soldiers do better across the board—in low-skill jobs as well as in high-skill jobs.

The military has always recruited large numbers of youth, white and black, who had no real alternative job prospects. It will always continue to do so. But present trends toward labeling the Army as a recourse for America's underclasses are self-defeating for the youth involved, precisely because they directly counter the premise that military participation is one of broadly based national service. From the 1940's through the mid-1960's, the military served as a bridging environment between entering low-status youth and eventual stable employment. Whatever successes the military had as a remedial organization for deprived youth were largely due to the armed forces being legitimated on other than overt welfare grounds, such as national defense, citizenship obligation, patriotism, even manly honor. In other words, those very conditions peculiar to the armed forces which serve to resocialize poverty youth toward productive ends depend directly upon the military not being defined as a welfare agency or an employer of last resort. It will be increasingly difficult for the Army to avoid such a characterization, even if unfair, unless enlisted membership reflects more of a cross-section of American youth.

THE ENLISTED RANKS, OLD AND NEW

The rising minority content in the Army actually masks a more pervasive shift in the social class bases of the lower enlisted ranks. To what degree the changing racial composition of the Army reflects white reluctance to join an increasingly black organization is unknown, though it is surely a factor. Yet, I am persuaded that any significant number of middle-class youths of any race would join the Army, under present recruitment incentives, no matter what its racial make-up. That the disproportionately-white Navy and the racially-balanced Air Force also face recruitment problems indicates that there is more than racial content at work in attracting a cross-section of youth to serve in the AVF. It is a social reality that the combat arms especially will never draw proportionately from middle- and upper-class youth. But to foster policies that accentuate the tracking of lower-class youth into such assignments is perverse. To rationalize the outcome as the workings of the marketplace is duplicitous. This is not to argue that the make-up of the enlisted ranks be perfectly calibrated to the social composition of the larger society, but it is to ask what kind of society excuses its privileged from serving in its military.

By no means does being middle class necessarily make one braver or more able. There are many outstanding members in the AVF who have modest educational attainments. But our concern must also be with the chemistry of unit cohesion which requires an optimum blend of talents and backgrounds. Research evidence serves to confirm the observations of commanders and NCO's who remember the draft period: College-educated members enriched the skill level and commitment of military units in peace as well as in war. The distinctive quality of the enlisted experience starting with World War II was the mixing of the social classes and, starting with the Korean War, the integration of the races. This gave poor youth an opportunity to test themselves, often successfully, against more privileged youth. Such enforced leveling of persons from different backgrounds had no parallel in any other existing institution in American society. This was the elemental social fact underlying enlisted service. This state of affairs began to diminish during the Vietnam War when the college-educated avoided service; it has all but disappeared in the all-volunteer Army.

When I visit military units I am still impressed with the way things do get done. This is especially so in Air Force squadrons, ships at sea, and Army and Marine Corps units in the field. Yet there is a growing feeling among many NCO's and officers—and only some of it can be put down to normal grousing—that too much is being asked of too few people, and too much time is spent in handling recalcitrant enlisted men. In maintenance units, the main worry is about the dropping level of experience among technicians. In the ground combat arms, there is the acknowledgement that the "X-factor" middle-class soldiers bring to a unit is no longer there. The days when many enlisted men might be better educated than their sergeants and smarter than their officers are gone. One is struck by the fond reminiscences the older sergeants have of the university graduates who worked under them, and formed the shadow staffs—clerks in personnel, supply, and operations—which made things run smoothly at company and battalion levels.

In the barracks a level of raucousness, if not rowdiness, exists which exceeds the decibel count and temper of the pre-Vietnam Army, though fortunately the edge of racial hostility of the early 1970's has receded greatly. Not that the drafted peacetime Army was a sanctuary of decorum, but the tone of barracks life is no longer modulated by conventional middle-class standards as it was a decade or two ago. What is also happening is that, along with the growing number of enlisted marrieds, an increasing number of single enlisted members are moving off base. This is made possible by the fact that the real disposable income of junior enlisted members is now three times what it was during the peacetime draft. A visitor to a military base today can see clear signs of the young, single GI's new buying power—such as the automobiles in the parking lots. Despite the introduction of fast-food items and more varied menus, fewer and fewer soldiers are eating their meals in the "dining facility," as the old mess hall has been renamed. Overseas, the typical young soldier will purchase an expensive stereo system and save up to fly commercially to the United States to take his 30-day leave back home. It is hard to avoid the judgment that single soldiers' new discretionary income has undermined the quality of barracks life and unit camaraderies.

Another major outcome for the AVF has been a dramatic compression of pay scales within the enlisted force. In the 1960's, the basic pay of a sergeant major with 26 years of service was better than seven times that of an entering recruit. Since the end of the draft, that same sergeant major makes only three and a half times the pay of the recruit. The paradox is that this "front loading" of compensation toward the junior ranks, and changes to improve lower enlisted life (notably, fewer social controls and details, and more private and spacious barracks), canont be appreciated by those now entering the service—they did not experience the old ways! Instead junior enlisted members see little monetary or "lifestyle" improvement over the course of a military career, thereby reducing the likelihood of their choosing to remain in the service. Once upon a time sergeants measured their incomes and perquisites against those of the soldiers they led, and felt rewarded; now they see a relative decline of status within the service and compare their earnings against civilians, and feel deprived.[2]

REVIEWING THE OPTIONS

These difficulties have led to renewed talk of restoring conscription. A return to the draft would pose anew the question of who serves when most do not serve. Under present manpower requirements, less than one in five males would be drafted or otherwise serve in the military. If women were to be drafted, the proportion of youth serving would, of course, be only one in ten. One of the factors that operated favorably for the peacetime draft during the 1950's was that, because of the small youth cohort (the maturing "Depression babies") and the large size of the active force, over three-quarters of eligible men served in the military. This fostered a legitimization of the peacetime draft. In actuality, a higher proportion of men were drafted in the peacetime 1950's than during the Vietnam War.

To have a workable conscription also requires a national consensus as to its need, especially within the relevant youth population. Such a consensus does not presently exist, even in the wake of the events in Iran and Afghanistan. A draft could lead to turbulence on college campuses, and make ROTC units again an object of attack. Moreover, if compulsion is used, many will attempt to avoid induction, which will bring other problems. Even under a seemingly "fair" lottery system, decisions would have to be made which will corrode the induction system. These would include determination of conscientious objection, ersatz physical disabilities, and, given the current climate, claims of homosexuality. That the rate of non-compliance under the reintroduced draft registration will probably remain a mystery forever does not inspire confidence in the probability of an equitable system of conscription. In any event, only a small and, by definition, unlucky minority would ever be called to serve. Although I am one of those former draftees who look upon conscription as a moral good, a bungled draft would leave us in worse straits than even the undesirable status quo. In a peace time situation, we must make the AVF work rather than find ourselves embroiled in a debilitating draft controversy.

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[2] I have not dwelt on the officer corps within the AVF because officer recruitment, on the whole, has not been a problem area in the all-volunteer era. There are no shortages of officer applicants (though there is some muted concern about the quality of officer candidates at some of the academically weaker colleges). There are, however, some declines in career-officer retention, and pressing shortages of skilled personnel such as pilots, engineers, and physicians. The key professional issue within the officer corps is the sense of uncertainty as to whether the AVF can be made to work. Steps to improve the quality of enlisted entrants and the regard in which military service is held by the civilian society can only redound beneficially to the professional commitment and self-image of the officer corps.

Granting conscription is not in the offing, what management steps could be taken to improve manpower utilization within the all-volunteer framework? Unfortunately, few proposals in this vein—a kind of sub-optimal approach—address the core issue: getting young, qualified men into the combat arms and related tasks. Neither lowering physical or mental standards, nor increasing the number of women, nor greater reliance on civilian personnel, suit the imperatives of the combat arms. Large raises in military pay for lower enlisted personnel, a central Gates Commission recommendation, were the principle rationale to induce persons to join the AVF. This has turned out to be a double-edged sword, however. Youth surveys show that pay motivates less-qualified youth (for example, high school dropouts and graduates with poor grades) to join the armed services, but has a negligible effect on college-bound youth. Any policy based on increases in pay to the lower enlisted will only aggrevate the present trend to recruit at the margin.

Underlying many of the difficulties of the AVF is a source of enlisted discontent that had no real counterpart in the peacetime draft era. This is post-entry disillusionment resulting from unrealistic expectations as to what the military would offer. The peacetime draftee never held high expectations on what he would encounter and therefore was not unpleasantly surprised; indeed, he might often—at least in hindsight—find the Army favorable on its own terms. In all-volunteer recruitment, however, a consistent theme has been the self-serving aspects of military life—that is, what the service can do for the recruit in the way of training in skills transferable to civilian jobs. Post-entry disillusionment speaks directly to the excessive attrition rate. The irreconcilable dilemma is that many assignments—by no means exclusively in the combat arms—do not have transferability to civilian jobs.

MAKING THE AVF WORK

The central issue remains: Is there a way to meet military manpower needs without direct compulsion or execessive reliance on cash inducements for recruits? Or, to put it differently, is there a way to obtain the analogue of the peacetime draftee in the all-volunteer era? I believe there is. First, link federal aid for higher education to a program of voluntary national service, including military-reserve duty or civilian work. Second, introduce a GI Bill for the AVF. Third, construct a two-track military personnel and compensation system which differentiates between a short-term volunteer and one who makes a long-term commitment. The total costs of these proposals could easily be contained within present federal outlays, and would probably be lower.

Educational benefits now conflict with the AVF. The major barriers to more effective recruitment have been the elimination of the GI Bill in 1976 and concurrent expansion of federal assistance to college students. Congress has created a system of educational benefits which offers more to those who do not serve their country than to those who do. Under the Veterans Educational Assistance Program (VEAP), which replaced the GI Bill, the government matches, within prescribed limits, voluntary contributions made by service members. It is estimated that governmental expenditures for VEAP will be under $100 million annually. But, for 1980 alone, federal aid to college students will reach more than $4.4 billion, and this sum is projected to increase to over $7 billion by 1985.

The funds allocated to civilian students in major assistance programs in 1980 (in billions) were: Basic Educational Opportunity Grants, $2.275; Supplemental Educational Opportunity Grants, $0.370; College Work-Study Program, $0.550; National Direct Student Loan, $0.286; and Guaranteed Student Loan, $0.960. With passage in 1978 of the Middle Income Student Assistance Act (MISA), eligibility for Basic Educational Opportunity Grants can extend to families earning over $25,000 annually. Also under MISA, there is no need requirement for the Guaranteed Student Loan Program. The Work-Study Program is becoming a major source of graduate student support. A college student who can establish self-supporting status, moreover, is eligible for most federal assistance programs. Such governmental policies can hardly be thought of as part of a poverty program. In effect, we have created a GI Bill without the GI.

It is surprising that no public figure thought to tie such student aid to any service obligation on the part of the youths who benefit. A program of voluntary national service should be introduced on a step-by-step basis over the next five years. In the interim, those who enlist in military-reserve units or perform one year of civilian service would have priority for federal aid to college students; in time, participation in such national service would become a prerequisite for eligibility for federal college assistance. Only persons medically exempt from national service would not be held to this standard.

Provisions of a GI Bill for the AVF. Concurrent with linking federal educational assistance beyond high school to national service, we should introduce post-service educational benefits for member of the AVF along the lines and scale of the GI Bill following World War II. In this way maximum federal educational benefits will be allotted to those who serve on active duty. A person who enlists in the armed forces and completes his or her two-year obligated period of active duty would be entitled to college or vocational-school assistance as follows: 1) the costs of tuition and fees up to $3,000 per academic year in a private institution, or up to $1,000 per academic year in a public institution, for a maximum of four years; 2) a subsistence stipend of $300 per month while enrolled in school for a maximum of 36 months; and 3) such entitlement would depend upon an appropriate reserve obligation, say four years, following active duty.

On the bases of analyses conducted by congressional staffs, the maximum directs costs of such a program would be under 2 billion dollars per year. There would also be substantial countervailing reductions in the net costs thanks to a lower AVF attrition rate, smaller recruitment outlays, an end to combat-arms bonuses, and, most likely, fewer lower-ranking service members with families. With these savings, the real costs of a GI Bill would be under 1 billion dollars annually—less than a quarter of present federal expenditures for college-assistance programs. The yearly costs of a generous GI Bill, such as outlined here, would be much less than merely the annual increases projected for the next five years for federal college aid.

Citizen soldier and career soldier: complementary roles. The definition of military service in the all-volunteer context needs overhauling as much as does the machinery of military recruitment. The armed services can set up a two-track personnel system recogizing a distinction between a "citizen soldier" and a "career soldier."

The career soldier would initially enlist for a minimum of four years. He or she would receive entitlements and compensation in the manner of the prevailing system, but there would be significant pay increases at the time of the first re-enlistment and throughout the senior NCO grades. Most such persons would be trained in technical skills, though others would make up the future cadre in a variety of military specialties. In certain skill areas with extreme shortages, an extra re-enlistment bonus might be required. Additionally, a re-enlistemnt bonus might be offered in lieu of GI Bill benefits, or GI benefits might be passed on to family members. Alternatively, a career soldier's GI Bill might be used to take a "sabbatical" involving an engineering or science curriculum for future technical work in the military. The career force must also be given adequate housing and food allowances, and reimbursement for government-ordered travel. Steps such as these would go a long way toward the retention of the experienced and trained personnel required for a complex and technical military force.

The citizen soldier would enlist for two years of active duty (the term of the old draftee) and be assigned to the combat arms, low-skill shipboard duty, aircraft security guards, clerical work, and other labor-intensive positions. Except for clerical work, these are the kind of assignments in today's AVF where recruitment shortfalls, attrition, and desertion are most likely to occur. Active-duty pay for the citizen soldier would be lower—say by on-third—than that recevied by the career soldier of the same rank. Other than the GI Bill, the citizen soldier would receive no entitlements such as off-base housing or food allowances. This would reduce the frequency of marriage at the junior enlisted levels and restore unit cohesion in the barracks. Because there would be no presumption of acquiring civilian skills in the military, the terms of such service would be honest and unambiguous, thus alleviating a major source of post-entry discontent in the AVF. A college or graduate education, or vocational training, in exchange for two years of active duty would be the means to attract highly qualified soldiers who can learn quickly, serve effectively for a full tour, and then be replaced by similarly qualified recruits. Enlistment studies show a combination of short enlistments and educational benefits attracts a wider cross-section of young people than does higher entrance pay.

One feature of the two-track system presented here is that, because of the higher active-duty compensation in the career track, some of the two-year joiners will opt for the longer commitment once in the service. This will further reinforce retention in the career force. But the overwhelming number of citizen soldiers will undoubtedly leave active duty after two years and, if they take advantage of the GI Bill, go on to the reserves—a preferred outcome. For without much greater reliance on prior-service personnel, there seems to be no way to salvage Army reserve components in an all-volunteer context. The dominant economistic model of the AVF relies on the mistaken notion that long initial enlistments are always to be preferred over short-enlistments. Thirty-six percent of all enlisted entrants in 1964 signed on for four or more years compared with 62 percent in 1979. Yet with the high attrition rate, the personnel turnover is almost as great now as it was in the peace-time draft era, not to mention the differences in organizational costs between a service member who is prematurely discharged and one who successfully completes an obligated tour.

The overriding strategy is to make governmental subsidies of higher education consistent with the ideal that citizen obligation ought to become a part of growing up in America. Such a realization would also clarify the military's role by emphasizing the larger calling of national service. The architects of the present AVF have failed to consider these kinds of issues, but we must. The AVF, if it is to survive, must attract those middle-class and upwardly-mobile American youths who would find a temporary diversion from the world of school or work tolerable, and perhaps even welcome.●

THE WARREN GRANT MAGNUSON CLINICAL CENTER

● Mr. CHURCH. Mr. President, I am honored to be a cosponsor of Senate Joint Resolution 213, to name the clinical center at the National Institutes of Health for Senator WARREN G. MAGNUSON.

When Senator MAGNUSON first took his seat in the House of Representatives in 1937, he introduced a bill to create the National Cancer Institute. During the 24 years we have served together in the Senate, I have often heard Senator MAGNUSON called the "father of the National Cancer Institute," and the entirety of National Institutes of Health. No child could make a father more proud.

All Americans appreciate the contributions that NIH has made to health research and the well-being we in the United States enjoy. However, perhaps too few are aware that NIH draws patients from throughout the country to its Clinical Center, providing advanced treatments that can be found nowhere else.

Over the years, Mr. President, I have made it my practice to visit Idaho patients at NIH. I have often been reminded in my trips there of Senator MAGNUSON's role in establishing NIH, and I have thought it should really be "MIH," the Magnuson Institutes of Health. This legislation is a best but still small tribute to the towering achievements of Washington's senior Senator.

On a personal note, Mr. President, those few who have been privileged to serve in the U.S. Senate over the last 36 years have so many MAGGIE stories to tell that they, themselves, could fill volumes of our experiences. MAGGIE is a very special man, and a very special public servant. The people of my State of Idaho may never know how much he has been a third Senator for our State, but we will always remain good neighbors, and good friends.●

JAVITS' ANNUAL REPORT—1980

● Mr. JAVITS. Mr. President, as I have done each year of my career in the Senate and the House of Representatives, I am submitting this report of my work to the citizens of New York.

This will be my last such report—as I was not reelected at the end of my fourth Senate term—and I offer it with the same sense of accomplishment with which I have offered the 23 others that preceded it in the Senate and those that I presented during my four terms in the House of Representatives. There may be no landmark pieces of legislation here that will stand with the war powers resolution or the ERISA pension protection law or the National Endowment for the Arts and the Humanities, all of which I number as significant achievements of my public career. But I believe that the measures reported on here nonetheless contain some real and important benefits for the people of New York and, for the Nation. Much remains to be done in many areas, however, and this report is offered also with some feeling of regret for goals not achieved and legislative opportunities unfulfilled.

We must guard against complacency and be wary of those who offer us simplistic solutions to the difficult problems that confront us at home and abroad. We must remember always that our policies must be formed on the assumption that "it can happen here," that we are not immune from movements and currents that affect the rest of the world.

We need innovative and comprehensive measures that will deal with the width and breadth of our problems and difficulties and offer equal benefit to all sectors of our society. We cannot afford to play off one segment against the other or favor one group over another; further, there must be a moral dimension to the legislation we develop. These are the guidelines I have used for myself during my career; they have served me well and I believe they have served the people of New York and the United States.

I have spent much time during this 96th Congress working on ways to restore strength to our economy, and I hope my colleagues and the new administration will continue the commitment to improving conditions in our cities and for the chronically unemployed and for our disadvantaged youth. Only if all our citizens feel that they have a personal stake in our society will they be willing and able to participate in rebuilding it.

So it is, too, with the critical energy and defense and foreign policy decisions that must be made in the coming years. All these problems are interrelated; none can be considered in isolation from the other. While specific problems must be dealt with individually, they must all be considered as part of an overall program that will carry this Nation through the remaining years of this century and position it for greater growth, security, and world moral leadership.

I had hoped that the major foreign policy initiative of this Congress would be the strategic arms limitation treaty (SALT). But the Soviet invasion of Afghanistan and the hostage crisis in Iran diverted our attention and made that impossible. It is critically important, I believe, that we turn again to the grave problem of controlling strategic nuclear weapons.

I am encouraged by the mandate the American people have given the new administration and by the knowledge that my party will be in control of the Senate for the first time in more than a quarter of a century.

For myself, I wish to thank the people of New York for having given me the opportunity to serve them for so many years.

THE ECONOMY

The state of our economy was on the minds of all New Yorkers and Americans and occupied much of my time.

As chairman of the Senate Republican Policy Task Force, I put forward their proposals to brake the momentum of inflation and to stimulate production and jobs through the modernization of the U.S. industrial machine:

First. A limitation of Federal outlays to a percentage of the gross national product (GNP) must be adopted, and we established this figure at 21 percent for fiscal year 1981.

Second. The Federal budget for fiscal year 1981 must be balanced without tax increases—and as a threshold, rescissions will have to be made in spending for fiscal year 1980—and we commit ourselves to a balanced budget over a period of years.

Third. Federal taxes must be reduced and tax laws changed to encourage greater individual and business savings, investment, output and productivity and thus more jobs for Americans.

Fourth. America's energy dependence on foreign imports must be reduced by 50 percent over the next decade through conservation and domestic energy production.

Fifth. An immediate program of regulatory reform must be undertaken.

Sixth. A real export drive must be implemented.

Seventh. The formation of appropriate labor-management committees to deal with the problems of worker morale and of youth and structural unemployment must be encouraged to improve the participation and productivity of the U.S. work force.

To initiate this program, I cosponsored a bill to reduce personal income tax rates by 10 percent in fiscal year 1981. I believe immediate and substantial across-the-board personal income tax reduction is necessary now to offset higher taxes caused by inflation and scheduled social security tax increases.

I also cosponsored the bill to help restrain inflation by encouraging greater personal savings. Now law, this bill exempted from Federal taxation the first $200 of savings interest on dividend income—$400 on a joint return.

Yes, I oppose the idea of a constitutional amendment to require a balanced Federal budget each year. Barring recession, Congress can bring the Federal budget into balance; forcing budgetary balance by constitutional amendment could lead to increased taxation as the balancing mechanism. We need to preserve our flexibility to respond to domestic and international emergencies and should not straitjacket ourselves unnecessarily.

Inflation hits the cities, the poor, the elderly, and the sick the hardest of all. For this reason, I introduced, with Senator Nelson of Wisconsin, an amendment to the first budget resolution for fiscal year 1981 to reallocate the budget by increases in Federal funds for mass transit, health care, education and job training, social security, and countercyclical fiscal assistance by adding $2.4 billion to these categories, and trimming some others—not defense, indeed, my figure was the one adopted by the Congress—but the amendment was defeated in the Senate.

DEFENSE AND FOREIGN POLICY

The Soviet invasion of Afghanistan, the painful lingering and exasperating hostage crisis in Iran and the Iran-Iraq war have made 1980 one of the most ominous years in U.S. foregin policy since 1945. American interests seemingly are challenged everywhere and the response of the United States, as seen by many, has not been adequate; certainly, there are scant concrete results that we can point to with a sense of pride and accomplishment.

However, the United States, its NATO allies and Japan, Australia, and New Zealand are the most powerful conglomeration of powers in history. The challenges that face the United States also face these allies. To insure the adequacy of our combined response, I have taken a number of measures during the past year. These actions include supporting a continuation of the SALT process, funding for the United States and allied defense budgets and President Carter's request for draft registration, advocating a joint United States-allied naval presence in the Indin Ocean, increasing the amount of U.S. International Security Assistance, including credits for arms purchases for Israel and helping through the Congress the International Security Assistance and Development Cooperation Act of 1980 which provides needed worldwide security and economic assistance to U.S. allies and trading partners.

I also organized an effort to express the views of 68 Senators to the President that it would be unwise to sell to Saudi Arabia sophisticated new munitions and equipment that would give that country's F-15 aircraft an offensive capability against Israel.

I worked diligently to press the case of numerous human rights issues, particularly those involving the freedom to emigrate, where the Soviet Union has failed to maintain its pledges, especially those in the Helsinki agreement.

I pressed hard for Senate action of a bill to promote new programs and policies to further the fight against international terrorism by penalizing nations aiding and abetting terrorism; however, the Senate was unable to take final action on this bill.

I helped to prevent the sale of wide-body commercial aircraft to governments supporting terrorists and I worked to stop the sale of naval frigate engines to such governments.

ENERGY

Energy is another area of critical concern to us. It is vital to our Nation's security that we reduce our dependence on oil imports. I have long advocated conservation as the most immediate and effective method of relieving our dependence on foreign oil. The 15 percent energy conservation tax credits I cosponsored in 1976 became law in 1978 and were expanded this year. In April of this year DOE announced the 9-month extension of the emergency building temperature restrictions program which I had urged. The program requires that thermostats in commercial buildings be set no higher than 65 degrees in winter, and no lower than 78 degrees in summer. According to a preliminary study this saves over 300,000 barrels of oil a day.

In February, the Senate passed a bill which I cosponsored and floor managed to reform the Federal weatherization assistance program. The bill, which did not pass the House, provides $2.2 billion for insulating the homes of the poor over the next 3 years; New York would receive $242 million of this money. Weatherization services include the installation of storm doors and windows and energy saving thermostats.

I was a cosponsor of the Energy Security Act, signed into law by the President on June 30. This measure established the Synfuels Corporation and is a major step toward our Nation's energy independence. Requirements I proposed in 1977 for national production targets for each new fuel source were included in this act. The act also established a $3 billion Solar Energy and Energy Conservation Bank which will provide loans for solar technology to citizens and builders. This Bank marks the culmination of the efforts I have made for half a decade to accelerate commercial use of solar energy.

I have long pressed for continued improvements in the safety and security of nuclear power, an important source of fuel as we work for the transition to renewable resources.

Legislation passed which I sponsored with Senator Moynihan authorizing U.S. officials to begin cleanup of nuclear wastes at West Valley. Enactment of the bill on October 1 allows the Federal Government to assume its proper responsibility for helping New York pay the cost of the cleanup as the site was a joint venture between the Federal Government and the State.

I also helped secure $8 million for important research into laser fusion energy at the University of Rochester, Brookhaven National Laboratories and Long Island and Adelphi Universities.

WORLD ECONOMY

The world economy in the past year has been relatively stable but plagued by inflation and slow growth. While the dollar strengthened against the currencies of our major trading partners and the U.S. current account deficit was reduced, many of the structural problems that faced the world economy in the past 10 years continued in 1980. I am very concerned that the International Monetary Fund (IMF) failed to agree to the establishment of a substitution account, which I have supported for a number of years. This account would have lessened the almost exclusive reliance on the dollar as the key international reserve asset in favor of the special drawing rights (SDR). I am concerned, too, that, should the economy revive in 1981, we will not have a strong export-oriented reindustrialization program that will make U.S. exports internationally competitive, permitting us to avoid balance-of-payments problems.

As a longtime supporter of U.S. participation in global negotiations within the United Nations framework, I served as congressional advisor to the U.S. delegation to the United Nations General Assembly Eleventh Special Session on Development, which was held in August and September. This U.N. Special Session on Development focused on the world economic problems. I believe that such global negotiations are important not only to accelerate the economic and social development of the developing nations but also to insure the adequacy of markets for U.S. exports.

An important factor in strengthening the dollar is improved U.S. export performance, especially in the developing countries and in emerging markets, such as China. As a member of the President's Export Council (PEC) and the Senate Export Caucus, I have worked to marshal the full export potential of this country by encouraging U.S. business to venture into foreign markets and to insure that the Federal Government assists, not hinders, the realization of our export potential.

The international security and development bill for 1980, authorizes appropriations for fiscal year 1981 of $2 billion for international development and economic assistance. This legislation is important not only for its contribution to economic growth in the developing countries but also for its direct economic impact on the U.S. economy. Four of my amendments were included in this legislation: the first provides greater economic assistance for Israel and Egypt, which will give these two countries added resources to deal with their economic problems and will serve as a further inducement for them to continue their progress toward peace; the second provides debt relief to the poorest developing countries to generate funds to be used for development projects in the recipient nations; the third amendment provides $25 million for the American schools and hospitals abroad (ASHA) program; and the fourth earmarks $51 million to be used for U.S. contributions to international development research and health projects.

I introduced legislation this year to extend the authority of the Overseas Private Investment Corporation (OPIC) through 1985 and encourage economic development in the less developed countries by giving the agency a trade objective. This bill will help foster economic development by encouraging private U.S. investment which will generate jobs for U.S. workers through increased trade with developing nations that will result. I also sponsored a bill which now allows OPIC to operate in the People's Republic of China.

I took an active role in facilitating legislation to authorize a 50-percent increase of $5.5 billion in the U.S. quota in the International Monetary Fund (IMF). Because of steadily increasing oil prices, this central monetary institution is becoming increasingly critical for financing balance of payments stabilization programs in both industrialized and developing nations and maintaining the stability of the international monetary system.

The impact of the dramatic increases in Japanese auto imports to the United States is extremely serious, and I have worked to insure that prudent trade policies are implemented to mitigate the effects of Japanese car imports without unduly disrupting our world trading system. I cosponsored resolutions calling for the development of a national economic strategy in order to avoid the massive and lasting damage threatening the automobile industry and declaring that the President has the authority to negotiate an orderly marketing agreement with Japan regarding automobile imports.

I also have worked to institute trade policies which promote competitiveness in the domestic steel industry and fairness in world steel trade. In March I wrote to the President requesting the extension of the trigger price mechanism (TPM) to specialty steel products. Also I wrote to Secretary of Commerce Philip Klutznick about the effect of rising energy and raw material costs for the specialty steel wire industry and expressing a concern that these costs were not properly being taken into account in determining the TPM for specialty steel.

Imports have also had a serious impact on the domestic leather industry. In March I wrote to the President supporting the International Trade Commission decision that import relief be granted to the domestic industry. Together with other Senators, I also wrote to Secretary of Defense Harold Brown asking for the Department of Defense to reconsider procurement policies for leather shoes to reflect changing leather costs in order to restore the longstanding military practice of purchasing leather products.

As a member of the Senate Export Caucus I contributed to the drafting of the National Export Policy Act which provides a blueprint for addressing our lagging trade performance. The bill, which I cosponsored, provides the first complete trade policy statement from the Congress.

In support of our international trade competitiveness, I cosponsored the Export Trading Company Act of 1980, which encourages joint ventures and publicly owned trading companies which will combine the strengths and resources of a number of small- and medium-size companies which individually might not be able to penetrate foreign markets. The bill passed the Senate by a unanimous vote and should provide jobs and added profitability to firms and would certainly enhance New York's export performance.

I continue to be concerned about the administration of the trade adjustment assistance (TAA) benefits which, in today's environment of expanded world trade and reduced import barriers, are more critical than ever to import-impacted workers and firms. I have worked for passage of new TAA legislation which will provide both expanded benefits to eligible workers and firms and also true adjustment measures to correct our competitive disadvantage.

A product of the thaw in relations between the United States and the People's Republic of China (PRC) was the negotiation of a settlement of U.S. claims on assets seized many years ago by the PRC. Legislation I introduced changes the distribution of those claims to aid nonprofit and charitable organizations which were unable to exercise certain tax options available to business.

REGULATORY REFORM

Regulatory reform was one of the most important issues faced by the 96th Congress. I was a principal cosponsor of the Regulatory Improvements Act which passed both the Governmental Affairs and Judiciary Committees this session. The legislation would require agencies to consider carefully the cost of proposed regulations, and would reduce delay in agency hearings.

As part of this legislation, I offered an amendment, which the committee adopted, to provide funding to consumer groups, small businesses and others to participate in agency rulemaking proceedings where they otherwise lack the financial resources to do so.

YOUTH EMPLOYMENT

I am a principal coauthor of the Youth Act of 1980. This legislation would strengthen and amplify existing linkages, first enacted in 1977 on the basis of the Humphrey-Javits bill, between education and work for disadvantaged youth in areas of chronic unemployment. I strongly support provisions of the bill which make funds available to school districts for the basic skills development necessary for productive employment. These funds should substantially assist in the eradication of structural barriers to employment faced by minority and other disadvantaged youth. The bill should serve as a guide in the next Congress.

EDUCATION

I have attempted throughout my Senate career to improve the quality of our educational system and to remove the financial and social barriers which would hinder students in obtaining a quality education, and a number of my legislative initiatives became part of the Education Amendments of 1980, which are now law. Included in this are measures to:

Remove penalties placed on TAP aid and institutional assistance to students in the calculation of institutional supplemental educational opportunity grants.

Increase the maximum basic educational opportunities grant to needy students from $1,800 to $2,600 over a 5-year period.

Increase the limit on student loans to $15,000 for undergraduate students and $25.000 for undergraduate plus graduate study.

Establish new programs for fellowship assistance to graduate students in the humanities and social sciences, linkages between the business and higher education communities and grants to urban universities for assistance in the solution of selected urban problems.

ASBESTOS IN SCHOOLS

While the complete extent of asbestos hazards in schools is not yet known, it may seriously affect the health of thousands of children and school personnel. For this reason I authorized the Asbestos School Hazard Detection and Control Act, which became law on June 14. Under this legislation, school districts may apply directly to the Federal Department of Education for grants and loans to detect and remove asbesotos.

MENTAL HEALTH

I cosponsored the Mental Health Systems Act, which was enacted this year. This legislation will improve access to mental health services for previously underserved populations, such as minority and ethnic groups and youth and the elderly, and will improve State coordination of such services. In addition, I authored a "Bill of Rights" which was encorporated into the Mental Health Systems Act which clarifies and strengthens the constitutional rights of both patients and providers in mental health institutions and protects the rights of individuals receiving mental health treatment in organized settings.

HEALTH MANPOWER

I am a cosponsor of the Health Professions Training and Distribution Act of 1980 which authorizes assistance for health professions students and schools, as well as allied health and nurse training programs. I also authored the Health Care Management and Health Care Personnel Distribution Improvement Act of 1980, which contains provisions to promote stronger health care management, improve the geographic and specialty distribution of physicians and decrease U.S. dependence on alien graduates of foreign medical schools. These two bills were combined, but the overall measure was not enacted before the Congress adjourned.

MEDICAL X-RAY SAFETY

In April I introduced the Medical Radiation Safety Act of 1980 to protect the public from unnecessary exposure to medical X-rays by providing for standards to certify medical and dental X-ray technicians and to insure the safety of medical X-ray equipment through quality assurance programs. The certification provisions have been incorporated into the health manpower legislation which passed the Senate but died in conference.

FINANCIALLY DISTRESSED HOSPITALS

Using the lessons learned when I helped to obtain Federal assistance for the Brooklyn Jewish Hospital Center and the Metropolitan Hospital when they experienced financial crises, I introduced two bills to address this growing problem of fiscally distressed hospitals. The Financially Distressed Hospital Assistance Act would make emergency grants available to essential community hospitals to avert closure. The Hospital Ambulatory Services Reimbursement Reform Act is designed to keep acute financial crises from recurring after stability has been achieved; and to prevent such crises from occurring in other hospitals by restructuring medicare and medicaid reimbursement policies. Hearings regarding this legislation were held during the year by the Senate Health Subcommittee but further action was not possible this year due to time constraints.

BIOMEDICAL RESEARCH

As a member of the Senate Health Subcommittee, I have long recognized the importance of advanced research in our Nation's science and medical programs. I am a cosponsor of the Health Sciences Promotion Act of 1980, designed to promote research and investigation on biomedical programs and to support health sciences training programs. This legislation was signed into law by the President.

INFANT FORMULA

Last year the country suffered a major tragedy when a number of infants were fed chloride-deficient infant formula causing severe developmental problems. To insure that this does not recur, I cosponsored the Infant Formula Act of 1980 which was enacted this year. This bill authorizes the Secretary of HHS to establish nutrient requirements for infant formulas, as well as quality control procedures to assure compliance with nutrition standards.

CHILD HEALTH

I cosponsored a major child health program, the Child Health Assurance Act (CHAP), which passed the House but did not come to the Senate floor because of the press of business prior to adjournment. This vital initiative would have provided medicaid funding for health assessment and treatment services for all poor children, regardless of their eligibility under categorical standards for medicaid.

INTERNATIONAL HEALTH

I authored the International Health Act of 1979, which is designed to strengthen U.S. efforts to assist the less developed countries in becoming more self-sufficient in health care. In my judgment, no aid dollar can better be spent than improving the health and therefore the motivation of the peoples of developing countries. Hearings on this legislation were held by the Senate Health Subcommittee.

MEDICAL RECORDS PRIVACY

The Privacy Act Amendments of 1980, which I authored, was reported favorably by the Governmental Affairs Committee by a unanimous vote but did not reach the floor. It would prohibit disclosure of patient records without the patient's consent, and places restrictions on access to medical records by Government authority. The bill would also allow patients greater access to their own records. It is a clearly indicated initiative for the next Congress.

SERVICES TO FAMILIES

I was an original cosponsor of the Domestic Violence Prevention and Services Act which would assist State and local public and private nonprofit agencies in providing immediate shelter for victims and counseling for victims and perpetrators of domestic violence. The House-Senate conference report is still pending.

PENSIONS

The Multiemployer Pension Plan Amendments Act of 1980, jointly sponsored by me, was signed into law on September 26. This measure amends the 1974 pension reform law (ERISA), of which I was a principal coauthor, by redesigning the plan termination insurance program for multiemployer plans. The passage of this legislation is the culmination of more than 3 years of hard work to develop a program to protect the benefits of multiemployer plan participants and beneficiaries if their plans become insolvent.

The bill requires faster vesting of certain benefits, imposes a liability on employers who completely or partially withdraw from plans, establishes rules on mergers and asset transfers and requires a program of reorganization for plans approaching financial difficulty. The measure also provides realistic guarantees of benefits under insolvent plans, gradually raises the premium to pay for these guarantees, requires stronger penalties for delinquent employer contributions and clarifies rules on the refund of mistaken employer contributions.

The measure also facilitates the establishment by employers of supplemental retirement income payment funds to help retirees on fixed pension incomes cope with the ravages of inflation.

LABOR

I introduced a bill to clarify the scope of the Farm Labor Contractor Registration Act's exemption provisions and to eliminate certain of its administrative and reporting requirements. It would exempt small family agricultural operations and would ease requirements for stationary farm labor employers while preserving the most meaningful protections for migrant farm laborers and their families. The bill was the subject of widespread congressional interest but could not be brought to the Senate floor.

OCCUPATIONAL HEALTH

As one of the original authors of the Occupational Safety and Health Act, I am well aware of the need for effective enforcement of the act to assure workplace safety without burdening employers with needless paperwork and regulation. This year I actively opposed legislation which would have removed 85 to 90 percent of all employers from the effective enforcement of the act, and the bill died in committee. It is my belief that continuing improvements in the administration of OSHA can be achieved without legislation in order to focus the protections of the act where they are most needed.

UNEMPLOYMENT INSURANCE

On August 5, I introduced legislation to remove the punitive and discriminatory offset of unemployment insurance benefits by the amount of a claimant's social security or other retirement income. Many older workers receive inadequate pensions and must work to buy the necessities of life. Their need for unemployment insurance is as great as that of any other worker.

Congress removed a part of this unemployment offset when it enacted the pension plan bill. The new provision, which I supported, restricts the offset to pension payments attributable to the base period employer—usually the person's last employer. In addition, the law allows States to decide the extent to which the offset applies to retirement payments, including social security, which are traceable to employee contributions.

CIVIL RIGHTS

One of the most critically important efforts of my Senate career has been to affirm and sustain the civil rights of all Americans. Thus I strongly opposed restrictions on the Justice Department's use of funds to enforce the equal protection provisions of the 5th and 14th amendments to the Constitution and the Civil Rights Act of 1964. These restrictions were unfortunately adopted by the Senate in the fiscal year 1981 appropriations legislation for the Justice Department. I consider such restraints on efforts toward desegregation of public schools clearly unconstitutional.

I also opposed restrictions placed on Internal Revenue Service enforcement of guidelines seeking to remove the tax-exempt status of schools which discriminate on the basis of race. I was successful on the Senate floor in clarifying that the IRS may enforce such guidelines without legislative interference where the courts have ruled.

HANDICAPPED

I believe it is critically important that handicapped individuals who are able to work have the opportunity to be employed if they choose. I therefore wrote an amendment to the Social Security Disability Amendments Act which now allows severely handicapped individuals who wish to work to continue to receive life-sustaining Medicaid assistance without the nefarious "substantial gainful activity" test previously required in order to receive medicaid and SSI benefits.

TRANSPORTATION

Transportation problems of all kinds are of major importance to our State, and there were a number of programs to which I paid special attention.

Reauthorization of the airport and airway development assistance program provides assistance to States and local airports for airport construction and safety. The bill as passed removes the top 61 airports in the country from the ADAP program. I was the principal cosponsor of an amendment to reinstate these facilities, six of which are located in New York State. While the amendment was defeated, it served as a catalyst for the members of the New York State delegation in the House of Representatives to offer a similar amendment in that body.

I worked very hard to change the current funding formula for the mass transit operating assistance program from one based upon population density to level of service provided. This formula is very helpful to New York State.

I was a principal cosponsor of the Northeast corridor improvement project which provides $750 million in funds to complete the Northeast corridor. In addition, I strongly supported a provision developing the concept of "emerging corridors." These are rail corridors which have the potential to provide energy-efficient and cost-effective passenger service. One of the emerging corridors is the Empire corridor between Albany and Buffalo. Under this amendment, New York State will be able to recoup some of the money it has previously invested in the development of this corridor.

The deregulation of the railroad industry provides increased ratemaking flexibility to railroads and reduces the role of the ICC in regulating the industry. I supported an amendment, which was extremely helpful to Conrail, to permit railroads to charge fees on interline movements of traffic sufficient to meet their variable costs without getting the approval of connecting railroads. On many of its joint movement lines, Conrail is not receiving sufficient revenue to cover its variable costs; this will change under the amendment.

WELFARE

I regret that the Congress was unable to proceed with comprehensive welfare reform this year. However, a number of significant improvements were made in foster care, child welfare and other social service programs as a result of the enactment of the Adoption Assistance and Child Welfare Act. I worked actively for this legislation and I feel especially gratified that the law contains a provision, proposed by Senator MOYNIHAN and myself, which allows Federal reimbursement for foster care payments made for certain children voluntarily placed in foster care. This provision is of tremendous importance to New York, which was faced with the possibility of having to return up to $250 million in reimbursements for children in foster care for whom there had been no judicial review at placement. Until 1973, New York permitted voluntary placements, requiring judicial review after 18 months. Federal reimbursement was provided, but subsequently rescinded, even with regard to reimbursement for payments after the 18-month judicial review.

HOUSING

Insuring the availability and adequacy of housing in this country is one of the most critical concerns we face today. I have worked for adequate funding of the section 8 low-income housing program. I am pleased that the Congress will provide funding for an additional 291,000 units of subsidized housing.

We also passed legislation which updates and extends to moderate-income persons the section 235 mortgage assistance program. To further assist prospective home purchasers meet the high cost of mortgage financing, I have cosponsored a bill which provides additional funding for the 235 program.

Another key part of Federal housing programs must include efforts to preserve our existing housing stock. As a result of my efforts and those of my colleagues, certain State assisted multifamily housing projects in New York will be eligible for assistance under the flexible subsidy program. I understand at least $2.2 million will be distributed in New York for the first quarter of fiscal year 1981.

BANKING

I played an active role in the Depository Institutions Deregulation Act which passed the Senate overwhelmingly last spring. This measure authorizes interest-bearing checking and NOW accounts nationwide, allows banks to pay higher interest rates to savers and provides for a reduction in the minimum denomination of money market certificates, a move designed to aid small savers.

Another proposal I introduced and which has become law extends to purchasers of cooperative apartments the exemption of home mortgage refinancing from State usury ceilings.

In the area of international banking, I was gratified to see the Federal Reserve Bank grant tentative approval to the international banking facility concept which I have actively supported for the past 2 years. Among its benefits to New York, the IBF will provide new jobs and will assure New York City's preeminence in the international financial community.

WOMEN'S RIGHTS NATIONAL HISTORIC PARK

I introduced a bill to establish a Women's Rights National Historic Park in Seneca Falls, N.Y., to commemorate the formal beginning of the struggle of women for their equal rights. The park will include five sites in Seneca Falls and Waterloo associated with the 19th century women's rights movement. These sites include the Wesleyan Methodist Chapel, site of the 1848 convention, and the residences of Elizabeth Cady Stanton, Amelia Bloomer, Jane Hunt, and Mary Ann McClintock, women who dedicated their lives to the fight for equality.

FIRE ISLAND WILDERNESS

A bill, designating approximately 1,300 acres of land as wilderness in the Fire Island National Seashore, will be the first Federal wilderness preserve in New York State. The wilderness designation will insure the continued protection and preservation of one of the last unspoiled stretches of beach on the eastern shoreline, as well as enrich its cultural and historic heritage.

LOVE CANAL

In response to the grave peril to health at Love Canal, I offered an amendment to the 1980 supplemental appropriations bill to enable the President to permanently relocate the families who were exposed to lethal chemical wastes there. On October 1, President Carter and Governor Carey signed an agreement at Niagara Falls authorizing the purchase of 700 homes at Love Canal, thereby enabling the affected families to relocate to safer areas.

NEW YORK STATE

Fighting for Federal funds to improve the social and economic climate of New York State has been an important part of my Senate service. This year I was personally involved in securing $13 billion in Federal aid for New York State under a variety of Federal programs—more than a third of the $37 billion in Federal funds distributed to our State. This includes my efforts to improve the State's share of community development block grants, which has meant a total of $378.5 million for New York State—13.5 percent of the money available under the program nationwide.

A great deal of effort was expended this year working with public and private officials to help improve the business climate and reverse the decline in New York State's industrial base. Through my efforts, for example, the Town of Union received a $3.5 million urban development action grant that, coupled with $18 million in private investments, will enable the Savin Corp. to produce their copier machines in the United States. This new industrial facility is expected to employ over 2,000 in Broome County, and the manufacturing and assembly of the copier equipment will recapture $150 million formerly spent in Japan. The UDAG program was also helpful in the revitalization of downtown Port Jervis and Middletown, as well as improving public water supplies in Hoosick Falls so that local industry could expand their operations.

My assistance was instrumental in securing a $15 million Federal loan guarantee for working capital for Guterl Specialty Steel Corp., in Lockport to enable the firm to complete plans for an additional 600 jobs through modernization of their plant.

These are but some of my efforts and those of my staff demonstrating the effectiveness of Federal funds in fostering economic improvement while providing additional local tax revenues through new employment and increased business opportunities.

As always, I have worked for the good of all the citizens of New York. Some 15,000 of my constituents contacted my Washington office last year with casework problems in such areas as social security, veterans benefits, and immigration. My offices in New York City, Albany, and Buffalo responded to 100 cases a week, helping citizens in their dealings with the Federal Government.

Such service has given me as much pleasure as developing legislation, for helping constituents is also what the job of Senator is all about.●

THE ALLEN GROUP AND ITS NEW G. & O. PLANT

● Mr. RIBICOFF. Mr. President, on November 20, 1980, the Allen Group, Inc. dedicated its new G. & O. plant in New Haven, Conn. This new facility encompasses and houses the corporate headquarters, research and development, and a manufacturing area in a modern and efficient structure. This new facility demonstrates the great success and commitment of the officers and employees of this highly successful enterprise.

All of us in Connecticut are proud of the future management and productive employees of the Allen Group and its G. & O. division.

Walter B. Kissinger is chairman and president of the Allen Group, Inc. At the dedication ceremony, he gave a most perceptive and constructive address. I ask that his speech be printed in the RECORD together with the letter of welcome from Gov. Ella Grasso.

The speech and letter follow:

SPEECH BY WALTER B. KISSINGER

It is a pleasure to be here at the dedication this beautiful, modern facility that will be the new home of our G. & O. division. It wasn't very long ago that I visited here and saw a site that bore no resemblance to the successful industrial park now growing in the Middletown Avenue complex. We are very pleased to be a part of this program. It is always exciting to see a project take shape which benefits the lives of people and their community and to see years of planning come to fruition.

G. & O. was founded 65 years ago here in New Haven by the Gargulio and the Oppe families, with the help of a dedicated group of employees. G. & O. grew from a small, local radiator shop to one of the Nation's leading manufacturers in this field with plants in Connecticut, Mississippi, California, and Illinois.

G. & O. joined the Allen Group in 1970 shortly after I became chief executive officer. For this reason, I have always had a very special interest in this division and I've taken particular pride in its growth. In planning for the continuation of G. & O.'s growth, one of our principal objectives has been to maintain the spirit of a special, longstanding relationship with our employees. It is an expression of this spirit that during the construction period, a number of our pensioners who started with the company 40–50 years ago were frequent visitors as the construction proceeded. Their interest exemplifies the commitment of our people which has, as much as any factor, made this day possible.

Our discussions on the consolidation of a number of old plants in the inner city go back more than six years. We looked at various alternatives and frankly, at least on the surface, it appeared that economic considerations suggested moving elsewhere. Our preference from the outset was to keep G. & O. in New Haven if at all possible: To maintain our long-standing relationship with our employees and the community, but at times it appeared that some of the economic impediments were insurmountable.

Together with local and State leadership, we kept searching for a way. The Middletown Avenue redevelopment project provided a good solution not only for our plant but also, hopefully, will create many more jobs in this community.

I know that in the last two years, New Haven has had some very unhappy experiences with the exodus of six major employers and the loss of more than 2,000 jobs. In our complex society the modern public corporation cannot justify its existence solely by generating profits for its stockholders. There are other obligations. These include product quality and integrity: A responsible attitude towards the community: and, of paramount importance, an obligation to the employees. We take these responsibilities very seriously. It is unfortunate that not all companies share our views—as precipitous plant closings and forced takeovers of entire companies via tender offers—frequently lead to needless human suffering and problems for the community. I find these practices totally inconsistent with an enlightened view of the corporation's role in modern society.

I do not want to imply we are indifferent to legitimate economic considerations. Certainly, our stockholders have a right to expect that we seek and carefully evaluate alternatives to enhance the financial strength and performance of their company. There is a tendency to view stockholders as an impersonal, monolithic group. They are not. They are individuals who through their savings, have placed their faith in us. And even the funds of our so-called institutional investors represent other individuals, many of whom are workers investing through pension funds. It might interest you to know that our own employees comprise our single largest group of stockholders and they continue to acquire additional shares in excess of $1 million of investment each year.

While we at the corporate level brought the perspective I have described, our being here today is ultimately a tribute to our local management, who worked in close cooperation with elected and appointed officials. Allen is a decentralized company where responsibility and decision-making go hand in hand.

It is our local management who finally were able to find the appropriate balance between economic, social and human considerations. I wish to pay tribute to them here. I also wish to pay tribute to the elected and appointed officials who worked on this project and made it possible. I believe the people of this community owe them a considerable debt of gratitude. In the final analysis, it was their creativity and G. & O.'s management commitment to this community that have made this new plant possible. Together they have fashioned a program that will benefit our employees, New Haven and Allen.

In a broader sense, the significance of this plant dedication is an example of the opportunities available when industry and government work together for the benefit of the entire community. Throughout the long and complex discussions, the planning, the implementation of the project, it was clear that both sides—the community and Allen—had a strong interest in establishing conditions conducive to continued growth of companies like G. & O. and to providing job continuity to our employees.

I acknowledge and thank everyone who supported this program commencing with Governor Grasso, Commissioner Stockton, former Mayor Logue, and Mayor Di Lieto who all brought a determination to clear away obstacles in developing a plan that made economic sense.

It is my genuine hope that what we have established here will have a significant impact on the thinking and action of other companies and thereby serve to stimulate not only the program in the Middletown Avenue industrial park but others like it.

I have mentioned several times the dedication of our employees. The ultimate resource of any successful company lies in its people and the spirit of commitment which they bring to their association. In acknowledging that community service is integral to the corporate role in society, we at Allen have made it one of our clearly stated and high priority corporate objectives. We expect our people to contribute personally to the communities in which we reside. We stimulate individual community involvement through moral suasion, financial support and personal recognition.

As in the achievement of any of our objectives, be they financial or social, success is ultimately the sum of individual actions. Each year we present community service awards as a form of recognition for the outstanding contributions made by individual employees throughout the company. Our community service award winners at G. & O. in the last two years exemplify the spirit and attitude we encourage. In 1978 we honored Stanley Rogers who has been with the company for 28 years and has devoted much time and effort to community improvement and health services. Last year this award went posthumously to Andy Gassira, who had spent 31 years with G. & O. Andy gave a great deal of his time and energy working with young people through his involvement in sports programs. We are grateful and proud of our people whom we view as our greatest resource.

I want to thank all our employees, as well as the local UAW, for their continuing support and dedication. Finally, my thanks to the community of New Haven for making us welcome. We hope to continue to be good citizens and contribute to the development of your city.

STATE OF CONNECTICUT,
EXECUTIVE CHAMBERS,
Hartford, November 20, 1980.

Mr. WALTER B. KISSINGER,
Chairman and President, The Allen Group,
Melville, N.Y.

DEAR MR. KISSINGER: It is a pleasure to welcome you to Connecticut on this momentous occasion.

Our state is grateful for the renewed commitment of the Allen Group to the future of its employees at G & O, to the economic resurgence of the City of New Haven and to the industrial vitality of the State of Connecticut.

The clear-cut incentive which G & O offered more than two and a half years ago to create a special program of industrial urban incentives helped to make G & O's new investment in New Haven easier. This kind of incentive is transforming the industrial base in our cities through similar commitments by other urban-based manufacturers.

The "Urban Jobs and Development Act of 1978", given impetus by G & O's site deliberations, and your visionary decision to recommit your energies and investment in New Haven have been the greatest reward of all. More than 135 manufacturers have since made similar commitments in their manufacturing operations. At least one urban-based company specifically points to G & O's decision as the inspiration for the new production facility it now has under construction.

The Allen Group has been a pioneer in our state's commitment to rebuild industry in our urban areas, and our current momentum is due largely to your decision to maintain and expand your Connecticut operations.

It is with deep regret that I am unable to be with you today. May this be a memorable and enjoyable occasion for all.

Cordially,

ELLA GRASSO,
Governor.●

THE MISSISSIPPI HEADWATERS BOARD MANAGEMENT PLAN FOR THE UPPER MISSISSIPPI RIVER

● Mr. DURENBERGER. Mr. President, the Mississippi River is one of our country's greatest natural resources. Throughout the history of our Nation this river has been a vital link for commerce and transportation, a unique recreational asset, and a source of unending natural beauty.

Today, we are opening a new era for the upper Mississippi River. The dedicated planning efforts of local citizens along the upper 400 miles of the river and the cooperation of local, State, and Federal units of government augur a bright future for this stretch of the "Father of Waters" which includes the headwaters.

I particularly want to congratulate the work of the members of the Mississippi Headwaters Board for their tireless efforts, their commitment to local involvement, and their persistence which will be rewarded in a new stewardship of a unique resource. They took on a difficult and thankless task and have performed their duty with skill, sensitivity, and an understanding of the need to protect this resource for future generations.

National interest in the river was reflected in congressional action in 1975 when the upper Mississippi was designated a "study river" for inclusion in the National Wild and Scenic River System. A Bureau of Outdoor Recreation study recommended in 1977 that the river be designated a component of the National Wild and Scenic River System.

In early 1978 Congress amended the bill which would have designated the portion recommended in the BOR study for inclusion in the Wild and Scenic River System to provide for further study and additional opportunities for public involvement.

Although the bill did not pass, the Department of the Interior Park Service under Executive order and the Mississippi Headwaters Board worked concurrently on separate studies of the river. The Mississippi Headwaters Board was formed under a State joint powers law.

The members are chosen from the local county boards of the eight counties adjacent to the river in this area. The board, through its consultants, Goff, Priesnitz & Associates, worked diligently to provide an opportunity for representation by a wide variety of public and private interests.

Negotiations between the Park Service and the headwaters board resulted in agreement on a management plan for the upper Mississippi River which uses county zoning; cooperative agreements with State and Federal agencies; recreational development and management; and donation or purchase of critical lands in the public interest to safeguard the river.

Because of the past and present stewardship of the citizens of the headwaters area, the Mississippi River is still the magnificent natural resource it is today.

Strong, effective local leadership should keep it that way through the implementation of a carefully thought-through plan.

Reflecting the best in Federal, State, local partnership, I am pleased to bring to your attention this unique and effective response to involving affected landowners, communities, Federal and State interests, and economic and environmental concerns.

I am confident with this partnership in place, the plan will evolve and move forward to set a standard for natural resource management planning that may prove to be a benchmark for responsible local action to safeguard a national resource.

I stand ready to introduce needed Federal legislation which may be proposed to encourage and implement the results from this kind of cooperative planning.

For the purposes of providing further details on the development of the process and the community reaction to the results and achievements of the Mississippi Headwaters Board. I ask that the following materials be printed in the RECORD.

The material follows:

MISSISSIPPI HEADWATERS BOARD POSITION PAPER

INTRODUCTION

This position paper was developed by the Mississippi Headwaters Board (MHB) in order to provide basic information to those concerned with the Upper Mississippi Wild and Scenic River alternative plan being developed under the Board's direction.

This paper explains the philosophy of our board in developing an alternative plan and includes a comparative description of the alternative plans being developed by the MHB and the National Park Service.

BACKGROUND

On January 3, 1975 the President signed P.L. 93–621 which authorized a study of the upper 466 miles of the Mississippi River from Lake Itasca to Anoka for possbile designation as a National Wild and Scenic River.

In October, 1975 the preliminary draft plan prepared by the U.S. Bureau of Outdoor Recreation (BOR) was completed, and in May, 1977 Assistant Secretary of Interior Robert Herbst submitted the study and Environmental Impact Statement (EIS) to Congress and President Carter.

On June 15, 1977 S. 1697, a bill which would designate the ten segments recommended in the BOR study, was introduced in the Senate. On October 31, 1977 H.R. 9855, which would amend the National Wild and Scenic Rivers Act to designate the Upper Mississippi, was introduced.

In January, 1978 Congressman Oberstar amended the bill to require a more complete, specific study. The Mississippi designation provision was subsequently deleted from the Omnibus Parks and Recreation bill passed by Congress.

In August, 1979 President Carter included the Upper Mississippi in his Environmental Message and called for a study "to determine the specific requirements for protecting the river corridor and providing public access, campgrounds and other recreational facilities . . . ". He also directed the National Park Service to complete the study by April, 1980.

After objections to this deadline were raised, the target date for completion was left open. The National Park Service is presently proceeding with its study as directed by Congress.

PHILOSOPHY

Recognizing the need to protect the Upper Mississippi, and in response to an overwhelming desire on the part of the residents of the region to do so through local control, State Senator Robert Lessard suggested in the summer of 1979 that there be some joint effort by local governments to protect the River. Subsequent discussions led to the suggestion at a January, 1980 meeting of six counties that a joint powers board be formed to develop a plan to protect the river.

On February 22, 1980 a joint powers agreement was signed by eight counties: Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing, and Morrison. This coalition was named the Mississippi Headwaters Board (MHB) and became the largest (in number) joint powers board in state history.

In response to an inquiry by Sonja Steven, Itasca County attorney, regarding the formation and administration of the Mississippi Headwaters Board, Attorney General Warren Spannaus found the Mississippi Headwaters Board was legally constituted under Minnesota Statutes 471.59 and had the authority to: pay for necessary planning; contract for services in the same manner as individual counties and review zoning decisions of the individual counties regarding the Upper Mississipi.

The stated purpose of the Mississippi Headwaters Board is to: formulate plans for the area under its jurisdiction, and protect the Upper Mississippi River from uncontrolled and unplanned development through the preparation and adoption of a comprehensive management plan for the river and adjacent lands. This management plan will provide for the adoption of strong local zoning ordinances, recreational use of the river and adjacent public lands, donation or purchase of critical lands in the public interest and sound management of existing public lands along the River.

We recognize that concern for the protection of the Upper Mississippi River goes beyond the boundaries of any particular county. The historic signing of the joint powers agreement is a recognition of this fact. We also recognize that any sound, workable plan must consider the views of all the diverse interests affected. Recognizing these concerns the Mississippi Headwaters Board has established advisory committees composed of governmental representatives and citizens representing agricultural, forestry, conservation, industry, recreation, and other interest to assist in developing the plan.

It has been stated that: "A law that gives maximum power to government agencies is not necessarily superior to one that relies on officials' ability to persuade individuals and corporations to restrict harmful development voluntarily."

We believe that our goal is essentially the same as the National Park Service . . . to protect the Upper Mississippi.

What is at issue is not whether the River should be protected, but who should do it. We strongly believe in the proposition that local governments can work together and act responsibly to take sound conservation measures, where needed. The joint powers agreement proves this point.

Will our plan be successful in accomplishing its goal? We believe it will. The only real measure of a successful plan is whether it works. No plan, no matter how well written, can be successful/workable if it does not have significant public support.

The necessity of public support to any successful river protection program has been documented in numerous publications. *Flowing Free,* a booklet prepared by The River Conservation Fund, points out that: "Federal, state and local government programs, as well as private sector efforts, all have their potential advantages and disadvantages depending on specific rivers, lands, and climates of public opinion . . . A local government initiative requires the backing of the majority of public opinion."

The public response and support of the Board's alternative plan to Wild and Scenic River designation has been widespread. This can best be demonstrated by newspaper articles and editorial opinion from around the state.

A representative sample of these articles is provided below:

Articles

The Pioneer, Bemidji, January 20, 1980: "This alternative plan will be one of the first of its kind . . . the local control proposal, if successful, could possibly be a model for other parts of the nation in similar situations."

Daily Journal, Int. Falls, February 25, 1980: "It appears that the federal government and eight counties are in a neck and neck race to get their plans through the necessary steps, finalized and ready to present to Congress. If the counties get under the wire first, how do they intend to sell their plan to Congress? 'Very simple,' Lessard said, we're going to come up with a better plan."

Western Itasca Review, Deer River, February 26, 1980: "The prevailing mood is one of general optimism that the undertaking will be accomplished on time. The job of the local public will then be one of helping sell the joint powers plan to Congress as a preferred alternative to federal designation."

Duluth News-Tribune, Duluth, February 23, 1980: "If you can't beat 'em, join 'em. Eight counties have taken that maxim to heart in the ongoing fight to keep the federal government out of land control in northern Minnesota."

Editorials

Hibbing Daily Tribune, Hibbing, February 19, 1980: "Local control deserves a chance. Credit should go to Lessard and the counties for coming up with this approach. It is one of the best developments in environmental protection in recent years, and we hope for its success."

Daily Journal, Int. Falls, February 15, 1980: "Every once in awhile an idea comes along that is so good it begs to be tried." . . . "President Carter should respect the innovative local effort and give it a chance to flower."

Herald Review, Grand Rapids, February 21, 1980: "An important joint powers agreement to provide local control and protection of the Upper Mississippi River will be signed in Grand Rapids Friday. It is significant for several reasons. First of all, it clearly demonstrates the concern of eight counties for protection of the River. Second, it demonstrates the growing belief that federal protection is not necessarily the best which can be provided."

We realize that if we are to be allowed to do the job ourselves, we must convince skeptics that we are both willing and able to do so. This is done not by rhetoric but by actions. The joint powers agreement and our willingness to help finance our own plan are both positive actions which should serve as a message to all concerned that we are indeed serious about protecting the River. We know it will not be easy. Tough decisions will have to be made; but we have the resolve to do the job ourselves.

In recent years this state, and its people, have struggled through some divisive and bitter battles over tough environmental issues that had to be addressed. Bitter feelings resulted on both sides. It is in this general climate that Mississippi River management now is being faced. No one "wins" from bitter, acrimonious battles over these issues, particularly if they can be avoided. We agree with State Senator Robert Lessard when he said in a recent Minneapolis Tribune article: "I want to protect the river . . . it doesn't mean that the local people have to be on a collision course with the environmentalists."

Because feelings run so strong and deep right now we believe that the National Park Service should give deference and full consideration to our alternative planning effort. We were pleased to read in this same article that Mr. Farrand, study manager for the Park Service, has taken a "wait and see attitude". We are confident that we can demonstrate to the National Park Service and to Congress that we can do a more effective, more timely, and less costly job ourselves.

We have recently learned that the National Park Service is not likely to request federal designation of the St. Cloud to Anoka portion, since it is already under state protection. What we are going to ask them, is that the National Park Service extend to the joint powers board the same consideration and approval to do the job alone as they have extended to the State in its management of the St. Cloud to Anoka segment.

THE JOINT POWERS BOARD PLAN

The joint powers board is comprised of one county commissioner from each county. The MHB was formed for several reasons: to recognize the need for some uniform zoning and land management guidelines; to share in the cost of producing a high quality river protection plan; and to eliminate the possible criticism that a "single county board is too open to local pressure—sometimes to the detriment of natural resources." A recent editorial stated: "A multi-county agency can scrutinize affairs with detached objectivity."

There are several advantages to an interlocal (joint powers board) planning effort. The advantages cited in the State Planning Agency report on interlocal cooperation include:

1. Cooperation is useful in broadening the geographical base for planning and administering governmental services and controls . . . Conflicting land uses, differing codes, confusing jurisdictional rules and inattention to those problems not capable of solution by one unit of government are the main criticisms of the small unit of local government.

2. Cooperation tends to enlarge the scale and administration of local services making lower unit costs possible. This is an obvious advantage to interlocal cooperation—by expanding a service area, communities can take advantage of the economies of scale that often accrue in most services.

3. Cooperation is helpful in guiding the orderly growth of an area. Planning is an especially useful example. If several units of government (including townships, municipalities, and counties) jointly plan the development of an area, the cooperating units of government can prepare for the expansion of governmental services well in advance of the time when serious problems might necessitate stoppage, less than satisfactory solutions.

4. Cooperation is flexible and versatile. One of the outstanding advantages of interlocal cooperation is its flexibility in adapting to new conditions which may develop after communities are already cooperating in a particular local governmental service . . . died within the practical framework of cooperation without necessitating major changes in the legal or administrative rules.

5. Flexibility of boundaries. Cooperation has the added advantage of being able to include other units of government in the agreement should they have need for the particular service.

6. Cooperation is politically feasible. Cooperation does not result in the political re-structuring of an area. No units of government are eliminated and, usually none created. Citizens still retain control over the function through their elected and appointed local governmental officials.

7. Cooperation can result in the better performance of a service. Cooperation, if properly performed, can result in the infusion of new ideas and original approaches to problem solutions that better serve the local citizen . . . This is no small factor in an age of complexity and citizen participation in government.

8. Cooperation protects the political identity of the community. Most persons are extremely proud and protective of their independent political existence. Although municipality may lose partial control over the administration of the function in the process of cooperation, it does not give up its political identity.

As reported in several recent articles, the establishment of a Mississippi Headwaters Board plan offers two primary advantages: cost and responsiveness.

Since the federal government has no direct zoning authority it must rely on acquisition of lands in fee title or interests in land (easements) for its management. Also it can, under conditions described in the Federal Wild and Scenic Rivers Act, exercises condemnation authority. This is primarily where our plans will differ: First, our plan will not use condemnation authority to purchase needed lands; and second, we can adopt and enforce strong zoning ordinances to protect the river at a minimal cost.

Another area of concern and possible difference between the local and federal plans will be the allowable recreational opportunities. We believe that one of the real values of the river to local people and recreationists from outside the region is the diversity of recreational pursuits for which its waters and adjacent public lands are used. This diversity of hunting, fishing, wild ricing, boating, canoeing, snowmobiling, skiing and solitude uses is what makes the Upper Mississippi unique and we want to ensure the perpetuation of all of these activities that people enjoy so much.

Our plan will recommend measures, financed through existing federal, state and local funds, to enhance all of the recreational pursuits that are so important to users.

It is from these concerns also that we believe our alternative plan becomes vital to the continuance of the existing land and water-based recreation activities.

Finally, we must speak to the issue of plan feasibility. We must address the basic question posed by Mr. Farrand in a recent Minneapolis Tribune article where he said: "I don't get the impression that this is a sham by the counties to prevent the federal government from stepping in . . . still the big question is: Will this protect the Mississippi River?"

PLAN ADVANTAGES

To answer this question one should examine what both proposals have to offer. The major advantages of interlocal management are:

(1) Cost

By adoption of strong local zoning ordinances, sound management of existing state and county lands, judicious purchase of lands or scenic easements from willing sellers and more use of existing opportunities for land exchanges; we believe the joint powers plan could better protect the River at a lesser cost. In addition, with spiraling land prices we don't believe the 15 million dollar acquisition authority of the Federal proposal will be anywhere near sufficient to buy the easements necessary to protect all the shoreline in the segments proposed for designation.

(2) Responsiveness

Because the plan will be prepared by and for the joint powers board it uniquely strikes the balance needed to respond to local concerns while accounting for a broader public concern. In addition, necessary changes can be made to respond to changing circumstances that will occur over time.

(3) Public support

Our efforts have already generated considerable local and extra local support. We anticipate cooperating with all the various interests in formulating this plan and making it work. Many resolutions of support have come from diverse groups and from congressmen.

(4) Protection

The essential goal of the Mississippi Headwaters Board is to prepare and implement a comprehensive, interlocal plan to protect the upper 400 miles of the Mississippi River. While this plan will provide for facilities and opportunities for the diverse recreational uses of the River and its adjacent lands, we are concerned about overuse that could result from federal designation. An authorative book on river protection includes these comments on local and regional river programs: "On the plus side, local or regional programs, escaping the publicity that attends federal or state scenic status, are less likely to result in large increases in recreational use. The 1977 U.S. Bureau of Outdoor Recreation on the Upper Mississippi states on page 205 that a ten-fold increase could be expected. We believe that this "turnstile" attitude is contrary to sound river protection; and the increased use could, if realized, pose a significant problem to riparian owners and the quality of the resource itself.

(5) *Timing*

The implementation of the joint powers plan can begin as early as this summer and fall. Zoning ordinances can be adopted and grants can be written to apply for necessary state and federal funds in 1980. The federal proposal has been discussed since 1974, the BOR has done a study, the National Park Service is now doing one, and it will likely do another management study before acquisition and recreation development begins.

SUMMARY

We believe that a compelling case can and has been made for interlocal management of the upper 400 miles of the Mississippi River from Lake Itasca through Morrison County.

It has been over five years since the Upper Mississippi was designated for study inclusion in the National Wild and Scenic Rivers System, and not a single mile of shoreline upstream from St. Cloud has been protected. Even if the River were designated a component of the National System it would be a considerable time before protection measures would be taken. Further, a recent General Accounting Office (GAO) report cited several problems with the administration of the National Wild and Scenic Rivers System. Among the problems cited were two key ones: too much land is bought in fee title, making it too costly and it takes too long.

Development pressure on the Upper Mississippi is increasing.

The Mississippi Headwaters Board recognizes this and is willing and able to complete its plan and move ahead with river protection measures now—this year. This fact alone makes it a superior effort.

The advantages to this method of river protection have also been described in flowing Free, a definitive work on river protection, where it states: "local or private programs can often be more easily tailored to the problems and opportunities presented by a particular river. . . . These kinds of projects, based on local management, local use and voluntary participation, may in the long run protect more miles of river than government wild and scenic rivers programs." We agree!

MISSISSIPPI HEADWATERS BOARD RESPONSE TO ASSISTANT SECRETARY OF INTERIOR ROBERT L. HERBST

1. Interior suggestion—establish the Mississippi Headwaters Board through State statute with provisions for orderly appointment and succession of membership. Fully empower and fund the Board to carry out its plan for management.

MHB response—The MHB consultant, attorney, and National Park Service representatives met with State Attorney General Warren Spannaus and his staff on September 12 to discuss drafting state legislation which would provide for a permanent board and orderly succession of members to it.

The Attorney General's Office has drafted this legislation. Legislative authorship will be solicited by the MHB consultant this fall. The bill will be introduced early in the 1981 Legislative Session.

The MHB consultant has also had discussions with staff in the Governor's Office regarding their support for this bill.

The bill itself will be drafted as a special, rather than a general law. That is, it will be unique to the eight counties which comprise the MHB. It will become effective after passage by the legislature and subsequent approval by the individual county boards.

All the necessary and appropriate functions of the board which require specific legislative action will be incorporated in this bill. (A copy of the proposed legislation is enclosed.)

A specific state funding request will not be included in this bill; rather it will be separately pursued as a possible "line item appropriation."

2. Interior suggestion—Certification power for the Board over the actions of individual counties which implement the plan.

MHB response—A certification procedure has been drafted for the implementation of the zoning ordinance. The need for such a procedure to provide for uniform and fair treatment of landowners has long been recognized by the Board.

This procedure has been drafted by the consultant for MHB approval with two primary objectives in mind. First, that no unjustified exceptions to the ordinance be granted by any particular county, thereby jeopardizing the cooperative nature of MHB organization or the purpose of the plan itself. Second, to limit the amount of additional paperwork so to provide for reasoned, yet timely decisionmaking on landowner applications.

From the first organizational meeting of what has subsequently become the Mississippi Headwaters Board, the county commissioners were aware of the necessity of a certification procedure for certain limited zoning decisions.

It is for this reason that an Attorney General's opinion was requested through the office of the Itasca County Attorney to determine if such authority could be assumed by the Board, after individual county board approval.

This procedure was not incorporated into the draft plan because such authority was determined by the Attorney General to be "non-delegable"; and that such a change would require specific statutory authority.

The need for a permanent board and for a board review and approval mechanism was also recognized and discussed by citizens who attended the public meetings in August.

This certification procedure would apply not to the entire ordinance. Rather, it would be applied only to variances, rezonings, and inconsistent platting which if unnecessarily granted by a particular county would have the effect of negating the objectives of the Board's plan.

Finally, the certification procedure drafted by the Board's consultant cannot be included in the ordinance to be adopted by the counties until after the enabling legislation has been passed by the state legislature and approved by the respective county boards.

This certification procedure would subsequently be added as an amendment to the Mississippi River ordinance (See enclosed).

3. Interior Suggestion.—Professional staff for the Board to support its activities and for monitoring of compliance with the plan. Develop a compliance monitoring procedure.

MHB Response.—A budget for board operation has been prepared for the two-year period beginning June 30, 1981.

The budget is broken down into major expenditure categories; including administration, travel, expenses, and legal counsel, etc.

It is anticipated that state funds will be requested for this part of the budget since it is the implementation of the plan and the exercise of its multi-county responsibilities which constitute the unique alternative to Federal designation.

The Board's staff will assist in coordinating the cooperative activities described in the plan. Staff will also monitor and report on progress made toward the implementation of the objectives contained in the plan. Staff will also be responsible for monitoring, in cooperation with individual county staff, the compliance with the comprehensive zoning ordinance adopted as a part of the MHB resource management plan.

In addition, each of the member counties presently have a specific and thorough monitoring procedure to insure compliance with shoreland ordinances. This procedure involves field inspection of individual sites. Existing procedures also provide penalties for non-compliance. Since this compliance has over the years proven effective, we are not recommending any change to it.

The budget for the administration of the project and for staff support itself is detailed in the enclosed budget sheets.

4. Interior Suggestion.—Expand the plan to more adequately discuss responsibilities for operation, maintenance, and replacement of recreation features in the river corridor. Further discuss the actual management of recreational activities in the plan to include control of litter, vandalism, trespass, and other resource damaging activity, and the availability of visitor health, safety, and information services.

MHB response.—There are a considerable number of recreational sites along the Upper Mississippi, which have been developed and are being maintained by the respective Federal, State, and local agencies.

However, in accordance with the Headwaters Board plan additional recreational sites will be developed. Such sites will include camping, day use, and interpretive activities for the user. Where feasible, those facilities will be developed on existing publicly-owned lands. Where such public lands are not available, the counties will seek to acquire such lands, where willing sellers are available.

These recreation sites are identified and described in detail in the revised plan.

The board's consultant has also had several meetings with state and federal personnel to discuss the need to coordinate recreation site development and maintenance in order to avoid duplication of facilities or unnecessarily increasing maintenance costs.

Rehabilitation of existing sites, particularly in the headwaters stretch of the river, has also been discussed with responsible DNR personnel. All seem to be agreed that these sites need rehabilitation.

The recreation management of the river currently involves not only the counties but the U.S.F.S., Corps of Engineers, Minnesota Department of Natural Resources, Minnesota Department of Transportation, and others.

MHB staff will work with these agencies to implement the recreation management plan.

In general, it should be noted that there is no recommendation that this multi-agency recreation system be changed. That is, maintenance, trespass and enforcement problems will be handled by the administering agency (i.e. DNR for state lands, county on county lands, etc.)

Regarding resource damaging activities, there are several possibilities that will be addressed. First, for violations of the vegetative cutting, grading and filling, dumping provisions of the ordinance, there are specific penalties and county enforcement procedures to handle these. Usually the county zoning officer or land commissioner (if county land is involved) works with the county sheriff's office on these matters. The Board itself could assist in review and possible litigation, where the individual counties request assistance.

With regard to any activities which effect the "course, current or cross section" of public waters (Mississippi River), a permit is required from the Department of Natural Resources. Minnesota Statutes Chapter 105 assigns review, approval and enforcement responsibility to the DNR. The specific enforcement procedures have generally been assigned to the DNR regional offices. Hydrologists from the Departments' Division of Waters in cooperation with its Division of Enforcement and Field Service, investigate and where necessary, seek prosecution of violators.

For activities which affect water quality.

the Minnesota Pollution Control Agency has authority to investigate violations and seek prosecution of alleged violators.

Finally, many activities which could effect the River, its adjacent wetlands, or shoreland area require a U.S. Army Corps of Engineers permit. For certain activities a variety of county, state, and federal permits are presently required.

Many Corps of Engineers permits already require review prior to issuance, of several federal agencies such as the U.S. Fish and Wildlife Service, U.S. Forest Service, etc.

In summary, there already exists, under state and federal law, adequate authority to monitor, review and enforce any resource damaging activity which might effect the river. The board believes this to be adequate to protect the river; but it also believes it can be helpful by playing a role in referring persons to the proper agencies for required permits prior to their undertaking certain activities, in order to avoid costly litigation.

Finally, regarding visitor information and safety services, there currently exists a myriad of ways of obtaining needed information.

The Mississippi is designated a Canoe and Boating Route under M.S.A. 85.32. The DNR is assigned responsibility to administer this program. Maps and other information about this entire portion of the Upper Mississippi are currently available from the Department. In addition, M.S.A. 85.32 requires the DNR to mark river hazards such as rapids, dams, whirlpools, etc. and allows them to acquire, develop and maintain recreation sites along the Mississippi. The DNR can also cooperate with local governments in marking hazards and providing public recreation sites.

The MHB consultant has discussed the marking of some river hazards and the cooperative development of recreation sites. It is anticipated that work on some of the sites identified in the plan would begin in the spring of 1981. In addition, MHB staff have begun meeting with operators/owners of private dams along the river in order to provide signing and portages around these dams.

5. Interior suggestion—A commitment in the plan to a balance of land acquisition with the large-lot zoning which is proposed. Acquisition priorities and policies in the plan which indicate that an active land acquisition program will be required, under appropriate state or local authority, to adequately protect the Upper Mississippi River.

MHB response—Regarding land acquisition, the Board will pursue this in the same manner and under the same conditions as that generally described in its joint powers agreement and the revised plan.

That is, the Board recognizes that certain shorelands deserve greater protection than that which can be provided solely through zoning.

Within available funding, this program to supplement the zoning ordinance will be "active" but it will not be extensive. The MHB, and its member counties, will attempt to consolidate river ownerships primarily through land exchanges between the counties and the state of U.S.F.S., where such exchanges are feasible and desirable. Intergovernmental exchanges are viewed as a feasible method of consolidating shoreland ownerships because the counties have such a large ownership base to trade with. (Seven of the eight member counties are among the top ten in the state in percentage of public ownership.)

Also, land exchanges with willing private owners will also be pursued. These opportunities will be specifically examined within the next two years.

Where land purchases are desirable, it would be accomplished within funds available for this purpose and where willing sellers are available. Some counties have already acquired fee title or scenic easements along the River through donation or purchase. These acquisitions have occurred just over the course of the MHB planning process. A proposed biennial budget for this purpose is enclosed.

6. Interior suggestion—The funding program outlined in the draft plan is a collection of existing revenues and competitive grants. Further, the funding sources cited are largely land acquisition and facility development programs and do not comprehensively address operation, maintenance, and replacement of recreation facilities; compliance monitoring and enforcement of the plan; or additional staff for the Board and counties needed to carry out the plan. Some source for adequate funding of plan implementation and long-term resource management needs is required.

MHB response—The questions raised here are essentially a restatement of those concerns previously identified. However, we can elaborate further regarding the funding concerns.

Although federal and state grant programs listed in the MHB plan are competitive in nature; the Board believes it will be in an excellent position to compete for such funding. Planning/zoning and recreational acquisition/development grant requests that address a regional (multicounty) need are given priority consideration by the responsible state and federal agencies.

The MHB consultant has already had discussions with the state agency personnel responsible for grant administration. Although no commitments could be made until after the formal application review process, we were encouraged by our discussions with them.

In addition, the MHB consultant has also had discussions with key state and federal elected officials regarding the possibility of direct state appropriations to fund the necessary staff and other support for long-term operations of the board. Because the state budgetary processes are not presently before the Legislature, it is not possible to guarantee such funding will be available, just as the National Park Service is unable to provide the public with a guarantee of full federal funding for its proposed program.

On the other hand, based on the important contacts already made, we believe that it is more likely that such appropriations for the implementation of the board's plan will be made, than the possibility of timely funding for the National Park Service's multi-million dollar proposal. We make this assumption based on the reasons that the board's management plan is: 1) far less costly; 2) has received widespread public support; and 3) existing state and federal grants have already been obligated to carry out some of the activities proposed in the MHB plan.

Finally, we have provided a detailed budget sheet showing project costs, anticipated funding sources, and a breakdown of projected local, state and federal cost-sharing to implement the various aspects of the project.

7. Interior suggestion—Explore the relationships between the Board, the Chippewa National Forest, and the Leech Lake Indian Reservation in the plan.

MHB response—As was stated at the September 4 board meeting by Board Vice Chairman and Cass County Commissioner Virgil Foster, the Board long ago solicited input from the U.S.F.S. and the Leech Lake Indian Reservation.

In March/April 1980, when the advisory committees were formed, it was recognized by the board that participation of these interests, along with many others, was desirable. Accordingly both verbal and written invitations to participate in the MHB planning process were extended to representatives of the Leech Lake Indian Reservation. A written response, declining participation, was received by the board from their representative.

In light of the August 29 Herbst letter, another written invitation to participate on the advisory committee will be extended to the Leech Lake Indian Reservation by the MHB.

Similarly, requests for participation by the U.S.F.S. were also made by board members. Board members were informed by U.S.F.S. personnel that formal participation by these officials was not possible at the time to the administration's support and directive to the National Park Service to conduct a study for National Wild and Scenic River designation. Since the September 4 National Park Service/Mississippi Headwaters Board meeting, the consultant has met with Forest Service personnel to discuss areas of mutual cooperation in furthering the river protection objectives of the Headwaters Board plan. The consultants have also discussed future meetings with Forest Service personnel. The U.S.F.S. personnel have subsequently expressed a desire to cooperate with the Board in the implementation of its plan.

The MHB consultants have also met with representatives of Department of the Interior's Bureau of Land Management. This federal agency was subject to constraints similar to those affecting the Forest Service with regard to participation in the MHB study. The BLM has indicated that it is interested in cooperating with whatever agency is given final management responsibility for the Upper Mississippi River.

The Board has recognized from the start of its process that these "landowners" had a necessary role in the development of the plan itself and in its implementation.

The Board feels obliged to emphasize, for the record, that the lack of participation by these entities is a result of the constraints caused by the federal government's position on national river designation, not by an oversight or by lack of recognition by the Mississippi Headwaters Board of their legitimate role.

8. Interior suggestion—Clarify some elements of the plan's model zoning ordinance.

Specific ordinance changes suggested by the National Park Service staff the advisory committee members and the general public have been incorporated into the revised ordinance. The specific changes recommended by the consultant for the board's consideration are enclosed.

In general, the recommended changes include those measures which would strengthen the ordinance, clarify its purpose, and eliminate inconsistencies in language or intent.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., November 24, 1980.

Mr. ALF MADSEN,
Chairman, Mississippi Headwaters Board,
Grand Rapids, Minn.

DEAR MR. MADSEN: The Department of the Interior has completed review of the Upper Mississippi River Management Plan revisions submitted with your letter of October 22, 1980. This review included consultations with the Minnesota Department of Natural Resources, the U.S. Forest Service, the Leech Lake Reservation Business Committee, and the Joint Upper Mississippi River Task Force, a coalition of Minnesota conservation organizations. Enclosed you will find out specific comments on the revisions.

Although the Mississippi Headwaters Board has acted to finalize its plan and proceed with implementation, I hope the Board will incorporate these comments either through legislation, advanced planning, or cooperative agreements with participating management agencies. The comments are intended to point out potential problem areas that could impair the Board's ability to establish a sound program of protection for the river. The comments could appropriately be incorporated in planning and coordination efforts of the Board that take place during implementation of the adopted plan. The final management plan appears to provide the framework that will allow accommodation of solutions to these problem areas in the near future.

The Mississippi Headwaters Board has reached a major milestone in the adoption of its river management plan and is proceeding towards future milestones which include adoption of the plan by individual counties, enactment of state legislation supporting the Board's powers, and obtaining adequate funds to implement your river management goals. You are to be congratulated for your work.

I continue to believe that the Upper Mississippi River is a resource of national significance and, therefore, meets the criteria for designation as a component of the National Wild and Scenic Rivers system or is a candidate for an Area of National Concern. However, pursuant to the Management Plan you have adopted and complementary state legislation, if strong and consistent protection and management of this important resource can be provided at local and state levels, it is the position of the Department of the Interior that those levels of government should undertake the task.

Accordingly, while the National Park Service will move expeditiously to finalize the conceptual master plan for the Upper Mississippi River, as requested by President Carter in August 1979, the Department will recommend to the President that the final version of the conceptual master plan be held in abeyance and not transmitted to the Congress with proposed legislation adding the Upper Mississippi River to the Wild and Scenic Rivers system.

At the same time, this Department continues to receive many requests for an opportunity to offer public comment on the Park Service's approach to protection of the Upper Mississippi River. As you recall, the public participation process for the Park Service conceptual plan was deferred to facilitate a cooperative approach between the Service and the Board. In view of the continuing interest in proceeding with the public meetings previously planned, the Park Service will conduct public meetings on its plan on December 3 and 4 in Bemidji and St. Paul, Minnesota, respectively. The notice for these meetings will indicate that the Service is soliciting comments on its draft master plan, in compliance with its mandate from the President. Comments will be received at those meetings from those who desire to present testimony comparing the National Park Service conceptual master plan with the Mississippi Headwaters Board Management Plan. To this end, the Service would greatly benefit by the presence at both meetings of a representative of the Board or your consultant.

While the attached comments on the proposed state legislation mentions the Board's relationship with the Leech Lake Indian Reservation, I wanted to add that the Reservation Business Committee continues to express serious reservations to the Department regarding the Management Plan's implication on lands within the Reservation. Despite the language in your October 22, 1980, letter to me (pages 7 and 8) on the Board's dealing with the Reservation Business Committee, Chairman Hartley White and the Reservation Business Committee remain concerned about the impact of your plan on the Reservation. Specifically, there is concern over any plan that includes the possibility of zoning Indian-controlled land within the Reservation.

The Department hopes the Mississippi Headwaters Board will be able to bring about a cooperative relationship with the Reservation Business Committee of the Leech Lake Band. It would seem to me that a common objective among the several interests—including the Indians and the Counties—would be the adoption of mutually-agreeable zoning restrictions that are compatible with sound resource-protection principles.

As the implementation and operation of the Mississippi Headwaters Board plan proceeds, the Department of the Interior will continue to work with you in every way we can to promote our common goal of providing quality protection of the remarkable values of the Upper Mississippi River.

Sincerely,

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.●

THE REAGAN TRANSITION TEAM AND THEIR DANGEROUS GAME IN EL SALVADOR

● **Mr. CHURCH.** Mr. President, I rise to express my indignation over the tremendous damage that members of the Reagan transition team are doing to U.S. foreign policy in general and to our policy in El Salvador in particular. Published reports of a Reagan hit list against certain Ambassadors and actions by Reagan foreign policy aides are creating havoc—in essence playing games with our national interests and security in the turbulent atmosphere that has brought El Salvador to the brink of civil war.

The Reagan team members, in the case of El Salvador, are playing with dynamite. They are playing with lives in a situation where already over 9,000 people have been killed since the beginning of the year, where last week 6 leaders of leftist opposition political groups were killed, and where just a few days later 3 American nuns and a social worker were found murdered. El Salvador has been brought to this point of despair because of deep-seated social and economic problems that have led to frustrations and the resultant terrorism and violence. The deteriorating situation has so polarized the country that very little is left of the moderate middle sector.

U.S. policy has been to support the military-civilian junta which came to power last January as the best hope against a takeover by the extreme left or a return to the authoritarian military government of past years. Our Ambassador in El Salvador, Robert E. White, has done yeomanlike service under most difficult and, I might add, extremely dangerous circumstances. What he needs least in these delicate times, as the violence continues and coup planning abounds, is interference from Reagan transition advisers who are giving signals in direct contradiction to what our Government believes is in the best interests of our country.

The report that Ambassador White was on the Reagan transition team's hit list because he is identified as being among the "social reformers" in the State Department has served to severely undercut his position. How can he effectively deal with the Government when it is reported that he is going to be replaced because of the very positions that he has taken with them? How can the Ambassador convince and influence the Salvadoran Government that the best road is the one of social and economic reform when it is reported in the press that he is going to be replaced because he espoused these principles?

Ambassador White correctly protests that his name on the hit list, because of his efforts to strengthen the moderates in El Salvador, "has struck a heavy blow at the Christian Democrats and moderate military officers." Time is rapidly running out for the moderates who are desperately trying to stave off a rightwing coup which could ultimately lead to a bloody civil war. It is not only Ambassador White who is being undercut in El Salvador. It is the very security interests of the United States. Continued violence in El Salvador threatens to spill over to neighboring countries and disrupt the peace of the entire Central American region.

The stark reality of the situation in El Salvador is that Reagan advisers are encouraging the hard-liners against the stated policy of the U.S. Government. On the day that Ronald Reagan was designated as nominee of the Republican Party, rightwing forces rejoiced throughout Latin America. They perceived that the Reagan Latin American policy would support their efforts in the name of anticommunism. These perceptions have been reinforced by the actions and statements of Reagan transition team members.

Specifically in the case of El Salvador, Reagan aides in late November assured prominent representatives of the conservative business community that the new administration would increase military aid, including combat equipment, in the fight against leftist guerrillas. This, of course, is in direct contrast to the current U.S. Government policy which is holding the line on military assistance. This policy rightfully is in recognition that the chaos and violence in El Salvador will not be settled by a military solution. Now the hard-line factions in the military can become even more intransigent because they feel that they will be receiving this total support from the incoming Reagan administration.

The visits to El Salvador by people perceived as Reagan associates are other examples of the undercutting of the Ambassador's position in this critical situation. The intransigent hardliners who oppose U.S. policy are being bolstered by their meetings with these emissaries.

I am gratified to say that even the top Reagan foreign policy advisers now recognize that their people are causing havoc and are creating dangerous situations by making irresponsible and careless statements. I congratulate Richard V. Allen and Ambassador Neumann for realizing the problems that such activity presents. I only wish that the admonitions to their people to curb their activity would have come much sooner. I hope that in El Salvador's case, it has not come too late.●

CANCER EYE

● **Mr. GARN.** Mr. President, a unique and promising work is underway at Utah State University entitled, "Immunoprophylaxis of a Malignant Tumor in Cattle" or more commonly called cancer eye. What makes this program so unique is that it is the only cancer research project in this country utilizing large domestic animals with naturally occurring tumors as experimental animals.

The vast majority of today's cancer research utilizes tumor systems of rodents—rats, mice, and guinea pigs. The features exhibited by these rodent models are poorly analogous to human clinical reality and, therefore, such research may produce results of questionable applicability to human cancer therapy.

On the other hand, using the tumor systems that occur naturally in the larger domestic animals, such as cattle, comes closer to the human cancer problem. Such similarities are: The human population is outbred; human cancers are naturally occurring, not purposely induced; and the prevailing tumors (carcinomas) involve the body's surfaces and linings, and tend to spread (metastasize). The tumor system to which USU has been experimenting with is bovine cancer eye, an ocular squamous cell cancer. This naturally occurring potentially metastatic tumor system, since it occurs in a large, older, outbred population of mammals, is highly analogous to the human cancer situation. Additionally, this bovine malignancy is classified as a carcinoma, as are most human cancers of the lung, skin, bladder, breast, colon, uterus, and other epithelial surfaces; cancers that account for approximately 90 percent of human cancer deaths.

The immunologic agent USU which has been used to activate the animal's immune system is called BCG (Bacille Calmette-Guerin), a weakened form of a tuberculosis bacterium. To avoid many of the complications inherent in working with live bacteria, a non-TB producing vaccine consisting of dead BCG cell walls compounded in mineral oil and suspended in a water emulsion is used. The results to date show a 30-percent cure rate and a 40-percent, long-term arrest rate of cancer of the eye.

Because of the apparently successful experimental results, USU has entered into a collaborative effort with physicians and scientists at the Free University of Berlin where use of the BCG cell wall vaccine is undergoing its first human clinical trials for the treatment of certain head and neck cancers. I understand the initial results of these trials are very positive and encouraging.

It is imperative that this cancer eye program continue. Cancer immunotherapy is in its infancy while cancer surgery is on the decline. There are many possible immunologic manuevers that can be brought to bear against the cancer problem. One or more of them may well prove to be superior to local or even extensive surgery in the treatment of cancer. The method and timing of intralesional injections of BCG, using dead BCG instead of living have produced various results. Some have been positive and others negative. These kinds of problems are best studied in animals. Human patients should not be subjected to difficulties arising from unforeseen complications. For this reason, I encourage the continued funding of investigations into the basic biology of naturally occurring malignant tumors in larger domestic mammals and the continued support for the immunotherapy and immunoprophylaxis of cancer eye, such as what is now underway at Utah State University.

Mr. President, I am pleased that Senator MAGNUSON wishes to concur with my remarks as he feels as strongly as I do about the value of the cancer eye research. We enthusiastically urge continued funding of this project.●

TRIBUTE TO MR. ELI E. NOBLEMAN

● Mr. NUNN. Mr. President, I have just learned that Mr. Eli E. Nobleman, Counsel to the Governmental Affairs Committee, plans to retire from the Senate on December 31 after 33 years of service. This body passed a resolution on Monday commending Eli and naming him Counsel Emeritus to the Committee on Governmental Affairs.

In my opinion, this honor is a fitting tribute to a man who has contributed significantly to the success of dozens of Senators who have served on the Governmental Affairs Committee during his distinguished career.

Mr. President, during my first 2 years of service on the Governmental Affairs Committee, I relied heavily on the expertise and advice of the talented members of the committee staff. None, however, was more helpful to me during this period, nor more consistent in his wise counsel than Eli Nobleman.

Exceptionally bright and competent, Eli will be missed by all members of the committee who relied on his experience and wisdom. I personally regret the loss of this knowledgeable individual from the Governmental Affairs Committee.

Eli has my best wishes as he retires at the end of this month, and I am certain that all my colleagues on the committee join me in wishing him good health and happiness in retirement.●

SINGLE AUDIT AMENDMENTS TO GENERAL REVENUE SHARING BILL CAN STREAMLINE SENATE AUDITS

● Mr. SASSER. Mr. President, I rise to commend the Senate for accepting the single audit amendment to the State and Local Fiscal Assistance Act which the Senate agreed to on December 9, 1980. This amendment establishes by statute consistent requirements for financial audits of Federal assistance programs run by State and local governments and nonprofit organizations.

Under the provisions of this amendment, recipients of Federal grants would be responsible for seeing to it that independent financial audits—by qualified auditors—are conducted by their organization every 2 years. This would replace the current practice of piecemeal, grant-by-grant audits.

Extensive hearings have been held during this session of Congress on the provisions of this amendment. Senator DANFORTH originally suggested this procedure in S. 904, legislation he introduced in 1979. Later, this audit title was incorporated into S. 878, the Federal Assistance Reform Act of 1980. On September 10, 1980, the Senate Governmental Affairs Committee unanimously reported this legislation with a favorable recommendation for passage.

The General Accounting Office, in their 1979 report "Grant Auditing: A Maze of Inconsistency, Gaps and Duplication That Needs Overhauling," uncovered a number of horror stories resulting from the narrow, piecemeal auditing of grant programs which this amendment is designed to replace. Among them consider the following:

A grantee in Missouri receiving funds from ACTION, the Community Services Administration, and from the Departments of HEW, Agriculture, HUD, Treasury, and Labor, as well as from other State and local funding sources, underwent 10 audits over a period of 4 years. However, all 10 audits were focused primarily on individual grants. None were comprehensive—they did not cover all the financial and compliance controls over all Federal grants received by the grantee to secure one audit of all funding and operations to get a better picture of how the grantee is administering its Federal funds.

The activities of a large, multifunded Indiana City were subjected over a 5-year period to more than 700 audits, none of which provided comprehensive coverage of the city's financial management procedures. The city's deputy comptroller said that, to satisfy HUD requirements that each grant in certain HUD programs be audited, many of the audits were made of the city's subgrantees, including city departments. Although the city and its subgrantees had spent nearly $1.6 million in grant funds on audits, HUD area officials recognized the need for a single, more comprehensive audit of one of its programs. However, a city official estimated that the audit would cost about $105,000 and, believing that HUD programs had been audited enough, was against the audit.

Obviously, piecemeal audits like the ones described by the General Accounting Office are disruptive and burdensome for recipients of Federal grants. The piecemeal audits described in the General Accounting Office report just do not provide the kind of meaningful fiscal overview which is needed for an effective fiscal audit.

Moreover, with piecemeal audits, the audit resources of the Federal Government simply do not stretch far enough to insure that all grant programs are audited. The General Accounting Office found that, because of gaps in audit coverage, the Federal Government just cannot make sure that billions of dollars in Federal funds are spent as intended. For example:

No Federal audit coverage was provided an Ohio grantee receiving $52.5 million from HEW and Labor. During fiscal years 1974 through 1977, the grantee received $50.4 million from HEW and $2.1 million from Labor.

No audits were made of a Washington State grantee that received about $5.5 million from 5 Federal agencies under 23 grants. According to a Department of Energy official, the most recent audit of any grants was in 1973.

Almost no Federal audit coverage was

provided a Washington State grantee receiving $15 million in Federal funds. Only $126,000 of $1.6 million in action funds were audited during the 4-year review period.

Officials of a grantee in Missouri said they had never been audited to assure proper management of about $4.5 million in Federal funds received in fiscal year 1975 through 1977. The grantee was an employment office receiving funds from Labor, the Community Services Administration, and ACTION.

The single audit amendment to the revenue sharing bill would improve the financial management of all Federal assistance programs and promote more efficient use of audit resources.

This amendment directs the Office of Management and Budget to establish consistent standards for the audit which would be followed by all Federal agencies. The standards set by OMB would comply with those set by the General Accounting Office. This means that the Federal Government would get its act together on audit requirements so that the agencies and the recipients would know exactly what is required in financial audits.

State and local governments and other direct recipients of Federal grants would be required to obtain an independent audit once every 2 years by a qualified public accounting firm or a Government audit agency which is not involved in the activities being audited.

I want to stress here that the delegated audit concept depends on the use of qualified professionals to perform the work. These audits would be done by certified public accountants who have met the most stringent requirements of their profession. The role of these professionals is a central one in assuring accountability for the audit. A key definition in the bill requires the public accountants who perform the audit to be certified public accountants. This definition is supported by the Office of Management and Budget and the General Accounting Office.

Thus, the single audit amendment assures that audits of organizations receiving Federal assistance will be conducted every 2 years. This will eliminate the gaps in audit coverage which the General Accounting Office reported. And it will also allow recipients of Federal grants to better manage their programs without disruption of needless and duplicative audits.

The single audit concept in this amendment is patterned after OMB Circular A–102, attachment P, which now administratively directs the manner in which grant programs are to be audited. Putting the single, biennial audit into statute will make the authority clear. This will insure that the Federal agencies will fully incorporate the single audit into their own administrative directives governing grant programs.

The single audit of organizations receiving Federal assistance which this amendment would make law is endorsed by the entire professional auditing community—the Office of Management and Budget, the General Accounting Office, the State and local officials responsible for audits, and professional public accountants.

I want to thank my Senate colleagues, especially Senators DANFORTH, CHILES, LEVIN, FORD, DURENBERGER, ROTH, and COHEN for their cosponsorship and support of this amendment to the revenue-sharing legislation. Passage of the amendment is a real step forward for efficiency in the administration of Federal grant programs.●

ACCEPTANCE SPEECH OF GEN. LOUIS H. WILSON, USMC (RET.) UPON RECEIVING THE NATIONAL VETERANS AWARD

● Mr. HEFLIN. Mr. President, I ask to have printed in the RECORD the acceptance speech of Gen. Louis H. Wilson which he delivered upon presentation to him of the "National Veterans Award." Gen. Louis Wilson received this coveted award in Birmingham, Ala., November 10, 1980.

The acceptance speech follows:

SPEECH OF GEN. LOUIS H. WILSON

Thank you so very much for this award you have bestowed upon me. I am deeply honored to receive this recognition—especially when I consider those distinguished Americans who have received this award in previous years.

I want you to know also that I am deeply appreciative of the gracious and warm hospitality that has been extended to me by the citizens of Birmingham. I have visited your lovely city many times and I am pleased to report that your reputation for hospitality has not been exaggerated. Thank you for your kindness and warm welcome.

Being here in Birmingham, the birthplace of Veterans Day, to help pay tribute to all Americans who have served faithfully in the Armed Forces of the United States, is truly an honor of the highest order. Those men and women honored their Nation by giving a part of their lives in her defense. Indeed, many have given their lives, many have been wounded, and many have suffered the agonies that war brings. And in turn at this time of the year, all Americans honor those who have served their country as a member of the Armed Forces. So I look forward to tomorrow, Veterans Day 1980, when we will pay tribute again to those Americans who have served. Their sacrifices indeed, deserve the respect and gratitude of all Americans.

I would like to share with you this evening some thoughts I have on a subject I believe to be of great importance to all Americans. This subject is national defense, specifically, security for America in the 1980's.

National defense is a much discussed issue these days, not only recently in Washington as a campaign issue but in cities and towns throughout our Nation by concerned citizens such as yourselves. Most of you are generally well-versed on matters of national defense. However, I would like to highlight certain international events occurring within the past year, comment on our national defense and where we are heading in the 1980's, and outline for you the role I believe our military services will play in providing for our Nation's security in the years ahead.

During my travels since my retirement I perceive on the part of many Americans all across this Nation, a renewed interest in national defense. Americans are concerned about our Nation's security and I am convinced that they want to be informed on defense matters and they also want to be assured that if our Nation's vital security or economic interests located in any region of the world should ever be threatened, that such threats will be met with an appropriate and swift response.

The world we live in is not peaceful. Frankly, we live on an armed and hostile planet. In the world today there are approximately 37 major and minor armed conflicts currently in progress. Upwards of eight million soldiers and paramilitary personnel are directly or indirectly involved. The total loss of lives in these conflicts is unknown, but rough estimates run between one million and five million killed. The number of wounded and maimed probably is three times the number of dead. Although many of these conflicts are civil wars, rural guerrilla campaigns or urban terrorism, and while they are occurring thousands of miles from our Nation's shores, they have the potential for greater violence, including the seeds of a third world war.

The Soviet takeover in Afghanistan and the threat they now pose to the Persian Gulf region, an area of vital interest to our Nation and to our allies, has great potential for enlarged conflict. Today the Middle East and Persian Gulf region is the most politically volatile and militarily dangerous area in the world. It is also the most strategically important area on earth. The recent outbreak of hostilities between Iran and Iraq serves as an example of the instability of this region of the world.

Currently the Middle East provides the United States with 20 percent of its oil, and over 60 percent of Western Europe's and Japan's imported oil also comes from the rich oil producing nations of this region. This dependence is recognized by all to be a critical economic and political weakness. A major disruption of the oil flow would mean serious economic hardship for Americans, and in the case of our allies, possible economic collapse.

Additionally, detente with the Soviet Union is crumbling in the face of a rapid and continued expansion of Soviet military capabilities, a buildup, I might add, which far exceeds that which is required for defense.

As we look down the road, the next five years do not look any brighter. The instability in the ethnic, tribal religions, and economic relationships between nations are causes for conflict and will continue to grow. We can expect increased competition among all nations for rapidly diminishing resources. Increased competition will most assuredly result in conflict as nations undertake actions to protect their access to vital resources at the expense of other nations.

The circumstances which led us to our present economic greatness are changing now. We no longer possess a seemingly unlimited supply of raw materials. In fact, we are now beginning to realize that our supply of raw materials is quite limited. We are using our natural resources at a faster rate than we can locate new supplies or substitutes. Simply stated—we are, in terms of raw materials, rapidly moving from a "have" to a "have not" nation. We still have large quantities of some materials like coal, lead, copper, and iron ore, but in many other materials we are deficient.

Of the 71 critical raw materials identified as essential to our economic well-being and national defense, 68 must be imported in part or entirely. Presently we are 100 percent dependent on foreign chromium. By 1985, we will be 100 percent dependent on foreign tin, cobalt, and manganese. At about that same time, we will be required to import 96 percent of our aluminum, 88 percent of our nickel, and 87 percent of our tungsten.

Our importing of these and other essential materials has steadily increased over the past 25 years. Of our total resource needs, we imported 15 percent in 1950, about 25 percent in 1970, and perhaps we will have to import as much as 70 percent by the year 2000.

Consider, if you will, that we are currently importing about 3 million barrels of oil a day, just from the OPEC nations located in the Middle East.

Over the next year, providing prices remain at their current level of $32 a barrel—(and you can bet they won't) we will spend about 34 billion dollars for imported crude oil. If we continue to import at this level over the next 5 years, we could conservatively spend about 170 billion. Now, I am told that the market value of shares of all the companies listed on the New York Stock Exchange is approximately 1.1 trillion dollars. One doesn't need to be a mathematician to figure out that about every 5 years then we transfer to just these few nations about 16 percent of the productive capability or net value of these companies. This situation is devastating and I'm sure you agree.

On this issue of resources, we must keep in mind that we are not the only nation that requires such materials. We expect that by 1985, the Soviet Union will become a net importer of oil. As you can imagine, the vast oil reserves of the Middle East and the Persian Gulf will provide them with a most tempting target.

When you consider all the possible catalysts for conflict that now exist and those in the foreseeable future, it is readily apparent that the decade of the 80's will be a most challenging period for our Nation. The Soviet challenge, I assure you, will continue and the struggle that appears to be taking shape may well be decided in this decade. As we do not expect the Soviet challenge to abate, our Nation must be prepared to meet the challenges ahead. This means we simply must pay the price for the military capabilities needed to support our global and national security objectives and protect our vital interests throughout the world.

International events, particularly those occurring in Iran, Afghanistan, and the Soviet threat in the Persian Gulf, should prompt a strategic appraisal of our current capabilities to protect U.S. vital interests in remote regions of the world. As a result of this review, many new programs should be initiated to strengthen our current military capabilities. Before I comment on some of these new programs, I better put to rest a question that you may want to ask right now, and that is "in terms of defense how much is enough?"

In responding to that question, I would say enough is when our government is able to protect the interests of Americans from outside domination or significant economic or political coercion. If our Government cannot, then we are placed in a very poor position and only invite aggression. The best way to prevent war is by maintaining forces which will dissuade a potential enemy. Every time I hear or read that certain groups within our society are decrying defense expenditures as excessive, I am reminded of a statement which was made in 1954 by Sir John Slessor, an Englishman who at that time was filling a top level Cabinet position in the British Government. He said: "It is customary in democratic countries to deplore expenditures on armaments as conflicting with social programs. There is a tendency to forget that the most important service a government can do for its people is to keep them alive and free." Well, I believe this audience could not agree more.

So—what type of defense does America need? United States defense strategy must include a balance of flexible, versatile, well-equipped, and highly trained forces prepared to engage the enemy in any kind of conflict—on land, on the seas or in the air—anywhere on the globe. Our strategic nuclear forces must offer a credible, realistic, and powerful deterrent to any nation foolish enough to suppose something could be gained by launching a nuclear holocaust.

This military balance must include conventional forces that are well-rounded and fully prepared to fight on the modern battlefield. We must have a modern Air Force, Army and a Navy, powerful and capable of controlling the seas, above and below the surface. Now on this requirement for a powerful and modern Navy, we must never forget the United States is a maritime Nation—and this geographical circumstance is not going to change. We must be able to travel freely over the oceans of the world, transport our goods to and from world markets, and maintain our commercial ties with our friends and allies.

In order to do this—and prevent a potential adversary from restricting our access to resources or markets essential to our economy—we must have unquestionably a superior naval establishment. Seapower has played a major role in the history of our Nation, and its use has protected our interests on numerous occasions. As a maritime Nation, a strong Navy is absolutely essential, if we are to maintain unimpeded passage of the sea lanes of the world and protect our vast economic interests located throughout the world.

Our soldiers, sailors, airmen, and marines must be given the proper tools with which to carry out their respective missions. These tools, in form of modern weapons systems and equipment, and the training of our military personnel who will operate them, are expensive, and I will not deny that fact. But consider, if you will, the responsibility that our President must bear—the defense of our country and the protection of its citizens, both here and abroad. Our military Forces must be brought to and maintained at a high level of readiness.

Defense spending for next year I understand will jump by at least 19 billion dollars over last year's defense budget. Approximately 157 billion dollars will be devoted for defense in 1981. I strongly believe this level of expenditure is absolutely necessary and will allow us to see to our most immediate defense needs. However, I also believe that an election year one-time shot in the arm will not be sufficient to cure our deficiencies. There must be a sustained effort to ensure that our forces are strengthened and maintained at a high level of readiness. Next year's defense budget is a good start, but I want to emphasize that there is much to be accomplished in bringing our defense posture to a level that no potential adversary would dare challenge us in the years ahead—yours, I assure you, that will prove to be most challenging for our Nation.

Many new programs have been initiated. These new programs, though expensive, will strengthen our strategic forces as well as build up our general purpose forces. These include the land-based missiles, a program which will be the subject of much debate in the weeks ahead, new ships for the Navy, a new cargo plane for the Air Force, a step up in the production of the new main battle tank, and the creation of a rapid deployment force for use in responding to contingencies in remote regions of the world—regions of vital interest to our Nation. Some of these programs are vitally needed, others may not be valid or be the best option available. At any rate, they are a good start in the right direction. I urge you to become familiar with these programs and make your voice heard before final decisions are made.

The military pay raise of 11.7 percent and the Nunn-Warner Act, recently passed by the Congress, will help greatly toward giving adequate compensation to our men and women in uniform. I thank the Congress for their support in the matter and hope they will continue to monitor compensation and benefits to ensure they remain equitable. Those in uniform need to know that they will receive fair compensation for the duties they perform and the sacrifice they are making in their defense of our Nation. We must be willing to support them in this matter of fair compensation.

I cannot help but express my deep admiration and respect for your Alabama delegation for their support, particularly, Senator Heflin, John Buchanan, Congressmen Bill Dickinson, Bill Nichols, and John Edwards.

From the number of new defense progarms and the jump in defense spending, it would appear that someone has gotten the message. Now what we have to do is to ensure that this concern for national security is maintained and that national defense never takes a back seat to other programs.

The last suject I would like to touch on this evening is our national will.

We might readily spend adequate funds on defense, recruit adequate numbers of men and women, and deploy our forces wisely, but it is unlikely that we will have a secure country unless we have the will to carry out difficult decisions and transmit our message of intent to defend our freedom to our enemies in the world.

The source of strength lies in our people. It is a fragile, amorous quality which needs constant reinforcement. The people need to know that their leaders are aware of the threats to our security and are prepared to meet them. They need to understand the truth about defense matters, the real cost of maintaining a strong defense, and the even greater cost of not doing so.

Furthermore, the people must let the military know that they are supported and that the people appreciate the sacrifices that American Soldiers, Sailors, Airmen, and Marines make as a matter of routine. American commitments have always been greater than the assets allocated to meet them, and the men and women in uniform are expected to take up the slack. They have shown over and over that they do so gladly, but they do not have an unlimited supply of spirit and enthusiasm for carrying extra burdens. They must be replenished by outward signs of appreciation and encouragement from those back home. Based upon our recent history, we must examine every situation carefully before we commit American forces to the scene of a crisis to be sure of popular support to carry us through. We should quite properly pursue every avenue to find peaceful solutions to the world's problems, but it is also my belief that at some place, at some time, someone is likely to misread American will, and it will be time for us to say "enough! this far and no farther!" Unless the American people have the will to back up such a statement, our resolve will be found lacking, and we shall be challenged.

If we are really concerned with having a strong and effective national defense and I believe the American people are—then it is going to take more than we are now dedicating to national defense.

I would like to close by saying America's security in the 1980's does not rest entirely on military shoulders. National defense is a joint venture. Seeing to America's defense needs in the 1980's will require teamwork—partnership, if you will—between those in uniform and the American people. The citizens of this Nation exercise ultimate control over our military forces, and you should make your voice heard loud and clear in matters of defense.

Each of you must understand that decisions made at the highest levels of our government affect you directly. As an example, if the President should decide to use tactical nuclear weapons to halt a thrust of Soviet or East German forces into West Germany or the low countries, the Soviet Union might well threaten to retaliate by sending a nuclear missile to destroy Birmingham. Are you willing to exchange Birmingham for fifty miles of West Germany? It is these questions and challenges we face now and in future years. They are not insurmountable. We must be strong enough not to be put in this position. We are a strong, mature nation and one still characterized by ingenuity, resourcefulness, and ability. Ours is—and must continue to be—a nation with an inner strength and an unmistakable resolve. And it is my hope that Americans never lose that resolve to guard our Nation against all enemies in whatever form they may manifest.

But let us not forget that today we especially honor America's fallen fighting men of all wars—it was our responsibility as was said so eloquently by the patron from Sparta at Thermopylae "Go tell the Spartans, thou who passest by, that here, obedient to their laws we lie." Thank you for letting me share this evening with you.●

SOLZHENITSYN ON POLAND

● Mr. MOYNIHAN. Mr. President, on December 4 Alexandr Solzhenitsvn added his voice to the millions who have spoken up for the Polish workers.

He who endured the barbarism of the Gulag knows all too well the meaning of totalitarianism. He has seen it, and he has reflected on it more searchingly and with more penetration than perhaps anyone in history. He understands what the Poles face today; he understands what their brave movement can bring forth if it is only given a chance by the menacing Soviet colossus to the east.

I hope that Mr. Solzhenitsyn's message has reached the Poles, for it will encourage them and remind them that the oppressed of the world, including the Soviet dissident movement, stand with them in their hour of trial.

I ask that his message, which was transmitted by telephone to Freedom House in New York, be printed in the RECORD.

The message follows:

REGARDING THE THREAT TO POLAND

The bloodthirsty heirs of Lenin continue to press toward their unattainable dream of world domination—paying no heed to how many people, their own and others, will be ground up and dishonored in this meatgrinder.

In these days, the hearts of the oppressed Russian people are with the people of Poland.

ALEXANDR SOLZHENITSYN,
December 4, 1980.●

DETENTE AND THE WORKINGMAN

● Mr. HATCH. Mr. President, I am pleased to report that the AFL–CIO, under the leadership of Lane Kirkland and George Meany, has repeatedly taken a stand in the international community for free, democratic trade unions.

Today I submit to the RECORD an article authored by George Meany in the spring 1976 issue of Atlantic Community Quarterly. During this crucial period of transition, George Meany's words are as important as they were 4 years ago, and perhaps more so considering the recent invasion of Afghanistan by the Soviet Union.

In this article, George Meany correctly points out the weaknesses of a détente policy that only works one way. With great insight he shows that the Soviet Union represents the things which make it impossible for free trade unions to exist. He warns us that we must not carry détente to the point that we are making concessions which conflict with our fundamental democratic principles.

I applaud Lane Kirkland for perpetuating the traditions of George Meany by refusing to meet with representatives of trade unions from the Soviet bloc. Kirkland, following the policy of George Meany, makes the important distinction between state controlled unions of the Communist world and legitimate unions that are democratic and free.

How long shall we go on supporting the Soviet war machine with our technology and capital? Must the taxpayer bear the inflationary burdens for deals such as the Soviet grain purchases, which cost us over $1 billion? I urge my colleagues to join with Lane Kirkland in calling for the restriction of technology and credit for Soviet projects that inevitably result in supporting Soviet military goals.

If we are to follow a policy to peace we must join such company as Lane Kirkland and George Meany, in recognizing where our greatest threat to peace is coming from. I hope that we may be as bold as Lane Kirkland in standing up to the Soviets when they come in conflict with values basic to our free society.

The article follows:

[From the Atlantic Community Quarterly, Spring, 1976]

DÉTENTE AND THE WORKINGMAN

(By George Meany)

The alternative to détente, we are repeatedly told, is holocaust. Either the East and the West bury their differences, or we shall bury each other.

Thus put, détente is irresistible. Nothing else seems rational; nothing is worth the destruction of the human race. No ideology, no values, no institutions, however virtuous, can be vindicated by history if there are no people left on the planet.

So, if détent offers the only detour, the only accessible turn-off, from the collision course of the superpowers, it must necessarily be in the interest of all people everywhere, including of course the workers of the democratic countries.

But that's a very big *if*.

What if this popular conception of détente is wrong? What if the term itself has taken on meanings that have nothing to do with the realities of international life? What if détente in fact serves as a mask to disguise dangerous trends that ultimately lead to the destruction of democracy, or to the very global conflagration that détente was intended to avert, or both?

What if, in fact, détente is appeasement by another name? What if détente does not deter but rather feeds and encourages the forces of war and totalitarianism? Then, it seems to me, the workers in the democratic countries have everything to lose and nothing to gain.

There is no doubt that among many intellectuals in the west, the embracing of détente has been accompanied by a tendency to downgrade western institutions, particularly the set of practices we call political democracy. After all, they say, the United States has its Watergate and Vietnam; besides, democracy may be a luxury the affluent countries can afford, but it doesn't feed anybody, etc., etc.

Now it may be argued that, logically, these two views need not be connected; and I suppose it is true that the pursuit of détente does not necessarily have to entail the depreciation of western political values and institutions. But abstract logic is not the compelling factor behind the quest for détente. The compelling factor is a form of wishful thinking, and in reality, those promoting the virtues of détente feel the need to narrow the gap—no, the vast chasm—that separates the two social systems. Did not your own Clive Jenkins profess to see little difference between your M–16 and the Soviet KGB?

Or, in a similar vein, when the President of the United States acting on the advice of the Secretary of State, declines to see Aleksandr Solzhenitsyn on the grounds that doing so might offend the commissars, then clearly the White House itself has been morally subverted by Communist pressure. Since the President's discourtesy really originates from the American architect of détente policy, it offers a profound insight into the real meaning of détente in the eyes of Dr. Kissinger. There is no action too abject, too dishonorable, or too disgraceful of our best traditions but that Dr. Kissinger will cheerfully carry it out in return for Soviet smiles.

So, on the record so far, "détente has brought about no favorable changes within the Soviet bloc—certainly no easing of the plight of Soviet dissidents—but it has brought about some unfavorable developments within the West, including, it would seem, the downgrading of anti-Communism as an integral part of the democratic philosophy."

This is a matter of no small importance to the workingman of the West. Political democracy recognizes that groups and classes of people have conflicting interests and lays out the means by which conflicts can be expressed and resolved. Since Communist societies proclaim that they have abolished class conflict, they naturally purport to have no need of these means.

But for working people in the western world, political democracy has not been a dispensable luxury. It has provided the essential tools by which workers could create unions and acquire the power to advance their social and economic interests. Without the freedoms of speech, assembly, association, and other modes of collective expression, a union simply cannot function—not well, not poorly, not at all. And if unions cannot function, then you have a society in which it is presumed that the worker is not the best judge of his own interest—that those interests must be defined and decided by somebody else in the society, i.e., the state.

This is, of course, the very system that prevails in the Soviet Union. The destruction of independent workers organizations—no less thorough than under fascist regimes—is justified in the Communist world by an ideology that claims to have seized control of the state for the workers. The bitter and illuminating irony, of course, lies in the absence of any means by which the workers themselves can, even indirectly, ratify—or reject—this seizure of power in their name.

This is why the AFL-CIO has refused, and will continue to refuse, to engage in exchange visits with representatives of so-called unions behind the Iron Curtain. They simply are not unions. They are instruments of the state whose function is the regimentation, not the representation, of workers. To legitimate them as trade unions amounts to a betrayal of the Russian workers.

Governments must relate to one another regardless of the social systems they represent. The dreams of anarchists to the contrary notwithstanding, there can be no power vacuum, within a country: somebody has to govern.

The same standards cannot be applied to unions. There are countries where they don't exist; there are parts of my country where unions are weak or non-existent—or where so-called "company unions" exist. We don't invite them into our Federation just because they are the only show in town. We think it is vital to maintain the distinction between real unions and phony unions. Western history in this century is full of examples of the terrible consequences that flow from calling things unions that are not unions.

In sum, then, I am arguing that to the extent that the present policy of détente leads to a depreciation of democratic values in the West—and I see considerable evidence of this already—it will be even more harmful for the workingman than for anyone else. Remember, the trade union movement's commitment to democracy grows out of the very commonsensical observation that a system that puts numbers above wealth is likely to produce a better deal for the worker than any system that diminishes, frustrates, or obliterates majority rule.

What is this détente in whose name the President of the United States snubs one of the greatest writers and freedom fighters of the 20th Century?

Détente is not supposed to be a vague understanding, a spontaneous thaw in the cold war. It is encoded in a specific agreement—signed by Nixon and Brezhnev in May, 1972—which provides for "cooperation" between the U.S. and U.S.S.R. It is not merely a negative restraint; it is positive. It includes an agreement that each side notify the other of any potential local flare-up that might spread and envelop the superpowers themselves.

What have been the fruits of this détente? Eighteen months after the agreement had been signed, the Soviet Union failed to notify the United States of Egyptian-Syrian preparations to launch the Yom Kippur War, of which she had advance knowledge. Moreover, anyone who remembers how the Soviets summoned Henry Kissinger to Moscow to arrange a cease-fire—after having refused to go along with U.S. pleas for U.N. action—knows that the Russians used détente to save the Egyptian Third Army Corps from destruction and to deprive Israel of a deserved military victory. To this day, the Soviet role in the Middle East has been destabilizing not peaceful.

And in Vietnam? When even the Vietcong sought to persuade Hanoi not to go for total military victory but to enter negotiations that would produce a Vietcong government, was there any evidence that the Soviets intervened in behalf of moderation?

In Portugal at this moment, is there anyone who will argue that the Russians are restraining Mr. Cunhal and his Communist Party—whose members marched through the streets with pictures of Stalin!—from seizing power over a people from whom they just received barely 13% of the vote?

Wherever there is trouble in the world today one looks in vain for a shred of hard evidence that the Soviets are following a course of détente.

But that's not quite true. They are following détente of a kind—their kind. Their version of détente is very simple: they take, take, take and give nothing in return.

Détente means we give the Soviets sophisticated western technology—especially civilian computer technology. We also finance truck plants, nitrogen fertilizer factories, natural gas production, etc.

You might think that a country that needs such technological assistance must at least be doing all right agriculturally. Not so. In addition to giving the Soviets our superior technology, we must also sell them food to feed their people.

Western workers are being called upon to bail out the Russian economy—to save it from the catastrophies of totalitarian central planning geared to war production. And make no mistake about it—it's the workers who are footing the bill.

The inflation that cuts into the purchasing power of the American worker is largely the result of skyrocketing food and fuel costs—in both of which Soviet policy played a basic role. The cost to the American housewife of the last big Russian grain deal has been put at over a billion dollars, not to mention the 300 million dollars in subsidies paid out by the American taxpayer.

So far, the Soviet economy doesn't seem to produce much that Americans need, but that could change, especially with the help of exported American technology. Already some Soviet cars and tractors are making their way into the U.S. at very competitive prices. Remember, the Russians can set whatever prices they like on their exports. In their economic system, pricing policies can be made to serve political goals. Unlike our Western businessmen, the Soviets' prime purpose is not related to private profit.

Our businessmen seem to have an unshakable faith in the power of commerce to achieve practically every imaginable goal—to end war, expand justice, raise living standards. What we have here is a version of the "trickle down" theory applied on an international scale.

But we in the American trade union movement don't buy the trickle down theory. We don't buy it at home, and we don't see why we should buy it abroad. It has never worked for us.

We believe that the cause of social and economic justice in the United States must be pursued directly and head-on. That's what the AFL–CIO is in business for. We also believe the cause of peace must be pursued directly, not as a hoped-for fall-out from dubious commercial relationships. (We ought not to forget that Germany was Britain's chief trading partner on the eve of both world wars.)

The fact is that a policy of firm resistance to Communist expansion, backed by the military means to make the policy credible, is the best way to keep the peace. When such a policy was followed in Cuba in 1962, it brought no conflagration but a Soviet retreat (and subsequently a slight thaw in Soviet-American relations based on a healthy respect for American power), Our stand in Korea stopped Communist expansion there—without bringing on World War III. Scare words like "Cold Warrior" should not blind us to the fact that it was America's nuclear superiority that prevented World War III, not peaceful Soviet intentions.

In addition, we need to recognize where the real threat to peace originates today. In an earlier time it originated in fascist regimes. Does anyone really believe there is a global, expansionist fascist threat in the world today? Where are Franco's armies marching?

Is there a threat from the Western democracies? Are they embarked on a holy war to roll back the Communist gains? Is the United States attempting to liberate Czechoslovakia, Poland. Hungary, East Germany? Do we have political parties in these countries—or in the Soviet Union itself—that serve as instrumentalities of our government?

No policy for peace—whether it goes by the name of détente or something else—can be successful unless it is based on a clear recognition of where the threat to peace comes from. In our era, that threat comes mainly from the Communist World—from its imperialist drive to dominate world society. Not accidentally, the greatest threat to workers rights emanates from the same source.

There is a peace to be had by accommodating to this threat—or by remolding our institutions and values in its image or in an image more to its liking. But that is not a peace in which the workers of the world can hope to advance their deepest aspirations for a better life.

Whatever our government may do, whatever our capitalists may do, we will not accommodate to the commissars.●

HUGH DEHAVEN

● Mr. RIBICOFF. Mr. President, I would like to take this opportunity to honor one of Connecticut's finest citizens. The late Mr. Hugh DeHaven was one of those special people who made impressive contributions to the people of this country.

His interest in crash protection began in 1917 when, as a cadet in the Royal Flying Corps of Canada, he was in a near-fatal plane crash. His investigation of his own accident led him to his lifelong and passionate interest in safety. He extended his work to automotive safety in the midthirties. His efforts led to the establishment in 1942 of the Cornell crash injury research program at the Cornell University Medical College. The unique program was concerned initially with crash survival engineering for small planes and automobiles became a subject of study later.

The automotive crashworthiness program initiated by Hugh DeHaven was later transferred to the Cornell Aeronautical Laboratory, the forerunner of the Calspan Corp. Hugh DeHaven's pioneering work is reflected in crashworthiness features now routinely found on each and every car sold in the United States, and in the experimental vehicles built by the Department of Transportation and automakers throughout the world. I am proud to recognize Hugh DeHaven as the father of crashworthiness research whose work has saved many thousands of lives throughout the world.

In 1965 and 1966, I had the privilege of chairing hearings before the Government Operations Committee to assess the effectiveness of governmental programs to improve automobile and highway safety, and these hearings eventually led to the enactment of the landmark National Traffic and Motor Vehicle Safety Act of 1966. As a result, a number of motor vehicle safety standards have been issued based on the crash survival concepts pioneered by Hugh DeHaven, and it is estimated that over 60,000 lives have been saved and many thousands of injuries lessened because of these improvements.

I am pleased to be able to share with my colleagues a recent bulletin from the Cornell University Medical College posthumously praising the contributions Hugh DeHaven made to the public welfare.

The article follows:

Hugh De Haven (1895–1980), "Father" of Aviation and Automotive Safety Engineering, Leaves Historic Papers to CUMC

Hugh DeHaven, the acknowledged 'father' of crash-survival design engineering, died earlier this year at the age of 85. Most members of the present NYH–CMC community probably are not aware that Mr. DeHaven did much of his pioneering research here at Cornell University Medical College from 1942 to 1954. In his will, Mr. DeHaven designated that his collection of papers, books, and records relating to his crash-injury and survival studies be presented to CUMC. This extensive and historic collection was presented to CUMC in a ceremony held here on May 29.

Accepting the collection for CUMC, Dean Theodore Cooper made these remarks: "All present here, as well as motorists and air travelers around the world, are in debt to

Hugh DeHaven. . . . When he came to this medical college in 1942, the only interest in crash-injury studies was among the military services. When Mr. DeHaven retired in 1954, a whole body of scientific data had been assembled and studied on crash injuries nationwide, and the automotive industry had become intensely interested in the subject."

The DeHaven collection provides fascinating glimpses into one man's life-long preoccupation with a vital scientific concept which, for many years was largely missed or discounted by other scientists of his day.

In key periods of DeHaven's life, military circumstances played a pivotal role. A near fatal accident during World War I provided the inspiration for the subject of his scientific investigations, and the U.S. war effort during World War II led to his appointment to CUMC as a research associate to study crash safety in military aviation.

Born in Brooklyn, New York, in 1895, Hugh DeHaven received his primary and secondary school education in Massachusetts and Pennsylvania. He briefly attended Cornell and Columbia Universities (1914–15), where he studied mechanical engineering. During World War I, he decided to leave school and enlist in the U.S. Army Air Corps, but a slight hearing impairment caused his enlistment to be rejected. Undaunted, he turned to the Canadian Royal Flying Corps, which accepted him as a cadet pilot.

The accident which shaped the course of his life occurred in 1917. His cadet group, ironically, was completing its training in Texas, when he was involved in a mid-air collision, from which DeHaven emerged the only survivor. He was flying a two-cockpit plane at 500 feet, when a similar plane, whose pilot was practicing gunnery, collided with DeHaven's hitting his plane from behind. Both planes crashed.

In an interview last year, Mr. DeHaven recalled his injuries from the crash. "I had two broken legs, bruises, and lacerations, but no head injuries. They didn't expect me to live, so they didn't even bother setting the legs. My most serious injuries were intra-abdominal."

He was laid up recovering from his injuries for six months. During this time, one particular question kept recurring to him: "Why did I survive when all the rest were killed?" Survivors of accidents in which others are killed are frequently plagued by the same question. For DeHaven, it became the basis for a new field of study, combining physics, medicine, and engineering.

Investigating his own crash later on, he learned that, of the four cockpits, only his had remained relatively intact. He also concluded that his internal injuries were caused by the poor design of the seatbelt in the aircraft. (In the early days of aviation, the seatbelt's purpose was to secure the occupant in turbulent flying conditions and during acrobatic maneuvers. Protection during crash impact was hardly considered because crashes were generally thought to be unsurvivable.)

While his friends attributed his survival to luck or Providence, DeHaven became intrigued with the idea that it was more likely a function of pathology and physics.

From 1918 to 1942, DeHaven spent much of his time in independent investigations of aircraft crashes (especially of the "pilot-killed-passenger-shaken-up" type) and in related studies.

To determine the amount of force that the human head could tolerate, he made a study of head injuries among patients in the wards of Bellevue Hospital in New York City. Many of the cases involved people who had simply stumbled and fallen on the street or slipped on a patch of ice. "Roughly, I figured that a speed of 15 m.p.h. could cause head injury if the head hit something solid. It was also evident that even a small amount of yielding or shielding (on impact) provided dramatic protection. Later, I was to find that a velocity of 50 m.p.h. against a surface that would bend or dent five to six inches caused less force on the head than slipping and hitting ice (on the street)," he said.

In another important study, he investigated many cases of unexpected survival after suicide jumps or accidental falls from heights of 50 to 150 feet. He chose cases in which the physical data of speed, stopping distance, and resultant force could be closely estimated. "This unusual study produced dramatic and very convincing evidence that the human body could tolerate greater force than engineers and medical men believed possible," he noted. The results of this study were published under the title "Mechanical Analysis of Survival in Falls from Heights of 50 to 150 Feet" in *War Medicine* (Vol. 2, July 1942).

In the early stages of his studies, DeHaven tried and failed many times to persuade government and civilian groups of the importance of supporting more extensive crash-injury research by himself or others. Although he knew from an engineering standpoint that improvements could be designed into both aircraft and automobiles to make them many times more "crashworthy," he did not have an easy time convincing others. Indeed, he succeeded only when the impetus provided by World War II aroused the military authorities' interest in aviation safety.

During World War II. Dr. Eugene F. DuBois, chairman of the department of physiology at CUMC, served half-time on active duty as a captain in the Naval Medical Corps and as chairman of the National Research Council's committee on aviation medicine. Mr. DeHaven, at about the same time, was again busy trying to convince the military authorities of the benefits to be gained by crash-injury research in aviation. This time, the authorities listened.

Dr. Joseph C. Hinsey, CUMC emeritus professor of anatomy and former dean, recently recalled the sequence of events that led to Mr. DeHaven's appointment to CUMC. "Dr. DuBois told me that the authorities in Washington had talked to him about a visit they had received from a Mr. Hugh DeHaven, a research engineer who was a dedicated exponent of safety in aviation. He (DeHaven) had urged the authorities to undertake research dealing with crash safety in military aviation. Mr. DeHaven had become acquainted with Dr. John Fulton at Yale Medical School, and it was Dr. Fulton who introduced Dr. DuBois to Mr. DeHaven."

On the urging of the military authorities, it was decided that a research program in crash safety should be located at Cornell University Medical College, with Hugh DeHaven as one of the chief investigators. The program was started by funds granted by the National Research Council and was also supported by other sources, including, the U.S. Office of Scientific Research and Development, and, later, the U.S. Office of Naval Research.

As Dr. DuBois felt that his other responsibilities did not allow him time to direct the program at CUMC, he urged Dr. Hinsey to undertake the directorship. "I protested to Dr. DuBois that I had never been in an airplane, whereupon he told me that that didn't make any difference. I really had no choice, and it turned out to be one of the most significant activities I had at Cornell," recalls Dr. Hinsey.

With Hugh DeHaven, Dr. Hinsey, and several other investigators—including Dr. William Geohegan, an engineer-turned-physician (CUMC class of 1942)—the Cornell Crash-Injury Research Program was begun. The program staff conducted statistical studies of injuries and their causes in aircraft crashes and set up various "laboratory" models and studies relating to crash impact and injury.

"Hugh DeHaven carried out some very important research dealing with the properties of falling bodies and the reaction of the human body to forces simulating those in airplane crashes. He also developed the questionnaires which we used in our investigations of crashes, and he tabulated the findings in each case, so we could learn in detail what had happened to the pilots and what had happened to the aircraft," said Dr. Hinsey.

"Other members of the project and I," Dr. Hinsey continued, "began to haunt Republic Aviation and Grumman Aviation (aircraft manufacturers) to talk to their test pilots. We climbed in and out of cockpits and talked to many pilots who had been in combat. It wasn't long before our whole project had learned of many areas that needed improvement."

"One of these was that, in crashes, the severe injuries came from lack of use of the seatbelt. Heads were thrown into the instrument panels, which were bedecked with protruding objects of all kinds . . . This was one of the areas where Hugh DeHaven's expertise came in so handy. To improve safety we put padding on the instrument panels, and we also reseated instrumentation."

The Crash-Injury Research Program also led to the construction of two unique testing "contraptions," one on the roof of CUMC and the other in the subbasement, under the present Uris Auditorium.

On the roof, they set up an acceleration-deceleration facility, using a Piper Club aircraft fuselage sliding on a long sloping wire. "I believe," Mr. DeHaven noted later, "that this was the first acceleration-deceleration facility in this country, and the first in which relations between dummies and aircraft structures were photographed using high-speed motion pictures." In the subbasement, they set up a simulated "crash car" facility, using *football dummies* as "pilots," to study crash conditions and to test various ideas for safety improvements, including better seat belt installation and improved shoulder harnesses. (Because football dummies did not have heads, arms, or legs with "joints," the researchers later made their own proportionally weighted dummies with these features.)

Their studies led to the development of an important shoulder harness activation device, which made use of an "inertia lock control" developed by Dr. Geohegan and Dr. Hinsey and patented under their names. Other aviation devices which the staff developed were a parachute release lock and an oxygen-lack warning system for cargo planes that would indicate when any one of the passengers stopped breathing. "I think," notes Dr. Hinsey, "that the warning system used today in sudden-infant-death prevention is a modification of this same system, which was developed by Dr. Geohegan in our group."

After the war, the work of the Cornell Crash-Injury Research Program continued with a new emphasis. As the accomplishments of the program had convincingly shown the efficacy and value of crash-survival design engineering in aircraft, the automobile industry was not far behind in thinking that similar studies applied to automobiles might help to reduce the number of fatalities and the severity of injuries from automobile accidents.

"In his customary, thorough fashion, (Hugh DeHaven) developed questionnaires which were used to analyze what happened to passengers and to cars in crashes. At one time, he had the police departments of twelve states sending reports to him," notes Dr. Hinsey.

Soon, many other groups and organizations in the U.S. were establishing or participating in automobile safety studies. Their combined activities resulted in an almost nationwide analysis of automobile accidents by state police departments in cooperation with state medical associations and other interested organizations.

Hugh DeHaven retired from the CUMC Crash-Injury Research Program in 1954. The program, which was renamed the Automotive Crash-Injury Research Program, continued at CUMC for several years after that. In 1960, it was transferred to Cornell's Aeronautical Laboratory in Buffalo, New York. Later it was taken over by a private concern.

Mr. DeHaven's pioneering role in the development of the science of crash-survival design engineering was recognized by the receipt of many awards. These included the Air Safety Award of the Flight Safety Foundation (1949), the Elmer A. Sperry Award (for engineering excellence) sponsored by the aviation division of the Sperry Company (1967), the Arthur William Memorial Gold Medal of the World Safety Research Institute (1968), and a testimonial award from the American Association for Automotive Safety (1975). In May of last year, the significance of his accomplishments was again acknowledged when he was honored by the U.S. Department of Transportation (National Highway Traffic and Safety Administration), which presented him with the department's Safety Award for Engineering Excellence.

By the 1970's, the findings of Hugh DeHaven and of other investigators who followed him had led to numerous design innovations, including 'dished' steering wheels, recessed instruments, padded dashboards, energy-absorbing steering columns, and progressively collapsible structures. Other innovations, like air bags, while highly effective, have yet to gain general acceptance.

In 1941, Hugh DeHaven stated the essence of the problem then in one sentence: "We are living in a velocity world today with very little understanding of the most important velocity truths." Today, the essence of the problem has changed. Now that, thanks to Mr. DeHaven, we understand most of the velocity truths, the question is "How should they be applied, and what will the public accept?"

The collection of Hugh DeHaven's scientific papers will be permanently housed at NYH–CMC in the medical archives. According to Erich Meyerhoff, CUMC librarian and assistant dean, the DeHaven papers constitute the most important collection that the library has received. Duplicates of the collection are being retained by the archives of the Insurance Institute for Highway Safety, whose staff assisted Mr. DeHaven in arranging and indexing his papers.●

THE HISTORICAL ROLE OF THE AMERICAN LABOR MOVEMENT IN INTERNATIONAL LABOR AFFAIRS

● Mr. HATCH. Mr. President, in the spirit with which my colleague from West Virginia has been periodically addressing the Senate about the history and traditions of this institution, I would like to offer a somewhat briefer comment concerning the historical role of the American labor movement in international labor affairs.

At the founding conference of the American Federation of Labor a century ago, in 1881, there was already a growing concern with international labor problems, most notably concerning trade questions and immigration issues. The American Federation of Labor (AFL) very soon began to exchange regular trade union delegations with their counterparts in England and Canada.

From this base, the AFL expanded its relationships with trade union movements in other regions of the world; first with Mexico, then later with Japan. In 1918, as World War I began, the first trade union conference of the Western Hemisphere was held on the international frontier at Laredo, Tex.

In 1919, the AFL, under the leadership of its dynamic President Samuel Gompers, was instrumental in the founding of the International Labor Organization, the ILO, which continues today after more than 60 years as a tripartite body of unions, management, and government.

The AFL, the CIO, and later the AFL–CIO built on this foundation a network of world labor and trade union federations. Alongside the federations of national centers of trade unions, there soon developed international trade secretariats and associations of national craft unions such as miners, communications workers, and transportation workers.

A more recent development has been the efforts of individual American trade unions to pursue private initiatives of international importance. I will have more to say about these initiatives next year. I have in mind both the work of the International Association of Machinists and the United Auto Workers.

Another recent development has been the post-war growth of a series of hybrid organizations within the United States which serve rather specialized international policy functions, such as the training of foreign trade union leaders, the development of human resource facilities in the emerging nations, the promotion of small-scale humanitarian-oriented public works, and, to some extent, limited political action in several host countries which has been the subject of some conjecture and controversy. The most prominent of these bodies is the American Institute for Free Labor Development (the AIFLD), and parallel institutes which have been established for Asia and Africa.

That, Mr. President, is my brief historical outline of the development of the international role of the American trade union movement, a subject in which I have special interest. I applaud the efforts of a generation of U.S. labor leaders who have had the compassion to reach beyond the horizons of this great land, and to extend their knowledge and resources to the workers of the world.●

LACK OF CONFIDENCE IN AMBASSADOR WHITE

● Mr. HELMS. Mr. President, news accounts yesterday and today report that Mr. Robert E. White, the U.S. Ambassador to El Salvador, has accused the Reagan transition team of complicating the implementation of U.S. policy in that country.

The fact is that the policy espoused by the Carter administration is bankrupt, and directly responsible for the growing chaos in that country. Moreover, Mr. White himself has proved to be one of the most irresponsible and inept Ambassadors that the United States has ever sent abroad. His continued injection of emotional public statements into a volatile atmosphere, his open association with extemists of the far left, his castigation of moderate, middle class leaders as "far rightists" and murderers, and his crude pressure upon responsible elements of the country resisting the unconstitutional acts of the junta have served to exacerbate a deteriorating situation. Indeed, his credibility was reduced to zero by his habit of making statements and accusations without evidence. On one occasion, he accused the "right-wing" of killing a prominent leftist leader, only to have the leader in question stage a press conference 3 hours later to prove he was still alive.

Indeed, so inept was Mr. White's handling of the situation that the Congress of the United States repudiated the cornerstone of his policy in the International Security and Development Cooperation Act of 1980. That act provided that no funds could be made available to El Salvador for the purpose of planning for compensation, or compensation, for the confiscation, nationalization, acquisition or expropriation of any agricultural or banking enterprise.

In other words, U.S. aid will no longer be funding the so-called land reform program or the banking reform program in El Salvador. The imposition of these two programs under the heavy hand of Mr. White is fundamentally responsible for the destabilization of El Salvador, and the political upheaval which has made the suppression of terrorism impossible.

Indeed, the Wall Street Journal says today that—

> His real complaint is with the voters who have rejected the management team and policies he represents.

It is my hope that the citizens of El Salvador will take steps to strengthen the political situation, suppress terrorism, halt the inflow of arms which reportedly is coming from Nicaragua through Panama, and hold the country together until the new administration in the United States is able to extend a helping hand for the preservation of El Salvador's national dignity and freedom. As the future chairman of the Western Hemisphere Affairs Subcommittee in the next session of Congress, it is my intention to hold hearings on the conduct of U.S. policy toward El Salvador and Central America generally, and what steps can be taken to restore stability and honor to that area. Indeed, I have no confidence in Ambassador White, and one of my first steps will be to recommend to the new administration that Mr. White's resignation be accepted immediately.

Mr. President, I ask that the editorial in the Wall Street Journal, "Salvadoran Blame," be printed in the Record.

The editorial follows:

Salvadoran Blame

Robert E. White, the U.S. Ambassador to El Salvador, can perhaps be excused for an outburst to correspondents in which he blamed the Reagan transition team for the recent bloody events in that country. Murders of nuns are traumatic even for those of us thousands of miles away and it must be far worse for people who are on the scene.

Yet it seems to us that Ambassador White has stretched very far to blame the deteriorating situation in El Salvador on an administration that is not in power. He himself was sent there last March to carry out the policies of the U.S. administration that *is* in power and it would seem that those policies should be the ones at issue at this point. There will be plenty of time to examine the Reagan policies when they actually exist.

Mr. White's argument, of course, is that the prospects for a new Latin American policy under Ronald Reagan has given new encouragement to what in simplistic modern shorthand is known as "the right." There may be an element of truth here but truth gets to be very complex in places that have been set ablaze, places like Iran, Lebanon and El Salvador. In such conflicts it may even be that killers of the right are far less rational and purposeful than the killers of the left. That would certainly be suggested if it is true that right-wing terrorists were responsible for badly damaging the anti-Marxist cause in El Salvador by assassinating American nuns.

One verifiable truth in this confusion is that there was plenty of killing being done by both the right and left long before there was any such thing as a Reagan transition team. We certainly don't think Mr. White or the Carter administration are to blame for the Caribbean wars. If we were to blame any one person, it would be Fidel Castro, who has been trying for years to foment revolution in other Latin countries and who has been the main support for the left-wing guerrillas who are operating throughout the region.

We are not even willing to fault Mr. White and his superiors for their sympathies on behalf of social reform in Latin America. Such sympathies are powerful and account for the moral conflicts that are now tearing at the Catholic church in places like El Salvador and Nicaragua.

We do think, though, that things have not gone well for the U.S. or for human freedom in those two places and that for that reason the policies of this present administration need to be closely examined to try to determine why. It seems to us to serve little purpose for the incumbents to try to lay the blame at the door of people who haven't even had a chance to try and to imply thereby that the successors-to-be are morally inferior.

Ambassador White complains that the transition has undermined his authority. In this his real complaint is with the voters, who have rejected the management team and policies he represents. Two months from now he will not be conducting U.S. policy in El Salvador, and he should not be undermining those who will be.●

TRIBUTE TO SENATOR BIRCH BAYH

● Mr. INOUYE. Mr. President, today I rise to recognize and honor a man who has served his Nation and his native State of Indiana with distinction for the last 18 years. Birch Bayh's integrity, compassion, and effectiveness as a U.S. Senator has won him the respect of all his colleagues on both sides of the aisle. Some Members who, from time to time, may have found themselves on the opposite side of an issue from Senator Bayh—which is not an enviable position to be in—knew they were dealing with a forthright man who was acting out of his beliefs in his ideals and his vision of how to make this great Nation even greater for all the people.

He was born on January 22, 1928, and is a native of Terre Haute, Ind., where he still owns and operates his family farm near Shirkieville in Vigo County. Senator Bayh graduated from Purdue University and Indiana University School of Law and he is a U.S. Army veteran.

He started representing the people of Indiana at the age of 26 in the State house of representatives. At 29 he was minority leader and 2 years later speaker of the House.

First elected to this body in 1962, Senator Bayh has distinguished himself as the Senate's leading proponent of constitutional rights and the development of alternative energy while championing the interests of the working man and woman, the elderly, young people, women, and minorities. These are my colleague's special interests—those Americans whose voices all too often are drowned out by the excessive influence of the well-financed lobbies.

Mr. President, if I were to name all of Senator Bayh's legislative achievements and projects we would be here into the 97th Congress. As pleasing as that thought may be to some of us, I will refrain from doing so. However, I feel compelled to outline briefly some of his accomplishments.

As chairman of the Appropriations Subcommittee on Transportation, he has worked to upgrade the Nation's highways, bridges, and airports. Indiana was known as the Crossroads of America before Senator Bayh came to Washington, but his responsibility for directing more than $125 million of Federal transportation funds to his home State has enhanced that Hoosier claim. As a member of the Senate Steel Caucus he introduced the "Buy American" legislation, which has become law, to assure that preference be given to domestically manufactured steel in highway and bridge construction.

As Chairman of the National Alcohol Fuels Commission, he is the Senate leader in the promotion of the production, use, and development of alcohol fuels as an alternative energy source. He is the author of several pieces of legislation creating programs encouraging production of alcohol fuels by both large and small producers. As a member of the Senate Coal Caucus he has consistently fought to define a national coal policy by sposoring legislation encouraging greater utilization of coal by utilities.

As chairman of the Intelligence Committee, he was principally responsible for passage of the Nation's first legislation aimed at preventing constitutional abuses by American intelligence agencies through wiretaps and other electronic surveillance. As chairman of the Subcommittee on the Constitution he introduced the Stanford Daily bill, which later became law, to protect the first amendment rights of the press from police searches when they are not themselves suspected of criminal involvement.

He has consistently been at the forefront of efforts to improve the juvenile justice system, to develop means of better dealing with the growing problem of juvenile delinquency. His efforts, such as securing passage of the Juvenile Justice Act, have been warmly welcomed by those concerned about American youth as well as American youth itself. The Children's Express' reporters each year recognize the individual who has done the most to further the cause of juvenile justice. The award that individual receives is the Birch Bayh Juvenile Justice Award.

As a member of the Appropriations Subcommittee on Agriculture, Senator Bayh has fought for the family farmer—working to protect family farms by preventing the takeover of agricultural lands by foreign investors and large nonagricultural corporations. He introduced title VIII of the Fair Housing Act to insure better enforcement of its provisions, thus increasing the access to adequate housing for all Americans, regardless of race.

From his position on the Appropriations Committee, he has constantly worked to better the lives of senior citizens and the handicapped through compassionate legislation such as his landmark civil rights of the institutionalized accomplishment.

Senator Bayh has taken the lead in attempting to reverse the current slump in American productivity with his patent legislation. He has especially sought to assist innovative companies. His most recent success, S. 414, makes it easier for inventors such as small businesses and universities to develop and market their inventions rather than have them absorbed by agencies that have neither the ability nor the inclination to use them.

Mr. President, one area of Senator Bayh's efforts that history may demonstrate to be the most noted, is his foresight and achievement with regard to the U.S. Constitution. In my judgment, he has contributed more to the Constitution than any man in recent times. He authored and guided to passage the 25th amendment which provides for Presidential succession—implemented for the first time following the resignation of Spiro Agnew and Richard Nixon. He authored and guided to passage the 26th amendment giving 18-year-olds the right to vote. He authored and is the Senate sponsor of the proposed equal rights amendment to the Constitution.

Birch Bayh has never shirked his duty when the Senate and the people needed him. He protected the integrity and competency of the Supreme Court when he led the battle to deny confirmation to an unqualified Presidential nominee. Then when the next nominee was equally unacceptable Senator Bayh took on the tough job of leading the Senate against his confirmation. When the Senate demanded examination of our President's own brother's activities, Senator Bayh led that thankless chore in his usual professional manner under the most difficult of circumstances. He suffered the loss of his wife and partner, Marvella, a compassionate national figure in her own right as a spokesperson for the American Cancer Society.

Mr. President, Birch Bayh closes out his Senate career at the end of this 96th Congress, but his service to the Nation will continue to be felt by future generations of Americans. The diligent, compassionate, monumental work he has forged will remain even as he leaves. I would like to express my personal gratitude to Senator BAYH, as well as the gratitude of the rest of the Senate and the people of this Nation for whom my friend has so well served these last 18 years.●

TRIBUTE TO SENATOR HENRY BELLMON

● Mr. INOUYE. Mr. President, Senator HENRY BELLMON has chosen to retire from the Senate at the expiration of his term in January 1981, after two outstanding terms as Senator from the State of Oklahoma. He has served the people of Oklahoma and the people of this Nation with great distinction, and I wish to join with my colleagues in commending him.

HENRY BELLMON was born on a farm near Tonkawa, Okla. He was educated at Oklahoma Agricultural and Mechanical College, now known as Oklahoma State University, graduating with a bachelor of science degree in agriculture. He is one of the very few practicing farmers presently serving in the Senate.

HENRY BELLMON first entered the service of his country by joining the Marine Corps during World War II. He served for 40 months, and was twice decorated for bravery. As a member of the Fourth Marine Division, he was headquartered on the island of Maui in the State of Hawaii, beginning a love affair with that island which lasts to this day.

He first entered elective politics in 1946 when he was elected to the Oklahoma House of Representatives. In 1962, he ran successfully for Governor, becoming the State's first Republican Governor at a time when Democrats outnumbered Republicans 4.5 to 1. Significant accomplishments were achieved during his constitutionally mandated single term as Governor, despite the fact that Democrats held a 6-to-1 advantage in the legislature, which is a tribute to the persuasiveness and spirit of cooperation which he has since evidenced throughout his years of service in this body.

In 1968, HENRY BELLMON was elected to the U.S. Senate. Upon his reelection in 1974, he became the first Republican ever reelected to statewide office in Oklahoma.

In his first term, his interest in agricultural matters and his concern for the American farmer led him to focus his efforts largely on agriculture-related matters coming before him in the Agriculture Committee. During his tenure in the Senate, he contributed significantly to the Agricultural Credit Assistance Act of 1978, the Agricultural Act of 1978, the Rural Development Act of 1972, the Farm Credit Act of 1971, and the Agriculture Act of 1970.

During his second term, HENRY BELLMON concentrated his efforts on budget matters. He has always been a staunch advocate of fiscal discipline, having sponsored legislation to control Federal spending and to reform and stabilize Government fiscal policies. In 1975, he became the first ranking minority member of the Committee on the Budget, and from that position he has made critical contributions to the budget process.

It is his key effort in making the budget process work that HENRY BELLMON may be proudest of. The fact that the budget process has fared so well is due in very large part to his diligent efforts. HENRY BELLMON has been in the vanguard, and has contributed immeasurably in shepherding, along with former Senator Edmund Muskie and the distinguished chairman of the Budget Commitee, Senator HOLLINGS, the budget process on an unprecedented course to the historic culmination of a few days ago. Through it all, he has maintained a bipartisan approach, persevering in the belief of the viability of the process and the importance of it to the welfare of the Nation. For his work, we owe our gratitude. Of his work, he may justifiably take great pride.

As HENRY BELLMON prepares to leave in January for a well-deserved vacation on the beautiful island of Maui, which he loves so well, I join with my colleagues in extending to him our heartfelt thanks for his service to this body and to the three committees and two commissions on which he sits, and best wishes. His excellence and his sincere and forthright manner will indeed be missed.●

TRIBUTE TO SENATOR FRANK CHURCH

● Mr. INOUYE. Mr. President, I am certain that my Senate colleagues will agree that Senator FRANK CHURCH of Idaho represents the very best in American statemanship. There are few legislators who have his courage of remaining committed to a cause, no matter how unpopular, when he believes it is in the best interests of the United States.

I have always enjoyed listening to FRANK CHURCH speak in the Chamber of the Senate. In the morning you could hear him arguing in support of stronger and more sensible controls on nuclear armaments. And in the afternoon you could hear him speak with equal conviction on the need to establish a wilderness area in Idaho.

The people of Idaho have had an outstanding representative of their interests in FRANK CHURCH. Despite the pressures of being chairman of the Foreign Relations Committee, he has always kept the interests of the people of Idaho uppermost in his mind.

As chairman of the Foreign Relations Committee, FRANK CHURCH has demonstrated a strong commitment to the application of U.S. power to benefit humanity, and a clear appreciation for the limits of such power. Whether it involved an international crisis in the Middle East or one in our own hemisphere FRANK CHURCH has always supported a policy based on reason and on the long-term best interests of the United States.

Senator CHURCH was the Senate's most respected proponent of arms control and felt a deep commitment to use his position in the Senate to control the dangerous nuclear arms race. He fought long and hard for human rights and dignity for people from South Africa to South Korea. His stewardship and guidance of the Panama Canal Treaties through the Senate, a task few others would undertake, has to be one of the major foreign policy accomplishments of the past decade.

His draftsmanship of the extremely controversial legislation recognizing the Government of the People's Republic of China was a major factor in the overwhelming approval of this legislation by the Senate.

Despite the fact that many of the foreign policy issues were very unpopular in his State, Senator CHURCH's sense of the long-term best interests of this country never wavered.

While devoting himself of the cause of world stability, he has also labored for the people of Idaho on such issues as sugar price supports and the preservation of Idaho's precious wilderness areas.

In fact, Senator CHURCH has earned a reputation as one of the strongest and ablest proponents of protection for wilderness regions throughout our land. Perhaps the single most important accomplishment of Senator CHURCH in the 96th Congress for his own State, and for the Nation, was his bill to establish the River of No Return Wilderness in central Idaho, an issue of major controversy for the past 16 years. This legislation was signed into law because of Senator CHURCH's excellent handling of the bill, which in the end drew support not only from representatives of the timber industry and the mining industry. This was an example of the outstanding legislative skills possessed by the Senator from Idaho.

Senator CHURCH will be missed not only by world leaders and the U.S. foreign policy community, but also by his colleagues in the U.S. Senate. There is little doubt that in his capacity as a private citizen, he will continue to remain one of America's most outstanding citizens.●

TRIBUTE TO SENATOR JACOB K. JAVITS

● Mr. INOUYE. Mr. President, the legislative accomplishments of my honored colleague, a man of enormous wisdom and compassion and an outstanding and tireless legislator, are woven throughout the whole fabric of our society.

It is most interesting that when Senate Resolution 149, relative to the length of service of Senator JACOB K. JAVITS of the U.S. Senate was discussed, a listing of his major legislative accomplishments began with an amendment to the Public Health Service Act establishing the National Heart Institute.

I would like to restrict my remarks to how he has worked consistently and tirelessly for better health care for all Americans.

His major health legislative accomplishments include in 1966, an amendment to the Allied Health Professionals Personnel Training Act, providing grants for nursing education; in 1967, a Clinical Laboratories Improvement Act via a Public Health Services Act amendment; in 1968, an amendment to the Public Health Service Act establishing a National Eye Institute; in 1969, developing various sections in the Federal Coal Mine Health and Safety Act; in 1970, he was responsible for various sections, including establishment of Commission on Marihuana and Drug Abuse, in the Comprehensive Drug Abuse Prevention and Control Act, and for provisions in the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act; in 1971, he took the lead in developing the National Cancer Act; in 1972, his work gave us the National Sickle Cell Anemia Control Act and Black Lung Benefits Act; and in 1973, the Health Maintenance and Resources Development Act.

I have presented this capsule of major legislative accomplishments so that I might now turn to a more focused and comprehensive exposition of Senator JAVITS' health accomplishments and activities.

Mr. President, I submit for the RECORD these major accomplishments.

The material follows:

HEALTH

Senator Jacob K. Javits has worked consistently for better health care through improvements in our Nation's health care delivery system. As the senior Republican member of the Senate Labor and Human Resources Subcommittee on Health and Scientific Research, he has authored numerous legislative initiatives and cosponsored many others in the areas of health care financing, health manpower, health service delivery systems, health research and disease-related programs and health-related consumer protection measures, in an attempt to achieve better health for U.S. citizens. Throughout his Congressional career, he has striven to provide access to adequate and affordable health care services for the poor, afflicted and medically-indigent, and has done his utmost to assure that no American seeking medical attention be denied access to health care facilities or personnel or discriminated against on the basis of economic circumstances.

HEALTH CARE FINANCING

Senator Javits has been actively involved in legislation affecting the financing of health care services. From his earliest days in the Congress, he has sought to enact a national health care plan which would provide for all Americans equal access to necessary health care services at affordable costs. He is currently a primary cosponsor of the Health Care For All Americans Act, a comprehensive national health care program which would provide adequate and accessible medical services at reasonable cost to every U.S. citizen, regardless of economic status.

In the 95th and 96th Congresses, he authored resolutions to establish a Joint House/Senate Committee on National Health Policy (S. Con. Res. 100 and S.J. Res. 21, respectively) which would consider all legislation pertaining to the creation or implementation of a national health plan. Prior to cosponsoring the Health Care For All Americans Act, the Senator cosponsored in the 94th Congress the Health Security Act, a comprehensive national health plan and sponsored in the 94th and 95th Congresses The National Health Insurance for Mothers and Children Act. This legislation would have established a national health insurance system for maternal and child health care as a first step toward comprehensive national health insurance for all Americans.

Other legislation providing health care services for maternal and child health care he cosponsored in 1979 includes S. 1211, a bill to amend the Social Security Act to extend Medicaid eligibility to certain low-income pregnant women and the Child Health Assurance Act of 1979 (CHAP), a bill to strengthen and improve Medicaid services to low-income children and pregnant women. He introduced an amendment to the CHAP bill which provides for the equitable treatment of low-income children screened and diagnosed as mentally ill by enabling them to seek and receive the necessary treatment; this amendment remedies a former flaw in Medicaid benefits which provides for diagnostic and screening services for low-income mentally ill children, however, does not necessarily provide treatment for the diagnosed illness.

To ease the burden of increasing costs of health care for the elderly, he cosponsored the Senior Citizens Health Insurance Reform Act of 1979 to provide for a program of voluntary certification for health insurance policies sold in supplementation of Medicare; this legislation was enacted under Public Law 95–265. He also sponsored S. Con. Res. 86, a concurrent resolution opposing increases in medical costs for the elderly.

Senator Javits introduced and cosponsored numerous legislative measures with respect to Medicare and Medicaid practices. In 1977, he consponsored the Medicare-Medicaid Anti-Fraud and Abuse Amendments, designed to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the Medicare and Medicaid programs; this bill was enacted as P.L. 95–142. In the 94th Congress, he authored two bills amending the Social Security Act to provide medical assistance for certain handicapped individuals and to increase the Federal matching rate for State reimbursement to aid needy families and children.

Legislation also intended to amend the Social Security Act cosponsored by Javits in the 94th Congress would have provided coverage for the following services: under the supplementary medical insurance benefits program, coverage for preventive health care (S. 308), my bill regarding certain clinical psychologists' services (S. 123) and optometric and medical vision care (S. 2020); outpatient rehabilitation services (S. 2506); and my bill regarding services of licensed registered nurses (S. 104) and qualified professional psychiatric nurses (S. 3533).

HEALTH MANPOWER

Senator Javits has long been a staunch supporter of health manpower legislation designed to provide federal assistance through loan and scholarship programs to students pursuing educations in the health professions and assistance to institutions sponsoring education and training programs and health professions such as medicine, nursing and allied health. Senator Javits, who authored, as I previously noted, the original Nurse Training Act enacted as P.L. 92–158 in 1971, continued his support for this vitally needed assistance to students and institutions of nursing education through 1) his cosponsorship of S. 66, a bill to extend the programs of assistance for nurse training under Title VIII of the Public Health Service Act, enacted as P.L. 94–63; and 2) the introduction of the Nurse Training Amendments of 1978 and 1979, amending Title VIII of the PHS Act to provide continued funding for nurse training programs and other health professions training programs such as the National Health Service Corps Scholarships for students of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry and pharmacy. The Nurse Training Amendments of 1979 became P.L. 96–76.

He further demonstrated his traditional support of health professions educational assistance programs as a primary cosponsor of the Health Professions Educational Assistance Act which became P.L. 94–484 in 1976. This legislation revised and extended the programs of assistance under Title VII of the Public Health Service Act for training in the health and allied health professions and revised the National Health Service Corps program as well as the National Health Service Corps scholarship training program. He has also cosponsored numerous other legislative measures in the 94th, 95th and 96th Congresses relating to health professions educational assistance and health manpower programs.

In the 96th Congress, he introduced the Health Care Management and Health Care Personnel Distribution Improvement Act of 1980. This bill is designed 1) to strengthen management practices in health care in order to improve our Nation's ability to provide quality, cost-effective health care services; 2) to encourage better geographic and specialty distribution of physicians and 3) to amend the Immigration and Nationality Act with regard to alien graduates of foreign medical schools for purposes of reducing U.S. dependence on FMGs who provide health care services in U.S. medical institutions. In addition to sponsoring his own legislation, JKJ is also a cosponsor of the Health Professions Education and Distribution Act of 1980 reauthorizing federal assistance for health professions education students and training programs in medicine and the health sciences and also extending the National Health Service Corps Scholarship Program.

HEALTH SERVICE DELIVERY SYSTEMS AND SERVICE PROGRAMS

Throughout his entire Congressional career, Senator Javits has been committed to improving our Nation's health care delivery system in order to assure the availability of appropriate health care facilities to all citizens. In this regard, JKJ has cosponsored and supported legislation which establishes community and migrant health centers in parts of the country where other health care facilities are inadequate or non-existent. He also authored The Primary Health Care Act which provides grants to hospitals whose outpatient departments and emergency rooms are routinely used by individuals who have nowhere else to go for ambulatory, primary care services to establish hospital-affiliated primary care centers. This legislation was enacted into law in 1978.

In addition, JKJ sponsored Sec. 1625(d) of the Public Health Service Act which provides grants to public and certain private, nonprofit hospitals to renovate and modernize facilities in order to comply with accreditation standards and life-safety codes. Senator Javits also introduced two bills to provide federal assistance to hospitals experiencing financial distress as a consequence of providing services to individuals who have no health insurance and cannot afford to pay for such services. The Financially Distressed Hospitals Assistance Act and The Hospital Ambulatory Services Reimbursement Reform Act have been developed in response to a growing problem in New York and other parts of the country as evidenced by our recent experiences with the Jewish Hospital and Medical Center of Brooklyn, Metropolitan and Sydenham Hospitals, and others.

Recognizing the great need for improved services in the area of family planning and to address the problem of teenage pregnancy, he cosponsored measures including the Family Planning Services and Population Research Act Extension, which subsequently became P.L. 95–613, to provide project grants and contracts for family planning services and to authorize appropriations for sudden infant death syndrome programs; and the Adolescent Health, Services, and Pregnancy Prevention and Care Act enacted in 1978 establishing a program for developing networks of community-based services to prevent initial and repeat pregnancies among adolescents, to provide care to pregnant adolescents, and to help adolescents become productive independent contributors to family and community life (1978). He also cosponsored the Child and Family Services Act, to provide for services to children and their families (1975).

Senator Javits was a co-author of the National Health Planning and Resources Development Act enacted in the 93rd Congress and a primary cosponsor of all subsequent amending legislation. This law established a nationwide system for determining the allocation of health resources at the State and local levels and for assessing the unique requirements of individual communities regarding their health care needs. He also cosponsored legislation enacted in the 95th Congress to establish health maintenance organizations which authorizes grants, contracts and loans for the planning and initial development and operation of HMOs (or prepaid health care delivery systems). Additional legislation cosponsored by the Senator established emergency medical services systems throughout the country and was enacted in the 94th Congress.

HEALTH RESEARCH AND DISEASE-RELATED PROGRAMS

Javits has been a front-runner, as I noted previously, in initiating and cosponsoring legislation to support health research programs such as those sponsored by the National Institutes of Health and others concerned with disease prevention, treatment and cure, the dissemination of health information, and health promotion programs in general. In 1975, the Congress enacted JKJ's National Genetic Diseases Act (P.L. 94-278) to establish a national program providing for basic and applied research, research training, testing, counseling, and information and education programs with respect to genetic diseases; in 1978 he amended this legislation with the introduction of the Genetic Disease Amendments to include genetic conditions, as well as genetic diseases, within the program of research, counseling and education established by the Act. Also with respect to genetic disorders, JKJ introduced in 1975 the National Tay-Sachs Disease Screening and Counseling Act to establish a national program under the Public Health Service Act for voluntary Tay-Sachs disease screening and counseling. This legislation became part of the National Genetic Diseases Act. In the 94th and 95th Congresses, he sponsored the National Venereal Disease Prevention and Control Amendments and the Venereal Disease Amendments, respectively, which reauthorized the funding of a national program for the prevention and control of venereal diseases as established by legislation he authored in 1975, the Venereal Disease Prevention and Control Act.

Senator Javits cosponsored several pieces of legislation which were enacted relating to specific diseases or conditions. These included: the Sudden Infant Death Syndrome Extension Act and the Sudden Infant Death Syndrome Amendments to provide assistance for SIDS counseling, information, education and statistics programs; legislation designed to provide assistance for alcoholism and drug abuse treatment, prevention and education programs, such as the Alcohol and Drug Abuse Education Amendments (P.L. 95-336) which amended the Drug Abuse Office and Treatment Act of 1972; the Drug Abuse Office, Prevention, and Treatment Amendments (P.L. 95-461) to extend the programs of assistance under the original Act for drug abuse prevention, education, treatment, and rehabilitation; S. 202, a bill intended to create a National Commission on Alcoholism and other Alcohol-Related Problems (1979); and an amendment to the Drug Abuse Office and Treatment Act of 1972 (P.L. 94-237) recognizing the need to deal with drug abuse on a continuing basis (as opposed to a crisis basis) and establishing policy for this purpose; and the National Influenza Program (P.L. 94-380) and the National Diabetes Advisory Board Act (P.L. 94-562).

In the 94th, 95th and 96th Congresses, he cosponsored numerous legislative measures to extend federal support for the National Institutes of Health as well as to provide federal support of private efforts in the areas of health sciences promotion, disease control and prevention, basic and clinical research programs, demonstration projects and control programs in biomedical research and disease-specific programs for research and prevention. Such measures include the Health Sciences Promotion Act, a bill supporting research and training programs in the health sciences and establishing administrative and institutional mechanisms for the coordination of programs for disease-specific research, training and prevention; the Biomedical Research Extension Act (P.L. 95-622) to extend programs in biomedical research; the National Institutes of Health Care Research Act (P.L. 95-623) to extend and revise assistance programs for health services research and health statistics; the National Biomedical Heart, Lung, Blood, Blood Vessel, and Research Training Act (P.L. 94-278) which extends programs for basic and clinical research, training, and demonstration of advanced diagnostic, prevention and treatment methods for heart, blood and lung-related diseases; the Disease Control Amendments Act (P.L. 94-317) for assistance for the control and prevention of communicable diseases; and the National Research Service Award Amendments to strengthen and improve the program of National Research Service Awards (1975).

It goes without saying that he also strongly supports the National Science Foundation and has always actively supported legislation authorizing the various basic and applied research programs conduced by NSF.

CONSUMER PROTECTION

Senator JAVITS has authored and cosponsored numerous pieces of legislation to assure consumers of high quality care services. In the 94th, 95th and 96th Congresses, JKJ introduced the Clinical Laboratory Improvement Act, a bill to revise and strengthen the program under which clinical laboratories are regulated. This legislation is intended to remedy problems cited regarding the quality of laboratory services resulting in wrong diagnoses and fraudulent charges and to assure the quality and efficacy of medical laboratory testing by extending the existing program of licensure based on uniform standards of quality to all laboratories regardless of location or affiliation.

In the 95th Congress he introduced the Food and Drug Administration Act and the Comprehensive Drug Amendments, intended to establish a "new drug evaluation agreement" procedure, to require certain labeling information on prescription drugs and labeling information regarding the proper use of drugs, to require public release of safety and efficacy data and that imported drugs come from registered establishments. Other drug related regulatory legislation he authored includes the Contraceptive Labeling Act designed to inform consumers regarding the effectiveness of the drugs and devices used for the prevention of conception in humans, requiring such information in the labeling and advertising of contraceptive drugs and devices (96th Congress). In the 94th Congress he cosponsored The Medical Devices Amendment (P.L. 94-295), protecting the public health by assuring the safety and efficacy of medical devices. The Senator is currently the primary cosponsor of the Drug Regulation Reform Act which reforms the Federal law applicable to drugs for human use, including provisions regarding the safety and efficacy of drugs as well as regulations concerning the manufacturing, selling and labeling of drugs.

In order to protect the rights of those persons receiving mental health treatment in organized settings, JKJ sponsored a patients' "Bill of Rights" incorporated into the Mental Health Systems Act (P.L. 96-398). The provision is designed to guarantee the rights of the institutionalized and it also incorporates specific provisions to ensure that the clinical judgment of the mental health professional is defended, thus protecting mental health professionals and treatment facilities which today are subject to lawsuits based upon vague and inconsistent constitutional interpretations by the courts.

In a similar vein, he cosponsored in 1979 the Long-Term Care Residents Rights Act, assuring the provision of certain basic rights to residents in long-term care facilities, such as the rights 1) to participate in decision-making regarding his or her medical treatment and 2) to be granted confidential treatment of personal and medical records.

Concerned with the health effects of radiation exposure, JKJ introduced the Medical Radiation Safety Act of 1980 to provide for the protection of the public health and safety from unnecessary exposure to radiation due to medical and dental radiologic procedures. Senator Javits also cosponsored the Radiation Exposure Compensation Act of 1979, making the U.S. liable for damages to certain individuals exposed to radiation through nuclear testing or uranium mining, as well as the Radiation Health and Safety Act (both in 1975 and 1977) providing for the protection of the public health from unnecessary medical exposure to ionizing radiation.

Legislation from the 94th Congress which would have established consumer-protection mechanisms cosponsored by Senator Javits include: 1) the Drug Utilization Improvement Act to establish a National Center for Clinical Pharmacology to provide for the study of clinical pharmacology and clinical pharmacy and for the review of drug prescribing: 2) the Federal Food and Cosmetic Act to establish the Food and Drug Administration for the continuation and expansion of the authorities under the Federal Food, Drug and Cosmetic Act regulating the production, distribution, safety standards and commerce of food, drugs, cosmetics and medical devices in the U.S.; and 3) the Federal Drug and Devices Act, establishing the Drug and Devices Administration.

Other consumer protection-related legislation authored by Senator Javits includes the Privacy Act Amendments of 1979 relating to the privacy of medical records and prohibiting the disclosure of confidential information by medical care service providers, except as expressly authorized in the bill. He is also a cosponsor of The Hospital Cost Containment Act of 1979 which establishes voluntary limits on the annual increases in total hospital expenses and providing for mandatory limits on such increases in hospital expenses and providing for mandatory limits on such increases in hospital inpatient revenues to the extent that the voluntary limits are not met in order to constrain skyrocketing hospital costs. Finally, JKJ cosponsored legislation which established the President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, designed to protect from harm those individuals participating in biomedical and behavioral research and experimentation introduced in the 94th and 95th Congresses and enacted in the 95th Congress.

INTERNATIONAL HEALTH

Senator Javits is strongly committed to strengthening the U.S. commitment in the international health arena through improved U.S. contributions to international health care programs in the lesser-developed countries. He has stated that "no aid dollar can better be spent than in improving the health and therefore the motivation of the people in developing countries." For this reason, he introduced The International Health Act in the 95th and 96th Congresses, which provides for the advancement of international health through an increased U.S. contribution to improving health care in third world countries, emphasizing international health as a priority in our development assistance efforts and establishing a clear definition of health policy and coordination of international health programs on both the national and multi-national levels. He is also the primary cosponsor of the International Health Cooperation Act of 1980 which compliments his legislation's intent to improve leadership and coordination of international health policy and additionally establishes a U.S. Medical Emergency Mission designed to provide assistance to developing countries in the case of a national, manmade or civil disaster.●

TRIBUTE TO SENATOR MIKE GRAVEL

● Mr. INOUYE. Mr. President, Senator MIKE GRAVEL is leaving the Senate having been part of one of the most exciting and challenging periods in the history of this body.

He began his Senate tenure during the Vietnam conflict and rapidly emerged as one of the most ardent opponents of our involvement in that conflict. While history will always remember him for having read the "Pentagon papers" into a committee, and thus public, record, history should also note his filibuster of the Selective Service authorization, and his strong support for treaties and agreement to limit the arms race.

MIKE GRAVEL will be remembered perhaps primarily for his use of Senate rules and procedures to block the passage of measures that he opposed. As one who has at times been frustrated by these maneuvers, I have nonetheless been struck by the tenacity with which he has defended positions that he strongly believes in. The Senate has always had such individuals in its midst. And while it might, at times, be easier for us not to have a MIKE GRAVEL among us, it would not be to our benefit. MIKE GRAVEL challenged us, pushed us, and often forced us to reexamine the route we were taking.

It is important also to recognize that the two most important pieces of legislation affecting Alaska were both considered and passed during MIKE GRAVEL'S years in the Senate. The Alaska Native Lands Claims bill was passed to settle the claims raised by the Alaskan Eskimos, Indian, and Aleuts. The Alaska lands bill was passed to settle the competing land claims of the Federal and State governments. MIKE GRAVEL was actively involved in the passage of both bills and while he fought much in these bills, he also made sure that we heard the voices of the people he repreesnts.

I am sure that some will say that we will not miss MIKE GRAVEL, and perhaps many will not miss MIKE GRAVEL, but let me also say that MIKE GRAVEL will be missed.●

TRIBUTE TO SENATOR JOHN A. DURKIN

● Mr. INOUYE. Mr. President, today I wish to join my colleagues in wishing all the best to Senator JOHN A. DURKIN, northern New England's energy advocate.

During his career as New Hampshire's assistant attorney general and insurance commissioner, Senator DURKIN, through dedication and hard work, earned the enviable reputation as a tough effective consumer advocate.

Since his election to the U.S. Senate in 1975, Senator DURKIN has continued this dedication and hard work on behalf of the people of New Hampshire.

As the only northern New England Senator on the Senate Energy Committee and chairman of the Energy Conservation and Supply Subcommittee, JOHN DURKIN has fought to change a national policy that unfairly affected people living in New England and has successfully tailored legislation to expedite rapid development of alternative renewable energy sources which are readily available to his State of New Hampshire. In the short time Senator DURKIN has been with us, his work in developing renewable energy resources has received national attention. He has been honored by the Solar Energy Industries Association, the National Alliance for Hydroelectric Energy, and the American Wind Energy Association.

In other areas, as well, Senator DURKIN has most admirably served his State and the Nation. His achievements have benefited particularly the veterans, the senior citizen, the small businessman, and our hard-working families.

As a member of the Veterans' Affairs Committee and the Appropriations Subcommittee responsible for veteran's programs, he has, among other things, fought for adequate funding for those who have served our Nation in the military, attempted to enhance and stabilize the lives of our senior citizens, and make considerable contributions in the field of transportation.

Mr. President, the list of Senator DURKIN's accomplishments in the short time he has been with us is most impressive. His straightforwardness and determination are unmatched. His contributions to this honorable body have been many.

JOHN DURKIN will be missed.●

TRIBUTE TO SENATOR JOHN CULVER

● Mr. INOUYE. Mr. President, I wish to take this opportunity to pay tribute to one of our distinguished colleagues who has served this body with honor and distinction since his election to the House of Representatives in 1964. The senior Senator of Iowa, JOHN CULVER, has given his State and his Nation a remarkable 16 years of devoted service. He has made a fine contribution to the welfare and future of his State, his Nation, and the U.S. Senate.

In the Senate, JOHN CULVER serves on the Armed Services Committee, and chairs its Subcommittee on Research and Development; the Environment and Public Works Committee, and chairs its Resource Protection Subcommittee; the Judiciary Committee, and chairs its Administrative Practice and Procedure Subcommittee; and the Select Committee on Small Business, chairing its Government Regulation and Paperwork Subcommittee. Senator CULVER has authored important legislation in all eight of these different subject areas.

JOHN CULVER, as a member of the Senate Committee on Armed Services, has consistently focused his efforts on the problems facing our Armed Forces. He has been a leader in efforts to overcome the problems which have plagued our preparedness. In 1977, Senator CULVER wrote a Senate report calling attention to the inadequacy of American military readiness. Improvements generated by the report include a substantial increase in the number of combat-ready Navy aircraft. In 1976, he coauthored the Culver-Nunn amendment calling for greater standardization of NATO weapons and greater coordination on doctrine and tactics among the allies.

JOHN CULVER has been an invaluable member of the Environment and Public Works Committee. In 1979, Senator CULVER sponsored the original superfund legislation, one of the most important environmental matters of the 96th Congress. This legislation resulted in the passage of a compromise legislation to deal with the clean-up of chemical dumps and spilled toxic wastes. Senator CULVER also authored the 1978 rural clean water program, a new cost-sharing program to help farmers address the related problems of soil erosion and water pollution. In the same year, he authored and floor-managed a revision of the Endangered Species Act, designed to continue protection for endangered wildlife and allow reconciliation of conflicts between Federal projects and endangered species.

JOHN CULVER has been an effective fighter for vital Iowa needs, winning Federal support for highways, bridges, flood-control projects, safer rail crossings, conservation projects, historic sites, water and sewer projects, and civic projects throughout the State. He has fought to solve Iowa's rail transportation problems, to increase Federal support for gasohol, to ease excessive redtape, paperwork and regulation for small businesses, and to preserve the family farm. He has fought hard for measures to improve the quality of living for the elderly and for the interests of Iowa's working men and women.

Senator CULVER is going to be greatly missed in the Senate. The people of Iowa have had a dedicated and effective representative in this Chamber and it has been a privilege to be associated with him. I would like to extend to Senator CULVER my sincere best wishes.●

SENATOR HERMAN TALMADGE

● Mr. INOUYE. Mr. President, Senator HERMAN TALMADGE is one of the ablest Members of the U.S. Senate. I have witnessed few Senators who accomplished so much with so few words. In hearings or conference committee debates, hours can pass without Senator TALMADGE saying a word, and then in a few sentences he can completely demolish the opposing side's argument and make his point clearly understood.

There are few Senators who are known for the excellent constituent service that

Senator TALMADGE provides the citizens of Georgia. He is relentless in his pursuit of those causes important to the citizens of Georgia.

I had the opportunity to witness Senator TALMADGE's extraordinary performance during the Watergate hearings. He must be admired for putting the hearings in its proper perspective. He explained on numreous occasions that the hearings were just that, hearings, and not a trial to determine guilt or innocence. This was a fact that was easily forgotten in the motion of that time. It is only representative of Senator TALMADGE's fair but strong handling of the witnesses at the Watergate hearings.

It should also be remembered that during the past 2½ decades, nearly every major piece of agricultural, forestry, or food legislation passed by Congress has borne the mark of Senator TALMADGE. He is the champion of American agriculture and has provided leadership and assistance to the average American farmer.

I was privileged to serve with Senator TALMADGE.●

SENATOR RICHARD STONE

● Mr. INOUYE. Mr. President, I wish to take this opportunity to bid farewell to the distinguished Senator from Florida, RICHARD STONE. In the few years he has been with us Senator STONE has proven that a Senator can be in two places at one time. True to his word he has visited all 67 counties of Florida every year, while maintaining one of the best voting records in the Senate. By his dedication and work, the people of Florida have been served and served well. A State can demand no better an advocate nor statesman.

Even while serving his constituents well, Senator STONE did not shirk any of his duties and responsibilities to his committee assignments. He is a member of the Senate Agriculture, Foreign Relations, and Veterans' Affairs Committees.

He also served as chairman of both the Foreign Agriculture Policy and Near Eastern and South Asian Affairs Subcommittees, where his reputation as an articulate, intelligent, and reasonable advocate is unsurpassed. He is most notably known for his initiatives on foreign policy.

His credentials and his accomplishments are of public record. The Members of this honorable body have benefited much by his presence.

I wish to express my best wishes to the distinguished Senator from Florida and his family.●

SENATOR DONALD STEWART

● Mr. INOUYE. Mr. President, I wish to say a few words about DONALD STEWART, the honorable Senator from the State of Alabama.

Having been elected in 1978 after the tragic and untimely passing of Senator James B. Allen, DONALD STEWART arrived in the Senate and immediately exhibited great promise. He was selected as one of seven assistant majority whips, an honor rarely bestowed upon a freshman Senator. DONALD STEWART was generally recognized as one of the outstanding incoming Senators of 1978. In working closely and diligently with Senate leadership, he has proved himself an excellent legislator and has consistently demonstrated sound leadership capabilities.

DONALD STEWART has served admirably in the three committees on which he sits, the Committee on Agriculture, Nutrition and Forestry, the Committee on Banking, Housing and Urban Affairs, and the Select Committee on Small Business. He handled most capably his responsibilities as chairman of the Subcommittee on Research and General Legislation of the Agriculture Committee, and the Subcommittee on Insurance of the Banking Committee.

In his short tenure, DONALD STEWART has made notable contributions in the areas of energy, agriculture, and rural health. Perhaps his most remarkable achievements have been in energy legislation. His work in shaping and guiding the alcohol fuels segment of the national energy bill was vital to the development and passage of that historic legislation so important to the Nation's pressing energy agenda. It is indeed a tribute to DONALD STEWART's capabilities that he was the only freshman Senator not sitting on the Energy Committee who was appointed to the Senate-House conference committee which considered the legislation.

DONALD STEWART's career in public service began when he was elected in 1970 to the Alabama House of Representatives, and continued with his election in 1974 to the State senate and his election to the U.S. Senate in 1978. Hard work, dedication, and excellence have been the hallmarks of DONALD STEWART's terms in public office. We will look forward with great anticipation to his continued contributions in public service.●

TRIBUTE TO SENATOR RICHARD S. SCHWEIKER

● Mr. INOUYE. Mr. President, it has been my privilege to work with Senator SCHWEIKER in both the House and Senate over the last 20 years. It is my hope that he will continue to provide this country with the same strong leadership he provided in the Senate.

As the ranking Republican on both the Senate Labor and Human Resources Committee and the Labor-Health and Human Services Appropriations Subcommittee, he was a leader in drafting legislation addressed to the needs of labor and the poor. Senator SCHWEIKER has worked to reform the welfare system and improve benefits for welfare recipients. He is a strong proponent of expanding and improving health care to those people less able to afford it. Senator SCHWEIKER has never swayed from his commitment to social causes of importance to his State and to the Nation.

Senator SCHWEIKER must also be admired for his dedication to developing a more rational defense policy for our Nation. He supported such causes as the All Volunteer Army and higher pay for military personnel. Senator SCHWEIKER remains committed to modernizing our military without overburdening our defense posture by sheer size, power and numbers. He must be respected for this approach.

Senator SCHWEIKER will be missed in the Senate. I look forward to continuing to work with him in whatever capacity he may next serve his country.●

TRIBUTE TO ADLAI E. STEVENSON III

○ Mr. INOUYE. Mr. President, today I rise to pay tribute to a distinguished colleague and dear friend, Senator ADLAI E. STEVENSON of Illinois. As we all know, Senator STEVENSON has chosen to leave us at the expiration of his present term, a loss not only to the State of Illinois, but to the Nation as well.

As a member of one of the most influential families in Illinois, Senator STEVENSON entered politics in 1964 as a candidate for the Illinois House of Representatives. During his term in the legislature, Senator STEVENSON received the Independent Voters of Illinois "Best Legislator" Award. As State treasurer, in 1966 he initiated a series of investment and management reforms which attracted national attention.

Since his election to the U.S. Senate in 1970, and his reelection in 1974, Senator STEVENSON has played an active role in helping formulate Federal policies and programs which will have lasting benefits for both Illinois and the Nation.

Senator STEVENSON's contribution to each of the committees on which he serves—Banking, Housing and Urban Affairs; Commerce, Science and Transportation; and, the Select Committee on Intelligence, is testimony to his legislative skills and his understanding of a broad range of issues.

As a member of the Committee on Banking, Housing and Urban Affairs since 1971, and as chairman of its Subcommittee on International Finance, Senator STEVENSON led an intensive review of the operations of the Export Import Bank, resulting in major reforms in the 30-year history of the Bank. As a symbol of our Nation's willingness to revamp our laws to meet the competitive challenge without sacrificing our national security, Senator STEVENSON in 1979 developed legislation representing major reforms in export control authority.

In 1975 Senator STEVENSON introduced legislation to strengthen U.S. policy against foreign boycotts and restrictive trade practices such as those directed against Israel by Arab nations. Although this measure passed the Senate, it was not signed into law until 1977, and only after being reintroduced.

Being deeply concerned with the declining competitiveness of U.S. industry in international trade and domestic markets, Senator STEVENSON in 1978 chaired the first of a year-long series of hearings on this issue, resulting in subcommittee recommendation for the adoption of an aggressive national export policy aimed at strengthening the dollar and reducing the rapidly mounting U.S. trade deficit. And if that was not enough, Senator STEVENSON, along with the support and advice of Senator ROTH of Delaware, in 1979 led the effort for the establishment of a bipartisan Export Caucus to generate a consensus on legislation aimed at restoring U.S. economic competitiveness, culminating in the introduction of a National Export Policy Act in May of this year.

Being a fellow committee member of both the Commerce, Science and Transportation, and Intelligence Committees, I have had the opportunity and honor of working closely with Senator STEVENSON. His integrity, decency and reason are beyond question, and should be a model to us all. I am proud to have been associated with him.

As we all know, public service is demanding, and the returns are not measured in dollars and cents. However, I will forever treasure the opportunity and honor of having served in the U.S. Senate with this decent human being, Senator ADLAI E. STEVENSON.

I wish to join my colleagues in wishing the best to Senator STEVENSON and his family.●

TRIBUTE TO SENATOR ABRAHAM RIBICOFF

● Mr. INOUYE. Mr. President, we as a nation can be eternally grateful for the services rendered by Senator ABRAHAM RIBICOFF in his 42 years of public service. In each of the three branches of Government, he has served with honor and distinction.

We as a body will be ever the better for having had ABE RIBICOFF to provide his guidance, inspiration, and insight. For an entire generation, and perhaps longer, he has made public service a proud and distinguished profession through the example he set over the years.

His compassion, commitment, and courage may never be equaled in the U.S. Senate, as he has set the standards by which we and future Senators are measured.

From his birth in a tenement in New Britain, Conn., to his retirement from the U.S. Senate in a few days, ABE RIBICOFF has been the embodiment of the American dream. He has been the epitome of fairness and commonsense, and the source of a higher vision for this Nation and its citizens.

Through his leadership, issues such as automobile safety, pollution control, health care, aid to the elderly, and consumer protection became popularly accepted programs in our society.

ABE RIBICOFF truly fulfilled the great American dream, in which any individual, regardless of origin, can aspire to the greatest heights of this country.

In an interview, he once cited Harry S. Truman as perhaps our greatest President, because of his toughness, commonsense, and willingness to fight for what he believed. The same can be said of ABE RIBICOFF.

Our colleague from Connecticut holds a special place in history, as he does in our hearts. It has been a privilege and honor to serve alongside him.

I wish ABE and Casey the best of success and happiest of times in the future.●

TRIBUTE TO SENATOR GAYLORD NELSON

● Mr. INOUYE. Mr. President, when I was first elected to the U.S. Senate in 1962, I quickly came to know and respect a fellow member of my "class," Senator GAYLORD NELSON, a former Governor of his State of Wisconsin and a sportsman of some note in his hometown of Clear Lake.

GAYLORD NELSON and I have served for 18 years in this body. During this time, my dear friend has developed an outstanding—and, I might add, well deserved—reputation for his foresight, courage and dedication.

Many times in these 18 years has his voice risen out of the thicket of special interests and concerns to sound a clear and strong note of commonsense.

Think back to the sixties, before ecology became "fashionable," to when Senator NELSON expressed concern for the progressive destruction of our environment. He translated his appreciation for the beauty of the northern woods of Wisconsin into legislation protecting our citizens from harmful pollution of air and water resources; and deadly pesticides in our food supplies.

He called attention to our alteration of the fragile balance with nature, and awakened us to the dangers of chemicals in our bodies, through his authorship of the Food Protection Act of 1972.

Also in the sixties, Senator NELSON urged our Nation to come to grips with energy needs and supplies, or face a crisis he saw quickly approaching. How sadly prophetic he proved to be.

Since then, he has led efforts to develop alternative energy sources, require more fuel-efficient automobiles, and monitor our Nation's use of raw materials.

Time and again, his vision provided leadership and direction to the Nation. Had his warnings been heeded, perhaps the Nation would be better off today.

His chairmanship of the Senate Select Committee on Small Business since 1975 has led to a greater awareness of the governmental burdens placed on small businessmen. Again, for many, our Nation's economic problems have only recently brought an appreciation for the essential contributions of small businesses to our economic welfare.

The steps we take in the coming years to alleviate these unnecessary and costly burdens on small businesses will, I believe, do much to return the Nation to the path of economic growth and stability. Again, it was Senator NELSON who led the way.

Very soon, GAYLORD NELSON will be free to hunt and fish in the woods and streams of Clear Lake, as he so loves to do. Perhaps he will be reminded in those hours of peace and tranquility of the vital role he played in preserving similar natural beauty in other areas throughout the land, and in protecting the health and welfare of so many of our citizens.

It is indeed difficult to imagine a Senate without this honest and courageous man by our side, to face the battles of the years ahead. We are all the losers for it.●

TRIBUTE TO SENATOR ROBERT MORGAN

● Mr. INOUYE. Mr. President, it is with deep regret that I rise to say farewell to Senator ROBERT MORGAN. He has served only one term but in that time he has proven himself to be of the highest caliber and a credit to this body.

ROBERT MORGAN's career in public service has already spanned 30 years and in that time he has achieved an enviable reputation as a true representative of the people. As a State senator and particularly as attorney general of North Carolina, he was a champion of reform and innovation in addressing the needs of the people of his State. It is a role which he has continued in the Senate.

ROBERT MORGAN's service in the U.S. Senate has also demonstrated his commitment to restoring faith in Government by building a Government which is faithful to the people. His service on the Ethics Committee, his service on the Intelligence Committee, and his devotion to the beliefs of the people of North Carolina in fiscal restraint, a strong national defense and a respect for the abilities and rights of our State governments, are all reflections of his desire to restore our people's faith in their Government.

The term "populist" is used all too frequently these days and often inappropriately. ROBERT MORGAN, however, genuinely merits that label. He is a believer in the Federal Government's ability to provide assistance to people while, at the same time denying the right of the Federal Government to intrude itself into those matters which should be left to the individual. He has demonstrated a belief that Government can and should defend the interests of the less-powerful while resisting the inclinations of the Federal Government to become all powerful.

The voice of ROBERT MORGAN has challenged us over these last 6 years, and it has always been a believable voice. He is a determined man, a strong man and we will miss him in the Senate.

I would note in closing, that in his final week of service on the floor of the Senate, he has been engaged in a difficult and unpopular cause. He has attempted to draw his colleagues' attention to what he earnestly felt was a case of an unwise and unjust Senate action. While this may not endear him to all of his colleagues, I believe that he commands our respect for his courage and for his tenacity.●

TRIBUTE TO SENATOR GEORGE McGOVERN

● Mr. INOUYE. Mr. President, the U.S. Senate, the citizens of South Dakota, and our entire Nation will sorely miss the longstanding leadership of my dear colleague, Senator GEORGE MCGOVERN. As the 96th Congress draws to a close, it is appropriate to reflect upon some of this distinguished Senator's great achievements which have benefited not only his fellow South Dakotans, but in many ways, our entire world.

Although George McGovern has an admirable combat record, and many times had risked his life during World War II, he will perhaps be best remembered by the public as a vocal opponent of needless military conflict. In the eyes of many of us, it was perhaps more than any other event his continually speaking out in opposition to the bloodshed in Vietnam that eventually resulted in the change of view of his colleagues in the Congress, the American public, and ultimately the President of the United States, as to the appropriateness of the United States remaining involved. This is without question the kind of determined leadership that has won George McGovern the admiration of his friends and perhaps even more significantly, the deep respect of those across our Nation who disagreed with his views.

Senator McGovern has also made an equally important contribution to our international security by his similarly unrelenting efforts to combat world hunger. His leadership during the food for peace program and his subsequent sponsorship of major child nutrition programs, as well as his ongoing efforts to improve the quality of life for millions of needy Americans, has in my judgment, touched all of our lives. Although there is no question that we still have far to go, I think that it is fair to say that the programs and fundamental policies that have been set in place by George McGovern will ultimately lead us to successful resolutions.

Our Senate majority leader, Robert Byrd, recently called George McGovern "Mr. Farmer of the U.S. Senate." Certainly every farmer in South Dakota and across our Nation's agricultural heartland has keenly felt and appreciated the strong hand of George McGovern in the shaping of American farm policies and his continuing fight to improve American agriculture and farm income. From his first Senate terms, when he authored the voluntary wheat certificate program, to his more recent successful efforts to expand agricultural markets through the development of alcohol fuels, George McGovern has been the true champion of American agricultural producers, and thereby ultimately the consumer.

Similarly, as early as 1970, Senator McGovern spoke out forcefully to again warn our Nation about our rapidly depleting energy supplies. He cautioned us about the dangers of relying excessively on foreign energy sources, and the importance of developing our own domestic supplies. Had we only listened to him a little more carefully, we might have been able to be in a substantially better position to have prevented today's almost catastrophic economic problems which experts tell us are due very much to our Nation's excessive reliance on foreign energy supplies. My colleague's strong advocacy of alternative energy development will undoubtedly again be a shining light as we continue to address the need for alternative solutions.

George McGovern's tireless efforts to improve the conditions of our Nation and its people have been felt by all of us. His record of service in the U.S. Senate will be remembered by countless industries and organizations. He has fought vigorously for veterans' programs, to revitalize our rail transportation industry, to shore up the automobile industry, for basic tax reform to benefit the working people of our Nation, and to maintain a healthy tourism industry—an issue especially close to my heart.

George McGovern has been a true statesman in foreign policy matters. He has urged us to maintain an effective national defense through arms control and the elimination of wasteful spending. During his tenure on the Senate Foreign Relations Committee, all of us benefited from his creative questioning and eliciting of major policy issues and alternatives. He is clearly an individual who has done his homework very well.

Above all, George McGovern has always been a man of unparalleled personal integrity. He has the reputation, deservedly so, of speaking his conscience, oftentimes when it was not popular to do so. His legislative track record indicates that he has also at the same time been able to work closely with his colleagues on both sides of the aisle, regardless of their philosophical differences. Although many have disagreed with him at times, he has always been able to earn our respect and appreciation. George McGovern has been an outstanding leader of the Democratic Party during his years in the U.S. Senate and as our party's Presidential nominee in 1972, has always spoken out admirably on behalf of basic Democratic principles.

I will personally miss George, but perhaps more importantly, our Nation will miss him. Yet, I am confident that he will continue to serve the public as a true public servant.

Perhaps if there is any one theme that, in my judgment, has been foremost in my colleague's mind about his many years in the Congress, it has been the importance of maintaining and preserving the integrity of the family institution of our Nation. I am confident that he has taught every one of us well the importance of this fundamental lesson, and that ultimately his vision will be fulfilled.●

TRIBUTE TO SENATOR WARREN G. MAGNUSON

● Mr. INOUYE. Mr. President, I have known Senator Warren G. Magnuson for many, many years, dating back prior to his being elected a U.S. Senator. Our paths first crossed back in Honolulu, Hawaii, when the chairman, as a lieutenant commander in the U.S. Navy was Judge Advocate General.

A list of Senator Magnuson's personal, legislative, or political accomplishments is far too long to enumerate today, whether we are talking about his health accomplishments, his consumer initiatives as chairman of the Senate Commerce, Science and Transportation Committee, or the many benefits that the State of Washington has received at his direction.

I was extremely pleased that the Congress recently designated the Clinical Center of the National Institutes of Health in his name. This is indeed a fine tribute, but, in all candor, only underscores his many, many contributions. I know of no health, education, welfare, or labor program or initiative that does not bear his unique imprint and his sincere concern for the health, safety and well-being of our Nation's citizens, and especially our Nation's children. In the decades to come, we will be a "healthy" Nation, both personally and environmentally, because of the vision, dedication and downright hard work of the chairman.

Senator Magnuson has touched our Nation's people in a way that very few would ever dream could be possible. Our Nation and the entire world is a much finer place than it would have been without his leadership and compassion. Senator Warren G. Magnuson is indeed one of the finest Democratic leaders that our party or country has ever known.●

TRIBUTE TO BRUCE WATKINS

● Mr. EAGLETON. Mr. President, on September 13, 1980, the people of Kansas City, Mo., and the Nation lost a great leader when Bruce R. Watkins, Sr. died after a long illness at the age of 56. A longtime community leader, Watkins almost became the first black mayor of Kansas City in 1979. He was nationally renowned for his struggles to insure that every man, black and white, have the right to equal access to decent housing, to a decent job, to decent political leadership of his own choosing, to decent education, and to decent treatment in places of public accommodation. As part of the many tributes to the memory of Bruce Watkins, I ask to have printed in the Record the article from the Kansas City Star, October 26, 1980, entitled, "Blacks Here Need Someone at the Helm."

The article follows:

Blacks Here Need Someone at the Helm

(By Joelouis Mattox)

When black leaders die we must praise them for their good works and then replace them.

Bruce Watkins, the man who was one of Kansas City's first black city councilmen and who almost became its first black mayor, more than merits the great praise accorded him in recent weeks, and he would be the first to speak out for a new leader for our community.

Kansas City is one of the most beautiful cities in the world. It has more fountains than Rome and more boulevards than Paris. Kansas City is one of the few livable cities left, and I love living here. But this town ain't what it ought to be.

Kansas City does not have the best school system in the country, we need more decent housing, and black businesses need more success. The crime rate here, like elsewhere, is going up, the number of people working is down, and Kansas City isn't free of racism.

A far greater imperfection is that in these times when the way people vote determines whether there will be job programs, justice in the courts and equal rights for women, Kansas City's black community (a potential

50,000-vote stronghold) cannot boast that every one of its eligible voters is registered and voted in the last election.

Yet even with its shortcomings Kansas City is not the worst city in the country for blacks. In fact, Kansas City ranks as one of the best cities in the country for blacks. And without question the person who did the most to make it so was Bruce R. Watkins.

While Watkins was living he campaigned for better schools and waged war on crime and its causes. Through his contacts in Washington he was able to get job programs and housing developments for the city. He helped black businesses get business and he tried to rid his town of racism. (When Vice President Walter Mondale appeared to boost Watkins' quest for the mayor's office in March 1979, Mondale commented; "You cannot look at the modern history of Kansas City without seeing Bruce's footprints all over the place. His life is an example of what one can do when one makes a commitment to a city."

Because Watkins could get great numbers of blacks to register and go to polls and vote, and because he cared about people and his community, the vice president of the United States, the governor of Missouri, the mayor and two former mayors of Kansas City attended his funeral.

The Rt. Rev. Dr. H. Hartford Brookins, president of the African Methodist Episcopal Church (AME) Bishop's Council, was there. Dr. Marena Williams, president of the North American Baptist Women's Union, was there. The Rev. Dr. E. A. Freeman, vice president of the Baptist World Alliance, was there. And Lawrence A. Jones Sr., most worshipful grand master of the Prince Hall Grand Lodge, free and accepted Masons of Missouri, was there.

What was Watkins' greatest contribution? I say getting blacks to register and vote. He worked hard at this and here's the reason why: The riots of the 1960s confirmed his belief that blacks in this city and across the country would not take racism and social and economic injustices lying down. He knew we were ready to fight for what was right and to die for freedom.

Watkins encouraged us to use ballots rather than bullets. But because he didn't want us to vote for just anyone or anything, he helped start Freedom Inc. This organization broke the chains of political servitude that had bound us to white plantation bosses who used to control the votes of the black community and replaced them with black leaders who live in the neighborhoods they represent and who care about their people nowadays.

When black leaders die, we cry and mourn at their funerals. But as one reporter has written, for hundreds from the black community who attended Bruce Watkins' funereral, the occasion was a time for proud memories, joyful prayers and dreams for the future.

Bruce Watkins is gone (his pastor says he has been transferred to another city), but the dreams he had for Kansas City and his people which did not come true while he was living, he left for his successor to make come true.

What about those dreams? Watkins dreamed of a black being elected mayor of Kansas City, a black serving as governor of Missouri, and a black being sworn in as president of the United States. His dreams included these positions of influence because he felt that when blacks get to these places, it would mean that blacks were voting 100 percent, conditions would be better for his people, and racism in America had died.

In our race for freedom and justice, someone must take Watkins' leadership baton and run with it, build on his accomplishments, make his dreams come true.

I want a leader—not a committee or a black caucus—to take over where Bruce Watkins left off. (Freedom Inc., is now run by a committee.)

I am a little suspicious of outsiders who say the black community doesn't need a single voice to speak for it or a single leader to champion its causes.

In our struggle for justice and equality in this town and in this country against racist laws, oppressive governments, and bigoted institutions, we need a leader. So important is our struggle that not to have a leader is to be like a ship in a storm without a captain, an army in battle without a general, and sheep in the wilderness without a shepherd.

Without a single leader, the black community is a great big cotton patch ready for picking. Without a leader, plantation bosses can come into our community and confuse us, use us, deceive us and betray us.

I want a single leader for our community rather than several leaders or a committee, because we need someone to get up on cars and campaign for food stamps and energy coupons. We need an individual to stand in pulpits and speak out against crime and police brutality. We need a leader to present our demands for jobs and better housing to government officials and congressional committees. We need someone to speak up for our schools.

We need a leader who can call brothers and sisters together and stop a riot. I understand that when former U.N. Ambassador Andrew Young, Rev. Jesse Jackson, Benjamin Hooks and members of the Congressional Black Caucus went to Miami last spring to help city officials stop the riot and restore peace, what was missing was a force—a local black leader who could sit down with them and speak with one voice on the city's racial problems.

Blacks here need a leader to keep saying, like Bruce Watkins said, "Let us impress on all of Kansas City and on to the next generation that we are significant, we are worthy, we are God's children and we are somebody."

During the three decades that Watkins worked for the advancement of his community, he prodded talented people to do the things he was doing and to do them well. The number of people he inspired to want to be like him (influential and a servant of his people) is not known, but there are a lot of them. Some hold positions in government, some are leaders in Freedom Inc., some are teachers and some are preachers, some work in the news media, some are successful business persons.

The man or woman who replaces Bruce Watkins as leader of the black community doesn't have to be good-looking, jovial, a mortician or a member of Freedom Inc. Watkins' style and way of getting things done for his people was different from the black leaders he succeeded. Before Bruce there was Carl Johnson, who worked through the NAACP. Before Johnson there was Chester A. Franklin, who worked to stamp out racism through the *Call* newspaper. Before Franklin, there was Dr. John Perry, who founded Wheatley Providence Hospital (now Martin Luther King Jr. Memorial Hospital). And before Dr. Perry there was Rev. Clark Moore. Moore preached from the back of a buckboard in the 1860s (when great numbers of newly freed slaves started arriving here and settling in Stragglers' Camp on the banks of the Missouri River near 4th Street) and inspired our forefathers to do something with their freedom and become somebody.

Watkins' successor is among us. Someone in the city has been "called" or will be "called" to take over where he left off, to go forth and do the things he was doing.

If there is no one in Kansas City to succeed Bruce Watkins and become our leader, then we are in bad shape and Bruce's dreams will never come true.●

RECOMMENDATIONS FOR IMPROVING THE QUALITY OF FAMILY LIFE

● Mr. BIDEN. Mr. President, the recent report of the White House Conference on Families produced a high range of agreement from three regional conferences on 34 recommendations for improving the quality of family life in the United States.

It is not necessary to endorse each of those recommendations in detail—and I am not offering such an endorsement now—to conclude that drawing a national focus on the concerns surrounding the American family has been a constructive exercise.

For a variety of reasons—some of them associated with local, State and Federal Government, but more of them rooted in contemporary trends within our society—the American family has been under siege. It has been a broad assault, in fact, upon the basic values that have provided the foundation to our national life from its very beginning.

That siege must be raised; those values must be restored to their rightful place, and everything that Government can reasonably do to restore them must be done.

But, Mr. President, all Americans—and especially all of us in Government—must recognize that the decisive battles in this struggle to restore the American family cannot be fought by Government alone or even primarily. We can try to create the circumstances most favorable to the family, and we can try to remove whatever impediments Government may have put in the way of developing strong family life—but that is as much as we can do.

Beyond that point, on the private territory of the family itself, individual families must, in the nature of things, take responsibility for themselves.

The commitment of marriage, the commitment to raise healthy children of good moral character, the commitment to maintain the family as a lifelong mental and moral resource to all of its members, and the commitment to participate in the creation of communities in which family life can thrive, are all commitments that can be made and kept only by individual families who care. That responsibility lies beyond the competence of government, as it should.

Fortunately for our families and our country, I believe that the evidence indicates that most American families have already made that commitment and are doing their best to keep it. They welcome leadership in their communities that recognize their concerns.

As a matter of fact, Mr. President, that conviction was brought home to me strongly again recently as I attended funeral services for one of the most distinguished citizens of my State.

A TRIBUTE

It is an axiom that in any community the death of any citizen diminishes the community as a whole. It is equally, though rarely, true that the lives of some people have so enriched their communities that their deaths are received with a very real sense of sadness but with no real sense of loss: they have lived so well and contributed so much that their essence has been woven irremoveably into the very character of their communities.

It is in that spirit that I speak today of the recent death of Mrs. Mabel Lamden in Sussex County in my State of Delaware at the age of 74, after a lifetime of service and leadership to her community. All Delawareans mourn her passing but none can feel diminished by it.

Mabel Lamden, I fear, would be viewed by too many Americans today as an anachronism, as a person whose values and view of life outlived their time. She was devoted to her family, her church, her community, and the Democratic Party. She lived simply, partly because her material ambitions were few, but largely because keeping her personal life simple allowed her time to devote to the causes she believed in. But she was a talented woman who could be passionate in pursuing those causes and whose commitments, never lightly given, were scrupulously kept. Such a catalog of old-fashioned virtues does sound quaintly nostalgic in these pell-mell days of "Me first, nothing much second"—but Mabel Lamden's life, productive to its end, contradicts that impression.

She lived to a fullness of days, and she lived them fully to the end—always ready to serve, always ready to lead or to follow when there was worthwhile work to be done and never, not ever, out of date.

Mr. President, I speak of Mabel Lamden today not to eulogize her—she already has her memorial in the hearts of her fellow citizens—but to argue that character, integrity, and commitment have a timeless moral and practical quality. They are not simply yesterday's virtues; as Mabel Lamden's long life showed, and her death reminds us now, they are the virtues that not only allow us, in any age, to get things done, but that also assure us of getting the right things done.

I suggest, Mr. President, that there will never be too many Mabel Lamdens among us—and that her example, like her memory, will never grow old.●

TRIBUTE TO SENATOR MILTON R. YOUNG

● Mr. INOUYE. Mr. President, I wish to take a few moments to acknowledge the long and distinguished career of Senator MILTON R. YOUNG of North Dakota. My deep respect for MILTON YOUNG is one which all of us share, as was demonstrated by our unanimous election of him to be President pro tem of the Senate.

MILTON YOUNG will undoubtedly be most remembered for his experience in farming issues and his tireless efforts on behalf of the American farmer. While the percentage of Americans engaged in farming has decreased since MILTON YOUNG was first elected in 1946, the importance of the American farmer has, if anything, increased dramatically. And the farmer could ask for no more effective a representative than Senator YOUNG.

While much of his work on farming issues has been as a member of the Senate Agriculture and Forestry Committee, I have come to know MILTON YOUNG best through our service together on the Appropriations Committee. On that committee he has not only played a strong role in agricultural issues, but has played an even stronger role in national defense issues. His tenure on the Appropriations Committee can best be described as demonstrating a commitment to responsible and yet restrained Federal spending.

It is often said that the Senate operates like a club. If that is true, it can only be because we are able to discuss, dispute, and settle our differences in an atmosphere of mutual trust. Senator MILTON YOUNG has throughout his career demonstrated the best aspects of this Senate club. He is an able advocate, a resourceful compromiser, and a strong defender of the agreements that have been reached. This is the kind of approach to legislation that allows this body to function. It may not have made MILTON YOUNG a household name throughout the Nation, but it has made that name a highly repected one in this body.

In the 97th Congress, I will find myself a member of the minority party. While this will be the first time in my career that that will be the case, the adjustment will be made easier by the examples that I have to follow. If as a minority Member of this body, I can follow the example of MILTON YOUNG, if I can be as effective as he has been, and if the majority accords me the respect that MILTON YOUNG has been accorded, then minority status will not reduce my ability to effectively represent my State.●

TRIBUTE TO SENATOR RIBICOFF

● Mr. PELL. Mr. President, I have had the pleasure and honor of knowing ABE RIBICOFF for many, many years and I know of no other person in public life for whom I have greater admiration. He is a man of immense decency, and I am proud that we are friends.

For many years, as a citizen of his neighboring State, I have had the chance to observe ABE RIBICOFF in action. I have always been impressed. His career as a public servant has been truly distinguished, and in my memory, rarely matched. Just to list his extraordinary accomplishments brings to mind what this great man has done. He has been a State legislator, a Member of the House of Representatives, a judge, a Governor, a Federal Cabinet member, and a U.S. Senator. Many of us would be grateful to have achieved only one of these offices of public trust during our lifetime. ABE has achieved them all.

During his 18 years in the Senate, I have had the privilege of working with him on many issues. And his work as a Senator is a tribute to integrity and compassion, wisdom, and perserverance. On one particular issue for which we worked together, I can personally testify to ABE's perserverance. We tried for more than 10 years to create a Federal Department of Education. Senator RIBICOFF called for such a department many, many times, but usually those calls fell on deaf ears. But ABE RIBICOFF did not give up. He kept introducing legislation, and working for its passage, and finally, in 1978, legislation establishing the first Federal Department of Education was signed into law by President Carter. That this Department is finally in existence is evidence of the hard work ABE RIBICOFF was willing to undertake, and the Department is a fitting tribute to him.

ABE RIBICOFF's life has been a source of strength to us all. Robert F. Kennedy once called the life of politics an honorable profession. ABE RIBICOFF has given true meaning to that, and his message to us is that a life of public service to one's country and to one's fellow man can still be carried out with grace and dignity, and with wisdom and compassion.

Mr. President, we will all miss ABE RIBICOFF. He has been our guide, our teacher, a source of knowledge, and a model for us all. I, for one, am sorry to see him go.●

TESTIMONIAL FOR SENATOR FRANK CHURCH

● Mr. PELL. Mr. President, it is with particularly personal sadness and regret that I join in bidding farewell to a most distinguished and accomplished Member of this body, FRANK CHURCH, the senior Senator from Idaho and chairman of the Foreign Relations Committee.

FRANK is one of my very closest friends in and out of the Senate. We are family friends, too, and Bethine and he are a couple of whom my wife and I are very fond. Here I would add that Bethine has played a wonderful role as FRANK's partner, helpmate, campaign manager, and general supporter. We knew each other before either of us was elected to the Senate, and we have both shared a deep interest in the foreign policy and diplomacy of our Nation. FRANK CHURCH has had an outstanding career in public service and a long list of accomplishments to his credit.

A champion debater in his youth, FRANK CHURCH is one of the most articulate, persuasive people ever to serve in the Senate. He was never content simply to take positions on issues; he advanced his positions and worked hard to develop the necessary support for important legislation.

As evidence of my high regard and affection, I was proud and glad to be chairman of the Church for President Committee in 1976. While it was a short-lived campaign, it was almost successful, and we will all remember FRANK's brilliant speech at the 1976 Democratic Convention.

FRANK CHURCH has been a fierce defender of and advocate for the interests of his State of Idaho. His constituents will particularly remember him for his leadership in the passage of the Wilderness Act of 1961 and the National Wild and Scenic Rivers Act of 1968. It was also through his efforts that the River of No Return Wilderness Area was established, and it is the largest such area in the lower 48 States.

In the area of foreign relations, Frank Church followed in the illustrious footsteps of a fellow Idahoan, William E. Borah, as chairman of the Foreign Relations Committee. Although Frank did not have the opportunity to serve as chairman for as long as William Borah did, his chairmanship was a highly eventful and productive one. Under Frank Church's leadership, the Foreign Relations Committee authored the Taiwan Relations Act and was the principal center of debate of the SALT II treaty. The committee's debate and deliberations were the most extensive and instructive in the history of arms control, and Majority Leader Robert Byrd very aptly described the committee's report on the treaty as the best and most thorough report he had seen in the Senate.

Even before he became chairman of the Foreign Relations Committee, Frank Church made his mark on American foreign policy through the Cooper-Church amendment in 1970 denying funds to carry on hostilities in Cambodia, by his investigations of the activities of multinational corporations and the covert operations of the CIA, and for his leadership in navigating the Panama Canal treaties through the Senate.

Frank Church's career in the Senate has ended long before it should have, but he has a rich and proud record to look back on. He exhibited great courage, foresight and legislative skill; and I and others of his colleagues will long remember and admire him. I hope that as a private citizen, he will continue to speak out and offer counsel on important issues. My wife, Nuala, and I are deeply and personally sad, and we join in extending to him and Bethine our love and all the best in their new life.●

TRIBUTE TO SENATOR SCHWEIKER

● Mr. PELL. Mr. President, as this 96th Congress draws to a close, I very deeply and personally regret that it will also mark the retirement from the U.S. Senate of a good friend and trusted colleague, Dick Schweiker. But I am delighted to look forward to working with him in his reincarnation as Secretary of Health and Human Services.

Over the past 12 years, I have had the privilege of working with Dick Schweiker on the Committee on Labor and Human Resources. We have served together as members of both the Subcommittee on Education, Arts, and Humanities, which I chaired, and the Subcommittee on Health and Scientific Research.

We are not members of the same political party, but I can say candidly that not once has that difference prevented the development of a close working relationship between us. Surprisingly often, too, we found ourselves in agreement. Over the years, Dick Schweiker demonstrated again and again what I believe is the hallmark of his distinguished career in public service, and that is his deep commitment to a spirit of cooperative bipartisanship. It was that commitment on his part that earned Dick Schweiker the wide and deep respect that he has among the Members of this body. On both sides of the aisle, Dick Schweiker has been a U.S. Senator whose advice and counsel was desired and sought.

Dick Schweiker has been neither a "yes-man" nor a "nay-sayer." When political ends might have justified a simple answer, he was always there to examine the problems, understand the issues, and attempt to fashion a response that would produce good public policy. His was not the course of simply accepting or simply rejecting. Constantly and doggedly, Dick Schweiker pursued the more difficult course of reaching for a balance. He saw the need for positive governmental action in such crucial areas as health and education, but through his service on the Senate Appropriations Committee, he also saw the need for governmental restraint in spending. His entire career has been highlighted by his efforts to blend these concerns, to arrive at that most delicate balance between the two, and to insure that our Government is one of prudent compassion.

I want to wish Dick Schweiker the very best in the years ahead. I am confident that he will excel in whatever he does next. But I also want Dick Schweiker to know that come January 3 of next year, we will miss him very, very much here in the U.S. Senate. And I personally will miss him, both because he is a friend I admire and because we share so many of the same values.●

CARE: 35 YEARS OF HELPING PEOPLE HELP THEMSELVES

● Mr. DOLE. Mr. President, the Senator from Kansas at this time would like to say a few words about an organization that has been operating for the past 34 years on the simple objective of helping people help themselves.

Next May, the cooperative for American Relief Everywhere, Inc.—better known to most Americans as CARE—will mark its 35th year in providing emergency relief to millions of people across the world. Recently, CARE issued its 34th annual report and the record of success and accomplishments by this organization cannot be measured just in the numbers reflected in their reports.

CARE was born in 1945 as a voluntary, nonprofit, nonpolitical, nonsectarian, nongovernmental agency to meet the needs of millions of men, women, and children left destitute in Europe after World War II.

The founders were 22 major American organizations made up of cooperatives, relief agencies, religious organizations, and labor. CARE food packages first reached Europe on May 11, 1946 at Le Havre, France and soon afterward arrived in 10 other countries on the Continent and in Great Britain.

Since that time, CARE has grown with assistance from the passage of Public Law 480, providing major supplies of food from the United States and in 1962 with the addition of a medical branch to CARE, known as MEDICO founded by the legendary Dr. Thomas A. Dooley and Dr. Peter D. Comanduras. In 1966, the first partnership development agreement for shared-cost, self-help partnerships was signed for the construction of a school in Honduras. Partnership programs in nutrition, development and health are now a key feature.

PROVIDING THE MEANS FOR SELF-HELP, SELF-SUPPORT, AND INDEPENDENCE

Many people in the United States view CARE as only a feeding program—but CARE is much much more. To be fully effective, CARE not only provides food to over 20 million people each day, but they accompany that feeding with instruments for self-support and independence. Many of these malnourished nations lack the education in farming techniques—that is where CARE comes in.

CARE provides agricultural tools, equipment, seeds for planting, and people that teach correct planting and harvesting techniques for those particular lands. Putting together the agricultural teachings, the building of schools to educate the children, medical aid to combat disease, and providing tools to help the unskilled become productive—the full scope of CARE is hard to summarize in just a few words.

That CARE package that many of us are used to seeing in years past has not been replaced but changed—the CARE package has expanded to bring effective aid to millions of people in the face of disasters, hunger, and homeless futures.

Over 46 million contributions came into CARE from private citizens over the years. In addition, numerous contributions are made from industries and other commercial enterprises and a wide variety of national organizations raise money for CARE when all these resources are pooled together—under one of the most highly organized and coordinated systems ever seen—CARE delivers in excess of $5 worth of aid for each dollar contributed.

Mr. President, the Senator from Kansas would like to congratulate the Cooperative for American Relief Everywhere, Inc., on its accomplishments in 1980, its 34th year. I am sure my colleagues here in the Senate and also those in the House of Representatives look forward to the efforts CARE will make in 1981 and we will do all that we can here in the Congress to help CARE evolve into an even greater organization to help more people help themselves.

Mr. President, I ask that the following excerpts from the 34th Annual Report of CARE be printed in the Record.

The material follows:

SUMMARY: CARE PROGRAMS

CARE and MEDICO help poor people throughout the developing world by:

Providing supplementary food and nutrition education to reduce hunger and malnutrition.

Furnishing tools, materials and know-how to help villagers build schools, clinics, improved water systems, and farm-to-market roads.

Helping farmers to grow more food by

teaching them more efficient methods and providing the means to do the job.

Training public health workers in basic medical services and instructing doctors and nurses in improved medical techniques.

Rushing emergency aid to victims of disaster and helping them to rebuild as soon as possible.

All of these programs are designed not only to help desperately poor families survive but to enable them to work toward becoming self-supporting.

The following is a brief summary of programs in Africa, Asia, Latin American and the Middle East.

Bangladesh: Equipment was provided for 8,145 agricultural cooperative members, 5,008 acres were irrigated, and more than 2,380,000 pounds of vegetables were marketed. Via food-for-work project 1,433,333 agricultural workers and their 7,168,817 dependents received food. Income-generating projects in women's cooperatives included poultry and vegetable production; 2,372 cooperative members studied nutrition, and 4,958 children and nursing mothers received vitamin A supplements. MEDICO volunteer visiting specialists provided training in orthopedics, reconstructive surgery and anesthesiology; 280 family health workers were trained and 332 trainees' field work was monitored.

Belize: In a rural primary education project comprising 2,391 students and 39 teachers in 14 schools, 80 new teachers were graduated and 105 student teachers trained in a curriculum combining agriculture and academics. Hampered by old techniques limiting the variety and quantity of their catch, 130 fishermen learned new methods and became familiar with new equipment. A corn drying machine was provided to assist subsistence farmers in storing and marketing their harvests; 110 participating farmers dried 200.000 pounds of corn for sale. In health and sanitation efforts, 21 wells were dug and equipped with handpumps, and 237 latrines were installed.

Bolivia: Supplementary food reached 10,000 children and mothers, and 36.000 people were fed through food-for-work projects. At the year's end, 29 rural water systems had been completed and 10 more were under construction; 58 community members received training in the systems' maintenance. Rural villagers also helped build 280 latrines. Twenty-seven farmers' cooperative members planted improved-variety potatoes, and the harvest was 41 percent greater than by traditional methods.

Cameroon: Six women's agricultural cooperative groups with a total of 208 members were aided in planting maize, yams, peanuts, beans and plantains; CARE helped one group build a cooperative center and another group implement a poultry project. Construction activities included classrooms and community centers. Training was provided for villagers in water hygiene and management, and six water sources were built or improved.

Chad: Civil war in Chad forced the suspension of all programming and the evacuation of CARE's staff before the close of the fiscal year. From June through November of 1979, however, 4,700.207 pounds of emergency food reached 78,000 Chadians who had fled violence in the southern part of the country.

Chile: Training in nutrition or gardening was provided for 2,834 teachers, and 1,729 school and family vegetable gardens were planted. In a large food-for-work project reaching 36,000 workers and their 212,000 dependents, 1,233 miles of road were built or improved and 10.000 people received vocational training. Supplementary food went to 42,700 preschool children.

Colombia: In agricultural development projects, 898 acres of crops and 20 demonstration plots were cultivated; revolving credit loans were provided for improvement of small farms. Reforestation efforts were boosted by the planting of 15,300 trees. Thirty-eight water systems and three health posts were built. In complementary health activities, 8,235 people were vaccinated, 822 latrines were installed, and health education was provided in 21 communities. Materials were distributed and 192 extension workers trained to teach rural women food preservation methods and the benefits of breast-feeding.

Congo: New program; preliminary activity.

Costa Rica: In various feeding projects, 340,833 people, most of them children, received supplementary food. Twenty-three nutrition education centers were built. In a food processing plant CARE helped build, 826,555 pounds of indigenous blended food was produced to improve the nutritional well-being of rural children. Farmers were assisted in planting 568 acres of soybeans, yielding a harvest of 405,646 pounds. To supply fresh water, 279 hand water pumps were installed and 263 rural villagers trained in their maintenance.

Dominican Republic: Supplementary food reached 163,000 children and 35,000 mothers, and 233,000 people received emergency rations following Hurricanes David and Frederick. Other post-hurricane aid included emergency medical care by MEDICO and reconstruction of homes and schools. Sixty-seven schools received seeds and tools, and 200 teachers were trained in modern agricultural methods. CARE helped young farmer clubs learn new food production and marketing techniques. Through MEDICO, training was provided in orthopedic and facial surgery, as well as in operating room and intensive care procedures.

Ecuador: Four schools, two community centers and eight health centers were built; three wells were renovated for irrigation use. Construction was complete on a plant-and-warehouse complex to process a nutritious blended food for distribution to undernourished children, pregnant women and nursing mothers. Training of both construction and maintenance teams complemented the installation of 30 rural water systems Supplementary food reached 38,250 mothers and 89,250 children.

Egypt: To aid fishermen on the shores of High Dam Lake, three shelters were built, housing a total of 49 men, and another five were under construction at the year's end; 44,000 tree seedlings were cultivated; saplings were planted on the lake's barren shore; vegetable gardens were planted at four sites, and medical care was provided via a health services boat. Elsewhere, 18 family planning awareness centers were established and food provided for the 111,905 women registered. More than two million pounds of food was supplied in a project aiding Bedouins and others living in the Sinai, a project formerly under the auspices of CARE/Israel.

Guatemala: In a food-for-work forest and soil conservation effort, 11,986 workers and their 59,930 dependents were fed. Project activities included 2,118,023 forest trees and 12,547 fruit trees planted, 109 acres of farmland terraced, and 462 miles of contour ditches dug. Supplementary feeding programs reached 27,123 mothers and 170,877 children. Construction efforts encompassed 258 rural schools built or repaired, 18 health posts and four water systems.

Haiti: More than 250,000 people were fed in food-for-work and supplementary feeding projects. Rural development included 750,000 trees planted for reforestation, 83 miles of road built or repaired, 10 wells drilled for irrigation, and construction of 12 water systems, 528 latrines, 230 beehives, four agricultural warehouses and 50 silos. Two preschool nutrition and education centers were built, bringing to 5,263 the number of children being helped in this ongoing effort. Ten craft centers were built in a small industries project, and more than 687 acres planted to provide craftspeople with raw materials.

Honduras: Water systems were built in 39 communities and teams of villagers trained to maintain them. In other construction activities, 22 houses and 180 classrooms were completed. Forty-six subsistence fishermen received materials and equipment to improve their catches. Supplementary food reached 10,000 mothers and 285,000 school and preschool children. Planning was undertaken for the resumption of a MEDICO volunteer visiting specialist program to begin in fiscal 1981.

India: Of the 14,649,000 people fed through various feeding programs, all but 60,000 were children. Health training was provided for 11,420 teachers and 900 health workers. Construction activities included 603 child care centers, 19 nutrition centers, 75 central or school kitchens and 101 food warehouses. Immunizations against polio, smallpox, tuberculosis and diphtheria were administered to 1,170,488 people; 1,326,783 people received nutritional supplements or deworming doses. Food production efforts encompassed the establishment of irrigation systems, poultry units and kitchen gardens.

Indonesia: Cumulative work in several community improvement projects resulted in 1,250 home gardens established, 450 school desk-and-chair units (each accommodating two children) provided, 65 water systems built or improved, and 62 water pumps and 21 sanitary facilities installed; construction or substantial rehabilitation was completed on 272 classrooms (including construction of a three-room school for handicapped children), five clinics, 290 rural houses and two bridges. Kits of relief supplies were distributed to 22.500 Indochinese "boat people."

Israel: Equipment was furnished for 24 vocational training centers, and 4,690 young people and adults (many of them handicapped) received training in welding, carpentry, sewing, plumbing, bookkeeping and literacy. Seven community centers were built. Via food-for-work, 465 acres of farmland underwent soil conservation, 897 beehives were improved, and veterinary services were provided for 74,941 head of cattle or sheep.

Jordan: Supplementary food reached 30.925 children through mother/child health centers, child care centers, kindergartens and institutions. Community improvement work comprised construction or rehabilitation of 17 schools, four clinics, seven water systems and four community centers. Agricultural projects included fencing, terracing, tree planting, land improvement and construction or repair of two irrigation systems.

Kampuchea (Cambodia): CARE joined a coalition of six voluntary agencies which provided rice and vegetable seed, irrigation pumps, medical and school supplies, blankets, tools and more to people inside Kampuchea.

Kenya: Approximately 118.800 people are benefitting from the installation of 28 rural water systems; 41 maintenance teams were trained to ensure the project's longevity. Sites were selected and materials delivered for the construction or improvement of 71 schools, six health centers and 25 polytechnic institutes, which were all in various stages of completion at the fiscal year's end.

Lesotho: To generate much-needed income, 488 cooperative members (most of them women) were trained to spin mohair yarn from the fleece of local Angora goats. Almost 300 of the previously trained spinners received additional training in spinning different types of yarn. More than 20,000 pounds of yarn was produced, and training in cooperative management and bookkeeping was provided. A dyeing plant was completed to increase the yarn's marketability.

Liberia: Ninety water systems—12 wells and 78 spring catchment systems—were installed and an additional 26 were expanded or improved. Health education courses were conducted in 82 communities and low-cost latrine construction was demonstrated in 15 villages. A school construction project yielded 25 two- and three-classroom units, and supervisory staff received training.

Mali: Five community councils were formed. Community improvement projects included the establishment of four village vegetable gardens and the provision of irrigation for each, a dam to supply water for irrigation and cattle, and the formation and equipping of a fishermen's cooperative. Construction activities resulted in 18 wells and seven three-classroom schools; 120 school desks were provided.

Nepal: Training curricula were developed through MEDICO for nurses, assistant nurses, nurses' aides and nurse-midwives. In-service training workshops were conducted for hospital personnel. A nursing manual was being prepared at the close of the fiscal year.

Nicaragua: Post-civil war activities included provision of 180,366 pounds of seed, 225,759 pounds of fertilizer and $17,109 worth of tools for farmers, assistance to the Ministry of Education's school reconstruction efforts, and construction of 22,484 school desks. Hand pumps were installed and the 2,025 acres irrigated produced 2,300,000 pounds of grain. Two sewing workshops created jobs for women who lost husbands, sons or brothers in the war, becoming their families' chief wage earner.

Niger: In various soil conservation and land protection projects, seven nurseries were established to produce trees that will bear fruit, act as live fencing, provide firewood or serve as windbreaks; 217,000 seedlings were produced. To supply water for crops, 65 wells were dug. Subsistence farmers learned ways to defend land from sand, water and wind erosion, and were trained in well construction, live fencing maintenance and vegetable gardening.

Pakistan: CARE suspended operations in Pakistan at the close of fiscal 1979, but an emergency program to help Afghan refugees was established during fiscal 1980. Medical supplies and equipment, blankets, and shoes were provided. Self-help construction of 50 water wells was completed. Looms, embroidery kits and cloth were supplied to enable refugees in five camps to learn or resume ways of supporting themselves.

Panama: School kitchens were built to provide undernourished children in 147 schools with nutritious hot lunches; 47 school vegetable gardens were established. Supplementary food reached 6,400 mothers and 97,600 preschool and school children. To help increase educational opportunities for rural children, 83 primary school classrooms were constructed.

Peru: In school construction efforts, 524 rural classrooms were built. Construction of 56 miles of irrigation canals helped farmers increase agricultural productivity. The completion of 38 water and four sewage systems, as well as instruction in health and sanitation, helps rural villagers. Ten volunteer visiting specialists served in a new MEDICO project; 160 surgical demonstrations were conducted, and 180 hours of lectures were delivered to medical students and staff.

Philippines: More than 1.7 million people received food via supplementary feeding through schools, hospitals and mother/child health centers or food-for-work community improvement projects. Construction or repair work included 456 water systems, 159 child care, feeding, health or community centers and more than 170 miles of road. Pumps, garden tools and kitchen equipment were supplied to primary schools to help staff and children produce their own nutritious lunches.

Sierra Leone: Roads connecting isolated villages with each other and with the existing transportation network aid many kinds of development; 70 miles of road were built and 303 miles regraded, repaired or maintained. Thirty-seven extension workers learned ways to teach health and sanitation practices to rural villagers, most of whom are illiterate. Visual materials and 10 cassette tapes dramatizing the health lessons were prepared.

Sri Lanka: A school feeding program reached 1,085,000 children. More than 12,430,000 pounds of Thriposha, a nutritious soy/corn supplement, reached 550,000 children and mothers, and a processing complex for Thriposha production was completed in January. Nutrition education encompassed distribution of 12,500 brochures and posters, development and demonstration of 24 recipes using soybeans, and the training of 522 home level extension workers to teach villagers how to incorporate soybeans into their diets. "Soyanews," a newsletter produced in three languages for soybean farmers, reached a circulation of 19,528 by the year's end.

Sudan: New program; preliminary activity.

Thailand: Aid to desperately needy Kampuchean (Cambodian) refugees included establishment of feeding centers where up to 18,000 people were fed daily at four border camps: provision of fresh produce to an additional 150,000 refugees; medicine, medical supplies, and treatment of MEDICO staff, and distribution of 12,000 tons of rice seed. A total of 38,000 kits of emergency supplies were distributed to Kampucheans and 1,400 kits were given to Indochinese "boat people."

Tunisia: Forty-seven wells were dug or substantially rehabilitated to provide fresh water to rural villagers. In a self-help sanitation effort, 300 family latrines were constructed. Two health education teams were trained and serve as part of Tunisia's public health system. Supplementary food reached 156,000 schoolchildren, 113.400 preschoolers and 4,000 mothers. A MEDICO program through the Sousse Medical School focused on curriculum planning, course revision and lecturing.

Uganda: Emergency relief food reached 1,232,056 Ugandans. Over 978,000 pounds of seed and 108,300 hand tools were distributed to farmers and herders to help them rebuild their lives. Forty-eight classrooms were reconstructed. Six volunteer visiting specialists served through MEDICO, and training was provided for 210 medical students, 100 nurses, six interns and three orthopedic residents.

CARE OPERATIONS

Headquarters senior staff

Executive Staff

Executive Director, Philip Johnston, Ph.D.

Deputy Executive Directors; Frederick W. Devine, F. Merton Cregger.

Assistant Executive Directors, Ronald P. Burkard, Ralph Devone, Evelyn P. Nazaruk, George Radcliffe, Richard Vogler, (Comptroller).

Executive Consultants; Frank L. Goffio, John T. Thacher.

Department Directors

William E. Erickson, Financial Control.
Alexander Klein, Public Information.
George B. Mathues, Medical Volunteer Specialists.
Susan Overman, Resource Development.
Howard L. Powell, Procurement.
Raymond Rignall, Program.
Donald R. Sanders, Overseas Operations.
Charles Sykes, Washington, D.C., Program Liaison Office.
Leo R. Tintner, Management Information Services.
Robert J. Tortorici, Personnel.

Overseas Directors

*Afghanistan—(Operations suspended).
*Bangladesh—Christof Scheiffele.
Belize—Harold Sillcox.
Bolivia—Emil Steinkrauss.
Cameroon—Ellis Franklin
Chad—(Operations temporarily suspended).
Chile—Robert Linder.
Colombia—Neil Huff.
Congo—Thomas Zopf.
Costa Rica—James Puccetti.
*Dominican Republic—Lawrence Holzman (Acting Director).
Ecuador—George Menegay.
Egypt—Allan Turnbull.
El Salvador—(Operations suspended).
Guatemala—Michael Viola.
Haiti—Lawrence Holzman.
*Honduras—Justin Jackson.
India—Douglas Atwood.
Indonesia—Dallas Vipond.
Israel—Edward Greaves.
Jordan—Ralph Montee.
Kenya—Daniel Roth.
Lesotho—Marshall French.
Liberia—Rudolph Ramp.
Mali—Felix Ashinhurst.
*Nepal—Edward Brand.
Nicaragua—Timothy Lavelle.
Niger—Frank Brechin.
Pakistan—Douglas Atwood.
Panama—James Puccetti.
*Peru—Dale Harrison.
Philippines—Henry Richards.
Sierra Leone—Charles Laskey.
Sri Lanka—George Taylor.
Sudan—William Salas.
*Thailand—Rudy von Bernuth.
*Tunisia—Timothy Aston.
*Uganda—Terence Jeggie (MEDICO suspended June 1980).

CARE BOARD OF DIRECTORS AND MEMBER ORGANIZATIONS

Officers—Representing

Honorary President Harold S. Miner, Congregational Christian Service Committee, Inc.
Chairman Edwin J. Wesley, International Rescue Committee, Inc.
President Wallace J. Campbell, Cooperative League of the U.S.A.
Secretary Jan Papenek, LLD, American Fund for Czechoslovak Refugees, Inc.
Treasurer Paul Hebert, Credit Union National Association, Inc.
Vice Presidents—Teymuraz K. Bagration, Tolstoy Foundation, Inc.
Samuel E. Bunker, National Rural Electric Cooperative Association.
C. Ronald Goulding, DD, Baptist World Relief.
Hon. Robert W. Hansen, Fraternal Order of Eagles.
Edward H. Hoenicke, Public Member (Senior Vice President and General Counsel, United Airlines).
George K. Kenien, The International Association of Lions Clubs.
Dorothy Knox, Pilot Club International.
Col. G. Ernest Murray, The Salvation Army.
Capt. John J. O'Donnell, AFL–CIO.
Norman Ross, Public Member (Senior Vice President, First National Bank of Chicago).
Patricia Russell, M.D., Public Member (Chairman, MEDICO Advisory Board).
Marijo Shide, General Federation of Women's Clubs.
George W. Stone, National Farmers Union.

Directors—Representing

Edward Anderson, National Grange.
Hon. Walter J. Bayer, American Relief for Poland.
Alexander Bilyk, Ph.D., United Ukrainian American Relief Committee.
Henry L. Bockus, M.D. Public Member (MEDICO Advisory Board).
John E. Bowman, World Ministries Commission of the Church of the Brethren.
Howard D. Burbank, General Conference of Seventh Day Adventists.
Eleanor Crosby, National Council of State Garden Clubs, Inc.
Roman Eller, Public Member (President, Mutual Service Insurance Companies).
David L. Guyer, Save the Children Federation.
Jane C. Freeman, Girl Scouts of the U.S.A.

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*Includes MEDICO program.

Dorothy Height, National Council of Negro Women, Inc.

Vladimir Kavan, Public Member (President, CARE Canada).

Agnes Kennedy, American Legion Auxiliary.

Donald M. Landis, HIAS.

Philip E. Nelbach, American Friends of Yugoslavia, Inc.

Edward A. Robie, Public Member (Senior Vice President, Retired, Equitable Life Assurance Society).

Mary P. Rudis, United Lithuanian Relief Fund of America, Inc.

Ruth Salevouris, Public Member (Senior Vice President, N. W. Ayer).

Paul Spray, M.D., Public Member (MEDICO Advisory Board).

Joseph T. Stewart, Jr., Public Member (Vice President, Squibb Corporation).

George J. Vojta, Public Member (Executive Vice President, Citibank).

Carl Weiss, M.D., Public Member (Chairman, CARE Deutschland).●

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR ZORINSKY ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, Mr. ZORINSKY be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER REDUCING LEADERSHIP TIME ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reduced to 10 minutes on tomorrow to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow at circa 10 a.m. the Senate will proceed to the consideration of a message from the House dealing with mass transit. There will be numerous measures on which action can be had tomorrow, one of which will be the debt limit extension. perhaps, I would hope, and numerous other measures, including conference reports, so I would anticipate rollcall votes throughout the day.

I do not know what the disposition will be that the other body will make of the need to go to conference on the continuing resolution, whether the other body will seek to do that on tomorrow or on Saturday or on Monday. I talked with the Speaker earlier today, and I will talk with him again in the morning. I hope that the resolution, as passed by the Senate, can be printed and made ready for a conference, and I also hope the other body will be able to go to conference tomorrow and, if need be, stay in session on Saturday and complete action on the conference report on Saturday, in which case the Senate can complete action on the conference report Saturday and adjourn sine die.

In the alternative, the House and Senate would go over until Monday, following the close of business tomorrow, and final action hopefully would ensue on Monday.

The Senate has done a good day's work, and unless other Senators wish——

Mr. PERCY. Can I make this inquiry, can the leader give us some idea as to how much voting there may be after 3 o'clock tomorrow afternoon?

Mr. ROBERT C. BYRD. I really have no idea, may I say to the distinguished Senator, I do not know.

Mr. PERCY. Did I hear the Senator say there is no decision yet on a Saturday session?

Mr. ROBERT C. BYRD. That is correct. It would depend——

Mr. PERCY. When will that decision be made?

Mr. ROBERT C. BYRD. It will be made tomorrow after it becomes clear whether the other body will attempt to stay in Saturday and attempt to complete action on the conference report. If the other body does not do that there is no need for the other body and the Senate to stay in on Saturday, and the Senate would go over until Monday after tomorrow. But there will be a lot of rollcall votes tomorrow. There is a good bit of work that remains to be done. But until tomorrow comes I am unable to say more than I have already.

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I thank the majority leader for the information he has given us on the schedule of the Senate tomorrow and for the next several days.

I did a whip check or had one done today to see what shape we are going to be in on our side from the standpoint of necessary absences on Saturday versus Monday and, of course, all Members will be here, I am sure, who can find it physically possible to do so in either event.

But I will point out there is a strong preference to try to finish the work of the Congress and to adjourn sine die on Saturday if possible, and I have conferred with Congressman MICHEL of Illinois, the newly elected minority leader of the House, the other body, and I have expressed to him my hope that it might be possible for the majority, the Speaker and the distinguished majority leader of the Senate, to consider the fact that from the standpoint of convenience of Senators on our side Saturday is certainly preferable to Monday.

I thought I would add that for the record at this point, for whatever good it may be in the future planning the Speaker and the majority leader might undertake.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader and I share his viewpoints.

Mr. PERCY. Mr. President, the minority leader has not consulted with the minority of the minority on this question. I had planned to be away this weekend in West Virginia, as a matter of fact. But I, of course, will always go along with the leadership in any way I can. But it would mean a lot to me if I could go to West Virginia.

Mr. BAKER. Mr. President, I marked the Senator from Illinois absent on Saturday.

Mr. ROBERT C. BYRD. Mr. President, I hope that the Senator will schedule many Saturdays in West Virginia. I do not want to see him deprived of going to that State. But we will just have to wait and see what the situation is tomorrow.

I was pleasantly enlightened today in checking my attendance sheet to find that there will be good attendance on my side of the aisle on Saturday. So if the other body will decide to act on Saturday on the conference report, I have no doubt but that the Senate would be able to produce a good attendance.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Executive Order No. 12169, dated October 26, 1979, appoints the Senator from Ohio (Mr. METZENBAUM) to serve on the U.S. Holocaust Memorial Council, in lieu of the Senator from Florida (Mr. STONE), resigned.

A TRIBUTE TO NEW JERSEY'S GREEN THUMB PROGRAM

Mr. WILLIAMS. Mr. President, I would like to say just a few words at this time to express my appreciation for the fine work being done by the Green Thumb program in my home State of New Jersey.

The Green Thumb program is celebrating 15 years of service that have been marked by continuing growth and success. Expanded from its original enrollment of 280 positions in four States to more than 15,000 yearly positions in all 50 States, Puerto Rico and the District of Columbia, Green Thumb has carried out community betterment and conservation projects that we can all be proud of.

Established under the Older Americans Act, the program was founded "in order to foster and promote useful part-time opportunities in community service activities for unemployed, low-income persons who are 55-years old or older who have poor employment prospects." I would venture to say that the program has gone much further than simply providing employment.

This successful and most impressive program recognizes that our Nation cannot afford to waste the vast reservoir of skills, wisdom and experience of older Americans. Through Green Thumb, this tremendous potential is tapped, and able hands and minds are given the opportunity to serve their communities at the same time they are working in satisfying employment.

Special outreach services to help the

aged, shut-ins and the handicapped have added to the valuable contributions this program has made to communities throughout New Jersey and the Nation.

I am especially proud of the fine work and dedication of all those involved in the New Jersey Green Thumb program, and I am confident that they will continue to uphold the high standards and impressive tradition that have marked their organization these past 15 years.

TRIBUTE TO A VERY SPECIAL NEW JERSEYAN: MARIANNA STANGO RODINO

Mr. WILLIAMS. Mr. President, the Nation and New Jersey lost a very special woman recently and I would just like to take a minute to mark the passing of Mrs. Marianna Stango Rodino.

She was a person of uncommon bravery and compassion for her fellow citizens and the kind of woman who always thought first about the needs of others. She was the beloved wife of one of this Congress' most able and distinguished Members, Representative PETER W. RODINO, JR. of New Jersey, and she shared with him throughout their wonderful marriage the triumph and joy of selfless service to this country.

At the mass held in Mrs. Rodino's memory this past weekend, the RODINOS' son, Peter III, eulogized his mother as a woman with great "courage and love" and the rector of the family's parish, Msgr. Joseph Granato of St. Lucy's Catholic Church in Newark, spoke of her graciousness and her ability to bring happiness to the lives of others.

Mr. President, I know that Members of the Senate will want to join in expressing their most heartfelt condolences to the RODINO family and I ask unanimous consent that an article from the Star Ledger of Newark, N.J. describing the moving ceremony for Mrs. Rodino be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

D.C. NOTABLES ATTEND RITES FOR MRS. RODINO

(By Vincent R. Zarate)

Vice President Walter F. Mondale led the 500 mourners yesterday at the funeral of Marianna Stango Rodino, wife of Rep. Peter Rodino Jr. (D-10th)

Mondale and Rodino led the procession of congressmen, dignitaries, and friends of the Rodinos down the long aisle of the 65-year-old St. Lucy's Catholic Church in Newark's North Ward as a male choir of 20 sang the requiem.

Mrs. Rodino, who met three popes and six presidents, died Wednesday of cancer. She was 70.

The vice president, Attorney Gen. Benjamin Civiletti, Patrica Harris, secretary of the Department of Housing and Urban Development, 14 Congressmen, and Sen. Dennis DeConcini (D-Ariz.) flew in from Washington to attend the funeral.

Newark Mayor Kenneth Gibson led the city officials at the mass presided over by Archbishop of Newark Peter Gerety, and celebrated by Msgr. Joseph Granato, rector of St. Lucy's.

The eulogies were delivered by Mrs. Rodino's son Peter Rodino III, and by Msgr. Granato. The gathering recited the Twenty Third Psalm.

A bright sun basked the yellow-stoned church in the wintry morning on Seventh Avenue as the dignitaries began arriving with police escorts.

The Vice President flew into Newark Airport on Air Force Two along with Civiletti and Mrs. Harris.

Behind them came a special Army bus carrying the Congressmen who serve on the House Judiciary Committee chaired by Rodino and propelled into prominence during the vote to impeach President Nixon.

Rodino has said that during the trying times of the impeachment hearings, Mrs. Rodino served as his "great source of strength and comfort."

Rodino, his daughter, Margaret Ann Stanziale and son, Peter III were consoled by the vice president on the church steps where 55 years ago, Mrs. Rodino first met her husband.

The family was led into the church by the vice president, as the contingent of congressmen stood in line to greet the Rodino family.

As the procession moved into the church, the bells of St. Lucy's slowly tolled.

The mass began as the mourners prayed for the repose of Mrs. Rodino's soul and the souls of all the departed—the traditional requiem of Catholics throughout the world.

Msgr. Granato said it was "fitting" the funeral be in St. Lucy's and said to Congressman Rodino:

"Peter you are saying, 'Ann I am bringing you home.' "

Msgr. Granato noted that Mrs. Rodino and the Congressman "met for the first time on the front steps of the church during the feast of St. Gerard's."

He said, "She has her roots here, and she was known by everyone as a gracious lady."

Peter Rodino III eulogized his mother for her "courage and love."

"We know," said the Monsignor, "she now has the eternal happiness of heaven."

After the mass, a cortege of 50 cars moved slowly through the streets of the North Ward and west on Route 280 led by Newark motorcycle traffic policemen for the 18 mile trip to the Gate of Heaven Cemetery in East Hanover, where the burial took place.

Among the New Jersey Congressmen who attended were Joseph Minish (D-11th); Edward Patten (D-15th); Frank Guarini (D-14th); James Howard (D-3rd); and William Hughes (D-2nd).

The congressional delegation from Washington included:

Sen. Dennis DeConcini (D-Ariz.); Reps. Donald Edwards and George Danielson (both D-Calif.); Jack Brooks (D-Tex.); Dante Fascell (D-Fla.); William Alexander (D-Ark.); Frank Annunzio (D-Ill.); Robert Drinan (D-Mass.); Sam Hall (D-Tex.); Thomas Foley (D-Wash.), and James Sensenbrenner (R-Wis.).

Also attending was Jack Valenti president of the Motion Pictures Industry, and former aide to Pres. Lyndon Johnson.

Mrs. Rodino married the Congressman in 1941.

Among her most cherished memories were the audiences with Pope Pius XII, Pope John XXIII, and Pope Paul VI.

She was born in Newark Sept. 8, 1910 and was the daughter of Ralph and Mary Stango. She graduated from Barringer High School in 1927.

Mrs. Rodino is also survived by her mother, four brothers, Ralph, Nick, Joseph and George, all of Newark; and two grandchildren, Carla and Maria Theresa Stanziale.

The funeral arrangements were made by the Spatola Funeral Home in Newark.

RECESS UNTIL 9:40 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand recessed until 9:45 a.m. tomorrow.

The motion was agreed to; and, at 9:22 p.m., the Senate recessed until Friday, December 12, 1980, at 9:45 a.m.

EXTENSIONS OF REMARKS

THE CIGARETTE SAFETY ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. MOAKLEY. Mr. Speaker, as the sponsor of the Cigarette Safety Act, I would like to bring to my colleagues attention an article which appeared in Newsweek magazine, December 15, 1980, entitled, "Is Fire an Unpunished Crime?" The author, Timothy B. Birr, shares with the readers his perspective as a lieutenant in the Eugene, Oreg., Fire Department, on the tragic and needless consequences of fires started by unattended cigarettes.

My legislation, which has been cosponsored by 30 House Members, seeks to insure that cigarettes have a minimum capacity for igniting smoldering upholstered furniture and mattress fires. With the 96th Congress coming to a close, I affirm my intentions to reintroduce the bill next year and work for its enactment.

The article follows:

IS FIRE AN UNPUNISHED CRIME?

(By Timothy B. Birr)

It was raining on Fourteenth Avenue, and after fighting back the nausea that comes with placing the charred remains of a fire victim into a body bag, we made our way down the narrow, twisting stairs of the old house, cursing and slipping on the wet steps, awkwardly juggling our tragic load and finally emerging into the fresh air of a dismal Oregon morning to deliver the body to a black station wagon. The building was home to some 40 people, and it had been heavily damaged after an unknown person dropped a cigarette into an old overstuffed chair about two hours before a neighbor called the fire department. The fire made the front page of the local paper, was the lead story on the 6 o'clock and 11 o'clock news, and was forgotten by all but its victims and a handful of fire fighters by noon the next day—a classic example of how the richest and most technologically advanced society in the world deals with the phenomenon of fire.

America's fire problem is an obscenity. With an average loss of 8,000 lives and $5.3 billion in property a year, we continue to be indifferent in our attitude toward fire. Although public concern is, of course, aroused by major disasters like the recent burning of the MGM Grand Hotel in Las Vegas, the staggering number of fatal residential fires that make up the bulk of these statistics goes largely unnoticed.

Consider the energy that law-enforcement agencies put into investigating and prosecuting the drunken driver, as opposed to the lack of such legal action when the same combination of inebriation and negligence results in a fire that destroys and kills as surely as any motor-vehicle "accident." Despite the fact that misplaced cigarettes will continue to be the leading source of ignition for residential fires, and that studies show consumption of alcohol and drugs to be contributing factors in such fires, the message is clear. If you drink, drive and damage someone's property, or injure or kill someone, you face certain prosecution on civil or criminal charges. On the other hand, if you return to your apartment from a big night out and forget about your last cigarette sitting on the arm of that old couch, well, after the fire fighters have drained and reloaded that last section of hose, there are a number of social service agencies that will help you and the other displaced tenants. Any deaths or injuries that result from your actions are merely the results of a tragic "accident."

While it is debatable that legal sanctions would have any impact on the frightful toll resulting from such fires, an examination of the technological developments relative to the problem only provides a more distressing perspective. The majority of these fires begin when a cigarette comes in contact with a piece of furniture, usually mattress or an overstuffed chair. The issue of developing flammability standards for such items has been debated by government agencies and the furniture industry for years. Currently, voluntary standards are being utilized by the industry. But even if all furniture and mattresses made today met strict standards, it would be years before such furnishings found their way into the homes of the poor, where, like crime and disease, fire finds most of its victims.

Another technological improvement, which is encountering even stiffer resistance from industry, is the self-extinguishing cigarette. A cigarette, once lit, will continue to burn for about 24 minutes if it is set down and left alone. Unfortunately, most of the materials used to upholster furniture and cover mattresses will resist burning for only ten to fifteen minutes after a lit cigarette has come into contact with them. Obviously, if cigarettes went out in five minutes if not puffed on, the toll of fires, in terms of lives, injuries and property, would be reduced dramatically. There is, however, little likelihood of the self-extinguishing cigarette becoming a mass-produced reality when the whole concept is regarded as little more than an amusing curiosity by a society totally unconvinced that it has a fire problem.

It is necessary to look only as far as the humble parking ticket for another example of our indifference. In my city, like most others, if you park too long without feeding the meter, you get a citation. You are fined, with virtually no appeal, and a set financial penalty is due and payable immediately. To the best of my knowledge, nobody was injured or killed in our city last year because someone occupied a parking space longer than the meter allowed. So far this year, fire has taken three lives, injured sixteen people and done well over $1 million worth of damage to this town, yet the citations my colleagues and I write daily carry with them no fines and are little more than formal pleadings to building owners and occupants for voluntary compliance with fire codes.

In a country where crime statisticians tell us that each one of us will fall victim to a serious crime once in our lives and where the U.S. Fire Administration tells us that each person in America is likely to be involved in fires serious enough to call the fire department three times in his lifetime, the majority of us refuse to occupy homes without locks on doors and windows but consider smoke detectors an expensive nuisance. Even in communities that require smoke detectors in certain buildings, fire departments lack the resources to insure that such devices are installed and maintained. Thefts of smoke detectors from hallways and the removal of their batteries by tenants more concerned about false alarms than about safety have resulted in more than one fire death.

In the end, fire affects all of us economically. Closed businesses, lost jobs and insurance rates are rarely figured into the total cost of fire. The personal tragedy of a fire is felt as keenly by its victims in the small towns of America as in the charred districts of our inner cities. But until all of us listen to the sirens in the night, and accept the fact that fire safety is more than just paying lip service to a talking bear or a Dalmatian, the replaying of scenes like the one on Fourteenth Avenue will continue to be a grim certainty . . . 8,000 times a year.●

MR. FRED OLINGER AND MR. THOMAS D. BASS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. SKELTON. Mr. Speaker, it is with great pride that I inform my colleagues of a noteworthy act of mercy undertaken by two of my constituents Mr. Fred Olinger of Belton, Mo., and Thomas D. Bass of Harrisonville, Mo.

On May 31, 1980, Mr. Olinger and Mr. Bass, trained in Red Cross first aid and cardiopulmonary resuscitation, were called to assist a man who had suffered a heart attack. Going to the victim's aid, they determined that he had neither pulse nor respiration and began two-person CPR. They continued their efforts until the arrival of rescue personnel. Without doubt, the use of the CPR by the two persons cited herein saved the victim's life.

Mr. Speaker, I would like to commend Mr. Olinger and Mr. Bass for their voluntarily learning Red Cross life sustaining skills, for their heroic action in the situation, and to congratulate them on their receiving the Red Cross Certificate of Merit.●

TRIBUTE TO SAMUEL DEVINE

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. ICHORD. Mr. Speaker, in these closing days of the 96th Congress, the illustrious career of SAM DEVINE has been recounted again and again by our colleagues in this body. I am honored to join in this fitting tribute to a man who has meant so much to this House and to me personally.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

From 5 years as a special agent for the FBI, to three terms in the Ohio Legislature, to 22 years in Congress, Sam Devine has spent most of his professional life in service to his country. In the 20 years that I have had the privilege of knowing and working with him, Sam has never failed to impress me with his dedication to the ideals of government and his command of the craft of governmental politics.

Consistently, Sam has fought for fiscal responsibility. The seeds of commonsense he has sown in the area of government spending promise to produce much for this Nation in the years ahead. In the area of environment, Sam has realistically spoken of the need for cautious trade-offs in long-term policy, refusing to accept the simplistic answers espoused by the visionaries and castle-builders searching for quick fixes to our complicated economic and environmental woes. Quick to point out that if a man washes his body, he pollutes the water—and that if he does not he pollutes the air, Sam was named to the "dirty dozen" several times and was proud of his designation. I submit his steadfast allegiance to his convictions has made him a profile in courage.

Now more than ever America needs legislators with the rare combination of vision and realism which has distinguished Sam in this body, and I join my colleagues in wishing the Devines all that life has to offer in their future endeavors. Sam has often been my ally, always my close personal friend. I sincerely hope time and distance will not keep us too much out of touch in the days to come.●

HANDGUN CONTROL

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. RODINO. Mr. Speaker, John Lennon's death is a tragedy—a tremendous loss to our society—which has taken away from us a creative artist who touched an entire generation of Americans. John Lennon helped shape the course of modern music and in speaking out for world peace and individual freedoms he became a symbol for millions of people worldwide.

His life was ended Monday night outside his New York City home by five bullets from a .38 caliber handgun. He was 1 of 25 Americans who died in handgun violence on Monday—1 of 25 that die each day and almost 10,000 that die each year in our society.

Newspaper writers and television commentators, searching for a way to describe Lennon's killing, have called it a "senseless crime," with "no rational motive." We have heard this pathetic explanation so many times before, and asked ourselves why? We do not always know. But we do know how the senseless killings are committed. Too often, they are facilitated by the easy availability of handguns. There are more than 50 million handguns in circulation in the United States today. Many of these are so-called Saturday night specials—the easily concealable type which have no sporting purpose and are widely used by criminals.

I believe that crime statistics show quite convincingly that violent crime will continue to rise unless there is some control placed on the availability of these easily concealable handguns which only serve to threaten human life.

In this Congress I introduced legislation, cosponsored by 49 of my colleagues, to ban the importation, manufacture, and sale of so-called Saturday night specials. My bill, which Senator Edward Kennedy introduced in the Senate, also would make handgun importers, manufacturers, and dealers more accountable for keeping track of these dangerous weapons.

Mr. Speaker, the New York police have stated that the man alleged to have killed John Lennon had a history of mental illness, yet he received a legal permit to own a handgun. Under my bill, H.R. 5823, a uniform standard would be established across the country requiring a 21-day waiting period before a person could purchase a handgun. During this time dealers would be expected to check a person's identity to prevent mentally ill persons from obtaining a handgun.

While the tragic death of John Lennon will fade from the public spotlight in time, the killing of thousands of ordinary Americans in handgun fire will remain a stark reality. Whenever I hear the empty arguments opposing handgun control I have to wonder how many more Americans must lose their lives before we are willing to take action to stop the easy availability of handguns. The human cost goes up every day that we wait.

I will continue to push for handgun control legislation in the 97th Congress. I hope that my colleagues and the American public will join with me in dedicating themselves to this cause.●

TRIBUTE TO JOHN LENNON

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. SHANNON. Mr. Speaker, the death of John Lennon is felt deeply by people all over the world. In many respects, Lennon could be considered the poet laureate of the 1960's. His words were the creative force behind the most innovative and influential music of our generation.

As a member of the Beatles, Lennon played a major role in changing the direction of popular music. He wrote the lyrics to many of the songs which epitomize the turmoil and hope of the 1960's, and which have left an indelible impression on all of us.

The world is shocked and dismayed by the loss of this great musician. However, I am sure that the spirit and meaning of his music and words will live on forever—

Imagine no possessions,
I wonder if you can.
No need for greed or hunger;
A brotherhood of man.
Imagine all the people,
Sharing all the world.

You may say I'm a dreamer,
But I'm not the only one.
I hope someday you'll join us,
And the world will be as one.●

OUR ECONOMY

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. STANGELAND. Mr. Speaker, the prime interest rate just reached 20 percent—when this first occurred last spring, we said that it was unbelievable. Now it has happened again in a few months.

This is the United States of America—not a volatile, semideveloped country withstanding the unpredictable vacillations of an uncontrollable economy. Believe if or not, America is known for its industrial and economic strength and leadership. What is happening to our country? Good fiscal management would never allow this economic disruption to occur. Businesses cannot borrow for modernization or expansion; small businesses are thrown into bankruptcy; the ailing car industry cannot survive under these conditions. The housing industry is coming to a standstill, and unemployment remains high and can be expected to increase.

Although the horizon looks bleak, we must not be frightened into inaction. We must be strong—we must act. Fiscal restraint on the part of the Government would be an initial step to relieve the competition for capital and reduce inflationary pressures.

The American people have spoken. They have electd a Congress and an administration which has said that they are willing to take the difficult steps which must be taken to revive and stabilize our economy. I am calling on each of you today to join me in my plea to the current administration and to the President-elect to be bold and strong and respond to the cry for help from the American people. We must all work together and solve what has become our No. 1 national problem.●

MORE APPLICATIONS FOR EMIGRATION DENIED BY SOVIET AUTHORITIES

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. McCLOSKEY. Mr. Speaker, the twin sister of my constituent, Dr. Julia B. Kheifets of Menlo Park, Calif., applied for formal emigration with her two children and mother from the Soviet Union to Israel in September 1978, and have just now been told by the Soviet authorities that there is "no grounds for family reunification." Zoe B. Kharitionov, born in 1929, is a medical doctor and microbiologist. Her daughter, Eugenia V. Kharitionov, born in 1960, is a librarian, and her son, Michael V. Kharitionov, born in 1963, is a physics student at Moscow State University. Dr. Kheifets and Dr. Kharitionov's mother, Rebecca A. Zhukowsky, born in 1906, is retired.

The Kharitionov family has been forced to survive on a bare minimal income since applying for emigration 2 years ago and have experienced tremendous strain during the long wait. The denial by Soviet authorities of the emigration application seems to me to be a violation of the spirit of the Helsinki accords. I urge the Congress to continue to monitor cases such as the Kharitionov family, and I further urge the Soviet authorities to comply with the Helsinki accords, in letter and in spirit.●

PROMOTION OF TOURISM IN PALM BEACH COUNTY

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. MICA. Mr. Speaker, as you know, I am from the great State of Florida which is known not only for its warm beaches, but for its warm hospitality and wonderful people.

An article recently appeared in the Miami Herald concerning the promotion of tourism by the business community in Palm Beach County. I was extremely distressed by this article as it misrepresented the goal of the economic community in Palm Beach County. This article depicted the area as a playground for the idle rich of Europe and implied that the economic community promoted and encouraged this impression.

Mr. Speaker, Palm Beach County has traditionally been cast as the playground for the idle rich and, indeed, there are still a number of wealthy individuals who live and vacation there. However, the great majority of Palm Beach County residents are workingmen and workingwomen—much the same markup as each of the districts represented in this House. The businessmen and businesswomen of Palm Beach County have always tried to offer the best value for each person's vacation dollar and will continue to do so in the future. The many natural amenities in Palm Beach County will continue to draw people from all socioeconomic levels, and I, for one, am proud of the job that has been done by Palm Beach County business in providing the recreation and relaxation to a wide range of individuals. I am sure that many of my colleagues will attest to these facts as I have had the pleasure of having many of them vacation in my district.

In conclusion, Mr. Speaker, I want to thank you for giving me the opportunity to set the record straight about the fine people of Palm Beach County. I would like to invite those of you who have not had the opportunity to visit my district to please do so. I think you will find that you will be impressed by our hospitality and that your stay will be a pleasant one.●

TRIBUTE TO HON. JOHN J. RHODES

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. ICHORD. Mr. Speaker, I am pleased to join in the tribute to John J. Rhodes, who in the past 7 years has served his party so well as its minority leader. It is fitting that all Members of Congress join to thank this great man for the important role he has played in this Nation's destiny.

John J. Rhodes has indeed made his mark in this House, in his home State of Arizona, and in this Nation. In the House, he has been a member of three important committees—Education and Labor, Interior and Insular Affairs, and Appropriations. He has helped his State as well, attested by the fact that over 70 percent of the voters selected John Rhodes to be their Representative for his 15 consecutive terms. He has served his Nation as a whole the past 7 years by leading his party, thus directing the course of the legislation to pass through this House.

All Members recognize John Rhodes' great insight into congressional workings and procedures; his dedication to his party and Nation; and his great love for the people of this country. I have been privileged to serve alongside this great American and know his influence and leadership will always be felt in this House.●

HON. JOHN J. RHODES, HOUSE REPUBLICAN LEADER EMERITUS

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. DOUGHERTY. Mr. Speaker, I wish to add my voice to the accolades of praise for my distinguished colleague from Arizona. His tireless and devoted service to the people of the State of Arizona and to our Nation is an inspiration to all of us in this body.

Having served with distinction in the House of Representatives for the past 28 years, John Rhodes continues to serve his people and his party in the finest traditions of our Government. Reelected by acclamation three times as the leader of his party in the House, he has provided his colleagues with an extraordinary example of leadership and mastery of the legislative process.

The valuable contributions John Rhodes has made to our Government as a former member of the Committees on Education and Labor, Interior and Insular Affairs, and Appropriations deserve our gratitude. We also express our appreciation today to him for helping to create the congressional budgetary process as a member of the Joint Study Committee on Budget Control.

Mr. Speaker, for his long and distinguished career in the House of Representatives and for his outstanding congressional leadership of the Republican Party, we offer our congratulations and our deep appreciation to John Rhodes, House Republican leader emeritus, and our best wishes for many more years of productive service in the Congress of the United States.●

MERIT WATER POLICY

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. EDGAR. Mr. Speaker, as we end the 96th Congress we have failed to address the issue of a merit water policy. Attempts have and will be made to slip into legislation a number of water projects, some very good ones and some very bad ones. Until we develop an overall merit policy, I must object. For those interested please find below 10 projects we do not need and should deauthorize. Let us move on these before we adjourn, if we want to salvage part of a merit water policy. Then in the 97th Congress, let us develop a fair policy for new authorizations.

WATER PROJECT DEAUTHORIZATION BILL

The following Army Corps of Engineers water projects are economically outmoded and unsound and have been under heavy criticism for many years. There is a substantial body of support for deauthorization in the states in which the projects are to be located. A brief summary of the projects follows:

HELM LAKE, ILL.

Helm Lake was placed on the Corps of Engineers' inactive list in 1976. Preconstruction planning stopped in 1974. The project was authorized in 1968 and its purposes included water supply, recreation, flood control, and water quality control. The 1979 cost estimate for Helm Lake was $53,676,000. The project would take 21,000 acres of land. The Senate passed deauthorization legislation for Helm in 1978, as did the House in 1980.

DUPLICATE LOCKS, ILL.

This project, authorized in 1962 involves placing new 1,200-foot-long navigation locks in seven existing dams on the Illinois River. Estimated project cost has risen from $417 million in 1974 to $941 million in 1979 due to reformulation and inflation. The project could lead to increased pollution and development problems and impair wildlife habitat. People living along the river fear it will increase damage to shoreline property. The project has been stalled, since the Corps' plans do not meet with state approval.

LINCOLN LAKE, ILL.

The Lincoln Reservoir has not been funded since 1972 because of strong local opposition. The project would take 21,000 acres of agricultural land and 14,000 acres of woodland. The dam would inundate over 60 miles of the Embarras River which the Fish and Wildlife Service considers Illinois' finest small mouth bass stream. The project would periodically flood subsurface drainage outlets which drain over 150,000 acres of prime farmland valued at between $3,000 and $4,000 dollars an acre. Local interests are developing an alternative water supply. The dam was authorized in 1965 for flood control, water supply, recreation, and water quality control. The 1978 cost estimate was $139,161,000, and the project was designated "inactive" by the Corps in February, 1979.

BIG BLUE DAM, IND.

This project would require the acquisition of over 11,000 acres, most of which is productive farmland. Strong local opposition to the project, as well as a lack of demonstrated need for its proposed recreation and water supply benefits, resulted in the withdrawal of state support for the project by act of the Indiana General Assembly in early 1980. The 1979 estimated cost of the project was $87,200,000, of which the state has now declined to share any portion. The House passed deauthorization legislation for Big Blue in 1980.

PATTONSBURG LAKE, MO.

This dam was placed on the inactive list after preliminary Corps studies showed "that even the most favorable project formulation is so marginal economically that a recommendation for construction is unlikely." It would have taken 77,000 acres of cropland and woodland. The project was authorized in 1965. The estimated cost in 1973 was $167.9 million.

UNION LAKE, MO.

This is a multi-purpose dam and reservoir first authorized in 1938. The surface area of the reservoir would fluctuate from 6,600 acres to 16,600 acres, exposing extensive areas of mud flats. The 1979 estimated cost of the project was $84,000,000. No funds have been appropriated for the last three years. Meanwhile, the Missouri Department of Conservation is currently acquiring and developing public access sites for recreational use of the free-flowing Bourbeuse River within the reservoir area.

CASCADIA DAM, OREG.

This project has been classified "deferred" by Corps of Engineers, due to a finding that "project costs appear to be greater than benefits at this time." Authorized for flood control and recreation in 1962, the project's 1975 estimated cost was $104,000,000. The House passed deauthorization legislation for Cascadia dam in 1980.

TREXLER LAKE, PA.

This dam was soundly defeated in a local referendum in 1977. It would have inundated several areas of historic significance as well as valuable farmland and wildlife habitat. It was authorized in 1962 for flood control, water supply, and recreation. Its estimated cost in 1976 was $47.5 million.

NANSEMOND RIVER, VA.

The Commonwealth of Virginia desires to widen the U.S. Highway 460 bridge at Suffolk, Virginia, over the Nansemond River and convert it from a drawbridge to a fixed bridge. To accommodate this state project, the upper one-half mile of the Nansemond River navigation project is proposed to be deauthorized, since the bridge project would effectively prevent any further Corps of Engineers maintenance dredging or commercial traffic upstream from the bridge.

MERAMEC PARK, MO.

The Meramec Dam suffered an overwhelming defeat at the polls in 1978. It would have inundated about 100 caves including portions of the world-famous Onondaga Cave. The dam would have wiped out 80 percent of the river's native fish species, and flooded numerous archeological sites. Forty-seven percent of the claimed recreation benefits were for sightseeing at the project. The dam was first authorized in 1938 for flood control and subsequently modified to include water quality, water supply, and recreation. The 1979 cost estimate was $190 million.

DEAUTHORIZATION OF SPECIFIC PROJECTS

SEC. 2. (a) The authorization for projects as described at the following locations is terminated after the date of enactment of this Act except as hereinafter provided:

(1) ILLINOIS: HELM RESERVOIR

The project for Helm Reservoir authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 739) as part of the Wabash River Basin Comprehensive Plan.

(2) ILLINOIS: ILLINOIS RIVER DUPLICATE LOCKS

The project for the Illinois Waterway, Illinois and Indiana, authorized by section 101 of the River and Harbor Act of 1962 (Public Law 87-874).

(3) ILLINOIS: LINCOLN DAM

The project for Lincoln Dam and Reservoir, Wabash River, Illinois and Indiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298).

(4) INDIANA: BIG BLUE DAM

The project for Big Blue Dam, Indiana, authorized by section 203 of Public Law 90-483.

(5) MISSOURI: PATTONSBURG LAKE

The project for Pattonsburg Lake, Missouri, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298).

(6) MISSOURI: UNION LAKE

The project for Union Lake, Missouri, authorized by the Flood Control Act of 1938, (Public Law 75-761), and the Flood Control Act of 1966 (Public Law 89-789).

(7) OREGON: CASCADIA DAM

The project for Cascadia Dam and Reservoir, South Santiam River, Oregon, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193).

(8) PENNSYLVANIA: TREXLER DAM AND LAKE

The authorization for the Trexler Dam and Lake project, Lehigh County, Pennsylvania, as part of the Delaware River Basin project pursuant to section 203 of the Flood Control Act of 1962, upon its removal from the comprehensive plan for the Delaware River Basin by the Delaware River Basin Commission.

(9) VIRGINIA: NANSEMOND RIVER

The portion of the project for the Nansemond River, Virginia, from the United States Highway 460 Bridge at Suffolk, Virginia, to the upstream project limits at river mile 18.66, a distance of approximately two thousand five hundred feet, authorized by the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and other purposes", approved August 11, 1888 (25 Stat. 410), and modified by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 3, 1930 (46 Stat. 922).

MISSOURI: MERAMEC PARK LAKE

SEC. 3(a) That portion of the general comprehensive plan for flood control and other purposes in the Meramec River Basin, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218), as modified by section 203 of the Flood Control Act of 1966 (80 Stat. 1421), which authorized the Meramec Park Lake (hereafter in this Act referred to as the "project"), is not authorized after the date of enactment of this section.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall immediately undertake interim management and maintenance of works, structures, and interests in lands related to the project pending further disposition of such works, structures, and interests in lands in accordance with a statute enacted after the date of enactment of this Act.

(c) The Secretary of the Army, acting through the Chief of Engineers, shall conduct an investigation and study in order to identify and assess alternatives for the future disposition and utiliziation of the works, structures, and interests in lands related to the project. In carrying out such investigation and study, the Secretary of the Army, acting through the Chief of Engineers, shall hold public meetings in the area and shall consult with appropriate public and private interest groups in the area, including but not limited to (1) State, county, and other local governments, (2) Federal departments, agencies, and instrumentalities, (3) private groups, clubs, and associations which have demonstrated an interest in the project, (4) former landowners of the project lands, and (5) leaders and individuals of area business and agricultural communities. Not later than one year after funds are made available to carry out such investigation and study, the Secretary of the Army, acting through the Chief of Engineers, shall report to Congress the results of such investigation and study of alternatives, and the recommendations of those consulted, including the Chief of Engineers' assessment of such recommendations.

(d) Nothing in this section shall terminate the authority or responsibility of the United States to satisfy, pursuant to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of

1970 (49 U.S.C. 4601 et seq.) and any other applicable provision of law, all relocation assistance and land acquisition obligations which were incurred prior to the date of enactment of this Act as a result of carrying out the project.

(e) There are authorized to be appropriated such sums as may be necessary to carry out this section. Funds available for the project deauthorized by this section may be used to carry out the provisions of this section.●

THE RETIREMENT OF CONGRESSMAN LUCIEN NEDZI

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. FAZIO. Mr. Speaker, I would like to take this opportunity to thank my good friend, LUCIEN NEDZI, for his guidance and counsel during my first term in Congress and express my sincere best wishes upon his departure.

Upon entering the House I had the pleasure of serving on the two committees on which LUCIEN was a senior member, the Armed Services and House Administration Committees. In fact, he served as the chairman of two subcommittees to which I was assigned, and I sometimes wonder whether this experience was somewhat contributory to his decision to retire prematurely. Nonetheless, on more than one occasion, he has gone out of his way to help me and the people of my district. His views helped me formulate my positions on military matters and he was most willing to listen to my problems as I tried to find my way through the congressional maze.

Most recently, before the last election, but after his decision to retire, he took the time to tour the military bases within my district, showing his genuine concern for the future of these installations and the men and women who support them. LUCIEN has been one of the most helpful people that I have had the pleasure of working with over the last 2 years and I look forward to continuing our relationship in the years ahead.●

BRUTAL MURDERS IN EL SALVADOR

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. MAZZOLI. Mr. Speaker, I would like to join with my colleagues in the House of Representatives in expressing my dismay and deep sorrow over the brutal murders of four American missionaries in El Salvador.

The crime against these four dedicated and courageous women has provoked an understandable outcry in our Nation for a reexamination of our financial and governmental ties to the governing junta in El Salvador.

Sisters Maura Clarke, Ita Ford, Dorothea Kazel, and Miss Jean Donovan devoted themselves to alleviating the conditions of the people of El Salvador. There is no evidence I have seen that these people were meddling or fomenting rebellion. They were only doing Christ's work on Earth among the downtrodden.

This whole sorry and disgraceful affair needs to be examined and investigated by United States and international authorities. Those responsible should be dealt with sternly. If the slayings are found to have been official government policy of the rulers of El Salvador, then the United States should curtail its aid to the nation to only that which is humanitarian.●

KARSTEN SOLHEIM—THE FREE ENTERPRISE SYSTEM EPITOMIZED

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. RUDD. Mr. Speaker, under our free trade and private enterprise economy, America has prospered for over 200 years. Yet one often hears our capitalistic system criticized as unworkable, impractical, and ineffective. The naysayers would have us believe that Americans can no longer achieve financial success by hard work and diligence. This is simply not true.

Let me share an American success story with you—that of Karsten Solheim.

Born 69 years ago at Bergen, Norway, Karsten immigrated to this country with his family in 1913. He followed his father's trade as a shoemaker and gained his manual skill which, coupled with his inventive genius, has been the stock-in-trade of Karsten Manufacturing's handcrafted Ping golf clubs.

Karsten attended the University of Washington and took courses from the University of California in mechanical engineering, which led to an engineering career with General Electric.

An avid golfer and perfectionist who was not satisfied with his own swing, Karsten started making putters for his own use in 1958 and invented the famous Ping Putter in his garage in Redwood City, Calif. This unusual club was tried by other golfers who appreciated its uncanny accuracy and plied Karsten with requests for one of their own. This humble start as a home industry led to the founding of Karsten Manufacturing.

The genius that developed the Ping Putter also created the Ping Man—a mechanical motorized device that can simulate a golf swing and direct the clubhead against a ball to create a measured drive, hook, or slice or virtually any combination of the three. It is a total lesson in golf within itself.

Karsten has gone on to develop a full line of clubs and equipment which is respected by golfers around the world for its quality and precision. Karsten Solheim is truly one of the 20th century success stories in free enterprise.

Let me share with my colleagues, at this point, an article from the December 3, 1980, Arizona Republic which chronicles a success story that epitomizes the American dream—that of my friend and constituent—Karsten Solheim:

NORTH PHOENIX COMPANY SCORES HOLE-IN-ONE WITH ITS "PING PUTTER"

Beginning with a "Ping Putter," Karsten Solheim launched a golf-equipment business that has developed from a one-man operation in his garage to a full-grown company in north Phoenix.

Solheim invented a new kind of putter that revolutionized the golf-equipment industry and was the start of Karsten Manufacturing Corp., which manufactures Ping golf clubs.

Solheim developed the concept of "heel-toe balance" in 1958, when he was trying to find a better way to putt. He put weight on both the heel and toe of a club's blade to reduce twisting of the club.

The concept was so simple, he said, he thought it must have been used before.

Because the center is lighter, Solheim's first club made a "ping" sound when it hit a ball, thus inspiring the equipment's name.

Solheim was a mechanical engineer with General Electric in California at the time. In 1961, he moved to GE's Phoenix plant and opened a club-making plant in his garage at his home in Scottsdale.

The demand for the club became so great that he left his job with GE and started manufacturing golf equipment full time.

He doesn't know how many clubs he has sold, but estimates the number to be in the millions.

Solheim moved to 2201 W. Desert Cove Drive in 1967 to a 2,200-square-foot building. The company has expanded to 75,000 square feet in buildings spread over 15 acres and employs more than 300 people.

Solheim originally put a deposit on land in northeast Phoenix, but forfeited the money to buy his current site.

"It was the best choice I ever made," he said. "There was room for expansion. It was a new area."

Solheim's three sons work with their father at Karsten Manufacturing. His wife, Louise, also has remained active in the business.

The company ships 2,000 to 3,000 golf clubs per day to more than 60 countries. In the line are five models of irons, two of woods and more than 60 types of putters.

All were designed by Solheim, who also designed all the machinery used at the company. He has patents on several of his machines, including a calibrated scale that gives clubs correct balance.

Because the machinery and processes used at the plant are uncommon, security is tight.

Solheim, 69, takes an active part in all phases of his business operation and designs all the new golf clubs. Development of a new club takes about two years from conception to distribution.●

MORE TROUBLE FOR FARM ECONOMY—SUSPENSION OF MEAT IMPORT QUOTAS

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mrs. SMITH of Nebraska. Mr. Speaker, the farm economy which has been buffeted all year long by high inflation and high interest rates, plus an embargo on shipments of grain to the Soviet Union, is about to suffer another setback if the administration follows through on its intention to suspend meat import quotas and permit additional pounds of imported meat to come on to the market.

This will happen unless the President and his advisers can be dissuaded from taking this step. I have joined with livestock producers in my district in urging him not to exercise this option when others are available. In addition to writing him, I have filed official comments with the Department of Agriculture, setting forth the reasons why I feel it is not necessary to suspend the quotas.

The following is a copy of the comments I have submitted in letter form to the Department:

House of Representatives,
Washington, D.C., December 9, 1980.

Mr. R. E. Anderson,
Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C.

Dear Mr. Anderson: The Administration's recommendation that meat import quotas be suspended for 1981 comes as a surprise and distresses me and cattle producers in Nebraska. I therefore, officially file these comments for consideration before any such recommendation is implemented.

We are distressed over this proposal because in the adoption last year of amendments to the Meat Import Act we placed emphasis upon the inclusion of the countercyclical formula for the determination of the level of imports that would be permitted in relation to domestic production. This commonsense mechanism had a wide measure of support in the industry and in the Congress.

It does not appear to us that this particular formula has had an opportunity to work as mandated by the law. Instead, an arbitrary determination has been made to suspend quotas on imports and permit entry of a total of 1,458 million pounds next year. This will mean that 11-million more pounds of beef and veal will come on to the market than normally would be expected under the strict operation of the present law.

Based on the Administration's premise that ". . . the supply of meat in the United States for the calendar year 1981 will be inadequate to meet domestic demand at reasonable prices," the President has the option to suspend quotas. It appears, however, that he should have considered the other options before deciding to take this course.

Beef production in this country for 1981 is expected to be on a level close to this year's production. Beef producers are confident they can meet current and future demands without a 11-million pound increase in imports. Their market prices have been inadequate to keep up with the rising cost of production. Most producers have lost money. If they are going to be faced with the added competition of more imports, they will be discouraged from building their cattle herds, a situation which will have a telling effect on future beef supplies, with the resultant increases in prices. Everyone loses under those circumstances.

I respectfully urge reconsideration be given to the decision to suspend the import limitations on beef and veal. Otherwise, a situation is being created for the cattlemen akin to what happened to the grain producers at the time of the embargo on shipments to Russia. The livestock producers feel that they are being asked to bear the brunt of an effort to control food prices at their expense just as the grain producers thought they were unfairly singled out to bear the burden of a foreign policy decision to punish Russia for the invasion of Afghanistan.

No one really knows the extent to which farm income will be lower this year, but by all estimates, it will be down. Decisions like this will defer recovery in 1981. I sincerely urge reconsideration on the basis of its harmful effect on the livestock industry in particular and the farm economy in general. One of the other options would be preferable in this situation.

With best wishes, I am

Sincerely,

Virginia Smith,
Member of Congress.●

GEORGE WILL

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. WALKER. Mr. Speaker, in his column in today's Washington Post, George Will clearly articulates the devastating effects of attempting to divide the Nation through use of numerical requirements and ratios. I hope that my colleagues will consider Mr. Will's column in light of Federal Government policies which are responsible for precisely the kind of problem cited and in light of a recent Civil Rights Commission letter in which it admitted that it believes that the use of discrimination is an appropriate tool of government.

The Perversion of Progress

(By George F. Will)

Rosa Parks, 71, recently returned to Montgomery, Ala., for civic ceremonies commemorating the 25th anniversary of her nation-shaking refusal to move to the back of the bus. George Rogers, a black runningback from South Carolina, recently went to Manhattan to receive the Heisman Trophy as college football's premier player. When Parks rebelled 25 years ago, blacks did not play for the University of South Carolina.

But in Cleveland, the law soon may require fewer black basketball players. A "desegregation administrator," whose job is to sort out and shuffle about children on the basis of skin pigmentation, has decreed that all of Cleveland's high-school teams must be 20 percent "integrated."

Cleveland's schools are 65 percent black. For various reasons, in some schools more than 80 percent of the best basketball players are black. The administrator says some basketball teams are 100 percent white and some basketball teams are 100 percent black. He says, "That's ridiculous. We have to do something."

What is ridiculous is that public money pays people like that administrator. What is worse than ridiculous is the notion that constitutional values can require such an inanity as putting black second basemen and white forwards onto baseball and basketball teams that they could not make in fair competition.

When his decree caused a furor, Cleveland's hapless administrator said: "I never knew this was such a big thing." But defining justice in terms of statistical parities is a "big thing." What Rosa Parks rebelled against 25 years ago—the vicious irrationality of laws taking cognizance of race—is today the degrading business of an army of "civil rights" bureaucrats. Many seem ignorant of the values of an open society, of the meaning of their country's recent history and of the sensibilities of reasonable people.

This dreary Cleveland episode comes as President-elect Reagan is being urged to reassure the black community. This he is doing, cheerfully. Too cheerfully.

It is unseemly for anyone—and especially for Jesse Jackson and others who recently embraced Yasser Arafat and his PLO terrorist organization—to demand of any president-elect that he give evidence that he is "moderate" and in America's "mainstream." Anyone who carries 44 states does not need to be lectured about the location of "mainstream" values. And there is no evidence that Reagan is other than sympathetic to black aspirations.

There is evidence that some who are called black leaders are a considerable distance from moderation and the political "mainstream," and that they do not serve the black community well by their presentation and assessment of the alternative futures for blacks.

The Carter and Reagan campaigns emphasized distinct futures. Carter emphasized the black community's importance as a client of public agencies. Reagan's campaign linked the community's future more with the private sector—more, that is, with the American middle class generally.

Honorable people disagree about which approach comes closest to being correct. But surely there is too little disagreement within the black leadership. There is too much reflexive identification with the Democratic Party.

Was there a sillier charade this autumn than Jesse Jackson's feigned indecision about which candidate to endorse? His performance symbolized the constricted, predictable thinking of black leaders. And it exemplified why the Democratic Party can take blacks, but only blacks, for granted.

Surely, the black community did not act wisely in being the only segment of American society to give President Carter's performance a ringing endorsement. Surely the black community was ill served by leaders who encouraged that endorsement.

Blacks have borne more than their fair share of recent economic suffering. Almost certainly, one reason for the suffering is that government has been suffocating the productive, job-creating energies of the private sector. Surely, then, the black community should at least show signs of reconsidering its social strategy, and black leaders should at least show signs of being open to thoughts about new political tactics.

America's racial progress has been astonishing since Rosa Parks' defiance ignited a man, Martin Luther King Jr., and a movement. But the perversion of progress also had been astonishing, in Cleveland and elsewhere, as the use of racial classifications to pursue statistical parities has exacerbated tensions while trivializing blacks' concerns. If Reagan curtails such classifications, and concentrates on economic revitalization, he will give black people better government than that which their votes and leaders have encouraged.●

TRIBUTE TO JOHN RHODES

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. BROOKS. Mr. Speaker, JOHN RHODES has been a hard-working Member of the House of Representatives since he was elected to the 83d Congress.

Since we were both elected in the same year, it has been my pleasure to have known JOHN and to have worked with him since our freshman days in the House of Representatives. I rise in tribute to JOHN who is retiring as the House minority leader at the close of the 96th Congress. During his years in the House he has compiled a record of excellence and achievement during his leadership and his efforts have had a profound effect on our Nation. Few men have given more of themselves to good government.

I extend to JOHN my warmest best wishes for many more years of service in the House of Representatives and look forward to continuing to work with him in the 97th Congress.●

THE 215TH ARMY BAND

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mrs. HECKLER. Mr. Speaker, on Sunday, December 7, I had the great pleasure of participating in ceremonies in Fall River, Mass., to celebrate the 30th anniversary of the 215th U.S. Army Band of the Massachusetts Army National Guard.

In addition to that date being the 39th anniversary of Pearl Harbor, December 7 also is the 5th anniversary of the Gen. James A. Lynch Memorial Music Studio, which already has become known as the workshop of musical magic and lyrical delight.

I congratulate CWO4 John T. Yunits, the distinguished commander of the 215th, for his outstanding leadership in making this band one of the finest in military service. Bandmaster Yunits and the following additional members of the 215th were presented the Army Commendation Medal by Brig. Gen. James A. Lynch, Jr.: 1st Sgt. Joseph P. Reis; Sfc. Thomas H. Perry, unit administrator; Sfc. Myles M. McSweeney, retired.

When I think of the 215th Army Band, many good thoughts and memories come to mind. But foremost is the selfless and highly meritorious service the unit provided to the residents of southeastern Massachusetts during the great blizzard of 1978.

During that trying time the 215th exhibited great military proficiency and effectiveness in clearing roads and assisting victims of that awesome "Nor'easter," a storm that left millions of dollars of damage in its wake throughout our region of the country.

In the honored annals of the 215th, its performance on that historic occasion will stand out for all time as one of its very finest hours.

The 30th anniversary of this fine band marks the passing of an era and the beginning of a new one. Its 30 years of musicmaking have seen the cold war evolve into détente, the atomic age develop into the nuclear age, and the advent of the space age.

Now we stand on the brink of a new decade, the 1980's. We have a new sense about ourselves and of our future. We are beginning to feel a new surge of confidence about our destiny.

Americans have always been winners. One of our Nation's most famous winners fought for our country at about the same time the 215th was first sounding its musical cadence. He is Gen. George S. Patton.

In his famous and historic speech to his 3d Army, General Patton said:

> Americans love a winner. Americans play to win all the time. When we were kids we all admired the champion marble player. The fastest runner. The big league football player. We cannot tolerate a loser.

So on this day we commemorate events both distant and near. And as we celebrate this occasion, let us resolve that America will always remain a winner—that we always will be the champion of freedom and liberty—the fastest in the heat of world competition. Let us continually renew this vital resolve. One and together.●

TRIBUTE TO CONGRESSMAN RICHARDSON PREYER

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. FAZIO. Mr. Speaker, I rise to join my colleagues in paying tribute to a truly outstanding leader in the House and of our Nation, RICHARDSON PREYER. He has served as an inspiration to us all and whether in agreement or in opposition, RICH PREYER has had the unwavering respect and admiration of every Member of this body.

As one who just recently came to serve in the House, my only regret is that I have only been able to serve in his midst for one term. But even during this short period, I have learned much from his example, helping me to become a better public servant.

My first meeting with RICH, or the judge as so many have known him over the years, occurred during the orientation period for new Members in December 1978. He gave what was undoubtedly one of the most inspiring speeches that I have ever heard. His traditional "Welcome to Washington" speech was filled with eloquence, warmth, historical insight, judiciousness and sense of fairness which I later found out reflected the true character of this great man.

For many of us he has presided over this body—not literally, but in the sense that his statesman-like character has been one that we all sought to emulate. A thoughtful man; one skilled at influencing those around him, not by arm twisting tactics, but by the sincerity of his beliefs, the soundness of his arguments, and the virtues of his views, he will be missed by us all.●

POLICY DIRECTIONS FOR THE 1980'S

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. FISHER. Mr. Speaker, because we like rounded numbers or because we have learned to make rapid counts by tens, or for some other reason, history tends to be divided into decades. The Depression of the 1930's, the war and its aftermath of the 1940's. The stability of the 1950's and perhaps 1960's, turmoil and profound social changes of the 1970's, and so on. Now we have started the 1980's. What will characterize this decade, particularly in the economics sphere? What will be its chief problems, challenges, frustrations, achievements?

Some would say the 1980's will be a decade for coming to terms with limits: Limits in natural resources especially energy, limits to economic growth, limits in the capacity of government to control or guide economic forces, limits even in the human personality and character to accept leadership calling for restraint and wisdom on the part of everyone.

In my crystal ball for the 1980's, I see many problems the reverse image of which could be called challenges. Obviously energy is such a problem/challenge. The American economy and the American people are beginning to come to terms with energy realities in the world and the rather grim prospects of continued OPEC domination of world production and prices. But we have only begun as a nation to dedicate ourselves to the wide-ranging programs of conservation, synthetic production of liquid and gaseous fuels, the search for new sources, the changes in industrial processes and even living habits. I would prefer to look on all this as a set of challenges, rather than intractable problems, calling for imagination, boldness, leadership, mobilization of the determination of the American people to work out a problem of massive impact on the whole economy.

The second problem/challenge I see in my crystal ball is summed up in the word productivity. However measured, and here I am content to work with the traditional definition of output per worker-hour, a decent rate of productivity increase would ease most of the pinch in our problems. As everyone knows, productivity has slumped in recent years to the point where it has been zero or even slightly on the minus side of the ledger in the last year or so. The economic and social tensions that are resulting from the failure of productivity to move upward are obvious to all. These tensions will become much more intense if we fail to gain in productivity over a period of 5 or even 10 years. The whole tradition and even ethos of American capitalism will be profoundly disturbed. The fallout could be most damaging in terms of motivations, unwritten economic and social compacts among major economic sectors and groups, the role of Government in the economy and the chances for successful interventions and guidance, and I could go on. In addition, we are hurting in international competition, most notably at the present time in automobiles and even some of the high-technology items in electronics, for example. A move toward protectionism—except as that may be necessary to offset truly unfair trade and tax policies in other countries—will only exacerbate the problem and postpone correct solutions. The roots of our productivity slump go deep into the ground of the American economy and the behavior of economic groups and institutions.

A third problem/challenge involves the way in which wages and prices have come to be set in the American economy. The thesis here is also well known and while I do not go overboard in its defense, I think it is relevant to our present situation and future outlook. Powerful unions and powerful corporations increasingly seem to be able to exert a degree of monopoly power over wages and prices, running each of them up like a cat chasing its tail, to the detriment of the consumers and to the competitive business system. Leaders on both sides, labor and business, give much lipservice to the free competitive system, which, as you would expect, politicians embellish with even more elegant rhetoric, while all the time engaging in those practices and favoring those public policies which go in a counterdirection. The worst of all situations results when, because of their partial monopoly position, those with greatest influence on major prices and major wages get together in a kind of unholy alliance which sanctions higher-than-competitive wages to be covered promptly by higher-than-competitive prices. This is what our dear friend, Arthur Okun, partly had in mind in his article on "The Invisible Handshake." The solution to this whole syndrome will not be easy and, I think, will require major changes in the way we go about the business of wage and price setting which is, after all, right at the heart of economic decisions and activities. I am inclined to think we will have to find our way into some kind of voluntary anti-inflation guideline system with enough teeth to make it work.

The next problem/challenge I would identify, looking ahead through the 1980's, is the adaptation of fiscal and monetary policy to the emerging realities of this decade we are now entering. The beginning of wisdom here, I believe, would be to recognize the limits of effectiveness of fiscal and monetary measures for restraint, stimulation, or whatever seems called for. First, the signals that trigger fiscal and monetary actions are never clear but characteristically are garbled in the general noise. Second, policy decisions, changes in regulation, congressional enactments, and other initiatives to respond to an unclear economic outlook will continue to be contradictory in many instances and, in any case, will not be timed with the precision that is required for success. As one example, congressional processes simply are not set up for the timely enactment of appropriation, budget, regulatory, and other measures without which macro efforts of a fiscal and monetary nature cannot work effectively. I would like to think that ways could be found by which the Congress would, with appropriate safeguards, permit the executive branch wider degrees of freedom in the alteration of tax rates as a means of offsetting ups and downs in the cycle of business activities. The same might be said with regard to some expenditure programs, even entitlement programs, but again within very strict congressionally established limits. The politics are not favorable to progress in these directions, but the economic logic is persuasive and may eventually win out. Most of us economists rest our case, and our hopes, on the possibility that somehow political realities can be made to draw more closely to economic rationality. In any case, improvements in the way in which fiscal and monetary policy are employed are needed. I have suggested in legislation that, for example, the President be charged each year with drawing up an anti-inflation program, at least until the inflation has been whipped, presented at the beginning of the year in his economic message, have it dealt with carefully and promptly by the Joint Economic Committee, and then involve the Congress in modifying and agreeing to an appropriate program through a joint resolution.

A fifth and final problem/challenge I want to mention here is that of excessive Government regulation. This is a thorn in the side of business and is upsetting to people generally, this matter of needless overregulation of economic activities. To be sure, with an increasingly complicated economy using increasing amounts of dangerous and toxic chemicals, involving radioactive materials, threatening ecological life support systems in the natural environment, and so on, will require much regulations. There can be no question about that. The problem and the challenge lie in streamlining the regulation, eliminating those that really do not help much on balance. Here, good progress has been made recently: Landmark legislation has been passed moving decisively in the deregulation direction in the airlines, trucking, banking, railroad, oil, and natural gas pricing, and other fields. In addition, we are making our way into an approach which will eliminate some, and tailor all, regulations that bear on smaller enterprises so as to avoid the trap of trying to examine into every tiny enterprise to see if safety, health, and other standards are being strictly adhered to as though they were enormous enterprises employing hundreds and thousands of workers and turning out massive amounts of product. Benefit-cost analysis should be applied to all major new regulations that the different agencies may propose, and we should start the laborious process of reading through existing regulations to see which really can stand up to the bright light of economic examination. And in looking at the costs of a regulation, certainly the cost to the one being regulated, should be included as well as, of course, the more generalized and long-range benefits to the community.

Well, here are several problem/challenges that I see for the 1980's. If as a country we could make good headway against these five, I would think the 1980's could be viewed with optimism. Here are a number of practical steps that need to be taken. The Congress has finally put in place some of the major elements of a sensible long-range energy policy. Let us move along with more conservation, our synthetic fuels program, deregulation of energy prices with an offsetting windfall profits tax, research and development into new energy sources, and concerted efforts to reduce imports. All the while, of course, we shall have to take care to protect our environment for the long range. In my opinion the most critical problem right now for energy in this country is to build up rapidly our strategic petroleum reserve to one-half a billion and then 1 billion barrels of oil. We are way behind in this and the state of affairs in the Middle East simply will not permit further postponement of acquiring an adequate SPR. Perhaps the Government could contract with importers, refiners, and others to acquire and store some of the needed strategic reserves, making use of the Government's salt domes in the Gulf States if necessary.

The productivity failure is a deep and disturbing problem and will bedevil us throughout the 1980's unless a zero-rate can be converted into a plus-2 or even plus-3 rate. Incentives for investment, more savings, harder work and better management, more effective education and training programs, especially more and better directed research and development—these are the lines along which to move. It will take a concerted and sustained effort, not only of the government but of the entire American industry to achieve a satisfactory-rate of productivity increase and thereby ease all the other economic problems that beset the country.

I have spoken already of the need to make changes, some of them of a structural and institutional nature, in the way in which wages and prices are set in American industry. I think we have to find our way into a voluntary guidelines system in which both wages and prices will be set so as to accommodate productivity increase, assuming that it comes about, and an allowance for inflation minus an anti-inflation factor of 25 percent or so each year until inflation is brought down to manageable proportions. The process for establishing guidelines will be all important and will have to involve private participants in wage and price setting as well as both the executive and legislative branches of the Government, all to create an agreement or consensus or even economic compact with regard to guidelines. Some teeth will be necessary also. These could include some kind of tax incentive or benefit to firms and unions that stay within the guidelines, or perhaps penalties to look at the matter from a different perspective, and perhaps denial of Government contracts to firms that cannot justify departure from the guidelines.

Fiscal and monetary policy still has potency if the problems of timing can be worked out more satisfactorily. We should not expect too much along this line but should strain every effort to improve performance. Greater latitude for the executive branch, within congressionally established limits, and a better coordination of monetary with fiscal—tax, expenditure, debt, deficit—policy.

Finally, I have specified as important for the 1980's a further simplification and streamlining of the Government's regulatory system. Care will have to be taken that the right regulations are eliminated or reformulated, the ones that really add significantly to costs without a sufficient offsetting justification in terms of public benefit. Good progress has been made in this direction recently; more is needed, both in particular industries and products and in overall approaches to require benefit-cost justification, sunsetting every few years, and special provisions for smaller businesses.

Well, these are five of the problems/challenges that I see for the 1980's along with some indication of policy directions that I think the Government and the country should pursue. If this pursuit is reasonably successful, then I think the 1980's will witness not only general improvement in the economy, but better attitudes toward the American system of mixed private and public enterprise trying to adapt and cope with problems, meet the challenges, and increase the general welfare.●

IL PROGRESSO

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Ms. FERRARO. Mr. Speaker, on Saturday, December 13, Il Progresso, the Nation's only Italian daily newspaper, will celebrate its centennial. It is an honor for me to take this time to publically emphasize my appreciation for 100 years of service on behalf of the Italian American community.

It is estimated that 20 million Americans are of Italian origin. While quite regrettably, many of them no longer read and speak Italian, it is a testament to Il Progresso and to the Italian American community to note that the circulation of this paper is 70,000. In a recent publication by the Giovanni Agnelli Foundation, Il Progresso was described as a newspaper which is "unique and remains the symbol of all Italian language press in the United States.

Founded in 1880 to meet the needs of the growing Italian community in the late 19th century, Il Progresso has remained the most influential and frequent publication available to Italians in this Nation. For 100 years, the Italian American community has received news from home as well as from communities in this Nation with large populations of Italians. I rely upon it to keep abreast of events in Italy, and find that coverage of those events is always comprehensive and informative. Since the earthquake of November 23, many Italian Americans have relied upon Il Progresso for reassurance, as we read that our hometowns, or the villages where friends and relatives reside, were saved from the ravages of the quake and its aftershocks.

I commend Il Progresso and its publisher, Fortune Pope, for outstanding service in the past. I know that the paper will continue its tradition of excellence for, at the very least, another 100 years.●

TRIBUTE TO JEROME A. AMBRO

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. ZEFERETTI. Mr. Speaker, I want to join my colleagues in paying tribute to the highly distinguished career of my friend and colleague from New York, JERRY AMBRO.

JERRY and I became fast friends during the initial days of our induction as freshman Members of the New York State Delegation and the 94th Congress. During the 6 years we have served together, he has maintained my utmost respect as a close friend and diligent public servant.

The people of the Third Congressional District of New York and the Nation as a whole will sorely miss Congressman AMBRO's unique talents and expertise in environmental issues. In addition, his involvement in promoting human rights throughout the world has led to a greater understanding of the plight of the peoples who have had them denied.

I am proud to have had the opportunity to serve and work with JERRY, and share in his friendship. He has been a public servant in the truest definition of the phrase. He will, no doubt, continue to contribute to the betterment of our society and I wish him well in his future endeavors.●

JOHN BUCHANAN—A COURAGEOUS PUBLIC SERVANT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PICKLE. Mr. Speaker, I am happy to pay my respects to JOHN BUCHANAN, but I am sad that this Chamber is losing one of the best men who served. Perhaps it is easy to say that a man who is a minister should do right, or vote right. JOHN BUCHANAN fulfilled all of his obligations to God and his constituents and did it admirably.

Though JOHN is a Republican, he took strong positions on social issues, not usually considered Republican priorities. But his stands transcended party lines. JOHN BUCHANAN had the courage to speak out against narrow or even bigoted views. He fought against prejudice and unfairness, he spoke loudly against these attitudes which tear down our country's moral fiber.

If there ever could be a badge of courage for the strongest Member of Congress, JOHN BUCHANAN would win hands down. He is one of the best men the good Lord ever made. He enriched our lives with kindness, friendship, and warmth.

You are a good man, JOHN BUCHANAN. We will miss you.●

JOHNNY L. COCHRAN, JR., TO BE FETED

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. DIXON. Mr. Speaker, on Tuesday, December 16, 1980, at the Dorothy Chandler Pavilion Music Center in Los Angeles, friends and colleagues from the Los Angeles County district attorney's office, as well as local and nationally elected officials, will gather to pay tribute to the superbly talented and extremely dedicated assistant district attorney, Johnny L. Cochran, Jr. The third ranking attorney in the Nation's largest law office, Johnny Cochran is being feted at a farewell reception, following his decision to resume a well-established and distinguished career in private practice. Throughout his service to the citizens of Los Angeles, as exemplified by a myriad of innovative and progressive reforms in the district attorney's office, Johnny Cochran looms tall—a man among men. His contributions to the citizens of Los Angeles will leave an indelible mark on many, and although his departure is certain to create a void that will be difficult to fill, I would like to take a moment to share with my colleagues just a few of the illustrious achievements of this outstanding Los Angelean.

Johnny L. Cochran, Jr., was appointed to the district attorney's office on January 3, 1978, bringing with him an outstanding and impressive background as a trial attorney. A former deputy attorney for the city of Los Angeles and, the founder of the law firm of Cochran, Atkins, and Evans, Mr. Cochran had established a reputation as a brilliant attorney in the celebrated *Deadwyler* case—a controversial case involving the indiscriminate killing of Mr. Leonard Deadwyler by a Los Angeles city policeman—just 11 years earlier. The *Deadwyler* case was the top news story in California in 1966 and, chiefly through the efforts of Mr. Cochran, became the catalyst for seeking an intensive internal investigation into the alarmingly high incidence of capricious police killings.

As the assistant district attorney for Los Angeles County, Mr. Cochran is charged with the general administrative responsibility for 600 lawyers and the specific responsibility for 85 attorneys assigned to the juvenile, special investigations, consumer, and environmental protections divisions as well as the sexual crimes unit. His is a very important role in light of the jurisdiction of the special investigations division: the investigation of all allegations of government corruption, including police shootings.

Mr. Cochran's other duties include the responsibility for the office's legislative programs—he was instrumental in securing a grant from the Law Enforcement Assistance Administration in the amount of $255,000 to assist in the implementation of the district attorney's office roll-out program, where a team consisting of a deputy district attorney and an investigator responds to the scene of police shootings in Los Angeles County to conduct an independent investigation of the shooting—the hiring of additional deputy attorneys, and the implementation of the affirmative action program. In addition, he serves as liaison for the district attorney's office with the Los Angeles County Board of Supervisors and as chairman of the Los Angeles County Domestic Violence Council.

A native of Shreveport, La., Mr. Cochran received his B.S. degree in business administration from the University of California at Los Angeles and went on to obtain his juris doctorate from Loyola University School of Law. Thereafter, he pursued graduate work in law at the University of Southern California. Licensed to practice law in the western district of Texas in October 1966, Mr. Cochran was admitted to practice before the U.S. Supreme Court in October 1968.

Mr. Cochran is an active member of the Los Angeles County Bar Association, serving on their law enforcement study committee; the Langston Bar Association, serving on their board of directors; the Los Angeles Trial Lawyers Association; and the Criminal Courts Bar Association. Presently, Mr. Cochran serves as an adjunct professor of law at UCLA School of Law, where he teaches a course in trial tactics and techniques. He previously taught a similar course at his alma mater, Loyola Law School.

Lecturing throughout the Nation on the criminal justice system with a particular focus on crime prevention programs, Johnny Cochran has garnered a reputation as an expert in the field and as an individual committed to preserving the principles of equality for all.

Johnny Cochran's outstanding reputation and distinguished career as a noted trial lawyer has culminated in numerous awards and honors. In February 1977, he was named Criminal Trial Lawyer of the Year by the Criminal Courts Association; in August 1979, the Pioneer of Black Legal Leadership from the Los Angeles Brotherhood Crusade; and in November 1979, he received the Outstanding Law Enforcement Officer of 1979, presented by the California Trial Lawyers Association. Other accolades bestowed on this outstanding individual are: the Ward A.M.E. Annual Achievement Award for 1970 as the "Lawyer of the Decade;" the Carson Black Heritage Association Achievement Award for 1978; the Distinguished Citizens Award for 1978—"Afro-American History Month;" Pyramid 1000's award for Outstanding Performance of Excellence in Law Enforcement, April 1980; an Award of Distinction—National Alliance of Community Services from Masjid Felix Bilal; and, most recently, the Man of the Year Award, presented just last month by the Greater New Unity Baptist Church.

An individual with a sincere commitment to preserving the quality of life for his fellow man, Mr. Cochran serves as a member of the board of directors for the American Cancer Society Central Unit and for the Los Angeles Black/Jewish Coalition. In addition, he also serves as an arbitrator for the Los Angeles County Superior Courts' arbitration program.

Johnny Cochran is indeed a "man for all seasons." I, along with my fellow Californians, will miss the voice of this outstanding advocate for equality and justice for the citizens of Los Angeles. Our loss will only be temporary, though, as Johnny continues a tradition of excellence unparalleled in the legal profession when he resumes his private law practice. On behalf of the citizens of Los Angeles, I salute Johnny Cochran and thank him for his outstanding service to the citizens of Los Angeles as assistant district attorney. I know that many echo my sentiments as I wish Johnny Cochran the best that life has to offer one of its subjects so deserving.●

HONORING JOHN RHODES

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. KRAMER. Mr. Speaker, I want to thank the gentleman from Arizona, Mr. Rudd, for allowing us this opportunity to pay tribute to the minority leader, John Rhodes—a tribute which is richly deserved for his dedicated years of public service and for his contributions to the Congress, the Nation, and the Republican Party.

When public perceptions of the Congress and other institutions in the country have declined to very disturbing levels, John Rhodes has consistently represented the highest ideals of the Nation and has reflected the most positive characteristics of public officials. He has demonstrated not only the traditional American spirit of diligence and accomplishment, but the characteristics which reflect his Western heritage of uncommon candor, unremitting honesty, and impeccable integrity. These attributes have served the Nation and the Republican Party exceedingly well as John Rhodes has led the Republican Party in the House of Representatives through some difficult times. The success of his leadership, and of the special qualities which he brings to that leadership, has been dramatized by the Republican gains in the House in this most recent election. We trust that the legacy of that leadership will lead to further gains in the next election, so that John Rhodes will once again have the opportunity which he alone in our ranks has had in the past—to see the Republicans in control of the House of Representatives, and leading the Nation once again.

John Rhodes has ever been willing to help those newly embarking on a public service career, and by his example, has started many new Republicans on the national scene on the right path. He has worked diligently to mold divergent views within the party and between the two parties in this House to accomplish objectives in the national interest. And, he has been able to do so without ever compromising his own high principles. The tributes we hear today from both side of the aisle reflect the measure of his success in being able to lead without rancor or enmity, maintaining at all times the highest personal and professional standards, which have earned him the affection and respect of all who have had the pleasure to know and serve with him. I am greatly pleased to count myself in that number.●

WASTEFUL AND UNWISE GOVERNMENT PRACTICE

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. WEAVER. Mr. Speaker, it is a curious fact, as we in Congress search every nook and cranny of Government for ways to cut the Federal budget and balance our Nation's books, that we continue to perpetuate certain Government practices which are both wasteful and unwise.

I mentioned one such case in a 1-minute speech Tuesday, and I would like to elaborate on it here. It is a fact that the vast majority of babies born in the world have been, and are still being born at home. Birth is an aspect of the human experience in which the medical arts are unavoidably and essentially involved, but it is not a medical problem, in the same sense that tuberculosis and cancer are medical problems. Only in the United States, with our emphasis on a hospital-based medical system, is it customary to deliver the newborn in the confines of a hospital's maternity ward. Even this picture is changing, however, as an increasing number of American couples are choosing to avail themselves of the possibility of employing trained medical personnel to help them in delivering their children at home.

The American medical profession has responded, in its own way, to this increase in demand for home, family centered deliveries. There are now, in many States, certified nurse-midwives who perform home deliveries and offer extensive prenatal and postnatal care. Unfortunately, neither the Federal Government nor the private health insurance industry can be said to have made such great strides into the present. Although some States, such as Maryland, require that comprehensive health insurance providers cover the services of nurse-midwives as an integral part of their maternity coverage, many insurance companies will only pay for such services in those jurisdictions where they are forced to by State law.

This has forced a particularly poignant problem on all the Federal and congressional employees who might choose to have a home birth performed by one of the many qualified and certified nurse-midwives in the Washington, D.C., area. This is because Blue Cross-Blue Shield, the major health plan for most Government workers, has decided not to pay for deliveries that are performed by nurse-midwives.

Despite the fact that such deliveries cost less than one-half of the minimum cost for a hospital delivery performed by an obstetrician; despite the fact that the prenatal and postnatal care offered as a matter of course by nurse-midwives is often far superior to the same care offered by obstetricians, and also more comprehensive; despite the normally recognized right of patients to choose the mode of care which best meets their needs; and despite the increasing demand for home, family-centered maternity care, the Blue Cross-Blue Shield health insurance plan offered by the Office of Personnel Management to Federal employees militates against such care.

What is the effect of this shortsighted policy? It is to force couples who wish to have a home delivery performed by a nurse-midwive to go to a hospital and have the delivery performed by an obstetrician instead. It is to build in to this major health care plan a totally unnecessary, burdensome inflationary factor. The effect, in fact, is to double the minimum cost of delivering a baby under the plan. The effect is to further institutionalize the practice of treating pregnancy as an exotic disease of which a healthy birth is the hoped for outcome, and to suppress the wishes of the many Americans who would rather regard pregnancy and birth as the high point in the emotional and physical life of a healthy woman.

It is not enough to lay these serious mistakes at the door of Blue Cross only—this plan is written and administered under the auspices of the Office of Personnel Management, an arm of the Federal Government. It certainly does not reflect well on the foresight or budget consciousness of that Office that they have allowed such a serious policy mistake to become embedded in the health plan which they offer to Federal employees.●

PASS GUN CONTROL LEGISLATION

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. BARNES. Mr. Speaker, sooner or later, the time will come when the vociferous lobby on Capitol Hill against handgun control legislation will come up against an even stronger voice—the majority of American citizens who support handgun control. This majority realizes that people with guns kill people, that experience has shown that tough handgun laws do seem to deter crime, that legislation such as H.R. 5823 and H.R. 7148 controls the sale and distribution of handguns; these bills do not eliminate their sale and distribution, nor are they intended to prevent sportsmen from hunting and target shooting.

Mr. Speaker, sooner or later senseless death hits home. The deaths by gunshots of Michael Halberstam and John Lennon this past week alone have hit the homes of millions of people all over the world. There is a feeling of immense personal loss over the silencing of these great voices. Other voices, however, will not be silenced. These are the voices of those who have been calling my office—and no doubt the offices of my colleagues—demanding stiffer control of handguns. I hope that they continue to call; no, I urge them to continue to call and write and lobby all of us until Congress passes and the President signs into law sensible handgun control legislation.

Mr. Speaker, I place in the RECORD for the information of the House an editorial, one of the presumably hundreds that have appeared in newspapers over the past few days, which appeared in the Washington Post Tuesday, December 9.

The editorial follows:

LIVING—AND DYING—WITH GUNS

Yes, this is another editorial about guns—and yes, the killing Friday night of Dr. Michael Halberstam, a prominent man in the community, is an obvious occasion to bring up the subject of guns again. So is the killing last night in New York of musician John Lennon. But there are occasions all the time in our midst; over the weekend and again yesterday morning in the middle of downtown others were dying by gunfire while their friends and neighbors continued to live in constant fear of it. And the stories of gun deaths will keep on crossing our desk.

Saturday's toll included these reports: on a playground at 20th Street and Benning Road NE, 23-year-old Tyrone Reese of Gales Street NE was found dead, shot in the left side; at a gasoline station on Burroughs Avenue NE, 15-year-old Fitzgerald M. Giles was hit a blast from a shotgun during a dispute with a friend. And yesterday, during an armed robbery of a bank at 1325 G Street NW, a customer with a gun opened fire on the robber and then was killed in an exchange of shots. Should these deaths—and the next one, and the one after that—be dismissed as an inevitable part of life in a metropolis, or cited as reasons for people everywhere to arm themselves in self-defense?

No; at some point enough people will see through the insanity of a gun-toting society and will demand tough, sensible—and effective—controls on gun traffic. Already, more and more Americans are calling for stricter laws to control the sale and ownership of guns; they are seeing through the highly financed and self-serving propaganda of the gun-makers and lobbyists who falsely portray any effective gun control measures as infringements on individual rights. But whose "rights" are protected when practically anybody can buy an arsenal of deadly weapons?

The promoters of guns love to repeat the simple-minded refrain that "guns don't kill people; people kill people." But, as Dr. Halberstam noted in his television commentary only a few weeks ago, "handguns make it a lot easier—too easy." No single jurisdiction can control the gun menace, either; the manufacturing of and traffic in guns need uniform controls, enacted by those members of Congress with vision and courage enough to recognize that "gun controls" do not mean stripping away any traditions of the West, or any other part of the country, for that matter. On the contrary, those very rights, and the people who cherish them, deserve to live in the peace that sensible firearms controls could help to maintain.●

HUMAN RIGHTS PRESSURE ON THE SOVIETS AT MADRID

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. PORTER. Mr. Speaker, together with nine cosponsors I am reintroducing House Joint Resolution 638, calling upon the Soviet Union at Madrid to comply with the human rights provisions of the 1975 Helsinki Accords.

The Soviets cannot continue to have the benefits of Helsinki without living up to its obligations. On the one hand, they repress Soviet dissidents, prevent emigration, and violate citizens' human rights; they invade Afghanistan; they threaten and intimidate the Polish people. On the other hand, they gain significant advantage under the Helsinki Accords: trade rights, Western recognition of post-World War II boundaries, and effective control of Eastern Europe.

Mr. Speaker, the United States should pressure the Soviets to live up to the accords' human rights provisions. Nor should we tolerate an extension of Soviet military power into Poland. the European Common Market countries, NATO, and the administration are in basic agreement on this.

House Joint Resolution 638, which I will reintroduce in the 97th Congress, states that unless substantial Soviet progress on the human rights provisions following the Madrid Helsinki Review Conference is forthcoming, the President should declare the United States renunciation of Soviet benefits. The potential Soviet invasion of neighboring Poland makes it even more imperative that the United States and Congress bring further serious pressure on the Soviets at Madrid.

Mr. Speaker, this is Human Rights Week, 1980, in the United States. As a part of this week designated by the President, we should bring added pressure on those who would imprison, defeat, and otherwise repress the rights and freedoms expressed in the Universal Declaration of Human Rights and in the Helsinki Accords of 1975. Respect for human rights and freedoms must be more than in word only. The Soviet Union should not have the benefits of Helsinki without the responsibilities.●

A REPUBLICAN PERSPECTIVE ON THE FUTURE OF THE ENVIRONMENTAL PROTECTION AGENCY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. BROWN of California. Mr. Speaker, December marks the 10-year anniversary of the U.S. Environmental Protection Agency. This Agency, my colleagues will recall, was created by an Executive order of President Richard M. Nixon on December 2, 1970. Since then, numerous new environmental problems and proposed solutions to those problems were assigned to the EPA. There is evidence of progress over the last 10 years, especially in water pollution control. But there is also an enormous overburden of problems still to be solved. As a matter of life and death for many, environmental pollution is a concern that we cannot afford to neglect.

Mr. Speaker, I recently came upon an excellent perspective on the future tasks of the EPA, written by a former EPA Administrator under both President Nixon and President Ford. At this time, I wish to share these comments with my colleagues. The article follows:

[From the EPA Journal, Nov./Dec. 1980]

EPA'S TASK

(By Russell E. Train)

There were those at the start of the 1970's who predicted that, as soon as times got tough and the bills came due, the country's commitment to environmental improvement and integrity would evaporate as swiftly and suddenly as it had seemed to emerge. Yet, as the polls have shown, EPA's experience over the years has only strengthened that commitment. The energy crisis, together with the mounting evidence that pollution is even more widespread and harmful than the Nation had realized, has increasingly brought home the fact that "environment" is not simply another problem to be solved or crisis to be surmounted. As William Shannon, formerly of the New York Times and currently U.S. Ambassador to Ireland, once said, it is the overall and underlying context within which we must weigh and deal with the various economic, energy, and other crises and problems that confront us.

If EPA's efforts seem to reach out and touch the lives of every American, that is because the health and well-being of every American is directly affected by the condition and quality of his or her environment. The Agency has, as its constituency, not a single, separate segment of our society actively involved in environmental causes, but every American who lives and breathes—as well as millions upon millions of Americans who have yet to take their first breath. It is precisely for that reason—because environmental concerns are such a vital and inescapable fact of every American's life—that the job at EPA is so demanding, so difficult, so controversial, and so well worth doing. It is that sense that the environment is something really worth caring and doing something about that has seen the Agency through some very rough experiences.

It is worth reminding ourselves that the environmental effort did not spring up overnight and out of nowhere, and that we had air and water and other environmental laws on the books long before the start of the 1970's. It was not just a few activists, but a broad cross-section of the American people as a whole, who decided that these laws just had not worked adequately, that we could no longer afford halfway measures, and that environmental hazard and harm had reached levels we could no longer tolerate. It was in response to this gathering public consensus that the Congress began to construct a comprehensive set of programs that would as a matter of national policy, make environmental concerns an important part of our lives.

LONG-TERM DAMAGE

We knew that such an effort would be costly. But we also understood that society was already bearing heavy costs in one way or another—in the loss of recreational uses of rivers and beaches, in the increased treatment costs of our drinking water, in the cost of managing the mounting volume of solid wastes in and around our cities, in the damage from air pollution to buildings, farm crops, and forests, and most importantly in human suffering and death, medical and hospital bills, and time lost on the job because of illness. We were also beginning to understand that pollution frequently imposes long-term damage to entire ecosystems with costs that could well be enormous in terms of future human welfare, although largely unquantifiable in any immediate sense. As a result, the Nation fashioned a set of programs that, by requiring the reduction and control of pollution at the source, would not only shift the costs of pollution from the shoulders of society as a whole onto those of the polluter, but would encourage the development of processes and practices that generate less pollution in the first place.

Americans have since run into not only very real and rising economic and fiscal constraints, but other kinds of constraints as well—energy, agricultural, and social, among others. Nor should that come as any surprise: the more society succeeds in taking environmental concerns and costs into account in its activities and institutional arrangements, the more the environmental effort itself must take other important concerns and costs into account. There are, however, those who continue to argue that environmental regulation, in and of itself, is an undesirable constraint on growth and to ignore the fact that it is pollution, not its regulation, that constitutes the real constraint on economic or any other human activity that raises the level of harmful environmental pollution. If pollution with its adverse effects on human health were to be unchecked, I am convinced that even current levels of industrial activity would soon prove unacceptable. Our society simply would not accept economic or other growth at the expense of widespread harm to human health and a degraded quality of life.

RECKONING ENVIRONMENTAL COSTS

It should be clearly understood that EPA is an entirely different "animal" from such traditional regulatory agencies as the Interstate Commerce or Federal Power Commissions, whose job is to get rid of obstacles and inefficiencies that keep market forces from operating freely. EPA was established not to keep these forces from operating, but to make certain that they operate in the public interest by insuring that the market increasingly takes into account environmental costs that it would otherwise exclude from its calculations. Left unregulated in a highly advanced industrial society, most of the normal economic incentives of a competitive, free enterprise system tend to work to encourage the disposal of vast volumes of wastes into the environment, at the rapidly increasing expense of the public health and welfare. Regulation (or an alternative or complementary system of economic changes) is required to internalize this expense, thus utilizing the free market system to achieve pollution abatement with greater efficiency and at least cost.

EPA could make no greater mistake as an Agency than to behave as if it were simply and solely an advocate for the environment in an adversary proceeding. In this connection, there is a growing recognition in our society that over-reliance on adversarial approaches to the resolution of issues can be excessively costly in economic terms as well as productive of what sometimes seems almost endless delay in decision-making. EPA has a particular responsibility and opportunity, it seems to me, to take a public lead in pursuing alternative modes of conflict resolution in the environmental area. Effective regulation must include prompt resolution of issues. Our society needs to innovate in this regard. The Agency should be alert to counter the bureaucratic tendency to resist innovation and "stick by the book."

The American people have made it clear that they are willing to pay the price for a clean and healthy environment. But this willingness could be jeopardized if they are not fully informed of what the trade-offs are or lose their confidence that the costs are no larger than they need be and that the benefits are worth those costs. EPA has demonstrated its determination to minimize the social and economic impacts of its efforts—to do all it can to meet its responsibilities in ways that will not put people out of business or out of work or impose excessive and unreasonable costs. When I was Administrator, we were confident that the Agency had the most open and rigorous process of economic impact analysis in the entire Federal Government. I have no reason to think that this situation has changed, and I hope EPA will continue to improve that process.

EPA also has undertaken a major effort to simplify and streamline its regulations. To carry out its regulatory responsibilities EPA has issued a significant body of complex regulations. But it must also recognize that its success in the future will be measured by how clean the air and water become, not by the quantity and complexity of its regulations, and it has been committed to a continuing program of regulatory review.

ACTION-FORCING STANDARDS

It has been suggested that Congress in its environmental legislation set standards and timetables for their implementation that were simply not achievable, that EPA had been given an impossible mandate to carry out. I certainly agree that EPA in the past has had a very difficult mandate to carry out, one not fully achievable in all respects within the statutory timetables even if it had all the resources it might want. At the same time, I have been in full agreement with the Congressional approach of setting standards and timetables which are action-forcing and technology-forcing. To do otherwise would be to require only the lowest common denominator of what is currently achievable. Such an approach would secure the best compliance record and the least overall progress. The approach actually adopted, particularly in the Clean Air Act, has forced technology and brought about strong progress. The disadvantages of such an approach are that a certain amount of nonattainment on schedule will inevitably occur and that there will be increases in economic cost and technological inefficiency in some cases. In my opinion, these disadvantages are far out-weighed by the advantages.

The Agency has had the most success in carrying out those parts of our environmental laws that involve the control of specific sources of emissions or effluents by the application of technology. It has had the least success in trying—often under deadlines imposed by the courts—to require pollution control measures that have implications for changes in lifestyles and land use patterns. These are changes that can take place only over a period of time. They entail very basic social and economic and environmental choices and trade offs that can only be made by the people involved through the political process at the State, local, and regional levels.

One of the major challenges to our society, and specifically to our States and localities, is to deal effectively with what might be called the issues of growth—the issues involved, for example, in trying to preserve and maintain air quality, to control nonpoint source water pollution, and to relate and reconcile different environmental concerns such as clean air and clean water with each other and with social and economic concerns such as housing, and jobs, and energy. These issues will involve an increasing shift in emphasis from the abatement to the prevention of pollution. In terms of technology, we need to seek over the coming years not simply to encourage the development of more sophisticated kinds of "add-on" controls, but to push as effectively as we can for basic changes in the processes themselves.

THE NEED FOR PREVENTIVE ACTION

As we move to put increasing emphasis upon the prevention as well as the control of pollution, there is a growing body of evidence that some of our most effective "health care" dollars may well be the "disease prevention" dollars we spend to cut and control pollution and other agents we introduce into our own environment. The Department of Health, Education, and Welfare (now the Department of Health and Human Services) a few years ago estimated that 88 percent of our total national health bill goes for cure and care rather than prevention. In a recent year we spent around $1 billion on research into cures and causes of cancer. The National Cancer Institute has estimated that the actual cost of cancer to people amounts to tens of billions of dollars a year. Yet the World Health Organization has estimated from 60 to 90 percent of all cancer is the result of "environmental factors" in the broadest sense of that term. As the Forward Plan for Health prepared by HEW has stated: "In recent years, it has become clear that only by preventing disease from occurring, rather than treating it later, can we hope to achieve any major improvement in the Nation's health."

All of this has underscored the urgency of measures such as the Toxic Substances Control Act to give us better information and regulatory capacity for coping with the many new chemical compounds that we have been introducing into the commercial market each year. It also underscores the fact that the struggle against disease must increasingly be waged, not simply in the hospitals and the doctors' offices, but on our farms, in our factories, and in our personal lifestyles. And it suggests that, if—in the words of one medical authority—"environmental disease is becoming the disease of the century," then environmental protection, in the broadest sense of the phrase, must increasingly become the most important ingredient in any national health program.

If there have been doubts that "environment" is truly a global concern, and that all nations have a very real stake in the development of effective international efforts in any environmental protection and improvement, they should have been dispelled by the growing awareness of the international scope and seriousness of the pollution of the marine environment, the spread of chemical contaminants, the problem of acid rain, and the depletion of the layer of ozone that shields mankind from harmful solar rays by the release of fluorocarbons in the environment, among other problems. The build-up of atmospheric carbon dioxide from the combustion of fossil fuels has enormous potential significance for global climate and world food production.

SHARING CONTROL TECHNOLOGY

We can expect, in the year ahead, increasing pressures on EPA to share its know-how on pollution control with a developing world faced with extraordinary problems arising from population growth, food demand, and industrial development. The growing global demand for food will require us to establish a more precise policy on how best to control the global release of bioaccumulative, persistent pesticides. Developing nations will increasingly discover human health problems associated with the vast array of chemical compounds currently in use and under development. We will, as a result, face growing requests from developing countries for EPA experts to help in the establishment of environmental programs and to deal with specific environmental problems.

EPA can head into the 1980's with a clear sense of accomplishment and with a far better idea than we had ten years ago of the problems that we face and of the things we need to do.

EPA can take great pride in the fact that, faced with an extraordinarily complex array of issues and statutory mandates, it has put in place much of the regulatory machinery needed to ensure the eventual achievement of a sound and healthy environment for all.

I foresee a major challenge in the next year or two to our whole environmental protection system, particularly to the Clean Air Act. EPA should welcome constructive review. EPA should take the lead in seeking out and correcting cases of excessive or ill-founded regulation. EPA should, as I suggested earlier, be innovative and open in finding ways to expedite environmental decision-making, such as is involved in the siting of plants and other facilities. I have always believed that we need greater room for administrative flexibility and the exercise of discretion—always subject to active Congressional oversight—in the implementation of environmental statutes. But our society must firmly resist efforts to roll back our historic environmental protection achievements. We must never forget that a healthy environment and continued healthy functioning of the natural systems of the Earth are the foundations upon which all human activity, progress, and welfare must ultimately depend.

EPA has a proud and vital mission. Environmental problems are world-wide. They can be expected to become tougher rather than easier. The World Conservation Strategy developed by the International Union for the Conservation of Nature with World Wildlife Fund support and the Global 2000 Report of the Council on Environmental Quality help outline the problems, set priorities, and recommend national and international action strategies. The United States must undertake a leadership role in addressing these issues worldwide, and EPA must assume a major part in that critical task.●

TRIBUTE TO HON. RICHARDSON PREYER

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

• Mr. GIAIMO. Mr. Speaker, honesty, integrity, conviction—all these characteristics and more apply to Hon. Richardson Preyer. We need such people in Government, and that makes his leaving the House at the end of this session especially difficult.

Even before entering the House, Judge Preyer had a distinguished career as a public servant. A decorated Navy man in World War II, the judge earned his nickname by serving on the local, State, and Federal branch before being elected to the House in 1968. Rich Preyer served on the Government Operations, Interstate and Foreign Commerce, and Standards of Official Conduct Committees. The latter assignment was well suited for his judicial temperament.

Throughout his career, Rich Preyer exhibited those qualities that are the best in public servants. I include myself among his many friends and admirers who will miss his presence in this Chamber.•

MIKE McCORMACK

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

• Mr. STEED. Mr. Speaker, When Mike McCormack leaves the House at the end of this session it will lose a conscientious, expert legislative craftsman of a type that these days is becoming too rare.

A research scientist himself, he has specialized in this field and made use of his technical knowledge in a way that has benefited the public interest.

Mike McCormack has contributed substantially to our efforts to meet the energy crisis, and as chairman of the Subcommittee on Energy Research and Production of the Committee on Science and Technology he has produced legislation equaled by few people who have served here no more than 10 years.

To name only a few, he has been chief author of the Federal Solar Heating and Cooling Demonstration Act of 1974, the Geothermal Research Development and Demonstration Act of 1975, and the Electric Vehicle Research and Demonstration Act of 1976.

Mike McCormack has been a reliable and productive Member of this House with whom it has been a pleasure personally and officially to work.•

DON WINANS TO BE REMEMBERED BY HIS UNION LOCAL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

• Mr. KILDEE. Mr. Speaker, on December 14 the contributions of the late Don Winans to the cause of working people and the labor movement will be commemorated by his home local, UAW Local 599 at Flint, Mich. Don Winans passed away last May after many years of truly outstanding service to his union and to his fellow workers. He was first elected a committeeman in 1947, and rose in the union ranks, holding many key offices and eventually becoming chairman of the UAW's national negotiating team. Throughout his career, Don Winans typified the high quality of strong moral leadership that we have come to expect from the UAW as exemplified in such great leaders as Walter Reuther, Leonard Woodcock, Irving Bluestone, Douglas Fraser and many more. I am proud to have had Don Winans as a close and personal friend and adviser for many years of my public service career. I am looking forward to joining his family and his friends and fellow UAW members at the local 599 hall on December 14 when the local dedicates a portrait of Don Winans. I trust that his portrait in the union hall will help to inspire future generations of UAW leaders to the standards of excellence and devoted union service for which Don Winans always was known.•

TRIBUTE TO HON. JOHN RHODES

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

• Mr. FISH. Mr. Speaker, I wish to join with my colleagues in a grand tribute to the minority leader, John Rhodes.

Over the past 7 years, John Rhodes has shown the unique qualities of a great arbitrator and leader in mediating the disputes that abound on the floor of the House. He has used his judgment and foresight to determine the best course of action for the Nation and the Republican Party. During his 28 years of service in this body John Rhodes has shown the leadership qualities that distinguish him from other Members. His devoted dedication and eternal support of commonsense, individual freedom, and constitutional government have always served as an example to younger Members as well as experienced veterans of the House.

John Rhodes has done more for the Republican Party than any minority leader in recent history. In 1980 he toured the country campaigning for Republicans and introducing the Republican platform to the American people. When Ronald Reagan was elected by such a large majority, the American people were making a statement in support of John Rhodes and the entire Republican Party that he helped to strengthen. John was instrumental in obtaining the 33 House seats for the Republican Party by articulating convincingly our position on the major issues.

His service to his party has been immeasureable. In Kansas City and again in Detroit this past summer, John Rhodes served as the permanent chairman of our party's national convention. His ability to listen and compromise has been a major factor in leading the country toward a national Republican majority. I applaud his positivism and intuitive policymaking expertise, and join my colleagues in paying tribute to this great man and friend.•

GUN CONTROL—STARTING OVER

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

• Mr. WEISS. Mr. Speaker, this Nation's handgun war has claimed thousands of lives again this year, and in the past weeks has cut down several more in well-publicized incidents. They include John Lennon, Michael Halberstam, a customer in a Washington bank shot when he tried to shoot it out with a robber, and a Maryland 15-year-old shot by a stranger as he sat in the passenger seat of a vehicle at a traffic light.

To claim that handgun controls would eliminate all such deaths would be unrealistic. But the imposition of meaningful, tough controls would be a beginning, it should reduce the availability of weapons to those most likely to use them. And the more restricted the handgun, the less likely it is that when a citizen is momentarily angered, he or she will have a pistol at hand to make use of; the less likely it will be that a "confused person," as the man accused of killing Mr. Lennon describes himself, can obtain the means for murder.

We must start over, as Lennon sang in another context, and control this hemorrhaging of violence. Washington Post columnist Richard Cohen discusses this issue with great wisdom and skill in an article that appeared today. I hope my colleagues will take a moment to read Mr. Cohen's commonsense commentary.

His article follows:

Gun Control No Answer, But It Is a Beginning

(Richard Cohen)

A man I knew, Michael Halberstam, came home and found a burglar and was shot to death. He was 48 years old, a physician and a writer. On the way to his funeral, a woman mentioned that her mother had also been shot to death. I had another friend whose younger brother also died that way, and so did a bartender I knew a bit. He got shot one night in an argument and died before my eyes with a little hole in his chest.

The house across the street was held up at gunpoint and so was a store around the corner. The other day, a man got killed in a bank when he tried to shoot it out with a crook, and some years back my wife and some colleagues were robbed at gunpoint and threatened with rape.

My presidents die of gunshots and my politicians are killed by guns and guns take the lives of cultural heroes like John Lennon. A deranged man kills Allard Lowenstein with a gun and guns put both George Wallace and Larry Flynt in wheel chairs for the rest of their lives. Whenever I cover famous politicians, I think always of guns.

I see guns all the time on the street. Sometimes I just imagine them in bulges under the coats of frightening-looking people. Sometimes I actually see them. No matter. I imagine them everywhere. I imagine them in glove compartments of cars driven by guys who have just cut me off, and in the pockets of men who have just spit in front of me on the street, and in the pants of kids who want to push me off the sidewalk.

I imagine guns in the hands of whatever it was that made the stairs creak in the night, and I consider the possibility that the stranger standing on the porch has a gun. When I go into the bank, I think about it being robbed. I study the other customers and think about cross-fires.

Am I alone in this? Am I the only one who fears guns, who thinks about them, who considers that they might figure in the consequences of yelling at some guy in another car, or reminding some punk that it ain't polite to spit on the sidewalk? Am I the only one who knows so many people who have been threatened by guns, who have died by guns?

Am I alone in thinking that this is crazy? I live in the capital of the United States of America and I bet I think more about guns than any cowboy in the Old West. I have lived in other cities and it is no different, and it is no different in rural areas, either. People kill each other with guns in rural areas, too. Anywhere there are guns, people kill each other with them. Last year, 13,040 Americans were killed by guns. It's like war. We're at war with ourselves.

It would be nice to have a truce. It would be nice to turn in all the guns, to sell them no more and make lots fewer of them—make them just for the police. A handgun serves no other purpose than to kill. That's all it does, all it ever does. A rifle can be used to hunt and a knife can cut meat, but a handgun is for killing people. It does nothing else, but it does what it does very well indeed.

I know gun control is not the total answer—not the complete answer. I have been told that guns don't kill people and that people kill people, but Robert Kennedy was not killed by a bow and arrow and George Wallace was not knifed from 25 feet away and Son of Sam could not put a knife through a closed car window and kill young women in New York.

No man can hold a knife on a group or hold up a bank by saying he has a knife in a bag, and no one can reach into a glove compartment and throw a knife at me in my car because he does not like my looks.

I know that even with gun control some criminals would continue to have guns. But maybe not the one who held a gun on my wife and her friends, and maybe not the one who robbed the house across the street, and maybe not the one who killed the bank customer the other day. Maybe there would have been no gun for the person who shot Allard Lowenstein and the guy who murdered Mike Halberstam, and maybe someone could have said no—no, you cannot have a gun—to the guy who killed John Lennon.

I know gun control is an imperfect solution. But I know, too, that the only reason to have a gun is to kill, and if gun control just rids this world of one gun, there might just be one less killing. Maybe a doctor could continue to cure or a bartender mix drinks or a mother see her grandchildren or John Lennon write another song.●

TRIBUTE TO CONGRESSMAN BOB GIAIMO

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. FAZIO. Mr. Speaker, I would like to take this opportunity to join my colleagues in paying tribute to Bob Giaimo.

He is a kind man of enormous personal warmth and dedication to public service. We owe a debt of gratitude to our distinguished colleague from Connecticut, not only for his leadership as chairman of the Budget Committee, but also for his persistence and diligence in encouraging the Democratic Party to take note of the legitimate concerns of those calling for fiscal restraint by the Federal Government. Without his foresight, the Democrats in Congress would have been caught even more unprepared earlier this year when the Congress was forced to make some serious cuts in spending. Despite our failure to keep the 1981 budget out of the red, under Bob's leadership and as a result of his success at molding the congressional budget process into a viable and constructive budget cutting tool, the deficit will be a little smaller and future balanced budgets are closer at hand. Even as retiring his leadership in fiscal restraint has been unmatched.

Bob will be missed by us all particularly his fellow Italian Americans in the coming session and I know we all wish him the very best in the years ahead.●

TRIBUTE TO HON. ANDREW MAGUIRE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. OTTINGER. Mr. Speaker, when the 96th Congress adjourns, the House will lose one of its most dedicated Members, Andy Maguire. Andy is an extraordinarily able, principled, and effective public servant, one whom I am proud to call my friend.

Andy's record on health and the environment is outstanding. He played an instrumental role in the passage of the Clean Air Act Amendments of 1976. Legislation he sponsored provides for an expanded research program for the prevention of environmental and occupational cancer. He also authored legislation providing for minimum reimbursement levels for physician services under the medicaid program. He sponsored legislation to create a child health assurance program to provide preventive health care for our Nation's children.

Andy was a leader in the fight to protect consumers from unjustifiable energy prices. Soon after he was elected to the 94th Congress, he helped the Congress enact mandatory mileage standards and efficiency standards for domestic automobiles. As a leader in the fight to protect consumers against skyrocketing energy prices, he fought to prevent sudden decontrol of oil and gas prices.

Andy has been an ardent defender of human rights around the world and especially in South Africa. A founder of the Ad Hoc Monitoring Group on Southern Africa, he has introduced and fought for legislation to encourage South Africa to move toward a more equal society. As part of this effort, he fought for and won passage of an amendment to place limits on Export-Import Bank loans to South Africa.

A skilled legislator, a fighter for human rights, and an outstanding Representative of Bergen County, Andy Maguire will be missed by his friends and the Nation.●

TRIBUTE TO HON. JOHN RHODES

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. GREEN. Mr. Speaker, the minority in the House has been privileged over the last 7 years to be led by the distinguished gentleman from Arizona, Mr. Rhodes. It is with regret that we accept his decision not to continue as minority leader in the 97th Congress and with gratitude that we remember his service to this body in the capacity of leader.

During his tenure, John has been an effective spokesman for our side of the aisle and has shown great skill in working with the majority. He commands the respect of other Members because of his integrity, diligence, and breadth of experience.

My friend from Arizona has been a strong advocate of fiscal responsibility, national defense, and caring for the needy of our country. His efforts have helped to shape some of the Nation's most significant legislation, especially in his recent years in the leadership.

I am proud to join with my other colleagues in expressing appreciation to John for his service to us here in the House. Although he is stepping down from the leadership, I am delighted that he will continue as a Member of the House and we will have the benefit of his efforts during the 97th Congress.●

TRIBUTE TO HON. BOB ECKHARDT

HON. THOMAS P. O'NEILL, JR

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. O'NEILL. Mr. Speaker, I join my colleagues in paying tribute to Bob Eckhardt of Texas in recognition of his talented contributions to the House and the Nation over the last 14 years.

Articulate, self-confident, and determined, Bob Eckhardt is devoted to the legislative process. Quickly, he mastered the legislative and political complexities of the House of Representatives and has become one of the most knowledgeable Members concerning the rules and procedural nuances which govern the way in which the House operates.

Bob Eckhardt has been one of the most committed Members to serve in the House of Representatives. A champion of the consumer, the oppressed, and the indigent, he has used his fine legal mind and keen intellect to alter the laws and regulations which have adversely affected the American public. One of the foremost environmentalists in the House, Bob played a major role in all the environmental legislation of the last decade. He has been a watchdog, dedicated to cleaning up the environment and finding alternative sources of energy supply.

Bob Eckhardt is a highly principled statesman of the first order. Unafraid to stand up and be counted, he has always fought for the beliefs and ideals which he viewed as fundamental building blocks of American democracy. In every way, Bob Eckhardt has always remained true to the principles in which he believed.

I wish Bob all the success and happiness in the years ahead.●

TRIBUTE TO HON. JOSEPH FISHER

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. GIAIMO. Mr. Speaker, it is a special pleasure for me today to pay tribute to the Honorable Joseph Fisher of Virginia.

Joe Fisher began his career in the Congress in 1975, but he has served in Government in many capacities since 1958. He has also served as executive officer and senior economist for the Council of Economic Advisers, president of Resources for the Future, Inc., and as an economist with the State Department. With his background and experience, Joe Fisher has effectively given his constituency a voice in national and international affairs as well as in the interests of their own district. I had the opportunity to see Joe's work firsthand during his years on the Budget Committee. His colleagues and constituents agree that he has done an outstanding job in his district by improving mass transit, encouraging community development, and assisting his constituents with their individual problems.

Joe is a fine legislator and a man strongly devoted to the people of his district. His leadership and hard work will be missed in the next Congress. I wish Joe the best for himself and his family in the future.●

THE PRICING OF A COLD WINTER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to a matter which only a few seasons ago had the entire Nation in a state of emergency. I am referring to the home heating fuel crisis and the death toll it took among many of our elderly and handicapped citizens.

Fortunately, both State and Federal officials say that this winter we will have enough home heating fuel to carry us through even a severe winter. Residual fuel oil supplied in September 1980 averaged 2.2 million barrels per day, 14.9 percent lower than in September 1979. Residual fuel oil stocks measured 86.0 million barrels at the end of September 1980, 2.1 percent below the level 1 year ago and 0.8 percent lower than the previous month. Perhaps the only way to explain this contradiction is that we are consuming less, primarily through conservation and a relatively mild winter last, as well as a general oil glut on the world market which could compensate for any immediate spot shortages.

Nevertheless, I am still concerned about this issue for two good reasons. First, the constantly rising price of home heating fuel and, second, the volatile and unstable sources of supply.

Regarding the pricing issue, it must be noted that there are thousands of people around the country who cannot afford the rising cost of home heating fuel. My home State, New York, has one of the highest utility rates in the country, not to mention the severity of our winters. Due to the necessity of fuel at lower prices, New York State has a lot of people who qualify for Federal assistance. Fortunately, the U.S. Department of Health and Human Services has approved New York State's low-income energy assistance plan to distribute $223 million to eligible households as lines of credit with energy suppliers or as direct cash payments. The department of social services, which is operating the program in New York State, began accepting the applications for this year's emergency energy assistance in November. Under that program, eligible households receive up to $290 in aid, primarily in the form of payments to heating fuel suppliers. The limited cash assistance, not to exceed $150, will be provided to help defray energy related costs incurred by New York's neediest households—those receiving public assistance and supplemental security income. Eligibility guidelines are as follows: A family of one must have a yearly gross income not exceeding $4,738; family of two, $6,263; family of three, $7,788; family of four, $9,313; family of five, $10,838; family of six, $12,262. For each additional person an additional $1,525 is allowed.

Benefits for households range from $100 to $290, depending on several factors; income, as described above; type of fuel—oil, natural gas, or other—and geographic location—heating-degree-data supplied by the Federal Government.

Applications and detailed information are available from local offices of the Department of Social Services, the Office for the Aging, the community action program, and the unemployment insurance benefits offices of the Department of Labor. Supplemental security income (SSI) recipients and those 60 years of age or older may apply by mail. Additional information is available from the toll free social services information line, 1-800-342-3821.

My other concern with the home heating fuel situation is that it will only take another minor skirmish—not unlike the present Iran-Iraq war—to absorb the present glut on the world market, making oil prices skyrocket. In the final analysis, it is apparent that with regard to oil prices and supply we are actually living day by day and will continue to do so as long as we maintain our vulnerability by our dependence on 50 percent of our oil from politically and economically unstable sources.

Mr. Speaker, I urge my colleagues to continue to closely examine the situation in their own congressional districts and that the needs of our elderly and the handicapped be given priority consideration with winter fast approaching.●

TRIBUTE TO RICHARD ICHORD

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. STEED. Mr. Speaker, Congressman Richard Ichord of Missouri has represented his district and State with reliability and purpose for 20 years, and it has been my pleasure to work with him on many occasions. Our districts have some similar characteristics, with the State universities of neighboring States and a variegated economic constituency. I have therefore had more than routine occasions to note his able work as a legislator.

As a senior member of the Armed Services Committee, where he has been chairman of the Subcommittee on Research and Development, Dick Ichord has been a steady and successful exponent of a strong national defense in an era when this requirement has been sometimes neglected.

I salute his work in that area as well as in the House Small Business Committee, where we have both served.

Dick Ichord will be missed here, and I wish him and his the best for the future.●

TRIBUTE TO HON. RICHARD ICHORD

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. WON PAT. Mr. Speaker, I am pleased to add my words of praise to those being heard today for our colleague, Representative Richard Ichord of Missouri, who is retiring.

It has been my great pleasure to work closely with Dick Ichord during the past 6 years in which I served on the House Armed Services Committee. He has proven himself to be a staunch friend of the U.S. military, a fact which my constituents on Guam have much to be thankful for.

Congressman Ichord's deliberations on the state of the military were always marked with the intense intellectual approach that is the trademark of this extremely dedicated public servant. I have always been grateful to Congressman Ichord for his candid appraisals and for his willingness to lend a helping hand where he could.

Dick Ichord will certainly be missed on the House Armed Services Committee in the years ahead. It is no secret that deliberations on national defense issues are becoming more and more complex. There is no substitute for a keen mind and years of sound experience and these are two quantities which Dick Ichord has in abundance. I only hope that he will give his former colleagues the benefit of his vast experience on issues he is concerned with.

Twenty years as a Member of this body is a long time and Dick Ichord deserves the rest he has earned. He certainly will be missed, however, by his many friends here on Capitol Hill and I wish him the greatest of happiness and success as he heads off to new fields.

Thank you.●

JIM HANLEY—THE FEDERAL EMPLOYEES' FRIEND

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. PICKLE. Mr. Speaker, for some 4 years, Jim Hanley and I have been good neighbors. His office is located two doors down from mine, and there is no better hallmate a person could have. As some of us were running down the hall to run over and vote, worried about getting there on time, Jim Hanley would calmly and self-assuredly make his way out the door, allowing plenty of time to cast his vote. Jim's career in this Chamber has similarly been marked by deliberate, careful service to his New York constituents. Jim and I came here about the same time, so I will miss him, both as a hallmate and as a contemporary.

Recently, Jim Hanley's friends gave him a farewell party in the new Madison Building of the Library of Congress. It was one of the largest crowds to come forth to salute a man and his good works. The party was held in the building which Jim's committee helped bring to fruition, and what a beautiful and fine memorial to education and freedom it is.

For many of us, the reception was the first time to really see the new building, and we had the opportunity to say thanks to Jim Hanley and his committee.

I would also say thanks to Jim from the postal employees and other civil service personnel who live in the 10th District of Texas. Jim has looked after their needs. This national constituency has been well represented. All of us appreciate the fine work Jim Hanley has done for our country.●

AMERICAN COAL TRADE, SHIPBUILDING AND THE ECONOMY

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mrs. BOGGS. Mr. Speaker, our Nation has an outstanding opportunity to capitalize on the growing world demand for coal. In capitalizing on this demand, our Nation's economy and balance of payments would be measurably strengthened, the coalfields in several economically depressed areas of the country could be revitalized, and our domestic dredging and shipbuilding industries, as well as our U.S.-flag merchant marine could all be stimulated.

However, we can only capitalize on this opportunity if our Nation's ports can accommodate the world's most efficient seagoing vessels. Toward this end, legislation has been introduced in both the House and the Senate to expedite the development of our coal ports. I hope both of these bills, H.R. 8449 and S. 3247, will receive early and swift consideration in the 97th Congress. I also trust that other legislative proposals to improve the state of our inland waterborne transportation network will also receive the consideration they deserve.

Mr. Speaker, I would like to share with my colleagues a research report issued last month by the Transportation Institute. This report is one of a series on the coal export trade which will be issued in the coming months. This particular report discusses actions which might be taken as a means of improving the effectiveness of U.S.-flag participation in the Nation's future coal trade. I would recommend this series to those interested in the future well-being of our economy.

Linkage Between Maritime and Coal Export Policies

INTRODUCTION

The "rediscovery" of coal as a domestic and international fuel has again attracted the attention of the public and the Federal Government. Coal powered the developed world's transition from an agrarian to an industrialized society. Still abundant and relatively inexpensive, it may be called back into service for the purpose of reindustrializing many of those nations' sagging economies. In 1946 coal provided nearly half of America's total energy needs. Twenty-two year later, this had shrunk to below 20 percent. Cheap oil and natural gas and the ease in transporting those fuels plus environmental concerns over the burning of coal had altered the world's energy landscape. Now, in the face of depleted oil supplies and rising prices for crude, the world economy is increasingly turning to coal as a means of regaining the steady growth of the post-war era. With nearly one-third of the earth's recoverable coal reserves, the United States can contribute to this effort.

Experts agree the United States will become a major coal exporter. The World Study, released in May 1980, repeated this prediction. But major questions remain about the waterborne transportation of coal from mine sites to foreign ports. Ultimately, the success of the nation as a supplier of coal to the world will depend on how the answers affect supply conditions, final price, amounts delivered and similar factors.

EXPORT PROMOTION AND NATIONAL SECURITY

Both Congress and the executive branch have expressed strong interest in promoting coal exports. At the same time, a new perspective is emerging on all U.S exports and imports, one that places the nation's foreign trade within the larger context of national security, both economic and military. Both issues have implications for the U.S. merchant marine.

In the past, governmental concern for exports rarely exceeded actions to restrict their distribution to certain elements of the international community. Official policy was geared primarily toward preserving a particular technological, material or military advantage for the United States and nations friendly to it. Today the concerns are different. Both government and the private sector are realizing that past policies have put the nation at a competitive disadvantage in the world market.

In part the changing attitude has come about because of the changing role of the export trade in the U.S. economy. Previously the United States could alter foreign trade patterns in specific goods or services without causing great domestic economic disruption. The strength of the dollar and a rather low dependence on foreign trade as part of the overall economy made the United States relatively invulnerable to international economic influences.

However, the strength of the dollar alone can no longer sustain consistent balance-of-payments deficits. Foreign trade has increased dramatically and now contributes significantly to the nation's well-being. In the past decade the amount of U.S. imports and exports as a percentage of the gross national product has doubled. Imports are rising faster than exports when compared to the gross national product, as more and higher-priced oil is imported and the U.S. export share of the world market in high technology goods shrinks. The United States is being forced to reconsider its position as a trading nation and a competitor with others.

In the 1970's President Nixon began a conscious effort to promote exports. President Carter reaffirmed the effort through the President's Export Council. Independent studies have shown that the United States has not paid enough attention to trends in the international economy and to ways of coping with those trends. The lack of financial, physical and psychological infrastructure has hindered the growth of U.S. foreign trade, even while dependence on that foreign trade has increased. The situation has become critical in the area of energy supplies. Still heavily dependent on imported oil, the United States has not developed sufficient export trade to pay for that oil without a balance-of-payments deficit. In the scramble to wean the nation away from foreign oil, the government has proposed a barrage of new energy programs based on sometimes conflicting goals. Among these programs are incentives to develop synthetic fuels, convert to coal as a power source and tap alternative energy sources.

Also part of the new concern over foreign trade is its relationship to national security. National security is jeopardized when a cutoff of foreign oil or imported strategic raw materials threatens to paralyze industry and the military. An interruption in supplies of nonstrategic materials could similarly cripple the U.S. economy. Thus coal, both in domestic energy use and as a major export item, could be central to moving the nation toward energy self-sufficiency and restoring positive stability to the country's trade position.

Whether past policies continue to obstruct export growth, or new policies stimulate export expansion, any U.S. coal export program will entail substantial federal government involvement. Such involvement will include trade agreements, environmental and mining laws, regulation of transportation systems, harbor and river dredging permits and other controls and stimulants.

In decision-making on any such government involvement, it is essential that national security implications be considered along with effects on export trade. Each domestic aspect of the developing coal trade must be analyzed as an integral part of an overall national policy that includes maritime concerns.

MARITIME LINKS TO FOREIGN TRADE AND NATIONAL SECURITY

Ample precedent exists for relating activity in the maritime sector of the economy to national security and foreign trade. An early example is the Merchant Marine Act of 1936, which recognizes the merchant marine's contribution to both economic and military security. The law sets as national policy the objective of achieving a merchant fleet capable of carrying "a substantial portion of the waterborne exports and import commerce" of the nation, a fleet "composed of the best-equipped, safest and most suitable types of vessels constructed in the United States." The law also contains provisions to expand and develop a U.S.-flag merchant fleet which is large and diversified enough to carry "a substantial share" of the nation's foreign trade (50 percent, according to the legislative record of the act) and to serve as a naval auxiliary in time of war. The law's objectives, however, have not been achieved. This failure is one of the obstacles to an effective coal export policy (see below).

Another link between industrial growth, national security and maritime is found in the Ocean Thermal Energy Conversion Act of 1980, recently signed by the President, which requires U.S.-flag maritime participation so that this energy program will bring maximum benefits to the United States' economy. The Deep Seabed Hard Mineral Resources Act, also recently passed, similarly calls for a U.S.-flag role in ocean mining. Both laws are responses to serious national problems—uncertainties about supplies of energy and critical minerals—and both rely on a significant U.S.-flag maritime capability for their successful implementation. The growing coal trade also fits these categories and should receive similar attention and treatment.

If the executive and legislative branches of government will adopt this essential approach toward coal, their decisions will go a long way toward fulfilling the objectives of the Merchant Marine Act of 1936 as well. Only a comprehensive look at energy, foreign trade, balance-of-payments and transportation issues including maritime can provide a solution that will benefit energy self-reliance, economic stability and national security.

A number of domestic controversies and international agreements must be resolved for coal to become a major export. Environmental protections, transportation costs and methods, taxation and foreign trade treaties will need to be established in a way that makes U.S. coal competitive in the world market without sacrificing national policy goals.

LACK OF DRY BULK FLEET

The U.S. merchant marine has a woefully inadequate dry bulk fleet. More than nine out of every ten tons of foreign trade move on the high seas. Yet U.S.-flag ships transport less than five percent of the nation's imports and exports. While U.S. foreign trade is growing at a dramatic rate, the U.S. merchant marine's share of this cargo is declining.

The picture in dry bulk commodities—wheat and other grains, metal and mineral ores and similar nonliquid and nonmanufactured materials—is even more dismal. Since 1950 international trading in these materials has increased tremendously both in volume and in percentage of total oceanborne U.S. trade. Nearly 40 percent of all goods carried by ships to and from the United States are dry bulk materials. But U.S.-flag ships transport a paltry two percent of them. Wheat is a prime U.S. export. Certain imported ores and metals are critical to key domestic industries. The United States has grown progressively dependent on such dry materials so that today it is the world's largest bulk importer and bulk exporter. Yet it is equipped with an overaged, undersized and disappearing dry bulk fleet. The nation thus has lost control over the transportation of goods vital to its economy. With few cargoes, the industry has not enjoyed the incentive to build a large fleet.

The sad state of affairs in the United States contrasts markedly with that of other nations. Japan, for example, is heavily dependent on its large merchant fleet to carry the two-way trade critical to that nation's survival. America historically has not relied so highly as Japan on foreign trade, but that is changing rapidly. While a merchant fleet is important as a "fourth arm" of defense, international commerce is also a vital component of security. Expansion and proper functioning of that commerce is necessary for the general well-being of the nation. The current U.S.-flag merchant marine is less than a fifth the size of that which existed immediately after World War II. A coherent international trade policy, such as that of Japan and most other world traders, would not have allowed such a deterioration. It is here that coal exports could effect a major turnaround. With coal exports moving on U.S.-flag ships, the nation's share of oceanborne transportation could vastly increase, and the maritime industry would have the incentive to create new fleets of dry bulk carriers.

The World Coal Study estimates that within 20 years as many as 1,000 dry-bulk vessels with an average carrying capacity of 100,000 deadweight tons each may be required to transport coal for export. Construction of such a fleet must begin immediately. American ship operators and shipbuilders can supply a reasonable share of this requirement if they have the incentives to do so.

A vastly enlarged bulk fleet would generate numerous benefits to the economy through the ripple effect. The maritime industry itself provides nearly 1.5 million jobs plus several million more in ancillary industries. The maritime sector contributes $22 billion a year to the economy. The figures could be expected to zoom upward if this currently underutilized industry shared equitably in transporting export coal. No doubt foreign importers of U.S. coal will insist that their own fleets carry a share of the coal trade, as they do now of other commodities.

With export coal moving on U.S.-flag ships, the continuing decline in several critical U.S. industrial sectors could be slowed or halted. Shipbuilding, ship servicing, seafaring and related activities would provide a considerable boost to the economy and to the nation's balance-of-payments and national security positions.

INADEQUATE PORT FACILITIES

While shipbuilding can proceed apace with the growth of coal exports, a more immediate obstacle is the condition of domestic ports. Low-capacity berthing, loading and handling facilities cost bulk carriers thousands of dollars a day as they wait to be serviced. This drives up the price of U.S. coal delivered to foreign nations and impedes its competitiveness. Small U.S. ports cannot handle the larger and more economical "superbulkers" ranging upwards of 100,000 deadweight tons. Not knowing whether the situation will improve, foreign buyers have been wary to sign long-term contracts to purchase coal.

Several government actions could remedy this. The Army Corps of Engineers must be assured of adequate funding for maintaining and improving ports. Furthermore, port dredging and permit granting procedures must be streamlined. The present process involves numerous government agencies in time-consuming reviews that can discourage plans to increase depth capacities. As the private sector shows confidence in coordinated government actions, it will begin to expand and modernize port facilities.

INLAND TRANSPORTATION SYSTEM PROBLEMS

The system that transports coal from the mines to deep sea ports is equally critical to the success of coal exports. In many cases the congestion at deep sea ports results from late delivery because of inadequate land-based equipment, delays at loading or transshipment or congestion on the inland delivery routes themselves. These problems again add to the cost of the product abroad.

Currently export coal is hauled by train, barge or truck. Railroads carry most of the coal destined for export, yet hopper barges are far cheaper. But the use of barges is limited by the number of coal handling facilities along river systems. Increasingly shippers are attracted to intermodal arrangements—usually a combination of rail and barge—that handle the job at the lowest cost. If inland waterways could be used more intensively, overall costs would be reduced and U.S. coal would be more competitively priced abroad. However, this generates other problems.

As more coal and grain moves on it, the Mississippi-Ohio River system is becoming increasingly strained. So, too, are the coal handling facilities at the mouth of the Mississippi. Although the inland waterway system has more efficient transshipment and storage facilities than the East Coast deep sea ports, they are likely to experience congestion and delay as traffic picks up. Antiquated lock and dam systems add to the problem, creating delays as barges attempt to negotiate passage. This, along with inadequate channel maintenance in places, thwarts plans to build bigger, more cost-efficient barges.

With adequate funding assured, the Army Corps of Engineers could properly maintain and improve the inland waterway system. Projects such as the replacement construction underway at Lock and Dam 26 and the proposed reconstruction of the Gallipolis Lock and Dam of the Ohio River are essential to the efficiency of this system.

The government must also promote greater intermodal cooperation. Rail rates, for example, should be fair to shippers and to other transport systems.

BILATERAL AGREEMENTS NEEDED

One additional government action is required for the economy to realize the full benefits of coal exports. Bilateral agreements need to be negotiated with the United States' trading partners to assure them a long-term supply of U.S. coal and to assure the U.S.-flag maritime industry of an equitable share of the cargoes. Many other nations have already adopted such agreements, and the recently signed maritime accord with China serves as an American example. More such agreements would give to the maritime industry the confidence it needs to engage successfully in international coal trade.

The coal export trade offers a significant opportunity to articulate a cohesive international trade policy and to restate national security objectives. The U.S. merchant marine should play a major role in both areas, thus ensuring harmonious growth for the economy as a whole.●

TRIBUTE TO HON. GUNN McKAY

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. GIAIMO. Mr. Speaker, it has been an honor to serve these past 10 years with Hon. GUNN McKAY.

As his colleague on the Appropriations Committee, I have seen his dedication, his devotion to his State, and his concern for this country. GUNN chairs the Military Construction Subcommittee, which is an important though sometimes overlooked component of our national defense posture, and he serves on the Interior Subcommittee, whose activities are vital to Utah and our other Western States. He has tackled the issues before both subcommittees with an understanding of the problems and a keen sense of the proper course for dealing with them.

In addition to being an effective legislator, GUNN is deeply concerned about the need of the Democratic Party to remain in the mainstream of American politics. He therefore joined and for the past 4 years has headed the United Democrats of Congress. I worked closely with him in this effort to maintain an even keel in our party. He handled this assignment well and with the same ability that he showed in managing the military construction bill in the House.

Those of us who have known and worked closely with GUNN McKAY will miss him in the Congress.●

TRIBUTE TO CONGRESSMAN BILL ROYER

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. PASHAYAN. Mr. Speaker, it has been my great pleasure to be acquainted with my colleague, BILL ROYER, during the 96th Congress, and I realize how much all of us shall miss his contribution in this Chamber next year.

BILL's work on the Public Works and Transportation Committee, especially in the area of trucking deregulation, stands as one of the highlights of his tenure in the House. Such a contribution, combined with a rare sense of humor and affability, have marked a fine career that we shall always remember.

No matter what the future holds, I wish to extend my personal best wishes.●

TRIBUTE TO HON. JOHN MURPHY

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. ZEFERETTI. Mr. Speaker, it is an honor for me to join my colleagues in paying tribute to my good friend, JOHN MURPHY, who has served this House with distinction and dedication.

JOHN MURPHY has made a number of significant contributions to this Nation during his term of 18 years. Certainly high on the list is his outstanding service as chairman of the Merchant Marine and Fisheries Committee and the ad hoc Select Committee on the Outer Continental Shelf. He became a learned, effective, and eloquent spokesman on behalf of this Nation's maritime industry. He fought tirelessly to alert this country for a strong and effective American merchant marine fleet. His leadership was without parallel in the enactment into law of the Outer Continental Shelf Lands Act, a landmark bill to develop our offshore oil and gas resources. He did a magnificent job—often a lonely job—in offsetting the scare tactics used by some groups who wanted to kill this legislation and thus make us more dependent on foreign oil.

JOHN MURPHY's friendship was especially meaningful to me during the 4 years that I had the privilege of serving on the Merchant Marine Committee. JOHN went out of his way to share with me his expertise, his counsel, and his wisdom on issues vital to the Nation, the State, and the Port of New York.

Mr. Speaker, JOHN MURPHY's effectiveness in the House of Representatives will be a loss to all the people of New York.●

TRIBUTE TO HON. RICHARD ICHORD

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. McCLORY. Mr. Speaker, Missouri Democrats are known to be as partisan as any Democrats in the Nation. But notwithstanding that reputation, I rise before this House to say that I, along with many of my Republican colleagues, are sorry to see the departure of RICHARD ICHORD, a Missouri Democrat, born and bred.

RICHARD ICHORD has made a most valuable contribution to this Congress. For many years he was chairman of the old House Internal Security Committee, quite possibly one of the most controversial committees which has ever existed. He handled that arduous job with a proper appreciation of both the need to maintain internal security and the need to protect individual rights. In that post, as in every other he has held, he dealt with his critics fairly and courteously.

As a senior member of the Armed Services Committee in recent years, he has been a resolute and articulate voice in favor of an improved defense capability, based on a realistic appreciation of the military threat we face.

Now Richard Ichord, though still young, is retiring from Congress. We know that he will continue in public service, and we hope particularly that he will take the time at some point to reflect on his years in Congress and to offer suggestions about how the legislative process might be improved. Coming from a man of Richard Ichord's knowledge and experience, those reflections and recommendations would carry great weight with his colleagues.

My wife, Doris, and I treasure the friendships which we have established with Penny and Dick Ichord—and we wish for them both good health and much happiness.●

SAM DEVINE—CONSISTENCY PERSONIFIED

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. PICKLE. Mr. Speaker, if there ever was a consistent and dependable man, it is Sam Devine. From my first acquaintance with him on the Commerce Committee, I knew exactly what Sam would feel and how he would vote on an issue. He was as predictable as night and day, but that does not mean he was blinded in partisanship. Sam had definite feelings, and his positions were well thought out.

Sam was one of the most consistent men here, but that description also includes one of the best and most kindly Christian men that we know. Quite often, a man becomes so set in his ways that he forgets the "little man." But Sam believes the best way to help the little fellow is to get the little man to help himself. So the thoughts, dreams and needs of everybody were always on his mind.

Having watched Sam vote for nine terms, I have never known him to waiver in his support of the free enterprise system. While Sam might have led the opposition on many an issue, I never knew him to be unfair or petty. He was honest with his positions and considerate of other people's feelings.

We will all miss Sam's attention to detail and devotion to the principles of independence which made our country great.●

TRIBUTE TO HON. HERBERT HARRIS

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. GIAIMO. Mr. Speaker, Herbert Harris has been a dedicated and hardworking Member of Congress since 1975.

In this Congress, Herb Harris has served his district well on three committees: Judiciary, Post Office and Civil Service, and the District of Columbia. On the Judiciary Committee, he worked to revise and update the criminal justice system as well as to increase the efficiency of Federal courts. Herb Harris has been concerned about the use of consultants and overanxious yearend obligations by Federal agencies, matters that must be dealt with if Congress intends to limit Federal spending. He has always been a champion of the Federal worker and has sponsored legislation to strengthen the merit system and to protect employee rights.

Herb will be greatly missed in the 97th Congress. I wish Herb the best of luck, and I hope to see him back in public life in the near future.●

FURTHER CHANGES IN THE TRADE ACT OF 1974

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. SEIBERLING. Mr. Speaker, in May 1979 the House passed H.R. 1543, legislation to amend the Trade Act of 1974. H.R. 1543 would amend chapters 2, 3, and 5 of title II of the Trade Act of 1974, Public Law 93-618, for trade adjustment assistance to workers and firms in order to improve the operation of these programs. The bill would broaden the coverage of workers and firms who may become eligible for adjustment assistance benefits due to import competition, remove certain inequities in existing law with respect to such coverage, liberalize adjustment assistance benefits to workers and firms, contain provisions to accelerate the certification process and delivery of benefits, and introduce industrywide technical assistance and studies. Most significant, H.R. 1543 would broaden coverage to include independent companies manufacturing key parts for import-impacted firms. Unfortunately, H.R. 1543 has been stalled in the Senate since December 1979. It now appears highly unlikely that the Senate will pass the bill before the 96th Congress adjourns.

With a view toward laying a broader base for future legislation, I am today introducing legislation to make further changes in the Trade Act of 1974. My bill is the text of H.R. 1543 as passed by the House, with several key amendments. These amendments are as follows:

New section 103(b) which would make eligible for trade adjustment benefits workers who have lost their jobs because their parent firm shuts down a U.S. plant and opens a foreign one producing essentially similar products.

New section 103(c) which would extend trade adjustment benefits to employees of independent auto dealers. In the event that an independent auto dealer sells both domestic and foreign cars, the employees of the dealership could be certified if not less than 75 percent of the annual sales of the dealership are domestic cars.

New section 106(b) which would permit authorized sick leave and absence from work due to work-related injury to be counted toward the work requirement in the eligibility year. This section would also require the Secretary of Labor to reconsider applications by workers who were previously denied certification because they failed to meet the work requirement due to illness or injury in the qualifying year. This section is essentially the language in my bill, H.R. 8164, introduced earlier this year.

Each of these new sections redresses what are, in my view, serious inequities in the current law governing trade adjustment assistance. Section 103(b) would make eligible, for the first time, workers who lose their jobs because their employers decide to take advantage of cheaper labor in other countries. It seems to me that these workers are displaced by actions of multinational corporations and should be eligible for retraining under the provisions of the Trade Act of 1974.

Section 103(c) would remedy an inconsistency in the current law. In general, employees of auto dealerships are ineligible for trade adjustment benefits. However, the Department of Labor has granted TRA certification to employees of dealerships which are wholly or mostly owned by the major auto companies. Members of Congress are left in the unfortunate position of trying to explain to employees of independent auto dealers why they are ineligible for TRA, while the employees of a dealership down the street have been certified because their dealership is owned by one of the major auto companies. This inequity is a slap in the face to employees of independent auto dealers and should not be allowed to continue.

Section 106(b) would rectify one of the most unfortunate inconsistencies in the current law governing TRA. Under current law, an employee of an import-impacted firm must work at least 26 of the 52 weeks immediately preceding layoff in order to qualify for adjustment assistance benefits. The law does not permit authorized sick leave to be counted toward the work requirement. In my own congressional district, I have a constituent who worked for one of the tire companies for more than 20 years before being laid off due to import penetration. Because my constituent had the misfortune to be injured on the job in his qualifying year, he was unable to work enough to meet the 26-week work requirement and was thus ruled ineligible for TRA. Other workers in the same plant, with less than one-seventh the length of employment as my constituent, were able to collect TRA benefits. I have heard from others all over the country in similar predicaments.

I recognize that it is unlikely the House will take action on my bill before the end of the 96th Congress. I am hopeful that the introduction of this legislation will serve to bring these inequities to the attention of my colleagues in the House, and that this will lead to expeditious consideration of this legislation in the 97th Congress. A section-by-section analysis of the bill follows:

SECTION-BY-SECTION ANALYSIS OF LEGISLATION INTRODUCED BY CONGRESSMAN SEIBERLING TO AMEND THE TRADE ACT OF 1974

Section 101 does not amend the Trade Act of 1974. It requires the Secretary to reconsider promptly certain petitions for certification filed between October 3, 1974 and November 1, 1977 if these petitions were rejected because the petitioners failed to meet certain eligibility criteria. Section 101 also permits workers who did not file petitions between April 2, 1975, and November 1, 1977 to file following the date of enactment of the bill.

These provisions are necessary because there is substantial evidence that the Department of Labor inadequately publicized the TRA filing limits.

Section 102 permits the Secretary of Labor to file petitions for certification on behalf of any group of workers. This provides an additional method of filing.

Section 103(a) amends current eligibility criteria for TRA by permitting certification when workers have become separated from their jobs, or are threatened to become totally or partially separated. This section also makes eligible workers in independent firms or subdivisions supplying essential parts or services to be certified when the firm to which the parts or services are provided is certified as import-impacted. These are key changes in current law, which restricts certification to subsidiaries of the import-impacted firm (thus excluding independent suppliers).

Section 103(b) extends eligibility for TRA to workers who have lost their jobs because the parent corporation shuts down a U.S. plant and opens a foreign one which manufactures essentially similar products. The Secretary of Labor would be required to determine whether the closing of a U.S. plant is directly related to the opening of a foreign subsidiary plant.

Section 103(c) extends TRA benefits to employees of independent auto dealers. In the event that an independent auto dealer sells both foreign and domestic cars, the employees of the dealership shall be certified if domestic sales of the dealership accounted for not less than 75% of total sales.

Section 104 requires the Secretary of Labor to cooperate with the Secretary of Commerce in providing information relative to petitions for certification for TRA eligibility. The Section also prohibits the issuance of any TRA payments to workers certified under the provisions permitting certification when there is a threat of a decline in sales as provided for in Section 103 until the decline in sales has actually taken place.

Section 105 requires the Secretary of Labor to provide whatever assistance is necessary to workers preparing petitions for certification for TRA.

Section 106(a) makes three changes in the qualification for TRA. Current law requires a worker to have at least 26 weeks of work in adversely affected employment in the 52 weeks immediately preceding layoff. That work must be with a single firm or subdivision of the firm. 106(a) makes a worker eligible with 26 of 52 weeks of employment or 40 of 104 weeks preceding layoff. The single firm or subdivision requirement is eliminated. However, to be counted toward the work requirement, each week of employment must have been with firms eligible for TRA (i.e. import-impacted).

Section 106(b) permits sick leave and absence from work due to work-related injury to be counted toward the work requirement in the eligibility year for qualifying for adjustment assistance benefits. This section also requires the Secretary of Labor to reconsider applications for certification for TRA from workers who were previously denied eligibility because they failed to meet the work requirement due to illness or injury in the qualifying year.

Section 107 amends the time limit on trade readjustment allowances to extend the maximum benefit period for a worker in an approved retraining program from 26 weeks to 52 weeks beyond the basic 52 week period. Thus, the maximum total benefit period for trainees would be extended from 78 to 104 weeks.

Section 108 provides for the establishment of a variety of experimental and demonstration projects to improve techniques for retraining workers.

Section 109 increases the job search allowance from a maximum of $500 to a maximum of $600.

Section 110 increases the maximum relocation allowance from $500 to $600, and makes more flexible the current time limits on when a worker may receive a relocation allowance.

Section 111 amends certain definitions in the Trade Act of 1974. Essentially, the change in definition makes eligible for TRA a worker in non-adversely affected employment who is "bumped" from his job by a more senior worker who transfers from adversely affected employment to the "bumpees" job.

Section 201 makes changes in the eligibility criteria for firms seeking adjustment assistance, and permits TRA to be given to a supplying firm meeting certain specific criteria.

Section 202 amends the criteria by which the Secretary of Commerce provides technical assistance to firms in preparation for economic adjustment in response to import penetration.

Section 203 amends the manner in which the Secretary of Commerce may make loans to import-impacted firms.

Section 204 amends current law with regard to the conditions for financial assistance to firms (essentially dealing with interest rates on direct loans).

Section 205 expands the requirement of the Secretary of Commerce to provide full information to firms about firm adjustment assistance.

Section 301 establishes the Commerce-Labor Adjustment Action Committee to facilitate the coordination adjustment assistance programs.

Section 302 adds provisions to the Trade Act of 1974 to authorize grants for industrywide technical assistance and studies. The Secretary of Labor is authorized to make grants up to $2 million annually for the development and evaluation of programs designed to improve worker adjustment assistance. The Secretary of Commerce is authorized to make grants of up to $2 million for the development and evaluation of programs designed to improve economic efficiency.

Section 303 establishes the effective date of the bill as October 1, 1979. In order to provide the Department of Labor with sufficient time to promulgate regulations, certain sections of the bill would not become effective until 60 days after enactment, but the bill would still apply to workers separated from employment on or after the effective date of the bill.●

TRIBUTE TO HON. LESTER L. WOLFF

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. ZEFERETTI. Mr. Speaker, LESTER WOLFF, first elected to Congress in 1964, quickly established himself as a spokesman on foreign affairs. In his capacity as chairman of the Subcommittee on Asian and Pacific Affairs, LESTER has become recognized for his expertise on the Far East, an area of the world that is having a significant impact on American foreign policy. His leadership has eased the opening of relations with China, a nation long ignored that may prove to be a vital force in the coming decade.

Congressman WOLFF has also impressed me with his indepth knowledge of the turmoil in Northern Ireland. His concern for the violations of civil and human rights against the minority there is unflagging, and his assistance has proven quite helpful to me and the other members of the ad hoc congressional Committee for Irish Affairs, on which executive committee we both serve.

I have also had the privilege of serving with LESTER as a member of the Select Committee on Narcotics Abuse and Control. His dedication to stemming the flow of drugs in this country as chairman of that committee goes unquestioned. I am confident that investigations conducted by the committee and the recommendations we have made thus far will prove instrumental in our war against drug traffic.

During my years in Congress, LESTER WOLFF has been both a knowledgeable teacher and a valued friend. I feel certain of his continued success in future endeavors, but his friendship and leadership in the House of Representatives will be sorely missed.●

TRIBUTE TO HON. RICHARD ICHORD

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. O'NEILL. Mr. Speaker, I join my colleagues in paying tribute to Hon. Richard Ichord, on the occasion of his retirement from the U.S. House of Representatives.

Richard Ichord has served his constituents and the Nation with excellence and sincere dedication. For two decades he has represented the interests and concerns of the Eighth District of Missouri with competence, compassion, and sensitivity.

We are grateful for his many contributions to the deliberations of this Chamber, and we wish Richard Ichord well in the years ahead.●

TRIBUTE TO CHARLIE VANIK

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 2, 1980

● Mr. GIAIMO. Mr. Speaker, Hon. Charles Vanik has been a great Congressman. That adjective often is overused, but in speaking of Charlie Vanik it is appropriate.

Charlie Vanik is a shrewd politician, principled individual, effective legislator, able orator, and sharp wit. He is all of these and much more. Charlie always has been concerned about the well-being of his constituents; he would not have served here for 26 years if he had not been so caring.

But, Charlie also has been able to grasp and master difficult legislative subjects. During his years on the Ways and Means Committee, he worked actively and effectively on tax reform, trade reform, and energy legislation. His legislative accomplishments are legion.

Charlie Vanik not only has deep-seated convictions, he also acts on them. Time and again he has taken the well to call to our attention the shortcomings of this argument or that legislation. That his remarks might not have been popular never influenced Charlie's comments. He always has remained true to his convictions and to the causes in which he believes.

I regret that Charlie Vanik's leadership will be absent next year. The House and the Nation will be poorer because of his absence.●

TRIBUTE TO HON. JOHN RHODES

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. COLLINS of Texas. Mr. Speaker, I join with my colleagues in adding my thanks and appreciation for the excellent leadership that John Rhodes has given us. As our Republican leader in the House for the past 7 years, he has been a constructive influence in helping maintain balance.

John led the Republicans when we were outnumbered 2 to 1 in Congress. Against topheavy odds, he has made our position clear and has been forceful in seeing the Republican view balance out the liberal legislative program. Under John's leadership, we have seen the Republicans fight back and make tremendous gains as we built back up to our present challenging position.

From the first day he came to Congress, John was always a great help to me as a young Congressman. He worked with me in the district. He worked with me in committee. He worked with me on the floor. We had a leader in John Rhodes who was interested in each and every one of our Members.

John has a wonderful wife in Betty. Her delightful smile and her enthusiastic upbeat personality has provided inspiring momentum for all of us on our side of the aisle.

We are glad John is staying on to keep his active leadership and his depth of experience in the middle of our exciting 97th Congress. We all want to see him in the Rules Committee as this will be a hard fight for Republicans since the Democrats have already announced that they plan to stack the committee. When we are outnumbered, we will just have to fight twice as hard. And fighting hard is something in which John has a lot of experience.●

CUSTOMS INSPECTORS AND DEATH BENEFITS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. KILDEE. Mr. Speaker, I would like to take this opportunity to point out that there is considerable justification for including customs inspectors under the provisions of H.R. 5888, the Federal Law Enforcement Officers and Firefighters Death Benefits Act of 1980.

Recently, I have become aware of the enormous hazards involved in inspectional work at our Nation's borders and of the extent to which customs inspectors are actively engaged in the enforcement of criminal statutes. The interrogation and apprehension of known and suspected criminals results in over 7,000 arrests by customs inspectors every year. Moreover, these encounters with armed and dangerous persons have led to the untimely death of 45 customs inspectors since 1900 and over 100 cases of assault since 1974.

The number of instances in which customs inspectors are exposed to the danger inherent in the apprehension of fugitives, criminals, and narcotics smugglers has increased with the introduction of a computerized system called the Treasury enforcement communications system (TECS). This network of computer terminals gives customs inspectors instant access to information on persons suspected of smuggling and other violations of Federal and State law. The computer linkup with other crime information systems provides additional access to the records of approximately 2 million known criminals.

When such an individual's identity has been established after an on-the-spot query of the system, the inspector must attempt to arrest or apprehend and detain him so that appropriate law enforcement action may be taken. In 1978, customs inspectors were responsible for almost 6.5 percent of all arrests made through the FBI's National Crime Information Center—more than any other single law enforcement entity in the country.

I believe that these facts form a compelling argument for considering customs inspectors as law enforcement officers for the purposes of this bill. In an answer to a question during floor consideration of H.R. 5888 which concerned the applicability of this benefit to customs agents, it was my understanding that the use of the generic term "customs agents" included customs inspectors. As the sponsor of this bill, it was my firm intention to include the families of customs inspectors among the beneficiaries of the $50,000 death benefit provided to survivors of Federal law enforcement officers and firefighters who die as a result of injuries sustained in the line of duty.●

TRIBUTE TO HON. JEROME AMBRO

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. GIAIMO. Mr. Speaker, I regret that the Honorable Jerome Ambro will not be a Member of the 97th Congress.

For the past 6 years, Jerry Ambro has been a dedicated and effective Member of Congress. Through his positions on the Public Works Committee and as chairman of the Subcommittee on Natural Resources and the

Environment of the Science and Technology Committee, Jerry has been an effective legislator and a strong advocate of environmental protection. He also has persistently and eagerly worked for the best interest of his constituents.

As a fellow Congressman, I have come to know and admire Jerry Ambro. I do not know what he plans to do in the future, but I am certain that he will be successful.●

TRIBUTE TO HON. DAVE SATTERFIELD

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 13, 1980

● Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues in paying tribute to Hon. Dave Satterfield of Virginia on the occasion of his retirement.

Dave has represented the people of Virginia with dedication and purpose, always placing first their interests and concerns. While his legislative accomplishments have been numerous, he is best recognized for his dedication to the needs and concerns of the aging veteran. A distinguished veteran in his own right—Dave Satterfield won the Purple Heart during World War II—consistently used his position as chairman of the Veterans' Subcommittee on Medical Facilities and Benefits to secure adequate funding for the Nation's VA health care system. In Dave Satterfield's retirement at the end of the 96th Congress, the veterans of this country are losing one of their stalwart supporters in the House.

Dave Satterfield has been a high-quality Member of the House. He is a man of great integrity, principle, and honor, and I am grateful for the opportunity to have worked with him when he served as a member of the Democratic whip organization. In saying farewell to Dave, I extend my sincere best wishes in all his future endeavors.●

TRIBUTE TO HON. GUNN McKAY

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. ICHORD. Mr. Speaker, I wish to salute the senior member of Utah's congressional delegation, the distinguished representative from the First Congressional District, Mr. McKay.

Mr. Speaker, as chairman of the Military Construction Appropriations Subcommittee, Gunn McKay exercised extensive power and responsibility in this House. He did so with courage and objectivity. He has been steadfast in his concern for the national defense, no more so than in his support for the controversial MX missile, a position from which he could derive no political gain and, indeed, from which he suffered considerable political risk.

As is ever the case in history, political profiles in courage are usually rare. I believe Gunn McKay is one of those. For his 10 years of service to his State and the Nation, we all owe him much. His work for Utah's citizens did not begin here in this House. He has taught school, operated a small business, and served in the Utah State Legislature. I know that as he now leaves the Congress he will not abandon his dedication to public service. Whatever he chooses to do in the future, I am certain it will be of value and benefit to our country. The House of Representatives will miss Gunn McKay.●

TRIBUTE TO JIM LLOYD

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. GIAIMO. Mr. Speaker, I wish to pay tribute to Congressman James F. Lloyd of California, a Member who has served his constituency and the Nation with great honor during the past 6 years in the House of Representatives.

Although I have never had the privilege of serving with him on the House Armed Services Committee, his reputation as an expert and dedicated committeeman soon established Jim among his colleagues as a valuable addition to this important committee. When I learned that he had tested military aircraft being considered for funding, I knew that in Jim the Congress had a dedicated and fearless colleague. My personal contact with Jim during sessions on the floor and at the many conferences and meetings we must all attend convinced me that Jim Lloyd was a person of substance and an effective spokesman for a strong national defense posture.

He leaves the House of Representatives with my best wishes for the future and deserves a well done for his fine congressional service to his constituents, to California, and to the Nation.●

IMMEDIATE DEREGULATION OF NATURAL GAS PRICES?

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. PORTER. Mr. Speaker, advocates of natural gas price decontrol stress that freeing up prices will likely result in increased exploration for natural gas to assure a long-term supply. What will also occur is important: The free market price mechanism will discipline its use and encourage conservation. In this regard, I would bring to Members' attention the following New York Times editorial of December 9, 1980, urging a prompt decontrol of natural gas:

DECONTROL GAS NOW

Remember Al Capp's mythical "schmoo," the cartoon animal that tasted like chicken when fried, like steak when broiled, and produced eggs and milk besides? Well, natural gas is the schmoo of fuels, and that's no myth. It's cleaner than coal, more dependable than imported oil, less risky than nuclear power. And some energy analysts say we can have as much as we want if only we abandon the complex regulations governing its sale and use.

In one sense, they're wrong. Proven domestic gas reserves fell by a third during the 70's and this decline may prove irreversible. So there is good reason to retain regulations that hold back demand. But in another sense, advocates of deregulation may be right. A strong case can be made for accelerating the pace of price decontrol, now scheduled for 1985.

In the wake of the natural gas shortages of the 70's, Congress passed the Fuel Use Act to restrict industrial use of gas and protect supplies for residential use. But one effect of the gas restriction is to encourage some industries—like oil refineries—to burn more oil. According to an Energy Department study, that may raise oil imports by as much as 10 percent in 1990. If domestic gas is available, why stick with a law that increases dependence on foreign oil?

The answer is, no one really knows whether adequate gas supplies will be around later on. Thanks to changes in regulation, the quantity of gas for sale now exceeds demand. But this "gas bubble" may be temporary. Though 1979 was the best year for gas finds in a decade, consumption still exceeded additions to reserves. And predictions that the country will soon turn the corner are only educated guesses.

By the same token, though, there is good reason to look again at natural gas price controls. In 1978, after a long and bitter fight, Congress eliminated price controls on gas from some high-cost sources, and set a timetable for eliminating controls on the rest. That means the prospect of higher profit, which unquestionably explains the current rush to drill for gas. But industry executives argue that if decontrol were accelerated, still more gas would be found, sooner.

They could be right. The 1978 law created a dozen categories of gas, each with its own price lid, encouraging the hunt for lawyers as much as the hunt for fuel. But all this leaves the essential question unanswered: How much more gas could society expect in return for how much more profit to producers? Why should society pay them certain fortunes in incentives by faster decontrol and risk pushing up inflation when the amount of gas yielded is so uncertain?

There is no easy way to strike a balance. But other considerations tip the scales toward immediate deregulation of new gas.

Since the explosion of oil prices following the Iranian revolution, gas at controlled prices has become an incredible bargain. The regulations keep gas prices at half the equivalent of the world price of oil, thus discouraging conservation.

The price gap between oil and gas creates a political problem as well. Congress intended to ease the pain of crossing this gap by phasing out controls gradually. But world energy prices are going up much faster than the price lid on gas. So the prospect is that consumers will still be rudely shocked in 1985, when all gas discovered since 1977 is decontrolled. What would Congress do then? Rather than allow the transfer of an estimated extra $30 billion from consumers to gas producers in that single year, it may be tempted to reassert price controls.

From this perspective, immediate decontrol of new gas is really a compromise. It provides market incentives to look for new gas. But because the amount of gas decontrolled in any one year would be small, price rises for consumers would be gradual.

With luck, decontrol will mean enough gas to see us comfortably through the century. Without luck, decontrol will be a prudent way to discipline its use for the best purposes. Either way, the virtues of dismantling price controls are clear.●

TRIBUTE TO HON. JOHN RHODES

HON. JON HINSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. HINSON. Mr. Speaker, I would like to join with my colleagues in paying tribute to our distinguished minority leader, JOHN RHODES.

My perspective is somewhat different from my fellow freshmen. As a staff member, then administrative assistant to a Republican Congressman, and for the past 2 years as a freshman Congressman, I have had the opportunity to observe Mr. RHODES as he has patiently and diligently led the minority party in the House. His efforts helped set the stage for the outpouring of renewed faith in American conservatism that has given the Republican Party the White House, the Senate, and a growing minority in the House. Those responsible for preparation and groundwork are those whose work is often the most difficult and thankless. This is the job Mr. RHODES has done, and done well.

I am thankful that we will continue to be able to draw on Mr. RHODES' wisdom and strength in the months and years ahead as we grapple with the economic and international difficulties that face us.●

TRIBUTE TO HON. JOHN BUCHANAN

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. COUGHLIN. Mr. Speaker, it is with mixed emotions that I join my colleagues in paying tribute to Hon. JOHN BUCHANAN who will be leaving the House of Representatives after 16 distinguished and effective years of service. I am honored to be able to commend the gentleman from Alabama, but saddened that his is an involuntary departure. If ever a man stood by his principles and his convictions, it is JOHN BUCHANAN. The truth, as we all know it to be, is that the Nation, this House, and his constituents are the losers. Alabama's Sixth Congressional District, in particular, is poorer for the loss.

In his unstinting service in the Congress, JOHN has distinguished himself as a dedicated public servant, whose concern for the overall welfare of our Nation and the enrichment of individual rights are unsurpassed. JOHN's career in the House has been characterized by his courageous stands on issues such as civil rights, foreign affairs, education, and separation of church and State. While some of his positions on such issues have been considered controversial, JOHN has remained dedicated to those principles in which he believes and to the duties of his office. His integrity and excellence as a legislator have won him wide respect.

I am disappointed that JOHN will not be returning to these Chambers next year; however, I feel fortunate to have had the opportunity to serve with JOHN. It is with deep respect and admiration that I bid JOHN the best of luck in all his future endeavors.●

TRIBUTE TO WILLIAM HARSHA

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. GIAIMO. Mr. Speaker, I am pleased and honored to have this opportunity to add my remarks to our many colleagues who have expressed their words of tribute to a great American, Congressman WILLIAM H. HARSHA of Ohio.

I am proud to say that I have been associated with BILL as a colleague for the past 20 years, and that he has earned my complete respect as a dedicated, able, and honorable servant of the people of the Sixth Ohio Congressional District of the great State of Ohio and of the Nation.

As the ranking minority member on the House Public Works and Transportation Committee for the past 10 years, BILL has contributed much toward increasing highway traffic safety and toward better water quality. In recognition of these efforts, he has received many awards. I cite just one, the First International Road Safety Award in London for life-saving efforts in the field of highway safety in 1972. I might say, moreover, that he was appointed by the Speaker of the House to the National Commission on Water Quality in that same year.

The House will miss BILL, but the results of his labor have contributed and will continue to contribute to a better life in America. I wish BILL the best as he turns his ample talents to other pursuits.●

HUMAN RIGHTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. BONKER. Mr. Speaker, voices abound in the land decrying the President's human rights policy. Critics charge that the policy is pollyannaish, ineffective, and not balanced. When we ask what is their alternative, the response is either a resounding silence or we are answered with some vague generalities.

America is not naive because it stands up for freedom and democracy. As former Secretary of State Cyrus Vance said in a law day speech:

> We see these goals because they are right, and because we too will benefit. Our own well-being, and even our security are enhanced in a world that shares common freedoms and in which prosperity and economic justice create the conditions for peace. And let us remember, we always risk paying a serious price when we become identified with repression.

It is often said thay you can measure a nation's greatness by its humanity.

Let us ask the former political prisoners who now live in freedom if our human rights policy is naive.

Let us ask the dissidents in Communist-dominated areas and the Soviet Union if our human rights policy lacks balance.

Let us ask all the political prisoners whose conditions have improved if our human rights policy is ineffective.

Let us ask Amnesty International and Adolfo Perez Esquivel of Argentina who have won the Nobel Peace Prize for their work on behalf of human rights if our policy is pollyannaish.

Let us ask the millions who have fled tyranny if our human rights policy should be abandoned.

Finally, let us ask former Foreign Minister and Senator Benigno Aquino of the Philippines what he thinks of our human rights policy? After having spent many years in President Marcos' prison, Aquino now resides in the United States. Speaking before the Asian Society in Washington, D.C., Aquino said recently:

> I am sure tens of thousands of political prisoners all over the world from the cold wastelands of Siberia to the jungles of Indonesia were inspired by President Carter's policy * * * I am one of those political prisoners.

I commend to the attention of my distinguished colleagues the following excerpts from Mr. Aquino's speech:

EXCERPTS FROM MR. AQUINO'S SPEECH

Since my release from prison, I have often been asked: How were you able to keep your sanity during your seven years and eight months in solitary confinement? What was your secret for survival?

In all humility, I think it was my faith in God and in His ultimate justice that sustained me through those years of loneliness and solitude.

Solitary confinement is the surest way to force you to look inwardly and question your very existence. you are forced to do battle with your innerself. You cannot help but examine your conscience, your beliefs, your convictions and your basic principles. In the end, solitary confinement becomes a spiritual retreat.

From the time I can remember, I have been told that God is Just and that man is God's greatest creation, made to His image and likeness and ordained to rule over His whole Kingdom.

I have been told that man is God's child, God's co-worker on earth and God's heir in the everlasting life. Man predates the State, therefore he has natural rights prior and superior to the State. The State must recognize these rights and lay down the rules for their exercise; but "it can never deny them as such because it is not the one who confers them".

If you accept these premises, necessarily, anyone who violates human rights is against the teachings of the Almighty.

I must confess, my faith in a Just God wavered during the early days of my solitary confinement. I asked: If a violator of human rights is anti-God, why are dictators not immediately punished? I was assailed by the questions asked by many during the holocaust: Did God hear the cries of innocent children in Dachau and Buchenwald? Where was God when millions were being gassed in Auschwitz? Why does God create people in the Sahara and in Bangladesh only to let them starve?

Our own national hereo, Dr. Jose Rizal, during his lonely exile in Dapitan, in northern Mindanao questioned Divine justice in his letter to his Jesuit mentor. He asked why God allowed Spanish colonizers to exploit and plunder his people whose only ambition is to be allowed to live in peace?

I had to re-read the Book of Job to re-enforce my wavering faith and to realize that God follows His own time-table and renders His Judgment in His own season. I had to grasp the true meaning and the necessity of hope. In faith, I discovered hope, and with hope I survived!

Today, it is my unshakeable faith that justice will ultimately triumph and every man will be made to account for his deeds. It is this same faith that assures me that soon, very soon, the Filipino will regain the freedoms stolen from him by a leader who betrayed his trust!

Eight years ago, when martial law was declared in the Philippines, the first organization to endorse it was the local American Chamber of Commerce. This gave rise to the suspicion that the U.S. Government tacitly approved the imposition of martial rule and the establishment of a dictatorship.

Rather than condemn the one-man rule in 1973, leading U.S.-backed financial institutions extended generous loans amounting to almost $1 billion to the Phillippines and the U.S. Government doubled its economic and military aid.

The Nixon administration never raised even a faint objection to the demise of Philippine democracy. The Ford administration that followed it, even offered, thru the then U.S. Secretary of State, Henry Kissinger, a $1 billion military aid package for the use of Philippine air and naval bases.

During those bleak years that tried our patience, many of my countrymen despaired and accommodated with the dictatorship.

Then came 1976.

A relatively unknown politician from Georgia introduced the concept of human rights in the campaign and, shortly after he was catapulted to the Oval Office, he made the issue of human rights one of the solid planks of his administration.

In his inaugural address that raised so much hope in the nations under repressive rule, President Carter said: "Because we are free, we cannot be indifferent to the fate of freedom elsewhere."

Two weeks later, in his maiden address to the Organization of American States, he said: "You will find this country * * * eager to stand beside those nations which respect human rights and which promote democratic ideals."

I am sure, tens of thousands of political prisoners all over the world from the cold wastelands of Siberia to the jungles of Indonesia were inspired by President Carter's policy announcement. I am one of those political prisoners.

To many of us in prison, President Carter's human rights advocacy became a source of hope. Once again, America had reasserted her moral leadership in a world adrift in the turbulent sea of realpolitik and pragmatism.

And this firm commitment has been renewed by President Carter in his speech accepting this year's Democratic presidential nomination. He said: "If the world is to have a future of freedom, American must continue to defend human rights. * * * I tell you that as long as I am President, we will hold high the banner of human rights and you can depend on it."

To most of the people in the third world there are only two major superpowers and their main difference lies in their adherence to the eternal moral verities. One is supposedly moral, hence, democratic and the other is amoral, and totalitarian.

But during the turbulent Sixties and Seventies, particulary during the Nixon-Kissinger years, that distinction became blurred. America drifted into the morass of pragmatism, embracing dictators so long as they were America's dictators.

America willingly adopted the "flawed and erroneous principles and tactics" of her adversaries, sometimes abandoning her values for theirs. As a result, by the mid-seventies, America found herself in a profound moral crisis.

In reasserting America's moral leadership, President Carter posited: "In ancestry, religion, color, place of origin, and cultural background, we Americans are as diverse a nation as the world has eve seen. No common mystique of blood or soil unites us. What draws us together, perhaps more than anything else, is a belief in human freedom."

And having posited himself thus, President Carter announced to the entire world: "Our policy must reflect * * * that dignity and freedom are fundamental spiritual requirements."

These pronouncements of President Carter were smuggled to us political prisoners in the Philippines. I understand the same thing happened in the detention centers of Indonesia and South Korea.

Shortly after President Carter assumed his presidency, we were visited by U.S. Congressional delegations and officials of the U.S. Department for Human Rights. So forceful was the U.S. representative, Miss Patricia Derian, in her crusade for human rights that soon after her visit, prison conditions in my country improved * * *

Since 1972, there have been more than 300 documented cases of disappearance of detainees. These people cannot be accounted for. They were arrested in the middle of the night, but their names have never been logged in the various detention centers. Many were brought to safe houses for interrogation and were later "wasted".

The International Commission of Jurists and Amnesty International have investigated hundreds of cases involving torture, cruel, inhuman and degrading treatment or punishment. Cases of women's prisoners raped have been amply documented. The use of water cure, electric shock and truth serums have all been sworn to. And these are not isolated cases.

Under martial rule, honest dissent is synonymous to subversion and the champions of human rights have become the hunted enemies of the state "while those who have subverted the democratic process have become the hunters and the rulers," according to one recent report.

In a manifesto entitled "A National Concord for Freedom" now being circulated in the Philippines, the signatories, which include all the leaders of the democratic opposition, charged that "Never in our history have so many Filipinos been arbitrarily arrested, detained and tortured—many of them vanishing without trace—than during this era of martial rule."

When martial rule was declared eight years ago, Mr. Marcos suspended the freedom of the press, the freedom of assembly, the freedom of students to form their own student governments and publish their own newspapers, the freedom to travel and worse, the freedom to freely choose the governors in a clean, orderly and honest election.

Today, the Philippine media is not only controlled, it is owned by presidential relatives and cronies. It has become the one great propaganda mouthpiece of the dictatorship. All publications must secure permit from a Print Media Council and all radio and TV stations are subject to the control and supervision of the Kapisanan ng mga Broadcasters ng Pilipinas (KBP), Philippine Broadcasters Council.

During the last eight years, the government has held several plebiscites, referenda and "elections". But all these exercises were marked by fraud, perpetuated by the very office designed to preserve the sanctity of the ballot.

Whenever we raise our voice in dissent, our dictator's knee-jerk reaction is to accuse us of being power-hungry, ambitious, and worse, subversives simply because we exercise our rights and duty to analyze the present, make projections for the future, and look for juridically organized channels in which to guide the destiny of our country in accordance with our legitimate convictions.

We agree with our Church leaders that the social order "must be founded on truth, built on justice, and animated by love; in freedom it should grow every day towards a more humane balance."

All we ask our Dictator is to give us back the freedoms he snatched from us on that night of September 23, 1972.

All we want is the restoration of our freedom of the press, freedom to strike, freedom to peaceably assemble, freedom to elect our officials in an honest, clean and orderly elections. And surely, this is not asking too much.

We have pleaded for a peaceful transition to political normalcy. We have waited for eight long and terrible years for our freedoms to be restored. We have sounded the alarm that the more radical elements in our society are now ready and prepared to engage in massive urban guerrilla warfare to bring the repressive regime to its knees if all peaceful pleas are ignored. It is our plea and our prayer, that God will spare us from a terrible disaster where all will surely suffer.

In the name of the tens of thousands of political prisoners still behind barbed wires, I ask: Will America continue her advocacy of human rights or will she drift back to realpolitik and crass pragnatism?

Can American remain as the great moral leader of the world and yet tolerate the immorality of repression especially among nations dependent on her economic assistance and military protection?

Can America, a nation dedicated to the ideals of liberty and freedom, abet dictatorships without doing violence to her national soul?●

TRIBUTE TO JOHN RHODES

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. FORSYTHE. Mr. Speaker, I would like to join with my colleagues in praising John Rhodes who has served so ably as our minority leader for the past 6 years.

During that time I have been impressed with his diligent hard work in behalf of his district, party, and Nation. I will always be grateful to John for the many kindnesses and wise advice he has given me from the time I first came to Congress.

John has always exemplified my idea of what a public official should be: dedicated, loyal, honest, and unselfish. In addition, he is a skilled legislator, debator, and parliamentarian. As a leader, he is patient and fair. His services to the Republican Party during his tenure as minority leader typify his leadership skills. John's efforts to increase our representation in public office have been unswerving, as were his effort to offer substantive alternatives to the solutions to problems put forward by the Democratic majority. His success was evident in the results shown last month at the polls. Add to these qualities his compassion and courage and the result is a man who is a leader among great men and women.

John has voluntarily chosen to relinguish his party leadership position for the next Congress, but I am comforted to know that he will still be among us dispensing his wisdom and counsel. Our Nation is richer for having the benefit of his service.●

TRIBUTE TO HON. JIM HANLEY

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. GIAIMO. Mr. Speaker, Hon. James J. Hanley joins me in self-imposed retirement at the end of this year. For the sake of the country, I wish that he had not made that decision.

For the past 16 years, Jim Hanley has exhibited the responsibility and commitment that makes an effective Congressman. A personable man, Jim always was able to cut through the morass of conflicting views to get down to the basics.

Chairing the Post Office and Civil Service Committee has not been an easy job, but Jim handled it capably. The same can be said about his work on the Banking, Finance and Urban Affairs Committee and the Small Business Committee.

In addition to his working to meet the needs of the Nation, Jim also has shown a sincere concern about his party. In recent years, I have worked closely with Jim in trying to keep our party from losing touch with the American people. In these efforts, his help was invaluable.

As Jim returns to his home in beautiful upstate New York, I hope he realizes how much he will be missed.●

TRIBUTE TO HON. JOE WYATT

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. O'NEILL. Mr. Speaker, I join my colleagues in paying tribute to Hon. Joe Wyatt of Texas on the occasion of his departure at the end of the 96th Congress.

Though Joe has served only one term in the House, he has represented his constituents with dedication and hard work. He has been a conscientious Member and has always placed first the interests of the 14th District of Texas. Joe distinguished himself in the Texas State Legislature before he came to the House of Representatives where he was voted "Outstanding Young Man of the Year."

I extend best wishes to Joe in all his future endeavors.●

THE DAY OF THE GUN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. DRINAN. Mr. Speaker, how long will the Congress and the country refuse to enact sensible gun control legislation?

After the deaths of Robert Kennedy and Martin Luther King, Jr., 12 years ago, the Congress enacted a law which has some deterrent effect. But clearly, it is insufficient since in 1979, 10,728 Americans were murdered with handguns.

The assassinations of Dr. Halberstam and Mr. John Lennon should serve as incentives for the enactment of a Federal handgun control law.

An editorial in the Washington Star for December 11, 1980, puts it well: "* * * people who use guns for recreation will awaken to the realization that the real enemies of their sport are not the friends of effective handgun control, but those who purport to speak for a continuing form of frontier anarchy * * *."

The entire editorial follows:

THE DAY OF THE GUN

According to Handgun Control, Inc., 10,728 Americans were murdered with handguns in 1979. But numbers alone have no power to agitate us. Only the names and faces of friends, or admired public figures, cold-bloodedly killed in their homes or in the streets can do that. And that is one of the few redeeming benefits of the deaths of Dr. Michael Halberstam in this city, and of John Lennon in New York. They arouse the sleeping wrath of those of us who find no sense in the licentiousness of U.S. law on handguns.

With the onset of another of our sporadic bursts of public indignation, it is instructive to discover a movement brewing in the U.S. Senate under the leadership of Sen. James McClure to weaken, not strengthen, the modest law put on the books after the Robert Kennedy and Martin Luther King assassinations 12 years ago.

Incredibly, the gutting of the pitifully weak federal gun law contemplated by Senator McClure & Company would, among other things permit an indicted felon to buy a new handgun while on bail if the authorities had been so inconsiderate as to confiscate the one he used while mugging you on Main Street. Thanks a lot, senators!

As that rather snappish sentence suggests, the question of handgun control often reduces us to sour raillery when sweet reason is called for. And the oddity is that for decades every reliable poll has shown that an overwhelming majority of us—even, we must assume, gun-conscious Westerners—can be reasoned with about ultra-permissive gun laws.

And if that is true, why is it that the recent handgun murders of Dr. Halberstam and Mr. Lennon, which have flooded the switchboards of citizens groups working for tighter laws, find 60 or more U.S. senators supporting an effort to weaken them? The only plausible answer is that in the matter of handgun control the U.S. is submissive to a shrill minority with a stock of bogus arguments who overbear a substantial national consensus.

Is it proposed, for instance, to register or license handguns so that we know who owns them and why? This, we are told, would be an intrusion upon privacy and an act of aggression against the Bill of Rights. But how so? Unlike Saturday night specials, cars, while deadly enough, are not made for killing and are necessities of everyday life for most Americans. Yet driving is regarded as a revocable privilege, not a right; and the licensing of cars and drivers—with special limits on the young and infirm—is deemed a measure of minimal community protection, not a plot to subvert the Constitution.

How different, in the eyes of gun-lobby propagandists, are pistols, though they are scarcely necessities, and their owners, who must be the most coddled and cosseted class in American legal history, considering the horrors and heartbreak their toys cause when they fall into the wrong hands.

It is, we are told, an issue of freedom. But what is it other than the "freedom" to walk the streets of every city in fear of being assaulted by a thug with a concealed handgun? Strict licensing or registration, we are told, would be a step towards "confiscation." It is a false fear, where it is not cynical sloganeering. Advocates of handgun control laws haven't the slightest interest in depriving sportsmen of their weapons or sport. The clear and present danger, the real fear, is not "confiscation"; it is being shot by a burglar, a madman or a mugger.

When these bogus arguments are set aside, we are told that even if there might be a case for federal handgun control no law would be enforceable—it would merely disarm the law-abiding citizen while leaving the criminal and psychopath free to procure their weapons illicitly. But, of course, all laws are imperfect and imperfectly enforced. This argument is equally an argument against every law that limits individual liberty for a larger social benefit. It's the equivalent of the argument that drivers and cars should not be licensed because drunks will find their way behind the wheel. It's the equivalent of the argument that we ought to scrap drug laws because there will always be an illicit traffic in harmful narcotics. It is, in short, the argument that where law enforcement can't be foolproof it is pointless.

We do not, in fact, imagine that the gun lobby's boiler-plate arguments are taken seriously by vast numbers, gun-owners or not. They are, alas, taken seriously by the gun lobby and its thoroughly intimidated lapdogs on Capitol Hill.

Very well. Let the overwhelming judgment of the nation continue to be cynically and flagrantly ignored, while murder and mayhem mount and more and more of us lose friends to the thugs and lunatics with concealed pistols. In God's good time, people who use guns for recreation will awaken to the realization that the real enemies of their sport are not the friends of effective handgun control but those who purport to speak for a continuing form of frontier anarchy. And that day will come; we count on it.●

TRIBUTE TO DELEGATE MELVIN H. EVANS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. CLAY. Mr. Speaker, it is a distinct honor and privilege for me to add my words of tribute to the Delegate from the Virgin Islands, Melvin H. Evans.

Delegate Evans brought to this House a wealth of knowledge, expertise, and leadership ability both from his experiences in the medical profession as well as from his terms of service to the people of the Virgin Islands as the last appointed Governor and the first elected Governor of the Virgin Islands.

His constituents in the Virgin Islands as well as the people in this Nation have reaped great rewards as a result of his being a part of this august body. We have all benefited from his service because of his selfless devotion to the betterment of mankind.

We will miss him greatly in the Congress. I salute his dedication to duty and offer my congratulations to him for a term well served. To Mr. Evans, I extend my warmest best wishes for a prosperous, healthy, and rewarding future.●

TRIBUTE TO MORGAN MURPHY

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. GIAIMO. Mr. Speaker, Hon. Morgan Murphy is a fine gentleman and accomplished legislator. During his 10 years of service, Morgan has compiled a list of achievements that will be remembered for years to come.

Morgan and I served on the ad hoc Intelligence (Pike) Committee in 1975-76. In working closely with him during this investigation of our intelligence agencies, I had the opportunity to observe him carefully. I came to respect his commitment to our national security and to the constitutional rights of our citizens. Morgan continued to deal with the difficult issue of intelligence oversight as a member of the Permanent Select Committee on Intelligence, and he has served with equal distinction.

The House is losing a fine individual who has contributed much to this body and to the well-being of the Nation. My good friend Morgan Murphy has my respect and best wishes for the future.●

TRIBUTE TO HON. MIKE McCORMACK

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. O'NEILL. Mr. Speaker, it is with mixed feelings that I join my colleagues in saying farewell to one of the hardest working and most dedicated Members of the House of Representatives, Hon. Mike McCormack, of Washington, on the occasion of his departure from the Congress.

Mike McCormack has been an outstanding public servant. No Member in the House of Representatives has greater knowledge in the field of nuclear energy, and he has been one of the foremost experts in the House on the entire subject of America's energy policy as it relates to the development of alternative sources of supply. I am deeply grateful to Mike for his commitment to America's energy future and for the advice and guidance he has given to the leadership on this issue.

Not only has Mike McCormack been an outstanding Member of the House and a leader in all the legislative initiatives of the last decade in the important area of energy, but he has also been a responsible and committed Member. Beyond any doubts, Mike has earned the respect and admiration of his colleagues for his competence and ability. His generally easy-going manner has helped him win many friends among his colleagues.

Mike McCormack's legislative accomplishments will affect the future of millions of Americans. I thank him for his important contributions to our children and grandchildren. It has been a great pleasure to have had Mike's service in the House.

I wish Mike great success and happiness in the years ahead.●

TRIBUTE TO HON. LIONEL VAN DEERLIN

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. ICHORD. Mr. Speaker, one of the most distinguished Members of the House of Representatives leaves at the close of the 96th Congress, the gentleman from California, Mr. Van Deerlin. The House will miss his intellect, his superb sense of humor, his unassuming manner, and the dignity he brought to this House.

In a unique way, Lionel Van Deerlin has served not only his Nation, but also the world. He has been referred to as "the father of telecommunications," a title he certainly deserves. And given the global impact of the telecommunications revolution we have witnessed in this century, the effect of Mr. Van Deerlin's contribution to this vastly important part of human life can only be characterized as international in scope.

He has been a dedicated, conscientious Communications Subcommittee chairman.

But most of all, Lionel Van Deerlin has brought integrity and authenticity to this Chamber. If it is true that the foundations of this Republic, or any other, must rest on the virtue of its citizens, then in Lionel Van Deerlin and people like him, the Nation can feel safe and secure.●

TRIBUTE TO HON. HARLEY STAGGERS

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. GIAIMO. Mr. Speaker, for 32 years this House has been blessed with the presence of Harley Staggers. For the last 14 years he has been the chairman and guiding light of the Interstate and Foreign Commerce Committee, whose areas of interest and jurisdiction range far and wide, including health, transportation, communications, energy, and power.

Harley Staggers has been a tower among us without throwing his weight around, without threats or harangues. His has been a quiet and dedicated leadership helping his colleagues see the light whether it shines on beleaguered railroads or new drugs or Buck

Rogers-type exotic communications or the new threats and challenges of energy problems.

The task of heading a diverse committee of 42 members is alone a job of monumental proportions. To maintain strong and cool leadership without becoming overbearing is a task to which Harley Staggers has risen.

He has given all of us a great deal. This body, this Nation, our party and his State are vastly richer for his having served with us with such great distinction.

Harley Staggers deserves our plaudits, our thanks and our best wishes as he leaves the Congress. May he enjoy a long and fruitful retirement.●

TRIBUTE TO HON. SAM DEVINE

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. GIAIMO. Mr. Speaker, I wish to bid a fond congressional adieu to my fellow 11th term colleague, Hon. Samuel L. Devine on his departure from the Congress of the United States.

I did not know him during his three-term tenure in the Ohio Legislature, but can attest to his dedication and fine service during the entire 22 consecutive years we have worked together in the House of Representatives. He can hold his head high as he leaves the House knowing that he has served with honor and distinction. His most recent election to chair the House Republican Conference is a tribute bestowed on him by those in his party as recognition for his leadership role, his wisdom, and his party loyalty.

He is an able, fairminded, and hard working legislator and his departure from the Congress will be felt by not only his Republican colleagues, but by all of us. I consider myself fortunate to have been associated with Sam over these many years and feel that his imprint will remain long after he has left. In that leaving my fondest good wishes go to Sam, a truly respected adversary and close friend, as he charts a new course.●

TRIBUTE TO HON. THOMAS LUDLOW ASHLEY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. COUGHLIN. Mr. Speaker, it is a pleasure to have this opportunity to join my colleagues in a salute to the Honorable Lud Ashley, who will retire from the House at the end of this session. After 26 years of service to the people of Ohio's Ninth District, Lud's presence here will be missed by all those who have been fortunate enough to work with him.

As several of my colleagues have noted, Lud has been a most able and conscientious worker who, over the years, has successfully steered much controversial and complicated legislation through the committees on which he has served and through difficult floor battles. Because of my own deep concern about the accessibility of decent and affordable housing, I have had frequent opportunity to observe and admire Lud's skill and tenacity in working for and enacting into law legislation so urgently needed in the housing field.

Lud's work on the ad hoc Energy Committee in connection with the creation of a national policy also represents a tremendous investment of time and effort and is another example of his competent leadership and legislative ability.

His firm devotion to these responsibilities will be long remembered. I am happy to join my colleagues in extending to Lud and to his family my sincere best wishes for the future.●

HUMAN RIGHTS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. DRINAN. Mr. Speaker, there is no one who is not concerned about the permanence and continuity of the human rights policy thought out by the Congress and by the Carter administration.

The Christian Science Monitor, in an editorial on December 8, 1980, effectively urges the incoming administration to give a signal that Mr. Reagan does not intend to abandon the U.S. concern about human rights.

This thoughtful editorial follows:

Holding Fast on Rights

President Carter has acted prudently in suspending some $25 million worth of economic and military aid to El Salvador. The murder there of four women, including three American nuns, is but the latest brutal incident of violence that has swept the land with terrible ferocity this year. The civilian-military junta, which has been trying to steer a course between the far left and the far right, maintains that its security forces had nothing to do with the killings. But there are sufficient charges to the contrary to warrant an on-the-spot investigation by Washington.

It was wise, too, of Mr. Carter to send a U.S. fact-finding mission to El Salvador which is bipartisan in make-up. It is led by William D. Rogers, a former U.S. State Department official who is a friend of Henry Kissinger, and this should make it possible to secure the Reagan team's support for its findings and to help develop a consensus on policy toward El Salvador and perhaps other countries of Central and South America. This is especially needed in light of impressions created by the Reagan transition team that the President-elect will be less concerned about human rights throughout the region and more interested in maintaining stability, even if at the expense of popularly sought social change.

Mr. Reagan has tried since the election to dispel the notion that he will downgrade human rights. But some of his advisers are not helping matters. Last week the New York Times reported that a transition study prepared for him proposed basic changes in U.S. policy toward Latin America, suggesting that U.S. diplomats should not be "social reformers" and that the human rights issue should not be allowed to "paralyze or unduly delay decisions" where it "conflicts with other vital U.S. interests."

Are such statements sending the wrong kind of signal to countries south of the U.S. border? There is some evidence to suggest that right-wing forces may be taking heart from Ronald Reagan's election and some of the general views being aired by his aides and advisers. In any case, there is cause to be concerned about the escalation of violence and suppression of rights in a number of countries. In Haiti, for instance, there has been a severe crackdown by the government on journalists, politicians, and intellectuals. In Guatemala people are being killed every day and no one is apprehended. In El Salvador rightist groups openly flaunt their guns, and there is continuing suspicion that junta security forces are responsible for some of the violence against the left.

With the Caribbean region generally in a state of social ferment, it is important that the U.S. not be seen siding with extreme elements which want to stop the clock by retaining oligarchical regimes and repressive policies. It will have to carefully nurture evolution toward democratic government if it does not wish to hand over the engine of change to Castro and other communist revolutionaries.

This is why it would be well for Mr. Reagan to be sending another set of signals; namely, that he does not intend to abandon the U.S. concern about human rights. We can appreciate that he may wish to modify the style and manner of human rights policy. There is good reason for such change. But he cannot ignore the substance of that policy: that a nation's regard for political, civil, social, and other human rights can have a bearing on the stability of its government and therefore must be considered by Washington along with all other factors in determining U.S. policy. That is in the U.S. national interest—something Mr. Reagan himself must surely recognize. We hope he speaks out.●

TRIBUTE TO HON. RAY ROBERTS

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. GIAIMO. Mr. Speaker, I must express my regret that Ray Roberts is departing from Congress. He will be sorely missed. As one who is also retiring, I can appreciate his desires to terminate the rigors of elective office. But, as a veteran of World War II, I shall miss having him looking out for me and the others of us who have served in our Armed Forces.

Members know well that Ray Roberts has given of himself—his heart, his mind, his energy, his talent—to serve the causes and needs of the veterans during his 6 years as chairman of the Committee on Veterans' Affairs. No one knows better than I how well he protects the welfare of the veterans. Yet, no one knows better than I how he weighs more heavily the welfare and needs of the whole Nation. When called upon to restrain some programs under the recent reconciliation process, Ray Roberts rose to the task and led the way.

I especially value the help he has given to me as chairman of the Budget Committee and for the support he has given to the fragile budget process.

Ray serves on the Public Works Committee, as well as on the Veterans' Affairs panel. He follows debates. He pays attention to the issues. He is a wise and conscientious Member.

I hope he enjoys the rest that is so richly due him.●

BASIC RESEARCH AND THE BUDGET

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. BROWN of California. Mr. Speaker, I would like to call attention to a recent Washington Post editorial entitled "Basic Research and the Budget". I believe the editorial makes several excellent points regarding the need for strong support of basic research in this country. We are all aware of the budgetary concerns that have pervaded the deliberations of this body in the last year and which we can expect to be of continued concern in the next. As noted in the editorial, nothing is sacrosanct, particularly given our present economic atmosphere. Nonetheless, we had best pay careful attention that research areas eliminated in the budget process will not return to cause us grave harm in the future.

The text of the December 9, 1980, editorial follows:

Basic Research and the Budget

Of the 102 Nobel Prizes awarded over the last decade, the United States has won over half—more than three times as many as second-place Great Britain. (For those who like to keep track of such things, the Soviet Union has won two.) Because the bulk of these prizes recognize fundamental advances in basic research, they are ample evidence that this country is doing something—in fact, many things—right in the organization, support and general climate provided for basic research.

But because the prizes are generally given for research performed at least a decade earlier, and because these men and women were trained several decades ago, even the most recent prizes cannot be taken as evidence of the continuing health of the American research enterprise. In fact, there are two reasons why scientists are anxious about the near future.

There is the worry over budget cuts. Within the relatively small portion of the federal budget that is available to the new administration for discretionary cutting, the money for basic research stands out as a tempting target. Unlike most other federal programs, it has only a small, though influential, constituency. More important, the effects of such cuts have no immediate impact; they will not be felt for years. On top of Mr. Reagan's commitment to expand defense spending—and therefore, necessarily, defense-related R&D—the overall impact on research in all other fields could be very serious.

A second source of concern is the pending reorganization of the National Science Foundation. Prompted by congressional anxiety over the decline in innovation and productivity, and by unmistakable shortages of funds in engineering schools, the NSF, which for 30 years has been the chief source of support for basic research, is embarking on a new course designed to give greater emphasis and money to applied research and engineering. If the new areas must compete with basic research for the same—or an even smaller—amount of money, the long-term effects could be serious.

It is impossible to measure with precision the contribution of technological innovation to economic growth and productivity, but there are few who would argue with the view that it has been a major contributor to U.S. economic growth in the past several decades. The direct link between basic research and subsequent innovations is also indisputable. Transistors, microprocessors, lasers and bioengineered bacteria are just a few examples of how recent basic research discoveries have led to major industrial enterprises. Nothing in the budget is sacrosanct. Many desirable programs must be cut. All we are saying is that where the budget for basic research is concerned, the budget-cutters should proceed with extreme care.●

TRIBUTE TO MENDEL J. DAVIS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. COELHO. Mr. Speaker, I wish to take this opportunity to honor a respected colleague and friend, Congressman Mendel J. Davis, who will be retiring from the House of Representatives upon the adjournment of this 96th Congress.

Mendel Davis came to Congress in 1971 as a young man of 28 years, elected to fill the seat of his late godfather, the Honorable L. Mendel Rivers. However, he had been a member of the congressional scene for many years before that, first coming to Washington, D.C., in 1960 as a doorman on the floor of the House of Representatives.

During this past decade, Congressman Davis has faithfully and energetically served the First District of South Carolina, and the Nation as well. He has served on the Committee on House Administration and the Committee on Armed Services, where he has taken a special interest to assure just compensation for our military personnel.

As a fellow Member of Congress, I regret to see the departure of Mendel Davis from this House, but I join with others in offering my personal best wishes for the future and for his continued success.●

TRIBUTE TO HON. MELVIN H. EVANS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. STOKES. Mr. Speaker, I would like to thank the distinguished gentleman from California, Mr. Lagomarsino, for taking out this special order so that I can salute my colleague and good friend, Hon. Melvin Evans, who will not be returning for the 97th Congress. The legislative savvy and leadership that Melvin has displayed during his tenure in this body will be sorely missed in the coming days.

Mr. Speaker, Melvin was elected to the House of Representatives as the Delegate from the Virgin Islands in 1978. Since he came to Washington, he and I have become very good friends. During our association, I have been impressed by his quiet yet forceful manner as well as his unrelenting commitment to his constituents.

Mr. Speaker, Melvin has been the champion and chief advocate of the people of the Virgin Islands. His actions in Congress have propelled the needs of the U.S. Virgin Islands from the basement of this Nation's agenda to its appropriate place. Mr. Speaker, he has brought to the attention of this body, the fact that the needs of the Virgin Islands are akin to the needs of any State in this great Union and that equal treatment is justified. This has been demonstrated through his masterful strategy.

Mr. Speaker, although I have not shared any committee assignments with Melvin, I have worked closely with him through my membership on the House Appropriations Committee. Melvin has collaborated with me and other members of this committee on many occasions in an effort to get programs which will assist the people of the Virgin Islands through the legislative process. Mr. Speaker, his arguments have always been exemplary. His strategy has been masterful.

One such program dealt with the funding of hospitals in the Virgin Islands. Melvin worked relentlessly to gain the funding of over $50 million for health care facilities in the Virgin Islands. He has approached other issues of critical importance to the Virgin Islands with the same vigor.

Additionally, Mr. Speaker, Melvin and I are both members of the Congressional Black Caucus. He has been instrumental in spearheading the Caucus' position on U.S. foreign policy as it pertains to the Carribean and Third World nations.

In closing, Mr. Speaker, I would like to reiterate that Melvin has been a master strategist and advocate for his constituents here in the U.S. House of Representatives. I know that my colleagues on both sides of the aisle along with the people of the U.S. Virgin Islands will miss his leadership and determination in the future. At this time, I would like to join with my colleagues in the House in wishing him the best in the future. My wife, Jay, and I also will miss the beauty and charm of his devoted wife, Phyllis.●

DR. TIM LEE CARTER—THE HOUSE PHYSICIAN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PICKLE. Mr. Speaker, when I first came to Congress, an early acquaintance was the gentleman from the Fifth District of Kentucky. My first assignment was to the Commerce Committee, and I served on the Public Health Subcommittee. This panel is where I met Dr. Carter. We became close friends then and have remained close now.

Tim Lee is an honest-to-goodness country doctor. He has spent his life serving his people. As a down-to-earth, kindly man, he won the hearts of the people in his part of Kentucky. He has been reelected every term with overwhelming majorities. I doubt any other Member is supported more strongly by his constituents, Democrat or Republican.

Tim is a professional man. He is an expert in health and medical matters. While Tim Lee Carter is a strong opponent of too much Government interference in medicine—socialized medicine, if you will—he nevertheless is progressive in the field of health care. He does not close his mind to positive things the Government can do to help. Some of his fellow physicians may wonder about some of Tim Lee's votes at times, but nobody has ever challenged his sincerity and knowledge. When he votes a certain way, our colleagues and his doctor colleagues respect his thinking.

Thus, Tim Lee Carter can be given credit for much of the progress we have made in health care for almost two decades. Tim Lee should be remembered for his bipartisan attitude. He supports his President, regardless of the party in power. He votes along party lines, but tries to help any administration. He supported President Lyndon Johnson in many of his programs. I have seen Tim Lee rise on the floor to defend war on poverty programs. He knew the purpose of these programs was to stamp out ignorance, hunger, and poverty.

To listen to Tim Lee talk about some of the characters and his friends in his district, people like "Ben Shack Short" and dozens of others, is to hear firsthand the folklore of a warm and kindly area which produced a man with the same qualities.

Tim Lee Carter and his wife, Kathleen, have brought joy, happiness, and pride to our hearts. We will miss him as much as any other couple who has served here.●

TRIBUTE TO REPRESENTATIVES HERB HARRIS AND JOE FISHER

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. FAZIO. Mr. Speaker, I would like to take this opportunity to join my colleagues in paying tribute to two of our finest Representatives, Herb Harris and Joe Fisher. As one who lives in northern Virginia and who represents a district where a lot of Federal employees reside, I know that both men have done an outstanding job of representing their constituents, particularly the Federal employees.

Herb Harris has been a feisty, outspoken advocate of the needs of his constituents, championing the physical needs of the Nation's Capital in particular. Herb has taken courageous stands on the fundamental social-economic issues of our time. In fact, he has even found a few real methods of cutting spending.

Joe Fisher has been a thoughtful and balanced legislator who has contributed much to our efforts to preserve the environment. He is a sound economic thinker, who has taken every opportunity to encourage equity in our tax laws. The kind of man who has helped keep a broad Democratic Party together on basic issues, Joe's defeat is particularly troublesome.

The public contributions of both men will continue on after they have left us, but the void of their absences will surely be felt in the coming session as we tackle so many issues within their spheres of expertise.●

TRIBUTE TO HON. GUNN McKAY OF UTAH

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is a great pleasure to have the opportunity to pay tribute to my friend and colleague, the distinguished gentleman from Utah, Gunn McKay. The First District in Utah has been lucky to have had the kind of leadership and service that Gunn has so ably provided over the last 10 years.

Gunn has demonstrated his keen insight and expertise as an able chairman of the Military Construction Subcommittee of the Appropriations Committee. He has worked tirelessly in establishing United States and NATO defense construction programs. In addition he was very instrumental in securing the $3 billion for the Defense Production Acts which got the ball rolling for the recently passed Energy Security Act of 1980. He has also been a key member and the ranking Democrat on the Interior Subcommittee where he recently secured passage of the $15 million package for a Federal-private partnership for oil shale development. Gunn has pushed numerous measures for public lands conservation and development projects around the country.

The people of the First District are losing a loyal Representative, and this House is losing a dependable friend and colleague.

Gunn I wish you, your wife, and family the best of luck and happiness in the future.●

HOUSE OF REPRESENTATIVES—*Friday, December 12, 1980*

The House met at 10 a.m., and was called to order by the Speaker pro tempore (Mr. Foley).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, D.C.,
December 12, 1980.

I hereby designate the Honorable Thomas S. Foley to act as Speaker pro tempore for today.

Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Encourage us, O God, to express our thanksgiving to You each day, recognizing that You have given each person, the potential of faith, hope, and love. May our gratitude to You extend to those about us who through gracious words or selfless acts have shared their kindness and understanding. Slow us in the pace of our necessary activities to acknowledge the richness of Your mercy to us and the acts of friendship by those who surround us with charity and affection. Grant us Your inner peace, O God, that peace that passes all human understanding. This day and all the days of our lives. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 615. Joint resolution providing for appointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the Senate agrees to the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 8345) entitled "An act to name the U.S. Customs House in Ogdensburg, N.Y., the 'Robert C. McEwen U.S. Customs House'."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 637. Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3261. An act to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 637) entitled "Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes," requests a conference with the House of Representatives on the disagreeing votes of two Houses thereon, and appoints Mr. Magnuson, Mr. Stennis, Mr. Proxmire, Mr. Inouye, Mr. Hollings, Mr. Bayh, Mr. Eagleton, Mr. Chiles, Mr. Sasser, Mr. DeConcini, Mr. Young, Mr. Hatfield, Mr. Stevens, Mr. Mathias, Mr. Schweiker, Mr. Bellmon, Mr. Weicker, and Mr. McClure to be the conferees on the part of the Senate.

AMERICAN SPECIAL COMMISSION TO EL SALVADOR WHITEWASHES ASSASSINATION EVIDENCE

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, according to the Washington Post, the American Special Commission to El Salvador has found no clear-cut evidence linking Salvadoran security forces to the murders of the four American women. If the article is true, I believe this is a whitewash so that we resume foreign aid to this reprehensible government. This week, State Department officials told me that there was "circumstantial evidence that the military were directly or indirectly involved."

How ironic it is that the Salvadorans are appointing a commission consisting of a civilian minister and three officers of the military to look into the murders of our Americans. Do we really expect the military to investigate itself? Why were there seven armed, uniformed men, the mayor of the village, and a judge digging the graves of our American missionaries? In addition, why is the Inter-American Development Bank about to give a $50 million loan to this junta?

Until we answer these and other questions, we ought not to fund this oppressive government.

DECLINE IN GRAIN PRICE CAUSED BY HIGH INTEREST RATES AND RUSSIAN TROOPS NEAR POLAND

(Mr. HANCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCE. Mr. Speaker, I wish to bring to the attention of my colleagues a problem which is developing in the agriculture sector of our economy. Since Monday of this week the cash price of wheat has dropped 79 cents a bushel. The price of grain sorghum has declined 75 cents per hundredweight and corn is close behind. These commodities have also been down the limit the past 2 days on the futures market. These lower prices are not the result of oversupply. In fact, our supply-demand figures indicate that markets should be going up, not down.

This sudden decline in price has been caused by extremely high interest rates and the presence of Russian troops near the boundaries of Poland. Our farmers cannot control either of these factors nor can they continue to sell food and fiber below their production cost.

We, as Congress, must take action in the near future which will increase the USDA's Commodity Credit Corporation crop loan rates to a level equal to at least 65 percent of parity for the next year's crops and include higher protection in times of embargoes. We must not allow our trade policies to continue to bankrupt our agricultural industry.

LEGISLATIVE PROGRAM

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I take this time to find out if the leadership can tell us what the program would be for the rest of the day, and whether we will be here tomorrow or come back Monday. I think it would be very important to the membership.

The SPEAKER pro tempore. The Chair is advised that there is a likelihood that the House will be in session tomorrow, and the Chair is not aware of any sessions that will be scheduled beyond tomorrow, but all Members should be aware of the likelihood of a session tomorrow.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Could the Chair tell us what the program will be for the remainder of the day?

The SPEAKER pro tempore. The immediate pending business is a suspension of the rules which the gentleman from New Jersey (Mr. Roe) will offer. The

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Chair expects to entertain a joint resolution dealing with the convening day of the 97th Congress. Possibly, the highway mass transit bill, if it comes back from the Senate, will be considered.

Mr. MYERS of Indiana. If my colleague from Mississippi will yield further, last night the leadership was talking about appointing conferees so that we could go to the conference to handle the continuing resolution. I wonder what happened to that conference, appointing the conferees so that we could go to the conference. That is really the only pressing business remaining for this session, as I understand it.

The SPEAKER pro tempore. The Chair is advised that the minority has not yet recommended the Republican conferees.

Mr. MONTGOMERY. I will be glad to yield to the gentleman further.

Mr. MYERS of Indiana. It appears that the people the gentleman needs to yield to are not here. I will check into it.

Mr. MONTGOMERY. Mr. Speaker, in other words there is a very good possibility that the House will be in session tomorrow, and as far as we can tell now, no plans unless something unusual happens, that we will go into Monday. Is that correct?

The SPEAKER pro tempore. The Chair is not in a position to advise the gentleman finally. The Chair feels there should be an expectation that there is a very serious possibility of a Saturday session. A formal announcement will be made later in today's program, but the Chair feels the gentleman would be wise to expect a Saturday session. The Chair is not at liberty to advise the gentleman on any sessions beyond that.

Mr. MONTGOMERY. I thank the Chair.

PEZZULLO'S COMPLAINT

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, this morning the Washington Post contained some long-distance snivelling by our U.S. Ambassador, Lawrence Pezzullo, from Managua, Nicaragua, in which he criticized President-elect Reagan's transition team as undermining the policies Ambassador Pezzullo and the Carter administration applied to that country.

I certainly hope that is the case. I hope it is not only undermined, but reversed. Mr. Pezzullo is one of the architects and godfathers of the current Communist Sandinista regime, and bears responsibility for the deposing of Anastasio Somoza, and to some degree even the eventual fate that he suffered.

It comes with ill grace for this supposed career diplomat to be publicly announcing his views on the President-elect and his policies, and I hope it guarantees that Mr. Pezzullo's tenure will be very short in this post or any post in Government.

DAVID STOCKMAN OF MICHIGAN APPOINTED DIRECTOR OF OMB

(Mr. BETHUNE asked and was given permisison to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, the Washington Post this morning had an array of individuals who had been appointed to Cabinet positions. I would like to take this moment to point out that our own colleague, DAVE STOCKMAN, of Michigan, will be Director of the Office of Management and Budget.

☐ 1010

I think that President-elect Reagan has made an excellent choice. DAVE STOCKMAN is well respected, has led the fight here on the floor on many battles, is an intellectual, and will do an outstanding job in that capacity. I know we are all looking forward to serving with him in the 97th Congress.

JOHN D. LARKINS, JR., FEDERAL BUILDING

Mr. ROE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 829) providing for concurring in the Senate amendment to H.R. 4231 to designate the "John D. Larkins, Jr., Federal Building."

The Clerk read as follows:

H. RES. 829

Resolved, That upon the adoption of this resolution the bill (H.R. 4231), to designate the "John D. Larkins, Jr., Federal Building", together with the amendment of the Senate thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. 2. (a) (1) The Secretary of Commerce (hereinafter in this section referred to as the "Secretary"), shall, in accordance with the provisions of this section, make a grant to each eligible local educational agency for the construction of school facilities in order to assist such agencies in providing education to immigrant children.

(2) The amount of the grant to which a local educational agency is entitled under this section shall be equal to the number of immigrant children aged five to seventeen, inclusive, who are enrolled at the schools of that agency and for whom that agency provided free public education during the school year 1978–1979, multiplied by $1,000.

(3) (A) A local education agency shall be eligible to receive a grant under this section if the number of immigrant children enrolled during such school year at the schools of that agency is equal to or greater than twenty and is equal to 7 per centum or more of all children aged five to seventeen, inclusive, who are enrolled at such school during each year.

(B) No immigrant child may be counted for the purpose of this section by any local educational agency unless—

(i) the parents of such child reside within the school district of such agency,

(ii) the guardian of such child resides within the school district of such agency,

(iii) the individual having lawful control of the immigrant child resides within the school district of such agency, or

(iv) such child resides within the school district of such agency.

(C) Determinations with respect to the number of immigrant children by the Secretary under this section shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimation, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(4) For purposes of this section the Federal share of the grant shall be 100 per centum.

(b) Notwithstanding the other provisions of this section, a local educational agency shall not be eligible for a grant under this section if the Secretary determines that the amount determined for such agency under subsection (a) (2) is not adequate to provide such agency with any meaningful assistance in the education of immigrant children.

(c) (1) For the fiscal years ending September 30, 1982, and September 30, 1983, there are authorized to be appropriated to the Secretary not to exceed a total amount of $22,500,000 per fiscal year for grants pursuant to this section. These funds shall be available until expended.

(2) If the sum appropriated for making grants under this section is not sufficient to pay in full the total amount which local educational agencies are entitled to receive under this section, the entitlements of such local educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such entitlements within the limits of the amount so appropriated.

(d) (1) No local educational agency shall be entitled to any grant under this section unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may require. Each such application shall—

(A) provide that the grant made under this section be used for the construction of school facilities to be administered by such agency;

(B) provide assurances that the application will be submitted to the appropriate State educational agency for comment;

(C) provide that such fiscal control and fund accounting procedures will be established as may be determined by the Secretary to be necessary to insure the proper disposal of, and accounting for, Federal funds paid to the agency under this section; and

(D) provide for the furnishing of such other information and reports as the Secretary may reasonably require to perfom its functions under this section.

(2) The Secretary shall approve an application which meets the requirements of paragraph (1) of this subsection. The Secretary shall not finally disapprove an application of a local educational agency except after reasonable notice and opportunity for hearing to such agency.

(3) Whenever the Secretary after a reasonable notice and opportunity for a hearing to any local educational agency, finds that there is failure to meet the requirements of this section, the Secretary shall notify that agency that further payments will not be made to the agency under this section until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied no further payment shall be made to the local educational agency under this section.

(e) As used in this section—

(1) the term "construction" means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor, or (B) acquisition of existing structures not owned by any agency making application for assistance under this section; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) a combination of any two or more of the foregoing;

(2) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law;

(3) the term "secondary school" means a day or residential school which provides secondary education, as determined under State law;

(4) the term "free public education" means education which is provided at public expense under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State;

(5) the term "local educational agency" means a public board of education or other public authority legally constituted within a State which is a member of the South West Border Regional Commission, for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivisions of such State, or such combination of school districts or counties as are recognized in such State as an administrative agency for its public elementary or secondary schools, and such term also includes any other public institution or agency in such State having administrative control and direction of a public elementary or secondary school;

(6) the term "immigrant child" means a child born in the Republic of Mexico and who has legally immigrated to the United States, or born of parents who have legally immigrated from the Republic of Mexico and are not citizens of the United States (other than a child in a family which is in the United States for the purpose of representing another government in a diplomatic or similar capacity), and who is provided free public education by a local educational agency of a State;

(7) the term "school facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes; but such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public;

(8) the term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law; and

(9) the term "meaningful assistance" means a minimum grant of $50,000.

SEC. 3. Clayton Lake which is an element of the flood control project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1187), shall hereafter be known as "Sardis Lake". Any law, regulation, map, document, or record of the United States in which such lake is referred to shall be held and considered to refer to such lake as "Sardis Lake".

SEC. 4. The project for navigation, Humboldt Harbor and Bay, California, authorized by section 101 of the River and Harbor Act of 1968 is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct needed protection works to prevent shoreline erosion damage to public and private facilities at and near Buhne Point, California, totally at Federal cost, at an estimated cost of $1,000,000.

The SPEAKER pro tempore. Is a second demanded?

Mr. EDGAR. Mr. Speaker, I demand a second.

Mr. CLINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Is the gentleman from Pennsylvania (Mr. CLINGER) opposed to the bill?

Mr. CLINGER. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

Without objection, a second will be considered as ordered.

PARLIAMENTARY INQUIRY

Mr. EDGAR. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. EDGAR. Mr. Speaker, is the gentleman from Pennsylvania (Mr. CLINGER) opposed to this legislation?

Mr. CLINGER. If the gentleman will yield, Mr. Speaker, I misunderstood the question of the Chair. I am not opposed to the bill.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. CLINGER) does not qualify.

Mr. EDGAR. Mr. Speaker, I am opposed to the legislation, and I demand a second.

The SPEAKER pro tempore. The gentleman qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. ROE) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. EDGAR) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. ROE).

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, section 2 of this amendment authorizes $22.5 million for each of the fiscal years of 1982 and 1983, for the construction of educational facilities along the southwest border. This amendment is similar to language passed by the Senate earlier this year in a more comprehensive economic development measure. The House conferees in negotiations on this more comprehensive measure agreed in principle that additional support should be given for the construction of southwest border educational facilities. Other differences in the House and Senate economic development legislation prevented final approval of the conference report.

Today's action provides a free-standing authorization for this purpose. Funds would still have to be appropriated and the normal appropriation process would be followed.

In addition, section 3 of this amendment name Clayton Lake, which is part of the flood control project for the Clayton and Tuskahoma Reservoirs in Oklahoma, Sardis Lake. The present name for the lake causes confusion because of the presence of another Clayton Lake which is operated only 5 miles away by the State of Oklahoma. The choice is a particularly fitting one because the town of Sardis, Okla., was moved out of the lake area as part of the project relocation requirements. The name change would thus commemorate that town and would be in accord with local desires.

Finally, section 4 of this amendment authorizes the Corps of Engineers to take action necessary to prevent shoreline erosion damage at and near Buhne Point, Calif. There has been a serious erosion problem in the Humboldt Harbor and Bay, Calif., areas and corrective steps must be taken now.

I urge your support of this amendment.

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Speaker, I support the amendment offered by my colleague, Mr. ROE, which will change the language regarding construction of elementary and secondary schools in the Southwest Border Commission area. This bill as amended by the other body would have authorized from existing appropriations of the Economic Development Administration $22.5 million for each of the fiscal years 1981 and 1982 for 100-percent Federal grants to construct public schools for legal aliens. Such grants would be a minimum of $50,000 to areas with at least 7-percent legal alien population and more than 50 students in any facility.

The amendment offered by my colleague simply changes this provision to make it freestanding, in other words, an authorization in addition to existing authorizations for EDA and funding would be available in fiscal years 1982 and 1983. This change will not disrupt the current EDA program. The bill as currently written, would severely restrict title I public works grants by devoting $22.5 million from the existing program to this program for each fiscal year 1981 and 1982. The amendment will rectify this matter.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ROE. Yes, of course, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, as I understand it, if I heard correctly, $50,000 will go to each school.

Mr. ROE. No.

Mrs. FENWICK. What was that sum of $50,000?

Mr. ROE. No, the total——

Mrs. FENWICK. A minimum of $50,000. How many schools are going to be covered by $22 million a year?

Mr. ROE. It depends on what they designate in that region. We do not have a specific; in other words, it is not all going for one school.

Mrs. FENWICK. Well, why did we pick $22 million?

Mr. ROE. That is a good question that the gentleman from New Jersey is really not qualified to answer. Those in the other body and those who promulgated the amendment have suggested in conference that that is the sum that they needed. Specifically where that figure came from I would be guessing, and I do not choose to guess.

Mrs. FENWICK. I thank the gentleman, but this is what happens all the time, it seems to me. We have a sum, and there is not any real factual basis for what adds up to this amount of money. In one case, for example, there was a $44 million figure, and I asked what they were going to do with it. They said, "Well, we just have not boosted them for some time." It did not really seem to have a specific program.

Now, what I am wondering about with this $22 million, for example, are there 6 schools, 10 schools, or 100 schools that are going to require something in the realm of several hundred thousand dollars each? I mean, what is the rationale?

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentltman from Texas.

Mr. KAZEN. I thank my distinguished colleague from New Jersey for asking this question; $22 million will not even be enough.

Mrs. FENWICK. What is it for?

Mr. KAZEN. It is for helping the local school districts build these schools that now we, the Federal Government, have said we must educate alien children.

Mrs. FENWICK. Well, now, how much are we planning——

Mr. KAZEN. If the gentlewoman will allow me, let me explain. This is for the Southwest region. It covers everything from the tip at Brownsville, Tex., all the way to California, every city, from Brownsville all the way around.

Mrs. FENWICK. I understand. But I would like to ask how much.

Mr. KAZEN. New Mexico, Arizona, California.

Mrs. FENWICK. How much are they allowing to build each school?

Mr. KAZEN. I do not know. They will have to do it within this framework plus whatever the local districts can put up themselves.

Mrs. FENWICK. There is not any plan; in other words, let me ask?

Mr. KAZEN. Oh, yes, there is a plan.

Mrs. FENWICK. Then we ought to know it.

Mr. KAZEN. I do not have those facts at hand.

Mrs. FENWICK. Who has them?

Mr. KAZEN. But I can assure the gentlewoman that $22 million is not going to be enough.

Mrs. FENWICK. How does the gentleman know that?

Mr. KAZEN. I represent, for instance, one of the poorest districts in the United States. The unemployment in my home county is 18 percent the year around. I will tell the gentlewoman, the year around, not seasonal, and our school districts cannot afford to build these buildings that the Federal Government has said we must have.

Mrs. FENWICK. I am only trying to find out what program this $22 million will be devoted to. That is what I wanted to ask.

Mr. KAZEN. I have told the gentlewoman.

Mrs. FENWICK. No. Because we do not know. We do not know how many schools, we do not know how much per school, we do not know whether that is going for teachers.

Mr. ROE. Mr. Speaker, if I may reclaim the time that is rapidly slipping away from us, let me suggest one possible additional answer. When we appropriated a number of billions of dollars under our local public works program, many of the communities had their own set of specifications that they wanted to build. In effect, what we are saying here is, "I understand this issue, that the $22.5 million will be woefully inadequate to even begin to really do the job that ought to be done." So they will have to allocate those funds as capital funding to build facilities in areas that cannot afford to bond locally themselves. That is the best answer we can give the gentlewoman today.

Mrs. FENWICK. I thank the gentleman.

☐ 1020

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, as I understand it, what has been involved in the procedure has been to authorize this program through the EDA as an additional authorization over and above the established allocations, and it would track along the line of the program we had for the LPW, the local public works, where public facilities are authorized to create jobs in higher-than-average unemployment areas and at the same time actually address what in effect is a very serious Federal problem because of the pressures with immigration on the border.

Now, I happen to believe, quite candidly, that we are going to have to start to address this, and I know that the gentlewoman from New Jersey (Mrs. Fenwick), having just spoken to me, agrees with this. We are going to have to have an entirely new policy on immigration, we are going to have to have an entirely new policy with Mexico, and we see this as a measure that has to come about. I think, quite frankly, it came about because they repealed the bracero program a few years ago, if we want to know the truth. I think we are going to have to have something in the way of a visitor worker program or something to legalize it, if we want to minimize the problems.

Mr. Speaker, I thank the gentleman for yielding.

Mr. ROE. Mr. Speaker, I thank the gentleman from California (Mr. Clausen), and I reserve the balance of my time.

Mr. EDGAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an interesting procedure. It is interesting to have before us here on the floor of the House of Representatives a bill that has never gone through the Committee on Public Works and Transportation and has never gone through the Subcommittee on Economic Development, which the gentleman from New Jersey, Mr. Bob Roe, has chaired so ably.

We have before us a House bill amended by the Senate and now we are tacking on two water projects. We are bringing this particular bill to the floor without hearings and without an effort to understand the particulars.

Mr. ROE. Mr. Speaker, will the gentleman yield for just a second? I ask him to yield because there is an error in his presentation.

Mr. EDGAR. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, I wanted the gentleman to yield just for that purpose.

I think it is important to know that H.R. 4231, our original bill, did go through the Committee on Public Works and Transportation. Is the gentleman speaking directly to the amendment?

Mr. EDGAR. That is correct.

Mr. ROE. Mr. Speaker, I thank the gentleman for yielding.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for the clarification, because H.R. 4231 is a very important piece of legislation, and I am sure we cannot leave this House and adjourn sine die until we get this piece of legislation passed. It says, and I quote:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—*

And I assume that is where we are—

> That the Federal Building located at Market Street, Trenton, North Carolina, is hereby designated as the "John D. Larkins, Jr., Federal Building." Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the John D. Larkins, Jr., Federal Building.

It is a great piece of legislation, but I draw the Members' attention to what we have done.

We passed this bill out of the House, we sent it over to the Senate, and it came back. We now want to add to it the funding for some border schools, and then we want to add, without any consideration and without discussion, two very important water projects, one to rename Clayton Lake, a project in Oklahoma, and make sure that everyone knows from this day forward that it will be called Sardis Lake.

Then in section 4 we say the following:

> The project for navigation, Humboldt Harbor and Bay, California, authorized by section 101 of the River and Harbor Act of 1968 is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct needed protection works to prevent shoreline erosion damage to public and private facilities at and near Buhne Point, California, totally at Federal cost, at an estimated cost of $1,000,000.

And I would underscore the words, "Totally at Federal cost."

Some will ask, "Why are you objecting to this very important bill to name a Federal building after an important person?" Basically, there is a principle here that concerns me.

The other day, while on the telephone and sitting in my office, I was engrossed in conversation. When I looked over to the television set in the office that was turned on to the House floor proceeding, I saw my colleague from the Committee on Public Works and Transportation, the gentleman from Texas (Mr. Ray Roberts), stand and ask unanimous consent for the immediate consideration of H.R. 4131. I saw, within the course of about a 1-minute period, the gentleman ask unanimous consent, with the concurrence of my colleague, the gentleman from California, Mr. Don Clausen, for not only the consideration of that bill but for the addition of an amendment. As the amendment was being read, I heard my colleague, the gentleman from Texas, Mr. Ray Roberts, ask unanimous consent that the amendment be considered as read.

Being curious about water projects, I came to the House floor to inquire about what we in fact did in that piece of legislation, and it turns out we added four water projects to a relatively insignificant bill.

I have learned further that in one of the Department of the Interior bills we added several Army Corps of Engineers projects.

As many of my colleagues know, I was one of the leading proponents of a merit water policy and opponent to the omnibus water bill that was before the House last February. That bill has been bottled up in the Senate. My objection was to delete all the negative projects that did not have cost-benefit analyses.

Mr. Speaker, that particular omnibus water bill had many worthy projects in it, including flood control projects that were necessary to improve conditions so we would not have loss of life. It had many dams, reservoirs, and shore erosion projects that were critical to the United States of America.

My point was not to be an obstructionist or to terminate all water policy or all water projects. My concern was that we focus water policy on those projects that make sense, and that we not put our toe in the water, building project after project that make little or no sense.

I get alarmed when I see, in the course of the waning hours of this Congress, that we take relatively minor bills and do what we complain the Senate does, and that is add extraneous amendments.

Let me be specific. I serve on the Subcommittee on Economic Development which looks at authorizations for the EDA. It should be part of the process of determining whether or not in these border schools we ought to be funding projects like this. I do not think the jurisdiction of EDA or the Subcommittee on Economic Development includes water projects, and yet here we have two relatively minor ones slipped in here.

What about the worthy projects? What about full consideration in our committee? That is basically the principal point I am making.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I do not have the gentleman's dogged persistence in attacking water projects. I normally do not vote with the distinguished gentleman in the well, but in the last month and particularly in the last couple of weeks I have really been appalled at the way we are dragging up bills that committees and subcommittees and this body have not scrutinized and do not understand.

I must commend the gentleman for his stand. I am going to vote against this bill, and I am going to vote against all others like it. I am going to raise objections when Members drag bills like these out of a subcommittee that has never had adequate hearings.

Mr. Speaker, I commend the gentleman on his stand.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for his comments.

I would just like to correct the gentleman on one comment and say that it might even be better if we dragged the bill out of the subcommittee, but this particular bill, other than the naming of that Federal building, was never considered by the Committee on Public Works and Transportation of the House.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, I would like to add my commendation to the gentleman in the well. He has done yeoman service on behalf of the taxpayers with regard to clearly unneeded public works projects during this Congress.

The American people are supposed to have sent a message, and if they sent any message, I guess it was that we are not supposed to spend money like water. Yet that is exactly what happens when we go out to Nebraska to build a dam to stimulate the production of corn for which the American taxpayers pay a subsidy. This kind of thing goes on ad nauseam.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for his contribution.

Let me make this final point. This particular bill that we are considering now, with its several million dollars for border schools, its $1 million for shore erosion in California and the renaming of a Federal building and a lake is not that significant.

□ 1030

In the course of events in the world, with Afghanistan and Iran and with problems in El Salvador and problems of peace and inflation, I am sure many people yawn and say, "Why debate it," but there is a principle involved.

I hope the gentleman from New Jersey (Mr. Roe), who will probably become a very good subcommittee chairman of the Water Resources Subcommittee, will be as diligent in that area as he has been in economic development and will pursue a policy in the 97th Congress that will bring to the House floor shore erosion legislation, dam legislation, water project legislation, and irrigation legislation that really meets the needs of our Nation and takes into account all of the necessary and important water projects we should have in our Nation. I further hope that we will, as a Congress, begin to say that no longer will we simply slip in inappropriate projects into House bills but, in fact, we will look at the cost and benefits, the environmental impact of the legislation, the engineering prospects, the economic feasibility and determine on each project that it has been thoroughly examined and meets at least minimum standards of merit.

Mr. Speaker, I reserve the balance of my time.

Mr. ROE. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. EDGAR. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Lewis), a member of our committee.

Mr. LEWIS. Mr. Speaker, I thank my colleague for yielding.

I rise for the purpose of asking the chairman, if I might, some questions regarding this policy matter before us.

Mr. Speaker, I am somewhat hesitant in asking a number of questions that come to my mind.

Mr. ROE. Why be hesitant? No one else is hesitant.

Mr. LEWIS. As the gentleman knows, I am a new member of the EDA Subcommittee and this is a very important policy area, important to me because of years of experience in the educational field in California. I do not recall the question of this policy being discussed in our subcommittee during the time I have served on the subcommittee. Did I miss some meetings?

Mr. ROE. Let me respond to the gentleman directly. The gentleman is absolutely correct. It was not discussed per se in our hearings or in our presentation on the floor of the House. It was an amendment that was added in the Senate by the distinguished Senator from Texas and it was discussed by the conferees. Had we been able to resolve our differences at the conference level, which we were unable to do, as you know, we would have accepted that amendment.

If the gentleman will continue to yield, it is erroneous to say that the EDA has nothing to do with schools. That is not so. We do have jurisdiction over vocational schools in part.

Mr. LEWIS. Mr. Speaker, I was not questioning that. It seems to me this is a very, very significant policy development. As I understand the language that was presented in the Senate, which language the gentleman's amendment affects, the language would essentially, through the southern border regional commission, provide a funding flow that would cause the Federal Government to provide money for the building of primary and secondary schools relating to immigrant children in that region and provide $22,500,000 initially for an authorization for that purpose. Is that correct?

Mr. ROE. The gentleman is correct.

Mr. LEWIS. Mr. Speaker, it may very well be that in those areas that are impacted by immigrant children that one could develop a line of logic and dialog which would support moving in this direction but I must say that this is a very significant development in terms of shifting public opinion.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. EDGAR. Mr. Speaker, I yield the gentleman from California 1 additional minute.

Mr. LEWIS. Mr. Speaker, it is a most significant development for us to move in the direction which opens the door that says the Federal Government through a regional commission approach shall begin to finance school buildings.

Indeed a movement in that direction could take us another step down the line. In Florida there is impaction from Cuba. In New York there is impaction from Puerto Rico. Indeed this could end up being a multibillion-dollar program, a program going down that path on which our committee has had literally no discussion, no input, no argument, no testimony that would justify pro or con.

Mr. ROE. Mr. Speaker, would the gentleman allow me to respond. I am not here to defend this amendment. When this amendment was suggested, it came back on our simple bill. The situation at that point was that the funding for this amendment was allocated to come out of title I. We have taken the position, as far as our committee is concerned: No way.

Mr. Speaker, I am not opposed to providing a school building under public works, personally, in areas that cannot afford to build it themselves.

I know the gentleman has a fine reputation.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. EDGAR. Mr. Speaker, I yield 30 seconds to the gentleman.

Mr. LEWIS. I yield to the gentleman from New Jersey.

Mr. ROE. All I want to say is, if we want to do something for schools where they are needed and they cannot afford to build them locally to educate the kids we are responsible for, that is our job. Whether it should go by this vehicle, I am not going to quarrel with that.

Mr. LEWIS. Mr. Speaker, first I understand where you are coming from and your amendment to the Senate change, but it does seem to me, if we are going to move in this direction, that the least that should happen before we make this decision is to have the kind of hearings in the House that would justify this policy shift.

I would suggest that we can delay this kind of change until the next session of Congress, for indeed I would like to participate in that discussion.

Mr. EDGAR. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding.

I would merely add to what my friend has just said. It is unfortunate that often we do embark on matters of important public policy in a last-minute effort in the Senate. My colleague from Maryland (Mr. BAUMAN) and I have just gone through the CONGRESSIONAL RECORD studying amendments to the continuing resolution. It is absolutely incredible what has been done in the other body. They pull $750,000 out of the air and endow a chair in a university. I think everybody in this hall would like to somehow endow a chair in a university but there is a regular way to do it.

Sometime or another we are going to have to come to grips with the concept of public policy, how we set public policy and if we allow these important measures to be addressed in a sporadic manner, particularly under the rules in the other body where they can just attach an amendment and embark us on a program. Then we get into what I call the sticky paper syndrome. You get stuck. Once you get into it you get stuck and then you get stucker and then you get stucker. You need a little bit of money to start these programs which come up like the one here. The next thing they come back and they say, "That wasn't enough, we have started this program, the Congress favors it and we have to add $10 million more, $20 million more, $50 million more." They often use this start. You get a little bit and once you are embarked, they say, "That is the policy of the Congress. We have promised the money." On and on we go. Through the back door we are edged into major programs without ever really debating the subject.

I am on the Committee on Education and Labor and I have great concern for what my colleagues in the Southwest have indicated to be a major problem. My point is, before we embark on any such program there ought to be full deliberation. There should be deliberation on this side of the Capitol. We should know what we are doing and it should not be done in the last moments of a Congress rushing for adjournment.

Mr. EDGAR. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. HANCE).

Mr. HANCE. Mr. Speaker, I would like to point out that the reason for the amendment in the other body was simply because of the fact that the Federal Government has not had an immigration policy with which anyone can live. There are certain school districts in the Southwest which just get stuck with a number of students who enroll and they have no other means of maintaining their public buildings and also their operating expense in some of these school districts. That is the justification for the amendment.

Mr. EDGAR. The gentleman makes an interesting and important justification. I simply say that for 2 years I have served on the Economic Development Subcommittee. We have had, I think, considerable time, because of the holdup on our reauthorization of the EDA bill, to have full disclosure and full public hearings on this important issue.

Mr. Speaker, there are a number of school systems around the country that are impacted in a variety of ways and I am sure that the problem of aliens in our school systems is a difficult one for local school districts to deal with.

I am concerned, as a member of the subcommittee, that communication was so poor on this issue that it comes sweeping through from the Senate side, and we may be acting in the waning moments of this particular Congress on an issue of which we have little or no knowledge.

□ 1040

Mr. HANCE. The gentleman is right as to one aspect. For 2 years there has not been any hearing on it, but there was a Federal court decision out of the fifth circuit in New Orleans, and that Federal decision came out and said that a Texas law that said that you did not have to educate the aliens was unconstitutional, so all of a sudden all these school districts are stuck with educating everyone without the expense.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to join my colleague in my opposition to this suspension of the rules which will require a two-thirds vote.

This is really a runt as Christmas trees go. The real national type Christmas tree will be the continuing resolution with 148 amendments, most of them very expensive and not germane. This one is only $45 million, as they say in Congress. This is the only place where you can describe $45 million with the prefix of "only."

This bill should not be passed. Whatever the policy reasons compelling the offering of this amendment in the other body it is a matter that ought to be considered in the next session, with all of the policy implications of Federal aid to local school building.

I know it is the season to be jolly, but this sort of jollyness can get out of hand. I think this is a good place to draw the line, with all due apologies to former Federal judge, John D. Larkins, whose building has been caught in this crossfire on the Mexican border.

So I would hope that the Members would not be overcome with Christmas cheer, or whatever other motivations, and vote down what is essentially not a Christmas present, but one of the perennial legislative turkeys handed out at this time of the season.

Mr. EDGAR. Mr. Speaker, let me just close off debate by saying this is not that important a piece of legislation when we consider the billions of dollars we will be dealing with on the continuing resolution, but there are some important symbols here.

I think we need a merit water policy. I think we need a committee and subcommittee structure that focuses on the merit of issues.

I think that in the waning hours of any Congress, we should not be adding to a bill no end of projects simply because of political clout.

I urge opposition to this legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Roe) that the House suspend the rules and agree to the resolution, House Resolution 829.

The question was taken; and on a division (demanded by Mr. Frenzel) there were—yeas 16, nays 16.

Mr. ROE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 51, nays 191, answered "present" 1, not voting 188, as follows:

[Roll No. 678]

YEAS—51

Anderson, Calif.
Andrews, N.C.
Bailey
Barnes
Bennett
Bonior
Breaux
Clausen
Clinger
de la Garza
Eckhardt
Fary
Fascell
Frost
Garcia
Gonzalez
Gramm
Gudger
Hall, Tex.
Hammerschmidt
Hance
Harsha
Hightower
Johnson, Calif.
Jones, N.C.
Kazen
Kildee
Leath, Tex.
Lehman
Lloyd
Loeffler
Long, La.
Lujan
Mattox
Mica
Mitchell, Md.
Oberstar
Ottinger
Pepper
Perkins
Price
Rangel
Roe
Scheuer
Skelton
Stenholm
Stratton
White
Williams, Mont.
Wilson, Tex.
Wyatt

NAYS—191

Addabbo
Albosta
Andrews, N. Dak.
Annunzio
Anthony
Ashbrook
Aspin
Barnard
Bauman
Bedell
Benjamin
Bereuter
Bethune
Bevill
Boland
Bouquard
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Campbell
Carney
Carr
Carter
Clay
Cleveland
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derrick
Dickinson
Dicks
Dingell
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fenwick
Fish
Fisher
Flippo
Florio
Ford, Tenn.
Forsythe
Frenzel
Gaydos
Gephardt
Giaimo
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gray
Guarini
Harkin
Hawkins
Hefner
Hinson
Hollenbeck
Hopkins
Ichord
Ireland
Jacobs
Jeffries
Jones, Okla.
Kindness
Kramer
Lagomarsino
Leach, Iowa
Lee
Levitas
Lewis
Livingston
Long, Md.
Lowry
Lungren
McClory
McHugh
McKay
McKinney
Madigan
Markey
Marks
Mavroules
Mazzoli
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Pa.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nowak
Oakar
Obey
Panetta
Pashayan
Patten
Pease
Petri
Peyser
Porter
Preyer
Pritchard
Quayle
Quillen
Ratchford
Regula
Reuss
Rhodes
Ritter
Robinson
Rodino
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Schroeder
Shannon
Sharp
Shelby
Shumway
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Solomon
Spence
Stanton
Studds
Symms
Synar
Tauke
Trible
Udall
Vander Jagt
Vento
Walgren
Walker
Wampler
Watkins
Weiss
Whittaker
Whitten
Winn
Wirth
Wolpe
Wylie
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Foley

NOT VOTING—188

Abdnor
Akaka
Alexander
Ambro
Anderson, Ill.
Applegate
Archer
Ashley
Atkinson
AuCoin
Badham
Bafalis
Baldus
Beard, R.I.
Beard, Tenn.
Beilenson
Biaggi
Bingham
Blanchard
Boggs
Bolling
Boner
Bonker
Bowen
Brooks
Burton, John
Burton, Phillip
Byron
Cavanaugh
Chappell
Cheney
Chisholm
Collins, Ill.
Conable
Conyers
Corman
Cotter
Crane, Daniel
Crane, Philip
Crockett
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derwinski
Devine
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Edwards, Okla.
Emery
Erlenborn
Evans, Ind.
Fazio
Ferraro
Findley
Fithian
Ford, Mich.
Fountain
Fowler
Fuqua
Gibbons
Gilman
Goldwater
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hanley
Hansen
Harris
Heckler
Heftel
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Jeffords
Jenkins
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kelly
Kemp
Kogovsek
Kostmayer
LaFalce
Latta
Leach, La.
Lederer
Leland
Lent
Lott
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
Maguire
Marlenee
Marriott
Martin
Mathis
Matsui
Moffett
Mollohan
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Neal
Nedzi
Nichols
Nolan
O'Brien
Patterson
Paul
Pickle
Pursell
Rahall
Railsback
Richmond
Rinaldo
Roberts
Rose
Rostenkowski
Satterfield
Schulze
Sebelius
Seiberling
Sensenbrenner
Shuster
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stewart
Stockman
Stokes
Stump
Swift
Tauzin
Taylor
Thomas
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Volkmer
Waxman
Weaver
Whitehurst
Whitley
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.

□ 1100

The Clerk announced the following pairs:

Ms. Ferraro with Mr. Abdnor.
Mr. Lederer with Mr. Dornan.
Mr. Biaggi with Mr. Kemp.
Mr. Thompson with Mr. Latta.
Mr. St Germain with Mr. Lent.
Mr. Wolff with Mr. Erlenborn.
Mr. Hughes with Mr. Archer.
Mr. Hamilton with Mr. Badham.
Mr. Chappell with Mr. Evans of Indiana.
Mr. Cotter with Mr. Emery.
Mr. Danielson with Mr. Marlenee.
Mr. Pickle with Mr. Marriott.
Mr. Richmond with Mr. Schulze.
Mr. Matsui with Mr. Snyder.
Mr. LaFalce with Mr. Pursell.
Mr. Jones of Tennessee with Mr. Paul.
Mr. Kastenmeier with Mr. Hutchinson.
Mr. Downey with Mr. Jeffords.
Mr. Dodd with Mr. Hillis.
Mr. AuCoin with Mr. Hansen.
Mr. Applegate with Mr. Grisham.
Mr. Akaka with Mr. Goldwater.
Mr. Phillip Burton with Mr. Fowler.
Mr. Dellums with Mr. Bafalis.
Mr. Stokes with Mr. Beard of Tennessee.
Mr. Ullman with Mr. Cheney.
Mr. Van Deerlin with Mr. Conable.
Mr. Wright with Mrs. Heckler.
Mr. Yatron with Mr. McEwen.
Mr. Whitley with Mr. Daniel B. Crane.
Mr. Roberts with Mr. McDade.
Mr. Rostenkowski with Mr. Stangeland.
Mr. Rose with Mr. Taylor.
Mr. Nichols with Mr. Tauzin.
Mr. Murphy of New York with Mr. Young of Florida.
Mr. Mottl with Mr. Wydler.
Mr. Fazio with Mr. Davis of Michigan.
Mr. Donnelly with Mr. Derwinski.
Mr. Alexander with Mr. Devine.
Mr. Atkinson with Mr. Sebelius.
Mr. Fithian with Mr. Sensenbrenner.
Mr. Ford of Michigan with Mr. Stockman.
Mr. Luken with Mr. Swift.
Mr. Kostmayer with Mr. Whitehurst.
Mr. Mollohan with Mr. Williams of Ohio.
Mr. Neal with Mr. Bob Wilson.
Mr. Rahall with Mr. Young of Alaska.
Mr. Jenkins with Mr. Gilman.
Mr. Daschle with Mr. Dougherty.
Mr. Corman with Mr. Grassley.
Mrs. Collins of Illinois with Mr. Green.
Mr. Conyers with Mr. Philip M. Crane.
Mrs. Chisholm with Mr. Hall of Ohio.
Mr. Hanley with Mr. Hagedorn.
Mr. Moffett with Mr. Guyer.
Mr. Mathis with Mr. McCloskey.
Mr. Lundine with Mr. Lott.
Mr. Bingham with Mr. Leach of Louisiana.
Mr. Baldus with Mr. Martin.
Mr. Boner of Tennessee with Mr. Moorhead of California.
Mr. Brooks with Mr. O'Brien.
Mr. Cavanaugh with Mr. Railsback.
Mr. Crockett with Mr. Rinaldo.
Mr. Davis of South Carolina with Mr. Johnson of Colorado.
Mr. Seiberling with Mr. Horton.
Mr. Satterfield with Mrs. Holt.
Mr. Solarz with Mr. Deckard.

Mr. Staggers with Mr. Findley.
Mr. Stump with Mr. Hutto.
Mr. Weaver with Mr. Kelly.
Mr. Charles H. Wilson of California with Mr. Nedzi.
Mr. Yates with Mr. Maguire.
Mr. Ambro with Mr. Ashley.
Mr. Blanchard with Mr. Beard of Rhode Island.
Mrs. Boggs with Mr. Bonker.
Mr. Bowen with Mr. Dixon.
Mr. Edwards of Oklahoma with Mr. Gibbons.
Mr. Fuqua with Mr. Beilenson.
Mr. John L. Burton with Mr. Harris.
Mrs. Byron with Mr. Heftel.
Ms. Holtzman with Mr. Collins of Texas.
Mr. Howard with Mr. Nolan.
Mr. Hubbard with Mr. Patterson.
Mr. Huckaby with Mr. Stewart.
Mr. Kogovsek with Mr. McCormack.
Mr. Murphy of Illinois with Mr. McDonald.
Mr. Stack with Mr. Shuster.
Mr. Stark with Mr. Steed.
Mr. Traxler with Mr. Vanik.
Mr. Waxman with Mr. Volkmer.
Mr. Young of Missouri with Mr. Fountain.
Mr. Leland with Mr. Anderson of Illinois.

Mr. WYLIE and Mr. GINN changed their votes from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill, H.R. 4231, John D. Larkins, Jr., Federal Building.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 637, FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 637) making further continuing appropriations for fiscal year 1981, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, this is the continuing resolution that has been adorned with 148 Christmas ornaments on this magnificent tree, and one of those ornaments is section 152 which creates an unemployment compensation fund for high-priced other-body talent should they not receive jobs. The gentleman from Maryland had a motion to instruct that would have removed that glittering star from the highest bough, and he wonders whether or not the leadership on both sides would be willing to permit him to offer that motion so that the other body could permit us to work our will. It only passed the other body by one vote in a fit of madness on the part of some conservatives who joined in supporting this giveaway. Would that proposal appeal to the Christmas spirit of the gentleman from Mississippi (Mr. WHITTEN)?

Mr. WHITTEN. If the gentleman will yield, the gentleman said 148 amendments rather than 128?

Mr. BAUMAN. One hundred and forty-eight, yes.

Mr. WHITTEN. I am not thoroughly familiar with all of them, but I am familiar with this one. The gentleman is well aware of the rules of the House and this proposition would have to be brought back in disagreement.

Mr. BAUMAN. Does the gentleman mean the ranking minority member intends to make a motion to instruct that would prevent the savings of these many hundreds of thousands if not millions of dollars that the gentleman from Maryland is concerned about?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Pennsylvania.

☐ 1110

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I think our problem is that it turns out that this takes care of both Democrats and Republicans, this severance pay issue. I found out that the Democrats are going to get 90 days of severance pay while the Republicans are going to get 30 days of severance pay.

Mr. BAUMAN. That is the way things are run around here.

Mr. WALKER. So there is a little in it for everybody. I think the taxpayers are being ill-served on both sides. We certainly would not want something done to hinder the progress of such an equitable bill.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the gentleman from Maryland is not concerned about partisanship, and never has been.

Mr. WALKER. I realize that.

Mr. BAUMAN. My only concern is that we sever them, not that we pay them. That is why I would like to offer this motion.

Does the gentleman from Massachusetts wish to accord me the privilege of offering this motion? Because if the gentleman from Maryland objected, the entire Government would grind to a halt on Monday. Christmas would not come. Scrooge would be at the door with coal and switches.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman from Maryland yield?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas while the gentleman from Massachusetts is making up his mind.

Mr. COLLINS of Texas. Is this the same bill that has deleted the school busing provision it it? Has the gentleman had an opportunity to review it? As I understand it, the Senate is going to continue school forced busing.

Mr. BAUMAN. At least for about 3 or 4 weeks, I am told.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, as the gentleman knows, I usually agree with him. We work together on these matters. But, unfortunately, I have had so many requests, so many requests for motions to instruct the conferees, that I just cannot favor one over the other. I like them all. They are all good fellows. So I had to draft my own here, and I got one, too. I just got to put mine in. I hate to do it, but I just got to put mine in.

Mr. BAUMAN. The gentleman's motion, as I understand it, instructs the conferees to strike the last word; is that correct?

Mr. CONTE. I think it goes deeper than that.

Mr. BAUMAN. Would the gentleman assure me that this matter of the severance pay would be addressed by the gentleman and opposed on his part? Because the gentleman is a mighty fighter when he wants to be.

Mr. CONTE. You bet your life. I understand there is $2 million in here to wipe out some Khapra beetle out in Baltimore.

Mr. BAUMAN. The million dollar Khapra beetle, yes, in Baltimore.

Mr. CONTE. And that is right up my alley. We will go right after those beetles.

Mr. BAUMAN. Go get those beetles.

Mr. CONTE. We are ready to go. There are 142 amendments.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the gentleman from Maryland does not want to bring the Government to a halt, now that we are about to take it over and, therefore, I withdraw my reservation of objection.

Mr. CONTE. Mr. Speaker, I appreciate the gentleman's statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Mr. Speaker, reserving the right to object, I would like, under my reservation, to ask the gentleman from Mississippi whether it would be his contention on the part of the House to oppose this severance pay for the Senate staff.

There are many of us who believe that this is just one gigantic taxpayer rip-off and can find no justification whatsoever for spending the kind of money that would be necessary over the 3-month period. Could the gentleman from Mississippi give us some assurance?

Mr. WHITTEN. If the gentleman will yield, I think I can give the gentleman a little broader answer than that. I personally do not see how you can have 148 amendments proposed on the other side without any hearings, and when we had a closed rule over here and were rather restricted.

I also believe it is thoroughly unsound to add all of these propositions on the other side, when those funds could be taken from some other appropriation, in view of the congressional budget ceiling that we have imposed upon ourselves.

So I would be opposed to many of the Senate amendments, personally.

We also have, as the gentleman knows, a number of conferees. Whether my opinion will prevail, I cannot tell the gentleman. I do not know. I do not think this is a sound approach, to have all of these additions made without hearings. We had a closed rule on this side and our colleagues had no chance to amend the measure. But I repeat again, it is my judgment that, if all of these other things are added, it will be taken out of the appropriations heretofore made for other purposes.

Mr. WALKER. Mr. Speaker, further reserving the right to object, do I understand, then, that in terms of this specific amendment, the gentleman from Mississippi will be in opposition to this specific amendment that was added by the Senate?

Mr. WHITTEN. Well, I do not want to get my feet set in concrete, by any manner or means, because I would like to hear all the facts that are involved. My present feeling is that I would be opposed to any such thing, but I would not want to make such a commitment until I know all the facts. There are 36 conferees and 148 amendments. So anyone who goes to the conference with a fixed opinion on this, or that, or any other matter, is likely to get outvoted. There may be something I am unaware of. So I do not care to make a flat answer on things that we are trying to work out. My inclination and my feeling is that this is bad procedure to follow.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I certainly hope that, on at least this issue, the House is going to maintain a very firm position. There is absolutely no way that I can see that we can justify, the political fortunes being what they are, basically a taxpayer payoff to certain Senate staff members who have lived pretty high on the hog for some years, and I certainly hope the two gentlemen representing the House in a leadership position will oppose this.

Mr. WHITTEN. I think I have made my position clear, but I do hope to keep myself in a position where I can look at everything objectively. I cannot help but have my mind colored in advance on some items, however.

Mr. WALKER. Mr. Speaker. I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. COLLINS of Texas. Mr. Speaker, reserving the right to object, I would like to ask the chairman: On one issue that has been in this bill from the very first and went to the Senate, we passed a provision in our appropriation that would take the Justice Department out of forcing school busing in America. Now, I know the gentleman is opposed to forced school busing. When it came to the Senate, the Senate also took this same language. Now, somewhere or another, in spite of the original appropriation, it seems to have been deleted from this continuing appropriation.

What would be the position of the committee on this forced school busing when it comes before them?

Mr. WHITTEN. If the gentleman will yield, that is one place where the House-passed bill and the Senate-passed bill differ. We are all familiar with the opinion of the President in his veto message, which holds that to tie the hands of the executive branch does not go to the problem, in his opinion. We are all familiar with that, but I can see that there might be some color of right in his opinion.

The gentleman is right about the use of force. I have always felt that way, and so have many people. But again, you cannot go to conference and have an advanced commitment on everything that comes along. I have a long record on that issue.

Mr. COLLINS of Texas. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. CONTE moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on House Joint Resolution 637, be instructed to disagree to the amendment of the Senate numbered 39.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. CONTE) is recognized for 1 hour.

Mr. CONTE. Mr. Speaker, I offer this motion to instruct the House conferees to disagree to the Senate amendment that extends the continuing resolution through the end of the fiscal year.

While three of our regular appropriation bills have been enacted into law, and six others have cleared conference and await the President's signature, four remain to be acted upon by the Congress.

It is the responsibility of the Congress to complete consideration of these bills, and to provide appropriations through the positive enactment of appropriations legislation, rather than to default through a continuing resolution.

The new Congress and the new administration deserve an opportunity to work their will on these remaining bills.

The House agreed that the continuing resolution should extend only through June 5, and I support that date, or some other date that would permit the completion of action on appropriation bills for the current fiscal year.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct.

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, ADDABBO, LONG of Maryland, ROYBAL, MCKAY, BEVILL, DUNCAN of Oregon, BENJAMIN, DIXON, CONTE, MICHEL, MCDADE, ANDREWS of North Dakota, EDWARDS of Alabama, and MYERS of Indiana.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 637, FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the joint resolution (H.J. Res. 637) making further continuing appropriations for fiscal year 1981, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, does that indicate that we most definitely will probably bring this up tomorrow, as opposed to today?

Mr. WHITTEN. If the gentleman will yield, I presume this represents the highest degree of optimism, but I thought we should have the authority, in case we do get together.

Mr. BAUMAN. But does it indicate, Mr. Speaker, that we will bring the matter up tomorrow, rather than today?

Mr. WHITTEN. I cannot speak for the leadership, but if there is any chance to get together tonight, I hope we would bring it up tomorrow. But I do not speak for them and, again, with 148 amendments, I do not have any idea of what the possibilities are.

☐ 1120

This is a request that would let us file by midnight tonight in case we can reach an agreement. I think we might be optimistic to think that we can do that, but in case we should, I will see that it is filed so that we could take it up tomorrow. That would be a decision of the leadership as to whether we meet or not, or whether they realize that we might have to go over to Monday.

Mr. BAUMAN. Further reserving the right to object, the only reason I ask the question now is that I think a lot of Members would like to know whether or not they will be kept here today for some indefinite action that may or may not occur, or whether we will know soon whether or not we are to go on until tomorrow. It would be much easier if we were simply told that.

Mr. WHITTEN. I would hope that the leadership would give the gentleman some idea, and perhaps after we meet with the Senate conferees for an hour, we can get a better idea of what the outlook is so that we can make a better judgment.

Mr. BAUMAN. I am just simply deferring to the gentleman from Mississippi as a leader who could give us that information.

Mr. WHITTEN. We will do the best we can.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. So, the gentleman from Mississippi, the chairman of the Appropriations Committee, is in real doubt as to whether we could in fact, as to whether the conference could complete by tonight at midnight and therefore the possibility of a Monday session is very real, Saturday and Monday?

Mr. WHITTEN. Well, I can only refer the gentleman to the last continuing resolution (H.J. Res. 610) which expires Monday. As the gentleman will recall, we stayed in session from 2 o'clock in the afternoon until about 2 the next morning, and some of the issues that were at issue in that conference are in this conference. The gentleman can see that we may have quite an extended time before we resolve all of these amendments. But, I would still be hopeful that we might be able to come up with some relatively simple provisions delaying any additional expenditures until we have a third budget resolution. I think all these amendments over there are in excess of the congressional budget ceiling we imposed on ourselves earlier.

That being true, I would hope that those things we might agree to could be delayed until such time as we have a third budget resolution, so that they would not take funds from existing appropriations.

Mr. BAUMAN. Further reserving the right to object, could the Chair perhaps give the House any better understanding about when this matter might be considered, Saturday versus Monday?

The SPEAKER pro tempore. The Chair announced earlier that there was very strong likelihood of a Saturday session, and that Members should probably adjust their schedules to conform to the Saturday schedule.

The Chair is not in a position to elaborate further on that subject, but the Chair believes that within the next hour it will be able to get better advice.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. DAN DANIEL. Mr. Speaker, reserving the right to object, I do so to call the attention of the conferees to an amendment which was offered yesterday by Senator HOLLINGS of South Carolina.

Mr. Speaker, it is with a great deal of gratification I advise this body that yesterday the Senate amended the continuing resolution to provide that no funds appropriated under the resolution will be spent for the employment or training of anyone who publicly advocates the violent overthrow of the U.S. Government.

On November 13, I introduced a bill with similar language in the House because of a situation which existed in my district where a member and a supporter of the Communist Workers Party were employed under the CETA training program. I was frankly appalled at this and following my making this public, one of those involved was quoted in a press release as saying, "yes, we do stand on our position that there must be a revolution in the U.S." She told a reporter that "the revolution should be by force of arms if necessary."

Apparently in the belief she may not be completely understood, she repeated this belief in a letter to the editor which said in part, "We stand on our position that the Government must be overthrown".

In this country we have a system for determining who shall govern. It is called "election." The Constitution does not accommodate the notion that any single group shall remove officeholders by violent means in order to impose their own views on the rest of us.

Regardless of one's feelings about the propriety of any of the programs supported by the resolution, I believe the restriction endorsed by the Senate is necessary in order to retain public confidence in Government programs. I do not believe it was the intention of Congress that individuals whose stated policy is the overthrow of our system be the beneficiary of that system.

In the House my earlier effort to add the language was frustrated by House procedures. Hopefully, the inclusion of the language in the continuing resolution will deal directly with the problem and should prevent such misapplication of public funds in the future.

When the amendment was before the Senate yesterday, Senator PROXMIRE stated:

> I do not know how anybody could possibly object to this amendment. I do not know of anybody in the Senate who would favor our spending CETA money to pay someone who advocates the violent overthrow of the Government.

I do not believe there are any in this body either who support the use of Federal funds under these circumstances.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MARIA ELENA FOLEY AND CARITINA ANN FOLEY

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 120) for the relief of Maria Elena Foley and Caritina Ann Foley, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. FISH. Mr. Speaker, reserving the right to object, I do so in order to request of the chairman of the Judiciary Committee if he could explain to the House the nature of the relief sought.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield.

Mr. RODINO. I thank the gentleman. I will be happy to explain that this bill, as well as seven other private Senate immigration bills which I will bring up also under unanimous-consent request, was ordered reported by the committee on December 2, 1980. All of them relate to the immigration of adopted children of U.S. citizens, naturalization and granting of permanent residence to certain aliens whose circumstances warrant extraordinary relief.

The reports on these bills were not filed in time for the last Private Calendar call on December 3, 1980, and that is the reason these bills are being brought up in this manner.

Mr. FISH. I thank the gentleman, and I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maria Elena Foley and Caritina Ann Foley shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the county of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SHAVJI PURSHOTTAM DUSARA, VASANTI SHAVJI DUSARA, AND SHREEDHAR DUSARA

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 327) for the relief of Shavji Purshottam Dusara, his wife, Vasanti Shavji Dusara, and their child, Shreedhar Dusara, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. FISH. Mr. Speaker, I reserve the right to object, and I do so solely to give the chairman of the committee an opportunity to explain the nature of the relief sought.

Mr. RODINO. The bill relates to granting of permanent residence to these individuals, whose status presently has been students and dependents of students. Shavji Purshottam Dusara, the male beneficiary, who is pursuing a doctorate at Brigham Young University, is presently employed as a teacher's assistant and soccer coach, and he has made application for labor certification, which was denied. But, the U.S. citizen child is now undergoing medical treatment, and this is prinicpally the reason for the special relief.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Shavji Purshottam Dusara, his wife, Vasanti Shavji Dusara, and their child, Shreedhar Dusara, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MUNIR P. BENJENK

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1227) for the relief of Munir P. Benjenk, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Munir P. Benjenk shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LYNN RUFUS PEREIRA

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1374) for the relief of Lynn Rufus Pereira, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lynn Rufus Pereira shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed on his behalf by Mr. and Mrs. James Kenneth Kruse, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Lynn Rufus Pereira shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FRANCISCO PANG

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1624) for the relief of Francisco Pang, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, upon the presentation by Francisco Pang of this Act to any court having naturalization jurisdiction under section 310 of the Immigration and Nationality Act, and after Francisco Pang takes in open court the oath required under section 337 of such Act, such court shall admit to citizenship Francisco Pang and shall issue to him a certificate of naturalization as provided in section 338 of such Act.

□ 1130

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RODINO

Mr. RODINO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. RODINO: Strike all after the enacting clause and insert in lieu thereof:

"That in the administration of the Immigration and Nationality Act the provisions of section 312 of that Act shall be inapplicable in the case of Francisco Pang and he may be naturalized upon compliance with all the requirements of the naturalization laws except that no prior residence or specified period of physical presence within the United States or within the jurisdiction of the naturalization court or proof thereof shall be required."

The SPEAKER pro tempore. Without objection, the amendment in the nature of a substitute is agreed to.

Mr. BRINKLEY. Mr. Speaker, reserving the right to object, I would like to make an inquiry of the committee chairman.

The reference, I would say to the committee chairman under my reservation, relates to section 312. Will the gentleman inform me as to what that is? The amendment that the Clerk read related to section 312, and I wondered about the waiver.

Mr. RODINO. Mr. Speaker, if the gentleman will yield, let me say that, first of all, this bill relates to a 94-year-old native of Korea, a citizen of Cuba. He has permanent residence. Unfortunately, he is unable to meet the literacy requirements, and that is the reason for that waiver.

Mr. BRINKLEY. Section 312, then, in response to my question, simply relates to the literacy requirement?

Mr. RODINO. The gentleman is correct, and the English language requirement for naturalization.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the amendment in the nature of a substitute is agreed to.

There was no objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MIN-ZEN LIN

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be dischraged from further consideration of the Senate bill (S. 1772) for the relief of Min-Zen Lin, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Min-Zen Lin shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed on his behalf by Eyih Lin and Susan Tu Lin, husband and wife, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Min-Zen Lin shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANA MARLENE ORANTES

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1847) for the relief of Ana Marlene Orantes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1847

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ana Marlene Orantes may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Robert I. Jump, citizens of the United States, pursuant to section 204 of such Act. The parents, brothers, and sisters of the said Ana Marlene Orantes shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JAMES DANIEL BRONSON

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 2027) for the relief of James Daniel Bronson, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any numerical limitation, imposed by the Immigration and Nationality Act, in the administration of such Act, for purposes of such Act, James Daniel Bronson shall be issued a visa and lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of such Act, or if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 202 of the Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF S. 2849, FOR THE RELIEF OF CHARLES JEFFREY GREENE

Mr. RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2849) for the relief of Charles Jeffrey Greene, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 821, the Chair will declare a recess, but prior to the Chair's declaring a recess, the Chair will indicate to the Members that it is his intention to recognize Members for special orders.

Mr. ROUSSELOT. Mr. Speaker, I rise to a point of inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ROUSSELOT. Mr. Speaker, can the Chair give us any kind of an idea as to what may come up after the recess?

Obviously, we are waiting for the work of the conferees on the continuing resolution, but above and beyond that, can the Chair give us an idea of what other items of business we might expect?

The SPEAKER pro tempore. It is possible, the Chair will state, that the highway bill may come back from the Senate with amendments, and in that event it might be called up.

Mr. ROUSSELOT. So that one possible item of business is the highway bill.

Mr. Speaker, could the Chair give us an idea of the timeframe? Are we talking about something like 2 hours from now or 3 or 5 hours from now? What are we talking about?

The SPEAKER pro tempore. The Chair would be delighted to advise the gentleman, if the Chair were in a position to do so. Unfortunately, the Chair is not. The Chair is not advised of any information which can further elucidate this particular inquiry, since the conferees have not yet met.

Mr. ROUSSELOT. Let me ask the question this way, then, Mr. Speaker: Is it possible that it is apt to be this afternoon sometime?

The SPEAKER pro tempore. The Chair believes that that is possible.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. As I understand the rules under which we are operating, if that bill were returned from the Senate after the House was called back into session, we would require 1 hour's notice from the Speaker before it could be taken up under suspension. May I state that as a parliamentary inquiry to the Speaker?

The SPEAKER pro tempore. The gentleman is correct. That is correct, on a suspension or after filing of a conference report.

Mr. FRENZEL. I thank the Speaker.

Mr. ROUSSELOT. Mr. Speaker, I have a further point of inquiry.

My understanding is that there are some additional private bills that may or may not have been passed by the Senate and that would be sent back here. Could the Speaker tell us whether those might come up later if we were to come back into session this afternoon?

The SPEAKER pro tempore. The Chair would state that it would be up to the Committee on the Judiciary to determine whether such private bills might be presented to the House.

Mr. ROUSSELOT. Mr. Speaker, a further point of inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ROUSSELOT. Mr. Speaker, my understanding is that the Speaker is considering early this afternoon arriving at some decision as to how late we may be in session tonight. How soon is that announcement likely to be made as to how late tonight we will be here?

The SPEAKER pro tempore. The Chair believes that the announcement will be made in the vicinity of 3 o'clock.

Mr. ROUSSELOT. I thank the Speaker for his help and assistance.

The SPEAKER pro tempore. The Chair will recognize Members for 1-minute speeches and then for special orders.

JUDGE JOHN D. LARKINS, JR., REPORTED "ALIVE AND WELL"

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that I may be permitted to address the House for 1 minute.

The SPEAKER pro tempore. Without objection, the gentleman is recognized.

There was no objection.

Mr. BAUMAN. Mr. Speaker, I take this time only to correct the record made earlier today in the debate on the legislation providing for the naming of a building in Trenton, N.C.

I referred to Judge Larkins as having been deceased. I am informed that Judge Larkins is alive and well in North Carolina, and wants the record to show that.

The SPEAKER pro tempore. The record will be corrected, and the gentleman's statement will be included in the RECORD.

ON HOUSE RESOLUTION 637, MAKING CONTINUING APPROPRIATIONS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, I have a few moments ago sent a letter to Chairman WHITTEN urging the House to accept the Senate amendments to the continuing resolution dealing with the Merit Systems Protection Board and the special counsel.

The inappropriate and irresponsible confrontational antics of the chairwoman of the Merit Systems Protection Board directed at the special counsel have undermined the whistleblower protection provisions of the Civil Service Reform Act. Two years ago Congress stated that it wanted to protect from reprisal Federal employees who disclose waste, illegality, corruption, or abuse. We created an independent special counsel, housed in the Merit Systems Protection Board, to protect whistleblowers. Unable to tolerate an autonomous entity within the Board's structure, the chairwoman of the Board has attempted to curtail the independence of the special counsel. Chair Prokop's efforts have been directly contrary to the intent of Congress in creating an independent special counsel.

This issue has been brought to a head recently by Chair Prokop's going to Federal district court to sue the special counsel in both her individual and official capacities. It is hard to imagine any move more destructive of the mechanism for whistleblower protection.

The Senate amendments will contain the damage of this move until the next Congress can consider legislation providing a permanent solution.

Before that happens, however, I urge President-elect Reagan to move swiftly to replace Chair Prokop with a head of the Merit Systems Protection Board who is committed to the purposes of civil service reform and dedicated to the maintenance of a merit system in the Federal Government.

I include the entire text of my letter to Chairman WHITTEN to be printed in the RECORD at this point.

SUBCOMMITTEE ON CIVIL SERVICE,
Washington, D.C., December 12, 1980.
Chairman JAMIE L. WHITTEN,
Committee on Appropriations,
Washington, D.C.

DEAR MR. CHAIRMAN: H.J. Res. 637, Making Continuing Appropriations, was amended by the Senate to clarify the stormy relationship between the Merit Systems Protection Board and the Office of the Special Counsel. As chairwoman of the Subcommittee on Civil Service, which has legislative jurisdiction over the Board and the Office, I wish to inform you that I find the action of the Senate to be entirely consistent with my understanding of the Civil Service Reform Act of 1978.

On November 21, 1980 Chair Ruth Prokop of the Merit Systems Protection Board improperly spent Federal funds bringing a lawsuit against Mary Eastwood, the Acting Special Counsel, in both her individual and official capacities. Prokop claims that if the Special Counsel continued to exercise her independent budget and personnel authorities, Prokop would suffer liability under the Anti-Deficiency statute (31 U.S.C. 665(i) (1)). I believe that this litigation, the latest in a long line of needlessly confrontational acts taken by Chair Prokop, is both without legal merit and entirely inappropriate. Concerns revolving around who has budgetary and administrative responsibilities within an agency or between agencies are issues which should be resolved within the Executive Branch, without resort to the courts. The first thing the Senate amendment does is to stop this litigation by prohibiting funds for its continuation. Adoption of this amendment in conference should express congressional repudiation of the lawsuit. I urge you to accept this amendment.

Second, the Senate amendment outlaws Merit Board meddling in certain functions of the Office of the Special Counsel. Without a doubt, the relationship between the Office and the Board was not completely spelled out in the Civil Service Reform Act of 1978 (P.L. 95-454) and Reorganization Plan No. 2 of 1978. Nevertheless, the clear intent of Congress was to provide functional independence for the Special Counsel. This means independence in writing and submitting budgets, in hiring and firing, and in congressional and public relations. The Board has attempted to curtail the independence of the Office in these areas. Specifically, Chair Prokop's letter of August 21, 1980 to Mary Eastwood was clearly contrary to congressional intent.

I do not like the idea of enacting substantive legislation in appropriations bills. Unfortunately, this issue has come to a head in the last few weeks, at a time when the normal legislative process does not allow for responsible action. The bill making continuing appropriations is the only viable vehicle for legislative amelioration of this problem. The language in the Senate amendment specifying independence in administrative and investigatory functions is entirely consistent with the intent of the Reform Act and will provide useful ground rules in the continuing relationship between these two entities. I, therefore, urge its inclusion in the conference report.

Finally, the Senate amendment includes a sizeable budget cut in the appropriation level for the Merit Systems Protection Board. While there is little doubt that this reduction is punitive in nature, my work on the Civil Service Subcommittee convinces me that this cut can be made with no loss of service to the Board's Federal employee constituency. The cut could come out of three areas. First, the Board has built up an excessively large General Counsel's office, the functions of which overlap with other units of the agency. The General Counsel's office does not decide cases, write decisions, or process appeals. Its stated function is to provide legal services to the Board. Are thirty-five people and nearly $1 million needed for this? Second, the Board was required in the Reform Act (5 U.S.C. 1205(a) (3)) to conduct special studies on whether the civil service is free of prohibited personnel practices. The Board has misunderstood its charter: instead of conducting the mandated studies, it has started engaging in abstract survey research. What Congress intended was that the Board study patterns and practices of merit system abuse, not compile academic survey data, with little immediate value. Third, the Board has created a disproportionately large legislative liaison and public relations staff for an agency its size.

My support for this budget cut is not meant to suggest that a properly run Merit Systems Protection Board could not effectively use a larger budget. Indeed, the single most important function of the Board, reviewing the regulations of the Office of Personnel Management for consistency with merit principles (5 U.S.C. 1205(e)), has been virtually ignored by the Board. Only recently was an understaffed unit established to perform this vital function. The enormous number of OPM regulations implementing the Reform Act have not yet been reviewed and may never be reviewed.

Mr. Chairman, we can hope that the incoming President will use his powers to clean up the mess at the Merit Systems Protection Board. The situation is sufficiently serious, however, for Congress to act now, by means of this Continuing Resolution to solve those problems we can.

Sincerely yours,

PATRICIA SCHROEDER,
Chairwoman.

THE SWANSONG OF A LAMEDUCK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 15 minutes.

Mr. BUCHANAN. Mr. Speaker, if I can impose my will upon the printer, this intervention will be entitled "The Swansong of a Lameduck," because that is precisely what it is.

I felt it fitting and proper, before I left this Chamber for the last time as a Member of the Congress, to express the depth of my gratitude to and pride in the people of the All-American city of Birmingham and the Sixth Congressional District of Alabama. I am deeply proud of the people it has been my privilege to represent for these past 16 years.

□ 1140

They have been a constant source of strength and of inspiration to me. They reflect those qualities which have made our Nation strong and kept it free: the faith, the character, the bone-deep patriotism that has marked its life.

We are very proud of what our city of Birmingham has accomplished in recent years. People like those in my city are leading the way in our Nation toward making this country a place of opportunity for all its people and toward the creation in our country and our time of alabaster cities undimmed by human tears.

Mr. Speaker, I would also like to express my gratitude to God and to the people of the Sixth Congressional District of Alabama for the privilege of having served as a Member of Congress. This House is the truest home I ever had. The people who serve our country here are my brothers and my sisters and nothing less than that. I believe this to be the greatest legislative body in the world.

It is no secret that not everyone holds this institution in the highest regard. Yet those who have served here for any length of time reflect consistently a depth of appreciation, love, and respect for the House and its membership. When men and women work together every day, year after year, they get to know each other very, very well. As one who has had this experience for 16 years with the men and women of this body, I can say without equivocation that I have never met a finer group of people or one of higher ethical standards. Whatever instances of wrongdoing there may be, there are many more instances of right doing by Members who courageously, honorably, and responsibly serve the people and their country here. One can hear upon the floor of this House bombast, diatribe, and demagoguery. One can also hear the voice of reason, the voice of conscience, the voice of courage, the voice of the goodness that still comprises the heart of the greatness of our land.

The institution of the House stands for something very important in our country. Whatever its deficiencies, this House is the very sanctuary of Government of the people, by the people, and for the people. It is the very citadel of liberty. Therefore, this Member leaves this Chamber with a prayer:

God save the United States House of Representatives.
May these walls forever stand.
For so long as this House stands, our country shall be free.

PERSONAL EXPLANATION

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, due to illness, I was unfortunately not able to be present in the House during the week of December 1 through December 5, 1980. Had I been present, however, I would have voted as follows:

Privacy of medical information, H.R. 5935, rollcall No. 650, motion to suspend the rules and pass; vote, "yes";

Black lung benefits, H.R. 7745, rollcall No. 651, motion to suspend the rules and pass; vote, "no";

Energy planning assistance, S. 1280, rollcall No. 652, motion to suspend the rules and pass; vote, "no";

DOD appropriations, H.R. 8105, rollcall No. 653, Addabbo motion to allow conferees to meet in closed session; vote, "yes";

Auto imports, House Joint Resolution 598, rollcall No. 654, on passage; vote, "no";

Surface transportation authorization, H.R. 6417, rollcall No. 655, Shuster amendment; vote, "yes"; rollcall No. 656, Cleveland amendment; vote, "yes"; Budget reconciliation, H.R. 7765, rollcall No. 657, passage of conference report; vote, "no";

Continuing appropriations, House Joint Resolution 637, rollcall No. 658, McDade amendment; vote, "yes"; rollcall No. 659, on passage; vote, "no";

Conference reports/recesses/suspension, House Resolution 821, rollcall No. 660, on passage; vote, "no";

Rules Committee Reports, House Resolution 822, rollcall No. 661, on passage; vote, "no";

Nuclear waste policy, H.R. 8378, rollcall No. 662, Kostmayer-Santini amendment; vote, "yes";

Hazardous waste containment, H.R. 7020, rollcall No. 663, passage of the conference report; vote, "yes";

Motor vehicle safety authorization, House Resolution 802, rollcall No. 664, adoption of the rule allowing for consideration of conference report; vote, "no";

Surface transportation authorization, H.R. 6417, rollcall No. 665, Ertel amendment; vote, "no"; rollcall No. 666, Oberstar amendment; vote, "no"; rollcall No. 667, Miller of California amendment; vote, "no"; rollcall No. 668, on passage; vote, "yes";

Agriculture appropriations, H.R. 7591, rollcall No. 669, passage of conference report; vote, "no";

Federal Insecticide, Fungicide, and Rodenticide Act, H.R. 7018, rollcall No. 670, passage of conference report; vote, "yes";

For the relief of James R. Thornwell, rollcall No. 671, Sawyer motion to recommit with instructions; vote, "no"; rollcall No. 672, on passage; vote, "yes";

DOD appropriations, H.R. 8105, rollcall No. 673, passage of conference report; vote, "yes";

National Traffic and Motor Vehicle Safety Act of 1966/Motor Vehicle Information and Cost Savings Act, H.R. 8379, rollcall No. 674, on ordering a second; vote, "yes"; rollcall No. 675, on passage; vote, "no."

REMARKS OF CLAUDE PEPPER, SEPTEMBER 1932

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PEPPER. Mr. Speaker, in September 1932 after Franklin D. Roosevelt had been nominated at the Democratic National Convention for President, but before his election, of course, America was in the grip of a terrible depression which began with the stock market crash of 1929. We had of the then population of America, some 14 million unemployed, approximately twice as many as we have now. Boys and girls who should have been in school or college in desperate groups of varying sizes were hoboing on trains, or traveling as best they could from city to city for a job which was not there. Many of the Nation's outstanding businessmen had jumped out of office windows when their lifetime savings were lost. The rate of business bankruptcies and mortgage foreclosures on farms and homes reached an all-time high. America was stagnant; many Americans were hopeless. The mood in the Nation was desperate. The veterans who had offered their lives for their country were jobless, homeless, and hungry They had been driven out of their Nation's Capital by the Armed Forces of their country. They, too, had no place to turn to find food, shelter, or a job.

Florida had had its worst depression in 1929 and 1930 with its stagnant economy, its numerous bank failures, its own long lines of hungry, homeless, and unemployed

In such an atmosphere and amid such conditions, a longtime and dedicated Democrat named Charlie Jones, editor and publisher of a small newspaper in Marianna, Jackson County, Fla., in what we call the "Pan Handle," resolved to call at Marianna, from all over Florida, a great convocation of Democrats. In response to this call, Democrats high and low, the Governor, members of the legislature, justices, of the supreme court, judges, outstanding lawyers, business and political leaders, and just common Democrats convened. This great meeting turned into a Democratic revival, comparable to some of our stirring religious revivals.

I, a member of the Florida House of Representatives in the legislature during the session of 1929–30, then a practicing lawyer in Tallahassee, was invited as a young Democrat to speak on this occasion. I felt very deeply the need for a Democratic revival in Florida and in the Nation, so I did something I have very seldom done in my life. I wrote out a speech and committed it to memory and delivered it to a crowded court room in the county courthouse a little while after the conference had convened. There was not an interruption during my delivery of the speech, but when I finished, there was tumult in the crowd, a terrific expression of the hunger of the Democrats from all over Florida for a new era, a new day, a new spirit of democracy.

I venture to offer these remarks for the body of the RECORD so that those who may have the interest to read them may consider whether we have today some of the same kinds of problems, some of the same moods and sentinents, indeed, some of the need for a new spirit, as well as a new leadership in the Democratic Party which that audience then so strongly felt.

Accordingly, Mr. Speaker, I include my remarks on that occasion in the body of the RECORD following what I have said:

REMARKS BY HON. CLAUDE PEPPER, MARIANNA, FLA., SEPTEMBER 1932

No one could attend this meeting without a feeling of greater gratitude to an ancestry which made it possible for him to be born a Democrat. One senses here the stimulating awareness that he is part of a great cause. A cause to which men in this generation, as in generations before, have devoted their lives, their fortunes and all that they held dear. A cause which has touched the heart of the American people, which has reached out into the far-away places and down into the depths of despair and revived in men's hearts a dying ray of hope, which has given courage to those who faltered, and rekindled in a people a patriotism like unto that which gave birth to, and in every previous crisis preserved, this nation.

All credit is due those zealous men and women of this city who have made this meeting possible. It seems that the fires of Democracy burn brightly here and attract from afar those to whom such flame is an inspiration. We are saddened only by the loss of that irreplaceable figure, whose harmonizing genius has contributed so valuably to democracy's progress. He had a faith which was contagious and inspiring. He yearned for a united democracy, a real democracy, a democracy of the heart, and through the years to come in the marching column of democracy there shall ever be the spirit of Charlie Jones, encouraging, harmonizing, ever pointing forward to a brighter dream, a more beautiful ideal.

The Democratic party has been a party of free speech. It has not always been wise speech in which its followers have engaged but it has been untrammeled speech, and we thank God for that. It is a tradition of democracy that no Democrat has ever been deprived of the right to give utterance to an honest sentiment pertaining to the betterment of that party. This is a Democratic meeting. We are speaking to the home folks, and not to the strangers outside the gates. I claim, therefore, for myself only the right which I freely yield to every other Democrat to speak honestly some sentiments which move me and pertain, I hope, to the welfare of democracy.

If there was ever a time when democracy was at a premium, when political dishonesty fetched its highest reward, when the stench of political corruption has become nauseating, and incompetency and cowardice in public places the disgrace of a nation, that time has arrived. If there was ever a time when a political system was showing evidence of degeneration and decay, when a dream of popular government bid fair of breaking down, when men in their hearts revolted against government, that time has arrived.

The accomplishments of this nation have challenged and received the admiration of the world. The unbelievable, the impossible, the undreamed of has actually come to exist in this nation. A little bit ago we celebrated the bi-centennial of the birth of the Father of this Nation, and now we have an area of 3 million square miles, a total wealth of $320 billion, an annual income of $84 billion, a seacoast of 21,000 miles, half of the world's gold, the greatest and most efficient industrial system ever devised by man, the envy of the earth, the Collosus of the West, the fabled Atlantis—and more unemployed than any nation in the world. A manufacturing capacity and natural resources adequate, if their produce were put in men's hands, to put on every citizen's lips the cheerful refrain:

"The world is so full of a number of things,
"We should all be as happy as kings."

Grain rotting in the elevators and children hungry. Banks gorged with money, and the yield of the fields unmarketable. An abundance of everything, and a want of everything. Starving in the midst of plenty. Midas, hungry, cold, with his gold.

It has been a long time since a little band of sturdy and zealous people set out on a little ship across an angry sea to a foreign shore; since that little band set apart a day which they called "Thanksgiving" and poured out the gratitude of rural souls to a Divine Provider who had given them plenty; since a State knelt in prayer; since men labored to realize a political ideal in an economic environment which was capable of sustaining it; since government, the art and science of government, claimed the devotion and best efforts of the ablest men; since men of the greatest capacity and diligence aspired to positions of public office and trust; since children were born with the aspiration to be Governor, or Judge, or Senator, or even Congressmen, perhaps a few misguided ones to be Legislators; since wealth and its acquisition were means to an end and not an end, or an aspiration unto itself; since men fought and died for the privilege of self-government through the ballot. It is difficult to realize just how long ago that was, until one pulls down a musty volume and reads the farewell address of the first President of this nation, and then recalls that a few evenings ago he sat in his home before his radio and listened to another President in the farewell portion of an historic address say to his fellow citizens that he had but one desire, to bring prosperity to the people of this nation.

Mr. Hoover, in making that pledge to the people of this nation, spoke the sentiments of the party whose candidate he is. Unwittingly in those words he gave utterance to the sentiments which have been, and ever shall be, the sacred refrain of the Republican party. What a spectacle: a President of the United States vowing that a whole political party had for its chief aspiration dollars above men and the most that it ever aspired to for the American people was to put dollars in their pocket. Let Democrats stick a pin in that sentence and even school children shall know the difference between the Democratic and Republican parties. We want prosperity but worse than that we need patriotism.

There were two men once, of great repute in this nation. Both members of the Cabinet. One was a great financier, his mind fertile with enterprises "of great pitch and moment". He dreamed of a financial structure the peer of the world. He spoke of banks, credits and authority. There was another man, a contemporary, mind equally fertile, a genius as conspicuous as that of his rival. He also dreamed dreams. He had visions. He planned and built. There were units in his great enterprises and he built them together into a mighty structure; but his units were men and not dollars. In his visions there were men happy, intelligent, liberty-loving, patriotic and prosperous, but not only prosperous, and from those men the two political parties which are now locked in death grip on the political battlefield of this nation have respectively taken their ideals.

Those who built homes and forts and broke the fallow ground first upon the Atlantic Seaboard were not searching for riches nor actuated only by incentives to power. They were not rich at home, but history does not record their poverty as the occasion of their departure. They were not perfect—few aspire to perfection in any of the myriad endeavors of life. Granted that they, like all migrations, unconsciously had behind them the impetus of pressing population, history does not record that as the stimulus of their voyage.

There was at that time abroad in the world a philosophy which put its emphasis upon being rather than possession, a philosophy which inculcated within men a desire to breathe the free and living air as men, a desire to realize something of the destiny to which they believed men to be created, and they, therefore, endeavored to establish in this nation a system of political economy which should place its first emphasis upon men, their legitimate hopes, where men could aspire, with no more limitations than society naturally imposes, to perfect liberty and to the attainment of that which they potentially were. Throughout the government of the early colonies of this nation, woven into the Declaration of Independence, standing out like giant mountain peaks in the Constitution of the United States, are these sentiments.

The first few generations of colonists, through their leaders, established the government of this nation. That being their chief objective, it was the greatest thing in their lives, but once they had achieved political stability and fashioned a system to their liking, as is ever true with restless minds, the chief men of the nation turned to conquer new fields. As far as the eye could see was a beckoning vision of forests, of fertile fields. From Nature's bosom sparkled glittering resources, awaiting a master's hand. Streams invited commerce, the genius of a nation turned to exploitation. Riches, power, and not good government for the happiness of mankind, became the ideal of our people.

There appears on the American flag a strange and foreign symbol, which neither Betsy Ross nor the saintly eye which followed her needle observed. It was a distorted figure, only half straight. Other nations of the world soon became aware of it. In fact when they drew in caricature our people they used the dollar mark and not the flag. As perfectly as any people in recorded history we have achieved that ideal. Mr. Hoover says yet that is the chief objective of his life and his party. If that is the chief objective of Franklin D. Roosevelt and the Democratic party, this nation is doomed, or we establish the exception that history does not repeat itself.

Neither riches nor power, enviable as they are to private individuals, bring happiness. Essential as they are to a nation's greatness, they alone cannot long be national objectives. Who has not seen and sympathized with an individual, ambitious for power, lusting for gain, his life following the narrow channel of those objectives. In such a person, who has failed to observe the lack of breadth and appreciation, the absence of sympathy toward his fellows, the stifling of the human instincts which aspire to expression, a lack of balance, of equilibrium even of stability. Nations, which are but the sum total of individuals, cannot be different. A nation's prograss is naturally enhanced with those attainments but a nation whose destiny is tied to such purposes is doomed both to defeat and disintegration.

There are contending philosophies of what a government should be. One school of thought adheres to the belief that the nation is the expression of the higest idealism of a people. That it is above, beyond and greater in ethical and spiritual fields than the reach of any of its citizens, that the State is the leader, the guide, the impetus of all meritorious achievement. Another school contends that the State is but a mechanical device to adjust conflicts among those who compose the political body, that it is charged with no responsibility of leadership in the field of religion, morality or ethics, much less business; that these accomplishments are the rewards of religious and ethical sentiments and institutions. The truth probably lies between these two conceptions. The true State is a little of both and not altogether either.

"We the people of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

In his first inaugural address we find the Father of Democracy giving utterance to this conception:

"A wise and frugal government, which shall restrain men from injuring one another, shall otherwise leave them free to regulate their own pursuits of industry and improvement and shall not take from the mouth of labor the bread it has earned."

Again we hear Jefferson say "that government is best which governs least."

No one doubts that with that faith and philosophy did the fathers ordain and establish the government of this nation, but "it is with government as with religion—the form often survives the substance of the faith".

In those early times government was looked upon as the agency through which the political philosophy protected life, liberty, and property of its citizens, shielded them in the retention of their lawfully gotten gains. It gave to none, it took away from none and none looked to government as the source of their maintenance and support. It promoted sentiments of charity and deeds of generosity, as the expression of a cultivated society, but these acts were stimulated by government and not commanded by governmental mandate. Under this philosophy of government the eloquent sentiments of Lord Chatham in Parliament that a man's house was his castle, however humble, which he could defend against the aggressions of the King himself, came to be literally believed by the citizens. How far removed from a day when men stand in awe of Federal power and Federal agents of myriad bureaus and departments trample upon their fellow citizens with a swagger which would have made ashamed the most brazen of the Feudal lords. Neither did this philosophy embrace an impoverishing paternalism. There was a field of operation for local, State and Federal government, and the functions of neither were gobbled up by another.

Freedom of political and economic opportunity was still a cherished institution. Labor had not been taught intolerance by the tyranny of capital. Free men, courageous men, independent men, with a stake in government and a sincere solicitude for the rights of their comrades were lords of a free soil. The produce of the farm contended in an equal market with the products of the factory. All were rich enough and none too rich, nor so poor as to dwell in squalor. Natural resources were conceived of still as the property of the people, open to development, closed to exploitation. Office holding was honorable and public service a worthy ambition. The heroes of the day were the statesmen, and the patriots. No croesus had arisen yet so mighty as to outshine the President, the Justice or the Senator and even with his fellows at his back to dominate the government. The form of this government was the example for the establishment of Republics in the new found places of the earth. When the Federal Constitution was construed to express that philosophy the great Gladstone was moved to extol that instrument as the greatest single document ever struck off by the mind and hand of man.

I wonder if it is accidential that there is not much talk today of the emulation of this government and its practices by other people of the earth. When tribute is paid to our present virtues, how often are good government, the administration of justice equally, fairly and impartially, honor and capacity in office, true patriotism, whose aspiration is internal perfection, included?

The truth is, and every American citizen knows it in his heart, that tremendous and unparallelled as have been the accomplishments of this nation, we now face a crisis. That crisis is the problem of how one hundred and twenty-five million people, with a tradition of individualism, may inhabit a contiguous land amid the complexities of modern civilization, so that all shall have enough, none shall have too much, all shall have Justice, none shall have preference, each shall be stimulated to do his best, none shall be permitted to do his worst; conflicts shall be reduced to a minimum and the end of government shall be the utilitarian philosophy of the greatest good for the greatest number.

That crisis is a problem of government and nothing else. All the great business minds in the world cannot solve it. It is a dilemma which has not two horns but a horn for every quality of human nature. Upon its solution rests everything that we have or hope to be.

How can that problem be solved?

Certainly not by so called citizens who sell their ballots as they sell their hogs—to the highest bidder—certainly not by a people who are so callous to graft and corruption in office that they brazenly dub a man a fool who doesn't feather his nest while he may; certainly not by demagogues who will stoop to the betrayal of every principle of honor or decency to reap the spoils of office; certainly not by a lot of scavengers who put a man in office that they may through him loot the public treasury. And, my friends, not by a political party which has no major complaint except that it is out while its opponent is in.

That problem must be met like any other social problem—first by honest purpose, then by brains, then by courage, then by sacrifice.

Nothing can be done without leaders. Someone might as well tell the people of this country that they cannot govern themselves through themselves. How can a hundred million people work out a sound policy of government? A dangerous fallacy current in any nation which has a theoretical political equality is that one citizen is as fit to govern as another. That is not so and everybody admits it is not so—except the demagogue who mouths it to a gaping multitude for its votes. Think of the delicate equilibrium of the world today when an election in Germany may wipe out your savings of a lifetime, or cause the foreclosure of a mortgage in Jackson County. Think of a hundred and twenty-five million wills, a hundred and twenty-five million selfish interests, the strong, the weak, the misfits, the diseased, the good, the bad, the vicious and criminal, all thrown together—then set up a government over them which shall be fair to all and bring about the greatest good for the greatest number and see how simple that problem is.

There must be patriotic and able leadership. Lincoln said that while not always the wisest the people were in the long run the safest depository of power. Of course the people are sovereign, but their sovereign will must be expressed by approval or rejection of leadership. That assumes that true leadership will offer to the people a fair choice of issues. A man, therefore, is a traitor to his people who beguiles them into a false choice for selfish ends. So also is he who is too cowardly to look them in the eye and tell them the truth when their folly is about to lead to their own ruin, even if it means his political death. I know that is rare patriotism but that's the reason we are where we are. That kind of leadership can come only from a people who love free government. You hear much about bringing the government back to the people. Something ought to be done to bring the people back to the government. They have lost faith in it. They have let vicious or clamoring minorities run away with it. They have sat supinely by and let grafters steal it and charlatans prostitute it and honest, faithful and fearless leaders who would have saved it they have stricken down as heartlessly as a wild beast. Friends, citizens must not do that. The prophets of Baal they must strike down but the prophets of Jehovah they must hold high their hands.

We would be unworthy if our presence here did not reaffirm our faith that the Democratic party is the hope of this nation. If that is not our faith we have no right to urge it upon our people. Never were there so many voices crying in the wilderness for a party of true principle as today. The people are prostrate and they know not whom to trust nor where to turn their faith.

Our party has met its testing time. In the name of a suffering people let us make the Democratic party the true liberal party of this nation and the joyous heart of our people shall proclaim that we not only won success—we deserved it.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days, if such remains, in which to revise and extend their remarks on the subject of the following special order: A tribute to the Honorable Joe Wyatt, Jr., of Texas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HON. JOE WYATT, JR., OF TEXAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, it is my desire to bring recognition of the service to the House of the Honorable Joe Wyatt, the Congressman from the 14th District of Texas who is rounding out his service in the House and this Congress.

Mr. Speaker, I would like to render a tribute to this young and very active and distinguished colleague of ours from down in what we call the southeast nook and cranny of the State.

The 15th District which Joe Wyatt so ably has represented includes some of the most historical counties. Aransas County for example. You know, we say Aransas and we have one of the most beautiful port coast areas of anywhere in the world. Port Aransas, Aransas Pass, which are very historical. Aransas Pass for instance, and the name Aransas is actually an anglicized corruption of a very historical area, an area that has historical significance in Mexican Spanish tradition. The word "Aransas" comes from the Virgin of Aranzazu, Aranzazu being actually a Basque name. And coming over from the old mother country in Spain was the scene of the apparition of the Virgin of Aranzazu and in Mexico this tradition was brought over by the Basque immigrants to Mexico and then, because of the peculiar feature of what is known as Aransas Pass, it was, by the early settlers and colonizers and discoverers of that area called El Paso de Aranzazu, the Pass of Aranzazu, or, as we call it now, Aransas Pass.

This area has been very ably served by Joe Wyatt who has been, though very young, very cognizant of the history. His principal city is the great, beautiful gem, as they say, the jewel by the sea, Corpus Christi, which is now one of those bustling up and coming seaports that I predict will probably be the most important one in the whole gulf coast area in future years.

Now, Joe Wyatt is very young, compared to myself, and unfortunately he has served very briefly here in the House. Voluntarily he is deciding to retire and return to his native county. Though he was born in Victoria, Tex., another very historical spot in the southwestern portion of our country, he actually has been concentrating his activities in the great city of Corpus Christi.

Joe Wyatt has served very well. We in the Texas delegation have learned to respect, to love, and esteem Joe Wyatt.

I think it was the feeling of every one of us, a feeling of extreme regret to see what unquestionably would have been a very, very brilliant career in Congress being so short and brief.

Joe served in the House of Representatives of the Texas State Legislature for about 8 years. In other words, about four terms. Before that he had various experiences, both in private business as well as in a public and quasi-public manner and capacity so that I believe I speak the sentiments of every one of my colleagues when I say that we wish Joe Wyatt Godspeed, success in all future endeavors, and that he will maintain his contacts with us remaining in the House of Representatives.

Mr. Speaker, I yield to my distinguished colleague from Texas, from the Far West.

Mr. HANCE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to add a few words of tribute to our friend, Joe Wyatt. He has been a friend of mine and of my wife for many years. We know him as a man of honesty, integrity, and hard work. I served with him in the State legislature where he was chairman of the committee on ways and means and was one of the most powerful members of the Texas Legislature. We used to work together on conference bills and we always had a saying that we try to pass good bills and defeat bad bills and I hope we were successful in that endeavor.

☐ 1150

Joe was one of the hardest workers I have ever served with. I think that in looking at his career that the fact he worked for President Johnson when President Johnson was Vice President, had worked for Congressman Clark Thompson, served in a distingiushed career in student government even in college and everywhere he has been he has had a success of working with people and being a leader.

I am proud to say that he is a friend of mine, that I have worked with him; and even though he is retiring now, I think that this is only a short pause in a long career of public service for the State of Texas and for the United States of America. I am glad to say he is my friend and pay a tribute to Joe Wyatt, for Corpus Christi and Victoria.

Mr. GONZALEZ. Mr. Speaker, I yield to the gentleman from Texas (Mr. de la Garza).

Mr. de la GARZA. Mr. Speaker, I would like to add my commendation to the work done by our colleague Joe Wyatt during the short term that he served here with us. He was indeed very helpful to me as a junior member on the Committee on Merchant Marine and Fisheries in all of the areas related to our shrimp industry, to the companies and to the fisheries and was one of the most dedicated Members and was very interested in that area of endeavor because of his district.

Also, as we have in south Texas, military establishments, his other committee was of such a nature that he was able to be a spokesman for our area as far as the military was concerned, and his dedication to his work, to his constituency, was such that I am very happy to say that that district is better off for the service of Joe Wyatt during the time he was here, and I know that we will miss him. We wish him well in his future endeavors.

Mr. GONZALEZ. Mr. Speaker, I yield to the gentleman from Texas (Mr. Hall).

Mr. HALL of Texas. Mr. Speaker, I thank the gentleman for taking this special order today for Congressman Joe Wyatt. I have known Joe only since he has been a Member of Congress. He has been a very active Member of the Texas delegation.

We will miss him. While he was a Member he gained the respect of all those who knew him and became acquainted with him.

We all wish him well.

Mr. GONZALEZ. I thank the gentleman for his comments.

Mr. Speaker, I now yield to the gentleman from Texas (Mr. Mattox).

Mr. MATTOX. Mr. Speaker, I appreciate the gentleman taking the time to talk about our colleague, Joe Wyatt.

I think that I have known Joe longer than some of the Members, because I had the pleasure to serve with Joe in the State legislature. I must admit that many times Joe and I were not always on the same side, but we were always friends, and I think the thing that I learned most about Joe Wyatt, and it is a thing that I think the Members of this Congress value most of all: You could trust Joe. We could always trust his word, and we knew when he said he would stand for something, he would stand and stand by you until the last vote was counted.

I know many times in the State legislature, I think both me and a number of my colleagues have fallen prey to Joe's practical jokes and have had times when Joe showed himself not to be just an able legislator, but also a good friend and a fellow who can laugh at himself, laugh about himself at times and at the same time maintain a real understanding of his responsibilities in the world around him.

I know that the people of his district are going to miss his representation. I know they will appreciate the way he is turning over the reins of the Government in his home district to his successor. He is doing an admirable job of working in every way possible to try to bring about a smooth transition, particularly for those people who have got an assortment of case work and problems that need to be carried out.

I know that as we look around, a number of us who are still here in the Congress, I think sometimes we ask ourselves why are we here? What are we doing? Sometimes we wonder if we, afer having this taste of glory, would be able to step out and to find some other, better and more useful thing to do with our lives. I think we are going to find that Joe Wyatt has made that decision. I think he is going to be happy about that decision.

I think we are going to find Joe will be active, leading not only his home area, but the State of Texas and perhaps the Nation in times to come.

I look forward to working with Joe in whatever endeavor that he may choose to carry on.

Again, I think the highest honor that you can say about another man is that he is your friend, and Joe Wyatt has been a true friend.

Thank you.

Mr. GONZALEZ. I thank the gentleman from Texas.

I feel that the Record should also reflect that Joe Wyatt really rose to great heights recently as of last year when we had the unique, the unparalled oil spill, which has endangered for years to come and has impaired the coastal zones along the Texas gulf coast and of course down through the Mexican portion of the gulf coast because of the IXTOC gulf spill. It was Joe who got us down to Corpus Christi with a congressional subcommittee hearing, and the resultant regulation that eventually was passed by the Congress was pretty much the handiwork of Joe Wyatt and Senator Bentsen.

But many of us joined Joe as one as if it were our district.

The other, in order to really reflect his dimensions and his character, were just again reflected in the action he took last week with respect to a poor and humble veteran in his consideration for recognition as earning the Congressional Medal of Honor; and even though Joe had long announced his retirement, he went through with that private bill. It was enacted by the Congress last week, bringing relief and justice to one individual.

Mr. Speaker, I yield to the gentleman from Texas (Mr. Hightower).

Mr. HIGHTOWER. Mr. Speaker, I would not want to miss an opportunity to say that as we approach the 97th Congress in the Texas delegation, we regret that Joe Wyatt will not be in our number. Joe Wyatt is an effective legislator. He is an experienced representative of the people. He has done a good job of representing the people in the Corpus Christi area and therefore makes a real contribution to the entire delegation.

We, as Members of Congress, representatives of Texas districts, have, over the years, taken great pride in our collective strength and our support of one another, in our legislative objectives.

Joe Wyatt has done that and done it faithfully. He has represented his people. He has been conscious of the needs of the people in other districts of the State and certainly has never hesitated to be a U.S. Representative.

We will miss him. We wish him well in his new endeavors, and know that we will be hearing from him again.

I thank my colleague for this opportunity to express my appreciation for the service of Joe Wyatt.

☐ 1200

Mr. GONZALEZ. I would summarize by saying to Joe Wyatt, in the words that certainly are very familiar in south Texas, vaya con Dios, Joe.

I yield back the balance of my time.

RECESS

The SPEAKER pro tempore. Pursuant to House Resolution 821, the Chair declares a recess, subject to the call of the Chair. Bells will be rung 15 minutes prior to reconvening.

Accordingly (at 12 o'clock noon) the House stood in recess, subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 3 o'clock and 16 minutes p.m.

PROVIDING FOR FIRST REGULAR SESSION OF 97TH CONGRESS AND SUBMISSION OF BUDGET ESTIMATES

Mr. MURTHA. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 642) and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. Res. 642

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the first regular session of the Ninety-seventh Congress shall begin at 12 o'clock meridian on Monday, January 5, 1981.

Sec. 2. That (a) notwithstanding the provisions of section 605(a) of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 11(a)), the President shall submit to the Senate and the House of Representatives the estimates required to be submitted by said subsection for the Fiscal Year 1982 not later than the date on which the President transmits to the Congress the budget for the Fiscal Year 1982, and (b) notwithstanding the provisions of section 605(b) of the Congressional Budget and Impoundment Control Act of 1974, the Joint Economic Committee shall submit to the Committees on the Budget of both Houses the evaluation required to be submitted by said subsection for the Fiscal Year 1982 not later than the date on which the report for the Fiscal Year 1982 pursuant to section 5(b)(3) of the Employment Act of 1946 (15 U.S.C. 1024b) is filed with the Senate and House of Representatives.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, I reserve the right to object.

Mr. Speaker, can my colleague state for the House how this changes the procedure if we did not have this resolution?

Mr. MURTHA. Will the gentleman yield?

Mr. ROUSSELOT. I do yield to the gentleman from Pennsylvania.

Mr. MURTHA. As I understand that this would just allow the budget estimate to be submitted at a later time, January 5, rather than November 5.

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, what about the ability of the new incoming President? Does it change the requirements on his participation?

Mr. MURTHA. It does not.

Mr. ROUSSELOT. Reserving the right to object.

So we will not have now the new budget estimate for 1982 until January 5; is that correct?

Mr. MURTHA. If the gentleman would yield, it is an estimate for the current services budget.

Mr. ROUSSELOT. For the year 1982?

Mr. MURTHA. That is correct.

Mr. ROUSSELOT. So we, in effect, then, are that far behind, now, in the ability of the House to know what is anticipated for the rest of the fiscal year; is that correct?

☐ 1510

Mr. MURTHA. It relates to the current services budget.

Mr. ROUSSELOT. I understand what the current services budget is. I am just saying we really will not know then until January 5 what those new estimates are.

Mr. MURTHA. That is correct.

Mr. ROUSSELOT. Further reserving the right to object, is it the intention of the leadership in the House to have a third concurrent resolution?

The SPEAKER. The Chair will answer that.

That would be the decision of the 97th Congress as to whether it would be necessary, No. 1, and, No. 2, in the pending joint resolution we are going the same route we went 2 years ago. The stringency of the Budget Act requires the current services budget to be submitted before November 1. So the joint resolution merely follows the same procedure followed in the last Congress.

Mr. ROUSSELOT. I was just asking for direction, Mr. Speaker.

Is it anticipated it will be necessary for a third concurrent resolution?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Obviously, it is very difficult to anticipate whether in fact one is going to be required because it is dependent on the spending ceilings that have been provided in the 1981 budgets and whether the departments and agencies are able to meet those targets whether they will expand beyond those targets.

In addition to that, it is dependent upon whether the administration will make recommendations with regards to the proposed cuts in the vicinity of $20 billion in reductions. If those are made, then it is possible we can do without a concurrent resolution, but it is dependent on what the administration does and what the departments and agencies do in terms of spending.

Mr. ROUSSELOT. I was just wondering, Mr. Speaker, further reserving the right to object, if it was anticipated by those on the Budget Committee we probably will have to have a third concurrent resolution.

Mr. PANETTA. If the gentleman will yield further, I think in order to implement cuts that will be effective for 1981 as is encompassed in the budget resolution, that is a likelihood that we will have to deal with an additional resolution at that time.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, can we know now, or will this be a little later as to what the rest of the schedule is? Is that the next item?

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. The only order of business would be the continuing resolution.

I just walked back over from the conference, and they are moving as rapidly as possible. They hope to finish up today, and of course it takes, as the gentleman well realizes, a lot of staff work after the conference is completed; and hopefully we will be ready to vote on a continuing resolution by noon tomorrow.

Mr. ROUSSELOT. Further reserving the right to object, by noon tomorrow?

Mr. MURTHA. Hopefully.

Mr. ROUSSELOT. Hopefully.

How do we describe to people who might have gone home tonight to "hopefully" be back here tomorrow?

Mr. MURTHA. The House will commence its business tomorrow at noon. We will adjourn until noon tomorrow.

Mr. ROUSSELOT. Until noon tomorrow, period?

Mr. MURTHA. Yes.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, I will be glad to yield to the gentleman from Minnesota.

Mr. FRENZEL. I would like to address a couple of questions to the acting majority leader.

In the first place, if we pass the continuing resolution when we come in at noon tomorrow, we still will not have passed an adjournment resolution.

Can the gentleman inform us as to when we might expect that resolution from the other body and when this body would be likely to take it up?

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. I do not know when the adjournment resolution will come over, but as I understand it, the last order of business is expected to be the continuing resolution, so I assume it would be in that same time frame, either right before or right after the continuing resolution.

Mr. FRENZEL. If the gentleman will yield further, I realize the gentleman cannot predict the vagaries of the other body, but does the gentleman have an agreement with them that they will send us an adjournment resolution? What bothers me is at the end of sessions, we frequently sit around sucking our thumbs waiting for the Senate to send us a resolution.

I would like to feel that the leadership of the House had some plan as to how they were going to dispatch this adjournment so that the Members of the House could have some plans.

The SPEAKER. The Chair will be happy to answer the question.

Immediately upon the completion of the continuing resolution conference report, the concurrent resolution of adjournment would be offered in the House.

That would conclude the business as far as the House would be concerned. It would then go to the Senate, and the House would, of course, have to wait action. There would be no further legislation originating in the House, but some amendments may be returning from the Senate on other bills and of course this body could not adjourn until they, too, adopt the adjournment resolution.

Mr. FRENZEL. If the gentleman will yield further, I am delighted to have the explanation.

May I ask the acting majority leader further if he intends to take up the Surface Transportation Act today or what his intentions are with respect to that piece of legislation.

Mr. MURTHA. If the gentleman will continue to yield, the Senate has not acted on it, and there is no way to predict what the other body might do with that act.

Mr. FRENZEL. I thank the gentleman for his explanation.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I will tell my colleague from Minnesota (Mr. FRENZEL), my understanding is they have been in the other body debating the Surface Transportation Act, and there was some effort to move to another bill. But my understanding is they have had quite an extensive debate on that bill, and it is still either going on or is about to terminate and shift to another bill. So they have a very long list over there, as the gentleman knows.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, our distinguished new whip, the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Perhaps I missed it, but if I could address the question to the acting majority leader: What business do we have left this afternoon?

Mr. MURTHA. Mr. Speaker, if the gentleman will continue to yield, as soon as this colloquy is finished and as soon as the joint resolution, if it is accepted by unanimous consent, that will be the end of the business until tomorrow noon.

Mr. LOTT. Do I take it that there will not be a session, or is there not a session planned now for Monday?

Mr. MURTHA. If the gentleman will yield further, I just found out, as I understand, the gentleman from Colorado has already had an agreement from the other side to take up a unanimous-consent request, but that is the only other business I know of.

Mr. ROUSSELOT. A unanimous-consent request on what subject.

The SPEAKER. The gentleman from Colorado may ask to consider a Senate bill pending at the desk here, which requires unanimous consent.

Mr. ROUSSELOT. Pardon, Mr. Speaker?

The SPEAKER. It requires unanimous consent.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Colorado.

Mr. WIRTH. It relates to a technical amendment related to the Telecommunications Act of 1934 and its treatment in Hawaii, which has been agreed to by the gentleman from North Carolina (Mr. BROYHILL) and the gentleman from California (Mr. VAN DEERLIN) and the gentleman from West Virginia (Mr. STAGGERS).

Mr. ROUSSELOT. Further reserving the right to object, so the only other potential item, Mr. Acting Majority Leader, is the unanimous consent by our colleague from Colorado? Is that correct?

Mr. MURTHA. That is correct.

Mr. ROUSSELOT. To the best of the gentleman's knowledge, there is not much debate on that? It is very noncontroversial?

Mr. MURTHA. As I understand, it has been agreed to.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Mississippi.

Mr. LOTT. We will go into session tomorrow at 12 whether the conference report is ready or not; is that correct?

Mr. MURTHA. That is correct.

Mr. LOTT. Do we anticipate a session on Monday, assuming we do not get through?

The SPEAKER. No. We hope we get through and out of here tomorrow.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague from Kentucky, Mr. TIM LEE CARTER.

Mr. CARTER. I thank the gentleman for yielding, Mr. Speaker.

I would ask the distinguished gentleman from Colorado what he expects to take up on the telecommunications bill. As the gentleman knows, this passed the House, but did not pass the Senate.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Colorado.

Mr. WIRTH. This has nothing related to the telecommunications bill that the gentleman from Kentucky and I have been working on. This is a technical amendment to the Communications Act of 1934 related to the treatment of the State of Hawaii as a gateway State.

The State of Hawaii is now treated as a foreign country, rather than as one of the 50 States of the Union, and the technical amendment which I will be offering under unanimous consent has been agreed to. It has been in the hopper for the last 4 years. It has always been an amendment to every one of the bills agreed to by everybody, and it has not had the opportunity of passage because it has been tied to all those other pieces.

The ranking minority member, the gentleman from North Carolina (Mr. BROYHILL); the chairman of the committee, the gentleman from West Virgina (Mr. STAGGERS); the chairman of the subcommittee, the gentleman from California (Mr. VAN DEERLIN) all agree with the provisions of this particular amendment.

□ 1530

Mr. CARTER. Not everyone I know of might agree with it and I would like to see that in a printed form if the gentleman is going to put it up for unanimous consent, if my distinguished colleague would yield further.

Mr. ROUSSELOT. I yield to my colleague from Kentucky. I can see why he would want to see something in writing. That is only reasonable.

Mr. CARTER. If the gentleman will yield further, I would say this is a very important bill, parts of it are and, of course, we do not want to do anything to hurt the great State of Hawaii that would be helpful, but yet we want to know exactly what is in the legislation.

Mr. ROUSSELOT. Reserving the right to object, I yield to my colleague from Texas to ask a question.

Mr. HALL of Texas. Will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Texas.

Mr. HALL of Texas. I would like to ask the gentleman from Pennsylvania with reference to what we have on the schedule for tomorrow, and I am sure I might bring down the wrath of the gods for asking this question, but do we have this pay raise coming up tomorrow?

Mr. MURTHA. Will the gentleman yield?

Mr. ROUSSELOT. I am delighted to yield to my friend.

Mr. MURTHA. It looks like to me, if the gentleman will yield, it looks like the other body, since it has put a cap on it, that the issue is no longer in contention between the two Houses.

Mr. HALL of Texas. Will the gentleman yield further?

Mr. ROUSSELOT. I will be glad to yield to my colleague from Texas.

Mr. HALL of Texas. Does that mean that this matter will be brought up without a recorded vote?

Mr. MURTHA. If the gentleman will yield, as I say, right now it is not even a matter because, as I understand it, the other body has put some sort of a limitation on it. I am not sure exactly what happened over there.

The SPEAKER. There will be a vote when the House votes on the conference report.

Mr. ROUSSELOT. Further reserving the right to object, does my colleague from Maryland have a question?

Mr. BAUMAN. Will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to my colleague.

Mr. BAUMAN. I thank the gentleman for yielding.

I think I just heard the Speaker say what I was going to ask and that is that undoubtedly there will be a vote of some kind tomorrow and I assume we will need a quorum since the Constitution requires it.

Mr. MURTHA. Absolutely right.

Mr. BAUMAN. Good luck.

Mr. ROUSSELOT. Further reserving the right to object, is there a good indication we might have a quorum tomorrow, Mr. Speaker?

The SPEAKER. The House will be in at 12 o'clock. The Chair would anticipate that sufficient Members would be here. The House would need a quorum. If the gentleman does not know, he can ask the gentleman from Maryland here to inform him.

Mr. ROUSSELOT. He has passed a lot of papers on to me, so I am prepared, cards, big and small, and has even given me a key to one of these drawers. There are all kinds of goodies in here that H. H. Gross left.

I am glad to thank the Speaker for calling that to my attention. I guess I can pass into the night.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid upon the table.

AMENDING THE COMMUNICATIONS ACT OF 1934 TO INCLUDE HAWAII IN SAME CATEGORY AS OTHER STATES

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of the Senate bill (S. 3261) to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. CARTER. Mr. Speaker, reserving the right to object, as I understand it, this legislation applies only to the State of Hawaii; am I correct?

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman.

Mr. WIRTH. It applies only to the State of Hawaii. It strikes out the provision of the Communications Act of 1934 which precludes Hawaii from being considered as all of the other 50 States as a point for the arrival of various telecommunications services. In other words, Hawaii is currently not treated as one of the 48 States but is treated as Korea or Japan or a foreign country would be treated.

Mr. CARTER. Further reserving the right to object, it would treat Hawaii as any other State, just as good or no better?

Mr. WIRTH. Exactly the same. It would provide exactly the same services and gateway treatment to Hawaii as to other States.

Mr. CARTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 222(a)(10) of the Communications Act of 1934 (47 U.S.C. 222(a)(10)) is amended by striking out ", except Hawaii".

SEC. 2. Section 222 of the Communications Act of 1934 (47 U.S.C. 222), as amended, is further amended by adding at the end thereof the following new subsection:

"(g)(1) The authority of any carrier to provide any service or operate any facilities which it is authorized to provide or operate on the date of enactment of this subsection shall not be altered solely by the inclusion of Hawaii within the definition of Continental United States, nor shall such inclusion restrict or impair any carrier's eligibility after the date of enactment of this subsection for new or additional authority.

"(2) Whenever, upon a complaint or upon its own initiative, and after opportunity for a hearing, the Commission finds that any charge, classification, regulation, or practice relating to intercarrier arrangements of any carrier serving Hawaii is or will be unjust, unreasonable, discriminatory, or not in the public interest, the Commission shall determine and prescribe what charge, classification, regulation, or practice, or such other remedy as is or will be just, reasonable, nondiscriminatory and in the public interest to be thereafter followed.".

● Mr. WIRTH. Mr. Speaker, section 222 of the Communications Act was enacted in 1943 which was 16 years before Hawaii gained statehood, and at that time Hawaii was designated as an international point. This international designation has frustrated the efforts of the Federal Communications Commission and private industry to afford the State of Hawaii similar treatment as her sister States because it restricts the classes of carriers allowed to provide service to Hawaii. S. 3261 will eliminate that problem by eliminating the anomalous designation of the State of Hawaii as an international point, while Canada and Mexico are designated as domestic points.

This legislation will foster competition by allowing additional classes of carriers to serve the Hawaii market. Carriers currently serving this market even though they are international carriers would be permitted to continue serving Hawaii.

The designation of Hawaii as a domestic point is noncontroversial. A similar provision was contained in a bill reported from the Committee on Interstate and Foreign Commerce this year, H.R. 6121, and to my knowledge no one ever opposed it. Mr. STAGGERS, the chairman of our committee, Mr. BROYHILL, the ranking minority member, and Mr. VAN DEERLIN, the chairman of the Communications Subcommittee all support this effort. At the same time I would like to compliment Senator DANIEL INOUYE, and the rest of the congressional delegation from Hawaii for their untiring efforts over the last several years to seek equitable treatment for their State under the Communications Act.

The legislation will bring new services, better rates, and new facilities for Hawaiian points. This legislation costs nothing to the Treasury and I urge its passage.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourns to meet at noon tomorrow, Saturday, December 13, 1980.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

"POSITIVE CREDIT MANAGEMENT POLICY" NEEDED TO FIGHT HIGH INTEREST RATES

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, the 20-percent prime rate illustrates once again the need for a way to crack down on speculative and inflationary uses of credit.

I have today written to the chairman of the Federal Reserve Board asking for a credit management policy to combat today's destructively high interest rates. The letter to Chairman Volcker follows:

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, D.C., December 12, 1980.

Hon. PAUL VOLCKER,
Chairman, Board of Governors,
Federal Reserve System,
Washington, D.C.

DEAR CHAIRMAN VOLCKER: The twenty percent prime rate illustrates once again that the nation needs a way to crack down on speculative and inflationary uses of credit.

As you know, the latest rise in interest rates follows a strong increase in bank lending for commercial and industrial purposes, a milder but still important increase in real estate loans, and a bottoming out of the decline in loans outstanding to individuals—which had been precipitated by the Federal Reserve's last credit-tightening in March.

What we don't know is the purpose to which all this new lending is being put. How much new lending is going to finance purely financial activities such as corporate stock buy-outs, for example? Is there any evidence of renewed speculative activity, financed by bank credit, on the commodity exchanges? How much, on the other hand, of current commercial and industrial lending could be called "distress lending"—to companies with an abnormal need for short-run liquidity financing? And how much old-fashioned finance of purchases of new plant and equipment is going on?

The composition of new bank loans has a crucial importance for the policy implications of monetary data. Only a broadly-based and too-rapid expansion of credit for consumption and for purchases of plant and equipment and other currently-used goods and services—e.g., a classical credit-fueled demand inflation—can justify a broadly-based and indiscriminate policy of restraint which relies, as current policy does, on high interest rates alone to ration credit. A wave of short-run speculation, such as we did experience last February and March, calls for a totally different response: namely, an effective program which requires banks to scrutinize loan applications and to reject those which are clearly high-risk, high return, and non-productive. A wave of distress borrowing, which may be what we are getting now, would call for a relaxation of credit conditions, and other policies designed to stabilize the economy before a wave of bankruptcies engulfs us.

The point is that we don't know the true nature of the current wave of demand for credit which underlies the interest rate spiral, and therefore we are not prepared to act intelligently in response to it. The Federal Reserve has, in the past, resisted the collection of the necessary data. The sad experience of last winter, when misinterpretation of the monetary data led to an inappropriate policy response to the February-March credit expansion, should have begun a process of re-evaluation of that resistance. Now that dilemma has returned in an only slightly different form, it is time to act.

I would appreciate your response and suggestions for a positive credit management policy at an early date.

Sincerely,

HENRY S. REUSS,
Chairman.●

PETROLEUM POTENTIAL OF EASTERN OVERTHRUST SHOULD BE EXPLORED FURTHER

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MOORHEAD) is recognized for 15 minutes.

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am sure all of us recall the natural gas shortage which was experienced in the Appalachian region during the winter of 1976–77. We were then given a stark illustration of how important this fuel is for home heating as well as commercial and industrial energy needs.

Many of you at that time joined with me in supporting the initiation of a research and development program in the Energy Research and Development Administration to expedite the commercial development of natural gas from the Devonian shales which underlies almost the entire region from western New York to Alabama, as well as geologic basins centered in Illinois and Michigan.

We are now at the midpoint at the 8-year research program and already geologists and natural gas engineers in the Appalachian Basin have benefited greatly from the technical advances which have resulted from the program.

For example, new reserves and production of natural gas in the region are expanding greatly, contrary to trends elsewhere in the Nation. Liberal provisions included in the Natural Gas Act of 1978 for small gas wells and unconventional gas resources like the Devonian shales are encouraging a revival in the industry which had declined sharply during the past 25 years.

These new natural gas supplies have attracted many industries to drill their own supplies, and even schools and local governmental units are consuming gas produced from their own wells.

An even more dramatic development which has resulted from the eastern gas shales program is the geologic discovery of the "eastern overthrust belt," a buried segment of potentially natural gas-bearing rocks which extends the Appalachian Basin eastward from 60 to 100 miles from Alabama through Georgia, South Carolina, North Carolina, Virginia, Maryland, and into New England.

While these geologic targets were only recently discovered and confirmed, their significance cannot be overestimated. To expedite the delineation of the "belt," by the gas shales research team, including cooperative programs with universities and industry, a continued allocation of funds is needed.

It is my hope that Members of Congress in both the House and Senate will strongly support all efforts to explore the natural gas and oil potentialities of the eastern overthrust. I invite my colleagues to read an article on this fascinating energy frontier which was published in the Wall Street Journal on December 12, 1930. The text of the article follows:

[From the Wall Street Journal, Dec. 12, 1980]

EXPLORING FOR ENERGY: EASTERN OVERTHRUST BELT IS FAST BECOMING ONE OF THE HOTTEST NATURAL-GAS PROSPECTS

(By Steve Mufson)

GRANT COUNTY, W. VA.—Tucked away in the mountains of West Virginia, Greenland Gap hides lots of secrets.

At one end, a nest of rattlesnakes lies noiselessly under white rocks. At the other, about a half-mile away, is a concealed bluff from which McNull's Raiders, a band of Confederate soldiers, used to ambush Union loyalists on the road below.

In between, Chuck Fordyce and a crew of about half-a-dozen men watch a drilling rig as it burrows into the ground. They are hoping to uncover what they think is another of the gap's secrets: natural gas.

Greenland Gap is the site of an exploratory well operated by Columbia Gas System Inc. It is just one of the drilling sites in the Eastern Overthrust Belt, a geologic area that stretches 950 miles through 15 states from Alabama to Vermont and is fast becoming one of the hottest natural-gas prospects in the U.S.

"With the economic benefits so great in the Western Overthrust, there is tremendous focus on finding the next big oil or gas play," says Thomas Petrie, an oil analyst for First Boston Corp. He says that areas such as the Eastern Overthrust have brought back "some of the air of the good old days."

DISCOVERY SPURS INTEREST

A discovry in nearby Mineral County, W. Va., by Columbia Gas System in July 1979 sparked intense interest in the area. Columbia brought in one of the most productive natural-gas test wells ever: 88 million cubic feet a day. Several major oil companies have since taken leases on 10 million acres in the Eastern Overthrust.

The area's similarity to the Western Overthrust, where many oil companies are predicting billions of barrels of oil and natural-gas equivalent of oil, hasn't hurt interest either. "Geologists work a lot by analogy," says Marion D. Noble, manager of Sun Co.'s exploration subsidiary. "It looks like the Western Overthrust."

Some analysts remain cautious, however. "It's kind of early to tell," says Warren Shimmerlik, an oil analyst with Merrill Lynch, Pierce, Fenner & Smith. "I'm not looking for any monumental hits. I don't think anyone anticipates massive reserves." But the industry, he notes, is "hungry for large prospects," so is willing to take expensive risks.

The Eastern Overthrust is older than the Western, but it was formed by the same type of event: the collision of two huge underground land masses. Like the front lines of two opposing football teams, these horizontal masses crashed into one another, twisting in all directions with portions of each mass thrusting in over portions of the other.

Each mass had several layers of sedimentary rock, and the problem now is to find the gas-bearing layers, which are still twisted and broken from the collision of 400 million years ago. The collision pushed up what became the Appalachian Mountain range, at the same time burying sedimentary layers far below the surface. Because of the mountains' age, they have worn away, in some places exposing the Oriskany layer, which far below the surface holds oil or gas. As you drive through West Virginia, you can see the Oriskany as it breaks through the surface of the earth before plunging down again.

TOUGHER BELOW

Finding the layer under the ground where it might contain oil or gas isn't so easy, though. Mr. Fordyce and his crew have been drilling for more than three months within easy view of an exposed portion of the Oriskany, a tantalizing reminder of the treasures that might lie beneath the earth. Mr. Fordyce said the well will eventually reach a depth of more than 7,000 feet.

Many companies have drilled dry holes in this area, perhaps missing the Oriskany by only a few feet because of a sudden unseen twist or break in the layer. Columbia Gas System's Greenland Gap well is within two miles of two dry holes drilled by other companies, yet Columbia Gas is hoping to get good results.

"It's a risky venture," says First Boston's Mr. Petrie. In addition to the uncertainty, drilling in the mountains is expensive. One Columbia Gas geologist estimates that it's three to four times as expensive as in flat areas such as Texas or Louisiana.

In addition, the folds in the rock create technical problems. Usually a rig drills perpendicularly, straight into layers. Because of the folding in the Overthrust, layers are often turned on their sides. "It's real problem drilling," says Sun's Mr. Noble. "It's difficult to keep the hole straight. It tends to wander off."

As a result, many companies have been reluctant to drill in the Eastern Overthrust. Standard Oil Co. (Indiana) has spent $25 million to $30 million in leasing land and doing seismic tests. It holds 2.75 million acres in the area, but has drilled only eight wells since 1977. Altogether, those wells cost between $15 million and $20 million; three found gas, three are still being drilled, and two found nothing. Exxon Corp. drilled five dry holes in Hardy County, W. Va. Each was drilled 18,000 to 20,000 feet and cost about $5 million.

Columbia Gas has drilled seven wells in the Eastern Overthrust in the last 4½ years at an estimated cost of $9.1 million. One was the well that produced much of the excitement about the area, one produced modest amounts of gas, two are still being tested and three were dry holes.

PRICES ENCOURAGE ACTIVITY

But rising prices for natural gas have prompted companies to take the risks of drilling in the Eastern Overthrust. Natural gas prices have climbed to roughly $1.37 thousand cubic feet in the eastern U.S. from 91 cents two years ago. And with President-elect Reagan's often-stated opposition to energy price controls, many companies are hoping for regulatory changes permitting further price increases. A natural-gas price equivalent to the world price of crude oil would be about $6 per thousand cubic feet.

Recently some companies have begun new exploration programs. Gulf Oil Corp. and Atlantic Richfield Co. have agreed to a joint venture to explore 1.2 million acres in the Appalachian basin. Arco will spend up to $26 million in eastern Tennessee, Kentucky, Ohio, the western part of Virginia, West Virginia, Pennsylvania and New York. Gulf is contributing most of the acreage.

Penn Virginia Corp., an independent drilling concern in Philadelphia, has said that it and several other companies will drill 260 wells on more than 132,000 acres in Scott and Wise counties in Virginia.

Much of the area being explored is in the back yard of the birthplace of the oil and gas industry. The first commercial use of natural gas was in Fredonia, N.Y., in 1821, and Edwin L. Drake discovered the first oil in the U.S. in 1859 in Titusville, Pa.

During the 120 years since then, an estimated 40 trillion cubic feet of natural gas and 3.1 billion barrels of oil have been found in the Appalachian area, which currently produces about 24 million barrels of oil and about 400 billion cubic feet of gas a year. The Potential Gas Committee of the Colorado School of Mines estimated in 1978 that the Appalachian area could hold as much as 68 trillion cubic feet of gas.

But new geologic evidence and recent discoveries mean that the estimate could increase. A recent report by the U.S. Geological Survey says that the Eastern Overthrust may extend about 100 miles east of its previously defined edge, thus doubling the area for potential exploration.

So, despite the complexity of the rocks, the stakes are high enough for the companies to roll their dice and pull their rigs over the gentle hills. "Because of the size of the structures, the reserves could be quite large if we can find them," says L. Bryant Williams, Jr., Exxon USA's manager of southeastern exploration.

Near the Gulf of Mexico, oil-bearing geologic structures are only three to five square miles compared with Eastern Overthrust structures as long as 25 miles and as much as three to five miles wide. Because of the age of the mountains, however, the reservoirs aren't as tightly packed. "It takes more area to store the same amount of gas," Mr. Williams says.

Those analysts who wouldn't be surprised by big findings in the Eastern Overthrust recall the early pessimism about the Western Overthrust. Occidental Petroleum Corp. tested a Western Overthrust area in Utah but gave up in 1972. Three years later, drilling a mile away, American Quasar found the now legendary Pineview field, and the rush was on.

In the Eastern Overthrust, says Mr. Petrie of First Boston, "it's like the blind man feeling the leg of the elephant. It might be an elephant." Then again, it might be a white elephant.●

JOE CROSETTI—OUTSTANDING CITIZEN

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Panetta) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, J. J. (Joe) Crosetti is an accomplished agribusinessman, musician, and benefactor of just causes who has played a major role in the growth and development of the city of Watsonville and the county of Santa Cruz, Calif. His accomplishments are legion, his counsel sought after, and his friendship treasured by those fortunate enough to know him. I proudly count myself among those who call him friend.

Last Saturday, the Watsonville Elks Lodge paid tribute to Joe for his dedication and service to the community for well over half a century. I would like to join in this justly deserved tribute by sharing with my colleagues in the House of Representatives an article that appeared in the Watsonville Register-Pajaronian noting this event.

Toasts—and a Roast—by Elks for Job Crosetti

(By Howard Sheerin)

For over 50 years J. J. Crosetti has been playing his saxophone for special events held by the Watsonville Elks Lodge. Wednesday night the horns were tooted for him as he was serenaded by a brass section of the Watsonville Band as the lodge held a J.J. Crosetti Night recognizing his longtime service to the lodge and the community. More than 200 members, including many from Salinas and Santa Cruz, attended the dinner and "fun" program which followed in the lodge meeting hall.

Jim B. Nielsen past state president of the California Elks Association and a past exalted ruler of the Watsonville lodge, was the master of ceremonies for the program which featured some intimate reminiscences by some of Crosetti's former Watsonville High School classmates and some of his later business associates.

Ed Pio led the band musicians to the musical serenade that opened the program and declared that "no event for Joe would be complete without music."

Noting that Crosetti participated in all major sports in high school, as well as being a top musician, Nielsen called on some of his former teammates for their recollections.

Dr. Harry Ashcraft produced an enlargement of the picture of Crosetti that had appeared in the 1923 high school year book. But, he claimed Crosetti still owed Alex Steplek Sr. for the picture. He figured the bill at about $100 by this time.

Tom Lister, who played football for two years with Crosetti, recalled that the class prophecy had had him coaching in his later life. "Instead, he went to work for the T. J. Horgan Co. after high school," he said. "He was a great leader in our school years as well as in the later ones."

Dr. Arthur Rodgers' memories were of music classes. "The teacher always made Joe sit in the front row so she could keep an eye on him," he said. "That was all right with Joe since he could keep his eye on her."

Walter Dutro, retired banker and a long time friend of Crosetti, detailed the highlights of his career. First employed by T.J. (Tim) Horgan, he next was with Levi-Zentner, wholesale produce firm, "calling on all the Italian buyers up the coast." Dutro touched on a few incidents of their youth and then recalled attending the wedding of Crosetti and Theresa Muzzio Feb. 23, 1935.

Politically, Crosetti always has been a Democrat, and Dutro told of a fund raiser barbecue that he gave for Gov. Edmund G. Brown. "I and my brother-in-law (Carl Mehl) were the only Republicans there," he said.

Dutro pointed out that Crosetti has been chairman of the local chapter of the American Red Cross for 42 years, that he's been a director of the county fair board for 40 years and served as president six terms, and that he's still a director of the Valley National Bank founded in 1968.

Rev. Huff, who said he "wasn't sure whether this was to be a roast or a toast," reviewed Crosetti's career in the fresh produce industry, including directorships in the Central California Grower-Shipper Vegetable Association, and the Western Growers Association, both of which he has served as president. He also has been a director and president of the California-Arizona Growers Association. Lloyd Stolich of Salinas, formerly of Watsonville, introduced members of these associations who were present.

Marty Franich announced that a $1,000 student scholarship in the name of J. J. Crosetti had been established by the Watsonville Rotary Club in recognition "of this outstanding and extraordinary citizen" and that Crosetti had then matched it.

Others who spoke were Joe Silva, Lou Chesbro, a past Exalted Ruler of the lodge, Dan Ready, past Exalted Ruler of Richmond Lodge, Judge Richard Kessell, Harold Bohnett, now of Los Gatos, who was with Crosetti in the high school band, and Lou Facelli of Santa Cruz. Father Louie of San Francisco, former director of St. Francis School, gave the invocation and benediction.

Mayor Bill Johnston said he wanted to "extend my thanks (to Crosetti) for all you have done for the city."

A past Grand Exalted Ruler of the national Elks lodge, Horace Wisely, also was present from Salinas. He noted that when a Government Relationship Committee had been established by the lodge, Crosetti had been the choice to represent the Central Coast California district. The lodge still has problems about the rights of membership, he said.

At the close of the program, a plaque was presented to Crosetti by George Covell as the lodge's appreciation for his dedeication to its principles. Mel Loftin currently is president.

In accepting the plaque, Crosetti reminisced a bit himself, recalling that when he used to play for dances in his younger days (for a fee) Nielsen used to carry his saxophone case. "That way he got in without paying."

Another of Crosetti's early musical ventures was recalled when Stan Anderson tugged in two sticker-plastered suitcases used when the two played with a ship's orchestra on a round-the-world trip in 1927.

JOINT AMERICAN-ISRAELI EFFORTS TO CONQUER POLLUTION IN ISRAEL

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. Stratton) is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, I know my colleagues share my interest in assuring the continued strength and independence of Israel. We usually discuss this independence in either economic or military terms.

However, I am submitting in the Record at this point an article entitled "Helping Israel Conquer Pollution" by Rochelle Saidel Wolk of my district, in Albany, N.Y. Mrs. Wolk's article details the pollution problems confronting Israel at this time and the serious ramifications these problems pose for the future security of Israel. In fact at this very moment the New York State Department of Environmental Conservation and the Government of Israel are studying the possibility of a joint effort to address pollution problems in Israel, as well as in the United States.

I know my colleagues will find this fine article of interest.

The article follows:

Israel's Other Enemies—Helping Israel Conquer Pollution

(By Rochelle Saidel Wolk)

"Ask two Jews a question, and you'll get three answers," is an old joke that often proves true. But not when the Jews are Israelis and the question is survival. Ask any Israeli what he considers the two greatest threats to the quality of his life. The answer is virtually always: hostile neighboring countries and sky-rocketing inflation.

A potentially greater threat—environmental pollution—is rarely voiced. Yet the absence of pure air and water could make Israelis' other worries merely academic. Environmentalists are concerned that along with Israel's remarkable achievements in development, the country has been accumulating serious environmental hazards, some of them "time bombs" similar to those of the Love Canal in Niagara Falls, New York.

In its 32 years of existence, Israel has emphasized growth, not protection of the environment from potential health hazards. New towns have been constructed, modern industrial and agricultural techniques have been introduced, and transportation facilities have been initiated and improved. To compound the situation, Israel's habitable area is limited, and population centers are crowded. More than 70% of Israel's economic activities are concentrated near the coast, an area not favorably suited for dispersal of pollutants.

"Environmental protection has figured low on the list of national priorities," says Dr.

Uri Marinov, director of Israel's Environmental Protection Service (EPS). A dynamic sabra now on leave for work at the Tennessee Valley Authority, Marinov assumed the directorship when EPS was established within the Prime Minister's office in 1973. He was formerly head of the Life Sciences Division of Israel's Council on Research and Development. EPS moved to the Ministry of the Interior in 1976 and the budget increased fivefold. In addition to EPS, there are also currently 16 local environmental units and six district environmental advisors in Israel.

"Our major failure has been to enforce existing laws and reduce the existing levels of pollution," Marinov says. "We don't lack funds or manpower. We lack the correct organization to deal with the problems."

By lack of organization, Marinov means the ambiguous boundaries for control of environmental problems. "There is no clear current responsibility in one agency," he says. "EPS is part of the Ministry of the Interior, but the Ministry of Health and other ministries often have overlapping jurisdiction." For example, a third ministry, Agriculture, shares water pollution control with the first two ministeries. All three ministries also monitor pesticides. Other ministries that have their say in various environment-related issues include: Industry, Commerce and Tourism; Energy and Infrastructure, Housing and Construction, Labor and Social Affairs.

To rectify the overlaps and turn around "some 30 years of neglect," Marinov recommends reorganizing to "put the whole thing under one roof and concentrate our efforts." He cites as a model of good organization the U.S. Environmental Protection Agency.

An American environmental expert, Jack Lauber, agrees that Israel's environmental activities should be consolidated as they are here "to eliminate duplication and wasted efforts." Lauber says: "Our American environmental programs are now well-coordinated by the federal government. Israel should follow our example." He further recommends that Israel's three industrial cities—Haifa, Ashdad and Beersheva—cooperate for common solutions to pollution problems.

A Zionist who is Chief of the Toxic Materials and Effects Section, New York State Department of Environmental Conservation, Lauber spent November and December, 1979 in Israel as a consultant to Israel's EPS. He is a member of the advisory board of the U.S. Committee for the Israel Environment, a group of American scientists, engineers and environmentalists who for the past six years have devoted time and professional expertise to improve the environment of Israel.

Lauber discovered trouble spots in Israel that range from mere nuisances to potential killers. After he returned to the U.S., one industry he had called a major offender, the Frutarom chemical plant in Acco (Acre), made headlines in Israel newspapers. In April, residents of Acco and members of a nearby kibbutz, Ein Hamifratz, became ill and several were hospitalized with respiratory ailments caused by emissions of large quantities of toxic gases from a series of accidents at Frutarom. The plant manufactures vinyl chloride, a building block for vinyl plastics.

Describing vinyl chloride as "an invisible but lethal gas that can cause a rare form of liver cancer," Lauber says, "the Frutarom facility has some controls, but I suspect there may be losses of ten tons or more of toxic gas per day." He recommends that the Israel government institute an air sampling program to monitor and control these emissions.

Cement plant pollutants, unlike the Frutarom chemicals, are not toxic. They can, however, affect the health of the elderly, the very young and those with respiratory ailments. "The Nesher Cement Plant outside of Haifa has been causing problems for many years," Lauber says.

"About 10 years ago, there was a citizen's suit against Nesher and a Supreme Court decision required the company to install air cleaning systems and operate them effectively. When I checked the systems, I found them poorly maintained, literally breaking down and causing a lot of dust over Haifa. With one major system completely shut down for repairs, the plant continued to run for nearly two weeks, emitting 50 tons of cement a day into Haifa's air." (Lauber is just as concerned about two other Nesher plants at Ramlah and Bet Shemesh.)

Haifa's air quality is also threatened by the Haifa's refinery, according to Lauber. A large flare at the refinery burns gases from a neighboring ethylene plant, and from the refinery. "Irregularities in burning create sooty and carcinogenic black smoke that sometimes drifts toward Haifa," Lauber explains. He recommends a gas holder or system to prevent fluctuations of gas flow.

The residents of Beersheva also face a double threat from air pollution, and here the emissions are "definitely toxic," Lauber says. The offenders are the Dead Sea Bromine Works and Makhteshim, a manufacturer of insecticides and other agricultural chemicals.

"Makhteshim has a weather vane, and they shut down operations whenever the wind blows toward Beersheva," Lauber says of the plant's controls. Within the next few years, both industries plan to move some of their operations to Ramat Hovav, about 9 km, (5½ miles) from Beersheva, a location that Lauber sardonically describes as "death city." Meanwhile, Beersheva residents suffer from the plants' unpleasant odors and from cumulative effects that could be far worse. Speaking of Lauber's report on Makhteshim, Danny Levy, an air polution engineer for Beersheva, described it as "a freedom sword against the villain."

While most Israelis tend to shrug off the, unseen potential dangers of air pollution, they are acutely aware that their water supply is scarce and vulnerable. "Israel's water management has developed dramatically, but the severe shortage of water and the often irreversible pollution of its sources are still a threat." EPS Director Marinov says.

Some 80% of the water supply is allocated for agriculture, with 13% for domestic consumption and 7% for industry. In the past few years, there has been a slow increase of both nitrates and chlorides in the coastal aquifer, Marinov explains. Untreated sewage and solid waste disposal centers further endanger the water quality, and industries all over Israel regularly discharge wastes into streams and wadis, he adds. Of the 60 streams and rivers in Israel, at least nine are composed exclusively of sewage.

As with air pollution, control of water also needs consolidation of jurisdiction. For example, drinking water quality is now supervised by the Ministry of Health, and control of industrial effluents is the responsibility of the Ministry of Agriculture.

Perhaps the best, or worst, example of a polluted river is the Kishon in the Haifa area. Haifa City Attorney Zeev Rivlin, who is working on the legal aspects of that city's environmental problems, remembers the Kishon as "one of the nicest places in Haifa, where lots of fish used to live." When his son camps there now with the Boy Scouts, he can sail but not swim. Chemical plants and the Haifa oil refinery have used the river for disposal, until parts of it look solid rather than liquid. A five-year plan to clean the river is currently in progress. Rivlin points out, however, that the industries still have not been forced to comply, and that cleaning a river can take generations.

Lake Kinneret supplies one-third of the country's water via the National Water Grid, which Marinov describes as an "outstanding example of an efficient water distribution system, of which the long range environmental impacts have yet to be completely understood."

In addition to air and water quality, other areas, some not now regulated by EPS, require environmental control. Solid waste, noise, pesticides and chemicals, land use planning and urban transportation are yet to be dealt with sufficiently. "Israel is sitting on a bombshell of waste," Marinov exclaims. "The sites are full and there are no new ones available. Since 1973, I've been pushing for using waste for energy."

Asked to sum up Israel's basic problem regarding pollution, Marinov says: "The legislative approach is geared to nuisance control rather than an attempt to prevent or reduce various types of pollution through planning and strategy. Even the comprehensive water pollution laws stress economic rather than environmental concern." As examples, he cites inadequate legal coverage of industrial waste problems, and no direct coverage of systems for handling disposal and recovery of solid waste.

Although there are grave problems yet to be resolved, Israel has made commendable progress in some areas. Lauber names Ashdod as "the most environmentally conscious community" of Israel's industrial cities. He attributes much of Ashdod's progress to its mayor, Zevi Zilker, an engineer and environmentalist. "In Ashdod there have been significant improvements at the port, in zoning of industries, and in controlling toxic emissions," Lauber says.

As an example, he mentions Hakurnas Lead Works Ltd., which "has a very modern air cleaning system" for control of toxic lead emissions. "At the port, loading and unloading of phosphate fertilizers used to create severe environmental problems," he adds. "Now new railroad car and truck facilities, a new dust collection system, and a new shiploading hopper have generally reduced dust emissions."

Marinov points out that several monitoring networks are being developed around the country. As examples, he mentions those that measure levels of air pollution, and those that check percentages of pesticide in milk. For the future, Marinov is concerned with the environmental consequences of possible new sources of energy. Israel is exploring reservoirs of oil, natural gas and coal, and also researching alternative fuels such as solar energy, hydro-electric power and energy from shale, peat, waste and algae. "If any of these options becomes commercially profitable, we will have to carefully evaluate the effects on animal, plant and human life," he explains.

The ORT/Israel network, too, plays a significant role in protecting Israel's environment. At the ORT school at Kfar Saba, a two year course was initiated in 1974 to train secondary school graduates as technicians in environmental engineering. Studies include lectures, laboratories, field work, and a research project that presents a specific environmental problem and a possible solution. Institutions of higher learning such as The Hebrew University, Tel Aviv University, The Technion, Ben Gurion University of the Negev, Bar-Ilan University, Haifa University, and The Weizmann Institute of Science are also engaged in environmental studies.

The Jewish National Fund has planted more than 120 million trees, and has been one of Israel's foremost initiators of landscape protection. Originally established in 1901, JNF is legally responsible for development and afforestation of all public land in Israel.

The Council for a Beautiful Israel, founded in 1968, is headed by Aura Herzog, wife of Israel's former Ambassador to the UN. Describing itself as "non-political" and "completely independent," the Council works closely with the government and volunteers to assist Israel in planning for better ecology. Activities include clean-up campaigns, educational materials, improvement of beaches and streets, garden clubs, legislation advocacy, preservation of historic sites, and beautification projects.

The Council's planning committee regularly invites town leaders to discuss planning problems with professional environmentalists. In addition, legal assistance is offered to those who file complaints about environmental problems. The Council has conducted professional legislative surveys, and also has campaigned for greater enforcement of specific environmental laws on a local level. A major project is the Council's training center in the Yarkon National Park, which will offer a wide variety of courses to promote environmental awareness.

The Society for the Protection of Nature, originally founded to preserve wildlife, reorganized in 1976 with a new statement of purpose. The more than 23,000 members are now committed to environmental protection, and to educational activities, including information dissemination and research.

Despite activities in Israel and this country to preserve Israel's environment, experts such as Marinov, Lauber and others concur that much more needs to be done. Lauber warns: "The toxic chemicals in Israel's environment will not kill anyone in days, weeks or even years. The lesson of New York State's Love Canal has taught us, however, that chemical wastes and toxic substances, can be time bombs for future generations. Environmental protection is not a luxury that Israel can afford later, but is a necessity now."

Lauber recommends education here and in Israel about environmental hazards, to motivate the public and the government of Israel to take effective action. He further finds "much apathy and ignorance" about these hazards, both here and in Israel, and he urges major American Jewish organizations to put environmental education on their agendas.

Discussing pollution in New York State, State Environmental Conservation Commissioner Robert Flacke said recently that the battle against visible pollution is being won, but the challenges of the next decade are "insidious," "far more dangerous," and "not amenable to ill-conceived, quick-fix solutions." In a draft of his department's 10-year environmental plan, he described the "unseen enemy" as "hazardous wastes, decaying water supply systems, toxic contamination, threatened groundwater resources, acid rain . . ." This same "unseen enemy" is also threatening Israel's future—as seriously as are its hostile neighbors and an ever-increasing cost of living.

The important difference is that this lurking menace—through heightened public awareness, careful planning, and a united national effort—can, in time, be conquered.

CLARIFICATION OF CERTAIN TAX PROVISIONS CONTAINED IN H.R. 7020, SUPERFUND BILL, AS AMENDED BY THE SENATE

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, on behalf of Mr. CONABLE and myself, I want to clarify several questions that have been raised with regard to the intent of Congress with respect to the tax provisions of the superfund legislation, H.R. 7020. One issue involves the tax on petroleum and three questions deal with the tax on chemicals. This statement elaborates what we believe to be the intent of Congress with respect to these issues.

STATEMENT

1. Section 4611 of the Code imposes a tax on natural gasoline derived from natural gas. It has been asked whether it is correct to assume that the tax is, as in the case of crude oil, imposed at the refinery gate and not at the natural gas processing plant where such gasoline is separated from the natural gas.

Generally, the petroleum tax on products other than imports imposed under section 4611(a) is on crude oil (including natural gasoline and crude oil condensates) received at a U.S. refinery, which is defined in the statute as any facility in the United States at which crude oil is refined. The petroleum tax also may be imposed under 4611(b) on the use or exportation of crude oil, if no tax has been imposed on the oil upon its receipt at a refinery. Thus, if crude oil is refined at the natual gas processing plant, then the plant would be treated as a refinery and the natural gasoline produced at such a plant would be taxable when produced. However, if crude oil is not refined at a natural gas processing plant, then the natural gasoline would be subject to a tax only when received at a U.S. refinery, used, or exported.

2. With respect to taxation of petrochemical feedstocks, Section 4661(a) imposes a tax on any listed chemical sold by a manufacturer, producer or importer of the substance. Section 4662(c) makes use of such substance equivalent to sale for taxation purposes. It has been asked whether it is correct to assume that these two sections are to be read together and are intended to provide equivalent tax treatment to firms which manufacture and sell, and those which manufacture and use, such feedstocks.

Section 4631(a) imposes a tax on any taxable chemical sold by the manufacturer, producer, or importer of the chemical. Section 4361(c) states that if a manufacturer, producer or importer uses the chemical, then this person would be liable for the tax in the same manner as if the chemical were sold by the person. Thus, either sale or use of the taxable chemical by the manufacturer, producer, or importer would generate a tax liability.

3. A question has also arisen regarding the application of the excise tax on chemicals to gasoline and other refinery products. As I understand the petroleum industry, oil which is received at a refinery is first distilled to produce a light hydrocarbon stream which eventually is blended with other products and sold as gasoline. The products from the distillation process may then be further processed in a catalytic cracker or in a reformer. The cracking and reformation processes produce, in part, mixed streams of light hydrocarbons which are blended with distillates and sold as gasoline. The light hydrocarbon streams produced in the distillation, cracking, or reformation processes may contain various amounts of substances, such as benzene, butadiene and xylene, which are listed as taxable chemicals in title II of H.R. 7020. We further understand that before any of these substances can be used for chemical processes such as the production of pesticides, or other hazardous substances they must be isolated from the hydrocarbon stream. The question which has arisen is whether the Ways and Means Committee in drafting the original superfund tax intended to tax specified chemicals present in the gasoline refining process if those chemicals are not isolated for chemical use but remain instead in the gasoline.

The tax in H.R. 7020 is imposed upon the sale or use of any taxable chemical by the manufacturer, producer or importer of that taxable chemical; the relevant language is contained in both the House and Senate versions of the bill. If the process of producing gasoline and of isolating particular substances is as it has been described to us, then we would say that the Ways and Means Committee did not intend to tax named substances present in mixed hydrocarbon streams used to produce gasoline. When a refinery operates a distillation, cracking, or reformation process for the purpose of obtaining a light hydrocarbon stream that will be sold as gasoline it cannot be said to be engaged in the manufacture or production of any taxable chemical. In contrast, if that gasoline is not sold but is further processed to isolate one or more taxable chemicals, then the refiner is the producer of those chemicals and the excise tax on chemicals would be imposed.

It should also be noted that although an importer of gasoline is not importing a named taxable chemical it is importing a petroleum product and would be subject to the excise tax on petroleum provided for in H.R. 7020.

4. The superfund legislation generally imposes a tax under section 4661 of the Code on the sale or use of certain chemicals. However, section 4662(b)(1) states that methane or butane are treated as a taxable chemical only if "used otherwise than as a fuel." These words appear in both the House and Senate versions of H.R. 7020.

It has been indicated that one important way in which butane is used is as a component of gasoline and other fuels produced in an oil refinery. As we understand it, butane is dissolved (without any change in its chemical composition) into the gasoline to enhance the overall performance of the gasoline, which is, of course, used as a fuel. The specific question which arises is whether, in this case, the butane has been used "otherwise than as a fuel" and thus, whether such use is subject to tax.

If the facts with respect to gasoline production are as represented above—that the chemical composition of the butane does not change and that it is merely dissolved in or mixed with other substances, all of which are used as a fuel, then the Congress did not intend that this butane should be subject to the tax. If, in some other situation, the butane is repeatedly mixed with other substances in an extended sequence of mixtures or its chemical composition is changed, then it is intended that it be considered to be "used otherwise than as a fuel," and thus, subject to the tax at that point.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. AKAKA (At the request of Mr. WRIGHT), for today, on account of official business.

Mr. STANGELAND (at the request of Mr. RHODES), for today and tomorrow, on account of illness.

Mr. SENSENBRENNER (At the request of Mr. RHODES), for today, on account of illness.

Mr. LEDERER (at the request of Mr. WRIGHT), for today and Saturday, December 13, on account of a necessary absence .

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TAUKE), to revise and extend their remarks and include extraneous matter to:)

Mr. Buchanan, for 15 minutes, today.

(The following Members (at the request of Mr. Anthony), to revise and extend their remarks and include extraneous matter:

Mr. Gonzalez, for 30 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Cavanaugh, for 5 minutes, on December 13.

(The following Members (at the request of Mr. Matsui) to revise and extend their remarks and include extraneous material:)

Mr. Reuss, for 10 minutes, today.

Mr. Moorhead of Pennsylvania, for 15 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Stratton, for 5 minutes, today.

Mr. Ullman, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Tauke) and to include extraneous matter:)

Mr. Moore.

Mr. Courter.

Mr. Gilman, in 10 instances.

Mr. McKinney.

Mr. Wampler.

(The following Members (at the request of the Mr. Anthony) and to include extraneous matter:)

Mr. Chappell, in five instances.

Mr. Markey.

Mr. Glickman.

Mr. Wirth.

Mr. Anthony.

(The following Members (at the request of Mr. Matsui) and to include extraneous matter:)

Mr. Phillip Burton.

Mr. Mazzoli.

Mr. de la Garza in 10 instances.

Mr. Edwards of California in two instances.

Mr. O'Neill in four instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3261. An act to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section; to the Committee on Interstate and Foreign Commerce.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1097. An act to establish a national tourism policy and an independent Government agency to carry out the national tourism policy; and

S. 3096. An act to amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wis.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5888. An act to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes;

H.R. 6671. An act to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes;

H.R. 6796. An act to amend and extend title VII of the Comprehensive Employment and Training Act;

H.R. 8195. An act to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases; and

H.J. Res. 615. Joint resolution providing for appointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.

ADJOURNMENT

Mr. MATSUI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 37 minutes p.m.), under its previous order, the House adjourned until tomorrow, Saturday, December 13, 1980 at 12 o'clock noon.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5981: Mr. Mavroules.

H.R. 7334: Mr. Spence.

H.R. 7882: Mr. Erlenborn.

H.R. 8169: Mr. Ritter and Mr. Gilman.

H.R. 8367: Mr. Hubbard.

H.R. 8387: Mr. Annunzio, Mr. Ottinger, Mr. Musto, Mr. Rinaldo, Mr. Guarini, Mr. Giaimo, and Mr. Carney.

SENATE—*Friday, December 12, 1980*

(Legislative day of Thursday, November 20, 1980)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, whose children we are, whose will we seek to discover, and whose work we would do, we give Thee hearty thanks for the noble succession of unselfish patriots who in high and humble places, consecrated their gifts to the service of their generation, and won for their age a better world. Suffer not this race of dedicated public servants to become extinct. Breed in each generation legions of selfless servants of the common good who can move each age nearer to Thy perfect kingdom.

O Lord, wilt Thou renew us this day in the things of the spirit. Spare us from idolatry of the past or fear of the future. Give us a good conscience in the use of power and in the management of money. Open our minds to learn and open our hearts to love that our work here may be to Thy glory and to the advancement of Thy kingdom.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 12, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CABINET NOMINEES OF PRESIDENT-ELECT REAGAN

Mr. ROBERT C. BYRD. Mr. President, President-elect Reagan has named several of his choices for Cabinet appointments. This is the first phase of defining relations between his administration and the Senate which will convene in January.

Mr. Reagan's list appears to be one of competent choices. The Senate has a constitutional duty to examine each of them, and to advise and consent to their appointment to Cabinet rank. This is a serious and difficult job. The experience of the past administration demonstrated how difficult it is to review an individual's background, assess his or her character and judgment, and then confer enormous responsibility. This work necessarily must be done as promptly as possible and as thoroughly as possible.

As minority leader, I will seek to expedite the review and confirmation of President-elect Reagan's nominees. But the Senate's work must be thorough and the Senate has a duty to see that no Cabinet appointee brings harmful baggage which would impede performance of duty.

That was the case with Bert Lance, as Director of the Office of Management and Budget, which I shall refer to again in a moment.

It has been the inclination of the U.S. Senate to allow an incoming President great latitude in the selection of his Cabinet team.

All things being equal, this is the way it should be. In the history of our Nation, only eight Cabinet nominees have been rejected on the floor of the Senate, I believe the last being Lewis Strauss, President Eisenhower's nominee for Secretary of Commerce in 1959.

Recently, when questioned about the possible nomination of Gen. Alexander Haig as Secretary of State, I stated what should be obvious to even the most casual observer of our political system.

In my opinion, I told reporters, I fully anticipate that the record will be examined carefully, thoroughly, and appropriately if General Haig's name is submitted for a Cabinet position.

If we did otherwise, I do not think the Senate would be responsible.

My recent remarks about General Haig were made much in the same vein as comments I made 4 years ago about Theodore Sorensen's nomination as Director of the Central Intelligence Agency.

When asked about Mr. Sorensen, a Democrat, who was being nominated by President-elect Carter, I remarked that his nomination faced some problems in the Senate. Some Senators had raised questions, and they wanted to carefully evaluate Mr. Sorensen's past record of service. The concerns were bipartisan.

Recent history has proved to us the value of closely examining the nominations of persons to high public positions. If we do not fulfill this responsibility, then we serve neither the new President nor the Nation. In the final analysis, it is also unfair to the person being reviewed for the post.

In the flush of good feelings surrounding any new administration, it is easy to forget the case of Bert Lance, President Carter's former Director of the Office of Management and Budget. After being named to the position, and serving in the post, it was learned from newspaper accounts that Mr. Lance had numerous problems stemming from his earlier banking practices.

The questions surrounding Mr. Lance's business dealings became so intense as to virtually render any further service in his OMB capacity useless.

Mr. Lance stepped down. The episode was an embarrassment for Mr. Lance, and it was anguish for the President and the Nation.

At that time, members of the media examined the Senate confirmation process, and were extremely critical of it. At that time, I was quoted as saying:

> There has been a feeling that this is a nominee the President wants, and he should have who he wants. I believe our responsibility should go deeper than that.

The job of Secretary of State is among the most important positions in the United States. The American people and the U.S. Senate deserve to know that the man who directs our foreign policy is free to shoulder those responsibilities without the dragging out of charges and claims of impropriety. The newspapers have stated such charges, and the Senate will examine them. To do otherwise would be to neglect our basic duty.

Neither the country nor President-elect Reagan can afford to have a Secretary of State crippled by constantly defending himself against evidence of wrongdoing, should such evidence be confirmed by Senate hearings.

There is no cause for alarm or for suggestion that this process is unhealthy. It has served the Republic remarkably well for 200 years.

If the Senate does its duty and thoroughly goes into the record and then finds that all is clear, the Senate will act

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

and vote accordingly, I am sure. The President will do his duty, and the Senate will, also. I trust that the product of both duties will be in our national interest.

Mr. PROXMIRE. Will the Senator yield on this subject he is discussing?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. I commend the majority leader on what he has just said about the advice and consent responsibility the Senate has. The majority leader is exactly correct. I recall very well the Bert Lance nomination. In fact, I spoke for 20 minutes against it on the floor when it was called up because I thought he was thoroughly and completely wrong for the job.

I am so glad the Senator has made his statement because it set the right tone. A new President will have many problems and he is doing his best to select a team that I am sure will be a good team. But we have a responsibility to go into great detail and make sure, under the Constitution, that these men are qualified, that they can do a good job and that there is nothing in their background that is going to embarrass the President or the country. I certainly intend to do my very best to support my leader on this. I think he deserves a great deal of credit for calling this to the attention of all of us.

This is not a partisan matter. It is the responsibility for every individual U.S. Senator to be very careful about the advise and consent process, a process that has been neglected by the Senate for many years.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Wisconsin.

(During the foregoing statement, the following occurred:)

Mr. BAKER. Mr. President, will the majority leader yield to me without the interruption appearing in the course of his statement?

Mr. ROBERT C. BYRD. Yes, Mr. President, I yield.

Mr. BAKER. Mr. President, I yield my time under the standing order, as modified, to the distinguished majority leader this morning.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

(Conclusion of earlier proceedings.)

Mr. PROXMIRE. Will the Senator yield to me for just a half-minute?

Mr. ROBERT C. BYRD. Yes, I yield.

THE U.S. MEMORIAL COUNCIL IS NOT ENOUGH

Mr. PROXMIRE. Mr. President, on September 24 the Senate passed a bill introduced by my colleague, Senator JOHN DANFORTH, of Missouri, which officially established the U.S. Holocaust Memorial Council. The purpose of this council is twofold: First, to oversee the building and operation of a permanent living museum honoring the victims of the holocaust; and second, to sponsor yearly observances of Days of Remembrance to those who were killed during the holocaust.

The Days of Remembrance were established by a joint resolution 2 years ago to insure that the memory of the victims of the holocaust lives on. We must never forget the horrible acts of genocide that were committed by the Nazis just a short time ago. It is the responsibility of the Memorial Council to plan commemorations and observances in honor of the victims of the holocaust.

The Holocaust Memorial Council consists of 50 respected individuals, including survivors of the holocaust, academicians, businessmen, and members of the clergy. The chairman of the council is Elie Wiesel, a survivor of Auschwitz, and now a distinguished author and scholar. In his recollections of the largest and most dreaded Nazi concentration camp, Mr. Wiesel stated:

> At Auschwitz, one breathed contempt and indignity: a crust of bread was worth more than divine promises, a bowl of soup transformed a sensitive human being into a wild animal.

We must not forget the agonizing terror and pain that victims and survivors of the holocaust experienced. As Americans, we must uphold basic human principles of dignity and respect. Human souls should never again have to be turned into "wild animals" in order to survive.

I applaud the action of the Senate in creating the U.S. Holocaust Memorial Council and for continuing to support the Days of Remembrance. But this is not enough.

Memorials serve an important function. They serve as a reminder of the gruesome past. But can we not do more? Can we not take a positive step to insure that these tragedies will not happen again? I think we can.

For over 30 years, the International Convention of the Prevention and Punishment of the Crime of Genocide has been pending before the Senate. Yet the Senate has failed to act.

Mr. President, what more fitting memorial can there be? Is it not time to move from the world of words and take action by resolving in a universal declaration that the heinous crime of genocide will never be allowed to recur?

Mr. President, I urge my colleagues in the Senate to ratify the Genocide Convention.

RECOGNITION OF SENATOR ZORINSKY

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator from Nebraska need any additional time?

Mr. ZORINSKY. No, Mr. President, 15 minutes is all I shall need.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may reserve the remainder of the time under my control this morning in case another Senator needs it.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from Nebraska (Mr. ZORINSKY) is recognized for 15 minutes.

TOO MANY "HIT LISTS"

Mr. ZORINSKY. Mr. President, the United States has just emerged from a national election in which the victor stressed the need for competence in our Federal Government and gave a promise to achieve it. It would be tragic for the Nation if the advisers of President-elect Reagan manage to dissipate the confidence of the American people in that promise and end a honeymoon even before the marriage is consummated on January 20.

For the delicate process of transition from one administration to another, the Congress has authorized and appropriated money, the Carter administration has promised, and from all accounts, delivered full cooperation, and the President-elect has chosen individuals to manage his accession to power. Presumably, it is the intention of us all to make as smooth as possible the changing of the guard. For myself, I have offered publicly to aid the transition process, and further to work with the incoming administration during the next 4 years to achieve goals which are broadly supported by the American people.

Despite all this goodwill and eagerness for cooperation, some members of the Reagan transition team in the foreign policy area have managed to create a poisoned atmosphere which is destructive to the image of the United States and to our foreign policy interests. According to accounts in the national press, various members of the transition team have leaked highly classified information, have devised a "hit-list" of U.S. Ambassadors, and have paraded around pronouncing the foreign policy of President-elect Reagan before the man has had the opportunity—much less the constitutional authority—to set policy. If this is the sort of "competence" to which we will be treated for the next 4 years, then God save the country.

It is inconceivable to me that the staff of any transition team would leak classified information regarding talks between a U.S. Senator and the Soviet leadership. Is it possible that these foreign policy transition aides do not understand the sensitivity, the delicacy of United States-Soviet relations? Is it possible that these foreign policy experts do not comprehend the untrustworthy image which the leaking of classified secrets will project to our own allies? Is it possible that some of these same individuals might be in line for Presidential appointment in the Reagan administration? If so, then I suggest they will have a rough row to hoe in seeking confirmation by Democrats and Republicans alike in the U.S. Senate.

Just as inconceivable to me are the efforts of some Reagan transition staff to initiate a witch-hunt atmosphere in the ranks of the Foreign Service, terrorizing and ravaging the professional diplomats to whom we entrust a large measure of our national security. The news media have reported on a "hit-list" prepared by Reagan aides that names several U.S. Ambassadors for removal. I have been rather critical of the State Department from time to time, and I can well understand that President-elect Reagan may wish to change some of the current ambassadorial assignments. But all this talk of "hit-lists" and the like sounds more like a Mafia mentality than that which is expected of the representatives of a President-elect.

It portrays U.S. policymakers as thugs and cutthroats rather than thoughtful professionals formulating and conducting the foreign policy of the most powerful Nation on Earth.

Importantly, it also undermines the authority of our Ambassadors, and weakens the U.S. position in trouble spots of the world. For example, two of the individuals allegedly targeted, Ambasador Lawrence Pezzullo in Nicaragua and Ambassador Robert White in El Salvador, serve in the troubled Central American region. Both of these men are fine, dedicated, career diplomats who are a credit to their country. I know them professionally and personally, and I can vouch for their integrity and ability in carrying out the instructions of the U.S. Government.

As chairman of the Subcommittee on Western Hemisphere Affairs, I also can speak with some knowledge about the sensitive nature of our relations with Nicaragua and El Salvador. One nation recently has emerged from a civil war, the other appears to be on the brink of one. Due to the proximity of these nations to our own, our actions necessarily have a profound impact upon them. It has been compared, from their perspective, to being in bed with an elephant. The elephant might be kindly enough, but if he turns in his sleep, it could spell disaster. As if this situation alone were not bad enough, the elephant, of late, has taken on the appearance of a restless insomniac and a bed wetter.

Whatever the policy-to-be of the incoming administration, it serves little purpose to undermine the effectiveness of the U.S. representatives in these countries. It makes little sense to squander our diplomatic capital by portraying ourselves as petty and silly. And it serves no purpose and makes no sense at all to mortgage our future relations with these countries to the claptrap of a few misguided individuals.

Perhaps the most dangerous result of this irresponsible behavior and talk about "hit-lists" will be to create a misimpression about the seriousness with which we would view any attack on an American Ambassador, Embassy personnel, or U.S. citizen. "Hit-lists" of the murderous type do exist in Central America. Just last week in El Salvador four American church workers were brutally assassinated. In speaking about that tragedy I called on President-elect Reagan to make a strong and clear statement regarding his policy toward Latin America. At that time I noted:

> The upsurge in terrorist activity and violence in El Salvador and elsewhere in Central America is just one example of the need for such a statement. Rightist forces, including the military, have been emboldened by their perception that the Reagan administration supports their position in the name of anticommunism. The left is showing signs of frustration and desperation by taking action to improve their position before the Reagan administration comes to power because of their perception that the United States will strengthen rightist forces.

I renew my call to President-elect Reagan to make that statement. I also call on him to clean up his transition staff, weeding out those who do not represent his own high standards of decency, honor, and responsible behavior. It is imperative that the President-elect remove those in his own entourage who would discredit him, his administration, and the United States of America. If President-elect Reagan fails to rein in his advisers, then the new administration should scrap all plans for "hitting the ground running" and buckle their belts for a crash landing.

Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, that Senators may speak therein, and that the period not extend beyond 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordeerd.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Mr. ROBERT C. BYRD. Mr. President, I would express the hope that the managers of the mass transit bill could come to the floor. It is hoped that they will proceed to call up the message from the House on mass transit.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

S. 2720—PRIVILEGE OF THE FLOOR

Mr. STAFFORD. Mr. President, I ask unanimous consent that the following staff members of the Committee on Environment and Public Works have the privilege of the floor during debate and votes on S. 2720: John Yago, Bailey Guard, Richard Harris, Lee Fuller, Jean Schrag, Hal Brayman, Robert Peck, Mike Burns, Mike Francis of Senator STAFFORD's staff, and Ron Walradt of Senator McCLURE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEWART). Without objection it is so ordered.

SURFACE TRANSPORTATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2720.

Mr. BAKER. Mr. President, a parliamentary inquiry. Will the majority leader yield to me for that purpose?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. BAKER. Mr. President, I understand this is a House message the majority leader has just referred to, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Under the rules, the House message is privileged?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I observe that the majority leader did not ask unanimous consent to proceed to the consideration of that item but rather asked the Chair to lay that message before the Senate.

Might I inquire then, and my parliamentary inquiry is, under the rules and precedents is unanimous consent necessary in order to proceed to the consideration of this matter at this time or to authorize the Chair to lay the message before the Senate as the majority leader has requested?

The PRESIDING OFFICER. Unanimous consent is not necessary to lay the message before the Senate.

Mr. BAKER. I assume from that then it is within the discretion of the Chair to comply with the request of a Senator, the majority leader in this case, to lay such a privileged matter before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2720) to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations, and for other purposes.

(The amendment of the House is printed in the RECORD of December 4, 1980, beginning at page 32192.)

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, is the message before the Senate now?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I would like to start by stressing the importance of the passage of this legislation. This legislation represents almost a full year of debate, hard work by countless, literally countless, people not only here in the Congress but across the country.

Out of all that developed this measure that is before us, which represents truly a compromise over the future mass transit program. Again, long labor over the full year, passage here of this bill in June of this year, and finally House passage of it recently, and now the message back from the House, which is pretty close to the bill that the Senate passed in June, but still has some important differences.

I would like to emphasize also at the very beginning the very broad bipartisan support this issue has had in both houses. It has support from all corners of this country, from cities large and small, from rural areas, in fact from almost everywhere where the importance of an effective long-range transit program is recognized.

This bill also contains important provisions regarding the Federal highway program.

The legislation makes solid progress toward resolving many difficult issues that have faced the transit program for years.

The House amendment contains essentially the same new service-based formula that the Senate proposed, which I sponsored, and which passed the Senate by an overwhelming vote of 79 to 15, and again that was several months ago, back in June of this year.

The vote in the House the other day was equally impressive, 346 to 33.

This new formula would make a shift in the distribution of formula-operating capital funds for larger cities from primarily a population basis to a service basis.

This would finally codify the important concept of targeting scarce funds where transit service is actually provided. Between the Senate and the House a great deal of effort has been expended on developing and balancing this new approach. Personally I have worked closely with Members of both Houses to assure the most equitable possible results for communities of all sizes. Pending before the Senate right now is a formula that does target assistance to where the transit service is. It also protects the legitimate interests of smaller communities which have been more and more interested in improving transit service.

This legislation also contains authorizations for the transit program through 1985, at funding levels which are necessary to maintain the continued commitment to effective transit service that is vital to our energy and environmental needs. The 5-year nature of this authorization is consistent with the regular biennial reauthorization process started in the Surface Transportation Assistance Act of 1978.

The bill at the desk also contains a "local option" approach to dealing with the question of providing transportation service to handicapped persons. This issue has been the subject of controversy and debate for many years. I do not support all the provisions in the House amendment on this issue. I continue to believe we should make progress toward more accessible main line systems, rather than allow sole dependence on alternative services. The Senate version of the provision, cosponsored by Senator ZORINSKY and myself, contains assurances of progress toward greater accessibility, within a framework allowing local decisions on how to structure service for handicapped persons. Most importantly, the Senate bill contains assurance that, whatever kind of service is used, handicapped people will be provided a decent level of service. These assurances are not contained in the House amendment, but I expect they will be contained in the final version of this legislation.

Despite the fact that some issues remain, Mr. President, I believe it is imperative that we not lose all the progress we have made in this difficult legislative exercise. To start this process again from scratch, when we are now so close to accomplishing broadly-endorsed, worthwhile changes in this program, would be a sad waste of our efforts. It would represent a stalling of the real momentum that has been generated and we are progressing under toward an efficiency in transportation, in public mass transportation, that is so vitally needed now with all of our problems of urban congestion, with our problems of scarce petroleum products and the high cost of the same. To stall this momentum now would be wasteful and unproductive, a travesty on all of the statements we have made of trying to make our Nation more effective, more efficient, and more productive. To stall this now, again, would be a great tragedy for our Nation.

I am concerned that my sense of urgency is not shared by all my colleagues. Should this legislation not be passed, the responsibility for such a sad result must rest on the shoulders of those who have been raising last-minute objections to legislation which has already passed both Houses of Congress.

I must stress that this is a truly national bill. This bill would authorize both highway and transit programs all over the country—in every State, and in communities of every size. Let me briefly highlight some of the major features of title II, the mass transit title.

The bill as passed by the House authorizes a total of $25.5 billion for transit programs through 1985—a figure much closer to the Senate passed bill than the House reported bill.

The bill adopts a new formula for large urbanized areas that distributes funds based on the level of service provided. The formula for small urbanized and rural areas continues to be based on population factors so that these areas should, in effect, be held harmless to the amounts that they currently receive. A transition year for 1982 will smooth the adjustment for large urbanized areas.

A new incentive grant program is created to reward those areas that show significant ridership increases, and that establish stable and reliable sources of revenue for their transit systems. These incentives will help provide local budgetary discipline, and promote productivity.

The bill creates a formula-type program for apportioning vital rail modernization funds. Rather than the current solely discretionary approach, areas will be apportioned funds based on proven needs and a national allocation plan.

The bill also helps protect U.S. workers by strengthening the current Buy America protections for equipment purchased with Federal transit funds.

Mr. President, I urge so strongly my colleagues to support our efforts to finish work on this legislation, which is so vitally important to an energy-efficient national transportation program.

Mr. President, in order to provide a complete explanation of the bill pending before the Senate, I would like to review briefly the background of this legislation.

The Committee on Banking, Housing and Urban Affairs, through its Subcommittee on Housing and Urban Affairs, has spent this entire Congress in working on major initiatives for improving the energy efficiency of our basic transportation systems through amendments to the Urban Mass Transportation Act of 1964. The committee held hearings on March 6 and 19, 1980, and received testimony from many organizations. On May 15, 1980, the committee filed its report on the bill, S. 2720. On June 25, 1980, the Senate passed S. 2720, and sent it to the other body. The House finished deliberations on the transit bill on December 4, 1980, and returned the bill to this Chamber.

The bill before us today incorporates nearly all of the significant features of S. 2720 as it first passed the Senate and I urge passage of it. I will describe each of the provisions of title II, the transit title, in just a moment. However, I would like to highlight three principal features of this legislation.

First, the funding levels of the bill before us are roughly comparable to the earlier bill that passed the Senate. The other body reduced the funding levels proposed in the bill originally reported by the House Committee on Public Works and Transportation by $2.1 billion over the period of 1981–85 to move closer to the Senate levels. Second, this bill incorporates the approach of the original Senate bill by apportioning section 5 grants to large urbanized areas by factors based on the level of service provided. Third, it retains the basic approach of the Cleveland/Zorinsky section 504 amendment, but clarifies the existing Federal commitment as to the availability of handicapped transportation.

Mr. President, a comparison of the specific funding levels in the House bill with the amounts authorized in S. 2720 and the House committee reported bill demonstrates how budget conscious this compromise is:

TITLE II—FISCAL YEARS 1981-85

[Dollar amounts in billions]

	Senate bill (6/25/80)	House report (5/14/80)	House bill (12/4/80)
Sec. 3	$13.910	[1] $15.165	[2] $13.910
Secs. 5 and 18	10.195	11.170	10.683
Administration and R.&.D	[3] .470	.905	.675
Miscellaneous	.190	.437	.305
Total	24.765	18.957	25.573
Existing authorization	−8.720	−8.720	−8.720
New authorization	16.045	[1] 18.957	[2] 16.853

[1] Not included is $4.75 billion authorization for 1986–90.

[2] Not included is $1.5 billion authorization for 1986–90.

[3] Senate bill had funds necessary for administration to be in addition to this total.

Basically, this bill would set the amounts authorized for public transportation capital projects in fiscal years 1980 through 1985 at the Senate level of $13.9 billion. This bill would authorize mass transit formula grant assistance for fiscal years 1981 through 1985 at a total of $10.683 billion, close to the $10.195 billion in the original S. 2720.

SECTION 202—ADVANCE ACQUISITION OF RIGHTS-OF-WAY

This section is identical to section 102 in the bill that passed the Senate in June. It clarifies that the Secretary has the discretion to give grants for the acquisition of rights-of-way for fixed guideway projects in advanced stages of detailed alternatives analyses. In those instances where the Secretary chose to use this authority, the grant to acquire land would be governed by all the statutory conditions that apply to section 3 grants. This provision offers the opportunity to achieve substantial cost savings.

SECTION 203—LETTER OF INTENT

Section 203(a) is identical to the provision in the bill that previously passed the Senate and adds an additional requirement to the letter of intent provision contained in section 3(a)(4) of the transit act. This provision will require the Secretary to give 30 days advance notice to Congress before the Department issues a formal letter of intent for a large, multiyear capital project.

Section 203(b) places a temporary moratorium on the announcement of letters of intent which would be issued pursuant to the increased authorizations of these amendments. The moratorium will be lifted on January 31, 1981.

SECTION 204—ALLOCATION PLAN

Section 204 is a provision which is designed to bring a measure of predictability to State and local modernization programs for rail mass transportation systems. This concept is similar to the one which guides the highway program's interstate cost estimate; that is, sums should be distributed on the basis of cost and need. The provision is based on a provision contained in section 103 of the Senate-passed transit bill and has been revised to strengthen the oversight role of the Congress. After Congress adopts the allocation plan proposed by DOT, it becomes the basis for allocating 75 percent of the sums appropriated for rail modernization.

SECTION 205—ADVANCE LAND LOANS

Section 205 would revise the advance land acquisition loan program currently contained in section 3(b) of the UMT Act. The current statute has had limited use because it requires the loan to be paid back within 10 years. This amendment will give the Secretary the authority to establish a longer loan period if the applicant can show that a longer period would enhance the viability of the transit project. The provision is similar to a provision contained in section 106 of the original Senate bill.

SECTION 206—DISCRETIONARY GRANT OR LOAN AUTHORIZATIONS

(a) This subsection of the amendment incorporates the Senate passed levels for extending the section 3 grant and loan program from 1981 through 1985. It adds $9.515 billion to existing authorizations for a total of $15.62 billion.

[Dollar amounts in billions]

	Existing authorizations	Added authorizations	Total in compromise
1980	$1.410	$0.300	$1.710
1981	1.515	.975	2.490
1982	1.600	1.025	2.625
1983	1.580	1.195	2.775
1984		2.930	2.930
1985		3.090	3.090
Total	6.105	9.515	15.620

This makes $13.91 billion available for use between now and 1985 to assist in the purchase of facilities and equipment to improve mass transportation systems in the country. In addition, the subsection authorizes $1.5 billion for 1985 to 1990 to back up the letter of intent mechanism for the funding of new rail systems, rail extensions, and automated fixed guideways, including the advance acquisition of rights-of-way. These increased levels are made possible by revenues from the windfall profit tax.

(b) This subsection contains two provisions from the original House Committee-reported bill. First, it assures that not less than 20 percent of the sums appropriated will be available for new rail transit, rail extensions, and automated fixed guideways. In similar fashion, it also assures that not less than 5 percent of the sums appropriated will be obligated in smaller urbanized areas, those of less than 200,000 population.

(c) This subsection ends the separate authorization for section 18 of the act. New authorizations for this rural formula grant program are included in section 210 as 6 percent of apportionments of the new combined section 5 program. For the first time, this will allow all formula assistance funds to be unified in one program.

(d) There were comparable provisions in the Senate and committee-reported House bill to specifically authorize portions of section 3 funding to be used to fund the section 20 human resources programs. This subsection adopts the specific language of the original Senate bill and specifies a total dollar amount that can be used for bonding and venture capital, administrative costs, employment training programs, outreach programs to increase minority and female employment in public transportation, research on public transportation manpower and training needs, and training and assistance of minority business opportunities.

(e) This subsection continues the provision which we included in the 1978 legislation that requires the Secretary of Transportation to report to Congress on proposed authorizations every 2 years covering the next succeeding 5 fiscal years. The language is identical to the original Senate-passed provisions.

(f) This subsection requires the Secretary of Transportation to undertake a study of the section 5 formula allocation factors and report to Congress the result of such study with the first report submitted under subsection (e). This is a new provision, but it is a logical part of the original Senate concept of revising the section 5 formula.

SECTION 207—GRANTS FOR TRANSPORTATION CENTERS

This section is identical to the provision in the bill that passed the Senate. It reauthorizes the section 11(b) university education centers grant program at $10 million per year through 1983. This is the annual authorization level contained in current law through 1982. I strongly support this worthwhile program which could help colleges to fund on-going transportation education programs.

SECTION 208—ADMINISTRATION AND OTHER EXPENSES

This section authorizes the miscellaneous authorizations section of the UMT Act, which includes authorizations for administrative, research, development, demonstration, and training expenses. The levels proposed in the bill are intended to provide a cap on these expenses as a means to reduce Federal expenditures. The original Senate bill provided two authorizations that were cumulative—one for $470 million plus one for "such sums as may be necessary." The new provision is a stronger expression of congressional intent to control these expenditures.

SECTION 209—EMERGENCY REPAIRS

This section would authorize a category of capital projects which would be limited to the repair or replacement of existing transit facilities and equipment recently damaged as a result of a natural disaster or catastrophic occurrence. Grants would be given at a normal UMTA 80-percent share and would be funded from any section 3 appropriations but limited to $25 million annually. This provision does not authorize additional appropriations, but it does permit the Secretary to approve a grant conditioned upon subsequent compliance with applicable statutory conditions. Although labor protection provisions would apply to grants under this subsection, it is expected that the Department of Labor would expeditiously certify projects for funding based on 13(a) agreements between the applicant and affected labor organizations for capital grants currently in effect.

SECTION 210—AMENDMENTS TO SECTION 5 FORMULA GRANT PROGRAM

This section of the bill reauthorizes the section 5 formula grant program which provides funds for operating assistance and routine bus purchases. The original Senate bill authorized $8.42 billion for this purpose for fiscal year 1982 through 1985. The other body originally had a level of $9.4 billion. The level adopted in the House amendment is exactly split between the two at almost $8.9 billion for the 4 years. The growth over the 4 years averages to a modest 10.5 percent per year. In our original bill this increase was 8½ percent per year.

From the creation of the operating assistance program in 1974, we had intended to focus Federal assistance on true need, and in effect make assistance available to a community based upon the service actually provided. Starting in fiscal year 1982, the Senate bill would have based the apportionment of section 5 funds on the relative share of bus and rail-revenue vehicle miles actually operated in each urbanized area. The House amendment would start this new formula for those areas over 200,000 population in 1983; in 1982 funds would be apportioned to such areas half based upon the existing formula and half based on the new service formula.

For urbanized areas of 50,000 to 200,000 population the apportionment formula would be based upon the population/population density factor. This retention of the population formula for these smaller urbanized areas was done for a very pragmatic reason. The 1980 census will see the addition of as many as 100 new urbanized areas. They will have very little or no transit service and will be joining this group of smaller urban areas. A population-based formula will provide them an apportionment so that their service can be expanded if it exists, or initiated, if so desired.

However, flexibility is provided in the use of funds so that the Governor can shift funds allocated to him to those areas where they can best be used. As in the Senate bill this proposal consolidates the section 18 programs authorization into the section 5 authorization apportionment; however, the separate requirements for that program are continued, as is the use of pure population as a basis for apportionments.

These formula changes assure that Federal funds will be highly targeted to those communities which are actually providing transit service, and that these funds are sent where they are most needed and will be most effectively used.

These proposed formula changes would also assure that this is not just a program for big cities. To the contrary, this proposal consolidates a program for areas both large and small, urban and rural. In fact, just like our original bill, this proposal would allocate appropriations among the groups of rural, small urbanized, and large urbanized areas in approximately the same ratio that they would receive under the current program. Also, starting in 1983, census results from the 1980 census would begin to affect the allocations. Within these groups, the rural areas will receive apportionments based on their share of the population of rural areas; small urbanized areas will have funds apportioned by their Governors based on their share of population and population density for all such areas; and large urbanized areas will be allocated funds based on bus and rail revenue vehicle miles.

Notwithstanding the provisions of Office of Management and Budget Circular A-40, the Secretary should act quickly to obtain reliable and current revenue vehicle mile data. "Revenue vehicle miles" means the sum of the number of miles that each transit vehicle travels while in revenue service. We expect that the administrative definition of revenue vehicle miles would include, to the extent feasible and appropriate, all scheduled route mass transportation service and special or flexible route mass transportation operated by or under contract to a service public body as part of an overall public transportation program. At least 20 percent of the funds that go to large and small urbanized areas after 1982 must be spent for bus and bus related capital projects.

In addition, the concept of vehicles "directly serving" a large urbanized area has been clarified so that bus service such as that connecting Ogden, Utah, to Salt Lake City, Utah (which Salt Lake City operates), will be included in Salt Lake City's apportionment.

Furthermore, rail vehicle miles subsidized by State, such as those which Connecticut subsidizes outside of the New York urbanized area, should be included in the calculations and allocated to the appropriate public body in Connecticut. A hold-harmless provision is included for areas such as Gary, Ind., so that they will not receive, in the future, a percentage of the urbanized area apportionment smaller than that which they receive now.

The House amendment also contained a provision which allows limited types of transfers among the three groups of areas. Capital apportionments transferred are subject to the original limitation of being used only for capital purposes.

Lastly, section 210(d) incorporates a provision contained in both the Senate and House bills. It provides that section 5 and 18 funds may be appropriated a year in advance of the fiscal year in which they will be obligated by UMTA.

The shift from a section 5 population-based formula to a service-based program will alter many urbanized areas' need for section 3 funds. Section 210(e) was added in the House amendment to direct the Secretary to give priority to grant applications for section 3 funds for projects that otherwise would have used funds from tiers I, II, and IV of section 5. Public transit systems that have been adversely affected by the formula change should be given high priority access to section 3 discretionary funds, insuring continuing system development commensurate with the size and population of their service areas.

Subsection (f) amends the definition of "fixed guideways" contained in section 12(c)(2) of the Urban Mass Transportation Act to include guideways for trolley cars and trolley buses where these vehicles operate in public streets. This provision is similar to section 216 of the House committee bill and is necessary since the formula proposed for section 5 in 1982 apportions some of the funds based on the number of fixed guideway route miles. In fiscal year 1982, it is intended that the formula be calculated based on the 1970 census data and the new definition of fixed guideway. After fiscal year 1982, fixed guideways route miles will be replaced by other apportionment factors.

SECTION 211—AUTHORIZATIONS FOR PURCHASE OF BUSES AND RELATED MATERIAL

Section 211 amends section 5(a)(4)(A) of the Urban Mass Transportation Act to provide that the Secretary of Transportation apportion fiscal year 1981 bus capital funds according to the same population density formula used in fiscal years 1979 and 1980. Thus, this amendment ratifies the method which the administration has already used in making apportionments for fiscal year 1981.

SECTION 212—INCENTIVE GRANTS FORMULA

Section 212 creates an incentive grants program to encourage system productivity and efficiency in the transit industry. This provision was included in the original Senate bill, S. 2720. The provision adds a formula program to the operating assistance section that encourages areas to increase mass transportation ridership and to improve local financial and operating efficiency efforts. It establishes a bonus above the regular section 5 apportionment, but based on a percentage of the regular apportionment, to be given to an area without need for local match. The bonus amount could be used for any eligible section 5 purpose.

The use of the phrase "dedicated tax revenues" in the provision is intended to encompass those non-Federal types of revenues that provide transit authorities with stable and reliable sources of funds. These types of funds encourage prudent local management practices.

I realize that little time is left before this program would be operable; therefore, the Secretary is expected to act quickly to have as much of this program in operation as is possible as of the beginning of fiscal year 1982.

SECTION 213—MAINTENANCE OF EFFORT

Section 213 continues the existing maintenance of effort requirement in section 5(f) of the Urban Mass Transportation Act beyond its fiscal year 1981 expiration date.

SECTION 214—FARES FOR ELDERLY AND HANDICAPPED PERSONS

Section 214 is identical to section 210 of the House committee reported bill and section 114 of S. 2720. Section 214 establishes the medicare card as a universal means of identification for elderly and handicapped persons who wish to use public mass transportation at a reduced fare. A transit authority would have to certify that it accepts medicare cards for identification or it would lose section 5 assistance.

SECTION 215—ENERGY CONSERVATION

Section 215 of the amendment would require that the Secretary not approve any program of projects for public transportation after July 1, 1983, unless he finds that energy conservation has been adequately considered in the development of capital and operating expense projects included in the program. This provision is similar to a provision in the Senate bill. Regulations to implement this provision shall be kept to a bare minimum. The Secretary shall, however, provide technical guidance to help areas develop local solutions.

SECTION 216—MINIMUM FUNDING LEVEL

Section 216 amends the section 18 rural formula program to insure that each of the 50 States will receive at least 1 percent of the amount appropriated annually. The provision was originally included in the Senate bill. Amounts should first be apportioned to each of the 50 States under the formula and then adjusted so that no State receives less than 1 percent.

SECTION 217—AREAS OTHER THAN URBANIZED AREAS

As in the Senate passed bill, S. 2720, this section amends the section 18 rural formula grant program to insure that, after September 30, 1983, projects funded under section 18 would be consistent with a plan developed for public transportation services and equipment acquisition for the rural areas of each State. The plan should be developed as part of an effective consultation process within each State. This plan would help assure that resources available for this program would produce effective, justifiable, and coordinated public transportation service in rural and small urban areas.

SECTION 218—TERMINAL DEVELOPMENT AUTHORIZATION

Section 218 continues to authorize funds for the intercity bus terminal development program contained in section 21 of the Urban Mass Transportation Act. Section 218 authorizes $20 million per year, which is $20 million per year less than provided by existing law and the House-reported bill. There is no comparable provision in the original Senate-passed bill.

SECTION 219—INTERCITY BUS SERVICE AUTHORIZATION

Section 219 continues to authorize funds for the intercity bus operating grant program contained in section 22 of the Urban Mass Transportation Act. Section 219 authorizes $20 million per year, which is $10 million per year less than provided by existing law and the House-reported bill. There is no comparable provision in the original Senate-passed bill.

SECTION 220—SAFETY CRITERIA

This section is basically the provision contained in the bill reported by the House committee, but it incorporates many of the features of section 112 of the original Senate bill. It would permit DOT to establish safety criteria and standards as tools for use during investigations of unsafe conditions and to use them to determine the nature and extent of the unsafe conditions and the best means or alternative means for correcting them. The Secretary should consult with the affected transit system during the investigation. If the Secretary determines that there is an unsafe condition, require the affected transit system to prepare and implement a corrective action plan, in consultation with the Secretary.

Subsection (c) of the amendment is intended to prevent safety investigation reports and other documents from being used by third parties in litigation arising out of the unsafe conditions being investigated.

SECTION 221—PLANNING PROCESS EVALUATION

Section 221 requires the Secretary of Transportation to conduct a study of the urbanized area planning process and report to Congress on proposed statutory and administrative changes to make the process work better. Within 1 year, the Department should submit a report to Congress. This provision was contained in the House committee bill.

SECTION 222—STUDY OF CERTAIN HIGH OCCUPANCY VEHICLE LANES

Section 222 requires the Department of Transportation to conduct a feasibility study of adding high occupancy vehicle lanes to freeways serving southern California airports and other representative airports, including at least one with intermodal connections, to assess the benefits and costs of adding these lanes. Any construction would have to be funded from other construction programs since no funds are provided under this section. This provision is identical to a provision contained in the House committee bill.

SECTION 223—MASS TRANSPORTATION TO MEET SPECIAL NEEDS OF THE HANDICAPPED

Mr. President, before turning to section 223, which is the subject of an amendment, let me conclude my discussion of other provisions of the House amendment.

SECTION 224—WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

Section 224 authorizes the Secretary of Transportation to carry out a demonstration project using high-speed waterborne equipment in the vicinity of Portland, Oreg.; $25 million is authorized to carry out this project. This provision was contained in the House bill.

SECTION 225—BUY AMERICA

Section 225 modifies the "buy America" provisions of existing law which govern UMTA funded projects. Section 122 of the original Senate-passed bill would have modified existing law by raising the requirement of domestic component content from 50 percent to 70 percent. This revision to component content in the original bill caused considerable concern in the U.S. manufacturing industry because it might have destroyed profitable joint venture relationships that U.S. companies enjoy with foreign companies. The modification in the bill currently before us solves this problem by leaving the 50-percent component content requirement unchanged and by instead increasing the bidding preference for U.S.-made products from 10 percent to 15 percent. As under current law, an item is considered to be made in the United States if final assembly takes place in the United States and the final assembly directly incorporates U.S.-made components that account for more than 50 percent of the total component cost.

Now that we have strengthened the Federal provisions, the Federal provisions should control, and States and local governments should not be permitted to apply their own domestic preference provisions to federally funded projects. These non-Federal provisions serve to interfere with trade, fragment procurement opportunities, and increase costs. If a State or local government applies a domestic preference provision to a contract that differs from the Federal provision, then that contract is not eligible for UMTA funds.

SECTION 226—CRIME REDUCTION PLAN

Section 226 is a new provision that was added as a floor amendment in the other body. It amends the transit act to permit the Secretary to require a comprehensive plan to reduce crime on a transit system if he determines that crime has become a serious deterrent to ridership. This provision does not authorize new appropriations, nor does it modify the types of projects that are eligible for UMTA assistance.

SECTION 223—MASS TRANSPORTATION TO MEET SPECIAL NEEDS OF THE HANDICAPPED

Mr. President, the House amendment to the Senate bill contains a significant provision affecting the nature of transportation services which Federal law requires to be provided to handicapped persons.

This provision requires thorough discussion. In fact, I intend to offer an amendment to the House language. Before we discuss either the House version or my amendment, however, it is important to underscore at the outset, that even with the dissatisfaction expressed by Congress to the existing Department of Transportation 504 regulations, the relatively strict approach adopted by the Department reflected concerns in both the Federal legislative and executive branches that localities had simply failed to meet their responsibilities to provide transit service to handicapped persons.

The statutory responsibility to provide transportation for the handicapped predates even the broad antidiscrimination provisions of section 504 of the Rehabilitation Act. As early as 1970, the Urban Mass Transportation Act was amended to require that localities make "special efforts" to provide transportation to elderly and handicapped persons. In fact, section 16 of the Urban Mass Transportation Act states specifically that it is the "national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services." These requirements further undergird, for transportation services, the strong mandate for nondiscrimination contained in the Rehabilitation Act.

Despite this impressive, clear statement of Federal concern, localities over the years have taken grudging, inadequate steps, if any at all, toward giving handicapped persons access to transportation. The inadequacy of the local response over the years led to a strong and justified demand for Federal action to assure compliance with the law. While I agree that the Department's regulations have been inflexible, and I understand the motivation for demanding a large degree of local discretion, I do not believe and do not intend that the provisions of any alternative approach adopted by Congress negate the legitimate Federal interest in assuring compliance with Federal law. While Congress is recognizing the importance of local discretion in this area, it is not abandoning its commitment to adequate transportation services for the handicapped still contained in Federal law.

ALTERNATIVE SERVICE

Mr. President, I also want to take some time to explain my understanding of the specific provisions of section 223 of S. 2720 as it was amended in the House. This provision would amend section 16 of the Urban Mass Transportation Act to authorize the Secretary of Transportation to approve locally developed mass transportation programs for handicapped persons as long as those programs met the stringent requirements of the amendment. The amendment authorizes recipients to continue to make their mass transit systems accessible to handicapped persons in accordance with the existing Department of Transportation regulations published on May 31, 1979 (49 C.F.R. part 27).

However, recipients would also be authorized by section 223 to develop, with the broad participation of handicapped persons in the community, alternative programs to meet the mass transportation needs of handicapped persons. Although I continue to personally believe that the accessibility of mainline transportation service is a sound and proper approach, I recognize that many Members of Congress believed that more flexibility should be permitted at the local level. I want to emphasize, however, that while Congress may allow such local discretion, it will not tolerate failure or delay in implementing programs designed to provide handicapped persons mass transportation.

Quite simply, section 223 would allow any recipients of funds for more mass transportation to develop, in close consultation with the handicapped community, an alternative transportation program to provide an effective level of transportation service for handicapped persons. I believe that the service provided by the program must provide an adequate and effective level of service in order to meet the existing statutory requirements, as well as the intent of this provision. Under section 223, service would have to be provided to those handicapped persons who cannot reasonably use the service available to the general public. The amendment would not, however, permit a transit operator to deny service to those handicapped persons who could reasonably use the service available to the general public.

I have had the opportunity to review the remarks of my colleagues in the other body as they were debating this provision. Based on this, I would like to make several additional comments about my understanding of the meaning of section 223. This is especially important because these understandings provide the basis for my recommendation that S. 2720 be adopted by the Senate and signed into law.

PUBLIC INFORMATION

The provision in section 223 regarding dissemination of information to handicapped persons was deleted in the version that passed the other body. It is my understanding that this provision was deleted because the amendment already required consultation with handicapped persons in the development of alternative service programs. This will permit the essential development of a program for further information dissemination to be undertaken in the consultative process. It is a fundamental requirement of any public service that the consumers for whom the service is provided—in this case handicapped persons—be made aware of the availability of the service.

In the case of handicapped persons, of course, this type of public dissemination will be particularly important, and special efforts will have to be undertaken by local transit authorities to insure that those handicapped persons who cannot see, and those who cannot hear will have adequate means of obtaining this information so vital to their needs. It is particularly important that adequate information about available service be provided handicapped persons since they have so long been denied effective transportation service and have not, therefore, in many cases come to rely on the availability of this essential public service.

The specific means by which this information would be made available might vary from locality to locality and would logically be addressed at the time of program development when handicapped persons in the community would provide advice on the means by which information about the service would be made available.

TRIP TIME AND TRANSFER FREQUENCY

The version of section 223 that passed the other body also deleted the provision setting a Federal standard for trip time and transfer frequency in alternative service programs. It is my understanding that in deleting this provision there was no intent that the requirement be lifted that transfer times and trip frequencies must be reasonably comparable to those provided to the able bodied. Rather, my colleagues in the other body made it abundantly clear that this was still an important element of any locally provided service. The phrase was deleted for two reasons, as I understand it. First, the language was thought to be vague, and possibly engendering of exhaustive litigation over what it might mean. But in this connection I agree with the remarks of Congressman HOWARD, the floor manager of the bill in the other body when he said, and I quote:

> We know what we want. We still feel it will be carried out and would be the comparable trip time. Where operationally practicable, the trip time for the alternative service must be reasonably comparable to service for a similar trip on regular transit. I still like that, I would like to state, if I may, in continuing this, that we intended that this shall be done. There was a lot of vague wording in it. However, even with the deletion of the reasonable and operationally practicable language which could be argued over by lawyers and engineers and others, we feel we have covered it.

I agree with the Congressman's remarks and would like to say for my part that it is essential to emphasize that this is my intent as well, and that whether or not the specific phrase about trip time and transfer frequency is in the statute, local transit authorities are not relieved of the obligation to provide service to the handicapped which is reasonably comparable to service on the regular transit system.

The second reason, as I understand it, for the deletion by the other body was a feeling that this was and should be an element of the local consultative process between handicapped persons and recipients in the course of developing local programs. The requirement that trip time and transfer frequency be addressed in the local consultative process and reflected in the program is not an additional service criterion, but rather a necessary and integral part of the development of any system designed to provide effective transportation to handicapped persons under this section.

As was indicated in the debate of the other body, the input into what is technically feasible and what is reasonable will be made by the handicapped community and by the local elected public officials, acting through the metropolitan planning organizations. Thus, it is my understanding that the means for providing reasonably comparable trip times and transfer frequencies is a matter that must be addressed locally.

The Secretary in reviewing locally developed programs would be required to insure that the local consultative process had resulted in a locally developed program that, to the extent possible, would provide reasonably comparable trip time and transfer frequency, and that the program would have to reflect the results of the consultative process. My amendment will bear on the question of the Federal role in this process.

MIX OF SERVICE

The second to last sentence of section 16(d)(2), as it would be amended by this section, permits a recipient to meet the requirements of section 16(d)(2) in a specific transportation corridor by providing accessible buses in that corridor. This does not, however, necessarily allow a recipient to meet the requirements of section 504 or section 16(d) by only providing accessible buses throughout the service area. Instead, it is intended that use of accessible buses in a transportation corridor would be part of a mix of transit services, in the entire service area.

PRIVATE RIGHT OF ACTION

It is my understanding that a handicapped person could bring a lawsuit against the Secretary and a local recipient if that person believed that his or her rights under this provision were being violated. This is the well-accepted rule in many cases decided under section 504 of the Rehabilitation Act and would apply with equal force under section 223, This principle is so well established that

I would not normally have felt the necessity to mention this aspect of the bill except for the fact that the version of section 223 passed by the other body deleted a provision in the bill being considered regarding exhaustion of administrative remedies.

I, therefore, wanted to make clear that the deletion of the exhaustion requirement was not intended by either body to be interpreted to mean that Congress also intended to limit the right of a private citizen to bring a suit to enforce this section. In fact, in offering the amendment deleting this provision, Representative CLEVELAND specifically noted that his concern was that the statute not be construed as conferring a new or additional right to sue beyond that provided under current law. He therefore did not intend by his amendment to limit private remedies otherwise available.

OVERSIGHT

The version of section 223 which passed the other body also contains provision for annual oversight of transportation programs developed for the handicapped by the appropriate authorizing committees of Congress, and Congressman HOWARD, as floor manager for the bill in the other body, made it clear that the purpose of those hearings will be to insure that local transit authorities have not shirked their responsibility to provide reasonably comparable service to handicapped persons. We will be watching very closely to insure that the transit authorities across the country have provided service to handicapped persons which is comparable to that provided on the regular transit system. Let there be no mistake that we will be watching to insure that the local transit authorities do not mock our intent.

CONSULTATION

Finally, Mr. President, I want to explain my understanding of the consultation requirement which would be included in section 16(d)(3). The House requires that the Secretary not approve a program unless "the community of handicapped persons for whom such transportation will be provided was consulted by the recipient in the development of such programs." This consultation process must be broad-based enough to represent the views of handicapped persons in the service area who are in need of public transportation service. As noted in Representative HOWARD's explanation of his substitute amendment, consultation is intended to be ongoing throughout the development of the alternative transportation program.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise in opposition to the legislation before us this morning with a deep respect to the leadership given within the Banking Committee by our distinguished colleague, the senior Senator from New Jersey. He has toiled with, I think, great effectiveness over the course of the years in behalf of mass transportation in our country. And likewise he has reiterated this morning many of the strong points which several members of our committee and indeed a large number of Senators saw in furthering this legislation this year.

But, Mr. President, I rise this morning in opposition to the final consideration of this legislation during this Congress. In these initial remarks I want to outline comments that I shall try to develop in full as the debate progresses, so as to make certain that all of our colleagues have an idea of the outline of the case that I will make and that I hope will be joined by other colleagues.

I simply point out at the outset that there is no impelling need for mass transportation legislation this year. That was obvious at the time it came before the Banking Committee. It was obvious as it has come before each of the committees. There is ample money for mass transportation in this country for 2 more years. This is not the case of running out. There is no December 15 deadline on this; no need for a continuing resolution for an emergency activity.

What occurred this year is that those who are concerned about fixed rail systems in 15 large cities of this country took a leap of 5 years into the future. They picked up the 2 years, the next 2 years already covered by current law, and reached on for 3 beyond that.

It was a bold preemptive stroke. It came at a time when this Nation was involved in an election campaign. Clearly one of the issues of the campaign which might have been offered by the distinguished proponent of the bill today and his colleagues on the other side of the aisle was that the Nation ought to spend prodigious new sums for mass transportation. And indeed whether one looks at consideration of the bill as we saw it in the Senate of $24 to $25 billion, or in the House, $25 billion more, Mr. President, one can hardly believe that we are here on Friday morning having fought bitterly, all week over relatively trivial sums. Blood has almost been spilled on the floor over a few thousands here and there. And suddenly we are confronted with a $25 billion idea on Friday morning.

At this point, I suspect that Senators all over Capitol Hill are going to perk up their ears and wonder what is going on. Now let me just describe, Mr. President, what is going on.

As the last order of business last evening, the distinguished majority leader suggested, at least, for the first time that mass transportation might be a good place to pick up things this morning.

That is the first thing out of the box—$25 billion might be a good thing to talk about, to try on for size and see whether it would fly, see whether anybody would object.

Mr. President, let me just quote, because it hits the nail on the head, from an editorial in the Wall Street Journal of December 2. The flavor of the editorial is contained in the heading, "White Elephant Stampede." It describes the legislation that we are talking about this morning. Let me quote from the Wall Street Journal editorial of December 2, 1980:

> The House is scheduled today to take up a mass transit bill that has more problems than a runaway bus. Congress would be doing itself and the taxpayers a great favor to simply shelve the whole thing and start afresh next session. It can easily afford to do this since the present mass transit authorizations do not expire until the end of the 1982 fiscal year.
>
> The new legislation, which would greatly expand authorizations and stretch them out through fiscal 1985, has dragged through Congress largely because of a strident battle over what kind of accommodations federally subsidized transit systems should provide to the handicapped. Mayor Koch of New York complained that it would be cheaper to haul the handicapped anywhere they want to go in taxis than to meet the mandates the Department of Transportation has been trying to impose:

As the distinguished senior Senator from New Jersey has pointed out today, the House has, in effect, dropped compassionate portions, although the manager of this bill, the distinguished Senator from New Jersey, assures us that somehow they would reappear in conference or in some massaging of the language.

I continue from the Wall Street Journal article:

> Federal transit subsidies are a marvelous inflation machine. The federal government funnels money it doesn't have to transit authorities, thus contributing to the need to print more money. The resulting inflation raises transit operating costs, and fare raises are postponed as long as possible. The shortfalls create demand for bigger subsidies, etc., etc.
>
> The $24.8 billion transit bill that already has passed the Senate aggravates this problem. Not only does it add $16 billion to the existing authorization but it tilts subsidies toward the large metropolitan systems in a way that could hardly be better designed to encourage inefficiency. Money would be awarded on the basis of route miles of system, discouraging cities from lopping off underutilized lines and hence reducing waste.
>
> The bill the House will take up today also ignores the fact that recent rail mass transit projects in this country have been exercises in profligacy. It opens the door for four more cities, Houston, Los Angeles, Baltimore and Pittsburgh, to undertake such boondoggles.
>
> The whole subject of urban transit needs some clear-headed thinking. Next year, when there are some new faces and new ideas around Washington, will be soon enough to do it.

Mr. President, the first point of the case that I shall make today is that it will be far better for the country for the incoming administration of Governor Reagan, the incoming Department of Transportation, the incoming Members of the Senate elected in the election of November 4, to take a look at this problem in view of what the country said on November 4.

Let me simply say, Mr. President, we had an election in this country on November 4 and the people spoke. One of the things they spoke about was spending. To come up here on this day, December 12, in a lame duck session, with the people who were defeated in that election voting on spending $25 billion makes no sense.

Mr. President, I intend to take enough time today to make that point again and again. I hope the word will get out over this country that this Senate is preparing today to spend $25 billion more in a lameduck session, following an election in which we talked about spending, we talked about inflation, we talked about the priorities of this country.

Mr. President, this thing might have flown in a free-spending atmosphere of the past. It might have flown if the election had come out the other way, if, in fact, no one had ever mentioned inflation in this country, if no one had ever mentioned deficits, if no one had ever gotten excited about high interest rates.

Mr. President, do you for a moment believe you can spend $25 billion you do not have without affecting the prime rate? What will be the signal from this debate today to the financial markets of this country? I can tell you, Mr. President, what the signal will be. It will be straight up with the rate.

People worrying about the Federal Reserve Board ought to worry about this debate. They ought to worry about the senior Senator from New Jersey bringing up this bill this day. If there is any shockwave that goes out into the country today, it will come from a perception that it is business as usual. On with the money train. More money for mass transit, much more. Much more not only than is needed, but there is no need for a bill at all.

Mr. President, I think we had just better put things in perspective for the country this morning. We better get the word out that the spending train is underway one last time; that the Senate cannot call it quits; that there are still people in this body who want to spend one last time and go home and say, "By golly, we got it for you." At least they will be able to say that in 15 cities.

Mr. President, as a second part of my argument today, I will point out hundreds of losers, and I want to alert Senators that in the course of this debate I shall read the roll of the States and point out how poorly States are going to do. Even if the Senate had in mind that inflation is no problem, that there was no problem with high interest rates, no problem with deficits, no problem of a perception of a Senate running wild, if you have no problems with that, if you have campaigned for all of your political life on more, more, more, spend, spend, spend, you still have a problem, Mr. President, if you go back to your folks and they say, "You did not do very well for us. As a matter of fact, we are losers, and you are going to be a loser, too, if you keep peddling around this sort of argument."

In fact, Mr. President, this bill is designed for one purpose only, and that is to get more money out there and swish it around in 15 large metropolitan area fixed-rail systems. That is what this bill is all about.

This is not a great aid to mass transit in the country.

Mr. President, it is a very parochial argument but I will simply demonstrate from my own experience what this bill means for the city of Indianapolis. It is a loss of $2 million. Well, that is an interesting fact. The incoming President of the National League of Cities sent letters to lobby me by the National League of Cities, an organization of which I proudly served as president 9 years ago. I have been working through the mass transit situation for at least the last 12 years as a matter of personal experience so this is not a new argument. I can hardly remember a year that the National League of Cities did not have a strong lobby for more mass transit. But very rarely, Mr. President, did they make it so obvious that it was for the 15 large cities.

Of course, the letters coming out from the League and the U.S. Conference of Mayors to each Senator give a trivial sum that will happen somewhere in the overall State totals in which a little more money may come to you.

As a matter of fact, I gather that, by the time the thing has been massaged, there are 25 States that get one-quarter of 1 percent increase out of this $25 billion. So a little, minimum, show can be seen.

Mr. President, let me say that those sums of money are going to come home to roost with even the spending Senators. The big winners here are Boston, San Francisco, New York City, 15 large cities of our country. It is not an equitable situation, and I think we shall want to get into that.

Mr. President, let me say, third, that we have, at least in this particular bill, not only a piece of special interest legislation that has some virtues in addition to the vices that I pointed out, but this bill is laden with a number of miscellaneous features. It is not a pure mass transit bill. There are various points of opposition, and those will be made during the course of debate, of particular parts of our society, whether they are helped or harmed in the process. These Senators will speak for themselves as they offer suggestions. In due course, if we are to continue with this debate for a long period of time, Mr. President, I may wish to amend the legislation in front of us by replacing various sections that are in this legislation and suggesting that we return to the bill that we have, that is operating satisfactorily, in the absence of some departure of this variety.

Mr. President. I want to offer at least a reasoned argument that simply goes through this, step by step, so that at least these remarks can be observed side by side with those of my distinguished colleague managing the bill, follow the broad overlook that I have taken. I shall review that for just a moment.

First of all, this legislation ought to be postponed until next year. The incoming administration ought to have an opportunity to formulate a mass transportation policy. There is no need for legislation today, with 2 more fiscal years to cover. In the event the changes are made, they will be injurious to most States or cities in this country and helpful to 15 fixed-rail systems.

Finally, that the formula suggested, the new basis for this, in my judgment, is not as adequate as the one before us is arguable. I think less arguable is the fact that a $25 billion spending signal means more expectation of inflation, higher interest rates, very real difficulties for the country.

Mr. President, I do, in fact, rise reluctantly to oppose this legislation, which provides new authorization for mass transit, because I do not oppose mass transit philosophically. I do not oppose the nontransit projects contained in this bill, for that matter. I simply suggest that if a roadmap is required, if there are specific sections of this bill that are of vital interest to Senators, Senators might think in terms of taking some of those sections off and trying them out for size somewhere else today. I have no particular brief for opposing a good number of those items, but they are there and they can be read by Senators as they take a look at this legislation.

I believe mass transit is extremely important to the Nation and to our cities and I have long supported mass transit. As mayor of the city of Indianapolis, I lobbied through legislation to help our city purchase the local bus company before it shut down its service. The city of Indianapolis then spent $12.9 million to purchase the bus company and to reestablish service. Moreover, we established the first park-and-ride program in the history of the city of Indianapolis. We took this action over very strong opposition of many on the city council at that time.

By opposing this legislation, I am not opposing mass transportation. But if we do not pass this legislation, Mr. President, not one city will be inconvenienced by our failure to act today. The existing legislation on the books provides adequate authority through fiscal 1982.

The operating grants, the capital grants, to cities will continue without interruption. We will not see a single bus or train halt operation because the Federal Government has not met its obligations or kept its promises. That is not to say that some cities will not be unhappy if the new legislation does not pass. They would, indeed, be very unhappy. I am not surprised that they will be unhappy.

New York City will receive at least $95 million more per year.

(Mr. BRADLEY assumed the chair.)

Mr. STEWART. Mr. President, will the Senator yield for a few questions, just a few?

Mr. LUGAR. I shall be happy to yield for questions to the distinguished Senator from Alabama.

Mr. STEWART. I just want to understand the Senator's position here this morning. He has made some rather drastic statements about some of us who are going to be asked to vote on this who, perhaps, lost the election. I am glad the Senator revealed that an election took place on November 4. That was an important item, and I am glad he included that. I want to see if I understood the Senator's position.

He is for mass transit, but is opposed to this legislation. Is that right?

Mr. LUGAR. The Senator is certainly

correct. I think we need a very strong piece of mass transit legislation.

Mr. STEWART. Mr. President, I am sure the Senator recognizes that this country is involved in a tremendously difficult problem, because I know the Senator has been involved in it too, dealing with energy matters. Does the Senator make the connection between the energy problem we have had and the difficulties we have had in the past in establishing a mass transit system? Does he make that connection? Or does he see those as two separate problems?

Mr. LUGAR. No, Mr. President, I think they are part of a very important problem. I think the mass transit system legislation is a part of the addressing of the energy problem.

(Mr. HUDDLESTON assumed the chair.)

Mr. STEWART. So he foresaw the energy problem and he is for a mass transit system, but he is just opposed to this legislation this morning and he is opposed to doing anything about these problems at this particular time. Is that it?

Mr. LUGAR. Mr. President, I am opposed to this legislation at this time. That is correct.

Mr. STEWART. Mr. President, I assume that the Senator, since he has been president of the League of Cities in this country, is desperately concerned about the plight of the cities, both large and small.

Mr. LUGAR. That is correct.

Mr. STEWART. He has indicated his concern for those cities. I assume that, in effect, would extend to providing them with adequate mass transit systems?

Mr. LUGAR. That was certainly one of the major objectives of the National League of Cities and the Conference of Mayors.

Mr. STEWART. Yet he opposes this legislation because some of the larger-sized cities receive help with regard to their mass transit position.

Mr. President, I just want to get the Senator's position clear. I am having difficulty following it and I want to get it clear.

Mr. LUGAR. I appreciate the Senator's giving me an opportunity to make this more clear. My opposition is obviously on several grounds. I shall enumerate them briefly.

It appears to me that sizable new sums are involved for a 5-year period of time that need not be considered in fiscal year 1981. I think they could best be considered, as a matter of fact, next year. We shall have a new administration and a new Congress, for one thing.

Second, at a time of grave financial crisis in our country, in which many persons are deeply disturbed—including, I assume, the Senator from Alabama—about high interest rates——

Mr. STEWART. I certainly am.

Mr. LUGAR. Deficit spending and the totality of this, this certainly seems an inopportune time, on the last day of a lameduck session, to take up a massive spending bill, any way you cut it, with no emergency situation involved.

Mr. STEWART. Let me see if I understand, Mr. President. The Senator does not consider mass transit an emergency in this country, does not consider energy an emergency in this country? Is that going to go away, or is that going to wait for this new plan that is going to be revealed? I am looking forward to that new millenium in January. I hope to goodness the new order accomplishes all those good things it intends to accomplish.

Does the Senator thinks those problems are going to go away?

Mr. LUGAR. No, Mr. President, of course not. I think the Senator will agree that we shall have many great problems with mass transit and energy in January and for many months following that. The problem is a peculiar one. This is a specific piece of legislation, a very new formula and a sizable thrust, that I believe is wrong at this time, for public policy.

Mr. STEWART. In other words, Mr. President, Indianapolis is not going to get as much as it would get under the bill in the House. And that might have something to do with the Senator's concern? Could it?

Mr. LUGAR. Undoubtedly, I always try to represent the people of Indiana the best I can.

Mr. STEWART. Bless your heart. I am glad the Senator told us of that interest.

Mr. LUGAR. I also have an interest in the entire country today, in addition to the people of the State of Indiana, who are my first concern. My concern to the country is the shock waves that will come out of the debate that we are still spending as if money were going out of style. It would be unfortunate, facing the whole Nation, if not as to our status in the world.

Mr. STEWART. Mass transit will fare less after January than it does now?

Mr. LUGAR. I think the new administration deserves an opportunity to take a crack at mass transportation. I think the 4-year period of time, which a new program ought to have, is something as opposed to a preemptive move.

I am certain the Senator from Alabama recognizes that if we simply take this to fiscal 1985, the incoming administration and Congress, obviously, can review the wreckage. But, at the same time, this requires moving back through the rocks and shoals of the legislative process, which is arduous, as the Senator from Alabama knows, and it is preferable not to have this all on the books, to begin with.

Mr. STEWART. I appreciate the Senator's enlightening me and expressing real concern about this legislation. I know where he stands now and why he is here today.

Mr. LUGAR. I thank the Senator for his comments.

Mr. EXON. Will the Senator yield?

Mr. LUGAR. For what purpose?

Mr. EXON. If the Senator will yield, I wish to thank him for the position taken by the Senator from Indiana, if I could have 5 minutes.

Mr. PERCY. May I ask one question?

Mr. LUGAR. Mr. President, before I respond, I would be pleased to yield to the Senator from Nebraska provided I do not lose my right to the floor and the speech not be counted as a second speech.

The PRESIDING OFFICER. Is there objection.

Mr. PERCY. Will the Senator from Nebraska yield for one question?

Mr. EXON. Yes, but since I do not have the floor, with the approval of the Senator from Indiana I will yield to the Senator from Illinois.

Mr. LUGAR. I will yield, following the unanimous-consent request that has been proposed, to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I yield to the Senator.

Mr. PERCY. I will be very brief. I thank the distinguished Senator for his courtesy.

Mr. President, I would like to ask the distinguished Senator from Indiana, who knows the problems so well that we have in the metropolitan area of Chicago of serving 6 million people.

Mayor Daley said something to the effect that if we could not run the CTA, the mass transit system, we would probably have to have 20-lane-wide traffic, bumper-to-bumper, all the way downtown.

This bill authorizes in fiscal year 1982 a $2.6 billion level, for capital assistance, which is an increase from $2.2 billion in fiscal year 1981 appropriations. There was $1.4 billion appropriated for fiscal year 1981 operating assistance; this bill authorizes almost $2 billion.

It looks as if we will have to shut down many bus systems in the regional transportation system due to the current lack of funds. We are going backwards, not ahead.

My question is, has the distinguished Senator taken into account the tremendous impact this would have on large cities, if increased mass transit funds are not provided? What would it do to our energy usage if people were forced back into automobiles and off mass transit? It would reverse a trend we in Congress and the executive branch have been trying to set for a number of years.

Mr. LUGAR. In answer to my distinguished colleague from Illinois, I have considered the problems of the city of Chicago, as well as the State of Illinois, as I think have most persons who have worked with this matter carefully, as the Senator certainly has.

I think the dilemma that we have to look at is severalfold.

First, I am not certain that the problems of the people of Chicago, or the State of Illinois, will fare worse if the situation is looked at next year.

As a matter of fact, it appears to me a rather evenhanded look, to look at Chicago, in any event.

But, second, I think there are two philosophical problems which, perhaps, in my reply to the distinguished Senator. are questions in his mind.

That is, I think we will have to resolve to what extent the mass transportation system of particular cities and States are the primary responsibility of those cities and States. In other words, I, perhaps, do not accept to the same degree as do others the thought that it is a Federal responsibility of all the taxpayers of each of the States of the Union to provide services to the people of Chicago, or the people of the State of Illinois, with all the affection I have for our adjoining State.

I think there are real questions with regard to equity.

Second, it seems to me the Senator from Illinois would have to take a look at additional citizens in Illinois.

Now, the figures that have been provided to me, according to the Federal Public Transportation Act of 1980 printout here, show that the city of Peoria, for example, will have a decline in apportionment from 1981 to 1983 from $1,490,000 to $1,091,000; that the city of Aurora-Elgin will decline almost by one-third in its amount; that Rockford will lose almost one half.

I could quote additional figures but these are points that I think illustrate what I am saying.

A reshuffling of the deck is going on, even within our cities, even what the Federal contribution ought to be, as opposed to State and local.

It appears to me, as our citizens discover what this bill is about and how massive that shift has been, they will find this particular formula would have been a rather disagreeable one, would join the Senator from Indiana, hopefully the Senator from Illinois, that we might want to look at this again in 1981, as opposed to December 12, 1980, on the last day of a lameduck session.

Mr. PERCY. Mr. President, I would like to follow up on my comments in support of increased Federal funding levels for mass transit systems, especially to the State of Illinois. We often spend a great deal of time discussing whether or not we should be increasing the Federal level of funding for the program. However, to understand the tremendous impact on other means of moving large numbers of people without a mass transit system, let us look at Chicago.

If public transit were eliminated in the Chicago area, 145 miles of 6 to 8 lane expressways would have to be built. According to the Illinois Department of Transportation these expressways would cost us more than $5 billion, which is more than half of the annual obligation allowed out of the highway trust fund for the entire Nation. Second, the cost is substantially more than the city of Chicago receives in Federal transit assistance.

Public transportation in the Chicago six-county area accounts for 11 percent of the area's passenger miles of travel. Nearly 80 percent of the trips to downtown Chicago are by public transportation. Most importantly, for some people, public transit is the only way in which they get around to work, to the doctors, and to the store. It is the lifeline of the city.

More than 2 million trips are made each weekday on the Chicago region's public transit system. And its ridership is increasing by an annual rate of 2 to 3 percent per year. If we are ever going to get over our love affair with the automobile then we must provide an energy-efficient alternative mode of transportation. Mass transit systems have the potential to conserve energy, reduce air pollution, and cut traffic congestion.

I have attached a chart from the American Public Transit Association outlining the section 5—mostly operational—apportionment formula based upon figures supplied from the Urban Mass Transit Administration. This chart includes the different levels of Federal funds Illinois would receive based on the authorizations included in the amended version of S. 2720, the Federal Public Transportation Act of 1980.

In the past, Federal operating funds have been distributed to transit districts based upon population factors. However, under S. 2720, the current formula based on population is shifted beginning in fiscal year 1983 to one based on service—on the amount of existing bus and rail lines. During a 1-year transition period, allocations would be based on both existing service and population.

It is true that cities like Rockford, Ill., under this measure, would initially receive a reduced level of Federal operating assistance. However, as Rockford's level of ridership and service grew, then it would receive a higher level of Federal funding.

In the end, it is a basic policy decision to take into account the level of service provided as a factor in computing Federal operating assistance to transit areas as opposed to heavily emphasizing population factors. I believe that is a sensible approach.

Mr. President, I ask unanimous consent to include in the RECORD several letters in support of S. 2720.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN PUBLIC TRANSIT ASSOCIATION,
Washington, D.C., December 9, 1980.

DEAR SENATOR: It is anticipated that sometime this week the Senate will consider S. 2720, as amended, the Federal Public Transportation Act of 1980. We urge your support of the bill as amended and passed by the House.

S. 2720 was passed in the Senate last June by a recorded vote of 79–15. The companion bill in the House, H.R. 6417, was passed on December 4 by a recorded vote of 346–33. The House then struck all after the enacting clause of S. 2720, inserted H.R. 6417, as amended, and passed S. 2720, as amended. The final product sent to the Senate represents months of bipartisan effort and compromise.

Attached is a set of tables (state by state) displaying the Section 5 apportionment formula based upon computer analyses and printouts made available to APTA by UMTA. Although data used are the latest available to UMTA, they may not totally reflect current operations. Your state is the first of the tables. The tables show how much money based on authorizations would be available to each urbanized area in 1982 according to S. 2720 as amended by the House; and in 1983, according to S. 2720 as amended by the House. The first column shows actual 1981 appropriations and the next two show for comparison purposes proposed levels on the original drawn versions of the respective bills. The "1982 apportionment under S. 2720" column which includes the House passed "transition year" is based one half on a formula of population weighted by population density factors and one half on the service factor of bus and rail revenue vehicle miles and distributes money to areas over 200,000 population. Funding distribution for the urbanized areas below 200,000 population continues as in the past on population/population density; no service factors are utilized.

The second column shows the maximum funds available under the incentive tier. In 1982, if either ridership in an urbanized area increases by 4 percent over 1981 or if the ratio of operating revenues (farebox and dedicated local/state tax revenues) to operating expenses exceeds the national median, a 4 percent bonus is awarded. (By definition, only one half of the urbanized areas would be able to meet the second condition.) If both conditions are met a 6 percent bonus is granted; these percentages go to 6 and 9 percent, respectively, in 1983.

The third column is a total of maximum funds that could be available from the program to each urbanized area. It includes Section 3 discretionary monies for which the Secretary of Transportation is to consider for approval on whose actual 1981 apportionment exceeds their 1982 apportionment due to the formula transition. This priority draw down provision is included in the House-passed version of S. 2720.

The section entitled "1983 Apportionment under S. 2720," reflects how much money could be available to each urbanized area over 200,000 population according to the service-based formula (rail and bus vehicle miles) passed by the House last week and by the Senate last June. The Section 3 priority draw down is again included in the total.

It must be pointed out that in the House passed bill provision has been made for the individual governor and local officials to shift funds from areas above and below 200,000 population to correct short term imbalances.

The authorized funding level for 1982 for the apportionment is $1,925,000,000 in S. 2720; $2,015,000,000 in H.R. 6417 as reported; and, $1,970,000,000 in S. 2720 as amended. In 1983, the level is $2,055,000,000 in S. 2720; $2,220,000.000, in H.R. 6417 as reported; and, $2,138,000,000 in S. 2720 as amended and passed.

Transit ridership and costs have been growing at unprecedented rates over the past several years. Given the serious toll that inflation has had on expenses over the last two years during which appropriations have remained static, it is essential that these levels be passed.

Passage of this legislation is urged by a coalition including APTA and the following organizations:

American Association of State Highway and Transportation Officials.

National Association of Counties.

National Governors Association.

National League of Cities.

United States Conference of Mayors.

It is crucial that this mass transit authorizing legislation pass in this session of Congress and urge your favorable consideration of S. 2720, as amended, the Federal Public Transportation Act of 1980.

Thank you.

Sincerely,

JACK R. GILSTRAP,
Executive Vice President.

FEDERAL PUBLIC TRANSPORTATION ACT OF 1980—APPORTIONMENT OF FEDERAL FUNDS FOR SEC. 5 FORMULA GRANT PROGRAM

[Dollar amounts in thousands]

	1982 alternatives								
				1982 apportionment under S. 2720 as amended			1983 apportionment under S. 2720 as amended		
Urbanized area	1981 actual apportionment	Apportionment under S. 2720[1]	Apportionment under H.R. 6417[1]	Apportionment[1]	Incentive tier[2]	Total[3]	Apportionment[1]	Incentive tier[2]	Total[3]
ILLINOIS									
Chicago (Illinois portion)	$76,771	$109,896	$102,706	$108,092	$6,486	$114,578	$114,493	$10,304	$124,797
Davenport-Rock Island-Moline	1,587	1,338	1,786	1,796	108	1,904	1,745	157	1,902
Peoria	1,490	1,143	1,677	1,473	88	1,579	1,191	107	1,597
Aurora-Elgin	1,801	1,737	2,410	1,863	112	2,013	1,289	116	1,917
Rockford	1,457	709	1,642	1,263	76	1,543	791	71	1,528
Subtotal	83,106	114,823	110,221	114,487	6,870	121,617	119,509	10,755	131,741
Funds apportioned to Governor:									
Joliet	1,346	1,694	1,110	1,432	86	1,518	1,945	175	2,120
Springfield	881	975	993	1,272	76	1,348	1,344	121	1,465
Champaign-Urbana	917	1,783	1,036	1,377	83	1,460	1,298	117	1,415
Decatur	637	602	717	893	54	947	867	78	945
Alton	579	0	651	801	48	849	730	66	796
Bloomington	498	752	561	717	43	760	821	74	895
New urbanized area 1[4]	0	0	0	0	0	0	532	48	580
New urbanized area 2[4]	0	0	0	0	0	0	532	48	580
New urbanized area 3[4]	0	0	0	0	0	0	532	48	580
Rail	0	0	683	245	15	260	257	23	280
Small urban and rural	0	3,277	4,475	4,025	242	4,267	4,368	393	14,761
Subtotal	4,858	9,083	10,226	10,762	647	11,409	13,226	1,191	14,17
Total	87,964	123,906	120,447	125,249	7,517	133,026	132,733	11,946	146,158

[1] Based on 1982 and 1983 proposed authorization.

[2] Pays up to 6 percent in 1982 and 9 percent in 1983 of the apportionment based on ridership and/or expense recovery ratio.

[3] Maximum available, includes potential priority sec. 3 funds when actual 1981 funding is greater than 1982 or 1983 apportionment.

[4] New urbanized areas anticipated to be delineated from 1980 census.

Source of data: U.S. Department of Transportation/Urban Mass Transportation Administration.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., December 10, 1980.
Hon. CHARLES PERCY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: The U.S. Conference of Mayors urges your strong support for passage of the Federal Public Transportation Act of 1980.

The Senate passed S. 2720, with overwhelming bipartisan support on June 25, by 79–14. The Mayors were grateful to Senators Harrison Williams and Jake Garn for their outstanding leadership in shepherding this legislation through the Senate.

On December 4, the House by 346–33, passed its version, which is identical to the Senate bill in many respects. They provide for adequate growth in the nation's transit capital program, including new and small systems, reform the operating assistance program to make it more sensitive to actual transit service and provide a balanced approach to handicapped public transportation by permitting local governments to develop alternative plans to meet these important needs.

In the next several days, the Senate will vote on either a House-Senate Conference report for S. 2720 or on floor amendments to the House version of S. 2720, to reconcile it with some of the Senate's concerns. In either of these cases, we urge you to continue to follow the fine leadership of Senators Williams and Garn.

The Federal Public Transportation Act of 1980 makes sense for Illinois. Based on the authorization levels of the House of S. 2720, in FY 1982—when the revised formula is only partially in effect—transit operating assistance for Illinois would rise by $42,132,000 over FY 1981 levels. And, in FY 1983, when the new formula is fully in effect, Illinois would rise another $7,993,000.

S. 2720 is the nation's best hope to enact a transit program which meets the needs of the 1980s. We hope you will join with Senators Williams and Garn during these important final steps of consideration with your support for this landmark legislation.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

FEDERAL PUBLIC TRANSPORTATION ACT OF 1980

We urge Senate passage of S. 2720, as amended in the House, the Federal Public Transportation Act of 1980.

The bill as it now stands provides capital and operating assistance authorizations for public mass tranportation through fiscal year 1985; in the case of new rapid transit starts and extensions of existing lines, it provides capital authorizations out through 1990. Such features are critical if cities and local decision makers are to effectively, wisely and sensibly plan for the large ridership increases called for by the Congress and the Department of Transportation in response to inflationary pressures and the national energy independence program.

In addition, the bill contains a new formula to the Section 5 formula grants program which is primarily used for operating assistance. A transition year has been inserted which allows the urbanized areas to shift from the current formula which distributes money solely on an area's population and population density to one based on vehicle miles of service. It also provides additional monies to reward efficient service increases. It should be pointed out that provision has been made to give the governor and locally elected and concerned officials the flexibility to shift these monies to areas above and below 200,000 population to better meet their individual state's needs and to correct any short term imbalances.

The Howard-Cleveland amendments contained in the amended S. 2720 maintain essential criteria and safeguards for the provision of transportation services to the elderly and handicapped, while at the same time providing for a sensible and workable locally developed program.

The key features in the bill are such that the following organizations urge your support of passage of S. 2720 as presented by Senators Harrison Williams and Jake Garn:

Environmental Policy Center.
Friends of the Earth.
National Association of Railroad Passengers.
Natural Resources Defense Council.
National Urban Coalition.
Sierra Club.
Urban Environmental Conference.

PREPARED BY THE NATIONAL ASSOCIATION OF COUNTIES FOR THE COALITION FOR MASS TRANSIT LEGISLATION

DECEMBER 11, 1980.

DEAR SENATOR: The Coalition for Mass Transit Legislation urges your support for S. 2720, the Surface Transportation Act of 1980. Amended and passed by the House on December 4, the bill must be approved by the Senate before it can be signed into law.

S. 2720 is a budget-conscious compromise authorizing $20 billion for highways and transit in fiscal years 1982 through 1985. This represents a 25 percent reduction in the funding levels originally recommended by the House Public Works and Transportation Committee in H.R. 6417.

The four year authorization period in S. 2720 is necessary to provide a stable and reliable source of federal support for energy saving highway and transit projects. Without the assurance of continuing federal assistance, state and local governments will find it difficult to commit their limited resources to needed, long term projects.

If S. 2720 is approved, a total of $3.5 billion in new authorizations will be available for energy impacted rail and highway projects, transportation systems management, carpool and vanpool projects. The $1.5 billion Energy Impacted Rail and Highway Transportation program will allow roads to be repaired so that coal and other energy materials can be quickly and economically transported. It also provides funds to lessen the adverse impacts in communities along rail corridors transporting energy materials when there are long delays in highway travel and disruption of essential public services. Another $1.5 billion will be provided for Transportation Systems Management projects designed to conserve energy, reduce congestion and facilitate traffic flow on federal aid highways.

If S. 2720 is approved, public transportation will receive $16.8 billion in new authorizations for the four year period. The Small Urban and Rural Public Transportation program will have $544 million to spend during the same period. Not less than 20 percent of the capital grant program funds will be set aside for new transit starts and extensions and an additional $1.5 billion will also be available from 1985 through 1990 for new rail projects throughout the country.

The Section 5 operating assistance formula will be changed gradually for areas above 200,000 from a population, population density basis to one based on revenue vehicle miles. This change is designed to increase the productivity of existing transit and the expansion of newer systems. To protect areas above 200,000 which are negatively impacted because of the formula change, there is a transition in FY '82 which provides half of the Section 5 money under the old formula and half under the new. These areas would also be given priority in receiving Section 3 capital grants to expand their transit service and benefit from the new formula.

S. 2720 also responsibly amends the inflexible Department of Transportation's handicapped regulations. It allows localities to substitute specialized transportation for fully accessible rail or bus service if the Secretary of Transportation in consultation with the Architectural and Transportation Barriers Compliance Board determines they meet standards for acceptable service to the handicapped.

This fiscally responsible compromise legislation is needed now to provide grants for energy impacted rail and highway needs, financial assistance for existing public transportation and new transit starts and a badly needed revision of DOT's handicapped transportation regulations. The Coalition for Mass Transit Legislation hopes you will make S. 2720 a legislative priority during the closing days of the 96th Congress and actively support its passage.

Mr. EXON. Mr. President, I thank my friend from Indiana for yielding.

I would like to basically associate myself with the remarks made by the Senator from Indiana.

Mr. President, I think I share the concern of all Senators and all Members of Congress about the great difficulties we are having in the United States today with mass transportation.

I think the key point that the Senator from Indiana has been attempting to make is that it is not going to have a serious, adverse effect on anyone if we simply put off the consideration of this matter until the new administration takes over and the new Senate becomes part of the Government on January 5 and begins its deliberations on January 20.

Mr. President, that is only a little more than a month and a few days away.

Once again, I think the statements made by the Senator from Indiana are well taken.

Here we are, in the closing hours of a lameduck session, trying to make long-range plans, that may be well intentioned, and possibly when we come back next year we might even decide to spend more money on mass transportation than is being suggested in the bill before us.

However, I believe that the key consideration here must be that we should give the President-elect of the United States and his advisers, as well as our colleagues who come into this body on January 5, a chance to be a part of this very important decision.

What we are attempting to do here is what this Senator has been voting against all during this lameduck session, which is, basically, to refrain from launching spending programs, however well intentioned, until the people who were elected last November to serve in this body have a chance to be part of the consideration.

I believe that the President-elect of the United States has one of the most difficult jobs on his hands in wrestling with the economic situations that exist today in the United States of America, let alone the very difficult international problems we have.

As a member of the Budget Committee and one who is fundamentally concerned about the No. 1 economic problem today, which is inflation, I believe that unless we can restrain ourselves on even well-intentioned spending programs, we are going to handcuff further the incoming Chief Executive in doing the job he will have to attempt to do, with our help, in bringing spending under control.

Mr. President, it seems to me that one of the reasons for passing the measure before us—if it did not chart a new spending course that I believe should rightfully be put over for the decision of the next Congress and the next President of the United States—the good thing about this bill, as I understand it, is that it attempts to correct a grave misjustice with regard to some cities and smaller towns in the United States that have been handicapped with previously passed legislation which has caused a great deal of action in the courts with regard to expensive busing procedures, such as putting equipment on buses, which are opposed generally by the handicapped people in my State of Nebraska and by the authorities who must live up to the legislation we pass, as interpreted by the courts.

An amendment was adopted, sponsored by me and my colleague from Nebraska, Senator ZORINSKY, that attempted to straighten out the situation that had been interpreted by the courts with regard to the equipping of all buses to take care of the handicapped and, therefore, eliminate the specialized transportation services that have proven so well in States such as Nebraska.

Therefore, Mr. President, I should like to see this bill passed, as I understand the arrangement that has been temporarily made to straighten out that problem. On the other hand, I suspect that it will be the will of the incoming Congress to straighten out that very difficult problem, and it will give the new Congress and the new President a chance to take a look at just how much money we are going to spend in conjunction with all the other demands for spending that are going to confront the new administration.

I suspect that unless this bill can be amended substantially to restrict some of the spending plans that are projected therein, it should not go forward at all—at least, not unless there are very substantial changes.

Mr. LUGAR. Mr. President, in fairness to my distinguished colleague who is managing the bill, and with the thought that it would be useful in this debate that we have arguments on both sides, I yield the floor at this time, and I hope he will be recognized.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, the point has been made that it is unfortunate that this measure, a measure of this magnitude and importance, is coming up on the last day or the next-to-the-last day of this Congress. That suggests that this is something new being thrust upon the Senate in the dying hours.

I believe we have to appreciate, first, the history of this legislation. It was thoroughly considered in the Senate in June, was debated, was amended, and was voted upon. At that time, this basic program received an affirmative vote of 79 Members, and 15 Members voted "no."

In the normal course of events, we would have expected that the House of Representatives, also most concerned about our national needs for an effective and efficient and responsive national transportation program, would have considered the measure they had, in the regular order. It obviously would have been different, and we would have had a conference. But this was an exceptional year, and it did not develop that way. Because of the national election and the need for election of all Members of the House of Representatives, it was decided in the other body that this measure would be taken up upon the return of Congress, in the lameduck session.

Obviously, there was nothing that the leadership or the Members here could do about that to try to have this major matter considered in the general way of coming to conference with differences.

It was just 1 week and 1 day ago that the House finally passed this measure. For myself, as manager of the bill, I wish the opportunity had been mine to bring this bill before the Senate a week ago. But there were those who were taking advantage of the end of the session to debate at length a major matter. We did have cloture votes because we were in a filibuster. A great deal of time was spent on two matters that had to go through the cloture process. Then came the need for the continuing resolution, or we would be seeing our governmental activities come to a halt.

This measure, ready here for final debate and discussion months ago, could not be on line before this body, after House action, until this morning. We were not springing anything on anybody. Everybody knew the House had passed it.

Thus, when we got our chance, the message would be here, as it is today.

If anyone can plead surprise, it is the 79 who voted for this measure, who now, evidently, will have to be in a position to listen to arguments of a minority, arguments that go to some of the basics, which were debated and put into law a long time ago—the wisdom, the need, and the propriety of Federal contribution to operating expenses of transit programs.

We have fought that battle. We put it into law. We have kept it in law. We have had many votes on it, and it is now a basic national transportation program.

It has been promised that the talk will be long here today. That is unfortunate, because what the House has done is very close to what the Senate did in June, by not a small margin but on a massive vote of 79 to 15.

Argument is made that why do we do it now? Why do we have to do now a 5-year program? We can come back next year and do it again. The Senator from Nebraska suggested that maybe there will be more money next year for this program if we take it up then. That is not at all the signal. The signals are just to the contrary from those who will be new to the Executive Office next year. Certainly the OMB nominee has indicated that this is an area targeted for a cut when the opportunity comes and that opportunity will come in the regular order because we do have now placed in law and practice a biennial, every 2 years, and this continuing program of support for transportation does come before Congress for review and legislative action.

What we should be concentrating on here, it seems to me, is what happens if we do nothing now? If we do put it over until next year, then this, of course, will be in competition with everything else for consideration and in the process all across the country cities, downtowns that were anticipating the opportunity to put their transit house in efficient order, with an opportunity to know where they stood on part of the contribution to their transit effort, both in operating expenses as well as capital needs.

If we put off giving them an opportunity of knowing where they stand their dilemmas are real and immense. Then they begin to run into the crisis situation where cities, where communities cannot plan with reliance and then act in reliance and put their own fiscal house into the picture, cities that have to raise their taxes for their contribution, States that have to plan their tax programs.

If they do not know what they can look forward to there is the reaction to crisis upon crisis upon crisis. It is no way to run a railroad, a bus system, a transit system. It is no way to run any major business. It is just fraught with inefficiency and wastefulness.

The Senator from Massachusetts probably later on will tell us about the crisis they had in Boston. I have the feeling that they did not, with the reliance they did have for this year, respond with their contribution to the transit system up there, and they had to respond in crisis with a special session of the legislature and close down 1-day crisis action and open up the next day.

This bill is a response to what we found to be many of the inequities in the program. We have been on a formula basis for operating expenses that reflected just the massive population in a population-density basis and with that we found that out there in Indiana the contribution of the Federal money to operating expenses was running 30 percent of the expense and some of the other places in our country running only 14 or 15 percent, Federal contribution to operating expenses.

What we have done with this bill is bring the equities to bear by moving slowly, but certainly to a program of apportionment of money for operating expenses that reflects the efforts being made in a community and when we look at the revenue vehicle miles, the service rendered will get the returns based on that. It is complicated. That is for communities of 200,000 and up because of the equity situation where 200,000 and down we still deal with the population, population and density. The service test for apportionment is phased in over a couple of years.

A lot of these equities are laid into this bill. It is a fair program and it has been a more efficient program. We have a consolidation of programs which makes it more efficient, consolidating operating a systems grant into one fund, and this is another logical and incremental step toward a block grant program which Congress began in the 1978 act.

It comes to me as a great surprise, and this is a true surprise that we are faced here with a Tower of Babel about this bill from those who are particularly wedded to a developing approach, a Federal apportionment of money on a block grant basis, and that is in essence what we do here, the block grant idea, and we talk about the new administration coming in. Maybe they want to have a look at it. Maybe they want to talk block grants. That is what this new consolidation within the operating assistance is in essence, block grants, so this is the surprise. The fact that we know that communities should be able to be efficient, not wasteful, plan, not guess, all of the elements of intelligent preparation for action and action are here through this program. For those who talk of business efficiency to now come in and say put it off until tomorrow comes as a great surprise to me.

It will be more costly tomorrow in every way if communities cannot gear up to their transit needs and cut back their service. Philadelphia, I just read this morning, is planning a cutback in service. They need this support. It is an incremental part of the whole need. The public contribution is only part of the contribution. They need it, and if they do not, they will cut back service. When they start cutting back transit service, we get in the old cycle that brought us to a need for a national program. Fares go up, service goes down, more and more people get into their cars, jam the highways, have to spend a lot more money with gas prices going up. The environment suffers, the economy suffers, everyone suffers, when we see a diminution, reduction, cutback in efficient transit service.

For those who talk business efficiency, for those to come out here and say forget it, let us put it off, let us not be in a position to plan, they would lead us down a road to extravagant wastefulness in every way, particularly with the energy crisis we are in and a crisis that is coming according to predictions in reports this morning from reliable research quarters that say we can expect by summertime gasoline prices up 45 percent.

Take off, cut back the buses, cut back the rail service, make transit more expensive and less responsive to the travel needs, more cars on the highways, this is all a mass of unnecessary wastefulness. I do make this as a plea to my colleagues that we listen indeed for a while but let us get back where we were in June with an opportunity to amend and then vote on what is clearly in the interest of the Nation as expressed by this Senate in June on a vote of 79 to 15.

This bill we have is the House bill, and the House looked at most of our bill and accepted it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, unfortunately, at least for the position of my senior colleague, the Senior Senator from New Jersey, we are not back in June. June must look like a beautiful time to the senior Senator from New Jersey in comparison to the political landscape of this December 12.

But the point I have tried to make, I hope without boring in too much with a partisan twist, is simply that the times have changed. We had an election in this country on November 4. If there was any single issue we talked about on November 4 that had more poignancy than inflation and excessive Federal spending, and what was often described, maybe unfairly but often described, as liberal spending programs, that was the agenda in June and the vote was 79 to 15.

Now, Mr. President, the House saw no emergency in June for something that is described, as the distinguished senior Senator from New Jersey has described it in these most recent remarks, as a time in which the environment suffers grievously, indeed each one of us is very concerned this morning about the economy and the suffering that might happen as a result of what occurs with regard to this bill, and that is a legitimate topic.

I am arguing, Mr. President, if one has to make an honest estimate as to what will strengthen the American economy at this point one will postpone this bill. I do not know of a reputable economist who would suggest that the forward spending for 5 years of $25 billion for mass transit this morning is going to help the economy one whit. As a matter of fact, that is precisely the analysis of almost everyone suggesting that interest rates are going out of sight, that there is a business-as-usual feeling still in this body, Mr. President, and I say there is not.

My argument this morning is that times have changed, and it is time that a new administration and a new Congress got its grip around this bill.

The senior Senator from New Jersey is correct, that will happen in due course in any event, the appropriation process will continue, the committee system works, and everything we do today can be repealed, and besides we are on an entirely different matter, and it would be less responsible for us.

The senior Senator from New Jersey

surely knows the change in the political complexion, and he suggests actually that we had better act now because he sees a chill wind blowing in at OMB. He notes the nominee, and he notes him well and, as a matter of fact, I would predict that Congress would not be more generous in this area next year. I am not arguing that point at all. As a matter of fact, the public as a whole hopes we are not more generous to fixed-rail systems next year.

Mr. President, if we had argued this honestly, and I appreciate the quality of the debate on both sides, it seems to me we are gripping these issues of what is best for our country, what is best for our cities, what is equitable to cities of all sorts. It will not do to say that Philadelphia will suffer, as the senior Senator from New Jersey has just said. He said, as best I can quote him, that fares will go up, service will go down in the event the moneys that are prospective in this legislation do not accrue to the city of Philadelphia.

In our last colloquy we suggested there was an interesting problem of federalism involved here. What should be the responsibility of the citizens of Philadelphia, first of all, with regard to transportation as it pertains to them? The Philadelphia transit system will not be of great value to persons living in rural Idaho, for example, or in various remote parts of Texas. Now one may argue that this Congress in its beneficence has often thought about the people in Idaho and Texas, and that it is not fair to bring up this thought that we failed to play the game sufficiently well and money is not sprinkled everywhere in some form or other.

Some can say in the mass transit bill that it is our misfortune to come up at this particular time following a national election, following a desire on the part of the people to cut spending, not to spend $25 billion more, and that we just did not have our innings in the right sequence.

That is regrettable, of course. But the point that has to be established is what is the responsibility of the people of Philadelphia if we are to talk about them this morning, and what is the responsibility of the State of Pennsylvania if one moves beyond the local area in our Federal system? Well, I think the people of Pennsylvania and the people of Philadelphia both would say, "Our responsibility is considerable. We have a transit system there and we are paying somewhat for it. We may be paying a little bit more."

But for the senior Senator from New Jersey to throw up to this body the proposition that because fares will go up in Philadelphia that this is the responsibility of every citizen in the United States of America to relieve people from paying higher fares will not sell any longer. It might have at one point. I do not think it will now, not if the rest of the people of the country are alerted that that is the name of the game.

As a matter of fact, it is very probable that fares will go up, and I hope that service will not go down. If people want the service, I see no particular philosophical bent on the part of the Senate to force people into mass transportation and, as a matter of fact, the price of gasoline has gone up precipitately, as we all know, and people are driving less. In many cities there is not evidence that they are using transportation provided by the public more. There appears not to be this neat correlation that had been propounded with regard to energy conservation at all.

Let me just say, Mr. President, in summary that I appreciate the distress of my colleague, the senior Senator from New Jersey, who is managing this bill. But I would also point out that his arguments simply do not hold water on December 12, 1980. As a matter of fact, if we were to have a national referendum on this issue today, I would predict the senior Senator from New Jersey's position would lose. If you asked the American people on this December 12, 1980, "Do you want to spend $25 billion for mass transportation at a time when we do not need any new legislation in what is clearly a redistribution in 15 large cities of this country," the answer would be a thundering "No, we do not want that."

Mr. WILLIAMS. Mr. President, will the Senator yield for a question?

Mr. LUGAR. I would be happy to yield for a question.

Mr. WILLIAMS. We are representatives of all of those people the Senator is talking about, and we can put it to a referendum right here today and see how they would feel.

Mr. LUGAR. I would suggest to my distinguished colleage that this body does not precisely recognize the referendum of November 4 at this moment.

Mr. WILLIAMS. On this issue let us find out. We all got a lot of messages out of November of this year, certainly we did. I was not a candidate, but I certainly was around to be participating in the debate of the election year.

I did not hear this as a big clamor for withdrawal from Federal programs, withdrawal from our transportation efforts. I hear a lot of talk about withdrawal from many things, but this was not one of them. This is a program all the way down to rural areas which they have hoped for themselves through the national effort in transportation.

We are the last country of the democratic world to come to an appreciation for the importance of a nation involving itself through its Government in efficient transportation.

I do not travel a great deal. I hope the Senator from Indiana has a chance to travel abroad more than I do. The little I have traveled, I have seen in some countries where we are in economic competition. Just take a couple of them, some of the mass transit systems of Japan. I will not say they have solved the problems of congestion within Tokyo, but we know what they have done through intercity travel particularly in Japan.

Certainly within Germany, another major competitor, there for decades—maybe more than decades, centuries—they have involved their nation in transportation. We have only done this, in terms of public mass transportation for people, in the last 20 years.

It was 1961 when I had the first bill. It was a very modest beginning. But it was an expression that I thought we should make that there is a national stake in improving metropolitan transportation. And it was a struggle. We had a new administration. The bill had been introduced in 1960 and came on in 1961. The new administration could not see at the outset the need for a new, then a new Federal program.

We had emergency meetings at the White House with the new President, President Kennedy's people, White House people, some from the departments.

I can remember it as if it were yesterday, people from communities all over the country gathered in what was called then the "Fish Room," as I recall it. There we made our ways for the beginning of a national program in response to transportation needs, because already we could see that our hodgepodge of transportation, some private, some public, was going down and in many cases out. We made our plea, we made our case, and we won.

I recall, talking about Philadelphia here, it was Mayor Dilworth of Philadelphia who made the last impassioned plea to the new administration, President Kennedy, and we did start it then. It has never had a setback in Congress in all of those years and it has been completely bipartisan.

I have stood like this before. Senator TOWER has stood as the Senator from Indiana is standing and together we have moved this mass transportation program here in the Senate.

This hour and a half, 2 hours we have been on it is the first true setback to mass transportation, efficient transportation, response to what people want back home. They want to have an alternative to—what is it, $1.30, $1.70 gas, or whatever it is going to be. They want an alternative on their journey to work that they must make every day to get home.

So I hope this will be not many hours of a setback. We will have that national referendum in microcosm and the U.S. Senate can stand here and again express themselves. I could be dead wrong. The 79 to 15 vote could turn around and it could be 15 to 79 the other way. But I say it, we have been developing this program over this year. It is laid into law, a national response. I think the people ought to have a chance to have their representatives here get a shot at a vote on it.

Mr. LUGAR. Let me respond to the question of the distinguished Senator from New Jersey. The question, at least if I may paraphrase it, is why should we not have a referendum today in this body that would reflect the referendum that I allege would occur in the country to this which would be adverse to this particular piece of legislation, not as mass transit as a whole?

I reply simply as a technical matter that a good number of Senators voting today do not reflect in my judgment what the people had to say on November 4. This is one of the unfortunate aspects of lameduck session. It is not the fault of the distinguished Senator from New Jersey. It is not the fault of the mass transportation programs in general. It is just an extraordinary phenomenon, Mr. President, upon which I shall not dwell upon excessively, but I believe that many people in the public as a whole were surprised that such a massive amount of new material has come before this lameduck session.

It would appear that a calculated risk was taken by the majority in postponing appropriation bills, in postponing controversial votes and issues for a period of time with the thought that those might be tidied up after November 4 in more favorable circumstances.

Now that calculation proved to be inaccurate as it turned out. As a result, the terrain was not favorable. It seems to me that those of us on this side appreciate that emergencies must be met. We must have a continuing resolution, we must have a continuation of those things which are emergencies in behalf of all the people, regardless of the election circumstance.

But the point that I am making this morning is that we are not having a referendum on the faith of whether we shall have a national program. We are not having a referendum on whether we are in favor of mass transit or not.

As a matter of fact, I have alleged and I think I have some evidence to indicate a fairly strong record in behalf of mass transit for a long time on the local firing line quite apart from this latter service.

What we are discussing this morning is this specific piece of legislation, this specific formula, the inequities that pertain to this bill, not the entirety of it, not the philosophy of whether there should be a Federal, State, and local sharing and those propositions.

Mr. President, I would say that most important we are discussing this morning whether it is good public policy when there is not an emergency, when there are clearly 2 more fiscal years of money in the pipeline at the current formulas, no emergency for a bill to be resurrected, and that is the proper word for it. This legislation was dead without a lameduck session.

In the judgment of many of us we should not be having a lameduck session. We were not in the majority and we are having one. We are not only having a session, we are having all sorts of bills dragged to the floor on December 12, 1980, including mass transit, a very important bill.

I agree with the distinguished Senator from New Jersey that it is unfortunate that we are having this debate. It is unfortunate that there cannot be. as he described it from his long history of service in this area, an advocate on both sides of the aisles, working arm in arm. But that is not the nature of this exercise today.

Mr. President, I have indicated at the outset I do not believe this bill should pass today. I am willing to argue strongly that it should not occur; that it is bad public policy; that it will injure the country. That is why we are going to continue to argue vigorously until the country knows.

The country has no idea what is going on here at 10 o'clock in the morning and now noon, but the country will know after a while. The country will respond as to the purpose of having extended debate. People are alerted. Most Senators may just be coming in and finding out that this is what we are talking about this morning.

The senior Senator from New Jersey says this is no surprise. I would say it was, to those of us either on the floor about 9 o'clock last night or listening on our boxes back in the office, quite a surprise. Everybody knew the opposition to this bill, everybody knew the intensity of feelings. And here it is.

We are going to continue to discuss it because it is bad legislation at this time. I simply want to say, Mr. President——

Mr. BRADLEY. Will the Senator yield for a comment or a question?

Mr. LUGAR. I will be happy to yield for a question.

Mr. BRADLEY. I would hope that the Senator would not prolong this and keep us here until Christmas Eve. I know that many Members are anxious to move on.

I do not serve on the committee and, therefore, I have not benefited from the conflict or enlightenment, depending upon how one would describe it, which took place in the debate. However, it is a puzzle to me why this bill is construed to have a negative effect on smaller towns and rural areas. As I look at it, and as I have heard from a number of interested parties, not only in my State but across the country, the total program of Federal aid for public transportation has really evolved into a program for all areas, for small, rural, and for large urban areas. The modification of the proposal before this body continues to assure this broad-based direction. In fact, it strengthens the program's emphasis for public transportation in rural and small urban areas.

I would just like to go over those sections where I think the program has been strengthened in these areas.

First, as I read it, there is a requirement that not less than 5 percent of the sums appropriated under section 3, the discretionary capital program, be obligated to the small urban and rural areas. To me, this assures that they will receive the funding they need to continue to expand, and even in the few remaining cases to initiate much needed service.

The second point is within these proposed section 5 changes there is a provision which virtually locks in the percentage of section 5 money which will go to these population groups in future years depending upon the 1980 population change.

Specifically, these small urban and rural areas will get the same percentage of the total funds available that they would have received under the existing formula but at their new population levels. Since these areas in the decade of 1970–80 grew at a much greater rate than the larger areas, and some people say there may be as many as 100 new urbanized areas joining this group of small urban areas with population between 50,000 and 200,000, this provision in the bill is an assured benefit to these areas which in the last decade have entered this category of assistance.

Unlike the areas of over 200,000 population, the small urban and rural areas will continue to receive apportionment based upon the existing population and population density formulas. I think this has a particularly important effect for small towns that will be designed as new urbanized areas because of the 1980 census, because of the increase in population in the last decade.

Many of these areas now do not have service or have very limited service. So the assured apportionment plus specific setaside of section 5 capital funding previously mentioned will allow them to expand and even initiate new services they feel appropriate.

As a further help for the existing small urbanized areas, the proposal as I understand it contains a provision which instructs the Secretary of Transportation to give priority consideration to applications for section 3 capital assistance to any area that might possibly receive less of an apportionment under the revised section 5 formula. So it is almost a no loser test here.

Finally, these small urban and rural areas I think will benefit because, as in the past, the apportionments for these areas, small and rural, go to the Governor. The proposal allows the Governor, with the consent of the areas involved, to switch up to 25 percent of the total apportionment between areas. For many areas, this local discretion allows the critical mass to accumulate in order to make significant improvements in a part.

All of these provisions, from my perspective, were specific inclusions to see that equality of Federal assistance to small urban and rural areas was maintained.

I think another interesting fact is also important to mention at this time. It is that some members of the committee in their supplemental views included in the report on S. 2720 as originally passed questioned how a service base formula could be equitable to these small urban and rural providers, especially in the Midwest and far West. By the nature of these areas, it was alleged that they must provide service over large, widely dispersed areas and thus more costly terrain and less money.

I believe the changes in the proposal before us now create more than equity. In fact, if the Senator will look at the numbers carefully, he will see that even though these areas, the small urban and rural areas, will receive their apportionments based upon population and population density, the numbers are quite startling. The Department of Transportation has provided us with the numbers that show that if you take Federal dollars of aid per vehicle mile of service provided, you see that under the proposal that is now before the Senate the areas of over 200,000 population will receive approximately 69 cents per vehicle mile, bus and rail. The areas between 50,000 and 200,000 in population will receive almost $1.62 per vehicle mile. All of this is in 1983 when the full proposal is in effect.

In 1982, for example, New York City will receive only 52 cents in Federal aid for each rail vehicle mile of service it provides.

I think these facts clearly say that this variance is necessary to equalize the differences in operating conditions that do exist, and I think it is very clear that they benefit the small urban and rural areas in absolute dollar terms.

I would like to address some of the Senator's earlier points. I found the exchange that he had with the Senator from Alabama very informative. He supports mass transit. He is for energy conservation through mass transit, and he is for the cities. I think that correctly states the position. It is not too controversial.

But he went on to say two other things which I think are certainly areas of debate. I will dismiss the first one because he admitted in the record that he hoped that next year Indiana would do better. Certainly, in any situation I would hope that the State or region I represent would do better—I assume that is part of being an effective representative—and that next year, Indiana and Indianapolis will do better if this bill is filibustered to death. I understand that. That is not the concern I have, although I disagree.

The concern I have relates to the philosophy which was expressed that, maybe, mass transit concerns and mass transit facilities should not be financed by the Federal Government. Maybe we should not provide any operating assistance or capital assistance; it should be financed by the State government, which means, ultimately, by State sales taxes, income taxes, or, in some cases, even property taxes if the State has a local apportionment program. I view this as very disturbing, because, if you look at the historic patterns of growth in this country, you find some areas where there is, over 100 or 200 years, an infrastructure of rail that serviced people in commuter routes and in other direct transportation forms—buses, for example—that these areas have deteriorated, and that operating assistance is the only way that one can hope to get these areas serviced.

The idea that a State does not make an effort, now, I think, just will not stand up to daylight. For example, my State in 1981 will spend $90 million in State funds for mass transit. The Federal assistance for 1981 is approximately $70 million. That is just one example where a State now spends much more than the Federal Government. To argue that the Federal Government should not have any role, I think, ignores national patterns of development over the last century. I think that once one makes that argument, it would take a fine-pointed pencil on the budget to decide what programs are national, what programs are regional. Depending on one's perspective, it would, in my judgment, be very difficult to call.

Mr. President, I hope the Senator will reconsider his filibuster, not only because we want to get home for Christmas and we want to have a chance to be with our families, but also because his major concerns, I think, for the small urban and rural areas are addressed directly in this bill. As my distinguished senior colleague has pointed out, Congress has spoken in a bipartisan way in the past, that operating assistance and capital assistance are important.

Indeed, even after the tremor of November 4 is taken into consideration, I seriously doubt, if we made a little agreement that the 12 Democratic Senators who were defeated would not vote in this upcoming vote, this measure would still prevail.

I think it is clearly a matter of where the Senate should work its will as a matter of great importance to New Jersey and, of course, to my region; I think it is important to the entire country as well. I think that to block this with a filibuster on the philosophical principle that the Federal Government should not provide any operating assistance in mass transit is a rather dangerous position, although I ran against a person who maintained that. I think if Ronald Reagan had maintained that, he might not have been as successful.

Mr. President, these are the things that will work out in the next year when we do, indeed, see if the promises of the fall turn into the realities of the spring. I think that if they do and if this is an example of no Federal assistance for mass transit, there will be quite a different opinion.

That is my question to the Senator.

Mr. LUGAR. Mr. President, I want to respond to the distinguished Senator from New Jersey, because the question is profound as far as the philosophy of federalism and what our responsibility ought to be. Let me say, Mr. President, that I agree that if my position were that the Federal Government should not be involved in mass transportation, that would be a very extreme position. That is not my position. Therefore, the use of the word "any" by the distinguished Senator from New Jersey is inappropriate. We are talking about matters of degree, what the sharing ought to be in the layer cake of federalism, of Federal, State, and local support. Obviously, honest men and women have differed on that and will continue to differ. That is what is meant by the legislative process as we attempt to compromise the extent to which we are local citizens, citizens of a State, and citizens of the Federal Government.

At the outset, Mr. President, I narrowed the issue considerably by saying that I am in favor of Federal assistance to mass transportation, both capital and operating. I am not in favor of this bill. I think I have indicated that. That is a very different proposition from a philosophical block to the idea that there ought to be assistance.

Mr. President, let me respond to the Senator's question in still another way. He was suggested that failure to act at this point, quite apart from whether before or after an election, may do harm to his constituents, and I certainly admitted that the passage of the bill would do harm to mine. That has been forthcoming in the colloquy. I have even asserted, as a matter of fact, that one of the reasons—and it is not one that should surprise the Senator from New Jersey—that there is at least a small glow on the part of those from very small States and States that are not really affected greatly by this that the total sum of new money is large enough to spill around in such a way that there is a little bit for everybody. Indeed, if you have a very small bus system in a remote town in this country, the chances are not necessarily, but the chances are—that you may get a little more money. Therefore, one of our colleagues who represents those constituents could, in all honesty, say, if this bill passes, all $25 billion of it, an increase of roughly $1.3 billion to $1.5 billion more per year than the rate at which we are now spending—we are spending roughly $3 billion to $3.5 billion now. We would move it up, regardless of which bill we take, the Senate bill or House bill, $1.3 or $1.5 billion a year and extend it out—that is roughly the size of money in the bill for 2 or 3 years. There is not the slightest need for this money today.

If I were in fact representing the interests of a large city in this country with a fixed-rail transit system, I would argue that planning is important. These systems are not built in a day; they require years. The philosophy of looking forward for several years, I think, is an important one. So I would narrow the issue further.

Mr. President, I have no argument philosophically against a forward look. But I question why the forward look came in this year. We are not even close to the end of fiscal year 1982. I question further once the election is over, once the people of this country have talked in terms of economy and less Federal spending, why this particular piece of legislation—I emphasize this particular one; not all mass transit, not any Federal sharing idea, but this particular formula—persists.

Mr. President, clearly, the need that was advocated before the committees that heard this legislation was that the fixed rail systems of this country are in a lot of trouble, some more so than others. And the problem is, in some cases, not how to start them up but how to keep them going. It is a legitimate national question. I do not disagree that, as a country, we ought to take a look at the number of people using it, the problem of dislocation of service.

But it seems to me that this is equally appropriate for an incoming administration with 4 years of time and a responsibility to the people, as the Senator from New Jersey suggested, either to put up or shut up on these basic issues, to have a chance at it.

I simply say that the incoming administration wants to have a look at it and a chance to do it.

I am not revealing any confidence in saying that members of the incoming administration have spoken to Members on this side of the aisle and suggested it would be very helpful if that administration had a chance to look at this program and take responsibility, that the new majority take responsibility. I think that is a reasonable request.

Thus, my surprise that all this is heaped upon us on December 12 of this year.

Mr. BRADLEY. Maybe we could strike an agreement so as to assure fixed rail transportation has to become this Congress judgment, and the opportunity of review, that maybe Conrail could be looked at by the next Congress, and we could move ahead and vote on this bill today.

Mr. LUGAR. The question propounded by the distinguished Senator is always a thoughtful one. But I would have to respond in the negative for reasons I have covered in my earlier remarks.

Mr. President, I want to continue with remarks I was making earlier, in trying to analyze the entirety of this dilemma, at the time the distinguished junior Senator from Nebraska asked for an opportunity to make remarks and I yielded to him at that time.

I return to my analysis, in which I discussed the fact that some cities in this country will not be unhappy if the new legislation does not pass. Some will be very unhappy, and I think we have had some evidence of this in the debate already.

We have heard mention of Philadelphia and of Boston, and a promise that we would hear more from Boston as the debate progresses.

The distinguished junior Senator from New Jersey certainly brings to the fore a point of view on behalf of his constituents who have considerable problems in this area.

New York City, under the legislation we are examining today, to the best of my calculation, will receive $131 million more per year in operating assistance if we pass this.

I pause for a moment at that point, Mr. President, because we are not talking about building a new system. We are not talking about providing new facilities in which people might separate themselves from automobiles and thus miss the gas price increase that the senior Senator from New Jersey described vividly is ahead of us.

We are talking about operating assistance. That is another way of saying that the revenues coming into the fare box in New York City are not going to be able to pay the bills. The question is, who should pay it? The answer of S. 2720, to the tune of $131 million more per year, does not solve the problem. This is annual united fund contribution to this situation. It will come from all the rest of us in the United States of America for operating subsidies.

The senior Senator from New Jersey has pointed out in the case of Philadelphia a problem in which the fare box might see more money from local users. The fares would go up. Ridership would go down. He proposed a number of circumstances that would hit the country in that situation. That is the dilemma that is addressed each year in the operating assistance situation, who will pay.

New York City is not the only winner. I might point out, Mr. President, New York City already is receiving $174,500,000 a year.

The debate will be false if we are talking about stopping Federal aid. That is not the debate.

My position is that New York should get $174 million a year. That is a pretty generous allocation from all the taxpayers, not only of my State, but others represented in this body.

The issue is S. 2720, the piece of legislation before us now, which says that in addition to the $174.5 million, $131 million more per year should go to New York City.

Then we have additional evidence of those who win. For example, Boston, mentioned briefly in the debate thus far, will see its operating grant increased from $29.2 million to $38.4 million, a very substantial increase, almost one-third, as a matter of fact.

The New Jersey portion of the New York system will go from $45.6 million to $81.6 million, a very substantial hike in that respect.

San Francisco's operating assistance will go from $31.4 million to $75.4 million.

Washington, D.C., will increase from $27.3 million to $41.1 million.

Atlanta will increase from $8.8 million to $25.3 million.

Chicago will see a $39 million increase, to $114 million.

These seem like incredible increases, Mr. President.

Well, why are they incredible? This is precisely what the legislation was designed to do, to assist cities with rail transit.

There are only 15 cities in all of our country that have any transit other than buses. The bill was designed specifically to assist them.

The junior Senator from New Jersey has indicated as an afterthought that the bill does sprinkle—and I emphasize the word "sprinkle"—certain revenues broadly around the country to, I presume, pacify the rest of the country.

Make no mistake, this is a bill about 15 large cities, not the sprinkler of cash among the also-rans.

At this time, there are 935 cities in this country that use bus transit exclusively. The legislation does not, in any predictable way, assist the bus systems, aside from this sprinkling I have described.

In fact, many of these cities have the even sad result of a decrease in funding.

Mr. President, during the course of this debate, I will want to describe some of these loss situations.

Certainly, as one looks at any printout of this legislation, one is struck by the fact that as to the first State on the first page is Alabama, and the distinguished Senator from Alabama (Mr. STEWART) with whom I had a question and answer session earlier, I suspect would have been interested in hearing this data.

I will make it part of this debate that the 1981 actual apportionment to Birmingham, Ala., is $3,458,000. By 1983, incidentally, that will have declined to $3,081,000. Birmingham, apparently, is a loser in this prospect.

The same for Mobile, from $1,357,000 currently to $932,000 by 1983 apportionment under S. 2720, as amended.

I think that is interesting. Those are two substantial cities in Alabama. The first two, as a matter of fact, that are mentioned in the printout are losers under this proposition, not even benefiting from the sprinkler process.

There are other cities in Alabama that will do better. Gadsden goes from $336,000 to $440,000. Florence, $329,000 to $466,000. There are a number of offsets the other way to make the record complete.

But any reading of this rollcall of American States and cities will indicate precisely what I have already pointed out. That is, we are talking about very small sums of money, some losers, some winners. But the bill is all about 15 large metropolitan systems. They all are very substantial winners.

I point out, Mr. President, that the supporters of this legislation argue that the distribution changes because we are changing the basis of the formula from an irrelevant population-based formula to a service-based formula that measures actual services provided by a transit district and then funds them on that basis. I believe this is a critical point in the philosophy of this legislation.

The old formula was much more population based. The new formula is supposed to be more service based. However, I contend that that is simply not true—that is, the shift does not actually occur. Almost no analysis will say that the new formula measures service accurately. It measures "revenue miles"—not service, revenue miles. Revenue miles are the total distance a transit district has vehicles actually traveling in a year. That is not a service measurement.

As I pointed out, it is a mileage measure. Many supporters of this legislation have agreed with my assessment of the formula.

John Simpson, for example, the executive director of the Transit Authority of New York City, said in testimony before the Senate Banking Committee:

> I think there are flaws in looking at the revenue vehicle miles approach. And, frankly, I think those are fundamental.

He went on to say that revenue miles "is difficult to measure and it has its own inequities in a way that I do not recommend."

Other observers have made similar comments.

Following the logic of that argument and the fact that cities—I have mentioned my own home city of Indianapolis—lose funding under the new formula, one would have to conclude that Indianapolis actually will carry fewer riders in 1983 than in 1981.

Obviously, such an argument is absurd. There probably will be a larger percentage increase in ridership in Indianapolis than will occur in New York City.

I believe that is an important point to make, if we finally are to compare hardship situations. We are trying to take a look at where we should put our money in terms of increase of return, and I am asserting that I believe we will have a larger increase of ridership in Indianapolis than in New York City.

Yet, under S. 2720, the bill we are looking at—not a general philosophical tour of mass transit but a bill distributing money among cities and States of this country—New York will experience a 9-percent increase in funding and Indianapolis will experience a 20-percent decrease in funding.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. LUGAR. I am happy to yield for a question.

Mr. WILLIAMS. The Senator is suggesting that Indianapolis is a loser?

Mr. LUGAR. I am suggesting that, specifically, the city of Indianapolis is a loser, as are other cities, and we shall take a look and find out which ones they are. They would include South Bend.

Mr. WILLIAMS. So that we do not get off a spur here that runs into a dead-end, from what figures is the Senator working?

Mr. LUGAR. I am looking at the 1981 actual apportionment. I see Indianapolis, for example, for a figure of $5,482,000 in this printout for 1981; and in 1983, $4,352,000. That is the approximate 20-percent loss that I just described.

Mr. WILLIAMS. Whose figures are they?

Mr. LUGAR. American Public Transportation.

This is the figure—5.482, and over in 1983 is 4.352.

Mr. WILLIAMS. It is 5.874. Oh, I see; the Senator is using the first column, apportionment. The total is 58.

Mr. LUGAR. We simply do not know what the incentive will turn out to be. That is a speculative figure.

Mr. WILLIAMS. I gather that the Department thought and we thought that the one who deserved to be reduced was the one who wanted a reduction in the bill. I guess that is the only explanation. [Laughter.]

Be happy; cheer. Indianapolis lost a few bucks—not Indiana. The total State won but Indianapolis lost a little.

I hate to disappoint the Senator to say that when this is all over and this bill is passed and this program is in effect, you are not going to lose anything, because we put into this bill an incentive, and Indiana will be the first to recognize how they can get a bonus. We put in a double bonus; and the frugality, the industry, and the energy of all Indianians, in Indianapolis and some of the other cities—the Hoosiers—will be the first to draw down the bonus.

One of these bonuses goes only to 50 percent of the people, because you have to be above the median. The median is in the middle area, half above and half below, and you will get that extra bonus.

Let me suggest that I believe that, philosophically, this bill was almost tailored, Senator LUGAR, with you in mind.

Shall we now just have a parliamentary discussion of when the Senator from Indiana thinks we can get to amendments? I know that the Senator from Vermont, who is strongly in support of this bill, knows that it is particularly responsive to the needs of Montpelier and Burlington and a few other towns that do not quite get to the diminution of 1,000 population. He knows that this is a Vermont bill. But he also knows that there is something in the House bill of which he does not approve, and he feels that there has been too loose a definition of responsibility to serve the handicapped. He would like to get over here and offer his amendment to the House bill. I would like to have my staff be able to call his staff and tell him that he can expect to offer his amendment.

Mr. LUGAR. I appreciate the problem of the Senator from Vermont. Members on our side, likewise, are eager to participate in this debate—not exactly to offer amendments but to make statements, to participate in the debate. I have indicated that I have a great deal more to say prior to giving them that indication, and I should like to continue this general discussion of the bill for the foreseeable future.

Mr. WILLIAMS. I know that the junior Senator from Pennsylvania wants to get into the debate, also. He is a strong supporter of this bill.

Mr. LUGAR. There are many who are eager to get into this debate.

Mr. WILLIAMS. I hope it will be a minor reservation.

As a matter of fact, many of the Members of the Senator's side of the aisle have urged upon me that we need this bill and we need it this year. We are running out of time, as the Senator knows, and I know that the Senator from Indiana would not want to take this kind of heavy responsibility to jeopardize in any way his Republican colleagues getting a measure they think they need a great deal in order to meet their responsibilities to the people they have been elected to represent.

Mr. LUGAR. Of course, the Senator is correct. As he knows, I would not want to jeopardize their possibilities in this respect, but I have tried, I think, to be forthcoming in indicating that I do not believe that this is good legislation. I do not think it should pass, in other words.

Mr. WILLIAMS. That is why we want to get to a vote for the Senator to have the opportunity to say so effectively.

Mr. LUGAR. I appreciate that, but I simply point out that we have, I think, a responsibility presently to alert the country to what is occurring here and let a number of people in on the secret that a $25 billion bill is underway here this morning and now this afternoon.

I think we should continue with that process of alert and communication.

Mr. WILLIAMS. I just wonder could we examine together whether the country does know what this is all about and whether we have, in fact, heard from the country on this measure?

The Senator from Indiana has the distinction of background of public service that I do not have.

I aspired to in a minor way what the Senator from Indiana achieved in a major way. I ran for the common council of Plainfield, N.J., and lost, so I never served within the municipal body. I will say that I lost with grace evidently because it was only the following year the Democratic Party of Plainfield, N.J., asked me to gracefully lose as candidate for mayor. I gracefully declined that opportunity and I am glad I did because that was the year that Senator, then Representative Case retired midterm, and there was a special and I was not running for mayor so I ran for the House of Representatives and made it.

But the Senator from Indiana was there. I remember former President Nixon was proud to say the Senator from Indiana was has favorite mayor, and obviously the Senator from Indiana was the favorite mayor of a lot of people in Indianapolis. As a mayor was he part of these organizations, the U.S. Conference of Mayors or the National League of Cities?

Mr. LUGAR. Yes, as perhaps the Senator from New Jersey knows, I served as president of the National League of Cities in 1971, and was heavily involved with the Conference of Mayors for many years on their board of trustees.

Mr. WILLIAMS. Are the League of Cities and the Conference of Mayors pretty much representative nationally of municipalities?

Mr. LUGAR. Yes, they are very important representatives of the interests of cities.

Mr. WILLIAMS. Is the Senator familiar with the next geographical level, the countries?

Mr. LUGAR. Yes.

Mr. WILLIAMS. Do they have a national association?

Mr. LUGAR. Yes, indeed, the National Association of County Officials.

Mr. WILLIAMS. I often wonder about those organizations, whether they are governmental trade associations, or private trade associations. Just how do they come to decisions to represent the thinking of those who are members of organizations? The Senator from Indiana is an authority; I am not. When the National League of Cities, the Conference of Mayors, and the National Association of Counties express through resolution a feeling, is that pretty much an accurate representation of the membership broadly of those associations?

Mr. LUGAR. As the distinguished Senator knows, by and large both bodies have conventions each year. There are resolution committee processes and study committees. Areas where there is considerable interest are brought to the floor and, as a rule, people concur with the leadership suggestion of the resolution committees or of the officers who in an interim way have attempted to deal with these issues.

Very clearly on the issue we are talking about today, I think there has long been leadership by the U.S. Conference of Mayors and the National League of Cities for mass transit legislation in this country. Indeed, there has been a great deal said during this particular year, and I guess that many Members have received within the last 2 days perhaps some communication from the U.S. Conference of Mayors and perhaps from the National League of Cities in addition, but the membership, as a whole, would not have necessarily seen Senate bill 2720.

They might not have been familiar with the precise formulas that were involved. They clearly see a general principle and that is some Federal participation of mass transit, and all things considered, they usually want more of it.

I think that was the trend of the deliberations throughout the period of time that I served.

Mr. WILLIAMS. They want more of it?

Mr. LUGAR. More money.

Mr. WILLIAMS. Does the Senator from Indiana feel that when they do support a Federal effort, this effort, that they are running against the grain of feeling within their communities?

Mr. LUGAR. The National League of Cities group and the U.S. Conference of Mayors are made up of public officials. These are people who have to stand for election in local elections, and mass transportation issues and Federal spending issues are obviously important among many issues.

But I would not want to move beyond that to suggest that most citizens in most areas of our country have a very firm grasp of formulas, equities, or the shift of how legislation might affect them unless this is articulated by their Senators or Members of the House of Representatives or the responsible people who try to point out the self-interests of individual situations.

Mr. WILLIAMS. From the communications that I have received from members of the mayor's groups, the League of Cities, the Conference of Mayors, believe me, I think they are as familiar with the complexities of formulization and the apportionment of funds both through the capital program and the operating expense contribution as I am, and I have worked on this quite a bit. They seem to be very sophisticated in their understanding of what this is all about.

I will tell the Senator from Indiana all of those groups that speak for people back home, the League of Cities, the Conference of Mayors, the National Association of Counties have weighed in here with persuasive reasons why they feel this is what their communities need in order to do what I was talking about earlier, be able to develop and to maintain without a roller coaster response but a steady response the transportation needs within their communities.

As a matter of fact, when the Senator read the Wall Street Journal editorial, of course this is not the first they have had on this, it is about the only journal of dignified opinion that has come out opposed that I have seen to this program. The newspapers pretty much sense the needs of the community in which they publish. I cannot recall any other major, and I looked at my staff, as they get more chance to read these things than I do, any major journal of opinion, newspaper, or periodical, that has been opposed to this measure except the Wall Street Journal.

Mr. LUGAR. The point, of course, is well taken. This is one of the reasons for bringing this to the attention of the country and hopefully the media, today. Maybe more people will pay some attention to what S. 2720 bodes.

Let me ask the Senator from New Jersey, is it not possible the League of Cities, the U.S. Conference of Mayors, and other sophisticated people in the cities would have some influence on the incoming Secretary of Transportation, on the incoming OMB, on others that are responsible for a flow of money? Obviously these persons who have at least some running room ahead of them will be influential, and it would be rather important, I would think, that the case be made to them presently. In due respect to all of us, it seems to me we are in a lame-duck session. If the case is made next January or February, it seems to me it would have somewhat more validity, but then, after all, that is part of our debate this morning in terms of timing, responsibility, the elections, and what all has been occurring here.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I will shortly.

Yes, again, hopefully they will sometime into the next year. This is the problem. We have people who are significant in transportation who have to know what to expect in terms of if they are bus manufacturers, what the market is, and if they are railcar manufacturers, what the market, is because until we started this process, and only very recently, there was not a certainty out there in the marketplace that there would be the money up front to order buses and order railcars. We are down to two major manufacturers of buses and one manufacturer of railcars. We are over a barrel in terms of supply because we never put together the program that puts this in business terms on a stable basis, forward looking, forward planning, forward funding, indeed, and contracting so that we could respond to transit needs.

The Senator from Massachusetts has asked me to yield.

Mr. LUGAR. I yield the floor if I have it.

Mr. TSONGAS. Mr. President, I am not quite clear what we are engaged in here. As I recall correctly, the bill passed the Senate by a vote—if I may have the attention of the Senator from New Jersey—of 79 to 13.

Mr. WILLIAMS. Excuse me.

Mr. TSONGAS. When this measure was before us earlier this year the vote in support of passage was overwhelming, as I recall.

Mr. WILLIAMS. Yes, 79 yeas, 15 nays in June of this year.

Mr. TSONGAS. I would be curious—I have been in committee—as to what the intent here is. We are clearly involved in an extended debate. A rose by any other name is still a rose. Is the intent to put this off and then next year try to resurrect the dead? What is the intent?

Mr. LUGAR. If I may respond to the distinguished Senator from Massachusetts, my role, as I described it in my opening remarks, is to ask for delay of this legislation until next year.

I described a postelection situation in which an incoming administration, not only a new President but a new Secretary of Transportation, a new Director of OMB, and I think very changed circumstances in our economy and the expectations of the public make it responsible action that a measure of this magnitude not arise today. It has arisen today, and I am standing here in opposition to it, advocating that it would be well for it to disappear today, as a matter of fact, disappear in this Congress.

We have 2 fiscal years of funding ahead of us under the old formulas. I am suggesting the formulas are interesting and important as a target of opportunity for all sorts of people in our society, but it would be more responsible to discuss those issues and not the philosophical one of mass transit or no mass transit, but the issue of how the money is allocated, how it is sending signals to the next Congress as opposed to this one.

Mr. TSONGAS. Inasmuch as appropriations have to be forthcoming next year and there will be full opportunity next year to revise, if indeed it is the wisdom of the body to do so, it seems to me especially coming from a State like Massachusetts, which has a higher percentage of local based taxes that go into the transit than that of the Senator's home community, I am concerned about the deterioration of the system, and that we not send out a message that the Federal Government is somehow going to pull back from its commitments.

You know, we have no trouble spending untold millions of dollars for a Rapid Deployment Force to go into the Persian Gulf to secure our oil resources because of our dependence upon their crude, and yet the things you try to do to get away from that, like mass transit, are sitting ducks in this kind of practice.

I have worked with the Senator from Indiana on a number of issues and have cooperated effectively, and I would just like him to know, coming from a State which has seen in the last few weeks what the importance of rapid transit is, a State which has 90 percent of that money paid by local taxpayers not by the Federal Government, which is one of the highest, if not the highest, in the country, I would ask him to think seriously about the impact of one Senator's decision on an entire nation and putting thousands of my constituents, who have never met the Senator from Indiana, but whose livelihoods and whose effectiveness in getting the work will be impacted.

I agree this is a transition period, that there are differing criteria to be applied. It is not as if there has been a continuation of the administration.

But I would be glad to work next year, if it seems that has to be done, to revise this if that is indeed the collective wisdom.

But I would tremble to have this kind of thing done now and to have the mass transit community sit out there on tenterhooks in the next 6 or 7 months, not knowing what is going to happen, especially given the concern about suppliers and how tenuous that situation is in the United States.

There are a number of things I put into this bill to try to increase efficiency, incentives to do that. Granted there are problems with this bill, but that is true with anything we have passed during this transition period.

I would simply urge the Senator to

consider the implications of what he is engaged in especially for at least my part of the country.

Mr. LUGAR. Mr. President, will the Senator yield for a question? The question I would raise is this one: Granted the premise of the Senator's remarks that signals sent are very important. I have talked about signals to the country as far as inflation, the problem of additional deficit spending, and all sorts of things that I think are written into this bill.

The Senator from Massachusetts correctly points out that other signals could go out to people in the Boston Transit System, right now beleaguered as it is, that the Federal Government is going to be less responsive or not responsive at all. That would be an unfortunate signal.

Earlier on I said it was unfortunate that we were having this debate. The distinguished Senator from New Jersey said in the past we stood side by side in a bipartisan stance. We have argued longer over this bill already than we have many mass transit bills in the past.

It seems to me a dilemma that the Senator from Massachusetts must consider, and this is the nature of my question, if through the sheer force of the situation, that is on the Senator's side of the aisle, there still is the privilege of bringing up whatever you want to bring up, and this came up this morning, not by my choice, because I indicated by every method I had that I preferred that we not do this, and I am not singular in that respect, but I am perfectly willing to take the responsibility for that situation but, nevertheless, it came up and it is here.

What if in the parliamentary situation the senior Senator from Indiana about-to-be—still the junior Senator from Indiana—tires, I simply collapse here on the floor and the distinguished senior Senator from New Jersey says, "Aha, it is time for a vote to proceed to vote on the thing," and next year we come back.

I may or may not, as the case may be, be the chairman of the Subcommittee on Housing in the Banking Committee, and that committee or subcommittee may or may not still deal with mass transit. These things are never certain. It could be that it will be stripped away altogether or there may be someone who is more friendly and more happy about the situation. But it could be that that could be one of my responsibilities to work with the Senator from Massachusetts and with my distinguished colleague from New Jersey, for that matter.

Having literally been attacked today by a lameduck session, which is thoroughly disagreeable, and in which I expressed myself in every way I could describing the context of this affair, and then we sit down and take a look at the formula and see what we are going to do with a very different group of people—I cannot think that is going to be reassuring to bus manufacturers, for example, if they were listening to this colloquy today. Would they rush to build factories on the basis of what happened today, and taking a look at what is going to happen then? I should think not.

I am suggesting that the responsible course of action is, having had an important debate, for this particular piece of legislation to be withdrawn from the consideration of this Congress, and I would simply say that I would look forward to working with my distinguished colleagues on mass transit legislation in the next Congress.

I am in favor of Federal aid to mass transit. I am not in favor of this allocation, and I argued strenuously to that effect on several votes in the Banking Committee last year with different Members in that respect.

Would you be willing to help, under those circumstances? That is the nature of the question. Is there some wisdom that the Senator from Massachusetts can see in a bit of temporizing on this situation as opposed to full speed ahead on S. 2720 today?

Mr. TSONGAS. The wisdom I think which is obvious in this case is that any one Member of the Senate can frustrate the will of any other number, and it is clearly within the Senator's personal decision as to what is going to happen here. In that sense the Senator is quite correct. I would be quite willing to work with the new chairman next year, and I will be willing to write 200 times on the blackboard "Chairman Richard Lugar" of the appropriate committee to get used to that terminology. [Laughter.]

But my concern is that we are seeing in the transition now where the administration has changed its mind on issues, on New York City, perhaps the grain embargo vis-a-vis the Soviet Union. I wonder whether it mades sense to proceed with a measure that has gotten overwhelming support in both parties, and then let the burden be to change it rather than assume somehow that what has been talked about during the campaign may indeed be the policy?

What I am concerned about is that things get left hanging. We all know that anybody in the corporate board rooms who make the decisions fears one thing above all else, and that is uncertainty.

I think if we drag this thing to the end of next year, what is anybody going to do but divest out of the business for their own survival considerations.

I just came over to make the plea. I fully expect that next year the vast majority of my votes will be in the minority. I have no problem with that, in the sense of that being the electoral decision.

But I hope that on something like this, given the severity of the energy crisis, given how it affects all of us, that these kinds of consideration would be given some weight and that the Senator would give that appropriate thought.

It is not a situation where the Senator from Indiana is someone I have opposed in the past and feel is being obstinate and engaging in ideological diatribe. It has never been like that.

So, rather than simply throwing up my hands in despair, I thought I would come over and appeal to the Senator's better nature.

(Mr. LEAHY assumed the chair.)

Mr. LUGAR. Mr. President, if I may respond, I was almost persuaded by the Senator's good nature and humor about the situation. I suggest the Senator from Massachusetts will not necessarily be in the minority very many times. I look forward to working with him and perhaps forging a new coalition of responsible action.

It is not my purpose as a sole individual to try to frustrate the mass transportation and cause difficulty for Americans wherever they are. It simply appears to me that we are in a transition period and that there are new thoughts with regard to this and a new administration. Some of those thoughts have been conveyed to me; others will be, I suppose.

There is a desire on the part of the new administration to try to deal with this issue of mass transportation, which is one of many, but a very important one, and not have the burden of proof shifted, as the Senator from Massachusetts suggested.

It is a legitimate plea and a legitimate argument. I suspect, on the other side, on balance, I feel the burden ought to be on taking a look at where we stand, given the fiscal and monetary conditions of the country, as well as our transportation and energy needs and circling the table in a multifaceted view of all these expressions.

This is the reason I have asked for delay; that I am debating the issue, trying to bring about delay, but at the same time, I hope engaging in a reasonable debate about the merits and narrowing the issues so that there is not an impression given to the country that on this side of the aisle we are opposed to mass transportation, or opposed to Federal assistance and very substantial grants.

Indeed, if my point of view prevails, approximately $3.7 billion a year will continue to flow for 2 more fiscal years, so that there is time for this examination. The losers will be specific metropolitan transit systems that would have had a very substantial gain, and for whom this bill was intended, and who will probably still require a very considerable amount of aid. I have never denied that or I hope I am not unsympathetic with that. But I have indicated that I do not believe this vehicle is a satisfactory answer.

Mr. TSONGAS. Mr. President, let me just finish by saying that much of what we are talking about today comes down to a question of how our older communities in our Nation are going to survive.

Coming from Massachusetts and having grown up in a blue collar, old industrial community, I literally have lived my life watching that community decline. It is a very insidious and pervasive phenomenon. Things have turned around in Massachusetts and we are now in a position where our economy is doing rather well, and the long term projections I think are quite positive. So, in some respects, I personally can pull back from this.

My own view is that the part of the country that is going to be in the most difficult straits as time goes on will be the Great Lakes area. There is not the high technology dependence that we now are fortunate to have. I think if there is any part of the Nation that is concerned about a kind of redistribution of income to enable it to have a reasonable standard of living that it would be the Great Lakes area.

Given the fact that the Senator's home community is very well treated under this bill, I am sure he has thought about it. I know that his mayor is supportive of the bill, but his mayor is not one, I agree, of the narrow constituencies to worry about.

I think there are large issues here that go beyond mass transit. Were this thing to be irresolved this year, I would ask that the Senator from Indiana, as I know he will, take into account the larger context in which mass transit simply happens to be one of the components.

Mr. LUGAR. Mr. President, let me respond briefly to the Senator from Massachusetts by indicating that I believe his point to be very well taken.

Let me say that, even as I recite the additional moneys that would accrue to the city of New York and its mass transit under this bill, I said $131 million, according to my estimate, I do so as one who participated vigorously, along with the distinguished Senator from New Jersey and other members of the Banking Committee, on ways in which the financial crisis in New York City a few years ago might be turned around.

I am not unmindful that we are talking about revenues in one of the same situations in which many of us on both sides of the aisle, I think, try to work creatively and in a very controversial context.

I would say candidly to the Senator from Massachusetts that not all of my constituents in Indiana were pleased that I would take a leadership role in attempting to bring about new financial strength for New York City. They did not see that as necessarily a priority item on the agenda they had for me. As a matter of fact, a number of people—and I have cited the Wall Street Journal earlier today. They do not like 2,720, but they really did not like the legislation I proposed for New York City, either, at the time.

I am sensitive to what the Senator is saying about the problems of not only New York City, but of the upper Great Lakes, of the Northeast part of our country, the tremendous problems. This is a dilemma for the Senator from Indiana. It is difficult to have so many enthusiasms simultaneously.

But I think at least we have tried to be up front in saying that the formula that came about, in my judgement, in the Banking Committee structure of this year, in June, as we had final markup for passage, is not one, I think, that will be reflected in the future, and is not one that I believe is a good idea in totality, in terms of the total sums of money that are involved.

I think it is a frightening picture, as we look at the economy. This is the reason that I am taking this stand. I think there are values ultimately in the cycle of mass transit of having an end to inflation. The Senator from Massachusetts is one of the strongest advocates of that position.

Mr. TSONGAS. Mr. President, let me say finally that the Senator knows—and he and I have talked about it personally—that I am presently engaged in the redefinition of liberalism and the Democratic Party and I am trying to put a book together on that subject. And the precipitation of my reassessment of where the party and liberalism was going was the position that he and I worked with, that is, on the Chrysler loan guarantee package. So I give the Senator great credit in the chapter that I have written for helping me redefine my own values. I will not change that. I will not rewrite that section based on what is happening today. I will face that next year. There will be great weight to give to the issues that I have raised here this morning.

I yield the floor.

Mr. LUGAR. Mr. President, prior to the colloquy that we have just had, I was attempting to outline the general context of this legislation we are discussing today. I simply want to continue by pointing out that the legislation that we have in front of us—that is, S. 2720—does accomplish a transfer of funds to the largest cities of the United States of America. It increases the funding to the largest cities, although the 10 largest cities already receive 60 percent of the capital fund and 50 percent of the operating assistance grants.

Mr. President, I would say that a case could be made, and I will not attempt to make it but I will concede that a case can be made, that 60 percent of the capital fund grants would logically go to our largest cities because the systems that would be involved are abnormally large, geometrical proportions as they try to serve large numbers of people. I can see that there is some possibility for merit in that. But 50 percent of the operating assistance grants would appear to me to be excessive.

Mr. President, the 15 largest cities of our country, even though they comprise a great number of people, finally add up to a relatively small percentage of our population in this country. A case could be made that an operating subsidy for any of the 800-plus bus companies and fare-box help to individuals in those communities would be equally merited.

The problem that I have with this legislation comes to the fore pointedly in that respect, that 50 percent of the operating subsidy, the difference between money into the fare box and bills to be paid, goes to the 10 largest cities of our country. The formula is uneven in its effect. At least, as I have alleged in earlier remarks, it is not truly a measure of service. It transfers funds from systems that are growing to systems that have leveled off. As a matter of fact, in some cases, systems that are shrinking in their usage.

Mr. President, it has been argued this morning that there are strong energy conservation aspects to this legislation. That pertains only, as a matter of fact, if more people are using the system, if the system is a growing one. It would not pertain to one that is shrinking, whatever might be the reasons—decline of total population in some metropolitan areas being a substantial reason or a predictable reason for such decline.

I believe that we need a formula that encourages efficiency of operation and helps those areas that are experiencing tremendous growth to expand. Take precious Federal dollars and allocate them where they will truly do the most good, where they will truly separate people from cars and offer alternatives. The distribution system of S. 2720 does not accomplish either of those goals. It increases funding where the population and the ridership is apparently decreasing, and among the more conspicuous situations in this respect appear to be Boston, New York, Chicago, and the New Jersey portion of the New York system. I look forward to figures that show more promise of strength in those areas, but that appears to be the trend in those systems.

It increases funding, however, for the Boston system, which is acknowledged to be among the most inefficient and some would also allege poorly-run system in the country, and it accomplishes those unintended goals because the nature of the measurement has no relationships to the efficiency of management or the dynamic increases in ridership.

In Indiana, in my home State, where local tax support is not generous for any public transportation service, routes must meet rigorous standards. Buses cannot run almost empty. Labor settlements cannot be overly generous. Support services cannot be a high percentage of total cost. Maintenance and repairs cannot keep a high percentage of the bus fleet out of service. Political considerations cannot determine route schedules. Mass transit must be and is very efficient. Because we do not have the luxury of generous tax support, only the most useful routes can be established. That cost-benefit service analysis means that Indianapolis will have a higher ridership per revenue mile than will many other systems. But, for that reason, it will have a decrease in funding.

A funding system such as in S. 2720 that discourages efficiency makes no sense to me. Likewise, a funding system that does not recognize significant ridership increases makes no sense to me. Why provide 50- or 60-percent funding increases to cities that will see actual decreases in ridership?

That, I think, Mr. President, is at the heart of the matter. I appreciate the poignancy of the case already made, that there are communities of our country that suffering from economic distress, many of a longtime character. But the question still remains, why increase operating expenses, support by the Federal Government, in those situations where, as a matter of fact, the declines appear to be the most precipitous and perhaps the most long run?

As Senators review the distribution of funds in their respective States, they should keep several factors in mind.

First of all, they may wish to remember that the increase in total funding between fiscal 1981 and 1983 is almost 50 percent. Thus, when you know that many cities in various States have an experience of a 1- to 5-percent increase in funding, it should be remembered that the total cost to the country as a whole is on the order of 50 percent.

I described earlier in the debate that this was a so-called sprinkling effect. If, in fact, to make the point absolutely clear you raise the total amount of money by 50 percent, and most areas of the country are getting increases of 1 to 5 percent, the question remains, where did the rest go? I have described the answer to that. There is no mystery. It is to the 15 large systems in this country. That is what this bill is about. It is a redistribution of the tax wealth taken from the people, distributed to the increase of 1 to 5 percent to keep most people happy in the 900-and-some bus systems, but as much as 50- to 60- or 70-percent increases both in the capital expenditures, which are somewhat expendable if you are trying to separate more people from cars, but even more importantly, 50-percent increases in operating expenses, which philosophically makes no sense at all.

To make the point again, Mr. President, if a rider on a bus in Indianapolis, Indiana, is paying into the fare box money to try to meet the bills of that company, if we were to be totally equitable, the Federal Government in this plan ought to provide a subsidy that was level across the board. It would not matter whether you put the money in the fare box of the New York subway system or in the fare box of the Indianapolis bus. If you are going to be equitable, do it across the board.

But we are not being equitable about it. As a matter of fact, we are giving to the rider in New York a very substantial subsidy, substantially greater, I have pointed out, by several times, than the rider in Indianapolis would receive.

Let me point out that Senators may want to look carefully at the funding situations in their States because representation has been made by the distinguished senior Senator from New Jersey, who pointed out that in Indiana people would do better. Indeed, I have acknowledged, in general, that statement. In some cases it would be correct but in some cases this remains doubtful. But in the event we are in doubt as to where the benefits lie in this bill, by 1983 under the legislation we are considering today the total operating cost would be $4.73 billion. Most States will receive only a very tiny portion of those funds.

When we use words like "tiny," what do we mean? In other words, if anyone would want to know what is the percentage of this new money—and the new money is approximately $1.5 billion a year, $1.5 billion beyond the $3 billion-plus that Federal Government now puts out into the mass transit area—and how is the money going to be divided?

Well, Alabama will get one-quarter of 1 percent. Alaska will get four hundredths of 1 percent of the money; Arizona 21 hundredths; Arkansas 8 hundredths of a percent. California will get 5.15 percent. Now we finally come to a winner in the situation.

As a matter of fact, the winners all leap out from the table. There are very few States in the Union that get 1 percent of the money regardless of what the population might be, but, as a matter of fact, there are some that hit you right between the eyes as you take a look at these figures.

The winners, and in order of their winning: New York will get 6.55 percent of the new money; California 5.15 percent. The third place appears to be Illinois, with 2.79, followed by Pennsylvania, with 2.28 percent. These are the big winners.

We drop down to New Jersey at 1.88 as the fifth place in this situation. Then, as we go down to Texas, 1.3; Ohio at 1.2; Massachusetts, 1.16; Michigan, 1 even.

After that, everybody drops very, very sharply.

Mr. President, those are among some of our largest States in the Union and one would have no quarrel, essentially, that, on a per capita basis, California and New York, on most assistance programs, receive more money. But anyone taking a look at the population of this country, measuring it against the amounts of money that are going out of this new $1.5 billion, will see very, very considerable discrepancies.

Mr. WILLIAMS. Mr. President, may I ask the Senator to yield for a question, or observation, or perhaps just vocal relief?

Mr. LUGAR. Yes, I am happy to yield.

Mr. WILLIAMS. Mr. President, those are gross figures the Senator is talking about, is that correct?

Mr. LUGAR. Those are percentages of the increase in fiscal year 1983 as opposed to fiscal year 1981 in the operating assistance.

Mr. WILLIAMS. It impresses me that in terms that I believe would be important to the Senator from Indiana, the real search should be in terms of the Federal contribution going into an area in terms of the test of apportionment—that is, revenue vehicle miles. That is, examine to see what the Federal contribution is per revenue vehicle mile.

Here we find that the large cities that the Senator has indicated have significant increases in totals are way down in terms of contribution per vehicle mile to those smaller areas that have not had the same kind of increases, big increases, that the Senator was just indicating. Let me go through this with three or four examples, Mr. President.

New York City has a significant rail system. Their apportionment for section 5, for the operating expenses, is capped. Even though they have a greater percentage of the total revenue vehicle miles on rail, we put a cap to the point where they do not get a full return on those revenue vehicle miles. So it comes out to 52 cents. In other areas of the country where rail systems are the transit means, it comes to 70 cents. When we switch to the apportionment on the basis of revenue vehicle miles and the vehicles are buses, in the larger cities, 200,000 and over, it is 68 cents. For revenue vehicle miles, buses, where the cities are smaller, 50,000 to 200,000, it is $1.22.

So, Mr. President, in terms of money reaching back to the systems, there is a much larger return on the guiding measure, vehicle miles, for the smaller places than the big places.

Mr. LUGAR. If the Senator will yield for a question, Why is revenue vehicle miles an appropriate measure?

Mr. WILLIAMS. That is a good question, a very good question, Mr. President. Let us now briefly and not completely review the history.

Mr. President, we did the easy thing years ago, when we wanted to formulize and when we formulized, we wanted equity and we wanted people treated without discretion but with certainty under a formula. So we started out on a formula. As we do in some other areas, we looked at the gross figures of population. We added one other factor for part of that formula, not only the total population. We wanted to somehow get a sense of transportation through not only taking population, but taking density. I think the feeling was that where there was density, there was more transportation that we were directing ourselves to.

To his credit, this was analyzed by President Ford's administration and it was pointed out that there are not only inequities here, it is not serving the best ends of the Federal contribution to transportation, because when only population—indeed, population density, too—were considered, money would be going to places that were not responding with mass transportation. They would be getting dollars but relatively less service.

We got to the anomalous position, Mr. President, where that contribution on a population basis was almost a windfall to areas of relatively limited transportation.

So he started us on the search for a way to advance transportation, eliminate those which, for convenience, I shall call windfalls, try to get to the services on transportation that were being furnished. And what do you do? That should be, it would seem, quite simple, that should be easy: Just take ridership and put that into the formula and let ridership get the contribution on that basis.

The problem developed, and it is still a problem, that there is no accurate way to compute ridership. There is no system of doing it. Therefore, having seen directed to this by President Ford, we stayed on the search and another administration came on and put this in in terms of a measure that could be reliable. That is vehicle miles.

Then somebody said, well, if you put in vehicle miles, they will start running empties over those roads. You have to be more precise than that, because they will be running up the counter and it will not be real, it will not even relate to the passengers. So, again, Mr. President, while we cannot get an accurate count on the passengers, we cannot run them blind or run up the numbers; they have to be revenue miles. Whenever that vehicle is rolling, it is for revenue, the farebox. So that is how we got there.

There is nothing sacrosanct about it. If there were any way of getting that ridership, I believe that is what I would prefer, but we have nobody who tabulates in that way, no data.

Mr. LUGAR. I appreciate that response.

Of course, the Senator is correct, and has taken part in those debates and formulas for many years of service.

I think it is fair to say that the predicament is one always of trying to get a handle on how efficiency might be evaluated, what sort of formula really should be evaluated.

Very clearly, a marked shift has occurred presently. This is part of our argument, not starting from scratch, but trying to note the evolution of this shift in 1980, and it is a shift on which we have some disagreement.

I am willing to yield the floor. I note that my colleague, the distinguished Senator from Colorado is here and wishes to participate in the debate.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I thank the distinguished chairman for yielding me time.

I rise on this occasion, not to speak in general terms to this legislation which, as we know, passed the Senate by a vote of 79 to 15.

The Senator from Indiana is leaving.

Mr. ARMSTRONG. I am the Senator from Indiana's assistant. I would be happy to——

Mr. MOYNIHAN. I will make my statement and ask my friend from Colorado how he thinks I ought to proceed.

Mr. President, this legislation was overwhelmingly approved by the Senate. I do not think there have been many occasions on which such a large and important piece of public policy has been approved 79 to 15. Now, for us to reject it, is an act of political partisanship that one can understand, perhaps, but not fail to identify and not fail to record.

But I was disturbed that the Senator from Indiana has referred to this bill, the formula change in this bill and the additional money which New York City transit system would receive from it, as constituting, and I understand this is the quote, "a United Way approach to the city of New York."

I do not know how then to proceed, Mr. President, because I have the greatest respect for and regard for and a long association with my friend from Indiana, and I see he has returned to the floor.

So I will then feel I can proceed, simply to say that I wondered if I could ask him what he intended by the reference to the change as constituting a "United Way" for the city of New York.

Now, let me say, before I say another word, that the city of New York would be in what I believe are called dire circumstances were it not for the Senator from Indiana, whose energy and understanding and particular competence in urban affairs helped fashion the loan guarantee which we needed in 1977. The loan guarantee brought a measure of stability to New York City. The New York Times refers with increasing frequency to the poor house function which the city of New York has the Nation.

We attain, to the conditions of the residents, the well-known time perspectives of people in very difficult circumstances, can we get through the next day, not the next winter which a good farmer thinks, or the next decade which a good banker thinks, and we are constantly asking for things.

Having got a loan guarantee, which only increases our debt and for which we pay a premium to the Treasury, we were presumed in the Senate to have been given some great benefaction.

The end result will be, as it were, New Orleans will get the world's largest coal port and we will get the world's largest debt, and this is thought to be equal treatment by the Federal Government.

Such are the perils of going bankrupt. Do not do it. Be warned, Colorado may go through the same experience we did. It will take a century, but we got there. They might.

On the other hand, one of the points I have tried to make, and the Senator from Indiana is patiently listening to me, is that the Federal budget is no bargain for the city of New York—no bargain whatever.

We pay, incomparably, the most taxes and receive, comparatively, a small return.

I do think the State of Illinois may have a worse ratio, but none after the State of Illinois.

Last year, according to a report we put out in our office, the best we have been able to do, straightening out the numbers—and as the Senator knows we never do anything about a problem in Government until we learn to measure it—but last year we calculated that there was a gap of approximately $11 billion in the exchange between Federal outlays and Federal taxes in the State of New York. Quite a large sum.

I frequently had occasion to point out that 1 billion minutes ago Saint Peter was 10 years dead.

It is no small sum, but we get used to it.

One of the difficulties in our getting a fair share of Federal expenditures, or an equitable share—I do not want it called fair. I do not want to introduce that concept, even—is that if we have so many more of the dependent poor than any other place. We will definitely not get a proportionate contribution for the poor. The Federal Government spreads money evenly. If we have so much more of the mass transit than does the rest of the country, we will, again, have difficulty because there is a tendency for everybody to get something. And, if we have the greatest amount, our share will be distributed elsewhere. It is against the nature of this system. That is part of the problem. We have so many more people dependent on welfare payments; so many more people who are not dependent at all but who ride the subway.

It is my understanding—I hope I am not wrong, and I know that if I am wrong I will be corrected quickly—that in fiscal 1981, 30 percent of the operating costs of the transit facilities in Indianapolis came from funds provided by UMTA—that ominous sounding acronym—whereas, in New York City, 10 percent came from UMTA. UMTA, UMTA, UMTA, UMTA. It sounds like the opening for "Music Man."

If operating costs were held the same, my understanding is that by 1983, when a new formula would come into effect, Indianapolis would get 24 percent of its operating costs and New York City 14.6 percent.

I ask the Senator if he agrees with those figures, which I have been provided, and I assume they all come from the Department of Transportation; if so, whether the United Way seems to be functioning more in favor of Indianapolis or the city of New York. I am puzzled by that.

I want there to be no edge of difficulty on my part. These are open questions, and no one is more open to data and argument than my distinguished friend.

(Mr. FORD assumed the chair.)

Mr. LUGAR. I thank the distinguished Senator from New York for giving me this opportunity to engage in dialog with him.

Clearly, I understand the proposition that the Senator made eloquently earlier with regard to the tremendous burdens that the rest of the country places upon New York State and, indeed, with especial vengeance on occasion on New York City. I have acknowledged the debt of our country and sins of my State and everyone else as to that, and I have no way of quarreling with the Senator's analysis that the net loss to New York State is in the order of $11 billion. That very well may be so.

Mr. MOYNIHAN. May I interject?

Mr. LUGAR. Yes.

Mr. MOYNIHAN. In connection with one of those items, last year's defense outlay for New York State were $5.5 billion; for California, $17.6 billion.

Mr. LUGAR. Exactly.

In a sense, of course, our States wrestle with this question. The upper Midwest, on many alliances of this variety, with regard to Federal allocations, finds itself in the same boat with New York City and the Northeastern States. So it is a question we face together.

The Senator from New York mentioned Illinois as a potential loser. By most analyses made each year in terms of per capita funds returned to the States, Indianapolis finishes 50th of 50, and that is to say that we get back 70 cents on the dollar that comes into the Federal system. Some years, we get less than that. This is of peculiar interest to the citizens of my State.

Regardless of who served in this body or the other house, many citizens wonder why Indiana does not do better. They have wondered very pointedly where the Indiana Senators were at the time formulas came about.

Mr. MOYNIHAN. I ask the Senator if he recalls that there was a Senator from Indiana who said Indiana would not take any Federal grant.

Mr. LUGAR. There was such a person, I am told.

Mr. MOYNIHAN. And there were representatives of the State of New York who thought New York did not need any. A generation later, it is not very different.

Mr. LUGAR. It has come to a peculiar pass.

In any event, the dilemma I have this morning is not in attempting to correct history nor, in the UMTA discussion, to rectify all this. It is to acknowledge, first of all, the point made by the distinguished Senator from New York that are there good reasons for a Federal response, to begin with. We discussed this a little earlier.

Does the Federal Government have a role? It does. With Senator BRADLEY, I said, "Let us narrow the issues."

We are not arguing that a new Director of OMB is about to terminate this response. Not at all.

The question in this particular legislation this year addressed itself to the particular needs of the 15 largest metropolitan fixed rail systems. New York is one. It is by no means the egregious difficulty I have outlined in the bill this morning. It is hard to define merit, and we are not attempting to do that, either.

What I am saying is that I respect the problems of New York City and New York State. I have acknowledged, specifically, that approximately $174.5 million, as I recall, was the current contribution on the operating side, and that $131 million will be forthcoming under the new legislation, and that is a sizable sum.

However, the problem I see as a general one, first of all, is this: Should we be passing legislation with these sums of money on the last day of a lameduck session following the election, with an incoming administration that wishes to formulate a mass transit policy of its own? My answer to that is, "No, we should not be doing that." The timing of the debate is unfortunate.

I have admitted in colloquy with Senator WILLIAMS that in the past, in a bipartisan way—the one who stood in his place, often Senator WILLIAMS; the one who stood in mine, not often me—we have been shoulder to shoulder.

He made the comment that most of these debates have been terminated long before this stage, in terms of hours. The reason this one has not been terminated is that there are many on our side of the aisle who believe that it is fair that an incoming President and an incoming Secretary of Transportation and an incoming OMB Director and a new majority in the Senate should have a chance to fashion a program, as opposed to having the burden of proof of upsetting something done in the last hours of a lameduck session. This is my first argument.

We have had all sorts of other interesting arguments, about whether the tilt was too great this time and what the equities are with regard to New York, New Jersey, Philadelphia, or Boston—a number of situations which are poignant, and I believe they are going to require very considerable assistance.

I have told the junior Senator from Massachusetts that I look forward, as a member of the Committee on Banking, Housing, and Urban Affairs, possibly as chairman of the Subcommittee on Housing, which has as part of its jurisdiction mass transportation, to working with him and the distinguished Senator from New Jersey. He may or may not remain on the committee; but in any event, he will be very much interested in this matter.

Why now? Of course, it is arguable. One can say that the burden of proof does shift. If you get something in place, then the new people have to upset it. They have to start from scratch, get it through the legislative process, get the White House focused on it; and what happens in the meantime?

I reply that fiscal 1981 and 1982 are in place. They are not as generous as the fixed rail systems would like them to be and as this bill would make them. At the same time, on balance, it appears to me to be the better part of wisdom today, having had this debate and excited the interest of the country about mass transit, to ask the new administration to give us a plan, to try to proceed with that, and for them to take that responsibility. As one Senator on the other side of the aisle has pointed out, it will be a heavy responsibility.

The economy is not in good shape. Mass transit is not in good shape. Energy is not in good shape.

I am not standing here trying to send any of these situations into worse shape. I think, however, in terms of the timing of this affair it would be more appropriate to discuss in the next Congress.

Mr. MOYNIHAN. Mr. President, may I first say I can fully understand why the Senator may feel this way. May I say I think this legislation should have been adopted before the election or we should not have come back with all this work undone.

I hope he knows what a responsibility he takes if we pass this bill this afternoon. I hope he knows how much he will hear from this side if the bet he is making does not come through and since I know that he can prevent the bill passing, how much I hope he is right. Neither he nor I want this situation to be ignored. Transit is the center part of our energy problems and the deterioration of the older systems is one that has reached a point that can be called alarming and in a shameful way that word is overused.

I do not think he or I have overused it, but he is putting out hostages to fortune, and he knows it, and the look on his face is not quite so cheerful as it was a moment ago.

I cannot be angry with as good a friend, because I know he meant nothing insidious in his comment about the "United Way." Of all the major systems, the system in New York receives the least proportion of assistance.

I keep repeating that, and one day we will look up and find the city, of New York and the State of New York have decided the Federal budget is no bargain for us at all, and we may just surprise the Senator and agree with everything that Governor Reagan said during the campaign. We will keep our taxes and you find the ways to keep yours.

The Senator from Colorado is more enthusiastic about this than I think he would be were he to get his accountants in and see what would be the consequences. But he would be enthusiastic anyway because he is young, vigorous, and comes from Colorado.

Mr. ARMSTRONG. I thank the Senator from New York.

Mr. MOYNIHAN. I simply wanted to introduce the numbers into the RECORD and say I still hope that this can be worked out. I have not despaired and I wish to tell our beloved chairman that as far as I know this Congress remains in office until the 3d of January, and if he wants to stay here until the 3d of January I will stay here with him.

Mr. LUGAR. Mr. President, may I ask one further question of the Senator if he will indulge me, and that is: He has indicated one of the signals that would be sent out by the passage of this legislation is that Congress has taken cognizance and the Senate in particular of the predicament not only of New York City but of this general problem. But what sort of signals are sent out to a country that is deeply worried about inflation, high interest rates, of spending that still does not appear to be under control, by passage of this large piece of legislation at this point? Does this trouble the Senator from New York or does he face this with equanimity?

Mr. MOYNIHAN. It does not trouble me. New York is a large State, the second largest State. We have the lowest consumption of energy of any State in the Union, a strikingly lower consumption of energy per capita, and we are an industrial State or were. We have 17 million people. They do something for a living. Why do we have the lowest per capital consumption of energy? Principally because of our mass transit. It is astonishing the difference it makes in energy consumption per capita.

That mass transit is collapsing because we have not been able to maintain the capital investment. As it collapses people move to a situation which by definition very much increases their capital energy consumption.

It is a clear tradeoff if you will invest now. Every person using mass transit in New York City is an energy bargain to this Nation. To the degree that that system drives them out, and it is driving them out, your other costs go up.

Mr. LUGAR. I thank the Senator.

Mr. MOYNIHAN. I thank my distinguished friend and do not think because we have had this disagreement we have forgotten 1977.

Mr. LUGAR. Mr. President, prior to this colloquy I was involved in a general description of the problem.

I find it useful, having listed the States and the amounts that they will receive as a percentage, to make the point that 25 States do not receive even one-fourth of 1 percent of the new $1.5 billion that is coming into this economy.

Mr. President, earlier I described this so-called sprinkling effect. I appreciate by all odds now we know that 15 large city systems are the beneficiary of the money. But most of us would not have known that 25 States received miniscule amounts of money, just enough perhaps to keep citizens of those States happy for the time being.

Mr. THURMOND. Does the Senator have a list of them?

Mr. LUGAR. Yes. The distinguished Senator from South Carolina has inquired whether I have a list of the States and indeed I do.

I shall not take the time of the Senate to recite the role of the States at this point, although this may be of interest to Senators in due course. But, for example, of the new $1.5 billion, Alabama would receive just one-quarter of 1 percent and Alaska would receive only 0.04 of 1 percent.

Admittedly, Mr. President, Alabama is larger than Alaska but the quantum leap when we get to Illinois, at 2.79 percent, or New York at 6.55 percent of more money than California, that is 5.15, the relationships break down altogether.

We have a sprinkling of money over the many and the bulk of this additional $1.5 billion goes to the 15 cities, and I will make this part of the record so that Senators will have an opportunity to examine how their States might fare.

Often the large cities in a State lose funds but when we look at the bottom line the statewide total is an increase.

This increase may be an illusion. Let me explain. The formula program provides funds automatically to any urbanized area over 50,000 in population.

The new census will have a dramatic impact on States that are experiencing growth. Any urbanized area in a State that rose 50,000 in population automatically becomes entitled to an allocation under this program. A city will receive funds under the new formula or under the existing formula but when you examine the apportionment chart provided by APTA it appears that a State only receives these funds under the new formula and that is not the case.

A number of States that appear to be better under the new formula in fact do no better. Similarly, the printout provided shows a small urban and rural program funded at zero in 1980. The printout says zero and at a relatively higher level in 1983.

Thus the Senator might believe that rural areas do better under this formula than they do under the existing formula, but that is simply not the case.

A small urban and rural program is funded for 1981 but it is done so under a category that is not shown on the printout.

Mr. President, I yield the floor.

Mr. ARMSTRONG. Mr. President, I listened with interest to the discussion early this afternoon in which the Senator from New York suggested we might well continue to debate this bill until January 3. It led me to wonder whether, if that should be the case, any rules or traditions of the Senate were such that we could erect a Christmas tree in one corner of the Chamber. Have there been any precedents for that so far as the Chair is aware?

While the Chair considers that, let me——

The PRESIDING OFFICER. The Chair might say that the Senator is being a little bit frivolous with his question. The Chair will say that there could not ever be a Christmas tree——

Mr. ARMSTRONG. I am sorry.

The PRESIDING OFFICER. No Christmas trees in the Senate Chamber.

Mr. ARMSTRONG. I am sorry, I cannot hear. My question was whether or not there had ever been a Christmas tree erected in the Senate Chamber.

The PRESIDING OFFICER. Not to my knowledge.

Mr. ARMSTRONG. Well, Mr. President, I hope that Senators who are thinking seriously about keeping the Senate in session between now, Christmas and January 3, would relent on that possibility. Frankly, I think it is somewhat unfortunate that we continue to be in session until this moment.

Mr. President, I am informed that there are those who wish to proceed to other business and, therefore, I yield the floor.

The PRESIDING OFFICER. I might say to the Senator from Colorado that the only thing close to a Christmas tree in the Senate Chamber was a resolution adopted by the Senate in 1905. The resolution was to the effect that until further order, the Sergeant at Arms is not permitted to permit flowers to be brought into the Chamber. Prior to that we had flowers.

Mr. ARMSTRONG. I appreciate the response from the Chair.

The PRESIDING OFFICER. The Chair always will attempt to advise the Senator on the history of the Senate.

Mr. ARMSTRONG. The Senator from Colorado appreciates that. I thought for a moment the Chair might refer to the action of the Senate on yesterday when the question of Christmas trees arose. But I sense that that was not what the Chair had in mind.

Mr. President, I am merely awaiting the pleasure of the Senator from California, so unless someone else wishes to proceed I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

REINSTATEMENT AND VALIDATION OF CERTAIN OIL AND GAS LEASES

Mr. CRANSTON. Mr. President, I ask that we now proceed to Calendar item 1153.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Calendar 1153, H.R. 5769, an act to reinstate and validate U.S. oil and gas leases numbered OCS–P–0218 and OCS–P–0226.

The PRESIDING OFFICER. Is there objection to the consideration of the matter?

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. What was the objection, to taking it up?

Mr. METZENBAUM. Yes.

Mr. CRANSTON. Mr. President, at this stage I ask unanimous consent that we go to Calendar 1024.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I renew my request that we go to the item I just called up.

The PRESIDING OFFICER. Is there an objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, may I ask the Senator from California to withhold. We are uncertain whether or not this has been cleared on our side.

Mr. CRANSTON. Senator McClure, I believe, has approved it.

I gather the temporary objection has been withdrawn?

Mr. ARMSTRONG. One second.

The PRESIDING OFFICER (Mr. Bradley). There is a unanimous-consent request. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORTATION ACT OF 1980

Mr. MOYNIHAN. Mr. President, earlier in the debate on the mass transit bill, I called attention to the extraordinary disparities between the levels of support for the Nation's largest transit system, that of the New York-New Jersey area, and the other systems in the country. I noticed the very modest but important changes that the new bill would make. By modest, I mean they are vital to us but they only close an intolerable gap and make it less intolerable.

I observed that the Senators opposite are taking upon themselves the responsibility to avoid the crisis in mass transit by the failure to pass the mass transit bill.

I would like to mention one particular. That is that the bill before us and the committee report, which the chairman has so brilliantly brought forward to this floor, makes possible a change in the congressionally mandated provisions for the handicapped that would be possible for the New York-New Jersey metropolitan region to put into place. If these new provisions are not law the first of January, which they could be only by allowing this body to vote, to work its will, if they are not in place, the transit systems of the city of New York and northern New Jersey are not going to be able to abide by Federal law. We will be in violation of Federal law. There will be no way to come into compliance, and you will have the bizarre and altogether unnecessary situation of the Nation's largest system becoming, in effect, illegal, very possibly under court orders which would make it impossible to function, and the New York metropolitan region could come to a halt. A crisis of unprecedented proportions would come about and it will have come about because of the willful determination of the gentlemen opposite not to allow the Senate to work its will.

There is no point in shouting about this. Those opposite know well enough what they are doing. They are about to put into place an altogether unnecessary crisis, an altogether destructive one, and, if they do, let the blame be squarely placed where it clearly belongs, on those gentlemen who have only to allow the Senate to vote on this bill to make responsibility for the solution, such as it will be, ours. If they do not, the crisis will be theirs. They must expect to hear about it daily when it comes about. I hope they understand what they are doing.

I fear they are not listening. They will not hear us; they will hear an outraged metropolis not 3 weeks hence.

Mr. President, I yield to the Senator from California.

REINSTATEMENT AND VALIDATION OF CERTAIN OIL AND GAS LEASES

Mr. CRANSTON. Mr. President, I ask unanimous consent that we proceed to Calendar Order No. 1153.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, for reasons which I think are clear to the mover of this matter, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. Mr. President, I move that we proceed to the consideration of Calendar Order 1153.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, what is the pending question?

The PRESIDING OFFICER. The question is on the motion to proceed.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, there has been an objection to the motion to proceed and it has been made by those who, I think, should be supporters of this bill. I am not one of those. It would be wise and instructive for me to say at the beginning that if it is necessary for me to stand here until the last drop of blood drains from my body to keep this bill from passing during the session, I will do it. In order for my colleagues to understand the magnitude and the terrible injustice of this bill, I will go over some background information on the genesis of it.

Mr. President, this bill, if it were to pass the Senate, is estimated to be worth between $3 and $30 billion to a consortium of oil companies generally referred to as the Pauley Group. One of the first arguments I heard in favor of this bill was that this was a group of independent oil companies who needed the largess of Congress in order to be able to compete with the majors in leasing on the Outer Continental Shelf, specifically, in the Santa Barbara Channel, off the coast of southern California.

As of this moment, some of those small independents who need this assistance are Standard Oil of California; Gulf; Pauley Petroleum, Inc.; Mesa Petroleum; Husky Oil Ltd.; Coastal States Gas Inc.; McDonald Oil Co., and several other companies with total assets of only $32 billion. Their revenues in 1979 were only $64 billion.

Mr. President, I want you to know that this is not said casually or facetiously. It is simply said to dramatize the speciousness of the argument that Congress ought to pass this bill in order to do equity. Let me summarize the history of the leases and the reason we are here today.

The Pauley Group was one of several groups of oil companies that obtained leases in the Santa Barbara Channel in 1968. They started to drill.

Then the great blowout occurred in the Santa Barbara Channel on the Union Oil Co. rig in 1969. It resulted in tremendous environmental and ecological damage to the coast of California. I still have vivid memories of birds and beaches covered with oil. At the time of that blowout or shortly thereafter, the Pauley Group had already drilled eight dry holes. There is some suggestion, although I was not in the board room at the time, that Pauley had decided that the lease on roughly 3 square miles of an area was probably going to be dry.

Shortly after the blowout, Mr. President, the Secretary of the Interior issued new environmental regulations for drilling on the OCS. He had a right to do that and he had a right to add it as a condition to every lease in the Santa Barbara Channel. The regulations required operators to be responsible for the control and removal of pollutants and for reparation of any damage "proximately resulting therefrom." In other words, the Secretary said to the OCS operators, "You gentlemen in the Pauley Group and all the rest of you, if you want to keep drilling, go right ahead, but as a new condition you must accept the responsibility for your conduct and the safety of the technology, of making certain that we do not have another Union Oil Co. blowout."

From my standpoint, Mr. President, that was the only decision the Secretary could make. We are all subject to the result of our conduct. Sometimes it is good, sometimes it is bad. But in any event, why should we not be? And, I might add, that has been the rule ever since.

The Pauley Group got their heads together and said, "This is terrible. What if we have a blowout? We cannot assume that liability."

Other operators in the OCS went to the Secretary of the Interior and said, "Yes, we shall try to assume this. We will assume this responsibility." They continued drilling under the new terms of their leases.

But the Pauley Group, with eight dry holes to its credit at that time, elected to do something else.

These people were not paupers, and I can only guess that they had the benefit of wise counsel. I would say the best counsel money could buy. They, along with counsel, decided that they would abandon the lease and take the position that this was an unfair burden that the Secretary had imposed on them. They filed suit in the U.S. Court of Claims for $74 million, which was what they had paid for their lease, and for lost profits of $300 million, which is what they said they would have made had they been allowed to explore and develop the lease without this burden of absolute liability.

Mr. President, I want you to know that as a former lawyer, who represented some fairly good-sized corporations, I understand that decision. They had a perfect right to elect—election is the key word. They had a right to elect to sue, or to pursue the lease. They elected to sue and abandon the lease. It was a legal right.

So they went through the Court of Claims and the Court of Claims said, "No, you are not entitled to anything."

It went all the way to the U.S. Supreme Court and they refused to review it. This took a long time—1969 to 1979.

Is the Senator from California getting impatient?

Mr. CRANSTON. Yes. Will the Senator yield?

Mr. BUMPERS. For a question, or what?

I will yield without losing my right to the floor.

Mr. CRANSTON. I thank the Senator very much.

Mr. President. I would like to state the other side of this issue. I believe if there is producible oil where this lease will be offered, the U.S. Government and citizens and taxpayers stand to gain about $1¼ billion if this bill is passed. That money would be lost to the citizens and taxpayers if the bill is not passed and we proceed in a different direction.

The situation is that the only consortium dominated by small oil companies would be those that produce if this lease was granted. If not, almost surely, some of the giant oil companies would be the ultimate bidders and beneficiaries.

The big oil companies can self-insure against liability, something the small companies find beyond their capacity.

This bill reinstates two oil and gas leases in the Santa Barbara Channel, Calif., for the unexpired portion of the primary term. The bill allows the leaseholders to resume drilling interrupted by one of the first major events of my time in the Senate, insofar as events in California are concerned, the Union Oil blowout in January of 1969. The bill also substitutes for the Government's one-sixteenth royalty interest a 50-percent net profit share arrangement.

That approach was worked out in the House of Representatives. Two California Members, who are not noted for going out of their way to do any favors for the oil companies, Congressman PHIL BURTON and Congressman GEORGE MILLER, played instrumental parts in working it out.

This is an unprecedented profit-sharing plan on a Federal lease that will enable the Federal Government to make far more from this procedure than it would if this bill were defeated.

This measure was exhaustively considered in the House, reported out by the House committee, passed by the House. It was considered by the Senate committee, and various points, including those just made against the measure, were made in the committee and it was reported out by a substantial vote and is now before us.

The bill is based on national energy policy and equity.

The Pauley Group, which is the group that would head this effort, is to begin drilling operations as soon as possible after reinstatement. The bill requires the Group to file an exploration plan within 45 days of enactment.

If commercially recoverable oil is discovered, the Pauley Group can begin production as early as 1983.

If the leases are not reinstated, the earliest resale date is 1983 with development on into the latter part of this decade.

The consortium will pay a windfall profit tax longer than any other lessee.

This measure requires the Pauley Group to comply with all current environmental regulations.

A question might be asked, Who benefits if it is not passed?

It is likely those companies already possessing leaseholds in the area will be the beneficiaries, particularly if they are in a position to drain any reservoir which may lie under the leases.

That is one of the reasons for proceeding to leasing this, so that those drilling nearby cannot drain the field and avoid the sharing that will come to the Federal Government under this procedure.

If I may, I would like at this point to yield to my colleague from California, who wishes to speak on this subject, without losing the Senator from Arkansas' right to the floor.

Mr. HAYAKAWA. I thank my colleague from California.

Mr. President, the legislation before us today, H.R. 5769, is a direct and simple means of providing an equitable solution for the U.S. Government and a group of independent oil and gas developers regarding a 10-year dispute over the question of drilling in the Santa Barbara Channel. The measure would reinstate two oil and gas leases in the channel and allow the lessees to resume drilling which was interrupted due to circumstances surrounding a Union Oil Co. blowout in January 1969. Most importantly, the measure would allow for increased development and production of our oil and gas resources in the Outer Continental Shelf, and encourage the participation of independent companies in this exploration.

In 1968, the Pauley Group, composed of independent oil and gas companies, pooled their resources to bid successfully on two outercontinental shelf tracts in the Santa Barbara Channel. The Group spent $80 million, drilled eight exploratory dry wells and was preparing to drill a ninth well when the Union Oil Co. blowout occurred. The Secretary of Interior requested a temporary suspension of all drilling operations in the channel. On February 3, 1969 the Secretary cleared the companies for drilling. Four days later, he reversed himself and ordered the companies to cease their drilling. This indecision—the conflicting signals coming from Interior—created an atmosphere of confusion and uncertainty. The confusion was exacerbated by the imposition of a standard of liability for offshore oil spills making operators absolutely liable for any damage to the environment or third parties by oil spills.

As Senator CRANSTON explained, the strict liability standard presented an extreme hardship for all independent oil companies. Unlike the majors, the independents faced a collaped insurance market and were totally incapable of sustaining the staggering amounts of self-insurance needed to comply with the Secretary's strict liability standard. In effect, this meant that independents were banned from offshore oil operations.

For those of us in the Small Business Committee, among other things, this is a very serious matter. The big, major oil company can help insure itself and help itself out of a tight corner like this. But the independents cannot afford to do so. I believe in the preservation of the independents.

In light of the uncertainty of the policy within the Department of Interior and the tremendous financial risks associated with the strict liability standard, the Pauley Group decided it could not afford to wait for some form of governmental action which would permit resumption of drilling and perhaps alter the extremely burdensome liability standard. Seeking judicial relief for the extreme financial losses which it had incurred and which it would continue to incur seemed the only option open to these companies. In April 1969 the Pauley Group filed suit in the Court of Claims for breach of contract against the United States. These legal proceedings dragged on for a decade, and in January of this year the Court of Claims dismissed the group's claim and suggested they turn to Congress for legislative relief. That is why the problem is before us.

Enactment of H.R. 5769 would reinstate the two leases for the unexpired term, approximately 4 years, 126 days and so long thereafter as oil or gas is produced in paying quantities. The bill also requires the lessees to exercise "due diligence" on the exploration and development leases; it requires the lessees to comply with all environmental and regulatory requirements of the OCS Lands Act Amendments of 1978; and it requires the lessees to pay back rentals for the period 1973 to the present.

After extensive hearings and investigation in the House, an amendment was adopted which provides for a net profit share arrangement with a 50-percent share for the Federal Government, following the companies recovery of its costs plus a 15-percent premium. Furthermore, the amendment requires that the payment to the United States be at least equivalent to the royalty provided for in the original leases. I believe this arrangement would insure a favorable and fair return to the Treasury.

Mr. President, in summary, we are dealing with a group of independents who are seeking legislative relief so that they may be allowed to resume the exploration of their leases in a manner beneficial to the group, the Treasury, and consistent with our Nation's environmental and energy policies. I believe that the unique circumstances and history of the Pauley Group's leases in the Santa Barbara Channel warrant this reinstatement in a timely fashion by the Congress. These two leases are the only ones remaining from the 1968 sale where much needed oil and gas exploration and development has not been able to go forward. H.R. 5769 will pave the way for rapid development of the leases and immediate financial benefits for the Government. There has been a thorough investigation in the House, which voted unanimously for passage of the legislation. I urge my colleagues to follow this House action.

The Pauley Group, it is claimed, had their bite of the apple in 1969 when they chose to go to court and were unsuccessful. The reply to that is that there seems to be a belief that if a citizen challenges the U.S. Government in a court of law seeking certain relief and is not successful, he should somehow be prevented from seeking equitable relief from Congress. Certainly, that is not so.

When, in fact, the court of claims pointed the way for legislative relief, the court of claims specifically suggested that we should go to Congress, and I quote from the decision of the court of claims:

> Perhaps the legislative or executive branches could, as a matter of grace or policy, extend their lease-terms to permit them to drill further (if they still wish to) in the effort to discover oil in commercial quantities, but of course we cannot take that step.

I urge my colleagues, therefore, to support this legislation, which will release the oil available from lease to lease sites.

Mr. BUMPERS. Mr. President, I will continue with the chronological history of these leases.

The Pauley Group made an election to go to court. The Court of Claims found that they had a right to go to the Secretary. They might even have talked the Secretary into ameliorating what they considered the harshness of an absolute liability rule. But they did not do that.

As I say, they made an election; and everybody in this who professes to have any knowledge of the law knows that in cases such as this, you often make an election. "You pays your money and you takes your choice," as they say. The Pauley Group elected to go to court and sue the United States, and they lost.

The interesting thing about this was that during the course of all this litigation, Chevron hit oil. They hit oil on a tract close to the tract the Pauley Group had abandoned. I might add that if Chevron had not hit oil, we would not be here today, and the Pauley Group would not give you 10 cents for the lease back.

However, now the Pauley Group says that in order to do simple justice and equity they should be given their leases back. They said:

> We made the wrong option in 1969 by electing to go to court. We thought we had a bird nest on the ground, but the Court of Claims found otherwise.

They did not recover the $300 million in lost profits which they said they would have made—and there was not a scintilla of evidence to justify that relief—but also they did not even recover the $70 million they had paid for the lease.

Then they come in at this late date, 10 years later, and say:

> Since we lost in court and since Chevron has hit oil right by us, we want our leases back.

What happened? This bill passed the House, and it would have passed out of the Energy Committee almost undetected by the human eye, except that I just happened to be there that morning and began to ask a few pertinent questions about it.

It is interesting—and I do not want to deprecate my colleagues or the committee on which I serve—but there has not even been one hearing in the Energy Committee of the U.S. Senate. Not one person has testified in the Senate that the Pauley Group has been treated fairly or unfairly.

I guess just about everybody in Arkansas who is considered a friend of mine has been calling me because they were contacted by thus and so and said:

> Dale, we don't understand this. This bill passed the House. They had hearings on it. We can't understand why you are objecting to it.

I am objecting to it because I do not think it is fair. I do not think it is equitable. I do not think it is just.

Let me repeat: The staff of the Energy Committee has estimated that this lease, if it is reinstated under this bill, would have a value of between $3 billion and $30 billion. The Pauley Group answers by pointing out under the terms of the bill, they have agreed to pay the Government 50 percent of all their profits from this lease.

I want to announce publicly: Give it to me, and I will give the Government 70 percent of the profits. I might even go to 80 percent. I am not sure what I am willing to give the Government, but it will be in excess of 50 percent of the profits. I will file an exploration plan and a development plan as required under the Outer Continental Shelf Leasing Amendments of 1978.

I do not want to do any harm to the Pauley Group. All I want is for this lease, which was abandoned, to be let on a competitive basis.

Let the Pauley Group and everyone else bid on it. That is all I am asking for.

If the highest bidder only wants to give 25 percent of their profits to the United States, that is OK with me. That is the way we should conduct the public business. We should conduct it out in the open, competitively, so everyone has a chance and everyone knows that it has been handled in a fair and judicious way.

I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to speak very briefly but to indicate my own concern about this legislation.

I have indicated my opposition when it was in the committee. It came out on a day when I was not present. I was conducting another hearing.

This is the wrong legislation we are talking about enacting at the wrong time.

The Senator from Arkansas has indicated that he would be prepared to speak until the last drop of blood that he had in his body. I would not want him to do that. If there were extended debate I would be prepared to share that floor with him to indicate that this legislation should not be enacted during this session of Congress. It should not be enacted during the next session of Congress. It is bad legislation, and although I have great difficulty in opposing any proposal of my good friend from California I would be prepared to continue to discuss the lack of merit to the legislation.

However, it is my understanding the Senator from California is seeking recognition and on that basis I yield to him without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. METZENBAUM. I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, from the comments that I have heard stated in the Chamber this afternoon and based on conversations I have had privately with Senators, I am constrained to believe that the attempt to proceed at this time would be an act in futility.

I hesitate to ask the distinguished Senator from California (Mr. CRANSTON) to consider withdrawing his motion. I know how interested he is in proceeding with the legislation. I know how dedicated he is to that effort.

But there are some other measures that I feel the Senate could dispose of this afternoon and should dispose of as well as this except I do not think that the Senate could dispose of this. I think Mr. BUMPERS and Mr. METZENBAUM have made their positions eminently clear and for that I personally express my appreciation to them for their forthrightness. But apparently because of the circumstances and in the context of the time limitations that confront the Senate I wonder if the distinguished Senator from California would allow me to, most respectfully, beseech him to consider withdrawing his motion so that the Senate can proceed to take up a revenue sharing conference report which the distinguished Senator from Louisiana (Mr. LONG) is waiting to call up and if he would do that, I would be most appreciative.

Mr. CRANSTON. Mr. President, I regret very much that the calendar seems to make it impossible to proceed with this measure at this time. Were we at another stage of the session and could go through one or two or perhaps three filibusters and get cloture and bring this bill to a vote, I believe the bill would pass.

I base that upon what happened in the House in committee and then on the floor of the House of Representatives. I base that also upon what happened in the Senate committee and upon the broad support for the measure on both sides of the aisle, including leading members of that committee who have studied this matter with great care.

I also base it upon the fact that I am in concert with my colleague from California, Senator HAYAKAWA, and he on one side of the aisle and I on the other believe that this bill is not only in the best interest of the State of California but in the best interest of the Nation.

We have that belief because the measure would, we believe, produce far more significant revenues to the people of the Nation and far more supplies of oil at an earlier date than will be the case if the measure is not proceeded with.

I say, also, that there has been nothing covert about any of this effort. Competitive bidding is one way to go. There has been competitive bidding in the past, and a lease was let. The oil blowout occurred. The consortium that won the lease was unable to proceed.

We have now come to a point where there is an effort to proceed at the earliest possible date in a way that financially would serve the best interests of our country.

This bill has been explored in great detail in the House committee, on the House floor, and in the Senate committee.

So all who wish to as the two opponents of the bill are well aware have had full opportunity as they have had full opportunity to examine all aspects of the bill and most of those who have examined it with care have decided that it makes sense and should be enacted.

However, I recognize the fact that we have a continuing resolution that must be passed, a debt limit increase that must be considered, a vitally important revenue-sharing bill that must be considered, and there are other matters that I hope can be considered also, and we have dwindling attendance here. Therefore, cloture would become tougher and tougher to achieve.

Mr. President, I recognize the unhappy facts of life and I withdraw my motion.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for the action he has taken.

Again I recognize his dedication to the effort and apologize for being forced to a situation where I had to make a suggestion, but first, last, and always Senator CRANSTON is a realist and I think he has expressed his position well and I again thank him.

Mr. President, I yield the floor.

Mr. HAYAKAWA. Mr. President, I am very disappointed that the Senate was not allowed to consider H.R. 5769, a bill which equitably reinstated two oil and gas leases, because of the roadblocks put in its path by two of my colleagues on the other side of the aisle. This is particularly frustrating in view of the fact that the legislation passed the House unanimously and was approved by the Senate Energy Committee with an overwhelming majority.

I hope this legislation will be considered early next session and in that regard ask the Senator from Idaho, the next chairman of the Energy Committee, to move this bill through his committee expeditiously so that the Senate is not confronted with the procedural problems we faced earlier today.

Mr. McCLURE. Mr. President, I agree with the Senator from California that this legislation is meritorious and thus I assure him that I will do everything I can as chairman to move the bill quickly so that we can get on with the business of increasing domestic oil and gas production.

Mr. STEVENS. Mr. President, I want to also assure my distinguished colleague from California, who worked so hard to reach this equitable and practical solution to this unique problem, that as the new assistant majority leader I will work with the Senator to expedite consideration of this legislation by the Senate once it has been reported by the Energy Committee.

Mr. CRANSTON. Mr. President, I am disappointed that we couldn't pass this sound and strongly supported bill today because of the circumstances prevailing in this closing stage of this Congress.

I am encouraged that we will have a new opportunity—free of the present time constraints—in the new Congress.

EXTENSION AND AMENDMENT OF GENERAL REVENUE SHARING PROGRAM

Mr. LONG. Mr. President. I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7112.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 17, 18, 19, and 29 to the bill (H.R. 7112) entitled "An Act to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 20 to the aforesaid bill with the following amendment: In lieu of the matter inserted by said amendment, insert "1983"; and;" and on page 3 of the House engrossed bill, on lines 13, 14, and 15, and on lines 23, 24, and 25, strike out "for the entitlement period beginning October 1, 1980, and ending September 30, 1981", and insert "for any entitlement period beginning on or after October 1, 1980".

Resolved, That the House agree to the amendment of the Senate numbered 21 to the aforesaid bill with the following amendments:

(1) Page 8, line 8 of the Senate engrossed amendments, strike out "(4."; and", and insert "(4).".".

(2) Page 8, strike out lines 9, 10, and 11.

Resolved, That the House agree to the amendment of the Senate numbered 22 to the aforesaid bill with the following amendment: In lieu of the section designation inserted by said amendment, insert "(d)".

Resolved, That the House agree to the amendment of the Senate numbered 23 to the aforesaid bill with the following amendment: In lieu of the section designation inserted by said amendment, insert "(e)".

Resolved, That the House agree to the amendment of the Senate numbered 24 to the aforesaid bill with the following amendment: In lieu of the section designation inserted by said amendment, insert "(f)".

Resolved, That the House agree to the amendment of the Senate numbered 27 to the aforesaid bill with the following amendment: In lieu of the section designation inserted by said amendment, insert "(g)".

Resolved, That the House agree to the amendment of the Senate numbered 28 to the aforesaid bill with the following amendment: In lieu of the section designation named in said amendment, insert "(h)".

Resolved, That the House agree to the amendment of the Senate numbered 32 to the aforesaid bill with the following amendment: In lieu of the section number named in said amendment, insert "SEC. 4.".

Resolved, That the House agree to the amendment of the Senate numbered 35 to the aforesaid bill with the following amendment: In lieu of the section number named in said amendment, insert "SEC. 6".

Resolved, That the House agree to the amendment of the Senate numbered 36 to the aforesaid bill with the following amendment: In lieu of the matter inserted by said amendment, insert "sections 1, 2, and 4 of".

Resolved, That the House disagree to the amendments of the Senate numbered 1–16, 25, 26, 30, 31, 33, and 34 of the aforesaid bill.

Mr. LONG. Mr. President, I ask unanimous consent that the Senate recede from its amendments Nos. 1 through 16, 25, 26, 30, 31, 33, and 34, and that the Senate concur in the House amendment to Senate amendments Nos. 20 through 24, 27, 28, 32, 35, and 36.

The PRESIDING OFFICER (Mr. HEFLIN). Is there objection?

Mr. METZENBAUM. Mr. President, reserving my right to object, and I do not intend to object, will the Senator from Louisiana be good enough to advise us as to whether any of the House amendments would affect tax revenues of the Treasury Department?

Mr. LONG. No. This bill deals strictly with revenue sharing.

Mr. METZENBAUM. I thank the Senator, and there are no other provisions in the conference report to that effect?

Mr. LONG. No. There is nothing in this bill except revenue sharing provisions.

Mr. METZENBAUM. I thank the Senator.

I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Without objection, it is so ordered.

Mr. LONG. Mr. President, let me state further that while I would have liked to have had the opportunity to confer with the House of Representatives on this matter, the House of Representatives did yield to the Senate on some significant provisions that the Senate added to the bill. Furthermore there are other provisions such as the provision relating to Hawaii and Alaska, an amendment by Mr. MATSUNAGA, and an amendment by Mr. BRADLEY relating to the territories which in my view still remain in conference on the continuing appropriation resolution.

In fact, it may be that some of the other provisions that the House of Representatives did not accept might also be subject to being agreed to in the conference between the Senate and the House of Representatives on the continuing appropriation resolution, so that I am hopeful that the conference between the two appropriations committees may bring forth some other provisions that the Senate voted on revenue sharing in addition to what the House of Representatives agreed and sent to us on this bill.

At least what we have here will assure that revenue sharing will be continued for all the cities, counties, and local governments throughout the United States during the next fiscal year and we will have an opportunity next year to consider this subject and improve on it if we can.

I thank all Senators for their help and their cooperation and the consideration that they gave us in moving this bill, and I suspect this is about the best we are going to be able to do under the circumstances.

Mr. ROBERT C. BYRD. Mr. President. I move to reconsider the vote by which the action was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SACRAMENTO VALLEY CANALS

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2111.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

NOVEMBER 21, 1980.

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2111) entitled "An Act to extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes, with the following amendments:

Page 2, after line 3, insert:

SEC. 3. Any water service contract hereinafter entered into by the Secretary of the Interior with the Yolo-Zamora Water District shall contain provisions establishing—

(a) that water users shall pay for such water at a rate equivalent to the cost of the service to the Yolo-Zamora Water District or the districts repayment capacity, whichever is less, but in no case less than the annual operations, maintenance, and replacement costs allowable to the district for service of Central Valley project water, all as determined by the Secretary of the Interior in conformance with reclamation law and in consultation with the district: *Provided*, That the district's repayment capacity and the operations, maintenance, and replacement costs shall be recalculated and revised no less frequently than every five years and the water rates adjusted as appropriate to reflect such revisions;

(b) that any water supply contract between the Secretary and the Yolo-Zamora Water District shall provide that in the event of a dry or critically dry year the water supply provided to the Yolo-Zamora Water District may be reduced by the Secretary for salinity control purposes consistent with administrative and operations practices of the Central Valley project; and

(c) that the lands in the Yolo-Zamora Water District which are classified as class 4 and 6 pursuant to the Secretary of the Interior's classification standards for irrigable lands and which have not previously been under active cultivation shall not be irrigated with project water.

UP AMENDMENT NO. 1924

(Purpose: To establish the Big Sur Coast Area in the State of California)

Mr. CRANSTON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1924.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. President, this amendment would establish——

Mr. HAYAKAWA. I ask that the amendment be read in full.

The legislative clerk proceeded to read the amendment.

ORDER OF BUSINESS

Mr. LONG. Mr. President, I ask unanimous consent that we might turn to a privileged matter I would like to submit to the Senate.

-Mr. STEVENS. I object unless I find out what happens to this amendment.

Mr. LONG. All I want to do is to act on a message on a House bill, H.R. 3317, which they sent to us, a noncontroversial matter. I just want to agree to the House action, that is all.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Again I object. What is the parliamentary situation with regard to the pending amendment and the pending bill?

Mr. LONG. I guess you go back to where you are.

Mr. HAYAKAWA. Where are we? I asked for the reading of the amendment.

Mr. ROBERT C. BYRD. The distinguished Senator from Louisiana is trying to bring up a privileged matter, and once that is disposed of, the Senate will be right back where it is now.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, will the Senator from Louisiana indicate what it is?

Mr. ROBERT C. BYRD. He has already done so.

Mr. LONG. We passed H.R. 3317, which is a relatively noncontroversial measure, the House sent it back, and I will be glad to explain what the House did. I am sure the Senator will have no objection if he will let me explain it.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, is it the understanding that the measure as it comes up will not be subject to amendment, or will it be subject to amendment?

Mr. LONG. Well, I say to the Senator, conceivably it could, but I do not think there is anything controversial about it. All I am planning to do is ask the Senate to agree to the House amendments.

Mr. METZENBAUM. Will the Senator be good enough to explain it?

Mr. LONG. If I can get to it, I would be glad to explain it. But at the moment I am asking consent so that we can get to the matter. Just laying it before the Senate does not mean agreeing to it. I am asking that we have the opportunity to get to this matter. It is a privileged matter.

Mr. STEVENS. Mr. President, reserving the right to object, I have been in the conference committee on Appropriations. I would like to be heard on the prior measure. When I got up here I found that the bill was pulled down and we are in the middle of another bill, and I do not understand what is happening here. I will object to anything that changes the procedure unless I find out what has happened to the bill I want to be heard on.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading be dispensed with.

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue reading the amendment.

The legislative clerk continued to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, and I only reserve the right to object so that I may know what to expect. Is it the intention of the Senator from Alaska to allow us to proceed to the consideration of another matter?

Mr. STEVENS. Yes. I interrupted a privileged motion the Senator from Louisiana wanted to make.

Mr. LONG. There is no objection to it.

Mr. McCLURE. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. In the event that the unanimous consent is granted and this matter is set aside temporarily so that we may go to the matter the Senator from Louisiana wishes to consider and then we return to the pending matter, would it then require the reading of the amendment?

Mr. LONG. I am just trying to take care of my friends out there in Idaho. Those people are entitled to have some consideration in Congress when they have a problem that requires a change in the law.

Mr. McCLURE. Mr. President, I just wanted to know where we would be on the pending matter when we returned to it.

Mr. LONG. We would be right back where we are.

The PRESIDING OFFICER. The Chair advises that the reading of the amendment will have been unanimously dispensed with.

Mr. HAYAKAWA. Mr. President, I object to dispensing with the reading of the amendment. I am perfectly happy to interrupt the reading of the amendment for the purpose of the senior Senator from Louisiana getting recognized. But after his work is finished, I would like the clerk to continue his reading of the amendment so we understand what it consists of.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, I wonder if it is in order to ask unanimous consent that the matter be temporarily set aside and that, upon the disposition of the other matter, we return to the same point we are now in the reading of the amendment.

The PRESIDING OFFICER. I think that is what the Senator from California requested.

So the unanimous-consent request is that we dispense with the reading of the amendment——

Mr. LONG. No, I am not asking that. I am just asking that the matter be temporarily set aside.

The PRESIDING OFFICER. If the Senator will let me finish, I will be glad to do it.

That it be temporarily set aside, the Senator from Louisiana will be recognized, then we will go back to the reading. That is the unanimous-consent request.

Is there objection? Hearing no objection, it is so ordered.

RELIEF OF OHIO WESLEYAN

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3317.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 3317) entitled "An Act for the relief of Ohio Wesleyan University, Delaware, Ohio."

Resolved, That the House agree to the amendment of the Senate to the text of the aforesaid bill with the following amendments:

(1) Page 4, strike out lines 10, 11, and 12 of the Senate engrossed amendments, and insert: by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) SPECIAL RULE FOR CERTAIN TREAD RUBBER

(2) Page 9, strike out all after line 9 over to and including line 17 on page 10, and insert:

SEC. 4. TREATMENT OF BONNER'S FERRY RESTORIUM UNDER THE SUPPLEMENTARY SECURITY INCOME PROGRAM.

(a) TREATMENT AS NON-PUBLIC INSTITUTION.—For purposes of title XVI of the Social Security Act, the Boundary County Restorium (popularly known as the Bonner's Ferry Restorium) in Bonner's Ferry, Idaho, shall not be considered a public institution (within the meaning of section 1611(e)(1)(C) of such Act).

(b) EFFECTIVE DATE.—Subsection (a) shall apply to supplemental security income benefits payable under title XVI of the Social Security Act for months beginning with November 1980.

(3) Page 10, line 20, after "274", insert "of the Internal Revenue Code of 1954".

Mr. LONG. Mr. President, on October 1 of this year, the Senate considered and passed the bill H.R. 3317. This bill included several tax amendments which had been recommended by the Committee on Finance, and the Senate added to it two additional tax amendments. One of these dealt with preserving the tax status of wine and flavors used in the production of distilled spirits and the other dealt with the tax treatment of certain expenses includible in the income of the recipient.

In addition to these tax amendments, a Senate floor amendment was agreed to which affects the eligibility of persons residing in certain public institutions for assistance under the supplemental security income (SSI) program. This SSI amendment was narrowly drawn to cover type of situation which had been identified in the case of an institution in Idaho in which the institution is publicly owned but is operated almost wholly with nonpublic funding. Under the amendment, residents of such an institution would have been exempted from the general rule denying SSI benefits to persons who are in public institutions.

Subsequent to Senate passage of this amendment, the administration expressed concern that its application might be broader than had been anticipated and might therefore involve some significant costs beyond that which was originally anticipated. For this reason, the House has modified this Senate amendment to deal with this issue on a strictly private relief basis which applies to only one institution, which is the Bonner's Ferry Restorium in Idaho. The House amendment also makes two purely technical modifications to other parts of the Senate amendment.

On this basis, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which H.R. 3317 passed the Senate.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SACRAMENTO VALLEY CANALS

The Senate continued with the consideration of the bill (H.R. 2111).

UP AMENDMENT NO. 1924

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The legislative clerk continued with reading the amendment.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, it being my intention to take up the debt limit measure, which would have the effect of temporarily displacing this. This is a privileged matter and can be called up again later.

Mr. HAYAKAWA. Mr. President, I shall not object.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment follows:

At the end of the bill add the following new title:

TITLE II

SEC. 201. This title may be cited as the "Big Sur Coast Area Act".

SEC. 202. The Congress finds and declares that—

(a) The Big Sur coast is a unique region of national significance as the largest and most scenic stretch of undeveloped coastline in the coterminous United States;

(b) the unique beauty of the Big Sur coast is enhanced by its proximity to the Los Padres National Forest, including the Ventana Wilderness, and by the independent and self-reliant character of the people of the area;

(c) the existing character of the Big Sur coast and the existing rural communities which have contributed to the maintenance of the natural environment should be protected and preserved;

(d) the California State Highway Route Numbered 1 along the Big Sur coast from Malpaso Creek in Monterey County to San Carpoforo Creek (San Carpojo Creek) in San Luis Obispo County provides one of the most beautiful drives in the United States, and shall remain a rural scenic two-lane highway.;

(e) there is growing development, tourist visitation, and associated vehicular traffic, particularly during peak use periods, which is adversely affecting the unique beauty and character of the Big Sur coast;

(f) the local planning efforts being conducted by Monterey and San Luis Obispo Counties, the citizens of the Big Sur coast, and the State of California pursuant to the California Coastal Act of 1976 and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451–1464), and planning by the United States Forest Service for the Los Padres National Forest provide a unique foundation for coordinating Federal, State, and local planning and management processes;

(g) the local and State coastal planning and regulatory authorities lack sufficient resources to provide for adequate and comprehensive natural resource protection and equitable compensation to landowners, and to effectively manage and appropriate public use and enjoyment of the area;

(h) effective protection of the existing character of the Big Sur coast and of the nationally significant natural and scenic resources, and enjoyment of these resources can be accomplished by State and local land-use control efforts coupled with appropriate Federal assistance where necessary to supplement these efforts, including the acquisition of selected lands and interests in lands and the provision of limited Federal management to implement coordinated policies for the Big Sur coast.

PURPOSES

SEC. 203. The purposes of this title are—

(a) to protect, preserve, and enhance the unique and significant natural resources and scenic qualities of the Big Sur coast, including, but not limited to, sensitive habitats and habitat for rare and endangered species, redwood canyons, beaches, fresh and marine waters, and the view from California State Highway Route Numbered 1, the Old Coast Road, and other significant public vista points;

(b) to protect and perpetuate the rural character and historic agricultural activities of the existing communities along the Big Sur coast and the historic and cultural values of the Big Sur coast in a manner consistent with natural and scenic resource protection;

(c) to provide for and manage public use and enjoyment of the area in a manner consistent with natural resource protection and maintenance of the existing rural landscape;

(d) to protect and support private landowners' conservation efforts consistent with the purposes stated in paragraphs (a), (b), and (c);

(e) to utilize the land use planning, regulatory powers and implementation authorities of Monterey County, San Luis Obispo County and the State of California to the fullest extent possible consistent with the other purposes of this title;

(f) to provide Federal assistance in the development and implementation of a comprehensive management plan (hereinafter in this title referred to as the "plan"), and prior to the adoption of such plan, to protect those critical values of significance only when they are in danger of being adversely affected or destroyed; and

(g) to define the Federal role in the implementation and enforcement of the plan and other land-use plans for the Big Sur coast in a manner which maximizes coordination with the State and local units of government and private landowners, utilizes existing levels of jurisdiction and establishes appropriate governmental coordination and authority where necessary to accomplish the purposes of this title, and to provide appropriate financing and enforcement where necessary to preserve and protect the natural and scenic resources of the Big Sur coast.

BIG SUR COAST AREA

SEC. 204. (a) In order to carry out the purposes of this title, there is hereby established the Big Sur Coast Area (hereinafter in this title referred to as the "area"). All references to the area in this title shall be limited to the area described in this section.

(b) The boundary of the area shall generally extend from the southern bank of Malpaso Creek in Monterey County in the north to the northern bank of San Carpoforo Creek (San Carpojo Creek) in San Luis Obispo County in the south; its western boundary shall be the line three geographical miles seaward from the coastline of the State; its eastern boundary shall be the same as the inland boundary of the California Coastal Zone as established by the California

Coastal Act of 1976 as in effect as of the date of enactment of this Act, except that in San Luis Obispo County the boundary shall be along the county line westerly from the intersection with the California Coastal Commission's boundary to the intersection with the described southern boundary at a point approximately in the center of the northern line of section 1, township 25 south, range 6 east, Mount Diablo meridian; all as depicted on the map entitled "Boundary Map, Big Sur Coast Area," dated May 1, 1980, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, in the field offices of the Forest Service in Monterey and San Luis Obispo Counties, and in the appropriate planning offices of the State and county governments involved.

BIG SUR COAST AREA COUNCIL

SEC. 205. (a) There is hereby established the Big Sur Coast Area Council (hereinafter in this title referred to as the "Council"), the members of which shall be appointed within ninety days after the date of enactment of this Act. Within one hundred and twenty days after the date of enactment of this Act, the Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") shall convene the Council. The Council shall, in accordance with subsection (a), develop and recommend the plan, facilitate communication and coordination among the governmental agencies that have jurisdiction within the area and the residents and landowners of the area, and advise the Secretary on the appropriate Federal role in the management and administration of the area. The plan developed by the Council shall be prepared so as to carry out the purposes of this title. The Council shall, notwithstanding any other provision of law, be terminated only by an Act of Congress.

(b) The Council shall consist of the following representatives who shall be appointed by the Secretary from persons nominated as follows:

(1) one representative from the United States Forest Service to be nominated by the Secretary;

(2) one representative from the California Resources Agency to be nominated by the Governor of California;

(3) one representative from the California Coastal Commission to be nominated by the Governor of California;

(4) three representatives to be nominated by the Monterey County Board of Supervisors in such manner as may be determined by such Board of Supervisors—

(A) one who resides in the area from Malpaso Creek to Bixby Creek;

(B) one who resides in the area from Bixby Creek to Anderson Landing; and

(C) one who resides in the area from Anderson Landing to the Monterey and San Luis Obispo County line;

(5) one representative who resides in the area from the Monterey and San Luis Obispo County line to the southern boundary of the area to be nominated by the San Luis Obispo County Board of Supervisors in such manner as may be determined by such Board of Supervisors;

(6) one representative who resides in the area to be nominated by the Secretary; and

(7) one representative at large from the State of California to be nominated by the Secretary.

(c) (1) The terms of the representatives serving on the Council shall be for three years, except that the initial terms for the representatives shall be established by the nominating authority in accordance with the following:

(A) One of the representatives nominated by the Monterey County Board of Supervisors shall serve for a term of two years, and two of such representatives shall serve for terms of three years.

(B) The representative nominated by the San Luis Obispo County Board of Supervisors shall serve for a term of three years;

(C) One representative nominated by the Governor of the State of California shall serve for a term of two years and one shall serve for a term of three years;

(D) Two representatives nominated by the Secretary shall serve for a term of two years and one shall serve for a term of three years.

(2) All reappointments nad renominations of representatives on the Council shall be made in the manner set forth in this section, except that any person appointed to fill the unexpired term of any representative on the Council shall be appointed only for the remainder of such term.

(3) If, for any reason, there is a failure to nominate any representative as provided in subsection (b), notwithstanding such failure, the Secretary shall convene the Council and the Council may conduct business.

(4) The representative of the United States Forest Service nominated under subsection (b) (1) shall serve as Chairman of the Council.

(5) To the maximum extent practicable, all meetings of the Council shall take place within the area.

(6) (A) Members of the Council who are full-time officers or employees of the United States, or of a State or local government, shall receive no additional pay on account of their service on the Council.

(B) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service under section 5703 of title 5, United States Code.

(d) The Secretary shall provide the Council with such staff and technical assistance as the Secretary, after consultation with the Council, considers appropriate to enable the Council to carry out its duties.

(e) The Council shall be responsible for the following:

(1) Development and recommending to the Secretary the plan.

(2) Reviewing and monitoring the implementation by Federal, State, and local agencies having jurisdiction within the area of all programs set forth in the plan to ensure consistency and compliance with the plan, and making appropriate recommendations for revision and enforcement of the plan.

(3) Reviewing all Federal development projects and plans for consistency with the plan for the purpose of submitting recommendations thereon to the Coastal Commission in accordance with section 7 (d) of this title.

(4) Recommending to the Secretary appropriate agreements with public agencies and private nonprofit organizations to further the purposes of this title, and to implement the plan.

(5) Making such other recommendations to the Secretary and State and local units of government as it may deem necessary to carry out the purposes of this title.

COMPREHENSIVE MANAGEMENT PLAN

SEC. 206. (a) On or before the expiration of the twenty-four month period following the date of the enactment of this Act, the Council shall recommend to the Secretary the plan for the protection and management of the area.

(b) During the development of the plan the Council shall—

(1) consult with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the area;

(2) consult with interested professional, business, conservation, and citizen organizations; and

(3) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to testify with respect to matters to be addressed by the plan.

(c) The plan shall include the following components:

(1) The land-use plan component of the local coast programs developed by Monterey and San Luis Obispo Counties and certified by the California Coastal Commission pursuant to the California Coastal Act of 1976; Provided, that nothing contained in this title shall be construed to authorize the Secretary or the Council to amend any portion of the certified local coastal programs under the California Coastal Act of 1976.

(2) A component including, but not limited to, consideration of available land and water protection and management techniques, including zoning and regulation derived from State and local police powers, development and use standards and permit requirements, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or leaseback, acquisition of public recreation sites and ecologically sensitive areas, and any other method of land and water protection and management which will help meet the goals and carry out the provisions of the plan.

(3) An inventory of lands and waters or interests therein, which should be considered for acquisition by the Secretary or, with Federal assistance, by private nonprofit organizations or public entities, for the following critical purposes: preservation of scenic views from California State Highway Route Numbered 1 and other important vista points; protection of environmentally sensitive habitat areas; public access to the beaches and coastal uplands; protection of the watershed, public health and safety; interpretation of the natural and cultural heritage of the area; development of minimal visitor-serving facilities; and implementation of the local coastal program.

(4) A coordination component including, but not limited to, provisions for the maximum feasible participation of State and local governments and the public in the implementation of the plan in a manner that will ensure the continued, uniform, and consistent protection of the area in accordance with the purposes of this title.

(5) A community resource protection component including, but not limited to, identification of rural residential enclaves and an assessment of them to consider whether more development is appropriate, consistent with the purpose of this title. Lands in areas determined to be suitable for development shall not be designated for purchase by the Secretary. The Secretary may enter into agreements with state or local agencies and may enter into contracts with private non-profit organizations to assist in the implementation of this component in these areas.

(6) A highway transportation component implementing the intent of the California State Legislature regarding State Highway Route Numbered 1 expressed in the California Coastal Act of 1976. Such component shall include, but not be limited to, the specific manner to (A) preserve the rural, scenic, two-lane highway within the area, (B) ensure residents continued access to their homes, and (C) minimize highway congestion that seriously impairs the enjoyment of the natural and scenic resources of the area.

(7) A public use component which includes a plan for managing visitation to the area. This shall include, but need not be limited to, a plan for providing information about

the scenic features, recreation opportunities, and visitor facilities in the area; a plan for the interpretation of the resource and natural values in the area for the enjoyment and appreciation of visitors; and a plan for managing public access and use to the extent necessary to protect the natural and scenic values in the area.

(8) A comprehensive resources protection and management component including, but not limited to, all natural, historic, and cultural resources in the area, and protection and management of unique or sensitive plant or animal habitat, or both.

(9) An agricultural component including procedures for protection of the historic agricultural uses of existing agricultural lands.

(d) The Council shall treat the components of the plan as set forth in subsection (c) as the basis for the plan only insofar as there are no conflicts with the purposes of this title.

(e) If the local coastal programs for the area mandated by the California Coastal Act of 1976 are not certified by the California Coastal Commission by the statutory deadline of July 1, 1981, the Council shall proceed to recommend for adoption by the Secretary a land-use plan and implementation program for the area that shall be in effect until certification of the local coastal programs. The interim land-use plan and implementation program shall be based on the policies of the California Coastal Act of 1976, and shall use to the maximum extent possible the planning for the area accomplished to date by the counties of Monterey and San Luis Obispo.

(f)(1) The Secretary shall, within one hundred and twenty days after the date the plan is submitted to him by the Council, review the plan to determine its consistency with the purposes of this title and shall, on the basis of this review, approve or amend the plan. Should the Secretary fail to act on the proposed plan within such period, the plan shall be treated as approved. If the Secretary amends the plan, the Secretary shall, within one hundred and twenty days after the date the plan is submitted to him by the Council, submit in writing to the Council any amendments made by the Secretary to the plan, together with an explanation of the reasons for such amendments.

(2) When the Secretary submits an amended plan to the Council, the Council shall respond to the amendments made by the Secretary by submitting to the Secretary, within ninety days after its receipt of the amended plan, any recommendations of the Council for changes in the plan (as amended by the Secretary) or, if the amended plan is acceptable to the Council, a statement that no revisions in the amended plan are proposed. If the Council fails to act within such ninety days, the Secretary's amended plan shall be deemed to be adopted.

(3) Within 30 days after receiving the response of the Council, the Secretary shall consider such recommendations and shall adopt a Plan which responds to the Council's recommendations in a manner which is consistent with the policies and purposes of this title.

(4) The plan may be revised from time to time in accordance with the procedure set forth in this section. The Council shall review the plan periodically, but not less frequently than once every five years.

ADMINISTRATIVE RESPONSIBILITIES WITHIN THE AREA

SEC. 207. (a)(1) Within the area, State and local governmental authorities of the State of California having jurisdiction shall exercise their authorities in a manner which is not inconsistent with the plan.

(2) Within one hundred and twenty days after the adoption of the plan, the counties of Monterey and San Luis Obispo and each State agency having jurisdiction in the area shall submit to the Council a program which describes the manner within their respective jurisdiction in which such county or agency shall provide for the implementation of the plan. The Council shall review the programs submitted under the preceding sentence and shall submit comments to each entity submitting such a program. The Council shall also consult with such entities and provide guidance to assist them in exercising their authorities in a manner consistent with the plan.

(b)(1) The Secretary shall administer the national forest system lands within the area in accordance with the provisions of this title and the laws applicable to the National Forest System in such manner as will best implement the plan adopted under section 6 of this title. Prior to the adoption of the plan, those portions of the area consisting of National Forest System lands shall be administered in accordance with the laws applicable to the National Forest System in a manner that will best achieve the purposes of this title. For the purposes of administration and management of lands or interests in lands acquired by the Secretary under the provisions of this title, the boundary of the Los Padres National Forest shall include such lands acquired within the boundaries of the area.

(2) The provisions of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4–4601–11) shall be applied within the area without regard to the acreage limitations set forth in such provisions, and in applying such provisions, the purposes of this title shall be treated as outdoor recreation purposes.

(3) Subject to valid existing rights, all federally owned lands within the area are withdrawn from the operation of the mining and mineral leasing laws of the United States. No timber harvest or other cutting of timber shall be permitted on so much of the Los Padres National Forest as is within the area except to the extent necessary to control fire, disease, or insect activity.

(c) The Secretary, with the advice of the Council, shall provide for the administration of the plan and shall insure, within his existing powers, that the plan is carried out by all Federal, State, and local agencies having jurisdiction within the areas as required under subsection (a). The Secretary may enter into contracts and agreements with State or local agencies, landowners, or private nonprofit oragnizations in order to provide for the management of the area in accordance with the provisions of the plan. Authority to enter into contracts and agreements and to make payments under this title shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. The Secretary shall be responsible for implementing section 6(c)(7) of this title and for coordinating the efforts of Monterey and San Luis Obispo Counties and the State of California to manage visitation on lands within the boundaries of the area managed by the counties and the State.

(d) Any consistency certification, consistency determination, or negative determination submitted to the California Coastal Commission pursuant to section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451–1464) for any development project or plan within or adjacent to the area shall include a recommendation made by the Council for concurrence or objection by the coastal commission, based on the Council's review of the project or plan for its consistency with the plan. If the Council fails to make its recommendation within sixty days after the submission of a consistency review by the Federal agency or the applicant to the coastal commission, the Council shall be considered to have made a recommendation for concurrence. Each Federal agency conducting or supporting activities directly affecting the area shall, after consultation with the Council, conduct or support such activities in a manner which is, to the maximum extent practicable, consistent with the plan. Any Federal agency proposing to undertake any development project in the area shall, after consultation with the Council, insure that the project is to the maximum extent practicable, consistent with the plan.

LAND ACQUISITION AUTHORITIES AND RESTRICTIONS

SEC. 208. (a) From the date of enactment of this Act until adoption of the plan, the Secretary may acquire (1) lands, waters, or interests therein within the area by donation, purchase with donated or appropriated funds, or by exchange, where such lands, waters, or interests therein have been recommended for such acquisition by the Council, or (2) any other lands, waters, or interests therein determined by the Secretary; in accordance with the purposes of this title, to have critical ecological or scenic values which are in immediate danger of being adversely affected or destroyed.

(b) After the plan has been adopted, the Secretary shall have the following authorities in such areas as set forth in the plan;

(1)(a) The Secretary may acquire by donation, purchase with donated funds or by exchange in accordance with subparagraph (B), any lands, waters, or interests therein (including scenic easements) within the area. Lands, waters or any interests therein within the area may be acquired without the consent of the owner thereof only to the extent provided under subsection (c) of this section. Lands, waters or any interests therein within the area owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange. In exercising the authority provided under this subparagraph, the Secretary shall, to the extent feasible, acquire less than fee simple title to lands and waters.

(B) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or any interest therein, located within the area, and in exchange for such property or interest, may convey to the grantor any federally owned property under the jurisdiction of the Secretary within the State of California which the Secretary classifies as suitable for exchange or disposal. The values of the properties so exchanged shall be equal, or if not equal, shall be equalized by the payment of cash to the grantor or to the United States, as the circumstances require. In the exercise of the authority to exchange property, the Secretary may utilize authorities and procedures generally available to him in connection with the exchange of lands.

(2) The Secretary may make grants under this title to the State, local governments, or private non-profit organizations or public entities for the acquisition of lands and waters or interest therein within the area to carry out the purposes of this title. The grants authorized by this section shall—

(A) be made in accordance with regulations promulgated by the Secretary, consistent with other applicable law, to carry out the purposes of this title;

(B) not exceed 50 per centum of the total cost of each parcel acquired by the State, by any local government, or by private nonprofit organizations or other public entities under this paragraph;

(C) be supplemental to any other Federal financial assistance for any other program; and

(D) be subject to such additional terms and conditions as the Secretary may deem necessary to effectuate the purposes of this section.

(3) In accordance with the provisions of the plan, the Secretary may convey title of

property acquired pursuant to this title to State and local governmental entities where management efficiencies would thereby result and where such lands would be managed and protected in accordance with the purposes of this title. If the Secretary publishes his written opinion that the property has ceased to be used and protected pursuant to the provisions stipulated at the time of such conveyance, the title to the property shall promptly revert to the United States, and the property shall be managed by the Secretary in accordance with the purposes of this title. Ninety days prior to his conveyance of property pursuant to this provision, the Secretary shall publish notice of the proposed conveyance in the Federal Register and shall also inform, in writing, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his intention to do so and the reasons therefor. Upon such conveyance, the Secretary shall publish notice to that effect in the Federal Register.

(4) The Secretary may sell or lease back lands purchased within the area, as provided under paragraph (1), subject to restrictions in the deed or lease as the Secretary deems appropriate to ensure that such lands are used in a manner consistent with the purposes of this title; Provided, that the last previous owner or successor in interest shall be given right of first refusal of any such action proposed by the Secretary. The Secretary shall use the authority of this paragraph to provide for efficient management of the area and to preserve existing uses of the land in carrying out the purposes of this title.

(c) (1) The Secretary shall have no authority under subsection (b)(1) to acquire, to make grants to acquire, lands, waters or interests therein within the area without the consent of the owner thereof unless such acquisition is required—

(A) to provide for public access and recreation use as specified by the plan; or

(B)(i) to prevent new uses which would be substantially incompatible with the plan where the Secretary determines that there is no feasible alternative available to prevent such uses, (ii) to reclaim lands on which such new uses have been initiated, or (iii) prior to adoption of the plan, to prevent new uses which are substantially incompatible with the purposes of this title.

(2) In no event shall the Secretary acquire without the consent of the owner thereof any structure on which construction was initiated prior to July 1, 1980, including such lands on which the structure is located as are determined to be reasonably necessary to the use and enjoyment of the structure; *Provided*, That the structure was approved pursuant to State and local law.

(d) Whenever the Secretary of Defense determines any lands under his jurisdiction within the area are excess to the needs of the Department of Defense, such lands shall be transferred to the Secretary and shall be administered by the Secretary pursuant to the management plan. The exclusive jurisdiction exercised by the United States on the Federal lands transferred to the Department of Agriculture by the Department of Defense on June 4, 1957 (pursuant to 70 Stat. 736) is hereby changed to propriety jurisdiction.

SAVINGS PROVISION

SEC. 209. Nothing in this title shall be construed to affect or in any way diminish the authority of the California Department of Fish and Game or the California Fish and Game Commission to regulate or otherwise manage and preserve the fish and wildlife resources of the State in the area.

DEFINITIONS

SEC. 210. For purposes of this title, the term—

(1) "private non-profit organization" means an organization described in section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code and which was exempt from taxation under section 501(a) on the date of the enactment of this title.

(2) "contract" includes a contract or cooperative agreement which may involve the expenditure of appropriated funds.

AUTHORIZATION OF APPROPRIATIONS

SEC. 211. There is hereby authorized to be appropriated for the purposes of this title, effective October 1, 1981—

(1) an amount not to exceed $5,000,000 from the General Fund of the Treasury for administration, making grants, and management and planning, as authorized by this title; and

(2) an amount not to exceed $25,000,000 from the Land and Water Conservation Fund in the Treasury for acquisition, such sums to remain available until expended.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 636.

Mr. LUGAR. Mr. President, reserving the right to object, may I ask a question of the majority leader?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. LUGAR. Would the effect of the motion also be to displace the mass transit legislation for the time being? I appreciate it is a privileged matter that can be brought back, but for the moment, it would be displaced?

Mr. ROBERT C. BYRD. For the moment, it would just be suspended and would retain its status quo. If the Senator likes, I could ask unanimous consent that both measures be taken down for the present.

Mr. LUGAR. I make that request.

Mr. ROBERT C. BYRD. Without prejudice to their privileged status.

Mr. LUGAR. I make that request.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

The PRESIDING OFFICER. Is there objection? Hearing no objection to both matters being taken down, it is so ordered.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 636.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 636) to provide for a temporary increase in the public debt limit.

The Senate proceeded to consider the joint resolution, which had been reported from the Committee on Finance with amendments, as follows:

On page 1, line 4, strike "September 30," and insert "March 31";

On page 2, line 2, strike "$578,600,000,000" and insert "$556,600,000,000".

Mr. LONG. Mr. President, this joint resolution will increase the temporary public debt limit to $956 billion through March 31, 1981. The limit under present law is $925 billion through February 28, 1981.

The limit in present law is consistent with the outdated economic and budget assumptions of the first budget resolution for fiscal year 1981. The purpose of this resolution is to provide the Treasury Department with some additional margin for debt operations early next year and to allow Congress sufficient time to organize itself and to enact a debt limit to cover the remainder of the fiscal year that will recognize the economic outlook at that time.

Secretary Miller told the Finance Committee that in view of the present economic outlook, it will be possible for the Treasury to carry out its responsibilities with the present debt limit no more than a few days after the start of February. In addition, Treasury will be able to stay within the present debt limit at the end of December and January only by reducing the operating cash balance below the $15 billion level usually assumed for these calculations.

The debt limit proposed in this resolution is consistent with the more realistic economic and budget assumptions in the second budget resolution. The increase is smaller and the time period shorter than those provided in the second budget resolution, but $956 billion through March 31, 1981, is within the last budget projection made for fiscal year 1981.

When Congress again revises the public debt limit early next year, it will be able to approve a debt limit that also will take into account the budget and economic plans of the new administration. By that time, the new President probably will have transmitted to Congress his proposals to revitalize the economy and control the budget.

Mr. President, I asked that Mr. DOLE be notified that we are moving to consider this matter. I know he favors it. I have discussed it with him and he participated in the discussion in the committee. He has personally discussed the matter with me and also with the minority leader (Mr. BAKER), urging that we should take this matter up and pass it as we had mentioned in the committee.

Mr. STEVENS. Mr. President, the Senator stated the understanding that I also have on Senator DOLE's position. He is at a meeting at the present time with the Secretary of the Interior-designate and has sent word he will be here in a few minutes.

Mr. LONG. Could we go ahead and agree to the committee amendments? The committee amendments simply say that the date will be March 31 and the total amount would be—the figure given is $556.6 billion, but the total amount would be $956.6 billion, because the permanent debt limit is $400 billion.

Mr. STEVENS. Mr. President, in the absence of the Senator from Kansas (Mr. DOLE) I agree that the committee amendments should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments en bloc.

The committee amendments were agreed to en bloc.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

Mr. LONG. Mr. President, just a moment. Have we voted on the bill?

The PRESIDING OFFICER. We have voted to agree on the committee amendments en bloc. The motion to table the motion to reconsider is agreed to in the absence of objection.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we have no objection to proceeding with that joint resolution.

Mr. ROBERT C. BYRD. Mr. President, the joint resolution is open to amendment now, is it not?

The PRESIDING OFFICER. It is.

The question is on the engrossment of the committee amendments and third reading.

Mr. RIEGLE. Mr. President, we were attending a meeting and I want to be sure we have the debt limit measure here.

Mr. ROBERT C. BYRD. Mr. President, the Senator is correct. The debt limit resolution was called up. The committee amendments were agreed to, but the Senator is protected in that the resolution is open to further amendment at this time. The leadership sent for the distinguished Senator so he may be here to look after his interests.

Mr. RIEGLE. I thank the leader.

We have an amendment to offer, Mr. President, Mr. LEVIN and others and I. We are in the process of bringing that into the Chamber. I should like to have a brief quorum call before doing that. Then I shall be prepared to proceed.

Mr. STEVENS. Mr President, if there is to be a quorum call, I should like to state that we shall object to rescinding it until the Senator from Kansas arrives. He is on the way back now. If there is any other business to be transacted, we shall wait. If there is no other business, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. STEVENS. Reserving the right to object, is the Senator seeking to introduce an amendment at this time?

Mr. RIEGLE. Not to debate it, simply to introduce it and lay it down.

Mr. STEVENS. I might say that I have been asked to request the quorum call stay on until the Senator from Kansas arrives, so that he might discuss this with the Senator and the Senator from Louisiana, if the Senator will wait until he arrives. He will be along.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Robert Russell, Bill Mattea, Barbara Burns, and Patricia Sherman be granted the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GOLDWATER. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued the call of the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I believe we have reached some agreement and, in the interim, while it is being finally worked out, I would like to present a statement for the RECORD in support of the debt limit extension.

Mr. President, on June 26 the Senate approved an extension of the limit on the public debt through February 28, 1981, with the limit fixed at $925 billion. This extension was signed into law, and we thought we were done with consideration of the debt limit this year. We were wrong.

As one consequence of this year's economic roller-coaster, we are once again obliged to consider the public debt limit. The deficit for fiscal year 1980 has soared to nearly $60 billion for on-budget items alone. In fiscal 1981 we may reasonably anticipate a deficit in excess of $50 billion, although many of us hope the new administration and Congress will act promptly to cut that figure back. Still, the prospects for a balanced budget in fiscal year 1981 are not good, particularly since the fiscal year is already nearly one-fourth over.

Mr. President, on Tuesday Treasury Secretary Miller testified before the Subcommittee on Taxation and Debt Management generally. Secretary Miller stated that, according to Treasury estimates, the public debt will reach $928 billion by the end of this month. This is already higher than the ceiling we have provided through next February, so action is clearly needed to cover the financing needs of the Government into next year. Once the present limit is reached, the Treasury Department will be unable to refinance outstanding debt that matures or issue new obligations to meet our borrowing needs in the coming year.

On Thursday the Senate Finance Committee agreed to report House Joint Resolution 636, the debt limit extension approved by the House in conjunction with the second budget resolution for fiscal year 1981. The committee amended the House resolution to provide a limit of $956 billion through March 31, 1981. This is the resolution before us now, and I urge that we approve it without delay so as to guarantee that this matter is not left hanging at the conclusion of this Congress.

An extension through next March is appropriate. By that time we should have some clear indication of how the economic policies of the new administration and Congress will affect the borrowing needs of the Government. We can then approve a further extension in line with those policies. There is no reason at this time to commit ourselves to a limit through next September that may or may not be realistic.

Mr. President, I would like to take a few moments to touch on the underlying issue regarding the debt limit. The unchecked growth of Federal expenditures and deficit finance. Of course it is difficult to guarantee that the budget be in balance every year, but we can do better than to have but one balanced budget in 20 years. A balanced budget should be the norm, consistent with a normal healthily-growing economy. We should also run surpluses in years of high prosperity. A number of approaches have been suggested to reestablish the balanced budget as the "norm," including amending the Constitution to require a two-thirds or three-fifths vote to adopt a deficit budget. I have supported such an amendment myself, but whatever device is chosen, it is clear that Congress must take action to get a firmer grip on the Federal budget. The recent budget reconciliation package approved by Congress may prove to be a useful guideline for the future, but clearly we need to do more. Failure to control the level of the public debt, given current rates of interest, is simply not responsible fiscal management.

The distinguished chairman of the Finance Committee, Senator Long, remarked the other day that it might be advisable some day to experiment with letting the debt expire, to demonstrate just what the consequences are when the government fails to meet its obligations. That would be an interesting experiment, but I hope it will not be necessary to go that far to demonstrate the need to guarantee that the U.S. Government will honor its debts. But the best way to make that guarantee is to control the level of government debt, and that should be our highest priority in the next few years.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1925

(Purpose: Authorizing the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States)

Mr. RIEGLE. Mr. President, I have an amendment which I send to the desk in my own behalf and in behalf of Senator LEVIN, Senator EAGLETON, Senator DANFORTH, Senator ROTH, and Senator BIDEN and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. Riegle) for himself and others, proposes an unprinted amendment numbered 1925.

On page 1, beginning with line 6, strike out all through page 2, line 13, and insert in lieu thereof the following: "importation into the United States, of automobiles and trucks, and the parts used in assembling them, and enter into and carry out such agreements. The authority provided by the preceding sentence shall expire on July 1, 1983.

"(b) No negotiation shall be entered into pursuant to subsection (a) unless the President considers, after consulting with the Secretary of Commerce and the United States Trade Representative, that increased imports of automobiles and trucks, and the parts used in assembling them, are causing serious injury, or threat thereof, to the domestic industry; and is satisfied that the domestic industry has exhausted available remedies under section 201 of the Trade Act of 1974. Further, any agreement entered into pursuant to subsection (a) shall be for a limited period of time, not to exceed the time necessary to allow orderly adjustment to import competition, and shall not have force and effect after June 30, 1983.

"(c) The President shall seek information and advice from representative elements of the private sector, including representatives of consumers, with respect to negotiating objectives and bargaining positions before entering into an agreement referred to in subsection (a), either in accordance with section 135 of the Trade Act of 1974 or in accordance with such other procedures as the President may establish.

"(d) The President is authorized to issue regulations governing the entry or withdrawal from warehouse of automobiles and trucks, and the parts used in assembling them, to carry out any agreement referred to in subsection (a).".

Mr. LONG. Mr. President, I move that the amendment be laid on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LONG. I raise a point of order, Mr. President, that the motion is not debatable.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the amendment be substituted by a different amendment—the same content, but the first one contained typographical errors. I send the second, corrected amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, proposed by Mr. Riegle, for himself, Mr. Levin, Mr. Eagleton, Mr. Roth, Mr. Danforth, Mr. Glenn, Mr. Metzenbaum, and Mr. Biden, is as follows:

At the appropriate place, insert the following new section:

Sec. . (a) The President may, whenever the President determines such action appropriate, negotiate with the representatives of foreign governments in an effort to obtain agreements limiting the export from such countries, and the importation into the United States, of automobiles and trucks, and the parts used in assembling them, and enter into and carry out such agreements. The authority provided by the preceding sentence shall expire on July 1, 1983.

(b) No negotiation shall be entered into pursuant to subsection (a) unless the President considers, after consulting with the Secretary of Commerce and the United States Trade Representative, that increased imports of automobiles and trucks, and the parts used in assembling them, are causing serious injury, or threat thereof, to the domestic industry; and is satisfied that the domestic industry has exhausted available remedies under section 201 of the Trade Act of 1974. Further, any agreement entered into pursuant to subsection (a) shall be for a limited period of time, not to exceed the time necessary to allow orderly adjustment to import competition, and shall not have force and effect after June 30, 1983.

(c) The President shall seek information and advice from representative elements of the private sector, including representatives of consumers, with respect to negotiating objectives and bargaining positions before entering into an agreement referred to in subsection (a), either in accordance with section 135 of the Trade Act of 1974 or in accordance with such other procedures as the President may establish.

(d) The President is authorized to issue regulations governing the entry or withdrawal from warehouse of automobiles and trucks, and the parts used in assembling them, to carry out any agreement referred to in subsection (a).

(e) No person shall be liable for damages, penalties, or other sanctions under the Federal Trade Commission Act (15 U.S.C. 41-77), the Antitrust Acts (as defined in section 4 of the Federal Trade Commission Act (15 U.S.C. 44)), or section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), or any similar State law, based upon actions necessary to implement any agreement referred to in subsection (a), or any modification or renewal of such an agreement.

Mr. LONG. Mr. President, I renew my motion.

The PRESIDING OFFICER. The question recurs on the motion to lay the amendment on the table.

Mr. LONG. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will resume the call of the roll.

The legislative clerk resumed and completed the call of the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Connecticut (Mr. Ribicoff), the Senator from Maryland (Mr. Sarbanes), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. Biden) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Minnesota (Mr. Durenberger), the Senator from New York (Mr. Javits), the Senator from Illinois (Mr. Percy), the Senator from Texas (Mr. Tower), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

The PRESIDING OFFICER (Mr. Glenn). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 12, nays 65, as follows:

[Rollcall Vote No. 538 Leg.]

YEAS—12

Chafee
Garn
Goldwater
Hatfield
Hayakawa
Humphrey
Long
Matsunaga
McClure
Packwood
Stevenson
Weicker

NAYS—65

Armstrong
Bellmon
Boren
Bradley
Boschwitz
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Eagleton
Exon
Ford
Glenn
Hart
Hatch
Heflin
Heinz
Helms
Hollings
Huddleston
Inouye
Jackson
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Lugar
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—23

Baker
Baucus
Bayh
Bentsen
Biden
Bumpers
Church
Culver
Durenberger
Durkin
Gravel
Javits
Johnston
Kennedy
Magnuson
Mathias
McGovern
Percy
Ribicoff
Sarbanes
Stennis
Talmadge
Tower

So the motion to lay the amendment (UP No. 1925) on the table was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, could I just hear the vote repeated again?

The PRESIDING OFFICER. Twelve yeas and sixty-five nays.

Mr. RIEGLE. Mr. President, I yield to my colleague.

Mr. EAGLETON. Mr. President, the U.S. auto industry is experiencing the most disastrous year in its history.

In the first 9 months of this year, total industry losses before taxes were a staggering $4.5 billion—$1.5 billion each for General Motors, Ford, and Chrysler.

Despite new model buildups, fully one-fourth of our auto work force—some 182,000 men and women—are on indefinite layoff. An additional 700,000 workers in related industries have also joined the jobless ranks.

Since January 1, 1979, more than 100 supplier plants and 2,100 dealers have closed their doors.

Finally, the estimated cost to taxpayers this year in the form of auto-related unemployment benefits and lost taxes is some $2.8 billion.

In stark contrast to the depression state of our own industry, Japanese auto production is enjoying meteoric success. This year, they supplanted the United States as the world's largest car and truck producer, with an estimated 11.3 million units while our own production dropped to 8.1 million vehicles, the lowest in 19 years. Based on the best information available, Japanese production will take another quantum leap to 12.8 million by 1982.

Mr. President, there is no secret to the Japanese formula for success. It is export, export, export, and export some more. That is transparently clear in the numbers themselves. Since 1972, Japan's domestic demand has never exceeded 5 million units. The approximate doubling of production since that time has been exclusively for the export market and that principally to the United States.

Alone among the major auto-producing countries of the world, the United States ignores the impact on its own industry and insists on keeping the import welcome mat out. Who can fault the Japanese from making the most of the invitation, and they have. In 1976, the Japanese share of our auto market was 9 percent. Today it is 22 percent. The Japanese share of our light truck sales has soared from 8 to 23 percent in the same period.

Mr. President, these figures make clear that the issue in this debate is not free trade but, rather, unresisted exploitation. How is that this country came to be appointed the sole practitioner of unrestrained trade in this key industrial product? The European Common Market countries may applaud our noble stand but they certainly do not propose to imitate us. As against our token 3 percent tariff, the Common Market maintains a uniform 11 percent tariff and, in addition, individual member countries have either negotiated a voluntary marketing limit or, as in the case of Italy, imposed a hard quota. Other consuming countries have similar high tariffs or requirements that some part of the vehicle be manufactured in their country.

I ask unanimous consent that a table outlining the various protection policies of these other countries be printed in the RECORD at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NATIONS WITH MAJOR DOMESTIC AUTO PRODUCTION

Country	1979 car industry sales (thousands)	1979 Japanese car import market share (percent)					Protection of domestic car industry (nearest whole percentage)
		0	5	10	15	20	
Brazil	830	(1)					95 percent local content or 185-205 percent duty.
Mexico	268	(1)					50 percent local content.
Venezuela	94	(1)					51 percent local content or 120 percent duty.
South Africa	213	(1)					66 percent local content or 95 percent duty.
Spain	588	(1)					90 percent local content or 3 percent duty.[2]
Italy	1,329	(1)					11 percent duty[3] and bilateral import quota restricting Japanese imports to 2,000 cars a year.
Argentina	196	1.2					92 percent local content or 85 percent duty.
France	1,976	2.2					11 percent duty[3] and informal limit on Japanese car share to 3 percent or less.
Germany	2,567		5.7				11 percent duty.[3]
Canada	1,005			8.2			14 percent duty.
United Kingdom	1,716				10.8		11 percent duty[3] and agreement with Japanese to restrict car market share to 10-11 percent or less.
Australia	458					15.2	85 percent local content or 58 percent duty (quota limits import share to 20 percent of market).
United States	10,510					[4]16.6	3 percent duty.
Memo: Japan	3,322	[5]1.8					No duty, but protected by high duties in the past and now by a major cost advantage.

[1] Less than 0.1 percent.

[2] Effective rate is about 63 percent because of additional taxes.

[3] Effective rate is about 14 percent because of c.i.f. basis (f.o.b. cost plus insurance and freight) and value-added taxes. Tariff is zero on trade within the European Common Market.

[4] 9 mo 1980, 21.8 percent.

[5] All imports.

Note: The United States is virtually alone among auto producing countries in not restricting Japanese imports with high duties, quotas, and local content requirements—thus, the United States has been a prime target for Japanese cars.

Mr. EAGLETON. Mr. President, despite these protective arrangements, European leaders are showing some anxiety that U.S. concerns about foreign imports might lead the Japanese to a new interest in their markets. The press of recent months tells the story: "Giscard Holds Line on Japanese Car Imports," "Japanese Car Makers to Continue U.K. Sales Limit," "VW Chief Warns Japan Against Car Exports Rise," "Japan To Cut Motor Exports to Germany," "European manufacturers association—led by Fiat, VW, and Renault—to meet with Japanese manufacturers association in Tokyo November 18 to seek Europeanwide agreement limiting Japanese imports," "Japanese Government reply to EC Commission's call for restraint due November 14," "EC Parliament to debate auto import issue," "Italy wary of Japanese auto push."

Mr. President, the International Trade Commission has denied a petition for trade relief on grounds that Japanese imports were not the primary cause of our auto industry's problems. I disagree with that decision, but we are not seeking to retry that case here. There is a fundamental difference in the two situations.

The ITC, by law is bound to identify and weigh the causes of an injury. Our responsibility, by contrast, is to look for remedies quite apart from what factor or factors may have brought the situation about.

Mr. President, the American auto industry is embarked on the most massive modernization and retooling effort in its history. It will invest an estimated $50 billion over a 4-year span to try to meet the demands of a marketplace revolutionized by the energy crisis. It cannot hope to make that transition and continue to lose billions and billions of dollars every year. At some point it must have reasonable respite from the unrestrained flood of auto imports. Whether imports were the primary cause of our plight or not, some control of imports is an essential part of any recovery.

Mr. President, the only purpose of this amendment is to authorize the President to undertake talks with the Japanese to bring about voluntary restraint in their auto imports. It is totally discretionary. It sets no quotas or tariffs. It sets no binding targets.

Mr. President, the survival of our auto industry and the future health of our economy may depend on our coming to grips with this critical problem. I urge adoption of the amendment.

Mr. RIEGLE. Mr. President, I think this vote that just occurred is a highly significant vote.

I thank all our colleagues for their support in deciding not to table the auto import resolution which several of us on both sides of the aisle have brought forward today.

I think the size of this vote makes it clear that there is a very strong concern and feeling in the Senate about this issue as we have seen on previous votes here in Congress.

This resolution passed the House of Representatives last week by a vote of 317 to 57. It was reported out of the Senate Finance Committee by a vote of 13 to 2. Now, by this very substantial margin 65 to 12 here today, the Senate has gone on record in terms of the importance of bringing this issue forward and having an opportunity to debate it and act upon it.

I trust that the importance of that message will travel outside this Chamber to everyone who is involved in this problem and very particularly to our friends abroad.

Under the parliamentary situation that we are in today and in its remaining hours of this session of Congress it became obvious and will be obvious shortly, that we were not going to be able to bring this matter to a final vote. The opponents feel very strongly about this, and they are certainly entitled to their views, but they have indicated to us in a number of conversations, including conversations today, that this particular matter is one that we were not going to be able to bring to a final vote because we would be facing either a filibuster or objections that would prevent us from having a final record vote on this matter.

I am deeply sorry that that is the case. I would much prefer that we could have that kind of final expression on this issue, and so the vote that has just taken place today is, in effect, the definitive vote on the substance of this issue at this time.

It was the sponsors' feeling that we did not want to create a filibuster, carried on by our opponents, that would either delay the other work of the Senate or to prevent the necessary extension to the debt limit, so we have had to face those realities.

The important point here, and it is the point that I think foreign nations have to understand, and particularly our friends in Japan, is that there is tremendous concern about the damage that is being done to the domestic automobile industry in the United States by the massive volume of Japanese imported cars and trucks coming in the United States, something on the order of 20 percent of the total market at the present time, and it is an enormously damaging situation.

There are other problems as well that beset the industry at a time when it is attempting to redesign the cars, down size the cars, and modernize the factories. Every company is moving at top speed to get that particular job done and with the problem of high interest rates and other matters the loss of 20 percent of our domestic market to foreign manufacturers has done great damage to us at this time. Over the next several weeks, with the prime interest rate now at 20 percent, unless the Japanese exercise restraint and unless they draw back we face the prospect of further permanent damage to the American automobile industry and to our industrial base including the steel companies, the rubber companies, the glass companies, the aluminum producers and suppliers and dealers and all the other parties that are connected to this vital industry.

I think it is safe to say that unless trade restraint is shown at this time, that while we may be thwarted by the parliamentary situation today in the Chamber, starting early next year when the new session commences we will be in a different parliamentary situation. I think Congress has clearly expressed itself on how it feels about this issue and I hope that we would not need further legislative action, but I am just as sure that if it is needed it will happen and it will happen before much more time passes.

So I hope that in a spirit of accommodation we could see the kinds of adjustments take place that are good for both countries and for all our trading partners. At the present time the Japanese have a knife at our throat with respect to the volume of the imports coming into the United States. It is one of the reasons that we have nearly a million people out of work in this country at this time.

So I hope that this vote today will be taken very seriously and that we can move forward from this point to an accommodation that can be good for both nations and for the future of the economy here in the United States, and I may have another word or two to say a little bit later but I will not say more at this time.

Mr. HAYAKAWA. Mr. President, I have two statements relative to Senator RIEGLE's concerns. One is my own opposing the passage of Senator RIEGLE's amendment and another is an article from the New York Times by our distinguished colleague, Senator ADLAI STEVENSON, entitled "Don't Curb Car Imports."

Mr. President; I am opposing the passage of Senator RIEGLE's amendment to authorize the President to negotiate restrictions on imports of autos, trucks, and parts because I believe it would be harmful to American consumers and the U.S. position in the international trade market.

Such restrictions would increase costs to the consumer and deny freedom of choice. During the International Trade Commission hearings on this subject the Federal Trade Commission testified that the proposed quota on imports would cost consumers $3 to $5 billion a year in higher prices and that the proposed tariff would cost consumers $5.6 to $6.6 billion a year in higher prices. If my colleagues are willing to restrict free trade and pass on the effects to the consumer, then we must also be able to assure them of the benefits. However, I see no benefits.

Restrictions on imports will shelter domestic producers from the competition of better quality imports, provide a disincentive for manufacturers to improve and compete, and allow domestic producers to raise prices without modifying their product. They will also encourage the purchase of less efficient automobiles thereby increasing our need for imported oil.

Consumers will not be the only ones harmed. This amendment could cause retalitory restrictions by other countries against our export products and many of our recently negotiated trade agreements will be put in jeopardy. These consequences would harm many industries, individuals, and the ability of the United States to negotiate trade agreements in the future.

The International Trade Commission has already ruled against imposing import restrictions on Japanese autos, trucks, and parts, citing that imports were not a substantial cause of serious injury to the auto industry. Instead, the causes were reported as being the U.S. economic conditions and the shift in consumer demand. We should not be debating import restrictions. The correct jurisdictional agency has already done so. The Senate should be debating ways to improve the U.S. economic conditions. That is the best way we can help the auto, and all other, industries.

Mr. President, I would like to see the U.S. autos become more competitive and attractive to the consumers as much as any of my colleagues. However, I do not believe this amendment would accomplish that or be in the best interests of the American people.

Mr. President, I ask unanimous consent to have printed in the RECORD the New York Times article by Senator ADLAI E. STEVENSON entitled "Don't Curb Car Imports."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DON'T CURB CAR IMPORTS

(By ADLAI E. STEVENSON)

WASHINGTON.—Without so much as one day of hearings, the Senate is being pressed to act in the waning hours of this session on legislation with far-reaching implications—all ominous—for United States trade and industrial policy.

This ill-considered measure, authorizing the President to negotiate restrictions on imports of cars and trucks, was rammed through the House last week. It is a scheme aimed at protecting the American automobile industry from the competition of Japanese imports. This resolution is an unprecedented attempt to circumvent a determination by the International Trade Commission, and grant trade protection to an industry unable to establish that increased imports are the principal cause of its difficulties.

There is no question that the auto industry is suffering. Domestic car sales have slumped dramatically, from 9.3 million in 1978 to an expected 6.7 million this year. But to attribute this decline to foreign competition is wrong; over the same period, sales of imported cars have increased by only 500,000 units. Even if all those imports were rusting at the docks, the United States industry would still be in serious trouble.

The current recession, high interest rates, high wages, and rapidly escalating new-car prices are the real culprits complicating Detroit's big shift to production of the small, fuel-efficient cars that American consumers want.

The Japanese can hardly be blamed for the rapid growth of demand for small cars induced by rising gasoline prices. Even Douglas Fraser, president of the United Auto Workers, has acknowledged that "the OPEC nations and the price of oil had a tremendous impact on what happened in our industry—in fact, the most important thing in all probability."

Detroit's new models are selling well and the Big Three may already be starting to beat back the competition. There is no evidence that imports have displaced domestic small-car sales.

If imports are not the problem, can trade protection be the solution? Not according to the President's Council of Economic Advisers and the Congresssional Budget Office. They calculate that even a 20 percent cut in imports (Ford and the U.A.W. want twice this reduction) would add $4 billion to new-car prices and bring only 16,000 of some 190,000 laid-off auto workers back to the production lines. These figures translate into a cost to consumers of $245,000 for every auto job regained—surely the most exorbitantly inefficient job-creation program in our history. Because more than 90 percent of current layoffs are at plants producing large cars, cutting small-car imports cannot have much effect. And the few gains in auto employment would be offset by losses in other industries resulting from diminished trade.

There is no assurance that a cutback in imports would enhance the United States auto industry's competitiveness. Indeed, trade protection would reduce the industry's incentive to improve quality, trim production costs, moderate wage increases, and develop the well-built, fuel-efficient cars that American consumers want.

Protectionist legislation for the automobile industry would send a clear signal to others that their salvation lies in lobbying the Congress, and open the door to political pressures from a parade of beleaguered industries. It would also invite retaliation, with serious consequences for United States exports, which account for one of every eight manufacturing jobs and produce from one of every three acres of farmland.

The advocates of trade protection are organized, visible industry lobbies. The national interest is broader; it includes the interests of consumers, farmers, exporters, and all the industries of the future whose growth is constrained if we divert resources unproductively through trade protection or subsidies. It also includes the long-term interests of the auto industry and 100,000 workers likely to be laid off permanently as the industry retools with increasing use of robots in the coming years.

A levy on consumers might be justified if used to ease the adjustment of workers in the auto and other faltering industries to structural change. It might be justified if used for effective training programs, relocation incentives, and employment counseling. It might be justified if its *sine qua non* were modernization and restructuring of the industry.

But these are not the purposes of the measure before the Senate. It proposes to punish the Japanese for their efficiency and shield lethargic corporations and a powerful union from the unpleasant changes required to adapt and compete in a highly competitive world.

Detroit is beginning to turn out advanced, high-quality fuel-efficient vehicles. Restricting imports will not aid that transition and could imperil it. It would be wiser for the United States to help industry beat foreign competition than to protect it from such competition.

Mr. STEVENSON. Mr. President, as the vote indicates, the Senate is under great pressure to pass this amendment. It is a classic example of hasty, ill-considered, last minute legislation. To suggest that this measure is even the beginning of a solution to the auto industry's problems or a Christmas present for unemployed auto workers is illusory and misleading. Its passage cannot guarantee a single auto worker will be brought back to the production lines. It will not help Ford find the capital it needs to retool and compete across a full line with GM. It will not aid the failing Chrysler Corp. As a quick fix, this amendment is useless.

The longer range implications of this measure are more disturbing. It is poor trade policy. It is disastrous industrial policy. If the import restrictions sought by this amendment were negotiated, this measure would cause inflation, more unemployment, economic stagnation—and invite industry after industry to seek more of the same, protection from foreign competition. This is a protectionist scheme which, in an interdependent and unstable world, has consequences far beyond the imagination of this Congress and the intentions of its sponsors. It offers auto workers only the illusion of relief. It gives Congress an excuse for ignoring the real roots of U.S. competitive weakness in autos and other industries, the inevitability of structural economic adjustment and the difficult actions required to ease adjustment to the realities of a competitive global marketplace.

This amendment gives a clear signal to U.S. industries in competitive difficulty that their salvation lies with the Congress instead of with the administrative procedures the Congress has carefully created over the years. Those procedures, including escape clause investigations by the USITC and antidumping and countervailing duty investigations by the Commerce Department, were developed to deflect political pressures for the protection of specific industries away from the Congress and into administrative proceedings before an independent agency in which all sides have an opportunity to be heard. This amendment would be a significant step backward. The Congress would invite increased pressures for direct action from a parade of beleagued domestic industries. Until now, the Congress has wisely acted to curb such pressures by supporting the authority and independence of agencies such as USITC.

For years Congress has protected the position of USITC as an independent agency, responsive both to the President and to the Congress but under the direct control of neither. The President cannot, for example, override USITC decisions except in some very carefully limited circumstances. Now suddenly, because the powerful auto industry seeks relief, it is proposed that this system be abandoned. The amendment would destroy the authority and the independence of the USITC by announcing, in effect, that the Congress will override ITC decisions for political reasons whenever those decisions—made under criteria established by the Congress—turn out to be unpopular.

One of the major goals of U.S. trade policy in the Tokyo Round negotiation was to persuade other governments to follow the same type of open, careful, and fair administrative procedures that the United States has followed before limtations are imposed on imports. U.S. negotiators had some success in this effort, and as a result the Tokyo Round agreements on subsidies and countervailing duties, on antidumping actions, on government purchasing, on standards, and on customs valuation all provide administrative safeguards before major trade decisions are taken.

Two main targets of the U.S. policy to promote open procedures have been the methods of administering trade actions by the Japanese and European Community. Both of those trading blocs have, in the past, tended to announce antidumping, countervailing, and escape clause decisions without any record of the case for such decisions. The U.S. Government has complained vigorously about the lack of support for such decisions, and has been reasonably successful in securing modifications of the EEC and Japanese approaches. This amendment is a very significant step backward in this effort. It would put U.S. trade policy, with respect to agreements limiting trade in automobiles, on the same footing as those that have been administered by the EEC and Japan.

The amendment would be challenged and found to violate U.S. obligations under the GATT. Article XIX of the GATT permits escape clause import limitations when imports "cause or threaten serious injury to domestic producers." For the 33 years of the GATT's operation the United States has had well defined domestic procedures to implement this principle through decisions of the USITC. This measure would circumvent those procedures. And it would only be effective when the established U.S. procedures had determined there was no adequate ground for import limitations.

The President with authorization by the Congress would take protectionist actions after the USITC had found they were not justified. Certainly an international dispute-settlement panel would find that such protection was without a sufficient finding of serious injury or threat thereof. It would contravene our own procedures and expect findings. This amendment comes also while the United States is trying to negotiate revisions of article XIX of the GATT to strengthen its rules with respect to open and public justification of trade restrictive actions by other nations. It destroys our credibility as a supporter of an open trading system. I remind my colleague that the Japanese are not accused of dumping. They, and the American consumer and exporter, are to be punished for the efficiency of their production and the quality of their automobiles.

This amendment is an unprecedented attempt to undermine the direction of 20 years of U.S. trade policy. It repudiates section 201 of the Trade Act of 1974. The escape clause, which—in contrast to the measure at hand—was carefully negotiated and drafted to insure fair and expeditious relief for domestic industries suffering from foreign import competition. Since that law was passed, forty industries have petitioned the ITC, and all but 18 have been granted relief. The law is not unreasonable. Its standard is to recommend import relief if imports are the major cause of an industry's problems. If that cannot be shown, restricting the volume of imports will not reverse the industry's difficulties. In fact it may accelerate an industry's decline by providing protection from competitive pressures which force efficient production and moderate wage increases. Whatever minor gains in domestic auto sales and employment might be realized as a result of reduced imports will only come at great cost to consumers and the economy as a whole.

This measure has dangerous implications for U.S. trade and antitrust laws, implications which have received no serious attention in the House, and no scrutiny whatsoever by the relevant committees in the Senate. It is a prescription for more inflation and unemployment and economic stagnation—and an excuse for doing nothing to truly help the automobile industry.

That industry has been the subject of no end of reports and analyses. In addition to the investigation by the International Trade Commission, reports by the Secretary of Transportation, the House Ways and Means Subcommittee on

Trade, the Congressional Budget Office and the Council of Economic Advisers—all conclude that imports are not the source of the U.S. industry's difficulties and that import quotas or tariffs would have negligible effects on employment levels although substantial price increases would follow.

These studies have not been examined by the Congress, indeed the report of the International Trade Commission pursuant to congressionally mandated procedures was not received by Congress until Thursday. And yet it is proposed that we act now in the closing days of the Congress without adequate time even for debate.

What would restrictions on imports and consequent price increases do to consumer demand for automobiles? High interest rates and consumer credit difficulties were the clear source of the auto industry's woes earlier this year, as demand and production were depressed to their lowest levels in two decades. The price of domestic as well as imported autos would rise by 5 to 15 percent with even a modest cutback of Japanese imports.

CBO and CEA estimates show these price increases would produce a net decrease in auto demand. For every 250,000 imports kept out of the United States, fully 150,000 would-be consumers will be priced out of the domestic auto market. With higher auto prices, higher gasoline prices, possible gasoline shortages, recession and high interest rates, consumers will defer purchases of automobiles.

More dealers will go under if imports are reduced. And the automobile industry would not be helped at all. The higher cost of automobiles would ripple through the economy, breeding still more inflation, and help maintain the high level of interest rates which are a major cause of the industry's plight. To say the least, these economic implications should be studied before we take this action.

The record before the House Ways and Means Committee and the International Trade Commission indicates that the quotas Ford requested, which are higher than any limits the Japanese are likely to adopt voluntarily, would increase employment in the industry by fewer than 16,000 jobs. The estimated cost to the consumer of each of those jobs would be about $245,000. In other industries, unemployment would increase. It is a truism that trade is a two-way street.

The curtailment of imports inevitably results in a curtailment of American exports. American agriculture would pay the price of this protectionism. The American farmers oppose this legislation. Our electronics industry would suffer. What will become of the negotiations to change the procurement policies of the Nippon Telephone and Telegraph Co. and create target markets for the United States in Japan?

And as the United States is perceived to abandon its commitment to trade in favor of protectionism, other countries will follow suit. This effort is all too reminiscent of similar efforts in the late 1920's—and this is a more dangerous world, more interdependent and more unstable.

This seemingly innocuous amendment is one of the most expensive bills the Congress has considered this year. Proponents insist it only authorizes negotiation of voluntary restraints. It is not proposed because it does nothing. This is one of the most dangerous measures considered by Congress in this session, or more precisely, not considered. It was rushed through the House with no committee report. It has never been the subject of a Senate hearing or any deliberate consideration by the Senate Finance Committee. It effectively amends the Sherman Antitrust Act but has never been examined by either the House or the Senate Judiciary Committee.

It includes the first grant of antitrust immunity by congressional resolution rather than by statute in history. It proposes the first effort to end run the procedures established by the Trade Act of 1974 since its enactment—and it was rushed through the Finance Committee with no report to accompany it.

The issue is protectionism. This measure is an opening gun in a war to shield noncompetitive industries, at the expense of the American economy, from the consequences of their own mistakes. Japanese automobile producers are to be punished for their success. The farmers and all the other competitive producers in the United States are to be injured. The consumer is to be deprived of high quality, moderately priced, fuel efficient vehicles. And the automobile industry is to be deprived of the incentives to compete by protection from foreign competition. It is given no real assistance, nor is it required to make any commitments for improved productivity in exchange for its protection.

We should be helping industry meet the foreign competition. If the Congress takes this step, it will be hard pressed to resist the entreaties of the steel industry, the textile industry, and many to follow, all seeking the easy way out. Already the Finance Committee has expanded the protection sought to cover the suppliers of parts to the auto industry. The line is forming. And with each step the country will suffer still more inflation, more unemployment, more recession, more disruption of its trade relations and ultimately more political instability the world over.

Enactment of this amendment would represent a triumph of political expediency over economic wisdom. Congress would be acting to undo what it wisely did in 1974 when it got trade politics out of the political process and into an orderly procedure for the protection of industries hurt by imports. That procedure has now produced a finding that imports were not a substantial cause of injury to this industry.

But it has not run its course. The UAW and Ford have not exhausted their remedies under the 1974 Trade Act. The act provides for reconsideration of any ITC decision at the request of the Senate Finance or House Ways and Means Committees. That provision was designed to enable Congress to deal with industry groups dissatisfied with an ITC decision or Presidential action. One wonders why the auto industry is reluctant to exercise this option. They should exhaust other remedies and the Congress should study the entire matter before it jumps in.

This amendment proposes to authorize relief no matter how minor or insignificant imports are as a cause of injury. Perhaps, upon due deliberation, Congress would conclude that modification of the Trade Act, including the escape clause, was desirable. But hurriedly legislating an ad hoc exemption for one powerful industry in the closing hours of this Congress is not the way to proceed.

If imports are a cause of the auto industry plight, and something needs to be done, then Congress should consider how to go about doing it. It might be worthwhile to clarify the President's authority to negotiate voluntary restraints, but in carefully circumscribed, orderly ways that will not invite a parade of industries before Congress and violate international obligations with no chance of benefiting the industry in question and every certainty of harming the economy of the country and the world.

The implications of this measure are far reaching. It would be well to hear from the new President before acting. It would be well to consider available studies of the industry, including the report of the International Trade Commission. And it would be well, too, if the Congress would consider constructive efforts to help this and other industries beat the foreign competition—instead of jumping in to protect them at some risk of making them less competitive.

There are myriad more direct and more effective ways to accomplish these ends than the "remedy" proposed. First, Congress should require the industry to help itself. No commitments are required of the industry in return for the subsidization by consumers and producers this resolution proposes. The industry is strangled by a wage/price spiral. A wage agreement in 1979 produced an increase in labor costs of about 20 percent in 1 year. What commitment will labor make in exchange for the price the public is being asked to pay to preserve its jobs?

Any constructive effort to help the auto industry would include renegotiation of the UAW wage agreement. It would include some attention to the long-term capital requirements of the industry and the development of automotive technologies and advanced manufacturing procedures. It would include restructuring of the industry, to squeeze out excess capacity. Subsidies would be contrived so as not to disadvantage the efficient auto producers for the benefit of the declining, noncompetitive producers.

It is not too late to help the automobile industry. But this amendment, by offering the illusion of help without its reality, lets more time pass with no constructive action. Last Thursday, I suggested an approach that could aid the industry. It would enhance the competitiveness of American industry by ensuring the availability of capital in adequate amounts and at competitive rates. The legislation I introduced creates an Industrial Development Bank which could offer a mechanism for systematic review of industry capital requirements and the coordination of Federal policies which impact on industry. That is but one of many measures Congress should consider.

I urge the Members to represent the unorganized interests of the farmers, the electronics producers, the consumers, the automobile dealers, the interests of all people. No one gains, not even the auto industry, itself a large importer, from a protectionist policy for the United States. Most people understand that. General Motors has not supported this legislation strongly. This amendment is supported only by two auto companies and one union. The rest of the Nation is entitled to some representation, too. At the least, I urge the Members to give this matter serious and careful attention before acting precipitously and at some risk of doing real harm to the country with no benefit to this beleaguered industry much in need of real assistance.

Mr. President, I ask unanimous consent that a group of editorials on this subject be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the National Journal, Nov. 15, 1980]

INDUSTRIAL STRANGULATION

A relatively obscure government agency told Philip Caldwell and Bill Cunningham to get lost the other day. Caldwell is the $620,000-a-year chairman of the Ford Motor Co., and Cunningham is an unemployed auto worker in a recent advertisement by the United Auto Workers (UAW). Both Ford and the UAW want car imports restricted, but the International Trade Commission (ITC) said no. This was a good decision, and, because Ford and the UAW may now take their case to Congress, it's important to understand why.

The way we discuss the auto industry's problems is revealing of the American tendency to compartmentalize. We have an "inflation problem" or an "auto problem" or a "foreign policy problem," but we rarely relate them to each other. Failing to make connections leads us to constant error.

Auto import restrictions, aimed primarily at the Japanese, would be such a mistake. They would drive up car prices. They would hurt other industries, including some of our critical high-technology industries, that compete with the Japanese. And they would further undermine America's leadership abroad. We cannot ignore these side effects just because they are indirect or inconvenient. Import restrictions are the opposite of what effective economic and foreign policy ought to be.

No one disputes the near-depression conditions of the auto industry today. The number of auto workers on layoff remains near 200,000, and, in the third quarter alone, losses of the three major automakers exceeded $1.6 billion. The UAW would have you believe that imports caused this catastrophe. The ITC, after extensive hearings, simply couldn't agree.

Sales of imports (excluding those from Canada) will probably total between 2.4 million and 2.7 million units this year, up from 2.0 million in 1978. Meanwhile, sales of U.S. cars have tumbled from 9.3 million to about 6.5 million. Even if imports hadn't increased by a single car, the U.S. industry would be in deep trouble.

Everyone appreciates that the dramatic shift to smaller, fuel-efficient cars has crippled the industry, but what no one seems to talk about is that today's big U.S. cars are still vastly more fuel-efficient than cars even two or three years ago. What has further suffocated sales of these cars is high prices. Despite smaller size and less power, car prices have risen 50 per cent since 1975. The average price of a U.S. car today almost certainly exceeds $8,000.

The industry is being strangled by its own wage-price spiral. In the fall of 1979, the UAW and the major auto makers negotiated a contract that has resulted in an increase in labor costs (including fringe benefits) of about 20 per cent this year to $18 an hour. All forecasts of improved employment and profitability in the auto industry depend on a pickup in car sales. Yet, the combination of high interest rates and high car prices could frustrate the forecasts.

The obsession with foreign cars has obscured these bedrock problems, and imposition of import restrictions would simply make other industries pay for the sins of auto companies and the UAW. Cars represent about a fourth of Japan's exports to the United States. Limiting their sales (Ford wants five-year quotas set about a third below current sales levels) would almost certainly cause the yen to depreciate. That would make other Japanese products cheaper and put other U.S. industries facing Japanese competition, both here and abroad, at a serious disadvantage.

The yen depreciation would result from supply and demand. The Japanese auto companies ultimately sell the dollars they earn in the United States for yen to pay their bills at home. Ford thinks quotas would raise car import prices by 8 to 15 per cent but, even with those higher prices, lower sales would mean fewer dollars for the Japanese to change into yen. Lower demand for yen on foreign exchange markets would cause its value to fall. Ford concedes this but ignores the consequences.

We cannot afford to. The whole complexion of competition between the United States and Japan is shifting from consumer goods toward high-technology goods: semi-conductors, machine tools, office equipment. Japanese and American companies increasingly face each other in third markets, and the record is not good. A recent study from the Georgetown Center for Strategic and International Studies reports that the U.S. share of manufacturing exports to developing countries fell from 28.3 to 22.1 per cent between 1970 and 1978. Japan's rose from 21.8 to 26.1 per cent.

Nor can we painlessly allow the UAW and Ford to dictate foreign policy. In today's world, countries aim to satisfy their economic needs as much as their physical security. Japan is an obvious case. Its imports consist overwhelmingly of raw materials, and the Japanese tremble at the possibility of being unable to obtain critical supplies.

One threat is an inability to maintain its export earnings, and Japan is highly vulnerable. Though competitive, many of its exports are not essential goods: cars, steel, stereos. They can be restricted and replaced, and in a period of slow economic growth, the temptation to do so is strong. Does anyone think the Japanese will thank the United States for encouraging this?

It may be, as Caldwell argues, that the Japanese can't retaliate by restricting U.S. exports. So? The world is a more subtle place, Mr. Caldwell. Our whole foreign policy has rested on a sense of shared interests. As that sense has diminished, so has our leadership position. Japan may not retaliate directly, but it will redouble its efforts to create new commercial and political alliances to protect its interests.

No one can be insensitive to unemployed auto workers. But when the UAW implies, as it does in its ads, that all joblessness is the result of imports, it is simply lying. When the UAW and Ford lobbyists come pleading to the White House and Congress, they ought to receive a simple message. Go home. Renegotiate your crazy contract. Get yourselves out of this mess.

[From the Detroit News, Nov. 30, 1980]

WHY CAR SALES ARE OFF—REALLY

There is an element of irony in the efforts of Ford Motor Co. and the UAW to persuade Washington to limit cars imported from Japan. These two substantial institutions imply that domestic auto sales are down chiefly, or even solely, because many Americans prefer Japanese autos to the Detroit product.

Quite aside from the presumption in the suggestion (the presumption to tell people how much of what they will be permitted to buy), the numbers tell a different story. Imported car sales (Canadian products excluded) will probably run about 2.5 million units this year, compared with two million units in 1978. At the same time, domestic sales have plummeted from 9.3 million cars to 6.5 million. Therefore, even if there had been no increase in import sales, U.S. auto makers would still be in terrible shape.

Why?

In the Nov. 15 issue of National Journal, a widely respected review of government and politics, economist, Robert J. Samuelson writes:

"The industry is being strangled by its own wage-price spiral. In the fall of 1979, the UAW and the major auto makers negotiated a contract that has resulted in an increase in labor costs (including fringe benefits) of about 20 percent this year to $18 an hour. All forecasts of improved employment and profitability in the auto industry depend on a pickup in car sales. Yet, the combination of high interest rates and high prices could frustrate the forecasts. . . .

"No one can be insensitive to unemployed auto workers. But when the UAW implies, as it does in its ads, that all joblessness is the result of imports, it is simply lying. When the UAW and Ford lobbyists come pleading to the White House and Congress, they ought to receive a simple message. Go home. Renegotiate your crazy contract. Get yourselves out of this mess."

Words this wise should be cut in stone.

[From the Plain Dealer, Nov. 28, 1980]

U.S. AUTO WORKERS TO GET 16-CENT HOURLY PAY HIKE

Detroit.—More than 500,000 auto workers in the United States will get pay increases of about 16 cents per hour next week under cost-of-living provisions in their union contracts, Ford Motor Co. said.

A Ford assembler's wage will be raised to $10.51 per hour. Wages at other auto companies generally are within pennies of that figure, with the exact amount depending on how much of the adjustments have been diverted to other contract provisions such as increased pensions.

Chrysler Corp. workers are getting less under contract concessions designed to help the company survive.

[From Business Week, Dec. 1, 1980]

SINK OR SWIM FOR AUTOS

The International Trade Commission dismayed the automobile industry on Nov. 10 when it turned down a petition by Ford Motor Co. and the United Auto Workers seeking protection against Japanese imports. This is a sink-or-swim decision, and the result could be the sinking of one of the great U.S. auto makers. Nevertheless, the ITC was right. The U.S. auto industry has some fundamental adjustments to make, and delaying the process by putting artificial restraints on international trade will only increase the pain in the long run.

It is obvious that imports have hurt the U.S. auto companies, and there is a clear threat of more injury in the future. Under the law, either could be grounds for protectionist measures, but the industry must show that rising imports are at least as important as any other cause of injury. This is where Detroit's case broke down. The majority of the commission found that recession, spiraling costs of credit, rising gasoline prices, and the resulting shift in demand to small cars had hurt the U.S. industry more than imports.

In addition to these legal reasons, there is a strong economic argument for rejecting quotas or tariffs on autos. As Commissioner Paula Stern pointed out, the U.S. companies have launched a dramatic modernization program. Inevitably, this will mean fewer jobs at any level of output, but it offers the only real hope of rebuilding a strong, healthy industry. Restricting imports could postpone this adjustment and leave the auto makers weaker than ever in the future.

The final decision will have to be made by the Reagan Administration next year. The President should tell the industry that it will have to push ahead with modernization and forget about protectionism. And he might remind the UAW that its contract with major manufacturers this year amounts, with wages, fringes, and cost-of-living adjustments, to a 20 percent increase in labor costs. This was one of the things the trade commission had in mind when it ruled that imports are not the main cause of Detroit's misfortunes.

[From the Los Angeles Times, Dec. 5, 1980]

PROTECT US

Advocates of protectionism for the American auto industry are refusing to accept defeat. Having failed last month to convince the U.S. International Trade Commission that unrestricted sales of Japanese cars have done substantial injury to the domestic industry, the protectionists have now gone to Congress for help. The House has given them what they wanted, authorizing the President to negotiate import quotas with Japan. The Senate Finance Committee has done the same. That seemingly modest authority could in the end cost American consumers billions of dollars.

The protectionists, led by Ford Motor Co. and the United Auto Workers, made a simple case. Foreign cars, the bulk of them made in Japan, account for about 25% of the U.S. market. This high level of sales has contributed significantly to the recession in the American industry. If those sales could be curbed, if the auto market could be controlled rather than left free, the demand for American cars would go up. Unemployment would be alleviated, profits would rise.

A Trade Commission staff study agrees, conditionally. If fewer Japanese cars were available, demand for American cars would increase somewhat and perhaps 20,000 laid-off workers could go back to their jobs. But only at these costs: higher prices on all fuel-efficient cars, both foreign and domestic. because demand would be greater than supply; higher operating costs for many new car owners, because fewer very-high-mileage Japanese cars would be available; unemployment in the American imported-car industry as sales and services were cut; potential harm to job and sales in U.S. exporting industries if Japan retaliated.

Japan is not responsible for the decisions made in Detroit years ago that caused American auto makers to misread the market for fuel-efficient cars. Nor is Japan responsible for the high interest rates and high sticker prices that are cutting into car sales today. Japan, though, is not really the point. The point is that American consumers are entitled to freedom of choice in the products they buy. Costly restraints on that freedom in behalf of special interests are unfair and, in the present case, harmful to U.S. international trade goals.

The protectionists nonetheless keep trying. It is up to the full Senate and the President to stand firm against their assault.

[From the Journal of Commerce, Nov. 20, 1980]

SETTING IT STRAIGHT

Limiting imports, such as the Ford Motor Co. and the United Auto Workers are proposing with regard to Japanese automobiles, would raise prices: Everyone knows that.

Do they now? A recent Consumer Opinion Survey conducted for the U.S. Chamber of Commerce by the Gallup Organization finds that 22 percent of American workers and consumers agree, but 78 percent do not. Of the latter, 34 percent say they think quotas and other barriers to imports would actually reduce inflation, while 29 percent say they believe import limits wouldn't have much effect on the price level and 15 percent are undecided.

Interestingly, those who view import limits as having a beneficial effect or no effect on inflation, 62 percent, are only a few more than those who favor new laws to keep imports in check, 58 percent. On the other hand, those who oppose quotas and other import barriers, 31 percent, considerably exceed in number those who see them driving up prices, the 22 percent previously mentioned.

There is little disagreement, however, that such provocative actions are likely to bring retaliation by other nations, 67 percent of all respondents agreeing on this point.

The survey is one of a series on consumer attitudes taken by Gallup for the U.S. Chamber but the first asking a wide range of questions on international trade.

Since its inception the chamber has advocated a free and open world trading system. At the moment it is backing a number of measures to further that aim, including legislation to create export trading companies to enable smaller and medium-sized companies, acting together, to compete for world markets now closed to them.

May we be so presumptuous to suggest that someone, the chamber perhaps, also should undertake a nationwide educational effort. Among other things, it should let people know that quotas and other barriers to imports raise prices, often substantially. One estimate is that domestic car prices would go up at least $1,000 if the plans to restrict Japanese auto imports now being discussed go through.

[From the Washington Star, Nov. 16, 1980]

DETROIT'S VITAL INTEREST

It's easy to conclude that the American automobile industry is in trouble, but it is not so easy to decide where the fault lies. The International Trade Commission, in any case, has decided—properly, we think—that the remedy does not lie in restricting imports of foreign cars.

The ITC has rarely if ever faced so important or difficult a decision. At stake was a major share of the U.S. auto market—some 25 percent of domestic purchases during the first six months of 1980 were imports, up from about 17 percent in 1979. The United Auto Workers Union and Ford Motor Company, who petitioned the commission, argued that the country cannot afford the competition. The pressures were immense: more than 200,000 autoworkers out of work, combined losses in excess of $1.5 billion for the third quarter, a record number of failed dealerships.

What the petitioners failed to prove, however, was that the popularity of foreign cars was the "substantial cause" of injury. Instead, as a staff report of September suggested, the surge in import sales came as a result of changing tastes for which the U.S. auto industry was unprepared.

Statistics offer dramatic evidence. The staff found that during the January–June period the large-car share of the market fell by more than the imported share rose. "Having remained relatively stable at about 50 percent of apparent consumption from 1975 to 1978, large cars declined to 29.2 percent of apparent consumption by January–June 1980," the report found. And that, of course, may be blamed on the sudden rise in the price of gasoline.

The commission obviously had a hard time of it—deciding by a 3 to 2 margin. They have saved President Carter and President-elect Reagan a headache, but may have given one to Congress—which may have to consider a series of protectionist bills. Still, the commission was empowered to decide such cases on the merits, and the merits were clearly not on the side of the UAW and Ford.

One problem has been the difficulty U.S. automakers had proving that sales of Japanese cars came at the expense of American small cars. So far the evidence is otherwise. Even in the recessionary depths of 1980. General Motors plants producing the new "X-body" cars were working overtime. Sales reports on the new generation of small Chrysler and Ford cars are good. The great losses reported by domestic automakers reflect in part a huge investment in the future—as much as $80 billion by 1985.

It is for this five-year period that the petitioners sought immediate relief, but the evidence is that the relief would have come at the expense of the American consumer. Last spring, George C. Eads of the Council of Economic Advisers said that cutting Japanese imports to 1979 levels would raise their prices by at least 5 percent—and increase oil consumption by a substantial amount. It would, in short, be the last thing needed in an economy where inflation runs at 12.7 percent—and where oil imports have shown a healthy decline.

The auto industry is surely in trouble, and ways ought to be found to ease this transition period. Some helpful suggestions, affecting government regulations and tax policies, were made by Messrs. Carter and Reagan during the presidential campaign. But such approaches are based on the idea that the American auto industry, encouraged to develop its best technology and compete aggressively, will again come to dominate the world auto market.

The protectionist philosophy, rejected by the ITC, presumes just the opposite.

[From the Christian Science Monitor, Nov. 13, 1980]

THE US CAR INDUSTRY: A VICTORY FOR FREE TRADE

The landmark decision by the US International Trade Commission rejecting import quotas and higher tariffs on Japanese car makers adds up to a significant victory for the principle of free trade as well as for the American consumer. At the same time the split 3-to-2 decision provides a basis for the United States and Japanese governments to continue efforts to resolve what has become a major problem for US car makers—the growth of Japanese imports.

Such imports have increased substantially in recent years. They now account for close to a quarter of total domestic auto sales. Each of the big three US manufacturers, meantime, posted financial losses during the third quarter of this year, while industry unemployment remains high at about 200,000 workers. For dealers, the 1980 car year has been difficult indeed, with over 1,600 firms going out of business—the largest number recorded in almost two decades.

Still, in rejecting arguments from the Ford Motor Company and the United Auto Workers that import restrictions should be imposed against Japan, the ITC found that imports by themselves were not causing serious injury to US manufacturers. Rather, the trade panel ruled, the economic downturn, along with a shift in public buying tastes from larger to smaller cars, were the major contributors to Detroit's present woes.

Now that the ITC has spoken on the industry's call for restricting imports, the decks are clear for responsible bodies to review other matters claimed to be injurious by the industry. These include various mileage, safety, and toxic emission standards which some automakers have sought to reduce or delay. Some tentative steps toward a review are already underway by lawmakers. It goes without saying, however, that such beneficial standards should not be lightly changed.

There is little likelihood of congressional or White House action on the import question until next year, when the new 97th Congress and the incoming Reagan administration will have to grapple with the auto issue. On this score there are a number of alternatives that policymakers will want carefully to weigh, including encouraging the Japanese to press forward with plans to locate plants in the U.S., as well as persuading Japanese firms to exercise caution in their export policies. Above all, the import problem calls for continuing mutual discussion between two good friends—and valued trading partners.

[From the Daily Oklahoman, Nov. 13, 1980]

Import Quotas No Solution

In rejecting petitions by Ford and the United Auto Workers union for restrictions against foreign cars, the U.S. International Trade Commission has acted in the best interest of American consumers.

Ford and the UAW had mounted an intensive campaign for a protectionist ruling that would have enabled the outgoing Carter administration to negotiate agreements cutting the number of foreign cars imported into this country. The commission rejected the petitions on grounds that, while U.S. carmakers and their workers undeniably have suffered at the hands of foreign competition, their plight is more of their own making.

In any event, the ultimate resolution of the problem—so far as any governmental action is concerned—should not be entrusted to a lame-duck administration.

The U.S. auto industry was late in adjusting its engineering and marketing strategies to meet the demand for smaller, more fuel-efficient cars—a demand that was clearly evident from steadily rising sales of the imports. Adding to Detroit's competitive disadvantage are higher labor costs not linked to increases in productivity, aging, obsolescent plants and equipment and increasing public dissatisfaction with a level of quality in assembly and finish that often doesn't match that of the foreign products.

On top of all that came a recession-induced slowdown in world car sales which is affecting all major manufacturers. Continued uncertainty about the future price and availability of fuel is another element in the picture.

Stacking the deck against the imports not only would deprive American consumers of their freedom of choice but in the long run would bring retaliation against U.S. exports. We cannot expect to increase U.S. penetration of foreign markets by erecting unreasonable barriers against imports.

[From the Milwaukee Journal, Nov. 12, 1980]

Automakers Need Better Idea

President Carter and Congress should resist pressures to curb auto imports now that the U.S. International Trade Commission has ruled that American auto companies and their workers cannot justify such protection.

The United Auto Workers and Ford Motor Co., the plaintiffs in the case before the commission, are expected to appeal to Carter and Congress to overrule the panel. The UAW already has launched a slick public relations-advertising campaign to generate favorable public support for import restrictions on foreign autos.

Certainly America's automakers are hurting and jobs in the industry have been lost because of lagging domestic auto sales. General Motors lost $567 million in the last quarter. Ford's loss was even greater. And American Motors has reported its largest annual deficit ever.

Nonetheless, the financial distress does not justify the panicky response of import restrictions sought by the UAW and some of the auto firms. As the trade commission pointed out in its analysis of the industry's current plight, the automakers' misfortune is due more to their own misreading of the public's desire for smaller, more economical cars than to economic damage caused by auto imports.

Furthermore, import quotas and other trade restrictions could have an adverse impact on consumers. Diminished competition tends to promote artificially high prices.

What is the proper way to restore the economic health of the auto industry? The right way to meet competition is to beat it, not hide behind artificial trade barriers.

Beating the competition requires restraining costs (including wages), raising productivity and designing the kinds of cars that the U.S. public now demands. There are a variety of things that government can do—short of import restrictions—to help. For instance, it can offer tax incentives to spur the retooling required to produce small cars. Some of these steps already have been proposed by President Carter and President-Elect Reagan.

If America's auto industry were just an infant, a case might be made for restrictions. But it is mature and knows what it must do. As inflation-battered, price-conscious consumers might say: Let the best competitors prevail.

[From the Atlanta Constitution, Nov. 12, 1980]

No To Import Quotas

Praises be to the International Trade Commission for its vote Monday not to propose a tariff increase or quotas on imports of foreign-made cars and trucks. The ITC vote should be greatly approved by Americans who are not yet ready to give up our standing as the world's greatest industrial nation.

The Ford Motor Co. and the United Auto Workers had asked the ITC to recommend country-by-country quotas on auto imports at about the 1977–78 level. The request had been opposed by a variety of other interests, including General Motors Corp.

The ITC vote was 3–2 against imposing import restrictions. The ITC commissioners agreed that the rising tide of imports had hurt the U.S. auto industry but that imports were not the sole cause of the industry's problems and were not sufficient to justify the restrictions sought by Ford and the UAW.

We will hear a variety of complaints from Ford and the UAW about how foreign competition, especially Japanese, is taking unfair advantage of the U.S. automakers—but don't you believe it too much. To be honest, the Japanese do have some advantages, such as lower-paid labor. But the major blame for the current difficulties of the U.S. auto industry has to be placed on the industry itself, including the autoworkers.

The American industry waited too long to adjust to the realities of a changing market—that the high prices of gasoline would dictate highly fuel-efficient autos. The Japanese, and other foreign manufacturers, had been making such fuel-efficient—and quality—autos for years. The U.S. automakers, with some minor exceptions, refused to make such cars until the sale of big U.S. cars started falling through the cellar during the past two years.

The U.S. companies are now rushing to build highly fuel-efficient—and quality—autos; various models are now on the market and are selling well. A majority of Americans will surely buy U.S.-made cars if the cars are what they want. To have imposed restrictions on the import of the foreign-made cars demanded by an increasing number of U.S. consumers in recent months would have been a direct denial of Americans to buy what they want.

Import restrictions would also have other detrimental effects. One is that they would have "built in" inefficiencies and outdated methods existing in the American auto industry, and the domestic automakers likely would take many more years, if ever, to take the modernization moves necessary to compete worldwide in the auto business. A second is that auto import restrictions would almost certainly lead to the establishment of and/or strengthening by other nations of restrictions against American exports—in other words, a trade war that would hurt everyone involved.

A strong NO to auto import restrictions, but there are ways the American people and the American government can help the U.S. automakers regain their financial good health. One is for consumers to "buy American" unless there are compelling reasons to buy foreign. And the government can help greatly in many ways—tax concessions and faster depreciation that would permit the companies to modernize their facilities faster, a delay, for a limited time, in programs involving auto emission standards; and perhaps tax credits for Americans who buy U.S.-made cars. The new models this year and the ones planned next year of American cars are expected to sell very well in any case.

The only reason anybody succeeds in business is by delivering a better product, preferably at a lower cost, than his competitors. If the Japanese and other foreign automakers are doing that and we are not, then we should examine what they are doing right and what we are doing wrong—and correct the errors of our ways. That's the way, dear Ford and UAW, that the U.S. auto industry can regain its strength, not by asking Big Daddy for protection against those mean ol' men who've been outsmarting you.

[From the Dallas Times Herald, Nov. 12, 1980]

Free Trade for Autos

The U.S. International Trade Commission has rejected pleas for trade barriers on imported trucks and cars, ruling that the availability of foreign vehicles is not primarily responsible for the decline in the domestic auto industry.

The decision, a major victory for the supporters of competition and free trade, will benefit consumers who are searching for the best buys in terms of fuel efficiency, price, styling and quality workmanship. New models of American-made cars are standing up well in comparison to imports, current sales indicate.

Ford Motor Co., Chrysler and the United Auto Workers asked for the import restrictions, claiming the record losses and high unemployment among American automakers were due principally to a high level of imports. The commission voted 3–2 against that plea, saying that the industry's decline was due to the recession and to the shift by consumers to smaller cars.

General Motors opposed the trade barriers, but it has urged the U.S. government "to take the initiative in persuading the Japanese government, in its own self-interest, to voluntarily adopt more prudent trade practices with the United States."

The ITC vote split along party lines, with two Republicans voting in favor of trade barriers on imports and two Democrats voting against. The swing vote was cast by an independent, Michael Calhoun, who acknowledged the U.S. auto industry is suffering serious injury but said imports were not the biggest factor.

During extended testimony last month, foreign car makers and consumer group representatives said that soaring gasoline prices, the stumbling U.S. economy and U.S. auto company mismanagement were the cause of declining auto sales.

Although Japanese auto imports through October accounted for 21 per cent of the U.S. auto market, up from 16.6 per cent for all of 1979 and more than double their 9.3 per cent share in 1976, the imports' share of the U.S. market dropped sharply last month. Higher prices for the Japanese cars have had an effect, as have the introduction of more fuel efficient American cars and greater emphasis on quality manufacturing.

Since the Carter administration feels it cannot negotiate with the Japanese without an ITC finding of injury, the issue of trade barriers may have to be raised with President Reagan and the new Senate. It is difficult to see how Mr. Reagan, an avid supporter of competition and deregulation, could side with the Ford Motor Co. and the UAW.

In their current promotions, American automakers are stressing the improved fuel performance of their cars and their competitive prices. There are also some subtle appeals to "Buy American," a position which will be supported more specifically by the UAW in a previously announced $200,000 advertising campaign.

After the ITC ruling, Treasury Secretary G. William Miller said the only way to solve the domestic auto industry's problems is to speed up the industry's transition toward producing more small fuel-efficient cars. He added that it wouldn't help to create "false barriers and restraints that would only end up in the long run costing society more."

We have faith in the ability of the American manufacturers to compete in the marketplace, but it is obvious that a little restraint by Japanese exporters would help make the transition period a little less traumatic.

[From the Journal of Commerce, Nov. 26, 1980]

Knee-Jerk Reaction

Imports are not the major cause of the U.S. automobile industry's troubles, the International Trade Commission ruled barely two weeks ago. Nevertheless, Congress is falling over itself to give the president authority to limit imports.

Mr. Carter, whose efforts to hold the line against the forces of protectionism have to be recorded as one of the pulses of his four years in office, hasn't helped on this one. Through the U.S. Trade Representative, Reuben Askew, he made known that he wouldn't oppose efforts of Congress to spell out exactly what a president's powers and responsibility are in limiting imports.

And the Congress has moved quickly to oblige. The House Subcommittee on International Trade overwhelmingly approved a resolution giving the White House authority to work out an "orderly marketing agreement"—euphemism for an unlegislated quota—with Japan to hold down car shipments from that country through July 1, 1983. The House Ways and Means Committee is expected to add its seal of approval when it returns next week from its Thanksgiving recess.

This tosses the issue into the lap of the Senate which is considering a similar measure. There, however, its fate is far from certain. Some senators are known to harbor misgivings about the House resolution's granting of antitrust immunity to all parties to an import restraint agreement, the first such grant by way of congressional resolution rather than statute.

The rush to grant authority to the president to work out import limiting agreements is one more bit of evidence of buck passing by the lame-duck Congress. For President Carter has made it abundantly clear that he has no intention of exercising the authority within the less than two months remaining of his term.

Mr. Reagan, thus, will have to field this hot potato. It's not at all certain how he will react. During his campaign he vowed his support for free and open trade, but in talks to Michigan auto workers he indicated he might not look unkindly on efforts to limit the impact of import competition on their industry.

As we have suggested before, the president-elect may have no choice. If the economy enters a renewed downturn and if auto sales continue to fall—a very real possibility in terms of today's new credit squeeze and resulting high interest rates—he may find himself drawn inevitably toward import curbs, despite his own predilection for free and open trade.

Unfortunately, the crucial questions are not being addressed. Will import curbs assure that the U.S. industry will be able any sooner to field a full line of fuel-efficient cars and trucks? Will they coax more buyers into automobile showrooms? Will they slow the tendency of U.S. manufacturers to use increasing numbers of foreign-made parts in their vehicles?

To all such questions, the answers would seem to be no. After a slow start, U.S. makers now seem wholly determined to produce the small, gas-stingy cars the public appears to demand. Full conversion of the industry, however, is still a year or two away. Moreover, even if they were available, smaller cars wouldn't be bought any more readily than those presently on showroom floors so long as the economy remains in the doldrums. Finally, there is no way that import curbs on vehicles are going to keep manufacturers from seeking lower-cost parts from abroad—unless shipments of these, too, are restrained.

Auto workers, thus aren't likely to realize the job gains they expect from import curbs. Auto companies, which obtain much of their sales and earnings abroad, will be hurt by the almost certain retaliation they can expect to encounter in foreign countries. Much more than by the gains at home. And the Congress, which had hoped to get autos and auto workers off its back, will find itself still plagued by a troubled industry.

Virtually the only guarantee is higher prices for all cars, foreign as well as domestic. That's because higher prices for the Detroit-made product, the result of fewer imports, will allow foreign makers to jack up their prices as well.

The automobile industry's problems demand an answer. But it is not to be found in what Rep. Bill Frenzel, R. Minn., who voted against the House resolution in the subcommittee, termed the ill-considered "knee-jerk reaction" of import curbs.

[From the Wall Street Journal, Mar. 20, 1980]

Auto-Da-Fé

Detroit used to be the nation's capital for free trade. Ford Motor Co. was the leading corporate force behind the postwar reductions of tariffs. And Walter Reuther of the United Auto Workers helped convince the American labor movement that U.S. workers would best be served by a world of open borders.

But today Motor City has become the center for an ugly form of protectionism. Ford, Chrysler and the UAW are clamoring for import quotas on foreign automakers that fail to set up production in the U.S. At hearings on Capitol Hill, imports are being made the scapegoat for the havoc in the North American auto industry, where the Big Three are losing a fortune and some 200,000 workers are laid off.

Toyota and Nissan (Datsun) are the immediate targets of the protectionist campaign. Volkswagen has been assembling Rabbits in Pennsylvania. Honda plans to produce 120,000 cars a year in Ohio. The protectionists want to limit the sales of Toyota and Nissan unless they too produce a certain amount of value-added here.

Like all trade barriers, such a quota would be a tax on the rest of the economy. Consumers would be denied the opportunity to buy cars they want. Prices of scarce Toyotas and Datsuns would rise. Rival companies would be less disciplined by competition. And until Detroit can gear up fully for production of smaller cars, consumers would be unable to satisfy their urges or greater fuel efficiency.

It would still be a tax if Toyota and Nissan caved in to the pressure and set up manufacturing here. The two companies seem to have decided they can produce more efficiently in Japan than in the U.S. They'd have to incur enormous startup costs in America, many of which would be passed on to consumers.

There's also a risk that domestic value-added requirements would backfire on American automakers, particularly Ford and General Motors. These two companies are investing billions as they tool up for their new "World Wars." They're hoping for production to be truly international, and are planning to build different parts and components around the world, according to the comparative cost advantages of different countries.

It's a bold strategy, and it's striking fear in the hearts of foreign competitors—including the Japanese. But for it to work, the American automakers must be able to ship goods from country to country with a maximum of flexibility and a minimum of restrictions. Senator Metzenbaum has already harangued Ford about possible plans to build engines in Mexico or Japan. If American automakers fan the fires of nationalism in trade policy, they can expect to feel some of the heat.

It's tempting, of course, to make policies that will boost automobile employment in the short term. But over the long run, American auto companies and workers will suffer if their clamors for protection ignite a new series of trade wars. The competitive strength of American industry will depend on its ability to ship and produce around the world. By abandoning its historic principles, Detroit is endangering this opportunity.

[From the New York Times, Feb. 17, 1980]

America Can't Afford Ford's Solution

Times are tough in the American auto industry—so tough that one manufacturer, Ford, has broken its longstanding commitment to open world trade and is calling for restrictions on imports. Consumers can expect a campaign, aggressively supported by the powerful United Auto Workers, to curb the booming sales of foreign automobiles in this country. We hope Congress and the White House have the political will to resist. We can sympathize with the plight of the industry and its workers. But the cost of import relief is unacceptably high.

Detroit's problems stem, of course, from the steep price and uncertain availability of gasoline. Buyers are snapping up smaller, fuel-efficient cars as fast as they can be produced. The domestic manufacturers have been caught with too many big cars. Imports captured 22 percent of the American market in 1979—up from 18 percent in 1978—and further inroads are expected this year. As a result, only General Motors among the Big Three is making money on domestic operations. And some 175,000 auto workers have been laid off.

Ford's proposed remedy is to cut 1980 imports to 1.5 million cars annually, about a million fewer than foreign companies would otherwise sell here. Import quotas would no doubt accelerate the plans Japanese manufacturers have made to build plants in the United States. But under the best of circumstances they would need years to gear up for American production. Meanwhile, Chrysler, Ford and GM would be assured bigger slices of the sales pie.

The consequences of such formal quotas—or of informal agreements to limit imports, like those already won by the textile and shoe industries—would be unfortunate. Consumers aren't shopping for imports because they dislike buying American. Detroit can't make small cars fast enough, so imported cars are the only ones available to meet demand. If a million foreign autos were turned away at the dock this year, a million would-be buyers would be left unsatisfied—and probably burning more gas.

Another strike against Ford's import quota idea is that it would be inflationary. Buyers are already paying premium prices for fuel-efficient Rabbit diesels and Hondas. If there were many fewer small cars coming in from Japan and Europe, the bidding could well go higher. And the rebates now offered on larger American models would likely disappear, as consumers were forced to settle for what was available.

The American auto industry might have taken the oil crisis seriously enough in 1974 to gear up for small car production in 1980; it didn't. The American auto industry might have supported stiff gasoline taxes in 1976 or 1977 to ease the transition to fuel-efficient cars; it didn't. Now the auto workers and Ford want consumers to bear the burden for these errors of judgment; they shouldn't.

[From the Automotive Age, April 1980]

Let the Market Be Free

The automobile industry today continues to be racked with debate over whether or not there should be restrictions on imported cars and trucks. Whatever form these restrictions might take—voluntary limits by manufacturers, specific quotas, or local content laws to force import manufacturers to construct factories in this country—the end desired result is the same: to limit the number of nondomestically produced cars coming into this country.

Such an approach is not in the best interests of the country and in the long run it is not in the best interests of the domestic manufacturers. The thinking among the domestics seems to be that if there were just fewer small, imported, fuel-efficient cars around to buy, consumers would flock to purchase LTDs, Caprices and New Yorkers.

Baloney. Yes, there would certainly be more American-made cars bought, but the plain fact is, not many more. Instead, the buyers who are looking for small, imported cars would discover that the reason such cars were simply no longer available in sufficient numbers to meet the demand is because of artificial limits placed on those cars by the government. The consumer isn't dumb, and it would be perfectly clear to him that those limits came about through heavy lobbying by the domestic auto industry.

Rather than create a sudden demand for large American cars, any government-mandated limit—formal or informal—would create a backlash of resentment towards the source of such limits: the domestic car makers, not the government. This backlash would make it that much more difficult for the Big Three to successfully market the new small cars that they will be bringing out in the coming years and make buyers less eager for such vehicles.

The sudden rise in import share of the market has come about because car buyers want small fuel-efficient vehicles with a high quality of fit and finish. Many consumers find these attributes in Japanese vehicles. But people aren't buying Japanese cars because there is some strange conspiracy. They would buy cars made at the South Pole by penguins if they were well screwed together and got good fuel economy.

So that is what the domestics need to make. And, no, those factories can't be changed overnight from building the kinds of cars Detroit used to build to the kinds of cars it must build today. But it's going to have to be done quickly. Detroit must adapt and compete with products that are as good or better than the imports.

The transportation needs of this country have changed—permanently. Americans need, want and deserve personal transportation, but it must come in more energy-efficient packages than have been produced by Detroit, on the whole, in the past. The domestic manufacturers can and will adapt to meet the needs of the country and the wants of the consumers. But they must do so in an open market where competition will ultimately work to the benefit of all.—Chris Hosford

● Mr. RIBICOFF. Mr. President, there is no doubt that the U.S. automobile industry is experiencing injury at the present time. There also is no doubt in my mind that the United States cannot stand by and watch perhaps its most important industry, the automobile industry, be destroyed or seriously reduced in size so as to create an overwhelming adjustment problem and perhaps even threaten national security. However, I do not believe that the approach taken to the automobile situation as represented by the amendment offered by Mr. Riegle is the correct approach. I am opposed to the Senate adopting such an approach.

Adoption of this amendment would undercut the trade structure created by Congress over the last 30 or more years intended to deal with trade matters of this nature. In the early 1900's, Congress felt a need for the existence of an objective, fair body to which parties could go with trade disputes. The body created was the U.S. Tariff Commission, now the U.S. International Trade Commission. The function of this Commission from the start has been to make impartial and fair judgments as to what the facts are in a case, and within the bounds of the laws laid down by Congress, to determine whether appropriate import relief should be given to industries. Since the 1940's, and most recently in 1974, Congress has provided a method for U.S. industries to get relief even in cases of fair trade. This is the so-called import relief law, whereby if an industry can show that increased imports are a substantial cause of serious injury to it, then it can be eligible for import restraints.

In fact, the U.S. automobile industry did file under this law before the U.S. International Trade Commission. On November 10, after a 5-month investigation, the International Trade Commission found that increased imports were not a substantial cause of serious injury to the domestic industry. What they found was that there were more important causes for the injury being suffered by the U.S. industry than increased imports.

The U.S. industry has followed the laws set out by Congress, but now, having lost, approaches the Congress and urges that in spite of the judgment of the ITC, the President be authorized to negotiate import relief. What this does is to undercut the U.S. International Trade Commission and its role in this area, undercut the structure set up by Congress over the years. This will simply encourage other industries to bypass the International Trade Commission and the laws. It will lead to an increased politicization of international trade problems and threaten our basic liberal trade policy. If Congress begins to try to decide U.S. trade policy by ad hoc decisions on individual industries, the likelihood of protectionism will increase dramatically. Votes will be traded, and narrow sectors of the U.S. commerce will gain much greater influence than would otherwise be the case. The loser will be the U.S. national interest, which has been well served by a liberal trade policy.

And do not believe this will not happen. Those of you who feel that this can be done for automobiles alone are mistaken. You will have the other major industries asking for congressional intervention. Steel will be here, perhaps the consumer electronics industry, and others. Even if they do not achieve a resolution such as this proposal, they are not likely to go away without something significant.

In addition to the above impact on U.S. trade policy, we must be prepared to face retaliation, or at the very least demands for compensation, if the Japanese or Europeans should, as a result of authority as contained in this resolution, enter into voluntary restraint arrangements on automobiles. Such restraint arrangements would probably cover a large volume of trade, and therefore, the potential retaliation and compensation would be substantial. If we are not willing to compensate, then Japan may well decide to restrict exports from the United States to Japan and the European Communities may restrict exports to its market.

They will be under political pressure to respond to the U.S. action, even as we would be if the situation were reversed. The result could be a doubling of the restrictive impact on world trade, as the action of the U.S. side is offset by additional restrictions. If the United States decides to compensate, a political battle royal will result in the United States as various industries seek to insure that they are not the one whose hide is taken to pay for the U.S. automobile industry.

Even if retaliation or compensation is not forthcoming, the U.S. trade position will be hurt by such actions. Robert Samuelson, an economic affairs writer for the National Journal, perceptively described this in a recent article:

> The obsession with foreign cars has obscured these bedrock problems, and imposition of import restrictions simply would make other industries pay for the sins of auto companies and the UAW. Cars represent about one-fourth of Japan's exports to the United States. Limiting their sales (Ford

> wants five-year quotas set about one-third below current levels) would almost certainly cause the yen to depreciate. That would make other Japanese products cheaper and put other U.S. industries facing Japanese competition at a serious disadvantage.
>
> The yen depreciation would result from supply and demand. The Japanese auto companies ultimately sell the dollars they earn in the United States for yen to pay their bills at home. Ford thinks quotas would raise car import prices by between 8 percent and 15 percent, but even with those higher prices, lower sales would mean fewer dollars for the Japanese to change into yen. Lower demand for yen on foreign exchange markets would cause its value to fall. Ford concedes this but ignores the consequences.

More than the U.S. trade policy and U.S. trade positions could be damaged by this resolution. U.S. consumers would have to pay billions of dollars more each year for automobiles, as not only the prices of imported automobiles would increase, but undoubtedly the price of domestically produced automobiles would also be increased. The impact on our energy program could also be significant. People are now seeking fuel efficient cars in an effort to conserve and participate in the national energy program. If we were to restrict imports, domestic capacity does not exist to provide the fuel efficient cars that are demanded. What kind of signal would this be sending to the American people as to the real significance of our energy crisis.

There are foreign policy implications to this resolution which should not be ignored. We are approaching a critical period in United States-Japanese relationships. We have in the recent past begun to ask more and more of Japan in terms of their assuming their fair share of burdens in the political, as well as economic arena. We may in the next few years want to ask many more things of them, including perhaps an increased sharing of the burden of their own defense. Is a way to preface this critical period in United States-Japan relationships the passage of a resolution or act which penalizes them for being fair traders with a better product that the American people want? I think not.

The approach represented by the resolution raises many other issues. I am concerned that we have really not followed the normal procedures in the Senate in handling this measure. The matter is within the jurisdiction of the Finance Committee, has held no hearings on it. The issues within the resolution have not been discussed with any depth by the committee, based on the insight that could be provided by a hearing where Senators could question witnesses and get to the nub of some of the issues presented.

In addition to the trade issues which I do not believe have been thoroughly explored, other issues are presented, including antitrust issues. No one has reviewed the language in the resolution which provides that persons engaging in activities necessary to implement the agreement are immune from the antitrust laws. What sort of behavior are we immunizing here. I dare say no one can describe with certainty what is permitted and not permitted by that language. Certainly the Judiciary Committee which deals with antitrust matters has not had a chance to look at this.

What are we asking of the U.S. industry if import restraints are negotiated? No one has described to me any real, concrete commitments. To be sure, there is talk of using the breathing spell to "become competitive," but no specifics are given. Are the UAW and companies willing to renegotiate their wage agreements? These are matters which should be explored and nailed down with whatever certainly is possible.

The simple fact is that we are flying blind and we do not need to. We do not need to because President Carter has already told us that if he is given this authority, he does not intend to use it for the rest of his term. With respect to President-elect Reagan, if he decides to use this authority, it will be several months into his administration before he is possibly in a position to seriously negotiate on these matters. A U.S. trade representative would need to be appointed presumably, and U.S. positions discussed. The coordination of this issue with other issues involving United States-Japan relationships would have to occur. These are not matters that can be done quickly or with a lack of attention to detail. In my mind there is nothing that would prevent the Congress from looking at this next year and doing so in a timely, less hysterical fashion.

This sentiment is reinforced when I look at what relief might come to the industry even when a restraint agreement is negotiated. The U.S. car industry is producing the maximum number of small cars that it can at this point. If imports of Japanese automobiles or foreign automobiles that are fuel efficient and economical are restrained, domestic sales of U.S. cars would only go up marginally. The fact is that the consumer is looking for a fuel efficient, economical car, and if he cannot get it from importing sources, he is not going out and buy a large American car. He is going to defer his consumption until small cars are available. So, the major short-term impact of restraints pursuant to this resolution will be merely to result in deferment of purchases by the U.S. consumer, providing little short-term benefit to the U.S. car industry. In these circumstances it is difficult to assert that we must act on this resolution in such a hurried and ill-considered fashion.

Mr. President, I would like to conclude with one other thought that taken together with what I have said leads me to believe that the Senate should not act on this resolution favorably at this time. The problems of the U.S. automobile industry are not associated with imports alone. Indeed, the U.S. International Trade Commission found that factors such as the general recession and credit restraints and changes in consumer tastes were major causes of the industry's problems. These problems are not going to be dealt with by restraining imports alone. The tendency, however, will be to put the entire burden of adjustment on imports unless this matter is viewed as a whole, and a comprehensive program is developed to deal with issues such as presented by the situation of the American automobile industry.

I believe we should not go forward on restraints at this point until we have had an opportunity as a Congress to look at all the issues involved in the automobile situation and in situations of that nature. These would include questions of fiscal policy, questions of monetary policy, questions of regulations, antitrust and the like. Unless a coordinated approach like this is taken the results will be that imports will bear the brunt of the adjustment process, and people will ignore these other matters, hoping that dealing with imports will be sufficient to deal with the needs of the industry. The industry will remain vulnerable and the national interest will be poorly served.

Mr. President, I think this is bad policy to pursue at this time. I urge the amendment be defeated.●

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this resolution currently before us is a bad resolution, in my judgment. This resolution has not had a single day of hearings before the Senate Finance Committee. This resolution deals with a matter that was considered by the U.S. International Trade Commission, and the conclusions of the ITC investigation were as follows:

> The Commission has determined that automobile trucks, on the highway passenger automobiles, and bodies, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Mr. President, I think it is fine for the automobile industry to blame its problems on imports. But we all know the problems of the automobile industry are far more deep-seated than that, especially with the high rate of interest at the present time.

This resolution would undermine the independence of the U.S. International Trade Commission—which the Congress until now has carefully guarded—undercut U.S. efforts to induce other governments to observe open administrative procedures before imposing trade restrictions, and almost certainly would be found to violate U.S. international obligations under the General Agreement on Tariffs and Trade.

The resolution is bad trade policy because it would send a clear signal to U.S. industries in competitive difficulty that their salvation lies with the Congress instead of with the administrative procedures that the Congress has carefully created over the years. Those procedures, including escape clause investigations by the USITC and antidumping and countervailing duty investigations by the Commerce Department, were developed precisely to deflect political pressures for the protection of specific industries away from the Congress and into administrative proceedings in which all sides have an opportunity to be heard.

The automobile resolution amendment would be a very significant step back from that trend. Does the Congress really want to accept for itself increased political pressures for direct action on behalf of domestic industries?

Until now, the Congress certainly has not wanted such pressures, and that has been a strong reason for supporting the authority and independence of agencies such as the USITC.

Until now, in fact, the Congress has protected the position of USITC as an independent agency, responsive both to the President and to the Congress but under the direct control of neither. The President cannot, for example, override USITC decisions except in some very carefully limited circumstances.

This resolution would virtually destroy the authority and the independence of the USITC by announcing, in effect, that the Congress would override ITC decisions for political reasons whenever those decisions—made under criteria established by the Congress in the Trade Act of 1974—turned out to be unpopular.

Their solution specifies, as one of the criteria for its use, that the domestic industry must have "exhausted available remedies under section 201 of the Trade Act of 1974." This can only mean that, for the resolution to be effective, the USITC must have turned down the industry's request for relief. The only way, then, that the resolution can be effective is for it to undercut decisions of the USITC.

One of the major goals of U.S. trade policy in the Tokyo Round negotiation was to persuade other governments to follow the same type of open, careful, and fair administrative procedures that the United States follows before limitations are imposed upon imports.

U.S. negotiators succeeded to some degree in this effort, and as a result the Tokyo round agreements on subsidies and countervailing duties, on antidumping actions, on government purchasing, or standards, and on customs valuation all provide administrative safeguards before major trade decisions are taken. Two main targets of the U.S. policy to promote open procedures have been the methods of administering trade actions by the Japanese and European community.

Both of those trading blocs have, in the past, tended to announce antidumping, countervailing, and escape clause decisions without any case being made on the record for such decisions. The U.S. Government has complained vigorously about the lack of support for such decisions, and until now has been reasonably successful in securing modifications of the EEC and Japanese approaches.

This resolution is a very significant step backward in this effort.

This resolution almost certainly would be challenged and would be found to violate U.S. obligations on the GATT. Article XIX of the GATT does permit escape clause import limitations in certain circumstances in which imports "cause or threaten serious injury to domestic producers." For the 33 years of the GATT's operation, however, the United States has had well defined domestic procedures to implement this principle through decisions of the USITC.

This resolution not only would circumvent those procedures; but, in fact, would only be effective where the established U.S. procedures had been used and had determined that there was no adequate ground for import relief. For the President, upon authorization by the Congress, to take trade restrictive actions on the face of negative findings by the USITC would almost certainly be found by an international dispute-settlement panel to constitute the taking of such an action without a sufficient finding—under our own procedures—of serious injury or threat thereof. This would come at a time in which the United States is trying to negotiate revisions of article XIX of the GATT to strengthen its rules with respect to open and public justification of trade restrictive actions by other actions.

Finally, the authority of this resolution no doubt would be used only to seek a restrictive agreement with Japan. Would the Japanese agree? If they did not, the United States would be in a very awkward position in its international trade relations. If the Congress were, by subsequent legislation, to unilaterally impose import restrictions upon automobiles from Japan, then that certainly would violate article XIX of the GATT, which has been interpreted clearly to require that any trade restrictive actions—absent an agreement by the exporting nation—be taken only on a nondiscriminatory MFN basis. This is an interpretation that the United States has consistently upheld in international forums.

Mr. President, this is the wrong time to be adopting legislation of this kind. It would saddle a new administration with a dangerous mandate which has serious implication for U.S. trade, and foreign policies.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this is a preliminary skirmish this afternoon. That is all we are going to get because of the obvious facts of life, the end of this session being upon us. It may have been a preliminary skirmish on the motion to table, but it was an absolutely decisive skirmish, and it was a forerunner of what is going to come unless there are some changes in the amounts of imports that are flooding our markets.

It has been several months since this resolution was introduced, and at that time the membership knew of the plight of this industry. Since then it has gotten worse. The rising interest rates, again at 20 percent, the continuing recession, consumer retail sales falling, and even in this pre-holiday season, have occurred, of course. But we are also seeing an increase in import penetration, rising 26.2 percent in a 2-year period while domestic sales declined during the same period by 35.5 percent.

This fact has helped to threaten the very existence of the domestic auto industry, and that industry accounts for 1 out of every 5 to 10 jobs in this Nation, and, when it is threatened, the entire economy is threatened.

That, Mr. President, is what moved the House of Representatives to pass this legislation by a vote of 317 to 57 last week. That is what moved the Senate Finance Committee to report it to the floor by a vote of 11 to 2, and that is what moved 65 of us to say "no" to the motion to table this resolution, the motion which was only supported by 12 of us.

I believe it is also what motivated the International Trade Commission, even though they denied by a vote of 3 to 2 the Ford plant UAW petition for import relief, to conclude that imports were indeed a contributing cause to the decline of the domestic auto industry.

I would remind my colleagues that even though that petition for import relief was turned down, that a majority of individual members of the International Trade Commission did conclude that imports are a contributing cause to the decline of this domestic industry.

So today we have sent up a signal, Mr. President. Indeed it is a cannon shot which I hope will be heard around the world. Our friends from Japan hopefully will hear it, with their eyes and ears in the form of reporters from Japan who are with us today in the gallery, and they are here to witness our vote.

Mr. President, this resolution is a reasonable response to the economic crisis this sector is suffering from. It does not mandate any import quotas; it does not give the President any new unilateral powers; it does not involve the expenditure of any Federal funds. All it does, Mr. President, is clear the decks for actions which both President Carter and President-elect Reagan have indicated they want to take.

During the campaign, both candidates indicated that they thought it would be an excellent idea for the President to sit down with the Japanese and try to work out an orderly marketing agreement which would result in some restraint in their export policy. Governor Reagan said on September 2 that—

> Government has a responsibility and can be legitimately involved in convincing the Japanese that one way or another, in their own best interest, the deluge of those cars into this country must be slowed while our industry gets back on its feet.

And President Carter said that—

> The United States will not abandon any portion of our share of the domestic auto market. I expect our foreign competitors to practice restraint during the time of transition as I have counseled them to do.

The problem is that we have generally stopped at the level of "counsel" and have not really gotten to the level of negotiation.

That is particularly unfortunate since the Japanese are willing to negotiate. The New York Times on Monday ran a story which said—

> Japanese representatives had suggested in both Washington and Tokyo that they would welcome an American initiative to open the talks (about an orderly marketing agreement on cars).

The article goes on to indicate that the suggestion for such talks came directly from Japanese Trade Minister Tanaka in a conversation with our former colleague, Ambassador Mansfield.

Why, then, have we not had such negotiations? In discussion I had earlier this week with John Shenefield, Associate Attorney General associated with antitrust, he indicated to me that he had written a memo which warned that the President, while clearly having the power to enter into negotiations, could find himself, under certain scenarios, named as a codefendant and subjected to discovery proceedings in an antitrust suit filed against Japanese car companies. I have not been able to obtain a copy of that memorandum, but the New York Times got sections of it and they quoted one line which said that "antitrust difficulty will arise for private persons and Government persons if these agreements are implemented in a voluntary or informal way." It was apparently this warning that kept us from accepting the Japanese invitation to enter into serious discussions and negotiations.

That is precisely the warning that this amendment seeks to negate. All we are saying here is that if the President wants to enter such discussions—as both President Carter and President-elect Reagan have indicated they do—then they ought to be free to do so without any fear that their actions will result in legal complications.

Now, Mr. President, I want to make just a few points in closing. First, I want to make it clear to the membership that this bill does not represent a radical departure from past practices. In fact, the language of the legislation is drawn from section 204 of the Agriculture Act of 1956 which was used by Presidents Kennedy, Johnson, Nixon, Ford, and Carter as authority to conduct textile trade negotiations.

Adoption of this amendment will allow us to send a significant signal to Japan and to the almost 200,000 unemployed auto workers in this country. To the Japanese we will be saying: We are serious. We have noted the increase capacity that has been added in recent months, we have noted that you have reached agreements with just about every country—notably Great Britain—restricting imports, and we are committed to seeing to it that the United States does not become the dumping ground for your excess capacity. To the unemployed workers we can at least say that we have not forgotten their plight; we are not insensitive to the fact that if we do not act, as many as 2.5 million people could be unemployed long enough to exhaust their unemployment benefits; we are not going to let your jobs be shipped abroad.

Second, Mr. President, adoption of this resolution would not indicate a change in our basic free trade policy as some suggest. The amendment is very restrictive—it specifically limits the grant of authority and calls for its expiration on July 1, 1983. All we are allowing is negotiations designed to get us through a transitional period. If, in fact, the industry cannot compete at the end of that time, then we are not, through this amendment, conferring any power to the President to negotiate further trade restraints.

Finally, Mr. President, this amendment is vitally needed to get us through the transition period. We all know the figures: The industry is losing roughly $8 billion this year alone on their pretax North American operations; and we also know that they need to spend $80 billion in the next 5 years to buy the tools and equipment they need to increase their production of competitive fuel efficient cars. That money is just not going to be available unless we provide them with some assistance—and I would rather see the assistance in the form of this amendment than a Ford or GM or an AMC loan guarantee plan. Mr. President, adoption of this amendment would send a signal to the money market which would help make it possible for these firms to get the capital they need; it would signal the financial institutions of the Nation that the Congress is willing to match the commitment made by President-elect Reagan and help this industry through its transitional problems.

Mr. President, I am proud to be associated with my senior colleague from Michigan in this effort. I congratulate him on his leadership and I appreciate his commitment.

At this time, Mr. President, I would like to engage in a brief colloquy with my friend from Missouri (Mr. DANFORTH) relative to another aspect of this problem.

Many of us in this Chamber, in fact I think all of us, want to preserve both the inherent principle of free trade, and we want to do what makes the most sense for this auto industry. We need both short-run and long-run relief for this industry. We have had a number of discussions as to what we might do promptly next year in our committees relative to legislation, relative to how we can help the auto industry of this Nation get back on its feet again.

I am wondering if the Senator from Missouri would indicate to us what his intention is in this regard relative to hearings on the position of the automobile industry so that we can know both the substance of those hearings and, perhaps, the time available for those hearings relative to both temporary and permanent relief?

Mr. DANFORTH. Mr. President, if I may, I would like to both respond to the question of the Senator from Michigan and, at the same time, comment on what just happened in the Senate with the vote on the tabling motion.

Mr. President, I guess it was earlier this year when the Congress voted on the Chrysler loan guarantee bill, that at that time I received a telegram from an old friend of mine from St. Louis, a businessman, a quite conservative person, and he said he thought my vote in favor of the Chrysler loan guarantee was a socialistic vote.

That is the strangest thing to say of a Republican Senator who believes in the free enterprise system and who believes that to the greatest extent possible government should not be intervening in the normal affairs of the economy.

But I did vote for the Chrysler loan guarantee and I would vote for it again if called upon to do so.

Similarly for an advocate of free trade, as I am, it was difficult for me to cosponsor, as I did, an amendment which would have the effect of authorizing the President to negotiate an orderly marketing agreement with the Japanese, despite the finding of the International Trade Commission, yet I did cosponsor that amendment, and I would do so again.

Mr. President, what this demonstrates, I think, is something that is very much on the minds of all of us in the Senate, and that is that yes, we believe in the concept of free trade: Yes, we believe in the concept of letting market forces work to the greatest extent possible.

But we will not tolerate a situation where a major industry in this country goes down the drain. We will not tolerate a situation in which an industry which is crucial to the rest of the economy goes down the drain.

Broad economic principles are fine, but when the economy goes to seed, broad economic principles have to be dealt with in a practical manner. And, therefore, 62 of us voted against the tabling. We regret the situation that we are in just hours before adjournment where there is a minority, a small minority, in the Senate which is opposed to this amendment and which has threatened a filibuster of it.

So the sentiment of most of us, a 5- or 6-to-1 margin, is that we are committed to doing whatever we can in the Congress of the United States to make sure that the automobile industry of the United States remains viable.

In response to the question of the Senator from Michigan, in the next Congress I will be the chairman of the International Trade Subcommittee of the Finance Committee. And it is my intention, prior to the inauguration of the next President, to commence hearings on the whole question of the automobile industry, to probe in depth to determine the precise nature of the problem, the import aspect of the problem, the needs to modernize plant and all other aspects of the automobile problem, with a view for trying to reach a sensible governmental approach to dealing with it.

So it would be my hope—and I have spoken to Senator DOLE, who will be the chairman of the Finance Committee and certainly can speak for himself—that hearings will be held and they will be held prior to the inauguration of President-elect Reagan, and that it is at least the desire of this Senator to move as rapidly as possible to fashioning whatever practical devices we can for making sure that the automobile industry of America remains alive and well.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I join those and others who have spoken before me in supporting this resolution in indicating that no State in the Union probably suffers more than does my own by reason of the lack of employment at the present time in the auto industry, steel industry, glass industry and coal industry, as well, all of which are affected in one way or another, plus the rubber industry, of course.

Our State is the second largest auto-producing State in the country and it would be nice if this resolution were enacted and if it caused to come into being action to work out an orderly marketing agreement with the Japanese.

Mr. President, my words are not needed to be added to those who have spoken prior to me on this subject. But I do rise to make a particular point, and that is that I do not believe that we would need this legislation if only the administration would have recognized that they probably always had the authority to go forward, to negotiate with the Japanese and there was not any reason for their reservation.

The argument that has been made that it might violate the antitrust laws of this country, in the opinion of this Member of the Senate, who also is the chairman of the Antitrust Subcommittee, I believe that argument to have been a specious one. I do not think that it was valid. I do not believe that the President of the United States or those that he might have designated to negotiate on behalf of this country would have been charged with any antitrust violation.

I hope, as indicated by the Senator from Missouri, that the Congress will move rapidly with respect to enacting legislation of this kind if that be the will of the Congress. Certainly no harm can be done by it. And I hope that it would pass yet this afternoon or this evening. But I do not see that as being in the cards under the circumstances.

If we can pass it rapidly in the new session of the Congress, so be it and I will be prepared to be helpful in every way possible. But I would like to urge upon the incoming administration that they reexamine the whole question of whether or not they do not have authority to proceed with or without this enabling resolution. I think it can be done; I think it should be done; I think it is legal; and I think that the faster we get about the business of negotiating an orderly marketing agreement with the Japanese, the better off we will be in the economy of this country and less will be the unemployment rate in this Nation.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I rise to support the resolution that has been introduced by people that have been working in this area on this very important problem for a long, long time.

My State of Nebraska must rank near the bottom in the production of automobiles, so I speak out as a Senator from a large automobile-producing State.

I hope that I can broaden the discussion not directly involved with the resolution before us, but certainly if we are going to talk about free trade, as we do so often on the floor of this body, we had better attempt to put that in proper perspective.

I would first like to say that the Japanese are very valued partners of ours in trading. They are very valued allies in the military sense, although most of us know and realize that they are spending less than 1 percent of their gross national product on defense, and in all too many cases I am afraid that our Japanese friends hide behind the Constitution in not spending more on defense.

The situation, though, is simply this: that as important as they are to us and we to them, I think it is necessary that we bring about a better trading relationship in a whole series of areas, not the least of which is automobiles, because certainly my automobile dealers, and those that depend upon them, and many manufacturing plants in my State that make integral parts for automobiles, are being hurt. I hope that possibly if we could get a true free trade basis with the Japanese that it might work out better for both of our great countries.

But when we talk of free trade, Mr. President, we should recognize that there is no free trade. There is no free trade. And I think that those who have talked time and time again about free trade are following an unrealistic myth.

Let us take our friends the Japanese, who are important importers of something that is produced in my State—food products. But the facts of the matter are there is no free trade with the Japanese on agricultural products. In fact, I had a chance, Mr. President, to just do a recent study on some of the practices that are carried on by the Japanese to protect—I emphasize, Mr. President, protect—their domestic producers of agriculture.

And I do not criticize them for one moment in protecting their domestic producers of agriculture, because they know how important food is.

Certainly with regard to pork, for example, the agriculture director of the Japanese, by the push of a button, can let pork come in or not come into that country.

That is not free trade.

They are great purchasers of soybeans. I think one of the greatest mistakes the United States ever made was a few years ago when we arbitrarily embargoed soybeans out of this country when the Japanese had contracts for soybeans. We did not treat them fairly. I would say by the same token, though, that the Japanese are not treating us fairly if they believe in free trade.

As I understand the resolution before us, all it purports or seeks to do is to give the President of the United States, if he wishes, the right to voluntarily engage in talks with the Japanese if they wish on some type of restriction of automobile imports, which certainly are having rather disastrous effects on that great industry that was born in the United States of America.

In closing, Mr. President, let me say that I am not one of those who believes that all of the problems of the American automobile industry can be traced to the Japanese. That is one of the great falsehoods. I think there are difficulties with the management of our large automobile companies. I think there is trouble in some of the wage scales that we pay to the people involved in that great industry.

The facts of the matter are we are spending a great deal of Federal money today—we spent it yesterday and we will be spending it tomorrow and the day after that and the day after that—to pay for unemployment benefits that are due those people who are presently out of work in the automobile industry, essentially through no fault of their own.

I would like to say while this resolution directs itself to allowing the President of the United States voluntarily to go into negotiations with the Japanese, if they voluntarily agree, with regard to automobile imports from Japan to the United States, I think it is a small step in the right direction to bring about either free trade, as we talk about it all the time, or in the interest of protecting our economy and some of our larger industries. We had better start rearranging some of these arrangements which, over the long pull, I think are not in the best interests fairly of the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. LEVIN. Will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. LEVIN. I thank the Senator for his earlier statement about seeking the middle of February as a goal for legislation to be reported from the committee.

I am wondering whether or not the Senator from Missouri can indicate whether he shares that goal for appropriate legislation to come before the Congress.

Mr. DANFORTH. In my view, time is of the essence. I do not think the automobile industry can wait for a prolonged period of study and debate. Obviously, we do not want to do anything prematurely, but I think we should proceed with the hearings in the first half of January and try to identify as precisely as we can the exact nature of the problem and pass the best available legislative remedy. I think prior to actually drafting legislation, we will clearly have to hear from the new administration. In that connection, I can tell the Senator from Michigan that I have had numerous conversations over the past few weeks with numerous members of the transition team, including people who have already been designated as high officials of the administration, to tell them that in my view the new administration should be focusing right now on exactly which way they want to go with respect to the automobile problem.

I would hope that, whatever legislation is going to be considered, we would have a fairly good idea of what it is going to look like by early or mid-February so that we could get on with the business of drafting the bill. I cannot absolutely guarantee that a particular kind of bill would be ready, at least from my standpoint, by a specific date. But I am very keenly aware of the fact that time is of the essence and that we are going to have to move as quickly as possible.

(Mr. MATSUNAGA assumed the chair.)

Mr. LEVIN. I thank my friend from

Missouri for that statement and I thank my friend from Kansas for yielding.

Mr. RIEGLE. Will the Senator from Kansas yield for a brief question? I also want to thank the Senator from Missouri and the Senator from Kansas for their concern and strong feelings about this issue. I think, again, we are together. I know I certainly look forward to the opportunity to work together in the coming session.

I want to indicate that it would be my intent to again file legislation along these lines in the new session, either as a counterpart to this resolution or something similar to it in addressing the import issue.

Would I be safe in assuming, addressing this question to the Senator from Missouri, that such a bill, filed by myself, would then come to this subcommittee which the Senator will be heading?

Would it be safe for me to assume that when these hearings are conducted, I could come and testify on this matter if it is referred to that subcommittee?

Mr. DANFORTH. I think that would be very helpful.

Mr. RIEGLE. I thank the Senator.

Mr. GLENN. Mr. President.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, just a few short remarks. I think there have been a couple of points that have been overlooked in the earlier debate.

While I generally am in favor of free trade, I think it is well to point out that what we are talking about is a time period for adjustment here. We are not talking about an orderly marketing agreement in a permanent sense that would normally come through the International Trade Commission. What we are talking about is a voluntary restraint agreement. There is a difference.

We talked to the Japanese Embassy here through my office, back some months ago, about the option of a voluntary restraint agreement and found that, while not just jumping on this and immediately moving, they indicated that they were not necessarily opposed to this idea and opposed to discussions regarding a voluntary restraint agreement, because they were very much concerned that we might, under the duress of unemployment in this country and the fact that the auto industry comprises some 20 percent of our U.S. economy—if you include service stations, garages, and all the auxiliary businesses that go to feed the auto industry or support the auto industry—get into very restrictive trade legislation in this country that would permanently alter our trade relationship.

They also realized that when we are going to over 30-percent imports in autos in this country and 22 percent of those are Japanese, when we compare that with our European friends who, on the average, only permit about 11 percent of their autos to be imported, then there was bound to be a move in this country to cut down on our imports. So they saw the advantage of going to about a 500,000 a year reduction in units coming into this country, which would take us back to about 1979 levels, in which capacity, we also could take up the slack in compacts or subcompacts in this country.

Mr. Tanaka in Japan, who is head of the Ministry of International Trade and Industry, MITI, made a speech on this subject to their own industry in Japan that they should look toward cutting down their exports to the United States to prevent that kind of possible permanent trade alteration that might occur if we were impacted permanently in this country.

Mr. President, I would say if this legislation we are talking about were to be made permanent, then I probably would not be for it, in spite of the fact that I come from one of the States most dependent on the automobile industry. But the situation is this: We may have had faults in our automobile industry in misreading the market, but basically, it comes back to one fact. That is that a couple of years ago, 3 years ago, we could hardly give away small cars in this country. We could very glibly say it was all the fault of the managers in Detroit, but I do not believe it was all their fault. They may have made some misreadings of the economy and what the American people wanted, but about 3 years ago, after the first gas crunch in this country, they could not even give away small cars on the showroom floors in this country.

It was only in the last year-and-a-half or 2 years, when gasoline prices went up in this country, that we really were brought up short on the fact that we really did have to economize, that we really did have to go to more fuel-efficient cars in this country. That left particularly the Japanese, who had always been faced with high fuel costs and always had the smaller roads, so they had normally stayed with the smaller, more fuel-efficient cars. There they sat with an expanding capacity that moved in to fill this market.

So, it was a situation that developed that I do not think our leaders of industry in this country could have fully foreseen. It was a situation to which the Japanese exporters were ideally suited and they moved in, which was quite a natural thing to do.

Now, Mr. President, what do we need, now that our people really want small cars. Sales of small cars are becoming a higher percentage of the market total in this country. The reason I go with this proposal for a voluntary restraint agreement is that what we need now is the time that this would provide to readjust in this country so that we can be competitive with anyone in the world.

I do not think any of us doubts that American industry, and the American auto industry, especially, can adapt and be competitive with anyone in the world. But because we were prevented by our own market forces from getting into this small car market as much as it now appears we should have, several years ago, we need the time for retooling. We need the time, the lead time that is required, a couple of years, to let us really get into full production on cars and be competitive.

Mr. President, I was particularly interested in the remarks of the Senator from Missouri when he indicated that he is going to have hearings on this. He indicated also that we do not want permanent protection, we want just to be treated fairly in the marketplace. That is exactly what this would provide. That is the reason I support this voluntary restraint agreement proposal.

I yield the floor.

Mr. STEVENSON. Mr. President, much of this discussion has implied that there have been no hearings in the Congress on this general subject, as opposed to this particular issue, or any studies. There have been many hearings. I have chaired at least 7 days of hearings this year and I know other Members have also held hearings on the condition of the automobile industry.

There have been innumerable studies. I know of studies by the Congressional Budget Office, the House Ways and Means Committee's Trade Subcommittee, the Council of Economic Advisers to the President, the Office of Technology Assessment, the Department of Transportation, the Department of Commerce. And, of course, the International Trade Commission. All of these studies come to the same conclusion.

This debate implies that import protection can help the automobile industry. I am very glad to hear that there will be more studies and hearings next year, but they may reach the same conclusion that has already been reached by every other study, which is that imports are not the problem. Imports are not the major cause of this industry's serious condition. In fact, the figures make that quite obvious.

Imports since 1978 have only gone up about 500,000 units at the same time that domestic automobile sales have declined by over 2 million. If there had been no increase in imports at all during that period, this industry would be in serious trouble.

Its trouble is caused by high interest rates. Its trouble is caused by the high prices at which American cars are priced. Those, in turn, reflect high wages, which are part of the problem.

Its plight is caused by recession, declining demand, and basically, by the failure of this industry to supply the American public with a product it wants to buy.

If that is the case, how is protection going to help? It will not. It will hurt the economy at large and threaten even greater damage to the auto industry. Mr. President, if, as a result of this measure or some similar measure, for example, imports were cut by about 500,000 units, the cost of automobiles to American consumers would increase by about $4.9 billion. That would be a massive source of inflation. It would cause continued high interest rates, a major cause of this industry's plight, and a cut of that magnitude—far larger than anything the Japanese are likely to agree to voluntarily—would only put 16,000 auto workers back to work.

Well, I figured that works out to roughly $245,000 per job, which would make it the most expensive jobs program in our history.

Mr. President, this measure would not help the industry, and its implications for the economy at large are profoundly disturbing.

It hurts the farmers. It is a truism that trade is a two-way street. If some nations cannot sell to us, they cannot buy. It hurts the consumers. It causes more inflation. It causes currencies to fluctuate. Ultimately the effect of trade protection is to divert resources away from the most efficient industries to the least efficient. It penalizes high productivity sectors and erodes long-term prospects for economic growth.

If auto imports were limited, the Japanese would only be forced to redouble their efforts to export in Europe and elsewhere at the expense of other American industries.

If import restrictions were imposed, as Senator RIBICOFF pointed out in his statement, the yen would depreciate, which would undermine the competitiveness of U.S. producers and unleash a flood of Japanese products on the American market. This amendment repudiates all the trade procedures which the Congress has established in the past in order to depoliticize the trade policy. It would invite other countries to repudiate their own procedures and, could cause retaliatory protectionist actions.

We tried trade protection once before in the late 1920's. That action, the Smoot Hawley tariff bill led the world into trade wars and plunged all nations into deep, global depression. The world of 1980 is far more dangerous, interdependent, and unstable.

The answer to the plight of the automobile industry lies with lowering high interest rates, improving the general state of the economy, developing advanced automotive technologies, and, perhaps even more importantly, advanced production processes.

The plight will not be corrected without supplies of capital for modernization of the industry and, in my opinion, without some major restructuring of the industry.

The Congress must face up to those basic problems. One of the reasons I am concerned about this measure is that, as a quick fix, it is unlikely to help, and it becomes an excuse for not facing up to the basic problems of the industry.

But if the Congress does address the underlying problems it is not too late to help.

The industry is itself making major efforts to produce fuel-efficient, competitive vehicles. New models are coming on stream, which, on the whole, have been well received.

If protectionism is resisted and in the next Congress this body faces up to the real problems of the industry, it will be able to help, and do so without inviting more inflation, more recession, and more recession worldwide.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I want to respond briefly to a couple of points just made by my colleague from Illinois because he made great use of the word "impose."

This resolution imposes nothing. It imposes nothing. It is a voluntary authority to the President of the United States. It requires a voluntary response by Japan, and it imposes nothing.

There are no open automobile markets left in the world today other than this one, and to a much lesser extent, Germany.

Although I might say, the Japanese penetration in Germany is half what it is in the United States.

I think if we want a safe bet, it would be that Japan doubles their market share, Germany will impose import restrictions, as we find them in every other country on this Earth except this one.

We are going to see 2 million Japanese cars come into the United States this year. Do we know how many they are taking back from us? Twenty thousand. They are sending in 2 million, taking back 20,000, and that deficit in the balance of payments in this account alone is in excess of $10 billion.

That scarce capital is desperately needed at this time in the industry as it is making a vital transition. If we are going to keep the steel plants running, and the other related industries, we have to have that capital to modernize our industrial base and keep it on shore here in the United States.

Those are just the facts. Our economy today, and especially our heavier industry sector, is highly vulnerable. It is out of date. It has to be modernized. We better face up to that fact.

It is no answer at all to watch it move offshore to foreign trade predators, as we are finding in the case of the Japanese in this instance.

This problem is not just a problem for our Nation. It happened to be worse for the United States. But every other Nation had to face this, and they have all come up with answers except for our country.

We had to mobilize in the United States during World War II, and we may well have to again. If we should require full defense mobilization, we will need our heavy industries. We will need steel and glass and rubber and our auto plants and other related supplier industries that feed into them.

If they are off some other place around the world, that is not a sufficient answer.

We face that problem today with oil. Let us not have it with respect to the problem of our basic industrial capacity in the United States, and that is a strategic factor that directly relates to this issue at this time.

In terms of the CBO study, we have looked at that and I say it is worthless. There is no original data in that study, only extrapolations. If somebody wants hearings, fine and dandy. We will have them. We have had them. The Senator from Illinois had them. I had them. Others have had them.

There is a wealth of data. But if we want to use that, it will not support, in my judgment, the claims made in the CBO study that was emphasized a short time ago.

We have a horrendous budget deficit in the United States today and a large part of that is due to the fact that a major part of our industrial economy is shut down.

Not only do we lose those tax revenues, but we have unemployment insurance compensation, we have trade adjustment assistance, food stamps, any number of other transfer payments to try to keep people whole and alive, because we do not want to face up, or at least some, a handful, do not want to face up to this trade invasion from Japan. We can only close our eyes to it for so long before we suffer permanent damage on a massive scale. We are far down that road now.

Unless anybody misunderstands what the ITC did with its hearings and decisions, it found by a vote of 4 to 1 that, in fact, we do have serious injury in this industry today accruing to foreign imports. That was the finding.

There were three different votes, and the vote was 4 to 1 on serious injury.

I think that, indeed, there is serious injury today in this industry due to foreign imports.

On the final, very much more esoteric ITC decision, as to whether or not imports were the largest single cause of damage, the board flipped on a vote of 3 to 2, and the Commissioner considered to be the swing vote, agonized at great length. I could read it, what he had to say. If we read his comments on how he sees this problem, we would think he was going to vote on the side of the issue I am arguing today. It turned out he did not.

But the rationale that is in the record supports the claims we are making here. I am confident that when the new administration fills the existing FTC vacancy, if there were rehearings on this issue, we would see this decision turned around, as it ought to be.

But now we are caught in a hiatus. We are caught between administrations. We are caught in the last hours of this session. Congress is about to shut down.

We have hundreds of thousands of people out of work across this country. Many already have exhausted their unemployment compensation benefits.

We have a situation here in which a handful of people, because they have strong objections, will not even allow a final vote on this issue. That is the hard fact.

So, more weeks have to go by, and more months have to go by, without our facing up to this problem.

It is time we do something about rebuilding this country. It is time we did something for the United States. We are always concerned about helping others, and that is fine and dandy, but there comes a time when you have to help yourself. We have to face these problems in this country at this time.

I thank my colleagues who voted against this tabling motion. There is a very powerful message in that, and it had better not be misunderstood, because we will be back on the floor. Some time may elapse, but it is not going to be much more time before you are going to see laws passed here to deal with this problem, if there is not some other remedy. I would rather work it out. We work things out around here all the time. We can work out things between countries.

We are not going to see this condition go on or worsen. We cannot afford to, and we will not.

Mr. President, I ask unanimous consent that a statement I gave before the International Trade Commission on October 8, 1980 be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DONALD W. RIEGLE, JR.

Mr. Chairman and Members of the Commission, I am Don Riegle, United States Senator from Flint, Michigan and I appear before you today on a matter of the greatest urgency and importance to our nation.

I am speaking today as a citizen of Michigan, a member of the Senate Banking Committee—and as Chairman of its Economic Stabilization Subcommittee. During my 14 years in Congress, I have been deeply involved in all the issues affecting the domestic auto industry and its workers—and more recently was the principal manager of the Chrysler Loan Guarantee legislation in committee and on the Senate floor.

It is from this base of direct experience and involvement, and only after lengthy thought, and the publication of the Commission's September 10th pre-hearing report, that I felt it necessary to appear before you today.

You have an enormous responsibility here, and I hope my testimony will be helpful to your deliberations.

By any objective measure, the domestic automobile and truck industry—and its workers—are now in a period of economic devastation that can only be compared to the great depression of the 1930's. Due to the strategic size and importance of the auto industry to the national economy—and its vital relationship to feeder industries including steel, textiles, rubber and glass and others, we find the economic damage in the auto sector pulling down the entire national economy.

I believe it is accurate to say that the auto sector problem has been the largest single contributing factor to our current national recession.

At the same time that we see massive unemployment, staggering operating losses, plant and dealer shutdowns, and a catastrophic drop in sales of American built automobiles—we see a massive increase in the importation and sale of foreign cars, overwhelmingly Japanese, and an unprecedented boom in Japanese auto production targeted for shipment to the US market.

For reasons I will shortly set forth, I believe a careful examination of the evidence will show conclusively that Japanese cars are . . . ". . . an article . . . being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article" (P.L. 93-618, Sec. 201(b) (1), 19 USC 2252(b) (1)).

Careful examination of the data will show that substantial damage has already been done, and that, in the absence of temporary import restrictions, current and future damage will be progressively crippling to the US domestic automobile industry. We are seeing the ruthless exploitation of our current difficulties by a trading partner apparently determined to inflict deep and permanent damage on our people, our economy and our future.

Every Japanese car sold in America represents the irrevocable loss to American manufacturers of a US buyer who was, by definition, a "ready, willing and able buyer", and brand loyalty data on car buyers indicate that nearly 50% of car buyers buy the same brand the next time. Reason says that if that buyer had been unable to purchase an imported car, that the almost certain alternative behavior would be to buy a US built car either then—or at some future date. If such a ready buyer deferred a new car purchase for several months—or even until the next model year—that buyer would remain for the domestic suppliers and not be lost to them.

As the Ford submission will show, in recent months significant unused domestic small car production capacity (high fuel efficiency) has remained idle, while equivalent-sized foreign imports were sold in record numbers. Logic suggests that limited availability of imports would have moved many of those small car buyers over to domestically produced and available small car models. At the least, the sale would have been deferred and "saved" for the improved and more attractive 1981 model US small cars now being introduced.

When we examine the domestic auto industry today we see depression level statistics and I will mention only the major ones.

Well over 350,000 auto workers have lost their jobs within the last eighteen months—and the domino lay-off effect within supplier industries and across the general economy indicates that something close to 1,000,000 working men and women have seen their jobs disappear.

This massive auto-caused unemployment has created a human tragedy on a scale our country does not yet fully comprehend.

In devastated auto centers in Michigan like Detroit, Flint, Saginaw, Pontiac and in Anderson and Kokomo, Indiana, we find unemployment near or above 20%, with a rising level of suicides, family violence, physical and mental illness, alcohol and drug abuse and rising crime levels. Local and state governments have run out of money and are unable to begin to cope with the level of basic social services now urgently needed.

Federal relief expenditures alone for unemployment compensation, trade adjustment assistance, and food stamps have provided a measure of temporary relief and subsistence, and have already added over 1½ billion dollars to our federal deficit—and even this expenditure falls far short of what is actually needed.

In Michigan alone, nearly 300,000 unemployed workers—most of them connected directly or indirectly to the auto industry—will have exhausted all their unemployment benefits by the end of December. Their lives are being torn apart by circumstances beyond their control.

These unemployed workers know that 2,000,000 Japanese cars will be imported into the U.S. this year, and the Japanese auto workers are working overtime and weekends building cars to be sold in America—while they and their American auto workers are standing in unemployment and welfare lines. It is creating a bitterness and resentment that is doing great damage to the relationship between the United States and Japan.

As the Commission measures for "serious injury" as set forth under sections 201-203 of the Trade Act of 1974, the stark evidence of "significant unemployment or underemployment within the industry" is overwhelming.

As for overall U.S. auto sales performance and import penetration, the growth in U.S. market share by Japanese manufacturers has exploded upward.

Today Japanese market share penetration is over 22% jumping nearly 6 percentage points within the last year alone, as indicated by your prehearing report findings—and as later witnesses will set forth in detail.

This import penetration data clearly meets the two "substantial cause" tests within the law, namely an increase in imports (both actual and relative) and a "decline in the proportion of the domestic market supplied by domestic producers."

As one examines the health of the domestic automobile companies, each one is under severe financial stress—operating as a group far below current capacity at a January–June 1980 level of only 66.5 percent (as noted on page A-43 of your prehearing report)—and accumulating staggering operating losses. For the 2nd quarter of 1980 alone, informed estimates for the 3 major domestic manufacturers indicate a combined loss on North American operations of well over 2 billion dollars—with consolidated world-wide results for the quarter showing a combined operating loss approaching some 1.3 billion dollars.

By contrast, the Commission's pre-hearing report (pages A-27) found Japanese auto manufacturers "at or near capacity during the last 1 or 2 years." Your pre-hearing report also found a 10 percent increase in Japanese auto capacity, with "most of the capacity expansion targeted for export."

These operating losses by U.S. manufacturers just cited are draining away scarce capital at a time when the domestic industry faces unprecedented needs for new investment and working capital. By 1985, the domestic auto industry must invest some 80 billion dollars—twice the cost of America's national effort to land on the moon—if we are to accomplish the complete redesign of our automobiles and the rebuilding on our auto production facilities to the level required. These damaging operating results limit forward spending for product redesign and improvement, raise the cost of capital, are sharply raising debt to equity ratios, cause work force attrition of key skills, and cause a serious shrinkage in retail dealership coverage due to individual dealer bankruptcies and the financial weakening of surviving dealerships. Nearly 1,000 domestic auto dealerships have closed their doors in recent months, and countless others are on the verge of bankruptcy.

At the same time, however, we have seen a surge in the number and strength of auto import dealerships, increased advertising, and sharply higher levels of import penetration in specially targeted regional markets. Looking at the West Coast for example, import targeting shows foreign imports with a 48 percent market share in Alaska, 45 percent in Oregon, 43 percent in the State of Washington, and 42 percent in California. Colorado stands at 38 percent. What practical reason would we have for thinking that Japanese imports will not achieve equivalent penetration percentages in other regions, if current market access is left as is?

These data show vividly the potential that increased Japanese import targeting is almost certain to mean for the rest of the U.S., unless some importation limitation agreement is put into place quickly.

From a balance of payments point of view, the trade unbalance in autos is equally devastating. This year alone, the U.S. will run a 10 billion dollar deficit in the car and truck account with Japan. This loss of scarce capital at an hour of urgent capital need within the domestic industry, is increasingly being used to finance technological leap-frogging by the Japanese auto companies and, in effect, financing our own national under-development vis-a-vis Japan. Is it reasonable to believe that the domestic American auto manufacturers can match the future technological improvements of the Japanese manufacturers—if each year the 10 billion deficit in auto-account capital exported to Japan is drained from the U.S. auto industry and added to the Japanese auto industry? Subtracting from one nation and adding to the other, is a one-year differential advantage of 20 billion; a self-imposed handicap we just cannot afford.

I have avoided discussing other matters which have created additional problems for the U.S. auto industry, such as the cost and nature of government regulation, the excessive adversary relationship in the past between business, government and labor, the long standing public policy of inexpensive gasoline which facilitated the preference for and manufacture of large comfortable fuel-inefficient cars, and the 1979 gasoline allocation fiasco with gas lines and sharply higher pump prices.

All are interesting and important facets of a complex problem, but should not distract us from the bottom-line assessment of whether the nearly 30% penetration of the U.S. auto market by foreign suppliers is now a substantial cause of serious injury for the threat thereof.

I would suggest to the commission that the most useful way to answer that question is to take today's impaired standing of the domestic auto industry, and to test, for example, the impact of a temporary three-year reduction of Japanese imports of some 500,000 units annually, covering 1981, 1982 and 1983. What then would be the strength of the domestic industry as a whole, and as one would compare it to the Japanese auto industry? What would be the effect on sales, employment, earnings, plant utilization, and other key operating measures?

This could then be compared with a forward importation penetration level equal today's, or even worse, higher levels.

Preliminary work that my staff and I have done, indicates a substantial improvement for the domestic industry and its workers, if a temporary limitation of that size were implemented. That analysis takes into account the substantial increase in availability of domestic production of small cars in calendar 1981, 1982, and 1983 and the fact that such down-sizing is now a fixed commitment and thus can be projected with considerable accuracy.

Before closing I think it is essential to address the "free trade" canard, raised by those who favor unlimited auto imports by the Japanese and other foreign manufacturers.

For many obvious and specific reasons we have never had free trade with Japan on autos. The U.S. market has been almost completely open to the Japanese, while the Japanese, by the use of a number of skillful devices, have effectively closed their domestic market both to American built cars and to other foreign cars directly competitive in size and efficiency with Japanese models.

It is very interesting to note that in 1979 Japan only imported 64,808 foreign cars from all sources, while exporting nearly 100 times as many, 6,000,000 plus—to the rest of the world, with the largest share coming to America.

Much will be made of the fact that the Japanese have had no tariffs on autos since 1978. However, those tariffs were removed only after it became clear that indirect barriers to entry had become so powerful that tariffs were no longer necessary. Japanese market demand is saturated by Japanese manufacturers, and the sales prices of imports in Japan are driven to prohibitive levels by the cost and near impossible difficulties of establishing a dealer network, the need to meet unique safety standards, and the way in which the Japanese commodity tax is imposed.

The Commission should ask itself how it is that the retail price of an American car is doubled, when and if it is available in Japan, while Japanese cars sell in the U.S. at or near their retail price in Japan.

Auto trade with Japan is now a one way street that helps Japan and hurts America. Under present circumstances, the damage being done to American workers, American companies, and the U.S. economy is unconscionable and must be remedied without further delay.

Section 201 of the Trade Act anticipated this vary problem and provides for an adjustment period of up to five years to stabilize our domestic auto industry and national economy, and intelligently manage and facilitate this enormous industrial transition now taking place in the U.S.

We need to devise such a remedy and implement it with all possible speed.

Thank you for allowing me to appear and share these views with you.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. ROBERT C. BYRD. Mr. President, I say to the distinguished Senator from Michigan that I voted with him on the motion to table, but it is obvious that the debate is going to go on and on. It could be somewhat extended.

I have talked with the Speaker, and he has informed me that it would not be possible to take up in the House of Representatives a debt limit resolution that has any amendment on it. He says that he simply cannot produce the votes at this late date.

So, in a little while, I would like to take this measure down and call up House Joint Resolution 570, which provides for a temporary increase in the public debt limit and which, if adopted by the Senate without amendment, would not have to go back to the House.

For the time being, I shall relinquish the floor, but I now say that I have cleared this request with the distinguished minority leader, Mr. BAKER, and with the acting minority leader, Mr. STEVENS, and with Mr. DOLE, on that side of the aisle.

I yield the floor for the time being.

Mr. HEINZ. Mr. President, I am pleased that, as currently drafted, the amendment contains the provisions I added during Finance Committee consideration that helps the auto import resolution accomplish its ultimate objective—which is, after all, to preserve American jobs in the automobile industry. Specifically, this amendment broadened the directive to the President contained in this resolution so that the negotiations will focus not only on imports of automobiles and trucks but also on the parts that go into them.

I offered the language in committee because there is growing evidence that many of the so-called domestic cars whose production levels we want to maintain contain increasing proportions of foreign parts—the imports of which are costing American workers their jobs just as surely as imports of automobiles are.

As evidence of the alarming trend away from the use of American parts by domestic automobile manufacturers, I quote briefly from a May 14 front-page article in the Wall Street Journal:

> Finding a truly all-American car is becoming quite a challenge. For all their complaints about sales of imported cars, U.S. automakers are busily putting more and more foreign parts into their own vehicles.
>
> There probably is "something foreign in everything" that the domestic companies turn out, concedes a Ford Motor Co. executive. The parts list for some current and future U.S. autos has a global flavor: engines from West Germany and Japan, brakes from Brazil, clutches from France, and so on, from Spain to Singapore.

The following statistics dramatize the impact of this growing use of imported automobile parts on the domestic economy. Currently, the domestic automobile industry spends some $50 billion per year on parts. Although there are no hard statistics on what percentage of that number represents imports, a recent survey of auto executives by Arthur Andersen & Co. and the University of Michigan indicates that the industry will import 10 percent of its parts by 1985 and 15 percent by 1990.

Examples of widespread use of foreign parts by all the domestic automakers abound.

At Chrysler, for example, to which $1.5 billion—at least—of taxpayer dollars have already been committed, the Omni and Horizon models are 15 percent foreign-made, including German engines, manual front-wheel-drive transmissions. Many of the new "K" cars that our Government is actively promoting so that the taxpayers do not lose their shirts use Japanese engines.

AMC's joint venture with Renault will require the import of half of the parts used in assembly, at least initially.

General Motors has a plant in Singapore to make radio parts. Some versions of the Chevette use French transmissions, and Japanese diesel engines are under consideration for future models.

The new Ford Escort contains front-wheel-drive systems and steering wheels from Japan, certain steering parts from Britain, key front suspension parts from Spain, and fuel pumps from Italy. I quote again from the same Wall Street Journal article I cited earlier:

> At the same time it is considering foreign engines for future U.S. models, Ford is cutting back at a big Cleveland engine factory and has told some 1,200 workers they may be jobless for up to three years until a different, new engine is assigned to their plant.

As these examples illustrate, the serious problem of unemployment in the domestic automobile industry will not be fully addressed unless trade negotiations with our foreign competitors also include the parts used in assembling domestic automobiles and trucks. Thus, I am pleased that, as amended, the resolution addresses this concern.

Mr. President, I believe that the action the Senate has taken in going on record as we have done should send to our trading partners and our trading competitors, the Japanese, a very strong and appropriate signal.

I do not believe any of us are satisfied with the state of our trade relations with that country. We are not satisfied with the reciprocity obtained under the procurement code. We are not satisfied with the rather slow process we are making in breaking down their elaborate and skillful system of what amounts to tariff barriers.

So, I wholeheartedly support the effort that is made here today, and I compliment the Senator from Michigan for making that possible.

Mr. LEVIN. Mr. President, during the recent campaign, both candidates indicated that they thought it would be an excellent idea for the President to sit down with the Japanese and try to work out an orderly marketing agreement which would result in some restraint in their export policy. President-elect Reagan said on September 2 that—

> Government has a responsibility and can be legitimately involved in convincing the Japanese that one way or another, in their own best interest, the deluge of those cars into this country must be slowed while our industry gets back on its feet.

President Carter was quoted as saying—

> The United States will not abandon any portion of our share of the domestic auto market. I expect our foreign competitors to practice restraint during the time of transition as I have counseled them to do.

The problem is that we have generally stopped at the level of "counsel" and have not really gotten to the level of negotiation.

That is particularly unfortunate, since the Japanese appear to want to negotiate. The New York Times on Monday ran a story which said—

> Japanese representatives had suggested in both Washington and Tokyo that they would welcome an American initiative to open the talks (about an orderly marketing agreement on cars).

The article goes on to indicate that the suggestion for such talks came directly from Japanese Trade Minister Tanaka in a conversation with our former colleague, Ambassador Mansfield.

Why, then, have we not had such negotiations? In discussion I had earlier this week with John Shenefield, Associate Attorney General associated with antitrust, he indicated to me that he had written a memo which warned that the President, while clearly having the power to enter into negotiations, could find himself, under certain scenarios, named as a coconspirator and subjected to discovery preceedings in an antitrust suit filed against Japanese car companies. I have not been able to obtain a copy of that memorandum, but the New York Times got sections of it and they quoted one line which said that "antitrust difficulty will arise for private persons and Government persons if these agreements are implemented in a voluntary or informal way." It was apparently this warnning that kept us from accepting the Japanese invitation to enter into serious discussions and negotiations.

That is precisely the warning that this amendment seeks to negate. All we are saying here is that if the President wants to enter such discussions—as both President Carter and President-elect Reagan have indicated they do—then they ought to be free to do so without any fear that their actions will result in legal complications.

Mr. President, I want to make just a few points in closing. First, I want to make it clear to the membership that this bill does not represent a radical departure from past practices. In fact, the language of the legislation is drawn from section 204 of the Agriculture Act of 1956, which was used by Presidents Kennedy, Johnson, Nixon, Ford, and Carter as authority to conduct textile trade negotiations.

Second, adoption of this amendment will allow us to send a significant signal to Japan and to the almost 200,000 unemployed autoworkers in this country. To the Japanese we will be saying: "We are serious. We have noted that you have reached agreements with other countries—notably Great Britain—restricting imports; and we are committed to seeing to it that the United States does not become the dumping ground for your excess capacity." To the unemployed workers, we can at least say that we have not forgotten their plight; we are not insensitive to the fact that if we do not act as many as 2.5 million people could be unemployed long enough to exhaust their unemployment benefits; we are not going to let their jobs be shipped abroad.

Third, Mr. President, adoption of this resolution would not indicate a shift in our basic free trade policy as some suggest. The amendment is very restrictive—it specifically limits the grant of authority and calls for its expiration on July 1, 1983. All we are allowing is negotiations designed to get us through a transitional period. If, in fact, the industry can not compete at the end of that time, then we are not, through this amendment, conferring any power to the President to continue any trade restraints.

Finally, Mr. President, this amendment is vitally needed to get us through the transition period. We all know the figures: The industry is losing roughly $8 billion this year alone on their pretax North American operations; and we also know that they need to spend $80 billion in the next 5 years to buy the tools and equipment they need to increase their production of competitive fuel efficient cars. That money is just not going to be available unless we provide them with some assistance—and I would rather see the assistance in the form of this amendment than a Ford or a GM or an AMC loan guarantee plan. Adoption of this amendment would send a signal to the money market which would make it possible for these firms to get the capital they need; it would signal the financial institutions of the Nation that Congress is willing to match the commitment made by President-elect Reagan and help this industry through its transitional problems.

Mr. President, I am proud to be associated with my senior colleague from Michigan in this effort. I congratulate him on his leadership, and I appreciate his commitment.

● Mr. DURENBERGER. Mr. President, the automobile industry is facing tremendous economic hardship. It is a hardship that filters through to the workers employed by the industry, and the thousands of dealers who depend on the industry for their livelihood. That issue is beyond debate. The question we face today is how to help an industry so essential to our economy to recover.

It is a question that defies an easy answer or even a single answer because the problems of the automobile industry do not stem from a single cause. Inflation, high interest rates, poor decisions by the industry's top management, sharply rising gasoline prices, Government action and inaction have all contributed to the industry's current slump.

Imports have also played a role through relentless competition from foreign manufacturers offering American consumers the low-cost, fuel-efficient automobiles they are demanding. But should we single out imports as the major cause of the industry's problems? More important, is there any reason to believe that trade barriers themselves will bring about any real improvement for domestic automobile companies, dealerships and supplying firms?

Mr. President, it is no coincidence that the U.S. Chamber of Commerce, the American Farm Bureau, Consumers' Union, the National Council of Foreign Cooperatives, the Wheat Growers' Association, and more than a dozen other business and small business organizations have voiced opposition to this resolution. These organizations recognize that the price paid for these import restrictions by consumers and automobile dealers would be monumental. The import protection called for in this resolution would add billions of dollars to the cost of all automobiles and cause a net decrease in the demand for cars, jeopardizing thousands of automobile dealers and producing massive inflationary impact. The Congressional Budget Office calculates that a 20-percent drop in imports would cost consumers over $4 billion, while bringing only 16,000 of the 190,000 laid-off workers back to the production lines. Even adding indirect employment gains, this means a cost to the U.S. consumer of between $80,000 and $245,000 per job. The small gains in auto employment would be more than offset by employment losses elsewhere in the economy.

The measure now before the Senate would do more harm than good for the industry and those who depend on it. What we really need is immediate action to help the industry speed the changeover from big-car to small-car production. By increasing the industry's capacity to produce small cars, we can get to the heart of the problems affecting the automobile industry and the workers and dealers who depend on it. The best way to do this is through immediate enaction of a refundable investment tax credit.

We should act immediately to modify the investment tax credit to accelerate the time for applying the 90-percent limit based on tax liability, and then provide for refundability of currently earned tax credits after the close of the year in which those credits are earned. For previously earned but unused credits refundability would occur after the close of the last year to which the unused credit may be carried.

Although this proposal would involve some costs, they are small compared to the human and economic costs of continued workers and dealers unemployment. More important, the net cost of this proposal to the Treasury would be small in relation to the cost of the proposed import quotas. The corporate and individual taxes paid by an efficient and productive industry and its suppliers would more than offset the value of any investment tax credits allowed. In addition, the unemployment benefits paid to workers would be substantially reduced.

The Senate Finance Committee has voted in the past to provide employees of the auto industry and employees of supplying industries expanded trade adjustment assistance. I have supported those proposals, and will continue to do so. Trade adjustment assistance provides benefits for an additional year after unemployment benefits are exhausted. These benefits will materially assist the employees of the industry until such time as advanced, high-quality fuel-efficient vehicles are widely produced.

Certain economic forecasters are predicting that interest rates will remain high well into 1981. If these predictions are valid—and I hope they are not—the small businessmen who operate the automobile dealerships in this country will face an even more severe economic crisis. I am prepared to support any reasonable means to assist these dealers. I have endorsed the proposal to allow individuals a refundable tax credit for the purchase of domestically manufactured, fuel-efficient passenger automobiles. With the prime rate hovering around 20 percent, the American consumer will not be purchasing autos—domestic or foreign. The American auto dealer has not contributed to the problems of the industry nor has he caused the high rates of interest. Yet he has been forced to bear the greatest economic burden. I will do everything I can to move the Finance Committee toward action on this proposal during its consideration of tax legislation in the beginning of the new Congress.

Mr. President, even assuming that import protection was desirable, the negotiations leading to an orderly marketing agreement would take many months to complete. The Senate Finance Committee is scheduled to complete action on a tax bill by March of 1981. The choice as to which method is best is very clear.

In evaluating this choice, it is a mistake to suggest that imports—particularly Japanese imports—are the sole or even the principal cause of the industry's problems. High interest rates loom as the principal candidate for blame. They are depressing all automobile sales, both domestic and foreign. Imports as a percentage share of the U.S. market have fallen by 18 percent since the beginning of the year. The percentage share held by Japanese imports has declined by a greater rate—22 percent. This indicates that even when Japanese shipments are down, domestic manufacturers have been able to capture only a small part of the supply gap that is created—the rest has gone to imports from other nations.

It is true that sales of imported automobiles have increased by as much as 25 percent since 1978, from 2 million units to an estimated 2.5 million units. But during the same period, domestic auto sales fell from 9.3 million units to around 6.5 million units. The loss in sales of 2.3 million units cannot be accounted for by measuring increased sales in imports, which totaled approximately one-half million. The problems of the domestic automobile industry are pervasive, but with the introduction of the new, more fuel-efficient models consumers have insisted on buying, I am confident that the competitive position of domestic manufacturers will steadily improve.

The future of the American automobile industry lies in its ability to convert rapidly to the production of these smaller, fuel-efficient cars. The import restriction resolution now before the Senate would do nothing to advance that process. If anything, it would slow the process—and prolong the difficulties felt by employees and automobile dealers—by lessening the pressure on American automakers to speed up the retooling process.

It is an inflationary and ineffective measure, and I urge all of my colleagues to move as quickly as possible to more effective and responsible measures.

Mr. President, the choices facing the automobile industry—and several other of our basic industries—are outlined with remarkable insight in a recent speech delivered by Edson Spencer, chairman and chief executive officer of Honeywell, Inc. So that every one of my colleagues can have the benefit of his insights, I ask that the speech be printed in full in the RECORD immediately following this statement.

The speech follows:

AMERICA—SOLID STATE?

It's a pleasure and great honor to be invited to be the lead-off speaker for the AEA's fall program here in the center of the electronics industry. Last year I spoke to your southwest council about the relationship between economics, politics, and electronics. Since you've invited me here, I assume my remarks in Dallas were of some interest, but too much has changed simply to repeat them. The overall theme, however, is still worth keeping in mind.

When I last spoke to the AEA the country was heading into a recession. Today our economic future is still uncertain, although I believe we may be past the worst of the decline. In 1979 SALT II was on the verge of being submitted and probably approved; today we're far from *any* agreement with the Soviets. Last year Carter had some strength—but that was pre-Iranian crisis and pre-Afghanistan. Today his support has waned, (and I might add that neither of his rivals seems to be inspiring the voters either—at this point in the campaign at least).

If we stand back and take an overall look at our country, America continues to be facing problems on every front: inflation; unemployment; environmental pressures, energy shortages and costs; productivity decline; urban blight; a weak dollar, and weaker political leadership. Our power and influence abroad is a reflection of our strength at home, and as a result in many parts of the world our presence has declined.

Around the world the question is being asked: Is America really a solid state? First our opponents asked, and now our allies. Finally, we are beginning to ask the question ourselves. That, I submit, is a positive sign.

For the next half-hour, I want to concentrate on the major issues that will face our industry as well as our country during the next decade. In suggesting some changes, I hope to show the relationship between making America a solid state and our own solid state industry.

I think we can simplify our task if we look in the rearview mirror at some of our past mistakes.

From the late '40s until the mid '60s, business made many decisions without noticing the changes taking place around us. Certainly we recognize that the economy was cyclical, but the swings were not great and we were able to plan adequately. Inflation was low; the U.S. led the world in technology, efficient production and marketing; energy was cheap; and we dominated world trade. The nation's power and prestige were unquestioned. We were world leaders, and we had the confidence to act accordingly.

As a nation, we didn't think in terms of long range international trends over 10- or 20-year periods, and as a result we did not see some of the changes taking place in and around our country that have led to a decline in our position of leadership. (In fact, that leads to a separate subject that I won't address today. Suffice it to say that the short-term vision, and the short-term electoral life, of our politicians—added to financial pressures that lead to short-term evaluations of business results—have played a major part in the inability of our country and this industry in particular to cope with longer term trends.)

We didn't recognize the strength of rapidly growing foreign competition, we didn't recognize growing nationalism in foreign markets, and we didn't perceive our Achilles heel—dependence on imported energy. In addition, as a nation we were caught short by the social issues brewing in our own backyard. Civil rights, women's rights, consumer and environmental movements were all in their infancy.

With Kennedy's New Frontier and Johnson's Great Society, attention focused on these new domestic issues and on government involvement in solving our nation's social problems. The result was new legislation and regulations that, though well-intentioned, placed substantial extra cost burdens on our economy. And did so at a time when we were beginning to be mired down in Vietnam.

Our nation's international economic position started to weaken. Our military strength began to decline relative to the Soviet Union, and our post-World War II position of international political leadership also began to slip away.

We have to ask why the U.S. is losing ground to the other industrialized nations, especially in terms of productivity. Government intervention in the economy and our massive oil imports have each been labelled as major parts of the problem. I disagree with those simplistic theories, and believe that the real answer is much more complex.

Our country is going through a period of social, political and economic change as we move from an industrial to a post-industrial, or informational society. With that change has come uncertainty and frustration. Polls show that two-thirds of Americans believe we are in an economic crisis. Two-thirds believe our political strength is waning. A majority finally recognizes that we do have an energy problem. We have not won the war against poverty, illness, and prejudice.

That frustration, which big government has not and cannot solve, has led to a search for alternatives, to fragmentation of our society and to the rise of special-interest politics. Today there is no political consensus. There is no national economic strategy. There is confusion about our military objectives. Our allies perceive our political weakness.

That is where I believe we are as we head into the '80s. It will be a decade of challenge for leaders—political, business, labor and intellectual—but I think we can solve our problems. We can keep America a solid state if we identify and plan corrective action for the major difficulties that will affect our country and this industry. It's not an easy task, because the issues that will affect us most are extremely complex and intertwined. However, I've developed some ideas that I hope will give you my views of solutions.

The first thing we must recognize is the "human factor." Demographics and social attitudes are changing rapidly, and will have a tremendous impact on us.

The global population growth rate recently dropped below two percent for the first time since we've kept records. But even so, there will be approximately six billion people by the year 2000—and only one billion or so will be in the developed nations. Half of the population of the Third World is now under 17 years of age. That means there's a tidal wave of Third World people about to hit the labor market—and I don't think we can assume they will be content to take a passive role. We'll probably have more "boat people" and continuing surges of refugees in the future. The Third World countries will demand that we share our technology with them, and that we buy more of their products. There will be growing political instability and fervent nationalism in the Third World.

Here in the U.S., the current decline in students in the elementary schools spells a labor shortage when its full impact hits the labor force in the 1990s.

The impending labor shortage here may be offset by sharing production with Third World countries, by delaying retirement, or by adding even more women to the work force. Already more than half the women in the U.S. are working fulltime, and almost half of those with children under six are also working. We'll probably see more demands for day care, flex-time and other steps to satisfy the needs of working parents. These new and different demands will also reflect the trend towards single-parent households.

We also have a large and rapidly growing Hispanic population that can help as it enters the labor market. But that too will pose new challenges for management, such as coping with difficult languages, different customs, and different emotions.

Some states—Arizona, Texas, California, New Mexico and Colorado—are already becoming bilingual states. Florida and New York City are not far behind. The question is, how far are we from the beginning of a separatist or independence movement such as in Quebec? It's conceivable that our country may take a different and more decentralized political form in the future, spurred by swelling minority demands. Alaska, for example, has already called for a plebiscite on renegotiating its status with the rest of the U.S.

At the same time that these demographic changes are taking place, attitudes towards work and expectations employees have of their companies are changing at an unprecedented rate. I believe social change is escalating, with the electronic media acting as a catalyst. Demands by employees for participative management are increasing. Demands for control over what is made, and how and where it's made are just beginning. We will have to find new, more humanistic ways to manage. Solid state technology can help us by providing more powerful management tools, and thus help keep industry strong and America a solid state.

The second major problem facing us is energy .There is no doubt that conservation can be effective, and that the U.S. can save massive amounts of energy by applying technology—much of it solid state—to reduce energy consumption. According to Energy Future, the energy project at the Harvard Business School, "conservation . . . should be regarded as a largely untapped source of energy." Research at Carnegie Mellon has led to the same conclusion. Some day, in all probability, political events will force the Saudis or other major suppliers to shut down the oil pipeline. The Arab states hold massive economic power—we're going to have to listen to them more closely. When the pipeline from the Arabian Gulf does close, even if temporarily, we will have only conservation to fall back on for many years to come. Honeywell has been involved in the energy conservation business for almost 100 years, and we know that conservation works.

The country is making progress, because the energy we consume for each dollar of GNP decreased 10 percent, measured in BTUs, between 1973 and 1978, according to an energy study developed by the Mellon Institute.

New solid state electronic systems can help locate previously hidden sources of oil and natural gas. Microprocessors and LSI circuits can optimize the use of energy at home, in the office, in industry, and in our cars. We know that the full impact of microelectronics on energy consumption has not yet been felt in the home, because relatively few homes have even a basic set-back thermostat. Commercial buildings can save energy with new electronic sensors and microprocessor-based control systems, but few buildings have them yet.

Industry has done a much better job of applying state-of-the-art technology to energy savings—but there is still room for improvement. For example, in a test with U.S. Steel and the DOE we will use electronic near-infrared scanning cameras, image processing, and pattern recognition systems to inspect hot steel slabs and eliminate an entire cool-down cycle in the steel-making process. The entire system is electronic, and the potential energy savings are dramatic.

Similarly, solid state advances have been a key factor in improving gasoline mileage in our vehicles. And eventually silicon-based technology will replace some traditional energy sources when the photovoltaics industry matures.

Solid state technology, as it contributes to solving our energy problem, can help us remain a solid state.

The third major problem facing us is inflation. It's a very complex issue that undermines our social fabric. Inflation in part is an attitude that feeds on itself, reaching the point at which it's in perpetual motion. It can be controlled only with unpopular government action—major reductions in government spending and the accompanying programs. There is a lot of talk today about tax cuts, but without reductions in government spending, tax cuts will have little effect except to further increase inflationary expectations.

Essentially, we need to tighten the federal belt and expect government to do less, rather than expecting federal spending to solve our difficulties.

That brings me to the fourth major problem we are facing—a declining rate of productivity growth. In an inflationary economy we need higher profit margins and higher returns on investment to offset the higher costs of replacing inventory and the higher cost of capital. Higher productivity is one key to higher profit.

But productivity is elusive. It's in part an attitude that says all work can be done better by the continuous application of capital, creative thinking, problem solving and energetic job performance.

The declining rate of productivity growth in the U.S. is alarming, because it is a measure of how successful or competitive we are at managing our businesses and our economy.

If we compare the U.S. to another leading industrialized nation, West Germany for example, we find that we import only 50 percent of our oil compared to Germany's 95 percent, and government spending represents about seven percent less of our Gross Domestic Product than Germany's. But the productivity growth rate in Germany is three or four times higher than here.

France—which many Americans traditionally view as a weak industrial nation—is improving its productivity almost three times faster than we are. We would draw more dramatic comparisons with Japan, which has countered the need to import over 90 percent of the energy source it requires, by stepping up exports and continuing its drive for high-quality, low-cost production.

The solution for the productivity problem lies within industry, not government, and I believe that the solution is based on people and technology.

Business is largely at fault for the decline because we have not, as a nation, invested enough capital in new plants and new equipment. We have not invested enough in training and re-training our people. We haven't taken enough steps to improve the relationship between management and labor. We're in the age of the knowledge worker, but most of our productivity programs are still oriented towards the blue collar worker. The time when productivity can be improved by simply speeding up the assembly line is long past.

The electronics industry has done better than most others at addressing the problem, perhaps because it's a new industry. But I'm not sure that we've done well enough. The semiconductor sector of our industry has addressed the problem by going to larger wafers, more gates per chip, automated testing and bonding, and automated design. The intent has been to increase yields and performance, which means to increase productivity. But we haven't done enough to reinforce a productive attitude among our people, including our managers. Certainly the employee turnover rate in "Silicon Valley" is counter-productive. We need to take some lessons from those nations that are improving productivity faster than we are.

Just think about the effects of personnel turnover in our electronics industry, and compare it with the lifetime employment practice of Japanese companies. It's no wonder the Japanese semiconductor industry produces such high-quality and cost-effective products.

Let me point to the auto industry, because it's the most dramatic example that we have. I'll compare a few statistics from Ford and Toyota. At one of Ford's most modern engine plants in Valencia, Spain, employees are putting out an average of 1,800 engines per day. Toyota's Kamingo plant produces an equal number of engines, but with only one-fifth the people. That's nine engines per employee for Toyota versus two engines per person at Ford. Ford has about 900,000 square feet, while the Toyota plant has one-third that area. At Ford, there are about 10 levels of organization between the plant floor and top man; Toyota has exactly five levels. And Toyota uses a production system that virtually eliminates in-process storage. Small quantities of parts are delivered frequently from surrounding subcontractors—for example, heaters are delivered 16 times a day—to lower overhead and inventory costs.

At Toyota employees are encouraged to make suggestions to improve procedures. Last year there were more than 500,000 suggestions—90 percent of them valid. That's more than 10 suggestions per employee.

At Honeywell we have been improving productivity through Quality Circles since 1974. We have over 200 in the company now, and they are growing at a rate in excess of 50 per year.

In this country we still have a lot to learn about productivity. The electronics industry can continue to help the rest of the country boost productivity by making the type of solid state products that help industry solve its productivity problems. But if our electronics industry falters or stumbles in the drive for leadership, we can seriously hamper the rest of our nation's industries.

The fifth major problem we face is R&D spending—which statistics suggest has been declining steadily as a percent of revenues. The number of patents issued in the U.S. has held steady at just over 100,000 per year, but a growing proportion of those patents are being awarded to foreign nationals. Last year, of the 100 companies receiving the most patents, 26 were foreign-owned. Of the top 10 companies, half were foreign.

These statistics and others suggest that the U.S. is lagging in technological innovation. That's a serious statement because the technological leadership we have enjoyed in the past has lead to competitive advantages. American managers, conditioned by short-term ROI results, may be gradually becoming reluctant to take a chance on long-term product development. The Europeans and more particularly the Japanese, on the other hand, have a strong commitment to increasing market share through development of advanced technology—and to do so over a long period of time.

The long-term solution to solving America's problems may not be possible by only liberalizing tax laws, monetary policies and government regulations. It will also require some fundamental changes in management attitudes and practices, if we hope to remain competitive in the global markets. Traditional hard-driving, production-type management may not be the best answer to motivating people in the service industries and the new informational industries like data processing.

That brings me to a sixth and last point—foreign competition. Despite the views of many in our industry, I believe that foreign competition is beneficial. I know that some of you will disagree, but let me explain further.

The U.S. semiconductor industry got burned with excess capacity in 1974–75, and perhaps as a result didn't have the added capacity needed in place in 1978–79 when demand took off. The Japanese did have capacity available—and as a result we lost market share to foreign competitors, and we will have a very hard time regaining that lost ground. For example, in 1979 Honeywell suddenly found itself short millions of logic circuits used in minicomputers and terminals, with no U.S. source available to supply the parts. Within a month Japanese manufacturers had committed to deliveries that enabled us to meet our production schedules. I might add that we paid a higher price for the Japanese parts.

Today, some in our industry are actively lobbying for government protection from this foreign competition, a strategy I cannot support. Foreign competition is like a dose of medicine—even though it may not taste good, its long-term benefits far out weigh the initial negative response. Protection only supports our weak industries, and costs American consumers in higher prices. Ultimately the inefficient producer loses out, even when protected.

I'm going to divert from the main theme for a minute to comment on some work going on between our country and Japan, aimed at improving economic relations between the two countries.

President Carter and Prime Minister Ohira created the Japan-U.S. Economic Relations Group at the May 1979 Summit meeting. The idea came from several sources, including Ambassador Mansfield and the U.S. Embassy staff in Tokyo.

The objective was to establish a small group of distinguished persons from private life to submit recommendations concerning actions to maintain a healthy bilateral economic relationship between Japan and the United States.

The members include an economist from each country; a banker from each country, including Tom Clausen, president of the Bank of America; two industrialists—Akio Morita, chairman of Sony Corporation, and myself; and our co-chairman, former Ambassador Ingersoll and Ambassador Ushiba.

The group is focusing on long-term problems such as the openness of the Japanese economy to trade, as well as investment and productivity problems in the United States. It hopes to ultimately have long-range recommendations to avoid the type of trade problems that have appeared in recent years in such industries as textiles, steel, automobiles, and color televisions—problems that could conceivably, in the future, appear in the electronics industry.

With the threat of strong foreign competition, the electronics industry can't permit itself to become fat, complacent, and unresponsive to customer demands like some other industries in this country. We will continue to take risks, to invest, to develop new products, and to remain competitive because we see great opportunities in front of us and we know that strong competition is hard on our heels.

I want to say a word about government, which we have to turn into our ally rather than our adversary.

We can't match the national industrial policies of France and Japan, but we do need a more comprehensive industrial strategy than exists today. It is possible to develop such a national industrial strategy for the U.S. as a result of active involvement by business in the political process.

We have a strong new tool to use to help implement the changes needed—the Political Action Committee or PAC. Employees at many companies contribute to a PAC which in turn actively supports political candidates, most of whom in turn support free private enterprise. The AEA has a PAC and I urge those of you who don't have your own to support it.

One of the major problems facing Congress—to use electronic terminology—is the amount of noise in the signals they are receiving. There are approximately 700 special interest groups lobbying very effectively—but at the price of obscuring some of the highest priority issues. In addition, last year lobbying organizations spent almost $10 million to represent Japan's interests here.

It's difficult for our elected representatives to separate the noise from the true signal, to differentiate the crucial issues from those of interest only to a small minority of the population. I believe, however, that our politicians are getting the message about the need for investment, for capital formation, for export trade, for tax incentives, and for reduced taxes and expenditures. We can help that process along by logical, factual presentations to congressmen and their staffs, and by actively supporting political candidates who understand and favor our points of view.

In conclusion, I have cited six problem areas facing our nation and our industry—changing demographics, energy shortages, inflation, declining productivity, insufficient R&D, and foreign competition.

In each case we in the electronics industry can do something to help our nation remain a solid state. Those same things will help us be a more comparative and vibrant industry.

Let me add one other thought. We are a young industry, growing terribly rapidly, and producing the products that our nation needs to be strong. The highest quality young people are attracted from our schools and colleges to the opportunities offered by the electronics industry. Let's not forget that we are a favored industry, with the energy, the power, and the people to contribute in a major way to the health of our country.●

Mr. DOLE. Mr. President, there is absolutely no question that each Member of the Senate is acutely aware of the problems of the automobile industry and the extremely serious ramifications that this has for the United States. While my own State of Kansas cannot boast of having major automobile producing facilities, it does have a broad range of suppliers and dealers whose businesses have been severely harmed. There is no question that these businesses need help. The only questions are what the form of that help should be and will this resolution provide any help.

Mr. President, I have a number of concerns with regard to the resolution. Maybe they can be satisfied. I am pleased to hear that Senator DANFORTH will be holding hearings in January, within 30 days from now. I hope during those hearings we can determine, first of all, the question of whether the President needs the authority which this resolution would give to him. There is widespread disagreement among our so-called legal experts on this issue. If the President already has the necessary authority would we be setting an unfortunate precedent by this action? To my knowledge this issue has not been adequately explored.

Second, there is the question of the effect of this resolution on our established "escape clause" procedures. For a good many years the United States has observed a procedure of investigations by the ITC followed by action determined by the President. The ultimate effect of this resolution could well be to emasculate that process and put the Congress back into the position of having to make escape clause decisions. This would be directly in conflict with the design of our present system. It could also be the first of an overwhelming number of requests of this nature.

A third concern which I have is the scope of the present resolution. Is it fair to ignore the leather apparel industry or the steel industry to take action authorizing the negotiation of import restraints only on autos? Should not the needs of these industries and others be considered as well? They are certainly just as important to them.

A fourth concern which I have is the potential cost of this resolution. Estimates by the Congressional Research Service indicate that it may cost consumers as much as $250,000 per worker reemployed as a result of the effects of this resolution.

A final point which must be considered is the position of the new administration which will take office in January. The present administration is attempting to neatly straddle the fence on this resolution. They have stated they do not support it, but will not state they would disapprove it. They simply take the position that they will not exercise the authority if it is granted.

In view of these concerns, Mr. President, I am convinced that further consideration, including a hearing, is necessary. Notwithstanding these concerns I will not vote to table the resolution and I am uncertain how I will vote on final passage.

I would finally say that these are only a few of the concerns that many of us have. I believe they will be addressed in January. I am not certain of the exact time we might be able to report out of the Finance Committee some resolution after extensive hearings, hopefully by the end of February. But I think we must keep in mind that will only give the new administration about 5 weeks to sort of get on board, to settle in, and to single out this specific issue. But I would hope that at least the Senate can proceed with preliminary hearings in January.

I think it will be necessary to have someone represent the administration. Of course, that cannot be done until after they have become part of the administration on January 20. Even if they could testify as early as the middle of February, it would not give them more than a couple of weeks of preparation. It would probably strain the Congress and the Senate to make that a goal, but it is a goal that I am willing to at least establish with the understanding that it is a goal and that it will depend on the availability of administration witnesses.

From the standpoint of the Senate Finance Committee, I would hope we could move very quickly.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The Senator from Idaho.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1194, House Joint Resolution 570.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. McCLURE. Mr. President, reserving the right to object, do I understand that this is the debt limit resolution?

Mr. ROBERT C. BYRD. Yes, it is.

Mr. McCLURE. Is it the intention to temporarily lay aside the one that is now pending?

Mr. ROBERT C. BYRD. Yes. The Senate would not return to it.

Mr. McCLURE. But if I understand the request then it is to lay aside the one that is pending and proceed immediately to the consideration of the other one?

Mr. ROBERT C. BYRD. Yes. It is the intention of the Senate to proceed to the consideration of House Joint Resolution 570 which is a debt limit resolution and not go back to House Joint Resolution 636.

Mr. McCLURE. Is it the intention to ask that it be considered without amendment?

Mr. ROBERT C. BYRD. It is hoped that the resolution will be adopted without amendment.

Mr. McCLURE. But that is not a condition of the request?

Mr. ROBERT C. BYRD. That is not included in the request.

Mr. McCLURE. But included in the request is setting aside the pending matter?

Mr. ROBERT C. BYRD. That is part of the request, yes.

Mr. McCLURE. I have no objection.

Mr. BRADLEY. Mr. President, reserving the right to object, I ask if there will be a time in which we might consider Calendar Order No. 291 at a specific time?

Mr. ROBERT C. BYRD. I shall certainly be glad to attempt to call up that item.

Mr. BRADLEY. Will the majority leader be kind enough to say that he will call up this item or ask unanimous consent to call up the item at the conclusion of consideration of the measure that he is now seeking unanimous consent to call up?

Mr. ROBERT C. BYRD. It will depend upon, I will say, what hour the Senate completes action on the debt limit resolution.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, is this the so-called CHAP bill?

Mr. BRADLEY. That is correct.

Mr. DOLE. There are a number of objections to that measure on this side. I think there are nine or more. Therefore, this Senator, who may have an identical view, would object.

Mr. BRADLEY. The Senator from Kansas would object to bringing up the CHAP bill under a unanimous-consent request?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. Could we withhold that?

Mr. DOLE. We may be able to work out something.

Mr. ROBERT C. BYRD. Could we withhold that for the moment? And I assure the distinguished Senator from New Jersey I will make the effort to call up the bill.

Mr. BRADLEY. Before we leave this, I wish, if I could, to get it a little clear that on that side there are at least eight or nine objections to the CHAP bill?

Mr. DOLE. This CHAP bill, yes.

Mr. BRADLEY. Yes; this CHAP bill, even though it goes some distance toward meeting a lot of health care needs of the children and pregnant women of our country.

Mr. DOLE. That is right.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Let me say I regret that is the situation, but I have no objection to proceeding.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 570) to provide for a temporary increase in the public debt limit.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. LONG. Mr. President, this resolution will increase the temporary public debt limit to $935.1 billion through fiscal year 1981, which ends on September 30, 1981. The limit under present law is $925 billion through February 28, 1981.

Both the limit in present law and the limit proposed in this resolution are consistent with the economic and budget assumptions of the first budget resolution for fiscal year 1981. The purpose of this resolution is to provide the Treasury Department with some additional margin for debt operations early next year and to allow Congress sufficient time to organize itself and to enact a debt limit to cover the remainder of the fiscal year.

Secretary Miller told the Finance Committee that in view of the present economic outlook, it will be possible for the Treasury to carry out its responsibilities with the present debt limit no more than a few days after the start of February. In addition, Treasury will be able to stay within the present debt limit at the end of December and January only by reducing the operating cash balance below the $15 billion level usually assumed for these calculations.

The additional $10 billion in debt limit authority will furnish only a small amount of ease, for it means only that the next Congress may be able to defer completing action on a debt limit until the last few days of February.

That difference in time—2 or maybe 3 weeks—is very important because a new Congress needs some time to organize and get coordinated before acting on any substantive legislation.

Since this resolution is unchanged from the House version, it will go to the President after Senate action.

Mr. President, as I indicated previously, I do not believe that it is adequate, but it is better than nothing. I hope the Senate will pass it because otherwise the incoming administration will have some severe problems and even the outgoing administration will have difficulty finding enough funds to finance this Government until the President-elect takes his oath of office.

Mr. DOLE. Mr. President, I thank my colleague for his support, and I also know that the Senator from Louisiana and the Senator from Kansas and others in the Senate supported the other proposal, but I think in view of the fact that the House of Representatives would not do anything if we did increase this amount, we ought to pass this bill because otherwise we would be in even worse shape. We may not even make it through the inaugural.

This will get President Reagan through the parade and probably almost to the White House and then he will have to ask us to hurry up and increase the debt limit so we can pay the bills for the parade.

Mr. President, I support Senate approval of the House-passed resolution, House Joint Resolution 570, to extend the limit on the public debt. This resolution was passed by the House earlier this year in conjunction with the first concurrent budget resolution. It provides a debt limit of $935.1 billion through September 30, 1981.

The first thing we must realize is that approving House Joint Resolution 570 will allow only a very brief interval before we have to reconsider the debt ceiling. The Treasury Department estimates that the debt level of $935.1 billion will be exceeded by the end of February 1981. This Senator would prefer a somewhat longer respite before we have to consider this problem again. However, in the waning hours of the 96th Congress, we have to recognize that our primary obligation is to guarantee that the Treasury Department is able to meet its obligations during the period before the new Congress convenes and the new administration takes office.

Mr. President, the advantage of approving House Joint Resolution 570 is that the resolution need not go back to the House for approval; it has already passed the House in its present form. Under present time constraints, this is the surest way to protect the fiscal integrity of the U.S. Government during the transition period.

I do maintain that the new Congress will have to make a concerted effort to halt the expansion of Federal spending, so that the public debt will no longer increase at the rate it has over the past few years. That might be achieved through tighter institutional restraints on the spending powers of Congress, and that is an option we ought to explore. But for the time being we must insure the Government will continue to meet its obligations by approving the temporary extension of the debt limit.

Mr. LONG. Mr. President, let me just say this much about it. In fairness, this is not a problem with the Senate. This is a problem with the House of Representatives because the Senate has always been willing to pass a debt-limit bill and the Senate always tried to pass a debt-limit bill in time so that the President, be he Democrat or Republican, would have enough money to operate before the debt limit expires.

I hope on the House side some of those who have been enjoying the privileges of voting against the debt limit down through the years will understand they have a burden of helping provide enough money in the till so whoever is President, be he Democrat or Republican, can continue to operate the Government while he tries to make his plans to do better for the future.

I urge our friends over on the House side to take a new look at the change of responsibilities and make their plans accordingly.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was ordered to a third reading and was read the third time.

Mr. McCLURE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the third reading of the joint resolution.

Mr. EXON. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The question is on the passage of House Joint Resolution 570.

Mr. EXON. It has to do with the increasing of the debt limit?

The PRESIDING OFFICER. That is correct, a temporary increase in the public debt limit.

Mr. EXON. Mr. President, during this entire "lameduck" session, there has been a great deal of discussion about the messages we have received from the voters as a result of the November election and many proposals have been brought to the floor of the Senate to "put off" consideration of significant policy questions until the new administration and the new Congress have an opportunity to adequately deal with these problem areas. I have generally agreed with the vast majority of these suggestions and have voted time and time again during this "lameduck" session to give the new administration the chance to address these important policy decisions.

Now, Mr. President, we are about to take a rather significant action here, and prudence dictates to me that we should delay consideration of the debt limit extension bill until the 97th Congress—at least, we should consider that, Mr. President.

With all of the talk about tax cuts, spending cuts and budget adjustments, I think it might be possibly premature that we consider the public debt limit extension bill in isolation during the lameduck session.

For too long, it seems to me, we have dealt with these fiscal issues in a "checkerboard" fashion. We deal with the public debt limit in isolation, we deal with tax cut questions in isolation, and we deal with spending proposals in isolation, when in reality we know that they are all inevitably interrelated. We do a disservice to sound fiscal policy to continue this folly.

If we are to talk about tax cuts immediately upon the commencement of the 97th Congress (and if I recall correctly, the President-elect promised tax cut action within the first 24 hours of his administration), might we not consider that it could be in our own economic interest to consider the question of public debt at the time we reconvene? If we continue with the action that we are now considering without more consideration than it is being presently given, might we not be charged with rushing to increase the debt limit? Mr. President, it seems to me that prudence dictates that we have a little more information on this than we have right now.

Mr. President, in the past I have voted with reluctance for every debt limit increase we have had in this Congress. I know the political thing to do is to vote against, against, I say, Mr. President, the increase in the debt limit.

Before we continue with this, if I may, I would like to ask a question or two which could be responded to by either the chairman of the Finance Committee, for whom I have the highest respect, or by the ranking minority member of that committee.

I would simply like to ask a question or two: First, is it necessary, and why, that we take this action before we reconvene here on the 5th of January?

Mr. LONG. Well, Mr. President, when the next Congress reconvenes, it will have to organize, it will have to name its committees, and it takes a few days to get going.

We have assumed that, based on the present estimates, the Government can hold out until January 6. That is assuming things go well, that tax collections come in the way we hope they will come in according to our predictions, and that we do not have any sort of emergency that we are not anticipating. In that case, we might be able to hold out until January 6, and we think we will, and we might be able to hold out until the new President takes his oath of office on January 20.

But then again we might not. There is a distinct possibility that we will not. I hope that those of use who have been on this side of the aisle and who have done what we could to try to play the part of responsible legislators, as has the Senator from Nebraska, would try to see that whoever is President had enough money in the till to pay the bills as they came in, and would continue to find himself in that situation.

Now, no matter how you feel about the President-elect, none of us can say that he created the fiscal situation in which we find ourselves. He is a new man on the scene. He has not served in the Congress, and he has not served in the executive branch of the Government up to this point. I would think that as a matter of responsibility, and just as a matter of good public relations to everybody, it really would not look good for those of us who have had the majority in this Congress to have the Government in such a very tight situation that when the new man came in there was no money available to pay for anything, that we had more or less declared the Government bankrupt by an act of Congress, and that we were completely in shambles and unable to operate. In my judgment, it is no good to do that no matter who is President or at what point in the term that might be the case.

I think the American people would not

approve leaving a situation for the new man so that he could not even draw a check on the Treasury to pay the postmaster or pay a social security beneficiary, to pay such a check to an old person or anybody.

Obviously over on the House side, where practically all the Republicans have been voting against the debt limit and Democrats have found it more and more embarrassing to try to get a majority for it, the roles will have to shift.

Those who have been taking the view that what we were for would bankrupt the country when we increased the debt limit would have to take a more sympathetic attitude toward the problems of the Treasury and the problems of the Executive when a Republican occupies the White House, and I hope they will take a very responsible attitude, and that some of the Democrats who feel they have had too heavy a burden put on them in years gone by may very well feel that they have done enough, and that it is time for the other people to assume that burden.

I think we should at least provide enough money so that the new President can operate the Government up until the end of February, and that is all that we are really doing here. Even with this bill, when the new man takes over, the first thing he will probably have to ask for is an increase in the debt limit, and it would not be wise for us, and I think it would not be good for the Nation, for us to put the new President under any more pressure.

Mr. EXON. Mr. President, if I understand my friend from Louisiana, the chairman of the Finance Committee, who has infinitely more wisdom in this area than myself, what he is saying, to put it in my words, is that if we do not pass this debt ceiling, we probably would be putting the new President in a box.

Mr. LONG. Yes. But if I were him and if I were in that box, I would start out explaining in a hurry what the box was all about. I guess the first thing I would do if I were the new President and I had no money to pay anybody is to go on television and say, "Well, now, look, I am sorry, but nobody gets paid. I am sorry, but we cannot mail out the social security checks and all that. That is the way the previous Congress has fixed it. They fixed the debt limit and they fixed it so I could not even pay the social security or could not pay the Army or the Navy or the Air Force or anybody. Surely you would agree that I should have enough money in the till so that I could at least get started to operate the Government."

And I think the people would recommend that that would be the case. So I hope that we would all agree that we ought to leave the new man enough money in the till so he can operate for at least 1 month at the minimum. I think he ought to have enough money to operate longer than that.

I suspect that when the distinguished Senator was Governor he left enough money in the till so that his successor could hold out until the legislature could get going.

Mr. EXON. Mr. President, in response to my friend from Louisiana, indeed, I did leave about $60 million. But I did not have to raise the debt limit to do it, because we did not have a debt in Nebraska. It is prohibited by the constitution.

Mr. President, I will ask the ranking minority member, I assume that the ranking minority member of the Finance Committee, the chairman-to-be of the Finance Committee, my friend from Kansas, also feels that we should go ahead and raise the debt limit as presently suggested in the matter before us.

Mr. DOLE. Mr. President, I think, in an effort to spare any embarrassment to the Democrats, we ought to extend this, because, otherwise, we are going to go broke on the 6th of January. We would have to cancel the inauguration. We would be without a President and things could really be in bad shape.

But, seriously, if we want to cause chaos, we will defeat the extension of the debt ceiling. I hope that we could have a vote and do it one way or the other. If it fails, we will be here on January 5th and then Secretary Miller could come up and we could pass one with a Democratic President and a Republican Senate. That might be a different mix.

But we do not have much time. So I support the extension. In fact, I would have supported a greater extension to give the new administration at least up through March to sort of get unpacked and get people settled down.

It will be one of President Reagan's first orders of business to ask Congress to increase the debt limit. There are some in Congress who play games. When they are out, they vote no; when they are in, they vote yes. I assume there will be some different players next year.

Mr. EXON. Mr. President, I thank my friend from Kansas. If I understand the opinion of the Senator from Kansas, the responsible thing to do is to increase the debt limit as provided in the measure before us.

Mr. DOLE. Right. The responsible thing to do is to increase it more, but we do not have that option. But the responsible thing to do is to vote "aye" on the extension.

Mr. EXON. Mr. President, with that understanding and the assurances of my two friends on both sides of the aisle, I hesitantly will support the debt limit.

Mr. DOLE. Mr. President, the yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I ask that the call for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The question is on the third reading and passage of the joint resolution.

There being no objection, the joint resolution (H.J. Res. 636) was ordered to a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President. I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. What is the pleasure of the Senate?

MEDICAID PROGRAMS OF PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND THE NORTHERN MARIANNA ISLANDS

Mr. ROBERT C. BYRD. Mr. President, I promised the distinguished Senator from New Jersey that I would attempt to call up the CHAP measure.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 291, S. 1204.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, it is my understanding that what some would like to do is make a few remarks. But I am constrained to object to taking it up. There are a number of Senators on this side who have asked that any such request be objected to because of their opposition to this particular proposal.

I have a statement myself to put in the Record with reference to CHAP and an analysis of the bill, the cost in fiscal year 1981 and outyears, which I hope we could make a part of the Record.

But I want to accommodate the Senator from New Jersey if he would want to make his speech. Could we do that under a reservation?

Mr. BRADLEY. Mr. President, I would prefer to proceed now. I ask unanimous consent that we proceed.

Mr. DOLE. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. What is the objection to?

The PRESIDING OFFICER. To the unanimous consent to proceed to consider Calendar Order No. 291.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I am sorry that the Senator from Kansas, for whom I have the greatest respect, objected to this, although I know that there are a number of Members on his side who have objected to this bill.

Mr. President, it has often been observed that the quality of a society can be measured by the way it provides for its young. It has also been observed that our Nation's highest values revolve around the family, a nation whose future is closely identified with the welfare of its children. Our public school system is just one of the early examples of that instinct.

In light of all of this rhetorical and material commitments to our children, how have we done in assuring the health of these younger citizens? Mr. President, not as well as we might. In fact, children and pregnant women appear to be covered particularly poorly by the present mix of public programs and private insurance, in spite of our national rhetoric and in spite of the known value and modest expenses of child health services.

Mr. President, I will submit for the RECORD a list of unhappy statistics concerning child health care in this country.

The fundamental problems arise from the fragmentation of our health care policies and programs which resulted in significant gaps in services and recovery to this population. That is exactly what the CHAP legislation is directed toward. CHAP does involve a modest amount of new spending for primary and preventive services, but the expense is justified, given both the ultimate cost savings which are expected to result from early and preventive health care, and the improved health status which children derive.

Childhood is the time when health care has its greatest preventive payoff. The issue is whether to invest small sums now or pay substantially more later when preventable childhood handicaps become permanent and acute conditions.

Mr. President, there are a number of my colleagues who seriously regret the decision on the opposite side concerning this request.

Mr. President, as I stated, it has often been observed that the quality of a society can be measured by the way it provides for its young. It has also been observed that ours is a nation whose highest values revolve around the family, a nation whose future is closely identified with the welfare of its children. Our public school system is just one of the early examples of our national instinct to invest in future generations.

In light of all our rhetorical and material commitments to our children, how have we done in assuring the health of our youngest citizens? Not as well as we might. In fact, children and pregnant women appear to be covered particularly poorly by the present mix of public programs and private insurance, in spite of our national rhetoric and in spite of the known value and modest expense of child health services.

Consider the following unhappy facts about child health in the United States:

America's children die at birth in greater numbers than children in 14 other countries. One in 71 American infants dies each year. Infant mortality rates are 50 percent higher for residents of poverty areas than nonpoverty areas.

Millions of American children are growing up in poor health. One in seven children, or 9 million, get no regular primary health care. For them, the regular checkups that parents want for their children are never received. Poor children spend more days in bed and lose more days from school than children who are not poor.

One in three American children, or almost 18 million, has never been to a dentist.

Almost 40 percent of children aged 1 to 4 have not been fully immunized against polio, measles, or rubella. Almost 50 percent of children aged 1 to 4 have not been immunized against mumps. Almost two-thirds of children aged 1 to 4 have not been immunized against diptheria pertussis, and tetanus.

Of all children aged 1 to 5, 30 to 40 percent have below standard hemoglobin levels, one indicator of malnutrition.

Less than 30 percent of American children are covered through private insurance for out-of-hospital physician visits.

Employment-based insurance plans shortchange coverage for children's needs. Only 15 percent cover children's eyeglasses; 9 percent, preventive care; and 32 percent children's dental care.

Mothers who have had no prenatal care are three times more likely to give birth to infants with low birth weights, which is associated with almost half the infant deaths and substantially increases the likelihood of birth defects. Yet, 7 out of 10 mothers under 15 years of age receive no prenatal care in the first 3 months of pregnancy; over one-fifth receive no prenatal care at all, or not until the end of pregnancy. Almost 10 percent of all black mothers receive no prenatal care at all, or none until the final trimester.

More than half of the private insurance plans fail to cover prenatal care; 45 percent exclude post-natal care; 90 percent exclude family planning and about 50 percent leave major gaps in covering newborns during the first days of life.

Under the medicaid program, 19 States do not cover maternity care of women during their first pregnancy.

These facts are not to suggest that we have no public policies designed to promote the health of American children. The medicaid program was created in 1965 to assure a basic level of health care to the country's low-income population, and approximately 13 million children are eligible for medicaid. By virtue of their medicaid eligibility, these children are also eligible for the EPSDT program—early periodic screening, diagnosis and treatment—which was created in 1967. Others, whose families are sufficiently low income, but whose parents live together—the intact family—are not, however, eligible for medicaid or EPSDT coverage. This is only one of the many gaps, both in the services available to children and pregnant women and in the criteria for eligibility, which make medicaid less than fully effective in reaching those in need of health care.

Other federally financed health programs for children are more successful in delivering comprehensive services, including community health centers, maternal and child health programs under title V of the Social Security Act and the migrant and Indian health programs. However, these programs reach only a fraction of the children living in families with income levels which make them eligible for medicaid—an estimated 1.7 million of the 13 million medicaid eligibles.

Thus the problem is not simply one which can be resolved by achieving better coordination of existing child health services—although significant improvments can be achieved through more coordinated planning and implementation. The fundamental problems arise from the fragmentation of our health care policies and programs which has resulted in significant gaps in services and in coverage for needy populations. We do not have to remake our child health system, but we have a good deal of incremental filling in and fixing up to do—especially in the direction of preventive services and early diagnosis and treatment.

This is where CHAP—the child health assurance program—comes in. CHAP is not a new program. It constitutes a careful attempt to resolve specific deficiencies in a program which has now been in existence more than 10 years; it also has the potential for saving Federal dollars over time. CHAP's goals, while absolutely crucial, are modest: First, to modify EPSDT to enroll all needy low-income children in a system of health care which assures them complete preventive services and necessary subsequent care; and second, to correct the most serious inequities in eligibility and benefit policies for children and pregnant women under medicaid. These goals can be achieved through relatively simple legislative and administrative changes.

CHAP does involve modest new spending for primary and preventive services. But the expense is justified given both the ultimate cost savings which are expected to result from early and preventive health care and the improved health status which children will derive. Childhood is the time when health care has its greatest preventive payoff. The issue is whether to invest small sums now or pay substantially more later when preventable childhood handicaps become permanent and acute conditions that require expensive treatment, institutionalization and loss of productivity.

Studies have repeatedly shown that primary care services lead to healthier children and dramatically reduced costs by eliminating or reducing costlier treatment costs for conditions which have been diagnosed early or prevented altogether.

In North Dakota, total medicaid expenditures per child were 26 to 44 percent lower for children who were screened than for those who were not. Expenditures for inpatient hospital services were 47 to 57 percent lower for those who had been screened.

In title V maternal and child health projects, the days children spent in the hospital decreased up to 40 percent as comprehensive preventive health care was provided.

In Michigan where children are on the second EPSDT screening, the rate of referrals for health problems found through screening has dropped significantly, by 13 percent, for those returning for rescreening.

An investment of $180 million in the measles vaccine program saved an estimated $1.3 billion in medical care and long-term care by preventing conditions such as, deafness and retardation.

It costs very little to provide basic health services to children, considering the difference it can make in a child's life. A CHAP checkup costs about $20. CHAP children can get the basic health care they need for about $325 a year, less than what it costs for a 2-day hospital stay. Moreover, the several hundred million dollars required for CHAP is less than 1 percent of the $63 billion in the second budget resolution for health care. These billions pay for expensive and sophisticated treatment which could be avoided or reduced by bolstering the system of preventive and primary care, especially for children. Similarly, the CHAP budget is less than 4 percent of the medicaid budget which is spent primarily on the most expensive types of medical care and services.

CHAP's many merits have been recognized by a wide array of religious and labor groups, physicians' associations and other professional organizations. The Senate Finance Committee reported the Senate bill, S. 1204, in July of last year. The House passed its version of CHAP a full year ago. Yet here we are, nearing the end of this Congress, and the Senate has not had the opportunity to consider this important child health legislation. Why?

The answer is that the opponents of this program to improve maternal and child health in this country are preventing the Senate from considering CHAP and reaching its own judgment about the merits. I, for one, deplore the obstructionist tactics of the opponents of CHAP and their unwillingness to set aside time to consider the health needs of the Nation's children and mothers. The opponents of this program are being both shortsighted on the budget issue and callous in regard to children. While insisting on the importance of the family and family values, they ignore the health needs of millions of low-income children and pregnant women who desperately need the health care which CHAP could provide. No groups in this society are so vulnerable or so poorly covered by current programs. Yet the opponents of CHAP would have us wait, would have us go slow, would have us do nothing.

CHAP should not be postponed further. The issues have been thoroughly aired, and there is a consensus on the necessary changes to make EPSDT work for poor children. These children cannot and need not go any longer without the basic health services CHAP would provide.

Mr. President, I urge all friends of children, all those who believe that a child born into this world deserves a healthy start, to join me in calling for full Senate consideration of the child health assurance program. We can do no less for all our children.

Mr. President, I know there are other Senators on the floor now who care deeply about this subject. I am pleased to yield to them for that purpose.

Mr. CHILES. Mr. President, I regret very much that we are going to be unable to take up S. 1204.

I am pleased that we are finally discussing S. 1204, the child health assessment program (CHAP) in these final days of the 96th Congress, and I wish we were talking about passing it. Many of us have been working for 4 or 5 years to correct the deficiencies of the current medicaid program for children. We even developed a set of cost-reducing amendments, to save a billion dollars from this bill, but our Republican colleagues would still not agree to bring the bill up for a vote. While that would not do everything each of us would like to see done, it would have set in place the minimum workable structure for a coordinated health system for poor children. Some of the other improvements could have been made in future years.

I have held several health mission budget hearings at the Labor-Health and Human Services Appropriations Subcommittee, where we investigated the total array of Federal programs providing health care to children. We have found that the percentage of Federal health funds going to children has steadily declined, going from 12.7 percent in 1967 to 9.5 percent in 1974, and down to 7.1 percent in 1980. This is not just due to the lesser use of expensive hospital services by children, since we found the percent spent for physicians and dentists has also declined.

Mr. President, I ask unanimous consent to insert in the RECORD at this point a table which shows the distribution of Federal health care dollars by age group. Our investigations turned up four major barriers to providing adequate child health services.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NATIONAL HEALTH CARE

EXPENDITURES BY AGE GROUP

	Total (billions)	Private (percent)	Public (percent)	Total (percent)
All ages:				
1967	$41.3	69.8	30.1	100.0
1974	90.3	62.0	37.9	100.0
Under 19:				
1967	7.0	77.0	22.9	16.8
1974	13.4	73.0	26.9	58.8
19 to 64:				
1967	24.3	78.6	21.3	58.8
1974	50.2	70.9	29.0	55.5
65 plus:				
1967	10.0	43.6	56.3	24.2
1974	26.7	39.7	60.2	29.5

	Percent of public expenditures		Percent of Federal dollars		
	1967	1974	1967	1974	1980
All ages	100.0	100.0	100.0	100.0	
Less than 19	12.8	10.5	12.7	9.5	7.1
19 to 64	41.7	42.5	31.3	35.2	24.2
65 plus	45.4	46.9	55.9	55.2	68.6

	Percent of Federal payments for—			
	Physicians services		Dentists services	
	1967	1974	1967	1974
All ages	100.0	100.0	100.0	100.0
Less than 19	11.0	9.0	39.0	33.8
19 to 64	7.6	25.5	43.8	56.1
65 plus	81.1	66.9	17.0	10.0

Mr. CHILES. Mr. President, the child health assessment program has been designed to meet these deficiencies. While it is not perfect and will not automatically usher in a new age of total health care, it is the kind of limited, workable first step that we ought to be taking. I commend the sponsors of the bill for keeping their sights on a reachable target and not holding out another promise so huge that it could not be met.

Mr. President, I would like to say a few words about the local lead agency amendment, which has been my particular contribution to the package of amendments we intended to offer to the Senate today. As I said before, the first barrier to effective child health services has been the lack of coordination among medicaid and the dozen grant programs. While the Department has responded to our prodding with formal agreements among the Federal agencies, real coordination can only take place at the local level. People who know the health providers in their own community have to work together to develop a coordinated network of services, if the goals of CHAP are to be met.

My amendment requires each Governor to decide who can best meet this challenge in each community and designate them local lead agency for child health. We have allowed the Governors complete flexibility, since we know that there is a tremendous variety of child health organizations around the country. We do not intend to create a new set of Government agencies. Rather, we require a designation of an existing organization to give it the authority and responsibility to develop and coordinate service networks.

The authority comes in the form of certifying the contractual arrangements among providers are adequate to qualify for the higher CHAP reimbursement rate. However, this authority to review service arrangements does not remove the medicaid agency's responsibility to monitor financial arrangements and reimbursement for providers. The States are allowed to use administrative funds available to them to pay for local lead agency activities only where it finds that the most appropriate local organization does not have adequate resources to do the job, and availability of resources must be considered when selecting the lead agency.

Mr. President, I am reluctant to add any kind of reporting requirement to the law, but it is simply inefficient to keep operating without an inventory of which Federal maternal and child health programs are operating in each area, so we can see where we have gaps and where there may be duplication or overlap. To minimize data collection, the amendment requires the data to be provided by the federally funded health systems agencies, which are already supposed to be collecting this kind of information.

Mr. President, I would like to conclude by addressing the cost and budgetary implications of this bill. Some of my colleagues have questioned the advisability of adding to an entitlement program while we are trying to get control of Federal spending. I believe CHAP represents just the kind of responsible approach we ought to take when we find a major deficiency. First, CHAP is not a new program; it is a correction of an existing nonperforming medicaid program called EPSDT—early and periodic screening, diagnosis, and treatment.

Second, the assumptions of the health services mark in the budget resolution which I offered made room for this spending by cutting $1.1 billion from the current law level. We found areas of waste, of hospital costs running out of control, and cut them back to make room for CHAP and still leave substantial overall savings. The Finance Committee reported those savings provisions in the reconciliation bill, and the Senate passed them.

Third, screening and early health services to children, like immunizations, are the least expensive kind of health care. They rarely involve the cost of a hospital stay and can actually prevent the incurrence of such costs.

Let me conclude by saying that I hope this kind of fiscally responsible approach to meeting our high priority health needs can be carried out in the next session of Congress.

Mr. President, I associate myself with the remarks of the Senator from New Jersey, and I certainly hope we can pass this legislation next year. I think it is very much needed, and I think it will ultimately save costs because we are having to pay the costs of poor child health somewhere. We are not really escaping the cost.

Mr. BRADLEY. Mr. President, I agree with the Senator from Florida, that it is being penny-wise and pound-foolish in preventing us from proceeding with this legislation. I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I thank the Senator from New Jersey for his work on a very important matter. I share his disappointment that it cannot be transformed into successful action on the floor at this time. I know that he, Senator Ribicoff, and many others, I with them, have worked very hard on very important legislation relating to the health of our children. I look forward to joining the battle next year and being successful in the new Congress.

Mr. President, I fully share the disappointment expressed by my colleague, the distinguished Senator from New Jersey (Mr. Bradley), that the 96th Congress has failed to enact the child health assurance program—CHAP—legislation.

This legislation was designed to improve very significantly the capacity of individual States to assess the health of children from low-income families and to follow up that assessment with appropriate health services. Enactment of this legislation would have contributed significantly to improved health care for our Nation's children, and would have assured them a strong beginning as they develop into adults. Enactment of this legislation would have resulted in long-term cost savings to the country through the early detection of potentially serious disabilities in children, and through insuring that these children received the health care they needed to prevent lifetime illness or disability and thus avoid the major costs and the heartaches that such illness entails.

I was disappointed, too, Mr. President, that failure to take up the CHAP bill also meant failure to enact my amendment to that bill that would have mandated medicaid coverage, beginning with the prenatal period, for all low-income pregnant women. There is no question of the relationship between poor prenatal care and infant morbidity. Poor prenatal care is directly related to impairment of the central nervous system, leading to developmental disabilities such as mental retardation, cerebral palsy, epilepsy, and autism. Poor prenatal care can also lead to premature birth or low-birth-weight infants. And low-birth-weight is the greatest single hazard for infants, according to the Surgeon General's 1979 report "Healthy People." My amendment would have eliminated the financial barrier to early prenatal care and to hospital admission that confronts about 100,000 women annually in the United States. Enactment of this amendment would have assured these women that their babies could start life under the best circumstances American medicine can provide.

It is indeed tragic for these women, and for all the children and their parents who would have benefited from the provisions of the CHAP legislation, that we were unable to take it up this year. I will continue my strong support for this legislation, but I doubt that conditions for enacting it in the next Congress will be as favorable as they seemed in this.

Mr. DOLE. Mr. President, there has been a great deal of discussion concerning whether or not CHAP (S. 1204) would come before the full Senate for consideration prior to the close of the 96th Congress. The election results have given rise to further speculation that the climate for the lameduck session is inhospitable to any new legislative initiatives. As ranking Republican of the Senate Finance Committee, I supported reporting the Child Health Assessment Act out of committee. Several of my Republican colleagues have been cosponsors of this legislation.

We are indeed deeply concerned with the need to support effective and efficient comprehensive health care programs tailored to the needs of all our children, and most specifically the millions of needy and poor children of our Nation. We are committed to health promotion and preventive health care as well as curative care. Our legislative effort needs to reflect a delicate balance between fiscal restraints and social responsibility.

The projected outyear costs of the CHAP legislation are difficult to rectify with the fiscal restraint forced on us by our current economic problem. Furthermore, there has been great concern with the present administration's failure to administer the existing child health programs. I am confident that the Reagan administration with its concerns for children will improve the administrative mechanism for a more effective implementation and coordination of all Federal programs which affect children. Where statutory action is required, and as incoming chairman of the Finance Committee, I intend to work in close collaboration with the administration in the 97th Congress in reviewing titles V and XIX programs which are within the jurisdiction of the Finance Committee. To this end, and with the support of my Democratic colleagues, I look forward to studying the impact of the multiple Federal programs which provide direct health care to mothers and children.

I recognize that there is no simple legislative solution to such complex problems as exist in maternal and child health. However, I believe that we are now in a better situation than ever to influence the programs which impact on the health of mothers and children. I propose to support the effort which promises effective and efficient health care programs which guarantee quality care for the truly needy in our Nation.

Mr. President, I ask unanimous consent that a description of the bill, including the cost of the bill in fiscal 1981 through 1985 be printed in the Record at this point.

There being no objection, the description was ordered to be printed in the Record, as follows:

DESCRIPTION

S. 1204 Child Health Assessment Act of 1979 (reported out July 12, 1979):

Eligibility—Extends medical coverage for poor children under age 7.

Coverage—Permits coverage of hard-to-place adopted children. Permits coverage in State-operated institutions.

Services—Requires States to provide comprehensive health assessments for all Medicaid children and requires States to cover all health services authorized under the Medicaid program whether such services are included in the State's plan.

Federal Reimbursements—Establishes increased matching rates for the costs of health assessments and all services.

Cost Estimates—F.Y./millions of dollars.

S. 1204 as reported: 1981, $54.4; 1982 $338.4; 1983, $585.4; 1984, $854.4; 1985, $1,085.0.

SENATE AMENDMENTS

Senator Cranston, pregnant women, introduced 8-2-79.

Senator Chiles, dental coverage, study of financial incentives, development of lead agency.

Senator Javits, mental health, introduced 9-18-79.

Senator Ribicoff, modification in matching rate.

H.R. 4962 Child Health Assurance Act of 1979:

Eligibility—Extends medical coverage for poor children under 18.

Coverage—Permits coverage of hard-to-place adopted children. Permits coverage of State-operated institutions. Increase mental health coverage. Mandates outreach and follow-up. Extends coverage to pregnant women.

Federal Reimbursement—Increases Federal matching rate.

Cost Estimates—F.Y./millions of dollars.

Estimated outlays: 1981, $276; 1982, $778; 1983, $1.247; 1984, $1,773; 1985, $2,137.

Amendments Added To The Bill:

Volkmer Amendment (added 12–6–79).

Excludes use of Federal money for abortion except when necessary to save the life of the mother.

Limits 60 day grace period to pregnancies terminated as a result of birth, miscarriage, or abortion to save the life of the mother.

Bauman Amendment (added 12–11–79).

Prohibits use of Federal funds for abortions except where necessary to save the life of the mother and provides that nothing in this title shall require state funds to be used for abortions.

Lungren Amendment (added 12-11-79).

Provides for Congressional review and veto of rules and regulations created to carry out this Act.

Symms Amendment (added 12-11-79).

Sunset provision—The provision of the CHAP bill shall not apply after September 30, 1984.

Mr. DOLE. Mr. President, I would also say for anyone reading this Record, because I know there are people interested in this particular legislation, that I, too, wish there could have been some agreement on legislation of this kind because I know of the effort made particularly by the distinguished Senator from Connecticut (Mr. Ribicoff).

As the Senator from New Jersey knows, there was bipartisan support for the concept. We had a difference of opinion as to cost and some of the other provisions.

I do want the Record to show that Senator Ribicoff made every possible effort to work out some accommodation before the adjournment of the Senate. I was in discussions with my staff, his staff, the staffs of other members in the Finance Committee, and also with people outside who were interested in this legislation. There is no doubt that it is an area that must be addressed. It will be addressed in the next Congress. I cannot assure the Senator from New Jersey just what form it may take.

Mr. President, I do not know of anyone who quarrels with the need to address the problems in this area. Therefore, in addition to my recognition of the efforts of Senator Ribicoff, I would not want the record to reflect that only Democrats are sympathetic to this problem and the Republicans are opposed.

Mr. President, there is no way this bill could pass in the closing hours of this session, but a new session will start in less than a month and, hopefully, this will be one of the matters of some priority next year.

I thank the Senator from New Jersey for making the effort even at this late date to bring it up.

Mr. BRADLEY. Mr. President, as a junior member of the Finance Committee, which the distinguished Senator from Kansas will chair in the next session, I look forward to working with him. I again express my disappointment that there was opposition to this bill at this time. I hope that in the new Senate there will occur the commitment the Senator alluded to and that we will fulfill promises to poor women and poor children in this country who can be saved much heartache, anguish, and pain in future years if we move with preventive health care in early years, which is what this bill does.

● Mr. MOYNIHAN. Mr. President, I am proud that I cosponsored this legislation, and deeply saddened that this Congress has not acted on the child health assessment program, a bill that would have assured a basic right to our most needy children—the right to a healthy life. Seldom in my experience has any legislation been so ardently supported by so many. My own State, which has consistently promoted high pediatric standards and extended a wide range of benefits and services to its children, has been among the strongest supporters of CHAP because we believed it would make it possible for all States to extend medicaid eligibility to needy children currently not covered by existing State medicaid programs; that it would have fostered agreements with comprehensive care providers and thereby improved both continuity of care and access to care.

Just last year we celebrated the International Year of the Child, but the Congress has taken no action to insure the health of our children. What does this mean? What are we saying to America's children? For 4 years, this legislation has been before us in one form or another and still we have not acted. Its costs are small in dollars, and miniscule alongside the human costs that we will face in the future if we continue to do nothing. What could be more cost effective than insuring that a child receives immunization against disease, regular checkups, and that someone make sure that if a medical problem exists it is treated in a timely fashion. Is this not what we have done for our own children? Can we continue to deny this basic care to less fortunate children?

The bill itself is minimal. I would like for it to have gone further. It does not provide care for the pregnant mother or insure treatment of emotional problems, and it only mandates coverage of children from birth through age 6. But it is a good bill, as far as it goes, and should have passed. Children are being born today whose mothers have not received proper prenatal care. Some of these children are becoming ill, in some cases crippled for life, because their parents cannot afford to take them to a doctor. This is happening right here in America. This unconscionable act will continue as long as we are willing to place other issues higher on our agenda than the health care needs of our most valued resource—America's children. It is my sincere hope that we do not continue to fail these children and thereby surrender a portion of their lives and of the Nation's future.●

● Mr. RIBICOFF. Mr. President, the Child Health Assessment Act of 1979, which I introduced last year, is a bill intended to strengthen and improve medicaid services to low-income children. At the same time, its emphasis on the use of prevention and early treatment would provide us with a rational and humane approach to the problems created by the rising costs of health services.

CHAP would replace the current program for early and periodic screening, diagnosis and treatment (EPSDT). A major goal of CHAP is to encourage enrollment of children in continuing programs of preventive and primary care. The bill would provide financial incentives to both State and health care providers to improve the delivery of health care services to children.

We all recognize the importance of preventive health care for young children. But implementation of the EPSDT program has been incredibly slow and incomplete. The program became law in 1968. Today only about 2 million of the 12 million children eligible for medicaid are screened. Twenty-two percent of those found to need treatment do not get it. EPSDT imposes a penalty on States which do not comply with provisions of the law but contains few incentives for better than average performance by a State program. The focus, under present law, is on screening and diagnosis and we pay insufficient attention to the need for followup medical treatment.

In this country, we pride ourselves on the quality of our health care, but infants in 11 other nations are more likely to survive their first year of life. Low-income children in this country lose more time from school because of illness than do children from wealthier families. Low-income children are less likely to have a regular source of medical care. The family physician that is considered so important a part of our good health care is by and large not available to these children, who are likely to receive care only in health crisis situations.

This bill encourages providers to care for children on a continuing basis. A provider would take responsibility for both assessment and ongoing preventive and primary medical care for one or more specific medicaid children, similar to the role a family physician plays for middle-class children. As an incentive to establishing this kind of health care services, the Federal matching rate for an assessed child would be increased for most ambulatory services. This provision would give States a direct fiscal incentive to improve their performance in assuring the availability of services to children.

I am aware of concerns of my colleagues here about adding expenditures to the Federal budget, and I think that these concerns about the increasing costs of Federal programs are well-founded. In its emphasis on preventive and primary care, CHAP is consistent with these concerns. Studies show savings of roughly 40 percent in health bills for children who receive preventive and primary care. In North Dakota, total medicaid expenditures per child were 36 to 44 percent lower for children who were screened than for those who were not. Expenditures for in-patient hospital services were 47 to 57 percent lower for those who had been screened. In title V Maternal and Child Health projects the days children spent in the hospital decreased up to 40 perecnt as comprehensive preventive health care was provided.

Mr. President, I think the failure of the Senate to enact this bill represents false economy. This bill provides an approach that would not simply add additional services to the list of those available, but would, over the longer term, restructure the way in which we make health services available—with the goal of better care and better health for children, and a more rational way of using Federal support for health care services.●

• Mr. JAVITS. Mr. President, after 21 years of service on the Health Subcommittee of the Labor and Human Resources Committee, I would like to take this opportunity to share with my colleagues some convictions about the future direction of health care in our Nation and the role which I think Congress must play in charting this direction. In my judgment, fundamental changes must be made in the structure of health services delivery in this country. Greater emphasis is needed on health prevention, undeserved people in our society need to be assured of adequate access to physical and mental health care, and the escalating costs of health care must be brought under control. I believe that Congress has the critical role in establishing workable policies in each of these areas. I am realistic enough to know that the necessary steps toward strengthening health prevention, providing for more equal access to vital health services, and cost containment cannot occur overnight. But drastic restructuring may not be necessary. A graduated, incremental approach to reach these goals is something I have long advocated and is the prudent approach in fashioning any large-scale social reform.

I am proud to have played an advocate's role during my 34 years in the Congress in the establishment of the major health reimbursement programs targeted to meet the needs of certain population groups. I am also proud to have successfully advocated for the establishment of certain health research and services grant programs targeted to meet specific health problems, such as family planning, hypertension, genetic and venereal disease programs. But despite the tremendous accomplishments of these efforts, it is only the broad reimbursement programs that are capable of assuring services to those most in need.

With the passage of medicare and medicaid in 1965 we took the first step in providing vital health insurance coverage to the two most vulnerable groups in our society—the elderly and the poor. But other extremely critical population groups remain without adequate health care, particularly low-income children and pregnant women. The first legislative step to address these groups was taken in 1967 with the passage of the early periodic screening, diagnosis and treatment program which was intended to provide low-income children with quality diagnostic and treatment services for identified health and mental health problems. Ten years later, because of wide recognition that the EPSDT program was not successful in meeting the needs, of low-income women and children, I introduced my national health insurance for mothers and children bill, and also joined with other concerned Senators to introduce the Child Health Assurance Act (CHAP).

In my judgment, the Senate's failure to consider the CHAP legislation after the House had passed it last year is a great opportunity lost. CHAP represents a national commitment to prevention and early intervention with regard to the health problems of those who can benefit most from this commitment. It represents the next step toward the realization of the goal of assuring that all Americans have the opportunity to share equally in the most essential benefits of our society. And it represents a very pragmatic, cost-effective approach to solving particular health care delivery problems. The failure of the legislation in the 96th Congress does not reflect upon the necessity of its passage during the 97th or subsequent Congresses, for the human needs that it seeks to meet—the child's infirmity, the mother's anxiety—persist.

I submitted a printed amendment to the CHAP bill last year that was designed to uphold a principle in which I deeply believe—the idea that those who need mental health services should not be discriminated against in comparison with those who need other health services. It is now well past the time when we should continue to tolerate the old prejudices against mental health treatment.

Serious issues in mental health services remain—most importantly, the question of how the mental health community will define and set quality standards for the delivery of appropriate services, and how the efficacy of various mental health treatments is to be accounted for in health care reimbursement. But these issues do not alone justify continued discrimination against those who need mental health services, particularly the young. As the Joint Commission on Mental Health of Children has concluded:

> If expenditures, both human and monetary, are not made, it will in the long run be more costly in terms of mental illness, human malfunctioning, and therefore under-productivity. In this aspect of our economy, we are far behind many countries which give highest priority to the proper shepherding of their most important resource, their children.

The decisions that must be made by future Congresses in the health area will not be easy in the context of necessary fiscal constraints. But it would be foolish to ignore the difference between expenditures which can be put off until a time of greater resources and essential investments which must be made now in order to both save on the cost of health services over the long term and to enhance immeasurably the quality of life over the entire lifespan.

I have often stated that nothing is more precious to the future of our country than our children, and nothing is more precious to our children than their health. The Congress now has the benefit of the extraordinarily comprehensive and thorough study of the Select Panel for the Promotion of Child Health, and their recommendations for legislative action constitute an excellent starting point for the 97th Congress. The panel's recommendations are based upon the understanding of the investments that are most productive for our society in health care, and I urge my colleagues to study this report with the issue of increasing the productivity of the health sector in mind.

Finally, Mr. President, I wish to acknowledge the deep gratitude that I feel to my colleagues here in the Senate and to the people of New York for permitting me the opportunity to work for the advancement of the health of our people. It is a most worthy and satisfying goal. It is a goal that will continue to demand the very best of our imaginations, intellects, and compassion if we are to successfully meet the challenge it continues to pose. We cannot be a humane society without continuing the work toward adequate health care for all.•

Mr. CHAFEE. Mr. President, I would like to add my comments to those of my colleagues on the child health assurance program (CHAP), S. 1204.

I know that Senator Javits has been an effective and formidable advocate for improved health care, especially for the children of this country. His leadership and that of Senator Ribicoff's, who has also contributed so much to improved health care services for poor children, will be greatly missed. They both leave an impressive record of accomplishments in this area, and their work on CHAP is to be commended.

Mr. President, it is unfortunate that the Senate did not act on the CHAP bill this year. However, I want to assure my departing colleagues that there are many Senators who will serve in the next session of Congress including this one who share their concern about improved health care for low-income mothers and children.

We must restructure Federal health care programs to emphasize preventive care, and one of the best places to start is with women and children. The child health assurance program would have done this. However, the fiscal constraints we face this year, and will continue to face, make it extremely difficult to create new programs, or to expand old ones. But I believe we must place the health of mothers and children at the top of our list of priorities. We will need to find innovative ways to restructure these programs, to eliminate wasted efforts, and focus on those which are most effective. We must make our scarce dollars stretch further, and one of the most effective ways to do this is through preventive services for mothers and their children. I intend to use my best efforts to improve health care services for low-income women and children, and to build on the improvements and the work which has been accomplished over the years.

Mr. LEVIN. Mr. President, all too often children's needs are ignored in the budgets we prepare and the programs we support, or fail to support. While special attention is given to a variety of interest groups, too little attention goes to the 64 million American children who do not vote, do not contribute to political campaigns, and have no direct voice in the policymaking and political processes affecting them. Our children's health reflects the relatively low priority we give them in our national agenda. This not only hurts children, it hurts the national purse.

Unlike so many other areas of social policy, there is wide consensus about the services children and expectant mothers need and how those services can be best organized and provided. The solutions are neither mysterious nor expensive. The majority of unmet needs can be filled through modest expenditures with little new child health money, if new funds are used to harness and leverage the billions currently spent on health care for children. Furthermore, an investment now in basic health services ultimately saves money. It is cheaper to prevent problems or treat them early than to pay for the consequences of neglect.

The number of people who cannot get even minimal health care is growing. With inflation increasing by double digits, Government is under pressure to tighten its own belt and to apply increasingly restrictive requirements for narrowing medicaid benefits. The administration and Congress are advocating hold-the-line budgets, which bind programs to existing levels of funding without increases even to offset inflation. Yet, simple, inexpensive interventions often make the difference between fulfilled and productive citizens and disabled, frequently publicly subsidized adults. An investment in basic health services for mothers and children is ultimately a cost containment strategy.

According to the children's defense fund: First, children spend 40 percent fewer days in the hospital when complete preventive and followup care is provided; second, an investment of $180 million in the measles vaccine program saved an estimated $1.3 billion in medical care and long-term care by preventing conditions such as deafness and retardation; and third, children on medicaid who have received preventive care cost the program roughly 40 percent less in total medical bills than children who did not.

Mr. President, we cannot afford not to pay for basic services to families and children. It is poor economics and bad social policy.

Increasing the Federal share of expenditures for ambulatory care for children, including CHAP services, is a badly needed incentive for States to provide important basic care to children.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A NEW PARTITION OF POLAND?

Mr. LEVIN. Mr. President, I have joined Senators Roth and Nunn and the other sponsors of the resolution which calls for a tough policy by our Government against a poised Soviet invasion of Poland.

The Soviet Union should understand that it will pay a stiff price if it treads on the peaceful attempts of the Polish people to have moderate reforms. An invasion of Poland by the Soviet troops amassed at its border would set back the East-West relations to the coldest days of the cold war. Over the years since World War II, we have progressed a long way in our relationships with the Soviet Union. But, as Secretary of State Edmund S. Muskie and the other foreign ministers of NATO indicated yesterday, the Western allies stand united against the threat of Soviet invasion and will react strongly if the Soviets march into Poland. An invasion would badly damage our chances for control of the awesome weapons of modern war. The Senate must underline our Nation's opposition to a Soviet invasion.

The Polish people have waged an honorable campaign for economic and social change. Their struggle has won the admiration of people around the world. The Soviets must know that an act of repression against the people of Poland will rebound against the aggressors.

Mr. President, I call the Senate's attention to a fine editorial in Wednesday's Detroit Polish Daily News. The editorial, as translated from Polish by the Congressional Research Service, notes that the threat to Poland's borders comes from two fronts. We must be aware that there may be more than one motive behind the Soviet threat against Poland.

I ask unanimous consent that the article from the Detroit Polish Daily News be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Detroit Polish Daily News,
Dec. 10, 1980]

A NEW PARTITION OF POLAND?

Pravda's attack on Leszek Walesa and "Solidarity" during the ten-day period where there had not been any strikes or unrest in Poland constitutes not only a severe warning but also a blunt threat of a Russian invasion of Poland.

Let us see how the events developed: Russia said that the occupation of Afghanistan would last a long time. This way of putting it "settled" the matter completely because this means that Russia will not withdraw its troops from the country to which it had been "invited." The occupation will be a long one as could be seen from the events of last year when it expected to settle matters with the "rebels." The winter did not allow the Russians to step up their actions of extermination because they [the rebels] are hidden very well. The severe winter caused even the Russians a lot of trouble.

Outside of Afghanistan, Moscow has in Asia only one apparent friend, in India, that is only its government but not the people as could be seen from Brezhnev's current visit and the "welcome" given to him in New Delhi. The protests by Afghan and Indian intellectuals must also have come to the ear of the Soviet President on his present "good will" mission.

Moscow's influence in Vietnam loses some of its weight because this country is a neighbor of the People's Republic of China, which is ready to start a new border conflict at any moment.

The idea of an invasion of Poland might be just "saber rattling" but we must not take it too lightly. It is said that if Russia wants to take or occupy Poland it will have to feed the country because the Poles would not lift a finger for the country's agriculture and industry.

We wish to state briefly and openly: If it comes to that point, Russia would not hesitate one moment to exile the worst troublemakers because Siberia is infinitely vast and able to receive millions of people. As we already stated recently, it is possible that Russia will march into Poland, obviously in response to an "invitation" which we believe has already been sent, an invitation that it may use for its purposes at any moment. If it comes to an invasion, it need not necessarily be of the greatest magnitude. First come the political "advisers" who are already there in the capacity of the Soviet Embassy personnel. Then there would be a next step "if the government of the Republic of Poland is not in a position to appease and restrain those who want to wreck socialism."

We hear only about a Russian invasion of the sort that happened in East Germany, Hungary and Czechoslovakia according to which for the purpose of pacification and in compliance with the Brezhnev doctrine a government would be created consisting of men obedient to the Soviet Union. In this manner the matter of "pacification" will be settled and Poland will again follow the Kremlin's orders.

Yet, we must remind you that after Russia Poland is the largest country of the Warsaw Pact. A lot of forces are needed to pacify it and if the Afghan army could not be trusted the Soviets would trust the Polish army much less although it is Communist.

Yet, there is one possibility that frightens us, something nobody has mentioned so far. East Germany was the first country to severely condemn the "riots" of the strikers and the establishment of the free trade unions in Poland. They have shown their loyalty toward Moscow to such an extent that they even had talks in Czechoslovakia for the purpose of again professing their loyalty and readiness to come to the "aid" of Russia in case of a conflict.

What is it that actually frightens us? Let us say it openly: A new partition of Poland. Some time ago there was talk that Russia was about to "propose" the return of Szczecin [to East Germany]. This was categorically denied. Today such a possibility exists if it comes to an invasion and a resistance by the Poles. East Germany would be given large portions—if not all—of the Western regions of Poland and Danzig might be annexed to East Prussia, now permanently occupied by the Russians. The treaty of Zgorzelec would just become a piece of paper and the Peoples Republic of Poland saved by Russia would become the new "Polish SSR."

We are not carried away by fantasy because we know that Russia is ready to do anything and the situation today is such that it could carry out its plans like back in 1939 when Stalin proposed an "alliance" against Hitler in return for the invasion of Poland.

In the opinion of observers, the purpose of the conference that was suddenly convened in Moscow was to express concern about the situation in Poland and to let Kania know at the same time that the Communist leadership of the present regime is "very weak" and that it does not assure the other Socialist countries of "their own" settlement of workers' problems.

It is interesting to examine the attitude of many Poles who believe that Russia does not want to "destroy" Poland because 40 percent of all of the Soviet Union's cargo vessels are built in Poland—a notion which we believe is very naive. Would this restrain Russia from invading Poland?

Yet, if there is something that might hold her back, it is the lack of food required for the occupation of or waging war in Poland and the Russians' desire for the renewal of the SALT negotiations with America. Moscow is not stupid and knows that it cannot extend too far at a time where there is also a highly dangerous situation in the Mideast on account of the war between Iraq and Iran.

But these are mere conjectures and

> guesses. Yet, what other options would the Soviets have in connection with the evolving "Polish crisis?" For this reason the possibility of an invasion of Poland exists and if that happens blood will flow.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be added as a cosponsor to that resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I announce that there will be no more rollcall votes today.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to exceed 1 hour, and that Senators may be allowed to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 8444—TO AUTHORIZE APPROPRIATIONS FOR CERTAIN INSULAR AREAS OF THE UNITED STATES

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 8444 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. STEVENSON). Is there objection?

Mr. STEVENS. Reserving the right to object, what is that measure?

Mr. MATSUNAGA. This is the one the Senator cleared. I might point out to the minority whip that this is our bill.

Mr. STEVENS. H.R. 8444?

Mr. MATSUNAGA. That is it.

Mr. McCLURE. Mr. President, reserving the right to object, and I apologize to the Senator from Hawaii, I may not have heard all the request. Does that include to be considered without amendment?

Mr. MATSUNAGA. That is correct.

Mr. ROBERT C. BYRD. Reserving the right to object, this matter has been cleared with the majority and there is, therefore, no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 8444) to authorize appropriations for certain insular areas of the United States, and for other purposes.

Mr. MATSUNAGA. Mr. President, I rise in strong support of H.R. 8444, the Omnibus Territories Authorization Act for fiscal year 1981. As a member of the Committee on Energy and Natural Resources, I would like to call to the attention of the Senate several provisions of this legislation, which are of extreme importance to the U.S. territories.

One of such provisions is intended to promote energy self-sufficiency in the territories and the development and implementation of renewable energy resources, pursuant to hearings which I chaired in Hawaii last July on the energy problems facing the U.S. territories.

At that time, the committee received testimony from representatives of all the U.S. insular areas in the Pacific, with the exception of Palau, demonstrating the extremes of deprivation and even helplessness that has emerged in some of these island areas due to an absolute dependence on imported oil for power generation. We were told that some territorial governments are now being forced, by the high cost of imported oil, to curtail educational programs, economic development, basic island infrastructure maintenance, and, in some cases, even medical services.

The testimony clearly indicated, Mr. President, that the U.S. territories are in the throes of a severe energy problem which will only worsen unless subsidies from Washington are increased to pay for imported oil or if the Congress will assist the territories in freeing themselves from dependence on foreign oil.

Certainly, Mr. President, in these times of fiscal restraint, it is clear that the latter alternative is our only viable option. And I am pleased to report that the peoples of the Pacific and the Caribbean territories clearly desire to work actively toward energy self-sufficiency through the use of the many renewable energy resources which are indigenous to their islands.

In view of these circumstances, section 604 of the bill would establish a new Federal policy on the promotion of energy self-sufficiency for the U.S. territories, with a strong emphasis on the development and utilization of renewable energy resources.

Moreover, this provision would require the Secretary of Energy to conduct assessments of the energy needs and resources of the U.S. territories and prepare detailed, long-term energy self-sufficiency plans for each of these areas, with the specific objective of minimizing their reliance on energy imports and maximizing their utilization of indigenous energy resources.

It is also the intent of this provision to encourage the immediate implementation of demonstration projects involving proven renewable energy technologies, such as solar, wind, and ocean thermal energy conversion (OTEC), while the Department of Energy is preparing the energy self-sufficiency plans for each of the territories.

Inasmuch as certain renewable energy technologies have already been determined to be feasible for use in some of the territories, I would urge that demonstration projects in these areas be implemented without delay and later integrated into the long-range territorial energy plans.

I am very optimistic, Mr. President, about the future of this new energy self-sufficiency policy for the U.S. territories because, as I have said, the people of the Pacific and the Caribbean are more than eager to free themselves from dependence on foreign oil and develop their abundant renewable energy resources.

Indeed, the opportunities in our insular areas, particularly those in the Pacific, for the use of renewable energy resources, such as solar, wind, hydropower, ocean current and tidal, and geothermal and OTEC, are absolutely limitless, but I am afraid they are now being squandered because of the failure of the Federal Government, up to this time, to recognize the serious energy problems facing the territories and to formulate a coordinated and sensible plan of attack against them.

As my colleagues may know, we in Hawaii have a coordinated and forward-looking statewide energy plan and we are moving toward our prescribed energy self-sufficiency goals. With the assistance of the Federal Government, as envisioned in section 604 of this legislation, I see no reason why our insular neighbors in the Pacific and the Caribbean cannot follow Hawaii's lead in developing and utilizing the many forms of alternate energy which are indigenous to their island areas.

At this point, Mr. President, I would like to note that I continue to have some reservations about the committee's decision not to include in section 604 a specific authorization for the territorial energy policy. The committee report states that—

> Sufficient authorization already exists with the Secretary of Energy to do the comprehensive planning required by this section and to engage in specific demonstration projects.

Consequently, the committee has not included any additional authorization for this program, although the committee estimates the development of the comprehensive plans might cost from $4 to $5 million, with an additional $2 million for demonstration projects.

In view of this report language, Mr. President, it is my understanding, and I would ask the distinguished floor manager of the bill, the Senator from Louisiana (Mr. JOHNSTON), to confirm this, that it is the committee's intent that through existing authorizations, the Department of Energy is directed to first, carry out the comprehensive energy self-sufficiency planning for each U.S. territory; second, implement concurrently with the development of energy self-sufficiency plans those renewable energy demonstration projects which have already been determined to be feasible and desirable for specified insular areas; and third, to implement the final plans and recommendations when they are submitted by the Department of Energy to the Congress for approval.

Is that the understanding of the Senator from Louisiana?

Mr. JOHNSTON. Mr. President, I would say "yes" to the Senator from Hawaii, that what he has just stated is also my understanding of the intent of the committee with respect to section 604, the new territorial energy self-sufficiency program which the Senator from Hawaii has been instrumental in formulating.

I might add, Mr. President, that if, based on the plans and recommendations submitted to the Congress by the Department of Energy pursuant to this section, it appears that additional authorization is necessary in order to fully develop and implement renewable energy technologies in the territories, this committee will move forward to formulate such authorization to meet the needs of each U.S. territory in mind.

Mr. MATSUNAGA. I thank the Senator for his encouraging remarks and I want to commend him, and the minority floor manager, the Senator from Idaho (Mr. McClure), for their interest, their sensitivity, and their commitment to the unique needs, problems, and aspirations of the people of the U.S. territories.

As a former territorial legislator during the years preceding Hawaii's admission to statehood, I know, first hand, what it is like to live and govern under territorial status, many, many miles from Washington, D.C., without voting representation in the U.S. Congress. The people of the U.S. territories in both the Caribbean and the Pacific can only look to a handful of Members of Congress for support and representation. They are indeed fortunate to have in the Senate such dedicated advocates as the Senator from Louisiana and the Senator from Idaho.

I wish also to express my thanks and appreciation to the chairman of the committee, Senator Jackson, to Senator Johnston, and to the Senator from Alaska (Mr. Stevens) for their assistance in bringing this legislation to this point of enactment.

Mr. President, section 606 of H.R. 8444 embodies the language of a bill, which I introduced on July 29, 1980, designed to authorize a study of sail-assisted technology as a means of reducing energy costs for interisland transportation in the Trust Territory of the Pacific Islands.

As I have indicated, there is, indeed, a serious energy crisis in the Pacific, and the Trust Territory of the Pacific Islands is being hardest hit. Within Micronesia, the impact of the crisis is most keenly felt in the realm of surface transportation.

Because the 2,000 islands of the trust territory span an area encompassing 3 million square miles, the major highways of this region are on the Pacific Ocean itself and the vehicles that move over them are oceangoing vessels powered by imported fuel. These vessels distribute food, fuel, and medical supplies; they channel commerce, and they provide point to point transportation for the inhabitants. To cut their service would be equivalent to cutting the highways and railways that bind communities of the U.S. mainland. Yet, that is precisely what is occurring throughout Micronesia.

For example, a representative of the Truk District of the Trust Territory, which consists of 39 island municipalities, testified at the Energy and Natural Resources Committee's July hearings in Honolulu that seaborne interisland services had been canceled for the remainder of fiscal year 1980 because of high fuel costs. Spokesmen for other district of the Trust Territory testified to similar difficulties in providing surface transportation.

As a result of the energy crisis, Mr. President, the islands of the Trust Territory are slipping into varying degrees of isolation that could stifle any hope for economic development, social stability, or self-reliance in anything other than the most primitive context.

During the Energy and Natural Resources Committee's hearing on August 26, 1980, on the omnibus territories authorization bill, several witnesses testified that at its present state of development, sail-assisted technology shows considerable potential for the surface transportation system of the Trust Territory, which is served mainly by relatively small cargo vessels, about 185 feet or less in length.

In view of the complete dependence of the population of the Trust Territory on interisland transportation and the rapidly escalating cost of imported fuel, the committee approved language which I authored which will direct the Secretary of the Interior to investigate the potential applications of sail-assisted technology in the Trust Territory as a means of reducing energy costs for interisland transportation. The Secretary is directed to consult with the Secretary of Transportation, the Secretary of Commerce, and the Secretary of Defense in preparing the report, as well as with appropriate representatives of the various local governments in the Trust Territory.

Mr. President, if the findings of this study prove positive, and initial indications are that they will, the next logical step would be a conversion of the interisland fleet to sail-assisted technology either by retrofit or replacement. The beneficial impact of a virtually energy self-sufficient surface transportation system would be felt across the full spectrum of the Trust Territory economy. Moreover, its influence could be felt worldwide.

I believe it is worth mentioning, Mr. President, that other nations, including Japan and the Soviet Union, are actively engaged in developing sail-assisted technologies. They have become active because the logic on the side of the eventual worldwide deployment of sail power in various combinations with motor power on vessels of every size and shape is becoming overwhelming.

While Japan and the Soviet Union may have stronger shipbuilding industries than we do at this point in time, neither country approaches our sophistication in the design of sailing vessels. What is needed is the integration of those skills into our shipbuilding industry. So the support of early development of sail-assisted technology is very much in the national interest for more than one reason.

As the people of the Pacific Islands once set an example for the world in ocean navigation, so they may again, and in the process, help restore the languishing American shipbuilding industry to the position of worldwide preeminence it once enjoyed.

Mr. President, I urge a favorable vote on H.R. 8444.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, again, I thank the Senator from Idaho for his consideration and the Senator from Alaska for his consideration.

I think the Omnibus Territories Act is a good measure and it will help all the U.S. Territories, including the trust territories, to a great extent.

Mr. STEVENS. The Senator from Hawaii and I, and his colleague, are the only people in the Senate who ever lived in the territories. The people in the territories have a vast friend in the person of my good friend from Hawaii.

I am grateful to him for his persistence.

SACRAMENTO CENTRAL VALLEY PROJECT

Mr. CRANSTON. Mr. President, I would like to suggest that the Senate now do the following: H.R. 2111 was called up. I offered an amendment which will lead to extensive debate. My friend and colleague from California and I were vanquished on one measure, now he has vanquished me on another measure using the same tactics of extensive debate.

If H.R. 2111 now comes up, I will drop the Big Sur amendment and will offer another which already passed on a totally different topic on which my colleague and I are in accord; that is, a technical amendment relating to 14,000 acres in Imperial County that need to be exempted from Federal reclamation law for technical reasons pursuant to a Supreme Court decision.

So if there is no objection, we will proceed along those lines.

Mr. STEVENS. Reserving the right to object, I am informed that we have approved H.R. 2111. I do not know, without some conference, whether the amendment the Senator from California mentions is cleared.

I hope it will be, if he and his colleague agree to it. But I ask that we just be given some time to check that amendment, if it will be cleared on a consent basis.

Mr. CRANSTON. Yes. That amendment passed the Senate a couple of days ago on another measure without any difficulty.

There is no objection to it, unless there is something new on either side of the aisle. It was cleared when it was offered to another measure.

Mr. STEVENS. What is the number of the other bill that amendment was on, may I inquire?

Mr. CRANSTON. We exempted this land from reclamation law for 1 year on the continuing resolution. I presume it will be dropped in that conference. It was done on the continuing resolution.

Mr. McCLURE. Will the Senator from California yield?

Mr. CRANSTON. Yes.

Mr. McCLURE. Is this provision the Senator is suggesting be included as an amendment identical to that which was passed in the continuing resolution?

Mr. CRANSTON. Yes. With this exception, the continuing resolution pertained, of course, to the funds for 1981. This would be permanent. It is the same objective on a permanent basis. That is the only difference.

Mr. McCLURE. Mr. President, as a member of the Energy and Natural Resources Committee, I think there is no objection I am aware of on this side of the aisle to taking this amendment. I think it would be helpful to get it done. Since it has been acted on on the other matter, I do not see any reason for further clearance at this time.

Mr. CRANSTON. Does that mean I am to proceed?

Mr. McCLURE. As far as this Senator is concerned, yes.

Mr. HAYAKAWA. So far as I am concerned, too, Mr. President. I am perfectly willing to accept Senator CRANSTON's suggestion.

Mr. CRANSTON. May I ask the distinguished acting minority leader if it is now OK to proceed? Senator McCLURE has agreed, with Senator HAYAKAWA.

Mr. STEVENS. It has been identified. I am grateful for the Senator's patience. There is no objection.

Mr. HAYAKAWA. The senior Senator from California has been most gracious. I thank him on this matter.

At this moment he is being most generous. I must express my gratitude to him.

Mr. CRANSTON. I thank the Senator very much.

I had to recognize the handwriting on the wall. I will be back next year with another Big Sur amendment.

SACRAMENTO CENTRAL VALLEY PROJECT

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2111.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2111) entitled "An Act to extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes", with the following amendment:

Page 2, after line 3, insert:

SEC. 3. Any water service contract hereinafter entered into by the Secretary of the Interior with the Yolo-Zamora Water District shall contain provisions establishing—

(a) that water users shall pay for such water at a rate equivalent to the cost of service to the Yolo-Zamora Water District or the district's repayment capacity, whichever is less, but in no case less than the annual operations, maintenance, and replacement costs allocable to the district for service of Central Valley project water, all as determined by the Secretary of the Interior in conformance with reclamation law and in consultation with the district: *Provided*, That the district's repayment capacity and the operations, maintenance, and replacement costs shall be recalculated and revised no less frequently than every five years and the water rates adjusted as appropriate to reflect such revisions;

(b) that any water supply contract between the Secretary and the Yolo-Zamora Water District shall provide that in the event of a dry or critically dry year the water supply provided to the Yolo-Zamora Water District may be reduced by the Secretary for salinity control purposes consistent with administrative and operations practices of the Central Valley project; and

(c) that the lands in the Yolo-Zamora Water District which are classified as class 4 and 6 pursuant to the Secretary of the Interior's classification standards for irrigable lands and which have not previously been under active cultivation shall not be irrigated with project water.

Mr. CRANSTON. Mr. President, I withdraw the amendment I had offered to this relating to Big Sur.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1926

(Purpose: To exempt the Imperial Irrigation District in California from Federal reclamation law)

Mr. CRANSTON. Mr. President, on behalf of myself and Senator HAYAKAWA, I send to the desk a different amendment relating to Imperial County acreage.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. HAYAKAWA, proposes an unprinted amendment numbered 1926.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new section:

SEC. 4. The following provisions of the federal reclamation laws shall not apply to lands within the Imperial Irrigation District of California after the date of enactment of this Act:

(a) Section 5 of the Act entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands", approved June 17, 1902 (43 U.S.C. 431);

(b) Section 46 of the Act entitled "An Act to adjust water-right charges, to grant certain other relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (42 U.S.C. 423e); and

(c) any other provision of law amendatory or supplementary to either of such sections.

Mr. CRANSTON. Mr. President, this amendment is entirely technical. It exempts all the lands in the Imperial Irrigation District in California from Federal reclamation law to conform the status of 14,000 acres about which nothing is known as to location with a Supreme Court decision. These lands should also be exempted in view of the Supreme Court decision. This measure already passed the Senate a couple of days ago on another measure.

Mr. President, on June 16, 1980, the U.S. Supreme Court in a unanimous decision held that the excess land restrictions of Federal reclamation law do not apply to the 424,145 acres in the Imperial Irrigation District which were being irrigated when the Boulder Canyon Act was enacted in 1929. The Supreme Court left in question, however, some 14,000 acres of land in the Imperial Valley which were not being irrigated at that time.

The Supreme Court's decision will be difficult—if not impossible—to enforce since there is no way to identify which lands comprise the 14,000 additional acres.

Prior to the Court's decision, this Senate adopted an amendment to S. 14 to exempt all lands in the Imperial Valley from Federal reclamation law except that future owners of land in excess of acreage limitation would have been required to pay the interest on the unpaid balance of the district's indebtedness for project costs attributable to their excess lands.

Given the Supreme Court's decision I no longer find a justification for this distinction between current and future owners of land in the Imperial Valley.

Mr. President, the amendment I am offering today would exempt all the lands in the Imperial Irrigation District today from Federal reclamation law and clarify the status of the 14,000 acres left in limbo by the Supreme Court's decision.

The House Interior Committee incorporated this exact amendment in its version of the Reclamation Reform Act. The administration, which prior to the Court's decision opposed the Imperial Valley exemption, supports this amendment. I know of no opposition to this amendment and urge its adoption by the Senate.

Mr. President, I move that the Senate concur in the amendment of the House with the amendment (UP No. 1926) of the Senate.

The PRESIDING OFFICER. Without objection, the motion to concur with the amendment is agreed to.

Mr. CRANSTON. I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay hat motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders 1197, 1172, 1203, and 1204.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

The resolution (S. Res. 542) waiving

section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of Senate Joint Resolution 189, was considered and agreed to, as follows:

Resolved, That pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S.J. Res. 189. Such waiver is necessary because the joint resolution authorizes to be appropriated beginning in fiscal year 1981 such sums as may be necessary to carry out the provisions of the resolution. The joint resolution was not introduced until June 27, 1980, therefore, it was impossible for the committee to meet the prescribed May 15 deadline.

COMMISSION ON PRESIDENTIAL NOMINATIONS

The Senate proceeded to consider the joint resolution (S.J. Res. 189) to establish a Commission on Persidential nominations, which had been reported from the Committee on Rules and Administration with an amendment:

On page 5, line 20, strike "2" and insert "3"; so as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution may be cited as the "Commission on Presidential Nominations Resolution".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two hundred-year history of this Nation.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is established the Commission on Presidential Nominations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) Six members shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority and minority leaders. At least two of the members so appointed shall be Members of the Senate and at least two shall be elected or appointed State officials.

(2) Six members shall be appointed by the Speaker of the House of Representatives. At least two of the members so appointed shall be Members of the House and at least two shall be elected or appointed State officials.

(3) Six members shall be appointed by the President.

(4) The chairman of each of the two national political parties shall serve as ex officio members.

(c) The majority and minority leaders of the Senate shall make recommendations for the appointments to be made pursuant to subsection (b) within sixty days after enactment of this resolution.

(d) All appointments made in accordance with subsection (b) shall be made within ninety days after enactment of this resolution.

(e) At no time shall more than three members appointed under either paragraph (1), (2), or (3) of subsection (b) be from the same political party.

(f) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, and shall be subject to the same limitations with respect to party affiliations as the original appointment.

(g) Twelve members shall constitute a quorum, but a lesser number may conduct hearings.

(h) The Chairman of the Commission shall be selected by the members from among members, other than ex officio members. The term of office of the Chairman shall be for the life of the Commission.

(i) The term of office for members of the Commission shall be for the term of the Commission.

(j) The first meeting of the Commission shall be called by the President within sixty days following the date such appointments to the Commission are made.

FUNCTIONS OF THE COMMISSION

SEC. 4. (a) The Commission shall make a full and complete investigation with respect to the Presidential nominating process. Such investigation shall include consideration of—

(1) the manner in which States conduct primaries for the expression of a preference for the nomination of candidates for President of the United States and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this subsection;

(6) alternative nominating systems, including a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system;

(7) the manner in which candidates are nominated for election to the office of Vice President of the United States; and

(8) the extent to which State laws and the Federal Election Campaign Act of 1971, as amended, promote or retard independent candidacies for election to the office of President.

(b) The Commission shall submit a written report to the President and Congress not later than one year after the date of the appointments made pursuant to section 3 of this resolution. Such report of the study and investigation shall—

(1) be based upon full consideration of alternatives to the current system of nominating Presidential candidates;

(2) include an analysis of the strengths and weaknesses of all such alternatives studied; and

(3) include recommendations regarding the best system for the 1984 Presidential elections.

(c) The Commission shall submit to the President and Congress such interim reports as it deems advisable.

(d) The Commission shall cease to exist sixty days after the final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 5. (a) The Commission may, or on the authorization of the Commission, any subcommittee may for the purpose of carrying out its functions and duties pursuant to the provisions of this joint resolution, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive department, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this section shall be paid from funds appropriated to the Commission.

(c) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not exceeding $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 6. Each member of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this resolution.

Mr. STEVENSON. Mr. President, Senate Joint Resolution 189 establishes a Commission on Presidential nominations. This bipartisan Commission would have 20 members, 6 appointed by the President pro tempore of the Senate, at least 2 of whom would be elected or appointed State officials, another such 6 members appointed by the Speaker of the House, 6 appointed by the President and, ex officio, the chairmen of the two major national political parties.

The Commission would examine the present and alternative methods for the nominations of Presidential and Vice-Presidential candidates, the selection of convention delegates, the financing of nomination campaigns, the role of the media and independent candidacies. The Commission would report its findings and recommendations to Congress within 1 year of the resolution's enactment, including recommendations for improving the selection process before it resumes in 1984.

This year the public has endured 37 Presidential primary elections and hundreds of precinct, district, and statewide caucuses. Out of this unmanageable chaos emerged the Republican and Democratic candidates for President—neither of them the object of wide and enthusiastic support. The support enjoyed by other candidates—including an Independent who finally disavowed the primary process—is some evidence of the voting public's discontent generally with the nominating process and the candidates it produces for the Presidency.

The public discontent produces low voter turnouts and enhances the influence of small but well-financed groups highly motivated by subordinate issues. Coupled with the public's growing anxiety about deteriorating economic conditions and the Nation's security, it could splinter the two major parties and produce minority Government. To say the least, the Presidential selection process could be improved.

Those who seek the Presidency are reduced to an endurance test—a contest which gages and rewards the physical, organizational, and financial prowess of candidates rather than their competence and fitness to govern. Wise and strong prospects for the Presidency withdraw from or avoid altogether a system which subsists upon sensation and a welter of detail and regulation, all largely beyond their control and comprehension.

It is a process in which substance has little place. Instead of serious comments by serious figures on serious issues, the press, itself spread thin by a profusion of elections and candidates, offers the public episodes, spectacles, daily score cards and debates about debates which are not debates. The process conspires against new ideas and late-entering or independent candidates for the Presidency.

Despite the promise of more than a decade of reform, public participation in the Presidential selection process has not been enhanced. The importance of early caucuses and elections is so exaggerated as to discourage voter turnout in later and theoretically more significant primaries. In addition, the process, supported by millions of dollars in public revenue, has reduced the influence of public and party officials, contributed to the decline of political parties, and largely eliminated the need by candidates to fashion coalitions which strong Presidents once wisely relied upon in governing the Nation.

There must be a better way to select the American President. I do not offer an answer, but the Commission could examine the alternatives and discover it. If created now, it could formulate its recommendations well in advance of the 1984 Presidential elections, thus sparing the Nation the confusion recently experienced. If we wait, it will again be too late. The Senate had the good judgment to approve this resolution when then Senator Mondale and I offered it in 1976. I urge the Members to do so again, before another 4 years slip away and. Mr. President, I ask unanimous consent that a recent article on this subject by Douglas Cater be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Nov. 13, 1980]

A Modest Proposal for Next Time

(By Douglas Cater)

The election of 1984 has already begun. In secret places, the president-making cadres—money raisers, media managers, public opinion specialists, voter analysts, direct mail solicitors, et al.—are gearing up. Somewhere the hopefuls, consulting raw ambition and brute stamina, are deciding to take the plunge. For we are entering the age of the perpetual campaign designed, in one apt description, for "unemployed egomaniacs."

Thirty-six primaries and no sign of slackening off next time; mandated delegate slates so that the party's choice has been reached well before the nominating convention meets; conventions doubled in delegate size over the past two decades and ever more carnivalesque now that their role has eroded; media hype that transforms the long marathon into a combo horse race and Super Bowl series while reporters define for us who is winning and losing and solemnly announce the victor before the voters finish going to the polls. The goal seems to be to produce catatonia in candidates and citizens alike.

The time has come, as an urgent priority of governance well before 1984, to consider how presidential selection can better serve its intended purpose: to identify and encourage the most worthy candidates, to engage the serious concerns of all the people and to choose a leader.

No other function of our living Constitution has changed more radically from the Founding Fathers' intent. At Philadelphia, they gave no serious consideration to popular elections, which George Mason derided as "a choice by the blind." Instead, they established an electoral college, which would, in Alexander Hamilton's words, discourage those with "talents for low intrigue and the little arts of popularity."

The great democratic impulse in America could not remain content with such a meritocratic system. First came "King Caucus" in Congress, then popular elections and party nominating conventions. Much more recently, the rebellion against party bosses spawned the preferential primaries. All these reforms marched under the banner of exercising more perfectly the will of the people.

Then how come so many people are outraged at the way we pick presidents? We are tired of what, under the guise of grass-roots democracy at work, has become a highly manipulated contest managed by those with demonstrated capacity for "low intrigue and the little arts of popularity."

So what is to be done?

A modest reform would look to how we can achieve a balanced and rational process for president-picking, designed for an era of enduring crises. It would contemplate simple changes of federal law as well as state and party rules. Not constitutional amendment but an enlightened public philosophy should guide the way.

Several restraints against excess occur to me as starting propositions. One would seek not to eliminate party primaries but simply to confine them to an appropriate duration and role. Party rules as well as amendment to the Federal Campaign Financing Act could stipulate that spending for the campaign should commence no earlier than May or June of election year, all state primaries could be grouped on alternate Tuesdays over a two-month span. New Hampshire may take offense at being denied its early day in the television sun, but I doubt if the republic will suffer.

A second reform would apply the rule of reason to the primary's mandate. Committed candidate slates could bind only a fraction of the state delegation to the national nominating conventions. A substantial portion of the delegation would include—or be chosen by—the state's party and elected leadership, remaining free to commit their votes at the convention. These "thinking" delegates, in Terry Sanford's phrase, would transform the convention into a deliberative forum. Visions of return to smoke-filled rooms? I doubt that secret deals could survive very long now that reporters outnumber the delegates. Witness Reagan's futile effort to negotiate secretly with Gerald Ford the role of the vice presidency.

The nominating convention would become far more credible as a consensus-seeking institution if reduced in size and enlarged in serious purpose. Party conventions in other Western democracies manage to avoid circus atmospherics. In Great Britain, cabinet officers and other party leaders remain on the platform throughout the proceedings and engage freely in the give and take. American conventions could be scaled down from their Valhalla dimensions and robust dialogue substituted for stupefying monologue.

Finally, the last stretch of the campaign would benefit if purposeful use of electronic communication could take the place in larger degree of frantic jet-hopping. How many citizens actually see the nominees in the flesh or hear more than perfervid snatches of argument? Televised forums, interviews, documentaries and genuine debate have the potential, if we would only employ them, for creating a Greek marketplace of political dialogue.

Some will argue that our system for picking presidents is no worse than it has ever been, so why bother? The contest this time delivered a decisive electoral verdict from those who went to the polls. No blood in the streets. But despite the hyperbolic campaign, the downward trend of voter turnout continues—lowest on Nov. 4 since 1948. We may be approaching the 50 percentile of citizen anger or anomie.

Our latest victor will be obliged, if he desires reelection, to commence his campaign strategies almost from the day he reaches the Oval Office. Certainly his would-be successors will be thus engaged. To continue existing trends confronts the nation with a situation in which the unending contest to choose someone to govern does fundamental damage to the increasingly difficult task of governing.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed

Mr. STEVENS I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96-1041), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE JOINT RESOLUTION

The joint resolution would establish a commission to study the system of nominating candidates for election to the office of President of the United States, and to make recommendations designed to improve that system. The existence of the commission would be limited to one year from the date of its appointment to insure that the appropriate bodies, be they the Congress, state legislatures, or national and state political parties, will have sufficient time to review and act on the recommendations prior to the 1984 Presidential elections.

The commission would be bipartisan and consist of twenty members, six appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders, six appointed by the Speaker of the House of Representatives, six appointed by the President, and the chairman of the two national political parties who serve ex officio. Of the twenty, there would be at least two Senators, two Representatives, and four elected or state officials.

The joint resolution would direct the commission to investigate the Presidential nominating process, including state primary and caucus procedures, state laws and party rules governing voter and candidate participation in primaries and caucuses, financing of primary campaigns, the relationship of the candidates and the news media, alternative nominating systems, the system as it applies to the selection of Vice Presidential candidates and the effect of state and federal laws on independent candidates for election to the office of President.

The commission would submit its report, including its analysis of alternatives and its recommendations, to the President and Congress within one year of its appointment and would terminate sixty days thereafter.

Commissioners not otherwise employed by the federal government would be entitled to per diem compensation for their services. The commission would be authorized to have an executive director and other required personnel.

The joint resolution would authorize the appropriation of such funds as are necessary to carry out the provisions contained therein.

PRAYERS OF THE SENATE CHAPLAIN

The concurrent resolution (S. Con. Res. 138) authorizing the printing of the prayers of the Chaplain of the Senate during the 96th Congress as a Senate document, was considered and agreed to, as follows:

S. CON. RES. 138

Resolved by the Senate (the House of Representatives concurring), That there be printed with an appropriate illustration as a Senate document, the prayers by the Reverend Edward L. R. Elson, S.T.D., the Chaplain of the Senate, at the opening of the daily sessions of the Senate during the Ninety-sixth Congress, together with any other prayers offered by him during that period in his official capacity as Chaplain of the Senate; and that there be printed and bound two thousand additional copies of such document, of which one thousand and thirty shall be for the use of the Senate and nine hundred and seventy shall be for the use of the Joint Committee on Printing.

SEC. 2. The copy for the document authorized in section 1 shall be prepared under the direction of the Joint Committee on Printing.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-1056), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Concurrent Resolution 138 would provide that there be printed with an appropriate illustration as a Senate document the prayers by the Reverend Edward L. R. Elson, S.T.D., the Chaplain of the Senate, at the opening of the daily sessions of the Senate during the 96th Congress together with any other prayers offered by him during that period in his official capacity as Chaplain of the Senate. There would be printed and bound 2,000 additional copies of such document, of which 1,030 would be for the use of the Senate (10 per Member plus an equal quantity for the Vice President, the Sergeant at Arms, and the Secretary of the Senate), and 970 would be for the use of the Joint Committee on Printing. The prayers of the Senate and House Chaplains have been printed over the past several years as Senate and House documents, respectively.

LAVERNE D. STONG

The resolution (S. Res. 558) to pay a gratuity to Laverne D. Strong, was considered and agreed to, as follows:

S. RES. 558

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Laverne D. Stong, widow of Benton J. Stong, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1199 and 1189.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

The resolution (S. Res. 546) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 7694, was considered and agreed to, as follows:

S. RES. 546

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 7694, a bill to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies and to authorize the establishment of a National Guard of Guam.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 7694, as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGES IN REGULATIONS RELATING TO CERTAIN CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

The Senate proceeded to consider the bill (H.R. 7694) to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam, which had been reported from the Committee on Armed Services with amendments, as follows:

On page 2, strike line 1 through and including page 3, line 7, and insert the following:

That section 1586 of title 10, United States Code, relating to the rotation of civilian employees of the Department of Defense assigned to duty outside the United States, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary of Defense may, under such regulations as he may prescribe, make the provisions of subsections (a) through (g) applicable to civilian employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico at the time of their employment by the Department of Defense in the same manner as if the references in such subsections to the United States (when used in a geographical sense) were references to Guam, the Virgin Islands, or the Commonwealth of Puerto Rico, as the case may be.".

On page 4, line 16, after the comma, insert the following: "relating to the definition of the term 'Territory',";

On page 4, line 20, after the comma, insert the following: "relating to the definitions of the terms 'Army National Guard' and 'Air National Guard',";

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

Amend the title so as to read: "An Act to authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–1053), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 7694 authorizes the Secretary of Defense to extend to civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands or the Commonwealth of Puerto Rico the same personnel rotational rights as apply to other career employees of the Department of Defense who are residents of the 50 States; authorizes the Delegates in Congress from Guam and the Virgin Islands to have two appointments at one time, rather than one appointment, to each of the service academies; and authorizes the establishment of a National Guard in Guam.

DISCUSSION OF PROVISIONS OF THE BILL

CIVILIAN ROTATIONAL RIGHTS PROVISION

Current law provides that civilian career employees of the Department of Defense (DOD) who are assigned to duty outside the United States be granted the right to return to a position in the United States upon satisfactorily completing their foreign tour. Upon returning to the United States, these employees are accommodated in one of three ways. Whenever possible, career employees are returned to the position they held before being assigned outside the country. If the previous position is not available, the employee can be placed in a comparable position within the same geographic area. If there is no such comparable position, the employee can be placed in a temporary position for a 90-day period within the same geographic area. At the end of this 90-day period, the employee must be reassigned to another position, reassigned to another geographical area, or separated.

SENATE AMENDMENT ON ROTATIONAL RIGHTS

Current law does not extend the above rotational policies to eligible career civilian DOD employees who are residents of Guam and other territories. The House bill would extend to residents of Guam, the Virgin Islands and Puerto Rico the same reassignment privileges as other career employees of the Department of Defense. The Senate amendment would permit the Secretary of Defense to extend these reassignment privileges to residents of Guam, the Virgin Islands, and Puerto Rico, but does not require that he do so.

INCREASE IN SERVICE ACADEMY APPOINTMENTS

The present authorized strength of the service academies allows the President, the Vice President, Senators, Representatives, Delegates and Secretaries of the services to nominate a specific number of individuals to each of the academies. Senators, Representatives, the Delegate from the District of Columbia, and the Resident Commissioner from Puerto Rico are all entitled to nominate five individuals to each of the service academies. However, the Delegate from Guam and the Delegate from the Virgin Islands are only entitled to nominate one individual to each of the academies.

This legislation allows the Delegate from Guam and the Delegate from the Virgin Islands to have one additional appointment to each of the service academies, bringing their number of authorized appointments to two individuals. This legislation does not constitute an authorized increase in the total strength of the service academies.

ESTABLISHMENT OF NATIONAL GUARD IN GUAM

Under current law, Guam is the only U.S. unincorporated territory that does not have the authority to establish a National Guard unit. This legislation authorizes, but does not require, the establishment of a National Guard in Guam.

ORDER DISCHARGING COMMITTEE ON THE JUDICIARY FROM CONSIDERATION OF CERTAIN BILLS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the following measures and that the Senate proceed to their consideration: H.R. 6836, H.R. 4966, H.R. 5067, H.R. 935, H.R. 1316, H.R. 4032, H.R. 936, H.R. 3869, H.R. 6000, H.R. 3096, H.R. 4139, H.R. 4778, H.R. 7175, H.R. 6739, H.R. 6030, H.R. 5745, H.R. 5379, H.R. 5157, S. 3227, S.J. Res. 210, H.R. 2432, H.R. 2433, H.R. 2145, H.R. 6044, H.R. 2533, H.R. 4386, H.R. 6069, H.R. 3396, H.R. 6011, H.R. 5016, H.R. 949, H.R. 3138, H.R. 2872, H.R. 3707, and H.R. 4793.

Mr. STEVENS. I have no objection. These bills are all relief bills, as I understand it.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAMES A. SCHULTZ

The bill (H.R. 6836) for the relief of James A. Schultz was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT. C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ESTATE OF PHILIP H. WARD

The bill (H.R. 4966) for the relief of the estate of Philip H. Ward was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DR. TOOMAS EISLER AND CARMEN ELIZABETH EISLER

The bill (H.R. 5067) for the relief of Dr. Toomas Eisler and Carmen Elizabeth Eisler was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JESSE KUO TANG AND SHARON KUO TANG

The bill (H.R. 935) for the relief of Jesse Kuo Tang and Sharon Kuo Tang was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KUO-YAO CHENG

The bill (H.R. 1316) for the relief of Kuo-Yao Cheng was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAHMUD ALI KHAN ALIAS FAZAL DAD

The bill (H.R. 4032) for the relief of Mahmud Ali Khan alias Fazal Dad was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KIT TUNG

The bill (H.R. 936) for the relief of Kit Tung was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EILEEN ANGELLA CROSDALE

The bill (H.R. 3869) for the relief of Eileen Angella Crosdale was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CAMPANELLA CONSTRUCTION CO., INC.

The bill (H.R. 6000) for the relief of Campanella Construction Co., Inc., was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RAYMOND M. GEE

The bill (H.R. 3096) for the relief of Raymond M. Gee was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEERONAIH ABBOSH

The bill (H.R. 4139) for the relief of Feeronaih Abbosh was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SADA KIM

The bill (H.R. 4778) for the relief of Sada Kim was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WOODSTOCK DAILY SENTINEL

The bill (H.R. 7175) for the relief of the Woodstock Daily Sentinel was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEOPOLDINE MARIE SCHMID

The bill (H.R. 6739) to confer U.S. citizenship posthumously upon Leopoldine Marie Schmid was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ELENA PATRICIA MATTOS

The bill (H.R. 6030) for the relief of Elena Patricia Mattos was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MICHAEL CHINWEN KE

The bill (H.R. 5745) for the relief of Michael Chinwen Ke was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JARAMPORN SERMSRI AND AKHARATA SERMSRI

The bill (H.R. 5379) for the relief of Jaramporn Sermsri and Akharata Sermsri was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LILIA ESTER CANTU

The bill (H.R. 5157) for the relief of Lilia Ester Cantu was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BENJAMIN BANE

The bill (S. 3227) for the relief of Benjamin Bane was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 349 of the Immigration and Nationality Act or any other provision of law, in the administration of the Immigration and Nationality Act, Benjamin Bane, of Santa Monica, California, shall be held and considered not to have lost his status as a citizen of the United States.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DOUGLAS CLYDE MACINTOSH

The joint resolution (S.J. Res. 210) to grant posthumously full rights of citizenship to Douglas Clyde Macintosh was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Whereas Douglas Clyde Macintosh distinguished himself as an outstanding theologian and deeply respected teacher in forty years of service on the faculty of the Divinity School at Yale University;

Whereas the work of Douglas Clyde Macintosh continues to be respected as one of the outstanding modes of theological reflection upon religion which liberal Protestantism produced.

Whereas Douglas Clyde Macintosh, a native of Canada, petitioned for naturalization as an American citizen and was denied this privilege by the United States circuit court of appeals because his religious scruples permitted him to perform military service only as a noncombatant;

Whereas the United States Supreme Court in Girouard against United States (328 U.S. 61), reversed the decision of the circuit court and granted Douglas Clyde Macintosh eligibility for American citizenship;

Whereas Douglas Clyde Macintosh suffered an illness making him physically unable to take advantage of the opportunity for citizenship granted him by the United States Supreme Court;

Whereas the Government of Canada, through its diplomatic mission in Iran recently was responsible for effecting the passage of four American diplomats to freedom, averting certain capture by Iran terrorists; and

Whereas in recognition of the contributions Douglas Clyde Macintosh made to theological thought, to the work of the Divinity School at Yale University and to his adopted land; and in gratitude to the people of Canada for the courageous action by their diplomatic mission in Iran to American diplomats: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and directed to declare by proclamation that Douglas Clyde Macintosh is an honorary citizen of the United States.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RONALD REGESPI DOLIENTE

The bill (H.R. 2432) for the relief of Ronald Regespi Doliente was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ZORA SINGH SUNGA

The bill (H.R. 2433) for the relief of Zora Singh Sunga was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FLORETTE IVOREE GAYLE AND KEISHA DARAJAN KARR

The bill (H.R. 2145) for the relief of Florette Ivoree Gayle and Keisha Darajan Karr was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WOO JUNG HE

The bill (H.R. 6044) for the relief of Woo Jung He was considered, ordered to a third reading, read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MRS. KERRY ANN WILSON

The bill (H.R. 2533) for the relief of Mrs. Kerry Ann Wilson was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MR. AND MRS. CLARENCE OVESON

The bill (H.R. 4386) for the relief of Mr. and Mrs. Clarence Oveson was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

I WEN WANG CHEN

The bill (H.R. 6069) for the relief of I Wen Wang Chen was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GEORGE DAVID MAXWELL

The bill (H.R. 3396) for the relief of George David Maxwell, doctor of medicine, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WILLIAM H. KOSS

The bill (H.R. 6011) for the relief of William H. Koss was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DAVID ROLAND WEAVER

The bill (H.R. 5016) for the relief of David Roland Weaver was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WELITA F. SEBASTIAN

The bill (H.R. 949) for the relief of Welita F. Sebastian was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SURIP KARMOWEIREDJO

The bill (H.R. 3138) for the relief of Surip Karmoweiredjo was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OLIVIA MANAOIS ABRASALDO

The bill (H.R. 2872) for the relief of Olivia Manaois Abrasaldo was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOY MARSIA DEHANEY

The bill (H.R. 3707) for the relief of Joy Marsia Dehaney was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SIMON IFERGAN MEARA

The bill (H.R. 4793) for the relief of Simon Ifergan Meara was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING REPORT "FUTURE DIRECTIONS FOR AGING POLICY—A HUMAN SERVICE MODEL"

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PELL, I ask unanimous consent that the Committee on Rules be discharged from further consideration of House Concurrent Resolution 456 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution providing for the reprinting of the report "Future Directions for Aging Policy—A Human Service Model".

There being no objection, the resolution was considered and agreed to.

PRINTING REPORT ON "THE ADEQUACY OF THE FEDERAL RESPONSE TO FOREIGN INVESTMENT IN THE UNITED STATES"

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PELL, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of House Concurrent Resolution 449 and that the Senate proceed to its immediate consideration. This is a printing resolution for additional copies of a House report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution to authorize the reprinting of the report entitled "The Adequacy of the Federal Response to Foreign Investment in the United States".

Without objection, the resolution was considered and agreed to.

JOHN D. LARKINS, JR., FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask unanimous consent that the Committee on Public Works be discharged from further consideration of S. 1824 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1824) to designate the "John D. Larkins, Jr., Federal Building".

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at Market Street, Trenton, North Carolina, is hereby designated as the "John D. Larkins, Jr., Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the John D. Larkins, Jr., Federal Building.

REAUTHORIZATION OF TITLE I OF THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1148.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the amendment of the House to the bill (S. 1148) entitled "An Act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes", with the following amendments:

(1) On page 4 of the Senate engrossed amendment, after line 22, insert:

SEC. 4. Section 106 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. 1416) is further amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law (and notwithstanding the specific exclusion relating to dredged material in the first sentence of section 102(a) of this Act), any permit issued under Section 404 of the Clean Water Act of 1977 for the dumping of dredged materials in Long Island Sound shall comply with the criteria established pursuant to the second sentence of section 102(a) of this Act relating to the effects of the dumping."

(2) On page 4. line 23. of the Senate engrossed amendment, strike out "SEC. 4.", and insert "SEC. 5.".

UP AMENDMENT NO. 1927

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendments of the House with a further amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes unprinted amendment numbered 1927.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the text of new section 4 of S. 1148 intended to be inserted by the House amendment, insert the following:

SEC. 4. Sec. 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended by adding at the end thereof a new subsection as follows:

"(f) In addition to other provisions of law and notwithstanding the specific exclusion relating to dredged material in the first sentence in section 102(a) of this Act, the dumping of dredged material in Long Island Sound from any Federal project (or pursuant to Federal authorization) or from a dredging project by a non-Federal applicant exceeding 25,000 cubic yards shall comply with the criteria established pursuant to the second sentence of section 102(a) of the Act relating to the efforts of dumping. Subsection (d) of this section shall not apply to this subsection.".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1927) was agreed to.

● Mr. MOYNIHAN. Mr. President, I offer my strong support for the marine protection, research and sanctuaries bill. The bill, S. 1148, will now await final approval by the House. I urge that body to accept the bill as amended.

Ocean dumping endangers aquatic life, the marine ecology and, ultimately, man. In response to the hazards caused by ocean sludge disposal, Congress, in 1972, passed the Marine Protection, Research and Sanctuaries Act. This important environmental legislation regulates the disposal of waste materials in ocean waters. Title I of the act, referred to as the Ocean Dumping Act, mandates that the Environmental Protection Agency carefully monitor ocean dumping activities. The bill in question would reauthorize title I of the Marine Protection Act.

Only one of the amendments attached to this bill has proved controversial. The amendment, offered by Congressman AMBRO, would substantially reduce dumping in Long Island Sound by placing the Sound under the strict dumping guidelines outlined in the Ocean Dumping Act, rather than the more lenient regulations detailed in the Clean Water Act. Controversy arose over this amendment because of the concern for the potential economic hardship the stricter guidelines would have placed on small marine owners. After a series of negotiations, the amendment was revised so that while the criteria for environmental testing in the Sound would be set by the Ocean Dumping Act, small marine owners dumping less than 12,500 cubic yards would be exempt. I am pleased with this agreement and wholly support the amendment as a means of preserving the environmental quality of Long Island Sound.

I also stress the importance of retaining an amendment concerning New York City sludge disposal in the conference committee report. The amendment, which I originally offered nearly 2 years ago, would direct the Environmental Protection Agency to assist the city of New York in evaluating the means by which heavy metals and other toxics can be removed from the city's sludge.

In 1972 Congress recognized the need to halt the indiscriminate disposal of sewage sludge in the surrounding oceans. Since this act was enacted there has been a dramatic decrease in ocean dumping, largely as a result of the provisions within it. It is imperative that this Congress continue its efforts to prevent the contamination of our oceans.●

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the amendments of the House with the amendment of the Senate.

The motion was agreed to.

CIBOLA NATIONAL FOREST

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BUMPERS I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1803.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1803) entitled "An Act to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes", do pass with the following amendment:

Page 3, after line 3 on the Senate engrossed bill, insert:

SEC. 5. (a) The Secretary of the Army, acting through the Chief of Engineers, is prohibited from taking any legal or administrative action in connection with the operation and maintenance of the Conchas Lake Project, New Mexico, seeking to remove improvements, including dwelling, that are presently located within the flowage easement below elevation 4,220 feet mean sea level: *Provided*, That this prohibition shall not be construed as creating any liability in the United States, or any of its officers, agents, or assigns, for any injury, loss, or damage accruing to the owners of such improvements, their lessees or occupants, as a result of any flooding or inundation of such improvements by the waters of the reservoir, or for such injury, loss, or damage as may occur through the operation and maintenance of the dam and reservoir in any manner.

(b)(1) The Secretary of the Army is prohibited from determining the forty-five-acre cabin site in the south recreation area at Conchas Lake, New Mexico, to be excess of project needs prior to 1996, unless such a determination is agreed to by the Governor of the State of New Mexico or his designee.

(2) The Secretary of the Army shall not require the removal or sale and purchase of existing cabins, cottages, or other privately owned improvements located on the site referred to in paragraph (1) of this subsection prior to 1996, unless agreed to by the Governor of the State of New Mexico or his designee. Existing and prospective lease arrangements shall reflect the requirements of this section.

SEC. 6. (a) The Secretary of the Treasury shall pay out of any funds in the Treasury, not otherwise appropriated, to the Estate of Demetrio Madrid or into a court of competent jurisdiction, for distribution to such persons as shall be lawfully entitled thereto, the sum of $21,054.

(b) Upon payment being made as provided in subsection (a), the United States and all officers and employees thereof shall be forever released and discharged of and from any and all claims at law or in equity, if any, arising out of or in any way connected with the erroneous inclusion of certain lands in homestead entry and patent No. 323419, issued on April 3, 1913 to Demetrio Madrid, a resident of New Mexico.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BUMPERS, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion to concur was agreed to.

NUCLEAR SAFETY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7865.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 7865) entitled "An Act to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy", with the following amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert: That this Act may be cited as the "Nuclear Safety Research, Development, and Demonstration Act of 1980".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) nuclear energy is one of the two major energy sources available for electric energy production in the United States during the balance of the twentieth century;

(2) continued development of nuclear power is dependent upon maintaining an extremely high level of safety in the operation of nuclear plants, and on public recognition that these facilities do not constitute a significant threat to human health or safety;

(3) it is the responsibility of utilities, as owners and operators of nuclear powerplants, to assure that such plants are designed and operated safely and reliably; and

(4) a proper role of the Federal Government in assuring nuclear powerplant safety, in addition to its regulatory function, is the conduct of a research, development, and demonstration program to provide important scientific and technical information which can contribute to sound design and safe operation of these plants.

(b) It is declared to be the policy of the United States and the purpose of this Act to establish a research, development, and demonstration program for developing practical improvements in the generic safety of nuclear powerplants during the next five years, beginning in the fiscal year 1981. The objectives of such program shall be—

(1) to reduce the likelihood and severity of potentially serious nuclear powerplant accidents;

(2) to reduce the likelihood of disrupting the population in the vicinity of nuclear powerplants as the result of nuclear powerplant accidents; and

(3) to develop a data base and methodology which could be used for assessing the relative safety of nuclear powerplants.

Nothing in this Act shall be construed as preventing the Secretary from undertaking projects or activities, in addition to those specified in this Act, which appropriately further the purpose and objectives set forth in this subsection. Nothing in this Act shall authorize the Secretary to assume responsibility for the management, cleanup or repair of any commercial nuclear powerplant. Nothing in this Act shall be construed as limiting the authority of the Secretary under any other law.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "Secretary" means the Secretary of Energy;

(2) the term "Government agency" means any department, agency, commission, or independent establishment in the executive branch of the Federal Government, or any corporation, wholly or partly owned by the United States, which is an instrumentality of the United States or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Federal Government;

(3) the term "Commission" means the Nuclear Regulatory Commission; and

(4) the term "Advisory Committee" means the Advisory Committee on Reactor Safeguards established by section 29 of the Atomic Energy Act of 1954, as amended.

ESTABLISHMENT OF RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM FOR IMPROVING THE SAFETY OF NUCLEAR POWERPLANTS

SEC. 4. (a) The Secretary shall establish a research, development, and demonstration program to carry out the purpose of this Act. As part of such program, the Secretary shall at a minimum—

(1) refine further the assessment of risk factors associated wtih the generic design and operation of nuclear powerplants to determine the degree and consequences of propagation of failures of systems, subsystems, and components, including consideration of the interaction between the primary and secondary systems;

(2) develop potentially cost-beneficial changes in the generic design and operation of nuclear powerplants that can (A) significantly reduce the risks from unintentional release of radioactive material from the various engineered barriers of nuclear powerplants and (B) reduce the radiation exposure to workers during plant operation and maintenance;

(3) develop potentially cost-beneficial generic methods and designs that will significantly improve the performance of operators of nuclear powerplants under routine, abnormal, and accident conditions;

(4) identify the effect of total or partial automation of generic plant systems on reactor safety, operation, reliability, economics, and operator performance;

(5) conduct further experimental investigations under abnormal operational and postulated accident conditions primarily for light water reactors to determine the consequences of such conditions. These investigations shall include, but not be limited to, the following:

(A) fuel failure at higher than standard burn-up levels;

(B) fuel-cladding interactions;

(C) fuel and cladding interactions with coolant under various temperatures and pressures;

(D) thermohydraulic behavior in the reactor core;

(E) mechanisms to suppress and control the generation of hydrogen gas;

(F) improved instrumentation for monitoring reactor cores;

(G) engineered-barrier failure modes; and

(H) fission product release and transport from failed fuel.

(6) provide for the examination and analysis of any nuclear powerplant fuel, component, or system which the Secretary deems to offer significant benefit in safety analysis and which is made available to the Secretary for a nominal cost, such as $1: *Provided, however*, That the Secretary shall accept only the number of samples of such fuel, component, or system necessary to carry out such examination and analysis;

(7) identify the aptitudes, training, and manning levels which are necessary to assure reliable operator performance under normal, abnormal, and emergency conditions; and

(8) conduct studies and analyses to establish a data base and to develop a methodology which would be suitable to permit a comparison throughout each fuel cycle of the relative risks associated with all aspects of using, or not using, each potentially significant electrical energy source.

(b) In carrying out the generic safety research, development, and demonstration program established under this Act the Secretary—

(1) shall coordinate with the Commission and, to the extent necessary, enter into a new memorandum of understanding or revise existing memoranda for the purpose of eliminating unnecessary duplication and avoiding programmatic conflict with any reactor safety research program of the Commission, including the Improved Safety System Research program.

(2) shall, to the extent practical, coordinate his activities with such other Government agencies, foreign governments, and industry as he deems appropriate to utilize their expertise, to minimize duplication of effort, and to ensure that information useful for improved concepts applicable to nuclear power plant safety can be applied in a timely manner. The Secretary may enter into agreements and memoranda of understanding to accomplish these ends, but no such agreement shall have the effect of delaying the development and implementation of programs authorized under this Act.

(3) shall utilize, to the extent feasible, underutilized federally owned research reactors and facilities, along with the associated personnel, to maintain existing capabilities and to ensure that the research is generic in nature; and

(4) shall make such recommendations as are practical to minimize the complexity of nuclear power plant systems, including secondary systems, and operations.

NATIONAL REACTOR ENGINEERING SIMULATOR

SEC. 5. (a) The Secretary, in consultation with the Commission and the Advisory Committee, shall initiate a study of the need for and feasibility of establishing a reactor engineering simulator facility at a national laboratory, for the primary purpose of fostering research in generic design improvements and simplifications through the simulation of the performance of various types of light water reactors under a wide variety of abnormal conditions and postulated accident conditions.

(b) In performing the study, the Secretary shall consider relevant factors including, but not limited to—

(1) the potential advantages that would accrue from the establishment of such a facility;

(2) the extent to which such a facility would further the generic safety research and development program established by this Act;

(3) the extent to which such a facility can be established by non-governmental entities;

(4) the opportunities for cost sharing by non-governmental entities in the construction and operation of such a facility;

(5) the importance of such a facility in emergencies to limit the extent of any future nuclear powerplant excursions;

(6) the potential for international cooperation in the establishment and operation of such a facility; and

(7) the appropriate national laboratory for siting such a facility.

(c) The Secretary shall, by January 1, 1982, submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report characterizing the study and the resulting conclusions and recommendations.

FEDERAL NUCLEAR OPERATIONS CORPS

SEC. 6. (a) The Secretary, in cooperation with the Nuclear Regulatory Commission, shall initiate a study as to the sufficiency of efforts in the United States to provide specially trained professionals to operate the controls of nuclear powerplants and other facilities in the back-end of the nuclear fuel cycle. In carrying out the study, the Secretary shall coordinate his activities with the on-going programs of the utility industry and other Federal governmental agencies for obtaining high standards of operator performance.

(b)(1) In conducting the study the Secretary shall assess the desirability and feasibility of creating a Federal Corps of such professionals to inspect and supervise such operations;

(2) The assessment shall consider the establishment of an academy to train Corps professionals in all aspects of nuclear technology, nuclear operations, nuclear regulatory and related law, and health science; and

(3) The assessment shall include the appropriate organizational approach for the establishment of a Federal Corps within the executive branch.

(c) The Secretary shall complete the study within one year after the date of enactment of this Act and shall submit a report along with his recommendations to the Congress.

REPORTS AND DISSEMINATION OF INFORMATION

SEC. 7. The Secretary shall assure that full and complete safety-related information resulting from any project or other activity conducted under this Act is made available in a timely manner to appropriate committees of Congress, Federal, State, and local authorities, relevant segments of private industry, the scientific community, and the public.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 8. (a) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct of research, development, and demonstration activities under this Act consistent with the provisions of Section 4. In the preparation of such plan, the Secretary shall consult with the Commission and the Advisory Committee and with the heads of such other Government agencies and such public and private organizations as he deems appropriate.

(b) The Secretary shall transmit the comprehensive program management plan along with any comments by the Commission on the plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate within twelve months after the date of the enactment of this Act. Revisions to the plan shall be transmitted to such committees whenever deemed appropriate by the Secretary.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect. The detailed description of the comprehensive plan under this subsection shall include, but need not be limited to, a statement seting forth any change in—

(1) the program strategies and plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(2) the economic, environmental, and societal significance which the program may have;

(3) the total estimated cost of individual program items; and

(4) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes, a description of the progress made toward achieving the goals of this Act, a statement on the status of interagency cooperation in meeting such goals, and any legislative or other recommendations which the Secretary may have to help attain such goals.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There is authorized to be appropriated to the Secretary to carry out this Act such sums as may be authorized by legislation hereafter enacted.

SEC. 10. Project 78-3-b, authorized by Sec. 102 of Public Law 95-238, the fusion materials irradiation test facility, is hereby designated as the "Mike McCormack Fusion Materials Test Facility". Any reference in any law, regulation, map, record, or other document of the United States to the fusion materials irradiation test facility shall be considered a reference to the "Mike McCormack Fusion Materials Test Facility".

UP AMENDMENT NO. 1928

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I move that the Senate concur in the amendment of the House with further amendments which I send to the desk en bloc and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. JACKSON, proposes an unprinted amendment numbered 1928.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, at the end of line 19 add the word "and".

On page 2, line 22, strike the word "; and" and insert a period.

On page 2, strike line 23 through and including line 25.

On page 6, at the end of line 8 add the word "and".

On page 6, line 12, strike the word "; and" and insert a period.

On page 6, strike line 13 through and including line 18.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1928) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON I move that the Senate concur in the amendments of the House with the amendment of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion to concur was agreed to.

INDIANA DUNES NATIONAL LAKESHORES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BUMPERS I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2261.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2261) for the relief of Albert and Eulalia Rodriguez.

(The amendment of the House is printed in the RECORD of December 11, 1980, beginning at page 33463.)

⊙ Mr. LUGAR. Mr. President, Senate bill 2261 which passed the House on December 11 contains provisions for the improvement of the Indiana Dunes National Lakeshore Park. This bill is significantly different from S. 599 introduced by Senator BAYH and myself in that it excludes the Town of Beverly Shores and U.S. Highway Strip 12 for inclusion in the Lakeshore.

The bill, however, adds five small areas, extends the leaseback provisions for homeowners already in the park, dedicates the park to the late Senator Paul H. Douglas, and provides funds for a transportation study and development.

The five new areas are: The Mount Baldy Staging area, a highway 51 extension; a campground site; a Nippissing addition; and the Gary Access Corridor for a total of 488 acres at a cost of $3,120,000. This sum, coupled with a development ceiling of $1,560,000 to provide facilities for an increased number of visitors to the park, and a $200,000 transportation study brings the total cost of the bill to $4,880,000.

Of particular importance are the homeowner provisions in the bill which affect the remaining homeowners who live in the park. The 1966 legislation granted homeowners a 25-year leaseback, an option of life estate, and an exemption from condemnation. In its passage of the 1976 legislation, Congress changed the rules by eliminating the exemption from condemnation and reducing the leaseback from 25 to 20 years. Our efforts to reinstate exemption from condemnation during the last 4 years have been futile.

Homeowners now living in the park are subject to a 20-year leaseback under present law. In an effort to allow these homeowners to remain in their homes for a longer period, this bill extends their leasebacks until September 30, 2010—30 years from now.

Lastly, this bill dedicates the Park to the memory of the late Senator Paul H. Douglas who was instrumental in establishing the lakeshore. The west unit will be renamed the "Paul H. Douglas Ecological and Recreational Unit" and an environmental education center will be constructed in the lakeshore in his honor.

I am grateful for the efforts and cooperation of Senator BAYH, Congressman FITHIAN, and others who have been instrumental in securing passage of this compromise.●

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BUMPERS I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the amendments of the House.

The motion to concur was agreed to.

RED RIVER COMPACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2227.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2227) entitled "An Act to grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. The consent of Congress is hereby given to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas, of May 12, 1978, as ratified by the States of Arkansas, Louisiana, Oklahoma, and Texas, as follows:

PREAMBLE

The States of Arkansas, Louisiana, Oklahoma, and Texas, pursuant to the acts of their respective Governors or legislatures, or both, being moved by considerations of interstate comity, have resolved to compact with respect to the water of the Red River and its tributaries. By Act of Congress, Public Law No. 346 (84th Congress, First Session), the consent of the United States has been granted for said States to negotiate and enter into a compact providing for an equitable apportionment of such water; and pursuant to that Act the President has designated the representative of the United States.

Further, the consent of Congress has been given for two or more States to negotiate and enter into agreements relating to water pollution control by the provisions of the Federal Water Pollution Control Act (Public Law 92-500, 33 U.S.C. 1251 et seq.).

The Signatory States acting through their duly authorized Compact Commissioners, after several years of negotiations, have agreed to an equitable apportionment of the water of the Red River and its tributaries and do hereby submit and recommend that this compact be adopted by the respective legislatures and approved by Congress as hereinafter set forth:

ARTICLE I

PURPOSES

SECTION 1.01. The principal purposes of this Compact are:

(a) To promote interstate comity and remove causes of controversy between each of the affected states by governing the use, control and distribution of the interstate water of the Red River and its tributaries;

(b) To provide an equitable apportionment among the Signatory States of the water of the Red River and its tributaries;

(c) To promote an active program for the control and alleviation of natural deterioration and pollution of the water of the Red River Basin and to provide for enforcement of the laws related thereto;

(d) To provide the means for an active program for the conservation of water, protection of lives and property from floods, improvement of water quality, development of navigation and regulation of flows in the Red River Basin; and

(e) To provide a basis for state or joint state planning and action by ascertaining and identifying each state's share in the interstate water of the Red River Basin and the apportionment thereof.

Article II

GENERAL PROVISIONS

Section 2.01. Each Signatory State may use the water allocated to it by this Compact in any manner deemed beneficial by that state. Each state may freely administer water rights and uses in accordance with the laws of that state, but such uses shall be subject to the availability of water in accordance with the apportionments made by this Compact.

Section 2.02. The use of water by the United States in connection with any individual Federal project shall be in accordance with the Act of Congress authorizing the project and the water shall be charged to the state or states receiving the benefit therefrom.

Section 2.03. Any Signatory State using the channel of the Red River or its tributaries to convey stored water shall be subject to an appropriate reduction in the amount which may be withdrawn at the point of removal to account for transmission losses.

Section 2.04. The failure of any state to use any portion of the water allocated to it shall not constitute relinquishment or forfeiture of the right to such use.

Section 2.05. Each Signatory State shall have the right to:

(a) Construct conservation storage capacity for the impoundment of water allocated by this Compact;

(b) Replace within the same area any storage capacity recognized or authorized by this Compact made unusable by any cause, including losses due to sediment storage;

(c) Construct reservoir storage capacity for the purposes of flood and sediment control as well as storage of water which is either imported or is to be exported if such storage does not adversely affect the delivery of water apportioned to any other Signatory State; and

(d) Use the bed and banks of the Red River and its tributaries to convey stored water, imported or exported water, and water apportioned according to this Compact.

Section 2.06. Signatory States may cooperate to obtain construction of facilities of joint benefits to such states.

Section 2.07. Nothing in this Compact shall be deemed to impair or affect the powers, rights, or obligations of the United States, or those claiming under its authority, in, over and to water of the Red River Basin.

Section 2.08. Nothing in this Compact shall be construed to include within the water apportioned by this Compact any water consumed in each state by livestock or for domestic purposes; provided, however, the storage of such water is in accordance with the laws of the respective states but any such impoundment shall not exceed 200 acre-feet, or such smaller quantity as may be provided for by the laws of each state.

Section 2.09. In the event any state shall import water into the Red River Basin from any other river basin, the Signatory State making the importation shall have the use of such imported water.

Section 2.10. Nothing in this Compact shall be deemed to:

(a) Interfere with or impair the right or power of any Signatory State to regulate within its boundaries the appropriation, use, and control of water, or quality of water, not inconsistent with its obligations under this Compact;

(b) Repeal or prevent the enactment of any legislation or the enforcement of any requirement by any Signatory State imposing any additional conditions or restrictions to further lessen or prevent the pollution or natural deterioration of water within its jurisdiction; provided nothing contained in this paragraph shall alter any provision of this Compact dealing with the apportionment of water or the rights thereto; or

(c) Waive any state's immunity under the Eleventh Amendment of the Constitution of the United States, or as constituting the consent of any state to be sued by its own citizens.

Section 2.11. Accounting for apportionment purposes on interstate streams shall not be mandatory under the terms of the Compact until one or more affected States deem the accounting necessary.

Section 2.12. For the purposes of apportionment of the water among the Signatory States, the Red River is hereby divided into the following major subdivisions;

(a) Reach I—the Red River and tributaries from the New Mexico-Texas State boundary to Denison Dam;

(b) Reach II—the Red River from Denison Dam to the point where it crosses the Arkansas-Louisiana State boundary and all tributaries which contribute to the flow of the River within this reach;

(c) Reach III—the tributaries west of the Red River which cross the Texas-Louisiana State boundary, the Arkansas-Louisiana State boundary, and those which cross both the Texas-Arkansas State boundary and the Arkansas-Louisiana State boundary;

(d) Reach IV—the tributaries east of the Red River in Arkansas which cross the Arkansas-Louisiana state boundary; and

(e) Reach V—that portion of the Red River and tributaries in Louisiana not included in Reach III or in Reach IV.

Section 2.13. If any part or application of this Compact shall be declared invalid by a court of competent jurisdiction, all other severable provisions and applications of this Compact shall remain in full force and effect.

Section 2.14. Subject to the availability of water in accordance with this Compact, nothing in this Compact shall be held or construed to alter, impair, or increase, validate, or prejudice any existing water right or right of water use that is legally recognized on the effective date of this Compact by either statutes or courts of the Signatory State within which it is located.

Article III

DEFINITIONS

Section 3.01. In this Compact:

The States of Arkansas, Louisiana, Oklahoma, and Texas are referred to as "Arkansas," "Louisiana," "Oklahoma," and "Texas," respectively, or individually as "State" or "Signatory State," or collectively as "States" or "Signatory States."

(b) The term "Red River" means the stream below the crossing of the Texas-Oklahoma state boundary at longitude 100 degrees west.

(c) The term "Red River Basin" means all of the natural drainage area of the Red River and its tributaries east of the New Mexico-Texas state boundary and above its junction with Atchafalaya and Old Rivers.

(d) The term "water of the Red River Basin" means the water originating in any part of the Red River Basin and flowing to or in the Red River or any of its tributaries.

(e) The term "tributary" means any stream which contributes to the flow of the Red River.

(f) The term "interstate tributary" means a tributary of the Red River, the drainage area of which includes portions of two or more Signatory States.

(g) The term "intrastate tributary" means a tributary of the Red River, the drainage area of which is entirely within a single Signatory State.

(h) The term "Commision" means the agency created by Article IX of this Compact for the administration thereof.

(i) The term "pollution" means the alteration of the physical, chemical or biological characteristics of water by the acts or instrumentalities of man which create or are likely to result in a material and adverse effect upon human beings, domestic or wild animals, fish and other aquatic life, or adversely affect any other lawful use of such water; provided, that for the purpose of this Compact, "pollution" shall not mean or include "natural deterioration."

(j) The term "natural deterioration" means the material reduction in the quality of water resulting from the leaching of solubles from the soils and rocks through or over which the water flows naturally.

(k) The term "designated water" means water released from storage, paid for by non-Federal interests, for delivery to a specific point of use or diversion.

(l) The term "undesignated water" means all water released from storage other than "designated water."

(m) The term "conservation storage capacity" means that portion of the active capacity of reservoirs available for the storage of water for subsequent beneficial use, and it excludes any portion of the capacity of reservoirs allocated solely to flood control and sediment control, or either of them.

(n) The term "runoff" means both the portion of precipitation which runs off the surface of a drainage area and that portion of the precipitation that enters the streams after passing through the portions of the earth.

Article IV

APPORTIONMENT OF WATER—REACH I

OKLAHOMA—TEXAS

Subdivision of Reach I and Apportionment of Water Therein. Reach I of the Red River is divided into topographical subbasins, with the water therein allocated as follows:

Section 4.01. Subbasin 1—Interstate streams—Texas.

(a) This includes the Texas portion of Buck Creek, Sand (lebos) Creek, Salt Fork Red River, Elm Creek, North Fork Red River, Sweetwater Creek, and Washita River, together with all their tributaries in Texas which lie west of the 100th Meridian.

(b) The annual flow within this subbasin is hereby apportioned sixty (60) percent to Texas and forty (40) percent to Oklahoma.

Section 4.02. Subbasin 2—Intrastate and Interstate streams—Oklahoma.

(a) This subbasin is composed of all tributaries of the Red River in Oklahoma and portions thereof upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west, beginning from Denison Dam and upstream to and including Buck Creek.

(b) The State of Oklahoma shall have free and unrestricted use of the water of this subbasin.

Section 4.03. Subbasin 3—Intrastate streams—Texas.

(a) This includes the tributaries of the Red River in Texas, beginning from Denison Dam and upstream to and including Prairie Dog Town Fork Red River.

(b) The State of Texas shall have free and unrestricted use of the water in this subbasin.

SECTION 4.04. Subbasin 4—Mainstem of the Red River and Lake Texoma.

(a) This subbasin includes all of Lake Texoma and the Red River beginning at Denison Dam and continuing upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west.

(b) The storage of Lake Texoma and flow from the mainstem of the Red River into Lake Texoma is apportioned as follows:

(1) Oklahoma 200,000 acre-feet and Texas 200,000 acre-feet, which quantities shall include existing allocations and uses; and

(2) Additional quantities in a ratio of fifty (50) percent to Oklahoma and fifty (50) percent to Texas.

SECTION 4.05. Special Provisions.

(a) Texas and Oklahoma may construct, jointly or in cooperation with the United States, storage or other facilities for the conservation and use of water; provided that any facilities constructed on the Red River boundary between the two states shall not be inconsistent with the Federal legislation authorizing Denison Dam and Reservoir project.

(b) Texas shall not accept for filing, or grant a permit, for the construction of a dam to impound water solely for irrigation, flood control, soil conservation, mining and recovery of minerals, hydroelectric power, navigation, recreation and pleasure, or for any other purpose other than for domestic, municipal, and industrial water supply, on the mainstem of the North Fork Red River or any of its tributaries within Texas above Lugert-Altus Reservoir until the date that imported water, sufficient to meet the municipal and irrigation needs of Western Oklahoma is provided, or until January 1, 2000, whichever occurs first.

ARTICLE V

APPORTIONMENT OF WATER—REACH II

ARKANSAS, OKLAHOMA, TEXAS, AND LOUISIANA

Subdivision of Reach II and Allocation of Water Therein. Reach II of the Red River is divided into topographic subbasins, and the water therein is allocated as follows:

SECTION 5.01. Subbasin 1—Intrastate streams—Oklahoma.

(a) This subbasin includes those streams and their tributaries above existing, authorized and proposed last downstream major damsites, wholly in Oklahoma and flowing into Red River below Denison Dam and above the Oklahoma-Arkansas state boundary. These streams and their tributaries with existing authorized and proposed last downstream major damsites are as follows:

Stream: Site	Acre-feet	Location	
		Latitude	Longitude
Island-Bayou:Albany	85, 200	33 51.5 N	96 11.4 W
Blue River: Durant	147, 000	33 55.5 N	96 04.2 W
Boggy River: Boswell	1, 243, 800	34 01.6 N	95 45.0 W
Kiamichi River: Hugo	240, 700	34 01.0 N	95 22.6 W

(b) Oklahoma is apportioned the water of this subbasin and shall have unrestricted use thereof.

SECTION 5.02. Subbasin 2—Intrastate streams—Texas.

(a) This subbasin includes those streams and their tributaries above existing authorized or proposed last downstream major damsites, wholly in Texas and flowing into Red River below Denison Dam and above the Texas-Arkansas state boundary. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream: Site	Acre-feet	Location	
		Latitude	Longitude
Shawnee Creek: Randall Lake	5, 400	33 48. 1 N	96 34. 8 W
Brushy Creek: Valley Lake	15, 000	33 38. 7 N	96 21. 5 W
Bois d'Arc Creek: New Bonham Reservoir	130, 600	33 42. 9 N	95 58. 2 W
Coffee Mill Creek: Coffee Mill Lake	8, 000	33 44. 1 N	95 58. 0 W
Sandy Creek: Lake Crockett	3, 900	33 44. 5 N	95 55. 5 W
Sanders Creek: Pat Mayse	124, 500	33 51. 2 N	95 32. 9 W
Pine Creek: Lake Crook	11, 011	33 43. 7 N	95 34. 0 W
Big Pine Creek: Big Pine Lake	138, 600	33 52. 0 N	95 11. 7 W
Pecan Bayou: Pecan Bayou	625, 000	33 41. 1 N	94 58. 7 W
Mud Creek: Liberty Hill	97, 700	33 33. 0 N	94 29. 3 W
Mud Creek: KVW Ranch Lakes (3)	3, 440	33 34. 8 N	94 27. 3 W

(b) Texas is apportioned the water of this subbasin and shall have unrestricted use thereof.

SECTION 5.03. Subbasin 3—Interstate Streams—Oklahoma and Arkansas.

(a) This subbasin includes Little River and its tributaries above Millwood Dam.

(b) The States of Oklahoma and Arkansas shall have free and unrestricted use of the water of this subbasin within their respective states, subject, however, to the limitation, that Oklahoma shall allow a quantity of water equal to 40 percent of the total runoff originating below the following existing, authorized or proposed last downstream major damsites in Oklahoma to flow into Arkansas:

Stream: Site	Acre-feet	Location	
		Latitude	Longitude
Little River: Pine Creek	70, 500	34 05. 8 N	95 04. 9 W
Glover Creek: Lukfata	258, 600	34 08. 5 N	94 55. 4 W
Mountain Fork River: Broken Bow	470, 100	34 08. 9 N	94 41. 2 W

(c) Accounting will be on an annual basis unless otherwise deemed necessary by the States of Arkansas and Oklahoma.

SECTION 5.04. Subbasin 4—Interstate streams—Texas and Arkansas.

(a) This subbasin shall consist of those streams and their tributaries above existing, authorized or proposed last downstream major damsites, originating in Texas and crossing the Texas-Arkansas state boundary before flowing into the Red River in Arkansas. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream: Site	Acre-feet	Location	
		Latitude	Longitude
McKinney Bayou Tributary: B ingle Lake	3, 052	33 30.6 N	94 06.2 W
Barkman Creek: Barkman Reservoir	15, 900	33 29.7 N	94 10.3 W
Sulphur River: Texarkana	386, 900	33 18.3 N	94 09.6 W

(b) The State of Texas shall have the free and unrestricted use of the water of this subbasin.

SECTION 5.05. Subbasin 5—Mainstream of the Red River and tributaries.

(a) This subbasin includes that portion of the Red River, together with its tributaries, from Denison Dam down to the Arkansas-Louisiana state boundary, excluding all tributaries included in the other four subbasins of Reach II.

(b) Water within this subbasin is allocated as follows:

(1) The Signatory States shall have equal rights to the use of runoff originating in subbasin 5 and undesignated water flowing into subbasin 5, so long as the flow of the Red River at the Arkansas-Louisiana state boundary is 3,000 cubic feet per second or more, provided no state is entitled to more than 25 percent of the water in excess of 3,000 cubic feet per second.

(2) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary is less than 3,000 cubic feet per second, but more than 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow to flow into the Red River for delivery to the State of Louisiana a quantity of water equal to 40 percent of the total weekly runoff originating in subbasin 5 and 40 percent of undesignated water flowing into subbasin 5; *Provided, however*, that this requirement shall not be interpreted to require any state to release stored water.

(3) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary falls below 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow a quantity of water equal to all the weekly runoff originating in subbasin 5 and all undesignated water flowing in subbasin 5 within their respective states to flow into the Red River as required to maintain a 1,000 cubic foot per second flow at the Arkansas-Louisiana state boundary.

(c) Whenever the flow at Index, Arkansas, is less than 526 c.f.s., the States of Oklahoma and Texas shall each allow a quantity of water equal to 40 percent of the total weekly runoff originating in subbasin 5 within their respective States to flow into the Red River; provided however, this provision shall be invoked only at the request of Arkansas, only after Arkansas has ceased all diversions from the Red River itself in Arkansas above Index, and only if the provisions of Subsections 5.05(b) (2) and (3) have not caused a limitation of diversions in subbasin 5.

(d) No State guarantees to maintain a minimum low flow to a downstream State.

SECTION 5.06. Special Provisions.

(a) Reservoirs within the limits of Reach II, subbasin 5, with a conservation storage capacity of 1,000 acre feet or less in existence or authorized on the date of the Compact pursuant to the rights and privileges granted by a Signatory State authorizing such reservoirs, shall be exempt from the provisions of Section 5.05; provided, if any right to store water in, or use water from, an existing exempt reservoir expires or is canceled after the effective date of the Compact the exemption for such rights provided by this section shall be lost.

(b) A Signatory State may authorize a change in the purpose or place of use of water from a reservoir exempted by subparagraph (a) of this section without losing that exemption, if the quantity of authorized use and storage is not increased.

(c) Additionally, exemptions from the provisions of Section 5.05 shall not apply to direct diversions from Red River to off-channel reservoirs or lands.

ARTICLE VI

APPORTIONMENT OF WATER—REACH III

ARKANSAS, LOUISIANA, AND TEXAS

Subdivision of Reach III and Allocation of Water Therein Reach III of the Red River is divided into topographic subbasins, and the water therein allocated, as follows:

SECTION 6.01. Subbasin 1—Interstate streams—Arkansas and Texas.

(a) This subbasin includes the Texas portion of those streams crossing the Arkansas-Texas State boundary one or more times and flowing through Arkansas into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

(b) Texas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Arkansas is entitled to forty (40) percent of the runoff of this subbasin.

SECTION 6.02. Subbasin 2—Interstate streams—Arkansas and Louisiana.

(a) This subbasin includes the Arkansas portion of those streams flowing from Subbasin 1 into Arkansas, as well as other streams in Arkansas which cross the Arkansas-Louisiana state boundary one or more times and flow into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

(b) Arkansas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Louisiana is entitled to forty (40) percent of the runoff of this subbasin.

SECTION 6.03. Subbasin 3—Interstate streams—Texas and Louisiana.

(a) This subbasin includes the Texas portion of all tributaries crossing the Texas-Louisiana state boundary one or more times and flowing into Caddo Lake, Cypress Creek-Twelve Mile Bayou or Cross Lake, as well as the Louisiana portion of such tributaries.

(b) Texas and Louisiana within their respective boundaries shall each have the unrestricted use of the water of this subbasin subject to the following allocation:

(1) Texas shall have the unrestricted right to all water above Marshall, Lake O' the Pines, and Black Cypress damsites; however, Texas shall not cause runoff to be depleted to a quantity less than that which would have occurred with the full operation of Franklin County, Titus County, Ellison Creek, Johnson Creek, Lake O' the Pines, Marshall, and Black Cypress Reservoirs constructed, and those other impoundments and diversions existing on the effective date of this Compact. Any depletions of runoff in excess of the depletions described above shall be charged against Texas' apportionment of the water in Caddo Reservoir.

(2) Texas and Louisiana shall each have the unrestricted right to use fifty (50) percent of the conservation storage capacity in the present Caddo Lake for the impoundment of water for state use, subject to the provision that supplies for existing uses of water from Caddo Lake, on date of Compact, are not reduced.

(3) Texas and Louisiana shall each have the unrestricted right to fifty (50) percent of the conservation storage capacity of any future enlargement of Caddo Lake, provided, the two states may negotiate for the release of each state's share of the storage space on terms mutually agreed upon by the two states after the effective date of this Compact.

(4) Inflow to Caddo Lake from its drainage area downstream from Marshall, Lake O' the Pines, and Black Cypress damsites and downstream from other last downstream dams in existence on the date of the signing of the Compact document by the Compact Commissioners, will be allowed to continue flowing into Caddo Lake except that any manmade depletions to this inflow by Texas will be subtracted from the Texas share of the water in Caddo Lake.

(c) In regard to the water of interstate streams which do not contribute to the inflow to Cross Lake or Caddo Lake, Texas shall have the unrestricted right to divert and use this water on the basis of a division of runoff above the state boundary of sixty (60) percent to Texas and forty (40) percent to Louisiana.

(d) Texas and Louisiana will not construct improvements on the Cross Lake watershed in either state that will affect the yield of Cross Lake; provided, however, this subsection shall be subject to the provisions of Section 2.08.

SECTION 6.04. Subbasin 4—Intrastate streams—Louisiana:

(a) This subbasin includes that area of Louisiana in Reach III not included within any other subbasin.

(b) Louisiana shall have free and unrestricted use of the water of this subbasin.

ARTICLE VII

APPORTIONMENT OF WATER—REACH IV

ARKANSAS AND LOUISIANA

Subdivision of Reach IV and Allocation of Water Therein. Reach IV of the Red River is divided into topographic subbasins, and the water therein allocated as follows:

SECTION 7.01. Subbasin 1—Intrastate streams—Arkansas.

(a) This subbasin includes those streams and their tributaries above last downstream major damsites originating in Arkansas and crossing the Arkansas-Louisiana state boundary before flowing into the Red River in Louisiana. Those major last downstream damsites are as follows:

Stream: Site	Acre-feet	Location	
		Latitude	Longitude
Ouachita River: Lake Catherine	19, 000	34 26.6 N	93 01.6 W
Caddo River: DeGray Lake	1, 377, 000	34 13.2 N	93 06.6 W
Little Missouri River: Lake Greeson	600, 000	34 08.9 N	93 42.9 W
Alum Fork, Saline River: Lake Winona	63, 264	32 47.8 N	92 51.0 W

(b) Arkansas is apportioned the waters of this subbasin and shall have unrestricted use thereof.

SECTION 7.02. Subbasin 2—Interstate Streams—Arkansas and Louisiana.

(a) This subbasin shall consist of Reach IV less subbasin 1 as defined in Section 7.01 (a) above.

(b) The State of Arkansas shall have free and unrestricted use of the water of this reach subject to the limitation that Arkansas shall allow a quantity of water equal to forty (40) percent of the weekly runoff originating below or flowing from the last downstream major damsite to flow into Louisiana. Where there are no designated last downstream damsites, Arkansas shall allow a quantity of water equal to forty (40) percent of the total weekly runoff originating above the state boundary to flow into Louisiana. Use of water in this subbasin is subject to low flow provisions of subparagraph 7.03(b).

SECTION 7.03. Special Provisions.

(a) Arkansas may use the beds and banks of segments of Reach IV for the purpose of conveying its share of water to designated downstream diversions.

(b) The State of Arkansas does not guarantee to maintain a minimum low flow for Louisiana in Reach IV. However, on the following streams when the use of water in Arkansas reduces the flow at the Arkansas-Louisiana state boundary to the following amounts:

(1) Ouachita—780 cfs

(2) Bayou Bartholomew—80 cfs

(3) Boeuf River—40 cfs

(4) Bayou Macon—40 cfs

the State of Arkansas pledges to take affirmative steps to regulate the diversions of runoff originating or flowing into Reach IV in such a manner as to permit an equitable apportionment of the runoff as set out herein to flow into the State of Louisiana. In its control and regulation of the water of Reach IV any adjudication or order rendered by the State of Arkansas or any of its instrumentalities or agencies affecting the terms of this Compact shall not be effective against the State of Louisiana nor any of its citizens or inhabitants until approved by the Commission.

ARTICLE VIII

APPORTIONMENT OF WATER—REACH V

SECTION 8.01. Reach V of the Red River consists of the mainstem Red River and all of its tributaries lying wholly within the State of Louisiana. The State of Louisiana shall have free and unrestricted use of the water of this subbasin.

ARTICLE IX

ADMINISTRATION OF THE COMPACT

SECTION 9.01. There is hereby created an interstate administrative agency to be known as the "Red River Compact Commission," hereinafter called the "Commission." The Commission shall be composed of two representatives from each Signatory State who shall be designated or appointed in accordance with the laws of each state, and one Commissioner representing the United States, who shall be appointed by the President. The Federal Commissioner shall be the Chairman of the Commission but shall not have the right to vote. The failure of the President to appoint a Federal Commissioner will not prevent the operation or effect of this Compact, and the eight representatives from the Signatory States will elect a Chairman for the Commission.

SECTION 9.02. The Commission shall meet and organize within 60 days after the effective date of this Compact. Thereafter, meetings shall be held at such times and places as the Commission shall decide.

SECTION 9.03. Each of the two Commissioners from each state shall have one vote: *Provided, however,* That if only one representative from a state attends he is authorized to vote on behalf of the absent Commissioner from that state. Representatives from three states shall constitute a quorum. Any action concerned with administration of this Compact or any action requiring compliance with specific terms of this Compact shall require six concurring votes. If a proposed action of the Commmission affects existing water rights in a State, and that action is not expressly provided for in this Compact, eight concurring votes shall be required.

SECTION 9.04.

(a) The salaries and personal expenses of each State's representative shall be paid by the government that it represents, and the salaries and personal expenses of the Federal Commissioner will be paid for by the United States.

(b) The Commission's expenses for any additional stream flow gaging stations shall be equitably apportioned among the States involved in the reach in which the stream flow gaging stations are located:

(c) All other expenses incurred by the Commission shall be borne equally by the Signatory States and shall be paid by the Commission out of the "Red River Compact Commission Fund." Such Fund shall be initiated and maintained by equal payments of each State into the fund. Disbursement shall be made from the fund in such manner as may be authorized by the Commission. Such fund shall not be subject to audit and accounting procedures of the State; however, all receipts and disbursements of the fund by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audits shall be included in and become a part of the annual report of the Commission. Each State shall have the right to make its own audit of the accounts of the Commission at any reasonable time.

ARTICLE X

POWERS AND DUTIES OF THE COMMISSION

SECTION 10.01. The Commission shall have the power to:

(a) Adopt rules and regulations governing its operation and enforcement of the terms of the Compact;

(b) Establish and maintain an office for the conduct of its affairs and, if desirable, from time to time, change its location;

(c) Employ or contract with such engineering, legal, clerical, and other personnel as it may determine necessary for the exercise of its functions under this Compact without regard to the Civil Service Laws of any Signatory State; provided that such employees shall be paid by and be responsible to the Commission and shall not be considered employees of any Signatory State;

(d) Acquire, use and dispose of such real and personal property as it may consider necessary;

(e) Enter into contracts with appropriate State or Federal agencies for the collection, correlation, and presentation of factual data for the maintenance of records and for the preparation of reports;

(f) Secure from the head of any department or agency of the Federal or State government such information as it may need or deem to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed; provided such information is not privileged and the department or agency is not precluded by law from releasing same;

(g) Make findings, recommendations, or reports in connection with carrying out the purposes of this compact, including, but not limited to, a finding that a Signatory State is or is not in violation of any of the provisions of this Compact. The Commission is authorized to make such investigations and studies, and to hold such hearings as it may deem necessary for said purposes. It is authorized to make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of any Signatory State, or the United States, as may have any interest in or jurisdiction over the subject matter. The making of finds, recommendations, or reports by the Commission shall not be a condition precedent to the instituting or maintaining of any action or proceeding of any kind by a Signatory State in any court or tribunal, or before any agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions; and

(h) Print or otherwise reproduce and distribute its proceedings and reports.

SECTION 10.02. The Commission shall:

(a) Cause to be established, maintained, and operated such stream, reservoir and other gaging stations as are necessary for the proper administration of the Compact;

(b) Cause to be collected, analyzed and reported such information on stream flows, water quality, water storage and such other data as are necessary for the proper administration of the Compact;

(c) Perform all other functions required of it by the Compact and do all things necessary, proper and convenient in the performance of its duties thereunder;

(d) Prepare and submit to the Governor of each of the Signatory States a budget covering the anticipated expenses of the Commission for the following fiscal biennium;

(e) Prepare and submit an annual report to the Governor of each Signatory State and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

(f) Make available to the Governor or to any official agency of the Signatory State or to any authorized representative of the United States, upon request, any information within its possession;

(g) Not incur any obligation in excess of the unencumbered balance of its funds, nor pledge the credit of any of the Signatory States; and

(h) Make available to a Signatory State or the United States in any action arising under this Compact; without subpena, the testimony of any officer or employee of the Commission having knowledge of any relevant facts.

ARTICLE XI

POLLUTION

SECTION 11.01. The Signatory States recognize that the increase in population and the growth of industrial, agricultural, mining and other activities combined with natural pollution sources may lead to a diminution of the quality of water in the Red River Basin which may render the water harmful or injurious to the health and welfare of the people and impair the usefulness or public enjoyment of the water for beneficial purposes, thereby resulting in adverse social, economic, and environmental impacts.

SECTION 11.02. Although affirming the primary duty and responsibility of each Signatory State to take appropriate action under its own laws to prevent, diminish, and regulate all pollution sources within its boundaries which adversely affect the water of the Red River Basin, the states recognize that the control and abatement of the naturally occurring salinity sources as well as, under certain circumstances, the maintenance and enhancement of the quality of water in the Red River Basin may require cooperative action of all states.

SECTION 11.03. The Signatory States agree to cooperate with agencies of the United States to devise and effectuate means of alleviating the natural deterioration of the water of the Red River Basin.

SECTION 11.04. The Commission shall have the power to cooperate with the United States, the Signatory States and other entities in programs for abating and controlling pollution and natural deterioration of the water of the Red River Basin, and to recommend reasonable water quality objectives to the states.

SECTION 11.05. Each Signatory State agrees to maintain current records of waste discharges into the Red River Basin and the type and quality of such discharges, which records shall be furnished to the Commission upon request.

SECTION 11.06. Upon receipt of a complaint from the Governor of a Signatory State that the interstate water of the Red River Basin in which it has an interest are being materially and adversely affected by pollution and that the state in which the pollution originates has failed after reasonable notice to take appropriate abatement measures, the Commission shall make such findings as are appropriate and thereafter provide such findings to the Governor of the state in which such pollution originates and request appropriate corrective action. The Commission, however, shall not take any action with respect to pollution which adversely affects only the state in which such pollution originates.

SECTION 11.07. In addition to its other powers set forth under this Article, the Commission shall have the authority, upon receipt of six concurring votes, to utilize applicable Federal statutes to institute legal action in its own name against the person or entity responsible for interstate pollution problems; provided, however, sixty (60) days before initiating legal action the Commission shall notify the Governor of the state in which the pollution source is located to allow that state an opportunity to initiate action in its own name.

SECTION 11.08. Without prejudice to any other remedy available to the Commission, or any Signatory State, any state which is materially and adversely affected by the pollution of the water of the Red River Basin by pollution originating in another Signatory State may institute a suit against any individual, corporation, partnership, or association, or against any Signatory State or political or governmental subdivision thereof, or against any officer, agency, department, bureau, district or instrumentality of or in any Signatory State contributing to such pollution in accordance with applicable Federal statutes. Nothing herein shall be construed as depriving any persons of any rights of action relating to pollution which such person would have if this Compact had not been made.

ARTICLE XII

TERMINATION AND AMENDMENT OF COMPACT

SECTION 12.01. This Compact may be terminated at any time by appropriate action of the legislatures of all of the four Signatory States. In the event of such termination, all rights established under it shall continue unimpaired.

SECTION 12.02. This Compact may be amended at any time by appropriate action of the legislatures of all Signatory States that are affected by such amendment. The consent of the United States Congress must be obtained before any such amendment is effective.

ARTICLE XIII

RATIFICATION AND EFFECTIVE DATE OF COMPACT

SECTION 13.01. Notice of ratification of this Compact by the legislature of each Signatory State shall be given by the governor thereof to the governors of each of the other Signatory States and to the President of the United States. The President is hereby requested to give notice to the governors of each of the Signatory States of the consent of this Compact by the Congress of the United States.

SECTION 13.02. This Compact shall become effective, binding and obligatory when, and only when:

(a) It has been duly ratified by each of the Signatory States; and

(b) It has been consented to by an Act of the Congress of the United States,

which act provides that:

Any other statute of the United States to the contrary notwithstanding, in any case or controversy:

which involves the construction or application of this Compact; in which one or more of the Signatory States to this Compact is a plaintiff or plaintiffs; and which is within the judicial power of the United States as set forth in the Constitution of the United States;

and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy:

The consent of Congress is given to name and join the United States as a party defendant or otherwise in any such case or controversy in the Supreme Court of the United States if the United States is an indispensable party thereto.

Section 13.03. The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Signatory States; and that the venue of such case or controversy may be brought in any judicial district in which the acts complained of (or any portion thereof) occur.

SIGNED AND APPROVED on the 12th day of May, 1978 at Denison Dam.

FOR ARKANSAS:
John P. Saxton
Commissioner

FOR LOUISIANA:
Arthur R. Theis
Commissioner

FOR OKLAHOMA:
Orville B. Saunders
Commissioner

FOR TEXAS:
Fred Parkey
Commissioner

FOR THE UNITED STATES OF AMERICA:
R. C. Marshall, Major General
Representative

Section 2. In order to carry out the purposes of this Act, and the purposes of article XIII of this compact consented to by Congress by this Act, the congressional consent to this compact includes and expressly gives the consent of Congress to have the United States of America named and joined as a party defendant or otherwise in the United States Supreme Court or in a district court with concurrent jurisdiction in matters in which the Supreme Court has original jurisdiction, in any case or controversy involving the construction or application of this Compact in which one or more of the Signatory States to this Compact is a plaintiff, and which is within the judicial power of the United States as set forth in the Constitution of the United States, if the United States of America is an indispensable party and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy.

Section 3. The right to alter, amend, or repeal this Act is expressly reserved.

Section 4. The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or State court, in matters in which the Supreme Court, or other court has jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Signatory States; and that the venue of such case or controversy may be in any judicial district in which the acts complained of (or any portion thereof) occur.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the amendment of the House.

The motion to concur was agreed to.

RELIEF OF FRANCISCO PANG

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1624.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1624) entitled "An act for the relief of Francisco Pang," do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That in the administration of the Immigration and Nationality Act the provisions of section 312 of that Act shall be inapplicable in the case of Francisco Pang and he may be naturalized upon compliance with all the requirements of the naturalization laws except that no prior residence or specified period of physical presence within the United States or within the jurisdiction of the naturalization court or proof thereof shall be required.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the amendment of the House.

The motion to concur was agreed to.

RELIEF OF ISAAC N. HULVER

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy I ask the Chair to lay before the Senate a message from the House of Representatives on S. 442.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 442) for the relief of Isaac N. Hulver of Kansas City, Mo.

(The amendment of the House is printed in the Record of December 11, 1980, beginning at page H12346.)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the amendments of the House.

The motion to concur was agreed to.

AUTHORIZATION TO PAY A GRATUITY TO CAMILLE G. FORD, JUSTINE E. SWENSON, AND DAVID H. GENEAU

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Pell, I submit a resolution and ask for its immediate consideration.

The resolution (S. Res. 563), was read, considered by unanimous consent and agreed to as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Camille G. Ford and Justine E. Swenson, sisters of Marie H. Owens, and David H. Geneau, brother of Marie H. Owens, an employee of the Senate at the time of her death, a sum equal to one-third of one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

AUTHORITY FOR THE REPRINTING OF THE COMMITTEE PRINT ENTITLED "IMPLEMENTATION OF THE TAIWAN RELATIONS ACT: THE FIRST YEAR"

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Glenn, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 564) was read, considered by unanimous consent and agreed to as follows:

Resolved, That there shall be printed for the use of the Committee on Foreign Relations three hundred copies of its committee print of the Ninety-sixth Congress, second session, entitled "Implementation of the Taiwan Relations Act: The First Year."

ALASKA FEDERAL-CIVILIAN ENERGY EFFICIENCY SWAP ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Jackson, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1784.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1784) entitled "An act to improve the electric generating efficiency of joint Federal-civilian pooling practices in Alaska, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

Section. 1. This Act shall be referred to as the "Alaska Federal-Civilian Energy Efficiency Swap Act of 1980".

DEFINITIONS

Sec. 2. As used in this Act—

(1) The term "non-Federal electric energy" means electric energy generated by any facility other than a federally owned electric generating facility.

(2) The term "agency" means the head of any department, agency, or instrumentality of the United States.

(3) The term "federally generated electric energy" means any electric power generated by an electric generating facility owned and operated by an agency.

(4) The term "non-Federal person" means any corporation, cooperative, municipality, or other non-Federal entity which generates non-Federal electric energy.

AUTHORITY TO SELL CERTAIN ELECTRIC ENERGY

Sec. 3. (a) For the purposes of conserving oil and natural gas and better utilizing coal, any agency is authorized to sell to any non-Federal person, and to enter into contracts for the sale to any non-Federal person of, electric energy generated by coal-fired electric generating facilities of such agency in Alaska without regard to any provision of law which precludes such sale where such energy is available from other local sources, if the agency determines that—

(1) such energy is generated by an existing coal-fired generating facility;

(2) such energy is surplus to such agency's needs and is in excess of the electric energy specifically generated for consumption by, or necessary to serve the requirements of, any department, agency, or instrumentality of the United States;

(3) the costs to the ultimate consumers of such energy is less than the costs which, in the absence of such sale, would be incurred by such consumers for the purchase of an equivalent amount of energy; and

(4) such sale will result in a reduction in the total consumption of oil or natural gas by the non-Federal person purchasing such electric energy below that consumption which would occur in the absence of such sale.

(b) Federally generated electric energy sold by an agency as provided in subsection (a) shall be priced to recover the fuel costs and variable operation and maintenance costs of the Federal generating facility concerned which costs are attributable to such sale, plus an amount equal to one-half the difference between—

(1) the costs of producing the electric energy by coal generation, and

(2) the costs of producing electric energy by the oil or gas generation being displaced.

PURCHASE AUTHORITY

Sec. 4. For purposes of economy and efficiency and conserving oil and natural gas, whenever practicable and consistent with other laws applicable to any agency and whenever consistent with the requirements applicable to any agency, such agency shall endeavor to purchase electric power from any non-Federal person for consumption in Alaska by any facility of such agency where such purchase—

(1) will result in a savings to other consumers of electric energy sold by such non-Federal person without increasing the cost incurred by any agency for electric energy, or

(2) will result in a cost savings to such agency of electric energy without increasing costs to other consumers of electric energy taking into account the remaining useful life of any facility available to such agency to generate electric energy for such agency and the cost of maintaining such facility on a standby basis.

SAVINGS PROVISIONS

Sec. 5. (a) Nothing in this Act shall be construed as requiring or authorizing any department, agency, or instrumentality of the United States to construct any new electric generating facility or related facility, to modify any existing facility, or to employ reserve or standby equipment in order to accommodate the needs of any non-Federal person for electric energy.

(b) Revenues received by any agency pursuant to section 3 of this Act from the sale of electric energy generated from any facility of such agency shall be available to the agency without fiscal year limitation for the purchase of fuel and for operation, maintenance, and other costs associated with such facility.

(c) The authorities of this Act shall be exercised for such periods and pursuant to such terms and conditions as the agency concerned deems necessary consistent with the provisions of this Act and consistent with its responsibilities under other provisions of law.

(d) All contracts or other agreements executed under this Act, notwithstanding any other provision of law, shall be negotiated and executed by the agency selling or purchasing electric energy under this Act.

REPORTS

Sec. 6. (a) The Secretary of Energy shall biennially report to the Senate Committee on Energy and Natural Resources and the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives on the actions taken pursuant to this Act by any agency. The report shall include an analysis of the costs of electric energy purchased or sold as provided in this Act, the revenues and profits generated from such sales, and the oil and natural gas conserved as a result of any such purchases and sales. Such agencies shall cooperate with the Secretary of Energy in providing information for the purpose of such report.

(b) The Secretary of Energy shall conduct a study to determine whether and to what extent the provisions of section 3 of this Act should be extended to apply to electric power generated by coal-fired Federal electric generating facilities located in the United States outside of Alaska. The study shall identify such facilities, their capacity and purpose and other pertinent information. The Secretary shall provide by October 1, 1931, a report of such study, together with appropriate recommendations for legislation, to the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

Amend the title so as to read: "An Act to provide certain authority for the purchase and sale of electric energy by Federal departments in Alaska, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Jackson I move that the Senate concur in the amendments of the House.

Mr. STEVENS. Mr. President, I am grateful to the majority leader.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia to concur in the amendments of the House.

The motion to concur was agreed to.

CORRECTIONS IN THE ENROLLMENT OF S. 2363, GEORGIA O'KEEFFE NATIONAL HISTORIC SITE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Jackson, I send to the desk a Senate concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 139) to make certain corrections in the enrollment of S. 2363 to authorize the establishment of the Georgia O'Keeffe National Historic Site, and for other purposes.

The Senate proceeded to consider the concurrent resolution.

The concurrent resolution (S. Con. Res. 139) was agreed to as follows:

S. Con. Res. 139

Resolved by the Senate (the House of Representatives concurring),

Section 1. In the enrollment of the bill (S. 2363), to authorize the establishment of the Georgia O'Keeffe National Historic Site, and for other purposes, the Secretary of the Senate shall make the following corrections:

After title XVII, insert the following:

TITLE XIX—AMERICAN FALLS LAND CONVEYANCE

Sec. 1901. The Secretary of the Interior is hereby authorized and directed to convey by quitclaim deed to the city of American Falls, Idaho, without cost, the following real property located within or adjacent to the city limits of said city of American Falls, reserving all right-of-way and oil and gas in land to the United States:

(a) The area identified as the Campbell Stebbins Park, containing approximately 41.5 acres, including the park area located between the Oregon Trail Highway and the Oregon Short Line Railroad, and the area identified as a Public Square, containing approximately 8.8 acres, all as shown on the official plat of the Reclamation Addition to the city of American Falls approved October 18, 1923, and recorded in the county of Power, Idaho, as instrument No. 32042.

(b) Block 44 of the original townsite of American Falls; containing approximately 3.3 acres,

(c) A tract of land containing 11.7 acres, more or less, described as follows:

Beginning at the northwest corner of the southwest quarter of section 21, township 7 south, range 31 east, Boise meridian;

thence south 45 degrees 16 minutes east, a distance of 1,870.3 feet, more or less, to the southeast corner of said southwest quarter;

thence north 58 degrees 28 minutes west, a distance of 96.3 feet;

thence north 68 degrees 17 minutes west, a distance of 1,339.2 feet, more or less, to a point on the west section line of said section 21, said point being 548.2 feet north of the southwest corner of said section;

thence north along the west section line a distance of 770.5 feet, more or less, to the northwest corner of the southwest quarter of said section 21, the point of beginning.

(d) A tract of land containing 8.79 acres more or less in the south half of the southwest quarter, section 28, township 7 south, range 31 east, Boise meridian, Idaho, and more particularly described as follows:

Beginning at the southwest corner of said section 28;

thence north 44 degrees and 38 minutes east, 1,868.6 feet to the 16/17 corner of said section;

thence east along the north boundary of the southeast quarter southwest quarter of said section 28, 367.2 feet to a point;

thence south 824.9 feet to a point;

thence north 89 degrees and 59 minutes west, 92.8 feet to a point;

thence south 49 degrees and 23 minutes west, 361.9 feet to a point;

thence south 78 degrees and 34 minutes west, 708 feet to a point;

thence south 26 degrees and 55 minutes west, 333.7 feet to a point;

thence south 61 degrees and 51 minutes west, 271.6 feet to a point;

thence south 43 degrees and 29 minutes west, 280.3 feet to a point on the south boundary of said section 28;

thence south 89 degrees and 59 minutes west along the south boundary of said section 28, 34.9 feet to the place of beginning.

(e) A tract of land containing 8.0 acres, more or less, located in the west half of the southwest quarter, section 28, township 7 south, range 31 east, Boise meridian, Idaho, and more particularly described as follows:

Beginning at the southwest corner of section 28;

thence north 44 degrees 38 minutes east, a distance of 1,886.6 feet to the northeast corner of the southwest quarter southwest quarter, of section 28;

thence north a distance of 1,320 feet to the northeast corner of the northwest quarter southwest quarter of section 28;

thence west, a distance of 30 feet to a point on the east edge of Hillcrest Avenue;

thence southwesterly along a curve on the side of Hillcrest Avenue a distance of 2,955 feet to a point on line between sections 28 and 29;

thence south 65.0 feet to the southwest corner of section 28, the place of beginning.

Such property shall be conveyed subject to the reservation of rights-of-way for ditches, canals, and pipelines constructed by the authority of the United States and to other existing rights-of-way of record. The conveyance of such property shall contain a reservation to the United States of all oil and gas in the land, together with the right to prospect for, mine, and remove the same under such regulation as the Secretary of the Interior may prescribe.

TITLE XX—NATIONAL CAPITAL BOUNDARY STONES

SEC. 2001. (a) Congress finds that because of the deteriorating condition and neglect of the forty original boundary stones delimiting the ten-mile square first set aside by the State of Maryland and the Commonwealth of Virginia as the "seat of government of the United States", there is a need to provide for the preservation, protection, and maintenance of such stones.

(b) The purposes of this title are—

(1) to assure the perpetuity and the retention of the integrity of these existing important historic boundary stones for future generations of Americans to view and enjoy and to restore the complete system (including the replacement of missing stones);

(2) provide an adequate mechanism and assign responsibility for ensuring that the boundary stones are adequately preserved protected, and maintained; and

(3) make available to the public, information, data, and items involving or pertaining to the history of the original survey of the Nation's Capital.

SEC. 2002. (a) The Secretary, acting through the Director of the National Park Service (hereinafter in this Act referred to as the "Director"), shall have responsibility for the preservation, protection, and maintenance of the boundary stones referred to in section 2001 of this title.

(b) Within the twelve-month period following the date of enactment of this title, the Director shall prepare and submit to the Secretary for his approval, a plan for preserving, protecting, and maintaining such boundary stones. The plan shall be prepared in consultation with the District of Columbia Daughters of the American Revolution. The plan shall be considered as approved by the Secretary unless he disapproves the plan within ninety days from the date of its submittal to him by the Director. Such plan shall include:

(1) a description of the location and physical condition of each corner stone and boundary stone, including a survey referenced to the appropriate State plane grid coordinate system with appropriate ties to property lines and plats in such form as may be suitable for recording purposes;

(2) programs for both the immediate and the long-term preservation, protection, and maintenance of such stones, including the stones located at each of the four cardinal points of the compass at the corners of the ten-mile square delineating the original site of the Nation's Capital, which programs may include written agreement between the Federal Government and private individuals, State or local governments having jurisdiction over areas in which the boundary stones are located, or any combination or combinations thereof;

(3) a program for the relocation and replacement or site marking of those boundary stones which have been moved, are missing, or which cannot be placed in their original location;

(4) a schedule and financial program for providing adequate preservation, protection, and maintenance of such boundary stones;

(5) a program, developed in coordination with the Smithsonian Institution, for a public information display related to the history of the survey of the District of Columbia as conducted during the years 1971 and 1972, including information related to the original surveyors, the instruments and techniques used by such surveyors, and surveying methods and techniques currently in use; and

(6) such other plan elements as the Director deems necessary.

(c) Following the approval of the plan by the Secretary pursuant to subsection (b) of this section, the Secretary, acting through the Director, shall, in consultation with the District of Columbia Daughters of the American Revolution, implement such boundary stones.

SEC. 2003. In carrying out the plan approved pursuant to section 2002 of this Act, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, such lands and interest therein (including easements), together with improvement thereon, as may be necessary to carry out such plan. Lands and interests therein so acquired shall be administered as part of the National Park System, in accordance with the provisions of this title and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 and following), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 901–7).

TITLE XXI—GATEWAY NATIONAL RECREATION AREA ADVISORY COMMISSION

SEC. 2101. The Act entitled, "An Act to establish the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes", approved October 27, 1972 (86 Stat. 1308), as amended (16 U.S.C. 460cc), is further amended in section 4 by striking out "ten years" in the second sentence of subsection (a) and inserting in lieu thereof "twenty years".

TITLE XXII—HISTORIC CAMDEN ASSISTANCE

SEC. 2201. (a) In order to assist in the preservation of the nationally significant historic resources associated with the town of Camden, South Carolina, a key location in the development of South Carolina and in military operations in the South during the American Revolution, the Secretary is authorized, in accordance with subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666), to enter into a cooperative agreement or agreements with the Camden Historical Commission, the Camden District Heritage Foundation, or other appropriate public, governmental, or private nonprofit entities pursuant to which the Secretary may assist in the protection, restoration, and interpretation of such resources for the benefit of the public.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE XXIII—WARM SPRINGS, GEORGIA, STUDY

SEC. 2301. (a) In order to preserve and interpret for the benefit and education of the people certain properties in Warm Springs, Georgia, historically associated with the life of Franklin Delano Roosevelt, Thirty-second President of the United States, in a manner which will commemorate, on a continuing basis, President Roosevelt's life and his commitment to the eradication of physically disabling diseases, the Secretary shall, within one complete fiscal year from the date of enactment of this Act, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the use and development of the property known as the "Little White House" built by Franklin Roosevelt in 1931, the associated pools and springs, the Roosevelt Warm Springs Institute for Rehabilitation and the FDR State Park consisting of approximately ten thousand acres (hereinafter in this section referred to as the "historical area"), indicating—

(1) any sites, structures, and objects within the historical area which are deemed to require restoration in order to preserve their historical significance;

(2) the lands and interests in any privately owned lands adjacent or related to the historical area which are deemed necessary or desirable for the purposes of resource protection, scenic or historic integrity, or management and administration of the area in furtherance of the purposes of this section, and the estimated cost thereof;

(3) the number of visitors and types of public use within the historical area which can be accommodated in accordance with the protection of its resources; and

(4) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

(b) Not later than one complete fiscal year from the date of enactment of this section the Secretary, in consultation and cooperation with the Secretary of Education and the Governor of the State of Georgia, shall transmit, to the committees named in subsection (a) of this section, a report of his investigation of the feasibility and desirability of further developing facilities and establishing programs for the rehabilitation of the physically disabled within the historical area and adjoining State-owned lands and facilities, with particular emphasis on programs to foster, enhance, and encourage the participation of persons who are physically disabled in recreational pursuits and on the identification of ways in which the historical area and adjoining State-owned lands and facilities may serve as a model of rehabilitation techniques for all people who are physically disabled.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry the provisions of this section.

TITLE XXIV—NATIONAL PARK SYSTEM ADVISORY BOARD

SEC. 2401. The Act of August 21, 1935 (49 Stat. 666), as amended (16 U.S.C. 461–467), is further amended in section 3 by changing the phrase "twelve persons" to "thirteen persons".

TITLE XXV—AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT

SEC. 2501 Section 3(a)(21) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) is amended by striking out "agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President." and substituting "the Secretary of Agriculture. All Federal lands within the wild and scenic river corridor west of range 11 east shall hereafter be national forest lands to be administered by the Secretary of Agriculture as part of the Tahoe National Forest, the boundary of which is modified as generally depicted on a map entitled 'Tahoe National Forest inclusion of North Fork American Wild and Scenic River, September 1980'.".

SEC. 2502. (a) Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) is amended by adding the following new paragraphs at the end thereof:

"(77) Myakka, Florida: The segment north of the southern boundary of the Myakka River State Park.

"(78) Saint Lucie, Florida: The South Fork.

"(79) Salmon, Connecticut: The entire main stem.

"(80) Farmington, Connecticut: The main stem and the west branch from the Charles A. Goodwin Dam downstream to its confluence with the Connecticut River.

"(81) Parker, Massachusetts: The main

stem from Plum Island Sound to Interstate 95 including Plum Island River from Plum Island Sound to above Little Pine Creek.

"(82) Caney Fork, Tennessee: The main stem from Tennessee State Road 4251 to its headwaters.

"(83) Dan, North Carolina and Virginia: The segment from above the United States Highway Bridge 311 at river mile 130 to its headwaters.

"(84) Satilla River, Georgia: The main stem.

"(85) Cimarron, Kansas: The main stem from the Colorado-Kansas State line to the Kansas-Oklahoma State line, in Comanche County, Kansas, including its tributaries Buff Creek and Crooked Creek, except those portions of the river located in Oklahoma.

"(86) Hoh, Washington: The segment between the boundary of the Olympic National Park, near the confluence of the Hoh River and the South Fork of the Hoh River, downstream to its confluence with the Pacific Ocean.

"(87) Dosewallips, Washington: The segment from the eastern boundary of the Olympic National Forest to the mouth.

"(88) Quillayute, Washington: The segment of the main stem and its Soleduck, Bogachiel, and Calawah tributaries outside the boundaries of the Olympic National Park, but including the segment within the Olympic National Park coastal unit.

"(89) Wood, Rhode Island: The segments from Alton Pond to Interstate 95 and from KG Ranch Road to the headquarters.

"(90) Black, Wisconsin: The main stem from a point one and four-tenths miles from its confluence with the Mississippi River to Black River Falls Dam.

"(91) Humptulips, Washington: The entire river including the West Fork.

(b) Section 5(b)(3) of such Act is amended by adding the following at the end thereof: "The studies of the rivers named in paragraphs (77) through (84) and in paragraphs (89) through (91) of subsection (a) shall be completed not later than October 1, 1984. The studies of the rivers named in paragraphs (85) through (88) of subsection (a) shall be completed not later than October 1, 1983.".

(c) Section 5(b)(4) of such Act is amended by striking out "(76)" and substituting "(91)".

(d) The study of the river named in paragraph (80) of section 5(a) of the Wild and Scenic Rivers Act shall include an analysis of whether low-head hydroelectric generating facilities can be installed on such river at dams existing on the date of enactment of this subsection without having a direct and adverse effect upon the fish, wildlife, recreational, and esthetic values of the river. For purposes of such analysis, the Secretary of the Interior shall consult with the Secretary of Energy. Nothing in section 7, or in any other provision, of the Wild and Scenic Rivers Act shall preclude the development of any low-head hydroelectric facility at any such existing dam on such river during the study period or during the period for congressional consideration thereof referred to in section 7(b)(ii) of such Act.

(e) Section 5 of such Act is amended by adding the following new subsection at the end thereof:

"(e) The study of the rivers named in paragraphs (79), (80), (86), (88), and (91) of subsection (a) shall include an analysis of the various means which may be practicable and appropriate, consistent with other provisions of this Act, to maintain and enhance the fisheries resources of such rivers.".

"(f) With regard to the river named in paragraph (77), no permits or licenses currently approved for mining and related activities permitted thereby shall be affected for the duration of the study.".

Sec. 2503 (a) Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1277) is amended by inserting the following new paragraphs at the end thereof:

"(24) Illinois, Oregon.—The segment from the boundary of the Siskiyou National Forest downstream to its confluence with the Rogue River, as generally depicted on a map entitled 'Illinois River Study' and as described in a report entitled 'A Proposal: Illinois Wild and Scenic River'; to be administered by the Secretary of Agriculture. In carrying out subsection (b) of this section, the Secretary shall carefully consider management options which will maintain and enhance the river fisheries. For the purposes of the segment designated by this paragraph there are authorized to be appropriated not more than $2,100,000 for the acquisition of lands or interests in lands, and such sums as may be necessary for development.

"(25) Dosewallips, Washington.—The segment from the boundary of the Olympic National Park to the eastern boundary of the Olympic National Forest; to be administered by the Secretary of Agriculture. In carrying out subsection (b) of this section, the Secretary of Agriculture shall carefully consider management options which will maintain and enhance the river fisheries. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated such sums as may be necessary for development.

(b) Section 3(b) of such Act is amended as follows:

(1) strike out "within one year from the date of this Act" and substitute "within one year from the date of designation of such component under subsection (a)";

(2) strike out "river); determine which" and substitute "river); and determine which";

(3) strike out "; and prepare a plan for necessary developments in connection with its administration in accordance with such classification" and substitute a period and "within three complete fiscal years of the date of the enactment of this sentence in the case of the rivers numbered (1) through (23) in subsection (a), and within three complete fiscal years of the date of their designation in the case of the other rivers designated under subsection (a), the agency charged with the administration of each such component shall prepare a comprehensive protection and management plan to guide the agency's administration in accordance with the classification made under this subsection. Such plan shall include the identification of, and plans for implementation of, user carrying capacities for all types of public use activities within the boundaries of the river. Such plan shall be prepared after consultation with State and local governments and the interested public."; and

(4) strike out "and development plans" and substitute "and notice of completion of the plan described in this subsection".

(c) Subsection (a) of the first section of such Act is amended by inserting "National" before "Wild and Scenic".

Sec. 2504. Authorization of money to be appropriated under this title shall be effective on October 1, 1981. Notwithstanding any other provision of this title, authority to enter into contractual agreements, and to make payments under this title pursuant to such contractual agreements shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE XXVI—AMENDMENTS TO THE NATIONAL TRAILS SYSTEM ACT

Sec. 2601. This title may be cited as the "National Trails System Act Amendments of 1980".

Sec. 2602. Section 2 of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241 et seq.) is amended—

(1) in subsection (b), by striking out "the purpose" and inserting in lieu thereof "The purpose"; and

(2) by adding at the end thereof the following new subsection:

"(c) The Congress recognizes the valuable contributions that volunteers and private, nonprofit trail groups have made to the development and maintenance of the Nation's trails. In recognition of these contributions, it is further the purpose of this Act to encourage and assist volunteer citizen involvement in the planning, development, and management of trails.".

Sec. 2603. Section 3 of the National Trails System Act is amended—

(1) by redesignating paragraphs (a) through (d) as paragraphs (1) through (4), respectively, and by inserting "(a)" after "Sec. 3.";

(2) in paragraph (2) of subsection (a) (as so redesignated), by adding at the end thereof the following: "National scenic trails may be located so as to represent, but need not be limited to, desert, marsh, grassland, mountain, canyon, river, or forest areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.";

(3) in the fourth sentence of paragraph (3) of subsection (a) (as so redesignated), by striking out "Act, are established as initial" and inserting in lieu thereof "Act are included as";

(4) in the fifth sentence of paragraph (3) of subsection (a) (as so redesignated), by striking out "subsequently"; and

(5) by adding at the end thereof the following new subsection:

"(b) For purposes of this section, the term extended trails' means trails or trail segments at least one hundred miles in length, except that historic trails of less than one hundred miles may be designated as extended trails. While it is desirable that extended trails be continuous, studies of such trails may conclude that it is feasible to propose one or more trail segments which, in the aggregate, constitute at least one hundred miles in length.".

Sec. 2604. Section 4 of the National Trails System Act is amended—

(1) in subparagraph (b), by striking the period at the end of clause (ii) and substituting in lieu thereof ", and";

(2) in subparagraph (b), by adding the following:

"(iii) trails on privately owned lands may be designated 'National Recreation Trails' by the Secretary of the Interior with the consent of the landowners."; and

(3) by adding at the end thereof the following new subsection:

"(c) As used in this section, the term 'reasonably accessible' means accessible by local public transportation, or accessible within three hours driving time by major portions of the population to be served by the trail.".

Sec. 2605. (a) Section 5(a) of the National Trails System Act is amended by adding at the end thereof the following:

"(11) The Santa Fe National Historic Trail, a route extending from Independence, Missouri, to the New Mexico State line, following the route as depicted on a map identified as 'The Santa Fe Trail (figure 2)', excluding those portions in the State of New Mexico, in 'The Santa Fe Trail', a study report prepared by the Department of the Interior and dated July 1976. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.

"(12) The Chisholm, Shawnee, and Western National Historic Trails, consisting of—

"(A) the Chisholm National Historic Trail, a trail of approximately six hundred and forty-eight miles extending from San Antonio, Texas, to Abilene, Kansas;

"(B) the Shawnee National Historic Trail, a trail of approximately four hundred and sixty miles extending from Belton, Texas, to Baxter Springs, Kansas;

"(C) the Western National Historic Trail, a trail of approximately six hundred and fifty-two miles extending from San Antonio, Texas, to Dodge City, Kansas;

which trails follow routes as depicted on a map identified as 'Old Cattle Trails of the Southwest: Western-Chisholm-Shawnee (figure 1)' in the 'Old Cattle Trails of the Southwest', a report prepared by the Department of the Interior and dated April 1975. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The Secretary may also designate an additional segment of the Chisholm trail consisting of approximately one hundred miles and extending from Cuerc, Texas, to San Antonio, Texas, by publication of a route description thereof in the Federal Register. The trails shall be administered by the Secretary of the Interior.

"(13) The Potomac Heritage National Scenic Trail, a corridor of approximately seven hundred and four miles following the route as generally depicted on the map identified as 'National Trails System, Proposed Potomac Heritage Trail' in 'The Potomac Heritage Trail', a report prepared by the Department of the Interior and dated December 1974: Provided, That no designation of the trail shall be made in the State of West Virginia. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall initially consist of only those segments of the corridor located within the exterior boundaries of federally administered areas. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Potomac Heritage Trail. The Secretary of the Interior may designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local governmental agencies involved, if such segments meet the criteria established in this Act and are administered by such agencies without expense to the United States. The trail shall be administered by the Secretary of the Interior.

"(14) The Natchez Trace National Scenic Trail, a trail system of approximately six hundred and ninety-four miles extending from Nashville, Tennessee, to Natchez, Mississippi, as depicted on the map entitled 'Concept Plan, Natchez Trace Trails Study' in 'The Natchez Trace', a report prepared by the Department of the Interior and dated August 1979. The map shall be on file and available for public inspection in the office of Director of the National Park Service, Department of the Interior, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.

"(15) The Florida National Scenic Trail, a route of approximately thirteen hundred miles extending through the State of Florida as generally depicted in 'The Florida Trail', a national scenic trail study draft report prepared by the Department of the Interior and dated February 1980. The report shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington, District of Columbia. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Florida Trail except with the consent of the owner thereof. The Secretary of Agriculture may designate lands outside of federally administered areas as segments of the trail, only upon application from the States or local govermental agencies involved, if such segments meet the criteria established in this Act and are administered by such agencies without expense to the United States. The trail shall be administered by the Secretary of Agriculture.".

(b) Section 5(b) of the National Trails System Act is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting the following after the second sentence "The feasibility of designating a trail shall be determined on the basis of an evaluation of whether or not it is physically possible to develop a trail along a route being studied, and, if so, whether the development of the trail would be financially feasible.";

(3) by striking out "The studies listed" and inserting in lieu thereof "Subject to paragraph (2), the studies listed";

(4) by striking out "Such studies, when submitted" and all that follows down through the colon and inserting in lieu thereof the following:

"(2)(A) If, during the course of conducting a study under this section, the appropriate Secretary determines that it is not feasible to develop a national scenic or national historic trail along the proposed route and that there is no significant need for such a trail, he shall submit a report containing such determination to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate. Unless a resolution of disapproval of the determination is adopted by either of such committees within the period of 30 calendar days of continuous session of Congress after the date of their receipt of the report, the Secretary may terminate further study of the proposed trail by publication of notice thereof in the Federal Register.

"(B) Before submitting any report under subparagraph (A) containing a recommendation against designation of a trail, the Secretary shall examine (i) whether the route affords an opportunity to commemorate a significant event in the development of the Nation or the region or to memorialize an individual whose activities had a far-reaching effect on the development thereof, and (ii) whether any segments of the route have the potential to be developed as national recreation trails. Based on such examination, any such report containing a recommendation against designation of a trail shall indicate whether the route provides an opportunity to memorialize or commemorate such an event or individual or whether any segments of the route could potentially be developed as national recreation trails, and, if so, shall contain suggestions for appropriate methods for carrying out the memorialization or commemoration of the trail development, including an estimate of the anticipated costs for each such activity.

"(C) For the purpose of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"(3) Completed studies, when submitted under paragraph (1), shall be printed as a House or Senate document, and shall include, but need not be limited to—";

(5) by redesignating paragraphs (1) through (10) as subparagraphs (A) through (J);

(6) in paragraph (3)(C) (as so redesignated), by inserting "16" before "U.S.C.";

(7) in paragraph (3)(I) (as so redesignated) by inserting "and" after the semicolon at the end of the paragraph;

(8) in paragraph (3)(J) (as so redesignated), by striking out "; and" and inserting in lieu thereof a period;

(9) by striking out "(11) to" and inserting in lieu thereof "(4) To"; and

(10) in paragraph (4) (as so redesignated) by inserting "exploration," after "commerce" in the first sentence of subparagraph (B).

(c) Section 5(c) of the National Trails System Act is amended—

(1) in paragraph (9), by striking out "Sante Fe" and inserting in lieu thereof "Sante Fe"; and

(2) by adding after paragraph (23) the following:

"(24) Juan Bautista de Anza Trail, following the overland route taken by Juan Batista de Anza in connection with his travels from the United Mexican States to San Francisco, California.

"(25) Trail of Tears, including the associated forts and historic properties, extending from the vicinity of Murphy, North Carolina, through Georgia, Alabama, Tennessee, Kentucky, Illinois, Missouri, Arkansas, to the vicinity of Tahlequah, Oklahoma.

"(26) Illinois Trail, extending from the Lewis and Clark Trail at Wood River, Illinois, to the Chicago Portage National Historic Site, generally following the Illinois River and the Illinois and Michigan Canal.

"(27) Jedediah Smith Trail, to include the routes of the explorations led by Jedediah Smith—

"(A) during the period 1826–1827, extending from the Utah-Wyoming border, through the Great Salt Lake, Sevier, Virgin, and Colorado River Valleys, and the Mojave Desert, to the San Gabriel Mission, California; thence through the Tehachapi Mountains, San Joaquin and Stanislaus River valleys, Ebbetts Pass, Walker River Valley, Bald Mount, Mount Grofton, and Great Salt Lake to Bear Lake, Utah; and

"(B) during 1828, extending from the Sacramento and Trinity River valleys along the Pacific coastline, through the Smith and Willamette River valleys to the Fort Vancouver National Historic Site, Washington, on the Columbia River.

"(28) General Crock Trail, extending from Prescott, Arizona to the Arizona-New Mexico State line.

"(29) Beale Hagon Road, extending along U.S. Highway 66 (Interstate 40) through Arizona.".

(d) Section 5(d) of the National Trails System Act is amended—

(1) by inserting after the first sentence the following: "If the appropriate Secretary is unable to establish such an advisory council because of the lack of adequate public interest, the Secretary shall so advise the appropriate committees of the Congress."; and

(2) by redesignating paragraphs (i) through (iv) as paragraphs (1) through (4), respectively, and by amending paragraph (1) (as so redesignated) to read as follows:

"(1) the head of each Federal department or independent agency administering lands through which the trail route passes, or his designee;".

(e) Section 5(f) of the National Trails System Act is amended—

(1) in paragraph (1), by striking out "national recreation" and inserting in lieu thereof "national historic", and by striking out "and" after the semicolon;

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(3) a protection plan for any high potential historic sites or high potential route segments; and

"(4) general and site-specific development plans, including anticipated costs.".

SEC. 2606. Section 6 of the National Trails System Act is amended—

(1) in the first sentence, by inserting "by the appropriate Secretary" after "marked"; and

(2) by striking out "; Provided" and all that follows through the period and insert-

ing in lieu thereof the following: ", or, where the Secretary deems necessary or desirable, on privately owned lands with the consent of the landowner. Applications for approval and designation of connecting and side trails on non-Federal lands shall be submitted to the Secretary of the Interior.".

SEC. 2607. (a) Section 7 of the National Trails System Act is amended—

(1) by striking out "Sec. 7. (a)" and inserting in lieu therof "(2)"; and

(2) by inserting immediately after the section heading the following new paragraph:

"SEC. 7. (a)(1)(A) The Secretary charged with the overall administration of a trail pursuant to section 5(a) shall (in administering and managing the trail, consult with the heads of all other affected State and Federal agencies. Nothing contained in this Act shall be deemed to transfer among Federal agencies any management responsibilities established under any other law for federally administered lands which are components of the National Trails System. Any transfer of management responsibilities may be carried out between the Secretary of the Interior and the Secretary of Agriculture only as provided under subparagraph (B).

"(B) The Secretary charged with the overall administration of any trail pursuant to section 5(a) may transfer management of any specified trail segment of such trail to the other appropriate Secretary pursuant to a joint memorandum of agreement containing such terms and conditions as the Secretaries consider most appropriate to accomplish the purposes of this Act. During any period in which management responsibilities for any trail segment are transferred under such an agreement, the management of any such segment shall be subject to the laws, rules, and regulations of the Secretary provided with the management authority under the agreement, except to such extent as the agreement may otherwise expressly provide.";

(3) in the first sentence of paragraph (2), by striking out "thereof", and inserting in lieu thereof "of the availability of appropriate maps or descriptions", and striking out ", together with appropriate maps and descriptions"; and

(4) in the second sentence of paragraph (2) of subsection (a) (as so redesignated), by inserting before the period "consistent with the purpose of this Act".

(b) Section 7(b) is amended by inserting after "notice" the words "of the availability of appropriate maps or descriptions", and striking out "together with appropriate maps or descriptions,".

(c) Section 7(c) is amended by adding at the end thereof the following: "The appropriate Secretary may also provide for trail interpretation sites, which shall be located at historic sites along the route of any national scenic or national historic trail, in order to present information to the public about the trail at the lowest possible cost, with emphasis on that portion of the trail passing through the State in which the site is located. Wherever possible, the sites shall be maintained by a State agency under a cooperative agreement between the appropriate Secretary and the State agency.".

(d) Section 7(f) of the National Trails System Act is amended by inserting "(1)" after "(f)" and by adding at the end thereof the following:

"(2) When a tract of land lies partly within and partly without a national scenic or national historic trail right-of-way, the appropriate Secretary may, with the consent of the owner thereof, acquire the entire tract. Land so acquired outside the right-of-way may be exchanged for non-Federal land within such right-of-way, and any portion of the land not used for such exchanges may be disposed of in accordance with the provisions of section 5 of Public Law 90-401. The proceeds from any such disposal shall be credited to the appropriation account bearing the cost of land acquisition for the affected trail right-of-way.".

(e) Section 7(g) of the National Trails System Act is amended—

(1) in the last sentence by striking out "No" and inserting in lieu thereof "Except for designated protected components of the trail, no"; and

(2) in the last sentence by striking out "or" the second place it appears and inserting in lieu thereof ",".

(f) Section 7(h) of the National Trails System Act is amended—

(1) by inserting "(1)" after "(h)";

(2) by inserting after the second sentence, the following: "Such agreements may include provisions for limited financial assistance to encourage participation in the operation, development, or maintenance of such trails, provisions providing volunteer in the park or volunteer in the forest status (in accordance with the Volunteers in the Parks Act of 1969 and the Volunteers in the Forests Act of 1972) to individuals, private organizations, or landowners participating in such activities, or provisions of both types. Such Secretary shall also initiate consultations with affected States and their political subdivisions to encourage the development and implementation by such entities of appropriate measures to protect private landowners from trespass resulting from trail use and from unreasonable personal liability and property damage caused by trail use, and the development and implementation by such entities of provisions for land practices, compatible with the purposes of this Act, for property within or adjacent to trail rights-of-ways. After consulting with States and their political subdivisions under the preceding sentence, the Secretary may provide assistance to such entities under appropriate cooperative agreements in the manner provided by this subsection."; and

(3) by striking out "Whenever the" in the last sentence of such subsection and inserting in lieu thereof the following:

"(2) Whenever the".

(g) Section 7(i) of the National Trails System Act is amended by adding at the end thereof the following new sentence: "The Secretary responsible for the administration of any segment of any component of the National Trails System (as determined in a manner consistent with subsection (a)(1) of this section) may also utilize authorities related to units of the national park system or the national forests, as the case may be, in carrying out his administrative responsibilities for such component.".

(h) Section 7 of the National Trails Systems Act is amended by inserting after subsection (i) the following:

"(j) Potential trail uses allowed on designated components of the national trails system may include but not be limited to bicycling, cross-country skiing, day hiking, equestrian, fitness/jogging, four-wheel drive or all terrain off-road vehicles, handicapped, historical, motorcycle/trail biking, nature, overnight/long-distance backpacking, snowmobiling, surface water and underwater trails, except where otherwise provided in this Act or in other Federal, State and local laws and regulations.".

SEC. 2608. Section 8 of the National Trails System Act is amended—

(1) by redesignating subsection (d) (and any reference thereto) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) The Secretary of Transportation, in administering the Federal aid program, together with the Chairman of the Interstate Commerce Commission and the Secretary of the Interior, in administering the Railroad Revitalization and Regulatory Reform Act of 1976, shall encourage State and local agencies and private interests to establish such trails using the provisions of such programs. Consistent with the purposes of that Act, and in furtherance of the national policy to preserve established railroad rights-of-way for future reactivation of rail service, to protect rail transportation corridors, and to encourage energy efficient transportation use, interim use of an established railroad rights-of-way pursuant to donation, transfer, lease, sale or otherwise in a manner consistent with the National Trails System Act, if subject to restoration or reconstruction for railroad purposes, shall not constitute an abandonment of such rights-of-way for railroad purposes. If a State, political subdivision, or qualified private organization is prepared to assume full responsibility for management of such rights-of-way and for any legal liability arising out of such transfer or use, then any legal liability arising from such transfer or use shall revert to the State, political subdivision or private organization who assumes full responsibility.".

SEC. 2609. Section 10 of the National Trails System Act is amended—

(1) by inserting "(a)(1)" after "Sec. 10.";

(2) by striking out "(a) The" in the second sentence and inserting in lieu thereof "for the";

(3) by striking out "It is the express intent" and inserting in lieu thereof the following:

"(2) It is the express intent";

(4) in subsection (a)(2) (as so redesignated), by inserting "Appalachian" before "trail"; and

(5) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by inserting before the period at the end of paragraph (1) (as so redesignated) ", except that funds may be expended for the acquisition of lands or interests therein for the purpose of providing for one trail interpretation site, as described in section 7(c), along each such trail in each State crossed by the trail"; and

(C) by adding at the end of such subsection the following:

"(2) Effective October 1, 1981, there is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs (9) through (15) of section 5(a) of this Act. Not more than $3,000,000 may be appropriated for the purposes of acquisition of land and interests therein for the trail designated by section 5(a)(14) of this Act, and not more than $2,000,000 may be appropriated for the purposes of the development of such trail. The administrating agency for the trail shall encourage volunteer trail groups participation in the development of the trail.".

SEC. 2610. The National Trails System Act is amended by adding the following new sections at the end thereof:

"Volunteer Action Trails Demonstration Program

"SEC. 11. (a)(1) In addition to the cooperative agreement authority contained in this Act, there is authorized to be established a volunteer action trails demonstration program (hereinafter in this section referred to as the 'program') to encourage volunteers and volunteer organizations to plan, develop, and manage trails throughout the Nation. The program shall be administered by the Secretary of the Interior (with respect to lands and programs primarily under the jurisdiction of such Secretary) and by the Secretary of Agriculture (with respect to lands and programs primarily under the jurisdiction of such Secretary).

"(2) Together with the grant authority provided under this section, the Secretaries are encouraged to utilize wherever appropriate, in furtherance of the purposes of this section, existing authorities available to them under the Volunteers in the Parks Act of

1969, the Volunteers in the Forests Act of 1972, and section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of Statewide Comprehensive Outdoor Recreation Plans).

"(b) (1) Under the program each Secretary may make grants of not more than $25,000 to volunteer trail groups which are committed to managing, maintaining, or developing trails, or which agree to conduct such activities. During any fiscal year, no volunteer trail group may receive under this section, in the aggregate, an amount exceeding $25,000. Grants under this section may be available, as provided under paragraph (2), only for the purposes of—

"(A) developing or maintaining (i) trails which are components of the National Trails System, or (ii) trails which, if so developed and maintained by such groups, could qualify for designation as components of the National Trails System; or

"(B) operating programs to organize and supervise volunteer trail building efforts with respect to the trails referred to in subparagraph (A), conducting trail-related research projects, or providing education and training to volunteers on methods of trail planning, construction, and maintenance.

"(2) Financial assistance made available to volunteer trail groups under this subsection for the purposes described in subparagraphs (A) and (B) of paragraph (1) shall only be used for—

"(A) providing tools to volunteers engaged in trail-related work projects organized by the group;

"(B) providing resource materials for the programs referred to in paragraph (1) (B);

"(C) constructing or maintaining trail-related public use facilities, including historic features where appropriate;

"(D) providing insurance protection for the trail group and its volunteers (as determined to be adequate by the Secretary); or

"(E) any combination of the items specified under subparagraphs (A) through (F).

"(3) No grant shall be made under this section for the purpose of assisting in defraying the costs of office operations of the volunteer trail group (including postage, telephone expenses, duplicating, and clerical supplies); and no grant shall be made under this section for use as salary or benefits for staff or for rent, insurance, office space or other such costs.

"(4) No grant shall be made available under this section to a volunteer trail group unless the group submits an application to the appropriate Secretary. The Secretary shall not approve any such application unless—

"(A) in the application, the group (i) agrees to provide funds, or services pertaining to trails, the value of which is equal to the amount of the grant (as determined under criteria established by the Secretary), and (ii) describes the services, if any, to be provided under clause (i);

"(B) in the application, the group agrees to abide by such procedures as the Secretary may establish under subsection (c) to ensure accountability for any funds made available to the group under this section; and

"(C) the application specifies the manner in which the funds sought by the group would be used if made available under this section.

"(c) (1) The Secretaries shall develop a uniform format for the grant applications required under this section and for any reports required to be submitted by grant recipients, and the Secretaries shall establish such uniform procedures and requirements as may be necessary to ensure that funds made available under this section are used for the purposes for which the grant was made. Each Secretary shall be responsible for establishing such criteria as may be necessary to evaluate applications submitted under this section.

"(2) To the maximum extent practicable, applications and program information shall be made available, and grants shall be administered, at appropriate agency field offices.

"(3) The program shall be carried out, to the maximum extent practicable, in consultation with interested state and Federal agencies and volunteer trail groups.

"(d) (1) There is authorized to be appropriated to the Secretary of the Interior to carry out the program not more than $400,000 for the fiscal year ending September 30, 1982 and not more than $425,000 for the fiscal year ending September 30, 1983.

"(2) There is authorized to be appropriated to the Secretary of Agriculture to carry out the program not more than $400,000 for the fiscal year ending September 30, 1982 and not more than $425,000 for the fiscal year ending September 30, 1983.

"(e) For purposes of this section, the term 'volunteer trail group' means any private organization—

"(1) which is devoted to providing for or fostering the development, management, maintenance, or public appreciation of trails;

"(2) which has a membership composed of citizens willing to donate services in order to further the trial-related objectives of the organization;

"(3) which has a staff composed of either volunteers or paid employees; and

"(4) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(f) No grants may be made, or contracts entered into, under this section except to such extent, or in such amounts, as may be provided in advance in appropriation Acts.

"DEFINITIONS

"SEC. 12. As used in this Act:

"(1) The term 'high potential historic sites' means those historic sites related to the route, or sites in close proximity thereto, which provide opportunity to interpret the historic significance of the trail during the period of its major use. Criteria for consideration as high potential sites include historic significance, presence of visible historic remnants, scenic quality, and relative freedom from intrusion.

"(2) The term 'high potential route segments' means those segments of a trail which would afford high quality recreation experience in a portion of the route having higher than average scenic values or affording an opportunity to vicariously share the experience of the original users of an historic route.

"(3) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

"(4) The term 'without expense to the United States' means that no funds may be expended by Federal agencies for the development of trail related facilities or for the acquisition of lands or interests in lands outside the exterior boundaries of Federal areas. For the purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Fund Act of 1965 or any other provision of law shall not be treated as an expense to the United States.".

SEC. 2611. Section 6(a) of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–6a) is amended at the end of the first paragraph by adding the following new sentences: "Notwithstanding any other provision of law, no Federal fee shall be imposed for entrance or admission to any unit of the National Wild and Scenic Rivers System, or any unit of the National Trails System. Notwithstanding any other provision of law, effective June 1, 1981, no Federal fee shall continue to be imposed for entrance or admission to any unit of the National Park System at which the cost of collection of such fee exceeded the receipts collected in calendar year 1979 (as determined by the National Park Service report entitled 'Report of Entrance Fee Rates, Collections and Costs to Collect CY 1979' and dated May 13, 1980): *Provided*, That, if the Secretary of the Interior, prior to April 1, 1981, makes a specific determination that fee collection will be reasonably necessary to protect park resources in an individual unit affected by this sentence, he may continue an entrance fee at that unit after providing notice of his intention to do so to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.".

SEC. 2612. Section 3(a) of the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), is amended in the first sentence by—

(1) striking out "to include but not be limited to representatives competent in" and inserting in lieu thereof "each of whom shall possess knowledge and expertise related to the protection and management of the National Park System, including but not limited to"; and

(2) by striking out "and natural science, who" and inserting in lieu thereof "resources management and the natural sciences, who".

TITLE XXVII—MISCELLANEOUS PROVISIONS

SEC. 2701. (a) The Secretary of the Interior is authorized to accept a conveyance of approximately four acres of land adjacent to the Effigy Mounds National Monument in the State of Iowa, and in exchange, convey to that grantor, without monetary consideration, approximately three acres of land presently within the monument, as described in subsection (b) of this section. Effective upon consummation of the exchange, the land accepted by the Secretary shall become part of the Effigy Mounds National Monument, subject to the laws and regulations applicable thereto, and the land conveyed by the Secretary shall cease to be part of the monument and the boundary of the monument is revised accordingly.

(b) The land referred to in subsection (a) which may be accepted by the Secretary is more particularly described as that portion of the southeast quarter of the southeast quarter of section 28 lying south and east of County Road numbered 561, and the land referred to in subsection (a) which may be conveyed by the Secretary is more particularly described as that portion of the northeast quarter of the northeast quarter of section 33 lying north and west of County Road numbered 561, all in township 96 north, range 3 west, fourth principal meridian, Allamakee County, Iowa.

TITLE XXVIII—JOHN SACK CABIN

SEC. 2801. For the purpose of providing for the public use and enjoyment of the John Sack Cabin, Targhee National Forest, State of Idaho, and to protect and preserve such cabin as a unique example of craftsmanship, the Secretary of Agriculture, in consultation with the Fremont County Historical Society and other interested organizations, is authorized to take such action as may be necessary in order to provide for the protection and maintenance of the John Sack Cabin and associated structures. In carrying out the requirements of this section the Secretary is authorized, in accordance with existing law, to enter into a cooperative agreement with, or to issue a special use permit to, an appropriate person or organization pursuant to which such person or organization shall provide such protection and maintenance.

TITLE XXIX

Sec. 2901. The Act of August 25, 1916, as amended, is further amended as follows:

(a) In the first sentence of section 1, strike the word "Secretary" and add the following phrase: "President, by and with the advice and consent of the Senate,";

(b) In section 1 at the end of the first sentence, add the following new sentence: "The Director of the Park Service shall have had professional experience in park, recreation, and resource management, and shall have demonstrated an appreciation for and commitment to the preservation of natural and cultural resources."; and

(c) In the second sentence of section 1, strike the word "also".

Sec. 2902. The provisions of section 1 shall apply to appointments made after the date of enactment of this Act.

TITLE XXX

Sec. 3001. (a) Subsection (d) of section 320 of the Act entitled, "An Act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes," approved October 21, 1976 (90 Stat. 2732, 2739), is amended by striking out the third, fourth, and fifth sentences in their entirety.

(b) The boundary of Olympic National Park in the State of Washington is hereby revised to exclude from the park the tracts of land identified by the following tract numbers and otherwise described on the map entitled "Land Status Map, Area 5, Olympic National Park," numbered 149–80,003, sheet 2, and dated February 1975, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior:

(1) Tract numbers 31–105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, and Higley's and Viewpoint subdivisions; and, subject to the provisions of subsection(c).

(2) Tract numbers 31–101, 102, 103, 117, 118, 119, 120, 32–104, 106, 107, 108, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 139, 141, 143, 144, 145, 147, 148, 152, and 153.

(c) The tracts of land identified in paragraph (2) of subsection (b) of this section are excluded from the park effective upon publication in the Federal Register by the Secretary of the Interior (hereinafter referred to as the "Secretary") of a notice that the Secretary has determined that the State of Washington or an appropriate political subdivision thereof has in force and applicable to such land valid zoning or other land-use controls which, in the judgment of the Secretary, are adequate to assure the continued use of such land for agricultural purposes or similar purposes that will preserve the open-space character of such land. If at any time after the exclusion from the park of the tracts of land identified in paragraph (2) of subsection (b) becomes effective, the Secretary determines that zoning or other land-use controls are not, because of a failure to enforce such controls or because of a change in such controls, adequate to assure the preservation of any land within the area excluded for open-space purposes, the Secretary shall request the Attorney General of the United States to bring an action in the appropriate United States District Court to require the State or political subdivision to enforce or revise such controls as to any such land.

(d) Within the tracts identified in paragraph (2) of subsection (b), and notwithstanding that such lands are excluded from the park, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange with the consent of the owner.

Lands acquired pursuant to this subsection which are, after title thereto vests in the United States, adjacent to federally owned lands shall be administered as part of Olympic National Park, subject to the laws and regulations applicable thereto, and the Secretary shall revise the boundary to include lands so acquired by publication of a notice to that effect in the Federal Register. Lands acquired pursuant to this subsection which are not, after title thereto vests in the United States, adjacent to federally owned lands shall be administered by the Secretary for agricultural or other open-space purposes, pending the acquisition, if any, of the intervening non-Federal lands and their inclusion within the park as aforesaid, subject to such special regulations as the Secretary may promulgate so as not to impair the suitability of such lands for national park purposes: *Provided*, that such regulations may permit the taking of fish and wildlife, and they may provide for the issuance of leases by the Secretary for agricultural or other open-space purposes, the proceeds from such leases to be credited, notwithstanding any other provision of law, to the appropriation bearing the cost of the management of Olympic National Park and the management of any lands acquired pursuant to this subsection. For the purposes of Public Law 94–565, lands acquired pursuant to this subsection shall be deemed to be acquired for addition to Olympic National Park.

(e) The provisions of the Act of June 3, 1948 (62 Stat. 334), shall hereafter apply to all or any part of that portion of the North Shore Road within Olympic National Park from its intersection with U.S. Highway 101 to the Jefferson County line.

TITLE XXXI—FOREST SERVICE LAND CONVEYANCE

Sec. 3101 (a). The Secretary of Agriculture is hereby authorized and directed to convey by quitclaim deed subject to valid existing rights: *Provided*, That a road right-of-way in section 14 of all minerals will be reserved by the United States, to Richard Hendricks, of Preston, Idaho, subject to the provisions of subsection (b) of this Title, the right, title, and interest to approximately 81.78 acres of land described as follows:

T. 33N., R. 119W., 6th P.M., Lincoln County, Wyoming, sec. 14, SE ¼ NW ¼ and SW ¼ NE ¼, containing approximately 80 acres, and

T. 35N., R. 119 W., 6th P.M., Lincoln County, Wyoming, sec. 28, beginning at the southwest corner of lot 2, thence north 15 rods, thence east 19 rods, thence south 15 rods, thence west 19 rods to the point of beginning, containing approximately 1.78 acres:

(b) Richard Hendricks, of Preston, Idaho, shall, without additional consideration, convey by warranty deed to the United States of America acting through the Secretary of Agriculture a certain tract of land and improvements thereon: *Provided*, That all minerals will be reserved by Richard Hendricks, described as follows:

That portion of the SE ¼ SW ¼ of Section 8, T. 9S., R. 42E., B.M., Caribou County, Idaho, beginning at the southeast corner of the SE ¼ SW ¼ of Section 8, thence west 306 feet, more or less, to an intersection with the easterly right-of-way of the Oregon Shortline Railroad, thence N. 7° 10′E., 131 feet to a point of spiral; thence northerly along a curve to the left, the said centerline of main track has a spiral angle of 3° 30′ with 6×38 foot chords, a distance of 232 feet to a point of spiral curve; thence along a curve to the left with a radius of 2010.1 feet a distance of 520 feet; thence s. 87° 22′ E. a distance of 269 feet, thence north 428 feet, more or less; thence east 30 feet; thence south along the East line of said SE ¼ SW ¼ 1,320 feet, more or less, to the point of beginning, containing 5.90 acres, more or less.

(c) The lands acquired by the Secretary of Agriculture by this Title shall, upon acquisition, become part of the Caribou National Forest and shall be administered in accordance with the laws, rules and regulations applicable to the National Forest System.

TITLE XXXII—CUMBERLAND ISLAND NATIONAL SEASHORE FACILITIES

Sec. 3101. Notwithstanding any other provision of law, the Secretary shall reimburse the Okefenoke Rural Electric Membership Corporation for the cost incurred by such corporation in installing transmission lines, transformers, and electric meters on Cumberland Island in the State of Georgia before the date of establishment of the Cumberland Island National Seashore. Such reimbursement shall provide for payment of only the costs of so much of such facilities as are used for purposes of supplying electric energy to that area on Cumberland Island which is within the Cumberland Island National Seashore at the time such payment is made. The amount of such payment shall be reduced by an amount equal to the sum of all reimbursement for such facilities paid by any governmental or nongovernmental source to the Okefenoke Rural Electric Membership Corporation before the date on which payment is made under this Title.

Sec. 2. Pursuant to section 204(c)(1) of the Federal Land Policy and Management Act of 1976, the withdrawals of certain areas in the State of Idaho by the Secretary of the Interior under Public Land Order 5777, dated November 21, 1980, are hereby disapproved by the United States Senate and the United States House of Representatives.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the votes by which the various measures were passed and were agreed to, and about which no motion to reconsider has been made.

Mr. STEVENS. I move to lay those motions on the table.

The motions to lay on the table were agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time remains in morning business?

The PRESIDING OFFICER. Seventeen minutes.

Mr. ROBERT C. BYRD. I thank the Chair and I yield the floor.

TRIBUTE TO SENATOR McGOVERN

Mr. PRESSLER. Mr. President, I rise to pay tribute to George McGovern on his last day in Congress.

Mr. President, I rise today to pay tribute to my friend and colleague from South Dakota. George McGovern, who is leaving the Senate at the end of this session. He has served in this body for 18 years and prior to that served 4 years in the U.S. House of Representatives and 2 years on President Kennedy's staff.

It has been my pleasure in the last 6

years to work closely with GEORGE McGOVERN. During my 4 years in the U.S. House of Representatives and my 2 years in the Senate, GEORGE and I have become friends. We have disagreed on many issues and indeed I supported his victorious opponent in the last election. That is a part of partisan politics. On the other hand, we have worked together on many South Dakota issues for the past 6 years. He has always been extremely courteous and a great team-worker on issues that affect South Dakota.

I will not recount all of GEORGE McGOVERN's accomplishments here. I will say that his long career in South Dakota politics has touched virtually every South Dakotan. If I may cite a personal example, when I was in the 7th grade I first heard GEORGE McGOVERN when he came into Humboldt Grade School to explain the two-party system. I well remember meeting him personally for the first time in 1956 when he appeared before the Humboldt High School as a candidate for Congress. Thus, his political career has touched everyone in our State and many other people have had experiences similar to mine.

It is a point of historical interest that Senator McGOVERN has served in the U.S. Senate longer than any other individual except Senator Karl Mundt from South Dakota. Indeed, Professor Alan Clem of the University of South Dakota and I are working on a book about the 23 women and men who have served in the U.S. Senate from South Dakota. According to our research, Senator Karl Mundt served 288 months in the U.S. Senate. That is four full 6-year terms. Senator GEORGE McGOVERN has served 216 months in this body or three full terms. The next South Dakota Senator, in length of service, is Senator Peter Norbeck who served 190 months. Thus, GEORGE McGOVERN is distinguished by the length of his service in this body.

GEORGE has distinguished himself in our Nation and the world. In addition to his great impact on national affairs, he has been very helpful in working on projects for our State. We have worked together on water, transportation, and many other areas in which Senators and Congressmen from the same State work. Indeed, I might say that his successor, JIM ABDNOR, Congressman TOM DASCHLE, and Congressman-elect Clint Roberts all share the same feeling about our State. Our small congressional delegation usually is in agreement on those issues that affect smaller cities, towns, and rural areas.

On another personal note, Mr. President, I would also thank GEORGE's lovely and talented wife, Eleanor, for her friendship and many courtesies to me and to the congressional delegation. As you know, while GEORGE served as Senior Senator many groups from South Dakota coming to Washington would first contact him. He and Eleanor always provided excellent leadership and friendship to the many South Dakotans coming to Washington.

So today, which is effectively GEORGE's last day in the Senate, is the end of an era in politics in our State. By no means is it an end to GEORGE's career, as he has many activities planned for future years. By any measurement, even his worst critics must admit that Senator McGOVERN, a hero of World War II and a son of a Methodist minister, enjoys an international reputation and will go down in history as one of the foremost political figures from South Dakota.

One of the great advantages of leaving the burdens of public office is the privilege of being able to spend more time with family and pursue private interests. I know that GEORGE looks forward to this. But knowing of his great interest and concern for the Nation, I hope that he will continue to make contributions to the American people.

I know that I join all my colleagues on this the closing day of the 96th Congress in paying tribute to GEORGE McGOVERN for his long and distinguished service and wish him well.

Mr. CRANSTON. Mr. President, I join in tribute to GEORGE McGOVERN, an outstanding Member of this body for so many years and an outstanding leader of our Nation.

Mr. President, this is not really a goodby to our good friend, GEORGE McGOVERN.

Instead, it will be simply "So long, GEORGE, be seeing you around."

GEORGE McGOVERN cannot, must not, and will not leave the American political scene.

And that is a good thing for the people of the United States. Indeed, it is a good thing for the people of the world.

GEORGE McGOVERN's vision of the Senate and his vision of our country has always swept beyond our borders and over the horizons of the Atlantic and Pacific.

He knew, as an historian and a student of world affairs, that the ripples of events around the globe touched the shores of all nations and affected the lives—however indirectly—of all humans who share this planet Earth.

And it is this world vision, sense of history and understanding of the social and environmental webs that bind all the people of the world together, that we so badly need today and which we will miss so sorely in the Senate as GEORGE McGOVERN leaves to carry on his work in other places and in other ways.

Above all we need his voice, his conscience, and his integrity.

And, yes, we need the controversy that GEORGE McGOVERN's forthright honesty and directness often stirred in the past and will continue to stir in the future.

For the issues of world peace and human needs and rights for which GEORGE McGOVERN fought for 18 years on this Senate floor have not gone away or been dissipated by the action of the electorate.

Today the need for enlightened discussion and rational action is greater than ever before in our history. The massive piling up of nuclear weapons in the Soviet Union and the United States; the deadly spread of nuclear technology to more and more nations and the inexorable rise in nationalism and grasping for freedom of peoples all over the globe—all these and scores of other pressing issues and needs suggest that there is much work for GEORGE McGOVERN and his friends this year, next year, and the years ahead.

We will all remember GEORGE in our own way and for many different reasons: for his dedication to peace, human rights, world hunger and civil rights and social and economic justice here at home.

For my own part, I shall think about GEORGE McGOVERN as the peacemaker, for he truly was a man of peace and love and respect for his fellow man.

When I came to the Senate 12 years ago GEORGE McGOVERN was making his mark in the cause of peace.

The virulence of the Vietnam war had split our country and split the Democratic Party.

As a young bomber pilot in World War II who flew 32 missions over Europe and earned the Distinguished Flying Cross, GEORGE McGOVERN knew the horror of war.

The knowledge of war kindled his passion for peace which has been the driving force in his life in all the years we have shared in the Senate.

His strong opposition to the war in Vietnam, his recognition of the folly and dangers of the escalating world arms race—especially of the buildup of nuclear weapons by the United States and the U.S.S.R.—and his certainty that only world peace held the clue to human survival and human progress have marked GEORGE McGOVERN's steady course in the U.S. Senate.

That course has often been against the tide of opinion here in our Chamber and among the general public.

But I believe that history will prove the truth of much that GEORGE McGOVERN fought for so valiantly and with such great integrity here and in his campaigns.

John Stuart Mill wrote in his essay "On Liberty" in 1859:

> The real advantage which truth has consists in this, that when an opinion is true, it may be extinguished once, twice, or many times, but in the course of ages there will generally be found persons to rediscover it; until some one of its reappearances falls on a time when from favorable circumstances it escapes persecution until it has made such head as to withstand all subsequent attempts to suppress it.

The search for and dedication to truth is what GEORGE McGOVERN stands for.

And for that we all owe him a great deal.

For that I am honored to count him as a friend.

For that he has earned the respect and love of millions of Americans.

So long, GEORGE, be seeing you around.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I wish to join with my colleague from South Dakota and my colleague from California in the salute to our good friend, GEORGE McGOVERN.

I have known GEORGE McGOVERN perhaps longer than anybody in this body. In fact, when GEORGE McGOVERN first started his political career as executive secretary of the Democratic Party in South Dakota, my mother, who was at that time the Democratic National Committeewoman, hired GEORGE McGOVERN, along with the State chairman of the national committee.

He has been an outstanding Member of this body. I am sure that we are all going to miss him very much.

TRIBUTE TO SENATOR ROBERT MORGAN

Mr. CRANSTON. Mr. President, I am honored to join with my colleagues in paying tribute to a distinguished legislator and valued friend, the gentleman from Lillington, N.C., Senator Robert Morgan.

From 1969 to 1974, Senator Morgan was North Carolina's attorney general, where he revamped the State's department of justice and became known as "the People's Attorney," and was selected in 1973 as the most outstanding State attorney in the United States. I have had the pleasure of working with Senator Morgan closely over the years on the Banking, Housing, and Urban Affairs Committee where he served as chairman of the Subcommittee on Rural Housing. Of the many distinctions that Bob holds, his warm friendship and outstanding dedication to his work will be sorely missed on the committee and in the U.S. Senate.

We will miss the gentleman from North Carolina, affectionately known as the "Conscience" of the U.S. Senate. I welcome this opportunity to pay my respects and express my high regards and to wish him and his family good luck in the coming years.

TRIBUTE TO SENATOR BIRCH BAYH

Mr. CRANSTON. Mr. President, each of us when we come to the Senate hope that when we leave we will leave behind a record of permanent accomplishment for the betterment of our country.

Birch Bayh will be one of those select Senators who, when he completes his service in the 96th Congress, will leave behind a lasting record of accomplishments which have and will continue to serve the Nation well.

The monument of Senator Bayh's 18 years in the U.S. Senate will be the four amendments to the Constitution which under his leadership were approved by Congress and sent to the States for ratification. Two of these amendments have been ratified by the States, and, hopefully, the remaining two will eventually be ratified as well.

Birch Bayh authored and pressed vigorously for adoption of the 25th amendment to the Constitution establishing procedures for the orderly succession of the President and the Vice President when an incumbent resigns or becomes incapable of carrying out the duties of office. The procedures of the 25th amendment were invoked on three occasions during the Administrations of Presidents Nixon and Ford.

When the circumstances of those years are recalled, it is clear that the 25th amendment preserved the existing political balance while enabling the courts and the Congress to proceed to deal with the individual incumbents according to the processes of the law.

The 26th amendment, extending the franchise to persons attaining the age of 18 years, is the second of the amendments developed by Senator Bayh which have been ratified by the States.

Senator Bayh led the fight for the equal rights amendment which now pends before the State legislatures, as does the proposed amendment granting voting representation in Congress to the people of the District of Columbia.

Birch Bayh's record in support of the civil rights of minorities and women ranks him among the great champions of oppressed and discriminated against people.

He fought vigorously for the Voting Rights Acts of 1965, 1970, and 1975. He fought for the 1968 Fair Housing Act. He resisted with enormous skill and persistence, repeated attacks upon the civil rights gains of the 1960's and 1970's. And, virtually singlehandedly, he turned aside two appointments to the Supreme Court which symbolized an effort to roll-back civil rights progress.

Birch Bayh's career in the Senate opened, and it now seems it closes, one of the great eras of liberal progressivism in our country's history.

Birch Bayh's public career, I am confident, has not ended and will continue. I, for one, look forward to receiving his counsel in the months and years to come.

TRIBUTE TO SENATOR RICHARD (DICK) STONE

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs and a member of the committee since it was established in 1971 and the Subcommittee on Veterans' Affairs before that, I am greatly saddened to have to say goodby to Dick Stone—a very hardworking and effective member of the committee since the 94th Congress—who will be leaving the Senate at the end of the 96th Congress.

In the 94th Congress, Dick Stone, a freshman Senator, very ably chaired the committee's Subcommittee on Housing and Insurance, guiding through the committee the Veterans' Housing Amendments Act of 1976, ultimately enacted as Public Law 94-324, which made permanent the VA loan guaranty and direct home loan programs, increased the maximum VA mobile home loan guaranty from 30 to 50 percent, and extended eligibility for housing benefits to certain post-World War II peacetime-service veterans. As the chairman of the subcommittee, Senator Stone was deeply involved in efforts to make guaranties available for the purchase of condominium units in buildings that are converted to condominiums after construction, and held a hearing on this matter in April 1976 in Tallahassee, Fla. This change was later brought about with Dick Stone's strong support by the enactment of Public Law 95-476, the Veterans' Housing Benefits Act of 1978, in October 1978. Certainly, his keen and timely interest in this rapidly expanding housing area has proved to be of great benefit to veterans wherever they live.

During the 95th Congress, the jurisdiction of the subcommittee chaired by Dick Stone grew to include matters related to the national cemetery system and VA burial benefits. He continued to work hard to improve housing benefits for veterans, in which area he authored a bill—later enacted as section 401 of Public Law 95-117, the Veterans' Disability Compensation and Survivors' Benefits Act of 1977—that authorizes the VA to provide assistance for specially adapted housing to veterans who are permanently and totally service-connected disabled due to the loss or loss of use of one lower and one upper extremity causing the veteran to require the use of an aid, such as braces, crutches, a cane, or a wheelchair.

In addition to the provisions affecting the VA home loan guaranty program in Public Law 95-479 on which he worked so diligently, Dick Stone also provided very able assistance with respect to improvements in the cemetery and burial benefits programs—most notably a provision creating a VA program to assist the States to establish, expand, or improve State veterans' cemeteries—section 202(b) of Public Law 95-479—and a provision increasing the amounts paid for funeral and burial expenses of deceased veterans—section 303 of Public Law 95-479. He also has been a tireless supporter of the establishment of a national cemetery in southern Florida, introducing S. 1381 in the 96th Congress to authorize a national cemetery there. This goal moved a long way toward reality when, in October 1980, President Carter and the Administrator of Veterans' Affairs announced that a national cemetery would soon be located in southern Florida.

Dick Stone has consistently and actively supported legislation to strengthen the VA health-care system and to improve health-care services to veterans. Among the many health-related areas in which he has been active are improvements in recruitment and retention incentives for VA physicians and other VA health-care professionals, improvements in treating drug- and alcohol-abuse disabilities, creation of a program of readjustment counseling for Vietnam-era veterans, provision for an expanded geriatric research, education, and clinic centers (GRECC) program, improvements in VA dental benefits, improvements in long-term care for veterans, increases in the VA's budget for its excellent program of medical and prosthetic research, attempts to urge the VA to make increased use of such health-care professionals as optometrists, podiatrists, and chiropractors, and advocating numerous improvements at VA health-care facilities, particularly those intended to accommodate the ever-increasing population of veterans—young and old—in Florida.

Of special note in this latter regard was a hearing he chaired on November 10, 1979, in Orlando, Fla., on the VA's health-care programs there which provided very valuable followup information to the special joint hearing of the House and Senate Committees on Veterans' Affairs on October 25, 1979, in which the committees investigated reports about the quality of care in VA health-care facilities and how budget and personnel restrictions in recent fiscal years have affected that care.

The hearing in Florida provided committee member with testimony from veterans about the day-to-day provision of VA health-care service in a major geographical area in which the demand for such services is great and continues to grow. This valuable information enabled the committee to estimate better the health-care needs of veterans for purposes of preparing budget and appropriations recommendations which have now resulted—in the conference report just filed for the VA fiscal year 1981 appropriations—in increased VA medical-care appropriations over fiscal year 1980 of $179 million and 1,176 more health-care staff.

One particular activity of DICK STONE's with respect to VA health-care programs has been spearheading the committee's oversight of the VA's pacemaker program. He took the initiative to make sure that veterans who rely on the VA for proper functioning of cardiac pacemakers receive comprehensive monitoring and related health-care services and, on April 23, 1980, chaired a full committee hearing to followup on an audit of this program by the VA's Inspector General. This is a very important matter and one in which Senator STONE's leadership and dedication already have led to revisions in both the VA's policies for procuring cardiac pacemakers and its procedures for monitoring the activity of pacemakers once implanted in veterans.

In short, DICK STONE has worked tirelessly on behalf of our Nation's veterans. His dedication to making sure that needed improvements have been made in veterans' benefits and services is well-known and will be missed by veterans everywhere, but particularly those who have been his constituents in Florida, and by those of us privileged to serve with him on the Veterans' Affairs Committee.

TRIBUTE TO SENATOR ADLAI E. STEVENSON III

Mr. CRANSTON. Mr. President, among our colleagues who will be retiring at the end of this session of Congress is ADLAI STEVENSON.

ADLAI has been remarkable for his independent and thoughtful approach to legislation. As chairman of the Subcommittee on International Finance, he has been a leading advocate of an assertive U.S. trade policy. ADLAI has pressed for legislation, based upon free trade principles, to establish an export policy for the Nation and to encourage businesses to engage in expanded export sales.

He served the Senate with distinction as chairman of the Ethics Committee in conducting difficult investigations and hearings. His fairness and high standards have upheld the credibility of the Senate under trying circumstances.

His independence, integrity, and intellect distinguished him on the Select Committee on Intelligence and on the Committee on Commerce.

Even in the waning hours of the 96th Congress, ADLAI contributed a major paper to the debate on industrial revitalization policy which lies ahead of the 97th and succeeding Congresses. Regardless of one's views on industrial policy, many will find ADLAI's Democratic Task Force paper to be a comprehensive discussion of the issues and problems of reindustrialization. I anticipate that the Nation will hear ADLAI's voice on this and other issues in the future.

I know my party will benefit by ADLAI's advice, counsel, and participation in party affairs. I certainly will welcome them.

I pay my respects to my distinguished colleague as he prepares to leave the Senate, but I do so with expectation of new contributions to our Nation's welfare from this distinguished public servant, ADLAI STEVENSON of Illinois.

TRIBUTE TO SENATOR JOHN DURKIN

Mr. CRANSTON. Mr. President, when JOHN DURKIN entered the Senate in September 1975, he brought with him the reputation of being a tough fighter.

In New Hampshire where he served as State insurance commissioner, he had repeatedly tangled with insurance industry giants and had become an especially effective voice for the New Hampshire consumer.

Coming to Washington, JOHN DURKIN faced an 8-month struggle to gain the New Hampshire Senate seat which the initial tally showed he had won by 10 votes, but which a subsequent review gave to his opponent by two votes. His was a difficult and uphill battle. During the long spring and summer of 1975, I participated in meetings with JOHN almost daily and worked closely with him through many, many Senate sessions. As I came to know him, I developed a great personal admiration for him and for his tenacious fighting spirit. That JOHN eventually went on to win the special runoff election so handily is, I believe, in no small way due to that spirit and determination of his.

Throughout his Senate term, JOHN DURKIN has continued to be an active and spirited fighter.

As a member of the Energy and Natural Resources Committee, JOHN has championed the interests of New England consumers, seeking relief for them from the soaring costs of heating oil. He fought for an energy program which stresses alternative, renewable sources and increased energy efficiency and was responsible for the adoption of a program which will retrofit dams in New England to smallscale hydroelectric plants.

In the area of veterans' affairs, the distinguished Senator from New Hampshire has contributed substantially to this Nation's efforts to assure that those who have served this country in time of war are not forgotten in time of peace. We have had the privilege of working closely together on the Veterans' Affairs Committee during the last 6 years, and throughout that time JOHN's consistent support for measures to meet the needs of all veterans has been unfailing. With respect particularly to the needs of this country's newest generation of war veterans—those of the Vietnam era, he has tirelessly sought enactment of initiatives that would recognize the special nature of their contributions and their problems. Indeed, his leadership in attempts to extend the 10-year period veterans have to utilize GI bill benefits has on three occasions contributed to the passage of such provisions by the Senate—and enactment of a modified extension in 1977.

For 2 years, JOHN and I also served together on the Labor and Human Resources Committee, and, once again, he showed compassion and commitment in efforts to meet the very real needs of America's working men and women as well as those living in poverty.

Whatever JOHN decides to do in the future, I know it will be given the same commitment and spirit which has so characterized his efforts in the Senate and in public life.

To JOHN, his wife, Patricia, and their family, I wish the very, very best in the time ahead.

TRIBUTE TO SENATOR DONALD STEWART

Mr. CRANSTON. Mr. President, those from Alabama know that DONALD STEWART quickly established himself as an aggressive and dedicated legislator when he was elected to the Alabama House of Representatives in 1970 and to the Alabama Senate in 1974. In 1975 he was named Outstanding Freshman Senator by the Alabama Press Association. That title is equally applicable to DONALD STEWART's service in the U.S. Senate.

DONALD STEWART, born and educated in Alabama, came to the Senate with a focused agenda for improving the life of Alabamians. He sought the committee assignments which would best serve his State and worked diligently on those committees.

I had the pleasure of serving with him on the Committee on Banking, Housing, and Urban Affairs. We worked together on the problems of availability and affordability of housing in the future for people in all income groups. In recognition of his fine work on housing issues, Senator STEWART was chosen to serve as the head of the Housing and Construction Subcommittee on the Senate Economic Task Force headed by Senator BENTSEN last summer.

Senator STEWART combined his concern about affordable housing with his interest in helping small business. Aware that the housing and construction industries are largely made up of small businesses, he cochaired hearings on the impact of high interest rates on the housing industry with Senator NELSON, chairman of the Small Business Committee.

Another top priority for Senator STEWART was helping the farmers of Alabama. He worked to promote the use of alcohol fuels on the farm, using the expertise which he gained on energy in the Alabama Legislature. He convincingly argued that through the use of alcohol fuels, farmers could not only reduce their own high energy costs but also help the overall U.S. effort to stem U.S. dependence on petroleum fuels. He worked closely with Senator TALMADGE on the Rural Energy Independence Act. This act served as the forerunner to title II of the omnibus energy bill passed by Congress this year, which established a program of grants and credits to encourage production and use of alcohol fuels.

Senator Stewart worked in other ways to help preserve the small family farm. He founded a task force on the family farm. Task force members from the House and Senate met with Secretary of Agriculture Bergland to bring to his attention their views on the effects which tax and energy policies have on the small family farm.

The health problems of rural Alabamians received much attention from Donald Stewart. He convinced the Federal Department of Health and Human Resources to fund an office of rural health affairs in Alabama, urging that office to focus on reducing the high rate of infant mortality in Alabama.

These very important accomplishments merely scratch the surface of Donald Stewart's service in the U.S. Senate. They are all the more impressive because he was able to accomplish so much in his 2 years here. I hope he, his wife, LuLu, and their children, Priscilla, and Taylor, return to Alabama with many happy memories of life in Washington. His fellow Democrats here in the Senate will miss Donald Stewart and will look forward to working with him in the future as he continues his work in the Democratic Party and in Alabama. Farewell to an outstanding freshman Senator.

TRIBUTE TO SENATOR RICHARD S. SCHWEIKER

Mr. CRANSTON. Mr. President, Dick Schweiker's decision to leave the Senate is a particularly sad one for me. He and I joined the Senate in 1969 and together experienced the frustrations of freshman Senators at rigid, arbitrary, and inefficient procedures quite different from how the Senate operates today.

Dick and I talked with two other freshmen, Harold Hughes of Iowa and Bill Saxbe of Ohio, and the four of us formed a bipartisan team—two Democrats and two Republicans—to try to improve the situation.

We organized our freshman class and worked in two major areas: The floor schedule and the unreasonable and arbitrary traditions which governed a Senator's operation of his or her office.

Our struggle to make the Senate a more reasonable and efficient place to work in stretched over a decade. We were joined by subsequent freshman classes and when last we met we constituted a majority of the Senate. We finally accomplished all that we set out to accomplish—things like the two track system during extended debate and special orders during the morning hour so legislative debate is not interrupted by long extraneous speeches. We ended the requirement that office equipment had to be purchased from clerk hire and brought about the consolidation of the official office account. We fought successfully for the legislative staff allowance, for the 10 percent discretionary fund, and for per diem when Senators and staff are on official business.

And while we seldom advocated changes which increased the operating costs of the Senate, we practically eliminated the need for a Senator to have an unofficial office account to cover official expenses. The changes we brought about have greatly enhanced the efficiency of the Senate. And to those who may scoff at the idea that today's Senate is efficient, I only say: You should have seen what it was like when Dick Schweiker and the rest of us started 12 years ago.

Dick Schweiker is an unconventional man. An alumnus of Slippery Rock State College and a member of the Schwenkfelder Church, one of the smallest religious denominations, he has forged a political career which defies easy categorization. But wherever he is and whatever he is doing, he will bring a freshness of approach and a healthy skepticism toward stereotypical thinking.

Clearly the new majority will miss him—but more than that, every Senator will miss Dick Schweiker for he made the Senate a better place because he was here.

TRIBUTE TO HENRY BELLMON

Mr. CRANSTON. Mr. President, our colleague, Henry Bellmon, served 40 months as a marine fighter pilot during the Second World War.

That kind of prolonged and hazardous service demonstrates one kind of courage and dedication to the service of his nation.

And in his 12 years of service in this body, our friend from Oklahoma has repeatedly shown political courage, statesmanship and the dedication of a true servant of the public—one willing to elevate the public interest over any personal consideration.

As John F. Kennedy said:

> Without belittling the courage with which men have died, we should not forget those acts of courage with which men . . . have lived. The courage of life is often a less dramatic spectacle than the courage of a final moment; but it is no less a magnificent mixture of triumph and tragedy. A man does what he must—in spite of personal consequences, in spite of obstacles and dangers and pressures—and that is the basis of all human morality.

While Henry's Senate career—which began at the same time as mine—has had many such moments, for me most memorable was the day of the Senate vote on ratification of the Panama Canal Treaty, when he became the 66th Senator to announce support for the treaty, a judgment he said was arrived at by instinct and intuition.

As a result of his announcement, he was vilified and called "traitor" by some newspapers in his home State, but his own comments at the time make clear that his judgment resulted from quiet and careful reflection about the interests of the Nation regardless of the consequences for himself.

This thoughtful independence—free from partisanship and ideology—has been evident also as he has risen to eminence as ranking minority member of the Senate Committee on the Budget.

I served on that committee with Henry for 4½ years from its earliest days, and I firmly believe that the cooperation fostered between Chairman Ed Muskie and the Senator from Oklahoma was a key ingredient in whatever success the budget process has enjoyed. It remains to be seen whether the process can retain its bipartisan vitality with Henry Bellmon no longer a part of it.

In characteristic fashion, Senator Bellmon has supported desegregation of the public schools in his home State, faced down his fellow Oklahoman farmers when he felt their demands excessive, and abandoned those around him who preferred the simplistic notion that the budget could be balanced with a stroke of a pen for the hard work of real fiscal discipline.

My own appreciation of the statesmanship of this distinguished son of Oklahoma has grown with each of the 12 years I have had the chance to work with him and to observe him.

Now, he is retiring to leave public life and return to his 3,000-acre cattle and wheat farm near Red Rock, Okla.

His qualities are rare and will be missed. I join my colleagues in wishing him the best.

TRIBUTE TO MIKE GRAVEL

Mr. CRANSTON. Mr. President, the close of the 96th Congress will also mark the end of 12 years of distinguished service in the U.S. Senate by Mike Gravel. As a close friend of Mike, I will miss both his companionship and his dedication to those principles which he holds most strongly.

Mike Gravel made his mark on this body early in his tenure when, in 1971, he made the courageous effort to lay before the American people the record of early U.S. involvement in the Vietnamese war by reading the documents known as the Pentagon Papers into the Congressional Record. Long a supporter of attempts to curb U.S. military efforts in Southeast Asia and to back arms control and nonproliferation policies, Mike played an important role in the efforts of this body to advance these objectives.

Mike has worked long and hard to end the draft and to make the volunteer army a success. Mike has also worked diligently to increase domestic energy production, to improve the safety of nuclear energy, and to protect the interests of Alaskan citizens.

Mike leaves the Senate with my respect and my gratitude for his efforts. He has much to be proud of in his work in this body and I trust that he will meet with success and personal satisfaction in his future endeavors.

TRIBUTE TO SENATOR FRANK CHURCH

Mr. CRANSTON. Mr. President, when he first won election to the Senate from Idaho in 1956 by defeating an archconservative Republican incumbent, Frank Church was the fourth youngest person ever elected to the Senate.

And because of the persistent bitterness of the supporters of the man he defeated, who died soon afterward, and the consistency with which Frank

CHURCH has adhered to his own views in ensuing years, he became and remained a special target of the rightwing.

Well, Mr. President, they finally got him.

But only after a quarter century of service to his Nation.

Only after he had proved in election after election that his popularity with Idaho voters was second only to that of his boyhood hero, William E. Borah—a progressive Republican who served from 1907 until his death in 1940—as the most popular U.S. Senator ever to serve from Idaho.

Only by the narrowest of margins—4,442 votes out of 439,789 cast.

And only as a result of the coattail effect of a Presidential election in which Idaho voters gave Governor Reagan the second highest percentage accorded him by any State.

The unfortunate results of this election do not reflect a decline in the great popularity of FRANK CHURCH in his home State, or even of the views he has supported throughout his career in the Senate.

Senator CHURCH actually received an unbelievable 50 percent more votes in this election than when he easily won reelection in 1974—and far more votes than he has ever before received in his four previous successful Senate elections.

But this time, Mr. President, those votes were barely not enough.

And so, after four terms of worthy accomplishments, FRANK CHURCH will leave this body at the age of 56.

Always a scholar, a great orator and debater, and a cerebral statesman, the Senator from Idaho received his education at the Nation's leading educational institution—Stanford University—located at Palo Alto, Calif., which happens to be the city where I was born.

Stanford University has provided the education of many Senators—of which I am one. FRANK CHURCH followed me by 11 years, receiving his undergraduate degree, Phi Beta Kappa, in 1947.

Despite my educational headstart, I am far behind the distinguished Senator from Idaho in achieving Senate seniority.

Senator CHURCH also graduated from Stanford School of Law, in 1950, where he was an editor of the Law Review, earning his success despite a critical bout with cancer.

FRANK CHURCH's career in the Senate has paralleled that of his boyhood inspiration, Senator Borah, in many respects.

Like Borah, he became an expert on foreign affairs, willing to dissent from the policies of Presidents of either party.

Like Borah, he has supported limits on foreign aid, particularly opposing, as I have, assistance to repressive governments who would use U.S. arms and wealth to hold their own people in check, and he opposed aid to nations that were likely to engage each other in hostilities.

Like Borah, he ultimately became chairman of the Senate Foreign Relations Committee.

And Senators CHURCH and Borah are the only candidates for the nomination of a major party for the presidency ever to come from Idaho.

The very late starting 1976 CHURCH for President campaign—delayed so that he could complete his work as the first chairman of the Senate Select Committee on Intelligence—resulted in primary victories in Montana, Idaho, Oregon, and Nebraska, and a majority of caucus-chosen delegates in Utah—out of the eight States in which he ran.

His Presidential campaigning was made easier by Senate accomplishments which gave FRANK CHURCH a national reputation, primarily earned in the field of foreign policy.

One thinks, for example, of his very early opposition to the Vietnam war, culminating in the Cooper-Church amendment in 1969, preventing introduction of ground troops into Laos or Thailand. This was the first limitation ever voted by Congress on the President's power as commander-in-chief during a war situation, but particularly appropriate in the case of a war fought by a series of Presidents without seeking from Congress the Declaration of War required by the Constitution.

FRANK CHURCH was floor manager of the Taiwan Relations Act, codifying our new relationship with the people of Taiwan, and permitting our continued friendly relationship with them, while playing a pivotal role in establishing improved relations with the Government of the People's Republic of China and the Chinese people of the mainland.

Senator CHURCH brought to the debate a special knowledge of China, acquired not only by recent travels to the PRC, as many of us have done recently, but through years of service as a military intelligence officer in the China-Burma-India theater during World War II, when he won a bronze star and commendation for duty with the Chinese Combat Command.

And the Senator from Idaho provided vital leadership and guided the Panama Canal Treaty to ratification, along with several of us who worked very hard to help.

Opposition to the extra-legal U.S. participation in the Vietnam war led FRANK CHURCH—as it did many of us—to a reexamination of the status of the delicate balance of powers between the executive and legislative branches of our Government.

Always thoughtful, the Senator from Idaho said:

> Our democratic processes, our system of separated powers, checked and balanced against each other, have been undermined by the very methods we have chosen to defend these processes against real or fancied foreign dangers. We cannot safely wait for quieter times to think about restoring the Constitituonal balance of our own government. If we do, we may find that, like the American major in Vietnam who said that he had to destroy Ben Tre in order to save it, we shall have destroyed American democracy—in order to save it.

With Senator "MAC" MATHIAS, of Maryland, Senator CHURCH became cochairman of the Senate Special Committee on the Termination of the National Emergency Powers in 1973.

The committee uncovered more than 470 Federal laws, dating back to 1933, giving the President extraordinary powers to deal with one perceived national emergency after another, none of which had ever been revoked.

The 18-month investigation by the committee culminated in the enactment of the National Emergency Act, which has already had, and will continue to have a profound influence on the accountability of the administration to the Congress, restoring the delicate balance required for effective constitutional government.

Nor is this the only successful legislative effort of this distinguished Idaho Senator for which future generations of Americans will have lasting reason to be grateful, and of which FRANK CHURCH has ample reason to be proud.

He is the author of the legislation which created the National Wild Rivers System, and was the floor leader of the legislation establishing the land and water conservation fund, among numerous bills he has shepherded through the Congress to conserve our vanishing national heritage.

And, of course, as longtime chairman of the Senate Special Committee on the Aging, FRANK CHURCH made many significant contributions to benefit the needy elderly in our Nation and give them an opportunity for a better life.

This monumental record, consisting, as the Senator from Idaho might say, of "a full platter" of legislative accomplishments, was only in part made possible by the great personal talents which FRANK CHURCH has brought to his long and distinguished Senate career. A necessary catalyst was the support, guidance, energy and devotion of his inseparable companion and warm and wonderful wife of 33 years—Bethine.

Herself the daughter of a popular Idaho governor and later Federal judge, Bethine Church has been at FRANK's side—with the exception of his war service and his undergraduate years at Stanford, when she was attending the University of Michigan—since they were high school sweethearts in Boise.

Together they have contributed much to improve the quality of American life and government. Norma and I will certainly miss Bethine and FRANK as they leave the Senate to face new challenges.

And the American people will long remember the achievements they leave behind.

Mr. President, as we close the 96th Congress and reflect on the changes that this election may mean when we next convene, it is fitting that we heed again the inspiring words of the distinguished Senator from Idaho:

> The time has come to affirm that this country of ours is not a Victorian Haunted House, its foundations eaten by Red termites. This country is a great, free land, rich beyond dreaming, powerful beyond belief: a land still striving, in ever-larger measure, to reach the goals of equality and personal liberty to which we pledged our nation in the days of its infancy.

Truly, we will miss our friend from Idaho.

TRIBUTE TO SENATOR HERMAN E. TALMADGE

Mr. CRANSTON. Mr. President, I want to take a few moments to extend my best wishes to the senior Senator from

Georgia, HERMAN TALMADGE, as he leaves the Senate at the end of this Congress.

Since HERMAN TALMADGE was first elected to the Senate in 1957, he has contributed greatly in his service on the Senate Agriculture, Finance, and Veterans' Committees. During my own time on the Veterans' Committee, I have had the honor and pleasure of working closely with him in an area of great personal concern to us both—veterans programs. Of course, HERMAN's profound interest in and concern for our Nation's veterans began long before I entered the Senate. We have had a close association on the committee and I have much appreciated his wise counsel and his deep commitment to the enhancement of veterans programs.

HERMAN TALMADGE is perhaps best known for his work on the Senate Agriculture Committee which he has chaired since 1973. HERMAN is considered by many to have the best understanding of agriculture and agricultural issues of anyone on either side of the aisle. He has been a strong and effective advocate of market orientation of agricultural programs. And he was especially helpful during consideration of the 1977 Farm Act in eliminating allotments, a change greatly applauded by cotton growers, including those in my own State of California. HERMAN TALMADGE has also been very helpful on matters involving the export of agricultural commodities.

Mr. President, I recall with gratitude HERMAN TALMADGE's hard work and immense contributions. I know that my keen sense of loss regarding HERMAN's service in the Senate is shared by his many friends. I would like to express our most sincere thanks and our very best wishes.

TRIBUTE TO SENATOR GAYLORD NELSON

Mr. CRANSTON. Mr. President, when the 96th Congress adjourns, one of the most respected and beloved Members of this body, the Senator from Wisconsin, GAYLORD NELSON, will be leaving after 18 years of distinguished service in the Senate and to this Nation. The Senator from Wisconsin has gained the respect and true affection of his colleagues of both sides of the aisle and we will sorely miss our good friend and the leadership and wisdom he brought to so many vital issues.

Mr. President, GAYLORD's many contributions to the well-being of this Nation will long be remembered. He was an early opponent of the war in Vietnam and was one of the few Senators who warned, as early as 1964 and 1965, that America was pursuing a dangerous and potentially disastrous course of action in Vietnam. Likewise, he recognized in the early 1970's the impending energy crisis and worked to develop legislation to conserve energy and develop alternative energy sources. He has been a staunch protector of our natural resources and a dedicated environmentalist—the founder of Earth Day and Earth Week in the early 1970's. His foresight and advocacy on behalf of our precious natural resources has contributed greatly to public awareness of the enormous need for conservation of our environment and national resources.

Senator NELSON has also been one of the greatest friends of small business in the Congress. As chairman of the Small Business Committee since 1975, he has been an effective and articulate voice in the Congress for the small business community. As a result of his efforts, a White House Conference on Small Business was held earlier this year, which attracted more than 1,500 delegates representing 14 million small businessmen and women. He has championed countless successful legislative efforts to help small businesses.

He has also been one of the foremost members of the Senate Finance Committee, serving there as chairman of the Subcommittee on Social Security and as a member of the Health Subcommittee and Revenue Sharing Subcommittee. On the Finance Committee, Senator NELSON distinguished himself in his efforts to make the tax system more equitable, to provide incentives for greater productivity, employment opportunities for particular target groups, and to promote wider opportunities for innovations in health care, including more effective utilization of health paraprofessionals.

Mr. President, the contributions made by the distinguished Senator from Wisconsin to the environment, to enhancing the status of small businesses, creating a more equitable tax system and in the area of energy policy have been monumental. I would like also to highlight some of the tremendous contributions made by Senator NELSON to the well-being of those Americans who are less fortunate—elderly Americans, economically disadvantaged families and young children, and unemployed and jobless Americans.

Mr. President, since 1969, I have had the pleasure of working closely with Senator NELSON on the Labor and Human Resources Committee. As chairman of the Employment, Poverty, and Migratory Labor Subcommittee, as a member of the Child and Human Development Subcommittee which I have been privileged to chair for the past 4 years, and as a member of the Health Subcommittee, Senator NELSON has been a leader in efforts to help the poor and the vulnerable. He has played a particularly useful role as a member of both the Labor Committee and the Finance Committee in bringing about some needed coordination of health policies and programs in the legislative initiatives emanating from the two committees.

As a leading sponsor and steadfast friend of the Head Start program, GAYLORD has helped this vital program grow and make a real difference in the lives of hundreds of thousands of young children living in poverty. As a result of his advocacy and work on behalf of Head Start, countless children throughout this Nation have had opportunities—which otherwise would have been denied them—to develop and grow to their fullest potential. He has played a critical role in the development of the Legal Services Corporation and nurtured its evolution into a sound and widely supported program providing essential basic legal assistance to low-income individuals. He has served as a guiding force in the development and activities of the Community Services Administration providing services to impoverished and elderly Americans throughout this country. GAYLORD has been a true friend of those in need and has consistently acted with compassion and concern for vulnerable Americans in desperate need of help for their basic survival.

He has also been a tireless worker on behalf of unemployed and jobless Americans. Through his efforts in developing job programs for youth and Americans of all ages who want the opportunity to work and contribute to their own well-being and the well-being of the Nation, the Senator from Wisconsin has made a lasting contribution to this Nation and to enhancing the quality of life for all Americans. His leadership in the development of a comprehensive program of employment and training opportunities—in both the public and private sectors—targeted on those most in need—has benefited this country greatly.

It has been a privilege and an honor for me personally to serve in the U.S. Senate with Senator NELSON. With his departure, both the Senate and the Nation will lose a highly dedicated, effective, compassionate public servant—a statesman of the highest order.

USDA TO REALINE STRUCTURE OF MEAT AND POULTRY INSPECTION FORCES

Mr. EXON. Mr. President, I wish to read briefly from a news release from the U.S. Department of Agriculture that was handed to me in my office late this afternoon.

USDA TO REALINE STRUCTURE OF MEAT AND POULTRY INSPECTION FORCES

WASHINGTON, December 12.—The U.S. Department of Agriculture will realign the field structure of its meat and poultry inspection program to reduce administrative costs and to more equitably distribute inspection workloads across the country.

Assistant Secretary of Agriculture Carol Tucker Foreman said the present supervisory structure, organized in the early 1970's, includes 35 area offices throughout the United States.

"This realignment of field personnel is one of a number of actions taken during the past few years to keep meat and poultry inspection up-to-date, efficient and cost effective," Foreman said. "Because no changes will be made in the size of our in-plant inspection forces, this realignment will in no way diminish the assurance consumers have of purchasing safe, wholesome and truthfully labeled meat and poultry products."

Area offices being phased out are located in: Montgomery, Ala.; Louisville, Ky.; Charlottesville, Va. Storrs, Conn.; Trenton, N.J.; Lincoln, Neb.; St. Paul, Minn.; Olympia, Wash.; Lansing, Mich.; and Indianapolis, Ind.

Mr. President, I have already advised the U.S. Department of Agriculture that I think during the last 28 days of the present administration it is unwise, indeed, for any agency to be making important decisions. I do not know whether or not the suggested closings of these regional offices are valid. But I think if it has taken 4 years for this administration to figure out that these offices would be closed, I would ask rhetorically the question: Why are they doing it in the last few days of their administration?

I have already checked with the Assistant Secretary of Agriculture, who knew nothing about this. The Secretary of Agriculture is ill today and could not be reached for comment. I have taken this up with administration sources that know nothing about it and are as amazed as I am that an action like this would be taken this late in an administration just about to go out of office.

I would like to ask the majority leader and the minority leader if they have had any comments about trying to stop this kind of activity during the last few days of the present administration. I happen to feel that it is an exercise in poor administration.

I have had a brief comment about this with the Senator from Alaska, who supposedly had some conversation about this with other Members of this body.

If I could get the attention of the Senator from Alaska for just a moment.

I inform the Senator from Alaska that the Senator from Nebraska has been going on here to a lot of deaf ears about a very serious matter that I think exists with the current administration closing down offices with regard to meat inspection. I think there are other Senators who have had some concerns in that area. It is my understanding that there has been some conversation with some Members of the body as to what action we could take, if we could take any, to stop these kinds of activities.

Mr. STEVENS. Mr. President, I might say to the Senator from Nebraska that we had tried to cover some of those matters in the continuing resolution if it involved regulations that would become effective at the date of that continuing resolution. As the Senator knows, that is not possible.

At the present time, I think that the best thing to do would be to discuss the matter with the representatives of the incoming administration. I cannot understand why we would be closing that many of those inspection stations all at once. I have never heard about it before. It was complete news to me. I have been in the Appropriations Committee meetings and no one has ever mentioned this proposal to me once.

I think it comes as a surprise to all of us that that precipitous action was taken.

Perhaps the Senator from Oklahoma might have some viewpoint as to what we could do on this. At this time on Friday evening, I really do not know.

I think we will research the matter and see if there is any bill that we can put some provision on that would prevent those stations being closed until they are reviewed and until the Congress has a chance to determine why that action was taken. The funds are available, to my knowledge.

Mr. EXON. Mr. President, I will be happy to yield to my friend from Oklahoma in a minute, but I think it might be appropriate for me to ask my leader if he knows of any measure coming up on tomorrow where we might address ourselves to the issue that I have raised.

Mr. ROBERT C. BYRD. Mr. President, I do not know of any at the moment.

Mr. EXON. I thank the Senator.

I yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I am not sure the Senator from Oklahoma has any constructive suggestions to make. I had no knowledge that this was about to happen until the Senator from Nebraska showed me a news release from the Department of Agriculture.

It is entirely possible that some restructuring of the services is in order. But to do it here at the 11th hour, after the Congress is all but out of session and just before a new administration comes to town, seems highly extraordinary.

I would be glad to work with the Senator from Nebraska to see if we could find a proper vehicle and design the proper language to forestall this action until the Congress has the opportunity to look into it.

As far as I am concerned, my office has had no complaints about the operation of this service up to now and I am at a loss to know why the administration would find it necessary to make these drastic changes at this time.

I strongly commend the Senator from Nebraska for raising this issue and I hope I will be able to work with him to find a way to keep it from happening.

Mr. EXON. Mr. President, I thank my friend from Oklahoma and I thank the majority leader and the assistant minority leader.

I ask unanimous consent that the total news release put out by Carol Tucker Foreman be printed in the Record.

There being no objection, the news release was ordered to be printed in the Record, as follows:

USDA to Realign Structure of Meat and Poultry Inspection Forces

Washington.—The U.S. Department of Agriculture will realign the field structure of its meat and poultry inspection program to reduce administrative costs and to more equitably distribute inspection workloads across the country.

Assistant Secretary of Agriculture Carol Tucker Foreman said the present supervisory structure, organized in the early 1970's includes 35 area offices throughout the United States.

"Workloads among those offices have become widely imbalanced due to a shift in Federal and State responsibilities," Foreman said. "Under the realignment plan, 10 area offices would be phased out, with the total workload evenly divided throughout the remaining offices."

"This realignment of field personnel is one of a number of actions taken during the past few years to keep meat and poultry inspection up-to-date, efficient and cost effective," Foreman said. "Because no changes will be made in the size of our in-plant inspection forces, this realignment will in no way diminish the assurance consumers have of purchasing safe, wholesome and truthfully labeled meat and poultry products."

Area offices being phased out are located in: Montgomery, Ala.; Louisville, Ky.; Charlottesville, Va.; Storrs, Conn.; Trenton, N.J.; Lincoln, Neb.; St. Paul, Minn.; Olympia, Wash.; Lansing, Mich.; and Indianapolis, Ind.

USDA's Food Safety and Quality Service administers Federal meat and poultry inspection laws to provide continuous mandatory inspection of slaughtering and processing facilities.

TRIBUTE TO SENATOR JOHN DURKIN

Mr. PELL. Mr. President, as the 96th Congress comes to an end, I want to pay tribute to significant contributions and creative legislative initiatives of the senior Senator from New Hampshire (Mr. Durkin), who will be leaving this body this year.

Senator Durkin has been a refreshingly independent and articulate spokesman for the interests of his State and, indeed, for the many common interests which are shared by the six New England and other northeastern States.

As a member of the Committee on Energy and Natural Resources and as chairman of its Subcommittee on Energy Conservation and Supply, Senator Durkin has forcefully and effectively represented the concerns of those States often referred to as the Snow Belt States which rely heavily on heating oil as a source of home heating and are inordinately dependent on foreign sources for that oil.

In addition to fighting for equitable oil allocation formulas for our region, Senator Durkin has also been a champion of Federal support for the development of alternate sources of energy, especially for the development of small hydroelectric powerplants in communities throughout New England.

Senator Durkin also fought valiantly, though I am sad to say unsuccessfully, for Federal income tax credit for the thousands of Americans who have turned to wood stoves to heat their homes in winter months. His work in this regard will serve as an inspiration to those of us who continue to believe that such a tax credit should be made part of the tax code.

Both in his work on the Energy Committee and as the only New England Democratic Senator on the Appropriations Committee, John Durkin has aggressively and successfully represented the people of New Hampshire. I regret his departure from the Senate and wish him well in whatever ventures he may undertake in the future.

THE INTRODUCTION OF PORTS AND NAVIGATION IMPROVEMENT ACT OF 1980

Mr. MOYNIHAN. Mr. President, I commend my colleague from Virginia, Senator Warner, for his continuing effort to call attention to the serious delays impeding our national water resources program.

The Water Resources Subcommittee, of which I am chairman, held a hearing on the national transportation needs of increased coal production on July 28, 1980. I might add that ours was the first hearing on the subject. Senator Warner, who came before our subcommittee as our first witness, pointed out that the deepening of Norfolk harbor to 55 feet has been under study for a decade and still the project is not underway.

It is indeed a frustrating enterprise.

As chairman of the subcommittee charged with the responsibility of the Corps of Engineers' civil works program, I have learned something about the arrangements for authorizing water projects which have led us to our delibitating stalemate in water resources development. Four years have passed without an authorization bill of any sort. Ten years have passed without authorization of major projects. The longer we wait, the more untenable becomes the very process of individual project authorization.

The omnibus water resources bill, S. 3170, which my subcommittee reported to the full Environment and Public Works Committee on September 16, 1980, contains 138 projects, representing just under $3 billion in authorizations. Our subcommittee sifted through more than 250 project proposals—many for whom feasibility studies were incomplete or did not exist at all. Half of these projects should never have been considered and under ordinary circumstances they would not. But we are not in ordinary circumstances. Who can predict when the Congress and the President will be capable of agreeing to such a haphazard and ill-conceived collection of random proposals. Where is the plan? Where are our national and regional priorities?

The bill introduced last week by Senator Warner and Senator Johnston—the Ports and Navigational Improvement Act of 1980—is a laudable effort to present an alternative to our present arrangements. The findings in section 2 of the bill state with great clarity the urgency to our national security and national economic well-being of developing an efficient water transportation network. I could not agree more with the premise of these findings.

As for the details of the bill, I would like to make a few comments. The bill takes the approach of naming three projects eligible for immediate construction authorization and expedited review. All decisions related to the environmental acceptability of the projects are vested with the Chief of Engineers. Judicial review of project document is precluded except under very restricted circumstances. Congress will become the arbiter of environmental disputes by the requirement of a concurrent resolution of disapproval of a final environmental impact statement prepared only by the Corps of Engineers without even a consultation role for EPA, the Fish and Wildlife Service or the Marine Fisheries Administration.

Furthermore, development of ports other than the three named in section 4 of the bill is left entirely to the discretion of Chief of Engineers. Not only is Congress eliminated from any role in the delineation of objectives and guidelines, this bill would have the Congress give the Chief of Engineers a blank check: No budgetary limit, no priorities, no accountability.

Many other ports have suffered the same ravages of regulatory and legislative delay as have the three ports named in this bill. It is not inconceivable that the deepening of channels at other ports could be as worthy of national investment or perhaps even more appealing. An article appearing in the New York Times in September of this year describes the possibility of developing a coal export facility at the Port of New York and New Jersey, as follows:

Coal Pier For Area Is Studied

(By Eric Pace)

The feasibiilty of building a large-scale, ultramodern coal export terminal in the New York harbor area is under study by the Port Authority of New York and New Jersey, a high authority official reported yesterday.

Anthony J. Tozzoli, director of the authority's port department, said in an interview that a score of staff members had been carrying out the study in the last two months, and that preliminary data suggested it was a promising idea.

The staff members include designers, planners and economic analysts from the port department and the authority's office of Energy, which Mr. Tozzoli also oversees. Authority officials have been in touch with foreigners who import American coal—who have expressed interest in the terminal idea, Mr. Tozzoli reported—with railroads and other companies involved in the coal trade, and with the Army Corps of Engineers, which dredges channels in the nation's ports.

The Port Authority is a bistate agency with a mandate to promote and protect the commerce of the port district, which includes roughly 700 miles of shoreline within 25 miles of the Statue of Liberty.

Mr. Tozzoli, who was interviewed in his office in the World Trade Center, said he expected that the study would be completed by the end of the year, and that its findings would then be relayed to the authority's executive director, Peter Goldmark, and to its 12 commissioners, six from each state. He said that by February a decision would be likely on whether and how to go foreward with the undertaking.

Underlying the study is this year's boom in exports of American coal to France, West Germany, Japan and other countries that have been using more and more coal to reduce their dependence on expensive oil from the volatile Middle East. With coal exports expected to continue to soar, port planners here and in other states think that they will be handled in future years by a string of new and expanded export ports along the East Coast and the Gulf of Mexico. Existing coal-export facilities have been overworked and subject to costly delays this year.

What is envisaged in the port district, Mr. Tozzoli reported, is a terminal where coal would be brought by train and loaded onto barges for shipment to users in the United States and into ships for export to Western Europe, Japan and other foreign markets. No preliminary decision has been made on what type of loading facilities would be best, he said, but the terminal would be expected to include at least one berth or similar facility where coal would be transferred onto coal freighters, which are known as colliers.

A minimum of 15 million to 20 million tons of coal would have to be handled a year to warrant building a major terminal, Mr. Tozzoli reported. He said the coal would probably come largely from Pennsylvania, but might also come from mines in West Virginia and elsewhere in Appalachia, where mine owners have been complaining about delays in sending their coal abroad.

Mr. Tozzoli said that numerous businessmen had indicated to the authority that they were interested in investing in such a terminal, but that it was too early to say how it would be financed. One way would be through a combination of public and private funds. He gave no precise estimates, but Southern Railway executives have said that it would cost more than $70 million to build a single coal freighter loading pier.

SELF-SUPPORTING TERMINAL

The terminal would be expected to be self-supporting, Mr. Tozzoli said, and he estimated that it could benefit the area by generating more than $12 in business for every ton of coal handled—business for ailing Conrail, and for companies serving the coal freighters in port, among other concerns.

Only a negligible 3,000 tons of coal was exported from the port district in 1979, but this year, 750,000 tons are expected to be loaded onto ocean-going coal freighters, mostly bound for South Korea, at the Port Newark Marine terminal, where the coal has been brought by truck.

An important part of any major coal-export terminal plan, Mr. Tozzoli noted, is the providing of access channels deep enough to accommodate the large-sized coal freighters that are expected to handle more and more of the world's coal trade in the years to come.

Here, he reported, New York harbor's geography provides it with a key advantage over other ports, where dredging cost projections have been far higher: At the port of Hampton Roads, Va., for instance, the authorities have been saying that it would cost $300 mililon to deepen existing channels to accommodate the new super-freighters.

The cost of such channel dredging, here and at Hampton Roads and elsewhere, is expected to be borne by the Army Corps of Engineers, if the projects are approved.

In the New York harbor, Mr. Tozzoli reported, the cost of the necessary dredging would be on the order of $100 million. The main task would be to deepen the sandy bottom of 12.5 miles of existing, 45-foot channel, known as the Ambrose Channel, which angles northwestward into the Lower Bay and then curves up almost due northward toward the Narrows, which lie between Staten Island and Brooklyn. The Narrows are deep enough to accommodate super-colliers, but some additional dredging would be necessary to carve a channel to the eventual terminal site.

Mr. President, The Anchorage and Ambrose Channels could be dredged to 60 feet at a cost of approximately $100 million. Deepening Norfolk Harbor is estimated to cost $286 million. The Ambrose Channel is 12.5 miles long. In comparison, the channel at Mobile is 30 miles long and can only be deepened to 50 feet because of two interstate highway tunnels in the lower harbor area.

I raise these comparisons only to suggest that proceeding on these projects on a first-come, first-serve basis is hardly a policy in the national interest. A study of the deepening of New York Harbor will be underway next year, I hope on an expedited schedule of competition. But we already know enough to assert that New York Harbor deserves serious consideration as a priority coal export facility.

Dredging is by no means the only constraint on increasing our coal exports. On July 29, 1980, the following article appeared in the Wall Street Journal on this very subject:

Inadequate U.S. Port Facilities Threaten Potentially Huge Export Market for Coal

(By Thomas Petzinger, Jr.)

Outside Baltimore Harbor, 20 ships bound for Japan, Turkey, Belgium and other oil-dependent countries have been waiting for nearly a month to be loaded with coal from Eastern U.S. mines.

The reasons for the tieup: foreign utilities have suddenly developed a seemingly insatiable appetite for "steam coal" used mainly as a boiler fuel. But U.S. ports are hard-pressed to handle the increased demand—an ominous sign for the future of coal exports.

Albert J. Knighton, who has spent 40 years as a coal-export shipping agent in Baltimore, snaps his finger against an aerial photo of the harbor's coal-loading pier, and says, "This right here is the small end of the funnel. We've got people developing new markets, investing in new mines and building ships, but the missing link in the chain is the transfer point at the pier."

IRAN SPURS MOVE

The crush began last summer when turmoil in Iran forced the oil-importing nations to look favorably at U.S. coal. Which at about $50 a ton is one-third cheaper to import than oil with equal energy content. Increasing the pressure on these countries was the withdrawal last year of Poland, a major coal producer, from the European market in favor of expanded sales to the energy-squeezed Eastern bloc. And as oil prices continued to skyrocket, the cost of shipping coal to Europe from Australia, a traditional exporter, increased sharply due to higher fuel costs for oceangoing vessels.

Now steam coal exports are running at an annual rate of 8.5 million metric tons, up sharply from total exports of just 2.2 million in 1979 and almost none in 1978. (A metric ton is 2,204 pounds; a net ton is 2,000 pounds.)

And that may be just the beginning of a huge market. While the U.S. has long been an exporter of metallurgical coal, the International Energy Agency, a Paris-based, 21-nation group, says the U.S. will have to export 100 million tons of steam coal by 1990 and 300 million tons by 2000 to meet free-world energy needs. A recent study sponsored by Massachusetts Institue of Technology concludes that the still modest international steam coal trade will have to grow 10 to 15 times by the year 2000.

Some authorities think these estimates are too optimistic, but the consensus of most coal executives, energy economists, U.S. government officials and foreign coal users is that U.S. coal exports in any case will increase sharply.

This assumes, however, that the U.S. develops the port capacity to move the coal. And that is very much in doubt. U.S. interests are unwilling to invest the billion of dollars it would take to increase exporting capacity significantly until foreign coal users sign long-term contracts with U.S. coal producers.

But foreign utilities, which are buying U.S. steam coal almost exclusively on a spot-purchase basis, refuse to sign long-term contracts until commitments are made to expand U.S. port capacity. Their reluctance comes from a general mistrust of the U.S. as a commodity supplier.

Trade sources say that a 1973 embargo on soybean exports, a 1974 program under which U.S. metallurgical coal exports were closely monitored and the current embargo on grain shipments to the Soviet Union have created these fears.

"We talk a lot about unreliable foreign supplies of oil, and yet many foreign importers are equally concerned that we mightn't be a reliable supplier of coal," says David Sternlight, chief economist at Atlantic Richfield Co., an oil company with coal interests.

In the U.S., the feeling is widespread that the railroads are to blame for holding up the necessary port investments. They own nearly all of the dumping equipment, piers, conveyors and port-loading equipment.

RAILROADS BLAMED

Donald D. Farnsworth, president of the Coal Exporters Association, contends that the "devastating" and "absolutely intolerable conditions" of U.S. coal ports are the fault of the railroads' "very short-sighted view." An aide to Virginia Gov. John B. Dalton asserts that "the railroads won't spend a dime till they know they're getting 20 cents."

The railroads don't deny that they're being cautious. "We have to be. Some of the (export) numbers that people are throwing around are unbelievable, astronomical," says Mark Gibson, director of coal export traffic for Chesapeake & Ohio Railway. "It's really hard for anyone to gauge in what range exports will be."

Nonetheless, Mr. Gibson says, the Chessie System is considering improvements to its port facilities in Baltimore's Curtis Bay. And it is investigating a novel form of insurance to protect any investments it may make: getting the coal companies who are pushing for port facility expansion to participate as partners.

"Coal companies can ship to whatever market they like," Mr. Gibson says. "If the domestic market increases, then overnight they can start shipping domestically." But, he adds, "If they invest substantial sums in port facilities, then the facilities will be utilized."

OIL ACQUISITIONS HELP

And the coal industry is more able than ever to invest in transportation—as well as in new mines—because most big coal companies have been absorbed by the big and profitable oil companies.

Conoco Inc.'s Consolidation Coal Co., in fact, may soon buy for about $25 million an old coal pier and rail yard in Baltimore. The company has also requested Baltimore's approval of $110 million in development bonds to upgrade the site. Occidental Petroleum Corp.'s Island Creek Coal Co. plans to spend as much as $50 million on a coal storage area in Baltimore. And A. T. Massey Coal Co., a unit of St. Joe Minerals Corp. and a partner with the Royal Dutch-Shell group in a huge U.S. coal venture, has agreed to buy Chesapeake & Ohio's coal-shipping facilities at Newport News, Va., for about $20 million.

But these projects, many coal executives say, fall considerably short. Pittston Inc. Chairman Nicholas T. Camicia says several foreign importers want the U.S. to build a $700 million to $1 billion "super port" capable of handling at least 50 million tons of coal annually.

Even if such a project were to come about, however, it would face environmental problems. Already, a $300 million plan under study by the U.S. Army Corps of Engineers to deepen the main channels in the port of Hampton Roads—and thus enable Norfolk & Western Railroad to load much larger coal colliers there—has encountered stiff resistance. Says Thomas Yancy, a project manager for the Army. "Everybody wants to deepen the harbor but nobody wants the (dredged) material in their backyard."

Mr. President, I am confident that early next year the Congress will have the necessary and detailed information with which to proceed on a rational course of action. Indeed, I could site no more authoritative voice on this subject than Maj. Gen. E. R. Heiberg III, director of Civil Works for the Army Corps of Engineers. General Heiberg sent the following letter to me on November 4, 1980:

DEPARTMENT OF THE ARMY,
Washington, D.C., November 4, 1980.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOYNIHAN: This is in response to certain points that you raised regarding port and harbor development during our recent tour of U.S. Army Corps of Engineers project sites. In our discussion, you asked how we could sort out those ports and harbors that should be improved first. I responded that our National Waterways Study would provide useful information next spring, and, hopefully, administration recommendations next year. I would like to respond further to your concern, expressed at that time, over whether we can get the answers sooner.

The primary focus of the National Waterways Study is on the inland waterway system of the United States. Port development is addressed on a regional level as a related element; i.e., the study will identify regions in which ports and harbors should be developed first. The study does not address port-specific development. More detailed follow-on studies would be required to determine the specific ports and harbors to be improved.

The National Waterways Study draft final report is scheduled for completion in May 1981, and transmittal of the final report to the Secretary of the Army is scheduled for September. However, some of the preliminary contractor reports and study appendices will be available by December of this year, and could serve as a basis for identifying potential follow-on studies or actions at this time.

We would be interested in working with your staff to provide the necessary background information on ports and harbors from the National Waterways Study and other pertinent sources for your use in S. 3170. Please let me know if I can be of further assistance on this matter.

Sincerely,
MAJ. GEN. E. R. HEIBERG III,
Director of Civil Works.

Mr. President, I would reinforce these observations by an earlier correspondence from General Heiberg on October 20, 1980 to a member of the Water Resources Subcommittee staff:

DEPARTMENT OF THE ARMY,
Washington, D.C., October 20, 1980.

Miss DEBRA KNOPMAN,
Professional Staff Member, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR DEBBIE: We discussed on the plane (October 7th) the question: "What should Senate E&PM Committee do *now*?" I said I was uneasy on moving in the area of ports/harbors/waterways/coal-exports until (1) Dr. Sawhill's Interagency Coal Export task force produced its effort, and (2) the Congressionally-directed National Waterways Study (done by Corps) produced *its* efforts. I am not arguing against a bill (quite the contrary . . . we are overdue, and I agree with Senator Moynihan) but only against directing actions before we develop information due in a relatively short period that may affect that action. Of course, we'll be delighted to work with you on this.

I enclose Dr. Sawhill's recent testimony on the "ICE Task Force" before Senator Jackson's committee, in case you hadn't seen it.

Sincerely,
Maj. Gen. E. R. HEIBERG III,
Director of Civil Works.

Mr. President, I remain committed to acting early in the next session to address the needs of our ports, particularly those for which the deepening of channels will generate the greatest national—and regional—benefits. I also remain committed to making our water program work more rationally—certainly with greater speed but also with more thought and consideration of the national interest than our present arrangements permit.

INDEPENDENT LOCAL NEWSPAPERS

Mr. MORGAN. Mr. President, I have been deeply concerned for the past 6 years about the dwindling number of independent newspapers in this country. Independent local newspapers have been gobbled up at an alarming rate by large chains and conglomerates.

This troubles me, Mr. President, because the quality of the information that the people of my State and this country receive is dependent upon a strong, free, and competitive press. As the numbers of independent newspapers shrink, the important duty of keeping a free people informed of what goes on in their locality, their region, their State, and their Nation falls into fewer and fewer hands.

For over 4 years, I have wanted to offer an amendment to the U.S. Tax Code that would help correct this situation. I wanted to offer this amendment to a revenue bill in these last days of the Congress, but it now looks as though it will be impossible to do that and expect to see it get to the President's desk.

That I have been unable to offer it results from the fact that revenue measures originate in the House and that the leadership in the Senate lets the opportunity for serious consideration of the tax bills before us wait until the waning hours of the Congress, when literally everything becomes uncertain.

Mr. President, during the past 30 or 40 years the number of daily newspapers in the United States has remained stable, with approximately 1,750 daily newspapers. Also, the number of weekly newspapers has been relatively stable. The change, and it has been a dynamic change, has been in the ownership of these newspapers.

Not too long ago, the newspaper or newspapers in each city and town were owned by the local citizenry, and were independently operated. Then, there came the early chains, those owned by the Hearsts and the Scripps.

Since World War II, the growth of chain and media conglomerates in the ownership of newspapers, both daily and weekly, has become awesome. Not too long ago, the chain ownership stood at 20 percent; today the chains and media conglomerates own some 70 percent of the daily newspapers in the United States, thereby controlling over 70 percent of daily newspaper circulation. A similar trend phenomenon has occurred in the ownership of weekly newspapers and shoppers.

During the last couple of years, chains have been acquiring daily newspapers at the rate of one every 5 days, and have been acquiring weekly newspapers at the rate of three and four a week.

Mr. President, during the past 6 years, I have watched with dismay the incursion of chain ownership into the formerly independently-owned press of my State of North Carolina. Big chains and conglomerates like the New York Times and Freedom Newspapers have bought North Carolina dailies while other chains have purchased our weeklies. We have seen the number of independents go down to the point that less than half of the daily and of the weekly newspapers in North Carolina are owned by local people.

All too often when we pick up a newspaper in North Carolina, we learn of matters that are of concern to the New York Times or to other chains, but we have lost much of the local interest which is so important.

Mr. President, I have been told time after time by owners of newspapers that the reason for the sales to the chains is based upon the effects of the U.S. estate tax laws. Testimony was given before the Finance Committee, and also before a subcommittee of the Small Business Committee, setting forth the problems that owners of newspapers have in passing their properties to their heirs. It is just impossible under today's laws and economic conditions for an independent owner to insure that his children will succeed him in the ownership of the newspaper, be it a daily or a weekly.

The estate tax law provides that a property will be valued for estate tax purposes at what a willing buyer would pay a willing seller for that property. Because the number of independently owned newspapers is diminishing, and there are no others to take the place of former independents, the chains are paying ever higher prices in order to acquire these papers. While stocks may sell on the major exchanges for anything from 5 to 15 times earnings, we have seen newspaper chains bidding up the prices for newspapers to the level of 30, 40, 50, and even 60 times earnings, in order to acquire these papers.

Whether this is or is not good business for the chains, is not my concern. My concern is that the Internal Revenue Service uses the amount the chain would pay for a newspaper as its value. This value of 30 to 60 times earnings is way out of line with the amount a newspaper can earn, and has no relationship to its plant, equipment, and goodwill. To put it simply, it is absolutely impossible for the heir to a newspaper to be able to borrow sufficient sums to pay off the estate taxes and still maintain the paper. The earnings of a newspaper would not even pay half of the interest charges on the loan which would be necessary to meet estate tax payments.

Mr. President, this story has been repeated time after time by newspaper owners who have sold their newspapers because they were faced with these terrible estate taxes. Other newspaper owners, still clinging to their properties, realize that unless something is done their papers, too, will end up in the hands of the chains. We are rapidly approaching the day when some 8 to 10 chains or media conglomerates will own all of the daily newspapers in the United States. Mr. President, I dread that day, since this is not in the best interest of an informed public.

I must note that the Treasury Department has consistently opposed this legislation. They suggest it is someone else's problem, referring to the antitrust laws. Mr. President, there is no way these chains can be touched by the antitrust laws, and the Justice Department has testified to that fact.

This legislation which I have proposed as originally written, would have cost the Treasury the sum of $10 million a year, as projected by the Joint Committee on Taxation. However, this has been corrected and the cost to the Treasury has been eliminated by arranging for a total prepayment into the Treasury of estate taxes of owners of independent newspapers. Rather than costing the Treasury money, this bill should result in black ink for the Treasury—a rather unusual situation, if I do say so myself.

Mr. President, the Treasury may still oppose this legislation, since they have historically opposed any changes in the estate tax laws. They opposed in the past our attempt to aid the small farmer in the Tax Reform Act of 1976, and as most of my colleagues know, the Treasury is still doing all that it can to interfere with our purposes in passing that act.

It may be of interest to my colleagues that this legislation has, along with the endorsement of many publishers, the support of the Newspaper Guild, the International Typographical Union, and the Graphic Arts International Union, all members of the AFL–CIO.

Mr. President, this measure is not offered for the independent owners, although a case could certainly be made on their behalf. This is offered on behalf of the citizens of the United States and particularly the citizens of the State of North Carolina.

If we do not act soon, there will be a lesser number of independents left to be saved. If we do not act soon, the people of North Carolina and many other States will have nothing but homogenized news provided by the chains and conglomerates. If we do not act now, the people of the United States will soon find all of their newspapers, dailies and weeklies in the hands of an ever fewer number of chains and conglomerates. If we do not act now, there may be no reason at all to act in the future.

Mr. President. I hope that my colleagues will give this matter their earnest consideration. The 28 Senators who sponsored this bill truly believe in its purposes and in its beneficial effects. I urge all my colleagues to take action at the earliest possible moment.

REAGAN VERSUS THE BUREAUCRATS

Mr. MOYNIHAN. Mr. President, there appears in this week's issue of Newsweek magazine a column by Meg Greenfield in which she aptly describes the "great decadent inertial force that characterizes so much of our governmental (and intellectual) life today." She goes on to write, "There is a profound commitment in this country today to not letting anything happen."

Her point could not be better illustrated than by the fate of two Federal building projects in New York City. Both involve historic, monumental buildings; both involve monumental procrastination.

In September of last year, the Senate completed action authorizing renovation of the U.S. Custom House in Lower Manhattan. Moving with uncharacteristic alacrity and imagination, the General Services Administration conducted a design competition to select an architectural firm for the job. The competitors presented their proposals just over 1 year ago, on December 3, 1979. And then, for 2 inertial months, the GSA ruminated on the alternatives before announcing its choice. At that point, the commitment to doing nothing took over.

From February of this year, until today, the GSA has negotiated with the winning architectural firm about the fee for a Custom House renovation design. Even under the contracting laws of the Government, which one could hardly describe as designed to speed the negotiation of contracts, the GSA is not required to fuss over price for nearly a year. The law allows GSA to terminate negotiations when they become deadlocked and to move on to discussions with the firm that ranked second in the competition. The New York regional office of the GSA has been debating for some months whether to take this simple action.

I need not remind my colleagues that, with inflation running at over 1 percent a month, indecision of this sort is not without its cost. The building, when renovated—if it ever is—will house some 800 Federal employees and we will reap commensurate savings from a reduction in the Government's rental bill. We have now lost 1 year of that rent reduction.

Not far from the Custom House stands the Federal Archive Building. Vacated completely about 4 years ago, the building will be turned into a commercial and residential complex by a private developer if the GSA will but exercise its authority to transfer the building to a New York State development agency.

A Federal law dating to 1972 permits the GSA to transfer historic Federal buildings to State and local governments. The law specifically provides that the buildings may be used for revenue-producing activities, and the legislative history makes clear that a purpose of the law was to permit private entrepreneurs to cooperate in reusing surplus buildings.

Despite this history, and despite being advised, as required by law, by the Secretary of the Interior that New York's plans for the building conform to the law's provisions, the GSA has found one excuse after another for not approving the transfer. First, astoundingly, the GSA questioned whether a private developer could be allowed to make a profit from the building's development. Can anyone believe that the Congress would pass a bill to encourage private enterprise and simultaneously outlaw the profit motive? Then the GSA suggested that payments-in-lieu-of-taxes required of the developer raised some accounting questions.

To sort out these questions, the GSA Administrator found it necessary to establish a special task force. The task force was to prepare its report by Labor Day, but only by September 25 could the Administrator render his "decision." And his decision? Not to decide, of course. He referred the matter back to the Secretary of the Interior (who quickly confirmed his earlier approval) and to the General Accounting Office. GAO has now had the matter under study for close to 3 months.

Its opinion is expected, I am told, by Christmas. The GSA Administrator cautions us that the GAO opinion is only advisory, so perhaps another period of meditation will be required before the Administrator can see his way to act.

The Federal Archives Building transfer was first discussed with GSA officials in July of 1976. It is now 50 months later. In little more than that time, we fought for and gained our independence from Great Britain. In less time than that, in this century, New Yorkers built the Empire State Building and LaGuardia Airport.

President-elect Reagan has promised to put an end to this defeatism. It is a campaign upon which President Carter embarked at the start of his administration, and it is all too apparent that it is a campaign that foundered. I wish the President-elect well in his efforts. I commend to him Ms. Greenfield's column, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, Dec. 15, 1980]

REAGAN VS. THE BUREAUCRACIES

(By Meg Greenfield)

Personalities and political theology dominate the Washington news as the Reagan Cabinet heaves into view—lots of talk about moderates versus conservatives and supply-siders versus traditionalists and the rest. It all matters, but not decisively. What will matter decisively to Ronald Reagan's prospects for success is something else: whether he will be able to take on and, to some extent, defeat that great decadent inertial force that characterizes so much of our governmental (and intellectual) life today.

Do I mean the Washington bureaucracy? Well, yes, in a way—but that is only part of it. I mean as well a collection of impulses—to trivialize, confound, procrastinate, fog over and subvert both thought and action—that are at work in many more bureaucracies than just the one on the Potomac that everyone complains about.

There is a profound and pervasive commitment in this country today to not letting anything happen. It (whatever is the problem at hand) is routinely declared to be much more complex than that ("that" being whatever the proposed solution may be). So, instead, it is duly noted that the situation must be studied and made the subject of conferences and reports and hearings and pilot projects and citizens' lobbies and benefit galas and maybe, with a little luck, it will end up getting a Presidential commission or even a Cabinet department of its own. Then everyone can settle back and make the situation, whatever it was, a little worse, and get paid for it.

TRIVIAL PLACES

Now, all this has traditionally been associated with the Democrats in general and the Federal government in particular, and there is surely ample justification in both cases. Too many liberal Democrats have come, over the years, to worship (of all things) the state and to see it as the natural agent of the Lord's will, even though you can't reach it by telephone much after 4:30 in the afternoon. And many Democrats too, it seems to me, have lately tended to nest in the little, trivial places of great issues, like starlings in the crevices of a huge building. I think, in fact, that this tendency, so different from their grasp of things a generation ago, accounts for a large part of their current political woe.

Read the foundation and study-group reports, very prettily printed, that they have worked on; read the testimony on the Hill; read the departmental policy statements and press releases and other outgushings. Often as not you will find that the premise is vaguely crazy or just plain wrong or outrageous. But you will also find that this is not noticed in the bogged-down, wrong-end-of-the-telescope prose. And the prose itself seems designed—bureaucratese, foundation-talk—to keep everything slightly out of focus, to keep it ultimately inconclusive, complicated without being useful.

Yes, the poor old Democrats and the awful old Feds have certainly staked a claim to this unattractive intellectual turf. And yes, it is also true that both the Republicans in their customary assaults on "the bureaucracy" and the populace in its increasing assaults on Washington, have given notice that they demand something better, or at least something different. But be careful. For surely in the corporations and the businesses and the trade unions of America the same impulses are at work for all to see. Is it really easier, when you get right down to it, to deal with your downtown bank or your local public utility than it is to deal with the social-security office?

There is something else. Add to the banks and the businesses the whole U.S. military establishment if you are looking for spectacular examples of the little-mud-hut-building, bureaucratic instinct in action. The report on the Iranian rescue mission—its terrible details, not just its relatively neutral conclusions and recommendations—would repay the President-elect's attention in this regard: it is all there.

So I think that in some sense, important as they are, the Cabinet appointees of the new President and the policy inclinations and personal strengths they represent are still secondary to the big question. They will not be nearly so crucial as the new Administration's understanding and good faith in confronting the inertial, obfuscating bureaucratic force, both within government and among those private interests and institutions with which government must deal constructively: industries, social-service providers, local governments and so on.

I say "good faith" because there remains a stubborn streak of suspicion around that much of the conservative Republican rhetoric denouncing the handiwork of the Washington bureaucracy is inspired by nothing more than self-serving desires to get the regulators out of places where they really need to be or to make an extra buck at the expense of someone who really needs to be protected.

GOOD FIGHT

Actually this kind of privateering, while it would doubtless get its practitioners thrown out of office in good time, would be easier to bring off than a true and general assault on the main enemy. Everyone over the age of 4 in Washington knows that policymaking at the top, all those awesomely burdened choices people talk about, is, relatively speaking, the glamorous, fun part. The ordeal, the setting for failure, is the effort to make any of it happen.

Presidents get lost in the complications, in the webs, in that whole huge, gluey obstacle to sense and clarity and forthright action that the public and private bureaucracies put in their way. It was frequently joked during the campaign that Reagan was given to simplicities. We will see whether he is given to wrongheaded ones. There are others—I insist on it—that are right and are what has been missing in the sophistry that often passes for political thought in this town. It seems as though our government increasingly understands everything in its most tiresome detail about the world we live in except what is obvious, simple and urgent.

If this "simplicity" people talked about is the positive, missing and much-needed kind, and if Reagan not only possesses it but also engages it in the encounter with the vast complex of wheel-spinners and complicators that is waiting for him, then you will have a fight worth watching.

HERMAN TALMADGE—A RECORD OF CARING

Mr. PELL. Mr. President, as this 96th session of Congress draws to a close and we reflect upon the outstanding service of many of our colleagues, I wish to note the excellent work of Senator HERMAN TALMADGE.

During his 23 years in the Senate, the senior Senator from Georgia has earned a well-deserved reputation as an astute and effective advocate. Both Georgia's interests and the Nation's interests have been well served by HERMAN TALMADGE.

As chairman of the Agriculture, Nutrition, and Forestry Committee, he has been a leading advocate of rural development programs and a driving force behind comprehensive farm and rural legislation.

He also was the author of landmark legislation a decade ago to increase funding for the national school lunch program and to expand this important program to benefit needy children in areas which previously had not participated.

HERMAN TALMADGE left his imprimatur, as a member of the Finance Committee, on complex tax and trade legislation and on key welfare reform measures. It was his legislation, for example, which now allows private business and industry to help underwrite expenses involved in training programs.

As chairman of the Finance Committee's Subcommittee on Health, he has been a strong and welcome advocate of legislation to provide catastrophic health insurance for families and individuals who face lingering diseases.

His record speaks for itself and demonstrates, far more than any words of praise, his years of service as an effective legislator and a man of great compassion. It is a record of which we can be both proud and thankful.

SENATOR JACOB J. JAVITS

Mr. MOYNIHAN. Mr. President, saying goodbye to JACK JAVITS is a task that I should like to put off forever if I could. But the time is here, and I have tried as best I could to assemble in words the sentiments that I feel for this man.

When I came to Washington in 1961, a time of great promise and excitement, he was here in the Senate, already something of an institution. People looked to him for the counsel, leadership, and breadth of knowledge that have marked him with the sign of greatness, a sign that is rightly given to only a few. We knew even then what a treasure we had in JACK. We saw that his place in our Nation's history was already being made.

Over the years, both when in and out of Washington, I have come to think of him as possessing a kind of permanence. To think of the Senate now without him requires a great feat of the imagination, for when the roll is called next year, the omission of the familiar "Mr. JAVITS" will seem at first like a slip. It will take a long while to become accustomed to not having him here.

But he leaves us much; the people of the United States have had their lives made more secure and more humane because of his efforts. His principal and lifelong concerns, which might be called liberal in the best sense of that now somewhat unpopular word were these: Economic security for America's workers, dignity for the aged, opportunity for young people, and peace in the world.

He translated these concerns into legislation. I cite just a few of the bills that he authored and led to passage: The Employment Retirement Income Security Act, the Emergency Employment Act of 1971, the Age Discrimination and Employment Amendments of 1978, the War Powers Act, and the public service jobs component of the Comprehensive Employment and Training Act.

None of these acts was adopted with great fanfare or personal glory. After all, protecting pensions and establishing public service jobs do not normally make the front page of the morning newspaper. But he had no great appetite for personal praise or recognition; he was happy with results—results that have made a tangible difference in the lives of people.

His 26 years of service, the longest of any New Yorker, have immeasurably enriched this distinguished body and the committees on which he served. Those of you who worked with him on the Foreign Relations Committee, the Labor and Human Resources Committee, and the Joint Economic Committee will perhaps miss him most. You were privileged to have him so close at hand, and to have the benefit of his wisdom.

For myself, I was the most privileged, for I had JACK JAVITS as my senior colleague from New York. From the start, when I came to the Senate in 1977, he was always ready with advice, with encouragement, with assistance. Over the last 4 years, we have become partners for New York and for the causes and ideals that we share.

When thinking about JACK's career, I remembered a passage from Emerson: "The reward of a thing well done, is to have done it." If Emerson is right, and I think he is, then we can rest assured that JACK has received all the reward that he might ever want. His career was well done. There is no greater satisfaction in life than being able to say that about yourself, and he can say it.

Though I know that standard expressions fail miserably in expressing feelings, I can think of nothing more to say than this: I will miss JACK JAVITS, I wish him all the very best.

TRIBUTE TO SENATOR JOHN CULVER

Mr. PELL. Mr. President, when the 97th Congress convenes in a few weeks, one of our most well-liked and respected colleagues will be missing. Along with many others in this body, I am saddened by the departure from the Senate of JOHN CULVER of Iowa. Though he has served here for only 6 years, he has made a deep and lasting impression on his colleagues through the force and sincerity with which he fights for what he believes in. At the still very young age of 48, he has recorded five distinguished terms in the House of Representatives, together with his memorable service in this body. JOHN CULVER is a man at the peak of his considerable abilities, and I know he will continue to serve the State and Nation he loves so much in the years to come.

I particularly admire his courage and the way he declined to trim his sails for political purposes. He remained steadfast to his views as he sailed directly into the conservative winds that are sweeping our Nation.

While I have not had the privilege of serving with JOHN CULVER in committee work, his record of achievement is well known to his colleagues and needs no recapitulation here. I will mention just two areas of his service which have been particularly outstanding. Few Members of the Senate have spent as much time on the issue of regulatory reform as has Mr. CULVER. He has been a key figure in the development of comprehensive regulatory reform legislation, an unfinished problem which should be high on the agenda of the new Congress. Two years ago he was responsible for legislation to cut redtape and paperwork for small businesses and small cities.

Senator CULVER's concern with administrative reform is evident in other areas as well. In 1975, he authored and won approval of the Temporary Commission on the Operation of the Senate, a citizens' panel to review Senate operations and recommend reforms. The establishment of this Commission represented the first time the Senate had ever asked an outside group to examine its internal workings and suggest changes. As chairman of the Rules Committee, I can attest to the more efficient management practices which resulted from Senator CULVER's proposal.

The other side of JOHN CULVER's Senate career which deserves special mention is his outstanding service as a member of the Armed Services Committee. In this capacity he was a voice of reason and imagination. He has been a determined advocate of a stronger NATO, and in 1976, coauthored the Culver-Nunn amendment to increase standardization of NATO weapons. One year later, he courageously called attention to the inadequacy of American military readiness. His special Senate report directly resulted in a substantial increase in the number of combat-ready Navy aircraft. Senator CULVER also led the effort to block the sale of highly sensitive military equipment to Iran, arguing as early as 1977 that the Shah's regime was unstable and that we should not export military technology which could later be used against the United States.

Whether it was leading the opposition to the B–1 bomber project or fighting for better farm programs for Iowa, JOHN

CULVER has always "called them as he saw them." Few Members who have served here can be said to have fought as forcefully and courageously for their beliefs as has JOHN CULVER. His has truly been a large presence in the Senate, and his absence will be regretted by all who have had the pleasure of serving with him.

JOHN C. CULVER

Mr. MOYNIHAN. Mr. President, reports have come to me that the candidate who opposed JOHN CULVER in last November's election called on the people of Iowa to vote for a man who would stand up to PAT MOYNIHAN. I did not know that my name had acquired such notoriety in Iowa, nor that JOHN CULVER had ever felt the least bit of anxiety about standing up to me or anyone else. I simply cannot imagine anyone intimidating JOHN. If they could have, his voice, which Elizabeth Drew has compared with an articulate bullhorn, would have been stilled years ago. But that did not happen; he has continued to speak out courageously, intelligently, and persuasively. At times, he has been a minority of one, but on other occasions he has carried the day, winning a majority to his side.

Now that the 96th Congress has but a few hours remaining to it, we will not much longer have JOHN CULVER with us in this distinguished body. For 6 years, he has served here, giving his all—his enthusiasm, his mastery of the legislative process, his quick mind.

Though he has done much good for his home state of Iowa, he has also accompanied much in areas like arms control, foreign policy, environmental protection, agriculture, and the operations of the Senate. He has compiled a fine record of legislative achievements: The rural clean water program, $120 million to develop gasohol, the Culver-Nunn amendment to standardize NATO weapons, the creation of the Temporary Commission on the Operations of the Senate, the Endangered Species Act, the Quiet Communities Act, and more. All of these belong to JOHN; he deserves the credit.

In citing his Senate achievements, I give you but a small part of what he has done. Before coming here in 1975, he had spent 10 years in the House of Representatives, where he also left his mark. Before that, he worked for my distinguished colleague, Senator KENNEDY, of Massachusetts.

Again, I turn to Ms. Drew, whose book about JOHN is an example of what fine journalism is all about. She wrote:

> Culver is not a saint and he is not an ideologue. He is an unusual combination: a man with firm principles and beliefs who is also a practical politician—one who gets in there and does the hard work of legislating, of putting together coalitions, of meditating among the conflicting interests of this country, of making the whole thing go.

What better compliment could there be to a U.S. Senator than that?

There has been much talk these days about the Moral Majority and the National Conservative Political Action Committee, groups that were against JOHN, and which will very likely be against me.

In the face of their computerized mailing lists and treasuries, idealists and liberals are supposed to tremble, and to retreat. But JOHN did not. He ran on his record; he proudly stood his ground. His noble stand last November brought to my mind the defiant words that Woodrow Wilson uttered in Sioux Falls on September 8, 1919.

> Sometimes people call me an idealist.

The beleaguered President said:

> Well, that is the way that I know I am an American. America is the only idealistic nation in the world.

JOHN CULVER is an idealist, too. We will miss him here, but we are thankful to have had him while we did. I wish him the best.

TRIBUTE TO SENATOR JACOB JAVITS

Mr. PELL. Mr. President, it is with great regret and a deep sense of personal loss that I join in bidding farewell to JACK JAVITS as a colleague in this Senate that he loves so much and has served so well.

JACK JAVITS is one of my closest friends, both in and out of the Senate, and I shall miss his wise counsel, penetrating intellect, and great wit. As members of both the Foreign Relations Committee and the Committee on Labor and Human Resources, we have collaborated on many important pieces of legislation. We have not always agreed, but in the vast majority of cases we have been on the same side.

I have often marveled at his ability to break seemingly impossible deadlocks in committee meetings by coming up with ingenious compromises. His imprimatur is on practically every significant piece of legislation that has passed the Senate these past years. Compromises are inevitable—and indeed creative—features of the American legislative process and JACK JAVITS has been a master of this art.

JACK JAVITS has done so many fine things in his long career in the House and the Senate, but, in my view, his monumental achievement will be the War Powers Act that reestablished a proper role for the Congress in issues relating to war and peace while preserving the President's integrity as Commander-in-Chief. Those of us who remain in the Senate must be vigilant that this great legacy of JACK JAVITS is preserved intact and passed on to our successors for the good of the entire country.

JACK has also done a great deal to maintain and enhance the stature of the Foreign Relations Committee both within the Senate and the country at large. I recall vividly one occasion when, a few years ago, several members of the committee were discussing and wondering whether there was a public constituency to which the Foreign Relations Committee responded and was supported by in the same sense as other committees. JACK JAVITS put an end to that discussion by declaring that "of course we do; we have the peace constituency, and that is the most powerful constituency in this country."

As I noted, I have been doubly blessed because I have had the pleasure also of serving with JACK JAVITS on the Committee on Labor and Human Resources. In that committee as in the Foreign Relations Committee, he has been a highly valued member, with a quick and thorough grasp of complex legislative proposals and a truly unique ability to fashion compromises that expressed and carried out the objectives of the committee.

In education legislation, JACK had a particular concern for appropriate educational opportunities for the gifted and talented, and he made very significant legislative contributions toward that objective.

More recently, the higher education legislation adopted this year carries JACK'S imprint in provisions for an entirely new thrust in international education, involving cooperative efforts by universities and the business community to develop personnel and expertise capable of improving America's competitive export capabilities.

I shall miss JACK JAVITS'S presence in the Senate greatly, and Naula and I wish him and Marion the very best in the years ahead—and also hope we shall continue to see each other.

LOVE CANAL HEALTH STUDY

Mr. MOYNIHAN. Mr. President, I rise today in support of the Love Canal health study provided for in section 165 of the continuing resolution, House Joint Resolution 637.

Since the discovery of massive amounts of highly toxic waste buried at Love Canal in New York, the health of the residents has been at issue. In May of this year, the Environmental Protection Agency released a report which indicated the presence of chromosome damage among the people of the Love Canal area. In June, yet another report was issued. The study, conducted by the New York State Health Department, warned of birth defects in babies born to women of the Love Canal.

Both studies were later criticized because of inherent weaknesses which mark them as less than wholly scientific. The validity of these studies is questionable, and the controversy surrounding them exemplifies the need for a definitive analysis of the health problems of the Love Canal residents.

Several months ago, Governor Carey appointed a committee of scientists to examine the handling of the Love Canal health crisis. They concluded that to date there have been no studies concerning the health effects of residents at Love Canal that have proceeded in a scientifically rigorous manner. Furthermore, they recommended the assignment of a lead Federal agency to direct all studies of the health effects of hazardous waste.

Yet more than this committee recommendation, the shocking stories of many of the Love Canal residents serve to demonstrate the necessity of implementing a thorough health study. One such resident, Patricia Sandonato, was quoted by the New York Times soon after the EPA chromosome study was released. She remarked:

> They just said my chromosomes were abnormal and handed me a letter, . . . I fear that my kids might be dying. I'm afraid to bring another child into the world.

Clearly, it is of critical importance that a sound study be conducted to determine the extent of the damage to the health and well-being of the people of Love Canal. I am convinced of the need for a coordinated Federal effort to proceed with this study. Section 165 of the continuing resolution calls for such an effort.

This provision appropriates $3.86 million for the implementation of a health study at Love Canal. The money for this program will come from the unobligated swine flu funds provided for under the Supplemental Appropriations Act of 1976.

We are all aware that Congress has recently passed the Superfund legislation. This was an admirable first step toward the cleanup of waste sites as Love Canal. We must now continue our efforts to help these unfortunate people by providing a comprehensive epidemiological study of the health effects resulting from the chemical contamination of the area.

THE SITUATION IN POLAND

Mr. MOYNIHAN. Mr. President, the largest issue in foreign affairs today is the ominous situation in Poland. What is so threatening at this moment is the evidence that the Soviets are not hearing anything we are saying over here. Studies that have been done of Soviet behavior prior to the invasion of Czechoslovakia in 1968 show that so far the Soviets have been following that path very closely. The Soviets have patterns of behavior and they tend to repeat them. In 1968, this behavior ended up with the invasion of Czechoslovakia. This year, we are already at a late stage. Last week, for example, the charge that "counter-revolutionaries" have taken over Solidarity was a decisive analog to charges made in 1968. So were the mobilization of the Warsaw Pact and the charges directed to the United States, charges that Mr. Brezinski was wrong. All this the Soviets have done without hearing us.

They did not have to listen in 1968. One of the problems at that time, you see, was that our country was caught up in its own foreign problems. People who were active in foreign affairs were too distracted by our own debates to take much notice of the Soviet invasion of Czechoslovakia. That era is over. There are no more illusions about the nature of Soviet society and Soviet goals. We survived, and the sixties are all gone. But the Soviets may not hear because they think what really happened last time may happen again to Poland. Nothing could be more mistaken. I just hope that there are some who heard Senator BIDEN yesterday.

A year ago Newsweek ran a series of articles on what would happen in the 1980's. I said if I had to think of one thing that would very likely happen in this decade it would be that the Soviet Empire would break up. It is happening. The sounds of disintegration were there, including the above struggles. There was other evidence: Soviet mortality rates—and this has since been confirmed—are much more striking than we had thought. And just as this disintegration sets in, the Soviets face it with the enormous military establishment they have created in the past two decades. Because of this conjunction, we are entering into one of the most dangerous times this world has known.

We have known this for some time; it is not a shock and nothing to get excited about. But it is coming, it is coming, just about the way we have seen it coming.

In the history of Leninism, there has never been so absolute a threat to the legitimacy of the Soviet state and its satellites as the workers' movement in Poland. This is a genuine, bona fide, unmistakable rising of industrial workers who protest the state's economic rule that has been imposed upon them. It is peaceable, obviously spontaneous, obviously enormously effective, and now spreading to farmers who have the same demands. This means that communism has failed in theory as well as in practice. Bolshevik theory said that workers would never go against their workers' state. It would be impossible, but it has happened. It is astonishing the hold that those Leninist conquerors have had on the world. Remember what those three or four Cambodians cooked up at the University of Paris in the doctoral dissertations they wrote at the Sorbonne. They killed half their countrymen. The hold of Leninism has been one of the astonishing things of the 20th century. But it cannot be sustained, it cannot be sustained in the face of this remarkable event.

As these events unfold, the history of Poland is also to be remembered. I have a friend at the United Nations—who must remain nameless—who is British and was in the Second World War from the beginning. He often says:

> It is sometimes useful to remember that the Soviet Union entered modern world history as an ally of Nazi Germany.

In 1939, they collaborated to invade Poland. It was that kind of event that you have to have every so often to shake all that junk out of your head. It has been shaking out of the head of Europe for awhile. If it occurs, it could even strengthen the West, as Senator JAVITS has said. If it does not, then we are in awful trouble. We will have to be prepared to make sacrifices, even if they are costly.

Now I should add there is not the slightest possibility that the United States or NATO will take any military action in this situation. This affair will almost certainly remain internal to the Warsaw Pact which is a euphemism for the Soviet Empire. It is no threat to NATO as such. But neither is there any possibility that the relationship with the Soviet Union, which has been described as detente or peaceful coexistence or whatever you want, could survive the invasion of Poland. There is no possibility that an invasion could be explained as joint exercises of the Warsaw Pact nations. This would not be accepted, it would in fact make matters worse. Our relationships would not survive. In particular, East-West economic relationships would not survive.

The Soviets, I am sure, assume that we will take no military action. My concern is that they would assume that, there being no possibility of military response, there will be in fact no response at all. That is what I am saying would be a profound mistake, because there will be an implacable response of rage and contempt. Americans will insist that we do nothing to enable this regime to continue as it has been doing. We will not feed the army that rapes Poland; we will not provide the technical computers that organize the assault on Warsaw. And this will go on and on. An invasion of Poland will not be forgotten and in the process the cost to the already shaking structure of Soviet domination will be greater. Here, in turn, military dangers become unavoidably greater. Even our nonmilitary response will produce great dangers, and the Soviets should understand this. It is necessary that they know exactly how we will respond, and know that there is no question that we will respond. This will not be a marginal matter, but one of firm resolve by nations in the West that take liberty seriously.

WALLY KIRKPATRICK

Mr. HEFLIN. Mr. President, I have had the great pleasure and honor of working closely with a very talented and dedicated Alabamian for the past year, Dr. Wally Kirkpatrick.

Wally Kirkpatrick, who in my judgment in one of the Nation's most brilliant and talented scientists, recently completed a year's work as a congressional fellow with the Senate Commerce Committee's Subcommittee on Science, Technology, and Space.

Dr. Kirkpatrick, who holds the position of Deputy Director of the Army's Ballistic Missile Defense Advance Technology Center at Huntsville, Ala., Redstone Arsenal, gave the U.S. Senate expert assistance of immeasurable value. I was fortunate to work closely with him on several important legislative matters including a bill to insure that our Nation has a comprehensive policy on strategic materials and minerals, a long-range national policy on space exploration, a new-start NASA program for Huntsville's Marshall Space Flight Center, and a comprehensive report of the Nation's efforts to develop lasers for military and energy producing use.

I believe I can easily speak for all the members of the Senate Commerce Committee in saying that Dr. Wally Kirkpatrick is a remarkable and determined gentleman who has gained the respect and admiration of everyone he dealt with during the past year in Washington.

Mr. President, I ask unanimous consent that the following two newspaper articles, one by Reporter Pat Houtz of the Birmingham News and the other from the North Alabamian in Haleysville, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Birmingham News, Nov. 26, 1980]

ALABAMA SCIENCE FELLOW IS STATE FIRST

(By Pat Houtz)

HUNTSVILLE.—Wallace Kirkpatrick has been first in a lot of things in his life.

He has just completed one of them. He has returned from a year's assignment as a Congressional Science Fellow where he worked with Sen. Howell Heflin. He was the first Alabamian ever to have such an opportunity.

Kirkpatrick's accomplishments started early in life.

As a native of Winston County, he dropped out of high school at an early age. He went off to join the U.S. Army and at 20 became the youngest sergeant first class on active duty.

After serving his time in the Army, he was employed by Redstone Arsenal as a GS-2. Fifteen years later, he had worked up to a GS-15 rating. He had headed up program management offices for both the Army Missile Command and the Army Ballistic Missile Defense Advanced Technology Center.

"I felt I had done a lot as a high school dropout, but I wanted to further my education. As a result of my background and experience I didn't have to go to college at all. I went from the high school dropout status to graduate school at Syracuse University. I got my master's degree in eight months with a perfect grade point average," he said.

He then went on to get a doctorate—also in eight months with a perfect grade score.

Of all his accomplishments, he seems most proud of the year he has just spent in Washington.

He had the unusual experience of writing a piece of national legislation and then seeing it passed through both houses of Congress and signed into law.

Kirkpatrick, now deputy director of the Army's Ballistic Missile Defense Advanced Technology Center in Huntsville, was chosen for the fellowship by the American Institute of Aeronautics and Astronautics.

The program is set up to make scientific expertise available to government policymakers, and to give the scientific community an opportunity to learn first-hand about the legislative process.

Kirkpatrick looked for an assignment that would enable him to pursue his interest in the development of national science policy. He decided to work on the Senate Subcommittee on Science, Technology and Space.

Sen. Howell Heflin is a member of that committee, and according to Kirkpatrick, a very effective and respected member of it.

"One thing that interested me very much was the fact that this country had no established policy for critical materials. I began working to draft a bill to set up such a policy.

"The bill is designed to insure that the U.S. has a sufficient supply of critical materials such as cobalt and titanium. It is a first step to assure that these materials, for which the U.S. is dependent on imports, are available to meet the needs of civilian industry, as well as national security," he said.

"After I drafted the bill, I scheduled the hearings so that the committee could explore the different aspects of it. We got it through the Senate sub-committee and then it was sent to the Senate Energy and Natural Resources Committee. The bill was agreed upon by both committees. We worked with the House of Representatives Committee of Science and Technology, making sure that they agreed with it, and that it would not get held up in joint conferences between the House and Senate.

"It was a great experience and extremely unusual for a Science Fellow to research, write and get a piece of legislation through. It was very gratifying.

"There are 18 critical materials on which the U.S. is so dependent on imports that it is essential that we keep them stockpiled. This bill will help ensure we have what we need."

During his year in Washington he also had an opportunity to work with issues that affect the Huntsville area directly.

Working with Sen. Heflin and Sen. Harrison Schmitt, R-N.M., he had a part in arranging a series of hearings on laser research and applications.

As a result of a special committee report on the subject, the Department of Defense laser budget was increased by $50 million and $5 million of this will be spent in Huntsville at Redstone Arsenal.

"Sen. Heflin has established himself as an authority on the laser requirements," Kirkpatrick said.

"Another project in Washington was assisting two full-time committee staffers in the preparation of the NASA authorization bill. He worked with Sen. Heflin's staff to support the inclusion of a $12 million solar electric propulsion program for the Marshall Space Flight Center in Huntsville.

"This was a significant accomplishment for Sen. Heflin. He got that through the Senate against almost insurmountable odds. We know that after the Space Shuttle, there are few programs ongoing for NASA. This $12 million will be spent in developing this new technology that will be the background for future space propulsion," he said.

"As a result of my year in Washington I have a much better understanding of the constraints under which our congressional representatives work. I hope the experience will make me better able to represent the Ballistic Missile Defense Center in our dealings with the federal government."

[From the Northwest Alabamian, Nov. 24, 1980]

HALEYVILLE NATIVE IS SCIENCE FELLOW

HUNTSVILLE.—Like Jimmy Stewart in the movie classic "Mr. Smith Goes to Washington," North Alabama's Wallace E. Kirkpatrick, son of Mrs. Amy Kirkpatrick of Haleyville, went to the nation's capital hoping to be able to influence national policy for the better.

He has returned from a year's assignment as a Congressional Science Fellow with his belief in the United States' legislative process unshaken, but enlightened.

"I now have a much better understanding of the constraints under which our Congressional representatives work," said Kirkpatrick, following his recent return to Huntsville. "After seeing the system work, I also have a renewed interest and belief in our democratic form of government."

During his year "on the Hill" as part of the staff of the Senate subcommittee on Science, Technology and Space, Kirkpatrick had the unusual opportunity of following a new piece of legislation through the entire law-making process.

He authored a first-of-its-kind national materials bill as it progressed to also make it acceptable to the House of Representatives.

This eliminated the need for a joint conference between the Senate and the House.

Kirkpatrick describes "his" bill, which is designed to insure that the U.S. has a sufficient supply of critical materials such as cobalt and titanium, as a "modest first step" in assuring that these materials for which the U.S. is dependent on imports, are available to meet the needs of civilian industry as well as national security.

There was pride of accomplishment in his voice as he said. "The bill's now on the President's desk awaiting signature."

Kirkpatrick also had an opportunity to become involved with issues that affected the North Alabama area directly. Working with Sen. Howell Heflin (D-Ala.) and Sen. Harrison Schmitt (R-N.M.), he was instrumental in arranging a series of hearings on laser research and applications, including field hearings at Redstone Arsenal and Albuquerque, N.M.

While assisting two full-time committee staffers in the preparation of the NASA authorization bill, he worked closely with Senator Heflin's staff to support the inclusion of a $12 million solar electric propulsion program for the Marshall Space Flight Center.

Kirkpatrick credits approval of this new program for the Marshall Center to the strong support of the solar electric propulsion measure by Senator Heflin and Congressman Ronnie Flippo (D-Ala.). "Senator Heflin's masterful orchestration during the budget deliberation helped win the program against strong odds," he said.

Although not directly involved in defense appropriations, Kirkpatrick also closely followed the Senate action to increase funding for ballistic missile defense and high energy laser, both of which impacted Army commands in Huntsville.

(The Senate added $15 million to the DOD budget for the Army's ballistic missile defense effort and about $50 million for higher energy lasers, including $5 million for the Army Missile Command at Redstone Arsenal).

Kirkpatrick admits that before he went to Washington, he had expected to log a much longer string of accomplishments during his year stint in Congress, but that, he explains, was before he learned first-hand how truly complex and painstaking the legislative process is.

"It is very unusual," he said, "for a Congressional Fellow to be able to handle even a single piece of legislation all the way from start to finish in just one year."

Before undertaking the fellowship, he had thought that his experience as a representative of the Army's ballistic missile defense advanced technology effort had given him a better than average grasp of Congressional procedure.

But the actual workings of a bill proved to be much more intricate than they appeared from the other side of the fence.

Kirkpatrick, a deputy director of the Army's Ballistic Missile Defense Advanced Technology Center in Huntsville, was chosen for the fellowship by the American Institute of Aeronautics and Astronautics (AIAA).

"The competition was incredible," Kirkpatrick said. He was one of the two fellows selected by AIAA from a field of 38 highly qualified candidates. A total of 23 science fellows were named by 17 organizations to serve during the 1979–80 Congressional sessions.

He candidly admits that he found it gratifying to become a member of such a select group, but quickly points out that a Congressional Science Fellow is only one of many behind-the-scenes workers on Capitol Hill.

The Congressional Science Fellowship program began in the early 1970s with a twofold purpose: to make scientific expertise available to government policy-makers and to give the scientific community the opportunity to learn first-hand about the legislative process.

From a modest beginning in 1973, with five societies sponsoring seven scientists, the program has more than tripled.

"This is one program that has proven mutually beneficial to all parties involved," Kirkpatrick said. "Because of the successful track record that previous science fellows have established, members of Congress are eager to take advantage of this resource."

The salary and expenses of most fellows

are defrayed by their employers or the sponsoring societies.

Following an initial three-week orientation program conducted by the American Association for the Advancement of Science (AAAS), Kirkpatrick and the others were given a two-week interview period in which to negotiate a working position on a Congressional staff for the remainder of their fellowship.

Kirkpatrick says that he found the number of slots to choose from surprisingly large.

"During this period," he said, "we had access to many Congressmen, Senators and senior Congressional staffers who conducted an active recruitment campaign to attract us to their offices or communities. There was a place and a need for people with a variety of academic backgrounds."

Kirkpatrick was looking for an assignment that would enable him to pursue his interest in the development of national science policy. His decision to work on the Senate subcommittee on Science, Technology and Space was a natural.

"I preferred to work outside of strictly military concerns, and to work for a committee rather than an individual Congressman or Senator," Kirkpatrick said, explaining his choice.

"The particular committee I chose not only handled the areas I was primarily interested in, but it had a small permanent staff who welcomed the addition of another assistant. It gave me the opportunity for a broader area of responsibility without infringing on a professional staff member's turf."

Kirkpatrick thinks that the inside knowledge he gained during his time in Washington, D.C., will benefit not only him but his employer and the community he serves in as well.

"There are an incredible number of competing and conflicting interests that require Congressional attention," he explained. "The increased understanding I gained of both the legislative process and the pressures and time demands on Congressional members and committee staffs, has sharpened my sensitivity regarding dealings with Congress."

Kirkpatrick intends to make sure that both the Army and the Huntsville community can take advantage of his Senate experience.

The Army civilian manager considers his Congressional experience "another of the really good things" that have happened in his life. Kirkpatrick's career shows his knack for capitalizing on opportunities.

Twenty-seven years ago he dropped out of high school to join the Army and ended up at the age of 20 being the youngest Sergeant First Class on active duty.

After he was discharged from the Army, he went to work at Redstone Arsenal as a GS–2. Fifteen years later he had worked his way through the program analyst ranks to the GS–15 level, and had headed up program management offices for both the Army Missile Command and the Army Ballistic Missile Defense (BMD) Advanced Technology Center.

In January 1976 he was admitted to graduate school at Syracuse University without any previous undergraduate credit. He completed a one-year masters degree program in eight months while maintaining a perfect grade point average.

In June 1977 he became deputy director for management and adminisration at the BMD Advanced Technology Center.

Kirkpatrick is currently a dissertation to complete a Ph.D. Somehow it's not surprising that the subject of his research is national science policy. His year in Washington added a wealth of first hand insight into his studies.

For Wallace Kirkpatrick it was a once-in-a-lifetime experience that he doesn't hesitate to recommend to his associates. "We have a wealth of technical expertise right here in North Alabama," he said, "There's no reason our people can't compete and win these opportunities."

TRIBUTE TO SENATOR GEORGE McGOVERN

Mr. PELL. Mr. President, I join in bidding farewell to one of the greatest champions of peace and voices of reason in the Senate—the distinguished senior Senator from South Dakota, GEORGE McGOVERN. Throughout his Senate career and as the Democratic Party's candidate for President in 1972, GEORGE McGOVERN has spoken out eloquently and courageously in defense of arms control as a means of enhancing American security and improving the prospects for peace. I know how much I admire him and shall miss him as my seatmate in the Foreign Relations Committee.

During the course of the debate on the SALT II treaty in the Foreign Relations Committee, I was proud to join GEORGE McGOVERN in successfully sponsoring an understanding related to the treaty calling for substantial and meaningful reductions during the follow-on SALT III negotiations. GEORGE McGOVERN was a teacher before entering politics, and he was obviously an excellent one, because throughout the debate on SALT—and other issues as well—he raised the consciousness of his colleagues and demonstrated that there are many ways to solve difficult problems if only enough intellectual curiosity and imagination were brought to bear.

GEORGE McGOVERN has also been a great humanitarian, both at home and abroad. He played a leading role in the food stamp program that enabled millions of America's poor and low-income people to maintain a decent nutritional standard. He also worked hard to insure that America's agricultural bounty was shared with the starving and undernourished abroad through the food for peace program that he directed during the early years of the Kennedy administration.

Above all, GEORGE McGOVERN has been a man of great personal decency and high principle. Many of the policies that he stood for undoubtedly led to his untimely departure from the Senate. But I greatly admired the way he stood up for what he believed in and refused to trim his sails or back away from past positions in an effort to improve his political prospects.

I shall miss GEORGE McGOVERN greatly, but I know that he will continue to be active as a private citizen on behalf of the many causes he championed as a Senator. I wish him and his charming wife, Eleanor, all the best.

EQUAL ACCESS TO JUSTICE LEGISLATION

Mr. SASSER. Mr. President, I wish to commend the Congress on the wisdom it displayed in passing the equal access to justice provision contained in Public Law 96–481.

This provision is essentially the equal access to justice bill, S. 265, which passed the Senate by an overwhelming margin in 1979. I supported this measure then, as I support it now, because it represents a great step forward in the fight for Government responsiveness to its citizens.

Simply stated, Mr. President, this provision would allow individuals and small businesses which prevail in court actions or agency adjudications brought by or against the Federal Government to recover their attorney's fees. Under current law, even if the Government's position is groundless or found to be arbitrary or frivolous, all costs of litigation involving the Federal Government must be borne by the private party involved.

Very few private citizens or small business owners have the financial resources to mount a full scale challenge to a Federal regulation. The prohibitive cost forces compliance with agency rules even when valid grounds exist for a challenge. When regulations repeatedly go unchallenged, a valuable check on the power of the Federal Government is lost. Private citizen access to the courts is a cornerstone of our form of Government and we cannot allow it to disappear.

The dramatic increase in the influence of the Federal Government in all aspects of our lives must be met by legislative changes that preserve the rights of our citizens. This legislation is one such needed change. It strikes a careful balance between the individual and Government regulations. It does not prevent the Government from fulfilling its proper constitutional enforcement obligations. The burden is placed on the Government, however, to justify its actions in order to defeat an award of fees. It is strong enough, therefore, to encourage citizens to exert their rights.

The overzealous exercise of Government authority is always unfortunate. When this considerable weight is directed against a small business or individual of limited means, however, the result is too often tragic. They may be coerced into submission, not because they are wrong—but because they cannot afford to prove they are right.

Mr. President, this situation simply cannot be tolerated. We must have a system in which individuals are not forced to suffer financial ruin in order to challenge governmental excess. I therefore fully support this bill and look forward to the positive impact it will have on small businesses in the future.

TRIBUTE TO SENATOR ADLAI E. STEVENSON

Mr. PELL. Mr. President, among the Members of the Senate who will be retiring at the conclusion of this Congress is the distinguished and very accomplished Senator from Illinois, ADLAI E. STEVENSON III.

I take this opportunity to express my personal admiration of ADLAI STEVENSON and my regret that he chose not to seek reelection to a third term in the Senate.

ADLAI STEVENSON has contributed to the Senate, and indeed to the Nation, personal qualities and abilities that are not only admirable but are essential to the cause of democratic Government.

He is a man of impeccable integrity and a man not only of real intellect, but of very real intellectual honesty. In addition, he has demonstrated a rare courage to undertake unpopular and challenging assignments in the Senate because he recognized that they were assignments that should be done and done well.

As a member and, subsequently, chairman of the Committee on Rules and Administration, I have been particularly aware and appreciative of the extraordinarily fine work that ADLAI STEVENSON did in the reorganization and streamlining of the Senate's committee system.

Because changes in the committee structure and jurisdiction inevitably impinge on the powers and prerogatives of senators, there were many who believed that the effort to reform and rationalize our committee structure would be a futile effort. But ADLAI STEVENSON undertook the task and managed the committee reform so persuasively and intelligently that the great bulk of his committee's proposals ultimately were adopted by the Senate. The more efficient and workable committee system we now enjoy is a monument to the abilities and industry of the Senator from Illinois.

Similarly, ADLAI STEVENSON accepted and fulfilled in an exemplary manner the difficult and really thankless task of leading the Senate Ethics Committee. He played the leading role in the adoption by the Senate of standards of official conduct that not only provide guidance to Members of the Senate, but, of equal importance, protect Senators from unfair and ungrounded accusations of unethical conduct.

The Senate without ADLAI STEVENSON will be a poorer place indeed. His talents and abilities, his steadying presence, and his voice of reason will be missed, and I shall miss him personally. I extend to him my very best wishes for the future.

THE RETIREMENT OF ELI NOBLEMAN

Mr. MATHIAS. Mr. President, on Monday, December 8, the Senate passed Senate Resolution 560 which commends my friend and neighbor, Eli Nobleman, who retires this year after 33 years of distinguished service to the Senate.

I have been privileged to work with Eli on the Governmental Affairs Committee where he has served as counsel since 1951. Eli has provided wise counsel to me and to the other members of the committee, and his experience and expertise will be missed in the years ahead.

However, Senate Resolution 560 also names Eli as "Counsel Emeritus" to the Committee on Governmental Affairs, and I am confident that from time to time Eli will continue to be called upon to offer advice on matters before the committee.

I would like to thank Eli Nobleman for his long and dedicated service to the Senate and extend to him my very best wishes as he begins his well-deserved retirement.

TRIBUTE TO SENATOR RICHARD STONE

Mr. PELL. Mr. President, I join in bidding farewell to the distinguished junior Senator from Florida, DICK STONE. I have noted in the press, however, that DICK may remain in Washington in a different official capacity. If that turns out to be the case, I look forward to continuing our professional and personal association during the next 4 years.

Although DICK STONE and I served only briefly together on the Foreign Relations Committee, I came to admire the great energy and dedication that DICK brought to bear on his work, particularly as chairman of the Near Eastern and South Asian Subcommittee. In an amazingly short time, DICK STONE became one of the most influential and expert Members of the Senate on American-Middle East policy.

I recall vividly DICK STONE's imaginative proposal that the United States should negotiate for the use of the airbase facilities being vacated in the Sinai by Israel under the Camp David accords and how doggedly he has pursued this idea. DICK STONE has been a leading supporter of aid to Israel and Egypt; but even more important, I have been impressed by his efforts to bring about a wider reconciliation between Arabs and Jews in the Middle East.

DICK STONE was also among the first in the Senate to recognize and work for reducing America's dependence on Middle East oil. In that connection, he foresaw correctly as long ago as 1977 the great potential of Mexico as a source of oil for the United States. DICK also worked very hard to highlight the importance of the Caribbean area generally to American interests.

Finally, mindful of the skepticism that many constituents have about the value of their Senators' being members of the Foreign Relations Committee, DICK STONE showed that membership on that committee can be highly valuable in helping States that are export-minded. I remember that on a recent trip to the Far East, DICK very successfully promoted the sale of citrus and other agricultural products from Florida.

I shall miss DICK in this Chamber and in the Foreign Relations Committee, but I know that DICK will continue to be active in connection with important public issues, and I wish him and his lovely wife, Marlene, all the best in the future.

CHAIRMAN RAY ROBERTS WILL BE SORELY MISSED BY VETERANS

Mr. CRANSTON. Mr. President, as the 96th Congress comes to a close, many of our colleagues in both Houses of the Congress will be taking their leave. As has been noted in the many remarks that have been made in both the House of Representatives and the Senate by those of us who are remaining, many of our departing colleagues will be missed greatly—as fellow legislators, as allies—or even adversaries—in often difficult battles, and finally as friends. One Member from the other body who is leaving and who I will miss especially is my very good friend from the Fourth District of Texas, RAY ROBERTS, who has served as my counterpart chairman of the Veterans' Affairs Committee. I, together with the other members of the Senate Committee on Veterans' Affairs, made our formal tribute and said our goodbyes to RAY in September at a wonderful party in his honor.

At this point, I would simply like to bid RAY a more public good-bye and to wish him every future success. The veterans of the Nation will sorely miss his commanding presence here in the Congress as will we, his colleagues and friends.

So, Mr. President, I would like to read to my colleagues what I said about RAY ROBERTS in September 18.

I am filled with very strong, very mixed feelings tonight.

I sense that my good friend, RAY ROBERTS, is truly anxious to turn a page in his life and return to Texas and private life. For his having the opportunity to fulfill this desire, I am genuinely happy.

At the same time, I know what RAY's leaving will mean. For me, on the legislative end, I will no longer have him as a strong and dedicated counterpart as chairman of the Veterans' Affairs Committee. On a more personal level, although I know I will still have RAY as a warm and valued friend, he will not be as near and I suspect that our meetings will become fewer. For these reasons, I am saddened.

RAY, I cannot ask you not to go but I trust you know that you will be missed—by me, by your colleagues on both Veterans' Affairs Committees and in both Houses, and finally, although many of them may not yet realize it, by the veterans of this Nation.

I will not detail your many accomplishments in your great career to this time. Others will do that, and all I really want to note is the one strong theme that runs throughout your career—a deep and abiding commitment to public service. It is this commitment that has been the basis for your unswerving commitment to veterans and of your constant efforts to insure that the country recognizes its obligation to those who have served in the Armed Forces so that we all may enjoy freedom.

RAY, as our acknowledgement of your great efforts, the members of the Senate committee unanimously adopted a resolution honoring you. It is a most handsome and fitting tribute. I believe, signed personally by each of our members.

RAY, as I noted at the outset, this is not a completely happy occasion for me. Although we will all try to do our best without you—and though Sonny is a most worthy successor—you will be missed enormously. But I am very happy that you are going to have the opportunity to return to Texas and enjoy some well-deserved rest and relaxation.

Mr. President. I ask unanimous consent that the resolution of tribute. adopted unanimously by the Senate Committee on Veterans' Affairs, be printed at this point in the RECORD.

There being no objection. the resolution was ordered to be printed in the RECORD, as follows:

Resolution

Whereas, Representative Ray Roberts has served with great distinction and honor as a member of the Committee on Veterans' Affairs of the House of Representatives since February 6, 1962, and as the Chairman of that Committee during the 94th, 95th, and 96th Congresses; and

Whereas, he is widely acclaimed as an untiring, vigilant advocate on behalf of our Nation's 30 million veterans and as a staunch fighter in the cause of insuring that our society fulfills its obligations to its veterans, especially to those who have suffered disabilities as a result of their service and to the survivors of those who made the ultimate sacrifice; and

Whereas, under his inspirational and effective leadership, great strides have been made to create and improve programs of benefits and services necessary for the well-being of our Nation's veterans and their dependents and survivors, and existing programs have been protected and supported;

Therefore, Be It Resolved, That the Committee on Veterans' Affairs of the Senate of the United States unanimously expresses its deep appreciation to Representative Ray Roberts for his unstinting commitment to the welfare of our Nation's veterans and for the truly outstanding leadership he provided in the Congress to insure fulfillment of the Nation's obligations to those who gave of themselves so that we all might be free; and be it

Resolved Further, That the Committee on Veterans' Affairs of the Senate of the United States unanimously expresses its warmest and best wishes to Representative Ray Roberts as he returns to his native Texas as a private citizen.

In Witness Whereof, the Members of the Senate Committee on Veterans' Affairs have set their hands this 18th day of September 1980.

TRIBUTE TO SENATOR GAYLORD NELSON

Mr. PELL. Mr. President, I take this opportunity to pay tribute to a colleague with whom I have worked closely over the years and whom I much admire, the senior Senator from Wisconsin, Gaylord Nelson.

Senator Nelson and I both serve on the Committee on Labor and Human Resources. He chairs the Subcommittee on Employment, Poverty, and Migratory Labor and has been a leader in developing economic, employment, and social legislation to improve public services and increase the quality of life for our citizenry.

Senator Nelson is a man of great talent and wide-ranging ability. During his 18 years in the Senate, I have often sought his counsel on economic opportunity and employment programs. We have also worked together on education initiatives and legislation for senior citizens. Senator Nelson was at the forefront of President Johnson's Great Society program, and his accomplishments and contributions have been extremely significant. Indeed, he played a key role in developing many domestic programs created during the 1960's.

Gaylord Nelson also has been one of the most diligent Members of the Senate in exercising effective oversight over programs within the jurisdiction of his committee assignments. During the past decade, he carefully reviewed the operations of such programs at CETA, Head Start, housing weatherization, and social security to improve their operation and their responsiveness to the needs of the citizens they serve.

Gaylord Nelson also provided to the Senate and the Nation strong and innovative leadership in environmental and small business legislation. He was primarily responsible for inaugurating the annual observation of Earth Day and for legislation authorizing special environmental education programs.

As chairman of the Senate Committee on Small Business, he was in the forefront of highly successful efforts to focus attention on the importance of small business to the economy of the United States and to establish through legislation tax, regulatory, and administrative provisions that will permit small business to realize its full potential.

In health legislation, Senator Nelson was an early supporter of reform of our antiquated drug laws and was instrumental in developing generic drug legislation. He was an early spokesman for hospital cost containment and an articulate advocate of more rational allocation of our health care resources.

Because of Gaylord Nelson's leadership, Americans, generally, are able to lead better lives in a healthier environment.

I shall miss his counsel, his expert knowledge, his sound commonsense, and most of all, the daily contact with such a good friend and inspiring colleague.

Both he and his wife, Carrie, take with them the affectionate good wishes of Nuala and me.

THE DEATH OF MR. HARRY R. E. HAMPTON

Mr. THURMOND. Mr. President, a distinguished conservationist, outdoorsman, writer, and editor, Mr. Harry R. E. Hampton of Columbia, S.C., died recently ending a life devoted to the State and people he loved.

I knew Mr. Hampton for many years. He was a man of distinction who fought long and hard to preserve the South Carolina he grew to love while roaming its swamps and forests.

Mr. Hampton spent over 40 years with The State newspaper as a reporter, columnist, and editor. His well-known column "Woods and Waters" served as a forum for Mr. Hampton to discuss one of his favorite causes, the conservation of natural resources.

His diligent work greatly furthered conservation in South Carolina, and he was called the "backbone" behind the establishment of the Congaree Swamp National Monument.

Mr. Hampton founded the South Carolina Wildlife Federation and the South Carolina Game and Fish Association. In 1975 he received a special award from the Wildlife Federation "in recognition of outstanding dedication to conservation for 45 years."

Mr. Hampton was a man with a deep concern for the people and land around him, and his compassion and sensitivity made him respected by all who knew him.

My deepest sympathy is extended to Mr. Hampton's wife, Elizabeth Heyward Hampton; his daughter, Harriott Hampton Faucette; his brother, Frank Hampton; his sister, Gertrude Hampton Barringer; and all members of the Hampton family at this time of sadness. They can take genuine solace, however, from the lifelong benefits gained by sharing this close family association.

Mr. President, in order to share newspaper articles and editorials concerning the death of Mr. Hampton along with his last column, published on the day of his death, with my colleagues, I ask unanimous consent to have them printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the State, Nov. 16, 1980]

The State's Survey

(By Harry R. F. Hampton)

A Detroit G.A.R. (Grand Army of the Republic—Federal veterans) man challenges any Johnny Reb to a foot race. If the course is from Manassas to Washington, we'll lay 50 to 1 on the Yank.—Bob Gonzales (1888–1916) in The State's Survey.

We mentioned some time ago that we'd be tickled if Ronald Reagan won the election and made one of the best Presidents we've had. The first act has come into reality. It remains to be seen what next. No one is perfect, and while Ronald seems to be pretty well lined up in most categories, our opinion is that he's running late in one vital respect. Perhaps saturation with Hollywod has distorted his values. In any event he seems to have a poor grasp of the vital importance of the environment, and those things that go with it. He would seem to need to be indoctrinated in the truism set forth by Henry David Thoreau in the words: "In wildness is the preservation of the World." The sudden capitalization of resources for the quick turnover and the fast buck is more than apt to lead to disaster.

The situation being what it is, the Audubon Society, the Sierra Club, the Nature Conservancy, the Outdoor Writers Association and the rest of us who believe in "God Bless America and let's save some of it" have their work cut out for them in educating this reported descendant of an Irish king in this important factor.

In another matter that causes wonder that no one thought of it any sooner, an organization is being formed called American Farmland Trust with the ambition of preserving enough farm land, which is being permanently lost at an alarming rate, so we can eat in the future. Every day 12 square miles, or every year more than three million acres of prime productive soils are being lost by being paved over in urban sprawl.

One of the best stories we have heard lately comes from Gene (Eugene Middleton) Baker, retired for some time and living at Lake Murray, who still has so much pep that even his conversation tends to leave one breathless. At one time Gene taught at a private school in Georgia. A while back he was urged to come to a reunion of old grads and instructors, and went. During the celebration he was approached by a feeble, tottering old man, who came tap, tap, tapping up with his cane, looked up at him through bleary eyes, and in a thin, quavering voice croaked, "I was one of Gene's former pupils, with whom time has not been so kind."

One of the mysteries of the out-of-doors, which may be minor in scope, numerically speaking, is the unexplained injuries that animals suffer. Twice freshly killed rabbits have been discovered—one on a gravelly hillside, one inside a stable building. The latter was presumed to have been killed by a blood-sucking weasel, as it has two small punctures in the throat.

Long years ago, a part-collie dog, whose momma must have had a brief affair with a brindle bull—as he inherited such a coat and went by the name of Brindle—came in from running in the woods with a fearsome gash at the bottom of his chest. One could look back through a reversed arch of dangling skin for at least a foot. It seemed to be only a skinning operation, and the old dog calmly lay around waiting for it to heal. Nobody paid him any mind.

Gandolph, or Gandy, the "birdless bird dog" in spite of being a registerd English setter, who, to date has a score of half a dozen squirrels, outrun on the ground, and three rabbits, was heard to let out a yelp while running in the woods. He was later found to have a skinned place on the thigh the size of a silver dollar, and a smaller one. Apparently it was not the work of a car, as no bones were broken. With only minor attention, like old Brindle, he was soon about as good as new, making false stalks at imaginary birds and barking at who knows what.

[From The State, Nov. 17, 1980]

Harry Hampton, Conservationist, Journalist, Dies

Harry R. E. Hampton, lifelong conservationist and retired co-editor, editorialist and columnist of The State, died Sunday at his home, Woodlands. He was 83.

Mr. Hampton devoted 42 years to journalistic work on The State, as a reporter, state news editor, sports columnist, author of the well-known outdoors column "Woods and Waters," and as an editorial writer and co-editor.

He was a former president of the S.C. Wildlife Federation and secretary of the S.C. Game and Fish Association, which he founded and built into an organization of 2,000 members.

This work, as well as his writings on the outdoors, reflected what was almost a lifelong dedication to conservation.

Mr. Hampton is credited with being the guiding force behind the establishment of the Congaree Swamp as a national monument. And in the 1930s he was instrumental in forming the wildlife federation.

Conservationists and political leaders mourned his death.

"He is probably the epitome of what we think of as being a good sportsman," said Jacqueline Jacobs, wildlife federation executive director. "He has always been so interested in the natural resources and trying to take care of them for future generations—this was always uppermost in his mind."

Sen. Strom Thurmond, R-S.C., called Mr. Hampton a "fine, patriotic, public spirited citizen who made outstanding contributions as an outdoorsman, historian, writer and editor. His knowledge of South Carolina was immense and the column which he had continued to write was a reflection of his understanding and interest in our state. He will be missed by all who knew him."

And Rep. Sol Blatt, D-Barnwell, speaker emeritus of the House who went to school with Mr. Hampton at the University of South Carolina some 60 years ago, said "he was a good citizen and interested in the welfare of the people."

"He was a man of high character. He was liked by the students. He had a reputation of telling you the truth."

In his later years as a newsman, Mr. Hampton revived a form of editorial writing known as "paragraphs."

More than 50 years before, his first cousin, the late Robert E. Gonzales, had achieved wide recognition as a skilled paragrapher. Gonzales was an early editor of The State who died in 1916 of pneumonia while serving in the Army on the Mexican border.

Gonzales' paragraphs were titled "The State's Survey," and Mr. Hampton used the same name for his revival. He continued the column long after his retirement from The State in 1965.

Paragraphs are just that in length, but with both Gonzales and Hampton they were pungent, clever, often humorous comments on issues and people.

Mr. Hampton seemed to regard his columns as a memorial to his cousin. He opened each of his columns with a reprint of a Gonzales paragraph. The Gonzales paragraphs and poems had been published in book form.

Gonzales was the son of the late William E. Gonzales, an ambassador to Cuba and later to Peru and brother of Ambrose E. Gonzales and N. G. Gonzales, founder of The State. William E. Gonzales later joined his brothers on The State.

Mr. Hampton's mother was Gertrude Ruffini Elliott Gonzales Hampton, sister of the Gonzales brothers and wife of Frank Hampton.

As a descendant of the Gonzaleses, Mr. Hampton's family eventually inherited the major responsibility for The State and its acquired subsidiaries.

In 1931, Mr. Hampton began formation of the S.C. Game and Fish Association, in association with the late A. C. "Zan" Heyward. Together they traveled the state, holding meetings and making speeches in behalf of the organization and its purpose—conservation.

Meanwhile, in his "Woods and Waters" column and in editorials. Mr. Hampton gave the force of the press to the movement. It was the first major effort in South Carolina to bring collective action to the ideal of conservation.

By the end of World War II, however, the work of the Game and Fish Association had lapsed and another organization, the S.C. Wildlife Federation, was formed with Mr. Hampton as its president. He served three years as leader of the group, investing his energies and his literary endowments in the effort.

In the mid-1970s, Mr. Hampton was instrumental in efforts to preserve parts of the Congaree Swamp near Columbia as a national monument. Federal legislation creating the Congaree Swamp National Monument was passed in 1976.

Mr. Hampton loved to roam alone in the state's swamps and forests. His columns reflected this affection, dealing at times with the great swamp trees or the sight of a duck or even a turkey.

An ardent hunter, Mr. Hampton for years used an ancient shotgun to which he was devoted. It was a sad day when it simply disappeared, never to be retrieved. The substitute undoubtedly was a better gun, but he would have welcomed the recovery of the old one.

Mr. Hampton was one of the first to speak against the inroads of development and pollution which threatened the purity of natural resources.

He deplored the dumping of sewage into the Congaree River and opposed proposals to make the river navigable by building dams which he believed would flood the swamps and endanger wildlife.

And while he recognized some of the necessities of 20th Century life, he would at times speak out against "progress" itself, as in this excerpt from one of his columns:

"Some readers of Woods and Waters may have noticed that from time to time we have had things to say about that diabolically destructive force known as 'progress' in whose name more real, irreplaceable values have been destroyed than in any other. The common denominator of the average American when these matters come up is to shrug them off with the maxim, 'Well, you can't stop progress.' If things keep on the way they have been going, 'My country 'tis of thee' (whatever that might mean), we'll be forced into making it 'My country WAS a place of rocks and rills, woods and templed hills.' "

Mr. Hampton made several trips abroad and always wrote about his visits.

He also wrote penetrating editorials on foreign, national, state and local issues.

Mr. Hampton was born July 8, 1897, at Woodlands, the home of his parents on the edge of Columbia. He lived there most of his life.

He was educated in the city schools, Mayberry's and Banks' private schools, Columbia High School, Porter Military Academy in Charleston, Randolph-Macon Academy at Front Royal, Va., and the University of South Carolina. He graduated from USC with a bachelor's degree in 1919. He returned for postgraduate studies in English from 1920–21.

While at the university, he revived the sport of track after a four-year lapse without faculty sponsorship or financial assistance. He managed, equipped and coached the team and achieved an outstanding record as a track athlete, especially as a hurdler. He also played tackle on the football team.

He regarded poetry and literature as his hobbies and was active in the Poetry Workshop.

Mr. Hampton was a member of the Cotillion and a former member of the American Society of Newspaper Editors. He was a member of Trinity Episcopal Cathedral and Richland Post 6 of the American Legion.

Surviving are his widow, Mrs. Elizabeth Heyward Hampton; a daughter, Harriott Hampton Faucette of Columbia; a brother, Frank Hampton of Columbia; a sister, Mrs. Gertrude Hampton Barringer of Richmond, Va.; and two granddaughters.

Mr. Hampton's first wife was the former Mary Rebecca DeLoache, who died in 1970.

Services will be held at 4 p.m. today at Trinity Cathedral, conducted by the Very Rev. John E. Banks Jr. Burial will be in the churchyard.

Pallbearers will be George McCutcheon, Ben Morris Jr., John T. Benton, G. Cameron Todd, George E. LaFaye III, Bill DeLoach Jr., and Edward W. Mullins Jr.

Dunbar Funeral Home, Gervais Street Chapel, is in charge.

[From The State, Nov. 17, 1980]

Colleagues Praise Conservation Record

Conservationists mourned the death of Harry R. E. Hampton, a man described as the "backbone" and "leading force" behind the establishment of the Congaree Swamp National Monument and other environmental causes.

"He was always synonymous with conservation," said Jacqueline Jacobs, executive director of the S.C. Wildlife Federation. "He was very active really, in the formation of the wildlife federation back in the '30s and has just been a very devoted member of the conservation community in South Carolina.

"He is probably the epitome of what we think of as being a good sportsman," Ms. Jacobs said.

"He's just an amazing person," said James V. Elder, a Sierra Club lobbyist based in Washington but who while living in Columbia worked with Mr. Hampton to make the Congaree Swamp a monument.

"I think if you can look to conservation in South Carolina he's certainly one of the pioneers," Elder said, "He was just an outspoken person, somewhat of a rebel outside the old Southern tradition—he didn't mind stepping outside that to speak his mind."

In his "The State's Survey" column published the morning of his death, Mr. Hampton speculated about the incoming Reagan administration and what effect it would have on environmental causes.

"No one is perfect," Mr. Hampton wrote, "and while Ronald seems to be pretty well lined up in most categories, our opinion is that he's running late in one vital respect. Perhaps saturation with Hollywood has distorted his values. In any event he seems to have a poor grasp of the vital importance of the environment, and those things that go with it.

"He would seem to need to be indoctrinated in the truism set forth by Henry David Thoreau in the words: 'In wildness there is preservation of the World.' "

Ms. Jacobs noted that the column reflected Mr. Hampton's concern that "progress was not always going in the right direction. He was always concerned that we were chipping away at our natural resources."

Robert S. McDaniel, swamp park superintendent, said one anecdote sums up Mr. Hampton's relationship with the monument. He recalled meeting Sen. Ernest F. Hollings and introducing himself as park superintendent.

"Why that's Harry Hampton's park," McDaniel said Hollings told him.

"He was, I feel, the backbone of the formation of the park," McDaniel said. "He was the man who was in there pushing for it all the time. He was pretty much the spirit behind the park."

Another state official, James A. Timmerman, wildlife commission executive director, said that "for nearly a half-century Mr. Hampton has been South Carolina's most effective spokesman for wildlife conservation. He was the one who really spearheaded the campaign of South Carolina sportsmen, which resulted in the establishment of the South Carolina Wildlife Department.

"I remember him as a man of strong will and determination and a man who had a genuine interest and love for nature and its beautiful resources," Timmerman said.

Mr. Hampton's life was marked by determined efforts for achievements that in the long run benefitted many.

Even as a young man at the University of South Carolina he had that attitude. He revived the track team after a four-year period in which there was no faculty sponsorship or financial assistance.

Mr. Hampton's most lasting legacy may be the 15,000-acre swamp, which overcame numerous obstacles to become a federally protected treasure under his leadership.

Mr. Hampton saw the value of preserving the swamp near Columbia back in the mid-1950s, long before "environmentalist was a word in the dictionary," Elder said.

Elder was president of the Congaree Swamp National Preserve Association, and said his interest was spurred by Mr. Hampton. Mr. Hampton proved to be an inspiration to Elder, who had always been interested in environmental causes.

"I first met Harry at Sears in Five Points," Elder said. "I had heard him speak before." After introducing himself to Mr. Hampton and stating his interest in the swamp, Elder said, Mr. Hampton "got a shopping bag and drew me a map" of noteworthy trees in the area.

The swamp is the last remaining remnant of the original bottomland hardwoods in the Southeast. It contains some of the largest trees that grow in the nation, including cypress trees hundreds of years old.

Mr. Hampton hunted the area as a member of the Cedar Creek Hunt Club. But he put aside his hunter's interests in hopes of preserving the virgin forest.

That made some of his hunting pals angry, but after a long fight that began in the 1950s, the swamp finally became a national monument in 1976. It is to be officially dedicated soon, said Elder.

"He saw the Congaree Swamp as a unique natural resource and contacted the right people to come down and document it. And the rest is history," Elder said. "The amazing thing is that he saw that back in 1954.

"I always hoped he wouldn't pass away before the dedication came. He was just a neat guy. He made some people angry; some people didn't like him. But that's a sign that you're doing something."

In 1976, Mr. Hampton gave a newspaper interview in which he indicated that his early support for preserving the swamp—back in 1954—began "with definitely mixed emotions.

Mr. Hampton said he knew that "turning this area into a preserve might well mean the end of my roaming the swamp. This idea was not popular with my old hunting buddies, and it aroused new unpopularity with less familiar members of the loose club which enjoyed the hunting and fishing rights. But it seemed like someone should make a move."

He began trying to generate support, but there was not much interest in those days. "There was no sense of urgency to save the area," Mr. Hampton recalled.

To J. Drake Edens, wildlife commission chairman, "all wildlife enthusiasts have lost a real friend in Mr. Hampton. Just anybody interested in the out-of-doors has lost a real friend."

And one of Mr. Hampton's hunting associates, Columbia businessman Marion Burnside, put it this way: "He enjoyed his outdoors. He always did."

[From The State, Nov. 18, 1980]

HARRY R. E. HAMPTON: NATURE'S BEST FRIEND

Much which was common to the age in which he lived offended the natural bent toward the conservation of Nature which so strongly motivated Harry R. E. Hampton and shaped him into an able and courageous writer on the subject.

Mr. Hampton cherished much of the past. He found it, to his own satisfaction, superior to much in contemporary life. Yet, paradoxically, he was in some respects a man ahead of his times.

Long before this nation began to grasp the dangers of impure water and air, Harry Hampton was sounding the warning. It appeared in forthright editorials on this page and in thousands of words in his column, "Woods and Waters," on the sports pages of The State prior to his retirement in 1963.

His formal retirement as co-editor of The State by no means ended Mr. Hampton's fights for his passions of a lifetime. He continued to march forward with a brisk step, an active mind and a sharp pen until the very day of his death at 83 Sunday. The last "The State's Survey," his collection of often-pungent paragraphs, appeared on this page Sunday as it has for many years. It contained an expression of concern over the attitude of President-elect Ronald Reagan toward the preservation of natural resources.

Mr. Hampton was more than an advocate through his writings; he was a doer. For most of his long life, he was an active leader in the cause of conservation. One of his last achievements, and perhaps his greatest, was his major role in establishing the Congaree Swamp National Monument, a superb natural area in the lower part of Richland County that he loved and knew like the palm of his hand. Preserving it from the lumberman's axe was a long and difficult fight, but in the end, it was a winning fight.

For years he watched an ongoing country, engrossed in economic progress largely through advancing technology but which had no ear for admonitions such as those of Mr. Hampton. He lived, however, to see something of a nationwide awakening to the perils of the pollution he had foreseen and about which he forewarned.

But Mr. Hampton, as coeditor and editorialist, did not limit his writings to its favorite cause of conservation of natural resources. Many an editorial aimed at justice in other areas of life flowed from his typewriter. He wrote with a forthrightness which never countenanced a pulling of punches.

Editorialist, columnist, poet, hunter and onetime star athlete, Harry Hampton lived the kind of independent life he visualized as the right of every American. Under an outspoken exterior was a compassion for his fellowman and for the creatures of the swamps, and forests, and fields and streams he knew so well. His work was inspired by the talent and achievements of his Gonzales uncles, who launched The State. In many ways he was like them.

The death of Mr. Hampton has removed a South Carolinian, unalterably committed to that which he believed was right—a quality often compromised by others of his time.

His old colleagues here at The State will long swap stories about this tall, straight, rugged individualist and traditionalist who so richly added to the lore of this newspaper.

HARRY R. E. HAMPTON 1897–1980

[From the Columbia Record, Nov. 17, 1980]

South Carolina has lost a leading conservationist with the death of Harry R. E. Hampton, a man who was the "backbone" and "leading force" behind the establishment of the Congaree Swamp National Monument and other environmental causes.

Mr. Hampton was active in conservation most of his life and in 1975 received a special award from the South Carolina Wildlife Federation "in recognition of outstanding dedication to conservation for 45 years."

"He is probably the epitome of what we think of as being a good sportsman," said Dr. Jacqueline Jacobs, executive director of the state Wildlife Federation.

"He was always synonymous with conservation," Dr. Jacobs said. "He was very active in the formation of the Wildlife Federation back in the '30s and has just been a very devoted member of the conservation community in South Carolina.

"He's just an amazing person," said James V. Elder, a Sierra Club lobbyist based in Washington who worked with Mr. Hampton to make the Congaree Swamp a monument.

"I think if you can look to conservation in South Carolina he's certainly one of the pioneers," Elder said. "He was just an outspoken person, somewhat of a rebel outside the old Southern tradition—he didn't mind stepping outside that to speak his mind."

In his "The State's Survey" column published the morning of his death, Mr. Hampton speculated about the incoming Reagan administration and what effect it would have on environmental causes.

"No one is perfect," Mr. Hampton wrote, "and while Ronald seems to be pretty well lined up in most categories, our opinion is that he's running late in one vital respect. Perhaps saturation with Hollywood has distorted his values. In any event he seems to have a poor grasp of the vital importance of the environment, and those things that go with it.

"He would seem to need to be indoctrinated in the truism set forth by Henry David Thoreau in the words: "In wildness there is preservation of the World."

Dr. Jacobs noted that the column reflected Mr. Hampton's concern that "progress was not always going in the right direction. He was always concerned that we were chipping away at our natural resources."

Mr. Hampton's most lasting legacy may be the 15,000-acre Congaree Swamp, which overcame numerous obstacles to become a federally protected treasure under his leadership.

Mr. Hampton saw the value of preserving the swamp near Columbia back in the mid-1950s, long before "environmentalist was a word in the dictionary," Elder said.

Elder was president of the Congaree Swamp National Preserve Association, and said his interest was spurred by Mr. Hampton.

"I first met Harry at Sears in Five Points," Elder said. "I had heard him speak before." After introducing himself to Mr. Hampton and stating his interest in the swamp, Elder said, Mr. Hampton "got a shopping bag and drew me a map" of noteworthy trees in the area.

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Mr. Hampton said he knew that "turning this area into a preserve might well mean the end of my roaming the swamp. This idea was not popular with my old hunting buddies, and it aroused new unpopularity with less familiar members of the loose club which enjoyed the hunting and fishing rights. But it seemed like someone should make a move."

He began trying to generate support, but there was not much interest in those days. "There was no sense of urgency to save the area," Mr. Hampton recalled.

Robert S. McDaniel, Congaree Swamp park superintendent, said one anecdote sums up Mr. Hampton's relationship with the monument. He recalled meeting Sen. Ernest F. Hollings and introducing himself as park superintendent.

"Why that's Harry Hampton's park," McDaniel said Hollings told him.

"He was, I feel, the backbone of the formation of the park," McDaniel said. "He was the man that was in there pushing for it all the time. He was pretty much the spirit behind the park."

Dr. James A. Timmerman, state Wildlife Commission executive director, said, "For nearly a half-century, Mr. Hampton has been South Carolina's most effective spokesman for wildlife conservation. He was the one that really spearheaded the campaign of South Carolina sportsmen, which resulted in the establishment of the South Carolina Wildlife Department.

"I remember him as a man of strong will and determination and a man who had a genuine interest and love for nature and its beautiful resources." Dr. Timmerman said.

J. Drake Edens, Wildlife Commission chairman, said, "All wildlife enthusiasts have lost a real friend in Mr. Hampton. Just anybody interested in the out-of-doors has lost a real friend."

And one of Mr. Hampton's hunting associates, Columbia businessman Marion Burnside, put it this way: "He enjoyed his outdoors. He always did."

[From the Columbia Record, Nov. 19, 1980]

Harry R. E. Hampton

To Harry R. E. Hampton, life was a blessing to be lived in the hurly-burly of civilized community and in the quietness of creation with zest and with laughter.

Dedicated to old-fashioned virtues of courteous civility, he strode literally tall among us, conserving the best of Carolina and Columbia, conserving some of the fragmented forests and streams of his beloved state.

For 42 years, he wrote meaningful words of meaningful thought in The State newspaper—always forthrightly dedicated to truth as God gave him wisdom to see the truth. He wrote short and long pieces of prose and soared lyrically in verse which he entitled, in bookform, Random Rhymes.

Over the last 15 years, he penned "paragraphics" in the style of his cousin—the late Robert E. Gonzales—in his column, "The State's Survey." Therein he candidly, courageously and comically chronicled the wit, wisdom and foibles of Carolinians today and in yesteryear.

He relished the good company of his fellowman, yet he also deeply embraced the treasures of solitude, especially in the hallowed woods. He found solace in the swamp beside a whispering fire with "my Morris chair, a mighty fallen tree."

Amidst the "cathedral-vaulted oaks" he found "peace that blesses straining man . . . Here there is no need for harried plan; here there is no need for living lies."

As a premier conservationist, he loved the vast woods and the Congaree Swamp Monument endures as a wonderful wilderness because of his determination. In such an area, Harry Hampton said that "it's here a dogged God breaks trail for me."

As an editor, as a former president of the state's Wildlife Federation, as a sharing citizen, he left our life in a community better in many ways than he found it.

In a quatrain entitled "Redeemed," Harry Hampton bespoke words for himself:

> Howe'er, he flounders by the way,
> However black his sin may be,
> He has a chance, if he can say,
> "Let no one pull a punch for me."

None shall, Harry Hampton, as you now live among the "more living."

[From the Columbia Record, Nov. 20, 1980]

Meeting a "Swamp Rat"

As an aspiring young reporter nearly 20 years ago, I had spent the afternoon doing rewrites and when finished with the foot-high stack supplied by the city editor, I slipped out to the men's room on the second floor of the State-Record Building to wash the ink from my hands.

At the lavatory next to mine stooped a rangy and grizzled man, sloshing water onto his weathered face. He turned to me and with kind eyes, said, "How are you? I'm Harry Hampton."

He reached for a handful of paper towels. "Just came in here to wash the campfire smoke out of my eyes," he advised. "I've been in the swamp the last couple of days."

Thus was my introduction to Harry Hampton. Our acquaintance was a nodding one over the next couple of decades. Usually we spoke when he made one of his frequent trips by the paper to visit with the newsroom workers.

Earlier this year South Carolina Wildlife magazine did a feature article on Harry Hampton. The introduction said:

"Because he wrote so enthusiastically about sportsmanship and ecology—because he argued, cussed and hollered about the need to protect and maintain our wilderness, the public's concept of game and fish was turned around."

A FIGHT FOR WILDLIFE

Magazine staffer Nancy Coleman visited Harry at his "Woodlands" home for an interview and was not only impressed by the work he had done in the name of conservation in South Carolina, but she also found him to be a unique individual.

"When Hampton quotes someone, he impersonates him; when he mentions an animal, he mimics its cry, quack or gobble. He joked, he sang, he wept, he hesitated, he became furious, spilled his guts and then reasoned with himself aloud. He is both proud and self-effeacing. As a child he was a crybaby and a hell-raiser. He gives everyone and everything a nickname. He hates red tape and writing to senators, but he's been known to bother with both. When I decided to leave, he put on his camouflage hat, walked me to the car, opened my door and checked the tires."

Harry Hampton's battles with government, organizations and individuals in trying to save his beloved Congaree Swamp are well known. What many latter-day Palmetto conservationists probably don't know, however, is that he led the fight to establish what is now the South Carolina Wildlife Department.

"In 1931, 10 years after he had begun his career as a newspaperman, and three years after the hunting license law was established," Coleman wrote, "Hampton began a bid to sportsmen through his 'Woods and Waters' column of The State newspaper, 'Whether or not they know it, or admit it,' he wrote, 'the preservation of our wildlife is of importance to every man, woman and child in this state, and this movement deserves the wholehearted support of every right-thinking individual within our borders, whether hunter, fisherman or not.' "

A GOOD FRIEND NOW GONE

At the prodding of the late Zan Heyward, said Coleman, Hampton began writing a series of articles for his "Woods and Waters" column, pushing the formation of a state game commission.

"At a time when game laws and management were still primitive, he urged that fees from hunting licenses and shell taxes go to the game department and that paid wardens check game bags and shoots. He advocated the issue of fishing licenses, restocking programs and a limit on fishing seasons during spawning."

But, his hopes for a state game commission went unfulfilled during the 1930s and 1940s, and even into the decade of the 1950s.

Hampton viewed a lot of the problem as politics, but he laid much of the blame at the feet of the state's sportsmen, too. In a letter to the secretary of the Game and Fish Association which he was instrumental in organizing, Hampton wrote in 1949:

"These so-called sportsmen of South Carolina obviously have lead up their butts till its choking the bastards to death. If they had any pride, anything but the wish to keep on hogging game in the same old way without running risk of interference they'd get up and do one little something."

Finally, in 1952, the Wildlife Resources Department was established. But, Hampton didn't rest on his laurels. He went right to work to find a way to preserve Congaree Swamp.

On Tuesday night of this week, master of ceremonies Yancey McLeod stopped the festivities at the annual Columbia Ducks Unlimited banquet to remind the group that conservation in South Carolina had lost a great friend.

He will be sorely missed.

[From the Columbia Record, Nov. 24, 1980]

Legacy for a Daughter

(By Harriatt Faucette)

My earliest memory of Daddy is of trying to keep up with him when we walked in the woods. At 6 feet 4 inches-plus, he had legs that covered in a single stride a distance that I had to half-run in order to cover.

There are good childhood memories of playing beside his duck pond. My father worked for decades to build and maintain a duck pond in a swampy area of his property, almost singlehandedly constructing an impressive earthen dam. My friends and I loved to play on the messy banks and in the tangled vines on the banks while he labored over his projects.

My father sometimes would sit on the side of my bed at night, a big hand massaging my nose, "trying to get that bump out of it." He was disappointed that I hadn't inherited his straight and handsome nose and for a while he thought he might be able to force it into the proper shape.

Once when I was sick, he spent hours in the kitchen—no doubt making a terrible mess of my mother's range and oven—creating a special rice pudding to tempt my appetite: "something nourishing" in his conconcoction of milk and cream, eggs and raisins.

This rugged outdoorsman was the person who took me to see my first plays, my first ballet, to hear music that made his eyes well with tears. This ardent hunter often seemed as thrilled about bringing home a bunch of wildflowers from the woods as he did about bringing home anything. This tough-minded journalist could quote Shakespeare and the Romantic poets by the hour—totally from memory.

So many historical facts were stored in his mind that the older I grew, the more in awe I was of my father's capacity to remember it all. If anyone asked him a question he couldn't answer, his insatiable curiosity would lead him to find the information. Frequently, right up until the end of his life, he would spot a small item in a newspaper or magazine that intrigued him. He'd launch a correspondence with people all over the country—even in Europe—to find out more about the subject.

My father was sentimental about his family—not only about his blood relations but also about the grown stepchildren he "adopted" when he remarried after my mother's death. One of his proudest possessions was the red velvet Christmas vest his stepdaughter made for him; he wore it every holiday. He wrote all of us a poem, later included in his little volume, "Random Rhymes," which he titled "Drop By," urging us to come to see him more often. The first verse read, "The doors of Woodlands open wide, at any time you choose. For cake and wine by fireside, a modicum of booze." Often, he tempered his sentimentalism with this kind of humor.

Family dinners were special to him. He loved to sit at the head of the table, carving set in hand, while he recited Hamlet's soliloquy or regaled us with one of his favorite songs. For these occasions, he always brought out his homemade wine from the "wine house"—an intriguing place filled with his own unique inventions in the way of winemaking equipment. Guests never knew he'd strained the grapes through old undershirts—clean ones, of course.

In his 80s, my father published two books—the little volume of poems and a collection of his outdoor columns plus reminiscences of his childhood, which he called "Woods and Waters and Some Asides." The books were written mainly to give pleasure. If he heard of friends who wanted a copy, instead of selling one to them he'd hop into his battered Ford the "Yellow Peril," and take them a book—complete with a personal inscription.

This kind side wasn't seen by everyone; some people found him gruff. But my father was much better than most of us about visiting sick friends and shut-ins—the sort of thing I mean to do but for which I seldom make time.

Last fall the two of us took a day-long trip to Edgefield, where I was assigned to write a feature story. It was a magnificent day—clear and sunny and crisp. He wouldn't hear of eating lunch in a restaurant, so we packed a picnic which we eventually found a spot to enjoy—beside the orchard of an accommodating farmer. He set up two of his campstools and we sat beside the peach trees to have our meal of fried chicken and hot chocolate. A couple of weeks ago, Daddy said to me, "Let's take another trip soon like the Edgefield one." But we never had a chance to take such a jaunt together again.

Last week my father, Harry Hampton, died at 83. His newspaper colleagues have written beautiful tributes to him as a journalist, an outdoorsman and a tireless conservationist. All I can add in the way of a written tribute are these special ways I knew him as an only daughter.

For such an active man, one couldn't imagine a better way to go than peacefully in his sleep. I like to think that in the moments before his big heart finally stopped, he was dreaming of walking again among the giant cypresses of the Congaree Swamp or of crouching in a duck blind on a cold morning.

But perhaps he was dreaming of returning from the hunt and sprawling before the fire, his long frame prone on the floor. This was one of his favorite positions.

"Home" to my father was the best place on earth. A chapter in his second book was called "The Sound of Home." In this chapter he wrote about how he loved his home, "Woodlands," but he added that home is just as precious to the "horny handed man who stables and feeds his weary mule" and enters the "battered unpainted door" of a simple cabin.

"No other word could serve so well in denoting the place of Eternal Rest," he wrote. "It still has that ring of peace and the falling away of care."

It is comforting to know he felt that way about going home.

[From the Spartanburg Herald, Nov. 17, 1980]

Retired Editor of The State, Hampton, Dies

Columbia.—Harry R. E. Hampton, retired editor of The State newspaper and a renowned conservationist, died Sunday at his home at the age of 83.

A descendant of the Gonzales family, which founded the newspaper in 1891, Hampton was a leading force in the establishment of the South Carolina Wildlife Federation and the designation of the Congaree Swamp as a national monument.

The 1919 University of South Carolina graduate worked for The State for 42 years—as reporter, state news editor, sports and outdoors columnist, editorial writer and co-editor—before retiring in 1965.

After his retirement Hampton continued to write his column, "The State's Survey," one-paragraph observations on news, styles and manners.

Sen. Strom Thurmond, R-S.C., Sunday called Hampton "a fine, patriotic, public-spirited citizen who made outstanding contributions as an outdoorsman, historian, writer and editor.

"His knowledge of South Carolina was immense and the column which he had continued to write was a reflection of his understanding and interest in our state," the senator added.

Funeral services are scheduled for 4 p.m. Monday at Trinity Episcopal Cathedral in Columbia, with burial in the churchyard.

[From the Greenville Piedmont, Nov. 17, 1980]

Editor, Conservationist Dies

Columbia.—Funeral services were scheduled today for Harry R. E. Hampton, retired newspaper editor and long-time conservationist who died Sunday at his home. He was 83.

Hampton was a descendant of the Gonzalez family, which founded The State newspaper in Columbia in 1891. He served variously as co-editor, editorial writer, sports and outdoors columnist, state news editor and reporter for the paper during a 42-year career.

The 1919 University of South Carolina graduate played important roles in the establishment of the South Carolina Wildlife Federation and the designation of the Congaree Swamp as a national monument.

Hampton was the "backbone" behind the creation of the Congaree Swamp monument in 1976, according to park Superintendent Robert S. McDaniel. Hampton and the late A.C. Heyward helped found the state Wildlife Federation in the 1930s.

After his retirement in 1965 Hampton continued to write "The State's Survey," his column of one-paragraph observations on news, styles, manners and historical events.

Sen. Strom Thurmond, R–S.C., called Hampton "a fine, patriotic, public-spirited citizen who made outstanding contributions as an outdoorsman, historian, writer and editor.

"His knowledge of South Carolina was immense and the column which he had continued to write was a reflection of his understanding and interest in our state," the Senator added.

Funeral services are scheduled for 4 p.m. at Trinity Episcopal Cathedral in Columbia, with burial in the churchyard.

Hampton is survived by his wife, Elizabeth Heyward Hampton; a daughter, Harriott Faucette of Columbia; a brother, Frank Hampton of Columbia; a sister, Gertrude H. Barringer of Richmond, Va., and two granddaughters.

[From the Greenville News, Nov. 17, 1980]

Conservationist Harry Hampton Dies At 83

Columbia.—Harry R. E. Hampton, 83, a well-known South Carolina conservationist and newspaperman, died Sunday at his home.

Hampton, a descendant of the Gonzales family, which founded The State newspaper in 1891, had worked for the newspaper for 42 years as a reporter, state news editor, sports columnist, author of the outdoors column "Woods and Waters," and as an editorial writer and co-editor.

A leading conservationist for years, Hampton was called the "backbone" behind the establishment of the Congaree Swamp as a national monument in 1976.

"He was, I feel the backbone of the formation of the park," park superintendent Robert S. McDaniel said Sunday "He was pretty much the spirit behind it."

Sen. Strom Thurmond, R–S.C., called Hampton a "fine, patriotic, public-spirited citizen who made outstanding contributions as an outdoorsman, historian, writer and editor. His knowledge of South Carolina was immense and the column which he had continued to write was a reflection of his understanding and interest in our state."

After his retirement, Hampton continued to write a column on the Sunday editorial page called, "The State's Survey."

He was a paragrapher, a throwback to the style of making tart, one-paragraph observations on news, styles and manners.

[From the News and Courier, Nov. 17, 1980]

H. R. E. Hampton, Former Editor of the State, Dies

Columbia.—Harry R. E. Hampton, retired editor of The State newspaper and a renowned conservationist, died Sunday at his home at the age of 83.

A descendant of the Gonzales family, which founded the newspaper in 1891, Hampton was a leading force in the establishment of the South Carolina Wildlife Federation and the designation of the Congaree Swamp as a national monument.

The 1919 University of South Carolina graduate worked for The State for 42 years—as reporter, state news editor, sports and outdoors columnist, editorial writer and Co-editor—before retiring in 1965.

Hampton was the "backbone" behind the establishment of the Congaree Swamp National Monument in 1976, according to park Superintendent Robert S. McDaniel.

Hampton and the late A. C. Heyward helped found the state Wildlife Federation in the 1930s.

After his retirement Hampton continued to write his column, "The State's Survey."

Funeral services are scheduled for 4 p.m. Monday at Trinity Episcopal Cathedral in Columbia, with burial in the churchyard.

Hampton is survived by his wife, Elizabeth Heyward Hampton; a daughter, Harriott H. Faucette of Columbia; a brother, Frank Hampton of Columbia; a sister, Gertrude H. Barringer of Richmond, Va., and two granddaughters.

[From the Evening Post, Nov. 17, 1980]

Rites Held in Columbia for Ex-Newspaper Editor

Columbia.—Funeral services were held today for Harry R. E. Hampton, retired newspaper editor and long-time conservationist, who died Sunday at his home. He was 83.

Hampton was a descendant of the Gonzales family, which founded The State newspaper in Columbia in 1891. He served variously as co-editor, editorial writer, sports and outdoors columnist, state news editor and reporter for the paper during a 42-year career.

The 1919 University of South Carolina graduate played important roles in the establishment of the South Carolina Wildlife Federation and the designation of the Congaree Swamp as a national monument.

Hampton was the "backbone" behind the creation of the Congaree Swamp monument in 1976, according to park Superintendent Robert S. McDaniel. Hampton and the late A. C. Heyward helped found the state Wildlife Federation in the 1930s.

After his retirement in 1965 Hampton concontinued to write "The State's Survey," his column of one-paragraph observations on news, styles, manners and historic events.

Sen. Strom Thurmond, R-S.C., called Hampton "a fine, patriotic, public-spirited citizen who made outstanding contributions as an outdoorsman, historian, writer and editor.

"His knowledge of South Carolina was immense and the column which he had continued to write was a reflection of his understanding and interest in our state," Thurmond added.

Funeral services were held at Trinity Episcopal Cathedral in Columbia, with burial in the churchyard.

Hampton is survived by his wife, Elizabeth Heyward Hampton; a daughter, Harriott H. Faucette of Columbia; a brother, Frank Hampton of Columbia; a sister, Gertrude H. Barringer of Richmond, Va.; and two granddaughters.

[From the Sun News, Nov. 18, 1980]

Former Editor Of The State Dies

Columbia.—Harry R. E. Hampton, former co-editor of The State newspaper and a pioneer conservationist in South Carolina, was buried in the churchyard of Trinity Cathedral Monday afternoon.

Hampton died Sunday at his home, Woodlands, at the age of 83.

His name was synonymous with conservation in South Carolina.

Although 42 years of his life were devoted to The State as a reporter, state news editor, sports columnist, author of the well-known sports column "Woods and Waters", editorial writer and co-editor, he was best known for his pioneer efforts in conservation.

Hampton founded the S.C. Wildlife Federation and the S.C. Game and Fish Association, an organization which he built into a 2,000-member group.

"He was always synonymous with conservation," said Jacqueline Jacobs, executive director of the S.C. Wildlife Federation. "He is probably the epitome of what we think of as being a good sportsman."

His death was mourned by state and national figures.

U.S. Sen. Strom Thurmond, R–S.C., remembered Hampton's contributions as an outdoorsman, historian and writer.

"His knowledge of South Carolina was immense, and the column which he had continued to write was a reflection of his understanding and interest in our state," Sen. Thurmond said. "He will be missed by all who knew him."

"He was just an amazing person," said James V. Elder, a Sierra Club lobbyist in Washington who worked with Hampton while living in Columbia and helped him have the Congaree Swamp declared a national monument.

Hampton continued his column "The State's Survey" long after his retirement from The State in 1965.

He opened each of his columns with a reprint of an earlier column by his late cousin Robert E. Gonzales, an early editor of The State who died in 1916.

Becauses of his relationship with the Gonzales family, the Hampton family eventually inherited major responsibilities for operation of The State and its acquired subsidiaries, including The Sun News.

He was disturbed by the dumping of sewage into the Congaree River and fought proposals to make the river navigable by building dams which he felt would flood the swamps and endanger the wildlife.

His feelings about "progress" were best expressed in one of his columns.

"Some readers of Woods and Waters may have noticed that from time to time we have had things to say about that diabolically destructive force known as 'progress' in whose name more real, irreplaceable values have been destroyed than in any other," he wrote. "The common denominator of the average American when these matters come up is to shrug them off with the maximum, 'Well, you can't stop progress.' If things keep on the way they have been going, 'My country 'tis of thee (whatever that might mean), we'll place of rocks and rills, woods and templed be forced into making it 'My country WAS a hill.' "

Hampton was born July 8, 1897, at his parents' home, Woodlands, near Columbia, where he lived most of his life.

He graduated from the University of South Carolina in 1919 with a B.A. degree and returned for post-graduate studies in English in 1920–21.

Surviving are his widow, Mrs. Elizabeth Heyward Hampton; a daughter, Harriott Hampton Faucette of Columbia; a brother, Frank Hampton of Columbia; a sister, Mrs. Gertrude Hampton Barringer of Richmond, Va.; and two granddaughters.

[From the Sun News, Nov. 18, 1980]

Harry R. E. Hampton

The death on Sunday of Harry R. E. Hampton, a major owner of The State-Record Co., of which we, Sun Publishing Co., are a part, leaves a void for both journalism and for conservation in South Carolina.

Mr. Hampton came up through the ranks from reporter, and he learned his craft well. He was a descendant of the founders of the newspaper, the Gonzales brothers, and he knew his responsibility lay in furthering the cause of journalism in South Carolina. He rose to co-editor, and his contributions to journalism must not be ignored.

Indeed, after his retirement, Mr. Hampton could not keep his typewriter quiet, and his reinstitution of "The State's Survey," a weekly editorial page piece, became a focal point for Sunday reading in The State. The column was patterned after articles that had been begun by Robert E. Gonzales, who died at age 28 in 1916 of pneumonia during his participation in American troop movements to the Mexican border. The late Mr. Gonzales had exhibited an early ability to say in one paragraph what it takes some of us a full story, and Mr. Hampton revitalized that enterprise.

That his last column, appearing on the day he died, was also devoted in part to conservation also reaffirms his deep and abiding interest in this state and this nation. Mr. Hampton was one of the leaders of conservation movements in our state even while he considered himself a conservative, proving again that conservation is, and always has been, a grass roots movement, despite efforts to color it different in recent years.

So, while journalism and conservation will miss his progressive input, we will also miss him in a personal way. Never can we forget the smile whose omnipresence signaled Mr. Hampton was around. God rest this man of understanding and of leadership.

MESSAGES FROM THE HOUSE

At 11:57 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the following bill:

S. 1097. An act to establish a national tourism policy, a Cabinet level coordinating council and a nonprofit corporation as an implementing agency to carry out the national tourism policy.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 924. An act to provide for protection of the John Sack Cabin, Targhee National Forest in the State of Idaho.

The message further announced that the House had passed the following bills, with amendments, in which it requests the concurrence of the Senate:

S. 442. An act for the relief of Isaac N. Hulver of Kansas City, Mo; and

S. 2261. An act for the relief of Albert and Eulalia Rodriguez.

The message also announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con Res. 458. A concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 2363.

At 12:28 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. Whitten, Mr. Boland, Mr. Natcher, Mr. Smith of Iowa, Mr. Addabbo, Mr. Long of Maryland, Mr.

Roybal, Mr. McKay, Mr. Bevill, Mr. Duncan of Oregon, Mr. Benjamin, Mr. Dixon, Mr. Conte, Mr. Michel, Mr. McDade, Mr. Andrews of North Dakota, Mr. Edwards of Alabama, and Mr. Myers as managers of the conference on the part of the House.

The message also announced that the House had passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1624. An act for the relief of Francisco Pang.

The message further announced that the House has passed the following bills, without amendment:

S. 120. An act for the relief of Maria Elena Foley and Caritina Ann Foley;

S. 327. An act for the relief of Shavji Purshottam Dusara, his wife Vasanti Shavji Dusara, and their child, Shreedhar Dusara;

S. 1227. An act for the relief of Munir P. Benjenk;

S. 1374. An act for the relief of Lynn Rufus Pereira;

S. 1772. An act for the relief of Min-Zen Lin;

S. 1847. An act for the relief of Ana Marlene Orantes; and

S. 2027. An act for the relief of James Daniel Bronson.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 3:49 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1097. An act to establish a national tourism policy and an independent Government agency to carry out the national tourism policy;

S. 3096. An act to amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wisconsin;

H.R. 5888. An act to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes;

H.R. 6771. An act to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes;

H.R. 6796. An act to amend and extend title VII of the Comprehensive Employment and Training Act;

H.R. 8195. An act to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases; and

H.J. Res. 615. Joint resolution for appointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.

The enrolled bills and joint resolution were subsequently signed by the Acting Presdent pro tempore (Mr. DeConcini).

At 4:17 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following bill, without amendment:

S. 3261. An act to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 642. Joint Resolution providing for convening of the 1st session of the 97th Congress on January 5, 1981, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary reported that on today, Friday, December 12, 1980, he had presented to the President of the United States the following enrolled bills:

S. 1142. An act authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes;

S. 1985. An act to authorize the Secretary of Agriculture to convey lands in the State of Arizona, to authorize the Secretary of the Interior to convey certain interests in lands in the State of Arizona, to amend the act of March 14, 1978 (92 Stat. 154), and for other purposes; and

S. 2726. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1981, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5108. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on a proposed letter of offer to Greece for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-5109. A communication from the Acting Counsel of the Department of Energy, transmitting, pursuant to law, notices of meetings related to the international energy program; to the Committee on Energy and Natural Resources.

EC-5110. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Mapping Problems May Undermine Plans for New Federal Coal Leasing"; to the Committee on Energy and Natural Resources.

EC-5111. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports concerning visa petitions accorded third and sixth preference classification under section 204(d) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-5112. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for grant programs without specific regulations; to the Committee on Labor and Human Resources.

EC-5113. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for part 604—Federal-State Relationship Agreements; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN:

S. 3262. A bill for the relief of Alberto Quilop Banez and Eloisa Yu Panse, his wife; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 3263. A bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enter the Armed Forces after September 30, 1981; to the Committee on Veterans Affairs.

By Mr. JEPSEN:

S. 3264. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for home-care services provided by a taxpayer to members of the family; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON:

S. 3263. A bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enter the Armed Forces after September 30, 1981; to the Committee on Veterans' Affairs.

ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE ACT OF 1980

● Mr. CRANSTON. Mr. President, I am introducing today S. 3263, the proposed All-Volunteer Force Educational Assistance Program Act of 1980. This measure would amend title 38, United States Code, to add a new chapter 30, All-Volunteer Force educational assistance, which would establish a new program of educational incentives designed to increase recruitment of qualified men and women into this Nation's Armed Forces and to assist in the retention of skilled and experienced personnel in the military.

Mr. President, I remain deeply committed to and strongly supportive of the All-Volunteer Military Force. But there is widespread recognition that the all-volunteer military faces a major challenge as the recruitment-age population continues to decrease. Numbers tell the story of this challenge. The Army achieved a land-force level of only 453,300 persons in fiscal year 1979—27,300 short of its authorized strength of 480,600. The Navy has had such acute personnel shortages that these deficiencies are beginning to dictate policy issues such as size of the Naval fleet.

For example, this year the Congress considered adding funds to the defense budget request to reactivate two naval ships, the U.S.S. *Oriskany*, an aircraft carrier, and the U.S.S. *New Jersey*, a battleship. As anxious as the Navy is for additional ships, its leadership argued against these reactivations on the grounds that it lacked qualified personnel for the crews. The Air Force, like the Navy, lacks people with critical skills. The shortage of pilots, for example, now numbers 1,302. And, even if the current retention rates hold, it is estimated that that shortfall will grow to 3,400 pilots and that a shortage of 900 navigators will develop by 1982.

Congress has already taken aggressive action to keep the All-Volunteer Force attractive to potential recruits and to its current members. Major pay increases were enacted this year by Congress—both across-the-board increases and special-pay increases for those with skills in acute short supply. The military compensation system, however, has always been made up of both pay and benefits, and I believe that educational benefits have a special, very significant role to play in increasing the numbers and quality of the people we attract to and retain in the armed services. Thus, I believe that educational incentives, if properly designed, can help insure the success of the All-Volunteer Force. This view is shared by numerous high officials of the Defense Department, including the Chief of Staff of the Army.

BACKGROUND

On June 22, 1944, Public Law No. 346, 78th Congress, the Servicemen's Readjustment Act of 1944, was signed by President Franklin D. Roosevelt. This legislation, which came to be known as the GI bill, created a major educational and vocational assistance program for those who had served the Nation during World War II. Since 1944, the original GI bill and successor programs—the Korean-conflict and the post-Korean conflict, or Vietnam-era, GI bills—have provided education and training for more than 17.7 million veterans of World War II, the Korean conflict, the post-Korean period, and the Vietnam era. My own work with the current, Vietnam era GI bill began in 1969 when I started my Senate service as chairman of the then Subcommittee on Veterans' Affairs of the Committee on Labor and Public Welfare.

The first GI bill legislation that I authored was the Veterans' Education and Training Amendments Act of 1970, Public Law 91-219. Since then we have revised the current, Vietnam-era GI bill program—which is codified in chapter 34 of title 38, United States Code—five times with laws in 1972, 1974, 1976, 1977, and 1980.

In 1976, Public Law 94-502 established, as a successor to the current GI bill, the chapter 32, Post-Vietnam Era Veterans' Educational Assistance, program—popularly known as VEAP. It was designed, in part, to achieve a reasonable balance between those who sought complete termination of GI bill benefits for persons entering the service after the end of the Vietnam era and those who supported continuation of the Vietnam-era GI bill without alteration. In some respects, VEAP might be viewed as a "5-year experiment" in developing an appropriate successor to the curernt Vietnam-era GI bill.

The chapter 32 program provides an educational assistance opportunity to those who entered the Armed Forces after December 31, 1976, and are thus not eligible for the current chapter 34 GI bill. The program, a contributory-matching one, was established to assist young men and women in obtaining an education they might not otherwise be able to afford and to promote and assist the All-Volunteer Force by attracting qualified men and women to serve in the Armed Forces.

Under VEAP, servicemembers who are eligible for benefits may elect to contribute from $25 to $100 per month—modified from $50 and $75, respectively, by Public Law 96-466 this year—toward their VEAP accounts. After completion of the servicemember's initial tour of duty or 6 years of service, whichever is less, the VA matches the servicemember's contribution on a 2-for-1 basis if the individual enrolls in an approved educational program. Under the law, the maximum contribution by a servicemember is $2,700 which, when matched with $5,400 of VA funds, provides a total of $8,100 for veteran's educational expenses which may be used in monthly payments of up to $225 for up to 36 months. In addition, the Department of Defense may make additional contributions to the servicemember's VEAP account, and the Department is currently testing a variety of additional VEAP incentives—or "kickers"—in order to assess their value as recruitment and retention devices.

The VEAP authority is scheduled to expire on December 31, 1981, unless the President makes a recommendation to the Congress that the program should be continued, neither the House nor the Senate adopts a resolution of disapproval of the President's recommendation, and the Department of Defense assumes budgetary responsibility for payment of the matching funds.

NEED FOR A NEW PROGRAM

However, Mr. President, evaluations of VEAP's success as a recruitment and retention device have been less than encouraging.

The Department of Defense in its June 1980 "Third Annual Report to the Congress on the Post-Vietnam Era Veterans' Educational Assistance Program," concluded that VEAP played only "a moderately important role in the enlistment decisions of some participants. * * *" The report suggested that there is a "need for a careful reassessment of the program's overall 'attractiveness' as an enlistment incentive." The VA, in its portion of the third annual report on VEAP, submitted on May 2, 1980, concluded that "early indicators lead to a less than optimistic view as to the program's viability."

Mr. President, these nonendorsements of VEAP were enlarged upon and reiterated by others at the June 19 hearing of the Committee on Veterans' Affairs which I called to focus on the role of educational incentives in the All-Volunteer Force. During the course of that hearing, the committee received much testimony citing the failure of VEAP as a recruitment tool and supporting the concept of a new program of educational incentives for the All-Volunteer Force—including testimony from the distinguished Senators from Colorado (Mr. ARMSTRONG), Maine (Mr. COHEN), and Virginia (Mr. WARNER), who have also introduced proposals addressing this issue. In addition, a most valued member of our committee and of the Armed Services Committee, the Senator from South Carolina (Mr. THURMOND), has introduced such legislation.

Dr. Charles Moskos, a well-known and widely-respected military sociologist, pointed in his testimony to the failure of all four services to meet 1979 recruitment goals, the severity of manpower shortages in the ground combat arms, and the low educational levels of new recruits. He stated, "The major barriers to more effective recruitment have been the elimination of the GI bill in 1976 and concurrent expansion of Federal assistance to college students." He concluded that "[t]o meet military manpower needs in the all-volunteer context and to pursue equity, there must be an immediate restoration of post-service educational benefits for active-duty military members * * *."

Moreover, it is clear that offering an attractive program of educational incentives is a more effective approach to enhancing the recruitment and retention of well-qualified personnel than military pay increases alone. As Dr. Moskos testified:

> Large raises in military pay for lower enlisted personnel were the principal rationale to induce persons to join the all-volunteer force. This has turned out to be a double-edged sword, however. Youth survey show that cash motivates less qualified youth (for example, high school dropouts) to join the armed services while having a negligible effect on college bound youth. Disproportionate emphasis on recruit pay, moreover, diverts compensation away from the career and technical force, precisely the areas where retention difficulties are most severe.

A June 1973 report to the Senate Committee on Armed Services prepared by the Brookings Institution, entitled the "**All Volunteer Armed Forces**, Progress, Problems, and Prospects", stated that "data suggest that for a large number of potential enlistees, a paid school option might well have greater appeal than high pay. Moreover, recruits attracted by educational incentives would enhance the overall quality of the All-Volunteer Force."

Mr. President, the role a program of educational incentives can play is also evidenced by the results of a survey of Army recruits conducted by the Army in 1975 prior to the time that eligibility for the current GI bill was terminated. The survey found that one of every four recruits definitely would not have enlisted without the GI bill. Another 36 percent of those surveyed were not certain whether they would have enlisted without the GI bill.

Just last week, the Army Chief of Staff, Gen. Edward C. Meyer, renewed his call for a reestablishment of GI bill benefits as a means of enhancing the attractiveness of military service and remedying the most immediate problem faced by the Army, a critical manpower shortage.

The concept of a program of educational incentives as a recruitment and retention device to strengthen our Nation's defense was supported at our hearing by the Fleet Reserve Association, the Air Force Sergeants Association, the Noncommissioned Officers Association, the National Association for Uniformed Services, The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and the American Veterans Committee.

A TWO-TIER CONCEPT

Mr. President, my proposal would establish a two-tier approach. The first tier, the basic educational assistance program, would be available to all those entering the service—or reenlisting in the service—on or after July 1, 1981. Eligibility would be established by completion of 36 months of service after the date of such enlistment or reenlistment followed by discharge or release under conditions other than dishonorable. Completion of 36 months of service would entitle an individual to 36 months of basic educational assistance benefits of $250 a month—or $9,000 in total assistance. These benefits would be paid at the rate of $250 a month for enrollment in a full-time program of approved education or training and would be proportionately reduced for less-than-full-time training.

In addition to the basic program, this legislation would provide a higher, second tier of supplemental educational assistance. Eligibility for this supplemental assistance would be limited to those who have completed the requisite service for the basic program, who have a high-school diploma or equivalency certificate prior to completion of the 3-year minimum service requirement, who have a discharge under honorable conditions—that is, an honorable or general discharge, a criterion which would not be met by an administrative discharge under other than honorable conditions—and who either serve a minimum of 6 years active duty or a minimum of 4 years on active duty and 4 years in the Ready Reserve. Individuals meeting these eligibility criteria would earn supplemental educational assistance at the rate of $375 a month for each month of continuous active-duty service beyond the 3 years required for the basic benefits.

For example, those who serve a total of 6 years would earn the maximum supplemental educational assistance of $13,500, for a maximum total level of assistance of $22,500—$9,000 under the basic program and $13,500 under the supplemental. Those who serve at least a fourth year on active duty and make a commitment to serve 4 years in the Ready Reserve would earn $375 for each month of service in excess of the 36-month minimum service requirement for basic assistance. For example, an individual who serves 5 years on active duty and enters into a 4-year Ready Reserve commitment would earn $9,000 under the supplemental program in addition to the $9,000 under the basic program.

These supplemental benefits would generally be paid in the same way as the basic benefit—that is, at $250 a month for full-time pursuit—but could be paid, at the individual's choice, at a rate of up to $500 for enrollment in a full-time program of education and be combined with the basic benefit for a total maximum monthly assistance level of $750. At the $500 monthly rate, the maximum number of months for use of supplemental benefits would be 27 months, but the basic benefits would continue for a full 36 months.

Mr. President, as introduced, this measure would permit a veteran to elect to receive payment of up to $500 per month in supplemental educational assistance without having to meet any prescribed criteria for that election, such as the costs of education or whether the veteran has any dependents. I recognize that it may be desirable to include such criteria in the law, but I have decided not to include them in the bill at this point because the absence of limitations on the veteran's election would provide maximum flexibility and would minimize the costs of administering the program. However, I would stress that, in further deliberations on the measure, I will carefully review this issue.

Finally, Mr. President, individuals qualifying for the supplemental program could, following completion of 12 years of active service, transfer their entitlement—in whole or in part—to a spouse or child.

DELIMITING PERIOD AND PROGRAM ADMINISTRATION

With respect to both tiers of the program, individuals would generally have 10 years following discharge or release from active duty in which to use their benefits—generally the same period as under the current chapter 34 GI bill. In-service use of benefits would be permitted following completion of the 36-month minimum-service requirement. The VA would be charged with the responsibility of administering the program, and the administration would be similar to the administration of benefits under the current GI bill.

With respect to funding of the program, the VA would be responsible for the basic assistance portion of the cost of the Department of Defense, the supplemental assistance portion. Based on a preliminary estimate from the Congressional Budget Office, the cost of the program would be about $150 million in fiscal year 1985, the first full year in which basic benefits would be paid. Subsequently, the cost would rise to approximately $1 billion. CBO estimates that 120,000 persons would be in training under the program in fiscal year 1985 and that 500,000 to 600,000 would be in training in fiscal year 2000.

Every two years, the Secretary of Defense and the Administrator of Veterans' Affairs would be required to report to the Congress on the extent to which benefit levels are adequate to achieve the twin purposes of providing education and promoting recruitment and retention, on the continuing necessity for the program, and on its administration.

The proposal would repeal the provisions that could provide—through Presidential initiative without congressional disapproval—for the continuation of eligibility for the VEAP program for new recruits beyond December 31, 1981, but those who are participants in that program could continue their participation in it and would not be adversely affected in the event of such repeal.

PROMOTION OF RECRUITMENT AND RETENTION

Mr. President, the goals of promoting recruitment and retention in the military will be served by this legislation in a variety of ways. First, the benefits will encourage many individuals to enlist in the military for the first time. Recruiters will welcome this powerful tool to encourage people to enlist in order to finance their educations through military service.

Second, this educational program is designed to encourage entrants into military service to complete their initial terms of service. The costs to the military are very high when military personnel—especially first-term personnel—fail to complete enlistments. The armed services must make a large outlay of funds to train and pay a new recruit but realize little return on that investment when the enlistee fails to complete his or her term of service. This bill would deal with the problem in two ways. Most important, no benefits would accrue to a person who fails to complete a 3-year minimum service requirement. Also, it would encourage the enlistment of high school graduates—since a high school graduate will be eligible for both the basic and the supplemental educational assistance benefits—and experience has shown that high school graduates are far more likely to complete their terms of service than are non-high-school graduates.

Third, this educational assistance program would provide incentives for active-duty personnel to remain in the military. Current active-duty personnel will have a very substantial incentive to reenlist in order to begin to earn the benefits which would be made available under the new program. Additionally, the program is designed to become increasingly attractive beyond the initial 3-year term of service and would therefore encourage individuals to remain in the service for longer periods. In particular, the program would encourage military personnel to serve for up to 6 years in order to earn maximum entitlement to the higher, supplemental educational assistance benefits. It would also provide an incentive for service until the critical midcareer stage since those who want to earn educational benefits that may be transferred to their children and spouses can do so by remaining in the service for 12 years. Studies have shown that if military pay and benefits can encourage military personnel to stay 10 to 12 years, they are much more likely to serve until retirement age in order to earn full pension benefits. In recent years, the tough challenge has been to keep people in as long as 10 to 12 years.

CONCLUSION

In closing, I want to stress that my proposal is for an essentially contractual program—a very different concept from the World War II, Korean conflict, and current, Vietnam-era GI bill. Under this proposal, the basic benefits are payable only to those who satisfactorily complete a full, contracted for 3 years of service. Those who leave the service without serving 3 years would receive no educational benefits at all—regardless of the reason for leaving, even if the reason is medical disability.

In this connection, however, I point out that those who are given medical early discharges—or who otherwise are given early discharges and develop ratable service-connected disabilities—and who need training or education to overcome the handicap of their service-connected disability would be entitled to educational and vocational assistance through the VA's rehabilitation program under chapter 31 of title 38, a program just revised, improved, and expanded in Public Law 96–466.

Mr. President, as I have noted, my proposal is designed to contribute to the recruitment and retention of well-qualified personnel in the All-Volunteer Force, and I beileve it is fashioned in such a way as to do so in an equitable, efficient, and cost-effective manner. I intend to seek enactment of legislation along the lines of this proposal next year. However, I recognize that there are many other viable and worthwhile proposals pending or in preparation that also need to be considered. I am introducing this measure at this time so as to solicit views, comments, and suggestions on it with a view toward introducing another version at the outset of the 97th Congress after having had an opportunity to review and take into account the input of any and all who wish to contribute. I look forward to working closely with all interested in developing and refining a viable, permanent program of educational incentives for the All-Volunteer Force, and invite the comments and suggestions of all.

This legislation will be a principal focus of mine as ranking minority member of the committee in the next Congress. The incoming chairman of the Veterans' Affairs Committee, the Senator from Wyoming (Mr. SIMPSON), has assured me that he shares my interest in this issue and the consideration of legislation in this area will be one of the first orders of business for the Committee next year.

Mr. President, I ask unanimous consent that the text of the bill and a document showing the changes that the bill would make in current law be printed in the RECORD at this point.

There being no objection, the bill and the document were ordered to be printed in the RECORD, as follows:

S. 3263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "All-Volunteer Force Educational Assistance Act of 1980".

SEC. 2. (a) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapter:

"Chapter 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE

"Subchapter I—Purposes; Definitions

"Sec.
"1401. Purposes.
"1402. Definitions.

"Subchapter II—Basic Educational Assistance

"1411. Entitlement to basic educational assistance.
"1412. Payment of basic educational assistance.

"Subchapter III—Supplemental Educational Assistance

"1421. Entitlement to supplemental educational assistance.
"1422. Payment of supplemental educational assistance.

"Subchapter IV—Transfer of Entitlement; Periods for Use of Entitlement; General and Administrative Provisions

"1431. Right of veteran to transfer entitlement to dependents.
"1432. Expiration of period during which entitlement may be used.
"1433. Exclusion of certain service for purpose of earning entitlement.
"1434. Extension to permit completion of term.
"1435. Program requirements.
"1436. Appropriations.
"1437. Reporting requirements.

"Subchapter I—Purposes; Definitions

"§ 1401. Purposes

"The purposes of this chapter are (1) to promote and assist the All-Volunteer Force program of the United States by establishing an improved program of educational assistance for those men and women who enter active duty in the Armed Forces after June 30, 1981, to help in the recruitment of well-qualified men and women, and (2) to provide those men and women with assistance in obtaining an education that they might not otherwise be able to afford.

"§ 1402. Definitions

"For the purposes of this chapter—

"(1) The term 'basic educational assistance' means educational assistance provided under subchapter II of this chapter.

"(2) The term 'dependent' means—

"(A) a child of an eligible veteran; and

"(B) the spouse of an eligible veteran.

"(3) The term 'educational institution' has the same meaning provided in section 1652(c) of this title.

"(4) The term 'eligible veterans' means any person who (A) entered a period of active duty in the Armed Forces after June 30, 1981, (B) after entering such period of active duty, served on active duty for a period of three or more consecutive years, and (C) (i) was discharged or released from such period of active duty under conditions other than dishonorable, or (ii) has served three or more consecutive years of an obligated period of active duty which began after June 30, 1981, and has not been discharged or released from such period of active duty.

"(5) The term 'program of education' has the same meaning provided in section 1652 (b) of this title.

"(6) The term 'supplemental educational assistance' means educational assistance provided under subchapter III of this chapter.

"Subchapter II—Basic Educational Assistance

"§ 1411. Entitlement to basic educational assistance

"An eligible veteran shall be entitled to basic educational assistance, in the maximum amount of $9,000, payable in accordance with the provisions of this chapter.

"§ 1412. Payment of basic educational assistance

"(a) The Administrator shall pay to each eligible veteran who is pursuing an approved program of education under this chapter basic educational assistance pursuant to this section to help meet, in part, the expenses of such veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

"(b) The Administrator shall pay to an eligible veteran basic educational assistance (1) at the monthly rate of $250 if such veteran is pursuing an approved program of education under this chapter on a full-time basis, or (2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, if such veteran is pursuing an approved program of education under this chapter on less than a full-time basis.

"Subchapter III—Supplemental Educational Assistance

"§ 1421. Entitlement to supplemental educational assistance

"(a) Except as provided in subsection (b) of this section, an eligible veteran who has received a secondary school diploma (or equivalency certificate) and who—

"(1) (A) has served after June 30, 1981, six or more consecutive years of active duty in the Armed Forces, and (B) (i) was discharged or released therefrom under honorable conditions, or (ii) has served six or more consecutive years of active duty in the Armed Forces and has not been discharged or released from such veteran's current period of active duty; or

"(2) (A) has served four or more consecutive years of active duty after such date but less than six, (B) has been discharged or released therefrom under honorable conditions, and (C) has agreed in writing to serve and has been accepted for service in the Ready Reserve of a component of the Armed Forces for a period of four years or more after such discharge or release,

shall be entitled to supplemental educational assistance in the amount of $375 for each consecutive month in excess of 36 consecutive months that such veteran serves on active duty after June 30, 1981, up to a maximum total amount of $13,500, payable in accordance with the provisions of this chapter.

"(b) No part of any period of active duty that occurs prior to the period of active duty by which the veteran concerned qualifies as an eligible veteran under section 1402(4) of this title shall be counted for purposes of subsection (a) of this section.

"§ 1422. Payment of supplemental educational assistance

"(a) The Administrator shall pay to each eligible veteran who is pursuing an approved program of education under this chapter supplemental educational assistance pursuant to this section to help meet, in part, the expenses of such veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

"(b) (1) Except as provided in paragraph (2) of this subsection, the Administrator shall pay to an eligible veteran supplemental educational assistance (A) at the monthly rate of $250 if such veteran is pursuing an approved program of education under this chapter on a full-time basis, or (B) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, if such veteran is pursuing an approved program of education under this chapter on less than as full-time basis.

"(2) An eligible veteran who is pursuing an approved program of education under this chapter on a full-time basis shall be paid supplemental educational assistance at such monthly rate between $250 and $500 as such veteran may elect in accordance with regulations which the Administrator shall prescribe. In such regulations, the Administrator, with the concurrence of the Secretary of Defense, may place such limits on the rates at which the veteran may elect to be paid supplemental educational assistance as the Administrator considers necessary for efficient administration.

"(3) Supplemental educational assistance shall be paid to an eligible veteran concurrently with the payment of basic educational assistance to such veteran if such veteran so elects.

"Subchapter IV—Transfer of Entitlement; Periods for Use of Entitlement; General and Administrative Provisions

"§ 1431. Right of veteran to transfer entitlement to dependents

"(a) (1) An eligible veteran who has served after June 30, 1981, twelve or more consecutive years of active duty may transfer to one or more of such veteran's dependents all or any part of such veteran's entitlement to basic and supplemental educational assistance. Entitlement transferred under this section shall be increased in accordance with amendments to this chapter.

"(2) A transfer of entitlement under this section may be made, changed, or canceled by an eligible veteran at any time before the expiration of the period within which such veteran may use such veteran's entitlement under this chapter.

"(3) A transfer of entitlement under this section shall be made in accordance with regulations which the Administrator shall prescribe. In such regulations, the Administrator, with the concurrence of the Secretary of Defense, may place such limits upon the making, changing, and cancellation of transfers as the Administrator considers necessary for efficient administration.

"(b) A dependent to whom entitlement is transferred under this section is entitled to educational assistance under this chapter in the same manner as the veteran from whom the entitlement was transferred would be entitled.

"(c) If a veteran has transferred entitlement under this section to one or more dependents, the basic educational assistance and supplemental educational assistance payable under this chapter shall be divided (1) in such manner as such veteran shall specify, or (2) if such veteran is deceased or is otherwise unable or unwilling to specify the manner in which such assistance shall be divided, as determined under regulations which the Administrator shall prescribe.

"(d) Notwithstanding any other provision of this chapter, no assistance shall be paid under this chapter to a person divorced from the veteran on whose service such person's entitlement is based.

"§ 1432. Expiration of periods during which entitlement may be used

"(a) Except as provided in subsections (c) through (e) of this section, the period during which an eligible veteran may use such veteran's entitlement to educational assistance under this chapter expires at the end of the ten-year period beginning on the date of such veteran's last discharge or release from active duty.

"(b) Except as provided in subsection (e) of this section, the period during which a dependent with entitlement transferred pursuant to section 1432 of this title may use such entitlement expires at the end of the ten-year period beginning on whichever is the later of—

"(1) in the case of a spouse (A) the date that such veteran has completed twelve consecutive years of active duty occurring after June 30, 1981, or (B) the first date on which such veteran would be eligible to use entitlement under this chapter pursuant to subsection (c) of this section if such veteran had not transferred all of such veteran's entitlement under this chapter; or

"(2) in the case of the child (A) on the date such child reaches 18 years of age, or (B) the date specified in clause (1)(B) of this subsection.

"(c) In the case of any eligible veteran who has been prevented, as determined by the Administrator, from pursuing a program of education under subchapter II or III of this chapter within the ten-year period prescribed by subsection (a) of this section, because—

"(1) such veteran had not met the nature of discharge requirement of such subchapter before (A) the nature of such discharge or release was changed by appropriate authority, or (B) with respect to educational assistance under subchapter II of this section, the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions other than dishonorable, or

"(2) such veteran's discharge or dismissal was, under section 3103 of this title, a bar to benefits under this title before the Administrator determined that such discharge or dismissal is not a bar to such benefits,

such ten-year period shall not run during the period of time that such veteran was so prevented from pursuing such program of education.

"(d) In the case of a veteran eligible for educational assistance under the provisions of this chapter who, subsequent to such veteran's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, the ten-year period described in subsection (a) of this section shall not run (1) while such veteran is so detained, or (2) during any period immediately following such veteran's release from such detention during which such veteran is hospitalized at a military, civilian, or Veterans' Administration medical facility.

"(e) In the case of any person who is an eligible veteran or a dependent to whom entitlement under this chapter has been transferred pursuant to section 1431 of this title and—

"(1) who was prevented from pursuing such person's chosen program of education prior to the expiration of the ten-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which was not the result of such person's own willful misconduct, and

"(2) who applies for an extension of such ten-year period within one year after (A) the last day of such period, or (B) the last day on which such person was so prevented from pursuing such program, whichever is later,

such ten-year period shall not run with respect to such person during the period of time that such person was so prevented from pursuing such program and such ten-year period will again begin running on the first day following such person's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"§ 1433. Exclusion of certain service for purpose of earning entitlement

"For the purpose of section 1402 of this title, the term 'active duty' does not include any period during which an individual was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, served as a cadet or midshipman at one of the service academies, or served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"§ 1434. Extension to permit completion of term

"(a) If a person is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period during which such person may use such person's entitlement under this chapter would, under section 1432 of this title, expire during a quarter or semester, such period shall be extended to the termination of such quarter or semester.

"(b) If a person is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period during which such person may use such person's entitlement under this chapter would, under section 1432 of this title, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period of extension.

"§ 1435. Program requirements

"Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1677, 1681(c), and 1683 of this title and the provisions of chapter 36 of this title, with the exception of section 1780 (a)(6), shall be applicable to the provision of educational assistance under this chapter.

"§ 1436. Appropriations

"Payments for entitlment earned under subchapter II of this chapter shall be made from appropriations made to the Veterans' Administration, and payments made for entitlement earned under subchapter III of this chapter shall be made from appropriations made to the Department of Defense.

"§ 1437. Reporting requirements

"The Secretary of Defense and the Administrator shall submit to the Congress at least once every two years separate reports on the operation of the programs provided for in this chapter and shall include in each such report (1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing persons to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to persons who have not yet entered active-duty service, and (2) such recommendations for administrative or legislative changes regarding the provision of educational assistance under the chapter as the Secretary or Administrator, respectively, consider appropriate.".

(b) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting above the item relating to chapter 31 the following new item:

"30. All-Volunteer Force Educational Assistance ------------------- 1401".

SEC. 3. Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A), by inserting "30 or" before "34" the first place it appears and striking out "chapter 34" the second place it appears and inserting in lieu thereof "either chapter 30 or chapter 34"; and

(2) in subparagraph (B), by inserting "30 or" before "34".

SEC. 4. Section 1623 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e) In the event the participant becomes entitled to basic educational assistance under subchapter II of chapter 30 of this title, such participant shall be disenrolled from the program under this chapter effective the last day of the month in which such participant becomes entitled to such assistance.".

SEC. 5. Section 408 of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502, 90 Stat. 2383, 2397) is amended—

(1) in subsection (a), by (A) striking out "(a)(1)", and (B) striking out all after "December 31, 1981" and inserting a period in lieu thereof; and

(2) by striking out subsection (b) in its entirety.

SEC. 6. The provisions of this Act shall be effective on the date of the enactment of this Act.

CHANGES IN EXISTING LAW MADE BY S. 3263

Changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—VETERANS' BENEFITS

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

CHAPTER	SEC.
30. All-Volunteer Force Educational Assistance	*1401*
31. Training and Rehabilitation for Veterans with Service-Connected Disabilities	1500
32. Post-Vietnam Era Veterans' Educational Assistance	1601
34. Veterans' Educational Assistance	1650

35. Survivors' and Dependents' Educational Assistance 1700
36. Administration of Educational Benefits 1770
37. Home, Condominium, and Mobile Home Loans 1801
39. Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces 1901
41. Job Counseling, Training, and Placement Service for Veterans 2001
42. Employment and Training of Disabled and Vietnam Era Veterans 2011
43. Veterans' Reemployment Rights 2021

Chapter 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE

Subchapter I—Purposes; Definitions

Sec.
1401. Purposes.
1402. Definitions.

Subchapter II—Basic Educational Assistance

1411. Entitlement to basic educational assistance.
1412. Payment of basic educational assistance.

Subchapter III—Supplemental Educational Assistance

1421. Entitlement to supplemental educational assistance.
1422. Payment of supplemental educational assistance.

Subchapter IV—Transfer of Entitlement; Periods for Use of Entitlement; General and Administrative Provisions

1431. Right of veteran to transfer entitlement to dependents.
1432. Expiration of period during which entitlement may be used.
1433. Exclusion of certain service for purpose of earning entitlement.
1434. Extension to permit completion of term.
1435. Program requirements.
1436. Appropriations.
1437. Reporting requirements.

Subchapter I—Purposes; Definitions

§ 1401. Purposes

The purposes of this chapter are (1) to promote and assist the All-Volunteer Force program of the United States by establishing an improved program of educational assistance for those men and women who enter active duty in the Armed Forces after June 30, 1981, to help in the recruitment of well-qualified men and women, and (2) to provide those men and women with assistance in obtaining an education that they might not otherwise be able to afford.

§ 1402. Definitions

For the purposes of this chapter—

(1) The term "basic educational assistance" means educational assistance provided under subchapter II of this chapter.

(2) The term "dependent" means—

(A) a child of an eligible veteran; and

(B) the spouse of an eligible veteran.

(3) The term "educational institution" has the same meaning provided in section 1652 (c) of this title.

(4) The term "eligible veteran" means any person who (A) entered a period of active duty in the Armed Forces after June 30, 1981, (B) after entering such period of active duty, served on active duty for a period of three or more consecutive years; and (C) (i) was discharged or released from such period of active duty under conditions other than dishonorable, or (ii) has served three or more consecutive years of an obligated period of active duty which began after June 30. 1981, and has not been discharged or released from such period of active duty.

(5) The term "program of education" has the same meaning provided in section 1652 (b) of this title.

(6) The term "supplemental educational assistance" means educational assistance provided under subchapter III of this chapter.

Subchapter II—Basic Educational Assistance

§ 1411. Entitlement to basic educational assistance

An eligible veteran shall be entitled to basic educational assistance, in the maximum amount of $9,000, payable in accordance with the provisions of this chapter.

§ 1412. Payment of basic educational assistance

(a) The Administrator shall pay to each eligible vetean who is pursuing an approved program of education under this chapter basic educational assistance pursuant to this section to help meet, in part, the expenses of such veteran's subsistence, tuition, fees, supplies, books, equipment and other educational cost.

(b) The Administrator shall pay to an eligible veteran basic educational assistance (1) at the monthly rate of $250 if such veteran is pursuing an approved program of education under this chapter on a full-time basis, or (2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, if such veteran is pursuing an approved program of education under this chapter on less than a full-time basis.

Subchapter III—Supplemental Educational Assistance

§ 1421. Entitlement to supplemental educational assistance

(a) Except as provided in subsection (b) of this section, an eligible veteran who has received a secondary school diploma (or equivalency certificate) and who—

(1) (A) has served after June 30, 1981, six or more consecutive years of active duty in the Armed Forces, and (B) (i) was discharged or released therefrom under honorable conditions, or (ii) has served six or more consecutive years of active duty in the Armed Forces and has not been discharged or released from such veteran's current period of active duty; or

(2) (A) has served four or more consecutive years of active duty after such date but less than six, (B) has been discharged or released therefrom under honorable conditions. and (C) has agreed in writing to serve and has been accepted for service in the Ready Reserve of a component of the Armed Forces for a period of four years or more after such discharge or release,

shall be entitled to supplemental educational assistance in the amount of $375 for each consecutive month in excess of 36 consecutive months that such veteran serves on active duty after June 30. 1981. up to a maximum total amount of $13.500, payable in accordance with the provisions of this chapter.

(b) No part of any period of active duty that occurs prior to the period of active duty by which the veteran concerned qualifies as an eligible veteran under section 1402(4) of this title shall be counted for purposes of subsection (a) of this section.

§ 1422. Payment of supplemental educational assistance

(a) The Administrator shall pay to each eligible veteran who is pursuing an approved program of education under this chapter supplemental educational assistance pursuant to this section to help meet, in part, the expenses of such veteran's subsistence. tuition, fees, supplies. books, equipment, and other educational costs.

(b) (1) Except as provided in paragraph (2) of this subsection. the Administrator shall pay to an eligible veteran supplemental educational assistance (A) at the monthly rate of $250 if such veteran is pursuing an approved program of education under this chapter on a full-time basis, or (B) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, if such veteran is pursuing an approved program of education under this chapter on less than a full-time basis.

(2) An eligible veteran who is pursuing an approved program of education under this chapter on a full-time basis shall be paid supplemental educational assistance at such monthly rate between $250 and $500 as such veteran may elect in accordance with regulations which the Administrator shall prescribe. In such regulations, the Administrator, with the concurrence of the Secretary of Defense, may place such limits on the rates at which the veteran may elect to be paid supplemental educational assistance as the Administrator considers necessary for efficient administration.

(3) Supplemental educational assistance shall be paid to an eligible veteran concurrently with the payment of basic educational assistance to such veteran if such veteran so elects.

Subchapter IV—Transfer of Entitlement; Periods for Use of Entitlement; General and Administrative Provisions

§ 1431. Right of veteran to transfer entitlement to dependents

(a) (1) An eligible veteran who has served after June 30, 1981, twelve or more consecutive years of active duty may transfer to one or more of such veteran's dependents all or any part of such veteran's entitlement to basic and supplemental educational assistance. Entitlement transferred under this section shall be increased in accordance with amendments to this chapter.

(2) A transfer of entitlement under this section may be made, changed, or canceled by an eligible veteran at any time before the expiration of the period within which such veteran may use such veteran's entitlement under this chapter.

(3) A transfer of entitlement under this section shall be made in accordance with regulations which the Administrator shall prescribe. In such regulations, the Administrator, with the concurrence of the Secretary of Defense, may place such limits upon the making, changing, and cancellation of transfers as the Administrator considers necessary for efficient administration.

(b) A dependent to whom entitlement is transferred under this section is entitled to educational assistance under this chapter in the same manner as the veteran from whom the entitlement was transferred would be entitled.

(c) If a veteran has transferred entitlement under this section to one or more dependents, the basic educational assistance and supplemental educational assistance payable under this chapter shall be divided (1) in such manner as such veteran shall specify, or (2) if such veteran is deceased or is otherwise unable or unwilling to specify the manner in which such assistance shall be divided, as determined under regulations which the Administrator shall prescribe.

(d) Notwithstanding any other provision of this chapter, no assistance shall be paid under this chapter to a person divorced from the veteran on whose service such person's entitlement is based.

§ 1432. Expiration of period during which entitlement may be used

(a) Except as provided in subsections (c) through (e) of this section, the period during which an eligible veteran may use such veteran's entitlement to educational assistance under this chapter expires at the end of the ten-year period beginning on the date of such veteran's last discharge or release from active duty.

(b) Except as provided in subsection (e) of this section. the period during which a dependent with entitlement transferred pursuant to section 1432 of this title may use

such entitlement expires at the end of the ten-year period beginning on whichever is the later of—

(1) in the case of a spouse (A) the date that such veteran has completed twelve consecutive years of active duty occurring after June 30, 1981, or (B) the first date on which such veteran would be eligible to use entitlement under this chapter pursuant to subsection (c) of this section if such veteran had not transferred all of such veteran's entitlement under this chapter; or

(2) in the case of a child (A) on the date such child reaches 18 years of age, or (B) the date specified in clause (1)(B) of this subsection.

(c) In the case of any eligible veteran who has been prevented, as determined by the Administrator, from pursuing a program of education under subchapter II or III of this chapter within the ten-year period prescribed by subsection (a) of this section, because—

(1) such veteran had not met the nature of discharge requirement of such subchapter before (A) the nature of such discharge or release was changed by appropriate authority, or (B) with respect to educational assistance under subchapter II of this section, the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions other than dishonorable, or

(2) such veteran's discharge or dismissal was, under section 3103 of this title, a bar to benefits under this title before the Administrator determined that such discharge or dismissal is not a bar to such benefits,

such ten-year period shall not run during the period of time that such veteran was so prevented from pursuing such program of education.

(d) In the case of a veteran eligible for educational assistance under the provisions of this chapter who, subsequent to such veteran's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, the ten-year period described in subsection (a) of this section shall not run (1) while such veteran is so detained, or (2) during any period immediately following such veteran's release from such detention during which such veteran is hospitalized at a military, civilian, or Veterans' Administration medical facility.

(e) In the case of any person who is an eligible veteran or a dependent to whom entitlement under this chapter has been transferred pursuant to section 1431 of this title and—

(1) who was prevented from pursuing such person's chosen program of education prior to the expiration of the ten-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which was not the result of such person's own willful misconduct, and

(2) who applies for an extension of such ten-year period within one year after (A) the last day of such period, or (B) the last day on which such person was so prevented from pursuing such program, whichever is later,

such ten-year period shall not run with respect to such person during the period of time that such person was so prevented from pursuing such program and such ten-year period will again begin running on the first day following such person's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.

§ 1433. Exclusion of certain service for purpose of earning entitlement

For the purpose of section 1402 of this title, the term "active duty" does not include any period during which an individual was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, served as a cadet or midshipman at one of the service academies, or served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

§ 1434. Extension to permit completion of term

(a) If a person is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period during which such person may use such person's entitlement under this chapter would, under section 1432 of this title, expire during a quarter or semester, such period shall be extended to the termination of such quarter or semester.

(b) If a person is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period during which such person may use such person's entitlement under this chapter would, under section 1432 of this title, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period of extension.

§ 1435. Program requirements

Except as otherwise provided in this chapter. the provisions of sections 1663, 1670, 1671. 1673, 1674, 1677, 1681(c), and 1683 of this title and the provisions of chapter 36 of this title, with the exception of section 1780 (a)(6), shall be applicable to the provision of educational assistance under this chapter.

§ 1436. Appropriations

Payments for entitlement earned under subchapter II of this chapter shall be made from appropriations made to the Veterans' Administration, and payments made for entitlement earned under subchapter III of this chapter shall be made from appropriations made to the Department of Defense.

§ 1437. Reporting requirements

The Secretary of Defense and the Administrator shall submit to the Congress at least once every two years separate reports on the operation of the programs provided for in this chapter and shall include in each such report (1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing persons to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to persons who have not yet entered active-duty service, and (2) such recommendations for administrative or legislative changes regarding the provisions of educational assistance under this chapter as the Secretary or Administrator, respectively, consider appropriate.

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Chapter 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

* * * * *

§ 1508. Allowances

(a)(1) * * *

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(f)(1)(A) In any case in which the Administrator determines that a veteran is entitled to rehabilitation under this chapter, to the extent that such veteran has remaining eligibility for and entitlement to educational assistance benefits under chapter *30 or* 34 of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under *either chapter 30 or* chapter 34 of this title, if the Administrator approves the educational, professional, or vocational objective chosen by such veteran for such program.

(B) In the event that such veteran makes such an election, the terms and conditions applicable to the pursuit of a comparable program of education and the payment of allowances and provision of assistance under chapter *30 or* 34 of this title for such a comparable program shall be applied to the pursuit of the approved program of education under this chapter.

(2) A veteran who is receiving an allowance pursuant to paragraph (1) of this subsection may not receive any of the services or assistance described in section 1504(a)(3), (7), and (8) of this title (other than an allowance and other assistance under this subsection).

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Chapter 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

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Subchapter II—Eligibility; Contributions; and Matching Fund

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§1623. Refunds of contributions upon disenrollment

(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1624.

(b) If a participant disenrolls from the program prior to discharge or release from active duty, such participant's contributions will be refunded on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the Administrator of the participant's discharge or disenrollment, except that refunds may be made earlier in instances of hardship or other good reason as prescribed in regulations issued jointly by the Administrator and the Secretary.

(c) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded within 60 days of receipt of an application for a refund from the participant.

(d) In the event the participant (1) dies while on active duty, (2) dies after discharge or release from active duty, or (3) disenrolls or is disenrolled from the program without having utilized any entitlement, the participant may have accrued under the program, or, in the event the participant utilizes part of such participant's entitlement and disenrolls or is disenrolled from the program, the amount contributed by the Secretary under the authority of section 1622 (c) remaining in the fund shall be refunded to the Secretary.

(e) *In the event the participant becomes entitled to basic educational assistance under subchapter II of chapter 30 of this title, such participant shall be disenrolled from the program under this chapter effective the last day of the month in which such participant becomes entitled to such assistance.*

* * * * *

PUBLIC LAW 94-502—OCT. 15, 1976

* * * * *

TITLE IV—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE ACT

* * * * *

SEC. 408. [(a)(1)] No individual on active duty in the Armed Forces may initially enroll in the educational assistance program provided for in chapter 32 of title 38, United States Code (as added by section 404 of this Act) after December 31, 1981 [, unless—].

[(A) before June 1, 1981, the President submits to both Houses of Congress a written recommendation that such program continue to be open for new enrollments; and

[(B) before the close of the 60-day period after the day on which the President submits to Congress the recommendation described in subparagraph (A), neither the House of Representatives nor the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution which in substance disapproves such recommendation.

[(2) For purposes of computing the 60-day period referred to in paragraph (1)(B), there shall be excluded—

[(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

[(B) any Saturday and Sunday, not excluded under the preceding subparagraph, when either House is not in session.

The recommendation referred to in paragraph (1) (A) shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

[(b) If new enrollments after December 31, 1981, in the educational assistance program provided for in such chapter 32 are authorized after the application of the provisions of subsection (a), then effective January 1, 1982, section 1622(b) of title 38, United States Code, is amended by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Defense."]

* * * * *

ADDITIONAL COSPONSORS

S. 3049

At the request of Mr. McClure, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 3049, a bill entitled "The Local Schools Option Protection Act."

S. 3071

At the request of Mr. Johnston, the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. 3071, a bill to amend the Internal Revenue Code of 1954 to provide a credit for investment in equity securities of domestic corporations.

ADDITIONAL STATEMENTS

CLARIFICATION ON H.R. 7020

● Mr. RANDOLPH. Mr. President, H.R. 7020, the superfund legislation passed by the Senate on November 24, agreed to by the House on December 3, and signed by President Carter today, contained certain amendments proposed by Senator Tsongas of Massachusetts regarding transportation of hazardous waste materials. Section 306(c) of the amended legislation amends section 11901 of title 49, United States Code, by increasing from $500 to $20.000 the maximum civil penalties applicable to persons engaging in transportation of hazardous wastes without complying with section 10921 of title 49, which is the provision of the Interstate Commerce Commission for certain types of motor carrier operation.

As presented by Senator Tsongas and accepted by the floor managers of the legislation, this amendment was not meant to change the types of transportation activity over which the Interstate Commerce Commission has jurisdiction. Whether or not the Interstate Commerce Commission has jurisdiction to regulate the transportation of hazardous waste or other waste materials has not been settled.

The amendment proposed by Senator Tsongas and passed as section 306(c) of H.R. 7020 is not intended to resolve that question of Commission jurisdiction. Its only purpose is to increase the maximum civil penalties that can be assessed where a person is found to be in violation of section 10921 with respect to the transportation of hazardous waste. The extent to which persons carrying hazardous waste will be subject to section 10921 is a matter we leave to the courts, or further legislative interpretations.

I should add that, by leaving this question of ICC jurisdiction to the courts, we are certainly not withholding from the public any needed protection with respect to transportation of hazardous waste materials. This activity is already subject to comprehensive safety and other provisions contained in the Hazardous Materials Transportation Act and subtitle C of the Solid Waste Disposal Act. The transportation regulations under the latter legislation have become effective just this past month. The question of whether the Commission has jurisdiction to regulate the transportation of hazardous wastes is not affected by H.R. 7020 as passed last week.

Another matter in connection with H.R. 7020 which deserves clarification has been brought to my attention. The United Steelworkers of America has expressed concern that the exclusion of workplace exposure-related claims in section 101(22)(A) of the act not be construed to limit any rights workers have under State workers' compensation and third party liability law.

I want to make it clear that section 302 of H.R. 7020 provides that nothing in the act affects or modifies in any way rights or liabilities under other State or Federal law, including common law. This provision definitely preserves workers' rights in State workers' compensation and third party liability laws. Section 101(22)(A) only addresses new rights created under H.R. 7020.

I ask that a letter from John J. Sheehan, legislative director of the United Steelworkers of America, be included at this point in the Record.

The letter follows:

United Steelworkers of America,
Washington, D.C., November 25, 1980.

Hon. Jennings Randolph,
Chairman, Environment and Public Works Committee, Dirksen Senate Office Building, Washington, D.C.

Dear Senator Randolph: The United Steelworkers of America is concerned over certain language in the recently approved Hazardous Substances Releases, Liability and Compensation Act (Superfund) which may adversely affect workers rights under state workers' compensation and other laws.

Section 101(22)(A) excludes from the definition of "release" any "release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons." While the intent of the Act is not to modify or mitigate any rights which workers currently have under existing state laws, the language of Section 101(22)(A) is very unclear as to the status of these rights. It appears that under Section 101(22)(A) workers may be precluded from exercising their rights under state workers' compensation and third party liability.

It is our understanding, however, that Section 302(d) of the Act would correct any deficiencies in Section 101(22)(A) by holding that "nothing in this Act shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to releases of hazardous substances or other pollutants or contaminants." If this provision does in fact preserve all existing workers rights with respect to state workers' compensation and third party liability laws, then we believe that the issue should be further clarified in the legislative history. Indeed, we believe that the Committee report should make it abundantly clear that Section 101(22)(A) in no way affects any rights which workers currently have under existing state, federal or common law and that the language in this section is limited exclusively to the provisions of the Act.

We are, of course, prepared to work with your staff on developing adequate and acceptable report language.

Sincerely,

John J. Sheehan,
Legislative Director.

It may be helpful to further clarify our comments on the national contingency plan, which is required by section 105 of H.R. 7020, the "superfund" legislation.

Section 105 of H.R. 7020 requires updating the national contingency plan, originally established under section 311 of the Clean Water Act, to implement new cleanup responsibilities under the superfund. As in the Clean Water Act, the amended plan is published after opportunity for comment, not promulgated as regulations. The plan is intended as guidance—the best thinking at the time of publication—but not as a rigid rule or set of procedures which must be adhered to, when Federal response authorities believe the particular circumstances at the time that they must respond require other procedures or policy in order to protect public health or welfare or the environment. To consider the plan as a rigid limiting document constituting other than guidance would be to make it useless in dealing with emergencies. It is not intended that the nature or content of the plan so bind the implementing Federal agencies as to preclude them from accomplishing the basic purposes of the act.

Because the plan is important guidance to be used in fulfilling the purposes of the act, Senator Stafford and I have indicated our agreement that it would be appropriate to have the plan subject to the legislative veto provision of section 305. Of course, such congressional review does not mean that the plan is to be considered a regulation for any other purposes. As with any other executive branch action subject to section 305, any congressional veto would be with respect to the revision, as a whole, of the plan under this act, rather than individual aspects of the revised plan.

In revising the plan to guide decisions

on whether or when to respond and whether particular remedial measures may be cost-effective, it is appropriate, to the extent practicable and with deference to the threat to public health, welfare or the environment, to consider the benefits and to consider the costs of such action. Indeed, this is the purpose of requiring in section 104 that certain decisions strive to strike a balance between considerations of public health and welfare on the one hand and the availability of money from the fund to respond to threats at other sites as well as the particular one under consideration.

This is really only commonsense. It is certainly not intended that such considerations of balance be allowed to become cumbersome analytic processes. Formalized benefit/cost-analyses would only preclude timely response and would be deceiving, since the current state of science is unable to provide with sufficient certainty much of the necessary information on benefits, not to mention the costs of inaction.

Mr. STAFFORD. The Senator is correct. I might add that, as Senator HELMS suggested in our earlier colloquy in refering to "considerations of public welfare," the balancing process is to include not only benefits which are susceptible of easy or exact calculation, but those other considerations which are customarily included when the Congress uses the term "welfare." Such intangible or long-term benefits must be considered in weighing whether a particular response or cost is inappropriate.

In other words, the purpose of this bill and the response plan is to protect the public health and welfare in its broadest sense. In protecting those interests, the President is not to be constrained by a rigid or inflexible construction of this language concerning cost effectiveness or considering costs or benefits.●

TRIBUTE TO SENATOR JOHN CULVER

● Mr. BUMPERS. Mr. President, it is with a special sense of sadness that I pay tribute to the senior Senator from Iowa, and my great good friend, JOHN CULVER. Of JOHN it truly can be said: He is a man for all seasons. Pause for a moment to reflect on his biography. First of all he is an Iowan devoted to the well-being of every Iowan. He graduated with honors from Harvard University in 1954 and in the meantime managed to set all kinds of records as a fullback. How many Senators can say they turned down a draft from the National Football League? But this is precisely what JOHN did when he graduated and instead went to Cambridge University on a Lionel de Jersey Scholarship. A scholar, an athlete, and a patriot, JOHN returned from England and joined the Marines where he served for 39 months as an infantry lieutenant.

From there he returned to Harvard for a law degree and then set up a law practice in Cedar Rapids. In 1964 he was elected to the U.S. House of Representatives. In four succeeding terms he was reelected by ever increasing margins. He came to the Senate in the same years as I, in 1974.

The list of JOHN CULVER's legislative achievements is too long to recite. I would simply mention that among the areas in which he has specialized are soil conservation and related farm matters, environmental protection, civil rights, product liability, defense spending, military preparedness, arms control and the list could go on and on.

Nearly every Senator who has risen to pay tribute to this man has stressed JOHN CULVER's integrity; and his integrity is as big as the man himself. His need to do what he perceives as best in the public interest is, to say the least, stronger than any need to remain in this body. If the two had to collide, then so be it. JOHN CULVER would not compromise with what he thought was right, and he would not compromise in expressing what he thought was right—loud and clear, for everyone to hear.

How much more remarkable it is, then, that JOHN CULVER should have such a wonderful sense of humor, such a sense for the joy of living. It hardly needs pointing out that many people who perceive themselves to be on the side of right over might, of principle over moral compromise, are no particular joy to be around. Indeed, the line between rightness and self-righteousness is often a thin one. But in spite of a lifetime of success JOHN never gave in to self-satisfaction or to public piety.

As I say, JOHN did what he thought was right, not what someone's polls showed to be most popular. It was not surprising then that he should have been targeted by the ultra conservative groups.

Perhaps the very blasphemy of these cultivators of fear and hate brought out the Scotch Presbyterian in him, because he never fought a braver and more uncompromising fight in his life than in his last campaign. It was JOHN's unfortunate lot to meet them at a moment of victory for negative politics. JOHN, and the American people, and the U.S. Senate were the losers in that election.●

TRIBUTE TO HERMAN TALMADGE

● Mr. KENNEDY. Mr. President, for the past 24 years, the Senate has been graced by the intellect and ability of our distinguished colleague from Georgia, HERMAN TALMADGE. During his long and productive career in this Chamber, Senator TALMADGE has earned a well-deserved reputation of a Senator's Senator, a man of tremendous parliamentary and political skill, of wide-ranging expertise, and absolute dedication to his constituents.

Throughout his service, Senator TALMADGE has championed the cause of the farmer and American agriculture. Virtually every major piece of agricultural, food, and forestry legislation has been authored by him or been approved under his careful scrutiny. The result has been an effective Federal agricultural policy that has maintained the United States as the leading food and forest products producer in the world.

I was pleased to be a strong supporter of one of the most important of the numerous pieces of legislation sponsored by Senator TALMADGE, the Food and Agricultural Act of 1977. This bill could accurately be labeled the "Talmadge blueprint for American agriculture." It sets out the entire Federal structure for price and financial supports for farmers, rural development, and nutritional policies. It is landmark legislation that benefits not only farmers, but all Americans.

Senator TALMADGE's efforts have been directed with skill and compassion to rural Americans and the continuing struggle to deal with the critical problems of inadequate services, poor nutrition, and the uncertain economic base of our rural areas.

HERMAN TALMADGE understood these problems and constantly tried to meet them. The Rural Development Act, which he shepherded through the Senate in 1972, provides low interest loans for local governments for public works and health facilities. In the past recession, when tight credit and high interest rates hit rural areas with special force, local governments had alternative sources of credit for which they could apply. Massachusetts and many other States have benefited from this legislation, and New England owes a special debt of gratitude to Senator TALMADGE for this achievement.

Realizing the critical need to reduce our country's dependence on foreign oil, and recognizing the great resource available in America's farm and agricultural system, HERMAN TALMADGE pursued some of the most innovative and farsighted energy alternatives. Through the Agricultural, Forestry, and Rural Energy Act of 1979, up to $1.4 billion in loans is made available to farmers each year to finance small scale commercial energy projects by farmers. This assistance will mean increased experimentation and innovation in the promising energy field of gasohol, with the added benefit of broadening our domestic energy production to include small businesses.

These are only a few of the accomplishments of HERMAN TALMADGE in his quarter of a century in the Senate, and in his 9 years as chairman of the Committee on Agriculture. From price supports to forestry, from grain exports to soil conservation, the achievements of HERMAN TALMADGE are everywhere. Clearly he deserves his title of "Mr. Agriculture" in the Senate.

As chairman of the Senate Health Subcommittee, I have been proud to join with Senator TALMADGE in the effort to improve the quality of health care in America. He has worked to restrain the rising cost of health care and to maintain the integrity of the medicare and medicaid programs.

Although we have not always agreed on the issues, I have always admired his extraordinary intellect and legislative ability. I am glad to take this opportunity to extend this tribute and to wish him a long and happy retirement.●

CONVERSION TO METRIC SYSTEM

Mr. PELL. Mr. President, I was interested some time ago to read that the National Cowboy Hall of Fame and Western Heritage Center had filed an "antimetrification" lawsuit against the Government, indignantly arguing that "the West was won inch by inch, foot by foot, and mile by mile." I am always surprised by arguments against metrics which are based solely on tradition, or just simple lack of information. For instance, it is frequently said that craftsmen and production workers have an ingrained resistance to change, and will balk at abandoning a familiar system for something radically different.

In fact, a recent University of Wisconsin survey found that no company that has begun a metrification program has ever abandoned it. The survey went on to find that the retraining period is brief and workers readily pick up metric concepts with no trouble at all. Moreover, there has never been a single labor grievance filed over metrification.

While there has been little public attention devoted to the issue, U.S. conversion to the metric system has been quietly millimetering along for quite some time. Without our realizing it, many areas of everyday life have "gone metric." For instance, cameras, cigarettes and skis now routinely come in metric sizes. Coke, Pepsi, and 7-Up have joined the wine industry in going metric, and distilled spirits are almost totally metricated. As gaoline prices galloped past $1 per gallon, over 15,000 gasoline stations are now selling gas by the liter and Shell, Amoco, and Sunoco are in the process of converting all their stations to liter sale. On the industrial front, the major automakers as well as big producers of computers, office equipment, electrical equipment, and the aerospace industry are well along in metricating their product lines. General Motors expects to be totally metric by 1982. The day is not far off when there will not be an inch or a yard anywhere in the production manuals of U.S. industry.

Mr. President, all this indicates that metric conversion has quietly been taking some kilometer-length strides. I was pleased recently to see an excellent "commonsense" argument for metrification in the Newport Daily News, and I would like to share this amusing and cogent editorial with my colleagues.

Mr. President. I would ask that the Newport Daily News editorial entitled, "Conversion to the Metric System," be printed in the RECORD.

The editorial follows:

CONVERSION TO METRIC SYSTEM

An old joke dating back to World War II has one American soldier telling another about a recent trip he made to Moscow.

"The kids there are awful smart—smarter than ours," the just-returned GI tells his buddy.

"How so?" asks the other GI.

"Because," replies the returnee, "all the little kids there speak fluent Russian, and you know how tough that language is."

Every so often, despite America's apparent commitment to going fully metric, someone, inspired by patriotism or frustration, states his determination to fight the metric system all the way.

We suspect that frustration—rather than patriotism—lies behind this resolve. It's a frustration born out of the continual dual bombardment of Celsius and Fahrenheit, liters and quarts, grams and ounces, kilometers and miles.

Among the worst offenders are the television weathermen—although they are not the only guilty ones—who nightly give us temperature in Celsius and then instantly translate it into Fahrenheit. It's as though their listeners are such total idiots that they cannot cope with anything as difficult as Celsius.

Actually, if we are to learn the metric system, Celsius is almost the first place to begin learning it and especially thinking in it. What is simpler than zero is freezing and 100 is boiling, which is what the critical conditions of water are on a Celsius scale. What is more stupid than 32 is freezing and 212 is boiling, which are the parallel Fahrenheit conditions?

It would seem to be the easiest thing in the world to learn Celsius and to think in this measure. If a person learned Fahrenheit enumeration since earliest childhood, however, and immediately had everything in Celsius translated into Fahrenheit on as pervasive a medium as television, he is almost certain never to learn Celsius and to doubt whether he ever could learn it.

It almost is as bad in the other aspects of metric, although bottlers seem to be doing their bit in putting up some products in liters, rather than quarts. But we still find whisky in fifths (actually four-fifths of a quart) and still other products in ounces and gallons.

One small problem may exist even if we go fully metric—and that is the classic mile race. Even this may no longer exist, however, since the once-unreachable four-minute mile has long been achieved, and the world record is now below three minutes and 50 seconds. Perhaps even this exception to going fully metric can be dispensed with.

At any rate, the metric system is clearly the simplest and long ago should have been adopted by quitting cold turkey on the other. What could be easier than a system based on 100? We doubt whether many people who favor staying with the old system can even remember all the relationships like quart to peck (dry measure) and quart to gallon (liquid measure) or feet to rods and square yards to acres. In all honesty, how many of us look back with pleasure on the days we spent in school trying to grasp all the convolutions of the non-metric system?

What is even more frustrating is trying to remember that 2.54 centimeters equal one inch, or that a yard is 3.37 inches shorter than a meter.

Let's quit cold turkey and rid our brains of the whole bloody yard-pound-quart addiction. Metrics shouldn't be that hard for people to learn. After all, even little kids in Moscow—and not necessarily the brightest ones—learn Russian just like that.

TRIBUTE TO FRANK CHURCH

• Mr. KENNEDY. Mr. President, when the 97th Congress convenes next month, one of the Senate's greatest leaders and humanitarians will not be with us—our very distinguished colleague from Idaho, FRANK CHURCH.

Few Senators in the history of this body have equaled the record of achievement and international reputation that FRANK CHURCH has earned. As chairman of the Foreign Relations Committee in recent years—one of the most challenging and important positions in the Senate—his diplomacy, formidable expertise, and deep desire for international peace have gained him the respect of his fellow Senators, the American people, and citizens throughout the world. His 8 years as chairman of the Committee on Aging showed him to be a brilliant champion and tireless worker for the elderly. On many other issues, he has been an effective advocate for progressive causes. The small farmer, the working man and woman, the individual taxpayer, and the small business person had a lifelong friend in FRANK CHURCH. Through 4 terms and 24 years in this body, he has served the people of Idaho and the Nation with eloquence and extraordinary ability.

He leaves a record of special excellence in foreign affairs. As a key member of the Senate Foreign Relations Committee since 1959, he brought a voluminous knowledge and unquestioned expertise to every issue he touched. His work in the committee, on the Senate floor, and with the executive branch helped shape American foreign policy for the past two decades. Under his leadership, the Panama Canal Treaty was ratified, relations with China were firmly established and the groundwork was laid for the SALT II Treaty.

He has also been a forceful spokesman for fundamental human rights throughout the world. In 1977, we worked together in the successful effort to prohibit military aid to the Argentine Government because of its human rights violations. In many other ways, Senator CHURCH worked hard to fashion a bipartisan foreign policy that enhances American interests by promoting peace, progress, and justice throughout the world.

Most of all, perhaps, FRANK CHURCH will be remembered for his work to end the Vietnam war. None of us who lived through those debates will ever forget his leadership that finally helped to end America's military involvement in Southeast Asia.

In fact, Senator CHURCH authored three important amendments to end that tragic conflict. The first Cooper-Church amendment, which became law in December 1969, barred the entry of American ground combat forces into Laos and Thailand. In December 1970, the second Cooper-Church amendment barred the reentry of U.S. ground troops and advisers. His ceaseless efforts to end the war culminated in the Case-Church amendment of June 1973. That historic amendment barred U.S. military involvement in, over, and around the countries of Indochina. It led to a cessation of American bombing and the removal of all U.S. ground combat troops by August 15, 1973.

Mr. President, no American worked harder or was more dedicated to ending the war in Vietnam than FRANK CHURCH. His contribution to international peace will be long remembered.

Senator CHURCH was also a staunch friend of our Nation's senior citizens. As chairman of the Committee on Aging for 8 years, he never lost a floor amendment for the elderly. His record of legislative achievements for older Americans is both lengthy and impressive, including:

A cost-of-living adjustment to make social security benefits inflation-proof.

The establishment of a community education program to provide recreational, educational, and other community services for the elderly.

Tax relief for elderly taxpayers, including the establishment of an older Americans tax counseling program.

There is no greater tribute to Frank Church than the long list of legislation that bears his name. His manifold achievements in the broad range of foreign and domestic policy are an extraordinary display of his qualities of intellect and commitment. They are proof that one individual can truly make a difference in the lives and well-being of all our people. He will rank as one of the great Senators and great debaters of the 20th century. He has earned our respect and friendship, and we shall miss him in the debates to come.●

NATURAL GAS DECONTROL

● Mr. DOMENICI. Mr. President, over the past 2 years we have begun to see something of a consensus forming in some major areas of a national energy policy. Several studies such as energy future by the Harvard Business School, energy in transition by the National Academy of Sciences, and energy the next 20 years by Resources for the Future all conclude that a clear signal on energy pricing is necessary for consumers to make the proper decisions with regard to conservation and the use of alternative supply sources. In short, Mr. President, there is a clear consensus that Government should get out of the pricing business.

I would like to introduce for the Record an editorial appearing in the New York Times on the subject of decontrol of natural gas prices. This editorial points out several problems with our continued regulation of the price of this energy resource. Not only must we be concerned with the gap between oil and gas prices which threatens to disrupt the orderly decontrol of gas in 1985, but we must reevaluate the size of our gas reserves and our continued policy of restricting the use of natural gas.

The editorial follows:

Decontrol Gas Now

Remember Al Capp's mythical "schmoo," the cartoon animal that tasted like chicken when fried, like steak when broiled, and produced eggs and milk besides? Well, natural gas is the schmoo of fuels, and that's no myth. It's cleaner than coal, more dependable than imported oil, less risky than nuclear power. And some energy analysts say we can have as much as we want if only we abandon the complex regulations governing its sale and use.

In one sense, they're wrong. Proven domestic gas reserves fell by a third during the 70's and this decline may prove irreversible. So there is good reason to retain regulations that hold back demand. But in another sense, advocates of deregulation may be right. A strong case can be made for accelerating the pace of price decontrol, now scheduled for 1985.

In the wake of the natural gas shortages of the 70's, Congress passed the Fuel Use Act to restrict industrial use of gas and protect supplies for residential use. But one effect of the gas restriction is to encourage some industries—like oil refineries—to burn more oil. According to an Energy Department study, that may raise oil imports by as much as 10 percent in 1990. If domestic gas is available, why stick with a law that increases dependence on foreign oil?

The answer is, no one really knows whether adequate gas supplies will be around later on. Thanks to changes in regulation, the quantity of gas for sale now exceeds demand. But this "gas bubble" may be temporary. Though 1979 was the best year for gas finds in a decade, consumption still exceeded additions to reserves. And predictions that the country will soon turn the corner are only educated guesses.

By the same token, though, there is good reason to look again at natural gas price controls. In 1978, after a long and bitter fight, Congress eliminated price controls on gas from some high-cost sources, and set a timetable for eliminating controls on the rest. That means the prospect of higher profit, which unquestionably explains the current rush to drill for gas. But industry executives argue that if decontrol were accelerated, still more gas would be found, sooner.

They could be right. The 1978 law created a dozen categories of gas, each with its own price lid, encouraging the hunt for lawyers as much as the hunt for fuel. But all this leaves the essential question unanswered: How much more gas could society expect in return for how much more profit to producers? Why should society pay them certain fortunes in incentives by faster decontrol and risk pushing up inflation when the amount of gas yielded is so uncertain?

There is no easy way to strike a balance. But other considerations tip the scales toward immediate deregulation of new gas.

Since the explosion of oil prices following the Iranian revolution, gas at controlled prices has become an incredible bargain. The regulations keep gas prices at half the equivalent of the world price of oil, thus discouraging conservation.

The price gap between oil and gas creates a political problem as well. Congress intended to ease the pain of crossing this gap by phasing out controls gradually. But world energy prices are going up much faster than the price lid on gas. So the prospect is that consumers will still be rudely shocked in 1985, when all gas discovered since 1977 is decontrolled. What would Congress do then? Rather than allow the transfer of an estimated extra $30 billion from consumers to gas producers in that single year, it may be tempted to reassert price controls.

From this perspective, immediate decontrol of new gas is really a compromise. It provides market incentives to look for new gas. But because the amount of gas decontrolled in any one year would be small, price rises for consumers would be gradual.

With luck, decontrol will mean enough gas to see us comfortably through the century. Without luck, decontrol will be a prudent way to discipline its use for the best purposes. Either way, the virtues of dismantling price controls are clear.●

TRIBUTE TO DONALD STEWART

● Mr. KENNEDY. Mr. President, all of us regret that our colleague, Donald Stewart, the distinguished Senator from Alabama, was able to serve only 2 years in the Senate. During that short time, he proved himself as a skilled and dedicated Senator, an effective advocate of the interests of Alabama, and a progressive and articulate leader on the important causes of our time. Even though his tenure here has been too brief, he has built an impressive record of service in the public interest, and I am confident that the Nation will draw on his great ability again in the years to come.

As a freshman Senator, Donald Stewart quickly made his mark. He presently chairs two subcommittees, the Subcommittee on Agricultural Research, and the Banking Subcommittee on Insurance. He was selected by his colleagues as one of eight deputy majority whips. He was 1 of 11 Senators appointed to an advisory committee to the President's Commission on an "Agenda for the Eighties." Furthermore, he succeeded in passing the first bill he ever introduced, making employee-owned corporations eligible for Small Business Administration loans. I was proud to support him on this important legislation.

Donald Stewart's legislative initiatives have covered a number of policy areas, from agriculture to energy, from banking to national defense to rural health. His achievements have been important and substantial. He was one of the key Senate architects of the National Energy Act. In particular, he guided his innovative gasohol proposals—which were first incorporated into his Rural Energy Independence Act—into our basic national energy policy. His efforts in this area earned him a position on the Energy Conference Committee—as the only Senate conferee who was not a member of the Senate Energy Committee. In ways like these, he clearly demonstrated his expertise on energy issues and his foresight with respect to the Nation's energy policies.

Senator Stewart has been a leader on other vital issues. In keeping with a campaign commitment made in April 1978, he was responsible for the establishment of an office of rural health affairs in Alabama. Initially, this agency's efforts will be directed toward reducing Alabama's tragically high infant mortality rate, a commitment Donald Stewart first made in his days in the Alabama Legislature. Senator Stewart was also responsible for the establishment of the John Sparkman International Public Health Association at the University of Alabama at Birmingham, which uses American medical expertise to train Third World physicians.

Senator Stewart is recognized as one of the Senate's foremost experts on agricultural issues. He has been an effective champion of rural development programs at the State and national level. On issues from price supports to soil erosion, he has consistently been a committed spokesman for the small farmer. He was also a key backer of legislation to help communities plagued by forest fires, which cost Alabama over $12 million in damages last year.

Mr. President, as this session comes to a close, I regret very much that the distinguished Senator from Alabama is departing. He served with us too briefly, but we shall remember his ability, his achievements, and his friendship. America will hear more from this young, experienced, and dedicated Alabamian in the future.●

THE MILWAUKEE RAILROAD

● Mr. CANNON. Mr. President, during consideration of the conference report on the rail bill, S. 1946 (now Public Law 96–448), my colleague from Idaho, Mr. McCLURE, raised a question concerning section 701 of that legislation. Specifically, he inquired whether the provisions of that section applied to obligations already incurred by the Milwaukee Railroad under the Milwaukeee Railroad Restructuring Act or whether it was subject to a broader construction. I assured the Senator that the provision was not open ended, and that it was my understanding it was limited to obligations subordinated to the creditors, but not the stockholders, under MRRA. However, I offered to obtain a clarification on this point from the Department of Transportation and to submit it for the RECORD.

The Department has finally responded to my request for an interpretation of section 701(c) of the Rail Act, and I submit their letter and ask that it be printed in the RECORD.

The letter clearly supports my understanding of the nature of the provision. In addition, the Department states that once the loan is in default and has been covered by the Department of Transportation, the Department would seek appropriations to cover any losses under this transaction. This will insure that the matter is handled on budget, a matter that has been of concern to our Budget Committee.

The letter referred to above follows:

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., December 5, 1980.
Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: I am writing to set forth the Department's interpretation of subsection 701(c) of the Staggers Rail Act of 1980 (Act) and to clarify certain matters raised in your September 30 colloquy with Senator McClure on that section. Senator McClure raised the concern that subsection 701(c) could be interpreted as requiring the United States to forgive all financial assistance provided to the Milwaukee Railroad under the authority of the Emergency Rail Services Act of 1970.

Subsection 701(c) amends section 7 of the Milwaukee Railroad Restructuring Act (MRRA) to provide that the Milwaukee Railroad's obligations to the United States and the Federal Financing Bank incurred pursuant to section 7 shall be waived and cancelled upon either the reorganization of Milwuakee as an operating rail carrier or the transfer of more than 50 percent (as of the date of enactment of the Act) of the Milwaukee rail system and employees to other rail carriers.

Subsections 7(d)–(f) of the MRRA direct the Secretary of Transportation to guarantee Trustee Certificates of the Milwaukee Railroad to finance continuation of Milwaukee service between November 1, 1979 and February 28, 1980. These certificates are subordinated to the claims of all creditors as of the date of enactment of the MRRA.

The Conference Report on the Act (H.R. Rep. No. 1430, at 138) explains that this section is intended to forgive the "subordinated" obligations incurred "[u]nder sections 7(d), (e), and (f) of the [MRRA]" by Milwaukee to continue service as required under subsection 7(d) of the MRRA. If the conditions of section 701(c) of the Act are met, subordinated Trustee Certificates totaling about $50,000,000 in principal, and all accrued interest, would be forgiven. These are the only obligations that have been incurred pursuant to section 7 of the MRRA. No further obligation will be incurred under section 7 of the MRRA unless a final audit of the November 1, 1979–February 28, 1980 service period reveals that operating costs exceeded the cost estimates provided to the Secretary by the Trustee. Any adjustment which may be required as a result of the final audit should be minor.

Although subsection 701(c) may eventually result in forgiveness of the Milwaukee obligations incurred under section 7 of the MRRA, the subsection does not relieve the Department of Transportation of its responsibility under the loan guarantee. As was agreed with the Appropriations Committee when the loan guarantee mechanism was adopted last year, once the loan is in default and has been covered by the Department of Transportation (as has occurred), the Department would seek appropriations to cover the losses under this transaction, and the Committee would act expeditiously on that request.

Sincerely,

THOMAS G. ALLISON.●

TRIBUTE TO JOHN A. DURKIN

● Mr. KENNEDY. Mr. President, I am proud to take this occasion to pay tribute to a close friend and respected colleague, JOHN DURKIN.

In his years in the Senate, JOHN DURKIN was known and respected by all of us as a tough, independent-minded, and hard-working leader on every issue he touched. He brought to the Senate the same dedication and human concern that he showed as New Hampshire assistant attorney general and insurance commissioner.

As a productive and effective member of the Senate Energy Committee, he worked to solve the special energy problems of New England. And through all of his legislation there was a strong and consistent theme: JOHN DURKIN was on the side of the little person—the elderly, the small farmer, the taxpayer, and the individual energy consumer.

In his single term in the Senate, JOHN DURKIN built an impressive record of legislative initiatives and accomplishments. As a member of the Energy Committee, he had the courage to take on "Big Oil," fighting courageously to keep price controls on oil and natural gas, pushing for strong conservation measures, and introducing legislation to investigate the inflationary profits of multinational oil companies.

He broke new ground in his pioneering support for energy conservation, and in his thoughtful and effective advocacy of new energy alternatives such as solar and wind energy and the innovative use of hydroelectric power. He was a passionate proponent as well of fuel assistance for the Nation's elderly and low-income households.

JOHN DURKIN, a Navy veteran himself, was a staunch friend of every veteran. As a member of the Veterans' Affairs Committee and the Appropriations Subcommittee on Veterans' Programs, he led the fight for adequate funding for disability payments, education assistance, and medical care for veterans. Those who have been disabled, as well as veterans from disadvantaged backgrounds and their families, have all benefited from JOHN DURKIN's commitment and dedication in the Senate.

Senator DURKIN also worked hard to enhance the lives of senior citizens. He sponsored legislation opposing any tax on social security benefits. And I am proud to have worked with him on legislation to amend the Social Security Act to pay the cost of out-of-hospital prescription drugs, eyeglasses, and hearing aids.

Small business, the backbone of American ingenuity and innovation, always had a friend in JOHN DURKIN. He sought new ways to meet rising fuel and production costs. And he introduced legislation to reduce the paperwork and cost of burdensome Government regulations.

Above all, JOHN DURKIN always voted his conscience. He knew the political costs of the courageous stands that he was taking. He knew that when he fought for the little people, well-financed special interest groups would pour money into his State in the effort to defeat him. But he never retreated, or diluted his positions, or took the easy road of political expedience.

Mr. President, I am especially grateful for the loyalty and friendship Senator DURKIN has always given me. In my campaign this year for the Presidency of the United States, there were many disappointments. But through it all JOHN DURKIN stood beside me, campaigning for me in his native New Hampshire and throughout New England. I am proud of his dedication and support. I was thinking of JOHN DURKIN and others like him when I told the Democratic Convention this summer, "What golden friends I had."

Senator DURKIN leaves an outstanding record of achievement in the Senate. He has been an unyielding and effective leader for the people of New Hampshire and the Nation, and I am confident that they will find a way to draw on his great talents and ability in the future.●

TRIBUTE TO SENATOR HENRY BELLMON

● Mr. BUMPERS. Mr. President, one of the most gratifying experiences of having served in this body has been the opportunity to work with my good friend, HENRY BELLMON. HENRY and I came to the Senate with a lot in common. We are both from rural States; we were both ranchers; we both served in the Marine Corps; we both began public service as members of our local school board; we both served as Governors before coming here. In all those positions, HENRY has practiced fiscal responsibility. HENRY BELLMON has been the kind of fiscal conservative who has done more than talk about it. He was a major force in gaining approval of the first budget resolution approved by both Houses of Congress.

Since 1975 he has watched over public expenditures from the position of ranking minority member of the Budget Committee. It has been my privilege to serve on the Appropriations Committee with HENRY, as well as on the Energy and

Natural Resources Committee, where his questions and comments were always focused, always to the point. When Henry spoke, people listened.

Henry, of course, has also been active in agricultural affairs—and is, in fact, one of the few practicing farmers in the Senate. He made important contributions to the Agricultural Act of 1970, the Farm Credit Act of 1971, the Rural Development Act of 1972, the Agricultural Act of 1978, and the Agricultural Credit Assistance Act of 1978.

One of the greatest tributes to Henry is that he has been able to accomplish all of this with that quiet, determined demeanor that has earned him the respect of all his colleagues. For his intelligence, his wit, his quiet confidence, and his patriotic devotion to the interests of the country as a whole, he will be remembered here as one of the true gentlemen. We are going to miss him.●

TRIBUTE TO MIKE GRAVEL

● Mr. KENNEDY. Mr. President, I want to take this occasion to say farewell to my distinguished colleague from the State of Alaska, Mike Gravel. For 12 years he has been a passionate advocate for Alaskans and their interests. He has been an effective leader on such wide-ranging issues as oil development, the rights of Native Americans, and the protection of American fisheries. While we have not always agreed on particular issues, I respected him as a colleague in the Senate, as an expert on the issues, and as a fighter in the proud tradition of the Alaskan frontier.

Mike Gravel has a vision for Alaska. He recognized the special position of his State, with its spectacular natural wealth, its important and unique strategic position, and its unique economic problems as a distant and noncontiguous State. He worked tirelessly to develop Alaska's assets and to obtain Federal aid to ease its special economic burdens.

Alaska will certainly miss his dedicated and his energetic representation in Washington. It will miss his significant contributions to our debates. And all of us in this body will miss his friendship and commitment.●

RECOMMENDED NOMINATION OF CHARLES B. WINBERRY TO BE U.S. JUDGE, EASTERN DISTRICT OF NORTH CAROLINA

● Mr. MORGAN. Mr. President, earlier this year I nominated Mr. Charles Winberry to be a U.S. judge in the eastern district of North Carolina. The nomination was not approved by the Judiciary Committee but votes were cast by the chairman, Senator Kennedy, by proxy even though he was not present and had attended no meetings. Other Senators voted who had never attended a meeting. I believe it is important that the record be made part of the permanent Record. Therefore, I submit for the Record a copy of a letter which I addressed to Senator DeConcini and others. I trust that the records will be preserved but in the event they are not, the enclosures and the report of the Special Committee of the North Carolina Academy of Trial Lawyers already in the record may attest to the qualifications of the nominee.

The material follows:

U.S. Senate,
Washington, D.C.

Hon. Dennis DeConcini,
Dirksen Building,
Washington, D.C.

Dear Dennis: Several months ago, I recommended to the President that he name Charles B. Winberry of Rocky Mount, North Carolina to be a United States Judge in the Eastern District of North Carolina. President Carter sent the nomination to the Senate where it was referred to the Judiciary Committee.

I love the law and have a particular interest in judicial positions because of my legal training, my long years in the private practice of law and my service as Attorney General of North Carolina before I came to the Senate.

This district, the Eastern District of North Carolina, is where I live and where I practiced law, where I served as Attorney General and where I return to my residence almost every weekend. I know the people and the Bar in this District "almost like I know the back of my hand".

Thus I had a special interest in making this recommendation because I wanted this District to have a particularly outstanding federal judiciary. I therefore took great pleasure in recommending Mr. Winberry, an outstanding lawyer and a leading citizen in North Carolina. His complete resume is set out in Attachment A.

For several months after the nonmination was made, I heard nothing except vague reports that Mr. Winberry was being investigated by the committee. Assuming this was routine and confident that nothing derogatory would be found, I kept quiet and waited for the investigation to finish.

Then when Mr. Winberry was finally given a hearing, he was questioned vigorously about some unfounded allegations which had previously been found to be without substance by the Federal Bureau of Investigation. Indeed, Senator Leahy stated at the hearing that the Judiciary Committee's own investigation had found no facts to support any of the allegations.

Since that hearing, the question of the nomination has become confused and many matters have, in my opinion, been blown far out of proportion. For this reason, I would like to review the matter and give the facts as I believe them to be, so that you may have this information before voting in committee on the Winberry nomination.

THE NOMINEE

I believe Charles B. Winberry will be an outstanding United States Judge. One reason is because he has a proven record of leadership and professional excellence. His accomplishments started at an early age and have been continuous.

For example:

Mr. Winberry served as President of the Student Body in both Junior and Senior High School. At age 14 he was an Eagle Scout, then earned the God and Country Award, the Silver Award in Exploring and 48 Merit Badges. At age 18, he was chosen State Master Councilor of the Order of DeMolay, the Masonic youth organization and has received that group's highest honors.

He excelled at Wake Forest University. Mr. Winberry was President of the Junior Class, Senior Editor of the University newspaper, named outstanding public speaker on the campus, tapped into ODK Honorable Leadership Society, where he served as President, selected as one of ten Outstanding Seniors, and picked for the charter group of State government interns.

His accomplishments continued during Law School. He served as Justice of Phi Alpha Delta Law Fraternity, earning for it the title of "Outstanding Chapter" in the nation; won the Statewide Will Drafting and Estate Planning competition and graduated in the top 20 percent of his class.

Winberry's Law School record qualified him for a federal clerkship in the Eastern District of North Carolina. For fifteen months, as Chief Law Clerk for a sitting District Judge, he was involved in daily research, the drafting of charges and opinions and the reviewing of motions and orders. He resigned to become Chief District Prosecutor of a three-county area, trying, personally, thousands of cases before joining the private firm of Biggs, Meadows and Batts (now Biggs, Meadows, Batts, Etheridge and Winberry) where in less than two years he became a partner.

Charles Winberry's legal experience is impressive. He has practiced as extensively in the federal courts as any other lawyer in his district, handling felonies and misdemeanors, criminal and civil tax fraud cases, environmental litigation, personal injury suits, contract cases and others. He has practiced at every level of the State court system, before the U.S. Fourth Circuit Court of Appeals in Richmond, the N.C. Industrial Commission, the N.C. Utilities Commission, the Board of Contract Appeals of the GSA and filed motions and briefs in the United States Tax Court.

Martindale-Hubbell rates Mr. Winberry "A V", which is its highest rating for professional skills and abilities and reputation for integrity and character.

Charles B. Winberry, Jr. has been a leader in the area of Judicial improvement. He is a permanent member of the Fourth Circuit Judicial Conference; served on the North Carolina Judicial Council which monitors the operation of the State Court system and makes recommendations for improvements; served on the State Criminal Code Commission, charged with revising both the procedural and substantive law of the State; lectured at seminars and training sessions for State Court officials; personally prepared the first draft of the uniform traffic citation now used by all North Carolina law enforcement agencies; and chairs the Committee on the Local Rules of Practice of the United States District Court for the Eastern District of North Carolina which is currently rewriting the Eastern District's local rules.

In politics, Mr. Winberry has also excelled. He served as Chairman of the State's College Federation of Young Democrats; President, North Carolina Young Democratic Clubs; Chairman of the State Democratic Party Convention; Chairman of my successful senatorial campaign; Legal and Legislative Council to Governor James B. Hunt, Jr., where he was responsible for drafting the Governor's legislative program and securing passage of every plank in the Governor's platform except the ratification of the Equal Rights Amendment.

Charlie Winberry is held in highest regard by those who have been associated with him over the years and has a reputation in North Carolina for being an untiring worker, a skilled and effective attorney, a forceful advocate and a person of complete integrity and good character.

THE RECOMMENDATION

When I decided to recommend Mr. Winberry to the President, I went first to Judge Griffin Bell, who was then the Attorney General.

Because of Mr. Winberry's age, Judge Bell asked the American Bar Association for a preliminary report. The report was favorable.

Later, when the ABA was asked for a final report on Mr. Winberry, the majority voted favorably and, as is the case of many nominations, there was an unfavorable minority report.

There was no information as to how many

votes there were for each position. After considerable effort on my part, I determined that the minority report is based on Mr. Winberry's age, an alleged ex parte communication with a law clerk, his support of one judicial candidate over another in a Democratic primary election in North Carolina and his involvement in a motor vehicle collision in 1971 in which a motorcycle driver was killed. As I will discuss later, I have investigated each of these matters and have found each of them to be without substance.

You will note that Mr. Winberry has an "A V" rating in the Martindale-Hubbell Legal Directory.

THE ALLEGATIONS

Allegations which have been brought against Mr. Winberry, with no substantive proof existing, will be summarized on the following pages.

THE BRIBERY ALLEGATION

During the course of the Judiciary Committee investigation of Mr. Winberry, there arose an allegation by a convicted felon that Mr. Winberry had been the conduit for the passage of a bribe to United States District Judge John D. Larkins, Jr. that resulted in one of Mr. Winberry's clients receiving a suspended sentence from Judge Larkins in 1976.

At the Judiciary Committee hearing, Senator Leahy stated that the Committee's own investigation had found no facts in support of the allegation.

Judge Larkins has denied the allegation in a letter to Senators Kennedy and Thurmond. His letter is attached as Attachment B.

Mr. Winberry has emphatically denied the allegation.

There is a letter in the committee files from the Assistant Attorney General Mike Egan. He states that this matter had been investigated by the Federal Bureau of Investigation and he felt no need to pursue it further.

Having known Judge Larkins, who was appointed to the federal bench in 1961 by President John F. Kennedy and who has served since that time with no breath of any scandal and with no blemish on his record, and having known Mr. Winberry for many years, I feel this charge is ridiculous.

The questioning of Mr. Winberry at the committee hearing seemed to indicate that it was "unusual" for a defendant in similar circumstances to receive a suspended sentence. In fact, a suspended sentence was the usual sentence given by Judge Larkins to defendants charged with mail fraud in connection with the mail order sales of cigarettes (the charge against Mr. Winberry's client). The Raleigh, North Carolina News and Observer (circulation approximately 130,000) made a study of sentences given such mail fraud defendants in the Federal District Court in the Eastern District of North Carolina.

Their study published as a news story on May 14, 1978, said:

"Chief Judge John D. Larkins, Jr. of Trenton has handled 17 of the 21 cigarette-mail fraud cases tried in the district since 1974. He has sentenced one man to prison for cigarette mail fraud."

As you can see, all of the defendants except one received a suspended sentence usually involving a fine and a period of probationary supervision. Thus, Mr. Winberry's client received the usual sentence.

I note, in passing, that the one defendant who received an active sentence had been convicted by a jury and that Judge Larkins has a well-known policy of always giving active time to every defendant convicted by a jury.

There were some questions put to Mr. Winberry about the fact that he charged this particular defendant a fee of $6,250 to defend him and to plead him guilty. As I stated at the outset, I am personally familiar with the Bar and the practice of law in the Eastern District of North Carolina. I can assure you that such a fee was not unusual. Referring again to the news article quoted earlier, it states:

"Defense lawyers who have handled cigarette mail-fraud cases refused to discuss their fees on the record. Cigarette mail-order operators told The News and Observer that the average attorney's fee was $5,000.00, and one lawyer confirmed that figure.

"However, the lawyer added, 'I got the impression some of them (other lawyers) were charging a lot more, and the traffic . . . well . . . the traffic would bear it."

Clearly there was nothing unusual about the sentence or the fee in this case.

THE WRECK

On Sunday night September 19, 1971, Charles Winberry was returning to his home in Rocky Mount after attending a meeting in Greensboro, North Carolina.

He came to an intersection, stopped, and after starting up again, his car collided with a motorcycle. The driver of the cycle was killed and the cycle's one passenger was injured.

A coroner's inquest cleared Mr. Winberry of any blame in the tragedy and he was found not guilty of failing to yield the right-of-way in the State District Court in Wake County, North Carolina.

Immediately after the wreck, Mr. Winberry called one of his law partners from the hospital and his partner called the district solicitor. The solicitor, a friend of Mr. Winberry's of many years, drove to the hospital that night.

Mr. W. G. Ransdell, the District Solicitor, gave a statement to the Special Committee of the Seventh District Bar Association which said in pertinent part:

"On a Sunday evening Mr. Alexander Biggs called me at home to advise me that Charles Winberry had been involved in a wreck somewhere east of Zebulon, North Carolina. . . . Mr. Biggs expressed to me his concern only that a thorough investigation be made before the filing of criminal charges. He never suggested in any way that he sought any extraordinary treatment of Mr. Winberry.

"Having known Mr. Winberry for some years, I went to Wake Memorial Hospital where I saw Mr. Winberry and Mr. Larry Wood, the highway patrolman who investigated the accident. . . . After Mr. Wood completed his investigation and reported to me, I concluded that there was no evidence to support the violation of the criminal law other than violation of the motor vehicle law of failing to yield right of way. However, in view of the fact that Mr. Winberry was President of the YDC, I considered it important that a public hearing be held so that the news media could report to the public all the facts surrounding the accident. Accordingly, I requested that the coroner conduct an inquest. This was done and representatives of the news media were notified of the time of the inquest and were present. All of the evidence available to the State was presented at that hearing. While I don't recall ever having done it before, on this occasion, I assigned an assistant to examine the witnesses at the coroner's inquest to be sure that all of the available evidence was presented. . . .

"No one ever requested of me that I neglect my duty as prosecutor in order to favor Mr. Winberry and I did not do so in any respect whatsoever. In fact, I knew that there was no evidence to support a prosecution other than on the charge of failing to yield the right of way and had Mr. Winberry not been a public figure, I would not even have requested the coroner's inquest. To this extent, Mr. Winberry was given closer scrutiny than the ordinary citizen would have been given."

Mr. Kyle S. Hall, then an Assistant District Solicitor, told the Special Committee in part:

"It was obvious to me from my conversation with the investigating highway patrolman that the evidence was wholly lacking as far as any criminal negligence was concerned. I can remember thinking at the time that had Mr. Winberry been treated as an average citizen, no inquest would ever have been held, for it was in my opinion one of those traffic fatalities in which the highway patrolman or the magistrate would ordinarily conclude that there was no basis for the issuance of any criminal warrant involving the death itself."

Mr. Zoro J. Guice, then an Assistant District Solicitor, and now a State District Court Judge, represented the State at the Coroner's Inquest and was present at the District Court trial. He told the Special Committee:

"I can assure you that Charles Winberry's case was handled just like any other criminal case in the Tenth Judicial District was handled and that Charles Winberry received no special treatment from me, the District Attorney, William G. Ransdell, Jr., or any other member of the District Attorney's staff. . . .

"Any allegation that Charles Winberry received any special treatment or favoritism from me or any other member of the District Attorney's staff is simply untrue and without justification whatsoever."

In retrospect, it might seem that the action of calling the solicitor and his coming to the hospital may have been inadvisable, but many persons have noted that had Mr. Winberry not been a public figure, it is doubtful if he would have been charged at all.

Subsequently, he was cleared at two hearings and there was never any question of criminal negligence. Is this any reason to deny a nominee for a judgeship approval?

Lastly, there was absolutely no evidence to indicate that Mr. Winberry had drunk anything alcoholic on the date of the wreck.

This matter was fully investigated by a Special Committee of the Seventh Judicial District. Their report states:

". . . It is clear to the Special Committee, from statements given by the lawyers who were involved in the handling of criminal and civil cases that grew out of this accident, that there was a serious question as to whether there was even any simple negligence on the part of Mr. Winberry when the front of his car was struck by a mortocycle proceeding west on U.S. Highway 64. . . ."

"Mr. Charles F. Blanchard, a prominent lawyer in Raleigh, who represented the estate of the deceased motorcycle driver, has written this Special Committee that his law firm spent many hours investigating the accident and interviewed at least seven persons who either witnessed the accident or came up to the scene shortly afterwards, as well as the highway patrolman who investigated the collision, and that no evidence or suggestion was ever found that anyone even smelled the odor of alcohol. Mr. Blanchard further wrote to this Committee that Mr. Winberry had been involved in "the type of automobile accident that could happen to law-abiding citizens of all rank, particularly at this intersection, which, since the accident, has been modified to lessen the danger to motorists."

"It is very clear to this Special Committee that there is no suggestion or evidence that Mr. Winberry had consumed any intoxicating beverage of any kind prior to his involvement in the accident and he was fully alert and the accident could have happened to anyone . . . ."

"The Special Committee understands that the Senate Judiciary Committee questioned Mr. Winberry about the trial date having been moved up from the date set forth in the original citation issued by the officer. The statements of Mr. Ransdell, Mr. Smith and Mr. Hall affirm that the change in trial date was requested by the prosecution in order to accommodate the injured passenger on the motorcycle, who was being discharged from the hospital for return to his home in Virginia. The parents of the injured young man did not want him to return to North Carolina for a later trial. Mr. Winberry and his attorney were advised of the new trial date only shortly before the hearing cf the matter and in no way requested the change."

"It is the opinion of all of the lawyers who were involved in the criminal and civil cases that arose out of this accident, including the attorney who represented the estate of the deceased motorcycle driver in the civil action, that there was no criminality on the part of Mr. Winberry of any kind, and it is clearly indicated that rather than getting favored treatment, Mr. Winberry was dealt with less favorably than he might have been if he had not been a politically prominent person. The Committee concludes from a consideration of all the circumstances that this unfortunate accident affords no basis for questioning the appointment of Mr. Winberry to serve as a United States Judge."

LETTERS OF SUPPORT

Mr. Winberry has been criticized for asking friends of his and those who had expressed to him a desire to be of assistance to write letters to the Attorney General in support of my recommendation of his nomination and for asking that he be sent a blind copy of the letter.

Those letters were written at my suggestion. I told those who were seeking judgeships not to tell their friends to write to me in their behalf, as I intended to make my own choice and wanted no pressure. But after I decided on my recommendation, I told them it would be helpful if they would get their friends and others who had offered to help to write letters of support to the Attorney General and the President.

Mr. Winberry was merely following my suggestion when he wrote those letters. The blind copy request may give rise to suspicion that he was using duress, but I discount it completely because he made the request only of his friends and others who had offered to help and had a natural desire to see what was being sent to Washington in his behalf and at my request as well as to thank those who had been of assistance.

EX PARTE COMMUNICATION WITH LAW CLERK

In connection with an environmental case in which Mr. Winberry appeared in 1971–1972, a Washington attorney wrote the ABA committee that Mr. Winberry filed a memorandum in the case with the judge's law clerk and did not present the opposing side with a copy.

The facts are that the law clerk requested the information from Mr. Winberry. Mr. Winberry sent the information to the law clerk in letter form. The letter was an analysis of the differences between the first and second environmental impact statements to which was attached a marked up copy of the second statement from which the analysis has been prepared. At the time the law clerk requested the information and at the time it was sent, the issue of the sufficiency of the impact statement was not before the District Court. When that issue subsequently came before the District Court (the Circuit Court of Appeals directed the District Court to hold a hearing on the issue), Mr. Winberry filed a brief on that issue, attached his analysis of the two statements to the brief, and caused the brief with the attachment to be served on all counsel of record. The District Judge took no notice of the matter when it was brought to his attention and saw nothing improper under all the circumstances. The ABA Committee on the Federal Judiciary Committee thoroughly investigated the matter and gave Mr. Winberry a majority report stating that he was qualified to serve as a United States District Judge. I point out as a matter of information that the ABA Code of Professional Responsibility was not adopted in North Carolina until January 1, 1979, several years after this occurrence.

POLITICAL "INTERFERENCE"

A recently elected member of the North Carolina Supreme Court has written the Committee that he could not endorse Mr. Winberry because he 'interfered' in a political primary.

The facts are that all state court appellate judges in North Carolina run as Democrats or Republicans, are nominated in the statewide primary election of their respective political party, run on a party slate or ticket in the general election. The election involved here was a statewide Democratic Party Primary Election for a seat on the North Carolina Supreme Court. Mr. Winberry's alleged "interference" consisted of writing letters to some friends asking them to support the candidate running against this particular judge who now complains. Both candidates, incidentally, were well qualified and both were members of the North Carolina Court of Appeals at the time. The judge who now complains won the statewide primary by only 1,029 votes (50.1 percent) out of a total of 508,051 votes cast or by less than a half a vote per precinct. You should know that letters in support of one candidate or the other were written by some members of the North Carolina Supreme Court and the North Carolina Court of Appeals and numerous lower court judges and lawyers. Mr. Winberry did nothing wrong.

THE MASONIC LODGE AND THE ROTARY CLUB

Mr. Winberry was questioned closely about his membership in the Masons and in the Rotary Club.

Actually, there is a memorandum in the committee files which notes that he is a Mason and was given an award by the DeMolay, which is the Mason's youth organization.

If he is to be denied his nomination on this count, then George Washington would have been disqualified because he was the first Worshipful Master of the Masonic Lodge in this country. Many other Presidents and many members of the Senate belong to either one of these organizations, or both, and consider it a civic duty to do so.

AGE

I understand some say Mr. Winberry at the age of 38 is too young to serve in this position. I believe they are wrong. Mr. Winberry has a distinguished record as a prosecutor and practicing attorney. He has distinguished himself in the legislative processes. He had received Martindale-Hubbell's highest rating "AV". His nomination by the President has been widely supported and endorsed by the Bar in the Eastern District and, indeed, throughout the state. Some of these comments are set forth briefly in Attachment E.

I believe the lawyers in his home judicial district who know him best—warts and all—and who see him on a daily basis summed the matter up best when they said:

"A spokesman for the Senate Judiciary Committee has stated that because Mr. Winberry is only 38 years of age he could not have the maturity, experience and professional qualifications essential to the position of a Federal District Court Judge. All of the members of the special Committee are personally acquainted with Mr. Winberry and have personal knowledge as to his age, maturity, experience and professional ability. In addition, members of the Committee have examined several hundred letters written to or on behalf of Mr. Winberry attesting to his personal integrity and professional ability. It is noted that Mr. Winberry has been active in an unusually large number of cases during his years of practice and that he has been able to acquire court room and legal experience during this time that surpasses that of many older attorneys. The Committee has concluded unanimously that Mr. Winberry possesses the integrity, experience, temperament and professional ability that fully qualifies him to hold the office of a Federal District Court Judge."

Certainly the ABA Committee considered Mr. Winberry's age and the majority report still concluded he was qualified for his position.

My sense of history compels me to tell you that George Washington and Thomas Jefferson would not have held Mr. Winberry's age against him. The first Judge appointed by President Washington in the District of North Carolina was 34-year-old John Stokes and Judge Stokes was succeeded by another of President Washington's appointees Judge John Sitgreaves who was, at age 33, even younger than Stokes. In 1802, President Thomas Jefferson appointed Henry Potter who was a youthful 36.

SPECIAL BAR COMMITTEE REPORT

Following the Judiciary Committee hearing on November 7, 1979, and widespread publicity in the media of the unfounded allegations against Mr. Winberry, most of which were reported to have been made by "unnamed sources", the Executive Committee of the Bar Association in the Seventh Judicial District of North Carolina (Edgecomb, Nash and Wilson Counties) where Mr. Winberry practices law established a "Special Committee" to study and comment on the President's nomination of Mr. Winberry.

The Special Committee was composed of experienced practiced lawyers from each of the counties in that judicial district. Their sole duty was to inquire into the matter.

The Report of this Special Committee was presented to the entire District Bar Association at a meeting on December 3, 1979, and was adopted unanimously.

The entire report is set out in Attachment A.

I particularly invite your attention to the summary and recommendations of this Special Committee:

"Because of news media accounts of the Senate Judiciary Committee hearings on the confirmation of the appointment of Charles B. Winberry, Jr. as a United States District Court Judge for the Eastern District of North Carolina, the President of the Seventh Judicial District Bar appointed a Special Committee to inquire into certain matters pertaining to the fitness and qualifications of Mr. Winberry for that position and the Executive Committee of the Seventh Judicial District Bar called a special meeting of the Bar to receive the report of the Special Committee.

"The Committee has met six times, has investigated the matters which it has reported on to the fullest extent of its ability to do so, has satisfied itself as to the facts and has presented its unanimous report to this Bar, and the report is summarized as follows:

"1. The Special Committee is informed that the Federal Bureau of Investigation and the United States Postal Service each investigated a report that Mr. Winberry had been the conduit of a bribe from a Defendant he represented to the Federal District Court Judge who was trying the case. Each investigative body found that there was no merit or substance to the report and their findings were reported to the United States Attorney General and to President Carter prior to the appointment of Mr. Winberry. A spokesman for the Senate Judiciary Committee has reported to the news media that no evidence has been found to support the alleged bribery in any manner. Based upon this information and its member's knowledge of Mr. Winberry and the District Court Judge who tried the case, the Committee has concluded that there is no basis for the rumor and the rumor ought to be fully dismissed as unfounded.

"2. The Special Committee is aware of the amount of the legal fee paid Mr. Winberry by the Defendant in the above-mentioned case and recognizes that it was a transaction between a lawyer and his client who was able and willing to pay. The Committee has determined that the entire fee was transmitted to Mr. Winberry's law firm and used entirely for legitimate purposes.

3. It has been intimated that because of his political prominence, Mr. Winberry received favored treatment in the handling of a highway accident in which a man was killed when his motorcycle collided with an automobile driven by Mr. Winberry. The Special Committee has examined written statements of the District Attorney of Wake County, the attorney who represented Mr. Winberry in a civil suit arising from said accident, the attorney representing the estate of the deceased, Plaintiff in said case, and the statement of the Assistant District Attorney who prosecuted the charge against Mr. Winberry for failure to yield the right of way, which charge resulted in a Court verdict of not guilty, has heard the comments of others familiar with the case, has considered the physical facts at the location of the accident, and the results of the coroner's inquest. It was unanimously concluded that there was no criminal liability and that Mr. Winberry was not accorded any favored treatment. On the contrary, it appears from statements of the District Attorney that had Mr. Winberry been less prominent, no inquest would have been held and no charge filed. The Special Committee has concluded that the actions of the Court and law enforcement officers were entirely proper and that neither the handling of the matter by them nor the accident itself ought to be considered in any way detrimental to Mr. Winberry.

4. The Special Committee is of the opinion that the unfounded rumors that Mr. Winberry was involved in a bribery and received favored treatment in the proceedings growing out of the tragic motor vehicle accident have been given unwarranted publicity and undeserved consideration to the unjustified detriment of Mr. Winberry and ought to be finally and forever dismissed as unworthy of consideration.

"5. A spokesman for the Senate Judiciary Committee has stated that because Mr. Winberry is only 38 years of age he could not have the maturity, experience and professional qualifications essential to the position of a Federal District Court Judge. All of the members of the Special Committee are personally acquainted with Mr. Winberry and have personal knowledge as to his age, maturity, experience and professional ability. In addition, members of the Committee have examined several hundred letters written to or on behalf of Mr. Winberry attesting to his personal integrity and professional ability. It is noted that Mr. Winberry has been active in an unusually large number of cases during his years of practice and that he has been able to acquire courtroom and legal experience during this time that surpasses that of many older attorneys. The Committee has concluded unanimously that Mr. Winberry possesses the integrity, experience, temperament and professional ability that fully qualifies him to hold the office of a Federal District Court Judge."

These are the allegations that have been made against Mr. Winberry, whom I recommended and the President nominated for a district judgeship.

There is no proof to substantiate these allegations and this was stated at the committee hearing.

I feel that the committee appropriately went into these matters, but since no proof has been forthcoming and there has been and is wide support for the nomination among the members of the North Carolina Bar, I feel that this has gone on long enough and he deserves to be approved.

How many of us in public life would be able to actually disprove some charge made against us, other than by the fact that no proof exists that we are guilty?

I only ask that each Senator on the Committee judge this nominee as he would want to be judged in similar circumstances.

I have included in Attachment E excerpts from some of the communications from jurists and lawyers in North Carolina who know Mr. Winberry and are familiar with his outstanding career.

Sincerely,

ROBERT MORGAN.

ATTACHMENT A

CHARLES B. WINBERRY

Full name: Charles Bryant Winberry, Jr.

Business address: Post Office Drawer 153, Rocky Mount, North Carolina 27801, A/C (919) 977-2211.

Residence address: 1639 Lafayette Avenue, Rocky Mount, North Carolina 27801, A/C (919) 442-8080.

Family background:

Born: October 14, 1941, Statesville, Iredell County, North Carolina. He is the son of Virginia Reece Winberry and the late Charles B. Winberry, Sr. Mr. Winberry, Sr., was a practicing attorney in Statesville, North Carolina, until his death in 1971.

Marital status: Single; never married.

Educational background:

1960, graduate of Statesville High School, Statesville, North Carolina. Grades 1–12 in Statesville, North Carolina City School System.

1964, graduate of Wake Forest College, School of Arts and Sciences, B.A. (Bachelor of Arts) Degree.

1967, graduate of Wake Forest College School of Law, J.D. (Juris Doctor) Degree.

Professional background:

Attended the Wake Forest University School of Law, Winston-Salem, North Carolina for three years beginning in September 1964 and graduating, with the degree of Juris Doctor, in June 1967.

Ranked academically in top 20% of the graduating class of eighty members at the Wake Forest University School of Law.

Awarded the State First Place in the Will Drafting and Estate Planning Contest for all third year law students in North Carolina sponsored by North Carolina National Bank and also First Place for such students at Wake Forest in 1967.

Justice of Timberlake Chapter, Phi Alpha Delta Law Fraternity, 1966–67. Chapter was selected as the Most Outstanding Chapter of Phi Alpha Delta in the Nation for 1966–67.

Licensed to practice law in North Carolina, August 1967.

Admitted to Practice:

All Trial and Appellate Courts of the State of North Carolina.

Professional Rating: Assigned Martindale-Hubbell "a v" rating, their highest professional rating.

United States District Court, Eastern District, North Carolina.

United States Court of Appeals for the Fourth Circuit.

United States Tax Court.

United States Court of Claims.

United States Supreme Court.

Member: Nash-Edgecombe Bar Association; Seventh Judicial District Bar Association; The North Carolina State Bar, Inc.; North Carolina Bar Association; The North Carolina Academy of Trial Lawyers; and American Bar Association.

Chief Law Clerk to the United States Judge (now Chief Judge) John D. Larkins, Jr. of the United States District Court, Eastern District of North Carolina, September 1, 1967–December 1, 1968.

Chief Prosecutor of the District Courts of the Seventh Judicial District of North Carolina December 2, 1968–December 31, 1970. This office was assumed upon the establishment of the new uniform court system in the Seventh Judicial District. In his capacity as Chief Prosecutor and in addition to his trial duties, Mr. Winberry instituted various procedures to expedite the operation and organization of the Court system, conducted training sessions for Clerks, Magistrates and Law Enforcement Officers, prepared the first draft of the new Uniform Citation and Arrest Warrant ultimately adopted for statewide use, and prepared other materials for use by Magistrate and Clerks.

From January 14, 1971 to date, a partner in the law firm of Biggs, Meadows, Batts, Etheridge & Winberry, Rocky Mount, North Carolina. Mr. Winberry has engaged as a general practitioner with emphasis in the area of litigation and litigation related matters on the trial and appellate levels of both the federal and state courts. In the five-year period from 1972 to 1976, Mr. Winberry posted 7,729 billable hours or an average of 1545.8 billable hours per year. The recognized ABA standard is 1300 hours per year.

Permanent Member, Judicial Conference of the United States Court of Appeals for the Fourth Circuit. Attended first Conference in 1968 and became permanent member after attending third conference in 1970.

Chairman of the Committee on the Local Rules of Practice for the United States District Court for the Eastern District of North Carolina.

Member of the Judicial Council of the State of North Carolina, 1969–71. The Judicial Council is charged by law with the study of the court system and problem areas in the administration of criminal justice and the criminal law and to make detailed recommendations to the General Assembly.

Counsel to the Honorable James B. Hunt, Jr., Governor of North Carolina. Referred to by Governor Hunt as "my Legislative and Legal Counsel", Mr. Winberry was responsible for the writing and drafting of legislation proposed and endorsed by the Governor and the supervision thereof as well as working with the members of the North Carolina General Assembly to insure its passage. Appointed January 10, 1977, he worked with the General Assembly during its 1977 Session (26 weeks) and its 1978 Session (13 days). When the General Assembly was not in session, he worked to draft legislation, proposals and to prepare budget recommendations. Mr. Winberry continues to serve as counsel to the Governor advising on both legal and legislative matters.

Member of the Criminal Code Commission, State of North Carolina, 1971–1976. The Criminal Code Commission prepared and submitted to the General Assembly of North Carolina a complete revision of pre-trail and trial criminal procedure, much of which had never been codified in North Carolina. It was adopted by the 1974–75 General Assembly and is now codified as Chapter 15A of the General Statutes of North Carolina. Thereafter the Commission began to study criminal sentencing and appellate procedure which report was adopted by the 1977 General Assembly.

Member of the Attorney General's Ad Hoc Committee on the Revision of the Criminal

Laws 1969–1970. This Ad Hoc Committee was established to make a thorough study of both the substantive and procedural criminal law of the State of North Carolina and make recommendations for a possible revision thereof.

Lecturer in Criminal Law, Training School for North Carolina State Bureau of Investigation 1970.

Board of Directors, The North Carolina Justice Foundation, 1977 to date.

Lecturer, Seminar on Estate Planning and the new Tax Reform Act of 1976 sponsored by the Wake Forest University School of Law, May 1977.

Lecturer, at various institutes and training sessions for District Attorneys, Magistrates and Clerks of Court sponsored by the Institute of Government, Chapel Hill, North Carolina, 1969–1972 and the North Carolina District Attorneys Association 1969–1972.

Religious and Community Activities:

Member, Lakeside Baptist Church, Rocky Mount, North Carolina.

Former Teacher of Sunday School Class.

Member, Church Finance Committee 1973-1976.

Member, Rocky Mount and Wilson Jaycees 1969–1975.

Member Rocky Mount and Wilson Rotary Clubs, 1969 to date.

Chairman, Task Force on Highway and Transportation Needs of the Rocky Mount Chamber of Commerce 1976 to date.

Chairman, Law Division United Fund, Rocky Mount, (N.C.) 1973.

Member, Rocky Mount Human Relations Council 1974.

Masonic and DeMolay Activities:

Member, Statesville Lodge No. 27 A.F. & A.M.; DeMolay Committee of the Grand Lodge of A.F. & A.M. of North Carolina, 1974 and 1976; Enfield (N.C.) and New Bern (N.C.) Scottish Rite Bodies, 32nd Degree Mason; Sudan Shrine Temple, A.A.O.N.M.S., New Bern, North Carolina.

State Master Councilor, North Carolina Association of the Order of DeMolay 1960–1961.

Chevalier Degree, Order of DeMolay.

Received International Distinguished Service Award for service to Home, Community and Order, presented by the International Supreme Council Order of DeMolay, 1961. Only two presented each year.

Democratic Party Activities:

Chairman, North Carolina Federation of College Young Democrats 1965.

President, Young Democratic Clubs of North Carolina, 1971. The North Carolina organization was selected as the Most Outstanding State Y.D. Group in the Nation in 1971.

Chairman, Nash County Democratic Executive Committee 1972–1975.

Vice-Chairman, State (N.C.) Democratic Executive Committee 1970–72.

Permanent Chairman, 1972 State Democratic Convention.

Member, Democratic National Committee 1976 to date.

Miscellaneous Activities:

Member of Alumni Council, Wake Forest University, 1969–1972.

Member of Executive Commitee of Lawyer Alumni Association, Wake Forest University School of Law, 4 year term beginning April 1, 1977.

Selected as one of 24 representatives of the United States of America to attend the Biennial Conference of the North Atlantic Alliance of Young Political Leaders, Dusseldorf, Germany.

Selected by U.S. Department of State and the American Council of Young Political Leaders. 21 days in June-July 1971.

Selected as one of 12 representatives of the United States of America to visit the U.S.S.R. as a part of an exchange of young governmental leaders. Selected by the U.S. Department of State and the American Council of Young Political Leaders. 21 days in October-November 1975.

Member of the Board of Directors of the Coastal Plains Development Association, 4 year term beginning October 1, 1977.

Member, Organizational Steering Committee on the Governor's Science and Math High School 1977 to date.

Selected as Outstanding Campus Speaker, Wake Forest University, 1964.

Selected to Who's Who Among American Colleges and Universities Wake Forest University, 1964.

Selected as One of Ten Outstanding Seniors, Wake Forest University 1964.

Senior Editor, Campus Newspaper, Wake Forest University, 1963–1964.

President, Junior Class, Wake Forest University, 1962–1963.

Eagle Scout with Silver-Gold Palm; God and Country Award; Silver Award in Exploring.

Report to Seventh Judicial District Bar

The undersigned members of a Special Committee of the Seventh Judicial District Bar of the State of North Carolina commencing on the 19th day of November, 1979, has made inquiry into certain matters pertaining to the appointment of Charles B. Winberry, Jr., Esquire, of Rocky Mount, North Carolina, to serve as a United States District Court Judge in the Eastern District of North Carolina, and reports to the Seventh Judicial District Bar at a special called meeting held on December 3, 1979, as follows:

BACKGROUND OF THE WINBERRY APPOINTMENT

Mr. Winberry was appointed by President Carter to serve as a United States Judge for the Eastern District of North Carolina on the 28th day of March, 1979. The matter of his appointment was referred to the Judiciary Committee by the United States Senate to determine whether Mr. Winberry should be confirmed. Thorough investigations were made by both the Federal Bureau of Investigation and by a Committee of the American Bar Association after Mr. Winberry was nominated but prior to the time that President Carter made the appointment. The results of these investigations were carefully considered by the President, the Attorney General of the United States and staff advisors to the President and Attorney General. After the matter was referred to the United States Senate and its Judiciary Committee, further investigations into the fitness of Mr. Winberry to serve in this office have been made by investigators for the Senate Judiciary Committee. These investigations have continued over many months.

Members of this Special Committee are concerned with a series of unsupported allegations made against Mr. Winberry. The first allegation involves a matter that was thoroughly investigated by the Postal authorities and the Federal Bureau of Investigation and was found to be totally unfounded. A spokesman for the Senate Judiciary Committee subsequently stated there was no evidence to support these allegations. Notwithstanding the complete absence of any evidence, unidentified sources gave news releases to the media that investigators for the Judiciary Committee were looking into a report that Mr. Winberry was the conduit for improper considerations paid to The Honorable John D. Larkins, a United States Judge, who has served with honor and distinction.

A spokesman for the Senate Judiciary Committee also stated to the Press prior to hearings on Mr. Winberry's appointment that the Committee was concerned about Mr. Winberry's involvement in an accident in 1971 in which the driver of a motorcycle was killed. It was suggested that Mr. Winberry had sought and obtained favored treatment that enabled him to avoid a proper prosecution of the criminal charges brought against him. It is this Special Committee's understanding that a report of all of the circumstances surrounding this accident was made available to the President and his advisors prior to the time of Mr. Winberry's appointment. The Senate Committee's staff report indicates no evidence to substantiate the suggestion of any such improprieties.

The matter of Mr. Winberry's appointment has been in the hands of the Senate Judiciary Committee for many months and this Special Committee has concluded from the information available that the delay in acting on Mr. Winberry's appointment results from political considerations that do not directly relate to Mr. Winberry's qualifications to serve or the lack thereof.

At the hearings held by the Senate Judiciary Committee on the 7th day of November, 1979, Senator Leahy stated at the outset that questions concerning the alleged payment of improper consideration to Judge Larkins and about the accident had been investigated and that nothing had been found to substantiate any suggestion that Mr. Winberry had acted improperly. Notwithstanding, however, Senators Leahy and Hatch, of the Judiciary Committee, questioned Mr. Winberry at length about the unsubstantiated charges, with the questioning about the accident having been conducted outside the hearing of the Press and Public. Mr. Winberry was questioned extensively during the hearing about his professional qualifications, and a reading of the transcript of those proceedings indicates that Mr. Winberry's comparative young age and political involvement were matters of concern.

Prior to the time that President Carter appointed Mr. Winberry to serve as a United States Judge, several hundred letters from members of the Bar and others were sent to the President and the Attorney General expressing their strong and unqualified support of Mr. Winberry for the appointment, but the Special Committee is uncertain whether or not these supporting documents were available to the Senate Judiciary Committee. The Special Committee understands that many letters have also been written to the Senate Judiciary Committee expressing these same sentiments.

THE PURPOSE OF THIS SPECIAL COMMITTEE

The Executive Committee of the Seventh Judicial District Bar has become greatly concerned about the treatment that has been accorded to Mr. Winberry by the Senate Judiciary Committee and its spokesman, including the unusual and unexplained delay in acting on his appointment, the continued references in Press statements to incidents that have been fully investigated and have been admittedly found to involve no improper conduct on the part of Mr. Winberry, and the inquisitorial questioning of Mr. Winberry about suggested improprieties that by the Judiciary Committee's own admission had been fully investigated and had been found to be unsubstantiated.

It was felt by the Executive Committee of this Seventh Judicial District Bar that these actions have created erroneous impressions about Mr. Winberry and have resulted in undeserved injury and damage to Mr. Winberry's character and reputation. Without meaning to be disrespectful of the Senate Judiciary Committee or the Senate of the United States, in making these remarks, the Executive Committee felt that it was necessary for this Seventh Judicial District Bar to have a Special Committee comprised of experienced practicing lawyers from each of the counties in the District to inquire into these matters and report to the members of the Seventh Judicial District Bar at a specially called meeting held on December 3, 1979.

It has already been determined that thorough investigations were made by the FBI, the postal service authorities, a committee of the American Bar Association and the investigators for the Senate Judiciary Committee, all of which have resulted in findings previously announced by the Senate Judiciary Committee that Mr. Winberry has not been found to have engaged in any improper conduct of any kind.

THE MEMBERSHIP OF THIS SPECIAL COMMITTEE

As stated, the members of this Committee are lawyers who are members of the Seventh Judicial District Bar and have practiced law in the District for many years. The members of the Committee, their ages, their addresses, and some of their professional qualifications and involvements are hereafter mentioned:

1. I. T. Valentine, Jr., Chairman of the Committee, age 53, admitted to the Bar of North Carolina in 1952, Senior Partner in Valentine, Adams & Lamar, Attorneys at Law, 109 North Court Street, Nashville, North Carolina.

2. Herbert H. Taylor, Jr., age 68, admitted to the Bar of North Carolina in 1935, former President of the North Carolina Bar Association, Senior Partner in Taylor, Brinson & Aycock, Attorneys at Law, 210 East Saint James Street, Tarboro, North Carolina.

3. William W. Aycock, Jr., age 42, admitted to the Bar of North Carolina in 1961, Partner in the firm of Taylor, Brinson & Aycock, 210 East Saint James Street, Tarboro, North Carolina.

4. L. H. Gibbons, age 58, admitted to the Bar of North Carolina in 1948, a Senior Partner in Carr, Gibbons & Cozart, Attorney at Law, Cunningham Building, Wilson, North Carolina.

5. Louis B. Meyer, age 46, admitted to the Bar of North Carolina in 1960, Partner in the firm of Lucas, Rand, Rose, Meyer, Jones & Orcutt, First Union National Bank Building, Wilson, North Carolina.

6. Quentin T. Sumner, age 29, admitted to the Bar of North Carolina in 1975, a partner in the firm of Sumner, Evans & Lawrence, 408 Sunset Avenue, Rocky Mount, North Carolina:

7. Charles T. Lane, age 47, admitted to the Bar of North Carolina in 1956, a partner in the firm of Spruill, Trotter, Lane & McCotter, Peoples Bank Building, Rocky Mount, North Carolina.

8. William L. Thorp, age 54, admitted to the Bar of North Carolina in 1951, a member of the International Academy of Trial Lawyers and Senior Partner in Thorp, Anderson & Slifkin, with offices at 1605 West Thomas Street, Rocky Mount, North Carolina, and Branch Bank and Trust Company Building in Raleigh, North Carolina.

WHAT THIS COMMITTEE DID AND CONSIDERED

The Committee asked for, obtained, reviewed and considered copies of several hundred letters written by various attorneys to President Carter and the Attorney General in connection with the nomination of Mr. Winberry and, in particular, it identified and considered about one hundred of these letters from practicing lawyers and judges who spoke to the professional skills and integrity of Mr. Winberry. These letters demonstrate the widespread and strong support enjoyed by Mr. Winberry among the lawyers and judiciary of North Carolina.

Mr. Winberry was asked to furnish to the Special Committee a listing of practicing lawyers, District Attorneys and others involved in the administration of justice, with whom he has had professional dealings. These individuals were sent a letter by the Chairman of this Committee, asking them to give their comments about Mr. Winberry as a lawyer. Copies of the letter thus sent and of the replies received are submitted with this report.

With respect to the accident in which Mr. Winberry was involved in 1971, the Special Committee obtained statements from Mr. W. G. Ransdell, the District Attorney whose office handled the prosecution of a criminal charge made against Mr. Winberry by the investigating officer; Mr. Wade Smith, the Attorney in Raleigh who defended Mr. Winberry on these charges; Mr. Charles Blanchard, the Attorney in Raleigh who represented the estate of the deceased motorcycle driver who filed a civil action against Mr. Winberry; Mr. Jerry Alvis, the Attorney in Raleigh who represented Mr. Winberry in the defense of the civil action brought against him, and Mr. Kyle S. Hall, an Assistant District Attorney who participated in the inquest and Mr. Zoro Guice (now District Court Judge, Henderson County, N.C.) who prosecuted the criminal charge preferred against Mr. Winberry by the investigating officer.

The Special Committee considered the transcript of the hearings conducted by the Senate Judiciary Committee on the 7th day of November, 1979, at which Mr. Winberry was questioned extensively. The Special Committee further considered the letter written by the Honorable John D. Larkins, Senior United States District Court Judge, Eastern District of North Carolina, to The Honorable Edward M. Kennedy and The Honorable Strom Thurmond, Chairman and ranking minority member of the Senate Judiciary Committee.

THE SPECIAL COMMITTEE'S FINDINGS

(a) With respect to Mr. Winberry's professional qualifications to serve: On the basis of the personal knowledge that the members of the Committee have of Mr. Winberry, the comments received by the Special Committee from those lawyers, court personnel, law teachers, and others involved in the administration of justice who have dealt personally with Mr. Winberry, and the multitude of letters that were written about Mr. Winberry to the President and the Attorney General, the Special Committee concludes as follows:

(i) That Mr. Winberry, the son of a distinguished lawyer and judge in Statesville, North Carolina, graduated from Wake Forest University School of Law in 1967 with a degree of Juris Doctor, graduating in the top 20 percent of his law class; that following his graduation Mr. Winberry served for two years as Chief Law Clerk to The Honorable John D. Larkins, United States Judge, Eastern District of North Carolina (1967–1969); that Mr. Winberry was Chief Prosecutor in the State Courts of the Seventh Judicial District (1970–71); that he became associated with the law firm of Biggs, Meadows & Batts in 1971 and became a partner in the firm of Biggs, Meadows, Batts, Etheridge & Winberry in 1972; and that he has continuously practiced as a partner in said law firm, dealing primarily in criminal and civil trial matters, since 1971.

(ii) That in addition to his work as a Law Clerk, Chief Prosecutor and practicing lawyer, Mr. Winberry has served since 1969 as a member of the North Carolina Judicial Council, and served as a member of the North Carolina Criminal Code Commission from 1970 to 1975; and he currently serves as Chairman of the Committee on the Local Rules of Practice of the United States District Court for the Eastern District of North Carolina.

(iii) That in 1978, after the minimum time allowed under the rules of Martindale-Hubbell, he was given the rating of "A v" in the Martindale-Hubbell Law Directory, a rating that is essentially conferred by members of the practicing Bar.

(iv) That since 1972, Mr. Winberry has been primarily responsible for trial litigation, both criminal and civil; that he has been involved in many civil and criminal cases in both the state and federal courts, with the primary responsibility for their handling; that he is licensed to practice in all of the state courts in North Carolina, the United States District Court for the Eastern District of North Carolina, the United States Court of Appeals for the Fourth Circuit, the United States Tax Court, the United States Court of Claims, and the United States Supreme Court; that he is a member of the Nash-Edgecombe Bar Association, the Seventh Judicial District Bar Association, the North Carolina State Bar, Inc., the North Carolina Bar Association, the North Carolina Academy of Trial Lawyers, and the American Bar Association; that he has served as legislative and legal counsel to The Honorable James B. Hunt, Jr., Governor of North Carolina; and he was a member of the Criminal Code Commission of the State of North Carolina from 1971 to 1976, which Commission prepared and submitted to the General Assembly of North Carolina a complete revision of pre-trial and trial criminal procedure; that he was a member of the Attorney General's Ad Hoc Committee on the revision of the criminal laws in 1969–1970; that he currently serves as Chairman of the Committee on the Local Rules of Practice of the United States District Court for the Eastern District of North Carolina; that he was a lecturer in criminal law at the Training School for North Carolina State Bureau of Investigation in 1970; that he was a lecturer at the Seminar on Estate Planning and the new Tax Reform Act of 1976 sponsored by the Wake Forest University School of Law in May 1977; that he has lectured at various institutes and training sessions for District Attorneys, Magistrates and Clerks of Court sponsored by the Institute of Government, Chapel Hill, North Carolina and the North Carolina District Attorney's Association; and that he now serves as a member of the Board of Directors of the North Carolina Justice Foundation.

(v) That in addition to his work as a practicing lawyer and as a contributor and participant in the work of important activities associated with the administration of justice, Mr. Winberry has an outstanding record of services in his community and state in many other non-political respects. He is an Eagle Scout with silver-gold palms, the God and Country Award, and the silver award in exploring; he is an active member at Lakeside Baptist Church, Rocky Mount, North Carolina, where he has taught Sunday School and served on the Board of Finance; he served as Chairman of the Task Force on Highway and Transportation needs of the Rocky Mount Area Chamber of Commerce; he was a member of the Rocky Mount Human Relations Council; he was a member of the Organization Steering Committee on the North Carolina Science and Math High School; he was Senior Editor of the Old Gold and Black, an award-winning campus publication at Wake Forest University.

(vi) That the extensive involvement of Mr. Winberry in the trial related matters of his law firm, which include appearances in not only the Courts but also before the North Carolina Utilities Commission and the North Carolina Industrial Commission; his deep involvement in the work of Commissions and Committees seeking codification or recodification of rules, regulations and law and his participation in the continuing instruction of persons involved in the administration of justice; his current chairmanship of the Committee to rewrite the local rules of the United States District Court for the Eastern District of North Carolina; the excellence of his academic record and of his performances in all of these respects; his demonstrated ability to analyze and articulate the law as it applies to a body of evidence or stated facts, and the great productivity of his mind, time and talent, the Special Committee concludes that Mr. Winberry possesses a maturity and wisdom far beyond his 38 years—a wisdom and maturity that eminently qualifies him to serve as a United States Judge in the Eastern District of North Carolina.

(vii) That the Special Committee is mindful of the extensive political activities in which Mr. Winberry has been involved, including his service to the Democratic Party in North Carolina and his management of the Statewide Political Campaign of The Honorable Robert Morgan, United States Senator; that the Special Committee does not believe that Mr. Winberry's involvement in these political activities should in any way disqualify him from service as a United States Judge, believing rather that these activities demonstrate his unique ability to organize, plan and carry through objectives and qualities that are greatly needed in the service of a United States Judge who is charged with major administrative responsibility.

(viii) That Mr. Winberry, a bachelor, has demonstrated his complete devotion to the rule of law, the application of the law in a compassionate yet forceful way to persons of all color and creed, and a faithful adherence to the oath that he took as a practicing attorney "to uphold and defend the Constitution of the United States and the Constitution of North Carolina that is not inconsistent therewith."

The members of the Special Committee are convinced, without any reservation or doubt, that Mr. Winberry is fully qualified to serve as a United States Judge; possesses the intellectual skills, the temperament and the emotional stability to become one of the great jurists in this country; has the dedication and fervor to apply himself to the task of bringing the dockets in the Eastern District of North Carolina to a current status; will faithfully abide by the code of judicial conduct and all other cannons that are applicable to the performance of his duties as Judge; and will courteously and patiently hear all matters that may come before him with fairness and impartiality.

(b) With respect to the 1971 accident: The Special Committee knows that Mr. Winberry was involved in a tragic accident that occurred in September 1971. The accident occurred during nighttime at the intersection of U.S. Highway 264 and N.C. Highway 97 a short distance east of the Town of Zebulon, North Carolina, as Mr. Winberry was returning to his office in Rocky Mount. The intersection is known to be dangerous because of the manner in which the two roads intersect, it being what is commonly known as a "Y" intersection. At the time the accident occurred, a motorist traveling east on U.S. Highway 264 and desiring to go to Rocky Mount on N.C. Highway 97 was required only to veer slightly to his left in order to enter Highway 97. A service station located in the vee formed by the two intersecting roads had bright pole lights located on the station yard and at the pump islands which shined directly toward the intersection. At the point where the two roads came together, the pavement of the road had just been resurfaced, and there was a broad expanse of pavement that was not well marked by painted lines. It is clear to the Special Committee, from statements given by the lawyers who were involved in the handling of criminal and civil cases that grew out of this accident, that there was a serious question as to whether there was even any simple negligence on the part of Mr. Winberry when the front of his car was struck by a motorcycle proceeding west on U.S. Highway 264. Although it is apparent from the physical evidence that the collision occurred in the west bound lane of U.S. Highway 264, it seems apparent that the small light on the motorcycle would have been difficult to see against the various lights on the service station premises.

Mr. Charles F. Blanchard, a prominent lawyer in Raleigh, who represented the estate of the deceased motorcycle driver, has written this Special Committee that his law firm spent many hours investigating the accident and interviewed at least seven persons who either witnessed the accident or came up to the scene shortly afterwards, as well as the highway patrolman who investigated the collision, and that no evidence or suggestion was ever found that anyone even smelled the odor of alcohol. Mr. Blanchard further wrote to this Committee that Mr. Winberry had been involved in "the type of automobile accident that could happen to law-abiding citizens of all rank, particularly at this intersection, which, since the accident, has been modified to lessen the danger to motorists."

It is very clear to this Special Committee that there is no suggestion or evidence that Mr. Winberry had consumed any intoxicating beverage of any kind prior to his involvement in the accident and he was fully alert and the accident could have happened to anyone.

The Special Committee is aware that Mr. Ransdell, the District Attorney in Raleigh, was called by one of Mr. Winberry's law partners immediately after the accident occurred and encouraged to see that the matter was fully investigated. In an effort to make certain that no one could say that Mr. Winberry received any favored treatment, the District Attorney's Office called for a coroner's inquest; and a coroner's jury, upon a consideration of the testimony of the investigating officer and the passenger on the motorcycle, found "no probable cause." The investigating officer issued a citation to Mr. Winberry, charging him with failing to yield the right of way. This case was tried out before Judge N. F. Randsdell (now deceased), who heard the testimony of the officer, the passenger on the motorcycle and Mr. Winberry and returned a verdict of "not guilty."

Mr. Winberry was represented by Mr. Wade Smith, a highly respected attorney in Raleigh, and the prosecution was handled by Mr. Zoro Guice, at the time, an Assistant District Attorney in Raleigh.

The Special Committee understands that the Senate Judiciary Committee questioned Mr. Winberry about the trial date having been moved up from the date set forth in the original citation issued by the officer. The statements of Mr. Ransdell, Mr. Smith and Mr. Hall affirm that the change in trial date was requested by the prosecution in order to accommodate the injured passenger on the motorcycle, who was being discharged from the hospital for return to his home in Virginia. The parents of the injured young man did not want him to return to North Carolina for a later trial. Mr. Winberry and his attorney were advised of the new trial date only shortly before the hearing of the matter and in no way requested the change.

It is the opinion of all of the lawyers who were involved in the criminal and civil cases that arose out of this accident, including the attorney who represented the estate of the deceased motorcycle driver in the civil action, that there was no criminality on the part of Mr. Winberry of any kind, and it is clearly indicated that rather than getting favored treatment, Mr. Winberry was dealt with less favorably than he might have been if he had not been a politically prominent person. The Committee concludes from a consideration of all the circumstances that this unfortunate accident affords no basis for questioning the appointment of Mr. Winberry to serve as a United States Judge.

(c) With respect to an alleged payment to Judge Larkins: The Special Committee does not have access to the records made by the Federal Bureau of Investigation, the Postal Service authorities and of the Senate Judiciary Committee investigators, but it is believed this matter has been thoroughly investigated. The Special Committee has noted the statement of Senator Leahy that the allegations have not been substantiated, and the Special Committee firmly believes that they are totally unfounded.

The Special Committee is informed by Mr. John Clark, who represented David Windham along with Mr. Winberry, that the person who is alleged to have made the accusation against Judge Larkins and Mr. Winberry, called him after reading statements about it in the Press and emphatically denied that he had ever made any such statements and sought to engage Mr. Clark to prosecute an action against somebody for slandering him.

This Special Committee cannot understand why any spokesman for the Senate Judiciary Committee ever issued any statement to the press about the matter, because at the time that statement was issued the investigative reports of the FBI and the postal authorities were available and clearly indicated that the allegations were completely refuted. It was then stated by the Judiciary Committee spokesman that the matter was being further investigated, but the only further investigation that this Committee knows of was the questioning of Mr. Winberry by the Senate investigator. It is difficult to understand why the Judiciary Committee has permitted the good name of Mr. Winberry to be tarnished by the inuendo that its Press statements create.

The Special Committee is aware of the amount of the fee which Mr. Winberry charged the defendant in the cigarette smuggling case and recognizes that the setting of the fee was a matter of contract between a lawyer and his client who was willing and able to pay. Recognizing that fees in criminal matters are usually set and collected in advance, and are therefore not based on hourly rates, and recognizing that the time for handling and the results that may be obtained vary rather widely from case to case in criminal matters, this Committee has determined that the entire fee was received by Mr. Winberry's law firm and applied to the legitimate expenses of the firm and compensation of its personnel.

Although this Special Committee has not investigated the sentencing practices of Judge Larkins for cases like the one involving David Windham, it understands from the independent investigation of reporters from The News and Observer that the sentence meted out to Mr. Windham in the case handled by Mr. Winberry was consistent with those meted out to other persons charged with the same or similar crime.

After considering all things, the Special Committee firmly concludes that nothing has been disclosed which should discredit Mr. Winberry in any way in his handling of the Windham matter or that suggests that any special treatment was gained in such handling.

SUMMARY AND RECOMMENDATION OF THIS SPECIAL COMMITTEE OF THE SEVENTH JUDICIAL DISTRICT BAR

Because of news media accounts of the Senate Judiciary Committee hearings on the confirmation of the appointment of Charles B. Winberry, Jr. as a United States District Court Judge for the Eastern District of North Carolina, the President of the Seventh Judicial District Bar appointed a Special Committee to inquire into certain matters pertaining to the fitness and qualifications of Mr. Winberry for that position and the Executive Committee of the Seventh Judicial District Bar called a special meeting of the Bar to receive the report of the Special Committee.

The Committee has met six times, has investigated the matters which it has reported on to the fullest extent of its ability to do so, has satisfied itself as to the facts and has presented its unanimous report to this Bar, and the report is summarized as follows:

1. The Special Committee is informed that the Federal Bureau of Investigation and the

United States Postal Service each investigated a report that Mr. Winberry had been the conduit of a bribe from a Defendant he represented to the Federal District Court Judge who was trying the case. Each investigative body found that there was no merit or substance to the report and their findings were reported to the United States Attorney General and to President Carter prior to the appointment of Mr. Winberry. A spokesman for the Senate Judiciary Committee has reported to the news media that no evidence has been found to support the alleged bribery in any manner. Based upon this information and its members' knowledge of Mr. Winberry and the District Court Judge who tried the case the Committee has concluded that there is no basis for the rumor and the rumor ought to be fully dismissed as unfounded.

2. The Special Committee is aware of the amount of the legal fee paid Mr. Winberry by the Defendant in the above-mentioned case and recognizes that it was a transaction between a lawyer and his client who was able and willing to pay. The Committee has determined that the entire fee was transmitted to Mr. Winberry's law firm and used entirely for legitimate purposes.

3. It has been intimated that because of his political prominence, Mr. Winberry received favored treatment in the handling of a highway accident in which a man was killed when his motorcycle collided with an automobile driven by Mr. Winberry. The Special Committee has examined written statements of the District Attorney of Wake County, the attorney who represented Mr. Winberry in a civil suit arising from said accident, the attorney representing the estate of the deceased, Plaintiff in said case, and the statement of the Assistant District Attorney who prosecuted the charge against Mr. Winberry for failure to yield the right of way, which charge resulted in a Court verdict of not guilty, has heard the comments of others familiar with the case, has considered the physical facts at the location of the accident, and the results of the coroner's inquest. It has unanimously concluded that there was no criminal liability on the part of Mr. Winberry and only doubtful civil liability and that Mr. Winberry was not accorded any favored treatment. On the contrary, it appears from statements of the District Attorney that had Mr. Winberry been less prominent, no inquest would have been held and no charge filed. The Special Committee has concluded that the actions of the Court and law enforcement officers were entirely proper and that neither the handling of the matter by them nor the accident itself ought to be considered in any way detrimental to Mr. Winberry.

4. The Special Committee is of the opinion that the unfounded rumors that Mr. Winberry was involved in a bribery and received favored treatment in the proceedings growing out of the tragic motor vehicle accident have been given unwarranted publicity and undeserved consideration to the unjustified detriment of Mr. Winberry and ought to be finally and forever dismissed as unworthy of consideration.

5. A spokesman for the Senate Judiciary Committee has stated that because Mr. Winberry is only 38 years of age he could not have the maturity, experience and professional qualifications essential to the position of a Federal District Court Judge. All of the members of the Special Committee are personally acquainted with Mr. Winberry and have personal knowledge as to his age, maturity, experience and professional ability. In addition, members of the Committee have examined several hundred letters written to or on behalf of Mr. Winberry attesting to his personal integrity and professional ability. It is noted that Mr. Winberry has been active in an unusually large number of cases during his years of practice and that he has been able to acquire court room and legal experience during this time that surpasses that of many older attorneys. The Committee has concluded unanimously that Mr. Winberry possesses the integrity, experience, temperament and professional ability that fully qualifies him to hold the office of a Federal District Court Judge.

The report of the Special Committee and its documentary evidence has been presented to this meeting of the Seventh Judicial District Bar.

NOW, THEREFORE, BE IT RESOLVED by the Seventh Judicial District Bar of North Carolina, at a duly called special meeting, that it accept and approve the report of the Special Committee, that it find and conclude that Charles B. Winberry, Jr. has the integrity, maturity, experience and professional ability requisite to the office of Judge of the Federal District Court, that it endorse his nomination without reservation and urge his confirmation by the United State Senate.

FURTHER RESOLVED, that a copy of this Resolution and the report of the Special Committee be delivered to the United States Senate Judiciary Committee.

Respectfully submitted this 3rd day of December, 1979.

I. T. VALENTINE, Jr.,
Chairman.
WILLIAM W. AYCOCK, Jr.
L. H. GIBBONS.
C. T. LANE.
LOUIS B. MEYER.
QUENTIN T. SUMNER.
HERBERT H. TAYLOR, Jr.
WILLIAM L. THORP.

U.S. DISTRICT COURT,
EASTERN DISTRICT OF NORTH CAROLINA
Trenton, N.C., November 23, 1979.

Re: Nomination of Charles B. Winberry, Jr., United States District Judge, Eastern District of North Carolina.

Senator EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

Senator STROM THURMOND,
Ranking Minority Member, Senate Judiciary, Committee, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY AND SENATOR THURMOND: I have been concerned by reports in the North Carolina news media of an unsupported allegation that Charles B. Winberry, Jr., nominated by the President on March 28, 1979 as United States District Judge for the Eastern District of North Carolina (a new position), was a conduit for the passage of a bribe to me in behalf of a defendant in my court several years ago.

I have refrained from commenting on this allegation because I knew it was untrue. Indeed, press reports indicate that Senator Patrick Leahy stated at Mr. Winberry's hearing on November 7, 1979 that an investigation by your committee had found no facts to support such allegation. In fact, both the FBI and the Postal Service have found this allegation unfounded. However, because of the continuing media attention to the allegation, I believe that I should set the record straight.

Since my appointment as a United States District Judge by President John F. Kennedy on August 21, 1961, I have never been offered a bribe or payment of any type—nor have I ever accepted or received a bribe or payment of any type—nor has anyone ever intimated to me that such was available. I can assure you that if anyone would ever suggest such a thing to me, or attempt to bribe or unlawfully influence me in the discharge of my sworn duties, that I would use all of the powers of my office to see that such person or persons are indicted and prosecuted to the fullest extent of the law. The allegation that Charlie Winberry was a conduit for the passage of a bribe to me is a total and complete falsehood. In fact, this is the first such allegation ever to reach my ears—and this came through the newspapers. The judgment rendered in the case in question was similar to a score of other cases I rendered in like situations involving the illegal use of the mails to ship cigarettes. The law was unclear for several months pending appeals. However, the Circuit Court of Appeals for the Fourth Circuit affirmed my decisions. Everyone may not have agreed with my decisions in those cases but I did what I felt was just and proper in each case under the then existing circumstances.

Finally, let me tell you about the President's nominee—Charles B. Winberry, Jr., age 38, single, of Rocky Mount, North Carolina. He served as one of my many law clerks shortly after his graduation in June 1967 from Wake Forest University Law School. I had known him since he was a teenager. His father, Judge C. B. Winberry of Statesville, North Carolina and I were in law school together in the 1920's. Charles was one of the most diligent and hardworking law clerks among the thirty I have appointed in the past 18½ years. He left my employ after 15 months to become Chief Prosecutor of the Nash-Wilson-Edgecombe District Court for two years. He resigned to enter the practice of law with a prestigious law firm in Rocky Mount, North Carolina. I have observed him, from time to time, in the courts of this District since then. His practice is as extensive as any lawyer in the District. His legal briefs and writings are well researched and concise, ably presenting his client's position. He is serving with distinction now as Chairman of the committee rewriting the local rules of practice in this District. As an advocate in the courtroom he has always been most courteous, effective, resourceful and competent. I believe he is well qualified to serve as a District Judge and that he possesses the temperament, experience and common sense to perform excellent judicial service. In fact, the American Bar Association has also given him a qualified recommendation.

Since my retirement from active service on June 8, 1979 we have only one active District Judge with two vacancies in this District. Therefore, we urgently need the services of the nominee, Charles B. Winberry, Jr., to help us dispose of over 1,200 civil and 100 criminal cases pending in this District—and urge immediate confirmation of Mr. Winberry.

Sincerely yours,
JOHN D. LARKINS, Jr.

FINE, NOT JAIL, TYPICAL IN CIGARETTES-BY-MAIL TRIAL

(By Richard Whittle and Pat Stith)

Illicit cigarette mail-order operators usually get off with a fine when they are sentenced in the Federal courts of Eastern North Carolina an examination of court records by The News and Observer shows.

This state's illegal cigarette mail-order industry has defrauded other states of millions of dollars in taxes, and mail-order operators as a group have made hundreds of thousands of dollars in profits, but the U.S. Justice Department has been unable to put an end to the business.

In 1974, federal prosecutors here started charging cigarette mail-order operators with mail fraud, a felony carrying a maximum penalty of a $1,000 fine and five years in prison on each count.

Every operator sentenced in North Carolina's Eastern District between 1974 and 1977 had been indicted on multiple counts of mail fraud, but only seven of the 26 defendants went to prison.

Chief Judge John D. Larkins Jr., of Trenton, N.C., handled 17 of the 21 cigarette mail-fraud cases tried in the district since

1974. He has sentenced one man to prison for cigarette mail fraud.

SENTENCING BOX SCORE

Here's the box score on Larkins and the other two federal judges who handled cigarette mail-fraud cases:

Larkins—17 cases with a total of 19 guilty defendants. Larkins fined those defendants an average of $3,022 each. He sentenced one man to prison.

Judge Franklin T. Dupree of Raleigh—Three cases with a total of six guilty defendants. Dupree fined five of those defendants an average of $7,800 each. He sentenced each of them to prison.

Semi-retired Judge Algernon L. Butler of Clinton—One case with one guilty defendant.

Dupree refused to be interviewed concerning cigarette mail-fraud cases. But court files contain a June 1976 memo from Dupree to the U.S. attorney's office that may reveal why he has been tougher than Larkins on cigarette mail-fraud defendants.

The memo concerned a request that Dupree reduce a six-month cigarette mail-fraud sentence he had imposed on Jack Tew of Dunn earlier that year. In that memo, Dupree wrote:

"I told (Tew's lawyer) that this was to my knowledge the first case in which a cigarette mail-fraud defendant had been given an active prison sentence and that it was my recollection that this fellow cleared about $80,000 or so in a short time; that I knew of no way that this kind of traffic could be stopped if they could simply pay a fine and keep in business."

Illicit mail-order operators pay North Carolina's 2-cents-per-pack tax and sell cigarettes by mail to customers in states such as Florida, Connecticut and New York, where state and local cigarette taxes range up to 23 cents per pack.

The illicit mail-order operators do not report the names of their customers to tax authorities, as federal law requires, and the customers escape paying their state's tax.

H. W. Anderson, director of Minnesota's special taxes division, said in an April interview that his state was losing an estimated $12 million a year in taxes on cigarettes smuggled or mailed into the state; and Anderson said courtroom leniency was "certainly a contributing factor."

"The deterrent just isn't there on a fine, as far as I can see," Anderson said from his St. Paul, Minn., office.

The lack of active prison sentences also has disturbed the U.S. Justice Department, says Thomas P. McNamara, a Raleigh lawyer who was U.S. attorney for the Eastern District until September 1976.

"The Justice Department in Washington was interested in active sentences," McNamara recalls. "They were getting a lot of flak from the other states."

Larkins, however, said he thought his methods had practically killed the cigarette mail-order business.

JUDICIAL WARNING

The judge remembered issuing a warning in open court to cigarette operators after the first North Carolina cigarette mail-fraud conviction was upheld by the 4th Circuit Court of Appeals in September 1975. Larkins said he warned them to get out of business, and he said that warning worked.

"I've been criticized by some of the out-of-state people for not sending people to prison," Larkins said, "but we've had practically no cases since (the first conviction) was affirmed. It just drove the majority out of the mail-order business."

Others say the business is alive and well.

There were cigarette mail-fraud convictions in the Eastern District as recently as last summer. Since then, at least two North Carolinians have been convicted in Florida and been given active terms for mailing cigarettes from North Carolina to Florida.

W. F. Walsh Jr. of Chattanooga, Tenn., assistant inspector-in-charge of the U.S. Postal Inspection Service division policing North Carolina, said the cigarette mail-order trade had fallen off some.

However, Walsh said, "They're staying in business, certainly. Apparently they feel it's worthwhile to do so. It's a continuing operation over there."

SENTENCING REDUCED

The N&O's examination of court records also shows that Larkins changed his mind within months and reduced the original sentences for eight of 19—42 percent—of the cigarette mail-fraud defendants who had faced him.

Larkins said in an initial telephone interview that he thought he had amended fines or sentences—as federal judges may do within 120 days of sentencing—"about 1 percent of the time" in all cases.

Here are two examples of cigarette mail-fraud sentences reduced by Larkins:

Clarence Ray Prescott, of Farmsville pleaded no contest Feb. 5, 1975, to 15 counts of cigarette mail fraud, according to federal court records. Larkins fined him $15,000. On May 8, 1975, the judge cut the fine to $2,500.

W. Earl Duncan of Tabor City, whose mail-order firm deposited $1,536,763.03 in its checking account within 11 months, according to court records, was convicted by a jury of eight counts of mail fraud. Larkins sentenced Duncan on May 19, 1976, to five years in prison. He later cut Duncan's sentence twice—first to six months, then to 104 days—and added an $8,000 fine.

HOW MUCH MONEY LEFT?

Larkins left intact the fines he imposed on 11 defendants—seven of whom were fined $2,000 or less.

"I have no way of knowing whether these people can pay these fines (when imposed)," he said. "How many instances do we have where, before the presentence report, the man's got several thousand dollars, and then by the time he's sentenced, he's broke because he's paid the attorneys."

Defense lawyers who have handled cigarette mail-fraud cases refused to discuss their fees on the record. Cigarette mail-order operators told the N&O that the average attorney's fee in such cases was $5,000, and a lawyer confirmed that figure.

However, the lawyer added, "I got the impression some of them (other lawyers) were charging a lot more, and the traffic . . . well, the traffic would bear it."

PROBATION REPORTS CITED

Larkins said in a second telephone interview, after checking his records of the cases in which fines or sentences were reduced, that his decisions in those cases were based on probation office reports.

"Apparently, the probation office was involved in each one of them," Larkins said. "The fines that were finally collected and imposed were based on what the probation office reported."

The judge acknowledged, however, that probation officers usually contact the court, and then the court sometimes contacts them" before the probation office files its official report and recommendations.

Larkins also said he thought it was significant that there were 11 defendants for whom he did not reduce fines. "That ought to show something," he said.

When the same point was made to a federal agent, the agent responded. "There was so much to cut on the others."

ATTACHMENT E

Honorable J. Phil Carlton, Associate Justice of the Supreme Court of North Carolina: "I write to warmly endorse Senator Robert Morgan's nomination of Charles B. Winberry, Jr., Esquire, to the newly created United States District Court Judgeship in the Eastern District of North Carolina.

"I am probably as familiar with Mr. Winberry's courtroom qualifications as anyone. He launched his career in courtroom advocacy by serving as Chief Prosecutor of the Seventh Judicial District of North Carolina while I served as the Chief District Judge. I was privileged to try several thousand cases with Mr. Winberry representing the people and found him to be one of the most capable and talented trial lawyers in our State.

"Additionally, Mr. Winberry was extremely active in judicial administration during that period. He instituted various procedures to expedite the operation and organization of our fledgling court system at that time and conducted various training sessions for court personnel. He prepared the first draft of the North Carolina Uniform Citation and Arrest Warrant and prepared various other materials for use by magistrates and clerks throughout the State. . . .

"I shall not attempt to elaborate on Mr. Winberry's illustrious career as I am sure that you are aware of it. Suffice it to say that he is eminently qualified by virtue of training and temperament, and I can assure you that he will prove worthy of your and the President's trust."

John D. Warlick, Jr., Attorney, Jacksonville, North Carolina and a member of the Board of Governors of the North Carolina Academy of Trial Lawyers: "I have known Charles Winberry for a number of years during which time he served as Clerk to our Federal District Judge and as a practicing attorney, both for the State and in private practice. During all of this time Mr. Winberry has exhibited a good knowledge of the law, a willingness to work, and probably more importantly, an unusual capacity for getting to the heart of a case directly and expeditiously. He presently practices with an excellent law firm in Rocky Mount, North Carolina for whom he is one of the chief trial counsel. I have appeared in cases with him and other members of the firm, know a number of them personally and have the highest respect for their trial ability.

"Although Mr. Winberry may be younger than the average federal judge, his trial experience is probably equal to most of them and his trial ability is certainly comparable to that of any federal judge I have known. I presently serve on the Board of Governors of the North Carolina Academy of Trial Lawyers, the North Carolina Board of Law Examiners and the Merit Selection Committee for Superior Court Judges (our highest trial court) and in my opinion Mr. Winberry would have absolutely no trouble in meeting the requirements for merit selection of judges in North Carolina. I have been engaged in the merit selection interviews for at least a dozen Superior Court Judges and can say without hesitation that Mr. Winberry's qualifications are equal or superior to those of nominees approved for every one of these positions."

Honorable John R. Jolly, Special Judge of the Superior Court of North Carolina: "I was engaged in the private practice of law in Rocky Mount for approximately twelve years, from late 1967 to August, 1979 my practice consisting largely of extensive general civil litigation in the State and Federal Courts. During that time, I came to know Charlie Winberry quite well on both a professional and personal level. Over the years, I had occasions to try cases in which he appeared on the other side, and also had countless opportunities to talk with him and observe his analytical and administrative abilities in the area of litigation. I also came to know and respect Charlie as a fine and honest man of impeccable character and integrity.

"Having made the foregoing observations over a period of ten years or so, I can state without reservation that it is my opinion Charles Winberry is eminently qualified, in character, ability and experience, to serve as a United States District Judge. He is an intelligent and experienced trial attorney, and also is a good and moral person, and would make an excellent Federal Judge."

Lindsay C. Warren, Jr., Attorney, Goldsboro, North Carolina, past President of the North Carolina Bar Association, past chairman of North Carolina Courts Commission: "Mr. Winberry has had an active career as a lawyer most of which has been devoted to the trial of civil and criminal cases. He is a partner in a prominent law firm in the City of Rocky Mount, North Carolina, and is respected by his colleagues at the Bar for his ability and professional competence. He has shown unusual dedication for the administration of justice and has served in many capacities on special commissions and committees here in the State of North Carolina. It is my opinion that Mr. Winberry possesses the competence, skill and capacity to become an outstanding trial judge. I am happy to recommend Mr. Winberry and sincerely hope the President will send forth his nomination to the Senate."

Howard A. Boney, Jr., District Attorney of the Seventh Judicial District: "I have known Charlie Winberry for many years; and I am very familiar with his family, educational, and most importantly, his professional background. As District Attorney for the Seventh Judicial District of North Carolina, one of the strong predecessors I had the good fortune of following was Charles B. Winberry. Mr. Winberry served as Chief Prosecutor of the District Courts of the Seventh Judicial District from 1968 through 1970. I know Charlie, the private citizen, and I know Charles Winberry, the public servant. His service record, both professionally, politically, and in all other phases of public and private life is a record which is unexcelled by any other person I know, Charlie Winberry is a man of the highest integrity and proven leadership.

"My assessment of Charlie Winberry's fitness for this appointment is based on my own personal observation and knowledge of his legal talent, moral integrity, and judicial temperament. I believe that Charlie Winberry will prove to be one of the outstanding judicial leaders of our time. I, therefore, urge the Committee to act affirmatively on Mr. Winberry's nomination, and shall appreciate your allowing the Committee to have the benefit of my thoughts on the subject."

Honorable Burley B. Mitchell, Jr., Secretary of the Department of Crime Control and Public Safety of the State of North Carolina and a former Judge of the North Carolina Court of Appeals: "You will no doubt have complete biographical data available on Mr. Winberry in advising the President with regard to this nomination, and I shall not go into further detail here. I would like to emphasize one of Mr. Winberry's attributes, which is not susceptible to being presented by biographical material. I have tried approximately two hundred felony cases and, with the trial of each case, become more and more convinced that the single most important factor in the making of an outstanding trial judge is the factor of judicial temperament. Although it is impossible to estimate with perfect certainty the type of temperament a lawyer will reveal once he has received a life-time appointment to the Bench, I believe Charles Winberry has that combination of native humility and strength of will and character which will cause him to be possessed to a very high degree of this all important and often illusive quality. In the final analysis, I think no other factor is as important."

Honorable George M. Britt, Chief Judge of the District Courts of the Seventh Judicial District: "I heartily endorse Senator Robert Morgan's recommendation that Charles B. Winberry be appointed to the new federal judgeship in the Eastern District of North Carolina.

"I know Mr. Winberry to be a man of excellent character, an astute attorney, and an exceptional trial lawyer. His varied background will serve him well in performing the duties of a federal judge."

Dale P. Johnson, Attorney, Clinton, North Carolina and former Special Assistant Attorney General of North Carolina: "Charles B. Winberry is, without question, one of the best qualified lawyers I can suggest to serve on the United States District Court Bench. He is, in the truest sense of the word, a legal scholar. He has practiced as an assistant District Attorney, as a Clerk for the United States District Court, and has been admitted to various levels of trial and appellate courts of the State of North Carolina, and the Federal Courts. I believe Charles B. Winberry has the essential background of a good Federal Judge. He has solid legal ability, coupled with broad and diverse legal experience, a sense of perspective, and that rare ability to establish priorities and to distinguish between items of differing degrees of importance.

"No one in my mind has served North Carolina any better than Charles B. Winberry. I am happy to have the opportunity to endorse Senator Morgan's recommendation of Charles B. Winberry. Were I compiling all of those attributes which I consider appropriate and desirable for a United States Judge, I believe that the composite which we would achieve would closely resemble the background, personality, temperament, and scholarship of Charles B. Winberry."

Honorable Warren Harding Coolidge, Attorney, Fayetteville, North Carolina and former United States Attorney E.D.N.C. (1969–1972): "I would like to add my recommendation to that of Senator Morgan for the nomination of Charles B. Winberry as United States District Judge.

"As a former United States Attorney for the Eastern District of North Carolina, I have had the opportunity to observe Mr. Winberry in both criminal and civil proceedings in the U.S. District Court. He is one of the most competent attorneys that practice at this bar; always demonstrating honesty, reliability, efficiency and professional responsibility. Few, if any attorneys in this district, have had the experience of Mr. Winberry in the Federal Courts.

"Because of my knowledge of his personal character and professional abilities, I feel it would be difficult to find a more qualified person in this district to fill such an important position."

Honorable George M. Fountain, Senior Resident Judge of the Superior Court of North Carolina, Seventh Judicial District: "I have known Charles B. Winberry since he was first appointed by me on December 2, 1968, as the Chief Prosecutor for the District Courts of my district. He served with distinction in that position and left the office upon establishemnt of an integrated court system whereby the District Attorney was given the duty along with his assistant to prosecute in the District Courts of North Carolina.

"Since Charles Winberry has been in my district, he has been prominent in the practice of law throughout Eastern Carolina, and particularly the Seventh Judicial District. His associations, his work, and his dedication have all been above reproach, and he has been recognized, not only by me but others within the district, as being an outstanding attorney in North Carolina.

"I hope you will not think me presumptuous, but I feel that my position is such that I can make and have made an objective appraisal of Charles Winberry and sincerely believe that he has all the qualifications one would want and expect in a Judge of the United States District Courts."

J. Ruffin Bailey, Attorney, Raleigh, North Carolina, former Chairman of the North Carolina Courts Commission, and General Counsel of the North Carolina Bankers Association: "I have known and worked with Mr. Winberry for the past several years in connection with legal matters and in his capacity as legal counsel and legislative counsel for our Governor. He is a very able lawyer and will make a good trial judge.

"I have also been aware of his interest in the judicial system in this state and in our federal system. As former Chairman of our North Carolina Courts Commission, I am well aware of his continued interest and enthusiastic support of the sound system of the administration of justice.

"It is with a great deal of enthusiasm that I wholeheartedly endorse the nomination of Mr. Winberry for this most important position. . . .

"I am very much concerned about the careless general charge that this is a political appointment and wish to take exception to this characterization. It would be tragic indeed if the fact that one participated in the political life of his state and nation he would be stigmatized to such an extent that he could not be favorably considered for an appointment to a position to which he is personally and professionally qualified. I myself have participated in politics and intend to continue to participate as long as there is breath in my body and as long as this privilege is guaranteed to me by our Constitution. and I certainly hope and urge every other citizen of this country to do likewise.

"As for Mr. Winberry's personal integrity, there is no doubt in my mind that he is qualified to assume the responsibilities of a Federal District Court Judge, and I am equally certain that he possesses the legal skills and ability to perform the duties of this very responsible position. I have known and worked with and against Mr. Winberry in legal matters, in Legislative matters, and in political campaigns, and I know him to be a person deserving of the respect of his fellow lawyers and fellow citizens, and I highly recommend him for this position and would like the Judiciary Committee to be informed that we think him to be a highly qualified nominee in every respect."

Thomas P. McNamara, Attorney, Raleigh, North Carolina and former United States Attorney, E.D.N.C. (1972–76): "I am writing to endorse Senator Morgan's recommendation of Mr. Winberry.

"This endorsement is made without reluctance or reservation. In making this unqualified endorsement, I base my assessment on Mr. Winberry's character, experience and background, viewed in light of my own perception, derived from my years of experience as a United States Attorney, of the essential qualities of a competent federal judge. With this in mind, I can confidently say that Mr. Winberry would be an outstanding asset to the federal judiciary.

"I have known Mr. Winberry for approximately ten years and have had ample opportunity to become acquainted with his ability as an attorney. During my service as United States Attorney for the Eastern District of North Carolina from 1972 through 1976, Mr. Winberry appeared in federal court on numerous occasions, I always found him to be of impeccable moral character, an attorney dedicated to the highest standards of conduct, an exceptional litigator, and a staunch believer in the special responsibility of attorneys in our modern society."

Honorable Joseph Branch, Chief Justice of the Supreme Court of North Carolina, in a letter to Attorney General Bell dated 11-10-1978: "Mr. Winberry's professional, political, and civic background eminently qualify him for the post to which he has been nominated. I strongly recommend that Senator Morgan's recommendation be followed."

Allen G. Thomas, Attorney, Wilson, North Carolina: "I have known Charles approximately ten years, beginning during the period that he was Chief Law Clerk to Chief Judge John D. Larkins, Jr., Eastern District of North Carolina, through the time that he was the Solicitor for the General Court of Justice, District Court Division of our Judicial District, to the present time where he is a partner for one of the finest law firms in the United States. During this period of time, I have known Charles legally, politically, and socially. He has always conducted himself on the highest level and his integrity is above question. He has always treated those he came in contact with fairly and equitably, and this fact is well known in the legal profession. I realize it is a cliche to make the remark that one is a lawyer's lawyer, but such is the case here. Charles' integrity, talents, ability, and desire to work and be prepared, all make him eminently qualified to be a U.S. District Judge. I trust it will suffice to say that my recommendation of Charles as a candidate for U.S. District Judge is totally without reservation or hesitation."

Marvin Blount, Jr., Attorney, Greenville, North Carolina and former Special Judge of the Superior Court of North Carolina: "Having served personally as a Superior Court Judge for the State of North Carolina, I have had the opportunity to observe Charles practice before the Superior Courts and was most impressed with his ability to quickly identify issues, as well as his candid and appropriate responses to those issues.

"I am certain that Charles possesses the judicial temperament that we so badly need in some of our federal courts. He will bring to the judiciary an air of trust and respect. Additionally, he would have, in my opinion, the compassion and maturity to understand the sentencing problems which face most judges today.

"I am sure if appointed, Charles will be one of our most outstanding federal judges."

Ralph M. Stockton, Jr., Attorney, Winston-Salem, North Carolina and Past President of the North Carolina Bar Association: "I have known Mr. Winberry for a number of years in the practice in North Carolina. He is a graduate of Wake Forest University and served as Law Clerk to Judge John D. Larkins, Jr. in the United States District Court for the Eastern District of North Carolina following his graduation from Law School. Prior to entering private practice, he also served as Chief Prosecutor of the Seventh Judicial District of North Carolina. In addition to his private practice, he is now serving as counsel to Governor James B. Hunt, Jr. of North Carolina and is involved in Bar activities throughout the State. He has also lectured at various institutes and seminars.

"He has been an active practitioner of the law in Eastern North Carolina for many years and has all the practical experience, judgment, integrity, common sense and willingness to work which are so necessary to effectively fill the most important position of United States District Judge.

"I strongly endorse Mr. Winberry for United States District Judge for the Eastern District of North Carolina."

J. LeVonne Chambers, Attorney, Charlotte, North Carolina and National President of the Legal Defense Fund. "I have known Mr. Winberry for several years, beginning with his clerkship with Judge John D. Larkins of the Eastern District Court in 1967. I have known him to be a person of high integrity and academic achievement. He has been sympathetic to the causes of minorities and I think that he will make a great addition to the Court.

"I would accordingly highly recommend your favorable consideration of him for appointment to the Eastern District Court of North Carolina."

Honorable C. Woodrow Teague, Attorney, Raleigh, North Carolina and Past President of the North Carolina State Bar, Incorporated: "It is with a great deal of pleasure that I recommend to you for appointment to the newly created United States District Court Judgeship in the Eastern District of North Carolina, Charles B. Winberry.

"It has been my pleasure to know Charlie for the past fifteen years inasmuch as he graduated from my college of Wake Forest and in September of 1967 began Clerkship with Judge John D. Larkins of the Eastern District of North Carolina. . . .

"To my way of thinking, Charlie Winberry is qualified ethnically, intellectually and temperamentally to be an excellent District Court Judge. His past has been excellent in all phases and I am sure that if he is appointed to the District Court Judgeship, he will do an excellent job and be a credit to the bench."

H. Edward Knox, Attorney, Charlotte, North Carolina: "Charlie Winberry possesses one of the best temperaments which I think highlights him as a prime candidate judge in the Eastern District of North Carolina. More importantly, he possesses the judicial skills to be an outstanding jurist. There is absolutely nothing in his background that would not complement his serving in this capacity. I know of no judicial position in the United States Government where one comes in contact with more people; and, in my opinion, Charlie would serve as well and with distinction in the capacity of judge for the Eastern District."

James E. Ferguson, II, Attorney, Charlotte, North Carolina: "I am happy to take this opportunity to endorse Senator Robert Morgans' recommendation that Charles B. Winberry be appointed to the recently created new United States District Court judgeship in the Eastern District of North Carolina. I have known Mr. Winberry personally for the last 15 years and professionally for the last 11. He has demonstrated himself to me to be a person of the highest integrity, with high capabilities. I also feel that he has the sensitivity and humility appropriate for a Federal District Court judgeship.

"I urge this nomination and appointment."

Louis J. Poisson, Jr., Attorney, Wilmington, North Carolina: "It has been my privilege to be personally acquainted and work with Mr. Winberry for a number of years. I have found him to be an astute lawyer and administrator. He has been recognized by the present Chief Judge for the Eastern District of North Carolina who has appointed him as Chairman of the Committee on Local Rules of Practice for this District. He is also a permanent member of the Judicial Conference for the Court of Appeals for the Fourth Circuit and has served in many Legislative and Administrative Councils involving the administration of justice in the State of North Carolina.

"Based upon my personal acquaintance and work with Mr. Winberry, I can, without hesitation, state to you that he is fully qualified to fill all responsibilities as a United States District Court Judge, and I personally endorse and recommend his appointment."

Honorable Robert H. Hobgood, Judge of the Superior Court of the State of North Carolina: "On November 7, 1978, I was elected to the North Carolina House of Representatives as a democrat without republican opposition. In campaigning in the democratic primary, I feel that I became attuned to the opinion of the people in my district in connection with many governmental concerns. I particularly noticed the fervent hope of young citizens for good, honest government by capable leaders. In my opinion, Charles B. Winberry, Jr. fits a need in the judiciary in the Eastern District of North Carolina. He is young, completely honest, has been a servant of the people of North Carolina, and has excelled in all endeavors. His capabilities as an attorney and student of the law are unquestionable. Further, his sensitivity in the field of human rights has been demonstrated and is firmly established.

"I strongly endorse Charles B. Winberry, Jr. for appointment to the United States District Court Judgeship in the Eastern District of North Carolina."

Honorable Robert M. Martin, Judge of the North Carolina Court of Appeals: "I wish to express my unqualified support for the nomination of Charles B. Winberry as United States District Judge for the Eastern District of North Carolina. It has been my pleasure to count Charles Winberry both my personal friend and colleague in the legal profession since the beginning of his career. He is a man of unquestioned integrity and competence, as his distinguished record amply demonstrates. I know of no finer man and no more accomplished legal scholar and practitioner than Charles B. Winberry, and no better choice could be made for the judgeship in question than this man."

Charles T. Lane, Attorney, Rocky Mount, North Carolina: "During more than ten years, I have known Charles B. Winberry, Jr. on a professional basis, both in general legal matters and in litigation. I know as a fact that Charles B. Winberry has the professional experience and ability to serve as Federal Judge in the Eastern District of North Carolina. He possesses a down-to-earth and sensitive approach with people while maintaining the highest intellectual and ethical standards. . . .

"After more than 20 years in the private practice of law, I am more than ever committed to the proposition that every litigant is entitled by the law to have his cause considered with the "cold neutrality of an impartial judge" and the equally unbiased mind of a properly instructed jury—and I believe deeply, based on my personal and professional experience with Mr. Winberry, that he is possessed of those qualities that will guarantee such rights to litigants in his Court. . . .

"I say to you that Charles B. Winberry will be a credit to the Federal Bench and you should believe Senator Robert B. Morgan, Governor Hunt and others here in North Carolina who support Mr. Winberry. They know Mr. Winberry, as I do, to be qualified by character, temperament, experience and intellect. Charles Winberry is a good man in the broadest sense, and you should be honored to confirm his nomination as a federal judge."

Frank M. Wooten, Jr., Attorney, Greenville, North Carolina: "It is my opinion he is well qualified to be a Judge of a United States or any other Court. I have known Charles for many years and have been closely associated with him with a matter which was pending in the United States District Court, Eastern District of North Carolina. My associations with him have been such that would provide opportunities for the character and integrity of him or any other person to be amply demonstrated. This applies to the Court proceedings as well as non-Court with specific reference to participation in government.

"Our proceedings before the Eastern District Court was very involved. It involved some new principles of law. It is my opinion that Winberry quickly grasped the facts and the concept of law which were applicable.

There were three lawyers on our "side". The other two, which included myself, agreed that Winberry was the person to prepare the documents, as well as to present facts and law to the trial Judge, both at the District and Court of Appeals level.

"It would be my pleasure to associate him with any other proceeding I have in either State or Federal Court. I have confidence in his ability to determine the problem, develop the law and present it. I found nothing to indicate procrastination or other detriments for which many lawyers are noted. He was astute to determine the purpose and also to carry out the procedures endeavoring to accomplish our goals."

Samuel S. Woodley, Jr., Attorney, Rocky Mount, North Carolina: "I have known Charlie Winberry since he began practicing law as a prosecuting attorney in the Seventh Judicial District. Since that time I have been personally involved in litigation with his law firm. As you know, for the past ten years I have been primarily engaged in civil, personal injury trial work, with emphasis upon the defense of such cases. My contacts with Charlie Winberry in this area have demonstrated to my satisfaction that he is a capable trial attorney, well versed in the law, with a keen ability to analyze and apply legal principle, and sometimes practical solutions, to the cases in which he is involved. . . .

"It is true that Charlie is a young man, by some standards, but how many attorneys in his age group have demonstrated their ability and can match his wide experience. He is a doer. His tasks are accomplished and put behind him. Even if his other qualifications were minimal, that would be enough to qualify him for a judgeship in my opinion. The greatest legal scholar, who cannot rule promptly, and dispose of the docket in a reasonable fashion, is no asset on the bench. On the contrary, in my opinion Charlie Winberry would be a great asset to the Federal Bench in the Eastern District of North Carolina."

Thomas J. White, Attorney, Kinston, North Carolina and Fellow of the American College of Trial Lawyers:

"I have known Charlie Winberry for many years of his life and have had occasion to observe him as a lawyer and as a person.

"Charlie Winberry possesses outstanding legal ability and has had significant and extensive trial experience; he possesses an exceptional ability to analyze legal principles. Mr. Winberry possesses administrative ability, especially in the field of both civil and criminal litigation. As a person and as a lawyer, he is a man of excellent character and impeccable integrity.

"In my opinion, the legal ability and experience of Mr. Winberry would be augmented in his service as a District Court Judge by his common sense and good judgment, both of which he possesses to a high degree."

Lawrence G. Diedrick, Attorney, Rocky Mount, North Carolina and former Assistant Solicitor of the 10th Judicial District: "My first contact with Charlie was when he became District Prosecutor for the Seventh Judicial District. I dealt with him as an adversary on a daily basis for approximately two years. I found him to be not only a worthy and very capable adversary, but an excellent administrator as well. As you well know, it is most difficult to handle the volume of cases that come through the District Court system in the Seventh Judicial District. Charlie handled that job capably and fairly with the help of only one assistant, and as you well know our District Attorney's office now has five assistants, an investigator, and an administrative assistant, and the case load in the District Court is still fairly comparable.

"Charlie treated everyone, from state's witnesses to defendants fairly, and I know of no single instance wherein Charlie was motivated in his action other than by that which he felt to be in the best interests of the State of North Carolina. Charlie was firm but fair.

"Since Charlie entered the private practice of law I have gotten to know him on a personal basis. I believe him to be of the highest integrity and a true gentleman. I would believe anything Charlie Winberry tells me without any hesitation."

C. David Williams, Jr., Attorney, Wilson, North Carolina and former Assistant District Attorney, Seventh Judicial District: "As an Assistant District Attorney for over 7 years in the 7th Judicial District for the State of North Carolina and as a practicing attorney I have had an opportunity to meet and observe Charles B. Winberry. I first learned of Mr. Winberry through the excellent reputation which he had with members of law enforcement and other judicial officials as a result of his having been a Chief District Court Prosecutor for the 7th Judicial District from 1968–1971 during the transition to the new district court system. Based on that reputation and upon my observations of the handbooks and forms, memos, etc., which he prepared to help those involved in the transition. I have no qualms in recommending him in reference to his general legal principles and above all his administrative ability. Through having practiced law first as Assistant District Attorney and a lawyer over the last 8 years, I have had an opportunity to become familiar with Mr. Winberry's character and integrity both as an individual and as an attorney and can say without reservation that both are excellent."

Honorable Leon Corbett, Associate Dean of the Wake Forest University School of Law and former Revisor of Statutes of the State of North Carolina: "I endorse Senator Morgan's recommendation and I hope that Mr. Winberry will be appointed. . . .

"I have had many personal contacts with Charles Winberry but the longest sustained period of contact which we have had was in connection with his work with the North Carolina Criminal Code Commission. I served that group as a draftsman at a time when Mr. Winberry was on the Commission. His insight and understanding of the law and its process, and its application in the human situation contributed materially to the development of the Act. I can attest particularly in that regard in the areas of post trial motions, arrest and process which we dealt with in a subcommittee. That work exemplifies his concern for the development and improvement of the law and his public service, but it is simply one small example. . . .

"He has practiced law and he has practiced in the federal courts. It is a fact of our system and structure that some lawyers simply do not become involved in federal litigation and affairs in federal courts. There tends to be a segment of the bar which does involve itself in that practice and Mr. Winberry has fallen into that group. His active federal practice dates from the time when he was a law clerk to Judge John Larkins, where he received much good training."

E. Hoover Taft, Attorney, Greenville, North Carolina: "This young man is admirably qualified by natural intellect, legal training, and practical legal experience to serve on the Federal Bench. He has a brilliant mind that has been sharpened by years of complex litigation, legislative draftsmanship and public service.

"Mr. Winberry's legal scholarship and experience have shown me that he is capable of not only understanding the most complex legal issues, but is able also to absorb tremendous volumes of fact and reduce the fact and the legal issue down to their bare essentials in order to render an intelligent decision. He further demonstrates an enormous capacity for dealing with the pressures of administrative matters and multiple activities without a loss of composure, efficiency or skill. . . .

"I save my comments on Charles Winberry's integrity for the last, as I believe this to be the most important consideration for the Federal Judge. He is one of those rare individuals of total and unquestionable integrity in all his personal and public affairs. This sense of integrity and fair play is abundant in every aspect of his daily personal life and his record of legal and public service."

William W. Aycock, Jr., Attorney, Tarboro, North Carolina: "I have known Mr. Winberry since 1968. In my law practice I worked with him when he served as Chief Prosecutor of the District Courts of the Seventh Judicial District of North Carolina between 1968 through 1970. I have been associated in civil cases with Mr. Winberry after he entered private practice in Rocky Mount and I have dealt with Mr. Winberry in his capacity as legislative and legal counsel to Governor Hunt. In all of my dealings with Charles Winberry I have found him to be a good lawyer, highly competent, hard working and effective. In addition to these qualities he is honest, fair and pleasant. But probably more important than these admittedly necessary attributes of a good judge, Charles Winberry has a wide range of interest, broad vision and a true sense of fairness and justice. He will be a good judge."

Honorable Kenneth W. Turner, Chief Judge of the District Courts of the 4th Judicial District of North Carolina: "I would like to endorse the recommendation of Senator Robert Morgan for your consideration of Charles B. Winberry for appointment to the recently created United States District Court Judgeship in the Eastern District of North Carolina.

"I have known Mr. Winberry for over ten years. We first met while he was Chief Prosecutor of the District Courts of the Seventh Judicial District of North Carolina and I was a prosecutor in the Fourth Judicial District. Mr. Winberry is a man of exceptional ability and integrity, and he is well qualified by education and experience for this Judgeship. He has an outstanding record of legal experience in both the federal and state courts, and he is a permanent member of the Judicial Conference of the United States Court of Appeals for the Fourth Circuit.

"Mr. Winberry is held in the highest esteem throughout the State of North Carolina, and I am confident that he would make an outstanding United States District Court Judge."

C. W. Everett, Sr., Attorney, Bethel, North Carolina and a member of the Council of the North Carolina State Bar: "Having practiced law in the Eastern District of North Carolina for 38 years, I believe that I am competent to make a judgment on the qualifications of a proposed appointee to a District Court Judgeship in the Eastern District of North Carolina. It is my opinion that Mr. Winberry is eminently qualified to serve in this or any other high judicial office. . . .

"For the past eight years Mr. Winberry has practiced law extensively throughout North Carolina in both the State and Federal Courts and is universally recognized as one of the State's ablest trial lawyers. . . .

"My association with Mr. Winberry has been very close both professionally and personally. I know him to be a man of unimpeachable character whose integrity is unquestioned. He is a knowledgeable and skilled lawyer who loves and respects the law. He possesses a logical and analytical mind which does not yield to the trivial. He knows and understands people and meets and treats them with dignity and consideration. Although he recognizes and has confidence in his capabilities, his keen sense of humor will never allow him to be pompous."

Herman E. Gaskins, Jr., Attorney, Washington, North Carolina, former Assistant United States Attorney, E.D.N.C.:

"As a law clerk, Assistant United States Attorney, and now Special Assistant United States Attorney, I have observed Charles Winberry during his frequent appearances in federal court. He has on each occasion represented the interests of his clients fully and has at the same time aided the United States and the court in the disposition of his case. It is the concensus that he is one of the outstanding federal attorneys in eastern North Carolina.

"I personally believe that Charles Winberry possesses other qualities which are essential for the federal bench. He is a proven administrator with a reputation for hard work and attention to detail. Furthermore, and more importantly, he is a humanist who will apply common sense and compassion in his decisions as a federal judge."

Charles M. Davis, Attorney, Louisburg, North Carolina:

"I have personally known Mr. Winberry since his graduation from the law school at Wake Forest University in the late 1960's. I, as well as one of my law partners, have appeared on opposite sides of Mr. Winberry in several civil cases, both in Federal and State Courts, and I have always found him to be well prepared in all of his legal matters and a highly skilled, competent and able attorney. Mr. Winberry is recognized throughout Eastern North Carolina for his legal ability and I am confident that he would be a credit to the Federal Judiciary System, as I believe he possesses the kind of understanding, personality and temperament necessary to gain respect from the general public for the Judicial System. From my experience, Charles Winberry's personal integrity is beyond reproach and his standing in the professional community reflects the finest traditions of the Bar.

"It is without hesitation or mental reservation that I recommend Charles Winberry to the Senate Judiciary Committee for a Federal Judgeship in the Eastern District of North Carolina, and I trust the Committee will act favorably upon Mr. Winberry's nomination."

Knox Jenkins, Jr., Attorney, Smithfield, North Carolina:

"My practice for over seventeen years has been limited to criminal and civil trial practice in the State and Federal courts. As a trial lawyer, I can attest to the fact that Charles Winberry excels in trial practice and procedure. I have appeared against him in civil litigation and know his reputation as a criminal lawyer to be excellent. Charles Winberry is a student of the law as well as a trial advocate. He is tenacious without being overbearing and has an endless capacity to work. He is truly dedicated to his profession and the judicial system as a whole.

"There is absolutely no way that any individual could question Charles Winberry's appointment as a Federal Judge. Charles Winberry will be a wise choice for our president and our state and nation will benefit by his decision."

Allen A. Bailey, Jr., Attorney, Charlotte, North Carolina, immediate Past President of North Carolina Academy of Trial Lawyers:

"Putting it succinctly, Charles Winberry is a gentleman, a scholar, an outstanding citizen, a public servant, and a churchman. Mr. Winberry is a man of restraint, even temper, high integrity, superb moral character, and with a sense of fairness exceeded by no individual.

"Having had an opportunity to work closely with Mr. Winberry over a period of several years, I have observed a keen legal mind working in harmony with others solving extremely difficult legal problems. Those of us who know his ability in the courtroom recognize the fact that he is indeed a worthy advocate in any situation. He has as much legal ability as any lawyer in North Carolina. It is my judgment that no lawyer in North Carolina has put in more hours of hard work in all phases of his community and professional life than Charles Winberry.

"As you can readily see, Charles Winberry would be at the very top of the list insofar as I am concerned when it comes to his qualifications for serving as a United States District Judge. If there are qualities needed to fill that position which Mr. Winberry does not possess, I do not recognize them. In my judgment he will indeed make an outstanding contribution to the federal judiciary, and it is any pleasure to recommend him without reservation or qualification. If appointed, I would expect Mr. Winberry to become one of the great federal judges of our system of jurisprudence."

Grady S. Patterson, Jr., Attorney, Raleigh, North Carolina:

"As you know, he is presently a partner in a distinguished law firm in Rocky Mount, North Carolina. As the result of litigation in which we have participated I have become familiar with his legal ability and I have been especially impressed with his scholarly approach to the handling of legal matters.

"For many years our firm has been engaged exclusively in private civil trial practice in the Federal and State Courts of North Carolina. As a result, I am well aware of the demanding nature of the duties and responsibilities cast upon a trial judge. Based upon the foregoing, and my knowledge of the man himself, it is my opinion that Charles Winberry would be a distinct credit to the bench, and I am pleased to wholeheartedly endorse his appointment."

W. S. McLean, Attorney, Lumberton, and former Assistant United States Attorney, E.D.N.C.:

"I have known Mr. Winberry throughout his professional career and have admired his development and progress in his chosen field. I was first associated with him when he was Clerk for the Honorable John D. Larkins, Jr., United States District Court Judge. I had the opportunity to observe his talents at first hand and have observed his talents over a long period of years. He truly possesses all the ingredients of a great federal jurist. His process has always been to carefully weigh the evidence before arriving at an unfailing correct decision. This weighing of the evidence in whatever context it might come about and arrival at the correct solution is without doubt a strong suit of Mr. Winberry. He is universally respected. His genuine desire for service coupled with a rare ability is indeed unique in this day and time. His unfailing courtesy and personal demeanor will stand him in good stead on the court.

"His early development in the law came at a time when equal justice under law was very much in the foreground and his devotion to this concept came naturally for one of his temperament. He has a genuine concern for those who are less fortunate in our country and this should aid his determinations when these matters are at issue.

"I heartly and enthusiastically endorse Mr. Winberry for the United States District Court for the Eastern District of North Carolina."

W. H. Holdford, Attorney, Wilson, North Carolina and President of the North Carolina Academy of Trial Lawyers:

"I wholeheartedly endorse Senator Robert Morgan's recommendation of Charles B. Winberry for the new Judgeship in this District. The breadth and scope of Charlie's achievements evidence his character and abilities. Truly, he is a 'man for all seasons.' Whatever he undertakes is timely completed and extremely well done.

"Charlie is a Christian who lives his faith. He knows more people more intimately than anyone else I know. Though he clearly and fully recognizes human foibles, he loves people and brings out the best in everyone fortunate enough to know him in any way.

"Charlie's industry, his talent for organization, his temperament, his knowledge and wisdom, his analytical ability, his respect for the law, his fortitude, his pragmatism and his foresight uniquely qualify him for this Judgeship. Charlie will be an outstanding Jurist."

Honorable Rufus L. Edmisten, Attorney General of North Carolina:

"As Attorney General of North Carolina this office is well familiar with Mr. Winberry's legal ability. He is an excellent trial attorney, always well prepared, and extremely intelligent and articulate. In matters which have brought him in direct contact with this office—whether representing a defendant or coordinating efforts with us—we have always found him to be of the highest skill, integrity and maturity.

"I have known Charles Winberry as a personal friend for more than fifteen years, as well as for four years at Attorney General of North Carolina. There is no question in my mind that he will not be an "adequate or representative judge . . . rather I sincerely believe he will be an outstanding credit to the Federal Judiciary."

Herman R. Clark, Attorney, Fayetteville, North Carolina and formerly a judge of the Superior Court of North Carolina:

"I have been associated with Mr. Winberry in a variety of ways since he became a general practitioner in his outstanding firm in Rocky Mount, North Carolina. I am entirely satisfied that he has the required legal competency and extraordinary sound judgment to be a fine federal judge. Additionally, he has the capacity to relate to people which, as you know, is most essential for a trial judge. He is highly respected among the lawyers who are acquainted with him. I believe his appointment would be well-received and a much-needed addition to the Federal Judiciary in the Eastern District of North Carolina."

Robert A. Spence, Sr., Attorney, Smithfield, North Carolina:

"Mr. Winberry and I, in the practice of law, have had occasion to become associated several times since he was admitted to the bar in 1967. He has always exemplified in his conduct of his law practice an open and flexible mind capable of giving his client the best possible representation as an attorney and at the same time, by his conduct, being a credit to the Judicial system of our country. Mr. Winberry possesses not only the tools and skills of the craftsman of the legal profession, but he also possesses that inherent quality of mother-wit, which is such a great asset in dealing with people. I think he, while sitting on the bench in Federal Court or any court, would be an outstanding illustration of justice tempered with mercy. . . .

"As an individual person and member of society, I can unhesitatingly say that he is a fine Christian gentleman with outstanding high moral and ethical standards. The people of this great country would benefit from his service in the Judiciary of the Federal Courts."

Thomas R. Eller, Jr., Attorney, Raleigh, North Carolina and former member of the North Carolina Utilities Commission:

"While Mr. Winberry has demonstrated leadership ability well beyond his years, county, and state, my contacts with and knowledge of him is more directly in law. This includes not only the practice of law, but the drafting of complicated, enlightened legislation in the administrative and criminal law fields.

"As an example, in the public utility regulatory field, North Carolina is in several respects ahead of the National Utilities Regulatory Act. It already has an independent, active Public Staff charged with the statutory duty of representing the using and consuming public; it has extensive load-management, pricing, and other energy conservation programs in place pursuant to state legislation. Mr. Winberry would not assume credit for such legislation, but he more than any other practicing lawyer in the State is due such credit—not merely in obtaining enactment, but in drafting workable, meaningful, and level legislation.

"I consider that Mr. Winberry has a temperament well-suited for the Bench. In part. I think this comes from the variety of his experience in the practice. He has appeared for the rich and the poor, the black and the white, the corporation and the individual, in criminal and civil cases, in trial and appellate courts."

Edward N. Rodman, Attorney, Washington, North Carolina and past President of the North Carolina Bar Association:

"I am delighted to learn that Senator Robert Morgan has recommended to President Carter the appointment of Mr. Charles B. Winberry to the District Court Judgeship recently created for the Eastern District of North Carolina. I wholeheartedly endorse Mr. Winberry for this appointment. I first came to know him when he served as Clerk for Chief Judge Larkins and I was impressed then with his legal knowledge and his diligence. In recent years I have had occasion to appear against him in various cases, and I hold his legal ability in high regard. Mr. Winberry has a temperament which would well fit him for service on the bench.

"During my term as President of the North Carolina Bar Association, I frequently came in contact with Mr. Winberry and to consider his work in the area of criminal law and sentencing. I found his thought process impressive."

Honorable Gerald Arnold, Judge of The North Carolina Court of Appeals:

"By training, experience, ability and character Charles Winberry is well qualified to serve as a United States District Judge.

"I have personally known Mr. Winberry for more than ten years. As an attorney who had professional dealings with him I found Mr. Winberry to possess high ethics in dealing with opposing counsel, to be knowledgeable of the law, and to be responsible to his clients. As a judge, I have personally observed him in practice before this Court and I assure you that Mr. Winberry is held in highest esteem by me as well as my colleagues."

Herbert H. Taylor, Jr., Attorney, Tarboro, North Carolina and Past President of the North Carolina Bar Association:

"I have had both personal and professional contacts with him since September 1, 1967.

"I, and the members of my firm, have a very high regard for Mr. Winberry's knowledge of the law, his ability to analyze legal matters, his diligence in the preparation of his cases and his trial experience and ability.

"In my opinion, Mr. Winberry is more than a highly competent and experienced lawyer. His background, experience, powers of observation and an exceptional amount of sound common sense give him an ability that in my opinion highly qualified him for the high judicial position to which he has been recommended. I am completely confident that if nominated he will perform the duties of this office in a manner that would reflect credit upon himself and upon the Bench."

N. A. Townsend, Jr., Attorney, Raleigh, North Carolina:

"In my judgment Mr. Winberry is well qualified in every respect to fill the position for which he has been recommended. I have known him well for more than ten (10) years and have always found him to be a lawyer of ability and a man of integrity. Although relatively young in years, he has consistently exhibited mature judgment and a sound judicial temperament. Both within and without the legal professional, he is well liked as a person and highly respected as a lawyer. If appointed to the judiciary as recommended by Senator Morgan, I am completely satisfied that he will serve with distinction."

Harvey E. Beech, Attorney, Kinston, North Carolina:

"I first knew Mr. Winberry by reputation during or about the year of 1971, and later had the good fortune of knowing him personally when we were involved in an action where he represented one of the defendants and I represented the plantiff. Through these experiences, I have found that Mr. Winberry is a person who possesses the highest character traits with particular emphasis on integrity; that he is well-trained in the law, both criminal and civil, and is equipped, in my opinion, with all of the credentials that will hold him in very good stead as a Federal District Court Judge.

"Secondly, as a black lawyer in this district who was first denied admission to our State Law School in Chapel Hill, and later through Court mandate was allowed to enter and gradaute in 1952, I am extremely interested in combating the last vestiges of discrimination that exist against the poor and minority citizens. It is my firm belief that if Mr. Winberry is appointed to the position of Federal District Judge, he will not hesitate to be ever mindful of the mandates of our Constitution in this regard."

F. Kent Burns, Attorney, Raleigh, North Carolina:

"I believe Mr. Winberry is eminently qualified by intellect, experience and temperament.

"I have known and respected Charlie Winberry for many years. His work in our State government has been outstanding and will be of benefit to the citizens of this State for years to come. As lawyers, we have most often been on opposite sides of the fence. Even when he is an adversary, he is always totally honest, completely fair and extremely considerate. In politics where there are often differences of opinion even within the party, he has been able to work with everyone fairly and without divisiveness."

Honorable L. Bradford Tillery, Jr., Judge of the Superior Court of North Carolina:

"I have known Mr. Winberry professionally and socially for all of the years that I have served as a Superior Court judge.

"His professional qualifications are on as high a level as any attorney who has appeared in my court. Additionally, his disposition and temperament make him ideally suited to the position of District Court judge.

"I am pleased to endorse the recommendation which Senator Robert Morgan has made to President Carter."

Cameron S. Weeks, Attorney, Tarboro, North Carolina:

"I would like to take this opportunity to recommend and endorse Honorable Charles B. Winberry as a nominee for a District Federal Judgeship, Eastern District of North Carolina.

"I have known Mr. Winberry for quite a number of years, socially and in the law world. When he prosecuted the docket in the Seventh Judicial District, I defended many, many cases. I found him more than just a formidable opponent. I did, however, find him to be honorable, fair and just at all times. He is one of the most qualified men to be a Judge that I have ever known. This, from a temperament, legal educational, experience and all other proper aspects pertaining to a presiding officer in a Court of law."

Honorable Tom H. Matthews, State District Court Judge, Seventh Judicial District:

"Mr. Winberry was the Chief Prosecutor for the Seventh North Carolina Judicial District from 1968–1970 in the Courts over which I and three other Judges presided. My opinion, reinforced by conferences with my brother Judges, is that Mr. Winberry knows no peer in his legal knowledge and legal ability. In addition, I observed Mr Winberry innumerable times in his prosecuting duties exhibit a compassion for and understanding of the less fortunate who came into our Court, while still adhering to our necessary purpose of representing and protecting the needs of the general public. This ability must be felt and cannot be learned. Mr. Winberry has this quality in Spades."

Traywick H. Stubbs, Jr., Attorney, New Bern, North Carolina and Chairman of the Bankruptcy Section of the North Carolina Bar Association:

"On the basis of his legal ability, experience, temperament and wide acceptance among the members of the Bar, he is clearly qualified to serve as a United States District Judge.

"During the ten-year period I have known Charlie, I have had the opportunity to observe his writing ability his courtroom manner and decorum, his speaking ability and his analytical ability. I have appeared in cases with him, and I have appeared against him. My wife and I have been with him on numerous social occasions, and Charlie and I have visited in each other's homes. I know the opinions and feelings of other members of the Bar who have appeared with and against him, and my unqualified recommendation of Charles Winberry for the position of United States District Judge in the Eastern District of North Carolina is based on these items of reference."

John L. Whitley, Attorney, Wilson, North Carolina:

"It gives me a great deal of pleasure to recommend Charels B. Winberry to be appointed as a District Court Judge in the Eastern District of North Carolina. . . .

"As the prosecuting attorney, he faced many decisions that put him in conflict with the easy choices; but his high personal integrity and his love for the law as the undergirding force in our society always was the final arbiter.

"After he left his office as prosecutor, I found it necessary to employ a personal attorney on a matter relating to a client. My first choice was Charles B. Winberry who I felt would guide me in what was the proper course of action. I, therefore, became his client and was most satisfied with his scholarship and his courtroom appearance in this matter. I would, therefore, say that he is a lawyer's lawyer."

Honorable Charles K. McCotter, Jr., Attorney, New Bern, North Carolina and full time United States Magistrate:

"I have known Charlie since 1971 and I have had numerous opportunities to observe him in a professional capacity as an attorney in both State and Federal Courts and I have found that Charlie has the highest professional qualifications and integrity. I have seen him represent his clients, argue legal theories and try cases. Charlie possesses outstanding legal ability and his character and integrity are impeccable. He is very well qualified to serve as a Federal Judge and his nomination should be confirmed."

Z. Hardy Rose, Attorney, Wilson, North Carolina:

"I have known Mr. Winberry since the year 1967. I have had numerous opportunities to observe and know Mr. Winberry from the time he was chief law clerk to John D. Larkins, Jr., United States Judge for the Eastern District of North Carolina to the present time as a partner of the law firm of Biggs, Meadows, Batts, Etheridge & Winberry, of Rocky Mount, North Carolina. He is intelligent, experienced and has the composure and even temperament so essential to the judiciary. On the many occasions I have observed him in Court and elsewhere, he has never exhibited the slightest degree of bias or prejudice but has always been even-handed and fair in his practice and other activities."

J. W. Hilliard, Attorney, Plymouth, North Carolina:

"I have had the opoprtunity to work with Charles over the past few years and have found him to be an extremely knowledgeable individual in both federal and state law. It is a policy of our firm that we do not engage in any federal court work without associating with a firm that has a great deal of federal experience. In the immediate past we have had several opportunities to call on Mr. Winberry's firm, and in general to call on Charles in particular, to assist us in matters requiring federal court expertise. In the five years that I have practiced law I have met no one with more ability or knowledge concerning federal law."

David W. Long, Attorney, Raleigh, North Carolina and former Assistant United States Attorney:

"In my opinion, Mr. Winberry is well qualified in every respect to fill the position for which he has been recommended. I have known him well for in excess of ten years and have found him to be a lawyer of considerable skill in both Civil and Criminal matters and a man of utmost integrity. Mr. Winberry is a man of mature judgment and in my opinion possesses what what would be a sound judicial temperament. He is well liked as a person and highly respected as a lawyer both within and without the legal profession. If appointed to the judiciary as recommended, it is my opinion that Charles B. Winberry, Jr., will serve with distinction."

Honorable Earl W. Vaughan, Judge of the North Carolina Court of Appeals:

"Senator Robert Morgan has recommended that Mr. Charles B. Winberry be appointed United States Judge for the Eastern District of North Carolina. I, enthusiastically and without reservation, urge the President to act favorably on that recommendation.

"I assure you that Mr. Winberry possesses and has the highest reputation for integrity and good character. He has demonstrated outstanding legal ability and a serious commitment to equal justice under the law. His demeanor, character and personality indicate to me that, if appointed, he would exhibit absolute fairness and exemplary judicial temperament."

Edward M. Hipp, Attorney, Raleigh, North Carolina and member of the North Carolina Utilities Commission:

"I have known Mr. Winberry for many years and can say without reservation that he has the ideal combination of qualifications for this extremely important judicial post.

"Among his many outstanding qualities for this appointment Mr. Winberry is preeminently qualified as follows:

"He is an outstanding and able practicing lawyer, with many years of experience in the courtroom and with all of the training and skills needed for this profession.

"He has an unqualified devotion to the law and to the highest ideals for the administration of justice.

"He is unexcelled at hard work, producing prodigious volumes of legal work of outstanding quality."

Graham A. Phillips, Jr., Attorney, Wallace, North Carolina:

"I would appreciate you allowing me at this time to recommend and endorse Mr. Winberry to you for the appointment for this judgeship in that it is my belief that he possesses appropriate judicial temperament, intelligence and overall demeanor which is befitting a Federal Judge.

"I have known Mr. Winberry for many years now and I appreciate his legal ability together with his unique attribute of being able to mingle with all persons of all classes which I believe to be a very valuable asset for a representative to have that represents the judiciary.

"I unqualifiedly recommend him to you for this appointment."

J. M. Reece, Attorney, Wilson, North Carolina:

"I would like to advise you of my unqualified support of Senator Robert Morgan's recommendation that Attorney Charles B. Winberry be appointed as U.S. District Court Judge.

"I have known Charlie since the Fall of 1957, and since then have been in contact with him both professionally and socially. There is no question concerning his professional capability to perform the task of a Federal District Judge. Likewise, his honesty and fairness has never been questioned.

"His diligence and willingness to work hard will give an added dimension to his Judgeship."

Joseph C. Moore, Jr., Attorney, Raleigh, North Carolina, and a past President of the North Carolina Bar Association:

"Although he has had no judicial experience (as far as I know), his broad legal experience should qualify him well for this important post. He has been intimately connected with the Court systems, both Federal and State, as Chief Law Clerk to United States District Court Judge John D. Larkins, Jr., as a prosecutor in the State Court, as a member of the Criminal Code Commission, as a lecturer at training institutes and, most importantly, as counsel to Honorable James B. Hunt, Jr., the present Governor of North Carolina.

"In this post he works closely with the General Assembly and has many legal responsibilities which he has carried out with distinction.

"In addition, Mr. Winberry is a member of a prestigious Rocky Mount law firm with which he has had a broad range of experience in the general practice of law.

"It is with pleasure that I endorse Senator Morgan's recommendation of Mr. Winberry for this most important judicial post."

Frank B. Wyatt, Attorney, High Point, North Carolina:

"I strongly support the appointment of Charles B. Winberry for the new federal judgeship for the Eastern District of North Carolina.

"His reputation for excellence in the law is well-established among the legal community in our state. I know him and am familiar with his intellect, temperament, integrity, fairness, patience and character. He would make an outstanding Federal Judge from every aspect."

James W. Keel, Jr., Attorney at Law, Rocky Mount, North Carolina:

"I have known Mr. Winberry since he was a prosecuting attorney of the courts in the 7th Judicial District in this state from 1968 to 1970 and since that time as a member of the law firm of Biggs, Meadows, Batts, Etheridge & Winberry of this city. I know him professionally and personally and he is a gentleman of the highest integrity. He is a person with a deep sense of values and his honesty and integrity are beyond any possible question.

"I have been associated with him in the practice of law and he is an able and competent lawyer. It is my opinion that he has the temperament and ability to be one of our finest judges. He would be an asset to the Federal Judiciary and I would strongly urge his confirmation."

C. D. Clark, Attorney, Roanoke Rapids, North Carolina:

"I unhesitatingly endorse Senator Morgan's recommendation. I live and practice law in the eastern district of North Carolina, and I know of no person more worthy of this Judgeship than Charles Winberry. Charles Winberry presently is practicing law in Rocky Mount, North Carolina, located approximately 40 miles South of my home. I have known Mr. Winberry for many years, although he was from the western part of our State, having been born in Iredell County. I graduated from Wake Forest University Law School more than ten years prior to Charles Winberry's graduation. However, I knew him while he was a student. According to every report that I have received, he was an outstanding student.

"It has certainly been shocking to read newspaper accounts questioning his integrity and professional ability. I have had an opportunity to observe his legal talents and feel that the criticism is unjustified. I had never heard anyone question Charles Winberry's integrity until recent newspaper reports quoting his appearance before part of the committee. In my dealings with Charles Winberry his personal integrity has never been questioned by me or anyone that I am familiar with. I hope that the committee will see fit to approve this nomination."

George R. Kornegay, Jr., Attorney, Mount Oliver, North Carolina, and a member of the Council of the North Carolina State Bar, Incorporated:

"I again would like to take the opportuntiy to recommend Charles Winberry for appointment to the Federal Bench for the Eastern District of North Carolina. I have known Charlie Winberry for approximately twenty years. I knew him before he was licensed to practice law in North Carolina. I have also been familiar with his talents and abilities since being licensed to practice law in the State of North Carolina.

"I know him to be a hard working, dedicated member of the legal profession. He was a member of one of the finest lawfirms in Eastern North Carolina. I know to my own knowledge that he has been involved in the trial of both civil and criminal litigation that involved very complex legal matters. In my opinion, he did an outstanding job in that area. I also feel that his administrative ability in the area of litigation is excellent.

"In my opinion, Charlie Winberry's character and integrity as a person and as a lawyer are excellent."

Howard A. Kramer, Attorney, Raleigh, North Carolina and former Deputy Attorney General of North Carolina:

"I have known Charles Winberry for the past eight years and can unequivocally vouch for both his integrity and legal competence. Because of his strong legal ability and judicious temperament, I believe he would be an outstanding judge. I recently stepped down from the position of Deputy Attorney General for Legal Affairs in the Attorney General's Office, State of North Carolina. From that position, I have had numerous occasions to observe various members of the Judiciary and the Bar in our State. I can unquestionably state that I believe that Mr. Charles Winberry would be an excellent judge, having displayed all the necessary characteristics of a fine lawyer. His ability to analyze legal principles is, in my judgment, superior."

N. Leo Daughtry, Attorney, Smithfield, North Carolina:

"For the past ten years, I have had the opportunity to be acquainted with Mr. Charles Winberry. He and I have appeared together in cases, and I can say without reservation that he has the highest ethical standards and the legal skills to make him an excellent attorney. Mr. Winberry is a student of the law, and I am amazed at his ability to cut through the maze of circumstances to arrive at the real issues in a case.

"I highly recommend Mr. Winberry to be appointed as a federal judge in our state. He will be a credit to our profession and an asset to the federal bench."

Phillip A. Baddour, Jr., Attorney, Goldsboro, North Carolina:

"The members of the committee should know that Mr. Winberry is held in the highest regard by the Bar of Eastern North Carolina. He has in fact broad experience in the practice of both criminal and civil litigation that makes him uniquely qualified to serve as a Federal District Judge.

"The Bar is well aware of the fact that while he served as Chief Prosecutor of the District Court for the Seventh Judicial District of North Carolina that he gained invaluable experience and demonstrated his leadership abilities by instituting various innovations which significantly contributed to the efficiency of the court system in that District. Furthermore, as the partner in one of Eastern North Carolina's most prestigious law firms, Mr. Winberry gained extensive experience in the area of civil litigation as well as criminal litigation at both the trial and appellate level.

Charles Winberry is recognized by the Bar and the community at large as a highly qualified and capable attorney in every respect. He has an unblemished reputation as a man of high principles and integrity. It has been painful for those who know Mr. Winberry and who know of the fine reputation that he enjoys to read of certain attacks upon his character in the press. It is painful because these attacks are so unfounded and so unfair."

John S. Stevens, Attorney, Asheville, North Carolina:

"I have known Charles Winberry both as a lawyer and as a friend for about seven or eight years and accordingly, I feel qualified to comment on his talents and qualifications for the job. Moreover, after seventeen years practice in state and federal courts in North Carolina, I know what is required for a person to be a good Federal judge.

"The record is clear as to Charles' academic and legal background. It is superior and much will be written to you about it. However, it takes more than a final legal education to make a good Federal Judge. Total honesty, energy, compassion and good judgment are essential. Charles Winberry possesses these attributes. In addition, he is what I believe an ideal age to be entering the Federal Judiciary. A man who becomes a Federal Judge before he turns forty has a unique opportunity to grow and mature in the job in a way which is denied most such appointees.

"In short, Charles Winberry has all of those qualifications which, when present in one person, will enable that person to be a truly superior Federal Judge. It gives me great pleasure to endorse Senator Morgan's recommendation."

Honorable James E. Sizemore, Professor of Law, Wake Forest College School of Law, Winston-Salem, North Carolina:

"Mr. Winberry is a man of excellent character as well as ability. He is a man of integrity and of loyalty to his country. He is a master of relationships with people. If I wanted to go into the practice of law today, I know of no other person with whom I would rather be associated than Mr. Winberry. He will make a splendid judge of the United States District Court and one of which Wake Forest, North Carolina, and the nation will be proud.

"I therefore wholeheartedly endorse Senator Morgan's nomination of Mr. Winberry for this office without any reservations whatever."

Henry A. Mitchell, Jr., Attorney, Raleigh, North Carolina:

"I have practiced law in the Eastern District of North Carolina for over 15 years and have come to know Mr. Winberry personally and by way of his reputation in the legal profession as well as his outstanding ability in political and civic affairs of this state. This district has been in need of an additional United States Judge for a considerable period of time and I believe that Mr. Winberry would bring a very high degree of ability and intelligence to this position and would make a very good contribution to the administration of justice in this district and in this state. Mr. Winberry has my unqualified endorsement for nomination as a United States District Judge."

L. Frank Burleson, Jr., Attorney, Murfreesboro, North Carolina:

"I have practiced law in this District for over 14 years. I do all the court work for my firm. I have practiced in Federal Court enough and have been opposed by Charlie enough to be of the opinion that he possesses the knowledge, skill, and temperament to ascend to the Bench.

"While I don't see Charlie as much socially as I would like to, what I do know about him personally and what I have heard about him from people whose judgment I trust, convinces me that Charlie possesses the moral character and integrity a Federal Judge should have."

Russell W. DeMent, Jr., Attorney, Raleigh, North Carolina:

"I write to endorse Senator Robert Morgan's recommendation of Charles B. Winberry for appointment as a Judge in the Eastern District of North Carolina.

"I have known Charles since he was a college undergraduate. His accomplishments and achievements since that time have been outstanding. Having personally observed him in practice before the Courts of the Eastern District of North Carolina, I know his professional abilities to be of the highest caliber. Charles Winberry also possesses the high personal integrity that is so vital in those holding judicial office."

David W. Long, Attorney, Raleigh, North Carolina:

"In my opinion, Mr. Winberry is well qualified in every respect to fill the position for which he has been recommended. I have known him well for in excess of ten years and have found him to be a lawyer of considerable skill in both Civil and Criminal matters and a man of utmost integrity. Mr. Winberry is a man of mature judgment and in my opinion possesses what would be a sound judicial temperament. He is well liked as a person and highly respected as a lawyer both within and without the legal profession. If appointed to the judiciary as recommended, it is my opinion that Charles Winberry, Jr., will serve with distinction."

Honorable James C. Davis, Judge of the Superior Court of North Carolina:

"Having known Charles and his family for so many years and knowing the dedication he possesses, I am proud to be able to endorse him for this high office. Few people in this world have given so freely of themselves to public service as has he. His name is associated with humbleness and authority, the poor and the mighty, the have and have nots. The depressed look to him for relief and the officials for guidance. His counsel is sought by the wise and his word is revered by the unlearned as truth.

"Being a member of the judiciary, I know how desperately the Courts need a man like Charles Winberry. Just as this Nation needed the leadership ability of a Jimmy Carter, so the Federal Judiciary needs the leadership of a Charles Winberry. His mark on that high office and this Nation will be felt early and shall be long lasting."

Honorable W. H. S. Burgwyn, Jr., District Attorney of the Sixth Judicial District of North Carolina:

"I have personally known Charles Winberry for the past eleven years, and have been associated with him and against him in many law suits in Eastern North Carolina. He has always conducted himself as a gentleman in every respect. He demonstrates great knowledge of the law and knowing how to get along with people. I think, along with his many friends who have known him, that he would be a credit to the Federal Judiciary of this nation.

"I have read with interest in the papers that Charles Winberry has been recommended by Senator Robert Morgan for this position, and knowing Senator Morgan, who is an able lawyer himself, he would not make this recommendation if he did not believe, as I believe, that Mr. Winberry would do a great job as Federal Judge."

Herbert B. Hulse, Attorney, Goldsboro, North Carolina:

"As a practicing attorney, I have had frequent contact with Mr. Winberry during the period of time when he served as Chief Law Clerk to Chief Judge John D. Larkins, and during his term as Chief Prosecutor for the District Court of the Seventh Judicial District of North Carolina. For five years I had the pleasure of serving with Mr. Winberry as a member of the Criminal Code Commission of the State of North Carolina, which Commission prepared the revision of criminal procedure which has since been enacted into law.

"Since his admission to the bar, Mr. Winberry has had extensive practice as a prosecutor, defense attorney and a general practitioner in civil litigation in State and Federal Courts. He has served the people of the State of North Carolina on many boards and commissions and has served the Governor of our State as legal counsel.

"Considering all the criteria customarily applied in weighing fitness and competence for appointment to the Federal Judiciary, it is my opinion that Mr. Winberry is eminently qualified for such an appointment."

Herbert T. Mullen, Jr., Attorney, Elizabeth City, North Carolina:

"I have had the personal opportunity and pleasure to work with Mr. Winberry on numerous occasions in the practice of law. I have always found, without exception, Mr. Winberry to possess the attributes of an extremely able and capable trial attorney. Mr. Winberry's capabilities are such that his appointment as a United States District Judge would substantially raise the respect of the Federal Judiciary as he is exceptionally competent. . . .

"In conclusion, I think you should be well aware that the high respect and esteem that I hold for Mr. Winberry is not singular with me but rather the consensus of the entire Eastern District of North Carolina."

Henry C. Boshamer, Attorney, Morehead City, North Carolina:

"I do not write this letter as a close personal friend and associate of Charles Winberry's, because I have not had the pleasure and privilege of enjoying such a relationship with him. But I do write it as one who has had a deep and abiding interest in the fair and effective administration of our judicial system, integrity among the members of our bench and bar, honesty and openness in the political and governmental affairs of our state, and the welfare of its people. I have had the opportunity to know Charles Winberry and to observe his activities, attitudes and effectiveness in all of the aforementioned areas; and it is because of what I have seen and known of Mr. Winberry that I, without hesitation or reservation, heartily and enthusiastically endorse Senator Morgan's recommendation.

"In short, Charles B. Winberry, Jr., is a man whom I, as a lawyer, could point to with pride as being a member of our federal judiciary knowning that he would at all times reflect credit upon our federal court system and the legal profession in general."

William C. Lassiter, Attorney, Raleigh, North Carolina:

"As a lawyer who has been in the active practice of law in North Carolina for more than forty-five years (admitted to practice in the Federal Courts, including the United States Supreme Court, the United States Court of Appeals, Fourth Circuit, and the United States District Courts, Eastern and Middle Districts of North Carolina), I hold the opinion that Mr. Charles B. Winberry is eminently qualified for the Judgeship for which he has been recommended. He has demonstrated his ability as a lawyer and is a man of excellent character and reputation."

John E. Duke, Attorney, Goldsboro, North Carolina:

"It is my great pleasure to unequivocally endorse Charles B. Winberry for appointment to the United States District Court Judgeship in the Eastern District of North Carolina. I first got to know Mr. Winberry when he began practicing law in Wilson County, North Carolina. At that time, I immediately recognized his ability to quickly grasp new ideas, and to understand and deal with complex legal problems. My esteem for him has increased through the years as I have continued to observe him in his unselfish devotion and dedicated service to the public and to his clients."

John T. Bode, Attorney, Raleigh, North Carolina, licensed in North Carolina and New York:

"Charlie Winberry has the intellectual capability, integrity and capacity to serve the people of North Carolina and the United States as Federal District Court Judge in exemplary fashion. I know that he is willing and diligent and will be able to assume the very trying caseload that the job entails. I know that he is understanding and considerate and will listen judiciously when members of the bar argue cantankerously before him. His grasp of the federal and state laws is extensive and he is well qualified to deal with the intricacies of the antitrust and securities questions which may be brought before him. . . .

"In my opinion, Charles Winberry is an excellent selection for this judgeship."

Thomas E. Strickland, Attorney, Goldsboro, North Carolina:

"It is my opinion that Charles Winberry is uniquely qualified, due to his background as a practicing attorney, his intimate knowledge of government and his obvious ability to understand people.

"Having served with him on the North Carolina Criminal Code Commission, I know that he possesses a keen analytical mind and has the intellect necessary to perform effectively. It would be extremely difficult to recommend a person better qualified for this most important position."

Charles Vincent, Attorney, Greenville, North Carolina:

"I have had occasion to work with Charles Winberry in the trial of a large and well-publicized case tried in the Federal District Court. He gave his client excellent representation by his skill and experience in the courtroom. He was a natural leader for the other attorneys involved in the case.

"While serving as a law clerk, I had occasion to do research on cases in which he has been involved. His briefs and pleadings were of the highest caliber. He is by training and temperament an excellent choice for our new Federal District Court Judge. The citizens of eastern North Carolina and all persons who seek a solution for their problems in the Eastern District of North Carolina need a person for this new judgeship who is competent and who cares and feels for his fellow man. Charles B. Winberry has proven that he is this type of man."

Perry Martin, Attorney, Rich Square, North Carolina and a former Judge of the North Carolina Superior Court:

"I have known Charles Winberry for fifteen years and have always found him to be a gentleman of the highest character and reputation. I have observed him in the courtroom many times and he has always shown great legal ability.

"In my opinion, he is exceptionally qualified for the position of United States District Judge."

Ernest C. Richardson, III, Attorney, New Bern, North Carolina:

"I have been associated with Mr. Winberry in several matters since I have been licensed to practice law in the State of North Carolina, and have formed a high opinion of his legal abilities as a result of my association. I have also talked to many attorneys concerning Mr. Winberry's qualifications and I feel that it is the general consensus of those individuals that I have talked to, that Mr. Winberry is highly qualified for the position for which he has been nominated."

Algernon L. Butler, Jr., Attorney, Wilmington, North Carolina:

"I have had occasion to discuss Mr. Winberry's qualifications for this high position with many persons and have found there to be unanimity in the opinion that Mr. Winberry possesses the legal skill and ability, temperament and sense of fairness so essential to one holding this position. . . .

"I wish to add my name to the list of those recommending to you, the President and the Senate the confirmation of Charles B. Winberry as United States District Judge for the Eastern District of North Carolina."

William W. Staton, Attorney, Sanford, North Carolina:

"Based upon my intimate acquaintance with and observation of Charles Winberry over a period beginning prior to his admittance to undergraduate school, it is my opinion that he has an outstanding reputation for integrity, is a young man of not only good but excellent character, possesses a high degree of common sense, is fair, experienced in the field of law, is even tempered, free of bias for or against any class of citizens or religious group, is physically and mentally sound, possesses a commitment to equal justice under the law and possesses profound legal ability. Therefore, Charles meets the criteria established for Federal Judges to the highest degree."

Robert White Johnson, Attorney, Wilmington, North Carolina:

"I know Charles B. Winberry, Jr. both by reputation and personally. Mr. Winberry has been very active in public and political affairs since his college days. To the best of my knowledge, he has served the public well in these endeavors. Much more importantly, to me, he enjoys the reputation of being a diligent, resourceful and highly ethical attorney, I had the pleasure of working with him when we represented co-defendants in a very complex criminal trial involving alleged blue sky law violations. Mr. Winberry was brought into the case a short time before trial. Within just a few weeks, he amazingly had a grasp of the facts and law involved in this complex situation equal to that of other attorneys who had been involved for months. I was most impressed with his diligence and ability."

Daniel L. Brawley, Attorney, Wilmington, North Carolina:

"Since a very large portion of my practice is in the Federal Courts, this appointment is of considerable concern to me and my firm. Therefore, I would like to take a moment of your time to add my most sincere and enthusiastic support to Senator Morgan's recommendaton of Charles B. Winberry.

"It has been my pleasure to know and be associated with Charlie for many years. I personally consider him to be an extremely qualified trial attorney, a student of the law and, most importantly, a man of high character. The federal judiciary could be proud to count him among its members."

Robert W. Hutchins, Attorney, Plymouth, North Carolina and President Elect of the North Carolina State Bar, Incorporated:

"I am writing to tell you that I have known Charles Winberry for as long as he has been practicing law. I personally believe that Senator Morgan's recommendation and choice of Mr. Winberry is an exceptional one. Charles Winberry has always been an outstanding and exceptional student of the law and a person whom I think is eminently qualified to be a federal judge for the United States District Court.

"I do not believe that a better choice could be found throughout the length and breadth of North Carolina than Mr. Winberry."

Donald W. McCoy, Attorney Fayetteville, North Carolina:

"I feel that Charlie Winberry will make an outstanding Judge in every respect. I have known Charlie for many years and have appeared both with him and against him in matters before the North Carolina Utilities Commission and other administrative agencies. His legal abilities have always been of the highest order and his conduct in keeping with the highest standards of legal practice. His varied background, including extensive private law practice, public law practice as Chief Prosecutor in our District Court system, his extensive work as a lecturer in various legal institutes and training sessions for our law enforcement personnel and court personnel, his work as counsel to Governor James B. Hunt, makes him eminently qualified and the outstanding candidate to fill the District Court Judgeship in eastern North Carolina."

Honorable John Webb, Judge of the North Carolina Court of Appeals:

"I am very happy to endorse Senator Morgan's recommendation that Charles B. Winberry be appointed United States District Judge, Eastern District of North Carolina.

"I have known Charlie since he was Chief Law Clerk to Judge Larkins and I have seen him develop into a very fine lawyer. I consider him a great credit to the bar of this State, and I am sure he will honor the judiciary when appointed. The President will always be proud of this appointment."

G. Eugene Boyce, Attorney, Raleigh, North Carolina and President of the Wake County and Tenth Judicial District Bar Associations:

"I can think of no capability or personal quality that Charles Winberry does not possess and, in my judgment, he is eminently qualified to serve in the capacity of a United States District Judge.

"I am at the present time serving as President of the Wake County Bar Association and President of the Tenth Judicial District Bar. Consequently, I believe I am as well acquainted with the members of this local bar (the largest in the State), and believe that the President's appointment of Mr. Winberry would pleasantly fulfill the long expectations of many of us."

Honorable Hugh A. Wells, Judge of the North Carolina Court of Appeals:

"I have known and worked with Charlie Winberry for a number of years. During the 1977 Session of the North Carolina General Assembly, Charlie was Legislative Counsel to James B. Hunt, Jr. During that same session, I served as Counsel to the Utility Review Committee of the General Assembly; and for about 7 months I worked directly and closely with Charlie on critical utility related legislation. Since that time I have had frequent occasion to be in contact with Charlie with respect to a variety of legisaltive and legal matters. I know him to be a very able and perceptive lawyer and an extremely conscientious and sensitive person. I am convinced that he would serve the United States courts with great distinction."

Phillip O. Redwine, Attorney, Raleigh, North Carolina:

"Charles Winberry is not only qualified; he is highly qualified. One of his most important qualifications, in my opinion, is his scholarly grasp of the law. His practical background, in the active practice of law, combined with his good common sense, will give him the ability to expedite the trial of cases that come before him. He is a compassionate, understanding man. I have never in all the years I have known him heard anyone make an unkind remark of any sort about him. He is well respected throughout the bar of North Carolina and has a background with blemish as well as integrity second to no one.

"While Charles Winberry posseses a wonderful personality, he is a serious-minded, mature individual. Should President Carter appoint him to the federal bench, it shall be one of the outstanding marks made during both his administrations."

Honorable Henry L. Stevens, III, Judge of the Superior Court of North Carolina:

"As you are probably aware, the Superior Court Judges in North Carolina rotate in divisions, throughout the several judicial districts where they preside for periods of six months. From January 1, 1978 through June 30, 1978 I was Presiding Superior Court Judge of the Seventh Judicial District of North Carolina where Mr. Charles B. Winberry practices law. During this time I had ample opportunity to observe and evaluate Charlie as a lawyer and as a man. Therefore, from personal experience I know that Charles Winberry is a thoroughly qualified, learned and highly ethical practicing attorney, and I am absolutely convinced that his appointment to the high office of United States District Judge for the Eastern District of North Carolina would reflect credit upon the legal profession of the State of North Carolina.

"Moreover, I have had the pleasure of knowing Charlie for many years, and in addition to being eminently qualified for United States District Judge, he would serve the public well in this capacity and be a credit to all of the people of this State. I most sincerely and earnestly urge your endorsement of Senator Morgan's recommendation."

James D. Blount, Jr., Attorney, Raleigh, North Carolina:

"I have known Mr. Winberry for a number of years, particularly since I moved to Raleigh, North Carolina in 1970.

"As I am sure you have been advised, Mr. Winberry served as Chief Law Clerk to United States District Court Judge John D. Larkins, Jr., in 1967–1968. He is presently a permanent member of the Judicial Conference of the United States Court of Appeals for the Fourth Circuit. He has been very active in improving the legal profession and served as counsel to Governor Hunt during the 1977 and 1978 sessions of the North Carolina General Assembly.

"Based on my knowledge of Mr. Winberry's background, training, experience and ability, I feel he is excellently prepared and qualified to serve as a United States District Judge."

I. Beverly Lake, Jr., Attorney, Raleigh, North Carolina and former Assistant Attorney General of North Carolina:

"I wish to strongly and enthusiastically endorse and express my support in favor of this appointment.

"I have had the privilege and pleasure of knowing Mr. Charles Winberry for many years, as he is a graduate of my alma mater, Wake Forest University, both undergraduate and law. Mr. Winberry is eminently qualified for this appointment, notwithstanding his relative youth and is, in fact, one of North Carolina's most distinguished citizens in terms of both the quality and quantity of his services. His accomplishments both to our legal profession and otherwise, are far too many to enumerate here."

J. Melville Broughton, Jr., Attorney, Raleigh, North Carolina:

"It is a privilege for me to heartily endorse the recommendation of Senator Robert Morgan of North Carolina that Charles B. Winberry, Esq., a distinguished citizen and lawyer of Rocky Mount, North Carolina, be appointed United States District Court Judge for the Eastern District of North Carolina. As you know this is a newly created judgeship as a result of recent Congressional action.

"Although a young man, Mr. Winberry has had a busy career as a citizen and as a lawyer and if one was not aware of his age, it could well be concluded that, because of his many achievements, he is a much older man. It is my considered opinion that Mr. Winberry would make an excellent judge, that he possesses the background, experience and temperament to handle the responsibilities of this most important position in a way that would reflect credit on himself and the judiciary.

"As a lawyer practicing in the Eastern District, it is my belief that Mr. Winberry has the respect of fellow lawyers in this district who know of his ability as a lawyer in addition to his longtime and active interest in religious, civic and political affairs."

John R. Jordan, Jr., Attorney, Raleigh, North Carolina:

"I wish to take this opportunity to endorse the recommendation of Senator Robert B. Morgan that the Honorable Charles B. Winberry be appointed United States District Judge for the Eastern District of North Carolina. . . .

"There are times of a great need for respect for the judiciary by the public. It is our opinion that Mr. Winberry's elevation to the bench will command such respect. He is known and admired as a man of ability and integrity. He represents the finest traditions of the leadership of North Carolina, and his appointment will not only provide an able and conscientious judge, but will demonstrate a standard of excellence for the judiciary which is so greatly to be desired."

W. Lunsford Crew, Attorney, Roanoke Rapids, North Carolina:

"It has been my pleasure to know Mr. Winberry for many years and to see him in action.

"He is an excellent student with a good judicial background. He has had considerable experience working as a Chief Prosecutor, Chief Law Clerk to United States Judge John L. Larkins, Jr. and has a life of varied activities in legal circles and community affairs. He is very highly regarded for his professional capabilities, his energy and determination, and for his impeccable character. I am sure that his appointment would receive widespread approval throughout North Carolina and that his appointment would reflect credit on the judicial system in the State and throughout the Nation. . . .

"It is my pleasure to recommend and urge his appointment as one of the new Judges."

Henry N. Patterson, Jr., Attorney, Raleigh, North Carolina:

"Charlie Winberry is uniquely qualified for appointment to this judgeship. He has broad and varied legal experience as a state prosecutor and as a private attorney in a highly respected law firm in Rocky Mount, North Carolina. He has been active in the affairs of the federal bar in the Eastern District of North Carolina, has served on state commissions with responsibility for review of the state criminal code and is a former law clerk to Chief Judge John D. Larkins, Jr., of the United States District Court in this district.

"I have known Charlie Winberry since he was a student at Wake Forest University. He has a distinquished record of service to the citizens of North Carolina. He has served in numerous positions within the state government, the Democratic Party, and in educational, civic and community organizations. Indeed, no one has made any greater commitment or contribution than Charlie Winberry to the program of our Governor, Jim Hunt, to improve the quality of life in North Carolina."

Dwight H. Wheless, Attorney, Manteo, North Carolina:

"I am pleased to offer my absolute endorsement of Senator Robert Morgan's recommendation to President Carter that Charles B. Winberry be appointed to the recently created new United States District Court Judgeship in the Eastern District of North Carolina.

"Over approximately fifteen years I have known Charlie Winberry as undergraduate student of Wake Forest College, student of Wake Forest College School of Law, Chief Law Clerk to United States Judge John D. Larkins, Jr., Legislative and Legal Counsel to the Honorable James B. Hunt, Jr., Governor of North Carolina, and as an attorney engaged in the general practice of law. It has been my privilege to have wide exposure geographically across our fine State and within the legal professsion and there is no person known to me who is better qualified, with a broader background in many facts of the legal profession or with a finer reputation for integrity, than Charles B. Winberry for this new Judgeship."

Honorable Terry Sanford, Attorney, Raleigh, North Carolina:

"It is my understanding that Charles B. Winberry has been recommended to the President for the new United States District Court Judgeship in the Eastern District of North Carolina, and I wish to wholeheartedly endorse this recommendation. . . .

"Throughout his career he has evidenced a keen understanding of the law and a fine sense of justice that most particularly qualify him for the bench. He is widely known and highly respected. He is a man of the highest character and integrity.

"Charles Winberry would be a credit to the Court, and I commend him to you."

Leon L. Rice, Jr., Attorney, Winston-Salem, North Carolina:

"I have come to know Mr. Winberry and of the high regard in which he has held as a practicing attorney in North Carolina through personal acquaintance with him, the practice of this firm and in my capacity as a Trustee of Wake Forest University and Chairman of the Board of Visitors of the School of Law. In my opinion, Mr. Winberry is fully qualified on the basis of innate ability, formal education, practical experience and public service to serve as a federal district judge. I endorse his appointment wholeheartedly and without any reservation whatever."

Theaoseus T. Clayton, Attorney, Warrenton, North Carolina:

"I have known Mr. Winberry since he became licensed to practice in the Courts of North Carolina in 1967. I have practiced law in the State and Federal Courts in Eastern North Carolina since 1962 and have been familiar with Mr. Winberry, as he has practiced in the State and Federal Courts since he begun actual practice in Rocky Mount in 1971. I also knew Mr. Winberry while he served as Chief Prosecutor for the District Courts of the Seventh Judicial District Court of North Carolina. I certainly feel that he has the background, ability, discipline and integrity to uphold the very high standards that such a judicial position requires.

"I therefore hope that the President will see fit to appoint Mr. Winberry as the new District Judge for the Eastern District of North Carolina."

William E. Craft, Attorney, Kenansville, North Carolina:

"It is a pleasure for me to endorse the recommendation of Senator Morgan and add my full support to Charlie for this new Judgeship. His many varied community and professional activities qualifies him by his ability, exposure and experience in all facets of the legal profession to serve this very responsible position with distinction and satisfaction to you, to the Bar and to the public. He is a man of fine character and an excellent mind and, if appointed, will be a hard working, warm hearted, just and honorable Judge.

"Without hesitation or reservation, I recommend Charlie to you fully confident that he will discharge the duties of this high office in such a manner so as to reflect credit upon himself and the Federal Judicial System."

Malcolm J. Howard, Attorney, Greenville, North Carolina, former Assistant United States Attorney Eastern District, North Carolina, Special Defense Counsel to the President of the United States 1974:

"It has been my pleasure to be personally acquainted with Mr. Winberry for approximately 10 years. During that period of time, I have had numerous professional and personal relations that have resulted in Mr. Winberry's exhibition of the attributes that, in my opinion, would serve the people of North Carolina and the United States well if confirmed in this high position. Mr. Winberry is perhaps the most competent attorney I have known, and he couples this with an unusual amount of common sense and exceptional intellect. Mr. Winberry's personality, demeanor and thoughtfulness are the attributes that would be desired by attorneys and laypersons alike in the discharge of the duties incident to this high office. I know of no person more qualified nor that enjoys the esteem and high regards of his fellow man than Charles B. Winberry.

"Although I am privileged to serve as the Chairman of the Republican Party for the First Congressional District of North Carolina, and accordingly have 'done battle' in political campaigns with Mr. Winberry, I have always appreciated him as a man of unquestioned integrity, dependability, and trustworthiness. I believe that I express the opinion of most Republicans in the Eastern District of North Carolina when I salute and commend Senator Morgan's recommendation for Charles B. Winberry as United States District Judge for the Eastern District of North Carolina."

Honorable David M. Britt, Associate Justice of the North Carolina Supreme Court:

"I take this means to highly recommend Mr. Winberry to you and to express my hope that the President will follow Senator Morgan's recommendation.

"I have known Mr. Winberry since 1967 when he was licensed to practice law in North Carolina. I have had the opportunity to observe him as a person, lawyer and public servant. He has impressed me as being 'Solid' in all three areas and I verily believe he would make an excellent judge of the United States District Court."

Honorable B. E. James, Secretary of the North Carolina State Bar, Incorporated:

"I feel even more honored to be able to endorse without reservation the recommendation of Charles B. Winberry, Jr. as United States District Judge for the Eastern District of North Carolina.

"Rarely have we had an individual to enter the legal profession and within a span of 10 years become totally familiar with government through a working relationship with the judiciary, legislative and executive branches of government. Not only does Charlie have a working relationship with these three branches of government on the federal and state level but he maintains a respectful attitude with these three branches of government and has untold friends who are participants in all three branches. His contributions to the government of North Carolina has been immeasurable. Likewise, but no less, Charlie has contributed immeasurably to the legal profession of North Carolina by serving on our Legislative Committee.

"Charles B. Winberry, Jr. has a love of the law which is unequaled and, at heart, has always remained a trial attorney. His love and respect for his fellow man, his profession and his government will make him an asset wherever he is called upon to serve but in particular will he be an asset as a United States District Judge in the Eastern District of North Carolina."

Honorable Cecil J. Hill, Judge of the North Carolina Court of Appeals:

"Mr. Winberry has a judicial temperament, and this is of upmost importance. I believe him to be a firm but fair man. In my opinion, in the handling of criminal matters he would be firm, but at the same time would 'temper the shorn lamb to the wind.' This does not mean that he would be overly protective of a defendant if guilty. Rather, it means that he would make every effort to be fair and just.

"In civil matters, Mr. Winberry would be exceptionally competent. I have had an opportunity to become aware of his ability in this area and have found his judgment to be just and right.

"I have noted in the press that attacks have been made on Mr. Winberry's reputation. I am fully cognizant of the desire of the committee to select a man above reproach. This I believe Mr. Winberry to be; and I further believe that the alleged accusations are without merit. I believe Mr. Winberry to be an upright, God-fearing, active Christian gentleman. I further believe that he not only loves the law but respects it.

"Charles Winberry will make a good judge, and North Carolina will lose if he is not confirmed."

R. Bruce White, Jr., Senior Deputy Attorney General of the State of North Carolina:

"Please allow me to wholeheartedly endorse Senator Morgan's recommendation.

"During the past 10 years, I have had occasion to observe and to personally know Mr. Winberry, and I am convinced that he possesses all of the qualifications needed to be an outstanding Judge.

"Mr. Winberry is recognized as a student of the law and has established himself as an outstanding trial attorney. In addition to his excellence as an attorney, his character and integrity are unimpeachable. Of equal importance is his sense of duty and obligation to the legal profession and our court system."

David L. Ward, Jr., Attorney, New Bern, North Carolina and General Counsel First-Citizens Bank and Trust Company, Senior Partner in the firm of Ward and Smith, P.A.:

"I wholeheartedly concur in that nomination and support Charles Winberry for the position of United States Judge here in our District. . . .

"While he was a private practitioner, I had occasion to appear against him and found him to be a well prepared, formidable adversary who was sensitive to his clients' positions but always fair and reasonable and always prepared to do his best for his client. He is qualified to practice before both State and Federal courts and is a partner in a very active, general practice law firm which I believe trains and educates one to have an appreciation of the rights of the clientele and the demands and responsibilities on attorneys. . . .

"In Charlie Winberry, we have a well educated, outstanding citizen who is professionally proficient, sensitive to the needs of the people of our area and who, I believe, will make a great and lasting contribution as a United States District Judge."

Louis B. Meyer, Attorney, Weldon, North Carolina and General Counsel, North Carolina Electri-Cities, Inc.:

"I can think of no attorney practicing in our district who is held in higher esteem by his colleagues at the bar than Mr. Winberry. His reputation is without blemish and his personal integrity is known and acknowledged throughout the State. His efforts on behalf of the Democratic Party have been truly outstanding throughout all the years I have known him. Charles is exceptionally well known and highly respected throughout our state. He is even-tempered, patient and understanding and yet firm in his beliefs and attitudes concerning the enforcement of the law. His experience runs the entire gamut from the legislative enactment of the law, through enforcement to the judicial process. He is fully experienced in both the civil and criminal practice. I say to you in all sincerity that I would not hesitate for one moment to submit my clients or myself to his judgment in any matter which might come before him in the capacity of judge of the United States District Court. His appointment as such would be well received and would strengthen our peoples' respect for and trust in the federal court system. We of the Eastern District of North Carolina must not lose this rare opportunity to avail ourselves of the services of such an exceptional talent."

William R. Britt, Attorney, Smithfield, North Carolina and former Chairman of the North Carolina Criminal Code Commission:

"I was chairman of the North Carolina Criminal Code Commission for several years which re-wrote the law in this State pertaining to criminal procedure. We met usually on Friday afternoon and night and on Saturday during several weekends of the year. The membership of the Commission was well represented by geography, race, sex and by judges, prosecutors, and defense lawyers. It was non-partisan, and the members served without compensation except for out-of-pocket expenses. I am happy to report that a very high percent of our work was passed by the General Assembly of North Carolina and is now working well in the courts.

Charles Winberry was a member of the Commission from 1971 to 1976. His attendance was excellent, and his participation showed a great understanding of our law and full appreciation of the lags in criminal procedure in our state courts. His contribution to the work of the Commission was truly outstanding.

"Rocky Mount is some fifty miles north of Smithfield, and, of course, I have not observed Mr. Winberry in the trial of cases as well as the members of his local bar. However, I have observed him in court here and elsewhere, and I consider him to be a first-rate trial lawyer.

"I have practiced law for thirty years and I have tried many cases. I can truthfully say that Charles Winberry has the character, temperament and knowledge of the law to become an excellent judge of the Federal Judiciary."

Honorable Hamilton H. Hobgood, Emergency Judge of the Superior Court of North Carolina and former Judge of the Superior Court of North Carolina:

"I take personal pleasure in recommending to you and to President Carter that he appoint Charles B. Winberry as a District Court Judge in the Eastern District of North Carolina.

"I have known Charles B. Winberry since

he was a law student and I am well acquainted with his illustrious career in the State of North Carolina since that date. He was an exceptionally fine Law Clerk to United States District Court Judge John D. Larkins, Jr., later Chief Prosecutor in the District Court System in North Carolina, Counsel to the Governor of North Carolina in the North Carolina General Assembly, member of the North Carolina Criminal Code Commission and a lecturer at various seminars at legal meetings throughout the State of North Carolina.

"In addition to the above professional experience, Charles B. Winberry is an exceptionally fine person of excellent reputation in our State and would be respected as a judge wherever assigned. In addition, he has the strong endorsement of the Judicial Officials and Attorneys in the State of North Carolina."

Charles F. Vance, Attorney, Winston-Salem, North Carolina, and former President, Forsyth County Bar Association:

"I have known Mr. Winberry since he was a law student at Wake Forest University over ten years ago. Even then his ability as a legal scholar and his capacity for leadership became well known, not only on the University campus, but throughout our Winston-Salem community. In more recent years, he has distinguished himself in North Carolina in his chosen profession as a trial attorney and has given unselfishly of much of his time in assisting our numerous seminars and institutes and has engaged in various other endeavors which have achieved substantial improvements in the administration of justice in both our state and federal systems.

"In my opinion, Mr. Winberry is a person of highest integrity and possesses the legal ability and judicial temperament desired for the United States judiciary; and I wholeheartedly endorse Senator Morgan's recommendation of Charles B. Winberry, Esquire, for appointment as United States District Judge in the Eastern District of North Carolina."

Honorable Elton C. Pridgen, Chief Judge of the District Courts of the Eleventh Judicial District of North Carolina:

"I wish to take this opportunity to endorse Charles B. Winberry for appointment as United States District Judge, Eastern District of North Carolina. It is my judgment that Mr. Winberry's wide range of experience, especially in the area of legal matters in court and out of court, especially fits him for this appointment. Further, I am of the opinion that he has the judicial temperament required of a judge, and is endowed with the ability to be an outstanding judge, whose appointment would be a credit to all concerned."

Louis W. Gaylord, Jr., Attorney, Greenville, North Carolina:

"I have known Charles Winberry for a number of years and know him to be a person possessing exceptional legal knowledge; an unblemished reputation for integrity, and a person who has a temperament and understanding of human nature which would make him an outstanding District Court Judge of whom all segments of our society could and would be justly proud."

John B. Lewis, Jr., Attorney, Farmville, North Carolina and Chairman of the North Carolina Property Tax Commission:

"This man is exceptional in judgment, knowledge, and capacity for work. He is honest and will bring to the judiciary that quality of devotion and integrity that will make a life long appointment one which will be always beneficial to this Nation.

"I have known Charles Winberry professionally and privately for many years and can, without any qualification whatever, totally commend him to you as a man who should be a judge of the United States Judiciary."

J. Kenyon Wilson, Jr., Elizabeth City, North Carolina, Attorney and Past President of the North Carolina Bar, Incorporated:

"Over the years I have had the pleasure of participating both with and against Mr. Winberry in the general practice of law. He is a staunch advocate and well rounded lawyer possessed of the highest moral character and every attribute requisite to an outstanding judicial temperament."

November 19, 1979.

Re: Charles Winberry, United States District Court Appointment.

Mr. Thomas Susman,
Chief Majority Counsel, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Susman: After reading the comments of Senator Leahy concerning Charles Winberry in the North Carolina newspapers this weekend, I felt compelled to write your committee expressing my views on Mr. Winberry's qualifications.

I have known Charles Winberry for a number of years during which time he served as Clerk to our Federal District Judge and as a practicing attorney, both for the State and in private practice. During all of this time Mr. Winberry has exhibited a good knowledge of the law, a willingness to work, and probably more importantly, an unusual capacity for getting to the heart of a case directly and expeditiously. He presently practices with an excellent law firm in Rocky Mount, North Carolina for whom he is one of the chief trial counsel. I have appeared in cases with him and other members of the firm, know a number of them personally and have the highest respect for their trial ability.

Although Mr. Winberry may be younger than the average federal judge, his trial experience is probably equal to most of them and his trial ability is certainly comparable to that of any federal judge I have known. I presently serve on the Board of Governors of the North Carolina Academy of Trial Lawyers, the North Carolina Board of Law Examiners and the Merit Selection Committee for Superior Court Judges (our highest trial court) and in my opinion Mr. Winberry would have absolutely no trouble in meeting the requirements for merit selection of judges in North Carolina. I have been engaged in the merit selection interviews for at least a dozen Superior Court Judges and can say without hesitation that Mr. Winberry's qualifications are equal or superior to those of nominees approved for every one of these positions.

I readily acknowledge that Mr. Winberry has spent considerable time involved in political activities but doubt that anyone has ever been appointed to the federal bench without similar experience. In my opinion the fact that he can devote a portion of his time to political activities and at the same time maintain an active and successful trial practice only further indicates his ability as a trial lawyer and the capacity he would have for handling a busy trial docket as a federal judge.

I strongly recommend Mr. Winberry for appointment to the District Court bench and will be happy to answer any questions Senator Leahy or the committee may have concerning my opinion of his qualifications.

Yours very truly,

John D. Warlick, Jr.

Office of the District Attorney,
Tarboro, N.C., November 26, 1979.

Re: Nomination of Charles B. Winberry; Federal Judgeship, Eastern District of North Carolina.

Mr. Thomas M. Susman,
Dirksen Senate Building,
Washington, D.C.

Dear Mr. Susman: Some time ago, I wrote Attorney General Bell recommending the nomination of Charles B. Winberry for a judgeship in the Eastern District of North Carolina. I would like to take this opportunity to share with you my thoughts regarding this matter.

Because of my personal knowledge of Charlie Winberry's legal abilities and strong moral values, I have unequivocally recommended Mr. Winberry to the Attorney General and to the President. At this time, I strongly reaffirm that recommendation to you and to the Senate Judiciary Committee.

I have known Charlie Winberry for many years; and I am very familiar with his family, educational, and most importantly, his professional background. As District Attorney for the Seventh Judicial District of North Carolina, one of the strong predecessors I had the good fortune of following was Charles B. Winberry. Mr. Winberry served as Chief Prosecutor of the District Courts of the Seventh Judicial District from 1968 through 1970. I know Charlie, the private citizen, and I know Charles Winberry, the public servant. His service record, both professionally, politically, and in all other phases of public and private life is a record which is unexcelled by any other person I know. Charlie Winberry is a man of the highest integrity and proven leadership.

My assessment of Charlie Winberry's fitness for this appointment is based on my own personal observation and knowledge of his legal talent, moral integrity, and judicial temperament. I believe that Charlie Winberry will prove to be one of the outstanding judicial leaders of our time. I, therefore, urge the Commitee to act affirmatively on Mr. Winberry's nomination, and shall appreciate your allowing the Committee to have the benefit of my thoughts on the subject.

With best regards, I am.

Sincerely,

Howard S. Boney, Jr.,
District Attorney.

Lucas, Rand, Rose,
Meyer, Jones & Orcuitt, P.A.
November 21, 1979.

Re: Nomination of Charles B. Winberry as United States District Judge, Eastern District of North Carolina.

Mr. Thomas M. Susman,
Dirksen Senate Building,
Washington, D.C.

Dear Mr. Susman: On October 31, 1978, I wrote to the Honorable Griffin B. Bell, Attorney General of the United States, enthusiastically endorsing Mr. Charles B. Winberry for the position of United States District Judge for the Eastern District of North Carolina. I am absolutely confident that many, many such letters of endorsement and recommendation were forwarded to Attorney General Bell on Mr. Winberry's behalf. I have some doubt that these letters have reached the members of the Senate Judiciary Committee. It appears from the press reports which I have read, that the nomination of Mr. Winberry is being jeopardized by assaults on his integrity and legal ability which are totally unjustified and without any foundation. Mr. Winberry's moral integrity, legal talent and judicial temperament are assets which are far too great to be lost because of the failure of the flood of support for him to reach the proper people. For this reason, I most urgently request that you share my October 31, 1978 letter of recommendation for Mr. Winberry, together with all of the other such letters that you are aware of with the Senate Judiciary Committee.

I am sure that you realize how very important this nomination is to the thousands of people who live here in the Eastern District of North Carolina. Your kind consideration in sharing these letters directly with the individual members of the committee will be very greatly appreciated.

Yours very truly,

Louis B. Meyer.

OCTOBER 31, 1978.

Re: Nomination of Charles E. Winberry as United States District Judge, Eastern District of North Carolina.

Hon. GRIFFIN B. BELL,
Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR GENERAL BELL: Senator Robert Morgan has recommended to President Carter that Mr. Charles Winberry be appointed to the recently created new United States District Court Judgeship for the Eastern District of North Carolina. My purpose in writing to you is to inform you of my unqualified and enthusiastic endorsement of Mr. Winberry's nomination.

I have known Mr. Winberry for many years and consider him to be a close personal friend and advisor. I am confident that you have Mr. Winberry's resume and therefore I shall not bother you with a repetition of his accomplishments. I deem it sufficient to say that his accomplishments as noted in the resume are, to say the very lease, "remarkable".

I can think of no attorney practicing in our district who is held in higher esteem by his colleagues at the bar than Mr. Winberry. His reputation is without blemish and his personal integrity is known and acknowledged throughout the State. His efforts on behalf of the Democratic Party have been truly outstanding throughout all the years I have known him. Charles is exceptionally well known and highly respected throughout our State. He is even-tempered, patient and understanding and yet firm in his beliefs and attitudes concerning the enforcement of the law. His experience runs the entire gamut from the legislative enactment of the law, through enforcement to the judicial process. He is fully experienced in both the civil and criminal practice. I say to you in all sincerity that I would not hesitate for one moment to submit my clients or myself to his judgment in any matter which might come before him in the capacity of judge of the United States District Court. His appointment as such would be well received and would strengthen our peoples' respect for and trust in the federal court system. We of the Eastern district of North Carolina must not lose this rare opportunity to avail ourselves of the services of such an exceptional talent.

I urge you to give your wholehearted and enthusiastic support to the nomination of Mr. Winberry as United States District Judge for the Eastern District of North Carolina.

My continuing best wishes and appreciation to you for the respect you have brought to the office of Attorney General.

Yours very truly,

LOUIS B. MEYER.

SUPREME COURT,
Raleigh, N.C., November 28, 1979.

Re: Charles Winberry.

Hon. THOMAS M. SUSMAN,
Majority Counsel, Dirksen Senate Building, Washington, D.C.

DEAR MR. SUSMAN: I have read with interest some of the attacks which have been made on Mr. Winberry in the Committee for which you are Majority Counsel. Frankly, I do not believe the critics who have spoken out have been properly appraised of the personal integrity and legal skill of Mr. Winberry.

Previously I wrote a letter of recommendation to Attorney General Griffin Bell. This must have been at least a year ago, for this matter has been under review a long time.

I have known Charles Winberry for many years and incidentally knew his father before him, by the same name. He was also an attorney but lived in the Western part of the State in Statesville, N.C.

Frankly, I am totally satisfied of Mr. Winberry's personal character and integrity. I have never heard his honesty questioned until this matter reached Washington. Some point has been made of the fact that he has tried only some thirty-odd cases to the jury. In my opinion that is a substantial number in view of his age. As you know, there is a very small percentage of the cases that are commenced in court that eventually reach the jury. For the past several years, Mr. Winberry has been connected with a substantial and well respected law firm in Rocky Mount, N.C. If he had not been a good man this firm would not have kept him.

He has been totally recommended by Senator Morgan, who has known him certainly as long as I have and possibly longer. He has been further recommended by the Attorney General and the President of the United States has nominated him. Some on the Committee think of politics as if that is a dirty word. I hope it is not. If it had not been for politics, none of those now on the Senate Committee would be there. I do not think that disqualifies a person for the Judiciary.

This nomination has been languishing in the Senate Committee now for a long time. I think it is high time that Mr. Winberry be confirmed and this matter be concluded.

If I may be of further assistance in this matter before your Committee, I will be pleased to assist you.

With best wishes, I remain

Very truly yours,

J. WILLIAM COPELAND.

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 7, 1979.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in support of the nomination of Charles B. Winberry, Jr. of Rocky Mount, North Carolina, to be U.S. District Court Judge for the Eastern District of North Carolina.

For many years, Mr. Winberry has been a constituent and close personal friend of mine. He has an excellent character and reputation among his colleagues and associates in North Carolina, and is held in the highest esteem by his community and by members of state and local bar associations.

In my opinion, Mr. Winberry will be a fair, competent, and objective trial judge and will exercise exemplary judicial temperament.

Your committee has doubtless been made aware of Mr. Winberry's outstanding educational and professional background, and his extensive involvement in religious and community activities. Let me add my wholehearted endorsement of his nomination to those which have been received by your committee, and ask that you do everything possible to expedite confirmation of his nomination.

With kind regards, I am

Sincerely,

L. H. FOUNTAIN.

U.S. ATTORNEY,
Raleigh, N.C., November 20, 1979.

Hon. THOMAS M. SUSMAN,
Chief Counsel, Senate Judiciary Committee, Dirksen Office Building, Washington, D.C.

DEAR MR. SUSMAN: Those of us, and there are many, who know, respect and love Charles Winberry are distressed to learn of the unfounded accusations, the innuendoes, and general harassment he has undergone relative to his nomination for United States District Judge.

I have known Charlie personally for many years, not only as an attorney and dear friend, but also as a politician. If there is anything basically, or morally, wrong with being categorized as a politician, then there are millions of us who are in serious trouble. Charlie has demonstrated his ability in the legal profession, starting as a law clerk in the Federal Court system. While serving in this capacity, he earned the distinction of being the most productive law clerk in the District. He is also experienced in the State system, serving as Assistant District Attorney for several years. More recently, he has been a conscientious and successful advocate in the legal field. He is highly respected and recognized statewide for his expertise in his profession. In brief, I know of no one who is as qualified as Charlie for a position as United States District Judge.

The Committee you serve, along with my good friend, Emory Smeeden, will do a disservice to the people of this country and especially to those in this District, if the Committee hesitates any longer in approving the nomination of Charlie Winberry as United States District Judge.

I implore you and the Committee to act—and act soon. This District has been declared as one in the status of a "Judicial Emergency". We have one Judge to do the work of three. The tragic mistake in this matter is not approving Charlie Winberry without delay.

With best regards, I am

Yours truly,

GEORGE M. ANDERSON.

TAYLOR, BRINSON & AYCOCK,
Tarboro, N.C., November 21, 1979.

Mr. THOMAS M. SUSMAN,
Majority Counsel, Senate Judiciary Committee, Dirksen Senate Building, Washington, D.C.

DEAR MR. SUSMAN: I am writing with regard to the hearings being conducted by the Senate Judiciary Committee on the appointment of Mr. Charles B. Winberry, Jr. of Rocky Mount, North Carolina, to a Judgeship in the United States District Court for the Eastern District of North Carolina.

On November 10, 1978, I wrote the Honorable Griffin B. Bell, then the Attorney General of the United States, in behalf of Mr. Winberry. It is my understanding that letters of recommendation addressed to Attorney General Bell have not been passed on to the Senate Judiciary Committee. I am enclosing a signed copy of my letter of November 10, 1978 with the request that you make it available to the Senate Judiciary Committee as evidence of the esteem in which Mr. Winberry is held by a fellow lawyer.

The Committee hearings, as reported by the news media, have in no way lessened my regard for Mr. Winberry and I feel strongly that he is being subjected to unsupported and unjustified charges. I wish to reiterate my support for him.

Sincerely yours,

HUBERT H. TAYLOR, Jr.

TAYLOR, BRINSON & AYCOCK,
Tarboro, N.C., November 10, 1978.

Hon. GRIFFIN B. BELL,
Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR GENERAL BELL: I am highly pleased that Senator Robert Morgan has recommended to President Carter that Charles B. Winberry be appointed to the recently created new United States District Court Judgeship in the Eastern District of North Carolina. I would like to submit my unqualified endorsement of Senator Morgan's recommendation. I first came to know Charles Winberry while he was serving as Chief Law Clerk to Judge John D. Larkins, Jr. of the United States District Court, Eastern District of North Carolina. He subsequently served as the Chief Prosecutor for the District Courts of the Seventh Judicial District of North Carolina, which district includes Edgecombe County, my County of residence. He was recruited for this job by the appointing authority and performed all the duties of his office in an excellent and efficient manner and earned the respect of the people of the district.

On January 14, 1971 he became a partner in the law firm of Biggs, Meadows, Batts, Etheridge and Winberry, a very prominent and successful law firm in Rocky Mount, North Carolina. I have had both personal and professional contacts with him since September 1, 1967.

I, and the members of my firm, have a very high regard for Mr. Winberry's knowledge of the law, his ability to analyze legal matters, his diligence in the preparation of his cases and his trial experience and ability.

In my opinion, Mr. Winberry is more than a highly competent and experienced lawyer. His background, experience, powers of observation and an exceptional amount of sound common sense give him an ability that in my opinion highly qualifies him for the high judicial position to which he has been recommended. I am completely confident that if nominated he will perform the duties of this office in a manner that would reflect credit upon himself and upon the Bench.

I am sure that you have been provided with pertinent biographical information that I will not attempt to repeat. My own estimate of Mr. Winberry as a lawyer and as a man of the highest integrity and ability is such that I earnestly urge the most favorable consideration for his nomination.

If I can provide any further information, I would be delighted to be given the opportunity to do so.

With my kindest personal regards and best wishes, I am

Respectfully yours,
HUBERT H. TAYLOR, Jr.

THE NORTH CAROLINA STATE BAR,
Raleigh, N.C., November 20, 1979.

Re: Nomination of Charles B. Winberry as United States District Judge, Eastern District of North Carolina.

Mr. THOMAS M. SUSMAN,
Majority Committee Counsel of Senate Judiciary Committee, Dirksen Senate Building, Washington, D.C.

DEAR MR. SUSMAN: It has been brought to my attention that my letter addressed to the Hon. Griffin B. Bell concerning the endorsement of Charles B. Winberry was not passed on to you and I would at this time forward to you a copy of my letter of November 7, 1978 and ask that this be put before the Senate Judiciary Committee considering the nomination of Charles B. Winberry. I reaffirm by endorsement of Mr. Winberry.

The public remarks now being made against Mr. Winberry leaves Mr. Winberry in the analogous position of Job. If there were merit to them they should make book of them. If they are without merit, they should not be given credence by public dissemination. I trust the Senate Committee will act with favor on this nomination.

Very truly yours,
B. E. JAMES,
Secretary.

THE NORTH CAROLINA STATE BAR,
Raleigh, N.C., November 7, 1978.

Re: Nomination of Charles B. Winberry as United States District Judge, Eastern District of North Carolina.

Hon. GRIFFIN B. BELL,
Attorney General of the U.S. Department of Justice, Washington, D.C.

DEAR MR. BELL: It is my distinct privilege to regard Charles B. Winberry, Jr. as a personal friend and a close associate in the legal profession in the State of North Carolina. I feel even more honored to be able to endorse without reservation the recommendation of Charles B. Winberry, Jr. as United States District Judge for the Eastern District of North Carolina.

Rarely have we had an individual to enter the legal profession and within a span of 10 years become totally familiar with government through a working relationship with the judiciary, legislative and executive branches of government. Not only does Charlie have a working relationship with these three branches of government on the federal and state level but he maintains a respectful attitude with these three branches of government and has untold friends who are participants in all three branches. His contributions to the government of North Carolina has been immeasurable. Likewise, but no less, Charlie has contributed immeasurably to the legal profession of North Carolina by serving on our Legislative Committee.

Charles B. Winberry, Jr. has a love of the law which is unequaled and, at heart, has always remained a trial attorney. His love and respect for his fellow man, his profession and his government will make him an asset wherever he is called upon to serve but in particular will he be an asset as a United States District Judge in the Eastern District of North Carolina.

Respectfully submitted,
B. E. JAMES,
Secretary.

NOVEMBER 20, 1979.

Re: Nomination of Charles B. Winberry, U.S. District Judge.

THOMAS M. SUSMAN,
Majority Committee Counsel, Senate Judiciary Committee, Dirksen Senate Building, Washington, D.C.

DEAR MR. SUSMAN: In November of 1978 I wrote to Judge Bell to recommend the appointment of Charlie Winberry to the newly created United States District Court judgeship for the Eastern District of North Carolina. I wish now to make the same recommendation to the Judiciary Committee.

I have known and worked with Charlie Winberry for a number of years. During the 1977 Session of the North Carolina General Assembly, Charlie was Legislative Counsel to James B. Hunt, Jr. During that same session, I served as Counsel to the Utility Review Committee of the General Assembly; and for about 7 months I worked directly and closely with Charlie on critical utility related legislation. Since that time I have had frequent occasion to be in contact with Charlie with respect to a variety of legislative and legal matters. I know him to be a very able and perceptive lawyer and an extremely conscientious and sensitive person. I am convinced that he would serve the United States courts with great distinction.

Sincerely yours,
HUGH A. WELLS.

STATE OF NORTH CAROLINA
UTILITIES COMMISSION,
Raleigh, N.C., November 28, 1979.

Re: Confirmation of Charles B. Winberry as District Judge, Eastern District of North Carolina.

Hon. THOMAS M. SUSMAN,
Majority Committee Counsel, Senate Judiciary Committee, Dirksen Senate Building, Washington, D.C.

DEAR MR. SUSMAN: I am writing to support and endorse the recommendation by Senator Robert Morgan and the nomination by President Carter of the Honorable Charles B. Winberry for appointment as United States District Judge for the Eastern District of North Carolina.

I have known Mr. Winberry for many years and can say without reservation that he has the ideal combination of qualifications for this extremely important judicial post.

Among his many outstanding qualities for this appointment Mr. Winberry is preeminently qualified as follows:

He is an outstanding and able practicing lawyer, with many years of experience in the courtroom and with all of the training and skills needed for this profession.

He has an unqualified devotion to the law and to the highest ideals for the administration of justice.

He is unexcelled at hard work, producing prodigious volumes of legal work of outstanding quality.

In addition, Mr. Winberry has earned wide respect and endorsement throughout North Carolina for qualities of leadership in State Government, in civic affairs, and in the field of law.

If confirmed for this important post, Mr. Winberry will work unstintingly at his docket, with outstanding legal skills, and earn the respect and admiration of everyone coming into contact with his court, for the entire Federal court system.

Based upon all of the above, I am honored to add my endorsement and support to the confirmation of Mr. Winberry as United States District Judge.

I would greatly appreciate it if you would share this letter with the members of the Senate Judiciary Committee.

Very truly yours,
EDWARD B. HIPP,
Commissioner.

DAVENPORT & FISHER,
November 20, 1979.

Hon. THOMAS SUSMAN,
Majority Counsel, U.S. Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR SUSMAN: For the first time this week, I realized that my earlier letter to the Honorable Griffin Bell has not been delivered to the Committee.

Charles Winberry has practiced law in this area for about 12 years. Previous to this, he served as Bailiff in the U.S. District Court for Eastern North Carolina.

Mr. Winberry was an able prosecutor in our District Court system. Since he resigned this position, he has been a member of the firm Biggs, Meadows, Batts, Etheridge & Winberry. He has handled cases in both the State and Federal Courts. It is my experience that he is an able attorney. He is the model of fairness and in my opinion would make an able addition to the Bench.

The newspaper reports concerning bribery are, in my opinion, ludicrous. First, I have known John Larkin for many years. The implication that he might accept a bribe is unworthy of belief. Second, my knowledge of Charles Winberry is such that an implication that he would consider bribery and doing anything to detract from the character and worth of his close friend, Judge Larkin, are beyond belief.

Charles Winberry is not the type of person who would betray a friend, betray a trust, or betray his future as a judge and attorney. Members of the staff and the committee who refuse to wipe out this charge as untrue and continue to leak references to the media are discrediting the committee, not Charles Winberry and Judge Larkin.

This letter is written by one who has not always agreed with Mr. Winberry on political issues but who is convinced beyond any doubt that Charles Winberry is able, honest and fair. I urge his confirmation.

Please forward copies of this letter to members of the Judiciary Committee.

Yours truly,
JOHN E. DAVENPORT.

BEAMAN, KELLUM, MILLS & KAFER, P.A.,
New Bern, N.C., November 27, 1979.

Re: Nomination of Charles B. Winberry as U.S. District Judge.

Mr. THOMAS M. SUSMAN,
Dirksen Senate Building,
Washington, D.C.

DEAR MR. SUSMAN: Recent reports in the newspaper that Charlie Winberry's nomination is "in trouble" have both alarmed and saddened me.

I am alarmed that one who is, without any reservation in my mind, abundantly qualified for the office of United States District Judge should be so personally examined as has been reported in the news.

I am saddened that the political process continues to discourage our best talent from seeking positions of responsibility and avoid active participation in public affairs (thereby avoiding the charge of "political payoff") can be qualified.

There will be few who will write you who have known Charlie Winberry longer than I. His father was born and reared in Eastern North Carolina in a small settlement near many of my ancestors and relatives. Charlie is not from a background of wealth and leisure but, rather, one of middle-income and hard work.

Charlie Winberry and I came to know one another on a personal basis when he was in college and I in law school at Wake Forest. Charlie was then and is now a "doer". Charlie did (and still does) things for other people. He is benevolent. He is concerned about his fellow-man. He has possessed this attribute as long as I have known him.

Charlie understands human nature as well if not better than any person I have ever known. That is the reason he has been so valuable to Senator Morgan and Governor Hunt. Charlie understands how the people not in power (often referred to as "the little people") will react to and be affected by policies and laws.

Charlie has the respect of so many attorneys it would surprise me if any attorney who has ever dealt with him would be critical of him. I have been on the opposite side of cases with him and have always found him to exhibit the highest ethics and professional ability. Charlie does not "fire from the hip". He knows the firmness of the legal position he is taking before he speaks.

Charlie Winberry has never, to my knowledge, been motivated by the accumulation of wealth. He has not refused his services for anyone, to my knowledge, who was in need of them regardless of whether a fee was paid.

So much has been written in recent years concerning the arrogance of certain judges, both state and federal. That will never be a problem with Charlie. He is not arrogant. I doubt he knows how to be. It is not his nature nor his desire.

I understand some point has been made about Charlie's lack of legal experience. Well, of course, Charlie cannot make himself older and thereby claim he has practiced law for over 20 years when he hasn't. But is not an important criteria the variety of cases Charlie has handled and the success he has attained in them? I think so. Charlie's broad exposure to many different legal problems should be strongly and favorably considered by the committee.

Concerning his honesty. Those of us who know Charlie Winberry and Judge Larkins know without any doubt whatsoever that neither of those men has ever offered nor accepted any bribe. That such a charge would even be leveled is ridiculous. To investigate it again after one investigation proved fruitless is, in my judgment, a gross misuse of taxpayer's money.

I have been advised that my previous letter to then Attorney General Griffin Bell recommending the nomination of Charlie Winberry was not forwarded to the committee. I regret that but sincerely hope you will consider these remarks in the proper light. I fully realize the responsibility the Senate has in confirming qualified people for judgeships, but strongly feel that if Charles B. Winberry is not confirmed then the loss will not be the Senate's but, rather, the people of North Carolina.

Pointedly, my observations of Charlie Winberry's legal ability, from personal experience, are as follows:

(1) he is highly ethical;

(2) he is absolutely honest;

(3) he is on time with his pleadings and documents;

(4) he returns his phone calls;

(5) he does not attempt to destroy the opposition;

(6) he does not "play politics" with his cases;

(7) he is available to and will confer with other attorneys about their cases;

(8) he will promptly answer his mail;

(9) he will furnish copies of documents he has drafted for use by other attorneys;

(10) he does not run down other attorneys behind their backs;

(11) he does not criticize a judge's ruling which may be adverse to him;

(12) he gives freely of his time to people in need;

(13) he is neither power- nor money-"hungry";

(14) he is not afraid to take an unpopular stand if he believes he is correct in principle;

(15) he has never used his frienship or political power to increase his income;

(16) he avoids conflicts of interest;

(17) he is neither profane nor vulgar;

(18) he is always respectful of the court both in and out of court;

(19) he will not compromise his integrity for any cause.

I hope some of these comments will be given weight. I strongly urge the committee favorably report Charles B. Winberry to the full Senate for confirmation.

Sincerely,

NORMAN B. KELLUM, JR.

CAROLINA POWER & LIGHT CO.,
Raleigh, N.C., December 3, 1979.

Hon. ROBERT MORGAN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR ROBERT: Just a short note to say that I concur wholeheartedly in your continued vigorous support for Charles Winberry. In my opinion, he will make an excellent judge. As your newsletter correctly describes, the questions that have been raised about his qualifications are preposterous. I hope that the Committee, and the full Senate, will act favorably on this nomination before the end of the year.

Sincerely,

SHERWOOD H. SMITH, Jr.

WILSON CLINIC, P.A.,
Wilson, N.C., December 5, 1979.

Senator TED KENNEDY,
Chairman, Senate Judiciary Committee, U.S. Capitol, Washington, D.C.

DEAR SENATOR KENNEDY: As a friend and personal physician to Mr. Charles Winberry for the last ten years, I write you in support of his candidacy for the Federal Judgeship Eastern District of North Carolina.

He is bright, knowledgeable, healthy and highly respected as a citizen, outstanding attorney and legislative advisor. He has great ability, energy, vision and selfless dedication to public service. He has special concern for the less fortunate, for equality under the law and for the processes of government itself.

He also has the uncanny ability and brilliance to recall almost verbatim legal and legislative decisions and events of the past. His gift to do this has not been equalled, in my opinion, except by our recent mutual friend, Dr. Edgar T. Beddingfield. Because of his great reputation for fairness and integrity, his counsel has been sought by the low and the mighty.

His wisdom, forthrightness, dependability and understanding of people amply qualify him to serve as a judge of whom we can all be proud.

Respectfully submitted,

JOHN MCCAIN, M.D.

GENERAL COURT OF JUSTICE,
6TH JUDICIAL DISTRICT,
November 30, 1979.

Re: Nomination of Charles B. Winberry, Jr. as United States District Judge, Eastern District of North Carolina.

Hon. THOMAS M. SUSMAN,
2226 Dirksen Senate Building,
Washington, D.C.

DEAR MR. SUSMAN: I am writing in behalf of Mr. Charles B. Winberry, Jr. in connection with his nomination for the new United States District Court Judgeship in the Eastern District of North Carolina that has been created. Mr. Winberry is a very capable and outstanding person who has served well in many different capacities during the years. I sincerely feel that he has the intelligence, experience, compassion and temperament to fill this important position and I am confident that he would become a distinguished judge.

The above sets forth basically what I wrote to the Honorable Griffin B. Bell on November 3, 1978 after Senator Robert Morgan had recommended to President Carter that Mr. Winberry be appointed to fill this position. However, as a result of several recent implications, I shall add the following. I have never heard it even suggested that Mr. Winberry has or would engage in any unethical conduct. Although our contact has been somewhat limited, I have known him for about twelve years and consider him to be a person of high moral character and integrity.

Please consider this letter to be an unqualified endorsement of Mr. Winberry's nomination for United States District Court Judge. If I can amplify this letter in any particular, I would be pleased to do so.

In the meantime, please share this letter with the members of the Senate Judiciary Committee if you consider it appropriate to do so.

Yours very truly,

RICHARD B. ALLSBROOK,
Resident Superior Court Judge.

GENERAL COURT OF JUSTICE,
3D JUDICIAL DISTRICT,
November 30, 1979.

Hon. THOMAS M. SUSMAN,
Majority Committee Counsel, Senate Judiciary Committee, Washington, D.C.

DEAR MR. SUSMAN: It has come to my attention from reports in the press that the nomination of Charles B. Winberry for appointment to the vacancy on the United States District Court Judgeship in the Eastern District of North Carolina has come under some question.

When Mr. Winberry was first mentioned for this appointment, I wrote the Honorable Griffin B. Bell, then Attorney General, heartily endorsing Mr. Winberry for the appointment. Since that time, I have learned that the letters of recommendation which General Bell received were not forwarded to the Senate Judiciary Committee for their consideration and evaluation. I am, therefore, taking the liberty of enclosing a copy of my letter to General Bell under date of November 1, 1978, for your consideration and that of the Senate Judiciary Committee.

In addition to the comments which I made in my initial letter of November 1, 1978, I would like to add that I am deeply disturbed over reports indicating that by reason of Mr. Winberry's age and political association that this somehow indicates that his appointment is not merited from a professional standpoint. Mr. Winberry is indeed considered by those who know him to be a "Lawyer's Lawyer". His integrity, legal ability, native intelligence, and even-balanced temperament blend in a unique way to eminently qualify this outstanding young man for the judiciary.

It is my genuine hope that the Judiciary Committee and the full Senate will confirm his nomination and that he can quickly assume the duties of District Judge. I have no doubt that he will swiftly become one of the more eminent jurists on the federal bench.

With best wishes, I am

Yours very truly,
DAVID E. REID, Jr.,
Resident Superior Court Judge.

CAROLINA TELEPHONE &
TELEGRAPH CO.,
Tarboro, N.C., November 28, 1979.

Hon. ORRIN G. HATCH,
411 Russell Senate Office Building,
Washington, D.C.

MY DEAR SENATOR HATCH: I am writing this to you, as one Republican to another, in the interest of simple justice.

Mr. Charles B. Winberry, Jr., should be confirmed by Judiciary for the position of United States District Court Judge. I have no personal connections with Mr. Winberry, or with Senator Morgan, nonetheless, I know Mr. Winberry to be both able and honorable. He is highly respected by the North Carolina Bar in terms of his professional credentials and his personal reputation is beyond reproach.

I truly do not believe that his nomination is any more politically motivated than must be usual in such cases and, as to the allegations of impropriety, they are unfounded.

I am sending a copy of this letter to Senator Helms, in whose judgment I have absolute confidence, in the hope that the questions about Mr. Winberry's confirmation might be resolved through your and his efforts if my modest endorsement and encouragement lend any weight, and unless there are compelling interests to the contrary.

Very respectfully,
T. P. WILLIAMSON.

NORTH CAROLINA
DEPARTMENT OF ADMINISTRATION,
Raleigh, N.C., November 19, 1979.

Hon. EDWARD M. KENNEDY,
2241 Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: It has come to our attention that the Senate Judiciary Committee has information before it which indicates the North Carolina Council on the Status of Women has reservations about the appointment of Mr. Charles B. Winberry, Jr., for a United States District Judgeship for the Eastern District of North Carolina because we feel he is not as strong on women's issues as we would like. We are writing to indicate our strong support for Mr. Winberry and urge your Judiciary Committee to recommend confirmation of his appointment.

Mr. Winberry's legal expertise and his legislative experience qualify him eminently for this position. His concern for the average citizen has been evident as he has involved himself in issues before the North Carolina General Assembly. Mr. Winberry's diligent monitoring and lobbying for a domestic violence bill and for appropriations for continued and expanded funding of the North Carolina Council on the Status of Women are indicative of his concern for equal rights for women and, indeed, for all citizens.

We urge your support for confirmation of Mr. Winberry's appointment. Our eighteen member council wholeheartedly endorses the confirmation and appointment of Charles B. Winberry, Jr. for a United States District Court Judgeship for the Eastern District of North Carolina.

With kind personal regards,
Senator HELEN RHYNE MARVIN,
Chairperson.

GENERAL COURT OF JUSTICE,
20TH JUDICIAL DISTRICT,
November 30, 1979.

Re: Nomination of Charles Winberry to be a United States District Judge for the Eastern District of North Carolina

Mr. TIM VALENTINE
P.O. Box MM,
Nashville, N.C.

DEAR TIM: I enjoyed my conversation with you on the telephone this morning and I am writing this letter to you as a follow up to my telephone conversation with you and in the hope that I may be able to clarify some of the misunderstanding that has arisen in regard to the automobile accident which Charles Winberry was involved in Wake County several years ago.

This letter is not meant to be an endorsement of Charles Winberry for the United States District Judge position in Eastern North Carolina as I think it would be inappropriate and a possible conflict of ethics for a Judge to endorse anyone for a certain position. The sole purpose of this letter is an attempt to help clarify the facts involving the handling of the criminal charge lodged against Charles Winberry as a result of the automobile accident.

At the time that Charles Winberry was involved in the automobile accident which resulted in a young man's death, I was serving as an Assistant District Attorney with William G. Ransdell, Jr., of the Tenth Judicial District. By virtue of my position as an Assistant District Attorney in the Tenth Judicial District, I was assigned the responsibility of representing the State of North Carolina at the coroner's inquest hearing which was held in the Wake County Courthouse following the death of the young man in the collision with Charles Winberry's automobile. I can assure you that Charles Winberry's case was handled just like any other criminal case in the Tenth Judicial District was handled and that Charles Winberry received no special treatment from me, the District Attorney, William G. Ransdell, Jr., or any other member of the District Attorney's staff.

During the course of the coroner's hearing, evidence was presented and certain questions were asked by me of various witnesses. At the conclusion of all the evidence, I made an argument on behalf of the State of North Carolina in which I argued the State's position just as I would do in any other criminal case handled by me.

I also know that Charles Winberry was charged with a violation of a North Carolina traffic law and if I recall correctly, it was failure to yield right of way. This case was prosecuted in the criminal District Court of Wake County with an Assistant District Attorney presenting the State's case as in all other criminal cases. At the conclusion of the evidence, the Presiding Judge either dismissed the case or found Charles Winberry not guilty.

Any allegation that Charles Winberry received any special treatment or favoritism from me or any other member of the District Attorney's staff is simply untrue and without any justification whatsoever.

Sincerely,
ZORO J. GUICE, Jr.,
District Court Judge.

BLANCHARD, TUCKER,
TWIGGS, & DENSON,
Raleigh, N.C., November 28, 1979.

To the Winberry Nomination Committee of the Seventh Judicial District:

GENTLEMEN: Please be advised that I was the attorney for the estate of Jerry Lynn Pershing, a N.C. State University freshman at the time of his death on or about the 19th day of September, 1971, in Wake County, North Carolina. The case was referred to our office by Raymond L. Poston, Jr., Esquire, Attorney at Law, Washington, D.C. I was not personally acquainted with the decedent nor until our association by Mr. Poston, with the family of the deceased. We were retained for the purpose of recovering civil damages growing out of the death of the decedent in Wake County. Our firm spent many hours investigating the case. We obtained either signed statements or conducted interviews with at least seven witnesses; persons who either witnessed the accident or came up to the scene shortly afterwards, as well as the highway patrolman who actually investigated the collision itself. We went to the scene on two separate occasions, took photographs, and made measurements.

We made an effort to settle the case with Mr. Winberry's insurance carrier, which company took the position that there was no liability whatsoever. After a reasonable length of time, we instituted civil action in the Wake County Superior Court. Thereafter, we took the deposition of Mr. Winberry, which deposition is a matter of public record. A reading of this deposition will show that he was examined carefully about (1) whether he stopped at the intersection, (2) why he didn't see the decedent, and (3) had he consumed any alcoholic beverage early in the evening. Based on our previous investigation and discussion with witnesses, we were satisfied that at least one of the many witnesses that came to the scene shortly afterwards would have noticed some unusual conduct on the part of Mr. Winberry or would have detected the odor of alcohol on his person. We could find no witness to this effect even though a diligent effort was made on our part to do so.

Our investigation revealed that Mr. Winberry did stop at the intersection. We concluded that perhaps had he stayed at the intersection long enough and had looked long enough, he could have seen a moving light approaching from his right, to wit: the headlight of the motorcycle. Nevertheless, we also could easily conceive a jury reaching the decision that the great number of lights on and around the service station at the intersection across Highway No. 264 confused him so that he could have thought that the light on the motorcycle was a light that was on a vehicle at or near the service station itself, or that the light from the motorcycle simply merged with the multitude of lights across the highway.

While it was our opinion that we had the better case of negligence, we nevertheless had to advise the family and our associate counsel that there was a distinct possibility that the jury would answer the first issue "no", which answer would result in the administrator receiving nothing in the case. After the results of our investigation and our opinion to our associate counsel, who in turn took it up with the family, we were authorized to settle the case in the range of $70,000.00–$80,000.00. After several negotiation sessions with the attorney for the insurance carrier, the case was settled to the satisfaction of the family and associate counsel within the above range.

If the case had 100 percent liability, we would have appraised the value of the case as being in the neighborhood of $100,000.00, the amount of the policy. The decedent left no dependents. He had no record of any substantial earnings and was only a freshman at N.C. State University; therefore, he had no college academic record that would have been of any real significance.

It should further be kept in mind that our firm was not involved with the criminal prosecution of this matter; but we have no quarrel with the results of the coroner's hearing which found "no probable cause" and which proceedings fully, in our opinion, rightly exonerated Mr. Winberry from any criminal responsibility. Further we have no quarrel with Judge Ransdell's verdict of "not guilty" rising out of the charge of "failure to yield the right of way" in the Wake County District Court, which action was tried some several weeks after the event. At the time of my institution of the lawsuit, I was not personally acquainted with Mr. Winberry and had had absolutely no dealings with him. My relationship was completely an adversarial one. I modestly believe that I pursued this matter with the same vigor and determination that I attempt to do in all of my cases.

I was convinced, however, that there was absolutely no moral lapse on the part of Mr. Winberry in this unfortunate matter and that it was the type of automobile accident that could happen to law-abiding citizens of all rank, particularly at this intersection, which, since the accident, has been modified to lessen the danger to motorists.

Sincerely,

Charles F. Blanchard.

Raleigh, N.C.,
November 23, 1979.

Mr. I. T. Valentine, Jr.,
Box MM, Nashville, N.C.

Dear Mr. Valentine: As I indicated to you by telephone earlier, I was an assistant solicitor in Wake County at the time a coroner's inquest was held to make inquiry about any possible criminal negligence by Mr. Charles B. Winberry arising out of a traffic fatality occurring in eastern Wake County. While I did not participate directly in the hearing, I did speak with the witnesses present, and attended the full hearing.

It was obvious to me from my conversation with the investigating highway patrolman that the evidence was wholly lacking as far as any criminal negligence was concerned. I can remember thinking at the time that had Mr. Winberry been treated as an average citizen, no inquest would ever have been held, for it was in my opinion one of those traffic fatalities in which the highway patrolman or the magistrate would ordinarily conclude that there was no basis for the issuance of any criminal warrant involving the death itself.

Sincerely yours,

Kyle S. Hall,
Attorney at Law.

Statement Concerning Charles Winberry

This statement is given in response to a request of the Seventh Judicial District Bar Association for a statement concerning the handling of the possible criminal liability of Charles Winberry arising from an accident in which he was involved as operator of a motor vehicle. As I recall them, the pertinent facts are as follows: Mr. Charles Winberry was at the time of the accident the President of the Young Democratic Club of North Carolina. On a Sunday evening Mr. Alexander Biggs called me at home to advise me that Charles Winberry had been involved in a wreck somewhere east of Zebulon, North Carolina, on that evening and that he was at that time on his way to Wake Memorial Hospital. Mr. Biggs expressed to me his concern only that a thorough investigation be made before the filing of criminal charges. He never suggested in any way that he sought any extraordinary treatment of Mr. Winberry.

Having known Mr. Winberry for some years, I went to Wake Memorial Hospital where I saw Mr. Winberry and Mr. Larry Wood, the highway patrolman who investigated the accident. I saw or detected no evidence that Mr. Winberry had consumed any quantity of alcoholic beverage at all. Mr. Wood confirmed that he had no evidence whatsoever that Mr. Winberry had consumed any alcoholic beverage. After Mr. Wood completed his investigation and reported to me, I concluded that there was no evidence to support the violation of the criminal law other than violation of the motor vehicle law of failing to yield right of way. However, in view of the fact that Mr. Winberry was President of the YDC I considered it important that a public hearing be held so that the news media could report to the public all of the facts surrounding the accident. Accordingly, I requested that the coroner conduct an inquest. This was done and representatives of the news media were notified of the time of the inquest and were present. All of the evidence available to the State was presented at that hearing. While I don't recall ever having done it before, on this occasion, I assigned an assistant to examine the witnesses at the coroner's inquest to be sure that all of the available evidence was presented. The coroner's inquest was held earlier than originally scheduled. The reason that the date of hearing was advanced was to accommodate the State's witness who was released from the hospital and who would have been greatly inconvenienced by having to travel to his home in Virginia and later return for the hearing. The trial of Mr. Winberry on the charge of failing to yield the right of way was advanced for the same reason. No one ever requested of me that I neglect my duty as prosecutor in order to favor Mr. Winberry and I did not do so in any respect whatsoever. In fact, I knew that there was no evidence to support a prosecution other than on the charge of failing to yield the right of way and had Mr. Winberry not been a public figure I would not even have requested the coroner's inquest. To this extent, Mr. Winberry was given closer scrutiny than the ordinary citizen would have been given.

William G. Ransdell, Jr.

Young, Moore, Henderson & Alvis,
Raleigh, N.C., November 26, 1979.

Mr. I. T. Valentine, Jr.,
Post Office Box MM,
Nashville, N.C.

Dear Tim: Alex Biggs came to my home on the evening of November 18, 1979, and discussed with me at length the difficulty Charlie Winberry is encountering in obtaining committee approval of his nomination for United States District Court Judge for the Eastern District of North Carolina. Your telephone call came last Wednesday night and this is the first occasion that I have been in the office since that time. As I understand it, you are chairman of a special committee of your local bar which has as its goal the resolution of any doubt that may exist with respect to Charlie's representation of a man entering a guilty plea before Judge Larkins and the circumstances of an automobile accident in which Charlie was involved some years past.

I have previously written to Charlie concerning his pursuit of the judgeship. I did not expect the contents of the letter to become a matter of bar knowledge and assume that it has not. Yet Alex told me that he had read it and I assume from the context of the conversation in which he advised that you may be contacting me that he has made you privy to its contents.

If my assumption is accurate, then you know that this letter is not written as an endorsement of Charlie for the federal judgeship. It is written for the limited purpose of divulging (at Charlie's request conveyed by Alex) such information as I can provide that may be of interest with respect to the automobile accident.

I have made no effort to retrieve my closed file on the automobile accident nor to refresh my recollection in detail. That can be done if necessary. I do have a good recall of the matter. I represented Charlie at the request of his automobile liability insurer in connection with the wrongful death action filed in North Carolina by the personal representative of the deceased motorcycle operator. From time to time I also counseled with the insurer's representatives with respect to the personal injury claim of the passenger on the motorcycle.

After the wrongful death action had progressed through joinder of issue and most of the way through discovery, which included the taking of Charlie's deposition, Charlie's insurer elected to settle the case. Charlie, with Alex serving as his personal counsel, approved of the settlement. My present recollection of the merits of the controversy is that I had a defendable case. The particular intersection at which the collision of Charlie's car and the motorcycle occurred was a marvel of misapplication of highway safety design principles. It was later reconstructed.

As I now recall it, it had rained on the night the accident occurred and the highway was wet. As Charlie approached the intersection he was confronted with a myriad of direct and reflected lights ahead and to his left which was the direction from which the motorcycle came and the direction in which he planned to execute his turn onto the intersecting highway.

The physical facts at the scene indicated to me that Charlie had been traveling at a moderate speed immediately prior to the impact. There were also tire impressions from the motorcycle which indicated that it was being ridden closely parallel to the center of the highway at a time when we had in effect a statute requiring it to be operated as closely as practicable to the right-hand edge of the paved portion of the highway.

Although my experience in criminal law has been predominately that of a presiding trial judge, I must say that if the facts disclosed by the investigation conducted by the liability insurer with respect to the civil claims was complete and accurate, it would have been inconceivable to me that Charlie would ever have been convicted of any criminal offense arising out of that accident.

Tim, if this letter is to be used in connection with Charlie's nomination for the judgeship, I request that it be used only in its entirety. I have some strong feelings on this subject. In my estimation it would not be fair for Charlie's nomination to be rejected because of some unlearned speculation that his negligence in the operation of a motor vehicle resulted in a death and an injury. First, the issue was never determined. Second, there was substantial evidence to the contrary. Third, ordinary negligence is nothing more than the regrettable stuff of daily human endeavor. Nor would it be just to my mind that Charlie's nomination be rejected on basis of speculation that his conduct at the time of the accident was criminal. There is no evidence known to me that would justify any lingering doubt in that connection.

My position is that if Charlie's nomination is to be rejected it must be done on basis of the existence of meritorious factors warranting that action.

With best regards, I am

Sincerely,

Jerry S. Alvis.

Tharrington, Smith & Hargrove,
Raleigh, N.C., November 29, 1979.

In Re: Charles B. Winberry.

Mr. I. T. Valentine, Jr.,
Chairman of Seventh Judicial District, Committee on Winberry Nomination, Box MM, Nashville, N.C.

Dear Tim: I have been very distressed by reports that the Senate Committee on Charlie Winberry's nomination has made an issue of the manner in which his 1971 case was han-died in Wake County. I represented him in the criminal actions arising out of his accident and I can assure you that he conducted himself in the finest traditions of our profession as did everyone else involved in the case. Not once did any of us seek special treatment and not once were we granted any special treatment.

No manslaughter charges were ever formally lodged against Charlie. The officers investigating the case sought, instead, a coroner's inquest which they apparently felt would be a more suitable means of airing Charlie's conduct. A coroner's jury was empaneled by the then Wake County Coroner, M. W. Bennett. The evidence was produced and we offered testimony and argued the case vigorously. I had no contact with any juror and did not personally know any member of the coroner's jury. The coroner's jury found no probable cause.

I'm sure you know that Charlie was charged in a form warrant with failing to yield right of way in violation of G.S. 20–155(b). I have not gone back to look at the official court file but I do recall trying the case, offering testimony and arguing the case vigorously. I have retained my notes prepared in advance of trial from which I argued this case both to the coroner's jury and to the District Court judge.

The major thrust of our position was this: Charlie had not consumed any alcoholic beverages so there was no evidence of the use of alcohol. He was well rested and there was no evidence he was drowsy or sleepy at the time he was operating the motor vehicle. He had not used any drugs. He was not speeding. His car was in good working condition. In addition, there was a background of heavy lighting from stores and shops at the intersection behind the motorcycle. I have always believed the motorcycle lights blended with these lights. This was clearly a civil case. I never felt it was properly in the criminal courts. The coroner's jury did exactly what it should have done. Frankly, I would have been shocked had the coroner's jury found probable cause. The District Court judge did exactly what he should have done. I have tried dozens of cases like this and this case was handled rather routinely by the court. I did have the feeling at the time these matters were litigated that had Charlie not been a lawyer, no coroner's jury would have been necessary. However, the fact that the case was given closer scrutiny because of Charlie's position did not trouble us. We welcomed the coroner's inquest.

As I recall, there were three members of the Highway Patrol involved in this case. Troopers Wood and Ward and Sergeant Hemphill investigated it. Anyone who knows these officers would vouch for their credibility. Their reputations are above reproach. They investigated the case carefully and held nothing back in testimony.

Please let me know if I can give any further information.

With kind regards, I am

Yours very truly,

Wade M. Smith.●

THE PAPERWORK REDUCTION ACT OF 1980

● Mr. FORD. Mr. President, I am gratified to see that President Carter has signed the Paperwork Reduction Act of 1980 into law (Public Law 96–511). The new law is aimed at lessening Government paperwork, which is burdensome and costly to the private and public sectors. It will be especially helpful in eliminating the excessive and unnecesary reporting requirements currently being imposed by the Federal Government on small businesses.

Mr. President, the burden of Government paperwork on businesses and the American taxpayer has reached absurd proportions. It is excessive and unnecessarily duplicative.

Instead of keeping paperwork at a minimum, most Federal agencies have imposed excessive and duplicative requirements. Little consideration is ever given to the cost, both in dollars and in time spent filling out agency forms and questionnaires.

Time and time again, businessmen have expressed to me their concern about the mountains of Federal forms which they are required to file each year. Their claims have been substantiated in congressional hearings and Government studies. Numerous studies have estimated that American businesses are spending millions of hours each year and billions of dollars responding to Federal requirements. Others suggest that these figures do not even come close to measuring the true cost of complying.

Many Federal agencies have already taken meaningful steps to eliminate unnecessary paperwork requirements. Those agencies deserve to be commended for their efforts. Additional steps, however, are sorely needed to properly and efficiently manage the Government's information collection procedures. Federal agencies need to better coordinate their efforts and to continue to search for new ways to reduce the unnecessary burdens and costs of Government reporting requirements.

What is perhaps even more disturbing is that many Federal agencies are requiring businesses to report information which is to varying degrees available in the files of other agencies. In my view, this goes to further prove that heaps of worthless forms can be eliminated. As my distinguished colleague and chairman of the Small Business Committee, Mr. Nelson, stated earlier this year on the Senate floor:

> Government paperwork could be cut 50 to 75 percent and at the same time improve the quality of the information submitted.

I share that view and want to reaffirm my commitment to minimizing reporting requirements to the extent practicable and possible.

Public Law 96–511 standardizes the Government's system for information collection and recordkeeping requirements. It establishes the Federal information locator system, a priority of the Commission on Federal Paperwork. It would provide documentation to business and the Federal Government of what information is required and what information has already been collected.

The information locator system is designed to eliminate duplicative reporting requirements, application forms and questionnaires. It will allow, whenever possible, the use of one single form to gather information for many different offices and departments.

This law assigns the Office of Management and Budget responsibility for paperwork review and coordination activities. Paperwork requirements of all Federal agencies, departments and independent commissions will for the first time be reviewed and coordinated by a single office.

In addition, the Paperwork Reduction Act is intended to make the Federal Government more accountable for its actions. The same type of accountability that small businessmen are subjected to time after time as the result of requirements of Federal agencies.

As a member of the Senate Task Force on Small Business, I have become more acutely aware of the paperwork burden which every small business faces. Paperwork reduction was one of the priority items on the agenda of the task force. Also, this bill signed yesterday by the President is a direct response to the White House Conference on Small Business.

Earlier this year, I joined Senator Nelson in sponsoring legislation to reduce Federal paperwork. Much of the same principles which were embodied in that bill are included in Public Law 96–511. Most importantly, this new law fulfills our primary objective of reducing Government paperwork.●

TRIBUTE TO TIM LEE CARTER

● Mr. HUDDLESTON. Mr. President, when the 96th Congress ends, the Kentucky congressional delegation will be losing a valuable Member and good friend when Tim Lee Carter retires after 16 years in the House. Although Tim Lee and I have served in different bodies and on different sides of the aisle, I will sorely miss his voice of reason, compassion and moderation.

Tim Lee has rarely sought the spotlight in Kentucky or national news, but he has become well known and well respected for his quiet effectiveness, especially on the Commerce Health Subcommittee, on which he is the ranking Republican. As a former small town physician, he has never forgotten his roots in his efforts to provide better health care for all.

Tim Lee has been described as someone who "is more concerned about people than issues. He views his contituents as patients and not just voters who come together at election time." I think that about says it all.

Tim Lee has always had strong respect and love for the people he represents in southeastern Kentucky, and although his leaving will be a loss to us, I am sure he will enjoy the opportunity to spend more time at home and with the people he has represented so well for 16 years.

Mr. President, on December 1, an article on Tim Lee Carter by Mike Brown appeared in the Courier-Journal, and I ask that this article be printed in the Record.

The article follows:

Leaving the House for Home: Tim Lee Carter Chose Own Path

(By Mike Brown)

Washington.—The House was debating a stringent anti-abortion amendment one day last August when Kentucky's Tim Lee Carter took the floor to speak against it, making a personal point about conservative John Ashbrook of Ohio.

"Today I was sitting with the proponent of this amendment at lunch, and he stated that, if his daughter were raped, he would pay (the medical) bill to see that she did not carry the child," said the 5th District Republican from Tompkinsville.

Ashbrook, a vocal opponent of abortion, immediately denied that he had said such a thing, prompting the Kentuckian to suggest that his colleague was being less than forthright.

That exchange, uncharacteristically strong for a body that exudes courtesies, does not appear in the written House record.

Using a lawmaker's prerogative of revising the record, it's even been erased from the official tape recording, apparently at Ashbrook's request, definitely not Carter's.

The August incident is worth telling because of what it says about Tim Lee Carter's 16-year career in Congress—a career that ends this week in voluntary retirement.

A physician by profession, the 70-year-old Carter has the soft-spoken, gentlemanly demeanor that perfectly fits a kind country practitioner.

Yet, as a public figure, Carter has often been unpredictable, sometimes colorfully so.

Take, for example, the time in 1972 when he slugged an anti-war demonstrator blocking the access to his hotel at the Republican National Convention. "I didn't mean to hurt him," he explained later.

The point is that, while Carter is generally a political conservative, he has toed no line.

The issue of abortion is a good example. He says he is opposed to it, and has never performed one. But Carter also says that, in cases of rape, incest and saving the mother's life, abortion is a necessity.

Carter was also not easy to pigeonhole on the Vietnam War.

In 1967 he gained attention as the first member of Congress to call for the outright withdrawal of U.S. troops.

One of his favorite stories is that, after a congressional trip to Vietnam in 1966, he was the only one among the 14 official travelers to tell Lyndon B. Johnson to his face: "No, Mr. President, we're not winning the war."

Yet when there were efforts to cut off funds for the conflict, Carter voted against them, saying he didn't want to do anything that would deny American soldiers the rifles they needed to defend themselves.

And in 1972 he called for saturation bombing of Hanoi and Haiphong if it would save American lives.

Then there's federal spending.

Hanging in the reception area of Carter's Washington office is a cartoon showing the congressman grasping two big money bags.

"The trick is to have the right man in Washington," reads the caption in a reference to the federal largess that has flowed into Carter's mountainous 5th District. Money that's been used for vocational schools, water systems, hospitals, libraries, airports, roads and recreational areas.

Carter voted for Johnson's Great Society programs and asks, "How could I come from a poor area and not support them?" He also opposed Richard Nixon's efforts to cut programs for rural America.

Yet Carter considers himself a fiscal conservative and calls for a balanced federal budget. "I was for them (the social programs), but I was for enough taxes to pay for them," he said in a recent interview in his office, now littered with packing boxes.

So has Tim Lee Carter been unpredictable, a maverick? "I don't deny it," he said. "I follow my conscience."

In the early 1970s, Ralph Nader's Congress Project published reports on individual lawmakers. The report on Carter concluded that he "is more concerned about people than issues. He views his constituents as patients and not just voters who come together at election time."

The analogy is especially appropriate because it points to Carter's most active area in Congress.

He is the top Republican on the House subcommittee that handles health legislation, and it is there that he has devoted most of his efforts—efforts that Democrats say will be sorely missed.

"Tim was a very moderating influence and could carry the Republican side for moderate health legislation," said Richardson Preyer, a North Carolina Democrat and subcommittee member who was defeated for re-election this November. "It's going to be hard to replace him in that respect."

Carter may not be remembered as the lead actor in the passage of major laws for medical and dental schools, hospital planning, family planning, and research into cancer and other diseases.

But he consistently gets strong reviews for his supporting role as a Republican physician who understood the issues and sought consensus rather than headlines.

"He is the member that the subcommittee will most miss. I mean that, and I worked for Preyer," said Andrew Burness, who is now with the President's Commission on Medical Ethics.

Perhaps because medical legislation can be technical, Carter's health work didn't get a lot of attention in the Kentucky news media.

But it did among medical groups and publications. His office wall is covered with more than 50 plaques and citations, many from health and research organizations.

In 1978, the last year in which he ran, health-related groups provided more than 40 percent of the $46,400 his campaign raised.

"People have considered him our voice because of the fact he's a physician and the fact we have worked closely with him," said John Zapp, a lobbyist for the American Medical Association, one of the givers.

But the truth, Zapp said, is that Carter never hesitated to disagree with the association. Most recently they split on the controversial bill to expand health care for poor children under Medicaid. Carter supported it through House passage; the AMA did not. (it's now tied up in the Senate.)

"I certainly don't think he was regarded as any tool of the AMA," Preyer said of Carter. "But as a physician, he was seen as a spokesman who understood the physician's side of things and the delivery side of things."

Carter and his wife, Kathleen, also understood the personal, tragic side. In 1977, their only child, William Starr Carter, died of leukemia at age 22.

Carter says that only made him work harder on health legislation.

Carter has also been an active foreign traveler, taking a number of official trips. But his travels at public expense, Carter said in the interview, were always at the request of House leaders, and they were always work.

Carter's only really unfavorable publicity was a 1976 Wall Street Journal story naming him as one of several congressmen who claimed official travel funds for which he wasn't entitled.

Carter blamed it on a secretary's mistake and reimbursed the government. He said the incident hurt him deeply.

The Carters now plan to live in their Tompkinsville home, staying pretty much out of politics and spending winters in Florida or Arizona.

Carter's financial disclosure report for 1979 suggests he doesn't have to work: Investment income that year totaled at least $71,000, with assets worth about $1 million to $2.5 million. (Only ranges of values must be given on a congressman's report.)

Nevertheless, Carter, who had a coronary bypass operation last year, says he will work—tending to farms he owns in Monroe County and carrying on a limited medical practice, which he never completely gave up.

"Leaving here doesn't mean I'm going to sit in a rocking chair," he said.

Immediately after Ronald Reagan's election as president, Carter was suggested by some Kentucky Republicans as secretary of Health and Human Services in the new administration.

While branding himself a long shot, Carter didn't hide his desire for the job. Late last week, however, he said he didn't believe he was on the final list of candidates, although he has been asked to serve on the department's transition team.

So is Tim Lee Carter at all sad as he returns to the ranks of regular citizenship?

"No, not really," he said. "I've had a great time." ●

CHILD HEALTH

● Mr. HATCH. Mr. President, the report of the Select Panel for the Promotion of Child Health has been officially presented to Congress. We appreciate the work of this panel, and we will be reviewing their data, their analyses, and their recommendations with great care and interest.

In presenting the report to the Congress and the press it was pointed out that the select panel was created by a Congress controlled by Democrats. Some concern was expressed that the new administration, and a Senate controlled by Republicans might not be responsive to child health issues.

Mr. President, the health and well-being of our Nation's children is of prime interest to each of us. Raising healthy children is not a partisan concern. I know I speak for all my Republican colleagues when I say that promoting a healthy life, particularly for our Nation's children, is a concern that should and will receive careful attention in a Senate in which the Republicans are in the majority.

It is particularly gratifying, Mr. President, to see that several of the recommendations made by the Select Panel for the Promotion of Child Health have been implemented in my home State of Utah for many years. The necessity for pregnant, or potentially pregnant, women to avoid smoking, drinking, taking drugs, or other potentially harmful substances has long been recognized by many of my Utah constituents. The importance of proper nutrition has also long been part of our Utah approach to child health. As a result of our positive practices relating to child health, I am pleased to note that Utah, while maintaining the highest birthrate in the Nation, has one of the lowest infant mortality rates.

In developing legislative approaches to improving child health we must couple our enthusiasm with some principles of sound program evaluation and management. Some of our current programs are reaching only a small percentage of the target children; they have not been fully implemented by the States, frequently for good reason; too often, no cost accounting is accomplished to help us evaluate program effectiveness. During this Congress bills have been presented to pour billions more into these ineffective programs.

Mr. President, the day is past when the American people will allow us to respond to ineffective Federal programs by pouring more money into them in the hope that they will work better. It is my hope, Mr. President, as we move into the 1980's we will make it a decade of fiscal restraint, but social responsibility. We must evaluate current programs at every level of government, and we must find ways to improve those that are not working. We must also find new, efficient, and creative approaches to deal with our problems.

We join with all those who are speaking out for child health. We must be careful not to pour billions into programs of questionable effectiveness, thereby failing to produce on the promise of improved health while increasing national spending and debt. We must move ahead to take positive steps to educate our people in preventative health practices. Particularly, in the area of child health the old adage, "An ounce of prevention is worth a pound of cure," is so true. I look forward to working with my distinguished colleague from Kansas Senator DOLE, and all my other friends and coleagues in the Senate who are, and will be, involved in family health concerns in this next Congress.●

TRUCKING DEREGULATION IS WORKING

● Mr. CANNON. Mr. President, 5 months ago the Motor Carrier Act of 1980 was enacted into law. The purpose of the legislation was to significantly reduce Federal economic regulation of the Nation's trucking firms and to promote competition in that industry. Critics contended that any major reduction of Federal regulation would result in instant chaos. The critics were wrong.

While it is far too early to reach any final conclusions as to the results of the new law, the very initial responses of truckers, shippers, and the Interstate Commerce Commission is encouraging. Senator PACKWOOD and I recently requested the ICC to bring us up to date on the most recent developments that have occurred since the law was passed. I have received the response to that request and ask that it appear in the RECORD following my comments.

It seems to me that one of the most significant aspects of the information prepared by the ICC staff is the wide variety of activity taking place within the motor carrier industry. Some carriers have offered significant rate reductions. Others are offering new options to shippers for higher quality service. There is a widespread interest in contract carriage. New carriers are entering the business and existing carriers are expanding their authority. In short, there are already many more options available for most shippers than there have been in the past.

By and large, the trucking industry seems to be faring pretty well considering the turbulent economic situation of the country at large. The trucking business is extremely sensitive to recessions and shifts in the economic climate. One of the great virtues of the new law is that it allows carriers much greater flexibility to cope with this challenging economic climate. Ironically truckers have initially been reluctant to utilize all of the flexibility offered to them by the new law. But I am convinced that with time and a better understanding of the new provisions, increased use will be made of the wide latitude allowed individual carriers under the new regulatory climate.

Next year the Senate Commerce Committee will undertake oversight hearings on the progress of regulatory reform of the trucking industry. This is one of the many areas in which this committee has had an exceptionally productive bipartisan working relationship during the past several years. I certainly expect that to continue next year. I know that BOB PACKWOOD shares my view that the ICC should be diligent in its efforts to make meaningful reductions in the way it regulates the trucking industry. The law sets forth a new policy statement for regulation of motor carriers that emphasizes competition for all phases of the process—whether it be in the area of rates or with respect to issuing operating authority on either a temporary or permanent basis. The same policy statement applies to all these activities and I hope the Commission keeps that in mind.

The letter previously referred to follows:

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., December 4, 1980.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of December 3, 1980, requesting initial information on the response to carriers and shippers to the Motor Carrier Act of 1980.

From the time the new law became effective last July, our staff has been surveying carriers, shippers and the media gathering information regarding the effects of the Act. This process obviously is not a scientific approach and more rigorous analyses are now in the planning stages. This continuing survey, however, has been extremely useful in keeping the Commission informed regarding the early effects of these landmark reforms and our own implementation program.

In my view, the results to date have been most encouraging. The staff report, which I have attached, summarizes the information gleaned from these surveys and indicates an enthusiastic response by the trucking industry and shippers to the operating and pricing freedoms made possible under the Motor Carrier Act. The advent of substantial managerial discretion for carriers and shippers coupled with a definite increase in the level of competition has injected a new life and spirit into this crucial surface transportation market. It seems, as well, that both carriers and shippers are receiving benefits attributable to these reforms. I have no doubt that over time a substantial portion of these savings from competitive pricing and more efficient and flexible motor carrier operations will flow to consumers.

I appreciate your close interest in our implementation of the Motor Carrier Act and its effects on carriers, shippers, and the economy in general, and I look forward to next year's oversight hearings on the subject. As you note, it is still too early to gauge in any definite way the ultimate effects of the new law. Though I am extraordinarily proud of what the Commission has accomplished, important work remains if we are to realize the full benefits of a flexible, responsible, and fully competitive motor carrier industry.

I hope you will find this report useful and if you should require any additional information, please do not hesitate to contact me.

Sincerely yours,
DARIUS W. GASKINS, Jr.,
Chairman.

STAFF REPORT OFFICE OF POLICY AND ANALYSIS, INTERSTATE COMMERCE COMMISSION, HIGHLIGHTS OF RECENT ACTIVITY IN THE MOTOR CARRIER INDUSTRY, DECEMBER 4, 1980

The activities reported are representative of developments in the motor carrier industry since passage of the Motor Carrier Act of 1980 and are based on media reports, I.C.C. records and telephone contacts with those involved in motor truck transportation. Many of these have also been included in the first four OPA Motor Carrier Monitoring Reports. It is not intended to be a comprehensive, scientifically designed analysis of the effects of the MCA. However, all information obtained from the monitoring program has been reported without any attempt to report findings selectively.

OPERATING AUTHORITIES

The number of applications being filed for motor carrier authority continues its upward trend. Activity in both the common and contract carrier segments of the industry reflects both a broadening of the territorial coverage of existing carriers and an influx of new companies. This suggests a parallel growth in the degree of competition and operational flexibility in the trucking industry.

During the fiscal year ending September 31, 1980 a total of 21,469 authority grants were made. This is an increase over the 1979 figure of 12,233 and the 1978 total of 8,684. The 1980 statistics further indicated that 1124 were granted to carriers with no previous ICC authority (5.2% of total) and 20,345 were expansions of previous grants to existing carriers. Of the grants to new entrants, 463 (41%) were contract carrier permits and 661 (59%) common carrier certificates. Among the expanded authorities, 14% (2878) were for contract carriage and 86% (17,467) for common carriers.

During October 1980, a total of 3503 full grants were issued plus 14 conditional and 21 partial grants.

Without exception, every carrier contacted as a part of our telephone surveys indicated that they do have applications pending or in process.

The only carrier purchase reported was one in which the buyer (Schuster's Express) indicated that the reason for buying a carrier rather than filing for additional authority was that the company acquired was a "going concern with substantial business and the price was right."

One explanation offered by existing carriers for seeking expanded authority is to secure new business to offset losses being experienced within their original operating authorities. Companies such as C and H Transportation, Yellow Freight Co., Consolidated Freightways and Ruan Transport are seeking 48 state authority. Recent grants to Clipper Express and Profit by Air for expanded freight forwarder authority are indicative of movement in that segment of the industry.

Authorities which have in the past been determined to be assets of considerable value are now being written off as worthless. The following companies have announced their actions or intentions in this regard: Consolidated Freightways wrote off $32 million; Roadway $26.8 million; Tyler Corp. (C&H and Thurston) $10.2 million; IU (Ryder and PIE) $35.0 million; and Overnite $9.3 million. ATA advises that there is, in their opinion, sufficient evidence supported by the financial and accounting communities to justify this action on the part of all carriers. As reported in the Wall Street Journal, they suggest the book value of all motor carriers operating authorities immediately after passage of the MCA was $748 million. The IRS has yet to define a policy in this area.

Tiger International, parent of Flying Tiger Lines (air freight carrier), has announced plans to add Dohrn Transfer Co. to its developing air/truck network. Hall's Motor Transit Co., which will actually acquire Dohrn, was the first general freight carrier to become a subsidiary of Tiger International. These common carrier companies will undoubtedly replace contract carriers that have been utilized extensively by Flying Tiger to feed traffic into their worldwide air freight system.

FREIGHT RATES

There has been a dramatic increase in rate activity in recent months, with emphasis on reduced truck load rates through independent actions on the part of the carriers. LTL rates have also been subject to some reductions, with a tendency toward cost related discounting concepts.

The low general level of business activity, creating excess capacity and the need for additional freight revenue has unquestionably played a part in rate reductions. Another response to excess capacity, that of moving resources into new routes, has been made easier by new entry standards. Presumably the resulting increased competition has also lowered rate levels.

The Bureau of Traffic (I.C.C.) reports that as of this date only one carrier has filed rates under the new Zone of Freedom provision of the MCA of 80. Carrier reluctance to use this process appears to be due in part to a lack of understanding as to how it will be administered and the availability of the more familiar independent action mechanism.

A. Independent actions

The increased number of independent rate actions being exercised over wide geographic and commodity areas is illustrated by the experience of the Central and Southern Rate Bureau. During the first eight months of 1980, this bureau recorded an 180.7% increase in the number of independently published rates as compared with the previous year. During the same period, the number of normally docketed rate items increased only 19.4%.

The Steel Carriers Conference published a rate increase that was met with such widespread flag outs that the conference refiled a group of rates that in some instances were below the original rates. Thus for the first time we saw a rate reduction through collective action that was the result of the independent actions taken.

B. LTL rates

Overnite Transportation in early August was faced with 105 independent rate actions by competitors in the Southern Motor Carrier Rate Bureau that affected traffic being handled by their system. To combat this loss of revenues by attracting replacement business, Overnite elected to reduce all class rates in all bureaus by 10%. The last of these revisions became effective in late October. Overnite has not had sufficient time in which to evaluate the net impact of their action. There were 50 companies that met overnite's reduced LTL rates in specific markets.

Santa Fe Railroad's truck division established an owner-operator division as a subsidiary to place them in a more competitive situation on truck-load traffic and moved to reduce their LTL rates by 8%.

C. "Discount" rates

Typical of the rates being filed which allow discounts where there are variations in carrier costs of handling are those filed independently by AAA Cooper Transportation Company. Their new rate structure is intended to eliminate the average-cost pricing concept. It applies a three-facet approach to shipments under 5000 lbs. calling for:

Rates per 100 lbs. which are designed to cover variable cost of the shipment,

Shipment charges which will reduce per-shipment rates for multiple tenders (considerations being given to fixed cost), and

Penalty charges designed to cover the higher cost of handling light-weight shipments.

Commercial Lovelace has instituted rates which reduce shipper discounts of 5%, 10%, or 15% for specified numbers of multi-shipments meeting minimum weights and tendered to their company at one time.

All such rates are directed toward shipper service options which result in lower carrier cost and thus enable the carrier to transport at a lesser charge.

D. Household goods rates

Interstate Van Lines has introduced new tariffs which offer the consumer a simpler pricing mechanism plus three price-service options. Prices are based on cubic capacity utilized, distance traveled, and the service plan desired. Rates are no longer based on weight. Cubic units (400 cubic feet) are marked internally in the vehicles used so that shippers and carriers can easily identify the amount of space utilized for the total shipment. Mileages are computed only between key points rather than exact point-to-point distances. Service options identify wide variety of what were formerly "extra" charges which will be included in the rate quoted. Such things as insurance limits and penalty payments by the carrier for performance failures also vary by the option chosen.

Since the introduction of this new pricing concept, Bekins and Allied have also adopted certain portions of Interstate's concept. Bekins now has a "penalty for poor performance" and Allied has filed a tariff utilizing the cubic foot principle as a substitute for weight. American Red Ball is contemplating a similar pricing approach.

American Red Ball has introduced a discount for senior citizens using their services.

The Household Goods Transportation Act of 1980, was signed into law on October 15th. It supplements the motor carrier act, which also applies to household goods carriers, and has been described by an executive of American Red Ball as being a law which "is going to revolutionize a lot of things that were pretty much traditional for the last 45 years."

It is still too early to assess the impact that this new law will have on rates, service, or actual structure of the industry. A Commission rulemaking, (Ex Parte MC–19 Sub-36), implementing the changes in operational regulations is underway, with comments due December 11, 1980.

INTERCORPORATE HAULING

With the relaxation of previous limitations on private carriage to the extent that such transportation units may now transport for-hire for affiliated organizations, it is anticipated that private carriage will continue to grow at a rapid rate.

With the additional listings in the Federal Register on October 31st, a total of 335 companies have now made the necessary filings to engage in transportation of goods for those affiliated corporate subsidiaries that are 100 percent owned by the parent. A conservative estimate of the number of subsidiaries affected is more than 1,000.

Combustion Engineering Company anticipates that they will, by utilizing their new authority, reduce their private fleet's empty miles from 20 percent of total mileage to 8 percent. They project that this would translate into an $800,000 annual savings for the corporation. They had originally planned to expand their private fleet to create even greater savings, but are currently withholding those plans. The reason for the delay is that an increased number of regulated carriers are proposing rate reductions which are equal to or less than their private carriage cost.

An Ohio transportation consultant (David D. Humphrey) is currently seeking a ruling on several issues related to intercorporate hauling which have arisen under the expanded permission now granted private carriers. These issues are as follows:

1. May the corporation operate under the "intercorporate hauling" in a fashion which management decides to be the most beneficial to it's situation, i.e., may the corporation utilize owner-operators, leased vehicles, their own vehicles, or any combination of an operating mix and still be exempt from ICC regulation?
2. May the corporation also engage in backhauling under another firm's authority?

CONTRACT CARRIAGE

Early results under revised regulations indicate that not only can the contract carrier segment be expected to expand dramatically, but also that dual-operations (combined common and contract) will become more plentiful. As competitive pressures increase, more flexibility will be required to meet demands of shippers in various industry segments.

There is a brisk interest in the expansion of this segment of the industry. McLean Trucking, one of the larger general freight carriers, has a new subsidiary, Salem Contract Carriers. This division was created to transport "commodities dealt in by retail chains and food stores." Its major customer at this time is the national K Mart chain.

Genie Trucking, a smaller contract carrier, is expanding their number of contracts. They are also planning to seek Commission authority to enter into contract with shipper associations which would enable them to serve any and all members of such groups of an individual or collective basis.

Bruce Johnson, a medium size regional common carrier with dual operations, has expanded it's number of contracts as well as broadened its common carrier scope within the southeast.

Yellow Freight has filed a 48 state contract motor carrier application which it proposes to utilize in servicing its nationwide freight forwarding operation in lieu of rail service currently used.

The automobile haulers also are giving consideration to the advantages of contract carriage. Clark Transportation of Chicago (common carrier) has applied for contract authority to serve one auto manufacturer on an execlusive basis from rail distribution centers.

OWNER OPERATORS

Despite the apparent intent of the Congress in the MCA of 80 to enhance the earning capabilities of the owner-operators, there is no evidence to date that this objective has been accomplished. However, a contract-to-haul for the transportation of exempt commodities may be beneficial, but has not yet been implemented. Other changes in leasing rules for loading and unloading and a study directed toward greater uniformity of state laws should eventually benefit the owner-operator segment.

The November 5th report of U.S. Dept. of Agriculture, which reflects the status of owner-operators' available to transport fruits and vegetables, revealed a surplus of vehicles in Florida, California ad Arizona. Other areas reported that the supply of trucks was in balance with shipper needs.

The Commission's Small Business Assistance Office, as well as several owner-operator organizations, report that owner-operators are not making application for entry into the regulated area on a rapid basis. However, 50 percent (by Office of Proceedings estimate) of the applications which are being received are for entry under the "fitness" only provisions of the MCA of 80.

One of the reasons advanced for the apparent reluctance of some owner-operators to file application is their fear of becoming involved in the tariff and rate making aspects of regulation.

The Consumer Protection office and owner-operator associations both report confusion on the new loading and unloading provisions. The establishment of hot-line numbers and rulemakings in these areas are expected to overcome these problems.

Western Truckers Association of Oregon reports that many of their owner-operator members are having difficulty securing sufficient loads to maintain their operations. This is attributed to the low general economic activity level of the area, which is attributed to depressed activity in the building trades. Despite this situation, there have been "only a few" who have applied for I.C.C. authority.

An editorial in Owner-Operator magazine, Nov/Dec issue, discusses the Commission proposed rulemaking under Ex Parte No. MC–143 which would allow owner-operators under simplified application procedures to transport food edible products and named specific agricultural products in their own vehicles. The concluding statement indicates that this is a "start in the right direction" but it "leaves much to be desired." Some owner-operator groups had anticipated receiving authority to transport any or all commodities without securing authority from the Commission.

MISCELLANEOUS

Teamsters: Failure of carriers to show that the Motor Carrier Act of 1980 has produced a "significantly adverse effect upon the financial stability of the industry" resulted in refusal to re-open the Master Contract. Forbes magazine reported a loss of union "muscle," partially due to the Motor Carrier Act. A group of short-line carriers in the Southwest has continued negotiations with the union in the interest of eliminating further cost-of-living increases as called for in their contracts.

Rails: One shipper (unidentified by the Wall Street Journal) is reportedly increasing its private fleet in anticipation of increased rail rates and reduced service under the Staggers Railroad Act of 1980. Rail marketing (Conrail and Burlington Northern) efforts are being increased to attract additional general merchandise in boxcars as well as piggyback. Santa Fe is placing renewed sales emphasis on developing LTL traffic for their motor carrier subsidiary.

Exit: In August, Traffic World reported the demise of two large regional carriers, Wilson Freight Co. and Johnson Motor Lines. "Battered by the recession and uncertainties of deregulation, as well as high interest rates and climbing costs of fuel and equipment, the carriers have suffered growing losses."

Change of emphasis: Many general freight carriers (among the largest being TIME–DC and Transcon) have experienced a loss of truck-load traffic. As a result, they are concentrating their sales and service efforts on development of additional LTL traffic.

Forwarders: Superior Freight Forwarding Co. (a rail forwarder operation), experiencing new competition from shipper associations and expanded authorities in the 100 pound shipment category, has embarked on a program of reducing rates (to approximately 15 percent below motor carrier levels) and expanding services in selected traffic lanes.

Florida Deregulation: Under the sunset laws of Florida all economic regulation of intrastate motor carriers ceased at midnight on June 30, 1980. As of early October one interstate general commodity carrier (M.R.& R.), that serves portions of Florida from a Georgia base, reported a sizeable increase in competition for Florida intrastate business. Warehouse companies are now entering the transportation business and distributing their warehoused products. Large interstate carriers are also entering intra-state markets where they see profit potential.

One household goods carrier (Capital City Moving & Storage) reports that although there are still "many unanswered questions, there is not a lot of turbulence or panic" in their marketplace. The small carriers who formerly were only "local" movers are most pleased with their new freedom. Major household movers are introducing fixed price contracts for specific moves with deposits required from customers. This is in lieu of the former methods of estimates with final charges based on weight, miles and accessorial services required and are not actually determined until after the move has been completed. There is also some attempts at blending general commodity transportation with household goods. An arbitration panel has been established by industry to deal with user complaints and claims.

New companies such as Super Transport, Inc. of Pompano Beach, Florida have come into being to provide general commodity service to small communities. (Although owned and operated by a Schuster, this is in no way connected with the Schuster Express Company of New England.)

MINORITIES

The one carrier contracted, Young's Express, is a contract carrier that stated that they do not feel they have been hurt or helped by the MCA of 80. They did file as a "107 carrier" of government traffic but have not participated in any traffic since they found the rate levels to be below their needs.

Service to small communities: The Texas Railroad Commission when asked about reaction within their state to the general lessening of Federal regulations on Motor Carriers, replied that they had witnessed a pattern of "longhaul" carriers eliminating service to small communities but with other local or regional carriers moving in to replace them. This pattern we interpret as being a demonstration of the flexibility and competitiveness of the industry in general. Texas had no other observations or complaints.●

PROGRESS IN NAMIBIA

● Mr. KENNEDY. Mr. President, as recent events in the Persian Gulf and Central America heighten our awareness of instability throughout the Third World, we must remain committed to the continuing struggle for majority rule in southern Africa. The achievement of majority rule will be of critical importance to future U.S. relations with the nations of Africa.

Last week, a positive step in the struggle for majority rule in Namibia was achieved when South Africa finally agreed to a United Nations-sponsored conference regarding Namibia's future. This conference—scheduled to begin on January 7, 1981—will for the first time bring the South African-backed political leaders of the Democratic Turnhalle Alliance of Namibia together with the South West Africa People's Organization (SWAPO) and the South African Government in an effort to move toward an independent Namibia next year. If this conference is successful, a U.N. supervised cease-fire would take place in March 1981, followed by October elections for a constitutional assembly.

I welcome South Africa's decision to proceed with this conference and to tentatively agree to this timetable. The experience in Zimbabwe clearly has shown the benefits of a diplomatic solution to the question of majority rule. I am hopeful that South Africa has learned at last that opposition to Namibian self-determination does not serve its interests and that its relations with the West will deteriorate further if it continues to prolong negotiations. As a recent editorial in the Christian Science Monitor states:

> There is no way to stop the clock in Namibia anymore than there was in Zimbabwe.

Our allies in the Western "contact" group—West Germany, Britain, France, and Canada—have remained steadfast on Namibia, and I believe there should be continued close coordination on this important issue. Nor must we forget that the nations of black Africa—particularly the frontline states and Nigeria—have been working quietly and waiting patiently for the West to convince South Africa to accept majority rule in Namibia. It is now time for the United States to recognize that we will best promote our interests by leaving no doubt that we are strongly committed to the peaceful attainment of an independent, democratically ruled Namibia.

The upcoming conference provides South Africa with the opportunity to demonstrate to the international community its commitment to majority rule in Namibia. If such a spirit of cooperation is not exhibited at the January conference, it will be a clear signal that Pretoria is not prepared to heed international concern and is merely using this conference as a stalling device. In the event that South Africa does not move forward, I believe the United States and the international community should stand ready to exert strong pressures for it to do so.

Mr. President, there has been a tentative step forward; the international community must continue to press for both racial justice and the full independence of Namibia.

I ask that the text of a thoughtful editorial in the Christian Science Monitor be printed in the Record.

The editorial follows:

[From the Christian Science Monitor, Nov. 28, 1980]

And Now Namibia?

Has the South African government at long last decided to bow to the United Nations and relinquish its control of South-West Africa—the vast, mineral-rich land it has ruled in trust since 1919? So often has Pretoria gone back on its promises that any great optimism would be foolhardy. Nonetheless, hopes can again be cautiously raised with the news that South Africa has given conditional agreement in putting into effect a UN plan for independence of the territory by the end of 1981.

For the sake of Namibia, as the land is now called, and for the sake of peace and stability throughout the region, it is to be earnestly hoped Prime Minister P. K. Botha follows through with the statesmanship required to bring this longstanding conflict to an end. He and his country can only benefit if he does.

Much rides on a "trust-building" conference to be held in Mozambique in January between the South African-backed political leaders of Namibia and the guerrilla leaders of SWAPO (South-West Africa People's Organization). If mutual suspicions and mistrust are dispelled, the plan can go forward. A cease-fire would take place in March and elections for an assembly in October. A UN peacekeeping force, meantime, would patrol a demilitarized zone along Namibia's border with Angola—a plan to which Angola responsibly gave its assent some time ago.

South Africa's tentative cooperation with the latest able UN diplomatic effort presumably stems from seeing how few options are left open to it. In the end it must accept the UN-mandated solution if it wants good relations with the West and if it is to avoid the imposition of international sanctions. In this connection, too, it may reason that settling the Namibian issue may make it easier for the Reagan administration to pursue a softer line on apartheid. As for Namibia itself, it has become increasingly clear that the Pretoria-backed Democratic Turnhalle Alliance has little chance of defeating SWAPO in fair elections, inasmuch as the guerilla organization has the support of the largest ethnic group in Namibia.

Selling a conciliatory Namibian policy to South Africa's conservative whites will obviously be politically difficult for Prime Minister Botha. But the potential long-range benefits of a Namibian settlement for South Africa and indeed the entire African continent must be uppermost. Not least of all, once the war ends, Angola may be able to resolve its own civil conflict, with the prospect it can then ask the Cuban troops to leave.

There is, in short, no way to stop the clock in Namibia anymore than there was in Zimbabwe. Though many may be concerned about the possibility of a Marxist government in Namibia, the West cannot but support the right of the people there to work out their own destiny. This is the democratic point of view underpinning the UN position. So at this stage, with Nigeria, Tanzania, Angola and others pressuring SWAPO to sit down to direct talks for a peaceful end of the war. South Africa should be no less forceful in pressing the Democratic Turnhalle Alliance to make the talks a success.●

U.S. IMMIGRATION POLICY

● Mr. HUDDLESTON. Mr. President, today I am going to speak about immigration. I am going to touch on many areas, and address many topics within the general subject of immigration.

I am not going to throw a lot of statistics and economic projections around, though I shall use some. Today I want to talk about policy, about the underlying philosophical rationale for immigration to the United States, about what we want to accomplish through immigration, what we actually are doing, and what we should be doing.

At some future time, I shall go into detail on the disputes over percentage points among economists and demographers, but that is not my purpose today.

The disagreements among economists and among demographers do not arise primarily over technical points, over mathematical variations in their models. These disputes arise over the underlying assumptions, the philosophies which they work from when they construct their models.

There are many solid-sounding statistics and figures that are batted about in the field of immigration: How many illegal immigrants live in the United States; how many enter each year; what the cost of refugee assistance is; what economic progress is made by recent immigrants; how many immigrants, legal and illegal, can be absorbed by the United States.

But behind the solid-sounding figures are assumptions—behind the impressive model is the philosophy that was used to create that model—and it is those basic assumptions which we in Congress must consider, must debate. And upon those basic assumptions which we choose to follow we must eventually base the laws of the United States.

There are some facts and figures about immigration which are not disputed. In fiscal year 1978 there were 272,175,105 recorded U.S. border crossings. There were 601,442 legal permanent immigrants admitted to the United States—and in fiscal year 1980 there will be approximately 800,000 legal permanent immigrants admitted to the United States—if we include the Cuban and Haitian entrant class whose legal status is not yet settled.

In fiscal year 1977, 1978, 1979, and 1980 there were over a million apprehensions of illegal immigrants every year. That is 4 straight years with apprehensions of over a million every year, while in the early 1960's apprehensions were running under 100,000 every year.

Here are some more facts: The United States takes more legal permanent immigrants every year than the rest of the world combined. The United States accepts more refugees for permanent resettlement than all other nations in the world. There are very few countries of immigration left in the world; most countries actively discourage immigration.

There may be four or five countries left that take significant numbers of immigrants. And the United States is the only major country left that has not taken firm measures to control the immigration it does allow.

Every other major country in the world has an immigration policy which it enforces, has a ceiling on the number of people who can come. And every other major nation has tightened its controls, has limited the number of immigrants.

And while this has been happening, ignoring the actions of other nations which have rendered it as the last country of mass immigration, the United States has expanded the number of people who immigrate to it legally, has limited the enforcement efforts it makes against those who migrate to it illegally, and has expanded the ability of illegal immigrants to fight and indefinitely delay deportation.

The United States has continued to try to accommodate everyone who wishes to come here, even while the numbers of potential immigrants rise geometrically and the other countries of immigration shut down.

While other countries in the world have faced the fact that the era of mass migration has come to an end, that human problems and human populations are simply too large today for mass migration to be a solution, the United States has continued to act as if this were the era of the open continent, the vast and unlimited frontier.

The United States has deluded itself that immigration can attain ever higher yearly totals and that the effects will continue to be what they were in the past, when we were a sparsely settled land. A reevaluation is needed now; it has been long overdue.

As a basis for my discussion, I want to quote the following brief section from the important and illuminating article by Michael Teitlebaum in the current issue of Foreign Affairs. Mr. Teitlebaum, the former staff director of the Select Committee on Population, and currently with the Ford Foundation, writes:

> The United States is a nation of immigrants, and most of us look with pride upon the invigoration and pluralism that immigrants continue to provide. We have not fully lived up to the poem inscribed on the Statue of Liberty, but the concept of a melting pot of many national origins, however lumpy we know it to be in practice, is still an American ideal. Today, however, the U.S. situation is unique both in world terms and in terms of our own history, by reason of six central facts—and one near-certain projection—that are not always widely grasped:
>
> (1) This country is by far the world's largest receiver of refugees and immigrants for permanent settlement; indeed it accepts on the order of twice as many as the rest of the world combined.
>
> (2) Immigration and refugee flows to the United States in the late 1970's were at or near the highest levels ever experienced, including the period before immigration was first broadly restricted in the 1920's.
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> (3) There is much dispute as to the numbers of illegal immigrants in the United States, but no responsible group believes there are fewer than several million, and the consensus range is from four to six million as of the mid-1970's. Of these, about 50 to 60 per cent are thought to be from Mexico, with many other countries providing the rest.
>
> (4) While immigration reforms since 1965 have had the laudable intent of eliminating discrimination and promoting diversity among immigrants, the reality has turned out differently. The actual working of the law and the sharp increase in illegal entry have produced an unprecedented concentration among a single linguistic group—Spanish speakers.
>
> (5) There is every indication that the pressures of unemployment, poverty and political instability in much of the developing world will increase greatly in the 1980's and 1990's, and despite conspicuous possible exceptions will tend toward an even greater concentration of immigrants in the groups already dominating current flows.
>
> (6) Enforcement of American immigration law by the Immigration and Naturalization Service (INS) is remarkably poor; under present circumstances the chances are very low of even detecting, much less apprehending, violators who show a little persistence.

Here I end my quote from Mr. Teitlebaum's article from Foreign Affairs.

Immigration presents us with one of the most basic of all social and legal problems: Is the concept of the nation-state legitimate? Behind all the debates over immigration, there is that basic philosophical and moral question. Is it legitimate for there to be a United States, for this country to have citizens and to define all other people in the world as noncitizens? Is it fair and right for the United States to prevent any person in the world from living here?

We are a humanitarian country. We care deeply about the basic human rights of all people, whether they are Americans or not. Because of our concern, our caring, we are perhaps the only country in the world that asks itself these questions.

We really do wonder whether there is not a right to migrate to the United States that is inherent in being human. When we discuss migration, in fact, we often talk about the rights of the immigrant, his rights of appeal of a decision against him, his rights to come to the United States in a speedy and expeditious manner—and we come very close to saying that all people have a right to come here.

My answer to these questions is plain. I believe that nation-states are legitimate. I believe that the United States has a right to exist. I believe that this Nation does have a right to say which people will immigrate to it, and I believe that this Nation has the right to exclude from it people who would wish to migrate here.

I believe that we have a right to set a ceiling on the number of people who come to the United States.

In my talk today, I am going to speak as though we all share these basic assumptions. If we do not, then we shall have to consider a revolution in the world order.

But, assuming that nation-states are legitimate and valid, that the United States is a legitimate and valid nation-state, and that nation-states have the right to define who are members of their polity, we are prepared to answer one more basic question.

That question is: For whose good do we have immigration? Whose benefit should be definitive in an immigration issue? Is immigration for the good of the source countries, from whom immigrants come? Is immigration for the good of the immigrants themselves? Or is it for the good of the recipient country? To me, when we are speaking of mass migration, of the migration of millions of people to the United States, the good of this country and of the people of this country must be the determining factor.

We can debate whether or not mass migration helps the source countries, and I want to say a few words about that now.

Migration to the United States will never be large enough to solve the social and economic problems of the Third World that are caused by overpopulation. People are being produced at a much faster rate than we can take them.

If we raised our level of legal immigration to five times the ceiling in the law, and took only immigrants from Mexico for that whole quota, we would still be taking only half of Mexico's increase in population every year.

If we think that through migration we are providing a safety valve for the population pressures building up throughout the world, we are deluding ourselves—our capacity to absorb is much smaller than the capacity of the world to produce more people.

But perhaps our taking some specific immigrants may help the countries from which those immigrants come. I do not see how that proposition could ever be proved. but I do see ample proof from throughout the world that lesser developed countries do not think that immigration to the United States is helping them.

I saw recently a cartoon from the Indian Express of New Delhi and Bombay. It shows the Statue of Liberty and this inscription:

> Give me your scientists, your doctors, your teachers, but keep your other exports to yourselves.

Lesser developed countries think that the United States, through migration, is skimming off their best educated people, their skilled workers, their most ambitious and hardest working laborers. Presently, countries in the International Labor Organization are discussing means by which lesser developed countries would be compensated for their workers who emigrate.

Throughout the world, migration to the industrialized countries is seen as exploitation by the Western world, just like the export of raw materials and resources. It is seen as the "brain, brawn, and gumption drain."

I do not think any of us can really determine the total impact of migration, but we can take note of the impact that source countries believe is taking place, and we can stop pretending to ourselves that mass migration to the United States is viewed by other countries as a humanitarian or idealistic gesture.

Is migration to the United States, then, for the good of the immigrants themselves? No one would deny that most immigrants to the United States have benefited. Of course, there are difficulties in assimilation, and there are always migrants who refuse to adjust to their new homelands, who insist upon remaining outsiders in the new country until the end of their days. There are always immigrants who regret their move.

But, in the main, most immigrants are better off for having come here, and are pleased and gratified that they have come. Of course, part of the rationale for being a country of immigration is that it benefits the migrants themselves, and no one argues against the good that migration does for those who are able to migrate.

But I must argue that the good of the migrants themselves is not the primary reason for immigration. The good of the migrants is not the measure by which we set limits on immigration, and it is not the gage for determining whether that migration is a successful policy.

We must put the good of the United States first. It is by that measure that we must determine the success or failure of our immigration policy, and it is by that guage that we must set a limit on immigration.

At one time the United States did have a vast frontier and bountiful open lands. At that time, the Federal Government gave away land. We had land rushes; we had free land grants. It was wonderful, and we would love to still be able to do that. But we cannot. We are not in that time anymore.

However, I do not think we should feel guilty about that. I do not think we should feel that the American dream has come to an end because the land rushes are over. I think we have just come to a new time in our history, in our development, in which there are other and different opportunities, in which the American dream is different.

Our grandparents could come to America without any limit, without any ceiling on numbers. That was wonderful; it was a good time in our history.

But we cannot have that anymore. We cannot provide that way of life anymore. And I do not think we should feel guilty about the end of unlimited immigration any more than we feel guilty about the end of the land rushes.

Times have changed; circumstances are different. What was once possible is now impossible. What was once good now can hurt.

We have population pressures, land and water shortages, energy shortages, resource shortages. We have famines periodically throughout the world, and we must preserve the United States' ability to export food—if we do not help, who will?

We must preserve our land and water. We must develop our energy resources without despoiling our country. We can kick against this era of limits, but we must live within it. We have to learn how to expand our possibilities within an era of limits, and we have to learn how not to overload our demands upon our resources.

Learning to control immigration is part of learning how to conserve, how to preserve our country.

Let me conclude my introduction by summarizing my assumptions: First, the United States is a legitimate nation-state within the world; second, there must be some limit on immigration to the United States; and third, immigration to the United States must serve the interests of this country and of the people of this country. I think if we can agree on these assumptions, that we can then reason together about immigration issues, about the great problems and dilemmas immigration presents to us, and we can meet and solve these problems and dilemmas.

In 1819, James Madison wrote:

> Our kind reception of emigrants is very proper, but it is dictated more by benevolent than by interested considerations, though some of them seem to be very far from regarding the obligations as lying on their side.

We have the same question facing us today: The considerations which determine our kind reception of emigrants. Let us set that balance wisely.

A LIMIT ON IMMIGRATION

I think that I could get complete agreement, 100 votes in this Senate, for the proposition that there should be some limit on immigration to the United States. We all agree that there has to be some ceiling. We only disagree when we try to say what that number should be, but we all agree that the United States cannot accommodate the worldwide demand to be allowed to come to America.

It is not possible to set a limit on immigration by referring to the number of people who would like to immigrate here, or to the number of people who would benefit from coming here. There are just too many people, and they would overwhelm any reasonable ceiling that we tried to place in order to accommodate the demand.

If I may return to the principles I stated earlier, immigration to the United States is for the good of the United States, and for the good of the people of the United States.

We set the number who are allowed to immigrate legally by reference to the effect that immigration will have on our country and on our people.

With the exception of refugees and asylees, immigration is not for the benefit of the individual immigrant under the preference system we now have in effect. Immigrants are accepted into the United States as a result of petitions filed by relatives of theirs in the United States or by businesses that want them as employees.

I am not, therefore, proposing a new idea when I say that immigration is for the benefit of the people already within this country, not for the benefit of immigrants. I am simply restating a principle upon which our current law is already based.

I am proposing that, in addition to determining which individual immigrants are accepted into the United States by referring to the interests of Americans, we also determine the ceiling which we set on that legal immigration by referring to the interests of Americans.

How do we arrive at that number? I think we start with one premise that was stated well by the Select Committee on Population of the House of Representatives: There is no good reason for the population of the United States to grow any larger than it is now.

There is no economic, social, or demographic benefit to be gained by having a larger population. Therefore, immigration at a level which would cause the population of the United States to grow continuously larger and larger is not in our national interest, and we have a demographic determinant by which we can arrive at a number.

How does that demographic determinant work? Let us say that we have a goal of achieving a stable population of 300 million and not rising above that figure. If that is our goal, we take the population of the United States, plug in our growth rate from natural increase—the excess of the number of births over the number of deaths—and we get the rate of immigration we have to have not to rise above that number.

In truth, with our current population of 225 million, with our current birth rate and the number of people we have of child-bearing age, we probably will not be able to keep our population down to 300 million. We will have to pick an even larger number.

But demographers will be able to tell us what number is possible to achieve. The immigration rate we arrive at by using this method will have to be continually adjusted, of course.

If the birth rate of the United States rises, the immigration rate would have to fall. And if the birth rate of the United States fell, we would be able to raise the rate of immigration without damaging our chances of achieving a stable population.

If we start with a population premise, I think we also start with an economic one: We should not make American workers compete for jobs in the United States with the workers of the world. I am going to speak later about the economic effects of illegal immigration, but I want to concentrate here on the economic effects of legal immigration.

Last year, over 800,000 people came to the United Stattes under color of law. Arguments have been made, and you and I have heard them, that immigrants do not compete with American workers, that immigrants do only the work that Americans will not take.

Yet studies, including a recent study done for the Select Commission on Immigration and Refugee Policy, have shown immigrants within 10 years of their entrance to this country being economically indistinguishable from native-born Americans. Obviously, they compete. Obviously, they do add to the work force.

We have about 2 million jobs added to this country each year, and with illegal and legal immigration combined we have 1 million new workers added each year from outside the United States. We have 8-percent unemployment, and among urban, minority groups we have unemployment rates several times that high.

Why are we forcing American workers to compete for jobs—and especially to compete for the entry-level jobs that provide footholds in this economy—with so many new workers brought here from throughout the world?

Let me then add another determinant by which we can arrive at an immigration ceiling: An economic determinant. If unemployment is at unacceptably high levels, we have to keep immigration at reasonably low levels out of basic fairness to American workers.

I would suggest that the Humphrey-Hawkins bill target of 4 percent unemployment is a good trigger rate at which we will say that we can reconsider our immigration ceilings. If unemployment moves below that rate, we can investigate whether or not we can afford to raise our immigration levels—and if unemployment moves above that rate, we should investigated whether one measure that we should take would be to lower our rate of legal immigration.

If we combine these demographic and economic determinants, we should be able to arrive at a pretty good figure at which to set legal immigration, a ceiling which would be good for our country, which would suit our national interests. But until we do agree on a method of calculating a national interest ceiling on legal immigration, how can we set an interim figure?

My primary recommendation for any ceiling which we set on legal immigration is that it be all-inclusive. We should not have exceptions, and we should not have exempted classes. We see the results of allowing exceptions to a ceiling in our fiscal year 1980 immigration of about 800,000.

I have recently gone back to the congressional debates over the 1965 amendments to the Immigration and Nationality Act. In those debates, when a worldwide ceiling was set, there were exceptions allowed—but it was promised that those exceptions would never exceed around a hundred thousand people a year.

The sponsors of the bill felt sure that all the exempted classes would never amount to a large number of people. In the jump from a legal ceiling of 290,000, which we had last year, to the actual level of legal immigration of over 800,000, we can see that those few exceptions to a ceiling can become overwhelming.

This time, when we set a ceiling, we are going to have to mean it. We are going to have to put all immigration classes within that ceiling. That does not mean that spouses and children of American citizens will have to wait in line. We can easily give them priority within the ceiling, so that they will be able to enter immediately, ahead of whatever other classes there are. But allowing complete exemptions from ceilings is going to have to end. It is the exemptions which got us into this problem.

What figure do I recommend for this temporary ceiling, to be put into place until we have a demographically and economically sound method of calculating the national interest immigration ceiling?

I propose that we retain the ceiling we have now, the one passed just this year in the Refugee Act of 1980: 320,000. It is a sound and time-tested figure. Over the past 50 years, legal immigration to the United States has averaged under 200,000 a year; 320,000, well above this 50-year average, is historically sound. And it is a figure that already exists, one on which we would not have to have long and exhaustive debates: 320,000 is a large and generous figure, several times the number of immigrants who are admitted into any other country in the world. And I believe it is a safe number, one which will not dangerously overload our country while we do develop an agreed-upon method of calculating a permanent national interest immigration ceiling.

It is my understanding that the Select Commission on Immigration and Refugee Policy is considering setting an immigration ceiling which would be substantially higher.

I think that this number would be too high.

The Commission has apparently taken the past couple of years, years of extraordinarily high immigration, as its norm, and has tried to set a ceiling which would accommodate these extraordinarily high levels. I reject this as an unrealistic level.

The Commission has attempted to justify a ceiling this high by claiming that if—and it is a big "if"—our U.S. birth rate stays at the lowest level it has ever attained historically and if—another big "if"—there is no illegal immigration at all, we could have this level of immigration and still achieve a stable population, before the year 2100 or so, with additional millions upon millions of people.

I hope that before the select commission issues its final report it will reconsider setting immigration ceilings at such high levels, will listen to the voice of the American people and their Congress, and will give us a lower ceiling—a national interest immigration ceiling which we shall be able to endorse.

I look forward to supporting the great majority of the select commission's recommendations—I think that most of their report will be constructive, practical, and a good groundwork from which to build an immigration policy. I hope that a revised, reasonable ceiling will be one of the recommendations which we shall be able to support.

There is one other aspect of setting a limit on legal immigration, a side issue but an important one, which I want to address today. That is the question of whether or not to continue per-country limits.

In our present law, there is a per-country limit of 20,000. Nonquota immigrants are not subject to this limitation, so that spouses and children of U.S. citizens and refugees are not subject to a ceiling of 20,000 for any one country.

But all quota immigrants are subject to this limitation. The purpose of the limitation is to insure that there will be a mix, an integration, within the immigration stream, and to provide a roughly equal, fair distribution. No one country or group of countries is allowed to dominate the group of immigrants who come to America.

In the matter of insuring a mix of immigrants, it is amusing to remember the response of Benjamin Franklin to Peter Collinson. Collinson was concerned over the predominance of Germans within immigrants to Pennsylvania.

In 1753 Franklin wrote to Collinson:

> In short, unless the stream of their importation could be turned from this to other colonies, as you very judiciously propose, they will soon so outnumber us that all the advantages we have will, in my opinion, be not able to preserve our language, and even our government will become precarious.... All that seems to me necessary is, to distribute them more equally, mix them with the English, establish English schools where they are now too thick settled, and take some care to prevent to practice, lately fallen into by some of the shipowners, of sweeping the German goals to make up the number of their passengers. I say I am not against the admission of Germans in general, for they have their virtues...

We do not, do we, face any new problems in immigration. We have always seen the desirability of mixing people up a bit. I believe that this kind of per country limitation does fit a good definition of fairness and nondiscriminatory treatment.

But there is a competing and contradictory definition of nondiscrimination which would suggest that in any new version of the immigration laws we would eliminate this per country ceiling.

Instead, it has been suggested by the U.S. Commission on Civil Rights and others that we could operate on the basis of first come, first served in applying for immigrant visas. We would have a worldwide ceiling, and all people who applied for immigration on a certain date would be allowed to immigrate at the same time, wherever in the world they applied from.

The backlog for immigration, which is now limited to those few countries which provide the bulk of all immigration to the United States, would then become a worldwide backlog, spread a bit thinner. A potential immigrant from Mexico would not be required to stand in a longer line than a potential immigrant from Brazil or Venezuela.

This competing plan for a nondiscriminatory system does have an attraction, and I see no basic philosophical argument against it. I am not prepared at this time to argue either for or against a worldwide ceiling that would preserve our per country limitations or that would eliminate per country limitations.

Before I decide between these two systems, both of them basically fair, I would like to see good models which projected how the new, proposed system would operate in reality. Would this system mean that the bulk of our immigration would come from these few countries that are now the largest source countries? Would Mexico, the Philippines, and Korea so dominate our immigration system that other countries would be squeezed out?

I do not know now, and I would like to see some good, objective studies done before I vote to change a system which I have seen in operation, a system which has been basically fair, a system which does preserve a mix of nationalities and ethnic origins within our immigration stream.

It is my understanding that it is possible that the Select Commission on Immigration and Refugee Policy will suggest the elimination of per country limits. It is my hope, that, if they do so, they will also present us with supporting materials and studies that will show that such a national and ethnic mix will be preserved without per-country limits.

The long and honorable fight to eliminate discriminatory limits among countries should not have been in vain. I would hope that we did not eliminate the domination of Western European countries within our immigration flow just in order to insure the domination of a few other countries 15 years later. I would hope that we shall preserve the ideal of immigration to America as a multinational, multiethnic flow.

It is my hope that when we do begin debating the two competing systems of distribution within an inclusive ceiling, with and without per-country limits, we may do so completely free of the charge that either side is supporting some kind of residual racism, or that either side is for or against any particular country because he favors one system or the other.

I am confident that the real subject of the debate will be which system works better to preserve and enhance all of the ideals we strive to satisfy through our immigration system.

I must note here that recently a staff member of the Senate Committee on the Judiciary criticized the actions taken by Congress in 1976 in applying the per-country limits equally to Western Hemisphere countries as well as to Eastern Hemisphere countries.

He said that the intent of that action was, and I quote, "anti-Mexican, pure and simple." The reason for such a charge, I assume, was that Mexico had been enjoying a special advantage prior to that amendment to the Immigration and Nationality Act and from that point on would receive only equal treatment with other countries.

I do not perceive denying special treatment to a single nation to be discriminating against that nation. I object to such a baseless and irresponsible use of such a serious charge. I hope and trust that in our upcoming debates on per-country limitations we shall not be subjected to charges such as this if we do not support special treatment or favors granted to one or another country.

These are the only topics related to the limitation of legal immigration which I wish to address today, but there are many other aspects which we shall have to face when the select commission reports.

Should we have a preference system at all, and who should get preference within that system?

Should we have a point system, as does Canada, in which potential immigrants gain points for the various ways in which they could contribute to the well-being of the United States?

Should we continue to give preference to brothers and sisters of citizens and legal resident aliens, or does that preference only encourage a kind of chain migration which limits the possibility of ever getting to America to those who can come through family ties?

These are all difficult and complicated questions which will confront us during the coming year. They are questions which are of interest to us all. But today, rather than going into detail on these questions, I want to discuss some broader questions of immigration policy. So I shall have to move on to the topic of our treatment of refugees within the legal immigration ceiling.

REFUGEES

During this Congress we thoroughly and thoughtfully explored the policy of the United States toward refugees in writing the Refugee Act of 1980. We had comprehensive discussions and debates over the content of that act, and both Houses passed it by overwhelming margins—the Senate without a single dissenting vote.

And yet we have already seen the inadequacies of that act demonstrated. When the Cuban flotilla of close to 120,000 people came to our shores, we were unprepared to deal with them. In terms of the law, they were illegal immigrants. The definition of "refugee," which was in the new act, did not apply to them, and the procedures under which they came disqualified them from being considered as refugees.

The Cubans, paired with Haitians because, as U.S. Coordinator for Refugee Affairs Vincent Palmieri said, "They both entered this country illegally," were given a parole by the Attorney General—a parole which we had been specifically promised by the authors of the act and by the administration would never again be applied to large groups of people, a parole we had been promised would be limited to individual cases.

We have seen 234,000 refugees planned for in fiscal year 1980, 217,000 refugees planned for in fiscal year 1981—and Cuban and Haitian "entrants" included in neither year's figures. When the act was before the Senate, I insisted that the administration bring to Congress impact statements on the economic, demographic, and social impact that would be made by the numbers of refugees it would be admitting, and that it inform and consult with Congress on those impacts. That requirement was in the Refugee Act of 1980.

I want to read to you the impact statement that Ambassador Palmieri made earlier this year—his entire statement on the impact of 234,000 refugees brought to the United States in one year. I want to stress that I am not summarizing; this is the impact statement in its entirety:

> Despite the difficulty that refugees have created in some parts of the country, we expect that they will make a positive contribution to the United States as have refugees before them.

That is it. I also insisted that the administration bring to Congress an impact statement on the effect of refugee resettlement on foreign policy. I now want to read to you the impact statement that Ambassador Palmieri made on the foreign policy effect of the admission of 234,000 people into the United States. Again, this is not a summary:

> The acceptance of refugees for resettlement in the United States is of critical importance in furthering U.S. humanitarian as well as political and strategic objectives in the world.

I hope I did not strain your patience by going into too much detail in that quotation.

I think it is clear that the Refugee Act of 1980 did not solve our refugee problem. I think that the difficulty with the act comes largely from the fact that there is no ceiling in it. It is an infinitely expansive act, in which the number of refugees can grow without control, in which the political pressures are all to enlarge our yearly immigration. I would propose that an inclusive ceiling under which all immigration must come would do a much better job of controlling the size of immigration into the United States.

Let me discuss refugees under two primary headings: First, the size of America's refugee efforts compared with the need to internationalize the refugee problem; and second, the necessity of integrating our refugee program with the rest of our immigration program.

As I have stated earlier, the United States takes more refugees for permanent resettlement than all other nations in the world combined. Just this month, I received a letter from the U.S. Committee for Refugees that had as its message that the United States was not doing its share for refugees, that resettlement in the United States of over half of all refugees from throughout the world who are permanently resettled is not enough of an effort.

When we look at the needs of the 16 million refugees whom the U.S. Committee for Refugees estimate live in our world today, our humanitarian impulse is to say that they are correct—that more must be done, that whatever we do is not enough. But, practically speaking, we have to say that the United States cannot do it all, cannot do it alone.

We cannot look at the needs of refugees from a perspective that says the United States is responsible for doing all that must be done. We must internationalize the effort; we must work through international organizations and bilateral associations with other nations to insure that the world problems of refugees are settled by an effort made by the entire world.

We in Congress, and the American people as a whole, have come to the realization that we cannot go it alone in aid to refugees—and that we do not need to. For those who want the United States to provide ever-increasing amounts of aid to refugees, I say bring us proof that other countries in the world are shouldering their share of the burden.

Do not do it by playing with numbers, by using indices that compare the number of refugees resettled with total populations of the countries, with square acreage of the countries, with any other irrelevant comparisons. Do not try to impress us by saying that country "X" is taking 10 times more refugees than it took last year, when it turns out that country "X's" total is only 500 refugees this year.

We have all seen similar statistical tricks played with the figures, similar kinds of comparisons made to try to disparage the American efforts made to aid refugees. We have all seen the simple fact that the United States resettles more refugees than the rest of the entire world. Yet this fact is misinterpreted to "prove" that Sweden, or the Cameroons, or a dozen other countries do more for refugees than America.

But these statistical comparisons will not work to hide the lack of enthusiasm the rest of the world displays to joining the United States in a coordinated effort to improve the lot of refugees. Regardless of this lack of enthusiasm, however, we must press ahead with our efforts to enlist the world community in sharing the burden.

I have recently seen two encouraging signs that the State Department is awakening to its responsibility to internationalize the refugee problem. Deputy Secretary of State Warren Christopher made the following points in a speech to the Organization of American States on the treatment of refugees.

> First. Large-scale displacements of persons should be discouraged in the name of humanity and international order. I can imagine no justification—political, social, racial, or religious—for a government to induce large numbers of its citizens to flee their homeland. Second. Persons displaced from their homelands should be repatriated, as promptly as conditions permit. Permanent resettlement should not be accepted as the inevitable result of crisis, for such permanent displacement may serve neither the welfare of the individuals or the nations concerned. The repatriation of persons following the end of the fighting in Zimbabwe and Nicaragua demonstrates that there are effective and human alternatives to permanent resettlement. Third. International procedures must be devised to solve the problems which arise when permanent resettlement becomes necessary. In such situations, the task of resettlement should be shared on an equitable basis so that no single nation or group of nations is faced with the entire refugee burden. Any system for resettlement must take into account that displaced persons are truly an international problem requiring an international solution. Fourth. Our efforts must be focused on the fundamental issues involved. These issues are too serious to be made the subject of partisan or ideological polemics.

These four points from Deputy Secretary Christopher seem to me to be a sound basis on which we can formulate refugee policy. My second encouraging sign from the State Department is a statement by U.S. Coordinator for Refugee Affairs Vincent Palmieri to the Executive Council of the United Nations High Commissioner for Refugees:

> The United States has always been proud of its own role in helping to take care of refugees. We remain fully committed to continuing this policy. However, I would be misleading you if I did not make clear to you at this meeting that questions are raised in the United States Congress and by a number of American political groups about our continuing this commitment without additional and even greater support from other countries. We are frequently asked, particularly in our consultations process with the Congress, what other countries are doing. As I read to you at the beginning from our new legislation, part of that policy of the United States as mandated by the Congress is to persuade other countries to work with it in the care and resettlement of refugees. Therefore, while maintaining the firm commitment of the United States, I urge all nations represented here to continue their efforts, and even to do more, to assist in meeting the costs and burdens of refugee flows.

I think Ambassador Palmieri reads this Congress correctly. We want to internationalize the world problem of refugees. We do not want to operate on assumptions that the United States will do it all—or even that the United States will do the lion's share of the world's job of providing assistance for and permanent homes for displaced persons.

We should not be misread or misinterpreted in this. We do not plan an end to traditional U.S. humanitarian assistance. We do not even plan to curtail it significantly. But we do warn that the United States will not continue to indefinitely expand its monetary assistance and its immigration quotas to provide a disproportionately large and ever-larger share of the world's responsibility to the misfortunate, the displaced, and the homeless.

In our working to internationalize the refugee problem, there is no way that we can legitimately be accused of shirking humanitarian efforts to aid refugees. I am, of course, confident that that accusation will be made, especially by countries, such as the Soviet Union, which only create refugees and do nothing to aid them.

Second, under the topic of refugees, I would like to discuss the necessity of integrating our refugee programs with the rest of our immigration programs. I have heard it said that refugees are not immigrants, and should not be considered as such. But it seems to me to be obvious that someone who comes to the United States to settle here is an immigrant, regardless of the category or classification under which that person enters.

The refugee is a real, live human being, a warm body that must be counted when we total the number of people who immigrate to the United States. Unlike Ambassador Palmieri in the impact statements I quoted, we cannot pretend that simply because persons are refugees they have no social, demographic, or economic impact on the United States.

All those who enter the United States for permanent resettlement are immigrants. Refugees may enter the United States for different reasons from relatives of U.S. citizens or from workers. They may have different personal histories. Their needs for assistance may be greater when they arrive in the United States. But if they are people, if they come from another country to this country, they are immigrants who have to be considered as part of our integrated, unified immigration policy.

In the Refugee Act of 1980, we have given the President the power to indefinately expand immigration into the United States by expanding refugee admissions, and congressional checks on this power are not very strong. If we wish to place all immigration within a total ceiling, and I believe we do, we cannot have an exception as large as the refugee classification to imbalance all the planning we shall be doing in other areas.

We come here to one of the most difficult questions we can ever face. Regardless of whether or not we believe that mass immigration aids the source countries or harms them, regardless of what we believe about the effects of mass immigration on the United States, we all believe that immigration to the United States is beneficial to almost all of the immigrants who come here.

And for refugees, for those displaced from their homelands by war, those suffering political, racial, or religious persecution, there is no question that they would be benefitted by having the opportunity to come to the United States.

And yet we must make choices among these refugees. We must admit some, and say no to others. We must exclude from the United States some worthy, deserving, and suffering people to whom our hearts go out. But the truth is, we do so now. There are 16 million refugees in the world, according to the U.S. Committee for Refugees. There are from 12 to 14 million, according to the United Nations High Commissioner for Refugees. Knowing the exact number is not necessary for us to make this one point: We are not going to admit all these refugees to the United States.

Under the Refugee Act of 1980, these choices are being made now. We are taking large numbers of refugees under the Act, but we are not taking 12 to 16 million. We are leaving most of the world's refugees in their temporary refuges, their camps.

But the choices that are being made are occurring in a vacuum in which all the pressures are to admit ever-greater masses of refugees. None of the normal political checks or balances are required in our current process to bring into play those factors that would limit the numbers of refugees admitted.

Ambassador Palmieri's impact statements are clear enough, I think. They tell us that social, economic, demographic, and foreign policy considerations did not figure into the decisions that were made. They tell us that no thought was given to them. What, then, was considered? Humanitarianism, certainly. But humanitarianism does not tell us to stop at admitting 234,000 refugees when there are 16 million in the world.

To me, it appears that what set the upper bound of refugee admissions was the effort that could be made. If the highest number of people we could gear up to transport into the United States was 234,000, then that was the number we would take.

There must be a better way to set our numbers. If we had to set the refugee ceiling with respect to the social, economic, demographic, and foreign policy considerations involved, we would. And the only way to bring those considerations into play to insure that they are used in setting the numbers of refugees admitted, is to have a ceiling on total immigration and to have refugees included within that ceiling along with everybody else.

Let me summarize. I believe that aid to refugees is an important part of our immigration policy. I believe that we must give refugees some preference within our immigration quotas. But I do not believe that the United States can act in isolation from the rest of the world or can bear the brunt of the world's refugee problems alone.

And I do not believe that refugees should be admitted to the United States without any serious consideration being given to their social, economic, demographic, and foreign policy impact on this country. I do not believe that refugees can be admitted without any consideration being given to their relationship with all other immigrants who come to the United States.

When we speak of refugees, there is only one statistic that is important: There are 16 million in the world, and millions more are being created every year. This is not a problem that is going to be solved by migration to any one country. It is not a problem that would be solved by migration to a number of countries, even if there were countries of mass migration other than the United States.

To return to the wise formulation given by Deputy Secretary Christopher—

> Persons displaced from their homelands should be repatriated, as promptly as conditions permit. Permanent resettlement should not be accepted as the inevitable result of crisis, for such permanent displacement may serve neither the welfare of the individuals or the nations concerned.

The reaction in the United States, the normal, natural reaction when there is a refugee crisis, has traditionally been to offer resettlement. But resettlement benefits only a small portion of those who need aid. Worldwide pressure to facilitate repatriation will, in the great majority of cases, be the only truly efficacious method of assisting refugees.

I cannot repeat frequently enough that I do not advocate ending the policy of refugee immigration to the United States. But I do advocate exploring other, more broadly based methods of aiding refugees, methods through which larger numbers of people may be helped to leave the conditions of despair and desperation to which war and persecution have consigned them. I advocate not trying to pour the ocean of refugees into the small pool of the United States.

ILLEGAL IMMIGRATION

I want to turn now to the topic of illegal immigration and begin by speaking about an issue that has concerned us all recently: the inclusion of illegal immigrants in the apportionment base for the House of Representatives and the electoral college. As things now stand, the Bureau of the Census determined that it would make a concentrated effort to include illegal immigrants in this apportionment base that would be drawn from the 1980 census.

A court case in which I am a coplaintiff, FAIR against Klutznick, is challenging the constitutionality of this action.

What is the real issue in this controversy? Let me make an analogy to a bit of American history. After the Civil War, during the Reconstruction period, blacks in the South were given the vote. After Reconstruction, there was an ongoing effort made which disenfranchised black Americans in many Southern States. Blacks were denied the vote, and yet they were counted in censuses for the purposes of apportionment of seats in the House of Representatives and of votes in the electoral college.

At that time, there was a two-pronged constitutional argument made that I think was accurate. The argument was that the South was illegitimately benefiting from its disenfranchisement policy, and that one of two actions was constitutionally required: either the Southern States should give their black citizens the vote or those black citizens should not be counted for purposes of apportionment.

White voters in the South were voting with the power of their own votes and with the power of the representation they gained from black citizens who were barred from voting. Their States counted almost double the votes of northerners.

This situation, if the Census Bureau has its way, will exist today in the case of illegal immigrants. Illegal immigrants, obviously, are denied the right to vote. If they are counted for apportionment, the same kind of disproportionate representation will result. There may not be entire States in which illegal immigrants constitute half the population, but there are congressional districts in which they approach being half the population. This kind of disproportionate representation is simply unfair to all American voters, unfair on the face of it.

I just said that illegal immigrants are obviously denied the right to vote. But perhaps I spoke too hastily. In FAIR against Klutznick, the Department of Justice has argued that there is no constitutional bar to illegal immigrants' voting for Members of Congress and the President. We should carefully consider that for a moment. Illegal immigrants are foreign nationals, citizens of foreign countries, and their very presence in the United States is against the law. The U.S. Department of Justice is arguing that there is no constitutional reason that they should not be allowed to vote in the United States for representatives in the Government of the United States.

Let me pursue that logic. If illegal immigrants are barred from voting only by State actions, and if States count illegal immigrants for their representation in the House of Representatives and the electoral college, we have a parallel situation to that of blacks in the South after Reconstruction.

It seems to me to be a small step from saying that voting by illegal immigrants is permitted by the Constitution to arguing that as a matter of justice it is mandated. I look forward to the Department of Justice making that argument in the near future.

I do not think we should wait to draw the line until someone begins to argue that we should send absentee ballots to the citizens of Mexico, the Philippines, Korea, or the People's Republic of China. I think we should draw the line now.

We can say that illegal immigrants are forbidden to be in the United States, that their presence here is against the law, that they are citizens of foreign countries, and that they are, therefore, not entitled to representation in the Government of the United States.

Now that I am fully launched into a discussion of illegal immigrants, let me return to the beginning, to the basic questions. How many illegal immigrants are there in the United States, how many additional illegal immigrants come each year, and where do they come from? How do they affect our American society and economy?

There have been a number of estimates of how many illegal immigrants reside permanently in the United States, estimates varying from what is probably an unrealistically low 3 million to what is probably an unrealistically high 20 million. When General Chapman was head of the Immigration and Naturalization Service, he tabulated the estimates of his District Directors and arrived at a total of 12 million. The most popular range of estimates currently used was compiled by demographers at the Census Bureau at the request of the Select Commission on Immigration and Refugee Policy, although the Census Bureau disavows the study as not being an official Bureau report.

In this study, the demographers compiled a number of estimates that had been arrived at by various indirect methods by several scholars. All of the studies they used were done on statistics collected in or before 1976, and they arrived at a range of between 3.5 million to 6 million illegal immigrants in the United States. That, I emphasize, is a range that is for the midseventies. It is a range on which, for that time period, many scholars can agree.

If we begin at an estimate of 3.5 to 6 million illegal immigrants in the mid-seventies, how many additional illegal immigrants per year do we add to that number to arrive at an estimate for 1981? Again, the numbers are very poor on yearly flow because the acts they try to measure are illegal. There are over a million apprehensions of illegal immigrants each year. The Border Patrol estimates that, for every illegal immigrant apprehended, two to three successfully enter the United States. In addition, there are hundreds of thousands of people who enter the United States legally, on legal visas, but who overstay their visas and become illegal immigrants.

Of course, many of these illegal immigrants are in our country only temporarily; many return to their home countries after staying several months or a few years. Let me guess—and it is only a guess—that only a third of these illegal immigrants remain permanently in the United States. That would be over a million new illegal immigrants added permanently to the population of the United States every year.

If we take the range of 3.5 to 6 million illegal immigrants for 1976, and add a million each year for 5 years, that gives us a range of 8.5 to 11 million illegal immigrants in the United States in 1981. I am not going to insist on that number. I admit that it has created by piling assumptions upon guesses and, as I said at the beginning of my talk, I do not want to argue about percentage points here. The importance of these figures is plain no matter what error we try to factor in our arrival at the figures. The number of illegal immigrants is large—in the several millions—and it is growing continuously and at a rapid rate. That is beyond dispute.

What are we doing about these several million—and growing—illegal immigrants? We have a border patrol which has about 2,200 officers to guard the Mexican and Canadian borders. We have crossing points on the Canadian border that are guarded at night by signs that ask people not to use them, if they please. We have a shrinking force of internal investigators in the Immigration and Naturalization Service who must investigate applications for naturalization and all other immigration matters as well as try to locate illegal immigrants. And we have an order from the Attorney General which has been in effect since April which effectively forbids internal investigators from doing anything to locate and apprehend illegal immigrants. The excuse for this order was to encourage illegal immigrants to answer their census forms. Someone should tell the Attorney General that the census has been taken; it is over. He should let the Immigration and Naturalization Service enforce the law now. Instead, the Attorney General, in the face of millions of illegal immigrants in the United States, has made a unilateral decision that he does not want the immigration laws of this country enforced except at the border.

That is the state of enforcement in our country today. Enforcement of immigration laws is this poor partly because of a lag in our perception of how serious a problem illegal immigration has become. During the early 1960's, for example, only around 100,000 illegal immigrants were apprehended each year, with about the same number of Border Patrol officers as we have today. Admittedly, it takes a while for the realization that the situation has changed to filter through the bureaucracy to the decision makers in the agencies who set priorities. But another, and more important, reason that enforcement is at such a low level is that those who are responsible for setting the priorities of the Department of Justice are not convinced that illegal immigration is a serious problem.

Many who are charged with enforcing our laws consider illegal immigration to be a victimless crime. Indeed, any single instance may not have a demonstrable victim. A single immigrant who comes across our borders illegally, or a single tourist who overstays a visa, will not harm Americans—if we overlook the requirements for health and moral fitness screening in the immigration laws. It is not any single illegal immigrant who is the problem. It is the masses of immigrants, the millions who either attempt or succeed in illegally coming to the United States, who create the problem.

It is the same with any other "victimless" crime. It is not the single gambler playing poker in his garage who is the problem. It is the organized crime supported by millions of gamblers.

Illegal immigration on a massive scale harms our country. We in Congress who understand the costs of tolerating illegal immigration must let the bureaucracy know that we are serious about this problem, that we want the laws enforced—or they will not be enforced. We must let the Justice Department know that priorities have to be reordered, and that the laws must be taken seriously.

There is one other thing that can be done against illegal immigration. It is a simple thing; it is simple remedial legislation that patches a hole left in the 1952 Immigration and Nationality Act. I recommend that we do it today, and one of the amendments I am offering to the Efficiency Act speaks directly to this needed area of legislation.

I am speaking about the need for a Fair Hiring Act, an act that would prohibit employers from hiring those people who are not legally entitled to work in the United States. I shall speak in a little bit about the economic effects of hiring illegal immigrants, and about competition for jobs between illegal immigrants and American workers, and about the degradation of working standards and wages caused by large numbers of illegal immigrants in the workplace.

For now, let me speak merely about the legal aspects of passing such a law. Why is it needed? In 1952, when the Immigration and Nationality Act was passed, there was a section, 8 U.S.C. 1324 (a), which defined the crime of harboring an illegal immigrant. A number of acts were considered harboring—giving housing or shelter to and feeding an illegal immigrant are both acts which can be considered illegal under the terms of this section. But employing an illegal immigrant was specifically exempted from this section.

The law states that employing shall not be considered harboring. This exemption, popularly known as the "Texas proviso," was a compromise worked out to gain support for the act from a few representatives who spoke for the interests of large agricultural employers of illegal immigrants. If not for this proviso, employment of illegal immigrants would have been a crime since 1952, and we would not be here today discussing the need to do something about illegal immigration.

But the proviso was made part of the law, employment was made available to illegal immigrants in the United States, and we are where we are today. There is no controversy over the statement that the greatest magnet drawing illegal immigrants to the United States is the availability of jobs. There have been two million jobs created each and every year of the Carter administration.

Now that the election is over, I think we can all agree that that is a laudable and heroic achievement—and if you want to give the credit to the economy rather than to the administration, that is your privilege.

But City College economist Edwin Reubens reminds us that half of those jobs, 1 million each year, have gone to new legal and illegal immigrants entering the work force. In the effort to get unemployed Americans back to work, half of our effort has gone first to get jobs created for legal and illegal immigrants.

What can be done to cut off the supply of jobs to illegal immigrants? It is already a crime for an illegal immigrant to take a job in the United States. But this is a toothless law. I have never heard of a single case of an illegal immigrant being punished because he took a job. Clearly, the way to cut off the jobs is to make it illegal to give jobs to illegal immigrants. That is what my Fair Hiring Act does.

There are a number of theoretical objections that have been offered to having a Fair Hiring Act. People have claimed that it couldn't be enforced, or that it would place an unconscionable burden upon employers, or that it would necessarily lead to racial or ethnic discrimination. I could argue with each of these points in theory, about what a theoretical bill would do.

Instead, however, I shall just point out that my Fair Hiring Act has already been in effect in the agricultural sector as a part of the Farm Labor Contractor Registration Act. It has been law now for 6 years. And there has not been a single complaint that this part of the act has been a terrible burden on employers. There has not been one single complaint of racial discrimination having been caused or abetted by the law.

In other words, all of the theoretical objections to a Fair Hiring Act have already been met and answered—because a test version of the act has been in effect for 6 years, and none of the objections has materialized, none has been proven true.

Will passing an act such as the Fair Hiring Act require a massive regulatory or enforcement bureaucracy? Will it require limitation on the freedoms of Americans? I answer no on both counts.

Luckily for all of us, Americans are law-abiding, law-respecting people. We are a nation of people who obey the law. Most employers who hire illegal immigrants today do so because it is legal, because it is not forbidden. The simple act of making it illegal to hire illegal immigrants would eliminate the large majority of all hiring of illegal immigrants. The record of the Fair Hiring Act in FLCRA has shown that, after voluntary compliance is taken into account, further enforcement is not necessarily difficult.

Let me describe a typical instance in which this act would help the Immigration and Naturalization Service enforce the law. The INS today knows which employers are habitual large-scale employers of illegal immigrants. When the law is passed, an INS inspector can visit one of those employers and identify a few illegal immigrants within his place of business.

Under today's law, all the INS can do is apprehend those specific illegal immigrants. But with the Fair Hiring Act, the inspector can inform the employer that those people are not eligible to be hired in the United States, and that their employment is a crime. On followup visits, when the inspector identifies those same employees, the employer can be brought to justice. Instead of retailing enforcement, instead of having to aim at individual illegal immigrants, enforcement can be wholesaled, can be directed at the employers who knowingly encourage dozens or hundreds of illegal immigrants to come to this country.

I want to point out that this kind of enforcement requires no national identification card for workers, no burdensome screening process by employers—it allows no room for the curtailment of liberties or for the growth of discrimination. But it gets the job done.

It allows the Federal Government to multiply the effect of a single inspector by several times. And, in addition, as I said earlier, the great majority of jobs now available to illegal immigrants will be denied them voluntarily by employers who simply do not want to break the law. and who will not do so knowingly.

What, then, will tomorrow's enforcement efforts against illegal immigrants be? The Border Patrol Supervisors Association released a report earlier this year which gave estimates of the number of officers the Border Patrol would need to apprehend or deter 90 to 95 percent of all attempts at illegal border crossings. They found that a total Border Patrol force of 6,500 officers would be sufficient. This does not seem to me to be excessive. Phased in over a period of 3 years, growth of the Border Patrol to this reasonable level seems to me to be a moderate, sensible, and economically sound investment in an enforceable border.

Will having a Border Patrol this size somehow curtail the rights of Americans? I do not see how it could. It is now the law that all Americans and foreign citizens must check in with authorized agents when they leave or enter the United States. Providing more agents to make this process more efficient does not alter in any way the rights of Americans or of foreigners.

Those citizens of other nations who view it as their right to cross the borders of the United States without respect for our laws may feel themselves pinched, but I do not find myself responding with too much sympathy to the criminal's complaint that the police force should not be large enough to catch him.

A key element of tomorrow's sensible enforcement policy, therefore, would be a reasonably staffed Border Patrol. Deterring crimes is preferable to catching criminals, and if we can prevent illegal border crossings, we should.

Another key element of a sensible enforcement policy would be a fair hiring law which would give the internal inspectors a tool with which they can work. As we have seen several times in the past year, in the fiasco of registration of Iranian students, in the difficult and demanding job of managing the Cuban entrants, the internal investigators of the INS are overburdened and undersupported by their own agency. Their job of locating and apprehending illegal immigrants is often given much too low a priority from their own central office.

There needs to be more internal investigators of the INS who are specifically assigned to the job of locating illegal immigrants. And these investigators need the tool of the Fair Hiring Act.

As in the case of deterring illegal border crossings, it is better to prevent an illegal immigrant from obtaining a job in the United States than it is to apprehend him in that job. It is only through a Fair Hiring Act that we can prevent illegal immigrants from being given employment, the very employment that attracts them to our country.

You will note that in outlining tomorrow's enforcement against illegal immigration I have proposed no grand plans, no elaborate edifices to enforcement. That is because no grand plans are needed. What is needed is simple: The will to do the job, and the provision of the manpower and tools needed. We do have the will now. We do not want to tolerate large-scale scoffing at the immigration laws of the United States any longer.

We do not want to tolerate any longer the impression that the United States will not do anything to protect itself against the millions of people every year who walk across our borders against our laws or who scorn the provisions of their visas.

You and I would be rightly suspicious of a large-scale new Government program to combat illegal immigration. We would be skeptical of a proposal to send the U.S. Army to guard the borders, or to introduce fancy electronic screening equipment to approve or disapprove of every American who wants to change his job. But it has not yet been proven that such measures are needed now. So far, we have made only minimal efforts to protect ourselves against illegal immigration. Before we propose anything extraordinary, let us try some ordinary enforcement measures. Let us try to make a reasonable effort to catch illegal immigrants, and try to make a reasonable effort to prevent illegal immigrants from taking jobs in the United States. I believe that these measures will make all the difference, will make what today seems like an insurmountable problem into a quite manageable one.

We have, in the past, heard two different and contradictory arguments about why we should not try to do anything about illegal immigration; the first was that the problem was so small that we did not have to pay any attention to it, and the second was that the problem was so great that there was not anything we could do. The first argument is completely discredited now; but the second is still with us. Only last month I read that an Under Secretary of the State Department said:

> The migration issue is the perfect example of our need to adjust to the Third World. Every month, maybe a hundred thousand people walk across that border. It is the Third World moving in.

His feeling was that the problem is so large we have to accept it; we are helpless before it. That is just plain nonsense.

The argument has often been made in this way: Since we cannot prevent illegal immigration with the efforts we are making now, then we must need the whole U.S. Army to prevent it. I just do not accept that. There is a wide range of alternatives between the 2,200 Border Patrol officers we have now and the U.S. Army. With a moderately sized force, we can control illegal immigration. There is no good reason not to.

THE ECONOMIC EFFECTS OF ILLEGAL IMMIGRATION

I want now to talk to about the economic effects of illegal immigration. A common argument that is used by people who apologize for illegal immigration is that Americans will not work hard, will not do dirty work, and that therefore we have to import people from other countries who will still do that hard, dirty work. I come from Kentucky which, as you know, is a coal-mining State. When I hear that Americans will not work anymore, I think of my friends who work in those coal mines.

If you have ever visited a coal mine, you know that there is no harder work than digging coal, no dirtier work, no more dangerous work. And in my State, every day of the year, American workers go down in those mines to do hard, tough, dirty, dangerous work. Americans will work if you pay them an honest day's wage and treat them decently and fairly. They will work hard. To say anything else is to slander those Americans who would love to be able to take the hard and dirty jobs that illegal immigrants have now.

But, the apologists say, the point is just that an honest day's wage is too much pay. Americans want too much money; they want more money than they are worth; they get paid too much. If we want to keep costs down, we have to have illegal immigrant workers who will take lower pay—it is just another way to fight inflation.

Well, it may be true that the American-made shirt costs 50 cents less than it otherwise would because the woman who sewed on the collar and the cuffs was an illegal immigrant. But is it worth the fact that she was kept a virtual slave in a garment-district sweatshop in Los Angeles, or she was paid $5 for a 10-hour day in a sweatshop in Chinatown in New York? I suppose that does fight inflation, in a way. But I do not think it is worth it. I do not think that is the way we want to preserve the garment industry in America.

You know, there was a time when there were not any sweatshops in the garment industry in America. The very good work of the Interantional Ladies Garment Workers Union and other industry unions ended in the era of sweatshops.

That was a good thing. But the entrance of illegal immigrants into the garment industry revived those sweatshops, revived that exploitation. I am not saying that the people who run these factories are bad people, or that the illegal immigrants who work in them are bad people. I just think that in America no person should have the kind of power over other people that employers have over illegal immigrants. Nobody should have the power to compel people to work in sweatshops; nobody should be able to exploit in this way. We can stop it, with a Fair Hiring Act, and we should stop it.

In the past few weeks, John Crewdson of the New York Times has published two articles that do us a great service. In the first, he detailed several stories of exploitation of illegal immigrants by their employers.

In the second, he collected and compiled several instances of how illegal immigrants are moving into light industry and services in urban areas in direct competition with American workers.

Let me quote from the second article, printed on November 10:

> Figures compiled by the Immigration and Naturalization Service, which arrests tens of thousands of illegal workers each year, show that for the last two years fewer than half of those arrested were working in agricultural jobs and that three out of five were earning more than the minimum wage. In Chicago, aliens seized in recent months were found to have average earnings of more than $9,000 a year while working for plastics and electronics companies, foundries, meat-packing plants, rubber products manufacturers, snack food and candy producers and the like.

I do not think anyone will argue that Americans will not take jobs like that for wages like that. Crewdson goes on to say:

> In effect, the debate is likely to come down to a single, crucial choice: Should the United States in effect concede its lower-paid, less attractive jobs to those immigrants who are eager to take them and legitimize their presence with a "guest worker" program along the lines of the existing worker exchanges between member nations of the European Economic Community? Or should it enact stringent laws that prohibit the employment of illegal aliens?

That is the question. Should we abandon our lower-paid workers to the competition of the rest of the world? Should we concede our lower-paid jobs to immigrants and effectively close them off to Americans? Crewdson goes on:

> "They like to work," said the personnel manager of a Chicago-area manufacturing plant, who, like other business executives interviewed, asked that neither he nor his company be identified. "They work hard and they show up on time, they work overtime, they don't get into fights and they're relatively docile."
>
> "The citizen will gripe about working conditions," an immigration service official said. "The citizen will demand workmen's compensation, will demand retirement. The alien is tickled to death to go in there and work 10 hours a day. And he knows if he doesn't show up there's another alien standing in line to take his job." By all accounts, the aliens are not only hardworking but also willing to endure considerable deprivation in return for the privilege, to live a dozen to a room, to sleep in shifts on wall-to-wall mattreses—in short to do whatever they must do to stretch the precious dollars they send home to relatives in Mexico.

We have that choice before us, that choice between importing an exploited group of non-Americans to do our hard work or treating American workers fairly, between ending the hard-fought-for rights of workers or preserving those rights.

This past May I attended a conference on illegal immigration held in Washington by the Federation for American Immigration Reform, FAIR. At that conference, labor economist Vernon Briggs of Cornell University gave a paper which is full of such good sense and straight talk that I want to quote from extensively here. I shall gladly give a copy of the full speech to any colleague who wants to read it. Professor Briggs says:

> All research shows that illegal immigration is highly concentrated with respect to the occupations and industries in which illegal immigrants concentrate. In addition, the research uniformly agrees that illegal immigrants are also geographically concentrated in the urban and rural labor markets of the Southwest and in a selected number of urban labor markets (usually where there are large numbers of citizens who share the same ethnic heritage) outside the Southwest.
>
> Thus, the assertions made by (Walter Fogel and myself) about adverse impact on citizens as the result of increase in the number of illegal aliens do not require any specific empirical validations. (Our) contentions are simply the application of elementary economics. When the supply of anything increases in a specific market, the price (or wage) will be either depressed or moderated from what it would have been originally in the absence of the increase in the supply. The principle is the same with respect to any increase in the supply of wheat, of oil, of elementary school teachers, of Ph. D.'s in philosophy or anything else.
>
> The responsibility for making the case that an increase in the supply of illegal immigrants does not have the same impact as anything else whose supply increases must be made by those persons who attempt to downplay the significance of the presence of large numbers of illegal immigrants.
>
> They must explain why the laws of supply and demand work in the aggregate for all other commodities and in all other labor markets but, for some unusual reason, they

do not apply to the increase in illegal immigrants in the specific local labor markets where they are present.

Professor Briggs goes on to state that there are two scholars, Wayne Cornelius and Michael Piore, who do indeed make such an argument. He replies to them:

> I have repeatedly asked both Cornelius and Piore to name a single occupation or industry in the United States labor market in which the overwhelming majority of the workers now holding such jobs are not citizen workers.
>
> Be they maids, hotel workers, construction laborers, garment workers, or farm workers, or any others that could be cited, the vast majority of the persons doing these jobs in the United States today are citizen workers.
>
> Recent studies by George Johnson and Michael Wachter support the position that it is the low income citizen work force that bears the burden of the economic cost of illegal immigration. For how can it be seriously argued that blacks, Chicanos, women and youths will not work in secondary labor market jobs when we have the most solid statistical work available to the nation's research community—namely, U.S. Census data—which shows that millions of these citizens do these very jobs every day.
>
> It simply cannot be the type of work that makes illegal immigrants attractive to U.S. employers.
>
> Rather, it is the prevailing wage rates and working conditions in these specific labor markets that determine worker availability. Each year thousands of persons apply for the privilege of collecting garbage in San Francisco and New York City but they do not do so in many other communities.
>
> Why the difference in worker supply?
>
> It is because garbage collectors in these two cities are very highly paid, they are unionized, and they enjoy liberal fringe benefit packages . . .
>
> Studies can show that in selected labor markets that there are employers who hire illegal immigrants and who simultaneously contend that U.S. citizens are increasingly difficult to find. But it is just as valid as a counter argument to say that it is precisely because of the presence of sizable numbers of illegal immigrants that citizen workers are more difficult to recruit.
>
> In other words, these employer arguments are self-fulfilling prophesies. It is because illegal immigrants crowd into certain industries that many low income citizen workers are often forced to withdraw.
>
> Few citizen workers can satisfactorily compete with illegal immigrants when the ground rules are who will work for the least pay and under the most arbitrary types of employment.

Professor Briggs goes on to illustrate how the docility of illegal immigrants, their inability to kick back against denials of their rights, make them preferred workers. It may be what makes illegal immigrants preferable to some employers, but I do not think most Americans want that kind of work force; I do not think they want workers treated that way.

I shall relate only one more observation by Professor Briggs, and that is his comment on illegal immigration and unemployment:

> Unemployment rates in the United States are the highest of any of the Western industrialized nations.
>
> Unemployment rates among Hispanics, blacks, women, and youth far exceed the national aggregate unemployment rates. Yet we as a nation continue to tolerate a growing number of illegal immigrants who compete for precisely the same secondary labor market jobs in which these citizens workers with the highest unemployment rates are already found.
>
> It can safely be said that if these illegal immigrants were doctors, professors, lawyers, or business executives that we would have immediate policy responses to stop such unfair competition.
>
> It is because illegal immigration benefits in the short run the privileged and only adversely affects the less fortunate and the least politically organized groups in American society that this flow is allowed to continue unchecked.

I want to stress one phrase that Vernon Briggs uses there that may have gone by too quickly: "Illegal immigration benefits in the short run the privileged."

In the long run, of course, illegal immigration is against everybody's best interests.

There is, of course, much more that could be said about the economic impact of illegal immigration. In the interest of bevity, I would refer anyone who is interested to my floor statement made on August 1, when I introduced the fair hiring amendment.

There I have made further, and more detailed, arguments about the deleterious economic effects of illegal immigration.

At that time, in concluding, I said:

> By continuing to permit the existence of a large pool of relatively cheap and docile labor that takes jobs from the neediest Americans, we are also permitting a few greedy individuals to exploit them.
>
> By continuing to permit the use of illegal immigrant labor, we are encouraging illegal immigration, and creating a larger problem for the future.

I want to say only a few words about the subject of guest workers. A guest worker plan is, like illegal immigration, a way of conceding our lower paid, less attractive jobs to immigrants, of saying that we do not desire to improve those jobs to the point at which Americans could take them with pride.

Guest workers have the advantage over illegal immigrants in one respect: By tolerating a guest worker plan we do not tolerate large-scale evasion of our laws, we do not encourage law breaking.

Is there any way we could devise a guest-worker plan that would protect the civil rights of the guest workers, that would protect against guest workers becoming permanent immigrants, and would protect Americans against competition with guest workers?

If there were, I would take such a plan seriously, and see whether there were any real benefits to be gained from it.

One benefit that is now claimed is that a guest-worker program would work to cut back illegal immigration. But I do not believe that we would ever allow a guest-worker program of such a huge magnitude that it would encompass all those who would otherwise wish to migrate to America illegally. No, the program that will work against illegal immigration is law enforcement.

Another benefit that is claimed is that a guest-worker program would improve our bilateral relationship with Mexico. If we remember the bracero program, however, we remember that there were countless complaints made by the Mexican Government to the United States about the treatment of workers in the United States.

There were countless irritations to Mexico, countless offenses which Mexico took as national insults. Reviving this program is hardly the road to a smoother relationship with a prickly nation.

We remember that the guest-worker program was ended in 1964. That program limited employees to one employer, and promoted other limitations on the movements and freedoms of workers.

This program was finally ended through the combined efforts of labor, religious, ethnic, and civil rights groups which joined together to defeat what they came to see as abuse of human rights. No one believes that the program was set up to abuse workers; that was not its purpose or its intent.

But are we that much cleverer than Congresses of the 1940's and 1950's, that we could design a program which would limit the movement and freedom of workers and still prohibit their being abused, that would allow civil rights to guest workers, and still prevent their becoming permanent immigrants?

One other historical example of guest-worker programs is recent: The several programs designed by European countries in the late 1960's and early 1970's.

The foremost American scholar of these programs, Dr. Philip Martin of the University of California at Davis, points out that in all of the European programs, workers who were expected to be temporary became permanent additions to their host countries.

They stayed. They became immigrants.

A good rough average would be that a third of all "temporary" workers became permanent immigrants, regardless of their intentions and regardless of the intentions of the countries that admit them only temporarily.

In other words, a guest-worker program that does not have strict controls on the movement of workers becomes a disguised immigration program.

We are then put in this bind: Either we resign ourselves to abrogating the basic rights of individuals who are legally in this country or we resign ourselves to the additional, uncontrolled immigration of people who enter through the guest-worker program.

And in either situation, with or without tight controls, how do we protect American workers? How do we make sure that we are not displacing American workers who could use those jobs?

We have a limited guest-worker program now, the H–II program. In our current H–II program, the Department of Labor must certify that a job would not be taken by an American worker before it can be given to an alien.

And only 30,000 to 35,000 aliens are certified each year to enter the American workplace to do jobs Americans cannot or would not do.

Do we really want to eliminate the protections American workers have under the H–II program? Do we want to take a half million alien workers each year, or a million?

Are we really prepared to say that these new workers would not compete with

Americans, would not take over job categories, would not lower wages and working conditions in the job categories they dominate?

I am afraid that while the idea of a guest-worker program offers a superficially attractive way to limit illegal immigration, to extend a friendly gesture to Mexico, and to expand our work force force for less attractive jobs, it would not accomplish any of these aims—but in reality it will only work great suffering on poorer American workers.

CONCLUSION

Two years ago, at the end of the 95th Congress, I began an article in the CONGRESSIONAL RECORD with these words:

> Mr. President, the problem of huge numbers of illegal aliens entering this country is escalating daily, and it is imperative that this matter become a high priority item for the next Congress.
>
> A solution must be found in order to prevent the continued undermining of the labor force in this country.

Now, at the end of the 96th Congress, I find that I do not need to make any updating corrections in that statement.

Unfortunately, I must still commend the problem of immigration to the next, now the 97th Congress. In my pessimistic moments, I can envision myself standing here in 2 years beginning a speech, "The problem of huge numbers of illegal aliens entering this country is escalating daily * * *"

But today I am not pessimistic. I believe that we shall address this problem, and the other major problems of immigration, in the next Congress. I believe that the wishes of the American public, the magnitude of the problem, and the available solutions, are now so obvious, so clear, that we can and shall pass the needed laws in the next 2 years.

In June of this year, this body passed a resolution which I originated, setting a limit on immigration. I would like for the next Congress to make that resolution binding law. I think we need an overall ceiling on all legal immigration.

In appropriations for the Justice Department this year, we have increased funding for the Border Patrol over the amount that was requested by the administration. It was clearly demonstrated that the Border Patrol could use the funds productively.

I would like the next Congress to increase that funding even further, and to begin to build the staffing of the Border Patrol up to a reasonable level.

During this Congress, it has been made abundantly clear by many Members that we want the immigration laws enforced.

I hope that during the next Congress the Justice Department will be responsive to our wishes, will raise the priority of immigration law enforcement, and will understand the seriousness of illegal immigration.

I believe that the next Congress will face the necessity for a Fair Hiring Act as an enforcement tool for the Immigration and Naturalization Service, and I hope that we shall move forward legislation that will fulfill our aim of a nondiscriminatory, nonburdensome, fair, and equitable Fair Hiring Act that will forbid the employment of illegal immigrants in all job sectors.

I believe, and fervently hope, that the next Congress will begin what will be a many-year project of examining our basic immigration law, the Immigration and Nationality Act, and of revising it to meet the realities and the necessities of the last two decades of the 20th century.

I know that the report of the Select Commission on Immigration and Refugee Policy will be an extremely useful tool in this effort, and that the release of the report in the early months of 1981 will spur us on to that in-depth consideration.

Today, I am not pessimistic about the prospects of realistic and enduring reform of our immigration laws, reform that will be based both in humanitarianism and in respect for the system of law, both in idealism and in the solid understanding of real-world limits.

I opened this talk with some basic facts with which we could all agree, from an article in the current issue of Foreign Affairs by Michael Teitlebaum. I would like to close with some of his conclusions—conclusions which I find to be well-considered and sage guidelines for our work in the next Congress.

A broad-based immigration policy on which a consensus of the American people could be reached, Mr. Teitlebaum suggests, might look something like the following:

> With regard to basic principles, U.S. policy on immigration and refugees should sustain the long-standing American value of openness to immigrants and refugees from diverse sources, and should enhance the trends of the past 15 years away from discriminatory criteria for admission.
>
> This means that xenophobic and neo-isolationist tendencies should be rejected and the traditional values of openness and hospitality confirmed. It does not mean that immigration or refugee flows should be unlimited, or indeed that they should continue at the near-record levels of the legal and illegal immigration over the last few years.
>
> As we have seen, the United States is now receiving the bulk of the world's refugees and immigrants, and immigration at such levels is having substantial impacts in U.S. labor markets, is coming to dominate U.S. population change, and is stimulating large and growing opposition to immigration itself. Under such circumstances, attempts to sustain immigration levels or expand them even further may threaten the basic value of openness.
>
> Ironically, in this sense the well-intentioned advocates of "open borders" or unlimited refugee admissions may actually represent the most serious of the various threats to a truly open and humane U.S. policy on immigration and refugees.

In discussing the protection of basic civil liberties in the formulation and implementation of an immigration policy, Mr. Teitlebaum suggests:

> . . . A sincere respect for civil liberties does not require, for example, that all civil and constitutional rights of U.S. citizens and legal immigrants be granted immediately to persons clearly present in violation of law.
>
> Surely illegal immigrants are entitled to all basic human rights, e.g., the right to humane treatment while in custody, the right of *habeas corpus*, and so on. Yet, realistically, if every technical aspect of legal due process, including the right of appeal right up to the Supreme Court, is to be guaranteed persons observed walking across an open border or landing in a small boat on an unpatrolled beach, enforceable immigration laws cannot exist in a practical sense.

In discussing proposals for widespread, general amnesty for illegal immigrants, Mr. Teitlebaum says:

> Any proposal for amnesty is bound to be controversial, since it in effect rewards with permanent residence (and eventually with citizenship) those who have violated U.S. immigration law in the past, while giving no comparable rewards to those who abided in these laws.
>
> For humane reasons, however, some form of limited amnesty must eventually be granted to persons who have lived many years of their lives illegally in the United States and have established deep personal and familial roots in this country.
>
> It seems unwise, nonetheless, to link amnesty for illegal residents closely to present discussions of policy reform.
>
> For those presently intended to stay only temporarily, such discussion of amnesty represents a significant incentive to change their minds.
>
> Reduced availability of employment through repeal of the Texas Proviso presumably would encourage others to return home voluntarily. Finally, premature talk of amnesty acts as a powerful magnet for accelerated flows of new illegal aliens, seeking to enter before enforcement is made effective, a process which will take several years at least.
>
> Proposals for limited and carefully screened amnesty will become more sensible once the dust has settled: when effective law enforcement measures are in effect, when employer sanctions are in force, and when undocumented workers desiring to earn a nest egg and then return to their homelands have been given reasonable time to do so.

Mr. Teitlebaum's formulation of our amnesty dilemma seems reasonable to me. I look forward to discussing plans for an amnesty program for illegal immigrants in another two or three Congresses, when we have prepared the groundwork for doing so.

When we are ready, when the groundwork has been laid, when it is sensible to discuss amnesty, I look forward to our having the opportunity to be generous in our application of the standards which we shall set for such an amnesty—because we shall have already done what is necessary to bring the problem of illegal immigration under control.

And next year I look forward to our facing and solving some of the solvable problems with which legal and illegal immigration present us.

Mr. President, I have noted in the past weeks that some political groups are already announcing their hit lists for Congress in the 1982 election. They are already saying whom they want defeated for reelection because of their stands on one or another of their pet issues.

I think we can be grateful that immigration is not a hit-list topic for any group. We all, all of us working to solve this very human dilemma, recognize each other's good will and good intentions.

We all want to arrive at fair, equitable, and humane solutions.

There are very few radical positions on immigration being taken today, very few extremists on either side of the issue.

The consensus of the American people is broad and inclusive, and based on good and generous instincts.

I think we shall do very well, very well indeed, if in the next Congress we express through our laws the will of the people.●

STUDY OF PRESCHOOL EDUCATIONAL PROGRAMS SHOWS POSITIVE RESULTS

● Mr. RIEGLE. Mr. President, newly released evidence now shows the benefits of preschool educational programs for disadvantaged children. The High/Scope Educational Research Foundation of Ypsilanti, Mich., has just published their long-term followup of 15-year-olds who a dozen years ago received a preschool program aimed at preventing educational failure. The evidence demonstrates that by age 15, these youngsters need fewer remedial school programs, are more committed to school, stay in school longer, achieve at higher levels, and are less prone to delinquent behavior. In short, they have a much better opportunity to get an education and this substantially increases their capacity for future earnings, and the likelihood of their becoming contributing members of our society.

Questions have been raised here in Congress and in Federal agencies about the cost of these programs. Fortunately, the preschool program saves money in the long run—by reducing the number of special education courses and by expanding the earning power of these youngsters when they grow up. Crime and delinquency are also reduced.

The key to the educational and fiscal effectiveness of the preschool educational program is the early stage of intervention—needy children are helped before their problems multiply and before they require a host of other educational and social services. This prevention approach is thus humane and economically sound.

During the past decade we have witnessed debate and controversy in Congress, and in the scientific community, about the effectiveness of preschool educational programs. This High/Scope followup study provides clear evidence that the early enrichment programs work. But, this one study is not an accident—it is not a one-time finding of lasting effects. Rather, the High/Scope Research Foundation belongs to a recently founded research Consortium of Longitudinal Studies, a group of a dozen evaluation projects, which now has definitively shown that there are lasting, important effects of early intervention efforts—in a variety of settings, and with a variety of programs.

At a time when those of us in Government, as well as the public, recognize the need for restraint in Government spending, we must set priorities to keep the programs that are effective and that yield the best returns on the money being spent. The results of the High/Scope study help us set those priorities. This evaluation of the effects of preschool educational programs shows that we need to continue our support for such programs as Head Start, title XX social services, and title I educational programs. The cycle of poverty, that can lead to welfare, crime, or unemployment, can be broken by helping poor, educationally disadvantaged children before they experience academic failure, and lose interest in school.

For nearly two decades, the High/Scope Foundation has been designing, delivering, and evaluating programs for disadvantaged children. I applaud the Carnegie Foundation's support of High/Scope's research efforts, and I commend these scientists for compiling the evidence we need to help disadvantaged children. I hope we will continue to support those effective and fiscally sound Government programs which improve the lives of needy youngsters in our country.

Those interested in obtaining a copy of "Young Children Grow Up: The Effects of the Perry Preschool Program on Youths Through Age 15," should write to Dr. Lawrence Schweinhart, High/Scope Educational Research Foundation, 600 North River Street, Ypsilanti, Mich. 48197.●

OPPOSITION TO NONDEFENSE AND NONENTITLEMENT PROGRAM CUTS

● Mr. LEVIN. Mr. President, yesterday I opposed the amendment offered by the Senator from Colorado which would cut nondefense and nonentitlement programs 4.7 per cent. This broad approach to budget cutting is an abdication of our budget responsibility. As elected officials, it is our responsibility to approve appropriate cuts and budget savings. We should not exact those savings in a blind manner or in a way which shifts that responsibility to the executive branch as this amendment contemplates. Such action would be a disservice to the people we represent.

I have opposed similar efforts to cut defense spending with broad percentage cuts and that is why I opposed this amendment which applies these broad budget cuts to a relatively small portion of the Federal budget, domestic social spending.●

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. PROXMIRE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand recessed until 10 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM TOMORROW UNTIL 11 A.M., MONDAY, DECEMBER 15, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, if it does not adjourn sine die, it stand in recess until the hour of 11 o'clock on Monday morning next.

The PRESIDING OFFICER. Without objection it is so ordered.

SURFACE TRANSPORTATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 2720, with the understanding that there will be no action thereon tonight.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2720) to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until tomorrow morning at 10 o'clock.

The motion was agreed to; and the Senate, at 7:59 p.m., recessed until Saturday, December 13, 1980, at 10 a.m.

EXTENSIONS OF REMARKS

FUTURE OF THE DEMOCRATIC PARTY

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● **Mr. GLICKMAN.** Mr. Speaker, recently, Stuart E. Eizenstat, Assistant to the President for Domestic Affairs and Policy, spoke to the National Press Club about the future of the Democratic Party. I think that the ideas presented in this speech merit attention by both Democrats and Republicans as we in the Congress decide the course and future of our respective political parties:

SPEECH OF STUART E. EIZENSTAT

Winston Churchill said "Politics are almost as exciting as war and quite as dangerous. In a war you can only be killed once but in politics many times". I know what he meant. I'm about where Adlai Stevenson was in another election year when he quoted the Boy Scout who stubbed his toe: "I'm too old to cry but it hurts too much to laugh".

There's an old Yiddish saying—domestic advisors never die, they just fade away.

Before I do that, I thought I would utter my dying breath about the future of an organization that I care very deeply about—the Democratic Party.

As election results poured in many analysts wondered if the 1980 Presidential and Congressional elections spelled the permanent demise of the modern Democratic Party as the nation's majority party. I say it does not—certainly not if we do what we must. This is what I want to talk about today.

I. YESTERDAY

The Democratic Party has traditionally rejected isolationism and believed that America should take an active role in the world. At home it has rejected laissez faire economic and social policy and believed that government should help assure a sound economy. This was best expressed in Franklin Roosevelt's words, "as new conditions and problems arise beyond the power of men and women to meet, it becomes the duty of government itself to find new remedies with which to meet them."

The Democratic Party has been the most successful political party in recent Western history because it has been a Party of practical action—a Party that faces the future—a Party that seeks to represent the widest range of people. The whole fabric of American life has been shaped by a Democratic philosophy in which:

First, economic conditions have been enhanced by efforts ranging from securities laws protecting investors and Federal insurance for our bank deposits, to protections which permit workers to organize, receive training, and secure a minimum wage, and by assuring support for those unable to work and for those who have retired from work;

Second, social conditions have been dramatically enhanced by providing health care for every elderly American and for the poor, by nutritional assistance, educational aid that helps a broad range of youngsters receive help through a post-graduate degree, and by protection of basic human and civil rights.

Third, environmental conditions have been improved by a wide range of programs to protect our land and clean our air and water.

As some prepare to sound prematurely the death-knell of the Democratic Party, we should remember that only six years ago the same was said of the Republican Party.

But it is obvious that pride in our past Democratic accomplishments is not a prescription for electoral success in the future. Americans look forward not back.

The Democratic programs of the last 5 decades are accomplishing many of their goals. But they are such accepted parts of our system they no longer are reminders to elect Democrats. Voters today are looking for solutions to the new problems of persistent inflation, inefficient delivery of public services, and increasing challenges from abroad.

II. TODAY

In years to come, I believe that President Carter will be seen to have achieved significant domestic accomplishments. Of equal historic importance is his contribution to the Democratic tradition. He enriched and adapted the Democratic Party's traditions to the new realities of the 1980's—new realities which sharply differentiate our world from that of FDR, JFK or LBJ. From the outset of his campaign for President in 1975 he stressed the need for fiscal prudence, civil service reform and government efficiency as well as the need for improved social conditions.

And from the beginning of his Administration he stressed the need to synthesize Democratic traditions of compassion for the needy with acceptance of the new realities he saw the Nation facing.

First, he saw before others the profound transition from a 200-year era of cheap, plentiful natural resources to a period of expensive and more scarce energy—and got the Nation to recognize the centrality of our energy crisis to our national security. Over a painful period he and the Congress put into place clear incentives for domestic production through phased deregulation of natural gas and crude oil and recognized the central role of coal. In addition his leadership provided the Nation's first series of credits, penalties and loans to encourage conservation; safer nuclear energy; and a massive series of private sector incentives for renewable and synthetic energy. All of this was accomplished while building an environmental legacy unmatched since Theodore Roosevelt—capped this week by the Alaskan Lands legislation.

Second, he saw that after decades of growth under Democratic and Republican Presidents, there was a need to unsnarl programs from red tape, stimulate the bureaucracy, and substantially reduce Federal regulation and Federal intrusion. As a result he achieved with the Democratic Congress the most fundamental reordering of the relationship between government and industry since the New Deal by deregulating major sectors of the economy—airlines, trucking, rail, banking, communications—instituting cost-benefit analysis for new regulations, and reducing government-imposed barriers to free trade through the Multilateral Trade Negotiations. Major reorganization plans were passed, a paperwork reduction program was enacted, Inspectors General began to root out fraud and waste, civil service reform transformed the way in which Federal employees were hired, fired, paid and promoted.

Third, he kept faith with the Party's social traditions while facing the harsh new economic reality of the 1970's—stagflation, both high inflation and high unemployment together. While many of the constituencies for the Democratic Party pressed for another outburst of domestic spending, the budget resources were unavailable. The Great Society was launched with an inflation rate of 1.5 percent and virtually no deficit. We inherited different conditions. Nonetheless, he expanded education, nutrition and social services. And as the first president in over a hundred years from the Deep South, took great steps to complete the Civil Rights revolution that began in his region. But he insisted that new social programs be phased-in carefully, increasingly relied on stimulating private resources for positive social ends, and targeted programs to where they were most needed.

Fourth, he recognized that unless the economic pie continued to grow America's workers would suffer and Americans would be unwilling to share their resources with the disadvantaged. He put into place innovative employment and training programs like the targeted jobs tax credit and the private industry council program. Later in the President's Administration he recognized that inflation itself was the greatest threat to economic growth. He developed an industrial revitalization program that held hope of attacking both inflation and unemployment simultaneously.

III. TOMORROW

But the past is prologue. Let's turn to the future. The election of 1980 sent an unmistakable message. The taxpayers of America—the great American middle class—are frustrated at persistent high inflation and its corrosive impact on their incomes and savings, their inability to buy a home, to plan for tomorrow, to retire when they hoped, and, once retired, to maintain a reasonable standard of living. They are frustrated at heavy pockets of unemployment in basic industries which are losing their competitive edge. Many believe the Democratic Party has lost touch with their concerns. They took out their anger at those in power.

Yet, ironically some of our problems are the result of our success. The programs and protections we provided are taken for granted. The success of Democratic programs moved masses of people up the economic ladder. They then moved to the suburbs to leave behind the problems of the cities. They now see their taxes going for services they do not receive. They think government is doing more to them than for them. They believe many programs fail to accomplish their goals.

The Democratic Party must take these concerns seriously. In our legitimate passion to represent the dispossessed—which I strongly share—we must also concentrate on the concerns of the middle class who pay for the programs for the disadvantaged.

The loss of a national election and control of the Senate gives us an occasion to figure out what we are not doing that we should be

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

doing. I recommend we pursue the following agenda.

Party reforms

First, the Party must achieve a greater degree of political and intellectual cohesion. Will Rogers said "I belong to no organized political party. I'm a Democrat." We certainly proved that but somehow the humor is missing. It must reassert its role as a harmonizer and compromiser. It has been debilitated by the false glorification of independence from Party labels, the primary system, television's impact, the exclusion of elected officials from the nominating process, the growing financial influence of political action committees and single issue groups. We are a Party of coalitions and each element of that coalition must be more sensitive to the reaction of the others as it pursues its goals. There is an absence of Party identification and discipline which has impaired our Party's effectiveness. To remedy these problems we should do the following:

The Party's rules should be revised so every Democratic Congressman, Senator and Governor is automatically a voting delegate to the Mid-term and National Convention and participates in all facets of the Convention process, including the drafting of the Party Platform. In New York City in 1980 only 45 of the 3,331 delegates were Congressmen and Senators. They had no part in selecting their Party's nominee and the candidate had no obligation to them for his nomination. A Democratic President and Democratic Congress must become more dependent on each other.

The Platform was drafted by able people—but by and large they had no legislative responsibility for implementing it. The Platform must not become the some total of the maximum demands of every group. If our Party runs on such Platforms it will not consistently win or if it wins will have great difficultly implementing all of its planks at once. Greater Congressional input will instill a greater sense of balance in the Platform and a greater sense of Congressional responsibility to implement it.

While primaries serve a useful purpose in democratizing the nominating process, this has come at a price of less involvement by Party officials. They should be held within a narrower window of time to shorten the campaign. States should be permitted to reserve up to 10 percent of their delegates by selection from State party organizations.

Caps should be enacted on the maximum contribution candidates for Congress can accept from political action committees, as contained in the Obey-Railsback bill, while limits should be eliminated for giving through National Committees. In 1980, PAC's donated over $50 million to Congressional candidates. The D.N.C. spent less than one-tenth that amount for Congressional and other non-Presidential campaigns. This imbalance weakens the role of a broad-based political party. Will Rogers said "Politics has got so expensive that it takes lots of money to even get beat with."

The Party's able leadership in Congress should become the focal point of Democratic Policy. I recommend, toward this end, that the Democratic leadership convene a group of leading figures in our Party to develop a policy agenda for the Democratic Party.

Congressional Democrats should develop ways to invoke greater Party discipline. For instance, the Democratic leadership might consider a rule requiring Democrats to permit a limited list of legislative priorities to come to the floor for votes without such bills being stymied in Committee.

The D.N.C. Chairman must work with the Democratic leadership in Congress and concentrate on electing Democrats at all levels by identifying and encouraging Democrats to run, developing modern computer services, and providing organizational support.

The Party must make a special effort to avoid becoming a regional Party. We cannot cede the States west of the Mississippi to the opposition and expect to win national elections. Special efforts must be made to show the Western States that the Democratic Party understands their special needs and is prepared to help meet them.

Focus on inflation and growth policies

Second, the Democratic Party must give its primary focus to the development of policies which lead to non-inflationary, balanced growth. We must reject a no-growth philosophy. Only through economic growth can the disadvantaged and minorities (who remained faithful to the Democratic Party when others left it) be brought into the mainstream of American life; only through economic growth can the revenues be generated to fund the social programs to which we are committed; can social frictions be mitigated in the scramble for a cut of a slower growing pie. The American Dream of progress for all must remain alive. Democrats must assure that growth respects our environment and that growth is not at the risk of worker safety, health or other protections. Balanced growth must be our goal.

We must recognize that sustained growth cannot come without controlling inflation. Until President Carter began to shift it in the late 1970's, the Party's emphasis since the New Deal was on unemployment and not inflation—logical, given the Depression and succeeding recessions, and the low rates of inflation until the 1970's.

Democratic policy must recognize the centrality of the inflation problem—not simply as voter concerns, but as the root of our economic and unemployment problems. High inflation breeds public fear of the future, high interest rates, an uncertain investment climate, depleted savings, and ultimately high unemployment.

Now is the time we must rethink our policies. We must shift our emphasis from consumption-oriented stimulus policies, which during past times of low inflation, kept unemployment low, to policies which encourage greater investment in productivity of both capital and labor. We cannot adopt the policies of the past in a climate of persistently high inflation; such action may only assure the next recession.

Inflation is significantly due to declining productivity, outside shocks like oil price increases, and the psychological wage-price spiral which follows. We need not adopt old shibboleths calling for Constitutional amendments to balance the budget, to recognize that fiscal policy must be prudent while inflation is high.

We must recognize that our economic problems cannot be solved without cooperation from business and labor. Business needs to develop long-range management concepts, improve productivity and exercise price restraint. The American labor movement, the backbone of the Democratic Party, must help us develop wage-price policies to assure that wage increases are accompanied by productivity improvements.

Government should be a partner with the private sector in dealing with both inflation and unemployment:

It can help business and labor organize committees, like President Carter's steel and auto committees, to deal with economic problems on a sectoral basis. We must move from an era of confrontation to one of cooperation with the private sector.

It can develop income policies to moderate inflationary wage and price behavior and use the tax reductions which will be needed in the future to encourage such behavior.

It can enact incentives to improve both the productivity of capital resources—through accelerated depreciation, greater support for research and development, a sound regulatory climate, and a strong antitrust policy—and the productivity of our human resources through creative employment and training programs for young people and the hard-core unemployed.

It can provide incentives for the private sector to engage in ventures vital to our national interest, such as solar or synthetic energy, or investments in high unemployment areas.

A unifying economic theme for Democrats can be industrial revitalization and all the productivity-oriented activities that entails. But let's not put all our resources into fighting the last war. We live in a post-industrial, service and information-oriented economy where much of our new employment growth will come in newer industries.

The free market and Democrats

Third, we must reduce government-created constraints in the free market while still protecting consumers from those who abuse the market and the helpless from the market's negative impacts. We need an active Federal government to protect civil rights, secure social advances, develop creative economic policies, to enhance the "conditions and problems . . . beyond the power of men and women to meet". But we must demonstrate a willingness to remove the government from certain sectors of American life. Our Party traditionally viewed economic regulation as a means of protecting the public—and it often was. But over the years industries were protected from the crucible of competition while the public suffered from its absence. Artificial constraints in many sectors meant less competition, higher prices, less service. The President and broad elements of the Democratic Party recognized the need to remove these constraints and permit the free market to operate. This must continue in the future.

In the energy field, while economic controls on natural gas and crude oil kept prices down to consumers they came at a national cost: less production of domestic sources, increased dependence on imports, a disincentive to conserve dwindling resources, and discouragement to the development of competing sources of energy. Ultimately it is no favor to consumers to attempt to protect them from reality.

We should avoid precipitous and immediate crude oil decontrol because of the shock effect that it might have in an already inflated society. We should support the gradual, phased, predictable steps toward decontrol the President began.

Likewise, we should face the realities of the marketplace in housing by embracing the movement by the Federal Home Loan Bank Board toward the flexible rate mortgages which adjust to changing economy conditions.

But Democrats can remain true to their traditional concern for the disadvantaged and the consumer while still reducing the heavy hand of government from the marketplace.

For example, in transportation deregulation Democrats supported stand-by protections to prevent unfair pricing. In decontrolling crude oil, Democrats championed a windfall profits tax to recycle some of the revenues derived from decontrol for broader public use and low income energy assistance to offset the impact of higher energy prices on the poor.

In exports, as we move toward expanding our trade relations with other nations, we can protect against unfair trade by strictly enforcing anti-dumping laws and dealing with economic dislocations through positive adjustment strategies to retain and locate workers for new careers.

Consumers need special assistance in assuring their voice is heard in agency decision-making, and in securing protection from hazardous products and certain drugs.

Just as we should seek a less intrusive Federal role in economic regulation, we should continue to avoid government intrusion in the private lives of individuals. Many who most loudly proclaim the need for government non-interference with business would have government be the arbiter of highly personal and indeed religious decisions.

The Democratic Party in the 1980's should champion individuals' rights of privacy. Passage of privacy legislation dealing with medical, insurance, and other records is an important beginning.

We should stand firmly against government involvement in dictating the most personal decisions by women, preferable moral standards for society, or particular prayers for public schools. But we can believe in age-old standards of proper moral behavior without believing that in every instance it is the role of government—rather than churches, the family and other private institutions—to enforce particular standards of general morality or to make people believe they are part of an immoral minority if they hold dissenting views. The Democratic Party must be sympathetic to concerns shared by all Americans worried about crime, the breakdown of family stability, drug abuse by young people, the instabilities of modern American life. These are issues which should not be ceded away. They are fundamental issues to which Democrats must respond.

Concentrate on making Government programs work and establishing priorities

Fourth, we must not retreat from our commitments to social and economic justice, the full extension of equal opportunity for minorities, and a safe and clean environment, but we must do more to convince Americans their tax dollars are going for well-run programs which effectively deliver services to their beneficiaries and accomplish their intended results.

The soul of our Party is its sensitivity to those in need. One of the major reasons the Democratic Party has been the majority party for so long is that Americans saw reflected in our policies their own compassion for others. A society must ultimately be judged by how it treats its most disadvantaged not its most privileged citizens.

We must avoid the erroneous thinking that on the one hand our problems have come because all of our programs have failed or, on the other, that we will succeed if we simply promise more new programs.

To regain a mandate for continued progress we must do the following:

One, stoutly defend against any onslaught those New Deal, Great Society and Carter programs which are working like the Clean Air and Clean Water Act, Food Stamps, Medicare, Medicaid, nutrition efforts, student aid programs, Head Start and many more. They have immeasurably strengthened the fiber of our society and provided the basic necessities of life for millions. We must base our policies on today's facts, not those of the past—progress has been made in eradicating hunger, poverty, inadequate health care, and environmental dangers. But we should not let Americans think that every social problem has been solved, every injustice righted, every environmental danger treated. Nor can we deregulate the Federal role in protecting and enhancing basic civil and worker rights. Affirmative action remains an imperative.

Two, adequate resources must exist for the new programs we believe are necessary so that the Nation can afford them. Every worthwhile advance brings with it not only important advantages but also some costs which must be balanced in the equation. Every resource we use to accomplish one goal must be weighed against what resources will be left for competing goals. We do not have the resources to do everything all at once—nor should we promise we can. Priorities must be set. So too we can phase-in new programs to fit existing resources, use limited Federal funds to leverage greater private sector resources, and better target Federal programs.

Three, just as Democrats should fight to preserve and expand those programs which work, we must put equal energy into modifying those which are not effectively delivering services. We cannot allow our Party to be identified with poorly run programs nor can we allow others to claim a monopoly on government reform and efficiency. Democrats must be at the forefront of requiring accountability in Federal programs through regular evaluation and sunset reviews; rooting out what mismanagement or abuse exists (much less than some believe); developing more flexibility for State and local implementation of programs; consolidating overlapping categorical programs. Only by convincing the public our programs work will we sustain broad public support for them.

Conclusion

The Democratic Party has erected sound social and economic structures which are an accepted part of our society. But in a country as dynamic as ours those past accomplishments are not by themselves sufficient reason for continued voter loyalty.

I believe our Party will rise to the challenge, will develop a positive, hopeful and realistic agenda for the future and will command the support of a majority of Americans—sooner than some doomsayers may believe.

Let me conclude on a personal note. This country is a wonderful and great country. It permitted my immigrant grandparents who spoke hardly a word of English to leave a regime of repression and to leave with full religious and personal freedom; it permitted my parents to enter the great American middle class, and me to be at the right hand of the President of the United States for four years. If in all the hours of my toil I have been able to return to my country and to others less fortunate some of the blessings and opportunities my country has given to me and to my family then it was all worth the effort.●

EXTENSION AND REVISION—RE H.R. 7306

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, on December 4, 1980, the Senate passed, with amendments, H.R. 7306 which provided for disposal of certain Federal lands in the State of Nevada and for acquisition of certain environmentally sensitive lands in the Lake Tahoe Basin in California and Nevada, which we accepted and sent to the President. I note with some interest that the CONGRESSIONAL RECORD of December 5, 1980, contains a statement by Senator PAUL LAXALT discussing the merits of this legislation. The Senator from Nevada, while properly noting that H.R. 7306 included language to assure that landowners would be paid fair market value for their property, did not discuss the fact that the language of section 3(e) is applicable only to the extent of the impact this legislation might have on land values.

Section 3(e) is quoted as follows:

> The fair market value of any land or interest in land to be acquired by the Secretary of Agriculture under this section shall be determined by an independent appraisal made, where practicable, on the basis of comparable sales at the time of such acquisition. For purposes of the appraisal of any property to be acquired under this section, in determining the comparability of other property sales, the independent appraisal shall take into account the utilities, services, and facilities associated with the property concerned. Any change after the date of enactment of this Act in the value of any property to be acquired under this section shall not be taken into account for purposes of determining the fair market value of such property to the extent that such change is attributable to the enactment of this Act.

I believe the language clearly states our intent that fair market value be established by professional independent land appraisers who shall not prejudice their estimates one way or the other because of the possible impacts of this legislation. Any implication that this language could be construed to authorize the Federal Government to pay for imagined land value differentials attributed State or local governmental actions is obviously beyond our intent.

As coauthor and House manager of this legislation, I wish to clarify the record, to assure that our intent is not misrepresented. While I firmly believe that the owners of land that may be purchased by the Secretary of Agriculture should be paid a fair market value for their land, this legislation was never intended to indemnify those owners from all risks they might have accrued when they chose to invest in such property.●

TRIBUTE TO BOB ECKHARDT

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. CHAPPELL. Mr. Speaker, in arranging a tribute to our colleague BOB ECKHARDT, Congressman GONZALEZ correctly pointed out that it is rare that a person of such exceptional gifts and unswerving dedication enters public service. The people of Texas, and everyone in the United States, will miss the clear and constant light provided by Bob Eckhardt.

I concur. Bob is a man of incredible vigor, vision, and fortitude. He has served with distinction on such House Committees as Interior and Insular Affairs and Interstate and Foreign Commerce, where he was chairman of the Subcommittee on Oversight and Investigations. His work on all these committees has been marked by a sincere commitment to resolving problems and drafting legislation to best serve the public interest. He is a true legislative craftsman.

Bob's long record of productive service to his congressional district, his State, and his Nation is marked with integrity, effectiveness, and dedication to sound principles of government. He has authored and led the passage of a great many bills which reside in our statute books—laws that significantly contribute to the quality of life today and that of future generations.

Bob Eckhardt will be missed. I wish him the very best in whatever endeavors he undertakes.●

TRIBUTE TO LESTER WOLFF

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. GIAIMO. Mr. Speaker, the Honorable Lester Wolff is a talented, hard-working, and determined colleague. He is leaving this chamber after 16 years, but his work and his accomplishments will remain as a memorial to his service to New York and the Nation.

Lester is keenly interested in the world around him. As chairman of the Asian and Pacific Affairs Subcommittee of the Foreign Relations Committee, he has put this concern to good use. Perhaps more importantly, Lester chairs the Select Committee on Narcotics Abuse and Control. Every community in America is affected by illegal drugs, and Lester has been able to alert us to new developments and to keep our attention focused on this important problem and tragedy. It is here, I submit, that his efforts will be missed the most.

It has been my privilege and pleasure to have known Lester Wolff for these 16 years. I know that he will succeed wherever he directs his talent and energy.●

TRIBUTE TO CONGRESSMAN JOHN RHODES

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. WYDLER. Mr. Speaker, John Rhodes is not leaving the Congress, but is stepping down as minority leader. I have served with him in all the years that he has been the minority leader in the House of Representatives and they have been good years for the Republican Party. He has served with grace and wisdom in what is a very demanding and often thankless job. He has done what he always seems capable of doing—a competent and able job in a difficult situation.

As a result of John's efforts, the Republican Members of the House look forward with some confidence to the day when they will be in the majority. That now appears to be an obtainable goal. I am sorry that John Rhodes will not be there to serve as Speaker for he would give that office the same grace, wisdom, and understanding that he has given to the role of minority leader.●

TRIBUTE TO JOHN RHODES

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. COUGHLIN. Mr. Speaker, I am pleased to join in this tribute to our distinguished Republican leader John Rhodes. John has served with distinction and dedication for the past 6 years as the focal point for our party's efforts here. He assumed the job of Republican leader during dark days for our party and has successfully forged what he likes to call "the largest cohesive single force in Congress."

It is very good news that John is remaining a Member for he will be the only Republican in the Congress who remembers what it is like to be in the majority. We hope to be able to use this particular expertise 2 years hence. In the meantime, although not formally our party's leader here, I do know that through his legislative craftsmanship John will continue to influence the path of our Nation.

John has been an adviser to Presidents. His ideas have had a consequence on the direction our Nation has taken. His advice and counsel has been sought by us all. John has served our party admirably, but more, he has served as a fine example of courage and integrity. I am proud he is a very good friend.

A wise man, a gentle man, America is a better place because of John Rhodes' leadership.●

TRIBUTE TO HON. JOHN RHODES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I rise to pay my respects, and that is certainly the right word, to John Rhodes, our leader. John is a man deserving of both respect and honor, a truly gracious man who has brought quiet dignity and honor to his position, to the Republican Party and to this institution.

When I was first elected to this House, John made it a point to personally offer me his advice and assistance, a gesture which I am sure most of the Members here can attest is typical of the gentleman from Arizona. There is now a majority of Republican Members who have known only John as their leader; he took over when we were at our ebb in this House, and has brought us today within sight of the promised land. Like Moses, he led us through the desert and out of the wilderness, and my only regret is that he is now stepping down as we come within sight of the goal he worked for. Those of us who followed him owe him a debt of gratitude which can never be repaid.

John is a man of principle, and a good friend to us all, and I can think of no better qualities in a person or in a leader. I feel honored to have served under him. And of course, though John is stepping down as Republican leader, he will still be here to contribute to the cause of good government.●

TRIBUTE TO HON. ANDREW MAGUIRE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to join Congressman Nolan and my colleagues in the House in paying tribute to Andrew Maguire, of New Jersey.

During his years as Representative of the people of the Seventh District, Andy, has embodied the progressive spirit of the class of 1974 in his conscientious service on the Interstate and Foreign Commerce and Government Operations Committees. Andy brought his considerable expertise as an international affairs adviser with both the State Department and the United Nations to his work here in the House. He has dedicated long hours to the cause of reform in the areas of health policy, the environment and energy. He has consistently fought for higher clean air standards, and was an initial spokesman for the ban of saccharin after its use was found to be detrimental to our health.

As a responsible policymaker with an eye toward reform, Andy has always looked ahead in seeking to lay the groundwork today for a wiser, healthier and more peaceful world for future generations. His dedication in public service will be difficult to replace. I wish Andy continued success and much personal reward in the years to come.●

TRIBUTE TO ANDY MAGUIRE

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. CHAPPELL. Mr. Speaker, I respectfully pay tribute to Congressman Andy Maguire who is leaving us at the end of this session of Congress. While I have often disagreed with Andy's views, I have developed a tremendous respect for his sincerity. On unpopular issues he will stand by his principles. In Congress where many Members tend to bounce from one side to another, Andy is always steady on course. He knowns where he stands.

I strongly believe that the less government that Congress creates for America the better for all citizens. But as I worked with Andy through the years, I was impressed with the way he spoke in his coherent manner about clarifying this or that amendment. His legislative abilities are superb.

Andy is a man of his word. He is a man who stands up under fire and has the courage to articulate what he believes.

I known he will be missed by many of his colleagues and I wish him all the very best in whatever endeavors he pursues in the years to come.●

TRIBUTE TO HON. LUCIEN NEDZI

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. O'NEILL. Mr. Speaker, I wish to take this opportunity at the close of the 96th Congress to say a special word of thanks for a job well done to my good friend and colleague, Lucien Nedzi on the occasion of his retirement from the Congress after 19 years of dedicated service to his constituents and the Nation.

Lucien Nedzi's devotion to duty, his commitment to public service, and his cheerful disposition helped to make him well-liked and respected by all his colleagues on both sides of the aisle.

I know that the citizens of the 14th District of Michigan were proud to have Lucien Nedzi representing their interests in the House and deeply appreciated the honor and dedication that Lucien brought to each legislative task before him. As a member of the Armed Services and House Administration Committees, and as vice chairman of the Joint Committee on the Library, Lucien Nedzi has made important contributions to the deliberations of these committees.

Those of us who have served with Lucien Nedzi over the last 19 years will long remember him as a colleague of character, integrity, and decency whose word has always been good to every Member.

We are deeply grateful for the important contributions that Congressman Lucien Nedzi gave to this Nation, and we wish him well in the years ahead.●

TRIBUTE TO HON. ANDREW MAGUIRE

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. HOLLENBECK. Mr. Speaker, we join our colleagues today in saluting and saying farewell to our colleague, Andy Maguire.

Andy has represented the western half of our home county for the past 6 years and we have had the opportunity to work with him on several matters. While we did not always agree, one could have nothing but admiration for the way he pursued implementation of his principles.

He leaves behind several unfinished quests, some near completion, some ongoing. World hunger, human rights abroad, particularly in the Soviet Union and South Africa, women's rights, child health, and balanced media coverage for our home State are only a few areas in which Andy has successfully made his interests felt. But he also leaves behind a challenge to us to see that progress will continue in those areas. And we know that his advice and counsel will always be available.

Thank you, Mr. Speaker.●

TRIBUTE TO ED STACK

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. PEPPER. Mr. Speaker, it is with the greatest regret that I have to note the departure of a dear colleague and a great Member of this body, Ed Stack. Ed Stack has a rich background as professor, businessman, sheriff, and Member of this House. He is a man of great knowledge, great understanding of the public interest, and great dedication to duty. He has served his constituency and his country with distinction and honor since he has been a Member of the House. His concern for the needy people of this country has enabled him to lighten their load and to give them great aid and hope in the future years.

We know that our able colleague, Ed Stack, has been visited with a great sorrow in the loss of his lovely wife, Jean. She was a distinguished and lovely lady who contributed immeasurably to the cultural excellence of our country and had a beautiful and great career. I wish to Ed Stack and his loved ones a long, healthy and happy life, and I pray the Lord's richest blessings upon them.●

TRIBUTE TO HON. JOHN RHODES

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. de la GARZA. Mr. Speaker, I am pleased to join with my colleagues in the House of Representatives in paying tribute to John Rhodes as he steps down from the position of House Republican leader after 7 years of devoted work in the position.

John Rhodes has been a good friend and though we sit on different sides of the aisle, I have nothing but respect for his leadership abilities. As minority leader, John Rhodes has held one of the most difficult positions in the House. I congratulate him on the able and effective manner in which he has carried out the duties and obligations of the office.

I am glad that John Rhodes will continue to serve in the House and look forward to working with him in the future.●

TRIBUTE TO HON. RAY ROBERTS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. OBERSTAR. Mr. Speaker, it has been a great pleasure to serve on the Public Works Committee with Ray Roberts. I have known Ray for almost 20 years. I have great respect for him as a friend, as a colleague, and as chairman of the Water Resources Subcommittee, on which I serve. I shall miss his presence in the committee and on the House floor in the next Congress. He has been a most effective member of our Public Works Committee and chairman of the Water Resources Subcommittee.

Ray Roberts has served as a moderating influence on the committee, bringing his considerable knowledge of environmental, water resources, transportation, and public works issues to the committee's work. The committee has been enriched by his extensive knowledge and his practical understanding of the issues and the legislative process.

His decision to retire did not diminish his interest in the work of the committee or his sense of responsibility to his colleagues. Earlier this year, Ray came to Duluth, Minn. in my district, to chair a subcommittee hearing on legislation important, not only to my district, but to the entire Great Lakes region. Ray could not support this legislation in its initial form, but he undertook the trip to Duluth to insure that the proposal received a full and fair hearing before the Water Resources Subcommittee. Following the hearing, he continued to work with me to shape an alternative measure which he could, and did, support. That constructive approach to the legislative process is the test of effectiveness which few legislators are able to meet. It is also a commitment to fairness—a commitment which is characteristic of Ray Roberts' career of public service.

I wish Ray much happiness in his retirement years. I know that Ray will continue to make a contribution to the people of his district and of this country.●

IN HONOR OF REPRESENTATIVE ALVIN BALDUS

HON. NORMAN Y. MINETA

OF CALIFORINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. MINETA. Mr. Speaker, I am pleased to join Congressman Zablocki in honoring our distinguished colleague, Alvin Baldus of Wisconsin.

Al has been an effective spokesman for the family farmer and the small businessman and woman often beset by a seemingly endless maze of bureaucratic redtape. He has devoted himself to working toward meaningful and progressive price supports for agricultural commodities and has consistently been a strong proponent of the free enterprise system. As a member of the Small Business and Agriculture Committees, and as chairman of the Dairy and Poultry Subcommittee, Al has served his constituency in western Wisconsin with wisdom and distinction.

It saddens me, a fellow member of the class of 1974, to think that this representative of progressive and responsible legislative policy will not be with us to share the challenges of the 97th Congress. I am sure, however, that Al will not stay away from meaningful community service, and I will continue to wish him only the best in his future endeavors.●

TRIBUTE TO LUCIEN NEDZI

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. GIAIMO. Mr. Speaker, I rise to pay tribute to Congressman Lucien N. Nedzi, a legislator who has served with great distinction in the House of Representatives for 19 years.

As a member of the House Committee on Armed Services, he believed that a sensible defense policy did not mean reckless spending, but rather a more cautious and studied approach to keep this country strong. Further, Lucien's participation as an active member of the Committee on House Administration has led to many positive results in the area of campaign expenditures, congressional ethics, better election procedures, and procedural improvements and reorganizations within the Congress. This is what I consider a test for measuring the effectiveness of a Member of Congress. Lucien passes that test with flying colors and that is why I regret to see him retire.

Not only has Lucien served the people of the Nation with distinction, but he has provided ample constituent support for his congressional district. He steered legislation through Congress to help establish a Volkswagen plant in neighboring Sterling Heights along with assisting that district's Congressman with an effort to help another manufacturer who was in deep financial trouble.

Finally, because of his knowledge of the Polish language, Lucien made himself available to the Voice of America for frequent broadcasts beamed at Poland. Perhaps he will continue his effort in this important area.

Lucien has long maintained that congressional terms should not be limited and that the seniority system should not be abandoned. With the complex nature of our democracy, he said, Congress must attract and keep qualified and experienced legislators. His unselfish devotion to his legislative duties, and the results of this labor, bear witness to his beliefs.

To Lucien Nedzi, I extend my best wishes for his future.●

TRIBUTE TO JOHN RHODES

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. COURTER. Mr. Speaker, on behalf of the sophomore class of Republican Congressmen, as their class president, I would like to share some thoughts that I have concerning our outgoing minority leader, the gentleman from Arizona, Representative John Rhodes.

John, you have served our Nation with unique and magnificent distinction, through war and peace. With nearly 5 years in the Army Air Forces in World War II and 28 years service in the Congress, serving Arizona and the American people, you have been my inspiration and role model for public service. As the leader of my party in the House of Representatives for 7 years, you have guided us through some of the most troubled times in our Nation's history, into a new era, where our party has once more provided the inspiration and leadership to make this country great again. In many ways you have made our recent victories possible. You have earned the respect of Americans of all political persuasions for your leadership and contributions to America. You have always been available for consultation and advice, for those of us "wet behind the ears." And for all of this, the sophomore class salutes and thanks you.

We are all happy that you will continue to be with us in the 97th Congress. You have given us so much and we all need to share in your wisdom and experience.

John, you have not only been a highly effective leader and spokesman for our party, you are a truly great American and above all, a true friend of mine.●

TRIBUTE TO CONGRESSMAN DICK ICHORD

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. WYDLER. Mr. Speaker, the loss of Dick Ichord to this House and his service to our country is a serious blow. My service with him has taught me to respect his views and the mental process by which he arrives at them. Of all the Members of the House he epitomizes to me the best spokesman for military preparedness in our country and he has spoken of that over the period of many years. His service was important and he will be missed.●

TRIBUTE TO CONGRESSMAN JOHN RHODES

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. HARSHA. Mr. Speaker, I am pleased to join in this special tribute to our distinguished Republican leader, John Rhodes, and to express my personal appreciation for the leadership he has provided to Republicans and to the House.

John exemplifies the spirit of responsible leadership that has served our Nation so well. The late Speaker Sam Rayburn used to say that nowhere does a Congressman face a more severe test than in the judgment of his colleagues. By this standard, he ranks as one of the truly distinguished Members of the House, and this was clearly demonstrated when his Republican colleagues selected him to serve as minority leader of the House.

Having had the privilege of working along with JOHN for the 20 years I have served in the House, I well know that he commands the deepest respect and admiration of his colleagues, both Republican and Democrat, for his intelligence, his hard work, his idealism, his sense of fairness, and cooperation, and his unremitting devotion to the system of government that has made this Nation the greatest on Earth.

While JOHN will no longer be serving as Minority Leader, I am sure he will be a force for reason and progress in the 97th Congress.●

TRIBUTE TO BOB GIAIMO

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. McKINNEY. Mr. Speaker, it is particularly difficult for me to adequately express the sense of loss I feel over the pending departure from this Congress of my good friend and colleague, BOB GIAIMO. To me, he has been the dean of the Connecticut delegation in every sense of the word. He has been my colleague, my confidant, my adviser, and above all, my very good friend.

Over the years, there has been speculation in the Connecticut press, and in its political circles, that BOB GIAIMO would be a candidate for the Senate or the office of Governor. I can tell you that he could have been nominated; he could have won; and most assuredly, he would have served with distinction in either office. He choose, however, to remain here in the House and I think it can be said that the American people have been the true beneficiaries of that decision. We have benefited from his counsel, his determination, and most of all, his decency.

BOB and I are from opposing political parties but that has not made one iota of difference in his dealings with me. I feel as Sam Rayburn did when a fledgling Democratic candidate asked the former Speaker to campaign against Joe Martin. Mr. Rayburn said: "Campaign against him? Hell no and if I lived in Massachusetts, I'd vote for him."●

TOURISM PROMOTION

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. MOORE. Mr. Speaker, I voted against the conference report to accompany S. 1097 as it takes the legitimate issue of Government support for tourism promotion within our borders, pulls it away from normal budget inspection as was required when passed by the House and erects an independent entity responsible to no one. I want to assure it is doing the job intended by Congress. I supported this measure when originally passed by the House as it insured full budget and administrative inspection when within the ranks of the Department of Commerce. As an independent agency for the promotion of tourism, I find a worthy cause being ruined by legislative fiat and administrative isolation. The November elections gave this Nation a mandate for full inspection of administrative units to insure cost savings would be fully and fairly applied. I cannot in good conscience vote for a means such as this to put distance between the causes of fiscal discipline and tourism promotion. Both must be honored and both can be honored, but S. 1097 does not achieve these purposes.●

TRIBUTE TO JIM LLOYD

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. O'NEILL. Mr. Speaker, I join my colleagues in saluting a distinguished Member of the House of Representatives, JIM LLOYD, on the occasion of his departure at the end of the 96th Congress.

As a member of the Armed Services, Science and Technology and Select Committee on Aging, JIM LLOYD has made important contributions to the deliberations of these committees. Popular and well respected by his colleagues as an expert in military aircraft, JIM LLOYD has been a forceful and vocal advocate for the needs of the U.S. Air Force. One of the committed and determined Members of the House, JIM LLOYD has been unafraid to stand up and be counted for the courage of his convictions and beliefs.

JIM LLOYD has been one of the most effective Members of the 94th class. For 6 years he has served his constituents, the House of Representatives and the Nation with high marks of excellence, dedication, and hard work.

We will miss JIM LLOYD in the 97th Congress. I salute his impressive accomplishments and wish him and his lovely wife and constant partner, Jackie, health, happiness, and much success in all their future endeavors.●

TRIBUTE TO WILLIAM MOORHEAD

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. GIAIMO. Mr. Speaker, the Honorable WILLIAM S. MOORHEAD and I began our House careers together, and we are ending them at the same time. In those 22 years, BILL MOORHEAD has had a distinguished career in public service, and his expertise will be missed in the 97th Congress.

Serving on and chairing the Subcommittee on Economic Stabilization of the Banking Committee has not been easy because of our economic problems in recent years. BILL has met each challenge with determination and decisiveness, and he has helped manage through the Congress legislation that is important to our economic well-being. In this area, his leadership will be sorely missed next year.

BILL MOORHEAD also is a knowledgeable and able politician. I served as a regional whip during his tenure as assistant majority whip, and I can attest to BILL's dedication to his party and his devotion to his country.

The ranks of the class of 1958 grow ever thinner. To BILL MOORHEAD, my friend for those 22 years, I wish the very best as he leaves the House.●

FORMER SPEAKER JOHN W. McCORMACK

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. WYDLER. Mr. Speaker, John McCormack was the Speaker who swore me into office when I first became a Member of Congress. His kindness was, of course, his major trait, but he was a fighter for the things he believed in. He was a man of whom I have never heard a bad word said either by the Members on his own side of the aisle or from the Republican side. He lent dignity and grace to the position of Speaker and our country is better because of his service to it.●

TRIBUTE TO HON. THOMAS "LUD" ASHLEY

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. CHAPPELL. Mr. Speaker, I respectfully join my colleagues in paying a very special tribute to Congressman THOMAS "LUD" ASHLEY must be numbered among the best. With his retirement from this great body upon the adjournment of the 96th Congress, the Republic will have lost one of its most valuable servants.

His dynamic leadership as chairman of the Banking, Finance, and Urban Affairs Subcommittee on Housing has produced legislation substantially aiding the handicapped, the elderly, and low-income persons of our Nation. Indeed, LUD's guidance has not been limited to housing; he has left his mark on a myriad of legislation. The Nation was indeed well served in having a man of Congressman ASHLEY's caliber to guide us through the many controversial and critical areas during this momentous period of our country's history.

It would be well to say that it is not for his length of service, however, that we honor him, but rather for how well he served. For indeed if there is one mark or one tribute that we could pay him, it would be to say that he is a politician in the finest sense of the word—a man whose purpose and accomplishments are utterly and completely in the public interest.

Few Members of Congress have enjoyed the respect and admiration that we hold for our friend and colleague, LUD ASHLEY. He earned it and he deserves it. I extend my very best wishes to him and hope he will continue a close association with his many friends in the House of Representatives.●

TRIBUTE TO HON. JOHN J. RHODES

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. PEPPER. Mr. Speaker, I am pleased to join my colleagues in commendation of JOHN RHODES', voluntarily retiring from the minority leadership of the House. Although not of JOHN RHODES party, I like other Members of this House, have long enjoyed JOHN RHODES' valued friendship and highly esteem him as an able legislator and an outstanding American. In the performance of his duties as minority leader, he has always fought ably and strongly but as a gentleman with kindness and consideration for his opposition.

The kind of man JOHN RHODES is is well illustrated by a great kindness he rendered to my wife, Mildred, and me on one occasion when we were in Arizona. I was addressing the State bar association. JOHN RHODES honored me with his presence at the meeting at which I spoke. I mentioned to JOHN that my wife and I had never been to the Grand Canyon and we had always wanted to see that wonder of the world. Immediately JOHN RHODES said, "I will arrange that." He immediately arranged for a private airplane with a competent pilot to take my wife and me from Tucson to the Grand Canyon, fly above it, get a good look at it, and then fly back to Tucson without any expense. That shows the kind of considerate and generous friend JOHN RHODES is.

JOHN RHODES symbolizes the finest type of man in public life. He has strong convictions for which he strongly fights, but he fights his colleagues and his opponents with the consideration due to one's colleagues and to one's fellow Americans. JOHN RHODES has been a great minority leader. He has been a great and distinguished Member of the House. He has been a friend whose friendship I will always cherish. My warmest wishes go with him and his loved ones into the long future for good health, great happiness, and the deepest satisfactions of life.●

TRIBUTE TO HON. ROBERT N. GIAIMO

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, I rise to pay tribute to one of the major figures in the House, ROBERT GIAIMO. In his 22 years with this body he has accomplished more than all but a few Members in the illustrious history of the House of Representatives.

One of BOB's most finest moments was his leadership in the 1975 movement to put a final end to the war in Vietnam. All who were involved in that long and bitter struggle will remember BOB's valiant efforts.

More recently BOB has become the leading proponent in the House for the congressional budget process as the widely respected chairman of the Budget Committee. His service in that difficult position has been superb.

I will miss BOB and truly wish him a grand future.●

TRIBUTE TO HON. JOHN J. RHODES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. PORTER. Mr. Speaker, I rise today to give thanks to JOHN RHODES and to express my deep admiration and affection for him.

He has served as Republican leader through perilous times for our party, in the dark days following Watergate and through three Congresses when our ranks were thin. He represented our Members during all these days with honor, with dedication, with good will and good humor, and with the kind of hard work that set the stage for the rebound that our party had on November 4. Sometimes we forget that the gain of 33 seats had a Rhodes marque on it as prominently as any and JOHN deserves our deep gratitude for his strong efforts.

Besides working diligently to secure consensus and loyalty among established Republicans, JOHN traversed the country doing all he could to spread the Republican message and help Republican candidates. He took the time to travel to my congressional district on three separate occasions to assist me in my campaigns.

And when I arrived here last January 24 and was sworn in, JOHN and his staff, as well as our new Republican leader, BOB MICHEL and his staff, helped me to get settled, secure good committee assignments, and begin properly the task of representing the people of my district.

I have learned a great deal from JOHN—from his grasp of the issues, sound judgment, legislative skill, and dedication both to the ideals of the Republican Party and to the future of our country.

JOHN RHODES has been an effective Republican spokesman and leader. If you were to ask all of his colleagues in the Congress, there would be consensus on both sides of the aisle that there is no man who is more honorable or decent in the Congress than JOHN RHODES—a man of great class, respected and beloved by all who know him. As our leader he has set a high standard to live up to and an example for all who follow.●

YOU, ME, AND HANDGUNS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. EDWARDS of California. Mr. Speaker, the New York Times today published an outstanding article by Mr. Tom Wicker. The essay examines the proliferation of handguns in the United States and the easy availability of these weapons to just about any citizen or resident of our country.

The recent tragic slayings of John Lennon and Michael Halberstam have awakened the American public to the growing threat of handgun violence. But, as Mr. Wicker points out, their deaths are but two of the over 10,000 handguns deaths which occur in this country each year. In addition to these killings, some 250,000 Americans are victimized each year by people wielding handguns.

We must put a stop to this madness. Responsible and balanced handgun control legislation has been introduced in the Congress by our colleague from New Jersey, PETER RODINO and in the Senate by Senator EDWARD KENNEDY. Unfortunately, hearings were never held on this proposal. I understand that the bill will be reintroduced early on in the 97th Congress. I fervently hope that it will be seriously considered and that the new Congress will approve the passage of truly effective handgun control legislation.

Mr. Wicker's article makes a number of salient points as to why such legislation is needed. I commend the article to the attention of my colleagues.

The article follows:

YOU, ME, AND HANDGUNS

On the night of Dec. 8, in New York City, John Lennon was killed by four shots fired from a .38-caliber concealable handgun legally purchased in Hawaii for $169.

That was three nights after Dr. Michael Halberstam was killed in Washington, D.C., by two shots in the chest from a .32-caliber handgun.

Police have charged an apparently mentally disturbed young man with shooting Mr. Lennon. A skilled professional thief, interrupted during a burglary of Dr. Halberstam's house, has been charged with his shooting.

Mr. Lennon was a musician of world renown. Dr. Halberstam was well known in Washington medical and literary circles. Thus, their deaths caused much comment in the press.

Except for that, nothing about either murder was unusual. Such violent and unexpected deaths happen all the time. They are almost always caused by handguns, sometimes in the hands of the unstable, sometimes in the hands of the criminal, sometimes in the hands of people like you and me.

Someone is murdered with a handgun in the United States every 50 minutes; it could be you or me, or someone we love, or know. Look at your watch; by 24 hours from the time indicated, 29 persons will have been killed with handguns.

By the end of October, the toll of dead this year from handgun bullets had risen to 6,660. In 1979, handgun fire caused 10,728 American deaths.

This is not a new problem, although the casualties may have increased. During the seven peak years of the war in Vietnam, for example, 40,000 Americans were killed in action; during the same years, 50,000 Americans were killed with handguns in the nation's streets, barrooms, households and public places.

But death is just the most grievous consequence of handgun use. Next year, about 250,000 Americans will be victimized in some way—robbed, raped, injured as well as murdered—by other Americans wielding handguns. That's as if everyone in a city the size of Sacramento, Calif., were to become a handgun victim.

In 1978, in New York City alone, 23,000 robberies were committed at the point of a handgun. Handgun killings in the city totaled 882. Police that year confiscated 9,100 handguns—a useful effort but a minuscule result.

Minuscule, because no one should be in doubt about what causes this record of carnage, violence and crime. The reason if that, for anyone who wants one, too many handguns are too easy to obtain—a fact which no amount of sophistry and self-delusion and gun-lobby propaganda can refute.

When Peter L. Zimroth, chief assistant district attorney for Manhattan, was asked by Edward A. Gargan of The New York Times how two boys who had been arrested had obtained handguns, he made the essential point:

"If you take seriously the estimate that there are one to two million guns in the city, the question is how a kid can't get a gun."

That estimate is to be taken seriously indeed. It may be conservative. Nationally, 55 million handguns are believed to be in circulation. Every year, about 2.5 million more join the total—nearly 2 million manufactured in this country, several hundred thousand imported. Handgun Control of Washington, D.C., estimates 100 million handguns will be in circulation in the U.S. by the end of the century.

Many of these handguns are easily obtainable through the 175,000 dealers now licensed by the Federal Government. In many states, notably in the South, no more than a driver's license is required for identification of the buyer, and the license need not even be checked for authenticity.

Other handguns by the thousands are little more difficult to acquire through the illegal traffic that flourishes in every city. Thousands of guns are also stolen every year, obviously not by persons with a legitimate need. There are few such people anyway; only 26,000 have ever obtained a handgun license from the New York City police.

John Lennon and Michael Halberstam are dead primarily because of the easy availability of handguns. So are thousands of other Americans this year, last year, every year. And those statements cannot be refuted by the mere argument that some would still have died if handguns were tightly controlled, or that some would have been killed even if all handguns were confiscated. Of course some would have been; but most who were killed by handguns would be alive if Americans were willing to see these weapons adequately controlled or confiscated.

But the least disputable truth of American politics is that neither of those things is going to be done. Even though the man who buys a handgun "to protect my family" is demonstrably more likely to shoot his wife, or the newspaper delivery boy, or a barroom buddy, or himself in the foot, than a burglar or a rapist; even though the "legitimate" demand of the American people for handguns makes it impossible to shut off the illegal supply to criminals and madmen; even so, the truth is that that perverted demand from you and me is so great that politicians cannot stand against it.

Nor will they ever, while we persist in it.●

TRIBUTE TO HON. LAMAR GUDGER

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. GIAIMO. Mr. Speaker, I wish to acknowledge the contributions made by the effective and dedicated service of Congressman LAMAR GUDGER.

The Congress was fortunate in having such a capable and experienced legislator among its membership. Through his committee assignment to the Interior and Insular Affairs Committee, he introduced and was able to get through the House a bill to make the Cherokee Tribe's "Trail of Tears" a part of the National Trail System. This is but one small sample of the work he accomplished on that important committee.

Because of his legal background and experience he was assigned to the powerful House Judiciary Committee where his presence and skill brought results and national recognition particularly because of his attention to the small businesses of this country. The National Associated Businessmen, for example, presented to him the coveted Watchdog of the Treasury Award.

To overlook his accomplishments on the Select Committee on Aging would be to ignore LAMAR's energy and drive. His concern for the senior citizens of this country placed him in the forefront of efforts on their behalf. His active role on this committee will be sorely missed not only by his colleagues, but also by those to whose service he was a dedicated advocate.

LAMAR GUDGER leaves behind him an honorable career of public service that began 30 years ago in North Carolina, a record of which he can be justly proud. It has been my pleasure to have served with him, and I wish him the best in the future.●

FORMER SPEAKER JOHN W. McCORMACK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. RODINO. Mr. Speaker, on November 22 the Nation lost a monumental figure in its history, with the death of former Speaker John W. McCormack.

In many ways John McCormack's life personifies the American dream of another era, or the Horatio Alger legend of the poor boy who struggled, worked hard and rose to success and honor. He worked from the age of 13 to support his widowed mother and brothers, beginning with a paper route that brought in $11 a week. He went on to work as an errand boy in a Boston brokerage firm, and then to a delivery job in a law office because it paid 50 cents more a week. This was a critical moment in his life, for it enabled him to read law. He subsequently passed the bar examination when he was only 21 years of age and went on to a successful legal practice.

His public service covered more than 40 years, beginning with two terms in the Massachusetts house and four in the Senate. In 1928 he was elected to Congress and 12 years later became part of the House leadership. He served as majority leader, minority whip during two intervals of Republican control of the House, and became our Speaker in 1962.

John McCormack served in the House under eight Presidents, and as Speaker he worked with Presidents Kennedy and Johnson to bring into being landmark legislation on civil rights, education, health care for the elderly, immigration reform, and in many other areas of vital concern to all Americans.

From the time of his first campaign John McCormack was a leading advocate of a strong national defense. In 1941, 3 months before the Pearl Harbor attack, the Selective Service Act was set to expire—at a time when isolation and appeasement policies held sway. John McCormack led the uphill fight to extend the act, and he won by a single vote—203 to 202.

John McCormack was an unswerving champion of the poor, the disadvantaged, the elderly—all those Americans who looked to government for help in improving their lives. In 1926, he said in his first campaign speech: "I will continue to fight for legislation to protect and better the lot of women and children in industry, low salaried public employees, all who labor, the sick and afflicted, and to defend family life against invasion." One of his first fights was the enactment of Federal legislation to bring the charwomen in Federal buildings under civil service regulations, including set salaries and paid vacations. Throughout his long career he worked ceaselessly and without reservations to relieve the plight of the less fortunate of our society.

As Speaker, John came into his element, for he was a consummate politician, a brilliant legislator, and expert tactician. At the same time he was a man of impeccable integrity and loyalty. A promise made by him was a promise kept. He might have asked, but never demanded, a vote against conscience. He never held up legislation because of his personal opposition.

John was innately a gentleman, a man with great courtesy and consideration for others. I remember particularly well the time in 1965 when President Johnson was coming to address the Congress in a special night session to ask for passage of a voting rights bill. Some concerned clergymen from my district came to Washington and after considerable difficulty John obtained tickets for them to attend this extraordinary session. He had helped me very greatly, but then he worried because he had no one to deliver the tickets to my office.

While holding one of the highest offices in our country, John McCormack remained dedicated to the welfare of his constituents and always had time for those who came to him for help and guidance. His kindness and concern for others is legendary.

John and his beloved wife Harriet were a devoted couple who served as an inspiration to everyone. They demonstrated the finest values in Christian family life. John was sustained throughout his life by his deep religious faith. In 1948 Pope Pius XII conferred upon him the title of Knight of Malta, one of the highest awards within the Catholic Church. One of the chief conditions for admission to this great order is nobility of character, and I can think of no one who better deserved this high honor.

It was a great privilege for me to have served in the Congress with John McCormack, and I shall always cherish remembrances of the warm friendship we shared. There will never be another quite like this great American.●

MY COMMITMENT TO MY COUNTRY

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. LEE. Mr. Speaker, colleagues, today I would like to share with you the thoughts and writing of one of this Nation's outstanding young people. Miss Patricia Floyd of Seneca Falls in my 33rd Congressional District is the central New York winner of the VFW's "Voice of Democracy" essay competition. I am sure that her winning entry, titled "My Commitment to My Country," will provide encouraging words for all who have the opportunity to read it. America's leaders of today may take heart in the essay as proof positive of the abilities and dedication of the leaders of tomorrow.

Text of the essay follows:

MY COMMITMENT TO MY COUNTRY

In the 20th century we have more people being educated than ever before. In the 19th through the very beginning of the 20th century most Americans completed only 8th grade, and only those who were really capable went on to institutions of higher learning.

My commitment to my country is to be educated as much as I possibly can. Then I wish to help educate others.

As quoted from the Bible: "You shall know the truth and the truth shall make you free." By being well trained you will have the power to discern between fact and fallacy. Literacy helps you determine truth or deception by having the knowledge and understanding of subjects that could be hard for an illiterate American.

One of the first steps Hitler made to gain control over Germany, was to burn all books, even school books that tried to teach the truth. Without the books people just started to believe what Hitler said to them. This way the truth was hidden and the whole world suffered.

In the 19th century, when children went to school, by the time they reached eighth grade the knowledge they had was adequate for the times. Now that Western Civilization has developed we need more and more education to go with the times. Technology is so much further advanced that we need more time to learn all about it.

Before we can understand and cure a disease or illness we must first have some kind of education so we know the basics of science. This also goes for exploring outerspace. Before we study that or even before we look at Saturn's rings or beyond, we have to have some kind of knowledge of what we are doing.

Today we are worried whether or not our country is going to go to war. But before we do anything to prevent such an event from happening we must be educated enough as to know what is best for us Americans to do without hurting anyone else.

We must be literate to have that or any real kind of relationship with a person or a nation. Before we can understand and be able to get more knowledge, we have to have open minds.

In my high school years many teachers have helped me. This is one reason why I want to teach, so I also can help others. Maybe if I commit myself to helping others, their minds might too, stay open. This is what education does for us; it opens our minds.

In my work as an educator, I will do my best to teach the truth so that the minds I help put knowledge into will also be open and free.●

TRIBUTE TO JOHN BRADEMAS

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, I rise to pay tribute to one of the truly outstanding Members of this body, JOHN BRADEMAS. JOHN is leaving after a long, distinguished career. The immense problems facing the next Congress will be all the more difficult to solve without JOHN's creative leadership.

I have served with JOHN on the Education and Labor Committee for many years, where he was nationally reknowned for authoring education and arts legislation. More recently, JOHN has served as majority whip, where he has been an effective leader and spokesman for House Democrats.

I will miss JOHN and I am certain all my colleagues join in wishing him well in the future.●

TRIBUTE TO JOHN W. McCORMACK

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. O'NEILL. Mr. Speaker, I am pleased to insert the following statement of former Democratic Representative Frank E. Smith, of Mississippi, in tribute to the late Speaker, John W. McCormack:

My most vivid memory of John McCormack is of his role as Democratic leader. He loved the spirit and flavor of partisan debate, and gloried in the telling point that might not be fully appreciated except by his more attentive and knowing colleagues. John McCormack believed very deeply that the Democratic Party had a responsibility to the common man of the United States, and he eagerly and willingly fought those battles.

Of course John W. McCormack, as a Representative of Massachusetts, as majority leader and as Speaker, was also an uncompromising patriot, always above the partisan fray where the honor and security of our country was concerned. Political friend and foe recognized this fact.

But above all else, John McCormack at the height of his personal power and skill, symbolized the glorious tradition of partisan political issues come down to a decision on the floor of the House of Representatives. In the sense of the House reaching its greatest achievements as the representative body through which the people of the United States make political decisions, John McCormack becomes a great American legend.●

NUCLEAR POWER AND OIL DISPLACEMENT: DEBUNKING THE MYTH

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. MARKEY. Mr. Speaker, on December 9, 1980, I chaired an Oversight and Investigations Subcommittee hearing of the Interstate and Foreign Commerce Committee on the question of whether nuclear power significantly reduces our consumption of imported oil. Of the various witnesses, Dr. Vince Taylor made some powerful and telling statements questioning the role of nuclear power in reducing foreign oil imports. Dr. Taylor's thesis is that the increased use of coal, not nuclear power, has been the dominant factor in reducing the use of oil by utility companies in the last 2 years. Dr. Taylor concludes that nuclear power cannot be justified by emotional references to our serious dependence on OPEC oil countries. Whether or not more nuclear plants are built, Dr. Taylor asserts that the utility use of oil will decline to a small percentage of U.S. oil consumption by 1990.

Dr. Taylor's credibility is well established by his background. He received his bachelor of science in physics from the California Institute of Technology and his doctor of philosophy in economics from the Massachusetts Institute of Technology. Since 1974 his professional work has dealt exclusively with the economics of energy, emphasizing particularly the comparative economics of nuclear power and its alternatives. Dr. Taylor served on the staff of the Rand Corp. for 9 years. In addition to his work as energy consultant to the Union of Concerned Scientists, Dr. Taylor has provided consulting services and expert testimony for the U.S. Arms Control and Disarmament Agency, the Energy Research and Development Administration, the Council on Environmental Quality, and the Nuclear Regulatory Commission. His publications include, among others, "The Uncertain Future of Nuclear Power," published by the California Seminar on Arms Control and Foreign Policy, and "The Easy Energy Plan," published by the Union of Concerned Scientists.

I am inserting into the RECORD the testimony of Dr. Taylor and I encourage my colleagues to further examine the crucial issue concerning the role which nuclear power plays, or does not play, in the reduction of oil use by utility companies.

ELECTRIC UTILITIES: THE TRANSITION FROM OIL

A PART OF THE OIL PROBLEM THAT IS BEING SOLVED

Consumption of oil by electric utilities is one part of the oil problem that is being solved—far faster than is commonly recognized, without the help of special government subsidies, and in spite of a decline in nuclear generation. Electric utilities will consume less than 7 percent of all oil used in the United States in 1980, down from 10 percent in 1978, and this share can be expected to decline to less than 5 percent by 1982. By the end of the decade, utilities will consume only a few percent of total oil consumption. Recognizing that utilities burn residual oil, which is not useable in homes or vehicles and which can be expected to remain in relatively plentiful supply, it can be concluded that utility consumption of oil is not a critical part of the oil crisis.

TRENDS IN UTILITY CONSUMPTION OF OIL

The sustantial, continuing downward trend that began in earnest in 1979, when oil prices jumped sharply upward, is clear. The share of total electricity being generated by oil declined by 19 percent between 1978 and 1979, and for the first 8 months of 1980, the year to year decline was 23 percent. The downward trend, thus, shows no signs of slackening. Utility consumption of oil in 1980 will be about 1.15 million barrels of oil per day (MBD), or slightly under 7 percent of total U.S. consumption of about 16.8 MBD.

If total electricity consumption grows by 2 percent per year, somewhat faster than recent electrical growth and economic prospects suggests is likely in the near term, a continuation of the current declining trend will cause utility consumption of oil to fall to about .8 MBD by 1982, or less than 5 percent of prospective total U.S. oil consumption.

THE IMPORTANCE OF COAL

Increased use of coal has been the dominant factor in reducing utility use of oil. During the period from April-August 1980 to the corresponding period in 1978 [1], the increase in coal-fired electric generation more than offset the reduction in oil-fired generation. Gas-fired generation also increased, but to a much smaller extent, while nuclear generation declined moderately.

THE NUCLEAR-OIL EQUALITY PROVEN FALSE

The experience of these last few years should put to rest once and for all the widespread misperception that any reduction in nuclear power means an equivalent increase in oil consumption. If the nuclear-oil equality were correct, the 1978 to 1980 decline in nuclear generation during the April-August period would have resulted in an 8 percent increase in oil consumption by electric utilities. Instead, actual oil consumption declined by 25 percent.

MARKET INCENTIVES VERSUS GOVERNMENT COMPULSION

The decline in utility oil consumption provides powerful support for those who favor relying on market forces rather than government compulsion to achieve oil conservation. Efforts of the Department of Energy to force utilities to convert from oil to coal are presently mired in acrimonious controversy; if eventually implemented, the forced conversion program might eventually reduce oil consumption by about 400,000 barrels per day—actual reductions will almost certainly be less. Further, it seems likely that a large portion of the savings eventually achieved will represent conversions that would have occurred without compulsion. Meanwhile, without compulsion or subsidy, the electric utility sector has reduced oil consumption in the last two years by 600,000 barrels per day—50 percent more than the goal of the Administration program.

DOLLARS: THE DRIVING FORCE

The rapid move of utilities away from oil is being driven by the powerful engine of dollars and cents. Even though most oil is consumed in areas where coal is relatively expensive, the price of oil has risen to the point where it costs twice as much as coal per unit of electricity generated, and the savings from switching from oil to coal are very large. For purposes of illustration, consider 1000 megawatts of capacity operating at 60 percent of capacity in a location where residual oil sells at $25 per barrel and coal at $50 per ton (prices that were at the high end of the actual range of prices paid by utilities in oil-consuming areas in July 1980). Switching from oil to coal would produce annual savings in fuel costs of $110 million.

STEPS BEING TAKEN TO REDUCE OIL USE

The high cost of oil provides a powerful incentive to utilize coal wherever possible. Long-distance transmission of coal power, so-called "coal-by-wire," has become relatively cheap, and transmission lines between coal-using areas with excess capacity and oil-consuming regions are being used to capacity. Utilities are considering plans to expand transmission lines to permit still greater importation of coal and hydro power into oil-using regions, and expedited implementation of these plans should be expected. Many existing plants will be converted from oil to coal, and efforts will be made to accelerate completion of nuclear plants under construction in oil-using areas. All of this is a natural consequence of savings from substituting coal for oil that will exceed $500 million per 1000 megawatts of capacity in 5 years.

Meeting stringent environmental standards is not an important deterrent to converting existing plants from oil to coal. At the cost differential between coal and oil existing in 1980, conversion to coal would save a utility enough in three years to pay for retrofitting a plant with a technically advanced pollution control system, including a sulfur-dioxide "scrubber."

A wide range of efforts to increase use of coal are not clearly economical, but construction of new coal or nuclear plants to replace existing oil-fired plants is still marginal.[2] An expectation that oil prices will continue to increase more rapidly than coal prices would, however, tip the balance in favor of new construction of coal plants rather than continued use of oil.

THE CONTRIBUTION OF NUCLEAR EXPANSION TO REDUCING OIL CONSUMPTION

Only nuclear plants being added in areas where oil is a major utility fuel will reduce oil consumption. Nuclear plants scheduled for completion by 1985 in oil-using areas would provide electrical generation equivalent to about 0.3 MBD of oil. This amount of oil is equal to 1.8 percent of prospective 1980 consumption and 5 percent of imports. If for some reason the nuclear plants were not completed, efforts would be accelerated to find other substitutes and, thus, the loss in oil replacement would be less than 0.3 MBD.

Additional nuclear plants are scheduled for completion after 1985, but the further in the future they are completed, the more likely they are to represent a substitute for coal rather than oil.

A widely shared assumption is that continued expansion of nuclear power is very important for solving the energy problems of the United States. The above analysis show that in spite of its prevalence, this assumption is incorrect. If for safety or other reasons, nuclear plants under construction were not brought into operation, there would be a modest loss of a potential substitute for utility consumption of oil, a loss equivalent of 0.3 MBD of oil or less over the next 5 years. With or without additions to nuclear capacity, utility consumption of oil will continue its downward trend, reaching relatively minor levels (a few percent of total oil consumption) by the end of the decade.

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[1] The first three months are omitted in this comparison because a coal strike caused abnormal utility patterns of fuel consumption in January-March 1978.

[2] The cost of oil alone is now about 4 cents per kilowatt hour, and this is slightly less than the expected total cost (in 1980 dollars) of electricity from coal-fired plants beginning construction in 1982 and coming into operation in 1988; electricity from new nuclear plants would be still more expensive.

THE EFFECTS ON OIL CONSUMPTION OF A NUCLEAR SHUTDOWN

If it were determined that risks from continued operation of existing nuclear plants were unacceptable, even a complete nuclear shutdown could be accommodated without major effects on oil consumption and imports. Existing nuclear plants in major oil-using areas provide generation equivalent to 0.5 MBD of oil. If these plants were closed, not all replacement fuel would be oil, and strong efforts could be expected to shift from oil to coal over time.

An increase of 0.5 MBD in oil consumption would not be trivial, but neither would it be unmanageable unless it came at a time when oil supplies were severely disrupted. One-half million barrels of oil per day amounts to 3 percent of prospective 1980 oil consumption and about 8 percent of imports. An increase of this magnitude would still leave utility consumption of oil slightly below its 1978 level, and oil imports would remain 15 percent below their 1978 level.

After absorbing the increase that would be caused by a nuclear shutdown, oil consumption by utilities would resume its downward trend. The major consequence, thus, would be a temporary delay in the transition of electric utilities away from oil.

EXCESS COAL CAPACITY AVAILABLE

In 1979, coal-fired plants operated at 48.5 percent of capacity. Increasing their utilization rate to 60 percent, well below the 65 percent generally considered attainable, would suffice to replace all electricity generated by nuclear plants in 1979. As noted above not all nuclear capacity is located in areas with excess coal capacity, but in those areas where coal predominates as a utility fuel, sufficient excess coal capacity appears to exist to replace almost all nuclear electricity generated there (about 60 percent of the U.S. total).

AIR POLLUTION FROM COAL

In the short run, coal provides the major alternative to nuclear power as a substitute for oil in electrical generation. To many, the spectre of increased pollution from coal-fired plants is as unappealing as the uncertain dangers of nuclear power. Nuclear proponents sometimes play on this concern by suggesting that foregoing nuclear power will inevitably lead to much greater air pollution in the years ahead.

What needs to be recognized is that no increase in pollution need occur, even if all existing nuclear, oil, and gas generating plants were to be replaced eventually by coal—implying a 72 percent increase in coal-fired generation. The reason for this is that the large pollution burden from fossil plants is an artifact of past policies, which paid little attention to air quality. Most existing plants are many times dirtier than need be. Pollution from the utility sector could be reduced markedly by installing modern pollution control equipment on existing plants.

If all existing oil, gas, and nuclear plants were converted to coal and if at the same time all existing plants were required to meet the 1979 pollution standards for new plants set by the Environmental Protection Agency (EPA), emissions of sulfur and nitrogen oxides (suspected to be the primary cause of acid rain) would decline to about one-half of current levels and emissions of smoke ("particulates") to one-tenth.

At present, most existing plants are not required to meet the pollution standards for new plants, nor is the federal government moving toward this goal. Instead, in its anxiety over oil dependence, the Carter Administration during 1980 was moving to relax standards on plants that convert from oil to coal—a move that has been endorsed and encouraged by affected utilities and coal interests. If continued, this policy will represent another example of a technically and economically unnecessary sacrifice of the environment for the sake of short-sighted profit. Greater reliance on coal, thus, may well lead to a greater pollution burden—but it need not.

CONCLUSION

Several conclusions emerge from the evidence reviewed here.

Most importantly, market forces are causing utilities to rapidly reduce consumption of oil. The high cost of oil provides a powerful incentive to decrease its use. Neither federal subsidies nor compulsion appear necessary to insure continuation of the downward trend in oil use.

Coal will constitute the major replacement for oil. The major obstacle to substitution of coal for oil is the public perception that coal is a dirty fuel. The EPA standards for new coal-fired plants are sufficiently stringent to make them generally cleaner than oil-fired plants they would replace. Many existing coal plants, however, do produce large quantities of air pollutants. The technical potential exists to reduce greatly this pollution burden, an action that would facilitate the transition of utilities from oil by reducing public opposition to greater use of coal.

Expansion of nuclear power cannot be justified as an essential substitute for oil. Whether or not more nuclear plants are built, utility use of oil will decline to only a few percent of U.S. oil consumption by 1990.

Conversely, there is a danger in accelerating nuclear expansion before there is high confidence that nuclear plants can be operated safely. The United States is not now critically dependent on nuclear power, but if nuclear capacity triples by 1990, as nuclear advocates desire, this will no longer be the case. A nuclear accident leading to a shutdown of nuclear plants would then be a major national disaster, causing severe disruptions in electrical supplies and possibly creating unmanageable demands for more oil. In these circumstances, the wise course is to delay any major expansion of nuclear capacity until present uncertainties about safety can be resolved.●

TRIBUTE TO HON. JOHN BUCHANAN

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. CHAPPELL. Mr. Speaker, I rise today to pay tribute to my friend and colleague John Buchanan, who has so ably represented the Sixth District of Alabama for the past 16 years. The citizens of Birmingham are losing a very able and conscientious Representative, who has displayed outstanding leadership qualities and the foresight to deal with many of the problems which confront us.

This body will miss John's devotion to the highest principles and his fervent patriotism. He served with distinction as a member of the delegation to the United Nations Commission on Human Rights. Indeed, his criticism of the Soviet's disregard of human rights was a shining example of this man's knowledge and love of freedom.

As a member of the Committee on Education and Labor, John has also distinguished himself for his knowledge and commitment to a better education for all citizens.

In my view, John Buchanan is a man who has stood by his convictions despite the fact that his views were sometimes controversial and would result in political fallout. I have not always been in accord with my colleague's viewpoint, but I always knew John expressed himself independently and honestly, and oftentimes these votes were not necessarily the popular votes back home.

Those of us who have had the privilege of serving with John Buchanan will deeply miss his presence in this House and hope he will soon again take up his outstanding career in public service.●

TRIBUTE TO ED STACK

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 11, 1980

● Mr. GIAIMO. Mr. Speaker, it is incumbent on me to pay tribute to Congressman Edward J. Stack for his fruitful service to his constituents, to the State of Florida, and to his country.

Ed's great store of energy was channeled into three important House posts, the Committee on Merchant Marine and Fisheries, and Committee on Education and Labor, and the Select Committee on Aging. Any conscientious Member of Congress with that kind of a legislative assignment has a real time and scheduling problem. To his credit Ed Stack managed to meet with distinction his responsibility in all three of these assignments. I soon noticed and admired his tireless efforts and boundless energy. I am proud to have had the opportunity to serve in the Congress with Ed during these last two tumultuous years because he has accomplished much during that period of time.

My best wishes go out to Ed Stack. I know that whatever he pursues in the future, he will do it vigorously, with honor, and with his usual dedication.●

GIVE THE HONEYMOON A CHANCE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. MAZZOLI. Mr. Speaker, the polling places are barely closed and it is already open season on President-elect Ronald Reagan.

I am a Democrat and you can be sure that I will be among the first to cry foul when I believe the new administration advocates policies which do not serve the best interests and the top priorities of our Nation.

However, Governor Reagan was elected our President and he must be given a chance to advance his program and to make his case without unnecessary carping.

I commend to the attention of my colleagues the following article which appeared in the December 10, 1980, New York Times.

GIVE THE HONEYMOON A CHANCE

(By James Reston)

WASHINGTON.—There used to be a kindly notion in these parts that new Presidents should have a political honeymoon, comparatively free of too much snooping, advice or criticism. But recently, some practical jokers have been hanging bells below the mattress even before the wedding.

Everybody around here seems to be speaking for Ronald Reagan except Reagan himself. Without the vaguest idea of what he will do, his "advisers" are telling us on television what they think he thinks about Poland, Afghanistan, the hostages in Iran, and the other tangles at home and abroad—meanwhile insisting on "Face the Nation," "Issues and Answers" and "Meet the Press" that nobody should be talking about such things.

Reagan should probably have told his Penthouse Cabinet in Los Angeles and his transition buddies in Washington to shut up, but personally he has handled the "transition" problem fairly well. He has avoided the reporters in California, climbed over the low fences for the photographers at his ranch to show how young he is, made the easy selections for his Cabinet on the telephone, and then arranged meetings with black folks and fancy people in New York and Washington. He will fly back to California next weekend to approve the most spectacular Hollywood Presidential inauguration ceremony and parade in the history of Washington.

Why not let him have his political honeymoon? He has challenged the economic and social assumptions of the dominant Democratic Party over the last two generations, and has won a spectacular electoral victory. Why then not give him a chance to choose his Cabinet, his White House staff and time to develop his theory of Cabinet government as well as his economic and foreign policies?

He is getting a hard time in the Senate. The Democratic leader, Robert Byrd of West Virginia, is telling him to be careful about nominating Gen. Al Haig as Secretary of State. Even the new Republican leader of the Senate, Howard Baker of Tennessee, is saying that if Mr. Reagan nominates General Haig, there will probably be a ghastly replay of Haig's role in the Nixon Watergate scandal.

So it's no wonder that Mr. Reagan is taking a long time to pick a Cabinet. Everybody he suggests has a problem. He takes Henry Kissinger's advice on the side, but doesn't want to take on Kissinger's enemies.

Reagan would like to have Bill Simon as Secretary of the Treasury, but Simon, like Kissinger, has strong views and no gift for concealing them. Reagan would like to persuade George Shultz to be Secretary of State or something else, since Shultz has the confidence of the President of France and the Chancellor of West Germany; but Shultz has been in Washington before, and wonders why he should give up all the economic advantages as an executive of the Bechtel Company to fight the battles all over again on the Potomac.

Mr. Reagan's problem in choosing a Cabinet and members of his White House staff is quite different from what faced Jimmy Carter. Mr. Carter was looking for new and for young people. Reagan is trying on the whole to recruit older and successful people.

He has defined his theory about the Cabinet he wants: men who don't want to serve in Washington—who have been successful in business, who don't need a job in Washington. This may very well explain the delay he is now having in putting his new Administration together.

For Reagan's "successful" men of his own generation have problems. Before they can accept his invitation to take jobs in Washington, they have to consult their business associates, check with their accountants, consider their taxes and retirement benefits, and last but certainly not least, talk to their wives about whether they really want to tear up the family, leave their communities and their children, publish all their earnings, and submit themselves to the hard work of Washington life and to the tender mercies of a critical press.

Reagan is going through all this now not only with the Kissingers and the Haigs and the Connallys, who have acquired enemies as well as experience along the way. He is also going through it with his old social and conservative buddies, and his young ideological supporters, who don't really agree about what kind of economic and foreign policies the "new conservatives" should pursue.

It's no wonder, then, that Reagan is taking his time about defining where he's going and who is going with him. But the point of all this is that he deserves time to sort it all out.

Reagan has come to power arguing for a new philosophy, for new people, for new ways of looking at the organization of the nation, for new associations abroad, for new structures, and new approaches to the military security of the Republic.

So he is entitled to prove his point, even by those of us who have opposed him in the past. He should have the Cabinet and White House staff he wants and be given a chance—even a long honeymoon—to demonstrate that his conservative philosophy at home and his heroic philosophy toward our opponents abroad will really work.●

EARTHQUAKE DISASTER IN ITALY

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. COURTER. Mr. Speaker, with many other of my colleagues in the Congress, I want to express my shock and sorrow over the tremendous loss of life and property in the surrounding areas of Naples, Italy, as the result of an unexpected earthquake.

I want to commend the House for its action last week, in providing $50 million in emergency aid to Italy for earthquake relief. I hope that the Senate will approve these funds later this week. In addition, I want to commend our Government for supplying tents, helicopters, and food to the stricken area. This is the least we could do for a good friend of the United States, a fellow NATO ally, and a nation that shares our democratic values. To supplement the efforts of our Government, I have been informed that the American Red Cross has set up a special Italy earthquake fund and the Sons of Italy fraternal organization is also trying to raise emergency revenues for this important humanitarian effort. I strongly support all these initiatives.

My heart goes out to the people of Italy as a result of this terrible tragedy and I want them to know that the U.S. Congress and the American people stand with them in their hour of need.●

TRIBUTE TO JIM HANLEY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. PEPPER. Mr. Speaker, I am proud to join my colleagues in expressions of appreciation of JIM HANLEY. Like every Member of this House, I am deeply sorry to see JIM HANLEY leave the House. He has been an outstanding legislator, especially in the field of the postal service. He has been a faithful servant of the people of his district and the Nation. He is a charming gentleman, a cherished friend—the kind of a Member who makes this House so meaningful to us all. We need more men like JIM HANLEY in public life. I am sorry that he voluntarily retires from public service. I know, however, that he will continue as a great American to make a great contribution to his country and to be a source of delight and satisfaction to innumerable friends. My warmest wishes go with JIM HANLEY and his loved ones for a long, healthy, and happy life.●

DEMOCRATS—NEW DIRECTIONS NEEDED

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. WIRTH. Mr. Speaker, it is obvious that the November 4 election presented a challenge and an opportunity to the Democratic Party. Democrats must revitalize and reform their purpose and message to the American people. My colleague, Don Bonker, has addressed this important issue in a piece that was recently published in the Vancouver Columbian, in Washington State. I recommend this commentary to all my Democratic colleagues:

Demos: New Directions Needed

[By Don Bonker]

Ronald Reagan's message that we must "get the government off our backs" obviously struck a deep and responsive chord in the American public. The voters are saying that government has become objectionable not because of the progress it seeks but because of the havoc it wreaks in the process. They are saying that government has become too intrusive, too heavy-handed, too costly.

In short, Democrats have allowed the GOP cynically to present each election as a choice between those who favor more of the same, and those who favor change in the form of less governmental control over our lives. Ironically, a Republican Campaign Committee document that tells about federal benefits for senior citizens (most of which was inspired and passed by Democrats) is widely distributed by GOP incumbents between elections.

Government agency excesses must also be checked. Democrats need to look long and hard at issues like legislative oversight and vetos, regulatory reform, paperwork reduction and sunset provisions—all designed to make government recognize the real needs and frustrations of people.

We need to care about what and how the government delivers as much as we care about what government promises. We can no longer close our eyes to the need for reform and for government to be less burdensome; we must no longer resist change of this sort for fear that it may be interpreted as a weakening of a commitment or program. But we must defend programs that only government can produce to help those unable to help themselves!

Similarly, it no longer makes any sense for Democrats to be endlessly suspicious of programs and policies that foster the growth of business. Actually small business ought to be a natural constituency for Democrats. When we are expanding the economic pie, there is room for generosity; there is room for, if you will liberalism. A vibrant economy keeps people off welfare and other relief programs and results in more tax revenues. And, smaller enterprises are the innovative and job creators.

Tax cuts can be a good example. In Congress, the debate over tax reform generally boils down to a fight between business tax credits and individual or consumer tax credits. Democrats push for the latter, Republicans for the former. However, it was the Democrat, Jimmy Carter, who was pushing for productivity incentives in tax reform—not a simplistic 10 percent cut across the board that enriches the speculator and means little for the wage earner.

Is it not arguable that it is better to provide significant "supply side" or business tax credits to get the economy moving again? Some consumer tax credits can simply fuel the fires of inflation. We cannot allow the Republicans always to sponsor the business tax cuts.

One way Democrats can identify with both small business and export trade is to pass a bill I recently introduced to allow the formation of export trading companies. This would enable small industries to compete more effectively in the world market, similar to what Japan and other countries are doing today. The legislation failed because three Democratic subcommittee chairmen felt slighted on jurisdictional grounds, though they fully supported the bill's provisions.

On another issue, national health care, Democrats cling to antediluvian notions. The concept is no longer realistic, given its cost and ambitious scope. I'd even argue it is not necessary, considering the fact that today's working men and women have ample coverage and Medicaid already protects the poor. We ought to look at filling the gaps—catastrophic illness, senior citizens, etc.—instead of a costly overhaul of the present system.

This does not mean Democrats should abandon what they stand for: (1) a basic commitment to working men and women, (2) support of civil rights and equal opportunities, (3) protection of the environment, (4) human rights in foreign policy, and (5) a stable economy with mutual concern for recession and inflation. But the constituencies behind these issues have eroded. Today's economic, energy, and foreign policy problems clearly are pervasive and they seem to transcend traditional electoral groups. Democrats must rebuild these coalitions. They traditionally belong in our fold, and, as they will rediscover in the next four years, it is in their best interest to be on the Democratic side.

The Democratic Party's rich diversity has gotten it into trouble in recent Congresses on issues like abortion, busing, defense spending and budget priorities. Our House majority will not stand for long amid a divided party on today's critical issues. This concern has led disparate members of our ravaged party to reckon together for the first time in many years.

In the course of the next weeks and months, there will inevitably be a certain amount of brooding and contending within the party over what direction we should take. It would be a tragedy if, in the excitement and debate over this, the need for the Democrats to rehabilitate our message gets lost. For if, in the ensuing days, party officials attempt to re-offer the current Democratic program without first restructuring its identity and purpose, they may be laboring in vain and will succeed in their political building no better than the builders of Babel.●

TRIBUTE TO HON. LUCIEN NEDZI

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. CHAPPELL. Mr. Speaker, I would like to join my colleagues in expressing my sadness in the departure of our colleague, Lucien Nedzi, of Michigan. This House will be losing a true patriot and respected leader, and we will have lost one of our most knowledgeable experts on the House Armed Services Committee, where Lucien has been an articulate advocate for a sound and rational defense policy.

For 19 years, Lucien has worked diligently for his congressional district, his State, and his Nation. I am sure his constituents will miss Lucien's fair, hard-working, and effective representation of their interests.

With regard to his service in this Chamber, I would like to pay particular attention to the outstanding service Lucien has rendered to this House through his work when he was named chairman of a Special Subcommittee on Intelligence formed to investigate the CIA at a time when many in this country were calling for strong sanctions against the Agency. After conducting an objective investigation, Lucien Nedzi determined that it was not in the best interests of the Nation to dismantle the Agency's intelligence-gathering capabilities. His foresight in this area has been proven correct by recent events.

I would like to express my respect and admiration for Lu and thank him for the guidance and counsel he has demonstrated throughout the time we have worked together.

He will be missed, not only for his expertise and quiet competence, but for his statesmanship. I wish him all the best in the future.●

TRIBUTE TO "BIZZ" JOHNSON

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. O'NEILL. Mr. Speaker, it is with strong emotional feelings that I take this opportunity to say farewell to one of the most distinguished public servants in the House of Representatives, the Honorable Harold "Bizz" Johnson, on the occasion of his departure at the end of the 96th Congress.

Bizz is one of the most decent and honorable human beings I know. His dedication, his ability, and his pleasant and cheerful disposition have made Bizz Johnson a respected and effective Member of the House, whose willingness to help out any Member who had a personal or political problem have been highly valued by so many of his colleagues and friends.

As chairman of the Public Works Committee Bizz Johnson has been fair and statesmanlike. He has played a crucial role in the development of our Nation's water resources. His tireless efforts in this regard have benefited immeasurably his home State of California where an adequate annual supply of water is as important as winter heating oil is to New England.

Bizz Johnson has been an invaluable member of the Democratic leadership team in the House. I am proud to have had Bizz on our team and proud to call him a friend. I am deeply grateful for his political support, personal loyalty, and encouragement over the years. A competent chairman, Bizz was willing to give that extra effort whenever his party, his State and his country needed him.

Bizz has always given his best to each legislative task before him, and that best has always been more than enough. A kind and compassionate individual, Bizz is not a headline seeker, but he is conscientious and reliable. I will miss his counsel and advice in the 97th Congress.

I salute Bizz Johnson and wish him health and happiness in the years ahead.●

MANSFIELD SHOULD STAY IN TOKYO

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. SKELTON. Mr. Speaker, a recent Kansas City Star editorial urges that the incoming President return Ambassador Mike Mansfield as the U.S. Ambassador to Japan. I certainly concur with his thinking and I would hope that the incoming administration would review Mike Mansfield's outstanding performance in this highly sensitive international position. The editorial is as follows:

MANSFIELD SHOULD STAY IN TOKYO

So far they are only rumors. But there have been hints from the Ronald Reagan camp that Mike Mansfield, the U.S. ambassador to Japan, might be asked to stay on for a time under the new Republican administration. If so, it would be a shrewd decision.

It is well-known that Mr. Mansfield is a Democrat, having served longer as the majority leader of the Senate than anyone in history. But he has not performed as a Democratic partisan in Tokyo. He has emerged as a distinguished ambassador whose sole goal is to improve relations with a nation he calls "our No. 1 friend, our No. 1 ally." By all accounts, he has turned in an admirable performance, based on mutual trust in both Tokyo and Washington.

Since the election, Mr. Reagan has spoken informally of a desire and a need to return to a bipartisan foreign policy. Keeping Mike Mansfield in Tokyo would add substance to those words. No individual is irreplaceable and the ambassador, who can be both candid and outspoken, would no doubt be the first to agree. But his sojourn in Tokyo, beginning in June of 1977, has been so successful that any abrupt change would create uncertainties, and possibly a vacuum, that would do neither side any good at this time.

From the start, Mansfield has played it down the middle, chiding Japanese and Americans when he deemed that either was off base. He has seen his role more as a mediator, or umpire, than as a soft-spoken, formal diplomat. And that approach has gone over extremely well. He has earned high esteem in the Orient and we believe justifiably so.

Over the years Japan, which regards America as its No. 1 ally, has often felt ignored and never more so than during the period of the Nixon shocks when that nation was caught by surprise by major shifts in U.S. policy. Mansfield has insisted on consultation and communication. There seems little question that the relationship between Tokyo and Washington is now at the highest level since the Second World War.

Although modesty would preclude his taking credit for this turn of events, there is little doubt that Mike Mansfield in Tokyo, as a man who is trusted by both sides, has been the central figure in this improvement. If Reagan is serious in his talk about a bipartisan foreign policy, keeping Mansfield at his desk would be a good place to begin.●

TRIBUTE TO HON. JIM LLOYD

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PEPPER. Mr. Speaker, it is with profound regret that I see Jim Lloyd leave this House. He and his lovely wife have been two of my dearest friends and friends of my wife until her passing. Jim has been an able legislator and extremely valuable member of the House Select Committee on Aging, which I chair. He has been diligent and farsighted in his legislative efforts. He has done much for his fellow Americans.

Jim Lloyd has served his country with distinction in the armed services, as he has served it here in this House. He deserves the tribute of his fellow Americans for he is a great American. I hope Jim Lloyd, who seems so ideally suited for eminent public service, will find in future years another opportunity for rendering such service to his country. Meanwhile, I extend him and his lovely wife, Jackie, my fondest wishes, and I pray the Lord's richest blessings will go with him into the long future.●

RICHARD COHEN ON GUN CONTROL

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. BINGHAM. Mr. Speaker, In the Washington Post of December 11, Richard Cohen has an excellent column on why handguns must be controlled, if not banned outright. I recommend this piece to my colleagues:

GUN CONTROL NO ANSWER, BUT IT IS A BEGINNING

(By Richard Cohen)

A man I knew, Michael Halberstam, came home and found a burglar and was shot to death. He was 48 years old, a physician and a writer. On the way to his funeral, a woman mentioned that her mother had also been shot to death. I had another friend whose younger brother also died that way, and so did a bartender I knew a bit. He got hot one night in an argument and died before my eyes with a little hole in his chest.

The house across the street was held up at gunpoint and so was a store around the corner. The other day, a man got killed in a bank when he tried to shoot it out with a crook, and some years back my wife and some colleagues were robbed at gunpoint and threatened with rape.

My presidents die of gunshots and my politicians are killed by guns and guns take the lives of cultural heroes like John Lennon. A deranged man kills Allard Lowenstein with a gun and guns put both George Wallace and Larry Flynt in wheel chairs for the rest of their lives. Whenever I cover famous politicians, I think always of guns.

I see guns all the time on the street. Sometimes I just imagine them in bulges under the coats of frightening-looking people. Sometimes I actually see them. No matter. I imagine them everywhere. I imagine them in glove compartments of cars driven by guys who have just cut me off, and in the pockets of men who have just spit in front of me on the street, and in the pants of kids who want to push me off the sidewalk.

I imagine guns in the hands of whatever it was that made the stairs creak in the night, and I consider the possibility that the stranger standing on the porch has a gun. When I go into the bank, I think about it being robbed. I study the other customers and think about cross-fires.

Am I alone in this? Am I the only one who fears guns, who thinks about them, who considers that they might figure in the consequences of yelling at some guy in another car, or reminding some punk that it ain't polite to spit on the sidewalk? Am I the only one who knows so many people who have been threatened by guns, who have died by guns?

Am I alone in thinking that this is crazy? I live in the capital of the United States of America and I bet I think more about guns than any cowboy in the Old West. I have lived in other cities and it is no different, and it is no different in rural areas, either. People kill each other with guns in rural areas to. Anywhere there are guns, people kill each other with them. Last year, 13,040 Americans were killed by guns. It's like war. We're at war with ourselves.

It would be nice to have a truce. It would be nice to turn in all the guns, to sell them no more and make lots fewer of them—make them just for the police. A handgun serves no other purpose than to kill. That's all it does, all it ever does. A rifle can be used to hunt and a knife can cut meat, but a handgun is for killing people. It does nothing else, but it does what it does very well indeed.

I know gun control is not the total answer—not the complete answer. I have been told that guns don't kill people and that people kill people, but Robert Kennedy was not killed by a bow and arrow and George Wallace was not knifed from 25 feet away and Son of Sam could not put a knife through a closed car window and kill young women in New York.

No man can hold a knife on a group or hold up a bank by saying he has a knife in a bag, and no one can reach into a glove compartment and throw a knife at me in my car because he does not like my looks.

I know that even with gun control some criminals would continue to have guns. But maybe not the one who held a gun on my wife and her friends, and maybe not the one who robbed the house across the street, and maybe not the one who killed the bank customer the other day. Maybe there would have been no gun for the person who shot Allard Lowenstein and the guy who murdered Mike Halberstam, and maybe someone could have said no—no, you cannot have a gun—to the guy who killed John Lennon.

I know gun control is an imperfect solution. But I know, too, that the only reason to have a gun is to kill, and if gun control just rids this world of one gun, there might just be one less killing. Maybe a doctor could continue to cure or a bartender mix drinks or a mother see her grandchildren or John Lennon write another song.●

SECRETARY ON HORSEBACK

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Ms. HOLTZMAN. Mr. Speaker, Those appointed to postions of power in our Government should not only meet the highest standards of integrity and untarnished reputation, they should also have a full understanding of and unequivocal loyalty to constitutional principles.

Thus, it is deeply troubling to read reports that Gen. Alexander Haig is President-elect Reagan's first choice to hold the premier position in his cabinet—that of Secetary of State.

To those in Congress—and especially in the Senate, which must confirm Presidential nominees—whose recollections of General Haig's role in the Watergate years may have blurred with time, I commend Anthony Lewis's article in the New York Times of December 4. Mr. Lewis reviews General Haig's performance as chief aide to a President who abused the powers of his office and attempted to subvert the Constitution.

The text of the article follows:

SECRETARY ON HORSEBACK

(By Anthony Lewis)

BOSTON, December 3.—When President Nixon moved to get rid of Archibald Cox as Watergate Special Prosecutor, in the Saturday Night Massacre of October 1973, his agent was Alexander Haig. It was General Haig who told Acting Attorney General William Ruckelshaus to fire Cox, adding the memorable words:

"Your Commander in Chief is giving you an order."

What few know or remember is that Haig had used that phrase, or something like it, once before. That was when Nixon ordered the invasion of Cambodia in April 1970. Haig then worked for Henry Kissinger on the National Security Council staff.

Another member of the staff, William Watts, decided to resign rather than help carry out a policy that he foresaw would have terrible consequences. Haig, who was enthusiastic about the invasion, told Watts he could not quit—"You've just had an order from your Commander in Chief." Watts, like Ruckelshaus, disagreed with the notion that he was a soldier in a military system.

Alexander Haig, we are now told, is Ronald Reagan's likely choice for Secretary of State. Perhaps that decision is final. If it is not, the President-elect and his advisers should look deeper into the record before making the choice. It is a scary record.

In the Nixon years, Haig did a lot of the nasty jobs. One example was his role on Vietnam in the last months of 1972. Kissinger had announced that peace was at hand, but President Thieu of South Vietnam was resisting the terms worked out by Kissinger with the Communists in the north.

On Dec. 18, 1972, B-52's began the Christmas bombing of Hanoi—a campaign that General Haig had urged Nixon to undertake. Haig flew to Saigon that day and encouraged Thieu by explaining that the United States was "brutalizing" North Vietnam. He also threatened to cut off all aid to Saigon if Thieu would not accept terms agreed to by the North after the bombing.

Haig played a principal role in the Nixon-Kissinger wiretapping of White House and other Government officials and journalists. Seventeen persons were tapped in 1969 and Kissinger sent Haig to the F.B.I. with 14 of those names. Among them were not only members of Kissinger's staff but the military assistant to Secretary of Defense Melvin Laird, Col. Robert Pursley, whose overheard comments might be helpful in bureaucratic warfare with Laird.

(Haig once told colleagues that Laird was "a traitor." That no doubt reflected Nixon's often-expressed suspicion that Laird was leaking to the press. Haig also applied the word "traitor" to Senator J. W. Fulbright, because of his criticism of Vietnam policy.)

In 1970 Haig asked the F.B.I. for four more taps, among the targets this time was Richard Pedersen, counselor to the State Department and a close personal adviser to Secretary of State William Rogers.

In Watergate, Haig fought zealously for a year to minimize the evidence against Nixon and keep him in office. On one White House tape he is heard counseling Nixon to avoid truthful answers: "You just can't recall * * *."

His role comes out with particular clarity in the account by Leon Jaworski, who succeeded Cox as Special Prosecutor. Jaworski, a conservative from Texas, began with deep respect for Haig but found that again and again he tried to frustrate the investigation.

After hearing the incriminating tape of March 21, 1973, Jaworski told Haig that it showed "conduct that is not only unethical but unprincipled and wrong, that I think suggests criminal culpability." After a few days Haig telephoned Jaworski and said: "We're convinced there's no criminality involved because there was no overt act * * *."

Haig also told Jaworski that "national security" justified the break-in at the office of Daniel Ellsberg's psychiatrist. His reasoning was that Ellsberg had released the Pentagon Papers, the papers had a bearing on security, and so it was in the interest of national security to get information on Ellsberg—by whatever means.

Jaworski concluded that one of Haig's jobs as White House chief of staff was "to try to placate me while helping Nixon frustrate me . . . in the search for truth."

Haig was a dedicated Nixon loyalist during Watergate. Afterwards, he was a main source of the books that portrayed Nixon as a pathetic figure in those final days, his personality disintegrating. The books painted Alexander Haig, doubtless correctly, as the man who held the Government together at the end.

General Haig is the exemplar of the careerist: a man who will do anything for his master—anything likely, that is, to advance his own career. He evidently has no feeling for American constitutionalism, for restraint in the exercise of power.

Why would President-elect Reagan want such a man to be his senior Cabinet member? If that kind of experience is desired, Henry Kissinger, with all his faults, would be the genuine article. To pick Alexander Haig as Secretary of State would be to define the philosophy of a new conservative Administration as ruthless, manipulative opportunism.●

STATE OF INVESTMENT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. OBEY. Mr. Speaker, for the last few years, there has been a great deal of political dialog on the question of the state of investment in factories and equipment in this country and what should be done to stimulate it. Any debate on a subject that serious needs to be based on reliable data. It now appears that the Government may have made serious miscalculations which have led to a substantial underestimation of the amount of money invested in our economy for expansion of factories and equipment. If the Bureau of Economic Analysis of the U.S. Commerce Department has been using the wrong figures, the Government may have underestimated investment in plant and equipment by more than $62 billion for the most recent year for which data was released, 1977. That would have serious implications for Government policy. I am inserting in the CONGRESSIONAL RECORD a copy of an article by Mr. Thomas J. Moore of the Chicago Sun-Times which appeared in the Sunday Sun-Times of December 7, 1980, describing the potential miscalculation:

U.S. STATISTICAL MISTAKES UNDERSTATE GROWTH

WASHINGTON.—For years, the federal government has been making a serious miscalculation of one of the most vital economic indicators—how many dollars are invested in new factories and equipment.

Because the government has been underestimating investment—by half in one important measure—the economy may be in better health than supposed.

President Carter and President-elect Ronald Reagan have called for measures to stimulate lagging investment. These policies may have to be re-thought in light of new information that there was more capital investment than reported.

"They're going to have to rewrite books," said one economist who was working on correcting and revising the numbers.

The key errors came in figures published by the Department of Commerce's Bureau of Economic Analysis called "Expenditures for New Plant and Equipment."

But this number has a kind of domino effect on other numbers that are closely related. When all of the figures are corrected and other changes are made, it should show:

The economy grew slightly faster than originally indicated.

Investment and savings, thought to be lagging, will be substantially higher.

Corporate profits and wages will be higher than originally reported.

Productivity, which had been seriously lagging, may have been somewhat better than reported.

Because the department was aware of possible problems with the numbers—and because it didn't count investment in some parts of the economy—a study was undertaken to find a new method of getting more accurate figures.

The results, released last week in the department's technical publication, "Survey of Current Business," showed this particular measure had run amok.

In 1977, the most recent year for which data was released, the revised figure was 46 percent higher than the original calculation.

That year the nation invested $198 billion in new factories and equipment, not the $135 billion originally reported—a shocking $62 billion difference.

As some indication of the size of the error, it would be the same as if the department had omitted capital investment by all manufacturing concerns in the nation and only reported such spending by other kinds of businesses such as airlines, communications companies and farms.

The most recently released data was for 1977, but sources close to the Bureau of Economic Analysis reported that the error was just as large in more recent years.

Experts were widely aware of about one-third of the $62 billion in unreported capital investment. This was money invested in areas of the economy that was simply not included in the sample, such as commercial real estate. But about two-thirds of that total represents capital investment that few suspected was taking place.

The biggest single discrepancy came through omission of factories and equipment bought by banks and then leased to the firms that actually used them.

The companies did not report the new factories and equipment as capital expenditures because they were leasing them. And banks did not consider it a capital investment because they were not using the new factories and equipment—they were renting them to others. In effect, these investments fell into a statistical crack.

Statistical revisions are relatively commonplace and do not create serious problems for anyone except technical experts unless they change the underlying economic trends.

In this instance the department's measure of investment was not only wrong, but it also was getting worse every year.

In 1972, the Commerce Department measure understated investment in plants and equipment by 36 percent. By 1977, the gap between the figures as originally reported and the revised numbers had grown to 46 percent. The chart below compares the total investment in plant and equipment before and after discrepancies were corrected. While other measures exist, this is one of the most important.

INVESTMENT IN NEW PLANT AND EQUIPMENT

[Dollars in billions]

Year	Original figure	Revised figure	Percent higher, revised figure
1972	$88.4	$120.2	+36
1973	99.7	137.7	+38
1974	112.2	157.0	+40
1975	112.8	157.7	+40
1976	120.5	171.4	+42
1977	135.8	198.1	+46

Source: Department of Commerce.●

AT LAST, JUSTICE FOR THE WILMINGTON 10

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 12, 1980

● Mr. EDWARDS of California. Mr. Speaker, I would like to share with my colleagues an editorial which today appeared in the New York Times. The editorial examines the recent decision of the U.S. Court of Appeals for the Fourth Circuit to overturn the convictions of the Wilmington 10.

There were many of us here in the House of Representatives who followed this case closely. Fifty-five of us joined in filing a "friend of the court" brief with the appeals court. We were represented in our effort by the firm of Arnold & Porter, which believed so strongly in the merits of our efforts and in the urgent need to correct the blatant injustices in the prosecution of the Wilmington 10 that they represented us on a pro bono basis. I deeply believe that their outstanding work in this case played a large part in its favorable outcome.

I am sure that my colleagues, especially those who have been so closely involved in the Wilmington 10 effort, will be interested in this editorial.

The editorial follows:

AT LAST, JUSTICE FOR THE WILMINGTON 10

North Carolina's pursuit of the defendants known as the "Wilmington 10" has been a blot on American justice. Using flimsy, often incredible evidence, the state prosecuted nine black men and one white woman for firebombings and police shootings during a 1971 racial disturbance in Wilmington. For eight years the state managed to conceal the weakness of its case and evade scrutiny of its tactics. But now the United States Court of Appeals in Richmond has made clear what many critics have long argued: that the convictions would not withstand dispassionate examination by the Federal courts.

In setting aside the convictions, the court found several constitutional errors perpetrated by the prosecution and condoned by the North Carolina state courts.

Only one witness, originally a suspect, linked the defendants to the violence—and he was an 18-year-old dropout of borderline defective mentality. Most of his contradictory statements, psychiatric history and inducements to testify were hidden from the defense during the trial. The prosecution concealed the witness's false pretrial statements and trial testimony.

One document, the witness's typewritten statement with the prosecutor's handwritten notations, was particularly pertinent to the defense's attempts to discredit the witness's detailed, damaging testimony. As the prosecutor had to know, the document showed more than a dozen discrepancies. Amazingly, the prosecutor refused to produce it, claiming that his handwriting made it a privileged "work product." Amazingly, the state courts agreed.

Two years ago, diligent lawyers for the Justice Department's Civil Rights Division came upon the document in a Wilmington investigation and forced it into the open. The Court of Appeals found that it showed the jury was misled and the defense was deprived of a fair chance to challenge the star witness.

It is sad that North Carolina declined to correct its own miscarriage. Gov. James Hunt reduced some of the prison terms but withheld pardons, saying he could find nothing unfair about the trial. As Judge Harrison Winter noted in his careful opinion, the Court of Appeals had numerous errors to choose from; it confined itself to matters where even the state conceded the basic facts.

The judgment comes late for the Rev. Ben Chavis and others who have already served prison sentences. But at least it is not too late to show that the nation at large is able to acknowledge its own injustices.●

TRIBUTE TO HON. JOHN McCORMACK

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. CHAPPELL. Mr. Speaker, it is a privilege and a pleasure to join this respectful tribute to the late Honorable John W. McCormack, former Speaker of the House, who represented the Ninth Congressional District of Massachusetts for more than 40 years.

A legend now, John McCormack presided over the House with unfailing impartiality and fairness. He served with seven Presidents and most certainly during one of the more controversial times in this Nation. His character, his achievements are an inspiration to generations of Americans yet to come.

Known for his intelligence, compassion, and humor, I found the former Speaker a particularly warm person. He was a down-to-earth person who deeply cared for his fellow man.

It is truly a wonderful privilege to pay tribute to this great American. John McCormack will be treated well in our history books, as his passing was a tremendous loss to this House and this Nation.●

SENATE—*Saturday, December 13, 1980*

(Legislative day of Thursday, November 20, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray. Eternal Father, may Thy spirit which is eternal be within us to refresh us, above us to bless us, around us to protect us, before us to lead us on, beneath us to hold us up.

The Lord bless you, and keep you. The Lord make His face to shine upon you, and be gracious unto you. The Lord lift up His countenance upon you, and give you peace, now and forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 13, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM SASSER, a Senator from the State of Tennessee, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. SASSER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I advise the Chair and my friend, the majority leader, that I have no need for my time under the standing order this morning. I am prepared to yield to the majority leader or yield it back, as circumstances dictate.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I tell my distinguished leader that I intend to pay tribute to my colleague (Mr. NELSON) this morning. I may need a little extra time. I am not sure. This is a bad time, unfortunately, to do this sort of thing. There is nobody who deserves more tribute than my colleague. But, of course, at this hour of the day on Saturday morning, there are not very many Senators in town.

SENATOR GAYLORD NELSON

Mr. PROXMIRE. Mr. President, I rise to pay tribute to a remarkable Senator, my colleague, GAYLORD NELSON. I have said many times that GAYLORD NELSON is the most popular Senator in this body, and with good reason. He is a wonderfully warm, friendly, sympathetic, sensitive human being. But he is something else. He can be one of the funniest and most delightful people I have ever known. But NELSON is more than a charming personality.

He has been a truly great Senator. He is not partisan. He comes from a progressive Republican family and a progressive Republican tradition in Wisconsin. He has as many fast and warm friends and admirers among Republicans as among Democrats. Yet he and a small handful of friends accomplished a political miracle in building a Democratic Party in our State.

Consider: Before GAYLORD won election to the Wisconsin State Senate, Wisconsin had 10 congressmen, all Republicans. Both our Senators were Republican. The Governor and all State constitutional officers were Republican. Republicans had 88 percent of our lower house and 31 of 33 seats in the State senate. By the time GAYLORD had served 10 years in the State senate and won election as the first Democratic Governor Wisconsin had elected since 1896, except for a 2-year Roosevelt landslide victory in 1932, that swept the Democrats into office for 2 short years—NELSON was the first Governor to be elected as a Democrat—The Democratic Party was on its way. Since then, we have had a consistent Democratic majority in the Wisconsin congressional delegation, and a solid majority of Democrats in both houses of the Wisconsin State legislature. We have consistently elected most of the statewide constitutional officers since then.

Senator NELSON was a delightful, provocative, humorous State senator, and except for a very, very small minority, he was able to win Republican support for a number of measures. Then he became in my judgment, a truly great Governor. He brought to the State the most comprehensive and successful conservation program in the Nation. Wisconsin has been famous for our lakes and rivers. As Governor, NELSON brought a legal framework of protection and enhancement to our natural beauties that will last through the ages.

Senator NELSON was born in a section of northwestern Wisconsin, in a little town called Clear Lake. His father was a family physician. It was in the twenties and thirties when GAYLORD was growing up that his father, instead of being compensated in money—because in those times, most of the people up there were strapped for money—sometimes he would deliver a baby and be paid with a pig. GAYLORD said his father considered that a pretty good trade.

He would take out an appendix and then he would have a chicken for dinner every Sunday for the next several weeks.

It was one of those happy, very close communities, and GAYLORD NELSON is still tremendously loved and admired up there. You drive into Clear Lake, Wis., and the first sign you see is "This is the home of United States Senator GAYLORD NELSON." Before that, of course, it was the home of Governor GAYLORD NELSON. They are very proud of GAYLORD. They love him dearly and with good reason. It is the kind of situation where you can go down the street and not only does everybody know GAYLORD NELSON, he knows and loves all of them. It is true not only in Clear Lake, but throughout Polk County.

GAYLORD made himself famous throughout the State for his marvelous Clear Lake stories about some of the characters that GAYLORD NELSON has known and worked with throughout the years. But GAYLORD as a Governor was not only a great conservation Governor; he was also a remarkable friend of the University of Wisconsin. We are proud of the university. We think—and I am sure many other Senators would contest this, but we feel we have the best higher education system of any State in the Union. It is an eminent university by any comparison and Senator NELSON made it stronger. I think no Governor has contributed more to the stature and strength of our State university than did Governor NELSON.

● This "bullet" symbol identifies statements or inserti ons which are not spoken by the Member on the floor.

Here in Washington, as a brilliant U.S. Senator, GAYLORD NELSON has done far more than most of us realize. He has been the preeminent conservative Senator.

He not only fought for and won a series of far-reaching conservation measures, he made the country conscious of the vital importance of our air, water, and soil to our health and happiness. He founded Earth Day.

In January of 1970, he introduced the "Environmental Agenda for the Decade," which was the blueprint for environmental action in the 1970's covering clean air provisions, clean water proposals, energy efficiency, and environmental safety, strip mining, ocean dumping, and others.

These specific proposals outlined in 1970 led to a series of reform bills passed by the Congress. So Senator NELSON really led the way with respect to conservation.

As we all know, he served on the Human Resources Committee with the distinguished Senator from New Jersey (Mr. WILLIAMS) with great distinction, as the chairman of the Subcommittee on Manpower, and did a great deal to provide for a sensible, practical, workable, effective manpower program in which young people would be hired to work and to learn while they were working.

When dealing with the impersonality of Federal legislation, it is all too easy to forget the actual people who will be affected by that legislation. GAYLORD NELSON never forgot these people and throughout his service in the Senate, he has been a valiant champion of those most in need of help who have no high paid lobbyists to represent them. His efforts to assist the unfortunate will be sorely missed.

GAYLORD NELSON has never been afraid to take an unpopular stand if he felt it was the right thing to do. Long before popular sentiment had swung in opposition to the conflict in Vietnam, he did not hesitate to speak out against our tragic involvement, even at the risk of his political career.

He served with great distinction on the Finance Committee, with the distinguished Chairman of the Finance Committee RUSSELL LONG. I am sure that Senator LONG is well aware of the remarkable contributions GAYLORD NELSON has made.

He has been chairman, of course, as we all know, of the Small Business Committee. As chairman of that committee, he championed a whole series of bills to provide tax relief, to provide greater incentives and greater opportunities, easier credit for small business in this country.

He has been a great champion of small business. He has also done a great deal for the Wisconsin dairy farmer.

Mr. President, I am very happy and proud to have served with GAYLORD NELSON. We will miss him very much. He has been a great friend of all of us, certainly a great friend of mine.

I did want to take these few moments to pay tribute to this remarkable human being and say how much we will miss him.

Mr. President, I am happy to yield time to my good friend from New Jersey (Mr. WILLIAMS).

Mr. WILLIAMS. Mr. President, I am very pleased to join my good friend, the senior Senator from Wisconsin, as we have these parting words of a description of our friendship and respect for Senator GAYLORD NELSON.

The senior Senator from Wisconsin has done such a complete job of describing all of the qualities of GAYLORD, who we love so much, respect so much, and enjoy so much, that I think it would probably be adequate to just associate with all that Senator PROXMIRE has just said.

But I will add that as a Senator here who had the opportunity to serve with Senator NELSON through his entire Senate career, I can say that he has been a truly guiding light for me on so many major matters that have come before us, that have been before our Nation. He is truly a leader in so many areas.

We served on the same committee, Labor and Public Welfare, now Labor and Human Resources, and through the whole range of subjects that are within the jurisdiction of that committee, GAYLORD NELSON took leadership in a way that was most effective.

When you enter any discussions on education, health, employment, or other matters before that committee, his understanding of the issue is complete.

The way he developed ideas was so complete, in giving Members the insights needed to come to decision and judgment, and for myself, I found his decisions and judgments were always so necessary and so right.

When he associated with any of those matters within our committee, there was a depth of conviction and a dedication of effort that made so much that has been good for our country come to pass, and, again, in employment, and then in other areas, environment, conservation.

I have appreciated the opportunity to be a Member of the Senate with GAYLORD NELSON.

Mr. BAKER. Mr. President, will the majority leader yield me 1 minute?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I yield back my time to the Senator.

Mr. BAKER Mr. President, I thank the majority leader. I will only use a minute and then I will recommit to the majority leader whatever portion of the remaining time may be available.

Mr. President, I rise to speak on behalf of those of us on this side of the aisle in paying respect and expressing our friendship and admiration for the Senator from Wisconsin, GAYLORD NELSON.

I am sure I speak for every Member on this side when I say that he is universally respected. He has been a bastion of decency and efficiency.

While we have often disagreed on major issues, we have never disagreed on the proposition that he has been a valuable representative of his State in this Chamber and made contributions that will long be remembered.

So, Mr. President, may I offer my congratulations to Senator NELSON for his years of fine service and express to him and his wife many years of productive endeavor, to express our feeling that we will miss him as a friend and colleague, and to join in our voice in those of so many on the other side of the aisle in making these expressions of friendship today.

Mr. LONG addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, the U.S. Senate is losing many distinguished Members at the end of this Congress and one of the most distinguished is GAYLORD NELSON.

During his 18 year career in Congress, GAYLORD has earned a respected reputation as a staunch environmentalist, supporter of labor, friend of the elderly and the poor, and consumer and health advocate.

I have had the honor of serving with GAYLORD on the Senate Finance Committee and have witnessed first-hand his ability as a prudent and fair tax reformer.

But, I feel confident in the saying we have admired GAYLORD the most for his role as the champion of small business.

In my 32 years in Congress, I can honestly say I have never seen any Senator as vigorous, as effective or as dedicated to the cause of small business as GAYLORD NELSON.

We will all miss him. As a friend of GAYLORD's and as a colleague, I will miss his quick wit, boundless energy and enthusiasm, his compassion and his competence.

I hope we have not seen the last of our friend from Wisconsin when this Congress adjourns sine die. Called by many "the conscience of the Senate," GAYLORD's guidance and counsel will be valued for many years to come.

Mr. RIEGLE addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

Mr. PROXMIRE. Mr. President, I have 15 minutes. I will yield to the Senator from Michigan on my time.

The ACTING PRESIDENT pro tempore. The majority leader has 6 minutes remaining.

Mr. PROXMIRE. I am happy to yield to my friend from Michigan.

Mr. RIEGLE. Mr. President, I join my colleagues in reflecting for a moment about Senator GAYLORD NELSON and his leadership and contribution over 18 years here in the U.S. Senate.

I doubt that anyone here has accomplished more in terms of actual legislative accomplishments than GAYLORD NELSON has on all issues across the board. Some areas that have been mentioned, small business and environment, have been areas of particular leadership for him. But across the spectrum of all areas, other committees on which I have had the opportunity to serve with him, I have seen him effect legislation and improve legislation in almost every instance.

I think it is important to note his courage on the Vietnam war, back in the early days when it was not easy to oppose the Vietnam war. When the war had an emotional head of steam behind it, he had the strength and vision to ask the difficult questions that needed to be asked and to stand alone at different times to try to help bring an end to U.S. involvement in that war.

I know that I, for one, will always be grateful for that particular act of leadership on his part.

Certainly, in terms of esteem of his colleagues, I doubt there is anyone here better liked or more respected than Gaylord Nelson.

Certainly, his good humor—as Senator Long mentioned—is one of many very appealing characteristics of Gaylord.

But I think another would be the fact that he has that nice sense of proportion about this job, which I think can go to a person's head, and has never gone to his head.

I think his easy, friendly ways and warm nature are really very priceless parts of today's Senate.

They will be missed in the Senate of next year, and years beyond.

I, too, want to join in thanking him for all the good work, and hope he will continue to give us guidance and counsel in the years ahead.

Mr. PROXMIRE. I am happy to yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, this body will have a large vacuum in it after the distinguished Senator from Wisconsin leaves it. Senator Gaylord Nelson indeed has been one of the giants of the Senate.

Certain men in this body have risen to the top and certain men have come to have national reputations. Gaylord Nelson is that kind of person. His dedication to the environment and to people-oriented issues is incomparable.

He has a warm sense of humor. Gaylord Nelson is a low-key person. He is not one of those who is constantly in the forefront of the battles, but then, every so often, that occasion presents itself and, without exception, he has risen to the battle. His voice has thundered through these Halls in connection with concerns of the environment and of people.

The people of the State of Wisconsin will miss him. In my opinion, he is one of the Senate greats. The people of Wisconsin will lose the services of an extremely able Senator and the Nation will lose the services of a great Senator.

We in this body will miss the warmth of his personality. We will miss a great, good friend.

Mr. PROXMIRE. I thank the Senator from Ohio for those eloquent words.

Mr. President, I wish to add something about Gaylord that is easy for us to overlook but is important, and that is his family.

We talk about people being family men. Here is an outstanding family man. He has a marvelous wife in Carrie Lee. Many of us know her. She is blunt, delightful, straightforward, direct, and, like Gaylord, she is humorous and full of fun. She is a marvelous wife. We all love her dearly. They have three most attractive and charming children.

It is typical of Gaylord that the first thing he thought of after he lost the election was his family. He called them all together, and they had several days together until they could sort of get their bearings once again. Gaylord is devoted to his family and proud of them, and they are a marvelous unit. We all know how difficult it is to be a conscientious U.S. Senator, which he certainly has been, and at the same time to be devoted to your family and give them the time, affection, and concern that Gaylord did. That is due as much to Carrie Lee as it is to Gaylord.

Mr. President, I ask unanimous consent that other Senators may add their statements of this series of statements we have had the opportunity to make this morning. This is Saturday morning, a very bad time to expect Senators to be around to take any kind of action. So I hope that other Senators will have an opportunity to add their statements later.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, the State of Wisconsin is well known for its fine cheeses. Our admiration for that State goes beyond that point. It is admired for its selection of leaders, and one of the most admirable legislators its citizens sent to this body is Senator Gaylord Nelson.

It has been my privilege to have served with him for 17 years in the Senate. We have worked together in the Senate Committee on Labor and Human Resources, and its predecessor Committee on Labor and Public Welfare. During those years, the committee produced far-reaching and significant legislation the Congress has ever achieved. A share of the credit for advances in health, education, and social welfare programs over the past decade or more goes to Gaylord Nelson.

He is a gifted lawmaker, drawing on his long experience in the State legislature; and as Governor of Wisconsin. He is rightly regarded as the "conscience of the Senate," for Gaylord Nelson not only has a brilliant mind, but he is a rock of integrity. He is the author of the Senate's first "Code of Ethics and Conduct."

With his enthusiasm, his knowledge and experience, his absence from this body will be a real loss to the State of Wisconsin and the Nation.

We will miss this dedicated and knowledgeable man. The work on issues we face in the years ahead will be the lesser because of his absence. Mary and I extend our warm personal wishes to Gaylord and Carrie and their three fine children for future happiness and service.

● Mr. DOLE. Mr. President, at the close of the 96th Congress we have to face the fact that a number of our colleagues will not be with us when we reconvene in January of 1981. In the opinion of the Senator from Kansas, few of the departing Members of the Senate will be missed more than the Senator from Wisconsin, Gaylord Nelson.

Gaylord Nelson first came to Washington in January of 1963, having served with distinction for two terms as Governor of Wisconsin. Senator Nelson joined the Senate at the height of the Kennedy administration, and was closely involved with the great issues faced by the administration and its successors: the civil rights revolution, the war on poverty, and the domestic unrest that rocked the country in the late 1960's. As the 1970s dawned, Gaylord Nelson stood at the forefront of the movement to increase our awareness of the threat to our natural environment, and to balance that concern with the other demands of our society.

Mr. President, in each of these areas Senator Nelson made a great contribution to resolving disputes that threatened to divide the country. He has never tried to sidestep a tough issue, and he has never backed away from a stand he deeply believed in. That is why he has earned the universal admiration of his colleagues, even of those who may have honest disagreements on matters of public policy.

Now after three terms in the Senate Gaylord Nelson is leaving. His departure is, in some ways, a sign of the changing times. The issues that most deeply concern the public have changed over the past decade, and we have difficult battles ahead. But whatever direction the shifting political tides may turn, we can find no better example to follow than the career of Gaylord Nelson. His intellectual integrity, devotion to the causes he believes in, and friendship will long serve as a model for those of us who follow.

As chairman of the Subcommittee on Social Security, Senator Nelson has acted to insure the integrity of the retirement system on which so many American rely. As chairman of the Small Business Committee, he has shown great sensitivity to the vital role of small business in our economy, and to the frustration of small businessmen with the rising load of Government regulations and taxation. These are problems that very much concern us today, and I am sure my colleagues share my hope that we will continue to have the counsel and advice of Gaylord Nelson in the years to come.

To Senator Nelson and his wife Cynthia, and their three children, I would like to extend my best wishes for the future. I know that Gaylord Nelson has many achievements ahead of him, and I hope to continue to have an opportunity to consult with him on the issues that concern us. We cannot pretend that the Senate will be the same without him, but we can and do hope to continue our professional association and our friendship with him.●

THE H'MONG OF LAOS

Mr. PROXMIRE. Mr. President, recent reports of gas warfare against the H'mong Tribe of Laos have come to light in the Western world. The H'mong Tribe has been reduced in number from 500,000 in 1960 to 150,000 in 1980.

While many lost their lives during the Vietnam war, many others are dying slow and painful deaths today. Helicopters and planes have sprayed northern Thailand, where the H'mong live, with poisonous gas and chemicals. These chemicals have caused the H'mong to suffer severe vomiting, chest pains, dysentery, pneumonia and, ultimately, death.

The H'mong survivors believe they are being persecuted because of their past efforts to help the U.S. Government prevent the establishment of a Marxist government in Laos.

As one H'mong general has said, the Communists "believe they must kill all H'mong—soldiers, farmers, children," because of the help the H'mong gave to the U.S. Government.

Mr. President, the Reader's Digest, has described this as a clear case of genocide. It must be stopped.

By signing the Genocide Convention, many of the world's nations have put aside differences and united to condemn such barbarity, and they have resolved that such cruelty must never again be allowed to transpire.

Mr. President, for over 30 years, the United States has refused to join these countries. Why?

How many more examples of genocide will it take to convince this body of the need for the ratification of the Genocide Convention?

We must show our concern for the lives of innocent persons.

Mr. President, I ask unanimous consent that the article, "Gas Warfare in Laos," from the October 1980 Reader's Digest, which further describes the senseless elimination of the H'mong, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD. as follows:

GAS WARFARE IN LAOS: COMMUNISM'S DRIVE TO ANNIHILATE A PEOPLE

(By Jane Hamilton-Merritt)

The place is not a pretty sight. I.V.'s drip fluid into skinny arms. Doctors and nurses scurry from one wooden-slab bed to another, responding to pleas for help. I am at Ban Vinai, a refugee camp along the Mekong River just inside northern Thailand. It is populated by some 35,000 H'mong (pronounced Mong) tribal refugees from the mountains of Laos. They suffer from severe malnutrition, malaria, amoebic dysentery, tuberculosis, pneumonia and a host of parasites. For many there is a tragic complication: they have been gassed.

One of them is a friend of mine; yet I don't recognize him, although I have passed his pallet at least 20 times. Finally, through his pain, he recognizes me and sends a relative to bring me to him.

Nhia Yang Vang, about 40, had once been vigorous, energetic. Now he is a skeleton with sunken, haunted eyes. In a weak voice he tells me he had returned to Laos after I saw him in January. Concerned about relatives, he had gone back there with a party of 19 men for three months. During that time, he says, his team had been in areas sprayed by poisonous chemicals nine times.

Every few minutes his talk is broken by a racking cough that nearly strangles him. He spits bloody sputum into a tin can. A H'mong nurse tells me that he has chest pains, finds breathing difficult, cannot eat.

Nhia continues: "They hit us at the end of May at Nam Khing with the yellow chemicals. It was a white plane like a Soviet helicopter—low enough so that I could see the figures of two pilots. Immediately when they dropped the gas I fell to the ground vomiting blood. My eyes burned; I could not see. I have the 'red' diarrhea.

"It was a powder. When it touched my skin it became sticky, like an ointment, and when water is put on it, it becomes liquid." He stops for another bout of coughing. "You know, after a rain the chemicals will get into the water and poison it. Now that it is the rainy season, it will be so easy to poison us all."

JUST LIKE THE JEWS

In 1960, there were at least 500,000 H'mong in Laos. Today, perhaps 70,000 are still alive there, many of them sick or dying of malnutrition. Another 50,000 are in Thai refugee camps, and some 35,000 have been resettled in Western countries. The H'mong survivors in Laos now face a terrible future, for they are the targets of a deliberate, calculated policy of extermination.

This policy is the tragic heritage of the H'mong commitment to America's effort to prevent a communist takeover in Vietnam and Laos. The United States, unwilling to send its own troops into Laos, opted for another kind of army—a guerrilla army recruited mostly from the H'mong, but also from other Laotian tribes; such as the Yao, Lahu, Lao Teung. Trained by the U.S. military and the CIA, the H'mong formed the backbone of the resistance against the communist forces in Laos that were supported by North Vietnam, China and the U.S.S.R. They sabotaged war supplies moving south along the Ho Chi Minh Trail, and rescued American pilots shot down in Laos. They proved adept at intelligence work, gathering vital information on troop, tank and supply movements.

Gen. Vang Pao, who commanded the H'mong forces and now lives in the United States, told me recently that his forces destroyed millions of dollars' worth of military equipment, medical and food supplies moving down the Ho Chi Minh Trail into South Vietnam between 1962 and 1975. "To do that," he said, "my people gave 12,000 lives. All of that was secret, but now I want the American people to know."

When the Americans pulled out of Vietnam and Laos, the H'mong—and the sacrifices they had made—remained largely unknown. But the Vietnamese and Pathet Lao did not forget. Li Chai, who now lives in Denver, Colo., and is a leader of the H'mong refugee group there, tells why: "The communists know that we were the Americans' hands, arms, feet and mouths. That's why they believe they must kill all H'mong—soldiers, farmers, children. We suffer and die just like the Jews in World War II, but the world ignores us."

HIDE IN CAVES

Gen. Vang Pao says, "Communist gassing of the H'mong people began in August 1975, at Mung Om and Nam Fen, south of Phu Bia, where 17,000 men, women and children were killed. I learned from a Pathet Lao defector that from 1975 to 1978 the gassing had killed 50,000 H'mong in the Phu Bia area alone. During that time some 45,000 died from starvation and disease, or were shot trying to escape to Thailand."

Today, in tribal refugee camps in northern Thailand, H'mong refugees tell of starvation, rape, the crippling of children whose fathers worked for the United States, of massacres. But what frightens them most are the poisons, which they call "rain," "gas," or "smoke," for they cannot hide from the chemicals that poison them, their water, animals, plants and fields.

Survivors speak of several kinds of "rain." Yellow and red are very serious, and a direct hit means sure death. Green and blue-green rains are not as immediately lethal. A small bit of opium often enables victims to survive, but they suffer vomiting, bloody diarrhea, fever, bleeding through the nose, and dizziness.

Recently, still another chemical, a light-yellow powder, has been dropped by four-engine planes or by helicopters. The latter, a U.S. military spokesman tells me, resemble Soviet MI–4s or MI–8s.

A H'mong farmer, looking much older than his 40 years, says: "For two years they attack my area in Laos. The planes cover us with red smoke, and the people and animals die. We cannot grow rice or farm. We must hide in caves.

"They drop poison on us 200 times in 1978 and 1979. The first time five people die immediately. Red smoke rolls over the area and everyone is sick. It smells like burning rubber. I swallow a bit of opium, but slide to the ground unable to move. In about an hour I can get up, but I cannot eat or drink. I become very skinny. Twelve more people in my village die of being skinny."

CHRONICLE OF HORROR

The stories are countless. One man sits before me in Ban Vinai refugee camp in Thailand carrying "evidence" of the continued gassing in Laos. Trained by the Americans in intelligence in the 1970s, this former H'mong lieutenant had crossed the Mekong River to Thailand on June 6. From a miniature diary that he miraculously managed to bring, he quietly reads:

"On 15 May 1980, two Soviet helicopters dropped yellow powder on a H'mong village of 200 at coordinate TF 9376. Thirty-five died within seven days; the remaining are very sick."

He recites another attack. Then, carefully turning the tattered pages of his diary to check dates, figures and location, he chronicles what happened to him after the American withdrawal from Laos in April 1975:

"The first gas attack was in October 1975. The communists couldn't take our village by fighting, but they came back with airplanes. One carried red gas, another yellow. Those near where the chemical rockets exploded fell unconscious, with bleeding from the mouth and nose. Many died. Soon afterward a yellow water flowed from their bodies.

"They hit us with gas for three days. Seventy-five people died immediately. Five hundred more died within a short time. I was lucky, for I was not in the village at the time.

"For three years we were constantly attacked like this. We must live in the jungle like animals. Since early 1980, people are so hungry that they eat leaves exposed to the chemicals, and 715 people have died in my area. I dig in the ground for roots and water, but many are too weak to do this. We have no cloth to cover our bodies from mosquitoes, so we all have malaria. We have no medicine, so we are all sick."

SHOT IN THE ARM

On a visit to Thailand in January, my friend Nhia Vang, who had just escaped from a Vietnamese prison camp in Laos, told me a story not only of genocide, but of an added horror: medically supervised experimentation that uses chemical agents on imprisoned H'mong men, women and children:

"In November 1978, a Vietnamese force of 3500 captured about 1200 H'mong men, women, and children—including mine—in the jungle where the red and yellow smoke had forced us to live. We were taken to a camp called Tong Mien, which held 2000 H'mong prisoners. We were given only a small portion of rice every 15 days, and many of my people were shot trying to get to the forest for food.

"Then, on March 25, two MG jets flew low over our prison camp and sprayed us with white rain. One hundred people died immediately. The rest of us had diarrhea for 20 days, then fever; we cannot walk or raise our arms. Many more people die.

"In May, four Pathet Lao medics gave injections in the arm to 30 H'mong, including me. It was the color of water. I immediately became dizzy and could not breathe. Blood spurted from my nose and I fell to the ground unconscious. A relative blew opium smoke over me for several hours and finally the bleeding stopped. In 12 hours I could see again and by the next day I could walk.

"The next day four new medics came. This time they had injections and pills for 40 gassing victims. Some medics gave my people injections and green pills, others injections and white pills. Nothing happened for 12 hours; then they have trouble seeing, can't speak and black out. Fifteen died; the rest are very sick for a long time. The medics wrote reports on the people given medicine." What has been the response of the United States to these atrocities? In my view, it has been appallingly weak and ineffectual.

The House Subcommittee on Asian and Pacific Affairs has taken testimony on the gassings. And the State Department and Department of Defense have made their own investigations. But they and other US officials including those in the White House, refuse to acknowledge that the evidence is conclusive.

After listening to testimony at the subcommittee hearings in April, Congressman Jim Leach (R., Iowa) stated: "I personally interviewed these refugees. I read State Department and Defense Department reports which are so numerous and so persuasive that they cannot be denied. No one in the White House ever saw a person being gassed in Auschwitz, but we know it occurred. I think this Administration has a moral responsibility to tell the people of the world what is happening."

URGENT MISSION

What government agencies want for "conclusive evidence" is a body for autopsy. But there are serious logistical difficulties in obtaining recently gassed victims and fresh chemicals because the gassing occurs in the remote mountains of Laos, many days' walk through enemy territory to the Thai border. One H'mong found a dispensed gas canister wrapped it heavily in old clothes, and started to walk it out of Laos to Thailand. The chemical residue in the canister killed him before he reached the Mekong.

I asked Vang Neng, H'mong chief at Ban Vinai, about the U.S. insistence on having a body for autopsy. In a voice of frustration and anger, he said, "Yes, I have bodies for autopsy. I learned yesterday that the communists gassed a village on May 14, killing ten immediately. This is many days' walk from the Mekong. By the time we carry one body out, it will be spoiled."

Last fall, a step in the right direction was made when a team from the office of the Army Surgeon General was sent to Thailand to investigate the gassing allegations. They interviewed 40 men, two women and a 12-year-old girl, all of whom were witnesses to and survivors of, gassing attacks in Laos and concluded in a report withheld from the public that chemical agents had been used against the H'mong. Two recommendations were: to "develop a plan whereby blood, tissue or other specimens may be rapidly transported from the suspect area to the Biomedical Laboratory for analysis and to establish a medical team, on a standby basis, prepared to travel to the site of future allegations to conduct interview/examinations." The final recommendation read: "From a military defense position, it would seem to be an extremely urgent mission to initiate every effort possible to identify the chemical agents that have been used and to develop appropriate countermeasures, antidotes, etc."

Unfortunately—indeed, unbelievably—those recommendations have been ignored. On June 30, 1980, I reported to the U.S. embassy in Bangkok that I had located two men in a refugee-camp hospital who reported being gassed in the latter part of May. The timing for testing was within the six-week limit recommended by the Surgeon General. After 14 days of evasive and false information by the embassy and other U.S. officials in Thailand, I returned to the camp myself to speak directly to the two men recently gassed and to the camp medical personnel.

Only then did I learn that medical experts familiar with gassing had not conducted the investigations. We had sent a Thai nurse and an American public-health worker, who admitted he was a "novice" with regard to chemical warfare and, in his own words, had "very little" instruction even in how to collect samples. When I left Bangkok on July 18, the specimens were still there.

WILL YOU HELP

While the West refuses to acknowledge the use of lethal chemical agents by the Soviet-backed regimes of Hanoi and the Pathet Lao, the Vietnamese government applauds its army's chemical-warfare branch by awarding it a Ho Chi Minh medal. According to Hanoi radio monitored in Thailand in April 1980, Gen. Le Trong Tan told the unit: "Chemical weapons contributed to winning the great victory in the great anti-U.S. salvation resistance struggle" and in "tasks in the new situation." The "new situation" undoubtedly refers to Laos, Cambodia—and possibly Afghanistan.

The State Department calls evidence suggesting a Soviet role "circumstantial," but it is more than that. Independent intelligence sources have confirmed the presence of Soviet Gen. V. K. Pikolov's chemical-warfare forces in Laos—and subsequently in Kabul, Afghanistan. In addition, Soviet chemical-warfare experts are said to have visited several cities and areas in Laos to inspect "chemical explosives"—artillery shells, bombs, rockets. In sum, it is hard to escape the conclusion that the Soviets are involved, certainly in the production and distribution of chemical agents, and probably in on-site surveillance and medical experimentation.

Meanwhile, the H'mong continue to die. A H'mong leader who is responsible for almost 30,000 civilians in Laos recently crossed into Thailand. His words haunt me: "I have come to see if anyone has food, clothing or medicine to protect us from gassing. Someone must help, soon, or we will all die. We are friends of the Americans. We fought for freedom. Will you help?"

Will we? How?

First, a fully publicized Congressional hearing—both Senate and House—into the gassing of the H'mong should be held. This would inform the U.S. people and attract world-press coverage of the atrocity. And the U.S. government should make communist gas warfare a major issue before the United Nations and every international forum.

Second, direct pressure should be applied on Hanoi by Free World industrial nations on whom Hanoi greatly relies for the technology and financial aid to rebuild Vietnam. This must be done at the highest private "hot-line" leader-to-leader level. Hanoi should be told that this inhuman policy must stop or aid will be halted.

Finally, since Vietnam is a client state of the Soviets (apparently the source of the lethal chemicals), the United States should inform the Soviets that any discussions of other issues will be put off until we are satisfied that chemical warfare in Laos has ceased.

At Ban Vinai Camp, Vang Chue, an 18-year-old boy who has been gassed, is carried into the hospital. His chest heaves with erratic contractions and he struggles to breathe. His face is heavy with sweat and I see a tear looming—the first H'mong-soldier tear that I have ever seen. I lean down to talk with him.

"I'm so sorry that my country is dying," he says in a voice of pain. "Please do something."

SENATOR HERMAN E. TALMADGE

Mr. LONG. Mr. President, it is with the mixed feelings of great pride and profound sadness that I address this Chamber today in behalf of my colleague and friend, HERMAN EUGENE TALMADGE, the senior Senator from Georgia.

I feel a deep sadness because when this 96th session of Congress adojurns sine die. HERMAN TALMADGE will end a brilliant career in the U.S. Senate that spanned 24 years, and we no longer will see the performance of this great statesman.

But I also feel great pride and a sense of fulfillment because I have been honored to call HERMAN TALMADGE my friend.

I have known HERMAN as well as I have known any Member of this Senate. Our fathers were friends decades ago when they were Governors of their respective States.

HERMAN TALMADGE came to this Senate 24 years ago after having served brilliantly for 6 years as Governor of Georgia. He brought with him to Washington the great experience and maturity developed while serving as chief executive of his State.

He brought with him a keen legal mind, a great intellect and intense dedication and patriotism. And he brought with him a virtue for which his fellow Georgians are well known—a sense of personal warmth, compassion and respect for his fellow human beings.

To know someone for 24 years, one learns a great deal about that person. But after having known and worked with HERMAN on an almost daily basis for two and a half decades, I feel that I am still learning new things about this man.

I am learning of his generosity, of his dedication to his duties, of his love for the people of his State and Nation, and of his humility.

Like myself, HERMAN TALMADGE soon learned after arriving in Washington that being the son of a prominent political figure made little difference in the U.S. Senate.

Being the successor to Senator Walter George and working in the shadow of the late Richard B. Russell made it all the more difficult for HERMAN to gain recognition for himself.

Through patience and tireless dedication, he won the respect of his colleagues. He serves admirably as chairman of the Senate Committee on Agriculture, Tax, Health and Trade.

His leadership as chairman of the Agriculture Committee has led to enactment of legislation that encouraged production of an abundant supply of food for the people of our Nation, expanded agricultural exports and protected farm income and prices.

SENATOR MIKE GRAVEL

Mr. LONG. Mr. President, I should like to join my colleagues in honoring Senator MIKE GRAVEL, who will not be returning to the 97th Congress after 12 years of distinguished service to the people of Alaska and the Nation.

I have had the good fortune of working closely with MIKE on the Senate Finance Committee and am very grateful to him for his hard work and many contributions to the committee.

MIKE is one of the finest, most dedicated Members of this body. I will miss him as a friend and as a valued ally during many legislative struggles.

I am particularly grateful to him for his enthusiastic support of one of my favorite legislative pursuits, the employee stock ownership programs. MIKE has cosponsored every ESOP bill I have proposed, and I will personally feel the effects of his absence as I continue in this endeavor in the next Congress.

The Nation will certainly miss the important role he has played in developing realistic and comprehensive energy policies for America. He has consistently favored deregulating petroleum prices in order to bring about a realistic response to the problem of our over dependence on foreign oil.

MIKE has always placed the interests of the great State of Alaska as a top priority, and his constituents will miss his voice in the Senate. Certainly, one of his most outstanding legislative achievements was his struggle to make the trans-Alaska pipeline a reality. The pipeline has changed the economic history of Alaska and is responsible for the budget surpluses now enjoyed by that State.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAREWELL TO OUR DEPARTING COLLEAGUES

Mr. WILLIAMS. Mr. President, I must say when I think about the sheer numbers of my colleagues who will not be coming back to these Halls next year, I can only shake my head in wonder. Their combined service in the U.S. Senate exceeds 272 years; some having worked here for several years, others for decades.

I am deeply saddened to see them go and, clearly, I am most distressed to acknowledge the range and depth of experience we are losing with their departure. Today, as I look around these Chambers at the faces of so many good Democrats and thoughtful colleagues, I am trying to imagine what it will be like without them here, and what the Senate will be like without their leadership and wisdom.

I have come to know many of my colleagues personally through the years. My wife, Jeanette, and I count many of them as our dear friends. Not only are we losing friends and allies in legislative efforts; I believe we are also witnessing the end of an era. I dare say the dramatic changes put into effect on election day 1980 are evidence of the profound changes underway outside these walls and beyond the Nation's Capital. I can only wonder how historians will interpret the events of the past few weeks, and speculate on how these changes will alter the course of the Nation.

The distinguished colleagues leaving office with the close of the 96th Congress, both Democrat and Republican, have left their mark on the pages of history, and on the lives of all their friends in the Senate. We have benefited from their wisdom, enjoyed their wit and repartee, felt their anger, and joined in debate over the intricacies of legislation ranging from pension law to the fate of Alaska lands.

My own work here these many years has given me a special appreciation for each of my fine colleagues. In these closing hours of the session, I would like to salute them, one and all. Their efforts will not soon be forgotten. Their mark on legislation affecting every man and woman in this country will be felt for generations to come. And their deep and abiding friendships will be cherished forever.

JACOB K. JAVITS

Mr. WILLIAMS. Mr. President, I cannot say enough good things about JACK JAVITS. For over three decades in the U.S. Senate, this man has demonstrated a depth of concern for humanity and an adroit grasp of even the most complex issues that have come before this body. He has impressed us with his wit, and earned our continuing respect with his statesmanship.

I have had the special pleasure of working with the senior Senator from New York on many far-reaching bills that have come before the Labor and Human Resources Committee. He has been a powerful ally and ardent debater through the years, and his opinions have always been held in highest regard.

Of all Senator JAVITS' attributes, the one I think may have won him the most admiration is his striking ability to speak most astutely on any issue of importance or concern to the people of his home State of New York. A number of landmark measures have been designed and approved under his vigilant leadership, and major legislation ranging from the War Powers Act to the Pension Reform Act bears the signature of his creativity and foresight.

If, indeed, JACK JAVITS goes on to hold a diplomatic post for our Nation, I know he will pursue his new responsibilities with vigor and fairmindedness that has marked his career in the U.S. Senate. And, I trust, that we will continue to have the benefit of his thoughtful advice on a broad range of issues in coming years.

The Senator's seniority on committees is unmatched by any New York Senator in recent history, and I am sure his retirement from these Halls after so many years will leave a considerable gap in those areas where he has served. But much more than his expertise will be missed when JACK JAVITS walks down these aisles for the last time.

I, for one, will truly miss his friendship and the camaraderie we have enjoyed even when we disagreed on issues before us. But he has left his mark on our lives and on the lives of countless generations who will reap the benefits of his efforts.

The Labor and Human Resources Committee, which I chair, is the focal point for Senate development of legislation benefiting American workers. It considers all bills in the areas of labor relations, education, jobs programs, and health. The committee, and the Senate as a whole, has found fewer and fewer advocates among its Republican members for the concerns of labor. As a result Senator JAVITS' efforts have become crucial in developing bipartisan support for the committee's objectives.

As the senior minority member of that committee, JACK has played a key role in the enactment of numerous important laws enacted in the labor-manpower area during the past 10 years. I know I have counted on him many times and have never hesitated to look to him for wise suggestions and thoughtful debate. We have developed a very close working relationship, and through the years many important matters such as equal employment opportunity, pension reform, workers' compensation reform and increasing the minimum wage have been pegged as "Williams-Javits" bills.

I am proud to have had JACK JAVITS as an ally. And I am most honored to have worked with him on measures affecting the lives of America's 100 million working people. If I may take a moment to mention some of the key bills on which we have joined forces, I would like to highlight occupational safety and health, workers' compensation, labor law reform, pension reform, fair labor standards—minimum wage, and child labor—equal employment opportunity, agricultural labor and age discrimination legislation.

Of course, Senator JAVITS, has left his mark on more than labor issues, but this area is especially dear to me, and it was by working with him in this area that I came to respect and admire the extent of his concern and his wisdom.

JACK, you will be sorely missed, but certainly not forgotten.

I bid you a fond farewell.

FAREWELL TRIBUTE TO SENATOR MIKE GRAVEL

Mr. WILLIAMS. Mr. President, after the long and arduous battle to complete work on the Alaska lands bill, I do not believe any Member of the Senate would disagree that Senator MIKE GRAVEL can be a formidable opponent. Senator GRAVEL has shown himself to be a courageous and hard working Member of the Senate, and one who has never been afraid to speak his mind.

Serving a State with the highest living costs, he has continuously amended legislation and tempered arguments to reflect the concerns of Alaskans and better meet the unique situations in that State. Several years ago, for example, he contributed an amendment to a housing bill that provided more realistic levels for Government guarantees of mobile home mortgages. Without the change mandated by his action, residents of Alaska would still be unable to take advantage of this important loan program.

MIKE GRAVEL has also made his presence known on a number of energy/environmental issues such as construction of a pipeline to deliver crude oil, and in making the Alaska natural gas pipeline a reality. He played an integral role in working out the important Native Claims Act too, in 1978, working to forge compromises and bring about agreement, settling claims that had stymied all development for many years.

His environmental concerns and efforts to encourage the use of aquaculture in Alaska have earned him an impressive reputation in the field, and the respect of people across the country.

He will surely be remembered by all of us here, and by history, as a qualified legislator and dedicated public servant. I wish him well in the years ahead.

FAREWELL TO SENATOR FRANK CHURCH

Mr. WILLIAMS. Mr. President, when we think of the term statesman, we like to imagine someone who is dedicated selflessly to fine public service and who understands the complexities of both foreign and domestic policy. That is why the name FRANK CHURCH and the word statesman are almost synonomous.

For well over a generation, FRANK CHURCH has brought to this body a special blend of statesmanlike qualities which have made him among the most valued of colleagues. His knowledge of foreign affairs, his special skill as a sensitive and crusading champion of the elderly, and his vigorous pursuit of corporate abuse has placed him in the forefront of the most critical issues of our time. He has, in every way, been the kind of Senator people can be proud of and though the results of this recent election must have been disappointing for FRANK, he can take comfort knowing that citizens of Idaho will always look on his fine record with respect and with appreciation for its diversity and strength.

FRANK CHURCH comes from strong Idaho pioneer stock, and it is interesting that his territory was the land of the gold rush and opportunity. FRANK'S career, from earning the Bronze Star in World War II as an intelligence officer, to a successful practice of law in Boise, to election to the Senate in the year 1956, has been a case study of opportunity and the way one with promise can succeed in our society. It is little surprise that he became the first Democratic Senator ever reelected to this body from Idaho and that the voters of that State saw fit to return him to office a record four times.

FRANK'S career in the Senate has been marked with courage and special achievement. It took courage and a sensitive regard for moral principle to oppose our Nation's involvement in the Indochina war and FRANK CHURCH was, of course, one of our earliest and most outspoken opponents of that tragic conflict.

His work on the Committee on Emergency Powers, which grew out of this early concern about the role of the U.S. military in foreign conflicts, led to new legislation reasserting congressional control over emergencies declared by the President, a noble achievement in the precious balance between the branches of government.

This same sensitive concern for the role of government made FRANK CHURCH a leader during the Watergate episode and his efforts contributed to the restoration of faith in government for the people of our land. He took the lead on issues like financial disclosure, and his service as chairman of the Subcommittee on Multinational Corporations proved that Congress was not afraid to tackle the powerful interests which attempt to dominate the workings of our free enterprise system.

Mr. President, my own work in the Senate has concentrated closely on the rights and needs of senior citizens and there are few Senators whose assistance I have considered more valuable than FRANK CHURCH'S. His service as chairman of the Special Committee on Aging and his work on issues like social security improvement have made him among the best of all legislators working on behalf of our Nation's elderly. The list of honors he has received from our Nation's senior citizen organizations would fill volumes in the RECORD.

We can appreciate, too, the lead he has taken in bringing compromise to the difficult area of environmental protection. I know that he is described as an "old-fashioned conservationist," but there is nothing old-fashioned at all in his healthy love of the out of doors and his determination to see it protected from overexploitation. At the same time, he has worked diligently to insure that the wonderful natural resources of his native Idaho, and similar areas of bounty in our Nation, can be used to relieve the extraordinary need our growing country has for necessary raw materials. In all these efforts, FRANK CHURCH has been someone admired by environmentalist and businessperson alike.

Mr. President, I would be remiss too if I did not mention Senator CHURCH'S outstanding contributions as chairman of our Foreign Relations Committee and his leadership in focusing on the abuses within our Nation's intelligence establishment. His leadership in these areas has been marked with the same characteristics of fairness and wisdom which so typified his entire service in this Chamber.

Mr. President, we shall miss FRANK CHURCH deeply because he has been the kind of Senator who makes us all proud to be a part of this fine institution. My wife, Jeanette and I wish FRANK and his wife Bethine the very best for the years to come.

FAREWELL TO SENATOR JOHN DURKIN

Mr. WILLIAMS. Mr. President, elected in a special election held in September 1975, after considerable controversy over the outcome of polling results the previous year, Senator JOHN DURKIN took the U.S. Senate by storm.

From day 1, he has stood up for the Northeast's energy interests and worked to convince opponents of the need for a cogent national energy policy which recognizes budget concerns as well. His diligent work to secure energy tax credits for wood-burning stoves lent credence to his vow to protect consumer rights and foster a more benign Federal attitude toward citizens' efforts to conserve energy.

His clear-headed analysis of issues earned him the respect of his colleagues, and his dedication to measures of principle concern to the people of New Hampshire won him the respect of many.

I had the pleasure of working with my distinguished colleague on the Senate Aging Committee several years ago, and I would like to acknowledge and commend his support for legislation designed to improve the quality of life for elderly Americans. Our shared interest in this field made up allies on a number of occasions, and I always appreciated his support and hard work in that area.

Senator John Durkin may long be remembered for the sense of fairness and thoughtfulness which he demonstrated on every occasion. His dedication to liberal principles and the interests of labor marked him as a man determined to do what was right, and not simply what was popular. That kind of courage deserves recognition.

I am sure that Senator Durkin will continue to pursue the principles and concerns that guided his work here in the Senate, and I want to wish him every success in whatever new challenges he faces in the years to come.

A TRIBUTE TO GEORGE McGOVERN

Mr. WILLIAMS. Mr. President, George McGovern's story has become a familiar one. Thanks to his run for the Presidency in 1968, I would venture to say that most of the people in the Nation have their own image of this preacher's son from South Dakota who has done so much to forge the Democratic Party in that farm State.

But I wonder how many of those people have a clear idea of just how much George McGovern has accomplished these past 18 years in the Senate. As the first Senator to really speak out against the Vietnam war, Senator McGovern showed himself to be a brave and committed figure, unafraid of exposing himself to criticism or negative publicity.

In addition to his stand on the war, my distinguished colleague has directed his talents and considerable energy to protecting South Dakota's interests in the Senate Agriculture Committee. Always identified with the major issues of the day, he can claim many significant legislative victories, including reform of the food stamp program, and notable progress in the field of nutrition in general.

If we had not expected such far-reaching and impressive activity from this unassuming man, it certainly did not take long to recognize that he was a man to be watched, and a man to have on your side in debate. George McGovern symbolizes the kind of Senate, and the national perspectives, that carried and motivated the people of this Nation over the past two decades. His retirement from these Chambers marks the demise of priorities and attitudes we are told no longer work. But somehow I am sure that the principles and ideas upon which George McGovern based his life and his political career will never be extinct. I will sorely miss his presence here in this Chamber, and I know I will miss the experience and wise counsel which he lent to our activities. His tenure in the U.S. Senate has been marked by principled determination and honest concern, and I trust his contributions will be remembered and noted by men and women for generations to come.

My wife, Jeanette and I wish George McGovern and Eleanor McGovern success and happiness in all that they do in the years to come.

A TRIBUTE TO RICHARD SCHWEIKER

Mr. WILLIAMS. Mr. President, as a champion of labor issues, and chairman of the Senate Labor and Human Resources Committee for many years, I have come to regard my colleague from Pennsylvania with the utmost respect and admiration.

We have worked together on many fronts, Senator Schweiker and I, and I have been honored to have his support from across the aisle on several pieces of legislation which have been near to both our hearts. Most recently, we joined forces on a bill that seemed, I am afraid, almost doomed from the start; the plant closing bill.

That measure was important to both of us personally, and to our constituencies. On his part, Senator Schweiker attacked the problem of plant closings and relocation with a vigor and intensity that can only come from sincere commitment and genuine concern for the welfare of people in his State of Pennsylvania. I greatly appreciated his dedication and support, and was glad I could look to him for assistance on this and other measures.

His work, too, on the Appropriations Committee should not go without comment. In all his committee assignments, my colleague has willingly dedicated his time and efforts to insuring that programs were designed carefully and scrutinized thoroughly with an eye on cost effectiveness and, most important of all, their response to real and pressing human needs. His seat on the Appropriations Committee has given him the opportunity to follow up on legislation generated elsewhere, and enabled him to oversee the process from beginning to end.

My wife, Jeanette, and I will certainly miss the company and friendship which we have enjoyed in recent years with Senator Schweiker and his wife, Claire. And I am confident that I speak for those gathered here now when I say that his contributions in this deliberative body will truly be missed.

I bid him a fond farewell.

A FAREWELL TRIBUTE TO SENATOR HENRY BELLMON

Mr. WILLIAMS. Mr. President, though we have served on opposite sides of the aisle, and though we have found ourselves in frequent disagreement, I can say with unabashed pride that serving in the Senate with Henry Bellmon has been one of the best experiences of my life.

Henry has that rare and dry Plains-State wit which always allows him to see the humorous side of our difficult situations, and I must note that one of the most pleasant things about working with him is his ability to keep in fine spirits despite whatever predicament we find ourselves in.

As one of the few working farmers here in the Senate, his voice is a breath of fresh Oklahoma air in a Chamber that sometimes becomes too stuffy with the ponderous tones of lawyers. And being a farmer with good commonsense has made Henry one of the most insightful legislators when we consider legislation of importance to agriculture. Henry made major contributions to the Agriculture Act of 1970, the Farm Credit Act, the Rural Development Act, the 1978 Agricultural Act and the Agricultural Assistance Act of 1978, to name but a few.

Hailing from a State with strong interest in the subject of mining, Henry has also been a vigorous legislator in the field of coal mine safety and health, one of my own special areas of concern and interest. We have not always seen eye to eye, but no one has spoken more eloquently or ardently on behalf of positions he felt so deeply.

Henry's greatest triumph, however, has been in the areas of fiscal restraint and bringing rationality to the congressional budget process. He pioneered the budget process and contributed so vitally to making us all aware of the need to control the growth of Federal spending and pay special attention to the need for balance in the funding of Federal programs. Again, we have not always agreed. but the debate has been lively, educational, and enjoyable.

Mr. President, Henry Bellmon's career is, indeed, remarkable: the first Republican-elected Governor in Oklahoma since statehood, despite a 5-to-1 advantage for the Democrats among registered voters; the first Republican in 20 years to be elected to the Senate from that State and the first Republican ever to be reelected to the Senate.

Mr. President, Senator Bellmon can look with great pride on his service here in the Senate and know that all of us, Democrat as well as Republican, join in wishing the very best for him and for Shirley.

FAREWELL TO SENATOR GAYLORD NELSON

Mr. WILLIAMS. Mr. President, I would be understating the case considerably to say that Senator Nelson's defeat in November was a great surprise. Admittedly, the number of Democratic defeats shocked us all, but I was especially astonished by Senator Nelson's loss.

He is one of the most liked and respected Members of the U.S. Senate, and throughout his 18 years here his efforts have borne the hallmark of careful thought and principled action.

A quick rundown of Senator Nelson's committee assignments provides a condensed picture of his interests and concerns: Labor, Employment, Poverty and Migratory Labor, Health, International Trade, Social Security. As a hunter and fisherman, he was aware early on of the need to devise thorough environmental standards and curb pollution. Back before it was fashionable, he championed environmental protection and the preservation of natural resources. In 1970, it was Senator Nelson who proposed the idea of Earth Day, and helped set the stage for today's legislative advances in that area.

But the environment was not his only concern. Lest I overemphasize his activities in that field, I must also point out that GAYLORD NELSON was a most vocal opponent of U.S. military intervention in Vietnam.

He initiated the fight to cut drug prices and to require the use of generic, instead of trade names on drugs so that consumers would have a choice and an opportunity to save money. As a member of the Labor and Human Resources Committee which I chair, Senator NELSON has accumulated a strong record of support for labor issues, and I have enjoyed his support on a number of controversial measures.

One thing about GAYLORD NELSON: There is never any doubt that he is voting his convictions. He has never succumbed to grandstanding, even when it would have been easy, and even expected of him. He leaves no doubt in his colleagues' minds when he is passionately committed to a position, and even when we are in disagreement, Senator NELSON has a way of making his opposition palatable.

I think what will be missed most about Senator NELSON, and this is certainly no reflection on his concern for serious issues, but I think what will be missed the most is his propensity to ease a tense situation with a joke or lighthearted comment. Many have been the times when he has said just the right thing, or leavened an argument with humor, thereby facilitating a compromise or solution to the problem.

He has also been a champion of small business and family farms. Even without knowing Senator NELSON personally, a perfect stranger could probably take one look at his voting record and surmise that the Senator is a compassionate and farsighted individual. His strong character, his sense of humor, and his dedication will be missed in future months, and I would like to extend him every good wish for continued happiness and success in all that he faces in the future.

FAREWELL TRIBUTE TO SENATOR ADLAI STEVENSON

Mr. WILLIAMS. Mr. President, we have all known for some time now that the distinguished Senator from Illinois is retiring from the U.S. Senate, and when he announced his decision, we all expressed our sadness at seeing him go.

But only now, with the closing hours of the 96th Congress upon us, have I really stopped to think about what we will be losing with ADLAI STEVENSON's departure. He has been a quiet, unassuming Member of this body, and a gentleman of character. We have all enjoyed his company, and benefited from his friendship. My wife, Jeanette, and I have come to think of Senator STEVENSON and his wife, Nancy, as gracious hosts and dear friends. We will be very sorry to see him depart, but I am sure he is looking forward to returning to Illinois and leaving behind the concerns and responsibilities that have marked his tenure here.

Senator STEVENSON has never hesitated to take on difficult tasks, and he has demonstrated his mettle and legislative acumen as chairman of the Subcommittee on International Finance, as a member of the Commerce Committee, and as chairman of the bipartisan select committee which reviewed the Senate committee system.

I think we can all understand how difficult it was to come up with a workable and satisfactory method of reorganizing the committee system, and he should be applauded for the long hours and patience which he dedicated to that cumbersome assignment.

As usual, the closing days of the session have been hectic, and I am most pleased to have had just a few moments to pause and reflect on the contributions and fine service of my retiring colleagues. And I am especially pleased to offer my best wishes for every happiness in the years ahead to my dear friend and colleague, ADLAI STEVENSON. His accomplishments and unique role in guiding the business of the U.S. Senate has not gone unnoticed, nor will it be forgotten.

TRIBUTE TO SENATOR JOHN C. CULVER

Mr. WILLIAMS. Mr. President, there is not a single Senator in this Chamber who would dispute the statement that Senator JOHN CULVER is a man of great stature, nor would we dare dispute that statement.

But can anyone doubt that Senator CULVER has a heart and spirit to match his considerable size? I should say not. There may have been many things proven in the most recent elections but one of the clearest, it seems to me, is that someone with courage, with willingness to fight a good fight, and with a heartfelt commitment to the highest of principles, can make us all proud to be in the profession of politics. JOHN's campaign is one which we all will remember—not necessarily for the issues discussed and certainly not because of the outcome—but because of the manner in which JOHN spoke out forcefully and without equivocation for the things he felt were important and for the right of any person in public service to serve his constituency in a forthright and decent manner.

There is much more that JOHN CULVER will be remembered for, of course. His leadership on one of the most crucial issues of the 20th century—the control of nuclear weapons—was invaluable to this body and raised questions and points which I hope will guide the next President in his negotiation of an arms control treaty. Moreover, his service on the Environment and Public Works Committee, the Judiciary Committee and the Select Committee on Small Business was marked always with the kind of sensitivity and determination which distinguished all of his 6 years in this body.

There is something else which JOHN CULVER leaves this body. He is one of our true futurists and one who has thought deeply about the kind of country we ought to be able to live in during the next century. It was most appropriate that he served as chairman of the Subcommittee on the Future of Small Business and it is impressive, also, that his hard work led to a series of conferences in Iowa centered on the theme "Iowa 2000."

When Time magazine selected him as one of the "200 Leaders for the Future" they could not have anticipated the great upheaval which would shake American politics in the year 1980. But they did correctly discern that JOHN CULVER has a great deal to offer this Nation and that he will continue to make his presence felt as we set the policies which will guide this country into the 21st century. That is no small accomplishment, Mr. President, and it seems clear to me that none of us has heard the last of Senator JOHN CULVER. I fully expect, indeed look forward, to hearing and studying his wisdom for many years to come. And I know that the Senate will feel his presence for many, many sessions ahead.

It is with great affection, and with great appreciation for his forward-looking service, that we say farewell to JOHN CULVER and that we wish him and Ann all the best for the years to come.

FAREWELL TO SENATOR DONALD STEWART

Mr. WILLIAMS. Mr. President, although he has only been here a short 2 years, Senator DONALD STEWART has already proven himself to be a man of foresight and legislative acumen. Quick to grasp the meat of an issue, and ready to do his homework on complex measures, DONALD STEWART lost no time in adapting to his new responsibilities as a U.S. Senator.

Even as a freshman, Senator STEWART so impressed his colleagues that he was asked to play an important role in the conference on a national energy bill. I was also gratified, as I am sure his constituents were, when he fulfilled a campaign promise to establish an office of rural health affairs in Alabama. Deeply concerned about the State's extremely high infant mortality rate, DONALD STEWART worked to get Federal grants that would bring vital health care to medically underserved areas of the State.

In addition, his position on the Agriculture Committee has provided him with a forum for discussing the problems of farmers and a platform of insuring the continuation of very important rural development programs.

I can assure you that this son of a cotton ginner, though only part of this deliberative body for 2 years, has left his mark on all that we have considered during his tenure, and that his work with us has earned our deepest respect. I would hope that DONALD STEWART will pursue his political interests in the years ahead, and trust that he will meet with continued success in all that he attempts.

With warmest personal regards, I bid him farewell.

A FAREWELL TRIBUTE TO SENATOR ROBERT MORGAN

Mr. WILLIAMS. Mr. President, even if Senator ROBERT MORGAN and I did not agree on so many issues, I think I would still have to admire him for his forthrightness, his deep concern for people on the fringe of our society such as migrant workers, and his abiding interest in protecting individual liberties and privacy.

Senator MORGAN's career in the U.S. Senate, and in the years before, has been marked by a strong and continuing interest in the welfare of his fellow North Carolinians. During his work in Washington, he has never lagged in his efforts on behalf of the people who sent him to the Nation's Capital.

Senator MORGAN and I have worked together on the Banking, Housing, and Urban Affairs Committee, and I have had the opportunity to see him in action on issues of special concern to his constituents. And on matters of national concern, he has lent his expertise and energy to developing carefully designed and farsighted programs. Senator MORGAN has been most helpful in mass transportation matters, and has been quick to make the link between a strong mass transit system and the reduction of our national energy consumption.

At the same time he has trumpted the rural and agricultural concerns important to his State, he has also recognized and been responsive to the needs of our country's large, urban areas.

His work as the "people's attorney" back in the 1960's in North Carolina no doubt laid the groundwork for his work in this great deliberative body. My distinguished colleague has been particularly concerned with the plight of migrant workers and low-income families. As an early proponent of such programs, I was delighted to find in him an ally on such measures as the rural home ownership program and for better housing for migrant workers. I especially remember his eloquent defense not too long ago, during a conference of the Banking Committee. ROBERT MORGAN gave a most eloquent defense of the need for funding for farm labor programs and better housing, and he was persistent. He did not merely make a statement and sit back. He persisted until he had convinced his colleagues of the critical need for such programs, and won their support.

Senator MORGAN has also demonstrated a well-researched grasp of the role of State government, and his actions have always evidenced a clear respect for the relationship between the Federal Government and State governments. This balanced view and propensity for fairness and compassion has made him a most valuable member of that committee. I should note, too, that ROBERT MORGAN believes in a strong banking system, and his expertise in this area will surely be missed in the coming session when a great deal of legislative activity in that field will help determine the health of our economy.

Then, too, Senator MORGAN could always be counted on in a pinch. He was a man of his word, a man of conviction. Whether protecting the textile industry that is so key to the economic health of North Carolina, or pursuing a national goal such as defense policy, ROBERT MORGAN could be counted on to vote his principles and stand by his word.

Senator MORGAN and his wife, Katie, have become more to me than a colleague and spouse. Surely, I speak for my fellow Senators when I say that he has won our respect and deep admiration. He can be most proud of his accomplishments in the U.S. Senate, and proud of his record of service to the people of North Carolina. I bid fond farewell to a distinguished Member and dear friend.

A FOND FAREWELL TO SENATOR MILT YOUNG

Mr. WILLIAMS. Mr. President, MILTON YOUNG is an institution. What shall I say? This quiet and humble man has been a U.S. Senator since 1945. He is the senior Republican in the Senate, and in the entire Congress. In the Senate, only WARREN MAGNUSON has more seniority.

From his long-held seat on the Agriculture Committee, he has been in a position to influence major legislation and insure that the interests of North Dakota are protected. Reflecting the concerns of his constituents, MILT devoted most of his attention to agricultural issues, and can claim credit for designing the target wheat price legislation which was proposed to guarantee better and more stable incomes for the farmers in wheat-growing States like his own.

As a farmer, MILT has brought to these Chambers a kind of commonsense perspective that can too often be overlooked amidst the bureaucratic language and legalese that frequently pervades our activities here. He has been a breath of fresh air, and a source of wisdom that comes not only from length of service, but also from careful thought.

It is not enough to merely list Senator YOUNG's achievements or to recite the litany of accomplishments that can and will be laid at his feet. There will surely be ample testimony to his outstanding record and there is a great deal of evidence of the respect in which he is held by his colleagues. His election as President pro tempore of the Senate for the remainder of this session is proof enough of the high esteem which Senator YOUNG commands in these Chambers.

It is also necessary, I believe, to recognize MILT's compassion, his basic fairness, his thoughtful concern, and his continuing desire to serve the people of North Dakota who sent him time and again to Washington, D.C., to represent them. These many years that I have known him and his dear wife, Patricia, and that I have been proud to call him a friend, MILT YOUNG has never fallen short of our expectations. We always expected a certain high standard of work and achievement from this fine gentleman, and I daresay we were never disappointed.

It is with deepest regret and heartfelt best wishes that I say goodbye to my friend and colleague of many years, Senator MILT YOUNG.

TRIBUTE TO SENATOR BIRCH BAYH

Mr. WILLIAMS. Mr. President, it was President Andrew Jackson who first coined the familiar saying: "One man with courage makes a majority." When I think of Senator BIRCH BAYH, Mr. President, and his rare and special brand of courage, it makes me think that he is a man who should have always had the majority on his side.

For nearly 18 years, BIRCH BAYH has brought to this Chamber a mixture of aggressive advocacy, intellectual insight, and a compassionate commitment to championing the cause of all who look to Government for relief and redress. Although the youngest Hoosier ever elected to the Senate, he quickly moved to the forefront on a wide range of vital issues.

Although his strong voice and wide smile will soon be lost to this Chamber, the fruits of BIRCH BAYH's career will continue to benefit all Americans. Our cleaner air and water will bear witness to his early vision which eventually led to the establishment of the Environmental Protection Agency. Troubled youth will still be aided through his pioneering efforts in the field of juvenile justice. The distrought victims of natural disasters can continue to count on speedy assistance because BIRCH BAYH cared enough to author the Nation's first comprehensive Federal Disaster Relief Act, and to see it through to enactment.

The Nation's courts will be presided over by our best jurists due to his crucial participation in the struggle to establish clear standards and guidelines for the selection of Federal judges. And the oft-forgotten residents of our nursing homes, hospitals, and institutions can be assured that their rights will not be compromised because BIRCH BAYH made sure that the Justice Department could intervene on their behalf.

Mr. President, these and other legislative achievements would be enough to honor any Member of this body. But BIRCH BAYH's achievements go beyond them, enshrined in the permanent and hallowed monument of our living Constitution. As the youngest author of a constitutional amendment since Thomas Jefferson, BIRCH BAYH assured, through the 25th amendment, that our Nation will have a clear and untroubled transition of power in the event of Presidential disability.

The right to vote has been permanently expanded, and our young people accorded the privilege and responsibility of participating in the political forum, because BIRCH BAYH led the fight for the 26th amendment extending suffrage to 18-year-olds. And, although they have not yet joined these achievements, I have no doubt that history will judge BIRCH BAYH to have been correctly prophetic in his persistent struggle to champion the equal rights amendment, and to do away with the anachronisms and ever-present threat to political order posed by the electoral college.

Mr. President, we all know the personal pain which BIRCH has endured over the last few months, but his splendid spirit and his compassion for all those who suffer has made him more than a great legislator, they have made him a humanitarian as well. We shall miss Birch Bayh more than we realize and we will always be thankful to have enjoyed and profited from his service in this great institution.

A SPECIAL TRIBUTE TO SENATOR HERMAN TALMADGE

Mr. WILLIAMS. Mr. President, should I be asked to recite the litany of Senator Talmadge's many achievements and contributions as a U.S. Senator, I should be here long beyond the close of this session. In the 24 years Herman Talmadge has labored in these Chambers, he has accumulated a record of legislative victories and firsts that ranges from tax relief measures to agricultural issues.

As chairman of the Senate Agricultural Committee, he has forged an uncommon coalition of liberals and conservatives behind policies of interest to the Nation and Georgia. Drawing on his experience as Governor, attorney, and businessman, he brought a thorough knowledge of both rural and urban issues to his work with us.

In tribute to his service these many years, it must be said that Herman Talmadge has contributed his insights and strongly-held beliefs to the operations and management of this deliberative body, always in an effort to improve the quality of life for Americans of all ages. His career has not been without its share of hardship and trauma, and I would venture to say that there are few here who could better empathize with the difficulties he has faced in recent times.

But I do not wish to dwell on the hard times, and I see no need to recount the numerous and impressive legislative accomplishments of my distinguished colleague from Georgia. His record has been well described by my colleagues here these last few days.

I am most happy, though, to have a few moments to express my best wishes to my dear friend and colleague. I am confident that he will meet with success in whatever new direction he chooses to head, and I know that Herman will face new responsibilities with the vigor and sincerity which marked his work with us. I think my feelings for him are clear.

Perhaps what is not so evident, however, is that we both face a loss on another front. Several times in the past, our staffs have challenged each other on the softball field, and on several occasions, my staff was up against Senator Talmadge's staff in the playoffs. I have to admit that in most instances, his team got the better of the Williams' Wallopers, and I know the competition was fierce. That tradition will end with Senator Talmadge's retirement, and I can only hope that we are able to find such menacing challengers among the teams from other offices in future seasons.

Farewell, Senator, and best wishes for every happiness in the years to come.

GOODBY TO SENATOR RICHARD STONE

Mr. WILLIAMS. Mr. President, I had the distinct pleasure of working with Senator Stone earlier this year on a measure of extreme importance to both Florida and New Jersey. That measure was the Cuban Refugee Education Assistance Act, and it meant a great deal to both our constituencies.

Outside of Senator Stone's hometown of Miami, New Jersey has the largest Cuban community in the United States. The rapid immigration and large numbers of Cuban refugees into this country caught our school districts by surprise, and many communities found themselves far short of the funding needed to establish emergency and long-term services for these new residents.

Senator Stone worked most diligently on this important piece of legislation and helped secure its final passage shortly before we recessed for the election. This is but one small example of the kind of energy Richard Stone has always devoted to his work, and it is but one small example of his efforts on behalf of his constituents. Whether it be on issues of special concern to Floridians, or on matters of national import, this man has always shown himself to be a thoughtful and dedicated public servant.

I recently had the pleasure of working with Senator Stone's office on legislation to provide some long-needed relief for the many, elderly people living in his State. That measure, which focused on condominium conversions, provides the framework for future, perhaps more far-reaching, legislation to guarantee the rights of tenants in buildings that are being converted to condominiums or cooperatives. The condo craze has caused particular anguish in Florida for the many older Americans who do not wish or cannot afford to purchase their dwellings. The measure, developed in cooperation with Senator Stone, should provide some level of relief and protection for thousands of people in Florida and elsewhere in the country where housing is expensive and in short supply.

As a member of the Foreign Relations Committee and chairman of its Subcommittee on Near Eastern Affairs, Senator Stone has been a very strong supporter of policies to help Israel. We share many of the same concerns in this area, and I have looked for his suport on legislation in this field.

Through his committee assignments, my distinguished colleague from Florida has also worked to expand agricultural exports, control Government spending, guarantee Government in sunshine, and establish a comprehensive and farsighted national energy policy. Clearly, his influence has been felt in many areas, and he has lent his expertise and energy to a plethora of issues considered by the Senate during his term here.

Throughout his career, both with us in the Senate, and in his other Government offices, Richard Stone has been in the vanguard of critical issues. For as long as I have known him, he has proven himself to be a dedicated and able Senator, and a fine addition to this body.

I wish him and his dear wife, Marlene, all the best in the years ahead, and every success with whatever venture he chooses to pursue.

The friendship my wife, Jeanette, and I have had with Dick and Marlene Stone was born here in the Senate, but I know it will be a continuing and most gratifying part of our lives.

SENATOR HARRISON A. WILLIAMS, JR., CHAIRMAN OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. RANDOLPH. Mr. President, a 26-year period of Democratic leadership in the Senate and in its committees will come to a close, temporarily, with the adjournment of the 96th Congress. I wish to take this opportunity to reflect on the extraordinary leadership and wide-ranging accomplishments of one of our committee chairmen, Harrison A. Williams, Jr., who chairs the Committee on Labor and Human Resources.

Senator Williams was first elected to the U.S. Senate in 1958 for a term beginning January 3, 1959. He was appointed to the Committee on Labor and Public Welfare—later designated Labor and Human Resources in 1978—for the 86th Congress beginning in 1959. In his first year on the committee, Senator Williams created a Special Subcommittee on Migratory Workers and was its first chairman. A standing Subcommittee on Migratory Labor was created in 1961 to replace the temporary subcommittee, and Senator Williams was elected to the chairmanship which he held until 1968. In 1969, Senator Williams was elected chairman of the general Subcommittee on Labor, which he chaired from 1969 to 1978 and which assumed some of the jurisdiction for migratory worker legislation.

Senator Williams also created and chaired the Senate Special Committee on Aging from 1967 to 1971. He sponsored the Senate resolution in 1977 which converted the special committee from temporary to permanent status in the Senate.

In 1971, Senator Williams was elected to be chairman of the Senate Committee on Labor and Public Welfare which he has chaired to the present. Upon assuming chairmanship of the committee in 1971, Senator Williams created two new subcommittees, one on children and youth and another on the handicapped, to respond to problems that he felt had not received sufficient attention. He created standing subcommittees on alcoholism and drug abuse and on aging, both of which had previously been temporary special subcommittees.

The Senator from New Jersey has come to be known as a strong advocate for the rights of American workers during his membership on the committee. Senator Williams, as chairman, worked aggressively to insure that the committee remained sensitive to the needs of all Americans. His activities on behalf of the handicapped, the elderly, migrant workers, children and youth, and those with problems of alcoholism or drug abuse have touched the lives of every citizen.

Pete Williams' efforts on behalf of older Americans show an unparalleled record of compassion, caring, and dedication. He was responsible for passage of the 1968 joint resolution which created the 1971 White House Conference on Aging. His Older Americans Act amendments of 1969 and 1973 initiated, expanded, and improved a whole panoply of services to the elderly: Meals on Wheels, home health care, Foster Grandparents, RSVP. He has been a leader in enacting and improving the section 202 housing program and congregate housing. And Senator Williams has been in the forefront in the battle to assure adequate social security cost-of-living increases. The Age Discrimination in Employment Act of 1967 and the ADEA amendments of 1978 are testaments to his efforts to prevent employment discrimination based on age.

His efforts on behalf of services and programs for the handicapped have been strong and unstinting. He is responsible for legislation prohibiting discrimination against the handicapped by Government contractors and grantees and fought hard to enact a general antidiscrimination statute covering all employment. As author of the Education for All Handicapped Children Act, he is the leading advocate in the Congress for opportunities to allow disabled Americans to fulfill their potential.

The breadth of his accomplishments is truly remarkable. Senator Williams has authored virtually every major piece of legislation enacted during the past decade to improve conditions for American workers, among them the Migrant Health Act, the Construction Safety Act, the Coal Mine Health and Safety Act and the Occupational Safety and Health Act. The most important piece of social legislation since the 1930's, the Employee Retirement Income Security Act, is a monument to his tireless efforts to foster, protect, and preserve adequate pensions and health benefits for America's private sector workforce. And he has fought hard to improve pensions for veterans.

Senator Williams has continuously sponsored legislation, much of it enacted, to create and improve jobs and training programs to combat unemployment among low-income adults and young people.

He has been an inspirational leader in the fight against drug abuse in the United States. He authored the first Drug Abuse Prevention Rehabilitation Act and was the architect of the National Institute on Alcohol Abuse and Alcoholism.

He authored the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.

From the Equal Pay Act of 1963 to the pregnancy disability amendments of 1978, Senator Williams had led the battle for women's rights. And in 1979, he conducted the first comprehensive hearings in the entire history of the Congress on the concerns of women.

The years of responsibility have not diminished in any way the unflagging energy of the senior Senator from New Jersey nor his concern for the interests of American workers. While pressing forward with legislation to improve our labor laws, such as workers' compensation, labor law reform, and common situs picketing, he has also proposed innovative solutions to new problems, such as plant closings.

All of us who have worked with Pete Williams know that his commitment as a "voice for the voiceless" will not diminish in the 97th and successive Congresses. As in the past, I know that no Senator will work harder to improve the quality of life for all Americans.

Mr. President, the record of Senator Williams' work on the committee is extensive. I have mentioned only a few of the highlights. In total, these legislative achievements demonstrate the breadth of this concern for our quality of life and especially his compassion for those who live on the margin of society.

I ask unanimous consent that a list of all the major legislative achievements of the Committee on Labor and Human Resources under the leadership of Senator Harrison A. Williams, Jr. be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

List of Major Legislative Achievements of the Committee on Labor and Human Resources Under the Leadership of Senator Harrison A. Williams, Jr.

LABOR

Coal Mine Health and Safety Act of 1969, at that time the most comprehensive mine health and safety bill in the Nation's history.

Federal Construction Safety Act of 1969, the first legislation establishing federal safety standards for construction workers on all federal or federally-assisted construction projects.

Occupational Safety and Health Act of 1970 (OSHA), a landmark bill establishing a comprehensive on-the-job safety program for 55 million industrial, farm, and construction workers employed by firms engaged in interstate commerce, particularly in hazardous occupations.

Equal Employment Opportunity Act Amendments of 1972, provided the first important enforcement powers to the Equal Employment Opportunity Commission (EEOC) established under the Equal Employment Opportunity Act of 1965 to eliminate employment practices based on discrimination.

Senate Resolution 360, passed in 1970, authorized the Committee to undertake the first comprehensive study by the Congress of private pension and welfare funds for the protection of the employees covered. It was the Committee's study, published in 1972, that provided the major impetus for the Congress to enact the Employee Retirement Income Security Act of 1974 (ERISA).

Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972, provided major administrative reforms and improved compensation benefits for injured workers.

Employee Retirement Income Security Act of 1974 (ERISA), one of the most historic achievements of the 1970's which insured the protection of employee's pension benefits.

Fair Labor Standards Act Amendments of 1974, provided gradual increases in the federal minimum wage for the first time since 1963 from a level of $1.60 an hour in 1974 to $2.30 an hour by 1976.

National Labor Relations Act Amendments of 1974, established for the first time specific collective bargaining provisions for the health care industry.

National Labor-Management Relations Act Amendments of 1974, allowed employers and unions to bargain collectively for the establishment of prepaid legal service programs for their employees.

Federal Mine Safety and Health Amendments Act of 1977, consolidated existing mine safety laws providing stronger enforcement powers, transferred responsibility for enforcement of mine safety and health standards from the Department of the Interior to the Department of Labor, and created an independent Mine Safety and Health Review Commission.

Fair Labor Standards Act Amendments of 1977, provided a four-step increase in the federal minimum wage for the working poor from $2.30 an hour in 1977 to $3.35 an hour by 1981.

Pregnancy Disability Act of 1978, amended the Equal Employment Opportunity Act to bar discrimination in employment on the basis of pregnancy, and requiring coverage of pregnancy under temporary disability and health insurance plans.

Age Discrimination in Employment Act Amendments of 1978, broadened the legal protection for older Americans from arbitrary forced retirement based on age, extending the protection of workers up to the age of 70.

Multiemployer Pension Plan Amendments Act of 1980, a major improvement under the Employee Retirement Income Security Act of 1974 of the Title IV termination insurance program to protect benefits when a multiemployer pension plan becomes insolvent.

AGING

Senate Joint Resolution, passed in 1968, established the 1971 While House Conference on Aging.

Older Americans Act Amendments of 1969, substantially revised and expanded programs and services for the elderly, including the Foster Grandparent program, and planning grants for local jurisdictions.

Older Americans Act Amendments of 1973, established the first nutrition programs for the elderly including the congregate meals program and the meals-on-wheels program. Also established the older Americans community service employment program administered under the Department of Labor. It established the Federal Council on Aging.

Older Americans Act Amendments of 1975, provided new transportation services, health care services, and legal assistance programs including tax counseling.

Comprehensive Older Americans Act Amendments of 1978, substantially revised and expanded existing programs, and provided a separate authorization for the 1981 White House Conference on Aging.

Senator Williams established the first standing Subcommittee on Aging in 1971.

ALCOHOLISM AND DRUG ABUSE

Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the first comprehensive legislation of its kind providing federal assistance for alcoholism programs run by state and local jurisdictions. It created the National Institute on Alcohol Abuse and Alcoholism in the National Institute of Mental Health, and created an independent National Advisory Council on Alcohol Abuse and Alcoholism.

Drug Abuse Education Act of 1970, established broad Federal assistance for programs of counseling and education for abusers, their families, and in schools.

Drug Abuse Office and Treatment Act of 1971, created the National Institute on Drug Abuse and provided formula grants to the States and project grants for the treatment and prevention of drug abuse.

Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Extension of 1974, created an Alcohol, Drug Abuse, and Mental Health Administration and expanded basic programs under the Act.

Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Extension of 1976, saved the basic state formula grant programs from a diluted block grant funding approach and provided Federal funds for the programs through fiscal year 1979.

Comprehensive Alcohol Abuse, Prevention, Treatment, and Rehabilitation Act Extension of 1979, improved existing programs with greater emphasis on prevention, occupational related alcoholism, and counseling for the families of alcoholics. It also expanded assistance for minorities and women. It established a National Commission on Alcoholism and Alcohol-Related Problems to make a comprehensive national study.

Senator Williams first established a standing Subcommittee on Alcoholism and Narcotics in 1971.

CHILD AND HUMAN DEVELOPMENT

Domestic Volunteer Service Act of 1973, a comprehensive bill providing administrative guidelines for ACTION agency programs established in 1971.

Child Abuse Prevention and Treatment Act of 1974, provided the first programs in the States for the prevention, identification, and treatment of child abuse and neglect, and created a National Center on Child Abuse and Neglect.

Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, marked the first step toward comprehensive adoption reform which would better facilitate the placement of children out of the institutionalized foster care system.

Senator Williams established the first standing Subcommittee on Children and Youth in 1971.

HANDICAPPED

Rehabilitation Act of 1974, provided major vocational rehabilitation and developmental disabilities programs.

Senate Joint Resolution 118, passed in 1974, established the 1977 White House Conference on Handicapped Individuals.

Education for All Handicapped Children Act of 1975, an historic law to assure a free and adequate public school education for the Nation's 8 million handicapped children. Regarded as the most important education legislation enacted since the landmark Elementary and Secondary Education Act of 1965.

Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, established a comprehensive services program for the severely handicapped, established the National Institute of Handicapped Research, and created a National Council on Handicapped.

Senator Williams established the first standing Subcommittee on Handicapped in 1971.

MIGRATORY LABOR

Senate Resolution 267, passed in 1960, authorized the Committee to undertake the first comprehensive study of matters relating to migratory labor in the United States, which was published in September 1961, May 1963, and April 1965.

Migrant Health Act of 1962, the first legislation relating to migrant family health services providing grants by the U.S. Public Health Service to public and non-profit agencies to establish and operate family health service clinics for domestic migrant workers.

Economic Opportunity Act of 1964 the first major anti-poverty legislation in the United States, incorporated four bills by Senator Williams relating to migrant workers: a program for education of migrants and their children; a program to establish day-care centers for children of migrant workers; assistance for farmers to supply adequate sanitation for farm laborers and their families; and a program of loans and grants to states for improving housing for domestic farm workers.

It was Senator Williams' initiative that first established a Senate subcommittee on migratory labor which he chaired from 1959 to 1968. His direction of the Committee's studies on such matters in the early 1960's lead to the enactment of significant legislation to improve the quality of life for migrant workers in the United States.

EDUCATION

National Center on Educational Media and Materials for the Handicapped Act of 1969, which provided the first national resource center for special educational aids to improve education programs for the handicapped.

Education Amendments of 1972, revised and expanded programs authorized under the Higher Education Act of 1965 and provided new directions in the Federal effort to increase educational opportunities in the United States.

Elementary and Secondary Education Act Amendments of 1974, made substantial changes to the Elementary and Secondary Education Act of 1965, and incorporated several bills such as the Bilingual Education Act, the Equal Educational Opportunities Act, the Community Schools Act, the National Reading Improvement Act, the Family Educational Rights and Privacy Act, the Women's Educational Equity Act, and the Indian Education Act.

Education Amendments of 1976, made a number of important changes to the Elementary and Secondary Education Act of 1965, consolidating a number of existing programs, improving the formula distributions of funds, and adding a national program to improve basic skills.

Middle Income Student Assistance Act Amendments of 1978, expanded the coverage of the 1975 Act, provided larger grants for some students who were eligible under the previous criteria, and made certain full and half-time students, from any income level, eligible for federal interest subsidies under the guaranteed student loan program.

Education Amendments of 1980, substantially revised the programs authorized under the Higher Education Act of 1965 with major improvements in the student loan programs.

HEALTH

Conquest of Cancer Act of 1971, the first major thrust by the Federal government to research the causes, prevention, and treatment of cancer in the United States. It greatly expanded the research effort of the National Cancer Institute under the National Institutes of Health.

Comprehensive Health Manpower Training Act of 1971, established a coherent and comprehensive Federal role with regard to the education of health professionals in the United States.

Health Maintenance Organization Act of 1973, provided a revolutionary alternative to the existing health services delivery system in the United States by establishing health maintenance organizations (HMOs) to provide a nationwide system of low-cost, prepaid health services plans.

Public Health Service Act Amendments of 1975, included new provisions for programs for the diagnosis and treatment of hemophilia, and included amendments to the Nurse Training Act, the Community Mental Health Centers Act, the Migrant Health Centers Act, and established a National Health Center for the Prevention and Control of Rape.

Health Services and Centers Amendments of 1978, created a Select Panel for the Promotion of Child Health to develop a national plan to promote health status of mothers and children and expectant mothers, established a comprehensive program to deter children and adolescents from smoking and from using alcoholic beverages, and created an Office of Physical Fitness and Sports Medicine in the Department of H.E.W.

EMPLOYMENT

Emergency Employment Act of 1971, created a program of approximately 150,000 transitional public service jobs to deal with a serious national unemployment problem. The jobs were in recreation, education, health, housing, public safety and environmental improvement.

Comprehensive Employment and Training Act of 1973 (CETA), established a new comprehensive federal employment and training program with a variety of employment-related services for the unemployed, designed and administered by local governments.

Emergency Jobs and Unemployment Assistance Act of 1974, added a new title VI to CETA creating an emergency public service jobs program, and it extended federally financed unemployment compensation coverage to 12 million persons not covered by the regular program.

Emergency Jobs Programs Extension Act of 1976, made significant revisions and expanded the public service jobs program under title VI of CETA requiring that all new jobs be filled by long-term unemployed workers from low-income families.

Youth Employment and Demonstration Projects Act of 1977 (YEDPA), created a variety of experimental employment and training programs for unemployed and low-income youth including the Youth Incentive Entitlement Pilot Projects, the Youth Conservation and Community Improvement Program, the Youth Employment and Training Programs, and the Young Adult Conservation Corps.

Full Employment and Balanced Growth Act of 1978, established a firm federal policy commitment to full employment, balanced economic growth and price stability using all practicable means to achieve them. It established a central goal of reducing the national unemployment rate to 4 percent by 1983. It also established goals for reducing the inflation rate to 3 percent by 1983, and 0 percent by 1988.

Comprehensive Employment and Training Act Amendments of 1978, a major revision of the Federal government's employment and training policies building on the CETA system to improve programs and services for the hard-core unemployed, adding a new program of Private Sector Initiatives under title VII.

POVERTY

Economic Opportunity Act Amendments of 1969, extended the anti-poverty programs under the 1964 Act, with special emphasis on Head Start, legal services, health services, emergency food and medical services, migrant and seasonal farmworkers services, and day-care projects. It established two new programs for alcoholic counseling and recovery and drug addiction rehabilitation for the poor.

Economic Opportunity Act Amendments of 1972, extended the anti-poverty programs under the 1964 Act and made a major expansion under the Neighborhood Youth Corps program with an emphasis on educational and vocational rehabilitation activities.

Legal Services Corporation Act of 1974, established an independent agency to provide legal services to the poor.

Economic Opportunity Act Amendments of 1974, established an independent Community Services Administration to administer the anti-poverty programs of the Federal government.

Home Energy Assistance Act, a major new initiative to offset energy price increases for elderly and low-income persons due to oil decontrol and OPEC price increases. Authorized under title III of Public Law 96–223, the Crude Oil Windfall Profits Act of 1980.

SPECIAL HEARINGS

Cost, Management, and Utilization of Human Resources Program Evaluation, 1977. Oversight hearings on the scope and extent of the Federal Government's efforts to evaluate its programs. (October 6 and 27, 1977)

The Coming Decade: American Women and Human Resources Policies and Programs, 1979. An examination of conditions and opportunities confronting American women in our Nation's workplace. (January 31, February 1, and April 9, 1979)

Youth and the Workplace: Perspectives for the Coming Decade, 1979. Examining the transition from school to work and exploring the nature of youth employment and unemployment, to gauge the conditions, trends, and problems likely to affect federal labor and human resources policy in the 1980's. (October 23 and 24, 1979)

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I call the Senate's attention to certain measures which are on the calendar and being held at the desk:

On H.R. 5047, Calendar Order No. 1117, there is a technical amendment on behalf of the committee. There is a Williams modification of a committee technical amendment.

There is a bill, H.R. 8406, pneumococcal vaccine, which is at the desk. There is an amendment by Mr. CRANSTON on adoption assistance advance funding. There is a Levin amendment allowing States to restrict AFDC eligibility for college students. There is an amendment by Mr. BOREN and Mr. LONG on SSI transfer of assets, an amendment by Mr. WALLOP on childnapping, and an amendment by Mr. NUNN on child support.

There are the following tax bills: H.R. 5973, Calendar Order No. 1163, a technical amendment thereto. There is H.R. 7171, Calendar Order No. 1164, a technical amendment. There is also an amendment by Mr. BRADLEY and Mr. METZENBAUM to strike the wagering provision. There is H.R. 5505, Calendar Order No. 1165. There is H.R. 5391, Calendar Order No. 1166, and there is a technical amendment thereto. There is H.R. 5043, Calendar Order No. 1167, a technical amendment thereto, and an amendment by Mr. DECONCINI delaying the effective date of one section.

On H.R. 7956, Calendar 1168, there is an amendment by Mr. MATHIAS extending for 1 additional year the time for amending charitable remainder trusts, an amendment by Mr. PROXMIRE providing that the exemptions for certain real estate investments of qualified pension funds not serve as a precedent. And there is an amendment by Mr. SASSER deleting section 301, election of alternative valuation date for estate tax.

On H.R. 4968, Calendar Order No. 1169, there is an amendment by Mr. PROXMIRE to limit provision relating to charitable workers abroad so that it does not affect private foundations. There is an amendment by Mr. ROTH and Mr. WILLIAMS relating to housing mortgage bonds, which is a committee amendment. There is H.R. 6806, Calendar Order No. 1170, which is a technical amendment, an amendment by Mr. BAUCUS relating to a utility in Montana. There is H.R. 4155, Calendar Order No. 1171, with technical amendment, and there is Calendar Order No. 994, H.R. 3755.

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I thank the majority leader for listing the proposals and amendments as he has them listed.

I have staff of the Finance Committee on the Republican side going over that list together with a list that has been compiled here and I must also await the arrival of Senator DOLE who has been detained temporarily and should be in the Chamber momentarily.

In view of both those facts, that Senator DOLE is not yet here and we have not yet completed our examination of the list of other matters that may be offered, I wonder if the majority leader could give us a few additional moments before he propounds his request?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the majority leader. I assure him we will make every effort to complete this check and be in position to act on his unanimous-consent request in a very few minutes.

MISCELLANEOUS TAX BILLS

Mr. DOLE. Mr. President, it is easy to overlook as unimportant, or disparage as special interest, legislation which contains a substantial number of minor tax provisions.

The Senator from Kansas, however, would like to point out that the miscellaneous tax legislation now before the Senate has been carefully reviewed and discussed by the Finance Committee with the view toward eliminating provisions which are controversial or unwarranted.

Of course many of us would have preferred to be discussing a major, broad-based tax cut this year. That does not take away, however, from the propriety of consideration and passage of worthwhile tax legislation which affects only a portion of our people. We sometimes forget that every taxpayer does not find himself affected by every provision in our all too complicated tax code.

This tax package includes provisions which have passed the House after consideration by the Ways and Means Committee as well as a small number of other provisions which, while not cleared by the House, have been the subject of public hearings in the Finance Committee. The bills, as reported, are not opposed by the Treasury Department.

It may be helpful in making a decision on these bills to discuss a representative sampling of the provisions.

H.R. 5973

H.R. 5973, for example, contains a provision to allow U.S. citizens who have been forced to leave Iran because of civil unrest to take advantage of the tax provisions applicable to Americans who reside abroad.

The bill also simplifies the rules for determining when a business deduction is available for the expense of attending meetings in foreign countries. The rules in place now are extremely complicated and unduly harsh upon expenses related to meetings in Mexico and Canada.

H.R. 7171

H.R. 7171 contains a very important provision relating to the retirement security of staff and faculty of the Uniformed Services University of the Health Sciences. The provision will allow these employees the same treatment related to annuities which is accorded to employees of public school systems or charitable religious and other like organizations. With a revenue impact of less than $1 million annually, there should be no objection to a provision of this sort.

H.R. 5505

H.R. 5505 contains a technical amendment to the tax law to allow social clubs affiliated with fraternal beneficiary societies and certain alumni clubs to limit membership to a particular religion without losing their tax exemption. This will benefit organizations such as the Knights of Columbus and other organizations of similar nature. There is negligible revenue impact to this provision, and certainly it does not run counter to any social purpose.

H.R. 5505 also contains a provision which will allow gift tax returns to be filed on an annual basis rather than quarterly. This will save both taxpayers and the Internal Revenue Service a substantial amount of administrative paperwork time without having any major impact on revenues.

This bill also clarifies the tax treatment of transfers under the Rhode Island Indian Settlement Act. It is a technical minor clarification which, though limited in scope, is certainly meritorious in purpose.

H.R. 5591

This bill contains a provision which will give Tax Court jurisdiction over disputes involving second-tier excess tax imposed on prohibited acts of private foundations, employee benefit trusts, and black lung benefit trusts. It is, once again, a technical amendment which has no revenue impact but will allow the Tax Court to hear cases on this subject and help in the administration of the tax laws.

H.R. 7956

H.R. 7956 contains a number of reasonable provisions which should be acted upon favorably by this body. For example, the bill clarifies the tax laws to provide relief for abandoned spouses who are now taxed on a portion of the income earned by the other spouse. It also would allow taxpayers to elect to amortize qualifying business startup expenses which should help encourage new business in this period of dismal economic conditions.

H.R. 4968

This bill contains a very meritorious provision allowing individuals who perform qualified charitable services in less developed countries to elect an exclusion of $20,000 from their gross income for U.S. tax purposes. This is a provision which has extremely low revenue impact and would help to encourage missionary work and other worthwhile charitable services in less developed countries.

H.R. 4155

H.R. 4155 includes a technical amendment to the alternative minimum tax to make sure that the alternative minimum tax, which was designed to make sure that wealthy individuals paid at least some tax upon capital gains and other income sheltered by large amounts of itemized deductions, would not have the inadvertent effect of prohibiting a farmer or other small businessmen from taking an investment tax credit otherwise available.

This is a provision which is of particular interest to the Senator since this problem affects only small businessmen and farmers who have not incorporated. These people have every right to take the investment tax credit when they purchase new equipment and, indeed, probably can use the investment tax credit even more than some larger corporations.

This bill also includes a provision which would allow corporate business deductions in certain circumstances for amounts set aside to pay pension benefits to alien employees. The bill was designed so that tax treatment would be consistent with that accorded to contributions to domestic pension plans without causing conflict with foreign laws.

CONCLUSION

Some may question why, if this legislation is so meritorious, these measures have not been considered by the Senate earlier. It is unfortunate that the process has taken so long. The delay may be partially explained by the reluctance of the majority leader to bring up a revenue measure to which a substantial tax cut could have been attached. Unfortunately, it is also often difficult to get this body to focus on admittedly difficult and technical legislation of limited scope.

However, it is still undeniably true that this legislation should be considered both reasonable and noncontroversial and should be enacted by this Congress.●

BANKRUPTCY TAX ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5043, Calendar No. 1167.

There being no objection,

The Senate proceeded to consider the bill (H.R. 5043) to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes, which had been reported from the Committee on Finance with amendments, as follows:

On page 5, after line 4, insert the following:

"(E) FOREIGN TAX CREDIT CARRYOVERS.—Any carryover to or from the taxable year of the discharge for purposes of determining the amount of the credit allowable under section 33.

On page 5, line 16, strike "paragraph (2)(B)" and insert the following: "subparagraphs (B) and (E) of paragraph (2)";

On page 6, line 9, strike "SUBPARAGRAPH (B)" and insert the following: "SUBPARAGRAPHS (B) AND (E) OF PARAGRAPH (2)";

On page 6, line 15, strike "depreciable property" and insert the following: "the depreciable property";

On page 9, after line 7, insert the following:

"(5) DEPRECIABLE PROPERTY.—The term 'depreciable property' has the same meaning as when used in section 1017.

On page 9, line 11, strike "(5)" and insert "(6)";

On page 9, line 15, strike "(6)" and insert "(7)";

On page 9, line 24, strike "(7)" and insert "(8)";

On page 10, line 14, strike "(8)" and insert "(9)";

On page 11, line 20, after the period, insert the following: Such regulations shall provide for such adjustments in the treatment of any subsequent transactions involving the indebtedness as may be appropriate by reason of the application of the preceding sentence.

On page 12, line 11, strike "section 414(e)" and insert the following: "subsection (b) or (c) of section 414";

On page 13, strike line 6, through and including page 15, line, and insert the following:

"(6) INDEBTEDNESS CONTRIBUTED TO CAPITAL.—For purposes of determining income of the debtor from discharge, if a debtor corporation acquires its indebtedness from a shareholder as a contribution to capital—

"(A) section 118 shall not apply, but

"(B) such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the shareholder's adjusted basis in the indebtedness.

"(7) RECAPTURE OF GAIN ON SUBSEQUENT SALE OF STOCK.—

"(A) IN GENERAL.—If a creditor acquires stock of a debtor corporation in satisfaction of such corporation's indebtedness, for purposes of section 1245—

"(i) such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(ii) the aggregate amount allowed to the creditor—

"(I) as deductions under subsection (a), (b), or (c) of section 166 (by reason of the worthlessness or partial worthlessness of the indebtedness), or

"(II) as an ordinary loss on the exchange, shall be treated as an amount allowed as a deduction for depreciation.

The amount determined under clause (ii) shall be reduced by the amount (if any) included in the creditor's gross income on the exchange.

"(B) TAXPAYERS ON RESERVE METHOD.—In the case of a taxpayer to whom subsection (c) of section 166 (relating to reserve for bad debts) applies, the amount determined under clause (ii) of subparagraph (A) shall be the aggregate charges to the reserve resulting from the worthlessness or partial worthlessness of the indebtedness.

"(C) SPECIAL RULE FOR CASH BASIS TAXPAYERS.—In the case of any creditor who computes his taxable income under the cash receipts and disbursements method, proper adjustment shall be made in the amount taken into account under clause (ii) of subparagraph (A) for any amount which was not included in the creditor's gross income but which would have been included in such gross income if such indebtedness has been satisfied in full.

"(D) STOCK OF PARENT CORPORATION.—For purposes of this paragraph, stock of a corporation in control (within the meaning of section 368(c)) of the debtor corporation shall be treated as stock of the debtor corporation.

"(E) TREATMENT OF SUCCESSOR CORPORATION.—For purposes of this paragraph, the term 'debtor corporation' includes a successor corporation.

"(F) PARTNERSHIP RULE.—Under regulations prescribed by the Secretary, rules similar to the rules of subparagraphs (A), (B), (C), (D), and (E) of this paragraph shall apply with respect to the indebtedness of a partnership.

"(8) STOCK FOR DEBT EXCEPTION NOT TO APPLY IN DE MINIMIS CASES.—For purposes of determining income of the debtor from discharge of indebtedness, the stock for debt exception shall not apply—

"(A) to the issuance of nominal or token shares, or

"(B) with respect to an unsecured creditor, where the ratio of the value of the stock received by such unsecured creditor to the amount of his indebtedness cancelled or exchanged for stock in the workout is less than 50 percent of a similar ratio computed for all unsecured creditors participating in the workout.

"(9) DISCHARGE OF INDEBTEDNESS INCOME NOT TAKEN INTO ACCOUNT IN DETERMINING WHETHER ENTITY MEETS REIT QUALIFICATIONS.—Any amount included in gross income by reason of the discharge of indebtedness shall not be taken into account for purposes of paragraphs (2) and (3) of section 856(c)."

On page 20, line 25, strike "Any interest" and insert the following: "For purposes of this section, any interest";

On page 21, after line 4, insert the following: The preceding sentence shall apply only if there is a corresponding reduction in the partnership's basis in depreciable property with respect to such partner.

"(D) SPECIAL RULE IN CASE OF AFFILIATED GROUP.—For purposes of this section, if—

"(i) a corporation holds stock in another corporation (hereinafter in this subparagraph referred to as the 'subsidiary'), and

"(ii) such corporations are members of the same affiliated group which file a consolidated return under section 1501 for the taxable year in which the discharge occurs, then such stock shall be treated as depreciable property to the extent that such subsidiary consents to a corresponding reduction in the basis of its depreciable property.

"(E) ELECTION TO TREAT CERTAIN INVENTORY AS DEPRECIABLE PROPERTY.—

"(i) IN GENERAL.—At the election of the taxpayer, for purposes of this section, the term 'depreciable property' includes any real property which is described in section 1221 (1).

"(ii) ELECTION.—An election under clause (i) shall be made on the taxpayer's return for the taxable year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Secretary. Such an election, once made, may be revoked only with the consent of the Secretary.

On page 22, strike line 20 through and including page 23, line 2;

On page 23, line 3, strike "(3)" and insert "(2)";

On page 23, strike line 8, through and including line 13, and insert the following:

"(1) In general.—For purposes of sections 1245 and 1250—

"(A) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

On page 24, strike line 11, through and including page 25, line 7, and insert the following:

(d) Amendment of Section 382(b).—Subsection (b) of section 382 (relating to special limitations on net operating loss carryover), as in effect before its amendment by section 806 of the Tax Reform Act of 1976, is amended by adding at the end thereof the following new paragraph:

"(7) Special rule for reorganizations in title 11 or similar cases.—For purposes of this subsection, a creditor who receives stock in a reorganization in a title 11 or similar case (within the meaning of section 368(a)(3)(A)) shall be treated as a stockholder immediately before the reorganization."

On page 26, between lines 13 and 14, strike "108(f)(1)(B)" and insert "108(e)(6)";

On page 26, strike line 14, through and including the material between lines 16 and 17;

On page 28, strike line 16 through and including line 24, and insert the following:

"(d) Taxable years of debtors—

"(1) General rule.—Except as provided in paragraph (2), the taxable year of the debtor shall be determined without regard to the case under title 11 of the United States Code to which this section applies.

On page 29, line 5, strike "(3)" and insert "(2)";

On page 30, line 19, strike "(4)" and insert "(3)";

On page 30, strike line 24, through and including the material prior to line 1 on page 31;

On page 31, line 7, after the period, insert the following:

The preceding sentence shall not apply to any amount received or accrued by the debtor before the commencement date (as defined in subsection (d)(3)).

On page 31, strike line 16 through and including line 20;

On page 31, line 21, strike "(4)" and insert "(3)";

On page 32, line 13, strike "transfer" and insert "DISPOSITION";

On page 32, line 15, strike "transfer" and insert "disposition";

On page 32, line 17, strike "transfer" and insert "disposition";

On page 32, line 21, strike "TRANSFER" and insert "DISPOSITION";

On page 32, line 24, strike "transfer" and insert "disposition";

On page 33, line 1, strike "transfer" and insert "disposition";

On page 51, strike line 22, through and including page 53, line 2, and insert the following:

"(g) Title 11 or Similar Cases.—If a corporation completely liquidates pursuant to a plan of complete liquidation adopted in a title 11 or similar case (within the meaning of section 368()a(3)(A))—

"(1) for purposes of subsection (a), the term 'property' shall not include any item acquired on or after the date of the adoption of the plan of liquidation if such item is not property within the meaning of subsection (b)(2), and

"(2) subsection (a) shall apply to sales and exchanges by the corporation of property within the period beginning on the date of the adoption of the plan and ending on the date of the termination of the case.".

On page 55, line 1, strike "exchange is" and insert "exchange are";

On page 55, strike line 5, through and including line 11, and insert the following:

(f) Effect on Earnings and Profits.—Section 312 (relating to effect on earnings and profits) is amended by adding at the end thereof the following new subsection:

"(1) Discharge of Indeptedness Income.—

"(1) Does not increase earnings and profits if applied to reduce basis.—The earnings and profits of a corporation shall not include income from the discharge of indebtedness to the extent of the amount applied to reduce basis under section 1017.

"(2) Reduction of deficit in earnings and profits in certain cases.—If—

"(A) the interest of any shareholder of a corporation is terminated or extinguished in a title 11 or similar case (within the meaning of section 368(a)(3)(A)), and

"(B) there is a deficit in the earnings and profits of the corporation,

then such deficit shall be reduced by an amount equal to the paid-in capital which is allocable to the interest of the shareholder which is so terminated or extinguished."

On page 56, strike line 24, through and including page 57, line 4, and insert the following:

(b) Coordination of Deficiency Procedures With Title 11 Cases.—

(1) General.—Section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

On page 58, after line 4, insert the following:

(2) Clerical amendment.—Subsection (d) of section 6404 (relating to abatement) is amended by striking out "section 6213(f)(2)(A)" and inserting in lieu thereof "section 6213(g)(2)(A)".

On page 68, in the material between lines 3 and 4, strike "554" and insert "545";

On page 68, strike line 9, through and including page 71, line 16, and insert the following:

Sec. 7. Effective Dates.

(a) For Section 2 (Relating to Tax Treatment of Discharge of Indebtedness).—The amendments made by section 2 shall apply to any transaction which occurs after December 31, 1980, other than a transaction which occurs in a proceeding in a bankruptcy case or similar judicial proceeding (or in a proceeding under the Bankruptcy Act) commencing on or before December 31, 1980.

(b) For Section 3 (Relation to Rules Relating to Title 11 Cases for Individuals).—The amendments made by section 3 shall apply to any bankruptcy case commencing more than 90 days after the date of the enactment of this Act.

(c) For Section 4 (Relating to Corporate Reorganization Provisions).—

(1) In general.—The amendments made by section 4 shall apply to any bankruptcy case or similar judicial proceeding commencing after December 31, 1980.

(2) Exchanges of property for accrued interest.—The amendments made by subsection (e) of section 4 (relating to treatment of property attributable to accrued interest) shall also apply to any exchange—

(A) which occurs after December 31, 1980, and

(B) which does not occur in a bankruptcy case or similar judicial proceeding (or in a proceeding under the Bankruptcy Act) commenced on or before December 31, 1980.

(d) For Section E (Relating to Miscellaneous Corporate Amendments.)—

(1) For subsection (a) (relating to exemption from personal holding company tax).—The amendments made by subsection (a) of section 5 shall apply to any bankruptcy case or similar judicial proceeding commenced after December 31, 1980.

(2) For subsection (b) (relating to repeal of special treatment for certain railroad redemptions).—The amendments made by subsection (b) of section 5 shall apply to stock which is issued after December 31, 1980 (other than stock issued pursuant to a plan of reorganization approved on or before that date).

(3) For subsection (c) (relating to application of 12-month liquidation rule).—The amendment made by subsection (c) of section 5 shall apply to any bankruptcy case or similar judicial proceeding commenced after December 31, 1980.

(4) For subsection (d) (relating to permitting bankruptcy estate to be subchapters shareholder).—The amendment made by section (d) of section 5 shall apply to any bankruptcy case commenced on or after October 1, 1979.

(5) For subsection (e) (relating to certain transfers to controlled corporations).—The amendments made by subsection (e) of section 5 shall apply as provided in subsection (a) of this section.

(6) For subsection (f) (relating to effect of debt discharge on earnings and profits).—The amendment made by subsection (f) of section 5 shall apply as provided in subsection (a) of this section.

(e) For Section 6 (Relating to Changes in Tax Procedures).—The amendments made by section 6 shall take effect on October 1, 1979, but shall not apply to any proceeding under the Bankruptcy Act commenced before October 1, 1979.

(f) Election To Substitute September 30, 1979, for December 31, 1980.—

(1) In general.—The debtor (or debtors) in a bankruptcy case or similar judicial proceeding may (with the approval of the court) elect to apply subsections (a), (c), and (d) by substituting "September 30, 1979" for "December 31, 1980" each place it appears in such subsections.

(2) Effect of election.—Any election made under paragraph (1) with respect to any proceeding shall apply to all parties to the proceeding.

(3) Revocation only with consent.—Any election under this subsection may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(4) Time and manner of election.—Any election under this subsection shall be made at such time, and in such manner, as the Secretary of the Treasury or his delegate may by regulations prescribe.

(g) Definitions.—For purposes of this section—

(1) Bankruptcy case.—The term "bankruptcy case" means any case under title 11 of the United States Code (as recodified by Public Law 95–598).

(2) Similar judicial proceeding.—The term "similar judicial proceeding" means a receivership, foreclosure, or similar proceeding in a Federal or State court (as modified by section 368(a)(3)(D) of the Internal Revenue Code of 1954).

● Mr. LONG. Mr. President, H.R. 5043, the Bankruptcy Tax Act of 1980, deals with the Federal income tax aspects of bankruptcy, insolvency, and discharge of indebtedness.

This important bill has been carefully developed over the past 2 years on the basis of extensive hearings and in close consultation with bar association groups, accounting groups, bankruptcy attorneys, and others. The American Bar Association tax section, the American Institute of Certified Public Accountants, the New York City Bar Tax Committee, and other groups strongly support enactment this year of bankruptcy tax legislation.

Unless this bill is enacted this year, there will be a statutory void as to the tax treatment of discharge of debt in bankruptcy. This is because the 1978 bankruptcy statute (Public Law 95-598) repealed provisions of the old Bankruptcy Act which had contained rules for tax treatment of debt discharge in bankruptcy. In addition, Internal Revenue Code provisions on insolvency reorganizations and other topics now refer to repealed provisions of the old Bankruptcy Act. These Code provisions will be the subject of confusion and controversy, and other Code provisions will conflict with procedural rules in the new bankruptcy law, unless this legislation is enacted.

The development of bankruptcy tax legislation began with the 1973 report issued by the Commission on Bankruptcy Laws, established by the Congress. That report recommended changes and clarifications in both substantive rules and tax rules of bankruptcy. The House Judiciary Committee held hearings and likewise made recommendations for modifying the tax rules of bankruptcy, including recommendations for applying the amount of debt discharge to reduce net operating losses.

In 1978, the 95th Congress enacted legislation to revise and modernize the substantive law of bankruptcy as well as bankruptcy court procedures. During both the 95th Congress and this Congress, the tax committees held hearings on the recommendations for modifying and clarifying the tax rules of bankruptcy. H.R. 5043 now completes the process of revising and modernizing Federal bankruptcy laws by providing rules governing the tax aspects of bankruptcy.

Mr. President, I now want to briefly summariize the amendments made by the Senate Finance Committee to the House bill. First, the committee bill generally returns to the present law rule developed by the courts that no income is recognized and no attribute reduction is required if a corporation issues its stock to creditors in cancellation of outstanding debt. The committee believes that by providing for favorable tax treatment if stock is issued to creditors in discharge of debt, the committee bill will encourage reorganization, rather than liquidation, of financially distressed companies that have a potential for surviving as operating concerns.

Second, the Finance Committee also modified the effective date provisions of H.R. 5043. Under the committee bill, the provisions relating to debt discharge in bankruptcy, tax-free bankruptcy reorganizations, and certain miscellaneous corporate amendments will apply to bankruptcy cases beginning after December 31, 1980.

Mr. President, I urge the adoption of H.R. 5043 as reported by the Finance Committee.

The following is a more detailed description of the amendments made by the Senate Finance Committee to the House bill.

The Committee agreed to amend certain rules in the House bill with respect to the income tax treatment of discharge of indebtedness. The House bill provided that if a corporation issues stock in cancellation of short-term debt or trade credit, the corporate debtor would be required to reduce tax attributes by an amount equal to the excess of the indebtedness over the value of the stock. Under the Committee amendment, no income would be recognized and no attribute reduction would be required when stock is issued for outstanding debt, whether or not the debt constitutes a "security" for tax purposes. Therefore, no tax consequences would result to the debtor on issuance of stock worth less than the face amount of the obligation satisfied. This stock-for-debt rule under the amendment would not apply if only a *de minimis* amount of stock is issued for the outstanding debt.

The amendment also changes rules of the House bill with respect to issuance of a package of stock and other property in cancellation of debt. Under the House bill, the stock would be treated as issued for a proportion of the debt equal to its proportion of the value of the total consideration. Under the amendment, the cash or other property would be treated as satisfying an equal amount of debt, and the stock as satisfying the remainder of the debt. Consequently, there would be no tax consequences to the debtor (subject to the *de minimis* exception stated above).

The amendment also provides that if a creditor receiving stock for debt has taken an ordinary bad debt deduction, any gain on a later sale of the stock by the creditor would be "recaptured" as ordinary income up to the amount of the creditor's prior deduction against income.

Under the Committee amendment, the provision of the House bill excepting stock for debt exchanges in a bankruptcy or similar case from Code Section 382(a) would be deleted.

The Committee also amended certain effective date provisions of the House bill. Specifically, under the House bill, the provisions relating to tax treatment of debt discharge (section 2), corporate reorganizations in bankruptcy (section 4), and certain miscellaneous corporate amendments (section 5) would apply for bankruptcy cases (or receivership, foreclosure, or similar judicial proceedings) commenced on or after October 1, 1979.

Under the amendment, the provisions of sections 2, 4, and 5 of the bill would apply to bankruptcy cases (or receivership, etc. proceedings) commenced after December 31, 1980. However, some taxpayers may have entered into bankruptcy reorganizations with the expectation that the bill would be enacted with the original retroactive effective dates. Accordingly, the amendment allows a bankrupt or insolvent debtor to elect to have all the debt discharge and related provisions of the bill apply retroactively (in the case of proceedings commenced on or after October 1, 1979).

In the case of transactions outside bankruptcy (or receiverships, etc.), the rules of the bill generally would apply to transactions after December 31, 1980, and the amendment does not change this provision.

The Committee also adopted the following technical and clarifying amendments to the House bill.

SECTION 2 (TAX TREATMENT OF DISCHARGE OF INDEBTEDNESS)

1. Election to reduce basis in depreciable assets held by certain subsidiaries (modification to sec. 2(b) of the bill, amending Code sec. 1017):

Under the House-passed bill, a debtor in bankruptcy or an insolvent debtor could elect to apply the amount of discharged debt first to reduce basis in depreciable property, before applying any remaining amount to reduction of specified tax attributes. Similarly, a solvent debtor outside bankruptcy could elect to reduce basis in depreciable assets instead of recognizing current income from debt cancellation. To insure that ordinary income treatment eventually would be given to the full amount of basis reduction, the bill provides that any gain on a subsequent disposition of reduced-basis assets would be subject to "recapture" as ordinary income.

The amendment would expand these election provisions to provide also that if the debtor is a parent holding company which files a consolidated return with a subsidiary, the debtor could elect to apply the debt discharge amount, in accordance with Treasury regulations, to reduce the basis of the stock of the subsidiary to the extent the subsidiary consents to reduce the basis of its depreciable assets. The "recapture" rule stated above would apply to a disposition of the reduced-basis assets.

2. Election to reduce basis in realty held as inventory (modification to sec. 2(b) of the bill, amending Code sec. 1017):

The election provisions summarized in paragraph 1 above would be further expanded by the amendment to also allow application of the debt discharge amount to reduce basis in real property held primarily for sale to customers in the ordinary course of a trade or business (within the meaning of Code sec. 1221(1)). To the extent the debtor elects to reduce basis in such realty, the particular real properties the bases of which would be reduced are to be determined pursuant to Treasury regulations. A subsequent disposition of reduced-basis realty would result in recognition of a larger amount of ordinary income, just as reduction in basis of depreciable assets results in lower depreciation deductions to offset ordinary income.

3. Discharge of partnership debt (modification to sec. 2(b) of the bill):

The House-passed bill provides that if a taxpayer must account for a debt discharge amount because indebtedness is cancelled, the taxpayer's interest in any partnership may be treated as depreciable property to the extent of his interest in depreciable property of the partnership. Under the bill, in the case of discharge of partnership debt, the partner could elect to reduce the basis of his partnership interest (in lieu of attribute reduction or income recognition) only if the partnership makes a corresponding reduction in the basis of depreciable assets of the partnership with respect to such partner.

The amendment would clarify that a partner's interest in any partnership (whether or not that partnership's debt was discharged) may be treated as a depreciable asset only if the partnership makes a corresponding reduction in the basis of depreciable assets of the partnership with respect to such partner. Also, the amendment would state that the amount of reduction in the partner's basis in the partnership interest, and the particular depreciable assets of the partnership the bases of which are to be reduced, are to be determined pursuant to Treasury regulations.

4. Debt acquired by related parties (modification to sec. 2(a) of the bill, amending Code sec. 108):

The House-passed bill provides that, for purposes of the debt discharge rules, acquisition of a debt by a related party would be treated as acquisition by the debtor. The Ways and Means Committee report states that the income tax consequences of repayment or capital contribution of a debt which had been acquired by a related party are to be provided in Treasury regulations. The report further indicates that the tax consequences would include allowing the debtor a deduction equal to the amount of any gain or income recognized by the related party if the debt is repaid or contributed to capital (House Rep. 96-833, p. 16).

The related party rules in the bill would be amended to add a provision stating that the tax treatment of a repayment or a capital contribution of a debt which had been acquired by a related party would, pursuant to Treasury regulations, be substantially the same as if the debtor itself had originally acquired the debt. For example, assume a parent corporation purchases for $900 on the open market a $1,000 bond issued at par by its wholly owned subsidiary. Under the bill, the subsidiary has a debt discharge amount of $100. If the subsidiary pays its parent the full principal amount ($1,000) when the debt matures, the Treasury regulations would treat the $100 difference as a dividend to the parent, against which the dividends received deduction would be available as provided by present law (Code sec. 243–246). The repayment would not have any tax consequences to the subsidiary. Likewise, if the debt were later cancelled, the parent would be treated as having contributed $900 to the subsidiary (with no tax consequences).

5. Reduction of certain credit carryovers on debt discharge in bankruptcy or insolvency (modification to sec. 2(a) of the bill, amending Code sec. 108):

Unless the taxpayer elects first to reduce basis in depreciable assets or in section 1221 (1) realty, the amount of debt discharge in bankruptcy (or in the case of an insolvent debtor) would be applied under the House-passed bill to reduce net operating losses or carryovers, carryovers of certain tax credits, capital losses and carryovers, and the basis of the taxpayer's assets. These provisions would be modified also to provide that if any debt discharge amount remains after reduction of such attributes (including any debt discharge amount which remains unapplied solely by virtue of the limitation in the bill with respect to basis reduction), such remaining amount would be applied to reduce carryovers of the foreign tax credit.

6. Real estate investment trusts (modification to sec. 2 of the bill):

To qualify as a real estate investment trust (REIT), an organization must satisfy, among other requirements, source-of-income tests establishing that it has primarily passive income from real estate investments (Code sec. 856). In light of the bill's rules governing the tax consequences of debt discharge, the amendment would add a provision specifying that income from cancellation of indebtedness is not to be taken into account for the source-of-income tests. For example, if a solvent REIT investing primarily in mortgages has debt cancellation on redemption of bonds, and such amount would be includible in gross income under the rules of the bill (absent an election to apply such amount to reduce the basis of depreciable assets), the amount of such income would not be taken into account for purposes of Code section 856.

7. Amendment to Code section 382(b) (modification of sec. 2(d) of the bill, amending Code sec. 382):

The House-passed bill provides that creditors of a debtor corporation would be treated as shareholders in applying the continuity rules of Code section 382(b) to a "G" reorganization. The amendment would extend this rule to apply to any reorganization in a bankruptcy or similar case, rather than solely in a "G" reorganization.

SECTION 3 (RULES RELATING TO TITLE CASES FOR INDIVIDUALS)

1. Taxable year of the estate (prop. Code sec. 1398(d)(1)):

The House-passed bill provides that the first taxable year of the bankruptcy estate of an individual debtor ends on the same day as the debtor's taxable year which includes the date on which the bankruptcy case commences. This rule has been developed as a part of a prior version of the bill, which would have required that the estate report certain income recognized prior to commencement of the case. Inasmuch as the bill has been changed and now permits the debtor to close his or her taxable year on commencement of the case, the rule relating to the estate's taxable year no longer is necessary and accordingly would be deleted by the amendment.

2. Estate's share of the debtor's income (prop. Code sec. 1398(e)(1)):

The House-passed bill provides that the gross income of the bankruptcy estate of an individual debtor would include any gross income of the debtor to which the estate is entitled under bankruptcy law. The amendment would clarify that only such income which is recognized after commencement of the case would be includible in the estate's gross income.

3. Allocation of deductions and credits (prop. Code sec. 1398(e)(3)):

In cases where the bankruptcy estate of an individual would be treated as a separate taxable entity, the House-passed bill provides rules for allocating deductions and credits between the debtor and the estate. The amendment would modify these rules to make clear that only those expenses paid or accrued by the debtor which are not properly allowable to the debtor would be allocated to the estate. For example, an expense paid by a cash basis debtor before commencement of the bankruptcy case would be allowed to the debtor, even if such deduction could be considered to be associated with income which is allocated to the estate under the rules of the bill. Also, an expense paid or accrued by the debtor after commencement of the bankruptcy case would be allocated to the debtor, and not to the estate.

4. No-disposition rules (prop. Code sec. 1398(f)):

The bill provides that a transfer (other than by sale or exchange) of an asset from an individual debtor to the bankruptcy estate, or from the bankruptcy estate to the debtor on termination of the estate, would not be treated as a "transfer" giving rise to recognition of gain or loss, recapture of deductions, or acceleration of income or deductions. To conform with language used in related Code provisions, these provisions would be modified to provide that such a transfer would not be treated as a "disposition" for tax purposes.

5. Carryover of attributes to debtors (prop. Code sec. 1398(i)):

The bill provides that on termination of a bankruptcy estate, the debtor would succeed to various tax attributes of the estate. This provision would be modified to make clear that the carryover includes attributes first arising during administration of the estate (other than the new administrative expense deduction which would be provided under the bill).

SECTION 5 (MISCELLANEOUS CORPORATE AMENDMENTS)

1. Application of section 337 liquidation rule to insolvent corporations (modification to sec. 5(c) of the bill, amending Code sec. 337):

The House bill expands the nonrecognition provisions under Code section 337 to allow a liquidating corporation in a bankruptcy or similar case generally to sell its assets tax-free during the entire duration of the proceeding. The amendments would make this provision applicable whether or not any shareholder receives any consideration for his stock and also would clarify that assets may be retained to pay administrative claims following the close of the case.

2. Effect of discharge of indebtedness on earnings and profits (modification of sec. 5(f) of the bill, amending Code sec. 312):

The House bill provides that to the extent income from discharge of indebtedness (including an amount excluded from gross income pursuant to Code section 108, as amended by the bill) is applied to reduce basis under Code section 1017, such basis-reduction amount does not affect the debtor corporation's earnings and profits. Otherwise, discharge of indebtedness income, including amounts excluded from gross income (pursuant to Code section 108, as amended by the bill), increases the earnings and profits of the corporation (or reduces a deficit). The amendment would provide also that any deficit in earnings and profits would be reduced by the capital account of any shareholder whose interest is eliminated in a bankruptcy proceeding.●

● Mr. DOLE. Mr. President, the Bankruptcy Tax Act is the product of years of effort and addresses the needs and interests of debtors, creditors, and bankruptcy practitioners alike.

In 1978, Congress repealed the laws providing the income tax consequences involved when a creditor forgives indebtedness in a bankruptcy situation. Since that time, debtors and creditors, as well as their advisers, have had to live with uncertainty as to the tax consequences of their actions in attempting to restructure their rights and obligations. It is obviously very difficult to determine the real economic consequences of a transaction without knowing how it will be taxed.

PROVIDING CERTAINTY IN THE TAX LAWS

The Bankruptcy Tax Act will provide certain and balanced tax rules for treatment of debt discharge in the case of bankrupt or insolvent debtors and make coordinating changes in the rules for cancellation of indebtedness in the case of solvent taxpayers. The legislation also clarifies the tax rules governing insolvency reorganizations for corporations and the bankruptcy estate of individual debtors. It also makes other changes in administrative provisions of the tax laws to coordinate with the substantive bankruptcy law changes enacted in 1978.

This legislation represents a much needed package of technical amendments to the income tax laws in a very sensitive part of the economy. Astronomical interest rates and inflation are placing great strain on many taxpayers who are being forced into bankruptcy.

FINANCE COMMITTEE PRO-DEBTOR AMENDMENT

The Finance Committee, however, was concerned that the legislation as referred to the committee was not balanced sufficiently to allow debtors to reorganize and survive economic distress. We, therefore, amended certain rules relating to the exchange of debt for stock of the debtor. Under the committee amendment, a debtor corporation will neither recognize income, nor will be required to reduce tax attributes such as net operating loss carryovers when it issues its stock to a creditor in exchange for outstanding debt.

This amendment has been strongly supported by practitioners including the tax section of the American Bar Association. We expect that this provision will be very effective in helping financially distressed debtors to regain economic health and keep their employees from losing their jobs.

TIME FOR FINE TUNING NEXT YEAR

It may be necessary to fine tune other portions of this legislation to make sure that the tax laws facilitate, rather than hinder, the policies of the bankruptcy laws.

We must review the general rules relating to limitations on net operating loss carryovers in reorganization situations this coming year. As you know, the Congress enacted legislation to postpone the effective date of these limitations. This postponement ends December 31, 1981. It would, therefore, be appropriate to review the limitations on net operating loss carryovers in bankruptcy reorganization situations next year if it proves to be necessary.

In the meantime, this legislation provides much improvement in the tax laws and should be enacted without further delay.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a technical amendment to the bill be considered and agreed to; that an amendment by Mr. DeConcini delaying the effective date of one section be agreed to; that the measure be advanced to third reading, adopted, and a motion to reconsider be laid on the table.

Mr. CHAFEE. Mr. President, that is agreeable to this side.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Mr. ROBERT C. BYRD. With the reported committee amendment agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment proposed by Mr. Long (UP No. 1929) is as follows:

(Purpose: Making technical corrections.)

On page 55, strike lines 8 through 11.

On page 58, strike lines 5 through 8, and insert in lieu thereof the following:

(2) Clerical amendment.—Subsection (d) of section 6404 (relating to abatements) is amended by striking out "section 6213(f) (2) (A)" and inserting in lieu thereof "section 6213(g) (2) (A)".

Mr. DeConcini's amendment (UP No. 1930) is as follows:

(Purpose: Relating to the effective date.)

On page 71, strike out lines 18 through 24, and insert in lieu thereof the following:

(a) For Section 2 (Relating to Tax Treatment of Discharge of Indebtedness).—

(1) In general.—Except as provided in paragraph (2), the amendments made by section 2 shall apply to any transaction which occurs after December 31, 1980, other than a transaction which occurs in a proceeding in a bankruptcy case or similar judicial proceeding (or in a proceeding under the Bankruptcy Act) commencing on or before December 31, 1980.

(2) Transitional rule.—In the case of any discharge of indebtedness to which subparagraph (A) or (B) of section 108(a) (1) of the Internal Revenue Code of 1954 (relating to exclusion from gross income), as amended by section 2, applies and which occurs before January 1, 1982, or which occurs in a proceeding in a bankruptcy case or similar judicial proceedings commencing before January 1, 1982, then—

(A) section 108(b) (2) of such Code (relating to reduction of tax attributes), as so amended, shall be applied without regard to subparagraphs (A), (B), (C), and (E) thereof, and

(B) the basis of any property shall not be reduced under section 1017 of such Code (relating to reduction in basis in connection with discharges of indebtedness), as so amended, below the fair market value of such property on the date the debt is discharged.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Senator Wallop be added as a cosponsor to Mr. DeConcini's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. DeCONCINI. The amendment postpones for 1 year the requirement under the Finance Committee bill that a bankrupt or insolvent debtor must reduce net operating losses by the amount of debt discharge (or alternatively, must reduce basis in depreciable assets). Under the Finance Committee bill, this attribute reduction requirement generally would have applied to debt discharge occurring after December 31, 1980. Under the amendment, however, this attribute reduction requirement will not apply, in the case of a bankrupt or insolvent debtor, to debt discharge which occurs before January, 1, 1982, or which occurs in a bankruptcy case or similar judicial proceeding beginning before January 1, 1982.

Thus, under the amendment, a bankrupt or insolvent debtor will apply the amount of debt discharge to reduce basis in assets in the case of a debt discharge to which the bill applies occurring before January 1, 1982, or occurring in a bankruptcy case or similar proceeding commencing before January 1, 1982.

Furthermore, such a debtor will not be required to reduce asset basis below fair market value. Under the amendment, any amount of debt discharge remaining after asset basis is so reduced will not have any tax consequences—that is, the remaining amount will not be included in income and will not result in reduction of net operating losses or other tax attributes.

Thus, in the case of debt discharge before 1982, or bankruptcy cases or similar judicial proceedings beginning before 1982, bankrupt or insolvent debtors will be subject to a basis reduction rule like that in the now repealed provisions of the Bankruptcy Act.

The rules of the Senate Finance bill not covered by this amendment will become effective as provided in the bill reported by the Finance Committee. For example, the rules providing that basis reduction does not trigger investment credit recapture tax (thereby overturning a contrary Internal Revenue Service ruling) and the rules relating to indebtedness acquired by a related party will become effective for transactions in bankruptcy cases which commence after December 31, 1980. As another example, the rules of the bill relating to tax-free insolvency reorganizations will become effective, as under the Finance Committee bill, for bankruptcy cases commencing after December 31, 1980. Also, in the case of solvent taxpayers outside bankruptcy, the attribute reduction rules of the Finance Committee bill will become effective for debt discharges occurring after December 31, 1980.

The postponement made by the amendment in the effective date of the attribute reduction requirements for bankrupt or insolvent debtors will permit the Congress to give due consideration to any additional comments that the public may wish to make concerning such requirements.●

SUSPENSION OF CERTAIN DUTIES AND EXTENSION OF CERTAIN EXISTING SUSPENSION OF DUTIES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 1117, H.R. 5047.

There being no objection, the Senate proceeded to consider the bill (H.R. 5047) to provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes, which had been reported from the Committee on Finance with amendments, as follows:

On page 2, line 3, strike "SCHEDULES;" and insert "SCHEDULES:";

On page 2, after line 9, insert the following:

(b) For purposes of this title, the term "entered" means entered, or withdrawn from warehouse, for consumption within the customs territory of the United States.

'435.72 Poppy straw extract.............. Free Free"

(a) Part 3 of schedule 4 is amended by inserting in numerical sequence the following new item—

On page 3, line 25, strike "entered, or withdrawn from warehouse, for consumption" and insert "entered";

On page 4, strike line 4 through and including the chart following line 9, and insert the following:

On page 4, line 14, strike "entered, or withdrawn from warehouse, for consumption" and insert "entered";

On page 5, line 6, strike "entered, or withdrawn from warehouse, for consumption" and insert "entered";

On page 5, line 9, strike "ENTRY OF";

On page 5, line 10, strike "That headnote" and insert "Headnote";

On page 5, line 14, strike "bond" and insert "bonded";

On page 5, line 16, strike "wastes" and insert "wastes,";

On page 6, line 2, strike "entered, or withdrawn from warehouse, for consumption" and insert "entered";

On page 6, line 9, strike "entered, or withdrawn from warehouse, for consumption" and insert "entered";

On page 6, line 14, after "out", insert the following:

"provided for in item 403.60," and inserting in lieu thereof "however provided for in items 402.36 through 406.63,"

On page 6, line 19, after "out" insert the following:

"and inserting in lieu thereof "408.41,", and by striking out";

On page 7, line 2, strike "entered, or withdrawn from warehouse, for consumption" and insert "entered";

On page 7, line 6, after "out", insert the following " "407.85," and inserting in lieu thereof "411.76.", and by striking out";

On page 7, line 10, strike "entered, or withdrawn from warehouse, for consumption", and insert "entered";

On page 7, line 18, strike "entered, or withdrawn from warehouse, for consumption", and insert "entered";

On page 8, line 2, strike "entered, or withdrawn from warehouse, for consumption", and insert "entered";

On page 8, line 9, strike "entered, or withdrawn from warehouse, for consumption"; and insert "entered";

On page 8, after line 11, insert the following:

Sec. 114. Chipper Knife Steel.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

(b) The amendment made by subsection (a) shall apply with respect to articles entered on or after the date of the enactment of this Act.

Sec. 115. Unwrought Lead.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"911.29	Chipper knife steel (provided for in item 606.53, part 2B, schedule 6)	4.6% ad val.	No change	On or before 9/30/82".
"911.50	Unwrought lead other than lead bullion (provided for in item 624.03, part 2G, schedule 6)	3% ad val. on the value of the lead content but not less than 1.0625¢ per lb. on the lead content.	No change	On or before 6/30/83".

(b) Before July 1, 1983—

(1) no modification of the temporary column 1 rate of duty in item 911.50 (as added by subsection (a)) may be proclaimed by the President under any authority of law except title II of the Trade Act of 1974; and

(2) no duty or other import fee, except that provided for in such item 911.50 and those provided for under the amendments made by title I of the Trade Agreements Act of 1979, may be imposed on unwrought lead provided for in such item.

(c) The amendment made by subsection (a) shall apply with respect to articles entered on or after the date of the enactment of this Act.

(d) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of enactment of this Act, the entry, or withdrawal from warehouse, for consumption of any article described in item 624.03 of the Tariff Schedules of the United States and—

(1) that was made on or after January 1, 1980, and before the date of the enactment of this Act; and

(2) with respect to which the duty would have been different if the amendment made by subsection (a) applied to such entry or withdrawal;

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Sec. 116. Certain Fish Net and Netting Purchases and Repairs.

(a) Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

"(g) The duty imposed by subsection (a) shall not apply to entries on and after October 1, 1979, and before January 1, 1982, of—

"(1) tuna purse seine nets and netting which are equipments or parts thereof,

"(2) repair parts for such nets and netting, or materials used in repairing such nets and netting, or

"(3) the expenses of repairs of such netting and netting,

for any United States documented tuna purse seine vessel of greater than 500 tons carrying capacity or any United States tuna purse seine vessel required to carry a certificate of inclusion under the general permit issued to the American Tunaboat Association pursuant to section 104 of the Marine Mammal Protection Act of 1972.".

(b) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of enactment of this Act, the entry of any article to which section 466(a) of the Tariff Act of 1930 applied and—

(1) that was made on or after October 1, 1979, and before the date of the enactment of this Act; and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal;

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Sec. 117. Wood Veneers.

(a) Part 3 of schedule 2 is amended as follows:

(1) Item 240.00 is amended by striking out "1% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "Free" in the LDDC rate column.

(2) Item 240.02 is amended by striking out "7% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "4% ad val." in the LDDC column.

(3) Item 240.03 is amended by striking out "2% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "Free" in the LDDC column.

(4) Item 240.04 is amended by striking out "5% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "3.2% ad val." in the LDDC column.

(5) Item 240.06 is amended by striking out "2% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "Free" in the LDDC column.

(b) The amendments made by subsection (a) shall apply with respect to article entered on or after the date of the enactment of this Act.

Sec. 118. Ephedrine, Racephedrine, and Their Salts.

Effective with respect to articles entered on or after the date of the enactment of this Act,

(a) Subpart C of part 1 of schedule 4 is amended by striking out item 411.32 and inserting the following new items in lieu thereof:

"411.30	Pseudoephedrine and its salts	15.5% ad val.	7.6% ad val.	7¢ per lb. + 59% ad val.
411.31	Ephedrine, racephedrine, and their salts	4.8% ad val.	3.7% ad val.	7¢ per lb. + 59% ad val."

(b) The rates of duty in column numbered 1 for items 411.30 and 411.31 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as added by section 2) shall be subject to any staged rate reductions proclaimed by the President for items 411.32 (as in effect on the day before the date of enactment of this Act) and 437.20, respectively.

(c) Whenever the rate of duty specified in the column numbered 1 for item 411.30 or 411.31 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as added by section 2) is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in the column entitled "LDDC" shall be deleted from such Schedules.

(d) The amendment made by subsection (a) shall apply with respect to articles entered on or after the date of the enactment of this Act.

On page 13, line 17, strike "114", and insert "119";

On page 13, line 18, strike "If" through and including "upon" on line 19, and insert "Upon";

On page 13, line 20, strike "such" and insert "the";

On page 13, line 21, strike "enactment,", and insert "enactment of this Act,";

On page 14, line 6, strike "1930," and insert "1930";

On page 17, after line 14, insert the following:

Sec. 205.—Country-of-Origin Determinations.

Notwithstanding subparagraph (1)(A) of subsection 5(a) of Reorganization Plan No. 3 of 1979 (44 F.R. 69272, 93 Stat. 1381), the Secretary of the Treasury or his delegate shall issue such advisory rulings and make such determinations as are authorized by subsection 305(b)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(b)(1)).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the technical amendment on behalf of the committee be adopted; that a modification by Mr. Williams of the committee technical amendment be agreed to; that an amendment by Mr. Heinz dealing with hovercraft skirts tariff suspension be agreed to; that Senators may insert in the Record statements in support of the measure or amendments; that the committee-reported amendments be adopted; that the measure be advanced to third reading, passed, and motion to reconsider laid on the table.

Mr. CHAFEE. Mr. President, there are no objections on this side.

The PRESIDING OFFICER. In his capacity as a Senator, the Chair suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Bradley). Without objection, it is so ordered.

Mr. PROXMIRE. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

The amendment proposed by Mr. Long (UP amendment No. 1931) is as follows:

On page 4, strike out the matter appearing between lines 11 and 12 and insert in lieu thereof the following:

435.72 Poppy straw extract...... Free........... Free".

On page 4, beginning with line 16, strike out through line 8 on page 5.

On page 5, line 9, strike out "Sec. 106." and insert in lieu thereof "Sec. 105.".

On page 5, line 19, strike out "Sec. 107." and insert in lieu thereof "Sec. 106.".

On page 6, line 5, strike out "Sec. 108." and insert in lieu thereof "Sec. 107.".

On page 6 in the matter appearing between lines 7 and 8, strike out "(provided for in item 403.60, 405.08," and insert in lieu thereof "(however provided for in items 402.36 through 406.63,".

On page 6, line 12, strike out "Sec. 109." and insert in lieu thereof "Sec. 108.".

On page 7, line 4, strike out "SEC. 110." and insert in lieu thereof "SEC. 109.".

On page 7, line 12, strike out "SEC. 111." and insert in lieu thereof "SEC. 110.".

On page 7, line 20, strike out "SEC. 112." and insert in lieu thereof "SEC. 111.".

On page 8, line 5, strike out "SEC. 113." and insert in lieu thereof "SEC. 112.".

On page 8, line 12, strike out "SEC. 114." and insert in lieu thereof "SEC. 113.".

On page 8, line 18, strike out "SEC. 115." and insert in lieu thereof "SEC. 114.".

On page 10, line 10, strike out "SEC. 116." and insert in lieu thereof "SEC. 115.".

On page 10, line 22, strike out "netting" and insert in lieu thereof "nets".

On page 11, line 18, strike out "SEC. 117." and insert in lieu thereof "SEC. 116.".

On page 12, line 18, strike out "SEC. 118." and insert in lieu thereof "SEC. 117.".

On page 13, line 3, strike out "section 2" and insert in lieu thereof "subsection (a)".

On page 13, beginning in line 5, strike out "411.32 (as in effect on the day before the date of enactment of this Act) and 437.20, respectively." and insert in lieu thereof "411.32 and 437.20, respectively, which have been proclaimed by the President before the date of the enactment of this Act.".

On page 13, line 10, strike out "section 2" and insert in lieu thereof "subsection (a)".

On page 13, between lines 13 and 14, insert the following:

(d) For purposes of the Trade Act of 1974, the amendment made by this section (not including the rates of duty in column numbered 2 of the Tariff Schedules of the United States) shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

On page 13, line 14, strike out "(d)" and insert in lieu thereof "(e)".

On page 13, line 17, strike out "119." and insert in lieu thereof "118.".

On page 14, lines 3 and 4, strike out "109, 110, and 111" and insert in lieu thereof "108, 109, and 110".

On page 16, line 13, insert "(a)" before "The".

On page 17, between lines 5 and 6, insert the following:

(3) The amendments made by this subsection shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 1, 1980.

(b) The amendments made to the Trade Agreements Act of 1979 by section 14(a)(3)(A) of Public Law 96–467 with respect to items 678.50, 694.15, 694.20, and 694.40 of the Tariff Schedules of the United States shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 1, 1980.

On page 18, beginning with line 2, strike out through line 15 and insert in lieu thereof the following:

SEC. 301. TECHNICAL AMENDMENTS TO THE TARIFF SCHEDULES.

(a) The Tariff Schedules of the United States (19 U.S.C. 1202) are amended—

(1) by striking out "4% ad val." in rate of duty column number 1 for item 470.18 and inserting in lieu thereof "3.9% ad val.",

(2) by inserting "3.1% ad val." in the column entitled "LDDC" for item 470.18, and

(3) by striking out "provided for in item 403.60," in item 907.11 of the Appendix and inserting in lieu thereof "however provided for in items 402.36 through 406.63,".

(b) The rates of duty in column numbered 1 for item 470.18 of the Tariff Schedules of the United States (19 U.S.C. 1202) shall be subject to any staged rate reductions for item 470.15, which have been proclaimed by the President before the date of the enactment of this Act.

(c) Whenever the rate of duty specified in column numbered 1 for item 470.18 of the Tariff Schedules of the United States (19 U.S.C. 1202) is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such such item, or to a lower level, the rate of duty in the column entitled "LDDC" for such item shall be deleted.

(d) For purposes of the Trade Act of 1974, the amendments made by paragraphs (1) and (2) of subsection (a) shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974, of benefit to foreign countries or instrumentalities.

(e) This section, and the amendments made by this section, shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after October 17, 1980.

Mr. WILLIAMS' amendment (U.P. No. 1932) is as follows:

(Purpose: To provide no change in the column 2 duty on warp knitting machines.)

On page 8, strike out the matter between lines 7 and 8, and insert in lieu thereof the following:

"912.14	Warp knitting machines (provided for in item 670.20, part 4E, schedule 6)........	Free	No change	On or before 6/30/83".

Mr. HEINZ' amendment (UP No. 1933) is as follows:

At the end of title I, insert the following new section:

SEC. . HOVERCRAFT SKIRTS

That subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

'905.40	Textile fabrics of man-made fibers, coated or filled or laminated with natural rubber, for use in the manufacture of skirts for hovercraft (provided for in item 359.50, part 4C, schedule 3)..........	Free	No change	On or before 6/30/83.'

(b) The amendment made by subsection (a) shall apply with respect to articles entered on or after the date of the enactment of this Act.

Mr. LONG. Mr. President, since H.R. 5047 was reported by the Committee on Finance, the Senate has acted on a tariff bill (H.R. 3122) containing matters related to provisions in H.R. 5047 and additional review of H.R. 5047 has revealed technical problems which require amendments to the Finance Committee's amendment to H.R. 5047. The amendments proposed correcting typographic errors in the bill reported by the committee and making other technical corrections to the provisions and laws amended in the bill. The amendments and the reason for each of them are described in the materials which I submit for the RECORD. These changes are unobjectionable and have been cleared on both sides of the aisle.

AMENDMENTS TO FINANCE COMMITTEE AMENDMENT TO H.R. 5047

(1) The first amendment would insert a third column in the Tariff Schedules of the United States (TSUS) for the "least developed developing country" (LDDC) rate of duty for the articles covered by section 104 of H.R. 5047, which creates the new item (435.72) for "poppy straw extract." As of January 1, 1980, the TSUS was amended by Executive Order (as authorized by the Trade Agreements Act of 1979) to add a column for special concession rates for about 25 least developed developing countries. Not all products have such rates, but the column provides a uniform format for the TSUS to express these rates. There are no special concession rates for poppy straw extract. As reported by the Committee, however, the bill, through a typographic error, did not show the blank LDDC column. The amendment would insert the blank column.

(2) The next amendment would strike section 105 of the bill. Most of the following amendments then renumber other sections as appropriate. A provision with the same effect as section 105 has already been enacted as section 16 of Public Law 96–467. This section of the bill is now superfluous.

(3) Another amendment (beginning on page 1, line 11 of the amendment) would replace the reference in section 108 (amended to be section 107) to item 405.08 of the TSUS with the following references: "(however provided for in items 402.36 through 406.63)." The staff of the U.S. International Trade Commission has advised the Committee that the broader cross-reference is more accurate than a reference exclusively to item 405.08.

(4) Another amendment (beginning on page 2, line 18 of the amendment) corrects the typographic error "netting" at line 22 of section 116 (renumbered as section 115) of the reported bill to read "nets."

(5) One amendment (beginning on page 3, line 5 of the amendment) corrects cross references and adds a new subsection to section 118 of H.R. 5047 (amended to be section 117) that causes these amendments to be subject to the President's trade agreements authority. The cross reference in section 118 to staged duty reductions should not be limited to pre-existing staged reductions in duties in item 411.32. This change makes it clear that staging subsequent to enactment is lawful. The cross reference to "section 2" in the bill reported was inaccurate; the proper cross reference was "subsection (a)." New subsection (d) is language intended to give the President his full range of tariff-modifying powers under the trade agreements authority in the Trade Act of 1974 with respect to the duties affected by this section, even though these modifications are later in time than the Trade Act.

(6) The amendment beginning on page 4, line 8 amends section 203 to provide that provisions of Public Law 96–467 relating to technical corrections to the Trade Agreements Act of 1979 are made retroactive to January 1, 1980, as the Committee intended. This amendment provides retroactive duty-free treatment for civil aircraft covered by the Civil Aircraft Agreement of the MTN. It permits carrying out international agreements previously approved by the Congress.

(7) The amendment beginning on page 4, line 14 of the amendment substitutes for existing section 301 of the bill new language making technical corrections to provisions modified in Public Law 96–467. The substance of section 301, relating to roofing tiles for the Chinese Cultural Center in Philadelphia, Pennsylvania, has been enacted earlier this session as section 15 of Public Law 96–467. The section is, therefore, superfluous. However, Public Law 96–467 does not reflect, in several sections, changes in the form of the TSUS and duty rates proclaimed by the President while the bill was pending in the Senate. These changes, and authority to continue to make modifications of these new rates in accordance with pre-existing Presidential authorities to modify the TSUS, are affected by the substitute language of section 301.

THE CRISIS IN THE SHRIMP INDUSTRY

Mr. HEFLIN. Mr. President, I had wanted this session to offer an amendment to a bill in an effort to turn the tide in favor of thousands of shrimpers and their families who have been caught in a massive cost-price squeeze brought on by the importation of duty-free shrimp. The long-term viability of America's shrimp industry is at stake as long as foreign shrimpers continue to enjoy an unfair subsidy for fuel from state oil monopolies.

The present situation for America's shrimpers is indeed a serious one. Our fishermen must pay commercial prices for fuel, costs which have increased astronomically since the 1973 oil embargo. Indeed, cost of fuel is the largest portion in the overhead of the average shrimper. In short, the cost of fuel is rapidly pricing American shrimpers out of the market because Mexican shrimpers enjoy a massive fuel subsidy from the Mexican state oil monopoly, PEMEX. As a case in point, while American shrimp boatowners must pay up to $1.50 per gallon for fuel, Mexican shrimpers pay as little as 17 cents per gallon to PEMEX for fuel. There can be no effective competition while Mexico's shrimp fishermen enjoy such an unfair advantage.

Mr. President, my amendment would have, simply put, imposed a duty of 20 percent on the value of all shrimp imported into the United States—shrimp that now enter our country free from all import duties. This amendment, if adopted, would have restored the competitive edge to America's shrimpers who number over 35,000 fishermen and 22,000 vessels along our gulf and South Atlantic coasts. We are talking about an industry which contributed approximately $1.4 billion to our GNP in 1979. This protective tariff is desperately needed to save this vital industry.

I realize, however, that this late in the session, it is difficult to obtain favorable action by the Senate on my amendment, particularly since no hearings have been held to thoroughly consider the problems that my amendment hopes to remedy. Though I will not offer this amendment now. I would hope that it will receive careful consideration in the next session of Congress.

Mr. President, the following is the amendment I would want considered:

At the end of title I, insert the following new section:

SEC. . SHRIMP.

(a) Subpart D of part 3 of schedule 1 is amended by inserting in numerical sequence the following new item:

"114.47 Shrimp.............. 20% ad val. 20% ad val. 20% ad val."

(b) The amendment made by subsection (a) shall apply to articles entered on or after the date of the enactment of this Act.

Mr. President, I also have two articles, one from the November 2, 1980, Birmingham News, the other from the October 26, 1980, Mobile Press-Register, relevant to the crisis in the shrimp industry. They are as follows:

SHRIMPERS' WIVES SEND THEIR OWN SOS

(By Sandra Baxley Taylor)

BAYOU LA BATRE.—To wives of financially troubled Gulf Coast shrimpers, the letters "SOS" mean more than just that one boat is in trouble.

They mean the whole shrimping industry is in danger of sinking.

And the wives say they are going to do something about it—get active in politics and vote out the lawmakers who are unwilling to help.

"We've been confused and angry for a long time, but we didn't know what to do about it," said Sharon Auld. "We went through all the right government channels without any results."

Mrs. Auld is a local member of a group which calls itself SOS, which stands for Save Our Shrimpers. In Bayou La Batre, 80 wives are card-carrying members.

"The seafood industry is dying," Mrs. Auld said, "and we're going down with it."

The problem basically is that inflation has skyrocketed the costs it takes to catch shrimp—but prices have remained the same for the past three years due to foreign shrimp which flood the market.

"If we sold shrimp in Mexico, we'd have to pay a 25 percent duty," Mrs. Auld said. "But Mexican shrimp flows into this country without a penny import duty."

Mrs. Auld said shrimp which comes from Mexico, India and Ecuador accounts for some 60 percent of all shrimp sold in "our market".

That market is from Brownsville, Texas, to the North Carolina coast, she said.

SOS is asking Washington to impose a 20 percent import fee on foreign shrimp, limit the amount of shrimp which can be imported, and initiate a one dollar per pound price support to be financed by the import fee.

Fuel costs are the No. 1 reason, Mrs. Auld said, that shrimpers are in such a financial bind.

"We're selling medium shrimp for about the same price now we were in 1978, which was about $3 a pound," she said.

"But in 1978 we were paying 34 cents a gallon fuel. In 1979 we paid 71 cents per gallon. This year we're paying a dollar a gallon."

Some shrimpers are unable to buy the 10,000 gallons needed to venture far enough into the Gulf to come back with a catch, she said.

"Those who can buy the fuel are working," she said. "We've got boat payments to make."

Shrimp boats can easily cost $250,000 and up.

Mrs. Auld said her family has coped with increasing expense and decreasing income by cutting more and more "extras" from their budget for the past three years.

Recently they were forced "to get a second mortgage on a boat we fought for five years to pay for," she said.

She and her husband William have worked in the shrimping business for the 14 years they have been married, Mrs. Auld said.

The Department of Commerce looked at figures seafood leaders provided to show how bad off the seafood industry is, Mrs. Auld said.

As a result the department offered the shrimpers a $12.2 million loan and grant program.

The shrimpers refused.

"We don't want a handout," Mrs. Auld said.

Sen. Howell Heflin met with SOS members last week and promised help.

At one time the shrimpers supported President Jimmy Carter for re-election, Mrs. Auld said.

But she said now the group has had a change of heart.

"He can sign a bill to give millions to support the Cubans in Florida but he can't find anything for a whole industry down here," she said.

[From the Mobile Press-Register Oct. 26, 1980]

SHRIMPERS' WIVES SEEK FEDERAL HELP

(By Ann Zewen)

BAYOU LA BATRE, ALA.—Contending the shrimping industry is facing potential disaster because of rising fuel costs, reductions in yield of the shellfish and strong competition from foreign fishermen, wives of local shrimpers are organizing in an attempt to obtain federal help for their beleaguered husbands.

Joining with their counterparts from Georgia, Florida, Mississippi, Louisiana and Texas under the organizational name of S.O.S.—for Save Our Shrimpers—the wives are participating in a massive campaign of sending telegrams to President Jimmy Carter and Secretary of Commerce Phillip Klutznick, asking for assistance.

Using the Nov. 4 presidential election for leverage, the wives and other supporters are demanding an answer by Oct. 31 to their request for price support for American-produced shrimp, and imported duties and quotas on imported shrimp.

They are requesting $1-per-pound shrimp price support and a 20 percent import duty plus a monthly quota on all foreign shrimp. They contend the import duty would cover the cost of the price support, making the assistance a self-supporting program.

While their counterparts in other states have been working on the effort for several weeks local wives have just learned about the organization and began their efforts this weekend. They have scheduled a meeting at 10 a.m. Monday at the Youth Boosters Center in Bayou La Batre to inform other wives and supporters of the extent of the problem being faced by American shrimpers.

"They're facing bankruptcy," said Mrs Sharon Auld. "it's a matter of survival."

Mrs. Auld explained that the shrimp catch is down 57 percent in 1980, while prices are down 27 percent.

At the same time, operating costs are up, she said, explaining that this year's fuel costs per trip per boat are approximately 50 percent of the money earned by the catch of the trip. In addition, crew shares are 30 to 35 percent, leaving only 15 to 20 percent for boat notes, insurance notes, nets, materials and other similar costs.

Mrs. Auld further noted that 57 of the 418 shrimp boats financed through the National Marine Fisheries Service in this region are behind in their mortgage payments—some as much as six months.

She added that approximately 200 boats are expected to be repossessed by the NMFS in the next two years.

In addition, half of the 5,000 fishing vessels in the 70-foot class in the South Atlantic and Gulf region are expected to be out of business by this time next year, she added.

Not only the shrimpers will suffer from the loss of vessels, according to Mrs. Auld. She noted that each vessel has an average of three crew members who have an average of three family members each, totaling 22,500 people left without income if the boats go out of business.

"Because of the domino effect in the packing house and supply industries, it is projected that 138,000 people will be unemployed, costing the taxpayers an estimated $300 million per year to foot the bill," she added.

Mrs. Auld said she and other wives of shrimpers, boat owners and related merchants are spearheading the effort to obtain federal assistance because their husbands are busy trying to catch whatever shrimp they can to support their families until help is obtained.

She noted that the only assistance offered so far by the federal government is in the form of small business loans, which would simply postpone the situation without providing any permanent relief.

"We've muddled through before," she said, "but this year, we're muddling through the good season. What are we going to do when the bad season comes?"

Noting that the U.S. Department of Agriculture provides price support assistance to

> farmers, while requests for similar help for shrimpers have been refused, Mrs. Auld insisted that the shrimpers need the same kind of help.
>
> "We're farmers, too," she said. "We just farm the sea."

Mr. LONG. Mr. President, I agree with my distinguished colleague that the problem in the shrimp industry is severe. I also agree that it would be difficult to obtain favorable consideration this late in the session.

The Senator from Alabama is aware that I share his concern over the crisis in this industry since its impact is keenly felt in Louisiana. I believe that the best policy would be a careful examination of this problem and the means to solve it during the first session of the new Congress. I would call upon my distinguished colleague and friend, the Senator from Kansas, who will assume the chair of the Finance Committee, to assist us in this matter in the coming Congress.

Mr. DOLE. Mr. President, the Senator from Louisiana and the Senator from Alabama are correct in their prognosis of the effects of trying to handle this amendment during this session. While the efforts of my friend, the Senator from Alabama, are commendable and while the crisis in this industry is obviously severe, there unfortunately is not sufficient time for seeking a solution to this problem now. We of the Finance Committee will work with him on this issue in the upcoming session.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

INTEREST RATES

Mr. SASSER. Mr. President. I send to the desk a resolution and ask unanimous consent that it be placed on the calendar.

Mr. ROBERT C. BYRD. Mr. President, putting it on the calendar has not been cleared with the leadership.

Mr. SASSER. Mr. President, I will withdraw the unanimous-consent request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. ROBERT C. BYRD. Does the Senator wish to have it printed?

Mr. SASSER. Mr. President, I send to the desk a resolution.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER, I rise today to draw the attention of my colleagues for the need to abandon the current high interest rate policies of the Federal Reserve Board.

Since October 1979 the Federal Reserve Board has embarked on a misguided crusade to end inflation by relying on a tight money policy. And while the Federal Reserve Board should follow monetary policies that can moderate inflation, the Federal Reserve Board must understand that inflation cannot be halted through monetary policy alone.

Inflation must be attacked through sensible budget cutting, the adoption of tax cuts that will stimulate economic productivity, and through Federal policies that will reduce the economic drag of misguided regulations on American business. And the private sector must do its part as well. Big business and labor must moderate their price and wage policies so that we do not heighten inflationary expectations.

Inflation fighting requires team work. No single institution of Government can end inflation by its own actions. Yet that is precisely what the Federal Reserve Board is attempting to do today. Through its money management policies, the prime rate has once again reached 20 percent and threatens to go even higher. Why just 15 months ago, the prime rate was only 12.9 percent. Twenty years ago this month, the prime rate was 4.5 percent.

And what is the economic cost of this misguided interest rate policy?

In the homebuilding industry the devastation has been incredible. We should be building 2.3 million new housing units every year just to meet our normal housing demand. This year, because of soaring interest rates, we may build only 1.2 million units—a shortfall of 1.1 million units. And if high interest rates keep up, we will have a deficit of 2.4 million housing units by 1982.

And the cost of homeownership has risen dramatically as well. The National Association of Homebuilders, for example, has indicated the average cost of a $60,000 mortgage has risen by more than $100 per month. And due to high interest rates, only 18 percent of those who bought a house in 1980 were first-time home buyers—a dramatic reduction in such home buyers.

Other sectors have suffered as well.

This year over 2,100 automobile dealerships will go out of business, a rate nearly triple that for the period from 1975 through 1978. Overall business bankruptcies were running at a rate of 35 to 50 percent greater than the years between 1967 and 1979.

And through all this have we reduced inflation? Have we slowed down the demand for credit?

No, we have not.

Inflation is still running at well over 10 percent and higher. And in this period of ever spiraling interest rates, we find American business running scared and further bidding up the demand for credit. Thus, in October 1979, before the Federal Reserve Board announced its current interest rate policy, loan commitments by major commercial banks were growing at a rate of 17 percent. In the first quarter of 1980 when the prime rate moved to a 20-percent level, the loan commitment growth rate moved to 38 percent. And Mr. President, there is no indication that this loan commitment growth rate is slackening given the fear that American business has of spiraling interest rates.

So what do we have here? We have an interest rate policy that is shoving us back into a recession, bankrupting homebuilders, automobile dealers, small businessmen, and farmers.

We have an interest rate policy where the prime rate is changing almost weekly, making sound business investment plans almost impossible.

And tragically, we have an interest rate policy that is doing nothing, absolutely nothing to control inflation.

This hardly makes economic sense for American business or the American people.

Now there are some in the Congress that say, "Let's not criticize the Fed. They are just trying to do their job. Let them follow a tight money policy and interest rates will fall back to their natural levels as inflation subsides."

But, that, Mr. President, will not be the case.

Even the economic experts have their misgivings over the Fed's current interest rate policies. Consider, if you will, a recent Wall Street Journal article on interest rates by Richard Jannsen. Mr. Jannsen notes that high interest rates have a self-sustaining quality and that most observers expect interest rates to go even higher than 10 percent and in such an erratic fashion that one economic observer stated that—

> Nobody, not even God, will be able to make precise forecasts of future interest rates.

Mr. President, I ask unanimous consent that the article written by Mr. Jannsen be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 24, 1980]

THE INTEREST SWORD KEEPS SWINGING

NEW YORK.—"The last ratchet up." That's how William Simon, a ranking Reagan adviser and former Treasury Secretary, characterized the round of interest rate increases triggered by the Federal Reserve Board 10 days ago. What could do more to restore governmental credibility than the world's first conclusive forecasts of interest rates?

The word "ratchet" is apt in an inauspicious way, however. It implies that every time interest rates are cranked up another notch, they can't slip all the way back to where they were in the previous cycle.

Actually, that's the way our financial machinery has been working for decades. After reaching its record 20% last April, the prime rate banks post as applying to the best corporate customers plunged to the 11% area by July. But that still left it far above the low of a little over 6% to which it had dwindled in 1977 after the run-up beyond 12% in 1974, as charted in the Commerce Department's Business Conditions Digest.

The prime rate had averaged less than 5% for a time in 1972, welcome relief from the 8.5% peak in 1970, but nevertheless in excess of the lows wrought by the previous recessions, 4.5% in 1960 and a nostalgia-misted 3.5% in 1958.

Now, with nudging from the Fed. the prime has climbed to 17%, two thirds of the way back to its record of last spring. If the pattern of U.S. interest rates generally since World War II is to hold true, the next cyclical peak will have to be even higher than the last one.

Whether history will indeed repeat itself so mechanically is, mercifully, in doubt. But so is most everything else about the economy. Those who fear the Reagan team's mix of tax cuts, credit caution and larger defense outlays will be inflationary can reasonably expect rising interest rates. Those who trust there'll be only moderate recovery—the more conventional assessment—needn't have such qualms.

It's worth noting, though, that at least a few of the more history-conscious forecasters already are fretting that the 20% prime won't rank as the record forever.

What his computer tells him the prime "should do" is ascend steadily to at least 28% next July, says Albert Sindlinger, the consumer economics researcher. The actual movement won't be so orderly, nor need it be even that long in coming, he cautions. This is "the first time in 26 years" that there's been such a convergence of demands for credit from "every sector of the economy," he finds, partly because many businesses had postponed bond issues in hopes of lower rates by now.

While the focus of most market participants last week was on how soon economic softness would send interest rates down again, others were taking a longer view of what volatility might bring. "Whether it occurs in the next few months or two to three years in the future, the probability is high that we will test and perhaps exceed a 20% prime rate," said Edmont Villani, economics vice president at Scudder, Stevens & Clark.

Whatever does come next, the renewed rise in interest rates is drawing more attention to a sometimes-neglected aspect of this weapon against inflation—it's a two-edged sword, capable of slicing off inflationary excess demand, but not without the risk of fostering some "cost-push" inflation.

The home-building front provides a prime example. In mid-1979, housing starts were rolling along at around a 1.9 million units annual rate, roughly in line with the average pace of the last few years. As interest rates surged, fewer people could afford to take on the stiffer monthly payments, and by last May, starts had dwindled to an annual rate of barely above 900,000 units.

Sure enough, you could rule out home builders and would-be sellers of existing homes as likely to indulge in inflationary spending sprees. But due to this "terrible credit squeeze," inflation in home prices may well proceed "even faster because we lost about six months' output of homes," advises Albert M. Wojnilower, First Boston Corp.'s chief seer.

A more basic concern is that costly credit can cost a lot of future industrial output. "Investment, not consumption, has suffered most" from high interest rates in Britain, protests Geoffrey Rippon, a Conservative, if somewhat dissident, member of parliament there. West Germany's experience, too, is that a restrictive monetary policy "in the first place, depresses investment," complains Kurt Richebacher, economics chief of the Dresdner Bank.

The mechanism is simple. When a business faces steep carrying costs on debt for years or decades ahead, investing in new equipment comes to look less profitable than temporarily taking in more workers. That can help for a while to hold down unemployment, but when a company chooses to forgo more efficient new facilities, what it is laying the foundation for is continued stagflation.

What worries some observers here and abroad is that high interest rates have a self-sustaining quality. They force businesses "to borrow more so they can keep paying the interest on their old loans," reasons Mr. Rippon. And because they're soon reflected as just one more higher price in the U.S. consumer price index, domestic economists widely agree, rising interest rates spur demands for more inflationary wage increases.

Still, the interest rate sword is the only anti-inflation weapon immediately in reach. And if history seems to suggest that a further upward swing is predestined, Mr. Sindlinger consoles that for precise rate forecasts, count on "Nobody, not even God."

—RICHARD F. JANSSEN.

Mr. SASSER. Mr. President, we simply cannot continue to follow the Federal Reserve Board's high interest policies. We must not be cowed or intimidated by those that say that the Fed can bring down inflation if only we can leave it alone. The Fed's interest rate policies are not working and we must recognize that fact and act accordingly.

We simply do not have a monetary system that can be fully controlled by the Fed's monetary policies. Our monetary system is now international rather than national in character. We have no clear idea of the amount of "money" that can be subjected to the Federal Reserve Board's controls, and there is ample evidence that unless we follow complementary fiscal, wage-price, and regulatory policies, monetary policies will never, never control inflation. Indeed, without these policies and efforts to reduce nonessential credit more directly, the present Fed monetary policies will only drive up prices, including interest rates.

So, Mr. President, let us cut our costs while we can. Let us turn away from the human misery and economic chaos caused by high interest rates, and let us refashion our monetary policies accordingly.

I, for one, do not plan to stand idly by during this interest rate crisis.

Consequently, I am today submitting the resolution which is cosponsored by Senators RANDOLPH, BUMPERS, EXON, MELCHER, BOREN, HUDDLESTON, FORD, BAUCUS, LEVIN, and METZENBAUM.

In summary this resolution would:

Direct the Federal Reserve Board to take appropriate actions to hold down the prime rate and to reduce interest rates as soon as possible;

Direct the Federal Reserve Board to abandon its present approach of managing the money supply by means of meeting general monetary aggregate targets as announced in October 1979, and to restore traditional financial constraints such as Federal interest rate targets, and stronger reserve and margin requirements on borrowing.

Direct the Congress to have the Federal Reserve Board through its Board of Governors, rather than the Open Market Committee, set national monetary policy;

Further direct the Congress to broaden the membership of the Federal Board of Governors in order to include representation of a wider spectrum of the economic community, and,

Finally, to direct the Senate, through its established committees, to undertake a thorough investigation of the steps that are required to provide a more stable and growth-oriented monetary system that insures adequate credit supply to hard-pressed economic sectors while reducing the speculative and intrinsically inflationary pressures which now characterize the financial sector.

In sum, Mr. President, the responsibility for sound monetary policy rests with the Congress. The American people do not expect us to sit idly by while our economy falters and stumbles. But, that is precisely what is happening today in no small measure because of the Federal Reserve Board's monetary policies. We must take concrete and far-reaching steps to end these high interest rate policies now.

PNEUMOCOCCAL VACCINE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 8406, which is at the desk, be considered as having been read the first and second time, that the Senate proceed to its immediate consideration; that an amendment by Mr. CRANSTON on adoption assistance advance funding be agreed to; that an amendment by Mr. LEVIN allowing States to restrict AFDC eligibility for college students be agreed to; that an amendment by Mr. BOREN and Mr. LONG on SSI transfer of assets be agreed to; that an amendment by Mr. WALLOP on childnapping be agreed to; that an amendment by Mr. NUNN on child support be agreed to; that if there are any committee amendments, that they be adopted; that Senators may insert statements into the RECORD; that the title amendment, if there is an amendment, be agreed to; that the bill be advanced to third reading and passed and a motion to reconsider be laid on the table.

Mr. HEINZ. Mr. President, reserving the right to object, as I understand the majority leader's unanimous-consent request, he is taking a number of measures, which he went through at fairly rapid speed. Could he or the Chair repeat the unanimous-consent request?

Mr. DOLE. Here is a copy of it.

Mr. HEINZ. Mr. President, further reserving the right to object, I am a little reluctant to give unanimous consent at this time for anything just as a general principle unless we can have some clarification on some other measures that may or may not be cleared for unanimous consent. Until we get that resolved, I am constrained to object.

The PRESIDING OFFICER (Mr. EXON). Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LEGISLATIVE SITUATION

Mr. LONG. Mr. President, I should like to explain to Senators and to all others who are interested in observing what is going on here what our problem is. Maybe it will help everybody, including those who may be listening to my voice in their offices, if I describe what the situation is, and it may help them adjust to reality.

This is what our parliamentary situation is.

We are in the last day of the session; and in the last day of the session, any determined Senator can defeat anything. At least, if we are going to adjourn today, all it takes is a man with a good set of arches—they do not need to be very good, just reasonably good to carry him around; a reasonable set of knees; and he only need be in fairly good health in other respects. His health does not have to be great; he can have a hernia. [Laughter.]

So long as he can walk as far as six blocks under his own power and has a set of lungs that can sustain him for a day or two, all he has to do is to stand here and talk a little, suggest the absence of a quorum, talk a little longer, and have another quorum call. That Senator can defeat anything for a day, if all he has to do is hold out from now until midnight tonight or something like that.

I have heard it said many times in the Senate that one man on the side of God is a majority. I am here to say that in the Senate, on the closing day, any one man has a right to think he is God; and if so, he is a majority.

A Senator can stand here and defeat almost anything for a day. That being the case, when Senators take the view that they feel justified in opposing various measures with which they disagree, you cannot pass them, and Senators should recognize that it cannot be done.

We have some revenue bills which should be considered. Let me talk about them for a moment.

There were a hundred different legislative proposals by various Senators in the Finance Committee. We asked the Treasury, the Joint Tax Committee staff, and the Finance Committee staff to study these amendments and see which ones might be cleared and might be agreed to without any Treasury opposition and without any serious objection from any Senator. They came up with a couple dozen which they thought no one would object to—or, if someone did object, he would not object so strongly that it would prevent the majority from voting the measure through, and he would be willing to abide by the judgment of the Senate.

We proposed those measures, and we put about three amendments each on eight bills which had passed the House of Representatives, which could meet about the same tests. Here they are. We should pass these measures.

Senators such as the Senator from Ohio (Mr. METZENBAUM) and the Senator from Wisconsin (Mr. PROXMIRE) went over these measures carefully and found a couple of things they objected to. So, in order to pass the measures, we suggested that we drop or modify the items they oppose; and we came to an understanding with those Senators that they would be willing to permit whatever remained to be passed, provided it was not loaded down with something to which they objected.

At this late point, someone may come in and have an amendment which he is convinced is the best thing we can adopt in the remaining days of this Congress. If he is right about the matter, there is no problem about it. The Senator is sincere, and he feels that it is important to the people of his State and to other States.

However, Mr. President, you cannot pass something in the closing days that even one Senator is determined to oppose and prevent from becoming law.

If we took care of the matter about which the Senator from Pennsylvania is very much concerned, it would mean that the bill would not pass; it would not become law. All we do when we insist on that is to prevent a bill from passing which could become law.

For example, there is a measure with respect to pneumococcal vacine under medicare which would prevent people from having pneumonia. It should be passed. Some of us have assumed the burden of finding a way to pay for it. Senator DOLE believes we should save money on Federal spending programs to absorb a cost such as this. Some of us have assumed the burden of finding an amendment to offset the cost of it, so that the benefit would be paid for by an economy somewhere else. To go beyond that may mean we will not have a bill.

If we are able to pass these measures that are not objected to, that have no Treasury objection and no serious opposition from any Senator, we are willing to call up a bill which has some controversy to it. As a practical matter, the chance of that bill becoming law is not good under those circumstances, but we are willing to let Senators have the opportunity to offer amendments and let the Senate vote on matters that the Senate thinks are worthy of concern, and Senators can take their chances, realizing that the chance of the bill becoming law is not very good. That is about the best we can do for Senators.

However, I hope that in an effort to get something that each Senator thinks is very important to his constituents or to his section of the country, they not proceed to kill legislative proposals that have been studied carefully and which would have no opposition.

Of course, one can always say that it is the other fellow's fault. However, as a practical matter, those who are trying to put controversial amendments or amendments that are seriously opposed by any Senator on the bills we are trying to pass here are merely impeding those measures, and all they are succeeding in doing is defeating some meritorious proposals that have no real opposition.

So I hope Senators will understand our problem. This will not be the end of Congress, even though it is the end of this particular Congress. Congress will be back next year. The Senate will be here next year, and most of these Senators will be here next year. They will have another opportunity to work for the legislative proposals they believe are desirable, even though they do have a modicum of controversy about them, and we will have an opportunity to cooperate with them. I hope that at this point they will cooperate with us and pass these measures that have no opposition worthy of note, so that we can take care of some matters that have been called to the attention of the Senate for years now—the type of things which should be passed to maintain the respect of citizens for their system.

Some of these things involve measures and matters that have been wrong for a long time about the system, and citizens out there, particularly those who work in the vineyards of tax collecting or taxpaying, cannot understand why we do not correct things that are pretty clearly wrong about the Internal Revenue Code.

I hope very much Senators will offer us the opportunity to vote on these unobjected-to measures. That way we might be able to pass them.

I hope that they will respect the right of other Senators to stand in the way and to block measures that they are opposed to. If they are sufficiently opposed to it that they feel like standing here and denying the Senate the opportunity to pass a bill that they are opposed to, we should respect that. At this phase of the game they have the power to do it, and we should respect that power because otherwise we are not going to pass anything. About all we will do is pass that continuing resolution and the motion to adjourn sine die.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

Mr. BELLMON. Mr. President, will the Senator withhold?

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I withhold my request.

Mr. BELLMON. Mr. President, will the Senator allow me to be recognized?

The PRESIDING OFFICER. Is there any objection?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may proceed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I thank my friend, the majority leader.

FOREIGN POLICY

Mr. BELLMON. Mr. President, I wish to devote some of my remaining time as a Senator to addressing an issue which I feel is extremely important. Over a year ago, I offered Senate Resolution 299 which proposed the creation of a special Senate forum for analyzing U.S. Defense and foreign policy goals.

After I introduced this resolution, Senator CHURCH and Senator JAVITS were kind enough to invite me to appear before the Foreign Relations Committee on two different occasions and discuss the merits of my suggestion. To my surprise, the reaction of the committee was entirely favorable to my suggestion and Senators PERCY and GLENN were especially supportive of the idea. Senator CHURCH made a good-faith effort to develop a framework for such a forum. The idea of merging assessments of U.S. defense and foreign policy soon foundered on the shoals of committee prerogatives and turf conflicts ended the effort.

Mr. President, I was realistic not to expect my notion to meet with much initial success. Efforts to get the Senate to adopt innovative ideas are often difficult. However, I was quite surprised and gratified when the new chairman of the Foreign Relations Committee, my good friend Senator PERCY, came to the floor last Thursday and announced that he has pledged himself to continue working out a method to, in his words, "draw the relationship between credible foreign policy and strong national defense."

I was initially delighted by Senator PERCY's statement, and on reflection I am even more enthusiastic. It is, as I said on Thursday, probably the best news I have had since I came to the Senate.

I was also encouraged by two other remarks made by Senator PERCY. First, his statement that he knows of private individuals and organizations that are willing to provide significant financial support for a comprehensive study of the correct relationship between foreign policy and defense policy. I would encourage Senator PERCY to pursue offers of these kind to a successful application. To the extent that such a privately funded examination can be linked up with similar administration-sponsored examinations, the results should be even more successful. I encourage such an activity.

Second, Senator PERCY raised the possibility of joint sessions with the Foreign Relations Committee and the Armed Services Committee for the purpose of exploring foreign policy and defense policy. Mr. President, I believe this may be one of the most exciting concepts I have heard expressed in my time in the Senate. It goes to the core of my suggestion that the Senate develop new mechanisms for the "Twain" of foreign policy and defense policy to be considered as related and mutually supportive objectives. I strongly urge the new chairman of the Armed Services Committee, Senator TOWER, to seriously entertain Senator PERCY's suggestion that the Senate's two committees of expertise on defense and foreign affairs, Armed Services and Foreign Relations, cooperate in developing a forum for analyzing U.S. policy objectives and force requirements. Neither need have fear of sacrificing their jurisdiction. Both could contribute mightily to the Senate's consideration of U.S. foreign policy and defense capability.

Mr. President, I am convinced that the Senate needs to seriously pursue the development of new mechanisms for assessing defense and foreign policy. The relationship between U.S. global policy and U.S. military forces and defense strategy is so close today that the two are virtually indistinguishable. We are reaching a point where every Member of the Senate, not just those on the lead committees, needs to have a fairly sophisticated and well-developed concept of national interest and how our foreign policy and defense capabilities can best support this national interest. In my opinion, the SALT II discussions in the Senate illustrated that such a concept of national interest has not been developed or adequately presented. It must be.

Mr. President, I will make a pledge to Senator PERCY that, although I am leaving the Senate, I will remain ready and willing to play whatever role I can do help him begin the essential job of building a process whereby the Senate and the Congress can better follow U.S. global objectives. I will be happy to work with him and the Foreign Relations Committee, with Senator TOWER and the Armed Services Committee, to start identifying an agenda.

Although I will return to the status of private citizen in January, I will do whatever I can to promote the goals of the task he is, to his immense credit, prepared to undertake. I will urge "think tanks" and foundations to support his attempt in order that the Foreign Relations Committee might designate a group of specialists in the field of defense and foreign policy to study this problem of relating national capabilities to national goals.

But let me stress that any such outside assessment should focus on the development of a framework, an agenda for discussion, which the Senate can use as the basis for its own discussions—led by the collaboration between the Foreign Relations and Armed Services Committees. It is imperative that the Senate get involved in this examination and not simply establish some commission to produce a soon-forgotten dissertation on the subject. I am talking about the development of an institutionalized process for addressing foreign policy and defense policy. I am talking about the development of a format which, once developed, can continue to serve the Senate into the future.

Mr. President, I realize I am expecting a lot of the Senate; an organization which I know all too well has become increasingly swamped by the amount of work it must address. But this is an important function. Indeed, it is an exciting idea. Most Members, I would hope, will agree.

I note that Senator BAKER has already stated his hope that the Senate will, with its new majority, become a forum for real national debate and policy assessment and less a Chamber of bill-writers. I agree, and that is at what my notion is directed. Senator TOWER was recently quoted in the press citing the need for more consideration of what the goals our defense capabilities should support are. I am therefore heartened to hear the new majority leader and the new chairman of the Foreign Relations and the Armed Services Committees talking about the same ideas I am. I encourage them to press the new administration to consider ways in which it could facilitate the Senate's understanding of U.S. goals and force requirements.

Mr. President, my last few years of service on the Senate Budget Committee—a committee assignment which provides a unique and often disturbing overview of U.S. policies and economic vitality—have convinced me that the Senate must, as a whole, implement new approaches to the problems which confront us in the future. National security is certainly an issue which will require much attention. But, similarly, so will the U.S. economic situation. Both are in serious trouble in certain areas. The spending solutions which exist today for each really are in conflict with each other; if one appreciates the realities of the national economy and the limited flexibility, in the short-term, Congress has to implement immediate—politically feasible solutions.

The answers to our defense problems must lie in new approaches because, quite frankly, we cannot afford the standard solution of just spending more on the same structure. We will certainly spend more on defense. The fiscal year 1981 second concurrent budget resolution envisages more than $1 billion for defense in just the next 5 years. That increase in spending will doubtless be larger after inflation and the new administration and Congress have made their own modifications to present projections. But unless we have a better grasp and understanding of what we want our military forces to do—in terms of supporting U.S. political-military objectives—we run the risk of squandering all-too-scarce budget resources on an outmoded or incorrect force structure which will not support the goals we must attain.

What are these goals? They must be identified and understood. The Senate must undertake this task. As I leave the Senate I express the hope that the new Republican majority will undertake this very difficult task and to succeed in establishing a forum for enabling Congress and the country to understand and properly prepare to meet U.S. global responsibilities.

Mr. President, I would like to close by saying that I wish I had begun to pursue this idea 12 years ago. Perhaps we could have had the matter well in hand by now. In any event, I believe that the time is propitious now to institute an effort to give more substance to the idea of U.S. global national interest—substance which will help the Senate, the Congress, the administration, and the American people make the very hard decisions in the future as to how to best configure our military capabilities.

REVIEW OF SOCIAL SECURITY DISABILITY AWARDS

Mr. BELLMON. Mr. President, I ask unanimous consent that a letter I have sent to Senator DOLE regarding the Department of Health and Human Service's implementation of one portion of H.R. 3236, the disability amendment of 1980, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE BUDGET,
Washington, D.C., December 10, 1980.

Hon. ROBERT DOLE,
U.S. Senator, Dirksen Senate Office Building, Washington, D.C.

DEAR BOB: As you prepare for your duties as Chairman of the Finance Committee, I want to share with you some information I have received regarding implementation of one part of H.R. 3236, the Disability Amendments of 1980.

H.R. 3236 included a provision, which I offered as a Senate Floor Amendment, requiring the Secretary of the Department of Health and Human Services (HHS) to initiate "re-reviews" of a sample of disability appeals cases in which federal administrative law judges have reversed the state disability agencies and have awarded benefits to the applicants. The rationale behind my amendment was that there should be a closer examination of administrative law judge decisions in which the applicants prevail, because about half of the disability cases which are appealed to federal courts result in reversal of the decisions of the administrative law judges and the HHS Appeals Council. In other words, I felt that if the batting average of the administrative law judges on the cases in which they denied benefits was so bad, the same thing might be true of the reliability of their decisions on cases in which they granted benefits.

The attached preliminary information from the Department of Health and Human Services confirms my suspicions. HHS is now conducting reviews of an initial sample of cases pursuant to my amendment. A full 70% of the first 130 cases reviewed were found not to meet the criteria for award of benefits.

I hope the Senate Finance Committee will examine very closely the findings in this initial review of cases. I would guess that these preliminary findings are only the tip of an iceberg and that a continued reexamination of disability awards will result in substantial savings of federal dollars.

Best Regards,

Henry Bellmon.

Mr. BELLMON. Mr. President, there is little or no disagreement that truly disabled people must be given adequate support to permit them to live at reasonable levels of decency. On the other hand, awards of benefits to people who are not truly disabled is a rip-off of the taxpayers. We should do everything reasonably possible to tighten programs so that these rip-offs do not occur.

On the one hand, I am encouraged that the early results show that the procedure established as a result of the amendment I offered to H.R. 3236 seems to be successful in detecting errors in disability rulings. On the other hand, it is distressing that there is so much error to detect.

Hopefully, improved review procedures can continue to be developed so that we can have greater assurance that disability benefits go only to those who are indeed unable to work because of disability.

TRIBUTE TO SENATOR RICHARD SCHWEIKER

Mr. BELLMON. Mr. President, It is rare when a Government official comes into his office with what appears to be perfect qualifications to discharge the duties he is about to assume. The announcement by President-elect Reagan on yesterday that he would appoint our colleague Dick Schweiker to be the new Secretary of HHS is such an occurrence.

Senator Schweiker and I came to the Senate on the same day. We have served together both on the Human Relations Committee and on the Appropriations Committee. I have been impressed by the rare, yet invaluable combination of capabilities and attitudes which Senator Schweiker has demonstrated. On the one hand, he is a dedicated humanitarian deeply concerned with equity and social justice. At the same time, he is a responsible fiscal conservative who abhors waste of public funds and who refuses to be pressured by special interests intent upon feathering their own nests.

Additionally, Dick Schweiker has strong managerial capabilities developed from a successful career in the private sector. These will be challenged to the ultmost in his new position but I am confident he fully qualified for the test he will face as head of the department in Government which has the reputation of being virtually unmanageable.

Independently, but almost simultaneously, Dick Schweiker and I reached the conclusion to terminate our Senate service at the end of this session. Neither of us could have known at that time what the outcome of the recent election would be. I feel it is extremely fortunate for the country and for the Reagan administration that former Senator Schweiker stands ready and unencumbered at the time his services are so greatly needed in this new and great responsibility.

It has been both a pleasure and an honor to be associated with him in the Senate and I join his countless friends in wishing him both success and satisfaction in the new duties he is about to assume.

TRIBUTE TO SENATOR MILTON YOUNG

Mr. BELLMON. Mr. President, for many years, Senator Milton Young and I have shared the honorable title of being the Senate's dirt farmers. Both of us come from the wide plains of the Midwest and both of us spent the early years of our lives in the hazardous and sometimes merciless jobs of wresting a livelihood from the land. As a North Dakota farmer, he knows perhaps better than any other Member of the Senate the hardships and uncertainties which lie behind the production of the abundance of food which Americans have long taken for granted.

Milt Young and I have served together on both the Agriculture Committee and the Appropriations Committee where he is the ranking member. We collaborated closely in the development of the farm program which I believe most observers would agree is currently serving the Nation well and which is likely to endure indefinitely into the future. The program provides maximum flexibility for farmers to use their reserves efficiently while assuming a modicum of economic stability so that the Nation's food production can continue through times of uncertainty and distress. At the same time, its costs to the taxpayers are minimal.

Milt Young's influence as the ranking member of the Appropriations Committee has been enormous. He has stood for a strong defense, for the responsible management of our country's resources, and has supported those institutions and programs which have helped development of our health and educational system.

Milt Young and I have spent many hours reminiscing about the rural heritage which we jointly share. Both of us are now returning to those environments and I am hopeful that the future years will provide the opportunity to continue the friendship which has grown over these past 12 years.

TRIBUTE TO HERMAN TALMADGE

Mr. BELLMON. Mr. President, one of my principal desires when I came to the Senate was to have a voice in the shape of farm legislation. At the first opportunity, I became a member of the Agriculture Committee where I came to know and admire the distinguished senior Senator from Georgia—Herman Talmadge.

After Herman Talmadge became chairman of the Agriculture Committee, I was deeply impressed by the no-nonsense, precise manner in which he conducted the important affairs relating to the Nation's agriculture and forestry. While he was always courteous and considerate, he insisted that members not stray from the subject at hand and that the business of the committee be conducted in a timely and effective manner.

This became particularly evident during the development of the 1976 farm bill. The hearings and meetings which led up to the writing of that act often began at 7 a.m. and continued without interruption through the morning hours. Attendance at these meetings was probably the best of any committee work I have participated in during my 12 years in the Senate and the chairman was present to preside over virtually every session.

The fact that the 1976 farm bill has proven to be in the national interest as well as fair to the Nation's food producers is a great tribute to the chairman whose steady hand and deep insights are reflected by many of its provisions.

TRIBUTE TO ABRAHAM RIBICOFF

Mr. BELLMON. Mr. President, one of the opportunities accorded Members of the Senate is to visit other countries and gain insights into activities which bear heavily and importantly upon Senate decisions. Two years ago I was given the opportunity to visit the Soviet Union as a part of the delegation headed by the distinguished senior Senator from Connecticut—Abraham Ribicoff. During this time, I came to have a great regard for Abe and Casey and a new appreciation of the background of the Ribicoff family.

While in Russia, we were able to visit the small Russian city from which Abraham Ribicoff's family had emigrated to the United States. The entire town set aside a holiday for the observance of the return of this distinguished American to the home of his ancestors and greeted the Ribicoffs with great friendship and courtesy.

As chairman of the delegation, Senator Ribicoff spoke eloquently and effectively in behalf of American interests in our lengthy and sometimes acrimonious meetings with Soviet officials. I came to have respect for the wisdom and courage displayed by my colleague from Connecticut and, for the first time, fully understood the high esteem with which he is held by those who serve with him in this distinguished body.

Senator Ribicoff is leaving the Senate voluntarily at a time when his capabilities are at their maximum level of effectiveness and when his standing in this body is unexcelled. I greatly respect him for the decision he made to leave at the zenith of his career and wish both he and his charming wife, Casey, great happiness and fulfillment in their new lives together.

TRIBUTE TO JACOB JAVITS

Mr. BELLMON. Mr. President, the termination of JACOB JAVITS' service in the U.S. Senate marks the departure of one of the Senate giants. JACK JAVITS' knowledge of world events, the respect by which he is held in foreign governments and his insights into the factors which shape the future have been of immense value to those of us who have looked to him for counsel in decisions relating to foreign policy.

While I have not had the honor of serving on a committee with JACK JAVITS, I have come to be one of his admirers. Since the Senate occupies an important role in the development of U.S. foreign policy, the presence of JACK JAVITS in this body has been of extraordinary importance during recent years when foreign policy issues have occupied such a prominent place in Senate deliberations. JACK JAVITS has been a stabilizing influence upon Senate decisions and his departure will leave a void which remaining Members will find difficult to fill.

TRIBUTE TO WARREN MAGNUSON

Mr. BELLMON. Mr. President, most Members of the Senate would agree, I believe, that the pinnacle of power in the Senate resides in the chairmanship of the Appropriations Committee. While I do not wish to take anything away from the importance of the other decisions made by the Senate, the fact is that most Government policy is finally determined when the money is divided up.

It has been my honor over the last several years to serve on the Appropriations Committee and to observe with awe the manner in which Chairman WARREN MAGNUSON has presided over the immensely important decisions which are made under his guidance.

WARREN MAGNUSON has become a legend in his own time. His understanding of the appropriations process, his ability to win his point in debate and his grasp of appropriations issues which he has displayed are truly awesome.

Senator MAGNUSON is a tireless defender of programs which concern the social issues of which he is a principal champion as well as of matters which impact upon his State. Any member of the Appropriations Committee who is so bold as to challenge MAGNUSON's position in these areas is unlikely to make the same mistake twice.

The National Institutes of Health, the Nation's cancer research program, and many other social initiatives, bear the MAGNUSON imprimatur and those who benefit from those endeavors owe a great debt to the distinguished senior Senator from Washington.

Senator MAGNUSON and I have shared adjoining offices for the past several years. He is a good neighbor, a masterful chairman and a true soldier for the causes he supports.

TRIBUTE TO SENATOR GEORGE McGOVERN

Mr. BELLMON. Mr. President, if one change could be made in the situation facing American farmers, I would recommend that it be in the manner in which Canada, Australia, Argentina, and the United States engage in cut-throat competition for the world grain market. Between them, these countries export some 85 percent of the world's grain and yet, because of the ridiculous competition which has developed, grain prices have been forced so low that farmers in all parts of the world are economically ravished.

The Member of the Senate who has done the most to help correct the situation is the distinglished senior Senator from the State of South Dakota—GEORGE McGOVERN. He realizes that unless a floor is placed under the world's grain prices, the farmers in the United States, as well as our foreign competitors, will soon be impoverished to the point that they will not be able to afford the fertilizer, chemicals, fuel, equipment and other inputs required by modern productive agriculture.

Senator McGOVERN has taken the initiative of meeting on different occasions with our counterparts in the Canadian Government. The result of these metings has been a dialog which could come to fruition early in the new administration. It is largely due to the leadership which Senator McGOVERN has given that this process has reached its advanced state and even though he is now leaving the Senate, I am convinced that it will ultimately be consummated.

It has been an honor and privilege to be associated with Senator McGOVERN in many endeavors in behalf of American agriculture. Also, I have admired the work he has done in emphasizing better nutrition for Americans as a means to richer lives and to less costly medical service. Senator McGOVERN has made immeasurable lasting contributions toward the governing of our Nation. I wish him well in his new endeavors.

TRIBUTE TO SENATOR ADLAI STEVENSON

Mr. BELLMON. Mr. President, unfortunately, the affairs of the Senate have not caused me to have a frequent working relationship with the distinguished junior Senator from Illinois, Senator STEVENSON. At the same time our paths have crossed on numerous official occasions and as always found him to be a thoughtful, dedicated, responsible representative of his constituents and our country.

Senator STEVENSON and I shared a common interest in modern agriculture. We once traveled together for a visit to a collective farm in the Soviet Union and were able to compare notes as to the effectiveness of the American agricultural system as compared to the inefficiencies we observed in the Soviet approach. During this visit, I gained new insights into the personality and warmth of both ADLAI and Nancy STEVENSON, who were able to make instant friends with Soviet children and adults.

In the areas such as foreign trade and weather modification, Senator STEVENSON has been a valuable ally and true friend. I will miss the association with him and hope that our paths may cross so that we may continue to share our interests in many important issues facing our country.

CONSTITUTIONAL LIMITATION ON PRESIDENTIAL AND CONGRESSIONAL TERMS

Mr. BELLMON. Mr. President, I wish to share with the Senate some thoughts on a subject which has been in controversy throughout the life of this Nation: The ideas of limiting by constitutional amendment the length of congressional service and of establishing a single Presidential term of 6 years.

I sincerely hope that I can discuss these proposals without sounding condescending or judgmental. My decision to leave the Senate after two terms was a personal one which I made after considering numerous factors. In no way do I purport to hold myself up as a model of what other Senators and Members of the House of Representatives should do.

It does seem to me, however, that the functioning of the Congress would be improved and the ability of the Congress to reflect accurately the perspectives of the American people would be strengthened if we returned at least to a degree to the notion of citizen legislators who serve in the Congress for a limited period, but do not see the Congress as their primary life s work.

We have all observed people leaving the Congress who have become so much a part of Washington, D.C., that they have no home to go back to in the States which elected them. Again, let me emphasize that I am not criticizing anyone who chooses to take a job in Washington, D.C., when he or she leaves the Congress. I am simply saying that the extent to which this is occurring reflects a loss of contact with the "home bases" and that this should give us pause.

There have been many proposals put forward for limiting congressional terms. My own proposal is quite simple: I would amend the Constitution to increase the length of term for Members of the House of Representatives from 2 to 4 years, and then I would establish for both Members of the House and Senate a limitation on service of no more than three full terms. This would result in a normal maximum period of service for House Members of 12 years and for Senators a maximum of 18 years.

I would not argue that this is necessarily the best of all possible designs. I simply feel that it balances the various considerations better than the other possibilities which I have seen.

Lengthening House terms seems to me an important need, even if the limitation on total service were not adopted. It certainly is not a good idea to force House Members to campaign nearly all the time in order to protect their seats. In today's high cost, media-focused era of campaigning it is also an unnecessary expenditure of resources.

Adoption of these changes would provide the Nation with continued rotation of men and women through the Congress, without preventing people who reach the end of their terms from having the opportunity to play prominent parts in other aspects of the Nation's life. Our universities, our business corporations, our "think tanks," would all have the opportunity to employ ex-Congressmen and Senators in key positions at relatively young ages in many cases.

I would like to turn now to the matter of the limitation of Presidential terms. Our American President is in a unique position in the world. We elect him through a costly and often confusing electoral process. Once elected, we expect great things of him.

One of the things I think we should not expect of him is that he spend a good part of his time campaigning for reelection. Certainly a President's ability to deal objectively with what would be best for the Nation is infringed upon by the necessity for him to keep an eye constantly on how his actions will affect his chances for reelection. A single 6-year-term seems to me highly desirable as a way of enabling the President to do the job for which he was elected—that of leading the country without regard to favoritism between groups of people or regions of the country.

Now I realize that I have not answered all the detailed questions that can be asked about these proposals. One question that obviously must be answered relates to partial terms. My thought is that a very simple rule could be established: Anyone who served out the term of an incumbent who died or was removed from office would have that partial term counted as though it were a full term if he served for 3 years or more. Again, I realize there are other potential answers to this question, but I do not feel it would be a very difficult matter to resolve.

Finally, I want to take note of the bipartisan support which already exists in Congress for action on these proposals. Among those who have sponsored proposals or otherwise supported limitations for either congressional or Presidential terms—or both—are Senators DANFORTH, DECONCINI, THURMOND, and JOHNSTON, Senator-elect Quayle, and at least 15 other House Members. Also, I note that two other new Senators-elect—Paula Hawkins and Robert Kasten—are serving as board members of the Foundation for the Study of Presidential and Congressional Terms.

I hope the next Congress will take a careful look at the pros and cons of term limitation. It is a sound concept which I feel should be adopted.

FAREWELL TO THE SENATE

Mr. BELLMON. Mr. President, over recent days the many kind Members of the Senate have spoken with undeserved generosity of my service in this distinguished body. I am humbled by these comments and while I know they are not deserved, they are nevertheless deeply appreciated.

My coming into politics and my ultimate election to the Senate is evidence of the marvelous upward mobility which our system provides to its citizens. It is doubtful that any Member of the Senate has ever had a more modest beginning than the present senior Senator from Oklahoma. A member of a large family, my first memories are of the austere circumstances which the great depression brought to rural America. I am the product of a one-room rural school, who found it necessary to earn every dollar needed to complete a college education. I had not even held a class office before my election to the State legislature in 1946. I never in my wildest earliest imagining dreamed of serving in the U.S. Senate. It is my hope that others who now live in modest circumstances might know the path is open and be encouraged to strive to reach the highest levels in government. Ours is one of the few places where such upward movement is possible.

In recent decades it has come to be popular for those at the bottom of their social and economic ladder to complain of the lack of opportunity to better their own conditions. This attitude has contributed to the resignation and defeatism which has led so many of our citizens down the dead-end paths of drug abuse, crime and disrespect for society. Hopefully, these attitudes will soon change, as well they should.

Mr. President, in all the world there is no social, economic, and political system which is equal to ours. While we tend generally to concentrate on its shortcomings, I shall dwell for a few moments on its strengths and upon the unique role which the Senate performs in making the system work.

The recent election and the current peaceful transfer of authority from one President and one political party to another should be looked upon as little less than miraculous. Not a drop of blood will be shed, not a single citizen will be deprived of property and those who will leave government to return to the private sector do so with honor and dignity and not in disgrace as so often happens in situations where changes of authority are made through violent means. The normal affairs of the Nation will proceed uninterrupted. This is government at its best.

Here in the Senate, where a change of party leadership is occurring after 26 years, the transformation is marked by orderliness and cooperation. Even the friendships which have grown up over the years are generally surviving intact.

This is in the best tradition of the Senate. This body was structured by our wise Founding Fathers as the element in our governing process which has the relative freedom of political action to chart the course of the Nation, not according to the ever-shifting winds of popular opinion, but by more consistent and durable objectives.

In the Senate are brought together the pressures and forces which drive our Nation and citizenry as well as international concerns which of necessity impress themselves upon our national life. In its imperfect, yet effective way, the Senate sorts out the avenues open to our Nation and day by day makes adjustments, some minor—some major, in the courses set for the conduct of our national and international affairs. It would be the ultimate conceit to claim any direct guidance of the supreme intelligence in the constant adjusting which occupies the time of the Senate. On the other hand, the fact that over the 200-year history of our Nation, somehow we have avoided the rocks and shoals which have brought demise to equally well-endowed nations would suggest that powers beyond the capacity of fallible human beings have been at work here.

During my 12 years here, the Senate has shown the ability to chart a national course steering our Nation around international chaos while at the same time avoiding the less noticeable yet equally menacing internal dangers of rampant social injustice which could tear our country apart from within.

Mr. President, there is no certain way of knowing, but every reason to suspect that just, steadfast government of mankind is the noblest achievement of the human race. No one in honesty can claim that our system is perfect, but its record places it near the top of all the types of governments which have been established so that human beings may order their lives and the common affairs of their society. The role of the Senate in this process with its unique ability to take the longer view is absolutely essential.

The Senate as an institution deserves the best years of the most intelligent, most dedicated, most courageous, and most creative minds our Nation produces. As I leave the Senate, I do so with the conclusion that for these last 12 years I have had the honor of being in the presence of such people. I count every Member of this body as a personal friend. I leave the Senate with a high regard for each of the other 99 Members. I believe the people of the Nation chose well when they selected each of you for service here.

TRIBUTE TO SENATOR BELLMON

Mr. HART. Mr. President, I wish to say a word about our departing colleague from Oklahoma, Senator BELLMON.

It is obvious from the statements of all Senators over the past number of years that there is hardly any Member of this institution who is so widely respected on both sides of the aisle as the Senator from Oklahoma.

His remarks this morning speak not only for himself and a great deal about himself but for many others of us who have shared experiences such as his in growing up and finding ourselves as a result of the marvelous political process and system which we have inherited from our forefathers that have the extraordinary privilege of serving in this institution.

It offers not only the opportunity to serve our country, our States, our constituencies but also to become acquainted with our colleagues in the Senate, most of whom are extraordinary individuals in their own rights.

I can only say that the Senator from Oklahoma has served his country and the Senate as well as anyone whom I have known. He has represented the best in citizenship and statesmanship and is known throughout the institution for his willingness to rise above partisanship where the long-range interests of our country are involved.

I can only say to my colleagues and for the record and particularly to the Senator from Oklahoma that it has been a rare privilege for me to have had the opportunity to serve with him in this body and on the Budget Committee and to get to know him better. Like all of our colleagues I wish him well.

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. HART. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and at 11:49 a.m. the Senate recessed subject to the call of the Chair; whereupon at 12:37 p.m. the Senate reassembled when called to order by the Presiding Officer (Mr. Heflin).

The PRESIDING OFFICER. The majority leader is recognized.

PNEUMOCOCCAL VACCINE MEDICARE COVERAGE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8406.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8406) to amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration.

Without objection, the Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent the bill be considered as having been read the first and second times, that an amendment by Mr. Cranston on adoption of assistance advance funding be agreed to; that an amendment by Mr. Levin allowing States to restrict AFDC eligibility for college students be agreed to; that an amendment by Mr. Boren and Mr. Long on social security insurance transfer of assets be agreed to; that an amendment by Mr. Wallop on childnapping be agreed to; that an amendment by Mr. Nunn on child support be agreed to; that Senators may insert statements into the Record; and that the bill be advanced to third reading, passed, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UP AMENDMENT NO. 1934

Mr. Cranston's amendment (UP No. 1934) is as follows:

(Purpose: To provide for advance payment under title IV of the Social Security Act)

At the appropriate place in the bill insert the following new section:

PAYMENTS TO STATES FOR ADOPTION ASSISTANCE AND FOSTER CARE

Sec. . Section 474 of the Social Security Act is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsections (a), (b), and (c) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (C) such other investigation as the Secretary may find necessary.

"(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.".

AMENDMENT RELATING TO FUNDING PROCEDURES FOR SOCIAL SECURITY ACT FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS

● Mr. CRANSTON. Earlier this year, the Congress enacted major amendments to the Social Security Act programs of social services, child welfare services, foster care and adoption assistance. As a part of this legislation, title IV of the Social Security Act was restructured to include a new part E which would govern the foster care and adoption assistance programs. It was intended that the new part E would operate according to the traditional State public assistance plan methodology which is applicable to such programs as aid to families with dependent children, social services, and medicaid. By inadvertence, the authority for the Department to make quarterly advances to the States of the estimated Federal share of their costs was omitted in the drafting of the new part E. This authority is included in the other programs of this nature and there was no intent to modify this in any way. This amendment would simply change the language of part E to incorporate the same type of quarterly advance funding as is now available to the States under part A of title IV.●

UP AMENDMENT NO. 1935

Mr. Levin's amendment (UP No. 1935) is as follows:

(Purpose: To provide that States shall have the option of providing AFDC benefits to students aged 18 to 21 only if they are students in grade twelve or below or are participating in vocational training)

At the appropriate place in the bill insert the following new section:

Sec. . Section 406 (a)(2) of the Social Security Act is amended—

(1) by inserting "at the option of the State," after "(B)"; and

(2) by inserting before the semicolon at the end thereof the following: ", or (C) at the option of the State, under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school in grade twelve or below or regularly attending a course of vocational or technical training, other than a course provided by or through a college or university, designed to fit him for gainful employment".

● Mr. LEVIN. Mr. President, title IV of the Social Security Act allows States the option of providing aid to students in the AFDC program, with money from the States and the Federal Government. Eligible needy children must be regularly attending high school, college, or undergoing vocational training, must be under 21. States that opt to implement the program covering the 18- to 20-year-old student population are required to either fund both high school and college persons eligible for AFDC or neither.

Mr. President, the deepening recession and accompanying unemployment and loss of State revenue has forced many States to consider cutbacks in their income maintenance and social services programs. In the wake of such fiscal crisis some States welcome this option; however, many of these same States, if given the choice, would at least provide coverage for high school students as opposed to no student coverage at all.

At the present time, at least 11 States do not cover the 18- to 20-year-old group in the AFDC program.

A sensible and sensitive adjustment would be to allow States the option of continuing AFDC for those 18- to 20-year-olds who are still attending high school or undergoing vocational training. This would give States an alternative route by which they could cut costs substantially, while still maintaining a commitment to encouraging young AFDC recipients in their educational advancement, at least up to the point of high school graduation. This option eliminates the all or nothing choice that States have been forced to make in regards to aid for 18- to 20-year-olds. States would instead have greater flexibility to make the choice that would best reflect their individual interests.

Mr. President, the amendment I offer today makes possible such a choice. The Congressional Budget Office shows this amendment as a cost savings to the Federal Government. Additionally, similar legislation was reported by the Finance Committee a number of years ago; however the proposal never reached the floor of the Senate.

For those 18- to 20-year-olds who may be slightly behind their expected timetable for high school graduation, the temptation to drop out can be tremendous. These young people should not be in any way further discouraged from completing an education that can be so very beneficial in making them a productive member of society.

If we are truly committed to helping today's AFDC recipients become tomorrow's productive adult taxpayers, then we must devise methods that will encourage educational achievement among these youth. When 18- to 20-year-olds from AFDC families are still in high school they face a difficult double barrier to completing their secondary education. Up against the social frustrations of being behind grade-wise for their age, and the various hardships and handicaps that accompany poverty, the propensity for such young people to drop out can be great. To withdraw AFDC aid from these students is to throw still another roadblock in the paths of the very people who we should be doing everything in our power to help.

Mr. President, the ominous links between low educational attainment and unemployment, subsequent welfare, and crime have been well documented.

According to the findings of Shirley Hufstedler, Secretary of the Department of Education, high school dropouts are three times as likely as high school graduates to be unemployed. Hufstedler emphasizes that "High rates of unemployment are not the results of a general breakdown in our secondary school system, but rather of limited and specific areas of failure." These areas largely involve disadvantaged and minority students who are specifically those who most often make up AFDC recipients.

The highly regarded Carnegie Council Report on Higher Education states that the overall high school dropout rate is 23 percent, while it is 35 percent for blacks, and an alarmingly high 45 percent for Hispanics. Yet the main common denominator among dropouts is unquestionably poverty. White youths from lower economics areas are twice as likely as white middle class youths to dropout. The negative ramifications of this high school dropout rate are severe in terms of both individual human suffering and the society as a whole. Lack of education often leads to the cancerous chain of unemployment, aggression, drug use, and crime. It is crucial that we do not withdraw aid from poor students during the last years of their secondary education—years that can be critical determinants of the course these young people will take in their lives, just because they are behind their expected timetable for graduation.

Mr. President, if we do this we will be putting these young people in the extremely frustrating, helpless position of being ineligible for AFDC aid, ineligible for the grants and loans available to college students, and most often unable to secure employment after school. In effect, we will not only be failing in discouraging these students from dropping out, we will be forcing students—motivated disadvantaged students attempting to further their education—into a situation whereby they will have no other alternative, but to drop out of school and thus discontinue their education.

Further, Mr. President, to discourage 18- to 20-year-olds who are late in graduating goes strongly against a nationwide movement that is taking place aimed at insuring minimum quality standards of learning for those who attend high school. Both Florida's Education Accountability Act and California's Pupil Proficiency Law are aimed at making sure that all students who complete high school will be able to meet certain minimum competency standards. Illinois State University is one of the growing number of major teacher preparatory institutions to set up a competency-based teacher education program.

These programs instruct teachers how to help students in a self-paced competency based format. The bottom line here is that secondary schools are trying hard to get away from an assembly line—push kids right through on time, attitude, that allows some people to graduate without basic and necessary reading and writing skills. If we are going to continue emphasizing this kind of minimum quality in secondary education—and I think we should—than we need to be flexible and make allowances for students who are not simply going to race right through, and graduate on some arbitrarily set time schedule.

Additionally, the completion of one's high school education has a significant effect on one's earning power in later life, especially in the avoidance of poverty. For both men and women, those who graduate from high school earn over 30 percent more than their counterparts who attended, but did not finish high school.

These statistics, taken from a Bureau of the Census current population report, also reveal an even more vital point. Whether or not one finishes their last 2 years of high school is a major determinant in one's chances of avoiding poverty For men 25 and over, who have high school degrees, 15 percent earn under $5,999 a year. For their counterparts who attended high school for 1 to 3 years, 28 percent are in the $5,999 and below level.

Mr. President, the vicious cycle of poverty is not easy to break. I ask my colleagues to join me in my efforts to help break this cycle by supporting the amendment I offer here today.●

UP AMENDMENT NO. 1936

Mr. BOREN's and Mr. LONG's amendment (UP No. 1936) is as follows:

(Purpose: To limit medicaid and welfare eligibility based on the disposal of assets)

At the end of the bill, add the following new section:

SEC. . (a) Section 1613 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Disposal of Resources for Less Than Fair Market Value

"(c) (1) In determining the resources of an individual (and his eligible spouse, if any) there shall be included (but subject to the exclusions under subsection (a)) any resource (or interest therein) owned by such individual or eligible spouse within the preceding 24 months if such individual or eligible spouse gave away or sold such resource or interest at less than fair market value of such resource or interest for the purpose of estabishing eligibility for benefits or assistance under this Act.

"(2) Any transaction described in paragraph (1) shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance under this Act unless such individual or eligible spouse furnishes convincing evidence to establish that the transaction was exclusively for some other purpose.

"(3) For purposes of paragraph (1) the value of such a resource or interest shall be the fair market value of such resource or interest at the time it was sold or given away, less the amount of compensation received for such resource or interest, if any.".

(b) Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) (1) Notwithstanding any other provision of this title, an individual who would otherwise be eligible for medical assistance under the State plan approved under this title may be denied such assistance if such individual would not be eligible for such medical assistance but for the fact that he disposed of resources for less than fair market value. If the State plan provides for the denial of such assistance by reason of such disposal of resources, the State plan shall specify a procedure for implementing such denial which, except as provided in paragraph (2), is not more restrictive than the procedure specified in section 1613(c) of this Act.

"(2) In any case where the uncompensated value of disposed of resources exceeds $12,000, the State plan may provide for a period of ineligibility which exceeds 24 months. If a State plan provides for a period of ineligibility exceeding 24 months, such plan shall provide for the period of ineligibility to bear a reasonable relationship to such uncompensated value.

"(3) In any case where an individual is ineligible for medical assistance under the State plan solely because of the applicability to such individual of the provisions of section 1613(c), the State plan may provide for the eligibility of such individual for medical assistance under the plan if such individual would be so eligible if the State plan requirements with respect to disposal of resources applicable under paragraphs (1) and (2) of this subsection were applied in lieu of the provisions of section 1613(c).".

(c) The amendment made by subsection (a) shall be effective with respect to applications for benefits under title XVI of the Social Security Act filed on or after the first day of the first month which begins at least 60 days after the date of enactment of this Act.

LIMITING ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME AND FOR MEDICAID FOR INDIVIDUALS WHO DISPOSE OF EXCESS ASSETS IN ORDER TO MAKE THEMSELVES ELIGIBLE

● Mr. LONG. In recent years a number of States have uncovered an abusive practice in which certain individuals transfer substantial assets to their families or to others in order to bring themselves down to the welfare eligibility level which will qualify them for payments under the supplemental security income (SSI) program and for fully paid medical care under the medicaid program. Unfortunately, the present law is so written as to make this subterfuge possible. Earlier this year, the Senate passed legislation as a part of the budget reconciliation bill which was designed to end this practice. The House also has indicated a desire to correct this situation. It was not possible to reach agreement on this matter in the context of the reconciliation conference. I believe, however, that there is a basis for agreement on this matter which deeply concerns many Members of both the House and the Senate and which poses a substantial fiscal concern for many States. I am therefore offering an amendment to deal with the problem.

Insofar as the supplemental security income program is concerned, this amendment is identical to the amendment previously adopted by Senate on the reconciliation legislation. Under this provision, an individual applying for SSI benefits would have to continue to count as his own any belongings which he had given away within the 2 prior years. In the case of medicaid eligibility, the amendment makes explicit the intent of the earlier Senate provision to grant the States more flexibility. The amendment would permit States to establish disposal of asset disqualification rules for medicaid purposes which differ in detail from the SSI rule. Generally, State rules could not be more restrictive than the Federal SSI rule except that the period of disqualification could be longer than 24 months in cases where a very large disposal of assets—more than $12,000—is involved.●

UP AMENDMENT NO. 1937

Mr. WALLOP's amendment (UP No. 1937) is as follows:

SEC. . This title may be cited as the "Parental Kidnaping Prevention Act of 1980".

FINDINGS AND PURPOSES

SEC. . (a) The Congress finds that—

(1) there is a large and growing number of cases annually involving disputes between persons claiming rights of custody and visitation of children under the laws, and in the courts, of different States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(2) the laws and practices by which the courts of those jurisdictions determine their jurisdiction to decide such disputes, and the effect to be given the decisions of such disputes by the courts of other jurisdictions, are often inconsistent and conflicting;

(3) those characteristics of the law and practice in such cases, along with the limits imposed by a Federal system on the authority of each such jurisdiction to conduct investigations and take other actions outside its own boundaries, contribute to a tendency of parties involved in such disputes to frequently resort to the seizure, restraint, concealment, and interstate transportation of children, the disregard of court orders, excessive relitigation of cases, obtaining of conflicting orders by the courts of various jurisdictions, and interstate travel and communication that is so expensive and time consuming as to disrupt their occupations and commercial activities; and

(4) among the results of those conditions and activities are the failure of the courts of such jurisdictions to give full faith and credit to the judicial proceedings of the other jurisdictions, the deprivation of rights of liberty and property without due process of law, burdens on commerce among such jurisdictions and with foreign nations, and harm to the welfare of children and their parents and other custodians.

(b) For those reasons it is necessary to establish a national system for locating parents and children who travel from one such jurisdiction to another and are concealed in connection with such disputes, and to establish national standards under which the courts of such jurisdictions will determine their jurisdiction to decide such disputes and the effect to be given by each such jurisdiction to such decisions by the courts of other such jurisdictions.

(c) The general purposes of this title are to—

(1) promote cooperation between State courts to the end that a determination of custody and visitation is rendered in the State which can best decide the case in the interest of the child;

(2) promote and expand the exchange of information and other forms of mutual assistance between States which are concerned with the same child;

(3) facilitate the enforcement of custody and visitation decrees of sister States;

(4) discourage continuing interstate controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

(5) avoid jurisdictional competition and conflict between State courts in matters of child custody and visitation which have in the past resulted in the shifting of children for State to State with harmful effects on their well-being; and

(6) deter interstate abductions and other unilateral removals of children undertaken to obtain custody and visitation awards.

FULL FAITH AND CREDIT GIVEN TO CHILD CUSTODY DETERMINATIONS

SEC. . (a) Chapter 115 of title 28, United States Code, is amended by adding immediately after section 1738 the following new section:

"§ 1738A. Full faith and credit given to child custody determinations

"(a) The appropriate authorities of every State shall enforce according to its terms, and shall not modify except as provided in subsection (f) of this section, any child custody determination made consistently with the provisions of this section by a court of another State.

"(b) As used in this section, the term—

"(1) 'child' means a person under the age of eighteen;

"(2) 'contestant' means a person, including a parent, who claims a right to custody or visitation of a child;

"(3) 'custody determination' means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modifications;

"(4) 'home State' means the State in which, immediately preceding the time involved, the child lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old, the State in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period;

"(5) 'modification' and 'modify' refer to a custody determination which modifies, replaces, supersedes, or otherwise is made subsequent to, a prior custody determination concerning the same child, whether made by the same court or not;

"(6) 'person acting as a parent' means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

"(7) 'physical custody' means actual possession and control of a child; and

"(8) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

"(c) A child custody determination made by a court of a State is consistent with the provisions of this section only if—

"(1) such court has jurisdiction under the law of such State; and

"(2) one of the following conditions is met:

"(A) such State (i) is the home State of the child on the date of the commencement of the proceeding, or (ii) had been the child's home State within six months before the date of the commencement of the proceeding and the child is absent from such State because of his removal or retention by a contestant or for other reasons, and a contestant continues to live in such State;

"(B) (i) it appears that no other State would have jurisdiction under subparagraph (A), and (ii) it is in the best interest of the child that a court of such State assume jurisdiction because (I) the child and his parents, or the child and at least one contestant, have a significant connection with such State other than mere physical presence in such State, and (II) there is available in such State substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

"(C) the child is physically present in such State and (i) the child has been abandoned, or (ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse;

"(D) (i) it appears that no other State would have jurisdiction under subparagraph (A), (B), (C), or (E), or another State has declined to exercise jurisdiction on the ground that the State whose jurisdiction is in issue is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that such court assume jurisdiction; or

"(E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

"(d) The jurisdiction of a court of a State which has made a child custody determination consistently with the provisions of this section continues as long as the requirement of subsection (c)(1) of this section continues to be met and such State remains the residence of the child or of any contestant.

"(e) Before a child custody determination is made, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of a child.

"(f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if—

"(1) it has jurisdiction to make such a child custody determination; and

"(2) the court of the other State no longer has jurisdiction, or it has declined to exercise such jurisdiction to modify such determination.

"(g) A court of a State shall not exercise jurisdiction in any proceeding for a custody determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction consistently with the provisions of this section to make a custody determination.".

(b) The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738 the following new item:

"1738A. Full faith and credit given to child custody determinations.".

(c) In furtherance of the purposes of section 1738A of title 28, United States Code, as added by subsection (a) of this section, State courts are encouraged to—

(1) afford priority to proceedings for custody determinations; and

(2) award to the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, necessary travel expenses, attorneys' fees, costs of private investigations, witness fees or expenses, and other expenses incurred in connection with such custody determination in any case in which—

(A) a contestant has, without the consent of the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, (i) wrongfully removed the child from the physical custody of such person, or (ii) wrongfully retained the child after a visit or other temporary relinquishment of physical custody; or

(B) the court determines it is appropriate.

USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPPING OF A CHILD

SEC. (a) Section 454 of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) in the case of a State which has in effect an agreement with the Secretary entered into pursuant to section 463 for the use of the Parent Locator Service established under section 453, to accept and transmit to the Secretary requests for information authorized under the provisions of the agreement to be furnished by such Service to authorized persons, and to impose and collect (in accordance with regulations of the Secretary) a few sufficient to cover the costs to the State and to the Secretary incurred by reason of such requests, to transmit to the Secretary from time to time (in accordance with such regulations) so much of the fees collected as are attributable to such costs to the Secretary so incurred, and during the period that such agreement is in effect, otherwise to comply with such agreement and regulations of the Secretary with respect thereto.".

(b) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPPING OF A CHILD

"SEC. 463. (a) The Secretary shall enter into an agreement with any State which is able and willing to do so, under which the services of the Parent Locator Service established under section 453 shall be made available to such State for the purpose of determining the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

"(b) An agreement entered into under this section shall provide that the State agency described in section 454 will, under procedures prescribed by the Secretary in regulations, receive and transmit to the Secretary requests from authorized persons for information as to (or useful in determining) the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

"(c) Information authorized to be provided by the Secretary under this section shall be subject to the same conditions with respect to disclosure as information authorized to be provided under section 453, and a request for information by the Secretary under this section shall be considered to be a request for information under section 453 which is authorized to be provided under such section. Only information as to the most recent address and place of employment of any absent parent or child shall be provided under this section.

"(d) for purposes of this section—

"(1) the term 'custody determination' means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modification;

"(2) the term 'authorized person' means—

"(A) any agent or attorney of any State having an agreement under this section, who has the duty or authority under the law of such State to enforce a child custody determination;

"(B) any court having jurisdiction to make or enforce such a child custody determination, or any agent of such court; and

"(C) any agent or attorney of the United States, or of a State having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.".

(c) Section 455(a) of such Act is amended by adding after paragraph (3) the following: "except that no amount shall be paid to any State on account of amounts expended to carry out an agreement which it has entered into pursuant to section 463.".

(d) No agreement entered into under section 463 of the Social Security Act shall become effective before the date on which section 1738A of title 28, United States Code (as added by this title) becomes effective.

PARENTAL KIDNAPING

SEC. . (a) In view of the findings of the Congress and the purposes of this title set forth in section 302, the Congress hereby expressly declares its intent that section 1073 of title 18, United States Code, apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes.

(b) The Attorney General of the United States, not later than 120 days after the date of the enactment of this section (and once every 6 months during the 3-year period following such 120-day period), shall submit a report to the Congress with respect to steps taken to comply with the intent of the Congress set forth in subsection (a). Each such report shall include—

(1) data relating to the number of applications for complaints under section 1073 of title 18, United States Code, in cases involving parental kidnaping;

(2) data relating to the number of complaints issued in such cases; and

(3) such other information as may assist in describing the activities of the Department of Justice in conformance with such intent.

UP AMENDMENT NO. 1938

Mr. NUNN's amendment (UP No. 1938) is as follows:

At the appropriate place in the bill insert the following new section:

TECHNICAL AMENDMENTS AND AMENDMENTS RELATING TO CHILD SUPPORT AUDITS

SEC. . (a)(1) Section 127(a)(1) of the Food Stamp Act Amendments of 1980 (Public Law 96–249), is amended by striking out "Subsection (i) of section 6103" and inserting in lieu thereof "Subsection (l) of section 6103".

(2)(A) Section 408(a)(1) of the Social Security Disability Amendments of 1980 (Public Law 96–265), is amended by striking out (in the new paragraph added thereby to subsection (l) of section 6103 of the Internal Revenue Code of 1954) "(7) Disclosure" and inserting in lieu thereof "(8) Disclosure".

(B) Section 408(a)(2) of the Social Security Disability Amendments of 1980 is amended—

(i) in subparagraph (A), by—

(I) striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)", and

(II) striking out "(l)(1), (4)(B), (5), or (7)" and inserting in lieu thereof "(l)(1), (4)(B), (5), (7), or (8)";

(ii) in subparagraph (B), by—

(I) striking out "(l) (3) or (6)" and inserting in lieu thereof "(l) (3), (6), or (7)", and

(II) striking out "(l) (3), (6), or (7)" and inserting in lieu thereof "(l) (3), (6), (7), or (8)";

(iii) in subparagraph (C), by—

(I) striking out "(l) (6)" and inserting in lieu thereof "(l) (6) or (7)", and

(II) striking out "(l) (6) or (7)", and inserting in lieu thereof "(l) (6), (7), or (8)"; and

(iv) in subparagraph (D), by—

(I) striking out "subsection (d), (l) (6) or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l) (6) or (7), or (m)(4)(P)", and

(II) striking out "subsection (d), (l) (6) or (7), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l) (6), or (7), or (8), or (m)(4)(B)".

(3) The amendment made by paragraph (1) shall take effect on May 26, 1980 and the amendments made by paragraph (2) shall take effect on June 9, 1980.

(4)(A) The first sentence of section 7213(a)(2) of the Internal Revenue Code of 1954 (relating to unauthorized disclosure of information by State and other employees) is amended by striking out "(l) (6) or (7) and inserting in lieu thereof "(l) (6), (7), or (8)".

(B) The amendment made by subparagraph (A) shall take effect on December 5, 1980.

(b)(1) Section 309 of the Adoption Assistance and Child Welfare Act of 1980 is amended by striking out "fiscal year 1977 or fiscal year 1978 shall be made prior to October 1, 1980" and inserting in lieu thereof "any of the fiscal years 1977 through 1980 shall be made prior to October 1, 1981".

(2) The regulations pertaining to audit criteria (as set forth in 45 CFR 305.20) and the regulations pertaining to penalty for failure to have an effective child support enforcement program (as set forth in 45 CFR 305.50), under the child support program established by title IV–D of the Social Security Act, as in effect on the date of enactment of this Act, shall remain in effect until October 1, 1981.

(c) Section 455(a) of the Social Security Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a period.

AMENDMENT RELATED TO CHILD SUPPORT PROGRAM AUDITS

● Mr. NUNN. Mr. President, my amendment would extend the postponement of imposition of certain penalties relating to child support requirements and would postpone certain proposed changes in current regulations relating to audit and to penalties.

The first audit of the child support enforcement program for the period January 1, 1977 through September 30, 1977, did not start until May 1978. The audit was completed in all States in August 1979.

In the spring of 1980, the Deputy Assistant Secretary for Legislation of HEW and the Deputy Director of the Child Support Enforcement Agency advised a staff member of the Finance Committee that a preliminary determination of the fiscal year 1977 audits disclosed that 21 States and 2 territories could be subject to the 5-percent penalty for not having an effective program. The Secretary of the Department of Health and Human Services (HHS), who is responsible for making the final determination whether the States have an effective program, has not as yet announced her decision on this matter.

A provision of Public Law 96–272 delayed imposition of any penalty based on audits of fiscal years 1977 or 1978 until October 1, 1980 to give the Congress additional time to consider this matter. My amendment would extend the provision in Public Law 96–272 from October, 1980 to 1981 and would make it applicable to audits for fiscal years 1979 and 1980 as well as 1977 and 1978.

On October 21, 1980 the Secretary of HHS had published in the Federal Register a notice of proposed rulemaking changing the audit criteria to require only "substantial compliance" rather than full compliance with the child support State plan for purposes of determining if a State has an effective child support program.

Such a change as proposed is contrary to the present law and to the intent of the Congress when it passed the child support program. It would have a deleterious effect on the future of the program.

My amendment would prohibit any change in current regulations on the audit criteria and penalty for failure to have an effective child support program prior to October 1981.

These two provisions would allow Congress time next year to consider whether present law should be modified.

Mr. President, I shall submit for printing in the Record at the end of my description of my amendment the list of the 21 States and 2 territories determined to be subject to the audit penalty.

Mr. President, my amendment would also make purely technical amendments to rectify errors which occurred as the result of the enactment of Public Law 96–249, the Food Stamp Amendments of 1980, and Public Law 96–265, the Social Security Disability Amendments of 1980.

In drafting the final changes in disability amendments agreed to by the conferees, everyone failed to take into account the provision of the Food Stamp Act which was being acted upon by Congress at the same time. Provisions of both bills amended the Internal Revenue Code with respect to disclosure of information provisions.

As a result, there are section designations which need to be corrected. My amendment does nothing more than make the necessary corrections to current law.

The list of States follows:

The following 21 States and 2 territories have been preliminary determined to be subject to the 5 percent penalty for not having an effective child support program for the period January 1, 1977 thru September 30, 1977.

Alabama, Arizona, Connecticut, Delaware, Florida, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Carolina.

North Dakota, Oklahoma, Oregon, Rhode Island, Texas, Vermont, Virginia, Washington, West Virginia, Guam, Virgin Islands.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by Mr. Baucus.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Baucus

I support H.R. 8406 which provides coverage under Medicare for pneumococcal vaccine and its administration. This bill passed the House unanimously last week.

We are all familiar with the adage about an ounce of prevention. Recent studies by the Office of Technology Assessment and the Congressional Budget Office have illustrated just how true the adage is when it comes to Medicare coverage of pneumonia. Those studies show that by paying for vaccinations to prevent pneumococcal pneumonia among the elderly, Medicare could save millions of dollars in treatment costs. More importantly, several thousand deaths from this debilitating illness and untold suffering could be avoided.

H.R. 8406 becomes effective on July 1, 1981. Thus, its impact on the fiscal year 1981 budget would be negligible. Moreover, Mr. President, by the fourth year of the program the net savings to the Treasury would be at least $6 million; and by the fifth year the net savings would be $11 million. Because the vaccine is effective for at least five years, and perhaps longer, the net savings to the Medicare program will continue to increase even beyond the fifth year and should more than recoup the initial cost of the program for the first three years ($42 million, $21 million and $17 million, respectively).

Under current law, Medicare pays for the treatment of the illness, but it cannot pay for the vaccine. The OTA estimates that the cost of treating pneumococcal pneumonia in the elderly in 1978 was $63 million. Given the skyrocketing cost of hospitalization, the 1981 cost to Medicare will be closer to $100 million. The cost of the vaccination, about $11.50, compares favorably with the 1978 $2,000 per case average cost for hospital treatment of pneumonia. Indeed, given the current trend of rising hospital costs, the hospitalization reductions resulting from the pneumococcal vaccine will generate larger and larger savings.

The case in favor of the vaccine payment becomes even more compelling when one considers the human aspect. The Congressional Budget Office study estimates that the vaccine payment would save 5,000 lives in five years. Pneumonia is the leading infectious cause of death in the United States, and pneumococcal pneumonia is by far the most important and widespread of all bacterial pneumonias. The elderly are particularly susceptible to the illness, and they suffer more serious consequences when they contract the disease. Because of the potential savings in human costs as well as treatment costs, we expect the Secretary of Health and Human Services to make an active effort to inform the elderly of the new coverage. For instance, the Secretary could include notices about the new coverage in social security checks, as well as taking other steps to publicize the new benefit.

H.R. 8406 would make pneumococcal vaccine and its administration a new benefit under Medicare. Medicare is to pay 100 percent of the reasonable charges. Thus, no coinsurance payment would be required; similarly the $60 deductible provision would not be applicable. The bill prohibits payments for pneumococcal vaccine and its administration if they are not reasonable and necessary for the prevention of illness. This extends to the pneumococcal vaccine provision the same safeguards which apply to all Medicare payments, that is, protection against unreasonable and unnecessary charges.

This provision would, of course, give the Secretary of Health and Human Services the authority to prevent the vaccine from being administered to individual recipients more frequently than necessary. The provision is not intended to give the Secretary the authority to limit the vaccine payment to only certain groups or categories of Medicare recipients. The House Interstate and Foreign Commerce Committee and Ways and Means Committee have carefully studied this issue and overwhelmingly approved the provisions of H.R. 8406 when they acted on Medicare amendments in H.R. 3990 and H.R. 7652 earlier this year.

Much has been said on this floor over the last few weeks about the need to cut back on government spending to balance the Federal budget. H.R. 8406 gives the members of this body a chance to approve a program which saves not only money, but also saves lives. It is a compassionate and sensible thing for us to do. The House of Representatives has already approved this measure. The Senate should now act so that the goals of this new Medicare provision can be realized.

Mr. METZENBAUM. Mr. President, almost a year ago, Senators Williams and Javits joined me in introducing S. 2154, a bill to authorize medicare coverage for influenza and pneumococcal pneumonia vaccines. I am gratified, therefore, that the bill before us today includes funds for the pneumonia part of the program we proposed.

Pneumonia is a deadly threat to the lives of elderly and disabled people. Each year, pneumococcal strains of pneumonia take the lives of 54,000 elderly Americans. The death rate from this disease is 2.5 times higher for those aged 65 to 74 and 10 times higher for those aged 75 to 84 than for the general population. These are staggering numbers when we have available a relatively effective vaccine to prevent the disease.

It makes little sense to me to reimburse patients for treatment of a disease, but not for its prevention. It makes little sense for the Government of the United States to assume the very high costs of hospitalization and drugs to treat a disease—but not to pay approximately $11 per person for a pneumonia vaccine that could prevent it. And it makes no sense whatever to permit the elderly of this country to risk serious illness and even death from a disease that is preventable in the first place.

Naturally, Mr. President, some have raised concerns about the cost of a vaccination. The Congressional Budget Office has addressed that question and concluded that even using the most conservative estimates of utilization and reimbursement, and taking into account increased longevity, the savings from reducing the number of hospitalizations will totally offset the cost of this program in only 5 years.

Mr. President, it is true that reimbursing the elderly for immunizations will save us money. But in the final analysis, that's only a small part of what we stand to gain. The real benefit from this program lies in eliminating unnecessary suffering and untimely death. And that must be the major aim of health policy in the United States.

AMENDMENT OF INTERNAL REVENUE CODE PROVISIONS DEALING WITH RESIDENCY REQUIREMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5973, Calendar No. 1163; that a technical amendment be agreed to; that an amendment by Mr. Packwood be agreed to; that any committee amendments be agreed to; that Senators may insert statements in the Record; that the measure be advanced to third reading and passed; and that the motion to reconsider be laid on the table.

Mr. METZENBAUM. Mr. President,

reserving the right to object—and I do not intend to object—will the majority leader advise whether the Packwood amendment has to do with a YMCA?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5973) to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes, had been reported from the Committee on Finance with an amendment as follows:

On page 5, strike line 22 through and including page 7, line 4, and insert the following:

Sec. 3. Treatment of Certain Repayments of Supplemental Unemployment Compensation Benefits.

(a) General Rule.—Section 62 of the Internal Revenue Code of 1954 (defining adjusted gross income) is amended by inserting after paragraph (15) the following new paragraph:

"(16) Certain required repayments of supplemental unemployment compensation benefits.—The deduction allowed by section 165 for the repayment to a trust described in paragraph (9) or (17) of section 501(c) of supplemental unemployment compensation benefits received from such trust if such repayment is required because of the receipt of trade readjustment allowances under section 231 or 232 of the Trade Act of 1974 (19 U.S.C. 2291 and 2292)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to repayments made in taxable years beginning after the date of the enactment of this Act.

Sec. 4. Tax Treatment of Expenses in Attending Foreign Conventions.

(a) In General.—Subsection (h) of section 274 of the Internal Revenue Code of 1954 (relating to attendance at foreign conventions, etc.) is amended to read as follows:

"(h) Attendance at Conventions, Etc.—

"(1) In general.—In the case of any individual who attends a convention, seminar, or similar meeting which is held outside the North American area, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting unless the taxpayer establishes that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212 and that, after taking into account in the manner provided by regulations prescribed by the Secretary—

"(A) the purpose of such meeting and the activities taking place at such meeting,

"(B) the purposes and activities of the sponsoring organizations or groups,

"(C) the residences of the active members of the sponsoring organization and the places at which other meetings of the sponsoring organization or groups have been held or will be held, and

"(D) such other relevant factors as the taxpayer may present,

it is as reasonable for the meeting to be held outside the North American area as within the North American area.

"(2) Conventions on cruise ships.—In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting.

"(3) Definitions.—For purposes of this subsection—

"(A) North American area.—The term 'North American area' means the United States, its possessions, and the Trust Territory of the Pacific Islands, and Canada and Mexico.

"(B) Cruise ship.—The term 'cruise ship' means any vessel sailing within or without the territorial waters of the United States.

"(4) Subsection to apply to employer as well as to traveler.—

"(A) Except as provided in subparagraph (B), this subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the convention, seminar, or similar meeting.

"(B) This subsection shall not deny a deduction to any person other than the individual attending the convention, seminar, or similar meeting with respect to any amount paid by such person to or on behalf of such individual if includible in the gross income of such individual. The preceding sentence shall not apply if the amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included.".

(b) Effective Date.—The amendment made by subsection (a) of this section shall apply to conventions, seminars, and meetings beginning after December 31, 1980, except that in the case of any convention, seminar, or meeting beginning after such date which was scheduled on or before such date, a person, in such manner as the Secretary of the Treasury or his delegate may prescribe, may elect to have the provisions of section 274(h) of the Internal Revenue Code of 1954 be applied to such convention, seminar or meeting without regard to such amendment.

Sec. 5. Taxes on Self-dealing in the Case of Certain Leases.

Section 4941(d)(2) of the Internal Revenue Code of 1954 (relating to special rules in the case of self-dealing) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(H) the leasing by a disqualified person to a private foundation of office space for use by the foundation in a building with other tenants who are not disqualified persons shall not be treated as an act of self-dealing if—

"(i) such leasing of office space is pursuant to a binding lease which was in effect on October 9, 1969, or pursuant to renewals of such a lease;

"(ii) the execution of such lease was not a prohibited transaction (within the meaning of section 503(b) or any corresponding provision of prior law) at the time of such execution; and

"(iii) the terms of the lease (or any renewal) reflect an arm's-length transaction.".

UP AMENDMENT NO. 1939

Mr. Packwood's amendment is as follows:

At the appropriate place in the bill, insert the following new section:

Sec. . Treatment of Certain Indebtedness Incurred Before 1965 for Purposes of Section 514.

(a) General Rule.—For purposes of applying section 514 of the Internal Revenue Code of 1954 with respect to any sale of real property during 1976, indebtedness incurred before January 1, 1965, by an organization to finance the construction of a building on such property shall not be treated as acquisition indebtedness if the parcel of real property on which such building was constructed—

(1) was acquired by such organization before January 1, 1952, and

(2) is contiguous to another parcel of real property which—

(A) was acquired by such organization before January 1, 1952, and

(B) was used by such organization, on January 1, 1952, and at all times thereafter before the date of the enactment of this Act, in a manner which meets the requirements of section 514(b)(1)(A) of such Code (relating to property used in carrying out exempt purpose).

(b) Effective Date. The provisions of subsection (a) shall apply to sales during calendar year 1976.

On page 5, line 14, strike out "1981" and insert in lieu thereof "1982".

On page 5, line 21, strike out "1980" and insert in lieu thereof "1981".

Mr. MATSUNAGA. Mr. President, I rise in support of the pending bill.

Mr. President, the foreign convention expense deduction provision in the pending bill, H.R. 5973, is the direct result of hearings held before the Finance Committee's subcommittee on tourism and sugar held on July 20, 1979. It is in fact the culmination of efforts to enact remedial legislation which have been going on for the past 4 years.

This provision is a tax reform measure in the old sense—it curbs tax abuses. It restricts individuals who vacation in London, Paris, Rome, or on board Mediterranean cruise ships from deducting the cost of such vacation as business expenses. The provision is also a tax simplification measure, which eliminates the nuisance of a time card that convention sponsors and participants must retain and file with the Internal Revenue Service under present law.

In my 18 years in the Congress I have learned that it is not easy to enact simplification reform measures. I think that this legislation is made possible by the fact that the exemption is limited to Canada and Mexico. Without the Canadian and Mexican exemption, there would be no industry support for the major reform component. To be sure, there are compelling reasons to provide this special treatment for Canada and Mexico. In seeking to enlist these two countries to act with us in our common economic interest, this convention issue has been of major hindrance. It is time to remove this impediment to our economic cooperation with Canada and Mexico.

A major roadblock for this proposal has been the outstanding difficulty with the Canadian policy on advertising over American television stations. Canada has enacted a tax law denying deductions for advertising expenses on American television. This Canadian law discriminates against American television station operators and has greatly reduced Canadian business on American border television stations.

The affected television station operators, the Treasury Department, and the Trade Representative have all tried to reach a settlement with the Canadian Government on this issue. The lawyers representing the TV operators twice asked this Senator from Hawaii to postpone hearings on the foreign convention bills in the belief that such postponement would facilitate negotiations. After the hearings in July, I was again asked to postpone raising the proposal in an executive session of the finance committee. I complied with the request each time.

But the delays did not succeed in getting the Canadian Government to reverse its policy. The Canadians see a vital national need to encourage bilingual television programing on its native cultures. To support native Canadian programs, Canada has enacted its seemingly discriminatory tax provision.

The current cultural and regional dissensions in Canada prevent that government from changing its policy. As an attempt to make the United States whole, in effect, Canada has agreed in the new tax treaty to reduce its withholding tax on intracorporate remittances to the United States. I am informed that the value of this treaty concession more than makes the United States whole.

I am sympathetic to American television operators facing discriminatory action on the part of Canada. As chairman of the subcommittee, I have sought to accommodate their concerns by imposing conditions on the Canadian exemption or by adding mirror Federal legislation which would deny a tax deduction to American companies for advertising expenses on Canadian television. The revenues Canadian broadcasters will lose would be only a fraction of the loss incurred now by American broadcasters. But Canadian television coverage of the American market will grow significantly in the next 2 years, and Canada cannot ignore the effect of mirror American legislation. However, my efforts have not satisfied the American business concerns.

At this point, let me note that American business investments in Canada have suffered from the curtailment of convention business in Canada. It should be noted also that the United States has greatly benefited from Canadian tourism in our country. In this connection, I ask unanimous consent that a recent Wall Street Journal article on the benefits of Canadian tourist trade be printed in the RECORD immediately following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATSUNAGA. Let me further note that the American travel industry has repeatedly complained about the burden of the recordkeeping requirements and limitations under present law. At the same time the Treasury has continued to inveigh against continued tax-deductible vacations abroad. The pending remedial legislation has been held up for 3 years in the hope of resolving the television advertisers' issue. We are no closer to a resolution of that issue than we were 3 years ago.

By providing the exemption for Canada and Mexico we would be extending a gesture of economic cooperation which hopefully will be reciprocated. I urge the passage of the pending bill.

EXHIBIT 1

BORDER TIES BENEFIT U.S. TOURISM, TV

Despite their country's vast land mass, most Canadians continue to hug the U.S. border area. More than 72 percent of Canada's 23 million people live within 100 miles of the U.S. according to an analysis of the 1976 census. The three biggest metropolitan areas—Toronto, Montreal and Vancouver—are all an hour or less by car from the border. Result: Canadians often have more contact with their U.S. neighbors than with their fellow citizens.

In French-speaking Quebec, this phenomenon is seen in annual summer pilgrimages to the beaches of Maine and New Jersey. George Ouellette, director of the Chamber of Commerce in Old Orchard Beach, Maine, says Canadians account for up to 80 percent of the resort's visitors in the last half of July, when Quebec's construction industry closes down. In the winter, Eastern Canadians flock to Florida while Westerners head to California and Hawaii.

Other beneficiaries of cross-border ties are U.S. public television outlets from Seattle, Wash., to Burlington, Vt. "On an average week, we pull about 175,000 viewers in the U.S., compared to 250,000 in Canada," says Scott Elliott, development director for WNED-TV in Buffalo, N.Y. Almost half the $1.1 million the station raised from viewers last year came from Canadians in southern Ontario. The station, seen on cable TV in the giant Toronto market, went so far as to hold a season preview here this fall, attracting 400 donors of $60 and more to a restaurant reception.

In some border areas, the ties are even closer. Along the Vermont-Quebec border, the Canadian town of Rock Island (Population: 1,230) and the American village of Derby Line (Population: 900) have decided to share their sewage problem. Under an agreement last June, Derby Line will pay for half the cost of Rock Island's existing sewage plant and help expand it to treat waste from both sides of the border. Says Derby Line trustee Roland Roy, "It just seemed very cost-effective to see if we couldn't get together."

● Mr. WALLOP. Mr. President, I have tried repeatedly—with the support of many equally concerned Senators and Representatives—to indicate this Congress' displeasure with Canada's unwillingness to sit down and talk about the broadcast dispute. In particular, I have asked my colleagues several times to defeat Canadian attempts to receive special tax treatment in the United States. The Canadians must recognize that bill C–58 has implications on a broad range of issues affecting our bilateral relations.

You will recall that in 1976 Congress passed Section 602 of the Tax Reform Act. This provision limits the tax deductibility for expenses incurred at business conventions held outside of the United States because Congress felt that foreign conventions often were little more than tax subsidized vacations. The Canadian tourist industry has been badly hurt by section 602, and the Canadian tourist industry has been pushing for adoption of an amendment extending the allowable business deduction to expenses incurred at conventions anywhere in North America.

Efforts to adopt the North American exemption have been mounted annually since 1976. Successive congresses have defeated each proposal, in large part because of a strong belief that, independent of the merits of the North American exception, Congress cannot grant special treatment to the Canadians when Canada refuses to discuss seriously its tax policy which discriminates against American broadcasters. In fact, in 1978 when a North American exemption proposal was made in the House, the Ways and Means Committee adopted an amendment which would have prohibited extending the business deduction to expenses incurred in Canada until there is an agreement to negotiate the border broadcast advertising questions.

I have seriously considered offering a similar amendment which would respond to any country which denies a tax deduction to its citizens for advertisements placed on U.S. broadcast stations and directed primarily toward a market in such country. Such a country would not receive any benefits which may be derived from the 1980 revisions to section 274(h). Instead, expenses attributable to attendance at a convention in such country would qualify for a tax deduction only as allowed by section 274(h) as it presently applies. This would include the limitation on deductibility to two conventions per year and the reporting and substantiation requirements.

Significantly, such a provision would apply only if the President is unable to certify to the Congress that a country with such a discriminatory tax law is willing to negotiate an adjustment of its income tax system with the United States, subject to its own constitutional processes and to the extent consistent with the legitimate interests of both countries. The President would have six months before he is required to certify either a willingness to negotiate or that he cannot make such certification. Thus should the Canadian Government decide to enter good faith negotiations within the next 6 months—and I sincerely hope it will—conventions held there would not be subject to any disincentives flowing from this amendment.

Nevertheless, at this time, I am not introducing the amendment. I continue to believe linkage is appropriate, and I expect the Senate to debate fully this issue in the near future. At this point, I simply want to make clear my belief that linkage should not be abandoned as long as Canada remains intransigent on the border broadcast problem.

Mr. President, I intend to urge my colleagues to continue to resist giving Canada convention relief, in whatever form, as long as Canada remains intransigent on the border broadcast problem.●

MISCELLANEOUS CHANGES IN THE TAX LAW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7171, Calendar No. 1164; that any committee amendments be agreed to, if there are such; that a technical amendment be agreed to; that an amendment by Mr. BRADLEY and Mr. METZENBAUM to strike the wagering provision be agreed to; that Senators may be authorized to insert statements in the RECORD at this point; that the measure be advanced to third reading and passed; and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 7171) to make certain

miscellaneous changes in the tax laws, had been reported from the Committee on Finance with amendments, as follows:

On page 2, strike line 1 through and including page 4, line 11;

On page 4, line 12, strike "Sec. 2." and insert "Section 1";

On page 5, strike line 1 through and including line 15;

On page 5, line 16, strike "Sec. 4." and insert "Sec. 2.";

On page 6, line 10, strike "Sec. 5." and insert "Sec. 3.";

On page 7, line 7, after "group", insert the following:

"(determined without regard to whether the election under Internal Revenue Regulations 1.1502–19(a)(6) has been filed";

On page 8, after line 17, insert the following:

(4) CAPITAL GAIN TREATMENT.—For purposes of subsection (a), if the election under Internal Revenue Regulation 1.1502–19(a)(6) is filed, the restoration amount shall be treated as capital gain.

On page 9, strike line 1 through and including page 12, line 2, and insert the following:

SEC. 4. DISCLOSURE OF TAX RETURNS TO STATE AUDIT AGENCIES.

(a) GENERAL RULE.—Subsection (d) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of return information to State tax officials) is amended to read as follows:

"(d) DISCLOSURE TO STATE TAX OFFICIALS.—

"(1) IN GENERAL.—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36, shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

"(2) DISCLOSURE TO STATE AUDIT AGENCIES.—

"(A) IN GENERAL.—Any returns or return information obtained under paragraph (1) by any State agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

"(B) STATE AUDIT AGENCY.—For purposes of subparagraph (A), the term 'State audit agency' means any State agency, body, or commission which is charged under the laws of the State with the responsibility of auditing State revenues and programs."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5. TREATMENT OF CERTAIN LENDING OR FINANCE BUSINESSES FOR PURPOSES OF THE TAX ON PERSONAL HOLDING COMPANIES.

(a) BUSINESS EXPENSE LIMITATION.—Clause (ii) of section 542(c)(6)(C) of the Internal Revenue Code of 1954 (relating to exceptions from definition of personal holding company) is amended by striking out "but not $1,000,000".

(b) DEFINITION OF LENDING OR FINANCE BUSINESS.—Clause (i) of section 542(d)(1)(B) of such Code is amended to read as follows:

"(i) making loans, or purchasing or discounting accounts receivable, notes, or installment obligations, if (at the time of the loan, purchase, or discount) the remaining maturity exceeds 144 months, unless—

"(I) the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements arising out of the sale of goods or services in the course of the borrower's or transferor's trade or business, or

"(II) the loans, advances, or installment obligations are made or acquired by the taxpayer and meet the requirements of subparagraph (C).".

(c) INDEFINITE MATURITY.—Paragraph (1) of section 542(d) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) INDEFINITE MATURITY CREDIT TRANSACTIONS.—For purposes of subparagraph (B)(i), a loan, advance, or installment obligation meets the requirements of this subparagraph if it is made under an agreement—

"(i) under which the creditor agrees to make loans or advances (not in excess of an agreed upon maximum amount) from time to time to or for the account of the debtor upon request, and

"(ii) under which the debtor may repay the loan, advance, or installment obligation in full or in installments.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

SEC. 6. REPEAL OF CERTAIN TAXES ON WAGERING.

(a) IN GENERAL.—

(1) REPEAL.—Chapter 35 of the Internal Revenue Code of 1954 (relating to taxes on wagering) is hereby repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of chapters for subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by striking out the item relating to chapter 35.

(B) So much of section 4901 of such Code (relating to payment of occupational taxes) as follows the heading thereof is amended to read as follows:

"All special taxes shall be imposed on the first day of July in each year, or if later, on the date the trade or business on which such tax is imposed was commenced. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.".

(C) Section 4903 of such Code (relating to liability in case of business in more than one location) is amended by striking out ", other than the tax imposed by section 4411,".

(D) Section 4905 of such Code (relating to liability in case of death or change of location) is amended—

(i) by striking out subsection (b), and

(ii) by striking out "(a) REQUIREMENTS.—".

(E) Section 4907 of such Code (relating to Federal agencies or instrumentalities) is amended by striking out ", except the tax imposed by section 4411,".

(F)(i) Subsection (o) of section 6103 of such Code (relating to disclosure of returns and return information with respect to certain taxes) is amended to read as follows:

"(o) TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.".

(ii) Subsection (p) of section 6103 of such Code (relating to procedure and recordkeeping) is amended by striking out "(o)(1)" each place it appears in paragraph (4) and inserting in lieu thereof "(o)".

(G)(i) Section 6419 of such Code (relating to credits and refunds of excise tax on wagering) is hereby repealed.

(ii) The table of sections for subchapter B of chapter 65 of such Code is amended by striking the item relating to section 6419.

(iii) Subsection (c) of section 6612 of such Code (relating to cross references) is amended by striking out "6419 (relating to the excise tax on wagering),".

(H) Section 7012 of such Code (relating to cross references) is amended by striking out paragraphs (2) and (6) and redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(I)(i) Section 7262 of such Code (relating to violation of occupational tax laws relating to wagering) is hereby repealed.

(ii) The table of sections for subchapter B of chapter 75 of such Code is amended by striking out the item relating to section 7262.

(J) Section 7272(b) of such Code (relating to penalty for failure to register) is amended by striking out ", 4412,".

(K) So much of subsection (a) of section 7611 of such Code (relating to cross references) as follows the heading thereof is amended to read as follows:

"For inspection of books, papers, records, or other data in the case of alcohol, tobacco, and firearm taxes, see subtitle E.".

(b) EFFECTIVE DATE.—The amendments made by the first section of this Act shall apply with respect to any wager made, or any person engaged in receiving any wager, during any taxable periods beginning after December 31, 1980.

UP AMENDMENTS NOS. 1940 AND 1941

The amendments by Mr. BRADLEY and Mr. METZENBAUM are as follows:

(Purpose: Making technical corrections)

On page 7, strike out lines 7 through 9, and insert the following: affiliated group (or would be required to be so restored but for an election under Regulation § 1.1502–19 (a) (6)),

On page 8, strike out lines 18 through 21, and insert the following:

(4) Capital gain treatment.—For purposes of paragraph (1), any amount to which an election under Regulation § 1.1502–19 (a) (6) applies shall be treated as long-term capital gain.

On page 15, line 3, strike out "advances" and insert in lieu thereof "notes".

On page 15, line 6, strike out "(C)." and insert in lieu thereof "(C), or".

On page 15, line 12, strike out "advance" and insert in lieu thereof "note".

On page 15, line 21, strike out "loan, advance, or installment obligation" and insert in lieu thereof "loan or advance".

On page 19, lines 5 and 6, strike out "the first section of this Act" and insert in lieu thereof "subsection (a)".

(Purpose: Striking the section repealing certain taxes on wagering)

On page 16, beginning with line 1, strike out all through page 19, line 8.

GAMBLING TAX

● Mr. METZENBAUM. Mr. President, this nation's tax code has over the years become a mechanism to indirectly subsidize industries and activities that the Congress decides for one reason or another to be meritorious.

By permitting a deduction for mortgage interest, for example, our tax policy has encouraged home ownership.

By allowing business to take investment tax credits, we have, at least in theory, encouraged the modernization of our industrial plant.

But, I must say that I am truly astonished at what the legislation before us today is asking us to subsidize.

This legislation does not ask subsidies for oil companies or bankers, or meat producers, homeowners or even wealthy individuals in search of sheltered income.

Today, Mr. President, we are being asked to add $54 million over the next 5 years to the Federal deficit in order to help out the poor, struggling gambling casinos in Las Vegas and Reno.

That is truly ludicrous.

Under current law, there is a 2-percent tax on wagers made on sporting events, and a $500 occupational tax on each person employed to accept these wagers.

The bill would eliminate those taxes.

At a time when the people of this country are demanding cuts in Federal spending, I cannot believe that this body would consent to such a tax expenditure.

At a time when Americans are concerned about the Nation's moral climate, I cannot imagine that the Senate would consider tax subsidies for an industry and an associated lifestyle that are anathema to millions of our citizens.

At a time when we are struggling with the question of how to find the means to meet the urgent human needs of the elderly, the poor, the young and the sick, I find it appalling that we consider exempting gambling establishments from paying back to the Treasury a small part of what they take in.

And finally, Mr. President, I understand that law enforcement officials at the Department of Justice and the IRS have deep personal concerns that elimination of the tax and of the registration of wagering employees that goes with it will seriously weaken law enforcement and investigative activities that are currently directed at criminal tax evasion activities in the gambling business.

Mr. President, I can see no reason—none whatever—for the Senate to provide this gift to the gambling casinos of this country.

I ask that this provision be rejected.●

TAX ADMINISTRATIVE PROVISIONS REVISION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5505, Calendar No. 1165; that any committee amendments, if there be such, be agreed to; that Senators may insert statements in the Record at this point; that the measure be advanced to third reading and passed; and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5505) to simplify certain provisions of the Internal Revenue Code from 1954, and for other purposes, had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause and insert the following:

Section 1. Amendment of 1954 Code.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Sec. 2. Transfer of Domestic Wine to Customs Bonded Warehouse for Certain Purposes.

(a) Transfer to Customs Bonded Warehouse.—Paragraph (4) of section 5362(c) (relating to withdrawals of wine free of tax or without payment of tax) is amended to read as follows:

"(4) without payment of tax for transfer to any customs bonded warehouse;".

(b) Withdrawal From Customs Bonded Warehouses for Use of Foreign Embassies, Legations, Etc.—Section 5362 is amended by adding at the end thereof the following new subsection:

"(e) Withdrawal From Customs Bonded Warehouses for Use of Foreign Embassies, Legations, Etc.—

"(1) In general.—Notwithstanding any other provision of law, wine entered into customs bonded warehouses under subsection (c)(4) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported wines from such warehouses free of tax. Wines transferred to customs bonded warehouses under subsection (c)(4) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported wines.

"(2) Withdrawal for domestic use.—Wine entered into customs bonded warehouses under subsection (c)(4) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Wines so withdrawn shall be treated as American goods exported and returned.

"(3) Sale or unauthorized use prohibited.—Wine withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain wine free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provisions of paragraph (1)(B) and (3) of section 5043(a) are hereby extended and made applicable to any person selling, disposing of, or possessing any wine in violation of the preceding sentence, and to the wine involved in any such violation.".

(c) Effective Date.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

Sec. 3. Excise Tax Refunds in Case of Certain Uses of Tread Rubber.

(a) Refunds for Certain Uses.—Subparagraph (G) of section 6416(b)(2) is amended to read as follows:

"(G) in the case of tread rubber in respect of which tax was paid under section 4071(a)(4)—

"(i) used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)),

"(ii) destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process,

"(iii) used in the recapping or retreading of a tire the sale of which is later adjusted pursuant to a warranty or guarantee, in which case the overpayment shall be in proportion to the adjustment in the sales price of such tire, or

"(iv) used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use,

unless credit or refund of such tax is allowable under paragraph (3);".

(b) Use in Further Manufacture, Etc.—

(1) In general.—Paragraph (3) of section 6416(b) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) in the case of tread rubber in respect of which tax was paid under section 4071(a)(4) used in the recapping or retreading of a tire, such tire is sold by the subsequent manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, unless credit or refund of such tax is allowable under subparagraph (C);".

(2) Technical amendments.—

(A) Subparagraph (E) of section 6416(b)(2) is amended by inserting after "paragraph (3)" the following: "or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)),".

(B) Subparagraph (C) of section 6416(a)(1) is amended by striking out "(b)(3)(C)" and inserting in lieu thereof "(b)(3)(C) or (D)".

(C) Subparagraph (A) of section 6416(b)(3) is amended by inserting "(D)," after "(C),".

(D) Subparagraph (A) of section 6416(b)(4) is amended by striking out "section 4071" and inserting in lieu thereof "section 4071 or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading".

(c) Statute of Limitations.—Section 6511 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Special Rule for Certain Tread Rubber Tax Credits or Refunds.—The period for allowing a credit or making a refund of any overpayment of tax arising by reason of subparagraph (G)(iii) of section 6416(b)(2) with respect to any adjustment of sales price of a tire pursuant to a warranty or guarantee shall not expire if claim therefor is filed before the date which is 1 year after the day on which such adjustment is made.".

(d) Imported Recapped or Retreaded United States Tires.—Section 4071 is amended by adding at the end thereof the following new section:

"(f) Imported Recapped or Retreaded United States Tires.—

"(1) In general.—For purposes of subsection (a)(4), in the case of a tire which has been exported from the United States, recapped or retreaded (other than from bead to bead) outside the United States, and imported into the United States—

"(A) the person importing such tire shall be treated as importing the tread rubber used in such recapping or retreading (determined as of the completion of the recapping or retreading), and

"(B) the sale of such tire by the importer thereof shall be treated as the sale of such tread rubber.

"(2) Exception for certain taxable sales.—Paragraph (1) shall not apply with respect to the sale of any tire if such tire is sold on or in connection with the sale of an article on which tax is imposed under section 4061.".

(e) Effective Date.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

Sec. 4. Exempt Status of Auxiliaries of Certain Fraternal Beneficiary Societies.

(a) General Rule.—Subsection (1) of section 501 is amended by adding at the end thereof the following new sentence: "The preceding sentence to the extent it relates to discrimination on the basis of religion shall not apply to—

"(1) an auxiliary of a fraternal beneficiary society if such society—

"(A) is described in subsection (c) (8) and exempt from tax under subsection (a), and

"(B) limits its membership to the members of a particular religion, or

"(2) a club which in good faith limits its membership to the members of a particular religion in order to further the teachings or principles of that religion, and not to exclude individuals of a particular race or color.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after October 20, 1976.

Sec. 5. Extension of Withholding to Payments of Sick Pay Made by Third Parties.

(a) General Rule.—Paragraph (1) of section 3402(o) (relating to extension of withholding to certain payments other than wages) is amended by striking out "and" at the end of subparagraph (A), by adding "and" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) any payment to an individual of sick pay which does not constitute wages (determined without regard to this subsection), if at the time the payment is made a request that such sick pay be subject to withholding under this chapter is in effect,".

(b) Amount To Be Deducted and Withheld.—Subsection (o) of section 3402 is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) Amount withheld from annuity payments or sick pay.—If a payee makes a request that an annuity or any sick pay be subject to withholding under this chapter, the amount to be deducted and withheld under this chapter from any payment to which such request applies shall be an amount (not less than a minimum amount determined under regulations prescribed by the Secretary) specified by the payee in such request. The amount deducted and withheld with respect to a payment which is greater or less than a full payment shall bear the same relation to the specified amount as such payment bears to a full payment.

"(4) Request for withholding.—A request that an annuity or any sick pay be subject to withholding under this chapter—

"(A) shall be made by the payee in writing to the person making the payments and shall contain the social security number of the payee,

"(B) shall specify the amount to be deducted and withheld from each full payment, and

"(C) shall take effect—

"(i) in the case of sick pay, with respect to payments made more than 7 days after the date on which such request is furnished to the payor, or

"(ii) in the case of an annuity, at such time (after the date on which such request is furnished to the payor) as the Secretary shall by regulations prescribe.

Such a request may be changed or terminated by furnishing to the person making the payments a written statement of change or termination which shall take effect in the same manner as provided in subparagraph (C). At the election of the payor, any such request (or statement of change or revocation) may take effect earlier than as provided in subparagraph (C).

"(5) Special rule for sick pay paid pursuant to certain collective-bargaining agreements.—In the case of any sick pay paid pursuant to a collective-bargaining agreement between employee representatives and one or more employers which contains a provision specifying that this paragraph is to apply to sick pay paid pursuant to such agreement and contains a provision for determining the amount to be deducted and withheld from each payment of such sick pay—

"(A) the requirement of paragraph (1) (C) that a request for withholding be in effect shall not apply, and

"(B) except as provided in subsection (n), the amounts to be deducted and withheld under this chapter shall be determined in accordance with such agreement.

The preceding sentence shall not apply with respect to sick pay paid pursuant to any agreement to any individual unless the social security number of such individual is furnished to the payor and the payor is furnished with such information as is necessary to determine whether the payment is pursuant to the agreement and to determine the amount to be deducted and withheld.".

(c) Definition of Sick Pay.—Paragraph (2) of section 3402(o) (relating to definitions) is amended by adding at the end thereof the following new subparagraph:

"(C) Sick pay.—For purposes of this subsection, the term 'sick pay' means any amount which—

"(i) is paid to an employee pursuant to a plan to which the employer is a party, and

"(ii) constitutes remuneration or a payment in lieu of remuneration for any period during which the employee is temporarily absent from work on account of sickness or personal injuries.".

(d) Technical Amendment.—Subparagraph (B) of section 3402(o) (2) (defining annuity) is amended by striking out ", but only to the extent that the amount is includible in the gross income of such individual".

(e) Reporting Requirements.—Section 6051 (relating to receipts for employees) is amended by adding at the end thereof the following new subsection:

"(f) Statements Required in Case of Sick Pay Paid by Third Parties.—

"(1) Statements required from payor.—

"(A) In general.—If, during any calendar year, any person makes a payment of third-party sick pay to an employee, such person shall, on or before January 15 of the succeeding year, furnish a written statement to the employer in respect of whom such payment was made showing—

"(i) the name and, if there is withholding under section 3402(o), the social security number of such employee,

"(ii) the total amount of the third-party sick pay paid to such employee during the calendar year, and

"(iii) the total amount (if any) deducted and withheld from such sick pay under section 3402.

For purposes of the preceding sentence, the term 'third-party sick pay' means any sick pay (as defined in section 3402(o) (2) (C)) which does not constitute wages for purposes of chapter 24 (determined without regard to section 3402(o) (1)).

"(B) Special rules.—

"(i) Statements are in lieu of other reporting requirements.—The reporting requirements of subparagraph (A) with respect to any payments shall, with respect to such payments, be in lieu of the requirements of subsection (a) and of section 6041.

"(ii) Penalties made applicable.—For purposes of sections 6674 and 7204, the statements required to be furnished by subparagraph (A) shall be treated as statements required under this section to be furnished to employees.

"(2) Information required to be furnished by employer.—Every employer who receives a statement under paragraph (1) (A) with respect to sick pay paid to any employee during any calendar year shall, on or before January 31 of the succeeding year, furnish a written statement to such employee showing—

"(A) the information shown on the statement furnished under paragraph (1) (A), and

"(B) if any portion of the sick pay is excludable from gross income under section 104(a) (3), the portion which is not so excludable and the portion which is so excludable.

To the extent practicable, the information required under the preceding sentence shall be furnished on or with the statement (if any) required under subsection (a).".

(f) Effective Date.—The amendments made by this section shall apply to payments made on or after the first day of the first calendar month beginning more than 120 days after the date of the enactment of this Act.

Sec. 6. Time for Payment of Gift Taxes.

(a) Amendments to Subchapter A of Chapter 12.—

(1) Section 2501.—Subsection (a) of section 2501 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year" each place it appears.

(2) Section 2502.—

(A) Subsection (a) of section 2502 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year" each place it appears.

(B) Subsection (b) and (c) of such section are amended to read as follows:

"(b) Calendar Year.—Whenever used in this title in connection with the gift tax imposed by this chapter, the term 'calendar year' means the calendar year 1982 and succeeding calendar years.

"(c) Preceding Calendar Years and Quarters.—Whenever used in this title in connection with the gift tax imposed by this chapter—

"(1) the term 'preceding calendar years' means—

"(A) calendar year 1932 and 1970 and all calendar years intervening between calendar year 1932 and calendar year 1970, and

"(B) calendar year 1982 and all calendar years intervening between such calendar year and the calendar year for which the tax is being computed.

The term 'calendar year 1932' includes only that portion of such year after June 6, 1932.

"(2) The term 'preceding calendar quarters' means the first calendar quarter of calendar year 1971, the last calendar quarter of calendar year 1981 and all calendar quarters intervening between such calendar quarters.".

(3) Section 2503.—

(A) Subsection (a) of section 2503 is amended to read as follows:

"(a) General Definition.—The term 'taxable gifts' means in the case of gifts made after December 31, 1981, or before

January 1, 1971, the total amount of gifts made during the calendar year, less the deductions provided in subchapter C (sec. 2521 and following). In the case of gifts made after December 31, 1970 and before January 1, 1982, such term means the total amount of gifts made during the calendar quarter, less the deductions provided in subchapter C.".

(B) The first sentence of subsection (b) of such section is amended to read as follows:

"In the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year 1982 and subsequent calendar years, the first $3,000 of such gifts to such person shall not, for purposes of subsection (a), be included in the total amount of gifts made during such year.".

(4) Section 2504.— Subsection (a) of section 2504 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year" each place it appears.

(5) Section 2505.—Section 2505 is amended—

(A) by striking out "calendar quarter" and inserting in lieu thereof "calendar year" each place it appears in subsection (a) and (d), and

(B) by striking out "calendar quarters" and inserting in lieu thereof "calendar years and calendar quarters" in paragraph (2) of subsection (a).

(b) Amendments to Subchapter B of Chapter 12.—

(1) Section 2512.—Subsection (b) of section 2512 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year".

(2) Section 2513.—

(A) Section 2513(a) is amended by striking out "calendar quarter" each place it appears and inserting in lieu thereof "calendar year".

(B) Paragraph (2) of section 2513(b) is amended by striking out "calendar quarter" in the matter preceding subparagraph (A) and inserting in lieu thereof "calendar year".

(C) Subparagraph (A) of subsection (b) (2) of section 2513 is amended to read as follows:

"(A) The consent may not be signified after the 15th day of April following the close of such year, unless before such 15th day no return has been filed for such year by either spouse, in which case the consent may not be signified after a return for such year is filed by either spouse.".

(D) Subparagraph (B) of subsection (b) (2) of section 2513 is amended—

(i) by striking out "the consent" and inserting in lieu thereof "The consent", and

(ii) by striking out "such calendar quarter" and inserting in lieu thereof "such year".

(E) Subsection (c) of section 2513 is amended—

(i) by striking out "calendar quarter" and inserting in lieu thereof "calendar year", and

(ii) by striking out "15th day of the second month following the close of such quarter" and inserting in lieu "15th day of April following the close of such year".

(F) Subsection (d) of section 2513 is amended—

(i) by striking out "any calendar quarter" and inserting in lieu thereof "any calendar year", and

(ii) by striking out "such calendar quarter" and inserting in lieu thereof "such year".

(3) Section 2515.—Subsection (c) of section 2515 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year".

(c) Amendments to Subchapter C of Chapter 12.—

(1) Section 2522.—Section 2522 is amended by striking out "quarter" each place it appears and inserting in lieu thereof "year".

(2) Section 2523.—Subsection (a) of section 2523 is amended—

(A) by striking out "preceding calendar quarters" and inserting in lieu thereof "preceding calendar quarters and calendar years" in subparagraph (A) of paragraph (2),

(B) by striking out "each preceding calendar quarter" and inserting in lieu thereof "each preceding calendar quarter and calendar year" in clause (ii) of subparagraph (2) (B), and

(C) by striking out "calendar quarter" and inserting in lieu thereof "calendar year" each place it appears.

(d) Miscellaneous Amendments.—

(1) Paragraph (2) of subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended by striking out "calendar quarter (or calendar year if the gift was made before January 1, 1971)" and inserting in lieu thereof "calendar year (or calendar quarter if the gift was made after December 31, 1970, and before January 1, 1982)."

(2) Section 6019 (relating to gift tax returns) is amended by striking out subsection (b), by redesignating subsection (c) as subsection (b) and by amending subsection (a) to read as follows:

"(a) In General.—Any individual who in any calendar year makes any transfer by gift (other than transfers which under section 2503(b) are not included in the total amount of gifts for such year) shall make a return with respect to the gift tax imposed by subtitle B.".

(3) Subsection (b) of section 6075 (relating to time for filing gift tax returns) is amended to read as follows:

"(b) Gift Tax Returns.—

"(1) General rule.—Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of April following the close of the calendar year.

"(2) Extension where taxpayer granted extension for filing income tax return.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for such calendar year.

"(3) Coordination with due date for estate tax return.—Notwithstanding paragraphs (1) and (2), the time for filing the return made under section 6019 for the calendar year which includes the date of death of the donor shall not be later than the time (including extensions) for filing the return made under section 6018 (relating to estate tax returns) with respect to such donor.".

(4) Paragraph (1) of section 6212(c) (relating to notice of deficiency) is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year".

(e) Effective Date.—The amendments made by this section shall apply with respect to gifts made after December 31, 1981.

Sec. 7. Rhode Island Indian Claims Settlement Act.

(a) In General.—The Rhode Island Indian Claims Settlement Act (Public Law 95–395) is amended by adding at the end thereof the following new title:

"TITLE II—TAX TREATMENT

"EXEMPTION FROM TAXATION

"Sec. 201. (a) Except as otherwise provided in subsections (b) and (c), the settlement lands received by the State Corporation shall not be subject to any form of Federal, State, or local taxation while held by the State Corporation.

"(b) The exemption provided in subsection (a) shall not apply to any income-producing activities occurring on the settlement lands.

"(c) Nothing in this Act shall prevent the making of payments in lieu of taxes by the State Corporation for services provided in connection with the settlement lands.

"DEFERRAL OF CAPITAL GAINS

"Sec. 202. For purposes of the Internal Revenue Code of 1954, any sale or disposition of private settlement lands pursuant to the terms and conditions of the settlement agreement shall be treated as an involuntary conversion within the meaning of section 1033 of the Internal Revenue Code of 1954.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on September 30, 1978.

● Mr. PELL. Mr. President, I am pleased to support H.R. 5505 because it contains one provision which is of particular importance to my State of Rhode Island. This provision amends the Rhode Island Indian Land Claims Settlement Act to provide for deferral of capital gains taxation for privately owned settlement land.

Rhode Island was the first State to win legislative approval of an out-of-court settlement of the so-called nonintercourse land claims which are still pending in a dozen States. A key inducement for the landowners to settle the case was a provision in the settlement calling for a deferral of capital gains on the sale of their lands. This provision, which I might add is similar to a part of the recently enacted Maine settlement, was and is supported by all parties to the Rhode Island claim, and was deleted from the original legislation only for reasons of time.

From a policy standpoint, this type of tax treatment makes excellent sense in resolving Indian land claims. The landowners in these cases are truly innocent bystanders caught in a web of circumstances beyond their control. They are unable to sell or borrow against their property during the life of the lawsuit, and—to date—have been unsuccessful in recovering their attorneys fees and other costs. At the very least, they should not be exposed to capital gains taxation on property they transfer in settlement of the Indian claims.

In terms of tax policy, a deferral of captal gains in situations of this sort is entirely consistent with current internal revenue law. Section 1033 of the Internal Revenue Code recognizes a deferral of capital gains occurring as a result of involuntary conversions. The land conveyed by the landowners in the Rhode Island case was threatened with complete forfeiture by the Indian lawsuit. The transfers of land can hardly be characterized as voluntary.

Section 1033 of the code is intended to prevent the inequitable imposition of taxation. I strongly believe that had the farmers of section 1033 ever envisioned that this type of situaiton would occur, they would have included loss of land as a result of Indian land claims within the scope of that section of the code. In this instance, the impact of section 1033 treatment on Federal revenues will be minimal.

Mr. President, this part of H.R. 5505 completes the Federal Government's responsibility to the parties in the Rhode Island claim. Without the willing participation of the landowners in the settlement agreement, the Rhode Island

Indian land claim would still be grinding through the courts, and posing a major problem for the State. I very much hope my colleagues will join Senator CHAFEE and myself in supporting this provision, and keeping faith with the landowners in the Nation's first Indian land claim settlement.●

DETERMINATION OF SECOND TIER TAXES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5391, Calendar No. 1166; that if there are any committee amendments, they be agreed to; that a technical amendment be agreed to, that Senators may be authorized to insert statements in the RECORD in explanation thereof; that the matter be advanced to third reading and passed; that the motion to reconsider be laid on the table; that an amendment to the title be agreed to; and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5391) to amend chapter 42 of the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. DETERMINATION OF SECOND TIER TAXES.

(a) DATE FOR DETERMINING AMOUNT OF SECOND TIER TAXES.—

(1) SUBSTITUTION OF TAXABLE PERIOD FOR CORRECTION PERIOD.—The following provisions are each amended by striking out "correction period" and inserting in lieu thereof "taxable period":

(A) Section 4941(b)(1) (relating to additional taxes on self-dealer).

(B) Section 4941(e)(2)(B) (defining amount involved).

(C) Section 4942(b) (relating to additional tax on failure to distribute income).

(D) Section 4943(b) (relating to additional tax on excess business holdings).

(E) Section 4944(b)(1) (relating to additional taxes on investments which jeopardizes charitable purpose).

(F) Section 4945(b)(1) (relating to additional taxes on taxable expenditures).

(G) Section 4951(b)(1) (relating to additional taxes on self-dealer).

(H) Section 4951(e)(2)(B) (defining amount involved).

(I) Section 4952(b)(1) (relating to additional taxes on taxable expenditures).

(J) Section 4971(b) (relating to additional tax on failure to meet minimum funding standards).

(K) Section 4975(b) (relating to additional taxes on disqualified persons).

(L) Section 4975(f)(4)(B) (defining amount involved).

(2) DEFINITION OF TAXABLE PERIOD.—

(A) Paragraph (1) of section 4941(e) (defining taxable period) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which correction of the act of self-dealing is completed."

(B) Paragraph (1) of section 4942(j) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

"(B) the date on which the tax imposed by subsection (a) is assessed."

(C) Paragraph (2) of section 4943(d) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess business holdings of a private foundation in a business enterprise, the period beginning on the first day on which there are excess holdings and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212 in respect of such holdings, or

"(B) the date on which the tax imposed by subsection (a) in respect of such holdings is assessed."

(D) Paragraph (1) of section 4994(e) is amended to read as follows:

"(1) TAXABLE PFRIOD.—The term 'taxable period' means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which the amount is so invested and ending on the earliest of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which the amount so invested is removed from jeopardy."

(E) Paragraph (2) of section 4945(i) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed."

(F) Paragraph (1) of section 4951(e) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which correction of the act of self-dealing is completed."

(G) Paragraph (2) of section 4952(e) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed."

(H) Paragraph (3) of section 4971(c) is amended to read as follows:

"(3) TAXABLE PERIOD.—The term 'taxable period' means, with respect to an accumulated funding deficiency, the period beginning with the end of the plan year in which there is an accumulated funding deficiency and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a), or

"(B) the date on which the tax imposed by subsection (a) is assessed."

(I) Paragraph (2) of section 4975(f) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any prohibited transaction, the period beginning with the date on which the prohibited transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212,

"(B) the date on which the tax imposed by subsection (a) is assessed, or

"(C) the date on which correction of the prohibited transaction is completed."

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 4941 is amended by striking out paragraph (4).

(B) Subsection (j) of section 4942 is amended—

(i) by striking out paragraph (2),

(ii) by striking out "paragraph (5)" in paragraph (3)(B)(i) and inserting in lieu thereof "paragraph (4)",

(iii) by redesignating paragraph (4) as paragraph (2), and

(iv) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(C) Subsection (d) of section 4943 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(D) Subsection (e) of section 4944 is amended by striking out paragraph (3).

(E) Subsection (e) of section 4951 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(F) Subsection (f) of section 4975 is amended by striking out paragraph (6).

(4) CLERICAL AMENDMENTS.—

(A) Clause (ii) of section 4942(g)(2)(C) is amended by striking out "the initial correction period provided in subsection (j)(2)" and inserting in lieu thereof "the correction period (as defined in section 4962(e))".

(B) Subparagraph (A) of section 4943(d)(3) (as redesignated by paragraph (3)(c)) is amended by striking out "4942(j)(5)" and inserting in lieu thereof "4942(j)(4)".

(C) Subsection (e) of section 6213 (relating to suspension of filing period for certain excise taxes) is amended by striking out "section 4941(e)(4)" and all that follows through the end of such subsection and inserting in lieu thereof "section 4962(e)."

(D) Subsection (g) of section 6503 (relating to suspension of running of period of limitation pending correction) is amended by striking out "section 4941(e)(4)" and all that follows through the end of such subsection and inserting in lieu thereof "section 4962(e)."

(E) Section 6503 is amended by redesignating subsection (j) as subsection (i).

(F) The amendments made by sections 1203(h)(1) and 1601(f)(2) of the Tax Reform Act of 1976, and the amendment made by section 362(d)(5) of the Revenue Act of 1978, shall be deemed to be amendments to section 6503(i) of the Internal Revenue Code of 1954 (as redesignated by subparagraph (E)).

(b) TAX COURT TO DETERMINE WHETHER TAXABLE EVENT HAS BEEN CORRECTED.—Subsection (c) of section 6214 (relating to determinations by Tax Court) is amended by adding at the end thereof the following new sentence: "The Tax Court, in redetermining a deficiency of any second tier tax (as defined in section 4962(b)), shall make a determination with respect to whether the taxable event has been corrected."

(c) Abatement of Tax Where There Is Correction During Correction Period.—

(1) In General.—Chapter 42 is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Abatement of Second Tier Taxes Where There Is Correction During Correction Period

"Sec. 4961. Abatement of second tier taxes where there is correction.

"Sec. 4962. Definitions.

"Sec. 4961. Abatement of Second Tier Taxes Where There Is Correction.

"(a) General Rule.—If any taxable event is corrected during the correction period for such event, then any second tier tax imposed with respect to such event (including interest, additions to the tax, and additional amounts), shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

"(b) Supplemental Proceeding.—If the determination by a court that the taxpayer is liable for a second tier tax has become final, such court shall have jurisdiction to conduct any necessary supplemental proceeding to determine whether the taxable event was corrected during the correction period. Such a supplemental proceeding may be begun only during the period which ends on the 90th day after the last day of the correction period. Where such a supplemental proceeding has begun, the reference in the second sentence of section 6213(a) to a final decision of the Tax Court shall be treated as including a final decision in such supplemental proceeding.

"(c) Suspension of Period of Collection for Second Tier Tax.—

"(1) Proceeding in district court or court of claims.—If, not later than 90 days after the day on which the second tier is assessed, the first tier tax is paid in full and a claim for refund of the amount so paid is filed, no levy or proceeding in court for the collection of the second tier tax shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in paragraph (2) (and of any supplemental proceeding with respect thereto under subsection (b)). Notwithstanding section 7421(a), the collection by levy or proceeding may be enjoined during the time such prohibition is in force by a proceeding in the proper court.

"(2) Suit must be brought to determine liability.—If, within 90 days after the day on which his claim for refund is denied, the person against whom the second tier tax was assessed fails to begin a proceeding described in section 7422 for the determination of his liability for such tax, paragraph (1) shall cease to apply with respect to such tax, effective on the day following the close of the 90-day period referred to in this paragraph.

"(3) Suspension of running of period of limitations on collection.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court with respect to any second tier tax described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

"(4) Jeopardy collection.—If the Secretary makes a finding that the collection of the second tier tax is in jeopardy, nothing in this subsection shall prevent the immediate collection of such tax.

"Sec. 4962. Definitions.

"(a) First Tier Tax.—For purposes of this subchapter, the term 'first tier tax' means any tax imposed by subsection (a) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(b) Second Tier Tax.—For purposes of this subchapter, the term 'second tier tax' means any tax imposed by subsection (b) of section 4941, 4942, 4943, 4944, 4945, 4951, 4852, 4971, or 4975.

"(c) Taxable Event.—For purposes of this subchapter, the term 'taxable event' means any act (or failure to act) giving rise to liability for tax under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(d) Correct.—For purposes of this subchapter—

"(1) In general.—Except as provided in paragraph (2), the term 'correct' has the same meaning as when used in the section which imposes the second tier tax.

"(2) Special rules.—The term 'correct' means—

"(A) in the case of the second tier tax imposed by section 4942(b), reducing the amount of the undistributed income to zero.

"(B) in the case of the second tier tax imposed by section 4943(b), reducing the amount of the excess business holdings to zero, and

"(C) in the case of the second tier tax imposed by section 4944, removing the investment from jeopardy.

"(e) Correction Period.—For purposes of this subchapter—

"(1) In general.—The term 'correction period' means, with respect to any taxable event, the period beginning on the date on which such event occurs and ending 90 days after the date of mailing under section 6212 of a notice of deficiency with respect to the second tier tax imposed on such taxable event, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a) (determined without regard to the last sentence of section 4961(b)), and

"(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the taxable event.

"(2) Special rules for when taxable event occurs.—For purposes of paragraph (1), the taxable event shall be treated as occurring—

"(A) in the case of section 4942, on the first day of the taxable year for which there was a failure to distribute income,

"(B) in the case of section 4943, on the first day on which there are excess business holdings,

"(C) in the case of section 4971, on the last day of the plan year in which there is an accumulated funding deficiency, and

"(D) in any other case, the date on which such event occurred."

(2) Civil actions for refunds.—Paragraph (1) of section 7422(g) (relating to special rules for certain excise taxes imposed by chapter 42 or 43) is amended to read as follows:

"(1) Right to bring actions.—

"(A) In general.—With respect to any taxable event, payment of the full amount of the first tier tax shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.

"(B) Definitions.—For purposes of subparagraph (A), the terms 'taxable event', 'first tier tax', and 'second tier tax' have the respective meanings given to such terms by section 4962."

(3) Clerical amendment.—The table of subchapters for chapter 42 is amended by adding at the end thereof the following new item:

"Subchapter C. Abatement of second tier taxes where there is correction during correction period."

(d) Effective Dates.—

(1) First tier taxes.—The amendments made by this section with respect to any first tier tax shall take effect as if included in the Internal Revenue Code of 1954 when such tax was first imposed.

(2) Second tier taxes.—The amendments made by this section with respect to any second tier tax shall apply only with respect to taxes assessed after the date of the enactment of this Act. Nothing in the preceding sentence shall be construed to permit the assessment of a tax in a case to which, on the date of the enactment of this Act, the doctrine of res judicata applies.

(3) First and second tier tax.—For purposes of this subsection, the terms "first tier tax" and "second tier tax" have the respective meanings given to such terms by section 4962 of the Internal Revenue Code of 1954.

Sec. 3. Treatment of Certain Charitable Trusts for Purposes of the Minimum Tax.

(a) General Rule.—Subparagraph (C) of section 57(b)(2) (relating to treatment of certain charitable contributions of trusts for purposes of the minimum tax) is amended by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively, and by inserting after clause (iii) the following new clause:

"(iv) deductions allowable to a trust—

"(I) all the income interests in which are devoted to one or more of the purposes described in section 170(c) (determined without regard to section 170(c)(2)(A)),

"(II) all of the interests (other than income interests) in which are held by a corporation, and

"(III) the grantor of which is a corporation."

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

Sec. 4. Excise Taxes on Tires.

(a) Reductions in Rate of Tax.—

(1) In general.—

(A) Section 4071(a)(1) is amended by striking out "10 cents" and inserting "9.75 cents".

(B) Section 4071(a)(2) is amended by striking out "5 cents" and inserting "4.875 cents".

(C) Section 4071(d)(1) is amended by striking out "5 cents" and inserting "4.875 cents".

(2) Effective date.—The amendments made by this subsection shall apply on and after January 1, 1981.

(b) Determination of Overpayment.—

(1) In general.—The determination of the extent to which any overpayment of tax imposed by section 4071(a) (1) or (2) or section 4071(b) has arisen by reason of an adjustment of a tire after the original sale pursuant to a warranty or guarantee, and the allowance of a credit or refund of any such overpayment, shall be determined in accordance with the principles set forth in regulations and rulings relating thereto to the extent in effect on March 31, 1978.

(2) Effective date.—This subsection shall apply to the adjustment of any tire after March 31, 1978, and prior to January 1, 1983.

(c) Tires and Inner Tubes.—

(1) In general.—Paragraph (1) of section 6416(b) (relating to price readjustments) is amended to read as follows:

"(1) Price readjustments.—

"(A) In general.—Except as provided in subparagraph (A) or (B), if the price of any article in respect of which a tax, based on such price, is imposed by chapter 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216(e)(2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment.

"(B) Further manufacture.—Subparagraph (A) shall not apply in the case of an article in respect of which tax was computed under section 4223(b)(2); but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

"(C) ADJUSTMENT OF TIRE PRICE.—No credit or refund of any tax imposed by section 4071 (a) (1) or (2) or section 4071(b) shall be allowed or made by reason of an adjustment of a tire after the original sale and initial use of such tire, pursuant to a warranty or guarantee.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the adjustments of any tire after December 31, 1982.

SEC. 5. APPLICATION OF CASH OR DEFERRED ARRANGEMENT RULES TO MONEY PURCHASE PENSION PLANS.

(a) IN GENERAL.—Subsection (k) of section 401 (relating to cash or deferred arrangements) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "A money purchase pension plan shall not be considered as not satisfying the requirements of subsection (a) merely because the plan includes a qualified salary reduction arrangement.",

(2) by inserting after "arrangement" in paragraph (3)(A) the following: "under a profit-sharing or stock bonus plan, or a qualified salary reduction arrangement under a money purchase pension plan,", and

(3) by adding at the end thereof the following new paragraph:

"(5) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—A qualified salary reduction arrangement is an arrangement, under a money purchase pension plan—

"(i) under which a covered employee may elect to have the employer make payments as contributions to a trust under the plan on behalf of the employee, or to the employee directly in cash, and

"(ii) which provides that an employee's right to this accrued benefit derived from employer contributions made to the trust pursuant to his election is nonforfeitable.

"(B) MONEY PURCHASE PENSION PLAN.—For purposes of this subsection, the term 'money purchase pension plan' means a pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)),

"(ii) which was in existence on June 27, 1974, and which, on that date, included a salary reduction arrangement, and

"(iii) under which neither the employee contributions nor the employer contributions may exceed the levels provided for by the contribution formula in effect under the plan on that date.".

(b) TAXABILITY OF BENEFICIARIES.—Paragraph (8) of section 402(a) (relating to cash or deferred arrangements) is amended by inserting after "(as defined in section 401(k) (2))" the following: ", or a qualified salary reduction arrangement under a money purchase pension plan (as defined in section 401(k)(5)),".

(c) CONFORMING AMENDMENTS.—

(1) The caption of subsection (k) of section 401 is amended by inserting "; QUALIFIED MONEY PURCHASE PENSION PLAN" after "ARRANGEMENTS".

(2) The caption of paragraph (8) of section 402(a) is amended by inserting "; QUALIFIED MONEY PURCHASE PENSION PLAN" after "ARRANGEMENTS".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—

(A) The amendments made by subsections (a) and (c)(1) shall apply with respect to taxable years beginning after December 31, 1979.

(B) The amendments made by subsections (b) and (c)(2) shall apply with respect to contributions made after December 31, 1979.

(2) TRANSITION RULE.—Any contribution made after December 31, 1979, and before the first day of the first plan year beginning after December 31, 1979, to a trust under a plan which includes a salary reduction plan or arrangement described in section 2006(b) (2) of the Employee Retirement Income Security Act of 1974 shall be treated as made to a trust which is part of a plan which includes a qualified salary reduction arrangement (as defined in section 401(k)(5) of the Internal Revenue Code of 1954), whether or not the trust to which the contribution is made meets the requirements of section 401 (k)(5) of such Code.

SEC. 6. TAX TREATMENT OF PROCEEDS HELD IN TRUST FOR KLAMATH INDIAN TRIBE.

(a) IN GENERAL.—The first section of the Act entitled "An Act to exclude from gross income gains from the condemnation of certain forest lands held in trust for the Klamath Indian Tribe", approved August 9, 1975, is amended by striking out "gain resulting from" and inserting in lieu thereof "all amounts realized by the trust from".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all amounts whether received before, on, or after the date of the enactment of this Act.

UP AMENDMENT NO. 1942

The amendment by Mr. LONG is as follows:

(Purpose: Making technical corrections)

On page 17, line 14, strike out "investments" and insert in lieu thereof "investment".

On page 34, line 6, strike out "(A) or (B)" and insert in lieu thereof "(B) or (C)".

The title was amended so as to read:

An act to amend the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, and for other purposes.

MISCELLANEOUS REVENUE ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7956, Calendar No. 1168; that any committee amendments be agreed to; that an amendment by Mr. MATHIAS extending for 1 additional year the time for amending charitable remainder trusts be adopted; that an amendment by Mr. PROXMIRE providing that the exemption for certain real estate investments of qualified pension funds not serve as a precedent be adopted; that an amendment by Mr. SASSER deleting section 301, election of alternative valuation date for estate tax, be agreed to; that the measure be advanced to third reading and passed; that Senators may offer statements for the RECORD; and that the motion to reconsider be laid on the table.

Mr. DOLE. Mr. President, I ask unanimous consent that the name of the distinguished minority leader, Senator BAKER, be added as a cosponsor of the amendment with Senator SASSER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I also ask unanimous consent that two amendments by Mr. MOYNIHAN and Mr. BRADLEY be agreed to.

Mr. METZENBAUM. Mr. President, reserving the right to object——

Mr. LONG. These were the two amendments on the other bill, and they have been cleared.

Mr. METZENBAUM. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection to any other requests? Without objection, all the requests are agreed to.

The bill (H.R. 7956) to make various changes in the tax laws, had been reported from the Committee on Finance with amendments, as follows:

On page 4, line 6, strike "1979" and insert "1980";

On page 4, line 12, strike "194" and insert "195";

On page 4, line 23, strike "a" and insert "an active";

On page 5, line 1, strike "a" and insert "an active";

On page 6, in the material between lines 3 and 4, strike "194" and insert "195";

On page 6, strike line 7, through and including page 11, line 22;

On page 12, line 1, strike "105" and insert "103";

On page 13, line 17, strike "106" and insert "104";

On page 14, line 4, strike "107" and insert "105";

On page 16, line 16, strike "108" and insert "106";

On page 17, line 10, strike "109" and insert "107";

On page 18, after line 7, insert the following:

SEC. 108. INVESTMENT CREDIT FOR CERTAIN PROPERTY USED IN MARITIME SATELLITE COMMUNICATIONS.

(a) GENERAL RULE.—Paragraph (5) of section 48(a) (relating to property used by governmental units) is amended to read as follows:

"(5) PROPERTY USED BY GOVERNMENTAL UNITS.—Property used by the United States, any State or political subdivision thereof, any international organization, or any agency or instrumentality of any of the foregoing shall not be treated as section 38 property. For purposes of the preceding sentence, the International Telecommunications Satellite Consortium, the International Maritime Satellite Organization, and any successor organization of such Consortium or Organization shall not be treated as an international organization."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1979.

SEC. 109. ACQUISITION INDEBTEDNESS.

(a) IN GENERAL.—Section 514(c) of the Internal Revenue Code of 1954 (defining acquisition indebtedness) is amended by adding at the end thereof the following new paragraph:

"(9) REAL PROPERTY ACQUIRED BY QUALIFIED TRUST.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'acquisition indebtedness' does not include indebtedness incurred by a qualified trust in acquiring or improving any real property.

"(B) EXCEPTIONS.—The provisions of subparagraph (A) shall not apply in any case in which—

"(i) the acquisition price is not a fixed amount determined as of the date of acquisition;

"(ii) the amount of any indebtedness or any other amount payable with respect to such indebtedness, or the time for making any payment of any such amount, is dependent, in whole or in part, upon any revenue, income, or profits derived from such real property;

"(iii) the real property is at any time after the acquisition leased by the qualified trust to the person selling such property to such trust or to any person who bears a relationship described in section 267(b) to such person;

"(iv) the real property is acquired from, or is at any time after the acquisition leased by the qualified trust to, any person who—

"(I) bears a relationship which is described in section 4975(e)(2) (C), (E), or (G) to any plan with respect to which such trust was formed, or

"(II) bears a relationship which is described in section 4975(e)(2) (F) or (H) to any person described in subclause (I); or

"(v) any person described in clause (iii) or (iv) provides the qualified trust with nonrecourse financing in connection with such transaction and such debt—

"(I) is subordinate to any other indebtedness on such property, or

"(II) bears interest at a rate which is significantly less than the rate available from any person not described in clause (iii) or (iv) at the time such indebtedness is incurred.

"(C) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust which constitutes a qualified trust under section 401."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

On page 21, strike line 17 through and including page 27, line 4;

On page 27, line 5, strike "221" and insert "1978";

On page 30, line 1, strike "225" and insert "205";

On page 27, line 20, strike "222" and insert "202";

On page 28, line 6, strike "223" and insert "203";

On page 28, line 14, strike "224" and insert "204";

On page 29, line 23, strike "1980" and insert "1978";

On page 30, line 1, strike "225" and insert "205";

On page 32, line 1, strike "226" and insert "206";

On page 32, after line 14, insert the following:

SEC. 207 ELIMINATION OF WITHHOLDING TAX ON PENSIONS PAID TO CERTAIN NONRESIDENT ALIENS.

(a) IN GENERAL.—Section 871(f) (relating to taxation of nonresident alien individuals) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, gross income does not include any amount received as an annuity under a qualified annuity plan described in section 403(a)(1), or from a qualified trust described in section 401(a) which is exempt from tax under section 501(a), if—

"(A) all of the personal services by reason of which the annuity is payable were either—

"(i) personal services performed outside the United States by an individual who, at the time of performance of such personal services, was a nonresident alien, or

"(ii) personal services descrcibed in section 864(b)(1) performed within the United States by such individual, and

"(B) at the time the first amount is paid as an annuity under the annuity plan or by the trust, 90 percent or more of the employees for whom contributions or benefits are provided under such annuity plan, or under the plan or plans of which the trust is a part, are citizens or residents of the United States.

"(2) EXCLUSION.—Income received during the taxable year which would be excluded from gross income under this subsection but for the requirement of paragraph (1)(B) shall not be included in gross income if—

"(A) the recipient's country of residence grants a substantially equivalent exclusion to residents and citizens of the United States; or

"(B) the recipient's country of residence is a beneficiary developing country within the meaning of section 502 of the Trade Act of 1974 (19 U.S.C. 2462).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after July 1, 1979.

On page 35, line 3, strike "1980" and insert "1981";

Mr. THURMOND. Mr. President, today, I am pleased to support passage of H.R. 7956, which contains a provision amending the Tax Reform Act of 1969 to extend for 3 years (until December 31, 1981), the time to amend charitable trusts created before December 31, 1977, in order to be allowed as a charitable deduction.

H.R. 7956 passed the House on September 8, 1980. It was reported favorably by the Senate Finance Committee on November 25, 1980.

Mr. President, the Tax Reform Act of 1969 imposed new requirements that must be met in order for a charitable deduction to be allowed for income, gift, and estate tax purposes. Subsequently, the IRS has issued rulings and Congress has, on several occasions, extended the time period in order for a trust instrument to qualify for a deduction. Because of the complex nature of these trust instruments and the legal steps necessary to qualify them for treatment as a legal deduction, the IRS has agreed to study the possibility of proposing a permanent rule on this issue.

In addition, the Finance Committee has had brought to its attention a number of meritorious cases where amendment of the trust is the only method of preventing a charity from having to bear the additional estate taxes arising from the loss of the charitable deduction. I am particularly familiar with one case in my own State of South Carolina. A prominent family, the Munnerlyns, left a bulk of their estate to the Marlboro County Hospital and the Tamassee School in Oconee County. The Tamassee School is supported by the Daughters of the American Revolution (DAR) and is a worthy institution of learning in my State. Because of the state of the present law, a suit has been filed in court to amend the original trust instrument so that a legal deduction can be taken by the Tamassee School.

The 3-year delay in time to amend these trusts would benefit not only this school, but other charitable organizations.

Mr. President, I believe this is a meritorious bill and should be passed in this Congress.

FINAL RELIEF FOR STATE TROOPERS

● Mr. WILLIAMS. Mr. President, I urge final passage of H.R. 7956. Section 108 of this legislation takes the final step in providing full relief to New Jersey State Troopers for meal allowances which they received from 1971 through 1977.

As my colleagues may recall, I supported the position of the New Jersey State Police, as well as those of 14 other States, immediately following the Supreme Court's 1977 decision in Commissioner against Kowalski. In that ruling, the Supreme Court reversed a previously unchallenged 1954 decision of the Third Circuit Court of Appeals, which had held that cash meal allowances provided to State police officers need not be included in gross income.

New Jersey State Trooper Robert J. Kowalski's petition before the U.S. Tax Court kept this issue in limbo from 1971 through 1975; and, as I noted, the Supreme Court did not finalize the judicial process until 1977. During that 6-year time span, thousands of State police across the Nation were in a quandry as to how to treat these allowances. The vast majority either did not include them in their gross income or, if they did so, claimed offsetting deductions. Following the Supreme Court ruling, these dedicated public servants would have been liable for thousands of dollars in retroactive tax liability absent legislative relief.

In some cases, retired officers would have been forced to reimburse the IRS from their hard-earned pensions. This would have been an outrageous result, and I worked closely with the State Police of New Jersey to prevent such retroactive applications of the Kowalski decision. In particular, the testimony of Col. Clinton Pagano, superintendent of the New Jersey State Police, before the Finance Committee was instrumental in convincing that panel of the need for relief.

As a result of this campaign, the Congress did act favorably upon H.R. 12841 in 1978; this bill was enacted as Public Law 95-427. Section 3 of that legislation made certain that the Kowalski decision would only be applied on a prospective basis by permitting an exclusion from gross income for satutory subsistence allowances received by State troopers between 1970 and 1977. During Senate consideration of this bill on August 2, 1978, I engaged in a colloquy with the distinguished chairman of the Finance Committee, Senator LONG, for the precise purpose of establishing a clear legislative history that would guarantee universal relief to the affected troopers.

Unfortunately, Mr. President, I learned earlier this year that a small percentage of New Jersey troopers still were being denied the relief accorded to their fellow officers under the IRS's administration of Public Law 95-427. In a situation not unlike one conjured up in the novel "Catch-22," those officers who complied precisely with the instructions of the Newark IRS district office by reporting their meal allowance as part of gross income, and not claiming an offsetting deduction, were ruled to be ineligible for relief. About 200 officers stood to lose a total of $270,000 because the Newark office had informed them that they need not file an amended return until the Kowalski case reached the end of the appeals process.

As a matter of equity, it seems intolerable to deny relief to taxpayers who followed IRS instructions to the letter, when all of their fellow officers who took alternate approaches to reporting this income were relieved of this burden by Public Law 95-427. Today, section 108 of H.R. 7956 corrects that injustice and completes the job of providing the across-the-board correction which was intended when I began this process in the Senate, during the preceding Congress. Senator BRADLEY deserves special praise for successfully moving the adoption of section 108 during Finance Committee markup this year.

In closing, Mr. President, I must observe that, while I am pleased that this action completes the job of preventing retroactive application of the Kowalski decision, I still have deep misgivings about that holding. Each day they are on the job, the New Jersey State Police, and officers in the other States, give their all in the cause of law enforcement and public safety. Oftentimes, their dedication is evidenced by serious injury or even death. Given the fact that they are engaged in a public service which often entails great personal risk, and that these meal allowances were substituted for food served at the barracks for administrative convenience, I believe Congress should give serious consideration to remedial legislation which would make such allowances excludable from gross income.

Mr. President, I appreciate having this opportunity to comment briefly on section 108 of this bill, and again urge my colleagues to vote in favor of H.R. 7956.●

UP AMENDMENT NO. 1943

The amendment by Mr. MATHIAS is as follows:

(Purpose: To apply charitable lead trust provisions to wills executed before December 31, 1978)

On page 35, beginning with line 1, strike out "amended" and all that follows through line 3, and insert in lieu thereof the following: amended—

(1) by striking out "December 31, 1977" and inserting in lieu thereof "December 31, 1978"; and

(2) by striking out "December 31, 1978" each place it appears and inserting in lieu thereof "December 31, 1981".

UP AMENDMENT NO. 1944

Mr. PROXMIRE'S amendment is as follows:

(Purpose: Providing that provisions relating to acquisition indebtedness of qualified trusts shall not be considered a precedent for extension of such provisions to other persons)

On page 21, between lines 11 and 12, insert the following:

(b) No Precedent.—The amendment made by subsection (a) shall not be considered a precedent with respect to extending such amendment (or similar rules) to any other person.

On page 21, line 12, strike out "(b)" and insert in lieu thereof "(c)".

UP AMENDMENT NO. 1945

The amendment of Mr. SASSER and Mr. BAKER is as follows:

(Purpose: Striking the section allowing election to use the alternate valuation date on returns filed late)

On page 34, strike lines 8 through 18.

On page 34, line 19, strike out "SEC. 302." and insert in lieu thereof "SEC. 301.".

Mr. SASSER. Mr. President, I move to strike section 301 of the pending bill, which relates to the election of the alternate valuation date for estate tax purposes. I do so reluctantly and only because in my judgment there is not sufficient time in the present legislative session to address a serious controversy which has been raised regarding a fair effective date for this desirable change in the law. Senator BAKER and I introduced legislation early in the Congress to address a serious problem with the estate tax laws which had been brought to our attention by a Tennessee constituent.

In the case of our constituent, the estate tax return was filed late because the executor had open heart surgery 1 month before the return was due. No one disputes the fact that the estate tax return was filed late due to reasonable cause and, if the estate tax law worked properly, the estate of my constituent would be able to elect the alternate valuation date. The law, however, precludes an election if the estate tax return is filed late regardless of the reason for the late filing. The rule of present law is improper and no one, to my knowledge, believes that it should continue. The effect of denying the election is to wipe out the estate of my constituent.

Senator BAKER and I introduced our bill to remedy this suitation for the estate of our constituent other estates similarly situated, and for the future. Because of the efforts of the distinguished Senator from Virginia, Senator HARRY BYRD, and the chairman of the Finance Committee, Senator LONG, hearings were held on our bill and the Finance Committee agreed to favorably report the bill for floor action. Unfortunately, floor action could not take place prior to our recess in October.

Section 301 of the bill which is before the Senate today, however, does not accomplish the result which was intended. Section 301 does not remove the harsh consequences of present law from the estate of my constituent or other taxpayers similarly situated. As presently drafted, it only applies to estates of persons who die in the future.

I would be pleased if the Senate could take the time to consider the provisions of section 301 of this bill as contrasted to the provisions of the legislation that Senator BAKER and I introduced. Essentially, it is a question of whether taxpayers should be forced to bear the burden of an unfair tax law until it is changed or whether, in the process of correcting the error, Congress should remove the burden of the unfair law from the taxpayers whose cases have not been finally determined. I know that many Senators who have heard both sides of this argument agree with me that the original legislation which we introduced is much more preferable to section 301 of the pending bill.

This has become a controversial issue because the Treasury amendment opposes the legislation in the form in which Senator BAKER and I introduced it. At the same time, I know many Senators disagree with the Treasury Department's position. This includes most of the members of the Senate Finance Committee who originally agreed to favorably report the bill in its original form.

There is, unfortunately, not sufficient time to resolve the controversy. Although I am reluctant to see the legislation expire simply because we do not have time to consider a controversial issue, I am opposed to section 301 as it now stands and I must request that this section be deleted in order to permit the next Congress to consider all the arguments on both sides of the issue.

A DELETING AMENDMENT REGARDING THE ALTERNATE VALUATION DATE ON RETURNS

Mr. BAKER. The deleting amendment that I, and my distinguished colleague from Tennessee, offer today seeks to redress an inequity which is continued in H.R. 7956.

Let me briefly explain why this amendment is necessary. Under the present law, an estate can elect to value the assets of an estate at the time of death, or 6 months thereafter.

If the filing is late, the election is lost. Under the present law, IRS is not permitted to take into account special circumstances.

In my view, it is incongruous that the penalties specifically provided for the late filing of a return do not apply if there is a reasonable cause for the late filing, while in such cases, the alternate valuation date election is absolutely precluded.

Many taxpayers have been caught in this trap and subject to inequitable and harsh results. There is unanimous agreement that the present law is unfair and ought to be changed. Title III of H.R. 7956 makes that change, but does so only prospectively.

It was our original preference to amend this language to make the provision retroactive. If this matter had been brought to the attention of Congress several years ago when this provision was enacted, the current situation would not exist. Clearly, taxpayers should not be made to suffer the unintended effects of congressional action.

Mr. President, I wish to point out that the Finance Committee shares our view on this matter and has twice reported out the amendment which Senator SASSER and I would prefer to see enacted.

However, the Treasury Department has raised objections to our amendment and in the interests of speeding up the legislative process, Senator SASSER and I agreed that a simple deletion of the language would better serve all parties at this late date.

In all honesty, I would prefer to see the Senate eliminate an inequity which we have agreed to redress. But, like many other matters, it is an issue to which we can return in the next session.

Thank you.

UP AMENDMENT NO. 1946

The amendment by Mr. MOYNIHAN and Mr. BRADLEY is as follows:

SEC. 2. TREATMENT OF CERTAIN SOCIAL SECURITY TAX WAIVER EXEMPTIONS.

(a) WAIVER CERTIFICATE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any waiver certificate filed by a qualified corporation (hereinafter in this section referred to as the "corporation") under section 3121(k)(1) of the Internal Revenue Code of 1954 (relating to waiver of exemption from social security taxes by certain organizations) shall be deemed not to be effective, for purposes of the taxes imposed by section 3101 of such Code, with respect to any wages—

(A) paid by the Corporation to any employee thereof after December 31, 1972, and before April 1, 1975, if the Corporation furnishes to the Secretary of the Treasury or his delegate evidence reasonably satisfactory to him that the Corporation has refunded, prior to February 1, 1977, to such employee (or to his survivors or estate) the full amount of the taxes imposed by section 3101 of such Code on such wages, or

(B) paid after March 31, 1975, and prior to July 1, 1977, by the Corporation to an individual as an employee of the Corporation, if the Corporation furnishes to the Secretary of the Treasury or his delegate evidence reasonably satisfactory to him that (i) such individual was not an employee of the Corporation on June 30, 1978, and (ii) no amount of the taxes imposed by section 3101 of such Code on such wages were withheld by the Corporation from such wages.

(2) APPLICATION OF PARAGRAPH (1).—

(A) EVIDENCE TO BE SUBMITTED TO SECRETARY.—The provisions of paragraph (1) shall not apply to wages described in subparagraph (A) or (B) of such paragraph unless, prior to the close of the one-year period which begins on the date of the enactment of this Act, the Corporation furnishes to the Secretary of the Treasury or his delegate the evidence referred to in either such subparagraph.

(B) TAX NOT IMPOSED.—If the provisions of paragraph (1) apply with respect to any wages paid by the Corporation to an employee thereof, no taxes imposed on such wages by section 3101 of the Internal Revenue Code of 1954 shall be payable, and no interest or penalty with respect to the imposition of taxes by such section on such wages (or with respect to the imposition of taxes by such section or section 3111 of such Code on any wages paid by the Corporation prior to January 1, 1978) shall be imposed or collected.

(C) CREDIT AGAINST TAX.—Under regulations prescribed by the Secretary, there shall be allowed as a one-time credit against the tax imposed on the Corporation under section 3101 or 3111 of the Internal Revenue Code of 1954 (and any interest or penalties imposed thereon) an amount equal to the sum of—

(i) all amounts of tax imposed by section 3101 of such Code which have been paid by the Corporation with respect to wages to which paragraph (1) applies, and

(ii) all amounts paid by such Corporation as a penalty or as interest with respect to the tax imposed by section 3101 or 3111 of such Code on such wages.

(b) TREATMENT FOR PURPOSES OF SOCIAL SECURITY ACT.—In the administration of titles II and XVIII of the Social Security Act, any wages paid to any individual to which the provisions of subsection (a) apply shall be treated as wages (within the meaning of section 209 of such Act) for purposes of determining—

(1) entitlement to, or amount of, any insurance benefit payable to such individual or any other person on the basis of the wages and self-employment income of such individual, or

(2) entitlement of such individual to benefits under title XVIII of such Act or entitlement of any other person to such benefits on the basis of the wages and self-employment income of such individual.

UP AMENDMENT NO. 1947

The amendment by Mr. MOYNIHAN and Mr. BRADLEY is as follows:

SEC. 4. TREATMENT OF AUTHORS AND ARTISTS AS EMPLOYEES.

(a) IN GENERAL.—An author or artist performing services under contract with a corporation shall be considered as an employee of the corporation for the purpose of applying the provisions specified in section 7701 (a)(20) of the Internal Revenue Code of 1954, if, on December 31, 1977, such author or artist was a participant in one or more of the pension, profit-sharing or annuity plans of such corporation which are described in subsection (b)(2).

(b) DEFINITIONS.—For purposes of this section—

(1) CONTRACT.—The team "contract" means a contract which during its term—

(A) requires such author or artist to give the corporation first reading or first refusal on writings or drawings of specified types, and prohibits him from offering any such writing or drawing to any other publication unless it has been offered to and rejected by the corporation; or

(B) requires such author or artist to use his best efforts to produce work of specified types for the corporation.

(2) CORPORATION.—The term "corporation" means a corporation which for at least 15 years prior to January 1, 1978, had in effect on or more pension, profit-sharing and annuity plans, each of which—

(A) had contained from its inception a definition of the term "employee" that included the category of "authors and artists under contract", and

(B) had been determined by the Secretary of the Treasury (taking into account the definition described in subparagraph (A)) to be a qualified plan within part I of subchapter D of chapter 1 of subtitle A of the Internal Revenue Code of 1954 for all of such years.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1980.

EXCISE TAXES ON WAGERING—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the majority leader to be authorized, after consultation with the minority leader, to call up at any time Calendar No. 994, H.R. 3755; that it be open to further amendment at that time; and that the wagering provision be stricken.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. LONG. Mr. President, is the majority leader going to find it possible to call up the coffee argreement measure at some point between now and adjournment? I believe it is on the calendar.

Mr. ROBERT C. BYRD. If it can be cleared on the other side of the aisle, yes.

Mr. LONG. I thank the Senator.

Mr. DOLE. Mr. President, if we can withhold at this point, Senator ARMSTRONG has been notified. I am not certain we can accommodate him, but I want to protect his rights.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF INTERNAL REVENUE CODE RELATING TO NET OPERATING LOSS CARRYOVER PERIOD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4968, Calendar No. 1169; that any committee amendments thereto be adopted; that the amendment by Mr. PROXMIRE to limit the provision relating to charitable workers abroad so that it does not affect private foundations be agreed to; that an amendment by Mr. WILLIAMS and Mr. ROTH relating to housing mortgage bonds, which is a committee amendment, be agreed to; that Senators may insert statements in the RECORD at this point; that the measure be advanced to third reading and passed; that the motion to reconsider be laid on the table; that an amendment to the title be adopted; and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4968) to amend the Internal Revenue Code of 1954 to provide that in certain cases the net operating loss carryover period for a taxpayer who ceases to be real estate investment trust shall be the same as the net operating loss carryover period for a taxpayer who continues to be real estate investment trust had been reported from the Committee on Finance with amendments, as follows:

On page 1, strike line 3 through and including page 2, line 2, and insert the following:

SECTION 1. NET OPERATING LOSS CARRYOVER FOR CERTAIN REITS.

(a) IN GENERAL.—Subparagraph (E) of section 172(b)(1) of the Internal Revenue Code of 1954 (relating to net operating loss deduction) is amended to read as follows:

On page 4, after line 2, insert the following:

SEC. 2. INCREASE IN INTEREST RATES PAYABLE ON UNITED STATES RETIREMENT PLAN AND INDIVIDUAL RETIREMENT BONDS.

(a) IN GENERAL.—The first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by adding at the end thereof the following new paragraph:

"The Secretary of the Treasury, with the approval of the President, may provide by regulations that the investment yield on any offerings of bonds issued under this Act which are described in section 405(b) or 409(a) of the Internal Revenue Code of 1954 (relating to retirement plan bonds and individual retirement bonds, respectively) be increased for the interest accrual periods specified in such regulations so that the investment yield on such bonds for such periods is consistent with the investment yield on new offerings of such bonds.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to the investment yield on bonds issued before, on, or after the date of the enactment of this Act, but only for purposes of increasing the investment yield on such bonds for interest accrual periods beginning after the date of enactment of this Act.

SEC. 3. GENERAL STOCK OWNERSHIP CORPORATIONS.

(a) IN GENERAL.—Subchapter U of the Internal Revenue Code of 1954 (relating to general stock ownership corporations) is amended—

(1) by inserting "or the estate of a deceased shareholder" after "State" in section 1391(a)(4)(D)(ii);

(2) by striking out "Individuals" in the caption of section 1391(c) and inserting in lieu thereof "Individual";

(3) by striking out "1393" in section 1392(a) and inserting in lieu thereof "1396(b)";

(4) by striking out "and all succeeding years" in section 1392(b)(1);

(5) by striking out "section, the term 'taxable income'" in section 1393(a)(2) and inserting in lieu thereof "subchapter, the taxable income";

(6) by striking out "a GSOC" in sections 1393(a)(2), 1393(b)(3), 1394(c), and 1396 (b), and in sering in lieu thereof "an electing GSOC";

(7) by striking out "GSOC's" in the heading for section 1394 and inserting in lieu thereof "GSOC";

(8) by striking out "the GSOC" in sections 1393(b)(3) and 1394(d) and inserting in lieu thereof "an electing GSOC";

(9) by striking out "A GSOC" in section 1396(a) and inserting in lieu thereof "An electing GSOC";

(10) by adding at the end of section 1396 (b) the following: "Such tax shall be deductible as an ordinary and necessary expense of the corporation under section 162."; and

(11) by amending the table of sections for such subchapter to read as follows:

"Subchapter U—General Stock Ownership Corporations

"Sec. 1391. Definitions.
"Sec. 1392. Election by GSOC.
"Sec. 1393. GSOC taxable income taxed to shareholders.
"Sec. 1394. Rules applicable to distributions of an electing GSOC.
"Sec. 1395. Adjustment to basis of stock of shareholders.
"Sec. 1396. Minimum distributions.
"Sec. 1397. Special rules applicable to an abetting GSOC.".

(b) Conforming Amendment.—The last sentence of section 6039B of such Code (relating to return of general stock ownership corporations) is amended by inserting "electing" after "Every".

(c) Effective Date.—The amendments made by this section shall apply with respect to corporations chartered after December 31, 1978, and before January 1, 1984.

Sec. 4. Charitable Services Performed Abroad.

(a) In General.—Subsection (a) of section 911 of the Internal Revenue Code of 1954 (relating to income earned by individuals in certain camps) is amended by inserting "or who performs qualified charitable services in a lesser developed country," after "hardship area,".

(b) Dollar Limitations.—

(1) In general.—Subparagraph (A) of subsection (c)(1) of such section 911 of such Code is amended to read as follows:

"(A) Dollar limitations.—

"(i) Camp residents.—In the case of an individual who resides in a camp located in a hardship area, the amount excluded from the gross income of the individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000 for days during which he resides in a camp.

"(ii) Employees of charitable organizations.—If any individual performs qualified charitable services in a lesser developed country during any taxable year, the amount of the earned income attributable to such services excluded from the gross income of the individual under subsection (a) for the taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000.

"(iii) Special rule.—If any individual performs qualified charitable services in a lesser developed country and performs other services while residing in a camp located in a hardship area during any taxable year, the amount of the earned income attributable to such other services excluded from the gross income of the individual under subsection (a) for the taxable year shall not (after the application of clause (i) with respect to such earned income) exceed $20,000 reduced by the amount of the earned income attributable to qualified charitable services excluded from gross income under subsection (a) for the taxable year.".

(2) Definitions.—Subsection (c)(1) of such section 911 of such Code is amended by adding at the end thereof the following:

"(D) Qualified charitable services.—For purposes of this subsection, the term 'qualified charitable services' means services performed by an employee for an employer which meets the requirements of section 501(c)(3).

"(E) Lesser developed country.—The term 'lesser developed country' means any foreign country other than—

"(i) a country listed in the first sentence of section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462), or

"(ii) a country designated by the President as not being a lesser developed country.".

(c) Technical Amendments.—

(1) The heading for such section 911 of such Code is amended by inserting "or from charitable services" after "camps".

(2) The item relating to section 911 in the table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by inserting "or from charitable services" after "camps".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Mr. CHAFEE. Mr. President, the bill currently before the Senate contains several noncontroversial provisions that are important to various taxpayers around the country. I want to take these few minutes to describe to my colleagues the urgency of adopting one particular provision which only affects the taxation of Americans working for charities overseas.

The urgency is this: without congressional action by December 15, thousands of our citizens working in less developed countries will find themselves facing substantially increased tax liabilities reaching back to the 1979 tax year. This includes missionaries, relief workers, teachers and all others who work for nonprofit organizations outside the industrial world.

Let me provide some background on the problem we face.

In years prior to 1978, Americans working for nonprofit or charitable organizations were entitled to a $20,000 earned income exclusion for tax purposes. In 1978, this provision of the law was repealed and replaced with a complex series of cost of living deductions.

If the new law is allowed to go into effect for tax years 1979 and beyond, it will mean devastating tax increases for Americans working for charities abroad. Furthermore, it will mean that most nonprofit groups will have to take money directly out of their program budgets to pay their employees higher salaries.

For example, based on 1978 wages that averaged about $12,000 per worker, it will mean an actual tax increase of $1,457 per year for overseas CARE employees. This translates to an out-of-pocket expense for CARE of about $300,000.

On an aggregate level, this tax increase will force the Southern Baptist Foreign Mission Board to remove over $1 million from their missionary programs to pay higher salaries.

For the Foster Parents plan, headquarters in Warrick, R.I., the new law means increased expenses of $100,000—an amount that could otherwise be used to support more than 500 needy children overseas.

The primary reason for such substantial tax increases on nonprofit employees is that it is difficult for them to make use of the new cost of living deductions. Since they generally live in meager surroundings, charitable employees cannot take advantage of the deductions to the extent corporate employees can.

At a time when the need for relief services around the world is growing, and the size of the U.S. foreign aid dollar is shrinking, we cannot allow increased taxes to undercut the effectiveness of our private sector relief efforts. Instead, we should promote the goodwill our private charities spread around the world. It represents the American spirit at its finest and most generous.

On August 3, 1979, I introduced legislation with Senator Long, Senator Ribicoff, and many other cosponsors to relieve this heavy tax increase imposed in 1978 on Americans working overseas for charities. Our bill would allow these people to again elect a $20,000 earned income tax exclusion.

On three occasions in the last year, the Senate Finance Committee has approved this proposal as an amendment to other bills—H.R. 4968, H.R. 1319, and H.R. 5829. Expecting final action by the Congress to provide this tax relief, the Internal Revenue Service twice has granted extensions of the 1979 tax year filing deadline to overseas charitable workers in less developed countries. The first IRS action extended the deadline from June 16 to October 15, 1980. The second and final extension will run out on December 15, 1980. There seems to be little possibility that this deadline could be extended further if we fail to act on H.R. 4968 which is now pending before us.

Mr. President, I again appeal to my colleagues—in both the Senate and the House—to act on this legislation. It simply reinstates the $20,000 earned income exclusion that was formerly allowed Americans working overseas for charities, providing they live in less developed countries.

Before concluding my remarks, Mr. President, I also want to express my deep appreciation to Senator Long and Senator Dole for their tireless efforts to bring this legislation to a vote in the Senate and their assistance in obtaining interim extensions of the 1979 tax return filing deadline for those Americans this bill benefits.

I thank my colleagues for their support.

UP AMENDMENT NO. 1948

Mr. Proxmire's amendment is as follows:

(Purpose: Removing private foundations from the definition of employer for qualified charitable services)

On page 8, lines 24 and 25, strike out "which meets the requirements of section 501 (c) (3)" and insert in lieu thereof the following: which—

"(i) meets the requirements of section 501 (c) (3), and

"(ii) is not a private foundation (within the meaning of section 509 (a))."

UP AMENDMENT NO. 1949

The amendment by Mr. WILLIAMS and Mr. ROTH is as follows:

Page 9, after line 20, insert the following:

SEC. 5 ARBITRAGE REQUIREMENTS FOR MORTGAGE BONDS:

(a) GENERAL RULE.—Paragraph (4) of section 103A(i) of the Internal Revenue Code of 1954 (relating to requirements related to arbitrage) is amended by adding at the end thereof the following new subparagraphs:

"(C) Reduction where issuer does not use full 1 percentage point under paragraph (2).—

"(i) In general.—The amount required to be paid or credited to mortgagors under subparagraph (A) (determined under this paragraph without regard to this subparagraph) shall be reduced by the unused paragraph (2) amount.

"(ii) Unused paragraph (2) amount.— For purposes of clause (i), the unused paragraph (2) amount is the amount which (if it were treated as an interest payment made by mortgagors) would result in the excess referred to in paragraph (2) (A) being equal to 1 percentage point. Such amount shall be fixed and determined as of the yield determination date.

"(D) ELECTION TO PAY U.S.—Subparagraph (A) shall be satisfied with respect to any issue if the issuer elects before issuing the obligations to pay over to the United States—

"(i) not less frequently than once each 5 years after the date of issue, an amount equal to 90 percent of the aggregate amount which would be required to be paid or credited to mortgagors under subparagraph (A) (and not theretofore paid to the United States), and

"(ii) not later than 30 days after the redemption of the last obligation, 100 percent of such aggregate amount not theretofore paid to the United States.

"(E) SIMPLIFIED ACCOUNTING.—The Secretary shall permit any simplified system of accounting for purposes of this paragraph which the issuer establishes to the satisfaction of the Secretary will assure that the purposes of this paragraph are carried out."

● Mr. WILLIAMS. Mr. President, I thank the chairman, my many fellow Senators, and the Joint Tax Committee staff who worked with us in presenting this amendment.

Unfortunately, the reconcilation process did not, in my opinion, give us adequate time to deal with the complexities of mortgage revenue bond financing. In my position as Housing Subcommittee chairman, I have been and remain vitally concerned with invaluable housing programs which have been financed through mortgage revenue bonds. I recognize the need for restrictions, but these restrictions should not impact on the responsible programs which are being operated at the State and local level, nor should this provision prevent the programs from being made available to low income families and the elderly.

In my State of New Jersey, both multifamily and single family financing agencies have done extraordinary work in meeting the needs of our State. Their responsible efforts should be allowed to continue within the intent of the restrictions in the Reconciliation Act, although not necessarily meeting each and every specific requirement so long as the purpose of the restriction is accomplished.

Over the last 10 days, much work has has taken place in an effort to insure that the provisions on mortgage revenue bonds be workable. The requirements enacted previously do not permit a sufficient financial cushion to protect against negative arbitrage. In addition, the provision requiring excess arbitrage accrued on all individual investments to be calculated and returned to the mortgagors would be administratively unworkable for many States and local governments.

Under the committee amendment, I believe we will achieve some simplification of the complex administrative computations and requirements. Measures such as I have proposed to impose cost limitations would be possible, as would other accounting methods and practices which meet public purposes. It is my hope that the incoming administration will recognize the critical nature of this issue to States and local governments, so that the new Secretary of the Treasury will issue regulations on arbitrage consistent with this amendment within 6 months.

Finally, the committee amendment allows some needed flexibility to permit States, local governments, and redevelopment agencies to appropriate their own cash contributions to housing, rehabilitation, and redevelopment programs financed through mortgage revenue bonds to lower the effective interest rate to mortgagors, and to recover at least a portion of that contribution where any excess remains. We do not believe that this would permit any unreasonable fees to underwriters or bond counsel.

On the contrary, we believe this provision will serve a dual purpose. First, it would encourage issuers to keep arbitrage under 1 percent, thus limiting the amounts available for fees to bond counsels and underwriters. More importantly, the provision provides an incentive for issuers to make their own contributions to bond programs in order to enable the programs to assist lower income persons and families than could otherwise be reached.

Mr. President, many people have devoted considerable time and effort to improve this program. I would like to particularly commend Mr. Mark McConaghy, the deputy chief of staff of the Joint Tax Committee. In the midst of many conflicting demands, he was exceptionally willing to work well beyond reasonable expectations to assist in these improvements. He has our thanks.●

The title was amended so as to read: "An act to amend the Internal Revenue Code of 1954 with respect to net operating loss carryovers of taxpayers who cease to be real estate investment trust, to increase interest rates on certain United States retirement bonds, and for other purposes.".

Mr. CHAFEE. Mr. President, I ask unanimous consent that I be listed as a cosponsor of the mortgage bond arbitrage bill which we just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF INTERNAL REVENUE CODE WITH RESPECT TO TREATMENT OF PUBLIC UTILITY PROPERTY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6806, Calendar No. 1170; that any committee amendments thereto or technical amendments be agreed to; that an amendment by Mr. BAUCUS relating to a utility in Montana be agreed to; that the bill be advanced to third reading; that Senators may be permitted to insert statements in support of amendments or the measure itself; that the bill be passed; that the motion to reconsider be laid on the table; that an amendment to the title be adopted; and that the motion to reconsider be laid on the table.

Mr. HEINZ. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

DISCLOSURE OF MAILING ADDRESSES OF CERTAIN INDIVIDUALS BY THE INTERNAL REVENUE SERVICE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4155, Calendar Order No. 1171; that any committee amendment be agreed to, that any technical amendments be agreed to; that Senators may insert statements in the RECORD; that the bill be advanced to third reading, passed, and the motion to reconsider laid on the table; and that an amendment to the title be adopted, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4155) to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on certain student loans solely for the purpose of collecting such loans had been reported from the Committee on Finance with amendments, as follows:

On page 1, strike line 3 through and including line 5, and insert the following:

SECTION 1. DISCLOSURE OF TAX INFORMATION REGARDING STUDENT LOAN DEFAULTERS.

(a) IN GENERAL.—Paragraph (4) of section 6103(m) of the Internal Revenue Code of 1954 (relating to individuals who have defaulted on student loans) is amended to read as follows:

On page 4, line 1, strike "Sec. 2." and insert "(c) EFFECTIVE DATE—";

On page 4, line 2, strike "the first section of this Act" and insert "this section";

On page 4, after line 3, insert the following:

SEC. 2. SIMPLIFICATION OF PRIVATE FOUNDATION RETURN AND REPORTING REQUIREMENTS.

(a) AMENDMENT OF SECTION 6033.—Section 6033 of the Internal Revenue Code of 1954 (relating to returns by exempt organizations) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) ADDITIONAL PROVISIONS RELATING TO PRIVATE FOUNDATIONS.—In the case of an organization which is a private foundation (within the meaning of section 509(a))—

"(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect on January 1, 1979.

"(2) a copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual returns), together with proof of publication thereof, shall be filed by the foundation together with the annual return under this section, and

"(3) the foundation managers shall furnish copies of the annual return under this section to such State officials and other persons, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed $1,000.

"(d) Section To Apply to Nonexempt Charitable Trusts and Nonexempt Private Foundations.—The following organizations shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a):

"(1) Nonexempt charitable trusts.—A trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

"(2) Nonexempt private foundations.—A private foundation which is not exempt from tax under section 501(a)."

(b) Public Inspection of Private Foundations' Annual Returns.—

(1) In general.—The first sentence of subsection (d) of section 6104 of such Code (relating to public inspection of private foundations' annual reports) is amended to read as follows: "The annual return required to be filed under section 6033 (relating to returns by exempt organizations) by any organization which is a private foundation within the meaning of section 509(a) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the date of the publication of notice of its availability."

(2) Conforming amendments.—Such subsection (d) is amended—

(A) by striking out "Annual Reports" in the heading and inserting in lieu thereof "Annual Returns"; and

(B) by striking out "annual report" each place it appears in the second and third sentences and inserting in lieu thereof "annual return".

(c) Repeal of Private Foundation Annual Reporting Requirements.—Subpart D of part III of subchapter A of chapter 61 of such Code (relating to information concerning private foundations) is hereby repealed.

(d) Technical Amendments.—

(1) Section 6034 of such Code (relating to returns by trust described in section 4947 (a) or claiming charitable deductions under section 642(c)) is amended—

(A) by striking out "section 4947(a)" in subsection (a) and inserting in lieu thereof "section 4947(a)(2)";

(B) by adding at the end of subsection (b) the following new sentence: "This section shall not apply in the case of a trust described in section 4947(a)(1).";

(C) by striking out "Exception" in the heading of subsection (b) and inserting in lieu thereof "Exceptions"; and

(D) by striking out "SECTION 4947(a)" in the section heading and inserting in lieu thereof "SECTION 4947(a)(2)".

(2)(A) The first sentence of section 6652 (d)(3) of such Code (relating to annual reports) is amended to read as follows: "In the case of failure to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual returns), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to meet such requirement, $10 for each day during which such failure continues, but the total amount imposed hereunder on all such persons for such failure with respect to any one annual return shall not exceed $5,000."

(B) The heading of paragraph (3) of section 6652(d) of such Code is amended by striking out "REPORTS" and inserting in lieu thereof "RETURNS".

(3) Subsection (b) of section 6104 of such Code (relating to inspection of annual information returns) is amended by striking out "6056,".

(4) Section 6685 of such Code (relating to assessable penalties with respect to private foundation annual reports) is amended to read as follows:

"Sec. 6685. Assessable Penalties With Respect to Private Foundation Annual Returns.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of section 6104(d) (relating to private foundations' annual returns) and who fails to so comply with respect to any return, if such failure is willful, shall pay a penalty of $1,000 with respect to each such return."

(5) Section 7207 of such Code (relating to fraudulent returns, statements, or other documents) is amended by striking out "sections 6047 (b) or (c), 6056, or 6104(d)" and inserting in lieu thereof "subsection (b) or (c) of section 6047 or pursuant to subsection (d) of section 6104".

(e) Clerical Amendments.—

(1) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by striking out "4947(a)" in the item relating to section 6034 and inserting in lieu thereof "4947(a) (2)".

(2) The table of subparts for part III of subchapter A of chapter 61 of such Code is amended by striking out the item relating to subpart D.

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out "reports" in the item relating to section 6685 and inserting in lieu thereof "returns".

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

"Sec. 3. Allowance of Deduction for Certain Foreign Deferred Compensation Plans.

(a) Allowance.—Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by inserting after section 404 the following new section:

"Sec. 404A. Deduction for Certain Foreign Deferred Compensation Plans.

"(a) General Rule.—Amounts paid or accrued by an employer under a qualified foreign plan—

"(1) shall not be allowable as a deduction under section 162, 212, or 404, but

"(2) if they satisfy the conditions of section 162, shall be allowed as a deduction under this section for the taxable year for which such amounts are properly taken into account under this section.

"(b) Rules for Qualified Funded Plans.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this section, in the case of a qualified funded plan contributions are properly taken into account for the taxable year in which paid.

"(2) Payment after close of taxable year.—For purposes of paragraph (1), a payment made after the close of a taxable year shall be treated as made on the last day of such year if the payment is made—

"(A) on account of such year, and

"(B) not later than the time prescribed by law for filing the return for such year (including extensions thereof).

"(3) Limitations.—In the case of a qualified funded plan, the amount allowable as a deduction for the taxable year shall be subject to—

"(A) in the case of—

"(i) a plan under which the benefits are fixed or determinable, limitations similar to those contained in clauses (ii) and (iii) of subparagraph (A) of section 404(a)(1) (determined without regard to the last sentence of such subparagraph (A)), or

"(ii) any other plan, limitations similar to the limitations contained in paragraph (3) of section 404(a), and

"(B) limitations similar to those contained in paragraph (7) of section 404(a).

"(4) Carryover.—If—

"(A) the aggregate of the contributions paid during the taxable year reduced by any contributions not allowable as a deduction under paragraphs (1) and (2) of subsection (g), exceeds

"(B) the amount allowable as a deduction under subsection (a) (determined without regard to subsection (d)),

such excess shall be treated as an amount paid in the succeeding taxable year.

"(5) Amounts must be paid to qualified trust, etc.—In the case of a qualified funded plan, a contribution shall be taken into account only if it is paid—

"(A) to a trust (or the equivalent of a trust) which meets the requirements of section 401(a)(2),

"(B) for a retirement annuity, or

"(C) to a participant or beneficiary.

"(c) Rules Relating to Qualified Reserve Plans.—For purposes of this section—

"(1) In general.—In the case of a qualified reserve plan, the amount properly taken into account for the taxable year is the reasonable addition for such year to a reserve for the taxpayer's liability under the plan. Unless otherwise required or permitted by the Secretary, the reserve for the taxpayer's liability shall be determined under the unit credit method modified to reflect the requirements of paragraphs (3) and (4). All benefits paid under the plan shall be charged to the reserve.

"(2) Income item.—In the case of a plan which is or has been a qualified reserve plan, an amount equal to that portion of any decrease for the taxable year in the reserve which is not attributable to the payment of benefits shall be included in gross income.

"(3) Rights must be nonforfeitable, etc.—In the case of a qualified reserve plan, an item shall be taken into account for a taxable year only if—

"(A) there is no substantial risk that the rights of the employee will be forfeited, and

"(B) such item meets such additional requirements as the Secretary may by regulations prescribe as necesssary or appropriate to ensure that the liability will be satisfied.

"(4) Spreading of certain increases and decreases in reserves.—There shall be amortized over a 10-year period any increase or decrease to the reserve on account of—

"(A) the adoption of the plan or a plan amendment,

"(B) experience gains and losses, and

"(C) any change in actuarial assumptions,

"(D) changes in the interest rate under subsection (g)(3)(B), and

"(E) such other factors as may be prescribed by regulations.

"(d) Amounts Taken Into Account Must Be Consistent With Amounts Allowed Under Foreign Law.—

"(1) General rule.—In the case of any plan, the amount allowed as a deduction under subsection (a) for any taxable year shall equal—

"(A) the lesser of—

"(i) the cumulative United States amount, or

"(ii) the cumulative foreign amount, reduced by

"(B) the aggregate amount determined under this section for all prior taxable years.

"(2) Cumulative amounts defined.—For purposes of paragraph (1)—

"(A) Cumulative United States amount.—The term 'cumulative United States amount' means the aggregate amount determined with respect to the plan under this section for the taxable year and for all prior taxable years to which this section applies. Such determination shall be made for each taxable year without regard to the application of paragraph (1).

"(B) Cumulative foreign amount.—The term 'cumulative foreign amount' means the aggregate amount allowed as a deduction under the appropriate foreign tax laws for the taxable year and all prior taxable years to which this section applies.

"(3) Effect on earnings and profits, etc.—In determining the earnings and profits and accumulated profits of any foreign corporation with respect to a qualified foreign plan, the amount determined under paragraph (1) with respect to any plan for any taxable year shall in no event exceed the amount allowed as a deduction under the appropriate foreign tax laws for such taxable year.

"(e) Qualified Foreign Plan.—For purposes of this section, the term 'qualified foreign plan' means any written plan of an employer for deferring the receipt of compensation but only if—

"(1) such plan is for the exclusive benefit of the employer's employees or their beneficiaries,

"(2) 90 percent or more of the amounts taken into account for the taxable year under the plan are attributable to services—

"(A) performed by nonresident aliens, and

"(B) the compensation for which is not subject to tax under this chapter, and

"(3) the employer elects (at such time and in such manner as the Secretary shall by regulations prescribe) to have this section apply to such plan.

"(f) Funded and Reserve Plans.—For purposes of this section—

"(1) Qualified funded plan.—The term 'qualified funded plan' means a qualified foreign plan which is not a qualified reserve plan.

"(2) Qualified reserve plan.—The term 'qualified reserve plan' means a qualified foreign plan with respect to which an election made by the taxpayer is in effect for the taxable year. An election under the preceding sentence shall be made in such manner and form as the Secretary may by regulations prescribe and, once made, may be revoked only with the consent of the Secretary.

"(g) Other Special Rules.—

"(1) No deduction for certain amounts.—Except as provided in section 404(a)(5), no deduction shall be allowed under this section for any item to the extent such item is attributable to services—

"(A) performed by a citizen or resident of the United States who is an officer, shareholder, or highly compensated, or

"(B) performed in the United States the compensation for which is subject to tax under this chapter.

"(2) Taxpayer must furnish information.—

"(A) In general.—No deduction shall be allowed under this section with respect to any plan for any taxable year unless the taxpayer furnishes to the Secretary with respect to such plan (at such time as the Secretary may by regulations prescribe)—

"(i) a statement from the foreign tax authorities specifying the amount of deduction allowed in computing taxable income under foreign law for such year with respect to such plan,

"(ii) if the return under foreign tax law shows the deduction for plan contributions or reserves as a separate, identifiable item, a copy of the foreign tax return for the taxable year, or

"(iii) such other statement, return, or other evidence as the Secretary prescribes by regulation as being sufficient to establish the amount of the deduction under foreign law.

"(B) Redetermination where foreign tax deduction is adjusted.—If the deduction under foreign tax law is adjusted, the taxpayer shall notify the Secretary of such adjustment on or before the date prescribed by regulations, and the Secretary shall redetermine the amount of the tax for the year or years affected. In any case described in the preceding sentence, rules similar to the rules of subsection (c) of section 905 shall apply.

"(3) Actuarial assumptions must be reasonable; full funding.—

"(A) In general.—Except as provided in subparagraph (B), principles similar to those set forth in paragraphs (3) and (7) of section 412(c) shall apply for purposes of this section.

"(B) Interest rate for reserve plan.—

"(i) In general.—In the case of a qualified reserve plan, in lieu of taking rates of interest into account under subparagraph (A), the rate of interest for the plan shall be the rate selected by the taxpayer which is within the permissible range.

"(ii) Rate remains in effect so long as it falls within permissible range.—Any rate selected by the taxpayer for the plan under this subparagraph shall remain in effect for such plan until the first taxable year for which such rate is no longer within the permissible range. At such time, the taxpayer shall select a new rate of interest which is within the permissible range applicable at such time.

"(iii) Permissible range.—For purposes of this subparagraph, the term 'permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average rate of interest for long-term corporate bonds in the appropriate country for the 15-year period ending on the last day before the beginning of the taxable year.

"(4) Accounting method.—Any change in the method (but not the actuarial assumptions) used to determine the amount allowed as a deduction under subsection (a) shall be treated as a change in accounting method under section 446(e).

"(5) Section 481 applies to election.—For purposes of section 481, any election under this section shall be treated as a change in the taxpayer's method of accounting. In applying section 481 with respect to any such election, the period for taking into account any increase or decrease in accumulated profits, earnings and profits or taxable income resulting from the application of section 481(a)(2) shall be the year for which the election is made and the nine succeeding years.

"(h) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section (including regulations providing for the coordination of the provisions of this section with section 404 in the case of a plan which has been subject to both of such sections)."

(b) Amendments of Section 679(a).—Subsection (a)(1) of section 679 of such Code (relating to foreign trusts having one or more United States beneficiaries) is amended by adding the phrase "Or section 404A" immediately after the phrase "section 404(a)(4)".

(c) Taxpayer Must Notify Secretary Where There Is a Redetermination of Tax, Etc., Under Foreign Law.—

(1) Amendment of section 905(c).—Subsection (c) of section 905 of such Code (relating to adjustments on payment of accrued taxes) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply (with respect to any period after the refund or adjustment in the foreign taxes) if the taxpayer fails to notify the Secretary (on or before the date prescribed by regulations for giving such notice) unless it is shown that such failure is due to reasonable cause and not due to willful neglect."

(2) Civil penalty for failure to notify.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) is amended by inserting after section 6688 the following new section:

"Sec. 6689. Failure To File Notice of Redetermination of Foreign Tax.

"(a) Civil Penalty.—If the taxpayer fails to notify the Secretary (on or before the date prescribed by regulations for giving such notice) of a foreign tax redetermination, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the deficiency attributable to such redetermination an amount (not in excess of 25 percent of the deficiency) determined as follows—

"(1) 5 percent of the deficiency if the failure is for not more than 1 month, with

"(2) an additional 5 percent of the deficiency for each month (or fraction thereof) during which the failure continues.

"(b) Foreign Tax Redetermination Defined.—For purposes of this section, the term 'foreign tax redetermination' means any redetermination for which a notice is required under subsection (c) of section 905 or paragraph (2) of section 404A(g)."

(d) Clerical Amendments.—

(1) The table of sections for part I of subchapter D of chapter 1 of such Code is amended by inserting after the item relating to section 404 the following new item:

"Sec. 404A. Deduction for certain foreign deferred compensation plans."

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting after the item relating to section 6688 the following new item:

"Sec. 6689. Failure to file notice of redetermination of foreign tax."

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to employer contributions or accruals for taxable years beginning after December 31, 1980.

(2) Election to apply amendments retroactively.—

(A) In general.—The taxpayer may elect to have the amendments made by this section apply retroactively.

(B) Scope of retroactive application.—Any election made under this paragraph shall apply to the taxpayer for the taxpayer's open period.

(C) In case of branch, retroactive application limited to funded plans.—In the case of a plan for a branch of the taxpayer, the election under this paragraph shall apply only if the plan was a qualified funded plan within the meaning of section 404A(f)(1) of the Internal Revenue Code of 1954.

(D) DISTRIBUTIONS BY FOREIGN SUBSIDIARY MUST BE OUT OF POST-1971 EARNINGS AND PROFITS.—The election under this paragraph shall apply to distributions made by a foreign subsidiary only if made out of accumulated profits (or earnings and profits) earned after December 31, 1971.

(E) REVOCATION ONLY WITH CONSENT.—An election under this paragraph may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(F) TIME AND MANNER FOR MAKING ELECTION.—

(i) TIME.—An election under this paragraph may be made only on or before the due date (including extensions) for filing the taxpayer's return of tax under chapter 1 of the Internal Revenue Code of 1954 for its first taxable year ending on or after December 31, 1980.

(ii) MANNER.—An election under this paragraph may be made only by a statement attached to the taxpayer's return for its first taxable year ending on or after December 31, 1980.

(G) OPEN PERIOD.—For purposes of this paragraph, the term "open period" means, with respect to any taxpayer, all taxable years which begin before January 1, 1981, and which begins after December 31, 1971, and after the latest taxable year of the taxpayer for which, on December 31, 1980, the making of a refund, or the assessment of a deficiency, was barred by any law or rule of law.

SEC. 4. TREATMENT OF TRANSFERS OF PROVEN OIL OR GAS PROPERTIES BY INDIVIDUALS TO CORPORATIONS.

(a) IN GENERAL.—Subsection (c) of section 613A of the Internal Revenue Code of 1954 (relating to exemption for independent producers and royalty owners) is amended by redesignating paragraphs (10) and (11) as paragraphs (11) and (12), respectively, and by inserting after paragraph (9) the following new paragraph:

"(10) TRANSFERS BY INDIVIDUALS TO CORPORATIONS.—

"(A) IN GENERAL.—Paragraph (9)(A) shall not apply to a transfer by an individual of qualified property to a qualified transferee corporation solely in exchange for stock in such corporation.

"(B) 1,000-BARREL LIMIT FOR CORPORATION.—A tentative quantity shall be determined for the qualified transferee corporation under this subsection.

"(C) TRANSFEROR'S TENTATIVE QUANTITY REDUCED.—

"(i) IN GENERAL.— The tentative quantity for the transferor (and his family) for any period shall be reduced by the transferor's pro rata share of the corporation's depletable quantity for such period.

"(ii) PRO RATA SHARE.—For purposes of clause (i), a transferor's pro rata share for any period shall be—

"(I) in the case of production from property to which subparagraph (A) applies, that portion of the corporation's depletable quantity which is allocable to production from such property, and

"(II) in the case of production from all other property, that portion of the corporation's depletable quantity which is allowable to the production from such property, multiplied by a fraction the numerator of which is the fair market value of the transferor's stock in the corporation, and the denominator of which is the fair market value of all stock in the corporation.

"(iii) DEPLETABLE QUANTITY.—For purposes of this paragraph, a corporation's depletable quantity for any period is the lesser of—

"(I) such corporation's tentative quantity for such period (determined under paragraphs (3) and (8)), or

"(II) such corporation's average daily production for such period.

"(D) QUALIFIED TRANSFEREE CORPORATION DEFINED.—For purposes of this paragraph, the term 'qualified transferee corporation' means a corporation all of the outstanding stock of which has been issued to individuals solely in exchange for qualified property held by such individuals.

"(E) QUALIFIED PROPERTY DEFINED.—For purposes of this paragraph, the term 'qualified property' means oil or gas property with respect to which—

'(i) there has been no prior transfer to which paragraph (9)(A) applied, and

"(ii) the transferor has made an election to have this paragraph apply.

The term also includes cash (not to exceed $1,000 in the aggregate) which one or more individuals transfer to the corporation.

"(F) TRANSFEROR MUST RETAIN STOCK DURING LIFETIME.—If at any time during his lifetime any transferor disposes of stock in the corporation (other than to a member of his family), then the depletable quantity of the corporation (determined without regard to this subparagraph) shall be reduced (for all periods on or after the date of the disposition) by an amount which bears the same ratio to such quantity as the fair market value of the stock so disposed of bears to the aggregate fair market value of all stock of the corporation on such date of disposition.

"(G) SPECIAL RULES RELATING TO FAMILY OF TRANSFEROR.—

"(i) IN GENERAL.—For purposes of this paragraph—

"(I) the issuance of stock to a member of the family of the transferor shall be treated as issuance of stock to the transferor, and

"(II) during the lifetime of the transferor, stock transferred to a member of the family of the transferor shall be treated as held by the transferor.

If stock described in the preceding sentence ceases to be held by a member of the family of the transferor, the transferor shall be treated as having disposed of such stock at the time of such cessation.

(ii) FAMILY DEFINED.—For purposes of this paragraph, the members of the family of an individual include only his spouse and minor children.

"(H) PROPERTY SUBJECT TO LIABILITIES.—For purposes of this paragraph, section 357 shall be applied as if—

"(i) references to section 351 include references to subparagraph (A) of this paragraph, and

"(ii) the reference in subsection (a)(1) of section 357 to the nonrecognition of gain includes a reference to the nonapplication of paragraph (9)(A) of this subsection.

"(I) ELECTION.—A transferor may make an election under this paragraph only in such manner as the Secretary may by regulations prescribe and only on or before the date (including extensions) for filing the return of the corporation of the taxes imposed by this chapter for the corporation's first taxable year ending after the date of the transfer (or, if later, after the date of the enactment of this paragraph).

"(J) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1954 to periods after December 31, 1979.

SEC. 5. CREDITS ALLOWABLE AGAINST MINIMUM TAX.

(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—Paragraph (1) of section 55(c) (relating to credits allowable against alternative minimum tax) is amended to read as follows:

"(1) IN GENERAL.—For purposes of—

"(A) determining the amount of any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowable under section 33(a)) against the tax imposed by subsection (a), the tax imposed by subsection (a) shall be treated as a tax imposed by this chapter only to the extent of an amount equal to the tax which would be determined under subsection (a) if the alternative minimum taxable income was reduced by the sum of—

"(i) the net capital gain, and

"(ii) the adjusted itemized deductions, and

"(B) determining the amount of any such credit (including the credit allowable under section 33(a)) against the tax imposed by this chapter (other than the tax imposed by this section) for the current taxable year, this section shall be disregarded.

(2) METHOD OF DETERMINING CREDITS TAKEN INTO ACCOUNT.—Section 55(c) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) RULES FOR DETERMINING AMOUNT OF CREDIT ALLOWANCE.—For purposes of determining the amount of any credit under subpart A of part IV of this subchapter (other than the credits imposed by sections 31, 39, and 43) which can be taken against the tax imposed by subsection (a)—

"(A) the amount of such credit shall be increased by an amount equal to the lesser of—

"(i) the amount of such credit allowable in computing the regular tax for the current taxable year, or

"(ii) the excess of—

"(I) the amount of the tax imposed by subsection (a), over

"(II) the sum of the amounts determined under this subparagraph with respect to credits allowed under a section of such subpart having a higher number designation than such credit (other than the credits allowable by sections 31, 39, and 43), and

"(B) in the case of any credit under section 38, 40, or 44B, such credit shall be reduced, under regulations prescribed by the Secretary, by that portion of such credit which is not attributable to an active trade or business of the taxpayer."

(3) Paragraph (4) of section 55(c) (relating to carryover and carryback of certain credits), as redesignated by paragraph (2), is amended to read as follows:

"(4) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—

"(A) IN GENERAL.—For purposes of determining the amount of any carryover or carryback to any other taxable year of any credit allowable under subpart A of part IV of this subchapter (other than section 33), the amount of the limitation under section 44E(e)(1), 44C(b)(1) and (2), 53(b), 50A(a)(2), or 46(a)(3) (to the extent such limitation does not exceed the amount of the credit allowable in computing the regular tax for the current taxable year) shall be increased for the current taxable year by the amount determined under subparagraph (A) of paragraph (1) of this subsection, and decreased by—

"(i) the sum of the credits allowed under a section having a lower number designation than the section allowing such credit (other than the credits allowable by sections 31, 33, 39, and 43) against the tax imposed by subsection (a), and

(ii) the amount determined with respect to such credit under paragraph (2)(B) for the current taxable year.

"(B) AMOUNT OF CREDIT.—Any increase under paragraph (2)(A) shall be taken into account in determining the amount of any carryover or carryback from the current taxable year."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 55(b) (defining regular tax) is amended by striking out "credit allowable under section 33" and inserting in lieu thereof "credits allowable under such subpart".

(2) Paragraph (3) of section 55(c) (relating to foreign tax credit), as redesignated by subsection (a)(2), is amended—

(A) by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(B) by striking out "subparagraph (C)" in subparagraphs (C) and (D)(i), as redesignated, and inserting in lieu thereof "subparagraph (B)"; and

(C) by striking out clause (ii) of subparagraph (D), as so redesignated, and inserting in lieu thereof the following:

"(ii) any increase under paragraph (2)(A) shall be taken into account."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

Amend the title so as to read:

"An act to amend the Internal Revenue Code of 1954 to allow the disclosure of information concerning student loan defaulters, to simplify private foundation return and reporting requirements, and for other purposes.".

Mr. DOLE. Mr. President, the Senator from Kansas wishes to draw attention to two provisions of H.R. 4155 which, while noncontroversial and supported by the Treasury Department, are of great importance to certain American taxpayers.

OFFSET FOR CREDITS AGAINST ALTERNATIVE MINIMUM TAX

When the alternative minimum tax provisions were enacted in 1978, the Congress intended to lessen the adverse impact upon capital formation caused by the so-called add-on minimum tax. Unfortunately, a mechanical problem with the alternative minimum tax creates a significant disincentive for business investment on the part of farmers and other unincorporated small businesses.

The alternative minimum tax on individuals was enacted to replace the add-on minimum tax on capital gains and certain itemized deductions. Under the alternative minimum tax, capital gains and certain itemized deductions are taxed only to the extent that the alternative minimum tax exceeds an individual's regular income tax liability.

While the alternative minimum tax was intended to apply only to these two items, the statutory language applies the alternative minimum tax to all taxable income over $21,000, unreduced by the investment tax credit, win credit, or new jobs credit. This means that, even if a taxpayer had no items of tax preference designed to be taxed by the minimum tax, the minimum tax may increase his tax liabilty. As a result of this unfortunate statutory language, a farmer who has a profitable year and decides to purchase needed equipment will not be able to take advantage of the investment tax credit for the purchased equipment.

Under present law, it is possible to carry over credits which were not used because of the alternative minimum tax, but the alternative minimum tax may cause the taxpayer to be denied in future years also.

H.R. 4155 will correct this inequitable circumstance by allowing the investment tax credit, the win credit, and the new jobs credit to offset the alternative minimum tax on a current basis so long as the credit is connected with the active conduct of business, and only to the extent that an individual has no capital gains or itemized deduction intended to be covered by the alternative minimum tax. These two restrictions will assure that this legislation is truly remedied and will create no loophole to avoid the minimum tax.

It should be emphasized that the alternative minimum tax only affects small businesses who are not incorporated. It is inconceivable to me that Congress would intend to deny the investment credit or other nonrefundable credit to a farmer or other small businessman merely because he failed to operate in the form of a corporation. The provision in H.R. 4155 would eliminate this discrimination against unincorporated businesses.

FOREIGN PENSION PLANS

H.R. 4155 also provides rules which would allow corporations to deduct the costs of foreign pension benefits under a nonqualified deferred compensation plan maintained for the benefit of nonresident aliens.

The Internal Revenue Service has taken the position that if a foreign branch of a U.S. corporation has a plan for the benefit of nonresident alien employees which does not meet all the requirements for qualification under the Internal Revenue Code, no business deduction will be allowed under the rules for qualified plans.

It is generally favorable for a pension plan to be considered a qualified plan since deductions will be allowed prior to the time benefits are actually paid to a retiree. Because of this tax benefit, it does make sense for there to be special limitation rules, consistent with generally applicable tax principles. However, we must not lose sight of the fact that the laws of other countries may impose requirements that conflict with those imposed in order to be a qualified plan under U.S. law.

This legislation provides special rules for deduction of amounts paid to a pension trust or added to reserves for pension benefits. These rules are intended to be consistent with those required for qualified plans without providing strict requirements which may be impossible to meet as a result of conflicts with foreign law. The rules provide limitations which further U.S. tax policy without imposing U.S. social policy which, by right, should be limited to situations where the protection of U.S. citizens is involved.

This Senator believes that these provisions are of substantial merit and deserve to be enacted at this time.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their cooperation, and especially thank Mr. HEINZ, Mr. METZENBAUM, Mr. DOLE, Mr. LONG, and others.

Mr. President, I yield the floor.

Mr. President, for the information of the Senate what is the business before the Senate?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. ROBERT C. BYRD. Mr. President, may we have close of morning business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SURFACE TRANSPORTATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

The House amendments to S. 2720, an act to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations and for other purposes.

The Senate resumed consideration of the House amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:30 p.m. today.

There being no objection, the Senate, at 12:54 p.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MITCHELL).

RECESS FOR 30 MINUTES

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, at 1:30 p.m., the Senate recessed for 30 minutes; whereupon, at 2 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. MITCHELL).

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:30 p.m. today.

There being no objection, the Senate, at 2:00:08 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. NELSON).

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, the Senate has been awaiting our action on the conference report on the continuing resolution. Presently before the Senate is the message from the House on mass transit. I hope progress can continue to be made on that measure.

In the meantime, I am prepared to call up another measure which has been cleared with the minority.

NATIONAL VISITOR CENTER EMERGENCY REPAIR ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 827, S. 2729.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2729) to authorize certain emergency repairs at the National Visitor Center in the District of Columbia.

The Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, this is the bill which I have the honor to bring to the floor on behalf of the Committee on Environment and Public Works.

Senators recall that on Thursday evening, the Senate voted to appropriate the funds, or at least part of the funds, necessary to repair the roof of Union Station, one of the great buildings of the Capital, and which in the normal course of almost a century in place needs to be fixed and cannot wait.

Senator Stevens moved to appropriate that money. On that occasion, I said I would bring forward this measure, when the Senate agreed to let me do so, which authorized the expenditure.

UP AMENDMENT NO. 1951

(Purpose: To clarify the responsibility for the repairs authorized by this act)

Mr. MOYNIHAN. Mr. President, I send to the desk two amendments and ask for their immediate consideration en bloc.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Moynihan) proposes an unprinted amendment numbered 1951.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"Sec. 3(a) The Office of Legal Counsel of the Department of Justice shall prepare an opinion on the question of whether the United States or the Terminal Realty Baltimore Co. and the Terminal Realty Penn Co. are legally liable for the repairs anticipated by the provisions of this Act. If the Office of Legal Counsel determines that there is a reasonable cause to believe a party other than the United States is legally obligated to bear all or a portion of the costs of that repair authorized by this Act, the Attorney General shall institute an action to recover expenditures that were incurred by the Secretary pursuant to this Act.

"(b) None of the actions taken pursuant to the provisions of this Act shall be deemed to limit or affect in any way the rights of the United States under the lease for real property between Terminal Realty Baltimore Co. and Terminal Realty Penn. Co. and the United States of America, dated March 1, 1972, or any additions or modifications thereto."

Sec. 2. The Architect of the Capitol may enter into a contract or other agreement with the Secretary of Interior providing for the Architect of the Capitol to furnish steam from the Capitol Power Plant to the Union Station-National Visitor Center complex. Under such contract, the Secretary of Interior shall pay for such steam at rates, not less than cost, and shall connect the Union Station-National Visitor Center complex with the Capitol Power Plant steam lines without expenses to the Congress.

Mr. MOYNIHAN. Mr. President, I can briefly explain the amendments.

The first amendment authorizes the Architect of the Capitol to sell steam to the National Visitor Center at a price to be agreed upon between the Secretary of the Interior and the Architect of the Capitol.

The second amendment directs the Office of Legal Counsel of the Department of Justice to inquire into the question of whether there are not liabilities by private corporations, one of which is named in the amendment, for the cost of restoring Union Station to some usable condition.

This particular amendment was put in at the request of the distinguished Senator from Idaho. He is quite right in his concern, which is wholly shared by the committee.

With that, Mr. President, I move adoption of the amendment.

Mr. HAYAKAWA. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1951) was agreed to.

Mr. MOYNIHAN. Mr. President, I move passage of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2729) was passed, as follows:

S. 2729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Visitor Center Emergency Repair Act of 1980".

Sec. 2. (a) There is hereby authorized to be appropriated to the Secretary of the Interior for the fiscal year ending September 30, 1981, the sum of $11,000,000 for the purpose of making emergency repairs to the primary structure and roofs of the National Visitor Center in the District of Columbia and for the purpose of providing protection of the structural elements of the unfinished parking facility and southeast ramp at such Center. Such sum shall remain available until expended.

(b) Prior to entering into any contract for the repairs or protection authorized by subsection (a) of this section, the Secretary of the Interior shall consult with the Secretary of Transportation regarding the planning for such repairs or protection.

Sec. 3. (a) The Office of Legal Counsel of the Department of Justice shall prepare an opinion on the question of whether the United States or the Terminal Realty Baltimore Co. and the Terminal Realty Penn Co. are legally liable for the repairs anticipated by the provisions of this Act. If the Office of Legal Counsel determines that there is a reasonable cause to believe a party other than the United States is legally obligated to bear all or a portion of the costs of that repair authorized by this Act, the Attorney General shall institute an action to recover expenditures that were incurred by the Secretary pursuant to this Act.

(b) None of the actions taken pursuant to the provisions of this Act shall be deemed to limit or affect in any way the rights of the United States under the lease for real property between Terminal Realty Baltimore Co. and Terminal Realty Penn Co. and the United States of America, dated March 1, 1972, or any additions or modifications thereto.

Sec. 4. The Architect of the Capitol may enter into a contract or other agreement with the Secretary of Interior providing for the Architect of the Capitol to furnish steam from the Capitol Power Plant to the Union Station-National Visitor Center complex. Under such contract, the Secretary of Interior shall pay for such steam at rates, not less than cost, and shall connect the Union Station-National Visitor Center complex with the Capitol Power Plant steam lines without expenses to the Congress.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HAYAKAWA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR GAYLORD NELSON

Mr. MOYNIHAN. Mr. President, I rise on this occasion, which cannot but be touched with personal sadness and yet is withal a celebration of an institution and a person. The occasion is the leave taking in a purely formal sense of our beloved friend and incomparable colleague, Gaylord Nelson, of Wisconsin.

It is frequently the occasion, Mr. President, that a Member of this body represents a great political tradition. One has known such Members throughout our history from different regions, from different walks of life, you might say, from different parts of the political spectrum. And it has equally been to the glory of the U.S. Senate that individuals of singular distinction in their own right have come to it.

If we, on occasion, are more than necessarily congratulatory of our forensic abilities and of our capabilities to elucidate the complex issues of the day, still with all we have been in this Chamber the better part of a century and a half and the smaller Chamber down the hall since before the British burned the place.

There are not many such political institutions in the world that have the stability of place and continuity of role as the U.S. Senate. That it does is not just that men and women come here representing great traditional positions, but great men and women have come here and added to the dimension of the institution by virtue of their own capacities and characteristics.

I would like to suggest that in our century, with the very possible exception of Senator La Follette a half-century ago, there has never yet served with us a man who has combined both these qualities, who has represented a great political tradition and, in himself, has attained to individual greatness. No such person in my knowledge in this time has done both of those things, save GAYLORD NELSON, of Wisconsin.

He has brought to the Senate the great progressive tradition in politics of his native State of Wisconsin, where he was born in Clear Lake many years ago.

The modern history of his party could not be written without reference to the University of Wisconsin, and to John R. Commons, who commenced the study of the labor movement, and began investigations into the possibility of a social security system. This is a political tradition that was once Scandinavian in its sense of common provision; it was also touched, I think, by a Catholic tradition of social justice and concern. It was able somehow always to bring forth persons of extraordinary quality.

It is probably, as the scientists would say, a synergistic relationship that can create a great political tradition through the presence of great participants in it.

GAYLORD NELSON helped to organize the modern Wisconsin Democratic Party and, just after the Second World War, was the first State party cochairman. He went on to serve as a State senator; was elected Governor of Wisconsin in 1958, reelected in 1960; then, in 1962, was elected to the U.S. Senate, where he has served 18 years.

Mr. President, I would not wish to catalog his career on this occasion. There will be books written about him as part of the modern history of the United States. But I would like to point to seven things that he says about himself, things that he would wish to be known for?

The very first is that he was the founder in 1970 of Earth Day, the focal event of the modern crusade to clean up the environment and to protect and to enhance the Nation's natural resources.

It is the mark of a great political tradition that it does not atrophy. One of the problems of our party in recent years has been that it has become too much attached to the innovations, I think, that had begun a half-century ago. Though we persist in thinking of ourselves as progressives, as we were in those days, we have become very close to being defenders of the status quo, because we will not see anything changed, that was once labeled progressive. How characteristic and important of this man that he should have added a dimension, wholly new, wholly contemporary, and irresistible in the Nation's polity to that tradition by raising the issue of the environment, as he did in 1970.

He was one of the earliest opponents of the war in Vietnam. In 1965, he was one of only three Senators to vote against emergency appropriations as our involvement there deepened and the outcome became more inexorable.

Six weeks before the OPEC cartel was successfully formed, he warned against the coming crisis of energy in this Nation.

He has served with the greatest distinction as the chairman of the Senate Small Business Committee, speaking to the creative function of small business as the source of large ideas.

He has identified in the family farm not an archaic sentimentality, but a vital economic resource—an idea few, half a century ago, would have thought of as modern, practical, or even politic.

He has carefully overseen the emergence of the extraordinarily complex drug industry that has introduced into our environment and our people such a vast range of chemical additives—some unknown to nature, others never absorbed in quantities now possible—with great benefits and great dangers; he has concerned himself with both.

Finally, he was the author of the Senate Ethics Code. To call him the conscience of the Senate would be altogether wrong. GAYLORD NELSON was never the conscience of this body; he was its standard. It was to his personal qualities that we could repair to measure our own achievements and, invariably, find our own shortcomings.

What a history. What a part of American life to have been—and, of course, to have shared it all with the incomparable Carrie Lee. He met her during the Second World War, when, as a first lieutenant during the Okinawa campaign, he was wounded and met this equally valiant, equally distinguished person.

There is no man without shortcomings, Mr. President, and it ought to be recorded that GAYLORD NELSON, in the manner of medieval architects, who always put some flaw in their masterworks lest they be thought to be emulating the Divine, has not been without a flaw. As he is leaving politics, it perhaps is no great disservice to him and some service to the truth that it be revealed, for I would wish his friends to know I have spoken truly, as well as those who have no standard, no such minute information to measure, that his taste in tobacco was execrable. Early in life, he became attached to a cigar known as switzer sweet. This was the nearest relative to plugged tobacco that persons of respectability in Wisconsin could associate with. It was molasses and tobacco mixed in approximately equal parts. It was not only his deplorable practice to smoke these cigars in the presence of others; on occasion, it was his wicked delight to offer them to others, who innocently accepted them without the least anticipation of what would be the aftermath.

These are characteristics of a man of high spirits. If they are shortcomings, they are such as can be forgiven. Indeed, anyone closely associated with him would learn in time that he might always accept a suggestion from GAYLORD NELSON, but never accept a cigar.

We leave him—he leaves us—only in the sad thought that he will no longer serve as Senator from Wisconsin. While any of us remain in this body who knew him, he will be part of it, because he has helped shape all of us and in that honorable and mighty succession, we have been enhanced by him as few persons could ever have done.

Mr. President, it has been my particular pleasure, although an unanticipated one, to note that while I have been speaking, the Presiding Officer, perhaps for the last time, has been the Senator from Wisconsin, GAYLORD NELSON. I thought that a particularly serendipitous aspect that I could speak about him in certain knowledge that he could not respond.

Mr. NUNN. Will the Senator yield for just a moment?

Mr. MOYNIHAN. I am happy to yield.

Mr. NUNN. Mr. President, I commend the Senator from New York for an excellent statement about our Presiding Officer. It has been my great pleasure to serve with GAYLORD NELSON since I have been in the Senate. It has been my particular pleasure to serve as ranking Democrat under his leadership on the Small Business Committee for the last couple of years.

During this period of time under his leadership, because of his dedication, there has been more done in the small business arena for small business than in any other period in many, many years. I think that goes back to before I came to the Senate. I can speak confidently of the last 8 years.

It is with a great deal of sadness that I see him presiding for the last time today, because I know what he has meant for the small business community. He has done many other things; that is the one I am most acutely aware of. I know he is going to continue to exercise his leadership and youth and vigor, which he still has an abundance of, in whatever endeavor he undertakes. It is fortunate from my perspective that I was able to be here when the Senator from New York made that excellent statement. I commend him and join him in all of that.

I wish our colleague from Wisconsin well in whatever he undertakes with his lovely wife.

Several Senators addressed the Chair.

Mr. STEVENS. Mr. President, it is a rare opportunity for us to be able to speak about the current occupant of the chair.

I speak as one who has had friendship with Senator GAYLORD NELSON for many years, going back to the first days that I served in the Senate.

He is one we will miss because of his famous affability and his ability to strengthen the spirit of compromise here in the Senate.

As a 2-year Governor and a 3-term Senator from the State of Wisconsin, he has had a very energetic political career. I know he leaves the Senate with many accomplishments.

We have not always agreed on every issue. I think that is an understatement. Our battles have been numerous. But, despite those battles, our friendship and respect for one another has never wavered.

Senator NELSON has played important roles in the development of major legislation that came within the jurisdiction of the committees on which he served.

One of the most important qualities of any legislator is the willingness to display the courage of his convictions.

Senator GAYLORD NELSON has never failed to have that courage. He has earned our admiration and deserves the gratitude, not only of the Senate, but of the Nation, for the many years of hard work in the Senate.

My family and I have enjoyed the many times that we have spent together with GAYLORD and Carrie Lee.

They have been good times. Our friendship is something I am sure will extend into the years ahead.

I say to the occupant of the Chair that it is a friendship I shall cherish for a long time.

OPPOSITION TO ANY ATTEMPT BY THE SOVIET UNION TO INVADE POLAND

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of Senate Resolution 562; that the Senate proceed to its immediate consideration; and that there be a time limitation for debate thereon of 15 minutes, to be equally divided between Mr. NUNN and Mr. ROTH.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 562) expressing the sense of the Senate in opposition to any attempt by the Soviet Union to invade Poland.

Mr. ROTH. Mr. President, I yield myself 5 minutes.

Mr. President, I offer this resolution on behalf of myself, the distinguished Senator from Georgia (Mr. NUNN), as well as Senators PERCY, DOMENICI, GLENN, CHILES, WARNER, LUGAR, MOYNIHAN, HAYAKAWA, THURMOND, HEINZ, and DURKIN.

This resolution puts the leaders of the Soviet Union on notice that the Senate strongly backs the President of the United States in opposing any violation of Polish territory by Soviet-led Warsaw Pact forces.

Mr. President, this resolution supports a strong and unequivocal stand by the United States and its allies against the threat of a Soviet-led invasion of Poland by Warsaw Pact forces. The violation of Polish territorial integrity and political independence would not only seriously violate international law, it would place at risk the entire process by which we have been trying to lessen tensions between the East and West.

I, of course, cannot read the minds of the Kremlin leaders. I have no way of knowing whether the massing of Warsaw Pact forces near Poland's borders is intended merely to intimidate the Polish people through a display of military might, or if it is a prelude to an actual invasion. But the history of Soviet relations with its neighbors reveals little respect for national borders. Soviet armies invaded Hungary in 1956, Czechoslovakia in 1968 and Afghanistan in 1979.

Soviet leaders have reportedly given assurances that "no surprises" are in store for Poland. These so-called assurances can hardly give the Polish people comfort in light of the bloody Soviet history of contempt for the rights of its smaller neighbors to manage their affairs in peace.

The people of Poland must know that in seeking greater freedom and control over their own destinies they are striking at the heart of the repressive Soviet system. They must know that they are risking brutal suppression by the Red Army. Yet their solidarity daily grows strongly and more widespread. Polish farmers have now joined their brethren in the factories in demanding an independent voice in deciding their fate.

Despite centuries of suffering the ravages of foreign invasions, the Polish spirit burns with undiminished brightness. This is the same spirit that brought so many Polish people to our own shores to make their rich contribution to our national life. The bravery and determination of the Polish people to resist totalitarianism excites our admiration and deserves our support no less than does the astounding resistance of the Afghan people to the brutal occupation of their land by Soviet armed forces.

Mr. President, the resolution that I am introducing here today notes that the people of the United States feel a great bond of solidarity with the people of Poland and supports the President in making clear our firm opposition to any attempt to violate the political independence and territorial integrity of the Polish People's Republic.

We would hope that the resolution would have a deterrent effect on Soviet behavior. But mindful that the U.S.S.R. may disregard our warning, the resolution also backs the President's prudent move in sending Secretary of State Muskie to consult with our allies on how we may collectively most effectively respond to a Soviet-led invasion of Poland. And according to this morning's Washington Post, the NATO minister's have agreed that the West must respond vigorously in the event of an invasion of Poland by Warsaw Pact forces.

The Soviet Union cannot be allowed to persist in its apparent belief that it may, with impunity, blatantly ignore every rule of civilized behavior. The Soviets must be put on notice that such behavior brings a high cost. Access to Western technology will dry up. Progress toward lessening East-West tensions will halt. The chances for nuclear arms control will diminish and may even disappear. And the Soviet Union will be relegated to the unenviable role of international pariah.

Let us send a clear signal that all Americans—indeed all the peoples of the Free World—stand together in resisting the efforts of the Soviet Union to impose its will on the world.

Mr. President, I reserve the remainder of my time.

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I believe the distinguished Senator from Georgia controls half the time.

Mr. NUNN. Mr. President, how much time does the Senator from Delaware have?

The PRESIDING OFFICER. The Senator from Delaware has 2 minutes and 22 seconds remaining.

Mr. NUNN. Mr. President, I have a couple of people wishing to speak on this side, but I yield a minute to the Senator from California.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent, and the consent of my distinguished colleague from Delaware, to add my name as a cosponsor of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I rise in support of the resolution on Poland which we are considering.

Since the strike at the Lenin shipyard in Gdansk last summer, most Americans have been watching the unfolding drama in Poland with bated breath. We are all aware of the courage demonstrated by the Polish people in their pursuit for a voice in domestic economic decisions. And we are aware too of the imminent threat to the people and Government of the country posed by the gathering of Soviet and Warsaw Pact forces on Poland's borders.

The events of the past few weeks are especially poignant for the 10 million Polish Americans who have emigrated or whose ancestors have emigrated to the United States for political or economic reasons. A military invasion of Poland by the Warsaw Pact forces most certainly will invoke outrage—the magnitude of which has never been heard in Moscow—from all of us but especially the Polish community in the United States.

Mr. President, the Senate must send a clear message to the Soviets of our firm opposition to any attempt by them to violate the political independence, territorial integrity, or basic sovereignty of Poland. It is my fervent hope that our message is heard and that the Soviets will allow the Poles to manage their own affairs.

I thank the Chair.

Mr. NUNN. Mr. President, I commend the Senator from Delaware for an excellent statement. I also commend him for having presented this resolution to the Senate.

This was introduced by the Senator from Delaware, myself, and others, yesterday morning. It was referred to the Senate Foreign Relations Committee. It is my understanding they met and discussed the resolution. I do not think that they took formal action. But it is my understanding that they agree with the resolution and have no objections to it being brought up and, of course, will vote for it when the vote comes.

I believe we are taking an important step this afternoon to put the Senate of the United States on record in support of the very strong actions of the President of the United States in expressing the great concern of the United States and our allies not only as to the threat of Soviet invasion but also the flagrant intimidation that has taken place with the Soviet military forces on the Polish border. The Senate action on this resolution will be very timely.

The Polish people continue to strive for a peaceful resolution of their differences, even as the Soviets obivously use their military forces for intimidation on the border. I hope very much that there will not be an invasion. We cannot divine Soviet intentions. We do not know what they are thinking in terms of their own possible actions. But we can describe to the World—and I believe the President and the Carter administration have described—the mobilization that has occurred, the preparations that have occurred, and the capabilities that the Soviet Union now have on the Polish border.

I hope that those in the Soviet Union who read this resolution and those who represent them in the United States will understand that the Senate of the United States is going on record this afternoon to express fully our support for the President and for our allies in warning the Soviets as to the consequences of any possible invasion and the coordinating steps that are taking place with the allies to have a coordinated effort in response to any such invasion.

So I am pleased to be a coauthor of this resolution with Senator Roth.

Mr. President, I ask unanimous consent that the name of the Senator from Michigan (Mr. Levin) be added as a cosponsor and that the name of the Senator from New Hampshire (Mr. Durkin) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. I thank my distinguished friend from Georgia.

Mr. President, I ask unanimous consent that my name be added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I wish to make several points to the Senate, with the hope that these points might make their way to the leaders of the Soviet Union.

First, the U.S. Senate has rarely been as united in a single view as it is at this time. I speak of the view that for the Soviets, to invade Poland, under the Warsaw Pact or any other pretext, would bring an end to detente and the onset of difficulties and perils in the world as we have not known in our time.

The first thing I hope that the leaders of the Soviet Union might understand is that we know what a peril the events in Poland represent to the Soviet regime and to the Soviet Empire. We are not oblivious to this. We know why they are so concerned: Because in the history of Leninism, there has never been an event that so totally invalidates the basic, central tenets of Soviet doctrine as the rising of the workers, first in Gdansk and then throughout Poland, to demand their rights in the face of the Communist party and the Communist state. Leninist doctrine cannot accommodate itself to this reality. It is a theological threat that only a fully theological society could appreciate.

We want the Soviets to know that we realize the depths of their concern. If this has happened, then everything they have believed must be wrong, and we appreciate how they would wish to see it crushed.

We also want them to understand that there is no question of military action by the West if the Soviets invade Poland, under whatever pretext. It will be an internal affair of the Warsaw Pact. There will be no war as there was two generations ago.

However, we would like the Soviets to understand that if they do invade Poland, it will bring an end of the Soviet Empire, internally and with respect to Eastern Europe, within this decade. They will destroy themselves. There will be an end to anything understood as detente. The revulsion of the world will be total, the final discrediting of Marxist-Leninist doctrine will be absolute, and the forces let loose within that last existing empire will be irresistible.

They will bring about their ruin and, with it, terrible dangers to the world; because this will be coming at a time when they have an element of superiority with respect to the rest of the world.

We plead with them: Do not do it. We warn them that if they do, it will bring their ruin.

I congratulate the Senator from Delaware and the Senator from Georgia for their initiative in the closing hours of the Senate, when it is important that our voice be heard in Eastern Europe and in the Kremlin.

Mr. NUNN. I thank the Senator.

Mr. President, I yield to the Senator from Florida the remainder of my time.

Mr. CHILES. Mr. President, I associate myself completely with the remarks that have been made, and I congratulate the Senator from Delaware and the Senator from Georgia.

I am very pleased to be a cosponsor of this resolution, and I hope this message is loud and clear from the Senate of the United States. It indicates our feelings in regard to the courageous endeavors of the Polish people, who seek to be able to control their own destiny, and it sounds our warnings to the Soviet Union with respect to the steps it may take against Poland.

I believe this is very significant at a time when many seem to be sitting back and talking about the strengths of the Soviet Union. The concern is with the size and strength of their troops, with the fact that they can march in and crush Poland. It is important that we recognize what this current situation signals. It is important that we understand the significance of the Polish labor union movement and the resulting Russian maneuvers. They signify a tremendous failure on the part of Russia, a tremendous failure on the part of Communist doctrine and the Communist system. I believe it is the beginning of the end of that system, for it shows that you cannot hold down forever the legitimate wishes of people who wish to be able to control their own destiny, who wish to seek the joy of freedom.

What we are seeing is the ripening and blooming of a spirit of freedom and, of course, that has to strike terror in the hearts of the Russians.

So, instead of focusing attention only on the strength of the Russians, we should perceive the Polish crisis for what it is—a failure, a rejection, and perhaps the beginning of the end of a totalitarian system that was not what it purported to be, could not be what it purported to be, and now is beginning to crumble.

I thank the Senator for giving me this time.

Mr. ROBERT C. BYRD. Mr. President, I commend Senator Nunn and Senator Roth for presenting this resolution to the Senate. I take it that they are going to offer a substitute shortly.

I hope that as we send this message, we also send a message to ourselves. I have seen messages sent before. But I also have noted that when the actions are taken to back up those messages, there are cries of anguish.

I noted the cries of anguish and the expressions of opposition to the grain embargo, and the purpose of that was to make the Soviets feel some penalty for their aggression in Afghanistan.

I heard the cries of anguish and I have heard the expressions of opposition to the boycott of the Olympics when President Carter initiated that effort.

So I hope that when we adopt a resolution such as this we will be fully prepared to back up whatever actions that may be deemed necessary by the President in following through to implement the sense of the resolution. It is one thing to adopt a piece of paper in the Senate, and I do not by saying that denigrate that action at all. I think it is well that the Senate express itself that we have a sense of the Senate which can be sent to the Soviet Union, which can be understood by the Soviet Union. But I hope that we ourselves will be fully determined to back up any decisions that appear to be reasonable and appropriate should, God forbid, the Soviets attempt to invade Poland.

I do not think they are going to be dissuaded by threats, if they in their own judgment feel that they must invade Poland. They can be entirely wrong, as I think they would be. I hope that the Polish people will be allowed to make their own decisions and work out their own destiny which they are perfectly capable of doing.

But I have seen the Soviets invade

Afghanistan. We have seen their actions in Hungary and Czechoslovakia.

I do not believe that mere threats will dissuade them. But if they were to take action I hope that the free world, including the nations of the Third World and the nonalined nations, would stand together in taking whatever actions may be deemed effective, appropriate, necessary, and feasible to manifest their opposition to such invasion.

I have been very disappointed in the acquiescence and the apparent acquiescence on the part of many nations to the invasion of Afghanistan by the Soviet Union.

I was very disappointed to see the division among free nations with respect to the boycott of the Olympics.

I have been disappointed to see the split votes in the U.N., although I have been pleased at the great majority, the overwhelming majority that have been registered there in the United Nations on measures designed to manifest opposition and protest to the Soviet Union's invasion of Afghanistan.

But when it came to a grain embargo, then we heard the feelings of pain and anguish. A lot of Americans said ouch. There may be some right here in this body who joined in protesting that action.

So we have seen the case of the Olympics. We have seen the case of the grain embargo. We have seen these divisions occur.

I hope that we in the Senate and the American people understand that if we are going to really make the Soviet Union understand and sit up and take notice then we are going to have to be united.

So when the time comes, if it does, and I hope it never will, that some actions are necessary, I hope that we will be willing to suffer a little pain ourselves, realizing that the people of Poland will have suffered far more than we and realizing that the people of Afghanistan have suffered far more than we.

The Afghan athletes who may have been among those Afghan students, who stood up in the face of Soviet rifles and dared them down and who were shot and who gave their lives as a result, could not go to the Olympics, and many of them were girls, who stood up in the face of those Soviet rifles and showed the courage to protest the invasion of their country. They gave their lives.

But many of us have not been willing to give up the sales of grain. Many of us have protested the boycott of the Olympics because it would mean a sacrifice on the part of our own athletes. Many of the athletes willingly sacrificed by not going to the Olympics, and a good many other countries did the same.

But it is one thing to send a message orally, and it is quite another thing to send a message when it costs and when it means a little sacrifice.

But if our messages are ever going to mean anything, they must be made with the understanding that there may be some sacrifice and that if it comes, we should give it willingly.

So I again salute Mr. Nunn and Mr. Roth for bringing this matter to the attention of the Senate, and I will join with them in voting to support the resolution. I know what I have said. I am sure that they feel the same way. But I simply wish to register this note of caution that we should not be content with merely passing a resolution. If the time comes that the United States has to take some action in concert with other allies or alone, I should think that we have to understand that and should be willing to back up our President no matter who he is or to what party he may belong.

Mr. President, I ask unanimous consent that if there is a rollcall vote ordered on this resolution it occur at 4:30 p.m. today.

The PRESIDING OFFICER (Mr. Nunn). Without objection, it is so ordered.

Does the Senator from Delaware ask for the yeas and nays?

Mr. ROTH. Yes. Mr. President, I ask for the yeas and nays on this resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1952

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware (Mr. Roth) for himself and Mr. Nunn, Mr. Percy, Mr. Domenici, Mr. Glenn, Mr. Chiles, Mr. Warner, Mr. Lugar, Mr. Hayakawa, Mr. Levin, Mr. Thurmond, and Mr. Moynihan proposes an amendment in the nature of a substitute to S. Res. 562.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Whereas the Polish people and government have an inherent right to manage their own affairs, free from threats of external intimidation or invasion; and

Whereas the people of Poland have expressed their determination to control their economic system, and to effect change for economic and social progress; and

Whereas the expressions for such change have been through collective bargaining and have shown moderation and restraint; and

Whereas the citizens of the United States feel a strong bond of friendship with the citizens of Poland; and

Whereas the United States has traditionally supported the principles of self-government and of non-intervention in the internal affairs of other nations; and

Whereas Poland has historically played a key role in the peace and security of Europe and the World; and

Whereas respect for territorial integrity is crucial to the reduction of East-West tensions and basic to the agreements of the Conference on Security and Cooperation in Europe; and

Whereas the Soviet Union has demonstrated by its invasion and occupation of Afghanistan a pattern of disregard for sovereign rights which may portend an attempt to invade Poland; either overtly or through the guise of false invitation;

Whereas the massing of Soviet and Warsaw Pact forces on Poland's borders constitutes a clear attempt to intimidate the people and government of Poland from their determined course of moderate reform.

Now therefore be it

Resolved, that it is the sense of the Senate that it supports the President of the United States in his efforts to:

(1) Communicate the firm opposition of the United States to any attempt by the Union of Soviet Socialist Republics to violate the political independence, territorial integrity or basic sovereignty of Poland; and to

(2) Pursue appropriate diplomatic initiatives to encourage other nations to affirm their support for respect of these basic principles of international relations; and to

(3) Consider in cooperation with allies and friends of the United States measures to be taken jointly in the event of a military invasion of Poland by Warsaw Pact forces;

Mr. ROTH. Mr. President, I ask unanimous consent that the language contained therein be substituted for both the text and the preamble of the resolution.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Delaware?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, will the Senator be good enough to indicate what the change is?

Mr. ROTH. Mr. President, the changes are slight differences in language that resulted from its being considered by the Foreign Relations Committee, I say to the distinguished Senator from Ohio.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment (UP No. 1952) was agreed to.

The PRESIDING OFFICER. The rollcall vote on this resolution will occur at 4:30 p.m. pursuant to the unanimous-consent request.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. For the benefit of the Senate I think it would be worthwhile to read the resolution, as amended.

AMENDMENT No. 1952

Whereas the Polish people and government have an inherent right to manage their own affairs, free from threats of external intimidation or invasion; and

Whereas the people of Poland have expressed their determination to control their economic system, and to effect change for economic and social progress; and

Whereas the expressions for such change have been through collective bargaining and have shown moderation and restraint; and

Whereas the citizens of the United States feel a strong bond of friendship with he citizens of Poland; and

Whereas the United States has traditionally supported the principles of self-government and of non-intervention in the internal affairs of their nations; and

Whereas Poland has historically played a key role in the peace and security of Europe and the World; and

Whereas respect for territorial integrity is crucial to the reduction of East-West tensions and basic to the agreements of the Conference on Security and Cooperation in Europe; and

Whereas the Soviet Union has demonstrated by its invasion and occupation of Afghanistan a pattern of disregard for sovereign rights which may portend an attempt

> to invade Poland; either overtly or through the guise of false invitation.

Mr. President, that is the resolution, as amended. What we are seeking to do through this resolution is to work in tandem with the President of the United States. I agree with our distinguished majority leader that it is important that we as Americans speak with a unified voice, and I am sure that the free world will do the same.

I yield the floor.

● Mr. HATCH. Mr. President, I support the resolution being offered here today. The situation in Europe continues to move toward what many analysts see as a potential confrontation between East and West. We here in the Senate must show that we will stand behind our President in any action that he may deem necessary to meet the threat posed by the massing of troops along the Polish border by the Soviet Union.

Mr. President, in reading the papers yesterday I noticed a remark by Adm. Harry Train, commander of NATO's Atlantic Forces. Admiral Train was reminding reporters of a quote by Soviet President Leonid Brezhnev in 1977. According to Admiral Train, Mr. Brezhnev, in a secret speech to Warsaw Pact nations in Prague stated:

> By 1985, we shall have attained most of our objectives in Western Europe and the reversal of forces will then be so decisive that we shall be in a position to impose our will each time this is necessary.

While this may not have carried a great deal of impact at that time, it is becoming all too clear to us today what Brezhnev meant.

The Polish people are seeking the rights that the people of the nations of the West have come to enjoy. These are not unreasonable demands, but rather they are only the most basic and simple rights that men, all men, should be afforded. The Polish people should be commended for the courage they have shown. With the examples of Hungary in 1956 and Czechoslovakia in 1968 they are only to aware of what the consequences might be. But they have continued to strive for the goals they have set.

My colleagues on the floor today have made a point that must be reiterated. The people all over Eastern Europe are beginning to see the futility of the types of governments that have been set up and kept in power by the leaders in the Kremlin. It has been said that we are now seeing the beginning of the collapse of the Soviet sphere of influence. I hope that these words will prove to be prophetic, but at the same time I am cognizant that the Soviets will not allow this to happen without a show of force. The military machine they have amassed over the past two decades will be employed to maintain the control they now exert over the people of Eastern Europe.

We must also realize that a resolution passed in the U.S. Senate will not prevent the Soviets from utilizing that force. What must now occur is action backing up the rhetoric, action that can be translated into the capability to deter a military move. We have just this year passed the type of defense budget which we have needed for the past several years. This type of action, to back up our words and resolutions, must continue if we are to be able to deter the threat against Poland and other nations in the future.

Mr. President, I support the resolution and hope that all of my colleagues will do likewise, which I am sure they will. I do so at this time to reaffirm my commitment to the freedom of all peoples of the world. I also want to demonstrate my resolve toward preventing the words of President Brezhnev from ever coming true.●

Mr. LEAHY. Mr. President, in response to Canadian intransigence on the border broadcast dispute, 15 U.S. border broadcast stations filed a formal complaint on August 29, 1978, with the then Special Trade Representative, Ambassador Strauss, alleging an unfair trade practice and seeking remedies pursuant to section 301 of the Trade Act of 1974. Section 301 authorizes the President to retaliate against unfair trade practices of other nations that restrict imports from the United States and which discriminate against U.S. commerce.

The 15 U.S. television licenses alleged in their complaint that Canada's bill C–58 is an unreasonable form of tax discrimination because it denies a deduction for advertising placed with U.S. television and radio stations. The 15 stations requested elimination of the offending foreign trade practice. After representatives of the Canadian Government argued at hearings held by the STR that broadcasting is not a service meant to be protected by the 1974 act, Congress enacted legislation which makes it clear that trade in services, including broadcast services, are protected by section 301.

On July 31 of this year, President Carter, acting on the recommendation of the U.S. Trade Representative and after reviewing the evidence developed in the section 301 investigation and hearings, found on behalf of the broadcasters. The President announced that he had—

> Determined that the Canadian tax practice with respect to advertising placed with U.S. border broadcasters is unreasonable and burdens and restricts U.S. commerce within the meaning of section 301.

President Carter recommended that the United States respond to the unreasonable Canadian practice by enacting legislation which would mirror the Canadian law—that is deny a tax deduction to U.S. taxpayers for advertisements placed on Canadian broadcast stations and directed primarily toward a U.S. audience. On September 9, 1980, the President sent a message to Congress containing this recommendation. It is my hope that legislation embodying the President's proposal will be introduced early in the next Congress. At that point, both the Senate and House would be able to conduct full hearings as to the appropriateness and adequacy of the remedy proposed as a result of the section 301 complaint.

Mr. President, the Congress has linked the broadcast dispute with Canada's interest in being granted special treatment for purposes of the foreign convention tax rules. I think it would be inappropriate for Congress to terminate this linkage until we have had an opportunity to review the remedy proposed by the President as a result of the 301 complaint. It would be particularly ill-timed to abandon linkage when Congress expects to review the 301 remedy within just a few months. Moreover, our treatment of the foreign convention issue may encourage Canada to enter negotiations to resolve this dispute before the next Congress reviews the 301 decision. Nevertheless, I am not calling for separate consideration of the Canadian issue at this time. Rather, I simply want to make it clear that linkage remains appropriate.

Hopefully, the continued expressions of concern made by the Congress and the administration about the discriminatory impact of this Canadian policy have created a growing awareness on the part of Canadians that our concerns will not merely wither away. I hope Canada is finally willing to approach the border broadcasting issues in the context of overall bilateral Canadian-United States relations. I firmly believe that both sides have much to gain from serious negotiations aimed at an honorable resolution which respects Canadian sovereignty and cultural integrity and treats U.S. service exports fairly.

But, Mr. President, while I join my colleagues in expressing my hope that this dispute can be resolved by negotiations, I think the Canadians should realize that the Senate in due course will seriously consider the mirror image legislation recommended by the President and further actions of its own.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR NELSON

Mr. SASSER. Mr. President, I rise to offer my tribute, along with those of my colleagues, to the distinguished junior Senator from Wisconsin, GAYLORD NELSON. Simply stated, GAYLORD NELSON is one of the finest men I have ever had the pleasure of working with. He is a warm and compassionate individual who not only practices the art of politics well but he dignifies the art of politics.

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order. The cloakroom on the left is not in order. [Laughter.]

Mr. ROBERT C. BYRD. Did the Chair say the cloakroom on the left or to the left?

The PRESIDING OFFICER. To the Chair's left.

The Senator from Tennessee.

Mr. SASSER. GAYLORD NELSON is a neighbor, a friend, and I will sorely miss him in the Senate in the years ahead. But I shall continue to seek his counsel and I hope that I shall continue to enjoy the pleasure of his company for many years to come.

Our colleagues here have detailed at some length his many legislative accomplishments in the field of small business, his abiding concern for the environment, and his unwavering personal courage in speaking his convictions, particularly in speaking out against what be believed to be a misguided American effort in Vietnam. History proved him correct, as it has in many of his judgments and accomplishments in the past.

But GAYLORD is known for more than his legislative accomplishments. He has brought honor and warmth to this body by his understanding of the complex demands that we all face in discharging our public service obligations to the American people.

GAYLORD has given us counsel, but he has never preached to anyone in this body, nor has he railed against any of us. He has given us friendship and a sense of humor and, rather than being mean spirited and vindictive in pursuit of his legislative goals, he has provided a shining example of civility.

He has given us a commonsense of dignity for the happy, yet honorable, way that he has advanced his legislative goals.

The people of Wisconsin have been blessed to have had GAYLORD NELSON in their service for over 22 years. And I could not speak of the distinguished junior Senator from Wisconsin without speaking of his wife, a champion of many years, Carrie Lee Nelson. By her forthrightness and her intuitive instinct for doing the right thing and her warm hospitality in opening their home to many of the new Senators who come here, she has always been a bulwark, not only for GAYLORD NELSON but for others who serve with him.

Mr. President, I think it is fair to say and not an overstatement to say to my colleagues today that we have all been made better people and better U.S. Senators because GAYLORD NELSON has passed our way.

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that request.

Mr. SASSER. Yes; I will withhold it.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to, and at 3:22 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 4:16 p.m. when called to order by the Presiding Officer (Mr. BURDICK).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 10 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR MILTON YOUNG

Mr. STEVENS. Mr. President, MILT YOUNG and his lovely wife, Pat, have been close friends of mine for years. I can look back fondly on the numerous times they spent with me and my wife, Ann. She always enjoyed being a part of the Senate wives' Red Cross group, and it was there that she and Pat Young became close.

Senator YOUNG spent his early years actively engaged in the operation of his family farm near Berlin, N. Dak. In the words of one of my former Republican colleagues, MILT YOUNG has always been a "man of the soil" and a leading authority on agriculture. There is a unique picture in one of his offices of a young North Dakota farm boy in baggy trousers, seeding grain. It is MILT YOUNG when he was a lad of 19. Farmers all around the country have benefited from the leadership of Senator YOUNG in his role as a member of the Agriculture Committee.

Let me point out a few of the many "firsts" in the distinguished career of North Dakota's senior Senator. MILT YOUNG has never been defeated for reelection to public office. In 1956 he was the only GOP Senate candidate to receive a bigger State majority than Eisenhower. In 1968 Senator YOUNG received the highest percentage of the vote of any Republican Senator in the Nation who was opposed. He is the longest-serving U.S. Senator from any of the upper Midwest States and upon completion of this term will have served longer consecutively than any other GOP in the history of the U.S. Senate. He has served longer on the Senate Appropriations Committee than any present member, Democrat or Republican, and is presently ranking on that committee.

It is from our association on the Appropriations Committee that I have come to know, respect and admire MILT YOUNG. Under his tutelage and legislative knowhow, I learned the complicated rules of committee procedure, and thanks to his kindness in guiding me in those early days I am now much more comfortable with the process.

Senator YOUNG has done more for the people of North Dakota than they could possibly know. He is as hard a working Senator as there is in this body, and I have even found it difficult, at times, to keep up with his fierce pace of activity.

Together with his role on the Agriculture Committee, the Senator as ranking member of the Appropriations Committee has represented the people of his State with the dedication and commitment matched by no one in North Dakota history.

It has been an honor and a privilege for me to serve with such a man of distinction. "Mr. Wheat," as he has been affectionately dubbed, will be missed by all of us in the Senate, but he will be specially missed by the many farmers of this great Nation whose lives have been so vastly improved as a result of his efforts.

As my dear friend returns to North Dakota, again as a man of the soil, I wish him and his lovely wife Pat the very best for the future.

SENATOR HERMAN TALMADGE

Mr. THURMOND. Mr. President, Senator HERMAN TALMADGE will be leaving this distinguished body after 24 years of outstanding service, and I am sure that his presence and leadership will be greatly missed.

Since 1957, Senator TALMADGE has served his native State of Georgia and the Nation admirably in Washington as a Member of the U.S. Senate. I am proud to have known his father, Gene, a giant in his time. HERMAN TALMADGE managed the successful reelection campaign of his father in 1946, and when his father died before his inauguration, the Georgia General Assembly did HERMAN the great honor of electing him to fill the Governorship. After vacating the office due to a State Supreme Court decision, HERMAN was elected as Governor in his own right in 1948 to serve the remainder of his father's unexpired term, and he was reelected in 1950 for a full, 4-year term. HERMAN was one of the outstanding Governors in the history of Georgia, and I was pleased to have had the opportunity, as Governor of South Carolina during the years 1947–51, to cooperate with him on a number of matters affecting the vital interests of Southern States.

As a U.S. Senator, HERMAN TALMADGE has shown himself to be a dedicated tireless worker, a man of great capacity, vision and compassion. He has shared with us the often difficult duty of helping steer America through rough waters. By his strength, patriotism, and the wisdom of his judgment, he has helped keep our country on an even keel.

It has been a privilege and pleasure for me to work with Senator TALMADGE on numerous issues over the years. I have always found him to be an intelligent, levelheaded man with remarkable commonsense and a down-to-earth attitude often lacking in those who hold political office. Senator TALMADGE has always understood the problems of the common man—the struggling small farmer, the textile worker, the mechanic—and he has stood ready to go the extra mile in an effort to help them. Few who have ever served in this body have matched his record of prompt, effective constituent service.

As chairman of the Senate Committee on Agriculture, Nutrition and Forestry since 1971, Senator TALMADGE has helped design and oversee the programs that have benefited our Nation's farmers, revitalized our forest resources, and helped eliminate hunger and malnutrition. In this important chairmanship role, he has acted with knowledge, understanding, foresight, and statesmanship. He has also served ably on other important committees of the Senate, including the Finance Committee, where he has been a leader in fighting for cost-effective health programs, and the Veterans' Affairs Committee, where he has worked hard to see that our Nation's veterans are properly treated. Senator TALMADGE has also worked long and hard to insure that our country maintains a strong defense, for which all Americans should be grateful.

For almost a quarter of a century, Senator TALMADGE rose to meet the many challenges that came before this Chamber. Through capable, dedicated, patriotic leadership, he has earned the respect and admiration of people across this great land.

Senator TALMADGE has rendered distinguished and outstanding service to his State and Nation, and I feel proud to have worked with him for the past 24 years. He has been a wonderful friend to me, a man whose wise counsel I often sought, whose judgment I highly regarded, and on whose word people felt they could rely. The Senate and the entire Nation will greatly miss him, and I wish him good health and happiness in the years ahead.

TRIBUTE TO SENATOR RICHARD SCHWEIKER

Mr. STEVENS. Mr. President, Senator DICK SCHWEIKER's service in the Senate has been marked by a deep commitment to improving the health of every American in this Nation. He has made great strides toward achieving this goal. Through his service on the Labor and Human Resources Committee and the appropriations counterpart, the Labor-HHS Subcommittee, he has sponsored legislation and obtained funding for programs aimed at helping the handicapped and many others who for reasons beyond their control are often left apart from the mainstream of our society.

It would indeed be a shame if the 20 years Senator SCHWEIKER has served in public office were to terminate abruptly. It appears, however, that such may not be the case. I was most pleased to learn that DICK SCHWEIKER will be nominated to be the new Secretary of the Department of Health and Human Services. I know of no one who is better qualified to assume such a challenging position. Allocation of scarce resources to meet the most pressing needs will certainly be one of the major problems facing the new administration and the Congress for some years to come. DICK's work in the Senate has clearly demonstrated that he is capable of meeting such a challenge.

Whatever the future holds, I join with the other Members of the Senate in wishing the very best to DICK, his wife, Claire and his family.

SUPPORT OF ADMINISTRATIVE PROVISIONS ACT

Mr. BRADLEY. Mr. President, I am pleased to support the passage of H.R. 5505 which contains a provision I wholeheartedly endorse to correct an IRS interpretation which distorts existing law.

Congress has rightfully acted to prevent institutions which practice discrimination from receiving tax-exempt status. No one more strongly supports that law than I. In doing so, however, I do not intend that this should become a vehicle for denying tax-exempt status to social clubs affiliated with religious fraternal organizations such as the Knights of Columbus.

Throughout the country, and certainly in my State of New Jersey, the Knights of Columbus halls have become the meeting place for a broad range of important community activities. These facilities by no stretch of the imagination could be viewed as "discriminating" because they are affiliated with the Knights of Columbus, a Catholic fraternal organization. It is wrong to permit the current IRS interpretation of the law to drive these clubs out of existence.

The Senate Finance Committee sensibly acted to clarify the law to permit religiously affiliated fraternal organizations, such as the Knights of Columbus, to continue to operate their community facilities without losing their tax-exempt status.

I am pleased that with the passage of H.R. 5505 the Senate concurs with that action.

TRIBUTE TO SENATOR BIRCH BAYH

Mr. STEVENS. Mr. President, it is with regret that I must rise today to say goodby to my good friend and distinguished colleague from Indiana, Senator BIRCH BAYH.

I have had the distinct pleasure to have worked with him on the Appropriations Committee where I was always impressed with his compassion for the elderly, the handicapped, and the disabled.

Senator BAYH should be recognized for his authorship of the equal rights amendment, as well as other constitutional amendments. It is through his leadership on issues such as this that Senator BAYH will always be remembered by this body and by our Nation.

On a more personal note, Mr. President, I will never forget BIRCH's thoughtfulness when I lost my wife, Ann. It was comforting for me to have had a friend like him at that time. We all suffered another great loss when he lost Marvella. Her courage under a time of great stress was an inspiration to us all.

As you depart the Senate, BIRCH, we wish you every success. You can feel confident that you served both your constituents and this country well.

RELIEF FOR NEW JERSEY STATE TROOPERS

Mr. BRADLEY. Mr. President, I am pleased to support the passage of H.R. 7956, which contains a provision I am cosponsoring to give long overdue relief to a group of State troopers in New Jersey. An inequity arose as a result of a 1977 Supreme Court ruling which held that meal allowances for police were reportable income and therefore subject to taxes.

Subsequent to that ruling Congress acted by making it prospective only, preventing the taxes from being retroactively levied on these State troopers for the period from 1970 to 1977. The intent of the legislation was to forgive taxes on meal allowances for all troopers during that period of time. The Internal Revenue Service took the position that the original congressional action applied only to those troopers who had never reported this allowance as income and therefore never paid taxes on this allowance.

A number of policemen had responded to the original IRS ruling and paid the back taxes prior to the legislative change. To those troopers the IRS denied any relief under the new law. What increased the frustration of another group of New Jersey State troopers was an IRS ruling that they had waited too long to file their claims despite the fact that they delayed their applications on the advice of the New Jersey IRS Commissioner. Despite the admission of the IRS officials that they had suggested delaying application for the refund, IRS said they were legally incapable of accepting and acting on the late applications.

Both groups of troopers who obeyed the instructions of IRS found themselves penalized. This is a terrible precedent.

The legislation before us extends the time period for filing claims for 1 year and allows those State troopers who originally reported their allowance as income to receive the same consideration as those troopers who did not report this allowance. This correction has the support of the Department of Treasury. It was unanimously approved by the Senate Finance Committee. I am extremely pleased that a miscarriage of justice is finally going to be rectified.

TRIBUTE TO SENATOR FRANK CHURCH

Mr. STEVENS. Mr. President, it is with much regret that I bid farewell today to my able friend from Idaho, Senator FRANK CHURCH. Our political views have often been divergent, but I have always maintained a great deal of respect for the Senator.

FRANK CHURCH's Senate service has spanned some 24 years. His contribution during those years has been characterized by dedicated hard work, a passionate commitment to furthering the best interests of his country, and an honest desire to serve his fellow man.

With many accomplishments and political successes, Senator CHURCH leaves behind a record which is an enviable example of his dedication to the national interest. He has taken an active role in international interests, and has worked diligently and effectively for his constituency on the Energy Committee, upon which we both served.

I congratulate Senator CHURCH on an outstanding contribution to public service. I also take this opportunity to extend my every good wish to him and his gracious wife, Bethine. I wish him happiness and success in whatever he chooses to do in years ahead. FRANK and I started law school together. He has had a distinguished career, and we are all proud of these accomplishments.

SENATOR ADLAI STEVENSON

Mr. THURMOND. Mr. President, Senator Adlai Stevenson will be leaving his seat in this chamber at the conclusion of the 96th Congress.

For the last 10 years, Senator Stevenson has been a distinguished Member of this august body and has worked diligently for the people of his State and Nation. It has been a pleasure for me to work with him, and, even though he and I do not always agree on the issues, I have the utmost respect for his convictions.

Senator Stevenson has gained the respect of his colleagues on both sides of the aisle. He has been an energetic and intelligent Senator and has made worthwhile contributions to our Nation—contributions made possible by his indefatigable service. His adroit handling of legislation and his devotion to his country made him an invaluable ally and a formidable foe.

As he leaves these ranks, I wish him good health and happiness in the years ahead.

SENATOR ABRAHAM RIBICOFF

Mr. THURMOND. Mr. President, Senator Abraham Ribicoff, a long-time friend and colleague, will be leaving the Senate after a distinguished career of service to our country.

As a Congressman, Cabinet Secretary, and Senator, Senator Ribicoff has worked hard and tirelessly. Although he and I have frequently disagreed on the issues, I have respected his convictions. He has been a diligent Senator and has made worthwhile contributions to our Nation—contributions made possible by his indefatigable service.

I have had the opportunity to work with Senator Ribicoff on numerous occasions, and he has always been an intelligent, energetic, and dedicated Senator. His thorough knowledge of the issues and his patience and perseverance have made him a pleasure to work with.

I shall always think of Senator Ribicoff as a good friend, and remember with pleasure our years together in the Senate.

TRIBUTE TO SENATOR WARREN MAGNUSON

Mr. STEVENS. Mr. President, I rise in tribute to my good friend from the State of Washington, Senator Warren Magnuson.

As I stated recently before this body, for more decades than most of us can recall, Senator Warren Magnuson has been the Senate's leading spokesman for the commercial fishing industry. His dedication to the advancement of the American fishing industry has been unparalleled by any Members of the Senate.

Senator Magnuson has led the efforts to protect this Nation from oil tankers. He sponsored the Ports and Waterways Safety Act which established the most stringent tanker safety standards in the world, and has provided funding to build a radar traffic system to monitor all vessel movements in key harbors around the Nation. He is the author of legislation to impose strict liability on the owners and operators of tankers to pay for the damages caused by oilspills. Senator Magnuson has continued to press the Coast Guard to establish permanent regulations that would prohibit supertankers from entering Puget Sound.

In 1977, Senator Magnuson amended the Marine Mammal Protection Act to prohibit the construction of an oil transshipment superport inside Puget Sound because of his concern that oilspills would threaten the thousands of jobs in the fishing and tourism industry that depend on good water quality. He has also authored the Port and Tanker Safety Act establishing the strictest tanker construction and equipment standards for all tankers entering U.S. ports, and the Ocean Pollution Research Monitoring and Planning Act in 1978.

The Senator from Washington's concern for the sea's living resources prompted him to sponsor legislation denying nations, who violate or undermine international whaling regulations, access to fishing in our 200-mile zone, and has been instrumental in the investigation of outlaw pirate whaling. Senator Magnuson is also the author of the Endangered Species Conservation Act, the Horse Protection Act of 1974, the Animal Welfare Improvement Act, and the Marine Mammal Protection Act.

In 1975, Senator Magnuson sponsored the most important fishing legislation in the history of this Nation, Public Law 94–265, an act which established a 200-mile fishery conservation and management zone around this Nation and literally saved our commercial fisheries from extinction. Since its passage, this act has been titled the Fishery Conservation and Management Act of 1976.

This past Wednesday, believing it only fitting that on the eve of Senator Magnuson's retirement this act should be named after its sponsor and pioneer, I offered an amendment to a salmon bill which renamed the act the "Magnuson Fishery Conservation and Management Act of 1976." The amendment and the bill passed without objection. The fishermen of this country and my home State of Alaska owe Senator Magnuson a debt of gratitude.

It is with the greatest respect and admiration for my good friend, that I have risen to speak on his behalf. This Senate will sorely miss not only his wit, but the counsel of a man made wise by so many years of effective senatorial service.

I know we will see Warren and Jermaine often in the years ahead.

IN TRIBUTE TO DEPARTING STAFF MEMBERS

Mr. BRADLEY. Mr. President, as the 96th Congress nears final adjournment and we bid farewell to colleagues who will not be back in January, we also should pay tribute to the many excellent professional staff members who are leaving after laboring hard and long to help the Senate and the country.

These men and women, who have served anonymously on committee and personal staffs, deserve our thanks and recognition. We have relied on them constantly, and they have performed admirably as dedicated public servants. They will be missed.

In addition, I acknowledge special appreciation to Lawrence Baskir, who has been my legislative director for the last 2 years. He has decided to return to private law practice after 15 years of Government work, most of them in the U.S. Senate.

As a freshman Senator making my way through the minefields, I was fortunate to have Mr. Baskir, with all of his previous experience, to act as a highly dependable guide. His knowledge of the Senate's unwritten rules, his political judgment and his legal skill—all were of great value to me on many occasions, particularly when the issues were complicated and I was under pressure to act quickly.

Mr. Baskir began to demonstrate his abilities soon after he graduated from Princeton and Harvard Law School and came to Congress in the mid-1960's to work for the House Judiciary Committee. A short time later, he moved to the Senate Judiciary Constitutional Rights Subcommittee, then chaired by Senator Sam Ervin, Jr. After 18 months he was appointed chief counsel and staff director of the committee's Subcommittee on Separation of Powers. He later was appointed chief counsel and staff director of the Constitutional Rights Subcommittee, and remained in that position until Senator Ervin retired.

At that point, Mr. Baskir was chosen to be general counsel and chief executive officer of the Clemency Board that President Ford established to review Vietnam-era cases of draft evasion and military desertion. In that capacity, Mr. Baskir was responsible for the administration of an institution with more than 600 employees while contending with tens of thousands of applications as well as many legal problems.

When that work was done, Mr. Baskir briefly retired from public service in 1975 and joined the faculty of Notre Dame University Law School. He went on to author two books on the draft and the Vietnam war.

In 1977, he returned to the Government—becoming deputy assistant for legislation in the Treasury Department. He held that post until I persuaded him to be the legislative director on my new staff.

Now, in preparing to enter private law practice, Mr. Baskir can be justly proud of the fine reputation he has earned here in the U.S. Senate.

Like his many friends, I wish him the best in his new endeavors.

TRIBUTE TO SENATOR JACOB JAVITS

Mr. STEVENS. Mr. President, serious students of the Senate have time and time again dubbed Jacob Javits as the most competent Member of this body. More than most, Jake has transcended parochial interests and has for years been a man held in national esteem. His expertise in areas ranging from social programs to international affairs is widely recognized.

Senator Javits has ably served in

Congress for 34 years. While at some time or another most Members have found themselves at odds with the senior Senator from New York on a specific issue, the Senator has been unfailingly courteous and respectful of divergent opinions. Senator JAVITS has often found himself virtually alone on this side of the aisle, yet, I, for one, will sorely miss that voice in the months to come. It is gratifying that prior to leaving the Senate, Senator JAVITS has been named chairman of the Foreign Relations Committee, but his tenure in this position will be all too brief.

In closing, I would quote from an article printed about a year ago in New York magazine. It is a statement made by a former staff member:

> When I think of Javits, the image that comes to mind is him sitting at his desk—it's about six in the evening—and he's surrounded by aides, all these young, high-powered legislative assistants who are experts in their areas, and they're all vying for his attention. One guy wants to talk about unemployment, another wants to talk about foreign policy, a third wants to talk about small business, and he's juggling all three of them, carrying on a coherent discussion with three at once . . . and he knows more about the subjects in question than any of them. He is the only public figure I've ever met whom I respect more after working for him than before.

I thoroughly endorse that statement. The longer one has been associated with JACOB JAVITS, the greater the respect in which he is held.

SENATOR WARREN G. MAGNUSON

Mr. THURMOND. Mr. President, at the conclusion of this Congress, Senator WARREN MAGNUSON of Washington will be leaving the Senate. Senator MAGNUSON has a long history of distinguished service in this body, having first taken his oath of office in 1944.

For the past 44 years, WARREN MAGNUSON has played an integral part in the development and progress of our Nation, having served four terms in the House prior to the commencement of his Senate service. America has faced many crises during his term of service, and Senator MAGNUSON's firm leadership has been of substantial benefit to the country. His diligence and adroit handling of legislation have often aided in facilitating the work of the Senate. At the same time, he has developed a reputation for delivering first-rate service to Washington State citizens in helping solve constituent problems relating to Federal matters.

Since the beginning of the 96th Congress, Senator MAGNUSON has ably served as President pro tempore of this body. He has fulfilled this capacity with both distinction and honor.

Senator MAGNUSON has taken a special pride in developing and supporting health legislation, and indeed was instrumental in the creation of the National Health Service Corps, which helps those in need of health care in rural areas. In recognition of Senator MAGNUSON's efforts in the health area, I am pleased to be a cosponsor of Senate Joint Resolution 213, designating the clinical center of the National Institute of Health in Maryland as the Warren Grant Magnuson Clinical Center.

I shall remember with pleasure my years of service in the Senate with "Maggie." He has served our country faithfully over the past three decades, and the people of his State have benefited from the contributions he has made.

INTERPRETATION OF INSTALLMENT SALES REVISION ACT

Mr. LONG. Mr. President, last September 26, the Finance Committee reported favorably with amendments H.R. 6883, the Installment Sales Revision Act of 1980. That bill, with certain floor amendments, was then passed by the Senate and the House and signed by President Carter into law on October 19.

Because of its subject matter, the bill has aroused intense interest in the tax community and given rise to extensive comment. Most of the comment has been very favorable, and the Congress has received an unaccustomed number of compliments on the legislative process which gave rise to the bill and on the substance of the legislation.

The Congress is not very experienced at accepting compliments in reference to tax legislation, but we are glad to have the opportunity to adjust.

Despite the general tone of approval, analysis by the professional community has uncovered several technical ambiguities which have created some degree of uncertainty. On at least two of those questions, however, the legislative intent was quite clear and, accordingly, an explanation of that intent should be of value.

The first such question is based on a sentence in the report of the Committee on Finance dealing with the elimination of the two-payment rule for casual sales of property. The report stated that—

> It is anticipated that the Treasury Department will prescribe regulations to extend a similar rule to deferred payment sales by dealers in personal property.

It is clear that use of the installment sale method by dealers is expressly made subject to regulations both by old section 453(a)(1) and new section 453A (a)(1). Accordingly, the quoted sentence in no event could affect present law until and unless the suggested regulations were in fact prescribed. There has, however, been some misunderstanding as to the nature of the change in regulations under discussion, and hence perhaps some expectation of a far more sweeping change in the law than was ever contemplated.

It will be noted that prior law limited the use of the installment method to dealers who sell "on the installment plan." The same limitation is contained in new section 453A, and there was no intention to eliminate this statutory requirement. The point of the quoted sentence from the committee report was that in reviewing the regulations as to what constitutes an "installment plan," it is anticipated that the Treasury Department will consider the question of whether there are circumstances in which reliance on the two-payment rule is excessively formalistic. On the other hand, however, there is no intention whatever that dealer transactions which do not meet the ordinary understanding of sales on the "installment plan" are to qualify for the installment method. In fact, the Senate Finance Committee report expressly states that—

> Except for an amendment relating to the election of the installment method by an accrual basis dealer, the substantive changes under the bill relate only to sales of realty and casual sales of personal property.

Another rule under the new legislation is that sales of depreciable property between husband and wife and certain other very closely related parties do not qualify for installment sale treatment unless it is established to the satisfaction of the Secretary that the sale did not have as one of its principal purposes the avoidance of Federal income tax. In order to make this new rule more uniformly applicable, the new law also disqualifies for installment reporting obligations arising in a corporate liquidation where the corporation's shareholder and the purchaser are within the same close degree of relationship. The theory of this provision was that the taxpayer ought not to be able to do indirectly what he could not do directly. There was no intention to make the rule for sales in the course of corporate liquidations more severe than the rule for direct sales between individuals. Accordingly, it is understood that the Treasury regulations will provide that the denial of installment method reporting in the liquidation situation will also not apply if it is established to the satisfaction of the Secretary that such disposition did not have as one of its principal purposes the avoidance of Federal income tax.

In both of the foregoing situations, there is no question or dispute as to the meaning which the new legislation was intended to have. A more difficult question is raised by the bill's amendment of a different code provision, section 1239, which also deals with the sale of depreciable property between related parties. That section does not deal with the method of reporting but provides that gains which would otherwise be treated as capital gains will be taxed as ordinary income. The original purpose in amending section 1239 was to make sure that since both the new provision as to the use of the installment method and the existing provision as to the choice between ordinary income and capital gain dealt with the same type of transaction. The definition of related parties should be exactly the same. That would make it unnecessary for the tax community to learn two different sets of rules as to relationships in order to determine the tax treatment of one transaction.

In providing a uniform set of rules, the new statute narrowed the scope of existing section 1239 with respect to family controlled corporations, added a statutory provision as to certain controlled partnerships, and inserted the word "taxpayer" in place of the word "individual." It is perfectly clear that inserting the word "taxpayer" could be interpreted to change the law in a way quite unintended by the committee but, because of a lack of consensus as to what the correct rule ought to be for transactions between parents and subsidiaries, it has seemed undesirable to attempt to resolve the matter without further legislative consideration more explicitly directed at these issues. Accordingly, the present Congress leaves the new language of section 1239 unchanged, recognizing that it is imperfect and deserving of further legislative consideration in the next Congress.

In conclusion, I point out that this legislation grew out of a remarkable cooperative process involving the Treasury Department and various professional groups as well as the congressional staffs. The legislative intent described above reflects not only the understanding of the Congress, but I believe I have fairly stated the understanding of these other groups involved in developing the bill. To reflect that consensus I ask unanimous consent to have printed in the Record a letter on the subject from the Assistant Secretary of the Treasury for Tax Policy, Donald C. Lubick.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of the Treasury,
Washington, D.C., December 10, 1980.

Hon. Russell B. Long,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: Since the enactment of the Installment Sales Revision Act of 1980 several questions as to the proper interpretation of the act have been raised by the tax community. The purpose of this letter is to set out the Treasury's understanding on two of these points.

First, the Report of the Committee on Finance refers to the possibility of a change in regulations extending to dealers something analogous to the provision deleting the two-payment rule for casual sales. Neither the Treasury nor any of the professional groups involved in the development of the legislation had any intention to eliminate the requirement that the installment method be limited to dealers selling on the installment plan. In fact, the Committee Report clearly disavowed any intent to make substantive changes as to dealers except for the elimination of a double tax problem which occurred when accrual basis dealers elected to change to the installment method. What we do understand the Finance Committee expected us to do, and what we will do, is to review the regulations defining installment plans for dealers to determine whether the two-payment rule is in all cases a necessary criterion to distinguish installment plan sales from ordinary sales on account.

Second, new Code section 453(h)(1)(C), dealing with sales by a liquidating corporation to a buyer related to the corporation's shareholder, was intended to parallel new Code section 453(g), dealing with direct sales between related parties. Accordingly, we anticipate that the regulations under section 453(h)(1)(C) will permit the use of the installment method where it is established to the satisfaction of the Secretary that the disposition would not have as one of its principal purposes the avoidance of Federal income tax.

Sincerely,

Donald C. Lubick,
Assistant Secretary, Tax Policy.

TRIBUTE TO SENATOR JOHN CULVER

Mr. STEVENS. Mr. President, I rise today in order to pay tribute to one of my colleagues, John Culver.

For the past 16 years, John has served the people of Iowa. His voice in Congress has been heard on their behalf, as well as on behalf of the people of this Nation. Over the past 6 years, I have learned to listen to John on issues, even though we have often looked at things from different viewpoints. Senator Culver's principles have not changed, and he has never hidden what he believes behind rhetoric.

John has a tremendous sense of humor which I have come to value over the years. I have taken John up to Alaska on two occasions during the past 6 years. These trips heightened my appreciation for his wit, which is coupled with his straightforward approach to issues.

I appreciate having worked with John these past years, and wish him every success upon his return to private life. I know we will see him and Ann again in the years ahead.

TRIBUTE TO SENATOR HENRY BELLMON

Mr. STEVENS. Mr. President, one of my closest personal friends in the Senate decided some months ago to retire from public service in the Senate. We both came to Washington the same year, and were, in fact, forced to share an office for 6 months while office assignments and reassignments were made.

It was with deep regret that I learned the senior Senator from Oklahoma would not seek reelection. Since assuming the position of ranking minority member on the Budget Committee, Henry Bellmon has become one of the most active participants in Senate proceedings. He is a man of principle who, if unable to make the Senate practice fiscal restraint, has at least made us admit that we were not always living up to our responsibilities.

While I am sure the Senator is looking forward to returning to Red Rock, his departure is tinged with some irony, as 2 months from now, he would no doubt be the spokesman for the majority of the Members in the new Senate in seeking to control the growth of the Federal Government.

Washington is full of Senators and Congressmen who could not go home once their term of public service was completed. Not so for Senator Bellmon. He has given his best to the Senate and will now turn his sights to his home and his farm. Our very best wishes accompany him, Shirley, and his family.

SENATOR RICHARD STONE

Mr. THURMOND. Mr. President, at the conclusion of the 96th Congress, Senator Dick Stone will be leaving this distinguished body.

During the past 6 years, Senator Stone has served the people of America with a dedication that has earned him the respect of all his colleagues. I have admired Senator Stone's adherence to strong moral principles—principles which have guided his decisions on difficult issues. Senator Stone's constituency in Florida can be proud of his work in the Senate, where he has shown keen intelligence tempered by commonsense.

My colleagues will join with me in recognizing Senator Stone's excellent work on the Senate Agriculture Committee in behalf of his home State, which has major agricultural interests. Also, I call attention to Senator Stone's distinguished membership on the Senate Foreign Relations Committee, from which he has voiced his strong interest in achieving peace in the Middle East. His conscientious efforts on matters within the jurisdiction of these committees are certainly deserving of praise.

I regret that the Senate will soon be saying farewell to Senator Dick Stone. It has been my pleasure to have served with him, as the Senate has addressed the many difficult issues facing our Nation. Although Senator Stone and I have disagreed at times, I have respected his convictions. I salute Senator Stone for his faithful pursuit of a legislative course which he perceived to be in the best interest of the American people, and wish for him and his family many blessings in the years ahead.

TRIBUTE TO SENATOR JOHN DURKIN

Mr. STEVENS. Mr. President, I want to take this opportunity to extend best wishes to my good friend from New Hampshire, John Durkin. We will lose a colleague with a fine sense of humor from these Chambers. Although John and I have disagreed a good number of times, we have also joined efforts and achieved mutually beneficial results.

During the markup of the Alaska lands legislation, John showed his vigor and energy. His contribution to this body will be sorely missed. I will particularly miss the repartees for which John was so well known.

Knowing something about his energy and talents, I have no doubt that the future for John Durkin will be an active —though sometimes controversial—one. I wish him well in his future endeavors

TRIBUTE TO SENATOR ROBERT MORGAN

Mr. STEVENS. Mr. President, in the time that Senator Morgan has been in the Senate, he has made many friends on this side of the aisle. He was one of a number of Senators who accompanied me to Alaska three summers ago to get a first-hand look at the Alaska lands issue. That was a long and arduous trip, because we tried to squeeze a tour of the entire State in barely a week.

I am sure he will recall the late evenings and early mornings which were necessary to cover the ground we did. Nevertheless, it was a trip which we all enjoyed, and I am personally grateful that Senator MORGAN would take the time to come to Alaska.

Alaskans will always remember Senator MORGAN fondly. He was one of our strongest and most steady supporters during the debate over the Alaska lands issue. He supported Alaska completely, and we will never forget that support.

I know that all Members of the Senate will join me in wishing Senator MORGAN well as he returns to his native North Carolina.

TRIBUTE TO SENATOR GEORGE McGOVERN

Mr. STEVENS. Mr. President, in the closing hours of the 96th Congress, I take this opportunity to bid farewell to a distinguished and respected colleague. My friend, GEORGE MCGOVERN, has served four consecutive terms in the Senate with distinction, and this legislative body will miss his contribution.

The Senator from South Dakota has dedicated his life to public service. As a professor at the Dakota Wesleyan University, he began his career helping young minds understand the intricate workings of the Government and the lessons of history. Before being elected to the Senate in 1962, Senator MCGOVERN served in the House of Representatives.

This distinguished gentleman served the country in war as a young man and helped guide us toward peace in his later career. He has been active in various political and public service organizations. However, Senator MCGOVERN is best known for his concerns for the poor and the hungry.

It is with regret that I bid farewell to the senior Senator from South Dakota, GEORGE MCGOVERN. Our best wishes go with him and with Eleanor for success in the years ahead.

TRIBUTE TO SENATOR RICHARD STONE

Mr. STEVENS. Mr. President, I would like to rise and pay tribute to DICK STONE, Senator from Florida, who has served in the U.S. Senate since January 1975. Senator STONE is a member of three Senate committees—Agriculture, Foreign Relations, and Veterans' Affairs.

As a member of the Agriculture Committee, Senator STONE has worked to expand agricultural exports. As a result, Japan has lowered barriers to U.S. citrus imports and in 1978, 1979, and 1980 Taiwan signed multimillion dollar agreements to purchase U.S. soybeans, phosphate, and citrus.

Senator STONE will be missed by this institution and the agricultural constituency he so ably served.

DICK and I have fond memories of our days together ont he President's Commission on Olympic Sports. He and Marlene have my best wishes for a long and successful life.

TRIBUTE TO SENATOR HERMAN TALMADGE

Mr. STEVENS. Mr. President, I rise today to take notice of the long years of service our distinguished colleague, the senior Senator from Georgia, HERMAN TALMADGE, has given to his State and this Nation.

Senator TALMADGE comes from a family which has a long history of service to our country. Not only did he serve 24 years in the Senate, but also 6 years as Governor of the State of Georgia following his father's three terms.

HERMAN TALMADGE's public service extends beyond the political arena, however. In addition to being a member of the Georgia bar, the senior Senator from Georgia also served this country in the U.S. Navy for over 4 years, spending some 3 years in the Pacific theater during World War II.

During his many years on the Agriculture Committee, Senator TALMADGE has involved himself in many matters affecting agriculture and rural development. The Rural Development Act of 1972 symbolizes the type of rural development and revitalization he has supported. Those of us representing the large rural areas in the Western States have appreciated this support and consider him a good friend.

My best wishes go with Senator TALMADGE in his future endeavors.

TRIBUTE TO DEPARTING SENATORS

Mr. EXON. Mr. President, this represents the last few hours in the Senate for many of our colleagues.

It is always difficult to say goodby, especially to friends with whom you have worked so closely and respect so much.

As a freshman, I have known most of these men well but for a scant 2 years. But I am no freshman in understanding people for what they are and for what they do to improve the plight of all under the most difficult of circumstances.

There have been numerous excellent tributes paid them by their associates of many years, far superior to any that I could hope to match.

It is no measure of their successors as I place in the RECORD my brief random comments in salute to those who will not answer the first rollcall vote in the 97th Congress.

VICE PRESIDENT WALTER MONDALE

Vice President WALTER MONDALE was the responsible one of amazing ability, always in the right place at the right time to serve his State and his Nation.

SENATOR BIRCH BAYH

BIRCH BAYH, "Mr. Good Guy"—anyone who does not appreciate him, his credentials and talents as a lawmaker, does not know the man. Thanks for everything from one who has appreciated you as a friend, seen you as a wonderful husband and father and an effective leader for agriculture.

SENATOR HENRY BELLMON

HENRY BELLMON, "Mr. Steady"—probably the unanimous choice from both sides of the aisle as the all-American Senator. Better in the Senate than his Oklahomans are on the gridiron, and that is said by one who knows something about football.

SENATOR FRANK CHURCH

FRANK CHURCH, an international expert extraordinaire, tempered with mountain-state realism and patriotism and the get-it-done attitude that makes the system work.

SENATOR JOHN CULVER

JOHN CULVER, the friendly giant of a man with an intellect to match. In addition, he is the kind of a guy you would like to find yourself in a foxhole with, provided he was on your side. A unique combination of brain, brawn, and effective fellowship.

SENATOR JOHN DURKIN

JOHN DURKIN, the keen wit of this Irishman and his steady, unwavering philosophy of right is right, "Damn the torpedoes, full speed ahead" will be missed.

SENATOR MIKE GRAVEL

MIKE GRAVEL, the dedicated man from the North. The glaciers in his eyes sometimes seem to mash a warm heart that beats strongly for what he felt was best for Alaska.

SENATOR JACOB JAVITS

JACK JAVITS, the keen-minded one, who has often kept us straight when we veered off course. Without JACK I am fearful we will listen for but not hear the voices of experience on more than infrequent occasions.

SENATOR WARREN MAGNUSON

WARREN MAGNUSON, the responsible, thoughtful and considerate President pro tempore of the Senate. Certainly the most lovable and one of the most talented Members. We all wish we were half as effective as he. You will miss us, MAGGIE, but the feeling is contagiously mutual.

SENATOR GEORGE M'GOVERN

GEORGE MCGOVERN, the obvious successor to Phil Hart as the liberal conscience of the Senate. Now they are both gone. He has made us think, oftentimes to his own political peril. As a recent editorial from his native South Dakota said, "It is not a mystery why GEORGE MCGOVERN lost in November. but how he won as often as he did in the past."

SENATOR ROBERT MORGAN

BOB MORGAN, certainly one of the closest philosophically of the departing to this Senator. I shall miss BOB's sound States' rights coaching and his friendly, gentlemanly attitude and sincere smile.

SENATOR GAYLORD NELSON

GAYLORD NELSON, a man of understanding, character and compassion. If there is a better liked Senator than the gentle but effective man from Wisconsin I do not know who he is.

SENATOR ABRAHAM RIBICOFF

ABE RIBICOFF, unquestionably the man held in the highest esteem by his colleagues on both sides of the aisle. He has earned respect that has grown over the years in the hurly-burly world of politics and important decisionmaking. The Connecticut rock is leaving, but he has unfortunately left behind a big hole and it will take a lot of manhours of back fill to repair the damage.

SENATOR RICHARD SCHWEIKER

Richard Schweiker, he is leaving us but yet he is not. As Secretary of the new President's monstrous bureaucracy of Health and Human Services, he will be in our hair as much as we are in his. Good luck and God Bless, Richard.

SENATOR ADLAI STEVENSON

Adlai Stevenson, Mr. Decent of the U.S. Senate. A man of unbelievable conviction and concern. Why he chose to voluntarily leave remains the unanswered question. We needed him.

SENATOR DON STEWART

Don Stewart, a young and talented southerner that hopefully has not reached his political high watermark. He is dedicated and young enough to make his presence felt in the future.

SENATOR RICHARD STONE

Richard Stone, the gentleman from Florida whom we may see in the new administration where his abilities could be put to good use.

SENATOR HERMAN TALMADGE

Herman Talmadge, his departure represents the end of a legend. For years I have looked to him for leadership on farm policy and as a chief national spokesman for rural America. But he has left us the sound framework that he has built in these areas. Thanks, Herman. It is up to us now.

SENATOR MILTON YOUNG

Milton Young, the wind-driven plains of North Dakota molded him to become a great U.S. Senator. He has never let us down and we shall sorely miss his steady hand, understanding, and humility.

My thanks, Mr. President, to these, my departing friends, who have been so helpful, considerate, and kind these past 2 years to me. Good luck and God bless you all. We shall not forget you and hopefully not you us.

NUCLEAR WASTE POLICY ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Jackson I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2189.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2189) entitled "An Act to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

Section 1. This Act may be cited as the "Nuclear Waste Policy Act".

DEFINITIONS

Sec. 2. As used in this Act—

(1) The term "Commission" means the Nuclear Regulatory Commission.

(2) The term "disposal" means the long-term isolation of radioactive waste.

(3) The term "high-level radioactive waste" means the highly radioactive wastes resulting from the reprocessing of spent nuclear fuel. Such term includes both liquid waste which is produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high-level radioactive waste for purposes of protecting the public health and safety.

(4) The term "Indian reservation" means—

(A) the Indian reservations and dependent Indian communities referred to in clauses (a) and (b) of section 1151 of title 18, United States Code; and

(B) lands selected by Alaska Native villages or regional corporations under the provisions of the Alaska Native Claims Settlement Act.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(6) The term "low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(7) The term "repository" means any facility for the permanent disposal of transuranic waste, high-level radioactive waste, spent nuclear fuel, or any oombination of such wastes or fuel, whether or not such facility is designed to permit the subsequent recovery of the materials placed in the repository.

(8) The term "Secretary" means the Secretary of Energy.

(9) The term "site characterization" means activities undertaken to determine the geologic characteristics of a site and to otherwise determine if a site meets the requirements applicable to sites for repositories. Such term includes borings, surface excavations, excavations of exploratory shafts, and in situ testing needed to determine the suitability of a site for a geologic repository, but does not include preliminary borings and geophysical testing needed to decide whether site characterization should be undertaken.

(10) The term "spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(11) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Nortern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(12) The term "State Review Board" means any State Review Board that meets the requirements under section 106, as so determined by the Secretary.

(13) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, which have a half-life greater than 5 years, and which can in concentrations greater than 10 nanocuries per gram or in such other concentrations as the Commission may prescribe to protect the public health and safety.

TITLE I—DISPOSAL OF TRANSURANIC WASTE, HIGH-LEVEL RADIOACTIVE WASTE, AND SPENT NUCLEAR FUEL

FINDINGS AND PURPOSE

Sec. 101. 101. (a) Findings.—The Congress finds that—

(1) radioactive waste creates potential risks and requires safe and environmentally acceptable methods of disposal;

(2) the accumulation of spent nuclear fuel from nuclear power reactors, radioactive waste from commercial nuclear reprocessing, activities related to medical research, diagnosis, and treatment, and nuclear research and development activities, and radioactive waste from other sources, has created a national problem;

(3) Federal efforts during the past 30 years to devise a permanent solution to the problems of radioactive waste disposal have not been adequate;

(4) the Federal Government has the responsibility to provide for the permanent disposal of transuranic waste, high-level radioactive waste, and spent nuclear fuel in order to protect the public health and safety and the common defense and security;

(5) the primary objective of repositories for such waste is to isolate them from the biosphere;

(6) State and public participation in the planning and development of permanent repositories for the disposal of radioactive waste is essential in order to promote confidence among the public with regard to the safety of disposal of radioactive waste;

(7) the implementation of a radioactive waste repository program in accordance with this title would provide reasonable assurance that methods of safe disposal of transuranic waste, high-level radioactive waste, and spent nuclear fuel can be available when such methods are needed; and

(8) radioactive waste has become a major issue of public concern, and stringent precautions must be taken to ensure that radioactive waste does not adversely affect the public health and safety of this or future generations.

(b) Purpose.—It is the purpose of this title to—

(1) establish a schedule for the siting, construction, and operation of licensed permanent repositories for transuranic waste, high-level radioactive waste, and spent nuclear fuel which will provide the Congress with a reasonable assurance that the public will be adequately protected from the hazards posed by such wastes;

(2) establish the Federal responsibility for the disposal of such wastes from nuclear activities; and

(3) establish a definite Federal policy for the disposal of such wastes.

IDENTIFICATION OF SITES FOR REPOSITORIES

Sec. 102. (a) Guidelines.—Not later than June 30, 1981, the Secretary shall, in consultation with the Council on Environmental Quality, the Environmental Protection Agency, the Nuclear Regulatory Commission, and the United States Geological Survey, issue guidelines for the recommendation of sites for repositories. Under the guidelines the Secretary shall specify factors that would disqualify a site development as a repository, including factors pertaining to the location of valuable natural resources, proximity to populations, hydrogeophysics, seismic activity, and nuclear defense activities. The guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recommend sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering sites to be recommended under subsection (b). The development of guidelines under this subsection shall be considered a preliminary decisionmaking activity and shall not be subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.

(b) Recommendations by the Secretary.—(1) Not later than January 1, 1982, the Secretary shall identify and recommend to the President at least two sites which the Secretary determines are suitable for site characterization. Not later than February 1, 1985, the Secretary shall identify and recommend to the President at least two additional sites which the Secretary determines are suitable for such purpose. Each recommendation of a site shall include a detailed statement of the basis for the recommendation. If the Secretary recommends a site to the President, the Secretary shall notify the State Review Board of the State in which the site is located, or the governing body of any Indian tribe on whose reservation the site is located, of the Secretary's recommendation and the basis for such recommendation.

(2) Before recommending to the President any site for characterization, the Secretary shall hold public hearings in the vicinity of the site to inform the residents of the area in which the site is located of the proposed recommendation and to receive their comments.

(c) Presidential Review of Recommended Sites.—(1) The President shall review each site recommended by the Secretary under subsection (b). Within 60 days after the submission of a recommendation for a site, the President shall either approve or disapprove the site, and transmit his decision to the Secretary and the State Review Board of the State in which the site is located. If the President fails to approve or disapprove the site in accordance with this paragraph during such 60-day period, or within such period fails to invoke his authority under paragraph (2) to delay the determination, the site shall be considered to be approved.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a site upon determining that the information provided with the recommendation is not sufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such period, of his intent to utilize the authority provided under this paragraph. If the President invokes his authority under this paragraph but fails to approve or disapprove a site at the end of such 6-month period, the site shall be considered to be approved.

(d) Continuation of Site Screening.—After the identification of sites under subsection (b), the Secretary shall continue to screen other sites to determine their suitability for site characterization.

SITE CHARACTERIZATION

Sec. 103. (a) In General.—The Secretary shall carry out in accordance with this section appropriate site characterization activities at each site approved under section 102.

(b) Nuclear Regulatory Commission and State Review Boards.—(1) Before proceeding to sink shafts at any site, the Secretary shall submit for such site to the Commission and to the State Review Board of the State in which the site is located, or to the governing body of any Indian tribe on whose reservation the site is located, for their review and comment—

(A) an environmental assessment of the nonradiological impacts of the site characterization activities planned for such site and a discussion of alternative activities which may be undertaken to avoid such impacts;

(B) a plan for site characterization activities to be conducted at such site which plan shall include—

(i) a description of the site;

(ii) a description of the site characterization activities, including the extent of planned excavations, plans for any onsite testing of radioactive or nonradioactive material, investigation activities which may affect the ability of the site to isolate radioactive wastes and spent fuel, and provisions to control any adverse, safety-related impacts from site characterization activities;

(iii) plans for the decontaminating and decommissioning of the site if it is determined unsuitable for application for licensing as a repository;

(iv) criteria to be used to determine if the site is acceptable as a site for a repository; and

(v) any other information required by the Commission; and

(C) proposals describing the possible form or packaging for the waste material and spent fuel which would be emplaced in the repository.

(2) During the conduct of site characterization activities at a site, the Secretary shall report to the Commission, and to either the State Review Board of the State in which the site is located or the governing body of any Indian tribe on whose reservation the site is located, on the nature and extent of such activities and the information developed from such activities.

(c) Tests.—The Secretary shall conduct at sites at which site characterization activities are being conducted such tests as may be necessary to provide the necessary data for an application for a construction authorization for a repository at the site and for compliance with the National Environmental Policy Act of 1969. The Secretary shall report to the Commission on the tests conducted at a site pursuant to this subsection and on the information developed from such tests.

(d) Restrictions.—(1) In conducting site characterization activities or tests pursuant to subsection (c)—

(A) the Secretary may not use radioactive materials at a site unless the Commission and the Secretary concur that such use is necessary to provide data for the submission of an application for a construction authorization for a repository at the site;

(B) if radioactive materials are placed in a site, the Secretary shall place the smallest quantity necessary to determine the suitability of the site for a repository, but in no event more than the curie equivalent of 10 metric tons of spent fuel; and

(C) any radioactive material used or placed on a site shall be fully retrievable.

(2) If characterization activities are terminated at a site for any reason, the Secretary shall remove any nuclear waste, spent nuclear fuel, or other radioactive materials at or in the site as promptly as practicable.

SITE APPROVAL AND CONSTRUCTION AUTHORIZATIONS

Sec. 104. (a) In General.—If after completion of site characterization activities at a site—

(1) the Secretary determines that the site meets the requirements applicable to repositories, the Secretary shall proceed in accordance with this section to secure approval of the site and a construction authorization for construction of a repository at the site, or

(2) the Secretary determines that the site does not meet such requirements, the Secretary shall notify the State Review Board of the State in which the site is located, or the governing body of the Indian tribe on whose reservation the site is located, of such determination.

(b) Hearings and Presidential Recommendation.—(1) If after completion of site characterization activities at a site the Secretary determines that the site meets the requirements applicable to repositories, the Secretary shall hold public hearings in the vicinity of the site to inform the residents of the area in which the site is located of the determination of the Secretary and to receive their comments. If upon completion of the hearings the Secretary affirms the determination, the Secretary shall submit to the President a recommendation that the President approve the site for the development of a repository. Together with any recommendation of a site under this paragraph, the Secretary shall submit to the President a report containing the following:

(A) A description of the proposed repository, including engineering plans for the facility.

(B) A description of the waste form or packaging proposed for use at the repository.

(C) A discussion of data, obtained in site characterization activities, relating to the safety of the repository site.

(D) A final environmental impact statement for the site and the design of the repository as required under the National Environmental Policy Act of 1969 together with comments made concerning the environmental impact statement by the Department of the Interior, the Council on Environmental Quality, the Environmental Protection Agency, and the Nuclear Regulatory Commission.

(E) Preliminary comments of the Nuclear Regulatory Commission concerning the extent to which the at-depth site characterization analysis and the waste form proposal for the site seem to be sufficient for inclusion in any application to be submitted by the Department of Energy for licensing of the site as a permanent repository for high-level radioactive waste and spent fuel.

(F) The views of any State Review Board, or governing body of any Indian tribe, which is affected by such site, as determined by the Secretary, together with the Secretary's response to such views.

(G) Such other information as the Secretary considers appropriate to provide a complete statement of the basis for the recommendation of the site for licensing as a repository for the disposal of high-level radioactive waste and spent fuel.

(2) Not later than March 30, 1987, the President shall submit to the Congress a recommendation of a site which the President considers qualified for application for license as a repository. The President shall submit with such recommendation a copy of the report for such site prepared by the Secretary under paragraph (1). After such date, the President may submit to the Congress recommendations for other sites which the President also considers suitable for such purpose, together with such reports.

(3) If the approval of a site recommendation for the initial repository proposed as required under paragraph (2) does not take effect as a result of a disapproval by the Congress under section 105, the President shall submit to the Congress, within one year after the disapproval of the recommendation, a recommendation of another site for an initial repository. The President may not recommend the approval of any site under this paragraph unless the Secretary has recommended to the President under paragraph (1) approval of such site and has submitted to the President a report for the site as required under such paragraph.

(c) Submission of Application.—If the President recommends to the Congress a site for a repository under subsection (b) and the site designation is permitted to take effect under section 105 (pertaining to congressional disapproval), the Secretary shall submit to the Commission a license application for the construction of a repository at the site within 90 days after the date on which the recommendation of the site designation is effective under such section and shall provide the State Review Board of the State in which the site is located, or the governing body of any Indian tribe on whose reservation the site is located, a copy of the application.

(d) STATUS REPORT FOR CONSTRUCTION PERMIT AUTHORIZATION.—No later than 2 years after the date on which an application for a license application is submitted under subsection (c), the Commission shall submit a report to the Congress describing the proceedings undertaken through such date with regard to the authorization application submitted, including a description of—

(1) major unresolved safety issues, and the Secretary's explanation of design and operation plans for resolving such issues;

(2) matters of contention regarding the application;

(3) any Commission actions regarding the granting or denial of the authorization.

(e) COMMISSION ACTION.—The Commission shall consider a license application for the construction of a repository in accordance with the laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the first such application not later than—

(1) January 1, 1990, or

(2) the expiration of four years after the date of the submission of the application,

whichever occurs later.

REVIEW OF REPOSITORY SITE SELECTION

SEC. 105. (a) IN GENERAL.—The designation of a site for a repository shall be effective at the end of the 30-day period beginning on the date that the President recommends the site to the Congress under section 104 unless a State Review Board has submitted to the Congress a petition for disapproval under section 106 or the governing body of an Indian tribe has submitted such a petition under section 107. If any such petition has been submitted, the approval of the designation shall not be effective except as provided under subsection (b).

(b) CONGRESSIONAL REVIEW OF SITES.—(1) If the President submits to the Congress under section 104 a recommendation for approval of a site as a repository and either a State Review Board submits to the Congress a petition for disapproval under section 106 or the governing body of an Indian tribe submits to the Congress such a petition under section 107, the designation of such site for a repository shall be effective at the end of the first period of 90 calendar days of continuous session of the Congress after the date of transmittal of the recommendation of approval by the President to the Congress, unless, during such period, either House of the Congress passes a resolution the matter after the resolving clause of which reads as follows: "The   approves the petition submitted by   regarding the disapproval of the site at   —for a repository for the disposal of high-level radioactive waste, transuranic waste, and spent fuel."; (the first blank space being filled with the designation of the appropriate House of the Congress; the second blank space being filled with the name of the State Review Board or Indian tribe governing body the petition of which is approved; the third blank space being filled with the geographic location of the proposed repository site). For purposes of paragraphs (3) through (7) of this subsection, the term "resolution" means a resolution described by this paragraph.

(2) Paragraphs (3) through (7) of this subsection are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (1) of this subsection; and the provisions of such paragraphs supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(3) A resolution once introduced with respect to any site designation shall immediately be referred to a committee (and all resolutions with respect to the same site designation shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to a site designation has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such site designation which has been referred to the committe.

(B) A motion of discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same site designation) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same site designation.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a site designation, then it shall not be in order to consider in that House any other resolution with respect to the same such site designation.

(c) COMPUTATION OF DAYS.—For purposes of subsections (a) and (b) of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period.

STATE REVIEW BOARDS

SEC. 106. (a) DEFINITION.—(1) For purposes of this title, a State Review Board of a State is an entity of the State which is—

(A) created under State law with the authority described in paragraph (2) and the composition prescribed by paragraph (3); and

(B) determined by the Secretary to be established in accordance with this section.

(2) A State Review Board shall be authorized under State law to—

(A) review activities under this title and activities of the Commission with respect to any site in the State for a repository to determine the potential economic, environmental, social, and public health and safety impacts of the repository on the State and its residents;

(B) be a representative of the State in any proceeding before the Commission respecting a site for a repository in the State; and

(C) submit, in accordance with subsection (b), to the Congress petitions requesting the Congress to disapprove, in accordance with section 105, construction of repositories in the State.

(3) The State Review Board shall consist of members representing the interests of the general public in the State, including members appointed to represent the interests of any Indian tribes and local governments which would be affected by the repository.

(4) The State Review Board shall hold meetings open or public participation not less than once every 4 months, at which meetings the Board shall receive and to the extent practicable place on its agenda matters submitted by Board members.

(5) The authority of State Review Boards shall not be applicable with respect to sites located on Indian reservations. Any references contained in this section to sites located within a State shall not be deemed to include sites located on Indian reservations within the State.

(b) PARTICIPATION IN REPOSITORY LICENSING DECISIONS.—Upon the submission by the President to the Congress of the recommendation of a site for a repository, the State Review Board of the State in which the site is located may, by majority vote of the membership of the Board, submit a petition to the Congress requesting that the Congress disapprove the site designation. A State Review Board may submit such a petition to the Congress not later than the 30th day after the date that the President recommends the site to the Congress under section 104. A petition shall be considered to be submitted to the Congress on the date of the transmittal of the petition to the Speaker of the House and the President pro tempore of the Senate. The petition shall be accompanied by a statement of reasons explaining why the petition should be granted.

(c) FINANCIAL ASSISTANCE.—(1) Subject to paragraph (2), and to the availability of funds to carry out this paragraph, the Secretary shall make grants to the State Review Boards of each State in which a site for a repository has been approved under section 102(c). Grants under this paragraph shall be made under such terms and conditions as the Secretary may prescribe, and the amount of funds provided a Board under this paragraph in any fiscal year may not exceed 75 percent of the costs of the operation of the

Board in such year as determined by the Secretary. Salaries and travel expenses which would ordinarily be incurred by any State or local government shall not be considered part of the budget of the Board and shall not be eligible for payment under this section.

(2) A State Review Board may not receive any grant after the expiration of one year after—

(A) the date the Secretary notifies the State Review Board under section 104(a)(2) that a site in the State does not meet the requirements applicable to repositories,

(B) the date on which the site is disapproved by the Congress under section 105, or

(C) the date on which the Commission disapproves an application for a construction authorization for a repository at a site in the State,

whichever occurs first unless there is another site in the State approved under section 102(c) with respect to which the actions described in subparagraphs (A), (B), and (C) have not been taken.

(3) At the end of the one-year period beginning on the effective date of any operating license for a repository in a State, no Federal funds shall be made available under this subsection for the State Review Board of the State in which the repository is located, except for—

(A) such funds as may be necessary to support Board activities related to any other repository located in, or proposed to be located in, such State, and for which an operating license has not been in effect for more than one year; and

(B) such funds as may be necessary to support Board activities pursuant to agreements or contracts for assistance entered into under subsection (c) by the Board with the Federal Government before the end of such one-year period.

(d) CONSULTATION.—(1) The Secretary, the Nuclear Regulatory Commission, and other agencies involved in the construction or operation of a waste repository in a State shall provide to the State Review Board of such State, and to the governing body of any Indian tribe on or adjacent to whose reservation the repository site is located, timely and complete information regarding determinations or plans made with respect to the siting, development, design, construction, operation, or regulation of the repository.

(2) In performing any study of an area within a State for the purpose of determining the suitability of the area for a repository and in subsequently developing and loading any repository within a State, the Secretary shall consult and cooperate with the State Review Board of the State and the governing body of any affected Indian tribe in an effort to resolve the concerns of the State and any affected Indian tribe regarding the public health and safety, environmental, and economic impacts of any such repository. In carrying out his duties under this Act, the Secretary shall take such concerns into account to the maximum extent feasible.

(3) As soon as possible after notifying a State of his decision to study an area within such State as a possible repository site, the Secretary shall seek to enter into a written agreement with the State Review Board of the State and, where appropriate, a separate agreement with the governing body of any affected Indian tribe, setting forth the procedures under which the requirements of paragraphs (1) and (2) shall be carried out. The written agreement shall specify procedures—

(A) by which the State or the governing body of the Indian tribe (as the case may be) may study, determine, comment on, and make recommendations with regard to the possible health and safety, environmental, and economic impacts of any such repository;

(B) by which the Secretary may consider and respond to comments and recommendations made by the State Review Board or the governing body of the Indian tribe (as the case may be), including the period in which the Secretary may so respond;

(C) by which the Secretary and either the State Review Board or the governing body of the affected Indian tribe (as the case may be) may review or modify the agreement periodically; and

(D) for public notification of the procedures specified under subparagraphs (A) through (C).

PARTICIPATION OF INDIAN TRIBES

SEC. 107. (a) AUTHORITIES OF TRIBAL GOVERNING BODIES.—The governing body of any Indian tribe on whose reservation is located a site approved for site characterization under section 102(c) shall have the authorities described under sections 106(a)(2)(A) and 106(a)(2)(C).

(b) ASSISTANCE TO TRIBES.—(1) Subject to the availability of funds to carry out this section, the Secretary shall provide to the governing body of each Indian tribe referred to in subsection (a) such funds as may be necessary to provide technical assistance to the tribe ,and to assist the tribe in conducting the activities described under sections 106(a)(2)(A) and 106(a)(2)(C) and other similar activities related to the repository.

(2) No funds may be made available to the governing body of an Indian tribe under this section with respect to a site located on the reservation of such tribe after the expiration of one year after—

(A) the date the Secretary notifies such governing body under section 104(a)(2) that the site does not meet the requirements applicable to repositories,

(B) the date on which the site is disapproved by the Congress under section 105, or

(C) the date on which the Commission disapproves an application for a construction authorization for a repository at the site,

whichever occurs first unless there is another site located on the reservation of such tribe and approved under section 102(c) with respect to which the actions described in subparagraphs (A), (B), and (C) have not been taken.

(3) At the end of the one-year period beginning on the effective date of any operating license for a repository located on a reservation. no Federal funds shall be made available under this subsection to the governing body of the Indian tribe on whose reservation the repository is located, except for—

(A) such funds as may be necessary to support activities related to any other repository located in, or proposed to be located in, such reservation, and for which an operating license has not been in effect for more than one year; and

(B) such funds as may be necessary to support activities pursuant to agreements or contracts for assistance entered into by the governing body of the Indian tribe with the Federal Government before the end of such one-year period.

JUDICIAL REVIEW OF AGENCY ACTIONS

SEC. 108. (a) IN GENERAL.—Notwithstanding any other provision of law, the actions taken by the Secretary to recommend a site for approval by the President and in connection with the site characterization of a site, any actions taken by the Commission in granting or denying any construction authorization application submitted under section 104 or for any operating permit for a repository, and any actions described in section 108 shall not be subject to judicial review except as authorized by subsection (b).

(b) JUDICIAL REVIEW OF ACTIONS.—(1) A civil action for judicial review of an administrative action described in subsection (a) may be brought not later than the 180th day following the date of such action, except that the court referred to in paragraph (2) may extend the time for bringing such a civil action if the court determines that the facts on which the civil action is based were not reasonably available within the applicable 180-day time limit.

(2) A civil action for judicial review of any such administrative action shall be barred unless a complaint is filed before the expiration of the time limit prescribed by paragraph (1) in the United States Court of Appeals for the District of Columbia Circuit, acting as a special court. No other court of the United States, or any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such civil action.

EXPEDITED AUTHORIZATIONS

SEC. 109. (a) ISSUANCE OF AUTHORIZATIONS.—(1) Subject to paragraph (2), to the extent that the taking of any action related to the characterization of a site or the construction or initial operation of a repository under this title requires a certificate, right-of-way, permit, lease, or other authorization from a Federal officer or agency, such officer or agency shall issue or grant any such authorization at the earliest practicable date, to the extent permitted by the applicable provisions of law administered by such officer or agency. All actions of a Federal officer or agency with respect to consideration of applications or requests for the issuance or grant of any such authorization shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to such repositories.

(2) The requirements of paragraph (1) shall not be applicable in the case of any action related to any permit or other authorization issued or granted by, or requested from, the Nuclear Regulatory Commission.

(b) TERMS OF AUTHORIZATIONS.—(1) Any authorization issued or granted under subsection (a) shall include such terms and conditions as may be required by law, and may include terms and conditions permitted by law.

(2) Except as provided in the second sentence of this subsection, nothing contained in this section shall be construed to impair the authority of any Federal officer or agency to add to, amend, or abrogate any term or condition included in any authorization issued or granted pursuant to subsection (a) if such action is otherwise permitted under applicable laws administered by such officer or agency. In the case of any such action which is permitted but not required by law, the Federal officer or agency shall have no authority to take such action if the terms and conditions to be so added, or as so amended, would have the effect of terminating the characterization, construction, or initial operation of the potential or permanent repository which the authorization affects.

SCHEDULE FOR CERTAIN STANDARDS AND CRITERIA

SEC. 110. (a) EPA STANDARDS.—Not later than November 1, 1981, the Administrator of the Environmental Protection Agency, pursuant to authority under other provisions of law, shall, by rule, promulgate generally applicable standards for protection of the general environment from radioactive material.

(b) CRITERIA.—Not later than November 1, 1981, the Commission, pursuant to authority under other provisions of law, shall, by rule, promulgate criteria which it will apply in reviewing under the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, applications for construction authorizations for the construction of repositories.

DISPOSAL OF SPENT FUEL

SEC. 111. Notwithstanding any other provision of this Act, any repository for the disposal of high-level radioactive waste and spent fuel which is designed and constructed under this title shall be so designed and constructed that the spent fuel may be retrieved, during an appropriate period of operation of the facility, for any reasons pertaining to the public safety or for the purpose of permitting the recovery of the economically valuable contents of the spent fuel.

AUTHORIZATION OF APPROPRIATION; CONTRACT AUTHORITY

SEC. 112. (a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary to carry out this title $5,000,000 for the fiscal year ending September 30, 1981.

(b) CONTRACTS.—The authority of the Secretary to enter into contracts under this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

ACCOUNTING OF EXPENDITURES

SEC. 113. (a) RECORD OF EXPENDITURES.—The Secretary shall maintain adequate records of all expenditures made under this title which, together with expenditures made by the United States under other laws in connection with the management, interim storage, and disposal of nuclear wastes and spent fuel, shall provide the basis for any fees to be assessed as described under subsection (b).

(b) FEE COLLECTION.—No later than the date the Secretary submits to the Commission under section 104 a license application for the construction of an initial repository, the Secretary shall submit to the Congress a report proposing fees to be collected to offset all construction, operation, administrative, and other costs incurred by the Secretary in providing for the management, interim storage, and disposal of nuclear wastes and spent fuel. The fees specified in the report would be collected from the persons or entities who hold title to any nuclear waste or spent fuel which is subject to interim storage or disposal by the Secretary.

TERMINATION OF TITLE

SEC. 114. (a) SECTIONS 108 and 109.—Sections 108 and 109 shall cease to have effect at such time as the Secretary commences licensed commercial operation of at least one repository.

(b) REMAINDER OF TITLE.—The provisions of this title, other than sections 108, 109, 111, and 113, shall cease to have effect after December 31, 1999.

TITLE II—LOW-LEVEL RADIOACTIVE WASTE

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

SEC. 201. (a) (1) It is the policy of the Federal Government that—

(A) each State is responsible for the disposal of non-Federal low-level radioactive waste generated within its borders; and

(B) non-Federal low-level radioactive waste can be most safely and efficiently managed on a regional basis.

(2) (A) To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of facilities for the disposal of low-level radioactive waste.

(B) A compact entered into under subparagraph (A) shall not take effect until the Congress has by law consented to the compact. Each such compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent. After January 1, 1987, any such compact may restrict the use of the regional disposal facilities under the compact to the disposal of non-Federal low-level radioactive waste generated within the region.

(b) (1) In order to assist the States in carrying out the policy set forth in subsection (a) (1), the Secretary shall prepare and submit to Congress and to each of the States within 120 days after the date of the enactment of this Act a report which—

(A) defines the disposal capacity needed for present and future low-level radioactive waste on a regional basis;

(B) defines the status of all commercial low-level radioactive waste disposal sites and includes an evaluation of the license status of each such site, the state of operation of each site, including operating history, an analysis of the adequacy of disposal technology employed at each site to contain low-level radioactive wastes for their hazardous lifetimes, and such recommendations as the Secretary considers appropriate to assure protection of the public health and safety from wastes transported to such sites;

(C) evaluates the transportation requirements on a regional basis and in comparison with performance of present transportation practices for the shipment of low-level radioactive wastes, including an inventory of types and quantities of low-level wastes, and evaluation of shipment requirements for each type of waste and an evaluation of the ability of generators, shippers, and carriers to met such requirements; and

(D) evaluates the capability of the low-level radioactive waste disposal facilities owned and operated by the Department of Energy to provide interim storage for commercially generated low-level waste and estimates the costs associated with such interim storage.

(2) In carrying out this subsection, the Secretary shall consult with the Governors of the States, the Nuclear Regulatory Commission, the Environmental Protection Agency, the United States Geological Survey, and the Secretary of Transportation, and such other agencies and departments as he finds appropriate.

(3) This subsection does not authorize appropriations for the fiscal year ending September 30, 1980.

URANIUM MILL SITE AT EDGEMONT

SEC. 202. (a) The Secretary shall undertake an investigation to determine whether Federal funding is appropriate for 90 percent of the cost of any stabilization, decommissioning, and decontamination action necessary for offsite contamination resulting from the uranium mill tailings site owned by the Tennessee Valley Authority and located at Edgemont, South Dakota. The investigation shall take into consideration whether such tailings resulted all or in part from activities conducted under Federal contract; and shall include an analysis of the total costs which would be required to undertake such actions with respect to such offsite contamination, including the costs of acquiring and managing any facilities which may be necessary to protect the public health and safety from such contamination.

(b) Not later than 120 days after the date of the enactment of this section, the Secretary shall complete the investigation prescribed by subsection (a) and shall submit a report to the Congress of the results of the investigation. The report shall include any recommendation for legislation to provide for Federal funding. Any such recommended legislation shall be consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978. The report shall also contain the comments and recommendations of the Tennessee Valley Authority.

Amend the title so as to read: "An Act to establish licensed permanent repositories for transuranic waste, high-level radioactive waste, and spent fuel, to authorize State compacts for the establishment and operation of regional repositories for low-level radioactive waste, and for other purposes."; that the House insists upon its amendments and asks a conference with the Senate thereon.

Mr. PROXMIRE. Mr. President, will the Senator from Idaho yield?

Mr. McCLURE. I am happy to yield.

Mr. PROXMIRE. Mr. President, I understand this is identified as the so-called nuclear waste disposal bill. It is my understanding that the provisions affecting nuclear waste disposal have been stripped from the bill. Is that correct?

Mr. McCLURE. This bill as it will be amended will deal only with the portion of the low-level waste. It will not deal with the high-level or transuranic waste at all.

Mr. PROXMIRE. Mr. President, I wish to be clear because my State was, as I understand it, the No. 1 target as a dumping ground for the so-called nuclear waste. Of course, we were very concerned about it, and we were anxious if that were the case to give the States a veto power.

I understand, however, that this bill would not have nuclear waste. Therefore, neither Wisconsin nor any other State that had granite formations would be a likely site and that in all likelihood these sites for disposal would be found in almost all cases within the particular State.

Mr. McCLURE. May I say to the Senator there are a number of different kinds of nuclear waste. What we are dealing with here is nondefense, nonnuclear power, non-R. & D. activities. It only deals with the commercially generated waste ordinarily of the kind associated with radioactive development and radioactive waste in hospitals, the radioactive elements that might be involved in independent experiments in laboratories at universities, that is not defense-related nor U.S. contractors.

To the extent that any State would be involved in accepting these wastes, it is a voluntary program. It is not the kind of thing to which the Senator from Wisconsin is addressing his concern.

Mr. PROXMIRE. So that the State itself would have the opportunity to deny another State in another part of the country from putting its waste within that State; is that right?

Mr. McCLURE. This is commercial waste only. The Senator is correct.

I shall rephrase it in a little more positive terms rather than negative terms. The Senator said the State would have the capacity to deny. Let me indicate that the State would have to positively affirm.

Mr. PROXMIRE. The State would have to affirm before it could come in?

Mr. McCLURE. Yes.

Mr. PROXMIRE. I thank the Senator.

Mr. McCLURE. Mr. President, this is an effort to act now to take a first step in fashioning a solution to the nuclear waste problem which faces this Nation.

As my colleagues know, earlier this year we did pass a comprehensive radioactive waste storage and disposal bill, and it had been my hope that we would be able to deal with all of the problems of nuclear waste storage and disposal this year. That effort has not been fruitful as yet.

But we have been able to reach an agreement with respect to the low-level nuclear waste and this only addresses commercial low-level nuclear waste.

Low-level nuclear waste from atomic energy defense activities as defined in the amendment and for Federal research and development activities are legally exempt under this bill. Facilities which are committed for those types of wastes are legally exempt and Federal facilities which are located on Federal lands are legally exempt under the bill. Consequently, no State compacts can apply to such waste and such facilities as a matter of law and no actions pursuant to a State compact can apply to them as a matter of law.

This bill, therefore, preserves as a legally distinct and separate issue the questions associated with defense wastes, Federal research wastes, and Federal facilities for consideration in the next Congress.

I support this precedent for such a distinction between commercial nuclear wastes on one hand and military wastes on the other as a point of departure for our consideration again next year of a comprehensive nuclear-waste policy for this Nation.

I also urge the several States in their actions under this bill to give great deference and weight to these legal decisions. Clearly this Senator, the Senate, and Congress will give such weight and deference to these distinctions in reviewing any proposed compact under this bill or any other action by one or more States in seeking solutions to the low-level nuclear waste problem.

The bill adopts a modification of early national policy statements on the responsibility of each State with regard to low-level nuclear waste generated in the State. The bill would establish a policy that commercial, and I emphasize that this only applies to commercial low-level nuclear waste, low-level nuclear waste generated in a State are the subject of that State's responsibility to provide for available capacity, either within or outside the State, to dispose of such waste. The State might, for instance, enter into a compact as provided in this bill or it could make some other legally allowable arrangement with another State or group of States.

By 1986, this bill should provide the opportunity for such mechanisms to make meaningful gains in managing the Nation's low-level wastes.

I wish to reemphasize that the bill does not require that each State is required or can be required to dispose of its commercial low-level wastes physically within the State.

I feel obliged to state that I originally had strong objections to breaking out this piece of the McClure-Domenici-Jackson-Johnston printed amendment introduced on Wednesday, December 10, 1980, and appearing on page 33351 of the RECORD for that day. While I was anxious to take a positive step on the low-level waste issue, as our printed amendment would have done, I was convinced that such action had to be in the context of a comprehensive bill, policy, and program dealing with the expedited disposal of all nuclear waste, including high level, transuranic spent fuel as well as low-level wastes.

My State has been waiting patiently for 20 years to get a Federal facility on line for transuranic waste, for example, and time is wasting. The Senate passed S. 2189 on July 30, 1980, but we have been unsuccessful in getting House agreement on a bill in this Congress. Consequently, I did want to compromise one piece of the issue now and leave the rest dangling for next year or even later.

I have been persuaded by our House colleagues, including Chairman UDALL and Chairman DINGELL that we will move swiftly in the 97th Congress to move a comprehensive nuclear waste bill to enactment next year.

I also am confident that the oncoming Reagan administration and the Senate next year will give a comprehensive nuclear waste policy program and legislation the highest priority.

Consequently, I am willing now to do this much and accept those assurances of early action on away-from-reactor storage, a retrievable and managed near-surface storage facility, accelerated actions to get an operational geologic repository in the 1988 time frame, and a new affirmative policy on reprocessing.

Finally, I want to acknowledge and commend the excellent cooperation of the South Carolina delegation in pushing for and fashioning this bill. Without their tenacity and dedication, this bill would not be before the Senate today. I salute them for their fine efforts and I pledge myself to continue this cooperation in implementing the bill and in moving comprehensive nuclear waste legislation next year.

Mr. DOMENICI. Mr. President, will the Senator yield to me?

Mr. McCLURE. I yield.

Mr. DOMENICI. Mr. President, I yield myself 2 minutes.

I have been convinced also to go ahead with this piecemeal approach. I know that we need much more than merely a bill that will handle low-level nuclear wastes of the commercial type, but I understand that some of four States, in particular the State of South Carolina, has a difficult problem, and that this measure will stand on its own and will begin to implement a national plan for each State to take care of its own wastes of this type, but will permit compacts between the States, and certainly clear up some of the confusion that exists today in the individual States of this Nation.

So I have no objection. I support this measure.

I repeat what the future chairman of the Energy Committee stated here today. We both hope our counterparts in the House will start early next year with hearings on nuclear waste. This does not solve the problem. High level still has to be addressed, and many other issues.

So, with the understanding that this is just part of the solution, and since it will help get a start on the difficult problem of low level that confronts our Nation now, I support this measure and congratulate those who have worked it out.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself 3 minutes.

I rise today for the purpose of emphasizing the need for development of a comprehensive program for the regulation of low-level nuclear waste; in particular, the need for this body to enact legislation granting the authorization for States to develop regional compacts to provide for the safe disposal of these wastes.

The problems associated with low-level radioactive waste disposal in this country are becoming increasingly serious. Currently, there are but three States which operate low-level waste disposal sites: Nevada, Washington, and my State of South Carolina. Washington State has recently decided to severely restrict the amount of low-level waste it will accept in the future, while Nevada may cease to accept such waste at all. It is grossly unfair, unwise, and unacceptable to expect South Carolina to assume this disproportionate burden indefinitely. South Carolina's Governor, Richard Riley, has stated that South Carolina will not accept an unlimited amount of low-level waste in the future. If Governor Riley's statement becomes policy, the Nation will be facing a serious problem with regard to low-level waste disposal.

This points out the urgent need for interstate agreements to regulate low-level waste disposal sites. Both Chambers have now passed bills encouraging the development of such agreements or compacts to allow for the management and disposal of low-level, radioactive waste on a regional basis. Both bills also provide that, once Congress has approved a regional compact, nuclear waste generated in States which are not a member of the compact may be excluded from burial within the compact boundaries. This exclusivity power is an essential feature of any workable regional compact plan for the safe disposal of low-level nuclear wastes.

I wish to leave the responsibility for handling this problem where it rightfully belongs—with the individual States. At the same time, the seriousness of the problem on a national basis demands that the States be encouraged to promptly cooperate among themselves, a result that will not be forthcoming if the Congress fails to enact this legislation now.

I would hope, Mr. President, that Congress will proceed to enact this vital compromise legislation in this session. Any delay will only further imperil future efforts to formulate reasonable, safe, and orderly methods for the disposal of low-level nuclear wastes.

Mr. President, in closing, I want to say that our distinguished Congressman from our congressional district, the 3d Congressional District in South Carolina, has been very active in this matter, and we have worked together on it. I am very pleased it will now come to successful conclusion.

UP AMENDMENT NO. 1953

Mr. McCLURE. Mr. President, there is an amendment to the pending measure. I move that the Senator concur in the amendment of the House with an amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) for himself, Mr. Jackson, Mr. McClure, Mr. Domenici, and Mr. Thurmond proposes an unprinted amendment numbered 1953 to the House amendment to the Senate amendment to S. 2189.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. Riegle). Without objection, it is so ordered.

The amendment is as follows:

SHORT TITLE

Section 1. This Act may be cited as the "Low-Level Radioactive Waste Policy Act".

DEFINITIONS

Sec. 2. As used in this Act—

(1) The term "disposal" means the long-term isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission under applicable law.

(2) The term "low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(3) The term "State" means any State of the United States, the District of Columbia, and, subject to the provisions of Public Law 96–205, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(4) For purposes of this Act the term "atomic energy defense activities of the Secretary" includes those activities and facilities of the Department of Energy carrying out the function of (i) Naval reactors development and propulsion, (ii) weapons activities, verification and control technology, (iii) defense materials production, (iv) inertial confinement fusion, (v) defense waste management and (vi) defense nuclear materials, (vii) defense security and safeguards, (all as included in the Department of Energy appropriations account in any fiscal year for atomic energy defense activities).

GENERAL PROVISIONS

Sec. 3(a). Compacts established under this Act or actions taken under such compacts shall not be applicable to the transportation, management, or disposal of low-level radioactive waste from atomic energy defense activities of the Secretary or Federal research and development activities.

(b) Any facility established or operated exclusively for the disposal of low-level radioactive waste produced by atomic energy defense activities of the Secretary or Federal research and development activities shall not be subject to compacts established under this Act or actions taken under such compacts.

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

Sec. 4. (a)(1) It is the policy of the Federal Government that—

(A) each State is responsible for providing for the availability of capacity either within or outside the State for the disposal of low-level radioactive waste generated within its borders except for waste generated as a result of defense activities of the Secretary or Federal research and development activities; and

(B) low-level radioactive waste can be most safely and efficiently managed on a regional basis.

(2)(A) To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

(B) A compact entered into under subparagraph (A) shall not take effect until the Congress has by law consented to the compact. Each such compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent. After January 1, 1986, any such compact may restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the region.

(b)(1) In order to assist the States in carrying out the policy set forth in subsection (a)(1), the Secretary shall prepare and submit to Congress and to each of the States within 120 days after the date of the enactment of this Act a report which—

(A) defines the disposal capacity needed for present and future low-level radioactive waste on a regional basis;

(B) defines the status of all commercial low-level radioactive waste disposal sites and includes an evaluation of the license status of each such site, the state of operation of each site, including operating history, an analysis of the adequacy of disposal technology employed at each site to contain low-level radioactive wastes for their hazardous lifetimes, and such recommendations as the Secretary considers appropriate to assure protection of the public health and safety from wastes transported to such sites;

(C) evaluates the transportation requirements on a regional basis and in comparison with performance of present transportation practices for the shipment of low-level radioactive wastes, including an inventory of types and quantities of low-level wastes, and evaluation of shipment requirements for each type of waste and an evaluation of the ability of generators, shippers, and carriers to meet such requirements; and

(D) evaluates the capability of the low-level radioactive waste disposal facilities owned and operated by the Department of Energy to provide interim storage for commercially generated low-level waste and estimates the costs associated with such interim storage.

(2) In carrying out this subsection, the Secretary shall consult with the Governors of the States, the Nuclear Regulatory Commission, the Environmental Protection Agency, the United States Geological Survey, and the Secretary of Transportation, and such other agencies and departments as he finds appropriate.

The long title of the act is amended to read as follows:

"To set forth a Federal policy for the disposal of low-level radioactive wastes, and for other purposes."

● Mr. JACKSON. Mr. President, I believe that the enactment of legislation on low-level radioactive waste is too important to await enactment of a comprehensive nuclear waste policy dealing with the various forms of radioactive waste and spent fuel from activities other than atomic energy defense activities. While I believe we should have completed legislative action on away-from-reactor storage and on long-term disposal of high-level waste this year, an impasse with various Members of both Houses over the scope of such a comprehensive bill has prevented final action. Thus, I urge the adoption of this low-level radioactive waste legislation without withdrawing my support for the early enactment of other critical elements on nuclear waste policy legislation in the next Congress.

This legislation has been carefully drawn to insure that the States by compact will not be empowered to affect the atomic energy defense activities of the Secretary and the research and development activities of the Secretary of Energy and other Federal departments and agencies by restricting from such States the transportation, management, or disposal of wastes from such activities.

The definition of atomic energy defense activities was broadly defined and research and development activities was left undefined to provide an exemption from State compacts for low-level radioactive waste activities and such waste resulting from activities by the Secretary of the Department of Eenrgy reservations, such as the Hanford and Savannah River reservations.

I wish to commend Senators Hollings and Thurmond and Congressman Derrick for their strong support for gaining passage of this legislation. I look forward to working with them next year to achieve action on the remainder of the comprehensive nuclear waste policy which we will address again next year.●

Mr. McCLURE. Mr. President, does the amendment show as cosponsors Senator Robert C. Byrd, Senator McClure, Senator Domenici, Senator Jackson, and Senator Thurmond?

The PRESIDING OFFICER. The Chair will say at the moment it does not.

Mr. McCLURE. I ask unanimous consent that it have those cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I move that the Senate concur in the amendment of the House with the amendment of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho.

Mr. GOLDWATER. Mr. President, what does the amendment do?

Mr. METZENBAUM. Mr. President, will the Senator from Idaho yield for a question? Will the Senator from Idaho be good enough to indicate whether this is a low radioactive waste amendment which is to be substituted for the original amendment?

Mr. McCLURE. The Senator is correct. It is the one we have been discussing for the last 20 minutes.

Mr. METZENBAUM. I thank the Senator from Idaho.

The motion was agreed to.

Mr. THURMOND. Mr. President, I would like to take this opportunity to express my sincere appreciation to the leaders of the Senate for allowing this matter to come up at this time. I especially wish to thank the able Senator from Idaho (Mr. McClure) on his help and assistance in this; also the able Senator from New Mexico (Mr. Domenici), and the able Senator from Washington (Mr. Jackson) who has cooperated in this matter.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OPPOSITION TO ANY ATTEMPT BY THE SOVIET UNION TO INVADE POLAND

The **PRESIDING OFFICER.** Under the previous order, the Senate will now proceed to vote on Senate Resolution 562.

The Senate resumed the consideration of the resolution, as amended.

The **PRESIDING OFFICER.** The yeas and nays have been ordered. The question is on agreeing to the resolution. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 0, as follows:

[Rollcall Vote No. 539 Leg.]

YEAS—68

Armstrong
Baker
Bellmon
Boren
Boschwitz
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Garn
Glenn
Goldwater
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Inouye
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Pressler
Proxmire
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stevens
Stevenson
Stone
Thurmond
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—32

Baucus
Bayh
Bentsen
Biden
Bumpers
Byrd,
Harry F., Jr.
Church
Cochran
Culver
Durenberger
Ford
Gravel
Hatfield
Hollings
Huddleston
Jackson
Javits
Johnston
Kennedy
Long
McGovern
Morgan
Percy
Pryor
Ribicoff
Schweiker
Stennis
Stewart
Talmadge
Tower
Tsongas
Young

The resolution (S. Res. 562), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble is as follows:

S. RES. 562

Whereas the Polish people and government have an inherent right to manage their own affairs, free from threats of external intimidation or invasion; and

Whereas the people of Poland have expressed their determination to control their economic system, and to effect change for eocnomic and social progress; and

Whereas the expressions for such change have been through collective bargaining and have shown moderation and restraint; and

Whereas the citizens of the United States feel a strong bond of friendship with the citizens of Poland; and

Whereas the United States has traditionally supported the principles of self-government and of non-intervention in the internal affairs of other nations; and

Whereas Poland has historically played a key role in the peace and security of Europe and the world; and

Whereas respect for territorial integrity is crucial to the reduction of East-West tensions and basic to the agreements of the Conference on Security and Cooperation in Europe; and

Whereas the Soviet Union has demonstrated by its invasion and occupation of Afghanistan a pattern of disregard for sovereign rights which may portend an attempt to invade Poland; either overtly or through the guise of false invitation;

Whereas the massing of Soviet and Warsaw Pact forces on Poland's borders constitutes a clear attempt to intimidate the people and government of Poland from their determined course of moderate reform: Now therefore, be it

Resolved, that it is the sense of the Senate that it supports the President of the United States in his efforts to:

(1) communicate the firm opposition of the United States to any attempt by the Union of Soviet Socialist Republics to violate the political independence, territorial integrity, or basic sovereignty of Poland; and to

(2) pursue appropriate diplomatic initiatives to encourage other nations to affirm their support for respect of these basic principles of international relations; and to

(3) consider in cooperation with allies and friends of the United States measures to be taken jointly in the event of a military invasion of Poland by Warsaw Pact forces.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

The **PRESIDING OFFICER.** Without objection, the motion to reconsider is laid on the table.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

FARM CREDIT ACT AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. TALMADGE, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1465.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1465) entitled "An Act to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Farm Credit Act Amendments of 1980".

TITLE I—FEDERAL LAND BANKS AND ASSOCIATIONS

SEC. 101. Section 1.4 of the Farm Credit Act of 1971 is amended by—

(1) striking out in paragraph (6) "loans and" and inserting in lieu thereof "and participate in loans, make";

(2) inserting before the period at the end of paragraph (12) ", participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act, and participate with lenders which are not Farm Credit System institutions in loans that the bank is authorized to make under this title";

(3) inserting after "System" in the first sentence of paragraph (14) "or any insured State nonmember bank as defined in section 2 of the Federal Deposit Insurance Act";

(4) striking out everything after the second comma in paragraph (15) and inserting in lieu thereof "and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (i) sell to lenders which are not Farm Credit System institutions interests in loans, (ii) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (iii) make other investments."; and

(5) adding new paragraphs (22) and (23) as follows:

"(22) Accept contributions to its capital from Federal land bank associations and account therefor as authorized by the Farm Credit Administration.

"(23) As may be authorized by its board of directors and approved by the Farm Credit Administration, agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose.".

SEC. 102. Section 1.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out in subsection (b) "hypotheticated" and inserting in lieu thereof "hypothecated";

(2) striking out the first sentence of subsection (d) and inserting in lieu thereof two new sentences as follows: "Nonvoting stock may be issued to the Governor of the Farm Credit Administration, to borrowers as patronage refunds, and may also be issued to Federal land bank associations in amounts that will permit the bank to extend financial assistance to eligible persons other than farmers, ranchers, and producers or harvesters of aquatic products. Nonvoting stock also may be issued to and shall be retired for other Farm Credit System institutions as may be authorized by its board of directors and approved by the Farm Credit Administration."; and

(3) adding new subsections (f) and (g) as follows: "(f) Patronage refunds may be paid in nonvoting stock, participation certificates, allocated surplus, and other equities of the bank, or cash, or in both equities and cash, as determined by the board of the bank, to borrowers of the fiscal year for which such patronage refunds are distributed. All patronage refunds shall be paid in the proportion that the amount of interest on the loans to each borrower during the year bears to the interest on the loans of all borrowers during the year or on such other proportionate patronage basis as the Farm Credit Administration may approve.

"(g) Equities to evidence contributions to capital may be issued to Federal land bank associations when the bylaws of the bank so provide.".

SEC. 103. Section 1.6 of the Farm Credit Act of 1971 is amended to read as follows:

"SEC. 1.6. REAL ESTATE MORTGAGE LOANS.—The Federal land banks are authorized to make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products, and make continuing commitments to make such loans under specified circumstances, or extend other financial assistance of a similar nature to eligible borrowers, for a term of not less than five nor more than forty years.".

SEC. 104. Section 1.7 of the Farm Credit Act of 1971 is amended by inserting before the period in the first sentence "as provided in section 4.17 of this Act".

SEC. 105. Section 1.8 of the Farm Credit Act of 1971 is amended by striking out in clause (1) "and ranchers" and inserting in lieu thereof ", ranchers, or producers or harvesters of aquatic products".

SEC. 106. Section 1.9 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans originated by a Federal land bank or in which it participates with a lender which is not a Farm Credit System institution shall not exceed 85 per centum of the appraised value of the real estate security, or such greater amount, not to exceed 97 per centum of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration for loans guaranteed by Federal, State, or other governmental agencies, and shall be secured by first liens on interest in real estate of such classes as may be approved by the Farm Credit Administration.".

SEC. 107. Section 1.10 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans made by the Federal land banks to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directly related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products: Provided, That the applicant's operations shall supply at least 20 per centum, or such larger per centum that is required by the board of directors of the bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended.".

SEC. 108. Section 1.11 of the Farm Credit Act of 1971 is amended by inserting "and aquatic" before "operations".

SEC. 109. Section 1.12 of the Farm Credit Act of 1971 is amended by striking out the designation "(a)".

SEC. 110. Section 1.15 of the Farm Credit Act of 1971 is amended by—

(1) striking out in paragraph (13) "shall";

(2) striking out in paragraph (14) "may" the second time it appears; and

(3) adding a new paragraph (21) as follows:

"(21) Contribute to the capital of the bank.".

SEC. 111. Section 1.16 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the sixth sentence of subsection (a) "fair"; and

(2) adding a new subsection (c) as follows:

"(c) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan (1) made by a Federal land bank which it sells to a lender which is not a Farm Credit System institution, or (2) that such lender retains or acquires in participating in the loan with a Federal land bank.".

SEC. 112. Section 1.17 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the last sentence of subsection (a) "exess" and inserting in lieu thereof "excess"; and

(2) amending subsection (b) by inserting ", and pay patronage refunds, or do any of them, as provided in its by laws," after "dividends", and striking out "with" and inserting in lieu thereof "the".

SEC. 113. Section 1.18(b) of the Farm Credit Act of 1971 is amended to read as follows:

"(b) Any association may declare a dividend or dividends and pay patronage refunds, or do any of them, as provided in its bylaws, out of the whole or any part of its net earnings available therefor which remain after (1) maintenance of the reserve required in subsection (a) of this section and (2) bank approval. All patronage refunds shall be paid on the proportionate patronage basis approved by the bank. Dividends shall be noncumulative, and the rate of dividends shall be noncumulative, and the rate of dividends may be different between classes and issues of stock and participation certificates on the basis of the comparative contributions of the holders thereof to the capital or earnings of the Federal land bank by such classes and issues, but otherwise dividends shall be without preference.".

SEC. 114. Section 1.19 of the Farm Credit Act of 1971 is amended by adding at the end thereof a new sentence as follows: "As may be authorized by the bank in accordance with regulations of the Farm Credit Administration, associations also may enter into agreements wtih other Farm Credit System institutions to share loans and other losses, whether to protect against capital impairment or for any other purpose.".

SEC. 115. Section 1.20 of the Farm Credit Act of 1971 is amended by inserting after "stock" the second time it appears "or participation certificates," and inserting "or other Farm Credit System institutions" after "Administration".

TITLE II—FEDERAL INTERMEDIATE CREDIT BANKS AND PRODUCTION CREDIT ASSOCIATIONS

SEC. 201. Section 2.1 of the Farm Credit Act of 1971 is amended by—

(1) inserting after "System" in the first sentence of paragraph (12) "or any insured State nonmember bank as defined in section 2 of the Federal Deposit Insurance Act";

(2) striking out in paragraph (13) everything after "agency" the second time it appears and inserting in lieu thereof ", and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (i) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (ii) make other investments.";

(3) amending paragraph (18) to read as follows:

"(18) As may be authorized by its board of directors and approved by the Farm Credit Administration, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purposes,"; and

(4) inserting before the period at the end of paragraph (20) ", and participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act.".

SEC. 202. Section 2.2 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of the first sentence of subsection (d) ", and may be issued and, notwithstanding the provisions of subsection (g) of this section, shall be retired for other Farm Credit System institutions as may be authorized by its board of directors and approved by the Farm Credit Administration";

(2) striking out in the second and fourth paragraphs of subsection (g) "fair";

(3) striking out everything through "Governor" in subsection (h) and inserting in lieu thereof "Except with regard to stock or participation certificates held by the Governor or other Farm Credit System institutions"; and

(4) striking out in subsection (i) "fair".

SEC. 203. Section 2.3 of the Farm Credit Act of 1971 is amended to read as follows:

"SEC. 2.3. LOANS; DISCOUNTS; PARTICIPATION; LEASING.—(a) The Federal intermediate credit banks are authorized to make loans and extend other similar financial assistance to, and to discount for or purchase from—

(1) any production credit association, or

(2) any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institutions, credit union, or any association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products,

any note, draft, or other obligation with its endorsement or guarantee, the proceeds of which note, draft, or other obligation have been advanced to persons and for purposes eligible for financing by production credit associations under section 2.15(a) (1), (2), and (3) of this Act.

"(b) The Federal intermediate credit banks may participate with one or more production credit associations or intermediate credit banks in the making of loans to eligible borrowers and may participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act. The banks may own and lease or lease with option to purchase to persons eligible for assistance under this subchapter, equipment needed in the operations of such persons.

"(c) No paper shall be purchased from or discounted for, and no loans shall be made or other similar financial assistance extended by a Federal intermediate credit bank to any entity identified in subsection (a) (1) and (2) of this section if the amount of such paper added to the aggregate liabilities of such entity, whether direct or contingent (other than bona fide deposit liabilities), exceeds ten times the paid-in and unimpaired capital and surplus of such entity or (in the case of financing institutions under subsection (a) (2) of this section) the amount of such liabilities permitted under the laws of the jurisdiction creating such institution, whichever is the lesser. It shall be unlawful for any national bank which is indebted to any Federal intermediate credit bank, upon paper discounted or purchased under subsection (a) of this section, to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities direct or contingent, will exceed the limitation herein contained.

"(d) All of the loans, financial assistance, discounts, and purchases authorized by this section shall be subject to regulations of the Farm Credit Administration and shall be secured by collateral, if any, as may be required in such regulations. The regulations shall assure that such loans, financial assistance, discounts, and purchases are available on a reasonable basis to any financing institution authorized to receive such services under subsection (a) (2) of this section that (i) is significantly involved in lending for agricultural or aquatic purposes, (ii) demonstrates a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers, (iii) has limited access to national or regional capital markets, and (iv) does not use such services to expand its financing activities to persons and for purposes other than those authorized in section 2.15(a) (1), (2), and (3) of this Act. The regulations may authorize a Federal intermediate credit bank to charge reasonable fees for any commitment to extend service under this section to such a financing institution. For purposes of this subsection, a financing institution together with its subsidiaries and affiliates may be considered as one but such determination to consider such institution together with its subsidiaries and affiliates as one shall be made in the first instance by the bank and in the event of a denial by the bank of its services to a financial institution, thereafter by the Farm Credit Administration on a case-by-case basis with due regard to the total relationship of the financing institution, its subsidiaries, and affiliates.

"(e) Nothing in this section shall require termination of discount relationships in existence on the effective date of the Farm Credit Act Amendments of 1980.".

SEC. 204. Section 2.4 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans, advances, or discounts made under section 2.3 of this Act shall be repayable in not more than seven years (fifteen years if made to producers or harvesters of aquatic products) from the time they are made or discounted by the Federal intermediate credit bank, except that the district farm credit board, under regulations of the Farm Credit Administration, may approve policies permitting loans, advances, or discounts (other than those made to producers or harvesters of aquatic products) or be repayable in not more than ten years from the time they are made or discounted by such bank. Loans, advances, and discounts shall bear such rate or rates of interest or discount as the board of directors of the bank shall from time to time determine with the approval of the Farm Credit Administration as provided in section 4.17 of this Act, but the rates charged financing institutions shall be the same as those charged production credit associations.".

SEC. 205. Section 2.5 of the Farm Credit Act of 1971 is amended by inserting "and aquatic" after "on-farm".

SEC. 206. Section 2.6(c) of the Farm Credit Act of 1971 is amended by striking out "of less than 25 per centum" in the second sentence.

SEC. 207. Section 2.10 of the Farm Credit Act of 1971 is amended by striking out the comma after "States" in the first sentence and inserting in lieu thereof a period.

SEC. 208. Section 2.12 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of paragraph (11) "and buy from and sell to such banks interests in loans and in other financial assistance extended and nonvoting stock, as may be authorized by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration";

(2) inserting before the period at the end of paragraph (13) "and when authorized by the bank participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act"; and

(3) amending paragraph (15) to read as follows:

"(15) As may be authorized by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose.".

SEC. 209. Section 2.13 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of subsection (e) "or in lieu of nonvoting stock";

(2) striking out in the first sentence of subsection (f) "fair";

(3) amending the last sentence of subsection (f) to read as follows: "Notwithstanding any other provisions of this section, for a loan in which an association participates with a commercial bank or other financial institution other than a Farm Credit System institution, nonvoting stock or participation certificates may be issued to the commercial bank or other financial institution in satisfaction of the requirement that the borrower own stock or participation certificates, which requirement shall apply only to the portion of the loan which is retained by the association.";

(4) striking out in the first sentence in subsection (g) "fair";

(5) striking out everything through "Governor" in subsection (j) and inserting in lieu thereof "Except with regard to stock or participation certificates held by the Governor or other Farm Credit System institutions"; and

(6) striking out in subsection (k) "fair".

SEC. 210. Section 2.15 of the Farm Credit Act of 1971 is amended by—

(1) amending clause (1) in the first sentence of subsection (a) to read as follows: "(1) bona fide farmers and ranchers and the producers or harvesters of aquatic products, for agricultural or aquatic purposes and other requirements of such borrowers, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products: Provided, That the borrower's operations shall supply at least 20 per centum, or such larger per centum that is required by the supervising bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended,"; and

(2) inserting in subsection (b) after "Administration" in the first sentence "as provided in section 4.17 of this Act".

SEC. 211. Section 2.16 of the Farm Credit Act of 1971 is amended by inserting "and aquatic" after "on-farm".

TITLE III—BANKS FOR COOPERATIVES

SEC. 301. Section 3.1 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of paragraph (11) ", and participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act";

(2) inserting after "System" in the first sentence in paragraph (12) "or any insured State nonmember bank as defined in section 2 of the Federal Deposit Insurance Act or, to the extent necessary to facilitate transactions which may be financed under section 3.7(b) of this Act, any other financial organization, domestic or foreign, as may be authorized by its board of directors and approved by the Farm Credit Administration";

(3) amending paragraph (13) by:

(a) inserting immediately after "(13)" the designation "(A)";

(b) inserting after subparagraph (A) the following new subparagraphs (B) and (C):

"(B) As may be authorized by its board of directors and approved by the Farm Credit Administration, buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock.

"(C) As may be authorized by its board of directors and approved by the Farm Credit Administration, and solely for the purposes of obtaining credit information and other services needed to facilitate transactions which may be financed under section 3.7(b) of this Act, invest in ownership interests in foreign business entities that are principally engaged in providing credit information and performing such servicing functions for their members in connection with the members' international activities."; and

(4) adding new paragraphs (18) and (19) as follows:

"(18) As may be authorized by the board of directors and approved by the Farm Credit Administration, maintain credit balances and pay or receive fees or interest thereon, for the purpose of assisting in the transfer of funds to or from parties to transactions that may be financed under section 3.7(b) of this Act: *Providing, however,* That nothing herein shall authorize the banks for cooperatives to engage in the business of accepting domestic deposits.

"(19) As may be authorized by its board of directors and approved by the Farm Credit Administration, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose.".

SEC. 302. Section 3.3 of the Farm Credit Act of 1971 is amended by adding a new subsection (f) as follows:

"(f) Participation certificates may be issued to parties to whom voting stock may not be issued.".

SEC. 303. Section 3.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out the first three sentences and inserting in lieu thereof three new sentences as follows: "Any nonvoting stock held by the Governor of the Farm Credit Administration shall be retired to the extent required by section 4.0(b) of this Act before any other outstanding voting or nonvoting stock or participation certificates shall be retired except as may be otherwise authorized by the Farm Credit Administration. When those requirements have been satisfied, nonvoting investment stock and participation certificates may be called for retirement at par. With the approval of the issuing bank, the holder may elect not to have the called

stock or participation certificates retired in response to a call, reserving the right to have such stock or participation certificates included in the next call for retirement."; and

(2) striking out in the fourth sentence "fair book value not exceeding".

SEC. 304. Section 3.7 of the Farm Credit Act of 1971 is amended by—

(1) adding the designation "(a)" before the text, and inserting before "collateral custody" in the first sentence, "currency exchange necessary to service individual transactions that may be financed under subsection (b) of this section,", and inserting before the period at the end of the third sentence "and may make or participate in loans or commitments and extend other technical and financial assistance to other domestic parties for the acquisition of equipment and facilities to be leased to such stockholders for use in their operations in the United States"; and

(2) adding new subsections (b), (c), (d), and (e) as follows:

"(b) A bank for cooperatives is authorized to make or participate in loans and commitments to, and to extend other technical and financial assistance to (1) a domestic or foreign party with respect to its transactions with an association that is a voting stockholder of the bank for the export or import of agricultural commodities, farm supplies, or aquatic products through purchases, sales or exchanges, and (2) a domestic or foreign party in which such an association has at least the minimum ownership interest approved under regulations of the Farm Credit Administration for the purpose of facilitating the association's export or import operations of the type described in clause (1) of this subsection: *Provided,* That a bank for cooperatives determines, under regulations of the Farm Credit Administration, that the voting stockholder will benefit substantially as a result of such loan, commitment, or assistance.

"(c) Loans, commitments, and assistance authorized by subsection (b) of this section shall be extended in accordance with policies adopted by the board of directors of the bank under regulations of the Farm Credit Administration.

"(d) The regulations of the Farm Credit Administration shall, during the formulation of such regulations, closely consult on a continuing basis with the Board of Governors of the Federal Reserve System to ensure that such regulations conform to national banking policies, objectives, and limitations.

"(e) Notwithstanding any other provision of this title, the banks for cooperatives shall not make or participate in loans or commitments for the purpose of financing speculative futures by eligible borrowers in foreign currencies.".

SEC. 305. Section 3.8 of the Farm Credit Act of 1971 is amended by—

(1) in the first paragraph striking out the second comma and inserting "or aquatic" before "business";

(2) striking out in subsection (c) "or farm business services" and inserting in lieu thereof "farm or aquatic business services, or services to eligible cooperatives"; and

(3) amending subsection (d) to read as follows:

"(d) A percentage of the voting control of the association not less than 80 per centum (60 per centum (1) in the case of rural electric, telephone, public utility, and service cooperatives; (2) in the case of local farm supply cooperatives that have historically served needs of the community that would not adequately be served by other suppliers and have experienced a reduction in the percentage of farmer membership due to changed circumstances beyond their control such as, but not limited to, urbanization of the community; and (3) in the case of local farm supply cooperatives that provide or will provide needed services to a community and that are or will be in competition with a cooperative specified in paragraph (2)) or, with respect to any type of association or cooperative, such higher percentage as established by the district board, is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;".

SEC. 306. Section 3.9(a) of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof a new sentence as follows: "Each borrower entitled to hold voting stock shall, at the time a loan is made by a bank for cooperatives, own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan.".

SEC. 307. Section 3.10 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period in the first sentence of subsection (a) "as provided in section 4.17 of this Act; and

(2) striking out in the first sentence of subsection (d) "book and inserting in lieu thereof "market" and adding a new sentence as follows: "In no event shall the banks equities be retired or canceled if the retirement or cancellation would adversely affect the bank's capital structure, as determined by the Farm Credit Administration.".

SEC. 308. Section 3.11 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the second sentence of subsection (b) "of less than 25 per centum" and "of not to exceed such per centum of net savings"; and

(2) striking out the first sentence of subsection (c) and inserting in lieu thereof a new sentence as follows:

"The net savings of each district bank for cooperatives, after the earnings for the fiscal year have been applied in accordance with subsection (a) or (b) of this section, whichever is applicable, shall be paid in stock, participation certificates, or cash, or in any of them, as determined by its board, as patronage refunds to borrowers to whom such refunds are payable who are borrowers of the fiscal year for which such patronage refunds are distributed.".

TITLE IV—PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF INSTITUTIONS OF THE SYSTEM

SEC. 401. Section 4.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the first sentence "presidents of each bank and inserting in lieu thereof "president of each bank or the president's designee; and

(2) striking out in the third sentence "subcommittee's and inserting in lieu thereof "subcommittees."

SEC. 402. Section 4.10 of the Farm Credit Act of 1971 is amended by striking out "name" and inserting in lieu thereof "same".

SEC. 403. Title IV of the Farm Credit Act of 1971 is amended by adding new sections 4.17, 4.18, 4.19, and 4.20 as follows:

"SEC. 4.17. INTEREST RATES.—Interest rates on loans from institutions of the Farm Credit System shall be determined with the approval of the Farm Credit Administration as provided in this Act, notwithstanding any interest rate limitation imposed by any State constitution or statute or other laws(s) which are hereby preempted for purposes of this Act. Interest rates on loans made by agricultural credit corporations organized in conjunction with cooperative associations for the purpose of financing the ordinary crop operations of the members of such associations or other producers and eligible to discount with the Federal intermediate credit banks pursuant to section 2.3 of this Act shall be exempt from any interest rate limitation imposed by any State constitution or statute or other law(s) which are hereby preempted for purposes of this Act.

"SEC. 4.18. PARTICIPATION LOANS.—Notwithstanding any other provisions of this Act, the terms of any loan participated in by two or more Farm Credit System institutions operating under different titles of this Act, including provisions for capitalization of the portion of the loan participated in by each institution, shall be as may be agreed upon among such institutions and authorized by the Farm Credit Administration, except that for purposes of determining borrower eligibility, membership, term, amount, loan security, and purchase of stock or participation certificates by the borrower, the provisions of law applicable to the loan shall be the provisions in the title under which the institution that originates the loan operates.

"SEC. 4.19. YOUNG, BEGINNING, AND SMALL FARMERS AND RANCHERS.—

"(a) Under policies of the district board, each Federal land bank association and production credit association shall prepare a program for furnishing sound and constructive credit and related services to young, beginning, and small farmers and ranchers. Such programs shall assure that such credit and services are available in coordination with other units of the Farm Credit System serving the territory and with other governmental and private sources of credit. Each program shall be subject to review and approval by the supervising bank.

"(b) The Federal land bank and the Federal intermediate credit bank for each district shall annually obtain from associations under their supervision reports of activities under programs developed pursuant to subsection (a) of this section and progress toward program objectives. On the basis of such reports, the banks shall provide to the Farm Credit Administration a joint annual report summarizing the operations and achievements in their district under such programs.

"SEC. 4.20. TERMINATION OF PROVISIONS.—The provisions of (1) section 2.3 authorizing the Federal intermediate credit banks to lend to or discount paper for other financial institutions, and (2) section 3.7(b) authorizing the financing of certain domestic or foreign entities in connection with the import or export activities of cooperatives which are borrowers from the banks for cooperatives, shall expire on September 30, 1990, unless extended by Act of Congress prior to that date. Any contract or agreement entered into under the authority of either provision prior to its expiration shall remain in full force and effect notwithstanding such expiration.".

SEC. 404. Title IV of the Farm Credit Act of 1971 is amended by adding at the end thereof new parts D and E as follows:

"PART D—SERVICE ORGANIZATIONS

"SEC. 4.25. ESTABLISHMENT.—Any bank of the Farm Credit System, or two or more of such banks acting together, may organize a corporation or corporations for the purpose of performing functions and services for or on behalf of the organizing bank or banks that the bank or banks may perform pursuant to this Act: Provided, That a corporation so organized shall have no authority either to extend credit or provide insurance services for borrowers from Farm Credit System institutions, nor shall it have any greater authority with respect to functions and services than the organizing bank or banks possess under this Act. The organizing bank or banks shall apply for a Federal charter for the corporation by forwarding to the Governor of the Farm Credit Administration a statement of the need for the corporation and proposed articles specifying in general terms the objectives for which the corporation is formed, the powers to be exercised by it in carrying out the functions and services, and the territory it is to serve. The Governor for good cause may deny the charter applied for. Upon the approval of articles by the Governor and the issuance of a charter, the corporation shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"Sec. 4.26. Powers of the Governor.—The Governor shall have power, under rules and regulations prescribed by the Governor or by prescribing in the terms of the charter or by approval of the bylaws of the corporation, to provide for the organization of any corporation chartered under this part and the territory within which its operations may be carried on, and to direct at any time such changes in its charter as he finds necessary for the accomplishment of the purposes of this Act. The powers of the Governor to provide for the organization of any corporation chartered under this part include, but are not limited to approval of—

"(1) corporate title;

"(2) general corporate powers;

"(3) eligibility for membership on, and the powers, composition, selection, terms, and compensation of the board of directors;

"(4) classes, issuance, value, and retirement of stock;

"(5) sources of operating funds;

"(6) dissolution, liquidation, and distribution of assets on liquidation; and

"(7) application and distribution of earnings.

"Sec. 4.27. Supervision and Examination.—The corporations organized under this part shall be institutions of the Farm Credit System and shall be subject to the same supervision and examination by the Farm Credit Administration as are the organizing bank or banks under this Act.

"Sec. 4.28. State Laws.—State and other laws shall apply to corporations organized pursuant to this part to the same extent such laws would apply to the organizing bank(s) engaged in the same activity in the same jurisdiction: *Provided, however*, That to the extent that sections 1.21, 2.8, and 3.13 of this Act may exempt banks of the Farm Credit System from taxation, such exemptions, other than with respect to franchise taxes, shall not extend to corporations organized pursuant to this part.

"Part E—Sale of Insurance

"Sec. 4.29. Lines of Insurance.—(a) The regulations of the Farm Credit Administration governing financially related services that the banks and associations of the Farm Credit System may provide under sections 1.11, 1.15, 2.5, and 2.16 of this Act may authorize the sale to any member of any such bank or association, on an optional basis, of credit or term life and credit disability insurance appropriate to protect the loan commitment in the event of death or disability of the debtors and other insurance necessary to protect the member's farm or aquatic unit, but limited to, hail and multiple-peril crop insurance, title insurance, and insurance to protect the facilities and equipment of acquatic borrowers.

"(b) Such regulations shall provide that—

"(1) in any case in which insurance is required as a condition for a loan or other financial assistance from a bank or association, notice be given that it is not necessary to purchase the insurance from the bank or association and that the borrower has the option of obtaining the insurance elsewhere;

"(2) such insurance services may be offered only if—

"(i) the bank or association has the capacity to render insurance service under this Act in an effective and efficient manner;

"(ii) there exists the probability that any insurance program under this Act will generate sufficient revenue to cover all costs; and

"(iii) rendering insurance service will not have an adverse effect on the bank's or association's credit or other operations; and

"(3) no bank or association shall directly or indirectly discriminate in any manner against any agent, broker, or insurer that is not affiliated with such bank or association, or against any party who purchases insurance through any such nonaffiliated insurance agent, broker, or insurer.

"(c) Notwithstanding any provision of this section to the contrary, any bank or association that on the date of enactment of the Farm Credit Act Amendments of 1980, is offering insurance coverages not authorized by this section may continue to sell such coverages for a period of not more than one year from such date of enactment and may continue to service such coverages until their expiration.".

TITLE V—DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATON

Sec. 501. Section 5.0 of the Farm Credit Act of 1971 is amended by inserting before the period at the end of the first sentence the following: "and one of which districts may, if authorized by the Federal Farm Credit Board, include the Virgin Islands of the United States; *Provided*, That the extension of credit and other services authorized by this Act in the Virgin Islands of the United States shall be undertaken only if determined to be feasible under regulations of the Farm Credit Administration".

Sec. 502. Section 5.2 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the last sentence of subsection (b) "three" and inserting in lieu thereof "two"; and

(2) striking out in the first sentence of subsection (c) "three" and inserting in lieu thereof "two".

Sec. 503. Section 5.8(h) of the Farm Credit Act of 1971 is amended by striking out in the first sentence "the sum of $100 a day" and inserting in lieu thereof "compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5 of the United States Code".

Sec. 504. Section 5.10 of the Farm Credit Act of 1971 is amended by inserting after the second sentence a new sentence as follows: "Pursuant to a policy statement adopted by the Federal Farm Credit Board, the Governor of the Farm Credit Administration shall consult on a regular basis with the Secretary of the Treasury in connection with the exercise by the System and the Governor of the powers conferred under section 4.2 of this Act, and with the Board of Governors of the Federal Reserve System in connection with the effect of System lending activities on national monetary policy.".

Sec. 505. Section 5.15 of the Farm Credit Act of 1971 is amended by adding at the end thereof a new sentence as follows: "The Farm Credit Administration may dispose of property so acquired and any amounts collected from the disposition of such property shall be deposited in the special fund provided for in section 5.16(b) of this Act and shall be available to the Administration in the same manner and for the same purposes as the funds collected under section 5.16(a) of this Act."

Sec. 506. Section 5.17 of the Farm Credit Act of 1971 is amended by adding at the end thereof the following new clause (5) and inserting a new sentence immediately thereafter:

"(5) To sell or otherwise dispose of any interest in property leased or acquired under the foregoing if authorized by the Board.

In actions undertaken by the banks pursuant to the foregoing provisions of this section, the Farm Credit Administration may act as agent for the banks.".

Sec. 507. Section 5.18 of the Farm Credit Act of 1971 is amended by adding at the end of paragraph (3) a new sentence as follows: "The annual reports shall include a summary and analysis of the reports submitted to the Farm Credit Administration by the Federal land banks and Federal intermediate credit banks under section 4.19(b) of this Act relating to programs for serving young, beginning, and small farmers and ranchers.".

Sec. 508. Section 5.18 of the Farm Credit Act of 1971 is amended by inserting "(a)" immediately after the section designation and adding at the end thereof the following new subsections (b) and (c):

"(b)(1) At least thirty days prior to publishing any proposed regulation in the Federal Register, the Farm Credit Administration shall transmit a copy of the regulation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The Farm Credit Administration shall also transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Except as provided in paragraph (2) of this subsection, no final regulation of the Farm Credit Administration shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of the Congress are in session.

"(2) In the case of an emergency, a final regulation of the Farm Credit Administration may become effective without regard to the last sentence of paragraph (1) of this subsection if the Farm Credit Administration notifies in writing the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

"(c)(1) If there are any unresolved differences between the Farm Credit Administration and the Board of Governors of the Federal Reserve System as to whether any regulation implementing section 3.7(b) of this Act or the other provisions of title III relating to the authority under section 3.7(b) conforms to national banking policies, objectives, and limitations, simultaneously with promulgation of any such regulation under this Act, and simultaneously with promulgation of any regulation implementing section 2.3 of this Act, the Farm Credit Administration shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the regulation promulgated by the Farm Credit Administration dealing with the matter of   , which regulation was transmitted to Congress on   ; the blank spaces therein being appropriately filled.

"(2) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1).

"(3) For the purposes of paragraphs (1) and (2) of this subsection—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

"(4) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation."

SEC. 509. Title V of the Farm Credit Act of 1971 is amended by adding the following section at the end thereof:

"SEC. 5.30. GENERAL ACCOUNTING OFFICE AUDIT: REPORT TO CONGRESS.—

"(a) The Comptroller General shall conduct an evaluation of the programs and activities authorized under the 1980 amendments of this Act, and shall make an interim report to the Congress no later than December 31, 1982, and a final report to the Congress no later than December 31, 1984. The Comptroller General shall include in such evaluation the effect that this Act, as amended, will have on agricultural credit services provided by the Farm Credit System, Federal agencies, and other entities. The Comptroller General may make such interim reports to the Congress on the programs and activities under these amendments as the Comptroller General deems necessary or as requested by Members of Congress.

"(b) For the purpose of conducting program evaluations required in subsection (a) of this section, the Comptroller General or his duly authorized representatives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.".

SEC. 510. Paragraph (1) of section 1141b of title 12 of the United States Code is amended to read as follows:

"(1) shall maintain its principal office within the Washington, D.C.-Maryland-Virginia standard metropolitan statistical area, and such other offices in the United States as in its judgment are necessary".

SEC. 511. Section 3 of the Swine Health Protection Act (Public Law 96-468, approved October 17, 1980) is amended by—

(1) striking "and" at the end of clause (2);

(2) changing the period at the end of clause (3) to a semicolon and adding "and"; and

(3) inserting a new clause (4) reading as follows:

"(4) the term 'State' means the fifty States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Marianna Islands, and the territories and possessions of the United States."

● Mr. ZORINSKY. Mr. President, as we approach the end of the 96th Congress, I am anxious that the Senate take final action on S. 1465, the Farm Credit Act Amendments of 1980. This legislation will be of great benefit to U.S. farmers, and those of us on the Agriculture Committee who have worked on this legislation over the last year and a half are hopeful that we can present a bill to the President for his signature this year.

The Senate initially passed S. 1465 on July 24, 1980. The House passed S. 1465, with an amendment, on November 19, 1980. The House amendment substituted the text of H.R. 7548, as reported by the House Agriculture Committee and amended on the House floor, for the text of S. 1465, as passed by the Senate. H.R. 7548 is a companion bill to S. 1465.

The House amendment contains many provisions similar to those in the Senate-passed bill to enable the farm credit system to better serve U.S. farmers, ranchers, and aquatic producers. I ask my colleagues to accept the House amendment to S. 1465 in order that these needed new authorities can be made available to the agricultural community.

THE FARM CREDIT SYSTEM

The farm credit system is a true success story. In 1916, the Federal Farm Loan Act established the Federal land banks and their local Federal land bank associations. Since that time, the farm credit system has been expanding and changing to meet the needs of its farm and cooperative borrowers. The last major revision in the operations of the system occurred in 1971 when the Farm Credit Act of 1971 consolidated into one statute and updated the various laws relating to the farm credit system.

The farm credit system is a system that has worked well and it certainly deserves our continued support.

PROVISIONS ADDED TO THE SENATE BILL BY THE HOUSE AMENDMENT

The House amendment to S. 1465 contains several provisions that are not found in the Senate-passed bill.

The House amendment would clarify a farm credit system authority that has been the subject of much discussion and deliberation—the eligibility of financial institutions outside the farm credit system to use the discount authority of and receive other financial services from the Federal intermediate credit banks. The House amendment more precisely defines the eligibility requirements that non-farm credit system financing institutions must meet in order to be able to discount loans through and receive other financial services from the Federal intermediate credit banks.

The House amendment also includes a provision authorizing district farm credit boards to permit Federal intermediate credit banks to discount (and accept as collateral for direct loans) nonaquatic loans of production credit associations and other financing institutions with terms of up to 10 years. Under existing law, the maximum term for such loans is 7 years.

The House amendment would provide for a 10-year sunset review by Congress of the provisions of the bill relating to services for other financing institutions and bank for cooperatives export financing. Furthermore, under the House amendment, the Farm Credit Administration regulations to implement these two proposed authorities would be subject to a two-House legislative veto.

Under the House amendment, all Farm Credit Administration regulations would be required to be sent to the Agriculture Committees of Congress for review 30 days prior to their publication.

The House amendment also contains a requirement for the General Accounting Office to make a study of the implementation of the new authorities contained in S. 1465, to be completed by December 31, 1984.

CHANGE IN THE SENATE BILL MADE BY THE HOUSE AMENDMENT

Several provisions of the Senate bill were changed under the House amendment.

The Senate bill reduces—from 80 percent (70 percent in the case of utility cooperatives) to 60 percent—the percentage of voting membership of cooperatives that must be farmers in order for the cooperatives to be eligible to borrow from banks for cooperatives. The House amendment would lower the requirement to 60 percent for rural electric, utility, service, and certain local supply cooperatives, but leave the requirement at 80 percent for all other cooperatives.

The Senate bill would raise the loan limit for Federal land bank loans guaranteed by Government agencies from 85 to 100 percent of the value of the real estate securing the loan. The House amendment would raise the limit to 97 percent of the real estate security.

The Senate version of S. 1465 contains several provisions that would have granted the Farm Credit Administration more flexibility in setting salary, qualification, retirement, and classification standards for its employees and would exempt the Farm Credit Administration from Federal property, procurement, and travel requirements. These authorities are deleted by the House amendment.

The House amendment deletes the exemption from State truth-in-lending laws for farm credit system institutions that would be provided under the Senate-passed version of S. 1465.

FINANCING EXPORT TRANSACTIONS OF FARMER COOPERATIVES

It is becoming more widely recognized that agricultural exports are of vital importance to the economic well-being of U.S. farmers. Today, 1 out of every 3 acres of farmland in this country provides food and fiber for export, and $1 out of every $4 in farm income comes from foreign markets.

Increased agricultural exports mean more jobs for farmers and nonfarmers alike. The U.S. Department of Agriculture estimated in 1977 that for every $1 billion of agricultural exports, 51,700 jobs are generated in this country—21,500 in farm employment and 30,200 in off-farm employment. The Department of Agriculture estimates that a total of 1.1 million full-time civilian jobs were related to agricultural exports in 1979.

Agricultural exports benefit the Nation's economy in other ways. American farmers exported commodities valued at $40.5 billion in fiscal year 1980. This is 27 percent above the level reached in 1979. Since agricultural imports are expected to be $17.5 billion in fiscal year 1980, the U.S. agricultural trade balance in 1980 will be in surplus by about $23 billlion.

This trend is expected to continue in fiscal year 1981 when farm exports are expected to reach $45 to $50 billion and the agricultural trade surplus could reach $30 billion. No other sector of the American economy contributes as high a share as does agriculture to this Nation's position in international commerce.

U.S. farmer cooperatives, which have long played a major role in increasing farm income, have only recently begun to become involved in a major way in the export market. For example, while American farmers sell nearly 50 percent of their grain to cooperatives, cooperatives directly export less than 10 percent of the grain. One factor that has inhibited U.S. farmer cooperatives from doing more in the export field is the inability of their primary lenders, the banks for cooperatives, to provide them with necessary international financial services.

The House amendment would remedy this deficiency in the law by providing the banks for cooperatives with the authorities needed to finance the export activities of their borrower-members. The provisions of the House amendment are similar to provisions of S. 1465, as passed by the Senate.

The House amendment will not authorize banks for cooperatives to do anything that commercial banks are not already permitted to do under present law. In addition, the House amendment requires the Farm Credit Administration to insure that the export-related authorities of the banks for cooperatives are equivalent to those of commercial banks. The Farm Credit Administration would be required to consult with the Federal Reserve Board during the time regulations to implement the export financing provisions are being developed, to insure that the regulations conform to national banking policies, objectives, and regulations.

LOANS FOR PROCESSING AND MARKETING FACILITIES

In order to increase their earnings, many U.S. farmers have extended their operations beyond the initial production stage into various processing and marketing activities.

The investment required to obtain and operate processing and marketing facilities can be substantial and is increasing at an alarming rate. In order to obtain an optimal return on their investment, many farmers process or market their neighbor's production, as well as their own. This not only contributes to their net farm income, but provides a valuable service to the local agricultural community.

Both the Senate bill and the House amendment would authorize production credit associations and Federal land bank associations to extend to farmers, ranchers, and fishermen eligible to borrow from these institutions, loans for the processing and marketing of their products. To qualify for this financing, the applicant would have to provide at least 20 percent of the amount of the commodity processed or marketed, unless a higher percentage is set by the local farm credit district board. Delegating the authority to set the percentage above 20 percent will allow each district board to adapt the provision to the needs of its particular region.

COOPERATION IN AGRICULTURAL LENDING

Accompanying the technological developments in U.S. agriculture is an ever-increasing need for credit. It is estimated that total outstanding farm debt will reach $225 billion in 1985. No one lender can or should handle this huge volume of business. It is necessary for all private lenders, the farm credit system, commercial banks, insurance companies, and others, to play an expanding role in meeting this demand. And it is necessary for these lenders to cooperate in meeting this demand.

Both the Senate bill and House amendment provide new opportunities for increased cooperation between system institutions and other lenders. They would do this by—

First, strengthening the relationship between the Federal intermediate credit banks and private financing institutions;

Second, authorizing the Federal land banks to participate with lenders outside the farm credit system in making loans; and

Third, streamlining the present participation arrangement between production credit associations and lenders outside the farm credit system.

AQUACULTURE LOANS

A role for the farm credit system in meeting the credit needs of commercial fishermen was first defined in the Farm Credit Act of 1971. The role defined in that legislation was quite narrow. Only production credit associations could make aquatic loans, and then only loans with terms not exceeding 7 years.

Following the passage of the Farm Credit Act of 1971, several production credit associations in coastal areas developed expertise in aquatic lending as they became involved in loans to local fishermen.

In 1978, Congress extended the maximum authorized term for production credit association aquatic loans from 7 to 15 years. This single change in law has had a significant impact on the availability of credit to fishermen. On July 21, 1978, approximately 1,700 production credit association aquatic loans totaling more than $85 million were outstanding. By October 31 of this year, production credit associations had 3,000 outstanding aquatic loans totaling $403 million. The credit quality of these loans is considered by the Farm Credit Administration to be excellent.

While its experience with aquatic lending has been excellent, the system is unable to provide to American aquaculture the same range of credit and related services that it provides to farmers and ranchers. There is no valid economic or public policy reason for this inequity, which would be remedied under S. 1465.

Specifically, S. 1465 would:

First. Authorize Federal intermediate credit banks to discount the aquatic loans of lenders outside the farm credit system;

Second. Clarify that cooperatives solely engaged in furnishing aquatic business services are eligible to borrow from the banks for cooperatives;

Third. Allow Federal land banks to make long-term loans to producers and harvesters of aquatic products; and

Fourth. Authorize farm credit system institutions to provide borrowers, members, and applicants financially related services appropriate to their aquatic operations.

These needed changes in the authorities of the farm credit system will not only benefit the U.S. commercial fishing industry—they will benefit the Nation as a whole. The U.S. imports considerably more aquatic products than it exports. In 1979, the Nation's balance-of-trade deficit in fishery products reached $1.7 billion, even though about one-fifth of the world's fish are found in the U.S. coastal waters.

PROVISION OF INSURANCE SERVICES

I am delighted that the House Agriculture Committee clarified on pages 44 and 45 of its report on H.R. 7548 the provisions of the legislation regarding the sale of insurance by the farm credit system. I am glad that the House Agriculture Committee concurred with the position we took on the Senate floor on July 24 when S. 1465 was passed by the Senate.

The House committee report states that, under the bill, banks of the farm credit system cannot directly or indirectly underwrite insurance programs for borrowers nor can they offer services traditionally furnished by insurers to the farm credit system, except by an agreement with a private insurer. Further, the House report states that the farm credit system banks are not to underwrite insurance applications, adjust claim payments or settlements, or train and school or service adjustors or insurance agents. I support these statements concerning the intent of these provisions of the bill. The farm credit system should continue to have supervisory authority over insurance programs, but only by contracting with private insurers may the farm credit system offer the services that are traditionally furnished by insurers to the farm credit system.

Thus, the House amendment to S. 1465, as explained by the House Agriculture Committee, and the Senate debate of July 24, support the preservation for local production credit associations of the right to choose among qualified private insurers, while retaining for the farm credit system its traditional supervisory role. Under the directions provided in the House Agriculture Committee report, the farm credit system banks must approve at least two insurers and two programs in each farm credit district so as to provide the associations with a real choice. The House report also would prohibit the banks from applying coercion in favor of any particular insurer. I want to clarify that, in adopting the House amendment to S. 1465, the Senate will be adopting the House position on all of these points.

RELOCATION OF FARM CREDIT BANKS

In closing, Mr. President, I would like to comment briefly on the relocation of district farm credit banks.

It is my understanding that, under existing authority, no district bank may move its principal office from the standard metropolitan statistical area in which it is located without the approval of the Federal Farm Credit Board.

It is the expectation of the managers of the bill that the Federal Farm Credit Board would promptly notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate whenever it receives any notification of possible intent to move.

Should the board of directors of any farm credit district vote to request formal approval by the Federal Farm Credit Board of its application to relocate, the Federal Board should inform the congressional committees of the details of the proposed move prior to making a final decision.

It is the further expectation of the managers that in making its final decision on any such proposed move, the Federal Farm Credit Board will give full consideration to both the economic justification and added convenience to the member/borrowers that will result from the proposed move.

NEED FOR LEGISLATION

While there are differences between the House and Senate versions of S. 1465, no difference between the two versions is significant enough to warrant impeding the progress of this important legislation. The Governor of the Farm Credit Administration has informed me that the Federal Farm Credit Board, each district farm credit board, and the board of the central bank for cooperatives support the bill as passed by the House, and all urge its adoption by the Senate. Indeed, support for the bill, as passed by the House, is not confined to the farm credit system.

The U.S. Department of Agriculture strongly endorses the bill as does the American Farm Bureau Federation, the National Farmers Union, the National Grange, and the National Council of Farmer Cooperatives. Many major commodity groups support the House amendment, as do a large number of cooperatives. It is also actively supported by the Independent Bankers Association of America, The Western Independent Bankers, and the Independent Insurance Agents of America.

I believe this legislation is worthy of the support it enjoys and worthy of your support. The House amendment modernizes the farm credit system and provides additional opportunities for the system to serve farmers, ranchers, and producers and harvesters of aquatic products. This legislation will be implemented at no cost to the U.S. taxpayer since the farm credit system operates without the use of appropriated funds. In short, the legislation would allow our farmer-owned credit cooperatives to meet the new needs of their members in the 1980's and beyond. It is legislation that is good for farmers, ranchers, fishermen, and the Nation as a whole.

AMENDMENTS TO THE CONTINUING RESOLUTION ON APPROPRIATIONS

Mr. President, late last week, Senator BELLMON expressed his concern with the marketing and processing provisions and the export financing provisions of S. 1465 and proposed several amendments to the Farm Credit Act of 1971 to meet these concerns.

In order to prevent further delay in passing this important legislation, Senator TALMADGE and I, along with other members of the Senate Agriculture Committee, agreed to the adoption of the amendments proposed by the Senator from Oklahoma.

The amendments—placing caps on export financing and on marketing and processing loans under S. 1465, and exempting Federal land banks and Federal intermediate credit banks from liability for certain losses resulting from bank for cooperative export financing transactions—were incorporated into House Joint Resolution 637, providing for further continuing appropriations for fiscal year 1981. House Joint Resolution 637 was chosen as a vehicle for these amendments in order to avoid having a conference on S. 1465. There simply is not enough time remaining in the 96th Congress to convene a conference on S. 1465 and then have debate by both the House and the Senate on a conference report.

Although I have reservations about the need to impose these limitations on the activities of the farm credit system, I reluctantly concede the necessity of the amendments in order to assure passage of S. 1465, given the limited time remaining in the 96th Congress.

The inclusion of the amendments in House Joint Resolution 637 has already been agreed to by the committee of conference.

Mr. President, many Senators have worked diligently to bring the Farm Credit Act Amendments of 1980 to final action today. The efforts of Senator TALMADGE, chairman of the Agriculture Committee, and Senator HELMS, ranking minority member of the committee, have been invaluable. I wish to thank them, and all other members of the committee, for their work and their cooperation. Also, I extend my appreciation to Senator FORD for his successful efforts in this past week to facilitate final action on S. 1465.

Mr. President, I ask that a summary of H.R. 7548, as reported by the House Agriculture Committee, and a statement of the differences between S. 1465, as passed by the Senate, and the House amendment thereto be printed in the RECORD. The House summary of H.R. 7548 summarizes the provisions of the House amendment to S. 1465, except for three provisions added to the House amendment during the debate on S. 1465 on the floor of the House. These three provisions are—

First, the 10-year sunset provision that I discussed earlier;

Second, a requirement that the Governor of the Farm Credit Administration consult with the Secretary of the Treasury and the Board of Directors of the Federal Reserve System. This requirement is identical to a provision approved by the Senate during its debate on S. 1465; and

Third, a technical correction of a typographical error in the Swine Health Protection Act.

The material follows:

SUMMARY OF MAJOR PROVISIONS OF H.R. 7548

(As reported by the House Committee on Agriculture) *

The major provisions of H.R. 7548 would—

(1) Reduce—from 80 percent (70 percent in the case of rural utility cooperatives) to 60 percent in the case of rural utility and service cooperatives and, in limited circumstances, local farm supply cooperatives—the minimum voting control of a cooperative that must be held by farmers, ranchers, and aquatic producers or harvesters, or eligible cooperatives in order for the cooperative to be eligible for loans from a bank for cooperatives;

(2) authorize Federal land banks to make loans in excess of 85 percent—but not in excess of 97 percent—of the appraised value of the real estate security if the loans are guaranteed by Federal or other governmental agencies;

(3) authorize Federal land banks and production credit associations to make loans to finance basic processing and marketing directly related to an applicant's farm, ranch, or aquatic operation and those of other eligible farmers, ranchers, or producers or harvesters of aquatic products but only if the applicant's farming, ranching or aquatic operation supplies at least 20 percent of the amount of the commodity to be processed or marketed;

(4) authorize the banks for cooperatives to finance transactions for the exportation or importation of agricultural and aquatic products by U.S. cooperatives that are borrowers from the banks, and provide the cooperatives with other financial-type services to enable them to participate effectively in international markets for agricultural and adequate products;

(5) ensure that other financing institutions which meet criteria specified in the bill have reasonable access to the financial services of the Federal intermediate credit banks;

(6) with respect to producers and harvesters of aquatic products—

(a) authorize Federal land banks to make real estate mortgage loans to producers or harvesters of aquatic products;

(b) authorize Farm Credit System institutions to provide to borrowers, members, and applicants financial-related services appropriate to their aquatic operations;

(c) authorize Federal intermediate credit banks to discount aquatic loans of lending institutions outside the Farm Credit System; and

(d) clarify that cooperative engaged in furnishing aquatic business services are eligible to borrow from the banks for cooperatives;

(7) authorize Farm Credit System lending institutions to invest or participate in loans with other System institutions, and authorize Federal land banks to sell loans to, and participate in loans with, lending institutions outside the System;

(8) authorize any Farm Credit System institution to enter into general loss-sharing agreements with other System institutions;

(9) clarify the authority of Farm Credit System institutions to set interest rates without limitation by State law and extend a similar exemption to livestock credit corporations organized in conjunction with cooperatives and eligible to discount with Federal intermediate credit banks;

(10) specifically authorize Farm Credit System institutions to sell to their members, on an optional basis, credit or term life and credit disability insurance appropriate to protect the loan commitment, and other insurance necessary to protect the member's farm or aquatic unit, but limited to hail and

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*Excerpt from the Report of the House Committee on Agriculture on H.R. 7548, House Report No. 96-1287, 96th Cong., 2d Sess., 12-14 (1980).

multiple-peril crop insurance, title insurance, and insurance to protect the facilities and equipment of aquatic borrowers.

(11) authorize Farm Credit System banks to organize federally chartered corporations to perform services and functions (other than the extension of credit or the provision of insurance services for borrowers) that the banks are authorized to perform under the Farm Credit Act of 1971;

(12) authorize Farm Credit System institutions to extend credit and other services to persons in the Virgin Islands of the United States;

(13) require each Federal land bank association and production credit association to prepare a program for furnishing sound and constructive credit to young, beginning, and small farmers and ranchers, and require the Farm Credit Administration to report to the Congress on the activities and achievements under such programs;

(14) authorize Federal land banks and Federal land bank associations to pay patronage refunds;

(15) authorize Federal land bank associations to pay dividends to stock and participation certificate holders at rates based on the contributions of each class and issue of stock or participation certificate to the capital and earnings of the Federal land bank;

(16) authorize Federal land bank associations to contribute to the capital of Federal land banks, and authorize the banks to issue equities to evidence such contributions;

(17) authorize the district Farm Credit boards to approve policies under which loans made or discounted by the Federal intermediate credit banks (other than aquatic loans) may be repayable within 10 years, as opposed to 7 years under current law;

(18) authorize production credit associations to issue participation certificates to lending institutions outside the Farm Credit System;

(19) authorize Federal intermediate credit banks and banks for cooperatives to transfer more than 25 percent of net annual earnings to reserve or allocated surplus accounts (under existing law, there is a 25-percent upper limit on such transfers of earnings); and authorize banks for cooperatives to lend to parties to acquire facilities and equipment to be leased to eligible cooperatives: and authorize banks for cooperatives to lend to parties to acquire facilities and equipment to be leased to eligible cooperatives;

(20) with respect to any election of a Farm Credit district director, provide that the list of nominees for the position may consist of the two candidates receiving the highest number of nomination votes, rather than, as under existing law, the three candidates receiving the highest number of nomination votes;

(21) authorize presidents of Farm Credit System banks to designate persons to represent them on interbank finance committees;

(22) increase the daily rate of compensation for members of the Federal Farm Credit Board from $100 per day to the daily equivalent of the GS-18 pay rate;

(23) authorize the Farm Credit Administration and the banks of the Farm Credit System to dispose of property they are authorized to acquire under existing law;

(24) require that proposed and final regulations of the Farm Credit Administration be submitted before publication to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry, and subject to a two-House legislative veto, regulation implementing the provisions of the bill relating to the access of other financing institutions to the financial services of the Federal intermediate credit banks and, if there are unresolved differences between the Federal Reserve Board and the Farm Credit Administration, regulations implementing the provisions of the bill relating to the international financing authorities of the banks for cooperatives;

(25) direct the Comptroller General of the United States to evaluate programs and activities authorized by the bill; and

(26) permit the Farm Credit Administration to locate its principal office anywhere in the Washington metropolitan area.

DIFFERENCES BETWEEN S. 1465, AS PASSED BY THE SENATE, AND THE HOUSE AMENDMENT THERETO

DIFFERENCES AFFECTING FEDERAL LAND BANKS AND ASSOCIATIONS

(1) Required collateral on land bank loans:

Under existing law, no Federal land bank may make or participate in a loan that exceeds 85 percent of the appraised value of the real estate security for the loan. Both the Senate bill and House amendment would authorize lending in excess of the 85 percent limit for loans that are guaranteed by a govment agency.

The Senate bill would, however, establish a requirement that no such guaranteed loan could exceed 100 percent of the appraised value of the real estate security. Sec. 106.

The House amendment would establish a requirement that no such guaranteed loan could exceed 97 percent of the appraised value of the real estate security. Sec. 106.

DIFFERENCES AFFECTING FEDERAL INTERMEDIATE CREDIT BANKS AND PRODUCTION CREDIT ASSOCIATIONS

(2) Financial services provided by intermediate credit banks:

(a) Other financial institutions:

The House amendment would place certain financial institutions outside the Farm Credit System in essentially the same position as production credit associations (PCAs) with respect to their ability to borrow from, and discount commercial paper with, the Federal intermediate credit banks. The intermediate credit banks would be authorized to make loans and extend other financial assistance to such other financial institutions (OFIs) and to discount and purchase the loans of OFIs that are made for any of the purposes for which PCA loans may be made (including rural housing loans and loans to farm-related businesses).

The House amendment would require that intermediate credit bank financial services be made available on a reasonable basis to OFIs that (i) are significantly involved in lending for agricultural or aquatic purposes, (ii) demonstrate continuing need for supplementary sources of funds to meet the credit requirements of their agricultural or aquatic borrowers, (iii) have limited access to national or regional capital markets, and (iv) do not use such services to expand their financing activities to persons and for purposes other than those designated in the bill. An OFI could be considered together with its subsidiaries and affiliates as one for the purposes of this provision. Sec. 203.

The House amendment would authorize intermediate credit banks to charge reasonable fees for any commitment to provide financial services to OFIs. Sec. 203.

The Senate bill contains no comparable provisions.

(b) Limits on the provision of financial services:

The House amendment would set a uniform limit on lending with respect to all OFIs and would insert into the Farm Credit Act the same limitation on PCA indebtedness that is imposed under existing regulation.

Under existing law, no paper can be purchased from, or discounted for—

(i) any national or State bank, trust company, or savings institution if the amount of such paper will cause the aggregate liabilities of the institution to exceed the lower of the amount of such liabilities permitted it by law and twice the paid-in and unimpaired capital and surplus of the institution; or

(ii) any agricultural credit corporation if the amount of such paper will cause the aggregate liabilities of the corporation to exceed the lower of the amount of such liabilities permitted it by law and ten times the paid-in and unimpaired capital and surplus of the institution.

In addition, although existing law contains no limit on loans to OFIs and loans to, and discounting for, production credit associations, current regulations provide that the Federal intermediate credit banks may not lend to, or discount paper from, any production credit association if the amount of such paper added to the aggregate liabilities of the association exceeds ten times the paid-in and unimpaired capital and surplus of the association.

The House amendment would set uniform limits for all OFIs and extend the limits to (i) loans to, and discounting for, production credit associations and (ii) loans to OFIs. The limit of ten times paid-in and unimpaired capital and surplus for a production credit association under current regulation would be added to the law. The limit for any OFI would be the lower of ten times the paid-in and unimpaired capital and surplus or the amount of liability permitted it under law. Sec. 203.

The Senate bill contains no comparable provision.

(c) Existing discount relationships:

The House amendment provides that the provisions of the Farm Credit Act (found in section 2.3 of that Act) authorizing intermediate credit bank financial assistance to production credit associations and OFIs, as amended as described in items (a) and (b), will not require the termination of discount relationships in existence on the effective date of the bill. Sec. 203.

The Senate bill contains no comparable provision.

(d) Legislative veto:

The House amendment provides for a two-House legislative veto of any regulation implementing such provisions of the Farm Credit Act (found in section 2.3 of that Act) authorizing intermediate credit bank financial assistance to production credit associations and OFIs. Sec. 507.

The Senate bill contains no comparable provision.

(3) Intermediate-term loans:

The House amendment would authorize district farm credit boards to permit the Federal intermediate credit banks to discount, and to accept as collateral for direct loans, nonaquatic loans made by production credit associations and OFIs repayable in not more than ten years. Sec. 204. (Under existing law, the maximum term for such loans and discounts is seven years.)

The Senate bill contains no comparable provision.

DIFFERENCES AFFECTING BANKS FOR COOPERATIVES

(4) Deposits with financial institutions:

Both the Senate bill and the House amendment would authorize banks for cooperatives to deposit securities and funds with certain domestic or foreign financial institutions.

The Senate bill would permit the banks to make deposits with any other financial institution, domestic or foreign, as may be authorized by its board of directors and approved by the Farm Credit Administration. Sec. 301(2). (This provision of the Senate bill would facilitate the implementation of the authorities that would be given to the banks for cooperatives under the bill relating to the international transactions of their cooperative stockholders.)

The House amendment would provide like authority for deposits with such institutions, but only to the extent necessary to facilitate export and import transactions of cooperatives stockholders of the banks. Sec. 301(2).

(5) Authority to buy and sell obligations:

The Senate bill would specifically authorize the banks for cooperatives to buy and sell—

(a) bankers acceptances that are obligations of any member of the Federal Reserve System, and

(b) other obligations authorized by its board of directors with approval of the Farm Credit Administration, specifically including drafts, notes, checks, loans, acceptances, account, currencies, or obligations payable in recognized currencies, originating in the ordinary course of transactions that the banks may finance under their authority to make loans. Sec. 301(3).

(These provisions of the Senate bill would facilitate the implementation of the authorities that would be given to the banks for cooperatives under the bill relating to the international transactions of their cooperative stockholders.)

The House amendment contains no comparable provision. (The Report of the House Committee on Agriculture on H.R. 7548 notes that provisions similar to those in the Senate bill were stricken from the House amendment by the Committee, not to preclude their exercise but because they were considered to be included within general authorities provided under existing law.)

(6) Investment in business entities:

Both the Senate bill and the House amendment would provide limited authority for banks for cooperatives to invest in ownership interests in certain business entities. They differ with respect to the limitations that they impose on the investment authority.

(a) Authority for investment:

The Senate bill would permit banks for cooperatives to (i) invest in ownership interests in foreign or domestic entities engaged in the business of obtaining credit information and performing financial services incidental to the financing of international transactions and (ii) make minimum contributions in foreign cooperatives. The Senate bill provides, however, that banks for cooperatives will not be authorized to invest in foreign or domestic commercial banks, directly or indirectly. Sec. 301(3).

The House amendment would permit banks for cooperatives, solely for the purpose of obtaining the credit information and other services needed to facilitate the import and export transactions of their cooperative stockholders, to invest in ownership interests only in foreign business entities and only those foreign business entities that are prinicpally engaged in providing credit information to and performing services for their members in connection with their members' international activities. Sec. 301(3).

(10) Prior consultation on regulations:

The Senate bill would require the Governor of the Farm Credit Administration to consult with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency before issuing or amending regulations concerning such investment authorities. The consultation would be to ensure that the authorities under the regulations are not greater than the authorities, direct or indirect, of banks and bank holding companies and their branches, subsidiaries, and affiliates to make such investments. Following such consultations, the Governor would be required to report to the agriculture committees of Congress on any unresolved differences among the parties to the consultations. Sec. 301(3).

The House amendment contains no comparable provision.

(7) Credit balances:

Both the Senate bill and the House amendment would authorize the banks for cooperatives to maintain credit balances.

The Senate bill would authorize the banks for cooperatives to maintain credit balances for the purpose of assisting in the transfer of funds to or from parties to transactions authorized by title III (banks for cooperatives) of the Farm Credit Act. Sec. 301(4).

The House amendment would provide similar authority for the maintenance of credit balances, but only for the purpose of assisting in the transfer of funds to or from parties to transactions that may be financed under the provisions of the Farm Credit Act relating to import and export transactions of cooperative stockholders of banks for cooperatives. The House amendment also states that banks for cooperatives may not engage in the business of accepting domestic deposits under this authority. Sec. 301(4).

(8) Bank for cooperatives loans to entities other than eligible cooperatives:

(a) Financing of facilities and equipment for lease to cooperatives:

Both the Senate bill and the House amendment would provide a limited exception to the restrictions on eligibility for bank for cooperatives lending to permit extensions of credit to certain entities to finance property to be leased to eligible cooperatives.

The Senate bill would authorize the banks for cooperatives to extend credit and services to a domestic or foreign party that engages in transactions with a cooperative stockholder of a bank for cooperatives for the lease of real or personal property. Sec. 304(2).

The House amendment would authorize the banks for cooperatives to extend credit and services to domestic parties for the acquisition of equipment and facilities to be leased to cooperative stockholders for use in their operations in the United States. Sec. 304(2).

(b) Loans to entities in which eligible cooperatives own an interest:

Both the Senate bill and the House amendment would permit banks for coopereratives to extend credit services to domestic or foreign parties in which cooperative stockholders of the banks have at least the minimum ownership interest approved under regulations of the Farm Credit Administration.

The Senate bill provides that such credit or services could be extended in connection with a transaction of a cooperative that is a voting stockholder of the bank for cooperatives. Sec. 304(2).

The House amendment provides that such credit or services could be extended only for the purpose of facilitating such cooperative's operations for the export or import of agricultural commodities, farm supplies, or aquatic products through purchases, sales, or exchanges. Sec. 304(2).

(c) Loans to entities involved in transactions with eligible cooperatives:

Both the Senate bill and the House amendment would permit banks for cooperatives, in connection with transactions of the cooperative stockholders of the banks for cooperatives, to extend credit and services to domestic or foreign parties that engage in transactions with such cooperatives for the purchase, sale, or exchange of agricultural commodities, farm supplies, or aquatic products.

The House amendment would limit such financing to the transactions between the domestic or foreign party and the cooperative stockholder of the bank for the export or import of such goods. Sec. 304(2).

The Senate bill does not contain a comparable limitation.

(d) Prior consultation:

The Senate bill would require the Governor of the Farm Credit Administration to consult with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency before issuing or amending regulations concerning authorities of the banks for cooperatives to provide financial assistance to parties other than eligible cooperatives in connection with the international activities of eligible cooperatives (including the authority to finance leases of facilities and equipment described in item (a)). The consultation would be to ensure that the authorities under the regulations are no greater than the authorities, direct or indirect, of banks and bank holdings companies and their branches, subsidiaries, and affiliates to provide such assistance. Following such consultations, the Governor would be required to report to the agriculture committees of Congress on any unresolved differences among the parties to the consultations. Sec. 304(2).

The House amendment provides that the regulations of the Farm Credit Administration implementing authorities of the banks for cooperatives to provide financial assistance to parties other than eligible cooperatives in connection with the international activities of eligible cooperatives (not including the authority to finance leases described in item (a)) may not confer on banks for cooperatives powers and authorities greater than those specified in title III (banks for cooperatives) of the Farm Credit Act. The House amendment would require the Farm Credit Administration, during the formulation of such regulations, to consult closely, and on a continuing basis, with the Board of Governors of the Federal Reserve System to ensure that the regulations conform to national banking policies, objectives, and limitations. Sec. 304(2).

(e) Legislative veto:

The House amendment provides authority for a two-House legislative veto of Farm Credit Administration regulations implementing authorities for the banks for cooperatives to provide financial assistance to parties other than eligible cooperatives in connection with the international activities of eligible cooperatives (not including the authority to finance leases described in item (a)). The legislative veto provisions would apply to regulations with respect to which there are unresolved differences between the Farm Credit Administration and the Board of Governors of the Federal Reserve System as to whether the regulations conform to national banking policies, objectives, and limitations. Sec. 507.

The Senate bill contains no comparable provisions.

(f) Financing of speculation in foreign currency futures:

The House amendment would prohibit the banks for cooperatives from making or participating in loans or commitments for the purpose of financing speculative futures transactions in foreign currencies by eligible borrowers. Sec. 304(2).

The Senate bill contains no comparable provision.

(9) Eligibility of cooperatives for bank for cooperatives financial services: cooperative voting control:

Under existing law, in order for a cooperative to be eligible to borrow from a bank for cooperatives, not less than 80 percent (70 percent in the case of rural electric, telephone, and public utility cooperatives) of its voting control, or such higher percentage as may be established by the district board, must be held by farmers, producers, or harvesters of aquatic products, or eligible cooperatives.

Under the Senate bill, the minimum percentage of voting control required would be reduced to 60 percent for all cooperatives (including rural electric, telephone, and public utility cooperatives). Sec. 305(3).

Under the House amendment, the minimum required percentage would be reduced to 60 percent (a) in the case of rural electric, telephone, public utility, and service cooperatives; (b) in the case of local farm supply cooperatives that historically have served needs of the community that would not adequately be served by other suppliers and that have experienced a reduction in the percentage of farmer membership due to changed circumstances beyond their control such as, but not limited to, urbanization of the community; and (c) in the case of local farm supply cooperatives that provide or will provide needed services to a community and that are or will be in competition with a cooperative described in clause (b). Sec. 305(3).

DIFFERENCES AFFECTING MORE THAN ONE BRANCH OF THE FARM CREDIT SYSTEM

(10) Deposits with FDIC insured banks:

Under existing law, Federal land banks, Federal intermediate credit banks, and banks for cooperatives may deposit their securities and funds with member banks of the Federal Reserve System.

The House amendment would authorize land banks, intermediate credit banks, and banks for cooperatives to deposit securities and funds with State banks insured under the Federal Deposit Insurance Act that are not members of the Federal Reserve System. Secs. 101(3), 201(1), and 301(2).

The Senate bill contains no comparable provisions.

(11) State truth-in-lending laws:

The Senate bill provides that, with respect to institutions of the Farm Credit System, no State may impose its truth-in-lending requirements in connection with transactions to which the Federal Truth-in-Lending Act no longer applies, e.g., transactions primarily for an agricultural purpose, which are now exempt under the Federal statute. The Senate bill would extend the same exemption to agricultural credit corporations that are organized in conjunction with cooperative associations for the purpose of financing the ordinary crop operations of members of the cooperatives or other producers and that are eligible to discount with the Federal intermediate credit banks. Sec. 403.

The House amendment contains no comparable provision.

(12) Young, beginning, and small farmers and ranchers:

The House amendment would require each Federal land bank association and production credit association, under policies of the district board, to prepare a program for furnishing sound and constructive credit and related services to young, beginning, and small farmers and ranchers. The programs would assure that such credit and services are made available in coordination with other Farm Credit System institutions and other governmental and private sources of credit. The supervising land banks and intermediate credit banks would be required to report annually to the Farm Credit Administration on activities under the programs. Sec. 403. The Farm Credit Administration would be required to submit summaries and analyses of such reports in its annual reports to Congress. Sec. 506.

The Senate bill contains no comparable provisions.

(13) Termination of OFI and certain export finance authorities:

The House amendment provides that (a) authorities of Federal intermediate credit banks to lend to or discount paper for other financial institutions, and (b) the authority of banks for cooperatives to finance otherwise ineligible domestic and foreign entities in connection with imports or exports by member stockholders of banks for cooperatives, will expire on September 30, 1990, unless extended by Act of Congress prior to that time. Sec. 403.

The Senate bill contains no comparable provision.

(14) Service corporations:

Both the Senate bill (sec. 404) and the House amendment (sec. 404) authorize banks of the Farm Credit System to organize corporations to perform service functions for the banks.

The House amendment provides that State and other laws will apply to such corporations to the same extent that they would apply to the organizing banks. The House amendment provides, however, that the provisions of the Farm Credit Act that exempt the banks from taxation will not apply (other than with respect to franchise taxes) to the corporations. Sec. 404.

The Senate bill contains no comparable provision.

DIFFERENCES AFFECTING FARM CREDIT ADMINISTRATION OPERATION AND ORGANIZATION

Compensation of the Governor of the Farm Credit Administration

(a) Salary:

The Senate bill would authorize the Federal Farm Credit Board to fix the salary of the Governor of the Farm Credit Administration at a rate not to exceed the rate of compensation for level I in the Executive Schedule. Secs. 505 and 508. (Under existing law, the rate of compensation for the Governor is set at level III of the Executive Schedule.)

The House amendment contains no comparable provision.

(b) Travel, relocation, and subsistence allowances:

The Senate bill would give the Federal Farm Credit Board authority to fix (i) allowances, or a per diem in lieu thereof, for necessary travel, relocation, and subsistence expenses of a person newly appointed as Governor incurred for himself and his immediate family and (ii) allowances for necessary travel and subsistence expenses of persons under consideration for appointment to the position of Governor that are incurred in connection with interviews requested by the Board. Sec. 505.

The House amendment contains no comparable provision.

(16) Farm Credit Administration personnel—travel, classification, and qualification:

(a) Salaries of deputy governors:

The Farm Credit Act now provides that salaries for deputy governors of the Farm Credit Administration may not exceed the maximum pay rate under the General Schedule.

The Senate bill would permit the salaries of the deputy governors to be fixed by the Federal Farm Credit Board at rates not to exceed the rate of compensation for level I in the Executive Schedule. Sec. 506.

The House amendment contains no comparable provision.

(b) Appointment of examiners and credit officers:

The Senate bill would authorize the Governor to make appointments of examiners and credit officers without regard to provisions of the competitive civil service and classification statutes, except that the maximum salary for any such position could not exceed the rate of compensation for level V of the Executive Schedule. Sec. 506.

The House amendment contains no comparable provision.

(c) Travel, relocation, and subsistence allowances:

The Senate bill would authorize the Governor, without regard to provisions of title V of the United States Code relating to travel, transportation, and subsistence expenses for Federal employees, to fix (i) allowances, or per diem in lieu thereof, for necessary travel and subsistence expenses of Farm Credit Administration employees, (ii) allowances, or per diem in lieu thereof, for necessary travel, relocation, and subsistence expenses of new appointees to the Farm Credit Administration or employees of the Administration who are transferred from one official duty station to another (and the immediate families of such employees), and (iii) allowances for necessary travel and subsistence expenses incurred by applicants for employment with the Farm Credit Administration that are incurred in connection with preemployment interviews. Sec. 506.

The House amendment contains no comparable provision.

(17) Supplemental retirement benefit program:

The Senate bill would authorize the Farm Credit Administration to establish, within limits imposed by the Federal Farm Credit Board, a retirement benefit program for certain persons employed by the Farm Credit Administration on or after the effective date of the bill. The program would apply to persons whose careers include prior service with institutions of the Farm Credit System that is not otherwise creditable service for purposes of the civil service retirement program. Any annuity provided under such program could not exceed an amount that, when added to the employee's civil service retirement annuity, equals the civil service retirement annuity to which the employee would have been entitled had such prior service been covered by the civil service retirement program; and the amount of the annuity would be reduced by the amount of any annuity or similar retirement benefit that the person receives from any Farm Credit System bank or association that formerly employed the person. The cost of such supplemental retirement program would be assessed to the Farm Credit System banks. Sec. 506.

The House amendment contains no comparable provision.

(18) Procurement and disposition of property:

The Senate bill would (a) authorize the Farm Credit Administration to acquire property and services without regard to provisions of law relating to the acquisition of property by the Federal Government and (b) authorize the disposition of property so acquired without regard to provisions of any law related to the disposal of government property. Sec. 507.

The House amendment contains no comparable provision.

(19) Transfer of sick and annual leave:

The Senate bill would permit the transfer of accrued annual and sick leave of an employee of a Farm Credit System institution who accepts a position with the Farm Credit Administration. The leave would be transferred to the employee's credit with the Farm Credit Administration on an adjusted basis under regulations of the Office of Personnel Management. Currently, sick and annual leave earned by an employee of a System institution cannot be so transferred. Sec. 509.

The House amendment contains no comparable provision.

(20) Disposition of real property:

Under existing law, the banks of the Farm Credit System are authorized to lease or acquire real property for use as quarters for the Farm Credit Administration and to perform certain other functions necessary to maintain and develop such property.

The House amendment would certify that, in addition, the Farm Credit banks may sell or otherwise dispose of any interest in such property so leased or acquired if authorized by the Federal Farm Credit Board. In addition, the House amendment would clarify that the Farm Credit Administration may act as agent for the banks in actions undertaken under this authority. Sec. 505.

The Senate bill contains no comparable provision.

(21) Transmission of proposed regulations to the agriculture committees of Congress:

The House amendment would require that all proposed Farm Credit Administration regulations (other than emergency regulations) be transmitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry at least 30 days prior to publication. The Administration would also be required to transmit copies of final regulations to the committees prior to publication. Under the House amendment, except for emergency regulations, no final regulation of the Administration would become final until 30 days after publication in the Federal Register during which either or both Houses of Congress are in session, Sec. 507.

The Senate bill contains no comparable provisions.

(22) General Accounting Office audits and reports:

The House amendment would require the Comptroller General to conduct an evaluation of the programs and activities authorized under the bill. It would require an interim report to Congress on its evaluation not later than December 31, 1982, and a final report to Congress on its evaluation not later than December 31, 1984. The House amendment would give the Comptroller General access to books, records, and documents in possession of the Farm Credit System institutions for purposes of conducting the evaluation. Sec. 508.

The Senate bill contains no comparable provisions.

(23) Farm Credit Administration headquarters:

Existing law requires that the principal office of the Farm Credit Administration be located in the District of Columbia.

The House amendment would permit the principal office of the Farm Credit Administration to be located within the Washington, D.C.-Maryland-Virginia standard metropolitan statistical area. Sec. 509.

The Senate bill contains no comparable provision.

OTHER DIFFERENCES

(24) Amendments to the Swine Health Protection Act:

The House amendment adds a definition of the term "State" to the Swine Health Protection Act. (The definition was omitted from that Act, which was enacted October 18, 1980, through a clerical error.)

The Senate bill contains no comparable provision.●

● Mr. TALMADGE. Mr. President, I urge the Senate to concur in the House amendment to S. 1465 and send this important legislation to the President for his approval.

Mr. President, last July the Senate passed S. 1465, the Farm Credit Act Amendments of 1980. The bill had been introduced by myself, by Senator ZORINSKY, and by 31 other Senators. The bill was intended to revise the statutes governing the farm credit system and allow it to adapt to the changing nature of American agriculture.

Last month, the House passed a slightly different version of the bill, making possible final action on the legislation this year. To avoid further delay, I urge the Senate to accept the House amendment.

The differences between the bill passed last month by the House and the one passed by the Senate several months ago are, for the most part, minor. In some cases, however, the House amendment is an improvement on the earlier Senate version. For example, the House amendment contains important sunset provisions and a provision for a two-House veto over certain system regulations.

THE FARM CREDIT SYSTEM

The farm credit system was established more than 50 years ago to help serve the credit needs of our Nation's farmers and ranchers. The system consists of 13 banks for cooperatives, serving the needs of rural electric and telephone cooperatives, as well as traditional farm marketing and supply cooperatives; 12 Federal land banks, providing long-term credit for real estate; and 425 production credit associations, meeting the short term credit needs of farmers and ranchers. In addition, 12 intermediate credit banks provide short and intermediate term credit to both the PCA's and to some 167 other financial institutions.

This three part system is entirely borrower funded, and receives no Federal moneys.

In the half century since the farm credit system's birth, American agriculture has undergone many changes. No longer is the small family homestead of 160 acres and a few head of cattle the typical family farm. Instead, $50,000 tractors and huge combines have replaced the horse-drawn plow and the threshing crews; 1,000 head hog confinement facilities have supplanted the hundreds of family farms raising a few hogs every summer and slaughtering them every fall.

Through these decades, the farm credit system has played an important role in helping to transform American agriculture into the most productive and efficient supplier of food and fiber in the world. The system has helped to bring center pivot irrigation to the Central Plains States, transforming dry range land into highly productive oases of corn. It has helped to bring electric power and light to farmhouses previously lit only by kerosene. And it has helped the struggling young farmer to buy his land, to grow crops and to contribute to his community.

NEED TO UPDATE THE FARM CREDIT ACT

But even though the face of rural America has changed dramatically over the past five decades, the legislation authorizing the farm credit system's operations has been only infrequently revised. The most recent amendments are nearly a decade old. In this 10-year period, the rapid metamorphosis of American agriculture has continued, and the credit needs of our country's producers have changed accordingly. It is time now that we again modify the farm credit system's authority. We must do so to allow the system to continue to play its important role in providing the credit which keeps American agriculture healthy and vital.

The Farm Credit Act Amendments of 1980, as amended by the House, contains provisions critical to achieving this goal.

EXPORT FINANCING AND OFI PROVISIONS

Both the Senate bill and House amendment would allow the banks for cooperatives to provide credit and related services to their cooperatives for export transactions.

The House amendment also contains a provision to clarify the authority of the farm credit system to discount loans by other financial institutions. The Senate Agriculture Committee discussed this issue at length, but decided to temporarily shelve the proposal. In the months which intervened between the Senate committee's markup of the bill and consideration by the House, appropriate language to clarify the issue was drafted. This proposal, contained in the House amendment, would provide community agricultural banks greater access to the Federal intermediate credit banks' discount privileges. The proposal has the wholehearted endorsement of the Independent Bankers Association.

More Government oversight of the farm credit system is provided in the House amendment, to insure that the system does not obtain a competitive advantage over private banking institutions. Both the export financing and the OFI discount provisions will be subject to a 10-year sunset clause under the House amendment. In addition, the regulations developed under these two new authorities would be subject to a two-House congressional veto.

DIFFERENCES BETWEEN THE SENATE AND HOUSE BILLS

Several other provisions of the House amendment are more limited than those in S. 1465, as passed by the Senate.

The House amendment modifies the changes in Federal land bank loan limits proposed in the Senate bill. Under the Senate bill, Federal land banks would be authorized to lend up to 100 percent of the appraised value of the real estate security when a Government guarantee is involved. This proposal was originally intended to allow the farm credit system to more fully participate in such programs as Farmers Home Administration guaranteed farm ownership loans. Specifically, it was hoped that the new authority would be particularly helpful to young farmers. To insure that the provision is not abused, and the farm credit system does not overextend credit, however, the House amendment limits lending to 97 percent of the real estate security.

The Senate bill contains several provisions granting the Farm Credit Administration more flexibility in setting up salary, qualification, classification, and retirement systems for its employees, and exempts the Administration from Federal regulations pertaining to travel, procurement, and property. The House amendment contains none of these provisions.

The House amendment also deletes a provision of the Senate bill which would exempt farm credit system agricultural credit transactions from State truth-in-lending laws.

The House amendment contains some provisions not part of the Senate bill. The House amendment gives the farm credit district boards the authority to extend the term of loans of institutions discounting from the Federal intermediate credit banks from 7 to 10 years. The House amendment also requires that all farm credit system associations prepare programs for serving the credit needs of young, beginning, and small farmers and ranchers. To insure that this requirement is being met, the Farm Credit Administration would include a summary of such programs in its annual report to Congress.

When S. 1465 was considered by the Senate in July, Senator PROXMIRE, chairman of the Committee on Banking, Housing, and Urban Affairs, offered an amendment designed to insure that the farm credit system consulted with the Secretary of the Treasury and the Federal Reserve. That amendment was accepted and became part of the Senate bill, similar language is provided in the House amendment.

NEED FOR THE FARM CREDIT AMENDMENTS OF 1980

Over the past 2 years, this Congress has spent much time and effort working on the Farm Credit Act amendments. The Subcommittee on Agricultural Credit and Rural Electrification, held hearings on the bill more than a year ago. The House Agriculture Committee has held extensive hearings, and the Senate Banking Committee has also heard testimony on the bill. The proposal has undergone the scrutiny not only of Members of Congress, but concerned farm and commodity organizations, and it has received their support.

The farm credit system has for 50 years played an important role in American agriculture. Along with the Farmers Home Administration and the private banking industry, the system has provided the credit which allows our country's farmers and ranchers to continue to plant and harvest their crops, and to raise their livestock.

In the past decade American agriculture has continued to develop and to grow stronger. The credit needs of our producers have also changed. There is a growing recognition of the importance of exports to our economy, and a desire by farmers to participate in that market. There is an increasing interest by producers in marketing and processing more of their own goods, and retaining more of their own labor's profit by doing so. And there is the encroachment of suburban neighborhoods into traditional farm land, changing the makeup of populations served by rural farm cooperatives.

If the farm credit system is to continue to play its role in supplying credit to agricultural communities, if it is to continue to do its share—the system must be allowed to adapt to the new conditions.

I am convinced that S. 1465, as amended by the House, will allow the cooperative farm credit system to do so and to serve the best interests of our Nation's agricultural communities. I urge my colleagues to agree to the House amendment.●

● Mr. HUDDLESTON. Mr. President, the farm credit system, which S. 1465 will improve, was started to assist farmers and ranchers in meeting their credit needs when access in other credit markets was insufficient.

Since its founding, the system has changed as it should, to assist agriculture in meeting its credit needs in a changing economic environment. Without this dependable source of credit, it is doubtful that American agriculture would have advanced to where it is today.

Today our farmers and ranchers feed not only the people of the United States, but multitudes around the world.

As a member of the Senate Subcommittee on Agricultural Credit and Rural Electrification, I have followed with interest the constructive role played by the farm credit system in meeting the credit needs of American farmers, ranchers, and fishermen.

I have been particularly interested in the Louisville farm credit district, comprised of the States of Indiana, Ohio, Tennessee, and my home State of Kentucky. The three banks serving the Louisville district: the Federal land bank, the Federal intermediate credit bank, and the bank for cooperatives, had in October 1980, total loans outstanding of over $8.2 billion, an increase of about 32 percent in 2 years.

These banks in conjunction with commercial banks and the Farmers Home Administration have been instrumental in the success of agriculture in Kentucky and have served farmers' credit needs well over the years.

We are now considering a bill which will allow the farm credit system to continue to help agriculture advance in the future, as it must to feed a burgeoning world population. This legislation will greatly benefit all sectors of the American agricultural industry.

The House-passed version of S. 1465 incorporates changes which would be more restrictive than the provisions passed by the Senate last summer. The banks for cooperatives' authority to finance the exports of their member cooperatives was scaled down.

Another change made by the House would limit the Federal land banks lending to no more than 97 percent of the appraised value of the real estate security, rather than 100 percent, as passed by the Senate.

Also, the voting control requirements of cooperatives to become eligible to borrow from the banks for cooperatives was changed from 60 percent for all cooperatives in the Senate bill, to 60 percent for rural utility cooperatives and certain other qualifying cooperatives, but 80 percent for remaining cooperatives.

Safeguards to insure that the authorities permitted by the bill will not be abused by the farm credit system were strengthened by the House.

Two provisions, one authorizing Federal intermediate credit banks to discount the notes of other financing institutions and the other authorizing the banks for cooperatives to finance export transactions, would be subject to a sunset review by the Congress every 10 years.

Another provision in the House bill would grant Congress the authority to utilize a two-House veto over regulations concerning these two provisions. The Farm Credit Administration would also be required to submit all regulations to the Agriculture Committee for review 30 days prior to their publication in the Federal Register.

As an additional check on the exercise of the authorities granted by S. 1465, the House voted to require the General Accounting Office to make a study on the effect of S. 1465 on agricultural credit and the availability of credit services for Congress by December 31, 1984.

If Congress uses the supervisory authorities over the farm credit system contained in S. 1465 as passed by the House, it has ample opportunity to ensure that the system follow the intent of the law and fulfill its main objective of providing credit and related services to farmer, ranchers, and producers and harvesters of aquatic products.

S. 1465 will also benefit young, beginning and other low equity farmers. Currently, Federal land banks can make loans up to 85 percent of the appraised value of the real estate security.

With the high cost of beginning a farming operation today, this amount of funding is frequently not enough.

S. 1465 adresses this problem by authorizing Federal land banks to make loans up to 97 percent of the real estate security when these loans are guaranteed by the Farmers Home Administration or another governmental unit. This provision is of great importance because the future of agriculture is dependent on improving the capability of our young people to get a start in farming.

Another provision of this bill authorizes banks for cooperatives, the principle source of credit for cooperatives, to provide export financing. This provision will assist in world market development and expanding agricultural exports.

The bill will also lower the farmer-member eligibility requirement for financing by the bank for cooperatives. At present, rural utility cooperatives are required to have at least 70 percent of their voting stock in the hands of farmers to be eligible for banks for cooperatives financing. Supply cooperatives are required to meet an 80-percent farmer voting control requirement.

The need for lowering the eligibility requirement arises from the changing population mix of rural America. The farm population has been getting smaller, but many urban residents have been moving to the country and small rural towns.

These demographic changes have created difficulties for a number of cooperatives in meeting present eligibility requirements for banks for cooperatives financing. S. 1465 appropriately addresses these problems.

This bill reduces from 70 to 60 percent the farmer control requirement for rural electric, telephone, public utility, and service cooperatives. It also lowers from 80 to 60 percent the farmer control requirement for those supply cooperatives which have had their memberships affected by an increase in the percentage of nonfarmers in the communities they serve.

S. 1465 will also permit Federal land banks and PCA's to finance processing and marketing operations of their member-borrowers. Currently, these associations can finance processing and marketing operations as long as the borrower provides more than 50 percent of the throughput.

Many farmers have recognized a need to maximize the efficiency of their marketing and processing operations by making these services available to neighboring farmers.

This provision will assist farmers by requiring them to provide at least 20 percent of the product to be marketed or processed.

The U.S. commercial fishing industry will also benefit through passage of the Farm Credit Act Amendments of 1980.

Three provisions of this bill will expand the farm credit system's scope of service to commercial fisherman:

First, it will allow Federal land banks to make long-term estate loans to producers and harvesters of aquatic products. This new authority will extend the land banks' long-term credit service to dockside and other facilities necessary for efficient operations.

Second, the bill clarifies that cooperatives solely engaged in furnishing aquatic business services to fisherman are eligible to borrow from a bank for cooperatives.

Third, Federal intermediate credit banks will be authorized to discount the aquatic loans of other financing institutions. This would be especially beneficial to commercial banks in times of tight money or when high loan to deposit ratios cause a curtailment in lending.

Finally, S. 1465 will allow the farm credit system and the commercial banking industry to work together more effectively in meeting the increasing credit demands of agriculture.

The bill more clearly defines the rules for financial institutions other than production credit associations to discount agricultural loans with the Federal intermediate credit banks.

Moreover, the bill will improve the participation program between PCA's and commercial banks. It also authorizes Federal land banks to participate in loans of commercial banks.

The Farm Credit Act Amendments of 1980 will greatly benefit American agriculture. It is important legislation that is needed now and for the future.

I support its adoption.●

● Mr. PRYOR. Mr. President, at this time, I would like to express my strong support for S. 1465, the Farm Credit Act Amendments of 1980. S. 1465 is a major piece of farm legislation, which deserves immediate passage. S. 1465 will amend the Farm Credit Act of 1971 to update and improve the operation of the farm credit system. These amendments will expand the ability of the farm credit institutions to serve the credit and related needs of their member-borrowers. S. 1465 will insure that the farm credit system continues to play its progressive role in American agriculture.

Use of borrowed capital by the Nation's farmers has dramatically increased over the last several decades. As farming becomes less labor intense and more capital intense, credit has become an indispensable tool for the farmer if he is to successfully realize a profit from his labors. S. 1465 will allow the farm credit institutions and commercial lenders to better serve our Nation's farmers.

The Farm Credit Amendments Act was introduced by Senator TALMADGE on July 9, 1979, and was referred to the Senate Agriculture Committee. After numerous hearings, the bill was sent to the Senate, where it was passed with amendments on July 24, 1980. The House Agriculture Committee approved this legislation by a 41 to 0 tally, and it was overwhelmingly approved by the House.

One of the major provisions of this bill will aid in the recruitment of young farmers we so desperately need by authorizing Federal land banks to make loans in excess of 85 percent of the appraised value of the real estate security. This will encourage new farmers to purchase their own land. Furthermore, S. 1465 will authorize banks for cooperatives to engage in international lending and related activities that facilitate the agricultural export transactions of U.S. farm cooperatives. This provision of the bill is designed to help expand agricultural exports.

Mr. President, our farmers are in a precarious position. The drought of this summer follows 4 short crop years. This fact, coupled with spiraling inflation in costs, has left many farmers in a credit pinch. This legislation should help our farmers to recover from the devastating losses which have characterized farming for the last 5 years. I believe that our Nation is better served by keeping our farmers producing.●

● Mr. BENTSEN. Mr. President, it is my privilege to add my voice of support for the Farm Credit Act Amendments of 1980. This bill will make needed changes in the Farm Credit Act to allow the farm credit system to continue to grow and serve the farmers and ranchers of this country as it has for over 60 years.

The farm credit system has been serving American agriculture since 1916. Started with $9 million in Federal seed money the farmers and ranchers who own and operate this system have repaid the entire Federal investment with interest, and the system is now wholly owned by the people that it serves.

The farm credit system has grown and diversified from that small beginning, as has the industry of agriculture itself. The FCS now provides more than $64 billion to farmers, ranchers, agricultural cooperatives, and now fishermen. With its direct access to the national money markets, the farm credit system assures our farmers that they will always have access to the credit which is the lifeblood of modern agriculture.

Agriculture is one of our most dynamic and productive industries. Agricultural exports are vital to the economy of the United States and to the very survival of millions of people overseas. This bill will promote these vital exports of farm commodities by allowing the farm credit system to finance agricultural cooperatives as they expand into direct export marketing of the farmer's product. Good marketing is often the difference between profit and loss in the tight cost-price squeeze which grips American agriculture today, and with one of every 3 acres now going into the export market it is very much in the best interests of the American farmer to get more involved in export marketing.

One major way in which farmers are moving into direct export marketing of grain is through their farmer-owned cooperatives. In this way the farmer can retain ownership of the grain for longer and retain a larger portion of the final sale price for himself. The importance of increasing returns to the farmer himself cannot be underestimated when we realize that even this final sales price so far this year has been below the cost of production in the case of wheat. In addition, 90 percent of the total U.S. grain trade, which is 60 percent of the world's total, is handled by only four large companies. Three of these companies are foreign owned, and the other is partially foreign owned.

In addition, Mr. President, this bill would expand the authority of the farm credit system to finance the growing aquaculture industry in the United States. Congress has already recognized the growing importance of aquaculture with the passage of the Aquaculture Act of 1980. As the first Senator to introduce legislation to promote U.S. aquaculture industry, I am pleased that the farm credit system will have broadened authority to finance this vital new industry. This is another example of the farm credit system's ability to grow and change to keep pace with the needs of its customers.

The small, independent country bank has traditionally been the heart of agricultural lending in this country. Our country bankers are irreplaceable, and they must continue to serve agriculture if our farm communities are to survive. However, these small banks are under increasing strain. They are continually buffeted by Federal regulations, the latest being a threatened reversal by the Internal Revenue Service on the tax treatment of one-bank holding companies, and they are squeezed for funds as the credit demands of agriculture outpace rural deposits. We are now facing the opportunity in the closing days of this 96th Congress to take positive steps in these problem areas for our rural communities. Our chance to cut down on the regulatory burdens will come later, as we attempt to pass a continuing resolution with a rider that would block this devastating IRS action on one-bank holding companies. Our chance to ease this pinch on loanable funds is now, since this bill would increase the cooperation between banks and the farm credit system, making it easier for country banks to make loans with and get loanable funds from the FCS.

Mr. President, this bill is a major step forward in serving the American farmer. It is a step that has been 2 years in the making as it has been considered step by step in this Congress. And it is a step that will not be taken if further amendments are added to this bill at this late hour of the 96th Congress.

I believe that American agriculture must continue to grow if our country is to prosper, and to do that it must have ready and adequate sources of credit. The farm credit system is one such source, but it has been almost a decade since its programs were updated. I believe that it is imperative that the farm credit system enter the decade of the 1980's equipped to serve the American farmer and rancher of the 1980's, and so I urge passage of this bill.●

● Mr. STEWART. Mr. President, While I support the farm credit system and realize the important role that the system plays in providing capital to farmers, ranchers, and fishermen, I must voice my concern about several provisions in the House amendment to S. 1465.

PROCESSING AND MARKETING LOANS

First, sections 107 and 210 of the House amendment authorize Federal land banks and production credit associations, respectively, to make loans to eligible borrowers to finance processing and marketing facilities or activities. There are provisos attached to these authorizations, however, to insure that the farm credit institutions remain, as the law intended, lenders to agricultural and aquatic producers only. These provisos state that such loans can be made only if the applicant shows that the applicant will provide, from his own farm or aquatic operation, at least 20 percent of the commodities to be processed or marketed through the facility or activity to be financed with the loan.

My concern is whether sections 107 and 210 of the House amendment could be used to enable the farm credit institutions to make loans to finance processing or marketing facilities operated by agribusiness companies that enter into joint ventures with farmers who meet the 20-percent requirement. I strongly believe that the farm credit system should devote its resources, as the law intends, only to the credit needs of farmers and fishermen, not to the needs of agribusiness processors and marketers.

Therefore, Mr. President, I would ask the floor manager of the bill if sections 107 and 210 of the House amendment would authorize this undesired result.

Mr. ZORINSKY. Mr. President, Senator STEWART'S concern is well taken. In fact, it is my understanding that similar concerns were voiced, and this issue discussed, when these provisions were considered by the House Agriculture Committee.

The House committee responded to the concerns and resolved the matter by including language in its committee report on the House legislation clarifying the intent of these provisions. The House report language indicates that sections 107 and 210 are not intended to authorize the undesirable result described by Senator STEWART, that is, farm credit lending for the benefit of nonfarmers.

The House committee report states:

> The Committee recognizes that the 20 percent throughput requirement in section 107 and section 210 of the bill represents a substantial reduction in the existing 50 percent throughput requirement established administratively in 1972 by the Farm Credit Administration. The Committee intends that this modification be implemented in a way that will aid and assist essentially smaller farm, ranch or aquatic units in a reasonable extension of the basic farm, ranch or aquatic operation. In implementing this authority, the banks should adopt policies which will safeguard against abuse of this authority by applicants whose basic character would be changed by the operations which would be financed for such applicants. For those operations not consistent with the intention discussed above, higher throughput requirements should be applied to the applicants. Careful application and enforcement of Farm Credit Administration regulations defining "farmers and ranchers" and "producers or harvesters of aquatic products" will be necessary to meet the Committee's concern in this regard.

Further, I can assure Senator STEWART that the managers of the bill on the part of the Senate agree 100 percent with our colleagues in the House as to the intent of these provisions.

Specifically, we do not intend that the authorities in sections 107 and 210 of the House amendment should ever be used to authorize a loan for a processing or marketing facility operated as part of an operation that is not predominantly a production operation. We do not intend that such authorities should ever be used to authorize a loan to a joint venture composed of eligible and noneligible persons if the noneligible persons exercise substantial control of the facility or activity financed by the loan.

Mr. STEWART. Mr. President, I thank Senator ZORINSKY for providing clarification of the intent of the managers of the bill with respect to sections 107 and 210 of the House amendment, and am reassured that these provisions will not result in the undesirable expansion of eligibility for farm credit financial services to the processing and marketing industries.

APPEAL RIGHTS FOR OFI'S

I have an additional concern with the House amendment to S. 1465. My concern is with section 203 of the House amendment, which establishes the framework for, and limits to, the provision of farm credit financial services to financial institutions outside the farm credit system—the so-called OFI's.

My concern is not with the very plain language of section 203 establishing eligibility criteria that lending institutions outside the system must meet in order to receive Federal intermediate credit bank services. The criteria properly limit intermediate credit bank services to lending institutions that are involved in agricultural or aquatic lending and need intermediate credit bank services to obtain funds for their agricultural or aquatic loans.

However, there are no provisions in the bill to prevent arbitrary and capricious actions by individual banks within the system in improperly denying OFI's financial services under section 203. I believe that an OFI should have the right to have reviewed by the Farm Credit Administration the decision of an individual bank if the OFI believes that it is unfairly denied access to the bank's services. I am concerned that there is no language in the bill expressly providing for such review, except with respect to the issue of whether banks together with their subsidiaries and affiliates may be considered as one.

Mr. ZORINSKY. Mr. President, again, Senator STEWART'S concern on this matter is well taken. If S. 1465 is to resolve effectively the OFI issue, it must provide the OFI's protection against arbitrary and capricious actions by individual intermediate credit banks in denying OFI's their services.

It is my belief, however, that the bill adequately addresses this issue in that the right of OFI's to Farm Credit Administration review of adverse decisions by individual banks on OFI eligibility is, I believe, inherent in the Farm Credit Act of 1971.

The functions of the Farm Credit Administration are to supervise and regulate farm credit banks and associations and implement the provisions of the Farm Credit Act of 1971, under the direction of the Federal Farm Credit Board.

Section 203 adds provisions to the 1971 act setting specific guidelines for the extension of intermediate credit bank services to OFI's. It is only by reviewing questionable decisions and taking corrective action, as necessary, that the Farm Credit Administration will be able to insure that the banks are properly implementing section 203.

To clarify the matter fully and leave no question in any one's mind on this matter, however, I will state now that it is the intent of the managers of S. 1465 that the Farm Credit Administration implement section 203 so as to provide for Farm Credit Administration review, on a case-by-case basis, of individual banks' decisions under section 203.

EXPORT FINANCING PROVISIONS

Mr. STEWART. Mr. President I have a further concern with the provisions of the House amendment authorizing banks for cooperatives to finance export transactions of eligible cooperatives.

My concern with the export financing provisions is consistent with my concern regarding some other aspects of this bill.

Very simply, I do not want large, corporate entities that are already involved in international trade to be the sole or major beneficiaries of financing from the farm credit system.

I realize that at the present time there are but a few cooperatives with the ability to handle the shipping of foreign-bound trade, and I hope that more and more cooperatives will become competitive with existing shippers. In the meantime, I would hope that the Farm Credit Administration and the banks for cooperatives would approach this new venture of export financing cautiously in an effort to insure that the available credit goes to the benefit of cooperatives seeking export markets and not simply to major shippers who do not need the farm credit system as a source of credit.

Mr. ZORINSKY. I thoroughly agree

with Senator STEWART on this issue. The farm credit system should be very cautious in the implementation of these new authorities in order to assure that they are not abused.

Certainly, it is not my intent, in urging the Senate to accept the provisions of the House bill, that the Senate authorize the farm credit system to expand its lending activities for the benefit of corporations that participate in the international grain trade. And I expect the Farm Credit Administration, in developing regulations under the export financing provisions of the bill and supervising the activities of the banks for cooperatives under such provisions, to take the steps necessary to insure that the provisions are implemented only to provide financial services for eligible cooperatives in need of financing to exploit export marketing opportunities.

Finally, I would note that one important improvement the House made to the original Senate-passed bill was to tighten considerably the provisions for congressional oversight of Farm Credit Administration operations. I believe that it is safe to say that the Farm Credit Administration will be under close scrutiny by Congress as it implements the export financing provisions and Congress will have the opportunity to take quick corrective action if the Farm Credit Administration strays from the path set for it by Congress with respect to this issue.●

● Mr. DOLE. At the end of our discussion today, I expect the Senate to approve the Farm Credit Act Amendments of 1980. I will vote for the bill because I see a need to broaden the farm credit system's ability to respond to current credit needs of farmers suffering under present economic conditions.

Many bankers in my State of Kansas have expressed their concern over several important provisions in the bill. They are worried that the "other financial institutions" provisions of section 203 and the provisions allowing the farm credit system to finance exporting will hurt them and other banks across the country. Specifically, they fear that the OFI qualification criteria will prevent too many banks from participating in the program.

My own judgment is that this will not be the case. In fact, I expect the OFI provisions to bring even more banks to the Federal Intermediate Credit Bank discount window. We now only have half a dozen OFI's in Kansas. Under this bill, even the American Bankers Association admits that 177 Kansas bankers will be eligible, and I supect that even more will qualify. It has not been the Senate's intent to allow every banker in the country access to the FICB.

Nonetheless, it is my intent that the Agriculture Committee closely watch what the Farm Credit Administration does with the authorities granted in this bill, and monitor the effect of this legislation on the banking community. The Agriculture Committees have been very conscious of the need to maintain a reasonably competitive position between the private sector and the cooperative farm credit system. This balance, over the years, has fostered constructive competition and has been a major factor in maintaining competitive interest rates for farmers and ranchers. If portions of this bill are implemented in such a way as to preclude banks from important and necessary financial markets, I would hope that the Agriculture Committee would have the wisdom to make appropriate alterations in the law. Needed changes could be made during the Congress' consideration of the farm bill next year, which could pass the Senate by July 4.

I would urge the future chairman of the Agriculture Committee to take the lead in this active oversight of these changes in the farm credit system.

Mr. ZORINSKY. It is not the intent of the Senator from Nebraska to harm the rural banker. His role in making agricultural loans continues to be crucial. As the Senate has considered this bill, it has been my intent to look closely at the effects of its provisions once they are implemented. I hope that those who will take over the committee's leadership next year take this responsibility seriously.

Mr. HELMS. The Senator from Kansas makes an important point. We have given the provisions of the farm credit bill thorough consideration, and I am comfortable with them. However, I can assure Senator DOLE and others who may be concerned with the bill's impact that I intend to engage in active oversight next year to insure that the entire agriculture financial system remains strong and healthy.●

● Mr. ARMSTRONG. Mr. President, this legislation the Senate is now considering, S. 1465, the Farm Credit Act amendments, is among the most controversial bills to be considered by the Senate this year. Opinion has been divided in the private sector banking community about the propriety and timing of this legislation, and whether it will launch the farm credit system into areas of the financial marketplace in which it does not belong. At the same time, the agricultural community believes the bill is badly needed to expand credit opportunities to the Nation's farmers.

The bill we have before us, together with the amendments added to the continuing resolution, is the product of thousands of hours of work and compromise on the part of a large number of Senators. Although I have some reservations about the bill, I will not block its passage in the closing hours of this Congress.

One reason I have chosen not to object to the further consideration of this legislation is because of a colloquy which occurred Thursday, December 11, 1980, between the chairman-designate of the Senate Banking Committee, Mr. GARN, and the chairman-designate of the Senate Agriculture Committee, Mr. HELMS. In that exchange, the new chairman of the Senate Banking Committee expressed "concerns" over the procedures followed in the consideration of this legislation. The Senator from Utah noted:

> With the passage of these Farm Credit Act Amendments, the Farm Credit System will maintain its position as a major source of agricultural credit. As a major financial institution competing with commercial banks and other depository institutions, I believe it is important that any future legislation affecting the Farm Credit System include referral, sequential or concurrent to the Banking Committee.

This request was endorsed by the Senator from North Carolina, who responded—

> That it would be his intent, as chairman to recommend to the committee that there be sequential referral in instance such as he mentioned.

I endorse this colloquy, and congratulate the two Senators for reaching this agreement. My belief is that the controversy which has been generated by this legislation will abate in the future with sequential referral of such legislation to the Senate Banking Committee.

There is no question that the farm credit system is a major force in the financial marketplace. In fact, the resources the farm credit system commands place it second only to the financial resources available to commercial banks. It is only right that both the Agriculture and Banking Committee review this legislation.●

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. TALMADGE, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Washington.

CONTINUING APPROPRIATIONS, 1981—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on House Joint Resolution 637 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk reads as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. MAGNUSON. Mr. President, this continuing resolution is a very large, complex one. This morning I placed on the desk of each Senator a copy of the conference agreement and report, and the House adopted the report just a few minutes ago, with two exceptions.

The conferees agreed that this resolution will run until June 28, 1981. That will give the next Congress time to work on both the third budget resolution and a rescission bill, if there is a need for one.

There were 148 differences—148, Mr. President. We worked all day long yesterday until late at night and the Senate worked for 2, almost 3, days, 10 hours a day. I am hoping that the Senate will adopt most of the conference report, the bulk of it, because we have to do something before Monday.

Mr. STEVENS. It expires tomorrow night.

Mr. MAGNUSON. That is right, Monday a.m. No, no, Monday is the 15th. Well, anyway, we have to do something quickly.

We met nonstop with the House for over 6 hours on this bill and, with any large and complicated bill, there are bound to be some strong differences of opinion. That is what the conferees are for—to compromise. That is the purpose of a conference.

Mr. President, this is a good bill, I think, and I intend to support it.

I yield to the Senator from Alaska.

(Mr. MITCHELL assumed the chair.)

Mr. STEVENS. Mr. President, let me say to my good friend that we have determined that I shall manage the bill on this side.

Mr. MAGNUSON. That is all right.

Mr. STEVENS. Mr. President, I join the chairman of the Appropriations Committee in his statement. There are substantial controversies concerning the conference report. I am sure they will come out here on the floor, but we do believe that this is a fair report to present to the Senate.

Mr. MAGNUSON. Mr. President, I move the adoption of the conference report. That does not preclude any amendments to the conference report.

Mr. ROBERT C. BYRD. Mr. President, I hope that the Senate will adopt the conference report. There is one matter, at least, on which I feel that the Senate will want to vote and the Senate can best do that by first adopting the conference report.

Mr. PROXMIRE. Will the Senator yield on that particular point?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. That one matter is the so-called pay cap or salary increase, is that correct?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. The way the bill came over from the House, we would have a 16⅔-percent increase, roughly $10,000, in our salaries.

Mr. MAGNUSON. Why does the Senator not want to discuss the pay cap after we adopt the conference report?

Mr. PROXMIRE. Because I want to discuss it before and I shall tell you why: If we vote on the resolution first and vote for the resolution and then the Senate votes in favor of the pay increase, some of those of us who voted for the resolution will be put in the position of having voted for a resolution which includes a pay increase. I have been through a number of campaigns now where that has been thrown up to me again and again, that I voted against the pay increase and voted for the bill on passage and it is the passage vote people talk about. That is by far the biggest issue as far as the press is concerned, as we know, remaining in the bill.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senate votes out the conference report. If the Senate rejects the conference report, that is another matter and nothing remains to be done except the Senate can message over to the House the fact that it has rejected the conference report and awaits further action by the House. Or the Senate could insist on its amendments, request a further conference, and authorize the Chair to appoint further conferees.

But when the House adopted this conference report, it discharged its conferees. So the only thing the Senate can do now if it wants to get the pay cap is to adopt the conference report and then have an amendment adopted to an amendment that is in disagreement, which will do the very thing that the Senator wants to do.

Mr. PROXMIRE. Is it not clear that the surest way is to reject the conference report?

Mr. ROBERT C. BYRD. No, the surest way is to take the approach which I am suggesting.

Mr. MAGNUSON. Mr. President, I do not think the Senator from Wisconsin wants to reject the whole conference report. I think the best way to do is to do what the Senator from West Virginia says: Adopt the conference report and then, on a motion, agree to several amendments. Any one of these amendments can be brought up and we can talk about them.

Mr. ROBERT C. BYRD. Then, if this amendment is agreed to by the Senate, the conference with the House, if the House agrees to a further conference, would focus on that one item or the items that the Senate adds by way of amendments to amendments. And the whole conference report would not have to be gone back into again.

Mr. PROXMIRE. Will the leader propose an amendment on the pay cap or will he support an amendment on the pay cap in order to restore the Senate's position to deny the pay increase?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. He will do that?

Mr. ROBERT C. BYRD. Absolutely, Mr. President. But I urge the Senate to adopt the conference report, else when it goes back to conference, the entire conference report will be back in conference again and every item that was previously at issue will be before the conference.

If we approach it the way I suggested, only those items or only the one item would then be in conference. But I can assure the Senator that the Senate will have an opportunity to vote on it.

Mr. PROXMIRE. As always, the two Senators have stated their position very clearly. I think every Senator will have to vote the way he feels is right. I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, if we reject the conference report, that conference report is dead unless the House asks for another conference or the Senate asks for another conference. If it does that, the entire conference report is in conference. The Senator does not want that.

Mr. PROXMIRE. Of course not, but the practical fact is the House will have to ask for another conference. They will not let the Government be closed down at midnight on Monday.

Mr. ROBERT C. BYRD. But the Senator wants to get to that one amendment and that is the way I suggest doing it.

Mr. MAGNUSON. As I understand it, there are only two items in disagreement between the House and the Senate. One is the pay raise and the other is the severance matter. I do not think the Senator wants to reject the whole conference report.

Mr. BAKER. Mr. President, there is going to be ample opportunity to deal with the pay cap issue. I urgently suggest that every Member vote for this conference report. It would be inconceivable to me that we go back and try to redo the whole 150 items dealt with in the conference. The majority leader and I will be on different sides on the issue of the pay cap, but no one is going to be deprived of the chance to vote on the pay cap. I heartily recommend that we go ahead and do the conference report by voice vote.

Mr. MAGNUSON. That is correct.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. METZENBAUM. Is it possible we shall not have an opportunity to make our position clear on the pay cap issue by reason of extended debate, or will there be some time limit with respect to the amendment on the pay cap issue this afternoon?

Mr. ROBERT C. BYRD. As far as I am concerned, I do not intend to say anything. I have put my statement in the RECORD. At least the Senators know what the issue is. They have debated it before.

Mr. METZENBAUM. I am worried about that fellow standing next to the majority leader, and his cohorts.

Will we have an opportunity to vote on it or will there be extended debate? Will there be a time limit so we shall all be assured of having an opportunity to vote up or down on the pay increase?

Mr. BAKER. I suggested we do it by a voice vote. That sure does not sound like a filibuster. I suggested that we do it and get on with it. A lot depends on what the majority leader expects to do with regard to the pay cap. Everybody here knows I am going to try to do something to assert a contrary position, but everybody expects we shall get to that right soon. We should get on with the business at hand.

Mr. ROBERT C. BYRD. I really do not think it will take too long.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. The yeas and nays have been requested on the conference report. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Just a minute, Mr. President. Is that the motion on adopting the conference report?

The PRESIDING OFFICER. The Senator is correct.

Mr. GOLDWATER. Mr. President, I have been trying to get recognition.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, once again, we are being faced probably the greatest hoodwink that was ever developed by the legislative body of this country.

I am not very proud that a close friend of mine was the one that dreamed this corker up.

Here we are about to give ourselves a pay raise and we are not going to have a darned thing to say about it.

I campaigned rather vigorously, for an older man, and I repeated time and time and time again that we had to start paying the piper right here in the Federal Government.

I do not call paying the piper tacking on $10,000 to our pay raise.

So I am going to vote against the conference report, even though I do not want to, but I am going to do it because I have a hunch it is going to be the only way I can go home next week with safety. Otherwise, I might wind up in Iran for Christmas.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Washington (Mr. JACKSON) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 14, nays 57, as follows:

[Rollcall Vote No. 540 Leg.]

YEAS—14

Bellmon
Byrd, Robert C.
Cochran
Cranston
Inouye
Levin
Long
Magnuson
Mathias
Melcher
Schweiker
Stevens
Stevenson
Williams

NAYS—57

Armstrong
Baker
Boren
Boschwitz
Bradley
Burdick
Cannon
Chafee
Chiles
Cohen
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Garn
Glenn
Goldwater
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Leahy
Lugar
Matsunaga
McClure
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Pressler
Proxmire
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stone
Thurmond
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—29

Baucus
Bayh
Bentsen
Biden
Bumpers
Byrd, Harry F., Jr.
Church
Culver
Durenberger
Ford
Gravel
Hatfield
Hollings
Huddleston
Jackson
Javits
Johnston
Kennedy
McGovern
Morgan
Percy
Pryor
Ribicoff
Stennis
Stewart
Talmadge
Tower
Tsongas
Young

So the conference report (H.J. Res. 637) was rejected.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

Mr. President, it is clear to me that——

Mr. HEINZ. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Tennessee.

Mr. BAKER. Mr. President, it is clear to me that if we are not very careful we are going to do what I think is an unfortunate thing, and that is to reject the work product of our conferees on this bill.

I changed my vote so that I may make a motion to reconsider, which I will do in just a moment. Before I do, Mr. President, I wish to state this:

One of these days we are going to have to face this question of how we set our salary. One of these days we are going to have to face up to the question of what we do about it because otherwise it is going to change the basic character of this body.

But it is clear that we are not going to do it here, and I do not think we should risk and jeopardize this conference report in this, I hope, the final day of this session, while we try to resolve a dilemma that has confronted the Republic since its beginning.

Mr. President, I wish my colleagues to know that my support for this and Senator STEVENS' support for this conference report and our announced opposition to an amendment in disagreement to be offered by the majority leader to restore the pay cap was simply put because the Reagan administration wanted that because the Reagan administration feels and felt, and I am sure will continue to feel, that unless they can get that pay cap lifted and break the dam on the limitation on pay for upper grades, GS-15, level 5 and above, they are going to have a tough time staffing the new administration.

Governor Reagan on yesterday indicated to me his support for this.

I have just now conveyed to Governor Reagan my estimate that it is not possible to do and, therefore, Mr. President, I wish to announce that I will join with the majority leader in offering an amendment to restore the pay cap not because I think it is the right thing to do on the merits but because I think it is the right thing to do for this conference report because we simply cannot fail to pass this.

So now, Mr. President, I move to reconsider the vote by which the conference report was rejected.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. ROBERT C. BYRD. No, he does not. He made a motion. I am sure he does not mind yielding.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, does the Senator from Tennessee wish to retain the floor?

Mr. BAKER. Mr. President, I wish to yield to the Senator from Arizona if I may.

Mr. GOLDWATER. Mr. President, I could not agree with the Senator from Tennessee more.

With the salary that we have now to offer people from around this country to come to this most expensive place in the world to live they just cannot hack it, but until we decide that the Udall method of approach to this thing is completely wrong and do away with it and allow each House to do its own judgment of its salaries we are always going to get into this predicament.

I do not think there is any legislative way that a person like myself who is opposed to a pay raise can have it properly registered or even properly rejected. Let us see what do we do. We reconsider. I think the reconsideration will pass the conference report, and then we will tack on a pay cap something like the abortion amendment on the bill that is nongermane when it gets back to the House of Representatives, so they throw it out. And what do we do?

We sit around here 4 or 5 additional days because of a piece of legislation that none of us have ever had the courage to do away with. We run into this, Mr. President, year after year after year, and I agree with my leader when he says we have to do something. But we are not going to do it when we have told the American people that we in this body have to have the courage to start cutting expenses and then within a month of the election bump our salaries $10,000. I am not saying we are not worth it. I will tell the Senate that I have people working in my business who do not do one-third the work we do who make more money. But that is beside the point.

The American public look at us, and I do not think this is any way to start a fight on inflation to say, "Oh, we have just raised our salaries," and I do not know how I can express myself any clearer. There is no legal way I can do it, and Senators know it, and we wind up with something that we want to go home, so we tack it on abortion, and finally give in.

We have had everything tacked on abortion. I am going to introduce a bill some day to prevent abortion in a bus and that ought to about do it.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate and in the gallery.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. Mr. President, the abortion issue is out of the way for this conference report. There are only two things that the Senate and the House disagree upon: severance pay and the pay raise. This is just a question of procedure. We have to adopt a conference report, and then the first item that comes up in disagreement, the Senator from West Virginia is going to offer an amendment on the pay raise. So we will have ample opportunity to express our opinion on the pay raise.

By the last vote the Senate has sent back to conference 148 items. I am not going to stand for that—148 items. I went through this for 5 long days, and we have agreed on everything. We have agreed on everything except the severance pay and the pay raise, and we will have ample opportunity to vote on the pay raise.

As a parliamentary matter, I hope the Senate votes to adopt the conference report and then take up the pay raise. I do not know why. We cannot send 148 items back to the House of Representatives tonight. I suspect they are going to go in a few minutes anyway. I do not know. They have a faculty of leaving us in the lurch.

But the only thing we are talking about is the pay raise and we will have ample opportunity to vote on the pay raise.

As a parliamentary procedure this is done all the time. We adopt the conference report, then we take up item by item. That is a sensible parliamentary procedure. Otherwise we are going to send back to the House of Representatives now 148 items, that the Senator from Wisconsin knows we laboriously worked on. We have everything done.

I am going to vote with the Senator from West Virginia. I voted in committee against lifting the pay cap. So I do not know. I hope Senators will understand the parliamentary situation and if we vote to keep the pay cap on then we send it back to the House of Representatives with that one item. We will drop the severance pay. I think we will send it back to the House of Representatives with the one item and let them work their will on it, not send back 148 other items.

I do not understand what you are thinking about. I hope you do not put that burden on me again.

Mr. STEVENS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. STEVENS. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished assistant Republican leader.

Mr. STEVENS. Mr. President, I hope the Senate will listen to the statement of the Senator from Tennessee concerning the reconsideration.

I remind the Senate that we have been through days like this before. Unfortunately, it is true since we coupled executive salaries and judicial salaries and congressional salaries, we have had this fight every 2 years. As a matter of fact, we will have it again next year probably.

For what it is worth, in the transition I will no longer be involved with the legislative appropriations, and the pay matters are before the full Committee on Governmental Affairs, so I no longer have the responsibility for trying to work out the cost-of-living adjustment or the pay raise, and I welcome that change.

The thing that disturbs me is that we are in a situation that because of the coupling of the salaries we do have a new administration coming in that is faced with the problem of filling positions in the Senior Executive Service where they are all the same compensation—six levels of Government with the same compensation.

I think it was a legitimate request of the transition team to ask us to make an attempt to lift that pay cap, and we have made that attempt, and I accept the judgment of the Senate.

I am sure the Senator from Tennessee is correct in stating that we have to accept that judgment, and the knowledge that the Senator from West Virginia will offer the amendment to restore the pay cap as an amendment to one of the amendments in disagreement I think means that he undoubtedly would prevail, and the Senator from Tennessee has indicated that he will join in that amendment, so there is no question that he will prevail.

It is is my hope though that you will listen to the Senator from Washington. The ranking Republican on our committee has now gone, he has retired; the future chairman on our side had a commitment and has left. We will be forced to go back into conference with the Members of the other body who very much wanted this pay raise, and it is going to be a very difficult time for 2 days if we go back into conference as a whole.

Some people have said, "Why did not you single out the Members of Congress and keep the pay cap on the Members of Congress and let the executive branch go free from this pay cap?"

We tried that. We tried that in the conference, and it did not work.

For your information, no matter what you do the judiciary has got their two pay raises, their cost-of-living raises. There have been three judicial decisions already that this did not apply to them, and I am certain since they have the last word in the judiciary that that cost-of-living is in effect for the judiciary. So we are really talking about what happens to the executive branch and the Congress.

I will say that you made a serious mistake. When I came here the salaries of Members of the Senate were $30,000. There had not been a cost-of-living adjustment for 16 years, and I believe there will not be another one in this body for at least 8 years to 16 years again because I do not know anyone on either side who is going to try to do what I tried to do and, very frankly, use the rules to accomplish the objectives that many of you want. Many of you have come to me and said, "Atta boy, Ted, go ahead." But when it comes right down to it you have been unwilling to vote for what you want right here.

It is not going to change until we change the law. But I know this: this Senator does not have to try again.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, a conference report cannot be amended. It can only be rejected or adopted. If it is rejected it can only go back to conference. In the event both bodies agree to have another conference, in which case all amendments that have not already been receded from by the House would again be up for negotiation.

The House has already adopted the conference report, and in so doing released its conferees.

If the Senate insists on rejecting this conference report the only things that can be done would be for the Senate to announce that fact to the House, whereupon the House could request another conference and appoint new conferees, and then the request would come back to the Senate and the Senate could accede to the request and appoint new conferees, or the Senate, in rejecting the conference report, could insist on its amendments, ask for a new conference, and authorize the Chair to appoint the new conferees on the part of the Senate.

What this means is that the Senate will still be in session Monday, maybe Tuesday, who knows how long, but the deadline for action on this conference report is midnight Monday night.

If Senators want to go over until Monday, and possibly run the risk of having a good many of the amendments thrown open again for negotiation they can do that. But, as I understand it, the Senate wants to get to a vote on the pay cap. I told the Senate originally how it could do that, but it chose to go in the opposite direction, it chose to reject the conference report.

The other thing is if the Senate wants——

Mr. PROXMIRE. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. If the Senate wants a vote on the pay cap simply follow my suggestion, and that is vote up the conference report, adopt the conference report and, as I say, the Senate can only do two things: That is, adopt the conference report or reject it. It cannot amend the conference report. But the Senate can, after adopting the conference report, vote to amend one of the amendments in disagreement, and there are several there. That is what I propose to do, amend an amendment in disagreement, tack back on the same language that Mr. SASSER had suggested in the first place, and that will give the Senate an opportunity to vote on the pay cap, and if the Senate attaches to the amendment in disagreement an amendment restoring the cap, and then asks for a conference with the House, only that item would be in conference, unless the Senate attaches other amendments to amendments in disagreement, and then they would be in conference with the House.

But the Senate conferees would not then have to go back to the House and go back to conference with everything that was initially in disagreement save those things from which the House receded and start all over again.

I assure my colleagues that this is the one feasible way to get a vote on the pay cap.

I know there are Senators who are concerned that there might be a filibuster or delayed debate on the amendment.

REQUEST FOR UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that the Senate proceed immediately to take up the first amendment in disagreement so as to allow the amendment to be offered thereto. The Senate can vote on that amendment. We could have a 10-minute time limitation if the Senate wishes, and then come back to the motion to reconsider.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I believe that the only way we can vote on the pay cap restoration first is by unanimous consent, and surely that will remove any doubt from anybody's mind and release this conference report from its hostage status on this issue.

So, Mr. President, I wish to announce I have no objection to the majority leader's request that we vote first on his amendment to an item in disagreement to restore the pay cap.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BAKER. The majority leader has the floor.

Mr. ROBERT C. BYRD. I yield.

Mr. MAGNUSON. Mr. President, if you reject the whole conference report I have no instructions on how the Senate feels on anything unless we vote on the pay cap, and then I can go back to the House and say that this is one thing which we are in disagreement on and I hope they will accept it. Otherwise, I go back with 148 amendments. I do not know which ones you are talking about.

Mr. PROXMIRE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from West Virginia has the floor.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GLENN. I would like to ask a question. What is the parliamentary procedure in the House? I was interested in the comments of the Senator from Arizona who said that if we went this route and passed this continuing resolution and then took further action this would be nongermane by House rules. Then what would happen if they rejected our disagreement? Would the continuing resolution go into effect as it is now with the pay raise and that would be the end of it or would we still have a recourse at that point?

Mr. ROBERT C. BYRD. Mr. President, I have already received assurances from the House, in the event there is any problem, that the House will not exercise that rule. I assure Senators that there is no pig in the poke; there is no legerdemain. I am trying to find a way to allow the Senate to vote on what it wants to vote on.

Mr. PROXMIRE. Mr. President, if the Senator will yield, the point raised by the Senator from Ohio is the crux of it. The majority leader said he received assurances from the House that that point will not be made. Would it be possible for one Member of the House to make this point?

Mr. ROBERT C. BYRD. Mr. President, I would hesitate to say that it is impossible for anything to happen. But I can assure the Senator that if this conference report is rejected, it is going back to the House with all of the multitudinous problems that that situation might develop.

Mr. PROXMIRE. Mr. President, we appreciate that. But is it not clear that the intent of the Senate, shown by two rollcall votes, one 2½ to 1 and one 4 to 1, that the Senate has taken an absolutely clear position against dropping the pay cap.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. PROXMIRE. Under those circumstances, then, why would it not be obvious that if we reject the conference report once again, go back to conference, appoint our conferees, they would have to appoint their conferees—they are going to. They must. They do not want the Government to grind to a halt on Monday night. There is no doubt they will do that. And then the only thing in dispute—and the odds are overwhelming that in a few minutes we could settle it because this is all that is separating us. We made our decision. We are adamant and the House would know.

Mr. ROBERT C. BYRD. Mr. President, I always listen to the Senator from Wisconsin and feel that I hear the voice of reason. But, in this instance, the Senator is, may I suggest most respectfully, wrong if he suggests that we send this conference report back to the House.

The easy thing to do is, if we get consent, to vote on this amendment up or down and then vote on the motion to reconsider and then reconsider the vote. Perhaps we could do that unanimously once this amendment is out of the way. And then the House can recede and concur in this amendment and it is all over.

Mr. PROXMIRE. Mr. President, if the unanimous-consent request suggested by the minority leader could be accepted and my good friend from Maryland would permit us to accept that, then our problems would be solved.

Mr. MAGNUSON. Mr. President, may I suggest that the House did not have a vote on the pay cap. They voice voted. I think they were hoping the Senate would accept it. But it is obvious the Senate is not going to accept it. I do not think we are going to have any trouble with the House accepting the Senate version if we can get to it.

But to go back to 148 amendments and then they will bring up everything else—we have an agreement. We have been here for days. So why does the Senator from Wisconsin insist? We can vote on the pay cap and I will take it back to the House and I am pretty sure that they will agree to keep the pay cap on, because they had nothing but a voice vote over there. The House did not want to vote on it.

Mr. BAKER. Mr. President, what is the matter before the Senate?

The PRESIDING OFFICER. The motion to reconsider made by the Senator.

Mr. ROBERT C. BYRD. Mr. President, I make one more effort, hoping that the request would be acceded to, in which event the Senate would then vote on the amendment before it votes on the motion to reconsider the vote by which the conference report was rejected. That failing, then I hope we will get on to a vote on the motion to reconsider and I hope the Senate will reconsider and vote the conference report up. Afterwards, I will then offer this amendment.

The PRESIDING OFFICER. Unanimous consent is requested. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object.

Mr. CHAFEE. Mr. President, may I ask the majority leader a question?

Mr. ROBERT C. BYRD. Yes.

Mr. CHAFEE. Mr. President, this question is directed to the majority leader. The real problem, it seems to me, is this coupling. The judiciary got theirs and it is the executive branch that needs this pay raise. Now, the legislative branch has a set procedure for receiving pay raises, the quadrennial commission that is going to report back here in January. For us to say we are refusing to face up to the issue, this is not correct. Four years ago come January we had the quadrennial commission come forward with the report and we had a record vote on this floor and we voted for the pay raise. So there is a system to take care of them.

My question to the majority leader is: Is it possible to have an amendment presented here that would retain the cap in the legislature and not have it in the executive, so that the administration can hire the people that they need to hire at the pay that they need to have to attract and, indeed, to retain the people they need? Is it possible to have that as an amendment?

Mr. ROBERT C. BYRD. Mr. President, the Senate has already voted on that question. The Senate has taken the position they should not be separate.

Mr. CHAFEE. We can change our minds. The Senator is asking us to change our minds on something that we voted on 15 minutes ago.

My question, again, is: Is it possible to have that amendment?

Mr. ROBERT C. BYRD. Again, I will not say that it is not possible. It is possible. But why raise a new question with the other body?

I think we better settle this one and get this conference report adopted so the agencies can at least pay their employees come midnight on Monday.

Mr. BAKER. Mr. President, will the Senator yield to me for a brief moment?

Mr. CHAFEE. Yes. Let me just say, we are constantly having thrown up to us about Monday, as though the whole Government is going to grind to a halt. I am not prepared to take that. If we have to settle this thing and it takes a couple of days to do so, that is all right. For other reasons, we may not want to come back. But I am not going to be put off by the fact that the whole U.S. Government is going to grind to a halt. Monday night.

Mr. BAKER. Mr. President, if the Senator will yield to me, I would like to take a brief opportunity to commend him for his unvarying stand on this issue. He has, indeed, been a leader in pointing out that we have a situation that must be addressed, particularly that linkage between legislative salaries and executive and judicial salaries.

The Senator from Rhode Island has been entirely consistent in that and I commend him for that.

But I may say—and I am sure he will understand why I say this at this moment—that today, I hope, is the last day of the session and I do not think there is any realistic chance that we can do an effective legislative overhaul of the system.

So I would say once again that either the unanimous-consent request of the majority leader will be accepted, which would permit us then to vote on his amendment to one of the items in disagreement and dispose of that as the ultimate assurance to everyone, or that we will go on and reconsider the previous vote. Then I pledge once more that I will support the amendment to be offered by the majority leader and it is going to pass. There is not going to be any filibuster. There is not going to be any difficulty that I am aware of. It will pass.

I never saw a time when the Senate had so much trouble killing a snake.

Mr. ROBERT C. BYRD. Mr. President, I agree with the Senator. The Senator could make a point of order against this amendment because it is legislation, but he is not going to do it.

Mr. BAKER. I am not going to do that. I hope no other Member will do that, as well. I think it is time to resolve this issue at this point.

We will do it again from a fresh start beginning next year and the Senator from Rhode Island will be the vanguard on that, I promise.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, would the Chair state the unanimous-consent request?

The PRESIDING OFFICER. That before the vote on the motion to reconsider the vote by which the conference report was rejected, the Senate go to the first amendment in disagreement immediately.

Mr. MATHIAS. Mr. President, further reserving the right to object, and I am very reluctant to do that. In the very few brief years that it has been my privilege to serve as a Member of this body, I do not believe that I have ever objected to a request, certainly not one by my close friend and neighbor across the Potomac, the majority leader, the distinguished Senator from West Virginia.

Mr. President, I am disturbed by this request and by this situation. We had in Maryland some years ago a very distinguished journalist whose centenary we observed this year, H. L. Mencken, the famous columnist for the Baltimore Sun. H. L. Mencken once observed in an interview that was published in a newspaper in New York that for every problem there is a solution which is simple and easy and wrong.

I think we are approaching a very difficult problem with a solution that is simple and easy and wrong.

There has been some conversation here tonight about the fact that we are trying to make it easier for the Reagan administration to attract talent of high quality into Government. I just want to say a word about the talent of high quality that is already in the Government, that is already affected by the pay cap. I am very frank to say that a good many of them live in the State of Maryland. I think somebody ought to speak up for them. Government is going to lose some of the good people. It is not only a question of not getting some of the good, new people, but we are going to lose some of the good, old people. The Senator from Arizona knows about the situation in NASA, where we have people of very high quality, whose talents are highly marketable in the private sector. Unless we do something about those people, the quality of the talent that is available for public service is going to be limited.

It was my pleasure to serve for a number of years in the other body with the distinguished Representative from Virginia, Joe Broyhill. Joel Broyhill was never known either in the great Commonwealth of Virginia or the House of Representatives as a flaming liberal. Joel Broyhill, when he got to a subject of this sort, used to say that the best money that the U.S. Government spends is in paying adequate salaries to good people.

We are going to violate that Broyhill rule if we try a simple, easy solution to this difficult problem.

I feel so strongly about what is happening here that I am moved to do, as I say, what I have not done before, to object, at least for the moment, to the request of the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to vote on the motion to reconsider forthwith, and that if the Senate votes to reconsider the vote, which I hope it will do because the decision is wrong at the moment—at the moment the conference report is rejected, but I hope the Senate will vote to reconsider.

I ask unanimous consent that the Senate proceed forthwith to a vote to reconsider, and if the motion to reconsider is agreed to, that I be recognized to offer an amendment on the pay cap, and that there be no more than 10 minutes for debate to be equally divided between the two leaders or their designees. I will not take any of the time. I will yield it to anybody. The Senate would proceed to vote within 10 minutes on the amendment.

Mr. BAKER. I concur in the request. Does the majority leader intend to ask for a rollcall vote on the motion to reconsider?

Mr. ROBERT C. BYRD. There need be no rollcall vote on the motion to reconsider.

Mr. BAKER. I hope that if the majority leader will ask that it be a 10-minute vote if there is a rollcall.

Mr. ROBERT C. BYRD. I will make that request, that if a rollcall vote is requested on either of the two votes that the vote be a 10-minute vote, and I ask that the vote on the motion to reconsider occur forthwith, and, again, if the vote is reconsidered, that I be recognized to call up the amendment and that the Senate vote within 10 minutes on that amendment.

Mr. GOLDWATER. Mr. President, I would have to object to that. I think this is important enough to call for the yeas and nays and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. MOYNIHAN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, reserving the right to object, and I do not intend to object, I do think it is important that we recognize that this problem could be solved. What the Senator from Rhode Island and the Senator from Maryland have said I think is very true. Coupling is the problem. There are ways to decouple and there are ways, I think, to make it acceptable with our sister body. I have suggested that for 4 years. When I first came here, one of the first votes I had to cast was whether or not as a newly elected freshman Senator I deserved a pay raise. Well, I got that pay raise. I did not use it but I established a scholarship with that money in New Mexico.

Be that as it may, we could put the pay raise beyond the next election of an incumbent Senator or Congressman. That is, I think, politically an appropriate solution.

It has been suggested many times in this body that we do it. I believe the Senator from Rhode Island has suggested it. I think it would work. I think if we put our minds to it, we could work it out tonight. I am not going to object, but I hope if the circumstances present themselves that we work with our colleagues in the other body and try to establish that kind of mechanism. It is politically appropriate, it is easy, and it means that you renew your contract with your voters at each election at an appropriate salary.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MAGNUSON. Mr. President, we are all talking about problems.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. MAGNUSON. The Senate can vote to keep the pay cap on. I will march over to the House and I think that will be the end of it. What is all this excitement about? I am for it. But if we do not do something, I am going to tell you, whether you have a pay raise or not, there will not be any pay at all for anybody.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The Senator from West Virginia has been recognized.

Mr. MELCHER. Will the majority leader yield for a question?

Mr. ROBERT C. BYRD. My colleague has the floor.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. RANDOLPH. Mr. President, reserving the right to object, and I shall not object.

Each Member must make a decision on this matter. A rebirth, often, of individual responsibility is called for in this body. Our situation tonight was not the situation that we faced in 1933 but it has some of the same implications for me.

I am the only Member now serving on Capitol Hill who was here at that time. I vividly recall as a Member of the House of Representatives, our consideration relative to congressional salaries.

Mr. President, in March of 1933 we were not addressing a cap on our salary when we considered the Economy Act. We lowered our salary by $500 in the House of Representatives, from $9,000 to $8,500.

I feel we did it at that time not because we did not need to keep the $500 intact, but we did it in a sense because we felt that the people of the United States of America believed and knew that we were in a critical period in the history of our country.

Perhaps today we are in an even more critical era in the life of our Republic. It is not a matter of cutting our pay. I am convinced that the concerned citizens of our Nation expect public officials to maintain their present salary by the retention of the current ceiling.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, I want both the majority leader and Senator BAKER to know that my position is not concerned with the pay cap, though I will vote against the pay increase. I did not support the continuing resolution when it first came through this body, aside from the pay, because of the level of expenditures. I want you both to know that it is not that I do not trust what you are telling us, that I do not understand how the vote is going to occur, but consistency on my part demands that I vote not to reconsider and against the resolution on fiscal grounds.

I have no objection.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Reserving the right to object, Mr. President, would the majority leader yield to me to answer a question?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. MELCHER. As I understand it, the majority leader will move to concur in the House amendment with an amendment.

Mr. ROBERT C. BYRD. That is correct.

Mr. MELCHER. And that the amendment that will be offered is legislation on an appropriation bill.

Mr. ROBERT C. BYRD. It is that. It is the same language that was offered by Mr. SASSER earlier and which was adopted by the Senate.

Mr. MELCHER. And it would be subject to a point of order?

Mr. ROBERT C. BYRD. It would be.

Mr. MELCHER. The majority leader is hopeful that the point of order will not be raised.

Mr. ROBERT C. BYRD. I hope it will not be raised.

Mr. MELCHER. The question I wish to address to the majority leader, one of the outstanding parliamentary experts in the Senate, is this: Is this not a new precedent in the case of a conference report, offering a motion to concur in a House amendment with an amendment that is, in effect, subject to a point of order because it is legislation?

Mr. ROBERT C. BYRD. It would be subject to order because it is legislation, that is true.

Mr. MELCHER. Is it a new precedent?

Mr. ROBERT C. BYRD. I would not say so, no. I do say that I would hesitate to have to move to overrule the Chair, because I think the Chair would have to rule that it is legislation. I have to admit that it is. Normally, I am against legislation on an appropriation bill, but I have always said there are exceptions.

Mr. MELCHER. My point really goes to legislation on a conference report.

Mr. ROBERT C. BYRD. Absolutely.

Mr. MELCHER. That would be my question. Is this plowing new ground?

Mr. ROBERT C. BYRD. No, it is not plowing new ground. But it would be subject to a point of order. I hope nobody will raise that point. I am sure the distinguished minority leader was probably contemplating doing it, but because of extenuating circumstances here, he is not going to make that point of order. If it were made, I know the Chair would have to rule in support of the point of order and I would appeal their ruling of the Chair, which I do not want to do.

Mr. BAKER. Mr. President, will the majority leader yield to me briefly?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. The majority leader is absolutely right. I announced previously that while his amendment may be subject to a point of order, I will not make that point of order and I hope no one else will.

The distinguished Senator from Montana is also right, the one way to create a new precedent is to put us to the test of having a ruling of the Chair. I hope we will not have to do that at this time. I think the way suggested by the majority leader is the best and quickest way out of the dilemma and I hope we shall go ahead and do it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. MELCHER. Mr. President, getting into the process of coming to a conference report and offering an amendment to it that is legislation would be a very bad precedent.

Mr. ROBERT C. BYRD. Mr. President, it has happened before.

Mr. MELCHER. I know it has happened before, but if we ask the Chair to rule on it, then the Chair would have to rule that it is legislation and, therefore, out of order. That precedent would be even worse. So I agree with the minority leader that I hope we do not ask. I hope we do not raise the point of order and force the Chair to rule.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Objection is not heard. It is so ordered.

The question is on agreeing to the motion to reconsider the vote by which the conference report was rejected. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 41, nays 29, as follows:

[Rollcall Vote No. 541 Leg.]

YEAS—41

Baker
Bellmon
Boren
Boschwitz
Byrd, Robert C.
Chafee
Chiles
Cochran
Cranston
Danforth
Dole
Durkin
Garn
Glenn
Hart
Hayakawa
Heinz
Humphrey
Inouye
Laxalt
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Packwood
Pell
Randolph
Riegle
Sarbanes
Schmitt
Schweiker
Stafford
Stevens
Stevenson
Stone
Weicker
Williams

NAYS—29

Armstrong
Burdick
Cannon
Cohen
DeConcini
Domenici
Eagleton
Exon
Goldwater
Hatch
Heflin
Helms
Jepsen
Kassebaum
Leahy
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pressler
Proxmire
Roth
Sasser
Simpson
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—30

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Byrd, Harry F., Jr.
Church
Culver
Durenberger
Ford
Gravel
Hatfield
Hollings
Huddleston
Jackson
Javits
Johnston
Kennedy
McGovern
Morgan
Percy
Pryor
Ribicoff
Stennis
Stewart
Talmadge
Tower
Tsongas
Young

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk state the first amendment is disagreement.

The PRESIDING OFFICER. The clerk will state the first amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid resolution, and concur therein with an amendment as follows:

Strike the matter stricken and inserted by said amendment, and insert: "not exceed $500,000,000: *Provided further*, That an overall ceiling for Foreign Military Credit Sales loans and grants of $3,046,187,000 is hereby established provided that of these funds $25,000,000 shall be for Oman and $6,000,000 for Kenya.".

UP AMENDMENT NO. 1954

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment, which is the language on the pay cap, and which the Senate previously adopted.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 1954 to the House amendment to the Senate amendment numbered 7.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following: 'Notwithstanding any other provision of this joint resolution, the provisions of section 306 (a), (b), and (d) of H.R. 7593 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials) shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through September 30, 1981, by this or any other Act.".

Mr. ROBERT C. BYRD. Mr. President, I believe I have 5 minutes and Mr. BAKER has 5 minutes.

I yield to the distinguished Senator from Tennessee (Mr. SASSER).

The PRESIDING OFFICER. If the Senator will kindly withhold, the question is on the motion to concur in the House amendment with an amendment.

The Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the distinguished majority leader for yielding to me.

Mr. President, I rise to strongly support the amendment offered by the distinguished majority leader (Mr. ROBERT C. BYRD).

This amendment is identical to an amendment I offered to the continuing resolution on Wednesday, December 10, 1980. It would have the effect of blocking pay raises for Members of Congress, Federal judges and high-ranking Federal employees. The Senate passed my amendment overwhelmingly, by a recorded vote of 69 yeas to 21 nays. The House also failed to include a pay increase amendment overwhelmingly, by a recorded vote of 69 yeas to 21 nays. The House also failed to include a pay increase when it initially passed the continuing resolution.

So we went to conference with both the Senate and the House on record as favoring a continuation of the pay cap.

The House and Senate conferees then voted to disapprove my pay cap amendment and reinstate the pay raise. This action came after considerable debate and after three votes which sustained my position. The action of the conferees was directly contrary to the expressed wishes of both Houses of Congress at that time.

I do not have to remind my colleagues that polls have indicated that Congress is held in low esteem by the public. If, in the closing hours of the session, we, in effect, grant ourselves a pay raise, we only reinforce the public's worst suspicions about us.

The election which took place a little over a month ago will shortly result in a major change in the makeup of our Government, a new President and newly elected Members of Congress take office in January. Consequently, I think any decision to increase the pay of Government officials should be made by the new President and by the new Congress.

Mr. President, let me restate some of my arguments against adopting a pay raise at this time. This pay raise would benefit Members of Congress, Federal judges and Federal employees earning more than $50,000 a year. Most Americans think that people in this income bracket are better able to cope with the effects of inflation than the average individual and that is a correct perception.

The American people are falling farther and farther behind because of runaway inflation. Most Americans perceive a significant erosion in their standard of living. They are correct, but the American people cannot vote themselves a pay raise to lessen the impact of inflation; they must cut back on their standard of living.

If we, Mr. President, were to approve a pay raise for ourselves and other high-level officials and employees of the Federal Government, we will be sending the wrong signal to the American people. We will be sending a signal that we expect the American people to cut back and tighten their belts but that we, in the Congress, are unwilling to do likewise.

We would be sending a signal that we expect the American people to be subject to the ravages of inflation but that we in the Congress are going to insulate ourselves and other high-ranking officials from the effects of inflation.

The American people would have no trouble interpreting this signal. They would interpret it as an indication that we are only engaging in shallow rhetoric when we talk of controlling inflation. If we expect to convince the American people of our sincerity and of the gravity of our economic problems, then we have to be willing to bear our fair share of the problems of inflation. We have to say that we are in the boat with them.

I urge my colleagues to join me in support of the amendment offered by Senator Robert C. Byrd.

Mr. ROBERT C. BYRD. Mr. President, I yield to Senator Mitchell.

Mr. President, I ask unanimous consent that any Senator may add his name as a cosponsor to the amendment and may insert his statement in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The following names of Senators were added as cosponsors of the amendment:

Mr. Biden, Mr. Sasser, Mr. Randolph, Mr. Weicker, Mr. Cohen, Mr. Mitchell, Mr. Bradley, and Mr. Heflin.

Mr. MITCHELL. Mr. President, the Senate overwhelmingly rejected a pay raise for Members of Congress earlier this week. The vote in this body was 69 to 21.

Mr. President, the Senate has expressed its will on this issue. We cannot, in good conscience, turn around today and allow this pay increase to become law in this manner.

I ask today the same questions I proposed earlier this week: Are we entitled to this increase at this time? Have we been so successful in balancing the budget that the country can afford to award us a 16-percent pay increase? The answer to both questions must be no.

Mr. President, I cannot and will not support an increase in our salary which exceeds by $3,000 the annual per capita income of my constituency. On several occasions this year, we have cast votes which have, in effect, asked other Americans to sacrifice. We must not except ourselves from the effort to fight inflation in this country.

Mr. President, it is with great reluctance that I rise in opposition to the conference report on the continuing resolution. It is important to the country. As we all know, if we do not approve a continuing resolution by midnight Monday, money will run out for the Departments of State, Commerce, Labor, and Health and Human Services, and several other Federal agencies.

In addition, this resolution contains provisions of particular interest and importance to my State. The bill contains an amendment that will alleviate a serious problem faced by potato farmers in northern Maine. The resolution provides funding for much needed construction at a new border station in Maine.

Any further delay in the enactment of this resolution is against the interests of the Nation and the State of Maine. But I cannot and will not allow those interests to override the more compelling obligation of this body to demonstrate leadership in fiscal responsibility. A substantial pay increase for members of the legislative branch at this time is fiscally irresponsible.

Our job is to help this Nation achieve prosperity, guarantee its security, and protect its liberties. We must rededicate ourselves to these principles and reject this attempt to increase our salaries at the cost of the citizens of this country.

Mr. ROBERT C. BYRD. I yield to Senator DeConcini.

Mr. DeCONCINI. Mr. President, the conference report on House Joint Resolution 637 contains a 17-percent pay hike for Members of Congress, as well as similarly substantial increases for 34,000 senior grade positions in the executive branch. For that reason, although the hour is late and a continuing resolution has to be passed to enable a number of agencies to remain in operation, and even through House Joint Resolution 637 includes a number of specific provisions which are of particular importance to me and to my State, I declined, along with a majority of my Democratic colleagues on the Senate side, to sign the conference report. I will therefore be compelled to vote against its adoption, unless the pay cap is reinstalled.

Mr. President, to vote a pay increase of this magnitude for ourselves and the highest paid employees in the public sector under prevailing economic circumstances is unconscionable. The inflation rate is already in double digits, and projections are for a continuing buildup of price pressure in a number of critical sectors including food, shelter, medical care and transportation in the near term. The average family is struggling to make ends meet. Senior citizens on fixed incomes are being forced to the wall trying to meet simple basic necessities.

The public's confidence in governmental institutions is at an all-time low at precisely the time when firm and decisive leadership will be required to restore economic stability and growth. To approve the deletion of the cap on legislative and executive compensation that has been carried for 3 of the last 4 years in appropriations measures is exactly the wrong kind of signal to send to the American public at this critical juncture.

Furthermore, Mr. President, it should be noted that the median income of a family of four in the United States is approximately $21,000. Under current law, Members of Congress receive almost three times that amount—$60,662. The conference report before us would bring congressional salaries to $70,900—a jump of over $10,000 in direct compensation for each Member of both Houses. That $10,000 increase alone, Mr. President, is almost one-half of the "before tax" earnings of a family of four.

The conference report is equally generous to the highest paid, most perquisite-laden positions in the Federal bureaucracy. Under current law, the senior grades receive a maximum of $50,112. With the changes included in House Joint Resolution 637, these positions will be eligible for salaries ranging up to $70,900. GS-15's, for example, would be entitled to as much as $57,900. GS-16's could receive as much as $66,200. The ceiling for GS-17's would be $69,400 and GS-18's and the top grades on the executive scheduled would be paid as much as $70,900. The number of positions affected Mr. President, 34,000, is not inconsequential. Indeed, taken together, the compensation increase contemplated in House Joint Resolution 637 would add $100,000,000 to the Federal deficit.

It should not go unnoticed, Mr. President, that the impetus for removing the pay cap imposed by Senator Sasser's amendment, which I cosponsored and which was approved on the floor of the Senate by a vote of 69 to 21, came entirely from the other side of the aisle. The Senate conferees on this side, who were present at the time, stood steadfastly behind the Senate position. It was only after the distinguished assistant minority leader produced two proxies that the balance was tipped in favor of receding to the House on the issue.

It should also be noted for the record, Mr. President, that President-elect Reagan evidently requested removal of the pay cap during discussions at a luncheon with congressional leaders of his party yesterday and took the extraordinary step of calling the distinguished chairman of the Appropriations Committee, Senator Magnuson, to express his personal interest in having the pay cap removed. I am very disappointed that the President-elect favors increasing all the above-referenced salaries.

This continuing resolution, Mr. President, has been charactered in the press and elsewhere as a Christmas tree. In my judgment, Mr. President, that appellation is more than well deserved. It certainly provides a beautifully wrapped, expensive gift from the American taxpayers to the Members of Congress and to the highest ranking and most handsomely compensated officials of the incoming administration.

Mr. President, it is absolutely essential that this body set the proper example by reimposing a meaningful ceiling on congressional and executive compensation, unless it does so, I will strongly oppose the adoption of this conference report.

Furthermore, Mr. President, I want to serve notice now of my intention to resist any and all efforts, from whatever source, to increase the salaries of either Members of Congress or of top echelon Government officials until the Federal budget is balanced and inflation is brought under control. The American people have a right to expect at least this much of their elected representatives.

Mr. ARMSTRONG. Mr. President, the continuing resolution conference report the Senate is now considering fulfills all my worst fears about the legislation produced by Congress which reconvenes for a lameduck session after the November elections.

Of course I will vote against this continuing resolution, and I urge my colleagues to do so as well. The conference committe's decision to give Members of Congress $10,000 pay raises is sufficient reason alone to kill this resolution.

This pay raise, coupled with the process followed in writing this resolution, and the final spending totals included in the resolution, more than justify a "no" vote.

As my colleagues will recall, I warned against the inherent mischief in convening a lameduck session, asserting that it would create a "situation in which there is going to be an almost irresistable temptation to put off all the remaining tough issues before the Congress until after the election."

The tough decisions were, indeed, put off until the lameduck session, and the results were inevitable. This continuing resolution underscores this. Had we adjourned prior to the November elections, there would be no pay raise for Members of Congress, no severance pay for lameduck staffers, and no continuing resolution for the critical functions of Government.

But there is a silver lining in this cloud of spending the Senate is about to vote on. And that silver lining is that this resolution includes a provision that will abolish the Council on Wage and Price Stability on March 31, 1981. In so doing, the Congress will end the existence of a Federal council which has singlehandedly done more to harass American business and labor than any other Federal entity that I can think of. My amendment to abolish COWPS was strongly endorsed by the U.S. Chamber of Commerce, dozens of business groups, and thousands of individual business.

Even the AFL–CIO agrees that the "present (COWPS) program and its regulations and sanctions should be allowed to lapse." And this amendment is supported by the incoming Reagan administration. So by approving this amendment, Congress has given the Reagan administration and American business and labor a tremendous Christmas present. More importantly, it sends a signal that, indeed, the President and Congress intend to finally get Government off the backs of the American people.

A large part of the credit for this victory in abolishing COWPS belongs to the cosponsors of my amendment, Senators DOLE, GARN, HEINZ, and COCHRAN. And special thanks goes to Senators HATFIELD and STEVENS for their efforts in in conference to insure passage of this amendment.

I am disappointed, however, with the outcome of a second amendment I offered to save taxpayers up to $1.3 million by speeding up the phaseout of a social welfare experiment located exclusively in my own State of Colorado. The Department of Health and Human Services, which has sponsored the program, has already announced it will end the Denver income maintenance experiment within 3 years because DIME no longer holds research value. My amendment simply provided a phase-out period of 2 months rather than the presently scheduled 3 years.

This amendment was not retained in the conference agreement the Senate is now considering. Frankly, I am puzzled by this outcome. Unlike most amendments to the continuing resolution, this amendment reduced spending, and it reduced spending in a project located exclusively within the State of the Senator who offered the amendment. I know the Senator from Alaska (Mr. STEVENS), fought to retain this amendment. But the question which occurs to this Senator is, who would oppose this amendment, and why would the Senate recede from this minor amendment? I would hope some Senator who attended the conference would be able to shed light on this issue for this Senator.

Although these issues are important, they pale in significance to the spending issues raised by the continuing resolution itself.

Long before any ornaments were added to this appropriations Christmas tree by the Senate, it was already far outside the budget limits set by Congress less than 3 weeks ago. The Congressional Budget Office estimated that the continuing resolution, without the Christmas tree amendments added by the Senate, would exceed the spending totals set by Congress by more than $4.6 billion.

Incredibly, this estimate is far too low because it was not based on realistic economic projections. Instead, it was based on outdated economic projections that were contained in the second budget resolution. The Federal budget for 1981, once expected to cost $632 billion is now estimated to exceed $655 billion. And remember, this estimate does not take into consideration the cost of the Senate's amendments to the resolution.

How has this dramatic change come about? Interest rates which were expected to continue in decline have staged a dramatic increase. The prime rate is expected to top 20 percent this week. The Consumer Price Index, which drives the cost of indexed Federal entitlement programs, will be at least 12.5 percent, rather than the 10.9 percent figure on which the second budget resolution was based. The economic recovery, once thought to be accelerating, has stalled, and the economy has resumed the dangerous free fall which we faced last spring. As a result of skyrocketing interest rates, housing starts are down 10 percent, auto sales have fallen precipitously, and the financial community is in a state of chaos. More than half of the Nation's savings and loan associations are running deficits and Federal credit unions, the mainstay of savings and lending for millions of Americans were forced to raise their ceiling on interest rates to 21 percent.

These facts were set before the Senate before it began consideration of this resolution. These facts clearly call for abandoning the "business as usual" style of legislating.

So how did Congress respond to these facts? It attached an amendment to the resolution saying that Congress will cut off all spending as soon as the budget ceiling is reached, whether that occurs in June, August, or at the end of the fiscal year. We are playing out the charade that the Members of this body actually would consider shutting down the Federal Government as a means of achieving fiscal restraint.

Mr. President, does any Member of this Senate truly believe that this would occur? Would a Senate which has steadfastly refused to limit spending allow it to be stopped? We all know better. We know that well before the great Federal bureaucracy grinds to a halt we will have before us another budget resolution, or perhaps a total waiver of the enforcement of the budget ceiling.

Before the Senate recessed for the election break, I took the floor to express my extreme pessimism over a lameduck session of Congress. The cynical actions we are taking here today show that this pessimism is well founded.

I urge defeat of this resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Mr. STENNIS.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JOHN C. STENNIS ON PROPOSED SALARY INCREASE

I want to make a statement about one aspect of the conference report on H.J. Res. 637, continuing appropriations for Fiscal Year 1981. The conference report on this resolution is expected to be taken up by the House and the Senate today.

I regret very much the action of the conferees in approving a pay increase of more than $10,000 a year for all Members of Congress effective January 1, 1981. I have always been opposed to such salary increases, and am very much against a salary increase of the magnitude and in the manner agreed upon by the House-Senate conferees.

It has always been my conviction that it is entirely inappropriate to vote to increase one's own salary. It is particularly inappropriate for this to be done in the dying hours of this Congress by the Conference report on H.J. Res. 637 when both Houses have already gone on record as opposing any such increase. Only a few days ago the Senate overwhelmingly adopted an amendment which rejected the proposed increase and continued in effect the salary limitation which now exists. The amendment was adopted by a vote of 69 to 24. I voted against any salary increase when the Senate considered the matter a few days ago and I continue to oppose an increase.

By this statement I want to go on record as expressing my strong opposition to the proposed salary increase, and to express the hope that it will not be approved. The Senate should reject this proposal just as it did two days ago, and if I was able to be present, I would again vote against it.

Mr. HEFLIN. Mr. President, I am utterly opposed to a pay raise for Members of Congress. I concur in the remarks of the Senator SASSER and Senator BYRD of West Virginia. I ask that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. GLENN. Mr. President, I appreciate the very difficult job that faced the conferees from both the Senate and the House last night. Indeed, they had to settle nearly 140 substantive differences, along with a number of other amendments more technical in nature. I appreciate the effort that brought this matter to the floor today.

Mr. President, I do not want to have the Government, or a substantial part of it, grind to a halt on Monday. But, if we reject this report, a second one can quickly be achieved, I believe, to extend the current pay cap until March 1, 1931. That will permit the Congress to review the work of the Commission on Executive, Legislative and Judicial Pay and the President's recommendations before acting on increasing pay levels, not only for ourselves, but also for the Federal Judiciary and thousands of Government executives.

The Commission was established specifically to give the Congress impartial judgment and advice on compensation matters every 4 years.

Mr. President, I was surprised to find in this conference report the resurrected provision that would lift the cap on executive, legislative, and judicial pay. I am of the firm opinion that the current pay cap should be left intact until the Congress has the opportunity to review the President's and the Commission's recommendations in this regard. Those recommendations will shortly be forthcoming, with the budget for fiscal year 1982, and will represent the work product of the Quadrennial Commission composed of outside experts in the field of compensation. If the Senate now permits a 17-percent increase in the compensation of high-level Government officials to take effect with the new year, that recommendation will surely be ignored.

I recognize this is a serious problem, and a recurring one, involving pay compression in the upper reaches of our Government. I recognize that this pay compression is creeping downward. But the best way to address this problem, I submit, is to await the recommendation that will come to us by statute early next year.●

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I know this will be the last time I speak concerning the pay raise while I am in the Senate. I want to also state the reasons why I think this is a bad amendment and I will vote against it.

Since 1969, the Consumer Price Index has increased 135 percent. The comparable salaries in the private sector have increased 140 percent.

Could we have order, Mr. President?

The PRESIDING OFFICER. The Senator from Alaska is correct. The Senate will be in order.

Senators wishing to converse and visitors wishing to converse will kindly retire to the cloakroom.

Mr. STEVENS. Mr. President, Congress has denied or limited its own and the top executive branch personnel pay four times in 4 years. Congress and top executive branch—in particular, its Senior Executive Service—have received one 5.5 percent pay adjustment since March of 1977. In that same period, the Consumer Price Index climbed 40 percent.

As I have stated repeatedly, there are 34,000 people in the executive branch, including almost all the Senior Executive Service, who now receive the same salary as grade 15, step 5.

If this pay cap remains in effect through the remainder of this fiscal year, it will be down to level GS-14. If this pay cap remains in effect to the end of this administration, it will be down to the level of GS-13.

We have already learned from the transition team that offers of the administration to attract middle management people, people for the Senior Executive Service, have been consistently turned down because of pay.

An executive eligible to retire presently loses thousands of dollars a year for life by remaining in the Federal service for 1 additional year. Those people in middle management of Government are leaving at an alarming rate. Promotions and transfers within Government now are almost at a standstill in the upper brackets. Twenty-one grades all receive the same income in the executive branch. There is a disincentive to take a promotion without more pay.

Mr. President, I know of no way to change the outcome in the Senate; but whether or not I am alone, I will vote against this amendment. I think it is bad law. It is presented at the wrong time.

Four years ago, I made the same plea for an incoming administration, for the Carter administration, to give them the flexibility they needed to get new people. The Senate acted at that time and accepted it. I believe it is unfortunate that we have not taken the same action and accorded this incoming administration the opportunity to try to attract people from the private sector, people whose comparable incomes are far in excess of those they would be paid in the executive branch.

I agree with my friend from Rhode Island: I do believe that Congress should face up to this matter by decoupling the congressional pay and the executive branch pay. There are many advantages to being in Congress that people in the Senior Executive Service do not get.

I believe we have made a serious mistake, and this is really undermining the whole Civil Service Reform Act. Whether you know it or not, the Civil Service Act is in trouble. It cannot work. The career branch cannot work without competent senior executives.

The result of this action is to send a message to the people in Government that they can expect nothing different from this in the next 4 years. It is a mistake, and I am saddened to see it come to the point that we would deny Government managers the salary levels that are required.

Incidentally, we took away their job security in the Civil Service Reform Act. Half of them are now subject to political change. They know that; they expect political change; and I expect the exodus from Government to increase. The ability to replace those people with competent people from the private sector will be lost with this action.

Mr. LONG. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. LONG. Mr. President, it seems to me that the sad thing about all this is that we are losing so much talent—not at the Cabinet level but at the level just below that.

You can have the situation of a Cabinet officer, such as the Secretary of the Treasury, who was making $900.000 a year and who takes the job at $60.000 or $70,000. Some people can afford it because of their net worth. The job has a lot of dignity and will give the person an opportunity to see his name in the history books some day.

However, at the level of assistant secretary and similar types of job, people who are very crucial and very much needed in the Government, it is a matter of asking for mediocrity and, actually, incompetence, when we consider the importance of those positions.

So the Senator certainly is correct insofar as the executive branch is concerned.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr President, does any other Senator wish recognition?

Mr. CHAFEE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CHAFEE. Mr. President, if the Senate approves this Conference report with its 17 percent pay raise for Senators and Congressmen, we would be participating in a disgraceful piece of sleight of hand.

Both branches have voted against a

pay raise, and if we approve this measure it will be a slick, painless way of obtaining a $10,000 raise for members without having to go on record for it. What an arrogant bit of chicanery.

And we wonder why the Congress is held in low esteem!

There exists in law a procedure for handling Congressional pay raises. A Presidential Commission is appointed to review pay every 4 years. That Commission is to report next month. Are we to ignore the Commission and insist on proceeding in our own way?

The argument is made that we must increase pay of members of the executive branch in order to retain and attract the competence we need. I agree with that and it could have been done, and still can be done, without giving Representatives and Senators the $10,000 raise.

We are told the Government will come to a halt Monday unless we act. Hogwash. Does anyone really believe that? One week without a continuing resolution will not bring this Government of the United States to its knees and we know it.

Finally, it is late, some will say, and we must accept this conference report as the best that could be obtained. Not so. We have been here later than this in many previous years and we can stay here next week and get this shameful package straightened out. We are being handsomely paid and there is nothing in our terms of employment that says we have to quit on December 13.

Mr. THURMOND. Mr. President, I wish the Record to show that I am firmly opposed at this time to a pay raise for Members of Congress and other Government officials in the highest salary brackets.

Realizing that Congress, Federal Judges, and the top Federal officials have not had a compensation increase in some time, nevertheless, I feel this is the wrong time to be raising salaries. The American people are looking to Congress to balance the Federal budget, a result that has been accomplished only once in the last 20 years, and to reduce taxes. Having failed to achieve these objectives, Congress should not now be considering a pay boost that will make it even more difficult to accomplish these goals.

Furthermore, voting ourselves and other high Government officials a pay raise compounds the problems of inflation. How can we expect American workers and businesses to exercise wage and price restraint when their national government leaders appear unwilling to make reasonable financial sacrifices? We ought to be setting the example for the rest of the Nation to follow, in order that we can get inflation under control as quickly as possible.

Mr. President, for the reasons stated above, I am opposed to the proposed salary increase.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. BAKER. Mr. President, is this rollcall vote on the amendment of the Senator from West Virginia (Mr. Robert C. Byrd)?

The PRESIDING OFFICER. On the motion of the Senator from West Virginia to concur with an amendment. The Senator is correct.

The question is on agreeing to the motion of the Senator from West Virginia (Mr. Robert C. Byrd). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from New Jersey (Mr. Bradley), the Senator from Arkansas (Mr. Bumpers), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Kentucky (Mr. Ford), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Kentucky (Mr. Huddleston), the Senator from Washington (Mr. Jackson), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Tsongas), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Arkansas (Mr. Pryor), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), the Senator from Alabama (Mr. Stewart), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Washington (Mr. Jackson), and the Senator from Delaware (Mr. Biden), would each vote "yea."

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. Durenberger), the Senator from Oregon (Mr. Hatfield), the Senator from New York (Mr. Javits), the Senator from Illinois (Mr. Percy), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER. Is there any other Senator in the Chamber who desires to vote?

The result was announced—Yeas 62, nays 8, as follows:

[Rollcall Vote No. 542 Leg.]

YEAS—62

Armstrong
Baker
Boren
Boschwitz
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Eagleton
Exon
Garn
Glenn
Goldwater
Hart
Hatch
Heflin
Heinz
Helms
Humphrey
Inouye
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Pressler
Proxmire
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stone
Thurmond
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—8

Bellmon
Durkin
Hayakawa
Mathias
Melcher
Schweiker
Stevens
Stevenson

NOT VOTING—30

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Byrd, Harry F., Jr.
Church
Culver
Durenberger
Ford
Gravel
Hatfield
Hollings
Huddleston
Jackson
Javits
Johnston
Kennedy
McGovern
Morgan
Percy
Pryor
Ribicoff
Stennis
Stewart
Talmadge
Tower
Tsongas
Young

So the motion of Mr. Robert C. Byrd to concur in the House amendment with UP amendment No. 1954 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is, Shall the conference report on House Joint Resolution 637 upon reconsideration be agreed to?

The yeas and nays are automatic.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WEICKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senate concur en bloc in the amendments of the House to amendments of the Senate numbered 23, 24, 33, 34, 64, 89, 90, 103, 109, 111, 134, 136, and 139.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid resolution, and concur therein with an amendment as follows

Strike out the matter stricken and inserted by said amendment, and insert: "as enacted by the Congress.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided*, That there is hereby authorized and appropriated an additional $1,543,000 to be available for such entitlement period for allocation to the State of Hawaii.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid resolution, and concur therein with an amendment as follows:

Strike out the matter stricken and inserted by said amendment, and insert:

(k) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in such Act as enacted by the Congress.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid resolution, and concur therein with an amendment as follows:

Strike out the matter stricken and inserted by said amendment, and insert:

(1) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such Act as enacted by the Congress.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$15,000,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 156. (a)(1) Except as provided in paragraph (2), the total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented, transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to travel and transportation of persons, and the transportation of things, for offices and employees of all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced, to the extent practicable, by an amount which is necessary to meet the requirements of subsection (d)(1) of this section. Such reductions shall be directed toward the objective of eliminating nonessential travel.

(2) The provisions of this subsection shall not apply to the Coast Guard nor to the Department of Justice for expenses necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, unless legislation containing a restriction or limitation on such expenses is enacted after the date of enactment of this joint resolution which specifically refers to this section.

(b) The total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to the use of experts or consultants by appointment or contract in all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced by an amount which is necessary to meet the requirements of subsection (d)(1) of this section.

(c)(1) Each department, agency, and instrumentality of the Federal Government shall establish procedures to identify the causes of overpayments and delinquencies and the corrective actions needed to reduce overpayments and delinquencies, establish better control of receivables, actively use the services of credit bureaus and commercial collection agencies, and take more aggressive collection action.

(2) The Secretary of the Treasury shall revise the fiscal requirements manual of the Department of the Treasury to require interest charges on delinquent accounts and to provide more complete reporting of data on delinquent accounts.

(3) The Commissioner of Internal Revenue shall carry out a debt collection pilot project under which a delinquent debt owed by any person to the United States will be collected by retaining, out of any tax refunds otherwise payable to such person, such sums as are necessary to cover such debt. The debt collection pilot project required by this subsection shall be carried out in accordance with procedures designed to assure that no person will be denied due process of law under the project and that confidentiality of data held by the Internal Revenue Service pertaining to such person will be protected.

(d)(1) The Director of the Office of Management and Budget shall, to the extent practicable—

(A) allocate reductions in the amounts obligated for travel and transportation expenses under subsection (a) among all departments, agencies, and instrumentalities to which subsection (a) applies.

(B) allocate reductions in the amounts obligated for expenses for experts and consultants under subsection (b) among all departments, agencies, and instrumentalities; and

(C) review the savings made by the collection procedures and related activities required under subsection (c) to assure to the extent practicable, such reductions and savings will amount to $2,000,000,000 for the fiscal year ending September 30, 1981.

In allocating any reductions under this subsection with respect to expenses described in paragraph (1)(A) among the departments, agencies, and instrumentalities of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency or instrumentality be reduced by more than fifteen per centum of the amount of such expenses proposed for each department, agency or instrumentality in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act of 1921.

(2) The Director of the Office of Management and Budget shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives a report on—

(A) the actions taken to carry out the provisions of this section;

(B) improvements in the budget process which emphasize accounting system approval and debt collection procedures; and

(C) proposals of actions to be taken by the Congress including the reduction in requested new budget authority to reflect the result of the collection of delinquent debts and as an incentive to promote increased collection of such debts.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the sum of "$1,021,330,000" named in said amendment, insert "$1,019,330,000" and in lieu of the sum of "$71,206,000" named in said amendment, insert: "$73,206,000.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 170. Notwithstanding the last sentence of Section 7(a), assistance under section 7 of Public Law 874 Eighty-first Congress, shall be available to the Mobile, Alabama, County School System at the same rate as such assistance was available for fiscal year 1980; and $300,000 is hereby appropriated for a dormitory building at Coahoma Junior College, Clarksdale, Mississippi.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 109 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 176. Notwithstanding any other provision of law, for the payment to the Railroad Retirement Account, as provided under sections 15(b) and 15(d) of the Railroad Retirement Act of 1974, the maximum amount reimbursable for the subsidy for fiscal year 1981 costs shall not exceed $350,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 111 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 178. Notwithstanding any other provision of law, no funds appropriated for use by the Department of the Interior for fiscal year 1981 shall be used to take final action with respect to a State application under section 2(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1273(a)), as amended, until 60 days after notification of the proposed final action has been forwarded by the Secretary of the Interior to the appropriate House and Senate authorizing committees for review.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 201. Notwithstanding any other provision of this joint resolution or any other law, funds made available by this joint resolution or any other Act shall be available for activities of any agency to carry out the Hostage Relief Act of 1980 (Public Law 96-449).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 136 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 203. Notwithstanding any other provision of this joint resolution the Secretary of Labor shall appoint two additional members to the Benefits Review Board of the Department of Labor to serve as a separate panel and employ such additional supporting staff as may be necessary. The additional members shall be compensated at the rate of compensation prescribed for the members of the Benefits Review Board serving on the date of enactment of this joint resolution. For the purpose of carrying out this section there is appropriated $167,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 139 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 206. Notwithstanding any other provision of this joint resolution or any other law, the full $110,000,000 in loan guarantee authority authorized under Section 20(h)(9) of the Small Business Act by Public Law 96-302 shall be made available to the Small Business Administration immediately upon enactment of this joint resolution.

Resolved, That the House insist on its disagreement to the amendments of the Senate numbered 85 and 129 to the aforesaid resolution.

Mr. MAGNUSON. Mr. President, I move that the Senate recede from its amendments Nos. 85 and 129. These relate to severance pay and retirement which I think the Senate is going to agree to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, this measure goes back to the House of Representatives with the pay cap on. I understand the House of Representatives is still in session awaiting it.

So I wish Senators would bear with me and stay here a little while longer tonight, hoping we can get this done, and I just do not know what they are going to do on the pay cap. I think probably they will accept it because they did not have a record vote on it in the House of Representatives.

If the House accepts, this, it will go straight to the President. We do not have to have any more rollcalls or any motion by the Senate.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I take the floor only to suggest to Senators that they not stray too far away. I hope the House can complete action tonight and the Senate also if the House accepts the amendments which the Senate just adopted, which will end the matter. But if the House does not accept it, the House may wish to request a conference. The distinguished Senator from Washington is going to do that now, and I would suggest that Senators stay around. There will be other measures called up, and I expect rollcall votes yet tonight.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, anticipating probably that the House may reject this, but I doubt it, I move that the Senate insist on its amendment to the House amendment to the Senate amendment and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

Mr. McCLURE. Mr. President, I did not understand what the request of the Senator from Washington was.

Mr. STEVENS. It is his motion to appoint the conferees in the event of a conference.

Mr. MAGNUSON. If the House insists on its amendment in disagreement and we have to appoint the Senate conferees.

Mr. McCLURE. In the event they do not agree with the action we have just taken?

Mr. MAGNUSON. That is right. There is a possibility they will not agree.

Mr. McCLURE. I thank the Chair.

The motion was agreed to; and the Presiding Officer (Mr. MOYNIHAN) appointed the following conferees Mr. MAGNUSON, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. CHILES, Mr. STEVENS, Mr. MATHIAS, Mr. SCHWEIKER, Mr. WEICKER, and Mr. SCHMITT conferees on the part of the Senate.

Mr. BELLMON. Mr. President, I wish we could conclude this Congress on a note which was somewhat more hopeful about the state of our Government's fiscal affairs. We are able to say we are keeping within the second budget resolution only because we are ignoring two realities: First, we are providing funds for programs and activities covered by the continuing resolution only until June 28, 1981, only three-fourths of the fiscal year. It will cost another $8 billion or more in budget authority and at least $4.5 billion in outlays to complete the fiscal year.

Second, we all know that spending in fiscal year 1981 will be $10 to $15 billion—perhaps $20 billion—over the $632.4 billion outlay ceiling set by the second budget resolution unless unprecedented cuts are made. This will occur not only because we appropriated more than the budget provided in a number of bills, including the spending rates allowed by this continuing resolution. It also occurs because the economic outlook is decidedly worse than was anticipated only a month ago when we acted on the second budget resolution. Interest costs alone could be as much as $10 billion higher in fiscal year 1981 than was predicted in the second budget resolution.

Interest rates have simply skyrocketed in the past few weeks. Interest rates are reaching the point that the economy is going to start stalling out like it did last spring. Then we will see unemployment costs, food stamp benefits, and other costs start spiraling upward.

The Reagan administration and the next Congress have their work cut out for them. I regret that we failed to do more in this Congress to help avert this approaching crisis.

Mr. STEVENS. Mr. President, last evening the conferees on the continuing resolution dealt with amendments I offered concerning the Merit Systems Protection Board. The following explains the need for such amendments and what is expected from the Merit Board and the Office of Special Counsel.

The Senate amended the bill in three ways pertaining to the Merit Systems Protection Board. First, the Senate prohibited the expenditure of any funds for the prosecution or defense of the lawsuit, *Merit Systems Protection Board* v. *Mary Eastwood*, civil action file No. 80-2970 or any similar case as of 7 days after the date of enactment of the continuing resolution. The conferees adopted the Senate provision in the belief that intraagency disputes should be settled in the executive branch, without resort to Federal courts. Bringing litigation of this sort with Federal funds is an inappropriate and unauthorized use of those funds. We all expect that all expenditures relating to this lawsuit will immediately cease.

Second, the Senate reduced the appropriation level for the Merit Systems Protection Board from $15 million to $12.835 million, the level recommended in the President's budget request for fiscal year 1981. The conferees adopted the lower figure. The Board can operate at a level of $12.835 million without any reduction in the current level of service it provides to Federal employees and agencies. Decisions on appeals should continue to be rendered in a timely manner. Rather, the budget cut should be made in three areas:

First. The Office of the General Counsel within the Board is seriously overstaffed at the level of 35 suggested in the Board's budget request. Whatever Federal court litigation needs to be done can be performed by a staff of five. Legal advise to the Board should be supplied by the Board member's personal assistants and by the Office of Appeals, not by the General Counsel's office.

Second. The Board has misinterpreted its responsibility to conduct special studies under 5 U.S.C. 1205(a)(3). Rather than conducting expensive survey research, the Board should concentrate on finding and analyzing patterns and practices of merit system abuse. The Board should not duplicate work done by other agencies, including the General Accounting Office, or by universities. The Board's recently announced studies of the attitudes of midlevel managers and senior executives is duplicative of work previously conducted by the Office of Personnel Management.

Third. The Board has seriously overstaffed its legislative liaison and public relations offices. Since the conferees made it clear that the Special Counsel should handle its own responsibilities in these areas, the need of the Board for such services should be quite small.

Third, the Senate specified the relationship between the Merit System Protection Board and the Special Counsel, prohibiting the Board from interference in the investigative and prosecutorial functions of the Special Counsel. The Senate amendment provided that the Special Counsel would be autonomous in personnel management, congressional relations, public relations, and budgetary matters. The conferees dropped this provision in the belief that it was unnecessary in view of the language of and legislative history surrounding the Civil Service Reform Act of 1978 (P.L. 95-454) and reorganization plan No. 2 of 1978.

In passing the Reform Act and the reorganization plan, Congress made plain that the Special Counsel is solely responsible for investigatory and prosecutorial functions and is independent of supervision or direction by the Board. This independence extends to all budgetary and administrative matters the Special Counsel considers necessary to perform its responsibilities. Oversight over the action of the Special Counsel properly rests with the President and the appropriate committees of the Congress. Obviously, the Board and the Special Counsel should coordinate their activities and develop a cooperative relationship which respects their independent missions and individual needs and is mindful of their common purpose—to protect the rights of Federal employees. Congress expects cooperation to supplant confrontation in the relationship between the Board and the Special Counsel. Each should consult with the appropriate congressional committees if problems arise in the future.

Mr. CHILES. Mr. President, I voted against this continuing resolution making continuing appropriations for fiscal year 1981 for one simple reason: it is a budget buster. Counted on a full-year basis, it is over the budget resolution spending ceiling by almost $5 billion. I believe the Congress made a serious error when it adopted a dubious accounting maneuver to make it appear that the spending level of this bill fits within the ceiling. All it would have taken to bring the bill back within the budget is a 4.7-percent cut in nondefense spending. Such an amendment was offered and I intended to vote for it. I voted against the motion to table that cut, but unfortunately it was tabled.

While there are many programs in this bill which I would not like to see reduced, I do not think there is any Federal program which could not bear a 4.7-percent cut, since the amendment was drawn to exempt entitlement programs like medicaid and social security. None of these discretionary programs is worth more than the overall goal of reducing Federal deficit spending and moving toward a balanced budget. Inflation is undermining the strength of our economy; growing Federal spending in the face of that inflation is destroying public confidence in its Government.

Mr. President, I was struck by the fact that when the Senate Appropriations Committee considered this bill, I offered the only amendment to cut back on the current level of spending for a program. My amendment to cut $900 million from the CETA title VI public service job programs was adopted by a close vote in committee, then preserved against attack in the full Senate by the overwhelming vote of 54 to 28. Unfortunately, we had to give up $400 million of the $900-million cut as a compromise in conference, but I am still gratified that we were able to save half a billion dollars. I hope the Senate votes on this issue mark a new trend for cutting back on inefficient and outmoded spending programs.

THE IMPACT OF FUEL ASSISTANCE VENDOR PAYMENTS ON FOOD STAMP BENEFITS

● Mr. KENNEDY. Mr. President, I would like to emphasize the adoption of report language by the conferees that attempts to eliminate a double standard being applied by the Department of Agriculture to fuel assistance beneficiaries who receive that assistance through a payment to their fuel vendor. Under current regulations, fuel assistance beneficiaries who receive a vendor payment may have their food stamp benefits reduced, while those who receive their fuel assistance as a direct cash payment cannot have their food stamp benefits reduced. As a result, households which are in every other respect equal may receive unequal treatment solely on the basis of the form chosen to deliver their home energy assistance. This choice is not made by the beneficiary; rather, it is made by the State.

Unfortunately, most States made this decision without realizing the impact it would have on food stamp benefits since the Home Energy Act clearly specifies in the conference report (Rept. No. 96-817) that "[t]he conference agreement requires that fuel assistance payments or allowances provided under this title will not be considered income or resources of an eligible household for any purpose under a Federal or State law. The conferees wish to emphasize that this provision applies regardless of whether the fuel assistance is paid directly to the household or to the supplier of energy to the household."

Despite this clear language, regulations have been adopted which create a double standard which is unfair to the citizens of any State that has chosen to deliver fuel assistance as a vendor payment. Therefore, I applaud the language that is contained in the conference report accompanying this continuing resolution directing that "to the fullest extent administratively possible, beneficiaries of home energy assistance should not have food stamp benefits reduced as a result of a State's use of vendor payments to deliver benefits under the home energy assistance program." ●

FAREWELL REMARKS OF SENATOR MAGNUSON

Mr. MAGNUSON. Mr. President, on a personal matter, I hope the House will agree with the Senate amendment. Then the bill goes directly to the President, and that will conclude the Senator from Washington's service in the Senate. I bid you all a fond adieu. [Applause, Senators rising.]

SURFACE TRANSPORTATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the House message to the Senate on S. 2720.

Mr. ROBERT C. BYRD. Is this the mass transit message?

The PRESIDING OFFICER. The Senator is correct.

EXCISE TAXES ON WAGERING

Mr. ROBERT C. BYRD. Mr. President, in accordance with the previous order entered today, I ask the Chair to lay before the Senate Calendar 994, H.R. 3755, a bill for the relief of St. Paul's Episcopal Church, Riverside, Conn.

After consultation with the distinguished minority leader, I now ask the Chair to lay that measure before the Senate.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

Calendar 994, H.R. 3755, a bill for the relief of St. Paul's Episcopal Church, Riverside, Conn.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. REPEAL OF CERTAIN TAXES ON WAGERING.

(a) REPEAL.—Chapter 35 of the Internal Revenue Code of 1954 (relating to taxes on wagering) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of chapters for subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by striking out the item relating to chapter 35.

(2) So much of section 4901 of such Code (relating to payment of occupational taxes) as follows the heading thereof is amended to read as follows:

"All special taxes shall be imposed on the first day of July in each year, or if later, on the date the trade or business on which such tax is imposed was commenced. In the former case the tax shall be reckoned for one year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the thirtieth day of June following.".

(3) Section 4903 of such Code (relating to liability in case of business in more than one location) is amended by striking out ", other than the tax imposed by section 4411,".

(4) Section 4905 of such Code (relating to liability in case of death or change of location) is amended—

(A) by striking out subsection (b), and

(B) by striking out "(a) REQUIREMENTS.—".

(5) Section 4907 of such Code (relating to Federal agencies or instrumentalities) is amended by striking out ", except the tax imposed by section 4411,".

(6)(A) Subsection (o) section 6103 of such Code (relating to disclosure of returns and return information with respect to certain taxes) is amended to read as follows:

"(o) TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.".

(B) Subsection (p) of section 6103 of such Code (relating to procedure and recordkeeping) is amended by striking out "(o)(1)" each place it appears in paragraph (4) and inserting in lieu thereof "(o)".

(7)(A) Section 6419 of such Code (relating to credits and refunds of excise tax on wagering) is hereby repealed.

(B) The table of sections for subchapter B of chapter 65 of such Code is amended by striking the item relating to section 6419.

(C) Subsection (c) of section 6612 of such Code (relating to cross references) is amended by striking out "6419 (relating to the excise tax on wagering),".

(8) Section 7012 of such Code (relating to cross references) is amended by striking cut paragraphs (2) and (6) and redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(9)(A) Section 7262 of such Code (relating to violation of occupational tax laws relating to wagering) is hereby repealed.

(B) The table of sections for subchapter B of chapter 75 of such Code is amended by striking out the item relating to section 7262.

(10) Section 7272(b) of such Code (relating to penalty for failure to register) is amended by striking out ", 4412,".

(11) So much of subsection (a) of section 7611 of such Code (relating to cross references) as follows the heading thereof is amended to read as follows:

"For inspection of books, papers, records, or other data in the case of alcohol, tobacco, and firearm taxes, see subtitle E.".

SEC. 2. EFFECTIVE DATE.

The amendments made by the first section of this Act shall apply with respect to any wager made, or any person engaged in receiving any wager, during any taxable periods beginning after December 31, 1980.

Mr. ROBERT C. BYRD. Mr. President, this is the tax bill which the distinguished chairman and ranking member, Senators LONG and DOLE, respectively, of the Finance Committee, together with the two leaders, Mr. ROBERT C. BYRD and Mr. BAKER, have agreed would be called up to give Members an opportunity to offer their amendments thereto. This is the tax vehicle. I call it to the attention of Senators and I hope if they have amendments they will call them up.

Mr. STEVENS. Mr. President, I might state that at the appropriate time, subject to the approval of the majority and minority leaders, I will offer the text of the severance pay amendment which the House agreed to and which we agreed to. So I will offer it.

Mr. ROBERT C. BYRD. Mr. President, while Senators are coming to the floor with their amendments, I would be agreeable, if other Senators are agreeable, to have a time limit on Mr. STEVENS' amendment.

Mr. BAKER. This is on severance pay. I think this is a good time to deal with that, and if the Senator from Alaska is prepared to go forward with it at this time, I think we should consider the possibility of a time limitation.

Mr. ROBERT C. BYRD. The Senate has already acted on the subject matter. Will the Senator agree to 20 minutes?

Mr. McCLURE. I have no objection to the time limit, but I will ask for the yeas and nays on final passage.

Mr. ROBERT C. BYRD. Mr. President, I propose that there be a 20-minute time limitation equally divided to be controlled by Mr. STEVENS and Mr. SASSER.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HART. Mr. President, will the majority leader yield?

The PRESIDING OFFICER. Will Senators kindly try to be in order. The Senate is trying to organize its business.

Mr. HART. Mr. President, I would like to ask on behalf of myself and some colleagues if the majority leadership have any ideas on both sides as to how many amendments there are liable to be to this pending measure just so that we have an idea of what is involved here? I think it is reasonable to ask Senators if they intend to offer amendments to come forward and indicate what their amendments are and, perhaps, the leadership could begin to negotiate time agreements.

Mr. ROBERT C. BYRD. I would hope Senators would do that. I do not know how many amendments may be called up. Several Senators have asked for a tax vehicle to which they might offer amendments, and this is the measure.

Mr. HART. May I take it that neither the majority nor the minority leaders have any idea as to how many amendments there will be?

Mr. ROBERT C. BYRD. I do not.

Mr. BAKER. Mr. President, I do not. I have no count at all.

Mr. METZENBAUM. Mr. President, I understand this to be the tax vehicle for Members to offer their amendments to. The Senator from Ohio wishes to make it clear that with respect to this legislation the various amendments to be proposed are without much merit, and I would not be agreeable to any time limit on any amendment.

Mr. ROBERT C. BYRD. I thank the Senator for his forthrightness, which is characteristic, and I wish to thank him also for the cooperation he has shown with respect to other tax measures upon which the Senate has acted today.

(Mr. EXON assumed the chair.)

Mr. HART. Mr. President, if I may ask the majority leader, as I understand the situation, we have a pending tax measure to which amendments may be offered, but we do not know what they are or how many of them there are and there seems to be no one present who wishes to offer one.

We have also received an indication that there will be extensive debate on any such amendment that may be offered, including the base measure that is pending.

May I inquire of the leader as to how long he intends to hold this measure on the floor in this kind of an anomalous situation?

Mr. ROBERT C. BYRD. Mr. President, I want to give Senators who have amendments ample opportunity to come to the floor and offer such amendments. Word will go out from the cloakrooms to our Senators notifying them of that.

The PRESIDING OFFICER. With my apologies, I must interrupt the majority leader. The Presiding Officer cannot hear because of the commotion at the desk and the great commotion on the floor of the Senate. I wish the Senate would be in order so that we can continue in proper fashion.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, privileged matters may be called up while this measure is pending and they will be called up if need be.

In a reasonably short time, I should think we would know whether or not Senators wish to call up amendments to the measure.

Mr. HART. I thank the Senator.

UP AMENDMENT NO. 1955

Mr. HEFLIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Alabama (Mr. HEFLIN) proposes an unprinted amendment numbered 1955.

The assistant legislative clerk proceeded to read the amendment.

Mr. HEFLIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. METZENBAUM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed and concluded the reading of the amendment.

The text of the amendment is as follows:

> Amend the bill by adding the following section at the appropriate place in the bill:
>
> SECTION 1. CREDIT AGAINST INCOME TAX FOR PLANTING OF CERTAIN PECAN TREES.
>
> (a) ALLOWANCE OF CREDIT.—That notwithstanding any other provision of law, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1954 an amount equal to the product of—
>
> (1) $10, multiplied by
>
> (2) the number of pecan trees planted by the taxpayer to replace pecan trees destroyed by Hurricane Frederick during September 1979.
>
> (b) LIMITATIONS BASED ON AMOUNT OF TAX.—
>
> (1) IN GENERAL.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by chapter 1 of such Code for such taxable year, reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of chapter 1 of such Code, other than the credits allowable under sections 31, 39, and 43 of such Code. For purposes of the preceding sentence, the term "tax imposed by chapter 1 of such Code" shall not include any tax treated as not imposed by chapter 1 of such Code under the last sentence of section 53 (a).
>
> (2) CARRYOVER OF CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation under paragraph (1), such excess shall be carried forward to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeeding taxable year.
>
> SEC. 12. EFFECTIVE DATE.
>
> (a) IN GENERAL.—The provisions of this Act shall apply to taxable years beginning after December 31, 1980, and before January 1, 1986.
>
> (b) PRE-1981 EXPENDITURES ALLOWED FOR 1981.—In the case of the taxpayer's first taxable year beginning after December 31, 1980, this Act shall be applied by taking into account the period beginning on August 31, 1979, and ending on the last day of such first taxable year.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, the amendment I am offering today is simple and straight-forward. What this amendment will do is allow a credit against income tax for planting pecan trees in south Alabama which were destroyed by Hurricane Frederick in September of 1979.

I am sure, Mr. President, that each member of this body will recall that the gulf coast was devastated by Hurricane Frederick in September 1979, and one group which was particularly hard hit was the Alabama pecan growers. We have explored all the possibilities, but we can find no Federal aid programs which will enable this industry to get back on its feet. Accordingly, I have previously introduced a bill, S. 1900, which would give special tax relief to all fruit and nut growers who suffer damage because of the whims of nature, such as floods, fires, or storms. At a hearing on this measure, the administration spoke in opposition to it, basically because it would impact on the symmetary of tax code. Thus, because of this administration opposition and because the cost of the bill is estimated at $20 million per year, that particular measure has not moved forward.

In a spirit of compromise, and to provide at least some measure of relief for these small family businesses, I have prepared the amendment I have sent to the desk today. Basically, my amendment would allow persons who lost pecan trees a tax credit of $10 for each tree that was destroyed in the hurricane if a tree was planted by the taxpayer to replace the destroyed tree. The cost of pecan trees in the market in Mobile today is approximately $10 per tree. Thus, a $10 tax credit will enable the pecan growers at least to recover the cost of initial planting of the tree. This does not even approach the cost to nurture the tree and bring it into full production, which takes a period of 8 to 10 years, but at least it would provide some resources to get the trees in the ground at their earliest possible date.

Last year, fewer than 10 percent of the trees that were destroyed were replaced, primarily because the pecan growers, mostly on small family farms, just do not have the funds to purchase new trees to set out.

Over 144,000 trees were destroyed by the hurricane. Even if every single tree were replaced and the tax credit claimed, the maximum amount of tax loss under this measure would be about $1.4 million. Most likely, the actual tax loss will be considerably less than that; and, thus, it is really not as significant an amount of money for the National Treasury to absorb. It is significant, however, in that it may enable the crippled pecan industry of south Alabama to get back on its feet and once again to be a tax-producing industry.

Mr. President, I hope that the managers of this bill will seet fit to accept my amendment but, if not, I hope that a majority of the Senators will feel compassion for these small businessmen and approve this special measure.

I might point out, Mr. President, that, at the time of this devastating storm, there was no such thing as crop insurance for pecan growers. Since newly enacted legislation does bring pecan and other fruit and nut trees under the Federal crop insurance programs, this should be a one-time, nonrecurring disaster since, in the future, insurance will be available to help offset these kinds of losses. Because this is a special situation, I think that special legislation is appropriate, and I urge my colleagues to support this amendment.

Mr. METZENBAUM. Mr. President, I will not write a book about what I do not know about pecan trees, but I know a little bit about tax laws. I know where there is a casualty loss, you are entitled to write off the casualty loss. That would seem to me to offer sufficient protection for the owners of the pecan trees who suffered in Hurricane Frederick.

As I understand this proposal, it came to the Finance Committee. The administration indicated they were opposed to it. The Finance Committee did not accept it. At 10 of 7 on the night we hope we are going to adjourn, we are asked to pass this kind of an amendment.

Mr. President, I am frank enough to admit that I am not positive whether it has much merit, little merit, or no merit. But I know that there is not much merit in this body at this late hour trying to pass tax amendments that provide tax forgiveness or tax credits when we really do not know what we are doing. I have been on this floor for the last 3 or 4 days with respect to pending tax measures, whether it was a reverse kind of procedure barring the IRS from expending its funds to enforce a particular kind of regulation, or whether it had to do with the tax bills themselves.

There have been a number of amendments that have been agreed to, a number of measures that have been agreed to, and I had no reservations, and have none, about looking at the merit of any particular proposition. But in this particular instance, I know, and my good friend from Alabama knows, that he and others are coming forward with a number of different amendments to the tax measure, almost all of which have not been approved by the Finance Committee and about which we know very little.

I have indicated that I will oppose not only this amendment, but I will oppose any other amendments that provide for a change in our tax laws at 7:10 in the evening on the last night of the session.

Under those circumstances, Mr. President, I would hope that my friend from Alabama would not see fit to press his amendment because if he did see fit to press his amendment I would have to take a strong position in opposition to it. I do not believe it ought to be brought to a vote. I do not think the Members would know what they are voting on, and I think there is a good chance it might pass because it is only $1,400,000.

Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate is just not in order. We do not have very many people on the floor of the Senate but most of the people who are here are carrying on some kind of a conversation. This is not a place to work out the problems that can legitimately be worked out in the cloakroom. It has been very difficult for even the Presiding Officer to hear. My apologies to the Senator from Ohio. He is again recognized.

Mr. METZENBAUM. Mr. President, if my friend from Alabama wishes me to yield for a moment without losing my right to the floor, I ask unanimous consent that I may do so.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HEFLIN. The casualty loss provisions of existing law allow for a casualty loss on the basis of the fair and reasonable market value or the base. The vast number of Southern pecan tree farmers are not corporations. They are small business people. Their base, at the time the loss came, would have been what it cost to plant the tree at the particular time. Therefore, under the tax law, there was really nothing except a small amount that they could gain under the casualty loss provisions.

The other thing that is unique in this area because of the hurricane is that there was no insurance available to pecan growers, by Government or by private business.

The other peculiar aspect of this is that when a pecan tree is destroyed, it takes 8 to 10 years for it to come back, for it to become fruitful and to start bearing.

So there are some unusual aspects here.

We have been endeavoring to try to get this up for many, many days. This is the first time we have been able to. We were told this is the only vehicle it could be brought up on. So the lateness of the hour is not our fault. We have been endeavoring to try to bring it up for several days.

I would like to go back to show that we have made an effort. We had a hearing on this. It has gone through and we have changed. We are no longer in a situation of trying to change the casualty loss provisions as we did. The only thing we are seeking here is a one-time, one-shot method.

One of the reasons for that is that there will be Government insurance available in the future and we will not be put into the situation, or at least we could have made provisions to take care of the casualty, such as a hurricane or other types of casualties which would have destroyed pecan trees.

We are in a circumstance where I think it is justified. The fact that only 10 percent of the pecan trees were replanted the first part of this year following the storm is evidence that there is a need for some help. I think there is merit in this and that there is equity in this. I think it is something that will only be occurring one time, which justifies its passage.

Mr. DOLE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Ohio has the floor.

The Chair will call for order once again.

Mr. METZENBAUM. Without losing my right to the floor, did the Senator from Kansas seek the floor?

Mr. DOLE. Yes.

Mr. METZENBAUM. I yield to the Senator from Kansas without losing my right to the floor.

Mr. DOLE. Mr. President, I have listened to the Senator from Alabama. I would just say at the outset that there is no chance this amendment will pass, even if it had great merit, and it must have or the Senator from Alabama would not be bringing it to the floor.

We have just had the House send back four amendments that everybody in the Senate agreed to for one simple reason, that they had not had hearings on the amendments. They are amendments that the Senator from Ohio agreed to, the Senator from Louisiana, the Senator from Kansas, and the Treasury Department. We sent them to the House and they sent them back saying, "No dice. No hearings."

It would seem to me that before we could even accept this amendment at any time we would have to have hearings on both sides, in the House and in the Senate.

Mr. HEFLIN. Will the Senator yield?

Mr. DOLE. Yes.

Mr. HEFLIN. Would the Senator, being the next chairman of the Finance Committee, agree that we could have hearings early next year, and would the ranking minority member of the Finance Committee agree that we could have hearings early next year to try to take care of this matter?

Mr. DOLE. Certainly, I would have no objection to hearings. I think BOB PACKWOOD will be chairman of that Tax Subcommittee. I think that might be the way to go.

Mr. LONG. Mr. President, I will not be chairman of that committee. As far as I am concerned, the next chairman of the committee can speak for the committee next year and he has told you what he plans to do.

Mr. DOLE. Let me say to the Senator from Alabama that we have had the Senator from Minnesota (Mr. DURENBERGER) looking at this same possibility because of the Dutch elm disease. So there are others who have an interest and I agree with the Senator from Alabama as to the casualties, the losses. I promise the Senator from Alabama that I shall work with him and his staff and others who have an interest in similar registration at an early time next year, before the next tax bill, to have a hearing.

Mr. PROXMIRE. Will the Senator from Ohio yield to the Senator from Wisconsin to ask a question of the Senator from Alabama?

Mr. METZENBAUM. Without losing my right to the floor.

Mr. PROXMIRE. Mr. President, of course, the Senator from Kansas and the Senator from Louisiana are the experts on this, but as I understand it, any tax bill originates in the House. Why should not the Ways and Means Committee consider this first and if they act on it, the chances would be enormously enhanced?

If they act favorably, I think it would be far less likely to find resistance over here. Therefore, why should not the tax bill start over there?

Mr. HEFLIN. Mr. President. the other bill that we introduced to change the casualty, the loss, was introduced by Representative JACK EDWARDS over there. He could not get a hearing. We did get a hearing here.

My real purpose in doing this is to attract the attention of some people so they can realize that this is a serious matter and we can get hearings. I realize that at this late date, there is no possibility of passing this, but it does provide me with a forum to attract the attention of sufficient people.

I think that, on the basis of the promise that he will have a hearing on this, we shall be able to move forward and, perhaps, do something about it next year.

Mr. PROXMIRE. If the Senator will yield further, it is my understanding that in the House Ways and Means Committee, they have a kind of subcommittee headed by Representative ROSTENKOWSKI that screens some of these measures that are proposed because they get so many proposals. Has that subcommittee considered the Edwards bill, proposal, amendment, whatever?

Mr. HEFLIN. It is my understanding from Representative EDWARDS on this that he could not get a hearing.

Mr. PROXMIRE. I presume that may well have been the reason.

Mr. HEFLIN. Mr. President, I do not know all the details of what went on in the House. But I think we could make a record here to show some argument for it and, with that record being made and the fact that we shall have a hearing in the Senate next year, it may be of aid to us in pursuing it in the House as well.

Mr. President, under those circumstances and with those promises, I withdraw my amendment.

The amendment (UP No. 1955) was withdrawn.

ORDER OF BUSINESS

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. DOLE. Mr. President, will the Senator withhold that?

Mr. METZENBAUM. Certainly.

Mr. DOLE. Mr. President, I indicated to the distinguished Secretary of State, our former colleague, Secretary MUSKIE, that I had hoped we could pass the bill to carry out the obligations of the international coffee agreement. I have now been told that if that is called up, there will be amendments offered to it. We are attempting now to reach someone who might be here representing the interests of the Department of State.

There are amendments, I might say, that were passed—one three times by the Senate. One was an amendment agreed to by Republicans, Democrats, and the Treasury, but was rejected by the House because they had not had hearings on it. So I just say at this time, in case anybody from the Secretary of State's office may be passing through the Chamber, if they have any interest in this measure, they might contact him.

Mr. LONG. Will the Senator yield?

Mr. DOLE. Yes.

Mr. LONG. Mr. President, it seems to me that Senators should try to accommodate themselves to the needs of the Nation and look beyond their own individual situation. I am very unhappy about the fact that the House of Representatives declined to accept a provision which would have said that you file your gift tax return once a year rather than on four different occasions a year, because no one can tell you what those four dates are for filing of gift tax information. It is far simpler to do what the Senate Committee on Finance recommended and what the Senate voted, file a gift tax return when you file your income tax return. Then everybody would know when the tax return is due and they could handle it in an orderly fashion.

The House turned that down. The only reason they turned it down was that they had not had a hearing. The Treasury strongly favors it. Anybody who has ever thought about it would favor it. But the House has not had a hearing on it, so the House turned it down.

Mr. President, I am going to recommend that we go ahead and take what remains of the bill, in spite of what I regard as rather poor judgment on the part of the House. Why would I do that? Because it is either that or nothing.

The same is true of the coffee agreement. Someone might have an amendment which we would recommend next year. Chances are that we can pass it, but we cannot pass it now. So we should go ahead and pass what we can pass.

Senators ought to cooperate with that. They are not going to have everything passed which they would like to see enacted. But to stand up here and prevent all sorts of very useful bills from passing because they cannot get their way about some little item, really, is less than we have a right to expect of U.S. Senators. They ought to be willing to recognize that Congress will be in session next year and the Senate will be here next year, and we shall try to cooperate with them to see that their proposals are considered.

At this stage of the game, Mr. President, our belief is that if we send any of these back to the House, we are probably killing the bill, just sending it to be buried. If a bill is worth passing, we ought to go ahead and pass it.

Mr. MELCHER addressed the Chair.

Mr. METZENBAUM. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. MELCHER. Who has the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Ohio has the floor. He maintained the floor.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection, Mr. President.

The PRESIDING OFFICER. Objection is heard. The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. I object, Mr. President.

The PRESIDING OFFICER. The objection is heard. The clerk will continue to call the roll.

The legislative clerk resumed the call of the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded solely to permit me to submit two statements for the record.

The PRESIDING OFFICER. Is there objection? The Senator from Rhode Island has not been recognized. The Chair understood the Senator from Rhode Island to ask unanimous consent for the rollcall to be rescinded. Is there objection.

Mr. STEVENS. I object.

Mr. MELCHER. Reserving the right to object.

The PRESIDING OFFICER. The Senator may not reserve the right to object when objection has been heard.

The clerk will continue to call the roll.

The legislative clerk resumed the call of the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The legislative clerk continued to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The legislative clerk continued to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the quorum may be rescinded with the understanding that I will put it back on as soon as I make the request.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, could we have some consideration as to whether this bill is going to stay on the floor?

The difficulty is with a bill like this, one person takes the floor and becomes what I call a traffic cop.

We have had objections to that situation, and if we are going to be back in a place where people can have access to the floor, that will be fine.

Mr. ROBERT C. BYRD. Will the Senator allow me to call it off? Otherwise, we cannot debate?

Mr. STEVENS. I understand. I was just reserving the right to object.

Mr. ROBERT C. BYRD. The Senator cannot do that.

The PRESIDING OFFICER. There has been a request for suspending the quorum call.

Is there objection?

Without objection, it is so ordered.

The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Alaska.

REPORT TO THE SENATE BY SENATOR BIRCH BAYH, CHAIRMAN, SENATE SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a report by Mr. BAYH, chairman, Senate Select Committee on Intelligence, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT TO THE SENATE BY SENATOR BIRCH BAYH, CHAIRMAN, SENATE SELECT COMMITTEE ON INTELLIGENCE

During the past three years, it has been my great privilege to serve as Chairman of the Senate Select Committee on Intelligence. The Select Committee will be reporting formally to the Senate, in the near future, on its activities during the 96th Congress.

In addition to that report, I want to take this opportunity to make a personal report to the Senate on our nation's intelligence efforts and some of the concerns that I have about its future.

Over the past decade we Americans have been witness to a great debate over the exercise of power. In a series of crises throughout the world, we were and continue to be confronted with the fact of great power and the requirement to use it. The issue before us is how our power will be used and for what ends.

As Chairman of the Senate Select Committee on Intelligence I have had the privilege of being a part of the creation of a framework of governance of necessary secret power within the Constitution. We have made great progress, but much remains to be done. There is no question that the United States, as foremost world power, must engage in a broad range of secret activities, activities that have great consequences for its citizens, the well-being of the nation and its freedoms, as well as the fate of the world.

We have engaged in an effort to find the proper balance between providing the flexibility for the intelligence agencies to do their work, and doing so in a way that protects and enhances the liberties of our citizens. The greatest fear of the founding fathers of the republic concerned the use of power and the consolidation of power in a few hands. Secret power, if abused, is an even greater danger.

Let me state my premises and say where I stand. Secret activities are necessary to protect our freedoms and national well-being. But the first and primary goal of intelligence activities or any exercise of secret power or any power should be to protect and enhance freedom. Secret power should not be used in ways that curtail those freedoms. We will have lost everything if in the defense of liberty, we act to destroy liberty itself.

Intelligence can help us meet the great issues that face our nation. The issues that lie before us were with us a decade ago, but are before us in more heightened form. The first and most compelling issue is preserving our very existence from nuclear annihilation or catastrophic war with the Soviet Union. Our new and growing relationship with China is of increasing importance. Competition for the dwindling resources of the planet, so dramatically brought home by the rise in energy costs due to a decline in its supply and availability, is a clear warning of what we can expect with growing intensity in the future. An awareness of what the resources of the world are, what our needs will be, and how to assure our share in those resources will be a primary goal of national policy and a primary requirement for our intelligence system. We need to know more about ways to strengthen our relationship with our NATO allies, Japan and our other friends. Through intelligence we can help the poor of other nations deal with famine by anticipating how to use our bountiful surpluses in good time to help those less fortunate. All of these uses of intelligence would enhance our power and position in the world.

These are among the great issues that confront us now, and will confront us in the future—to which our intelligence system must help us find the answers. This is the primary purpose of intelligence—to inform us about the world outside of our own country. To tell us of danger and opportunity. To tell us accurately and at a time when it can be used to plan sensibly.

A second needed purpose for intelligence is to offset efforts of our enemies and those who would do us ill. This is an age-old burden for all nations. We have taken great steps to strengthen our means to do so through counterintelligence and the coordinated efforts of our law enforcement agencies. We have given whatever funds are necessary to the intelligence agencies to be certain that we have the best possible counterintelligence system.

The governance of the tasks of the intelligence community, ranging from exotic, advanced high technology used for collecting intelligence to unsung battles in the back alleys of the world to counter hostile efforts by foreign intelligence services, has been the main work of the Senate Select Committee on Intelligence over the past several years. We have established a framework under the Constitution that has worked reasonably well. Through executive orders and guidelines that have been carefully drafted by two Administrations and have undergone the test of operational requirements of the agencies themselves, we can be sure that we have clear direction and accountability. We have worked out the relationship between the Legislature and the Executive branch in intelligence matters and established that relationship in statute. While the basic relationship is dependent upon mutual trust, the fundamental power of oversight is contained in the statutory right to access to any and all information concerning intelligence that the oversight committees may require to do their work. The information is to be supplied in the detail and at a time required by the Committees. The power of the purse lies with the oversight committees. With these two means—knowledge and control of money—constitutional checks and balances can be expected to work effectively provided that the will to do so is there.

We have begun to set boundaries on the scope of intelligence activities, particularly as they may affect the rights of Americans. The Foreign Intelligence Surveillance Act laid out what has proven to be an effective means of governing electronic surveillance of Americans for foreign intelligence purposes within the United States. The Attorney General, working with the FISA court, has applied similar standards to physical searches. What is developing is a process by which searches of any kind, intrusions that require some modification of ordinary constitutional guarantees, require a high-level certification and clear standards applied by the courts. Thus far these initial steps have not affected the ability of the agencies to do their work. In fact, the FBI and other agencies have played a major role in the development of these statutes and guidelines.

It is especially important in this period of transition between Administrations to take stock of some of the major accomplishments and future issues involved in the conduct of intelligence activities.

One of the principal achievements has been the development of procedures for review and approval of sensitive intelligence activities, including covert operations and high-risk collection and counterintelligence activities that have significant policy ramifications. These procedures require Presidential approval for covert operations, after review by the cabinet offices directly responsible for U.S. foreign and military policies and for the legality of government actions. They also provide for consultation with the House and Senate Intelligence Committees before presidential decisions are implemented These procedures have been established unter the past two Administrations and represent a broad consensus on the importance of careful review of sensitive intelligence operations.

The high-level Executive branch review mechanism was established by President Ford's Executive Order 11905, and strengthened by President Carter's Executive Order 12036. As Vice President-elect George Bush testified before the Select Committee in 1978, "President Ford promulgated a good, strong Executive order. I think President Carter followed in the same view." Such procedures are essential to ensure that covert operations and other intelligence activities involving substantial risks or resources serve the national interest and represent the best judgment of the senior officials responsible for national defense and foreign policy.

The congressional oversight procedures established over the past five years were enacted into law with bipartisan support in 1980. They provide for prior notice to the two Intelligence Committees, or in extraordinary rare cases to eight congressional leaders, for all "significant anticipated intelligence activities" including covert operations and certain sensitive collection and counterintelligence activities. This law reflects the wide agreement that such operations should be undertaken only after careful consideration of their advantages and risks by both the Executive branch and the Congress.

Another accomplishment has been the redirection of the intelligence community away from preoccupation with the past and towards the challenges of the future. What is needed in the years ahead is effective leadership to mobilize the resources and talents of our intelligence agencies to meet these challenges. That leadership depends heavily upon the Director of Central Intelligence, who heads the CIA and serves as the President's chief advisor on intelligence matters with control over the budgets of all the agencies, the production of intelligence estimates, the coordination of intelligence activities abroad, and other duties assigned by the President.

The National Security Act of 1947, which created the office of DCI and the CIA, embodies the broad agreement both then and now that the principal advisor to the President and the National Security Council on intelligence must be appointed by and with the advice and consent of the Senate. This requirement is an essential feature of the constitutional system of checks and balances. It also emphasizes the nature of the DCI's responsibilities. The DCI cannot become an instrument for Presidents, regardless of party or philosophy, to distort the intelligence process for partisan ends. Senate confirmation helps ensure that the DCI is held accountable for representing the best independent judgment of intelligence professionals at the highest levels of national policymaking.

After years of discussion of various charter proposals, a consensus has developed that the concept of the DCI and the role of the CIA established by the National Security Act of 1947 provide a sound basis for organizing the intelligence community. It has become widely understood that the best way to improve the CIA, as a practical matter, is by strengthening the quality of its efforts rather than forcing it to undergo another period of turmoil.

An extraordinary amount of time and attention has been devoted in recent years to examining various proposals for structural changes in the CIA and the intelligence community. There is a heavy burden on those who would insist on another round of wholesale re-assessment: is it worth distracting senior officials and experienced professionals from substantive efforts to improve the quality of intelligence operations and analysis?

There are justifiable concerns about the need to improve foreign intelligence analysis, but such improvement should take into account the experience that led to the creation of the CIA as a "central" organization to correlate and evaluate foreign intelligence. Within the existing structure there is great flexibility. Both the Defense Intelligence Agency and the State Department Bureau of Intelligence and Research, as well as other departments and agencies, bring different viewpoints to bear on national estimates and to the attention of top policymakers. At some point, however, there must be a place where differences are thrashed out and presented coherently, with no policy or parochial bias and with access to all foreign intelligence available to the Government.

Improving intelligence analysis requires something very different from creating a new organizational structure. Andrew W. Marshall, Director of Net Assessment for the Office of the Secretary of Defense, stressed far more important measures in his testimony earlier this year before the Select Committee on Intelligence:

"The quality of analysis produced by the Community is not primarily determined by the general way in which it is organized, but by the analysis programs and the environment within the major organizational elements. There are no surprises in the description of how to develop a capability for high quality analysis. You have to attract intelligence and able people, and provide them with both incentives and an appropriate organizational context within which to work. Suitable training and opportunities for intellectual development must be present. Adequate careers must be possible for analysts without their becoming managers. Intellectual competition, especially through competing analytic groups, is critical. The basic elements are small teams of people with continuity of focus on specific problem areas. A commitment of upper level managers to the quality of analysis is also required, as well as their support for independent review, quality control, and the equivalent of sophisticated market analysis."

These and other steps can be and, in some cases, are already being taken to give national policymakers better intelligence assessments without forgetting the vital concept of "central" intelligence in the field of foreign intelligence analysis.

The United States also requires an effective foreign counterintelligence program based upon the joint efforts of the CIA, military counterintelligence, and the FBI which has primary responsibility for counterintelligence within the United States. Ten years ago relationships between the FBI and CIA had broken down and inter-agency conflicts jeopardized successful counterintelligence efforts. There was no mechanism to resolve disputes and no national-level policy guidance.

Since then, however, there has been increasingly close cooperation among the FBI, CIA, and military counterintelligence. Executive Order 12036 charged the Special Coordination Committee of the National Security Council with the responsibility for resolving interagency differences and developing national counterintelligence policy. While the SCC has served mainly as a forum for particular topics, it has significant potential as a source of national policy direction.

Other steps have been taken to strengthen counterintelligence. An office headed by a Special Assistant to the DCI for Counterintelligence prepares an annual multidisciplinary threat assessment for the National Security Council. Counterintelligence and operational security programs of the Defense Department are under the direction of a new office established by Admiral Daniel J. Murphy as Deputy Undersecretary of Defense for Policy. The FBI under Director Webster has given the highest priority to its foreign counterintelligence program, with significant increases over the past five years in personnel assigned to counterintelligence, improved training and analysis, more sophisticated techniques, and management innovations to make the most efficient use of FBI resources against the ever-increasing threats from hostile intelligence services and international terrorists.

There is still much to be done, including increases in resources and improvements in analysis, to strengthen U.S. counterintelligence efforts. However, the needs for effective counterintelligence can and should be met within the existing structure, with a continuing separation of powers so that no single agency accumulates power that is inimical to the freedoms of our society.

One of the most disturbing recent developments is a proposal to revoke the privacy and legality guidelines for the intelligence community established by Executive Order, including standards limiting the collection and dissemination of information about Americans and the Attorney General's guidelines for FBI counterintelligence investigations. Such proposals are totally inconsistent with the fundamental principles that must govern the conduct of secret intelligence activities by a free nation.

The current guidelines were not imposed upon the agencies by fiat. Instead, they were developed largely by the intelligence community itself to ensure clear standards for their activities that might affect the privacy of Americans. As early as 1973, the FBI took the initiative in asking the Attorney General for "authoritative and definitive guidelines" for its intelligence operations and proposed issuance of an Executive Order requiring such guidelines "conforming to the principles of the Constitution and the Bill of Rights, and outlining the necessary direction, coordination, and guidance of investigations."

In 1976 the President's Commission on CIA Activities within the United States, whose members included President-elect Reagan, recommended similar action for the CIA. After hearing from past and current CIA officials, the Commission concluded:

"The preservation of the United States requires an effective intelligence capability, but the preservation of individual liberties within the United States requires limitations or restrictions on gathering of intelligence."

Its recommendations were implemented by President Ford in Executive Order 11905, which declared that intelligence measures "should be responsive to legitimate needs of our Government and must be conducted in a manner which preserves and respects our established concepts of privacy and our civil liberties."

Ambassador Laurence Silberman, who played a key role in first addressing these issues as Deputy Attorney General, declared in 1978, "It is inconceivable the President would willy-nilly change the Executive order." He also advised the Senate Select Committee on Intelligence that it was "inconceivable . . . that there would be any change in that Executive order which would not be in the future subordinate to the agreement of this committee." Former Solicitor General Robert Bork, who participated in the development of the guidelines under Attorney General Levi, has described their basic principles:

"The guidelines took the approach of stating the cause necessary to institute a surveillance or investigation, locating responsibility in identified officers for decisions about those surveillances and investigations, requiring that decisions be reviewed by specified officers at periodic intervals to see that the justifications remained in force, minimizing the surveillances to what was actually required by the case, closely limiting the persons who could have access to the information developed and to the use that could be made of the information. That approach seems to me both to preserve constitutional rights and to be about the best that can be done in this complex and changing field."

FBI Director Webster stated in 1980 that, with respect to Executive Order 12036, the FBI has "found these controls entirely workable." He also described how the FBI operates under the Attorney General's guidelines governing foreign counterintelligence investigations:

"Changing these guidelines requires both approval by the Attorney General and review by the Congressional oversight committees. But even with these procedural safeguards in place, the guidelines' framework provides enough flexibility to ensure operational effectiveness. If amendments are necessary, they will occur. Thus, just this spring, the guidelines were revised and updated to meet current needs and problems. . . ."

Since 1976 there has been a thorough review of the guidelines under the Executive Order to assess their impact on necessary intelligence operations in the light of experience.

There must be constant vigilance in monitoring the enforcement of these guidelines. In the past officials at the highest levels of Government have succumbed to the temptation to misuse intelligence resources for partisan or ideological purposes. Experience has shown that, while guidelines must be flexible to meet compelling intelligence requirements, that same flexibility offers the potential for abuse. One vital check is effective Congressional oversight through the vigorous exercise by the House and Senate Intelligence Committees of the authorities mandated by Congress and enacted into law in 1980. Another safeguard is the role of the judiciary in approving use of techniques that would require a warrant for law enforcement purposes. There must also be a commitment at all levels of the Executive branch to respect for the individual liberties that lie at the heart of our nation's traditions and ideals. As former Solicitor General Bork has emphasized, we must establish and maintain "a strong tradition of the ways in which it is permissible or impermissible for an intelligence agency to behave . . . We have made a strong start in establishing a new tradition, a new set of expectations communicated to the intelligence agencies. . . ."

Setting aside these principles, and the guidelines that reinforce them, would send the opposite message to the agencies and to the American people. Attorney General Griffin B. Bell declared in the first address by an Attorney General to employees of the CIA in 1979,

"After all that we have been through in the recent past, there is a recognition on all sides that intelligence activity must be administered within the constitutional framework and that a legal system of accountability is needed. We must strive to assure the people that their intelligence agencies will not be turned against them."

No President or Attorney General should abdicate this responsibility to ensure that our nation's intelligence system adheres to the concepts of legality and privacy that are the hallmark of constitutional government.

Another wholly unjustified proposal would repeal the Foreign Intelligence Surveillance Act of 1978 or destroy its essential features by amendments. Some of those who opposed the Act from the beginning are now attempting to roll back this major advance towards bringing intelligence activities fully within the constitutional framework of the Fourth Amendment. If such efforts were to succeed, it would re-open the heated debate over standards and procedures for national security electronic surveillance within the United States that plagued the FBI and succeeding Attorneys General for decades.

The Foreign Intelligence Surveillance Act was initially proposed by Attorney General Edward H. Levi with the support of President Ford. From the outset it represented a commitment to applying basic Fourth Amendment principles to surveillance operations that had been conducted under a claim of "inherent Executive power" for decades and that had resulted in abuses under Presidents of both parties. It sought to comply with the constitutional requirements set forth by the Supreme Court in 1972 when it unanimously held that there was no "inherent Executive power" to conduct warrantless electronic surveillance for domestic security purposes. The Court stated:

"The Fourth Amendment contemplates a prior judicial judgment, not the risk that executive discretion may be reasonably exercised. This judicial role accords with our basic constitutional doctrine that individual freedoms will best be preserved through a separation of powers and division of functions among the different branches and levels of Government. . . .

"We cannot accept the Government's argument that internal security matters are too subtle and complex for judicial evaluation . . . Nor do we believe prior judicial approval will fracture the secrecy essential to official intelligence gathering. The investigation of criminal activity has long involved imparting sensitive information to judicial officers who have respected the confidentialities involved . . . Moreover, a warrant application involves no public or adversary proceedings: it is an *ex parte* request before a magistrate or judge. . . .

"Although some added burden will be imposed upon the Attorney General, this inconvenience is justified in a free society to protect constitutional values . . . By no means of least importance will be the reassurance of the public generally that indiscriminate wiretapping and bugging of law-abiding citizens cannot occur."

Justice Lewis Powell's opinion specifically suggested Congress might provide "that the request for prior court authorization could, in sensitive cases, be made to any member of a specially designated court." *United States* v. *United States District Court*, 407 U.S. 297 (1972).

While the Supreme Court did not rule on foreign intelligence surveillance, its opinion encouraged joint efforts by the Executive branch and Congress to find a practical mechanism for judicial review of foreign intelligence and search techniques that would require a warrant for law enforcement purposes. These efforts were reinforced when a plurality of the Court of Appeals for the District of Columbia declared that warrantless foreign intelligence surveillance was unconstitutional, *Zweibon* v. *Mitchell*, 516 F. 2d 594 (1975), and a federal district court ruled that there was no national security exception to the warrant requirement for physical searches, *United States* v. *Ehrlichman*, 376 F. Supp. 29 (1974).

The Foreign Intelligence Surveillance Act resolved the legal ambiguities through the legislative process, with the flexibility needed to reach agreement on carefully balanced provisions accommodating a broad range of concerns. After two years' experience under the Act, the affected agencies have a favorable overall assessment of its impact. FBI Director Webster has stated:

"This Act properly addresses the Fourth Amendment concerns inherent in those electronic surveillances. While, initially, I had reservations about the Foreign Intelligence Surveillance Act, I can say, on the basis of our experience, that it works well and has not had a deleterious effect on our counterintelligence effort."

Admiral B. R. Inman, Director of the National Security Agency, has also declared that the Act "has worked very well." While suggesting the need for "some minor technical changes," Admiral Inman stated:

"The experience with having the court has reassured any reservations I might have had earlier about the fact that one can get legislation that both restricts but also spells out authorities very clearly and [I] find it, in fact, not difficult to use. Security is infinitely better than I had predicted in that aspect. The legislation did, of course, give us some benefits . . . The real impact on us was the question of going for warrants for electronic surveillance. I can honestly say it works well."

The Act was a landmark in the development of a coherent, stable legal framework for intelligence activities that incorporated the constitutional checks and balances of judicial review, as well as congressional oversight, in ways that preserved and enhanced legitimate intelligence capabilities.

This favorable experience has led the Justice Department to adopt a policy of obtaining judicial approval whenever possible for foreign intelligence physical searches from Federal district judges designated to the court that considers electronic surveillance under the 1978 Act. This development raises difficult questions regarding the Justice Department's theory of concurrent authority of the Executive branch and the judiciary in the absence of express statutory procedures. However those questions could be resolved by amendments to the Foreign Intelligence Surveillance Act, as endorsed by FBI Director Webster in 1980.

Thus, the 1978 Act provides the foundation for clarifying the law with respect to other techniques that require a warrant when used for law enforcement rather than intelligence purposes. The alternative of reasserting "inherent Executive power" theories to conduct warrantless searches risks confrontation with the courts and leaves the FBI with uncertain legal authority. Those who suggest major changes in the Foreign Intelligence Surveillance Act bear the heavy burden of demonstrating that some other framework would maintain the broad consensus which now supports the exercise of sensitive and vital surveillance powers.

In the mid-70s proposals were made to abolish FBI investigations undertaken to anticipate and prevent acts of terrorist violence within the United States. Such proposals were rejected, and the FBI was expressly authorized to continue such investigations under new guidelines designed to focus on violence-prone groups rather than lawful political activities. Now equally mistaken proposals are being made to change these guidelines and greatly expand the scope of FBI "internal security" investigations. There is no question that ideologically-motivated terrorism, whether international or domestic in origin, demands investigations to anticipate violence, not merely after-the-fact criminal investigations. However, proposals for a return to out-dated domestic intelligence programs aimed at internal "subversion" and "un-American" dissent would, if adopted, create the most serious practical and constitutional problems.

Current FBI policies emphasize the detection and prevention of terrorist violence. Under the guidelines established in 1976 by Attorney General Levi, the FBI may employ for this purpose a wide range of investigative techniques, including physical surveillance, the recruitment of informants, infiltration of groups, and lawful undercover operations. The Bureau is not limited to investigating particular crimes for the purpose of prosecution. It also gathers information needed for an assessment of the capabilities and intentions of violence-prone groups. Attorney General Bell stated in 1978:

"Because of abuses which occurred in the past in connection with so-called domestic security cases, some have suggested that the Bureau should never play a role in detecting the existence of a crime or in preventing a crime. I disagree. Surely the investigative forces of the federal government should not be monitoring the legitimate First Amendment activities of our citizens because the views they are expressing are controversial or even antithetical to our constitutional system. But just as surely, the FBI should not stand idly by while terrorist groups seize hostages or set off bombs merely because the terrorists purpose to act in the interests of a "cause". If we have information that a group is preparing to commit a violation of law or is engaging in a continuing pattern of federal law violation, I believe it is incumbent upon us to protect our citizens by preventing violations if we can."

The emphasis on groups that engage, or are preparing to engage, in violence eliminated FBI investigations to gather intelligence about the expression of unpopular political views; but it has not kept the FBI from successfully preventing terrorist acts on a number of occasions since 1976. As FBI Associate Director James B. Adams explained in 1978:

"One of the best examples was in California recently where during our investigation of the Weather Underground we were able to penetrate the organization. By having live individuals within the organization, we became aware of a plot to engage in an assassination and a plot to engage in bombings. We were able to prevent the action taking place because it reached the conspiratorial stage . . .

"We had another case involving a group whereby, based on information within the organizations, and antibusing situation . . . [w]e became aware of a cache of grenades, explosives and weapons. We were able to prevent their use by seizing them through a search warrant . . .

"[W]e have had an organization in New York under investigation that was engaging in harassing foreign diplomats and engaging in bombing activities. Through penetration of the organization, we became aware of plans and were able to prevent those plans from taking place."

More recently, the FBI's centralized terrorism files and its nationwide communication with local authorities made possible the immediate identification of Puerto Rican FALN terrorists apprehended by local police. These examples illustrate the FBI's ability to undertake effective counterterrorism operations under the guidelines.

Apart from privacy concerns, the prime objective of current FBI counterterrorism policies is to make the most efficient use of its resources by concentrating on the types of investigations that have proven most effective in preventing terrorism.

After a thorough assessment by senior FBI officials, Director Clarence Kelley concluded in 1976 that "a quality, rather than a caseload quantity, approach in the assignment of our manpower and resources would produce better results."

The FBI's past "internal security" policies also raised serious constitutional problems. The American Bar Association's Special Committee to Study Federal Law Enforcement Agencies, chaired by William B. Spann, concluded in 1976:

"Because of the vague guidelines, the growth of Presidential power accompanied by Presidential requests and directives, international tensions and subsequent internal security problems, and the lack of control over the FBI, numerous legitimate activities of American citizens were placed under FBI surveillance. Other activities were disrupted. As a result the right of some American citizens to dissent and protest without government intervention was affected."

The ABA committee called for not only guidelines promulgated by the Attorney General, but also legislation defining FBI jurisdiction and "the nature and scope of investigations conducted in anticipation or prevention of crime."

Such legislation was proposed in 1979 with the support of the FBI Director, and extensive hearings have been held by the Judiciary Committees. At its 1979–80 midwinter meeting, the American Bar Association House of Delegates endorsed the FBI charter proposal and, among other principles, recommended:

"The bill should make clear that activity constituting exercise of a federal constitutional or statutory right may not be the object of investigation; but where such activity in fact provides reasonable indication of criminal activity, it should not be excluded as a basis for investigating such criminal activity."

The FBI continues to seek charter legislation that incorporates these principles. As Director Webster has stated:

"A charter can . . . let us know that we are doing what the American people and their elected representatives expect of us. It will permit our special agents to act with decisiveness and with knowledge that what they are doing is authorized and lawful."

After several years of intensive effort by the FBI and concerned Members of Congress, a statutory charter for the FBI's domestic functions is within sight. Wide agreement has also been reached on statutory authority for FBI foreign counterintelligence operations, which was supported by Director Webster as part of separate intelligence charter legislation in 1980. This progress reflects the restoration of broad public confidence in the FBI based in part upon the effectiveness of its current policies and their respect for constitutional rights.

Unfortunately, there is one area where it has not been possible to reach agreement on where to strike the balance. That is the issue of the collection of foreign intelligence concerning Americans, including collection and dissemination of information about U.S. business firms and individual citizens who have international contacts. This so-called "positive" foreign intelligence question is one of the most perplexing and important to emerge from the debate over intelligence charters.

In the course of those discussions, arguments were made for greater authority to collect "positive" intelligence about the commercial activities of U.S. business firms and about Americans who act lawfully "on behalf of a foreign power". After lengthy consideration within the Executive branch, in consultation with the Select Committee on Intelligence, the administration supported charter proposals that intrusive techniques could be used to collect "positive" foreign intelligence in extraordinary circumstances when the President determined they were required in specific cases to obtain foreign intelligence that was "essential" to national security. For techniques which require a warrant in criminal cases, there would also be a judicial finding that the American possessed the foreign intelligence sought and that other means could not reasonably be expected to obtain the information.

There was no agreement, however, on the standard for determining which other techniques would be considered "intrusive", such as the infiltration of groups, recruitment of informants, access to financial records, and other covert intelligence-gathering methods. Nor was any consensus reached after the public hearings on the charter proposals. Examples were cited of hypothetical cases where an American might possess the secret of a new Soviet weapons system or be privy to the confidential plans of a foreign head of state in a crisis situation. Others feared that such authority would invite abuses, such as the surveillance of American journalists abroad.

In the years ahead we must continue to find ways to resolve the difficult issues raised by privacy intrusions that do not fit the model of ordinary criminal law enforcement governed by the Fourth Amendment. The technological capability for acquiring communications intelligence is extensive. Undercover intelligence officers and agents are in a position to report all the information that comes to their attention or to which they may be able to gain access. Thus, large amounts of unneeded information about Americans can be acquired through the capabilities of both modern technology and traditional human agents for gathering intelligence.

These capabilities need not be aimed directly at American citizens or business firms for major privacy issues to arise. Once the technical or human intelligence resources are in place the natural result of the process is the acquisition of all available information. That includes communications of Americans and information about their activities. Moreover, the exploitation of these resources to produce more information about Americans can be accomplished without targeting specific persons or businesses, but simply by emphasizing particular topics and failing to minimize the use of the information about Americans that flows in.

Responsible officials in the Executive branch and the Congress must be alert to the emerging tensions between new intelligence priorities, such as international economic matters, and the privacy rights of Americans. They must be sensitive to the fundamental constitutional and legal principles that should be taken into account in developing and maintaining effective privacy safeguards. Some will argue that restrictions on gathering and using intelligence about Americans may deprive national leaders of knowledge they need to guide their decisions. We must never forget, however, that excessive governmental intrusions into the privacy of Americans weaken the sense of confidence in the propriety of their government's conduct that binds together the citizens of a free society.

Individual rights are not secondary to the nation's security. Public officials have an obligation to achieve the delicate balance that preserves both liberty and security under the Constitution.

Because of the potentially intrusive means of some techniques, the collection of information needed by the Intelligence Community can pose dangers. The areas of potential danger have been explored very carefully over the past four or five years. The effort to draft statutory guidelines in these areas has proven to be difficult, if not intractable. For the moment it will be necessary to rely upon guidelines and legislative oversight until a broad consensus on how these issues should be resolved is reached.

Intelligence is a first priority for the government of this nation. It is our first line of defense. The men and women who serve the intelligence agencies are of the highest quality with an unusual devotion to country. They do a very difficult job and they are doing it well and deserve our fullest support. They recognize the dangers of unbridled power which is part of the reason many of them have chosen to serve their country in intelligence work. They believe that intelligence must be guided by our constitutional framework and the rule of law because it is those values that they seek to defend. As a member of the Senate Intelligence Committee and as Chairman of the Committee, I came to recognize and share with them this common purpose for the defense of our country. More than anyone else, those who work in intelligence agencies understand the necessity not to take steps that will restrict our freedoms.

This has been a painful time for our nation and we are striving to set aside the differences that have divided us. We are seeking a new broad consensus. I believe that the steps we have taken have laid the foundation for this broad consensus. Much work needs to be done to assure that the gains we have made are preserved and that our efforts continue to strengthen our great nation and the liberties which make a great nation.

I am confident that this work will be carried forward by the Senate Committee on Intelligence in the 97th Congress under its new

Chairman, Senator Barry Goldwater. I want to express my deep gratitude to Senator Goldwater for all that he has done as Vice Chairman of the Committee. We have shared the burden of the leadership of the Committee's activities, and his advice and counsel have served the Committee and the Senate well. With his help the Committee's work has been conducted in a spirit of nonpartisanship. Senator Goldwater has shared my commitment to effective and responsible congressional oversight of our nation's intelligence activities. His help to me has ben crucial to the Committee's success in carrying out its duties.

The Senate is fortunate to have his long experience and his good sense as it faces the tasks before it. While we have approached some issues from very different perspectives, we have shared an overriding commitment to the vital importance of the security of our country and the liberties for which it stands.

All the members of the Select Committee with whom I have served since 1976 deserve great credit for their hard work and dedication to the often thankless tasks that have confronted us. I particularly want to thank the leaders of the subcommittees who have shouldered especially heavy burdens. Senator Dee Huddleston and Senator Mac Mathias, Chairman and Vice Chairman of the Subcommittee on Charters and Guidelines, have devoted their efforts to the Herculean work of attempting to develop charter legislation giving the intelligence community a clear mandate for the future. Senator Dan Inouye and Senator Malcolm Wallop, Chairman and Vice Chairman of the Subcommittee on Budget Authorizations, have scrutinized the details of each agency's programs to ensure the most effective use of their resources. Senator Joe Biden and Senator Jake Garn, Chairman and Vice Chairman of the Subcommittee on Intelligence and the Rights of Americans, have made possible some of the most imporant legislative accomplishments. The Foreign Intelligence Surveillance Act was passed in large measure because of the efforts of Senator Garn. And Senator Biden's "graymail" statute was a major step forward for the administration of justice. Senator Adlai Stevenson and Senator Dick Lugar, Chairman and Vice Chairman of the Subcommittee on Collection and Production of Intelligence, have studied ways to improve the quality of our intelligence system and have made cogent recommendations on key issues.

The Select Committee's staff, under the capable direction of Bill Miller and Earl Eisenhower, has demonstrated an expertise and nonpartisan professionalism that is unmatched in my experience in the Senate.

Finally, I want to express my deep appreciation to the Majority Leader, Senator Robert Byrd, and the Minority Leader, Senator Baker, who have served as ex officio members of the Select Committee, for all they have done to help make effective intelligence oversight a reality.

The obligation to oversee highly sensitive secret intelligence activities is not an easy burden for anyone. It is, however, a responsibility that must be discharged effectively if our constitutional ssytem of checks and balances is to work. It has been an honor to have been entrusted with the duty of service as a member, and then as Chairman, of the Select Committee on Intelligence, and to have had some part in these efforts that are so vital for constitutional government in the United States.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Does he want to restore the quorum call?

Several Senators addressed the Chair.

Mr. METZENBAUM. A point of order, Mr. President. Is it not the fact that when the Senator from West Virginia requested the quorum call be suspended, he also indicated that immediately thereafter he would suggest the absence of a quorum?

Mr. ROBERT C. BYRD. I was seeking the Senator's attention to see if he wanted me to proceed.

Mr. METZENBAUM. I say to the Senator from West Virginia that I have a basis on which I can now object.

Mr. LONG. Mr. President, we would like to move on some other matters, if we may. I hope very much the Senator would permit us to take up a privileged matter.

Mr. METZENBAUM. I certainly have no objection to other matters, provided the Senator from Louisiana when he concludes those matters would reinstate the quorum call.

Mr. LONG. I will protect the Senator's rights.

Mr. MELCHER. Mr. President, was I not recognized?

The PRESIDING OFFICER. The Chair attempted to, but the fact of the matter was that the majority leader had not relinquished his right to the floor.

The arrangement that was made is that as soon as the majority leader finished with the matters at hand, he was to reinstate the quorum call. Those were the ground rules under which the majority leader was recognized.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished Senator from Alaska if he wishes to hold me to my commitment?

Mr. STEVENS. Not at all. We can get on with the business of the Senate. That is the idea. We would like to see that.

Mr. LONG. I have a privileged matter, Mr. President.

Mr. METZENBAUM. Well, Mr. President, I say respectfully to the majority leader that I did not understand that was a commitment to one Member of the Senate.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator, he will not be prejudiced by allowing the Senator to proceed.

Mr. METZENBAUM. I have no objection to that at all.

DETERMINATION OF SECOND TIER TAXES

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5391.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 5391) entitled "An Act to amend chapter 42 of the Internal Revenue Code of 1954 with respect to the determination of second tier taxes."

Resolved, That the House agree to the amendment of the Senate to the text of the bill, with the following amendments:

(1) Page 35, lines 5 and 6, strike out "after the original sale and initial use of such tire,"

(2) Page 35, strike out all after line 9, over to and including line 11 on page 38

(3) Page 38, line 12, strike out "SEC. 6" and insert: "SEC. 5.".

Mr. LONG. Mr. President, I move that the Senate concur in the amendments to the House.

The PRESIDING OFFICER. The question is——

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, can we see what we have gotten back from the House?

Mr. LONG. It is there at the desk.

Mr. DOLE. There is nothing about H.R. 6806 in there?

Mr. LONG. No.

Mr. HEINZ. There is nothing unusual here?

Mr. DOLE. No.

Mr. LONG. The House accepted some of our amendments, and some they did not.

Mr. HEINZ. I thank the Senator from Louisiana for explaining the matter.

Mr. LONG. The House did not add any new matter to the bill. The House did make a technical amendment with regard to the provision relating to excise taxes on tires.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SIMPLIFICATION OF CERTAIN PROVISIONS OF THE TAX CODE

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5505.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 5505) entitled "An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes", with the following amendments:

(1) Page 23, strike out all after line 8, over to and including line 9 on page 27

(2) Page 34, strike out all after line 16, over to and including line 3 on page 42

(3) Page 27, line 10, strike out "SEC. 4." and insert: "SEC. 3.".

(4) Page 28, line 6, strike out "SEC. 5." and insert: "SEC. 4.".

(5) Page 42, line 4, strike out "SEC. 7." and insert: "SEC. 5.".

Mr. LONG. Mr. President, again let me say that the House did not add any new matter; they accepted some Senate amendments and declined to accept others.

I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

Mr. LONG. Mr. President, I move to

reconsider the vote by which the motion was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. LONG. Mr. President, I suggest the absence of a quorum.

Mr. MELCHER. Mr. President——

The PRESIDING OFFICER. Will the Senator withhold his request?

The Senator from Montana.

Mr. MELCHER. Mr. President, it was my understanding that there would be a request for a quorum call. If the Senator from Louisiana does not make it——

Mr. LONG. I made the commitment, so I do insist.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MELCHER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. A quorum call is in progress. The Chair heard an objection to calling off the quorum call, so the quorum call is in progress, and the clerk will call the roll.

Mr. MELCHER. Mr. President——

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and I assure the Senator from Ohio that I will not sit down and relinquish the floor or stop speaking until there is a quorum call.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Montana.

CONSCIENTIOUS OBJECTION TO JOINING LABOR ORGANIZATIONS

Mr. MELCHER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of H.R. 4774.

I explain to my colleagues that this is a bill that deals with the elimination of the curtailment of religious freedom suffered by a small but dedicated group of Americans who have experienced considerable harassment because of the tenets of their religious faith. These people are forbidden by their religion from joining or contributing to a labor organization. In situations where a union shop has been established through negotiation, these people must either violate their religious principles or lose their jobs. This is a cruel choice either way.

Mr. President, this bill was passed by the House of Representatives last Friday by an overwhelming vote of more than 300 votes affirmatively and about a dozen or 15 votes negatively. It is a bill that has been around Congress for 4, 5, or 6 years. It has passed the House, and I should like to see the Senate agree to it and allow it to go to the President's desk. I ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, has this matter been cleared with the majority and the minority?

Mr. MELCHER. This matter has been cleared for the last 2 or 3 weeks with the majority and the minority, and the chairman and the ranking minority member of the Labor Committee are very much aware of this matter. I just told the chairman again this evening that we wanted to dispose of this bill, and he has concurred in that.

Mr. ROBERT C. BYRD. Will the Senator allow me to ascertain whether the matter has been cleared all the way around?

Mr. MELCHER. I will be delighted, because I believe that would expedite the matter. The chairman is right here.

Mr. ROBERT C. BYRD. Mr. President, the matter has been cleared on both sides, I am informed by the staff. The chairman of the committee is here, and the indication is that it has been cleared. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 4774) to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, this bill, H.R. 4774, passed the House by a vote of 349 to 15 on February 12. It is identical to S. 1693, which I introduced on August 8, 1979 and which has 22 cosponsors reflecting the entire range of political philosophy of the Senate.

This bill provides that any employee, who adheres to established traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations, shall not be required to join or financially support any labor organization as a condition of employment. Instead a negotiated contract may provide such employee will make a contribution equal to the amount of union dues to a nonlabor, nonreligious charity exempt from taxation under section 501(c)(3) of title 26 of the Internal Revenue Code.

Further, if such employee requests the labor organization to pursue a grievance-arbitration procedure on the employees' behalf, the union may charge the employee for the reasonable cost of using such a procedure.

This is a religious freedom, and not a labor issue. There is precedent for this policy adopted by the Congress in 1974 when the provisions of the National Labor Relations Act were extended to hospital employees and this "conscience clause" was included.

One of the fundamental rights guaranteed to every American by the Bill of Rights of our Federal Constitution is free exercise of religion. In fact, so precious is that right, so important was it considered when the Bill of Rights was written, that it appears in the very first section of the first amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

As Congress passes various laws, invariably some unintentionally have an impact on the religious beliefs and practices of some of our citizens. At one time we learned members of the Amish religion, who consider it a religious duty to care for their senior citizens, were having their prized workhorses seized by the Internal Revenue Services because Amish religious beliefs prevented them from paying for insurance in the form of social security taxes. We removed that burden from the Amish by passing legislation, now found at 26 U.S.C. 1402, exempting them from the tax if they met certain requirements.

Another time we learned that Roman Catholics and others working in federally funded health-care facilities and programs were being fired for refusing to participate in abortion procedures, a subject of deep and strong religious conviction for many. We removed that burden by prohibiting such firings. An illustration of such legislation is found at 42 U.S.C. 300a–7.

Historically our draft laws have contained exemptions for those with religion-based objections to military service. As the Supreme Court noted in *Gillette v. United States*, 401 U.S. 437, 452–53 (1971), religious exemptions in the draft law serve the great secular purpose, among others, of respecting "the supremacy of conscience."

And the Supreme Court, in its decision in *Walz v Tax Commission*, 397 U.S. 664, 673 (1970), in declaring constitutional a property tax exemption for churches, noted:

> Governments have not always been tolerant of religious activity, and hostility toward religion has taken many shapes and forms—economic, political, and sometimes harshly oppressive. Grants of exemption historically reflect the concern of authors of constitutions and statutes as to the latent dangers inherent in the imposition of property taxes; exemption constitutes a reasonable and balanced attempt to guard against those dangers.

In more recent times our attention has been drawn to the burden some of our earlier legislation has placed on the religious beliefs and practices of certain relatively small religious group. Specifically, as allowed by our Federal labor laws, security clauses in collective bargaining agreements entered into between management and labor organizations can require individual employees to at least pay the equivalent of union dues. For those few who cannot for religious reasons pay the money—primarily members of certain Amish and Mennonite groups, Old German Baptists, Plymouth Brethren IV, and Seventh-day Adventists—the consequences of following their religious convictions is a great burden if due to their deep religious convictions they are fired, sometimes after they have worked for the employer for many years.

This problem was first brought to the attention of Congress 15 years ago during hearings before the 89th Congress. When the issue was presented to representatives of organized labor, AFL–CIO President George Meany responded by letter to the chairman of the Special House Subcommittee on Labor with these words:

> In any event, I believe that unions and employers, too, should accommodate themselves to genuine individual religious scruples, and I am sure that all of our unions will take that view, too. I intend, accordingly, to propose to the AFL–CIO Executive Council that it adopt a strong policy statement to that effect; and that the international unions affiliated with the AFL–CIO undertake to insure that their local unions scrupulously respect individual religious reservations in the administration of union security agreements.

Hearings before the Special Subcommittee on Labor and the Committee on Education and Labor (89th Cong., 1st sess. 267 (1965)) and hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare (89th Cong., 1st sess. 259 (1955)).

True to his word, Mr. Meany presented the problem to the executive council of the AFL-CIO that unions should accommodate themselves to genuine individual religious scruples. We strongly urge all national and international unions affiliated with the AFL-CIO, that have not done so, to: First, immediately adopt procedures for respecting sincere personal religious convictions as to union membership or activities; and second, undertake to insure that this policy is fully and sympathetically implemented by all local unions. Hearing before the Subcommittee on Labor-Management Relations (96th Cong., 1st sess. 16 (1979)).

So for 15 years it has been the strong policy of organized labor that international labor organizations affiliated with the AFL-CIO should make accommodations for religious dissenters who cannot join or financially support labor organizations. What has become the accepted accommodation—and which prevents even the appearance of the religious dissenter benefiting financially from the accommodation—is for the religious dissenter to pay the equivalent of union dues to a nonreligious, nonunion charity such as the Red Cross, American Cancer Society, or the Heart Fund. This is the exemption, basically, enacted in 1974, to cover employees in private health-care institutions and which is found in the Federal Labor Code at 29 U.S.C. 169.

Some large labor organizations, such as the Communications Workers of America, have followed the AFL-CIO executive council policy with outstanding results. The Communications Workers of America have accommodated religious dissenters who have asked for accommodations and have shown such accommodations to be no great burden on organized labor. Hearing before the Subcommittee on Labor-Management Relations of the Committee on Education and Labor (94th Cong., 2d sess. 16 (1976)). Certain others, unfortunately, have not made accommodations and religious dissenters have used the religious accommodation requirement of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e(j), to seek accommodations. Courts of appeals in the fifth, sixth, and ninth circuits have ruled that employers and labor organizations must make reasonable accommodations for the dissenters. *Cooper* v. *General Dynamics*, 533 F. 2d 163 (5th Cir. 1976), cert. denied sub nom. *IAM* v. *Hopkins*, 433 U.S. 908 (1977); *McDaniel* v. *Essex International, Inc.*, 571 F. 2d 338 (6th Cir. 1978); *Anderson* v. *General Dynamics Corp.*, 589 F. 2d 397 (9th Cir. 1978), cert. denied, 442 U.S. 921 (1979); and *Burns* v. *Southern Pacific Transportation Co.*, 589 F. 2d 403 (9th Cir. 1978). cert. denied, 439 U.S. 1072 (1979).

In addition, several States, such as Montana, have passed their own "conscience clauses" to allow religious dissenters working under union-security clauses in State employment to retain their jobs if they pay a dues equivalent to a charity. See R.C.M. 59-1603. And the Equal Employment Opportunity Commission Guidelines on Discrimination Because of Religion also require an accommodation, 45 F.R. 72613 (October 31, 1980).

Certainly, H.R. 4774 which would allow religious dissenters who work under collective-bargaining agreements that contain union-security clauses to pay a dues equivalent to a neutral charity, rests on a solid American concept, the fundamental right to free exercise of religion. It is a concept endorsed strongly by the AFL–CIO executive council and by the legislatures of several States. The House of Representatives passed H.R. 4774, by the overwhelming vote of 349 to 15 on February 11, 1980. I urge every Senator to join me in voting for this measure to lift a burden from the free exercise of religion.

Mr. President, this is a great day for a small minority of people who have been conscientiously asking for some relief so that they can obey their church and not belong to a union. I believe it is proper that the Senate agree to the measure. I thank my colleagues for their patience and their understanding, and I hope we can pass the bill unanimously.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that?

15-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 7:45 p.m., recessed until 8 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MELCHER).

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 1202, Senate Resolution 544.

There being no objection, the resolution (S. Res. 544) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3234, was considered and agreed to, as follows:

> *Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of the bill increasing the debt limit for the John F. Kennedy Center and waiving certain interest payments. The bill, as reported, authorizes an increase in the debt ceiling of the Kennedy Center to $21,900,000. The bill also waives certain interest payments for the earlier loan made to the Kennedy Center to complete the structure. This legislation could not be reported prior to the May 15 deadline because information relating to the bonds could not be developed prior to that time.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PLAN FOR SATISFYING THE JOHN F. KENNEDY CENTER'S INDEBTEDNESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 1180, S. 3234.

Mr. METZENBAUM. Mr. President, reserving the right to object, will the Senator from West Virginia be good enough to indicate what the subject matter of that bill is?

Mr. ROBERT C. BYRD. Yes, it pertains to the Kennedy Center's bond matter.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER (Mr. HART). The clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 3234) to establish a plan for satisfying the John F. Kennedy Center's indebtedness.

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1956

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Randolph I send an amendment to the desk and ask that it be stated by the clerk. It is a technical amendment requested by the Budget Committee.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), on behalf of Mr. Randolph, proposes an unprinted amendment numbered 1956.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 25, insert the following:

"(e) Notwithstanding any other provision of this Act, any increase in the borrowing authority provided in subsection (a) on the date of enactment of this Act, shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts."

Mr. JEPSEN. Mr. President, I ask unanimous consent to have printed in the Record a statement by Mr. Percy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Percy

Mr. President, the passage of this legislation, S. 3234, is a major step in the continued development of our National Cultural Center, the John F. Kennedy Center for the Performing Arts. This legislation goes a long way toward clarifying the financial relationship between the Kennedy Center and the Federal Government.

By enacting this legislation the Congress formally recognizes what is a well-known fact. Having had the honor to serve as a Trustee of the Kennedy Center for sometime now, I can attest to the present financial situation. Almost certainly there is no way the Center can pay for an ever-increasing share of the building's maintenance costs, and find money to pay interest on the bonds. It is futile to expect private donors to help satisfy what is essentially an intragovernment debt. No other government entity has been asked to repay compound interest on a Federal debt with private funds.

Given the historical context in which that interest requirement was imposed—at a time when there was no National Endowment for the Arts or any real Federal commitment to encourage them—it seems sensible and just to relieve the Center of it in 1980.

Mr. President, the private financial commitment to the Kennedy Center has grown enormously in recent years. The Kennedy Center Board has raised over $36 million from private sources to construct the building. That is $7 million more than was required to match the $23 million Federal appropriation for construction and the supplemental construction claims appropriation of $3.9 million. Since that time, the Center has raised about $8.7 million in additional private funds to underwrite the cost of its Section 4 responsibilities. Thus, the total private funds raised to date by the Trustees exceeds Federal construction appropriations by nearly $16 million. This sum is equal to the current compound interest indebtedness. Now, Mr. President, the Kennedy Center can begin immediately to make payments on the principal of the original Kennedy Center bonds.

This bill will allow the Trustees of the Kennedy Center to double its efforts in private fundraising without the compound interest debt hanging over its head.

I appreciate the work and dedication of the Committee on Public Works in recognizing this important requirement to the future of our National Cultural Center.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1956) was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and, as amended, was passed as follows:

S. 3234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill may be cited as the "John F. Kennedy Center Amendments of 1980".

Sec. 2. Section 9 of the John F. Kennedy Center Act is amended—

(1) by inserting "(a)" after the section designation;

(2) by striking out "$20,400,000" each time it appears and inserting in lieu thereof "$21,900,000"; and

(3) by adding at the end thereof the following new subsections:

"(b) The Board shall use the proceeds of the revenue bonds issued pursuant to the John F. Kennedy Center Amendments of 1980 to pay the debt of the Center to Airport Parking Company of America, Washington, Incorporated, the operator of the parking facilities of the Center.

"(c) Notwithstanding any other provision of law, the Board shall, for each calendar year beginning after October 1, 1980, apply the Center's net revenues from the parking facilities of the Center, but in any case not less than $500,000 per annum, toward retiring the bonds issued under this section to the Secretary of the Treasury.

"(d) Notwithstanding any other provision of law, no interest shall accrue on the bonds issued under this section for any period after the date of enactment of this bill. The Secretary of the Treasury shall forgive the Board from payment of any and all interest (including deferred interest) otherwise due or accrued on the bonds issued under this section as of the date of enactment of this Act.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 8:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 8:30 p.m. today.

There being no objection, the Senate, at 8:04 p.m., recessed until 8:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Hart).

APPOINTMENTS ON BEHALF OF THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Rhode Island (Mr. Pell) and the Representative from Washington, Mr. David M. Irwin, to the National Commission on Student Financial Assistance.

APPOINTMENTS ON BEHALF OF THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints Mr. Hugh B. Mitchell of the State of Washington and Edward W. Brooke of the State of Massachusetts to the Commission on Wartime Relocation and Internment of Civilians Act.

THE "THOMAS J. McINTYRE FEDERAL BUILDING"

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. Moynihan, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 3212 and that the Senate proceed to its immediate consideration.

Mr. MOYNIHAN. Mr. President, I believe the Senator from Kansas has an amendment he would like to offer.

The PRESIDING OFFICER. The bill will be stated by title. The assistant legislative clerk read as follows:

A bill (S. 3212) to designate the "Thomas J. McIntyre Federal Building".

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1957

(Purpose: To rename the Veterans Administration Medical Center in Topeka, Kansas)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. Dole) proposes an unprinted amendment numbered 1957.

At the appropriate place in the bill insert a new section as follows:

Sec. . (a) The Veterans' Administration Medical Center in Topeka, Kansas, is designated as the "Colmery-O'Neil Veterans' Administration Medical Center", in honor of the late Harry W. Colmery and Ralph T. O'Neil.

(b) Any reference to such center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed a reference to the Colmery-O'Neil Veterans' Administration Medical Center.

(c) The Committee on Rules and Administration shall place appropriate markers or inscriptions at suitable locations within the clinical center referred to in the first section of this resolution to commemorate and designate such building as provided in this resolution. Expenses incurred under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

Mr. DOLE. Mr. President, this simply, for the fourth time, would rename a veterans' hospital in Topeka, Kans., the Colmery-O'Neil Hospital. It passed the Senate yesterday and was dropped off. It passed a couple of other times and never made it in the House.

Mr. METZENBAUM. Mr. President, I cannot think of a more meritorious cause.

I am delighted to agree to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1957) was agreed to.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 3212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 80 Daniel Street, Portsmouth, New Hampshire (commonly known as the Federal Building), shall hereafter be known, called, and designated as the "Thomas J. McIntyre Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Thomas J. McIntyre Federal Building.

SEC. . (a) The Veterans' Administration Medical Center in Topeka, Kansas, is designated as the "Colmery-O'Neil Veterans' Administration Medical Center", in honor of the late Harry W. Colmery and Ralph T. O'Neil.

(b) Any reference to such center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed a reference to the Colmery-O'Neil Veterans' Administration Medical Center.

(c) The Committee on Rules and Administration shall place appropriate markers or inscriptions at suitable locations within the clinical center referred to in the first section of this resolution to commemorate and designate such building as provided in this resolution. Expenses incurred under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

Mr. MOYNIHAN. I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE LOUIS C. WYMAN FOREST EXPERIMENT STATION

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. MOYNIHAN, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8338, which is at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8338) to designate the facility known as the Northeastern Forest Experiment Station in Durham, New Hampshire, as the "Louis C. Wyman Forest Experiment Station".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, has the bill been amended as it appeared at the desk?

The PRESIDING OFFICER. There is no amendment.

UP AMENDMENT NO. 1958

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. METZENBAUM. Mr. President, objection until the amendment is read.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1958:

At the end of the bill add the following new section:

SEC. In accordance with the provisions of section 203(k)(3) of the Federal Property and Administrative Act of 1949, as amended (40 U.S.C. 484(k)(3)), the Administrator of General Services is directed to convey to the Archive Preservation Corporation, a wholly owned subsidiary of the New York State Urban Development Corporation, the surplus Federal property known as the Federal Archive Building, 641 Washington Street, New York, New York, said conveyance to be made in accordance with the terms stipulated in the application submitted to the Administrator by the Archive Preservation Corporation.

Mr. MOYNIHAN. Mr. President, the amendment provides that the Federal Archives Building in the city of New York which has been, for 4 years, vacant and which it has been agreed should be transferred to the city of New York will be so transferred, under the standing arrangement with the Federal Government.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1958) was agreed to.

Mr. MOYNIHAN. Mr. President, I move adoption of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

Mr. MOYNIHAN. I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is H.R. 3755.

COMMENDATION OF MURRAY ZWEBEN, PARLIAMENTARIAN

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 567) commending Murray Zweben, Parliamentarian.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to the consideration of the resolution.

MURRAY ZWEBEN, THE SENATE PARLIAMENTARIAN

Mr. ROBERT C. BYRD. Mr. President, with the close of the 96th Congress, the Senate will be losing one of its most honored and esteemed officials. The Senate's Parliamentarian, Murray Zweben, will be saying farewell 24 years after he first came to the Parliamentarian's office as Secretary to Parliamentarian Charles L. Watkins.

Mr. Zweben served 3 years as communications officer in the Communications Office of the Chief of Naval Operations, following his graduation from Naval Officer Candidates' School in September 1953. While serving as Secretary to the Parliamentarian, Mr. Zweben attended the George Washington University Law School and achieved the honor of being on the Law Review there.

After clerking for Judge Laramore of the U.S. Court of Claims, and practicing law, he was called again to the Senate to file the newly created position of Second Assistant Parliamentarian in January 1963. Upon the retirement of Charles Watkins, in December 1964, he was again promoted—this time to the position of Assistant Parliamentarian, in which he served for 10 years under the tutelage of Dr. Floyd Riddick, now Parliamentarian Emeritus of the Senate.

In 1974, Mr. Zweben was appointed Parliamentarian of the U.S. Senate and has served with distinction in that post since that time. He has served as Parliamentarian during some turbulent years in the U.S. Senate. In his first year, Nelson A. Rockefeller, then Vice President of the United States and President of the Senate, relied heavily upon the advice of the Parliamentarian as he presided over the tumultuous fight to amend the Rules of the Senate. Also during Mr. Zweben's first year as Parliamentarian, the Senate was faced with an unprecedented debate over the rightful claim to a Senate seat from New Hampshire, which required great skill to resolve.

The Senate has seen other battles during Murray Zweben's tenure as Parliamentarian. Through all these encounters, Mr. Zweben has been fair, impartial, and judicious in the conduct of his duties. He deserves our respect and thanks for a job well done.

Mr. METZENBAUM. Will the majority leader indicate if there can be submission of statements on this matter for the next 10 days?

Mr. ROBERT C. BYRD. Yes, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 567) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 567

Whereas, Murray Zweben has faithfully served the United States Senate for twenty years and has served as Parliamentarian since January 1975, and

Whereas, during this period he has exhibited a sincere sense of loyalty and unfailing dedication to the Senate, and

Whereas, he has performed his duties and carried out the responsibilities of his office in the highest tradition of public service; Now, therefore, be it

Resolved, That the United States Senate hereby commends Murray Zweben for his outstanding service, and extends deepest gratitude to him for the fair and impartial manner in which he has performed his duties as Parliamentarian of the United States Senate, and for his long and faithful service to the Senate and to the Nation.

COMMENDATION OF F. NORDY HOFFMANN, SERGEANT AT ARMS AND DOORKEEPER

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 568) commending F. Nordy Hoffmann, Sergeant at Arms and Doorkeeper.

The Senate proceeded to consider the resolution.

FRANK NORDY HOFFMANN

Mr. ROBERT C. BYRD. Mr. President, early in 1976, Frank Nordy Hoffmann joined us in the Senate to serve as our Sergeant at Arms. For the last 5 years, Nordy has admirably served this body as the principal executive, law enforcement and protocol officer of the Senate.

If there is any story I can think of that characterizes Nordy's years with the Senate, it is this: When Nordy first came into office, a welcome sign suddenly appeared on the door of the Sergeant at Arms' suite. A welcome sign that meant everyone—Senators, staff, tourists, and other citizens—would be warmly received by the Office of the Sergeant at Arms. Nordy Hoffmann has always accommodated people, whether they were Senators or other citizens. Through his courtesy and "can-do" spirit, he has earned a solid reputation as everyone's friend.

In the last 5 years, Nordy has brought efficiency and professionalism to the Senate's operations. He has steadily worked to upgrade services and establish competent management. He improved computer and communications programs. He institutionalized an introductory seminar program for freshman Senators. Perhaps most importantly, Nordy formalized and standardized many procedures and policies under the Office of the Sergeant at Arms to insure that people would be treated more equally under the Senate's operations.

Nordy has been one Sergeant at Arms who has looked like a Sergeant at Arms. He is a big man—in both heart and body. Nordy stands at 6 foot 3 and weighs close to 300 pounds. He is big enough to arrest and to bring to the Senate Chamber any Senator now living.

Nordy has enjoyed an interesting and varied life. Before his appointment to Sergeant at Arms, he served 8 years as executive director of the Democratic Senatorial Campaign Committee.

Nordy was born in Seattle, Wash., graduated from St. Martin's Prep School in Lacey, Wash., and entered Notre Dame University in 1927. At Notre Dame, Nordy, who had never played football before, was introduced to the game by the immortal Knute Rockne and starred as a guard and tackle on the famous Rockne championship teams of 1929, 1930, and 1931.

In 1978, while Sergeant at Arms of the Senate, Nordy was inducted into the National Football Foundation Hall of Fame. The nominating committee of the Hall of Fame received letters of recommendation for Nordy from 100 U.S. Senators, from President Carter and from former President Ford.

Indeed, Nordy Hoffmann does have and is entitled to the respect and affection and friendship of all 100 Senators—Senators from both sides of the aisle. I thank him for his able service to this body.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 568) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 568

Whereas, F. Nordy Hoffmann, Sergeant at Arms and Doorkeeper of the United States Senate, will relinquish his office as of January 5, 1981, and

Whereas, during his tenure as Sergeant at Arms and Doorkeeper, he has performed his duties and discharged his responsibilities with great efficiency and diligence, and

Whereas, he has upheld the traditions of his office with fidelity and unsurpassing dedication, and

Whereas, he has gained the admiration and respect of his associates and the Members of the United States Senate; Now, therefore, be it

Resolved, That the Senate hereby commends the outstanding contributions made by F. Nordy Hoffmann to the Senate and extends to him its appreciation and gratitude for the manner and integrity with which he carried out his responsibilities.

COMMENDATION OF J. S. KIMMITT, SECRETARY OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A Senate Resolution (S. Res. 569) commending J. S. Kimmitt, Secretary of the Senate.

The Senate proceeded to consider the resolution.

JOSEPH STANLEY KIMMITT

Mr. ROBERT C. BYRD. Mr. President, the Secretary of the Senate holds a most demanding and important staff position. As the Senate's chief administrative officer, he is charged with diverse responsibilities which require a high degree of ability and trust. The Secretary of the Senate is responsible, for example, for the supervision of staff personnel on the floor of the Senate, including legislative clerks, official reporters, and the Parliamentarian. He is in charge of all Senate financial transactions. He directs the work of the Senate document room, the Senate library, and the Senate Historical Office, to name just a few of his duties. The post dates back to the first days of congressional history and has grown in importance as the operations of the Senate have become increasingly complex.

Stan Kimmitt has served as Secretary of the Senate in the 95th and 96th Congresses with distinction, integrity, and dedication.

With the adjournment of the 96th Congress, Stan Kimmitt will end 15 years of service to the U.S. Senate. He began his Senate tenure in 1965 as the administrative assistant to then Majority Leader Mike Mansfield. He came to Washington from a distinguished career in the U.S. Army, where he was decorated for bravery with the award of the Silver Star, the Bronze Star, and other commendations. For 11 years, from 1966 to 1977, he held the post of Secretary for the majority of the Senate, where he won the trust and respect of every Democratic Senator.

I know I speak for all my colleagues, both Democrats and Republicans, when I say that we wish Stan Kimmitt well in whatever new endeavors he chooses to pursue. He has served the Senate and the Nation with distinction and honor. He is to be congratulated for a job well done.

Mr. BAKER. Mr. President, in recent days we have paid tribute in this Chamber to many of our colleagues who are departing the Senate at the conclusion of this 96th Congress.

Each has been rightly and most deservedly honored for his individual and collective accomplishments and contributions to the Senate and the Nation.

However, we have overlooked someone who also is leaving a critical Senate post upon our adjournment sine die—Frank Nordhoff Hoffmann, the Sergeant at Arms of the Senate. There is not a more dedicated and distinguished servant of the Senate and the United States than "Nordy" Hoffmann.

"Nordy" Hoffmann has served as Sergeant at Arms of this body since 1976. He came to that post following an illustrious career which began as an all-American football player on the fabled Notre Dame University squads of the legendary Knute Rockne. Following his service during the Second World War, "Nordy" distinguished himself as one of the guiding forces in the development of the United Steelworkers Union and ultimately served as its legislative director. In 1967, he assumed the post of executive director of the Democratic Senatorial Campaign Committee, where he served with exceptional effectiveness for 8 years, as all of us on this side of the aisle were made painfully aware during that time.

As an officer of the Senate responsible for the orderly conduct of the Senate, "Nordy" Hoffmann has served this body with great devotion and acomplishment during his tenure. His duties have expanded dramatically in recent years, yet he has kept pace with the increased demands, and we all owe him a debt of great gratitude.

I know each of us in the Senate appreciates all that "Nordy" has done for us and for the Senate he loves.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 569) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 569

Whereas, upon the completion of almost forty years of service with the United States Government, both as an officer in the United States Army and as an officer of the United States Senate, J. S. Kimmitt will relinquish the office of Secretary of the Senate, as of January 5, 1981; and

Whereas, during the past fourteen years as an elected officer of the Senate, the said J. S. Kimmitt has performed the duties and discharged the responsibilities of his offices with unfailing dedication and a high degree of efficiency; and

Whereas, the said J. S. Kimmitt has upheld the high standards and traditions of the office of Secretary of the Senate with abiding devotion; and

Whereas, he has gained the trust, confidence and respect of his associates and the Members of the United States Senate; Now, therefore, be it

Resolved, that the Senate recognizes the notable contributions of J. S. Kimmitt to the Senate and to his Country and expresses to him its appreciation and gratitude for his long, faithful and outstanding service.

AUTHORITY TO MAKE CERTAIN APPOINTMENTS AFTER THE SINE DIE ADJOURNMENT OF THE PRESENT SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the sine die adjournment, the Vice President, the President pro tempore, the majority and minority leaders have authority to make appointments to boards, commissions, and committees and that these appointments appear in the Record on January 5, 1981, upon the convening of the 97th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECORD TO BE KEPT OPEN FOR 10 DAYS FOR CERTAIN STATEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Record be kept open for the submission of additional statements for 10 days in respect to the resolutions commending Murray Zweben, Frank Nordy Hoffmann, and Joseph Stanley Kimmitt and that the remarks about each of these individuals for whom the Senate has just adopted resolutions of appreciation and commendation be bound as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I wonder if it might be possible to agree on a time for a final vote on the House message dealing with mass transit? I should be very happy to delay propounding the request to give Senators an opportunity to consult on the matter as they wish.

Mr. BAKER. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the majority leader for expressing his willingness to postpone his request.

I see the distinguished Senator from Indiana on the floor, and other Members who are interested in this measure. I would suggest that if we have an opportunity to confer on that, I can give a more definitive answer to the majority leader.

Mr. ROBERT C. BYRD. Very well.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

CHESHIRE HOMES FOR THE HANDICAPPED

Mr. MATHIAS. Mr. President, providing adequate housing for severely disabled Americans has long been a challenge to our society. I therefore read with great interest a recent article on Cheshire Homes for the Handicapped that appeared in Disabled USA, the magazine published by the President's Committee on Employment of the Handicapped. It highlights an interesting example of what is being done by private organizations in this country to provide housing for the handicapped. Cheshire Homes have existed in many parts of the world for a number of years since the concept was developed by RAF hero Leonard Cheshire. They have only recently, however, been introduced into the United States. In 4 years, five schemes have been started in various parts of the country, including a home which has recently opened in Arlington, Va. They provide an interesting example of what can be done on very meager financial resources but with the right spirit of cooperation and community support. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Cheshire Home: One Example of New Housing Projects Being Built by Private Foundations

The prospect of living in a geriatric nursing home or in a State institution for the rest of one's life is hardly appealing. Nevertheless, it is frequently the fate of many disabled people.

Some have been confined to institutions since birth. Others, sometime during their lives, have been institutionalized because their families could no longer attend to their specific needs at home.

Thousands of mentally alert young adults in this country who have been severely disabled as a result of an accident, birth defect, disease, or chronic illness, are, unfortunately, offered extremely limited choices in their living arrangements.

Nursing homes and State institutions care primarily for elderly persons and mentally impaired persons. But, at present, this kind of housing is disabled people's chief alternative for shelter.

This type of institutional living situation dramatically reduces the degree of independence disabled people may be able to achieve. It prevents them from enjoying the large scope of activities available to them. Accessible apartments are the answer for some, but not for those who need attendant care and do not have funding to pay for it.

Another alternative to this housing problem for severely disabled Americans is currently available in some areas of the country. According to the brochures, a Cheshire Home, as each one is termed, is a group residential home—not necessarily a permanent one—for disabled adults ranging in age from 18 to 50 years old.

At the Home, rehabilitation of the whole person is stressed, in hopes that she or he may be able to return to independent living in the outside community. For some who are more severely disabled, the Home is regarded as a lifelong residence.

The purpose of the Home is to provide an atmosphere in which residents are encouraged to develop their own skills and talents and to be as independent as possible. Emphasis is also placed on improving relationships among residents and on integration into the community.

The concept of a Cheshire Home may be new to the United States, but it certainly isn't new to the rest of the world. Currently, there are more than 180 Homes in at least 40 other countries.

Leonard Cheshire, a retired Royal Air Force bomber pilot, is responsible for originating this network of residencies. It all began in Great Britain after WWII.

Cheshire organized a plan for disabled veterans to work at various jobs. Because of their individual handicaps, many of them had to work together to complete one job. Unfortunately, this particular effort eventually failed.

Later, Cheshire heard that a 75-year-old ex-serviceman he knew was dying of cancer. The hospital where he had been admitted needed the bed for someone curable, leaving the man nowhere to go. Cheshire took the man into his own home and nursed him until he died.

Others in similar need followed and Cheshire accepted these people into his home as well. The new residents had a dislike for hospitals where they had received little attention and where they were regarded as useless. Cheshire realized this and assigned them each jobs to do which made them feel more at home.

Cheshire soon realized that the true need was in caring for young disabled people for which no specialized provisions had been made. He continued to start new Homes throughout England and each one was run by a committee composed of the Home's residents, as well as concerned local townspeople.

Today, each Cheshire Home throughout the world is completely independent and autonomous. The Homes are run by their own committees and function solely on the rules and decisions made by that individual committee. The Homes differ in size and type of accommodations, but they do share the same principles on which the first Cheshire Home was founded.

A Central Trust is established in each country, and this Foundation does offer some guidelines to the newly established Cheshire Homes which according to Leonard Cheshire, "they may or may not wish to follow."

The purpose of the Cheshire Foundation is to act merely as a guide for the Homes. The only financial support they provide, if necessary, is the initial stipend to get the new Home in operation. But some of the new Homes even refuse that monetary help.

"In Africa recently, a new Home was started, but the residents turned down our help. They wanted to make it on their own," Cheshire stated. The Homes depend mostly on private contributions for daily operations. The government does not offer any subsidizing funding.

One of the major resources for the Cheshire Homes is support from the local community members. The active participation of community people has added immensely to the success of the housing network. According to Michael Teague, Chairman of the Board of Directors of the Cheshire Foundation, the local community plays an important role in the Homes' future.

"We try to involve the townspeople right from the start," Teague reported. "We inform them and discuss our plans and let them know that Cheshire Homes are all about. By including the neighboring community into the plan for the development of the Home, a good rapport is generated from the beginning."

Another reason cited as to why the community tends to support these Homes is because they are kept "small." They are not institutions and have no intentions of becoming grand scale operations. "Small is beautiful. It works!" Teague announced with a smile.

All applicants to the Homes are considered without regard to sex, race, creed, financial or ethnic background. When a new Home opens, the Cheshire Board of Trustees selects residents who are representative of the local community. In an already established Home, new members are chosen by an admissions committee composed of other residents and a few members of the local Board.

Residents who hold jobs pay what they can for their room and board. Others rely on insurance such as Medicaid, Social Security, and VA benefits to cover the living costs.

Attendant care is an additional costly burden to disabled residents in the United States and to disabled people in most other countries. Medical insurance, again, is relied upon to cover these costs. In Canada, however, and some other countries, national health policies cover these costs.

In the States, Cheshire Homes are beginning to spring up all over. In California, there are presently three Homes, one of which is run strictly on a rented room basis. (Because of lack of funds, each resident must pay for room and board.)

In Mississippi, another Home has been established which differs from the rest in that it accepts mentally retarded residents as well as physically disabled ones. The Nevada Self Help Group is also in the process of beginning a Home in Reno.

"The most ambitious scheme of all," Michael Teague explained, "is the undertaking in New Jersey." Recently, ground-breaking ceremonies took place to launch the building of a new Cheshire Home which, when finished, will accommodate 35 disabled people.

The Home has a barrier-free design and will be one of the largest of the Cheshire Homes in the world. The land for the housing complex was donated by the Exxon Corporation, and the money for the Home's construction was raised by a federal loan and through private contributions.

The 1.8 million dollar home is expected to be completed in about a year. The Home will consist of single and double rooms, each being large enough to be personalized and to accommodate "work space." Also, each room will open onto a patio.

Dining and recreational rooms are located in the central part of the building, as are hobby rooms, a library, TV lounges, a personal care center, and a "sundry shop." In addition to the main dining room, there are kitchenettes and den areas so that residents may entertain guests.

One of the main problems that this Cheshire Home will face, as do many of the others throughout the world, is the selection of its residents. Presently, there are well over 100 applicants on file at the Home in New Jersey. Undoubtedly, many more will apply by its expected opening next August.

A similar facility, the Good Shepherd Home in Allentown, Pennsylvania, currently has a five-year waiting list. The only encouraging factor is that many of the applications were submitted over a year ago when the plans for the Home were still in the making. Some of those applications may not be valid today.

The founder of the Homes, Leonard Cheshire, in speaking at the groundbreaking ceremonies in New Jersey, may have described the Homes most accurately. Cheshire stated that "the idea of the Homes is not to create an atmosphere of independence, but rather to provide a freedom of choice for disabled people in where they can live."

Inquiries about the Cheshire Home in New Jersey may be addressed to Dr. David M. Graybeal, Chairman, Cheshire Home, Inc., 1 Madison Avenue, Madison, NJ 07940. For information about other Cheshire Homes in the United States, write to The Leonard Cheshire Foundation, Inc., 1211 Connecticut Avenue, N.W., Washington, DC 20036.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. MATHIAS. It is a great pleasure to yield to my distinguished colleague from West Virginia.

Mr. RANDOLPH. Mr. President, it is not a cursory comment I make, but a commendation which I wish the RECORD to reflect, that the service of Senator MATHIAS in reference to matters of concern for the handicapped of this country is commendable.

These men, women and children deserve our careful attention and, where possible, our affirmative action.

This is but another indication of the Senator's concern, which is reflected in what we are now doing.

Mr. MATHIAS. Mr. President, I am very grateful to the senior Senator from West Virginia for those generous remarks.

I can only say that when any Member of the Senate, any Member of ths Senate, does anything in the area of assistance to the handicapped, he walks in the footsteps of the Senator from West Virginia.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 8:42 p.m., recessed until 9:12 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

DESIGNATION OF OTIS PIKE FIRE ISLAND HIGH DUNE WILDERNESS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 7814 and that the Senate proceed to its immediate consideration.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the purpose of the reservation is to advise the majority leader that calendar number is cleared on our side and we have no objection to its consideration and its passage.

There being no objection, the Senate proceeded to consider the bill. The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORTATION ACT OF 1980

REQUEST FOR TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 1 hour of debate on the House message on S. 2720 entitled An Act to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations, and for other purposes; and that the time be equally divided between Mr. WILLIAMS and Mr. LUGAR, and that at the expiration of the hour the Senate proceed to vote on the message.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, would the Senator be willing to settle for 2 hours?

Mr. LUGAR. Mr. President, reserving the right to object, I am not prepared to enter into a unanimous-consent agreement, and I would have to object to the majority leader's propounding it.

Mr. ROBERT C. BYRD. To any agreement as to time?

Mr. LUGAR. To no agreement.

Mr. ROBERT C. BYRD. The Senator would object to any agreement?

Mr. LUGAR. I would object.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. WILLIAMS. Mr. President, I am sure it was the hope of most Members that this was to be the last day of this session of this Congress. Maybe that hope is not as real now as it was a couple of hours ago. At any rate, we are certainly within the last few days of this session of Congress.

If we should return on Monday, I wonder if there would be a possibility then that we might enter into an agreement on this message?

Mr. LUGAR. Respectfully, I would say I do not see that possibility. I would object to an agreement on Monday likewise.

Mr. WILLIAMS. I will say to my colleagues and to you, Mr. Leader, that it seems to me from the statement of the Senator from Indiana that this bill, the Surface Transportation Act, will be stopped short of enactment in this session of Congress. And it seems to this Senator that it is very clear that a small minority of Senators have positioned themselves on this measure to probably claim a victory. And a victory that will come at the expense of hundreds of communities, large and small, and millions upon millions of our fellow citizens who will suffer from the practical effects of its demise.

Mr. President, for the first time in the history of the transit program, the promise of effective public transportation made by every President and every administration, and renewed regularly by the Congress, will be broken. Our efforts to conserve energy will be hindered. Our attempt to revive the domestic rail and bus manufacturing industries will be set back to the detriment of American businessmen and workers in the equipment supply industry. Further ground will be lost in the continuing struggle to protect our environment, rebuild our cities, and provide fast, economical and energy-efficient alternatives to the private automobile.

Mr. President, since the Federal public transportation program began almost 20 years ago, the Congress has grown increasingly supportive of it. The program has become the linchpin in so many of our urban programs and policies and an essential part of our energy conservation efforts. Its benefits have been extended to small urban and rural areas where it has begun to have an impact on the lives of millions of Americans in small towns and rural areas who have never had access to good transportation.

Mr. President, the record votes that have already been taken on this bill in the Senate and in the House provide the best evidence that most of us have gotten this message. Surely, those who elected us appreciate that public transportation is crucial to the fulfillment of local plans as well as national goals in so many areas. If there is doubt left in any Members' minds, the unprecedented efforts of the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties and the National Governors Association and their individual members to secure the passage of this bill should dispel them.

The majority of our citizens, like the majority of our colleagues, know that the failure to take final action on this bill at this time and in this manner raises questions broader than simply the fate of this particular bill, but about the very future of the program. The development, improvements and—more than that—the tangible results of this program have been numerous but they are fragile indeed.

Neither my colleague from Indiana nor the administration he has sought to protect have a particularly strong commitment to public transportation. It is not likely that a better bill can be produced next year since this year's bill has been the product of careful thought and extensive compromise to reflect the varying needs of a national program, and has been widely applauded. It cannot be that the new administration or the new majority in the Senate have exciting new ideas to improve or incorporate into the UMTA program since none have surfaced during countless hours of extended but empty remarks. It just cannot be that the new administration lacks for additional responsibilities in the immediate future and that it is prepared to submit a new transit bill to the Congress early next year for consideration during the budget cycle.

What has been at the heart of this extended debate is not how the UMTA program can be improved, but a more fundamental question about whether the Federal Government will maintain the kind of partnership it has had with State and local governments in the continuing rebirth of public transportation.

Mr. President, the consequences that will surely flow from our failure to pass this legislation will be felt all over the Nation. Cities that have planned to expand their transit service to meet continuing increases in ridership will be forced to delay needed purchases of buses and railcars. Communities who want to take major steps toward starting new transit systems, whether rail systems for growing cities, or bus systems for small towns, will be faced with the uncertainty of a disrupted Federal commitment to assist their efforts.

The already uncertain domestic transit supply industry will be sent a message that will discourage their efforts to fully participate in a program that for years has held such great promise for private enterprise. We will have a hard time convincing new companies to move into the transit area so that we could have a strong, competitive, domestic supply industry, and the potential cost in jobs could be devastating.

Perhaps most ironic in the loss of this bill is the failure to resolve the continuing difficult problem of transportation for the handicapped. If there was one issue where the proponents and opponents of a transit bill could agree, it was on the need to provide some statutory alternative to the DOT section 504 regulations. No one subject caused us more agony and more difficulty. The attempt to achieve a balance between the rightful demands of handicapped people to participate in our society through access to effective transportation has too often clashed with the hard political and economic realities that face our cities. I was truly hopeful that the legislative process this year could result in a workable compromise.

As we rushed toward completion, however, the search for this balance may have been lost. We could well have been forced into a solution which, while satisfactory to an unlikely coalition of transit operators and opponents of the Federal transit program, was clearly unsatisfactory to many of us concerned about the rights of handicapped citizens.

The process for resolving this question must start again. The new administration and the new Congress will have to review all that we have done in this area, and propose a new solution that carries out the principles inherent in the Rehabilitation Act of 1973.

Mr. President, it has not been often in my career in the Senate that a piece of legislation with such broad support and wide interest in its enactment has fallen victim to the filibuster weapon. A bill which has already passed the Senate and House by overwhelming majorities is being stopped dead by a small group of Senators who have had ample opportunity to participate in the development of this legislation, and have their views and concerns considered.

It is with great reluctance that I do not press this issue further. Let me simply note that I continue to believe in a strong and effective transit program as a major element of our energy, environmental and urban policies. It is folly to reduce our commitment to this program just at the time when we talk of decontrolling gasoline prices, and when war in the Middle East demonstrates how vulnerable our dependence on the automobile can make us.

Mr. President, I have fought for this program for 20 years, not simply in the interest of my constituents but to create a truly national program.

We have made great strides in the renaissance of mass transit. This legislation would have continued our progress. Our recourse now is to redouble our efforts to maintain the congressional commitment to this program. I am sure that the vast majority of my colleagues support this program and will join with me when we go back to work to pass a transit bill in the next Congress.

Mr. President, it has been, I would think, for the vast majority of the Members of the Senate a very disturbing, distressing, and discouraging exercise over these last 2 days, when they recall that in June, 79 of us said "yes" when this bill was passed with high hopes that we would be responding in a significant way to do the wisest thing we could do in transportation. That is to improve public transportation at a time when we all know the grave problems we are faced with in energy and the ever-increasing costs of the alternative—gasoline for our cars.

It is almost a cruel hoax, at the very end of this session, when so many Senators want to take final action on the record here, to get this bill passed to have just the opposite, a delay, a delay, a delay to kill the bill.

We are now in the last hours of this session and no agreement can be reached. Of course, that means the death kneel for this measure now.

The responsibility for its demise of course, will be clearly assessed and placed squarely on the shoulders of those who would not let us move with amendments then proceed finally to passage of this important measure.

I yield the floor.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I, of course, take no umbrage of the remarks of the distinguished Senator from New Jersey. I understand his disappointment that this measure has not passed and I am sympathetic to that point of view.

But I must say that the debate so far has not been a debate of empty words. And I must say, as well, that I think all the parties to this debate and negotiations have acted in good faith.

I will say for the record here that there is no Reagan administration position on this measure and there is no Republican position in the Senate on this measure. I have not participated in this debate until this moment.

But, just as clearly, I intend to protect the rights of those on this side who object to the passage of this bill in this form. We need not be lectured on our responsibility. We accept that responsibility. It is the responsibility that we will assume gladly as the majority beginning on January 5. I fully expect that that new majority and the new administration will have a bill dealing with mass transit that will be presented to the Senate.

Mr. President, I believe the Senator from Indiana has rendered a distinct service to the Senate and to the country by his careful attention to this measure, as have other Members on this side who have spoken at length on this subject.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

DISCLOSURE OF CERTAIN MAILING ADDRESSES BY THE INTERNAL REVENUE SERVICE

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4155.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 4155) entitled "An Act to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on certain student loans solely for purposes of collecting such loans."

Resolved, That the House agree to the amendment of the Senate to the text of the aforesaid bill with amendments as follows:

(1) Page 11, line 24, of the Senate engrossed amendments, after "permitted", insert: in regulations prescribed

(2) Page 19, line 14, strike out "nine", and insert: "fourteen".

(3) Page 22, strike out line 1, over to and including line 6 on page 24, and insert:

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to employer contributions or accruals for taxable year beginning after December 31, 1979.

(2) Election to apply amendments retroactively with respect to foreign subsidiaries.—

(A) In general.—The taxpayer may elect to have the amendments made by this section apply retroactively with respect to its foreign subsidiaries.

(B) Scope of retroactive application.—Any election made under this paragraph shall apply with respect to all foreign subsidiaries of the taxpayer for the taxpayer's open period.

(C) Distribution by foreign subsidiary must be out of post-1971 earnings and profits.—The election under this paragraph shall apply to distributions made by a foreign subsidiary only if made out of accumulated profits (or earnings and profits) earned after December 31, 1970.

(D) Revocation only with consent.—An election under this paragraph may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(E) Open period.—For purposes of this subsection, the term "open period" means with respect to any taxpayer, all taxable years which begin before January 1, 1970, and which begin after December 31, 1971, and for which, on December 31, 1980, the making of a refund, or the assessment of a deficiency, was barred by any law or rule of law.

(3) Allowance of prior deductions in case of certain funded branch plans.—

(A) In general.—If—

(i) the taxpayer elects to have this paragraph apply, and

(ii) the taxpayer agrees to the assessment of all deficiencies (including interest thereon) arising from all erroneous deductions,

then an amount equal to 1/15th of the aggregate of the prior deductions which would have been allowable if the amendments made by this section applied to taxable years beginning before January 1, 1980, shall be allowed as a deduction for the taxpayer's first taxable year beginning in 1980, and an equal amount shall be allowed for each of the succeeding 14 taxable years.

(B) Prior deduction.—For the purposes of subparagraph (A), the term "prior deduction" means a deduction with respect to a qualified funded plan (within the meaning of section 404A(f)(1) of the Internal Revenue Code of 1954) of the taxpayer—

(i) which the taxpayer claimed for a taxable year (or could have claimed if the amendments made by this section applied to taxable years beginning before January 1, 1980) beginning before January 1, 1980,

(ii) which was not allowable, and

(iii) with respect to which, on December 1, 1980, the assessment of a deficiency was not barred by any law or rule of law.

(4) Time and manner for making elections.—

(A) Time.—An election under paragraph (2) or (3) may be made only on or before the due date (including extensions) for filing the taxpayer's return of tax under chapter 1 of the Internal Revenue Code of 1954 for its first taxable year ending on or after December 31, 1980.

(B) Manner.—An election under paragraph (2) may be made only by a statement attached to the taxpayer's return for its first taxable year ending on or after December 31, 1980. An election under paragraph (3) may be made only if the taxpayer, on or before the last day for making the election, files with the Secretary of the Treasury or his delegate such amended return and such other information as the Secretary of the Treasury or his delegate may require, and agrees to the assessment of a deficiency for any closed year falling within the open period, to the extent such deficiency is attributable to the operation of such election.

Mr. LONG. Mr. President, there is no new matter in this bill. I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana (Mr. Long).

The motion was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VARIOUS CHANGES IN THE TAX LAWS

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7956.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 21, 25, 26, 27, 28, 29, 30, and 31 to the bill (H.R. 7956) entitled "An Act to make various changes in the tax laws."

Resolved, That the House agree to the amendment of the Senate numbered 8 to the aforesaid bill, with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert: "104".

Resolved, That the House agree to the amendment of the Senate numbered 9 to the aforesaid bill, with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert: "105".

Resolved, That the House agree to the amendment of the Senate numbered 10 to the aforesaid bill, with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert: "106".

Resolved, That the House agree to the amendment of the Senate numbered 11 to the aforesaid bill, with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert: "107".

Resolved, That the House agree to the amendment of the Senate numbered 12 to the aforesaid bill, with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert: "108".

Resolved, That the House agree to the amendment of the Senate numbered 13 to the aforesaid bill, with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment, strike out "Sec. 108" and insert: "Sec. 109".

Resolved, That the House agree to the amendment of the Senate numbered 14 to the aforesaid bill, with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment, strike out "Sec. 109" and insert: "Sec. 110".

Resolved, That the House agree to the amendment of the Senate numbered 15 to the aforesaid bill, with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert:

Subtitle A—Prevention of Abuse of Certain Pension Plan Provisions

Sec. 201. Prevention of Abuse of Certain Pension Plan Provisions Through the Use of Separate Corporations or Other Organizations.

(a) In general.—Section 414 (relating to definitions and special rules relating to pension plan, etc.) is amended by adding at the end thereof the following new subsection:

"(m) EMPLOYEES OF AN AFFILIATED SERVICE GROUP.—

"(1) IN GENERAL.—For purposes of the employee benefit requirements listed in paragraph (4), except to the extent otherwise provided in regulations, all employees of the members of an affiliated service group shall be treated as employed by a single employer.

"(2) AFFILIATED SERVICE GROUP.—For purposes of this subsection, the term 'affiliated service group' means a group consisting of a service organization (hereinafter in this paragraph referred to as the 'first organization') and one or more of the following:

"(A) any service organization which—

"(i) is a shareholder or partner in the first organization, and

"(ii) regularly performs services for the first organization or is regularly associated with the first organization in performing services for third persons, and

"(B) any other organization if—

"(i) a significant portion of the business of such organization is the performance of services (for the first organization, for organizations described in subparagraph (A), or for both) of a type historically performed in such service field by employees, and

"(ii) 10 percent or more of the interests in such organization is held by persons who are officers, highly compensated employees, or owners of the first organization or an organization described in subparagraph (A).

"(3) SERVICE ORGANIZATIONS.—For purposes of this subsection, the term 'service organization' means an organization the principal business of which is the performance of services.

"(4) EMPLOYEE BENEFIT REQUIREMENTS.—For purposes of this subsection, the employee benefit requirements listed in this paragraph are—

"(A) paragraphs (3), (4), (7), and 16 of section 401(a),

"(B) sections 408(k), 410, 411, and 415,

"(C) section 105(h), and

"(D) section 125.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ORGANIZATION DEFINED.—The term 'organization' means a corporation, partnership, or other organization.

"(B) OWNERSHIP.—In determining ownership, the principles of section 267(c) shall apply.

"(6) PREVENTION OF AVOIDANCE.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance with respect to service organizations, through the use of separate organizations, of any employee benefit requirement listed in paragraph (4)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (8) of section 105(h) (relating to amount paid to highly compensated individuals under a discriminatory self-insured medical expense reimbursement plan) is amended—

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(2) Paragraph (4) of section 125(g) (relating to special rules for cafeteria plans) is amended—

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years ending after November 30, 1980.

(2) PLANS IN EXISTENCE ON NOVEMBER 30, 1980.—In the case of a plan in existence on November 30, 1980, the amendments made by this section shall apply to plan years beginning after November 30, 1980.

Resolved, That the House agree to the amendment of the Senate numbered 24 to the aforesaid bill, with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment, strike out "SEC. 207", and insert: "SEC. 227".

Resolved, That the House disagree to the amendments of the Senate numbered 7, 16, 17, 18, 19, 20, 22, and 23.

Mr. LONG. Mr. President, this measure has two amendments that the Senate should be informed about. Both of these amendments were contained in the bill the House originally sent us. The first dealt with an abuse of the tax law by certain so-called professional corporations and other businesses. These companies would incorporate their professionals, for example, in one corporation and their secretaries and various office help in another corporation. By doing this, they could provide pension benefits for themselves and not provide pension benefits for their secretaries and their office help or provide much lesser amounts for them.

Obviously, that is the kind of thing that the House has said it would not approve. The Treasury found this practice highly repugnant and urged us to correct it. The House provision eliminated this abuse by expanding the aggregation rules with respect to the treatment of certain service organizations and related organizations for purposes of satisfying the requirements for qualified retirement plans, medical reimbursement plans, cafeteria plans, and simplified employee pensions.

We struck that provision from this bill, H.R. 7956, initially because we had had a complaint about it and we had not had a chance to find out what the basis of the complaint about the measure was. We understand it better now and we are persuaded that the House is right about the matter. The Treasury is also strongly in support of the House position.

So we believe, Mr. President, we should concur in this provision which the House had sent us initially and we believe, in hindsight, we should have agreed to it.

Mr. President, may I say that as a result of this action, we will increase revenue. It is conservatively estimated that the budget receipts will be increased by $50 million for fiscal year 1981, $75 million for 1982, and $100 million for 1983 through 1985. I know that will be good news to our friends on the Budget Committee who are fretting even now as to how they will find money to cover costs and provide for national defense, and other matters.

The second amendment deals with the investment tax credit for certain rehabilitated buildings. Under the present investment tax credit rules, generally no credit is allowed for property used by a tax-exempt organization or governmental unit. The House provision allows the investment tax credit for rehabilitated buildings which we leased to a tax-exempt organization or governmental unit.

Mr. President, we have reviewed this matter again and now believe we should concur in the House provision.

Mr. President, I move that the Senate concur in the House amendments and recede from its amendments numbered 7, 16, 18, 19, 20, 22, and 23. The reason there are so many amendments I am referring to here is some of these are just section numbers, technical amendments.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, no one questions the goal of the legislation, which would stop some of the abuses just referred to by the distinguished Senator from Louisiana. But I am concerned that at least we have had some indications that this legislation may be too broad in scope. Of course, we should not be enacting legislation where there is not any abuse. For that reason, it would have been better if the Finance Committee had held hearings on this bill.

It has been improved some, however. It has a number of worthwhile provisions and should not be blocked because this pension provision may have minor technical problems.

If it turns out that there are problems with this provision in practice, I would hope we would have early hearings next year and take whatever corrective action might be necessary.

On the basis of some of the changes made, I certainly think it is probably best to proceed at this time. I have no objections.

Mr. LONG. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. DOMENICI. Mr. President, I just want to make this observation: I did not get to add up the figures as the Senator from Louisiana mentioned the tax receipts that would accrue because of one of these amendments, but it is somewhere around $300 million in 4 years. Is that approximately correct?

Mr. LONG. Yes, that is roughly correct.

Mr. DOMENICI. Mr. President, when I walked on the floor about 10 minutes, the distinguished Senator from New Jersey, for whom I have the greatest respect, was talking about a bill that my good friend from Indiana has been resisting for a few days until we can look at it more carefully. I would like to put the cost of that bill into perspective with the savings that the Senator talked about.

That bill would only have cost $25 billion had we passed it and had it received the appropriations that it obviously demands.

So we have a very good comparison here of what has been going wrong with our country.

The Senator from Louisiana is here talking about raising $300 million in taxes and somebody else is critical of a Senator who says in the last 4 minutes of this session let us not pass a bill that will cost $25 million but will cost $25 billion.

I thank the Senator for his efforts. I thought we ought to draw that comparison.

Mr. LONG. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I might just state for the information of the Senator from Louisiana and the majority leader that we are trying to work out a final reservation on the coffee agreement before we adjourn. We might be able to take care of that soon.

Mr. ROBERT C. BYRD. I thank the Senator.

APPROPRIATIONS FOR THE INTERNATIONAL MONETARY FUND FOR FISCAL YEAR ENDING SEPTEMBER 30, 1981

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of House Joint Resolution 601 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. METZENBAUM. Mr. President, will the Senator explain what legislation has to do with?

Mr. ROBERT C. BYRD. It has to do with appropriations for the International Monetary Fund.

Mr. METZENBAUM. Mr. President, I could not hear the Senator.

Mr. ROBERT C. BYRD. This has to do with appropriations for the International Monetary Fund.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I wish to express my appreciation to the majority leader for bringing this matter up at this time. This is the resolution passed originally by the House. I fully concur in the request of the majority leader and I hope the Senate will agree to the joint resolution.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

H.J. Res. 601, making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 601) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS TO THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 4576.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4576) to amend the Powerplant and Industrial Fuel Use Act of 1978 to permit local distribution companies to continue natural gas service to residential customers for outdoor lighting fixtures for which natural gas was provided on the date of enactment of such Act, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I may very well object, I will advise the leader that until I have a chance to see that measure I will have to make an objection.

Mr. ROBERT C. BYRD. Very well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request I had before the Senate.

The PRESIDING OFFICER. The request is withdrawn.

MISCELLANEOUS CHANGES IN THE TAX LAWS

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7171.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 6, 7, and 8 to the bill (H.R. 7171) entitled "An Act to make certain miscellaneous changes in the tax laws."

Resolved, That the House agree to the amendment of the Senate numbered 3 to the aforesaid bill with an amendment as follows:

Restore the matter stricken by said amendment, and on page 4, line 20 of the House engrossed bill, strike out "SEC. 3.", and insert: "SEC. 2.".

Resolved, That the House agree to the amendment of the Senate numbered 4 to the aforesaid bill with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "SEC. 3.".

Resolved, That the House agrees to the amendment of the Senate numbered 5 to the aforesaid bill with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "SEC. 4.".

Resolved, That the House agree to the amendment of the Senate numbered 10 to the aforesaid bill with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 5. PREVENTION OF ABUSE OF CERTAIN PENSION PLAN PROVISIONS THROUGH THE USE OF SEPARATE CORPORATIONS OR OTHER ORGANIZATIONS.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules relating to pension plan, etc.) is amended by adding at the end thereof the following new subsection:

"(m) EMPLOYEES OF AN AFFILIATED SERVICE GROUP.—

"(1) IN GENERAL.—For purposes of the employee benefit requirements listed in paragraph (4), except to the extent otherwise provided in regulations, all employees of the members of an affiliated service group shall be treated as employed by a single employer.

"(2) AFFILIATED SERVICE GROUP.—For purposes of this subsection, the term 'affiliated service group' means a group consisting of a service organization (hereinafter in this paragraph referred to as the 'first organization') and one or more of the following:

"(A) any service organization which—

"(i) is a shareholder or partner in the first organization, and

"(ii) regularly performs services for the first organization or is regularly associated with the first organization in performing services for third persons, and

"(B) any other organization if—

"(i) a significant portion of the business of such organization is the performance of services (for the first organization, for organizations described in subparagraph (A), or for both) of a type historically performed in such service field by employees, and

"(ii) 10 percent or more of the interests in such organization is held by persons who are officers, highly compensated employees, or owners of the first organization or an organization described in subparagraph (A).

"(3) SERVICE ORGANIZATIONS.—For purposes of this subsection, the term 'service organization' means an organization the principal business of which is the performance of services.

"(4) EMPLOYEE BENEFIT REQUIREMENTS.—For purposes of this subsection, the employee benefit requirements listed in this paragraph are—

"(A) paragraphs (3), (4), (7), and (16) of section 401(a),

"(B) sections 408(k), 410, 411, and 415,

"(C) section 105(h), and

"(D) section 125.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ORGANIZATION DEFINED.—The term 'organization' means a corporation, partnership, or other organization.

"(B) OWNERSHIP.—In determining ownership, the principles of section 267(c) shall apply.

"(6) PREVENTION OF AVOIDANCE.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance with respect to service organizations, through the use of separate organizations, of any employee benefit requirement listed in paragraph (4)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (8) of section 105(h) (relating to amount paid to highly compensated individuals under a discriminatory self-insured medical expense reimbursement plan) is amended—

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(2) Paragraph (4) of section 125(g) (relating to special rules for cafeteria plans) is amended—

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years ending after November 30, 1980.

(2) Plans in existence on November 30, 1980.—In the case of a plan in existence on November 30, 1980, the amendments made by this section shall apply to plan years beginning after November 30, 1980.

Resolved, That the House disagree to the amendment of the Senate numbered 9 to the aforesaid bill.

RRB SECTION OF H.R. 7171

Mr. DOLE. Mr. President, this provision should not be considered controversial.

It has no revenue loss, 10 cosponsors on the Finance Committee, and was favorably reported by the committee.

It is supported by the accounting profession, by the Interstate Commerce Commission, by the banking and investment communities, and testimony was received from leading economists and academic experts.

The House passed this bill as a noncontroversial measure when Treasury said they wanted RRB considered in terms of overall depreciation reform.

RRB is a specific provision in 10-5-3, in 2-4-7-10, and I can assure the Senate that it will be considered in next year's efforts to enact reform of the capital cost recovery provisions of the tax code.

Mr. LONG. Mr. President, I move that the Senate concur in the House amendments and that the Senate recede from its amendment No. 9.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CARRYING OUT OF UNITED STATES OBLIGATIONS UNDER THE INTERNATIONAL COFFEE AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1193.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3637) to carry out the obligations of the United States under the International Coffee Agreement 1976, signed at New York on February 27, 1980, and entered into force for the United States on October 1, 1980, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

The Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

EULOGY IN MEMORY—GEORGE YOSHIO YAMAMOTO: ARCHITECT OF EAST-WEST UNDERSTANDING

Mr. MATSUNAGA. Mr. President, as a charter member of the Club 15 of Honolulu, I was deeply saddened to learn of the death, in October, of its founder and president, George Yoshio Yamamoto.

Formally known as the World Affairs Forum, the organization met regularly on the 15th of each month for dinner and discussion. Its regular participants included leaders in the academic, business, political, and military communities of Hawaii and its guests included such distinguished Americans as Edwin Reischauer, the former Ambassador to Japan; Edward Teller, the nuclear physicist; and authors James Michener, William Lederer, and Eugene Burdick.

Club 15 took as its motto the phrase "Where East Meets West" and, between its first meeting in the early 1950's and his death, George Yamamoto turned the organization into a very effective forum for bringing together the many varying elements of Hawaii's population to discuss national and international issues of the day.

George Yamamoto was a quiet unassuming man who seldom appeared on television or in the newspapers, yet he did as much as anyone—perhaps more—to make Hawaii a Pacific center of business, commerce, and education.

With the thought that my colleagues will find it of interest, I am submitting for inclusion in the CONGRESSIONAL RECORD an article about the remarkable George Yamamoto of Club 15 by A. A. "Bud" Smyser, editor of the Honolulu Star-Bulletin. Mr. Smyser was also a frequent participant in the Club 15's activities.

Mr. President, I ask unanimous consent that the article by Mr. Smyser and an editorial from the Honolulu Advertiser of October 23, 1980, be printed in the RECORD in the hope that the readers of the RECORD may be inspired by the life of another immigrant American who contributed to his adopted country's greatness.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

GEORGE YAMAMOTO OF CLUB 15

(By A. A. Smyser)

Near midnight Monday, life finally slipped away from one of the most unusual men I know of.

George Yoshio Yamamoto. 68. lost a battle with a form of cancer, lymphoma, that had gone on since early this year.

Yamamoto rarely got into the news. Yet he made a contribution to the community that was indelible.

What he did, simply stated, was to build bridges to bring together disparate elements of the community. His base was the Buddhist-Japanese community, where he was counted a founder of the Hawaii Buddhist Council and the United Japanese Society.

His outreach was to the university community first, then to the downtown business community and the transient military population.

His mechanism: A group known formally as the World Affairs Forum but more informally as Club 15 because its meetings were invariably on the 15th of each month.

"East Meets West in Hawaii" was the motto of Club 15 long before the East-West Center was created. One of the early attendees at Club 15 meetings was James Michener, while he was still working on his novel, "Hawaii," William Lederer and Eugene Burdick, co-authors of "The Ugly American," were other early participants. So was U.S. Senator Spark Matsunaga who paid tribute to Yamamoto at funeral services last night along with Herbert Cornwelle, president of Dillingham Corp.

Using the Buddhist Cultural Society as a base, Yamamoto began monthly dinner gatherings, first in homes, then in the Hawaiian Village Hotel for many years and, finally, until March this year in the Hawaiian Regent Hotel. At these he brought together those people from different walks of the community who he thought should know each other better.

No dinners for even chiefs of state could be planned with more meticulous attention to detail—not for pomp and circumstance, but for whom to include in the monthly guest list of 100-plus, how the guests from different elements of the community should be seated to stimulate cross-pollination of ideas, what the topic and speaker should be, how each phase of the evening should be conducted.

Each meeting was introduced by a mimeographed program of perhaps 50 pages backgrounding the topic for discussion, perhaps carrying supporting articles about it by the speaker and others. The program also named all the attendees and identified them. It often also contained some chronology on Hawaiian or Japanese history by Yamamoto, and always was topped by an artful cover designed by him.

Particularly in the early years of Club 15, Yamamoto had no hesitancy about ordering admirals or corporation presidents to join work groups to prepare or collate the programs. After he retired from business he shouldered more of the work himself aided by some financial support from club regulars.

Club 15 was not a club in the sense that a club has bylaws and elections. Its president for life without election was Yamamoto. Its rules were what he said they were. Its members were those he chose, and to ask to be chosen insured exclusion.

Things changed, but not rapidly. Guests who dared to show up in aloha attire would get sent home. In the 27 years from 1953 to the final meeting last March, before Yamamoto fell ill, there were only a few variations in a dinner menu based on teriyaki steak and a chocolate sundae for dessert.

Initially there were no women participants. Then they were invited only with their husbands when the 15th fell on a Sunday. Finally some were invited without spouses in their own right on other days than Sundays. To the last, however, they always occupied the outside positions at tables of six with three on each side. Yamamoto held men belonged in the middle because they were better conversationalists. Equal rights advocates were better advised to cherish the progress already made than to demand immediate additional progress at any given moment.

After-dinner formats were rigid, with local politics banned as a topic, and the emphasis on science and international affairs. The talks, even, with speakers like Edwin Reischauer, Edward Teller or S. I. Hayakawa, never made the headlines because they were by common agreement "off the record."

At first there were two speakers, but Yamamoto finally was persuaded that one was adequate, particularly with the meeting chairman required to deliver what amounted to a preliminary speech. The rich lode of visitors to Hawaii and scholars at the university and East-West Center provided a usually-full reservoir of talent.

Business bigwigs and generals, politicians and professors, bureaucrats and scientists who measured up to Yamamoto's standards for intellectualism and character cheerfully accepted his rigid rules for the honor of being invited and the chance to meet persons held trails otherwise might not cross.

Yamamoto's own background was East-West. Born in Japan's Wakayama prefecture, he was raised on Parker Ranch after his family migrated here. He attended Hilo Boarding School, Iolani and Mid-Pacific Institute in Hawaii and Keio University in Tokyo. He was a Japanese language school teacher, restaurant operator, and between 1941 and 1962 advanced from bus driver at Honolulu Rapid Transit Co. to assistant to the president.

Painting and samurai acting were hobbies. Once he peddled fish. Always he was imperious. He felt that only he could have put together a group like Club 15 and he certainly was right.

The late Thomas H. Hamilton, when president of the University of Hawaii, said of Club 15:

"Club 15 is a remarkable organization. I know of no other quite like it in the United States. Its success is due to a mixture of two ingredients—a good idea and George Yamamoto."

George Yamamoto

George Yamamoto, who died Monday at 68, exemplified a man deeply dedicated to a good idea and able to implement it.

His idea was the World Affairs Forum of Hawaii—affectionately called Club 15 by its members, who gathered for dinner and discussion on the 15th of each month.

The group had humble beginnings three decades ago. What Yamamoto organized was a *tanomoshi*—the ancient Asian system through which individuals of modest means would contribute a certain amount of money to a central fund, the total of which would be made available to one of the participants on a rotating basis.

The group would meet on the 15th because that was the day members would generally expect their second paycheck of the month. The assumption was that the first would go for necessities, leaving nothing to spare.

By the mid-'50s, Yamamoto began inviting speakers to the monthly meetings to discuss public issues. The group, at first composed exclusively of men of Japanese ancestry, also began asking people of other ethnic groups to join. Tanomoshi was dropped and sessions were devoted solely to discourse on public issues.

Club 15 thus represented a reaching-out to the rest of the community of a group of generally conservative Japanese men. The phrase "Where East Meets West" was printed on the cover of each month's program. Participants included leading academic, political, military and business figures.

Yamamoto was the organization's unquestioned president. He was a take-charge organizer who tried to leave nothing to chance. He even insisted on the same menu featuring teriyaki steak month after month, year after year, not wanting to risk any new dish that might not turn out well.

His prime concern in any case was nourishment of the mind—his aim was a setting conducive to dialogue on weighty issues.

He was born in Japan. To those who did not know him well, his nonnative English sometimes masked his sensitive and quick mind. He would sometimes misuse words and would be aghast to learn later he may have offended someone unintentionally.

He read widely in English but did his serious writing in Japanese. He produced several research papers on Buddhism in Hawaii and on Japanese history.

He had a voracious appetite for knowing about events and people—those in foreign lands and equally those in our own community. He would quickly cut off small talk but loved to converse at great length about anything that mattered.

Over the years he became a storehouse of much of what went on behind the scenes in Hawaii.

George Yamamoto nurtured and by example taught an indefatigable spirit of inquiry.

PEANUT PRICE SUPPORT PROGRAM

Mr. BELLMON. Mr. President, in 1977, when the Congress wrote the 1977 farm bill, the Senate Agriculture Committee on which I served specifically mandated that the peanut price support program be administered by the three area grower associations. It is my understanding that the Department of Agriculture has been seriously considering regulations that would allow agricultural cooperatives to receive peanut loans to finance their inventories.

Since Congress did not intend for cooperatives to be eligible to finance their inventories through the peanut price support program, I put bill language in H.R. 7591 that prohibited USDA from changing the way the peanut program is being administered in fiscal year 1981. In conference, the conferees adopted report language that unequivocally supported no change in the manner in which the peanut price support program is administered. The report language states "the conferees agreed that the peanut price support loan program shall continue to be administered in the same manner and through the three existing marketing associations as has been the case for the past several years. Any change in the program should be considered in connection with the 1981 farm bill."

Notwithstanding this report language it is rumored that USDA may still be considering a change in the manner in which the peanut program is administered. If USDA does put out proposed regulations that changes the manner in which the peanut program is administered, the executive branch will clearly be disregarding congressional mandate.

I ask unanimous consent the letter I have written to Secretary Bergland on this subject be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 13, 1980.

HON. ROBERT BERGLAND,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: It has come to my attention that the Department may be planning to go ahead with the special low-interest loan program to Gold Kist in clear violation of the language in the Conference Report on HR 7591, the FY'81 Agriculture Appropriations Bill.

Mr. Secretary, this special loan program is vigorously opposed by most segments of the peanut industry—growers, shellers, and manufacturers of peanut products.

This special loan program would dramatically change the way the peanut price support program is carried out, would mean millions of dollars to Gold Kist in subsidized low-interest loans, would result in the government carrying Gold Kist's inventory at no risk to Gold Kist, and would result in Gold Kist enhancing its position in the peanut-shelling industry.

The Department has rejected this proposal by Gold Kist on several occasions during the past four years.

I urge the Department to take no action on this proposal at this time. It should be carefully considered by the next session of Congress in drafting new peanut legislation.

Sincerely,

HENRY BELLMON.

PNEUMOCOCCAL VACCINE

● Mr. SASSER. Mr. President, I rise in support of H.R. 8406. The current medicare law as it applies to pneumococcal pneumonia simply makes no sense. It is shortsighted to spend millions each year on treatment when we could be reducing the incidence of the illness by paying for the vaccine. It was this reasoning that prompted me to include an amendment to H.R. 637, the continuing resolution, which was similar to H.R. 8406. Unfortunately, that amendment was subsequently dropped because of a point of order. For this reason, I am pleased we are considering H.R. 8406 today.

Pneumonia is one of the most serious illnesses an elderly person can contract. In many cases, the illness is prolonged and painful. Even with our sophisticated treatment methods, the death rate from pneumonia is from 5 to 30 percent of those who contract the disease. There is no logic in a medicare system which will pay for the high treatment costs of the illness but will not reimburse for the minimal costs of vaccinating against the illness. Such a system wastes money, and more tragically, it wastes lives and causes needless suffering.

The existing medicare law prohibits the Federal Government from taking advantage of a vaccine to prevent pneumococcal pneumonia. Licensed in 1977, the new vaccine is effective against the 14 types of bacteria that cause most pneumococcal pneumonia. These bacteria types are responsible for about 80 percent of all pneumococcal pneumonia in the United States. Existing data show that the vaccine is effective for at least 5 years, and some researchers believe that longer-term studies will show that the vaccine is effective for life.

I have in my hand copies of editorials from papers all across the country urging Congress to amend the medicare law to permit payment for the pneumonia vaccine. I would like to read some excerpts from these editorials.

The Clarksville, Tenn., Leaf Chronicle states, "Congress is now being advised it should change the rules to allow Medicare to pay for vaccinations against several kinds of pneumonia. . . . It appears, on the surface at least, that Congress should accept the recommendation to revolutionize the Medicare program by approving preventive treatment."

From the Chicago Sun-Times, "The adage about an ounce of prevention is particularly true when it comes to Medicare. In 1978 . . . Medicare spent an estimated $63 million to treat pneumococcal pneumonia in the elderly—at the rate of $2,000 per case. But, it spent nothing to vaccinate them against the disease—at $11.50 per shot. That's dollar-wise and million-dollar-foolish. . . . [B]y the fourth year, [of coverage] Medicare would realize a net savings of $6 million. Savings would rise to $11 million in the fifth year. Best of all, . . . vaccinations would save 5000 lives in the five years."

The Houston Post states, "When an elderly American gets pneumonia, Medicare helps with the bills for physician, antibiotics and hospitalization. But it would be better for the patient never to have pneumonia at all and far cheaper for the government. . . . Prevention of pneumonia among the elderly by vaccination would inevitably mean better health for Americans of all ages. The [Congress] will show both compassion and practical common sense by authorizing expenditures for preventive vaccinations."

The Oklahoma City Oklahoma Journal writes, "This bill would allow thousands of elderly to continue to lead productive lives and end an unnecessary drain on our nation's health and pocketbook. It should be passed and implemented as soon as possible."

The Wheeling, W. Va., Intelligencer comments, "The development of a vaccine that dramatically reduces the incidence of pneumococcal pneumonia among older persons has served to point up a shortcoming in Medicare law . . . Medicare law specifically forbids any payment for vaccinations, and as a consequence the millions of elderly in the nation covered by Medicare are not taking advantage of the protection offered by the new vaccine. . . . [Congress] is trying to remedy the situation with a bill that would permit Medicare to pay for vaccinations, probably on the premise that $11 of prevention is worth $2,000 worth of cure."

From the Parkersburg, W. Va., News, "[Pneumococcal pneumonia], which each year fells thousands, is inexpensively fought with a vaccine that costs around $12. Cheap prevention, we would say. . . . Even more important than the expense of treatment is the saving of thousands of lives which were saved by the preventive vaccinations. . . . [A]llow Medicare to pay $12 for a vaccine that might prevent death and a whopping antibiotic and hospital bill."

The Los Angeles Herald Examiner states, "Currently, pneumonia vaccinations are illogically excluded from Medicare coverage, even though the government spends millions—nearly $70 million in 1978—to pay elderly pneumonia patients' hospitalization costs. The cost of the vaccination—$11.50—compares favorably with the $2,000 per case average cost for hospital treatment of pneumococcal pneumonia. . . . A bill that fights pneumonia and inflation? Let's keep it."

These editorials evidence the widespread support for this cost-effective and lifesaving addition to the medicare law.

Mr. President, I strongly urge my colleagues to vote in favor of including the pneumococcal pneumonia vaccine in medicare coverage.●

MESSAGES FROM THE HOUSE

At 4:36 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate 82, 83, 84, 123, 127, 140, 141, and 148 to the joint resolution, and agrees thereto; that the House recedes from its disagreement to the amendments of the Senate numbered 7, 23, 24, 33, 34, 64, 89, 90, 103, 109, 111, 134, 136, and 139 to the joint resolution, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that the House insists on its disagreement to the amendments of the Senate numbered 85 and 129 to the joint resolution.

At 6:44 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1824. An act to designate the "John D. Larkins, Jr., Federal Building"; and

S. 2729. An act to authorize certain emergency repairs at the National Visitor Center in the District of Columbia.

The message also announced that the House agrees to the amendments of the Senate to the following bills:

H.R. 4968. An act to amend the Internal Revenue Code of 1954 to provide that in certain cases the net operating loss carryover period for a taxpayer who ceases to be real estate investment trust shall be the same as the net operating loss carryover period for a taxpayer who continues to be real estate investment trust;

H.R. 5043. An act to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes;

H.R. 5047. An act to provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes;

H.R. 5973. An act to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes; and

H.R. 7694. An act to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam.

The message further announced that the House agrees to the amendments of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 2111) to extend the service area for the Sacramento Valley Canals, Central Valley project, Calif., and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 7865) to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the amendment of the Senate to the amendment of the House to the bill (S. 1148) to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2334. An act to establish the Langmuir Research Site in the State of New Mexico, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 5391) to amend chapter 42 of the Internal Revenue Code of 1954 with respect to the determination of second tier taxes; and that the House agrees to the amendment of the Senate to the text of the bill, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5505) to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4576. An act to amend the Powerplant and Industrial Fuel Use Act of 1978 to permit local distribution companies to continue natural gas service to residential customers for outdoor lighting fixtures for which natural gas was provided on the date of enactment of such Act, and for other purposes.

At 9:07 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House disagrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 7 to the joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LONG of Maryland, Mr. ROYBAL, Mr. MCKAY, Mr. BEVILL, Mr. DUNCAN of Oregon, Mr. BENJAMIN, Mr. DIXON, Mr. CONTE, Mr. MICHEL, Mr. MCDADE, Mr. ANDREWS of North Dakota, Mr. EDWARDS of Alabama, and Mr. MYERS of Indiana as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the following bill:

S. 2189. An act to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the following bill:

H.R. 8406. An act to amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration.

The message also announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 4155) to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on certain student loans solely for purposes of collecting such loans; and that the House agrees to the amendment of the Senate to the text of the bill, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 21, 25, 26, 27, 28, 29, 30, and 31 to the bill (H.R. 7956) to make various changes in the tax laws; that the House agrees to the amendments of the Senate numbered 8 9, 10, 11, 12, 13, 14, 15, and 24 to the bill each with an amendment in which it requests the concurrence of the Senate; and that the House disagrees to the amendments of the Senate numbered 7, 16, 17, 18, 19, 20, 22, and 23 to the bill.

The message also announced that the House agrees to the amendments of the Senate numbered 1, 2, 6, 7, and 8 to the bill (H.R. 7171) to make certain miscellaneous changes in the tax laws; that the House agrees to the amendments of the Senate numbered 3, 4, 5, and 10 to the bill, each with an amendment, in which it requests the concurrence of the House; and that the House disagrees to the amendment of the Senate numbered 9 to the bill.

At 9:51 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 644. Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

HOUSE JOINT RESOLUTION HELD AT DESK

The following joint resolution was held at the desk by unanimous consent:

H.J. Res. 644. Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary reported that on today, December 13, 1980, he had presented to the President of the United States the following enrolled bills:

S. 1097. An act to establish a national tourism policy and an independent Government agency to carry out the national tourism policy.

S. 3096. An act to amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wisconsin.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. Talmadge), from the Committee on Agriculture, Nutrition, and Forestry:

Special report entitled "Allocation of Budget Totals for Fiscal Year 1981" (Rept. No. 96-1057).

ADDITIONAL COSPONSORS

SENATE RESOLUTION 562

At the request of Mr. Roth, the Senator from New Hampshire (Mr. Durkin), the Senator from New York (Mr. Moynihan), the Senator from Pennsylvania (Mr. Heinz), and the Senator from South Carolina (Mr. Thurmond) were added as cosponsors of Senate Resolution 562, a resolution expressing the sense of the Senate in opposition to any attempt by the Soviet Union to invade Poland.

At the request of Mr. Hayakawa, his name was added as a cosponsor of Senate Resolution 562, supra.

At the request of Mr. Mitchell, his name was added as a cosponsor of Senate Resolution 562, supra.

UP AMENDMENT NO. 1953

At the request of Mr. McClure, the Senator from West Virginia (Mr. Robert C. Byrd), the Senator from New Mexico (Mr. Domenici), the Senator from South Carolina (Mr. Thurmond), and his name were added as cosponsors of UP amendment No. 1953 proposed to S. 2189, a bill to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

UP AMENDMENT NO. 1954

At the request of Mr. Biden, his name was added as a cosponsor of UP amendment No. 1954 proposed to House Joint Resolution 637, a joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

At the request of Mr. Heflin, his name was added as a cosponsor of UP amendment No. 1954 proposed to House Joint Resolution 637, supra.

SENATE RESOLUTION 565—RESOLUTION CONCERNING REVISION OF MONETARY POLICIES OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. SASSER (for himself, Mr. Levin, Mr. Metzenbaum, Mr. Boren, Mr. Huddleston, Mr. Ford, Mr. Baucus, Mr. Randolph, Mr. Bumpers, Mr. Exon, and Mr. Melcher) submitted the following resolution, which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. Res. 565

Whereas the prime interest rate has increased to 20 per centum from 12.9 per centum in September 1979 and from 4.5 per centum since December 1960;

Whereas the acceleration of interest rates have contributed directly and significantly to the near tripling of bankruptcy rates during the past decade;

Whereas the high interest rates fostered by the year-old monetary control policy of the Board of Governors of the Federal Reserve System have not reduced, but have increased, the rate of inflation as measured by the gross national product deflator;

Whereas current high interest rates threaten to destroy those sectors of the American economy that are critically important to the general well-being of our Nation, especially homebuilding, automobile production and sales, farming, and small business sectors;

Whereas high interest rates have not restrained the demand for credit, but have resulted in the rapid growth of credit demand, and subsequently higher interest rates;

Whereas the American business community and the American public have indicated serious reservations about the effectiveness of the Board's new policies;

Whereas the recent high volatility of interest rates have created a negative environment for business investment, productivity growth, and expansions; and

Whereas the Federal Open Market Committee which presently sets Federal interest rate policies does not fully reflect the economic concerns of many essential sectors of the American economy: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Board of Governors of the Federal Reserve System should act immediately to prevent any further increases of interest rates and to reduce them as soon as practically possible;

(2) the Federal Reserve Board should act immediately to abandon its present policies of managing the monetary structure of this country as initiated in October 1979, and shall institute alternative policies to restrain interest rates and the growth of nonessential credit directly;

(3) the Congress should take action to abolish the Federal Open Market Committee and to stipulate that all final decisions which are made to limit the growth of the money supply and interest rates be made by the Board of Governors of the Federal Reserve System;

(4) the Congress should take action to ensure that the membership of the Board of Governors be so constituted as to include appropriate representation of all sectors of the American economy, especially those sectors that are particularly dependent on the need for stable financial markets; and

(5) the Committee on Banking, Housing, and Urban Affairs of the Senate, in conjunction with the Joint Economic Committee, should study the advisability of seeking other necessary institutional reforms in the structure and operation of the Federal Reserve System that may be required to improve the management of this Nation's monetary structure with the goal of providing a stable and positive economic environment for growth and investment while reducing inflationary pressures, and to make a report of its findings to the Senate no later than June 1, 1981. Such study should include, but not be limited to, a further investigation of the feasibility of implementing a "dual prime rate" which can be used to channel credit to those sectors of the economy that have suffered from chronic credit shortages as a result of the Board's current monetary policies, as well as the advisability of increased congressional supervision of policies affecting the Nation's monetary system.

SENATE RESOLUTION 566—RESOLUTION TO COMMEND JAMES duMARESQ CLAVELL

Mr. HAYAKAWA submitted the following resolution; which was referred to the Committee on the Judiciary:

Senate Resolution 566

Whereas James Clavell is a widely acclaimed author whose writings have been enjoyed by the American people;

Whereas James Clavell has written such outstanding novels as "King Rat", "Tai-Pan: A Novel of Hong Kong", and "Shogun";

Whereas James Clavell has written many successful screenplays such as "To Sir With Love" and "The Great Escape" for which he received the Writers Guild Best Screenplay Award in 1964; and

Whereas James Clavell, through his sensitive portrayal of Japanese customs and heritage in the novel "Shogun" has enhanced the understanding of the American people of Japanese culture: Now, therefore, be it

Resolved, That the Senate commends James duMaresq Clavell for his outstanding contributions to literature.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to James duMaresq Clavell.

ADDITIONAL STATEMENTS

GREECE REENTERS NATO MILITARY COMMAND

● Mr. JEPSEN. Mr. President, on the 28th of October, the Greeks celebrated the 40th anniversary of "NO" Day—the date on which Greece rejected Italy's demand for Greek surrender during the Second World War. The revolt of the Greek people against Mussolini proved to be a turning point in the war. Hitler was forced to expend valuable time and resources which could otherwise have been used, perhaps decisively so, on the eastern front. The tenacity and courage of the Greek people and their refusal to be intimidated stood out as an example to all those who value freedom.

Now, Mr. President, there is yet another important October date in Greek history. On October 24, 1980, the Greek Parliament ratified the reintegration of Greece into the military command structure of NATO. This important event was the result of many months of patient negotiation, led by our own Gen. Bernard Rogers, Supreme Allied Commander for Europe.

Greece has been a highly valued partner in the NATO alliance. And with economic and political turmoil all too common along NATO's southern flank, the value of NATO's friendship with the Greek people is even more appreciated.

In overcoming their significant differences on local issues General Rogers and the Governments of Turkey and Greece deserve the highest praise and respect of the entire alliance. The American people, with our close ties to Greece, are particularly gratified by the fruits of their labor.●

TRIBUTE TO SENATOR HENRY BELLMON

● Mr. PELL. Mr. President, among the several Senators leaving the Senate with the termination of the 96th Congress will be the distinguished senior Senator from Oklahoma, Senator HENRY BELLMON. Before his departure I wish to take the opportunity to express my personal admiration for him and for the immense contributions he has made to the work of the U.S. Senate.

Most memorable for me has been Senator BELLMON's immeasurable contribution to the development and implementation of the congressional budget process. In concert with Senator Edmund Muskie, Senator BELLMON undertook the challenging and vitally important task of establishing the validity and workability of the Congressional Budget Act requirements.

It is a tribute to Senator BELLMON's moderating temperament and the respect in which he is held by his colleagues that the budget process, new and with admitted flaws, has worked as well as it has.

Senator BELLMON established by his performance a nonpartisan approach to the work of the Senate Budget Committee. He demonstrated through his leadership that if the work of the Budget Committee was to succeed, the committee must be not the instrument of conservative or liberal ideologies but a mechanism through which the Senate as a whole sets its priorities within the discipline of a budget.

Senator BELLMON proved his impartial and thoughtful approach by saying "no" both to the advocates of irresponsible spending increases and to advocates of irresponsible tax or spending cuts, regardless of which party put forward the proposal.

Senator BELLMON is an immensely decent, talented, and fair man. He will be greatly missed in the Senate. I extend to him my warmest wishes for the years ahead.●

LABOR RELATIONS IN THE COALFIELDS HAVE IMPROVED

Mr. RANDOLPH. Mr. President, in this Congress the subject of coal has, on several occasions, occupied this body. In tax legislation, synthetic fuels legislation, legislation to replace oil in our Nation's utility boilers, and other areas of national concern—coal has been a critical and often dominant factor.

An aspect of the coal industry which the Congress has not addressed is labor relations in the coal fields.

The turmoil which characterized labor-management relations in our Nation's coal regions prior to, and during, the 111-day contract dispute over the winter of 1977–78 has passed.

A high level of maturity now characterizes the relationship of the United Mineworkers of America and the coal operators. This does not mean that the parties are always in agreement. There are issues to be addressed on which they strongly disagree. Sound channels of communication, however, at the national level, and increasingly at the local level, serve as the medium for resolution of disputes.

Wildcat strikes in reaction to problems are rare, coal users view coal as a reliable and steady source of energy.

As the industry and the UMWA approach the expiration of the National Bituminous Coal Wage Agreement on March 27, 1981, and negotiate a new agreement, one major issue of the 1977–78 dispute will not be present. That issue is the viability of miners' pension plan.

The recently enacted Multiemployer Pension Plan Amendments Act of 1980, Public Law 96-364, incorporates provisions to assure the solvency of the miners' pension plan.

Originally the 1950 pension plan was funded on a "pay as you go" basis and provided both pension and health benefits.

Following the enactment of ERISA in 1974, the plan was split—one for pensions and one for medical care. The current pension plan, established following the 1974 acts, is administered by the trustees as one integrated plan with separate provisions for miners who retired prior to 1976 and miners who have retired since.

In drafting the 1980 act, the committee was cognizant of the integrated status of the retirement fund and so treated it.

Under the trustees' plan, and the recent act, the retirement fund is projected to be fully funded by the mid-1980's.

TRIBUTE TO WARREN MAGNUSON

● Mr. HOLLINGS. Mr. President, the closing days of the 96th Congress mark the final days of public service for the Senate's most distinguished senior member and a close personal friend, Senator WARREN GRANT MAGNUSON.

For 47 years, Senator MAGNUSON has dutifully served the people of the State of Washington with high distinction—36 of those years in this body alone. He has served the Senate most admirably as chairman of two of its more important committees, Commerce and Appropriations. And his compassion and good judgment have been a guiding light to all of us who have been fortunate to serve in this body during his tenure. I, for one, have learned a great deal from him.

Perhaps the most important lesson learned from MAGGIE is that things can be done in the U.S. Senate if we only will. He saw that the free market did not always protect the consumer and sought to make the people safer; he saw the infirm and sought to make them healthier; he saw the discriminated and sought to make them freer; and, he saw pollutants in our air, water and soil and sought to retain the natural beauty of our resources.

MAGGIE did not grab for photo opportunities. He did not make national headlines. He made headway, paving a path of progress not just for the people of Washington but for the Nation as a whole.

WARREN MAGNUSON, long before Ralph Nader made his appearance on Capitol Hill, was protecting the American consumer. His Subcommittee on Consumer Affairs was responsible for many of the most important steps in that endeavor. MAGGIE's subcommittee hammered out such legislation as the Truth in Packaging Act, the Fair Credit Advertising Act, the Door-to-Door Sales Act, and the Flammable Fabrics Act. After relinquishing the subcommittee chair in 1969, he continued his mission as he pushed for consumer warranty legislation, the School Bus Safety Act, the Safe Drinking Water Act, and other consumer-oriented legislation.

As much as he is the Senate's "Mr. Consumer," MAGGIE is the Senate's "Mr. Health." In 1937 he introduced in the U.S. House of Representatives a bill to create a National Cancer Institute. Then only one of every seven cancer victims was saved, today two of three are saved. As Senator in 1948 he sponsored legislation which established the National Heart Institute. Since then the incidence of in-hospital deaths from heart attacks has decreased fivefold. These institutes set the groundwork for National Institutes of Health and continue to make progress in nearly every area of health and biological research. It is most fitting that last Tuesday the Senate named NIH's Clinical Center for WARREN GRANT MAGNUSON.

The people of my State are perhaps most indebted to MAGGIE for authorship of the National Health Service Corps legislation. The NHSC serves hundreds of thousands of rural Americans who needed more adequate health care. The NHSC's modernized health delivery systems offers them that security.

Another one of MAGGIE's unsung and great achievements, which should not go unnoticed, is his contribution as a lawmaker during the Nation's search to right civil wrongs. He is the author of the public accommodations provisions of the 1964 Civil Rights Act and was constantly fighting the legislative battle for fair and equal justice.

As for the environment, MAGNUSON has always been a protector of our Nation's beauty. His Marine Mammal Protection Act protected not only the endangered killer whale off the coast of Puget Sound but many other marine mammals along America's coastal areas. I personally owe him my affection for his unflagging support and wise counsel as we worked in the Commerce Committee to piece together the most significant environmental protection legislation to ever pass this body, the Coastal Zone Management Act of 1972.

Mr. President, despite some minor differences of opinion through the years, my heart has always been in agreement with MAGGIE's. His dedication, ability and concern—concern for the consumer, for the sick, for the poor, for the discriminated, for our natural resources, and for people in general—should serve as an inspiration to all. I, for one, am proud and most fortunate to have served with him on the two committees he so ably chaired. I will miss him and we in this body will miss him but the fruits of his labor will be with our Nation forever.●

HAPPY JACK: A SMALL BUSINESS SUCCESS STORY

● Mr. HELMS. Mr. President, the August issue of North Carolina Magazine featured a story about Happy Jack, Inc., a family owned firm located in Snow Hill, N.C. The company manufactures and distributes dog remedies.

Jim Exum started his dog remedy business on a shoestring with a 1935 washing machine. His sons, Ashe and Joe, have helped build the business into a worldwide operation. As small businessmen, the Exums have had their share of problems with the burdens of regulation. Today, Joe Exum is actively involved with small business groups working to reform the regulatory process. I commend Joe for his notable efforts.

I ask that the article entitled, "Mr. Exum's Dog Remedy Hobby Became Million Dollar Firm," be printed in the RECORD.

The article follows:

HAPPY JACK, INC.: MR. EXUM'S DOG REMEDY HOBBY BECAME MILLION DOLLAR FIRM

SNOW HILL.—This village in eastern North Carolina is about the size of Lake Placid, N.Y., site of the 1980 Winter Olympics. But to thousands of dog owners throughout the country, Snow Hill will be remembered long after the souvenir vendors and modular homes have vanished from the Olympic Village.

Snow Hill is the home of Happy Jack, Inc., a family-owned firm that manufactures and distributes dog remedies. What started in the thirties and forties as a hobby for 70-year-old Jim Exum, a former dog breeder, has grown into a million-dollar-a-year business. Mange medicine, flea and tick powder, worm capsules and skin balm are only a few of the formulas for canine disorders developed and marketed by Exum and two of his sons, Joe and Ashe. (Another son is N.C. Supreme Court Justice James G. Exum, Jr.) Orders with postmarks reading St. Clair Shores, Mich.; Roseburg, Ore.; and Holberg, B.C., give an idea of the far-reaching scope of this unusual business.

It was not always quite this way. After years of testing and perfecting a mange medicine formula on his own dogs, Jim Exum incorporated Happy Jack in 1946. According to son Joe, now vice-president of the firm, the business succeeded against all odds. "It was a homespun business," he said. "There was no corporate structure. Daddy was president and Mother was secretary and bookkeeper.

"The medication was first mixed in an old tub and bottled in fruit jars," Exum said, "and a 1935 Maytag washing machine was our first automation. It was the cheapest way Daddy could find to mix the mange medicine."

The name "Happy Jack" came from Jim Exum's prize-winning beagle, Contentnea Jack II. It was this dog that provided much of the firm's early financing. Jack was the sire of 24 field champions and the first beagle sire to receive a $100 stud fee, so it was logical that Exum first marketed his product at field trials. Later he peddled his mange medicine to small drug stores and feed stores. In his very early attempts at advertising, Exum discovered that the classified section of newspapers and magazines worked well, and the approach he used was the beginning of what has become the company's vast mail order business. In every ad was a money-back guarantee: "Promotes healing and hair growth to any mange, bare spot or fungus—or your money back."

Happy Jack has always been a family business. Ashe Exum, secretary-treasurer of the firm, reported that his mother, Mary Bost Exum, went for years without a paycheck, and when she finally received one for $10, promptly misplaced it. "It turned up under a cake tin," he remembered laughingly.

Ashe and Joe have worked with the business since boyhood, spending their summers labeling bottles and folding cartons. It's been a long road to where we are today, they both agreed. "I can remember," said Joe "when Mother and Daddy said they'd be on 'Easy Street' if they could gross $100 a day."

And it wasn't too many years ago, according to the brothers, that they'd put a sign on the door a couple or three times a week that said "Closed. Gone Hunting."

"It wasn't just because we liked to hunt, either," reported Ashe. "There just wasn't much to do."

Things have changed. In 1979 Happy Jack sold three-and-a-half million worm capsules alone. But not all the changes have been welcome. Coping with government regulation has become an increasingly time-consuming proposition, said Joe.

"In the early years, our father had to wear the hats of lawyer and chemist before the Federal Trade Commission in interstate commerce."

That battle took four years. Not too long ago, the Exum brothers spent six years fighting bureaucratic red tape to obtain approval of a new animal drug application from the Food and Drug Administration.

"That's the reason even huge companies shy away from original formulas," said Joe Exum. "The cost of pursuing an application starts at about a quarter of a million dollars. It was only through the Small Business Administration, Sen. Jesse Helms and a sympathetic parasitologist we were able to cut costs and pursue our goal.

"We're living in a dark age," said Exum "Regulations have hamstrung us. For years, small business men and women have felt disenfranchised, frustrated, voiceless and powerless. That's the only reason I've become involved in taking political stands," he admitted. "Government has become so involved in business that I'm forced to become involved in government or see all we have worked so hard for disappear."

Exum attended the Conference for Small Businesses in Washington this past January, and said, "We were not there to petition the government for more. We were there seeking less interference and less harassment."

Such concerns, however, do not dampen the Exum brothers' enthusiasm about their business. "We have a firm foundation at Happy Jack," reported Ashe, "because we don't market a product until we know it's good. As our growth in research and development continues, I think we can become one of the two or three most significant companies in the dog remedy market."

In the early years, Jim Exum developed products through a trial and error method. He received assistance from neighbors and friends—a doctor, a veterinarian and chemists in the area. Perhaps his most innovative and successful research method was to draw a stripe down the center of a mange-infected dog, applying the traditional medication on one side, the Exum formula on the other.

Today's testing is done by dog owners in the Snow Hill area who provide a wealth of information for the 34-year-old firm. There's one stray retriever, however, who's made himself a willing test case. After receiving food, loving care and Happy Jack treatment for a skin condition he's adopted the plant as his home.

Joe Exum hopes to expand distribution of the firm's products from mail catalogues, seed and feed distributors, and farm and garden centers into urban areas as well. He sees Happy Jack products in Docktor's Pet Centers across the country as only the beginning. "I'd like to see Happy Jack in Sears, J. C. Penney and the like," he said. "Our products have a lot to offer dog owners everywhere."

Happy Jack moved into its present modern facility on U.S. Highway 258, three miles south of Snow Hill in the spring of 1974. Before that, the plant was operated out of farm buildings, but the working environment didn't chase away the staff. Of Happy Jack's ten employees, all but one have been with the company for ten years or longer.

The new facility serves not only as a manufacturing and distribution center, but also as a showroom for an array of distinctive catalogue items, ranging from wildlife mailboxes to hunting sportswear and leather dog leads. Not all catalogue items bear the Happy Jack name, but 26 items do, and they're distributed in all 50 states, the Virgin Islands, West Indies, Puerto Rico and Taipei, Taiwan.

Through hard work and ingenuity, one man's hobby has become a family business whose market is the world.●

TRIBUTE TO MILTON YOUNG

● Mr. HOLLINGS. Mr. President, there is another man from across the aisle that I would like to recognize. He, too, would become chairman of one of the Senate's most powerful committees if he were with us in the next Congress—Senator MILTON R. YOUNG.

Senator YOUNG would have made a hard-working, diligent leader for the Appropriations Committee. As ranking Republican on the committee, he has shown a high degree of sensibility to the concerns of rural America and the American farmer, and is an acknowledged expert in the field of defense appropriations. I feel deeply honored to have served with him on the committee and on the Subcommittee on Defense. He will long be remembered for his 34 years of dutiful leadership, the longest service of any Republican Senator in this body. I, for one, am proud to have served with him.●

TRIBUTE TO SENATOR BIRCH BAYH

● Mr. PELL. Mr. President, as our distinguished colleague and good friend from Indiana, BIRCH BAYH, leaves the Senate this week, he can look back with pride at his truly outstanding record over the past 18 years. I am particularly personally sad as we are good friends and I admire him so very much.

BIRCH BAYH has secured his place in the annals of the Senate through his contributions in a number of areas. Most prominent, of course, has been work as chairman of the Judiciary Subcommittee on the Constitution. In this capacity, BIRCH BAYH has contributed to the development of our Constitution and laws more than perhaps just a handful of Senators who have served throughout our history.

The stability of our Government was greatly strengthened by his leadership in developing the 25th amendment to the Constitution, dealing with Presidential succession. This amendment has been successfully implemented on two occasions, and—for the first time in the history of our Republic—has insured the continuity of our Government at those uncertain moments when there is a death or vacancy in the Presidency or Vice Presidency.

Senator BAYH has also been the author of three other constitutional amendments; one of them, the 18-year-olds vote, has become law, while two others, the abolition of the electoral college and the equal rights amendment, represent needed reforms which hopefully will ultimately be adopted.

A concern for individual liberties has been a consistent theme in Senator BAYH's creative legislative career. As chairman of the Senate Intelligence Committee, he was responsible for the Nation's first legislation aimed at preventing constitutional abuses by intelligence agencies through wiretaps and other means of electronic surveillance. Senator BAYH is also the author of the Nation's first comprehensive reform of the juvenile justice system, the Juvenile Justice Act, and, most recently, he was the driving force behind enactment of the first legislation protecting the civil rights of the institutionalized.

Despite his acknowledged expertise in the area of constitutional reform, Senator BAYH has found time to make lasting contributions in the area of alternative energy sources, particularly in the field of alcohol fuels where he serves as Chairman of the National Alcohol Fuels Commission. He has also been a distinguished leader of the Appropriations Subcommittee on Transportation, where I will remember him for his steadfast support of the Northeast Corridor project.

Throughout his career, BIRCH BAYH has been a man whose directness, tenacity, and optimistic "can do" personality have endeared him to all who have served with him. We also will always cherish the memory of his late lovely wife, Marvella, who established her leadership abilities in her own right through her courageous speechmaking throughout the country on behalf of the American Cancer Society.

BIRCH BAYH came to the Senate at the unusually early age of 34. He leaves it still at the very peak of his abilities, and I am one who firmly believes that his greatest service to the Nation could well yet come. In any case, he takes with him the affectionate regards of my wife Nuala and me and the hope we will see and work with each other in the future.●

WARREN G. MAGNUSON

● Mr. GLENN. Mr. President, I was pleased to cosponsor legislation designating the clinical center at the National Institutes of Health as the "Warren Grant Magnuson Clinical Center of the National Institutes of Health." This tribute to Senator MAGNUSON recognizes his leadership throughout the years in improving health care for all Americans and in advancing biomedical research.

I was particularly interested to learn that the first bill Senator MAGNUSON introduced in Congress, back in 1937 when he was a Member of the House of Representatives, was to establish a National Cancer Institute; and that in 1948 he sponsored legislation to create the National Heart Institute. At a time when many people questioned Federal expenditures for medical research, Senator MAGNUSON understood the importance of basic research leading to important medical discoveries. Today, we are all aware of the great progress that has been made, due to his foresight, in the fight against cancer, heart disease, and other diseases through the National Institutes of Health.

Senator MAGNUSON is perhaps best known for his leadership in insuring quality health care for all Americans. But during his years of service in Congress, he has led the way in many areas to benefit his constituents in the State of Washington and people throughout our entire Nation. We are all indebted to Senator MAGNUSON for his long years of service in the House of Representatives and the Senate, and it is with respect and admiration that I join my colleagues in paying tribute to him.

Annie and I extend our best wishes to Jermaine and MAGGIE in all their future endeavors.●

PUBLIC BUILDINGS PROJECTS

● Mr. RANDOLPH. Mr. President, last Monday the Senate passed H.R. 4941 with amendments to authorize four public buildings projects of the General Services Administration. The bill passed the House on Tuesday and was forwarded to the President.

I point this out at this time because it marked an historic point. As far as I know, this is the first time in about a quarter of a century that public building projects of GSA have been authorized in this manner—by enactment of a bill on the floor of the House and Senate. It also marks the first time since then that the President has had the opportunity to sign—or veto—such legislation.

Mr. STAFFORD. I agree with the chairman of the Committee on Environment and Public Works, Mr. RANDOLPH, that the action taken by the Senate and House was significant and consistent with the committee's policy on how to authorize projects.

Earlier this year the committee unanimously reported legislation to authorize the Federal buildings program of GSA for fiscal year 1981. This bill, S. 2080, the Public Buildings Act of 1980, passed the Senate by a vote of 71 to 8. While the conference committee was unable to agree on a bill and it regrettably failed, the action taken by the Congress this week to authorize the projects attached to H.R. 4941 was consistent with the procedures and policy contained in S. 2080.

Does the chairman agree with me that the Committee on Environment and Public Works deliberately chose to authorize these projects in the manner we did in order to conform to the policies we established in S. 2080? And would the chairman agree with me also that we deliberately chose not to authorize these projects by committee resolution because of our dissatisfaction with the practices associated with the committee authorization procedures of sections 7 and 11 of the Public Buildings Act of 1959?

Mr. RANDOLPH. You are correct on both of the points.

Mr. STAFFORD. I should also tell my colleagues that I believe the Committee on Environment and Public Works next year will report legislation similar to S. 2080 and, furthermore, that the committee will, to the greatest extent possible, conform its public building deliberations to the orderly and logical procedures that we set out in S. 2080.●

TRIBUTE TO HENRY BELLMON

● Mr. HOLLINGS. Mr. President, the prairie farmer has decided to return to Red Rock; and he leaves behind a U.S. Senate that is much the better place for his having made his mark on it.

HENRY came to the Senate 12 years ago as the distinguished former Governor of Oklahoma, the first Republican Governor the State had ever had. HENRY BELLMON was accustomed to dealing with the special challenges of working from a minority position; and that experience proved invaluable during his tenure as ranking minority member of the Budget Committee here. There are those of us who will wish we had that kind of training in the months ahead.

But HENRY BELLMON was matched with a Budget Committee chairman who also knew what it was like to be a minority party Governor. Together, HENRY and Ed Muskie did more than lead the budget process through its earliest formative stages. They made it work where many thought it never could. They enforced its discipline where many thought that could not be done. They earned the respect of the entire Senate and they made the budget process the effective tool it is today.

It may well be true that this never could have been achieved were it not for the preseverance, hard work, good judgment and commitment to the public welfare that HENRY BELLMON brought to the job.

It is traditional to hang the portraits of past committee chairmen in the hearing rooms. If justice is done, HENRY BELLMON's portrait will be there as well because HENRY is responsible for the Budget Committee's effectiveness, for its successes, and perhaps even for its very continued existence. That is a debt that is owed to HENRY BELLMON not just by the Senate but by our Nation.

The spirit of cooperation and compromise is an essential ingredient of all legislation, but particularly of the process of budgeting and fiscal discipline. HENRY has mastered those necessary qualities; but HENRY BELLMON has also maintained a distinctly independent course in the U.S. Senate. He is a man who truly votes his conscience; and that variety of honesty and integrity has earned him the lasting respect and admiration of Democrats and Republicans alike.

When asked why he had decided to leave, HENRY answered in his characteristically straightforward way that "12 years is enough." Well, HENRY BELLMON has earned his retirement from the pressures and daily demands of this institution, but those of us who are Democrats as well as those who are Republicans must be allowed to wish that HENRY had decided 12 good years deserved to be followed by at least 6 more.

We will miss HENRY BELLMON as a friend. The Senate and the Nation will miss HENRY BELLMON as a true statesman and a principled and dedicated legislator.●

A VOICE OUT OF THE DARKNESS

● Mr. LEVIN. Mr. President, a compelling editorial relative to the tragic human rights situation appeared in the Washington Post of November 25, 1980. I ask that it be printed here as a tribute to all those seeking freedom from persecution around the world.

The editorial follows:

A VOICE OUT OF THE DARKNESS

Soviet police action this past Sunday marked another step in what is turning out to be the grimmest year for Soviet internal dissent in several decades. The latest crackdown involved a seminar organized by Jewish scientists whose requests to emigrate caused them to lose their jobs. While they wait for the exit visas that often never come, the "refuseniks" use these Sunday meetings to try to keep up with research in their fields—and to keep up their morale. The meetings, held in a crowded apartment, have been held weekly for the past eight years. This weekend, for the first time, police prevented participants from gathering.

The human rights crackdown began last January with the arrest and internal exiling of Andrei Sakharov, the great physicist and winner of the Nobel Peace Prize. Sweeping moves against all types of possible "troublemakers" were carried out to ensure a smooth atmosphere for the Olympic Games. After the Games, the pressure continued, with more than two dozen trials and convictions handed down in the past three months.

The crackdown is by no means limited to Jews; no type of dissent has been left untouched. Unofficial political and literary journals have been silenced and their editors and publishers arrested. The biggest names have been exiled. Those without international reputations have generally ended up in prisons, labor camps or psychiatric wards. Just about every member of the Helsinki monitoring groups in Moscow and other major cities has been silenced one way or another. Russian Orthodox and Baptist activists have been jailed, as have leaders of Lithuanian, Estonian and other nationalist movements.

This throttling of internal dissent has happened while the West has been preoccupied with the invasion of Afghanistan and the troubles in the Persian Gulf. But though it has gone largely unnoticed, the crackdown signals a profound change in Kremlin policy that the Reagan administration will have to consider as it tries to craft workable U.S.-Soviet relations.

One goal the crackdown has not been able to achieve is to break the spirit of the dissenters, who continue to face the likelihood of years of poverty or harsh imprisonment with extraordinary courage. The blazing symbol of that determination is Dr. Sakharov, who in recent months has been painted by the Kremlin as senile and in need of protection for his own good. Now, through circuitous underground channels, a postcard from him has just appeared—it is reproduced below. Far from being senile (as the Soviet libel goes), Dr. Sakharov has clearly managed—somehow—to stay on the frontiers of research in theoretical physics, despite his near total isolation in Gorki. Physicists can appreciate the genius that still manages to produce new insights at the same time as, and even ahead of, scientists who have all the advantages of the great research centers of the world. The rest of us only can admire the undimmed gentleness, graciousness and valor of this amazing man.

TRIBUTE TO SENATOR MIKE GRAVEL

● Mr. PELL. Mr. President, as the 96th Congress draws to a close, it is most important that we take time to reflect on the contributions of those outstanding colleagues who will not be able to share their valued knowledge during the coming 97th Congress. One such colleague is Senator MIKE GRAVEL.

Senator GRAVEL has served his constituents of the State of Alaska and the people of the Nation well. During his 12 years in the Senate, he has served on two critical committees, Energy and Natural Resources and Environment and Public Works, lending his expertise in a manner that has contributed substantially toward addressing our Nation's energy problem while at the same time protecting our vital natural resources, especially in Alaska.

While Senator GRAVEL has addressed in a most responsible manner the unique concerns of Alaskans, the Senator is perhaps best known for his successful role in enabling the construction of an environmentally safe pipeline to deliver North Slope crude oil to consumers in the lower 48 States. His efforts in this regard and more recently in promoting the development of Alaskan gas for delivery to the lower 48 States clearly mark major steps toward our country's goal of energy independence.

I commend Senator GRAVEL for his significant contributions to our country in the vital energy and environment areas and know that his expertise will be greatly missed in the coming years.

I extend my warmest wishes for the future to Senator GRAVEL and his family.●

CULTURAL POLICY OR TRADE MEASURE?

● Mr. MOYNIHAN. Mr. President, I ask my colleagues again to direct their attention toward the border broadcast war between the United States and Canada. The dispute was initiated by Canada. It has disrupted bilateral relations for most of the past decade. It threatens to undermine the unique relationship between our two countries. The Canadian Government has intentionally discriminated against American broadcasting stations whose television and radio shows are enjoyed by Canadian audiences. I shall briefly explain the background to the broadcast war so that my colleagues may fully appreciate the serious nature of the dispute.

Canada and the United States have a long history of close, mutually beneficial cooperation on a wide range of matters. This cooperation has extended to the establishment and development of mutually beneficial broadcasting services along the border.

There are several specific diplomatic agreements allocating television channel assignments. Both governments approved the placement of several Canadian and United States television stations whose signals could cross the border in either direction and provide very satisfactory viewing in major metropolitan areas of the other country. For example WKBW–TV, WIVB–TV, and WGR–TV in Buffalo, WPTZ–TV in Plattsburgh, and WWNY–TV in Watertown are television stations that serve my New York constituents. They have substantial Canadian viewing audiences.

Several Canadian radio and television stations, in particular radio station CKLW in Windsor, Ontario, which serves the Detroit metropolitan market and derives over 90 percent of its revenues from U.S. advertising sales, reach substantial American audiences. All-in-all, there are more than 40 major American television stations which are also received in Canada, and 19 major Canadian television stations which are viewed in the United States.

As a result of this long and harmonious cooperation, Canadian citizens have enjoyed high quality, relatively inexpensive American broadcast programming. This is because the U.S. broadcasting industry developed much faster than its Canadian counterpart since the size of the American population justified greater financial investment by program sponsors in U.S. stations. Canadian viewers and Canadian industry benefitted greatly from the rapid development of American broadcasting. Canadian viewers received quality U.S. programing at no direct cost. And as Canadians grew increasingly fond of watching American broadcast programs, the Canadian cable television industry developed rapidly to spread U.S. signals throughout Canada.

Today, Canada has the most extensive cable television system in the world. The Canadian noncable broadcast industry has also benefitted from U.S. program development. It buys the Canadian distribution rights to U.S. programs at a small fraction of the cost of those programs. A Canadian magazine reported that "the facts of life are these: All the popular U.S. (television) imports make money for the two Canadian networks; all major Canadian produced shows are heavy money losers."

On the U.S. side, the border broadcast stations received no tangible benefits for the service Canadians were enjoying until Canadian advertisers recognized the popularity of American programing with Canadian audiences. Then they began purchasing advertising time on U.S. stations in order to reach Canadian audiences. The total dollar flow was small compared to the overall Canadian and United States television industry revenue base, but it became significant to the U.S. border stations, facilitating the provision of quality service to their American and Canadian audiences.

This is the background of this mutually beneficial arrangement which brings the most popular and sophisticated television and radio fare to citizens all across Canada. Despite this, Canadian governmental officials believe that Canadians should be weaned away from American television. This notion has been spurred in part by a nationalistic fear of cultural absorption by the United States, and, in part, by attention to the economic interests of Canadian broadcasters, who view themselves as being unable to compete effectively with American programing in the open market.

The Canadian policy seems to assume that Canadian broadcasters will benefit from new sources of revenue as advertisers are attracted to the wider market in Canada or driven away from American stations where advertising is relatively more expensive because of Bill C-58. Although Canada has voiced its nationalistic concern intermittently since 1928, the Canadian public overwhelmingly demands access to U.S. programing.

I can understand Canadian concerns over maintaining a cultural identity separate from their larger neighbor to the south. But we are still neighbors. The United States has done nothing to merit discriminatory trade treatment. The U.S. broadcasters have responded to the Canadian desire to develop their own program production industry by proposing a reasonable compromise to the Bill C-58 tax deduction dispute. But the Canadians have refused to even consider seriously any settlement proposals.

At least two of the leading Canadian newspapers have reached a similar conclusion. The Toronto Globe and Mail published an editorial in its July 24 issue entitled "Heads We Win, Tails Too." In discussing the border broadcast dispute and the U.S. foreign convention tax law, the editorial concluded:

> Canada can bluster all it wants about U.S. pressure tactics, but does so on very shaky moral grounds. Either we recognize that both sides can play at protectionism, and accept the game on those terms, or we should simply stop imposing protective policies.

Similarly, the Hamilton Spectator published an editorial in its August 5, 1980 issue entitled "Television turnabout." In discussing the retaliatory legislation proposed by President Carter as a result of the section 301 complaint, the newspaper commented:

> The only surprise in the American retaliation is that it's been so long in coming. When Canada moved to stop the flow of advertising dollars into American stations, it should have expected the Americans to discourage their companies from advertising on Canadian channels.
>
> But the folks in Ottawa have an unusual way of looking at things. When they froze out the American stations, it was "cultural policy," according to Mr. MacGuigan.
>
> When the Americans do the very same thing, it's "a trade measure."

The editorial concluded:

> The tears being shed in Ottawa over the American response are of the crocodile variety.

I submit copies of both editorials for the RECORD.

Mr. President, the Canadian Government should not and cannot have it both ways: Taking our programing but keeping the revenues those programs generate. Moreover, as the Globe and Mail recognized, why should we treat Canada as a domestic location for purposes of the convention expense tax deduction when Canada effectively penalizes its citizens and our broadcasters for advertising on U.S. broadcast stations?

The editorials are as follows:

HEADS WE WIN, TAILS TOO

Canada needs lessons from no one in the far from perfect art of inconsistency.

On the one hand, representatives of Canada's television industry are busily pooh-poohing concerns in the United States about the fairness of certain provisions of our Income Tax Act. Fourteen U.S. television stations located near the Canada-U.S. border are dismayed with a 1976 amendment to the act that prohibits Canadian advertisers from deducting the cost of purchasing time on U.S. broadcast outlets when the advertising is aimed primarily, at a Canadian market. They consider the provisions both costly $100-million in lost revenues) and iniquitous, and are pressing for retaliation against Canada.

Our response? Aggressively unsympathetic. According to Ernie Steele, president of the Canadian Association of Broadcasters, the provisions are at worst a minor irritant for the Americans, whose complaint is "without merit or validity". His view is seconded by Jerry Graistein, a lawyer representing Rogers Telecommunications Ltd. of Toronto, who dismisses the matter as "a peanut problem".

Meanwhile, the Canadian tourist industry continues to press the United States to suspend a provision of its tax laws that prevents U.S. delegates to Canadian conventions from deducting their expenses for tax purposes. This restriction does not serve Canadian interests and, therefore, Canadian interests consider it unfair.

Inconsistent? Very. And while Canada seems in no hurry to bridge the contradiction, the United States already has done so. A U.S. Senate committee currently considering Canada's request for an exemption from the convention restriction has declared it will proceed no further until the dispute over television advertising is resolved. And why should it do otherwise? Canada can bluster all it wants about U.S. pressure tactics, but it does so on very shaky moral grounds. Either we recognize that both sides can play at protectionism, and accept the game on those terms, or we should simply stop imposing protective policies.

The United States is not about to let us have it both ways—and, more to the point, we don't deserve to.

TELEVISION TURNABOUT

Some Canadians, in blissful naivete, seem to believe this country can take a swipe at the United States without any fear that the friendly giant next door will hit back.

External Affairs Minister Mark MacGuigan evidently is among that happy group.

Four years ago, Canada ruled that Canadian businesses couldn't claim the cost of advertising on American television stations as business expenses for tax purposes.

That made it too expensive for many Canadian firms to advertise on the American side of the border market; American stations claimed it cost them millions of dollars.

Now Washington proposes a similar law, which would cut off American advertising dollars now flowing into Canadian border stations—and the Canadian government isn't at all happy. Ottawa doesn't like the taste of its own medicine.

The only surprise in the American retaliation is that it's been so long in coming. When Canada moved to stop the flow of advertising dollars into American stations, it should have expected the Americans to discourage their companies from advertising on Canadian channels.

But the folk in Ottawa have an unusual way of looking at things. When they froze out the American stations, it was "cultural policy", according to Mr. MacGuigan.

When the Americans do the very same thing, it's "a trade measure".

Surely not even the most fanatical cultural nationalists in Ottawa swallow that. The federal government knew from the start that blocking the Canadian side of border television advertising was an economic action and that the Americans would see it that way. The American stations did and they made no secret of their views.

Ottawa also knew the Americans could and, inevitably, would respond in kind. If Canadian business suffers by the American action, the people who lose their jobs know whom to blame.

The tears being shed in Ottawa over the American response are of the crocodile variety.●

TRIBUTE TO ROBERT GIAIMO

● **Mr. HOLLINGS.** Mr. President, we on the Senate side have come to understand how very difficult it can be to make the budget process work. Varying interests must be accommodated. Differing perspectives on national needs and priorities must be appreciated; and the notions of 100 legislators with 100 "ideal" budgets must be reconciled and made whole.

But in the House of Representatives, that formidable job is perhaps an even more challenging one. It is 435 men and women whose views must be melded together. It is not in the context of a permanent committee assignment but in a rotating tenure that the budget must be constructed. It is not uncommon that the lines of partisanship and of party are drawn more firmly and bent less easily than they are in the Senate.

Through all of those imposing challenges and difficulties, Bob Giaimo has been a principal figure in the effort to make the budget process work; and with a rare variety of determination and leadership, he has done exactly that. We will find it hard to get by without him.

The people of New Haven, Conn., and its surrounding communities are losing an able representative in the person of Bob Giaimo; but the Nation as a whole is losing a knowledgeable, dedicated, and effective budget statesman.

Part of that job of compromise and statesmanship, of course, requires that the differing budgets of the Senate and House be reconciled in a single conference agreement. In that context, one has to have been on the opposite side of the table to fully appreciate Bob Giaimo's formidable talents as a negotiator and an advocate. One comes to respect the abilities of the man who sits across that table, and perhaps sometimes even to wish that those talents were not quite so keen.

Bob Giaimo drives a hard bargain; and the bargains he has helped to seal as chairman of the House Budget Committee have served this Nation well.

When Bob leaves the Congress, he will take along with him some much-needed experience and some unusually valuable talent that the budget process will miss; but he will leave behind a major part of the effort, creativity, and fundamental legislative architecture that will serve the process well in the months and years to come.

Bob Giaimo has our thanks, our friendship, and our very best wishes for his continued happiness and success in the role of private citizen.●

TRIBUTE TO SECRETARY OF COMMERCE KLUTZNICK

● Mr. HOLLINGS. Mr. President, as a member of the Senate Commerce, Science and Transportation Committee, I have had the honor of working with the most able and distinguished Secretary of Commerce, Philip M. Klutznick.

It is not often that we have a Secretary of Commerce as highly regarded by the American business community as Phil Klutznick. He does not mince words and he works endlessly. In his short tenure he has accomplished a great deal including the shippers export declaration and the patent reform bill which should assist the Nation's ability to utilize our innovations.

But none of this is new to Secretary Klutznick for much of his life has been devoted to public service in both the domestic and international spheres. He has served in various Federal Government posts under seven Presidents, and, I should add, he has served them all with distinction.

I thank him for his work and wish that future Presidents are only as wise about their cabinet appointments as Jimmy Carter was in this case.●

MILTON R. YOUNG—A LIFE OF SERVICE

● Mr. PELL. Mr. President, as we approach the end of the 96th Congress we also draw near the retirement of a colleague whose 35 years representing the citizens of North Dakota have set many records of service in the U.S. Senate.

As he completes his term in January, Milton R. Young will have served longer continuously than any other Republican in Senate history. Only six Senators of any party will have served longer.

The ranking Republican member of the Appropriations Committee and a member of the Agriculture, Nutrition, and Forestry Committee, he has served longer on these two committees than any present member. In fact, he has served longer on the Agriculture Committee than any Senator in our history.

Milton Young has been an advocate of North Dakota's interests as a sponsor or cosponsor of all major price support legislation since 1945. He was the originator of the target price provision of the 1973 Agricultural Act, provisions which were continued in the 1977 farm bill.

Throughout his career he has supported rural development, including water, sewer, telephone and electrical systems. He has also championed agricultural research and the creation of several agricultural research laboratories in North Dakota.

Only a few weeks ago he was honored by the National Association of State Universities and Land Grant Colleges for work on the Agriculture Committee, and, particularly, for his advocacy of agricultural research.

His Senate career stands as a tribute to his dedicated service to the citizens of North Dakota. I know I shall miss him.●

CHIPPER KNIFE STEEL

● Mr. LEVIN. Mr. President, section 114 of H.R. 5047 temporarily reduces the MFN rate of duty on the alloy steel defined in the tariff code as chipper knife steel to 4.6 percent ad valorem from the date of enactment through September 30, 1982. The non-MFN rate of duty would not be affected by this provision.

This duty suspension is the product of long and careful negotiations. It represents a duty suspension to a rate that is equal to that levied on the imported finished product produced with chipper knife steel. The duty suspension will result in lower costs to chipper knife manufacturers and improve their competitive position vis-a-vis foreign knife manufacturers.

Chipper knife steel is relatively insignificant to the specialty steel industry. However, it represents 100 percent of the raw material for producing chipper knives—a major product of machine knife manufacturers around the country. More than 1,000 American workers are employed in the machine knife industry. Approximately 350 of these workers are directly employed in the manufacture of chipper knives.

Suspension of the duty on chipper knife steel will not only help the American chipper knife industry, it will also benefit the many chipper knife customers in the forestry, wood, and paper industries. The chipper knife market is expanding rapidly in response to the growing demand for wood products. The erratic and insufficient supply of domestic chipper knife steel for the chipper knife industry makes this duty suspension so important to the continued growth of that industry.●

FOREIGN CONVENTIONS TAX BILL BORDER BROADCAST DISPUTE

● Mr. JACKSON. Mr. President, ever since 1972, the U.S. Government, including both Houses of Congress, has voiced concern over Canadian policies discriminating against U.S. border broadcast services. The State Department presented a diplomatic note to the Canadian Government in February 1973, protesting implementation of a policy of deleting commercials from U.S. broadcasts carried by Canadian cable systems. In April 1974, the House Subcommittee on Inter-American Affairs held hearings on the subject.

In January 1976, my colleague from the State of Washington, Senator Magnuson, and I sent a telegram to Secretary of State Kissinger, expressing our concern that the State Department had failed to address the entire range of Canadian policies adversely affecting U.S. border broadcast stations. Six months later, Mr. Magnuson, who has long shared my concern about the need to maintain open, reciprocal relations with the people of Canada, led 17 other Senators from both sides of the aisle in calling on Secretary Kissinger to press for detailed negotiations with Canada on the entire range of Canadian Government policies adversely affecting U.S. border broadcast stations. As a result of this concern, diplomatic efforts were undertaken. Secretary Kissinger continued to press for modification of the commercial deletion policy, meeting twice with Canadian officials. These meetings, along with American and Canadian expressions of concern about the gross unfairness of the deletion policy, led to a Canadian Cabinet declaration in January 1977 of a moratorium on additional implementation of commercial deletion.

However, by the time we resolved, at least temporarily, the commercial deletion problem, bill C–58 already was in effect. Bill C–58, the elimination of the business tax deduction for the cost of advertising on U.S. stations, was proposed in the Canadian Parliament in late 1975. The U.S. State Department strenuously objected to the bill, but Canadian officials adamantly refused to discuss the matter. The Canadian Government even refused to listen to suggestions volunteered by American border broadcasters, outlining various alternatives to bill C–58 which would have substantially increased both Canadian control of broadcasting content and Canadian tax revenues derived from television. Our envoy in Ottawa, Ambassador Thomas Enders, took the American case to the Canadian Parliament during the debate on C–58, asking for negotiations to attempt to reconcile the interests of both Canada and the United States. Ambassador Enders' reasonable approach was persuasive, and the Canadian Senate Banking Committee proposed conciliatory amendments to bill C–58. However, after intense public debate, the Canadian Senate rejected the Banking Committee's recommendations, and on September 22, 1976, Bill C–58 was proclaimed law in its original, discriminatory form.

Thus Canada, in the name of protecting a Canadian industry, now denies Canadian advertisers a business deduction for broadcast time purchased on a U.S. television station when the advertising message is directed primarily at a Canadian audience. This discriminatory treatment constitutes, in effect, a 100-percent tariff on American broadcast signals which are viewed across the border. In contrast, the United States imposes no such discriminatory tariff on Canadian signals received in the United States. The many American businesses which choose to advertise on Canadian radio and television stations are entitled to receive a deduction from their American income tax.

It is difficult to understand how bill C–58 reduces the U.S. cultural presence in Canada, however desirable the advocates of C–58 might find this goal. Bill C–58 does not affect in any way the ability or predisposition of Canadians to watch American programing of U.S. television stations. Moreover, it is the profits derived from American programs by the Canadian networks which subsidize "Canadian-content" programs rather than the hoped-for diversion back to Canada of the relatively minuscule portion of total Canadian television advertising revenue that goes to the U.S. border stations.

Mr. President, Canadian bill C–58 is classic protectionist legislation and constitutes a unilateral reversal of the traditional broadcast relationship between the United States and Canada. It is a threat to the continuation of the open-door, good neighbor policy which I and many of my colleagues in this Congress and in the Canadian Parliament have so vigorously promoted in the best interests of the citizens of our two great nations.●

TRIBUTE TO SENATOR DONALD W. STEWART

● Mr. PELL. Mr. President, I am very pleased to take this opportunity to pay tribute to Alabama's senior Senator, DONALD W. STEWART.

Senator STEWART, although only a freshman Member by virtue of his election to the Senate in 1978 to fill the unexpired term of the late Senator JAMES B. ALLEN, gained very quickly the respect of his colleagues. He presently chairs two important subcommittees on the Senate Banking and Agriculture Committees and was selected by his colleagues as 1 of 8 deputy majority whips in the Senate. In addition, he was 1 of 11 Senators appointed to an advisory committee to the President's Commission on an Agenda for the eighties.

Senator STEWART's legislative concerns and activities have covered a number of key areas in banking, budget, Government regulation, and national defense. While his achievements in these areas have been both important and substantial, it is in the area of energy, rural health, and agriculture that his accomplishments are readily acknowledged.

The Senator is credited as one of the key Senate architects of the national energy legislation, enacted by the 96th Congress, steering the alcohol fuels portion of the legislation through four separate committees and to successful final action by the full Senate. His efforts in this area also resulted in his appointment to the joint Senate-House conference committee that completed work on President Carter's energy programs. He was the only non-Energy Committee freshman, designated to work on all portions of the energy legislation.

Senator STEWART has been an ardent supporter of rural development programs at both the State and national levels. Senator STEWART was recently named cochairman of the congressional family farm task force, a bipartisan unit whose goal is to develop programs to benefit small farms across the country. Additionally, it was his early work on the Research and General Legislation Subcommittee, which he chaired, that led to introduction of the Rural Energy Independence Act, incentives for alcohol fuels development that served as the basis for the Senate's alcohol fuels legislation.

Mr President. I regret very much that Senator STEWART's expertise and counsel in areas of critical importance to us in the fight against inflation especially in the fields of energy and agriculture will not be available to us in the 97th Congress.

I extend my warmest wishes for the future to Senator STEWART and his family.●

ARBITRAGE PROVISIONS

● Mr. WILLIAMS. Mr. President, we have recently passed mortgage revenue bond legislation as a part of the budget reconciliation process. That legislation is designed to permit mortgage bond financing at a reasonable level and under reasonable restrictions.

One of the restrictions deals with arbitrage and limits the effective interest rate on mortgages to homeowners to 1 percentage point above the yield to maturity to the purchasers of the bonds, calculated on the date of issuance. Arbitrage earnings on nonmortgage investments must be returned to the mortgagors.

The amendment I offered on behalf of the committee makes two changes that will result in the simplification of the computations and administrative requirements under the arbitrage provisions. Under the amendment, the issuer may elect to return arbitrage earnings on all nonmortgage investments—other than certain arbitrage returned to the issuer as described below—to the United States rather than to the mortgagors. The election must be made before the bonds are issued. If the election is made, 90 percent of the aggregate amount of these arbitrage earnings must be paid to the United States at least once every 5 years. Any unreturned amounts must be paid to the United States within 30 days after the last bond is redeemed.

The amendment also allows the Secretary of the Treasury the flexibility, either by regulation or on a case-by-case basis, to recognize simplified accounting systems which meet the arbitrage limitations enacted last week. For example, it is intended that a simplified system which limits the amounts of all costs that may be paid to operate the issue be permitted so long as it results in the payment to mortgagors or the United States of an amount equal to the net arbitrage earnings on nonmortgage investments—other than any defaults on mortgages and certain amounts returned to the issuer—and the effective interest rate on mortgages does not exceed the yield on the bonds by more than 1 percentage point.

Review of specific-cost limitation proposals, such as the one presented by 27 Senators and referred to the Senate Finance Committee, would take more time than we have this year and yet the concept involved may significantly simplify computations. This amendment would allow time for refinement of such proposals which could then be approved by the Secretary. I believe this matter is of sufficient importance that the incoming Secretary of the Treasury should undertake immediate consideration of simplified accounting systems which carry out the intent of this legislation and assist the continuation of existing and responsible mortgage subsidy bond programs.

The amendment also permits the payment of a limited amount of net arbitrage earnings on nonmortgage investments to the issuer. The amount that can be paid to the issuer is the amount computed on the yield determination date, which results in the net effective interest on mortgages being less than the one percentage point above the yield on the bonds. This fixed dollar amount may be paid to the issuer at any time, but is not adjusted for the time of payment.

I urge the adoption of the amendment.●

BORDER BROADCAST DISPUTE

● Mr. MAGNUSON. Mr. President, during my long career in the Senate, I have always tried to encourage warm relations between Canada and the United States, particularly between my State of Washington and our neighbor, British Columbia. I view the current border broadcast dispute as an unfortunate and unfair action on the part of the Canadian Government. It is unfortunate because it needlessly and unreasonably attempts to penalize American broadcasters who provide an advertising and programing service to millions of Canadian viewers. It is unfair because it is a unilateral attempt by Canada to reverse the pattern of trade in these services, ignoring the many years Canadian viewers and listeners have benefited from these services without paying for them in any way except through advertising sales.

Station KVOS-TV of Bellingham in my State of Washington provides a perfect example of this Canadian policy's unfairness. After KVOS first went on the air in 1953 with a small, low-power homemade transmitter, British Columbia viewers and advertisers urged KVOS to move its tower to a location where a clear signal could also be provided to British Columbia viewers. Existing demand for television advertising could not be filled by the province's only television station. KVOS moved its transmitting tower to Orcas Island in the State of Washington between Vancouver and Victoria, British Columbia. The station then incorporated a Canadian subsidiary in British Columbia to handle its Canadian advertising sales. For the past 25 years KVOS has paid Canadian taxes on all advertising revenues received from Canadian sources. Canadian citizens staff the Canadian subsidiary of KVOS. In addition KVOS injected more than $75 million into the Canadian economy and contributed to the program production industry in Canada by establishing and subsidizing what was, until the end of 1977, Canada's largest full line film production enterprise west of Toronto. KVOS dissolved this production enterprise at the end of December 1977 to economize in the face of the severe adverse financial impact of bill C-58 on KVOS. C-58 is costing KVOS about $3.7 million in annual revenues. Once a profitable station, KVOS lost money last year.

Mr. President, the plight of KVOS is just one example of the unfairness of bill C-58. I remain confident that we shall be able to maintain warm and friendly relations with our Canadian neighbors. But the Canadian Government must recognize its obligation to take immediate steps toward ending the border broadcasting war which it initiated with the passage of C-58.●

TRIBUTE TO SENATOR ROBERT MORGAN

● Mr. PELL. Mr. President, it gives me great pleasure to recognize the contribution that Senator ROBERT MORGAN has made to the U.S. Senate and the legacy that he has left for the people of North Carolina.

Senator MORGAN serves on the Banking, Housing, and Urban Affairs and Armed Services Committees. He has been an articulate spokesman for small business, and in this role he has been a leader in their fight to reduce the burden of unnecessary Government regulation and provide special economic incentives so that they may compete with big business.

In his position as chairman of the Senate Subcommittee on Rural Housing, Senator MORGAN has drawn attention to the housing needs of migrant and low-wage workers and has developed new and innovative programs for these citizens who have traditionally fallen through the cracks within other Government programs.

His colleagues in the Senate have relied on ROBERT MORGAN'S expert knowledge in consumer affairs. He served two terms as North Carolina's attorney general before coming to the Senate and used this experience to play a significant role in the Senate's consideration of banking, housing, and other economic issues. He has always been a proponent of a strong national defense and has played an active role in the work of the Armed Services Committee, on which he serves.

BOB came to the U.S. Senate in 1978 and has been a strong and successful advocate for the people of North Carolina. I have always admired the clarity and vigorousness with which he defended his positions on various legislative proposals. He has made a real contribution to the Senate and will be sorely missed by all of us, his friends and colleagues.●

INDIANA DUNES NATIONAL LAKESHORE

● Mr. BAYH. Mr. President, this week the House and Senate passed S. 2166 which contained provisions related to the Indiana Dunes National Lakeshore. However, S. 2166 is not the same as the amendment I submitted to this body on behalf of myself and Senator LUGAR on November 25 of this year. Our amendment included the excluded portions of the town of Beverly Shores within the Indiana Dunes National Lakeshore. The bill which passed does not do that.

The House of Representatives and the distinguished chairman of the House Subcommittee on National Parks and Insular Affairs, Congressman BURTON, sent two different bills over to the Senate containing the excluded portions of Beverly Shores. Unfortunately, the Senate was not able to reach an agreement regarding the Beverly Shores island and highway strip.

However, we were able to reach agreement on most of the other provisions in our amendment. Consequently, the House sent us yet another Indiana Dunes bill, S. 2166, containing those provisions, although this time without the island and highway strip. Those provisions concern the inclusion of five small areas not in Beverly Shores, improved homeowner provisions, a transportation study, provisions honoring the late Senator Paul H. Douglas, funds for park development, and several minor matters.

However, the bill we have passed does not deal with the major problem facing the lakeshore which we sought to address, namely the need to include the Beverly Shores island and highway strip. Inclusion of the excluded portions of Beverly Shores was the heart of the Indiana Dunes National Lakeshore bill. Senator Douglas' dream will remain incomplete because the excluded portions of Beverly Shores remain outside the lakeshore.

The absence of the island and highway strip from this bill is also a great disappointment to the majority of the residents in those areas who wanted them included in the lakeshore. They have worked long and hard for inclusion in the lakeshore, and I continue to believe that they will yet succeed. The issue of the excluded portions of Beverly Shores will not go away with the passage of S. 2166.

The issue will continue to be brought back before Congress because the island sits in the very heart of the largest portion of the lakeshore. Likewise the highway strip sits along Highway 12 near the main entrance to the park. Both are threatened by residential and commercial development which can only raise the price of acquisition the longer we wait.

I would strongly urge those who will be serving in this body next session to once again examine the alternatives with respect to these excluded areas of Beverly Shores. The problems caused by their exclusion will not go away. However, in order to improve the homeowner provisions and make the limited improvements for the lakeshore contained in the bill, I supported passage of S. 2166.

I extend my appreciation to Senator LUGAR, Congressman FITHIAN, and Congressman BENJAMIN for the work they have all done in the effort to obtain passage of this bill as well as in our unsuccessful effort to include the excluded portions of the town of Beverly Shores in the lakeshore this year. This has truly been a cooperative effort to save the dunes.●

THOUGHTS ON LEAVING THE SENATE

● Mr. McGOVERN. Mr. President, I should like to take this opportunity in the closing hours of the 96th Congress to thank all of my colleagues in the Senate and the House, as well as the capable staff who serve us so well on Capitol Hill, for the countless kindnesses and consideration shown to me since I first came to Washington 24 years ago.

I treasure each one of those years and the numerous ways in which my colleagues have enriched my life and broadened my perspectives.

I leave the Senate with no sense of sadness or regret, but with a special appreciation for its Members, its traditions, and its vital role in the American constitutional system.

I should also like to express my appreciation to all those who have made this Capital City one of the most beautiful and interesting cities of the world. It is a joy to live here and to share in the inspiration and excitement of this magnificent National Capital.

There are advantages, as well as obvious disadvantages, in losing an election.

An advantage is that it is an occasion for personal renewal and contemplation—contemplation of both the past and the future—as well as the ebb and flow of political fortune.

The day-to-day pressure of public office leaves one with little time and energy for critical thought about the long-term needs of the Nation, or even about the course of one's personal life.

So I am looking forward with a sense of relief and adventure to the prospect of less hectic days ahead.

Beyond this, it may well be wise to give the forces of conservatism a period of time to run the country. It is probably not desirable for either party to be denied for too long the challenge and the responsibility of governing. So I am looking forward to observing the conservative majority in the Congress and the executive branch as they take over the direction of national affairs.

Thus, we are offered two advantages by the election changes of November 4: an opportunity to test conservative values as a determinant of national policy and, an opportunity for liberals to examine their positions and develop their ideas.

Before commenting any further on my own postelection thoughts, let me make clear, as I told my fellow South Dakotans on election night, that I feel no sense of bitterness or depression about the outcome of events. I am grateful to the voters of my State that they not only elected and reelected me to the House and the Senate for 22 years, but they did so knowing full well that my views were often at odds with theirs. When my opponent in the recent campaign insisted that he was more typical of the average South Dakotan than I am, he may well have been right. I wish him well as he seeks to enunciate his version of "South Dakota thinking" in the U.S. Senate.

Let me add that never before in a long political career have I completed a campaign with a greater sense of serenity and peace of mind than in 1980.

Perhaps that is because at the outset I accepted the fact that the results were most uncertain and that, indeed, it might well be time for me to turn to other fields of endeavor. It seemed to be more important that emerging young political leaders such as Senators JOHN CULVER, GARY HART, and PAT LEAHY and young Congressmen, such as South Dakota's TOM DASCHLE and Michigan's BOB CARR, be reelected, than a person, such as myself, who has already served two terms in the House and three terms in the U.S. Senate.

While I campaigned for reelection to the best of my ability from beginning to end, I did so with the steady conviction that the outcome was probably dependent on forces beyond my control. On September 6, I awakened early at the Alex Johnson Hotel in Rapid City, S. Dak., and, after pondering the political mood, especially in that part of the State, I wrote the concession statement I was to deliver on election night.

I read that statement publicly on November 4 without changing a word and with no one's knowledge—except that of my secretary who typed it—that it had been written 2 months earlier.

Since November 4 I have pondered in more or less relaxing fashion both the question of why the election turned out as it did and where we should go from here. Inevitably, such thoughts lead a public man to reflect on his years in public service—the successes and failures, the hopes and disappointments, the inspiration and frustration.

As these thoughts have tumbled through my mind since November 4, I have discovered that each week and indeed, sometimes each new day brings a different theory as to the meaning of the election and the proper course ahead. It has been difficult for me to see clearly a satisfying explanation of what the voters were saying on November 4 or what our obligations and opportunities are for the future.

But during this period of reflection, I have found strength in the assurance that throughout 18 years of service in the Senate I have generally given the best of which I was capable—to the people of my State, to the Nation I love, and to humanity at large. Each of us can see certain missed opportunities and no one of us functions at full capacity, but by and large I am cheered in the knowledge that I tried to be faithful to the enduring values of the Judeo-Christian ethic and the American democratic experiment. I have tried to the best of my ability to place the public interest ahead of political expediency. So I look back with some satisfaction on 18 years of conscientious service in the U.S. Senate. In a society where we observe the 40-hour workweek, I—like many of my Senate colleagues—have probably averaged more like an 80-hour workweek throughout my public career. These thoughts are being written at 4 a.m.—and that is not an unusual experience for me over the years.

Although one expects in an election year to be accused by his political opponents of having forgotten the people of his State, the facts are that I have traveled my State more widely and intensively and perhaps know more South Dakotans in a meaningful way than any other living human. I have been steeped in the soil, the small towns and the cities of South Dakota for most of the 58 years of my life.

There is not a crossroad, a hamlet or a community—no matter how small—anywhere within the borders of South Dakota that I have not visited several times.

During 18 years of continuous service on the Senate Agriculture Committee I fought countless battles to strengthen the American farmer and to utilize his produce to end hunger and malnutrition in America and throughout the world. I will test that record on agriculture and nutrition against that of any other Senator of the past quarter century.

In constituent services generally, I developed over the years a superbly competent, hard-working professional staff that resolved the problems of thousands of South Dakotans and scores of South Dakota communities. I maintained a network of public service offices across the State that were most effective in dealing with a vast range of problems brought to our attention by South Dakota citizens.

And most importantly of all, in the great concerns of war and peace I find deep satisfaction in the knowledge that I have never given up the search for the ways that lead to peace. The most significant and fateful undertaking of my public years was the battle to end the terrible Vietnam nightmare—a battle which helped to catapult me into the Democratic nomination for the Presidency of the United States. Having won the nomination in the spring of 1972, I lost the general election to Richard Nixon in the fall. But, despite what I regard as a sometimes distorted public caricature that bears little relationship to my real philosophy and character, there has never been one moment that I have not felt deeply and serenely confident that this campaign for the Presidency in 1972 was in the national interest. Because of the principles on which I ran and not, I hasten to add—because of any factor of personality—the ideals of peace and justice for which our country stands were redeemed and reaffirmed when I won the Democratic Presidential nomination in 1972, I believe with every fibre of my being that, had I been elected to the Presidency in the general elections, America would be a happier and stronger Nation today. I sought the Presidency with a conviction that still sustains me that I had a keener sense of history, a more solid commitment to this Nation's historic principles, and a clearer vision of the Nation's potential greatness than others who competed in that fateful election of 1972.

But now, what of the road ahead? If a departing Senator may presume to share a few deeply held convictions, I would like to offer some parting counsel to my colleagues.

First of all, I pray that Senators will never lose sight of the necessity of preserving peace between Russia and the United States in the nuclear age. If détente is allowed to degenerate further into conflict and confrontation, and if the proliferation of nuclear weapons continues, sooner or later humanity will stumble into a hopeless war to the death that cannot conceivably be in the interest of any nation, people or cause. Because of the nature of Russian society and the incredible suffering of the Russian people during recent invasions from the West, to say nothing of the new Soviet fears of China, we must expect a measure of paranoia and unresponsiveness in the behavior of the Russian leadership. First at the hands of Napoleon early in the last century, and then twice in this century at the hands first of imperial Germany under Kaiser Wilhelm and then in the indescribably bloody campaigns of Adolf Hitler, the Russians suffered a devastation vastly beyond the experience—and therefore beyond the imagining—of Americans at any stage in our national history.

Inevitably, such traumatic experiences leave a people fearful, if not paranoid, about their military security. These tendencies are further complicated by the closed, repressive character of the Soviet regime. Yet, the longing for peace is real in the Soviet Union, as is the yearning for a higher standard of living which can only be possible when resources are diverted from military outlays to civilian needs. Thus, despite difficulties, the Soviet leadership proceeded with the first Strategic Arms Limitation Treaty a decade ago. It has not only faithfully adhered to that agreement, but has been ready for 5 years to sign the Salt II Treaty. Indeed, it was the U.S. Senate that stopped the second treaty—not the Kremlin. I believe that the proposed treaty as it now stands is clearly advantageous to the United States and to the peace of the world. I hope and pray—indications to the contrary notwithstanding—that President-elect Reagan will support it and that the Senate will ratify it.

If that is not likely, as now seems to be the case, I would suggest that the new President call on the Congress to cooperate with him in holding to the limits set by SALT I and SALT II provided the Soviets generally follow suit. Negotiations could then begin immediately on a SALT III Treaty designed to achieve substantial verifiable reductions in strategic outlays on both sides. During the consideration of SALT II by the Senate Foreign Relations Committee this past year, a near unanimous consensus developed that the chief weakness of the treaty was that it did not provide for sufficiently deep arms reductions on both sides. Thus the committee accepted a resolution which I offered calling for substantial reductions in the strategic levels set in SALT III. Such reductions could be pursued now provided each side would generally adhere in the meantime to the guidelines of the first two agreements. It is only such restraint on the part of the so-called superpowers that will open the way to reductions of nuclear weapons in the European theater and to more inclusive restraints on the proliferation of nuclear armaments, to other parts of the globe.

It is a matter of the very highest priority—and the clearest commonsense—for the U.S. Senate and the new President to clear the way for more meaningful reductions in the nuclear arms stockpiles that may otherwise destroy our civilization.

Second only to survival in the nuclear age is the necessity of a coordinated effort to put our own society in better working order. This Nation has the capacity to resolve its energy needs and to end the blight of inflation. The two problems are closely interrelated.

There is no doubt that we can develop a sound energy policy and there is no doubt that we can bring inflation down while at the same time strengthening our economy. It is a matter of sheer national necessity that we halt now the ravages of inflation and the waste of physical and human resources. It is imperative that inflation be ended—not only because it is so destructive to our economy, but also because inflation is disrupting our democratic process and eroding our strength abroad.

Inflation is not compatible with a humane and democratic society. Inflation not only weakens the value of our currency and the economic health of the Nation; it places intense strains on the stability of our Government, our national security, our foreign policy and even our schools, churches and families. So second only to survival in the nuclear era, is the necessity of bringing inflation under control.

I would recommend an immediate Government-ordered freeze on all prices and wages while we put in place other more stable and dependable long-term anti-inflation measures. Such measures would include a tax structure designed to reward industry and labor for greater productivity and to penalize them for sluggish performance; a strong nationwide energy conservation effort based on vigorous, determined Presidential educational and leadership efforts; a much stronger effort by the Government and industry to develop alternative sources of renewable energy which—along with conservation—would free us from the $100 billion annual drain for OPEC oil; a Government owned and operated energy corporation providing up to 10 percent of the Nation's energy to serve as a yardstick for measuring the performance of the multinational energy giants that now control oil and gas prices and production; a reduction in Government waste including military waste for excessively sophisticated, difficult to maintain weapons, as well as the kind of nuclear overkill that can be reduced if we proceed to ratify the SALT agreements.

I do not subscribe to the current reliance on high interest rates as a means of curbing inflation. Excessive reliance on monetary constraints will either aggravate inflation or throw the Nation into a painful and entirely unnecessary recession. We can end inflation without either excessive interest rates or high unemployment.

This leads me to a third area of concern—a commonsense leadership by the President and the Congress in a constructive effort to employ the idle or misused human resources of the Nation. We need, for example, to begin now to rebuild the Nation's crumbling railway system. It is disgraceful that our rich and powerful Nation has one of the worst rail systems in the modern world.

There is no more energy efficient or cost-effective construction and maintenance system of transportation than railways. Yet, we have permitted our right-of-ways to collapse and our rolling stock to become obsolete. In my part of the Nation, we cannot properly handle our grain—to say nothing of the end of passenger rail service.

Recalling the vital role that railways played in the development of America and in the defense of the Nation during the First and Second World Wars, one wonders how we can maintain either our prosperity or our defense without an efficient rail system.

Whether by private or Government operation or a combination of the two, America ought to set a goal of building a first-rate rail system in the decade of the 1980's.

Another important challenge is to employ large numbers of Americans in carefully planned projects to save the Nation's physical heritage—especially its life sustaining topsoil. The United States is endowed with the planet's most precious resource—the rich but fragile layer of fertile soil that enables us to be the world's most reliable and abundant breadbasket.

But the few inches of precious topsoil that sustains that heritage is being washed or blown away or poisoned because of a failing stewardship on our part. We need a system of terracing, water management and development, tree planting and other measures designed to halt the erosion of our soil. Thousands of rural workers need to be employed in these tasks to work alongside our farm families in preserving the irreplaceable soil that creates our food supply.

In the cities there is also much to be done. Blighted housing, unsafe bridges, broken streets, poor water and sewage systems, ugly recreational and educational facilities, inefficient or nonexistent transit systems—all of these need to be updated, replaced or constructed during the last 20 years of this century.

There are other urgent and worthy challenges to be faced by the Congress and the Nation. Safeguarding the integrity of our social security system and providing more opportunities for useful years for our older citizens; adjusting and developing governmental programs so as to strengthen family life and encourage the wholesome development of our children; the reform of our tax structure to provide a greater measure of equity and a clearer reward for efficient performance; a shift in emphasis in medical and health efforts toward the prevention of disease and the maintenance of health.

Finally, I would hope that my colleagues who remain in the service of the nation would look critcally at the nation's defense system. Are we, in fact, weakening our defense and wasting resources by building airplanes, tanks, and ships that are needlessly complicated and extremely difficult to maintain? Why should half of our front-line naval aircraft be grounded because of the shortage of mechanics and maintenance support?

Why are we losing tens of thousands of our best trained military technicians to civilian enterprise? Do we need a $100 billion MX missile at a time when we already have vastly more nuclear power than is needed to destroy any potential aggressor several times over even if he strikes first?

Have we really thought through the proper mission for our several military services and then matched weapons and personnel to the levels required by the missions?

I respectfully leave these suggestions and questions to my colleagues along with my gratitude and respect for their integrity and their desire to do what is right for the Nation.

Mr. President: I ask that a stimulating article by Felix Rohatyn, appearing in the New York Review, December 4, 1980, entitled, "The Coming Emergency and What Can Be Done About It," be printed in the RECORD.

The article follows:

THE COMING EMERGENCY AND WHAT CAN BE DONE ABOUT IT

Felix Rohatyn

What is the outlook for American society and, more specifically, how can our society adapt to an economy in distress? It is a vast question that I can only speak to from a rather limited, but nonetheless eye-opening, experience, as chairman of New York's Municipal Assistance Corporation. But, in brief, I would say that the outlook for American society is highly uncertain and that it cannot, in the long run, adapt itself to an economy in distress.

Austerity and democracy do not walk hand in hand in the United States, except in wartime. The near-bankruptcy of New York City created in 1975 something like a "moral equivalent of war" for city and state politicians, as well as business and labor leaders. Before then the city had, for years, plunged toward disaster. Year-to-year deficits were papered over by accounting gimmicks; pension plans were underfunded; industries were driven away by high taxes and low productivity; borrowing was more and more relied on to finance operating deficits while capital programs were starved; the political leaders refused to face reality: all of these made disaster inevitable.

It was only when this became apparent, when month after month one bankruptcy deadline after another had to be faced, that Governor Carey called on business and labor to join forces with government in order to devise a program that would head off the crisis and bring the city back to life. The programs that accomplished this were initially harshly deflationary, then followed by a gradual shift to moderately relaxed fiscal policy and support of business, which led this year to New York City's first truly balanced budget in memory.

It is worth analyzing what we were able to do in New York as well as the limits beyond which we could not go, under the severest kind of pressure, since New York is, in certain respects, a mirror of the U.S. There is after all little difference between New York City's mounting year-after-year deficits from the mid 1960s to 1975 and the fact that the national budget has been in balance only twice during the last fifteen years; little difference between New York City burying its operating expenditures in its capital budget and the $15 billion annual financing of the U.S. government that is "off-budget" (i.e., the loan guarantees and similar commitments that do not appear in the budget); little difference between New York City having driven business south and west as a result of high taxes and low productivity and the U.S. driving business abroad for the same reasons; little difference between New York City selling short-term notes to finance its deficits and the U.S. financing with the shortest of all notes, namely demand deposits of OPEC oil producers; little difference between New York City's sky-rocketing pension costs and the requirements that social security be adjusted to the cost of living (COLA). New York City faced actual bankruptcy by its inability to pay off its debts when they came due; the U.S. is facing the national equivalent of bankruptcy in the form of uncontrolled inflation requiring increasing levels of national debt to be paid off in currency worth less and less.

Looking back over the last five years in New York, during which a deficit of $1.8 billion annually was brought to zero with a minimum of social disturbance, one can see two distinct phases. First came the brutal shock of actions intended to stop the hemorrhaging: these included a wage freeze coupled with deferrals of past increases; a 20 percent reduction in the work force; increases in transit fares and tuition at City University for the first time in 120 years; reduction by the banks of interest rates paid by the city and extension of the time period of the city's loans; shifts in pension costs from the city to the unions; increased taxes and the creation of a state-run control board to pass on the city's budget.

These programs, most of which were negotiated or set in motion by the Municipal Assistance Corporation, were coupled with limited federal credit assistance. They enabled the state-created MAC to provide a total of $7 billion of long-term financing to the city, both to refinance past accumulated short-term debts as well as to finance its increasing deficits and increasing capital programs over the period. The large initial layoffs of city employees were followed by a period of limited attrition and then by a stabilization of the work force at its present level; the wage freeze was followed by a two-year labor settlement at 4 percent annually.

But then austerity had to yield to the reality of society's pressures, and a more recent settlement was made at essentially market rates between management and labor. Tax increases were replaced by tax cuts designed to favor businesses. Harmony was broken by a transit strike this spring. Increasing social tension in the ghettos of Harlem and Bedford/Stuyvesant culminated in ugly demonstrations to block the closing of just one facility of the city's sprawling municipal hospital system. Civil service reform is still politically impossible and real progress on improving management and productivity is largely confined to rhetoric. Some of the city's essential services have deteriorated.

Still, what saved the city was a limited period of austerity, imposed under the direst of threats, followed by gradual relaxation while a prosperous city economy, together with inflation, generated the growth in revenues to bring about a balanced budget. From 1975 to 1980, the expenditures of New York City grew in the aggregate by less than 10 percent, while the state's expenditures grew by 35 percent and the federal government's by 80 percent. The secret of our success, both at the city and state level, temporary though it may be, was to clamp a lid on expenditure growth while business activity and additional state and federal aid generated enough revenue growth to allow us to survive. As John Kennedy said: "A rising tide floats all ships."

It must be remembered that our imposition of extreme austerity was temporary, that it was essentially imposed by outside forces—i.e., the state, the federal government, and the workings of the bond market—that it required the courageous political leadership of the governor, as well as a true social contract with business and labor. The people of the city were willing to make real sacrifices as long as they believed that those sacrifices were relatively fairly distributed, that there was an end in sight, and that the result would be a better city, a better environment, and a better life. What we did in New York City was completely alien to the concepts of "No Growth" and the "Zero Sum" society so fashionable in economic circles these days.

Americans today are confused and dispirited. They have seen our country, over the last twenty years, dissipate its world-wide economic, military, and spiritual leadership at a more rapid rate than any other major power in history. They are accused, with some justification, of being wasteful and lazy by political leaders whom they perceive at best as inept and at worst corrupt; they hear business leaders calling for belt-tightening and conservative orthodoxy from the comfort of their corporate jets. No wonder people are dispirited.

The United States today, like New York City in 1975, is on the edge of crisis. Financially, militarily, spiritually we are like an airplane about to stall. The answer, however, does not lie in a simple acceptance of "less for everybody"; I would invite economists of the no-growth school to walk in the South Bronx and convince people there that a reduced standard of living is required to curb inflation. I believe that most Americans, just like New Yorkers, would accept a limited period of austerity provided they are assured that we are in a crisis that justifies it, that their particular group is not bearing an unfair share of the burden, and they have a clear sense of how their sacrifice will ultimately lead to a better life for themselves and their children. This requires courageous political leadership with a program that has the following objectives:

A. Opportunity for private employment for most Americans who want to work;

B. A strong currency with reduced inflation;

C. A military policy that will insure U.S. security against any aggressor.

Just as New Yorkers accepted a period of higher taxes, lower services, and, in many cases, loss of income for a perceived goal, i.e., the solvency of the city, so now Americans in the rest of the country would, in my view, accept a period of austerity if they really believed there was serious prospect of change. They have no reason to believe it at this point. The presidential campaign has offered little hope in that connection. At this writing it is clear that whoever is elected, we are condemned, because of uncertain leadership and a Congress unwilling to face responsibility, to stumble from inflation to recession and back, with each stumble worse than the one before. I do not believe that our society will stand the strain over the next four years. Our next president will face an emergency during his term of office, either internationally or domestically, possibly both, and the real issue now is how it will be faced.

It seems to me that we face different types of critical problems today:

1. Problems like that of energy, which should have been apparent for years, where solutions are obvious, but to which the political structure cannot respond.

2. Problems of inflation and productivity, about which there is a great deal of theoretical—one might say theological—controversy, and very little knowledge, in which the spectrum of professional opinion is exceedingly broad, and therefore no political concensus can even begin to be formed.

3. Problems of our security vis-à-vis Russia. We do not seem able, at a cost of $140 billion a year, to project a credible sense of the U.S. as a world-wide power. At the same time, we seem incapable of continuing a process of reduction in weapons competition by ratifying SALT II.

4. Problems like those in the Middle East, which is vital to our security and our economy, where governments tend to be irrational in conduct and far removed from the exercise of our power.

5. Problems like employment and education in the urban ghetto, which have baffled all attempts at improvement, and which will, with continued "benign neglect," have consequences that are anything but benign.

6. Problems like the great shift in wealth from the Northeast and Midwest to the energy-producing areas of the U.S., as a result of price decontrol. This trend will ultimately turn the country into "have" and "have-not" regions. One has only to look at Canada for its political implications and to be mindful of the fact that Canada does not have our existing social strains. This is a problem the political leadership resolutely refuses to acknowledge.

7. The problem of the West and the third world, which must be faced by a coherent policy of the Western nations, a willing OPEC, and a realistic third world, none of which exists today. Western technology must combine with OPEC financing to help the third world. It is beyond the West's capacity to bear any but a small part of the financial costs of third world development.

8. The problem of the coming capital shortage, which will be created by at least three forces: the enormous financing requirements of the U.S. government; the equally enormous financing that American industry will require to increase productivity and create energy independence; and the drain on our economy of a $100 billion annual payment to OPEC for imported oil. Nonetheless, our economic leaders deny the possibility of a capital shortage.

9. The problem of our relations with Mexico and Canada, which both pose large risks and large opportunities for the U.S. Mexico, with its oil resources, its fast-growing population, and its distrust of the U.S. may be our most important long-term foreign policy problem. The potential benefits of a North American Common Market should be explored. But this is not even being discussed peripherally.

These problems are all vital to our future, are all directly related to each other, and require inspired political leadership as well as intellectual honesty to find solutions. It is also well to remember that there are no *permanent* solutions to anything, only continuing adjustments to continually changing situations. It seems likely that the current political structure and the existing trends will exacerbate rather than help resolve this series of interrelated problems, and, in my judgment, this makes a crisis inevitable.

Our energy problem, together with our exposed strategic position in the Middle East, can only be resolved by a strong commitment to practical independence from imports. This would, in addition, strengthen the dollar by eliminating a $100 billion a year outflow and would help reduce inflation. A stiff gasoline tax; rational development of coal and nuclear energy with a realistic appreciation of the difficulties with each one; a willingness to compromise on environmental issues—none of these proposals are mysterious or new, and yet current politics make efforts to explore and implement any of them practically impossible.

Insofar as the economy, inflation, and productivity are concerned, we cling to theological explanations that are as tired as they are unworkable. Liberal demands for public works and public jobs have to be matched against the failure of such policies during the past twenty years. But the current conservative proposals for tax cuts that favor production, and for tight monetary policy coupled with tight fiscal policy, have failed with equal consistency. When Presidents Nixon, Ford, and Carter tried these methods, they were quite successful in inducing recession, but they wholly failed to reduce inflation; quite to the contrary.

The purest attempt so far is Mrs. Thatcher's United Kingdom, where the Anglican Church seems to have been replaced by the "Sayings of Milton Friedman." Income tax cuts coupled with sales tax increases, government spending cuts together with tight money have, after a year and a half, resulted in a 20 percent rate of inflation, an 8 percent reduction in manufacturing output, and the highest level of unemployment since the Depression in spite of the enormous cushion provided by England's North Sea oil. In view of the record during the past twenty years, it is relatively easy to understand why liberal economic thinking has become discredited; it is, however, more difficult to understand how the conservative monetarist theology continues to enjoy such uncritical popular support while the current example of England's struggle is vividly in front of us, along with its extraordinary potential for social explosion.

Our business leaders put the blame for inflation on runaway government spending, and call for welfare cutbacks. Government spending is obviously one of several culprits an putting a limit on welfare and Medicaid spending is a necessity, especially for those of us who live in the Northeast and Midwest. But the only practicable way to limit these programs is to provide private jobs for those on the welfare rolls; it cannot be done without some form of government involvement or subsidy. We should also, after seven years of experience, be more realistic about the impact of our payments to OPEC. At the current rate of imports, before price rises that inevitably will result from the Iran-Iraq war, we will, during the next five years, pay over to OPEC approximately half the market value of all companies listed on the New York Stock Exchange. This means that we soon will be turning over the equivalent of half our productive capital built up over the last 200 years for a product we burn every day. Even the lure of huge contracts with the OPEC nations, or the attraction of their large deposits of money in the U.S., should not blind us to the economic and political power transferred from the West as well as its inflationary impact. Recycling is a myth; it only means lending more and more to people in third world countries who can afford it less and less

We live today in a "padded society" for the majority, and a "nowhere society" for millions in the urban ghettos. It is a "padded society" because everywhere one turns, one finds padding for security. Cost of living allowances and automatic increases for workers regardless of productivity; constantly increasing unemployment compensation and trade-adjusted payments for laid-off workers; constantly increasing pensions for retirees—every sort of contract and stock options for management regardless of performance; COLAs for social security; government price supports for the farmers.

It is understandable that people want security, but it is the padding of our society that has become our inflationary albatross, not people using credit cards. It is the padding that creates rigidity in wages in prices, regardless of economic activity; that erodes the work ethic; that makes government deficits inevitable in good times and in bad. And management shares guilt with labor and the politicians of both parties by sacrificing the future to avoid facing today. We have created a gigantic pyramid club called "pensions and social security" where more and more retired people expect to enjoy higher and higher levels of benefits to be paid by a society producing less and less. While this goes on, in the ghettos of our cities, with a 60 percent unemployment rate, young blacks are told to stop pushing drugs and find a job and that welfare is a luxury the country cannot afford.

As in New York City, any national economic program, to have a chance of success, must combine austerity with growth. To begin to control inflation, an incomes policy that relates wage and price increases to productivity is essential. This should be administered through benefits and penalties of the tax system rather than through a new bureaucracy. A freeze of both wages and prices should be imposed until such an incomes policy can take its place. That is one aspect of austerity.

A stiff gasoline tax has to be imposed to permit an overall reduction in interest rates and a strengthening of the dollar. We can have no real growth until our interest rate structure is lowered. This cannot be done responsibly until the dollar is strengthened by other means. Part of the gas tax should finance tax cuts that will lead to increased investment and an increase in military spending. The balance should be rebated to lower income groups; those in higher income brackets will just have to pay more. That is another aspect of austerity.

We are in a military competition with the Soviet Union, in which the U.S. is dangerously deficient in conventional as opposed to nuclear power. Against a standing conscripted army we try to compete with a volunteer army at immense cost and low effectiveness. We spend $140 billion a year on defense and cannot airlift three divisions into the Middle East. Until the millenium when peace reigns worldwide, we must have an adequate conscripted army with low pay, with no excuses from service except for health, and a highly professional, highly paid cadre of officers and non-coms. That is the third aspect of austerity.

We must rebuild our older cities, as well as our older industries, and we must do so in a way that also brings work to the ghetto areas. I believe this requires the creation of an entity similar to the Reconstruction Finance Corporation of the 1930s and the cooperation of business, labor, and government, national and local. Unemployment in the ghetto can be solved either by taking the people to the jobs, which I do not believe to be feasible, or bringing the jobs to the people. Our older cities, our older industries, our hardcore unemployed are all tied to the same umbilical cord. An independent financing entity is needed to cope with the fundamental restructuring of older industries, with the renewal of the physical plant of older cities, and to make use of the work potential of the inner-city unemployed. Providing employment in the private sector to the ghetto dweller is not only a humane, social necessity; it is an economic necessity. It cannot be done, however, without cooperation between business and labor and without government support. To the argument that this is undue interference with the free-market mechanism, I would answer than an RFC making equity investments is no different, in basic theory, from a refundable investment tax credit; both methods use taxpayers' money to provide capital to enterprise.

The RFC, like the Municipal Assistance Corporation in New York City, could extract concessions from various participants before committing itself to invest; the tax credit has no such potential. The RFC could also assist older cities with their capital programs, thereby both creating jobs and improving the quality of urban life. Just as in Canada where the oil-producing provinces have created the Heritage Fund to make investments in Canadian industry and infrastructure, so our own oil-producing states should consider the possibility of investing some of their increasing revenues in the capital of such an RFC. This should be coupled with the borrowing back, on a long-term basis, of a part of the vast amounts of OPEC funds currently deposited on a short-term basis with U.S. banks. That would be another aspect of austerity.

Ultimately this country must look to a future of relatively evenly distributed burdens and benefits, regardless of geography, regardless of class, regardless of race if it is to maintain itself as a strong democracy. The present trends go in the opposite direction and yet our own most serious problems create our greatest opportunities. A determined domestic energy program, coupled with an industrial policy, and the investments in infrastructure and city renewal that go with it, could put the whole country to work for the next twenty years. That, in my view, would be the tide that could "lift all ships."

Temporary austerity will have to be accepted, on a well-defined basis. We cannot reduce inflation without a tough incomes policy. We cannot limit the growth of government spending without shifting large segments of the population from government support to private employment. This can only happen if there are noninflationary stimuli of the economy, large-scale investment programs, lower business taxes and interest rates, as well as a strong currency. A stiff gasoline tax to fund part of this program, and a tough incomes policy, together with large-scale long-term borrowings from OPEC will help protect the dollar and permit the safe lowering of interest rates. An RFC is not state capitalism; it is a temporary mechanism to restructure on a sensible basis those older, basic industries that otherwise will either disappear or be bailed out by indiscriminate government funding.

In addition, the examples of Germany and Japan should convince us that a genuine partnership of business and labor in government is required to accomplish any program dealing with inflation and the economy. I strongly support the Carter Administration's move in that direction with the creation of the Economic Revitalization Board and other similar structures. To cries of elitism or the fear of creating a new "establishment," I say that where we are going otherwise is infinitely worse.

We have recently heard much talk of the Silent Majority, the Moral Majority, and other majorities. The fact of the matter is that our country today cannot muster a majority for anything except complaint. The body politic is so splintered and balkanized that the impotence of the political establishment is a perfectly valid reflection of the negativism and lack of interest of the electorate.

A government of checks and balances has become all checks and no balances. As usual, we have heard the presidential candidates orate about cutting government spending and bureaucracy, instituting great programs, changing the country's direction. We all know this will not happen. We must face the reality that our problems are getting larger as the system's ability to cope with them is lessened, a trend that leads over the edge of the cliff. Recently there have been suggestions for fundamental constitutional changes in our government. Some call for a single-term presidency and related limits on congressional terms, others for variations of parliamentary government, as was advocated by Lloyd Cutler in a recent issue of *Foreign Affairs*, or for a congressional cabinet structure.

These do not, however, have serious prospects at present. Only a major crisis will force the kind of constitutional change advocated by serious students of government today. I believe such a crisis is likely to occur because to avoid it, too many things have to go right, all over the world, for a long period of time. Although it is impossible to predict whether it will be monetary or military, in the Middle East or in Cleveland, the potential for military, economic, or social strife is probably too great to be avoided. When a crisis of sufficient magnitude creates the possibility for fundamental change, it will carry with it enough of a popular majority for action so that a president with a real vision of the future will be able to put his program through. That is obviously a risk for democracy as well as a hope.

In the meantime, the best that can be done is to have a government as competent as possible with a coherent program, no matter how difficult of implementation. We are for the time being locked into a strait jacket of high inflation, low growth, and high unemployment, no matter who the next president may be. This state of affairs carries with it suffering and austerity that are unevenly distributed geographically and socially, and cannot be sustained for very long. It is fantasy, however, to have illusions of real long-term solutions at present.

Today, we could not build our road system, the TVA, or the Manhattan Project. Between the Congress, the courts, the numerous interest groups, these projects would all die on the vine. The concepts of democracy in which the minorities are willing to abide by the will of the majority has been much eroded. What little rationality is left in the system is being eliminated by TV politics in which little capsules of show business are supposed to pass for statesmanship.

This country should be able to speak for the nations and interests of the Western world. To abdicate this role to Helmut Schmidt or Giscard d'Estaing, no matter how capable they are, is to abdicate our responsibilities. We are, however, in no position to carry them out even if we had leaders capable of conceiving what they should be. Whether it be the defense of the Middle East, disarmament negotiations with the Warsaw Pact, the problems of the third world nations in their fight against poverty and overpopulation, only the United States can provide the counterweight to the mass of China and the shadow of Russia.

In 1938, at the time of Munich, Neville Chamberlain rose in the House of Commons to speak for the Conservative Party when a backbencher yelled: "Speak for England!" The United States, I suggest, should speak for the West. It must speak for opportunity, for growth, for social justice, and it must speak with confidence and power. That will only happen when a majority of Americans will decide that the drift has got to stop, and a president with a sense of the future gives direction to the power that will be unleashed. This will not happen today, but it will come sooner than we think.●

HUMAN RIGHTS OF JUDGES, LAWYERS

● Mr. LEVIN. Mr. President, as the 96th Congress and the Carter administration come to an end, I would like to bring to the attention of my colleagues one human rights issue which has yet to receive sufficient attention. It has been described as "an unfortunate fact of the 1980's." I refer to the problem of foreign government persecution of lawyers and judges.

In too many countries, from Argentina to the Soviet Union, from South Korea to South Africa, hundreds of judges and lawyers are being arrested, detained without charge, sentenced to lengthy prison terms, tortured, exiled and assassinated, simply for exercising their sworn professional responsibilities on behalf of unpopular clients and the rule of law.

Fortunately, however, American and other world bar groups are beginning to do something about the problem. During 1980, for example, the president of the American Bar Association sent letters on behalf of the 250,000-member ABA to officials in Argentina and the Soviet Union regarding reports of government persecution of lawyers and judges in those countries. In recent months and years, ABA letters have also been prepared on the situation of lawyers and judges in Syria, South Korea, Yugoslavia, India, Uruguay, and Swaziland.

In cooperation with the International Commission of Jurists in Geneva, the ABA during 1980 created a "network of concerned correspondents," attorneys who write as individuals on behalf of foreign judges and lawyers facing government persecution. So far, more than 100 American and overseas lawyers are participating in the work of the network. They represent 24 States including Michigan, and six other countries, including Brazil, Egypt, France, Great Britain, and West Germany.

The network committee in 1980 sent out case appeals on behalf of foreign judges and lawyers in Guatemala, South Africa and Syria. Five South African lawyers detained in June were subsequently released in August, following network and related appeals.

I think this worthwhile activity merits attention and support. I request that letters from the ABA president to officials of Argentina and the Soviet Union and two clippings describing the work of the new "network of concerned correspondents" be printed in the RECORD.

The material follows:

D.C. ATTORNEY GROUP AIDS LAWYERS ARRESTED ABROAD

(By Alice Klement)

WASHINGTON.—A fledgling lawyers group, with indirect but not formal ABA support, is stepping up its efforts to aid foreign lawyers and judges who face persecution for their legal activities.

Attorneys here are now spearheading a letter-writing campaign among ABA members to combat government intimidation of their counterparts abroad.

The attorney group, dubbed the "Concerned Correspondents Network," is currently focusing its protest on Syria, whose government recently disbanded the national bar association and reportedly arrested 20 members who opposed secret military trial for civilian dissidents.

Similar campaigns are under way in Guatemala and South Africa, where lawyers have been arrested, detained without charges or assassinated.

PERSONAL APPEALS

The cases for the campaign come from the Centre for the Independence of Judges and Lawyers, established in Geneva by the International Commission of Jurists. ICJ claims are not independently verified.

To date, the network has functioned informally, with interested ABA participants writing personal appeals to officials of a targeted government.

Washington attorney Stephen Klitzman, the ABA International Law Section subcommittee chairman who helped start the letter-writing drive, says ABA correspondents are careful to use their own stationery and take no official stand on behalf of the ABA.

"FACTUAL" LETTERS

In its guidelines, the network recommends "factual, brief polite" letters. Advising against direct accusations, the committee suggests instead that correspondents "assume that authorities either are not informed or are willing to seek a remedy to alleged violation of human rights."

Sample letters circulated in the network say reported abuses violate those articles of the United Nations Universal Declaration of Human Rights that bar torture or arbitrary detention.

Though the network currently operates only as a clearinghouse, shifting case histories and appeals to more than 100 attorneys across the country, the group may expand efforts if resources become available.

OBSERVERS ABROAD

Mr. Klitzman says network members would like to sponsor fact-finding missions and act as observers in trials abroad to try to minimize individual rights' violations.

Network members have also helped draft recent letters of protest from ABA presidents in emergency situations where time restrictions required immediate responses. As recently as a month ago, then-ABA president Leonard Janofsky protested violations in Argentina and the Soviet Ukraine.

COMING TO THE AID OF FOREIGN BRETHREN

The problem of foreign lawyers and judges suffering government persecution for the exercise of their professional responsibilities on behalf of clients and the rule of law is an unfortunate fact of the 1980s.

From Argentina to Syria, from the Soviet Union to South Korea, lawyers and judges by the hundreds are being arrested, detained without charge, sentenced to lengthy prison terms, exiled and assassinated simply for representing unpopular political clients to the best of their abilities or deciding cases based on the rule of law rather than the caprice of rulers.

That is why we appreciate Alice Klement's good article in the Sept. 1 issue of The Law Journal ("D.C. Attorney Group Aids Lawyers Arrested Abroad"). The article accurately described the creation of a new "network of concerned correspondents" within the American Bar Association to combat government intimidation of foreign lawyers and judges. Close to 100 attorneys from 22 states and seven countries are participating in the work of the network, writing letters on their own letterheads on behalf of lawyers and judges in Guatemala, Syria and South Korea, among other countries.

The new network has been authorized by the Office of the President of the ABA and thus can be said to have the formal support of the association, contrary to the "indirect but not formal ABA support" noted in the article.

Any attorney who wishes to participate in the work of the network should contact the network committee at 2238 Decatur Place, N.W., Washington, D.C. 20008.

AMERICAN BAR ASSOCIATION,
August 6, 1980.

His Excellency JORGE RAFAEL VIDELA,
President of the Republic of Argentina,
Buenos Aires, Argentina.

DEAR MR. PRESIDENT: On April 9, 1979, Shepherd Tate, my predecessor as President of the American Bar Association, wrote to you expressing the concern of the more than 250,000 members of the Association regarding the reported arrest, detention without trial and disappearance of Argentine defense lawyers and judges. I am writing to you at this time to reiterate our deep concern over continuing reports that many of these lawyers and judges have been perescuted simply for carrying out their professional duties on behalf of individual clients and the rule of law.

We are most anxious to obtain the relevant facts regarding the situation of these lawyers. On April 3, 1979, five members of the Association of the Bar of the City of New York met with Minister of Justice Alberto Rodriguez Varela and presented him with lists of 99 lawyers under detention and 92 lawyers who have disappeared. We urge you to inform us of the accuracy of these lists, to account for the situation of these lawyers and the factual bases underlying any charges of subversion, and to indicate the steps your government is taking to resolve this problem.

We also understand that on August 25, 1979, the Federacion Argentina de Colegios de Abogados called for an end to the disappearances of people and an accounting of those missing and those known to be under detention. We unequivocally support the efforts of our colleagues of the Argentine Bar and hope that together you may work successfully toward a resolution of this matter. Indeed, we are aware that some efforts already have been undertaken to improve the situation which we hope would continue.

It appears, Mr. President, that many of our Argentine colleagues are suffering as a result of carrying out their sworn duties to represent their clients to the best of their knowledge and ability. As officers of the court, anything less would be a breach of the canons of professional ethics. In 1975, this Association adopted a resolution which affirmed three principles directed to the accused, the Bar and the public. To the accused, there is the right of assistance of counsel; to the Bar there is the duty to provide counsel even to the most unpopular defendant; to the public there must be acceptance of the correlative right of a lawyer to represent and defend, in accordance with the standards of the legal profession, any client without having imputed to him his client's reputation, views or character.

The Association's resolution also reaffirmed Association support for the rule of law in the international community and recognized that an independent judiciary and legal profession are essential to the maintenance of the rule of law and the elements necessary to sustain it, including the right of lawyers to carry out their professional duties without fear of harassment. We are hopeful that you share these beliefs.

We look forward to receiving your response.

Sincerely,

LEONARD S. JANOFSKY.

AMERICAN BAR ASSOCIATION,
August 6, 1980.

The Honorable F. K. HLUKH,
Procurator of the Ukrainian, Soviet Socialist Republic, Kiev, Ukrainian U.S.S.R.

DEAR PROCURATOR: I am writing to you in my capacity as President of the American Bar Association, a private non-governmental organization of lawyers throughout the United States. Our Association, and the more than 250,000 American lawyers who are members of our Association, have a very deep interest in the preservation of the rule of law throughout the world and in the ability of our colleagues in other countries to represent the interests of their clients without being penalized by their governments for their efforts on behalf of their clients.

It is for this reason that I am writing to you concerning the case of Mr. Lev Lukyanenko, a Ukrainian attorney who was sentenced in July of 1978 to ten years in a labor camp and five years in exile. We have received reports on Mr. Lukyanenko which indicate that he was apparently arrested and sentenced for his activities as counsel to various individuals in the Soviet Union who were seeking to establish an organization to monitor the Soviet Union's compliance with the Helsinki Accords, and for various political statements which he made in connection with these activities.

If these reports are true, Mr. Lukyanenko is suffering for discharging those professional obligations to his clients which are the responsibilities of all lawyers. In addition, if these reports are true, his arrest and detention would appear to be inconsistent with his right of free speech, which is protected by Article 50 of the Soviet Constitution and Article 19 of the International Covenant on Civil and Political Rights, which the Soviet Union has ratified.

We are also concerned by reports that several violations of due process rights, guaranteed by both Soviet law and Article 14 of the Inernational Covenant on Civil and Political Rights, may have occurred at Mr. Lukyanenko's trial and that the conditions of detention in the Mordovian special-regime labor colony, where we understand that Mr. Lukyanenko is being held, may violate Articles 7 and 10 of the International Covenant on Civil and Political Rights.

In 1975, the American Bar Association adopted a resolution which reaffirmed cur Association's support for the rule of law in the international community and recognized that an independent judiciary and legal profession are essential to the maintenance of the rule of law and the elements necessary to sustain it, including the right of lawyers to carry out their professional duties without fear of harassment. It is because of our strong commitment to these ideals that we are so concerned about the status of Mr. Lukyanenko. In addition, as an organization of lawyers committed to respect for the law, we are concerned that your country's treatment of Mr. Lukyanenko may violate the provisions of an International Covenant which your country has ratified. And, as you may be aware, our Association has called publicly for United Sates ratification of the Covenant on Civil and Political Rights and has a particular interest in the extent to which those states which are parties to it are abiding by its provisions.

We believe that our information concerning Mr. Lukyanenko is reliable, but do not wish to presume its accuracy without being fully aware of the relevant facts. We therefore urge that you promptly make public the official record of his trial and verdict and allow an attorney designated by a respected international human rights organization to visit Mr. Lukyanenko at his place of detention. Of course, if the reports which we have received concerning the reasons for Mr. Lukyanenko's arrest and detention are accurate, we urge that he be released immediately.

We trust that you will understand the concerns that motivate this inquiry into the status of our colleague, Mr. Lukyanenko, and we look forward to receiving your response.

Sincerely,

LEONARD S. JANOFSKY,
President.●

TRIBUTE TO ROBERT MORGAN

● Mr. HOLLINGS. Mr. President, elections do not always determine whether or not a man has served admirably in office. It often rides on political trends and images. I say this not so much to call attention to the occurrences themselves, but to pay tribute to a hard-working Member of this body who had his constituents' interests in mind and in action, the distinguished Democratic Senator from North Carolina, ROBERT MORGAN.

I know from working closely with Senator MORGAN on matters that have affected his State of North Carolina and my State of South Carolina that he has been a gem of cooperation and understanding, and that he truly loves the people of his State. Elected to this body in 1974 after serving the people of North Carolina for 24 years in various positions, including a period as the State's attorney general, ROBERT MORGAN has built a record of integrity, diligence and judiciousness.

ROBERT MORGAN's passion to serve his State and its people has been noted by us all. In his 6 years in this body he has preserved the integrity of the tobacco program, he has been an advocate of aid for rural housing, and he has been, as prior to his term in the Senate, an ardent friend of the consumer.

Despite Senator MORGAN's interest in promoting the best for North Carolina, he always was unflagging in his support for the national interest. Most representative of that fact is his vocal support for a strong national defense.

I am sorry that Senator MORGAN will not be with us in the 97th Congress. I am sure he will always have North Carolina's best interest at heart. I wish him and his family the best for years to come.●

FEDERAL UNEMPLOYMENT TRUST FUND

● Mr. BRADLEY. Mr. President, I am pleased to join Senator HEINZ in an effort to assist the employers of New Jersey and of more than a dozen other States to make an orderly repayment of funds borrowed from the Federal unemployment trust fund.

Widespread joblessness and declining tax revenues during the last recession forced 25 States to take loans from the Federal unemployment trust fund because they had exhausted their own resources. The State of New Jersey was forced to borrow nearly $750 million to meet its unemployment benefit obligations. It has repaid $83 million—leaving an outstanding debt of almost $652 million. A total of $4.3 billion is owed by the 12 States still in debt, including, Connecticut, Delaware, Illinois, Maine, Massachusetts, Michigan, Montana, Pennsylvania, Rhode Island, Vermont, as well as New Jersey.

With the current economic outlook—continued escalating interest rates, increased unemployment — additional States are likely to join the ranks of these 12. Furthermore, the burden of the "penalty tax" in the current law is likely to be the final straw for businesses in the 12 present debtor States.

Existing law permits States to borrow interest-free loans from the Federal unemployment trust fund. If the debt is not paid off on time, employers in the State face an escalating penalty tax of a 0.3-percent-per-year surcharge on employers' payments into the State fund. That means that the surcharge becomes 0.6 percent in the second year, 0.9 percent in the third year, and so on until the debt is entirely repaid. This surcharge is on top of the 0.7-percent Federal unemployment tax that all employers pay.

The legislation before us does not forgive any outstanding loans to anyone. What it does do is to establish a reasonable and orderly means of repaying the debt without destroying the economies of the States involved and bankrupting countless businesses for an economic climate they did not create.

Simply put, this amendment would cap the interest rates so the penalty tax would go no higher than 0.6 percent and, if States meet certain requirements, they could draw on their own unemployment trust funds or general revenues to pay the equivalent penalty tax instead of imposing that burden on employers. The indebted States would have extra flexibility during a recession. At the same time, the amendment places responsibility on these States to repay outstanding loans and not to liberalize employee benefits or decreases employer tax effort until the loans are repaid.

I believe this amendment offers a reasoned approach to a severe and widespread national problem. It is an approach which was carefully crafted by the Senate Finance Committee with the assistance of the subcommittee chairman, Senator Boren. The full Senate has already endorsed this amendment as part of legislation which passed earlier this year but which has not been acted upon by the House.

There is every reason to believe that despite the lateness of the hour the House may accept the legislation. My State and many of yours should not have to wait for another year and worse economic conditions before relief is offered. I urge the acceptance of this amendment.●

CONTINUING BORDER BROADCASTING PROBLEMS

● Mr. HEINZ. Mr. President, one of the more intractable problems facing us in our relations with Canada is the border broadcasting issue. I would welcome a bilateral approach to resolving telecommunications policy issues, particularly the border broadcast dispute. I am still hopeful that negotiations rather than confrontation will settle the broadcast issue.

However, thus far the Canadians have failed to respond to the overtures of the U.S. Trade Representative, the Department of State, and this Congress. There is a growing perception that Canada has acted somewhat less than fairly and reasonably in regard to communications issues which affect the United States. I ask to have printed in the Record at the conclusion of my statement an editorial from the most widely read publication in the United States, TV Guide.

While I am not sure that I share all of the views contained in this editorial, I certainly agree with its observation that—

If Canadians want to do business freely and on an equal basis in the United States, Canada must permit Americans to enjoy the same freedom to do business there.

I believe, therefore, that it would be ill-advised for the Congress to give away the convention issue at this point. It seems wiser from a policy perspective for the new Congress and new administration to review carefully the entire issue next year in the context of consideration of the remedial legislation proposed as a result of the section 301 complaint. Moreover, to act now to grant Canada a special privilege under U.S. tax law would be to prejudge one of the significant provisions contained in the proposed bilateral income tax treaty with Canada.

And, Mr. President, perhaps in the interim Canada will agree to negotiate. Again, I reiterate my preference for a negotiated solution. But again, I repeat, the Canadians must recognize that we mean business on this issue.

The editorial referred to above follows:

As We See It

Do we mind when the Canadian government limits the number of American programs that can be carried on Canadian television stations?

Do we care when American magazines are pushed out of Canada so that they won't compete for advertising with Canadian magazines?

Are we bothered if Canadian cable companies buy up cable systems in the United States even though Americans aren't permitted to control cable systems in Canada?

Are we irked when Americans can't control complete banks in Canada while Canadians are free to open or buy banking establishments here?

Are we teed off because Canada denies tax deductions to Canadian advertisers whose commercials run on American stations seen by Canadians?

Yes. Yes. Yes. Yes. Yes!

At long last, after Americans have been discriminated against by the Canadian government until even President Carter's vaunted patience has worn thin, he has moved—in a small way—to retaliate. He is asking Congress to match Canada's action against our border television stations by denying U.S. tax deductions to American advertisers who run spots on Canadian stations seen in the U.S.

More action is required to discourage Canada from its one-sided view of trade relations. If Canadians want to do business freely and on an equal basis in the United States, Canada must permit Americans to enjoy the same freedom to do business there.

As for American magazines being pushed out of Canada (or forced, as TV GUIDE was by crippling advertising restrictions, to sell its editions there to a Canadian company), we cannot accept the bland reasoning of a leading Toronto-based banker, "We had to get rid of American magazines in order to protect our Canadian culture."

Canadian culture—or Canadian greed?●

LACEY ACT AMENDMENT

● Mr. DeCONCINI. Mr. President, I am pleased to join my colleagues in cosponsoring this important legislation. I was prepared to offer an amendment, together with my colleagues from California, Senator Cranston and Senator Hayakawa, to the bill originally reported by the committee. The amendment, which would include plants under the provisions of the Lacey Act, is no longer necessary as the provisions of the amendment have been included in the bill now offered on the floor.

By including plants under provisions of this legislation, we will have the ability to assist States and foreign governments in their attempts to better enforce laws relative to the transport, theft and sale of some of our Nation's most unique and valuable endangered and threatened plant species.

The Endangered Species Act, though it gives the Federal Government the authority to implement regulations to protect rate and threatened plants, does not serve as a deterrent to individuals seeking to destroy or steal these protected plants for sheer monetary gain. In fact, many experts believe that identifying a plant as an endangered or threatened species only serves as a greater incentive to those dealing in trafficking of stolen plants and, although many States have passed native plant legislation, the areas to cover are so large and the thefts so many that proper enforcement and apprehension of criminals is almost an impossible task. The efforts of Arizona agencies have been outstanding but without control over interstate and foreign transport, many worthy efforts have proved a waste of precious enforcement staff time. The Endangered Species Act prohibits the transport of listed plants across State lines; however, because most thieves do not use common carriers to transport the plant, there is no way to apprehend the criminals.

In Arizona alone for the month of December 1978, 61 plants were found in violation and confiscated by State enforcement officials—this figure says nothing about the number of plants that were stolen and never recovered. The saguaro, the barrel and the occotillo cacti; the mesquite, palo verde and joshua trees, native to the Southwest, have become collectors items for many, even though these items are among those on the endangered and threatened species list. Consequently, their value on the black market is astronomical.

We must have some mechanism to coordinate law enforcement efforts to assist States in apprehending individuals who seek to destroy our native plant populations. We need strong Federal provisions in the law making it illegal to dig, remove, transport, possess, mutilate, or destroy endangered species and make the violation a criminal act with a penalty severe enough to act as a deterrent to would-be offenders.

The Lacey Act has effectively protected wildlife populations and helped to curb interstate and international trade in game and wildlife. Our native plants certainly deserve the same protection. The beauty and rarity of many endangered plant species must be preserved and protected before every last vestige is destroyed or sold for personal profit.

Mr. President, I would like to commend the distinguished floor managers, and the committee staff for their diligent efforts to bring this legislation before the Senate and ask my Senate colleagues to support it.●

TRIBUTE TO JOHN DURKIN

● Mr. HOLLINGS. Mr. President, during his term in this body my wife, Peatsy, and I have enjoyed calling Senator John Durkin "neighbor"—as we live next door to one another in northwest Washington.

Not only has John been a good neighbor, he has been a good Senator. He takes his job seriously. And he has contributed greatly to the State of New Hampshire and the Nation.

It is for his dedicated work in the energy area that he will be most remembered. John Durkin has been at the vortex of national energy policy leadership and has made us all more aware of the need for greater conservation as the recent chairman of the Subcommittee on Conservation. Senator Durkin also has contributed greatly to alternative energy development. He introduced the legislation which gave us the solar bank to aid consumers with the purchase of efficient solar energy systems. He authored the small-scale hydroelectric feasibility and construction loan program. And he was integrally involved in the push in this body for greater energy efficiency in homes, businesses and industry.

I personally know Senator Durkin best for his most able work on the Appropriations Committee—in particular his concerned efforts in behalf of veterans. He has worked vigorously for the needs of people.

Senator John A. Durkin leaves this body known as a hard worker and a fighter. His spirit and role in our Nation's policies will be missed.●

PNEUMOCOCCAL VACCINE

● Mr. CHAFEE. Mr. President, I rise in support of H.R. 8406, which provides reimbursement under medicare for the administration of pneumococcal pneumonia vaccine. This benefit carries a very modest initial cost, but a very significant long-term savings in both lives and medical care dollars.

The pneumococcal pneumonia vaccine is an extremely inexpensive and effective preventive measure—it costs about $11.50. It could prevent an estimated 5,000 deaths in the next 5 years, and many more severe illnesses. It can also save a significant amount of money in physician and hospital costs. In 1978, the medicare program spent about $63 million to treat this illness, at $2,000 per case. I am sure that the elderly also spent a significant amount from their increasingly small income to treat this illness which could have been prevented so easily.

I not only strongly support this change in the medicare program, but suggest that it be accompanied by a serious publicity campaign by Government agencies to promote vaccinations for pneumococcal pneumonia. I believe Federal and State health departments have a responsibility to do more than just pay for medical care—they should also be providing the kind of information and health promotion which will prevent costly illnesses.

Coverage of this preventive measure is important not just because it eliminates a financial barrier which may discourage some from seeking immunization, but because it also makes our medicare beneficiaries aware of the value and effectiveness of this vaccine.

Mr. President, I would like to call the attention of my colleagues to the Department of Health and Human Services' annual report, issued on December 5, which hails the progress made during the past decade in the health of the American people. Life expectancy has been increased by 2.7 years, and now a newborn can expect to live 73.3 years. The last decade has also witnessed a reduction in deaths from heart disease and cancer, and a reduction in infant mortality rates. This report indicates that the improvements in the health status of Americans over the last decade exceed those for the previous 20 years.

But if you look behind the statistics, it appears as though most of the improvements are due to health care measures which are quite inexpensive, and account for a minuscule portion of our national health care expenditures. Immunizations, changes in nutrition and dietary choices, reductions in smoking and other unhealthy behavior, and the increased awareness of the value of physical fitness may have done more to improve the health of our people than many of the costly technological advances in medical science. We now spend almost 10 percent of our gross national product on medical care—the second largest business in the country—and yet we can not seem to find the pennies we need to prevent illness and disease. This is a step—albeit a small one—toward changing our priorities from treatment to prevention of illness.●

TITLE II OF H.R. 7020

● Mr. MOYNIHAN. Mr. President, I would like to provide for the Record a summary of title II of the hazardous waste cleanup bill, H.R. 7020, passed by the Senate on November 24, 1980.

Title II generally parallels the form and substance of the financing titles of the House passed superfund bills, H.R. 85 and H.R. 7020. The title establishes a hazardous substance response trust fund, financed from appropriations (one-eighth) and from excise taxes on oil, petrochemical feedstocks and specified inorganic substances (seven-eighths). The rates of the excise taxes were established so as to provide $1.38 billion to be raised over 5 years. The rationale for the excise taxes on oil, petrochemical feedstocks and inorganic substances is described in the July 11, 1980, report of the Committee on Environment and Public Works of the U.S. Senate which accompanied S. 1480 (pages 15–17 and 19–22 and is discussed here.

Financing the fund primarily from taxes paid by industry is the most equitable and rational method of broadly spreading the costs of past, present and future releases of hazardous substances among all those industrial sectors and consumers who benefit from such substances. The concept of a fund financed largely by appropriations was not adopted. A largely appropriated fund establishes a precedent adverse to the public interest—it tells polluters that the longer it takes for problems to appear, the less responsible they are for paying the consequences of their actions, regardless of the severity of the impacts. Too often the general taxpayer is asked to pick up the bill for problems he did not create; when costs can be more appropriately allocated to specific economic sectors and consumers, such costs should not be added to the public debt.

The tax system was adopted after extensive investigation of alternatives. This tax system provides the best balance of equity, rapid implementation, legal defensibility, administrative simplicity, and a minimum of any adverse economic and environmental impacts. The taxes are imposed at the beginning of the commercial chain of production, distribution, consumption. and disposal of hazardous substances. The tax is assessed on substances which are either hazardous themselves or are the basic building blocks (primary petrochemicals, inorganic raw materials and petroleum oil) used to make almost all major hazardous substances.

By collecting a tax at the beginning of the production cycle, this tax system uses the efficiency of the marketplace to automatically and broadly distribute the risks associated with chemicals through taxes on all industrial sectors in the chain of production, transportation, use and disposal of hazardous substances. This is a more effective mechanism than distributing risks through the rules and regulations of a Federal agency and it is fully consistent with the spirit of regulatory reform.

The 42 substances subject to the tax meet at least two or more of the following criteria: First, they are inherently hazardous or hazardous in a number of forms (intermediates or final products); second, they are hazardous in some form if released; third, hazardous wastes are generated in producing them or their intermediate or final products; fourth, they are capable in one or more forms of increasing the hazardous potential of other substances; and fifth, they are produced in significant quantities. A tax may attach to a product even though it is itself environmentally benign, since earlier in the chain of production, distribution, consumption and disposal it used a hazardous substance or later in the chain it will be used to generate a hazardous substance.

Effective April 1, 1981, section 211 imposes an excise tax of $0.79 per barrel on crude oil received at a U.S. refinery and on imported crude oil and petroleum products. The tax, which would be imposed only once on any taxable barrel of petroleum, will be paid by the refiner or importer of the petroleum.

The excise tax on oil and petroleum products will terminate on September 30, 1985. The tax will be suspended during calendar year 1984 or 1985, if on September 30, 1983 or 1984, respectively, the unobligated fund balance exceeds $900 million and is expected to exceed $500 million on the following September 30 (even if the excise tax is suspended for the calendar year in question). If any time prior to September 30, 1985, the sum of all excise taxes collected from oil and specified petrochemical feedstocks and inorganic substances exceed $1.38 billion, then at such time the authority to collect taxes ceases, unless reauthorized by Congress.

Effective April 1, 1981, section 211 imposes an excise tax on the following specified petrochemical feedstocks and inorganic substances:

In the case of:	The tax is the following amount per ton:
Acetylene	$4.87
Benzene	4.87
Butane	4.87
Butylene	4.87
Butadiene	4.87
Ethylene	4.87
Methane	3.44
Naphthalene	4.87
Propylene	4.87
Toluene	4.87
Xylene	4.87
Ammonia	2.64
Antimony	4.45
Antimony trioxide	3.75
Arsenic	4.45
Arsenic trioxide	3.41
Barium sulfide	2.30
Bromine	4.45
Cadmium	4.45
Chlorine	2.70
Chromium	4.45
Chromite	1.52
Potassium dichromate	1.69
Sodium dichromate	1.87
Cobalt	4.45
Cupric sulfate	1.87
Cupric oxide	3.59
Cuprous oxide	3.97
Hydrochloric acid	0.29
Hydrogen fluoride	4.23
Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Phosphorous	4.45
Stannous chloride	2.85
Stannic chloride	2.12
Zinc chloride	2.22
Zinc sulfate	1.90
Potassium hydroxide	0.22
Sodium hydroxide	0.28
Sulfuric acid	0.26
Nitric acid	0.24

The chemical excise tax will be paid by the manufacturer, producer, or importer of taxable substances. The tax would only be paid once on any taxable substance if used in the manufacture of another taxable substance.

Under section 211, methane and butane, from whatever source derived (natural or synthetic), will be taxable only when used for some purpose other than as a fuel. Nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia will be exempt from the tax when used in the manufacture or production of fertilizer. Nonfertilizer production usage of these substances are not exempt from taxes. The term "fertilizer production industry" as used in the bill is to read to include those activities and products described and set forth in the Standard Industrial Classification Manual (OMB, 1972 Edition) and identified therein as SIC code Nos.: 1474, 1475, 2873, 2873112, 2874, 2874185, 28193, 2810922, and 2819331.

The excise tax expires on September 30, 1985. The tax could be suspended during 1984 or 1985 under the same rule that applies to suspension of the tax on crude oil.

Section 221 establishes the hazardous substance response trust fund. The trust fund will be constituted from appropriations and from receipts from the excise taxes imposed by title II, in addition to penalties levied by the President, moneys recovered in legal suits from responsible parties, punitive damages assessed under title I, income on invested moneys from the fund, and transfers immediately upon passage from the fund established by the Clean Water Act (section 311) which is used to respond to discharges into navigable waters. Moneys credited to the fund in any fiscal year remain available until expended.

The trust fund can be used only for the purposes described in section 111, excluding subsection 111(j). These purposes include response costs; claims eligible, but unsatisfied, under section 311 of the Clean Water Act; Federal or State government claims for injury to, or destruction or loss of natural resources; and related costs described in section 111(c). Third party damage claims are not compensable under this act, except as provided above for natural resources.

The bill requires that 85 percent of the excise taxes and appropriations paid into the trust fund be reserved for response costs, related costs described in section 111(c) and repayment of any borrowed moneys. The remaining 15 percent is available for payment of claims for damages to natural resources. If such claims against the fund exceed the balance available for payment of those claims, then claims shall be paid in full in the order in which they were received. Unpaid claims would be deferred until funds become available.

The trust fund would be permitted to borrow from the U.S. Treasury under certain limitations. First, total outstanding borrowings at any time may not exceed tax receipts anticipated for the following year. Second, after March 1983, borrowing for response costs is permitted only in the event of a catastrophic release. Third, borrowing for damage claims is restricted to one-third of the following year's anticipated tax receipts. Finally, all outstanding advances must be repaid by September 30, 1985.

Title II also establishes a separate postclosure liability trust fund. The fund could assume completely the liability of owners and operators of hazardous waste disposal facilities granted permits and properly closed as provided in section 107(k) of the act. The fund could pay for monitoring and maintaining such closed sites and assume liability for all damages and response costs of such sites only if the facility is found to meet the requirements of section 107(k).

The postclosure liability fund will be financed primarily by a tax of $2.13 per dry weight ton of hazardous waste which will remain at the hazardous waste disposal facility after closure. The Internal Revenue Service is expected to interpret "dry weight ton" in the context as the delivered weight of hazardous waste excluding the weight of water. The tax will be paid by owners or operators of hazardous waste disposal facilities with a permit or accorded interim status under section 3005 of the Solid Waste Disposal Act. The tax will not be collected in any calendar year if on September 30 of the preceding year the unobligated fund balance exceed $200 million. Tax collection will be initiated 3 years following enactment.

As the member of the Finance Committee who assumed responsibility for the drafting of the tax title, I want to be absolutely certain that our committee's distinguished chairman, Senator LONG, finds the above summary to be consistent with his understanding of the legislation.

Mr. LONG. The summary of title II of H.R. 7020, provided by the Senator from New York is consistent with my understanding of the legislation.●

RHODE ISLAND INDIAN LAND CLAIM SETTLEMENT ACT AMENDMENT

● Mr. CHAFEE. Mr. President, H.R. 5505, the bill now pending before the Senate, contains an important provision of the Rhode Island Indian Land Claims Settlement Act of 1978 which I urge my colleagues to adopt today. For the record, I want to explain what this legislation does and why it is necessary.

The bill provides that private owners who sell land to the public corporation under terms of the Settlement Act would be allowed to treat their sales as "involuntary conversions." In effect, this would permit private landowners who convey their land to the Narragansett Indian Tribe a deferral of capital gains taxes as long as the proceeds of the sales are reinvested in other property.

Enactment of this provision is key to completing a number of land sales voluntarily agreed to under the 1978 settlement.

The bill also states that lands received by the tribe (and held by the public corporation) will be exempt from Federal, State or local taxation, except for taxes on income-producing activities. Nothing in the legislation will preclude an arrangement for payments in lieu of taxes for services provided in connection with the settlement lands.

Mr. President, I want to point out that

an identical provision was passed earlier this year in connection with the Maine Indian Claims Settlement Act of 1980.

The circumstances leading to the Rhode Island Settlement Agreement, and to this legislation, date back several years. In 1975, the Narragansett Indians filed suits in the U.S. district court against 35 private defendants and the State of Rhode Island seeking to recover about 3,200 acres of land in Charlestown, R.I. The basis of the claim rests on a questionable act of the Rhode Island Legislature in 1880 which abolished the tribal authority and tribal relations of the Narragansett Tribe of Indians.

To avoid potential years of litigation disrupting the economy of southern Rhode Island and clouding the land titles of the private defendants, a settlement was worked out in cooperation with the White House, Department of Interior, the Indian Affairs Committee and State officials. The Settlement Act (Public Law 95-395)—the first of its kind—was passed in the final days of the 95th Congress. Subsequently, Congress appropriated $3.5 million for the purchase of 900 acres owned by the private defendants. The State of Rhode Island also contributed 1,000 acres of State land toward the settlement.

The provision before us this afternoon was an original part of the Rhode Island Indian land claims settlement. The reason it was not included when the act was passed in 1978 is simply that the press of time would not allow it to be sequentially referred to the Finance Committee for approval.

Mr. President, this provision has been approved by the Finance Committee and it has the support of the Treasury Department. The revenue loss is expected to be minimal—not more than $200,000 if all the eligible landowners elect to defer their capital gains taxes by reinvesting in other property.

I thank my colleagues for their support.●

TRIBUTE TO ABRAHAM RIBICOFF

Mr. HOLLINGS. Mr. President, at the end of this session, we will say good-bye to a man who has contributed over 40 years of public service enlightening us all and making his State of Connecticut our Nation and the world a better place. At this time I would like to pay tribute to ABRAHAM RIBICOFF, a man of experience, pragmatism and compassion.

He has served the people of Connecticut and the United States in a number of positions with high distinction and unsurpassed dedication. In 1938 he was elected to the Connecticut General Assembly. When he was reelected in 1940, the Connecticut press and media covering the State legislature named him the State's "most able Representative." In 1942 he was appointed municipal judge in Hartford, a position he held until he ran for the U.S. House of Representatives in 1948. He served Connecticut's First Congressional District in the 81st and 82d Congress. And in 1954, the people of Connecticut made him their Governor.

It is as Connecticut's Governor that he and I first met and that I began to admire this man who never forgot his roots. And it is as his State's chief executive that he began to receive the national attention he deserved. His work and policies on highway safety and enforcement were a blueprint for all Governors and State legislatures. During his 6 years as Governor, he, also, established one of the more modern court systems in the Nation, improved his State's educational system and set up programs to aid the mentally ill.

When Jack Kennedy ran for the Presidency in 1960, ABE and I were among his earliest and most ardent supporters. And when Kennedy was elected, he exercised excellent judgment in asking ABE to join his Cabinet as Secretary of Health, Education, and Welfare. ABE RIBICOFF, in my mind, is the most able administrator HEW ever had. Then, as now, he recognized the moral decency and necessity to help those truly in need—the hungry, the deprived, the discriminated—and the responsibility to run programs efficiently and effectively with a minimum of redtape and bureaucracy.

It is with that record, knowledge and concern that ABE returned to Connecticut in 1962 to represent the people of his State in the U.S. Senate. And it is in this latter body that most of us will remember and be inspired by his work.

Outspoken in the consideration of justice and individual rights, a dutiful policeman seeing that taxpayers' money is not mismanaged, ABRAHAM RIBICOFF has been a clarion of reason, moderation and wisdom to those of us who have been fortunate enough to serve with him during his 18 years in the U.S. Senate. During his service in this body he has tackled many difficult issues and problems.

As chairman of the Governmental Affairs Committee he has been most influential in promoting stronger oversight of Federal Government activities. He has strengthened the hand of the General Accounting Office. He has promoted both civil service and welfare reform and deserves a significant amount of credit for his work to establish a separate Department of Education.

As third ranking Democrat on the Senate Finance Committee he has continually protected the interests of middle America and has worked closely with the committee's chairman to see that those with catastrophic illnesses do not go wanting for medical care. And as the committee's chairman of the Trade Subcommittee he is the one primarily responsible in Congress for the multinational trade agreements recently put into effect. I am glad that he plans to continue, though he is leaving these halls, to work for the restructuring of the Federal Government to promote the export of American products. For as he so eloquently stated in April of this year:

We cannot provide leadership * * * if we lack economic strength at home.

Mr. President, ABRAHAM RIBICOFF has seared our consciences and given us wise counsel. He has made us aware of the less fortunate. He has encouraged us to protect both man and Earth. And he has, more importantly, given us ideas and the pragmatism to implement them. I hope those who serve and will serve in this body will be as dedicated to serving the best interest of the people. I salute ABE for his distinguished career, and wish him and his lovely wife, Casey, happiness in the years to come.

TRIBUTE TO CONGRESSMAN TIM LEE CARTER

● Mr. PRESSLER. Mr. President, Congressman TIM LEE CARTER is leaving the Congress this term. I pay tribute to him on his departure. We served together in the U.S. House of Representatives from 1975-78.

One day an incident occurred which I remember, but which he has probably long forgotten, because I never discussed it with him.

I had just cast a vote in my first term and I was sharply criticized by some party leader in an informal conversation on the House floor—I do not even recall who made the remark. But TIM LEE CARTER overheard it—and he informally and quietly called me aside and told me to stand my ground and vote my conscience. His friendly remarks meant a lot to me at that particular moment in my life, and I have neglected to ever tell him how much I appreciated it.

We shall miss TIM LEE CARTER in Congress.●

APPRAISERS AND THE FIRST AMENDMENT

● Mr. HATCH. Mr. President, I share with many Members of this body a concern about policies adopted by HUD and the Federal Home Loan Bank Board, which would substantially limit the first amendment rights and responsibilities of real estate appraisers. Both of these agencies have recently moved toward the adoption of rules and regulations which would establish limits within which appraisers could value and report about residential property.

Although Congress did not succeed in passing either H.R. 5200 or S. 506, the Fair Housing Amendments Act, I would call to the attention of these agencies language relating to the appraisal profession that was contained in S. 506 as well as in the Kennedy substitute that would have been offered to H.R. 5200 had cloture been invoked on that bill. The language reads,

> It is not a violation of this title for a person engaged in the business of furnishing appraisals of real property to take into consideration or to report to the person for whom the appraisal is being done all factors relevant to the appraiser's estimate of the fairmarket value of the property: *Provided*, That such factors are not used by the appraiser for the purpose of discriminating or denying rights guaranteed by this title.

It was clearly the feeling of Congress that HUD and the Bank Board have acted outside of their authority in establishing lists of prohibited "code words" or in any other manner limiting the ability of appraisers to comment fairly and accurately upon all information relevant to the fair market value of property. Appraisers, it should be noted, are fully within the scope of the act's coverage to the extent that they discriminate because of race, color, religion, sex, handicap, or national origin.

At this point in the Record, I would ask to have inserted a portion of an analysis done by Mr. Harding DeWilliams of the National Savings & Loan League on the issue: "Are the contents of Real Estate Appraisals Entitled to First Amendment Protection?" I will be omitting large parts of Mr. DeWilliams' excellent legal analysis of these issues.

The material follows:

ARE THE CONTENTS OF REAL ESTATE APPRAISALS ENTITLED TO FIRST AMENDMENT PROTECTION?[1]

INTRODUCTION

Although real estate appraisers were not specifically referred to in Section 804 of the Fair Housing Act ("Act") of 1968, 42 USC 3604, relating to discrimination in the sale or rental of housing,[2] at least one court in 1977 has held that appraisers are covered under its provisions.[3]

This conclusion has been readily accepted by the Federal Home Loan Bank Board and the Department of Housing and Urban Development ("HUD"), which in 1978 issued rules imposing restrictions on the content of appraisal reports.[4]

These rules, along with a 1976 Justice Department lawsuit and current legislative proposals to amend the Act, have generated considerable controversy as to the extent of the government's power under the Act to impose restrictions on the content of real estate appraisal reports.

Representatives of the appraisal profession claim that these restrictions violate their first amendment right of freedom of speech under the Constitution. The position of the government agencies varies. As noted below, HUD's position is that the government has the right to prohibit absolutely any reference by appraisers in their reports to the ethnic or racial composition of neighborhoods. The Bank Board's policy as set out in its regulations (12 CFR §§ 528,2a(a), 531.8(b)(c)(7)) is somewhat less restrictive.

HUD would apparently argue that such factors have no bearing on market value, so that any reference to them in an appraisal report is a per se violation of the Act.

The position of the appraisal profession is that the appraiser has a professional obligation to take into account all facts affecting market value. Racial and ethnic factors do have relevancy to value in some cases—and such factors can operate positively as well as negatively on value. The profession admits, generally, that the difficulty lies in quantifying these factors and demonstrating their effect on value.

The General Policy of the American Institute of Real Estate Appraisers[5] ("Institute") states that it is improper to base an appraisal opinion on the premise that racial, ethnic or religious homogeneity of an area is necessary for maximum value and that "[r]acial, religious, and ethnic factors are deemed unreliable predictors of value . . .". The Statement also says that it is improper to base an appraisal opinion on "stereotyped or biased presumptions relating to race, color, religion, sex or national origin . . .".

The Policy Statement of the Society of Real Estate Appraisers[5] ("Society") states that "[t]he use of 'stereotypes' or preconceived biased concepts of value is anathema to the appraisal process" and also rejects the principle that homogeneity is necessary for maximum value. It provides also, that ". . . an appraiser must observe and be cognizant of a range of factors and forces operating within a neighborhood setting and that any change in that setting must be recorded and evaluated . . . [and] an appraiser has an obligation to investigate and consider any factor or force which might signal a changing pattern of rents and/or sales prices within a neighborhood setting."

The Statement further provides that "SREA does not teach that certain terms such as 'homogeneous' or other terms are meant to be 'code words' to disguise racial, ethnic or religious characteristics of a given area."

Attorneys representing mortgage lenders have a stake in this controversy for at least two reasons. The first, obviously, is that the lender has a critical interest in receiving appraisals which will accurately reflect the value of the appraised property as security for a mortgage loan. The second is that a lender who denies a loan on the basis of an appraisal report which says the "wrong thing" may find itself facing a charge of violating the Act for having based a refusal to lend, or change in loan terms, on an improper inference from the prohibited information.

The purpose of this paper is to explore the degree of first amendment protection to which real estate appraisal reports may be entitled. It is not a defense of the use of biased or stereotyped assumptions in appraisal reports.

APPRAISAL REPORTS AND THE FAIR HOUSING ACT—RECENT HISTORY

A. Voluntary action thwarted

Although appraisers and appraisals were not specifically covered by the Act, representatives of the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers entered into discussions in 1973 with HUD's Office of Voluntary Compliance to assess problems or potential problems in housing discrimination which might involve appraisers or the appraisal process.

These voluntary efforts were thwarted by the Justice Department, which filed a complaint under the Act in 1976 against these two organizations, the United States League of Savings Associations, and the Mortgage Bankers Association[6] alleging that the appraisal practices endorsed and taught by the two appraisal groups and disseminated by the other two defendants constituted a "denial" of housing to protected classes under the Fair Housing Act and otherwise interfered with the rights of such classes under the Act.[7]

The Justice Department suit removed the question of appraisal practices from a forum in which reasonable accommodation of sensitive and complex issues had a chance of being resolved on a voluntary basis and placed the issue in an adversary posture where, despite resolutions of the issues between the government and the two appraisal organizations in 1977 and 1978, and the two industry associations in 1979, it has remained ever since.[8]

B. The agency regulations and policy statements

On May 18, 1978, the Bank Board adopted comprehensive amendments[9] to 12 CFR Parts 528 and 531 of the Bank System Regulations and Policy Statements, incorporating judicial and legislative actions on nondiscrimination in housing and credit, including the AIREA Settlement Agreement, which had taken place since these regulations were originally adopted.

The Bank Board amendments to Part 528 added a new § 528.2a entitled "Nondiscrimination In Appraisal and Underwriting". Paragraph (a) enjoins Bank System members from using or relying on an appraisal which is: (1) discriminatory on the basis of age or location of the dwelling; (2) discriminatory *per se*; or (3) discriminatory "in effect".

The pertinent parts of the Bank Board's amendment to its Policy Statement on nondiscrimination in lending in Part 531, 12 CFR 531.8, which combine discussions of appraisal practices with those of underwriting policy, provide as follows:

"§ 531.8 Guidelines relating to nondiscrimination in lending

* * *

"(b) Loan Underwriting Standards . . . The use of lending standards which have no economic basis and which are discriminatory in effect is a violation of the law even in the absence of an actual intent to discriminate. However, a standard which has a discriminatory effect is not necessarily improper if its use achieves a genuine business need which cannot be achieved by means which are not discriminatory in effect or less discriminatory in effect.

"(c) Discriminatory Practices

* * *

(6) Income level or racial composition of area. Refusing to lend or lending on less favorable terms in particular areas because of their racial composition is unlawful. Refusing to lend, or offering less favorable terms (such as as interest rate, downpayment, or maturity) to applicants because of the income level in an area can discriminate against minority group persons.

(7) Age and location factors. Sections 528.2, 528.2a, and 528.3 prohibit loan denials based upon the age or location of a dwelling. These restrictions are intended to prohibit use of unfounded or unsubstantiated assumptions regarding the effect upon loan risk of the age of a dwelling on the physical or economic characteristic of an area." (Emphasis supplied.)

The 1978 HUD Policy Statement directs all offices of HUD to revise as necessary forms and handbooks to reflect several principles related to antidiscrimination practices. The Statement relating to appraisals provides:

"1. Factors relating to race, color, religion, sex or national origin, or to racial, religious and ethnic identification of neighborhoods are not relevant to the estimation of value and should not be considered in connection with appraisals of residential real property." (Emphasis supplied.)

As to age of dwelling, HUD's Policy Statement is more pragmatic stating that as to age "appraisal policies and practices should avoid reliance on the concept of a predetermined neighborhood life cycle."[10] (Emphasis supplied.)

The Bank Board's statement, as quoted above, stops short of an absolute ban on an appraiser's consideration of factors of age and ethnic composition of neighborhoods. The underlined passages seem to allow room for the use of factors in making appraisals which can be shown to have a demonstrable relationship to market value.[11]

The HUD statement on the other hand tells the appraiser that factors based on the prohibited factors "are not relevant" to the estimated value and cannot be considered in appraisals of residential property. Subsequent attempts to implement the Bank Board's restrictions resulted in some well-intentioned but questionable restrictions on the contents of appraisal reports by examiners of the Federal Home Loan Bank Board, as noted in the following section.

C. The prohibition of "code words"

One of the difficulties in resolving the issues in dispute between the appraisal profession and the government has been the recent revelation of the practice by some Bank Board examiners across the country of forbidding the use of certain terms, or "code words" which were believed to be "signals" from appraisers to lenders about the ethnic composition of neighborhoods in order to assist them to maintain a perceived passion for homogeneity.

While this practice may have abated in recent months, the "code word" prohibition got the ongoing discussions between appraisers and regulators off the real issue involved, i.e., whether or not certain factors do in fact

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Footnotes at end of article.

affect market value, and onto the more polarized issue of censorship versus free speech.

The regulators in justifying the proscription of specific words apparently argue that certain terms cannot be used in appraisal reports if: (1) their relevance to market value cannot be demonstrated; and (2) if they are deemed to be discriminatory per se or "in effect" in violation of § 528.2a(b).[12]

The appraisal profession would agree with this argument. The controversy centers around the first point—can relevance to market value and the necessity for their use be demonstrated? If so, then (2) above would be irrelevant.[13]

Misunderstandings have persisted, exacerbated by the "code word" issue, because regulators and civil rights groups apparently perceive the appraisal profession as having gone underground on its advocacy of a preordained effect between race and market value.[14] The appraisal profession, as indicated by the discussion below, does not espouse this principle.

D. The hearings

One of the best sources of information relating to the arguments of the appraisal profession and the "code word" issue are the hearings conducted in April, May and June 1979, by the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee on H.R. 2540 (now H.R. 5200), the "Fair Housing Amendments of 1979", ("hearings") in which representatives of the Justice Department, HUD, the Bank Board, SREA, AIREA, American Society of Appraisers, major civil rights groups and other interested parties testified or filed statements.

As noted above, the practice of banning certain words from appraisal reports may have abated. A brief look at some of the points made at the hearings, however, may be helpful in the ensuing discussion of recent case law.

Witnesses representing the appraisal profession gave extensive and detailed evidence that racial, religious and ethnic considerations do in fact have a bearing on the estimation of property in some cases,[15] and that if the government can tell appraisers how to reach a conclusion of market value, that term will "become a misnomer and the appraisal process will become a fraud."[16]

Witnesses representing the Appraisal Society pointed out the problems encountered by the HUD "Section 235" housing program, when, in their view, inaccurate appraisals were encouraged by the Federal Housing Administration staff. The result of inflated valuations was an "inordinate number of foreclosures" providing speculators with the ultimate benefits.[17]

Then witnesses pointed out that examiners from the Bank Board had been interpreting that agency's regulations as prohibiting the use of certain words in appraisal reports such as "church", "synagogue", "pride of ownership", "prestigious neighborhood", "poor schools", "declining neighborhood" or "homogeneous".[18]

The following colloquy between SREA witnesses, R. J. Frank and Charles L. Osenbaugh, and Representative Henry Hyde (R., Ill.) illustrates the relevancy to market value which ethnic makeup of a neighborhood may have in certain cases on value.

"Mr. Frank. . . . Let's take an example in Chicago of an ethnic neighborhood. Let's assume it's Chinese. Let's assume, because there is competition to get into that neighborhood, that the prices are bid up, which is typical.

". . . as a result, the prices peak in that neighborhood. Typically they are 20 to 25 percent higher than they would be in a nonethnic neighborhood adjacent to that neighborhood [for a comparable residence].

"Let's assume that the appraiser is out in the market and checks sales from within the ethnic neighborhood. He's placing those sales in the direct sales comparison approach to give an indication of value of the residence in the nonethnic neighborhood.

"He has a judgment decision to make, basically, in support of the fact that there were ethnic considerations within that one neighborhood. If he doesn't use this factor and he says the home sold for $60,000 in the ethnic neighborhood and concludes that a home should sell for $60,000 in a nonethnic neighborhood, he has done a disservice to the buyer, the lender and the depositors.

"Mr. Osenbaugh. . . . To say that this is a Chinese neighborhood and stopping there, would be an improper appraisal. I would assume that when you have neighborhoods that a particular group wants to move into, it's a fact of life that those houses are going to be well kept because there is a great demand for them. Those people obviously want to get in that area because they have a pride of getting in that neighborhood, and it's going to reflect on the value of the property.

"Mr. Hyde. In other words, a house is more valuable to a Chinese family at 22d and Wentworth, which is the Chinese community in Chicago, than it would be to a Polish family, and the economics may well be affected significantly by the ethnicity of the community. Is that not a fact?

"Mr. Osenbaugh. That is a fact.

"Mr. Hyde. So it is a factor, maybe not determinative, maybe not overwhelming, but it's a relevant factor, which, in the honest, professional performance of your duty, ought to be communicated to somebody who's evaluating that property.

"Mr. Osenbaugh. Exactly. It's one of the relevant factors. It's not the only relevant factor. . . ."[19]

An example of the complexity of markets in large metropolitan areas and of impact on value of the reputation of a school in a particular school district was given by Society witness F. Gregory Opelka in a dialogue with Representative Harold Volkmer (D., Mo.):

"Mr. Opelka. We use . . . information relating to the religion and ethnicity in continuing analyses of markets so that we can quantify and qualify, in either order of sequence, the number of people that tend to make a market. In some cases when we deal in a city of 3 to 5 million people, there are many submarkets. By virtue of proximity to those markets, whether the markets have limitations by requiring people to live in a city, by requiring people through a religious culture to live in a given parish, or by virtue of their religious persuasion people must walk to church on their Sabbath, all these things identify the size of markets and cultural attractions for different people. . . .

"Mr. Volkmer. Let me ask you a question, just out of curiosity. Let's say I was looking for a house . . . And I have a certain religion that I belong to, and that I like to have my children go to school, and I would like to be located near a good school with that religion. . . . And I find a place and I ask you to do an appraisal on it. If we have what HUD wants, would you be able to include that in the presentation?

"Mr. Opelka. Probably not. At best I'd run a risk. The most dangerous word you can give me is "Thou shall not consider."

"Mr. Volkmer. Would it be wrong for you to also find within that community or area around that school that there are also, say, one-fourth of the people that belong to that same religion and send their children to that school and that's a good school and probably other people would want to send them to that school in the event I moved out?

"Mr. Opelka. I think I could do what you are asking me to do on a consulting basis—and that's slightly different than appraisal per se, because we are commingling two professional services . . .

". . . We give you the impersonal appraisal of the property irrespective of who you are and this is a valuation of the property in consideration of all of the neighborhood dynamics in that neighborhood. Under government rules and regulations I could not include that information in the appraisal report even though it may be very relevant.

"Mr. Volkmer. Would that have an effect if, say, 25 or 30 percent of the people in that area went to that church?

"Mr. Opelka. Sure. That's what makes the neighborhood what it is. The people are zeroing in on that community because it's got a church, a school, and everyone knows it's the in thing.

"Back home, for years it was New Trier High School. It meant a big thing to get into New Trier district and people, for whatever reasons, were paying higher prices than they were on the other side of the line within a different district. It was a desirable area to be in."[20]

These examples demonstrate that ethnic factors and reputation of schools are not always used as excuses for racial discrimination, or as "signals" to lenders that there are minority groups lurking in the wings.

The "code words" referred to above were undoubtedly attempts by examiners to reach some sort of definition of appraisal practices which are discriminatory per se or in effect under the terms of § 528.2a, but, as also noted above, outright bans on specific words or terms can hamper the appraiser's taking into account factors which can be shown to have a bearing on market value in certain cases.

The ban on such code words was defended by then Bank Board Chairman Robert McKinney in response to an inquiry by Subcommittee Chairman Don Edwards (D., Calif.) on the grounds that such terms are often used "as a substitute for detailed analysis."[21] He stated that, "It is the Bank Board's position that appraisers should be factual reporters describing, for example, sales in the neighborhood, rising or declining home prices, actual neighborhood maintenance, and proximitv to religion and education facilities, public transportation and shopping services. We do not believe that the use of subjective phrases such as 'pride of ownership' provide underwriters with the necessary specific market information. They do not meet the requirements of factual reporting and they may carry discriminatory connotations."

". . . We believe that appropriate indicia of neighborhood value include facts related to supply and demand, actual maintenance of properties, and proximity to services. All of the factors should be described in precise terms without reference to vague "catchall" phrases . . .".[22]

The McKinney letter by its reference to factual reporting and detailed analysis seems to bear out the appraisers' stress on such analysis, but stops short of acknowledging that racial and ethnic factors themselves can be the subject of "detailed analysis". It illustrates the fact that going after a "list" of prohibited terms which are perceived to be per se violations is doing things in reverse order. If "detailed analysis" leads to evidence of the relevance of the prohibited term, and if there is no "less overt way to refer to such factors" (to defer to the effects test), then the term cannot be proscribed as a per se or an "in effect" violation.[23]

The Society of Real Estate Appraisers strongly objected to the conclusions reached in the letter, the constitutionality of the censorship of appraisal reports, and pointed out several factual errors including a misquotation of the Society's Policy Statement.[24]

The Appraisal Institute has also challenged HUD's Policy Statement quoted above

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Footnotes at end of article.

on the grounds that its provisions violated the Settlement Agreement which the Institute entered into with the Justice Department and HUD. The Institute in its Policy Statement did not agree that racial or ethnic factors have no relationship to market value. The Institute "holds that the professional appraisers must be free to investigate and report facts and to examine any . . . social factors for possible relevancy."[25]

The Bank Board staff reportedly has under consideration a proposed policy statement, possibly an amendment to § 531.8, relating to appraisal reports which may resolve some of the issues raised at these hearings. A legislative remedy has also been proposed by the Appraisal Society. It has drafted amendments to House and Senate bills (H.R. 5200 and S. 506) which amend the Fair Housing Act to provide that the use by appraisers of documented evidence relating to market value will not constitute a violation of the Act.[26] To date, however, the issues raised by the Society and the Institute remain unresolved.

FOOTNOTES

[1] Based on address by Harding deC. Williams, General Counsel, National Savings and Loan League, to the College of Mortgage Attorneys Annual Meeting, White Sulphur Springs, West Virginia, October 25, 1979.

[2] "§ 3604 Discrimination in the sale or rental of housing

* * * * *

[I]t shall be unlawful—

"(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, or national origin."

[3] *U.S.* v. *AIREA, et al.*, 442 F. Supp. 1072 (N.D. Ill., 1977).

[4] The Bank Board's General Counsel had reached this conclusion in a 1974 opinion which stated in part that the use of appraisal forms which call for racial information violated § 528.2 of the Bank System Regulations, one of the sections of 12 CFR Part 528 which implements the Act.

[5] Both Policy Statements are reprinted in full in Appendix A.

[6] (CA No. 76 C 1448 N.D. Ill.) The omission of the National League was attributable, apparently, to the fact that appraisal materials are not among those distributed to its membership.

[7] The complaint alleged that the defendants among other things ". . . instructed their members that dwellings in racially integrated areas have a substantially lower value than similarly situated dwellings in racially homogeneous areas and that loans on such homes located in such areas were less secure than loans on houses in racially homogeneous areas . . .". These discriminatory appraisal practices, alleged the complaint, result in discrimination by mortgage lenders, since loan decisions are based in part on the product of such practices.

[8] In April, 1977, the AIREA executed a Settlement Agreement and Affirmative Action Program with HUD and Justice, in which it agreed to a general Statement of Policy and to changes in its instructional materials. The Institute also agreed to revive its discussions with HUD's Office of Voluntary Compliance. The SREA was dismissed with prejudice in July, 1978, subject to a stipulation that it, among other things, would issue and distribute a Policy Statement outlining it professional principles. The Mortgage Bankers Association and U.S. League of Savings Associations were dismissed with prejudice in September and November, respectively, of 1979.

[9] Res. No. 78-302, 43 FR 22332.

[10] The Appraisal Institute has vigorously objected to this Statement on the grounds that it is not in accord with its Settlement Agreement with HUD and Justice. See p. 2 above. The basis for the objection is that the Institute's Policy says that such factors are unreliable predictors of value, not that they have no relevance to value.

[11] The Federal Home Loan Mortgage Corporation (FHLMC) seems to have been influenced by the HUD Statement. Its *Underwriting Guidelines* issued in July 1979, provides (at page 4): "FHLMC does not consider race or the racial composition of the neighborhood to be reliable appraisal factors. As a matter of corporate policy, FHLMC will reject any loan supported by an appraisal report which makes reference to race."

[12] It is not entirely clear on which of these bases, the "code words" were banned. See McKinney letter quoted at pp. 11–12.

[13] I am not aware of any arguments made to the effect that Congress, in enacting the Fair Housing Act intended that information *relevant* to market value be suppressed.

[14] For an astonishing example of the lengths to which real estate brokers and developers are perceived to go in hiding their "real" motives, see HUD's proposed regulations to revise its Advertising Guidelines for Fair Housing, 44 FR 55528 (September 26, 1979). While several of its provisions relate to practices which are overtly discriminatory, one section admonishes that directions given and landmarks used in ads for houses for sale can "imply a discriminatory preference" if one is not careful. Proposed § 109.20 (e) and (f) (12 CFR Part 109) provides: "(e) *Directions to real estate for sale or for rent* (*use of maps or written instructions*). Directions can imply a discriminatory preference, limitation, or exclusion. For example, references to real estate location can be made in terms of racial or national origin significant [sic] landmarks such as an existing black development (signal to blacks) or an existing development known for its inclusion of minorities (signal to whites) and should not be used. Specific directions given from or to a racial or national origin significant [sic] area may indicate a preference and should not be used. References to a synagogue, congregation or parish may also indicate a religious preference and should not be used. (f) *Area* (*location*) *description*. Names of facilities which cater to a particular racial, national origin or religious group such as country club or private school designations, or which are used exclusively by one sex, should not be used to describe an area."

[15] Several studies bearing out this contention are referenced at pp. 316–317 of the hearings.

[16] Hearings, p. 321.

[17] Hearings, pp. 319–320.

[18] Hearings, p. 316.

[19] Hearings, pp. 332–333.

[20] Hearings, pp. 334–335.

[21] Hearings, pp. 409–412.

[22] The FHLMC Underwriting Guidelines, April 1979, treat the issue in a similar manner: "Underwriters should also be sensitive to the use of code phrases in the appraisal report as proxies for race. The use of such code phrases is a poor appraisal practice as they are not necessarily descriptive of value or risk. In addition, they are imprecise, and represent subjective opinions which can lead to general and misleading conclusion without supporting data. The information in the appraisal report must support, in an objective manner, any statement or conclusion contained in the report."

[23] Since the list was apparently designed to define *per se* (as well as "in effect") violation it is surprising that it does not include outright references to ethnic makeup of a neighborhood, such as "predominantly Chinese." Mr. Osenbaugh, the SREA witness quoted above at page 9 stated that the mere reference to the fact that a neighborhood is Chinese "and stopping there" is an improper appraisal.

The McKinney letter appears to be, in large part, a justification for a practice of which he personally was not aware and which had not been considered by the Board Members and by some, if not all, Senior Staff.

[24] Hearings, pp. 413–419. The Justice Department, in turn, challenged certain statements in the Society's letter, hearings, pp. 420–424.

[25] Hearings, p. 786. Letter of June 29, 1979 of AIREA President Charles B. Akerson to Subcommittee Chairman Don Edwards (D., Calif.). The Institute has also protested directly to HUD.

[26] As this *Legal Notes* went to press, H.R. 5200 was pending before House Judiciary Committee and S. 505 was pending before Senate Judiciary Subcommittee on the Constitution.●

TRIBUTE TO HERMAN TALMADGE

● Mr. HOLLINGS. Mr. President, Senator HERMAN EUGENE TALMADGE of Georgia has held a lot of responsibility in his 24 years in the U.S. Senate. He has most ably served Georgia and the Nation as chairman of the Agriculture, Nutrition, and Forestry Committee, second ranking member on both the Finance and Veterans' Affairs Committee and chairman of the Finance Subcommittee on Health.

As chairman of the Agriculture, Nutrition, and Forestry Committee, one of Senator TALMADGE's first moves was to create a new Subcommittee on Rural Development. Senator TALMADGE devoted a major part of 1971 and 1972 toward enactment of the Rural Development Act of 1972. This job-producing legislation, which is aimed at improving the well-being of farmers and the economy of small communities, was hailed across the Nation as the most significant rural legislation since the adoption of the Rural Electrification Act of 1935.

Senator TALMADGE brought to the Agriculture Committee chairmanship a quick grasp of national farm issues. His fundamental philosophy on farm legislation has been to devise a comprehensive program to let the farmer farm, to guarantee him a fair share of the national income, to put American farm commodities on the world market at competitive prices, and to provide consumers with an abundant supply of food at fair prices.

Senator TALMADGE has also taken a leading role in writing and working for enactment of comprehensive farm and rural legislation designed to encourage increased production in order to provide an abundant supply of food and fiber for the United States, expand agricultural exports, protect farm income and prices, and all at less cost to the Government.

In 1970, HERMAN TALMADGE authored legislation which substantially expanded and improved the national school lunch program. The Talmadge bill increased funding for existing school lunch programs and also made them available in areas where none had previously operated.

As second ranking Democrat on the Finance Committee, HERMAN is a recognized authority on complex tax, trade and welfare reform issues. Senator TALMADGE has long been an advocate for building a stronger partnership between government and private business in efforts to provide more job training and education and to help solve the problems that lead to unemployment.

In his efforts on the Finance Committee, Senator TALMADGE authored legislation to strengthen the work incentive program and require able-bodied welfare recipients to register for employment or job training. He also authored legislation to allow private business and industry to help underwrite expenses involved in training programs. Due to Senator TALMADGE's efforts over 1 million former welfare recipients have secured jobs.

On the Finance Committee's Subcommittee on Health, HERMAN has been a strong advocate and cosponsored legislation to provide catastrophic health insurance to families and individuals whose income and savings are depleted. Senator TALMADGE also authored legislation which eliminates fraud and abuse in the medicare and medicaid programs, and provides an Inspector General as fiscal watchdog.

To say what I have said simply: HERMAN EUGENE TALMADGE has made innumerable contributions to the welfare of the Nation. His leadership, his commitment and his work will be missed.●

COLLOQUY BETWEEN SENATOR DeCONCINI AND SENATOR KENNEDY ON IMMIGRATION EFFICIENCY ACT

● Mr. DeCONCINI. Mr. President, it is my understanding that the Immigration and Naturalization Service, in cooperation with the Department of Transportation, has developed, and is prepared to implement a sophisticated new arrival/departure control system for nonimmigrant visitors to the United States as prescribed by paragraph (E) (2) and (3) section 20 of H.R. 7273. Since this is the case, can we then assume that if the system meets the criteria and specifications of the Attorney General and the Secretary of State that this requirement of the bill has been met and the visa waiver program may be put into immediate operation?

Mr. KENNEDY. Yes. The proposal by the Department of Transportation may well provide an effective arrival/departure control safeguard which would accurately and quickly account for nonimmigrant visitors to the United States. Through the use of the facilities of the Department of Transportation System Center, new I-94 forms will be processed by computer to provide timely information on the status of individual nonimmigrant visitors. The information will be readily available to Immigration and Naturalization Service enforcement officers for their use in the investigation, apprehension, and prosecution of nonimmigrants who overstay the 90-day time limit set under the visa waiver proposal.

Additionally, at the end of the 1-year pilot program as described in section 20, it could be expected that this new system would provide precise data which could be used by the Congress to determine the degree of success of the visa waiver pilot program.

Further, if the new arrival/departure control plan proves to be as effective as expected, it could very well serve as a model for the development of a permanent computerization plan for the Immigration and Naturalization Service.

I would urge the Attorney General and Secretary of State to evaluate and implement this new plan at their earliest opportunity so that the visa waiver pilot program can begin. I will communicate with the Departments of State and Justice urging action consistent with these thoughts.

Mr. DeCONCINI. Mr. Chairman, subsection (c) (2) in section 20 of H.R. 7273 places an additional reporting responsibility upon the carriers of nonimmigrant travelers to notify the Attorney General when the return portion of a traveler's ticket that not been used within the 90-day time limit.

It is my understanding that it would be virtually impossible for the carriers to provide this information to the Attorney General in less than 6 to 9 months from the scheduled departure date of the traveler, due to the complexities of the interline ticketing system. Would the chairman agree that the intent of the bill is not to place an unreasonable burden on the carriers to comply on the 91st day of the traveler's stay but rather would, through agreement with the Attorney General allow a realistic period for compliance? And would the chairman further agree that the primary control device is the responsibility of the Immigration and Naturalization Service and not that of the carriers?

Mr. KENNEDY. Yes, I would agree that the intent of the bill is to provide an additional safeguard to the Immigration and Naturalization Service system and is not to create an unreasonable or unnecessary burden on the carriers.

In this regard I would urge the Attorney General to carefully evaluate the new proposal from the Department of Transportation and then determine the degree to which the carriers' system is required. For example, the new system may provide enough data to make carrier reporting necessary only in specific individual cases.

I would also note that information which is 6 to 9 months old would be of little use to enforcement officers when the new Immigration and Naturalization Service/Department of Transportation plan can provide the same information on a monthly basis.●

THE FAIR HOUSING FUROR

● Mr. GARN. Mr. President, many Members of this body cast an extremely difficult vote on Tuesday in opposing cloture on H.R. 5200, the Fair Housing Amendments Act. It is not easy to oppose a bill that has been described by proponents as "the most important civil rights measure in a decade." What I believe our vote reflected, however, is that this body is not prepared to create new biases and new procedural defects in the law in an effort to remedy those that presently exist. I ask to place in the RECORD at this point an editorial appearing in the Washington Star on this subject yesterday.

The editorial follows:

[From the Washington Star, Dec. 12, 1980]

THE FAIR HOUSING FUROR

The failure of the Senate to bring the fair-housing bill to a vote, which has the effect of bequeathing that volatile issue to the new Congress, is being attributed here and there to a renunciatory mood toward civil-rights commitments. Sen. Edward M. Kennedy, for example, viewed the failure of the Senate to approve amendments to the 1968 Open Housing Act as demonstrating a "major retreat" from this commitment by a "small group of conservative Republicans." That is open to reasonable doubt.

Sen. Orrin Hatch, the Utah Republican who led the fight against the Senate bill, retorted that the proposal was "one of those last-gasp ultra-liberal" moves by Democrats "to impose the federal government on the lives of the people"—"last-gasp" referring, of course, to the change in Senate lineup cards come January.

Notwithstanding general agreement that the 1968 law has more bark than bite, the amendments that failed in the Senate after passing the House had a worrisome over-bite.

A fundamental change would have authorized the government to initiate and prosecute housing-bias complaints (the federal government now may act only when "patterns or practice" of discrimination are involved, leaving aggrieved individuals to seek redress in conciliation or civil suits). How this extended authority was to be used, however, was a matter of contention.

The Senate bill, like its House counterpart, would have established a new corps of administrative law judges within the executive branch to adjudicate complaints.

Senator Hatch and his allies preferred—correctly, in our view—that complaints be resolved within the Judicial Branch, first through a hearing before federal magistrates with appeal to U.S. District Courts and a right to trial by jury if that was desired by the appealing party.

There was movement toward compromise on that aspect. But the crucial hurdle was defining a standard of judgment. Proponents of the amendments wanted an "effects" test as a basis for establishing discrimination—a criterion which would substantiate complaints if an act or policy had "the effect" of discriminating against a member of a minority group. Civil rights groups increasingly have relied on an "effects" test in cases involving such areas of public policy as zoning law and education. Lower court decisions have been mixed, and the Supreme Court has not ruled on whether the current fair-housing law requires the government to prove intent.

Senator Hatch, who repeatedly has voiced support for the principles of equal access to housing, insisted that the proposal specify "intent" to discriminate. "Once the 'effects' test has been put into effect, what is the standard for determining that discrimination remedies are no longer needed short of absolute numerical equality?" he asked. That may be on the reductionist side, but it does suggest how dramatically an "effects test" could apply.

Sen. Howard Baker pledged that, as majority leader in the new Senate, he would be behind fair-housing legislation early in the session—"a good bill," he said, "not just a bill in name only." A good bill is desirable, and a good bill it is possible to fashion. It is a distortion to assert that the failure of the fair-housing amendments presage a repudiation of 15 years of civil-rights legislation.●

TRIBUTE TO HARRY R. E. HAMPTON, JOURNALIST, CONSERVATIONIST

● Mr. HOLLINGS. Mr. President, South Carolina recently lost a friend who dedicated his life to conserving her natural beauty and shaping the minds of her people.

Mr. Harry R. E. Hampton, a dear friend, a life-long conservationist, and retired coeditor, editorialist and columnist of the State (Columbia, S.C.) newspaper, seared the consciences of South Carolinians and worked painstakingly to preserve our environment and make us understand that progress did not come by destroying our natural resource treasures.

In 1931, Mr. Hampton formed the South Carolina Game and Fish Association along with the late A. C. "Zan" Heyward. Together they traveled the State, holding meetings and speaking in behalf of their concern—conservation.

Meanwhile, and continually for over 40 years, Mr. Hampton through his column "Woods and Waters" and in editorials gave the force of the press to the movement. His was the first major effort in South Carolina to bring collective action to the ideal of conservation.

After World War II, the South Carolina Wildlife Federation was formed with Harry Hampton as its president. He served 3 years as leader of the group, investing his energies and literary talents to the effort.

In the 1970's Mr. Hampton became the leading force behind the establishment of the Congaree Swamp National Monument. In my mind, the Congaree Swamp National Preserve is a monument to his noble work; I shall always know it as "Harry Hampton's Park."

But more than a man fighting for a cause, Harry Hampton was a sensitive and compassionate man who felt for people the way he felt for the State's woods, forests and swamps which he so loved to roam. He had a sage-like understanding of nature and a child-like joy of nature's beauty and curiosities. His spirited life brings to memory the following excerpt from a book I know he deeply enjoyed, Henry David Thoreau's Journal: "It is the marriage of the soul with Nature that makes the intellect fruitful, and gives birth to imagination."

Mr. Hampton's soul was married to nature and we in South Carolina benefited from his intellect. We need only to continue his mission. He has done more than lay the groundwork. We will miss him.

Mr. President, South Carolina's Piedmont area recently lost a valuable friend in J. Kelly Sisk, publisher of The Greenville News and Greenville Piedmont and chairman of the board of Multimedia, Inc.

For more than 30 years Mr. Sisk played a key role in the news business both in South Carolina and the Nation. Under Sisk's leadership, Multimedia flourished and today the corporation owns 13 daily newspapers, 22 nondaily newspapers, The Music City News, 5 television stations, 12 radio stations, and a number of cable systems. In recent years the corporation moved into production, giving us the much hailed Phil Donahue show.

Mr. Sisk was also an active leader in other fields. He was a director of South Carolina National Bank, Dan River, Inc., and Liberty Life Insurance Co. He was a trustee of the Duke Endowment and Converse College and an advisory trustee of Furman University.

Mr. Sisk was a former national director of the Associated Press. In 1978 he was honored nationally by Financial Magazine as the year's most effective newspaper executive. In 1962 he served as president of the South Carolina Press Association. The following year he was president of the Southern Newspaper Publishers and in 1964 became chairman of its board of directors.

Kelly Sisk was a dedicated man—dedicated to business, dedicated to journalism and dedicated to his family. He will long be remembered in my State and in the city of Greenville, in particular, as a man of sound judgment, innovative thinking and good will.

Mr. President, I ask that the Greenville Piedmont editorial "J. Kelly Sisk: A Tall Man" of November 8, 1980 be printed in the Record:

The editorial follows:

J. KELLY SISK: A TALL MAN

He was a man of tall qualities who took giant steps across the newspaper landscape of this country.

The business world knew Kelly Sisk for his success and leadership. But what will stay with his friends and business associates as a memory to outlast that reputation was his compassion and his unyielding good humor.

He was a man who smiled. And behind that smile was man who gave of his money and his time to people who needed help and encouragement. It might be truly said of Sisk that he had no enemies. He avoided at almost any cost those words or actions that might make someone uncomfortable or result in hurt.

For more than 30 years Sisk played a key role in the management of these newspapers.

He was chief business advisor to the late Roger C. Peace and their vision and energies brought about Multimedia, today a nationally-regarded communications company.

As chairman of the board of Multimedia and in other corporate seats he held, Sisk was considered aggressive. His business abilities were recognized in the nation's halls of commerce.

Less obvious, because he didn't believe in standing on soapboxes, was Sisk's dedication to the profession of journalism. He knew that newspapers and broadcasting stations had to be profitable to be successful. But he also was convinced that the business side and the news and editorial side had to be kept separate for the benefit of both.

There might be no greater tribute paid a newspaper publisher than to note that he maintained the integrity and fairness of the news columns. Sisk continued a tradition set by Peace that advertisers and other special interests not be allowed to interfere with coverage of the news.

He was firmly committed to the newspapers and the community. Over the years Sisk was involved personally in major civic undertakings, ranging across virtually every worthwhile organization in Greenville and in newspaper circles throughout the country.

He brought to each the same measure of sound judgment, innovative thinking and good will that he applied to these pages and to Multimedia.

Obviously, Kelly Sisk will be missed by his associates here. But the legacy of good business and good journalism he left will benefit the community—and the communications industry—for many years.●

SECOND TIER TAXES

● Mr. GLENN. Mr. President, I rise in support of H.R. 5391, a bill to amend the Internal Revenue Code of 1954 with respect to second-tier excise taxes. I would like to specifically address section 4 which would simplify the administration of the excise tax on rubber used in tires by eliminating the present system of credits on tire warranty adjustments. This will benefit both the tire industry and the Treasury Department by substantially reducing the present paperwork burden involved with excise tax credits and refunds.

Present law requires the payment of an excise tax of 10 cents per pound on new tires for highway use and 5 cents per pound on new tires for nonhighway use. A credit or refund of the tax is made if the tire is returned under a warranty or guarantee.

This procedure is both complex and administratively burdensome. In order to rectify this situation and thereby enhance efficiency and simplicity of operation, Section 4 reduces the excise tax on new tires by 2.5 percent effective January 1, 1981. Section 4 further provides for a phaseout of the present credit and refund procedures by December 31, 1982.

The tire warranty adjustment provisions were originally incorporated in S. 2904 which I introduced with Senator Talmadge on June 30, 1980.

Senator Dole subsequently joined us as a cosponsor. The bill was referred to the Finance Committee and hearings were held in the Subcommittee on Taxation and Debt Management on August 4. The bill was favorably reported by the Finance Committee as section 4 of H.R. 5391 on November 25.

H.R. 5391 has enjoyed the support of the Finance Committee and the Treasury Department. I am sincerely appreciative that this measure is being enacted prior to the close of the 96th Congress.●

POLAND

● Mr. HATCH. Mr. President, the situation presently going on in Poland is one of grave importance to the Western World. Poland is a country whose history has been dominated by imperialist powers who seek to protect themselves from invasion. The Polish crisis is centered around the right of the Polish people to be allowed to form their own unions. The principle of free trade unions is not one that the Soviets espouse. They are more interested in having trade unions under government control. It is in this context of the right of the Polish workers to have free trade unions that I submit for the Record an article by Lance Gay of the Washington Star that reports the efforts of the AFL–CIO to assist the Polish workers in their quest for free trade unions.

It says Lane Kirkland, president of the AFL–CIO, has been supportive of the Polish workers by the help he has given to them. Articles written in Polish have been sent to Poland that tell the Polish workers the policies of the AFL–CIO as regards their union problems. The AFL–CIO has raised $140,000 to assist the Polish workers and $50,000 of it will go to a printing press that the Polish workers had desired. Lane Kirkland's statement that the Polish workers are "our brothers" can only encourage the Polish people that they are not the only party that is opposed to unions that are only extensions of the government.

My personal view is that Lane Kirkland and the AFL–CIO are an example of how powerful the principles of freedom are in the parts of the world that do not enjoy the convenience of the freedom of association. I pray that America realizes that the ability to join trade unions that are not under the government is an ability that allows the people of a nation to decide its own future. Lane Kirkland, has shown his bravery in opposing those elements who believe that the Western World should only "mind its own business" when it comes to crises within countries under foreign domination.

The Soviet Union has replied to the efforts of the AFL–CIO by declaring that such aid is against the "Polish people". A TASS report of December 4 says that the aid is going to "antisocialist forces" with the aim of shaking the "mainstays of socialism in Poland". These words by the Soviet media are not confusing. They are trying to say that the issue in Poland is one of systems, but it is not. What they deny is the fundamental right of a people to be able to participate in free trade unions, no matter whether the government is socialist or free.

Let me conclude, Mr. President, by asking the American worker to give support to Lane Kirkland and the AFL–CIO in his efforts.

The material follows:

[From the Washington Star, Dec. 3, 1980]

AFL–CIO KEEPS PLANS TO HELP POLISH UNIONS

(By Lance Gay)

Despite State Department objections, the AFL–CIO is stepping up its effort to assist Polish workers in their effort to establish a free trade union movement.

"We started slowly, but it's really starting to catch on now," an AFL–CIO aide said yesterday. "It takes us a while to gear up an operation like this."

The federation yesterday released the first copy of a Polish-language edition of the AFL–CIO Free Trade Union News' September issue that reported on the federation's move to support Polish workers. Some copies of it have been sent to Poland.

Tom Kahn, editor of the monthly publication, said the Polish edition was a "one-shot" effort "as a gesture of solidarity with the Polish workers."

Kahn said "a handful" of the 12,000 copies of the special 16-page edition are being sent into Poland.

"We are sending just enough copies into Poland so the leaders of Solidarity (the umbrella organization of the Polish free union movement) know what we are doing. Most of these copies will go to our own Polish trade union members" in this country, he said.

The Carter administration has been wary of the AFL–CIO's efforts, fearing it might help provoke the Soviet Union to intervene militarily to bring Poland back under strict Communist Party domination. "It's not particularly helpful, that's the sort of stuff that's very provocative if the Soviets are looking for an excuse to go in," said a State Department official.

But a spokesman for the State Department said there had been no effort to dissuade the federation from circulating the Polish leaflet. "Our position on this subject is well-known," he said, alluding to efforts by Secretary of State Edmund Muskie last September to head off the AFL–CIO's open assistance of the Polish workers movement.

A spokesman for the federation replied by noting AFL–CIO President Lane Kirkland's proclamation last September that said: "The Polish workers are on strike. They are our brothers."

"We seem to have developed a vested interest in having stability over there," said Kahn. "But we're not a government, we're a trade union movement. If another trade union movement asked for help and we didn't give it, what sort of a trade union movement would we be?"

The AFL–CIO has raised $140,000 since it launched its Polish Workers Aid Fund last September. Kahn said that $50,000 of that money has been spent on a printing press the Polish workers said they wanted.

AFL–CIO "SUBVERSIVE ACTIVITY" AGAINST POLAND VIEWED

Moscow, December 4.—TASS political analyst Vladimir Vashedchenko writes:

In an interview to the Washington Star, Tom Kahn, the editor of the Free Trade Union News Bulletin published by the AFL–CIO Trade Union Association, annouced that the AFL–CIO collected 140 thousand dollars for the so-called "fund of aid to Polish workers." 50 thousand dollars out of this sum was spent to purchase a printing machine to be shipped to Poland.

According to Tom Kahn the first imprint of the Free Trade Union News Bulletin in Polish in 12 thousand copies came off the press. A part of the imprint was already sent to Poland.

Publishing this report, the Washington Star stresses that even a representative of the State Department said that the contents of the bulletin are "highly provocative."

Somewhat earlier the General Council of the AFL–CIO announced the setting up of a special fund for financing the activity in Poland, the activity, which, as the Polish agency PAP noted, is hostile to the system in Poland and contradicts Poland's interstate alliances.

What is behind these proposals for "aid" first of all, it should be noted that these proposals come from the longstanding and sworn enemy of socialist countries who has been flatly refusing over many years to have any affairs or contacts with trade unions of socialist countries. Moreover, the AFL–CIO has long been conducting in close collaboration with the CIA the subversive activity against the progressive international movement. The ties between the AFL-CIO and the CIA are widely known and no secret is made of these ties in Washington.

It is characteristic that the lion's share of the total volume of the aid to foreign countries is channeled by the AFL–CIO to so-called "trade union training centers" which actually are nothing but fronts for the activity of the CIA.

So tens and hundreds of thousands of dollars that are now allocated by the AFL–CIO for "aid" to Poland are not at all aid, but are funds for subversive activity against the Polish people.

It is sought to take advantage of the events in Poland for instigation and direct backing of the antisocialist forces in their attempt to shaken the mainstays of socialism in Poland. This is, obviously, gross and open interference of the ready tool of U.S. imperialism in Poland's internal affairs.

TASS DENIES INVENTING BRZEZINSKI REMARKS ON POLAND

A veritable flurry has been caused in Washington by the fact that the public has learnt of instigative pronouncements of the U.S. president's Adviser for National Security Affairs Zbigniew Brzezinski during his recent meeting with some Polish "political scientists." As was noted in a TASS report, during the meeting Brzezinski actually urged that the "Polish opposition forces" should "give an armed rebuff" to the authorities, etc. During the conversation it was said that Poland and her economy entered "a period of anarchy". Terms of granting credits to Poland were discussed during this conversation. Poland's entry into the international monetary fund was advanced as one of the terms.

It is clear that such "pieces of advice" cannot be qualified by the Polish people, by the world public, including American, otherwise than a direct interference of the U.S. administration into Poland's internal affairs.●

AFL–CIO

● Mr. HATCH. Mr. President, perhaps one of the most important activities the AFL–CIO has engaged in is its assessment of world politics. Recent crises in Afghanistan and Poland have drawn the attention of the AFL–CIO leadership and its president, Lane Kirkland. Lane Kirkland has openly supported the Polish workers in their fight to obtain free trade unions and he has also condemned the Soviet Union for its invasion of Afghanistan. I cannot say too much about Lane Kirkland's courage in standing up for the principles of freedom and democracy which are essential to the working people of today.

With the attention given to the Polish crisis of today it is easy to forget that the AFL–CIO has long been active in international affairs. Before the AFL–CIO merger, the AFL had been wary of totalitarian advances in the international community. The leadership was keen enough to recognize that totalitarian governments inevitably would oppose free trade unionism, but the AFL felt that the Communists would be more difficult to deal with than the Nazis because of their apparent love of democracy and their image as a champion of workers.

The leaders of the AFL forecast that since Communists would have difficulty finding the numbers necessary to overthrow a government by revolution, they would have to concentrate on using covert methods to obtain their goals. By undemocratic means, Communists would hope to gain control of trade unions, which could then be used for multiple political purposes. The AFL determined that Communists could place officials in high political offices because of the close relationship between labor and government. By using the resources of trade unions it would also be easy to influence workers to think the way Communists wanted.

AFL leaders David Dubinsky, George Harrison, and Jay Lovestone had all visited Europe in the 1930's and were well aware of Communist intentions. One of their favorite tools was the political strike intended to stop all commerce and economic activity to the extent that the government was forced to give high positions in the government to Communists. With Communists in control of the police or security forces it would not be long before they could overthrow a government.

George Meany explained what happened to Czechoslovakia by saying "they tied up the city of Prague for 24 hours." By keeping communication, transportation, electricity, and services cut off, the government was compelled to give them official control of the Ministry of Internal Security. After that, it took only 7 days before the entire country fell. The AFL knew then that control of trade unions can give a coup the boost that it needs to consolidate its hold.

The AFL leadership has also been unwilling to join the Communists in democratic institutions. They believe that their tactics of terrorism and intimidation have no place in democratic societies.

I would like to submit for the RECORD an excerpt from an article written by Roy Godson in his book entitled "American Labor and European Politics" that describes the foreign policy of the AFL after World War II. I hope that my colleagues will pay close attention to the insight exercised by the AFL in regards to the Soviet Union.

The excerpt follows:

AMERICAN LABOR AND EUROPEAN POLITICS

(By Roy Godson)

The experience of the Russian trade unions after the Bolsheviks came to power also helped convince American labor that free trade unions could not exist for long in totalitarian societies. As Meany put it in 1945, referring to the government-controlled labor organizations in the Soviet Union:

"We believe that only through trade unions can the ideals, aspirations, and collective desires of workers anywhere on earth be implemented into constructive action for the improvement of the standards of labor. We believe in political freedom as well as economic freedom . . . how can the representatives of a government controlled and dominated [trade union] movement speak for the workers? How can they know what workers are thinking about . . . what they desire . . . just what ideals and principles they would have their representatives espouse and uphold? Where there is no freedom of the press, where there is no free speech . . . just how and by what method can the workers make known their ideals, aspirations, policies to individuals who are supposed to represent them?"

Thus, for the Federation's leaders, it has been a demonstrated fact that free trade unions cannot survive in a climate of totalitarianism. Although they might grant that there have been cases in which trade unions have been able to exist in less than total forms of dictatorship, the AFL leaders have believed that in the long run a free trade union movement can survive and flourish only in a democratic environment.

THE LEADERSHIP'S PERSPECTIVES ON INTERNAL THREATS TO DEMOCRACY AND FREE TRADE UNIONISM

Within democratic states, of course, antidemocratic groups can and do exist. The AFL leadership believed that in the twentieth century, domestic Communists and other totalitarian groups, such as Nazis, Fascists, and Falangists, would attempt to win control of and ultimately destroy democratic government. Such movements began as small, militant, well-organized groups united by a common ideology and a hierarchical party structure. They operated in a democratic environment in which most workers, although opposed to totalitarianism, were disunited. Moreover, the inability of some democratic societies to solve social and economic problems, or at least to alleviate miserable social and economic conditions, facilitated totalitarian takeover. *Most AFL foreign policy leaders believed to some extent in the "stomach theory" of authoritarian or totalitarian takeover.* As defined by President Green in testimony before the U.S. Senate, Communism thrives on poverty and distress. It gains strength at the lower levels because workers don't stop to think many times what causes the distress and poverty from which they suffer, and when there is some new method offered with a guarantee that "if you accept this method you will never go down to this position of poverty and distress again," they respond.

The post-World War II Communist movement seemed particularly menacing to the AFL leadership. The defeat of Nazi Germany left Moscow-directed communism as the principal threat to democracy and world peace. Furthermore, American labor leaders concluded that it was much more difficult to combat communism than nazism and fascism, because communism pretended to be the champion of labor and posed as a higher form of democracy, to which it tirelessly paid homage. In this very hypocrisy lay the key to the appeal of Communist fifth columns and their many fronts; it was the key to their possible success where the Nazis and the fascists had failed.

To American labor leaders, Communist parties operating in democratic countries under normal peacetime conditions had two available strategies—one overt, the other covert. The overt tactic was to seek power by attempting to bring about violent revolution. Alternatively, they could camouflage their aims, infiltrate the major groups and institutions of state and society, and maneuver themselves into power, either through the electoral process or through what would appear to be noncommunist violence. The AFL leaders have believed that the Communists usually adopted covert tactics, and necessarily so. They were too few in number and their aims had insufficient popular appeal for them to use overt methods.

The Communists employed the "boring from within" approach to obtain control of such strategic institutions as trade unions. A well-coordinated anti-democratic minority then used these institutions to destroy democracy. AFL leaders had been conscious of this strategy since the 1920s; they had personal experience of Communist attempts to take over American trade unions.

As ILGWU President David Dubinsky put it, defending the United States government's program of loyalty tests,

Our government is perfectly justified in defending itself—just as every other democratic institution is against the penetration by communist and other totalitarian termites. When communists enter government employment, they are entering not for the sake of serving the government of the American people, but only for the sake of utilizing positions of confidence and trust in the interests of another—a foreign power.

The AFL leaders believed that the Communists, if they could, would use trade unions for a variety of political purposes. First, by disseminating Communist propaganda in campaign contexts, they might secure the election of Communist candidates to national office or at least neutralize the effectiveness of anticommunist candidates. The organizational talent and muscle and the financial resources of labor could be influential and even decisive in shaping the political attitudes of workers. Second, unions could be used to infiltrate the government of a modern industrial state. Many high-ranking union officials serve on government industrial and economic commissions as nominees of their own movement. A Communist-controlled labor movement would presumably place communists in such influential positions.

The political as opposed to the economic strike was a third weapon, the AFL leaders believed, that could be utilized by Communist-controlled unions. "Economic strikes" might be defined as those called to improve the wages and conditions of union members, simply and directly. Such strikes, of course, often have political as well as economic effects. An increase in wages may lead to an inflationary spiral, thus creating political repercussions and undermining a government's popular standing. An economic strike, however, is not called to create such political repercussions. They are unintended side effects, and unions engaging in economic strikes will frequently try to hold political fallout to a minimum.

Political strikes, conversely, are called not to improve the lot of the workers but rather to produce desired political consequences—inflation, political and economic instability, or the removal of uncooperative officials. They turn the strike weapon on its head. Improvements in the conditions of union members, if such should result from a political strike, are strictly incidental. AFL leaders understood this use of trade union power. David Dubinsky, George Harrison, and Jay Lovestone all had visited Europe in the 1930's, when this technique was common.

By the end of the 1930s, many American labor leaders were familiar with the use of trade unions to support candidates and causes as well as with the political strike. But with the exception of Lovestone, a former leader of the American Communist party, they were less well informed about other important political uses of trade unions. During World War II and the first few postwar years, however, they began to realize that unions could be used for a considerable range of political purposes.

One of the most influential confirmations of this idea came from German Communist Richard Krebs, who settled in the United States in 1940 after 20 years as a Communist organizer. In 1941, Krebs, under the pseudonym of Jan Valtin, published a sensational and flamboyant autobiography, Out of the Night, which became a best seller. Krebs described his travels as a paid and dedicated Communist organizer, his capture and torture by the Gestapo, and finally his escape from both the Gestapo and the Russian secret police. Two-thirds of the book is devoted to describing Krebs' training and his organizing of trade unions for purposes of spying, staging coups d'état, and creating paramilitary organizations to serve Russian foreign and military policy.

Experiences in World War II also made the AFL leaders sensitive to the use of trade unions for subversion. European trade unions played an important part in the Resistance. Although few trade unionists have written about their experiences, many were involved in anti-Nazi espionage and sabotage. The head of the Belgian Seamen's Officers Union, Omer Becu, for example, worked for both British Intelligence and the American OSS. He supplied the Allies with trusted contacts in occupied Europe and, on the basis of information supplied by other trade union leaders, suggested improvements in Allied military operations. Based in London, he frequently visited the United States to consult with Arthur Goldberg, head of the OSS Labor Division. On these visits, he also made a point of meeting with AFL officials who were aware of the true nature of his work.

In addition, Dubinsky, Lovestone, and Woll had their own contacts with the underground in Europe. The AFL-supported Jewish Labor Committee was in almost daily contact with the underground in Poland and elsewhere. The Labor League for Human Rights, cosponsored by the AFL and the CIO, raised money for trade union victims of nazism and reported on the exploits of their contacts in occupied Europe.

Although Out of the Night increased their appreciation of the role unions could play in a coup d'état, it was not until the events in Czechoslovakia early in 1948 that all of the AFL leaders realized just how important unions could be. The Czech coup and contacts with exiled Eastern European trade union and socialist leaders indicated that control of key industries could be decisive.

As Meany explained,

> They get the machinery, that is all they want. They had less than fifteen percent in the Parliament; they did not have a newspaper; they did not own any industries. But they got control of a country where freedom is valued as highly as in this country . . . they tied up the city of Prague for twenty-four hours. No telephone, no bus, no radio, no hospital services, no milk, no mail service or anything else. They they went to the politicians in charge and they said, "Have we proved that we have the workers in this city with us—that we control the workers?" They wanted in and they got in. They only wanted one position, Minister of Internal Security. . . . Within seven days they had the entire country. Masaryk and Benes were dead. . . .

The principal targets were transportation, communications, electricity, and printing. Once these industries were controlled, they could be used in two ways. Political strikes could be employed to secure the entry of Communist ministers into a coalition government. The Communists would then insist on being given responsibility for the police and armed forces. If their demands were denied, they could insist at least that determined anticommunists not control these strategic ministries. Then, during the critical period of actual takeover, control of the key industries could be used to facilitate the putschists or impede the government's efforts to maintain itself. In some circumstances, denying the government access to printing presses in order to mobilize workers, or to transportation in order to mobilize armed forces, could be decisive.

The AFL leaders have known also that trade unions can be important for consolidating and maintaining power in the aftermath of a coup, revolution, or invasion. The Nazis attempted at once to win control of the trade unions in 1933; failing that, they they immediately destroyed them. The Nazis, Communists, Fascists, and Falangists set up labor fronts to help ensure their control and domination of the work force.

To AFL leaders, there appeared to be only two major methods of preventing the Communists from seizing control of democratic institutions and governments from within. Alleviation of the unbearable social and economic conditions that totalitarian groups exploited was the mosts important method. As William Green maintained in discussing the depression of the 1930s, "Our insistence upon equal opportunity for labor has been a bulwark against the fascist or communist tendencies." After World War II, Dubinsky told a French interviewer that in the United States, the "increasingly progressive role of the trade unionists is one of the main reasons for the recent loss of ground by the communists," and Green testified to a Senate committee that the AFL supported the Marshall Plan because it would help rectify the economic conditions that furthered totalitarianism.

The second method of preventing the Communists from gaining control of democratic institutions was to prevent them from joining and participating in the activities of these institutions. Every attempt by the AFL to cooperate with the Communists, or even to work alongside them, failed. In the view of the AFL leadership, the Communists were fanatics whose ideology and codes were the reverse of and incompatible with their own. The AFL leaders concluded that once the Communists were in control of an institution, particularly a trade union, it was almost impossible to dislodge them by democratic means. The human and material resources available to the Communists were, as a rule, superior to those of the disunited democratic forces. Moreover, the Communists used tactics such as terror and intimidation, unavailable to those who lived by democratic values. Democratic elements, therefore, could only try to prevent takeover by exposing and expelling active Communists.●

FINANCIAL JEOPARDY OF THE UNEMPLOYMENT COMPENSATION SYSTEM

● **Mr. WILLIAMS.** Mr. President, the 96th Congress should not pass into history without recognizing the disappointing fact that we have been unable, once again, to reach agreement on legislation to modify the harshly punitive conditions for repayment of Federal loans to States whose unemployment compensation trust funds were wiped out during the great recession of 1975 to 1977.

As the author of the first legislation to address this complex and worrisome problem in 1977, I am of course particularly disappointed. We have come closer this year than in the past Senate passage of the House bill, but time has run out once again on our efforts to insure that the unemployment insurance system will be preserved as our first line of defense against joblessness.

Six years have passed since the beginning of the great recession of 1975, a year that saw a national economic plunge that totally drained the reserves of the unemployment trust funds of 17 States. Seven more States exhausted their resources in 1976, two others were added to the list the following year, and another was so weakened by the earlier recession that its funds were depleted as the new recession settled in earlier this year.

All 27 of these States were forced to borrow from the Federal unemployment trust fund in order to continue paying even the first week of benefits to persons newly unemployed through no fault of their own. The vast majority of the States are located in the industrial North and Northeast, where unemployment rates rose to near-depression levels of 11 and 12 percent in 1976.

Over the past 3 years, most of the 27 States have been able to reduce their debts. A few with relatively small debts have been able to pay them off, but in some of these cases, they have had to borrow once again as the recession of 1980 took hold and drove joblessness to unacceptably high levels.

Aside from the ravages that unemployment inflicts on the general economy of a State or region, it also doubly jeopardizes prospects for recovery in areas where unemployment trust funds become exhausted. First, it results in sharply higher State unemployment insurance payroll taxes in order to replenish depleted reserves; in most States these higher taxes are levied automatically under State law. Second, States that are forced to borrow the necessary funds are confronted with an escalating Federal "penalty tax" if the loan cannot be repaid in full by the due date that is welded into law. That Federal penalty tax is levied on all employers in the State regardless of their layoff experience, and the revenue thus raised is applied against the loan balance.

The law does not take into account whether economic recovery has made it practicable, or even feasible, for the State to liquidate its debt; it simply requires that, if even $1 of the debt remains outstanding on November 10 of the crucial year, the Federal unemployment payroll tax on all employers in the State automatically is increased by 43 percent. That increase is doubled a year later, tripled the following year, quadrupled in the fourth year, and so forth, unless the State's debt is retired in full.

It is important to realize that the size of the State debts runs to much more than a few millions of dollars, or even a few hundreds of millions in some cases. One State currently has an outstanding debt of nearly $1.4 billion, dating back to 1975. Another owes the Federal treasury nearly a billion dollars. My own State of New Jersey, which had the highest unemployment rate of any State during the depths of the great recession, still owes $652 million, after making payments totalling $83 million since those bleak days. The total of outstanding debts among 16 States now is $4.7 billion, but that figure is expected to exceed $5.3 billion by the end of the year.

Obviously, States facing such dire prospects are among the last in which business leaders will establish new production facilities or expand existing operations. They are among the first from which businesses often plan to flee.

To confront these seeds of economic calamity in the industrial States, I designed in 1977 a program to cushion the financial impact of unemployment loan repayments forced upon them by the great recession.

My proposal would have authorized the Secretary of Labor to establish a schedule of repayments over a period of years, but only if the State met stringent standards of fiscal prudence in the operation of its unemployment insurance system. The schedule would obviate the provisions of current law that automatically levy the penalty tax and then double and triple that tax as years go by. For those States with continuing high rates of unemployment at recession levels or above, either the penalty tax or the scheduled payment, whichever applies, would be postponed a year so that the tax burden on employers would not be rising at a time when the State's economy is struggling to recover.

This proposal was incorporated as title III of S. 1853, the Unemployment Compensation Reform Act of 1977, which I introduced with the distinguished Senator from New York (Mr. JAVITS) and six cosponsors on July 13, 1977.

Title I of that legislation was a plan for Federal reinsurance of State unemployment insurance programs to prevent future incidents of financial collapse. Title II was a reformulation of current Federal programs providing additional weeks of unemployment benefits in States with unusually high rates of unemployment.

While the Congress did not act on S. 1853, during the 95th Congress, the legislation provoked widespread interest and a number of important studies, including those of the Federal Advisory Commission on Unemployment Insurance and the Interstate Conference of Employment Security Administrators. The issues it raised were among the most significant to be considered by the National Commission on Unemployment Compensation which began its work later that year after its creation by the Congress.

In 1979, Senator JAVITS and I revised the legislation somewhat and introduced it in the 96th Congress as S. 825. The revised bill, particularly title III thereof, was among the proposals that came under formal scrutiny and consideration by the Committee on Finance during this Congress.

The committee, after long and difficult deliberations, reported H.R. 4007, a House-passed bill addressing the loan repayment problems, with amendments that would achieve, to a substantial degree, the purposes of title III of S. 825.

Mr. President, the provisions of H.R. 4007 as recommended by the committee, while affording less protection for debtor States than I would have preferred, are acceptable to the government of my State and to me. Those provisions would cancel the penalty tax in any year in which the State repays any loans received in the previous 12 months plus an amount equivalent to the projected proceeds of the penalty tax.

In addition, H.R. 4007 would limit the amount of the penalty tax that can be levied on employers in a State, in the event a sufficient amount cannot be repaid and the penalty tax applies; in order to qualify for this limitation or "cap", State tax effort must be sufficient to cover the cost of benefits in that year and must not have been reduced during the year, and the solvency of the State unemployment program must not have been lessened as a result of State legislation changing the benefit structure of its program.

While H.R. 4007 itself was not passed by the Senate, its provisions were added to H.R. 8146, an emergency unemployment compensation bill that was adopted by the Senate without objection on October 1. Other issues raised in H.R. 8146 delayed its consideration by a conference committee, and in the final hours of this session, efforts to revive the vital loan repayment provisions have run aground for lack of time, but not for lack of determination.

My distinguished colleague from New Jersey, Senator BRADLEY, and other members of the Finance Committee, including Chairman LONG, and Senators BOREN and HEINZ, made repeated overtures to bring the matter before the Senate in its final hours. Their efforts merit the gratitude of the Senate, of the States which urgently need this opportunity to repay their debts in a rational manner, and of the workers of the Nation whose insurance against involuntary unemployment, and the financial disaster it can impose on them and their families, is at stake in this legislation.

Although the legislation was not passed this year, the need for it has been imbedded solidly in the priority concerns of the Senate, and I am confident that it will be among the important bills that will be considered early next year when the Congress addresses again the fundamental problem of revitalizing the Nation's economy.●

RECESS UNTIL 10:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 10:30 p.m.

There being no objection, the Senate, at 10:06 p.m., recessed until 10:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SASSER).

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

ORDER THAT HOUSE JOINT RESOLUTION 644 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message from the House of Representatives on House Joint Resolution 644 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONTINUING RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, Senators will recall that the Senate action earlier on the conference report on the continuing appropriations resolution provided for the restoration of the pay cap and that single amendment to an amendment in disagreement was sent back to the other body with a request for a conference and insistence on the Senate position.

The House has appointed conferees on that amendment in disagreement, and the papers are back in the Senate.

The House has also adopted a so-called clean continuing appropriations resolution, House Joint Resolution 644, which contains the original language of the House providing a pay cap to go off June 5, 1981, and eliminating all of the Senate amendments and some of the House amendments.

The distinguished chairman of the Appropriations Committee (Mr. MAGNUSON), the distinguished minority leader (Mr. BAKER), the distinguished assistant minority leader (Mr. STEVENS), the acting manager on the appropriations measure, and I have met and, in view of the fact that the House has gone out until 11 o'clock this evening, the hour, of course, is obviously late, and there may be considerable debate on the matter before it is finally resolved, we have, therefore, concluded that it would be best for the Senate to go over until Monday. I regret to say this. I had hoped that the Senate could complete action together with the House and adjourn sine die this evening.

The chairman of the Appropriations Committee (Mr. MAGNUSON) has offered to meet in conference with the House conferees on tomorrow afternoon, Sunday afternoon, in respect to the first resolution, House Joint Resolution 637, the only item in conference being that of the pay cap. I have conveyed this suggestion, this proposal, to the Speaker. He will get back to me on it. If the House conferees wish to meet tomorrow afternoon, Mr. MAGNUSON is prepared to do so, and so is Mr. STEVENS.

This being the situation, I know of nothing else to do than very shortly to recess over until Monday under the order.

Before I do so, I want to thank all of our colleagues who very patiently have waited around during the evening hoping to complete action on the continuing resolution, the deadline being Monday evening at midnight, but it appears this will not be realized so I am ready to recess.

I yield first to the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the majority leader for yielding. I agree with him. I think the better part of discretion and valor is to have this session recessed until Monday.

I thank all Members on this side who waited patiently in the expectation that we might have sine die adjournment tonight, but I would state that I am of the opinion that to try to go to conference would not only be counterproductive but might indeed produce results that we might regret later.

I have advised the majority leader and advised all that I can find on this side that I believe we ought to agree with the suggestion of the majority leader. I do indeed support his suggestion at this time.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that Mr. SASSER may be added as a conferee on House Joint Resolution 637, he being the author of the pay cap amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will meet and will make a decision as to what further action to take. It may be that in the meantime the conferees will have met on Sunday afternoon and will have resolved the outstanding difference between the two Houses with the pay cap on House Joint Resolution 613. In the alternative, the Senate on Monday will be in a position to decide whether to proceed to conference on that measure or whether to take up the so-called clean continuing resolution, House Joint Resolution 644.

RECESS UNTIL 11 A.M., MONDAY, DECEMBER 15, 1980

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 a.m. on Monday next.

The motion was agreed to; and the Senate at 10:44 p.m., recessed until Monday, December 15, 1980, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Saturday, December 13, 1980*

The House met at 12 o'clock noon.

PRAYER

The SPEAKER. The prayer today will be offered by a guest chaplain, a familiar face in these Halls, the Reverend Mr. Charles A. Mallon, permanent deacon, Holy Family Church, Mitchellville, Md.

The Reverend Mr. Charles A. Mallon offered the following prayer:

He who dwells in the shelter of the most high, who abides in the shadow of the Almighty will say to the Lord, "My refuge and my fortress: My God, in whom I trust." For He will deliver you from the snare of the fowler and from the deadly pestilence; He will cover you with His pinions, and under His wings you will find refuge; His faithfulness is a shield and buckler.—Psalms 91.

Father, as we approach the close of this 96th Congress, we ask Your blessing upon us and our families. Allow this awaited time of rest to be filled with Your healing power. Protect us from injury and harm and grant that during this adjournment we may experience Your peace throughout the world.

We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 570. Joint resolution to provide for a temporary increase in the public debt limit.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 442. An act for the relief of Isaac N. Hulver of Kansas City, Mo.;

S. 1624. An act for the relief of Francisco Pang;

S. 1784. An act to improve the electric generating efficiency of joint Federal-civilian pooling practices in Alaska, and for other purposes;

S. 1803. An act to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes;

S. 2227. An act to grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas; and

S. 2261. An act for the relief of Albert and Eulalia Rodriguez.

The message also announced that the Senate agrees to the amendments of the House of Representatives numbered 1, 2, and 3 to the amendment of the Senate to the text of the bill (H.R. 3317) entitled "An act for the relief of Ohio Wesleyan University, Delaware, Ohio."

The message also announced that the Senate recedes from its amendments numbered 1 to 16, 25, 26, 30, 31, 33, and 34 to the bill (H.R. 7112) entitled "An act to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes."

And that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 20 to 24, 27, 28, 32, 35, and 36 to the above-entitled bill.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate with amendments to the bill (H.R. 7865) entitled "An act to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate with an amendment to the bill (H.R. 2111) entitled "An act to extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate to the amendment of the House with an amendment to the bill (S. 1148) entitled "An act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5043. An act to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes.

H.R. 5047. An act to provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes; and

H.R. 7694. An act to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam.

The message also announced that the Senate had passed bills, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1824. An act to designate the "John D. Larkins, Jr., Federal Building";

S. 3227. An act for the relief of Benjamin Bane;

S.J. Res. 189. Joint resolution to establish a Commission on Presidential Nomination;

S.J. Res. 210. Joint resolution to grant posthumously full rights of citizenship to Douglas Clyde Macintosh;

S. Con. Res. 138. Concurrent resolution authorizing the printing of the prayers of the Chaplain of the Senate during the 96th Congress as a Senate document; and

S. Con. Res. 139. Concurrent resolution authorizing the Secretary of the Senate to make corrections in the enrollment of the bill (S. 2363), to authorize the establishment of the Georgia O'Keeffe National Historic Site, and for other purposes.

A TRIBUTE TO THE LEADERS OF THE HOUSE OF REPRESENTATIVES

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, last week, on Friday, December 5, 1980, I expressed my appreciation in the House of Representatives for the privilege of having served as a Member of Congress for 22 years. I spoke at that time during a special order which some of my colleagues in the House were kind enough to have taken to speak about my own service in Congress.

So I shall not here reiterate the gratitude I feel for having had the high honor of serving in this body.

Rather, Mr. Speaker, I take this time to extend my congratulations to the distinguished Speaker of the House, the Honorable THOMAS P. O'NEILL, JR., on his having been once more chosen by the Democratic Caucus to become the Speaker of the House of Representatives.

There is no doubt in my mind, Mr. Speaker, that TIP O'NEILL will come to be recognized as one of the greatest Speakers in the history of the House of Representatives. We who have served with him know him as a leader, a masterful politician, and a skilled legislative tactician but we know him as well as a

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

warm and kindly human being who has never flagged in his concern for the poor, the needy, and the vulnerable people of our society. Speaking more personally, Mr. Speaker, I will say that TIP O'NEILL has been my own friend and mentor since my coming to Congress, and for his friendship and guidance I shall always be grateful.

I want also, Mr. Speaker, to congratulate my friend and colleague, JIM WRIGHT, our distinguished majority leader, on his having once more been elected by his fellow Democrats to serve in that position in the 97th Congress. For the past 4 years, I have had the privilege of working closely with JIM WRIGHT and I can, therefore, testify from experience to his extraordinary skills as spokesman for the Democratic Party and for Congress as an institution. For his friendship, I am also grateful.

You will understand, Mr. Speaker, why I feel it particularly appropriate to say a special word about our distinguished colleague, TOM FOLEY of Washington, who succeeds me as majority whip of the House of Representatives.

I have known TOM FOLEY for 16 years and I have observed the wisdom and skill with which he has unfailingly handled his responsibilities both as chairman of the Democratic caucus and as chairman of the Committee on Agriculture.

Mr. Speaker, I have little doubt that TOM FOLEY will do an outstanding job as majority whip and I wish him every success in this new position of leadership.

The new chief deputy whip, another valued friend, BILL ALEXANDER of Arkansas, has also in the 12 years he has served in the House, won the respect of his colleagues. He has been a diligent and articulate member of the whip organization and will be an effective ally of Speaker O'NEILL, Majority Leader WRIGHT, and Majority Whip FOLEY.

Finally, Mr. Speaker, I want to pay tribute to another friend and colleague in the House, DAN ROSTENKOWSKI of Illinois.

DAN served with great distinction as chief deputy whip and now assumes the very important responsibility of chairman of the Committee on Ways and Means.

DAN ROSTENKOWSKI and I came to the House together and so our friendship as well as our careers have been closely connected for 22 years. I know he will perform with great ability and dedication in his new position.

Mr. Speaker, although I have taken this time to pay tribute to my fellow Democrats who will be leaders in the new Congress, I cannot fail to say a word of congratulations to the new minority leader of the House, BOB MICHEL of Illinois. BOB will be a worthy successor to another friend and colleague, JOHN RHODES of Arizona.

I remember, particularly, Mr. Speaker, traveling on two occasions to the Soviet Union with BOB MICHEL, once in 1975 under the leadership of then Speaker Carl Albert, and the other, in 1979, when I chaired a delegation of 17 Members of the House who met with members of the Supreme Soviet of the Soviet Union for talks on a wide range of issues affecting the relations between our two countries. BOB MICHEL served as vice chairman of our delegation and I could not have had a better one. BOB MICHEL will be a vigorous spokesman for his party in the House of Representatives and I wish him success in his new responsibilities, but not too much.

Mr. Speaker, I wish my colleagues on both sides of the aisle a Merry Christmas and a Happy New Year.

ANNOUNCEMENT OF INTENTION TO CALL UP UNDER SUSPENSION OF RULES S. 2720, TRANSPORTATION ACT OF 1980

Mr. HOWARD. Mr. Speaker, pursuant to House Resolution 821, I give notice that later today I may move to suspend the rules and agree to Senate amendments to S. 2720, the Surface Transportation Act of 1980, if the other body has acted.

THE EL SALVADOR PROBLEM

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise an extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, I rise for the third suggestion to President Carter before the termination of his term on January 20. It has to do with what I have considered to be the most serious problems, although it is not rated that way, confronting the United States involving the smallest nation in what we call Latin America, El Salvador. I am suggesting to the President that he not wait, that he convoke a meeting of the leadership, the Secretariat of the Organization of American States, in order to conduct in a collective way, in a Western Hemisphere collective way, and thereby generate an American leadership on a coequal basis to intervene in and help mitigate the bloodiest goings-on in the world. Thousands of people have died in just a year's time in El Salvador, which is the smallest nation in Latin America, and it has ominous implications for the United States unless we do help in constructive ways to restore order.

It does contemplate working within the harmonious transition in the United States of administrations. It does not repeat the terrible sin of the Republicans when President Eisenhower broke relations with Cuba right before President Kennedy was to take office, given President Kennedy a fait accompli he was never able to overcome.

ROBERT R. HALE: KENTUCKIAN

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. PERKINS. Mr. Speaker, today I received the distressing news of the passing of Robert R. Hale, one of the great citizens of my home State of Kentucky.

He died peacefully in his sleep at his home in Morganfield, Ky.

During the five or six decades of his adult life, Bob Hale was a builder and a booster for his State and for his county and hometown. He was active in business, banking and political circles virtually all of his life.

In later years, this big jovial, hearty, friendly man became one of the Nation's most enthusiastic backers of the Job Corps.

The old Camp Breckinridge Army base had been built in that farming community in western Kentucky during World War II, and the facilities lay idle for a number of years thereafter.

It occurred to Bob Hale and others that this would be an ideal place for a Job Corps center—a place where young people from the cities and distressed rural areas of the county could be taught the skills needed to make them useful, contributing members of society.

In the early days of the Job Corps, it was sometimes thought a risky thing to thrust several hundred high spirited, untrained, undisciplined young men into a quiet rural community. But Bob Hale saw that there were advantages to both the community and the youngsters in such a pairing.

Almost single-handedly, he sold the Job Corps to his town and county—and he sold the advantages of an out-of-the-way rural community to the Job Corps. He was right, for the chemistry of Morganfield and Job Corps was found to be eminently compatable.

Today, no town in America is prouder of having a Federal facility in its midst, and no graduate of the Job Corps Center leaves Morganfield and Union County without a special fondness for that area.

And Bob Hale's happy, smiling face has beamed over it all.

Since the death of his wife a few years ago, Bob Hale adopted the Earle C. Clements Job Corpsmen as his own family, and I am sure that those graduates, looking back, will always remember that kindly, courtly southern gentleman.

Bob Hale believed the greatest treasure man could lay up on Earth was not silver, not gold, and not diamonds—but friends. If the thought of not liking a fellow human being ever crossed his mind—and I am sure it never did—he would have disposed of it like a bad oyster. But that possibility was only academic. Bob Hale knew only friends.

One of his oldest and closest was his distinguished fellow townsman, Earle C. Clements, the former U.S. Senator of Kentucky, the former Governor, former Member of this House, and one of the great men our Commonwealth ever produced.

Earle Clements and Bob Hale were inseparable companions. If his universe had two poles, they were "Mr. Earle," as he called the Senator, and the Job Corps.

It was Bob Hale who conceived the idea of naming the Job Corps Center at Breckinridge in honor of its great patron and champion. And just this past autumn, the House and Senate passed legislation making it the Earle C. Clements Job Corps Center—just in time for rechristening on the Senator's 84th birthday on October 22. It was a great celebration, and Bob Hale was in seventh heaven.

And now, just a few weeks later, Bob Hale, my old friend of more than 40 years is gone. Kentucky has lost one of its most loveable citizens. But no one will ever remember him—except fondly.

ILLEGAL HAITIANS FLOWING TO SOUTH FLORIDA

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, as we close this session, I would like to bring a situation that is occurring in the Caribbean to the attention of the House, and I certainly hope the outgoing administration and the incoming administration will address this problem. That is the problem of illegal Haitians flowing into south Florida. There is a standing order by the Bahamian Government to exclude all Haitians from the Bahamas by January 18, 2 days before the inauguration. We hope that we can get some agreement with the outgoing administration and the new administration to do something about this order so that those Haitians, estimated to be at approximately 20,000, will not flow into south Florida during this transition period.

I urge those administrations, both administrations, to take immediate action because January 20 will be 2 days too late.

POSTMASTER GENERAL ESTABLISHES SPECIAL RATES FOR PACKAGES TO ITALIAN EARTHQUAKE VICTIMS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the American people are responding in an outpouring of generosity to those suffering from the disastrous earthquake which struck southern Italy 3 weeks ago. Many of the victims are relatives or family friends of Americans. In an effort to facilitate this response, I wrote to the Postmaster General on December 8, to request the establishment of special, reduced postal rates on packages from the United States to earthquake victims.

I am happy to report that Thursday the Postmaster General advised me that he will shortly put in place arrangements allowing Americans to expedite parcels to relatives and friends in the areas affected by the earthquake at reduced rates. The program will apply exclusively to parcels of 22 pounds maximum addressed to individuals or families in the earthquake affected area over a 60-day period. The parcels will be airlifted to Italy but will be accepted at the international surface postage rate plus a $2 surcharge.

Once more, the American people are demonstrating their compassion for friends in need during a crisis. It is my hope that these special arrangements to be instituted by the Postmaster General will help to translate that compassion into increased assistance for a people with whom we have had a special and enduring friendship.

□ 1210

TAX EQUITY PREFERABLE TO TAX BREAKS

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, President-elect Reagan has properly established task forces to assist in the transition process. Unfortunately as vested interest groups gravitate to influence task force recommendations there becomes a built-in propensity to excess. I would like to urge the new administration to look with skepticism at several proposals the energy policy task force made yesterday. The task force recommended that the windfall profit tax on petroleum companies be "restructured and phased out on an accelerated basis" and that corporations be allowed to bid together in consortiums rather than in competition with each other on large-tract leases for mineral rights on the Continental Shelf. If these proposals are adopted, competition in the petroleum industry would be reduced and significant new revenues would flow to oil companies instead of the Treasury. The possibility of an income tax cut next year would become inconceivable. The whole Reagan economic plan would be jeopardized on the altar of oil company greed. Let us be reasonable and recognize that tax equity for society rather than tax breaks for the few is the proper goal of public policy.

LEGAL SERVICES LAWYERS WANT TO PRESS THEIR IGNORANCE ON OUR SCHOOLS

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, I have often pointed out how self-appointed bureaucrat/activists pursue their own narrow goals of forcing their liberal views on local governments, schools, and our citizens in general. No example illustrates the problem better than the effort of Legal Service Corporation (LSC) attorneys to operate as a mini-department of education. I have noted their use of lawsuits to invade State and local control of schools in areas like "black English." Consider their efforts in the controversy over minimal competency testing.

Some 37 States have adopted some form of such testing as a means of insuring that their high school diplomas, already seriously devalued, do not become completely worthless. That is more States than have ratified the equal rights amendment. If a Federal agency were to subsidize lawsuits designed to overturn State ERA ratifications, you can be sure that liberals everywhere would accuse that agency of violating the basic principles of federalism and of representative democracy. And they would be right.

Schools exist to teach essential skills, not to distribute meaningless pieces of paper. As Florida Education Commissioner Ralph Turlington put it, giving youngsters a high school diploma if they have not mastered the basic skills covered by Florida's State student assessment test means giving them "a Wizard of Oz diploma that's not going to help them."

According to Commissioner Turlington:

> The Wizard of Oz presented things to people too. But then he told them it was all humbug. . . . If a student gets a diploma without having those skills, he can't get much of a job or he can't hold onto it. It's not having those skills that really hurts people, not whether they have the diploma.

Anywhere outside a courtroom, Commissioner Turlington's position would seem so self-evident as to be hardly worth discussing. But decadent modern liberalism has an impressive ability to confuse symbols and realities, an ability which makes 14th-century metaphysics seem positively straightforward by comparison. Unfortunately for Florida's students, the Legal Services Corporation took an interest in the State's testing program. Tax-supported lawyers from Bay Area Legal Services and the LSC Center for Law and Education set out to convince a Federal judge that the program violated the civil rights of black students, who were more likely to fail the test than white students. They told the judge that students have a "property right" to a diploma, and obtained a court order delaying use of the test as a graduation requirement until 1983 (*Debra P.* v. *Turlington,* 474 F. Supp. 244, M.D. Florida, July 12, 1979). They thus grafted onto Federal case law the patronizing assumption that it is worse to be labeled illiterate than to be illiterate.

It could have been even worse, since the judge did not grant the Legal Services lawyers everything they wanted. They wanted him to prohibit Florida schools from using the test scores to structure remedial classes for students who failed, on the ground that such classes would be disproportionately black and would, therefore, act as "a mechanism for resegregating." Had this argument prevailed, the schools would have been hamstrung in their efforts to give extra help to the students who need it most.

Public education in a democracy has to seek a balance between two ideals, excellence and equality. Ironically, modern liberalism's flagrant neglect of excellence has actually undermined the cause of equality. Grade inflation and social promotion have produced a whole generation of young Americans who in effect have been lied to. The campaign against testing programs only prolongs that lie, at the direct expense of the very group the liberals claim to be helping. It also cheats the students who are able to pass the tests—a group which includes some 80 percent of Florida's black high school seniors—by turning their diplomas into counterfeit currency.

If the new Department of Education

were to attempt what the Legal Services Corporation is doing in this area, it would be blocked by statutory prohibitions on interfering with State and local control of education. LSC has shown that it is even more ignorant of the essentials of good education than the new Department is, and even more aggressive in its contempt for local autonomy. It must be stopped, and in the 97th Congress, this will be one of my first goals.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 637, FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–1536)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution "making further continuing appropriations for the fiscal year 1981, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 10, 20, 26, 32, 68, 86, 88, 91, 96, 98, 107, 110, 116, 117, 118, 126, 130, 131, 137, 138, 145, and 147.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 6, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 27, 29, 35, 36, 37, 38, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 66, 67, 69, 70, 94, 95, 97, 100, 102, 104, 105, 106, 108, 112, 114, 115, 119, 120, 121, 122, 125, 128, 132, 133, 142, 143, 144, and 146, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert ", except that the amount for the Postal Service shall be $1,250,000,000 as provided by section 117 of Public Law 96–369"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert ", provided that no payment shall be available for the International Development Association except for $20,000,000 for the Fourth Replenishment as authorized,"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the first sum named in said amendment, insert the following: "$5,900,000,000" and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert : *Provided further,* That appropriations made available by this joint resolution for the Economic Support Fund for the fiscal year 1981 shall be increased by $40,000,000 which shall be available only for Jamaica"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$101,300,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "and notwithstanding any other provision of law, there shall be available from the Bonneville Power Administration Fund an additional amount not to exceed $20,000,000 for fiscal year 1981, not subject to apportionment, for not to exceed 181 additional full-time employees, as determined to be necessary by the Administrator, and other necessary expenses for the prompt implementation of the Pacific Northwest Electric Power Planning and Conservation Act of 1980"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "June 28, 1981"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "110(a)"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "$729,000,000 of new budget authority shall be available during fiscal year 1981; notwithstanding subpart (4) of part A of title IV of the Comprehensive Employment and Training Act, new budget authority for the youth employment and training program under subpart (3) of part A of title IV of that Act shall be at the annual rate of $746,000,000"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$315,036,000" and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$2,500,000"; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 129. To provide an additional $3,000,000 to the amounts otherwise provided by this joint resolution for the Department of the Treasury's Federal Law Enforcement Center: *Provided*, That not to exceed $3,000,000 of this amount may be used for travel.

And the Senate agree to the same.

Amendment numbered 63: That the House recede from the disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$1,500,000"; and the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$7,000,000"; and the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 138. No part of any appropriation contained in this or any other Act shall be used to prosecute or defend in the United States District Court for the District of Columbia the case of Merit Systems Protection Board against Mary Eastwood, Civil Action File Numbered 80–2970, or any other similar court case brought against the Office of the Special Counsel or officers or employees of the Office of the Special Counsel beginning seven days after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$2,000 000"; and the Senate agree to the same.

Amendment numbered 92: That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 159. Notwithstanding section 101 of this joint resolution, there is hereby appropriated $87,000,000 for the National Health Service Corps.

And the Senate agree to the same.

Amendment numbered 93: That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 160. Notwithstanding any other provision of this joint resolution except section 102, the funds appropriated under section 314(d) of the Public Health Service Act shall be at an annual rate of $41,000,000.

And the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 166. Notwithstanding any other provision of this joint resolution, $277,000,000 for aging social services and centers shall be available under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981.

And the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$21,000,000" and Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 180. Notwithstanding any other provision of this joint resolution, there is hereby appropriated an additional amount of $72,500,000 for the Department of Transportation for the fiscal year ending September 30, 1981, to remain available until expended, to enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, including payment of additional operating expenses of the Corporation, resulting from the operation, maintenance, and ownership or control of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976: *Provided*, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the President of the National Railroad Passenger Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status.

And the Senate agree to the same.

Amendment numbered 124: That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 191. (a) Notwithstanding any other provisions of this joint resolution, out of the funds available to the Federal Buildings Fund, limitations on the availability of revenues and the associated building projects are approved as follows:

Construction and Association of Facilities: $106,420,700, as follows:

New Construction:

Arizona:

San Luis, Border Station, $6,242,000.

California:

Otay-Mesa, Border Station, $12,105,700.

Redding, Federal Office Building/Courthouse, $12,844,000.

Kentucky:

Ashland, Federal Office Building/Courthouse, $6,938,000.

Maine:

Houlton, Border Station, $3,409,000.

Nebraska:

Omaha, Federal Office Building, $40,733,000.

Wisconsin:

Madison, Federal Building/Courthouse, $2,827,000.

Illinois:

East St. Louis, Courthouse and Parking Facility, $2,460,000.

Purchase:

Virginia:

Charlottesville, Federal Executive Institute, $3,070,000.

Acquisition and improvements of United States Postal Service Properties, $15,792,000.

Repairs and alterations: $80,253,000, as follows:

California:

Pasadena, Federal Center, $9,864,000.

Connecticut:

New Haven, Courthouse, $6,800,000.

District of Columbia:

Department of Agriculture South, $2,545,000.

Health, Education, and Welfare North, $3,934,000.

Department of Justice, $1,740,000.

Lafayette, $864,000.

Old Post Office, $12,445,000.

Mary E. Switzer, Federal Building, $3,928,000.

Florida:

Miami, Post Office, Courthouse, $2,670,000.

Tallahassee, Post Office, Courthouse, $961,000.

Tampa, Federal Building, Courthouse, Post Office, $2,008,000.

Georgia:

Savannah, Federal Building, Courthouse, $1,363,000.

Illinois:

Chicago, Federal Building, 536 South Clark Street, $550,000.

Kentucky:

Lexington, Post Office, Courthouse, $1,500,000.

Louisiana:

Baton Rouge, Federal Building/Courthouse, $700,000.

New Orleans, Hale Boggs Federal Building, Courthouse, $1,425,000.

Missouri:

Kansas City, Courthouse, 811 Grand Avenue, $735,000.

New Jersey:

Newark, Federal Office Building, 20 Washington Place, $560,000.

New York:

New York, Federal Office Building, 201 Varick Street, $5,661,000.

New York, Customhouse, One Bowling Green, $7,192,000.

Oregon:

Portland, Courthouse, $2,634,000.

Texas:

Dallas, Earle Cabell Federal Building, Courthouse, $900,000.

Houston, Federal Building, Courthouse, 515 Rusk Avenue, $2,446,000.

Virginia:

Arlington, Pentagon, $2,969,000.

McLean, CIA Headquarters, $2,274,000.

Washington:

Seattle, Courthouse, $1,585,000.

(b) Notwithstanding any other provisions of this joint resolution, out of funds available to the Federal Buildings Fund, the limitations on the availability of revenues for nonprospectus repair and alteration projects is reduced by the sum of $13,242,000.

And the Senate agree to the same.

Amendment numbered 135: That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

Sec. 202. Notwithstanding any other provision of law or any other provision of this joint resolution, no funds appropriated for uses by the Department of the Interior or any other agency of the United States Government may be used for any administrative act by any agency of the United States or agent thereof which would apply either the acreage limitation or residency provision of the Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto) in the fiscal year commencing October 1, 1980, to lands in the Imperial Irrigation District of California.

And the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 7, 23, 24, 28, 30, 33, 34, 40, 61, 64, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 89, 90, 103, 109, 111, 123, 127, 129, 134, 136, 139, 140, 141, and 143.

Jamie Whitten
(except amendments
Nos. 116 and 12).
Edward P. Boland
(except amendments
Nos. 116 and 12).
William H. Natcher,
Neal Smith,
J. P. Addabbo,
Clarence D. Long,
Edward R. Roybal,
Gunn McKay,
Tom Bevill
(except amendments
Nos. 116 and 12).
Robert Duncan,
Adam Benjamin, Jr.,
J. C. Dixon,
Silvio O. Conte,
Robert H. Michel
(except amendments
Nos. 116 and 12).
Mark Andrews,
Jack Edwards,
John T. Myers,
Managers on the Part of the House.

Warren G. Magnuson,
Daniel Inouye,
Lawton Chiles,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Dick Schweiker,
Henry Bellmon,
Lowell P. Weicker,
James A. McClure,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 637), making further continuing appropriations for the fiscal year 1981, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

RATE OF OPERATIONS UNDER H.R. 7583

Amendment No. 1: Inserts language proposed by the Senate amended to read as follows: ", except that the amount for the Postal Service shall be $1,250,000,000 as provided by Section 117 of Public Law 96–369".

The Conferees are agreed that the appropriation to the Postal Service for fiscal year 1981 is the $1,250,000,000 appropriated in Public Law 96–369. No further appropriation for the Postal Service is provided in this act.

The Conferees direct the Postal Service to continue six-day delivery of mail as at present, including Saturday delivery of mail in business and residential areas and on rural delivery routes.

U.S. POSTAL SERVICE TRAINING FACILITY

Amendment No. 2: Deletes language proposed by the Senate which would have prohibited the Postal Service from establishing a training facility in Potomac, Maryland.

Amendment No. 3. Agrees to the language proposed by the Senate which has the effect of allowing program limitations to be utilized for callable capital for the International Bank for Reconstruction and Development and the Asian Development Bank.

Amendment No. 4. Amends the language proposed by the Senate to read as follows: ", provided that no payment shall be available for the International Development Association except for $20,000,000 for the Fourth Replenishment as authorized,".

This eliminates $1,052,000,000 in funds for the Sixth Replenishment of the International Development Association because no authorization has been enacted.

Amendment No. 5. Provides for the Export-Import Bank that gross obligations for the principal amount of direct loans shall not exceed $5,900,000,000 instead of $6,429,000,000 as proposed by the Senate and $5,364,000,000 as proposed by the House and also provides that commitments to guarantee loans shall not exceed $7,559,000,000 as proposed by the Senate instead of $6,815,000,000 that in effect was proposed by the House.

Amendment No. 6. Appropriates an additional $6,100,000 for the United Nations Development Program as proposed by the Senate.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows: "not exceed $500,000,000: Provided further, That an overall ceiling for Foreign Military Credit Sales loans and grants of $3.046.187.000 is hereby established provided that of these funds $25.000.000 shall be for Oman and $6.000.000 for Kenya".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This language has the effect of reducing budget authority by $247.637.500. The ceiling proposed by the House was $2.976.375.000 and that proposed by the Senate $3.116.000.000.

Amendment No. 8. Provides that the rate for Peacekeeping Operations shall be that contained in H.R. 7854 as reported by the Committee on Appropriations July 29, 1980. This provides an additional $3.9 million for the Sinai Support Mission.

Amendment No. 9. Allows funds for the victims of the Italian Earthquake to remain available until expended, as proposed by the Senate.

Amendment No. 10. Restores the language stricken by the Senate. This provides $2,000,000 for the new African Development Foundation.

Amendment No. 11. Appropriates $40,000,000 for Jamaica in Economic Support Funds as proposed by the Senate. The Conferees are in agreement that it was not intended to place a ceiling on funds for Zimbabwe under the Southern African Regional Program.

Amendment No. 12. Provides continued funding for the operations of the Legislative Branch, notwithstanding Section 102, sets December 31, 1980, as the termination date on the application of Section 306(a), (b), and (d) of H.R. 7593, and substitutes the phrase "90 percentum of the current" for "the current" in the application of Section 101(d) of the joint resolution as it relates to the activities of the Senate, as proposed by the Senate, instead of the language providing continued funding for the operations of the Legislative Branch, and setting June 5, 1981, as the termination date on the application of Section 306(a), (b), and (d) of H.R. 7593, as proposed by the House.

COUNCIL ON WAGE AND PRICE STABILITY

Amendment No. 13. Inserts language proposed by the Senate which appropriates $3,250,000 for salaries and expenses only for the period of December 15, 1980 through March 31, 1981.

Amendment No. 14. Deletes language proposed by the House which would have provided that the National Health Service Corps program be funded at the current rate of operations. The conference agreement on amendment No. 92 provides that these activities shall be funded at an annual rate of $87,000,000 during fiscal year 1981 rather than at the current rate.

Amendment No. 15: Retains language added by the Senate clarifying that section 101(d) of the resolution, which provides funding for certain unauthorized activities, includes authority to award new nursing student loans.

Amendment No. 16: Delete the word "and" as proposed by the Senate.

Amendment No. 17: Inserts "obligational authority" as proposed by the Senate, instead of "obligations" as proposed by the House.

Amendment No. 18: Inserts semicolon as proposed by the Senate.

Amendment No. 19: Inserts language proposed by the Senate under section 101(d) of the joint resolution, which permits activities under title IV, part C of the Elementary and Secondary Education Act to be continued at a rate of operations not in excess of the current rate.

Amendment No. 20: Deletes language proposed by the Senate which would permit State medicaid fraud control units to be funded at the current rate of operations and to continue to receive Federal matching at 90 percent. The conferees are aware that the subject of Federal funding of State medicaid fraud control units has been covered by the Omnibus Reconciliation Act of 1980, Public Law 96-499.

Amendment No. 21: Inserts language proposed by the Senate which provides that all terms and conditions under title IV, Part D of the Education Amendments of 1980, shall be effective on July 1, 1981, instead of only paragraph 446 as proposed by the House.

The managers agree that the change in effective date to not later than July 1, 1981 on the National Direct Student Loan program is intended to apply only to the interest rate, grace period, deferral periods, and loan limits of the loans.

Amendment No. 22: Retains language proposed by the Senate which appropriates an additional $1 million over the amount provided by the House for refugee assistance. These funds are to be used to compensate State and local governments for the costs resulting from the prosecution or incarceration of Cuban or Haitian refugees. The House bill provided that assistance to Cuban and Haitian refugees be funded at the rate proposed in the President's budget, which did not provide funds for this purpose.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: "as enacted by the Congress".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: ": *Provided*, That there is hereby authorized an appropriated an additional $1,543,000 to be available for such entitlement period for allocation to the State of Hawaii".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 25: Appropriates $101,300,000 for Department of Energy, Plant and Capital Equipment, Atomic Energy Defense Activities, instead of $65,300,000 as proposed by the House and $110,300,000 as proposed by the Senate. This will provide an additional amount of $36,000,000 for Project 77-13-f, Waste Isolation Pilot Plant, Delaware Basin, Southeast New Mexico, for the following activities: site and preliminary design validation, $11,000,000; site protection, $12,000,000; architect-engineering studies, $5,000,000; technical support $2,000,000; and long-lead procurement, $6,000,000. Should the Department consider it necessary to reallocate this funding among these activities, or for any other project purposes, the Department shall follow established reprogramming procedures for prior approval by the Committees on Appropriations.

Amendment No. 26: Deletes language proposed by the Senate which would have earmarked funds for Project 77-13-f, Waste Isolation Pilot Plant, Delaware Basin, Southeast New Mexico, to specific purposes. The allocation of funds is covered in the Statement of the Managers associated with Amendment No. 25.

Amendment No. 27: For the Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, $39,000,000 is appropriated for operation and maintenance, general as proposed by the Senate and $65,000,000 is appropriated for flood control and coastal emergencies as proposed by the Senate.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language relating to the Grays Harbor and Chehalis River and Hoquiam River, Washington project.

The language relating to the Grays Harbor and Chehalis River and Hoquiam River, Washington project is not to be construed to authorize the navigation improvements and channel modifications in the Chehalis River upstream from the Union Pacific Railroad bridge between Aberdeen and South Aberdeen.

Amendment No. 29: Deletes the word "and" as stricken by the Senate.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language relating to the Verdigris River and tributaries project, Oklahoma and Kansas, and the Shidler Reservoir, Salt Creek, Oklahoma project.

The fiscal year 1980 Supplemental Appropriation Act as well as the fiscal year 1981 Energy and Water Development Appropriation Act provides funds to enable the Corps of Engineers to clean out the channel below Sardis Lake, Miss. This action was taken in response to statements made in the hearings which indicated that rock and gravel are clogging the channel below Sardis Lake and retarding the flow of water during the nonfarming season and causing major flooding of an emergency nature. To date, this much needed work has not been accomplished.

The conferees wish to reemphasize remarks contained in the reports accompanying the fiscal year 1980 Supplemental Appropriation Bill and the fiscal year 1981 Energy and Water Development Appropriation Bill and again direct the Corps to clean out the channel beginning below Sardis Lake in order to increase the flow capability to get water out of the reservoir in the non-farming period of the year.

The material to be disposed of from this project is not to be deposited on adjacent farmland, rather the Corps is to use slashes, sloughs, pot holes, and other poor farmland in the general area.

The Appalachian Regional Commission is directed to accelerate the construction of a new two-lane Highway 72 in Mississippi as presently planned which parallels the existing highway. In Public Law 95-482, Congress provided $6 million to the Appalachian Regional Commission for the Goodman Road project in Marshall and Benton Counties, Miss. The Appalachian Regional Commission should proceed with the work on Goodman Road in such manner that a reasonable percentage of the road can be completed in each year that the local share is made available.

Amendment No. 31: Inserts provision for additional funding and staffing for the Bonneville Power Administration in order to implement P.L. 96-501, the recently enacted Pacific Northwest Electric Power Planning and Conservation Act of 1980 during fiscal year 1981, as proposed by the Senate, amended to read as follows: "and notwithstanding any other provision of law, there shall be available from the Bonneville Power Administration Fund an additional amount not to exceed $20,000,000 for fiscal year 1981, not subject to apportionment, for not to exceed 181 additional full-time employees, as determined to be necessary by the Administrator, and for other necessary expenses for the prompt implementation of the Pacific Northwest Electric Power Planning and Conservation Act of 1980".

The House Resolution had no similar provision. Subsequently, P.L. 96-501 was passed by the Congress and signed into law, imposing significant new duties and responsibilities on the Bonneville Power Administration. The managers are in agreement that the Bonneville Power Administration should proceed promptly with the implementation of the Pacific Northwest Electric Power Planning and Conservation Act. Thus, the Resolution waives the usual apportionment process and provides additional staff positions so that BPA can proceed immediately to carry out these new responsibilities consistent with the policies established and reaffirmed in P.L. 75-329, P.L. 93-454 and section 302(2)(3) of P.L. 95-91 that were intended to free the Administration from the requirements and restrictions originally applicable to the conduct of Government business and to enable the Administration to conduct the business of the Bonneville Power Administration with a freedom similar to that which has been conferred on public corporations carrying on similar or comparable activities. The conference agreement limits the amount not subject to apportionment to the additional funding and positions made available for fiscal year 1981 in this joint resolution rather than the total fiscal year funding as proposed by the Senate.

Foods stamps and energy assistance payments

Amendment No. 32: Deletes Senate language which proposed to exclude low-income energy assistance payments to utilities from being counted as income under the food stamp program. The conferees intend that, to the fullest extent administratively possible, beneficiaries of home energy assistance should not have food stamp benefits reduced as a result of a State's use of vendor payments to deliver benefits under the Home Energy Assistance Program. The conferees will expect that any future regulation will adhere to the statutory authority establishing a low-income energy assistance program.

DEPARTMENT OF AGRICULTURE

Amendment No. 33. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate Amendment with an amendment, as follows: In lieu of the matter striken and inserted by said amendment, insert the following:

(k) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in such Act as enacted by the Congress.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

"In lieu of the matter stricken and inserted by said amendment insert the following:

"(l) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such Act as enacted by the Congress."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 35: Inserts language providing continuing authority for the HUD-Independent Agencies Appropriation bill at the rate enacted by the Congress as proposed by the Senate, instead of at the rate provided for in the conference report filed in the House of Representatives on November 21, 1980, as proposed by the House.

Amendment No. 36: Provides that the level for programs included in the Interior and Related Agencies Appropriation Act, 1981 shall be at the level enacted by the Congress as proposed by the Senate instead of as adopted by the House of Representatives on November 21, 1980.

Amendment No. 37: Provides continuing authority for the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584) to the extent and in the manner provided for in such Act as enacted by the Congress except section 606 of such Act, as proposed by the Senate, instead of to the extent and in the manner provided for in such Act as adopted by the House of Representatives on November 21, 1980, as proposed by the House.

Amendment No. 38: Provides funds for the International Monetary Fund as proposed by the Senate. An identical appropriation measure, H.J. Res. 601, was previously passed by the House on September 25, 1980 by a vote of 224 yeas to 146 nays.

Amendment No. 39: Provides for an expiration date under section 102(c) of this resolution of June 28, 1981 rather than June 5, 1981 as proposed by the House and September 30, 1981 as proposed by the Senate.

Amendment No. 40: Reported in disagreement.

Amendment No. 41: Inserts new section number.

Amendment No. 42: Appropriates $729,000,000 for title VI of the Comprehensive Employment and Training Act, instead of $1,229,000,000 as proposed by the House and $335,000,000 as proposed by the Senate, and appropriates $746,000,000 for subpart (3) of part A of title IV of the Comprehensive Employment and Training Act, instead of $896,000,000 as proposed by the Senate. The House bill would have provided $696,000,000 for subpart (3) of part A of title IV.

Amendment No. 43: Appropriates $315,036,000 for title III of the Comprehensive Employment and Training Act, instead of $325,000,000 as proposed by the Senate. The House bill would have provided $305,072,000 for title III.

Amendments No. 44 through 56. Change section numbers as proposed by the Senate.

Amendment No. 57: Permits the Department of State to allocate not to exceed $200,000 to the General Services Administration for expenses of the Consultative Group on U.S.-Japan Economic Relations, as proposed by the Senate.

Amendment No. 58: Appropriates $8,900,000 for the Immigration and Naturalization Service, "Salaries and expenses", as proposed by the Senate.

Amendment No. 59: Appropriates $4,600,000 for the Federal Prison System, "Salaries and Expenses", as proposed by the Senate.

Amendment No. 60: Appropriates $2,500,000 for the Office of Justice Assistance, Research and Statistics, "Law Enforcement Assistance" instead of $5,000,000 for such purpose, as proposed by the Senate.

DEPARTMENT OF THE TREASURY

OFFICE OF INSPECTOR GENERAL

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate establishing an Office of Inspector General in the Department of the Treasury and appropriating $7,544,800 for that office.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Amendment No. 62: Appropriates an additional $3,000,000 for salaries and expenses instead of $4,573,000 as proposed by the Senate. The Conferees are agreed that this additional amount shall be available only for student travel.

GENERAL SERVICES ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

Amendment No. 63: Appropriates an additional $1,500,000 for salaries and expenses instead of $3,039,000 as proposed by the Senate.

INTERNAL REVENUE SERVICE

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the sum named in said amendment, insert the following: "$15,000,000".

The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate.

This amendment provides that no less than $15,000,000 shall be available exclusively for narcotics cases within the Criminal Investigation Division of the investigations and collections activity of the Internal Revenue Service.

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

Amendment No. 65: Appropriates an additional $7,000,000 for salaries and expenses instead of $10,270,000 as proposed by the Senate. These funds are for the air interdiction program.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDING FUND

Amendment No. 66: Inserts language proposed by the Senate increasing the spending limitation for Construction and Acquisition of Facilities by $5,000,000 for advanced design.

The Conferees are agreed that this authorization for advanced design shall not be considered a precedent in this matter, shall not be permanent legislation, and shall be available solely for the Bonneville Power Administration Building.

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

Amendment No. 67: Appropriates $500,000 for investigations and collections as proposed by the Senate. This appropriation is for the V TA program.

Amendment No. 68: Deletes proposal of the Senate which would have appropriated $10,000,000 for the Fishermen's Protective Fund.

MERIT SYSTEMS PROTECTION BOARD

Amendment No. 69: Appropriates $4,250,000 for the Office of the Special Counsel as proposed by the Senate.

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

Amendment No. 70: Inserts language as proposed by the Senate. This amendment prohibits the Treasury Department from enforcing certain regulations relating to Federal income tax treatment of the assumption of indebtedness upon the incorporation of certain holding companies.

MERIT SYSTEMS PROTECTION BOARD

Amendment No. 71: Inserts language proposed by the Senate amendment to read as follows:

SEC. 138. No part of any appropriation contained in this or any other Act shall be used to prosecute or defend in the United States District Court for the District of Columbia the case of Merit Systems Protection Board against Mary Eastwood, Civil Action File Numbered 80–2970, or any other similar court case brought against the Office of the Special Counsel or officers or employees of the Office of the Special Counsel beginning seven days after the date of the enactment of this Act.

The Conferees agree that interagency disputes should be settled within the Executive Branch, without resort to the courts.

In passing the Civil Service Reform Act, Congress intended that the Special Counsel would be independent from the Board in administrative and budgetary matters, except to the extent that cooperation with the Board would not impair the Special Counsel's mission.

Amendments Nos. 72 through 85: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice under which each body determines its own housekeeping requirements and the other concurs therein without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendments Nos. 72 through 85.

Amendment No. 86: Deletes language proposed by the Senate regarding the use of copyright fee receipts. The conferees believe that the continuing problems with the Copyright Office backlog need to be thoroughly examined and directs the appropriate officials to prepare a complete analysis of the situation for the fiscal year 1982 budget hearings.

Amendment No. 87: Appropriates an additional $2,000,000 for the General Accounting Office instead of an additional $6,000,000 as proposed by the Senate. Included in this amount is $500,000 to begin operations of the Railroad Accounting Principles Board, as authorized by the Staggers Rail Act (P.L.

96-448), until such time as a formal budget request can be prepared and reviewed by the Committees on Appropriations.

Amendment No. 88: Deletes language proposed by the Senate providing $100,000 to remain available until expended, for the acquisition of American natural history materials to be derived from funds withheld from obligation by the Librarian of Congress pursuant to Section 309 of H.R. 7593. The conferees have been informed that the American natural history holdings of the Library of Congress are deficient and direct that an additional $100,000 of available funds be used to acquire and maintain a suitable collection of this material, particularly in the work of the 1800's when the natural history of our country was being discovered by botanists, ornithologists, and others.

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment insert:

SEC. 156. (a)(1) Except as provided in paragraph (2), the total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to travel and transportation of persons, and the transportation of things, for offices and employees of all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced, to the extent practicable, by an amount which is necessary to meet the requirements of subsection (d)(1) of this section. Such reductions shall be directed toward the objective of eliminating nonessential travel.

(2) The provisions of this subsection shall not apply to the Coast Guard nor to the Department of Justice for expenses necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, unless legislation containing a restriction or limitation on such expenses is enacted after the date of enactment of this joint resolution which specifically refers to this section.

(b) The total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to the use of experts or consultants by appointment or contract in all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced by an amount which is necessary to meet the requirements of subsection (d)(1) of this section.

(c)(1) Each department, agency, and instrumentality of the Federal Government shall establish procedures to identify the causes of overpayments and delinquencies and the corrective actions need to reduce overpayments and delinquencies, establish better control of receivables, actively use the services of credit bureaus and commercial collection agencies, and take more aggressive collection action.

(2) The Secretary of the Treasury shall revise the fiscal requirements manual of the Department of the Treasury to require interest charges on delinquent accounts and to provide more complete reporting of data on delinquent accounts.

(3) The Commissioner of Internal Revenue shall carry out a debt collecion pilot project under which a delinquent debt owed by any person to the United States will be collected by retaining, out of any tax refunds otherwise payable to such person, such sums as are necessary to cover such debt. The debt collection pilot project required by this subsection shall be carried out in accordance with procedures designed to assure that no person will be denied due process of law under the project and that confidentiality of data held by the Internal Revenue Service pertaining to such person will be protected.

(d)(1) The Director of the Office of Management and Budget shall, to the extent practicable—

(A) allocate reductions in the amounts obligated for travel and transportation expenses under subsection (a) among all departments, agencies, and instrumentalities to which subsection (a) applies;

(B) allocate reductions in the amounts obligated for expenses for experts and consultants under subsection (b) among all departments, agencies, and instrumentalities; and

(C) review the savings made by the collection procedures and related activities required under subsection (c) to assure to the extent practicable, such reductions and savings will amount to $2,000,000,000 for the fiscal year ending September 30, 1981.

In allocating any reductions under this subsection with respect to expenses described in paragraph (1)(A) among the departments, agencies, and instrumentalities of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency or instrumentality be reduced by more than fifteen per centum of the amount of such expenses proposed for each department, agency or instrumentality in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921.

(2) The Director of the Office of Management and Budget shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives a report on—

(A) the actions taken to carry out the provisions of this section;

(B) improvements in the budget process which emphasize accounting system approval and debt collection procedures; and

(C) proposals of actions to be taken by the Congress including the reduction in requested new budget authority to reflect the result of the collection of delinquent debts and as an incentive to promote increased collection of such debts.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows: In lieu of the sum of "$1,021,330,000" named in said amendment, insert "$1,019,330,000" and in lieu of the sum of "$71,206,000" named in said amendment insert "$73,206,000".

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides the following annual appropriation levels for the National Institutes of Health during fiscal year 1981:

National Cancer Institute__	$1,019,330,000
National Heart, Lung, and Blood Institute__________	565,264,000
National Institute of Dental Research ______________	73,206,000
National Institute of Arthritis, Metabolism, and Digestive Diseases ______________	381,993,000
National Institute of Neurological and Communicative Disorders and Stroke_____	263,838,000
National Institute of Allergy and Infectious Diseases___	239,355,000
National Institute of General Medical Sciences_____	340,676,000
National Institute of Child Health and Human Development ___________	223,565,000
National Eye Institute_____	125,254,000
National Institute of Environmental Health Services ______________	97,269,000
National Institute on Aging_	81,091,000
Research Resources_________	184,439,000
John E. Fogarty International Center__________	9,138,000
National Library of Medicine______________	47,730,000
Buildings and Facilities____	11,750,000
Office of the Director_______	22,549,000

This agreement provides a total funding level for the National Institutes of Health of $3,686,447,000 which is $70 million more than included in the House bill. The agreement specifies that $1 million of the funds appropriated to the National Eye Institute is for construction.

Amendment No. 91: Deletes language proposed by the Senate which would have increased funding for alcohol, drug abuse and mental health research over the amounts provided by the House.

Amendment No. 92: The conference agreement provides that the National Health Service Corps program be funded at a level of $87 million during fiscal year 1981 as proposed by the Senate rather than at the "current rate" as proposed by the House. The conferees deleted language proposed by the Senate which would have increased funding for the Primary Care Research and Demonstration program from the $7 million provided by the House to $10 million.

Amendment No. 93: Inserts new section providing an annual funding rate of $41,000,000 for section 314(d) of the Public Health Service Act. The House bill would have provided an annual rate of $36,000,000, and the Senate bill would have provided an annual rate of $68,000,000.

Amendment No. 94: Inserts language proposed by the Senate which extends availability through September 30, 1981 of funds appropriated for 1980 for the National Academy of Peace and Conflict Resolution. The House resolution contained no similar provision.

Amendment No. 95: Inserts new section as proposed by the Senate which makes available $7,460,000 for conducting studies of the health consequences of the former residents of the Love Canal area of New York and for continuation of the Mount Saint Helens health study.

Amendment No. 96: Deletes language proposed by the Senate relating to the Farm Labor Contractor Registration Act of 1963.

Amendment No. 97: Inserts new section as proposed by the Senate which would prohibit the Mine Safety and Health Administration from enforcing the Federal Mine Safety and Health Act of 1977 with respect to any person engaged in the surface mining of clay other than brick clay, stone, colloidal phosphate, sand or gravel, effective February 1, 1981.

Amendment No. 98: Delegates language proposed by the Senate earmarking $650,000, within the total amount available for rehabilitation programs, to fund projects under section 130 of the Rehabilitation Act relating to American Indian projects. The conferees are agreed that special earmarking for this purpose is not necessary because an annual rate of $650,000 is already authorized for section 130 for the Navajo Vocational Rehabilitation Program, under the general authority provided by section 101(a) of the joint resolution.

Amendment No. 99: Provides that $277,000,000 for aging social services and centers shall be available for fiscal year 1981, instead of $280,000,000 for aging social services and centers, $38,100,000 for aging research, training, and speical projects, and $3,000,000 for the White House Conference on Aging as proposed by the Senate. The conferees are agreed that the joint resolution authorizes an annual rate of spending of $45,500,000 for aging research, training, and special projects and $3,000,000 for the White House Conference on Aging under the general authority of section 101(a) (4) of the joint resolution.

Amendment No. 100: Retains language proposed by the Senate which delays publication of new regulations establishing "Conditions of Participation" for skilled and intermediate care nursing facilities under the Medicare and Medicaid programs. The Secretary is prohibited from issuing these regulations until after cost estimates have been submitted to the Congress by the General Accounting Office and the Department of Health and Human Services. The language specifies that under no circumstances can the regulations be promulgated prior to January 12, 1981.

Amendment No. 101: Provides that $21,000,000 shall be available until September 30, 1981 for carrying out title III of the Refugee Education Assistance Act, instead of $30,000,000 as proposed by the Senate. The House resolution contained no funds for this program.

Amendment No. 102: Appropriates $750,000 for the Robert A. Taft Institute as proposed by the Senate. The House resolution contained no funds for this purpose.

Amendment No. 103: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 170. Notwithstanding the last sentence of section 7(a), assistance under section 7 of Public Law 874, Eighty-first Congress, shall be available to the Mobile, Alabama, County School System at the same rate as such assistance was available for fiscal year 1980; and $300,000 is hereby appropriated for a dormitory building at Coahoma Junior College, Clarksville, Mississippi.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 104: Inserts language proposed by the Senate authorizing the Secretary of Education to increase impact aid payments to qualifying school districts, under the provisions of section 3(d) (2) (b) of Public Law 81–874. The House resolution contained no similar provision.

Amendment No. 105: Appropriates $2,000,000 for section 491 of the Higher Education Act, as amended, relating to a National Commission on Student Financial Assistance, as proposed by the Senate. The House resolution contained no funds for this purpose.

Amendment No. 106: Provides that $37,000,000 shall be available for the National Institute of Handicapped Research, as proposed by the Senate. Under general authority provided by the House resolution, $35,000,000 would have been available for this purpose.

In developing new Research and Training Centers the Department is urged to carefully consider the many unique health and rehabilitation needs of the Pacific Basin. For example, the Conferees were distressed to learn that although there is a federal responsibility to provide care, that in the Marshall Islands nearly half of those 50 or over have diabetes; the incidence of childhood leukemia in Ponape and Kosrae is ten times the expected rate; and the incidence of high blood pressure in Guam and the Northern Marianas is 35 percent of those over 30. Further, major drug and alcoholism and adolescent suicide problems exist. Leprosy, yaws, filariasis and other tropical scourges are prevalent. There is also an extreme lack of qualified health/rehabilitation personnel as evidenced that in all of the Trust Territories there is only one registered physical therapist, 14 "expatriate physicians" and 36 Fiji-trained medical officers.

Amendment No. 107: Deletes language proposed by the Senate which would have allowed the Department of Health and Human Services to begin a new multi-year study of Federal assistance programs for the poor. This study was to have been called the Survey of Income and Program Participation (SIPP).

Amendment No. 108: Inserts new section as proposed by the Senate which directs that rural housing activities of the Community Services Administration shall be funded at the same annual rate as in fiscal 1980.

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, amended to read as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 176. Notwithstanding any other provision of law, for the payment to the Railroad Retirement Account, as provided under sections 15(b) and 15(d) of the Railroad Retirement Act of 1974, the maximum amount reimbursable for the subsidy for fiscal year 1981 costs shall not exceed $350,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

MILITARY CONSTRUCTION

Amendment No. 110: Deletes language proposed by the Senate relating to military family housing.

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 178. Notwithstanding any other provision of law, no funds appropriated for use by the Department of the Interior for fiscal year 1981 shall be used to take final action with respect to a State application under section 2(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1273(a)), as amended, until 60 days after notification of the proposed final action has been forwarded by the Secretary of the Interior to the appropriate House and Senate authorizing committees for review.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment prohibited use of funds appropriated for use by the Department of the Interior to take final action on a state request to include state rivers in the National Wild and Scenic Rivers System until 60 days after notification of the proposed action had been forwarded by the Secretary of Interior to the appropriate House and Senate authorizing committees for review. The amendment to the Senate amendment restricts the prohibition to funds appropriated for use by the Department for fiscal year 1981.

Amendment No. 112: Inserts langauge which provides that no funds made available under this joint resolution and any appropriate Act may be used to implement or enforce the final Central Arizona Project water allocations announced by the Secretary of the Interior on December 1, 1980, before February 1, 1981.

DEPARTMENT OF TRANSPORTATION

Amendment No. 113: Appropriates $72,500,000 for Grants to the National Railroad Passenger Corporation for operating losses instead of $78,900,000 as proposed by the Senate. The Conference agreement has eliminated the language proposed by the Senate to amend section 601(b)(1) of the Rail Passenger Service Act.

Amendment No. 114: Appropriates $42,000,000 for operating expenses of the Coast Guard as proposed by the Senate.

Amendment No. 115: Provides that the limitation on administrative expenses for the St. Lawrence Seaway Development Corporation is increased to $1,685,000 as proposed by the Senate.

URBAN MASS TRANSPORTATION ADMINISTRATION

The Committees on Appropriations of the House and Senate have no objection to the issuance of a letter of intent to the City of Portland, Oregon, amounting to $85,700,000 in Section 3 funds and direct that the UMTA Administrator issue such a letter immediately against authorizations in existence prior to the enactment of H.R. 6417. This letter was transmitted pursuant to Section 7(b) of UMTA circular 9000.6 on December 12, 1980. In approving this letter, the conferees do not intend to alter any prior commitments for which letters of intent have been issued. The conferees note that more than $4,500,000,000 of existing Section 3 authorizations are currently being reserved for other programs and projects.

Amendment No. 116: Deletes Senate language extending the provisions of section 306(a), (b), and (d) of H.R. 7593 through September 30, 1981.

Amendment No. 117: Deletes language proposed by the Senate which was intended to allow projects and activities to be funded at the continuing resolution levels until the budget ceilings established by Congress for fiscal year 1981 are reached.

U.S. CUSTOMS SERVICE

Amendment No. 118: Deletes language proposed by the Senate which would have appropriated $77,000 for salaries and expenses for additional personnel at the Scobey, Montana, Port of Entry. The conferees are agreed that the Customs Service should review the number of personnel now assigned to that Port of Entry to determine whether or not that number is adequate based on the normal criteria used to make such determinations.

POTATO IMPORTS

Amendment No. 119: Inserts language proposed by the Senate which provides that no funds shall be available to process potatoes for entry into the United States until certain Federal agencies have taken appropriate measures to insure that potatoes imported as seed stock are not substituted for potatoes intended for human consumption.

MILITARY CONSTRUCTION

Amendment No. 120: Appropriates $2,500,000 for community impact assistance at the Trident submarine support base, Bangor, Washington, for Bucklin Road in Kitsap County as proposed by the Senate.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Amendment No. 121: Appropriates an additional $2,000,000 for the Animal and Plant Health Inspection Service as proposed by the Senate. The conferees intend these additional funds to be used exclusively to combat the recent outbreak of khapra beetle infestations.

Amendment No. 122: Appropriates $750,000 for the William Levi Dawson Chair of Public Affairs at Fisk University, Nashville, Tennessee, as proposed by the Senate. The House resolution contained no funds for this purpose.

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate regarding civilian employment ceilings for agencies which provide patient care. The Committee of Conference has concurred in the Senate language to assure that all Federal agencies engaged in providing patient care receive priority in the distribution of civilian personnel pursuant to the Civil

Service Reform Act of 1978 and that these agencies not be unduly restrained in any way detrimental to delivery of such high quality care. This language does not increase the total Federal employment limitation.

General Services Administration Federal Building Fund

Amendment No. 124: Inserts language proposed by the Senate, amended to read as follows:

Sec. 191. (a) Notwithstanding any other provisions of this joint resolution, out of the funds available to the Federal Buildings Fund, limitations on the availability of revenues and the associated building projects are approved as follows:

Construction and Acquisition of Facilities: $106,420,700, as follows:

New Construction:

Arizona:

San Luis, Border Station, $6,242,000.

California:

Otay-Mesa, Border Station, $12,105,700.

Redding Federal Office Building/Courthouse, $12,844,000.

Kentucky:

Ashland, Federal Office Building/Courthouse, $6,938,000.

Maine:

Houlton, Border Station, $3,409,000.

Nebraska:

Omaha, Federal Office Building, $40,733,000.

Wisconsin:

Madison, Federal Building/Courthouse, $2,827,000.

Illinois:

East St. Louis, Courthouse and Parking Facility, $2,460,000.

Purchase:

Virginia:

Charlottesville, Federal Executive Institute, $3,070,000.

Acquisition and improvements of United States Postal Service Properties, $15,792,000.

Repairs and alterations: $80,253,000 as follows:

California:

Pasadena, Federal Center, $9,864,000.

Connecticut:

New Haven, Courthouse, $6,800,000.

District of Columbia:

Department of Agriculture South, $2,545,000.

Health Education and Welfare North, $3,934,000.

Department of Justice, $1,740,000.

Lafayette, $864,000.

Old Post Office, $12,445,000.

Mary E. Switzer, Federal Building, $3,928,000.

Florida:

Miami, Post Office, Courthouse, $2,670,000.

Tallahassee, Post Office, Courthouse, $961,000.

Tampa, Federal Building, Courthouse, Post Office, $2,008,000.

Georgia:

Savannah, Federal Building, Courthouse, $1,363,000.

Illinois:

Chicago, Federal Building, 536 South Clark Street, $550,000.

Kentucky:

Lexington, Post Office, Courthouse, $1,500,000.

Louisiana:

Baton Rouge, Federal Building/Courthouse, $700,000.

New Orleans, Hale Boggs Federal Building, Courthouse, $1,425,000.

Missouri:

Kansas City, Courthouse, 811 Grand Avenue, $735,000.

New Jersey:

Newark, Federal Office Building, 20 Washington Place, $560,000.

New York:

New York, Federal Office Building, 201 Varick Street, $5,661,000.

New York, Customhouse, One Bowling Green, $7,192,000.

Oregon:

Portland, Courthouse, $2,634,000.

Texas:

Dallas, Earle Cabell Federal Building, Courthouse, $900,000.

Houston, Federal Building, Courthouse, 515 Rusk Avenue, $2,446,000.

Virginia:

Arlington, Pentagon, $2,969,000.

McLean, CIA Headquarters, $2,274,000.

Washington:

Seattle, Courthouse, $1,585,000.

(b) Notwithstanding any other provisions of this joint resolution, out of the funds available to the Federal Buildings Fund, the limitations on the availability of revenues for nonprospectus repair and alteration projects is reduced by the sum of $13,242,000."

The Conferees direct that none of the construction or repair and alteration projects authorized by this Joint Resolution be initiated unless the required prospectuses for such projects are fully approved by both House and Senate. The Conferees are further agreed that this Joint Resolution does not authorize the initiation of any projects other than those specifically listed in the resolution.

Amendment No. 125. Inserts a new section as proposed by the Senate that prevents any funds in the resolution from being used to implement or enforce any regulation which has been disapproved by the Congress in accordance with applicable laws setting forth such procedure. A similar provision has been included in the conference reports on two fiscal year 1981 appropriation bills. The House had no similar provision.

Amendment No. 126: Deletes language proposed by the Senate which would have prohibited the use of funds to carry out the Denver income maintenance program, authorized under section 1110 of the Social Security Act, after January 5, 1981.

FARM CREDIT ADMINISTRATION

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which amends the Farm Credit Act of 1971 to provide for several farm credit system limitations and relief from certain liability.

Amendment No. 128: Inserts language as proposed by the Senate which provides that no funds appropriated for uses by the Department of the Interior or any other agency of the United States Government may be used for any administrative act by any agency of the United States or agent thereof which would apply either the acreage limitation or any other provision of the Federal Reclamation Law in the fiscal year commencing October 1, 1980, to land holdings receiving benefits from Federal water resources projects constructed by the United States Corps of Engineers.

Amendment No. 129: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment insert the following:

Sec. 196. The table contained in paragraph (1) of subsection (n) of section 1104 of the Omnibus Reconciliation Act of 1980 (Public Law 96-499, approved December 5, 1980) is amended by adding at the end thereof the following new item:

"San Bernardino, California____	225,000,000	Financing owner-occupied residences in the overall Shandin Hills Project of the State College Redevelopment Project Number 4."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes Senate language relating to law enforcement officers or firefighters.

The language agreed to by the conferees will allow San Bernardino, California, which recently suffered severe fire damage, to receive treatment similar to that being received by seven other localities under the transitional phase for purposes of mortgage subsidy bonds. The fire damage occurred subsequent to congressional consideration of Public Law 96-499.

Department of Transportation

Amendment No. 130: Deletes language proposed by the Senate to prohibit the use of funds for transferring any personnel or operations from the Federal Aviation Administration Engineering Field Office in Helena, Montana.

Amendment No. 131: Deletes language proposed by the Senate to name a Veterans Administration Medical Center.

Amendment No. 132: Inserts a new section as proposed by the Senate that prevents any funds appropriated under this resolution from being expended to provide employment or training to any person who publicly advocates the violent overthrow of the United States Government. The House had no similar provision.

U.S. Postal Service

Amendment No. 133: Inserts language proposed by the Senate which provides that none of the funds made available by this Resolution may be used to implement a nine-digit Z P code system, prior to June 1, 1981.

Amendment No. 134: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

"Sec. 201. Notwithstanding any other provision of this joint resolution or any other law, funds made available by this joint resolution or any other Act shall be available for activities of any agency to carry out the Hostage Relief Act of 1980 (Public Law 96-449)."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 135: Inserts language regarding the application of either the acreage limitation or residency provision of the Federal Reclamation Law to lands in the Imperial Irrigation District of California as proposed by the Senate, amended to read as follows:

Sec. 202. Notwithstanding any other provision of law or any other provision of this joint resolution, no funds appropriated for uses by the Department of the Interior or any other agency of the United States Government may be used for any administrative act by any agency of the United States or agent thereof which would apply either the acreage limitation or residency provision of the Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto) in the fiscal year commencing October 1, 1980, to lands in the Imperial Irrigation District of California.

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, amended to read as follow: In lieu of the matter proposed by said amendment insert the following:

Sec. 203. Notwithstanding any other provision of this joint resolution the Secretary of Labor shall appoint two additional members to the Benefits Review Board of the Department of Labor to serve as a separate panel and employ such additional supporting staff as may be necessary. The additional members shall be compensated at the rate of compensation prescribed for the members of the Benefits Review Board serving on the date of enactment of this joint resolution. For the purpose of carrying out this section there is appropriated $167,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 137: No funds are provided for payment to Swain County, North Carolina, instead of $9,500,000 as proposed by the Senate. This was deferred without prejudice pending authorization of the payment in settlement of an agreement between Swain County and the United States.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

Amendment No. 138: Deletes Senate language which would have appropriated $40,075,000 for salaries and expenses.

Amendment No. 139: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 206. Notwithstanding any other provision of this joint resolution or any other law, the full $110,000,000 in loan guarantee authority authorized under Section 20 (h)(9) of the Small Business Act by Public Law 96-302 shall be made available to the Small Business Administration immediately upon enactment of this joint resolution."

The managers of the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires the Attorney General of the United States to approve any deed or other instrument conveying to the United States a defeasible or indefeasible interest in the land described in Section 2 of the Act establishing a reservation for the Confederated Tribes of Siletz Indians of Oregon (94 Stat. 1073). This permits the United States to accept the deed to property given to the Siletz Tribe which includes a clause providing that the property reverts to the donor if the property is not used for the purpose of the Siletz Tribe.

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the period for the receipt of public comment on proposed regulations governing grazing administration and trespass on public lands be extended to February 1, 1981. The amendment also prohibits use of funds available to the Department of the Interior to promulgate or implement the regulations (proposed in the October 15, 1980 Federal Register) before February 1, 1981.

Amendment No. 142: Provides language, proposed by the Senate, making $2,700,000 of the funds available under this joint resolution or under any other Act making appropriations for FY 1981 to the Economic Development Administration for economic development and adjustment assistance, available to the Lake Placid Olympic Organizing Committee for the payment of costs relating to the 1980 Winter Olympics on such conditions as the Secretary of Commerce may reasonably require.

The conferees are agreed that the $2,700,000 for the Lake Placid Olympic Organizing Committee is to be derived solely from the allocation of EDA funds for economic development and adjustment assistance projects in the State of New York.

INTERNAL REVENUE REGULATION

Amendment No. 143: Inserts language proposed by the Senate which provides that no funds may be used to carry out a portion of Internal Revenue Regulation 20.2032A-3.

Amendment No. 144: Appropriates $6,500,000 for National Park Service "construction" as proposed by the Senate. The funds are for repairs to the roof of the National Visitor Center in Washington, D.C. The National Park Service is to submit a reprogramming identifying the fund source for the design work associated with this project. The Service is also to use established committee reprogramming procedures to obtain approval for the obligation of the funds included in the resolution.

Amendment No. 145: Deletes language proposed by the Senate which would appropriate additional funds to the Environmental Protection Agency for energy recycling systems.

MERIT SYSTEMS PROTECTION BOARD

Amendment No. 146: Inserts language proposed by the Senate providing that funding for the Merit Systems Protection Board shall not exceed $12,835,000 for Fiscal Year 1981.

INTERNAL REVENUE SERVICE

Amendment No. 147: Deletes language proposed by the Senate which would have prohibited funds provided in this resolution from being used to require certain taxpayers to change methods of accounting for a certain time period.

Amendment No. 148: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to consultants employed in Senate leadership offices and by the Secretary of the Senate.

Jamie Whitten
(except amendments
Nos. 116 and 12),
Edward P. Boland
(except amendments
Nos. 12, 116, and 85),
William H. Natcher,
Neal Smith,
J. P. Addabbo,
Clarence D. Long,
Edward R. Roybal,
Gunn McKay,
Tom Bevill
(except amendments
Nos. 116 and 12),
Robert Duncan,
Adam Benjamin, Jr.,
J. C. Dixon,
Silvio O. Conte,
Robert H. Michel
(except amendments
Nos. 82 and 85),
Mark Andrews,
Jack Edwards,
John T. Myers,
Managers on the Part of the House.

Warren G. Magnuson,
Daniel Inouye,
Lawton Chiles,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Dick Schweiker,
Henry Bellmon,
Lowell P. Weicker,
James A. McClure,
Managers on the Part of the Senate.

PAY FEATURES OF CONTINUING RESOLUTION

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. FINDLEY. Mr. Speaker, the pay features of the continuing resolution are an outrage against the taxpayers. They are an insult to the intelligence of our constituents. They besmirch the good name of this branch of Government as much as any event in my 20 years' experience.

Over these years Federal employees, and especially Congressmen when working on Capitol Hill, have been established as a privileged class in this country.

Privilege reaches a new high—or should I say—a new low in the severance pay proposal for certain Senate employees. Tax free severance pay. Where will these outrages end?

Actions like these plant the seeds of revolution in this country.●

FISCAL BUSINESS OF GOVERNMENT SHOULD BE HANDLED PROMPTLY

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, I do not want to belabor the point, but I do not think there is anything more relevant this Saturday, December 13, than to call attention to the fact that we are not running the business of this legislative branch of Government very well. We moved the fiscal year date from July 1 to October 1 because we were having trouble meeting the July 1 deadline. Now we find ourselves, in recent years, having to provide for the operation of the Government through continuing resolutions, and I think this is a deplorable situation.

I do not want to castigate this body too much because we have passed all of the appropriations bills here, but they have been held up in the other body. This is no way to handle the Government's business, and I hope that the 97th Congress will take this problem in hand and will provide for the management of the fiscal business of the Government promptly and within the time schedule which we have established, that is—final passage of all appropriation bills on or before the beginning of each fiscal year or October 1.

HANDGUN CONTROL

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I would like to say a word about handguns. I think the time has come for us to be a little more frank about this subject. We are not talking about rifles; we are not talking about shotguns that can be used and easily seen when they are planned to be used. We are talking about handguns.

It is true that the second article in our Bill of Rights, provides that "a well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." "A well regulated militia"—that is not a handgun holder. That is a man with a rifle who is prepared to defend this country. I do not want to be parochial, but in New Jersey we have excellent gun control laws. Everybody can live with them, sportsmen and collectors and everybody else. The owners of handguns are rigorously licensed and the gun is registered. There is nothing in that which damages any legitimate person's right to bear arms. That is what we are talking about.

In Switzerland, it is true that almost every house has a rifle in it because every single male between 18 and 55 is in the militia. But that has nothing to do with handguns. I hope New Jersey's laws in that regard will be adopted nationwide.

SITUATION IN POLAND

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, the situation in Poland is a major defeat for Moscow. The twin roots of the problem involve the Polish peoples' thirst for freedom and their suffering from Communist economic mismanagement. Neither problem can be resolved by the Communist Government of Poland, the Government of the U.S.S.R. or by application of Communist dogma.

If the Russians move militarily, they will face a bloodbath. Poland will not be as docile as Czechoslovakia, it has four times Hungary's population, and the Polish people are totally united. On the other hand, if the Russians do not move, they run the risk of the ideas and emotions developing in Poland spreading throughout Eastern Europe, the possibility of which would shake the foundations of the Kremlin.

In the meantime, Poland has borrowed heavily from the West. It is the Soviets and the Polish Communists, not the nations of the West, which should bail out the bankrupt Communist Government of Poland. Continued economic aid from the West for a government subservient to Moscow would not be in the interests of the Polish people or the free world.

In my judgment, the Polish crisis again demonstrates that there will be an ultimate collapse of communism. Neither on the economic, political, nor sociological fronts has there been any real progress in Eastern Europe since the Communists have dominated the area. The Russian empire is rotting from within.

Realistically, the United States and the NATO allies do not have the military capacity at this time to respond to any Soviet invasion of Poland. Quite clearly though, the West must reemphasize its unity, continue building its defense forces, and maintain a unified economic policy against the Soviet bloc so that the demand for freedom that is seen in Poland could spread until the Soviet Government itself is toppled.

Mr. Speaker, In addition to my remarks about the situation in Poland, I would like to remind the Members that earlier our distinguished friend, the gentleman from Indiana (Mr. BRADEMAS), in his farwell to us, made the very fine observation that Speaker O'NEILL will go down in history as one of the great legislators of all time. Now I share that sentiment, but I would hope, in the spirit of Christmas and looking ahead to the next Congress, that our beloved Speaker, notwithstanding such statements, would retain his great humility.

SOUR GRAPES IN OUR FOREIGN POLICY

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, I have been reading the sour-grapes diatribe of the State Department team of Derian and Pezzullo. I would just like to observe that, if there has ever been a disaster in the conduct of our foreign policy, especially in Central and South America, it has been Derian, Pezzullo & Co. The fact that they are not happy with the election of Ronald Reagan is their business, but they ought not to be politicizing the State Department to express their sour grapes.

REQUEST FOR A CALL OF THE HOUSE

Mr. SOLOMON. Mr. Speaker, I move a call of the House.

The SPEAKER. The Chair will not entertain that motion at this time. The House is going to continue on with its unanimous consent business.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. SOLOMON. Mr. Seaker, I did not understand the chair.

The SPEAKER. Under the rules, the motion the gentleman made need not be entertained at this time, and the Chair does not recognize the gentleman for that purpose. There is unanimous consent request business which the Chair intends to proceed with.

Mr. SOLOMON. I thank the chair.

BUDGET AUTHORITY AND OUTLAYS BELOW CEILING

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIAIMO. Mr. Speaker, I have a report from Alice Rivlin, the Director of the Congressional Budget Office, which indicates how the continuing resolution relates to the budget ceilings which we adopted earlier last month.

I am happy to announce that, according to the estimates from the Congressional Budget Office, as a result of the great work done by our conferees and the conference committee, and particularly by sticking to the Hosue cutoff date for the continuing resolution, as insisted upon by the chairman of the Appropriations Committee and the conferees, and I commend them for that, assuming the level of spending of all bills enacted to date and the entitlement and mandatory items and the conference agreement ratified by the House and the conference agreement on House Joint Resolution 637, the total of budget authority and outlays for fiscal year 1981 will be below the ceiling set forth in the second budget resolution which this Congress adopted last month.

The letter referred to is as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 13, 1980.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request and in aid of section 311(b) of the Congressional Budget Act, this is to advise you that enactment of the conference agreement on H.J. Res. 637, Further Continuing Appropriations, 1981, would result in the following current level of budget authority and outlays for fiscal year 1981:

[In millions of dollars]

	Budget authority	Outlays
1. Enacted to date	326,730	399,887
2. Effect on current level of the conference agreement on continuing appropriations under H.J. Res. 637	83,597	56,929
3. Entitlement and mandatory items requiring further appropriation action	6,672	6,188
4. Conference agreements ratified by both Houses	274,124	168,765
Current level, assuming enactment of the conference agreement on H.J. Res. 637	691,123	631,769
Second Budget Resolution, H. Con. Res. 448	694,600	632,400
Amount under budget resolution	3,477	631

As shown in the above tabulation, if the conference agreement on H.J. Res. 637 were enacted, the estimated budget authority and outlays remaining under the Second Concurrent Resolution on the Budget for Fiscal Year 1981 would be $3,477 million and $631 million respectively.

Sincerely,

JAMES BLUM,
(For Alice M. Rivlin, Director.)

REQUEST TO CONCUR IN SENATE AMENDMENTS TO H.R. 7694, DEFENSE DEPARTMENT MISCELLANEOUS MATTERS RELATING TO GUAM, THE VIRGIN ISLANDS, AND PUERTO RICO

Mr. WHITE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7694) to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Resolved, That the bill from the House of Representatives (H.R. 7694) entitled "An act to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam", do pass with the following amendments:

Page 1, strike out all after line 2 over to and including line 4 on page 3 and insert:

That section 1586 of title 10 (United States Code, relating to the rotation of civilian employees of the Department of Defense assigned to duty outside the United States, is amended by adding at the end thereof the following new subsection.

"(h) The Secretary of Defense may, under such regulations as he may prescribe, make the provisions of subsections (a) through (g) applicable to civilian employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico at the time of their employment by the Department of Defense in the same manner as if the references in such subsections to the United States (when used in a geographical sense) were references to Guam, the Virgin Islands, or the Commonwealth of Puerto Rico, as the case may be.".

□ 1220

Mr. WHITE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MITCHELL of New York. Mr. Speaker, reserving the right to object, I will not object but I would like to yield to the gentleman from Texas for an explanation.

Mr. WHITE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as the title of H.R. 7694 indicates, the bill will provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, and Puerto Rico with the same employment return rights as are presently enjoyed by other Department of Defense employees. Present law regarding the rotation of career civilian employees of the Department of Defense who are assigned to duty outside the United States provides for the granting of the right to return to a position in the United States for those civilian employees who satisfactorily complete a tour outside the United States.

The bill also authorizes the Delegate from Guam and the Virgin Islands two appointments at any one time at each of the three service academies instead of one and will also authorize the establishment of a National Guard for Guam.

The Senate amended the bill as it passed the House to simply authorize the Secretary of Defense to provide civilian employees of the Department of Defense from Guam, the Virgin Islands, and Puerto Rico these rotation rights rather than to make these rights an entitlement. The Senate also amended the title of the bill to reflect this change.

Mr. MITCHELL of New York. Further reserving the right to object, I thank the gentleman for his explanation.

Mr. WHITE. Will the gentleman, before he withdraws his reservation of objection, yield me additional time?

Mr. MITCHELL of New York. I yield to the gentleman.

Mr. WHITE. I would like for Mr. WON PAT to have the opportunity to make a statement.

Mr. MITCHELL of New York. I yield to the delegate from Guam.

Mr. WON PAT. Mr. Speaker, I rise in support of H.R. 7694, legislation I sponsored to establish a National Guard for Guam, double the number of appointments the Delegates from Guam and the Virgin Islands may each appoint to the various service academies, and to provide job security for civilian employees living in the various U.S. territories and working for the Department of Defense.

It is my great pleasure to see this bill become law. Guam is the only American organized territory currently without a National Guard unit. I fully anticipate that this measure will create a National Guard unit that Guam and the Nation can be truly proud to see in action.

Because of the intense loyalty of the Guamanian people to the American cause, this unit will quickly be filled to its capacity by some of the best trained personnel in the U.S. military. And in the process, the United States will have a key new element for its strategic defense capabilities in the Pacific while the people of Guam can rest more assured that the National Guard will be on hand in case of civil problems.

I am also pleased to see that this measure will permit my office to nominate two outstanding young Guamanians to the various academies rather than the current limitation of only one. We have many young people on Guam who are more than eager to serve. In this time when we need motivated young people to serve our Nation, my bill will add to the talent we need for the future of our defense.

Lastlv, this bill gives so-called return rights to DOD employees from the territories. I asked in the House version that this right be made mandatory as it is for DOD civilian workers in the States. The Senate instead gave the Secretary of Defense the right to extend return rights at his discretion to territorial civilian DOD employees. Because of the lateness of this session, the House has decided to concur with the Senate amendment. I wish to note for the record, however, that it was, and continues to be, my intention to extend return rights to territorial residents on the same basis as is given residents of the various States. It is my hope that we can review this matter in the future and correct any implication that territorial residents are to be treated differently than their counterparts here.

I thank everyone who assisted me in the passage of this measure. It is a good bill and I particularly appreciate the assistance of Representative RICHARD WHITE, chairman of the Subcommittee on Military Personnel for his backing and Senator SAM NUNN, chairman of the Senate Subcommittee on Manpower and Personnel for his able efforts to get this measure out of the Senate.

Thank you.

Mr. MITCHELL of New York. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. SOLOMON. Mr. Speaker, I may or may not object to this and other unanimous-consent requests coming up, depending on the gentleman from Massachusetts' answer as to whether or not after these unanimous-consent requests he will entertain a motion for a call of the House. Does the gentleman intend to do that?

The SPEAKER. Let the Chair say to the gentleman that there are several unanimous-consent requests that are coming up this afternoon. The Chair would hope that the House would be able to expedite them. They require unanimous consent, and they are cleared on both sides of the aisle. Anytime the gentleman wants a vote, he can ask for a vote if the question is put on the passage of one of these bills. The gentleman will have opportunities to get rollcall votes.

Mr. SOLOMON. Further reserving the right to object, Mr. Speaker, I do not object to any of these bills, but the fact is we wanted to call for approval of the Journal. It was mumbled earlier. No one had the opportunity.

The SPEAKER. The Chair resents the gentleman saying that. It was not mumbled. The Chair stated his approval of the Journal and looked down at the Republican side to see if there were anybody standing, and there was nobody standing.

Mr. SOLOMON. Mr. Speaker, with all due respect——

The SPEAKER. With all due respect to the gentleman, that is exactly what the Chair did. There may be frayed nerves here in the closing days of the session, but this Chair is going to be fair at all times. The Chair will act in no way but in fairness. When the gentleman has an opportunity to ask for a vote, he will get the opportunity.

Mr. SOLOMON. Mr. Speaker, I would certainly not expect you to do anything but. I have the greatest admiration and respect for you, but I would like to have you answer the question as to whether or not you will entertain a motion for a call of the House, and in fairness to the membership.

The SPEAKER. If there are no rollcall votes on final passage of bills considered by unanimous consent in due time the Chair would be happy to recognize for a call of the House.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so for this purpose: I am informed that the Democratic whip put out a call for the Members on his side of the aisle to be here. They are here, for the most part. The gentleman from Maryland guesses based on his experience, the reason for that is to have a quorum here so that a rollcall vote could not be had, and it would prevent a vote if it were objected to on the grounds of lack of a quorum. Quite obviously, too, as we know, the rules require a certain number of Members to stand to order rollcalls either on the basis of a request for the yeas and nays or a recorded vote.

The Chair has just said that the gentleman from New York and others would have the right to ask for those votes, but obviously if a quorum is here and the requisite number does not stand, votes will be avoided on a number of important issues.

The gentleman from Maryland is not referring to the congressional pay raise necessarily, or anything else, but this resolution contains antiabortion language, severance pay for employees of the other body, an amendment to cut off the right of the Civil Service Merit Board to pursue a case in court. In other words, there are a lot of controversial issues.

If the gentleman from Maryland cannot receive assurance now from the Chair that there will be no attempt to block proper requests for rollcall votes on these issues, the gentleman from Maryland will object to every unanimous-consent request and suggest that we put those off until after the consideration of the continuing resolution so that we have some guarantee that votes will be permitted. If the requisite number does not stand after that consideration, we cannot complain, but if the design is to have a whip call, and the whip call has already gone out, and to have the Members sit here and refuse a rollcall vote on these issues, then I shall object to all unanimous-consent requests.

The SPEAKER. The Chair, of course, has one answer for the gentleman. The rules of the House are available to all Members to use as they so see fit, and the Chair will impartially interpret those rules.

Mr. BAUMAN. The gentleman from Maryland is simply stating his case. I think it is a fair request, that we not try and block legitimate requests for votes simply on party discipline.

The SPEAKER. The Chair has no intention of doing that.

Is there objection to the request of the gentleman from Texas?

Mr. MITCHELL of New York. Mr. Speaker, I withdraw my reservation of objection.

Mr. BAUMAN. Mr. Speaker, I object, and I will object to all unanimous-consent requests until we finish the continuing resolution.

The SPEAKER. Objection is heard.

Does the gentleman object to dispensing with the reading, or does he object to the basic request?

Mr. BAUMAN. There is a unanimous-consent request for consideration as well.

The SPEAKER. Yes.

Mr. BAUMAN. I do not object to dispensing with reading, but I do object to consideration.

The SPEAKER. Is there objection to concurring in the Senate amendments?

Mr. BAUMAN. I reserve the right to object.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. WHITE. I understand the gentleman's concern about the parliamentary problem, but I just want to point out to the gentleman that there are a lot of people in Guam, at the beginning of this Nation's Western presence, who are very concerned about this particular bill and are watching this bill, and our very faithful and longstanding colleague, Mr. WON PAT, is very desirous seeing this bill passed. It enhances the defense of this Nation, the security of this Nation. There are civil service employees from Guam, Virgin Islands, and Puerto Rico who would like to be treated equally with others. I hope the gentleman will not hold this bill hostage.

Mr. BAUMAN. Well, reserving the right to object, I would say to my good friend from Texas, for whom I have the highest respect, I understand that. This bill has merit; the ocean-dumping bill that is about to come up, the parks bill, and so forth all have merit. It is not the gentleman from Maryland holding this House hostage. It apparently is the design of the leadership to prevent us from voting on controversial issues. If that is the case, the only pressure the gentleman from Maryland or others can bring is, on good bills of this nature. If you want them considered, please ask your leadership to let the House work its will.

Mr. WHITE. There are a number of junctures where those opportunities could arise.

Mr. BAUMAN. The gentleman will avail himself of all such junctures, and he objects to the consideration of this bill and all bills until the continuing resolution is concluded.

The SPEAKER. The gentleman is aware that the continuing resolution, under the special rule previously adopted, must be available for 1 hour so that Members may have an opportunity to look at it. That is why the House is considering unanimous-consent requests.

REQUEST TO CONSIDER HOUSE JOINT RESOLUTION 637 AT ANY TIME

Mr. BAUMAN. Mr. Speaker, I would ask unanimous consent that it be brought up at anytime today, the continuing resolution.

The SPEAKER. Is there objection to bringing it up at anytime today?

Mr. EDGAR. Mr. Speaker, reserving the right to object, I do so because I made some attempt to get here quite early this morning to get a copy of the continuing resolution, and I have to say that copies were not available until about 11:30.

□ 1230

I think that many Members of the House who are here and who support the pay raise or some other provisions of this particular legislation would like us to pass this continuing resolution as quickly as possible. But I have to say to my colleagues that there are a number of provisions within the legislation that I would hope Members would review and look at over the course of the hour. The gentleman from Mississippi (Mr. WHITTEN) has asked for the filing of the report, and I understand that the report can be brought up within that hour.

So, Mr. Speaker, if the gentleman's unanimous consent request is to bring up that continuing resolution at any time, I am constrained to object.

The SPEAKER. For what purpose does the gentleman from Mississippi (Mr. WHITTEN) rise?

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, I would just like to explain to the Members here, if I may, that the staff was up until 3 o'clock this morning trying to put together this continuing resolution. They had to come in very early so that copies of the conference agreement could be available when the House met today.

Our Committee on Appropriations has not enjoyed the position it has been placed in for the last 2 years. We have almost had to run the entire government through continuing resolutions, through nobody's fault but resulting from a combination of circumstances.

We worked until about 9 o'clock last night getting together some 148 amendments entirely added by the other body. We just heard the chairman of the Budget Committee say that we kept this continuing appropriations bill some $3.5 billion below the budget ceiling imposed by the Congress upon itself.

So I would ask the Members to bear with us because we are trying our very best. As I say, the staff was up until 3 o'clock trying to handle all these matters here.

I would like to point out one other thing that is involved that, is the matter of the pressure on us to carry out existing law, and if the Members will bear with us, Mr. Speaker, I think we should examine these consequences ourselves. If we do not act before Monday, we will have to stop practically every government activity, because under the Attorney General's opinion, it is illegal to operate the Government if the authority is exhausted.

So, Mr. Speaker, we have been working under very difficult circumstances, and we hope that we will have the understanding of the membership.

The SPEAKER. Did the Chair hear an objection to the unanimous-consent request?

Mr. EDGAR. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Chair will continue to receive unanimous-consent requests.

REQUEST TO CONCUR IN SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 2111, EXTENDING SERVICE AREA FOR SACRAMENTO VALLEY CANALS, CENTRAL VALLEY PROJECT, CALIFORNIA

Mr. KAZEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2111) to extend the service area for the Sacramento Valley Canals, Central Valley Project, California, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment thereto, and concur in the Senate amendment to the House amendment to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment, as follows:

Page 2, after line 15, of the House engrossed amendment to the Senate engrossed amendment, insert:

SEC. 4. The following provisions of the Federal reclamation laws shall not apply to lands within the Imperial Irrigation District of California after the date of enactment of this Act:

(a) section 5 of the Act entitled "An Act appropriating the receipt from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands", approved June 17, 1902 (43 U.S.C. 431);

(b) section 46 of the Act entitled "An Act to adjust water-right charges, to grant certain other relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (42 U.S.C. 423(e); and

(c) any other provision of law amendatory or supplementary to either of such sections.

Mr. KAZEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. LUJAN. Mr. Speaker, I reserve the right to object.

The SPEAKER. The Chair will inquire, does the gentleman reserve the right to object to dispensing with further reading of the amendment?

Mr. LUJAN. Yes, I do, Mr. Speaker, only for the purpose of getting some clarification from the gentleman from Texas (Mr. KAZEN) as to what the amendment is.

Mr. Speaker, if the gentleman would answer this question, am I correct in assuming that the amendment provides the exemption for the Imperial Irrigation District in California, supplying the same language that was in the Reclamation Act that came out of the Committee on Interior and Insular Affairs; is that right?

Mr. KAZEN. The gentleman is correct.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, I do not object to the request to dispense with further reading, but I do object to the consideration.

The SPEAKER. The gentleman from Maryland (Mr. BAUMAN) objects to the consideration.

Objection is heard.

CALL OF THE HOUSE

Mr. LEVITAS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 679]

Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Bailey
Baldus
Barnes
Bauman
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Butler
Carr
Carter
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Findley
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Gramm
Gray
Green
Guarini
Gudger
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harris
Hawkins
Hefner
Hightower
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Hughes
Ireland
Jacobs
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Lagomarsino
Leach, Iowa
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McHugh
McKay
Madigan
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Pa.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Rahall
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stanton
Stenholm
Stratton
Studds
Symms
Synar
Tauke
Tauzin
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitten
Williams, Mont.
Wirth
Wolpe
Wyatt
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1250

The SPEAKER. On this rollcall, 268 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

REQUEST TO CONSIDER AT ANY TIME CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 637, FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that the conference report accompanying House Joint Resolution 637, making continuing appropriations, may be considered at any time.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may we know the title of this?

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Georgia.

Mr. LEVITAS. This is the conference report on the continuing resolution.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. EDGAR. Mr. Speaker, reserving the right to object, I know it sounds to some as though it is a little picky to ask to look at the language of the conference report, and I reserve the right to object to see if we can get some compromise from the gentleman from Mississippi (Mr. WHITTEN) and the gentleman from Massachusetts (Mr. CONTE).

As I understand the procedure, we are going to have an hour of debate, divided equally between the majority and the minority. One concern that I have is that the length and complexity of this issue might be glossed over if in fact that whole hour of debate is spent giving time to those who support the resolution.

I would be willing to withdraw my reservation if there were some indication on the part of the chairman and the ranking Republican Member that those of us who may be in opposition to the resolution have some time.

If somebody could give me that assurance, I would be willing to withdraw my reservation.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, as to the reservation, the gentleman would have to make his own decision. I explained to him that I would be fair. I have always tried to be fair, but insofar as dividing the time, the rules provide for the control of the time. I will have to insist on that. I will be courteous to the gentleman, as well as other Members, as has been my practice always.

Mr. EDGAR. Mr. Speaker, further reserving the right to object, what are we talking about in terms of the amount of time that the gentleman thinks out of the 30-minute segment——

Mr. WHITTEN. It might depend on what the gentleman says.

Mr. EDGAR. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST TO CONCUR IN SENATE AMENDMENT TO HOUSE AMENDMENTS TO S. 1148, TITLE I OF MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT REAUTHORIZATION

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1148) "An Act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes," with a Senate amendment to the House amendments to the Senate amendment to the House amendment, and concur in the Senate amendment to the House amendments to the Senate amendent to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments to the Senate amendment to the House amendment, as follows:

Resolved, That the Senate agree to the amendments of the House of Representatives to the amendment of the Senate to the amendment of the House of Representatives to the bill (S. 1148) entitled "An Act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes", with the following Senate amendment to House amendments to Senate amendment to House amendment: In lieu of the matter proposed to be inserted by House amendment No. 1 to the Senate engrossed amendment to the House engrossed amendment, insert:

SEC. 4. Section 106 of the Marine Protection Research, and Sanctuaries Act of 1972 is amended by adding at the end thereof a new section as follows:

"(f) In addition to other provisions of law and not withstanding the specific exclusion relating to dredged material in the first sentence in section 102(a) of this Act, the dumping of dredging material in Long Island Sound from any Federal project (or pursant to Federal authorization) or from a dredging project by a non-Federal applicant exceeding 25,000 cubic yards shall comply with the criteria established pursant to the second sentence of section 102(a) of the Act relating to the effects of dumping. Subsection (d) of this section shall not apply to this subsection."

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, could the gentleman from Massachusetts explain what is taking place here and what we are trying to accomplish?

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, the version of the bill (S. 1148) before us represents culmination of many months of negotiations between the two Houses concerning the most appropriate language to achieve our common goals in passing this legislation.

As proposed for passage today, the bill has the following provisions: Section 1 authorizes $2 million to EPA for fiscal years 1981 and 1982 to regulate dumping of wastes in the ocean and to monitor existing dumpsites. Section 2 prohibits the dumping of "industrial wastes" in the ocean after December 31, 1981.

Since earlier amendments to the Ocean Dumping Act have mandated an end to dumping of sewage sludge in the ocean by December 31, 1981, this section will further strengthen our ability to protect and preserve our priceless marine resources. Section 4 of the bill extends to Long Island Sound the same protections that are currently applied to the ocean with respect to the disposal of polluted dredge spoils.

This provision would not, however, affect non-Federal dredging projects in cases where the amount of dredge spoil to be dumped is less than 25,000 cubic yards. This exception is designed to relieve those engaged in small dredging projects from the burden of complying with what would, in their case, be an unrealistically costly set of testing standards. The language is in no way intended to provide an incentive for, or to permit, large private dredgers to avoid necessary testing by breaking integral dredging projects into smaller superficially "separate" projects.

Finally, section 5 of the bill authorizes EPA to assist New York City in evaluating options for removal of toxic substances from that city's sewage sludge.

Mr. Speaker, all of these provisions are essential to our continuing effort to enhance the marine environment and our effective utilization of its resources, and I urge all Members of the House to join me in supporting them.

Mr. AMBRO. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York (Mr. AMBRO), the author of the amendment that we are trying to resolve.

Mr. AMBRO. Mr. Speaker, I would like to further clarify this.

On May 13, this House passed this bill by a vote of 371 to 24 with this title and section, which the Senate modified last night. I would suspect that as a result of almost agonizing negotiation we now have agreement even among the 24 original dissentors. The bill is essential not only from the point of view of Long Island Sound, but a variety of other extremely worthwhile purposes. Therefore, I am pleased to join my colleagues today in supporting S. 1148, reauthorization for title I of the Marine Protection, Research, and Sanctuaries Act. This act has been an essential component of this Nation's efforts to protect and preserve our priceless marine resources.

I would like to add a few words of clarification regarding section 4 of this bill, pertaining to the disposal of dredged materials in Long Island Sound. This section is the result of many hours of discussion and compromise between members in both houses concerning our common goal of protecting that most wonderful estuary, Long Island Sound. And the present language of section 4 does just that, without superimposing an unnecessary and costly Federal bureaucratic framework upon the sound, which in the past has been most effectively managed by the great States of New York and Connecticut.

The effect of section 4 is to apply the testing criteria of the Ocean Dumping Act to either any Federal dredging project in the sound or to any non-Federal project exceeding 25,000 cubic yards; for private projects involving less than 25,000 cubic yards of dredged material, the testing criteria of the Clean Water Act will continue to apply. Because the Ocean Dumping Act criteria are more environmentally stringent than the Clean Water Act criteria, these changes will afford to the sound the same protection currently afforded ocean waters.

In essence, section 4 says, "If dredged material is too polluted to be dumped in the ocean, it is also too polluted to be dumped in Long Island Sound." This change is very much in the spirit of recommendations of many in the scientific community, including the National Advisory Committee on Oceans and the Atmosphere (NACOA). That environmentally sensitive primary estuaries such as Long Island Sound be afforded equal or greater protection from polluted dredged spoils than open ocean waters. It is my hope that the 97th Congress will correct some of these inconsistencies in the present regulations issued pursuant to the Ocean Dumping Act and the Clean Water Act.

It was the intent of the Members involved in this legislation to insure that the bulk of dredged materials dumped in Long Island Sound be subject to the Ocean Dumping Act criteria, without burdening small operators with costly testing requirements. In fact, using data from the years 1977–80, spoils from either federally authorized projects or privately permitted projects exceeding 25,000 cubic yards comprised 94 percent of all dredged material dumped in the sound. The remaining 6 percent of the spoils would still be subject to the Clean Water Act criteria.

Finally it should be noted that this section is in no way intended to provide an incentive for, or to permit, large private dredgers to evade additional testing requirements by breaking an integral project involving more than 25,000 cubic yards into smaller pieces. On the other hand, it would not preclude reliance on the exemption for normal maintenance dredging conducted at normal maintenance intervals, even though the total quantity disposed, when combined over two or more maintenance cycles, exceeds 25,000 cubic yards.

On a personal note I have spent literally months prior to the intensive negotiations of these last waiving days on this bill. Passage will serve the best interests of those millions who live near, on and for Long Island Sound. This recreational productive and beautiful body of water must be preserved for this and future generations and this legislation will go for toward assuring that the bounty of Long Island Sound will remain uncontaminated and inviolate. If this, indeed, is the case I would like to be remembered as one of those who was an involved participant in the salvation of Long Island Sound.

Mr. FORSYTHE. Mr. Speaker, I want to pay high compliment to the gentleman from New York who did cooperate with some pains to work with the gentleman from Connecticut, both in this body and the other body, to arrive at the position we are now.

I hope the amendment will be approved and this can be sent to the White House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST TO CONCUR IN SENATE AMENDMENTS TO H.R. 5043, BANKRUPTCY TAX ACT OF 1980

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5043) to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 4, after the matter below line 20, insert:

"(E) Foreign tax credit carryovers.—Any carryover to or from the taxable year of the discharge for purposes of determining the amount of the credit allowable under section 33.".

Page 8, line 20, strike out "(5)" and insert "(6)".

Page 8, line 24, strike out "(6)" and insert "(7)".

Page 9, line 9, strike out "(7)" and insert "(8)".

Page 9, line 22, strike out "(8)" and insert "(9)".

Page 11, line 6, after "debtor." insert "Such regulations shall provide for such adjustments in the treatment of any subsequent transactions involving the indebtedness as may be appropriate by reason of the application of the preceding sentence.".

Page 11, line 17, strike out "section 414(c)" and insert "subsection (b) or (c) of section 414".

Page 12, strike out all after line 9, over to and including line 9 on page 14, and insert:

"(6) Indebtedness contributed to capital.—For purposes of determining income of the debtor from discharge of indebtedness, if a debtor corporation acquires its indebtedness from a shareholder as a contribution to capital—

"(A) section 118 shall not apply, but

"(B) such corporation shall be treated as having satisfied the indebtedness with an amount of money and equal to the shareholder's adjusted basis in the indebtedness.

"(7) Recapture of gain on subsequent sale of stock.—

"(A) In general.—If a creditor acquires stock of a debtor corporation in satisfaction of such corporation's indebtedness, for purposes of section 1245—

"(i) such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(ii) the aggregate amount allowed to the creditor—

"(I) as deductions under subsection (a), (b), or (c) of section 166 (by reason of the worthlessness or partial worthlessness of the indebtedness), or

"(II) as an ordinary loss on the exchange,

shall be treated as an amount allowed as a deduction for depreciation.

The amount determined under clause (ii) shall be reduced by the amount (if any) included in the creditor's gross income on the exchange.

"(B) Taxpayers on reserve method.—In the case of a taxpayer to whom subsection (c) of section 166 (relating to reserve for bad debts) applies, the amount determined under clause (ii) of subparagraph (A) shall be the aggregate charges to the reserve resulting from the worthlessness or partial worthlessness of the indebtedness.

"(C) Special rule for cash basis taxpayers.—In the case of any creditor who computes his taxable income under the cash receipts and disbursements method, proper adjustment shall be made in the amount taken into account under clause (ii) of subparagraph (A) for any amount which was not included in the creditor's gross income but which would have been included in such gross income if such indebtedness had been satisfied in full.

"(D) Stock of parent corporation.—For purposes of this paragraph, stock of a corporation in control (within the meaning of section 368(c)) of the debtor corporation shall be treated as stock of the debtor corporation.

"(E) Treatment of successor corporation.—For purposes of this paragraph, the term 'debtor corporation' includes a successor corporation.

"(F) Partnership rule.—Under regulations prescribed by the Secretary, rules similar to the rules of subparagraphs (A), (B), (C), (D), and (E) of this paragraph shall apply with respect to the indebtedness of a partnership.

"(8) Stock for debt exception not to apply in de minimus cases.—For purposes of determining income of the debtor from discharge of indebtedness, the stock for debt exception shall not apply—

"(A) to the issuance of nominal or token shares, or

"(B) with respect to an unsecured creditor, where the ratio of the value of the stock received by such unsecured creditor to the amount of his indebtedness cancelled or exchanged for stock in the workout is less than 50 percent of a similar ratio computed for all unsecured creditors participating in the workout.

"(9) Discharge of indebtedness income not taken into account in determining whether entity meets REIT qualifications.—Any amount included in gross income by reason of the discharge of indebtedness shall not be taken into account for purposes of paragraphs (2) and (3) of section 856(c)."

Page 16, line 13, strike out "Any interest" and insert "For purposes of this section, any interest".

Page 16, line 17, after "partnership." insert:

"The preceding sentence shall apply only if there is a corresponding reduction in the partnership's basis in depreciable property with respect to such partner.

"(D) Special rule in case of affiliated group.—For purposes of this section, if—

"(i) a corporation holds stock in another corporation (hereinafter in this subparagraph referred to as the 'subsidiary'), and

"(ii) such corporations are members of the same affiliated group which file a consolidated return under section 1501 for the taxable year in which the discharge occurs,

then such stock shall be treated as depreciable property to the extent that such subsidiary consents to a corresponding reduction in the basis of its depreciable property.

"(E) Election to treat certain inventory as depreciable property.—

"(i) In general.—At the election of the taxpayer, for purposes of this section, the term 'depreciable property' includes any real property which is described in section 1221 (1).

"(ii) Election.—An election under clause (i) shall be made on the taxpayer's return for the taxable year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Secretary. Such an election, once made, may be revoked only with the consent of the Secretary.

Page 17, strike out lines 1 to 8, inclusive.

Page 17, line 9, strike out "(3)" and insert "(2)".

Page 17, strike out lines 14 to 19, inclusive and insert:

"(1) In general.—For purposes of sections 1245 and 1250—

"(A) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

Page 18, strike out all after line 10, over to and including line 7 on page 19, and insert:

(d) Amendment of Section 382(b).—Subsection (b) of section 382 (relating to special limitations on net operating loss carryover), as in effect before its amendment by section 806 of the Tax Reform Act of 1976, is amended by adding at the end thereof the following new paragraph:

"(7) Special rule for reorganizations in title 11 or similar cases.—For purposes of this subsection, a creditor who receives stock in a reorganization in a title 11 or similar case (within the meaning of section 368(a) (3) (A)) shall be treated as a stockholder immediately before the reorganization."

Page 20 in the matter following line 3, strike out "108(f) (1) (B)" and insert "108 (e) (6)".

Page 20, strike out all of line 4 down to and including the matter which follows line 6.

Page 22, strike out lines 5 to 13, inclusive and insert:

"(d) Taxable Year of Debtors.—

"(1) General rule.—Except as provided in paragraph (2), the taxable year of the debtor shall be determined without regard to the case under title 11 of the United States Code to which this section applies.

Page 22, line 14, strike out "(3)" and insert "(2)".

Page 24, line 4, strike out "(4)" and insert "(3)".

Page 24, strike out all after line 8, down to and including the matter which follows line 9.

Page 24, line 16, after "Code." insert: "The preceding sentence shall not apply to any amount received or accrued by the debtor before the commencement date (as defined in subsection (d)(3)).".

Page 24, strike out all after line 21 over to and including line 3 on page 25.

Page 25, line 4, strike out "(4)" and insert "(3)".

Page 25, line 20, strike out "TRANSFER." and insert "DISPOSITION."

Page 25, line 22, strike out "transfer" and insert, "disposition".

Page 25, lines 23 and 24, strike out "transfer" and insert, "disposition".

Page 26, line 2, strike out "TRANSFER" and insert "DISPOSITION".

Page 26, line 5, strike out "transfer" and insert "disposition".

Page 26, lines 6 and 7, strike out "transfer" and insert "disposition".

Page 45, strike out all after line 3, over to and including line 8 on page 46, and insert:

"(g) Title 11 or Similar Cases.—If a corporation completely liquidates pursuant to a plan of complete liquidation adopted in a title 11 or similar case (within the meaning of section 368(a)(3)(A))—

"(1) for purposes of subsection (a), the term 'property' shall not include any item acquired on or after the date of the adoption of the plan of liquidation if such item is not property within the meaning of subsection (b)(2), and

"(2) subsection (a) shall apply to sales and exchanges by the corporation of property within the period beginning on the date of the adoption of the plan and ending on the date of the termination of the case.".

Page 47, line 20, strike out "is" and insert "are".

Page 48, strike out lines 1 to 7, inclusive, and insert:

(f) Effect on Earnings and Profits.—Section 312 (relating to effect on earnings and profits) is amended by adding at the end thereof the following new subsection:

"(1) Discharge of Indebtedness Income.—

"(1) Does not increase earnings and profits if applied to reduce basis.—The earnings and profits of a corporation shall not include income from the discharge of indebtedness to the extent of the amount applied to reduce basis under section 1017.

"(2) Reduction of deficit in earnings and profits in certain cases.—If—

"(A) the interest of any shareholder of a corporation is terminated or extinguished in a title 11 or similar case (within the meaning of section 368(a)(3)(A)), and

"(B) there is a deficit in the earnings and profits of the corporation,

then such deficit shall be reduced by an amount equal to the paid-in capital which is allocable to the interest of the shareholder which is so terminated or extinguished."

Page 48, strike out all after line 22 over to and including line 3 on page 49, and insert:

(b) Coordination of Deficiency Procedures With Title 11 Cases.—

(1) In general.—Section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

Page 49, after line 20, insert:

(2) Clerical amendment.—Subsection (d) of section 6404 (relating to abatements) is amended by striking out "section 6213(f)(2)(A)" and inserting in lieu thereof "section 6213(g)(2)(A)".

Page 60, strike out all after line 5, over to and including line 14 on page 63, and insert:

Sec. 7. Effective Dates.

(a) For Section 2 (Relating to Tax Treatment of Discharge of Indebtedness).—

(1) In general.—Except as provided in paragraph (2), the amendments made by section 2 shall apply to any transaction which occurs after December 31, 1980, other than a transaction which occurs in a proceeding in a bankruptcy case or similar judicial proceeding (or in proceeding under the Bankruptcy Act) commencing on or before December 31, 1980.

(2) Transitional rule.—In the case of any discharge of indebtedness to which subparagraph (A) or (B) of section 108 (a)(1) of the Internal Revenue Code of 1954 (relating to exclusion from gross income), as amended by section 2, applies and which occurs before January 1, 1982, or which occurs in a proceeding in a bankruptcy case or similar judicial proceedings commencing before January 1, 1982, then—

(A) section 108 (b) (2) of the such Code (relating to reduction of tax attributes), as so amended, shall be applied without regard to subparagraphs (A), (B), (C), and (E) thereof, and

(B) the basis of any property shall not be reduced under section 1017 of such Code (relating to reduction in basis in connection with discharges of indebtedness), as so amended, below the fair market value of such property on the date the debt is discharged.

(b) For Section 3 (Relating to Rules Relating to Title 11 Cases for Individuals.—The amendments made by section 3 shall apply to any bankruptcy case commencing more than 90 days after the date of the enactment of this Act.

(c) For Section 4 (Relating to Corporate Reorganization Provisions).—

(1) In general.—The amendments made by section 4 shall apply to any bankruptcy case or similar judicial proceeding commencing after December 31, 1980.

(2) Exchanges of property for accrued interest.—The amendments made by subsection (e) of section 4 (relating to treatment of property attributable to accrued interest) shall also apply to any exchange—

(A) which occurs after December 31, 1980, and

(B) which does not occur in a bankruptcy case or similar judicial proceeding (or in a proceeding under the Bankruptcy Act) commenced on or before December 31, 1980.

(d) For Section 5 (Relating to Miscellaneous Corporate Amendments).—

(1) For subsection (a) (relating to exemption from personal holding company tax.—The amendments made by subsection (a) of section 5 shall apply to any bankruptcy case or similar judicial proceeding commenced after December 31, 1980.

(2) For subsection (b) (relating to repeal of special treatment for certain railroad redemptions.)—The amendments made by subsection (b) of section 5 shall apply to stock which is issued after December 31, 1980 (other than stock issued pursuant to a plan of reorganization approved on or before that date).

(3) For subsection (c) (relating to application of 12-month liquidation rule).—The amendment made by subsection (c) of section 5 shall apply to any bankruptcy case or similar judicial proceeding commenced after December 31, 1980.

(4) For subsection (d) (relating to permitting bankruptcy estate to be subchapter s shareholder).—The amendment made by subsection (d) of section 5 shall apply to any bankruptcy case commenced on or after October 1, 1979.

(5) For subsection (e) (relating to certain transfers to controlled corporations).—The amendments made by subsection (e) of section 5 shall apply as provided in subsection (a) of this section.

(6) For subsection (f) (relating to effect of debt discharge on earnings and profits).—The amendment made by subsection (f) of section 5 shall apply as provided in subsection (a) of this section.

(e) For Section 6 (Relating to Changes in Tax Procedures).—The amendments made by section 6 shall take effect on October 1, 1979, but shall not apply to any proceeding under the Bankruptcy Act commenced before October 1, 1979.

(f) Election To Substitute September 30, 1979, for December 31, 1980.—

(1) In general.—The debtor (or debtors) in a bankruptcy case or similar judicial proceeding may (with the approval of the court) elect to apply subsections (a), (c), and (d) by substituting "September 30, 1979" for "December 31, 1980" each place it appears in such subsections.

(2) Effect of election.—Any election made under paragraph (1) with respect to any proceeding shall apply to all parties to the proceeding.

(3) Revocation only with consent.—Any election under this subsection may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(4) Time and manner of election.—Any election under this subsection shall be made at such time, and in such manner, as the Secretary of the Treasury or his delegate may by regulations prescribe. (g) Definitions.—For purposes of this section—

(1) Bankruptcy case.—The term "bankruptcy case" means any case under title 11 of the United States Code (as recodified by Public Law 95–598).

(2) Similar judicial proceeding.—The term "similar judicial proceeding" means a receivership, foreclosure, or similar proceeding in a Federal or State court (as modified by section 368(a)(3)(D) of the Internal Revenue Code of 1954).

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Illinois?

Mr. JACOBS. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

SENATE LANGUAGE IN CONFERENCE REPORT EXEMPTING CERTAIN CORPS OF ENGINEERS PROJECTS SHOULD BE OPENED

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, when we take up the continuing resolution later today, I urge the gentleman from Mississippi (Mr. Whitten) to oppose firmly the inclusion in the conference report on the continuing resolution the Senate language exempting certain Corps of Engineers projects from the application of the Federal reclamation laws.

A similar provision is contained in H.R. 6520, a bill which was never brought before the House at the request of the President. This highly controversial provision was approved in the House Committee by a two-vote margin. Surely so controversial a provision, one which has been argued in the courts for years and one which has major economic implications for western agriculture, deserves more than the fleeting consideration given it in the continuing resolution.

This provision would exempt the Kings River-Tulare Lake service areas in California from the law under a general exclusion for projects built by the U.S. Army Corps of Engineers. The application of reclamation law to corps projects constructed under the 1944 Flood Control Act is limited only to the irrigation uses of water from those particular projects located in the 17 Western States. No effort has ever been made or suggested under any circumstance to apply the reclamation laws to other projects.

On the other hand, the reclamation laws have always applied to the four projects in the southern Central Valley of California, Isabella, Pine Flat, Success, and Terminus. There has never been an effort to apply reclamation law to any other corps projects under the 1944 act except Kings River-Tulare Lake, and no such future application will occur. The Interior Department has concluded—

> There are certain cases involving irrigated agriculture in the vicinity of Corps projects where we have determined that reclamation law should not apply. These cases include Corps projects on the Columbia River System and the main stem of the Missouri River. Even though there may be some impact from Corps projects on irrigation in these areas, *irrigation is not a project purpose and the effects are insignificant and unavoidable, and therefore do not warrant the application of reclamation law.* (Secretary Cecil Andrus to Congressman Morris Udall, May 21, 1980) (Emphasis added.)

The four California projects constitute 82 percent of all irrigable acres and 97 percent of all excess lands involved in the corps projects authorized under the 1944 act.

During congressional debate in 1944, the intention to apply the reclamation laws to these projects was often stated. President Franklin D. Roosevelt noted that these projects "constitute a logical extension of the existing Central Valley project of the Bureau of Reclamation," a view reinforced by Interior Secretary Ickes. At the time of Senate action on the 1944 Act, Senator Overton noted:

> Section 8 of the bill clearly placed the reclamation [i.e., irrigation] uses of water from these projects . . . under the application [of] reclamation laws.

This view was confirmed frequently in subsequent years, long before the project ever went into operation. In signing the 1947 act appropriating funds for the construction of Pine Flat Dam, President Truman stated:

> I am also glad to note that the Congress, by the addition of certain provisions to the item for the Kings River Project, California, has afforded an opportunity for assuring that *the Federal reclamation policy, including repayment and the wide distribution of benefits, will apply* to that project. (Emphasis added.)

The essential irrigation purpose of the California dams was further clarified by the findings' benefit-cost studies. Without the irrigation component, the B/C ratio stood at a marginal 1:19 to 1. When the irrigation component was included just prior to construction in 1948, the B/C ratio jumped to a healthier 1:59 to 1.

After years of dispute, the representatives of the Federal Government and the Kings River-Tulare Lake area agreed to file a test case lawsuit to settle the longstanding dispute in 1963. According to a repayment contract voluntarily signed by landowners at that time, all parties agreed to abide by the outcome of the suit. In 1972, the district court ruled for the landowners, but this decision was unanimously overturned in 1976 by the appeals court which concluded:

> There can be no doubt . . . that in proposing section 8, the Senate subcommittee intended to adopt the [Roosevelt] Administration's position that the Reclamation laws, *and specifically the acreage limitation,* should apply to irrigation uses of all projects authorized by the [1944] bill, *including the Kings River project,* even though the projects were built by the Corps of Engineers. (Emphasis added.)

Every judge on the ninth circuit refused landowner request to review this decision.

The U.S. Supreme Court also declined to review the appeals court's decision in 1977.

The landowners, in violation of their 1963 contract agreement, initiated the intensive lobbying effort for exclusion which has resulted in the exclusion language in the conference report. It is interesting to note that the report language on this provision of H.R. 6520 does not even mention the long court action which was concluded decisively on behalf of the application of the reclamation laws to the four corps projects.

Over the course of five decades of opinions by various Presidents, Interior Secretaries, Attorneys General and others charged with interpreting and enforcing the law have agreed with the applicability of the reclamation laws to the Kings River-Tulare Lake projects. The lone dissent, inexplicably issued less than a month ago, was written by Secretary Cecil Andrus who for 4 years has been among those most fervently arguing in favor of enforcement.

Earlier this year, Secretary Andrus reviewed the arguments for exemption offered by the Kings River landowners and concluded, on the basis of an exhaustive review by the Department—

> The excess landowners' claim of unenforceability has been heavily relied upon to argue for exemption. This study shows that this argument does not hold up to the facts, and it should not be persuasive. (May 21, 1980)

In his November 19 reversal, Andrus cites no factual or empirical basis whatsoever for reversing the longstanding, and judicially upheld view of the Government since 1944. We would revert to his earlier advice: "It should not be persuasive."

We also would point out the Secretary's warning that such an "exemption would benefit only a few large landowners." Reasonable people may disagree about the optimum size for a reclamation farm which may receive federally-subsidized benefits. The acreage limitation, set at 160 acres in the 1902 law, would be changed to 1,280 under the Senate-passed bill, and 3,360 acres in the bill which the House has never considered.

But the landholdings in the Kings-Kern service areas go far beyond these acreages: J. G. Boswell, 109,793 acres; Tenneco West, 64,941; Salyer Land, 29,060; Southlake Farms, 26,816; Westlake Farms, 19,817; George W. Nickel, Jr., 16,686; Chevron USA, 13,014 and numerous other corporate interests. The Solicitor of the Department of Interior has estimated that the total subsidy—June 7, 1978—may be "several million dollars a year to large landowners."

This amendment by the Senate would circumvent years of administrative and legal precedent. Moreover, it would not really solve any problem since the exemption would last only as long as the continuing resolution. It would doubtless be cited as evidence of congressional intent in future exemption efforts. Such a legislative precedent deserves far greater consideration than this amendment has received.

No calamity will befall the Kings River landowners if this issue is resolved in the 97th Congress. About 44 percent of the land in this area is excess land which has been receiving benefits for over 25 years despite being in violation of the law. Aspects of the cases are still before the courts, and no new Federal regulations can be imposed until late in 1981.

□ 1300

MERIT SYSTEMS PROTECTION BOARD

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, last evening the conferees on the continuing resolution dealt with the language concerning the Merit Systems Protection Board which I discussed on the floor yesterday. For the benefit of my colleagues and the record, I would like to explain what the conferees did and why I understand they did it.

The Senate amended the bill in three ways pertaining to the Merit Systems Protection Board. First, the Senate prohibited the expenditure of any funds for the prosecution or defense of the lawsuit, *Merit Systems Protection Board* v. *Mary Eastwood,* Civil Action File No. 80–2970 or any similar case as of 7 days after the enactment of the continuing resolution.

The conferees adopted the Senate provision in the belief that intraagency disputes should be settled in the executive branch, without resort to Federal courts. Bringing litigation of this sort with Federal funds is an inappropriate and unauthorized use of those funds. We all expect that all expenditures relating to this lawsuit will immediately cease.

Second, the Senate reduced the appropriation level for the Merit Systems Protection Board from $15 million to $12.835 million, the level recommended in the President's budget request for fiscal year 1981. The conferees adopted the lower figure. The Board can operate at a level of $12.835 million without any reduction in the current level of service it provides to Federal employees and agencies. Decisions on appeals should continue to be rendered in a timely manner. Rather, the budget cut should be made in three areas:

The Office of the General Counsel within the Board is seriously overstaffed at the level of 35 suggested in the Board's budget request. Whatever Federal court litigation needs to be done can be performed by a staff of five. Legal advice to the Board should be supplied by the Board member's personal assistants and by the Office of Appeals, not by the General Counsel's office.

The Board has misinterpreted its responsibility to conduct special studies under 5 U.S.C. 1205(a)(3). Rather than conducting expensive survey research, the Board should concentrate on finding and analyzing patterns and practices of merit system abuse. The Board should not duplicate work done by other agencies, including the General Accounting Office, or by universities. The Board's recently announced studies of the attitudes of midlevel managers and senior executives is duplicative of work previously conducted by the Office of Personnel Management.

The Board has seriously overstaffed its legislative liaison and public relations offices. Since the conferees made it clear that the Special Counsel should handle its own responsibilities in these areas, the need of the Board for such services should be quite small. No more than 1-staff year should be necessary to handle both of these functions together.

Third, the Senate specified the relationship between the Merit Systems Protection Board and the Special Counsel, prohibiting the Board from interference in the investigative and prosecutorial functions of the Special Counsel. The Senate amendment provided that the Special Counsel would be autonomous in personnel management, congressional relations, public relations, and budgetary matters. The conferees dropped this provision in the belief that it was unnecessary in view of the language of and legislative history surrounding the Civil Service Reform Act of 1978 (Public Law 95-454) and reorganization plan No. 2 of 1978.

In passing the Reform Act and the reorganization plan, Congress made plain that the Special Counsel is solely responsible for investigatory and prosecutorial functions and is independent of supervision or direction by the Board. This independence extends to all budgetary and administrative matters the Special Counsel considers necessary to perform its responsibilities. Oversight over the action of the Special Counsel properly rests with the President and the appropriate committees of the Congress.

Obviously, the Board and the Special Counsel should coordinate their activities and develop a cooperative relationship which respects their independent missions and individual needs and is mindful of their common purpose—to protect the rights of Federal employees. Congress expects cooperation to supplant confrontation in the relationship between the Board and the Special Counsel. Each should consult with the appropriate congressional committees if problems arise in the future.

CORPS OF ENGINEERS PROJECTS AND RECLAMATION LAWS

(Mr. PASHAYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASHAYAN. Mr. Speaker, I should just like to say, addressing myself to the points made by my colleague from California (Mr. Miller) that he is sadly mistaken. The amendment to which he was addressing himself exempts all of the corps projects in the United States from the application of reclamation law, which application to any independent thinker was never intended by the Congress to obtain respecting projects built by the U.S. Army Corps of Engineers. It does not mention any one particular project but addresses all the projects across the Nation evenly and equitably.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I yield to my colleague from New Mexico.

Mr. LUJAN. Is not the proposition here that the gentleman from California (Mr. Miller) is talking about that those in the West not be excluded from the reclamation law, but those projects that were built by the Corps of Engineers in the eastern part of the United States, in Florida, New York, and all of those other Eastern States, that those certainly would be, so we are treating western flood control dams differently from eastern flood control dams according to the gentleman from California's (Mr. Miller) proposition.

Mr. PASHAYAN. That is right.

REQUEST TO CONCUR IN SENATE AMENDMENTS TO H.R. 5043, BANKRUPTCY TAX ACT OF 1980

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5043) to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

Mr. BAUMAN. Mr. Speaker, I object to consideration.

The SPEAKER. Objection is heard.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. In the opinion of the Chair, after consultation with the timekeeper, in 3 minutes and 30 seconds the conference report will be eligible.

Mr. EDGAR. Mr. Speaker, I withdraw my reservation of objection to consideration of the continuing resolution.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 637, FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, pursuant to the provisions of House Resolution 821, I call up the conference report on the joint resolution (H.J. Res. 637), making further continuing appropriations for fiscal year 1981, and for other purposes.

□ 1310

The Clerk read the title of the joint resolution.

The SPEAKER. Pursuant to House Resolution 821, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER. The gentleman from Mississippi (Mr. Whitten) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. Conte) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi.

GENERAL LEAVE

Mr. WHITTEN. I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and amendments in disagreement under consideration, and that I be permitted to include tables and other extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, as I said earlier, I am not in a position that anyone would choose, and the same goes for our Committee on Appropriations, but due to circumstances beyond our control, we in the House of Representatives and in the Congress, for that matter, last year and this year, too, by passing continuing resolutions are keeping the Government operating. We try to be fair to everyone and take care of those things that are necessary. In that process we have our opinions on this side of the Capitol and they have opinions on the other side of the Capitol.

Mr. Speaker, in this conference there were 36 Members, half on this side and half on the Senate side, and as you can imagine, there were wide differences of opinion as to how to do this, that, and the other thing. There was a great deal of difference between the House and the Senate.

One of the other problems is that we are working against a deadline. I believe we passed a continuing resolution on December 3 after much attention and much work on it. I would like to describe to you the situation that we find ourselves in today. On Monday, the resolution under which we are presently operating House Joint Resolution 610, will expire. In the opinion of the Attorney General, it will be impossible for the Government's business to continue to operate if we do not adopt this funding measure. Due to the continuing resolution, I do think that the House and Senate have passed many of the appropriations bills, but they have not all been signed.

So all of those bills that have agreement on the conference report but where they are on the President's desk, will need this continuing resolution to stay in business until such time as they may be signed. In most cases where the conference report has been approved, we have continued to put them in this continuing resolution at the rate and under the terms in the conference agreement. So we have tried our very best to limit ourselves to those things that are essential.

Again, there were many differences between the House and the Senate. When you operate against deadlines, sometimes you have to give a little more than you might wish to, and the other side has the same problem. We think we are reasonable and they are stubborn, and they think we are stubborn and they are reasonable.

But all things considered, I think we have come out with a sound bill, under the circumstances which we worked. I would repeat that the staff worked until 3 o'clock in the morning so that it would be available for us to consider today, and so we would not have to come back Monday in connection with this overall funding bill.

Mr. Speaker, as the Members know, on behalf of the committee I introduced this continuing resolution (House Joint Resolution 637) just as I had previously introduced House Joint Resolution 610, under which the Government is now operating.

Both House Joint Resolution 637 and House Joint Resolution 610, as I introduced them and as voted out by the Appropriations Committee and passed the House, included a cap on any increase in appropriations for Members of Congress and senior executives.

The additional amount required to meet the increased cost of living is 9.1 percent for this year alone. This is provided by law for Federal employees of the executive, legislative, and judicial branches. Most Federal employees were granted this increase this October.

I have always felt that the Congress should hold back and set the example. Following that course, in October 1979, I offered the provision to limit the increase of 12.9 percent at that time to 5.5 percent, but I provided that if the 5.5 percent was accepted, that acceptance would be in lieu of the 12.5 percent due under existing law. Members of Congress accepted this reduction, but the Federal judges did not. Three separate law suits were filed and the Federal Court held that the mandated cost of living adjustment was a legal part of salary and was due. As of now, that is the law. However, we did hold up the increased appropriation.

In yesterday's conference, a majority of the conferees believed that since the cost of living continues to climb and since other employees had received such increases, that it was best to make the appropriation now, instead of carrying it as an obligation.

Although I filed an objection, the conference report before us now does contain the appropriation for the estimated 34,000 employees who have been excluded from the full salary which the law specifies.

So I am saying what we are dealing with today, whatever you may think, is a matter of appropriating for a law that exists. The existing law calls for an increase in line with inflation, and that is 9.11 percent.

Personally, I felt that the Congress could well set an example. That was my opinion when I reduced the 12.5 percent to 5.5 percent some time ago.

I provided for passing up the 9.1-percent increase in resolution 637 before you now, the so-called pay cap. In the conference report, I made an exception to the action of the conference on this issue.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Indiana.

Mr. JACOBS. I thank the gentleman for yielding. Should not the record also show it is a matter of the taxpayers' putting up $70,000 for each of their Representatives and Senators?

Mr. WHITTEN. That is not my understanding. My understanding is that the 9.11 percent is the increase in the cost of living, which would be much less, over a 2-year period. I do believe I know what the law is, because I have it before me. I do know that Federal judges have filed suit, and in three cases in Federal court the courts have held that the increase is due as a matter of law. The fact that we do not appropriate it does not repeal that law. There is a difference, as the gentleman knows, about reducing salaries of judges during that period of office, but they held in that case that the increase became the salary and that is the initial point here.

Mr. JACOBS. Will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Indiana.

Mr. JACOBS. Would that be the same court system that tried to order Congress awhile back to pay that court system more money?

Mr. WHITTEN. I do not think they ordered the Congress to do it, as far as I know. They went before another judge, and the other judge said they were entitled to the increased amount. But the point I make is that in this decision there is a distinction. In either case it was that the increase became the salary fixed by law. That was determined in each of these cases and they were entitled to the increase. Then you get into another situation. I want to be sure this would not be misunderstood. I think it would be good for us to set an example, but it should be clear that the judges continued right on with receiving those increases. I did provide that if anyone took the 5.5 percent, it was in lieu of the 12.9-percent increase.

There was some controversy in other provisions of this resolution which are legislative in nature. In some cases we were asked to include various legislative matters.

May I say again that this is not in violation as much as you might think, because a continuing resolution is part legislation and part appropriation. So it is not unusual for a continuing resolution to carry the essential legislation that might be required, because it is legislative in nature.

So without further ado, I just want to say that in this bill there are some things the House disagreed with and there are some the Senate disagreed with. In many instances we did the best we could. I do not know that we could do better if we went back to conference. I do know that if you send this back, this being Saturday, you are going to leave your Government where it will be in operation in certain areas for several days, if this bill were sent back in any way or if the conference report were turned down.

I would say if we went back, I have no reason to believe that we could do any better than we have done here.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. HALL of Texas. I thank the gentleman for yielding.

Do I understand the gentleman to say that in this conference report the cap has been raised——

Mr. WHITTEN. Removed.

Mr. HALL of Texas. Removed to increase the salaries of all of those who are Members of Congress, the judicial system, and certain persons with a 15 or above?

Mr. WHITTEN. It is a play on words, and I suspect the gentleman is describing it like many folks would, but what I said was the law fixes the salary at an increased amount. The Federal courts have held in three instances in suits by the judges that the law is fixed to allow the increased amount as a part of the salary. The appropriation for that is in this bill.

Mr. HALL of Texas. Will the gentleman yield for one other question?

Mr. WHITTEN. I yield to the gentleman.

Mr. HALL of Texas. I thank the gentleman. I believe that on more than one occasion in the past the House has voted to leave the cap as it was, which would exempt the Congressman from having an increase in salary.

Mr. WHITTEN. May I say that has happened.

☐ 1320

May I say that cap was in a bill which I introduced and we sent to the Senate. But it was a limitation to appropriate. It did not repeal the law. I admitted that at the time, and I admit it again. But in the instance that I had to do with, I provided 5.5 in the act, and it was approved by the Congress, but I said further that if you accepted the 5.5, it was in lieu of the 12.9. I have had a number of Federal judges talk to me, and they did not accept the 5.5 percent cap. So the judges knew that, under the language as I wrote it, if you accepted the 5.5 it was in lieu of the 12.9.

So let me repeat again, the law fixes this increased salary. Here we provide the appropriation. Although we did have a cap on it when it left here.

Mr. HALL of Texas. Will the gentleman yield for a further question?

Mr. WHITTEN. I yield to the gentleman.

Mr. HALL of Texas. But did not the Senate vote twice yesterday to leave the cap intact on the salary increases, and it was only last evening around 9 o'clock or later that the conferees agreed to lift the cap, so to speak, and allow these increases to go into this conference report?

Mr. WHITTEN. I do not recall how many votes, they took several votes yesterday, let us put it that way. But I do not know that they voted several times on the pay cap.

Mr. HALL of Texas. If the gentleman will yield for a further question, is it not a fact that the way in which this cap has been removed, it would make it impossible for us to have an up-and-down vote on the salary increase by itself?

Mr. WHITTEN. That is my understanding. It is part of the conference report.

Mr. HALL of Texas. So that the only way that we could vote to do away with the salary increase would be to vote down the conference report?

Mr. WHITTEN. I do not want to correct my friend too many times, but it is not a salary increase. This is an appropriation to pay the salary.

Mr. HALL of Texas. Well, someone is giving us $10,000 more money than we were going to get at this time yesterday. I assume that is an increase.

Mr. WHITTEN. It is in the appropriation to carry out the law.

Mr. CONTE. Mr. Speaker, will the chairman yield to me?

Mr. WHITTEN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, there is one other thing the gentleman from Texas can do, and I would like to give him this advice. I hope he does it. I will watch next year. The gentleman can return the $10,000 to the Treasury.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from New York

Mr. PEYSER. I thank the gentleman for yielding.

Mr. Speaker, I merely want to congratulate the conferees. While there may not be everything that we all agree with in this resolution, they have shown the courage to face a number of very difficult issues, among them the one that is being discussed right now. It is an issue that is so personal to so many of us and so necessary, that the public itself and the press well recognize the need. I want to congratulate the chairman and the committee for moving effectively on this matter.

Mr. WHITTEN. May I thank the gentleman, and may I point out again one thing. Whether the appropriation was made or not, an obligation exists, according to the opinions of three Federal courts. Now, that is not the highest court.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Speaker, I am concerned; time is marching on, and there are very few opportunities that we have to ask questions about the specifics in the legislation.

I wonder if the gentleman could tell us how the Osage Indian issue on the central Arizona water project can be dealt with in an up-or-down vote? I notice that in amendment No. 30 it is reported in technical disagreement. Does the gentleman in the well intend to offer a motion at that time to concur and accept the Senate language?

Mr. WHITTEN. I am advised that we could.

Mr. EDGAR. If the gentleman will yield further, there are a number of other specific issues in this legislation. I know everyone is concerned about the pay raise. Is it the gentleman's intention to spend some of his half hour talking about some of those other issues?

Mr. WHITTEN. Well, with 30 minutes, and with 36 conferees, I doubt that I should use much more time.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Indiana.

Mr. JACOBS. I thank the gentleman for yielding.

Mr. Speaker, I want to say to the chairman that I have the utmost personal respect for him, but I must say for the record that an authorization and an appropriation are always two different things. That which is authorized by law frequently is higher than what is appropriated. I simply say for the record that, looking at the condition of this country today, it seems to me that this is almost like a Louis XIV tea party while the people are storming the Bastille.

Mr. WHITTEN. I have differed with the courts many, many times. Three courts have held that it is a salary and that it is not just an authorization. It is the real McCoy.

Mrs. BOUQUARD. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. I thank the gentleman for yielding.

Although I have the utmost respect for the chairman of this committee, I must rise in opposition to this conference report. It is most unfortunate that we must make a decision upon this controversial measure with just a few hours remaining in the 96th Congress. Our constituents have the right to expect more from their elected leaders than a rush to judgment on this bill under the pressures of adjournment. The House has not lived up to the responsibilities placed upon us for the orderly consideration of legislation spending the taxpayers' funds. This report should be rejected and we should remain in session as long as it takes to resolve the issues raised in this bill.

Of course, by far the most offensive provision is the increase in pay for Members of Congress. In each of the instances in which congressional salaries have been increased in the past 6 years every attempt has been made to avoid a definitive vote on the question. This has placed many of us in the awkward position of opposing the pay increase, but being forced for any number of other valid reasons into supporting the broader legislation which includes the pay raise provision. This is a bad system and one which should not be permitted to continue. This conference report, despite its good points, should be rejected, the pay provision stricken from the bill, and the House should then proceed to consider the remaining appropriations bills on their own merit without the distracting pressure of imminent adjournment.

In addition to the objections which I have voiced regarding the provision to increase the salary of Members of Congress, Mr. Speaker, I am also concerned about the deletion of the original House-passed prohibition on Justice Department intervention in school busing cases. The President has announced his intention to veto the State, Justice, Commerce appropriations bill which contains the antibusing provision. In response to this, the continuing resolution makes provision to fund those agencies in the absence of their regular appropriations. However, the continuing resolution does not contain the prohibition on busing. Given the stated position of the new administration, it is clear that this prohibition will be approved, probably early in the 97th Congress. It is unfortunate that we must delay, even for this short period of time, the enactment of restrictions on the use of busing for the purpose of achieving racial balance. Busing is simply not effective in achieving this goal and we should abandon it in favor of upgrading the quality of education for all of our citizens.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I want to thank the chairman.

I know how extensively the conference worked. There is a question I would like to raise with respect to some authority for revenue bonds, about $225 million worth, which were neither in the continuing resolution of the House or the Senate, entirely new language that was put in to provide something special for one community.

Can the gentleman tell me about that?

Mr. WHITTEN. I can. And all I can say is that this is one of the things that you have a continuing resolution for. It is to do those things that others cannot get around to. For example, with the disasters that have been suffered in San Bernardino there is an urgent necessity. With the Congress fixing to quit, we would have to start all over again, we will have to organize committees, and this, that and the other. We had to deal with many emergencies, and this was considered to be an emergency. I did not see how we could address this situation before next February or March.

It is unfortunate that we had to act, but we were the only ones in a position to act.

Mr. VANIK. I will talk more about it when we get to that section.

I thank the chairman.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on House Joint Resolution 637, providing further continuing appropriations for fiscal 1981.

This is a good conference agreement.

There were 148 amendments in disagreement. I estimate that of these amendments, 15 were technical in nature, making grammatical changes or changes in section numbers, and 14 concerned Senate items only.

Accordingly there were 119 substantive amendments before the conferees. We worked late last night to reach an agreement. I do not agree with all of the recommendations of the conferees, but I think that under the circumstances it is the best agreement that we would bring back to the House.

The Senate added a number of legislative and special interest amendments, and we were successful in convincing the Senate to recede from 23 of these amendments.

Let me review some of the specific provisions of the conference agreement.

We agreed to extend the continuing resolution through June 28, 1981, which will permit the new Congress to complete consideration of the four remaining appropriation bills for fiscal 1981.

The abortion issue is reported from conference in disagreement, and the House will have an opportunity to vote for the current law, or the much more restrictive Hyde language.

We convinced the Senate to modify a restriction on travel and consultants that was too restrictive, and we convinced the Senate to recede from a spending limitation that was virtually unworkable.

This agreement on the continuing resolution provides $4.566 billion for the continuation of the general revenue sharing program for local governments as provided in H.R. 7112 as amended which received final House approval on Wednesday and which was agreed to in the Senate yesterday. Also provided is $1.5 million to continue the noncontiguous payment to the State of Hawaii.

The House receded to the Senate position on funding of title IV–C of the Elementary and Secondary Education Act thus bringing the level of funding for support and innovation grants up to the 1980 level of $197.4 million.

The House also accepted the Senate position on additional funding for the National Institutes of Health with a minor amendment. An additional $70 million is added to the NIH appropriation for nine different Institutes.

The conferees acknowledged their concern for an apparent conflict in the regulations governing the level of food stamp benefits and the delivery of benefits under the home energy assistance program.

Essentially, it appears that beneficiaries under the home energy assistance program who receive their energy benefits in the form of direct vendor payments will have their food stamp benefits reduced accordingly. Meanwhile, beneficiaries receiving those same energy assistance benefits in the form of cash will not have their food stamp benefits reduced by the amount of energy assistance they receive.

Clearly this double standard is not the intention of the authorizing legislation, nor the intention of the conferees. It is the stated intention of Public Law 96–223 authorizing the home energy assistance program that other benefits not be reduced as a result of these energy assistance benefits.

The conferees have, therefore, included conference report language providing that to the fullest extent administratively possible, beneficiaries of home energy assistance shall not have their food stamp benefits reduced as a result of a State's use of vendor payments to deliver benefits under the home energy assistance program.

The conference agreed to increase limitations for the Export-Import Bank to $5.9 billion for direct loans and $7.6 billion for loan guarantees. This represents increases of $536 million for direct loans and $744 million for loan guarantees over amounts available under the House bill.

I strongly support this increased program level for the Eximbank, as I believe this is one of the most effective job-producing efforts supported by the Federal Government. For every $1 million in export sales, 40,000 jobs are created in the United States. Of course, this also helps our balance of trade at a time when other industrialized countries are expanding their own export assistance efforts. We must keep U.S. products competitive in the world market, and these additional Eximbank funds will help.

In closing, I say to my colleagues that this Congress has finished any useful work it will do.

It is time for us to adjourn, and to allow the responsibilities of Government to pass to the new Congress and the new administration.

Let us pass this conference report and be gone.

□ 1330

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, the gentleman is doing a good job of moving to the specifics of what is in the legislation, and I commend the gentleman in the well for his actions.

The gentleman mentioned that the conferees were in for 5½ hours, which is a commendable amount of time, but I have learned from the committee that there were 148 Senate amendments, plus 15 committee amendments on the House side of the bill, bringing a total of 163 amendments. At 330 minutes, which is 5½ hours, that gives the gentleman about 2 minutes for each amendment, the amendments the gentleman is suggesting are relatively noncontroversial and good amendments.

I wonder if the gentleman could indicate how much time we spent in conference on any of the technical, environmental amendments, amendments dealing with Federal buildings, and some of the other controversial parts of the legislation.

Mr. CONTE. Very good question. There are 15 technical amendments which were merely grammatical changes, and 14 concerning housekeeping items in the Senate only. Therefore, we had 148, but 119 were substantive amendments. There was a tremendous amount of debate on a lot of issues. On the buildings, we finally reached a compromise. Congressman JOE ADDABBO of New York offered a compromise to cut two buildings out to the tune of $15 million, and there was a building to be named, in an amendment by Senator DOLE, which was not accepted.

There was a great deal of discussion in regard to several chairs that were going to be in the bill; one, the Taft Foundation, and one for Fisk College. There was a great deal of discussion on that.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, lest someone reading the RECORD not understand, there were 4 or 5 days of negotiations before we went to conference. The part I handled in the bill involved many, many hours of negotiations prior to the time we met, so one should not just take the time we were actually in conference and divide it by the number of amendments and use that as a measure of the extent these amendments were considered. That does not mean anything.

Mr. CONTE. That is a good point. I mentioned this over the telephone this morning to the gentleman from Pennsylvania, a very close friend. I told him that Dr. LONG and Senator INOUYE worked for hours in reaching a compromise and a package deal on the foreign aid part of the bill, so that when we came to that whole list of amendments on foreign aid, they came into the conference and said. "We have an agreement here and we have a package."

Likewise, the gentleman from Kentucky (Mr. NATCHER) and his opposite on the Senate side, on the Health, Education, and Welfare, had at least 30 or 40 amendments. I worked with the gentleman from Kentucky and his counterpart in the Senate, Senator MAGNUSON, to work out an agreement.

Mr. EDGAR. I thank the gentleman.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend from Pennsylvania.

Mr. GOODLING. Mr. Speaker, the gentleman and I usually agree on the Boston Red Sox. I would just like to say that I think this package is as bad as the Boston Red Sox pitching staff.

Mr. CONTE. I might inform the gentleman that at the winter meetings they just held, the Boston Red Sox made some pretty good trades, and hopefully will have a better pitching staff next year; and hopefully next year, with a new administration, we will bring you a better package.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have been very critical of many of the actions of the 96th Congress these past 2 years—and for good reason, I believe. But I have never been critical of individual Members of this Congress who, almost without exception, have worked tirelessly for their constituents and for our country. Despite the notable failure of this Congress to bring spending, taxes, and inflation under control, I am sure that each of us feels a sense of individual pride and satisfaction for the work we have done these past 2 years.

That is why it would be tragic for this Congress, in one of its last official acts, to vote itself a 17-percent pay raise. There is no doubt in my mind that, individually, each and every Member deserves such an increase, but I would like to pose the following questions to my colleagues:

Can we honestly claim that the actions of this Congress over the past 2 years merit a pay increase?

Would it be fair to increase our own pay on the magnitude of 17 percent, just as the living standards of most Americans are going down, due in large part to the very policies of this Congress?

And perhaps most important, would it be right for Members to consider a pay raise now, when we could have considered it before the election—in full view of the voters?

Mr. Speaker, my answer to these questions is "no," and I believe that is the answer of the majority of the Members in this Chamber.

Mr. Speaker, many of us warned this Congress about the pitfalls of a lameduck session, and now our worst fears have been realized. I am speaking not only of this misguided, last-minute pay increase, but of the dozens of pork-barrel provisions and special interest favors which have been added to this continuing appropriations resolution. If we are looking for the reason why the American people hold the Congress in such low esteem, we need look no further than to this "Christmas tree" of a resolution which we have been decorating these past several weeks with billions of dollars of the taxpayers' money.

Mr. Speaker, we are nearing the end of my first term in Congress. I have been afforded the privilege of serving in the 97th Congress, and I hope to continue to serve as long as I have a contribution to make. But I think most Members of this body remember their first Congress with a special fondness, for it was a time of learning, of idealism and of that dawning realization of what it means to serve in the greatest legislative body in the world. I sincerely hope that my first Congress, the 96th Congress, will not be remembered as the Congress which feathered its own nest just as the American people were suffering the most painful economic misery since the Great Depression. Yet that is exactly how we will be remembered if we take this action.

Mr. Speaker, I urge my colleagues to reject this pay raise.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend from Maryland.

Mr. LONG of Maryland. Mr. Speaker, let me rise to commend the gentleman on a very effective and constructive role that he has played in this whole deliberation on the continuing resolution, and commend the chairman of the committee also for a splendid job.

Mr. Speaker, the House and Senate conferees have constructed a reasonable, sound package for foreign assistance programs at a level approximately $700 million in budget authority below the levels for foreign assistance that have already been passed by the House.

The compromise reached yesterday contains the following major provisions:

A limitation, rather than an appropriation, will govern the U.S. pledges of callable capital to the World Bank and the Inter-American Development Bank. This is consistent with the terms and conditions of the budget resolution and the House reported foreign assistance appropriation bill, and has the agreement and support of the administration and the authorizing committees. If this provision had not been adopted, it is unlikely that the United States could have made a contribution to these two institutions due to this technical issue.

No funds will be provided to the International Development Association for the IDA VI replenishment since the authorization was never passed by the House; however $20 million is provided to finish the IDA IV replenishment. This agreement reduces the continuing resolution by $1,052,000,000.

The Export-Import Bank will receive an additional $1.6 billion in lending authorization above the House proposed level, of which $536 million is an increase in direct loans.

The United Nations development program will receive an additional $6.1 million, bringing that contribution to the level provided in fiscal year 1980.

Agreement was reached to establish an overall military sales ceiling $70 million below the Senate proposed level, and to adopt the provisions, terms and new financing procedures for foreign military credit sales contained in the recently passed Foreign Affairs authorization bill. In addition, specific earmarkings are provided for Oman and Kenya related to recent base agreements in the Persian Gulf area. Adopting this amendment saves approximately $247 million from the House passed version.

The peacekeeping operations account will be increased $3.9 million to bring the funding level for the Sinai support mission to that proposed by the House reported bill.

Italian earthquake funds provided in the bill, $50 million, will be available until expended.

The conferees restored the $2 million stricken by the Senate for the newly established African Development Foundation.

The newly elected Government of Jamaica will receive $40 million in economic support funds as a measure of good faith and good will toward their strides in the democratic process, and

The International Monetary Fund quota increase, previously passed by the House and inserted into the continuing resolution by the Senate, was agreed to by the conferees.

Mr. Speaker, the conference agreement represents a balanced compromise between the House and Senate positions with respect to foreign aid activities. I urge my colleagues to adopt and support these agreements.

Mr. CONTE. I might inform the House on one item that I missed here, which was $50 million for relief for the earthquake victims in Italy. It remains in here intact with one Senate amendment, and that is that the money shall be used until expended.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding. The gentleman did not mention, as he talked about the continuing resolution, one feature which was in the resolution which I think maybe he would confirm to the House is included. That is, we have agreed to language on voluntary prayer and meditation in the public schools in this continuing resolution, which would be the first time since the Supreme Court acted in 1962 that the Congress would have passed language on voluntary prayer and meditation. I would just like the gentleman to confirm that the language is included in the resolution.

Mr. CONTE. Yes, I confirm that language is still in the continuing resolution, and the gentleman from Pennsylvania was the author of it.

□ 1340

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, I have the greatest respect and appreciation for the hard work the conferees had to do last night. I know it was a very difficult task. I fully approved the continuing resolution. But there are a number of things that have been added on that concern me.

And so I must oppose this conference report. This is a lameduck Congress fulfilling our worst fears.

This legislation is filled with excessive spending amendments, not the least of which is the pay raise for Members of Congress and others. Some say this bill provides $120 billion of funding, but others suggest it is perhaps twice that amount, indeed, that it may equal about one-third of the entire Federal budget for 1981.

Lameduck Members of Congress have no business legislating the taxpayers' money away. Many of the amendments provide funds for ideas and concepts having permanent, irreversible effects.

The many harmful effects will not be known for many months because this mammoth bill is so large that Members cannot possibly analyze each provision in the time frame allowed here.

For example, in just a few minutes I was able to determine that there apparently is a $70 million increase for the National Institutes of Health, which may be entirely justified but which is being legislated here today outside the regular appropriating process—not only without hearings, without proper consideration but by 92 lameducks, or nearly one-fifth of the House and Senate, soon to go out of office.

Another example is an addition of $50 million for the youth employment program—quite possibly justified, but again being presented here outside the usual legislative process that has served us so well for so many years.

I fully recognize that, at the same time, there are many worthy, vital aspects of this continuing resolution. I know that we must provide continuing funding for Government operations past the present deadline of Monday midnight, December 15, 1980, when all Government spending authority would expire unless the Congress passes additional authority before adjourning sine die.

I commend the conferees for including the provision that delays implementation of expensive new nursing home regulations that would put many of our fine nursing home operators out of business in Nebraska.

The bill also delays implementation of the incredible proposed nine-digit ZIP code, offered by the Postal Service without regard to the time, trouble, and expense of converting to the new system.

And so I say that, with certain exceptions, the conferees have acted responsibly and in fulfillment of their responsibilities.

But I must depart from this endorsement when it comes to the pay raises that will automatically occur if this bill becomes law. I believe that the people of the Third District can accept the idea that it takes money to hire the best people available to run the Government, and I think they are willing for the Congress to act appropriately in setting salary scales to accomplish a stable staff situation.

But I cannot justify to Third District people the necessity for boosting the salaries of the policymaking people by 17 percent. I am talking about the salaries of the Members of Congress, including, of course, my own.

If we could provide for increases for all new Members elected in future elections, that would be a legitimate issue, and one that should be raised in hearings and considered in normal fashion. I might be for doing that.

I want to refresh the memories of my colleagues on how the average citizens income has changed over the course of the last year and see how the salary increase for Members of Congress compares. Members of Congress now make $60,662 per year but what was the per capita personal income of the average citizen in this country last year? Was it $25,000? Was it $15,000? No, Mr. Speaker, it was $8,728. After taking out personal taxes and nontax payments, the American citizen had $7,367 to spend as disposable income. Under this conference report Members of Congress would receive more than a $10,000 per year raise. This raise alone is more than the per capita total income of the average taxpayer.

In November of this year, the American people sent a message to the Congress of the United States that they want Federal spending reduced, that they want the budget deficit brought back into line, and that they want the economy put back into order.

Mr. CONTE. Mr. Speaker, I thank the gentlewoman from Nebraska (Mrs. SMITH).

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I take this time to yield to the distinguished gentleman from Ohio (Mr. SEIBERLING). I am pleased to yield to the gentleman.

Mr. SEIBERLING. Mr. Speaker, I would just like to ask the gentleman from Massachusetts (Mr. BOLAND) what the conferees finally did with respect to the Metzenbaum amendment that would have provided an additional $3.5 million for a waste-to-energy plant, a solid waste recycling plant of the kind that Akron, Ohio, has pioneered in.

Mr. BOLAND. Mr. Speaker, I am pleased to answer the gentleman.

As the gentleman knows, the Senate action on House Joint Resolution 637, the further continuing resolution for fiscal year 1981, added $3,500,000 for energy recycling systems. The provision was not retained in conference. Although not specifically targeted in the Senate amendment, it is my understanding that the funds were intended for the recycle energy system in Akron, Ohio.

The plant was constructed at a cost of $56,000,000 to provide steam energy to Akron's central business district, the University of Akron, three major hospitals, and the B. F. Goodrich Co. Technical difficulties during the startup of the plant have resulted in delayed certification of the plant by nearly 1 year. Certification is now expected on January 1, 1981.

Most of the technical difficulties have been solved by equipment and procedural adjustments. These adjustments required additional equipment purchases and greater operating and maintenance expenses to pay expenses and maintain debt service coverage. This has placed the facility's ability to avoid default on its bonds in jeopardy.

The city of Akron has been trying to get a price support loan from the Department of Energy to assist the waste-to-energy plant. Due to delays in rulemaking, the Energy Department will not process loan applications until February or March. I understand this may be too late for the Akron project.

The gentleman from Ohio has indicated that officials of the U.S. Environmental Protection Agency have no objections to the Akron project, and that they had no objection to the Senate amendment. If the Agency is convinced it has adequate authority to assist the Akron project, I have no objection to it making a grant or a loan using moneys already appropriated in the 1981 HUD-Independent Agencies Act.

One of the principal problems the conferees faced in dealing with this issue was a lack of information. I am not necessarily opposed to the Akron waste-to-energy project and I do not believe the majority of the conferees are either. However, there were many questions unanswered concerning the facility and the exact effect of the Senate amendment.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. BOLAND) very much and I appreciate the consideration he has given me.

Mr. BOLAND. Mr. Speaker, I would also like to make a few comments regarding the revenue sharing program. Section 101(h), the revenue sharing language, was originally included in House Joint Resolution 637 because of the uncertainty that the authorization legislation, H.R. 7112, would be enacted. I am happy to note that H.R. 7112 cleared the Congress yesterday.

The action of the conferees on the continuing resolution was to reference the authorizing bill (H.R. 7112) as enacted by the Congress. Thus, the revenue sharing language in the continuing resolution is in agreement with the authorization bill except for one item.

In that case, the Senate added a proviso to section 101(h) appropriating $3,249,000 for allocation to the noncontiguous States. The noncontiguous State adjustment was in the Senate version of the authorization bill but had been deleted by the House.

In conference a compromise was reached on the Senate amendment. We agreed to provide funds to the State of Hawaii in the amount of $1,543,000. There is no additional funding for the State of Alaska. The budget situation in Alaska is such that the noncontiguous State adjustment in the general revenue sharing program is not necessary.

So, Mr. Speaker, the conference agreement is essentially the same as the authorization bill sent to the President yesterday. The language included in the continuing resolution was designed to insure that revenue sharing payments would be made if the authorization bill failed. That objective has been accomplished.

Finally, Mr. Speaker, in signing the conference report, I excepted on three amendments—12 and 116 which deal with the so-called "pay cap"—and 85 which concerns severance pay for Senate employees.

I agree in general with the compromises contained in the conference report.

Amendments 12 and 116 deal with lifting the "pay cap" on executive, legislative, and judicial employees and officials. Both amendments are included in the conference report and have the effect of raising the salaries of Members of Congress.

Mr. Speaker, I supported the pay cap when this bill passed the House on December 3. I believed at that time, and I believe now that this is absolutely the wrong time to vote ourselves and 35,000 Federal executives a $10,000 pay increase.

The country is plagued with a 12-percent inflation rate. The prime rate is at its all-time high of 20 percent. Thousands of workers are out of work. I could go on—but in short—the economy is in a mess—and many Americans are finding it hard to pay their bills and keep their heads above water this Christmas.

Amendment 85 deals with severance pay for Senate employees and is the other issue where I do not agree with the majority of the conferees. Normally, I believe that matters of each House should be decided by that body. However, in this instance I believe we are traveling down the wrong road.

Employees of the legislative branch are aware when they accept such employment that their jobs can be abruptly terminated. To compensate, several special provisions are currently available. There are certain reemployment rights for individuals previously employed in the executive branch. Generally, congressional staff is well paid, and there are many other tangible and intangible benefits of employment under this branch of Government.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, let me say to my colleagues that I ask them to support the conference report today, not because it is totally acceptable to me, which it is not, but because it is needed to keep the Government operating in many areas and because the positive elements in the conference report basically outweigh the bad.

I would be the first one to admit that this is a terrible way to run the Government, coming up the last day of adjournment and having this much of the basic funding of necessary Government functions riding on a continuing resolution, as we are faced with here today.

When I signed the conference report, I excepted on amendments Nos. 82 and 85, the latter of which is that provision which permits 3 months' severance pay to ex-Senate staffers. That kind of action, so far as I am concerned, is totally unacceptable. I made the point during the course of the conference that in no way would I ever agree to that kind of a thing happening here in the House of Representatives.

When that amendment in technical disagreement comes up, Members will have the opportunity to express themselves again, and, of course, the time will be controlled by both the chairman and the ranking minority member. I suspect they are going to be lenient with their time to give Members an opportunity to express themselves, as they would on any one of these other technical amendments.

Now, mentioning several of the other negatives in this conference report, first, it provides a level of spending that will exceed the second budget resolution by at least $4 to $5 billion, and I want all the Members to clearly understand that. Total expenditures authorized by the continuing resolution amount to about $100 billion in budget authority and $65 billion in outlays. It basically covers four appropriations bills that we have not finalized here in this House: Labor-Health and Human Services, Treasury-Post Office, foreign assistance, and legislative.

The Members well know that for many years I have been responsible on our side as the ranking member of the Labor-Health and Human Services Subcommittee for the bill in that area. In my view, the House conferees gave in too readily on most of the Senate add-ons. For instances, that entire $70 million Senate increase for NIH was accepted. Frankly, I think it is too much because it brings the NIH spending level up to $197 million over the President's budget, and some of these items that are that much in excess of the current President's budget surely have to be the subject of rescissions or deferrals in the new administration.

The conferees went along with the full $55 million increase for ESEA title IV-C, the support and innovation program, and also with the full increase for the National Health Service Corp. Fifty million dollars was added to the Youth employment program, despite the fact that we have not even passed an authorizing piece of legislation yet for that program.

In addition, most of the Senate increases for aging were adopted.

There is little doubt in my mind that if we have any intention of meeting the ceiling in the second budget resolution, as I said, some of these items are certainly going to have to be the subject of rescission and deferral in the new administration.

I remind my colleagues that our record up to day on rescissions is pretty bad. Eighty-five percent of the rescissions recommended since enactment of that procedure have been denied by either the House or Senate, and there is going to have to be a change of attitude around here when admittedly the complexion of this body will be significantly changed, and also in the other body, to comply with what I am sure will be a big package of amendments in the form of rescissions and deferrals.

Stressing the positive for a moment, we have agreed to a half a billion dollar reduction in the CETA title IV public service jobs program, and I think we ought to keep that in mind. This will result in the program being reduced basically through attrition. The Members may recall that when we brought the first continuing resolution here, it provided for a level in the CETA employment of about 143,000 job slots, a level which has not been met. It is currently operating at the rate of 118,000, and they tell us frankly that by attrition we could cut down to this figure, which we consider to be very reasonable and practical.

The net effect is that we are saving here or reducing what was normally going to be spent by half a billion dollars in that one program alone.

We agreed to a Senate amendment delaying the publication of final nursing home regulations. And here again, if those would have been implemented, that would have cost the medicaid program upwards of $600 million in this coming year. We have said that there is not going to be the implementation of those new regulations.

In my judgment, that is what this election on November 4 was all about. We have had these rules and regulations being daily promulgated by an omnipotent

Federal Government here that is simply costing the taxpayers billions and billions. This is one of the good things that comes to us in this conference report.

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We have approved language delaying implementation of the ridiculous nine-digit ZIP code numbers and I hope that next year we will finish that job, too.

We were able to reject most of the Senate increases for the 314(d) health grants, alcohol, drug abuse, mental health research, and a potential $90 million research project on how many Federal dollars are received by the poor.

All in all this is a continuing resolution we need. The pluses in my judgment on analysis outweigh the negatives so I am prepared here today, as I said, to support the continuing resolution, reserving, as I did on those two amendments, which I have cited.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. I thank the gentleman for yielding. I want to concur with the remarks made preceding those of the gentleman from Illinois by the gentleman from Massachusetts (Mr. BOLAND), concerning the waste recovery plant in Akron, Ohio, and his hope there will be funding for the needs of that plant from the EPA, in spite of the fact that it did not get into this particular continuing resolution.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will be glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I would like to commend the gentleman for making his statement. I would simply like to say that if there are not usable funds in EPA, there may be funds in the Department of Housing and Urban Development, and I would hope that the gentleman in his statement would support that approach too, if it is feasible.

Mr. BROWN of Ohio. Knowing how hard the gentleman has worked on this issue, I am sure we would look for the funds wherever we could find them.

I would like to conclude my remarks by noting that our country is in need of increased domestic energy production and conservation.

The Akron, Ohio, recycle energy project would achieve both of these goals. It is a worthy project which deserves support. It is my hope that the necessary funding could be found to allow this project to move forward with all possible speed.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman very much.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for yielding. I rise in strong support of this continuing resolution. Contrary to what I spoke from this very well just a week ago when I was critical of the procedure—I am still critical. It is too bad we are in this position. However, I think I may have overkilled a week ago when I suggested that we would be in this week to take care of our business. I meant to take care of it and finish it. Here we are on Saturday afternoon and still have not finished it. Nevertheless, we are faced with a very critical situation. We are facing the end of this fiscal year, the end of the Congress. The longer we continue and stretch out this continuing resolution it will not be reduced. Already this morning I am sure those of us on the conference have had calls from people saying, "Gee, we would like to have this added to it."

If we go back it will be even dressed more because it is still the Christmas season.

If we are interested in saving money for the country, we have to accept some things we do not like along with helping save the country some money, because we are in a situation where it will be decorated even more because the pressure groups will still get to us.

I suggest to those of you who are conservatives—as all of us are, certainly—let us support this continuing resolution. It is the cheapest route we have at this moment.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana

Mr. BENJAMIN. Mr. Speaker, I take this time to support the conference report and to enter into a colloquy with the distinguished acting chairman of the Treasury Postal Service General Government Subcommittee, the gentleman from California (Mr. ROYBAL).

As the gentleman knows, the General Services Administration is currently negotiating a new contract with representatives of the airline industry for the purpose of obtaining discount travel rates for government employees and officials traveling on official business.

Mr. ROYBAL. The gentleman is correct. The contract is now being negotiated. While I do not know the details of the contract, I have been informed that every effort will be made to have the contract negotiations completed and the contract itself operable by January 1.

Mr. BENJAMIN. Our problem with the current contract is that the Legislative Branch, including the Members and staff of the House, were not included in the original contract. I have found, for example, the difference between the regular rate which I pay between Washington and Chicago is $109 while the Government discount rate is $77.

I believe the Members and staff of the House and others in the legislative branch should be included in this discount plan, as are other Government officials.

Does the gentleman agree?

Mr. ROYBAL. Most definitely I agree with the gentleman. I see no reason why the legislative branch should not be included in the negotiations now taking place.

Mr. BENJAMIN. I have raised this question with the General Services Administration but have not yet been advised officially that the matter will be taken care of in the new contract.

We have been told by the House Administration Committee that it is their intent that the Members and staff will be included in the new contract and that they have so advised the GSA.

Would the gentleman assure me that the GSA will be advised to take whatever steps must be taken immediately so that this apparent oversight is corrected and that Members and staff and the other legislative branch employees will be included in the contract currently being negotiated?

Mr. ROYBAL. May I inform the gentleman that the GSA already knows of our concern and that we will follow up on the matter. When a final determination is made with regard to details and so forth, I shall be happy to let the gentleman know about it.

Mr. BENJAMIN. I thank the gentleman.

Mr. Speaker, I would like to take this opportunity to support the conference report.

The conference agreement provides continuing appropriations totaling $975,738,600 for the legislative branch, except for Senate items, under the terms and conditions, and, with a few exceptions, under the provisions of H.R. 7593 as approved by the House on July 21, 1980. This total does not reflect the 2-percent reduction in payments not required by law as required by section 309 of H.R. 7593. It has been estimated, Mr. Speaker, that the 2-percent reduction will total approximately $5.2 million so that the obligational authority provided by the bill is about $970.5 million. This amount is $3.8 million below the amount appropriated in fiscal year 1980, Mr. Speaker.

Thus, we have actually reduced the size of the House of Representatives and support agency budgets, Senate items excluded. I doubt that this statement could be made of any other branch of the Federal Government in the past 35 years.

Mr. Speaker, the agreement reached is $80,813,100 below the budget estimates. The legislative branch budget is 7.6 percent below the amount requested by the House and the support agencies. This will require stringent discipline to maintain the productivity necessary to operate the legislative branch with the restrictions placed on its budgetary resources. I am confident this discipline will be adhered to and that the legislative branch can show the way to all of Government in bringing its fiscal needs into order.

I include at this point in the RECORD a tabulation of the conference agreement excluding Senate items, which compares the House and Senate actions and the amounts agreed to in conference:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1980 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN H.J. RES. 637, FURTHER CONTINUING RESOLUTION FOR FISCAL YEAR 1981—LEGISLATIVE BRANCH

	New budget authority					
	Enacted 1980	Estimates 1981	House 1981	Senate 1981	Conference 1981	Conference compared with estimate
TITLE I—CONGRESSIONAL OPERATIONS, HOUSE OF REPRESENTATIVES						
Payments to widows and heirs of deceased Members of Congress: Gratuities, deceased Members	$60,663	--------	--------	--------	--------	--------
Compensation and mileage for the Members:						
Compensation of Members	$29,213,000	$29,254,300	$29,254,300	$29,254,300	$29,254,300	--------
Mileage of Members	210,000	210,000	210,000	210,000	210,000	--------
Total, compensation and mileage for the Members	29,423,000	29,464,300	29,464,300	29,464,300	29,464,300	--------
House leadership offices:						
Office of the Speaker	602,700	602,700	602,700	602,700	602,700	--------
Office of the Majority Floor Leader	421,600	446,500	446,500	446,500	446,500	--------
Office of the Minority Floor Leader	521,800	546,700	546,700	546,700	546,700	--------
Office of the Majority Whip	459,600	459,600	459,600	459,600	459,600	--------
Office of the Minority Whip	359,400	359,400	359,400	359,400	359,400	--------
Total, House leadership offices	2,365,100	2,414,900	2,414,900	2,414,900	2,414,900	--------
Salaries, officers, and employees:						
Office of the Clerk	8,960,900	9,680,000	9,680,000	9,680,000	9,680,000	--------
Office of the Sergeant at Arms	13,782,800	14,308,500	14,308,500	14,308,500	14,308,500	--------
Office of the Doorkeeper	4,829,800	5,084,800	5,084,800	5,084,800	5,084,800	--------
Office of the Postmaster	1,363,500	1,403,100	1,403,100	1,403,100	1,403,100	--------
Office of the Chaplain	52,800	52,800	52,800	52,800	52,800	--------
Office of the Parliamentarian	295,900	292,000	292,000	292,000	292,000	--------
Compilation of precedents of the House of Representatives	210,000	190,000	190,000	190,000	190,000	--------
Technicial assistant, Office of the Attending Physician	34,700	34,700	34,700	34,700	34,700	--------
House Democratic Steering Committee	344,800	344,800	344,800	344,800	344,800	--------
House Democratic Caucus	90,900	103,800	103,800	103,800	103,800	--------
House Republican Conference	594,000	448,600	448,600	448,600	448,600	--------
6 minority employees	316,500	316,500	316,500	316,500	316,500	--------
L. B. J. interns and former Speakers' staff	686,300	692,900	692,900	692,900	692,900	--------
Total, salaries, officers and employees	31,562,900	32,952,500	32,952,500	32,952,500	32,952,500	
Committee employees: Professional and clerical employees (standing committies)	26,405,000	27,000,000	27,000,000	27,000,000	27,000,000	--------
Committee on Appropriations (studies and investigations): Salaries and expenses	3,086,000	2,856,000	2,856,000	2,856,000	2,856,000	--------
Committee on the Budget (studies): Salaries and expenses	277,000	245,000	245,000	245,000	245,000	--------
Office of the Law Revision Council: Salaries and expenses	493,000	510,000	510,000	510,000	510,000	--------
Office of the Legislative Counsel: Salaries and expenses	2,086,000	2,097,000	2,097,000	2,097,000	2,097,000	--------
Members' clerk hire: Clerk hire	126,807,600	126,808,000	126,808,000	126,808,000	126,808,000	--------
Contingent expenses of the House:						
Allowances and expenses:						
Official expenses of Members	39,418,800	43,049,000	43,049,000	43,049,000	43,049,000	--------
Supplies, materials, administrative costs and Federal tort claims	3,483,600	7,545,000	7,545,000	7,545,000	7,545,000	--------
Rescission	−1,000,000	--------	--------	--------	--------	--------
Furniture and furnishings	2,079,000	2,480,000	2,000,000	2,000,000	2,000,000	−$480,000
Reporting hearings	1,650,000	1,810,000	1,810,000	1,810,000	1,810,000	--------
Reemployed annuitants reimbursement	661,500	1,709,000	1,709,000	1,709,000	1,709,000	--------
Government contributions	15,656,400	16,052,000	16,052,000	16,052,000	16,052,000	--------
Miscellaneous items	456,400	507,000	507,000	507,000	507,000	--------
Total, allowances and expenses	62,405,700	73,152,000	72,672,000	72,672,000	72,672,000	−480,000
Special and select committees: Salaries and expenses	44,155,000	46,500,000	41,500,000	41,500,000	41,500,000	−5,000,000
Total, contingent expenses of the House	106,560,700	119,652,000	114,172,000	114,172,000	114,172,000	−5,480,000
Total, House of Representatives	329,126,963	343,999,700	338,519,700	338,519,700	338,519,700	−5,480,000
JOINT ITEMS						
Contingent expenses of the Senate:						
Joint Economic Committee	2,749,000	2,150,000	2,150,000	2,150,000	2,150,000	--------
Joint Committee on Printing	864,000	794,000	760,000	760,000	760,000	−34,000
Total, contingent expenses of the State	3,613,000	2,944,000	2,910,000	2,910,000	2,910,000	−34,000
Joint Committee on Taxation: Salaries and expenses	2,519,000	2,670,000	2,632,000	2,632,000	2,632,000	−38,000
Office of the Attending Physician: Medical supplies, equipment, expenses, and allowances	459,000	503,900	503,300	503,900	503,900	--------
Capitol Police:						
General expenses	809,500	834,000	834,000	834,000	834,000	--------
Capitol Police Board	1,263,000	1,351,600	915,000	915,000	915,000	−436,600
Total, Capitol Police	2,072,500	2,185,600	1,749,000	1,749,000	1,749,000	−436,600
Education of pages: Education of congressional pages and pages of the Supreme Court	220,000	258,500	236,000	236,000	236,000	−22,500
Official mail costs: Expenses	50,707,000	36,633,000	36,633,000	36,633,000	36,633,000	--------
Capitol guide service: Salaries and expenses	655,000	664,000	664,000	664,000	664,000	--------
Statements of appropriations: Preparation	13,000	13,000	13,000	13,000	13,000	--------
Total, joint items	60,258,500	45,872,000	45,340,900	45,340,900	45,340,900	−531,100
Office of Technology Assessment: Salaries and expenses	11,199,000	14,200,000	11,000,000	11,000,000	11,000,000	−3,200,000
Congressional Budget Office: Salaries and expenses	12,386,000	13,544,000	12,386,000	12,386,000	12,386,000	−1,158,000
Architect of the Capitol:						
Office of the Architect of the Capitol:						
Salaries	2,836,000	3,401,000	3,221,000	3,221,000	3,221,000	−180,000
By transfer of sec. 311 from House office buildings	(172,000)	--------	--------	--------	--------	--------
Contingent expenses	210,000	210,000	210,000	210,000	210,000	--------
Total, Office of the Architect of the Capitol	3,046,000	3,611,000	3,431,000	3,431,000	3,431,000	−180,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1980 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN H.J. RES. 637, FURTHER CONTINUING RESOLUTION FOR FISCAL YEAR 1981—LEGISLATIVE BRANCH—Continued

	New budget authority					
	Enacted 1980	Estimates 1981	House 1981	Senate 1981	Conference 1981	Conference compared with estimate
Architect of the Capitol—Continued						
Capitol Buildings and Grounds:						
Capitol Buildings	7, 394, 000	8, 675, 000	7, 326, 000	7, 326, 000	7, 326, 000	−1, 349, 000
By transfer of sec. 311 from House office buildings	(308, 000)					
Capitol Grounds	4, 062, 000	2, 243, 000	2, 147, 000	2, 147, 000	2, 147, 000	−96, 000
By transfer of sec. 311 from House office buildings	(107, 000)					
Rescission	−1, 792, 000					
House office buildings	18, 484, 000	18, 010, 000	16, 760, 000	16, 760, 000	16, 760, 000	−1, 250, 000
(Release of sec. 311 funds)	(632, 000)					
Capitol Power Plant (operation)	14, 181, 000	17, 629, 000	17, 098, 000	17, 098, 000	17, 098, 000	−531, 000
Total, Capitol Buildings and Grounds	42, 329, 000	46, 557, 000	43, 331, 000	43, 331, 000	43, 331, 000	−3, 226, 000
Total, Architect of the Capitol (except Library buildings and grounds)	45, 375, 000	50, 168, 000	46, 762, 000	46, 762, 000	46, 762, 000	−3, 406, 000
Library of Congress: Congressional Research Service: Salaries and expenses	27, 890, 000	31, 589, 000	28, 656, 000	28, 656, 000	28, 656, 000	−2, 933, 000
Government Printing Office: Congressional printing and binding	79, 078, 000	89, 978, 000	82, 400, 000	82, 400, 000	82, 400, 000	−7, 578, 000
Total, title I—Congressional operations	565, 313, 463	589, 350, 700	565, 064, 600	565, 064, 600	565, 064, 600	−24, 286, 100
TITLE II—OTHER AGENCIES						
Botanic garden:						
Salaries and expenses	1, 464, 000	2, 092, 000	1, 588, 000	1, 588, 000	1, 588, 000	−504, 000
By transfer of sec. 311 from House office buildings	(70, 000)					
Library of Congress:						
Salaries and expenses	103, 562, 000	110, 895, 000	102, 181, 000	102, 181, 000	102, 181, 000	−8, 714, 000
Rescission	−500, 000					
(Release of sec. 311 funds)	(447, 000)			(100, 000)		
(By transfer of sec. 331 from furniture and furnishings)	(800, 000)					
Copyright Office, salaries, and expenses	9, 632, 000	10, 612, 000	9, 546, 000	9, 546, 000	9, 546, 000	−1, 066, 000
Books for the blind and physically handicapped, salaries and expenses	34, 500, 000	35, 290, 000	34, 337, 000	34, 337. 000	34, 337, 000	−953, 000
Collection and distribution of library materials (special foreign currency program):						
Payments in Tresaury-owned foreign currencies	3, 187, 100	3, 568, 100	3, 568, 100	3, 568, 100	3, 568, 100	
U.S. dollars	375, 900	411, 900	389, 900	389, 000	389, 900	−22, 000
Total, collection and distribution of library materials	3, 563, 000	3, 980, 000	3, 958, 000	3, 958, 000	3, 958, 000	−22, 000
Furniture and furnishings	870, 000	4, 160, 000	1, 775, 000	1, 775, 000	1, 775, 000	−2, 385, 000
Total, Library of Congress (except Congressional Research Service)	151, 627, 000	164, 937, 000	151, 797, 000	151, 797, 000	151, 797, 000	−13, 140, 000
Architect of the Capitol: Library buildings and grounds: Structural and mechanical care	4, 410, 000	11, 437, 000	5, 183, 000	5, 183, 000	5, 183, 000	−6, 254, 000
Copyright Royalty Tribunal: Salaries and expenses	471, 000	490, 000	456, 000	456, 000	456, 000	−34, 000
Government Printing Office:						
Printing and binding	18, 941, 000	22, 145, 000	16, 250, 000	16, 250, 000	16, 250, 000	−5, 895, 000
Office of Superintendent of Documents, salaries and expenses	23, 219, 000	26, 200, 000	23, 400, 000	23, 400, 000	23, 400, 000	−2, 800, 000
Total, Government Printing Office (except congressional printing and binding and acquisition of site and general plans and designs of buildings)	42, 160. 000	48, 345, 000	39, 650, 000	39, 650, 000	39. 650. 000	−8, 695, 000
General Accounting Office: Salaries and expenses	204, 300, 000	218. 070, 000	210, 000, 000	216, 000, 000	212, 000, 000	−6, 070, 000
Cost-Accounting Standards Board: Salaries and expenses	1, 300, 000	961, 000				−961, 000
Total, title II—Other agencies	405, 732, 000	446, 332, 000	408, 674, 000	414, 674, 000	410, 674, 000	−35, 658, 000
TITLE III—CAPITAL IMPROVEMENTS						
Government Printing Office: Acquisition of site and general plans and designs of building		20, 869, 000				−20, 869, 000
Grand total, titles I, II, and III: New budget (obligational) authority	971, 045, 463	1, 056, 551, 700	973, 738, 600	979, 738, 600	975, 738, 600	−80, 813, 100
RECAPITULATION						
Title I—Congressional operations	565, 313, 463	589, 350, 700	565, 064, 600	565, 064, 600	565, 064, 600	−24, 286, 100
Title II—Other agencies	405, 732, 000	446, 332, 000	408, 674, 000	414, 674, 000	410, 674, 000	−35, 658, 000
Title III—Capital improvements		20, 869, 000				−20, 869, 000
TITLE I—CONGRESSIONAL OPERATIONS						
House of Representatives	329, 126, 963	343, 999, 700	338, 519, 700	338, 519, 700	338, 519, 700	−5, 480, 000
Joint items	60, 258, 500	45, 872, 000	45, 340, 900	45, 340, 900	45, 340, 900	−531, 100
Office of Technology Assessment	11, 199, 000	14, 200, 000	11, 000, 000	11, 000, 000	11, 000, 000	−3, 200, 000
Congressional Budget Office	12, 386, 000	13, 544, 000	12, 386, 000	12, 386, 000	12, 386, 000	−1, 158, 000
Architect of the Capitol (except Library buildings and grounds)	45, 375, 000	50, 168, 000	46, 762, 000	46, 762, 000	46, 762, 000	−3, 406, 000
Congressional Research Service, Library of Congress	27, 890, 000	31, 589, 000	28, 656, 000	28, 656, 000	28, 656, 000	−2, 933, 000
Congressional printing and binding, Government Printing Office	79, 078, 000	89, 978, 000	82, 400, 000	82, 400, 000	82, 400, 000	−7, 578, 000
Total, title I—Congressional operations	565, 313, 463	589, 350, 700	565, 064, 600	565, 064, 600	565, 064, 600	−24, 286, 100
TITLE II—OTHER AGENCIES						
Botanic Garden	1, 464, 000	2, 092, 000	1, 588, 000	1, 588, 000	1, 588, 000	−504, 000
Library of Congress (except Congressional Research Service)	151, 627, 000	164, 937, 000	151, 797, 000	151, 797, 000	151, 797, 000	−13, 140, 000
Library buildings and grounds, Architect of the Capitol	4, 410, 000	11, 437, 000	5, 183, 000	5, 183, 000	5, 183, 000	−6, 254, 000
Copyright Royalty Tribunal	471, 000	490, 000	456, 000	456, 000	456, 000	−34, 000
Government Printing Office (except congressional printing and binding)	42, 160, 000	48, 345, 000	39, 650, 000	39, 650, 000	39, 650, 000	−8, 695, 000
General Accounting Office	204, 300, 000	218, 070, 000	210, 000, 000	216, 000, 000	212, 000, 000	−6, 070, 000
Cost-Accounting Standards Board	1, 300. 000	961, 000				−961, 000
Total, title II—Other agencies	405, 732, 000	446, 332, 000	408, 674, 000	414, 674, 000	410, 674, 000	−35, 658, 000
TITLE III—CAPITAL IMPROVEMENTS						
Government Printing Office		20, 869, 000				−20, 869, 000
Grand total, new budget (obligational) authority	971, 045, 463	1, 056, 551, 700	973, 738, 600	979, 738, 600	975, 738, 600	−80, 813, 100

It is my expectation that the 2-percent reduction imposed by section 309 of H.R. 7593 will be administered in the same manner as was section 311 of Public Law 95-391, which imposed a similar per centum reduction on the legislative branch.

Mr. Speaker, the amendments agreed to in conference are fully explained in the statement accompanying the conference report.

This is a good and responsible conference agreement, Mr. Speaker, and I urge its adoption by the House.

I would like to raise an additional point regarding this conference report.

Mr. Speaker. It is unfortunate that controversy attaches to this resolution as it has to previous Government-funding resolutions because of the operation of the Federal Pay Comparability Act of 1971 and its amendments of 1975, the latter including Members of Congress under a permanent method of pay adjustments.

The controversy results from the reluctance of Congress to allow the cost-of-living adjustments provided by the 1975 amendments. In 1977, the Congress rescinded the cost-of-living adjustment for all branches of Government. In 1978, it used the device of not appropriating funds for payment. In 1979, it provided funds for 5.5 percent of the 7-percent adjustment. In 1980, this House again refused to provide funds. The conference report removes the "cap."

Section 101(c) of the conference report on House Joint Resolution 637 allows the last two cost-of-living adjustments due and payable to the senior officials of Government to go into effect. That is, both the October 1979 increase of 7 percent and this past October's adjustment of 9.12 percent. Each of the 5 million civil servants and military personnel received these cost-of-living adjustments except for the group of senior officials who are making salaries of $50,112.50 and above. Those salaries have been frozen for the past several years with one exception already mentioned.

There are over 30,000 Government employees whose salaries are now frozen. Some of these employees have had only one raise in salary since 1977 while consumer prices were escalating by over 40 percent.

Because of the salary limitations which have been applied in the past several years, the freeze now affects grade GS-15, step 5, in the general schedule. In other words, the squeezing is not only on the "senior" officials, it has also reached the middle managers. Thus, tens of thousands of employees at four general schedule grades and one executive level now make the same salary.

In effect, many employees make the same salary as a superior who is four levels above in responsibility—a ludicrous development.

Over 30,000 employees now have their salaries frozen. If the Congress does not act now, this situation will deteriorate further and there will be no possibility for an equitable adjustment in senior level salaries for the next several years. By 1984, 140,000 employees will make the same salary. Virtually all Federal employees down to GS-13 would make the same salary. It has been estimated that 50 percent of the Federal employees in the Washington, D.C., area would have the same salary.

This creates a new brand of socialism in the Federal City, and everywhere else that Federal workers are employed.

Recently, the General Accounting Office studied this problem and concluded that pay compression continues to be a major cause of recruitment and retention problems for Federal agencies. It found that many Federal executives are reluctant to accept promotions because the increased responsibilities of the position are not recognized with higher pay. It also found that low Federal executive salaries and infrequent adjustments are the major source of difficulty in recruiting well-qualified individuals from outside the Government.

Members of the incoming administration's transition forces contend that they are finding it extremely difficult to attract highly competent and experienced personnel from outside the Government to move into key posts because they cannot afford the financial sacrifice, nor do they want to impose such a sacrifice on their families.

The basic law is fair and equitable. It simply says that these salaries are supposed to be subject to annual cost-of-living adjustments as proposed by the Pay Comparability Commission and the President. Since 1975, when the law was amended to incorporate the executive level of employees, the cost-of-living adjustment provision should have triggered six adjustments in pay. All civil servants except the senior people have received the full amount of these adjustments—but the senior level people have received only two—a 4.9-percent increase in 1975 and the 5.5-percent adjustment of last year, which should have been a 12.9 percent increase if the intent of the law were allowed to operate.

The senior personnel, including the Cabinet, Federal judges, members of the Senior Executive Service, senior foreign service, and a variety of other administrators, technical, and managerial personnel have had their salaries held hostage to the whims of Congress. Perhaps the Congress should not have been included in the 1975 amendments. Perhaps the cap should only be applied to the Congress—it certainly cannot be constitutionally applied to the judiciary. This was tried in the other body and in the conference. However, the conferees from the other body could not agree to separate the Congress from the executive branch.

Since 1969, the rise in consumer prices has been over 135 percent. During that 11-year period when the cost of living rose by 135 percent, these same senior officials have received three salary increases which totaled 43 percent. Thus, the purchasing power of their salaries has been reduced by 41 percent.

An undersecretary to a major Cabinet department, the appeals court judges, Members of Congress, and the heads of many Federal agencies make $60,662.50 annually. If the salaries of these officials had increased at the rate of the Consumer Price Index since 1969, these salaries would be $99,110 per year. They would have to make 63 percent more than they now make just to stay even with the cost-of-living rise.

If that same official or employee had received salary increments over that period equal to those received by employees in the private industrial sector, their salaries would be $90,500 or 49 percent higher than they are now. Since 1977, the level II salary needed to keep pace with rising costs would have to be $80,000—which is $20,000 more than actually paid. If these salaries had kept pace with the salary increases received by private sector executives, the level II salary would have to be $75,200. Instead, that level II salary is just $60,662.50, which is $40,000 less than just keeping up with consumer prices since 1969, and $20,000 less than keeping up with the rise in the CPI since 1977, and $15,000 less than the salary increases received by executives in the private sector just since 1977.

Needless to say, the executive salary situation is in a mess. The basic law must be allowed to work or be amended. The executives must be treated justly—they and their families deserve a fair pay plan—they should not be asked to make an inordinate sacrifice for which there is no reward or public benefit—only personal frustration, worry, and lack of confidence in the Congress.

The conference agreement would only allow these past two cost-of-living adjustments to be paid effective in January. It is not a complete solution—but it is the very minimum that has to be done to avoid further compression and inequity in the salary schedule.

This is not the 63 percent raise needed to make up for the increase in the cost-of-living since 1969, or the 33 percent raise needed since 1977. Not the 24 percent needed to keep pace with the rise in executive salaries since 1977, or the 23 percent to keep pace with the rise in average civil service salaries since 1977 or the 30-percent increase in the hourly earnings index.

However, it does meet the approval of the President-elect as told by the conference chairman and the Senate minority whip.

I join others who regret that this issue must be presented in this manner. I urge that all Federal compensation laws be reviewed and modified to provide a fair schedule of compensation which Congress will follow. Congress should then be treated in a manner acceptable to the American public but not as an impediment to fair compensation for the managers of government.

Mr. Speaker, notwithstanding the problems incurred by the 1975 amendments, the subsequent actions of the Congress and the procedure employed here, I urge the adoption of the conference report to enable the continued functioning of the Federal Government and the adjournment of the 96th Congress.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to insert extraneous material.

FEDERAL EMPLOYEES AFFECTED BY PAY COMPRESSION OCTOBER 1980

	Branch			
	Executive	Legislative	Judicial	Total
General Schedule and equivalents	19, 109	524	22	19, 655
Senior Executive Service	6, 902			6, 902
Veterans' Administration	4, 538			4, 538
Foreign Service	2, 222			2, 222
Total	32, 771	524	22	33, 317

FEDERAL EMPLOYEES AFFECTED BY PAY COMPRESSION

	March 1977	October		
		1980	[1] 1981	[2] 1984
General Schedule and equivalents	2, 603	19, 655	38, 668	122, 699
Senior Executive Service		6, 902	6, 902	9, 602
Veterans' Administration	72	4, 538	5, 408	5, 899
Foreign Service	503	2, 222	2, 635	4, 767
Total	3, 178	33, 317	53, 613	140, 267

[1] Projections based on 9 percent across-the-board increases n scheduled rates.

[2] Projections based on 31.9 percent across-the-board increases in scheduled rates (equivalent to average increase in General Schedule from 1977 through October 1980).

COMPARISON OF FEDERAL WHITE-COLLAR, BLUE-COLLAR AND EXECUTIVE SALARY INCREASES SINCE MARCH 1969

GENERAL SCHEDULE

Date	Percent increase	Index
March 1969		100. 0
July 1969	9. 1	109. 10
December 1969	6. 0	115. 65
January 1971	6. 0	122. 59
January 1972	5. 5	129. 33
October 1972	5. 1	135. 93
October 1973	4. 8	142. 45
October 1974	5. 5	150. 29
October 1975	5. 0	157. 80
October 1976	4. 83	165. 42
October 1977	7. 05	177. 09
October 1978	5. 5	186. 82
October 1979	7. 02	199. 94
October 1980	9. 11	218. 15

WG (WASHINGTON, D.C., AREA)

Date	Percent increase	Index
March 1969		100. 0
November 1969	6. 71	106. 71
November 1970	8. 95	116. 26
November 1971	5. 5	122. 66
October 1972	5. 69	129. 64
October 1973	6. 8	138. 45
April 1974	7. 31	148. 57
October 1974	6. 47	158. 19
October 1975	10. 37	174. 59
October 1976	7. 32	187. 37
October 1977	8. 52	203. 34
October 1978	5. 5	214. 52
October 1979	6. 78	229. 07
October 1980	8. 47	248. 46

EXECUTIVE LEVEL II, MEMBERS OF CONGRESS, AND APPEALS COURT JUDGES

Date	Percent increase	Index
March 1969		100. 0
October 1975	4. 94	104. 94
March 1977	28. 92	135. 29
October 1979	5. 5	142. 74

SALARY AND CONSUMER PRICE INCREASES FOR EXECUTIVE LEVEL II, MEMBERS OF CONGRESS, AND APPEALS COURT JUDGES SINCE MARCH 1969

	March 1969	October 1975	October 1976	March 1977	October 1978	October 1979	Present
March 1969 salary adjusted by CPI	$42, 500	$64, 770	$68, 212	$70, 125	$78, 965	$88, 782. 00	[1] $99, 110. 00
Schedule rate	42, 500	44, 600	46, 800	57, 500	60, 700	65, 000. 00	70, 900. 00
Payable rate	42, 500	44, 600	44, 600	57, 500	57, 500	60, 662. 50	60, 662. 50

[1] Based on CPI-W for September 1980.

CHANGES IN SALARIES FOR EXECUTIVE LEVEL II, MEMBERS OF CONGRESS, AND APPEALS COURT JUDGES VS. CHANGES IN SIGNIFICANT PAY INCREASE INDICATORS

Key indicators	Percent change since—		Key indicators	Percent change since—	
	1969	1977		1969	1977
Consumer Price Index	133. 2	41. 4	Employment cost index	NA	25. 1
Hourly earnings index	129. 8	32. 5	Governors, 50 States	72. 8	14. 7
Average General Schedule	118. 1	31. 9	Executive Level II, Members of Congress, Appeals Court Judges	42. 7	5. 5
Hay compensation comparison (nonbonus companies)	116. 7	30. 7			

REFERENCE POINTS FOR SALARIES OF SELECTED FEDERAL OFFICIALS

	Actual and scheduled salaries					Salaries adjusted by key indicators			
	1969 salary	1977 salary	1980 actual salary	1980 scheduled rate [1]	1969 private sector executive [2]	1969 CPI [3]	1977 Executive Salary Adjustment Act [4]	1977 private sector executive [5]	1977 CPI [6]
Vice President, Speaker of the House, Chief Justice [7]	$62, 500	$75, 000	$79, 125. 00	$92, 400	$135, 400	$144, 400	$98, 800	$93, 000	$105, 100
Associate Justices [7]	60, 000	72, 000	75, 890. 00	88, 700	130, 000	138, 700	94, 900	94, 100	100, 900
Level I	60, 000	66, 000	69, 630. 00	81, 300	130, 000	138, 700	87, 100	86, 300	92, 500
President pro tem, majority and minority leaders	49, 500	65, 000	68, 575. 00	80, 100	107, 300	114, 400	85, 800	85, 000	91, 100
Level II:									
Members of Congress appeals court judges [7]	42, 500	57, 500	60, 662. 50	70, 900	92, 100	98, 200	75, 800	75, 200	80, 600
District court judges [7]	40, 000	54, 500	57, 497. 50	67, 100	88, 700	92, 400	71, 800	71, 200	76, 400
Level III	40, 000	52, 500	55, 387. 50	64, 700	85, 700	92, 400	69, 300	68, 600	73, 600
Level IV	38, 000	50, 000	52, 750. 00	61, 600	82, 300	87, 800	65, 900	65, 400	70, 100
Level V	36, 000	47, 500	50, 112. 50	58, 500	78, 000	83, 200	62, 600	62, 000	68, 500

[1] The scheduled rate is the rate that would be payable if there were no appropriations limitation,

[2] March 1969 salary adjusted by increase in private sector executive salaries rounded to the nearest hundred dollars. (Source: Hay Associates.)

[3] March 1969 salary adjusted by CPI-W (August 1980), rounded to the nearest hundred dollars.

[4] Hypothetical 1980 scheduled rate (i.e., if Congress had not suspended the Executive Salary Cost-of-Living Adjustment Act (Public Law 94–82) in October 1977).

[5] March 1977 salary adjusted by increase in private sector executive salaries rounded to the nearest hundred dollars. (Source: Hay Associates.)

[6] March 1977 salary adjusted by CPI-W (August 1980), rounded to the nearest hundred dollars.

[7] The 1980 actual salary for members of the Federal judiciary is the subject of pending litigation.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I appreciate the patience of the House. We have waited for the minimum of 1 hour to review the contents of this important continuing resolution.

I do not understate the importance of having a continuing resolution prior to the Monday deadline of our previous continuing resolution. I would like to make two simple points. First, I think the predicament we are in today points up the fact that this House and this Congress have failed to keep deadlines that we have set for ourselves. Each time we come against a budget deadline, an appropriation deadline, an authorization deadline, we simply have waved a magic wand and flurried around in a flutter of activity with the hope that we can jam through the legislative process a bill that very few of us understand and can comprehend.

Thus, my first objection is in terms of timing.

My second objection comes to the heart of the bill. I am not standing in the well to object to the pay raise for Congressmen. I think there are far more negative things within this legislation which will have impact for years and perhaps for generations, long after the pay raise has been received and spent.

I am not certain of all of the particulars of the bill, but let me share some examples of how bad I believe this bill really is:

I object to the language that the conferees agreed on with respect to the Grays Harbor and Chebalis River and Hoquiam River in Washington State.

I object to the problems we did not resolve in the central Arizona water project (CAP) allocations.

I object to the language on travel and transportation and other problems that are outlined in the December 5, 1980, letter by Cecil Andrus to the chairman of the Committee on Appropriation, indicating the hardships it would place on his Department.

I object to the accelerated construction of a new two-lane Highway 72 in Mississippi, the highway called the Goodman Road. I am not certain why it needs to be rushed into this continuing appropriation.

I object to other provisions which I have simply not had time to study. The $20 million for the Bonneville Power Administration. Amendment No. 71 that waives the substantive opportunity for a woman by the name of Mary Eastwood relating to the Civil Service Board. Amendment No. 97 which waives the regulations of the Mine and Health Safety Act of 1977 with respect to a person engaged in surface mining of clay. It goes on into some detail. I am not sure of the impact of that provision. I object to the $300,000 for a new dormitory building in a small junior college in Mississippi, without explanation.

I object to amendment No. 110 which made broad changes in the wild and scenic rivers legislation.

I object to the $85 million that I see in one section of the bill that indicates that Portland, Oreg., will have its public transit system.

I hope Members will look carefully at each word and I ask that they reject this conference report and come back with a more suitable continuing resolution.

Mr. CONTE. Mr. Speaker, I yield 4 minutes to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I will leave it to others in this body to address the question of increases in the compensation for Members of the House and Senate.

Without final congressional action on the continuing budget resolution, all Government programs will come to a halt on Monday. This means, for example that military personnel might not get paid, that social security and medicare checks cannot be distributed, and that the revenue-sharing program which benefits so many communities in Delaware would come to a halt. It is critical that essential Government programs and services continue without interruption and, therefore, the House must pass this resolution.

For my part, I will support this conference report for all of these reasons, but one in particular is not only sound but absolutely imperative.

It has been one of my greatest rewards as a Member of Congress to become acquainted with some of the most talented people in our Nation, both in the private as well as the public sector.

I have met brilliant people: Administrators, managers, lawyers; thinkers and doers all. They are people of wisdom, dedication, experience, and patriotism.

In recent months, I have had the opportunity to ask a number of these people whether they would be willing to serve in the new administration. I am deeply concerned to find in case after case—person after person—even a preliminary inquiry has brought rejection.

They cite a number of reasons: too much redtape, too much harassment, a reluctance to expose one's most private affairs to public scrutiny, too little reward, and a definite recognition that the financial sacrifice is both a real and a heavy burden. Most of these individuals are not of great wealth, but they are above-average earners in the private sector. It is simply a fact of life that the cap on top salaries is hindering the process of attracting and retaining the best available managers and leaders.

Personnel officials at Federal agencies have reported that modest executive salaries and infrequent cost-of-living adjustments are major difficulties in recruiting well-qualified individuals from the private sector. I would like to point out to my colleagues that the Director of the Office of Personnel Management has stated that the current pay cap on the top 33,500 Federal employees "leaves the Government, as an employer, in the position of not being able to attract high-quality executives from the private sector." I also hope the general public will recognize that we are attempting to improve the quality of the Government by allowing people in the highest management positions to receive the pay adjustment which has been denied since 1977. If we do not attract quality individuals to administer the laws we pass, we are increasing the possibility of mismanagement, waste, and fraud in Government programs. This is something I certainly want to avoid and which the American people will not tolerate.

The proposed compensation increases for the top-level jobs in our Government are modest. In all probability, they will not again be adjusted for another 4 years. They will not solve all the problems facing many of the people I have referred to. But this salary adjustment will be a gesture—a gesture by this Congress that we are striking a blow at elitism and extending an equitable measure of reward to those qualified Americans who serve their country and their fellow citizens.

Mr. Speaker, there is simply a limit on the amount of sacrifice you can ask of the people who serve at the highest levels of our government. This pay raise is inextricably tied to the quality of people who will be attracted to serve in both the executive branch and the Congress. I know this is not the politically expedient thing to do at this point. But I strongly urge my colleagues to do what all of you know in your heart is best for the future of the United States.

□ 1400

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

I compliment him for his comments and his concern. I, too, am concerned about the quality and level of people who we get into the new administration.

I am somewhat alarmed, however, that the gentleman is not as eager to clean up some of the other places in this legislation that may pose a hardship on some of those very people who the gentleman now wants to appoint to important Cabinet positions who will be impacted by the authorizations in this bill that have not been thoroughly discussed.

Mr. EVANS of Delaware. I would like to say to the gentleman from Pennsylvania, I think that we have time to do that in January, February and March of 1981 in rescission.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, first of all, I think we should recognize the very, very difficult job that our conferees have had in this effort. I know they were up a good part of the night trying to reach agreement. I know further than that that we cannot always get exactly everything that each of us might want in a conference report.

Mr. Speaker, I believe as servants of the people we have a responsibility to try to do what we can in the House to get legislation which is going to serve the interests of those people.

I have great difficulty with the fact that there were construction facilities approved in this conference report which have not been to the authorizing committee and not been previously approved.

I have difficulty with the fact that the copies in the report are not even here for the items that have to do with the Senate, administration of the Senate, and some of those have to do with taxpayers' expenditures.

I have difficulty with the severance pay proposal.

I have difficulty with the pay raise, not because of the pay raise, but because of the way that it is being brought up.

It seems to me this is a pretty important matter that we are discussing. What I have to say may be worth listening to or may not, but I would hope we would all give this important matter our most serious consideration.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I commend the gentleman for his statement. Mr. Speaker, I rise in opposition to the conference committee report to accompany House Joint Resolution 637 for continuing appropriations and commend the gentleman from Iowa (Mr. BEDELL) for his statement.

Mr. Speaker, I must oppose this continuing resolution for many reasons.

After this Congress has missed deadline after deadline for passing budget and regular appropriations, in large part because of the Senate inaction, we find this measure today loaded with irrelevant riders and legislation, not actions necessary to the orderly function and role of the National Government but rather measures designed to bypass the authorizing committees, close deliberation and public scrutiny.

The blanket exemption from the 1902 Reclamation Law, the 160-acre limitation, both under the Department of Interior and the Army Corps of Engineers projects, is a clear example of such action. We are throwing out 78 years of legislative and judicial history by the action of this report.

The treatment of COWPS flies into the face of the actions taken by this Congress. By in effect repealing its existence we do a disservice to all of the work done earlier in this Congress which maintained COWPS until September 1981.

COWPS is, I remind my colleagues, the only place that specific focus is given to coordination of the National Government economic actions. The riders go on and on, many irrelevant, and certainly most just attempting to ride through on a very much needed measure, the continuing resolution.

The pay raise issue of course was in this morning's headlines along with the Senate staff severance pay. While certainly many disagree with removal of the pay limitation, indeed a substantial number, myself included, disagree with this process. However, the real tragic consequence is that we are spending and committing this Congress and the taxpayers to billions of dollars in new spending by virtue of the action to strike down the 160-acre limitation and the host of other actions. What is the effect of repealing COWPS? This program has held back our national inflation figure by 1½ percent in important sectors of our economy, and this legislation knocks it out.

The focus on compensation and benefits serves as a handy shield of controversy behind which billions of dollars of unauthorized and special interests hide.

Therefore, I certainly am compelled to oppose this measure and urge my colleagues to defeat this bill. There is time before December 15 deadline to deal with the conference report properly.

Mr. BEDELL. Mr. Speaker, I would certainly hope that we would look at this item by item and realize that we do have until midnight Monday; if we send it back, maybe some of these things with which the House disagrees could be corrected, and if we are entitled to that larger pay raise, I think we ought to at least be willing to spend 1 day of work to see that we try to bring this to a more reasonable piece of legislation.

● Mr. HUGHES. Mr. Speaker, I wish to thank the gentleman from Iowa (Mr. BEDELL) for his thoughtful observations on the manner in which we have handled this continuing resolution.

I share with my colleagues the urgent concern for enacting a continuing resolution so that the Government can continue to function.

Yet, I do not believe that this urgency can or should serve as an excuse for us to duck our responsibilty to go on record with our individual votes on this measure.

By hiding our individual positions behind the anonymity of a voice vote, we are doing a disservice to this institution. We are stating to the American public, in effect, that we do not have the courage of our convictions, at least to the extent that we are willing to go on record with a "yea" or "nay" next to our names in the RECORD.

In so doing, we have done grievous damage to our procedures in the House. We are passing projects that have never been considered. We are appropriating dollars that have never been authorized. We are authorizing severance pay that has no precedent. We are increasing our own salaries without recording our individual positions.

Tomorrow, we will read in the Nation's newspapers that the Congress is going home after approving a Christmas tree bill loaded down with baubles and goodies. I, for one, cannot disagree with that assessment.

In an era when the public is asking for increased restraint and accountability, we have responded with a Christmas tree and anonymity. This is the wrong signal, and I deeply regret that the Members who feel as I do did not have the opportunity to go on record in opposition to this measure, as presently constituted.●

Mr. CONTE. Mr. Speaker, I yield myself 1 minute for a question of the chairman.

I would like to take a minute to discuss with my chairman the intent of the conferees regarding the reduction in travel.

The amendment reported by the conferees will reduce travel and consultants by $2 billion, "to the extent practicable."

The Armed Forces are not excluded from this reduction, as they were excluded in the original Senate amendment. However, I understand the intent of the conferees to be that the reduction in travel shall not be applied in any way that adversely affects defense readiness. Any reductions imposed by the Department of Defense or OMB and travel by the armed services should be applied only to travel defined as administrative travel and not the travel that directly or indirectly supports defense readiness.

Does my chairman agree?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield.

Mr. CONTE. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I certainly agree with the gentleman. As he recalls, the Senate amendment did not make the exceptions that we have, but I objected to the $2 billion being in there. I did not have my way about that, but that is not the point. It is the rest of the language that I found objectionable and unnecessary.

May I say included in that, too, is consultants. That is an area where we can, in my opinion, make a great reduction.

So the $2 billion reduction is not mandatory but we mean to cut out needless travel.

As we pointed out at the conference, that we have debt collections to make and travel is needed to do that. So necessary and essential travel is not intended to be affected at all. It is the unnecessary travel that the conferees object to.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. There is no provision for the Department of Justice——

The SPEAKER. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

Mr. WHITTEN. Mr. Speaker, I yield 1 additional minute to the gentleman from Massachusetts.

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman will continue to yield, I take this minute to continue this colloquy.

The original amendment of the Senate exempted the law enforcement functions of the Department of Justice from the reduction in travel expenditures.

□ 1410

I understood as we were negotiating last night that this exemption for the Justice Department would be included in the conference agreement because, after all, they have a very difficult problem. Airline fares have doubled, I think, yet the FBI and the other law enforcement agencies of the Department must do some traveling to carry out their responsibilities. I want the colloquy to show that the law enforcement functions of the Justice Department are exempted from the amendment which makes a Government-wide reduction in travel expenditures.

Mr. CONTE. Will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. CONTE. I could not agree with the gentleman from Iowa more that Justice is also exempted.

Mr. Speaker, I yield the remaining time to the gentleman from Maryland (Mr. BAUMAN).

The SPEAKER. The gentleman is recognized for 2 minutes.

Mr. BAUMAN. Mr. Speaker, I ask rejection of this conference report. I think, quite frankly, it is not the best possible document we could have achieved. It is unfortunate that it is before us today at the close of this session.

No one has mentioned the fact that this particular legislation probably contains the money for a third or more of the entire Federal budget. I have no exact figure, but it certainly is well in excess of $100 billion. It may be $150 billion. The gentleman from Massachusetts (Mr. CONTE) suggests that it might be $300 billion or more. No one seems to know.

So we are dealing with an issue here that is of great importance to American taxpayers. No one knows all the mysterious ways of the Congress and how it works, but it is interesting to note that the press has totally focused on the issue of a congressional pay raise which is perhaps one of the objectionable parts of this bill but certainly only one of the objectionable, as has been emphasized in this debate.

It is interesting, also, to point out that the other body treated this matter of a pay raise in a very interesting way. It passed a prohibition against the congressional pay raise and yet left the pay raise in the bill at the same time in another section and the press has completely ignored that little maneuver. So when the conference was referred the matter of a pay raise it was very carefully finessed and it comes to us in a form today that cannot be reached except on a motion to recommit, which will not be allowed because of the rules of the House. Senior Members will probably preempt that motion, so the only way my colleagues can vote against a pay raise is to vote against the conference report. I urge you to do so.

I do hope you will pay close attention to the amendments in disagreement when they are called up. The severance pay for the other body employees has to rank along with some of the most unfortunate antitaxpayer schemes ever attempted and it should be rejected.

There will be an amendment dealing with the Federal prohibition against abortion.

There is one particular amendment that has been referred to here that simply intervenes in a pending court case and says that the Government cannot pursue that court case, an action which I thought the Constitution did not permit.

So there are many things in this resolution that ought to be addressed carefully. I am sorry it may take time today and discommode the Members, but it is a Saturday afternoon and this bill certainly should not be on anybody's shopping list for Christmas gifts. I hope we are permitted to vote on this on the record.

● Mr. OBERSTAR. Mr. Speaker, I oppose the conference report principally because of the pay raise issue and the procedure under which it is brought to the House floor. There are other matters in the conference report with which I also disagree.

With respect to the pay raise, I believe that the overwhelming majority of the Members of this House are dedicated, hard-working men and women who literally put their life's energy into serving the people who have elected them.

It seems that nearly every time the issue of a pay raise is considered, a few Members of this House take the opportunity to appear virtuous by vehemently denouncing the pay raise, as though the raise, and, indeed, pay for congressional service itself were inherently wrong.

Admittedly, voting on the question of raising their own salaries is one of the most unpleasant and embarrassing tasks legislators must face, but it is one required of us by the Constitution. Therein lies one of my principal concerns about this issue. We are not, under the terms of this conference report, going to have the opportunity to vote directly on the pay raise issue. We should have the opportunity for a direct vote.

My other concern is the size of the increase, which goes far beyond a modest cost-of-living adjustment which would be more appropriate under the Nation's current economic conditions. When I first ran for Congress, I stated that I favored cost-of-living adjustments for Members of Congress, as well as the Federal judiciary and the executive branch; that continues to be my position.

I have great respect for the members of the conference committee which has written this continuing resolution. They have worked under difficult circumstances to produce a sound bill.

Yet, the conference report in effect slips in the pay raise, which was added at the last minute, by lifting a previously imposed pay ceiling. There is no direct vote on the pay raise.

The reputation of this House is also at issue. Inflation and unemployment are the two greatest problems facing this country. The former eats away at wage gains; the latter deprives millions of any wages at all. The people of this country look to this body for leadership. An essential function of leadership is to inspire one's constituents. The manner in which this pay raise is being considered unfortunately offers little inspiration to our people.

I will vote against the conference report because of this pay raise provision, the manner in which it is presented to the House, and because of other nongermane items not previously considered by the House. The pay raise in this conference report is wrong for us and wrong for the people we represent.●

● Mr. TAUZIN. Mr. Speaker, today the House has passed House Joint Resolution 637, the continuing appropriations bill, leaving intact the Senate amendments therein which bring Members of this Body a significant pay raise. As a newly arrived Member of this Body I felt it inappropriate to support a pay increase for the performance of a duty I have only recently undertaken.

I recognize the fact that real dollar earnings are declining, and that the pay increase provided by House Joint Resolution 637 is provided by virtue of a recommendation made by law by an independent salary commission. I nevertheless, felt obliged today to vote against the approval of House Joint Resolution 637 and its accompanying language which has the effect of granting to Members of this body a significant pay raise, and I would have recorded a negative vote had a record vote been ordered.

● Mr. PURSELL. Mr. Speaker, as a county commissioner, State senator, and a Member of the U.S. House of Representatives, I have been called upon to vote on proposals affecting my pay. On each occasion, I strongly believed that a pay raise was not in the best interests of the area I represented at the time, and, accordingly, I voted against them.

In fact, it has been my view that our Nation has gone a long way from the Founding Father's concept of the citizen-legislator setting policy to a system of professional politicians who find it very difficult to keep in touch with their constituents, while spending so many days in Washington. I maintain my home and family in the district I represent and return each weekend, as well as every other chance I get. Unfortunately, many Members, especially those from Western States, could not spend this amount of time at home, even if they wanted to. There are positive signs that the new majority leadership in the Senate will try to help reverse this trend. I am hopeful that we can also make some headway in that direction here in the House during the 97th Congress.

Meanwhile, once again a pay raise proposal is before me, and if there ever was a time to vote "no," it is now. Consider the following facts:

When I was first elected to the Wayne (County) Board of Commissioners in 1968, the unemployment rate was 3.6 percent, inflation stood at 4.7 percent, and the prime interest rate was 6.3 percent;

During my first term as a State senator in 1971, unemployment was 3.4 percent, inflation hit 5.9 percent, and the prime rate was 5.7 percent;

Today our Nation faces an unemployment rate double that of 1968, inflation is in the vicinity of 8 percent, while the prime rate is at an astronomical 20 percent and climbing.

The voters at the last election spoke very emphatically, and if there was one message that came out loud and clear, it was to take prompt and effective action to deal with our country's serious economic problems. Voting for a pay raise now would go 180 degrees in the opposite direction.

As elected representatives, we must first set an example by tightening our own belts and then by coming back in January to do what has to be done to get the Federal Government's fiscal house in order. Accordingly, I urge my colleagues on both sides of the aisle to vote "no" on this pay raise; thus, sending a needed signal to the folks back home, as well as taking a small, but important step toward reaching the goal of fiscal responsibility.●

● Mr. HARRIS. Mr. Speaker, I would like to call the attention of my colleagues to the problems which exist in the Office of the Special Counsel. When the Civil Service Reform Act was enacted in 1978, Federal employees were assured that their rights would be protected by the Office of the Special Counsel created by the Act. It is the Special Counsel who receives allegations of prohibited personnel practices, investigates these charges and, when warranted, presents the complaint to the Merit Systems Protection Board (MSPB). It is the Special Counsel who plays a key role in protecting the rights of whistleblowers. It is the Special Counsel who is charged with the responsibility for protecting merit principles.

The need at this time for the strong Office of Special Counsel is apparent. There has not yet been a Senate confirmed Special Counsel. I call on the incoming administration to move expeditiously to nominate a highly qualified individual as Special Counsel who will truly act as a representative of Federal employees.

In addition to the lack of a Senate confirmed Special Counsel, the Office has been hampered by confusion over the relationship between the Office and the MSPB. When the Senate passed the continuing resolution, it included language to protect the independence of the Office of the Special Counsel. While I do not believe that a rider to an appropriations bill is the appropriate vehicle to clarify the independent status of the Special Counsel, I believe that it is imperative that Congress act quickly to this end. Congress must take actions to assure Federal employees that there is a strong, independent Special Counsel to protect their rights and the rights of all citizens to have a Government employment system based on merit and justice.●

● Mr. HOLLENBECK. Mr. Speaker, I rise to note my concern over several provisions in the conference report for House Joint Resolution 637, the continuing resolution for fiscal year 1981. This resolution is necessary because the Congress has been unable to complete final action on several appropriation bills. I am deeply concerned over the fact that with greater frequency Congress is handling appropriation matters through continuing resolutions and, in reality, ducking its responsibility on spending measures.

I would like to point out that this resolution is absolutely essential because if provisions are not made for the financing of the Government, it becomes illegal for Federal offices to open their doors. In addition, a severe strain is placed on Federal workers who will not receive any paychecks. I, for one, place the blame for this unfortunate situation on the lack of leadership from the executive branch, the majority leaders of the House and the Senate.

Of particular concern to me are the provisions in the conference report related to pay caps. As previously passed by the House on December 3, a pay cap was placed on all Federal workers above the GS–15, level 5. Thus, salaries for Members of Congress would remain unchanged.

However in the conference report currently before us this pay cap has been lifted, effectively providing Members an estimated $10,000 increase. It is indeed unfortunate that for the second time in 2 years Congress has been unable to enact a legislative branch appropriations measure, thus leaving room for backdoor pay raises without individual Congressmen being allowed to vote on the issue.

Mr. Speaker, this is not a very commendable record of performance. I firmly believe that the public is tired of the "games" Congress is playing. In this closing day of the 96th Congress we mark the conclusion of an administration that has been in large part concerned with symbols. And these days are indeed symbolic and more.

They are symbolic of the government by default we have seen over 4 years, default caused by inconsistency, inaction and lack of direction. Again, I reiterate a prime example is this resolution—a resolution necessary because of legislative inaction, largely on the part of the Senate which now has caused this "Christmas tree" resolution to exist and which body I might observe at the conclusion of 4 years in the House, often collectively forgets that it too is elected by the people.

Mr. Speaker, I believe that this process before us is wrong and hope that the 97th Congress will pull together and show the people of this Nation that Congress can and will legislate effectively.

● Mr. LEE. Mr. Speaker, in this, the final hour of the 96th Congress we are presented with a proposal that does, in my view, a severe injustice to the American people.

Others have spoken on the deficiencies of the measure before us. I would like to focus on a major deficiency, the pay raise issue. The very issue of whether or not national legislators and other government officials deserve a raise has caused endless debate. We have heard discussed today the amount that raise should reflect, whether that raise should correspond with inflation, and even the very legitimate question of whether a pay cut is a more appropriate course of action.

What no one can argue here, Mr. Speaker, is the issue of national trust and fair play at the hands of Members of Congress. Rules of good management require that you do not reward a manager whose mishandling of your business keeps it dismally in the red. Nor do the rules say that you give that manager a blank check to provide a raise for himself at whim.

Throughout this Congress I have advocated a system to manage this issue, Mr. Speaker, similar to that used by the New York Legislature. It allows Congress to approve pay raises only for the succeeding Congress. Under that system each Member would have to face the voters, so that they could judge his or her position on the pay raise issue during the election process.

Congress must lead by example. I am not asking public servants to be martyrs, only to show some honest commonsense.

When inflation is grinding away at every American, when the national debt is at record levels, and unemployment darkening the holiday season for many others, a chosen few should not be allowed free rein at the treasure chest. Particularly the chosen few who are the most responsible for the inflationary spiral.●

● Mr. DERWINSKI. Mr. Speaker, those of us who have served in this body for a number of years know that there never is a truly appropriate time during a session of Congress to consider the very difficult issue of governmental salaries. So to my future colleagues standing in the wings as Members-elect I would like to offer a practical observation on the real issue we are now deciding.

At stake is the matter of whether we want to develop and encourage a competent and responsive corps of qualified managers in the executive branch. If I wanted to be partisan, I could point out that the removal of the artificial pay barrier on high level government positions will give the incoming Reagan administration an effective tool for the implementation of its policies, but I will not do that.

In fact, this is not a partisan issue. It is a matter which involves some 1,641 personnel in the judicial branch, including 132 circuit court judges, 516 district court judges, the Court of International Trade (9), the Court of Customs and Patent Appeals (5), the Court of Claims (7), and various magistrates and administrative personnel needed to run the judiciary. Also affected are the basic salaries of about 6,942 members of the Senior Executive Service, over 4,500 doctors and medical personnel at the Veterans' Administration's Department of Medicine and Surgery and 18,955 managers in the general schedule.

Mr. Speaker, one of the bright stars of the Carter administration was Alan K. "Scotty" Campbell, who until just a few days ago, served as Director of the Office of Personnel Management. He was probably the most effective personnel chief President Carter could have named, and on many occasions I valued his advice.

Just last month Scotty Campbell spoke out on the serious issue of Federal executive salaries.

Mr. Campbell said:

> There is clearly a deeply troubling trend. The Government's executive salaries are falling so far behind the rest of the economy that accepting a top Federal job represents a significant financial sacrifice for many. I expect these salary levels will present a real hurdle for the new Administration in filling top jobs. These Executive Schedule jobs, however, do offer such prestige that they will be successfully filled, although not always with the candidate who was the first choice.

The reality of the situation is this:

Almost every member of the Senior Executive Service, every employee in the supergrade levels of GS–16 to GS–18, and many GS-15 employees are now all receiving the same salary, a salary which for some of them is only 5½ percent above what they were receiving some 3 years ago, when prices were 30 percent lower. The total number of these employees is 33,280.

Mr. Speaker, we recently became embroiled in the matter of granting performance bonuses to Senior Executive Service members, and it well may be that some agencies looked upon this as a method to relieve the problems of the pay cap. If the bonus system is to be properly used as it was intended by the Civil Service Reform Act, then we must allow a pay schedule for executives that permits pay distinctions for the different levels of responsibility.

One of the key features of the Senior Executive Service is the increased mobility it is designed to bring to the senior managerial work force. But this is hampered by the inability to offer managers a pay raise when they accept a more responsible job.

If a mid-level manager at GS-15 can earn as much as a Senior Executive, there is no incentive to move up in the system or demonstrate his full capabilities.

I would hope, therefore, Mr. Speaker, that we look at the long-range picture of trying to fashion a more efficient bureaucracy and reject the shortsighted view with respect to this important matter.●

● Mr. PICKLE. Mr. Speaker, it is not right for Congress to vote itself this pay raise at a time when we are asking many Americans to moderate their spending, and to forego certain Government programs. It is hard to ask Americans to moderate when we do this.

It is also not the right way to go about taking action on a pay raise. The issue should be considered straight up or down, on its own merits, and not tied to a desperately needed emergency funding bill. I know that there would be delay to remove the payraise from this bill, but I think that we can have complete action by midnight Monday.

Mr. Speaker, I do not doubt the fact that Members of Congress are deserving of adequate pay, nor am I ashamed of the salary I make. As we used to say in central Texas, I do not back up to the pay window on Saturday night. I feel that this is true of most Members.

But we all realize that the problems with our inflation and big Government spending is paramount at this time. If Congress cannot set an example, who can?

For these reasons on the pay raise, I do not support this continuing resolution.●

● Mr. FITHIAN. Mr. Speaker, I rise in opposition to the continuing resolution which is before the House. I oppose this conference report on several grounds but especially with regard to the pay raise for Congress, executive branch personnel GS-15 and above, and the judiciary. The failure of those of us who wished a recorded vote on the final passage of the conference report because there was a quorum present on the floor also prevented my being on record by recorded vote against the pay raise. I wish the record to show that on the vote by division I rose and was counted against the pay raise.

On a broader scale I have opposed the concept of running the Government by continuing resolution. To appropriate the money for a third of all Government spending by a single resolution is not good government. I realize that in the main it was the failure of the other body to pass the appropriations bills which left us in this predicament but I think we must work to prevent this legislative practice. It will destroy the budget process, make a mockery of the appropriations process, and in fact, given the amount of "legislating" we do in this bill, it also erodes the authorizing process.

With regard to the congressional and executive branch pay raise in this bill, I think it is a bad example to set for the American people. At a time when we should all be tightening our belt, why a pay raise? At a time of inflation, why a pay raise? At a time of unemployment, why a pay raise?

Mr. Speaker, I was in Indiana last night when I heard the news of the surprise meeting and the greater surprise information about the pay raise. In order to get back to vote against it I had to cancel out town meetings in Warsaw, Plymouth, Valparaiso, and Portage, drive to Chicago at 5:30 this morning, catch a plane and arrive here in time to participate in today's proceedings. I did this in order to vote against this bill, to vote against the pay raise, to vote against several amendments which constitute legislating on things not previously discussed by the House. I oppose the bill now before us.●

Mr. WHITTEN. Mr. Speaker, I yield myself the remainder of the time.

May I say to my colleagues I agree with many of the statements that have been made here. I too do not agree with everything in this bill, and was myself very active and vocal in the conference.

But most of you, all of you have been in conferences with the other body. They have opinions of their own. It often makes for quite a problem when you deal with the other body that is of equal stature and equal strength of purpose and it takes a little more time and argument, perhaps.

I just want to call your attention to the fact that your conferees did the very best they could. To send us back to conference, in my judgment, would not help matters in the least. Some of the things we won we might not win in the next go-around.

But there is no human way possible that we could get another conference report and not have your Government close down. I am proud of what we were able to do and, as I say, I took exception to a number of things that we did. It is difficult to fully understand all of these amendments and all of the other things that are in this bill, almost impossible.

I would like to direct your attention to another thing, this conference was not just limited to the 5½ hours, but each of the 13 subcommittees on appropriations, worked for days in connection with their counterparts in the other body trying to work out differences before we went to conference.

So I am just urging you to adopt this conference report because, otherwise, we are going to leave the Government where it will come to a standstill practically altogether on Monday.

Even though we have passed a whole lot of appropriation bills, with nine conference reports having been approved, this conference report is still needed for a big part of the Government because, until those bills are signed and numerous other programs provided for you are dependent on this after Monday.

So I am just saying to you that if you vote against the conference I do not see any way for us to get a good agreement back here. I cannot promise we will get back with as good a bill, and I can assure you there is no way humanly possible for us to get back in time to keep the Government from closing.

I, therefore, urge you to vote for the conference report and let us go ahead. I have many questions about it as any of you.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. YOUNG of Florida. I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. YOUNG of Florida moves to recommit the conference report on the joint resolution (H.J. Res. 637) to the Committee on Conference.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the conference report.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 172, noes 71.

Mr. BAUMAN. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was refused.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Forty-four are required?

The SPEAKER. Forty-four are required.

Mr. BAUMAN. Seventy-one voted "no" on the last count?

The SPEAKER. One hundred and seventy-two to seventy-one.

Mr. BAUMAN. Mr. Speaker, further parliamentary inquiry. At this point if I ask for the vote by the yeas and nays, that would require one-fifth of the entire present membership; is that correct?

The SPEAKER. The gentleman is correct.

Mr. BAUMAN. I will not even bother under the mathematical circumstances, Mr. Speaker.

So the conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. BROWN of California). The Clerk will designate the first amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 7: Page 5, line 13, strike out all after "shall" down to and including "1980" in line 22 and insert "not exceed $500,000,000: *Provided further*, That an overall ceiling for Foreign Military Credit Sales loans and grants of $3,116,000,000 is hereby established."

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "not exceed $500,000,000: *Provided further*, That an overall ceiling for Foreign Military Credit Sales loans and grants of $3,046,187,000 is hereby established provided that of these funds $25,000,000 shall be for Oman and $6,000,000 for Kenya."

The motion was agreed to.

□ 1420

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 23: Page 11, line 15, strike out "as passed the House on November 13, 1980" and insert "as passed the Senate on December 9, 1980."

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "as enacted by the Congress."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 24: Page 11, line 19, after "$4,566,700,000" insert ": *Provided*, That there is hereby appropriated an additional $3,249,000 to be available for such entitlement period for allocation to noncontiguous States in the manner prescribed in section 105(c) of the State and Local Fiscal Assistance Act of 1972 as amended and as further amended by H.R. 7112 as passed by the Senate on December 9, 1980.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That there is hereby authorized and appropriated an additional $1,543,000 to be available for such entitlement period for allocation to the State of Hawaii".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 28: Page 13, line 8, after "1979,"; insert "the project for navigation improvement of the Grays Harbor and Chehalis River and Hoquiam River, Washington, authorized by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 10) and section 101 of the River and Harbor Act of 1954 (68 Stat. 1253) is further modified in accordance with the dimensions recommended in the report of the Chief of Engineers dated 22 December, 1977, provided that the Secretary of the Army may acquire land to mitigate adverse fish and wildlife impacts to the extent justified."

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein.

Mr. CONTE. Mr. Speaker, I ask unanimous consent to consider en bloc the following Senate amendments where the House recedes from its disagreement to the Senate amendment and concurs therein: 28, 30, 61, 123, 127, 140, 141, 148.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. EDGAR. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding. The amendment which we are on at the present point is amendment No. 28. I wonder if the gentleman could explain exactly what amendment this is and what it refers to.

Mr. WHITTEN. I yield to the gentleman from Alabama, Mr. BEVILL, who handled this matter.

Mr. BEVILL. In response to the question of my friend and colleague, the gentleman from Pennsylvania, the item relating to Grays Harbor is one of the many amendments added by the Senate. This amendment provides no money. There is no money involved in this. The language actually provides for studies only and does not authorize planning or construction. In addition, I should note that the language provides for the acquisition of land to mitigate any adverse fish and wildlife impact.

Mr. EDGAR. Will the gentleman yield further?

Mr. WHITTEN. I yield to the gentleman.

Mr. EDGAR. I appreciate the gentleman's explanation. Is it the gentleman's understanding that this particular language of the Senate in the conference report would not provide any improvements or channel modifications above the Union Pacific railroad bridge between Aberdeen and South Aberdeen?

Mr. BEVILL. If the gentleman from Mississippi (Mr. WHITTEN) will yield, that is true. The gentleman is correct.

Mr. EDGAR. So that no action will take place above the bridge?

Mr. BEVILL. That is correct.

Mr. EDGAR. I thank the gentleman. Could the gentleman indicate whether or not there is any money in this particular language to pay for construction of the bridge?

Mr. BEVILL. There is no money in this amendment whatsoever.

Mr. EDGAR. I thank the gentleman.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment is as follows:

Senate amendment No. 30: Page 13, line 24, after "Act" insert "; the Secretary of the Army is hereby authorized to acquire a subordination, by condemnation proceeding after September 1, 1981, of such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians, or held in trust for said tribe, necessary for the construction, operation, and maintenance of the Verdigris River and tributaries project, Oklahoma and Kansas, authorized by section 203 of the Flood Control Act of 1962 and the project for the Shidler Reservoir, Salt Creek, Oklahoma, authorized by section 204 of the Flood Control Act of 1965;".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. EDGAR. I thank the gentleman for yielding. Mr. Speaker, as I understand, amendment No. 30 is in reported technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment, as we have just done, on the Senate amendment which adds language relating to a number of rivers and tributaries in Oklahoma and Kansas, and in the Oklahoma project. I wonder if the gentleman might explain whether or not this is the so-called central Arizona water project allocation.

Mr. BEVILL. If the gentleman from Mississippi (Mr. WHITTEN) will yield, no, this is not. This amendment relates to the Verdigris River and tributaries project and the Shidler Reservoir. Salt Creek, Okla., project. This is a Senate amendment which would authorize the Secretary of Army to acquire a subordination by condemnation after September 1, 1981, of minerals owned by the Osage Tribe of Indians. Of course, the land could be condemned after September 1, 1981, if they do not reach an agreement with the Indians by that date.

Mr. EDGAR. If the gentleman will yield further, then I am misinformed by the appropriations staff who indicated that this amendment No. 30 related to the central Arizona water project. Is this the gentleman's understanding that this amendment No. 30 has nothing to do with that project?

Mr. BEVILL. It has nothing whatsoever to do with that project.

Mr. EDGAR. Would the gentleman indicate for the House what the number of that amendment is?

Mr. BEVILL. I will say that the amendment the gentleman is referring to is amendment No. 112 and is not in disagreement.

Mr. EDGAR. So there is no opportunity to vote on this.

Mr. BEVILL. That is correct.

Mr. EDGAR. I thank the gentleman. It was the gentleman's staff who indicated that the central Arizona project was included in amendment 30, and it brings out a very peculiar problem we have in trying to understand the implications of this particular project.

Mr. WHITTEN. Regarding the statement of the gentleman from Alabama, I assume his statement is correct.

Mr. EDGAR. The gentleman asked just a few minutes ago, and one of his committee staff pointed this out and I just want to mention it.

Mr. WHITTEN. We tried to explain what we are up against. The subcommittee has worked with those items that come under that subcommittee's jurisdiction. With that background and past experience, I think they would be fully aware of the content of the amendment.

Mr. BEVILL. That is correct. As a matter of fact, the gentleman from Pennsylvania (Mr. EDGAR), I might say, has not been jeopardized in any way regardless of what was said to him, because the amendment No. 112 was not in disagreement.

Mr. EDGAR. If the gentleman will yield on that, I recognize it is not in disagreement. Will the gentleman explain what the conferees did on that project?

Mr. BEVILL. The House agreed with the Senate amendment on the central Arizona project which extended the date for the implementation of the water allocations for that project.

Mr. EDGAR. I thank the gentleman. Was it over the objection of the administration?

Mr. BEVILL. I do not know.

Mr. EDGAR. I appreciate the gentleman's comments.

□ 1430

I appreciate the gentleman's comments.

If the gentleman will yield further, I do have a letter from the Secretary of the Interior opposed to the restrictions on implementing the cap allocations, because to say now in implementing his allocation decision risks a complete reopening of the allocation issue, and it goes on in greater detail. I just raise that concern to the House.

Mr. BEVILL. Yes. This is a very involved situation. It has been in the courts and I understand the court has recently ruled to delay implementation of any decision by the Secretary at this point. The Senate felt very strongly about this matter and felt like it was something that should not be resolved during the last 2 or 3 weeks of this administration, and simply extended the time so that the new Congress and the new administration could look into it further.

Mr. EDGAR. I thank the gentleman for his explanation.

If the gentleman will yield for just one step further, could the gentleman indicate at which point we get to the amendment that deals with the issue of the Osage Indians?

Mr. WHITTEN. That is the one that is up now.

Mr. EDGAR. That is this amendment that we are dealing with now?

Mr. WHITTEN. It is the amendment we have up now.

Mr. EDGAR. Would the gentleman yield further just for a comment?

Mr. WHITTEN. I yield to the gentleman.

Mr. BEVILL. It is the one we have just discussed. Then the gentleman discussed the amendment relating to the central Arizona project.

Mr. EDGAR. That is right.

Mr. BEVILL. This is the amendment we just talked about, regarding the Osage Indians.

Mr. EDGAR. If the gentleman will yield further, I hope that the Members will vote against this amendment No. 30.

When the House takes up this resolution, I think we ought to have some close attention to some of the Senate amendments reported in disagreement and No. 30 is one of them. I apologize to the chairman for the confusion of which project this was. With the comments, it is difficult to know.

I would like to indicate to the Members that this particular amendment No. 30 reported in disagreement would authorize the Army Corps of Engineers to condemn the oil and gas rights to the Osage Indians to facilitate the construction of three corps dams in Oklahoma. Two of these projects are in the early stages of construction, while a third has not been started, having been dormant for some 6 years.

That such an amendment would even be offered is a shocking indication of the cross purposes at which our national energy objectives and certain Corps of Engineers projects are working. The Oklahoma lands in question have already produced 41 million barrels of oil and are estimated to contain future recoverable resources of about 20 million barrels. The Senate amendment to the continuing resolution, which is in discussion at this point, would effectively forestall future redevelopment of the tribe's oil and gas resources. Indeed, the corps' 1981 budget justification for the two reservoirs now under construction, the Shiatook Lake and the Candy Lake, include funds to initiate plugging of oil and gas wells. As to the dams' own energy potential, none are being developed for hydroelectric power, and even the theoretical potential for hydropower has been found by the corps to be trivial at these sites.

This Senate amendment demonstrates the pitfalls of attempting to legislate in an appropriations bill. And if the corps cannot acquire the property rights necessary for the construction of these three reservoirs at a reasonable price, the authorizing committees of Congress have the responsibility to reevaluate the need for any extension of the corps' authority, and indeed the need for the projects themselves, in light of the current conditions.

The total estimated costs of these three corps projects is $140 million, and this is at prices as of October 1979. The market value of the oil, the gas, the minerals under these two projects has been estimated at $1.2 billion. Conservationists and environmentalists urge that the House reject this pork barrel Senate rider to the continuing resolution.

I urge my colleagues to vote "no" on amendment No. 30.

Mr. WHITTEN. Mr. Speaker, in line with this, the gentleman seems to have quite a bit of information but, I believe, we have done the proper thing in conference as explained by the gentleman from Alabama.

Does the gentleman wish to add anything to his statement?

Mr. BEVILL. If the gentleman will yield, I do want to point out that the projects that the gentleman from Pennsylvania is talking about are very much needed for flood control. And so I think it is unfortunate that the Secretary of the Interior has made these comments. These dams are needed and wanted by the State.

I urge the Members to support the conference committee.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EDGAR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 161, nays 102, not voting 168, as follows:

[Roll No. 680]

YEAS—161

Addabbo
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashbrook
Ashley
Aspin
Bailey
Baldus
Bauman
Benjamin
Bennett
Bethune
Bevill
Blanchard
Boggs
Boland
Bouquard
Bowen
Breaux
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Butler
Carter
Clausen
Coelho
Coleman
Conte
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Dicks
Dingell
Dixon
Dornan
Downey
Duncan, Oreg

Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Findley
Fisher
Flippo
Foley
Ford, Mich.
Fowler
Gaydos
Glickman
Gonzalez
Gore
Gramm
Gray
Gudger
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansen
Harris
Hefner
Hightower
Hopkins
Howard
Hubbard
Hutto
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kogovsek
Leath, Tex.
Lehman
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lungren
McKay
Marks
Matsui
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mineta
Montgomery
Moorhead, Pa.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nichols
Oberstar
Pashayan
Patten
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Rahall
Ratchford
Rhodes
Robinson
Roe
Rosenthal
Rostenkowski
Royer
Russo
Santini
Scheuer
Shelby
Shumway
Simon
Smith, Iowa
Smith, Nebr.
Snyder
St Germain
Stanton
Stenholm
Stratton
Symms
Synar
Tauzin
Trible
Ullman
Volkmer
Wampler
Watkins
White
Whitten
Wirth
Wyatt
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—102

Ambro
Anderson, Ill.
Archer
Barnes
Bedell
Bereuter
Bingham
Bolling
Bonior
Brademas
Brinkley
Brodhead
Carr
Clay
Clinger
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
D'Amours
Dellums
Derwinski
Dickinson
Drinaan
Edgar
Emery
Erdahl
Evans, Ga.
Fenwick
Fish
Fithian
Ford, Tenn
Forsythe
Fountain
Frenzel
Garcia
Gephardt
Gingrich
Goodling
Gradison
Green
Guarini
Hawkins
Hollenbeck
Horton
Hughes
Jacobs
Kemp
Kildee
Kindness
Kostmayer
Lagomarsino
Leach, Iowa
Lee
Levitas
Lujan
Lundine
McClory
McHugh
Madigan
Markey
Mavroules
Miller, Calif.
Minish
Mitchell, N.Y.
Moore
Nowak
Oakar
Ottinger
Panetta
Patterson
Petri
Porter
Regula
Rinaldo
Ritter
Roth
Roybal
Rudd
Sabo
Sawyer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Snowe
Solomon
Spence
Studds
Tauke
Udall
Vander Jagt
Vanik
Vento
Walgren
Walker
Weiss
Williams, Mont.
Wolpe
Young, Fla.

NOT VOTING—168

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Applegate
Atkinson
AuCoin
Badham
Bafalis
Barnard
Beard, R.I.
Beard, Tenn.
Beilenson
Biaggi
Boner
Bonker
Brooks
Broomfield
Broyhill
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Collins, Ill.
Conyers
Corman
Cotter
Crane, Daniel
Crane, Philip
Crockett
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Derrick
Devine
Dodd
Donnelly
Dougherty
Early
Eckhardt
Edwards, Calif.
Evans, Ind.
Ferraro
Florio
Frost
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Grassley
Grisham
Guyer
Hagedorn
Hall, Ohio
Hanley
Harkin
Harsha
Heckler
Heftel
Hillis
Hinson
Holland
Holt
Holtzman
Huckaby
Hutchinson
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Kastenmeier
Kelly
Kramer
LaFalce
Latta
Leach, La.
Lederer
Leland
Luken
McCloskey
McCormack
McDade
McDonald
McEwen
McKinney
Maguire
Marlenee
Marriott
Martin
Mathis
Mikulski
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Neal
Nedzi
Nolan
O'Brien
Obey
Paul
Pritchard
Quillen
Railsback
Rangel
Reuss
Richmond
Roberts
Rodino
Rose
Rousselot
Satterfield
Schulze
Sebelius
Shuster
Skelton
Solarz
Spellman
Stack
Staggers
Stangeland
Stark
Steed
Stewart
Stockman
Stokes
Stump
Swift
Taylor
Thomas
Thompson
Traxler
Van Deerlin
Waxman
Weaver
Whitehurst
Whitley
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron

☐ 7450

Mr. WALKER, Mr. ROYBAL, and Mrs. SCHROEDER changed their votes from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4968. An act to amend the Internal Revenue Code of 1954 to provide that in certain cases the net operating loss carryover period for a taxpayer who ceases to be real estate investment trust shall be the same as the net operating loss carryover period for a taxpayer who continues to be real estate investment trust;

H.R. 5391. An act to amend chapter 42 of the Internal Revenue Code of 1954 with respect to the determination of second tier taxes;

H.R. 5505. An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes; and

H.R. 8406. An act to amend title XVIII of the Social Security Act to provide for medicare coverage of pneumoccocal vaccine and its administration.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 637, FURTHER CONTINUING APPROPRIATIONS, 1981

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 33: page 16, strike out all after line 1 over to and including line 2 on page 11 and insert:

(k) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in the conference report (H. Rept. No. 96–1519) filed in the House of Representatives on December 2, 1980.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

(k) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in such Act as enacted by the Congress.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 34: Page 16. strike out line 17, inclusive, and insert:

(l) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such Act as adopted by the House of Representatives on December 2, 1980.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following:

(l) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such Act as enacted by the Congress.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 40: Page 20, strike out all after line 19 over to and including line 2 on page 21 and insert:

SEC. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape has been reported within seventy-two hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided, however,* That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion

The Clerk read as follows:

Mr. Whitten moves that the House insist on its disagreement to the amendment of the Senate numbered 40.

PREFERENTIAL MOTION OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Duncan of Oregon moves that the House recede and concur with the amendment of the Senate numbered 40.

The SPEAKER pro tempore. Does the gentleman from Mississippi (Mr. Whitten) desire recognition?

Mr. WHITTEN. Not at this time, Mr. Speaker.

Mr. BAUMAN. Mr. Speaker, I wonder if the gentleman from Oregon (Mr. Duncan) would explain precisely what his amendment does?

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. Whitten) has the time. The Chair recognizes the gentleman from Mississippi (Mr. Whitten) for 30 minutes.

Mr. WHITTEN. I yield to the gentleman from Oregon (Mr. Duncan).

Mr. DUNCAN of Oregon. Mr. Speaker, I would be pleased to respond to the gentleman from Maryland (Mr. Bauman), and I thank the gentleman for yielding.

What this motion does is propose that we recede and concur and accept the Senate version on this very difficult hurdle that we once again find ourselves facing on what we hope is the last day of the session; namely, the hurdle of abortion.

What the Senate has done is to put in this continuing resolution the precise language to which this body and the other body agreed at the time of the passage of the last continuing resolution.

In effect, what it does is provide that abortion shall not be financed except where the life of the mother is in danger or there is a rape reported within 72 hours or incest is involved.

I know that this is not a solution that is acceptable to everyone. Indeed it may not be totally acceptable to anybody, but it is a solution to which we agreed before, and it is a way, in my judgment, to avoid forcing this Government once more to the brink or over the brink of being unable to respond and provide for either the common defense or the general welfare, and particularly the welfare of the aged, the infirm, the sick, and the unfortunate.

Mr. Speaker, I recommend that the House accept the Senate amendment and agree to my preferential motion.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

May I ask, the gentleman's amendment also includes, I believe, a States rights provision that the House enacted?

Mr. DUNCAN of Oregon. Mr. Speaker, if the gentleman will yield, indeed it includes the States rights provision to which we have already agreed. It also includes the provision with respect to prevention of implantation and the one on ectopic pregnancy, which is in both of the versions.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, I would only say that I personally would rather see the House language preserved.

I realize that what the gentleman is offering is the current law, and this motion concurring in the Senate language means that it will only go until June of next year, and should the Health and Human Services appropriation be dealt with in the interim, there will be another occasion for perhaps more strict language. That could be offered by the new Congress, and it could work its will at that time.

Having said that, I understand the lateness of the hour and the fact of missing Members, but I would say for those of us who support the right to life that we would much prefer that we stick with the House position. I appreciate the fact that the House conferees did that in conference, and for that I commend them.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would just like to state very briefly that, of course, I and many Members object very strenuously to the language from the Senate that the gentleman from Oregon (Mr. Duncan) has included in this motion.

I would say to the Members that I do not believe it is an adequate compromise to say that a few words can be corrected and the matter then is disposed of. So I would ask that the Members vote no on the amendment or on the motion offered by the distinguished gentleman from Oregon (Mr. Duncan).

Mr. WHITTEN. Mr. Speaker, the House and the Senate has been at cross purposes on this matter for several years now, and they will probably continue that way. Personally I support the House position as I always have.

I recognize that the statement made by the gentleman from Maryland is based on the fact that Senate agreement is necessary if we are to have any limitation on use of Federal funds, which some do not seem to realize. Again personally I agree with the House position, introduced in House Joint Resolution 637 with the House provisions included.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Oregon (Mr. Duncan).

The preferential motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 61: Page 27, after line 21, insert:

Sec. 128. To create a new office within the Department of the Treasury, "Office of Inspector General" and to provide the necessary expenses for that office, $7,544,800: *Provided,* That the provisions of section 5 and section 6(a)(4) of the Inspector General Act of 1978 shall apply to this Office.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein.

The motion was agreed to.

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The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 64: Page 28, after line 12, insert:

Sec. 131. No less than $20,000,000 of the amount provided by this joint resolution for the Internal Revenue Service, Investigations and Collections, shall be available exclusively for narcotics cases within the Criminal Investigation Division.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$15,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. WHITTEN. Mr. Speaker, inasmuch as amendments 72 through 81 relate solely to housekeeping operations of the other body, which by practice the House concurs in without intervention, I ask unanimous consent that the Senate amendments numbered 72 through 81 be considered en bloc and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Senate amendments Nos. 72 through 81 are as follows:

Senate amendment No. 72: Page 30, after line 24, insert:

Sec. 139. In order to provide additional capital for the revolving fund established by the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a–1), the Secretary of the Senate is authorized and directed to transfer $100,000 to such revolving fund from "miscellaneous items" in the contingent fund of the Senate.

Senate amendment No. 73: Page 31, after line 7, insert:

Sec. 140. Effective with respect to fiscal years beginning on or after October 1, 1980, the first sentence of section 101 of the Legislative Branch Appropriations Act, 1976 (2 U.S.C. 61a–9a), is amended by striking out "$7,500" and inserting in lieu thereof "$10,000".

Senate amendment No. 74: Page 31, after line 12, insert:

Sec. 141. Section 111 of the Supplemental Appropriations and Rescission Act, 1980 (Public Law 96–304) is amended by striking out "and to remain available through September 30, 1981" and inserting in lieu thereof "and to remain available until expended".

Senate amendment No. 75: Page 31, after line 17, insert:

Sec. 142. Effective on the first day of the first month following the date of enactment of this joint resolution, the Secretary of the Senate may appoint and fix the compensation of a Museum Specialist at not to exceed $22,039 per annum in lieu of a Clerk at not to exceed $17,190 per annum.

Senate amendment No. 76: Page 31, after line 23, insert:

Sec. 143. The second proviso contained in the Legislative Branch Appropriation Act, 1966 (2 U.S.C. 126b), under the heading "SENATE", "Salaries, Officers, and Employees", "office of the secretary", is amended to read as follows: "The Secretary of the Senate is hereafter authorized to employ, by contract or otherwise, substitute reporters of debates and expert transcribers at daily rates of compensation, or temporary reporters of debates and expert transcribers at annual rates of compensation; no temporary reporters of debates or expert transcribers may be employed under authority of this provision for more than ninety days in any fiscal year; and payments made under authority of this proviso shall be made from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.".

Senate amendment No. 77: Page 32, after line 13, insert:

Sec. 144. Section 105(a) of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 72a note), is amended by deleting "1980", and inserting in lieu thereof "1985".

Senate amendment No. 78: Page 32, after line 17, insert:

Sec. 145. Hereafter, the Secretary of the Senate as Disbursing Officer of the Senate is authorized to make such transfer between appropriations of funds available for disbursement by him for a fiscal year subject to the customary reprograming procedures of the Committee on Appropriations of the Senate.

Senate amendment No. 79: Page 32, after line 23, insert:

Sec. 146. Effective for fiscal years beginning on or after October 1, 1980, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $30,800.

Senate amendment No. 80: Page 33, after line 3, insert:

Sec. 147. Any funds appropriated or made available under the heading "SENATE" in any Appropriation Act or any resolution making continuing appropriations for the fiscal year ending September 30, 1981, shall remain available until expended for the same purpose for which appropriated or made available.

Senate amendment No. 81: Page 33, after line 9, insert:

Sec. 148. Effective with the fiscal year ending September 30, 1981, section 117 of the Second Supplemental Appropiations Act, 1976 (2 U.S.C. 61f-1a), is amended by striking out "$92,000" and inserting in lieu thereof "$167,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendments of the Senate numbered 72 through 81 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 82. Page 33, after line 14, insert:

Sec. 149. The paragraph, which commences with the words "The Committee on Appropriations, authorized by Senate Resolution Numbered 193" and which appears in the first section of chapter 89 of the Legislative Branch Appropriations Act, 1946 (59 Stat. 243; 2 U.S.C. 67a) is amended by adding at the end thereof the following new sentence: "If an individual described in the preceding provision of this paragraph, subsequent to leaving employment by the Senate Committee on Appropriations, accepts employment in a position in the Senate (other than a position on such Committee) the salary for which is disbursed by the Secretary of the Senate, then, upon such individual's leaving such subsequently accepted position, his service in such position shall, for purposes of the preceding provisions of this paragraph, be treated as service performed in the employment of such Committee.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The gentleman from Mississippi is recognized for 30 minutes.

Mr. WHITTEN. I yield 5 minutes to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. I thank the gentleman from Mississippi.

I would like to address a question to the appropriate member of the committee regarding this amendment. I have read it a number of times and I am at the disadvantage of not having the previous statute referred to in the section before me but it would appear that it is for the relief of a limited number of individuals in the staff of the other body who fall into the category described in this language. I am not precisely sure what rights it gives them except that it appears to increase their ability to either transfer back and forth amongst the executive and legislative branches or enhances their retirement benefits or something of that nature.

Could we have an explanation of what it does?

Mr. WHITTEN. I yield to the gentleman from Indiana (Mr. Benjamin).

Mr. BENJAMIN. I would be happy to attempt to explain it. We are referring here to 2 U.S.C. 67 which was enacted in the 1940's during a time when the political complexion of the Senate was frequently changing back and forth, between parties in control.

In order to hire the best personnel to staff the Senate Committee on Appropriations, there was an amendment made in law that gave those who were hired in from the executive branch, a right to return to their position or a comparable position in the executive branch once their duty was completed with the Senate Committee on Appropriations.

In Senate amendment 82 those reemployment rights would be extended in the event that they moved to another Senate job. We have been informed this would apply to three or four people and, presumably, it would apply to those who might transfer to the Committee on the Budget or another committee or staff job in the other body. It would just continue the right for these staff people in the event their services are needed in the Senate.

Mr. BAUMAN. If the gentleman would yield, these are people who already, some years ago, availed themselves of a statutory right and now they are going into minority party status and this protects that right given to them as members of the majority party, is that right?

Mr. BENJAMIN. The right would be protected whether they were majority or minority. The right was only extended in the event they take another job in the Senate other than with the Committee on Appropriations.

Mr. BAUMAN. What rights are they given under this?

Mr. BENJAMIN. They can return to their executive branch position or a comparable one when they leave the employ of the Senate.

Mr. BAUMAN. Is that an absolute right that would bump some existing civil service employee?

Mr. BENJAMIN. The original statute on that indicates that they would have to make application to the Civil Service Commission within 30 days of termination of their service with the Senate Committee on Appropriations. This would extend it so that application would have to be made 30 days from the termination of service with another Senate position. Basically, what you are allowing these who come under this provision of law to do is to continue to serve the Senate even though they may not be serving on the Committee on Appropriations.

Mr. BAUMAN. If the gentleman will yield further, I am under the impression there is a general provision in civil service law that allows legislative employees who lose their employment to, in fact, go into the executive branch if there are comparable jobs available. Perhaps I am incorrect.

Mr. BENJAMIN. The gentleman is quite right. As I recall, it is the Ramspeck Act. This is a derivative of that particular act. It only applies to the Senate Committee on Appropriations. This would extend those rights to other Senate committee service.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I am interested in this absolute right that we are giving them. Does that hold even if it violates caps on Federal employment that might be imposed at this point on the executive agencies?

Mr. BENJAMIN. If the gentleman would yield, the answer to that "Is not." The return is dependent upon application within 30 days. It does not give an inviolate right and obviously if there is no room in the inn, then there would be no position for him.

Mr. WALKER. I thank the gentleman for yielding.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 83: Page 34, after line 5, insert:

SEC. 150. For an additional amount for "Offices of the Secretaries for Majority and the Minority," $100,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 84: Page 34, after line 7, insert:

SEC. 151. (a) Effective in the case of each fiscal year (commencing with the fiscal year ending September 30, 1981) each Senator, at his election, may transfer from his Administrative, Clerical, and Legislative Assistance Allowance (hereinafter referred to as the "clerk hire allowance") to such Senator's Official Office Expense Account any balance remaining, or any portion thereof in such clerk hire allowance as of the close of the fiscal year. Any balance so transferred to a Senator's Official Office Expense Account shall be available only for expenses incurred during the calendar year in which occurred the close of the fiscal year. Each Senator electing to make such a transfer shall advise the Senate Disbursing Office, in writing, no later than December 31, and such transfer shall be made on such date (but not earlier than the October 1 which next succeeds the close of the fiscal year with respect to which the balance occurs) as may be specified by the Senator.

(b) Transfer of funds under subsection (a) shall be made from the appropriation "Administrative, Clerical, and Legislative Assistance Allowance to Senators" under the heading "Senate" and "Salaries, Officers, and Employees" for transfer to the appropriation "Miscellaneous Items" for allocation to Senatorial Official Office Expense Accounts.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 85: Page 35, after line 5, insert:

SEC. 152. (a) For the purposes of this section—

(1) the term "committee" means a standing, select, joint, or special committee of the Senate, whose funds are disbursed by the Secretary of the Senate;

(2) the terms "committee chairman" and "ranking minority member" mean the chairman and ranking minority member of any such committee as of the beginning of the Ninety-seventh Congress;

(3) the term "eligible staff member" means an individual who—

(A) was a member of a staff of any such committee, or subcommittee thereof, on January 2, 1981, and had served continuously thereon (except for any period of four days or less) since November 1, 1980, and

(B) has served continuously (except for any period of four days or less) as an employee of the Senate for one year immediately preceding his termination of service; and

(4) the term "displaced staff member" means an eligible staff member whose service as an employee of the Senate is terminated on or after January 2, 1981, solely and directly as a result of the reorganization of the staff of a committee caused by the transition to a Senate in which a majority of Senators are members of the Republican Party, and who is certified as a displaced staff member by the committee chairman and ranking minority member of such committee.

(b) The committee chairman and ranking minority member of each committee shall certify to the Committee on Rules and Administration the name of each displaced staff member of such committee before the later of—

(1) January 12, 1981, or

(2) the tenth day after the date on which the displaced staff member's service is terminated.

(c) Under regulations prescribed by the Committee on Rules and Administration and subject to the succeeding provisions of this section, each displaced staff member shall be entitled, upon application to the Committee on Rules and Administration, to be paid severance pay in regular pay periods of the Senate.

(d) Severance pay of a displaced staff member consists of a basic severance allowance computed on the basis of one week's (seven days) basic pay at the rate received by such staff member as of November 1, 1980, for each year of civilian service up to and including ten years, and two weeks' basic pay at that rate for each year of civilian service beyond ten years.

(e) Total serverance pay under this section shall not exceed three months' pay at the rate as of November 1, 1980, received by a displaced staff member.

(f) Severance pay under this section shall be paid from any available funds which are or have been appropriated under the heading "SENATE".

(g) A displaced staff member shall not be entitled to severance pay under this section if, at the time of the termination of his service, he—

(1) is receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or is entitled to receive an immediate annuity under such subchapter; or

(2) is receiving retirement or retired pay or an annuity under any other retirement law or retirement system for employees of the United States or the District of Columbia or members of the uniformed services (other than retired pay for nonregular service under chapter 67 of title 10, United States Code), or is entitled to receive such pay or an immediate annuity under such law or system.

(h) A displaced staff member shall not be paid severance payments under this section during any period with respect to which he—

(1) is an employee of the United States Government or the government of the District of Columbia; or

(2) is entitled to receive a deferred annuity under subchapter III of chapter 83 of title 5, United States Code, or under any retirement law or system referred to in subsection (g)(2),

and his severance pay shall be reduced by an amount equal to the payment he would have received for such period if he had not met the condition specified in paragraph (1) or (2).

(i) To receive severance pay for any month (or portion thereof), a displaced staff member shall submit to the Secretary of the Senate, as soon as possible after the close of such month, a notarized statement setting forth—

(1) whether or not he was employed or self-employed during such month (or portion) or received unemployment compensation for such month (or portion); and

(2) the amount of compensation received of receivable for services performed as an employee during such month (or portion), the amount of net earnings received or receivable from self-employment during such month (or portion), and the amount of unemployment compensation received or receivable for such month (or portion).

(j) The amount of severance pay to which a displaced staff member is otherwise entitled for a month (or portion thereof) shall be reduced by the sum of the amounts set forth under subsection (i)(2) in the statement submitted by him for such month (or portion). If a statement for a month (or portion) is not submitted by a displaced staff member to the Secretary of the Senate within sixty days after the close of such month (or, if later, within sixty days after the date of enactment of this joint resolution), the gross amount of severance pay to which such displaced staff member is otherwise entitled under this section shall be reduced by the amount of severance pay which would otherwise have been paid to him for such month (or portion).

(k) In the event of the death of a displaced staff member, any unpaid severance pay to which the displaced staff member is entitled shall be paid to the widow or widower of the displaced staff member or, if no widow or widower, to the heirs at law or next of kin of such deceased displaced staff member.

(l) Severance pay paid under this section shall not be treated as compensation for purposes of any provision of title 5, United States Code, or of any other law relating to benefits accruing from employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision or law.

(m) For purposes of this section, the Office of the Vice President, the Office of the Secretary of the Senate, and the Office of the Sergeant at Arms and Doorkeeper of the Senate, with respect to funds appropriated under the heading, "Salaries, Officers and Employees", shall be considered a committee.

(n)(1) For purposes of the preceding provisions of this section, an individual shall be deemed to be an "eligible staff member" if—

(A) he was a member of the staff of a committee (as defined in subsection (a)(1) of this section) on January 2, 1981, and

(B) during the calendar year 1980, he was an employee of the Senate for at least 183 days (whether or not his service was continuous).

(2) If an individual who is deemed to be an eligible staff member under paragraph (1) of this subsection was not a member of the staff of a committee (as defined in subsection (a)(1) of this section) on November 1, 1980, the provisions of subsections (d) and (e) of this section shall be administered as if the date "November 1, 1980", as contained therein, referred to the most recent day prior

thereto that such individual was an employee of the Senate.

(o) For purposes of the preceeding provisions of this section, the term "displaced staff member" also includes an eligible staff member (as defined in subsection (a) (3) of this section) whose service as an employee of the Senate is terminated on or after January 2, 1981, as a result of reorganizations (or consolidations) of committees of the Senate or of the cessation of services by a Senator who on November 4, 1980, was serving as chairman or ranking minority member of a committee (as defined in subsection (a) (1) of this section) or a subcommittee thereof, and who is certified as a displaced staff member by the committee chairman and ranking minority member of such committee.

(p) (1) Whenever the service of an individual, who is an employee in a Senator's office or in the President pro tempore of the Senate's office, is terminated because the Senator's service as a Member of the Senate ceases or the President pro tempore's service ceases (as the case may be), such employee shall be entitled to be paid in a lump sum for such accumulated leave, not in excess of 30 days, as the Senator in whose office he was employed shall certify to the Secretary of the Senate to be due to such individual, or (in the case of an individual who is an employee in the President pro tempore's office) as the President pro tempore shall certify to the Secretary of the Senate to be due to such individual.

(2) No employee shall be entitled to a lump-sum payment under this subsection unless he was an employee in a Senator's office or in the President pro tempore's office on November 1, 1980, and unless his position in such office was terminated after such date and prior to January 6, 1981.

(3) The amount payable to any individual under this subsection shall be paid from any funds available to pay for clerk hire or any other expenses of the Senator in whose office the individual was an employee. In case a Senator terminates his service after November 1, 1980, and prior to January 3, 1981, any funds which would have been available to pay for clerk hire or any other expenses of such Senator if his service had continued to January 3, 1981, shall be deemed to be available to him for purposes of making payments under this subsection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 85 and concur therein.

The SPEAKER pro tempore. The gentleman from Mississippi is recognized for 30 minutes.

Mr. WHITTEN. I yield 5 minutes to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Speaker, this is the section of the bill which has been mentioned a number of times in debate and was addressed by the newly elected leader of the minority, the gentleman from Illinois (Mr. Michel), who indicated he opposed this section of the bill. The motion that has been made by the gentleman from Mississippi is to recede from our disagreement and concur in the Senate amendment.

At the appropriate time I would ask that that motion be divided, as I have a right to do, and so, therefore, we would be voting on the proposition of whether or not we want to recede from our disagreement and, in effect, accept this section.

I am told there is some precedent for what is proposed here and I know the argument of comity regarding the other body, but the gentleman from Maryland has, since he first read the reported version of the bill as it came from the Committee on Appropriations of the other body, been astounded at the provisions that we have before us. No one knows what this will cost. One estimate that has been put together at the behest of the gentleman from Pennsylvania (Mr. Walker) I think deals with the staff of the Foreign Relations Committee of the other body.

May I ask the gentleman from Pennsylvania, Mr. Speaker, how many thousands of dollars was involved?

Mr. WALKER. If the gentleman would yield, the estimate that we put together is that if all of the majority staff of that one committee took the maximum that was permitted under this provision, that that one committee would be eligible for $426,500. If you extend that over the lot of the committees in the other body it seems to me that you could make a very strong point that we would be talking about several millions of dollars involved in just this severance pay issue.

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Mr. BAUMAN. I thank the gentleman for this illustration.

Quite obviously, not all of the staff members would in fact avail themselves of this provision if it is enacted into law, but in effect it gives the staff of each Senator who is leaving office, 1-month's severance pay at their pay level—I believe the date is November 1, October 1 of this year—and the committee staff members who lost their positions, up to three months at their current level of pay as severance.

It seems to me that one of the risks that all of us run, and the gentleman from Maryland is acutely aware of that, is that our tenure can at any time be terminated. That certainly goes for the staff as well as the elected membership.

This is really a cushy arrangement for some very highly paid people. Undoubtedly they have talent or they would not be where they are, because we all know all staff members in both Houses are hired on merit and talent alone, and no other criterion, political or otherwise, is ever applied.

These are undoubtedly some of the most talented people in the world and undoubtedly they will find employment in the private sector if not with the executive branch, even though they might have ideological differences with the new administration.

We should not grant to them the kind of rights and privileges that are constantly criticized in the public press giving the Congress a bad image; rights that are not accorded in most private industries and to do so at the taxpayers' expense. So I would hope that when the motion to recede is before the House in a few minutes, at the end of this discussion, that we would vote down the motion to recede and to insist on our disagreement. And so we should vote "no" when the chairman moves to recede from the position that the House has taken.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I certainly agree with him we should vote "no" on the motion to recede. I think we also ought to point out, and I think that the gentleman would agree with me on this understanding, that the Senate staff members who are here included are also eligible for unemployment compensation and the benefits that would be available to anybody coming to this kind of a position of unemployment in the private sector, so that they certainly are not going to suffer if this severance pay is not granted to them.

In addition, I think the gentleman makes a very good point about the fact nobody knows how much this is going to cost. The total cost of this particular provision could be astronomical.

I think also if one looks over the long term, the idea we are setting a precedent here which could in the future even come over and be used on the House side, is disturbing, particularly since what has been included was done without hearings and without too much consideration in this continuing resolution bill.

Mr. BAUMAN. I would only respond to the gentleman by saying I do believe there are certain computations in this language that might cause deductions from the total amount to which these employees might be eligible if this becomes law. That is as it should be. But I would also raise the question—I hope it will be answered—there is one provision of this section that appears to exempt from income taxes the amounts of money that would be paid to these persons under this particular section.

The SPEAKER pro tempore. The time of the gentleman from Maryland (Mr. Bauman) has expired.

Mr. WHITTEN. Mr. Speaker, I yield 1 additional minute to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

That question of whether this severance pay is taxable should be addressed; and the last point that I want to make, and I know it might bother some people to raise the issue, however, I have been told that this section is an integral part of an arrangement or agreement with Members of this body and the other body and must be in the bill in order to facilitate our adjournment and wind up our business.

I would hope we vote on the merits of this issue, extraneous as to any personal reactions, psychological, mental or otherwise, of any Members of the other body.

The merits themselves ought to determine the issue.

Mr. WHITTEN. Mr. Speaker, may I say to my colleague, in the years I have been here, there has never been a quid pro quo in anything, and there certainly is not in this instance whatsoever.

Now the other side, this is one the other body felt most strongly about. While we differ on its merits, we are jeopardizing getting this needed resolution through by Monday. I would say the Senators felt more strongly about this than anything I know of.

Mr. BAUMAN. Mr. Speaker, the other Members of the other body felt so strongly about this when it was put to a rollcall vote, it squeaked through by one vote. That does not appear to me the full body was really that concerned about it, but the taxpayers are.

Mr. WHITTEN. May I say that when I said the Senate, I meant the Senate conferees.

Mr. Speaker, I yield 7 minutes to the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Mr. Speaker, I rise in strong support of the motion of the gentleman from Mississippi.

Mr. Speaker, the amendment referred to enables severance pay for Senate staff and is generally considered to be a Senate housekeeping item. By longstanding tradition, each body allows the other body the courtesy of arranging its own procedures without intervention. That is the case with this provision which, as I understand, has bipartisan support from the leadership in both parties in the other body and was offered and advocated by the Senate minority whip.

The Senate amendment provides 1 week's pay for each year of service up to 10 years and 2 weeks' pay for each year beyond 10, up to a maximum of 3 months severance pay to certain "displaced staff members" who lose their jobs as a result of the reorganization of committee staffs due to the change in the control of the Senate. It also provides a maximum of 1 month severance pay to professional staff of Members.

The executive branch allows a maximum of 1 year's severance pay for an employee who loses a job without cause.

In addition to servance pay, most executive branch employees are allowed to accumulate up to 6 weeks annual leave which can be cashed upon departure from Government service. There is no ceiling on the number of days and weeks that Senior Executive Service personnel can cash upon termination of employment if unused annual leave is accumulated.

By contrast, the Senate staffs do not have provisions for guaranteed annual leave and, therefore, are not able to use it as a cushion while job hunting.

Under the Senate provision, an employee who retires and is receiving an annuity, or obtains another government job, would not receive servance pay, and the payment would be reduced to the extent an employee receives unemployment compensation or wages from private sector employment.

There is precedent for the Senate action. In 1977, after a committee system reorganization in the Senate, the Senate passed Senate Resolution 239 which established an almost identical severance pay procedure for staff members displaced by the restructuring of several Senate committees. In that instance, 11 employees claimed the benefit. In this instance, it has been estimated that a maximum of 1,100 staff might be eligible but, because of the criteria, probably less than 500 would be able to take advantage of it because retirees and those who find jobs immediately would not receive the benefit.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Texas.

Mr. HALL of Texas. I thank the gentleman for yielding.

How much money will this cost the taxpayer if this amendment is passed?

Mr. BENJAMIN. An analysis compiled by the Congressional Budget Office estimates a maximum of $500,000 for committee staff personnel and a maximum of $1 million for Member personnel, a total of $1.5 million. The CBO estimates the cost would presumably be less than $1.2 million. There is no appropriation for it. It would be paid for out of existing Senate funds.

Mr. HALL of Texas. One other question: Has this ever been done before or are we establishing precedent here today?

Mr. BENJAMIN. No, we are not establishing precedent. It was done in 1977 by the other body under Senate Resolution 239.

Severance pay has also, of course, been a benefit in the executive branch for many years.

Mr. HALL of Texas. I thank the gentleman.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Illinois.

Mr. FINDLEY. The gentleman cited the 1977 precedent. Was the compensation provided at that time tax free as is provided in this legislation?

Mr. BENJAMIN. The gentleman does not have an answer for that. I have the resolution. I will be glad to share it with the gentleman from Illinois.

Mr. FINDLEY. So I am correct, however, that the provision of severance pay now before this body would be exempt from personal income taxation; is that correct?

Mr. BENJAMIN. As I understand it, the severance pay benefit under amendment No. 85 is not tax free.

Mr. FINDLEY. If the gentleman would yield further, is my understanding correct that the gentleman just said that the severance pay provided by the provision now before this body would not in any way be exempt from income taxation.

Mr. BENJAMIN. That is my understanding.

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Mr. FINDLEY. The same was true in 1977?

Mr. BENJAMIN. That is my understanding.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield on that point?

Mr. BENJAMIN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the specific provision that gave rise to my concern about nontaxability is on page 19 of the Senate-passed resolution beginning on line 22 in which it says that the "severance pay shall not be treated as compensation for the purposes of title 5 of the United States Code or any other law relating to benefits accruing for employment by the United States."

To me that appears to be broad enough to cover taxation of salaries as opposed to just benefits like retirement.

Mr. BENJAMIN. The intent of that provision merely is not to count this in terms of any other benefits they would be entitled to such as retirement benefits. That is simply the intent of that provision.

Mr. FINDLEY. Will the gentleman yield further to me?

Mr. BENJAMIN. I yield to the gentleman from Illinois.

Mr. FINDLEY. I was not able to hear what the gentleman just said. I think it is important for us to establish this fact so Members of this body could have a clear understanding as to whether or not the severance pay to be provided in this section of the continuing resolution would be subject to normal taxation as personal income. Can the gentleman say definitely that it will be subject or will not be subject?

Mr. BENJAMIN. This gentleman, from 10 years of law experience and interpretation of the statutes over the past 14 years, in both the Indiana General Assembly and this body, feels that is not the case. In the debate in the other body there was no mention of it. It is my reading of the provision that the severance pay would be subject to taxation.

Mr. FINDLEY. If the gentleman will yield further, that still leaves the question in doubt. If the other body did not deal with this aspect of the question, can the point be made clearly? I think we ought to establish clearly the fact of whether it is going to be subject to taxation or not subject to taxation.

Mr. BENJAMIN. For the benefit of my colleagues, and the gentleman from Illinois (Mr. FINDLEY), I would say the congressional intent is to subject this benefit to taxation.

The costs of this amendment would be paid from funds currently available in the Senate. There would be no need for any appropriations.

The amendment also establishes a procedure for the committee chairmen, the ranking minority members, the departing Members, the Rules and Administration Committee, and the Secretary of the Senate to certify and administer this benefit to assure that it will be operated properly and with appropriate controls.

Besides comity, the rationale of the other body is that the amendment is needed to assure its continued operation through January 5 at which time its political complexion will change. The minority whip further asserted that the amendment was necessary to assure an orderly handling of the Senate's bookkeeping system and to provide uniformity in the handling of departing staff.

During the conference debate, it also became abundantly clear that the House would not tolerate the institution of a similar procedure in the unlikely event that its majority political persuasion was modified. Consequently, the actions of the Senate are not to be considered as precedent for the House—a point that this gentleman emphasizes.

While this gentleman personally disagrees with the amendment, he encourages its adoption in order that the continuing resolution may become law and sustain the operation of the Federal Government through June.

Mr. WHITTEN. Mr. Speaker, I yield myself 6 minutes.

May I say here there is a little more involved in this, and I think there are many of us on this side that would not vote for the same thing for this side of the Capitol. But may I say we have operated for many years with the Senate handling its own housekeeping items and problems and the House handling its own problems without reference to upsetting the plans of the other body.

The argument made was that in the absence of some means where they could assist their staff, that the Senate would begin to lose its staff and that the normal operations of the Senate would suffer from now until the end of the term.

Second, that in the executive branch, this is normal procedure. Normally employees accrue annual leave and sick leave and at the end of any separation from service they would have this leave and could draw it in cash and many other ways.

But the point I make is that the other body feels strongly about this. Over the years we have gone through the comity arrangement whereby they tend to their business, which they think important, and we have attended to ours. I would hate to see this change, even though I agree with you, I would hate to see us get into a showdown between the Senate and the House which would be reflected from now on.

May I call attention again that after Monday most of your Government is going to be closed unless we conclude with this.

Now, I cannot make you do what you do not want to, and I am not asking you to change your mind. I am agreeing with you insofar as what I would vote for us in the House. But I have a serious question as to whether we need to get involved with the other body in what they firmly believe is essential for the orderly operation until the changeover occurs. We have gone along very well with the other body through the years, and I would hope that we would permit that to override some other feelings.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for his statement. I think he makes a very clear point that the other body does have basic rights as far as making their own judgment about their own staff.

Mr. WHITTEN. It is by agreement, but it is a two-sided agreement. We agree and they agree.

Mr. WALKER. But I would ask the gentleman why does he suppose they did not follow past precedents in this case? In the past precedents the gentleman cited I think they took care of this in a Senate resolution prior to this instead of this time where they are coming through in the continuing resolution instead of going ahead with a resolution prior.

Mr. WHITTEN. May I say to the gentleman, this is the only vehicle that was passing by. Everything has to be in this or else it expires because legislative remedy exists.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, I rise in opposition to the proposed amendment to the continuing resolution which would grant severance pay to departing congressional employees. Such an action would establish a very bad precedent and is contrary to the whole rationale of our representative branch of the Federal Government.

We in the Congress serve at the pleasure of the people. Staff employees, whether on committees of the House and Senate or in individual Members' offices, are extension of the elected Member. The purpose of our elections is to retain in office those representatives whom the people feel are doing a good job and to turn out of office those whom the people feel are either not doing a good job or are not reflecting the wishes of the electorate. We all know how the system works before we become candidates, and we live with that understanding of our system every day we are on the job. Since congressional employees on committees and in Members' offices are extensions of that elected-representative system, there should be no difference in the rules that apply to them and to the representatives they serve.

With respect to dislocations which occur as a result of a Member's voluntary retirement, I submit that such Member's plans are known sufficiently in advance for his staff to make preparations for other employment.

Mr. Speaker, to accept this amendment would send precisely the wrong signal to the American people, who have just voted overwhelmingly for a new beginning for the country.

Furthermore, I want to express my dismay that we are here over the situation today, meeting on a Saturday only a few days from Christmas, to enact a continuing resolution to operate the Government.

We have twice moved up the deadline for enacting funds to operate the Government from the calendar year to the end of June, then from the end of June to the end of September—and here we are, December 13, 1980, wrestling with a continuing resolution to keep the Federal ship afloat. That is a deplorable way to conduct the people's business and an unacceptable state of affairs.

Mr. Speaker, I look forward to the 97th Congress and an opportunity in cooperation with a new President to get America back on the track of fiscal responsibility, economic good health, and a restored position of leadership in world affairs.

Furthermore, Mr. Speaker, I want to serve notice today that one of my goals in the new Congress will be to bring accountability to the legislative branch of our Federal Government by mandating a thorough annual audit of expenditures of the legislative branch. We have failed to conduct oversight over our own branch of the Government in a way that will support the confidence of the people in our ability to handle their affairs, and I submit that a systematic, yearly audit of the expenditure of the taxpayers' money to run our billion-dollar Congress will be an important step in restoring the confidence of Americans in their elected representatives.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I am deeply concerned by this provision because I feel that in the 20 years that I have served in this body this is probably the action of this body which will be viewed with the greatest outrage by my constituents of any of the actions we have taken in regard to Federal pay. I think the gentleman may agree with me in my assessment that over recent years we have, step by step, established Federal employees and especially Congressmen and people who work for Congressmen and Senators as a privileged class in this country.

When the word gets out, if this does prevail, that we have granted a very high cost severance pay to members of the Senate staff and committee staff that is almost without precedent elsewhere in the country, there is going to be a tremendous outrage. I think we are really planting the seeds of revolution in a sense in going forward with what on the face of it must be regarded as excessive consideration for employees that are already well paid indeed.

Mr. WHITTEN. Again I say to the gentleman I do not differ with him in matter; however, this is almost without precedent, this turnover of the other body. This is new to them.

Not only that, but what we are doing here is what is common practice in the executive branch, as they point out.

Second, they feel, and I am talking about the arguments that were made in the conference, they feel for the Senate to continue to operate, it is the business aspect of the Senate to continue to serve the people back home, that is essential.

But the overriding consideration in this for me is whether we are going to break the comity agreement between the House and the Senate over this issue. I question that seriously, especially with the deadline on Monday.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from New York.

Mr. PEYSER. I have two questions, one on the signing of this conference report. Did the Republican Members of the Senate concur in this amendment?

Mr. WHITTEN. In conference I do not distinguish between one party and the other, so I could not say as to that.

Mr. PEYSER. I looked at the conference report signing and it seemed to me that the Republican Senators had signed this report.

Mr. WHITTEN. This was actually a matter between the House and the Senate and we, though many, most of us, as I say, differ with it, but we do not differ with the fact of having comity between the House and the Senate, which I think is the overriding issue.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. FINDLEY. I thank the gentleman. Like the gentleman from Mississippi (Mr. WHITTEN), I have had some experience with committee staff and personal staff here on the Hill.

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I cannot believe that on the Senate side the situation is much different from on the House side. We have provision for holidays and for sick leave in our personal staffs, and the committees here do, too. I cannot believe that they have somehow neglected the proper vacation and sick leave time on the Senate side. I just cannot accept that.

Mr. WHITTEN. I guess there is some limit beyond which you cannot go, but we have to get along with the Senate.

Mr. FINDLEY. If this body would commit an outrage like I believe they are trying to do, I believe we should be slapped down, too.

Mr. WHITTEN. At least we have not done this on this side.

Mr. YOUNG of Florida. Mr. Speaker, at this time I would like to yield 3 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, I do not want to belabor this debate, but I just think some things have been said here which do not quite seem to size up. The statement has been made that all we are attempting to do here is try and bring these people in line with what happens in the executive department. But if we are really going to do that, we are going to have to change the whole pay schedule here. In the executive department people get paid for overtime. In the excutive department, people get paid for "comp" time. They can count their time up over a multi-year period and take a couple months off. We know that would not work here.

Some statements have been made which would be comparing apples to oranges. The statement was made that this is somehow just trying to bring us in line with the severance pay that people get in the executive department if they lose their jobs when it is not their fault. That happens when you put an agency out of existence, not when one administration comes in over another, not when you lose your job for political reasons. I wonder if the American people had known when they voted in a new majority that it would mean giving the staff people there a bonus whether they would have done it. As a matter of fact, if you look at the way this is written, some of the people will make more money during that month when they receive severance pay than when they worked here. This is because the severance pay will make up the difference between their unemployment and what they made. The unemployment payments they get are nontaxable, and only that amount they get under this bill will be taxable. So in fact their take-home pay will be greater.

Some have said let the Senate do what they want to do. That is fine if it did not take a vote of this House. I would say then fine, let them organize the way they wish. But, for whatever reason, this is before us and it seems to me we ought to be judging the merits of it. I do not know how I can go home to my constituents in my district who do not have jobs and say we have given a bonus, a severance bonus, to people who have had 2 months to know that they will not be around here. They must have been asleep since November 4 not to know they would lose their jobs as of January 1.

They have had something really more generous than they would have had in the private sector. It seems to me for us to do this within 2 months of the time the people of America spoke, talking about how we are going to spend our money and how we are going to prioritize, is just bad thinking on our part. I do not think this ought to be a partisan issue. I do not think it has been presented as a partisan issue; I think it ought to be defeated on a partisan basis, Democrats and Republicans doing this as an indication of what they think the American people want.

For us to give in to the Senate on this because they are going to hold hostage the entire package to allow the Government to go forward, I think is nonsense. I give the Senate far more respect than that. I do not think they are going to have the Government of the United States come to a grinding halt on Monday because we would not go along on this subject which passed on their side by only one vote.

I ask the Members to reject this.

Mr. YOUNG of Florida. Mr. Speaker, we are ready to vote. I reserve the remainder of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

Mr. BAUMAN. Mr. Speaker, I demand a division of the question.

The SPEAKER pro tempore. The question will be divided.

The question is, Will the House recede from its disagreement to the amendment of the Senate No. 85?

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, those who oppose the section would vote no on this motion?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

Mr. BAUMAN. But it is a good estimate.

The SPEAKER pro tempore. The question is, Will the House recede from its disagreement to the amendment of the Senate No. 85?

The House refused to recede from its disagreement to Senate amendment No. 85.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 85.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 89: Page 43, after line 10, insert:

SEC. 156. (a)(1) Except as provided in paragraph (2), the total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to travel and transportation of persons, and the transportation of things, for offices and employees of all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced by an amount which is necessary to meet the requirements of subsection (d)(1) of this section.

(2) The provisions of this subsection shall not apply to the Armed Forces, including the Coast Guard, nor to the Department of Justice for expenses necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, unless legislation containing a restriction or limitation on such expenses is enacted after the date of enactment of this joint resolution which specifically refers to this section.

(b) The total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to the use of experts or consultants by appointment or contract in all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced by an amount which is necessary to meet the requirements of subsection (d)(1) of this section.

(c)(1) Each department, agency, and instrumentality of the Federal Government shall establish procedures to identify the causes of overpayments and delinquencies and the corrective actions needed to reduce overpayments and delinquencies, establish better control of receivables, actively use the services of credit bureaus and commercial collection agencies, and take more aggressive collection action.

(2) The Secretary of the Treasury shall revise the fiscal requirements manual of the Department of the Treasury to require interest charges on delinquent accounts and to provide more complete reporting of data on delinquent accounts.

(3) The Commissioner of Internal Revenue shall carry out a debt collection pilot project under which a delinquent debt owed by any person to the United States will be collected by retaining, out of any tax refunds otherwise payable to such person, such sums as are necessary to cover such debt. The debt collection pilot project required by this subsection shall be carried out in accordance with procedures designed to assure that no person will be denied due process of law under the project and that confidentiality of data held by the Internal Revenue Service pertaining to such person will be protected.

(d)(1) The Director of the Office of Management and Budget shall—

(A) allocate reductions in the amounts obligated for travel and transportation expenses under subsection (a) among all departments, agencies, and instrumentalities to which subsection (a) applies;

(B) allocate reductions in the amounts obligated for expenses for experts and consultants under subsection (b) among all departments, agencies, and instrumentalities; and

(C) review the savings made by the collection procedures and related activities required under subsection (c);

to assure that the total amount of such reductions and savings will be $2,000,000,000 for the fiscal year ending September 30, 1981.

In allocating the reduction required by this subsection with respect to expenses described in paragraph (1)(A) among the departments, agencies, and instrumentalities of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency or instrumentality be reduced by more than fifteen per centum of the amount of such expenses proposed for each department, agency or instrumentality in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921.

(2) The Director of the Office of Management and Budget shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives a report on—

(A) the actions taken to carry out the provisions of this section;

(B) improvements in the budget process which emphasize accounting system approval and debt collection procedures; and

(C) proposals of actions to be taken by the Congress including the reduction in requested new budget authority to reflect the result of the collection of delinquent debts and as an incentive to promote increased collection of such debts.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

SEC. 156. (a)(1) Except as provided in paragraph (2), the total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to travel and transportation of persons, and the transportation of things, for offices and employees of all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced, to the extent practicable, by an amount which is necessary to meet the requirements of subsection (d)(1) of this section. Such reductions shall be directed toward the objective of eliminating nonessential travel.

(2) The provisions of this subsection shall not apply to the Coast Guard nor to the Department of Justice for expenses necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, unless legislation containing a restriction or limitation on such expenses is enacted after the date of enactment of this joint resolution which specifically refers to this section.

(b) The total amount proposed in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921, which may be obligated to the use of experts or consultants by appointment or contract in all departments, agencies, and instrumentalities of the executive branch of the Federal Government shall be reduced by an amount which is necessary to meet the requirements of subsection (d)(1) of this section.

(c)(1) Each department, agency, and instrumentality of the Federal Government shall establish procedures to identify the causes of overpayments and delinquencies and the corrective actions needed to reduce overpayments and delinquencies, establish better control of receivables, activity use the services of credit bureaus and commercial collection agencies, and take more aggressive collection action.

(2) The Secretary of the Treasury shall revise the fiscal requirements manual of the Department of the Treasury to require interest charges on delinquent accounts and to provide more complete reporting of data on delinquent accounts.

(3) The Commissioner of Internal Revenue shall carry out a debt collection pilot project under which a delinquent debt owed by any person to the United States will be collected by retaining, out of any tax refunds otherwise payable to such person, such sums as are necessary to cover such debt. The debt collection pilot projet required by this subsection shall be carried out in accordance with procedures designed to assure that no person will be denied due process of law under the project and that confidentiality of data held by the Internal Revenue Service pertaining to such person will be protected.

(d)(1) The Director of the Office of Management and Budget shall, to the extent practicable—

(A) allocate reductions in the amounts obligated for travel and transportation expenses under subsection (a) among all departments, agencies, and instrumentalities to which subsection (a) applies;

(B) allocate reductions in the amounts obligated for expenses for experts and consultants under subsection (b) among all departments, agencies, and instrumentalities; and

(C) review the savings made by the collection procedures and related activities required under subsection (c) to assure to the extent practicable, such reductions and savings will amount to $2,000,000,000 for the fiscal year ending September 30, 1981.

In allocating any reductions under this subsection with respect to expenses described in paragraph (1)(A) among the departments, agencies, and instrumentalities of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency or instrumentality be reduced by more than fifteen per centum of the amount of such expenses proposed for each department, agency or instrumentality in the Budget of the United States Government for the fiscal year 1981 (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921.

(2) The Director of the Office of Management and Budget shall prepare and submit to the Committees on Appropriations of the Senate and the House of Representatives a report on—

(A) the actions taken to carry out the provisions of this section;

(B) improvements in the budget process which emphasize accounting system approval and debt collection procedures; and

(C) proposals of actions to be taken by the Congress including the reduction in requested new budget authority to reflect the result of the collection of delinquent debts and as an incentive to promote increased collection of such debts.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself 5 minutes. I yield to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. I thank the gentleman for this time simply to enter into a colloquy with the chairman of the full committee as to the full implications of this particular provision. As I understand it, amendment 89 goes to the heart of the provisions dealing with travel, transportation, and other savings, and it is an attempt on the part of all of us to try to restrict the amount of travel and transportation on the part of Federal agencies; is that not correct?

Mr. WHITTEN. That is true. It goes a little further than that. It goes to consultants and debt collections.

Mr. EDGAR. I thank the gentleman for his comment. I would like to ask the gentleman to respond to the following question. On December 5, 1980, he received a letter from the Secretary of the Interior, Cecil Andrus. I would like to quote just one paragraph of that letter and ask him for his response. He indicates, and I quote:

> I also understand that the Senate is considering a governmentwide amendment similar to that employed in 1980 for reducing travel, transportation and certain other expenses. The 1980 action made land management activities (managing parks and refuges, improving rangelands, leasing coal, oil and gas, etc.), Indian education and training, geologic, water and minerals surveys, and other Interior activities extremely difficult to conduct.

This is the key sentence:

> This new provision requires of a reduction four times as large as last year on a smaller base (the 1981 President's Budget generally reflected continuation of the lower 1980 levels) in the face of rapidly escalating costs of vehicle rentals (such as park police cars, pickups, trucks, and school buses), gasoline, employee transfer costs, and airfare. I think that such a provision, if enacted into law, and other deleterious impacts to our service would result in grossly inefficient management of our programs, serious resource losses, population and programs.
>
> Sincerely,
>
> CECIL D. ANDRUS,
> *Secretary.*

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I wonder if the gentleman might respond to whether or not he intends this to happen.

Mr. WHITTEN. In the first place, I agree with Mr. Andrus. Secondly, I had raised a complaint about this when we got into the conference, because in order to avoid debt, some of the debt collections require travel. So in an effort to relieve the situation which the gentleman mentions and which I see in the original provision, we put in the words "so far as practicable," No. 1, and then we added, "Such reductions shall be directed toward the objective of eliminating nonessential travel."

Not only that, but I insisted that it include the Defense Department, both civilian and military. Having as much transportation as they do, they probably have more nonessential travel, perhaps, than any other place.

So, as far as practicable, our intention is to get rid of nonessential travel, that was inserted at my instance. I thought any specific figure should be removed, but apparently they did not agree. But they insisted on something along this line, and I tried to make it palatable to carry out by putting in the words "so far as practicable" and to apply it to nonessential travel.

My provision does have this effect: It will cause all departments or agencies to review and see what they consider to be nonessential travel.

Mr. EDGAR. I thank the gentleman for his comments.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 90: Page 47, after line 1, insert:

SEC. 157. Notwithstanding section 101 of this joint resolution, the following amounts are hereby appropriated for the National Institutes of Health: National Cancer Institute, $1,021,330,000; National Heart, Lung, and Blood Institute, $565,264,000; National Institute of Dental Research, $71,206,000; National Institute of Arthritis, Metabolism, and Digestive Diseases, $381,993,000; National Institute of Neurological and Communicative Disorders and Stroke, $263,838,000; National Institute of Allergy and Infectious Diseases, $239,355,000; National Institute of General Medical Sciences, $340,676,000; National Institute of Child Health and Human Development, $223,565,000; National Eye Institute, $125,254,000; National Institute of Environmental Health Sciences, $97,269,000; National Institute on Aging, $81,091,000; Research Resources, $184,439,000; John E. Fogarty International Center, $9,138,000; National Library of Medicine, $47,730,000; Buildings and Facilities, $11,750,000; and Office of the Director, $22,549,000: *Provided*, That of the amounts herein appropriated for the National Eye Institute, $1,000,000 shall be for construction.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein with an amendment, as follows: In lieu of the sum of "$1,021,330,000" named in said amendment, insert "$1,019,330,000" and in lieu of the sum of "$71,206,000" named in said amendment insert "$73,206,000."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 103: Page 51, after line 20, insert:

SEC. 170. Notwithstanding the last sentence of section 7(a), assistance under section 7 of Public Law 874, Eighty-first Congress, shall be available to the Mobile, Alabama, County School System at the same rate as such assistance was available for fiscal year 1980.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 103 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 170. Notwithstanding the last sentence of section 7(a), assistance under section 7 of Public Law 874, Eighty-first Congress, shall be available to the Mobile, Alabama, County School System at the same rate as such assistance was available for fiscal year 1980; and $300,000 is hereby appropriated for a dormitory building at Coahoma Junior College, Clarksdale, Mississippi.

Mr. WHITTEN. Mr. Speaker, I yield myself 5 minutes, and I yield to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I wonder if the chairman of the committee will explain the need for a special supplement for the Mobile, Ala., county school system, as well as this $300,000 for the Coahoma Junior College.

Mr. WHITTEN. Mr. Speaker, I yield to my colleague, the gentleman from Alabama (Mr. EDWARDS), to respond to the first part of that question.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

Mr. Speaker, the Mobile school system is one of the few school systems in the country that has retained all of its 16 section lands and uses those lands in great part to finance the school system. Mainly, the land is populated in timber. When Hurricane Frederick came through Mobile in 1979, in September, substantially all of that timberland was destroyed. And under the program that the Department of Health, Education, and Welfare has, which provides partial restoration of this income, Mobile has been entitled to funds for this purpose. This amendment very simply—and I feel like a piker in this crowd here—adds $125,000 to try to help put back some of the school funds in that system.

Mr. EDGAR. I thank the gentleman for his comments.

Mr. WHITTEN. Mr. Speaker, in regard to the other matter, this is a small black college which is doing a marvelous job. It is turning away students because of a lack of dormitory space. One of their dormitories burned down about 3 years ago. They are eligible, in my judgment, for grants from several departments, but they have not received such grants. They have had their application pending for this dormitory for years. They have been dragged around for 3 years, they are turning down students. I had the privilege of speaking to the graduating class this year, and the Members would be proud to see the real progress they are making under trying conditions. And since they are eligible for several grants, from other agencies, for one reason or another, due to the smallness, or what have you, they have been turned down. I thought they should be taken care of and this offered the opportunity. We are mighty low on the money we added, but this will at least get it started.

Mr. EDGAR. I thank the gentleman for his comments.

Mr. Speaker, I am sure both of these are very worthy projects. I would just say that there are probably other worthy projects around the country where dormitories have been destroyed and where school systems have been impacted which ought to be considered as well.

Mr. WHITTEN. Most of them have been taken care of through grants through the Department of Education, through HUD, and elsewhere. This is one that has not been. It is still pending, it has been pending for 3 years and it has done real damage to the school.

Mr. EDGAR. I thank the gentleman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 109: Page 53, after line 13, insert:

SEC. 176. Notwithstanding any other provision of law, for the payment to the Railroad Retirement Account, as provided under sections 15(b) and 15(d) of the Railroad Retirement Act of 1974, the maximum amount reimbursable for the subsidy for fiscal year 1981 costs shall not exceed $400,000,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 109 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 176. Notwithstanding any other provision of law, for the payment to the Railroad Retirement Account, as provided under sections 15(b) and 15(d) of the Railroad Retirement Act of 1974, the maximum amount reimbursable for the subsidy for fiscal year 1981 costs shall not exceed $350,000,000.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection? The Chair hears none.

Mr. BAUMAN. Mr. Speaker, could the gentleman explain the amendment?

The SPEAKER pro tempore. Without objection, the motion is agreed to.

The Clerk will report the next amendment.

Mr. BAUMAN. Mr. Speaker, I would object. I have asked the gentleman to explain what the amendment was.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) is recognized for 30 minutes.

Mr. WHITTEN. Mr. Speaker, I yield myself 3 minutes, and I yield to the gentleman from Maryland.

Mr. BAUMAN. I am asking what the amendment to this motion that the gentleman just offered was. The reading was dispensed with.

Mr. WHITTEN. I yield to the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, the amendment places a cap of $350 million on the fiscal year 1981 Federal subsidy to the railroad retirement trust fund. The 1981 Labor-HEW appropriation bill as passed by the House on August 27 also contained a cap of $350 million, the amount requested in the President's budget. We agreed in conference to $350 million, although the other body in their bill had the amount of $400 million. In the conference it was brought down to $350 million.

Mr. BAUMAN. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts (Mr. CONTE) that the motion be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 111: Page 53, after line 13, insert:

SEC. 178. Notwithstanding any other provision of law, no funds appropriated for use by the Department of the Interior shall be used to take final action with respect to a State application under section 2(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1273(a)), as amended, until 60 days after notification of the proposed final action has been forwarded by the Secretary of the Interior to the appropriate House and Senate authorizing committees for review.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 111 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 178. Notwithstanding any other provision of law, no funds appropriated for use by the Department of the Interior for fiscal year 1981 shall be used to take final action with respect to a State application under section 2(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1273(a)), as amended, until 60 days after notification of the proposed final action has been forwarded by the Secretary of the Interior to the appropriate House and Senate authorizing committees for review.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could we have an explanation of the amendment?

Mr. WHITTEN. Mr. Speaker, I yield myself 5 minutes, and I yield to the gentleman from Utah.

The SPEAKER pro tempore. The Chair will advise the gentleman from Mississippi (Mr. WHITTEN) that the gentleman from Maryland has the floor under a reservation of objection.

Mr. BAUMAN. Mr. Speaker, I yield to the gentleman from Utah (Mr. MCKAY).

Mr. MCKAY. I thank the gentleman for yielding.

Mr. Speaker, this amendment deals with the prohibition put in by the Senate, which says none of the funds available to the Department of the Interior shall be used to take final action on a State request to include State rivers in the National Wild and Scenic Rivers System until 60 days after notification of the proposed action had been forwarded by the Secretary of Interior to the appropriate House and Senate authorizing committees for review.

Their amendment had no year ending. We amended that amendment to say that it only applied to the fiscal year 1981.

☐ 1550

The Senate amendment amended the basic law. The House conferees insisted on an amendment which limited it only to fiscal 1981. There is some considerable disagreement in California in connection with some scenic rivers in that State.

Governor Brown requested the Department of Interior to include all or part of five rivers in northern California to be designated as part of the National Wild and Scenic River System on July 18, 1980.

On August 18, 1980, 27 of 40 California State senators asked the Secretary of the Interior to not approve the request of Governor Brown. On August 18, 56 California State Assembly persons (of a total of 80) asked the Secretary of the Interior to not approve the request of the Governor.

On August 22, 26 Members of the 43-member California House delegation requested the President to not approve the Governor's request. The two Senators from California are divided on the matter.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding. I appreciate the explanation of this particular issue. There has been some confusion because of the hurried nature of this particular legislation. When the gentleman from California (Mr. MILLER) asked a question at the desk as to whether or not the scenic rivers language was inside or outside, I am not sure who is at fault, whether Mr. MILLER asked for the wrong section or whether the wrong information was given, but the information was given to Mr. MILLER that there was no way to get a recorded vote on the issue of scenic rivers. But, in fact, we learn by this amendment No. 111 that we could, if we wished, have a vote on wild and scenic rivers as it relates to California. Is that not correct?

Mr. MCKAY. The motion before the House is subject to a vote.

Mr. EDGAR. If the gentleman will yield further, could the gentleman indicate why the Senate acted in this way? What is the necessity for moving with this language at this time?

Mr. BAUMAN. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. This involves, really, a controversy in California. I am advised that the State of California had an initiative or a referendum, a vote of the people which approved the inclusion of these rivers in the State system of wild and scenic rivers. There is a serious question, particularly in view of the efforts of the Governors to insist upon the basic terms of federalism and leaving local problems to be solved locally or to why any Federal action is required.

It is difficult for most of us to realize why there is any real requirement that the Federal Government take over these rivers in the federal system, requiring us to appropriate such funds as may be required in order to effectuate that. So, we decided that before this disposition was made unilaterally by the Department of the Interior, we would simply say that any decision made would have to come to the Congress and lay over in front of the appropriate committee—Interior here and Energy and Water in the Senate—for their approval before final action is taken.

Mr. MCKAY. The State Legislature of California passed a bill back in 1972 to agree on a wild and scenic rivers program for the State of California. In that law the State legislature reserved unto itself the management or the operation of those lands. There is a disagreement between the Government and the State legislature as to how they should be managed. The Governor sent a request to the Secretary of the Interior asking him to declare these wild and scenic rivers under the National Systems Act.

As conferees, we felt that a limitation that applied only to appropriations for fiscal year 1981 was appropriate. We thought that was a decent compromise.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, in the absence of the Honorable PHILLIP BURTON, the chairman of the National Parks Subcommittee, in whose jurisdiction this legislatively falls, I would like to simply add one further comment. Of course, this is a limitation to an appropriation bill, and therefore technically meets the requirements, though in substance it is legislation.

The original proposal, I understand, that was offered by one of the Members of the other body was much more restrictive than this, and would have required that these proposals be approved by the chairman of the Senate Committee on Energy and Natural Resources. I talked with him a couple of nights ago, and he told me that he was going to revise this to this more limited form. While

I do not think this is the right way to bring up this issue, and while the substantive effect of it will be put over until the next administration, the opportunity to reverse this decision of Secretary Andrus, because I understand it could not become final until January 18, I cannot quarrel with the principle, but where something like this is done, it ought to be referred to the appropriate authorizing committee.

Whether 60 days is the right amount or whether some other procedure should be adopted ought to be deliberated in the legislative committees and not through last minute efforts to deal with an amendment of the other body.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN),

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. CONTE. Mr. Speaker, I ask unanimous consent to consider en bloc the following Senate amendments wherein the House recedes from its disagreement to the amendments of the Senate and concur therein: Amendments of the Senate numbered 123, 127, 140, 141, and 148.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, these amendments have no amendments on our side, but simply agree?

Mr. CONTE. That is right, no amendments.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate amendments of the Senate numbered 123, 127, 140, 141, and 148.

The amendments read as follows:

Senate amendment No. 123: Page 57; after line 23, insert:

SEC. 190. Notwithstanding the provisions of section 311 of the Civil Service Act of 1978 (92 Stat. 1111), the services of individuals who provide patient care may be obtained as necessary.

Senate amendment No. 127: Page 62, after line 17, insert:

SEC. 194. The Farm Credit Act of 1971 is amended by inserting after section 4.16 the following new section 4.16A:

"SEC. 4.16A. Notwithstanding any other provision of law, the Farm Credit Administration shall not adopt or enforce regulations that would—

"(1) permit any production credit association or Federal land bank to make any loan for financing of processing or marketing facilities or operations to any applicant whose operations supply less than 50 per centum of the total processing or marketing for which financing is extended, which loan would cause the total amount of such loans outstanding to the applicant to exceed $10,000,000; or

"(2) permit the aggregate amount of loans and commitments outstanding from banks for cooperatives to any one foreign entity or domestic noncooperative entity in connection with the import or export transactions of cooperative associations that are voting stockholders of the banks for cooperatives, to exceed $30,000,000 at any one time; nor shall the Farm Credit Administration enforce against any Federal intermediate credit bank or any Federal land bank any liability under section 4.4 of the Farm Credit Act of 1971 for which such banks are not directly liable and which liability is the result of bank for cooperatives lending to foreign entities or domestic noncooperative entities with respect to transactions of cooperative associations that are voting stockholders of the banks for cooperatives for the export or import of agricultural commodities, farm supplies, or aquatic products.".

Senate amendment No. 140: Page 69, after line 15, insert:

SEC. 207. Notwithstanding any other provision of law or regulation, the Attorney General shall approve any deed or other instrument conveying to the United States a defeasible or indefeasible interest in the land described in section 2 of the Act entitled "An Act to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon", approved September 4, 1980 (94 Stat. 1073). The Secretary of the Interior or the Confederated Tribes of Siletz Indians of Oregon may erect permanent improvements, improvements of a substantial value, or any other improvements authorized by law on such land after such land is conveyed to the United States.

Senate amendment No. 141: Page 70, after line 13, insert:

SEC. 208. Notwithstanding any other provision of law, the period for the receipt of public comment on proposed regulations governing grazing administration and trespass on public lands, as proposed on October 15, 1980, in the Federal Register (pages 68506–68511) shall be extended to February 1, 1981, and no funds appropriated for use by the Department of the Interior shall be used to promulgate or implement said regulations in final form before that time.

Senate amendment No. 148: Page 70, after line 22, insert:

SEC. 215. (a) Section 101 of the Supplemental Appropriations Act, 1977 (Public Law 95–26) is amended by striking out "two individual consultants" and inserting in lieu thereof "three individual consultants".

(b) The amendment made by subsection (a) shall take effect on the date of enactment of this joint resolution.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendments of the Senate numbered 123, 127, 140, 141, and 148, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment 129: Page 64, after line 21, insert:

SEC. 196. (a) The annuity of an employee retiring under the civil service retirement system with at least five years but less than twenty years of service as a law enforcement officer or firefighter under the civil service system, or any combination thereof, shall be computed with respect to the service of such employee as such a law enforcement officer or firefighter, or any combination thereof, by multiplying 21½ percent of such employee's average pay by the years of such service.

(b) This section shall apply with respect to individuals who become entitled to receive an annuity on or after the date of the enactment of this joint resolution.

Mr. JACOBS. Mr. Speaker, I make a point of order. Senate amendment No. 129 is not germane to the Senate amendment.

The SPEAKER pro tempore. The clerk will report the motion. The gentleman will be protected on his point of order.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 129 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 196. The table contained in paragraph (1) of subsection (n) of section 1104 of the Omnibus Reconciliation Act of 1980 (Public Law 96–499, approved December 5, 1980) is amended by adding at the end thereof the following new item:

"San Bernardino, California____ 225,000,000
Financing owner-occupied residences in the overall Shandin Hills Project of the State College Redevelopment Project Number 4."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

POINT OF ORDER

Mr. JACOBS. Mr. Speaker, I renew my point of order with regard to Senate amendment numbered 129 on the grounds that it is not germane to the Senate amendment or a House amendment on any provision passed in either House, and therefore amounts to legislation on an appropriation bill.

The SPEAKER pro tempore. Does the gentleman from Mississippi desire to be heard on the point of order?

Mr. WHITTEN. Mr. Speaker, I cannot argue the point of order. The basis for the committee bringing this to the Congress is that this really fits as an emergency situation which must be handled. If we wait it will force an 8- or 10-month delay. It was thought that we should bring it to the Members on emergency grounds. I have no defense against the point of order.

The SPEAKER pro tempore. The Chair is prepared to rule.

The motion is not germane to the Senate amendment, and the Chair sustains the point of order for that reason.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 129.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 134: Page 66, after line 21, insert:

SEC. 201. Notwithstanding any other provision of this joint resolution, funds made available by this joint resolution or any other Act shall be available for activities of any agency to carry out the Hostage Relief Act of 1980 (Public Law 96-449).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 134 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 201. Notwithstanding any other provision of this joint resolution or any other law, funds made available by this joint resolution or any other Act shall be available for activities of any agency to carry out the Hostage Relief Act of 1980 (Public Law 96-449)."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 136: Page 67, after line 12 insert:

SEC. 203. Notwithstanding any other provision of this joint resolution the Secretary of Labor shall appoint three additional members to the Benefits Review Board of the Department of Labor to serve as a separate panel and employ such additional supporting staff as may be necessary. The additional members shall be compensated at the rate of compensation prescribed for the members of the Benefits Review Board serving on the date of enactment of this joint resolution. For the purpose of carrying out this section there is appropriated $250,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 136 and concur therein with an amendment, as follows:

In lieu of the matter proposed by paid amendment, insert the following:

SEC. 203. Notwithstanding any other provision of this joint resolution the Secretary of Labor shall appoint two additional members to the Benefits Review Board of the Department of Labor to serve as a separate panel and employ such additional supporting staff as may be necessary. The additional members shall be compensated at the rate of compensation prescribed for the members of the Benefits Review Board serving on the date of enactment of this joint resolution. For the purpose of carrying out this section there is appropriated $167,000.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 139: Page 69, after line 12, insert:

SEC. 206. Section 20(h)(9) of the Small Business Act is amended by striking out "$110,000,000" and inserting in lieu thereof "$250,000,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 139 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"SEC. 206. Notwithstanding any other provision of this joint resolution or any other law, the full $110,000,000 in loan guarantee authority authorized under section 20(h)(9) of the Small Business Act by Public Law 96–302 shall be made available to the Small Business Administration immediately upon enactment of this joint resolution."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

☐ 1600

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF HOUSE JOINT RESOLUTION 637, FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that in the enrollment of the House Joint Resolution 637, the Clerk be authorized to correct section numbers, punctuation, cross reference, and make other necessary technical adjustments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1981—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-397)

The SPEAKER pro tempore laid before the House the following message from the President of the United States:

To the House of Representatives:

I am returning without my signature H.R. 7584, the State-Justice-Commerce Appropriations Act of 1980. A provision in this Act, the Helms-Collins Amendment, would impose an unprecedented prohibition on the power of the President of the United States and the Attorney General to seek a particular remedy in the Federal courts that in some cases may be necessary to ensure that our Constitution and laws are faithfully executed.

Throughout my Administration, I have been committed to the vigorous enforcement of the Fourteenth Amendment to our Constitution and of our civil rights laws. They are the backbone of our commitment to equal justice. All Americans are the beneficiaries of over two decades of progress since the Supreme Court upheld the constitutional right of all races to equal educational opportunity and the Congress passed landmark civil rights legislation to end discrimination in voting, housing, employment, education and public accommodations. We should not turn back the clock to an era when the Department of Justice stood passive and the entire burden of seeking a remedy for the infringement of constitutional rights fell on the victims of discrimination themselves.

I have often stated my belief that busing should only be used as a last resort in school desegregation cases. But busing even as a last resort is not the real issue here. The real issue is whether it is proper for the Congress to prevent the President from carrying out his constitutional responsibility under Article II to enforce the Constitution and other laws of the United States.

The precedent that would be established if this legislation became law is dangerous. It would effectively allow the Congress to tell a President that there are certain constitutionally-mandated remedies for the invasion of constitutional rights that he cannot ask the courts to apply. If a President can be barred from going to the courts on this issue, a future Congress could by similar reasoning prevent a President from asking the courts to rule on the constitutionality of other laws and the constitutional necessity of other remedies upon which the President and the Congress disagree. That would be a most undesirable interference with the constitutional separation of powers.

For any President to accept this precedent would gravely encroach on the powers of his office. I have a responsibility to my successors and to the American people not to permit that encroachment to take place. I intend to discharge that responsibility to the best of my ability.

JIMMY CARTER.

THE WHITE HOUSE, *December 13, 1980.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal and, without objection, the message and bill will be printed as a House document.

There was no objection.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I move that the message, together with the accompanying bill, be referred to the Committee on Appropriations.

The SPEAKER pro tempore. The gentleman from Iowa is recognized for 1 hour.

Mr. SMITH of Iowa. Mr. Speaker, I will just briefly state the situation. This is the veto message on the State-Justice appropriations bill, 1981 (H.R. 7584). The necessary funding for State, Justice, and Commerce, the Judiciary, and related agencies is included in the conference report we have just agreed to on the continuing resolution. So it is not necessary to take the veto message up at the present time.

This motion is made simply to refer it to the Appropriations Committee for further consideration, if any, by that committee. Unless there are any questions, I will move the previous question.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH).

The motion was agreed to.

A motion to reconsider was laid on the table.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. VANIK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5047) to provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 5, strike out "SCHEDULES" and insert "SCHEDULES; DEFINITION OF ENTERED.".

Page 1, at the beginning of line 6, insert "(a)"

Page 1, after line 10, insert:

(b) For purposes of this title, the term "entered" means entered, or withdrawn from warehouse, for consumption within the customs territory of the United States.

Page 3, lines 13 and 14, strike out "entered, or withdrawn from warehouse, for consumption" and insert "entered".

Page 3, strike out all after line 15 down to and including the four unnumbered lines that appear after line 21 and insert:

(a) Part 3 of schedule 4 is amended by inserting in numerical sequence the following new item—

435.72	Poppy straw extract	Free	Free.

Page 4, lines 3 and 4, strike out "entered, or withdrawn from warehouse, for consumption" and insert "entered".

Page 4, strike out lines 5 to 17, inclusive.

Page 4, line 18, strike out "106" and insert "105.".

Page 4, line 18, strike out "ENTRY OF".

Page 4, line 19, strike out "That headnote" and insert "Headnote".

Page 4, line 23, strike out "bond" and insert "bonded".

Page 4, line 25, strike out "wastes" the first time it appears and insert "wastes,".

Page 5, line 3, strike out "107." and insert "106."

Page 5, lines 7 and 8, strike out "entered, or withdrawn from warehouse, for consumption" and insert "entered".

Page 5, line 10, strike out "108." and insert "107.".

Page 5, in the table which appears after line 12, in the third column strike out "provided for in item 403.60," and insert "however provided for in items 402.36 through 406.63,".

Page 5, lines 14 and 15, strike out "entered, or withdrawn from warehouse, for consumption" and insert "entered".

Page 6, line 1, strike out "109." and insert "108.".

Page 6, line 3, after "out" insert " "provided for in item 403.60," and inserting in lieu thereof "however provided for in items 402.36 through 406.63," and by striking out ".

Page 6, line 5, after "out" insert " "405.20," and inserting in lieu thereof "408.41,", and by striking out".

Page 6, lines 7 and 8, strike out "entered, or withdrawn from warehouse, for consumption" and insert "entered".

Page 6, line 9, strike out "110." and insert "109.".

Page 6, line 11, after "out" insert " "407.85," and inserting in lieu thereof "411.76,", and by striking out".

Page 6, lines 13 and 14, strike out "entered, or withdrawn from warehouse, for consumption" and insert "entered".

Page 6, line 15, strike out "111." and insert "110.".

Page 6, lines 21 and 22, strike out "entered, or withdrawn from warehouse, for consumption" and insert "entered".

Page 6, line 23, strike out "112." and insert "111.".

Page 7, in the table which appears above line 1, in the second column strike out "912.07" and insert "912.13".

Page 7, lines 2 and 3, strike out "entered, or withdrawn from warehouse, for consumption" and insert "entered".

Page 7, line 5, strike out "113." and insert "112.".

Page 7, strike out the table which follows line 7, and insert:

"912.14	Warp knitting machines (provided for in item 670.20, part 4E, schedule 6)	Free.	No change	on or before 6/30/83".

Page 7, lines 9 and 10, strike out "entered, or withdrawn from warehouse, for consumption" and insert "entered".

Page 7, after line 11, insert:

Sec. 113. Chipper Knife Steel.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"911.29	Chipper knife steel (provided for in item 696.93, Part 2B, schedule 6)	4.6% ad val.	No change	On or before 9/30/82".

(b) The amendment made by subsection (a) shall apply with respect to articles entered on or after the date of the enactment of this Act.

Page 7, after line 11, insert:

Sec. 114. Unwrought Lead.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

'411.30	Pseudoephedrine and its salts	15.5% ad val.	7.6% ad val.	7¢ per lb. + 59% ad val.
411.31	Ephedrine, racephedrine, and their salts	4.8% ad val.	3.7% ad val.	7¢ per lb. + 59% ad. val.'

(b) Before July 1, 1983—

(1) no modification of the temporary column 1 rate of duty in item 911.50 (as added by subsection (a)) may be proclaimed by the President under any authority of law except title II of the Trade Act of 1974; and

(2) no duty or other import fee, except that provided for in such item 911.50 and those provided for under the amendments made by title I of the Trade Agreements Act of 1979, may be imposed on unwrought lead provided for in such item.

(c) The amendment made by subsection (a) shall apply with respect to articles entered on or after the date of the enactment of this Act.

(d) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of enactment of this Act, the entry, or withdrawal from warehouse, for consumption of any article described in item 624.03 of the Tariff Schedules of the United States and—

(1) that was made on or after January 1, 1980, and before the date of the enactment of this Act; and

(2) with respect to which the duty would have been different if the amendment made by subsection (a) applied to such entry or withdrawal;

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Page 7, after line 11, insert:

Sec. 115. Certain Fish Net and Netting Purchases and Repairs.

(a) Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

"(g) The duty imposed by subsection (a) shall not apply to entries on and after October 1, 1979, and before January 1, 1982, of—

"(1) tuna purse seine nets and netting which are equipments or parts thereof,

"(2) repair parts for such nets and netting, or materials used in repairing such nets and netting, or

"(3) the expenses of repairs of such nets and netting,

for any United States documented tuna purse seine vessel of greater than 500 tons carrying capacity or any United States tuna purse seine vessel required to carry a certificate of inclusion under the general permit issued to the American Tunaboat Association pursuant to section 104 of the Marine Mammal Protection Act of 1972.".

(b) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of enactment of this Act, the entry of any article to which section 466(a) of the Tariff Act of 1930 applied and—

(1) that was made on or after October 1, 1979, and before the date of the enactment of this Act; and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal;

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Page 7, after line 11, insert:

Sec. 116. Wood Veneers.

(a) Part 3 of schedule 2 is amended as follows:

(1) Item 240.00 is amended by striking out "1% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "Free" in the LDDC rate column.

(2) Item 240.02 is amended by striking out "7% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "4% ad val." in the LDDC column.

(3) Item 240.03 is amended by striking out "2% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "Free" in the LDDC column.

(4) Item 240.04 is amended by striking out "5% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "3.2% ad val." in the LDDC column.

(5) Item 240.06 is amended by striking out "2% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "Free" in the LDDC column.

(b) The amendments made by subsection (a) shall apply with respect to articles entered on or after the date of the enactment of this Act.

Page 7, after line 11, insert:

SEC. 117. EPHEDRINE, RACEPHEDRINE, AND THEIR SALTS.

Effective with respect to articles entered on or after the date of the enactment of this Act.

(a) Subpart C of part 1 of schedule 4 is amended by striking out item 411.32 and inserting the following new items in lieu thereof:

"911.50	Unwrought lead other than lead bullion (provided for in item 624.03, part 2G, schedule 6)..	3% ad val. on the value of the lead content, but not less than 1.0625¢ per lb. on the lead content.	No change	On or before 6/30/83".

(b) The rates of duty in column numbered 1 for items 411.30 and 411.31 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as added by subsection (a)) shall be subject to any staged rate reductions proclaimed by the President for items 411.32 and 437.20, respectively, which have been proclaimed by the President before the date of the enactment of this Act.

(c) Whenever the rate of duty specified in the column numbered 1 for item 411.30 or 411.31 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as added by subsection (a)) is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in the column entitled "LDDC" shall be deleted from such Schedules.

(d) For purposes of the Trade Act of 1974, the amendments made by this section (not including the rates of duty in column numbered 2 of the Tariff Schedules of the United States) shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

(e) The amendment made by subsection (a) shall apply with respect to articles entered on or after the date of the enactment of this Act.

Page 7, line 12, strike out "114." and insert "118".

Page 7, lines 13 and 14, strike out "If the date of enactment of this Act is after June 30, 1980, then, upon" and insert "Upon".

Page 7, line 15, strike out "such and insert "the".

Page 7, line 16, strike out "enactment," and insert "enactment of this Act,".

Page 8, lines 1 and 2, strike out "109, 110, and 111" and insert "108, 109, and 110".

Page 8, line 4, strike out "1930," and insert "1930".

Page 8, after line 6, insert:

SEC. 119. HOVERCRAFT SKIRT.

(a) Subpart B of part 1 of the appendix is amended by inserting in numerical sequence the following new item:

"905.40	Textile fabrics of manmade fibers, coated or filled or laminated with natural rubber, for use in the manufacture of skirts for hovercraft (provided for in item 359.50, part 4C, schedule 3).....	Free	No change	On or before 6/30/83.".

(b) The amendment made by subsection (a) shall apply with respect to articles entered on or after the date of the enactment of this Act.

Page 9, line 17 strike out "U.S." and insert "UNITED STATES".

Page 10, line 11, before "The" insert "(a)".

Page 11, after line 5, insert:

(3) The amendments made by this subsection shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 1, 1980.

(b) The amendments made to the Trade Agreements Act of 1979 by section 14(a)(3)(A) of Public Law 96–467 with respect to items 678.50, 694.15, 694.20, and 694.40 of the Tariff Schedules of the United States shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 1, 1980.

Page 11, after line 14, insert:

SEC. 205. COUNTRY-OF-ORIGIN DETERMINATIONS.

Notwithstanding subparagraph (1)(A) of subsection 5(a) of Reorganization Plan No. 3 of 1979 (44 F.R. 69272, 93 Stat. 1381), the Secretary of the Treasury or his delegate shall issue such advisory rulings and make such determinations as are authorized by subsection 305(b)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(b)(1)).

Page 11, strike out all after line 15 over to and including line 4 on page 12 and insert:

SEC. 301. TECHNICAL AMENDMENTS TO THE TARIFF SCHEDULES.

(a) The Tariff Schedules of the United States (19 U.S.C. 1202) are amended—

(1) by striking out "4% ad val." in rate of duty column numbered 1 for item 470.18 and inserting in lieu thereof "3.9%. ad val.",

(2) by inserting "3.1% ad val." in the column entitled "LDDC" for item 470.18, and

(3) by striking out "provided for in item 403.60," in item 907.11 of the Appendix and inserting in lieu thereof "however provided for in items 402.36 through 406.63,".

(b) The rates of duty in column numbered 1 for item 470.18 of the Tariff Schedules of the United States (19 U.S.C. 1202) shall be subject to any staged rate reductions for item 470.15, which have been proclaimed by the President before the date of the enactment of this Act.

(c) Whenever the rate of duty specified in column numbered 1 for item 470.18 of the Tariff Schedules of the United States (19 U.S.C. 1202) is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in the column entitled "LDDC" for such item shall be deleted.

(d) For purposes of the Trade Act of 1974, the amendments made by paragraphs (1) and (2) of subsection (a) shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974, of benefit to foreign countries or instrumentalities.

(e) This section, and the amendments made by this section, shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after October 17, 1980.

Mr. VANIK (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio (Mr. VANIK)?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I do not intend to object, but I take this time to yield to the distinguished chairman of the Subcommittee on Trade to explain H.R. 5047.

Mr. VANIK. Mr. Speaker, I thank the gentleman for yielding.

H.R. 5047, as amended by the Senate, is an omnibus bill consolidating 22 separate bills introduced in the House to provide duty-free entry or temporary suspension of duties on particular products, changes in certain customs practices, and technical amendments to the U.S. tariff schedules. None of the provisions of H.R. 5047 were controversial when passed by the House on July 21 by voice vote. The Senate amended the bill to include six noncontroversial bills passed separately by the House by voice vote providing duty reductions on chipper knife steel, ephedrine, and on unwrought lead, duty elimination on wood veneers and temporary suspensions of duty on tuna nets purchased in the Panama Canal Zone and on hovercraft skirts. The other Senate amendments are also noncontroversial to make technical corrections in the U.S. tariff schedules and to transfer authority to make certain country of origin determinations from the Commerce to the Treasury Department.

Mr. Speaker, it is rare that we have the opportunity to pass omnibus legislation which does not adversely affect any U.S. economic interest and will result in savings to American consumers by increasing the availability and reducing the costs of necessary supplies. I urge House concurrence in the Senate amendments.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I concur in the description of this particular bill given by gentleman from Ohio (Mr. VANIK), and indeed I concur in the request for passage. Each of the bills the subcommittee chairman has described that are included in this bill have been passed by the House of Representatives without any objections of which I am aware.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. Further reserving the right to object, I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I know of no objection to this bill. I think we should waste as little time on it as possible and move it through.

Mr. FRENZEL. Mr. Speaker, reserving my right to object, I would like to point out that H.R. 5047 is a compilation of a whole spectrum of miscellaneous trade and tariff matters that we have considered during the 96th Congress.

When the House passed H.R. 5047 on July 21 of this year, it contained 17 provisions. These were comprised mostly of duty suspensions but also included several changes in customs law designed to simplify entry procedures and to lower the cost of reexporting goods.

One example is a provision of which I am the sponsor. It would permit a "drawback" or refund of duties paid on merchandise imported into the United States and later exported if the merchandise was not used in this country and was exported in the same condition. However, drawback of duties would not be denied where only incidental operations, such as testing, cleaning, repacking and inspecting, were performed on the merchandise.

Later, the Senate Finance Committee added to H.R. 5047 the substance of five tariff bills that had passed the House separately earlier this summer. Now the Senate has further amended the bill to include three additional matters also previously considered favorably by the House.

In short, Mr. Speaker, there are no provisions, except for technical amendments, included in H.R. 5047 that have not received the prior approval of at least two-thirds of the House. We will be able to dispense with numerous noncontroversial trade matters before the close of this session by completing the legislative process on this one bill. I withdraw my reservation.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to extend their remarks on this bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio (Mr. Vanik)?

There was no objection.

A motion to reconsider was laid on the table.

MISCELLANEOUS MATTERS REFERRING TO GUAM, THE VIRGIN ISLANDS, AND PUERTO RICO

Mr. WHITE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7694) to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam, with Senate amendments thereto, and concur with the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out all after line 2 over to and including line 4 on page 3 and insert: That section 1586 of title 10, United States Code, relating to the rotation of civilian employees of the Department of Defense assigned to duty outside the United States, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary of Defense may, under such regulations as he may prescribe, make the provisions of subsections (a) through (g) applicable to civilian employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico at the time of their employment by the Department of Defense in the same manner as if the references in such subsections to the United States (when used in a geographical sense) were references to Guam, the Virgin Islands, or the Commonwealth of Puerto Rico, as the case may be.".

Page 3, line 23, after "Code," insert "relating to the definition of the term "Territory",".

Page 4, line 2, after "Code," insert "relating to the definitions of the terms "Army National Guard" and "Air National Guard",".

Amend the title so as to read: "An Act to authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonweath of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam.".

Mr. WHITE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I take this time only to ask the distinguished gentleman from Texas (Mr. White) what those additional amendments might be. Are they in connection with the legislation?

Mr. WHITE. Yes, they are, if the gentleman will yield.

Mr. LUJAN. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as the title of H.R. 7694 indicates, the bill will provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, and Puerto Rico with the same employment return rights as are presently enjoyed by other Department of Defense employees. Present law regarding the rotation of career civilian employees of the Department of Defense who are assigned to duty outside the United States provides for the granting of the right to return to a position in the United States for those civilian employees who satisfactorily complete a tour outside the United States.

The bill also authorizes the Delegate from Guam and the Virgin Islands two appointments at any one time at each of the three service academies instead of one and will also authorize the establishment of a National Guard for Guam.

The Senate amended the bill as it passed the House to simply authorize the Secretary of Defense to provide civilian employees of the Department of Defense from Guam, the Virgin Islands, and Puerto Rico these rotation rights rather than to make these rights an entitlement. The Senate also amended the title of the bill to reflect this change.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas (Mr. White)?

There was no objection.

A motion to reconsider was laid on the table.

EXTENDING SERVICE AREA FOR SACRAMENTO VALLEY CANALS, CENTRAL VALLEY PROJECT, CALIFORNIA

Mr. KAZEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2111) to extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment, and concur in the Senate amendment to the House amendment to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment, as follows:

Page 2, after line 15, of the House engrossed amendment to the Senate engrossed amendment, insert:

Sec. 4. The following provisions of the Federal reclamation laws shall not apply to lands within the Imperial Irrigation District of California after the date of enactment of this Act:

(a) section 5 of the Act entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands", approved June 17, 1902 (43 U.S.C. 431);

(b) section 46 of the Act entitled "An Act to adjust water-right charges, to grant certain other relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (42 U.S.C. 423e); and

(c) any other provision of law amendatory or supplementary to either of such sections.

Mr. KAZEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment to the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I make this reservation only to ask the gentleman from Texas if this is the basic bill that we were going to consider a little while ago, the Sacramento Canal bill which passed the House twice, including the Imperial Valley extension which had already passed the committee. Those were the two subject matters covered in the bill, is that correct?

Mr. KAZEN. Mr. Speaker, if the gentleman will yield, that is correct, and all of the people involved in California have agreed to it.

H.R. 2111 passed the House by unanimous consent on November 29, 1979. The bill was amended by the Senate and subsequently passed the House again with an amendment. The Senate amendment to the House bill provides an exemption from the acreage limitations of the Federal reclamation law for the Imperial Irrigation District in the State of California.

On June 16, 1980, the Supreme Court of the United States held that the great majority of lands in the Imperial District were not subject to the limitations of the reclamation law. The Court, however, noted that some question still exists as to approximately 14,000 acres of land out of the more than 400,000 acres in the district. The 14,000 acres about which some question may remain are scattered acreages and, I am advised, should a final determination be made after additional lengthy litigation that they are subject to the limitations of the reclamation law, a difficult administrative problem would be created.

In considering legislation to revise the reclamation laws, the Committee on Interior and Insular Affairs approved a provision which would accomplish the same thing as does the Senate amendment to H.R. 2111. In view of the decision of the Supreme Court, I believe that it would be unfair to require the owners of the small amount of acreage which remains in question to engage in a lengthy and costly litigation to finally resolve its status. I am advised that the Secretary of the Interior has no objection to the amendment.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. EDGAR. Mr. Speaker, reserving the right to object, I wonder if the gentleman would indicate whether or not there are any additional projects added on to this piece of legislation?

Mr. KAZEN. Mr. Speaker, if the gentleman will yield, no, sir, there are not.

Mr. EDGAR. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to extend their remarks in the Record on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

TITLE I OF MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT REAUTHORIZATION

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1148) to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes, with a Senate amendment to the House amendments to the Senate amendment to the House amendment, and concur in the Senate amendment to the House amendments to the Senate amendment to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments to the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by House amendment No. 1 to the Senate engrossed amendment to the House engrossed amendment, insert:

Sec. 4. Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended by adding at the end thereof a new subsection as follows:

"(f) In addition to other provisions of law and not withstanding the specific exclusion relating to dredged material in the first sentence in section 102(a) of this Act, the dumping of dredged material in Long Island Sound from any Federal project (or pursuant to Federal authorization) or from a dredging project by a non-Federal applicant exceeding 25,000 cubic yards shall comply with the criteria established pursuant to the second sentence of section 102(a) of the Act relating to the effects of dumping. Subsection (d) of this section shall not apply to this subsection.".

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object to the consideration, I do so only to give the chairman of the subcommittee an opportunity to report to us where we stand at this hour on this matter.

Mr. STUDDS. Mr. Speaker, if the gentleman will yield, the version of the bill (S. 1148) before us represents the culmination of many months of negotiations between the two Houses concerning the most appropriate language to achieve our common goals in passing this legislation.

As proposed for passage today, the bill has the following provisions: Section 1 authorizes $2 million to EPA for fiscal years 1981, and 1982 to regulate dumping of wastes in the ocean and to monitor existing dumpsites. Section 2 prohibits the dumping of "industrial wastes" in the ocean after December 31. 1981. Since earlier amendments to the Ocean Dumping Act have mandated an end to dumping of sewage sludge in the ocean by December 31, 1981, this section will further strengthen our ability to protect and preserve our priceless marine resources.

Section 4 of the bill extends to Long Island Sound the same protections that are currently applied to the ocean with respect to the disposal of polluted dredge spoils. This provision would not, however, affect non-Federal dredging projects in cases where the amount of dredge spoil to be dumped is less than 25,000 cubic yards. This exception is designed to relieve those engaged in small dredging projects from the burden of complying with what would, in their case, be an unrealistically costly set of testing standards. The language is in no way intended to provide an incentive for or to permit, large private dredgers to avoid necessary testing by breaking integral dredging projects into smaller superficially "separate" projects.

Finally, section 5 of the bill authorizes EPA to assist New York City in evaluating options for removal of toxic substances from that city's sewage sludge.

Mr. Speaker, all of these provisions are essential to our continuing effort to enhance the marine environment and our effective utilization of its resources, and I urge all Members of the House to join me in supporting them.

Mr. FORSYTHE. Mr. Speaker, I rise in support of concurring with the Senate Amendment to the House Amendment to S. 1148, the reauthorization of title I of the Marine Protection, Research, and Sanctuaries Act of 1972, of the so-called Ocean Dumping Act. Title I of the act establishes a program for the issuance of permits for the ocean dumping of sewage sludge, dredged materials beyond the territorial sea, and industrial wastes.

Mr. Speaker, this bill is not much different from an earlier version which previously pass this body. The only difference is that in the House-passed version all dredge spoil disposal in Long Island Sound was required to comply with the Ocean Dumping Act criteria, in addition to the Clean Water Act standards. Under the amended version developed by the other body, however, in the case of non-Federal dredging projects where the amount of dredge soil to be dumped is less than 25,000 cubic yards, the ocean dumping criteria would not apply. The disposal of such materials would still, however, be subject to the standards set forth in section 404 of the Clean Water Act, and, this provision only applies to the waters of Long Island Sound. I feel that the amended version provides a sound compromise on the issue of dredge spoil disposal in Long Island, and all parties involved have worked diligently in fashioning such a compromise. I would like to especially thank Senator Stafford and Senator Weicker for their important efforts on this matter, as well as my colleagues, Mr. Studds and Mr. Ambro and Mr. McKinney.

Mr. Speaker, I would also like to point out that this compromise language is not intended to create any incentive for the proliferation of a series of smaller scale dredge projects designed simply to comply with this 25,000-cubic yard exemption, and which could possibly result in a significant cumulative impact to the area.

This is important legislation which further perfects an important marine resource protection act. Mr. Speaker, the Ocean Dumping Act has moved our Nation a great distance toward phasing out the practice of simply dumping waste materials into the marine environment when such materials can be clearly shown to be harmful to fisheries and other marine organisms. I strongly urge its reauthorization and passage here today.

Thank you, Mr. Speaker.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **STUDDS**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ESTABLISHING LANGMUIR RESEARCH SITE IN NEW MEXICO

Mr. **MILLER** of California. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2364) to establish the Lagmuir Research Site in the State of New Mexico, and for other purposes, and ask for its immediate consideration.

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The Clerk read the title of the bill.

Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to encourage scientific research into atmospheric processes and astronomical phenomena, and to preserve conditions necessary for that research, there is hereby established the Langmuir Research Site (hereinafter referred to as the "research site") in the Cibola National Forest in the State of New Mexico.

Sec. 2. The Congress finds that the high altitude and freedom from air pollution and night luminosity caused by human activity, make the research site uniquely suited to the conduct of research probes into thunder clouds and for other atmospheric and astronomical research purposes.

Sec. 3. The Secretary of Agriculture shall administer, protect, and regulate use of the research site in accordance with the laws, rules, and regulations applicable to National Forest System lands, and in such manner as will best contribute to purposes of this Act.

Sec. 4. The Secretary of Agriculture in furtherance of the purposes of this Act, is hereby authorized, and directed, to enter into an appropriate land use agreement with New Mexico Institute of Mining and Technology for the Langmuir Research Site for the purpose of establishing conditions for use of the national forest land, and to set forth working relationships during such period of use.

Sec. 5. (a) The research site shall consist of approximately thirty-one thousand acres, including a principal research facility of approximately one thousand acres. The boundaries are depicted on a map entitled "Langmuir Research Site", dated August 1980, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture.

(b) As soon as practicable, after enactment of this Act, the Secretary of Agriculture shall develop a comprehensive management plan for the research site consistent with requirements of the National Forest Management Act of 1976 (Public Law 94–588) (16 U.S.C. 1604), which shall be incorporated into the initial Cibola National Forest land and resource management plan as provided for under that Act.

(c) Following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of his intention to do so, the Secretary may make minor adjustments in the boundaries of the research site to provide for more effective management or to encourage further research activity. For the purposes of this subsection, minor boundary adjustments shall not increase or decrease the amount of land within the research site by more than seven thousand acres.

(d) In developing the plan, the Secretary shall consult with the National Science Foundation, the New Mexico Institute of Mining and Technology, the New Mexico Academy of Science and appropriate conservation, wilderness, wildlife, industry, and other public interest groups.

(e) The plan shall prescribe specific research and management objectives necessary for the protection, management, and regulation of the research site as outlined in subsection (f) of this section.

(f) The research site shall be managed in accordance with the following objectives:

(1) The principal research facility shall be manged primarily for scientific research purposes. Dispersed recreation, grazing, and other uses which the Secretary determines to be compatible with scientific research may be permitted.

(2) The research site shall be managed to enhance scientific research objectives. Scientific research activities and associated research equipment and structures shall be permitted within the research site in accordance with the plan.

(3) Roads shall be limited to those necessary for scientific research activities and other reasonable activities as determined by the Secretary. Motor vehicle use shall be restricted to roads designated in the plan.

(4) The landing of small instrumented research rockets shall be permitted to continue in portions of the research site designated for such purposes in the plan.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MILLER OF CALIFORNIA

Mr. **MILLER** of California. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Miller of California: Strike all after the enacting clause, and insert in lieu thereof:

"That, notwithstanding any other provision of law, and subject to the availability of funds appropriated expressly for this purpose, the Secretary of the Interior shall reimburse the Okefenoke Rural Electric Membership Corporation for a portion of the cost incurred by such corporation in installing transmission lines, transformers, and electric meters on Cumberland Island in the State of Georgia before the date of establishment of the Cumberland Island National Seashore. Such reimbursement shall provide for payment of only the costs of so much of such facilities as the Secretary determines are used for purposes of supplying electric energy to that area which is directly owned and operated by the Federal Government within the Cumberland Island National Seashore at the time such payment is made.

"Sec. 2. The individual who is the Claimant-Appellant in the Case No. SF–REPP–16601 cited in the Decision of the Assistant Secretary of Labor dated July 17, 1979 shall be entitled to benefits under Title II of Public Law 95–250 in the same manner and to the same extent as affected employees of a wood processing operation.".

Mr. **MILLER** of California (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. **MILLER** of California. Mr. Speaker, the amendments to S. 2364 would accomplish two items.

First, the Okefenoke Rural Electric Cooperative in Georgia has previously taken the admirable step of installing underground electrical transmission lines to Cumberland Island National Seashore. However, the designation of the national seashore has meant that only a small developed area remained on Cumberland Island. Enactment of section 1 would authorize the Secretary of the Interior to reimburse the cooperative for a portion of the cost of these environmentally desirable underground lines. We understand that the cost of this would be not more than $300,000. The House of Representatives has previously passed this measure as a part of the amendments to S. 1910. Representative Bo Ginn has championed this effort.

Second, section 2 of the amended text would direct that one additional person would be able to receive the benefits which title II of the Redwood National Park Expansion Act of 1978 established. Our colleague from California, Representative Don Clausen, has personally reviewed this case and determined that this affected party should qualify under this program.

The **SPEAKER** pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. Miller).

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "To reimburse the Okefenoke Rural Electric Membership Corporation for certain costs incurred on Cumberland Island, Ga., before the date of establishment of the Cumberland Island National Seashore, and for other purposes."

A motion to reconsider was laid on the table.

JOHN D. LARKINS, JR., FEDERAL BUILDING

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1824) to designate the "John D. Larkins, Jr., Federal Building"; and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. EDGAR. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I would like to have the assurance of the gentleman that this bill, which is a bill we considered yesterday which had extraneous matter attached to it has now been cleaned up and is simply a renaming legislation and the extraneous material has been removed.

Mr. FLIPPO. The gentleman is correct.

Mr. EDGAR. Mr. Speaker, I withdraw my reservation of objection.

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

What does the bill do?

Mr. FLIPPO. If the gentleman will yield, I am making this request at the request of the gentleman from Georgia (Mr. LEVITAS). I am informed the bill does absolutely nothing other than to name a building in Trenton, N.C., the John D. Larkins, Jr., Federal Building.

Mr. BAUMAN. And Judge Larkins is alive and well, I understand.

Mr. FLIPPO. The gentleman is correct.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1824

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at Market Street, Trenton, North Carolina, is hereby designated as the "John D. Larkins, Jr., Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the John D. Larkins, Jr., Federal Building.

The Senate bill was ordered to be read a third time, was read the third time, and passed and a motion to reconsider was laid on the table.

NUCLEAR SAFETY RESEARCH, DEVELOPMENT AND DEMONSTRATION ACT OF 1980

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7865) to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy, with Senate amendments to the House amendments to the Senate amendment thereto, and concur in the Senate amendments to the House amendment to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment to the Senate amendment, as follows:

Page 2, line 19, of the House engrossed amendment to the Senate engrossed amendment, after "accidents;" insert "and".

Page 2, line 22, of the House engrossed amendment to the Senate engrossed amendment, strike out "accidents; and" and insert "accidents.".

Page 2, of the House engrossed amendment to the Senate engrossed amendment, strike out lines 23, 24, and 25.

Page 6, line 8, of the House engrossed amendment to the Senate engrossed amendment, after "analysis;" insert "and".

Page 6, line 12, of the House engrossed amendment to the Senate engrossed amendment, strike out "conditions; and" and insert "conditions.".

Page 6, of the House engrossed amendment to the Senate engrossed amendment, strike out lines 13 to 18, inclusive.

Mr. BROWN of California (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FORSYTHE. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I will not object but I would take this time for our chairman to explain what the Senate amendment is.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I do yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, the Nuclear Safety Research, Development and Demonstration Act of 1980, H.R. 7865, was first passed by the House on August 25, 1980. The other body returned the bill in amended form on September 26, 1980. The House again passed this bill with amendments on December 4, 1980. The other body acted upon the bill earlier today, deleting certain provisions relating to a study of the comparative risks of various energy sources for generating electricity. These provisions, paragraphs 2(b)(3) and 4(a)(8), had been the subject of negotiation with some Members of the other body, whose agreement had to be secured to achieve a unanimous-consent consideration of the legislation.

Mr. Speaker, the House originally felt that it was important for the Secretary to conduct this study so that decisions on the merits of improvements in safety could be made with an understanding of the risks of nuclear power compared to the risks of other significant energy sources. Although we believe this activity is a valuable one, we also believe it is important to enact the broader commitment to improving nuclear powerplant safety represented by this bill during this Congress, since so much hard work has been invested in this legislation. Additionally, removing the comparative risk provisions in no way limits the existing authority of the Department of Energy to conduct comparative risk studies if the Secretary determines them to be valuable. We are simply leaving this decision to the Secretary, without providing legislative direction one way or another.

This is the only change in the bill from the version passed by the House on December 4, 1980.

GENERAL LEAVE

Mr. FORSYTHE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California (Mr. BROWN)?

There was no objection.

A motion to reconsider was laid on the table.

BANKRUPTCY TAX ACT OF 1980

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5043) to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 4, after the matter below line 20, insert:

"(E) FOREIGN TAX CREDIT CARRYOVERS.—Any carryover to or from the taxable year of the discharge for purposes of determining the amount of the credit allowable under section 33.

Page 8, line 20, strike out "(5)" and insert "(6)".

Page 8, line 24, strike out "(6)" and insert "(7)".

Page 9, line 8, strike out "(7)" and insert "(8)".

Page 9, line 22, strike out "(8)" and insert "(9)".

Page 11, line 6, after "debtor." insert: "Such regulations shall provide for such adjustments in the treatment of any subsequent transactions involving the indebtedness as may be appropriate by reason of the application of the preceding sentence.".

Page 11, line 17, strike out "section 414(c)" and insert "subsection (b) or (c) of section 414".

Page 12, strike out all after line 9, over to and including line 9 on page 14, and insert:

"(6) INDEBTEDNESS CONTRIBUTED TO CAPITAL.—For purposes of determining income of the debtor from discharge of indebtedness, if a debtor corporation acquires its indebtedness from a shareholder as a contribution to capital—

"(A) section 118 shall not apply, but

"(B) such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the shareholder's adjusted basis in the indebtedness.

"(7) Recapture of gain on subsequent sale of stock.—

"(A) In general.—If a creditor acquires stock of a debtor corporation in satisfaction of such corporation's indebtedness, for purposes of section 1245—

"(i) such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(ii) the aggregate amount allowed to the creditor—

"(I) as deductions under subsection (a), (b), or (c) of section 166 (by reason of the worthlessness or partial worthlessness of the indebtedness), or

"(II) as an ordinary loss on the exchange, shall be treated as an amount allowed as a deduction for depreciation.

The amount determined under clause (ii) shall be reduced by the amount (if any) included in the creditor's gross income on the exchange.

"(B) Taxpayers on reserve method.—In the case of a taxpayer to whom subsection (c) of section 166 (relating to reserve for bad debts) applies, the amount determined under clause (ii) of subparagraph (A) shall be the aggregate charges to the reserve resulting from the worthlessness or partial worthlessness of the indebtedness.

"(C) Special rule for cash basis taxpayers.—In the case of any creditor who computes his taxable income under the cash receipts and disbursements method, proper adjustment shall be made in the amount taken into account under clause (ii) of subparagraph (A) for any amount which was not included in the creditor's gross income but which would have been included in such gross income if such indebtedness had been satisfied in full.

"(D) Stock of parent corporation.—For purposes of this paragraph, stock of a corporation in control (within the meaning of section 368(c)) of the debtor corporation shall be treated as stock of the debtor corporation.

"(E) Treatment of successor corporation.—For purposes of this paragraph, the term 'debtor corporation' includes a successor corporation.

"(F) Partnership rule.—Under regulations prescribed by the Secretary, rules similar to the rules of subparagraphs (A), (B), (C), (D), and (E) of this paragraph shall apply with respect to the indebtedness of a partnership.

"(8) Stock for debt exception not to apply in de minimis cases.—For purposes of determining income of the debtor from discharge of indebtedness, the stock for debt exception shall not apply—

"(A) to the issuance of nominal or token shares, or

"(B) with respect to an unsecured creditor, where the ratio of the value of the stock received by such unsecured creditor to the amount of his indebtedness cancelled or exchanged for stock in the workout is less than 50 percent of a similar ratio computed for all unsecured creditors participating in the workout.

"(9) Discharge of indebtedness income not taken into account in determining whether entity meets REIT qualifications.—Any amount included in gross income by reason of the discharge of indebtedness shall not be taken into account for purposes of paragraphs (2) and (3) of section 856(c)."

Page 16, line 13, strike out "Any interest" and insert "For purposes of this section, any interest".

Page 16, line 17, after "partnership." insert:

The preceding sentence shall apply only if there is a corresponding reduction in the partnership's basis in depreciable property with respect to such partner.

"(D) Special rule in case of affiliated group.—For purposes of this section, if—

"(i) a corporation holds stock in another corporation (hereinafter in this subparagraph referred to as the 'subsidiary'), and

"(ii) such corporations are members of the same affiliated group which file a consolidated return under section 1501 for the taxable year in which the discharge occurs, then such stock shall be treated as depreciable property to the extent that such subsidiary consents to a corresponding reduction in the basis of its depreciable property.

"(E) Election to treat certain inventory as depreciable property.—

"(i) In general.—At the election of the taxpayer, for purposes of this section, the term 'depreciable property' includes any real property which is described in section 1221(1).

"(ii) Election.—An election under clause (i) shall be made on the taxpayer's return for the taxable year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Secretary. Such an election, once made, may be revoked only with the consent of the Secretary.

Page 17, strike out lines 1 to 8, inclusive.

Page 17, line 9, strike out "(3)" and insert "(2)".

Page 17, strike out lines 14 to 19, inclusive and insert:

"(1) In general.—For purposes of sections 1245 and 1250—

"(A) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

Page 18, strike out all after line 10, over to and including line 7 on page 19, and insert:

(d) Amendment of Section 382(b).—Subsection (b) of section 382 (relating to special limitations on net operating loss carryover), as in effect before its amendment by section 806 of the Tax Reform Act of 1976, is amended by adding at the end thereof the following new paragraph:

"(7) Special rule for reorganizations in title 11 or similar cases.—For purposes of this subsection, a creditor who receives stock in a reorganization in a title 11 or similar case (within the meaning of section 368(a)(3)(A)) shall be treated as a stockholder immediately before the reorganization."

Page 20, in the matter following line 3, strike out "108(f)(1)(B)" and insert "108(e)(6)".

Page 20, strike out all of line 4 down to and including the matter which follows line 6.

Page 22, strike out lines 5 to 13, inclusive and insert:

"(d) Taxable Year of Debtors.—

"(1) General rule.—Except as provided in paragraph (2), the taxable year of the debtor shall be determined without regard to the case under title 11 of the United States Code to which this section applies.

Page 22, line 14, strike out "(3)" and insert "(2)".

Page 24, line 4, strike out "(4)" and insert "(3)".

Page 24, strike out all after line 8, down to and including the matter which follows line 9.

Page 24, line 16, after "Code." insert "The preceding sentence shall not apply to any amount received or accrued by the debtor before the commencement date (as defined in subsection (d)(3)).".

Page 24, strike out all after line 21 over to and including line 3 on page 25.

Page 25, line 4, strike out "(4)" and insert "(3)".

Page 25, line 20, strike out "TRANSFER" and insert "DISPOSITION.".

Page 25, line 22, strike out "transfer" and insert "disposition".

Page 25, lines 23 and 24, strike out "transfer" and insert "disposition".

Page 26, line 2, strike out "TRANSFER" and insert "DISPOSITION".

Page 26, line 5, strike out "transfer" and insert "disposition".

Page 26, lines 6 and 7, strike out "transfer" and insert "disposition".

Page 45, strike out all after line 3, over to and including line 8 on page 46, and insert:

"(g) Title 11 or Similar Cases.—If a corporation completely liquidates pursuant to a plan of complete liquidation adopted in a title 11 or similar case (within the meaning of section 368(a)(3)(A))—

"(1) for purposes of subsection (a), the term 'property' shall not include any item acquired on or after the date of the adoption of the plan of liquidation if such item is not properly within the meaning of subsection (b)(2), and

"(2) subsection (a) shall apply to sales and exchanges by the corporation of property within the period beginning on the date of the adoption of the plan and ending on the date of the termination of the case.".

Page 47, line 20, strike out "is" and insert "are".

Page 48, strike out lines 1 to 7, inclusive, and insert:

(f) Effect on Earnings and Profits.—Section 312 (relating to effect on earnings and profits) is amended by adding at the end thereof the following new subsection:

"(l) Discharge of Indebtedness Income.—

"(1) Does not increase earnings and profits if applied to reduce basis.—The earnings and profits of a corporation shall not include income from the discharge of indebtedness to the extent of the amount applied to reduce basis under section 1017.

"(2) Reduction of deficit in earnings and profits in certain cases.—If—

"(A) the interest of any shareholder of a corporation is terminated or extinguished in a title 11 or similar case (within the meaning of section 368(a)(3)(A)), and

"(B) there is a deficit in the earnings and profits of the corporation,

then such deficit shall be reduced by an amount equal to the paid-in capital which is allocable to the interest of the shareholder which is so terminated or extinguished."

Page 48, strike out all after line 22 over to and including line 3 on page 49, and insert:

(b) Coordination of Deficiency Procedures With Title 11 Cases.—

(1) In general.—Section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by redesignating subsection (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

Page 49, after line 20, insert:

(2) Clerical amendments.—Subsection (d) of section 6404 (relating to abatements) is amended by striking out "section 6213(f)(2)(A)" and inserting in lieu thereof "section 6213(g)(2)(A)".

Page 60, strike out all after line 5, over to and including line 14 on page 63, and insert:

Sec. 7. Effective Dates.

(a) For Section 2 (Relating to Tax Treatment of Discharge of Indebtedness).—

(1) In general.—Except as provided in

paragraph (2), the amendments made by section 2 shall apply to any transaction which occurs after December 31, 1980, other than a transaction which occurs in a proceeding in a bankruptcy case or similar judicial proceeding (or in a proceeding under the Bankruptcy Act) commencing on or before December 31, 1980.

(2) Transitional rule.—In the case of any discharge of indebtedness to which subparagraph (A) or (B) of section 108(a)(1) of the Internal Revenue Code of 1954 (relating to exclusion from gross income), as amended by section 2, applies and which occurs before January 1, 1982, or which occurs in a proceeding in a bankruptcy case or similar judicial proceedings commencing before January 1, 1982, then—

(A) section 108(b)(2) of the such Code (relating to reduction of tax attributes), as so amended, shall be applied without regard to subparagraphs (A), (B), (C), and (E) thereof, and

(B) the basis of any property shall not be reduced under section 1017 of such Code (relating to reduction in basis in connection with discharges of indebtedness), as so amended, below the fair market value of such property on the date the debt is discharged.

(b) For Section 3 (Relating to Rules Relating to Title 11 Cases for Individuals).—The amendments made by section 3 shall apply to any bankruptcy case commencing more than 90 days after the date of the enactment of this Act.

(c) For Section 4 (Relating to Corporate Reorganization Provisions).—

(1) In general.—The amendments made by section 4 shall apply to any bankruptcy case or similar judicial proceeding commencing after December 31, 1980.

(2) Exchanges of property for accrued interest.—The amendments made by subsection (e) of section 4 (relating to treatment of property attributable to accrued interest) shall also apply to any exchange—

(A) which occurs after December 31, 1980, and

(B) which does not occur in a bankruptcy case or similar judicial proceeding (or in a proceeding under the Bankruptcy Act) commenced on or before December 31, 1980.

(d) For Section 5 (Relating to Miscellaneous Corporate Amendments).—

(1) For subsection (a) (relating to exemption from personal holding company tax).—The amendments made by subsection (a) of section 5 shall apply to any bankruptcy case or similar judicial proceeding commenced after December 31, 1980.

(2) For subsection (b) (relating to repeal of special treatment for certain railroad redemptions).—The amendments made by subsection (b) of section 5 shall apply to stock which is issued after December 31, 1980 (other than stock issued pursuant to a plan of reorganization approved on or before that date).

(3) For subsection (c) (relating to application of 12-month liquidation rule).—The amendment made by subsection (c) of section 5 shall apply to any bankruptcy case or similar judicial proceeding commenced after December 31, 1980.

(4) For subsection (d) (relating to permitting bankruptcy estate to be subchapter S shareholder).—The amendment made by subsection (d) of section 5 shall apply to any bankruptcy case commenced on or after October 1, 1979.

(5) For subsection (e) (relating to certain transfers to controlled corporations).—The amendments made by subsection (e) of section 5 shall apply as provided in subsection (a) of this section.

(6) For subsection (f) (relating to effect of debt discharge on earnings and profits).—The amendment made by subsection (f) of section 5 shall apply as provided in subsection (a) of this section.

(e) For Section 6 (Relating to Changes in Tax Procedures).—The amendments made by section 6 shall take effect on October 1, 1979, but shall not apply to any proceeding under the Bankruptcy Act commenced before October 1, 1979.

(f) Election to Substitute September 30, 1979, for December 31, 1980.—

(1) In general.—The debtor (or debtors) in a bankruptcy case or similar judicial proceeding may (with the approval of the court) elect to apply subsections (a), (c), and (d) by substituting "September 30, 1979" for "December 31, 1980" each place it appears in such subsections.

(2) Effect of election.—Any election made under paragraph (1) with respect to any proceeding shall apply to all parties to the proceeding.

(3) Revocation only with consent.—Any election under this subsection may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(4) Time and manner of election.—Any election under this subsection shall be made at such time, and in such manner, as the Secretary of the Treasury or his delegate may by regulations prescribe.

(g) Definitions.—For purposes of this section—

(1) Bankruptcy case.—The term "bankruptcy case" means any case under title 11 of the United States Code (as recodified by Public Law 95–598).

(2) Similar judicial proceeding.—The term "similar judicial proceeding" means a receivership, foreclosure, or similar proceeding in a Federal or State court (as modified by section 268(a)(3)(D) of the Internal Revenue Code of 1954).

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with and that they be printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I would ask the distinguished committee chairman if he would quickly summarize the two major amendments made by the Senate.

□ 1620

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, I urge the House to concur in the Senate amendments to H.R. 5043, the Bankruptcy Tax Act of 1980, thereby completing action on this important bill which has been carefully developed over the past 2 years. Unless H.R. 5043 is enacted this year, there will be no statutory rules governing the tax treatment of debt discharge in bankruptcy and insolvency, and there will be confusion and controversy as to this issue and many other tax aspects of bankruptcy and discharge of indebtedness.

The Senate amendments, in brief summary, change the "stock-for-debt" rule and certain effective date provisions of the bill as passed by the House last March. First, the bill as amended generally returns to the present law rule developed by the courts that no income is recognized and no attribute reduction is required if a corporation issues its stock to creditors in cancellation of outstanding debt. By providing for favorable tax treatment if stock is issued to creditors in discharge of debt, this amendment seeks to encourage reorganization, rather than liquidation, of financially distressed companies that have a potential for surviving as operating concerns.

Second, under the Senate amendments the provisions of the bill relating to debt discharge in bankruptcy, tax-free bankruptcy reorganizations, and certain miscellaneous corporate amendments generally will apply to bankruptcy cases beginning after December 31, 1980. In the case of a bankrupt or insolvent debtor, however, the rule that the debtor must reduce net operating losses by the amount of debt discharge—or alternatively, must reduce basis in depreciable assets—will not apply to debt discharge which occurs in a bankruptcy case beginning before January 1, 1982.

Mr. Speaker, I believe that, in light of the pressing need for enacting bankruptcy tax legislation this year, these modifications represent an acceptable approach in seeking to strike a fair balance between tax policy and bankruptcy concerns.

Both the House Ways and Means Committee and the Senate Finance Committee have recognized that the development of tax rules for bankruptcy and insolvency can involve accommodation of tax policy and bankruptcy concerns—that is, the most appropriate tax rules may reflect neither pure tax theory on the one hand nor complete subordination of tax principles to asserted bankruptcy concerns on the other hand. The tax committees, in seeking to strike a fair balance between sometimes conflicting policies, have carefully considered the extensive testimony—at three hearings on bankruptcy tax legislation—and many additional written comments submitted by bar association groups, accounting groups, bankruptcy attorneys, and other groups and individuals with experience in bankruptcy tax matters, plus the views of the Treasury and Justice Departments and the Internal Revenue Service.

With respect to the issue of tax treatment of debt discharge, both the Ways and Means Committee and the Finance Committee agree that the basic-reduction mechanisms under the—now repealed—Bankruptcy Act and under present Internal Revenue Code sections 108 and 1017 fail to effectuate the congressional intent of deferring, but eventually collecting tax on, ordinary income from debt discharge. The rules of the bill requiring a bankrupt or insolvent debtor to apply the debt discharge amount to reduce net operating losses—or basis in depreciable assets—are intended to carry out this congressional intent, while giving the debtor the flexibility of reducing either net operating losses or basis in depreciable assets. This basic approach—requiring reduction of net operating losses by the debt discharge amount before reduction in basis of nondepreciable assets—was recommended by the 1973 report of the Commission on the Bankruptcy Laws—established by Congress, endorsed during the 95th Congress by the House Judiciary Committee, enacted for State and local tax purposes in Public Law 95-598, and supported during consideration of H.R. 5043 by the American

Bar Association Tax Section, the New York City Bar Tax Committee, and other groups and individuals, as well as the Treasury.

Thus both tax committees are in accord on this fundamental point, as reflected in the two committee reports on H.R. 5043. However, because considerable time has elapsed since introduction of the House bill, and particularly in light of the overwhelming consideration of the need for legislation this year, the postponement of certain effective dates made by the Senate amendments is acceptable. The concurrence by the House in this effective date postponement should not be interpreted as suggesting that the Ways and Means Committee sees any need for reconsideration of the attribute-reduction rules of the bill.

The following is a more detailed description of the amendments made by the Senate to H.R. 5043 as passed by the House.

"STOCK-FOR-DEBT" RULES

The Senate amendments modify certain rules in the House bill with respect to the income tax treatment of discharge of indebtedness.

The House bill provided that if a corporation issues stock in cancellation of short-term debt or trade credit, the corporate debtor would be required to reduce tax attributes by an amount equal to the excess of the indebtedness over the value of the stock. The Senate amendment generally does not change the present law rule developed by the courts governing whether income is recognized if a corporation issues its own stock to its creditor for outstanding debt—whether or not the debt constitutes a security for tax purposes. Therefore, no attribute reduction generally will be required where such stock is issued to discharge the debt. This stock-for-debt rule under the amendment will not apply if only a de minimis amount of stock is issued for the outstanding debt.

The amendment also changes rules of the House bill with respect to issuance of a package of stock and other property in cancellation of debt. Under the House bill, the stock would be treated as issued for a proportion of the debt equal to its proportion of the value of the total consideration. Under the amendment, the cash or other property would be treated as satisfying an equal amount of debt, and the stock as satisfying the remainder of the debt. Consequently, there would be no tax consequences to the debtor—subject to the de minimis exception stated above.

The amendment also provides that if a creditor receiving stock for debt has taken an ordinary bad debt deduction, any gain on a later sale of the stock by the creditor would be "recaptured" as ordinary income up to the amount of the creditor's prior deduction against income.

Under the Senate amendment, the provision of the House bill excepting stock for debt exchanges in a bankruptcy or similar case from code section 382(a) would be deleted.

EFFECTIVE DATE PROVISIONS

The Senate also amended certain effective date provisions of the House bill. Under the House bill, the provisions relating to tax treatment of debt discharge (section 2), corporate reorganizations in bankruptcy (section 4), and certain miscellaneous corporate amendments (section 5) would apply for bankruptcy cases (or receivership, foreclosure, or similar judicial proceedings) commenced on or after October 1, 1979.

Under the amendment, the provisions of sections 2, 4, and 5 of the bill generally would apply to bankruptcy cases (or receivership, etc. proceedings) commenced after December 31, 1980. However, some taxpayers may have entered into bankruptcy reorganizations with the expectation that the bill would be enacted with the original retroactive effective dates. Accordingly, the amendment allows a bankrupt or insolvent debtor to elect to have all the debt discharge and related provisions of the bill apply retroactively (in the case of proceedings commenced on or after October 1, 1979).

The amendment also postpones for 1 additional year the requirement under the bill that a bankrupt or insolvent debtor must reduce net operating losses by the amount of debt discharge (or alternatively, must reduce basis in depreciable assets). Under the Senate amendment, this attribute reduction requirement will not apply, in the case of a bankrupt or insolvent debtor, to debt discharge which occurs before January 1, 1982 or which occurs in a bankruptcy case or similar judicial proceeding beginning before January 1, 1982.

Thus, under the amendment, a bankrupt or insolvent debtor will apply the amount of debt discharge to reduce basis in assets in the case of a debt discharge to which the bill applies occurring before January 1, 1982 or occurring in a bankruptcy case or similar proceeding commencing before January 1, 1982. Furthermore, such a debtor will not be required to reduce asset basis below fair market value. Under the amendment, any amount of debt discharge remaining after asset basis is so reduced will not have any tax consequences—that is, the remaining amount will not be included in income and will not result in reduction of net operating losses or other tax attributes. Thus, in the case of debt discharge before 1982, or bankruptcy cases or similar judicial proceedings beginning before 1982, bankrupt or insolvent debtors will be subject to a basis reduction rule like that in the now repealed provisions of the Bankruptcy Act.

In the case of solvent debtors outside bankruptcy—or receiverships, et cetera, the rules of the bill generally would apply to transactions after December 31, 1980, and the Senate amendment does not change this provision.

TECHNICAL AMENDMENTS

The Senate also adopted the following technical and clarifying amendments to the House bill.

SECTION 2.—TAX TREATMENT OF DISCHARGE OF INDEBTEDNESS

First. Election to reduce basis in depreciable assets held by certain subsidiaries—modification to section 2(b) of the bill, amending Code section 1017.

Under the House-passed bill, a debtor in bankruptcy or an insolvent debtor could elect to apply the amount of discharged debt first to reduce basis in depreciable property, before applying any remaining amount to reduction of specified tax attributes. Similarly, a solvent debtor outside bankruptcy could elect to reduce basis in depreciable assets instead of recognizing current income from debt cancellation. To insure that ordinary income treatment eventually would be given to the full amount of basis reduction, the bill provides that any gain on a subsequent disposition of reduced-basis assets would be subject to "recapture" as ordinary income.

The amendment would expand these election provisions to provide also that if the debtor is a parent holding company which files a consolidated return with a subsidiary, the debtor could elect to apply the debt discharge amount, in accordance with Treasury regulations, to reduce the basis of the stock of the subsidiary to the extent the subsidiary consents to reduce the basis of its depreciable assets. The "recapture" rule stated above would apply to a disposition of the reduced-basis assets.

Second. Election to reduce basis in realty held as inventory—modification to section 2(b) of the bill, amending code section 1017.

The election provisions summarized in paragraph 1 above would be further expanded by the amendment to also allow application of the debt discharge amount to reduce basis in real property held primarily for sale to customers in the ordinary course of a trade or business—within the meaning of code section 1221 (1). To the extent the debtor elects to reduce basis in such realty, the particular real properties the bases of which would be reduced are to be determined pursuant to Treasury regulations. A subsequent disposition of reduced-basis realty would result in recognition of a larger amount of ordinary income, just as reduction in basis of depreciable assets results in lower depreciation deductions to offset ordinary income.

Third. Discharge of partnership debt, modification to section 2(b) of the bill.

The House-passed bill provides that if a taxpayer must account for a debt discharge amount because indebtedness is canceled, the taxpayer's interest in any partnership may be treated as depreciable property to the extent of his interest in depreciable property of the partnership. Under the bill, in the case of discharge of partnership debt, the partner could elect to reduce the basis of his partnership interest—in lieu of attribute reduction or income recognition—only if the partnership makes a corresponding reduction in the basis of depreciable assets of the partnership with respect to such partner.

The amendment would clarify that a partner's interest in any partnership (whether or not that partnership's debt was discharged) may be treated as a depreciable asset only if the partnership makes a corresponding reduction in the basis of depreciable assets of the partnership with respect to such partner. Also, the amendment would state that the amount of reduction in the partner's basis in the partnership interest, and the particular depreciable assets of the partnership the bases of which are to be reduced, are to be determined pursuant to Treasury regulations.

Fourth. Debt acquired by related parties, modification to section 2(a) of the bill, amending Code section 108.

The House-passed bill provides that, for purposes of the debt discharge rules, acquisition of a debt by a related party would be treated as acquisition by the debtor. The Ways and Means Committee report states that the income tax consequences of repayment or capital contribution of a debt which had been acquired by a related party are to be provided in Treasury regulations. The report further indicates that the tax consequences would include allowing the debtor a deduction equal to the amount of any gain or income recognized by the related party if the debt is repaid or contributed to capital (House Rep. 96–833, p. 16).

The related party rules in the bill would be amended to add a provision stating that the tax treatment of a repayment or a capital contribution of a debt which had been acquired by a related party would, pursuant to Treasury regulations, be substantially the same as if the debtor itself had originally acquired the debt. For example, assume a parent corporation purchases for $900 on the open market a $1,000 bond issued at par by its wholly owned subsidiary. Under the bill, the subsidiary has a debt discharge amount of $100. If the subsidiary pays its parent the full principal amount ($1,000) when the debt matures, the Treasury regulations would treat the $100 difference as a dividend to the parent, against which the dividends received deduction would be available as provided by present law (Code section 243–246). The repayment would not have any tax consequences to the subsidiary. Likewise, if the debt were later cancelled, the parent would be treated as having contributed $900 to the subsidiary (with no tax consequences).

Fifth. Reduction of certain credit carryovers on debt discharge in bankruptcy or insolvency modification to section 2(a) of the bill, amending Code section 108.

Unless the taxpayer elects first to reduce basis in depreciable assets or in section 1221(1) realty, the amount of debt discharge in bankruptcy—or in the case of an insolvent debtor—would be applied under the House-passed bill to reduce net operating losses or carryovers, carryovers of certain tax credits, capital losses and carryovers, and the basis of the taxpayer's assets. These provisions would be modified also to provide that if any debt discharge amount remains after reduction of such attributes—including any debt discharge amount which remains unapplied solely by virtue of the limitation in the bill with respect to basis reduction, such remaining amount would be applied to reduce carryovers of the foreign tax credit.

Sixth. Real estate investment trusts, modification to section 2 of the bill.

To qualify as a real estate investment trust (REIT), an organization must satisfy, among other requirements, source-of-income tests establishing that it has primarily passive income from real estate investments (Code section 856). In light of the bill's rules governing the tax consequences of debt discharge, the amendment would add a provision specifying that income from cancellation of indebtedness is not to be taken into account for the source-of-income tests. For example, if a solvent REIT investing primarily in mortgages has debt cancellation on redemption of bonds, and such amount would be includable in gross income under the rules of the bill—absent an election to apply such amount to reduce the basis of depreciable assets, the amount of such income would not be taken into account for purposes of Code section 856.

Seventh. Amendment to Code section 382(b), modification of section 2(d) of the bill, amending Code section 382.

The House-passed bill provides that creditors of a debtor corporation would be treated as shareholders in applying the continuity rules of Code section 382 (b) to a "G" reorganization. The amendment would extend this rule to apply to any reorganization in a bankruptcy or similar case, rather than solely in a "G" reorganization.

SECTION 3.—RULES RELATING TO TITLE 11 CASES FOR INDIVIDUALS

First. Taxable year of the estate—prop. code section 1398(d)(1).

The House-passed bill provides that the first taxable year of the bankruptcy estate of an individual debtor ends on the same day as the debtor's taxable year which includes the date on which the bankruptcy case commences. This rule had been developed as a part of a prior version of the bill, which would have required that the estate report certain income recognized prior to commencement of the case. Inasmuch as the bill has been changed and now permits the debtor to close his or her taxable year on commencement of the case, the rule relating to the estate's taxable year no longer is necessary and accordingly would be deleted by the amendment.

Second. Estate's share of the debtor's income—prop. code section 1398(e)(1).

The House-passed bill provides that the gross income of the bankruptcy estate of an individual debtor would include any gross income of the debtor to which the estate is entitled under bankruptcy law. The amendment would clarify that only such income which is recognized after commencement of the case would be includable in the estate's gross income.

Third. Allocation of deductions and credits—prop. code section 1398(e)(3).

In cases where the bankruptcy estate of an individual would be treated as a separate taxable entity, the House-passed bill provides rules for allocating deduction and credits between the debtor and the estate. The amendment would modify these rules to make clear that only those expenses paid or accrued by the debtor which are not properly allowable to the debtor would be allocated to the estate. For example, an expense paid by a cash basis debtor before commencement of the bankruptcy case would be allowed to the debtor, even if such deduction could be considered to be associated with income which is allocated to the estate under the rules of the bill. Also, an expense paid or accrued by the debtor after commencement of the bankruptcy case would be allocated to the debtor, and not to the estate.

Fourth. No disposition rules—prop. code section 1398(f).

The bill provides that a transfer (other than by sale or exchange) of an asset from an individual debtor to the bankruptcy estate, or from the bankruptcy estate to the debtor on termination of the estate, would not be treated as a "transfer" giving rise to recognition of gain or loss, recapture of deductions, or acceleration of income or deductions. To conform with language used in related Code provisions, these provisions would be modified to provide that such a transfer would not be treated as a "disposition" for tax purposes.

Fifth. Carryover of attributes to debtors—prop. code section 1398(i).

The bill provides that on termination of a bankruptcy estate, the debtor would succeed to various tax attributes of the estate. This provision would be modified to make clear that the carryover includes attributes first arising during administration of the estate (other than the new administrative expense deduction which would be provided under the bill).

SECTION 5.—MISCELLANEOUS CORPORATE AMENDMENTS

First. Application of section 337 liquidation rule to insolvent corporations—modification to section 5(c) of the bill, amending code section 337.

The House bill expands the nonrecognition provisions under code section 337 to allow a liquidating corporation in a bankruptcy or similar case generally to sell its assets tax-free during the entire duration of the proceeding. The amendment would make this provision applicable whether or not any shareholder receives any consideration for this stock and also would clarify that assets may be retained to pay administrative claims following the close of the case.

Second. Effect of discharge of indebtedness on earnings and profits—modification of section 5(f) of the bill, amending Code section 312.

The House bill provides that to the extent income from discharge of indebtedness—including an amount excluded from gross income pursuant to Code section 108, as amended by the bill—is applied to reduce basis under Code section 1017, such basis-reduction amount does not affect the debtor corporation's earnings and profits. Otherwise, discharge of indebtedness income, including amounts excluded from gross income—pursuant to Code section 108, as amended by the bill, increases the earnings and profits of the corporation (or reduces a deficit). The amendment would provide also that any deficit in earnings and profits would be reduced by the capital account of any shareholder whose interest is eliminated in a bankruptcy proceeding.

Mr. CONABLE. Mr. Speaker, further

reserving the right to object, the first amendment delays for 1 year the application of the bill's attribution reduction rules and adds the bankruptcy and insolvency section. Is that correct? And the second amendment liberalizes the debt provisions of the House bill.

Mr. ULLMAN. The gentleman is correct.

Mr. CONABLE. Mr. Speaker, I rise in support of H.R. 5043, the Bankruptcy Tax Act of 1980, as amended by the other body.

As the Members will recall, the House earlier this year unanimously passed H.R. 5043. The other body adopted the House-passed bill with only two major amendments.

The first amendment would delay for 1 year the application of the bill's attribution reduction rules in the case of bankrupt or insolvent taxpayers. The amendment does not delay the application of these rules in the case of solvent taxpayers.

The second amendment liberalizes the "stock for debt" provisions of the House bill. The amendment provides that the exchange of stock for short-term debt will not result in the reduction of attributes except where the amount of stock exchanged is de minimis. Under the House-passed bill, the exchange of stock for short-term debt resulted in attribute reduction; while the exchange of stock for long-term debt or a security, did not trigger this type of reduction.

The other amendments made by the other body are technical in nature.

The bill represents the efforts of several professional organizations and the Treasury Department. The Select Revenue Measures Subcommittee and particularly its chairman, Mr. ROSTENKOWSKI, are to be complimented for their efforts in putting this bill together and reconciling the various differences that existed.

I urge the bill's passage.

● Mr. DUNCAN of Tennessee. Mr. Speaker, I support the chairman's unanimous consent request to accept H.R. 5043, the Bankruptcy Tax Act of 1980 as amended by the Senate.

The legislation is a necessary follow-on to the legislation earlier in this Congress which altered the substantive bankruptcy law. H.R. 5043 updates the tax treatment of bankruptcy to complement the new bankruptcy law.

The Senate made only two major amendments to H.R. 5043. First, it adopted an amendment which postpones for 1 year the effective date of certain rules in section 2 regarding the reduction of a net operating loss and basis of depreciable assets with respect to a bankrupt or insolvent debtor. My understanding is that this postponement is supported by elements of the bankruptcy bar. They apparently believe these provisions should be reviewed further. After the 1-year postponement ends, then these rules will become effective unless subsequent congressional action amends them.

The second amendment expands the stock for debt provisions. It provides that the exchange of stock for short-term debt will not result in the reduction of attributes in certain situations.

Mr. Speaker, H.R. 5043 passed the House on March 24, 1980, on a recorded vote with not one Member casting a nay vote. I believe the Senate amendments are acceptable and accordingly the bill before us now likewise merits our unanimous approval.●

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation first considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

TAX ADMINISTRATIVE PROVISIONS REVISION ACT OF 1979

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5505) to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. TRANSFER OF DOMESTIC WINE TO CUSTOMS BONDED WAREHOUSE FOR CERTAIN PURPOSES.

(a) TRANSFER TO CUSTOMS BONDED WAREHOUSE.—Paragraph (4) of section 5362(c) (relating to withdrawals of wine free of tax or without payment of tax) is amended to read as follows:

"(4) without payment of tax for transfer to any customs bonded warehouse;".

(b) WITHDRAWAL FROM CUSTOMS BONDED WAREHOUSES FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—Section 5362 is amended by adding at the end thereof the following new subsection

"(e) WITHDRAWAL FROM CUSTOMS BONDED WAREHOUSES FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, wine entered into customs bonded warehouses under subsection (c)(4) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported wines from such warehouses free of tax. Wines transferred to customs bonded warehouses under subsection (c)(4) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported wines.

"(2) WITHDRAWAL FOR DOMESTIC USE.—Wine entered into customs bonded warehouses under subsection (c)(4) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Wines so withdrawn shall be treated as American goods exported and returned.

"(3) SALE OR UNAUTHORIZED USE PROHIBITED.—Wine withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain wine free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provisions of paragraphs (1)(B) and (3) of section 5043(a) are hereby extended and made applicable to any person selling, disposing of, or possessing any wine in violation of the preceding sentence, and to the wine involved in any such violation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

SEC. 3. EXCISE TAX REFUNDS IN CASE OF CERTAIN USES OF TREAD RUBBER.

(a) REFUNDS FOR CERTAIN USES.—Subparagraph (G) of section 6416(b)2) is amended to read as follows

"(G) in the case of tread rubber in respect of which tax was paid under section 4071 (a)(4)—

"(i) used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)),

"(ii) destroyed, scrapped, wasted, or rendered useless in the recapping or retreating process,

"(iii) used in the recapping or retreading of a tire the sale of which is later adjusted pursuant to a warranty or guarantee, in which case the overpayment shall be in proportion to the adjustment in the sales price of such tire, or

"(iv) used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use, unless credit or refund of such tax is allowable under paragraph (3):".

(b) USE IN FURTHER MANUFACTURE, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 6416(b) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) in the case of tread rubber in respect of which tax was paid under section 4071(a) (4) used in the recapping or retreading of a tire, such tire is sold by the subsequent manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit eductional organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, unless credit or refund of such tax is allowable under subparagraph (C);".

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (E) of section 6416(b) (2) is amended by inserting after "paragraph (3)" the following: "(or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)),".

(B) Subparagraph (C) of section 6416(a) (1) is amended by striking out "(b) (3) (C)" and inserting in lieu thereof "(b) (3) (C) or (D)".

(C) Subparagraph (A) of section 6416(b) (3) is amended by inserting "(D)," after "(C),".

(D) Subparagraph (A) of section 6416(b) (4) is amended by striking out "section 4071" and inserting in lieu thereof "section 4071 or a recapped or retreaded tire in respect of which tax under section 4071(a) (4) was paid on the tread rubber used in the recapping or retreading".

(c) STATUTE OF LIMITATIONS.—Section 6511 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULE FOR CERTAIN TREAD RUBBER TAX CREDITS OR REFUNDS.—The period for allowing a credit or making a refund of any overpayment of tax arising by reason of subparagraph (G) (iii) of section 6416 (b) (2) with respect to any adjustment of sales price of a tire pursuant to a warranty or guarantee shall not expire if claim therefor is filed before the date which is 1 year after the day on which such adjustment is made.".

(d) IMPORTED RECAPPED OR RETREADED UNITED STATES TIRES.—Section 4071 is amended by adding at the end thereof the following new subsection:

"(f) IMPORTED RECAPPED OR RETREADED UNITED STATES TIRES.—

"(1) IN GENERAL.—For purposes of subsection (a) (4), in the case of a tire which has been exported from the United States, recapped or retreaded (other than bead to bead) outside the United States, and imported into the United States—

"(A) the person importing such tire shall be treated as importing the tread rubber used in such recapping or retreading (determined as of the completion of the recapping or retreading), and

"(B) the sale of such tire by the importer thereof shall be treated as the sale of such tread rubber.

"(2) EXEMPTION FOR CERTAIN TAXABLE SALES.—Paragraph (1) shall not apply with respect to the sale of any tire if such tire is sold on or in connection with the sale of an article on which tax is imposed under section 4061.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

SEC. 4. EXEMPT STATUS OF AUXILIARIES OF CERTAIN FRATERNAL BENEFICIARY SOCIETIES.

(a) GENERAL RULE.—Subsection (i) of section 501 is amended by adding at the end thereof the following new sentence: "The preceding sentence to the extent it relates to discrimination on the basis of religion shall not apply to—

"(1) an auxiliary of a fraternal beneficiary society if such society—

"(A) is described in subsection (c) (8) and exempt from tax under subsection (a), and

"(B) limits its membership to the members of a particular religion, or

"(2) a club which in good faith limits its membership to the members of a particular religion in order to further the teachings or principles of that religion, and not to exclude individuals of a particular race or color.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after October 20, 1976.

SEC. 5. EXTENSION OF WITHHOLDING TO PAYMENTS OF SICK PAY MADE BY THIRD PARTIES.

(a) GENERAL RULE.—Paragraph (1) of section 3402(o) (relating to extension of withholding to certain payments other than wages) is amended by striking out "and" at the end of subparagraph (A), by adding "and" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) any payment to an individual of sick pay which does not constitute wages (determined without regard to this subsection), if at the time the payment is made a request that such sick pay be subject to withholding under this chapter is in effect,".

(b) AMOUNT TO BE DEDUCTED AND WITHHELD.—Subsection (o) of section 3402 is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) AMOUNT WITHHELD FROM ANNUITY PAYMENTS OR SICK PAY.—If a payee makes a request that an annuity or any sick pay be subject to withholding under this chapter, the amount to be deducted and withheld under this chapter from any payment to which such request applies shall be an amount (not less than a minimum amount determined under regulations prescribed by the Secretary) specified by the payee in such request. The amount deducted and withheld with respect to a payment which is greater or less than a full payment shall bear the same relation to the specified amount as such payment bears to a full payment.

"(4) REQUEST FOR WITHHOLDING.—A request that an annuity or any sick pay be subject to withholding under this chapter—

"(A) shall be made by the payee in writing to the person making the payments and shall contain the social security number of the payee,

"(B) shall specify the amount to be deducted and withheld from each full payment, and

"(C) shall take effect—

"(i) in the case of sick pay, with respect to payments made more than 7 days after the date on which such request is furnished to the payor, or

"(ii) in the case of an annuity, at such time (after the date on which such request is furnished to the payor) as the Secretary shall by regulations prescribe.

Such a request may be changed or terminated by furnishing to the person making the payments a written statement of change or termination which shall take effect in the same manner as provided in subparagraph (C). At the election of the payor, any such request (or statement of change or revocation) may take effect earlier than as provided in subparagraph (C).

"(5) SPECIAL RULE FOR SICK PAY PAID PURSUANT TO CERTAIN COLLECTIVE-BARGAINING AGREEMENTS.—In the case of any sick pay paid pursuant to a collective-bargaining agreement between employee representatives and one or more employers which contains a provision specifying that this paragraph is to apply to sick pay paid pursuant to such agreement and contains a provision for determining the amount to be deducted and withheld from each payment of such sick pay—

"(A) the requirement of paragraph (1) (C) that a request for withholding be in effect shall not apply, and

"(B) except as provided in subsection (n), the amounts to be deducted and withheld under this chapter shall be determined in accordance with such agreement.

The preceding sentence shall not apply with respect to sick pay paid pursuant to any agreement to any individual unless the social security number of such individual is furnished to the payor and the payor is furnished with such information as is necessary to determine whether the payment is pursuant to the agreement and to determine the amount to be deducted and withheld.".

(c) DEFINITION OF SICK PAY.—Paragraph (2) of section 3402(o) (relating to definitions) is amended by adding at the end thereof the following new subparagraph:

"(C) SICK PAY.—For purposes of this subsection, the term 'sick pay' means any amount which—

"(i) is paid to an employee pursuant to a plan to which the employer is a party, and

"(ii) constitutes remuneration or a payment in lieu of remuneration for any period during which the employee is temporarily absent from work on account of sickness or personal injuries.".

(d) TECHNICAL AMENDMENT.—Subparagraph (B) of section 3402(o) (2) (defining annuity) is amended by striking out ", but only to the extent that the amount is includible in the gross income of such individual".

(e) REPORTING REQUIREMENTS.—Section 6051 (relating to receipts for employees) is amended by adding at the end thereof the following new subsection:

"(f) STATEMENTS REQUIRED IN CASE OF SICK PAY PAID BY THIRD PARTIES.—

"(1) STATEMENTS REQUIRED FROM PAYOR.—

"(A) IN GENERAL.—If, during any calendar year, any person makes a payment of third-party sick pay to an employee, such person shall, on or before January 15 of the succeeding year, furnish a written statement to the employer in respect of whom such payment was made showing—

"(i) the name and, if there is withholding under section 3402(o), the social security number of such employee,

"(ii) the total amount of the third-party sick pay paid to such employee during the calendar year, and

"(iii) the total amount (if any) deducted and withheld from such sick pay under section 3402.

For purposes of the preceding sentence, the term 'third-party sick pay' means any sick pay (as defined in section 3402(o) (2) (C)) which does not constitute wages for purposes of chapter 24 (determined without regard to section 3402(o) (1)).

"(B) SPECIAL RULES.—

"(i) STATEMENTS ARE IN LIEU OF OTHER REPORTING REQUIREMENTS.—The reporting requirements of subparagraph (A) with respect to any payments shall, with respect to such payments, be in lieu of the requirements of subsection (a) and of section 6041.

"(ii) PENALTIES MADE APPLICABLE.—For purposes of sections 6674 and 7204, the statements required to be furnished by subparagraph (A) shall be treated as statements required under this section to be furnished to employees.

"(2) INFORMATION REQUIRED TO BE FURNISHED BY EMPLOYER.—Every employer who receives a statement under paragraph (1) (A) with respect to sick pay paid to any employee during any calendar year shall, on or before January 31 of the succeeding year, furnish a written statement to such employee showing—

"(A) the information shown on the statement furnished under paragraph (1)(A), and

"(B) if any portion of the sick pay is excludable from gross income under section 104(a)(3), the portion which is not so excludable and the portion which is so excludable.

To the extent practicable, the information required under the preceding sentence shall be furnished on or with the statement (if any) required under subsection (a).".

(f) Effective Date.—The amendments made by this section shall apply to payments made on or after the first day of the first calendar month beginning more than 120 days after the date of the enactment of this Act.

Sec. 6. Time for Payment of Gift Taxes.

(a) Amendments to Subchapter A of Chapter 12.—

(1) Section 2501.—Subsection (a) of section 2501 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year" each place it appears.

(2) Section 2502.—

(A) Subsection (a) of section 2502 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year" each place it appears.

(B) Subsections (b) and (c) of such section are amended to read as follows:

"(b) Calendar Year.—Whenever used in this title in connection with the gift tax imposed by this chapter, the term 'calendar year' means the calendar year 1982 and succeeding calendar years.

"(c) Preceding Calendar Years and Quarters.—Whenever used in this title in connection with the gift tax imposed by this chapter—

"(1) the term 'preceding calendar years' means—

"(A) calendar year 1932 and 1970 and all calendar years intervening between calendar year 1932 and calendar year 1970, and

"(B) calendar year 1982 and all calendar years intervening between such calendar year and the calendar year for which the tax is being computed.

The term 'calendar year 1932' includes only that portion of such year after June 6, 1932.

"(2) The term 'preceding calendar quarters means the first calendar quarter of calendar year 1971, the last calendar quarter of calendar year 1981 and all calendar quarters intervening between such calendar quarters.".

(3) Section 2503.—

(A) Subsection (a) of section 2503 is amended to read as follows:

"(a) General Definition.—The term "taxable gifts" means in the case of gifts made after December 31, 1981, or before January 1, 1971, the total amount of gifts made during the calendar year, less the deductions provided in subchapter C (sec. 2521 and following). In the case of gifts made after December 31, 1970 and before January 1, 1982, such term means the total amount of gifts made during the calendar quarter, less the deductions provided in subchapter C.".

(B) The first sentence of subsection (b) of such section is amended to read as follows:

"In the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year 1982 and subsequent calendar years, the first $3,000 of such gifts to such person shall not, for purposes of subsection (a), be included in the total amount of gifts made during such year.".

(4) Section 2504.—Subsection (a) of section 2504 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year" each place it appears.

(5) Section 2505.—Section 2505 is amended—

(A) by striking out "calendar quarter" and inserting in lieu thereof "calendar year" each place it appears in subsection (a) and (d), and

(B) by striking out "calendar quarters" and inserting in lieu thereof "calendar years and calendar quarters" in paragraph (2) of subsection (a).

(b) Amendments to Subchapter B of Chapter 12.—

(1) Section 2512.—Subsection (b) of section 2512 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year".

(2) Section 2513.—

(A) Section 2513(a) is amended by striking out "calendar quarter" each place it appears and inserting in lieu thereof "calendar year".

(B) Paragraph (2) of section 2513(b) is amended by striking out "calendar quarter" in the matter preceding subparagraph (A) and inserting in lieu thereof "calendar year".

(C) Subparagraph (A) of subsection (b)(2) of section 2513 is amended to read as follows:

"(A) The consent may not be signified after the 15th day of April following the close of such year, unless before such 15th day no return has been filed for such year by either spouse, in which case the consent may not be signified after a return for such year is filed by either spouse.".

(D) Subparagraph (B) of subsection (b)(2) of section 2513 is amended—

(i) by striking out "the consent" and inserting in lieu thereof "The consent", and

(ii) by striking out "such calendar quarter" and inserting in lieu thereof "such year".

(E) Subsection (c) of section 2513 is amended—

(i) by striking out "calendar quarter" and inserting in lieu thereof "calendar year", and

(ii) by striking out "15th day of the second month following the close of such quarter" and inserting in lieu "15th day of April following the close of such year".

(F) Subsection (d) of section 2513 is amended—

(i) by striking out "any calendar quarter" and inserting in lieu thereof "any calendar year", and

(ii) by striking out "such calendar quarter" and inserting in lieu thereof "such year".

(3) Section 2515.—Subsection (c) of section 2515 is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year".

(c) Amendments to Subchapter C of Chapter 12.—

(1) Section 2522.—Section 2522 is amended by striking out "quarter" each place it appears and inserting in lieu thereof "year".

(2) Section 2523.—Subsection (a) of section 2523 is amended—

(A) by striking out "preceding calendar quarters" and inserting in lieu thereof "preceding calendar quarters and calendar years" in subparagraph (A) of paragraph (2),

(B) by striking out "each preceding calendar quarter" and inserting in lieu thereof "each preceding calendar quarter and calendar year" in clause (ii) of subparagraph (2)(B), and

(C) by striking out "calendar quarter" and inserting in lieu thereof "calendar year" each place it appears.

(d) Miscellaneous Amendments.—

(1) Paragraph (2) of subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended by striking out "calendar quarter (or calendar year if the gift was made before January 1, 1971)" and inserting in lieu thereof "calendar year (or calendar quarter if the gift was made after December 31, 1970, and before January 1, 1982)."

(2) Section 6019 (relating to gift tax returns) is amended by striking out subsection (b), by redesignating subsection (c) as subsection (b) and by amending subsection (a) to read as follows:

"(a) In General.—Any individual who in any calendar year makes any transfers by gift (other than transfers which under section 2503(b) are not included in the total amount of gifts for such year) shall make a return with respect to the gift tax imposed by subtitle B.".

(3) Subsection (b) of section 6075 (relating to time for filing gift tax returns) is amended to read as follows:

"(b) Gift Tax Returns.—

"(1) General rule.—Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of April following the close of the calendar year.

"(2) Extension where taxpayer granted extension for filing income tax return.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for such calendar year.

"(3) Coordination with due date for estate tax return.—Notwithstanding paragraphs (1) and (2), the time for filing the return made under section 6019 for the calendar year which includes the date of the death of the donor shall not be later than the time (including extensions) for filing the return made under section 6018 (relating to estate tax returns) with respect to such donor.".

(4) Paragraph (1) of section 6212(c) (relating to notice of deficiency) is amended by striking out "calendar quarter" and inserting in lieu thereof "calendar year".

(e) Effective Date.—The amendments made by this section shall apply with respect to gifts made after December 31, 1981.

Sec. 7. Rhode Island Indian Claims Settlement Act.

(a) In General.—The Rhode Island Indian Claims Settlement Act (Public Law 95-395) is amended by adding at the end thereof the following new title:

"TITLE II—TAX TREATMENT

"Exemption from Taxation

"Sec 201. (a) Except as otherwise provided in subsection (b) and (c), the settlement lands received by the State Corporation shall not be subject to any form of Federal, State, or local taxation while held by the State Corporation.

"(b) The exception provided in subsection (a) shall not apply to any income-producing activities occurring on the settlement lands.

"(c) Nothing in this Act shall prevent the making of payments in lieu of taxes by the State Corporation for services provided in connection with the settlement lands.

"Deferral of Capital Gains

"Sec. 202. For purposes of the Internal Revenue Code of 1954, any sale or disposition of private settlement lands pursuant to the terms and conditions of the settlement agreement shall be treated as an involuntary conversion within the meaning of section 1033 of the Internal Revenue Code of 1954.".

(b) Effective Date.—The amendment made by subsection (b) shall take effect on September 30, 1978.

The Clerk read the House amendments to the Senate amendments, as follows:

Strike out section 3 of the Senate amendment.

Strike out section 6 of the Senate amendment.

Redesignate sections 4, 5, and 7 of the Senate amendment as sections 3, 4, and 5, respectively.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I wonder if the distinguished chairman would explain the provisions of this measure and to what extent they have been considered by the House previously.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the bill H.R. 5505, makes a number of minor changes in the tax law, most of which are noncontroversial and unopposed by Treasury. Three provisions either have passed the House or received favorable subcommittee hearings. These provisions relate to the excise tax treatment of domestic wines used by embassies, the exempt status of fraternal organizations, and withholding for sick pay made by third parties.

In contrast, Mr. Speaker, a provision relating to the time for payment of gift taxes has not been the subject of any hearings here in the House. The hearing process provides a necessary and appropriate forum in which to review these miscellaneous, and usually narrow, or technical changes in the tax law. Often these measures are of little interest to the majority of taxpayers, but are of crucial importance to a few and to the Treasury. A hearing allows these interests to contribute their expertise and particular perspective to consideration of these measures which we would otherwise lack in our deliberations. In this way, most, if not all, of the problems and issues associated with a measure will surface early in the process and can be resolved.

The final provision, relating to the tax treatment under the Rhode Island Indian Claims Settlement Act, was rejected earlier by the Subcommittee on Select Revenue Measures, but earlier objections to this provision have been removed.

Therefore, Mr. Speaker, I urge the House to approve this motion to concur in the Senate amendment to H.R. 5505 with amendments.

Mr. CONABLE. Further reserving the right to object, Mr. Speaker, may I ask the distinguished gentleman whether the only provision that is dropped out in passage here by the House is the provision relating to the time for payment of gift taxes, to which there is not specific objection, but only that the House has not a chance to hold hearings or to study this measure in any degree.

The item relating to the tax treatment for the Rhode Island Indians, objection has been removed to that by the member of our committee who objected, and therefore, it is included in this measure, as I understand the chairman. Is that correct?

Mr. ULLMAN. The gentleman is correct.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

SECOND TIER TAX CORRECTION ACT OF 1980

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5391) to amend chapter 42 of the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, with Senate amendments thereto, concur in the Senate amendment to the title of the bill, and concur in the Senate amendment to the text of the bill with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. DETERMINATION OF SECOND TIER TAXES.

(a) DATE FOR DETERMINING AMOUNT OF SECOND TIER TAXES.—

(1) SUBSTITUTION OF TAXABLE PERIOD FOR CORRECTION PERIOD.—The following provisions are each amended by striking out "correction period" and inserting in lieu thereof "taxable period":

(A) Section 4941(b)(1) (relating to additional taxes on self-dealer).

(B) Section 4941(e)(2)(B) (defining amount involved).

(C) Section 4942(b) (relating to additional tax on failure to distribute income).

(D) Section 4943(b) (relating to additional tax on excess business holdings).

(E) Section 4944(b)(1) (relating to additional taxes on investment which jeopardizes charitable purpose).

(F) Section 4945(b)(1) (relating to additional taxes on taxable expenditures).

(G) Section 4951(b)(1) (relating to additional taxes on self-dealer).

(H) Section 4951(e)(2)(B) (defining amount involved).

(I) Section 4952(b)(1) (relating to additional taxes on taxable expenditures).

(J) Section 4971(b) (relating to additional tax on failure to meet minimum funding standards).

(K) Section 4975(b) (relating to additional taxes on disqualified persons).

(L) Section 4975(f)(4)(B) (defining amount involved).

(2) DEFINITION OF TAXABLE PERIOD.—

(A) Paragraph (1) of section 4941(e) (defining taxable period) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which correction of the act of self-dealing is completed."

(B) Paragraph (1) of section 4942(j) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respct to the tax imposed by subsection (a) under section 6212, or

"(B) the date on which the tax imposed by subsection (a) is assessed."

(C) Paragraph (2) of section 4943(d) is amended to read as follows:

"(2) TAXABLE PERIOD.—The 'taxable period' means, with respect to any excess business holdings of a private foundation in a business enterprise, the period beginning on the first day on which there are excess holdings and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212 in respect of such holdings, or

"(B) the date on which the tax imposed by subsection (a) in respect of such holdings is assessed."

(D) Paragraph (1) of section 4944(e) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which the amount is so invested and ending on the earliest of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which the amount so invested is removed from jeopardy."

(E) Paragraph (2) of section 4945(i) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed."

(F) Paragraph (1) of section 4951(e) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which correction of the act of self-dealing is completed."

(G) Paragraph (2) of section 4952(e) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed."

(H) Paragraph (3) of section 4971(c) is amended to read as follows:

"(3) TAXABLE PERIOD.—The term 'taxable period' means, with respect to an accumulated funding deficiency, the period beginning with the end of the plan year in which there is an accumulated funding deficiency and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a), or

"(B) the date on which the tax imposed by subsection (a) is assessed."

(I) Paragraph (2) of section 4975(f) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any prohibited transaction, the period beginning with the date on which the prohibited transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212,

"(B) the date on which the tax imposed by subsection (a) is assessed, or

"(C) the date on which correction of the prohibited transaction is completed."

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 4941 is amended by striking out paragraph (4).

(B) Subsection (j) of section 4942 is amended—

(i) by striking out paragraph (2),

(ii) by striking out "paragraph (5)" in paragraph (3)(B)(i) and inserting in lieu thereof "paragraph (4)",

(iii) by redesignating paragraph (4) as paragraph (2), and

(iv) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(C) Subsection (d) of section 4943 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(D) Subsection (e) of section 4944 is amended by striking out paragraph (3).

(E) Subsection (e) of section 4951 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(F) Subsection (f) of section 4975 is amended by striking out paragraph (6).

(4) CLERICAL AMENDMENTS.—

(A) Clause (ii) of section 4942(g)(2)(C) is amended by striking out "the initial correction period provided in subsection (j)(2)" and inserting in lieu thereof "the correction period (as defined in section 4962(e))".

(B) Subparagraph (A) of section 4943(d)(3) (as redesignated by paragraph (3)(c)) is amended by striking out "4942(j)(5)" and inserting in lieu thereof "4942(j)(4)".

(C) Subsection (e) of section 6213 (relating to suspension of filing period for certain excise taxes) is amended by striking out "section 4941(e)(4)" and all that follows through the end of such subsection and inserting in lieu thereof "section 4962(e)."

(D) Subsection (g) of section 6503 (relating to suspension of running of period of limitation pending correction) is amended by striking out "section 4941(e)(4)" and all that follows through the end of such subsection and inserting in lieu thereof "section 4962(e)."

(E) Section 6503 is amended by redesignating subsection (j) as subsection (i).

(F) The amendments made by sections 1203(h)(1) and 1601(f)(2) of the Tax Reform Act of 1976, and the amendment made by section 362(d)(5) of the Revenue Act of 1978, shall be deemed to be amendments to section 6503(i) of the Internal Revenue Code of 1954 (as redesignated by subparagraph (E)).

(b) TAX COURT TO DETERMINE WHETHER TAXABLE EVENT HAS BEEN CORRECTED.—Subsection (c) of section 6214 (relating to determinations by Tax Court) is amended by adding at the end thereof the following new sentence: "The Tax Court, in redetermining a deficiency of any second tier tax (as defined in section 4962(b)), shall make a determination with respect to whether the taxable event has been corrected."

(c) ABATEMENT OF TAX WHERE THERE IS CORRECTION DURING CORRECTION PERIOD.—

(1) IN GENERAL.—Chapter 42 is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Abatement of Second Tier Taxes Where There Is Correction During Correction Period

"SEC. 4961. Abatement of second tier taxes where there is correction.

"Sec. 4962. Definitions.

"SEC. 4961. ABATEMENT OF SECOND TIER TAXES WHERE THERE IS CORRECTION.

"(a) GENERAL RULE.—If any taxable event is corrected during the correction period for such event, then any second tier tax imposed with respect to such event (including interest, additions to the tax, and additional amounts) shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

"(b) SUPPLEMENTAL PROCEEDINGS.—If the determination by a court that the taxpayer is liable for a second tier tax has become final, such court shall have jurisdiction to conduct any necessary supplemental proceeding to determine whether the taxable event was corrected during the correction period. Such a supplemental proceeding may be begun only during the period which ends on the 90th day after the last day of the correction period. Where such a supplemental proceeding has begun, the reference in the second sentence of section 6213(a) to a final decision of the Tax Court shall be treated as including a final decision in such supplemental proceeding.

"(c) SUSPENSION OF PERIOD OF COLLECTION FOR SECOND TIER TAX.—

"(1) PROCEEDING IN DISTRICT COURT OR COURT OF CLAIMS.—If, not later than 90 days after the day on which the second tier tax is assessed, the first tier tax is paid in full and a claim for refund of the amount so paid is filed, no levy or proceeding in court for the collection of the second tier tax shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in paragraph (2) (and of any supplemental proceeding with respect thereto under subsection (b)). Notwithstanding section 7421(a), the collection by levy or proceeding may be enjoined during the time such prohibition is in force by a proceeding in the proper court.

"(2) SUIT MUST BE BROUGHT TO DETERMINE LIABILITY.—If, within 90 days after the day on which his claim for refund is denied, the person against whom the second tier tax was assessed fails to begin a proceeding described in section 7422 for the determination of his liability for such tax, paragraph (1) shall cease to apply with respect to such tax, effective on the day following the close of the 90-day period referred to in this paragraph.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court with respect to any second tier tax described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

"(4) JEOPARDY COLLECTION.—If the Secretary makes a finding that the collection of the second tier tax is in jeopardy, nothing in this subsection shall prevent the immediate collection of such tax.

"SEC. 4962. DEFINITIONS.

"(a) FIRST TIER TAX.—For purposes of this subchapter, the term 'first tier tax' means any tax imposed by subsection (a) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(b) SECOND TIER TAX.—For purposes of this subchapter, the term 'second tier tax' means any tax imposed by subsection (b) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(c) TAXABLE EVENT.—For purposes of this subchapter, the term 'taxable event' means any act (or failure to act) giving rise to liability for tax under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(d) CORRECT.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'correct' has the same meaning as when used in the section which imposes the second tier tax.

"(2) SPECIAL RULES.—The term 'correct' means—

"(A) in the case of the second tier tax imposed by section 4942(b), reducing the amount of the undistributed income to zero,

"(B) in the case of the second tier tax imposed by section 4943(b), reducing the amount of the excess business holdings to zero, and

"(C) in the case of the second tier tax imposed by section 4944, removing the investment from jeopardy.

"(e) CORRECTION PERIOD.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'correction period' means, with respect to any taxable event, the period beginning on the date on which such event occurs and ending 90 days after the date of mailing under section 6212 of a notice of deficiency with respect to the second tier tax imposed on such taxable event, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a) (determined without regard to the last sentence of section 4961(b)), and

"(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the taxable event.

"(2) SPECIAL RULES FOR WHEN TAXABLE EVENT OCCURS.—For purposes of paragraph (1), the taxable event shall be treated as occurring—

"(A) in the case of section 4942, on the first day of the taxable year for which there was a failure to distribute income,

"(B) in the case of section 4943, on the first day on which there are excess business holdings,

"(C) in the case of section 4971, on the last day of the plan year in which there is an accumulated funding deficiency, and

"(D) in any other case, the date on which such event occurred."

(2) CIVIL ACTIONS FOR REFUNDS.—Paragraph (1) of section 7422(g) (relating to special rules for certain excise taxes imposed by chapter 42 or 43) is amended to read as follows:

"(1) RIGHT TO BRING ACTIONS.—

"(A) IN GENERAL.—With respect to any taxable event payment of the full amount of the first tier tax shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.

"(B) Definitions.—For purposes of subparagraph (A), the terms 'taxable event', 'first tier tax', and 'second tier tax' have the respective meanings given to such terms by section 4962."

(3) Clerical amendment.—The table of subchapters for chapter 42 is amended by adding at the end thereof the following new item:

"Subchapter C. Abatement of second tier taxes where there is correction during correction period."

(d) Effective Dates.—

(1) First tier taxes.—The amendments made by this section with respect to any first tier tax shall take effect as if included in the Internal Revenue Code of 1954 when such tax was first imposed.

(2) Second tier taxes.—The amendments made by this section with respect to any second tier tax shall apply only with respect to taxes assessed after the date of the enactment of this Act. Nothing in the preceding sentence shall be construed to permit the assessment of a tax in a case to which, on the date of the enactment of this Act, the doctrine of res judicata applies.

(3) First and second tier tax.—For purposes of this subsection, the terms "first tier tax" and "second tier tax" have the respective meanings given to such terms by section 4962 of the Internal Revenue Code of 1954.

Sec. 3. Treatment of Certain Charitable Trusts for Purposes of the Minimum Tax.

(a) General Rule.—Subparagraph (C) of section 57(b)(2) (relating to treatment of certain charitable contributions of trusts for purposes of the minimum tax) is amended by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively, and by inserting after clause (iii) the following new clause:

"(iv) deductions allowable to a trust—

"(I) all the income interests in which are devoted to one or more of the purposes described in section 170(c) (determined without regard to section 170(c)(2)(A)),

"(II) all of the interests (other than income interests) in which are held by a corporation, and

"(III) the grantor of which is a corporation."

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

Sec. 4. Excise Taxes on Tires.

(a) Reductions in Rate of Tax.—

(1) In general.—

(A) Section 4071(a)(1) is amended by striking out "10 cents" and inserting "9.75 cents".

(B) Section 4071(a)(2) is amended by striking out "5 cents" and inserting "4.875 cents".

(C) Section 4071(d)(1) is amended by striking out "5 cents" and inserting "4.875 cents".

(2) Effective date.—The amendments made by this subsection shall apply on and after January 1, 1981.

(b) Determination of Overpayment.—

(1) In general.—The determination of the extent to which any overpayment of tax imposed by section 4071(a) (1) or (2) or section 4071(b) has arisen by reason of an adjustment of a tire after the original sale pursuant to a warranty or guarantee, and the allowance of a credit or refund of any such overpayment, shall be determined in accordance with the principles set forth in regulations and rulings relating thereto to the extent in effect on March 31, 1978.

(2) Effective date.—This subsection shall apply to the adjustment of any tire after March 31, 1978, and prior to January 1, 1983.

(c) Tires and Inner Tubes.—

(1) In general.—Paragraph (1) of section 6416(b) (relating to price readjustments) is amended to read as follows:

"(1) Price readjustments.—

"(A) In general.—Except as provided in subparagraph (B) or (C), if the price of any article in respect of which a tax, based on such price, is imposed by chapter 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216(e) (2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment.

"(B) Further manufacture.—Subparagraph (A) shall not apply in the case of an article in respect of which tax was computed under section 4223(b)(2); but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

"(C) Adjustment of tire price.—No credit or refund of any tax imposed by section 4071(a)(1) or (2) section 4071(b) shall be allowed or made by reason of an adjustment of a tire after the original sale and initial use of such tire, pursuant to a warranty or guarantee.".

(2) Effective date.—The amendments made by this subsection shall apply to the adjustments of any tire after December 31, 1982.

Sec. 5. Application of Cash or Deferred Arrangement Rules to Money Purchase Pension Plans.

(a) In General.—Subsection (k) of section 401 (relating to cash or deferred arrangements) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "A money purchase pension plan shall not be considered as not satisfying the requirements of subsection (a) merely because the plan includes a qualified salary reduction arrangement.",

(2) by inserting after "arrangement" in paragraph (3)(A) the following: "under a profit-sharing or stock bonus plan, or a qualified salary reduction arrangement under a money purchase pension plan,", and

(3) by adding at the end thereof the following new paragraph:

"(5) Qualified salary reduction arrangement.—

"(A) In general.—A qualified salary reduction arrangement is an arrangement, under a money purchase pension plan—

"(i) under which a covered employee may elect to have the employer make payments as contributions to a trust under the plan on behalf of the employee, or to the employee directly in cash, and

"(ii) which provides that an employee's right to this accrued benefit derived from employer contributions made to the trust pursuant to his election is nonforfeitable.

"(B) Money purchase pension plan.—For purposes of this subsection, the term 'money purchase pension plan' means a pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)),

"(ii) which was in existence on June 27, 1974, and which, on that date, included a salary reduction arrangement, and

"(iii) under which neither the employee contribution nor the employer contributions may exceed the levels provided for by the contribution formula in effect under the plan on that date.".

(b) Taxability of Beneficiaries.—Paragraph (8) of section 402(a) (relating to cash or deferred arrangements) is amended by inserting after "(as defined in section 401(k)(2))" the following: ", or a qualified salary reduction arrangement under a money purchase pension plan (as defined in section 401(k)(5)),".

(c) Conforming Amendments.—

(1) The caption of subsection (k) of section 402(a) is amended by inserting "; Qualified Money Purchase Pension Plan" after "Arrangements".

(2) The caption of paragraph (8) of section 402(a) is amended by inserting "; Qualified money purchase pension plan" after "arrangements".

(d) Effective Dates.—

(1) In general.—

(A) The amendments made by subsections (a) and (c)(1) shall apply with respect to taxable years beginning after December 31, 1979.

(B) The amendments made by subsections (b) and (c)(2) shall apply with respect to contributions made after December 31, 1979.

(2) Transition rule.—Any contribution made after December 31, 1979, and before the first day of the first plan year beginning after December 31, 1979, to a trust under a plan which includes a salary reduction plan or arrangement described in section 2006(b)(2) of the Employee Retirement Income Security Act of 1974 shall be treated as made to a trust which is part of a plan which includes a qualified salary reduction arrangement (as defined in section 401(k)(5) of the Internal Revenue Code of 1954), whether or not the trust to which the contribution is made meets the requirements of section 401(k)(5) of such Code.

Sec. 6. Tax Treatment of Proceeds Held in Trust for Klamath Indian Tribe.

(a) In General.—The first section of the Act entitled "An Act to exclude from gross income gains from the condemnation of certain forest lands held in trust for the Klamath Indian Tribe", approved August 9, 1975, is amended by striking out "gain resulting from" and inserting in lieu thereof "all amounts realized by the trust from".

(b) Effective Date.—The amendment made by subsection (a) shall apply to all amounts whether received before, on, or after the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, and for other purposes.".

The Clerk read the House amendments to the Senate amendments, as follows:

Page 35, beginning on line 5, strike out "after the original sale and initial use of such tire,".

Strike out section 5 of the Senate amendment and redesignate section 6 as section 5.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I would like to ask the distinguished chairman once again if he could describe what in this modest measure has had the attention of the House previously among these multifold items that are being presented to us now at the last minute by the Senate.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. ULLMAN. Three provisions either have passed the House or received favorable subcommittee hearings. These provisions relate to the correction of a technical error in the operation of the two-tier excise tax system, exemption from the alternative minimum tax for charitable lead trusts, and the simplification of the warranty adjustments in the excise tax on tires. The bill also contains a provision relating to the tax treatment of condemnation proceeds for the Kalmath Indians. It is a correction to a measure previously passed with regard to that matter.

Mr CONABLE. May I ask the chairman if, as it came from the Senate, this provision included an item relating to salary reduction arrangements under money purchase pension plans. Is that to be included and returned to the Senate or not?

Mr. ULLMAN. If the gentleman will yield further, that matter was stricken because the House has not held hearings on it.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Did I understand the chairman to say that this does resolve the excise tax problem with respect to warranty adjustments on tires and that that matter would be handled in this legislation?

Mr. CONABLE. It does. The chairman will confirm that, I am sure.

Mr. SEIBERLING. Is that correct?

Mr. ULLMAN. If the gentleman will yield, that is correct.

Mr. CONABLE. We have passed similar measures before, but they have not gone to final completion. We hope this will settle it.

Mr. SEIBERLING. I am only too aware of our past efforts, and I think if we can get through this time, it will be something of a milestone, particularly since it is really a settlement that the Government and the tire industry both benefit from.

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Mr. CONABLE. From now on the rubber will meet the road appropriately.

Mr. SEIBERLING. I thank the gentleman.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

AMENDING INTERNAL REVENUE CODE REGARDING NET LOSS CARRYOVER PERIOD FOR PERSONS WHO CEASE TO BE REAL ESTATE INVESTMENT TRUST

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4968) to amend the Internal Revenue Code of 1954 to provide that in certain cases the net operating loss carryover period for a taxpayer who ceases to be real estate investment trust shall be the same as the net operating loss carryover period for a taxpayer who continues to be a real estate investment trust with Senate amendments thereto, concur in the Senate amendment to the title of the bill, and concur in the Senate amendment to the text of the bill.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out lines 3, 4, and 5 and insert:

SECTION 1. NET OPERATING LOSS CARRYOVER FOR CERTAIN REITS.

(a) IN GENERAL.—Subparagraph (E) of section 172(b)(1) of the Internal Revenue Code of 1954 (relating to net operating loss deduction) is amended to read as follows:

Page 2, line 24, after "(b)" insert "EFFECTIVE DATE.—".

SEC. 2. INCREASES IN INTEREST RATES PAYABLE ON UNITED STATES RETIREMENT PLAN AND INDIVIDUAL RETIREMENT BONDS.

(a) IN GENERAL.—The first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by adding at the end thereof the following new paragraph:

"The Secretary of the Treasury, with the approval of the President, may provide by regulations that the investment yield on any offerings of bonds issued under this Act which are described in section 405(b) or 409(a) of the Internal Revenue Code of 1954 (relating to retirement plan bonds and individual retirement bonds, respectively) be increased for the interest accrual periods specified in such regulations so that the investment yield on such bonds for such periods is consistent with the investment yield on new offerings of such bonds.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to the investment yield on bonds issued before, on, or after the date of the enactment of this Act, but only for purposes of increasing the investment yield on such bonds for interest accrual periods beginning after the date of enactment of this Act.

SEC. 3. GENERAL STOCK OWNERSHIP CORPORATIONS.

(a) IN GENERAL.—Subchapter U of the Internal Revenue Code of 1954 (relating to general stock ownership corporations) is amended—

(1) by inserting "or the estate of a deceased shareholder" after "State" in section 1391(a)(D)(ii);

(2) by striking out "Individuals" in the caption of section 1391(c) and inserting in lieu thereof "Individual";

(3) by striking out "1393" in section 1392(a) and inserting in lieu thereof "1396(b)";

(4) by striking out "and all succeeding years" in section 1392(b)(1);

(5) by striking out "section, the term 'taxable income'" in section 1393(a)(2) and inserting in lieu thereof "subchapter, the taxable income";

(6) by striking out "a GSOC" in sections 1393(a)(2), 1393(b)(3), 1394(c), and 1396(b) and inserting in lieu thereof "an electing GSOC";

(7) by striking out "GSOC" in the heading for section 1394 and inserting in lieu thereof "GSOC";

(8) by striking out "the GSOC" in sections 1393(b)(3) and 1394(d) and inserting in lieu thereof "an electing GSOC";

(9) by striking out "A GSOC" in section 1396(a) and inserting in lieu thereof "An electing GSOC";

(10) by adding at the end of section 1396(b) the following: "Such tax shall be deductible as an ordinary and necessary expense of the corporation under section 162."; and

(11) by amending the table of sections for such subchapter to read as follows:

"Subchapter U—General Stock Ownership Corporations

"Sec. 1391. Definitions.
"Sec. 1392. Election by GSOC.
"Sec. 1393. GSOC taxable income taxed to shareholders.
"Sec. 1394. Rules applicable to distributions of an electing GSOC.
"Sec. 1395. Adjustment to basis of stock of shareholders.
"Sec. 1396. Minimum distributions.
"Sec. 1397. Special rules applicable to an electing GSOC.".

(b) CONFORMING AMENDMENT.—The last sentence of section 6039B of such Code (relating to return of general stock ownership corporations) is amended by inserting "electing" after "Every".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to corporations chartered after December 31, 1978, and before January 1, 1984.

SEC. 4. CHARITABLE SERVICES PERFORMED ABROAD.

(a) IN GENERAL.—Subsection (a) of section 911 of the Internal Revenue Code of 1954 (relating to income earned by individuals in certain camps) is amended by inserting "or who performs qualified charitable services in a lesser developed country," after "hardship area,".

(b) DOLLAR LIMITATIONS.—

(1) IN GENERAL.—Subparagraph (A) of subsection (c)(1) of such section 911 of such Code is amended to read as follows:

"(A) DOLLAR LIMITATIONS.—

"(i) CAMP RESIDENTS.—In the case of an individual who resides in a camp located in a hardship area, the amount excluded from the gross income of the individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000 for days during which he resides in a camp.

"(ii) EMPLOYEES OF CHARITABLE ORGANIZATIONS.—If any individual performs qualified charitable services in a lesser developed country during any taxable year, the amount of the earned income attributable to such services excluded from the gross income of the individual under subsection (a) for the taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000.

"(iii) SPECIAL RULE.—If any individual performs qualified charitable services in a lesser developed country and performs other services while residing in a camp located in a hardship area during any taxable year, the amount of the earned income attributable to such other services excluded from the gross income of the individual under subsection (a) for the taxable year shall not (after the application of clause (i) with respect to such earned income) exceed $20,000 reduced by the amount of the earned income attributable to qualified charitable services excluded from gross income under subsection (a) for the taxable year.".

(2) DEFINITIONS.—Subsection (c)(1) of such section 911 of such Code is amended by adding at the end thereof the following:

"(D) QUALIFIED CHARITABLE SERVICES.—For purposes of this subsection, the term 'qualified charitable services' means services performed by an employee for an employer which—

"(i) meets the requirements of section 501(c)(3), and "(ii) is not a private foundation (within the meaning of section 509(a)).

"(E) Lesser developed country.—The term 'lesser developed country' means any foreign country other than—

"(i) a country listed in the first sentence of section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462), or

"(ii) a country designated by the President as not being a lesser developed country.".

(c) Technical Amendments.—

(1) The heading for such section 911 of such Code is amended by inserting "or from charitable services" after "camps".

(2) The item relating to section 911 in the table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by inserting "or from charitable services" after "camps".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Sec. 5. Arbitrage Requirements for Mortgage Subsidy Bonds.

(a) General Rule.—Paragraph (4) of section 103A(i) of the Internal Revenue Code of 1954 (relating to requirements related to arbitrage) is amended by adding at the end thereof the following new subparagraphs:

"(C) Reduction where issuer does not use full 1 percentage point under paragraph (2).—

"(1) In General.—The amount required to be paid or credited to mortgagors under subparagraph (A) (determined under this paragraph without regard to this subparagraph) shall be reduced by the unused paragraph (2) amount.

"(ii) Unused paragraph (2) amount.—For purposes of clause (i), the unused paragraph (2) amount is the amount which (if it were treated as an interest payment by mortgagors) would result in the excess referred to in paragraph (2)(A) being equal to 1 percentage point. Such amount shall be fixed and determined as of the yield determination date.

"(D) Election to pay u.s.—Subparagraph (A) shall be satisfied with respect to any issue if the issuer elects before issuing the obligations to pay over to the United States—

"(i) not less frequently than once each 5 years after the date of issue, an amount equal to 90 percent of the aggregate amount which would be required to be paid or credited to mortgagors under subparagraph (A) (and not theretofore paid to the United States), and

"(ii) not later than 30 days after the redemption of the last obligation, 100 percent of such aggregate amount not theretofore paid to the United States.

"(E) Simplified accounting.—The Secretary shall permit any simplified system of accounting for purposes of this paragraph which the issuer establishes to the satisfaction of the Secretary will assure that the purposes of this paragraph are carried out."

(b) Technical Amendment.—Paragraph (8) of section 103A(l) of such Code is amended by inserting "or paid to the United States" after "credited to mortgagors".

(c) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made bv section 1102 of the Mortgage Subsidy Bond Tax Act of 1980.

Amend the title to read as follows: "An Act to amend the Internal Revenue Code of 1954 with respect to net operating loss carryovers of taxpayers who cease to be real estate investment trusts, to increase interest rates on certain United States retirement bonds, and for other purposes.".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the chairman to explain the Senate amendments to this matter and what previous action has been taken by the House on the provisions that we are now being asked to act upon.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. ULLMAN. Mr. Speaker, H.R. 4968 makes some minor changes in the law. Two of these provisions either have passed the House or received favorable subcommittee hearings. These relate to extension of the loss carryover period for certain real estate investment trusts and the rate of interest on U.S. retirement bonds.

The bill also contains provisions simplifying the administration of rules relating to arbitrage bonds and making clerical amendments to the general stock ownership provisions.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. Further reserving the right to object, I yield to the gentleman from Minnesota.

Mr. FRENZEL. I would ask the distinguished chairman of the Ways and Means Committee to tell me if this contains an item on tax treatment of employees of charities working abroad.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. ULLMAN. The gentleman is correct.

Mr. FRENZEL. I thank the chairman for this information.

I think the section 911 change is an important part of the bill, and a good first step toward elimination of all taxes on earned income by American residents abroad.

I also believe that the Senate amendments with respect to arbitrage on the mortgage bonds bill which has passed this body recently are important to the operation of those housing programs.

What I hope is the last step in a long and arduous journey toward reasonable mortgage revenue bond legislation is contained in the Senate arbitrage amendment to H.R. 4689.

The Senate amendment provides an alternative to the current arbitrage provisions contained in the mortgage revenue bond section of the reconciliation bill. It is my understanding that state and local officials with experience in conducting mortgage revenue bond programs regard the current arbitrage restrictions as unworkable. The amendment adopted by the Senate does not eliminate the present 1-percent arbitrage limitation, but it does allow the Secretary of the Treasury to approve alternatives to the system of holding down costs that is laid out in the Reconciliation bill.

The second part of the amendment is especially important to the viability of the present mortgage bond bill. As the bill is now written, all excess arbitrage earnings must be returned to the mortgagors who are recipients of the below-market interest rate loans. This provision has been described by housing officials as an administrative nightmare, if not an impossibility. It is particularly troublesome to State housing finance agency officials who conduct large programs that involve many mortgagors. The Senate amendment allows states and cities the option of paying back excess arbitrage earnings to the Treasury rather than the mortgagors if they desire. In other words, the amendment allows the Treasury to recoup some of its losses, as an alternative to mandating a bonus for those already receiving the benefit of a subsidized mortgage.

The role of oversight by the Secretary of the Treasury in the case of both arbitrage provisions insures that the intent of Congress in holding down the costs and eliminating abuse of this program will be followed. The amendment has the support of the Natonal League of Cities, Council of State Housing Finance Agencies, and other housing groups most affected by mortgage revenue bond legislation. After the many months that have gone into developing mortgage revenue bond legislation, it would be disastrous to send forth legislation that simply does not work. The Senate's very modest arbitrage amendment will remove the most significant stumbling block that now stands in the way of mortgage revenue bond programs. Without it, we may very well be forced to readdress this issue early next year.

I congratulate the chairman for his work in bringing the bill forward and I thank the gentleman for yielding.

● Mr. DUNCAN of Tennessee. Mr. Speaker, I support the Chairman's unanimous-consent request to accept H.R. 4968 as passed by the Senate.

The Senate-passed bill retains the original House provision which provides for an extension of the loss carryover period for certain real estate investment trusts.

The Senate added several acceptable amendments. The first amendment provides a $20,000 income exclusion for employees of charities working overseas. This amendment will provide tax relief to the missionaries who provide humanitarian and religious service to the less fortunate around the world. The $20,000 exclusion level is comparable to the treatment provided employees of U.S. companies who work in hardship areas.

A second Senate amendment authorizes the Treasury Department to make upward adjustments in the rates on outstanding U.S. retirement bonds. Current law precludes an upward adjustment. The provision is similar to section 8 of H.R. 4746 which passed the House on September 17, 1979.

A third Senate amendment makes technical changes in the rules governing general stock ownership corporations (GSOC's). For example, under the amendment an estate could be a stockholder in a GSOC, whereas current law requires stockholders to be individuals only.

The fourth Senate amendment is intended to simplify the accounting rules for arbitrage earnings for mortgage revenue bonds in the recently passed Omnibus Budget Reconciliation Act. It allows the Secretary of the Treasury the flexibility to recognize simplified accounting systems for the arbitrage computation. It also permits the bond issues the alternative of paying 90 percent of the arbitrage earnings on nonmortgage investments to the United States every 5 years. This would be in lieu of returning the arbitrage earnings to the mortgagors. This is a simplification because it eliminates the need for the issuer to keep track of every mortgagor and to devise a fair method of returning the arbitrage earnings to many diverse mortgagors.

I believe H.R. 4968 as passed by the Senate is a good bill.●

Mr. CONABLE. If I may reclaim the time, I think the membership might want to know that the provision relating to charities working abroad has to do with permitting such individuals meeting foreign residence or presence tests, who perform qualified charitable services in less developed countries, hereafter to elect an exclusion from income of $20,000 on the same basis as employees residing in camps in hardship areas. These employees of charities working abroad are generally much lower paid employees than those of American business working abroad and to give them status comparable to those employees of private organizations residing in camps would reflect, I think, relative hardship in a way that would be entirely appropriate and equitable under the law.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. Further reserving the right to object, I yield to the gentleman from Ohio.

Mr. VANIK. I want to thank the gentleman for yielding and thank my distinguished colleague from Oregon. This legislation is the final work of our distinguished chairman of the Ways and Means Committee, the gentleman from Oregon (Mr. ULLMAN).

I want to say in my 26 years that I have served with eight or nine chairmen, and I want to say that this has been the most fruitful, the most satisfactory, and the most pleasant experience of my 26 years in the Congress. I want to say to my good friend, well done.

Mr. CONABLE. Mr. Speaker, if I may reclaim the time, I only regret that I did not serve 26 years with the gentleman also.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AMENDING POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

Mr. DINGELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 4576) to amend the Powerplant and Industrial Fuel Use Act of 1978 to permit local distribution companies to provide natural gas service to residential customers for use in outdoor lighting fixtures installed before the date of the enactment of such act.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402(b)(1) of the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620; 92 Stat. 3289) is amended—

(1) by inserting "(other than any outdoor lighting fixture installed before the date of the enactment of this Act for use in connection with a residence)" after "use in outdoor lighting", and

(2) in subparagraph (C), by striking out the dash and all that follows through "residence," and inserting in lieu thereof "any municipal outdoor lighting fixture".

□ 1640

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DINGELL: Strike all after the enacting clause and insert:

That section 402(b)(1) of the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620) is amended—

(1) by inserting "(other than any outdoor lighting fixture which was installed before the date of the enactment of this Act for use in connection with a residence and for which natural gas was being provided on such date of enactment)" after "use in outdoor lighting", and

(2) in subparagraph (C), by striking out the dash and all that follows through "residence," and inserting in lieu thereof "any municipal outdoor lighting fixture".

SEC. 2. Section 402 of such Act is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) For the purpose of discouraging the use of natural gas for outdoor lighting, each local distribution company which is subject to subsection (a) or (b) shall, in accordance with rules promulgated by the Secretary—

"(A) establish a reasonable and simple method, as determined by each such company, by which the company shall periodically inform its customers about the amount of natural gas consumed by outdoor lighting and the annual cost of such gas for such lighting; and

"(B) report to the Secretary the method established under subparagraph (A).

A company may establish a method which provides for reporting such information on the basis of estimates where actual information is not readily available.

"(2) The Secretary shall propose the rules referred to in paragraph (1) as promptly as possible after the date of the enactment of this subsection, and such rules shall take effect not later than the ninetieth day after they are proposed. In promulgating such rules, the Secretary shall, to the greatest extent feasible, consult with the appropriate regulatory authority of the States and the local distribution companies who will be subject to the rules."

Amend the title so as to read: "A Bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to permit local distribution companies to continue natural gas service to residential customers for outdoor lighting fixtures for which natural gas was provided on the date of enactment of such Act, and for other purposes.".

Mr. DINGELL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BROWN of Ohio. Mr. Speaker, reserving the right to object—and I shall not object—I wonder if the gentleman from Michigan might explain the provisions of the bill and comment on its purpose, which is a modification of the legislation that, along with other members of the subcommittee and the Congress, I introduced some time ago.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, H.R. 4576 would amend section 402 of the Powerplant and Industrial Fuel Use Act of 1978. Section 402 of the FUA generally prohibits gas companies from installing new gaslights and from providing the gas needed to fuel existing gaslights. There are provisions for exemptions, several different effective dates for various categories of gaslights, and separate requirements for direct industrial customers. The essential thrust is to prohibit local gas distributors from servicing outdoor gaslights.

The objective of the act, which was enacted after the very serious gas shortage of a few years ago, is to prevent the waste of this nonrenewable resource for decorative purposes. However, the prohibition for existing fixtures which will go into effect in January 1982 has proven to be unworkable and possibly overkill. While the act permits the States to consider and grant exemptions, some States have not wanted to deal with the matter. DOE is not equipped to fill this void. Other States that accepted the delegation are granting blanket exemptions making the act a sham. The utilities are concerned that they will be forced to enter a customer's property to shut off the lights and find an irate customer.

The bill, as amended, is simple. It eliminates the prohibition as to existing lights, but continues it for new fixtures. At the same time, the bill seeks to provide a procedure by which the gas utilities will periodically inform consumers about the amount of gas consumed by each light and the annual cost thereof. The objective is to discourage such wasteful use of gas. I point out that about six of these lights provide sufficient gas to heat a typical home in a year.

Mr. Speaker, I believe this is important and urgently needed. If we delay until next year, we will continue uncertainty and anxiety for many consumers and utilities. It is supported by the American Gas Association and it enjoys broad support in the House.

I particularly want to commend Congressman YOUNG of Missouri who is the chief sponsor of the bill and Congressmen CORCORAN, OTTINGER, SHARP, LOEFFLER, GRAMM, BROWN of Ohio, all valuable members of the subcommittee, for their help in this matter.

Mr. Speaker, H.R. 4576 amends section 402 of the 1978 act to eliminate the prohibition that is effective in 1982 and applicable to local distribution companies providing natural gas to outdoor lighting fixtures of residences. That is all it does. The other prohibitions for industrial and commercial customers will apply. Also, the prohibition on providing natural gas to fixtures not receiving such gas on November 9, 1978—which is the key date of the law—and on installing such fixtures by such companies at residences will continue to apply. The exemption provisions are also retained.

In addition, Mr. Speaker, the bill provides a procedure which will hopefully discourage the use of natural gas for outdoor lighting. It requires the local distribution companies, pursuant to DOE rules, to establish a reasonable and simple method by which each company will inform either all gaslight users or all its customers periodically about the amount of gas consumed per light annually and the annual cost per light. This must be done periodically, such as quarterly or semiannually, particularly after an increase in rates. The company will determine the method for informing its customers. Also, the company may establish a method for reporting such information on the basis of estimates where actual information on the use of gas per light and its cost is not readily available.

The DOE is to issue the proposed rule quickly. It is to be effective 90 days after it is proposed.

Mr. Speaker, I insert at this point a February 11, 1980. letter from the DOE and the AGA letter:

DEPARTMENT OF ENERGY,
Washington, D.C., February 11, 1980

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power. Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of February 5, 1980, regarding our administration of section 402 of the Powerplant and Industrial Fuel Use Act of 1978. I will address each of the 10 questions you have raised and look forward to any suggestions you may have for redirecting our efforts.

First, though, I would like to assure you that the Economic Regulatory Administration (ERA) is committed to responsible administration of section 402 and has in no way, to my knowledge, urged its repeal or modification. Natural gas is, in fact, too precious an energy source to be mindlessly burned 24 hours a day in outdoor lighting fixtures.

Let me now turn to your specific questions, in the order in which you have posed them.

Question 1: What Office within the ERA administers section 402?

Answer: Section 402 is administered by ERA's Office of Utility Systems.

Question 2: What funds and personnel are included in the FY 1981 budget for this program? Where are they shown in the Budget (Volume 7) submitted to Congress? What was the actual funding and personnel level for fiscal year 1980?

Answer: There are no contract funds and roughly half of a manyear of staff time in both the FY 1980 and FY 1981 budgets. Section 402 resources are included in the budget under Utility Regulatory Assistance, Utility Programs and Regulatory Intervention, ERA.

Question 3: What are your views on H.R. 4576?

Answer: I do not believe that existing residential gaslights should be exempted from the 402 prohibition on a wholesale basis. In short, I do not support H.R. 4576, as introduced by Congressman Young of Missouri. I should add that the La Clede Gas Company, headquartered in St. Louis, has been particularly vocal in opposing both section 402 and ERA's rule pursuant thereto.

Question 4: The May 10, 1979 regulations of the DOE (44 FR 27606) list 21 States that ERA believes "have laws or regulations in effect regarding prohibitions on outdoor gas lighting."

4a: Is this list still accurate?

Answer: No. Based on the 1979 annual reports submitted to ERA, it appears that a total of 32 States now have laws or regulations in effect.

4b: Do all of these States prohibit entirely the use of outdoor gas lighting? Please explain.

Answer: No. The specific prohibitions and exemption criteria vary considerably. However, 32 States assert that their requirements are consistent with section 402.

4c: What States have accepted delegations of authority?

Answer: The following 49 States and territories have affirmatively accepted the delegation: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, American Samoa, South Dakota, Utah, Vermont, Virgin Islands, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

In addition, four States have tacitly accepted the delegation:

Alaska, District of Columbia, South Carolina, Tennessee.

4d: What States have declined such delegations?

Answer: In Texas, the Governor has accepted the delegation and has designated the Texas Railroad Commission as the lead State agency. The Railroad Commission, though, has thus far refused to administer the program.

4e: Will the DOE administer the program in those States that have declined the delegation? If so, it appears that the DOE regulations will need revision to inform the public what must be done to obtain an exemption. When will this be done? Is your budget adequate for this purpose?

Answer: DOE needs to establish a standby capability to handle exemption requests for those States which have declined or failed to acceptably administer the delegation. We are presently exploring several alternative approaches and intend to propose a Federal standby role within the next few weeks. The personnel resources needed to actually operate such standby procedures, if and when they are used, could very well be a problem.

Question 5: Several gas companies claim that the DOE regulations prohibit them from repairing lawful existing outdoor gaslights. One firm contends that the ERA is aware of this alleged problem, but has refused to correct it. Do the regulations contain such a prohibition? Is it consistent with the law? If it is not, when will it be corrected?

Answer: ERA's final rule defines "gas lighting fixture" as an entire fixture or any constituent part. The intent of this definition, which has the effect of prohibiting the replacement of parts on existing fixtures, is to prevent gas companies from evading, through continual and extensive repair, the statutory prohibition on replacement fixtures. We are now persuaded, however, that our original position in this regard was too zealous, and have proposed a revision that would allow any and all repairs, including replacement of essential components, to be made. The Notice of Proposed Rulemaking containing this and other proposed changes was approved by me on February 11, 1980, and sent to the Federal Register for publication. A copy is enclosed for your information.

Question 6. Section 516.44 provides guidance for petitions on the basis of the necessity to protect the safety of persons and property. However, the criteria appear to require that, in addition to safety, a person must show that the prohibition would "impose a substantial hardship in terms of cost or it would not be justified in terms of gas savings." Our review of section 402 indicates that an exemption is permitted either on safety grounds or on a cost basis. Please explain this apparent discrepancy between the law and regulations.

Answer: Again, we have concluded that our original position was too zealous and have proposed a change. The logic behind the original position was that it is one thing to establish that lighting is necessary and quite another to demonstrate that the lighting must be provided by burning natural gas. This second step immediately raises the question of alternate lighting which, in turn, raises the question of relative costs.

Question 7: Section 516.44(b)(1) of the regulations also appears to require a tougher test for an exemption for safety reasons by adding the word "significantly." That test is not in the statute. Please explain why it is needed and what it means. Would not a person or property be endangered if the only outdoor lights on a street are gaslights? If so, would that be sufficient to warrant an exemption?

Answer: The qualifier "significantly" is merely intended to indicate that there is, in fact, a public interest benefit to be achieved by not using gas for lighting and that a petitioner for a safety exemption must therefore demonstrate that compliance with the section 402 prohibition would create an offsetting public interest cost. The hypothetical situation you have posed would certainly seem to merit an exemption.

Question 8: Several gas companies contend that gaslights are the personal property of the homeowner and the light is connected on the homeowner's side of the meter. They say it will be difficult to get permission from the homeowner to disconnect these lights. Please advise us to what extent this is a real or serious problem in various States. What solution, if any, do you suggest to overcome the problem?

Answer: Most gaslights are installed on the homeowner's side of the property line, but on the utility's side of the meter, i.e., the gas consumption is unmetered. The lights are usually installed by the real estate developer and ownership is transferred to the homeowner along with the property. The gas company retains an easement, however, and has the right of access. Although this ultimately gets into very delicate questions of property rights, which vary from jurisdiction to jurisdiction, the gas company generally has the right to terminate gas supply to the fixture.

Question 9: What is the status of the Atlanta Gas Light Company suit in the Fifth Circuit? Please provide copies of all briefs, etc., concerning this suit.

Answer: DOE has agreed with the plaintiffs and the court to reopen the rule, per the enclosed Notice of Proposed Rulemaking, and to ask the States not to seek any penalties under the current rule until final revisions have been made. Copies of briefs, etc., are enclosed.

Question 10: What are your latest estimates of gas used in gaslights and the amount that will be curtailed under section 402?

Answer: We estimate that a total of 36 billion cubic feet of gas are used annually in 2 million fixtures. Although every 5.2 fixtures use enough gas in a year to heat a typical home, total annual gas savings attainable, even through aggressive administration of section 402, are not likely to exceed 27 billion cubic feet.

I hope that these responses satisfactorily address your concerns and would appreciate your further thoughts on the entire matter.

Sincerely,

HAZEL R. ROLLINS,
Administrator, Economic Regulatory Administration.

STATEMENT OF HOWARD F. PERRY

(Director, Division of Rates and Energy Management, Office of Utility Systems, Economic Regulatory Administration, U.S. Department of Energy)

My name is Howard F. Perry and I am Director of the Division of Rates and Energy Management in DOE's Office of Utility Systems. I have been requested to testify before you today regarding H.R. 4576 and the use of natural gas for outdoor lighting.

The Division of Rates and Energy Management is responsible for administering Federal programs to increase energy efficiency through the activities of gas and electric utilities, and the State public utility commissions which regulate them. Statutory authorities for these programs are to be found in Titles I and III of the Public Utility Regulatory Policies Act of 1978 (PURPA), Title II of the Energy Conservation and Production Act of 1976 (ECPA), and section 402 of the Powerplant and Industrial Fuel Use of 1978 (FUA). This last authority would be amended by H.R. 4576 and is the subject of the subcommittee's hearing today.

Section 402 of the FUA prohibits gas companies from installing new gaslights and from providing the gas needed to fuel existing gaslights. This is, of course, considerable oversimplification: there are provisions for exemptions, several different effective dates for various categories of gaslights, and separate requirements for direct industrial customers. Nonetheless, the essential thrust is to prohibit local gas distributors from servicing outdoor gaslights.

Although DOE was charged with administering this provision, we were also encouraged to delegate our authority to the states. State administration is likely to be more sensitive to the innumerable local circumstances that might enter into any consideration of an exemption request or an enforcement situation.

By a final rule dated May 10, 1979, DOE set forth provisions for prohibitions, exemptions, and enforcement, and delegated to the states the requisite authority for administering these provisions. By a final revision dated May 23, 1980, DOE eased certain of the provisions of the rule. Specifically, the revision (1) allowed gas companies to repair existing gaslights, (2) established a separate exemption category for traditionally-styled commercial gaslights, as contrasted with gaslights of historical significance, and (3) established a separate exemption category for safety, irrespective of the cost effectiveness of converting to alternative lighting.

To date, every state but Texas has affirmatively accepted our delegation of authority for this program. Texas has refused the delegation on the grounds that neither state nor Federal funds are available to cover the cost of administration. The 1980 status reports are due from the states to DOE at the end of this month. Although we have received only five to date, every state but Texas reported last year. From the 1980 reports, we will be able to authoritatively ascertain the extent of compliance, and a recent telephone survey (summarized in the attached Exhibit) indicates that state activity thus far has been adequate.

The Department does not, as yet, have any specific plans for directly administering the program in those instances where the state either does not accept the delegation or does not adequately carry out its responsibilities. Since enactment, our position has consistently been that this program has a low priority, because it promises slight energy savings at potentially enormous bureaucratic and litigative costs. We have assumed that the states will recognize the benefits of running the program themselves, and keeping it as streamlined as possible. In light of this approach to administering the existing statute, let me next turn to the points raised by the cosponsors of H.R. 4576, a bill that the Department does not take a position on at this time.

First, the potential energy savings of full and faithful compliance with section 402(b) are, from a national perspective, small. If all existing gaslights were extinguished, natural gas consumption would be reduced by less than 1/5th of 1%. There is, to be sure, another way of looking at the savings: seven gaslights use enough gas in a year to heat a home, two gaslights use enough gas to provide hot water. However, total energy use by the gaslights in existence is rather minimal.

Second, illumination is frequently essential to safety, and converting a gaslight to electricity, while cost effective, is not inexpensive. A do-it-yourself conversion kit runs about $70, requires considerable skill, and can be hazardous. A contractor would probably charge upwards of $200. At a net energy cost savings of some $45 per year, the payback period is 1½ years for do-it-yourself and 4½ years for a professional job.

Third, while "unfair" is a highly subjective term, many homeowners seem likely to resent—and resent rather deeply—being ordered by the Federal government to turn off their gaslights. Further, we should not underestimate the nostalgic value of gaslights as a cause for deeper resentment.

Fourth, and finally, section 402 places a considerable burden on both the gas industry and government. Sending around service crews to turn off the valves is a relatively trivial matter; capping the feeder lines is a good deal more difficult and costly. But it is dealing with irate homeowners and civic groups—and their attorneys—that is potentially the most difficult and time-consuming aspect of compliance. It seems worth bearing in mind that we are dealing with, in effect, 2–4 million "minor fuel burning installations," each of which represents a potential exemption request or enforcement problem.

These difficulties no doubt underlie the suit brought against DOE by Atlanta Gas Light Company, Laclede Gas Company, Entex, Inc., and the American Gas Association. This litigation is still pending before the Fifth Circuit Court of Appeals in New Orleans. The plaintiffs contend that the existing statute is unconstitutional and that DOE's administration of the statute has been unreasonable. Since this case is still in litigation, the Justice Department advises that it would be inappropriate for me to discuss it further.

In short, what began as a simple statutory remedy for conspicuous waste of a precious energy resource has become something of a cause celebre, with the spectre of a massive Federal enforcement scheme lurking in the shadows. One can reasonably argue that the unmetered flaring of natural gas at the rate of 54 billion cubic feet per year is unconscionable. Unfortunately, the very large number of "minor fuel burning installations" involved means that the existing regulatory approach is potentially monstrous.

This concludes my formal statement. I will be happy to answer any questions the subcommittee may have.

GASLIGHT BAN—STATE ADMINISTRATION

State	Affirmatively accepted delegation?		Have adopted exemption criteria?	
	Yes	No	Yes	No
REGION I				
Connecticut	X		X	
Maine	X			X[1]
Massachusetts	X		(2)	
New Hampshire	X		X	
Rhode Island	X		(2)	
Vermont	X			X
REGION II				
New Jersey	X		X	
New York	X		X	
Puerto Rico	X		NA	
REGION III				
District of Columbia	X			X
Delaware				X
Maryland	X		X	
Pennsylvania	X		X	
Virginia	X		X	
West Virginia	X		(2)	
REGION IV				
Alabama	X			X
Florida	X			X
Georgia	X			
Kentucky	X		X	
Mississippi	X			X
North Carolina	X			X
South Carolina	X			X
Tennessee	X			X
REGION V				
Illinois	X		X	
Indiana	X		X	
Michigan	X		(2)	
Minnesota	X		X	
Ohio	X		X	
Wisconsin	X		X	

[1] Just starting.

[2] In process.

State	Affirmatively accepted delegation?		Have adopted exemption criteria?	
	Yes	No	Yes	No
REGION VI				
Arkansas	×		×	
New Mexico	×		(2)	
Oklahoma	×		×	
Texas		×		
Louisiana	×		×	
REGION VII				
Iowa	×		×	
Kansas	×		×	
Missouri	×		×	
Nebraska	×		×	
REGION VIII				
Colorado	×		×	
Montana	×		(2)	
North Dakota	×		×	
South Dakota	×		×	
Utah	×		×	
Wyoming	×		×	
REGION IX				
Arizona	×		×	
California	×		×	
Hawaii	×		×	
Nevada	×		×	
REGION X				
Alaska	×			×
Idaho	×			×
Oregon	×		×	
Washington	×		×	

AMERICAN GAS ASSOCIATION,
Arlington, Va., December 12, 1980.

Hon. JOHN J. RHODES,
Minority Leader, U.S. House of Representatives, Washington, D.C.

DEAR JOHN: Ever since the passage of the Fuel Use Act one of the concerns of our Association and industry has been Section 402 of the Act. That section prohibits the continued use of residential outdoor gas lights after January 1, 1982. We believe this section is unnecessary and unneeded under current conditions and gas supplies. Therefore, we have strongly endorsed a bill to repeal Section 402 introduced by Congressman Robert Young and 133 other Members.

Today, following a hearing on H.R. 4576 by the House Commerce Subcommittee on Energy and Power, Chairman John Dingell, with the concurrence of Rep. Tom Corcoran and the understanding that Congressman Bud Brown was in agreement, announced he would support prompt passage of the legislation if it was amended. Our Association has carefully reviewed the proposed Committee amendments to H.R. 4576. We believe they are useful and they have our support.

It is my understanding that H.R. 4576 as amended will be brought up for House consideration tomorrow. We support the bill as reported by the House Committee on Interstate and Foreign Commerce and urge you to support the bill.

Should you have any questions about our position or this outdoor gas light matter, please feel free to call me or Mike Baly (841-8612) or Kyle Simson (841-8591) of my staff.

Sincerely,

GEORGE H. LAWRENCE.

Mr. Speaker, on September 30, 1980 when the House passed the conference report on S. 2475—the Automobile Fuel Efficiency Act of 1980 (Public Law 96-425), I failed to indicate that under section 4 a manufacturer may, at any time, seek the exemption, but it will not be effective until after production has taken place as required by that section. This comment is a clarification of those remarks.

Mr. Speaker, if the gentleman would yield further to the gentleman from Missouri (Mr. YOUNG), who is the principal author of this, and who has expressed a great deal of concern, I think he could add some comments that might be of value.

Mr. BROWN of Ohio. Further reserving the right to object, Mr. Speaker, I will be happy to yield to the gentleman from Missouri in a moment, but let me say, first, that I think this legislation has to be considered by the House in a new framework of natural gas availability, which has resulted from both the action of President Carter in deregulating the price of domestic oil over the next several months until it will be totally deregulated, as of October 1, 1981, and from the legislative steps taken by the Congress in 1978 to deregulate the price of natural gas through 1985. Both actions have elicited a very large response of natural gas production, both gas associated with deregulated oil and also the natural gas that has received the highest prices under the deregulation scheduled in the Natural Gas Policy Act passed as a part of the National Energy Act of 1978.

So we are finding that we have a lot of natural gas. We are also finding that natural gas perhaps no longer needs to be given the limitation of uses that the Fuel Use Act imposed. In fact, this piece of legislation may be the precursor of some attention to the Fuel Use Act and the whole question of the pricing of natural gas in the next Congress.

With those somewhat disturbing and comforting remarks—disturbing to some and comforting to others—I yield to the gentleman from Missouri (Mr. YOUNG) for comments which he may wish to make on this piece of legislation in which he has shown a great deal of leadership.

Mr. YOUNG of Missouri. Mr. Speaker, the passage of this bill is significant both substantively and symbolically. The bill amends section 402 of the Powerplant and Industrial Fuel Use Act by removing the requirement that existing residential gas lights be extinguished by January 1, 1982. Instead, gas distribution companies are directed to inform their customers periodically of the amount and cost of natural gas consumed by such lights. With this knowledge, the 2 to 4 million owners of residential gas lights can judge for themselves whether or not to continue to use the lights.

The bill also symbolizes an important step by the Federal Government—away from excessive and costly overregulation which accomplishes little while intruding excessively into matters best left to individual choice. The natural gas savings realized by section 402 are minimal, but an elaborate administrative apparatus would be required for enforcement. H.R. 4576 will continue to encourage natural gas conservation, but through informing the consumer of the cost of retaining gas lighting, rather than by forcing him to make a decision between safety and complying with the law. I would like to make a few comments about the specific terms of this bill:

First. The legislation is being enacted with a full congressional awareness and approval of the definition of a "natural gas outdoor lighting fixture" contained in DOE's regulations, as meaning a complete unit.

Second. The exemption provided in the bill for gas lights used in connection with a residence is intended to be broadly construed to include both single and multiple dwelling units.

Third. Finally, it is my understanding that an annual notice by gas companies to their customers will satisfy the bill's requirement that such notices be sent periodically, as indicated during the committee hearing.

In conclusion, I want to express my appreciation to the chairman of the Energy and Power Subcommittee, who has handled this bill with his customary statesmanship and expertise. I also wish to recognize and thank the 134 cosponsors from both sides of the aisle and all regions of the country who have joined me in pressing for enactment of this legislation.

Mr. CORCORAN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. Further reserving the right to object, Mr. Speaker, I would be happy to yield to the gentleman from Illinois (Mr. CORCORAN), also an originator of this legislation and a valued member of the Subcommittee on Energy and Power of the Commerce Committee.

Mr. CORCORAN. Mr. Speaker, I rise in strong support of H.R. 4576. The legislation before us today is the Commerce Committee version of the bill which was introduced in June of last year by our colleague ROBERT A. YOUNG of Missouri and cosponsored by me in April of this year. The hearing on this bill yesterday by the Energy and Power Subcommittee definitely indicated that this legislation is appropriate to address the problems which would result if the impending January 1, 1982, prohibition on the use of outdoor gas lights is allowed to take effect. Witnesses at yesterday's hearing included a representative of Northern Illinois Gas Co., whose service territory includes part of my congressional district.

I commend Congressman ROBERT YOUNG for his foresight in introducing this legislation almost a year and a half ago. Chairman DINGELL of the Energy and Power Subcommittee also deserves a great deal of credit for moving ahead with this legislation. Mr. Speaker, I strongly urge support by my colleagues for H.R. 4576.

Mr. BROWN of Ohio. Mr. Speaker, with those comments, unless the chairman of my subcommittee has any further remarks, I withdraw my reservation of objection.

Mr. DINGELL. If the gentleman will yield briefly, Mr. Speaker, I would like to commend the gentleman from Ohio (Mr. BROWN) for his participation and also my other colleagues who have worked hard on this.

Mr. BROWN of Ohio. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan (Mr. DINGELL) that the amendment in the nature of a substitute be considered as read and printed in the RECORD?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks and to include extraneous matter, and that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4576, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Are there any further unanimous consent requests?

Are there any 1-minute speeches?

The Chair will otherwise call special orders.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to announce that, before recognizing the gentleman from Arkansas, the Chair will recognize special orders, with the understanding that the House will be in recess, subject to other business being considered that might arrive from the Senate.

PARLIAMENTARY INQUIRY

Mr. CONABLE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CONABLE. Mr. Speaker, does this mean that we will not take up any more unanimous consent requests without further notice being given to the body, so that we can wander off into our respective highways and byways awaiting the call of the House? Could we have a 15-minute call, on something of that sort?

The SPEAKER pro tempore. The Chair would advise the gentleman that if the House stands in recess, as soon as the message is received from the Senate the House will resume its sitting and immediate unanimous-consent requests will be in order.

Mr. CONABLE. It is not possible to have a 15-minute call?

The SPEAKER pro tempore. Yes, there will be a 15-minute call after the House is in recess before resuming its sitting.

Mr. CONABLE. Except for the special orders, it is the intention of the Speaker to take no further business until after the recess; is that correct?

The SPEAKER pro tempore. That is correct, unless a message arrives from the Senate before the recess.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I do not have the floor. I think the Speaker does.

Mr. UDALL. Mr. Speaker, I appreciate the gentleman raising these questions. The gentleman from Michigan (Mr. DINGELL) and myself, along with the gentleman from South Carolina (Mr. DERRICK), and others, have been working with the Senate on a low-level atomic waste disposal program. The gentleman from New Mexico (Mr. LUJAN) has been deeply involved in this, and others.

The Senate has passed——

Mr. CONABLE. May I ask the gentleman if he means by "a low-level atomic waste disposal program," one underground?

Mr. UDALL. No. This is the level of contamination, as I am sure the gentleman knows.

The Senate has approved this compromise, which will give the country a low-level waste program. We are waiting for the papers to come over here. As soon as they are, we will see if it is possible to get consideration of this.

Mr. CONABLE. I have no objection.

Mr. Speaker, my only concern is that the Members be advised of what is happening.

The SPEAKER pro tempore. The Chair will state again that, after receiving special requests for special orders, the Chair will call for special orders; and at the conclusion of special orders, the Chair will declare a recess, subject to a call of the chair.

There will be a 15-minute notice given before such recess is concluded and the House resumes its sitting. At the resumption of the sitting of the House, additional business may be considered, including unanimous consent requests.

Mr. CONABLE. I thank the Speaker. My concern was that there not be further unanimous consent requests brought up here in the House before the recess and, evidently, that is not the Speaker's intention.

The SPEAKER pro tempore. The Chair is informed that the Ways and Means Committee may be coming to the floor momentarily to dispose of Senate amendments by unanimous consent so the Chair cannot give the gentleman that assurance at this time.

Mr. CONABLE. I thank the Speaker.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and concurrent resolutions of the House of the following titles:

H.R. 935. An act for the relief of Jesse Kuo Tang and Sharon Kuo Tang;

H.R. 936. An act for the relief of Kit Tung;

H.R. 949. An act for the relief of Welita F. Sebastian;

H.R. 1316. An act for the relief of Kuo-Yao Cheng;

H.R. 2145. An act for the relief of Florette Ivoree Gayle and Keisha Dajaran Karr;

H.R. 2432. An act for the relief of Ronald Regespi Doliente;

H.R. 2433. An act for the relief of Zora Singh Sunga;

H.R. 2533. An act for the relief of Mrs. Kerry Ann Wilson;

H.R. 2872. An act for the relief of Olivia Manaois Abrasaldo;

H.R. 3096. An act for the relief of Raymond M. Gee;

H.R. 3138. An act for the relief of Surip Karmowiredjo;

H.R. 3396. An act for the relief of George David Maxwell, doctor of medicine;

H.R. 3707. An act for the relief of Joy Marsia Dehaney;

H.R. 3869. An act for the relief of Eileen Angella Crosdale;

H.R. 4032. An act for the relief of Mahmud Ali Khan alias Fazal Dad;

H.R. 4139. An act for the relief of Feeronaih Abbosh;

H.R. 4386. An act for the relief of Mr. and Mrs. Clarence Oveson;

H.R. 4778. An act for the relief of Sada Kim;

H.R. 4793. An act for the relief of Simon Ifergan Meara;

H.R. 4966. An act for the relief of the estate of Philip H. Ward;

H.R. 5016. An act for the relief of David Roland Weaver;

H.R. 5067. An act for the relief of Dr. Toomas Eisler and Carmen Elizabeth Eisler;

H.R. 5157. An act for the relief of Lilia Ester Cantu;

H.R. 5379. An act for the relief of Jaramporn Sermsri and Akharata Sermsri;

H.R. 5745. An act for the relief of Michael Chinwen Ke;

H.R. 6000. An act for the relief of Campanella Construction Co., Inc.;

H.R. 6011. An act for the relief of William H. Koss;

H.R. 6030. An act for the relief of Elena Patricia Mattos;

H.R. 6044. An act for the relief of Woo Jung He;

H.R. 6069. An act for the relief of I Wen Wang Chen;

H.R. 6739. An act to confer U.S. citizenship posthumously upon Leopoldine Marie Schmid;

H.R. 6836. An act for the relief of James A. Schultz;

H.R. 7175. An act for the relief of the Woodstock Daily Sentinel;

H.R. 8444. An act to authorize appropriations for certain insular areas of the United States, and for other purposes;

H. Con. Res. 449. Concurrent resolution to authorize the reprinting of the report entitled "The Adequacy of the Federal Response to Foreign Investment in the United States"; and

H. Con. Res. 456. Concurrent resolution providing for the reprinting of the report "Future Directions for Aging Policy—A Human Service Model."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4155. An act to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on certain student loans solely for purposes of collecting such loans;

H.R. 5973. An act to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes;

H.R. 7171. An act to make certain miscellaneous changes in the tax laws; and

H.R. 7956. An act to make various changes in the tax laws.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2729. An act to authorize certain emergency repairs at the National Visitor Center in the District of Columbia.

□ 1650

AUTHORIZING EMERGENCY REPAIRS AT NATIONAL VISITOR CENTER

Mr. EDGAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2729) to authorize certain emergency repairs at the National Visitor Center in the District of Columbia, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, what is in the bill?

Mr. EDGAR. If the gentleman will yield, Mr. Speaker, S. 2729 is similar to legislation passed by the House on December 5, 1980, but authorizing to be appropriated to the Secretary of the Interior $11 million necessary to undertake urgently needed emergency repairs to the National Visitors Center.

Mr. BAUMAN. Is this the "leaky roof bill"?

Mr. EDGAR. This is the "leaky roof bill" that passed the House. The Senate accepted the House proposal with an amendment which directs the Department of Justice to look into the matter of repairs to the building and make sure the interests of the United States are protected.

I think it is a fine amendment. It provides for additional controls over action taken at the Visitors Center, and recommended that we accept S. 2729.

I would like to point out that the conferees on the continuing resolution recognized the emergency nature of this legislation and included $6.5 million to be appropriated immediately so that repairs to the building could begin.

Mr. BAUMAN. Further reserving the right to object, the continuing resolution that we just disposed of contained $6.5 million for the National Visitors Center. What is this $11 million for in addition to that?

Mr. EDGAR. If the gentleman will yield further, as I understand it the $6.5 million would be committed immediately for immediate emergency repairs on the facility. The total cost of the repairs is $11 million.

Mr. BAUMAN. The bill now before us authorizes that total amount?

Mr. EDGAR. This authorizes a total of $11 million. The continuing resolution only appropriates $6.5 million.

Mr. BAUMAN. And would any Members of Congress who voted for this white elephant be investigated by the Justice Department? Is that how far the responsibility is being traced?

Mr. EDGAR. Well, I would doubt that that would occur.

Mr. BAUMAN. I would hope not, civil liberties being what they are these days.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Visitor Center Emergency Repair Act of 1980".

SEC. 2. (a) There is hereby authorized to be appropriated to the Secretary of the Interior for the fiscal year ending September 30, 1981, the sum of $11,000,000 for the purpose of making emergency repairs to the primary structure and roofs of the National Visitor Center in the District of Columbia and for the purpose of providing protection of the structural elements of the unfinished parking facility and southeast ramp at such Center. Such sum shall remain available until expended.

(b) Prior to entering into any contract for the repairs or protection authorized by subsection (a) of this section, the Secretary of the Interior shall consult with the Secretary of Transportation regarding the planning for such repairs or protection.

SEC. 3. (a) The Office of Legal Counsel of the Department of Justice shall prepare an opinion on the question of whether the United States or the Terminal Realty Baltimore Co. and the Terminal Realty Penn Co. are legally liable for the repairs anticipated by the provisions of this Act. If the Office of Legal Counsel determines that there is a reasonable cause to believe a party other than the United States is legally obligated to bear all or a portion of the costs of that repair authorized by this Act, the Attorney General shall institute an action to recover expenditures that were incurred by the Secretary pursuant to this Act.

(b) None of the actions taken pursuant to the provisions of this Act shall be deemed to limit or affect in any way the rights of the United States under the lease for real property between Terminal Realty Baltimore Co. and Terminal Realty Penn Co. and the United States of America, dated March 1, 1972, or any additions or modifications thereto.

SEC. 2. The Architect of the Capitol may enter into a contract or other agreement with the Secretary of Interior providing for the Architect of the Capitol to furnish steam from the Capitol Power Plant to the Union Station-National Visitor Center complex. Under such contract, the Secretary of Interior shall pay for such steam at rates, not less than cost, and shall connect the Union Station-National Visitor Center complex with the Capitol Power Plant steam lines without expenses to the Congress.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDGAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONGRESSIONAL PAY RAISE OPPOSED

(Mr. DUNCAN of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. DUNCAN of Tennessee. Mr. Speaker, I rise in opposition to that portion of the report from the committee of conference that provides a pay increase for all Members of the House and Senate, and for other high-ranking Government officials. It is my understanding that this includes the members of the judiciary and other employees of various agencies.

First, I disagree with the manner in which the pay raise was brought to the floor for consideration. We are told that unless we pass the joint resolution, making continuing appropriations for the fiscal year 1981, that the Government would shut down, and the recipients of benefit payments would suffer. I have heard this before, and it has not happened.

I also disagree with that portion of the continuing resolution approving severance pay for Senate employees who may lose their jobs because of the recent elections.

In my opinion it is entirely wrong to bring up for consideration, the proposed pay raise on or near the last day of the 96th Congress. Legislation of this nature should be properly considered and debated, without the usual adjournment rush.

For these and other reasons, I will vote against the continuing resolution.

AMENDING INTERNAL REVENUE CODE TO WAIVE RESIDENCY REQUIREMENTS FOR DEDUCTIONS OR EXCLUSIONS OF INDIVIDUALS LIVING ABROAD

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5973) to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distribution from money purchase pension plans, and for other purposes with

Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 5, line 8, strike out "1981" and insert "1982".

Page 5, line 15, strike out "1981" and insert "1981".

Page 5, strike out lines 16 to 25 inclusive.

Page 6, strike out line 1 and all that follows over to and including line 2 on page 7.

Page 7, after line 2, insert:

SEC. 3. TREATMENT OF CERTAIN REPAYMENTS OF SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS.

(a) GENERAL RULE.—Section 62 of the Internal Revenue Code of 1954 (defining adjusted gross income) is amended by inserting after paragraph (15) the following new paragraph:

"(16) CERTAIN REQUIRED REPAYMENTS OF SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS.—The deduction allowed by section 165 for the repayment to a trust described in paragraph (9) or (17) of section 501(c) of supplemental unemployment compensation benefits received from such trust if such repayment is required because of the receipt of trade readjustment allowances under section 231 or 232 of the Trade Act of 1974 (19 U.S.C. 2291 and 2292)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to repayments made in taxable years beginning after the date of the enactment of this Act.

SEC. 4. TAX TREATMENT OF EXPENSES IN ATTENDING FOREIGN CONVENTIONS.

(a) IN GENERAL.—Subsection (h) of section 274 of the Internal Revenue Code of 1954 (relating to attendance at foreign conventions, etc.) is amended to read as follows:

"(h) ATTENDANCE AT CONVENTIONS, ETC.—

"(1) IN GENERAL.—In the case of any individual who attends a convention, seminar, or similar meeting which is held outside the North American area, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting unless the taxpayer establishes that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212 and that, after taking into account in the manner provided by regulations prescribed by the Secretary—

"(A) the purpose of such meeting and the activities taking place at such meeting,

"(B) the purposes and activities of the sponsoring organizations or groups,

"(C) the residences of the active members of the sponsoring organization and the places at which other meetings of the sponsoring organization or groups have been held or will be held, and

"(D) such other relevant factors as the taxpayer may present,

it is as reasonable for the meeting to be held outside the North American area as within the North American area.

"(2) CONVENTIONS ON CRUISE SHIPS.—In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) NORTH AMERICAN AREA.—The term 'North American area' means the United States, its possessions, and the Trust Territory of the Pacific Islands, and Canada and Mexico.

"(B) CRUISE SHIP.—The term 'cruise ship' means any vessel sailing within or without the territorial waters of the United States.

"(4) SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—

"(A) Except as provided in subparagraph (B), this subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the convention, seminar, or similar meeting.

"(B) This subsection shall not deny a deduction to any person other than the individual attending the convention, seminar, or similar meeting with respect to any amount paid by such person to or on behalf of such individual if includible in the gross income of such individual. The preceding sentence shall not apply if the amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply to conventions, seminars, and meetings beginning after December 31, 1980, except that in the case of any convention, seminar, or meeting beginning after such date which was scheduled on or before such date, a person, in such manner as the Secretary of the Treasury or his delegate may prescribe, may elect to have the provisions of section 274(h) of the Internal Revenue Code of 1954 be applied to such convention, seminar or meeting without regard to such amendment.

SEC. 5. TAXES ON SELF-DEALING IN THE CASE OF CERTAIN LEASES.

Section 4941(d)(2) of the Internal Revenue Code of 1954 (relating to special rules in the case of self-dealing) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(H) the leasing by a disqualified person to a private foundation of office space for use by the foundation in a building with other tenants who are not disqualified persons shall not be treated as an act of self-dealing if—

"(i) such leasing of office space is pursuant to a binding lease which was in effect on October 9, 1969, or pursuant to renewals of such a lease;

"(ii) the execution of such lease was not a prohibited transaction (within the meaning of section 503(b) or any corresponding provision of prior law) at the time of such execution; and

"(iii) the terms of the lease (or any renewal) reflect an arm's-length transaction.".

SEC. 6. TREATMENT OF CERTAIN INDEBTEDNESS INCURRED BEFORE 1965 FOR PURPOSES OF SECTION 514.

(a) GENERAL RULE—For purposes of applying section 514 of the Internal Revenue Code of 1954 with respect to any sale of real property during 1976, indebtedness incurred before January 1, 1965, by an organization to finance the construction of a building on such property shall not be treated as acquisition indebtedness if the parcel of real property on which such building was constructed—

(1) was acquired by such organization before January 1, 1952, and

(2) is contiguous to another parcel of real property which—

(A) was acquired by such organization before January 1, 1952, and

(B) was used by such organization, on January 1, 1952, and at all times thereafter before the date of the enactment of this Act, in a manner which meets, the requirements of section 514(b)(1)(A) of such Code (relating to property used in carrying out exempt purposes).

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to sales during calendar year 1976.

Mr. CONABLE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, I reserve the right to object relative to the unanimous-consent request for consideration of this measure so that we can find out the details of it. I would like to ask the distinguished chairman of the Ways and Means Committee if the House has previously considered some of this bill before today, or if this is another small bill; and if so, what provisions have been considered by the House previously, or what Senate amendments require further explanation?

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield.

Mr. ULLMAN. I would respond to the gentleman by saying that all of these provisions have either passed the House or have had favorable subcommittee hearings? The provisions relate to the waiver of residency time limits for Americans working abroad in certain situations, rollover treatment for lump-sum distributions from money purchase pension plans, treatment of repayments of supplemental unemployment compensation benefits, and revision of the rules governing deductibility of foreign convention expenses.

There is also an exception to private foundation "self-dealing" rules for continuation of certain leasing arrangements and a special rule relating to debt-financed income of certain exempt organizations.

Mr. CONABLE. Mr. Speaker, may I ask for some further elucidation of the rule relating to foreign conventions? The net effect of that, I quite acknowledge, that the deductibility of attendance at foreign conventions rule that previously was enacted by the House was something of a mare's-nest administratively and otherwise, causing considerable difficulty. It is my understanding that the Senate has substantially revised these rules under the initiative of the distinguished Senator from Hawaii.

I wonder if the chairman could briefly tell us what changes are most significant in the deductibility of conventions rule. As I understand it, there is a North American exemption of some sort which also is part of the content of the Canadian tax treaty, at least relative to Canada, but that it applies now to Canada and Mexico under this legislation; not to the Bahamas or Bermuda. I am wondering what other things the distinguished chairman can tell us about this corrective measure?

Mr. ULLMAN. If the gentleman will yield, as the gentleman knows, the House's original North American exemption, which we have been considering for a number of years, included Bermuda. This one does not. This is a very narrow interpretation relating only to Canada and Mexico. In any event, Canada may eventually be covered by a treaty that will do the same thing as this provision.

Let me say also, under this section of the bill no deduction is to be allowed for expenses allocable to a convention, seminar, or similar meeting held outside this North American area unless, taking certain factors into account, it is "as reasonable" for the meeting to be held outside of the North American area as within it. The two convention rule of present law is repealed. Under the provision, a convention will not be treated as a foreign convention unless it is held outside the United States, its possessions, and trust territories of the Pacific, and outside of Canada and Mexico. The section also repeals the subsistence expense limitations, coach fare limitations, and changes the reporting requirements of present law.

Mr. CONABLE. Reclaiming my time and further reserving the right to object, then as I understand it the rule henceforth will not be subject to all the limitations that we previously applied.

□ 1700

But there will still be a rule which denies the deductibility of conventional expenses if the locus of the convention outside the United States is not in some way related to the subject of the convention; is that correct?

Mr. ULLMAN. Mr. Speaker, the gentleman is perfectly correct.

Mr. Speaker, will the gentleman yield further?

Mr. CONABLE. Yes, I would be glad to yield to the gentleman.

Mr. ULLMAN. Mr. Speaker, this provision is effective with respect to foreign conventions attended after December 31, 1980. Where a taxpayer has made plans to attend a foreign convention and such foreign convention was scheduled prior to December 31, 1980, such convention is grandfathered under the terms of this provision. A convention will be considered to be scheduled if a definite commitment has been made to hold the convention at a particular time and place. For example, the booking of hotel and travel accommodations would represent a definite commitment, while a mere internal memorandum would not.

Mr. CONABLE. Mr. Speaker, further reserving the right to object, I would like to note in the RECORD that this is a reform previously sought by our friends to the north in Canada. For some time hotel rooms in Montreal have been vacant because of our provision relating to the deductibility of foreign convention expenses.

Our friends in Canada have some items in their tax law which, whether intended as retaliation or otherwise, have worked to protect Canadian industries and particularly the Canadian television industry from the deductibility of commercials on American television stations.

I would hope that our friends in Canada will understand that this change is being made, but that we would appreciate their being more forthcoming relative to relations between our two countries as they affect border television stations. It is my hope that we will not see vestiges of discrimination against each other, whether intended or not.

I am certain that the original motivation back of the foreign convention rule was not to punish Canada but to prevent people from using conventions in far away places for deductible vacations. I hope that some goodwill will result from our revision of our rules to aid our neighbor to the north, and that that will be reflected in some tax reform on their part.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. DUNCAN of Tennessee. Mr. Speaker, I rise in support of H.R. 5973 as amended by the Senate.

Most of the bill's provisions have already passed the House. For example, the bill would amend the provisions of the Internal Revenue Code relating to the taxation of U.S. citizens abroad so as not to deny certain benefits to U.S. citizens who were affected by the revolution in Iran or similar events.

In addition, the Senate retained the House-passed provision that liberalizes the taxation of certain retirement plan distributions.

The Senate added a provision that improves the current rules governing the deductibility of foreign convention expenses. The House did not pass comparable legislation. However, the provisions were the subject of a hearing held by the Select Revenue Measures Subcommittee of the Committee on Ways and Means and were thoroughly considered.

In addition, the Senate added two other minor amendments which are acceptable. The first clarifies the treatment of repayments of supplemental unemployment compensation benefits. The provision is similar to section 5 of H.R. 4746 which passed the House on September 17, 1979. The second minor amendment provides a narrow exception to the private foundation self-dealing rules in the situation concerning binding leasing arrangements which are made at a fair commercial rate.

I support the bill's adoption.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I am interested in that section of the bill which deals with the treatment of payments of supplemental unemployment compensation benefits. I understand that it represents a section of a bill that has already passed the House, and I simply would like a confirmation by the committee chairman that the supplemental unemployment compensation benefit to which this section refers are the private benefits under separate contract such as those between the automobile workers and their employers. When those benefits have to be repaid as a consequence of receiving trade adjustment assistance, this section simply gives the beneficiaries a right to claim a refund for taxes paid on benefits returned.

I wonder if the chairman of the committee can give me that kind of assurance.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, that is correct. That is the purpose of it.

Mr. FRENZEL. Mr. Speaker, the supplemental benefits referred to have nothing to do with any Federal program; they are contracted arrangements in the private sector?

Mr. ULLMAN. The gentleman is correct.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

REQUEST TO CONCUR IN SENATE AMENDMENTS TO H.R. 8406, PNEUMOCOCCAL VACCINE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8406) to amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration, with Senate amendments thereto, concur in the Senate amendments Nos. 1, 2, 4, and 5, and concur in Senate amendment No. 3 with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the proposed amendment.

The Clerk read the House amendment to Senate amendment No. 3, as follows:

In lieu of the matter proposed to be inserted by Senate amendment numbered 3, insert the following:

SEC. 5. (a) Section 1611(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Except as provided in subparagraphs (B) and (C), no person shall be an eligible individual or eligible spouse for purposes of this title if, within any twenty-four-month period that begins with or after the twenty-fourth month preceding the month in which he files an application for benefits under this title, he (i) disposed of resources which, if retained, would have caused him to be ineligible for such benefits, for the purpose of establishing eligibility for such benefits (and any disposition of resources within such period shall be presumed to have been for such purpose unless such individual or spouse furnishes convincing evidence that the transaction was for some other purpose), and (ii) received compensation therefor in an amount such that the difference between the fair market value of the individual's or spouse's equity interest in such resources and the compensation therefor exceeded $3,000.

"(B) The period for which a person is ineligible for benefits under this title by reason of the application of subparagraph (A) shall be six months if the uncompensated value of the equity interest in the assets involved exceeded $3,000 but not $6,000, twelve months if such value exceeded $6,000 but not $9,000 eighteen months if such value exceeded $9,000 but not $12,000, twenty-four months if such value exceeded $12,000, beginning with the month following the month in which such disposition occurred, except that subparagraph (A) shall cease to be applicable after the month in which the resources he had previously disposed of are returned to him, or he receives payment equal to the amount described in subparagraph (A) (ii).".

(b) The amendment made by subsection (a) shall become effective with the first month beginning after the Secretary rules necessary to its implementation (but in no event later than September 30, 1981); and such amendment shall not apply to dispositions of resources that occurred prior to such month.

(c) (1) Section 1902(a) (17) (B) of the Social Security Act is amended by inserting "(except as provided under subsection (h))" after "(B) provide for taking into account".

(2) Section 1902 of such Act is amended by adding after subsection (g) the following new subsection:

"(h) (1) Notwithstanding any other provision of this title (including subsection (f), but except as provided in paragraphs (2) and (4)) and to the extent permitted in this subsection, a State plan for medical assistance under this title may provide that an individual shall be ineligible for medical assistance, provided under a State plan approved under this title, for the period specified in paragraph (2) if—

"(A) within any twenty-four-month period that begins with or after the twenty-fourth month preceding the month in which he files an application for medical assistance under the plan, the individual (or another person whose resources are considered in determining the eligibility of the individual) disposed of resources which, if retained, would have caused the individual to be ineligible for such assistance, for the purpose of establishing eligibility for such benefits (and any disposition of resources within such period may be presumed to have been for such purpose unless the State is furnished convincing evidence that the transaction was for some other purpose), and

"(B) the sum of—

"(i) the current market value of the individual's (or other person's) equity interest in such resources disposed of without any compensation, and

"(ii) the difference between the current market value of the individual's (or person's) equity interest in such resources disposed of for compensation and the amount of such compensation,

exceeded $3,000.

"(2) (A) Except as provided in subparagraph (B), the period for which an individual is ineligible for medical assistance under a State plan by reason of the application of paragraph (1) shall not be more restrictive than—

"(i) six months, if the sum described in paragraph (1) (B) is less than or equal to $6,000,

"(ii) twelve months, if the sum described in paragraph (1) (B) exceeded $6,000 but was less than or equal to $9,000,

"(iii) eighteen months, if the sum described in paragraph (1) (B) exceeded $9,000 but was less than or equal to $12,000, and

"(iv) a period reasonably related to the sum described in paragraph (1) (B) and the estimated cost of the medical assistance which would have been provided the individual under the State plan but for paragraph (1), if the sum described in paragraph (1) (B) exceeded $12,000,

and shall begin with the month following the month in which such disposition occurred.

"(B) A period of ineligibility shall end after the month in which the individual (or other person) either (i) returns the resources, the disposition of which caused the ineligibility to occur or (ii) receives payment equal to the amount of any uncompensated interest described in paragraph (1) (B).

"(C) A State plan may provide for the waiver of the requirement of paragraph (1), or the reduction in the period of ineligibility imposed by this paragraph, in such cases as the State determines that such a waiver or reduction is justified.

"(3) If the eligibility of a person for medical assistance under this title is dependent upon the eligibility of another individual and that other individual is determined to be ineligible for medical assistance under paragraph (1) for a period of time, the person shall be ineligible for medical assistance for the same period of time.

"(4) (A) Notwithstanding any other provision of law, if an individual disposes of resources to another person which disposal, under this subsection, could make the individual ineligible for medical assistance from a State for a period, the State plan under this title may provide for the recovery from such other person of an amount equal to—

"(i) the cost of the medical assistance provide to the individual during or after such period, or

"(ii) the sum described in clauses (i) and (ii) of paragraph (1) (B) with respect to transactions between the individual and the person for such period,

whichever is less, except that the State may not initiate such an action for recovery more than three years after the last date in such period of ineligibility.

"(B) If a State recovers funds under subparagraph (A), it shall provide for notice to the Secretary of the amounts so recovered and the Secretary shall reduce the amount of payments otherwise provided to the State under this title by an amount equal to product of—

"(i) the amount so recovered, and

"(ii) the Federal medical assistance percentage of the State.".

(d) (1) Except as provided in paragraphs (2) and (3), the amendments made by subsection (c) shall become effective on the first day of the first month beginning after the date of the enactment of this Act, and shall apply to dispositions of resources that occur (or occurred) on and after such date (before, on, or after the date of the enactment of this Act) as the State may specify.

(2) Section 1902(h) (4) of such Act shall apply to dispositions of property that occur on or after the date of the enactment of this Act.

(3) (A) The amendments made by subsection (c) shall (except as otherwise provided in subparagraph (B)) apply to a State which is a non-SSI medicaid State (as defined in subparagraph (C)) on and after the first day of the first calendar quarter beginning more than six months after the date of the enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to comply with the amendments made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to comply with such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(C) For purposes of this paragraph, the term "non-SSI medicaid State" means a State which, pursuant to section 1902(f) of the Social Security Act, has elected not to provide, under the State's plan approved under title XIX of such Act, medical assistance to all individuals with respect to whom supplemental security income benefits are payable under title XVI of such Act.

(D) Section 1902(a) (10) is amended (i) by striking out ", and (III)" and inserting in lieu thereof "(III)", and (ii) by inserting before the semicolon at the end the following: ", and (IV) for purposes of clause (A), an individual may be considered as receiving supplemental security income benefits under title XVI if such individual would be receiving such benefits but for section 1611(e) (4)".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to Senate amendment No. 3 be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. BAUMAN. Mr. Speaker, reserving the right to object to the request to dispense with further reading, I do so because I have before me a memorandum dealing with this bill that indicates the bill contains at least five amendments by the other body, one of which is a totally unrelated subject matter dealing with the Parental Kidnapping Prevention Act of 1980.

May I ask, how many nongermane amendments are there?

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I wonder if it would be possible for me also to see what this bill is. I have no memorandum, I have no idea what is in it, and I regret that very much.

Mr. BAUMAN. Mr. Speaker, perhaps we should withdraw it for the moment and consider it when we come back after recess.

Mr. CONABLE. Or perhaps when we come back next year.

Mr. Speaker, may I ask, is there a memorandum available about the contents of this bill?

We do not have any on this side.

Mr. ULLMAN. Mr. Speaker, I will be happy to explain it to the gentleman, if the gentleman will yield. I think the gentleman has the same material that I have.

Mr. BAUMAN. Mr. Speaker, I wonder if the gentleman could withdraw his request and wait until after the recess. This appears to have a number of amendments attached to it, and the ranking minority member of the committee, the gentleman from New York (Mr. Conable) has not seen any of the Ways and Means Committee amendments. The one that I refer to has nothing to do with the Ways and Means Committee. The bill itself is before the Committee on Interstate and Foreign Commerce.

Mr. ULLMAN. Mr. Speaker, I withdraw my request at this time.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) withdraws his unanimous consent request.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. If there are no further unanimous consent requests at this time, the Chair will recognize Members for special orders.

ABSCAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

● Mr. GONZALEZ. Mr. Speaker, the year 1980 will be remembered for the Abscam cases. If these were less cynical times, there would be serious questions raised about the nature of this investigation, its great liberties with basic constitutional principles, and its threat to the independence of the Congress. But these are cynical times, and great principles attract less attention than bad television shows.

The central fact of the Abscam cases is that the investigation was not an investigation of crime at all. It was a systematic testing, not to see if Members of the House and Senate had done anything corrupt, but whether they could be tempted to do something wrong, or at least do something that looked wrong. In no case did the investigators look into allegations of crime. What they did was to see if certain people could be tempted to go along with criminal acts that were perpetrated by the investigators themselves. This kind of police work, is in the words of Morley Safer, "criminal investigation as practiced in the Soviet Union."

We are all familiar with so-called sting operations in which criminal investigators set up shop to buy goods that might be stolen. There is a fundamental difference between that and the Abscam cases. In the phony fence operation, the investigators simply use a technique to recover stolen merchandise, which is evidence of crimes that have previously been committed. But in Abscam, there was never any suggestion of any previous criminal act; there was the systematic, insistent effort to get public officials to participate in crime.

The judas goats used in this operation were con men, hustlers in the hire of the FBI. They were used precisely because of their skill at being dishonest, at creating shows, maneuvering the dumb, the naive, the gullible, the greedy.

In the Myers case, it was an old political associate who was used; in the Jenrette case, an acquaintance of several years, who clearly turned out to be a crook, probably a fact unknown to Mr. Jenrette.

In every case, the routine was the same: The investigators found ways and means to lure legislators into meetings where they would be presented with vastly tempting offers. These were not people who had been known to commit a crime, or even suspected of having committed a crime. They were people who were tested to see if they might be persuaded into going along with a criminal scheme. There was and is no way of knowing if any one of these people ever had or ever would have done anything criminal, in the normal course of their lives and business.

There is something ominous about all this, an Orwellian quality. This kind of investigation does not go into known or suspected acts; it creates the acts. This kind of investigation ignores, repeals the whole concept of American criminal law—the right to the presumption of innocence. Every citizen has the right to be presumed innocent. We know not whether our friends and neighbors are innocent, but we presume they are. But this case is different: It did not care whether or not a person might be innocent. It set out to create guilt where it could be created. That is the complete opposite of the principles under which our whole judicial system operates. It is, in fact, as Mr. Safer observed, the methods of the totalitarian state.

I am astonished that there has been so little concern about the constitutional issues raised here. Certainly it is unpopular to stand up and say that there is something wrong with Abscam other than the acts of the accused. Certainly it is hard to argue that the investigation poses threats to the Constitution. But my friends, we have a duty to do, and duty is not always easy, truth not always popular.

Aside from the fact that the techniques used in Abscam violate every basic principle of our law, we have to recognize that systematic investigations directed against legislative Members can undermine the independence of the Congress itself. Any member who is under investigation is crippled; anyone who can be threatened with indictment loses his independence, as Judge Fullam observed.

The techniques of Abscam were the techniques of blackmail. Suppose that the investigators had chosen not to seek indictments—chosen instead to use the existence of their tapes as blackmail, to control the acts of legislators? Look at the result that could have flowed from that—not one, but three committee chairmen would have been completely at mercy of their controllers, to be used and destroyed at leisure.

Naturally that sounds fantastic, but it is not far from our actual experience. Everyone used to chuckle at the tales of how Presidents used to regale their guests with wiretap and other evidence of the extramarital affairs of one famous person or another. Few asked to what other use that same information might have been put. Certainly the information was never used to obtain indictments. It was used by J. Edgar Hoover to amuse Presidents, and to give those Presidents a measure of control over the lives of people who had been the targets of surveillance—surveillance that was clearly illegal.

We have to imagine what might have happened if the purpose of Abscam were to gain control over Members of Congress. We know that this could have happened. As I have just said, we know that information has been obtained in the past by illegal means and used for immoral purposes. It takes no great imagination to see that when investigative agencies of the government set out to create crimes, their purposes might be more than to rack up indictments and redeem a terribly damaged reputation. There is a considerable irony in the fact that the tattered reputation of the FBI was redeemed through the use of thoroughly tainted methods.

Let us suppose that a half dozen of America's great corporation officers had been gulled by the FBI in similar methods used by the Abscam group. What would our reaction have been then? I submit that we would have been badly shaken by investigations that create crime, rather than seek to ferret out criminal acts.

We forget too easily that in a sting operation involving a phony fence, the indictment is not for being photographed selling stolen goods—it is for having stolen the goods. The film, in short, is evidence of past crime. That is far from the case in Abscam—for there, the film is the crime, not evidence of anything that was ever done before.

It is argued that the defendants in Abscam could have argued entrapment. But the fact is that entrapment as a defense is only available if you confess the crime. In the case of public officials, to confess the crime is to ruin your political life. The defendants are damned either way. If they plead entrapment, they are finished, innocent or not. If they fail to plead entrapment, they cannot pursue the question of Government misconduct. It is a classic catch 22.

The questions raised by Abscam are not merely questions of the guilt or innocence of the defendants. What we have to examine is far more difficult than that—it is whether or not the Constitution can long withstand the use of techniques that are completely at odds with our concept of presumed innocence; techniques that are the same as those used in police states, which create crimes rather than investigate criminal activity; techniques that could very easily be used to compromise the independence and free will of elected Members of the Congress; and techniques which are subject to endless abuse, to the detriment of the whole fabric of a Constitution that sets out to limit the powers of Government and insure the freedom of its citizens, guaranteeing liberty against a rapacious Government.

These are matters that are addressed in a fine essay by Nat Henthoff in the

December 3 Village Voice. I commend that essay to my colleagues.

WHEN GOVERNMENT PROSTITUTES THE CRIMINAL LAW

(By Nat Hentoff)

("The greatest battles for liberty have indeed been fought over the procedure which police and prosecutors may use."—William O. Douglas, Almanac of Liberty. 1954)

Four years ago, during oral argument before the Supreme Court, a lawyer was claiming that his client had been convicted of murder on the basis of evidence seized by the police in outrageous violation of the Fourth Amendment. Chief Justice Burger, himself clearly outraged, thundered from the bench: "Do you believe that a murderer going scot-free is the right price to pay for a mistake [by a cop]?"

Unintimidated, the attorney sharply retorted: "The real question is whether a man is to be imprisoned if his trial was lacking in constitutional fairness."

The attorney lost the case; but in a furious dissent, Justice William Brennan accused the majority of his brethren of being so eager to punish the "guilty" that they had made up their own Constitution—ignoring the one they had sworn to uphold. "The procedural safeguards mandated" in the real Constitution, Brennan said, "are not admonitions to be tolerated only to the extent they serve functional purposes that ensure that the 'guilty' are punished and the 'innocent' freed; rather, every guarantee enshrined in the Constitution, our basic charter and the guarantor of our most precious liberties, is by it endowed with an independent vitality and value, and this Court is not free to curtail those constitutional guarantees even to punish the most obviously guilty . . .

"To sanction disrespect and disregard for the Constitution in the name of protecting society from lawbreakers is to make the Government itself lawless and to subvert those values upon which our ultimate freedom and liberty depend."

That won't play in Peoria. Or in New York. From Ed Koch to some of his most relentless critics on the staff of this very newspaper, the lust to punish the guilty creates a righteous contempt for too strict an adherence to "procedural safeguards." Consider Koch's call for preventive detention, and for the admissibility at trial of evidence seized by police in violation of the Fourth Amendment. (All the cops would have to show is "reasonable good faith" that they were trying to obey the law. Did you ever know anyone to admit "bad faith?")

And consider the way Abscam has been played, except for this column, in the *Voice*, and in most other newspapers. (William Raspberry of the Washington Post being one of the few other exceptions.) Even a member of the ACLU staff (not a lawyer) told me recently that he didn't give a damn whether the FBI had ignored Constitutional niceties in going after Murphy, et. al. "They're Congressmen," he explained, "and I still think that anyone with that much power is legitimately under suspicion." That is, guilty until proven innocent. And to be ensnared by any means necessary.

Take a plebiscite on any street, in any neighborhood, and the overwhelming majority of citizens will agree with that Abscam fan.

Yet, even the most fervent admirers of Abscam can't deny—as Michael Myers, Angelo Errichetti, Louis Johanson, and Howard Criden have stated in their motions claiming Government abuse of their due process rights—that:

"The Government did not infiltrate or uncover pre-existing or ongoing criminal activity. Rather, the Government here created, initiated and perpetuated criminal activity for the purpose of prosecuting those persons who became involved in that activity."

Oh well, they caught them, didn't they?

But in the baiting of the trap, the Government committed some other crimes. As Frank Thompson notes in his due process papers, "To preserve the cover for its investigations, the Government filed a misleading affidavit in the District Court." The affidavit supported a continuance in a civil case against, among others, Abdul Enterprises (the fake company of a fake sheik). The Government described Abdul as a "non-Federal defendant" but of course Abdul was sired, through parthenogenesis, by the Federal Government itself. And in that affidavit, the Government claimed that the civil suit, unless delayed, would compromise an ongoing criminal investigation that included Abdul "within its scope." But Abdul existed only in the cozening minds of the FBI and its hirelings.

So what? So the Government lied. So the integrity of the court was corrupted: They caught them, didn't they?

Thompson's due process claim adds: "The Government also introduced misrepresentations into the banking system, instructing Michael Elzay, vice-president of Chase Manhattan Bank, to inform any inquirers that Abdul Enterprises had $400 million on account." How many false entries did Chase Manhattan make in its various books to make this lie credible? Isn't it a violation of Federal law to fool around like that? Forget it. The Feds asked the bank to do it. What about the integrity of the banking system? What integrity? But how will you know—in dealing with Chase Manhattan or some other bank—that you haven't, however innocently, been drawn into some other Government scam? So what? Don't you trust your Government to do what's best for the greater good?

To make an omelette, you got to break some eggs. To make a Government scam, you got to use some doxies. Not only Chase Manhattan, but that peerless bunco man, Mel Weinberg. Well, not so peerless. He's been caught more than a few times. That's how he got this gig. Instead of being in the slammer for his last swindle, Mel is sending people to the slammer. So far, as best we know, Weinberg has cost the taxpayers more than $100,000 in salary, bonuses, and expenses for his two-year hitch on the "right" side of the law; but considering the harvest, it's a bargain, right?

Unless you're one of those finicky Constitutionalists, like Morley Safer who, on his November 22 CBS radio commentary, likened the techniques of Abscam to "criminal investigation as practiced in the Soviet Union." The man is obviously soft on high-level crime.

But for those few, Safer among them, who are particularly repelled by the entrapments that are the gleeful core of Abscam, a logical question would be: Why have most of these defendants so far not pleaded entrapment? Simple. In the 1980 edition of Basic Criminal Procedure (West), Kamisar, LeFave and Israel note: "Most courts which have considered the issue hold that the defense of entrapment is unavailable to one who denies commission of the criminal act with which he is charged."

Since the ranking Abscam defendants are public officials and/or lawyers, they can't admit the fell deed. Even if an entrapment defense were successful, their careers would be ruined. Of course, by now it's clear that their careers are ruined anyway—whether some are acquitted or not. The intensity and duration of the publicity has turned out to be devastating. All the defendants so far have reason to agree with the prophecy of Federal District Court Judge John Fullam of Pennsylvania when he observed, in an October hearing on Abscam matters, that "The greater and more widespread the publicity about a particular criminal case, the more likely it is that penalties not prescribed by the law will be visited upon the accused."

Especially when the FBI's intimate movies of the accused are on prime-time television. The videotapes add a whole new dimension to destructive publicity. As Morley Safer puts it, "Guilty or not, merely being photographed clandestinely surrounds you with all the appearance of guilt."

For some of the defendants, by the way, their refusal to plead entrapment, and thereby admit guilt, might have had to do with their being innocent. You don't believe any of them are innocent? You don't believe in the presumption of innocence? Join the Koch majority.

Innocent or not, however, all the Abscam defendants were entrapped. And on November 26, Judge Fullam acquitted two of them—Philadelphia City Councilmen George Schwartz and Harry Jannotti—on those and substantive due process grounds. (They had actually used entrapment as one of their defenses.) More about that District Judge's brave dismissal of these cases—and its possible impact on the rest of Abscam, as well as future Government stings—in a later column.

Even though they did not present an entrapment defense, there might be a substantive due process way out for other Abscam defendants, depending on whether the appellate courts take courage from District Judge Fullam. It happens very seldom, but a court can declare that the Government has acted so outrageously, has so offended "fundamental fairness" and "elementary standards of justice," that the defendant cannot be convicted.

In a 1954 dissent (*Irvine* v. *California*), Justice Felix Frankfurter stated the principle: "This Court has rejected the notion that because a conviction is established on incontestable proof of guilt, it may stand, no matter how the proof was secured. Observance of due process has to do not with questions of guilt or innocence, but the mode by which guilt is ascertained.

"Of course, it is a loss to the community when a conviction is overturned because the indefensible means by which it was obtained cannot be squared with the commands of due process. . . . But the people can avoid such miscarriage of justice. A sturdy, self-respecting democratic community should not put up with lawless police and prosecutors."

In view of the decided lack of public dismay, let alone anger, at the architects of abscam, I expect we are not a particularly sturdy, self-respecting democratic community. Not when it comes to letting the forces of light get the creatures of the night any way they can.

Almost any way then can. We have progressed in that certain methods are now denied to the boys in the white hats. In 1883, Sir James Fitzjames Stephen noted in his History of the Criminal Law of England:

"During the discussions which took place on the Indian Code of Criminal Procedure in 1872, some observations were made on the reasons which occasionally lead native police officers to apply torture to prisoners. An experienced civil officer observed, 'There is a great deal of laziness in it. It is far pleasanter to sit comfortably in the shade rubbing red pepper into a poor devil's eyes than to go about in the sun hunting up evidence.' This was a new view to me, but I have no doubt of its truth."

Nobody rubbed red pepper into John Murphy's eyes—though I would hesitate to put that suggestion to a vote in certain places in this city. But instead of going undercover to investigate an actual, ongoing criminal conspiracy, the FBI made up its own. It is far pleasanter to sit comfortably in a motel room and try to get the poor devils to hang themselves. And maybe some other folks. Like Bill Bradley. The microphone picks up everything, and there, in Federal court, is Howard Criden's tape-recorded mention of Senator Bradley as a prospect for the sting. "Not a sure prospect," Criden casually adds. But the reference is enough to plant suspicion in the minds of who knows how many New Jersey voters.

CBS radio reported, however, that Chief Prosecutor Thomas Puccio had advised Bradley that he could contact the Justice Department and get a letter clearing his name. Ain't that sweet. It reminded me of the days of the House Un-American Activities Committee when, if your name was mentioned there just as casually and damagingly, you could go to Hearst columnist George Sokolsky and maybe get a letter clearing your name. Sokolsky had a lot more clout than the Justice Department, being one of the familiars of the leaders of the hunt.

A "dirty business," Justice Oliver Wendell Holmes said of wiretapping in 1928. How far we have advanced technologically since then, and how much dirtier a business it has all become. All the more reason to trace the evolution of Government law-breaking, including entrapment, through some of the pivotal cases over the years. Who knows? Reading this may be some appalled high school student who one day will be a Federal judge or even the head of the FBI.

We will begin, after next week's report on the death of the Criminal Code Reform bill, with *Sorrells* v. *U.S.* (1932). In that case, Justice Owen Roberts said of a Federal entrapment prosecution that it must be thrown out because of "the inherent right of the court not to be made the instrument of wrong. . . . It is the province of the court and the court alone to protect itself and the government from such prostitution of the criminal law."

That's precisely the word. From Mel Weinberg all the way up in the Justice Department, the Abscam teams have made a whore out of the criminal law.

RESOLUTION ASKING FEDERAL RESERVE BOARD TO REDUCE HIGH INTEREST RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. Dicks) is recognized for 5 minutes.

Mr. DICKS. Mr. Speaker, today I rise to offer a resolution which calls upon the Federal Reserve Board to immediately take all necessary steps to reduce the current high interest rates.

I do not take this action lightly or without careful consideration.

As we all know, earlier this week the Nation's largest banks raised their prime lending rates to a record-tying 20 percent annually, as a result of a December 4 decision by the Fed to increase the discount rate from 12 to 13 percent annually.

This action by the Federal Reserve Board is yet another in a series of ill-advised actions which has helped cause the prime interest rate to almost double from early August of this year, when it was as low as 10¾ percent.

Since August, the prime rate has risen sharply, despite protestations by myself and others in the Congress to the President and Board of Governors Chairman Volcker.

Numerous times this year, I and others have urged the President and Chairman Volcker to roll back the high interest rates.

Through correspondence and in conversations with both men early this spring, I expressed my view that a high interest rate policy would ultimately prove to be counter-productive to our fight against the inflation and would cause unnecessary hardship to millions of Americans.

Unfortunately, I was right.

Today, the Board's high interest rate policy continues the unemployment of millions and lengthens the current economic recession.

This policy also continues to cause millions of Americans to suffer needlessly while creating severe pressures on the Federal budget.

As all of us know, when unemployment in Amecira rises by 1 percent, it automatically costs the Federal Government billions in lost tax revenue and unemployment benefits.

The Federal Reserve's high interest policy has had a devastating effect on America's housing industry.

Because of the recent high interest rates, housing starts are down an astounding 34 percent from last year.

This has caused large numbers of homebuilders to absorb severe business losses, prevented thouands of homebuyers from buying homes and harmed our realtors. This cannot continue.

As many of us realize, there are alternatives to high interest rates which can be used to slow inflation.

For instance, the Federal Reserve Board can use its selective credit control authority to direct available capital into long-term investments which will increase current supplies of housing, energy, and other manufactured goods. All of these alternatives to high interest rates should be explored immediately.

In my view, these alternatives, when combined with congressional efforts to develop "supply-side" economic and tax proposals to increase our Nation's productivity, can effectively restore America's economic health and substantially reduce the current rate of inflation—without forcing the American people to endure further economic hardship.

I urge my colleagues swift support of this resolution and ask 5 legislative days for all Members to revise and extend their remarks. Thank you.

A TRIBUTE TO ROSALYNN CARTER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. Boggs) is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, as part of my presentation, I will place in the Record the Washington Post editorial entitled "Rosalynn Carter's Washington."

First, Mr. Speaker, I should like to add my personal heartfelt thanks to the First Lady for the intelligent, graceful, devoted service that she has rendered to the Nation as a whole as well as to its magnificent Capital City. She has been a leader especially well suited to the times who has brought her storehouse of knowledge to the problems that need compassionate attention by both government and the private sector, her refinement of taste to the social and cultural events at the White House, her partner-relationship with her husband to the promotion of rights for all persons and especially those who are female, elderly or disadvantaged, her curiosity of intellect and of heart to the promotion of understanding among all nations and all peoples.

She has been joined in her efforts by the Second Lady, Mrs. Mondale, whose service to the promotion of the arts and humanities has been of special value to a whole generation of Americans.

Our Nation has been well served by these valiant women. I know that my colleagues join me in saluting their accomplishments and in expressing our gratitude to them.

Mr. Speaker, the Washington Post editorial to which I referred is as follows:

Rosalynn Carter's Washington

In the unwritten job description of "First Lady" there is no requirement that the holder of this title learn, care or do much about the community to which she is assigned. Advance hearsay about this town isn't all that helpful, either, as Rosalynn Carter recalled the other day during an emotional reminiscence about the Washington she grew to love—and work with for the last four years. But the misperception of this city as little more than a command post for the federal establishment faded swiftly; in remarks that appear elsewhere on this page, For the Record, Mrs. Carter tells how she discovered a "wonderful home town" with its own local life.

What her remarks did not reveal, and what Mrs. Carter chose to downplay throughout her "term" as First Lady, was the extent of her support for community activities and projects all over the city. That is why the District Council met in special session the other day, and it is why the people who live here may remember her with special fondness. With Mayor Barry at her side in the packed council chambers, Mrs. Carter was treated to a recitation of her numerous efforts on behalf of local causes, in a tribute proposed by council member Polly Shackleton.

PR 3–628, hereafter warmly referred to as the "Rosalynn Carter Appreciation Resolution," cites Mrs. Carter's "commitment . . . to build a more caring society" and "her affection for the District of Columbia and our citizens." Her contributions, as far-ranging as they were quiet and vigorous, included work with the Green Door, a rehabilitation program for the mentally ill; with D.C. General Hospital, where she helped start a nursing education project for geriatric patients; her visits to homes for the elderly; and White House invitations to hundreds of older citizens.

Mrs. Carter also persuaded national industry leaders to contribute to the Community Foundation of Greater Washington, through which help is channeled to the Coalition for Youth and various Hispanic activities. Add to this her work with Friendship House, the Capital Children's Museum, Jubilee Housing, the Oyster School Bilingual Education Program, the National Symphony Orchestra and other cultural organizations. And there was her active participation as a parent of a child in the U.S. public schools whose family supported and used the city's public libraries.

No wonder the resolution carried unanimously. As Mayor Barry said to Mrs. Carter, "You did more volunteer work than some of our own citizens."

RECESS

The SPEAKER pro tempore. The Chair will declare a recess subject to the call of the Chair. A 15-minute notice will be given the Members.

Accordingly (at 5 o'clock and 11 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1900

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BRADEMAS) at 7 p.m.

NUCLEAR WASTE POLICY ACT

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2189) to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes, with Senate amendments to the House amendments thereto, and concur in the Senate amendments to the House amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Low-Level Radioactive Waste Policy Act".

DEFINITIONS

SEC. 2. As used in this Act—

(1) The term "disposal" means the isolation of low level radioactive waste, pursuant to requirements established by the Nucelar Regulatory Commission under applicable law.

(2) The term "low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954.

(3) The term "State" means any State of the United States, the District of Columbia, and, subject to the provisions of Public Law 96–205, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, The Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(4) For purposes of this Act the term "atomic energy defense activities of the Secretary" includes those activities and facilities of the Department of Energy carrying out the connection of (i) Naval reactors development and propulsion (ii) weapons activities, verification and control technology, (iii) defense materials production, (iv) inertial confinement fusion, (v) defense waste management and (vi) defense nuclear materials security and safeguards, (all as included in the Department of Energy appropriations account in any fiscal year —— atomic energy defense activities).

GENERAL PROVISIONS

SEC. 3(a). Compacts established under this Act or actions taken under such compacts shall not be applicable to the transportation, management, or disposal of low-level radioactive waste from atomic energy defense activities of the Secretary or Federal research and development activities.

(b) Any facility established or operated exclusively for the disposal of low-level radioactive waste produced by atomic energy defense activities of the Secretary or Federal research and development activities shall not be subject to compacts established under this Act or actions taken under such compacts.

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

SEC. 4. (a) (1) It is the policy of the Federal Government that—

(A) each State is responsible for providing for the availability of capacity either within or outside the State for the disposal of low-level radioactive waste generated within its borders except for waste generated as a result of defense activities of the Secretary or Federal research and development activities; and

(B) low-level radioactive waste can be most safely and efficiently managed on a regional basis.

(2) (A) To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

(B) A compact entered into under subparagraph (A) shall not take effect until the Congress has by law consented to the compact. Each such compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent. After January 1, 1986, any such compact may restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the region.

(b) (1) In order to assist the States in carrying out the policy set forth in subsection (a) (1), the Secretary shall prepare and submit to Congress and to each of the States within 120 days after the date of the enactment of this Act a report which—

(A) defines the disposal capacity needed for present and future low-level radioactive waste on a regional basis;

(B) defines the status of all commercial low-level radioactive waste disposal sites and includes an evaluation of the license status of each such site, the state of operation of each site, including operating history, an analysis of the adequacy of disposal technology employed at each site to contain low-level radioactive wastes for their hazardous lifetimes, and such recommendations as the Secretary considers appropriate to assure protection of the public health and safety from wastes transported to such sites;

(C) evaluates the transportation requirements on a regional basis and in comparison with performance of present transportation practices for the shipment of low-level radioactive wastes, including an inventory of types and quantities of low-level wastes, and evaluation of shipment requirements for each type of waste and an evaluation of the ability of generators, shippers, and carriers to meet such requirements; and

(D) evaluates the capability of the low-level radioactive waste disposal facilities owned and operated by the Department of Energy to provide interim storage for commercially generated low-level waste and estimates the costs associated with such interim storage.

(2) In carrying out this subsection, the Secretary shall consult with the Governors of the States, the Nuclear Regulatory Commission, the Environmental Protection Agency, the United States Geological Survey, and the Secretary of Transportation, and such other agencies and departments as he finds appropriate.

Amend the amendment of the House to the title so as to read: "An Act to set forth a Federal policy for the disposal of low-level radioactive wastes, and for other purposes."

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona

Mr. LUJAN. Mr. Speaker, reserving the right to object, I take this time simply to ask the gentleman if this is the bill on low-level waste, and I would also ask the gentleman if he would give us a synopsis of what is in the bill.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I thank the gentleman for yielding.

The Senate has returned to the House a bill which sets a Federal policy for the management of our low-level nuclear wastes. Unfortunately, we were not able to agree on an important policy issue affecting the rest of the comprehensive waste management bill passed by the House as H.R. 8378. We had hoped that we would also this year enact a management system for the most hazardous nuclear wastes; high-level waste from reprocessing or weapons programs; and spent nuclear fuel from commercial reactors. Completing work on those issues will be one of our highest priorities in the next Congress.

As now amended by the Senate, the bill gives to the States the responsibility for assuring that low-level nuclear wastes are adequately managed. States will be responsible for seeing that adequate disposal capacity exists for wastes generated within their borders. States may provide such disposal capacity either by establishing a burial ground, or by entering into an agreement with another State which establishes a disposal facility.

To assist States in managing low-level waste, the act gives them authority to enter into compacts with other States for the establishment and operation of regional disposal facilities. These compacts must be approved by Congress, and can not take effect before 1986. These protections assure that the compacts will not have a deleterious effect on interstate commerce, and that all States and regions will have adequate time to develop disposal facilities.

Compacts established under the act will not be applicable to low-level wastes produced by Federal activities. The Federal Government, not the States, is and should be responsible for the management and disposal of federally produced wastes.

Although the most complex and urgent radioactive waste disposal problems still remain before us, I am gratified that we could at least address this issue, which is most pressing. The low-level burial grounds now operating in Nevada, South Carolina and Washington States will be closing to out-of-State traffic, or closing down completely, within the decade. Adequate low-level waste disposal capacity simply does not exist in this country, and there is no method of temporary storage or on-site storage which is capable of providing additional time to grapple the problem. Without a policy and an effort in place, we would be faced with the prospect of our hospitals and research institutions, as well as commercial nuclear power facilities, being forced to shut down.

We should commend our colleague Mr. DERRICK of South Carolina for his unflagging efforts to get this legislation through this Congress. In addition, I want to thank my colleagues Mr. CLAUSEN, Mr. LUJAN, Mr. DINGELL, Mr. BROWN, Mr. BROYHILL, and Mr. STAGGERS, for their cooperation and assistance.

Mr. DINGELL. Mr. Speaker, I rise in support of S. 2189, the Nuclear Waste Policy Act. This bill represents a compromise with the Senate on establishing a national policy on the disposal of low-level radioactive waste.

Enactment of this bill today will enable the States to immediately and effectively address this problem by vesting them with the responsibility for providing capacity for the disposal of low-level radioactive waste generated within the State, and by providing them with the authority to enter into compacts to provide for such disposal. Under the terms of this bill, each State becomes responsible for the disposal of all nondefense and all non-Federal research and development low-level radioactive waste generated with the State.

The responsibility for providing capacity for the disposal of such wastes rests with the States, and the States can meet this responsibility by either establishing their own low-level waste disposal facility or by entering into a interstate compact with another State or other States whereby such parties to the compact will provide for the disposal of their wastes in a mutually agreed upon facility, under such terms and conditions as may be contained in the compact. All such compacts will be submitted to Congress for approval and must be periodically reviewed by Congress. Under the terms of this bill, the Federal Government remains responsible for providing for the disposal of all defense generated.

Low-level waste and for disposing of all low-level waste generated as a result of all Federal research and development activities. This bill merely relates to establishing the responsibility for disposing of such material and is not to be considered a precedent for establishing any procedures for disposing of any other type of radioactive waste or for making any distinction between Federal waste and commercial waste. Nothing in this bill affects the licensing authorities of the Nuclear Regulatory Commission under the provisions of the Atomic Energy Act or the authorities any State exercises under the Nuclear Regulatory Commission's State agreement program.

Additionally, under section 3(a), any compact established under this act shall not provide for the disposal of defense generated waste or for the disposal of waste generated as a result of Federal Research and development activities, for the disposal of such waste remains a Federal responsibility. This provision was not contained in the version of the bill which initially passed the House, but was added by the Senate. As it goes only to the responsibility for disposing of the waste, it does not affect the substance of the House bill, and I can therefore agree to it.

Mr. Speaker, enactment of this bill was the result of the efforts of a number of Members, including the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL). We both regret that we are not today enacting a more comprehensive nuclear waste management but unfortunately, the time constraints enabled a few Senators to hold out for a position which was not consistent with the House bill and which curiously was also not consistent with the Senate bill.

In passing this bill today, special recognition should go to the gentleman from South Carolina (Mr. DERRICK), without whose efforts we would not have even a bill addressing the disposal of low-level waste. The gentleman was untiring in his efforts to include a provision on low-level waste in the bill initially, and has fought hard to reach an agreement on this issue during the current session. As a result of the gentleman's efforts, I have developed a great respect for the gentleman and his work, and I hope that the people of South Carolina recognize that passage of this bill is primarily a result of his personal efforts.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for his explanation.

Further reserving the right to object, Mr. Speaker, I would ask the gentleman from Arizona (Mr. UDALL) if it is his intention—and I will also ask this question of the gentleman from Michigan (Mr. DINGELL)—to arrange in the next session of Congress to have some hearings on the storage of high-level waste as well as other regulations affecting the nuclear industry, because it seems to me to be a shame that we had to settle for just the low-level portion of the bill.

Would the two gentlemen be able to answer that question about hearings early in the year?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, let me say that the gentleman is correct. I will defer to the gentleman from Michigan (Mr. DINGELL) on this subject. We owe the country some answers on nuclear waste, because we have been creating these problems for 35 years. We have yet to establish a system for repository, and, working with the gentleman from New Mexico (Mr. LUJAN), and others, we intend to begin early framing legislation that will deal with this nuclear waste problem.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, I thank the gentleman from Arizona (Mr. UDALL) for his answer, and I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I thank the gentleman for yielding.

The answer to the gentleman's question is that so far as I am capable, the Committee on Interstate and Foreign Commerce will go into this matter at an early time with an eye to resolving this difficult problem. As the gentleman from Arizona (Mr. UDALL) pointed out, the problem is now 35 years old.

Mr. Speaker, if the gentleman would permit me to proceed, I strongly support this bill. I do want to commend the gentleman from New Mexico (Mr. LUJAN), the gentleman from Illinois (Mr. CORCORAN), the gentleman from South Carolina (Mr. DERRICK), who was of enormous help in getting this resolution put forward, and my good friend, the gentleman from Arizona (Mr. UDALL), for the work they have done. I thank the gentleman from Arizona for his courtesy.

Mr. CORCORAN. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, I rise in strong support of S. 2189, a bill which would establish an excellent approach to the problem of low-level nuclear waste. This legislation would encourage the States to form regional compacts to establish and operate low-level waste facilities. Beginning in 1986, such compacts may restrict their facilities to low-level nuclear waste produced in the region. In accordance with the U.S. Constitution, such compacts would be subject to congressional approval.

S. 2189, as before us today, includes only provisions relating to low-level waste. On this issue, in contrast to the disposal of high-level nuclear waste and spent fuel, there has been a significant degree of consensus in both the House and the Senate. The bill before us today includes no provisions relating to high-level nuclear waste or spent fuel. The language of this bill is very similar to title VI of the original S. 2189 as passed by the Senate on July 30 and section 201 of H.R. 8378 as passed by the House on December 3.

This bill is also similar to H.R. 5809, a bill introduced over a year ago by Congressman BUTLER DERRICK of South Carolina. I was an early cosponsor of that bill, and am pleased to note that language similar to H.R. 5809 was incorporated as an amendment I offered and was accepted by the Commerce Committee. At this point, after months of work in both the House and Senate, only this language survives.

While I deeply regret that the 96th Congress was unable to enact a comprehensive nuclear waste policy bill, including high-level nuclear waste, I am hopeful that the 97th Congress will be able to enact such legislation. H.R. 8378, passed by the House by voice vote on December 3, represents an excellent framework for consideration next year. I fully supported H.R. 8378, and I look forward to working next year on this most difficult issue.

Mr. Speaker, our colleague BUTLER DERRICK is to be commended for his persistent efforts in encouraging congressional action on low-level nuclear waste legislation. His efforts, and the cooperation of a good many Senators and Congressmen and their staffs, have resulted in an excellent piece of legislation before us today. I strongly urge support by my colleagues for S. 2189.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I rise in strong support of this legislation, and I thank the gentleman from New Mexico (Mr. LUJAN), the gentleman from Illinois (Mr. CORCORAN), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Arizona (Mr. UDALL) for their tireless efforts.

Mr. Speaker, it is important to recognize that unless immediate action is taken to permit States to enter into compacts for the purpose of establishing regional low-level radioactive waste sites, we may very well be confronted with a serious situation. In October 1979, Governor Ray of Washington State temporarily closed the Hanford site after discovering violations of packaging and transportation regulations. In that same month, Governor List of Nevada temporarily closed the site at Beatty after a USGS team uncovered waste buried outside the existing fence. In South Carolina, Governor Riley announced at that time that waste disposal at the Barnwell site would be reduced to one-half of the amount it was receiving at that time (approximately 2.4 million ft./year) within a 2-year period. South Carolina has also refused to accept any waste from certain generators who have a record of poor packaging or shipping practices.

In November 1979, I introduced H.R. 5809, which would authorize States to enter into regional agreements, or compacts, for the purpose of establishing regional low-level nuclear waste disposal sites. The intent of H.R. 5809 is embodied in the proposal before us today.

I know of no disagreement or opposition to the concept of this measure. I do, however, realize that without this legislation, we face a potentially more serious situation than confronted us last year when the three site-States took their respective action. Since that time the State of Washington has approved an initiative that will take effect July 1, 1981. This initiative provides that the State of Washington will only accept medical low-level radioactive waste from outside its State after that date (unless part of a compact agreement with other States in the region). This would effectively result in only two sites accepting nonmedical waste for the entire Nation.

There is also the possibility that the Beatty, Nevada site will be closed in the near future. The existing site is reaching capacity and may not be expanded. This would leave one state carrying the Nation's burden of low-level radioactive waste disposal, something no single State should have to bear.

Disruption of activities which generate waste could occur if waste generators are unable to temporarily store waste. Some institutions such as hospitals could be affected within a matter of weeks, while some commercial generators could store wastes for longer periods of time, depending on the Nuclear Regulatory Commission's operating license restrictions. The curtailment of operations of one generator—such as radiopharmaceutical manufacturer may severely affect other institutional generators; that is, hospitals, research laboratories, even though the latter may have adequate storage capacity to handle their own wastes.

Mr. Speaker, I believe that the three site States have acted in a responsible manner. South Carolina Gov. Richard Riley has worked diligently to build a national consensus around the idea that while commercial low-level waste disposal is a nationwide problem, the establishment of low-level waste disposal sites should be a State responsibility. This consensus should be acted upon today so that the States can develop compacts for regional disposal sites for low-level waste. To delay enactment of this proposal while we work for a consensus on high-level waste disposal would be irresponsible. I realize that this measure is not as far-reaching as most would like. It is not as comprehensive as I would like. Yet it does address a very real problem and would avert a potential crisis in the next year.

I, therefore, would urge my colleagues to adopt this proposal. Let us enact what we agree on already and turn our concerns next year to the problems of high-level waste disposal. It is the responsible action to take.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, let me say to my colleagues that this legislation has been the product of a lot of negotiation between Members on this side and the other side of the Capitol and between a couple of committees, the committee of the gentleman from Arizona (Mr. UDALL) and the committee of the gentleman from Michigan (Mr. DINGELL) in order to try to forestall the development of a problem wherein the few sites for low-level waste storage and disposal might in fact over the next few months get shut down unless we can get some kind of a program for agreeing to the continuing development of such storage sites.

This is a good piece of legislation to try to resolve that problem on the basis of State compact where the transportation of these low-level waste materials can be minimized and the storage can be made the most effective.

Mr. Speaker, I would urge the acceptance of this legislation by this Body.

Mr. PETRI. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Speaker, the gentleman from Arizona (Mr. UDALL) well knows the problems I have with this legislation.

Could the gentleman review briefly for the Members what the procedures are insofar as the role of the States and decisionmaking so far as the location of these sites are concerned?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, with regard to low-level waste, we put the responsibility squarely on the States, and they want that responsibility. They are encouraged to enter into proper regional compacts so that they do not have to have a repository in every State. We want to make sure they are not dumping everything on South Carolina, Idaho, or Washington State. So with regard to the low-level waste, we encourage cooperation and agreement among the States.

I wanted to act this year on high-level waste. We ought to be acting fairly soon on the away-from-reactor storage and some of these other issues. I will be working with the gentleman from New Mexico (Mr. LUJAN), the gentleman from Ohio (Mr. BROWN), and others next year, and we will get going with a more comprehensive assault on this problem.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona (Mr. UDALL)?

Mr. BREAUX. Mr. Speaker, reserving the right to object, I would ask the gentleman who is bringing this bill to the floor this evening under the unanimous consent request this question: I understand, No. 1, that the bill does not deal with high-level nuclear waste; is that correct?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. BREAUX. Mr. Speaker, with regard to the low-level disposal sites and the role of the States, how does this compare to having to obtain the permission of a State official prior to establishing a low-level waste site within a State's boundary?

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Mr. UDALL. We provide a process whereby each State is encouraged to have its low-level nuclear waste repository but if it can or if it is desirable they can get a contract between six or seven States in an area of the country and agree that the one State which has the responsibility will get financial support and other support from other States.

Mr. BREAUX. Further reserving the right to object, is the gentleman saying if a State deems it inappropriate to have a low-level nuclear waste site within its State boundaries, they would not be forced by an override of the U.S. Government to do so?

Mr. UDALL. The States have the responsibility of taking care of their own waste and we are not going to get into it at that point. The bill encourages several States in the region to get together and agree on a repository.

Mr. BREAUX. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the unanimous request of the gentleman from Arizona (Mr. UDALL) that further reading of the amendments be dispensed with?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks with regard to the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1465. An act to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 2189. An act to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

PNEUMOCOCCAL VACCINE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8406) to amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 4, after line 3, insert:

PAYMENTS TO STATES FOR ADOPTION ASSISTANCE AND FOSTER CARE

SEC. 3. Section 474 of the Social Security Act is amended by adding at the end the following new subsection:

"(d) (1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsections (a), (b), and (c) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (C) such other investigation as the Secretary may find necessary.

"(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.".

SEC. 4. Section 406(a) (2) of the Social Security Act is amended—

(1) by inserting "at the option of the State," after "(B)"; and

(2) by inserting before the semicolon at the end thereof the following: ", or (C) at the option of the State, under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school in grade twelve or below or regularly attending a course of vocational or technical training, other than a course provided by or through a college or university, designed to fit him for gainful employment".

SEC. 5. (a) Section 1613 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE

"(c) (1) In determining the resources of an individual (and his eligible spouse, if any) there shall be included (but subject to the exclusions under subsection (a)) any resource (or interest therein) owned by such individual or eligible spouse within the preceding 24 months if such individual or eligible spouse gave away or sold such resource or interest at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits or assistance under this Act.

"(2) Any transaction described in paragraph (1) shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance under this Act unless such individual or eligible spouse furnishes convincing evidence to establish that the transaction was exclusively for some other purpose.

"(3) For purposes of paragraph (1) the value of such a resource or interest shall be the fair market value of such resource or interest at the time it was sold or given away, less the amount of compensation received for such resource or interest, if any.".

(b) Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) (1) Notwithstanding any other provision of this title, an individual who would otherwise be eligible for medical assistance under the State plan approved under this title may be denied such assistance if such individual would not be eligible for such medical assistance but for the fact that he disposed of resources for less than fair market value. If the State plan provides for the denial of such assistance by reason of such disposal of resources, the State plan shall specify a procedure for implementing such denial which, except as provided in paragraph (2), is not more restrictive than the procedure specified in section 1613(c) of this Act.

"(2) In any case where the uncompensated value of disposed of resources exceeds $12,000, the State plan may provide for a period of ineligibility which exceeds 24 months. If a State plan provides for a period of ineligibility exceeding 24 months, such plan shall provide for the period of ineligibility to bear a reasonable relationship to such uncompensated value.

"(3) In any case where an individual is ineligible for medical assistance under the State plan solely because of the applicability to such individual of the provisions of section 1613(c), the State plan may provide for the eligibility of such individual for medical assistance under the plan if such individual would be so eligible if the State plan requirements with respect to disposal of resources applicable under paragraphs (1) and (2) of this subsection were applied in lieu of the provisions of section 1613(c).".

(c) The amendment made by subsection (a) shall be effective with respect to applications for benefits under title XVI of the Social Security Act filed on or after the first day of the first month which begins at least 60 days after the date of enactment of this Act.

SHORT TITLE

SEC. 6. Sections 6 to 10 of this Act may be cited as the "Parent Kidnaping Prevention Act of 1980".

FINDINGS AND PURPOSES

SEC. 7. (a) The Congress finds that—

(1) there is a large and growing number of cases annually involving disputes between persons claiming rights of custody and visitation of children under the laws, and in the courts, of different States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(2) the laws and practices by which the courts of those jurisdictions determine their

jurisdiction to decide such disputes, and the effect to be given the decisions of such disputes by the courts of other jurisdictions, are often inconsistent and conflicting;

(3) those characteristics of the law and practice in such cases, along with the limits imposed by a Federal system on the authority of each such jurisdiction to conduct investigations and take other actions outside its own boundaries, contribute to a tendency of parties involved in such disputes to frequently resort to the seizure, restraint, concealment, and interstate transportation of children, the disregard of court orders, excessive relitigation of cases, obtaining of conflicting orders by the courts of various jurisdictions, and interstate travel and communication that is so expensive and time consuming as to disrupt their occupations and commercial activities; and

(4) among the results of those conditions and activities are the failure of the courts of such jurisdictions to give full faith and credit to the judicial proceedings of the other jurisdictions, the deprivation of rights of liberty and property without due process of law, burdens on commerce among such jurisdictions and with foreign nations, and harm to the welfare of children and their parents and other custodians.

(b) For those reasons it is necessary to establish a national system for locating parents and children who travel from one such jurisdiction to another and are concealed in connection with such disputes, and to establish national standards under which the courts of such jurisdictions will determine their jurisdiction to decide such disputes and the effect to be given by each such jurisdiction to such decisions by the courts of other such jurisdictions.

(c) The general purposes of section 6, to 10 of this Act are to—

(1) promote cooperation between State courts to the end that a determination of custody and visitation is rendered in the State which can best decide the case in the interest of the child;

(2) promote and expand the exchange of information and other forms of mutual assistance between States which are concerned with the same child;

(3) facilitate the enforcement of custody and visitation decrees of sister States;

(4) discourage continuing interstate controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

(5) avoid jurisdictional competition and conflict between State courts in matters of child custody and visitation which have in the past resulted in the shifting of children from State to State with harmful effects on their well-being; and

(6) deter interstate abductions and other unilateral removals of children undertaken to obtain custody and visitation awards.

FULL FAITH AND CREDIT GIVEN TO CHILD CUSTODY DETERMINATIONS

SEC. 8. (a) Chapter 115 of title 28, United States Code, is amended by adding immediately after section 1738 the following new section:

"§ 1738A. Full faith and credit given to child custody determinations

"(a) The appropriate authorities of every State shall enforce according to its terms, and shall not modify except as provided in subsection (f) of this section, any child custody determination made consistently with the provisions of this section by a court of another State.

"(b) As used in this section, the term—

"(1) 'child' means a person under the age of eighteen;

"(2) 'contestant' means a person, including a parent, who claims a right to custody or visitation of a child;

"(3) 'custody determination' means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modifications;

"(4) 'home State' means the State in which, immediately preceding the time involved, the child lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old, the State in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period;

"(5) 'modification' and 'modify' refer to a custody determination which modifies, replaces, supersedes, or otherwise is made subsequent to, a prior custody determination concerning the same child, whether made by the same court or not;

"(6) 'person acting as a parent' means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

"(7) 'physical custody' means actual possession and control of a child; and

"(8) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

"(c) A child custody determination made by a court of a State is consistent with the provisions of this section only if—

"(1) such court has jurisdiction under the law of such State; and

"(2) one of the following conditions is met:

"(A) such State (i) is the home State of the child on the date of the commencement of the proceeding, or (ii) had been the child's home State within six months before the date of the commencement of the proceeding and the child is absent from such State because of his removal or retention by a contestant or for other reasons, and a contestant continues to live in such State;

"(B)(i) it appears that no other State would have jurisdiction under subparagraph (A), and (ii) it is in the best interest of the child that a court of such State assume jurisdiction because (I) the child and his parents, or the child and at least one contestant, have a significant connection with such State other than mere physical presence in such State, and (II) there is available in such State substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

(C) the child is physically present in such State and (i) the child has been abandoned, or (ii) it is necessary in any emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse;

"(D)(i) it appears that no other State would have jurisdiction under subparagraph (A), (B), (C), or (E), or another State has declined to exercise jurisdiction on the ground that the State whose jurisdiction is in issue is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that such court assume jurisdiction; or

"(E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

"(d) The jurisdiction of a court of a State which has made a child custody determination consistently with the provisions of this section continues as long as the requirement of subsection (c)(1) of this section continues to be met and such State remains the residence of the child or of any contestant.

"(e) Before a child custody determination is made, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of a child.

"(f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if—

"(1) it has jurisdiction to make such a child custody determination; and

"(2) the court of the other State no longer has jurisdiction, or it has declined to exercise such jurisdiction to modify such determination."

"(g) A court of a State shall not exercise jurisdiction in any proceeding for a custody determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction consistently with the provisions of this section to make a custody determination.".

(b) The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738 the following new item.

"1738A. Full faith and credit given to child custody determinations.".

(c) In furtherance of the purposes of section 1738A of title 28, United States Code, as added by subsection (a) of this section, State courts are encouraged to—

(1) afford priority to proceedings for custody determinations; and

(2) award to the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, necessary travel expenses, attorneys' fees, costs of private investigations, witness fees or expenses, and other expenses incurred in connection with such custody determination in any case in which—

(A) a contestant has, without the consent of the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, (i) wrongfully removed the child from the physical custody of such person, or (ii) wrongfully retained the child after a visit or other temporary relinquishment of physical custody; or

(B) the court determines it is appropriate.

USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPING OF A CHILD

SEC. 9. (a) Section 454 of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) in the case of a State which has in effect an agreement with the Secretary entered into pursuant to section 463 for the use of the Parent Locator Service established under section 453, to accept and transmit to the Secretary requests for information authorized under the provisions of the agreement to be furnished by such Service to authorized persons, and to impose and collect (in accordance with regulations of the Secretary) a fee sufficient to cover the costs to the State and to the Secretary incurred by reason of such requests, to transmit to the Secretary from time to time (in accordance with such regulations so much of the fees collected as are attributable to such costs to the Secretary so incurred, and during the period that such agreement is in effect, otherwise to comply with such agreement and regulations of the Secretary with respect thereto.".

(b) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPING OF A CHILD

"SEC. 463. (a) The Secretary shall enter into an agreement with any State which is able and willing to do so, under which the services of the Parent Locator Service established under section 453 shall be made available to such State for the purpose of determining the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

"(b) An agreement entered into under this section shall provide that the State agency described in section 454 will, under procedures prescribed by the Secretary in regulations, receive and transmit to the Secretary requests from authorized persons for information as to (or useful in determining) the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

"(c) Information authorized to be provided by the Secretary under this section shall be subject to the same conditions with respect to disclosure as information authorized to be provided under section 453, and a request for information by the Secretary under this section shall be considered to be a request for information under section 453 which is authorized to be provided under such section. Only information as to the most recent address and place of employment of any absent parent or child shall be provided under this section.

"(d) For purposes of this section—

"(1) the term 'custody determination' means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modification;

"(2) the term 'authorized person' means—

"(A) any agent or attorney of any State having an agreement under this section, who has the duty or authority under the law of such State to enforce a child custody determination;

"(B) any court having jurisdiction to make or enforce such a child custody determination, or any agent of such court; and

"(C) any agent or attorney of the United States, or of a State having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.".

(c) Section 455(a) of such Act is amended by adding after paragraph (3) the following: "except that no amount shall be paid to any State on account of amounts expended to carry out an agreement which it has entered into pursuant to section 463.".

(d) No agreement entered into under section 463 of the Social Security Act shall become effective before the date on which section 1738A of title 28, United States Code (as added by this title) becomes effective.

PARENTAL KIDNAPING

SEC. 10. (a) In view of the findings of the Congress and the purposes of sections 6 to 10 of this Act set forth in section 302, the Congress hereby expressly declares its intent that section 1073 of title 18, United States Code, apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes.

(b) The Attorney General of the United States, not later than 120 days after the date of the enactment of this section (and once every 6 months during the 3-year period following such 120-day period), shall submit a report to the Congress with respect to steps taken to comply with the intent of the Congress set forth in subsection (a). Each such report shall include—

(1) data relating to the number of applications for complaints under section 1073 of title 18, United States Code, in cases involving parental kidnaping;

(2) data relating to the number of complaints issued in such cases; and

(3) such other information as may assist in describing the activities of the Department of Justice in conformance with such intent.

TECHNICAL AMENDMENTS AND AMENDMENTS RELATING TO CHILD SUPPORT AUDITS

SEC. 11. (a)(1) Section 127(a)(1) of the Food Stamp Act Amendments of 1980 (Public Law 96–249), is amended by striking out "Subsection (i) of section 6103" and inserting in lieu thereof "Subsection (1) of section 6103".

(2)(A) Section 408(a)(1) of the Social Security Disability Amendments of 1980 (Public Law 96–265), is amended by striking out (in the new paragraph added thereby to subsection (1) of section 6103 of the Internal Revenue Code of 1954) "(7) Disclosure" and inserting in lieu thereof "(8) Disclosure".

(B) Section 408(a)(2) of the Social Security Disability Amendments of 1980 is amended—

(i) in subparagraph (A), by—

(I) striking out "(1)(1) or (4)(B) or (5)" and inserting in lieu thereof "(1)(1), (4)(B), (5), or (7)", and

(II) striking out "(1)(1), (4)(B), (5), or (7)" and inserting in lieu thereof "(1)(1), (4)(B), (5), (7), or (8)";

(ii) in subparagraph (B), by—

(I) striking out "(1)(3) or (6)" and inserting in lieu thereof "(1)(3), (6), or (7)", and

(II) striking out "(1)(3), (6), or (7)" and insertng in lieu thereof "(1)(3), (6), (7), or (8)";

(iii) in subparagraph (c), by—

(I) striking out "(1)(6)" and inserting in lieu thereof "(1)(6) or (7)", and

(II) striking out "(1)(6) or (7)" and inserting in lieu thereof "(1)(6), (7), or (8)"; and

(iv) in subparagraph (D), by—

(I) striking out "subsection (d), (1)(6) or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (1)(6) or (7), or (m)(4)(B)", and

(II) striking out "subsection (d), (1)(6) or (7), or (m)(4)(E)" and inserting in lieu thereof "subsection (d), (1)(6), (7), or (8), or (m)(4)(B)".

(3) The amendment made by paragraph (1) shall take effect on May 26, 1980 and the amendments made by paragraph (2) shall take effect on June 9, 1980.

(4)(A) The first sentence of section 7213(a)(2) of the Internal Revenue Code of 1954 (relating to unauthorized disclosure of information by State and other employees) is amended by striking out "(1)(6) or (7) and inserting in lieu thereof "(1)(6), (7), or (8)".

(B) The amendment made by subparagraph (A) shall take effect on December 5, 1980.

(b)(1) Section 309 of the Adoption Assistance and Child Welfare Act of 1980 is amended by striking out "fiscal year 1977 or fiscal year 1978 shall be made prior to October 1, 1980" and inserting in lieu thereof "any of the fiscal years 1977 through 1980 shall be made prior to October 1, 1981".

(2) The regulations pertaining to audit criteria (as set forth in 45 CFR 305.20) and the regulations pertaining to penalty for failure to have an effective child support enforcement program (as set forth in 45 CFR 305.50), under the child support program established by title IV–D of the Social Security Act, as in effect on the date of enactment of this Act, shall remain in effect until October 1, 1981.

(c) Section 455(a) of the Social Security Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a period.

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I reserve the right to object to unanimous consent consideration of the measure.

The SPEAKER pro tempore. Is there objection to dispensing with the reading of the amendment?

Mr. LELAND. Mr. Speaker, I object to the bill.

The SPEAKER pro tempore. Does the gentleman object to the unanimous-consent request to dispense with the reading of the amendment?

Mr. LELAND. I do not, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman object to the initial request of the gentleman from Oregon?

Mr. LELAND. Mr. Speaker, I object to the bill itself.

The SPEAKER pro tempore. Does the Chair hear objection to the unanimous-consent request to dispense with further reading of the amendment?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon to concur in the Senate amendment?

Mr. CONABLE. I reserve the right to object.

I do reserve the right to object for the purpose of getting some explanation of the Senate amendment and the provisions of the bill, particularly those with respect to which the House may not have had any proceedings or hearings previously.

Mr. ULLMAN. Mr. Speaker, the pneumococcal vaccine bill is exceedingly important. It is one of the important bills that we have to pass this year that will make very significant improvements in the way we deal with certain aspects of health care.

Mr. Speaker, the House passed the bill, then the Senate added six amendments. They are amendments in the public assistance sector and I will briefly go through them. All but number 6 are noncontroversial in any sense.

The first amendment is a technical correction amendment to Public Law 96–272, the Adoption Assistance and Child Welfare Services Amendments of 1980.

Mr. CONABLE. That is the Cranston amendment, Mr. Chairman, is that correct?

Mr. ULLMAN. That is correct. It will allow States to continue to receive prospective quarterly advances of Federal matching funds for AFDC programs as is allowed under current law.

The second amendment would postpone until October 1, 1981, a position of penalty on States for failure to comply with the child support enforcement provisions of Federal law.

The third amendment would allow States to restrict the payment of AFDC payments to students between the ages of 18 and 21 who are attending high school or a vocational school.

The fourth amendment is a technical amendment renumbering certain sections of the act.

The fifth amendment contains reference to title III of the conference report to accompany H.R. 2977. It contains a Parental Kidnaping Prevention Act.

The conference report was adopted by the House on September 25.

The sixth amendment is the one where we have a great deal of difficulty and some controversy. The members of the Committee on Ways and Means have considered that matter very seriously and at length and have come to the conclusion that the passage of this legislation and getting the vaccine legislation passed is of such overriding importance that we should accept the Senate amendment that would put some limits on the distribution of assets on people eligible for medicaid and SSI.

It would delay for 2 years the payment of supplemental security income benefits and medicaid. In the case of individuals who, in order to qualify for those benefits, dispose of assets below their fair market value. Both the House Committee on Ways and Means and the Committee on Interstate and Foreign Commerce have addressed this matter and they have developed similar language which has passed the House.

Almost everyone now recognizes that we do have to put some limitation on the distribution of assets which is done strictly for the purpose of becoming eligible for AFDC payments.

The Senate provision would do that. We had thought in terms of sending back a compromise provision but at this late hour we might very well endanger the passage of the act if we did that and so it was the decision of the committee and the gentleman from California (Mr. WAXMAN), the chairman of the subcommittee, is not here. He has registered some objection. I think it would be a great mistake, however, to object to the consideration of this matter at this time because the passage of the bill is of such overriding importance. I hope the gentleman from California will not object because it is the considered judgment of all of those on our committee handling this legislation that if we do modify this provision we will lose the bill altogether from the Senate side.

I see the gentleman from Kentucky (Mr. CARTER) standing over there who has been one of the longtime advocates and I commend him for his efforts to get pneumococcal vaccine adopted in the House.

Mr. CONABLE. Further reserving the right to object, I yield to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman for yielding. While I know we are having to accept some amendments that are not agreeable to my good friend from California (Mr. WAXMAN), yet I feel that the good in this amendment outweighs the bad. In the long run it will save many thousands of lives and millions and millions of dollars and I support it as it is.

I congratulate the gentleman from Texas (Mr. LELAND) for introducing this legislation.

Mr. CONABLE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, could the gentleman from Oregon tell me whether or not the so-called Wallop amendment dealing with the parental kidnaping prevention matter does, in fact, contain any other of the provisions of the so-called Domestic Violence Act of which this was a part?

Mr. ULLMAN. If the gentleman will yield, it does not. It is only that particular provision, title III.

Mr. CONABLE. Mr. Speaker, further reserving the right to object, I would like to interrogate the distinguished chairman briefly about the Long amendment relative to the transfer of assets by claimants for SSI benefits and medicaid. It is my understanding that this uses a very tough standard which is designed to try to discourage people from transferring assets for the purpose of qualifying for these public programs.

I personally would have preferred a provision which would have had a graduated scale of penalties for transfer of assets.

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But in my own State, as I understand it, and I would like the chairman to confirm this, and in Michigan and in particular where there have been court cases of some serious dimension, prohibiting States from denying medicaid to recipients because of past transfers of assets, there is a very serious erosion of the money for this purpose, and it tends to cripple other types of welfare programs, benefiting in many cases people for whom medicaid and SSI were not intended.

Now is that not the case?

Mr. ULLMAN. If the gentleman will yield, this provides that if there is an exchange of assets for the purpose of getting on welfare, there will be a two-year delay in those payments. It does provide that if that exchange is made for another purpose than getting on welfare, that it does not serve as a limitation.

Mr. CONABLE. As I understand it, there is a rebuttable presumption, and somebody for whom such a transfer is claimed can come forward and prove it was for some other purpose if it is within their capacity to do so. But otherwise, the standard is a tough one intended to correct the effect of some of these sometimes almost fraudulent transfers for the purpose of benefiting from public programs that were not intended.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. Further reserving the right to object, I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Speaker, the welfare officers from my State have written me examples of the type of abuse that has been going on in this area for many years, and what is true in my State I am sure is true of Oregon, New York, Michigan, and Illinois.

A lot of people are taking advantage of our laws by transferring huge sums of money, $25,000, $50,000, $100,000, in assets and then qualifying for medicaid. That costs the Treasury. That is not hurting the poor people. That is the rich and well-off taking advantage of our laws. We ought to tighten it up.

I do not know that the provision that the Senate sent over is the best one. We have had a lot of discussion today which approach we ought to take. But since they have adopted it, it would seem to me the best thing to do is go forward with this particular approach and not try to send back another version at this late hour. I do not think that would accomplish the purpose.

Either version gives us a much better control than what we have had in the past, because in the past we have had no control, no way to limit these asset transfers.

So I would think this is the best approach we can arrive at. I would hope we can go forward.

Mr. CONABLE. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

MISCELLANEOUS REVENUE ACT OF 1980

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7956) to

make various changes in the tax laws, with the Senate amendments thereto, concur in Senate amendments Nos. 1, 2, 3, 4, 5, 6, 21, 25, 26, 27, 28, 29, 30, and 31, disagree to Senate amendments Nos. 7, 16, 17, 18, 19, 20, 22, and 23, and concur in Senate amendments Nos. 8, 9, 10, 11, 12, 13, 14, 15, and 24 with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 21, strike out "1979" and insert "1980".

Page 4, line 3, strike out "194." and insert "195.".

Page 4, line 14, strike out "a" and insert "an active".

Page 4, line 15, strike out "a" and insert "an active".

Page 5, in the unnumbered line which follows line 15, strike out "194." and insert "195.".

Page 5, strike out all after line 18 over to and including line 12 on page 10.

Page 10, strike out all after line 12 over to and including line 10 on page 11.

Page 11, line 11, strike out "105." and insert "103.".

Page 13, line 4, strike out "106." and insert "104.".

Page 13, line 15, strike out "107." and insert "105.".

Page 16, line 1, strike out "108." and insert "106.".

Page 16, line 19, strike out "109." and insert "107.".

Page 17, after line 15, insert:

SEC. 108. INVESTMENT CREDIT FOR CERTAIN PROPERTY USED IN MARITIME SATELLITE COMMUNICATIONS.

(a) GENERAL RULE.—Paragraph (5) of section 48(a) (relating to property used by governmental units) is amended to read as follows:

"(5) PROPERTY USED BY GOVERNMENTAL UNITS.—Property used by the United States, any State or political subdivision thereof, any international organization, or any agency or instrumentality of any of the foregoing shall not be treated as section 38 property. For purposes of the preceding sentence, the International Telecommunications Satellite Consortium, the International Maritime Satellite Organization, and any successor organization of such Consortium or Organization shall not be treated as an international organization."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1979.

Page 17, after line 15, insert:

SEC. 109. ACQUISITION INDEBTEDNESS.

(a) IN GENERAL.—Section 514(c) of the Internal Revenue Code of 1954 (defining acquisition indebtedness) is amended by adding at the end thereof the following new paragraph:

"(9) REAL PROPERTY ACQUIRED BY QUALIFIED TRUST.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'acquisition indebtedness' does not include indebtedness incurred by a qualified trust in acquiring or improving any real property.

"(B) EXCEPTIONS.—The provisions of subparagraph (A) shall not apply in any case in which—

"(i) the acquisition price is not a fixed amount determined as of the date of acquisition;

"(ii) the amount of indebtedness or any other amount payable with respect to such indebtedness, or the time for making any payment of any such amount, is dependent in whole or in part, upon any revenue, income, or profits derived from such real property;

"(iii) the real property is at any time after the acquisition leased by the qualified trust to the person selling such property to such trust or to any person who bears a relationship described in section 267(b) to such person;

"(iv) the real property is acquired from, or is at any time after the acquisition leased by the qualified trust to, any person who—

"(I) bears a relationship which is described in section 4975(e)(2) (C), (E), or (G) to any plan with respect to which such trust was formed, or

"(II) bears a relationship which is described in section 4975(e)(2) (F) or (H) to any person described in subclause (I); or

"(v) any person described in clause (iii) or (iv) provides the qualified trust with nonrecourse financing in connection with such transaction and such debt—

"(I) is subordinate to any other indebtedness on such property, or

"(II) bears interest at a rate which is significantly less than the rate available from any person not described in clause (iii) or (iv) at the time such indebtedness is incurred.

"(C) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust which constitutes a qualified trust under section 401."

(b) NO PRECEDENT.—The amendment made by subsection (a) shall not be considered a precedent with respect to extending such amendment (or similar rules) to any other person.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

Page 17, strike out all after line 17 over to and including line 2 on page 23.

Page 23, strike out lines 3 and 4.

Page 23, line 5, strike out "221." and insert "201.".

Page 23, line 20, strike out "222." and insert "202.".

Page 24, line 6, strike out "223." and insert "203.".

Page 24, line 17, strike out "224." and insert "204.".

Page 25, line 25, strike out "1980" and insert "1978".

Page 25, line 1, strike out "225." and insert "205.".

Page 28, line 1, strike out "226." and insert "206.".

Page 28, after line 14, insert:

SEC. 207. ELIMINATION OF WITHHOLDING TAX ON PENSIONS PAID TO CERTAIN NONRESIDENT ALIENS.

(a) IN GENERAL.—Section 871(f) (relating to taxation of nonresident alien individuals) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, gross income does not include any amount received as an annuity under a qualified annuity plan described in section 403(a)(1), or from a qualified trust described in section 401(a) which is exempt from tax under section 501(a), if—

"(A) all of the personal services by reason of which the annuity is payable were either—

"(i) personal services performed outside the United States by an individual who, at the time of performance of such personal services, was a nonresident alien, or

"(ii) personal services described in section 864(b)(1) performed within the United States by such individual, and

"(B) at the time the first amount is paid as an annuity under the annuity plan or by the trust, 90 percent or more of the employees for whom contributions or benefits are provided under such annuity plan, or under the plan or plans of which the trust is a part, are citizens or residents of the United States.

"(2) EXCLUSION.—Income received during the taxable year which would be excluded from gross income under this subsection but for the requirement of paragraph (1)(B) shall not be included in gross income if—

"(A) the recipient's country of residence grants a substantially equivalent exclusion to residents and citizens of the United States; or

"(B) the recipient's country of residence is a beneficiary developing country within the meaning of section 502 of the Trade Act of 1974 (19 U.S.C. 2462).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after July 1, 1979.

Page 28, strike out lines 17 to 24, inclusive.

Page 29, line 4, strike out "302." and insert "301.".

Page 29, line 4, strike out "2" and insert "3".

Page 29, line 11, strike out all after "is" down to and including "1980"." in line 13, and insert:

amended—

(1) by striking out "December 31, 1977" and inserting in lieu thereof "December 31, 1978"; and

(2) by striking out "December 31, 1978" each place it appears and inserting in lieu thereof "December 31, 1981".

Page 30, after line 2, insert:

TITLE IV—MISCELLANEOUS AMENDMENTS

Page 30, after line 2, insert:

SEC. 401. TREATMENT OF CERTAIN SOCIAL SECURITY TAX WAIVER EXEMPTIONS.

(a) WAIVER CERTIFICATE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any waiver certificate filed by a qualified corporation (hereinafter in this section referred to as the "corporation") under section 3121(k)(1) of the Internal Revenue Code of 1954 (relating to waiver of exemption from social security taxes by certain organizations) shall be deemed not to be effective, for purposes of the taxes imposed by section 3101 of such Code, with respect to any wages—

(A) paid by the Corporation to any employee thereof after December 31, 1972, and before April 1, 1975, if the Corporation furnishes to the Secretary of the Treasury or his delegate evidence reasonably satisfactory to him that the Corporation has refunded, prior to February 1, 1977, to such employee (or to his survivors or estate) the full amount of the taxes imposed by section 3101 of such Code on such wages, or

(B) paid after March 31, 1975, and prior to July 1, 1977, by the Corporation to an individual as an employee of the Corporation, if the Corporation furnishes to the Secretary of the Treasury or his delegate evidence reasonably satisfactory to him that (i) such individual was not an employee of the Corporation on June 30, 1978, and (ii) no amount of the taxes imposed by section 3101 of such Code on such wages were withheld by the Corporation from such wages.

(2) APPLICATION OF PARAGRAPH (1).—

(A) EVIDENCE TO BE SUBMITTED TO SECRETARY.—The provisions of paragraph (1) shall not apply to wages described in subparagraph (A) or (B) of such paragraph unless, prior to the close of the one-year period which begins on the date of the enactment of this Act, the Corporation furnishes to the Secretary of the Treasury or his delegate the evidence referred to in either such subparagraph.

(B) TAX NOT IMPOSED.—If the provisions of paragraph (1) apply with respect to any wages paid by the Corporation to an employee thereof, no taxes imposed on such wages by section 3101 of the Internal Revenue Code of 1954 shall be payable, and no interest or penalty with respect to the imposition of taxes by such section on such wages (or with respect to the imposition of taxes by such section or section 3111 of such Code on any wages paid by the Corporation prior to January 1, 1978) shall be imposed or collected.

(C) CREDIT AGAINST TAX.—Under regulations prescribed by the Secretary, there shall be allowed as a one-time credit against the tax imposed on the Corporation under section 3101 or 3111 of the Internal Revenue Code of 1954 (and any interest or penalties imposed thereon) an amount equal to the sum of—

(i) all amounts of tax imposed by section 3101 of such Code which have been paid by the Corporation with respect to wages to which paragraph (1) applies, and

(ii) all amounts paid by such Corporation as a penalty or as interest with respect to the tax imposed by section 3101 or 3111 of such Code on such wages.

(b) TREATMENT FOR PURPOSES OF SOCIAL SECURITY ACT.—In the administration of titles II and XVIII of the Social Security Act, any wages paid to any individual to which the provisions of subsection (a) apply shall be treated as wages (within the meaning of section 209 of such Act) for purposes of determining—

(1) entitlement to, or amount of, any insurance benefit payable to such individual or any other person on the basis of the wages and self-employment income of such individual, or

(2) entitlement of such individual to benefits under title XVIII of such Act or entitlement of any other person to such benefits on the basis of the wages and self-employment income of such individual.

(c) QUALIFIED CORPORATION DEFINED.—For purposes of this section, the term "qualified corporation" means any corporation which—

(1) filed a waiver certificate under section 3121 of the Internal Revenue Code of 1954 during 1968;

(2) filed a second waiver certificate under such section during 1975 believing that no other waiver certificate had been filed;

(3) received a refund of the taxes imposed by sections 3101 and 3111 of such Code with respect to certain wages paid to more than 120 but less than 180 employees who did not concur in the filing of the second waiver certificate; and

(4) was notified during 1977 by the Internal Revenue Service that the certificate had been filed during 1968.

(d) LIABILITY FOR TAXES.—Except as provided in subsection (a)(2)(C)(ii), nothing in this section shall be construed to relieve the Corporation of any liability for the payment of the taxes imposed by section 3111 of the Internal Revenue Code of 1954 with respect to any wages paid by it to any individual for any period.

Page 30, after line 2, insert:

SEC. 402. TREATMENT OF AUTHORS AND ARTISTS AS EMPLOYEES.

(a) IN GENERAL.—An author or artists performing services under contract with a corporation shall be considered as an employee of the corporation for the purpose of applying the provisions specified in section 7701 (a)(20) of the Internal Revenue Code of 1954, if, on December 31, 1977, such author or artist was a participant in one or more of the pension, profit-sharing or annuity plans of such corporation which are described in subsection (b)(2).

(b) DEFINITIONS.—For the purposes of this section—

(1) CONTRACT.—The term "contract" means a contract which during its term—

(A) requires such author or artist to give the corporation first reading or first refusal on writings or drawings of specified types, and prohibits him from offering any such writing or drawing to any other publication unless it has been offered to and rejected by the corporation; or

(B) requires such author or artist to use his best efforts to produce work of specified types for the corporation.

(2) CORPORATION.—The term "corporation" means a corporation which for at least 15 years prior to January 1, 1978, had in effect one or more pensions, profit-sharing and annuity plans, each of which—

(A) had contained from its inception a definition of the term "employee" that included the category of "authors and artists under contract", and

(B) had been determined by the Secretary of the Treasury (taking into account the definition described in subparagraph (A)) to be a qualified plan within part I of subchapter D of chapter 1 of subtitle A of the Internal Revenue Code of 1954 for all of such years.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1980.

The Clerk read the House amendments, to the Senate amendments, as follows:

Senate amendment No. 8: In lieu of the matter proposed to be inserted by the Senate amendment, insert "104".

Senate amendment No. 9: In lieu of the matter proposed to be inserted by the Senate amendment, insert "105".

Senate amendment No. 10: In lieu of the matter proposed to be inserted by the Senate amendment, insert "106".

Senate amendment No. 11: In lieu of the matter proposed to be inserted by the Senate amendment, insert "107".

Senate amendment No. 12: In lieu of the matter proposed to be inserted by the Senate amendment, insert "108".

Senate amendment No. 13: In the matter proposed to be inserted by the Senate amendment, strike out "SEC. 108" and insert in lieu thereof "SEC. 109".

Senate amendment No. 14: In the matter proposed to be inserted by the Senate amendment, strike out "SEC. 109" and insert in lieu thereof "SEC. 110".

Senate amendment No. 15: in lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. 201. PREVENTION OF ABUSE OF CERTAIN PENSION PLAN PROVISIONS THROUGH THE USE OF SEPARATE CORPORATIONS OR OTHER ORGANIZATIONS.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules relating to pension plan, etc.) is amended by adding at the end thereof the following new subsection:

"(m) EMPLOYEES OF AN AFFILIATED SERVICE GROUP.—

"(1) IN GENERAL.—For purposes of the employee benefit requirements listed in paragraph (4), except to the extent otherwise provided in regulations, all employees of the members of an affiliated service group shall be treated as employed by a single employer.

"(2) AFFILIATED SERVICE GROUP.—For purposes of this subsection, the term 'affiliated service group' means a group consisting of a service organization (hereinafter in this paragraph referred to as the 'first organization') and one or more of the following:

"(A) any service organization which—

"(i) is a shareholder or partner in the first organization, and

"(ii) regularly performs services for the first organization or is regularly associated with the first organization in performing services for third persons, and

"(B) any other organization if—

"(i) a significant portion of the business of such organization is the performance of services (for the first organization, for organizations described in subparagraph (A), or for both) of a type historically performed in such service field by employees, and

"(ii) 10 percent or more of the interests in such organization is held by persons who are officers, highly compensated employees, or owners of the first organization or an organization described in subparagraph (A).

"(3) SERVICE ORGANIZATIONS.—For purposes of this subsection, the term 'service organization' means an organization the principal business of which is the performance of services.

"(4) EMPLOYEE BENEFIT REQUIREMENTS.—For purposes of this subsection, the employee benefit requirements listed in this paragraph are—

"(A) paragraphs (3), (4), (7), and (16) of section 401(a),

"(B) sections 408(k), 410, 411, and 415,

"(C) section 105(h), and

"(D) section 125.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ORGANIZATION DEFINED.—The term 'organization' means a corporation, partnership, or other organization.

"(B) OWNERSHIP.—In determining ownership, the principles of section 267(c) shall apply.

"(6) PREVENTION OF AVOIDANCE.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance with respect to service organizations, through the use of separate organizations, of any employee benefit requirement listed in paragraph (4)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (8) of section 105(h) (relating to amount paid to highly compensated individuals under a discriminatory self-insured medical expense reimbursement plan) is amended—

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(2) Paragraph (4) of section 125(g) (relating to special rules for cafeteria plans) is amended—

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years ending after November 30, 1980.

(2) PLANS IN EXISTENCE ON NOVEMBER 30, 1980.—In the case of a plan in existence on November 30, 1980, the amendments made by this section shall apply to plan years beginning after November 30, 1980.

Senate amendment numbered 24: In the matter proposed to be inserted by the Senate amendment, strike out "SEC. 207" and insert in lieu thereof "SEC. 227".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments and the House amendments to the Senate amendments be dispensed with and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I ask the distinguished chairman to explain this provision as it has come from the Senate, as amended. What provisions have had House attention previously, and so forth.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. ULLMAN. I thank the gentleman for yielding.

Mr. Speaker, the Senate Finance Committee deleted two House-passed provisions of H.R. 7956. Remember, that is the bill we passed, an omnibus tax measure, section 201, relating to the prevention of abuse of certain employee benefit requirements—and we will have in the record a further description of that matter—and section 104, relating to the availability of investment tax credit for rehabilitated buildings leased to tax-exempt organizations or government units.

Since both of these provisions received House approval originally, Mr. Speaker, I would hope that the House would amend this bill, H.R. 7956, to include them.

What we are doing in two of the amendments then is reinserting two of the provisions that were in the House bill that we passed.

In addition, the Senate added amendments relating to the relief of Manhattan Bowery Corp., and to treatment of authors and artists as employees for certain purposes of the tax code; and those matters. That involves two of the amendments that we have accepted.

Mr. Speaker, I urge the House approve this motion to concur in the Senate amendments to H.R. 7956, with amendments to include the provisions deleted by the Senate relating to pensions and the investment tax credit.

Mr. Speaker, under one of the provisions added by the Senate, a waiver of exemption for social security coverage filed by the Manhattan Bowery Corp., a tax-exempt organization, is terminated for certain past periods. Among other things, this provision provides that if, for certain past periods, the corporation has not paid the employee's portion of social security taxes for certain employees or any interest or penalties on the employer's portion of the social security taxes, it is not required to pay such taxes, interest, or penalties. If such taxes, interest, or penalties have been paid, the corporation is to receive a one-time credit against its liability for social security taxes. This provision is not to be construed to give a double benefit—such as both a refund and a credit—with respect to any amount of taxes, interest, or penalties.

Another provision added by the Senate provides that certain authors and artists are to be treated as employees of the New Yorker magazine for purposes of certain employee benefit provisions of the Internal Revenue Code.

Mr. Speaker, another provision expands the class of controlled groups of employers which are treated as a single employer in testing whether a pension, profit-sharing, or stock bonus plan, a cafeteria or medical reimbursement plan, or a simplified employee pension meets the nondiscrimination standards and other requirements of the tax law for favorable tax treatment. The provision does not change present law under which aggregation of employers may otherwise be required.

In particular, under the provision, for purposes of the employee benefit requirements,[1] all employees of employers who are members of an affiliated service group are treated as employed by a single employer except as provided by Treasury regulations. Under the provision, an affiliated service group consists of a service organization (the "first organization") and (1) each other service organization which is related to the first organization, and (2) each other organization which is related to either (a) the first organization, or (b) a service organization which is related to the first organization.

Under the provision, a service organization is an organization the principal business of which is the performance of services. Also, the first organization and another service organization (an "other related service organization") are considered to be related if (1) the other service organization is a shareholder[2] or partner in the first organization, and (2) the other service organization regularly performs services for the first organization or is regularly associated with the first organization in performing services for third persons.

Under the provision, any other organization (an "other related organization") is related to the first organization (or to an other related service organization) if: First, a significant portion of the business of the other organization is the performance of services, for the first organization (or an other related service organization), of a type historically performed in the service field by employees, and second, at least 10 percent of the interests in the other organization is held by persons who are officers, highly compensated employees, or owners of the first organization (or an other related service organization).

In determining whether services in a particular service field are historically performed by employees, it is intended that the general historical practice in the service field be considered, rather than the practice of the particular organizations involved. In this regard, it is also intended that if services in a particular service field are historically performed by partners or proprietors, but are also of a type historically performed by employees in that service field, the services are to be considered of a type historically performed by employees in that service field.

The operation of the provision can be illustrated as follows: If the A corporation and the B corporation form a partnership (the first organization), the principal business of which is the performance of services, A corporation and B corporation (other related service organizations), and the partnership would constitute an affiliated service group under the provision if they regularly provide services to the partnership or are regularly associated with the partnership in performing services for third persons.

Similarly, if C is an individual partner in a partnership (the first organization) the principal business of which is the performance of services, and if, together, C and the other partners own at least 10 percent of a corporation (an other related organization), a significant portion of the business of which is the performance of services for the partnership, of a type historically performed in the service field by employees, the other related organization would be included in an affiliated service group with the partnership.

The provision authorizes the Secretary of the Treasury to prescribe such regulations as may be necessary to prevent the avoidance with respect to service organizations, through the use of separate organizations, of any employee benefit requirement to which the provision applies.

EFFECTIVE DATE

Generally, the provision applies for plan years ending after November 30, 1980. In the case of a plan in existence on November 30, 1980, the bill applies to plan years beginning after that date.

REVENUE EFFECT

It is estimated that the provision will increase budget receipts from the income tax by $50 million in fiscal year 1981, by $75 million in fiscal year 1982, and by $100 million annually in fiscal years 1983 through 1985.

Mr. CONABLE. Mr. Speaker, further reserving the right to object, I would like to ask the chairman, then the additional Senate amendments that have been put on the bill following our earlier enactment of this measure today have to do with the employees of the New Yorker magazine. Is that correct?

Mr. ULLMAN. One of them has to do with the authors and artists who are employees, yes.

Mr. CONABLE. Because their contractual relationships do not fit within the normal definition of employees and who are in limbo, as it were? Is that correct?

Mr. ULLMAN. That is correct.

Mr. CONABLE. In other words, it is a modest measure limited to one particular type of complex business arrangement.

Mr. ULLMAN. Yes.

Mr. CONABLE. Now, what additional pieces were added? Something relating to the Bowery Bank? Is that it?

Mr. ULLMAN. It involves a nonprofit corporation, the Manhattan Bowery Corporation, and relates to social security benefits.

Mr. CONABLE. Yes.

Mr. ULLMAN. And makes them eligible for social security benefits.

Mr. CONABLE. The ITC for rehabilitation was not passed previously by this House, and it involves an extension of a previous law? Is that correct?

Mr. ULLMAN. Treasury originally objected to it, but has withdrawn its opposition.

Mr. CONABLE. Withdrawn its objection?

Mr. ULLMAN. That is right.

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[1] The employee benefit requirements consist of (1) in the case of qualified pension, etc. plans, the requirements of sec. 401(a) (3), (4), (7), and (16), and secs. 410, 411 and 415 (these provisions relate to employee participation and eligibility, discriminaton, vesting, and limits on benefits and contributions) and, in the case of a plan adopted by more than one employer, the requirements of sec. 412 relating to funding and the limitations of sec. 404(a) relating to employer deductions, (2) the requirements of sec. 105(h) for medical reimbursement plans, (3) the requirements of section 125 for cafeteria plans, and (4) the requirements of sec. 408(k) for simplified employee pensions.

[2] Under the provision, the principles of sec. 267(c) apply for purposes of determining ownership.

Mr. CONABLE. That is an extension of a preexisting law?

Mr. ULLMAN. In our judgment, it is exactly the intention of the existing law.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I would like to inquire of the chairman whether section 301, the election of a State tax-altered use evaluation was deleted from the original H.R. 9556 as it passed the House?

Mr. ULLMAN. If the gentleman will yield, the gentleman is correct.

Mr. FRENZEL. May I ask the chairman if that means that we are going to have to go back to work on that section? Does the chairman believe that the deletion of that section is permanently a good step, or is this a temporary adventure to relieve a problem that was noted by the junior Senator from Tennessee.

Mr. ULLMAN. If the gentleman will yield further, I think there is no question the committees of the Congress will have to go back to this section and make some corrections, but at this time, this appears to be the best solution to the problem.

Mr. FRENZEL. I thank the chairman for his answer.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

□ 1930

MISCELLANEOUS CHANGES IN THE TAX LAWS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7171) to make certain miscellaneous changes in the tax laws, with Senate amendments thereto, concur in Senate amendments Nos. 1, 2, 6, 7, and 8, disagree to Senate amendment No. 9, and concur in Senate amendments Nos. 3, 4, 5, and 11 with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out all after line 2 over to and including line 5 on page 4.

Page 4, line 6, strike out "SEC. 2." and insert " SECTION 1."

Page 4, strike out all after line 19 over to and including line 10 on page 5.

Page 5, line 11, strike out "SEC. 4." and insert "SEC. 2.".

Page 6, line 6, strike out "SEC. 5." and insert "SEC. 3.".

Page 7, line 4, after "group" insert "(or would be required to be so restored but for an election under Regulation § 1.1502–19 (a)(6))".

Page 8, after line 12, insert:

"(4) CAPITAL GAIN TREATMENT.—For purposes of paragraph (1), any amount to which an election under Regulation § 1.1502–19(a) (6) applies shall be treated as long-term capital gain.".

Page 8, strike out all after line 14 over to and including line 19 on page 11.

Page 11, after line 19, insert:

"SEC. 4. DISCLOSURE OF TAX RETURNS TO STATE AUDIT AGENCIES.".

(a) GENERAL RULE.—Subsection (d) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of return information to State tax officials) is amended to read as follows:

"(d) DISCLOSURE TO STATE TAX OFFICIALS.—

"(1) IN GENERAL.—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36, shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

"(2) DISCLOSURE TO STATE AUDIT AGENCIES.—

"(A) IN GENERAL.—Any returns or return information obtained under paragraph (1) by any State agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

"(B) STATE AUDIT AGENCY.—For purposes of subparagraph (A), the term 'State audit agency' means any State agency, body, or laws of the State with the responsibility of auditing State revenues and programs."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Page 11, after line 19, insert:

"SEC. 5. TREATMENT OF CERTAIN LENDING OR FINANCE BUSINESSES FOR PURPOSES OF THE TAX ON PERSONAL HOLDING COMPANIES.

(a) BUSINESS EXPENSE LIMITATIONS.—Clause (ii) of section 542(c)(6)(C) of the Internal Revenue Code of 1954 (relating to exceptions from definition of personal holding company) is amended by striking out "but not $1,000,000".

(b) DEFINITION OF LENDING OR FINANCE BUSINESS.—Clause (i) of section 542(d)(1)(B) of such Code is amended to read as follows:

"(i) making loans, or purchasing or discounting accounts receivable, notes, or installment obligations, if (at the time of the loan, purchase, or discount) the remaining maturity exceeds 144 months, unless—

"(I) the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements arising out of the sale of goods or services in the course of the borrower's or transferor's trade or business, or

"(II) the loans, notes, or installment obligations are made or acquired by the taxpayer and meet the requirements of subparagraph (C), or".

(c) INDEFINITE MATURITY.—Paragraph (1) of section 542(d) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) INDEFINITE MATURITY CREDIT TRANSACTIONS.—For purposes of subparagraph (B)(i), a loan, note, or installment obligation meets the requirements of this subparagraph if it is made under an agreement—

"(i) under which the creditor agrees to make loans or advances (not in excess of an agreed upon maximum amount) from time to time to or for the account of the debtor upon request, and

"(ii) under which the debtor may repay the loan or advance in full or in installments.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

The Clerk read the House amendments to Senate amendments Nos. 3, 4, 5, and 11, as follows:

That the House agree to the Senate amendment numbered 3 with an amendment. Restored the matter proposed to be stricken by the Senate and on page 4, line 20, of the House engrossed bill strike out "SEC. 3" and insert "SEC. 2".

That the House agree to Senate amendment numbered 4 with an amendment. In lieu of the matter proposed to be inserted by the Senate insert "SEC. 3".

That the House agree to Senate amendment numbered 5 with an amendment. In lieu of the matter proposed to be inserted by the Senate insert "SEC. 4".

That the House agree to Senate amendment numbered 11 with an amendment as follows: Omit the matter proposed to be inserted by the Senate amendment numbered 11, and insert in lieu thereof the following:

SEC. 5. PREVENTION OF ABUSE OF CERTAIN PENSION PLAN PROVISIONS THROUGH THE USE OF SEPARATE CORPORATIONS OR OTHER ORGANIZATIONS.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules relating to pension plan, etc.) is amended by adding at the end thereof the following new subsection:

"(m) EMPLOYEE OF AN AFFILIATED SERVICE GROUP.—

"(1) IN GENERAL.—For purposes of the employee benefit requirements listed in paragraph (4), except to the extent otherwise provided in regulations, all employees of the members of an affiliated service group shall be treated as employed by a single employer.

"(2) AFFILIATED SERVICE GROUP.—For purposes of this subsection, the term 'affiliated service group' means a group consisting of a service organization (hereinafter in this paragraph referred to as the 'first organization') and one or more of the following:

"(A) any service organization which—

"(i) is a shareholder or partner in the first organization, and

"(ii) regularly performs services for the first organization or is regularly associated with the first organization in performing services for third persons, and

"(B) any other organization if—

"(i) a significant portion of the business of such organization is the performance of services (for the first organization, for organizations described in subparagraph (A), or for both) of a type historically performed in such service filed by employees, and

"(ii) 10 percent or more of the interests in such organization is held by persons who are officers, highly compensated employees, or owners of the first organization described in subparagraph (A).

"(3) SERVICE ORGANIZATIONS.—For purposes of this subsection, the term 'service organization' means an organization the principal business of which is the performance of services.

"(4) EMPLOYEE BENEFIT REQUIREMENTS.—For purposes of this subsection, the employee benefit requirements listed in this paragraph are—

"(A) paragraphs (3), (4), (7), and (16) of section 401(a),

"(B) sections 408(k), 410, 411, and 415,

"(C) section 105(h), and

"(D) section 125.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ORGANIZATION DEFINED.—The term 'organization' means a corporation, partnership, or other organization.

"(B) OWNERSHIP.—In determining ownership, the principles of section 267(c) shall apply.

"(6) PREVENTION OF AVOIDANCE.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance with respect to service organizations, through the use of separate organizations, of any employee benefit requirement listed in paragraph (4)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (8) of section 105(h) (relating to amount paid to highly compensated individuals under a discriminatory self-insured medical expense reimbursement plan) is amended—

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(2) Paragraph (4) of section 125(g) (relating to special rules for cafeteria plans) is amended—

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years ending after November 30, 1980.

(2) PLANS IN EXISTENCE ON NOVEMBER 30, 1980.—In the case of a plan in existence on November 30, 1980, the amendments made by this section shall apply to plan years beginning after November 30, 1980.

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments 1, 2, 6, 7, and 8, and the House amendments to the Senate amendments 3, 4, 5, and 11 be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I do so for the purpose of asking for an explanation of these provisions which are now before the House, particularly with respect to their previous history.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. ULLMAN. Mr. Speaker, this is another House-passed bill composed of a number of miscellaneous items carefully considered by the committee.

Mr. Speaker, the bill, H.R. 7171, makes a number of minor changes in the tax law, most of which are noncontroversial and unopposed by Treasury. Four provisions either have passed the House or received favorable subcommittee hearings. These provisions relate to annuities purchased by employees of the Uniformed Services University of Health Sciences and tax treatment of members of an affiliated group which include a ConRail transferor railroad.

In addition, section 3 of H.R. 7171 relating to the railroad retirement betterment (RRB) method of accounting and section 201 of H.R. 7956 as passed the House were deleted by the Senate Finance Committee. Since these provisions have already passed the House, Mr. Speaker, I urge the House to amend H.R. 7171 to include these provisions.

An explanation of section 201 of H.R. 7956 will be included in the RECORD at this point.

The provision expands the class of controlled groups of employers which are treated as a single employer in testing whether a pension, profit-sharing, or stock bonus plan, a cafeteria or medical reimbursement plan, or a simplified employee pension meets the nondiscrimination standards and other requirements of the tax laws for favorable tax treatment. The provision does not change present law under which aggregation of employers may otherwise be required.

In particular, under the provision, for purposes of the employee benefit requirements,[1] all employees of employers who are members of an affiliated service group are treated as employed by a single employer except as provided by Treasury regulations. Under the provision, an affiliated service group consists of a service organization (the "first organization") and (1) each other service organization which is related to the first organization, and (2) each other organization which is related to either (a) the first organization, or (b) a service organization which is related to the first organization.

Under the provision, a service organization is an organization the principal business of which is the performance of services. Also, the first organization and another service organization (an "other related service organization") are considered to be related if (1) the other service organization is a shareholder[2] or partner in the first organization, and (2) the other service organization regularly performs services for the first organization or is regularly associated with the first organization in performing services for third persons.

Under the provision, any other organization (an "other related organization") is related to the first organization (or to an other related service organization) if first, a significant portion of the business of the other organization is the performance of services for the first organization (or an other related service organization), of a type historically performed in the service field by employees; and second, at least 10 percent of the interests in the other organization is held by persons who are officers, highly compensated employees, or owners of the first organization (or an other related service organization).

In determining whether services in a particular service field are historically performed by employees, it is intended that the general historical practice in the service field be considered, rather than the practice of the particular organizations involved. In this regard, it is also intended that if services in a particular service field are historically performed by partners or proprietors, but are also of a type historically performed by employees in that service field, the services are to be considered of a type historically performed by employees in that service field.

The operation of the provision can be illustrated as follows: If the A corporation and the B corporation form a partnership (the first organization), the principal business of which is the performance of services, A corporation and B corporation (other related service organizations), and the partnership would constitute an affiliated service group under the provision if they regularly provide services to the partnership or are regularly associated with the partnership in performing services for third persons.

Similarly, if C is an individual partner in a partnership (the first organization) the principal business of which is the performance of services, and if, together, C and the other partners own at least 10 percent of a corporation (an other related organization), a significant portion of the business of which is the performance of services for the partnership, of a type historically performed in the service field by employees, the other related organization would be included in an affiliated service group with the partnership.

The provision authorizes the Secretary of the Treasury to prescribe such regulations as may be necessary to prevent the avoidance with respect to service organizations, through the use of separate organizations, of any employee benefit requirement to which the provision applies.

EFFECTIVE DATE

Generally, the provision applies for plan years ending after November 30, 1980. In the case of a plan in existence on November 30, 1980, the bill applies to plan years beginning after that date.

REVENUE EFFECT

It is estimated that the provision will increase budget receipts from the income tax by $50 million in fiscal year 1981, by $75 million in fiscal year 1982, and by

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[1] The employee benefit requirements consist of (1) in the case of qualified pension, etc. plans, the requirements of sec. 401 (a)(3), (4), (7), and (16), and sec. 410, 411 and 415 (these provisions relate to employee participation and eligibility, discrimination, vesting, and limits on benefits and contributions) and, in the case of a plan adopted by more than one employer, the requirements of sec. 412 relating to funding and the limitations of sec. 404(a) relating to employer deductions, (2) the requirements of sec. 105(h) for medical reimbursement plans, (3) the requirements of sec. 125 for cafeteria plans, and (4) the requirements of sec. 408 (k) for simplified employee pension.

[2] Under the provision, the principles of section 267(c) apply for purposes of determining ownership.

$100 million annually in fiscal years 1983 through 1985.

In contrast, Mr. Speaker, section 5 relating to treatment of certain finance companies as personal holding companies has not been the subject of any hearings here in the House.

Therefore, Mr. Speaker, I urge the House to approve this motion to concur in the Senate amendment to H.R. 7171 with amendments.

Mr. CONABLE. Mr. Speaker, may I ask the chairman did he say that the provisions relating to the Kidde-Garland decision are included in this measure?

Mr. ULLMAN. The gentleman is correct. The answer is "Yes."

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman if he has an inquiry.

Mr. BEDELL. Would the chairman explain, in section 5 I understand the gentleman is not concurring in the Senate amendment? Would the gentleman explain why there is refusal to concur with the other body?

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. May I ask the gentleman, is this relative to the treatment of members of affiliated groups which include the Conrail transfer or railroad?

Mr. BEDELL. No; this has to do with lending, the treatment of certain lending and financial businesses for purposes of tax on personal holding companies.

Mr. ULLMAN. Will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. ULLMAN. Let me say to the gentleman the House is in danger of losing some of its originating authority by all kinds of miscellaneous amendments coming from the other body without any notification or consideration by the House. This is one of those. We have not had any information. We have not held hearings.

This is something that perhaps does have merit, and something I am sure the committee will take up. But at this particular time the gentleman from Illinois (Mr. ROSTENKOWSKI) who is chairman of the subcommittee and will be chairman of the full committee, felt very strongly that this was a matter he should take up separately next year and not have included in this bill.

Mr. BEDELL. Would the gentleman yield further?

Mr. CONABLE. I yield to the gentleman.

Mr. BEDELL. Do I understand correctly then that it is not anything that has to do with the merits of the proposal, but it is the manner in which the proposal came to us that causes the problem?

Mr. ULLMAN. The gentleman is absolutely correct.

Mr. BEDELL. Do we have any assurance from the gentleman that this matter would be considered early in the next session and by that committee?

Mr. ULLMAN. I cannot give those assurances, but the gentleman from Illinois (Mr. ROSTENKOWSKI) has indicated a desire to take the matter up.

Mr. CONABLE. If I may reclaim the time, I would like to say I hope it will be taken up. We have had a number of such measures originating in the other body that have been dropped out of this series of bills that we have been enacting here today. Many of them involve House bills that were sent to the other body long ago and are being returned now with some originating material from the Senate and we have not had a chance to look at it at all. The difficulties could have been avoided had the other body acted on our turns early and put the amendments on with enough time for our staff to be able to analyze them.

I do not know about this particular one, but I am sure, because of the sponsorship and otherwise, that it is a responsible measure.

I regret that we are in a position like this and I hope that we can work out a more satisfactory arrangement with the other body in the long run for dealing with these matters in a timely fashion.

Mr. BEDELL. Will the gentleman yield further?

Mr. CONABLE. I yield.

Mr. BEDELL. Would the gentleman give me his assurance that he would try to see there were hearings held and do what he could do so that this would be considered?

Mr. CONABLE. I certainly will use every effort I can. As the gentleman may know, there are many outstanding issues involving the Ways and Means Committee and the ratio of committee members on that committee, so I may not be in a position to give any assurances to anyone from this side of the aisle.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I have another question, too, about an item that the House did not consider. As I understand it, the Senate Finance Committee added a section on the bill exempting the excise tax on wagers. I wonder if the chairman would confirm to me that that exemption from the excise tax or waiver is not in the bill before us.

Mr. ULLMAN. Will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. ULLMAN. The gentleman is correct, it is deleted.

Mr. FRENZEL. I thank the chairman and thank the gentleman from New York for yielding.

Mr. CONABLE. Is that not another measure that has not been acted on by the House?

Mr. ULLMAN. That is correct.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Is there anything in this bill that is dealing with the Boston Patriots?

Mr. ULLMAN. Will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. ULLMAN. The answer is "No."

Mr. CONABLE. Mr. Speaker, I have no objection, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR DISCLOSURE OF MAILING ADDRESSES OF INDIVIDUALS DEFAULTING ON STUDENT LOANS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4155) to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on certain student loans solely for purposes of collecting such loans, with Senate amendments thereto, concur in the Senate amendment to the title, and concur in the Senate amendment to the text with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SIMPLIFICATION OF PRIVATE FOUNDATION RETURN AND REPORTING REQUIREMENTS.

(a) AMENDMENT OF SECTION 6033.—Section 6033 of the Internal Revenue Code of 1954 (relating to returns by exempt organizations) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) ADDITIONAL PROVISIONS RELATING TO PRIVATE FOUNDATIONS.—In the case of an organization which is a private foundation (within the meaning of section 509(a))—

(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect on January 1, 1979,

"(2) a copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual returns), together with proof of publication thereof, shall be filed by the foundation together with the annual return under this section, and

"(3) the foundation managers shall furnish copies of the annual return under this section to such State officials, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed $1,000.

"(d) SECTION TO APPLY TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The following organizations shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a):

"(1) NONEXEMPT CHARITABLE TRUSTS.—A

trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

"(2) Nonexempt private foundations.—A private foundation which is not exempt from tax under section 501(a)."

(b) Public Inspection of Private Foundations' Annual Returns.—

(1) In general.—The first sentence of subsection (d) of section 6104 of such Code (relating to public inspection of private foundations' annual reports) is amended to read as follows: "The annual return required to be filed under section 6033 (relating to returns by exempt organizations) by any organization which is a private foundation within the meaning of section 509(a) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the date of the publication of notice of its availability."

(2) Conforming amendments.—Such subsection (d) is amended—

(A) by striking out "Annual Reports" in the heading and inserting in lieu thereof "Annual Returns"; and

(B) by striking out "annual report" each place it appears in the second and third sentences and inserting in lieu therof "annual return".

(c) Repeal of Private Foundation Annual Reporting Requirements.—Subpart D of part III of subchapter A of chapter 61 of such Code (relating to information concerning private foundations) is hereby repealed.

(d) Technical Amendments.—

(1) Section 6034 of such Code (relating to returns by trust described in section 4947 (a) or claiming charitable deductions under section 642(c)) is amended—

(A) by striking out "section 4947(a)" in subsection (a) and inserting in lieu thereof "section 4947(a)(2)";

(B) by adding at the end of subsection (b) the following new sentence: "This section shall not apply in the case of a trust described in section 4947(a)(1).";

(C) by striking out "Exception" in the heading of subsection (b) and inserting in lieu thereof "Exceptions"; and

(D) by striking out "section 4947(a)" in the section heading and inserting in lieu thereof "section 4947(a)(2)".

(2)(A) The first sentence of section 6652 (d)(3) of such Code (relating to annual reports) is amended to read as follows: "In the case of a failure to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual returns), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to meet such requirement, $10 for each day during which such failure continues, but the total amount imposed hereunder on all such persons for such failure with respect to any one annual return shall not exceed $5,000."

(B) The heading of paragraph (3) of section 6652(d) of such Code is amended by striking out "reports" and inserting in lieu thereof "returns".

(3) Subsection (b) of section 6104 of such Code (relating to inspection of annual information returns) is amended by striking out "6056,".

(4) Section 6685 of such Code (relating to assessable penalties with respect to private foundation annual reports) is amended to read as follows:

"Sec. 6685. Assessable Penalties With Respect to Private Foundation Annual Returns.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of section 6104(d) (relating to private foundations' annual returns) and who fails to so comply with respect to any return, if such failure is willful, shall pay a penalty of $1,000 with respect to each such return."

(5) Section 7207 of such Code (relating to fraudulent returns, statements, or other documents) is amended by striking out "sections 6047 (b) or (c), 6056, or 6104(d)" and inserting in lieu thereof "subsection (b) or (c) of section 6047 or pursuant to subsection (d) of section 6104".

(e) Clerical Amendments.—

(1) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by striking out "4947 (a)" in the item relating to section 6034 and inserting in lieu thereof "4947(a)(2)".

(2) The table of subparts for part III of subchapter A of chapter 61 of such Code is amended by striking out the item relating to subpart D.

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out "reports" in the item relating to section 6685 and inserting in lieu thereof "returns".

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

Sec. 2. Allowance of Deducation for Certain Foreign Deferred Compensation Plans.

(a) Allowance.—Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by inserting after section 404 the following new section:

"Sec. 404A. Deduction for Certain Foreign Deferred Compensation Plans.

"(a) General Rule.—Amounts paid or accrued by an employer under a qualified foreign plan—

"(1) shall not be allowable as a deduction under section 162, 212, or 404, but

"(2) if they satisfy the conditions of section 162, shall be allowed as a deduction under this section for the taxable year for which such amounts are properly taken into account under this section.

"(b) Rules for Qualified Funded Plans.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this section, in the case of a qualified funded plan contributions are properly taken into account for the taxable year in which paid.

"(2) Payment after close of taxable year.—For purposes of paragraph (1), a payment made after the close of a taxable year shall be treated as made on the last day of such year if the payment is made—

"(A) on account of such year, and

"(B) not later than the time prescribed by law for filing the return for such year (including extensions thereof).

"(3) Limitations.—In the case of a qualified funded plan, the amount allowable as a deduction for the taxable year shall be subject to—

"(A) in the case of—

"(i) a plan under which the benefits are fixed or determinable, limitations similar to those contained in clauses (ii) and (iii) of subparagraph (A) of section 404(a)(1) (determined without regard to the last sentence of such subparagraph (A)), or

"(ii) any other plan, limitations similar to the limitations contained in paragraph (3) of section 404(a), and

"(B) limitations similar to those contained in paragraph (7) of section 404(a).

"(4) Carryover.—If—

"(A) the aggregate of the contributions paid during the taxable year reduced by any contributions not allowable as a deduction under paragraphs (1) and (2) of subsection (g), exceeds

"(B) the amount allowable as a deduction under subsection (a) (determined without regard to subsection (d)),

such excess shall be treated as an amount paid in the succeeding taxable year.

"(5) Amounts must be paid to qualified trust, etc.—In the case of a qualified funded plan, a contribution shall be taken into account only if it is paid—

"(A) to a trust (or the equivalent of a trust) which meets the requirements of section 401(a)(2),

"(B) for a retirement annuity, or

"(C) to a participant or beneficiary.

"(c) Rules Relating to Qualified Reserve Plans.—For purposes of this section—

"(1) In general.—In the case of a qualified reserve plan, the amount properly taken into account for the taxable year is the reasonable addition for such year to a reserve for the taxpayer's liability under the plan. Unless otherwise required or permitted by the Secretary, the reserve for the taxpayer's liability shall be determined under the unit credit method modified to reflect the requirements of paragraphs (3) and (4). All benefits paid under the plan shall be charged to the reserve.

"(2) Income item.—In the case of a plan which is or has been a qualified reserve plan, an amount equal to that portion of any decrease for the taxable year in the reserve which is not attributable to the payment of benefits shall be included in gross income.

"(3) Rights must be nonforfeitable, etc.—In the case of a qualified reserve plan, an item shall be taken into account for a taxable year only if—

"(A) there is no substantial risk that the rights of the employee will be forfeited, and

"(B) such item meets such additional requirements as the Secretary may by regulations prescribe as necessary or appropriate to ensure that the liability will be satisfied.

"(4) Spreading of certain increases and decreases in reserves.—There shall be amortized over a 10-year period any increase or decrease to the reserve on account of—

"(A) the adoption of the plan or a plan amendment,

"(B) experience gains and losses, and

"(C) any change in actuarial assumptions,

"(D) changes in the interest rate under subsection (g)(3)(B), and

"(E) such other factors as may be prescribed by regulations.

"(d) Amounts Taken Into Account Must Be Consistent With Amounts Allowed Under Foreign Law.—

"(1) General rule.—In the case of any plan, the amount allowed as a deduction under subsection (a) for any taxable year shall equal—

"(A) the lesser of—

"(i) the cumulative United States amount, or

"(ii) the cumulative foreign amount, reduced by

"(B) the aggregate amount determined under this section for all prior taxable years.

"(2) Cumulative amounts defined.—For purposes of paragraph (1)—

"(A) Cumulative united states amount.—The term 'cumulative United States amount' means the aggregate amount determined with respect to the plan under this section for the taxable year and for all prior taxable years to which this section applies. Such determination shall be made for each taxable year without regard to the application of paragraph (1).

"(B) Cumulative foreign amount.—The term 'cumulative foreign amount' means the aggregate amount allowed as a deduction under the appropriate foreign tax laws for the taxable year and all prior taxable years to which this section applies.

"(3) Effect on earnings and profits, etc.—In determining the earnings and profits and accumulated profits of any foreign corporation with respect to a qualified foreign plan, the amount determined under paragraph (1) with respect to any plan for any taxable year shall in no event exceed the amount allowed as a deduction under the appropriate foreign tax laws for such taxable year.

"(c) Qualified Foreign Plan.—For purposes of this section, the term 'qualified foreign plan' means any written plan of an employer for deferring the receipt of compensation but only if—

"(1) such plan is for the exclusive benefit of the employer's employees or their beneficiaries,

"(2) 90 percent or more of the amounts taken into account for the taxable year under the plan are attributable to services—

"(A) performed by nonresident aliens, and

"(B) the compensation for which is not subject to tax under this chapter, and

"(3) the employer elects (at such time and in such manner as the Secretary shall by regulations prescribe) to have this section apply to such plan.

"(d) Funded and Reserve Plans.—For purposes of this section—

"(1) Qualified funded plan.—The term 'qualified funded plan' means a qualified foreign plan which is not a qualified reserve plan.

"(2) Qualified reserve plan.—The term 'qualified reserve plan' means a qualified foreign plan with respect to which an election made by the taxpayer is in effect for the taxable year. An election under the preceding sentence shall be made in such manner and form as the Secretary may by regulations prescribe and, once made, may be revoked only with the consent of the Secretary.

"(g) Other Special Rules.—

"(1) No deduction for certain amounts.—Except as provided in section 404(a)(5), no deduction shall be allowed under this section for any item to the extent such item is attributable to services—

"(A) performed by a citizen or resident of the United States who is an officer, shareholder, or highly compensated, or

"(B) performed in the United States the compensation for which is subject to tax under this chapter.

"(2) Taxpayer must furnish information.—

"(A) In general.—No deduction shall be allowed under this section with respect to any plan for any taxable year unless the taxpayer furnishes to the Secretary with respect to such plan (at such time as the Secretary may by regulations prescribe)—

"(i) a statement from the foreign tax authorities specifying the amount of the deduction allowed in computing taxable income under foreign law for such year with respect to such plan,

"(ii) if the return under foreign tax law shows the deduction for plan contributions or reserves as a separate, identifiable item, a copy of the foreign tax return for the taxable year, or

"(iii) such other statement, return, or other evidence as the Secretary prescribes by regulation as being sufficient to establish the amount of the deduction under foreign law.

"(B) Redetermination where foreign tax deduction is adjusted.—If the deduction under foreign tax law is adjusted, the taxpayer shall notify the Secretary of such adjustment on or before the date prescribed by regulations, and the Secretary shall redetermine the amount of the tax for the year or years affected. In any case described in the preceding sentence, rules similar to the rules similar to the rules of subsection (c) of section 905 shall apply.

"(3) Actuarial assumptions must be reasonable, full funding.—

"(A) In general.—Except as provided in subparagraph (B), principles similar to those set forth in paragraphs (3) and (7) of section 412(c) shall apply for purposes of this section.

"(B) Interest rate for reserve plan.—

"(i) In general.—In the case of a qualified reserve plan, in lieu of taking rates of interest into account under subparagraph (A), the rate of interest for the plan shall be the rate selected by the taxpayer which is within the permissible range.

'(ii) Rate remins in effect so long as it falls within permissible range.—Any rate selected by the taxpayer for the plan under this subparagraph shall remain in effect for such plan until the first taxable year for which such rate is no longer within the permissible range. At such time, the taxpayer shall select a new rate of interest which is within the premmissible range applicable at such time.

(iii) Permissible range.—For purposes of this subparagraph, the term permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average rate of interest for long-term corporate bonds in the appropriate country for the 15-year period ending on the last day before the beginning of the taxable year.

"(4) Accounting method.—Any change in the method (but not the actuarial assumptions) used to determine the amount allowed as a deduction under subsection (a) shall be treated as a change in accounting method under section 446(e).

"(5) Section 481 applies to election.—For purposes of section 481, any election under this section shall be treated as a change in the taxpayer's method of accounting. In applying section 481 with respect to any such election, the period for taking into account any increase or decrease in accumulated profits, earnings and profits or taxable income resulting from the application of section 481 (a)(2) shall be the year for which the election is made and the nine succeeding years.

"(h) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section (including regulations providing for the coordination of the provisions of this section with section 404 in the case of a plan which has been subject to both of such sections)."

(b) Amendments of Section 679(a).—Subsection (a)(1) of section 679 of such Code (relating to foreign trusts having one or more United States beneficiaries) is amended by adding the phrase "Or section 404A" immediately after the phrase "section 404(a)(4)".

(c) Taxpayer Must Notify Secretary Where There Is a Redetermination of Tax, Etc., Under Foreign Law.—

(1) Amendment of section 905(c).—Subsection (c) of section 905 of such Code (relating to adjustments on payment of accrued taxes) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply (with respect to any period after the refund or adjustment in the foreign taxes) if the taxpayer fails to notify the Secretary (on or before the date prescribed by regulations for giving such notice) unless it is shown that such failure is due to reasonable cause and not due to willful neglect."

(2) Civil penalty for failure to notify.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) is amended by inserting after section 6688 the following new section:

Sec. 6689. Failure to File Notice of Redetermination of Foreign Tax.

"(a) Civil Penalty.—If the taxpayer fails to notify the Secretary (on or before the date prescribed by regulations for giving such notice) of a foreign tax redetermination, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the deficiency attributable to such redetermination an amount (not in excess of 25 percent of the deficiency) determined as follows—

"(1) 5 percent of the deficiency if the failure is for not more than 1 month, with

"(2) an additional 5 percent of the deficiency for each month (or fraction thereof) during which the failure continues.

"(b) Foreign Tax Redetermination Defined.—For purposes of this section, the term 'foreign tax redetermination' means any redetermination for which a notice is required under subsection (c) of section 905 or paragraph (2) of section 404A(g)."

(d) Clerical Amendments.—

(1) The table of sections for part I of subchapter D of chapter 1 of such Code is amended by inserting after the item relating to section 404 the following new item:

"Sec. 404A. Deduction for certain foreign deferred compensation plans."

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting after the item relating to section 6688 the following new item:

"Sec. 6689. Failure to file notice of redetermination of foreign tax."

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to employer contributions or accruals for taxable years beginning after December 31, 1980.

(2) Election to apply amendments retroactively.—

(A) In general.—The taxpayer may elect to have the amendments made by this section apply retroactively.

(B) Scope of retroactive application.—Any election made under this paragraph shall apply to the taxpayer for the taxpayer's open period.

(C) In case of branch, retroactive application limited to funded plans.—In the case of a plan for a branch of the taxpayer, the election under this paragraph shall apply only if the plan was a qualified funded plan within the meaning of section 404A(f)(1) of the Internal Revenue Code of 1954.

(D) Distributions by foreign subsidiary must be out of post-1971 earnings and profits.—The election under this paragraph shall apply to distributions made by a foreign subsidiary only if made out of accumulated profits (or earnings and profits) earned after December 31, 1971.

(E) Revocation only with consent.—An election under this paragraph may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(F) Time and manner for making election.—

(i) Time.—An election under this paragraph may be made only on or before the due date (including extensions) for filing the taxpayer's return of tax under chapter 1 of the Internal Revenue Code of 1954 for its first taxable year ending on or after December 31, 1980.

(ii) Manner.—An election under this paragraph may be made only by a statement attached to the taxpayer's return for its first taxable year ending on or after December 31, 1980.

(G) Open period.—For purposes of this paragraph, the term "open period" means, with respect to any taxpayer, all taxable years which begin before January 1, 1981, and which begin after December 31, 1971, and after the latest taxable year of the taxpayer for which, on December 31, 1980, the making of a refund, or the assessment of a deficiency, was barred by any law or rule of law.

Sec. 3. Treatment of Transfers of Proven Oil or Gas Properties by Individuals to Corporations.

(a) In General.—Subsection (c) of section 613A of the Internal Revenue Code of 1954 (relating to exemption for independent producers and royalty owners) is amended by redesignating paragraphs (10) and (11) as paragraphs (11) and (12), respectively, and by inserting after paragraph (9) the following new paragraph:

"(10) Transfers by individuals to corporations.—

"(A) In general.—Paragraph (9)(A) shall not apply to a transfer by an individual of qualified property to a qualified transferee corporation solely in exchange for stock in such corporation.

"(B) 1,000-barrel limit for corporation.—A tentative quantity shall be determined for the qualified transferee corporation under this subsection.

"(C) Transferor's tentative quantity reduced.—

"(i) In general.—The tentative quantity for the transferor (and his family) for any period shall be reduced by the transferor's pro rata share of the corporation's depletable quantity for such period.

"(ii) Pro rata share.—For purposes of clause (i), a transferor's pro rata share for any period shall be—

"(I) in the case of production from property to which subparagraph (A) applies, that portion of the corporation's depletable quantity which is allocable to production from such property, and

"(II) in the case of production from all other property, that portion of the corporation's depletable quantity which is allocable to the production from such property, multiplied by a fraction the numerator of which is the fair market value of the transferor's stock in the corporation, and the denominator of which is the fair market value of all stock in the corporation.

"(iii) Depletable quantity.—For purposes of this paragraph, a corporation's depletable quantity for any period in the lesser of—

"(I) such corporation's tentative quantity for such period (determined under paragraphs (3) and (8)), or

"(II) such corporation's average daily production for such period.

"(D) Qualified transferee corporation defined.—For purposes of this paragraph, the term 'qualified transferee corporation' means a corporation all of the outstanding stock of which has been issued to individuals solely in exchange for qualified property held by such individuals.

"(E) Qualified property defined.—For purposes of this paragraph, the term 'qualified property' means oil or gas property with respect to which—

"(i) there has been no prior transfer to which paragraph (9)(A) applied, and

"(ii) the transferor has made an election to have this paragraph apply.

The term also includes cash (not to exceed $1,000 in the aggregate) which one or more individuals transfer to the corporation.

"(F) Transferor must retain stock during lifetime.—If at any time during his lifetime any transferor disposes of stock in the corporation (other than to a member of his family), then the depletable quantity of the corporation (determined without regard to this subparagraph) shall be reduced (for all periods on or after the date of the disposition) by an amount which bears the same ratio to such quantity as the fair market value of the stock so disposed of bears to the aggregate fair market value of all stock of the corporation on such date of disposition.

"(G) Special rules relating to family of transferor.—

"(i) In general.—For purposes of this paragraph—

"(I) the issuances of stock to a member of the family of the transferor shall be treated as issuance of stock to the transferor, and

"(II) during the lifetime of the transferor, stock transferred to a member of the family of the transferor shall be treated as held by the transferor.

If stock described in the preceding sentence ceases to be held by a member of the family of the transferor, the transferor shall be treated as having disposed of such stock at the time of such cessation.

"(ii) Family defined.—For purposes of this paragraph, the members of the family of an individual include only his spouse and minor children.

"(H) Property subject to liabilities.—For purposes of this paragraph, section 357 shall be applied as if—

"(i) references to section 351 include references to subparagraph (A) of this paragraph, and

"(ii) the reference in subsection (a)(1) of section 357 to the nonrecognition of gain includes a reference to the nonapplication of paragraph (9)(A) of this subsection.

"(I) Election.—A transfer may make an election under this paragraph only in such manner as the Secretary may by regulations prescribe and only on or before the due date (including extensions) for filing the return of the corporation of the taxes imposed by this chapter for the corporation's first taxable year ending after the date of the transfer (or, if later, after the date of the enactment of this paragraph).

"(J) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph."

(b) Effective Date.—The amendments made by subsection (a) shall apply to transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1954 to periods after December 31, 1979.

Sec. 4. Credits Allowable Against Minimum Tax.

(a) Allowance of Credit.—

(1) In general.—Paragraph (1) of section 55(c) (relating to credits allowable against alternative minimum tax) is amended to read as follows:

"(1) In general.—For purposes of—

"(A) determining the amount of any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowable under section 33(a)) against the tax imposed by subsection (a) shall be treated as a tax imposed by this chapter only to the extent of the amount which would be determined under subsection (a)(1) if the alternative minimum taxable income was reduced by the sum of—

"(i) the net capital gain, and

"(ii) the adjusted itemized deductions, and

"(B) determining the amount of any such credit (including the credit allowable under section 33(a)) against the tax imposed by this chapter (other than the tax imposed by this section) for the current taxable year, this section shall be disregarded.

(2) Method of determining credits taken into account.—Section 55(c) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Rules for determining amount of credit allowable.—For purposes of determining the amount of any credit under subpar A of part IV of this subchapter (other than the credits imposed by sections 31, 39, and 43) which can be taken against the tax imposed by subsection (a)—

"(A) the amount of such credit shall be increased by an amount equal to the lesser of—

"(i) the amount of such credit allowable in computing the regular tax for the current taxable year, or

"(ii) the excess of—

"(I) the amount of the tax imposed by subsection (a), over

"(II) the sum of the amounts determined under this subparagraph with respect to credits allowed under a section of such subpart having a higher number designation than such credit (other than the credits allowable by sections 31, 39, and 43) and

"(B) in the case of any credit under section 38, 40, or 44B, such credit shall be reduced, under regulations prescribed by the Secretary, by that portion of such credit which is not attributable to an active trade or business of the taxpayer."

(3) Paragraph (4) of section 55(c) (relating to carryover and carryback of certain credits), as redesignated by paragraph (2), is amended to read as follows:

"(4) Carryover and carryback of certain credits.—

"(A) In general.—For purposes of determining the amount of any carryover or carryback to any other taxable year of any credit allowable under subpart A of part IV of this subchapter (other than section 33), the amount of the limitation under section 44E (e)(1), 44C(b) (1) and (2), 53(b), 50A(a) (2), or 46(a)(3) (to the extent such limitation does not exceed the amount of the credit allowable in computing the regular tax for the current taxable year) shall be increased for the current taxable year by the amount determined under subparagraph (A) of paragraph (1) of this subsection, and decreased by—

"(i) the sum of the credits allowed under a section having a lower number designation than the section allowing such credit (other than the credits allowable by sections 31, 33, 39, and 43) against the tax imposed by subsection (a), and

"(ii) the amount determined with respect to such credit under paragraph (2)(B) for the current taxable year.

"(B) Amount of credit.—Any increase under paragraph (2)(A) shall be taken into account in determining the amount of any carryover or carryback from the current taxable year."

(b) Technical and Conforming Amendments.—

(1) Paragraph (2) of section 55(b) (defining regular tax) is amended by striking out "credit allowable under section 33" and inserting in lieu thereof "credits allowable under such subpart".

(2) Paragraph (3) of section 55(c) (relating to foreign tax credit), as redesignated by subsection (a)(2), is amended—

(A) by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(B) by striking out "subparagraph (C)" in subparagraphs (C) and (D)(i), as so redesignated, and inserting in lieu thereof "subparagraph (B)"; and

(C) by striking out clause (ii) of subparagraph (D), as so redesignated, and inserting in lieu thereof the following:

"(ii) any increase under paragraph (2)(A) shall be taken into account."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 to simplify private foundation return and reporting requirements, and for other purposes."

The Clerk read the House amendments to the Senate amendments as follow:

Page 11, line 24 of the Senate engrossed amendment, insert "in regulations prescribed" after permitted.

Page 19, line 14, of the Senate engrossed amendment, strike out nine" and insert in lieu thereof fourteen".

Page 22, strike out line 1 and all that follows down through line 6 on page 24 of the Senate engrossed amendment, and insert in lieu thereof the following:

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to

employer contributions or accruals for taxable years beginning after December 31, 1979.

(2) Election to apply amendments retroactively with respect to foreign subsidiaries.—

(A) In general.—The taxpayer may elect to have the amendments made by this section apply retroactively with respect to its foreign subsidiaries.

(B) Scope of retroactive application.—Any election made under this paragraph shall apply with respect to all foreign subsidiaries of the taxpayer for the taxpayer's open period.

(C) Distributions by foreign subsidiary must be out of post-1971 earnings and profits.—The election under this paragraph shall apply to distributions made by a foreign subsidiary only if made out of accumulated profits (or earnings and profits) earned after December 31, 1970.

(D) Revocation only with consent.—An election under this paragraph may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(E) Open period.—For purposes of this subsection, the term open period" means, with respect to any taxpayer, all taxable years which begin before January 1, 1980, and which begin after December 31, 1971, and for which, on December 31, 1980, the making of a refund, or the assessment of a deficiency, was barred by any law or rule of law.

(3) Allowance of prior deductions in case of certain funded branch plans.—

(A) In general.—If—

(i) the taxpayer elects to have this paragraph apply, and

(ii) the taxpayer agrees to the assessment of all deficiencies (including interest thereon) arising from all erroneous deductions,

then an amount equal to 1/15th of the aggregate of the prior deductions which would have been allowable if the amendments made by this section applied to taxable years beginning before January 1, 1980, shall be allowed as a deduction for the taxpayer's first taxable year beginning in 1980, and an equal amount shall be allowed for each of the succeeding 14 taxable years.

(B) Prior deduction.—For purposes of subparagraph (A), the term "prior deduction" means a deduction with respect to a qualified funded plan (within the meaning of section 404A(f)(1) of the Internal Revenue Code of 1954) of the taxpayer—

(i) which the taxpayer claimed for a taxable year (or could have claimed if the amendments made by this section applied to taxable years beginning before January 1, 1980) beginning before January 1, 1980,

(ii) which was not allowable, and

(iii) with respect to which, on December 1, 1980, the assessment of a deficiency was not barred by any law or rule of law.

(4) Time and manner for making elections.—

(A) Time.—An election under paragraph (2) or (3) may be made only on or before the due date (including extensions) for filing the taxpayer's return of tax under chapter 1 of the Internal Revenue Code of 1954 for its first taxable year ending on or after December 31, 1980.

(B) Manner.—An election under paragraph (2) may be made only by a statement attached to the taxpayer's return for its first taxable year ending on or after December 31, 1980. An election under paragraph (3) may be made only if the taxpayer, on or before the last day for making the election, files with the Secretary of the Treasury or his delegate such amended return and such other information as the Secretary of the Treasury or his delegate may require, and agrees to the assessment of a deficiency for any closed year falling within the open period, to the extent such deficiency is attributable to the operation of such election.

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to the Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I would ask the chairman to explain this measure in detail as this legislation has emerged from the other body.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. ULLMAN. Mr. Speaker, the bill, H.R. 4155, makes a number of minor changes in the tax law, most of which are noncontroversial and unopposed by Treasury. Three provisions either have passed the House or received favorable subcommittee hearings. These provisions relate to the simplification of private foundation reporting, clarification of the rules governing deductibility of pension contributions for foreign employees, and the transfers of proven oil and gas properties.

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This bill as passed the Senate also contains a provision relating to the allowance of certain tax credits against the alternative minimum tax.

There are several minor points which should be clarified with respect to that portion of the bill dealing with pension plans which U.S. companies maintain for their foreign branches and subsidiaries. First, the rules requiring 10-year amortization in certain situations involving qualified reserve plans should be clarified. In this regard, it is contemplated that cost-of-living adjustments to retirement benefits normally would not be considered plan amendments but would be included in the other factors for which the Treasury could by regulations require 10-year amortization. It is not anticipated that any such regulations would affect years prior to their publication. Furthermore, in determining the appropriateness of requiring 10-year amortization, it is intended that the Treasury consider the issue separately as between foreign subsidiaries and branches. Second, the bill permits the Treasury to issue regulations allowing modifications or alternatives to the unit credit method of computing the employer's pension liabilities which can properly be accrued because all events have occurred which determine the fact of the liability and the amount thereof with reasonable accuracy. It is intended that any such modifications or alternatives would generally follow the results achieved by the unit credit method. Finally, it is intended that the election allowing an adjustment for erroneous deductions would cover cash contributions made in prior years but not claimed on its return.

Mr. Speaker, I urge the House approve this motion to concur in the Senate amendments to H.R. 4155 with a technical amendment to the effective date of the pension plan provision.

Mr. CONABLE. Mr. Speaker, may I ask the distinguished chairman, the alternative minimum tax offset, which has been a matter of some concern generally but which has not had House attention, is included or is not included in this measure?

Mr. ULLMAN. If the gentleman will yield, that matter is included in this measure.

Mr. CONABLE. It is included?

Mr. ULLMAN. Yes.

Mr. CONABLE. And has been returned to us by the Senate, even though we rejected it the first time?

Mr. ULLMAN. That is correct.

Mr. CONABLE. Further reserving the right to object, I must say that I think that is a matter of some concern to farmers, to resolve the issue of how the offset of the alternative minimum tax can be handled in situations where there are large investment tax credits and comparatively modest income.

I appreciate the forebearance of the chairman in deciding that that should not be put off into what perhaps may be a less troublesome year, in terms of time.

Mr. ULLMAN. If the gentleman will yield, I knew of the gentleman's interest which he has expressed to me in this matter. It perhaps does not resolve all of the problems and will have to be taken up again, but this is a very important step forward in reducing some of the complexities of the alternative minimum tax.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation, and I have no objection to the passage of this bill at this time.

The SPEAKER pro tempore (Mr. Brademas). Is there objection to the unanimous-consent request of the gentleman from Oregon?

PARLIAMENTARY INQUIRY

Mr. YOUNG of Florida. Mr. Speaker, will the Chair restate the unanimous-consent request? I am asking, is this the unanimous-consent request to pass the bill?

The SPEAKER pro tempore. The Chair will state the unanimous consent request to the gentleman.

It is to take from the Speaker's table the bill, H.R. 4155, to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on certain student loans solely for purposes of collecting such loans, with the Senate amendments thereto, to concur with the Senate amendment to the title, and to concur in the Senate amendment to the text, with amendments.

Is there objection to that unanimous consent request of the gentleman from Oregon?

The Chair hears none. The request is agreed to.

A motion to reconsider is laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the four measures just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Are there other unanimous consent requests? The Chair will entertain them at this time.

The Chair recognizes the gentleman from New York (Mr. LUNDINE).

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 637) entitled "Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the Senate amendment No. 7 with an amendment.

The message also announced that the Senate agrees to the amendment of the House to the Senate amendments Nos. 23, 24, 33, 34, 64, 89, 90, 103, 109, 111, 134, 136, and 139.

The message also announced that the Senate recedes from its amendments Nos. 85 and 129.

The message also announced that the Senate insists upon its amendment to the House amendment to the Senate amendment No. 7 disagreed to by the House; requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. CHILES, Mr. STEVENS, Mr. MATHIAS, Mr. SCHWEIKER, Mr. WEICKER, and Mr. SCHMITT to be the conferees on the part of the Senate.

SPECIAL ORDERS

Mr. LUNDINE. Mr. Speaker, I ask unanimous consent that today, following legislative business and any special orders heretofore entered into, the following Member may be permitted to address the House, revise and extend his remarks, and include therein extraneous material: Mr. LOWRY, for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object to the request of the gentleman from New York, why is the gentleman asking permission at this point, as opposed to the end of the business? Is there some change in the order of business contemplated?

The SPEAKER pro tempore. The Chair has recognized the gentleman from New York. It is perfectly proper.

Mr. LUNDINE. Mr. Speaker, as I understand it, there was no business to come at this particular time.

Mr. BAUMAN. I am sorry. Forgive me for the question.

Mr. LUNDINE. Members had indicated their desire, and so it was thought to be a fortuitous time to make the request.

Mr. BAUMAN. I thank the chair, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Before the gentleman from Ohio begins, it is my understanding that there are 12 or 13 bills, private bills, out of the Committee on the Judiciary. If there is a rollcall asked on any of these, they will be postponed until the end of the day.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

REQUEST FOR CONSIDERATION OF S. 68, DR. JESUS TAN, HIS WIFE, MARGARET PEARL LIYAO TAN, AND THEIR SON, JESSE WILLIAM LIYAO TAN

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 68) for the relief of Dr. Jesus Tan, his wife, Margaret Pearl Liyao Tan, and their son, Jesse William Liyao Tan, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Ohio?

Mr. FISH. Mr. Speaker, reserving the right to object, I do not object to this bill or any of the others that will be presented by the gentleman from Ohio. I make my reservation only for the purpose of giving the gentleman an opportunity to explain to the House the reason for this request.

Mr. SEIBERLING. If the gentleman will yield, as the gentleman knows, these bills—and this is the first of 14 private bills—are covered by public legislation which has passed the House. However, the Senate has insisted that these bills be passed individually in order to stem confusion surrounding their coverage by the public bill, which is H.R. 7273. So with the concurrence of the chairman and ranking minority member of the Committee on the Judiciary, the chairman not being able to be present today, I have agreed to present these bills so that the Senate, in turn, will pass the general bill, H.R. 7273, which the prospective chairman of the Senate Judiciary Committee says he will not do unless we pass these, even though they would be unnecessary if we first passed H.R. 7273.

Mr. FISH. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, do I understand that the request is to discharge the Judiciary Committee and pass the bill, or simply to consider it?

Mr. SEIBERLING. If the gentleman will yield, the effort is to pass each of these private bills.

Mr. BAUMAN. What is the specific request before the House?

Mr. SEIBERLING. The specific request relates to a single bill.

Mr. BAUMAN. No. I mean the form of the request. That the committee be discharged and the bill passed?

The SPEAKER pro tempore. The request of the gentleman from Ohio (Mr. SEIBERLING) is that the House consider the bill.

Mr. BAUMAN. Consider the bill.

Further reserving the right to object, Mr. Speaker, I understand from the gentleman from Ohio, as he explained it and as it was explained to me by the Judiciary Committee staff, that these bills do not have to be brought up before this House. There is an omnibus immigration bill in the other body passed by this House that would cure all of the individual problems facing the people covered by these bills, but that for reasons of senatorial vanity, or otherwise, demand has been made that each individual bill be considered, notwithstanding the fact that the bill over there would take care of them.

☐ 1950

Mr. SEIBERLING. That is absolutely correct, if the bill that we have sent to the Senate were passed.

Mr. BAUMAN. The gentleman from Maryland intends to object to all of the requests, so there is no point in offering the other 13.

Mr. SEIBERLING. Will the gentleman withhold?

Mr. BAUMAN. Yes, I withhold.

Mr. SEIBERLING. I would hope that the gentleman would reconsider. I am undertaking this simply to help accomplish this objective of enacting the general legislation that will make such private bills unnecessary. It may seem irrational, but it is to accommodate one of the Members of the other body.

Mr. BAUMAN. Surely the gentleman jests.

Mr. SEIBERLING. For some reason that I do not understand, he refuses to pass a general piece of legislation on which I do not see that there is any controversy, unless we will accommodate him by passing 14 separate private bills, each of which has been cleared through the Immigration Subcommittee of this House, each of which meets our guideline, but which for some reason or another he wants to handle individually. Whether it is because the authors of the bills want to get individual recognition or not, I do not know. But, that is the situation, and I would hope that the gentleman would accommodate us in an effort to deal with a somewhat frustrating problem.

Mr. BAUMAN. I concur with the gentleman's estimate of the situation, but not his conclusion, and I will object to them all, and I do object to this request.

The SPEAKER pro tempore. Objection is heard to the unanimous-consent request of the gentleman from Ohio for consideration of the bill.

RECESS

The SPEAKER pro tempore. The Chair wishes to announce that the House will be in recess until 5 minutes past 8 p.m.

Accordingly (at 7 o'clock and 54 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2005

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BRADEMAS) at 8 o'clock and 5 minutes p.m.

RECESS

The SPEAKER pro tempore. The Chair will announce that the House is awaiting the report of the Committee on Appropriations, so the Chair will announce further that the House will now be in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 6 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2020

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 20 minutes p.m.

The SPEAKER. The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 637, FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 637) making further continuing appropriations for fiscal year 1981, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment No. 7, disagree to the Senate amendment and agree to the conference requested by the Senate.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I wonder if the gentleman from Mississippi could tell us what then the intention would be if this request is honored?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Mississippi.

Mr. WHITTEN. The Senate having differed with the House passed conference report and made an amendment to it, it is my thought that for us to refuse to appoint conferees would be misunderstood by the public, and I would not feel comfortable with it myself.

It would be my intention to consider the bill that I have just introduced as soon as possible. There are some slight modifications to this bill but my intention is to bring up a clean resolution in line with the House position and pass that through the House and have that done before we meet in conference with the Senate on House Joint Resolution 637.

Mr. BAUMAN. If this request is granted, then a clean continuing resolution would be preferable.

Mr. WHITTEN. I think this is a holding action while we take other action.

Mr. BAUMAN. Would it not be wise perhaps to treat the resolution the gentleman suggests first?

Mr. WHITTEN. Well, I think not, because we would have a chance to meet with them on the first resolution before we had to meet with them on our resolution.

It is a matter of judgment about which is best.

Mr. BAUMAN. Mr. Speaker, I withdraw by reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, ADDABBO, LONG of Maryland, ROYBAL, MCKAY, BEVILL, DUNCAN of Oregon, BENJAMIN, DIXON, CONTE, MICHEL, MCDADE, ANDREWS of North Dakota, EDWARDS of Alabama, and MYERS of Indiana.

RECESS

Mr. WHITTEN. Mr. Speaker, earlier this evening I introduced House Joint Resolution 643. I think they are in the process of amending that somewhat, so it will be a few minutes, if I might ask for a little delay.

The SPEAKER. The Chair will announce that the House will now be in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 23 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2120

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 9 o'clock and 20 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8338. An act to designate the facility known as the Northeastern Forest Experiment Station in Durham, N.H., as the "Louis C. Wyman Forest Experiment Station."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3212. An act to designate the "Thomas J. McIntyre Federal Building"; and

S. 3234. An act to establish a plan for satisfying the John F. Kennedy Center's indebtedness.

FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of a House joint resolution which is at the desk, and I ask that the previous question be considered as ordered thereon to final passage without intervening motion and that debate be limited to 1 hour to be equally divided and controlled by the gentleman from Illinois (Mr. MICHEL) and myself.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. YOUNG of Florida. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the Appropriations Committee if there are any major changes in this compared to the original resolution that this House passed.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Mississippi.

Mr. WHITTEN. There are two changes, after conferring with the leadership it was their thought that we need to send a bill that the Senate might accept.

We refer here to the Export-Import Bank and IMF, which are included in this resolution. We do this by reference with respect to Export-Import Bank and the IMF, both of them were included in the bill that previously passed the House.

As I say, this was not in the original resolution that I introduced. I reintroduced this after conferring with the leadership and in an effort to have a bill that the other side might accept. That is the basis for that.

Mr. YOUNG of Florida. Further reserving the right to object, I would like to observe to the chairman, and I think he might concur that we would not even find ourselves here tonight discussing a continuing resolution if the other body had done their job in the first place, because this House has passed all but one of the appropriations bill that we were required to appropriate for this year.

Specifically on the question of the IMF, which is \$5½ billion, the House has already passed that appropriations bill, and the other body would have to do nothing more than take up that bill and pass it and send it to the White House. I just cannot understand why it is that the other body would attempt to make this House look like we were being dilatory when, in fact, we have done our job and if it has been anything dilatory, it has been down there.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. —

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:

SEC. 101. (a) (1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriation Acts:

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981; and

Treasury, Postal Service, and General Government Appropriation Act, 1981.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1980, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1980, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the rate permitted by the action of the House, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980, except section 201 of title II of the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1980, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Notwithstanding section 10 of Public Law 91–672, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, such amounts as may be necessary for continuing projects or activities which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the rate which would have been provided under the terms of the conference report (House Report 96–787), and in accordance with associated agreements stated in the Joint Explanatory Statements of the Committee of Conference, accompanying H.R. 4473, except that funds for Cyprus shall be at the rate and manner provided in fiscal year 1980, and for Operating Expenses of the Agency for International Development the rate for operations shall be at an annual rate of $280,000,000: *Provided,* That not more than $105,700,000 of this amount shall be for AID/Washington Operating Expenses: *Provided further,* That the rate for Foreign Military Credit Sales shall not exceed $500,000,000: *Provided further,* That an overall ceiling for Foreign Military Credit Sales loans and grants of $2,976,375,000 is hereby established: *Provided further,* That of the $73,000,000 available for International Disaster Assistance, not less than $50,000,000 shall be for relief, rehabilitation, and reconstruction assistance for the victims of the earthquake in southern Italy in November 1980: *Provided further,* That out of existing funds provided for the Agency for International Development, $2,000,000 shall be used for the African Development Foundation, except that with respect to the Export-Import Bank for the fiscal year 1981, gross obligations for the principal amount of direct loans shall not exceed $5,900,000,000 and total commitments to guarantee loans shall not exceed $7,559,000,000 of contingent liability for loan principal:*Provided further,* notwithstanding section 102(c) of this joint resolution, such amounts and in the manner and terms as provided in H.J. Res. 601, as passed the House on September 25, 1980, for the International Monetary Fund.

(c) Such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 7593, entitled the "Legislative Branch Appropriations Act, 1981", as passed the House of Representatives, July 21, 1980, and the provisions of H.R. 7593 shall be effective as if enacted into law; except that the provisions of section 309 of H.R. 7593 shall not apply to th General Accounting Office, and the last proviso under the heading "Government Printing Office, Office of Superintendent of Documents, Salaries and Expenses" in H.R. 7593 shall not apply, and the provisions of section 306(a), (b), and (d) of H.R. 7593 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials) shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through June 5, 1981, by this or any other Act. Notwithstanding section 102(c) of this joint resolution, for mileage of Members, as authorized by law, $210,000.

(d) Such amounts as may be necessary for continuing the following activities not otherwise provided for, which were conducted in fiscal year 1980, but at a rate for operations not in excess of the current rate: *Provided.* That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1980:

activities of the Council on Wage and Price Stability;

activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol;

activities of the National Health Service Corps under section 338(a) of the Public Health Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of health professions education and nurse training under titles VII and VIII of the Public Health Service Act including authority to guarantee new loans under the Health Education Assistance Loans (HEAL) program;

activities under the Community Mental Health Centers Act;

activities of the National Arthritis Advisory Board and the National Diabetes Advisory Board; and

activities under title IV, part A, subparts 2 and 3, and titles VII and VIII of the Comprehensive Employment and Training Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000.

(e) Such amounts as may be necessary to permit payments and assistance mandated by law for the following activities under the terms, conditions and limitations included in the applicable appropriation Act for 1980:

activities under title IV of the Federal Mine Health and Safety Act of 1977;

activities under the Social Security Act;

retirement pay and medical benefits for commissioned officers of the Public Health Service;

activities under title IV, part B, of the Higher Education Act; Notwithstanding paragraph 1393(a) of the Education Amendments of 1980, paragraph 446 of such amendments shall be effective on July 1, 1981;

notwithstanding any other provision of this joint resolution except section 102, activities of the Department of Labor, Employment and Training Administration for "Federal unemployment benefits and allowances" and "Advances to the unemployment trust fund and other funds"; and

activities of the Department of Labor, Employment Standards Administration for "Special benefits" and "Black Lung Disability Trust Fund".

(f) Such amounts as may be necessary for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to continue the breeder reactor demonstration project, or such project alternative as may be approved by Congress in authorizing legislation, at the current rate of operations notwithstanding the provisions of section 102 (a) and (b) of this joint resolution.

(g) Activities of the Department of Health and Human Services to process, maintains, return or resettle Cuban and Haitian entrants shall be funded at not to exceed an annual rate provided in the budget estimate.

(h) Notwithstanding any other provision of law, amounts appropriated to the State and Local Government Fiscal Assistance Trust Fund shall be available for payments to units of local government in accordance with the provisions and conditions set forth in the State and Local Fiscal Assistance Act of 1972, as amended and as further amended by H.R. 7112 as enacted by the Congress, for a one-year entitlement period beginning October 1, 1980, but at not to exceed an annual rate for operations of $4,566,700,000.

(i) Notwithstanding any other provision of this joint resolution: There is appropriated an additional amount of $46,700,000, to remain available until expended, for Department of Energy, Operating Expenses, Atomic Energy Defense Activities, and an additional amount of $65,300,000, to remain available until expended, for Department of Energy, Plant and Capital Equipment, Atomic Energy Defense Activities, such amounts to be merged with and subject to the same provisions as amounts previously provided for such Activities in Public Law 96–367, Energy and Water Development Act, Appropriation Act, 1981; section 120(b) of the Water Resources Development Act of 1976 (90 Stat. 2924) is amended by striking out "for the fiscal years ending September 30, 1978, and September 30, 1979,"; and appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

(j) Notwithstanding section 101(a) of this joint resolution, not to exceed $1,850,000,000 shall be available for an annual rate for operations to continue the low-income energy assistance program under the State allocations provided for in H.R. 7998 as passed the House of Representatives August 27, 1980, and in House Report 96–1244, except that the sum of $50,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 per centum of the amount it would have received under the State allocation formula for low-income energy assistance as provided in the regulations published on May 30, 1980, in volume 45, numbered 106, Federal Register, pages 36810–36838, such payments to be, to the maximum extent possible, the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation under such regulations; the energy assistance program shall be continued under the terms and conditions of such regulations and any nonformula amendments thereto, except that an eligible household shall also include any single person household at or below 125 per centum of poverty: *Provided*, That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $750, except this $750 limitation may be waived by the Secretary of Health and Human Services upon request of a State.

(k) Notwithstanding section 102(c) of this joint resolution, such amounts may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in such Act as enacted by the Congress.

(l) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such act as enacted by the Congress.

(m) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981 (H.R. 7631), to the extent and in the manner provided for in such act as enacted by the Congress.

(n) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of the Interior and Related Agencies Appropriation Act, 1981 (H.R. 7724) to the extent and in the manner provided for in such Act as enacted by the Congress.

(o) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), to the extent and in the manner provided for in such Act as enacted by the Congress, except section 606 of such Act.

(p) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Defense Appropriation Act, 1981 (H.R. 8105) to the extent and in the manner provided for in such Act as enacted by the Congress.

Sec. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 15, 1980, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (e) June 5, 1981, whichever first occurs.

Sec. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Sec. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

Sec. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

Sec. 106. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Sec. 107. No provision in any appropriation Act for the fiscal year 1981 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(e) of this joint resolution.

Sec. 108. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

Sec. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term: *Provided, however*, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

Sec. 110. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be expended pursuant to any order or injunction of any court of the United States which would compel the expenditure of such funds for a purpose for which such expenditure is specifically prohibited by such Act.

Sec. 111. Notwithstanding any other provision of this joint resolution of Public Law 96–369: For temporary employment assistance under title VI of the Comprehensive Employment and Training Act, no more than $1,229,000,000 of new obligational authority shall be available during fiscal year 1981.

Sec. 112. Notwithstanding the provisions of section 101(a) of this joint resolution; Rental of Space activity of the Federal Buildings Fund shall be continued at an annual rate not to exceed $640,200,000, and the Real Property Operations activity of the Federal Buildings Fund shall be continued at the current rate of operations plus increased requirements for utilities and fuels not to exceed the annual rate for same shown in the administration's budget request, as amended by House Document 96–368, dated September 4, 1980.

Sec. 113. Funds contained in Public Law 95–205 for carrying out section 525 of the Education Amendments of 1976 shall remain available through September 30, 1982.

Sec. 114. Notwithstanding any other provision of this joint resolution, there is appropriated such amounts as are required for allowances and office staff for the former President pursuant to 3 U.S.C. 102 note: *Provided*, That the aggregate amount to be expended for the Allowances and Office Staff for Former Presidents account shall not exceed $823,000: *Provided further*, That such amounts as are necessary may be expended under Operating Expenses, National Archives and Records Service for the provision of a temporary repository and essential archival processing of Presidential materials.

Sec. 115. Notwithstanding any other provision of this joint resolution, there is appropriated for settlement of claims against the Coast Guard pursuant to section 646 of title 14, United States Code, $198,523.41 and for settlement of claims by the Seneca Nation of Indians pursuant to section 10 of the Act of August 31, 1964 (78 Stat. 738), $19,774.95.

Sec. 116. Notwithstanding the provisions of section 101(a) of this joint resolution, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,000, except station wagons, for which the maximum shall be $6,400: *Provided*, That these limits may be exceeded by not to exceed $1,700 for police-type vehicles, and by not to exceed $3,600 for special heavy duty vehicles: *Provided further*, That preference should be given for the purchase of American made vehicles.

Sec. 117. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to adopt or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981.

Sec. 118. Notwithstanding any other provision of this joint resolution, none of the funds contained herein may be made available for implementing requirements imposed by section 2002(a)(9) of the Social Security Act or by any regulations promulgated by the Department to carryout this section, to the extent that such requirements would not otherwise be applicable under State or local law.

Sec. 119. The Administrator of the Small Business Administration, pursuant to section 4(c)(5)(A) of the Small Business Act, as amended, is authorized to issue notes to the Secretary of the Treasury in an amount not to exceed $600,000,000 for the purpose of providing Disaster Loans in addition to the amount provided for such purpose in H.R. 7584 as adopted by the House of Representatives on November 21, 1980, and to transfer an amount not to exceed $10,000,000 to "Salaries and Expenses".

Sec. 120. Notwithstanding any other provision of this joint resolution, there is hereby appropriated an additional $119,000,000 to increase the capital of the General Supply Fund established by section 109 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 756).

Sec. 121. Notwithstanding any other provision of this joint resolution, there is hereby appropriated an additional amount for capital outlay, Panama Canal Commission, of $10,210,000 for navigation projects to be derived from the Panama Canal Commission Fund and to remain available until expended: Provided, That all such funds be derived solely from tolls and other charges for services provided by the Panama Canal Commission.

Sec. 122. None of the funds made available to the Department of the Treasury by this joint resolution shall be used to implement any change in the time granted, or the mode of payment permitted, for payment of customs duties or excise taxes by regulations in effect on July 1, 1980.

Sec. 123. Notwithstanding any other provision of this joint resolution except section 102, the expenditure of any appropriation available under this joint resolution for consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 124. None of the funds appropriated by this joint resolution may be used to disqualify, pursuant to section 411(d)(B) of the Internal Revenue Code of 1954, any plan which has vesting requirements or provides for nonforfeitable rights to benefits, equal to or more stringent than 4/40.

None of the funds appropriated by this joint resolution may be used to issue an unfavorable advance determination letter, pursuant to section 411(d)(1)(B) of the Internal Revenue Code of 1954, with respect to any plan which has vesting requirements or provides for nonforfeitable rights to benefits, equal to or more stringent than 4/40.

The SPEAKER. The gentleman from Mississippi (Mr. Whitten) is recognized for 30 minutes, and the gentleman from Illinois (Mr. Michel) is recognized for 30 minutes.

Mr. WHITTEN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, it is my feeling that when the other resolution (H.J. Res. 637) came back from the Senate and they asked for a conference, that we should accept the invitation to appoint conferees. That has been done.

I thought, however, that if we go to conference, we should do a little more than just argue about one item; so I think that we go there with this resolution which, if adopted, will last until June 5 and will keep the Government in business and will keep it in line with what the House has done.

The two rare exceptions I referred to were in the bill as it passed the House which sets the limit of how far we could go. Since we have already approved that, it is not new in that the subject matter has been previously approved by this body.

I have hopes that what I hear from the other side, I thought we needed to go back to conference so we would have some chance to insist on some of these things and see just what might be done.

I am frank to say in the earlier conference report that many things had been added on the other side. I think about 120 amendments.

One may say we should not have agreed with any of them. We should not try to work them out, but it takes both sides to reach any agreement; and we did the best we could with them. But by considering this with the amendment that they added and with all the things that they kept, it kept the thing quite unbalanced insofar as the House is concerned.

It is for that reason I have introduced this new bill, and that is the reason I asked to go back to conference, and it is my own judgment that we send it over there and see what they do with it and that we appoint conferees on this first and then get back to the other body.

That is subject to further discussion, but that is my own inclination.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, one question I think is worth clearing up for the honor of this House.

As I remember it, the legislation that passed the House here, the first continuing resolution, had a restriction against the congressional pay raise.

There was in conference a vote to remove that restriction, and the majority of the other body agreed to remove that restriction, did they not, the conferees representing the Senate?

Mr. WHITTEN. That is right. In an effort to keep it from looking like that was the one thing that was involved here, and I assure the gentleman there are many, many things involved in the situation we have this new resolution to consider with the Senate.

I offer it just as we had introduced it. It does have a cap, but the cap, like everything else in here, is subject to discussion and to action in a conference; and whatever they work out would be the thing we would do. But we did introduce it.

Mr. BAUMAN. The House passed a limitation on the pay raise.

Mr. WHITTEN. That is right.

Mr. BAUMAN. The Senate committee reported it out, as I remember, without that limitation. They voted it back on the floor. Their conferees went to the conference and then they removed the limitation so they could get the pay raise. And they blamed the House as being the one who wants the pay raise?

Mr. WHITTEN. We have not read tomorrow's press, but I doubt that it will show we had a limit on the salary on this side, that it was at the insistence of the Senate that the cap was taken off. And then in a vote they changed their minds.

But there are a whole lot of things causing us to introduce this resolution. One of them is, lots and lots of things were added on the other side. The total amount of money might not be as great as many other items we deal with, but there were many things that we, in the process of review, thought we should go back into a further conference.

Mr. BAUMAN. This resolution also contains a cap?

Mr. WHITTEN. It does, and that is the way the first one we had passed. It had that cap.

Mr. BAUMAN. If the other body is so interested in limiting, let them accept this resolution.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Am I correct that if this resolution were passed, were adopted by both bodies, it would eliminate all 148 amendments that were added in the Senate to the previous bill? It would probably save at least several hundred million dollars? Is that a fair statement?

Mr. WHITTEN. I have not totalled it, but we probably saved many times what they will save by the one amendment.

Mr. WALKER. I thank the gentleman.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

Let me ask the chairman just quickly. It is also my understanding that this provision that we are preparing to send to the Senate would not provide for a prohibition on the enforcement of reclamation law in the Imperial Irrigation District? Is that correct?

Mr. WHITTEN. I do not know that I understood the gentleman.

Mr. MILLER of California. The earlier conference report contained a resolution providing for a prohibition on enforcement on the 160-acre limitation in the Imperial Valley. This does not contain that?

Mr. WHITTEN. No.

Mr. MILLER of California. Nor would this provide for the waiver on the core competition for the Tulare Lake area in the State of California.

Mr. WHITTEN. It would not.

Mr. MILLER of California. Thank you.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Would this resolution deal with the question of requiring a 60-day layover before State requests for designation of wild and a scenic rivers which the Secretary of the Interior acts on?

Mr. WHITTEN. All those things that were agreed to in conference are not included here. This is what the House did, and the two exceptions still are what the House did. But they are included in here by reference.

Mr. SEIBERLING. I commend the gentleman.

I hope his approach works.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

□ 2130

Mr. Speaker, I do not want to belabor the point. The chairman has pretty well laid out what our scenario is here.

I would, in buttressing the point made by the gentleman from Florida (Mr. YOUNG), say we did send over to the other body House Joint Resolution 601 having to do with the IMF. That is still on the desk on the other side and, frankly, could be called up and if with no changes could be passed and sent down to the President and would not have to be incorporated in this resolution.

But in the absence of their taking that initiative, and to make absolutely certain that that matter is taken care of, as I think most of us agree it has to be taken care of, it is incorporated in the new revised resolution the chairman is introducing.

I would make one other point. I think the gentleman only in his remarks made mention of a date of June 15. I believe the date is June 5 upon which again we go back to the original day. During the conference we had changed that to June 28 but, as I understand it, we would come back.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. WHITTEN. May I correct one statement I made? We had discussed June 15 but it was decided to keep June 5 like we had in the first one. So it is June 5. But this date can be changed if we see fit.

Mr. MICHEL. I thank the gentleman. Also on the abortion issue we would be back in the original language as passed by the House including the Bauman Amendment, so that pretty well cancels it, I think.

Mr. WHITTEN. I introduced it as we first had it. That remains as the House bill was to start with.

Mr. MICHEL. In answer to the question raised by I am not sure who here as to whether or not there are considerably fewer funds appropriated under this original resolution as distinguished from all of those add-ons from the other body, it definitely is considerably less in dollars appropriated.

Mr. WHITTEN. It would save tremendous amounts of money.

May I take this time to say to my colleagues and legislative committees, I think it has been all we could do for your committee to try to do the best we could to handle the Government's continuing resolution. We have been forced to do it.

Mention was made that the reason you have the present resolution is 10 of the bill had passed but had not been considered by the other body. That is on the earlier continuing resolution. The only way I could get them together was I came up with the idea of putting them all together and send it as a continuing resolution where they could sign it if they wanted to. We have been forced into the situation. It is legislation in the law. It is a hybrid law and provision. We have done the very best we know how but it is not a good way to run the Government.

We do not have any desire to get into all of these legislative matters, but we are forced to by reasons. All of it comes back to our friends on the other side who have not passed the bill.

One other point I want to tell you, the minute a bill passes and becomes law, it comes out from under the continuing resolution. So we are not binding anybody if they just get together on the law.

I have no further requests for time.

The SPEAKER. Under the unanimous consent request agreement, the previous question is considered as ordered to final passage without intervening motion.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 644.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I would like to inquire of the distinguished Speaker what scenario might follow. Would it be the intention of the Speaker that we recess?

The SPEAKER. There is one private bill that will be called up, that has been cleared. There may be a concurrent resolution of adjournment, and the House will have to stand by in recess.

Mr. MICHEL. I suspect we would not want to act on an adjournment resolution until we get a reading from over there so that we will not get caught high and dry again. I am willing to forego that inasmuch as I want a sine die resolution, but I would not want to get us caught in that kind of a bind.

The SPEAKER. If the House were to pass a sine die resolution, of course, it would be subject to change by the Senate anyway. If the Senate saw fit, they could keep us here until Monday. But the House will act with caution, and will take the gentleman's advice in this instance and withhold it.

Mr. MICHEL. I thank the Speaker.

CHARLES JEFFREY GREENE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2849) for the relief of Charles Jeffrey Greene, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 212 (a) (23) of the Immigration and Nationality Act, Mr. Charles Jeffrey Greene may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provision of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECESS

The SPEAKER. The Chair will call a recess subject to the call of the Chair.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, will we have a 15-minute notice when the House will reconvene?

The SPEAKER. The Chair will call the House back at the latest by 11 o'clock to keep them informed as to what is happening and what the possibilities are of getting out of here.

Accordingly (at 9 o'clock and 36 minutes p.m.) the House stood in recess subject to the call of the Chair.

□ 2300

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 o'clock and 6 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4774. An act to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so;

H.R. 7814. An act to designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness", and for other purposes; and

H.J. Res. 601. Joint resolution making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to bills of the House of the following titles:

H.R. 4155. An act to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to disclose the mailing addresses of individuals who have defaulted on certain student loans solely for purposes of collecting such loans;

H.R. 5391. An act to amend chapter 42 of the Internal Revenue Code of 1954 with respect to the determination of second tier taxes; and

H R. 5505. An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes.

The message also announced that the Senate recedes from its amendment No. 9 to the bill (H.R. 7171) entitled "An act to make certain miscellaneous changes in the tax laws," and that the Senate agrees to the amendments of the House of Representatives to the amendments of the Senate numbered 3, 4. 5, and 10 to the above-entitled bill.

The message also announced that the Senate recedes from its amendments Nos. 7, 16, 17, 18, 19, 20, 22, and 23 to the bill (H.R. 7956) entitled "An Act to make various changes in the tax laws," and that the Senate agrees to the amendments of the House of Representatives to the amendments of the Senate numbered 8, 9, 10, 11, 12, 13, 14, 15, and 24 to the above-entitled bill.

The message also announced that Mr. Sasser be an additional conferee, on the part of the Senate, on the joint resolution (H.J. Res. 637) entitled "Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes."

FEDERAL RESERVE BOARD CHAIRMAN PAUL VOLCKER RESPONDS TO QUESTIONS IN HOUSE SUBCOMMITTEE

The SPEAKER. Under a previous order of the House, the gentleman from Washington (Mr. Lowry) is recognized for 5 minutes.

● Mr. LOWRY. Mr. Speaker, I rise today to bring to the attention of my colleagues an article in yesterday's Wall Street Journal concerning the recent conduct of monetary policy in our Nation. The article centers around questions asked of Mr. Volcker by my friend and fellow Congressman, John J. Cavanaugh of Nebraska.

Congressman Cavanaugh chose not to run for reelection last month for the best of reasons: To spend more time with his young family. His decision has caused one of the outstanding losses of our Congress. He has been an outstanding member of the Banking Committee, an outstanding Representative of his district and a fine friend.

I urge all of my colleagues to read Mr. Cavanaugh's questions and the answers he received in the Wall Street Journal article which follows. Representative Cavanaugh has done us one last favor in illuminating this important problem.

The article follows:

The Same Old Game

(By Lindley H. Clark, Jr.)

Federal Reserve officials wonder why they have so much trouble getting the money supply under control. Fed Chairman Paul Volcker, altogether inadvertently, provided a clue the other day.

Mr. Volcker was testifying before the House Domestic Monetary Policy subcommittee when John Cavanaugh, a young lawmaker from Omaha, began asking questions.

Mr. Cavanaugh noted that the central bank expanded bank reserves rapidly between July and October. Banks have to hold reserves against the deposits on their books, and when they get more reserves they can make more loans and investments, transactions that increase their deposits—and the money supply.

What Mr. Cavanaugh was implying was that the Fed, by increasing reserves, was creating the very problem it professed not to understand.

Chairman Volcker patiently sought to explain to the Omaha legislator that there are two kinds of reserves: those that are borrowed from the Federal Reserve and those that are not. If you want to see what the Fed is up to, he indicated, you should watch nonborrowed reserves supplied to the banks—"what we do on our own initiative."

The discussion became a little convoluted. At one point the chairman seemed to be saying that monetary growth caused the growth in reserves. "Total reserves," he said, "reflect the money supply." But Mr. Volcker and Mr. Cavanaugh soon got to the heart of the matter.

Nonborrowed reserves, the chairman pointed out, have "held pretty close to level" from May to the present. The surge in reserves stemmed from borrowing at the Fed's discount window.

Mr. Cavanaugh, who obviously believes that reserves are reserves, asked: "You're not saying that borrowed reserves are not contributors to the growth of the money supply?"

Borrowed reserves support monetary growth, Mr. Volcker conceded, but they're different. It is not a freebie, so to speak. Banks are reluctant to borrow, and the mere fact of borrowing will exert some restraint." Like any lender, of course, the central bank can slap the hands of a borrower who dips into the till too often.

So there you have it. What we've been playing is the same old "Get-Them-to-the-Window-and-You've-Got-Them Game." It's a game that has a long history not only at the Fed but in British central banking.

It's not total nonsense if the policy is firmly and consistently enforced. By using moral suasion, or whatever else the Fed cares to call it, the central bank could compel a decline in total borrowing from the system.

But it hasn't worked that way in recent practice. The Fed applies moral suasion to an individual bank and that bank pays up and goes home. Then another bank steps up to the window, asks for what it wants and gets it. The game doesn't provide overall restraint if the Fed merely turns away an occasional borrower. It has to slow total borrowing, and between July and October, as Mr. Cavanaugh noticed, the central bank wasn't doing so.

Why not? Part of the answer is that the Fed, through the past year, has been a source of bargain credit. In October 1979, when Mr. Volcker announced the central bank's new operating techniques, he said the discount rate, the fee charged on loans to banks, would be allowed to fluctuate more often so that it would remain close to the market. Thereupon the system kept the rate completely unchanged for more than four months while market rates soared far higher. Even after the latest increases the discount rate still is a bargain, and the banks know it.

Why does the Fed resist discount rate increases? The central bank already is charged with tightening the interest-rate screws on the economy, and a more vigorous discount policy presumably would increase the criticism. The same sensitivity to public attacks helps to explain why the Fed doesn't do more to bar the banks from bargain credit.

The banks' reserve requirements are determined not by the deposits now on their books, but by the deposits that they had two weeks ago. Under these lagged reserves the central bank could force the banks to scramble around, sell off assets and raise funds in any way they could. But that undoubtedly would force a rise in interest rates. So the Federal Reserve accommodates the banks at the discount window. Ironically, if the Fed had moved sooner to slow the rise in reserves, interest rates almost surely wouldn't have reached current levels.

Among other things this unfortunate situation compels the chairman to say some unusual things when confronted by inquisitive lawmakers. Mr. Volcker appeared to be saying that the more the banks borrowed the greater was the Fed's degree of restraint. But interpret his words any way you choose:

"Now, relatively little borrowing doesn't exert much restraint. Relatively large borrowing exerts a lot of restraint. We now have—are back in the position of having a relatively large amount of borrowing, and there is a lot of restraint on the market."

Mr. Cavanaugh still was puzzled, and no wonder: "But your feeling is then that that was a deficiency in your policy, allowing and even encouraging large borrowing?"

Mr. Volcker: "We were not encouraging large borrowing."

Mr. Cavanaugh: "Well, encouraging in the sense that it wasn't attractive."

Mr. Volcker: "It is always . . . discouraged."

At that point Mr. Cavanaugh's time ran out, and not a moment too soon for Mr. Volcker.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Chappell (at the request of Mr. Wright), for today, on account of business in the district.

Mr. Stark (at the request of Mr. Wright), for today, on account of official business.

Ms. Mikulski (at the request of Mr. Wright), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Zablocki, for 15 minutes, today.

(The following Members (at the request of Mr. Tauke), to revise and extend their remarks, and to include extraneous matter to:)

Mr. Goodling, for 1 minute, today.

Mr. Duncan of Tennessee, for 5 minutes, today.

(The following Members (at the request of Mr. Anthony), to revise and extend their remarks, and to include extraneous matter to:)

Mr. Annunzio, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Dicks, for 5 minutes, today.

Mrs. Boggs, for 5 minutes, today.

(The following Members (at the request of Mr. Lundine), to revise and extend their remarks and include extraneous material:)

Mr. Lowry, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Hughes on the conference report to House Joint Resolution 637 in the House today.

Mr. Purcell, on the conference report to House Joint Resolution 637 in the House today.

(The following Members (at the request of Mr. Tauke), and to include extraneous matter:)

Mr. Thomas.
Mr. Ashbrook, in three instances.
Mr. Dannemeyer.
Mr. Leach of Iowa in two instances.
Mr. Lagomarsino.
Mr. Campbell.
Mr. Royer.
Mrs. Fenwick.
Mr. Corcoran.
Mr. Collins of Texas in two instances.
Mr. Dornan in two instances.
Mr. McKinney.
Mr. Pursell.
Mr. Green.
Mr. Moore.
Mr. Quayle.
Mr. Porter.

(The following Members (at the request of Mr. Anthony), and to include extraneous matter:)

Mr. McHugh.
Mr. Ottinger in two instances.
Mr. Phillip Burton.
Mr. Zablocki in six instances.
Mr. Brademas in six instances.
Mr. Barnes in three instances.
Mr. Giaimo.
Mr. Rahall.
Mr. Won Pat.
Mr. Dicks.
Mr. Tauzin.
Mr. Synar.

(The following Members (at the request of Mr. Lundine), and to include extraneous matter:)

Mr. Blanchard.
Mr. Weiss in 12 instances.
Mr. Simon.
Mr. Oberstar.
Mr. Tauzin.
Mr. Coelho.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 210. Joint resolution to grant posthumously full rights of citizenship to Douglas Clyde Macintosh; to the Committee on the Judiciary.

ADJOURNMENT

Mr. MURTHA. Mr. Speaker, I move that the House do now adjourn.

Mr. BAUMAN. Mr. Speaker, if I may make a parliamentary inquiry, before the gentleman offers that motion to adjourn, may I inquire of the Chair as to when we might see each other again?

The SPEAKER. The Chair will state that before the gentleman makes that motion, the Chair will recognize the gentleman from Washington (Mr. Lowry) for a special order.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will inform the Members that the conferees on the part of the House and on the part of the other body are scheduled to meet on Monday morning, and we would hope that the conferees would have something to report at 12 o'clock noon on Monday.

The Chair wants to publicly state his regrets that he kept his wife waiting at an airport, but it was not his fault.

Unless there is any dialog or colloquy that the Members would like to engage in, the Chair will now entertain a motion to adjourn.

For what purpose does the gentleman from Texas (Mr. Gonzalez) rise?

Mr. GONZALEZ. Mr. Speaker, I have a special order.

The SPEAKER. The Chair will state to the gentleman that he has the feeling that when we meet at 12 o'clock on Monday, the House may go into recess. The Chair will ask the gentleman, would he not like to hold it over until Monday?

Mr. GONZALEZ. I would be delighted to do that, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania (Mr. Murtha).

Mr. MURTHA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 8 minutes p.m.), the House adjourned until Monday, December 15, 1980, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5831. A letter from the Secretary of Education, transmitting proposed final regulations to govern Federal-State relationship agreements, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

5832. A letter from the Secretary of Education, transmitting proposed final regulations to implement procedures in grant programs without specific regulations, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

5833. A letter from the Acting General Counsel, Department of Energy, transmitting notice of a meeting relating to the International Energy Program to be held on December 15, 1980 in Paris, France; to the Committee on Interstate and Foreign Commerce.

5834. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of June 1980, on the number of passengers per day onboard each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

5835. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

5836. A letter from the Comptroller General of the United States, transmitting a report on mapping problems that may undermine plans for new Federal coal leasing (EMD-81-30, December 12, 1980); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 637 (Rept. No. 96-1536). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MILLER of California:

H.R. 8453. A bill to amend the Clean Air Act; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITTEN:

H.J. Res. 643. Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes; to the Committee on Appropriations.

H.J. Res. 644. Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

By Mr. BRINKLEY (for himself and Mr. Nichols):

H. Res. 830. Resolution calling on the Board of Governors of the Federal Reserve System to reduce the current high interest rates in order to relieve the economic distress of those in the automotive and housing industries and others; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DICKS (for himself, Mr. Lowry, Mr. Mottl, Mr. Williams of Montana, Mr. Roth, Mr. Swift, Mr. Bonker, Mr. Johnson of California, Mr. Perkins, Mr. Carter, Mr. Roe, Mrs. Chisholm, Mr. Bailey, Mr. Vento, Mr. Hall of Texas, Mr. Murphy of Pennsylvania, Mr. Rahall, Mr. Fithian, Mr. Lagomarsino, Mr. Brinkley, Mr. Watkins, and Mr. Stangeland):

H. Res. 831. Resolution calling for reduction of high interest rates; to the Committee on Banking, Finance and Urban Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MARRIOTT introduced a bill (H.R. 8454) for the relief of Rafael Vasquez Alcocer, Maria Eustolia Gonzalez de Vasquez, Tolis Mallali Vasques Gonzalez, and Alfredo Leander Alva, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5409: Mr. John L. Burton.

EXTENSIONS OF REMARKS

LET US QUARANTINE THE AGGRESSOR

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. GINGRICH. Mr. Speaker, we face the horrible prospect of seeing Poland invaded for the second time in half a century. The last time this happened the West did nothing, and paid the heavy price of World War II for its inaction.

Today, in our vastly more complicated and dangerous world, we are faced with another Polish crisis. And as is usually the case with Polish crises the source of trouble is not with the Poles.

The Soviets have amassed the most powerful invasion force Europe has seen since World War II. They will use that power if we do not try to prevent it. But how?

President Franklin D. Roosevelt knew. As he said in his speech, which follows below, those nations that have a principled interest in the maintainance of justice, law, and peace should quarantine an aggressor who violates those principles.

His thoughts are worth pondering as we verge on another Polish crisis.

THE WILL FOR PEACE ON THE PART OF PEACE-LOVING NATIONS MUST EXPRESS ITSELF TO THE END THAT NATIONS THAT MAY BE TEMPTED TO VIOLATE THEIR AGREEMENTS AND THE RIGHTS OF OTHERS WILL DESIST FROM SUCH A COURSE

(Address by President Franklin D. Roosevelt, at Chicago, October 5, 1937)

I am glad to come once again to Chicago and especially to have the opportunity of taking part in the dedication of this important project of civic betterment.

On my trip across the continent and back I have been shown many evidences of the result of common sense cooperation between municipalities and the Federal Government, and I have been greeted by tens of thousands of Americans who have told me in every look and word that their material and spiritual well-being has made great strides forward in the past few years.

And yet, as I have seen with my own eyes, the prosperous farms, the thriving factories and the busy railroads, as I have seen the happiness and security and peace which covers our wide land, almost inevitably I have been compelled to contrast our peace with very different scenes being enacted in other parts of the world.

It is because the people of the United States under modern conditions must, for the sake of their own future, give thought to the rest of the world, that I, as the responsible executive head of the Nation, have chosen this great inland city and this gala occasion to speak to you on a subject of definite national importance.

The political situation in the world, which of late has been growing progressively worse, is such as to cause grave concern and anxiety to all the peoples and nations who wish to live in peace and amity with their neighbors.

Some fifteen years ago the hopes of mankind for a continuing era of international peace were raised to great heights when more than sixty nations solemnly pledged themselves not to resort to arms in furtherance of their national aims and policies. The high aspirations expressed in the Briand-Kellogg Peace Pact and the hopes for peace thus raised have of late given way to a haunting fear of calamity. The present reign of terror and international lawlessness began a few years ago.

It began through unjustified interference in the internal affairs of other nations or the invasion of alien territory in violation of treaties; and has now reached a stage where the very foundations of civilization are seriously threatened. The landmarks and traditions which have marked the progress of civilization toward a condition of law, order and justice are being wiped away.

Without a declaration of war and without warning or justification of any kind, civilians, including vast numbers of women and children, are being ruthlessly murdered with bombs from the air. In times of so-called peace, ships are being attacked and sunk by submarines without cause or notice. Nations are fomenting and taking sides in civil warfare in nations that have never done them any harm. Nations claiming freedom for themselves deny it to others.

Innocent peoples, innocent nations, are being cruelly sacrificed to a greed for power and supremacy which is devoid of all sense of justice and humane considerations.

To paraphrase a recent author "perhaps we foresee a time when men, exultant in the technique of homicide, will rage so hotly over the world that every precious thing will be in danger, every book and picture and harmony, every treasure garnered through two millenniums, the small, the delicate, the defenseless—all will be lost or wrecked or utterly destroyed."

If those things come to pass in other parts of the world, let no one imagine that America will escape, that America may expect mercy, that this Western Hemisphere will not be attacked and that it will continue tranquilly and peacefully to carry on the ethics and the arts of civilization.

If those days come "there will be no safety by arms, no help from authority, no answer in science. The storm will rage till every flower of culture is trampled and all human beings are leveled in a vast chaos."

If those days are not to come to pass—if we are to have a world in which we can breathe freely and live in amity without fear—the peace-loving nations must make a concerted effort to uphold laws and principles on which alone peace can rest secure.

The peace-loving nations must make a concerted effort in opposition to those violations of treaties and those ignorings of humane instincts which today are creating a state of international anarchy and instability from which there is no escape through mere isolation or neutrality.

Those who cherish their freedom and recognize and respect the equal right of their neighbors to be free and live in peace, must work together for the triumph of law and moral principles in order that peace, justice and confidence may prevail in the world. There must be a return to a belief in the pledged word, in the value of a signed treaty. There must be recognition of the fact that national morality is as vital as private morality.

A bishop wrote me the other day: "It seems to me that something greatly needs to be said in behalf of ordinary humanity against the present practice of carrying the horrors of war to helpless civilians, especially women and children. It may be that such a protest might be regarded by many, who claim to be realists, as futile, but may it not be that the heart of mankind is so filled with horror at the present needless suffering that that force could be mobilized in sufficient volume to lessen such cruelty in the days ahead. Even though it may take twenty years, which God forbid, for civilization to make effective its corporate protest against this barbarism, surely strong voices may hasten the day."

There is a solidarity and interdependence about the modern world, both technically and morally, which makes it impossible for any nation completely to isolate its self from economic and political upheavals in the rest of the world, especially when such upheavals appear to be spreading and not declining. There can be no stability or peace either within nations or between nations except under laws and moral standards adhered to by all. International anarchy destroys every foundation for peace. It jeopardizes either the immediate or the future security of every nation, large or small. It is, therefore, a matter of vital interest and concern to the people of the United States that the sanctity of international treaties and the maintenance of international morality be restored.

The overwhelming majority of the peoples and nations of the world today want to live in peace. They seek the removal of barriers against trade. They want to exert themselves in industry, in agriculture and in business, that they may increase their wealth through the production of wealth-producing goods rather than striving to produce military planes and bombs and machine guns and cannon for the destruction of human lives and useful property.

In those nations of the world which seem to be piling armament on armament for purposes of aggression, and those other nations which fear acts of aggression against them and their security, a very high proportion of their national income is being spent directly for armaments. It runs from thirty to as high as fifty percent. We are fortunate. The proportion that we in the United States spend is far less—eleven or twelve percent.

How happy we are that the circumstances of the moment permit us to put our money into bridges and boulevards, dams and reforestation, the conservation of our soil and many other kinds of useful works rather than into huge standing armies and vast supplies of implements of war.

I am compelled and you are compelled, nevertheless, to look ahead. The peace, the freedom and the security of ninety percent of the population of the world is being jeopardized by the remaining ten percent who are threatening a breakdown of all international order and law. Surely the ninety percent who want to live in peace under law and in accordance with moral standards that have received almost universal acceptance through the centuries, can and must find some way to make their will prevail.

The situation is definitely of universal concern. The questions involved relate not

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

merely to violations of specific provisions of particular treaties; they are questions of war and of peace, of international law and especially of principles of humanity. It is true that they involve definite violations of agreements, and especially of the Covenant of the League of Nations, the Briand-Kellogg Pact and the Nine Power Treaty. But they also involve problems of world economy, world security and world humanity.

It is true that the moral consciousness of the world must recognize the importance of removing injustices and well-founded grievances; but at the same time it must be aroused to the cardinal necessity of honoring sanctity of treaties, of respecting the rights and liberties of others and of putting an end to acts of international aggression.

It seems to be unfortunately true that the epidemic of world lawlessness is spreading.

When an epidemic of physical disease starts to spread, the community approves and joins in a quarantine of the patients in order to protect the health of the community against the spread of the disease.

It is my determination to pursue a policy of peace. It is my determination to adopt every practicable measure to avoid involvement in war. It ought to be inconceivable that in this modern era, and in the face of experience, any nation could be so foolish and ruthless as to run the risk of plunging the whole world into war by invading and violating, in contravention of solemn treaties, the territory of other nations that have done them no real harm and are too weak to protect themselves adequately. Yet the peace of the world and the welfare and security of every nation, including our own, is today being threatened by that very thing.

No nation which refuses to exercise forbearance and to respect the freedom and rights of others can long remain strong and retain the confidence and respect of other nations. No nation ever loses its dignity or its good standing by conciliating its differences, and by exercising great patience with, and consideration for, the rights of other nations.

War is a contagion, whether it be declared or undeclared. It can engulf states and peoples remote from the original scene of hostilities. We are determined to keep out of war, yet we cannot insure ourselves against the disastrous effects of war and the dangers of involvement. We are adopting such measures as will minimize our risk of involvement, but we cannot have complete protection in a world of disorder in which confidence and security have broken down.

If civilization is to survive the principles of the Prince of Peace must be restored. Trust between nations must be revived.

Most important of all, the will for peace on the part of peace-loving nations must express itself to the end that nations that may be tempted to violate their agreements and the rights of others will desist from such a course. There must be positive endeavors to preserve peace.

America hates war. America hopes for peace. Therefore, America actively engages in the search for peace.●

IF YOU LIKE BUSING AND ABORTION, YOU WILL LOVE THE NEW DEMOCRAT RULES OF THE HOUSE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. ASHBROOK. Mr. Speaker, by now, every Member of this body has heard about your scheme to change the rules of the House in an effort to prohibit the offering of Republican amendments on the floor. My reaction was typical of those of us who want to change the direction of this country. I think it is one of the most blatant acts of political irresponsibility that I have seen in my 20 years as a Congressman.

I want to relay a message to those of my colleagues who intend to vote for the new Democrat rules. The message is not from JOHN ASHBROOK. It is from the people of this country who ever so clearly sent a message to Washington when they turned a record number of liberals out of office last month. If you think you are going to fool those people by changing the rules in the middle of the game, then you are mistaken.

I will tell you what a vote for the Democrat rules really is. It is a vote for forced busing. It is a vote for abortion. It is a vote for IRS harassment of private schools. It is a vote for Federal control of local schools. It may well be a vote for gun control and American aid to hostile, Communist countries.

Mr. Speaker, it is no secret that many of your liberal Democrat colleagues are already worried about the 1982 elections. The very issues which I just discussed will be significant in the outcome of those elections. You are trying to duck those issues but you will not get away with it. This is one Member who is going to spread the word.●

SYNFUELS CORPORATION: BIG BUCKS FOR BUREAUCRATS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. ASHBROOK. Mr. Speaker, when Congress created the Synthetic Fuels Corporation, it gave high-ranking bureaucrats in that organization the authority to set their own pay scales, subject to White House approval. They did just that. The Board of Directors met and approved a salary of $175,000 for the head of the agency, John Sawhill. Mr. Sawhill's salary is the second-highest paid to any employee of the Federal Government—topped only by that of the President of the United States.

Whitt Flora, Washington correspondent for the Columbus Dispatch, revealed this interesting note in a recent article. He also points out that Mr. Sawhill is not the only executive in that agency who will be paid in excess of $100,000 per year. In fact, there are a couple of others.

For those of my colleagues who would like to know more about the initial priorities of our new agency, I would urge them to read Mr. Flora's article:

"SYN-FUEL" SALARIES ARE MOST SINFULLY HIGH

You would have to buy 130,000 gallons of gasoline to pay John C. Sawhill's salary for a year.

Sawhill is the man chosen by President Carter to run the new quasi-governmental Synthetic Fuels Corp.

That is the new creation of Congress that is supposed to develop a synthetic fuels program by spending $20 billion.

And, by an act of Congress, Sawhill doesn't have any restrictions on how much he can pay himself.

So, Sawhill's board of directors just agreed—subject to presidential approval—to pay him $175,000 each year.

That is a bit of a jump for a man who was making $60,662.50 yearly at the Department of Energy until six weeks ago.

His new salary makes Sawhill the second highest paid federal employee—since taxes do pay his salary—behind the president, who makes $200,000 each year.

Others in Sawhill's shop aren't likely to be lining up outside the welfare office for a while, either.

For example, the corporation's legal counsel, John McAtee, will get $150,000.

A corporation vice president, Alexander Haskell, is slated to receive $140,000, and another vice president, Robert Harris, will get $95,000.

Meanwhile, the corporation is apparently having some trouble figuring out what to pay its employees of lesser rank, since they will not come under civil service pay rules.

A spokesman for the corporation confirmed, however, that a consulting firm here has been hired to figure out a pay schedule.

The tab for that: $50,000.

But someone who doesn't get a job with the new corporation still has plenty of chances for high-paying work in the nation's capital.

According to the so-called "Plum Book," there are about 4,000 politically appointed jobs opening up with the change of administrations.

The "Plum Book" is printed by the government every time an administration changes, and it is very thorough about listing all the high-paying openings.

And, although those government jobs don't pay what the Synthetic Fuels Corp. does, few of the political appointees will be found waiting in the food stamp line.

For example, for a salary of $60,000 a year, there is a job with excellent travel opportunities and a chance to meet polite people. That's secretary of state.

For those of more modest ambitions, the State Department still has some good slots.

Special assistants there make $50,112 yearly and a "spokesman" (public relations man) gets $47,540.

And even being the ambassador to Upper Volta is worth $50,112 yearly.

For job seekers wanting their own bureaucracy, the pay is pretty good, too.

Running the Environmental Protection Agency brings $60,662 yearly, as does heading the shop at the relatively obscure Community Services Administration.

Then there's ACTION, the federal agency that is in business to run poverty programs.

Running that show brings a salary of $55,385 a year, and being a deputy director there has a salary of $52,750.

And salaries in that agency don't drop too much for someone with the title of "special assistant" in the Office of Voluntary Citizen Participation.

That pays up to $35,033.

Would you like to be a Peace Corps country director in, say, Botswana?

It may get a little hot there, but the pay is up to $33,591 each year. The plum book also has hundreds of listings for well-paying jobs for folks like the "special assistant to the assistant secretary, domestic affairs" in the Treasury Department.

That job pays almost $50,000 a year.

Or, take the lucky fellow who gets the job with this title: "deputy under secretary of the Treasury (designated an assistant secretary of the Treasury), international affairs."

It pays $61,600.

Job applicants preferring outdoor work can apply to be the chauffeur to the secretary of transportation. That pays up to $20,000 a year.

Ever wonder why a stamp costs so much? For one thing, the average postal employee now makes over $24,000 a year.

But also, consider this: The special assistants to the commissioners of the U.S. Postal Rate Commission—which sets postal rates—now make $34,713 each year.

And the commissioners themselves get $55,387.50 a year.

For those interested in working with people, the slot of heading up the world's largest personnel office, the Office of Personnel Management, is now open. It pays $60,662 yearly.

If books are the job applicant's interest, the slot of director for the National Commission on Libraries and Information Science will come open with the new administration. It pays up to $49,229 yearly.

Or those interested in the operations of small business can apply for "special assistant to the assistant administrator for minority small business and capital ownership development" at the Small Business Administration. It pays up to $50,000 yearly.

That salary also goes to "confidential assistant to the deputy assistant secretary for income security policy" and the "special assistant to the deputy assistant secretary for legislation, health" in the Human Services Department.

But, alas, the new "confidential assistant (secretary) to the deputy secretary" at the Department of Energy will only get $21,875.●

CENSUS AMENDMENT TO REVENUE SHARING BILL

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. LEACH of Iowa. Mr. Speaker, in the last throes of a legislative session, the haste to finish important work can lead to imprecision and ambiguity. On Tuesday, December 9, 1980, the junior Senator from New York introduced unprinted amendment No. 1841 to H.R. 7112, the revenue sharing bill. This amendment, which remains attached to H.R. 7112, provides for a Census Bureau adjustment of population data to include "* * * a reasonable estimate of the number of resident persons not counted in the 1980 census * * *." As emphasized by the senior Senator from Kansas in the same debate, and as, I understand, agreed to by the amendment's author, this adjustment is to be used for the purpose of revenue sharing calculations and for no other purpose. As a member of the House Post Office and Civil Service Committee, with jurisdiction in census matters, I think it should be made clear that the amendment's reasonable estimate should imply numbers arrived at through a statistically defensible procedure. The integrity of the allocation process for these moneys requires a statistically defensible foundation.●

HAROLD BERGEN'S QUARTER CENTURY OF SERVICE

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. THOMAS. Mr. Speaker, I would like to commemorate the retirement of one of the more hard-working and most deserving public servants in my hometown of Bakersfield.

Harold Bergen, Bakersfield's city manager for nearly 15 years, has looked to that city's needs with foresight and intelligence, helping to keep Bakersfield fiscally responsible yet progressive in its government at the same time. Now he is ending 25 years of service to the people of Bakersfield, and I can only hope that Harold Bergen's successor will prove to be as able and wise a manager as he has been.

Mr. Bergen has guided Bakersfield through more than two decades of growth, years which saw our population more than double as Bakersfield grew from 12 or 13 square miles in 1955 to include almost 80 square miles today. The people of Bakersfield are proud of their hometown, and I believe that Harold Bergen has had a lot to do, outside the public eye, with insuring that Bakersfield progressed from a town to the city it is today.

Mr. Bergen's associates at city hall have described him as a man who is professionally frugal, as any public servant should try to be with taxpayer money. Mr. Bergen also possesses remarkable foresight, a quality which combines with fiscal responsibility to insure that there will always be resources available to meet future needs.

It was that foresight which led Harold Bergen to push for Bakersfield to acquire Kern River water rights to make sure there would be enough water for the city, not just tomorrow, but a decade or more down the road. Had he not persisted, Bakersfield's future as a growing city would now be in question.

Mr. Bergen has also helped to bring about the revitalization of our downtown area, the heart of Bakersfield, as a center of renewed commerce. Under his steady hand, Bakersfield's system of government has been reorganized and improved. It was during his tenure as public works director that our beautiful civic auditorium, one of the finest in the State, was completed.

We in Bakersfield have much for which we can thank Harold Bergen. He helped to keep our city a vital, healthy place to live, and he has helped to bring Bakersfield into the 1980's.

Harold Bergen will be hard to replace, and I wish him a happy, well-deserved retirement.●

DISPOSING OF CONGRESSIONAL PAPERS

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. GIAIMO. Mr. Speaker, a Member's congressional papers are of historical value to him and to scholars. How to dispose of these papers is often a decision that is made late in a Member's career and sometimes as an afterthought.

I am donating my congressional papers to the University of Connecticut. The university and I have negotiated an agreement that, I believe, could be used as the basis for similar agreements by other Members. Every provision may not be appropriate for each Member, but they offer a starting point for further negotiations.

For the benefit of my departing colleagues and of those who should begin to think of disposing of their congressional papers, I would like to insert the text of the agreement in the RECORD at this point:

DEPOSIT AGREEMENT

An agreement entered into by Congressman Robert N. Giaimo (hereinafter referred to as the Donor) and the University of Connecticut (hereinafter referred to as the University). The term Donor includes his heirs and assigns.

1. The Donor hereby gives all rights, title and interest to the Materials (described in Appendix A, attached hereto) to the University of Connecticut as a gift and transfers to the University the legal title to these Materials insofar as such interests are held by the Donor, subject to restrictions and provisions hereinafter set forth in this document. The Donor makes this gift without compensation, renumeration, or any consideration in kind, direct or indirect.

2. The Donor deposits Materials in the University in order to preserve them and make them available to historians and other scholars and researchers. It is the intent of the Donor that the contents of the Materials never be used in any manner by any person so as to defame or degrade any other person or entity or to invade the privacy of any person.

3. The University shall provide to the Donor a microfilm of the appointment diaries from 1959 through 1980 and a microfilm of the scrapbooks (newspaper clippings, etc.) for the years 1959 through 1978. The 1979 and 1980 scrapbooks are to be returned to the Donor within six months of receipt during which time the University may microfilm this material and retain such microfilm for its use and records. When the 1979 and 1980 scrapbooks are submitted to the University for permanent depository, the

University shall, in turn, provide the donor with the microfilm of the 1979 and 1980 scrapbooks.

4. While it is intended that the users of the Materials shall have the right to quote and use excerpts for historical and research purposes, in accordance with the established procedures of the University, nevertheless it is the intent of the Donor to retain copyright interest to the Materials.

5. The University shall maintain the Materials at the University of Connecticut. The University will house, care for, catalogue, and administer the Materials, and use all reasonable care in providing for the physical preservation of the Materials, all at no expense to the Donor.

6. The University, in accordance with its usual procedures, may dispose of any of the Materials which it determines to have no permanent value or historical interest, or to be surplus to its needs, or to be inappropriate for its permanent retention; provided that prior to the disposal of bound publications or items of personal or sentimental value, the Donor, or in the event of his death, his wife or daughter, shall be notified in writing thereof, and at the request of the Donor, the portion of the Materials proposed for disposal shall be returned to the Donor, or shipped to another institution or person designated by the Donor. In such event, the University shall pay for expenses of preparation for shipment and shipment.

7. Notwithstanding any other restrictions on access to the Materials, the Donor shall be permitted to examine any of the Materials during the regular working hours of the University. Notwithstanding any other restrictions on access to the Materials, appropriate staff of the University shall be permitted to use and examine any of the Materials for administrative, archival, and processing purposes.

8. The Materials shall not be available to and accessible to persons and institutions, or other than those designated in item 7, for a period of five (5) years. Thereafter, the Materials shall be available as follows:

A. The Materials shall be made available to bona fide historians, researchers, and scholars.

B. During the lifetime of the donor, access to the Materials is restricted to the Donor, appropriate University staff and those persons mentioned in paragraphs 7 and 8A above and to other persons designated in writing by the Donor or his wife, Marion F. Giaimo, or his daughter, Barbara Lee Phillips (Mrs. Robert Phillips III of New Canaan, Connecticut). Upon the death of the Donor, access to the Materials shall be permitted in accordance with reasonable restrictions promulgated by the University.

9. For reasons of security, preservation, or service, the University may, when consistent with its policies, reproduce, transcribe, and copy all or parts of the Materials. Any restrictions on access to the Materials specified in this agreement shall apply both to the originals deposited in the University by the Donor and to any reproductions of the Materials made by the University pursuant to this paragraph.

10. In the event that the Donor may from time to time hereafter deposit in the University additional papers, documents, correspondence, or other materials, all of the foregoing provisions of this agreement shall be applicable to such additional items which shall become part of the Materials.

[SIGNATURES AND SEALS]●

TRIBUTE TO HON. JAMES CORMAN

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. O'NEILL. Mr. Speaker, it is with strong emotional and mixed feelings that I take this opportunity to join my colleagues in paying tribute to one of the outstanding public servants in the House of Representatives, the Honorable JAMES CORMAN, on the occasion of his departure at the end of the 96th Congress.

From the bottom of a grateful heart, I want to thank JIM for a superb job, for his friendship, loyalty, and support. To those of us who have had the privilege to serve with JIM, he has been an indefatigable crusader for human dignity and the civil rights of all Americans, particularly the forgotten and less fortunate of our society.

A compassionate, sensitive, and dedicated leader in the House, JIM CORMAN, as chairman of the Ways and Means Subcommittee on Financial Assistance, cared about the needs and the concerns of the indigents in America and tried to reform the welfare system so that it would be fashioned more directly and effectively to meet those needs.

JIM has been one of the most honorable, decent, and highly principled Members of the House. No Member has had greater courage in standing up for the beliefs and for the ideals upon which this Nation was founded than JIM CORMAN. A consistent supporter of programs that benefit people, he stood steadfast in his conviction that everyone in this Nation was entitled to equal opportunities to attain quality education and the right to develop his God-given principle. He has remained constant in his beliefs, even when those beliefs became unpopular and politically sensitive in his district.

Charming and well informed on national issues that directly affect the health and well-being of every American, JIM CORMAN has earned the respect and admiration of his colleagues for his competence and ability. His easy-going, likeable manner has helped him to win many friends among his colleagues.

While JIM has served in several positions of leadership during his service in the House, I would like to take this opportunity to thank him personally for his talented and important contributions to the deliberations of the special ad hoc Energy Committee of the 95th Congress and to his unparalleled leadership of the Democratic Congressional Campaign Committee.

I know that my colleagues are as regretful as I am at the departure of such an outstanding legislator, fine human being, and distinguished American. I wish JIM all life's best in the years ahead, and my door is always open. God bless you.●

PRESIDENT REAGAN AND ETHNIC AMERICANS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. DORNAN. Mr. Speaker, on November 4, 1980, the ethnic voters of virtually every nationality turned out in record numbers to support our President-elect, Ronald Reagan. Irish, Italians, Germans, Polish, Slovenians, Hungarians, Lithuanians, broke traditional voting patterns and supported our new Republican President.

The reasons for this were certainly rooted in the perceived failures of the Carter administration in the areas of economic policy and defense policy. But there were also cultural factors that contributed to this victory. We are now on the verge of a new political realinement. In light of these political changes, I will support the Reagan administration's appointment of qualified American ethnic leaders to positions of influence within the political decisionmaking process, especially as it affects ethnic neighborhoods and communities.

The American people have spoken strongly and clearly for a new direction in American political and economic life. Instead of pursuing policies that result in high rates of inflation, that have robbed Americans of their savings and have eroded the purchasing power of their hard-earned dollars, we must adopt economic policies that will encourage savings, investments, and productivity. While we must do everything in our power to make sure that those Americans who are truly in need are the beneficiaries of our charitable and governmental assistance, we must also do everything in our power to cut out waste, fraud, and inefficiency in our assistance programs. But that is only one point of the agenda.

America, as the late President John F. Kennedy said, is really a nation of immigrants. As one who is very proud of his Irish heritage and who knows very well the hostility and the discrimination suffered by new Americans, I feel a special affection for the many ethnic groups that comprise the American mosaic. We know that through hard work and savings, the American dream can be realized. But also we know that there is nothing more precious than the warmth and affection that comes from close family life. Today, in a variety of ways, some subtle, some explicit, the intrinsic values transmitted through a strong family system are under assault, in the media, in motion pictures, and even on television screens.

Too many Americans have, unfortunately, lost touch with the deep personal commitments that are born of a close family life. That is tragic, not only on a personal level, where the pain of a loss of affection is so great, but it is also tragic for our Nation as well. There is one social principle instilled in me that guides all of my own thoughts on social policy: The family is the very basis of civilization. An attack on the family constitutes an attack on the social order itself. The decline of the family will result in the eruption of various kinds of social problems, and if you look at the root of any social problem you will soon discover a moral problem.

In the area of social policy, I would hope that ethnic Americans will join in together and protect the family and family values from unwarranted Government intrusions. I would also hope that, in their private capacity, they would foster family values serving as a positive example of the fruitfulness of close family life.

By giving our children the love and affection that they so richly deserve, we will render them spiritually strong. As the holiday season approaches, let us all remember that the most important things in life are born of love and friendship.●

JOLT AT THE GAS PUMPS?

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. OTTINGER. Mr. Speaker, Daniel Yergin, coeditor with Robert Stobaugh of the Harvard Business School's energy project book, "Energy Future," wrote a very thought-provoking article for the Washington Star on Sunday, November 30, entitled, "Jolt at the Gas Pumps May Welcome Reagan."

The major message of "Energy Future" and of Mr. Yergin's most recent article is that the efficient use of energy is not only extremely important to the United States, but that as we move toward Inauguration Day, the incoming administration should recognize that conservation should appeal exactly to those constituencies closest to the philosophies of our President-elect.

I am not necessarily in complete agreement with the recommendations Mr. Yergin makes, but I think his article is essential reading. For example, Mr. Yergin states:

> Certainly there has been a tendency on the part of some of those around Mr. Reagan to discount conservation, apparently on the premise that it means sacrifice and denial. This is the wrong way to look at conservation. The imagery of sacrifice—"hot in the summer and cold in the winter"—should be dispelled. Productive conservation should be seen as an energy source, an investment alternative, a form of higher efficiency, higher productivity for energy inputs. It does not mean a reduction in goods and services. It means more goods and services that embody and operate at higher levels of energy efficiency.

Mr. Speaker, I commend to my colleagues' attention Mr. Yergin's article, and insert it in the RECORD at this point:

JOLT AT THE GAS PUMPS MAY WELCOME REAGAN

Ronald Reagan's energy policy, as expressed in the campaign and now in the transition, can be summed up pretty simply; Get the federal government out of the energy policy business. The results, the head of his transition team has suggested, might be a "reasonable self-sufficiency 10 to 15 years down the road."

What has been offered is an attractive vision—a return to the energy economy of the 1950s. Unfortunately, this discounts difficult constraints that emerged in the international oil market in the 1970s.

Moreover, whatever the preferred agenda, there is a reasonable probability that the Reagan administration will confront, on Inauguration Day, a very considerable energy emergency as a result of the Iran-Iraq war. That possibility is signalled by current bids on the spot market of over $40 a barrel.

If mishandled, this emergency would have the capacity to checkmate the new administration's central aims of reducing inflation and stimulating economic growth. It could even force the new administration back into the energy regulation business that it so heartily wants to jettison.

Over the longer term, an undiscriminating adoption of the view that we can "return to the 1950s" could undermine a new consensus that has emerged in the United States in the last 18 months—a consensus that reaches across the political spectrum, was arrived at out of seven painful years of learning, and holds out the prospect of calming some of the bitter and exhausting domestic warfare over energy policy.

Whatever its plans and philosophy, the Reagan administration may be denied the leisure of reflecting on energy options when it takes over in January. Granted that, barring its spread elsewhere in the Mideast, a continuing Iran-Iraq war is not likely to cause any physical shortage of oil until the spring. Oil inventories are high. Demand has been curbed by the recession in North America, Western Europe and Japan. Some conservation has taken place.

Still, when everything is added up, worldwide demand appears to be about two million barrels a day ahead of supply—not a healthy situation with the winter heating season upon us. The shortfall is eating into the extra inventories. The uncertainties loom larger and larger. When will the war end? What is the condition of the damaged oil facilities? When will substantial oil exports be resumed?

Moreover, there is a growing nervousness about severe winter weather that would push up demand. All these fears are translating into higher bids on the spot market—up to $44.50 a barrel. There has been a respite in the last few days, with no significant spot sales of crude oil noted since Nov. 20. The reason appears to be Iraq's announcement that some oil will begin to flow again through its pipelines to the Mediterranean. Still, as in 1979, producers are adding premiums on their contract oil, seeking to capture some of those spot prices. They may soon make a wholesale leap and push up their official prices quite far.

How far? One recent analysis suggests that the minimum increase by the middle of next year might be $3 a barrel, with a maximum increase of up to $20 a barrel. "Predicting is crazy," said one of the analysts involved in this study. "But the risk of substantial increases is certainly there." Indeed, prices could be out of control once again by the time Mr. Reagan comes into office, confronting the new administration with its first crisis—an oil price crisis.

Another round of price increases would have severe consequences for economies that have not yet recovered from the last oil-induced recession. Another round would make mockery of pledges to control inflation, and would place enormous strains on the international monetary system.

Mr. Reagan and his advisers need to focus on this spectre during the transition. Certainly skillful cooperation through the International Energy Agency will be required, particularly in terms of restraining spot bidding and managing oil inventories.

But efforts to reduce demand still remain the most powerful antidote against new price increases—an antidote not effected in a timely manner during either 1973-74 or 1979-80. But how?

The emergency gas rationing program that went on the books this year is unsuitable in these circumstances because of the complexity of administration and the long lead time needed. An emergency gas tax would be sensible and effective; we ought to have such a stand-by system.

The Reagan transition team has called for a big strategic oil storage system, which is a good idea. But right now we only have a small one, and now is not exactly the right time to build it up.

There is another option. This emergency could provide a most compelling reason to consider accelerating the decontrol of domestic oil prices, or even moving to complete decontrol of oil, rather than waiting until September 1981. Such action would make clear that American demand was going down—leaving spot buyers with the possibility that they might not have markets for their expensive oil. It would be a powerful signal to other consumers and producers, strengthening our hand with them.

THE LONG-TERM VIEW

And it would fit in just fine with what are obviously the basic views of the new Reagan administration for the 1980s and beyond.

Indeed, in its thoughts about long-term policy, the dominant emphasis on the Reagan energy agenda thus far has been on prices and public lands. Opening up the public lands, it has been argued, will provide a gusher of oil. Well, surprises do happen, of course. Furthermore, given the great dangers of reliance on imported oil, it seems most sensible to thoroughly survey all the country's oil prospects, including those on public lands. Opening up the public lands would certainly lead to the finding of new oil. And we need new oil. So far, however, there is not much evidence that opening them up would lead to the discovery of enough of the giant oil fields that are required to reverse the declining production profile that began in 1970.

Another favored intermediate and long-term hope is enhanced recovery, which obviously is of high importance. With domestic oil at world prices, there will certainly be vigorous and welcome efforts to increase the amount of oil recovered. How much more oil will result? That is still far from clear.

SLIPPING PRODUCTION

In order to keep domestic oil production from slipping further during the next ten years, the United States would have to add an average of 3.7 billion barrels of reserves each year. Last year, it added 2.6 billion barrels. Whether the reserves will be found to permit even a leveling out of production—which still means the United States would remain the world's largest importer of oil—is highly uncertain.

What happens if, as many exploration people think, we don't. The United States would then end up more vulnerable to the world market, rather than less. It will take some years to find out the answer. This long gamble, by itself, is not a prudent bet.

KEY ROLE OF CONSERVATION

Indeed, even an administration very bullish on domestic energy prospects would still do well to recognize the uncertainties and long lead time, and thus should be keen to hedge its bet with energy conservation.

That, more or less, is what the new consensus is all about—production and conservation. It recognizes that the system of oil price controls was a mistake. The controls gave the wrong information to producers and consumers, encouraged oil imports, and sought to deny the reality of America's integration into the world market. With this part of the consensus, of course, Mr. Reagan has no problem. This recognition is shared not just among energy producers, but also now among people interested in conservation and renewables, and even the majority of environmentalists.

But also, according to the new consensus, the biggest short-term energy source is likely to be conservation energy. Here Mr. Reagan has delivered very mixed signals. "I am not an enemy of conservation," he said during his debate with John Anderson. "We are proving that we can go forward with conservation and benefit from that." But last week he was quoted as saying, "Conservation means we'll be hot in the summer and cold in the winter."

Certainly there has been a tendency on the part of some of those around Mr. Reagan to discount conservation, apparently on the premise that it means sacrifice and denial. This is the wrong way to look at conservation. The imagery of sacrifice—"hot in the summer and cold in the winter"—should be dispelled. Productive conservation should be seen as an energy source, an investment alternative, a form of higher efficiency, higher productivity for energy inputs. It does not mean a reduction in goods and services. It means more goods and services that embody and operate at higher levels of energy efficiency.

DECOUPLING THE ECONOMY

In other words, economic growth and energy consumption can be decoupled. Indeed, in the last seven years they have been. Conservation made the largest contribution of any energy source to the energy mix since 1973. In rough terms, between 1973 and 1979, the United States became nine percent more energy efficient. Another way to express the matter is that conservation contributed almost four million barrels a day of oil equivalent to the national energy mix while incremental conventional sources contributed two million barrels a day of oil equivalent.

Some Reagan advisers seem to be going out of their way to downplay conservation in order to push a case for oil and gas development—ironically, a case already largely accepted. Yet there is nothing inherently contradictory about production and conservation. The fact that in less than a decade world oil prices have increased 15 times over does suggest that oil is something valuable—not to be wasted. Thus, it is both unfair and not very constructive for the transition team's report to say that those who have advocated higher energy efficiency "have, in the name of saying energy for some unspecified future time, tucked energy away like a rare bottle of wine."

ACHIEVEMENTS BY BUSINESS

Indeed, the rejection of conservation runs counter to what is a growing conviction in a part of the natural Reagan constituency, the business community, that conservation is a powerful energy source. In 1973, Gillette set out to reduce its energy consumption in its North American facilities by 10 percent. By 1980, the reduction had turned out to be 30 percent—while sales were up 86 percent. In 1973, IBM also set out with a goal of a 10 percent reduction. So far, the actual reduction has been 45 percent per square foot! AT&T has set itself a double target—to have its business double between 1973 and 1985—yet to combine that with negative energy growth.

Similarly, the potential for solar and renewables is seen as much greater than would have been thought a few years ago. Southern California Edison, the large utility serving Los Angeles, recently announced, that 30 percent of its additional electricity demand in the 1980s would be met by renewable energy sources. "As a result of some significant successes in a number of research and development areas," said the utility's chairman, "some forms of power generation which were speculative or unproved have progressed to the point that they can be aggressively developed and relied upon."

Progress will be made in both conservation and renewables. The key questions are, "when?" and "how much?" Will that barrel be saved in 1981 or 1986? Both sources need larger incentives in order to accelerate their contribution—especially conservation energy. The incentives are necessary so that they can compete fairly in the market place against other sources whose incentives and subsidies have been deeply imbedded over the decades.

Despite what has been said in the last couple of months, there is a great congruence between the need to speed up these energy sources, and basic Reagan concerns. The new administration is keen to stimulate business investment. In both Japan and Europe, much more so than in the United States, there has been a focus on the relationship between investment and energy efficiency—since efficiency will be embodied in new capital stock. Thus, any policies that encourage investment and modernization will encourage new energy efficiency. The reverse is also true—programs that encourage energy efficiency will also encourage new investment.

A GUESSING GAME

Guessing future U.S. oil output can be quite a game. Recent predictions for 1990 range from the very optimistic—"self-sufficiency"—to the starkly pessimistic. Exxon's most recent forecast, for instance, predicts that U.S domestic production could slip from the current 10.3 million barrels a day to 6.1 million barrels a day by 1990. In the new edition of Energy Future, Prof. Robert Stobaugh and I concluded that the bulk of evidence points to a 30 percent decline by 1990—even with decontrol. Obviously, all predictions will be modified and corrected, and perhaps even be made to look foolish, by experience.

Maybe we will be lucky and get back to the energy economy of the 1950's. But the risks are so clearly grave, and the uncertainties sufficiently great, that the only sound energy policy for the U.S. is represented by the new consensus—to stress production and conservation. There is no contradiction between the two. And the last thing the country needs is to have the shooting start again in our domestic energy wars.●

JOHN BUCHANAN

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. UDALL. Mr. Speaker, JOHN BUCHANAN is a courageous and effective legislator, humane and one of the fairest men I know. His reasoned common sense, concern for the less fortunate and real contributions to this House will be missed. JOHN is a man who not only preached Christian principles, but lived them. I am sorry to see him leave.●

THE PURPOSES OF AMERICAN POWER

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. GREEN. Mr. Speaker, in the current issue of Foreign Affairs, Robert W. Tucker sets forth a cogent analysis of the current U.S. interests in the Persian Gulf region. His comments about the Palestinian issue are particularly relevant and persuasive.

Mr. Tucker is professor of political science at the Johns Hopkins University and codirector of studies at the Lehrman Institute. His article in Foreign Affairs is entitled "The Purposes of American Power." I recommend it to my colleagues, and I ask that a small portion of it be printed in the RECORD at this point.

THE PURPOSES OF AMERICAN POWER

The compelling force of vital interest has left us no meaningful choice in deciding whether or not we will respond to the continuing arms buildup of the Soviet Union with an improved military position of our own. The manner and emphasis, the pace and magnitude, of the response continue to elicit controversy. The diplomatic consequences that some fear rearmament to hold out provoke even greater controversy. These and still other considerations notwithstanding, a majority among elites and public alike now accepts the imminent prospect—if not the present reality—of an overall arms balance that favors the Soviet Union. The need to redress this actual or prospective imbalance is also broadly accepted.

The wellspring of this consensus must be traced to the growing conviction that the United States has steadily moved throughout the past decade toward an insolvent foreign policy, whether in the Persian Gulf—where commitment was not in accord with interest and where the means to sustain interest or commitment were almost totally lacking—or in Western Europe—where credibility of commitment was increasingly called into question by the growing inadequacy of the necessary means. The remedy for a foreign policy that has come close to insolvency—because the means to secure vital interests are inadequate—is plainly to restore the necessary means. In the two most critical areas of concern to the United States, the necessary means—not the only means but the necessary means—are military. This point deserves particular emphasis with respect to the Persian Gulf. Though it is here that the need is greatest, it is also here that the temptation persists to find a substitute for this need.

The experience of a decade, however, has amply demonstrated the truth that should have been apparent from the outset: there is no reliable substitute for Western power in the Gulf. The continued search for such a substitute—whether in the form of another American surrogate, or alignment with the West by means of a regional arrangement, or of collective nonalignment—is entirely vain. The conditions of domestic instability and of intraregional rivalries that characterize the Gulf render any and all of these schemes either impossible to achieve or without real value even if apparently achieved.

Nor is there any plausible reason for believing that these schemes would prove feasible and effective if a satisfactory settlement of the Palestinian issue were achieved. A settlement of the Palestinian issue would not materially lessen the need for Western power in the Gulf. It would not do so because it would not remove the many sources of conflict and instability in the region. Of the major events that have shaken the Gulf in the past two years and that have threatened Western access—notably the fall of the Shah and the Iraqi-Iranian war—none have had more than a peripheral relationship to the Palestinian issue. The continued insistence upon seeing in a comprehensive settlement of the Arab-Israeli conflict a critical part of the solution to Western vulnerability in the Gulf has become the refuge of those who do not believe there can be an effective reassertion of Western power and that, this being so, we must clutch at such straws as best we can.

A recent variation on this view holds that Arab states of the Gulf—particularly Saudi Arabia—would be more receptive to an American military presence if the Palestinian issue were to be satisfactorily resolved. Those urging this view seem oblivious to the notorious fact that there is no consensus among Arab states on what a "satisfactory" solution would consist of and that such a consensus is not likely to emerge. The argument that the receptivity of the Gulf states to an American presence depends on the politics of the area is surely right. But it does not follow that the Palestinian issue is the key to a favorable attitude of the Gulf states toward a Western military presence on their territory. Instead, the key is a restoration of American credibility, a restoration that will not be furthered by an America that is seen to be pressuring Israel on the Palestinian issue in order to improve its standing in the Arab world. If anything, such pressure is likely to have the opposite effect from what its advocates claim it would have. The Saudis will see it not as an indication of American credibility but as further evidence of the weakness of our position.●

MELVIN EVANS

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mrs. HOLT. Mr. Speaker, it is a pleasure and an honor to pay tribute to our colleague from the Virgin Islands. Dr. Evans hails from one of the most beautiful places on Earth, and no more fitting gentleman could represent the kind people, warm climate, and gorgeous geography of the Virgin Islands. During his all too short stay in the Congress, Melvin has brought to us the concerned thoughts of a man who has dedicated his life to helping others. Having sought education and service in both his home islands and on the continental United States, Melvin Evans has been a friend to all who have the privilege to know him. It was my good fortune to serve on the Armed Services Committee with him, and during those 2 years, it became obvious that Melvin is an introspective man who considers all of the options to solving a problem and then works with conviction to achieve the right solution. He is an articulate man, and a person with sound judgment. We will miss Melvin Evans in the next Congress, but he leaves with our deepest gratitude and best wishes.●

TRIBUTE TO HON. LIONEL VAN DEERLIN

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PEPPER. Mr. Speaker, in one of the early Roosevelt campaigns, I was speaking in one part of a San Diego hotel; Senator Robert Taft was speaking for the Republican nominee in another room in the same hotel. Lionel Van Deerlin was covering both of our speeches as a media representative. Shortly after, Lionel Van Deerlin came to the House and we became close friends. We traveled together; we worked together on many matters; and we were together on social occasions. I soon appreciated the great work of Lionel Van Deerlin as a Member of this House and what a great American he was. He has been an outstanding legislator, has been a man of deep concern for the American people, and has notably and nobly served his country in this House. He will be immeasurably missed. Two of the best friends my late wife and I have had in this House have been Mary Jo and Lionel Van Deerlin.

Lovely Mary Jo is a great person in her own right. It has been a joy for my late wife and me to enjoy her friendship and her companionship. Her loss, too, is incalculable. I hope these two great friends will find soon another avenue of public service and can continue to employ their enormous talents in making life better and happier for our fellow countrymen and for mankind. My warmest wishes will always be with them, and I pray the Lord's richest blessings upon them.●

TRIBUTE TO LIONEL VAN DEERLIN

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesay, December 3, 1980

● Mr. O'NEILL. Mr. Speaker, I wish to take this opportunity to say a special word of thanks for a job well done to Lionel Van Deerlin, on the occasion of his retirement from the Congress after 18 years of dedicated service to his constituents and the Nation.

As chairman of the House Commerce Subcommittee on Communications, Lionel Van Deerlin has been the leading expert in the area of communications law. He has been a principled and competent Member who has earned the respect and admiration of his colleagues on both sides of the aisle. Intelligent, resourceful, and well informed, Lionel Van Deerlin has given his constituents, the House and the Nation nearly two decades of talented contributions.

Lionel has been an exemplary public servant and I wish him great success and happiness in the years ahead.●

CORPORATE TAXES AND CORPORATE PROFITS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. DANNEMEYER. Mr. Speaker, the Finance Committee of the other body has called for a tax cut; the second budget resolution provides for a tax cut; the general consensus of opinion is that we will have a tax cut next year, so it is not too early to ask ourselves—what kind of a tax cut should we have? Are we going to cut individual income taxes to spur productivity, or are we going to cut corporate taxes to increase investment or are we going to do a little of both? And, if we cut individual income taxes, are we going to cut them in such a way as to stimulate spending or saving?

Answers to these questions are, to a certain extent, necessarily subjective but, if we look at the impact current tax schedules have on individuals and businesses, it is possible to obtain some significant perspectives. With respect to individuals, it is a rather well-known fact that current tax rates exacerbate the effects of inflation; every time the inflation rate goes up 1 percent, taxation increases, on average, 1.6 percent. But, with regard to business, the impact of taxation is far less understood. Thanks to big headlines about oil company profits, the perception many people have is that business in general, and big business in particular, is rolling in money and does not pay very much tax. What those people do not realize is that a 200-percent increase in profit is not all that much if it only translates into a 5-percent return on investment. Nor have they heard all that much about what percentage of gross income many big businesses do pay in the way of taxes.

Without identifying the company, let us look at an example. Last year, one Fortune 500 company, with capital in excess of $10 billion and sales in excess of $9 billion, made a net profit of less than $800 million—or only 7.6 percent on its investment. Not only that, but 39 percent of its pretax profit went to the Federal Government in the form of taxes, nearly twice what went to the stockholders in the form of dividends. That left only 40 percent of pretax profits for capital investment, which is not all that much considering the tremendous cost of machinery, equipment, and facilities these days. And this is for a successful company; many other firms are in far worse shape.

Given the fact the West Germans and Japanese tax their corporate profits far less heavily than we do, it is imperative we keep figures such as these in mind when considering possible changes to the tax code. Not only should the rate of return on investment for many firms be higher than it is, but it is absolutely imperative that those companies, as well as individuals, be able to retain for capital investment purposes, more of the money they do earn. For, if the capital is not available, foreign competitors will be able to develop more efficient means of production, while our industries stagnate. That, in turn, will enable foreign goods to undercut our products in more and more markets leading to a loss of business and, ultimately, jobs. Right now, workers for major companies get roughly $94 in salaries and benefits for every $6 that goes to stockholders, but there will be fewer workers so benefiting unless American industries have the wherewithal to remain competitive. The law of averages, if not simple logic, says we cannot go on trying to kill the goose that laid the golden egg without having it die sometime.

Mr. Speaker, in closing, just let me add one final thought. Many people have the idea that taxing business means that they will not be taxed. But businesses, successful ones at least, treat taxation as a cost of doing business and pass that along to their customers. Thus, business does not really pay taxes; consumers pay them and it is high time we, in the Congress, recognized that fact and stopped pretending we are giving people something for nothing. By depriving this Nation of the investment capital it needs, under the guise of egalitarianism, we are not doing anyone a favor—least of all the average workingman that our current tax law is supposed to benefit. It is time for a new approach, and I hope Congress will not waste any time embarking on it next year.●

RESIGNATION OF JOHN RHODES AS MINORITY LEADER

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. GOODLING. Mr. Speaker, I would like to join with my colleagues in the House of Representatives to applaud JOHN RHODES' contribution and leadership as the House Republican Minority Leader.

JOHN has provided careful and strong guidance for the Republican Party since December 6, 1973. He is in many ways responsible for the fact that we now have the largest Republican Caucus since 1956. Although JOHN will no longer continue his role as Minority Leader, I am sure he will play a forceful and active role in the future.●

THE CPI HAS COSTLY FLAWS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. CORCORAN. Mr. Speaker, I would like to insert into the RECORD an excellent article by Mr. Steven C. Leuthold on the shortcomings of the Consumer Price Index as presently calculated by the Bureau of Labor Statistics. The Consumer Price Index is the basis for adjusting social security benefit payments annually, as well as military and civil service retirement benefits, school lunch subsidies, Postal Service employees' pay, and numerous other benefits.

These adjustments entail enormous sums of money, so any overestimate of the increase in the cost of living is extremely costly. It behooves Congress to make certain that the measurement we are using is the best possible estimate of the actual increases in the cost of living. The CPI has many flaws that make it a less than perfect measure of the rising cost of living, and these are discussed in the article by Mr. Leuthold. I urge my colleagues to read this article and consider the need to perfect the CPI or consider the use of more accurate measures.

STOP THE BLEEDING!

FLAWS IN THE CPI, GOVERNMENT'S MOST VITAL STATISTIC, ACTUALLY MAY FAN FIRES OF INFLATION

(By Steven C. Leuthold)

In the past few months some notice has been given to a flaw in the Consumer Price Index (CPI), a flaw that even the government admits has caused as much as $5 billion in overpayment of benefits and wages tied to cost of living increases. The Congressional Budget Office says that in 1979 the method of measuring changes in home prices and mortgage costs pushed the CPI up 3.3% more than was justified by the actual increases in these costs.

In the meantime, Janet Norwood, the commissioner of Labor Statistics, has gone on record as saying that no change will be made in the official index at this time. There will, she has said, be no "quick fix" for the index.

The CPI is clearly the single most important statistic produced by the U.S. Government. Yet it has continuously overstate inflation, not just in 1979 but for decades. And there are numerous flaws and faults in its construction; it is not just a matter of home prices and mortgage costs anymore.

Yale University economist Richard Ruggles and Northwestern's Robert Gordon have been long-time critics of the methodology used to arrive at government-produced inflation data.

This writer, being consumed at times with numbers and how they are used, has been critically examining various stock market indicators and measurement indices for the last 20 years. But the financial distortions caused by the flaws in the indicators like the Dow Jones Industrial Average or the American Stock Exchange Index are mere ripples compared with the destructive economic tidal wave created by the flaws in the CPI.

A year or so ago we discussed some of these in these pages. However, in conversations with numerous investment managers, analysts and financial officers over the past few months I am amazed—appalled is the better word—at the number of people who are either not aware of the problem or don't realize the massive significance of the problem.

The CPI, our chief indicator of inflation, influences consumer confidence, capital spending, investment and economic policy. More importantly, however, a change of 1% in this one index can trigger well over a billion dollars, perhaps as much as $5 billion, of income change, directly affecting far more than half of the U.S. population. What if, as is becoming increasingly clear, this index is overstating inflation?

CONSIDER

Almost 35 million Social Security recipients have their payments tied to the CPI by a cost-of-living escalator (see AP dispatch above);

Almost three million military and civil service retirees have retirement benefits tied to the CPI;

The index also directly affects food stamp allotments for another 20 million or so;

School lunch subsidies for about 25 million children are based on the CPI;

There are millions of beneficiaries of health and welfare programs where eligibility levels (poverty level) float upward, tied to the CPI;

A CPI escalator clause is tied to many private rental contracts and even child support payments;

At least nine million union workers with cost-of-living clauses as part of the employment agreements, most keyed in varying degrees to the CPI (it is estimated that 50% of collective bargaining agreements now have "COLAs" or Cost of Living Adjustments compared to 35% in 1975);

Millions of nonunion workers have CPI-related adjustments direct or indirect as part of compensation packages; and

The impact of a CPI error on benefit payouts, contributions and actuarial planning can be huge for pension sponsors—states, municipalities, corporations who fund pension programs.

The bottom line of all of the foregoing is simply this: If the CPI exaggerates inflation by even a small percentage, tens of millions of people get more than they should, more than they are entitled to. This, of course, feeds the inflation that is supposedly being measured. The need to improve the accuracy of the CPI, therefore, is far more than an ivory tower quest for perfection. It should be an urgent priority in the battle against inflation.

Some time ago, in A Half Century of Returns on Stocks and Bonds, Professors Lorie and Fisher warned readers to "keep in mind that there is an inherent upward bias through time in the CPI. The magnitude of the bias," they added, "is unknown but 1% to 2% is considered reasonable." That was a few years ago. In 1980 it may well be over 5%.

Let's examine some of the ways the CPI is distorted, but first a thumbnail of how this vital statistic is constructed.

Each month, the Bureau of Labor Statistics (BLS) sends out 500 data collectors to visit a sample of computer-selected stores and sources to price a variety of consumer goods. The reports are then analyzed and combined with other price information, and in about the fourth week of the following month the new CPI data pops out. We wonder, of course, whether or not some of these data collectors occasionally become a little lazy and fake things, going back to bed or out for a few beers, but BLS claims to have taken some steps to minimize what it calls "curbstoning."

SIGNIFICANT PROBLEM

Nevertheless, there are more serious things about the methodology employed than that. Prices are checked only at regular outlets, for example not at discount chains. In reality, of course, most Americans shop around. Who pays list price for a stereo these days? Also, no special discounts, such as the discount fares offered by airlines these days, are considered.

But even a more significant problem, one that experts say gives the index a continuing upward bias, is found in the mix and makeup of the consumer market basket priced each month. The new index version, introduced in 1978, for instance, is based on a consumer expenditure survey conducted in 1972-73. Consumer spending patterns have changed significantly since then. Oil prices have more than quadrupled and food prices shot up dramatically in the mid-1970s. * * *

Here is the problem, according to Professor Ruggles: The CPI methodology does not adequately compensate for improvements in the quality of consumer products. If the manufacturer of an appliance improves the product so it lasts 10 years instead of two and as a result he increases his manufacturing costs by 50¢ a unit, the 50¢ price increase should not be viewed as inflation; it is quality improvement. The consumer may be paying more, but he or she is getting more. The consumer who does not want this improvement has the option of buying a cheaper model.

HOW BAD IS IT?

The BLS does attempt to adjust its CPI calculations to allow for some of these product improvements. It subtracts the costs of a new feature only if a price increases and only if the improvement is very obvious and easy to value. If, on the other hand, the product is improved and the manufacturer absorbs the added cost, perhaps for competitive reasons, keeping the consumer price the same, the bureau ignores it and no adjustment is made. If the product is improved and the retail price actually declines because of competition or improved manufacturing technology, the bureau ignores the product improvement factor no matter how obvious or easy to value. Although the bureau acknowledges the principle of the product improvement, it chooses to apply it only, if the retail price is increased. This would certainly appear to be an arbitrary one-way street.

Economist F. Lee Moore has compiled some examples that dramatically focus on this major CPI flaw in the product improvement area. In 1934 the standard tire sold for $13. Recently, using CPI data, it's $68, up 423%! At least that is the way the CPI measures it. But wait a minute. The standard tire in 1934 was a four-ply cotton tire that could handle a 1.45 ton auto at 40 mph for an average life of 7,000 miles. Today's $68 standard tire can handle a two ton car at 50 mph for a minimum of 40,000 miles. The net is that even though the price went up 423% the cost per mile driven went down 9%. The cost per ton mile has actually fallen 32%. With these improvements in performance is the cost of tires up or down?

Motor oil prices have increased 234% since 1935, but considering the better performance and longer life, economist Moore calculates that the cost per mile traveled has actually declined by 52%. Light bulbs are another common example. Shouldn't the price be measured in lumen hours provided, not cost per light bulb?

Then there is the major consumer expense item of taxes, a very significant portion of the CPI. Property taxes, sales taxes, license fees and other costs of government are factored in each month. These have, of course, skyrocketed over the years, but the government services provided also have expanded greatly. Some of us might argue with the degree of real improvement in services provided by state, local and federal governments, but no one would argue that government is not doing more for us today than say 15 years ago. A portion of this service expansion is taken into account by the CPI, but not much of it.

This entire issue of product improvement initially would appear to involve a great deal of subjectivity. Some at the BLS think adjustments should also theoretically be made for quality deterioration and this would offset some of the distortion noted here. But what constitutes an improvement in quality and what does not? If it is an improvement, how do we separate and measure its cost within the manufacturing process? Northwestern University's Robert Gordon and others say that there are mathematical techniques that can effectively isolate the price effect of quality improvements from other price changes.

This could be computerized and it is claimed that the BLS could adapt the program to the more important product categories with little additional expense. Economist Moore sums it up, saying, "The prevailing method of indexing price has not changed significantly since it was formalized early this century. The only change that counts is the change in quoted price."

OTHER FLAWS

The Consumer Price Index is calculated from the price changes each month in a myriad of individual consumer items, but when technology introduces a new, important consumer item it can take the government a long time to get around to adding it to the list. Prices of new consumer items often fall dramatically in their first several years on the market. The digital watch and calculator illustrate this point. However, the BLS did not get around to including the calculator until 1978. By that time prices of calculators had fallen 90% from initial levels. All of this decline was missed by out price recorders.

A more subtle and difficult flaw to measure involves changes in living patterns. Consider entertainment. Movie tickets have gone up 330% since 1948. Tickets to sports events and other entertainment also have gone up greatly. But today the consumer is getting the same kind of entertainment for a small fraction of the 1948 cost via television. Two hours of television cost about a dime. Home Box Office and cable television cost about $15 per month.

The Congressional Budget Office calculated that the CPI overstated the 1979 rate of increase in consumer prices by 3.3% because of the way home prices and mortgage costs are factored into the index. As interest rates fall and as housing prices fall (the average new home sold in the U.S. in March had a lower price than seven months ago), some of this distortion will correct itself.

Also, in defense of the BLS, it should be noted that the CPI does not price housing as though everyone bought a new house every month. It assumes that 6 percent of the families in the U.S. buy a new house every year. This in itself seems somewhat high in view of changing lifestyles. (We assume it is based on that old 1972 consumer spending survey discussed earlier.)

However, if we assume the Congressional Budget Office did its homework in arriving at that 3.3% calculation, and we add the other flaws noted herein which combined, produced another 2% overstatement of inflation, we come up with a 1979 overstatement in excess of 5%. How much is this costing the taxpayers?

Social Security is linked to the CPI. Social Security related benefits are now running $190 billion per year or more. A 5% overpayment is close to $10 billion.

Another $20 billion per year goes out in veterans' benefits. A 5% error means another cool billion of overpayment.

Total transfer payments, almost all CPI linked, now approximate $300 billion per year in the U.S. Tell me now, quick, what is 5% of that?

"* * * if the Congressional Budget Office did its homework in arriving at that 3.3% calculation, and we add the other flaws noted herein, which combined, produced another 2% overstatement of inflation, we come up with a 1979 overstatement in excess of 3%.

How much is this costing the taxpayer?"

Total government spending, state, local and federal is now running close to $900 billion per year. Our assumption is that the majority of that spending is accounted for by transfer payments and salaries to employes. Much of this is CPI-linked in some way. Thus, it is possible that as much as $25 billion a year in taxpayers' dollars could be going for the unjust enrichment of those receiving salaries and benefits from government. If this boggles the mind, take the more conservative admitted statistic that over 25% of the Federal budget is indexed. We believe it to be much more, but at 5% overstatement of inflation, that still amounts to almost $10 billion in federal overpayments alone.

Could it be that remedying the recognized errors in the CPI could almost balance the budget or go a long way toward that objective?

And what about the impact of the CPI error on the private sector, where 50% of the union-negotiated wage contracts have CPI based cost of living adjustments?

Government statisticians are aware of the problems discussed here. But, being aware of problems and taking corrective action are two different things. Collecting, tabulating, and analyzing data has become vastly more efficient in the computer age, but it appears it is taking the bureaucracy longer and longer to get anything accomplished. A BLS official told me they have wanted to make some of these changes since 1971 but "just did not have the funds available."

These indicators are no longer statistics of passing interest, presenting approximations of price trends. They have become vitally important cornerstones of our entire economic and social matrix. Distortions can mean tens of billions of dollars of unjustified economic transfer in a single year. The indices themselves certainly appear to be creating a significant portion of the inflation they purport to only measure.

If there ever was a case where "time is money" this is it. Yet Commissioner Norwood deplores the thought of a "quick fix." Careful review and analysis, with extensive model building, testing, review and re-review are standard operating procedure in the bureaucracy before action can be taken. That is the Washington way. So what if another $50 billion or even $100 billion of the taxpayers money spills away in the meantime?

STOP THE BLEEDING

Comissioner Norwood and the other government officials involved could do all of us a favor and take a remedial course in Army medical emergency procedure. I clearly remember my instructor years ago laying out the priorities for the battlefield.

"First. Stop the bleeding! Rags, leaves, stick your damn fist in the hole if you have to but stop the bleeding! Then protect the wound and treat for shock. But first stop the bleeding. Do it quick. Do it now. The experts can take care of the niceties later with all their tests, equipment and consultations and precision. But if you don't act and act fast they will be working on a cadaver."

Meanwhile, this nation's citizens are being bled white by inflation and by government. The CPI itself is one of the causes of the hemorrhaging. Its overstatement of inflation results in massive overpayments of government benefits and wages. And because so much of our total economic system, public and private, is indexed to this one statistic, the CPI itself actually causes a significant portion of what it purports to measure.

If there ever was a need for an emergency "quick fix," this is it. Stop the bleeding Washington.●

TRIBUTE TO ABE RIBICOFF

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. McKINNEY. Mr. Speaker, the adjournment of this Congress will mark the close of a lifetime of public service for ABE RIBICOFF. What a career it has been: State legislator, jurist, Governor, Cabinet member, Congressman, and Senator. There are few in the history of this entire country who can match the senior Senator from Connecticut in length or breadth of unequaled service to the people. In my State, he has served for years as the model for political integrity and ethical behavior. His legacy is one of a devotion to progressive legislation and an unyielding dedication to that which is right and just.

Over the years, he has become the confidant of Presidents and his advice and counsel has been sought internationally by the leaders of the free world. In spite of these burdens and responsibility, he has never once forgotten Connecticut and in his mind, our State has always come first. He has always been a loyal and faithful servant of the people and his departure creates a great void.

I know I speak for all of the people of the Fourth Congressional District as I wish him, and his lovely Casey, continued good fortune and happiness in the future.●

TRIBUTE TO HON. JOHN RHODES

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesay, December 10, 1980

● Mr. RINALDO. Mr. Speaker, it is a pleasure to join with so many of my colleagues today in a tribute to our great minority leader, JOHN RHODES.

From the day he became our leader some 7 years ago JOHN RHODES has shown all the qualities of a superlative legislative leader and statesman as he guided the Members of our party in the House of Representatives through some of the most difficult and challenging days in its history.

His leadership qualities and judgment, his reputation for personal integrity, and his tireless campaigning for Republicans across the country were clearly key ingredients in the Republican victory in the last election. His efforts will be recognized as a major factor in leading the country toward a national Republican majority.

JOHN RHODES' service to his party, the House, and the Nation have been immeasurable. It is a pleasure to join my colleagues in expressing our appreciation for his many contributions. I am especially pleased that he will continue to serve as a Member of the House where he will play a key role in the work of the 97th Congress.●

NUNS DEATH SENSELESS

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 9, 1980

● Mr. WON PAT. Mr. Speaker, the news that terrorists had murdered four helpless nuns recently in El Salvador shocked all decent people. Two of the slain women were missionaries from Nicaragua, the others were working with the poor in El Salvador. All were American citizens and all were involved only in helping reduce the misery of the refugees in that war-torn country.

I join my colleagues, Representatives JOHN SEIBERLING and TOM HARKIN, in protesting the deaths of these women. They were not combatants and their killers must not go unpunished.

It is my sincere hope that the military leaders of El Salvador will not believe this Nation will ignore this attack on our citizens. I salute President Carter for immediately stopping all U.S. aid to El Salvador, and for sending a mission to that country to investigate the horrible incident.

I also urge the present leadership of El Salvador to recognize the tremendous negative impact the killings have on international opinion. If this kind of activity is to continue, El Salvador will soon find itself cut off from its friends and allies. The United States should promptly do all it can to assure that we are not again associated with a regime which would tolerate such activities against persons within its borders.

To the colleagues and families of those who were slain, I pray that their deaths will not be just another grim statistic in the escalating tragedy in El Salvador. Perhaps the horror of the wave of killings there in the past several weeks will bring those involved to their senses. The peace of that country cannot long endure in an environment of murders against those who seek only to help.

Thank you.●

TRIBUTE TO GUNN McKAY

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. O'NEILL. Mr. Speaker, I am pleased to take this opportunity to pay tribute to an outstanding public servant and to thank GUNN McKAY for a job well done as he departs from the Congress after 10 years of dedicated service to his constituents and the Nation.

GUNN McKAY has been a Member of impeccable honesty, integrity, and decency. He has been well respected by his colleagues on both sides of the aisle. Quiet and reserved, not a headline seeker, trusted by the Democratic leadership to get the job done—these are the qualities that have made GUNN McKAY a highly reliable and competent Member of the Democratic team in the House. Without a doubt, GUNN McKAY has been one of the most effective Members of the House. When GUNN has spoken, his colleagues have listened. He is influential because of his commonsense and trustful low keyed approach.

For 10 years GUNN McKAY has been a forceful advocate of the interests and concerns of his home State of Utah, as a member of the Interior Committee and as chairman of the Appropriations Subcommittee on Military Construction. As a leader among his Democratic colleagues, GUNN McKAY has brought together the moderate to conservative Democratic coalition in the House into the mainstream of Democratic Party thinking as chairman of the United Democrats Caucus.

We are all familiar with Gunn McKay's contribution to the synthetic fuels program. Without his tireless efforts and perserverence, the McKay-McDade bill would not have become part of the fiscal year 1980 Interior Appropriations law. This legislation is important to Utah because of that State's vast energy resources, and it is important to the Nation as we move toward energy self-sufficiency through the development of alternative sources of energy supply.

I am proud to have served with Gunn McKay. He has always given his best, and that best has been more than enough. I salute his remarkable legislative accomplishments and wish him health, happiness, and success in all his future endeavors.●

CIVIL RIGHTS? OR WRONGS?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. ASHBROOK. Mr. Speaker, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." That is the 10th amendment to the Constitution of the United States, the last article of the Bill of Rights. From that amendment came the terms "civil rights" and "States' rights." In fact, they meant pretty much the same thing at that time. The Bill of Rights was proposed by the Congress and ratified by the States as a civil rights measure. It was designed to protect the American people from the Federal Government. Among those 10 amendments were the right to a speedy trial and jury trial, protection from unlawful search and seizure, and protection from cruel and unusual punishment—civil rights.

"Adjournment of Congress Delayed by Debate on Civil Rights Issues." That is what the headlines proclaimed last week. I would agree that adjournment was delayed. But civil rights issues? No.

I cannot think of a single term that has been as misused and distorted with such frequency as has the term "civil rights." Liberal politicians and even trusted, objective reporters of the news speak of civil rights as if everybody agreed on what it meant. Everybody does not.

I participated in the House debate on both issues in question. The first was the so-called fair housing bill. Supposedly, this bill would "put teeth" in the 1968 Fair Housing Act. In reality, it would make the bureaucracy in the Department of Housing and Urban Development the sole prosecutor, judge, and jury in cases where housing discrimination is suspected. As is so often the case, suspected discrimination usually means guilty. If the bill were to be passed in its present form, real estate transactions could be tied up indefinitely while the bureaucrats in Washington decide whether or not a seller has discriminated. Defending oneself can be very expensive, and should the Feds decide that you are guilty, you can pay a $5,000 fine. Civil rights? I do not know about that.

The second debate centered on the busing issue. Conservatives were able to attach riders to a pair of spending bills which would prevent the Justice Department from initiating new lawsuits designed to bring about more forced busing. President Carter immediately announced that he would veto the legislation. Civil rights? Well, I suppose if civil rights means having to get your children up an hour or two early every morning so they can begin a 20-mile bus ride to school, then I guess it was a civil rights issue.

Remember article X of the Constitution? Where does it say that the Federal Government, in its infinite wisdom, has the right to serve as prosecutor, judge, and jury? Where does it say that the Federal Government may tell a child where he or she has to go to school? What about their civil rights?

Politicians are very skillful at putting labels on certain issues. Civil rights has good connotations. States' rights is something bad. While I would consider myself a civil rights advocate under the definition of the Founding Fathers, I certainly would not under the present-day interpretation of the term. So-called civil rights end up being civil wrongs which advocate legal discrimination in too many cases.

I am firmly committed to the principle that the constitutional rights of all citizens should be protected and that they should be afforded even and fair justice. Unfortunately, under our present policy, true civil rights have been ignored.●

TRIBUTE TO HON. MIKE McCORMACK

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 15, 1980

● Mr. PERKINS. Mr. Speaker, I would like at this time to pay tribute to our good friend, Mike McCormack, who will be leaving the House shortly.

For a decade, this fine son of Washington State has performed dedicated and devoted service to his country, and has been a credit to his State and his district.

His work on the Committee on Public Works and Transportation and the Committee on Science and Technology has shown him to be a legislator of the first rank.

I happen to come from an area of the country where water resources projects are tremendously important. Our mountainous terrain makes flood control a matter of life and death.

Mike McCormack understood this, and over the years has been a great help to my people. For them, as well as for myself, I want to thank him for all of his help and concern during these past 10 years.

We shall miss Mike McCormack when the 97th Congress convenes next month. But I can safety predict this: We have not seen the last of this able legislator and great gentleman.●

ON LENDING COMFORT TO EVIL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. DORNAN. Mr. Speaker, during this past 96th Congress, I have written letters to the Argentinian Ambassador calling to his attention human rights problems in his country. I yield to no Member of this House in my concern for the violations of human rights. As one who has flown on 12 food mercy missions into Biafra during the tragic Nigerian civil war, I understand very well firsthand, human suffering and appreciate the evils of a regime that has abandoned even the appearance of moral restraints. But, there is a rational scale of calculation, a gravity of evil test, that can and should be applied to various nations of the world when we make judgments about their human rights policies. There is a qualitative difference between a highly regimented totalitarian regime, that makes no apologies for its intentions to control the personal and social lives of its subjects through unlimited coercion and violence, and an authoritarian regime whose undoubted and unjust violations of human rights are often incidental to a mortal combat with terrorists, no less ruthless and contemptuous of human rights than the governments they seek to overthrow.

I call the attention of my colleagues to a recent Novmber 24, 1980, essay in the New York Times by Anthony Lewis, viciously attacking Mr. David Rockefeller, chairman of the Chase Manhattan Bank of New York, for giving aid and comfort to moral evil merely because, among other things, he thinks that such critical distinctions among regimes are worth making. He thinks that such distinctions are worth making for a number of reasons, not the least of which are the just national interests of the United States.

I think that Mr. Lewis' comments are especially noteworthy because they highlight the hypocrisy of the American left.

A few years ago, Mr. Lewis regularly pumped out reams of newsprint on the alleged atrocities of American and allied forces in Southeast Asia during the Vietnam war. I am still waiting for the flood of hot prose to issue forth from Mr. Lewis's typewriter on the Communist atrocities in Cambodia, the reeducation camps in Laos and Vietnam, or the prison system in Cuba which, per capita, has the greatest number of political prisoners of any nation on the face of the Earth, or the poison gassing of humble Hmoung tribes in Laos. I am still waiting for an in-depth Anthony Lewis column on the status of human rights in the world's most populous nation, Communist China. Surely, the author who wrote movingly on the celebrated case of a Florida indigent's right to counsel could spread a little ink on crimes against humanity that dwarf any human rights violations in Argentina. To borrow a line from Peter, Paul, and Mary's finest number, "How many times can a man turn his head and pretend that he just doesn't see"? Is the repeated failure to turn one's head and look in another direction, to look for sins almost exclusively on the right, nothing more than a studied form of ideologically motivated hypocrisy? Is it a way, to use the didactic phraseology of Mr. Lewis, "lending comfort to evil"?

I submit the Lewis essay with Mr. Rockefeller's reply. I ask my colleagues to examine the evidence:

[From the New York Times, Nov. 24, 1980]

LENDING COMFORT TO EVIL

(By Anthony Lewis)

BOSTON, November 23.—At a press conference in Buenos Aires the other day, David Rockefeller, chairman of the Chase Manhattan Bank, praised the Argentine military government for having "stabilized" the country. Life in Argentina, he said, was "much better than before."

In Argentina and other countries on a Latin American tour, Mr. Rockefeller signaled a change in U.S human rights policy. He told a group of Argentine Government and business leaders that President-elect Reagan "will deal with the world as it is. He is not going to try to change the world in his own image."

Reading reports of those remarks, I thought about Jacobo Timerman, who was Argentina's leading newspaper editor until he was kidnapped by an army unit, tortured, imprisoned, held under house arrest and finaly expelled. No charges were ever brought, but the reasons for his brutal treatment were clear enough: he had spoken out for human rights, and he was a Jew.

Jacobo Timerman was in New York recently, on a visit from his new home in Israel, and he spoke quietly about what had happened to him. He remembered the first three questions put to him when the interrogation started:

"Are you a Jew?"

"Are you a Zionist?"

"Is your newspaper Zionist?"

He answered yes to all three questions—the last falsely, because his newspaper was not "Zionist," but Timerman thinks the answers saved his life. His interrogators had told him he was going to be killed. Instead, they thought they could use him in a show trial to prove the existence of a world-wide Jewish conspiracy. In time, protests from the outside world led Argentine authorities to release him.

The Argentine Government is one of the few in the world today that includes elements of unmistakably, unashamedly fascist character. They have not only used violence and murder to force conformity with extreme right-wing views; they are openly anti-Semitic. Many who survived time in jails and interrogation centers report seeing the swastika on display.

Right-wing repression in Argentina followed years of left-wing terrorism. The terrorists carried out political assassinations and kidnappings on a scale that traumatized the country. Outsiders do not always appreciate that Argentine society came near to crumbling under that assault.

But the violence by agents of the state in the last four years has been condemned by international bodies as going beyond any justified response. More than 7,000 Argentinians, among them children, have been taken away from their homes and have simply disappeared. A recent report to the Organization of American States said Argentine Government tactics amounted to "state terrorism."

Widespread torture has been documented. Among its victims was Adolfo Perez Esquivel, the Argentine sculptor who was just awarded the Nobel Peace Prize for his activities on behalf of human rights.

When he won the prize, Perez Esquivel said his work for human rights was "very simple. We do not go outside the law. We only ask that if a person breaks a law, that he be judged by a court, that if a person disappears, they tell where he is." After ignoring the prize for some time, the Argentine Government said that, whatever his intentions, Perez Esquivel had helped terrorists.

All this makes one wonder why David Rockefeller chose to go to Argentina at this time and say the things he did. For the effect could only be to lend legitimacy to a system that allows the use of bestial methods for political ends.

Mr. Rockefeller told the meeting of Argentine businessmen and Government officials: "I don't think anyone in this room opposes the promotion of the application of human rights." But he said he hoped that President-elect Reagan, "while in no sense abandoning the objectives, will pursue a different approach"—one based on U.S. national interests, such as trade and natural resources.

His listeners had no doubt of his meaning. A New York Times correspondent, Edward Schumacher, wrote that they and others who met Mr. Rockefeller in nearby countries heard what they wanted to hear; that the election of Mr. Reagan will likely lead to a lessening of human rights restrictions on them.

President Carter's human rights policy, with all its imperfections, has saved lives and helped to relax repression in some places, such as Brazil. It is not the only way to advance American ideas of human decency. But if Washington is going to try new policies in the field, surely prominent individual Americans should avoid gestures of accommodation with evil.

David Rockefeller has the burden of living with lunatic conspiracy theories—about his bank, his family, the Trilateral Commission. But he is a man of unusual prominence, whose example matters. The next time he considers such a gesture to Argentina, he might think of something said by Jacobo Timerman—said of Argentines, but applicable to all of us:

"It is very easy to hate a Nazi, a guardian in the Gulag. But the real danger is not them. It is the decent people who compromise with evil."

[From the New York Times, Dec. 5, 1980]

ARGENTINA, THE UNITED STATES AND HUMAN RIGHTS

To the EDITOR:

While granting that I must live with "lunatic conspiracy theories," Anthony Lewis in his column of November 24 accuses me of "lending comfort to evil."

His exhibit is a press report that on a recent trip to Argentina I "praised" the Government and said that life there is "much better than before." He says also that I "signaled a change in U.S. human rights policy," indicating that I thought President-elect Reagan "will deal with the world as it is."

While in South America for a regular overseas meeting of our bank's board of directors, I was asked my views on the recent elections in the U.S. In no way a representative of the President-elect, I expressed my personal reactions based on Governor Reagan's comments during the campaign.

Contrary to the implication in Mr. Lewis' column that I am unconcerned about human rights, I believe strongly that Americans should be true to the basic tenets of freedom upon which our country was founded and uphold human rights in all parts of the world.

But what I and others have disagreed with, often vigorously, over the past several years has been our Government's application of "human rights" policies around the world. It is unfortunate indeed that Mr. Lewis confuses and inaccurately portrays my honest disagreement with the recent governmental approach to human rights on the one hand and my long-held and deeply felt commitment to promoting human liberty on the other.

Specifically, I do not believe that repeated lecturing and public condemnation of regimes we disagree with are likely to produce the results we seek. Regardless of the circumstances, few nations will make public obeisance to the dictates of outsiders.

Furthermore, I believe that we have been neither consistent nor evenhanded in the application of the pressures we have tried to apply. More often than not, authoritarian nations which have posed no threat to us and were even inclined to be friendly—such as some in Latin America—have been singled out for special opprobrium. Others—some of them totalitarian regimes with full-blown Gulag Archipelagos, imposing total control over the masses—have been subject to astonishingly little criticism.

This, too, has been a source of deep concern and resentment, particularly with many of our long-standing friends and allies.

Further compounding our well-intentioned but, I think, misguided application of human rights policy has been an attempt to impose our own standards by threatening to curtail foreign aid and trade.

This attitude has understandably been viewed by many as self-righteous and offensive—and, I am forced to say, somewhat hypocritical. Any objective evaluation of our own domestic situation makes it clear that we still have a great deal more to do here at home.

As to Argentina, Mr. Lewis himself rightly points out that prior to the military takeover in 1976 "terrorists carried out political assassinations and kidnappings on a scale that traumatized the country" and that "Argentine society came near to crumbling under that assault."

The point is well taken. Argentina was, in fact, in a state of virtual civil war. Its institutions and economy were in shambles. Inflation had reached a rate of 57 percent *per month*. The nation was without reserves. In other words, Argentina was bankrupt.

Today, by contrast, the inflation rate is closer to 57 percent *per year*—a remarkable accomplishment in just four years. Foreign exchange reserves too are now in the order of $10 billion.

In short, Argentina has made enormous strides under a military regime that has called upon and made use of outstanding civilian leadership in economic realm. It seems also to be trying to rectify the injustices that occurred—inevitably in a civil war situation—following the military takeover.

Abuses there, or anywhere, are reprehensible. But the situation has improved dramatically. It is a development that seems clearly worthy of mention and encouragement.

In Mr. Lewis's apt phrase, only a "lunatic theory" would attempt to characterize my measured encouragement of this process of normalization as "lending comfort to evil."

DAVID ROCKEFELLER,
Chairman,
The Chase Manhattan Bank.●

TRIBUTE TO HON. TIM LEE CARTER

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. UDALL. Mr. Speaker, TIM LEE CARTER is one of the most popular and respected Members in this House. He is a decent and honorable man, not afraid to make tough and unpopular decisions. I am sorry that he is leaving and I shall miss him.●

THE NEED FOR NEW TYPES OF AUTOS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. VANIK. Mr. Speaker, throughout much of this year, my Ways and Means Trade Subcommittee has been studying the problems of the domestic auto industry and its international competitive problems.

In hearings before our subcommittee, the domestic industry and its supporters continually talk about catching up with the import competition in terms of mileage efficiency. I have tried to point out in these hearings, however, that the Japanese and other foreign producers will also be improving their autos and that it is essential for the domestic industry and its workers to leapfrog ahead of the competition through the development of truly new autos for the age of petroleum scarcity.

The mass production of reasonably efficient electric autos is one way in which the domestic industry can recapture the urban car market. I include in the RECORD at this point an article on the possibilities created by electric autos. This is the type of innovative proposal which Detroit needs to consider seriously as it combats import competition. The article follows:

[New York Times, Dec. 6, 1980]

PRODUCE ELECTRIC CARS

(By Edwin F. Shelley)

OLD WESTBURY, N.Y.—The recent decision of the International Trade Commission to deny the Ford Motor Company's petition to restrict sales of Japanese automobiles in the United States has increased pressure on Detroit to recapture the American market by product improvement rather than by public subsidy.

It is generally agreed that the automobile industry's troubles began with its failure to understand the Organization of Petroleum Exporting Countries' price signals of 1973–1974 and its miscalculation of the public's desire for high-gas-mileage, high-quality cars.

Now Detroit has a golden opportunity to fill a large potential market for a car that requires no gas at all. Detroit could not only pre-empt this market in America, but also could establish a true world car that would relieve all countries of their overwhelming dependence on oil for automotive transportation.

The opportunity lies quite simply in the manufacture of modern electric automobiles. In mass production, electric cars (exclusive of batteries) would cost less to manufacture than gasoline or diesel autos because they are simpler. Electric autos would cost less to run, because the cost of mass-produced batteries, including occasional replacement, plus the cost of night-time electricity to recharge the batteries, would be less than the ever-rising cost of gasoline. The service and maintenance costs would be lower because the "engines" are rugged electric motors that last longer than internal-combustion engines and require little maintenance. And electric cars do not emit pollution.

It is true that with present batteries, electric cars can travel only 50 miles before recharging. But 50 miles is more than an adequate range for the 34 million "second" cars in America that are driven fewer than 40 miles per day. Batteries can be recharged easily at home or elsewhere by simply plugging into an electric outlet. Fifty miles is also an adequate daily range for millions of small delivery vans and service vehicles now on the road. Improved batteries are expected to increase that range over the next few years, and coin-operated quick-charge boosts at shopping centers, parking meters, and gas stations could further extend the electric car's range.

At present, electric cars and vans cost approximately twice as much as similar-sized gasoline vehicles, because most electric cars and vans now being produced are standard Detroit vehicles purchased by small companies and then modified by hand on a one-at-a-time basis. The resultant costs are obviously much higher than those of a mass-produced vehicle. But in mass production an electric car would actually cost less than a gasoline car since it would have no complicated engine, carburetor, ignition system, fuel system, or gasoline tank. These would be replaced by a simple electric motor and solid-state electronic controls.

The arguments against American production of electric automobiles fall into two categories. The first is the chicken-and-egg type. Since electric cars at present sell for more than gasoline cars, there is no mass market for them. Since there is no mass market, there is no reason to start mass production. But mass production is needed to reduce the cost below that of gasoline cars and thus create a market. Hence, no action. In an era of desperate dependence on foreign oil, and an $88 billion national gamble on the production of limited quantities of synthetic fuel, the investment in mass production of electric vehicles that require no gasoline at all would seem to be a reasonable priority for our nation, and one worthy of serious Government support in the form of tax incentives and other legislative encouragement.

The second category of argument is technical: Electric vehicles use electricity that is frequently generated by burning oil, and it is therefore more efficient to put the oil (in the form of gasoline) directly into the gas tank. In fact, very little of the electricity generated in this country is produced from oil. Almost 90 percent is produced from coal, natural gas, uranium, or water power. Furthermore, all electric utilities are under-utilized from midnight to 8 a.m., and recharging electric cars overnight would help to absorb the fixed costs of the generating plants and thus reduce the cost of electricity for all consumers. Electric cars would therefore greatly reduce the demand for oil and, hence, for oil imports, and would even reduce the cost of electricity.

At present, the amount of gasoline and diesel fuel used on the road equals more than 90 percent of our oil imports. If even one-quarter of American's automobiles were to run on electricity, we could save more than 1.5 million barrels of oil per day—a saving equal to the most optimistic estimate of daily production of synthetic fuel projected for 1990 under the Government's $88 billion synfuels program. A comparatively modest investment of public funds, in the form of suitable tax incentives for automobile manufacturers and consumers, could initiate production of electric automobiles for sale in this country and throughout the world. This would not only reduce the large-scale unemployment in the auto industry and the billions being spent on unemployment payments, but also would help to rescue Detroit from the clutches of foreign competition. It would also go a long way toward rescuing America from its overwhelming dependence on foreign oil.●

TRIBUTE TO DR. TIM LEE CARTER

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. RINALDO. Mr. Speaker, Dr. TIM LEE CARTER has given unstintingly of himself during his many years of public service as a physician and a lawmaker, and today I join my colleagues in paying tribute to this able and conscientious leader on the eve of his retirement from the House of Representatives.

I have respected and admired his dedication and devotion in effectively representing Kentucky's Fifth Congressional District. His record shows that he has represented his constituents, his State, and his Nation well.

His considerable talent as a creative and constructive lawmaker contributed to many legislative achievements and won him the esteem and affection of his colleagues.

As he concludes his service as a Representative, we can say that TIM had an opportunity to contribute to the welfare of the Nation, and we can say that he was equal to the task.

I express my gratitude for his service, and wish him well in the future.●

TRIBUTE TO HON. MENDEL DAVIS

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. O'NEILL. Mr. Speaker, I welcome the opportunity to join my colleagues in paying tribute to Hon. Mendel Davis, of South Carolina, and recognizing him upon the occasion of his retirement after nearly a decade of dedicated service in the House of Representatives.

Mendel's dedication, his charming wit and friendly disposition, and his conscientious service to the needs and interests of his constituents have made him an outstanding Member of this House. Although Mendel was not elected to serve in the House until a special election in 1971, he was no stranger to the political and legislative operations of the Congress. He had come originally to Capitol Hill as a doorman in 1960, and from that time on, quickly mastered the complexities of the legislative process and procedural nuances of the way in which the House operated. On several occasions, Mendel was a match for any parliamentary rulings which were subject to alternative interpretations.

Bright, articulate—sometimes arbitrary, always professional—Mendel Davis gave his constitutents, the House, and the Nation a decade of talented contributions. No legislative task that benefited South Carolina's First District was too great or impossible if Mendel took on the issue.

I am proud to have worked with Mendel Davis over the last 10 years. He has had much to offer and much more to give to his constituents. While he has chosen to leave the House at this time, I am sure he will not retire permanently from public service. My sincere best wishes to Mendel for health, happiness, and success in all his future endeavors.●

ALASKAN BALD EAGLES THREATENED IN CHILKAT RIVER VALLEY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. KOSTMAYER. Mr. Speaker, on December 2, President Carter signed into law the landmark Alaska Lands Conservation Act. The President noted—as have many in Congress—the need for action in the next Congress to correct certain deficiencies in the bill.

One area of Alaska addressed in the act that certainly needs attention is the Chilkat River Valley, the home of the largest known concentration of bald eagles in the world. The fact that this area was ignored in the final Alaska lands bill was brought to my attention by a constituent and close friend of mine, Virginia Forrest, of Bucks County, Pa.

The bald eagle which is threatened or endangered with extinction elsewhere is found in unusually large numbers in the Chilkat Valley. Beginning in October of each year, eagles gather near the Chilkat River and its major tributaries, and here, where portions of the river remain unfrozen during the winter due to turbulent upwellings of warm water, the eagles are attracted to a late run of spawning chum salmon which provides the eagles with a plentiful supply of food throughout much of the critical winter period. This annual gathering of eagles is acknowledged to be one of America's most unusual wildlife spectacles.

Unfortunately, this area has been threatened with timber logging, and past efforts by the State and Federal Government to better protect the eagles have fallen short. In 1971, the U.S. Fish and Wildlife Service prepared a proposal for a Chilkat refuge of about 100,000 acres in order to protect the bald eagle nesting areas, but because of alleged conflicts with private and State landholdings in the area, the proposal was not pursued. In 1979 the State of Alaska completed a land use plan for the Chilkat Valley. Although protection and enhancement of eagle habitat is stated as a major goal of this plan, other land use including timber harvesting and mineral development and access would be allowed. Thus, there is no assurance that the central eagle habitat will receive permanent protection.

I am pleased that Governor Hammond of Alaska within the last year has recognized the important national significance of the Chilkat Valley and has stressed the need to plan development in the area accordingly. The Governor has declared a moratorium on all major development activities within the most critical eagle habitat areas. Governor Hammond explained the purpose of the moratorium in a letter to Senator Gary Hart of Colorado:

State of Alaska,
Office of the Governor,
Washington, D.C., July 21, 1980.

Hon. Gary Hart,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Hart: At your invitation and that of three other Senators, representatives of my administration have recently met with members of the principal organizations and public agencies which have expressed concern for the future welfare of the Chilkat eagle population. In these meetings, we presented an overview of past State actions which have been taken to protect the eagles and their habitat, and outlined commitments we intend to make in this regard.

In 1972, the Alaska State Legislature established a "Critical Habitat Area" of 4,800 acres to preserve part of the lands used by the eagles in their winter congregation. In addition, the State classified protective riparian corridors for both fish and wildlife values, and designated certain lands for further study to determine their importance to both eagles and fisheries.

Last year, in keeping with recommendations of the Haines/Skagway Land Use Plan, the State cooperated with the communities of Haines and Klukwan, and the National Audubon Society in their initiation of studies of the Chilkat bald eagles. Based on first year recommendations of these studies, I am making $250,000 in legislative appropriations available for a strengthening cooperative bald eagle study. It is important to me that all parties cooperate in accomplishing one comprehensive eagle study rather than duplicating efforts through two or more such studies.

In addition to helping assure adequate support for the study of eagle ecology, some of these monies will also be committed to comprehensive investigations of related resource values, with special emphasis on hydrology, fisheries, soils; and vegetation. It will be particularly important in these study efforts to identify projected money and manpower needs, and management policies and objectives, to assist the State in providing effective protection to the Chilkat bald eagles under what I recommend should be a cooperative management regime.

An advisory committee involving representatives of the local communities of Haines and Klukwan, the National Audubon Society, and appropriate State and Federal resource agencies will be established by the Commissioner of the Alaska Department of Natural Resources. I will rely on this group to offer direction on how State funds can best be spent to obtain information vital to enlightened management and protection of bald eagles, and the habitat that sustains them.

In keeping with my concern for impacts of these studies on the local communities and on possible management options for the eagles, I am also urging that some of these monies by made available for study of the social, economic and cultural concerns of the city of Haines and the village of Klukwan. The role of the advisory committee will be especially important in this regard, and the State will be looking to that group on how to best acquire and use this essential information.

At present, there are no plans for development in areas currently thought to be of greatest importance to the eagles. To alleviate concerns about the future possibility of such actions prior to completion of the studies, I am declaring a moratorium on all major development activities within the essential bald eagle habitats as described on the attached map dated May, 1980. This is to include any planning for road and bridge construction. Customary and traditional uses important to the welfare of local residents, and which in past years have not adversely impacted the eagles, will continue to be permitted in these areas. Such uses will include, but are not necessarily limited to, hunting, fishing, trapping, subsistence, prospecting, general recreation and both motorized and non-motorized access.

I want to emphasize that the State of Alaska fully recognizes the great State, national and international values of the annual gathering of bald eagles along the Chilkat River. We are committed to cooperating with all interested parties in seeking sound scientific information necessary to effectively conserve the birds, and to place their essential habitats under permanent protection.

It is my understanding that the moratorium and study outlined above have been discussed with, and are satisfactory to, representatives of Haines and the Alaska Coalition. The study which I have alluded to will be carried out cooperatively with these groups, which will be represented on a policy advisory committee.

If you have any questions or comments regarding the arrangements which I have just described, please let me know.

Sincerely,

JAY S. HAMMOND,
Governor.

Mr. Speaker, although the Governor's action is significant, it is not permanent and I would hope some form of permanent protection can be adopted by the next Congress in a cooperative effort with the State of Alaska.

I urge my colleagues, Mr. Speaker, to address this matter in the next Congress so that this beautiful region with its unique qualities and wildlife phenomena can be preserved along with the other areas designated in the Alaska lands bill.●

MARYLAND TASK FORCE ACTS ON DRUNK-DRIVING PROBLEM

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. BARNES. Mr. Speaker, with a sense of urgency, I again bring to the attention of my colleagues in the House the tragic national crisis caused by the drinking driver. As many Members know, I introduced legislation earlier this year aimed at curtailing this senseless form of homicide on our Nation's highways that claim nearly 70 lives each day and almost 26,000 lives yearly. While the majority of the States have failed to effect significant changes in these abhorrent statistics, I am proud to report that Maryland has begun taking a hard look at effective drunk-driving-law reform. Through the efforts of concerned citizens and public officials in Maryland, Gov. Harry Hughes appointed a statewide task force to focus on solutions to the drunk-driving problem. The task force recently filed its first report with the Governor outlining several recommendations for strengthening Maryland's drunk-driving laws. I place in the RECORD for the information of the House an article and subsequent editorial which appeared in the Washington Star of Sunday, December 7, and Wednesday, December 10, respectively.

[From the Washington Star, Dec. 7, 1980]

DRUNKEN DRIVING LAWS TO GET OVERHAUL IN MARYLAND

(By Celestine Bohlen)

On the record, it was a minor traffic offense. Negligent driving: fine, $50. Judging by the court documents, the penalty seemed on par with the crime.

But the original charges, stemming from a hit-and-run accident in Bethesda, March 11, 1978, told a different story.

The case, hardly unique in Maryland, points to one of the flaws in the state's drunken driving laws that have given Maryland one of the worst reputations in the nation for policing drunken drivers.

The defendant, a 52-year-old Kensington man, had been arrested on a hit-and-run charge, driving while intoxicated and reckless driving.

On the hit-and-run charge, the driver was given "probation before judgment"—a course in an alcohol program and four hours a week volunteer work in a local hospital for two years—with the promise that at the end of the probationary period, the charge would be wiped from his record. He was acquitted on the drunken driving count and the reckless driving charge was reduced to negligent driving.

When it was all over, there was nothing in the record to indicate that the defendant, a drinking driver, had struck and injured a man.

Last year, 1,930 drivers in Maryland pleaded guilty to drunken driving charges only to have the verdict wiped from their record. The probation before judgment finding makes it practically impossible for courts, the state Motor Vehicle Administration, police and prosecutors to make sure a defendant is not a repeat offender.

Putting such findings on a driver's record is part of a reform package now heading for the Maryland General Assembly where, for the first time in a decade, observers are predicting a thorough overhaul of the state's drunken driving laws.

The centerpiece of the reform effort is a report by the Task Force on the Drinking Driver, a group appointed by Gov. Harry R. Hughes last August. Its report recommended:

Lowering the Blood Alcohol Content (BAC) level for impaired driving from 0.1 percent to 0.08 and for intoxicated driving from 0.15 to 0.10 percent.

Recording probation before judgment on driving records.

A mandatory 60-day suspension for refusing to take a BAC test.

Allowing police to administer preliminary roadside breath tests.

Implementing a uniform, statewide alcohol treatment and education program.

As in other years, the bills will go through the House of Delegates' Judiciary Committee where they have traditionally run into a powerful roadblock—committee Chairman Delegate Joseph Owens, D-Montgomery.

Owens is accustomed to abuse on the drunk driving issue, although he gets peeved when he and his committee are accused of being in favor of drunk drivers. It's just that Owens feels that Maryland's laws are basically fine, although he's not averse to roadside testing and recording probation before judgment.

His major concern is over the lowering the BAC levels, a move he feels will only needlessly clog the courts with contested cases. "Nobody studies the figures," he says wearily. "I think the system is working a lot better than they say. My feeling is, why tinker with it?"

This time, observers say the odds are against Owens. The line-up in favor of the task force's recommendations includes Hughes, the administrator of the state Motor Vehicle Administration, the state police, several state's attorneys, a slew of state legislators and a growing and vocal group of concerned citizens.

The public outcry in Maryland has centered on fatal crashes, but in fact, as Hughes noted in his letter appointing the Task Force, Maryland's highway fatality rate—700 deaths in 1979—has consistently ranked among the nation's lowest. And convictions of drunken drivers involved in fatal crashes are expected to increase under Maryland's 1-year-old law that allows prosecutors to make a charge of homicide by auto while intoxicated.

But if prosecuting the drinker in a fatal case is now easier, getting the drunken driver off the road is not. The lack of uniform statistics make comparisons difficult, but Virginia in 1979 arrested 35,084 drunken drivers—or 1 percent of the state's 3.5 million licensed drivers. Maryland made 13,630 drunk driving arrests the same year—or one-half of 1 percent of the state's 2.6 million licensed drivers.

Police in Maryland admit they are often reluctant to make drunken driving arrests. "About 85 percent of the time, I give them negligent driving," said one Montgomery County officer. "It's just not worth going through the two hours of processing. And it gets reduced anyway."

Once the driver is stopped, Maryland police have a tougher time getting him to take a BAC test, considered the cornerstone of any drunk driving prosecution. Of those arrested in 1979, 37.9 percent refused to take a blood test.

Although many who refuse the test are convicted of a lesser charge of driving while impaired, the high refusal rate—compared to 6 percent in Virginia and 25 percent in the District—points to a widespread assumption among drivers that, in Maryland, refusing the test carries no great penalty.

From the reformer's point of view, the problem in Maryland starts with the state's definition of intoxication. In every other state in the country, intoxication starts at 0.10 percent.

Defenders of the Maryland law are quick to point out that Maryland, unlike most states, has a second, lesser charge for drunk driving, driving while impaired.

Owens points to court records in Montgomery showing that not a single defendant last year chose to contest a charge of driving while impaired. But the Montgomery statistics also show that some 60 percent of those pleading guilty to impaired were originally charged with intoxication.

"Everywhere, there is a state law and an informal law and the informal law is generally about 0.05 percent higher," says John Mulden of the Alcohol Task Force of the National Highway Safety Administration. "By defining intoxication as 0.15, Maryland just kicks it up higher."

[From the Washington Star, Dec. 10, 1980]

DRUNKS, DEATHS, AUTOS

Has the power of statistics to focus concern been devalued by reliance on them as casual tools of persuasion? Every cause or idea that catches momentary attention seems encrusted with statistics; political, economic and social indices are supported by towering pillars of data. It is as if the public circuitry becomes overloaded, finding refuge in skepticism or indifference.

It must be something like that. Else, how could 26,000 highway deaths each year related to alcohol—half of all automobile fatalities in this country—come to seem a price to be fatalistically paid for the habit?

What finally propels a community or government to action is the personalization of a statistic. In Maryland, which has had both a poor reputation for policing drunken driving and an epidemic of deaths and maimings, that point seems to be approaching.

One impetus to tighten Maryland's drunk-driving laws was the report earlier this year of Governor Hughes's Task Force on the

Drinking Driver—and by the chilling example of an area like Bowie, where in the past year and a half there have been 20 alcohol-related deaths, including those of eight young people.

Among the task force's recommendations is that the Blood Alcohol Content for intoxicated driving be lowered from the present .15 per cent to .10 (Mississippi is the only other state with so relaxed a standard as .15 per cent). Also recommended is a mandatory 60-day license suspension for a motorist refusing to take a Blood Alcohol Content test (in Maryland in 1979, 37.9 of those arrested refused to take that test, compared to 6 per cent in Virginia), and ending the practice of recording "probation before judgment"—as a result of which judges may be unaware that a defendant has had similar trouble in the past.

Lowering the blood alcohol level even beyond the .10 that is the national norm is sensible. As *The Star's* Celestine Bohlen reported the other day, the legal standard co-exists with an informal standard—often to the detriment of enforcement. The informal standard, said John Mulden of the Alcohol Task Force of the National Highway Safety Administration, is generally about .05 per cent above the formal standard. Thus, "By defining intoxication as .15, Maryland just kicks it up higher" before police and prosecutors are inclined to press for a drunken driving conviction.

The penalties for conviction of driving while intoxicated (Maryland also has a lesser category: driving while impaired) also should be more stringent. Del. Gerald Devlin, who represents a Bowie-area legislative district, is recommending that the law land more heavily on these drivers. He has prefiled two bills, one of which would require a five-year license suspension for anyone convicted of driving while intoxicated within the first five years of being licensed. Two or more convictions of driving or attempting to drive while intoxicated or under the influence of a controlled substance would require revocation of license for 10 years.

Those are stern proposals. But the General Assembly ought to give long thought to making penalties tougher than they now are—recognizing that the automobile is necessary for many livelihoods and providing a work-related exemption perhaps, strictly monitored. Most Western societies treat drunken driving as a far more drastic offense than we do. But our punishments surely are insufficient: A single statistic supports that opinion—26,000 lost lives a year.●

MISCONCEPTIONS OUGHT NOT BLOCK NECESSARY CONVERSION TO COAL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. RAHALL. Mr. Speaker, as I have so often done on other occasions, I once again want to bring to the attention of my colleagues a very timely article by Mr. John Schork in this month's edition of Financier.

Mr. Schork in his article, "Misconceptions Ought Not Block Necessary Conversions to Coal," states, "There is no disputing the commitment to controlling forms of damage to the environment, but it is incorrect to assume that we do not have methods of reducing the pollution to reasonable levels at reasonable costs." Further, in regard to the misunderstood and understudied phenomena of acid rain, he states, "The only major problem of unknown consequence is acid rain, and there is simply not enough scientific knowledge about the phenomenon to make a blanket statement either way."

Mr. Speaker, as was reported by the President's Commission on Coal and other independent reports, technology presently exists to burn coal in an environmentally acceptable manner, without degradation to the environment and without relaxation of current air standards. Mr. Schork reinforces this belief by stating. "In fact, if coal were burned tomorrow in quantities great enough to offset America's dependence on foreign oil, ambient conditions would be indistinguishable from those of today."

Mr. Speaker, I commend Mr. Schork for his timely article and urge my colleagues to review it with the hope that a sensible approach to the air pollution problems confronting us will be realized during the 97th Congress.

The article follows:

MISCONCEPTIONS OUGHT NOT BLOCK NECESSARY CONVERSION TO COAL

(By John Schork)

(The continuing resistance within the private sector to conversion to coal, which he maintains provides the best answer to the nation's energy problem, stems from two major misconceptions, Mr. Schork argues in this article written for Financier.

(First is the belief that the adverse environmental consequences of large-scale coal combustion outweigh the benefits of reduced energy costs; second is that the capital cost of changing from oil to coal is too risky because of ambiguous and vacillating Government standards.

(The Chairman of Research-Cottrell contends that the first misconception polarizes the conflict between preserving the environment and creating economic growth, and is simply untrue. The second, he claims, has brought about inertia in the private sector and a willingness to wait for Federal intervention, and is simply unwise.)

Environmentalists are rightfully concerned with the damage to air, land and water that would result from a massive conversion to coal combustion. Land is destroyed by the strip-mining methods used to extract coal, and burning coal releases into the atmosphere substantial levels of sulfur dioxide, nitrogen oxides and particulates.

There is no disputing the commitment to controlling these forms of damage to the environment, but it is incorrect to assume that we do not have methods of reducing the pollution to reasonable levels at reasonable costs.

Sulfur and nitrogen oxides emissions can be removed by lime and limestone scrubbers. Electrostatic precipitators remove all but .01 percent of escaping particulates, and landscapes can be saved by simple revegetation and groundswork policies.

The only major problem of unknown consequence is acid rain, and there is simply not enough scientific knowledge about the phenomenon to make a blanket statement either way. We know, for example, that countries such as Canada, Sweden and Norway—which never burn coal in any significant amounts—are often subject to acid rain. Thus, it is misleading to attach coal combustions as a major source of acid rain when the mechanism is so poorly understood.

CONDITIONS WOULD NOT CHANGE

The environmental attack on coal is emotional and alarmist. Currently available technology can control all effluents, and there is no need to reject coal on the basis of its effects on the environment. In fact, if coal were burned tomorrow in quantities great enough to offset America's dependence on foreign oil, ambient conditions would be indistinguishable from those of today.

Many environmentalists also maintain that a commitment to conservation and renewable energy would obviate the need to burn coal. This is a naive stance.

We will some day harness renewable energy sources such as solar and nuclear in a cost-effective way, but we will not have the technology to do so at an acceptable cost for another 50 years.

In the case of nuclear, there is still no waste-disposal method which pleases everyone.

With solar, there is still no way to produce enough electricity from a photovoltaic cell to make it a practical alternative in any but the most ideal situations. Even then, there must be a backup system based on a conventional power source.

CONSERVATION CANNOT KEEP PACE

And though it appears likely that energy and conservation techniques will become a major industry, saving our nation millions of dollars in waste and fuel costs, there is no foreseeable way conservation can keep pace with our growing demand for energy, in the face of shrinking supply.

Our rate of energy demand will grow by 50% over the next 30 years. During that time, OPEC oil production will drop by a sizable amount as oil-producing nations increasingly recognize the higher present value of oil remaining in the ground. In addition the Middle East is susceptible to political upheavals such as the Iran-Iraq conflict, which can further threaten production.

If environmentalist fears are based on projections of coal-caused pollution, industry fears are based on a long history of Government mismanagement of the energy-environment interface. The Federal Government, particularly the Environmental Protection Agency, has characteristically reached for higher standards than were either technologically or economically feasible. These standards have also been subject to numerous short-term changes.

The average industrial company is faced with a paradox: If the company wishes to burn coal, it must comply with clean-air standards, and compliance requires investment in pollution control equipment. Yet there is a good chance that clean-air standards will be changed within a few years, and the new standards will render old pollution control equipment obsolete. It is a risky game in which the potential losses are great and the near-term payoffs too small to provide incentive.

TWO FURTHER PROBLEMS

The clean-air laws present industry with two further problems: Continuous limits on maximum emission levels which must be maintained, and the Best-Available-Control-Technology which must be used.

In the first case, the law requires industrial and utility facilities to keep emissions of certain pollutants below a stated level at all times. Thus the act assumes that on any given day, emissions are a function of the amount of polluting material burned. This is erroneous thinking; emissions vary with the quality of the last shipment of fuel, the speed of the day's production, the local weather conditions and many other factors.

In the worst possible case, heat inversion could allow almost none of a plant's emissions to escape into the upper atmosphere. Should the plant be forced to shut down to insure compliance with standards for one day's freakish weather?

This is not fair, and certainly not in the best interests of energy conservation. Most plants would waste enormous amounts of power shutting down and restarting their boilers, and few could survive the constant interruptions in their production schedules.

The rigid ceilings need to be converted into average emissions standards, compiled over the course of the year, with generous grace margins allowed for days when conditions are particularly unfavorable.

MISINTERPRETATION OF BACT

The second case is an example of good Government intentions gone awry. Government believes that BACT devices insure the most efficient and thorough reduction of pollutants possible. Unfortunately, Government also insists on interpreting BACT to mean state-of-the-art technology.

But the state of the art is always an uncertain proposition; in the vast majority of cases the technology has not been fully tested and developed. As we have seen in the military, it usually means enormous cost per units produced with many man-hours devoted to maintenance.

In the long run, the total expense usually translates into extremely poor cost-effectiveness.

We need to define BACT as the best available proven technology—thoroughly tested equipment that has earned a reputation for cost reliability. And once established, standards must remain constant for a reasonably long time—say ten years.

Government has at the same time made some progress establishing reasonable pollution policies. One example is the EPA's bubble concept, which applies emission standards to an entire industrial complex, considered as a unit. In its more zealous days, the Agency would have insisted on applying the standards to every smokestack and drainpipe in the facility.

Nonetheless, business cannot afford to wait for Government to take the initiative.

If we delay much further, we will reach a crisis situation: Fuel costs will become a staggering percentage of our unit production costs; productivity will plummet; Government will sweep in with large amounts of money and numerous regulations—and since it does not possess the expertise of the private sector there will be waste and inefficiency.

Free enterprise will be subjected to another barrage of regulation and legislation, making the economic environment more troublesome than ever. And the press and the public will view our stance as indifference to the needs of society.

ACTION CAN INSPIRE FAITH

None of this scenario is necessary. American industry has the expertise and the technology and can obtain the money needed to convert our factories and power plants to coal combustion within the next 15 years. (The one major utility in the country that has made the commitment to coal-generated power did so not because of Government incentives, but because it made economic sense.) It we act now, we inspire faith in the public, the press and Government itself.

We bear a dual social responsibility: To protect our nation's ecological heritage and at the same time to achieve independence from foreign sources of energy. All the sophisticated citizens in the U.S. know this. They are watching, and are judging us by the leadership role we in private enterprise are willing to assume.●

CEASE THIS MADNESS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. SIMON. Mr. Speaker, nothing is more important to the peace and security of the world than our relations with the Soviet Union. One of the most thoughtful observers of that scene is our former Ambassador, George Kennan. Recently in the Atlantic magazine he had an article with which all of us may not agree in every particular, but it attempts to bring a sense of reason to an emotion-laden and danger-laden area of foreign policy. I commend his article to my colleagues for their consideration.

CEASE THIS MADNESS

(By George F. Kennan)

[George F. Kennan served for more than twenty-five years as a United States career diplomat, and has written many books on the Soviet Union. This essay is drawn from an address he delivered in October to the Second World Congress on Soviet and East European Studies, held in Garmisch, Germany.]

[In the eyes of the former ambassador to Moscow, the two superpowers have reached a moment of unparalleled tension and danger. Can they turn away from the irrationalities of the arms race?]

When I glance back over that past fifty years, it seems evident that the East-West relationship has been burdened by certain unique factors that lie in the very nature of the respective societies. When it comes to describing these factors, permit me—so far as the Western side is concerned—to confine myself to my own society.

I have no doubt that there are a number of habits, customs, and uniformities of behavior, all deeply ingrained in the American tradition, that complicate for others the conduct of relations with the American government. There is, for example, the extensive fragmentation of authority throughout our government—a fragmentation that often makes it hard for a foreign representative to know who speaks for the American government as a whole. There is the absence of any collective Cabinet responsibility, or indeed of any system of mutual responsibility between the executive and legislative branches of government. There are the large powers exercised, even in matters that affect foreign relations, by state, local, or private authorities with which the foreign representative cannot normally deal. There is the susceptibility of the political establishement to the emotions and vagaries of public opinion, particularly in this day of confusing interaction between the public and the various commercialized mass media. There is the inordinate influence exercised over American foreign policy by individual lobbies and other organized minorities. And there is the extraordinary difficulty a democratic society experiences in taking a balanced view of any other country that has acquired the image of a military and political enemy—the tendency, that is, to dehumanize that image, to oversimplify it, to ignore its complexities. Democratic societies do very poorly in coping, philosophically, with the phenomenon of serious challenge and hostility to their values.

In the light of these conditions, I can well understand that dealing with our government can be a frustrating experience at times for any foreign representative. I regret these circumstances, as do some other Americans. They constitute one of the reasons I personally advocate a more modest, less ambitious American foreign policy than do many of my compatriots. But these conditions flow from the very nature of our society, and they are not likely to be significantly changed at any early date.

When we look at the Soviet regime, we also encounter a series of customs and habits, equally deeply rooted in history and weighing heavily on the external relationships of that regime. These, strangely enough, seem to have been inherited much less from the models of the recent Petersburg epoch than from those of the earlier Grand Duchy of Muscovy. And they have found a remarkable reinforcement in some of the established traditions of Leninist Marxism itself: in its high sense of orthodoxy, its intolerance for contrary opinion, its tendency to identify ideological dissent with moral perversity, its ingrained distrust of the heretical outsider.

One example is the extraordinarily passion for secrecy in all governmental affairs—a passion that prevents the Soviet authorities from revealing to outsiders even those aspects of their own motivation that, if revealed, would be reassuring to others. Excessive secrecy tends, after all, to invite excessive curiosity, and thus serves to provoke the very impulses against which it professes to guard.

Along with this passion for secrecy goes a certain conspirational style and tradition of decision-making, particularly within the Party—a practice that may have its internal uses but often inspires distrust. And there is the extraordinary espionomania that appears to pervade so much of Soviet thinking. Espionage is a minor nuisance, I suppose, to most governments. But nowhere, unless it be in Albania, is the preoccupation with it so intense as it appears to be in the Soviet Union. This is surprising, for one would expect to encounter it, if anywhere, in a weak and precariously situated state, not in one of the world's greatest and most secure military powers.

The foreigner who has to deal with the Soviet government often has the impression of being confronted, in rapid succession, with two quite disparate, and not easily reconcilable, Soviet personalities: one, a correct and reasonably friendly personality, which would like to see the relationship assume a normal, relaxed and agreeable form; the other, a personality marked by a suspiciousness so dark and morbid, so sinister in its implications, as to constitute in itself a form of hostility. I sometimes wonder whether the Soviet leaders ever realize how much they damage their own interests by their cultivation of it.

Finally, there is the habit of polemic exaggeration and distortion, carried often to the point of denial of the obvious and solemn assertion of the absurd—a habit that has offended and antagonized a host of foreigners, and to which even some of the old-timers find it hard to accustom themselves.

These, then, are what I might call the permanent complications of the East-West relationship. There have been others, less permanent but even more serious.

The first, and the one that marked the relationship throughout much of the 1920s and 1930s, was the world-revolutionary commitment of the early Leninist regime, with its accompanying expression in rhetoric and activity. It is true that the period of the intensive pursuit of world revolution was brief. As early as 1921, aims of this nature were already ceasing to enjoy the highest priority in the policies of the Kremlin. Their place was being taken by concern with the preservation of the regime and the agricultural and industrial development of the country. But world-revolutionary rhetoric remained substantially unchanged throughout the twenties and much of the thirties; and Moscow continued to maintain in the various Western countries small factions of local Communist followers over whom it exerted the strictest discipline, whom it endeavored to use as instruments for the pursuit of its policies, and whose unquestioning loyalty it demanded even when this conflicted with loyalty to their own governments. So unusual were these practices, and so disturbing to Western governments and publics, that they formed the main cause for the high degree of tension between Russia and the West.

With the triumph of Hitler in Germany, however, an important change occurred. Begining about 1935, the menace of Hilter began to loom larger in Western eyes than did the ideological differences with Soviet communism or the resentment of world-revolutionary activities. The result was that the Soviet Union came to be viewed in the West no longer primarily from the standpoint of its hostility to Western capitalism but rather from the standpoint of its relationship to Nazi Germany.

And this had several confusing consequences. For one thing, it tended to obscure from the attention of the Western public the full savagery of the Stalinist purges of the late 1930s. But then, after 1941 the common association of the Western powers with the Soviet Union in the war against Germany gave rise to sentimental enthusiasms in the West and to unreal hopes of a happy and constructive postwar collaboration with Soviet Russia. It was this factor, as the war came to an end, that brought the various Western statesmen to accept without serious remonstrance not only the recovery by the Soviet Union of those border areas of the former Russian empire that had been lost at the time of the Revolution but also the establishment of a virtual Soviet military-political hegemony over the remainder of the eastern half of the European continent; in other words, a geopolitical change of historic dimensions, bound to complicate the restoration, in the postwar years, of anything resembling a really stable balance of power.

It was not surprising that when the war came to an end, and people in the West turned to the construction of a new world order, a reaction set in. There was a sudden realization that the destruction of Germany's armed power and the effective cession to the Soviet Union of a vast area of military deployment in the very heart of the continent had left Western Europe highly vulnerable to a Soviet military attack, or at least to heavy military-political pressures from the Soviet side. Added to this was the growing realization that with the establishment of Communist regimes, subservient to Moscow, in the various Eastern European countries, the relations of those countries with the West had become subject to the same limiting factors that already operated in relations with the Soviet Union. Then came the Korean War—a conflict in which, though Soviet forces were not actually involved, people in the West soon came to see a further manifestation of Soviet aggressiveness. And it was just at this time that the nuclear weapon began to cast its baleful shadow over the entire world, stirring up the fear, confusion, and defensive panic that were bound to surround a weapon of such apocalyptic—indeed, suicidal—implications.

The death of Stalin, the establishment of the dominant position of Khrushchev, and the accompanying relaxations in Soviet policy gave rise to new hopes for the peaceful resolution of East-West differences. Although Khrushchev was crude, he wanted no war; and he believed in human communication. But he overplayed his hand. And such favorable prospects as his influence presented went largely without response in the West. The compulsions of military competition and military thinking were already too powerful.

For, during this entire period, Soviet leaders persisted in the traditional Russian tendency to go too far in the cultivation of military strength, particularly conventional strength. They continued to maintain along their western borders, as their czarist predecessors had done before them, forces numerically greater than anyone else could see the need for. And the situation was not made better by the tendency of Western strategists and military leaders to exaggerate the strength of these forces, with a view to wheedling larger military appropriations out of their own reluctant parliaments, or by the tendency of the Western media to dramatize these exaggerations as a means of capturing public attention.

The Americans, meanwhile, unable to accommodate to the recognition that the long-range nuclear missile had rendered their country no longer defensible, threw themselves headlong into the nuclear arms race, followed at every turn by the Russians. In the U-2 episode and the Cuban missile crisis, the two great nuclear powers traded fateful mistakes, further confirming each other's conviction that armed force, and armed force alone, would eventually determine the outcome of their differences. Out of all these ingredients was brewed the immensely disturbing and tragic situation in which we find ourselves today: anxious competition in the development of new armaments; blind dehumanization of the prospective adversary; systematic distortion of that adversary's motivation and intentions; steady displacement of political considerations by military ones in the calculations of statesmanship; in short, a dreadful militarization of the entire East-West relationship.

This moral and political cul-de-sac represents a basic change, as compared with the first two decades of Soviet power, in the source of East-West tensions. It is not the capacity of the Kremlin for promoting social revolution in other countries that is feared and resented. Rather, the Soviet Union is seen primarily as an aggressive military menace.

But there is no rational reason for the militarization of the Cold War. Neither side wants a third world war. Neither side sees in such a war a promising means of advancing its interests. The West has no intention of attacking the Soviet Union. The Soviet leadership, I am satisfied, has no intention of attacking Western Europe. The interests of the two sides conflict, to be sure, at a number of points. Experience has proven, most unfortunately, that in smaller and more remote conflicts, where the stakes are less than total, armed force on a limited scale might still continue to play a certain role, whether we like it or not. The United States has used its armed forces in this manner three times since World War II: in Lebanon, in the Dominican Republic, and in Vietnam. The Soviet Union now does likewise in Afghanistan. I am not entertaining, by these remarks, the chimera of a total world disarmament. But for the maintenance of armed forces on a scale that envisages the total destruction of an entire people there is no rational justification. Such a practice can flow only from fear, and irrational fear at that. It can reflect no positive aspirations, and it is dangerous.

No one will understand the danger we are all in today unless he recognizes that governments in this modern world have not yet learned how to create and cultivate great military establishments, particularly those that include the weapons of mass destruction, without becoming the servants rather than the masters of what they have created. Modern history offers no example of the cultivation by rival powers of armed force on a huge scale that did not in the end lead to an outbreak of hostilities. And there is no reason to believe that we are greater, or wiser, than our ancestors. It would take a very strong voice, indeed a powerful chorus of voices, from the outside, to say to the decision-makers of the two superpowers what should be said to them:

"For the love of God, of your children, and of the civilization to which you belong, cease this madness. You have a duty not just to the generation of the present; you have a duty to civilization's past, which you threaten to render meaningless, and to its future, which you threaten to render nonexistent. You are mortal men. You are capable of error. You have no right to hold in your hands—there is no one wise enough and strong enough to hold in his hands—destructive powers sufficient to put an end to civilized life on a great portion of our planet. No one should wish to hold such powers. Thrust them from you. The risks you might thereby assume are not greater—could not be greater—than those which you are now incurring for us all."

But where is the voice powerful enough to say it?

There is a very special tragedy in this weapons race. It is tragic because it creates the illusion of a total conflict of interest between the two societies. It tends to conceal the fact that both of these societies are today confronted with internal problems never envisaged in the ideologies that originally divided them. In part, I am referring to environmental problems: the question whether great industrial societies can learn to exist without polluting, exhausting, and thus destroying the natural resources essential to their very existence. These are not only problems common to the two ideological worlds; they are ones the solution of which requires each other's collaboration, not each other's enmity.

But there are deeper problems—social, and even moral and spiritual—that increasingly affect all the highly industrialized, urbanized, and technologically advanced societies. What is involved here is essentially the question of how life is to be given an adequate meaning, how the quality of life and experience is to be assured for the individual citizen in the highly artificial and overcomplicated social environment that modern technology has created. Neither we in the West nor they in the East are doing well in the solution of these problems. We are both failing—each in our own way. If one wants an example of this, one has to look only at our respective failures in our approach to teenage youth. The Russians demoralize their young people by giving them too little freedom. We demoralize ours by giving them too much. Neither system finds itself able to provide them with the leadership and inspiration and guidance needed to realize their potential as individuals and to meet the responsibilities the future is inevitably going to place upon them.

And this is only one point at which we are failing. Neither here nor there is the direction of society really under control. We are all being swept along, in our fatuous pride, by currents we do not understand and over which we have no command. And we will not protect ourselves from the resulting dangers by continuing to put great portions of our substance, year after year, into the instruments of military destruction. On the contrary, we will only be depriving ourselves, by this prodigality, of the resources essential for any hopeful attack on these profound emerging problems.

The present moment is in many respects a crucial one. Not for thirty years has political tension reached so dangerous a point as it has attained today. Not in all this time has there been so high a degree of misunderstanding, of suspicion, of bewilderment, and of sheer military fear.

The United States and possibly the Soviet Union will see extensive changes in governmental leadership this year. Will the new leaders be able to reverse these trends?

Two things, as I see it, would be necessary to make possible this transition.

First, statesmen on both sides should take their military establishments in hand and insist that these become the servants, not the masters and determinants, of political action. Both sides must learn to accept the fact that only in the reduction, not in the multiplication, of existing monstrous arsenals can the true security of any nation be found.

But beyond this, we must learn to recognize the gravity of the social, environmental, and even spiritual problems that assail us all in this unreal world of the machine, the television screen, and the computer. We and our Marxist friends must work together in finding hopeful responses to these insidious and ultimately highly dangerous problems.●

HOUSE JOINT RESOLUTION 637

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. MOORE. Mr. Speaker, the House has approved the body of the conference report to accompany House Joint Resolution 637 by a nonrecorded division vote. I was not on the floor at the time of and did not know of the division vote. Included in this portion of the conference report on House Joint Resolution 637 is a provision to increase the pay of Members of Congress, make similar adjustments for the judiciary, and lift the currently imposed pay cap on supergrade administrative personnel. If a recorded vote had been allowed and taken on this pay raise, I would have voted against it. When the pay raise issue has arisen in the past, I have repeatedly and consistently voted against it.

Fiscal discipline must be imposed on all units of government. It is especially timely and necessary to impose such discipline on our own legislative operations and indeed our own pay. Inflation will not subside until and unless Congress in every facet of its fiscal duties gives the taxpaying public genuine and lasting guidance in the fight against inflation advancing once again.●

A SOVIET RESPONSE TO HELSINKI HUMAN RIGHTS PROVISIONS: BUTYRKI PRISON

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. PORTER. Mr. Speaker, one of the principles the Soviets accepted in signing the 1975 Helsinki accord is the freedom of emigration. Even while the Madrid Helsinki Review Conference, now underway, underscores repeated Soviet violations and continued repression of basic human rights, arrests go on of Soviet citizens whose crime is to seek to emigrate to Israel. The following Chicago Sun-Times article of November 21, 1980, illustrates the brutal treatment accorded Moscow human rights activists and why we must maximize pressures on the Soviet Union to end the mistreatment of prisoners of conscience and insist that the promise of Helsinki is fulfilled in fact.

[From the Chicago Sun-Times, Nov. 21, 1980]

SOVIET PRISON SYSTEM MUZZLES ANOTHER DISSIDENT

(By Robert Gillette)

Moscow.—In the history of the Gulag Archipelago, Butyrki Prison is hallowed ground.

Old Bolsheviks and modern giants of Russian literature have passed portions of their lives behind its walls. Not least among them is Alexander Solzhenitsyn, who made Butyrki's pinkish-tan masonry walls and crenellated towers famous as a departure point for the island empire of prison labor camps that stretches the breadth of the Soviet Union.

Butyrki's most recent prisoner of note is Victor Brailovsky, 46, a top mathematician and Jewish activist who, with his wife and two children, has been trying to emigrate to Israel since 1972. Brailovsky's arrest last Thursday was in many ways the sharpest blow to Moscow's dwindling community of human rights activists since last January, when Soviet police exiled Andrei D. Sakharov, the physicist and Nobel Peace Prize laureate, to Gorky, a city that is closed to foreigners.

Five days after Brailovsky's arrest, his wife, Irina said this week, neither prison officials nor the Moscow city prosecutor's office has disclosed the charges against her husband. Based on a fleeting conversation with him on the day he was arrested, she said that it appears he will be charged under Section 1, Article 190 of the Russian Republic's Criminal Code: "Defaming the Soviet state and social system." This carries a maximum penalty of three years in prison.

Although Brailovsky was an editor of an unofficial journal on Jewish culture and language in the Soviet Union, the journal ceased publication in June, 1979. Brailovsky's friends and family believe the authorites intend to use his arrest to discourage political activism among the tens of thousands of new "refusniks" created in the last year as sharply restrictive new emigration rules have reduced a rising flood of Jewish emigrants to a trickle.

A few days ago, Mrs. Brailovsky made her way across the city by bus and subway to Butyrki Prison, through a damp artic wind and muddy slush on the streets, in the time-honored ritual of a Russian prisoner's wife—bearing small gifts of food and clothing and seeking information about her husband.

In the customary response, prison officials accepted the parcels but divulged nothing.

Butyrki Prison is situated on a corner of Novoslobodskaya and Lesnaya streets, a major intersection a few miles from the Kremlin. A casual pedestrian is not likely to notice the prison, however, for an eight-story L-shaped apartment house neatly screens the four-story prison from view.

Through an archway in the apartment building one finds stone steps leading up to the prison wall, past the gate tower and the MVD "investigative unit" and into a circular visitors' room.

Benches for waiting family members, mostly women, rim the wall. Above the imitation wood paneling are snapshots of the prison facilities: Sterile steel and ceramic tile kitchens and dining room, neatly made bunks in a dormitory, close-cropped inmates sitting stiffly in a political education class.

In one corner is a machine that displays regulations on cards selected by pushbutton.

Press the "political educational" button and a card flops into view that says, in part, "With persons who have been denied their freedom, political education work is conducted, aimed at their education in the spirit of honest relation to labor, strict obedience to law and respect of the rules of socialist society * * *"

Prisoners are limited monthly, a sign says, to sausage, one kilogram; butter, 300 grams; sugar, 500 grams; cheese, 500 grams; onions and garlic, 500 grams; apples, 700 grams, and loose tobacco (cigarette papers are forbidden), 500 grams.

On advice from a friend whose husband is an imprisoned dissident, Mrs. Brailovsky took the precaution in her visit last Saturday of first buying hard-to-find plastic bags, one for each item of food. She then weighed each item on a friend's baby scales.

But the scales at Butyrki differed slightly. A green-uniformed matron handed back two small green apples, one clove of garlic and one bar of soap.

More importantly, Mrs. Brailovsky said, the prison refused to accept the two medications her husband has been taking since he suffered a seriously inflamed gallbladder a month ago.

From prison, she made her way across the city to the Moscow prosecutor's office in a futile effort to see Valery Yurevich Smirnov, deputy chief of interrogation. Smirnov had questioned her husband more than a year ago about his involvement in the unofficial journal of Jewish culture and language, Jews, in the U.S.S.R., and Smirnov, Irina reasoned, surely would know why her husband was arrested.

A guard blocked the door of the prosecutor's building and told her to return Monday during Smirnov's reception hours, 3 to 7 p.m.

Monday, she said, she waited in a long line at a reception office, only to be told at the end of it that Smirnov was unavailable.

On the morning that Brailovsky was arrested, his wife had hurried to the neighborhood police station where he was being held.

As they sat together for 90 minutes, he told her that under no circumstances would he hire a lawyer.

"He decided," she said, "that no Soviet lawyer can defend him when there is no crime—only a man who wanted to emigrate, and was denied."●

INTEREST RATES

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. BLANCHARD. Mr. Speaker, greed in the banking sector and apathy at the Federal Reserve are killing off the American automobile industry, the housing industry, and much of American small business and small manufacturing.

The Federal Reserve is pursuing a totally misguided policy of attempting to focus on monetary aggregates, while allowing private banks to dictate the interest rates that automobile purchasers, home buyers, and small business people must pay.

This policy is misguided for two reasons. First, the money supply figures are erratic and highly misleading. The Federal Reserve cannot distinguish between genuine surges of excess demand, which might call for a policy of general monetary restraint, and the kind of speculative episodes—like last spring's Bunker Hunt silver bubble—which call for selective policies of credit restriction but not for general restraint. And when the Federal Reserve does impose a general crackdown, it is the productive uses of credit—to finance cars, homes, investment, and working capital, that suffer, and not the supply to high-return high-risk speculators.

Second, to allow the banks to dictate interest rates under these conditions is folly. The banks are applying a very short-term profit criterion, which means they are squeezing out the market all of those productive users of credit who require a longer payback period and who promise a nonspeculative rate of return. This is good for bank profits, but bad for American jobs, productivity, and for the fight against inflation. An 18½-percent prime rate itself adds to inflation through its effect on mortgage and other interest costs.

The Federal Reserve should immediately move to stabilize interest rates at levels that will permit financing of automobile purchases, home construction, and small business to resume. In the future, it should base its policy on the performance of the economy and not on the money supply. If necessary, the President should invoke his powers under the Credit Control Act to see that this happens.●

HOUSE JOINT RESOLUTION 637

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. SYNAR. Mr. Speaker, during consideration today of the conference report on House Joint Resolution 637, making further continuing appropriations for fiscal year 1981, a motion to recede and concur in a Senate amendment—No. 30—passed the House by rollcall vote. This amendment authorized the Army Corps of Engineers to subordinate, by condemnation proceedings after September 1, 1981, the oil, gas, and mineral rights of the Osage Tribe of Indians, in order to complete work on the Skiatook Lake and other projects in Oklahoma.

Reluctantly, I supported the motion to concur in the Senate amendment. The conflict between completion of the Skiatook Lake project and adequate protection of the rights of the Osage Tribe has continued for some time. It has been my position that a negotiated settlement between the Corps of Engineers and the Osage Tribe, with regard to compensation for the loss of minerals, was the most equitable and desirable solution. Unfortunately, such an agreement has not been reached, despite the efforts not only of myself, but of many others concerned over this conflict.

I still believe that a negotiated compensation settlement is both desirable and possible, and this amendment is clearly designed to encourage such a settlement before September 1, 1981. This will allow a full 9 months for the Corps of Engineers and the Osage Tribe to sit down at the table together and agree on a fair settlement to the tribe while allowing for completion of the project. If no such agreement is reached, the corps will be authorized to proceed with a condemnation action, and the courts will then have to determine equitable compensation, based on an analysis of fair market value of the minerals and related damages incurred by the tribe.

Again, Mr. Speaker, my desire has always been to help the tribe and the corps reach a negotiated compensation settlement, without the need for congressional action. While I did support with reluctance the Senate amendment, I will continue to work with both parties and be of any assistance I can to bring about such an agreement. I believe such a settlement will in the long run prove more satisfactory to the tribe, to the corps, to the local community, and inevitably, to the taxpayers of this Nation.●

GOV. OTIS R. BOWEN

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. QUAYLE. Mr. Speaker, last night the State of Indiana paid tribute to one of the giants of our great Hoosier State—Gov. Otis R. Bowen, M.D.

Governor Bowen has been in public service for almost 28 years, with the last 8 being the Governor of Indiana. During those years has has met the challenges of governing with great distinction. Governor Bowen, most affectionately known as "Doc," has been respected by all Hoosiers. He is honest, displays great commonsense, and has proven his ability to lead.

His leadership ability is most rare in modern day politics. With other States and political leaders looking for direction, Doc Bowen never faltered in taking Indiana and her citizens on a course of success, productivity, and compassion. By all accounts Doc Bowen will go down in history as one of the greatest Governors that our State has ever had—and perhaps the greatest.

His loyal and capable wife, Beth, has always been a source of inspiration and strength. Because of their dedication to improving the quality of life for all Hoosiers, our State is a great place to live.

We all wish the Bowen family Godspeed and thank them for their contribution to Indiana and to history.●

SOUND ADVICE ON REPORTING OF PROJECTED ELECTION RESULTS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. OBERSTAR. Mr. Speaker, we have all given much thought to the question of how the early projections of a Reagan victory on election night affected voter turn-out and election results in the Western United States. While the early projections did not alter the outcome of the Presidential election, the projections and President Carter's early concession speech very likely influenced the outcome in such close elections as that of our able colleague, JIM CORMAN.

I present for the consideration of my colleagues a thoughtful editorial by Veda Ponikvar, the editor and publisher of my hometown newspaper, the Chisholm Free Press.

Miss Ponikvar calls for voluntary restraint on the part of her colleagues in the electronic news media in the reporting of projected election results based on sample precincts and exit polls.

Legislatively mandated solutions would raise serious first amendment questions. Miss Ponikvar speaks as a journalist to other journalists urging, not a government solution, but a solution from the private sector, the news media.

[From the Chisholm Free Press, Nov. 6, 1980]

Tuesday, November Fourth dawned with a crimson and mauve cloud formation bordering the eastern horizon. This was a very special day in America's democratic processes when people would go to the polls and make their decision about a President and members of Congress. This is the way it is in a free nation, and how fortunate we are that we have this privilege.

A BETRAYAL OF TRUST

The day of activities, hopes and dreams slipped away toward the twilight hour, when in the midwest, eager citizens were wending their way home and to the ballot booths. The evening shadows had lengthened. The scent of burning wood told its own story. The chills of winter were creeping in, and in protest to the greed and unrelenting stubborness of the Iranians and Iraqis thousands of miles away, people were solving the energy crisis and the soaring inflation in their simple humble way. Car radios were on for the five-thirty evening news and television sets were broadcasting events of the day. Suddenly, to the consternation of millions of mid-section Americans, projections began to fill the air waves about who was winning the election. These people had not yet stepped inside the ballot booth.

At seven o'clock, voters in the Central Standard Time Zone were waiting in line to cast their ballots. A bewildered young woman entered and announced in a muffled voice: "It's all over already. The television analysts have just announced a projected Reagan landslide." In the western time zones, millions were still at work and had not yet had the opportunity to hear the latest news casts or to go to the polls.

The electronic media has its place in the sun and its job to do, but there is also a deep sense of responsibility and integrity that should be a cardinal reflection of this media. Instead, they took it upon themselves to capitalize on a mood of the American electorate and played it to the hilt. There will always be a doubt in the minds of Americans as to how much influence the early announcements and pronouncements made on the final outcome. The mood for a change had been sensed by the astute in the political arena for some time, and undoubtedly was influenced by the high rate of unemployment, the devastating economic debacle resulting from imports, the frustrations of not being able to bring fifty-two Americans home from a terrorist-infested oil shiekdom, the declining image of a once powerful nation that was now being buffeted around by the Russians and many ungrateful Third-World countries, the inability of the electorate to understand a degenerating Congress and a President who had lost his grip somewhere in the space of four years—all of these factors and many more lent themselves to the landside . . . and Americans have selected to make a change and have spoken . . . but they don't need the electronic media to predict and project an outcome four hours before the West Coast has gone to the polls. Americans can and will continue to make up their own minds and vote their conscience.

DON'T MAKE ROBOTS OUT OF US

Television and satellite communications have their place in our society, but there is a line of distinct demarkation. The public has been hurt and angered, and they do not wish to become robots of a press-button computer system. There still is something very sacred and precious about the human mind and personal opinion. It is unfortunate that the electronic media has resorted to such grandiose fanfare and up-stage performances. Some straightforward, unbiased reporting would be far more palatable.

And two or four years from now, let's give the public the credit it is due to make up its own mind. Start your reporting at ten o'clock after the polls are closed.●

AMENDMENT TO CLEAN AIR ACT PROPOSED

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. MILLER of California. Mr. Speaker, I am introducing an amendment to the Clean Air Act to eliminate what I believe is a counterproductive and punitive provision of this law.

The Clean Air Act requires each State to devise a plan to control air pollutants in that State. Without an approved plan, no new pollution source can be added in the polluted areas of that State. This is a reasonable step to prevent the worsening of air quality due to a State's inaction.

This provision has been taken to its ridiculous extreme by prohibiting any new construction or modification even if it would reduce pollution in the area from its current levels. In Antioch, Calif., the Louisiana-Pacific Paper Co. plans to replace its oil-fired boilers with wood-burning boilers. Economic problems affecting this plant have led to the layoff of many workers and the jeopardizing of the plant's future.

Cheaper wood fuel would improve the economic health of the plant and protect the jobs of its 450 employees. In addition, conversion to the new boilers would save about 500,000 barrels of oil a year, which is a reduction in oil consumption at the plant of 75 percent and a significant contribution to our national energy effort to decrease imported oil.

But the most important benefit of the conversion to the new boilers is that they will emit far less pollution than the existing ones. Because of this reduction in pollutants, all of the applications for the new boilers have been cleared by the bay area air quality management district, which has also issued Louisiana-Pacific a permit to contruct the boilers. But under the EPA's interpretation of the construction ban, this pollution-reducing construction is prohibited. This makes no sense at all.

I offer this bill only because all other efforts to resolve this anamoly without resort to legislation have been futile. Over a period of months, I have been in close contact with representatives of the EPA, Louisiana-Pacific Co., and the affected unions. All have concluded, regrettably, that there is no recourse but legislation to resolve this situation. I believe, and I feel confident in saying that the other people agree, that my amendment enhances the goals of the Clean Air Act, while removing a counterproductive and indefensible barrier to better air quality, economic activity, and energy conservation.

I certainly continue to support the goals of the Clean Air Act because numerous studies have shown that this law improves the health of many Americans, strengthens our economy, and provides jobs. This particular provision, however, makes no sense at all, for it prohibits this company from making an investment which will reduce our dependence on foreign oil, reduce pollution levels, and strengthen our economic and employment situation. These are the exact goals of major Federal laws, including the Clean Air Act.

I have taken great care to draft this provision so as to provide for commonsense and good policy and to prevent the emasculation of the laudable goals of the Clean Air Act. I am hopeful that this proposal will be passed by the Congress so that the economic strength of the affected company is secured, and the air quality in Contra Costa County can be improved without further unwarranted delays.●

THE DANGEROUS COURSE OF THE UNITED NATIONS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. OTTINGER. Mr. Speaker, I am inserting in the RECORD today a letter I wrote to U.N. Secretary General Kurt Waldheim expressing my dismay about increasing anti-Semitic action in the United Nations. The U.N. is on a dangerous course away from its intended purpose—to promote international cooperation. We in Congress must focus our attention on this distressing trend, for the future of peace and stability in the Middle East, as well as effectiveness of the United Nations, hangs in the balance.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 12, 1980.

Hon. KURT WALDHEIM,
United Nations,
New York, N.Y.

DEAR MR. SECRETARY GENERAL: As a Member of Congress, I am writing to deplore recent actions in the United Nations which specifically contradict the very principles for which the U.N. was founded.

As you know, on January 30, 1981, the U.N. Postal Administration has decided to issue a set of commemorative stamps on the theme "Inalienable Rights of the Palestinian People," in accordance with a General Assembly Resolution recently passed. I object to the distribution of these stamps as a blatant propaganda effort designed to legitimize terrorism, attack the state of Israel, and inject further discord into a highly sensitive issue. This action is another example indicating that the PLO has successfully politicized almost every function of the United Nations, including the General Assembly, UNESCO, the U.N. Mid-Decade Conference for Women, and now, the U.N. Postal Administration.

I am particularly disturbed about the past six days of speeches in the General Assembly. A notable feature of these talks has been hostile references to the Jewish people. Until now, epithets were usually (and unjustifiably) confined to Israeli policy, but now, many delegates have increased their virulence to include anti-Semitic invectives. It is apparent that the

United Nations has become more a forum for anti-Semitism than a center for developing friendly relations between nations based on a repect for equal rights.

These abhorrent developments reflect a growing trend of anti-Semitism that the United Nations should seek to end, rather than foster. A synagogue was bombed in Paris and dozens of Jewish-owned stores throughout France have been attacked. Soviet official anti-Semitism is becoming more blatant through publications which attack Judaism and Zionism interchangeably as "the main enemy of peace on earth." In my own nation, this tragic and growing trend can be seen in the resurgence of the Nazi party and other groups.

By tolerating anti-Semitic speeches in the General Assembly and by issuing these commemorative stamps, the United Nations is fueling the fires of racism and contradicting its own charter, which states that the U.N. will practice toleration, develop friendly relations among nations, achieve international cooperation, and promote and encourage "respect for human rights and . . . fundamental freedoms for all without distinction as to race, sex, language, or religion." Indeed, the actions which the United Nations has taken would suggest that it has virtually abandoned its original purposes.

The U.N.'s diminished commitment to fairness and harmony threatens its support by the United States. Many observers, both in and out of Congress, have voiced concern for the future of the United Nations as an instrument of peace and cooperation. This observation is clearly tied to the politicization of U.N. functions and the constant propaganda attacks on Israel. I therefore urge you, as Secretary General, to purge anti-Semitism from U.N. functions and act to eliminate it from world discourse. This sharp deviation from your charter could otherwise well sow the seeds of destruction of the U.N. and the worthy purposes for which it was founded.

Sincerely,

RICHARD L. OTTINGER.●

PERSONAL EXPLANATION

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. CAMPBELL. Mr. Speaker, should the House of Representatives take the extraordinary step of convening on Saturday, December 13, 1980, I shall be unable to attend due to a previous commitment. It is my intention, however, to go on record in opposition to the conference report to accompany House Joint Resolution 637, making continuing appropriations for fiscal year 1981.●

WHO PAYS FOR PENSIONS?

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mrs. FENWICK. Mr. Speaker, we have had considerable debate in this House concerning Federal pensions and the abuse of the pension system through inclusion of credit for time worked in partisan political campaign committees.

In this connection it is appropriate to draw attention to the attached editorial from today's Washington Post. It outlines very clearly the heavy burden the taxpayers are now carrying—a burden which is estimated, by the Joint Economic Committee of Congress, to rise to an annual cost of $80 billion by 1990, if the present system is continued. The editorial follows:

WHO PAYS FOR PENSIONS?

When federal government retirees get their twice a year cost-of-living pension adjustments, who pays for it? You do—whether or not you have worked or will ever work for the federal government. The mail we get from federal pensioners and their advocates suggests that there is a lot of confusion on this point. Most retirees seem to believe that their payroll contributions, matched by an equivalent amount from the government, are sufficient to keep the federal pension fund solvent for the next 100 years or so.

In fact, it has been a decade since federal employee contributions accounted for even half of the system's revenues. The federal retirement system is kept from bankruptcy only because it, unlike the less favored Social Security system, has a virtually unlimited tap on the general revenues collected from federal income and other taxes.

This tap is already of mighty proportions. It is estimated that the government contribution to the fund, paid by you the taxpayer, this year will be $13.5 billion—an amount four times as large as the contributions paid by employees.

Federal pensions cost so much because they are very generous. Average benefit levels are high compared not only with Social Security benefits but also with the combined value of Social Security and private pensions for the relatively few retirees who get both. In 1980, retired federal workers received on average about $1,050 a month; the average Social Security beneficiary got $330, if single, and 50 percent more, if married. Federal employees can retire with full benefits at age 55 after 30 years of work and at age 60 after 20 working years. Social Security retirees must wait until they are 62 to get any retirement benefits and until they are 65 to get full benefits. For these much lower benefits, almost all Social Security covered workers will be paying 5.35 percent of their total wages starting next year, not much less than the 7 percent federal workers pay for their much better pensions.

It is true that federal pensions are taxable except for the amount actually paid for by employees' contributions that have already been taxed. But so are private pensions. Social Security benefits are not taxed, and probably. on the same principle, they should be. But the non-taxability of Social Security benefits is partly to compensate for their much lower value, and the incomes of Social Security recipients are, on the average, much lower than those of federal pensioners. Finally, there are the cost-of-living adjustments that federal retirees receive twice a year, Social Security beneficiaries only once, and most private pensioners not at all.

Most of the people in this country who finance this liberality with their taxes have not kept up with inflation themselves in recent years. Many would like to make up some of this loss by paying lower taxes. We recommend to them one very good way to do this—to the tune of about $800 million next year and a billion and more in years thereafter. It is to slow down the rise in the cost of the federal retirement system by restricting federal pensions to the once a year cost-of-living adjustment, which is, at best, all that most Americans will ever get.●

TRIBUTE TO JOHN LENNON

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. ROYER. Mr. Speaker, though I am not one of those Members who grew up during the sixties, I do have two sons who did. They knew the Beatles and John Lennon, and through them I did too. How many of their memories are related to the Beatles, or particular Beatle songs, I cannot say. But I do know that there are many. Certainly many more than I have from my generation of musicians. While we had our own music, it did not change society the way the Beatles' music did. John Lennon, an integral part of that music, will be missed—the magnitude of the tragedy commensurate with the magnitude of his importance.

But, I suppose what bothers me most about John Lennon's murder is that, ultimately, it is not all that shocking. We are a society seemingly based on violence. Since the sixties we have experienced an explosion of violence, especially against our political leaders. John Kennedy, Robert Kennedy, Martin Luther King, Jr., George Wallace, Allard K. Lowenstein, Leo J. Ryan, the attempts on President Gerald Ford. It is a list that is a national rebuke.

I am not sure that gun control is the answer, though I am more willing to consider it now. I do know, however, that an answer must be found soon. But before we find that answer I ask: How many of our leaders are we going to let them kill? How many of our memories are we going to let them take away?●

EL SALVADOR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. LAGOMARSINO. Mr. Speaker, the tragic events in El Salvador have captured a great deal of attention. For the benefit of my colleagues I have enclosed a copy of a letter that I and Congressman BENJAMIN A. GILMAN, Republican of New York, have sent to President Carter. An identical letter has been addressed to President-elect Reagan.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 11, 1980.

Hon. JIMMY CARTER,
President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: The recent brutal murders of four American missionaries in El Salvador has shocked our Nation. Many people in this country are unaware of the tragic recent history of that small Central American nation. Sadly this outrageous act is only the latest chapter in an ongoing and deadly war between the extremist elements of the right and left.

Knowledgeable observers contend that the present civilian/military government represents the most viable alternative to the extremes. Any action at this time by our government to alter this delicate coalition would lead to further political turmoil and disruption at a time when continuity and stability is so desperately needed. Unfortunately, the response by the U.S. to the recent acts of violence has only added to the instability and uncertainty of the present coalition government.

Whether intended or inadvertent, the suspension of U.S. aid to the government and people of El Salvador before completing any investigation created a presumption of the Salvadorian government's complicity in the murders. This presumption of guilt undermines the government's authority to stop the violence and interrupts their efforts to carry out important social reforms of law.

The composition of the State Department's special Salvadorian investigative team has done little to assure anyone of the impartiality of their findings. As the main architect of the present Administration's Central American policy, Assistant Secretary of State for Inter-American Affairs, William Bowdler, is viewed as a questionable choice for this mission considering the lame-duck status of the Carter Administration and his past role in negotiating the transfer of power to the Sandinistas in Nicaragua. Likewise, former Assistant Secretary of State, William Rogers, who has been a foreign policy advisor to Senator George McGovern and whose law firm has been serving as a legal advisor to the new Sandinista government, is not viewed as an impartial observer.

While we may never know whether it was the extreme right or the left that was responsible for the killing of the four American women, every effort should be made to bring the guilty parties to justice. However, the impact of our response could lead to the demise of the existing government and more death and destruction. It should be kept in mind that without our aid during this critical harvest period, the much heralded agrarian reforms and their political and economic benefits will be lost. Furthermore, the symbolic abandonment of the government can only encourage the extremes in their efforts to seize power.

Accordingly, it appears that the best option for eliminating the violence of the extremes is to strengthen the legitimate authority of the ruling civilian/military coalition government. We urge the current Administration to recognize the need for stability and continuity during our delicate period of transition. It is vitally important, therefore, that the United States expeditiously resume our aid program and support for the established coalition which is so critical for preserving peace and stability in El Salvador and to improve the relationship between our Two Nations.

Sincerely,

ROBERT J. LAGOMARSINO.
BENJAMIN A. GILMAN.●

CAPITOL HILL FIRST FRIDAY CLUB

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. ZABLOCKI. Mr. Speaker, the Capitol Hill First Friday Club has been servicing the religious needs of Members and staff for over 25 years. A number of years ago the club established its For God and Country Award. At its annual Christmas dinner an outstanding citizen of the American community is presented this award and among those who have been recipients include our own Congresswoman LINDY BOGGS, the newly elected Senator from Alabama, Jeremiah Denton, Dr. William Walsh founder of HOPE among others.

This year, the award was made in duplicate and presented to two longtime staff employees on Capitol Hill and dedicated workers to the Capitol Hill First Friday Club.

Mary Swann, administrative assistant to the later Congressman Edward Hébert from 1946 to 1977 and Kathleen Lynch a longtime trusted and dedicated staff member to retiring Congressman TOM STEED of Oklahoma. These two Christian women are truly unsung heroines of Capitol Hill and its First Friday Club for their untiring service and dedication to their fellow men. I was pleased to join with my colleague, Congressman STEED, in making these presentations and both of us join in the salute of "well done" for their faithful service.●

HOUSE CONCURRENT RESOLUTION 458

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 13, 1980

● Mr. PHILLIP BURTON. Mr. Speaker, on December 11, the House of Representatives agreed to House Concurrent Resolution 458, making corrections to the enrollment of S. 2363. One feature of this concurrent resolution is a new title XXIII which would require a management plan to be developed to preserve and interpret the sites and facilities at Warm Springs, Ga., associated with Franklin Delano Roosevelt. I neglected to mention that, among the Members of this body who have supported this legislation, our colleague from New York, Representative JAMES SCHEUER, has long been prominent for his interest and concern. I regret this omission, and I trust that this belated correction will set the record straight.●

HOUSE OF REPRESENTATIVES—*Monday, December 15, 1980*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, we are reminded again during these holy days of the ancient prophecy of peace on Earth, good will to men. We admit our own shortcomings in achieving the vision of concord and security for our world. Yet we devoutly wish and earnestly pray that the terrors of war and the pain of alienation be set aside, and that Your kingdom of peace and good will be manifest among us. Encourage us to be messengers of peace and partners in reconciliation with those near us and throughout Your creation. In Your holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SOLOMON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 225, nays 18, answered "present" 1, not voting 187, as follows:

[Roll No. 681]

YEAS—225

Albosta
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Bailey
Barnard
Barnes
Bedell
Benjamin
Bennett
Bevill
Blanchard
Boggs
Boland
Bolling
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Burgener
Campbell
Carney
Carter
Cavanaugh
Cheney
Clausen
Coelho
Coleman
Conable
Corcoran
Cotter
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Derwinski
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Fountain
Frenzel
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Hansen
Harris
Hawkins
Hefner
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Leland
Lent
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Lundine
Lungren
McClory
McDade
McEwen
McHugh
McKinney
Madigan
Markey
Marks
Mica
Michel
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Nedzi
Nelson
Nichols
Oberstar
Pashayan
Patten
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Quillen
Rahall
Rangel
Ratchford
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Staggers
Stanton
Stenholm
Stokes
Stratton
Studds
Symms
Synar
Trible
Udall
Vander Jagt
Vanik
Vento
Walgren
Walker
Watkins
Weiss
White
Whitley
Whitten
Williams, Mont.
Wirth
Wolpe
Wyatt
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—18

Bauman
Bethune
Brown, Calif.
Coughlin
Dickinson
Edgar
Forsythe
Goodling
Holt
Jacobs
LaFalce
Lowry
Luken
Mitchell, Md.
Quayle
Sabo
Schroeder
Volkmer

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—187

Abdnor
Addabbo
Akaka
Alexander
Ambro
Annunzio
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Baldus
Beard, R.I.
Beard, Tenn.
Beilenson
Bereuter
Biaggi
Bingham
Boner
Bonior
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carr
Chappell
Chisholm
Clay
Cleveland
Clinger
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corman
Crane, Daniel
Crane, Philip
Crockett
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Devine
Dodd
Dornan
Dougherty
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Erlenborn
Evans, Del.
Fascell
Ferraro
Fish
Foley
Ford, Mich.
Fowler
Frost
Gaydos
Gilman
Goldwater
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Harkin
Harsha
Heckler
Heftel
Hightower
Hillis
Hinson
Holland
Holtzman
Hutchinson
Hyde
Ichord
Jeffries
Jenkins
Johnson, Colo.
Kastenmeier
Kelly
Leach, Iowa
Leach, La.
Lederer
Lehman
Levitas
Lewis
Lloyd
McCloskey
McCormack
McDonald
McKay
Maguire
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mineta
Minish
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Musto
Neal
Nolan
Nowak
O'Brien
Oakar
Obey
Panetta
Patterson
Paul
Pease
Pritchard
Pursell
Railsback
Regula
Richmond
Roberts
Rodino
Rose
Rudd
Russo
Santini
Seiberling
Sensenbrenner
Shannon
Shuster
Smith, Iowa
Solarz
Spellman
Stack
Stangeland
Stark
Steed
Stewart
Stockman
Stump
Swift
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Ullman
Van Deerlin
Wampler
Waxman
Weaver
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Yates
Young, Alaska
Zeferetti

□ 1230

So the Journal was approved.

The result of the vote was announced as above recorded.

APPOINTMENT OF ADDITIONAL CONFEREES ON HOUSE JOINT RESOLUTION 637, FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, inasmuch as the existing continuing resolution expires at midnight tonight, it is absolutely necessary for the Congress to act today on the further continuing resolution to provide financing for many departments and agencies. Inasmuch as several of the House conferees are not immediately available, I ask unanimous consent that Messrs. SMITH of Iowa, ADDABBO, and CONTE, be removed as conferees on the remaining amendment to House Joint Resolution 637, and the Speaker be authorized to appoint substitute conferees.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman give us the names of the three Members who are removed from the conference?

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. WHITTEN. Mr. MURTHA. Excuse me, that is a matter for the Speaker.

The SPEAKER. Mr. SMITH of Iowa, Mr. ADDABBO, and Mr. CONTE.

Mr. WHITTEN. The appointment of new conferees is the Speaker's prerogative, the ones removed are Messrs. SMITH of Iowa, ADDABBO, and CONTE, who are not immediately available.

Mr. ROUSSELOT. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, did I understand the name of our colleague from Pennsylvania (Mr. MURTHA) may be a possible conferee? Does that appointment have any bearing on the major issue still before us; the pay raise?

Mr. WHITTEN. Every Member of the House is a possibility.

Mr. BAUMAN. Every Member of the House is a possible conferee?

Mr. WHITTEN. A possibility.

Mr. BAUMAN. I would suggest that at least one is not a possibility.

Mr. WHITTEN. This is the Speaker's prerogative. I was out of order on the question of appointing new conferees.

Mr. BAUMAN. Many of us are periodically.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees: Messrs. MURTHA, DICKS, and MCEWEN.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I am sure that the membership would be very happy if we could get some idea as to what the prospects are, what the Chair believes will happen for the balance of the day and what we can expect insofar as some action is concerned to speed the adjournment of this 2d session of the 96th Congress.

The SPEAKER. Would the gentleman from Mississippi want to respond as to what is going to happen with respect to the meeting of the conferees?

Mr. WHITTEN. Mr. Speaker, we have suggested that we meet at 1 o'clock. The gentleman will understand that the other body has before it the remaining amendment, of the original continuing resolution (H.J. Res. 637), which they could agree to.

The other vehicle they have is the bare-bones resolution which we sent them Saturday night, so the decision at this point is primarily in their hands. I think they are working on the matter. We do not know, when we meet in conference, just what will happen, but I think the conferees will meet with the Senate conferees on or after 1 o'clock.

Mr. RHODES. Might I ask the gentleman from Mississippi if the Senate has agreed to a conference at 1 o'clock? Has the Senate agreed to go to conference?

Mr. WHITTEN. I do not know that they have officially done it. They are in the process of working out their problems, so I do not know at what specific time they have decided to go to conference. We suggested 1 o'clock or soon thereafter and would be in a position to go into conference.

Mr. RHODES. Might I ask further—and I hope the answer is in the affirmative—if the gentleman from Mississippi is in contact with his opposite numbers in the other body in an attempt to work out some accommodation prior to the time that the conference occurs?

Mr. WHITTEN. Yes, I have been in touch with one or two on that side, but I do not know that I could tell the gentleman at this time what they are likely to do. I know they are active over there in trying to reach a solution.

Mr. RHODES. So, as I gather, the gentleman from Mississippi is unable to inform the membership as to the prospect for the day and when we might take votes, if any votes occur?

Mr. WHITTEN. I earlier said that it would be later this afternoon I should think—hopefully.

Mr. RHODES. I thank the gentleman.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, D.C., December 10, 1980.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on December 9, 1980:

DIRECT FEDERAL CONSTRUCTION

Houlton, Maine: Border Station.

LEASES

White Plains, New York: Omnibus Judgeship, U.S. District Court.

Providence, Rhode Island: Federal Agencies.

Washington, D.C., Federal Labor Relations Authority.

Arlington, Virginia: Webb Building, 4040 Fairfax Drive.

Arlington, Virginia: Berkley Building, 1701 North Fort Myer Drive.

REPAIR AND ALTERATIONS

Alexandria, Virginia: Post Office-Courthouse.

South Bend, Indiana: Federal Building-U.S. Courthouse.

Seattle, Washington: Federal Courthouse.

The original and one copy of the authorizing resolutions are enclosed.

In addition the Committee passed the attached resolution directing that the Administrator of General Services submit to Congress, not later than the fifteenth day after Congress convenes each year, a plan of projects and actions that, under the Public Buildings Act of 1959, as amended, are deemed necessary for accommodating the public building needs of the United States for such fiscal year and the next succeeding five fiscal years.

Sincerely,
HAROLD T. (BIZZ) JOHNSON,
Chairman.

A 17-PERCENT PAY RAISE FOR CONGRESS

(Mr. WON PAT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WON PAT. Mr. Speaker, I heard on the WRC radio talk show this morning varying comments by individuals from the public sector regarding the controversial pending pay raise for Members of Congress, Federal judges, and higher level Federal executive employees. Most of the adverse comments were directed to the Members. I am not opposed to a cost-of-living increase to meet the ravages of inflation which affect everybody; but such increases should be equitable and fair to all Government employees.

If we are giving the rank-and-file Federal employees a 9.1-percent COLA raise, then why should we get more? A loaf of bread costs no less to lower echelon Federal employees than it costs to a Congressman or a Federal judge. The same is true with the cost of items used and consumed when private industry pays their top people far more than does the Federal Government.

We cannot expect the public to sit still while we give ourselves a staggering 17-percent pay raise, especially when we gave other Federal employees only 9.1 percent just last October. The vast majority of Americans never receive anything resembling a cost-of-living increase and it is asking too much to anticipate that they will accept this last-minute approach to an overgenerous pay raise for their Congressmen and Senators.

□ 1240

IN SUPPORT OF THE CONGRESSIONAL PAY RAISE

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I take the floor at this time to urge the conferees not to give up the fight and to stand fast on the pay raise issue, for Federal judges, top executive levels, and Members of Congress are all in need of this proposed increase.

Mr. Speaker, public service should not be synonymous with the ever-increasing public indebtedness that so many of us who are serving are now incurring. For those Members, Mr. Speaker, who may be truly offended by this pay raise, we will certainly all watch with great interest while they turn back the increases to the Treasury.

Mr. Speaker, this morning I spoke with Ed Thomas, who is Ed Meese's assistant who is heading up the transition team for President-elect Reagan, and he wanted to assure me personally that he hoped that every effort would be made to put these pay raises through. This is as of this morning, and it seems to me that on this issue, as well as perhaps some others, President-elect Reagan is certainly starting off on the right foot.

Mr. Speaker, I hope that the conferees will continue this fight and that the House will not back down from its position.

MX MISSILE PROGRAM ENVIRONMENTAL IMPACT STATEMENT

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WEISS. Mr. Speaker, it is vital that we become as knowledgable as possible about how drastically the proposed MX missile system wil affect and alter our own Nation.

A story appeared in the New York Times recently which summarizes an environmental impact statement for the proposed MX system. The EIS was prepared by the Air Force. The report concedes the likelihood of massive population growth, causing significant social and economic changes in the areas involved. One major problem resulting from sudden economic and social development which will occur if the MX is built is the expected depletion of severely limited water supplies in Nevada and Utah, the favored areas for MX siting. The detrimental impact of this would range from dehydration and death of wildlife to a general reduction in water supply quality.

The Air Force's analysis examines in detail many problems other than water supply depletion. An irreversible change in natural water supply to a vast portion of the Western United States simply exemplifies the need for cultural and environmental scrutiny at home of the already questionable international, defense merit of the MX program.

I urge my colleagues to obtain a copy of the Air Force report when it becomes available later this month and to consider carefully the environmental, social and cultural issues it raises. To provide a brief summary of the report, I am including a copy of the New York Times article which appeared recently.

[From the New York Times, Dec. 12, 1980]

ENVIRONMENT PERIL FROM MX PREDICTED—REPORT BY AIR FORCE FINDS MISSILE SYSTEM WOULD ALTER NEVADA AND UTAH DESERT REGIONS

WASHINGTON, December 11.—A draft environmental impact statement on the MX missile system has concluded that the project would mean "rapid, large-scale changes in the character of the human environment" in the desert regions of Utah and Nevada.

The 1,500-page Air Force report also says that the impact on precious water resources in the area could be "significant" and possibly longterm.

The draft report, which is expected to be released to the public later this month, is being circulated on Capitol Hill among Congressmen from affected States. A copy was made available yesterday to The Associated Press.

The MX missile system is intended to replace the aging Minuteman intercontinental ballistic missile system, which the Air Force says is becoming increasingly vulnerable to Soviet attack. It would consist of 200 missiles shuttled among 4,600 protective shelters in a version of the shell game, so as to confuse Soviet missile targeters.

MAJOR ENVIRONMENTAL CHANGES

"Deployment of the MX system in the sparsely populated areas of the southwest United States will produce rapid, large-scale changes in the character of the human environment of those deployment regions," the report said.

"Construction and operation of the system will result in the introduction of large numbers of people into the rural, thinly settled deployment region. This rapid growth in population will cause significant changes in the economy and social structure of the rural deployment areas."

However, in another section, the report said that the effect on the quality of life in the region would depend both on the planning that went into the project and on the mental attitude of the people in the area.

The report estimated that if the missile system was deployed entirely in Utah and Nevada it would directly employ almost 30,000 people at the peak of construction, from 1986 to 1938. The workforce would stabilize in about 1991 at some 13,200 people, the report said.

Indirect employment at the project's peak would run from 22,000 to 30,000, the report said.

CONCERN FOR WATER SUPPLIES

State and local officials in the West have expressed concern over the possible impact of the MX system on scarce water supplies, and the environmental statement said that concern was justified.

"The most significant potential effect of the MX on water resources is lowering of the present ground water levels," the report said.

The effect of a lowered water table, the report said, could include "reduced spring flows, interference with the use of existing wells, reduction of regional ground water flows, reduction in water quality and possible land subsidence."

Air Force planners promised Congressmen that the study would examine other potential sites for the missiles. But the statement confirmed their earlier assertions that the desert valleys of Utah and Nevada were preferred, with the most public land available, the least land-use conflicts and the most strategically secure location.

The northwest Texas and northeast New Mexico area is listed as "a reasonable alternative" for all or part of the system, although it carries "some potential risks and problems."

The straegic risk is relative proximity to the Mexican border. Problems include impacts on agriculture and a high proportion of privately owned land that would have to be acquired.

If those sites prove impossible, the statement said, the next alternative would be the central high plains of Colorado, Kansas and Nebraska. However, the report said the area was "unreasonable" except as a last resort.

SECRETARY OF COMMERCE PHILIP M. KLUTZNICK

The SPEAKER. Under a previous order of the House, the gentleman from Wisconin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, in these closing hours of the 96th Congress I would like to pause a moment for the opportunity to express my admiration for the Honorable Philip M. Klutznick, the 25th Secretary of Commerce of the United States.

As chairman of the Subcommittee on Courts, Civil Liberties, and Administration of Justice I have had the agreeable opportunity to work closely with Secretary Klutznick on legislation relating to the patent and trademark system. The Patent and Trademark Office is a part of the Department of Commerce. My subcommitee has legislative jurisdiction over the patent, trademark, and copyright law.

Secretary Klutznick was chiefly responsible for directing an administration initiative to improve the operation of our patent system. The Secretary's efforts concluded last Friday, December 12, when President Carter signed into law the most far reaching and important amendments to our patent law in nearly 30 years. Not since the 1952 recodification of patent and trademark laws has Congress enacted such a significant piece of patent legislation.

The Patent and Trademark Law Amendments of 1980 contain four major reforms designed to encourage private sector investment in productivity-improving, job-producing new technology.

First, the new law strengthens investor confidence in the certainty of patent rights by creating a system of administrative reexamination of doubtful patents. Secondly, it strengthens the financial resources of the Patent Office to provide fast and accurate processing of patent applications by revising the fee structure of the Office. Thirdly, the legislation addresses the special needs of universities and small businesse when they attempt to deal with patent issues arising out of Government contracts. Finally, the law of copyright regarding computer programs has been clarified to insure adequate intellectual property protection for that important high technology area.

Secretary Klutznick personally appeared before the subcommittee to testify on behalf of the administration bill. His testimony was articulate and informed. During each subsequent stage in the legislative process—subcommittee and full committee markup, House passage and negotiations with the Senate—he was personally available when the administration's view needed to be made known or when consultations over amendments were required. Although a forceful advocate for the President's point of view, Secretary Klutznick always displayed the courtesy and cooperative spirit necessary to effect the compromises which produce successful legislation.

Secretary Klutznick can look back on his term with a sense of pride and accomplishment. Many of us on Capitol Hill will deeply regret the absence of his counsel and assistance as an official member of the administration in the 97th Congress. However, we wish him well as he returns to private life, and we know that he will remain available as a private citizen to offer counsel and aid to those of us who remain in Government whenever the needs of our country require it.

ACTIVITIES OF THE FOREIGN AFFAIRS COMMITTEE DURING THE 96TH CONGRESS

(Mr. ZABLOCKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. ZABLOCKI. Mr. Speaker, as the 96th Congress comes to a close, I want to take this opportunity to provide for the Congress and the public a brief summary of the many activities and accomplishments of the Committee on Foreign Affairs since this Congress convened on January 15, 1979.

The committee has experienced one of its most productive periods of all times, reporting some 36 bills and joint resolutions, of which 29 have been sent to the President; 39 simple or concurrent resolutions, of which 37 have passed the House.

The committee's legislation has included such major measures as the authorizations for U.S. military and economic assistance for 1980 and 1981, the Peace Corps, and refugee assistance; Department of State, International Communication Agency, and Board for International Broadcasting authorizations for 1980 and 1981; the Special International Security Assistance Act of 1979 (relating to the Egypt-Israel peace treaty); the Taiwan Relations Act; the Panama Canal implementing legislation; Export Administration Act amendments of 1979; Arms Control and Disarmament Act authorization for 1980 and 1981; the NATO Mutual Support Act; the Deep Seabed Hard Mineral Resources Act; the Special Central American Assistance Act; International Rubber Agreement; the Refugee Act of 1980; the Foreign Service Reform Act; and an act to permit the Overseas Private Investment Corporation to operate in the People's Republic of China.

Special emergency bills were promptly approved for the relief of victims following the hurricane disaster in the Caribbean, the famine in Cambodia, and the recent earthquake in Italy, as well as special assistance for the Cuban/Haitian refugees.

Other measures reported by the committee and subsequently incorporated into other legislation include the Food Security Act (provides for a 4 million-ton wheat reserve), and legislation relating to congressional oversight of intelligence activities.

An extensive investigation was undertaken in 1979 into the Jonestown tragedy.

The committee met 194 times this Congress and the subcommittees held 500 meetings, for a grand total of 694 hearings, briefings, markups, and informal meetings.

Mr. Speaker, one of the most important parts of the committee's work is to receive distinguished visitors from abroad. In satisfying this requirement, the committee received 170 such visitors and 30 delegations, which included heads of state and government, foreign ministers, and opposition leaders. A listing of these visitors and delegations follows these remarks.

Another important area is the participation in 15 interparliamentary meetings, conferences, such as the Conference on Security and Cooperation in Europe, the North Atlantic Assembly, and the work of members and staff on 23 factfinding missions.

The public as well as Congress has been kept informed of our activities through the publication of 141 hearings, 87 committee prints, and 45 reports, to date. A more extensive record of committee actions, entitled "Survey of Activities," will be published at the end of this year.

Mr. Speaker, these accomplishments of the Committee on Foreign Affairs would not have been possible without the strong support and cooperation of all members of the committee—majority and minority alike—and of its able staff. Their dedication, teamwork, and loyalty have resulted in this very impressive record during the 96th Congress.

In closing, I would also like to thank the Members who supported the committee's legislation which was at times controversial and complicated.

DELEGATIONS RECEIVED—96TH CONGRESS

African Dignitaries including Foreign Minister Archie Mogwe and Ambassadors Jolaoso of Nigeria, Mookodi of Botswana, Dennis of Liberia, Coulbary of Senegal and Bomani of Tanzania, informal meeting with members of SubAf, May 31, 1979.

Australian Parliamentary Delegation, led by Senator Brian Archer, Liberal Party, Tasmania, informal meeting with members of full committee, July 22, 1980.

Council of Europe, Political Committee of the Parliamentary Assembly, informal meeting with members of full committee. February 5, 1980.

Egyptian Parliamentary Delegation, led by Dr. Sufi Abu Taleb, Speaker of the People's Assembly, informal meeting with members of full committee, September 24, 1979.

El Salvador, delegation from, including Hon. Pablo M. Alverque, Minister of the Presidency, informal meeting with members of SubIAA, March 25, 1980.

European Parliament Delegation, informal meeting with members of full committee, January 30, 1979; January 29, 1980.

Finnish Parliament, led by Mrs. Jutta Zilliacus, Deputy Chairman of the Foreign Affairs Committee, Finnish Parliament, informal meeting with members of full committee, October 1, 1979; September 30, 1980.

Great Britain, members of the Defense and External Affairs Subcommittee of the House of Commons, headed by Colonel Sir Harwood Harrison, informal meeting with members of full committee, February 7, 1979.

Great Britain, members of Parliament including Bruce Grocot, Labor Party, Peter Bottomley, Conservative Party, Lord Avebury, Liberal Party, informal meeting with members of SubAf/IOrg/EME/IOp, March 27, 1979.

Hungary, informal meeting with delegation of religious leaders from Hungary and members of full committee, November 5, 1979.

India-U.S. Business Council, Fourth Annual Meeting, informal meeting hosted by Orville L. Freeman, President and Chief Executive Officer, Business International Corporation and Chairman of the Council's U.S. Section, with members of full committee, May 31, 1979.

Inter-Development Bank, delegation of governors from, informal meeting with members of full committee, March 11, 1980.

Irish Parliamentary Delegation, including the Honorable Seamus Dolan, Speaker, Upper House; Hon. Joseph Brennan, Speaker, Lower House; and Hon. H.E. Sean Dolan, Irish Ambassador to the U.S., informal meeting with members of full committee, September 25, 1979.

Israeli/Egyptian Delegation led by His Excellency Menachem Begin, Prime Minister of Israel, and His Excellency Anwar Sadat, President of the Arab Republic of Egypt, ceremonial reception with all members of the House of Representatives honoring the signing of the peace treaty between the State of Israel and the Arab Republic of Egypt, March 27, 1979.

Italian Chamber of Deputies, delegation from, informal meeting with members of full committee and leadership, June 18, 1980.

Italian Committee on Disarmament, delegation from, led by Hon. Luigi Anderlini, member of the Italian Senate, informal meeting with members of SubEME, May 15, 1980.

Italian Delegation, led by His Excellency Francesco Cossiga, President of the Council of Ministers, Italian Republic, and including, His Excellency Paolo Pansa Cedronio, Ambassador of the Italian Republic to the U.S.; Dr. Maurizio Bucci, Minister Plenipotentiary, Director General of Economic Affairs; Dr. Cesare Gnoli, Minister Plenipotentiary, Deputy Director General of Political Affairs; and others, informal meeting with members of full committee, January 25, 1980.

Japan, Parliamentary Delegation from, headed by Hon. Zentaro Kcsaka, former Foreign Minister and Chairman of the Foreign Policy Committee of the LDC, informal meeting with members of full committee, December 9, 1980.

Latin America, Senior Latin American Military Officers from the Inter-American Defense College of the OAS, informal meeting with members of SubIAA, October 15, 1979.

NATO Delegation, Live Oak Staff, informal meeting with full committee, October 22, 1979.

NATO Delegation, from 14 NATO countries, led by the Hon. Patrick Wall, Conservative Member of Parliament, United Kingdom, informal meeting with members of full committee, August 26, 1980.

New Zealand Parliamentarians, informal meeting with members of full committee, October 4, 1979.

Nicaragua, members of the Nicaraguan Junta, informal meeting with members of full committee, September 25, 1979.

Nigerian National Assembly Delegation, led by the Hon. Edwin Ume Ezoke, Speaker of the House of Representatives, of Nigeria, informal meeting with members of the full committee, February 11, 1980.

Soviet Delegation from the Supreme Soviet, headed by Sergey Medunov, Full Central Committee Member and First Party Secretary of the Krasnador Region, informal meeting with members of full committee, November 15, 1979.

Western European Union (WEU) Assembly Delegation, informal meeting with members of full committee, March 21, 1979; WEU Committee on Defense Questions and Armaments, informal meeting with members of SubEME, February 27, 1980.

Yugoslav Delegation, headed by His Excellency Ivan Stambolic, President of the Government of Serbia, informal meeting with members of full committee, January 25, 1979.

Yugoslav Delegation (Bosnia), headed by Mr. Milanko Renovica, President of the Executive Council of Bosnia-Herzegovina, informal meeting with members of SubEME, June 21, 1979.

Yugoslav League of Communists, delegation headed by Dr. Tihomir Vlaskalic, Member of the Presidency of the Central Committee, informal meeting with members of full committee, June 27, 1979.

Yugoslav Delegation (Montenegro), led by His Excellency Momcilo Cemovic, Prime Minister of the Yugoslav Republic of Montenegro, informal meeting with members of full committee, May 22, 1980.

DISTINGUISHED VISITORS RECEIVED—96TH CONGRESS

Abokar, Hon. Ismail Alo, President of the National Assembly of Somalia, informal meeting with members of full committee, September 25, 1980.

Adams, His Excellency J. M. G. M., Prime Minister and Minister of Finance of Barbados, informal meeting with members of full committee, March 11; April 28, 1980.

Aguirre, Alfredo Cesar, Minister-Director, International Reconstruction Fund, Nicaragua, informal meeting with members of full committee, March 11, 1980.

Al-Asnaj, Hon. Abdullah, Special Advisor to the President of the Arab Republic of Yemen, informal meeting with members of SubEME, June 12, 1979.

Alfard, Jose Miguel, Vice President of Costa Rica, informal meeting with members of SubIAA, May 21, 1980.

Ali, His Excellency Kamal Hassan, Deputy Prime Minister and Foreign Minister of Egypt, informal meeting with members of full committee, September 23, 1980.

Al-Sadat, His Excellency Mohamed Anwar, President of the Arab Republic of Egypt, ceremonial reception with membership of House of Representatives, March 27, 1979; informal meeting with full house, April 9, 1980.

Alverque, Dr. Pablo M., Minister of the Presidency, El Salvador, informal meeting with members of SubIAA, March 25, 1980.

Al-Zawawi, Hon. Qais Abdul-Munim, Minister of State for Foreign Affairs of Oman, informal meeting with members of SubsEME/ISSA, February 21, 1979.

Anderlini, Hon. Juigi, member of the Italian Senate, informal meeting with members of SubEME, May 15, 1980.

Aquilera, His Excellency Jaime Roldos, President-elect of Ecuador, informal meeting with members of full committee, July 19, 1979.

Archer, Senator Brian, Leader of the Australian Parliamentary Delegation and Member of the Liberal Party, Tasmania, informal meeting with members of full committee, July 22, 1980.

Arens, Hon. Moshe, Chairman of the Committee on Defense and Foreign Affairs of the Israeli Knesset, informal meeting with members of full committee, February 5, 1980.

Arze, Hon. Dr. Walter, President of the Bolivian Senate, informal meeting with members of SubIAA, December 13, 1979.

Aubert, Pierre, Head of the Federal Political Department (Ministry of Foreign Affairs) of Switzerland, informal meeting with members of full committee, May 22, 1979.

Audlans, Christopher, Deputy Secretary General of the Commission of European Communities, informal meeting with members of full committee, September 27, 1979.

Avon, Hon. Earl of, Member of Conservative Party, United Kingdom, informal meeting with members of full committee, August 26, 1980.

Barros, His Excellency Jose Miguel, Ambassador of Chile, briefing before members of SubIAA, May 22, 1979.

Beek, Hon. ter, Member of Labor Party, The Netherlands, informal meeting with members of full committee, August 26, 1980.

Begin, His Excellency Menachem, Prime Minister of Israel, informal meeting with members of full committee, March 5, 1979; ceremonial reception with membership of House of Representatives, March 27, 1979; informal meeting with full House membership, April 16, 1980.

Berglas, Hon. Dr. Eitan, Director of the Budget of the State of Israel, informal meeting with members of full committee, May 1, 1979.

Bonadeo, Monsignor Agostino, Papal Prelate, informal meeting with members of SubEME, May 15, 1980.

Bongo, His Excellency El Hadj Omar, President of the Republic of Gabon, informal meeting with members of full committee, June 13, 1979.

Brown, Hon. John, Member of the Australian Labor Party, informal meeting with members of full committee, July 22, 1980.

Carazo, His Excellency Rodrigo Odio, President of Costa Rica, informal meeting with members of full committee, December 2, 1980.

Carrington, Rt. Hon. The Lord, Leader of the Opposition in the House of Lords, informal meeting with Chairman Zablocki and members of SubEME, February 8, 1979; as Foreign Minister, informal meeting with members of full committee and Senate Foreign Relations and Leadership, December 17, 1979.

Cartwright, Hon. John, Member of the Labor Party, United Kingdom, informal meeting with members of full committee, August 26, 1980.

Celasun, Dr. Merth, Turkish Economist, informal meeting with members of SubEME, March 19, 1980.

Cemovic, His Excellency Momcilo, Prime Minister of the Yugoslav Republic of Montenegro, informal meeting with members of full committee, May 22, 1980.

Chaumont, Hon. Jacques, Member of the Gaullist Party, France, informal meeting with members of full committee, August 26, 1980.

Chitnis, Lord, Member of Liberal Party of England, testimony before SubAf/IOrg, and informal meeting with members of SubAf, May 14, 1979.

Clemet, Fridtjoy, Secretary-General of the Norwegian Conservative Party, informal meeting with members of SubEME, July 29, 1980.

Colombo, His Excellency Vittorino, Italian Foreign Minister, informal meeting with members of full committee, June 10, 1980.

Colston, Senator Malcolm, Member of the Australian Labor Party, informal meeting with members of full committee, July 22, 1980.

Correia, Hon. Ferreira, Member of Social Democratic Party, Portugal, informal meeting with members of full committee, August 26, 1980.

Corterier, Peter, Member of the West German Parliament, testimony before SubsISSA/EME, September 12, 1979.

Cossiga, His Excellency Francesco, President, Council of Ministers, Italian Republic, informal meeting with members of full committee, January 25, 1980.

Cruz, Arturo, Member of the Governing Junta of Nicaragua, informal meeting with members of full committee, June 4, 1980.

Decoster, Hon. Marcel, Member, Liberal Party, Belgium, informal meeting with members of full committee, August 26, 1980.

De Koster, Hon. Hans J., President, Parliamentary Assembly of the Council of Europe, informal meeting with full committee, October 30, 1979.

De Mel, Hon. Ronnie, Finance Minister of Sri Lanka, informal meeting with members of SubEME, February 28, 1980.

De Mendes, Carvalho, Governor of Luanda Province and Member of the MPLA Central Committee in Angola, briefing before SubAf, April 23, 1980.

Deng Xiaoping. (See Teng, His Excellency Hsiao-p'ing.)

Dennis, Hon. Francis A., Liberian Ambassador to the United States, informal meeting with members of full committee, October 2, 1979.

Dennis, Hon. C. Cecil, Foreign Minister, Liberia, informal meeting with members of full committee, October 2, 1979.

des Etages, Hon. Huyche, Member, Socialist Party, France, informal meeting with members of full committee, August 26, 1980.

De Vries, Klaas, Member of the Dutch Parliament, and Chairman of Defense Committee, testimony before SubsISSA/EME, September 12, 1979.

Dobrosielski, Hon. Marian, Undersecretary of State, Polish Ministry of Foreign Affairs, informal meeting with members of SubEME, May 7, 1979.

Donhnanyi, Hon. Klaus Von, Minister of State in the Foreign Office, Federal Republic of Germany, informal meeting with members of SubEME, May 3, 1979.

Dupont, Hon. Frederic, Member, Gaullist Party, France, informal meeting with members of full committee, August 26, 1980.

Esquivel, Adolfo Perez, Recipient of the Nobel Peace Prize for 1980, informal meeting with members of full committee, November 20, 1980.

Esztergalyos, His Excellency Ferenc, Hungarian Ambassador to the United States, informal meeting with members of full committee, May 1, 1980.

Ezoke, Hon. Edwin Ume, Speaker of the House of Representatives of Nigeria, informal meeting with members of full committee, February 11, 1980.

Fernandez, Eduardo, President of the Cultural Bank, Dominican Republic, informal meeting with members of full committee, March 11, 1980.

Fitzgerald, Dr. Garret, Leader of the Opposition of the Fine Gael, Republic of Ireland, informal meeting with members of full committee, April 3, 1979; SubEME, January 24, 1980.

Forrestall, Hon. John, Member, Progressive Conservative Party, Canada, informal meeting with members of full committee, August 26, 1980.

Frinking, Hon. Ton, Member, Christian Democratic Party, The Netherlands, informal meeting with members of full committee, August 26, 1980.

Galino, His Excellency Francisco Bertrand, El Salvador Ambassador to Guatemala, informal meeting with members of SubIAA, March 25, 1980.

Ghalanos, Hon. Alexis, Chairman of the Foreign Relations Committee and Member of the Cypriot Assembly, informal meeting with members of SubEME, April 3, 1979.

Ghalib, His Excellency, Jama Mohammed, Refugee Minister, Somalia, informal meeting with members of SubAf, May 1, 1980.

Giosan, His Excellency Nicolae, President of the Grand National Assembly of Romania, informal meeting with members of full committee and house leadership, May 13, 1980.

Gilstrup, Hon. Mogens, Member of Progress Party, Denmark, informal meeting with members of full committee, August 26, 1980.

Gnagi, Hon. Rudolf, Chief, Federal Military Department of Switzerland, Minister of Defense, informal meeting with members of full committee and House Armed Services Committee, February 6, 1979.

Granelli, Hon. Luigi, member of the Italian Senate, informal meeting with members of SubEME, May 15, 1980.

Groza, Hon. Maria, Deputy Foreign Minister of Romania, informal meeting with members of full committee, June 11, 1980.

Guran, Ragnar, Special Assistant to the Norwegian Labor Party Chairman and Minister of Commerce, informal meeting with members of SubEME, July 29, 1980.

Hameed, His Excellency A. C. Shahul, Minister of Foreign Affairs of Sri Lanka, informal meeting with members of full committee, October 2, 1980.

Hamid, Abdul Samid, Former Deputy Prime Minister of Afghanistan, informal meeting with members of SubEME, November 25, 1980.

Hammerstad, Oddmund, Director-General of the Oslo Commercial Association and Former Chairman of the Oslo Conservative Party, informal meeting with members of SubEME, July 29, 1980.

Han, His Excellency Hsu, Deputy Chief of the Liaison Office of the People's Republic of China, informal meeting with members of SubAPA, February 8, 1979.

Harrison, Colonel Sir Harwood, head of the Defense and External Affairs Subcommittee of the House of Commons, Great Britain, informal meeting with members of full committee, February 7, 1979.

Haugstvedt, Hon. Asbjorn, Member, Christian Peoples Party, Norway, informal meeting with members of full committee, August 26, 1980.

Hayworth, David, Commission of European Communities, informal meeting with Members of full committee, September 27, 1979.

Heath, Hon. Edward, former British Prime Minister and Member of the Independent Commission on International Development Issues (Brandt Commission), testimony before SubIEPT, June 19, 1980; informal meeting with members of full committee, June 19, 1980.

Hopkins, Hon. Leonard, Member, Liberal Party, Canada, informal meeting with members of full committee, August 26, 1980.

Humphreys, Hon. Benjamin, Member of the Australian Labor Party, informal meeting with members of full committee, July 22, 1980.

Hussein, His Majesty, King of the Hashemite Kingdom of Jordan, informal meeting with members of full committee, June 17, 1980.

Ihle, Hon. Geirmund, Member, Labor Party, Norway, informal meeting with members of full committee, August 26, 1980.

Ito, His Excellency Masayoshi, Minister of Foreign Affairs of Japan, informal meeting with members of full committee, September 19, 1980.

Jay, Hon. Peter, former British Ambassador to the United States, (1977–1979), testimony before SubEME, September 9, 1980.

Jenkins, Hon. Roy, President, Commission of the European Communities, informal meeting with members of full committee, January 24, 1980.

Johannesson, Hon. Olafur, Minister of Foreign Affairs of Iceland, informal meeting with members of SubEME, September 29, 1980.

Johansen, Thor-Erik, Undersecretary, Ministry of Justice, Norway, informal meeting with members of SubEME, July 29, 1980.

Karasek, Hon. Franz, Secretary-General of the Council of Europe, informal meeting with members of full committee, November 13, 1980.

Karl-I-Bond, Hon. Nguza, Commissioner of State for Foreign Affairs and International Cooperation, Republic of Zaire, informal meeting with members of full committee, May 8, 1979.

Karzai, Habibullah, Former Charge de Affaires, Afghan UN Mission, informal meeting with members of SubEME, November 25, 1980.

Kawasmeh, Hon. Fahd, Mayor of Hebron, West Bank, informal meeting with members of SumEME, September 25, 1979; June 5, 1980.

Kergorlay, de Hon. Roland, Head of the Delegation of the Commission of the European Communities, informal meeting with members of full committee, September 10, 1980.

Khalif, Hon. Karim, Mayor of Ramallah, West Bank, informal meeting with members of SubEME, September 25, 1979.

Khalis, His Excellency Moustafa, Former Prime Minister of Egypt, informal meetings with members of SubEME, May 22, 1980.

Kiep, Hon. Walter Liesler, Minister in the C.D.U. Opposition Party of the Federal Republic of Germany, informal meeting with members of SubEME, May 17, 1979; as Finance Minister of Lower Saxony and Shadow Foreign Minister of the Christian Democratic Party, informal meeting with members of SubEME, February 20, 1980.

Klein, Hon. Guillermo Walter, Secretary of State for Economic Planning and Coordination, Argentina, informal meeting with members of SubIEPT, June 24, 1980.

Knudsen, Hon. Thor, Member, Conservative Party, Norway, informal meeting with members of full committee, August 26, 1980.

Kosaka, Hon. Zentaro, Former Foreign Minister and Chairman of the Foreign Policy Committee of the Liberal Democratic Party, Japan, informal meeting with members of full committee, December 9, 1980.

Kriangsak, His Excellency Chamanan, Prime Minister of Thailand, informal meeting with members of full committee, February 7, 1979.

Le-Montagner, Hon. Louis, Member, Democratic and Progressive Party, France, informal meeting with members of full committee, August 26, 1980.

Lemp, Hon. Hans, Member, Social Democratic Party, Germany, informal meeting with members of full committee, August 26, 1980.

Lynch, His Excellency John, Prime Minister of Ireland, informal meeting with members of full committee, November 8, 1979.

MacKensie, Hon. Alexander, Member of the Australian National Country Party, informal meeting with members of full committee, July 22, 1980.

Maclehose, His Excellency Sir Murray, Governor and Commander in Chief of Hong Kong, informal meeting with members of full committee, June 19, 1979.

Madsen, Hon. Mette, Member, Liberal Party, Denmark, informal meeting with members of full committee, August 26, 1980.

Marcos, Madam Ferdinand, Minister of Human Settlements, The Philippines, informal meeting with members of full committee, October 24, 1979.

Marcus, Hon. Claude-Gerard, Member, Gaullist Party, France, informal meeting with members of full committee, August 26, 1980.

Marks, Hon. Kenneth, Member, Labor Party, United Kingdom, informal meeting with members of full committee, August 26, 1980.

Marri, Germano, President of the region of Umbria, informal meeting with members of SubEME, May 15, 1980.

Mattick, Hon. Kurt, Social Democratic Party, Germany, informal meeting with members of full committee, August 26, 1980.

Medunov, Sergey, Full Central Committee Member of the Supreme Soviet and First Party Secretary of the Krasnador Region, informal meeting with members of SubEME, November 14, 1979.

Mertes, Hon. Alois, Member of the West German Bundestag, Christian Democratic Union, informal with members of SubEME, February 13, 1980.

Miklos, Hon. Imre, Secretary of State of the Church Office of Hungary, informal meeting with members of full committee, May 1, 1980.

Milhelm, Hon. Mohammed, Mayor of Halhul on the West Bank, informal meeting with members of SubEME, May 1, 1979; June 5, 1980.

Mobutu, His Excellency, Sese Seko, President of the Republic of Zaire, informal meeting with members of full committee, September 12, 1979.

Moisescu, His Beatitude Justin, Archbishop of Bucharest, Bishop of Ungro-Vlachia and the Patriarch of Romania, informal meeting with Chairman Zablocki and members of SubEME, May 9, 1979.

Mondino, Hon. Giorgio, member of the Chamber of Deputies, Socialist Party, informal meeting with members of SubEME, May 15, 1980.

Mosar, Hon. Nicholas, Member, Christian Social Party, Luxembourg, informal meeting with members of full committee, August 26, 1980.

Mubarak, His Excellency Muhammad Husni, Major General and Vice President of Egypt, informal meeting with members of SubEME, June 13, 1979; informal meeting with members of full committee, September 12, 1979; December 3, 1980.

Mugabe, His Excellency Robert, Prime Minister of the Republic of Zimbabwe, informal meeting with members of full committee, August 27, 1980.

Munro, Hon. Donald W., Member of Parliament, Canada, testimony before SubsIEPT/IAA/IOrg, September 27, 1979.

Nimieri, His Excellency Gaafar, President of the Sudan, informal meeting with members of SubIOrg, July 2, 1980.

Nordli, His Excellency Odvar, Prime Minister of Norway, informal meeting with members of full committee, June 12, 1979.

Nunes, Hon. Amaral, Member of Socialist Party of Portugal, informal meeting with members of full committee, August 26, 1980.

Nunez, Rene, Member, Secretariat of the Directorate of the Sandinista National Liberation Front, informal meeting with members of SubsIOp/EME/IAA, December 6, 1979.

Ohira, His Excellency Masayoshi, Prime Minister of Japan, informal meeting with members of full committee, May 3, 1979; May 1, 1980.

O'Kennedy, His Excellency Michael, Foreign Minister of Ireland, informal meeting with members of full committee, November 8, 1979.

Okita, His Excellency Saburo, Foreign Minister of Japan, informal meeting with members of full committee, March 21, 1980.

Okuk, His Excellency Iambakey, Deputy Prime Minister of Papua, New Guinea, informal meeting with members of full committee, October 1, 1980.

Okyar, Dr. Osman, Turkish Economist, informal meeting with members of SubEME, March 19, 1980.

Ozal, Dr. Turgut, Under Secretary of the Prime Ministry of Turkey and Acting Under Secretary of the State Planning Organization, informal meeting with SubEME, May 13, 1980.

Paktiawal, Akhtar Mohadded, Former Afghanistan Government Official who defected at Belgrade UNESCO Conference, informal meeting with members of SubEME, November 25, 1980.

Parfitt, Hon. H. R., Governor of the Canal Zone, testimony before full committee, April 4, 1979.

Perez-Vives, Dr. Alvaro, Secretary General of the Colombian Presidency, informal meeting with members of SubIAA, March 6, 1979.

Ploeg, Hon. Addriaan, Member, Liberal Party, The Netherlands, informal meeting with members of full committee, August 26, 1980.

Poveda, Jorge, Vice Minister of the Presidency and Leader of the Christian Democratic Party, Costa Rica, informal meeting with members of SubIAA, May 21, 1980.

Premadasa, His Excellency R., Prime Minister of Sri Lanka, informal meeting with members of full committee, October 2, 1980.

Prussen, Hon. Robert, Democratic Party, Luxembourg, informal meeting with members of full committee, August 26, 1980.

Rashid, Dr. Farid, Former Afghanistan Government Official, Ministry of Foreign Affairs, informal meeting with members of SubEME, November 25, 1980.

Rasool, Amanullah, Former Member of the Afghanistan Ministry of Commerce, informal meeting with members of SubEME, November 25, 1980.

Rey-Prendes, Hon. Julio Aldofo, Mayor of San Salvador, informal meeting with members of SubIAA, March 25, 1980.

Royo, His Excellency Aristides, President of the Republic of Panama, informal meeting with members of full committee, May 10, 1979.

Rydbeck, Hon. Olaf, Commissioner-General of the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA), informal meeting with members of full committee, December 10, 1979; December 8, 1980.

Sadat, Anwar. (See Al-Sadat, His Excellency Mohamed Anwar.)

Savetsila, His Excellency Siddhi, Foreign Minister of Thailand, informal meeting with members of full committee, June 3, 1980.

Schroeder, Hon. Gerhard, Chairman, Foreign Relations Committee, German Bundestag, informal meeting with members of full committee, October 2, 1979.

Seminario, Fernando Aspiazu, Minister of Finance, Ecuador, informal meeting with members of full committee, March 11, 1980.

Shahi, His Excellency Agha, Foreign Adviser to the President of Pakistan, informal meeting with members of SubAPA, October 18, 1979.

Shamir, Hon. Yitzhak, Minister of Foreign Affairs of Israel, informal meeting with members of full committee, September 18, 1980.

Sharaf, His Excellency Sharif Abdul Hamid, Chief of the Royal Court of Jordan, informal meeting with members of SubEME, May 8, 1979.

Sonoda, His Excellency Sunao, Minister for Foreign Affairs of Japan, informal meeting with members of full committee, Janu- 9, 1979.

Stambolic, His Excellency Ivan, President of the Government of Serbia, informal meeting with members of full committee, January 25, 1979.

Stanfield, Robert, Special Representative of the Prime Minister of Canada for Middle East Affairs, informal meeting with members of SubEME, November 14, 1979.

Stathopoulos, Hon. John, Member, New Democratic Party, Greece, informal meeting with members of full committee, August 26, 1980.

Stobbe, Hon. Dietrich, Mayor of West Berlin, informal meeting with members of SubEME, June 3, 1980.

Strauss, Franz Josef, Minister-President of Bavaria and CSU/CDU candidate for chancellor of the Federal Republic, informal meeting with members of full committee, March 13, 1980.

Talboys, Rt. Hon. Brian E., Deputy Prime Minister, Minister of Foreign Affairs, and Minister of Overseas Trade of New Zealand, informal meeting with members of full committee, February 28, 1980.

Tanghe, Hon. Francis, Member, Christian Social Party, Belgium, informal meeting with members of full committee, August 26, 1980.

Teng, His Excellency Hsiao-p'ing, (Deng Xiaoping) Vice Premier of the People's Republic of China, informal meeting with members of full committee, January 30, 1979.

Thatcher, Right Hon. Margaret, Prime Minister and First Lord of the Treasury of Great Britain, informal meeting with members of full committee and Senate Foreign Relations and Leadership, December 17, 1979.

Thyness, Paul, Member of Norwegian Parliament, President of the North Atlantic Assembly, testimony before SubsISSA/EME, September 12, 1979.

Tirado, Victor, Member, Directorate of the Sandinista National Liberation Front, informal meeting with members of SubsIOp/EME/IAA, December 6, 1979.

Tolbert, His Excellency William R., President of Liberia, informal meeting with members of full committee, October 2, 1979.

Veil, Madame Simone, President, French Parliament, informal meeting with members of full committee, January 29, 1980.

Waldheim, Kurt, Secretary General, United Nations, informal meeting with members of the full committee, July 30, 1979; March 20, 1980.

Wall, Patrick, Member of British Parliament, Chairman of the North Atlantic Assembly, testimony before SubsISSA/EME, September 12, 1979; informal meeting with members of full committee, August 26, 1980.

Weizman, Hon. Ezer, Defense Minister of Israel, informal meeting with members of full committee, September 17, 1979.

Wenjin, His Excellency Zhang, Vice Foreign Minister of Foreign Affairs, People's Republic of China, informal meeting with members of SubAPA, March 18, 1980.

Wheelock, Jaime, Member, Directorate of the Sandinista National Liberation Front and Minister of Agrarian Reform, informal meeting with members of SubsIOp/EME/IAA, December 6, 1979.

Wilhelmsson, Hon. Eva Gredal, Chairman, European Parliament, informal meeting with members of full committee, January 29, 1980.

Wilson, Hon. Ian, Member of the Australian Liberal Party, informal meeting with members of full committee, July 22, 1980.

Wojtaszek, His Excellency, Emil, Minister of Foreign Affairs of Poland, informal meeting with SubEME, July 11, 1979.

Zilliacus, Hon. Jutta, Deputy Chairman of the Foreign Affairs Committee, Finnish Parliament, informal meeting with members of full committee, October 1, 1979; September 30, 1980.

Zippori, Mordechai, Deputy Minister of Defense, Israel, informal meeting with members of SubEME, July 20, 1979.●

RECESS

The SPEAKER. The Chair declares a recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 46 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2340

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 o'clock and 46 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3637. An act to carry out the obligations of the United States under the International Coffee Agreement 1976, signed at New York on February 27, 1976, and entered into force for the United States on October 1, 1976, and for other purposes;

H.R. 5737. An act to amend the International Claims Settlement Act of 1949 to allow recovery by U.S. nationals for losses incurred in Vietnam; and

H.R. 7709. An act to amend the Tariff Schedules of the United States to increase the quantity of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning U.S. residents.

The message also announced that the Senate agrees to the amendment of the House to the Senate amendment with an amendment to a bill of the Senate of the following title:

H.R. 4131. An act to change the name of the China Bluff Access Area being constructed by the Army Corps of Engineers as part of the Tennessee-Tombigbee Waterway near Warsaw in Sumter County, Ala., to the "S. W. Taylor Memorial Park."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill and joint resolution of the House of the following titles:

H.R. 6257. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes; and

H.J. Res. 644. Joint Resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

The message also announced that the Senate further insists on its amendment to the House amendment to Senate amendment No. 7 to the joint resolution (H.J. Res. 637) entitled "Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3027) entitled "An act to extend authorization for the Disaster Relief Act, and for other purposes."

The message also announced that Mr. STENNIS, Mr. BAYH, Mr. HATFIELD, and Mr. BELLMON be additional conferees on the joint resolution (H.J. Res. 637) entitled "Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes."

The message also announced that the Vice President appointed Hugh B. Mitchell of the State of Washington and Edward W. Brooke of the State of Massachusetts to the Commission on Wartime Relocation and Internment of Civilian Act.

The message also announced that the Vice President appointed Senator PELL and David M. Irwin of the State of Washington to the National Commission on Student Financial Assistance.

REQUEST TO CONCUR IN SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 644, FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 644) making further continuing appropriations for fiscal year 1981, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Strike out all after the resolving clause and insert:

That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:

SEC. 101. (a) (1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriation Acts:

Legislative Branch Appropriation Act, 1981;

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981; and

Treasury, Postal Service, and General Government Appropriations Act, 1981.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1980, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1980, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the rate for Fiscal Year 1980 or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the rate permitted by the action of the House or the rate for fiscal year 1980, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980, except section 201 of title II of the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1980, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Notwithstanding section 10 of Public Law 91–672, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, such amounts as may be necessary for continuing projects or activities which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the rate for fiscal year 1980.

(c) Such amounts as may be necessary for continuing the following activities not otherwise provided for, which were conducted in fiscal year 1980, but at a rate for operations not in excess of the rate for fiscal year 1980: *Provided*, That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1980:

activities of the Council on Wage and Price Stability;

activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol;

activities of the National Health Service Corps under section 338(a) of the Public Health Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of health professions education and nurse training under titles VII and VIII of the Public Health Service Act including authority to guarantee new loans under the Health Education Assistance Loans (HEAL) program;

activities under the Community Mental Health Centers Act;

activities of the National Arthritis Advisory Board and the National Diabetes Advisory Board; and

activities under title IV, part A, subparts 2 and 3, and titles VII and VIII of the Comprehensive Employment and Training Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000.

(d) Such amounts as may be necessary to permit payments and assistance mandated by law for the following activities under the terms, conditions and limitations included in the applicable appropriation Act for 1980:

activities under title IV of the Federal Mine Health and Safety Act of 1977;

activities under the Social Security Act;

retirement pay and medical benefits for commissioned officers of the Public Health Service;

activities under title IV, part B, of the Higher Education Act; Notwithstanding paragraph 1393(a) of the Education Amendments of 1980, paragraph 446 of such amendments shall be effective on July 1, 1981;

notwithstanding any other provision of this joint resolution except section 102, activities of the Department of Labor, Employment and Training Administration for "Federal unemployment benefits and allowances" and "Advances to the unemployment trust fund and other funds"; and

activities of the Department of Labor, Employment Standards Administration for "Special benefits" and "Black Lung Disability Trust Fund".

(e) Such amounts as may be necessary for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to continue the breeder reactor demonstration project, or such project alternative as may be approved by Congress in authorizing legislation, at the current rate of operations notwithstanding the provisions of section 102 (a) and (b) of this joint resolution.

(f) Activities of the Department of Health and Human Services to process, maintain, return or resettle Cuban and Haitian entrants shall be funded at not to exceed an annual rate provided in the budget estimate.

(g) Notwithstanding any other provision of law, amounts appropriated to the State and Local Government Fiscal Assistant Trust Fund shall be available for payments to units of local government in accordance with the provisions and conditions set forth in the State and Local Fiscal Assistance Act of 1972, as amended and as further amended by H.R. 7112 as enacted by the Congress, for a one-year entitlement period beginning October 1, 1980, but at not to exceed an annual rate for operations of $4,566,700,000.

(h) Notwithstanding any other provision of this joint resolution: There is appropriated an additional amount of $46,700,000, to remain available until expended, for Department of Energy, Operating Expenses, Atomic Energy Defense Activities, and an additional amount of $65,300,000, to remain available until expended, for Department of Energy, Plant and Capital Equipment, Atomic Energy Defense Activities, such amounts to be merged with and subject to the same provisions as amounts previously provided for such Activities in Public Law 96–367, Energy and Water Development Appropriation Act, 1981; section 120(b) of the Water Resources Development Act of 1976 (90 Stat. 2924) is amended by striking out "for the fiscal years ending September 30, 1978, and September 30, 1979,"; and appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

(i) Notwithstanding section 101(a) of this joint resolution, not to exceed $1,850,000,000 shall be available for an annual rate for operations to continue the low-income energy assistance program under the State allocations provided for in H.R. 7998 as passed the House of Representatives August 27, 1980, and in House Report 96-1244, except that the sum of $50,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 percent of the amount it would have received under the State allocation formula for low-income energy assistance as provided in the regulations published on May 30, 1980, in volume 45, numbered 106, Federal Register, pages 36810-36838, such payments to be, to the maximum extent possible, the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation under such regulations; the energy assistance program shall be continued under the terms and conditions of such regulations and any nonformula amendments thereto, except that an eligible household shall also include any single person household at or below 125 per centum of poverty: *Provided*, That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $750, except this $750 limitation may be waived by the Secretary of Health and Human Services upon request of a State.

(j) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1981 (H.R. 7591), to the extent and in the manner provided for in such Act as enacted by the Congress.

(k) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such Act as enacted by the Congress.

(l) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981 (H.R. 7631), to the extent and in the manner provided for in such Act as enacted by the Congress.

(m) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of the Interior and Related Agencies Appropriation Act, 1981 (H.R. 7724) to the extent and in the manner provided for in such Act as enacted by the Congress.

(n) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), to the extent and in the manner provided for in such Act as enacted by the Congress, except section 606 of such Act.

(o) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Defense Appropriation Act, 1981 (H.R. 8105) to the extent and in the manner provided for in such Act as enacted by the Congress.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 15, 1980, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) June 5, 1981, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution shall be charged to the regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution may be used without applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 107. No provision in any appropriation Act for the fiscal year 1981 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 108. Notwithstanding any other provision of this joint resolution, the provisions of section 306 (a), (b), and (d) of H.R. 7593, entitled the "Legislative Branch Appropriation Act, 1981", as passed the House of Representatives July 21, 1980 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials), shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through September 30, 1981 by this or any other Act.

SEC. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape has within seventy-two hours been reported to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided, however*, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

House amendment to Senate amendment: In lieu of the matter inserted by said amendment, insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenue, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriation Acts:

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981; and

Treasury, Postal Service, and General Government Appropriation Act, 1981.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1980, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1980, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the rate permitted by the action of the House, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980, except section 201 of title II of the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1980, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Notwithstanding section 10 of Public Law 91-672, the amendments made by section 201 and 301 of Public Law 95-118, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, such amounts as are necessary to carry out the rates and terms agreed to in the Conference Report 96-1536 as reported and agreed to December 13, 1980 for section 101(b) of H.J. Res. 637".

(c) Such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 7593, entitled the "Legislative Branch Appropriation Act, 1981", as passed the House of Representatives, July 21, 1980, and the provisions of H.R. 7593 shall be effective as if enacted into law;

except that the provisions of section 309 of H.R. 7593 shall not apply to the General Accounting Office, and the last proviso under the heading "Government Printing Office, Office of Superintendent of Documents, Salaries and Expenses" in H.R. 7593 shall not apply, and the provisions of section 306 (a), (b), and (d) of H.R. 7593 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials) shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through June 5, 1981, by this or any other Act. Notwithstanding section 102(c) of this joint resolution, for mileage of Members, as authorized by law, $210,000.

(d) Such amounts as may be necessary for continuing the following activities not otherwise provided for, which were conducted in fiscal year 1980, but at a rate for operations not in excess of the rate for fiscal year 1980: *Provided*, That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1980:

activities of the Council on Wage and Price Stability;

activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol;

activities of the National Health Service Corps under section 338(a) of the Public Health Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of health professions education and nurse training under titles VII and VIII of the Public Health Service Act including authority to guarantee new loans under the Health Education Assistance Loans (HEAL) program;

activities under the Community Mental Health Centers Act;

activities of the National Arthritis Advisory Board and the National Diabetes Advisory Board; and

activities under title IV, part A, subparts 2 and 3, and titles VII and VIII of the Comprehensive Employment and Training Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000.

(e) Such amounts as may be necessary to permit payments and assistance mandated by law for the following activities under the terms, conditions and limitations included in the applicable appropriation Act of 1980:

activities under title IV of the Federal Mine Health and Safety Act of 1977;

activities under the Social Security Act;

retirement pay and medical benefits for commissioned officers of the Public Health Service;

activities under title IV, part B, of the Higher Education Act; Notwithstanding paragraph 1393(a) of the Education Amendments of 1980, paragraph 446 of such amendments shall be effective on July 1, 1981;

Notwithstanding any other provision of this joint resolution except section 102, activities of the Department of Labor, Employment and Training Administration for "Federal unemployment benefits and allowances" and "Advances to the unemployment trust fund and other funds"; and

Activities of the Department of Labor, Employment Standards Administration for "Special benefits" and "Black Lung Disability Trust Fund".

(f) Such amounts as may be necessary for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to continue the breeder reactor demonstration project, or such project alternative as may be approved by Congress in authorizing legislation, at the current rate of operations notwithstanding the provisions of section 102(a) and (b) of this joint resolution.

(g) Activities of the Department of Health and Human Services to process, maintain, return or resettle Cuban and Haitian entrants shall be funded at not to exceed an annual rate provided in the budget estimate.

(h) Notwithstanding any other provision of law, amounts appropriated to the State and Local Government Fiscal Assistance Trust Fund shall be available for payments to units of local government in accordance with the provisions and conditions set forth in the State and Local Fiscal Assistance Act of 1972, as amended and as further amended by H.R. 7112 as enacted by the Congress, for a one-year entitlement period beginning October 1, 1980, but at not to exceed an annual rate for operations of $4,566,700,000.

(i) Notwithstanding any other provision of this joint resolution: There is appropriated an additional amount of $46,700,000, to remain available until expended, for Department of Energy, Operating Expenses, Atomic Energy Defense Activities, and an additional amount of $65,300,000, to remain available until expended, for Department of Energy, Plant and Capital Equipment, Atomic Energy Defense Activities, such amounts to be merged with and subject to the same provisions as amounts previously provided for such Activities in Public Law 96-367, Energy and Water Development Appropriation Act, 1981; section 120(b) of the Water Resources Development Act of 1976 (90 Stat. 2924) is amended by striking out "for the fiscal years ending September 30, 1978, and September 30, 1979,"; and appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

(j) Notwithstanding section 101(a) of this joint resolution, not to exceed $1,850,000,000 shall be available for an annual rate for operations to continue the low-income energy assistance program under the State allocations provided for in H.R. 7998 as passed the House of Representatives August 27, 1980, and in House Report 96-1244, except that the sum of $50,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 per centum of the amount it would have received under the State allocation formula for low-income energy assistance as provided in the regulations published on May 30, 1980, in volume 45, numbered 106, Federal Register, pages 36810-36838, such payments to be, to the maximum extent possible, the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation under such regulations; the energy assistance program shall be continued under the terms and conditions of such regulations and any nonformula amendments thereto, except that an eligible household shall also include any single person household at or below 125 per centum of poverty: *Provided*, That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $750, except this $750 limitation may be waived by the Secretary of Health and Human Services upon request of a State.

(k) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in such Act as enacted by the Congress.

(l) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such Act as enacted by the Congress.

(m) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981 (H.R. 7631), to the extent and in the manner provided for in such Act as enacted by the Congress.

(n) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of the Interior and Related Agencies Appropriation Act, 1981 (H.R. 7724), to the extent and in the manner provided for in such Act as enacted by the Congress.

(o) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), to the extent and in the manner provided for in such Act as enacted by the Congress, except section 606 of such Act.

(p) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Defense Appropriation Act, 1981 (H.R. 8105) to the extent and in the manner provided for in such Act as enacted by the Congress.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 15, 1980, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) June 5, 1981, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

Sec. 106. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Sec. 107. No provision in any appropriation Act for the fiscal year 1981 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

Sec. 108. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

Sec. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape has been reported within seventy-two hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided, however*, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

Sec. 110. Funds contained in Public Law 95–205 for carrying out section 525 of the Education Amendments of 1976 shall remain available through September 30, 1982.

Sec. 111. Notwithstanding any other provision of this joint resolution, there is appropriated such amounts as are required for allowances and office staff for the former President pursuant to 3 U.S.C. 102 note: *Provided*, That the aggregate amount to be expended for the Allowance and Office Staff for Former Presidents account shall not exceed $823,000: *Provided further*, That such amounts as are necessary may be expended under Operating Expenses, National Archives and Records Service for the provision of a temporary repository and essential archival processing of Presidential materials.

Sec. 112. Notwithstanding any other provision of this joint resolution, there is appropriated for settlement of claims against the Coast Guard pursuant to section 646 of title 14, United States Code, $198,523.41 and for settlement of claims by the Seneca Nation of Indians pursuant to section 10 of the Act of August 31, 1964 (78 Stat. 738), $19.774.95.

Sec. 113. Notwithstanding the provisions of section 101(a) of this joint resolution, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,000, except station wagons, for which the maximum shall be $6,400: *Provided*, That these limits may be exceeded by not to exceed $1,700 for police-type vehicles, and by not to exceed $3,600 for special heavy duty vehicles: *Provided further*, That preference should be given for the purchase of American made vehicles.

Sec. 114. The Administrator of the Small Business Administration, pursuant to section 4(c)(5)(A) of the Small Business Act, as amended, is authorized to issue notes to the Secretary of the Treasury in an amount not to exceed $600,000,000 for the purpose of providing Disaster Loans in addition to the amount provided for such purpose in H.R. 7584 as adopted by the House of Representatives on November 21, 1980, and to transfer an amount not to exceed $10,000,000 to "Salaries and Expenses".

Sec. 115. Notwithstanding any other provision of this joint resolution, there is hereby appropriated an additional amount for capital outlay, Panama Canal Commission, of $10,210,000 for navigation projects to be derived from the Panama Canal Commission Fund and to remain available until expended: *Provided*, That all such funds be derived solely from tolls and other charges for services provided by the Panama Canal Commission.

Sec. 116. None of the funds appropriated by this joint resolution may be used to disqualify, pursuant to section 411(d)(1)(B) of the Internal Revenue Code of 1954, any plan which has vesting requirements or provides for nonforfeitable rights to benefits, equal to or more stringent than 4/40.

None of the funds appropriated by this joint resolution may be used to issue an unfavorable advance determination letter, pursuant to section 411(d)(1)(B) of the Internal Revenue Code of 1954, with respect to any plan which has vesting requirements or provides for nonforfeitable rights to benefits, equal to or more stringent than 4/40.

Sec. 117. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to adopt or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981.

Sec. 118. Notwithstanding any other provision of this joint resolution or Public Law 96–369: For temporary employment assistance under title VI of the Comprehensive Employment and Training Act, no more than $729,000,000 of new budget authority shall be available during fiscal year 1981; notwithstanding subpart (4) of part A of title IV of the Comprehensive Employment and Training Act, new budget authority for the youth employment and training program under subpart (3) of part A of title IV of that Act shall be at the annual rate of $746,000,000.

Sec. 119. None of these funds may be used for the purpose of publishing in the Federal Register, implementing or enforcing the proposed Conditions of Participation for Skilled Nursing Facilities (SNF's) or Intermediate Care Facilities (ICF's) which were first published as proposed in the Federal Register on July 14, 1980, prior to receipt of revised cost estimates by the Department and the final draft of a General Accounting Office evaluation of the impact of the proposed regulations, and in no case, prior to January 12, 1981.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Mr. Speaker, reserving the right to object to dispensing with the reading, do I understand that the version now at the desk includes section 109 dealing with restrictions on abortions and the spending by Health and Human Services as it passed the House last Saturday night?

Mr. WHITTEN. It contains the language that is in the existing law, as the gentleman knows. Personally, however, I support the Hyde amendment.

Mr. BAUMAN. The last continuing resolution contained exactly the same language, is that correct?

Mr. WHITTEN. It contains the language that we have in the existing law which includes rape and incest.

Mr. MICHEL. And to confirm, the gentleman answered his own question, that is correct.

Mr. BAUMAN. Including the States' rights privilege.

Mr. MICHEL. It is the one that was passed last Saturday night, the same language is incorporated.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi to dispense with the reading?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Mississippi?

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER. The gentleman reserves the right to object?

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER. Does the gentleman appreciate that if he objects, that that is all there is for today and we have to adjourn until tomorrow? Does he want to do that to his colleagues?

Mr. DANNEMEYER. Mr. Speaker, I object to the unanimous-consent request.

The SPEAKER. The Chair hears an objection.

Mr. de la Garza, the gentleman from Texas, had a matter to bring up.

Ms. OAKAR. Mr. Speaker, will the gentleman yield who objected? Will the gentleman yield?

The SPEAKER. The gentleman has objected.

CONSEQUENCES OF FAILING TO PASS A CONTINUING RESOLUTION TONIGHT

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I hope the gentleman who objected realizes that under the Antideficiency Act, which the chairman mentioned previously, it declares any agency whose funds expire without any new appropriations being passed on a continuing resolution shall not operate, and that when we did this to the FCC some months ago, just one agency, it cost the taxpayers just for a 24-hour duration $100,000.

I hope the gentleman who objected realizes that we are talking not about $100,000. If we do not pass the resolution tonight we are talking about millions and millions of dollars.

I hope that there might be a reconsideration in deference to the taxpayers that all of us want to protect.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, the gentleman from California (Mr. DANNEMEYER) informs me his concern is getting a rollcall vote on agreeing to the amendments proposed by the gentleman from Mississippi (Mr. WHITTEN). Would it be in order to ask unanimous consent that the yeas and nays be ordered on this; the amendments the gentleman from Mississippi offers at the appropriate time?

The SPEAKER. There is a manner in which the House can grant unanimous consent to consider the Senate amendment, and to then offer an amendment which would require a vote. There must be 217 Members voting.

The Chair has glanced around the Chamber and finds at the present a precarious number present on the floor. The Chair does not know whether the House can get a sufficient number or not. I would hope at the same time the gentleman appreciates, as he understands the law, that the Social Security Offices close in the morning. Any person who wanted social security could not go into an office. The courts in this country legally are supposed to close tomorrow if the Congress has not passed the bill.

If there is a negotiating team negotiating at the present time with regards to the hostages, that negotiating team has no funds to pay salaries to negotiate.

Those are the complications that are apparent at the present time. It is of a serious nature. The Chair would hope that the gentleman would reconsider his action, because this matter would have to go to the other body, at which time the other body, as the Chair understands, has recessed until 12:30 to see what action this House is going to take.

The Chair does not truly know what the action of the other body would be if this were to pass here.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Speaker, if the gentleman from California withdraws his objection to the unanimous-consent request, what would then be the procedure whereby a Member of the House could ask for an amendment on the proposal that the gentleman from Mississippi has talked about to the proposal which came from the other body?

The SPEAKER. There is no method by which an amendment could be offered without a change in the request by the gentleman from Mississippi. He is in charge of it. It is all one unanimous-consent request.

Mr. DANNEMEYER. Is the gentleman from Mississippi willing to yield to me for that purpose?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman.

Mr. WHITTEN. I regret to say that I feel that the only chance we have, and we cannot do that without the gentleman's agreement, would be to keep the resolution as we have it and go to conference if need be. We will be glad to discuss the gentleman's concerns before we have a conference and try to see if we can resolve them. But as you can imagine, when there are so many concerns, once we open the resolution, it will take the rest of the week to pass it. So I just think we will have to stick to our current resolution, if the gentleman will permit, with the understanding that we will counsel with the gentleman and see what we can do to satisfy his concerns. I will be glad to confer with him and see if there is some way that we can work it out.

But as you can see, inasmuch as I would like to include anything that is of vital interest to anybody, once we open it up we cannot hope to get through.

If the gentleman will withdraw his objection and let us have a chance to get to conference and see what we can agree on, the gentleman's concerns may be taken care of.

The SPEAKER. The gentleman from California, as I understand it, now continues to reserve the right to object?

Mr. DANNEMEYER. Mr. Speaker, I reserve the right to object.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman.

Mr. RHODES. It is my understanding from having talked to the distinguished gentleman from California that he desires to have a vote on the motion of the gentleman from Mississippi, and I would like to say to the gentleman that it is my understanding that, of course, if we have such a vote or it is asked and the rules of the House are abided by, and the requisite number of people rise, that there will be a vote. If the vote succeeds, then, of course, the matter is disposed of.

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If it does not succeed, then of course I think what the gentleman would like, which is an amendment, then could be brought about by the conferees going back into conference and coming up with a different solution. But, I say to the gentleman, I know of no way right now that he can shortcut to a vote on an amendment, which is what I think the gentleman desires now. It would be my hope that we could proceed with the unanimous consent request of the gentleman from Mississippi, proceed to a vote on the proposal, and see where the votes are.

Mr. STRATTON. Mr. Speaker, will the gentleman from California yield?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. STRATTON. The gentleman from California asked the Chair what would happen if he were to remove his reservation of objection. Let me say, speaking as the chairman of the New York delegation, if he removes his reservation I shall object because of the terrible treatment that was afforded to the State of New York in this measure.

The SPEAKER. Does the Chair understand that the gentleman from New York will stop the Government running because of a $3 million debt that is owed to the Olympic team?

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

Mr. STRATTON. I object, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. STRATTON. I object, Mr. Speaker.

The SPEAKER. The gentleman from New York (Mr. STRATTON) objects.

Objection is heard.

THOMAS J. McINTYRE FEDERAL BUILDING

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3212) to designate the "Thomas J. McIntyre Federal Building," and to consider the Senate bill in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. SEIBERLING. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Georgia what this amendment deals with.

Mr. LEVITAS. Mr. Speaker, if the gentleman will yield, there are three name changes involved in this legislation and in the amendments thereto. The main bill designates a Federal building in New Hampshire as the "Thomas J. McIntyre Federal Building."

The second amendment names a Veterans' Administration medical center in Topeka, Kans., as the "Colmery-O'Neil Veterans' Administration Medical Center."

The third designates a forest experimental station in New Hampshire as the

"Louis C. Wyman Forest Experiment Station."

Mr. **SEIBERLING.** That is all the bill deals with?

Mr. **LEVITAS.** So far as I am able to determine with the greatest diligence and scrutiny I am able to bring to it, that is all it does.

Mr. **SEIBERLING.** Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Georgia?

Mr. **ROUSSELOT.** Mr. Speaker, reserving the right to object, may I direct a question to my colleague from Georgia? This is the naming of buildings only, and involves no money?

Mr. **LEVITAS.** It involves, except for the printing of the maps and the legislation itself, there is no expenditure of funds involved. It names three facilities.

Mr. **ROUSSELOT.** And other than that there is no cost? How do we determine that this is the group that gets such attention? It does not matter to me.

Mr. **LEVITAS.** The two bills, two of these names, have previously been approved by committees of the House, have been voted on by the gentleman from California as well as the other Members of the House. We are simply caught between amendments that had been added by the Senate.

Mr. **ROUSSELOT.** I thank the gentleman, and I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 80 Daniel Street, Portsmouth, New Hampshire (commonly known as the Federal Building), shall hereafter be known, called, and designated as the "Thomas J. McIntyre Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Thomas J. McIntyre Federal Building.

SEC. (a) The Veterans' Administration Medical Center in Topeka, Kansas, is designated as the "Colmery-O'Neil Veterans' Administration Medical Center", in honor of the late Harry W. Colmery and Ralph T. O'Neil.

(b) Any reference to such center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed a reference to the Colmery-O'Neil Veterans' Administration Medical Center.

(c) The Committee on Rules and Administration shall place appropriate markers or inscriptions at suitable locations within the clinical center referred to in the first section of this resolution to commemorate and designate such building as provided in this resolution. Expenses incurred under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. **LEVITAS.** Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS:

SEC. (a) The facility known as the Northeastern Forest Experiment Station in Durham, New Hampshire, shall hereafter be known, called, and designated as the "Louis C. Wyman Forest Experiment Station". Any reference in any law, map, regulation, document, record, or other paper of the United States to such experiment station shall be deemed to be a reference to the "Louis C. Wyman Forest Experiment Station".

(b) This section shall become effective January 3, 1981.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOUSE JOINT RESOLUTION 644, FURTHER CONTINUING APPROPRIATIONS, 1981

Mr. **WHITTEN.** Mr. Speaker, I move to suspend the rules and take from the Speaker's table the joint resolution (H.J. Res. 644) making further continuing appropriations for fiscal year 1981, and for other purposes, with the Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the amendment to the Senate amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:

SEC. 101. (a) (1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriation Acts:

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981; and

Treasury, Postal Service, and General Government Appropriation Act, 1981.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1980, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1980, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the rate permitted by the action of the House, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980, except section 201 of title II of the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1980, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Notwithstanding section 10 of Public Law 91–672, the amendments made by section 201 and 301 of Public Law 95–118, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, such amounts as are necessary to carry out the rates and terms agreed to in the Conference Report 96–1536 as reported and agreed to December 13, 1980 for section 101(b) of H.J. Res. 637."

(c) Such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 7593, entitled the "Legislative Branch Appropriation Act, 1981", as passed the House of Representatives, July 21, 1980, and the provisions of H.R. 7593 shall be effective as if enacted into law; except that the provisions of section 309 of H.R. 7593 shall not apply to the General Accounting Office, and the last proviso under the heading "Government Printing Office, Office of Superintendent of Documents, Salaries and Expenses" in H.R. 7593 shall not apply, and the provisions of section 306 (a), (b), and (d) of H.R. 7593 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials) shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through June 5, 1981, by this or any other Act. Notwithstanding section 102(c) of this joint resolution, for mileage of Members, as authorized by law, $210,000.

(d) Such amounts as may be necessary for continuing the following activities not otherwise provided for, which were conducted in fiscal year 1980, but at a rate for operations not in excess of the rate for fiscal year 1980: *Provided,* That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1980:

activities of the Council on Wage and Price Stability;

activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol;

activities of the National Health Service Corps under section 338(a) of the Public Health Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of health professions education and nurse training under titles VII and VIII of the Public Health Service Act including authority to guarantee new loans under the Health Education Assistance Loans (HEAL) program;

activities under the Community Mental Health Centers Act;

activities of the National Arthritis Advisory Board and the National Diabetes Advisory Board; and

activities under title IV, part A, subparts 2 and 3, and titles VII and VIII of the Comprehensive Employment and Training Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000.

(e) Such amounts as may be necessary to permit payments and assistance mandated by law for the following activities under the terms, conditions and limitations included in the applicable appropriation Act for 1980:

activities under title IV of the Federal Mine Health and Safety Act of 1977;

activities under the Social Security Act;

retirement pay and medical benefits for commissioned officers of the Public Health Service;

activities under title IV, part B, of the Higher Education Act; notwithstanding paragraph 1393(a) of the Education Amendments of 1980, paragraph 446 of such amendments shall be effective on July 1, 1981;

notwithstanding any other provision of this joint resolution except section 102, activities of the Department of Labor, Employment and Training Administration for "Federal unemployment benefits and allowances" and "Advances to the unemployment trust fund and other funds"; and

activities of the Department of Labor, Employment Standards Administration for "Special benefits" and "Black Lung Disability Trust Fund".

(f) Such amounts as may be necessary for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to continue the breeder reactor demonstration project, or such project alternative as may be approved by Congress in authorizing legislation, at the current rate of operations notwithstanding the provisions of section 102 (a) and (b) of this joint resolution.

(g) Activities of the Department of Health and Human Services to process, maintain, return or resettle Cuban and Haitian entrants shall be funded at not to exceed an annual rate provided in the budget estimate.

(h) Notwithstanding any other provision of law, amounts appropriated to the State and Local Government Fiscal Assistance Trust Fund shall be available for payments to units of local government in accordance with the provisions and conditions set forth in the State and Local Fiscal Assistance Act of 1972, as amended and as further amended by H.R. 7112 as enacted by the Congress, for a one-year entitlement period beginning October 1, 1980, but at not to exceed an annual rate for operations of $4,566,700,000.

(i) Notwithstanding any other provision of this joint resolution: There is appropriated an additional amount of $46,700,000, to remain available until expended, for Department of Energy, Operating Expenses, Atomic Energy Defense Activities, and an additional amount of $65,300,000, to remain available until expended, for Department of Energy, Plant and Capital Equipment, Atomic Energy Defense Activities, such amounts to be merged with and subject to the same provisions as amounts previously provided for such Activities in Public Law 96-367, Energy and Water Development Appropriation Act, 1981; section 120(b) of the Water Resources Development Act of 1976 (90 Stat. 2924) is amended by striking out "for the fiscal years ending September 30, 1978, and September 30, 1979."; and appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commisison in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

(j) Notwithstanding section 101(a) of this joint resolution, not to exceed $1,850,000,000 shall be available for an annual rate for operations to continue the low-income energy assistance program under the State allocations provided for in H.R. 7998 as passed the House of Representatives August 27, 1980, and in House Report 96-1244, except that the sum $50,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 per centum of the amount it would have received under the State allocation formula for low-income energy assistance as provided in the regulations published on May 30, 1980, in volume 45, numbered 106, Federal Register, pages 36810-36838, such payment to be, to the maximum extent possible, the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation under such regulations; the energy assistance program shall be continued under the terms and conditions of such regulations and any nonformula amendments thereto, except that an eligible household shall also include any single person household at or below 125 per centum of poverty: *Provided*, That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $750, except this $750 limitation may be waived by the Secretary of Health and Human Services upon request of a State.

(k) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in such Act as enacted by the Congress.

(l) Notwithstanding section 102(c) of this resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such Act as enacted by the Congress.

(m) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981 (H.R. 7631), to the extent and in the manner provided for in such Act as enacted by the Congress.

(n) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of the Interior and Related Agencies Appropriation Act, 1981 (H.R. 7724) to the extent and in the manner provided for in such Act as enacted by the Congress.

(o) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), to the extent and in the manner provided for in such Act as enacted by the Congress, except section 606 of such Act.

(p) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Defense Appropriation Act, 1981 (H.R. 8105) to the extent and in the manner provided for in such Act as enacted by the Congress.

Sec. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 15, 1980, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision of such project or activity, or (c) June 5, 1981, whichever first occurs.

Sec. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Sec. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds and authority for such projects or activity are available under this joint resolution.

Sec. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

Sec. 106. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby lation shall be effective before the date set ance with the provisions of this joint resolution.

Sec. 107. No provision in any appropriation Act for the fiscal year 1981 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

Sec. 108. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

Sec. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape has been reported within seventy-two hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: Provided, however, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

SEC. 110. Funds contained in Public Law 95-205 for carrying out section 525 of the Education Amendments of 1976 shall remain available through September 30, 1982.

SEC. 111. Notwithstanding any other provision of this joint resolution, there is appropriated such amounts as are required for allowances and office staff for the former President pursuant to 3 U.S..C 102 note: *Provided*, That the aggregate amount to be expended for the Allowances and Office Staff for Former Presidents account shall not exceed $823,000: *Provided further*, That such amounts as are necessary may be expended under Operating Expenses, National Archives and Records Service for the provision of a temporary repository and essential archival processing of Presidential materials.

SEC. 112. Notwithstanding any other provision of this joint resolution, there is appropriated for settlement of claims against the Coast Guard pursuant to section 646 of title 14, United States Code, $198,523.41 and for settlement of claims by the Seneca Nation of Indians pursuant to section 10 of the Act of August 31, 1964 (78 Stat. 738), $19,774.95.

SEC. 113. Notwithstanding the provisions of section 101(a) of this joint resolution, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,000, except station wagons, for which the maximum shall be $6,400: *Provided*, That these limits may be exceeded by not to exceed $1,700 for police-type vehicles, and by not to exceed $3.600 for special heavy duty vehicles: *Provided further*, That preference should be given for the purchase of American made vehicles.

SEC. 114. The Administrator of the Small Business Administration, pursuant to section 4(c)(5)(A) of the Small Business Act, as amended, is authorized to issue notes to the Secretary of the Treasury in an amount not to exceed $600,000,000 for the purpose of providing Disaster Loans in addition to the amount provided for such purpose in H.R. 7584 as adopted by the House of Representatives on November 21, 1980, and to transfer an amount not to exceed $10,000,000 to "Salaries and Expenses".

SEC. 115. Notwithstanding any provision of this joint resolution, there is hereby appropriated an additional amount for capital outlay, Panama Canal Commission, of $10,210,000 for navigation projects to be derived from the Panama Canal Commission Fund and to remain available until expended: *Provided*, That all such funds be derived solely from tolls and other charges for services provided by the Panama Canal Commission.

SEC. 116. None of the funds appropriated by this joint resolution may be used to disqualify, pursuant to section 411(d)(1)(B) of the Internal Revenue Code of 1954, any plan which has vesting requirements or provides for nonforfeitable rights to benefits, equal to or more stringent than 4/40.

None of the funds appropriated by this joint resolution may be used to issue an unfavorable advance determination letter, pursuant to section 411(d)(1)(B) of the Internal Revenue Code of 1954, with respect to any plan which has vesting requirements or provides for nonforfeitable rights to benefits, equal to or more stringent than 4/40.

SEC. 117. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to adopt or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981.

SEC. 118. Notwithstanding any other provision of this joint resolution or Public Law 96-369: For temporary employment assistance under title VI of the Comprehensive Employment and Training Act, no more than $729,000,000 of new budget authority shall be available during fiscal year 1981; notwithstanding subpart (4) of part A of title IV of the Comprehensive Employment and Training Act, new budget authority for the youth employment and training program under subpart (3) of part A of title IV of that Act shall be at the annual rate of $746,000,000.

SEC. 119. None of these funds may be used for the purpose of publishing in the Federal Register, implementing or enforcing the proposed Conditions of Participation for Skilled Nursing Facilities (SNF's) or Intermediate Care Facilities (ICF's) which were first published as proposed in the Federal Register on July 14, 1980, prior to receipt of revised cost estimates by the Department and the final draft of a General Accounting Office evaluation of the impact of the proposed regulations, and in no case, prior to January 12, 1981.

The SPEAKER. Is a second demanded?

Mr. MICHEL. Mr. Speaker, I demand a second.

The SPEAKER. The gentleman from Illinois demands a second.

Mr. STRATTON. Mr. Speaker, a point of order. Does the gentleman object to the resolution?

The SPEAKER. There is no objection. This is for suspension of the rules.

Mr. STRATTON. Well, he fails to qualify for a second. I demand a second.

Mr. MICHEL. I recognize the gentleman's prerogative, Mr. Speaker. I am not opposed to the joint resolution.

The SPEAKER. The gentleman from New York has the second, since he qualifies as being opposed to the motion.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 20 minutes, and the gentleman from New York (Mr. STRATTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I mentioned briefly a while ago what we are up against. Beginning now, under the ruling of the Attorney General, many agencies and departments of the Government will be unable to open tomorrow. Although there are some bills that have been passed by both Houses others have not yet been completed. They, therefore, have to look to this continuing resolution. Let me mention some other matters of concern which should be discussed. The conference report on House Joint Resolution 673 agreed to by the House and Senate made reference to certain funds for development.

The fiscal year 1980 Supplemental Appropriation Act as well as the fiscal year 1981 Energy and Water Development Appropriation Act provides funds to enable the Corps of Engineers to clean out the channel below Sardis Lake, Miss. The committee took this action in response to statements made in the hearings which indicated that rock and gravel are clogging the channel below Sardis Lake and retarding the flow of water during the nonfarming season and causing major flooding of an emergency nature. To date, this much needed work has not been accomplished.

I would like to reemphasize the remarks contained in the reports accompanying the fiscal year 1980 supplemental appropriation bill and the fiscal year 1981 energy and water development appropriation bill which direct the corps to clean out the channel beginning below Sardis Lake in order to increase the flow capability to get water out of the reservoir in the nonfarming period of the year.

The material to be disposed of from this project is not to be deposited on adjacent farmland, rather the corps is to use slashes, sloughs, potholes, and other poor farmland in the general area.

The Appalachian Regional Commission is directed to accelerate the construction of a new two-lane Highway 72 in Mississippi as presently planned which parallels the existing highway. In Public Law 95-482, Congress provided $6 million to the Appalachian Regional Commission for the Goodman Road project in Marshall and Benton Counties, Miss. The Appalachian Regional Commission should proceed with the work on Goodman Road in such manner that a reasonable percentage of the road can be completed in each year that the local share is made available.

I understand, under agreements reached earlier, that this suspension is in order at this time. Of course, after we get through with the debate there will be a vote on the resolution. But, I hope Members will support those speaking on behalf of the committee. Now, I repeat again, this is an unwelcome job we have had this year, having to run the Government by continuing resolutions. We have been forced into the situation.

☐ 0020

Under the suspension procedure, there will be an opportunity for our colleagues and our friends who are disappointed to vote on this measure.

May I say that we have no feeling against any of these amendments. We did have strong objections to the sum total of all the things that were added on the other side, and there were other issues that entered the picture.

So, Mr. Speaker, let us not take the responsibility on the House side of being the ones who tear apart the Government, which is what we will do if we do not get together and pass this joint resolution and send it back to the Senate. In addition, I might say that there is every intention that the Postal Service continue 6-day delivery of mail as at present, including Saturday delivery of mail in business and residential areas and on rural delivery routes.

So without further ado, let me say that I hope the Members will vote to suspend the rules and pass this joint resolution.

Mr. STRATTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, of course, like other Members of the House, have heard these tales of woe and disaster as to what will happen if a particular bill is not approved by a particular date. It has always developed that somehow we are able to survive. It is always found that somehow the social security offices can open and the children can get their milk and the mothers can be accommodated.

So I do not think that this is really the issue that is presented here tonight.

Mr. Speaker, what disturbs me is that in the process of getting this particular bill out, we seem to have had not a concert of conferees who were discussing what kind of a program was going to be adopted or what kind of a program was going to be recommended to the various Houses, but, as I understand from my friend, the gentleman from New York (Mr. McEwen), there was only a limited group that was advised of the amendments that were going to be put into this barebones document and what amendments were going to be kept out. The gentleman in whose district the winter Olympics of 1980 were held was not included in that discussion.

Now if there was one bright spot in 1980, it was the winter Olympics victory of the U.S. hockey team over the Soviet hockey team. The other bright spots this year have been very few and far between.

What happened after the conclusion of the Olympics was that, as has happened in other Olympics, there was a slight overrun, just as we have had a slight overrun in the Kennedy Center and in a number of other productions, and the Lake Placid Olympic Organizing Committee found that it needed at least $6 million to prevent it from going bankrupt.

Here we have an Olympics sponsored by the United States of America—something that turned the only favorable bit of publicity on the United States in the year 1980. When the hostages were being held in Iran and when the Soviet forces were not being moved out of Afghanistan regardless of what we did, the one bright spot, the winter Olympics in Lake Placid, N.Y., stood on the verge of bankruptcy. And what would that have done to the image of the United States of America?

Mr. Speaker, I realize that it is not appropriate to ask for order, but I would think that the Members who are being held here might like to at least know the story.

If the Olympics go bankrupt, that is not only going to be damaging to the United States in 1980, but it is also going to be damaging to the United States in 1984. My friends from California are already planning for their summer Olympics in Los Angeles, and I dare say that Los Angeles is going to find that money will be as hard to come by as it was in Lake Placid, and that there may well be overruns, just as there were in Lake Placid. There were overruns in Innsbruck, and there were overruns in Sapporo. As a matter of fact, the winter Olympics at Lake Placid were the cheapest winter Olympics that have been mounted at any time in our recent history of winter Olympic competition.

Now, what has been done in an effort to try to prevent this disaster from happening, a disaster which would besmirch the reputation of the United States? The State of New York offered to put up $2.7 million as its contribution to the $6 million that was required to prevent bankruptcy. At the same time, the Economic Development Administration discovered that it had some $600,000 of unexpended funds that were left in the appropriation, the allocation to Lake Placid. That meant that if the United States of America was willing to match the share of the State of New York, we would come up with $6 million to prevent this bankruptcy from occurring.

That amendment was offered in the Senate of the United States by the distinguished junior Senator from New York, soon to be the senior Senator, Senator Moynihan.

Now, what we have just heard in the discussion that took place before I objected was that of the 140 Senate amendments, there were 2 that were taken. One of them was taken for Arizona, and I do not know how much of that $1 million that the gentleman referred to was involved or was added to the bill.

Mr. MICHEL. Mr. Speaker, will the gentleman yield? I asked him to yield because he is in error.

Mr. STRATTON. I yield briefly to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, as a matter of fact, the gentleman just said that we agreed to the amendment that the gentleman from Arizona was interested in. As a matter of fact, that amendment was not included in the measure.

Mr. STRATTON. Well, there were two amendments that were adopted.

Mr. MICHEL. And they were cutting amendments that would save the taxpayers hundreds of millions of dollars. That is why they are in there.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield on that point?

Mr. STRATTON. I am very glad to yield to my colleague, the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Ordinarily my friend and many other Members would never support what would be portrayed as a bailout on anything like this, but let me explain this. I would like to remind all of the Members if they will recall, that when the hostages were taken and when the Russians went into Afghanistan, almost every Member to a body—and, if I recall, this entire body—voted unanimously to boycott the Russian Olympics, the International Olympics in Russia.

Mr. Speaker, let me tell the Members something. I have worked on raising money for the U.S. Olympic Committee and the Olympic organizing committee, and the American people misunderstood the situation when the International Olympic Committee would not abide by that boycott, even though the U.S. Olympic Committee and the organizing committee did. The American people thought it was our own U.S. Olympic Committee, and, consequently, millions of Americans stopped donating to the U.S. Olympic fund, with which they could have paid off this debt.

Mr. Speaker, I say to the Members that we are at fault, and therefore, we ought to support the gentleman from New York (Mr. Stratton) in his effort because we helped to cause the problem that is there.

Mr. STRATTON. Mr. Speaker, the gentleman is absolutely correct. The action of the U.S. Government was responsible for reducing the sales of tickets to the winter Olympics and was responsible for creating this deficit.

As a matter of fact, the Governor of the State of New York, our former colleague and a member of the Ways and Means Committee, has even spoken openly of suing the United States because of its action in this regard.

But let me address myself to the distinguished gentleman from Illinois (Mr. Michel), who is interested in saving money. If the gentleman is familiar with the amendment offered by my good friend and colleague, Senator Moynihan, he knows that there is not an additional penny or any additional money put in that bill by the Moynihan amendment. All it does is to do exactly the same thing that the gentleman from Massachusetts (Mr. Conte), who, along with my colleague, the gentleman from New York (Mr. Addabbo), is now visiting in Italy, did with regard to the Italian earthquake fund.

It said that of the $739 million to be available for international disaster assistance not more than $50 million was to be available for Italian earthquake relief, and the amendment offered by the gentleman from New York, Mr. Moynihan, simply said that of the money in this bill already in the continuing appropriations for EDA not more than $2.7 million should be available for the Lake Placid Organizing Committee to prevent this kind of a bankruptcy that would damage the reputation of the United States.

☐ 0030

Why was not the gentleman from New York allowed to point that out to those who were making up this little combination so that an amendment that cost the taxpayers nothing was not included in this package which was designed to come in with a bare bones. You cannot get much barer than one zero.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I will be glad to yield to the gentleman.

Mr. MICHEL. As we began this discussion this evening on how to put together a package it was simply to take what was in the original House-passed bill. I have not asked the gentleman where he was at the time we passed the original continuing resolution.

Mr. STRATTON. I was right here and voted for it.

Mr. MICHEL. Obviously, it was not in the House-passed version originally but was added in the other body——

Mr. STRATTON. That is because the agreement had not been worked out with the State of New York. We worked it out and by that time the continuing resolution was in the other body. It was not only the State of New York, it is the State of Connecticut, the State of Rhode Island, the State of Vermont, and the State of Minnesota that have suppliers who have not been paid by the Lake Placid Olympic Organizing Committee and they have employees who have not been paid as a result of this default by the Olympic Organizing Committee of Lake Placid.

Mr. MICHEL. The gentleman from Illinois cannot argue against the gentleman on the merits of his proposal, here, other than to say when the package was put together, the Senate, the other body, sent it over here stripped of all House amendments, period. The gentleman will recall that when we, last Saturday night, sent over the second continuing resolution as a fallback position for the first one, we enacted our House-passed bill, stripping everything out of the Senate.

They exercised their prerogative and said, "Well, we can play that game, too." They sent it back to us and stripped out all the House amendments. Then it was up to us to respond in keeping with the motion of the gentleman from Mississippi, here, and we tried to make it just as clean as we possibly could by restating what the House had said once before, plus accepting a couple other amendments that would save us money.

Mr. STRATTON. What was stripped out when you stripped out the Senate amendments was an amendment that was actually a House amendment, one that was, in fact vitally supported by one of your own conferees.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield 1 minute to the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Granting, for the sake of argument, the validity of all of the gentleman's statements with respect to merits of the winter Olympics, in view of the crisis the Government is facing, would it not be entirely possible for the gentleman and his colleagues from New York to submit these arguments at the time of the first supplemental appropriation which will be passing through this body in a couple of months?

Mr. STRATTON. The fact of the matter is, those who have notes that might be coming due, there is a time beyond which you can continue to be in default and if this money is not available, the winter Olympics is going to go into bankruptcy. It is just as simple as that. I would be happy to wait until next Christmas if we could let it go, but it cannot go until that time.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield to me?

Mr. STRATTON. I will be glad to yield to the gentleman from Mississippi.

Mr. WHITTEN. May I say as chairman of this conference group, we had no intention of in any way doing an injustice to the gentleman from New York or our other friends from New York. We were faced with the necessity of trying to put together a proposition that would generally be agreeable to all Members.

I have checked and find that the $2,700,000 could possibly be transferred for this purpose. I will be glad to join with the gentleman to try to call on the Department of Commerce to ask for a reprograming or get such other action as might be required.

Mr. STRATTON. We have tried with the present administration for something like 4 or 5 months to try to get just some willingness to provide us with something on behalf of the United States of America and we have come up with a great big goose egg and the only recourse we had was to get something into the continuing resolution in the Senate at the last minute and the new administration is probably very unlikely to be concerned about what might happen in New York State.

We in New York, I think, have felt that we have not always been listened to, or paid too much attention to, and while I regret to keep my colleagues in session at this hour, I think this is the only way that we can make this case. If somebody can guarantee that we can get $2.7 million on a particular date, I would be glad to consider it.

Mr. WHITTEN. I certainly cannot guarantee that, but I will go as far as I can to try to help the gentleman. But to stop the wheels of Government at this hour would not serve the purpose the gentleman has in mind. I will be glad to cooperate where it might help but to stop the wheels of Government would not serve the purpose.

Mr. STRATTON. I just do not agree with that. This is what you bring in every time we come to one of these crises. The wheels are going to stop, but they do not stop.

I yield such time as he may consume to the gentleman from New York (Mr. MCEWEN).

Mr. MCEWEN. Mr. Speaker, I thank the dean of the New York delegation for yielding.

Mr. STRATTON. I might say, the gentleman has come from a sickbed and a recent operation to fight for his area and I commend him for his courage.

Mr. MCEWEN. First off, I want to thank my colleague for the leadership he has taken. I think not just for our State, but to avoid an embarrassment to the United States of America. In the eyes of the world when an Olympics is hosted, and I was there in all of those games, Essex County, New York State, they are names to us, but to the world it is the United States of America.

Let me tell you, they were glorious games. They were a high that we have not had since VJ Day. The gentleman from New York (Mr. STRATTON) has worked on this for months to try to bring about some sort of understanding on how this roughly 4-percent shortfall out of the $150 million cost of these games, about $6 million, could be handled. Games that were brought in for $150 million when Japan in their Olympics spent $700 million and Innsbruck, $400 million.

It was worked out. What is distressing, and I say this to my dear friend from Illinois, those of us who were conferees, including the gentleman now in the well, were not aware of these negotiations going on since our meeting earlier this afternoon with the Senate. I understood from what came out of that earlier meeting with the Senate, and the action they took on the floor, there were going to be two choices: Take the whole package that had been put together, including the amendments of our junior Senator, Mr. MOYNIHAN, and all the other amendments, House and Senate, or a bare bones.

Now, where did this one come from? Now, we do not seem to have completely bare bones. We do not have the other one. Somehow we have had something new constructed here.

What is distressing, I say to my dear friend from Illinois, is that a lot of work, a lot of labor that has gone into this, just this one item, now goes down the drain because somehow in this hurried environment a decision was made to just throw that out.

I will tell you what the papers around the world are going to say if it goes bankrupt. It is going to be, "Winter Olympics Bankrupt."

I say to the Californians—I support your 1984 summer games—it is not going to help you a bit if this happens.

Now, bankruptcy has been staved off for months. I do not know how the creditors have been held off, but they have.

I would say to you that if this is turned down, by this Congress, I do not see how they can fend off bankruptcy. I think you will see the creditors move in on this and there is not going to be any time to work out any alternative.

□ 0040

Again, I say that the gentleman from New York (Mr. STRATTON) carried the load on this for many weeks. I appreciate his effort.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Washington.

Mr. DICKS. I think it is important to point out to both my good friends from New York that this amendment was stripped out by the Senate, and when this slimmed down resolution came back the Senate had taken out the gentleman's amendment.

Mr. STRATTON. No. The Senate did not strip out its own amendments. We stripped out all of the Senate amendments in House Joint Resolution 644. And what we have been doing since 11 o'clock on Saturday night has been dealing with the Senate in an effort to try to find out how many of their amendments were let come back.

Mr. WHITTEN. Mr. Speaker, I can only say that I will be glad, as an individual and in my capacity, to try to resolve this problem, because I realize there is merit to it.

But may I say that we are faced with closing down the Government, and I do not think that that will help the Olympics or any of us here. I think it highly important we let this measure go on to the Senate so that the operation of much of the Government will not come to a halt.

I repeat again I will be glad to go to the Department of Commerce and urge the transfer of up to $2.7 million, which I understand is the amount needed. I will to glad to try to solve this problem. But to bring the Government to a halt will not help anybody.

The SPEAKER. The Chair would like to announce to the gentleman from New York that today and tomorrow are suspension days, and if the gentleman drafts a separate bill, the Chair might permit consideration of such a bill under suspension. Maybe the Senate would approve it, and the Speaker would be happy to talk with the committee and EDA on reprograming to see if they could help the gentleman from New York through funds in the pending bill.

The question is on the motion offered by the gentleman from Mississippi (Mr. Whitten) to suspend the rules and agree to the Senate amendment to House Joint Resolution 644 with an amendment.

The question was taken.

Mr. MURPHY of Pennsylvania. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

On a division (demanded by Mr. Frenzel) there were—ayes 177, noes 26.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count the House. Two hundred and eighty-one Members are present, a quorum.

So (two-thirds having voted in favor thereof) the rules were suspended, and the Senate amendment was concurred in with an amendment.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Would the Speaker indicate the total on the division which was previously announced.

The SPEAKER. Two hundred and three.

Mr. DANNEMEYER. Would the Speaker repeat the total on the count for the quorum?

The SPEAKER. According to the monitor who has been taking my tallies, it is 281. Not everyone voted on division.

Mr. DANNEMEYER. Thank you, Mr. Speaker.

REQUEST TO CONCUR IN SENATE AMENDMENT TO H.R. 6257, AUTHORIZING SECRETARY OF AGRICULTURE TO CONVEY CERTAIN NATIONAL FOREST SYSTEM LANDS

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6257) to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, lines 14 and 15, strike out "mineral patents" and insert "lands which have been transferred out of Federal Ownership under the mining laws".

Page 4, line 10, after "System" insert ", the National Wild and Scenic Rivers System, the National System of Trails, and any national recreation area".

Page 4, after line 10, insert:

Sec. 8. (a) The Secretary of Transportation shall promulgate regulations to determine the equitable rate or rates to be charged for the rental of Alaska Railroad lands.

(b) In promulgating regulations under this Act, the Secretary shall:

(1) provide that the appraisal value of the rental land shall be established at the fair market value of the property, except if such property has above or below-ground improvements constructed, paid for, or bought by the tenants of such property, in which case the fair market value of the property shall be the fair market value of the property established as if such improvements did not exist;

(2) provide that tenants may contract with independent qualified appraisers to appraise improvements made by such tenant if such tenant desires to challenge the appraisal of the Department of Transportation;

(3) provide that any rental rate increase resulting from appraisals conducted under the provisions of this Act shall not exceed 50 per centum per annum of the rate due under the freeze effectuated by Public Law 95-611; and

(4) notwithstanding any other provision of law, provide that credits may be established against rent for tenants who use the Alaska Railroad.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

☐ 0050

Mr. MADIGAN. Mr. Speaker, reserving the right to object, under my reservation I yield to the gentleman from Ohio and ask him if the Senate amendment refers to leases being made by the Alaska Railroad?

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. The gentleman is correct.

Mr. MADIGAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

THE RETIREMENT OF JOE WYATT

(Mr. KAZEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KAZEN. Mr. Speaker, as this session of the 96th Congress closes, we are saying "adios" to Congressman Joe Wyatt, who no longer will serve the 14th District of Texas. Joe is my neighbor. His district adjoins my own—the 23d—and it has been a pleasure as well as an honor to have served a great portion of south Texas with him.

Joe Wyatt, though a young man, has already made his mark in the Texas Legislature. Earlier, he had labored in Washington on the staffs of Vice President Lyndon B. Johnson and Representative Clark Thompson. The breadth of his experience, his knowledge of government and his dedication to public service have marked his career, and we shall all miss him now that he has voluntarily chosen to leave the House.

We, therefore, say "Godspeed" to Joe Wyatt as he now lays aside the responsibilities and burdens of public service, even as we anticipate that the time has not come for the end of his final retirement from public life.

PERSONAL EXPLANATION

Ms. OAKAR. Mr. Speaker, because of important business of my constituents I missed the rollcall at 12:02 a.m. However, when the House adjourns after 1 o'clock in the morning, I just want my constituents to know that I am here.

ONE HUNDRED AND ONE VETOES IS ONE HUNDRED TOO MANY

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, I hope that the new Congress will deal constructively with the grave legislative problems which have surfaced in the conference process.

We can operate our Government under the Constitution, writing laws subject to the veto of the President. However, we cannot long survive in a system where every Member of the other body has similar veto powers. One hundred and one vetoes is one hundred too many.

Our forefathers never intended that we should be governed by 101 Presidents.

IMPORTANT LEGISLATION FOR 97TH CONGRESS

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I have just heard the eloquent words of the gentleman from Ohio (Mr. Vanik). I concur with everything he has said, but I would wish to point out if he had the courage of his convictions he should have stayed with us for 2 more years before retiring.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Bereuter (at the request of Mr. Rhodes), for the date of December 15, 1980, on account of official business.

Mr. Chappell (at the request of Mr. Bennett), for today, on account of business in district.

Mr. Devine (at the request of Mr. Rhodes), for the dates of December 12, 13 and 15, on account of business of a personal nature.

Mr. Moakley (at the request of Mr. Wright), for today, on account of a death in the family.

Mr. Rudd (at the request of Mr. Rhodes), for today, on account of illness.

Mr. Stack (at the request of Mr. Wright), for this week, on account of a death in the family.

Mr. Stangeland (at the request of Mr. Rhodes), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Erdahl) to revise and extend his remarks and include extraneous material:)

Mr. Miller of Ohio, for 30 minutes, today.

(The following Members (at the request of Mr. Skelton) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 30 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Kastenmeier, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ZABLOCKI and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,473.75.

(The following Member (at the request of Mr. Erdahl) and to include extraneous matter:)

Mr. Lent.

(The following Members (at the request of Mr. Skelton) and to include extraneous matter:)

Mr. Anthony.

Mr. Crockett.

Mr. Nolan.

Mr. Solarz.

Mr. McHugh.

Mr. Anthony.

Mr. Brown of California in two instances.

Mr. Annunzio in six instances.

Ms. Holtzman in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Hubbard.

Mr. Ichord.

Mr. Frost.

Mr. Blanchard.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 120. An act for the relief of Maria Elena Foley and Caritina Ann Foley;

S. 327. An act for the relief of Shavji Purshottam Dusara, his wife, Vasanti Shavji Dusara, and their child, Shreedhar Dusara;

S. 1148. An act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes;

S. 1227. An act for the relief of Munir P. Benjenk;

S. 1374. An act for the relief of Lynn Rufus Pereira;

S. 1624. An act for the relief of Francisco Pang;

S. 1772. An act for the relief of Min-Zen Lin;

S. 1784. An act to provide certain authority for the purchase and sale of electric energy by Federal departments in Alaska, and for other purposes;

S. 1824. An act to designate the "John D. Larkins, Jr., Federal Building";

S. 1847. An act for the relief of Ana Marlene Orantes;

S. 2849. An act for the relief of Charles Jeffrey Greene; and

S. 3261. An act to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 935. An act for the relief of Jesse Kuo Tang and Sharon Kuo Tang;

H.R. 936. An act for the relief of Kit Tung;

H.R. 949. An act for the relief of Welita F. Sebastian;

H.R. 1196. An act to revise and improve the laws relating to the documentation of vessels, and for other purposes;

H.R. 1316. An act for the relief of Kuo-Yao Cheng;

H.R. 2111. An act to extend the service areas for the Sacramento Valley Canals, Central Valley project, California, and for other purposes;

H.R. 2145. An act for the relief of Florette Ivoree Gayle and Keisha Dajaran Karr;

H.R. 2432. An act for the relief of Ronald Regespi Doliente;

H.R. 2433. An act for the relief of Zora Singh Sunga;

H.R. 2533. An act for the relief of Mrs. Kerry Ann Wilson;

H.R. 2872. An act for the relief of Olivia Manaois Abrasaldo;

H.R. 3096. An act for the relief of Raymond M. Gee;

H.R. 3138. An act for the relief of Surip Karmowiredjo;

H.R. 3396. An act for the relief of George David Maxwell, doctor of medicine;

H.R. 3707. An act for the relief of Joy Marsia Dehaney;

H.R. 3869. An act for the relief of Eileen Angella Crosdale;

H.R. 4032. An act for the relief of Mahmud Ali Khan alias Fazal Dad;

H.R. 4139. An act for the relief of Feeronaih Abbosh;

H.R. 4386. An act for the relief of Mr. and Mrs. Clarence Oveson;

H.R. 4774. An act to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so;

H.R. 4778. An act for the relief of Sada Kim;

H.R. 4793. An act for the relief of Simon Ifergan Meara;

H.R. 4966. An act for the relief of the estate of Philip H. Ward;

H.R. 5016. An act for the relief of David Roland Weaver;

H.R. 5067. An act for the relief of Dr. Toomas Eisler and Carmen Elizabeth Eisler.

H.R. 5157. An act for the relief of Lilia Ester Cantu;

H.R. 5379. An act for the relief of Jaramporn Sermsri and Akharata Sermsri;

H.R. 5391. An act to amend the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, and for other purposes;

H.R. 5745. An act for the relief of Michael Chinwen Ke;

H.R. 6000. An act for the relief of Campanella Construction Co., Inc.;

H.R. 6011. An act for the relief of William H. Koss;

H.R. 6030. An act for the relief of Elena Patricia Mattos;

H.R. 6044. An act for the relief of Woo Jung He;

H.R. 6069. An act for the relief of I Wen Wang Chen;

H.R. 6739. An act to confer U.S. citizenship posthumously upon Leopoldine Marie Schmid;

H.R. 6836. An act for the relief of James A. Schultz;

H.R. 7175. An act for the relief of the Woodstock Daily Sentinel;

H.R. 7694. An act to authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment to each of the service academies, and to authorize the establishment of a National Guard of Guam;

H.R. 7814. An act to designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness," and for other purposes;

H.R. 8345. An act to name the U.S. Customs House in Ogdensburg, N.Y., the "Robert C. McEwen United States Customs House";

H.R. 8444. An act to authorize appropriations for certain insular areas of the United States, and for other purposes;

H.J. Res. 570. Joint resolution to provide for a temporary increase in the public debt limit; and

H.J. Res. 601. Joint resolution making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and joint resolutions of the House of the following title:

On December 12, 1980:

H.R. 5888. An act to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes;

H.R. 6671. An act to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes;

H.R. 6796. An act to amend and extend title VII of the Comprehensive Employment and Training Act;

H.R. 8195. An act to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases; and

H.J. Res. 615. Joint resolution providing for appointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.

On December 15, 1980:

H.R. 935. An act for the relief of Jesse Kuo Tang and Snaron Kuo Tang;

H.R. 936. An act for the relief of Kit Tung;

H.R. 949. An act for the relief of Welita F. Sebastian;

H.R. 1196. An act to revise and improve the laws relating to the documentation of vessels, and for other purposes;

H.R. 1316. An act for the relief of Kuo-Yao Cheng;

H.R. 2145. An act for the relief of Florette Ivoree Gayle and Keisha Dajaran Karr;

H.R. 2432. An act for the relief of Ronald Regespi Doliente;

H.R. 2433. An act for the relief of Zora Singh Sunga;

H.R. 2533. An act for the relief of Mrs. Kerry Ann Wilson;

H.R. 2872. An act for the relief of Olivia Manaois Abrassaldo;

H.R. 3096. An act for the relief of Raymond M. Gee;

H.R. 3138. An act for the relief of Surip Karmowiredjo;

H.R. 3396. An act for the relief of George David Maxwell, doctor of medicine;

H.R. 3707. An act for the relief of Joy Marsia Dehaney;

H.R. 3869. An act for the relief of Eileen Angella Crosdale;

H.R. 4032. An act for the relief of Mahmud Ali Khan alias Fazal Dad;

H.R. 4139. An act for the relief of Ferronaih Abbosh;

H.R. 4386. An act for the relief of Mr. and Mrs. Clarence Oveson;

H.R. 4774. An act to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so;

H.R. 4778. An act for the relief of Sada Kim;

H.R. 4793. An act for the relief of Simon Ifergan Meara;

H.R. 4966. An act for the relief of the estate of Philip H. Ward;

H.R. 5016. An act for the relief of David Roland Weaver;

H.R. 5067. An act for the relief of Doctor Toomas Eisler and Carmen Elizabeth Eisler;

H.R. 5157. An act for the relief of Lilia Ester Cantu;

H.R. 5379. An act for the relief of Jaramporn Sermsri and Akharata Sermsri;

H.R. 5745. An act for the relief of Michael Chinwen Ke;

H.R. 6000. An act for the relief of Campanella Construction Co., Inc.

H.R. 6011. An act for the relief of William H. Koss;

H.R. 6030. An act for the relief of Elana Patricia Mattos;

H.R. 6044. An act for the relief of Woo Jung He;

H.R. 6069. An act for the relief of I Wen Wang Chen;

H.R. 6739. An act to confer U.S. Citizenship posthumously upon Leopoldine Marie Schmid;

H.R. 6836. An act for the relief of James A. Schultz;

H.R. 7175. An act for the relief of the Woodstock Daily Sentinel;

H.R. 7814. An act to designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness," and for other purposes;

H.R. 8345. An act to name the United States Customs House in Ogdensburg, N.Y., the "Robert C. McEwen U.S. Customs House";

H.J. Res. 601. Joint resolution making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981; and

H.J. Res. 570. Joint resolution to provide for a temporary increase in the public debt limit.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, I wonder if the Speaker would inform the House of what the plans might be for the remainder at least of this evening.

The SPEAKER. The House will be in recess subject to the call of the Chair, which will be at 11 a.m. today.

Mr. BAUMAN. Recessed until 11 o'clock?

RECESS

The SPEAKER. The Chair declares a recess and the Chair will call the House to order at 11 o'clock this morning, Tuesday, December 16, 1980.

Accordingly (at 12 o'clock and 54 minutes a.m.), the House stood in recess to reconvene at 11 a.m. on today, Tuesday, December 16, 1980.

SENATE—*Monday, December 15, 1980*

(Legislative day of Thursday, November 20, 1980)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Dear Lord, be patient with our fumbling ways and when we have finally concluded our work send us on our way rejoicing in the wonder of Thy grace and Thy providential care over this Nation.

Thanks be to Thee, O God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 15, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE UNITED STATES SENATE

CONGRESSIONAL PAY 1789–1980

Mr. ROBERT C. BYRD. Mr. President, much has been in the news during the past few days about a congressional pay increase. The offices of Senators and Representatives have been besieged with letters and telephone calls from irate citizens protesting the action of a Senate committee which recently paved the way for an increase in pay for upper grade Federal employees in the executive, judicial, and legislative branches. While the pay increase would affect thousands in the executive and judicial branches, it is the increase to Members of Congress—the House of Representatives and the Senate—which has aroused the wrath of citizens. The story has been the same from the beginning of our Republic.

Article 1 of the U.S. Constitution provides that "the Senators and Representatives shall receive a compensation for their services, to be ascertained by law."

The subject of congressional pay was one of considerable discussion at the Constitutional Convention in 1787. In the years that have followed, the subject of an increase in pay for Members of Congress has always been a sure-fire target for public criticism. Sensitivity to such criticism is manifestly evident from the fact that, during the 191 years from the first Congress in 1789 to the close of the 96th Congress in 1980, Members of Congress have received only 15 pay raises, three of which were subsequently repealed and another of which was temporarily reduced during the Depression. Therefore, there have been only 12 "permanent" salary increases for Members of Congress during those 191 years that have transpired since the first Congress met in 1789.

The records of the Federal Convention in 1787, revised edition, indicate that no less an illustrious sage than James Madison, "father" of the Constitution, observed that, in regard to the Members of Congress, "to leave them to regulate their own wages was an indecent thing, and might in time prove a dangerous one." He thought that "wheat or some other article (of which) the average price throughout a reasonable period preceding might be settled in some convenient mode, would form a proper standard." At one stage of the work of the Committee of Detail, the wages of Senators were to be determined as follows:

> At the beginning of every sixth year . . . the supreme judiciary shall cause a special jury of the most respectable merchants and farmers to be summoned to declare what shall have been the averaged value of wheat during the last six years. . . . And for the six subsequent years, the Senators shall receive per diem the averaged value of bushels of wheat.

Elbridge Gerry, a delegate to the Convention from Massachusetts, stated the objections which determined him to withhold his name from the Constitution, one of which was "the unlimited power of Congress over their own compensations."

Having Members vote on their own pay increases has always invited political grandstanding, posturing, and demagoguery—both by Members and potential opponents—thus feeding public opposition to congressional pay increases. As a result, congressional salaries have always lagged far behind comparable positions of responsibility in the private sector.

The stage was set at the very beginning. In the First Congress, the compensation bill was one of the measures which gave rise to most controversy. While the bill was in the House, several Members brought upon themselves charges of demagoguery because of their urging that the per diem compensation recommended by the committee be reduced. Representatives Madison and Page advocated that the compensation for Senators be higher because greater service was likely to be demanded of them.

In the Senate, the bill was referred to a committee which reported a recommendation that, while the pay of both Senators and Representatives should be $6 per day until March 4, 1795, the pay of Senators thereafter should be $8 per day. Before proceeding with the consideration of this report, the Senate voted, by more than 2 to 1, to adopt a resolution declaring that there ought to be a discrimination between the pay of Senators and Representatives. Of course, this gave rise to an acrimonious debate.

Senator Maclay, of Pennsylvania, moved that the pay be reduced $5 per day. Senator Carroll, the richest man in the Senate, supported Maclay. Vice President Adams became so excited that he could not keep his seat, and three times he interrupted Senator Ellsworth, asking him if the Congress of the Federation had not degenerated for want of adequate pay.

Naturally, the House refused to accept any discrimination in pay. The law which was finally enacted provided for a per diem payment of $6 to Senators and to Representatives until March 4, 1795. In 1795, the compensation for Senators went to $7 per diem during special sessions—such special sessions of the Senate being thought required for the purpose of considering nominations and treaties. In 1796, however, the $7 per diem for Senators attending special sessions was repealed, and the salary for special sessions was made the same as for regular session, to wit, $6 per diem, at which figure it remained for the next 20 years.

By 1816, in view of the increased cost of living, a bill was introduced in the House of Representatives which provided for an annual salary of $1,500. The argument was made that an annual salary, in place of the per diem of $6 would be beneficial because it would "shorten the session" and would save money to the Government in the cost of fuel and attendance for the shortened session. The measure was enacted into law and was made retroactive for more than a year.

However, the law provoked universal criticism and was speedily repealed in 1817, and the salary reverted to that of $6 per diem. In 1818, the per diem was raised from the 1789 figure of $6 to $8, and was made retroactive to March 3, 1817. It remained unchanged for close to 40 years. In 1856, the salary went from $8 per diem to an annual salary of $3,000, and the payment was made retroactive for the entire session. Ten years later, in 1866, during the days of "greenback inflation," the salary was advanced to $5,000, and was made retroactive to March 4, 1865.

Seven years later, on the day before final adjournment, March 3, 1873, the 42d Congress enacted an appropriation bill carrying a rider raising congressional salary from $5,000 to $7,500 a year. This act made the new salary increase applicable to the entire 2 years of the expiring Congress, thus constituting a retroactive bonus of $5,000 each for the work done by Members during the preceding 2 years. This increase was labeled a "salary grab" and a "back-pay steal," and met with universal condemnation. Quite a number of Senators and Representatives paid back into the Treasury the "bonuses" which they had received under the act.

On the first day of the next session, in 1874, at least 25 bills were introduced in the House of Representatives in a scramble to repeal the salary increase, and the salary was speedily cut back to $5,000.

It was not until 1906 that the Congress again seriously considered an increase in congressional pay. For 40 years, the salary had remained at $5,000 annually, considering the fact that the 1873 pay increase had been repealed. In the House, an amendment was passed providing for an increase of salary from $5,000 to $7,500. Passage of the amendment was accomplished without a yea-and-nay vote. The Senate finally concurred in the House amendment, and the increase was made effective March 4, 1907.

In 1925, the Senate attached a rider to the legislative appropriation bill, which provided that, a month later, at the beginning of the 69th Congress, the pay for Members would be increased from $7,500 to $10,000. There was not a word of debate on the amendment, and the vote was taken unexpectedly at an evening session when several Senators who opposed the proposal were absent. Senator Norris tried, without success, to secure its recall from the House. The House passed the proposal by a majority of more than 2 to 1, after a half hour of debate, and without a record vote. President Coolidge was placed in an embarrassing dilemma, because the salary increase ran counter to the economy program which he had been urging. To have vetoed the bill, however, would have delayed or prevented other much needed appropriations, and consequently, President Coolidge signed the bill.

In 1932, at the height of the Great Depression, the salary was temporarily reduced to $9,000 annually.

On March 20, 1933, Congress, in enacting the Emergency Act, further temporarily reduced the salary of Members of Congress to $8,500 annually.

In 1934, the salary went back to $9,500.

In 1935, the salary was restored to the 1925 level of $10,000.

In 1945, a nontaxable annual expense allowance of $2,500 was allowed each Member—which, essentially, amounted to a salary of $12,500.

In 1946, congressional pay was increased to $12,500, effective January 3, 1947, with a nontaxable expense allowance of $2,500, annually in addition thereto—thus, for all intents and purposes, making the salary $15,000 annually.

Subsequent pay increases were as follows:

In 1955 from $15,000, which included the $2,500 expense allowance, to $22,500 in total; 1964 from $22,500 to $30,000, effective January 3, 1965; 1969 from $30,000 to $42,500; 1975 from $42,500 to $44,600; and 1977 from $44,600 to $57,500, effective March 1977, in 1979 from $57.-500 to $60,662.50.

I believe that the foregoing data will be helpful in illustrating the historical lag in congressional salaries from the very beginning. To sum it up, then, there have been 15 congressional salary increases since the first compensation bill was enacted in 1789, at which time the salary for Members of Congress was set at $6 per diem. Three of those 15 increases were subsequently repealed, as I have pointed out, and one increase was temporarily reduced during the depression years in the early 1930's.

In fine, then, there have only been 12 permanent congressional salary increases in 191 years. Perhaps this fact would qualify for the Guinness' Book of Records.

Mr. President, so that Senators of the future will be able to put the matter in perspective and will understand that the problems which have accompanied salary increases for Members of Congress from the very beginning continue even into the latter fourth of the 20th century, I ask unanimous consent that an article from yesterday's Washington Post, Sunday, December 14, 1980, titled "Raise for Congress Would Unfreeze 34,000 Other Federal Salaries," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 14, 1980]

Raise for Congress Would Unfreeze 34,000 Other Federal Salaries

(By Kathy Sawyer)

In nearly four years, since March 1977, members of Congress, top-ranking federal executives and judges have received a single pay increase—5.5 percent in October 1979.

Over a decade ago, in 1969, members of Congress were paid $42,500 a year. If that had risen in step with the consumer price index, according to a study by government personnel specialists, the nation's lawmakers would now be making $98,200 a year.

Federal officials point to numbers such as these as a defense of Congress's move to raise its own pay, and that of nearly 2,500 top-ranked personnel in the other two branches of government, whose salaries the lawmakers have tied to their own.

The top salaries affected would be those at the level of vice president, speaker of the House and chief justice. They would increase from $79,125 to $92,400, the highest in government except for the president, according to congressional figures.

At the next level, Cabinet officers would jump from $69,630 to $81,300. Below that come members of Congress, assistant secretaries and appeals court judges, who would rise from $60,662 to $70,900. Federal district judges would go from $57,500 to $67,100.

The largest group that could be affected by congressional pay raises includes some 34,000 senior bureaucrats (GS15 and above) charged with running executive branch agencies. Federal personnel officials have long argued in favor of a raise because of what they call pay "compression" at the top.

While the million-plus white collar career civil service workforce has received steady pay increases—the latest, a 9.1 percent rise in October—salaries for their bosses at the top have been frozen at $50,112.50. Senior executives on at least five different levels of responsibility now earn the same pay, one official noted.

Unfrozen senior bureaucrats would get varying percentage increases up to 16.5 percent, depending on how much their pay has been compressed, according to congressional staff estimates. The actual amounts may vary from $2,000 to $8,000.

According to congressional promoters of the pay raise, notably Sen. Ted Stevens (R-Alaska), as well as federal personnel officials, the freeze has made it difficult for the government to compete with industry for talent, is causing vacancies in some key posts and is creating morale problems among top executives.

Opponents of the pay raise such as Sen. James Sasser (D-Tenn.) contend that the Congress, seen by many as a contributor to inflation, should not be able to insulate itself from inflation's effects.

In addition, they argue that the prestige of many Washington jobs makes them easy to fill even at current salary levels—how many people would turn down secretary of state because it didn't pay enough?—and that service at high levels of government often paves the way to high-paying jobs in the private sector.

By law, congressional and other top federal salaries are supposed to increase automatically every year in step with the raises given to the general civil service workforce, Gary R. Nelson of the Office of Personnel Management explained. "But [in recent years] Congress has consistently used the appropriations mechanism to deny funds for these raises. The statutory rates went up 9.1 percent on Oct. 1—but they just weren't payable."

Congressional pay has for at least 10 years been informally linked to Executive Level II pay scales, the level below Cabinet rank, Nelson said.

Congressional pay remained at $42,500 from 1969 to 1977, when it rose to $57,500. The only raise since then was the 5.5 percent in 1979, according to congressional figures.

The pay of lower-ranking career civil servants during the years since 1977 has been raised, each year respectively, by 7.5 percent, 5.5 percent, 7.5 percent and this year 9.1 percent, according to OPM.

The pay of the president, currently $200.-000, is set separately by statute.

RECOGNITION OF SENATOR PROXMIRE

Mr. ROBERT C. BYRD. I yield to the Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

WHY DO WE NEED TO SPEND MORE MONEY ON DEFENSE?

Mr. PROXMIRE. Mr. President, we have massively increased the defense budget in recent years. Military spending has been made the single exception to the general policy of holding down spending to a level below the increase in prices. We know the Defense Department wastes huge amounts of money. The Reagan administration seems about ready to pour billions into multibillion dollar boondoggles like the MX, the B-1 bomber, the neutron bomb which will contribute little or nothing to our military strength, in my judgment.

And with all that we now suffer the worst peacetime inflation in the history of the country. We know we have to cut social programs. We know we must do all we can to persuade Americans to hold down wages and prices. Everyone will have to make sacrifices if we are to begin to get inflation and high interest rates under control. So why make an exception on the biggest government program of them all: Military spending?

Answer: To build up American strength there is no substitute for paying our military personnel more and the military personnel costs constitute 58 percent of all military costs. We need the quality people. We only get quality people in this country if we pay for them. We need to hold on to the pilots and mechanics and other military experts we have trained. We cannot hold trained personnel unless we pay them. We need to pay reenlistment bonuses. We need to extend the GI bill of educational rights. We need to provide adequate family housing for military personnel. We spend far less for these necessities of a strong military force than we must spend if we are to recruit, retain, and provide the drive and morale for the most important single ingredient of any military force, the people, I repeat, the people, who make it up. And that means billions more.

Also, in sheer volume of conventional weapons: tanks, planes, ships the Soviet Union enjoys an immense advantage. In tanks it has a 4-to-1 advantage; tactical combat aircraft has a 1.5 to 1; in ships 3 to 1.

Now, Mr. President, of course, this says nothing about the quality—that is the size, the firepower, the maneuverability, the armor of the weapons—only the number. It may well be, Mr. President, that we spend more on our military procurement than the Soviet Union. After all the most expensive conventional weapon system known to man is the big nuclear aircraft carrier. We have 13 of them—the Soviet Union has two small ones—at a cost for the hull alone of $2.7 billion, with another $10 billion for the planes on the carrier, but the carrier itself is only one ship. It makes little sense to compare an aircraft carrier to a PT boat, but when we compare numbers of ships that is the result.

Also our fighter planes are far more advanced certainly than those of the U.S.S.R. The point however, Mr. President, is that numbers count and to acquire those numbers will take billions of additional U.S. spending. Under Secretary of Defense Perry said the last word on this subject recently when he said that the way we are going in aircraft procurement, we will be able to afford one plane. It will be a beauty, fantastic speed, immense firepower, irresistible armor, but only one plane. That is the result of paying $25 million for each plane, for our fighter planes.

The Soviet Union weapons are not only more numerous and cheaper they are simpler, more rugged, less fragile, far less likely to break down in the kind of real weather and battle conditions war usually brings.

So yes, we can and should greatly reduce the cost of individual tanks, planes, and ships but we also need far, far more and that will cost billions more too.

And, Mr. President, our troops lack the kind of readiness that would enable them to respond swiftly and forcefully. Most our Army divisions, most of our carrier tasks forces are unready. A column in this morning's Washington Post by Jack Anderson documents the lack of readiness of our Army in a series of important respects, and I am submitting that to this body separately. The cruel fact is that this kind of readiness, too, costs money and lots of it.

Mr. President, the distinguished Senator from Oregon, Mr. HATFIELD, last week expressed concern with my willingness to support an amendment that would exempt military spending from budget cuts. Senator HATFIELD makes a compelling argument that the military too should share in the iron necessity to hold down Federal spending. With the greatest reluctance I get off that train, because our military posture and the immense Soviet buildup and recent Soviet moves in Afghanistan and Poland all show we have no alternative to improving our military strength and the only way we can do that is to appropriate more funds to the military.

Mr. President, I ask unanimous consent that my October 1980 newsletter detailing the U.S.-U.S.S.R. military balance be printed in the RECORD at this point.

There being no objection, the newsletter was ordered to be printed in the RECORD, as follows:

THE US-USSR MILITARY BALANCE

How does the United States stack up militarily against the USSR? Are we ahead or behind? Do they have superiority or not? Are the Russians really ten feet tall?

No issue is more important than national survival and no potential spending more seriously threatens a balanced budget and getting a grip on inflation. So we must find honest answers to these questions. Unfortunately, there are many conflicting assessments of which side is ahead and by how much. Let's look at the facts point-by-point—without distorting the strengths or weaknesses of either side.

THE TECHNOLOGY BASE

The underlying strength of any military system is its industrial base. Technology produces the next generation of weapon systems and is a good indication of future capabilities. The United States stands up well in this category. Of all the 20 most important basic technology areas listed below, the US is superior in 15 with the US and USSR being equal in 5. In none of the 20 areas does the USSR lead at present.

RELATIVE U.S./U.S.S.R. STANDING IN THE 20 MOST IMPORTNTA BASIC TECHNOLOGY AREAS

Basic technologies	U.S. superior	U.S./U.S.S.R. equal	U.S.S.R. superior
1. Aerodynamics/fluid dynamics.	----------	×	
2. Automated control	×	----------	
3. Computer	×	----------	
4. Military instrumentation.	×	----------	
5. Directed energy		×	
6. Electro-optical sensor (including IR).	×	----------	
7. Guidance and navigation.	×	----------	
8. Hydroacoustic	×	----------	
9. Intelligence sensor	×	----------	
10. Manufacturing	×	----------	
11. Materials (lightweight and high strength).	×	----------	
12. Microelectronic materials and integrated circuit manufactu.:e.	×	----------	
13. Nonacoustic submarine detection.	----------	×	
14. Nuclear warhead		×	
15. Optics	×	----------	
16. Propulsion (aerospace)	×	----------	
17. Radar sensor		×	
13. Signal processing	×	----------	
19. Software	×	----------	
20. Telecommunications	×	----------	

When it comes to the technology level in deployed military systems on both sides, the story is not as favorable to the U.S. The following Pentagon chart indicates the full range of deployed military systems. You can readily see that while the U.S. dominates in 14 categories compared to 7 for the U.S.S.R., our superiority is ercding somewhat. The Russians are making a huge effort to improve their military capabilities and it is showing up in the figures here.

RELATIVE UNITED STATES/U.S.S.R. TECHNOLOGY LEVEL IN DEPLOYED MILITARY SYSTEMS[1]

Deployed system	United States superior	United States-U.S.S.R. equal	U.S.S.R. superior
STRATEGIC			
ICBM		×	
SSBN/SLBM	×	----------	
Bomber	×	----------	
SAM's			×
Ballistic missile defense			×
Antisa ellite			×
TACTICAL			
Land forces:			
SAM's (including naval)		×	
Tanks			×
Artillery	×	----------	
Infantry combat vehicles			×
Antitank guided missiles		×	
Attack helicopters	×	----------	
Chemical warfare			×
Theater ballistic missiles		×	
Air forces:			
Fighter/attack aircraft	×	----------	
Air-to-air missiles	×	----------	
PGM	×	----------	
Air lift	×	----------	
Naval forces:			
SSN's		×	
Anti-submarine warfare	×	----------	
Sea-based air	×	----------	
Surface combatants		×	
Cruise missile		×	
Mine warfare			×
Amphibious assault	×	----------	

RELATIVE UNITED STATES/U.S.S.R. TECHNOLOGY LEVEL IN DEPLOYED MILITARY SYSTEMS[1]—Continued

Deployed system	United States superior	United States-U.S.S.R. equal	U.S.S.R superior
C³I:			
Communications	X	----------	
Command and control		X	
Electronic countermeasure		X	
Surveillance and reconnaissance.	X	----------	
Early warning	X	----------	

[1] These are comparisons of system technology level only and are not necessarily a measure of effectiveness. The comparisons are not dependent on scenario, tactics, quantity, training, or other operational factors. Systems farther than 1 year from IOC are not considered.

Technology is important since it is a predictor of "breakthroughs". For example, U.S. technology has allowed us to proceed with the advanced cruise missile—a devastatingly effective strategic weapon which is super accurate and inexpensive. The U.S. is at least 5 and maybe 10 years ahead of the U.S.S.R. in this effort. On the other hand, the Russians have surprised us with the Alfa submarine which, while only experimental, can dive deeper and run faster than any U.S. submarine. Its drawback is that it is noisy and thus can be detected from far off. But there is no disputing the ability of the U.S.S.R. to come up with its own "breakthroughs".

STRATEGIC FORCE LEVELS

Technology tells only one part of the story. Quality is important, but so too are numbers. Strategically, the Russians have significant advantages over the U.S. in number of ICBMs, number of submarine missiles, and the megatonnage or explosive power of their bombs. The United States leads in the number of nuclear warheads; in the accuracy and reliability of our missiles on land and at sea; in the number and quality of our bombers and in higher alert rates.

Thirty-six percent of the Russian people and 72 percent of their industrial production lie within 300 cities. Therefore, our 9,200 warheads are more than enough to devastate their society and still attack major military targets. The 6,000 Russian warheads would do substantial damage to the United States. Overall, when looking at the quality and quantity factors in strategic systems, the U.S. and U.S.S.R. are about even.

But what of the future? Well, the Russians have a tendency to produce an endless number of new and improved strategic systems. They roll new models off the assembly line like we do cars. Unless we reach some arms control agreement that cuts back on Soviet production levels, the trends show the USSR deploying many more missiles and warheads than the US. The US, of course, is not standing still. We are moving ahead with accurate warheads for the Minuteman III, with the new Trident submarine, with the cruise missile program, with the MX and a new strategic bomber.

DEPLOYED STRATEGIC SYSTEMS, JAN. 1, 1980
QUANTITY

System	(Force level) U.S.	(Force level) U.S.S.R.	Quality
OFFENSE			
ICBM launchers	1,054	1,398	Equal.
SLBM launchers	656	950	United States leads.
Long-range bombers	348	156	United States leads.
DEFENSE			
Surveillance radars	88	7,000	U.S.S.R. leads.
Interceptors	327	2,500	United States leads.
SAM launchers	0	10,000	U.S.S.R. leads, none deployed in United States.
ABM defense	0	64	U.S.S.R. leads, no United States system deployed.

CONVENTIONAL FORCES

But what if we have to fight a conventional rather than a strategic war? Can the U.S. stand up to the Russians in Europe or the Middle East?

Let's look first at our land armies. The Russians have a 1.8 million man army compared to about 1 million for the U.S. Since they have 170 divisions to our 19, it can be seen that their divisions are much smaller than ours. Further, only one-third of Soviet divisions are fully combat-ready or equipped. The U.S. has its own troubles with 6 out of 10 divisions here in this country legislated unfit for combat. Our divisions overseas are fully ready. Forty-six Russian divisions are deployed against China while 31 are facing Eastern Europe. By and large, Soviet forces are heavily equipped with tanks and artillery—usually of good quality and design.

The Soviet Navy has made extensive progress in recent years. They now have 80 more surface combatants and 235 more submarines than the U.S. These numerical advantages are more than balanced by U.S. superiority in training, tactics, readiness and experience. Our almost total dominance in aircraft carriers provides us with a conventional punch unequalled in the world. We also lead in sea-based tactical aviation, nuclear powered submarines, amphibious assault, and antisubmarine warfare. We deploy about 30 percent of our fleet overseas at any one time while the Soviets send out 15 percent. It should also be pointed out that the overall Soviet 3–1 advantage in ships in large measure results from counting hundreds of small patrol and mine warfare ships.

TOTAL NATO AND WARSAW PACT ASSETS

	NATO	Warsaw pact
GNP (billions)	$3,773	$1,638
Population (millions)	564.0	371.3
Military manpower (millions)	4.85	5.2

The strength of the US Navy is our aircraft carriers and anti-submarine warfare, while the strength of the Soviet fleet lies in its extensive use of anti-ship cruise missiles and submarines. The US is rapidly improving its anti-ship cruise missile capability with the introduction of the Harpoon.

There is no doubt, however, that in recent years the Soviets have built a modern worldwide navy that is vastly more capable than anything they have had in the past. The US still has the edge here but the margin is closing.

During the 1970's, the USSR and the US modernized their air forces. Soviet tactical fighter production has been twice that of the United States, and their quality, while still well behind the US on the average, is improving. The Russians turned their Air Force from essentially a defensive posture to one more capable of taking offensive action.

Meanwhile, the US was producing the best fighters in the world—the F-15 and F-16. Our close support aircraft, the A-10, promises a tank-killing capability for Europe. And it is clear that our training and tactics are much superior to that of the Soviets.

NATO VS WARSAW PACT

There is another way to look at our relationship with the USSR. It is unlikely that we would engage in a war with them without the participation of our NATO partners and their Warsaw Pact allies. Now, this changes the picture completely. As the chart below indicates, NATO has a GNP of more than twice that of the Warsaw Pact. We are an economic giant compared to the Russian economy which is weakening year by year. And the NATO population is significantly larger. Our military manpower is about the same but NATO spends more on defense than does the Pact. The real difference is that our spending is much more efficient than that of the Soviets. NATO productivity is much higher. And how much can the Russians rely on the Poles or Czechs or Hungarians? Not much!

Looking at NATO from a naval perspective is also instructive. The Warsaw Pact nations have about 2,000 ships with one-half of these being small mine warfare and coastal patrol boats. NATO allies have about 1,600 ships with many more major surface combatants than the Pact. Further, the NATO ships have a capacity of about 8 million metric tons compared to about 3.7 million metric tons for the Pact nations. This means that our ships generally are more capable, seaworthy and effective.

But let's not fool ourselves. The Russians and the Warsaw Pact nations are making a huge effort to outproduce NATO in numbers of conventional weapons. They are doing particularly well in the production of artillery, armored vehicles and tanks. We have responded with anti-tank weapons, helicopters, precision-guided munitions and new close air support aircraft—all weapons designed to offset Soviet armor advantages.

DEPLOYED LAND FORCE SYSTEMS, JAN. 1, 1980

Weapon	Quantity (ratio of NATO:WP)	Quality
Tanks	1:2	U.S.S.R. T–72 superior to United States M60A3.
Artillery and rocket launchers.	1:2	NATO lead declining. NATO leads in lethality.
Armored fighting vehicles.	1:2	Warsaw Pact leads.
Antitank missile launchers.	2:1	Equal, but Pact improving.
SAM's (not man portable).	1:7	Equal: Pact leads in mobility. NATO leads in lethality and envelope.
Military helicopter	1:1	NATO lead declining.

GEOGRAPHIC CONSTRAINTS

Suppose we had a secret weapon that would disable one-half or two-thirds of the Soviet fleet and pin down 700,000 Soviet troops. Impossible, you say. Well you're in for a shock. We have that weapon right now. It's called geography.

Virtually every Soviet naval port can be blocked off because of the tight geographic position they are in. The Baltic, Barents/North Sea area, the Black Sea, the Mediterranean and the Japan Sea are constrained bodies of water where the large Soviet Naval units can be bottled up and eventually destroyed. Further, the ships that escape our containment would be vulnerable in a short period of time since they have few port facilities in the rest of the world. The Russians also are restricted by heavy ice blockage at several important sea ports. A U.S. blockade would not be without cost. Soviet submarines and land-based aircraft certainly would take a toll. But we should not overlook the geographic disadvantages of the Soviet land mass.

Now consider the other limitation facing the USSR. What if Canada and Mexico were hostile powers with nuclear weapons pointing at each major American city. Would you feel nervous? Would you want a larger army? Sure you would! And that is what is facing the USSR. They now commit 600,000 troops to Eastern Europe—Poland, Germany, Czechoslovakia and Hungary. They have 700,000 in the Far East oriented against China. This ties down enormous resources.

Geography is a two-way street. The United States has very long lines of communications and sea lanes around the world that need to be protected. We have the advantages of peaceful borders, but our allies are far away and it is difficult to place reinforcements in Europe on a timely basis. Our reliance on imported oil is a strategic vulnerability.

INTANGIBLES

Victory in warfare is not always tied to numbers of weapons or the quality of these weapons. There are other factors involved that are harder to measure such as leadership, organization, and innovation under stress. Here is what the Joint Chiefs of Staff have to say about such intangibles: "The United States continues to enjoy important military strengths vis-a-vis Soviet forces . . . U.S. forces are more versatile . . . and while the military advantages which the United States derives from its democratic political system and superior technology base defy easy quantification, there is no question but that they weigh heavily in the military balance."

So now you have the facts. Obviously some arguments and issues have been simplified or left out for brevity. But you can judge for yourself where we stand militarily.

The facts tell me that the United States must get the most out of every defense dollar. We cannot afford to waste a penny. Unfortunately, many U.S. defense programs have been badly managed. That is why we all must concentrate on improving U.S. defense practices by increasing productivity and competition. We need to produce more conventional equipment at lower unit costs. And we certainly cannot afford to waste billions on expensive indefensible military systems like the B–1 bomber and the MX. That is the ultimate waste of resources—the production of a weapon system that is ineffective and the loss of use of these billions in defense dollars.

Finally, we cannot overlook the critical element of adequate pay and benefits for our military personnel. A military force is only as good as the people behind it. There is no substitute for personnel quality and that should be our first emphasis.

THE CRISIS IN EAST TIMOR DEMANDS U.S. ATTENTION

Mr. PROXMIRE. Mr. President, since 1975, the underdeveloped island of East Timor has been forcibly occupied by Indonesia. In response to Indonesia's actions, the United Nations General Assembly has voted in favor of a resolution opposing the forced integration of East Timor.

In 1978, Indonesia reacted to the United Nations resolution by delaying urgently needed food supplies to East Timor. Consequently, the tens of thousands of East Timorese who might have been saved died from malnutrition.

The population of East Timor continued to drop as a result of malnutrition and disease. Finally, in 1979 international relief organizations were allowed to distribute famine relief.

However, last week Indonesia declared the famine emergency to be over and announced that it will not accept aid after December 31 of this year. Although the situation is better than it was in 1978, according to the International Red Cross, the people of East Timor remain underfed and lack adequate supplies.

While Indonesia's actions against the people of East Timor may not fit the traditional definition of genocide found in the Genocide Convention, they are examples of the continuing kinds of harm perpetrated on weak nations and minority groups by stronger ones.

ARE THERE SHORTAGES IN U.S. EQUIPMENT REQUIRED FOR EUROPE?

Mr. PROXMIRE. Mr. President, perhaps there is no better time than during this period of tensions over the Polish crisis to carefully evaluate the status of U.S. forces in Europe. And implicit in this is a thorough consideration of the disposition of our allied forces.

For several years we have been implementing a policy of prepositioning equipment in Europe. The concept is relatively simple. If adequate equipment can be ket under operating conditions in Europe, then during a crisis there we would only have to supply the troops necessary to man this equipment.

Opponents of this strategy have pointed to the obvious inherent risks involved in storing equipment that could be overrun by hostile forces or destroyed in air attack. Nonetheless, the alternative of waiting for sealift to resupply U.S. forces in Europe is a far less satisfactory answer.

Therefore the condition and quantities of U.S. pre-positioned stocks must be sufficient to not only supply incoming U.S. troops arriving by aircraft but also to replenish immediate losses.

The importance of this strategy for reinforcing our NATO allies cannot be underestimated. Without adequate conventional forces, the decision to go nuclear becomes more and more inevitable and with that the likelihood of an all-out attack on the national territory of both conflicting parties.

This morning Jack Anderson has raised a number of serious charges with regard to the shortages currently existing in the U.S. pre-positioning stockpiles. He states that the internal Pentagon analyses indicate that our war reserves there are critically low in precisely the type of equipment most necessary to prosecute a war: 105-mm tank guns; 5-ton trucks; armored personnel carriers; 8-inch howitzers; ammunition. To this is added questionable amounts of spare parts and maintenance equipment.

Mr. President, I believe that the Jack Anderson charges are sufficiently compelling to warrant a full response from the Defense Department. We need to know if our policy of pre-positioning is only paper concept.

I ask unanimous consent that the Jack Anderson article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 15, 1980]

SERIOUS SHORTAGES HAMPER U.S. FORCES

(By Jack Anderson)

Throughout the Polish crisis and the continuing threat of intervention by the Soviet Union or other Warsaw Pact nations, U.S. officials have repeatedly made clear that the United States would not respond militarily to an invasion of Poland.

A major reason—which the administration has been understandably reluctant to admit—is that the United States couldn't do much in the way of conventional response to a Soviet move into Poland. Our armed forces in Europe don't have the weapons or ammunition.

A top-secret Pentagon report explains that, because of the time it would take to ship materiel from the United States, the supplies from this side of the ocean "cannot influence the first six months of a NATO conflict, even if a national emergency were declared."

No one seriously expects a conventional war in Europe to last six months. Either it will be all over in a matter of days or weeks—like the invasion of Hungary in 1956 and of Czechoslovakia 12 years later—or it will have escalated into a nuclear exchange. This means that any non-nuclear help from U.S. forces—historically the backbone of NATO—would have to depend on the military supplies already on hand in Europe.

But there's not much there.

The Pentagon report, which was shown to my associate Dale Van Atta, states bluntly: "At present, war reserves in Europe are inadequate to support a strong initial defense. This raises a serious problem, because war reserves are intended to support the deployed forces until the supply pipeline [from the United States] has been established."

The prepositioned stockpiles are low, the report explains, because there is no separate authorization for such supplies—anything stored up in Europe "must be taken from units based in the United States."

A chart in the secret report lists a number of the most serious equipment shortages, comparing what is needed for a 60-day period (let alone six months) to what is actually on hand in Europe. It makes hair-raising reading:

The Army estimates that 3,673 105-mm tank guns would be needed. As of July 1979, the most recent survey covered in the report, there were only 497 of these guns available—less than one-seventh of the requirement.

Of the 2,665 five-ton trucks considered necessary for the 60-day period, exactly five were on hand.

Required: 2,000 armored personnel carriers. On hand: None.

Required: 205 eight-inch howitzers. On hand: None.

Required: 335 155-mm howitzers. On hand: None.

A second chart illustrated the shortage of ammunition, noting that "all services have inadequate prepositioned stocks," and are "seriously hampered by a lack of forward storage facilities."

The Army had 650 tons of ammo, half of what it needed; the Navy had 88 of the 173 tons it needed, and the Air Force had 159 of its required 241 tons.

Short of ammunition, stripped of replacement weapons, American troops in Europe would also run out of gas before very long. "Petroleum is another critical commodity in short supply, both for current peacetime operations and war reserve stockpiles," the secret report notes. In fact, the reserve stocks of fuel have been raided "to provide continued support of daily readiness operations and training."

A final piece of bad news: "Present maintenance capabilities [in Europe] are deficient, even for a short war," the Pentagon report states. And the meager stock of spare parts on hand would cripple Air Force and Navy tactical aircraft in 30 days or less.

In short, any conventional Western military response to a Soviet-bloc invasion of Poland would have to depend on our European allies. Except for his nuclear claws, Uncle Sam is a paper tiger in Europe.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. I thank the Chair.

SENATE REPUBLICAN FLOOR STAFF

Mr. BAKER. Mr. President, as this 96th Congress moves closer to what I trust will be adjournment sine die, I would like to express my admiration to and appreciation of the several dedicated and diligent staff members who have assisted us on the Republican side of the aisle for the past 2 years. I am certain I speak for my 40 Republican brethren in this Chamber in saying we have been served in exemplary fashion by the following individuals:

William F. Hildenbrand, the secretary for the minority, and Howard O. Greene, Jr., the assistant secretary for the minority, who have performed splendidly in the unenviable task of keeping us on this side of the aisle advised as to what our colleagues from across the way have been up to;

The most dedicated staff of the Republican cloakroom— David C. Liner, Elizabeth B. Baldwin, Dudley Digges Morgan III, Marcia S. Gambrel, and formerly, Martin Van Buren Hunt, who likewise have done yeoman duty in the equally unenviable task of keeping us on this side of the aisle advised as to what we, ourselvs, have been up to;

Two of our many erudite and most trusted legislative advisors, Jody Baldwin and Judy Myers, of the staff of the excellent Republican Policy Committee, chaired by our distinguished colleague, the Senator from Texas (Mr. TOWER);

The legislative counsel to the minority, Howard Liebengood, who has been called upon to advise Republican Members of the Senate on a great many matters and who has, through the minority staff directors of the Senate committees, coordinated our own, Republican legislative agenda;

The counsel to the minority leader for floor operations, Martin B. Gold, who likewise has been called upon frequently by myself and other Republican Members for parliamentary and procedural guidance;

And finally, Mr. President, the unsung heroes and heroines of every session of the Congress—those young men and women of our Page Corps, whose boundless energy and unfailing courtesy make our duties here so much the easier.

In behalf of all my colleagues, I again thank each of these individuals. They have served us and the Senate so very well.

SPEECHES BY FORMER PRESIDENT FORD

Mr. BAKER. Mr. President, as is the norm, emotions and rhetoric have grown rather heated in recent days as we struggle toward what I am confident will ultimately be the adjournment sine die of this 96th Congress.

In view of the shortening tempers and lengthening oratory in this Capitol this evening, I thought it might be soothing and perhaps inspirational for the Senate if I shared with my colleagues the calm and reasoned voice of our illustrious former President Gerald Ford in the form of two most compassionate and thoughtful speeches he gave recently commemorating the opening of an exhibition on "The Jewish Community in Early America 1654–1830," which is being staged by the Daughters of the American Revolution, here in Washington.

I think my colleagues will find, as I did, that President Ford's eloquence is tonic for frayed and frazzled nerves.

Thus, I ask unanimous consent that the texts of President Ford's remarks be printed in the RECORD in their entirety.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

PRESIDENT FORD'S SPEECH DEDICATING THE EXHIBITION "THE JEWISH COMMUNITY IN EARLY AMERICA 1654–1830" AT THE DAUGHTERS OF THE AMERICAN REVOLUTION DECEMBER 10, 1980

Madam President General, Mrs. Richard Shelby, thank you for your introductory remarks. I want also to thank Mrs. Joseph Tiberio, Curator General, and my friend, Mr. John L. Loeb, Jr., for the honor of opening this unique Exhibition.

It is fitting that the Exhibition we dedicate tonight. "The Jewish Community In Early America, 1654–1830," be presented in this historic setting and before so distinguished a company. The work of Jews and the ideals of Judaism have enriched the American experience throughout our history.

The Hebrew heritage of the Old Testament was a cornerstone in the founding of America. The Puritans actually spoke of themselves as latter day Children of Israel fleeing from their Pharaoh—King James I of England—across the Red Sea of the Atlantic Ocean to the Promised Land of the New World. They studied Hebrew because they wanted to understand God's word in the language in which it had been revealed. The seal of Yale University where I studied is blazoned with the Hebrew words for truth and light. The Puritans named their children for Hebrew prophets and warriors. The Mosaic laws became the basis for their colonial constitutions and ultimately influenced the Constitution and the Bill of Rights of the United States. The Levitical precept, "Proclaim liberty throughout the land unto all the inhabitants thereof" was inscribed by our founding fathers on the Liberty Bell.

No country in the world has had longer, better or more consistent history of good relations between Christians and Jews. This reflects the basic principles of equality which have always been our aspiration and the influence of three factors in our history.

Both Christians and Jews were refugees in the same new land at approximately the same time.

Both Christians and Jews, as they settled in the new world, insisted on the separation of Church and State.

Both Christians and Jews, from our Puritan beginnings, recognized a common bond; that they share a common religious heritage and a common dedication to the pervasive application of the principle that all people are created in the image of God; that they are entitled to the freedom and respect incident to their divine origins; and they are obligated to conduct themselves towards others in full recognition of the kinship of all people.

The first Jews arrived in this country only 34 years after the Mayflower.

In 1654 the Dutch were driven out of Brazil by the Portuguese who brought with them the Inquisition. One boatload of refugees from Recife, Brazil, after many vicissitudes, found their way to New Amsterdam. Twenty-three Jewish men, women and children of Spanish/Portuguese descent were aboard. They were descendants of families who had left the Iberian Peninsula in 1492. This was the year of the infamous Expulsion Edict when all non-Catholics, including the Arabs, were forced to leave Spain or convert. Of course, this was also the same year, ironically, when Christopher Columbus discovered America.

To Governor Peter Stuyvesant anyone not of his own Dutch reformed faith was unwelcome and the Jews were ordered to depart. Intercession with the Dutch West India Company in Amsterdam overruled Stuyvesant. These first Jewish settlers eventually secured the rights to trade, to full citizenship, to serve in the militia, to hold public office, and to own property.

In obtaining these rights—and ultimately the right to worship publicly, these pioneer Jews helped to insure the same rights for all Americans.

Some of the early Jewish settlers had developed extensive interests in the principal seaport towns of Newport, Philadelphia, New York, Charleston and Savannah. They were chiefly engaged in inter-colonial and English trade. Their business interest, therefore, lay on the side of England. To support the Revolution meant economic ruin. Nevertheless, almost to a man, the Jews supported the cause of Independence. Jews were among the first volunteers when war with England broke out and their record as soldiers was brilliant.

As President Coolidge commented: "The Jews were true to the teachings of their prophets—the Jewish faith is predominantly the faith of liberty. From the beginning of the conflict between the Colonists and the mother country, they were overwhelmingly on the side of the Revolution."

In the summer of 1790 after the deeply troubled years of the American Revolution, the first President of the United States, General George Washington, made a tour of the new Republic. He came to a little seafaring town of Newport, Rhode Island, in the part of the country colonized by the champion of religious liberty, Roger Williams.

Moses Seixas (Say-chess), a Sexton of the Hebrew Congregation whose family portraits are represented here in the Exhibition today, sent General Washington a warm letter of welcome.

George Washington's reply to this letter, addressed to the Hebrew Congregation of Newport is one of the nation's most cherished documents. It is an eloquent expression of American principles of freedom and religious harmony. Commenting upon the Jewish experience in America President Washington wrote the following in this now historic letter:

> "The citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy a policy worthy of imitation. All possess alike liberty of conscience and immunities of citizenship. It is no more that toleration is spoken of, as if it was by the indulgence of one class of people that another enjoyed the exercise of their inherent natural rights. For happily the Government of the United States which gives to bigotry no sanction to persecution no assistance requires only that they who live under its protection should demean themselves as good citizens in giving it on all occasions their effectual support."

This wonderful Exhibition reminds us not only of the contributions of the past from 1654–1830 but reminds us again of the contributions the Jews have made to every facet of American life since 1654. In the 326 years since their first arrival in the United States, Jews have been artisans, craftsmen, engineers, scientists, doctors, actors, merchants, shopkeepers, farmers, land developers, professionals, bankers, politicians and served in the Army, Navy, Air Force and Marine Corps.

They have sat on the Supreme Court and, in fact, one of our able former Justices of the Supreme Court is here today, Justice Abe Fortas.

From the earliest days of the Republic, they have served in the House and the Senate and in the Cabinet. Recently, my very good friend, Henry Kissinger, served as Secretary of State and during the years of the Confederacy, Judah P. Benjamin, one of the leading citizens of the South, served as Secretary of State under Jefferson Davis. In a lighter vein, Judah P. Benjamin was the Kissinger of the Confederacy.

Jews fought and died during the American Revolution, and in every war since then. In fact, members of John Loeb, Jr.'s family have served on active duty in every American War down to the Vietnam War. Jews have won Congressional Medals of Honor in time of war, and Nobel Prizes in times of peace, in every area of endeavor: art, philosophy, science, medicine.

Like the early settlers of our nation, American Jews have sought religious and political freedom and economic security. They have sought these basic human rights not just for themselves but for all people. They have been in the forefront of the struggle toward human rights for everyone. They have consistently been in the lead in compassionate causes by helping the poor, the sick, the disadvantaged and those suffering from discrimination.

They have insisted on sharing, and almost every community in the country can point with pride to some enterprise, some cultural institution, or some philanthropic endeavor encouraged and, in some cases, made possible by Jewish creativity and generosity.

And, so it is fitting that the Daughters of the American Revolution, not a few of whom can point with pride to Jewish ancestors associated with the liberation of America in the Revolution, should pay tribute to the major contributions of early American Jews.

In the portraits, the tasteful furnishings, and the religious symbols here displayed, we see reflected—in a Jewish mirror—the American way of life.

I am optimistic that this Exhibition, The Jewish Community in Early America 1654–1830 at the Daughters of the American Revolution here today signals a new era in our nation. It will be an era which upholds, honors and reveres the great principles and ideals which were the roots of our history and our national life. These principles and ideals, properly understood, unite all the people of our nation of whatever religion or race. It is a unity founded upon diversity and respect for the religious views and customs of all our people.

President Ford's Speech at John L. Loeb, Jr.'s Dinner Following the Opening of "The Jewish Community in Early America 1654–1830" at the Daughters of the American Revolution December 10, 1980

Thank you Ed for those kind remarks.

I am delighted to be here with this distinguished group at a dinner given by my friend, John L. Loeb, Jr., in honor of the lenders to the Exhibition, "The Jewish Community in Early America, 1654-1830" and the 12 members of the Executive Committee of the Daughters of the American Revolution, under whose auspices it is presented.

Most of you were present at the opening of the Exhibition. I am confident that you will agree that it is an exciting and inspiring collection. It is a reminder to us of the enormous debt that we owe to the diverse people who are part of America. Diversity in our society is a great strength of America, just as the beauty of Joseph's Coat is its many colors.

America is great because of, and not in spite of, its many different people—people of different cultural, religious and national backgrounds—who have participated in its history and its life.

Conspicuous among them are the Jewish people, coming from many lands, themselves representing diverse backgrounds, but united by the religious and ethical principles which, in fact, have provided the spiritual and moral fabric of this nation.

This Exhibition is a reminder to us not only of the great contribution of the Jewish people to our beloved country, but also of the principles upon which our nation is founded and to which it owes its quality.

It is a reminder that while we are basically a religious nation it is an essential part of our nationhood that we not only tolerate, but we welcome and owe much to the diversity of religious beliefs and practices among our people.

No other precept is more firmly established in our Constitution and customs than that of the sanctity and equality of religious beliefs and practices. Our nation has no official religion; our nation may not favor one religious group over another; it may not burden or legislate with respect to any religion.

Religion and politics; religion and economic opportunity; religion and social acceptance—each of these is separate by the fundamental commandment of our laws and profound commitments.

This was the teaching of the founding fathers of our Constitution; and their wisdom is attested by the greatness of the contribution which people of many religions and customs have made to our national development.

This Exhibition memorializes that fact. It is especially fitting that the Exhibition has been sponsored by an organization, the Daughters of the American Revolution, which symbolizes our nation's debt to its ancestral liberators.

I shall not repeat at this dinner my remarks made at the reception a few hours ago in which I sought to summarize the history of the remarkable contribution of American Jews to the greatness of this nation. It is a contribution which has been and is being made in war and peace; a contribution which embraces all aspects of our national life, ranging from its ideological basis to the arts, science, industry and outstanding military service in all of our wars.

I cannot, however, forego the opportunity to repeat to you the words of our first President, George Washington. These words are an expression of the basic American commitment to Jews, to all Christians of whatever sect, to Moslems, and to all others of whatever religious faith. It is particularly appropriate that George Washington expressed this commitment in a letter to a Jewish group—to the Hebrew Congregation of Newport, Rhode Island—because no people have more consistently or courageously defended the principles that Washington expressed. He wrote:

"The citizens of the United States of America have a right to applaud themselves for having given to Mankind examples of an enlarged and liberal policy, a policy worthy of imitation. All possess alike liberty of conscience and immunities of citizenship. It is no more that toleration is spoken of, as if it was by the indulgence of one class of people that another enjoyed the exercise of their inherent natural rights. For happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support."

Finally, I would like to repeat my personal appreciation to John L. Loeb, Jr., who made this great event possible. John, like me, is a member of the Sons of the American Revolution, and his ancestors, like mine, participated in the war which first gave us our freedom. And my mother, like John's grandmother, was a staunch member of the Daughters of the American Revolution.

I should like to add again my appreciation to the Daughters of the American Revolution, to the lenders to the Exhibition, and all others who participated in making this Exhibition possible.

I hope and believe that this event will mark the beginning of a period of renewed dedication to the unity of all of the people of our nation of whatever religion or race—unity which is founded upon diveristy and respect for the religious views and customs of all our people.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no further need for my time.

If there is any Member on my side who wishes time, I will be glad to yield or I will be glad to yield my time to the majority leader for his purposes, if he wishes.

Does the Senator from California or the Senator from Pennsylvania require any time?

Mr. President, I have no time requests. I offer it to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business at this time, not to exceed 1 hour, and that Senators may be permitted to speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 11:08 a.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 11:19 a.m., when called to order by the Acting President pro tempore (Mr. Burdick).

Mr. ROBERT C. BYRD. Mr. President, what is the order as far as morning business is concerned?

The ACTING PRESIDENT pro tempore. One hour of morning business with a 5-minute limitation.

ORDER REMOVING TIME LIMITATION FROM ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time limitation may be removed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if any Senator seeks the floor, I will be glad to yield it. I think that while the Senate is awaiting the transaction of business, I will proceed with my 31st statement this year on the U.S. Senate.

(The remarks of Mr. Robert C. Byrd on the United States Senate are printed earlier in today's Record by unanimous consent.)

RECESS UNTIL 12:15 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12:15 p.m. today.

There being no objection, the Senate, at 11:38 a.m. recessed until 12:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Exon).

RECESS FOR 45 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 45 minutes.

There being no objection, the Senate, at 12:15:49 p.m., recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Mitchell).

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:30 p.m. today.

There being no objection, at 1 p.m., the Senate recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Mitchell).

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL CONFEREES—HOUSE JOINT RESOLUTION 637

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Magnuson, I ask unanimous consent that Mr. Stennis, Mr. Bayh, Mr. Hatfield, and Mr. Bellmon be named conferees in addition to those already appointed on the part of the Senate on House Joint Resolution 637.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:30 p.m. today.

There being no objection, the Senate, at 1:33 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Heflin).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time remains in morning business?

The PRESIDING OFFICER. Thirty-eight minutes and fifty-nine seconds.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I do not seek the floor at this moment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

CAN THE U.S. ARMY FIGHT?

Mr. EXON. Mr. President, I call attention to a most interesting article in today's Washington Star by John Fialka entitled "Can the U.S. Army Fight?"

In my opinion, this is "required" reading for every member of the Armed Services Committee, especially its Manpower Subcommittee on which I serve, and "must" reading for Members of Congress in general, in addition to the incoming administration leaders, as well as the interested public at large.

Mr. President, I have a high respect for the fighting ability and readiness of our Armed Forces in general. We have a majority of dedicated people and the account I refer to may not do justice to the service as a whole, or the Army in particular.

The fact remains that some of us have been concerned and have spoken out frequently on the issues addressed in the article.

We do not maintain that a high school diploma is the sole measure of a quality soldier. Certainly, there are excellent men and women who have demonstrated their exceptional talents in wartime, not properly measured by education levels.

Notwithstanding that, it should be clear, as we unsuccessfully argued earlier in the session on the debate to hold the Army's feet to the fire on higher standards of volunteers, an Army that does not reach higher than has been the result of the past several years is an Army not likely to perform in the long run as anticipated.

Mr. President, I ask unanimous consent that the article by Mr. Fialka be printed in the Record. The chairman of the Manpower Subcommittee (Mr. Nunn) joins me in this unanimous-consent request.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Report No One Wants To Talk About

(By John Fialka)

After eight years of experimentation, the all-volunteer U.S. Army is faltering under the burden of increasingly severe manpower, morale and management problems. The Army's own internal studies indicate that it may now be dangerously unprepared for combat.

The problems faced by the Army, as the Reagan administration takes command of the Pentagon, are deep-seated. They present strong evidence that not all of the Nation's major defense problems are going to be solved by simply spending more money.

The deterioration of the Army's manpower situation has been measured and reported repeatedly by the Army in a complex, worldwide system of opinion sampling and surveys. Aimed at assessing the attitudes of officers and men, the program is known as the Human Readiness reporting system.

That system, according to sources in the Army and Defense departments and on Capitol Hill, was quietly dismantled last January when the secretary of the Army, Clifford L. Alexander Jr., read and angrily rejected the dismal conclusions of the latest report: "Human Readiness Report No. 5."

The sources, several of them highly placed, said that Alexander was so angry that he barred anyone in the Army from talking about the report. He has also imposed the same restriction on himself.

Human Readiness Report No. 5, a copy of which was obtained by The Washington Star, is based in part on surveys of more than 3,000 officers throughout the world. It concludes that the Army's most severe problem is a growing feeling among officers that there are large numbers of "low-ability personnel" among the junior noncommissioned officers who would lead the Army into battle.

The study, completed in August 1979, states that the lack of confidence is focused on corporals and younger sergeants—the men who lead teams, squads and platoons—and the specialists who serve in such crucial roles as tank gunners.

The most devastating portrait of the all-volunteer Army to emerge from the Army's own statistics, the study says that the concern over the competence of the junior noncommissioned officers has grown steadily since 1975.

It says the feeling is strongest among officers of combat units, especially in Europe where the Army has two corps—about 215,000 men—that are supposed to be the most combat-ready U.S. military units in the world.

There is considerable evidence that the officers are not alone in their concern. Among enlisted men who were asked by the Army whether their unit would "do a good job" in combat, there has also been a steady decline in optimism since the mid-1970s.

The lowest levels of optimism are indicated by junior enlisted men in Europe, where only 39 percent agreed that their units would do well in combat.

The study was prepared by the Army's Human Resources Directorate and signed by the man who was the unit's director last year, Maj. Gen. Walter F. Ulmer Jr., a former commandant at West Point.

Late last fall, the study and Ulmer found themselves on a collision course with Alexander. According to Army sources, the result was not only the shelving of Ulmer's report but the abolition of the entire "Human Readiness" reporting system, which has collected survey information and published annual reports based on it since 1974.

"There will be no Human Readiness Report No. 6," explained one well-placed Army source, who pointed out that in the normal course of events that study should have been ready this summer.

He said that the study raised Alexander's anger partly because it linked soldierly competence to intelligence and education levels, a sore point with the secretary of the Army. Alexander ordered intelligence scores removed from the field files of 400,000 soldiers last summer to prevent their use in personnel decisions by combat officers.

The source said that "pressure" was put on Ulmer to rewrite the conclusions of the report but that Ulmer—an officer who is regarded by his peers as an extremely stubborn and courageous man—did not rearrange the data to fit the much rosier view projected by Alexander.

In a classified letter accompanying the report, Ulmer notes that it draws on an accumulation of five years of data from questionnaires regularly given to thousands of officers and enlisted men throughout the Army.

"That the current report indicates a gradual decline in human readiness during the last 18–24 months will no doubt cause some controversy" Ulmer wrote. "Many of the problem areas discussed already are controversial and our 'measures' of them will be a subject of debate.

"I am convinced, however, that the data

used for this report are acceptably reliable and permit a reasonably accurate assessment about trends in active Army human readiness. These trends are consistent with, and reinforce, findings from other recent studies and analyses."

Ulmer has since been given command of the 3rd Armored Division in Germany and he could not be reached for comment.

Through his Army spokesmen, Alexander repeatedly warned a Washington Star reporter that he would only consent to an interview on Army manpower problems if Human Readiness Report No. 5 were not discussed. Later Alexander grudgingly consented to the interview, but he adamantly refused to answer any questions about the report.

"Why don't you get away from the report?" said the departing Secretary of the Army. Calling the document "outdated," he added, "I can't comment about the report, because I thought we are not going to be discussing the report at this time. I haven't reviewed the report and don't intend to at this time for this interview."

Maj. Gen. Robert A. Sullivan, the Army's chief of public affairs, said no other Army official would talk about the report, which he called "unscientific." Asked repeatedly for evidence that would show how the report's conclusions are either outdated or scientifically unsupportable, Sullivan and other Army spokesmen have not been forthcoming.

"This," explained one of them, wearily, "is a very, very sensitive subject."

The controversial report states that three key indicators of "unit climate," or the attitudes of enlisted men, have been declining since 1976. Unit morale, measured on a worldwide basis, has dropped steadily, with the lowest readings showing up among enlisted men in Europe.

Troop motivation, or the willingness of soldiers to "work hard to get things done," has shown a similar decline since 1976, with the exception of units stationed in Korea, where indicators of motivation were driven sharply upward after the ax-murder of two American officers in the demilitarized zone in August 1976. Soldier motivation, the study states, is "lowest in Europe."

"The percent of commanders and other officers serving in troop units who state that motivation, discipline and morale are a problem in their unit has increased steadily since 1977," the study shows. "About 10–15 percent more currently cite each of these as problems than was the case in 1977."

While reportable incidents of crimes and disciplinary problems have dropped sharply since the beginning of the all-volunteer force, the study says that part of the decline is related to the "prudent use of the various expeditious discharge programs" that simply remove the soldier from the Army, rather than apply punishment.

According to Army statistics, 35.2 percent of new soldiers are now leaving the Army before their first three-year terms are completed.

Interestingly, the study notes that the Army's drug problem, which hit a high point during the late 1960s and early 1970s, appears to be dropping. In it's place, however, is an increasing concern about alcoholism, especially among Army units in Europe.

Army commanders listed alcohol abuse as their second most serious problem—coming just a few percentage points behind their concern about junior NCO leadership. Marijuana abuse ranked in fourth place among 13 problem categories, and the use of hard drugs ranked last.

The central concern of the study—that officers are most concerned about what they see as declining competence of their corporals and younger sergeants—points up an extremely serious problem because it affects the "cohesion" of small units, or their ability to stick together under fire. Military analysts have long regarded unit cohesion as one of the prime measures of the fighting potential of an army.

The study suggests that the officers' worries about their men may be mirrored by their troops in another ominous statistic. Among first-term soldiers, the percentage of those who believe their officers "care about their welfare" has dropped from 50 percent to 40 percent in three years. The percentage of first-termers who believe that most of their officers are competent "has declined from over 60 percent to less than 45 percent."

The study notes another probably related statistic: The percentage of young captains and lieutenants who agree to stay in the Army after their first tours of duty has "declined substantially," with the sharpest rate of decline being in front-line combat units.

In 1975, 70 percent of the younger officers in combat units opted to stay on. By 1979, only 44 percent would make that decision. Among regular Army officers, the study noted, the percentage resigning after their first term doubled during those four years.

Among West Point graduates, generally regarded as the cream of the U.S. Army officer corps, the number of younger officers "voting with their feet," or opting out of the all-volunteer Army after their first term, was still higher, rising from 10 percent in 1975 to 25 percent in 1978.

The flap over the intelligence and education levels of enlisted troops first surfaced last spring when it was revealed that another major Army research effort, called the Army Training Study, concluded that there was a definite relationship between low intelligence scores and the inability of tank and air defense missile gunners to hit targets. (The Army Training Study also was shelved by Army officials.)

Secretary Alexander, testifying before the House Armed Services Committee in June, flatly rejected the thesis. "No one, no expert, has been able to state what difference it makes," he said, referring to intelligence scores.

Human Readiness Report No. 5, based on five years worth of Army behavioral data, takes the intelligence argument one step further. Scores of the Enlisted Efficiency Report, the basic annual "report card" for enlisted soldiers, and AWOL (absent without leave) records show that education level and mental aptitude often are accurate predictors of how well a soldier will perform in his unit, the report says.

"There is evidence that these indicators do in fact measure potential for military performance (not precisely, but not trivially either) and it would be imprudent to ignore them in the absence of other measures," the study says.

It notes that since 1976 the mental aptitude of the average Army male recruit has dropped by 5 percentage points. Twenty-eight percent of soldiers training at Forts Benning, Dix, Knox and Leonard Wood, it says, "read at or below the seventh-grade level." About a third of this group, it adds, actually read "at or below the fifth-grade level."

The Army, in its official response to The Star's request for a comment on the study, said that "numerous actions and programs initiated since that time have had an impact on a number of aspects of the issues treated by the study, altering many of the conditions observed and the analysis and conclusions made by the author."

Alexander, who annouced last week that he is resigning, effective Jan. 20, is certain that intelligence scores and the matter of having or not having a high school degree has no bearing on the performance of his soldiers.

Rcently, he explained, he visited the Army's sergeant-majors academy, training grounds for the cream of the non-commissioned officers in the Army, and asked how many of the trainees were high school dropouts. Nearly half raised their hands.

Later, Alexander noted, a group of sergeant-majors visited him in this office, and he asked how many scored in Category IV, the Army's lowest intelligence category.

"Over a third of them admitted they did, as a matter of fact. They raised their hands," Alexander said.

He cited their response as proof of his success in office. He appears to be serene in his confidence that after four years of running the Army he has won the manpower debate, regardless of what the reports he has shelved may say.

The data, he says, "does not amount to a hill of beans. It is quite irrelevant."

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I am not sure that we will adjourn sine die today, but I imagine that, as the hour of midnight approaches and the clock is about to strike 12, positions may soften a bit here and there and we may be able to close up our chapter of service for this session and lock the doors.

But if it does not, we will be around tomorrow and perhaps when the payrolls stop and the agencies grind to a halt and some of the Departments have difficulty in opening their doors and are unable to continue to operate, and checks fail to go out to the recipients throughout the country, there may be a still greater softening of positions.

I imagine that before Santa comes down the chimney, the Senate and the House of Representatives will adjourn sine die.

So with that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to with the hope it will be about 6 o'clock this afternoon.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request for a quorum call.

JOSEPH STANLEY KIMMITT—SECRETARY OF THE SENATE

Mr. LONG. Mr. President, the fortunes of politics are such that the Republican leadership of the next Congress will install a member of the Republican Party in the job of Secretary of the Senate. This is as it has always been that the majority party names one of its own to that post, and I do not propose to change that tradition.

I do wish to express my deep appreciation for the very fine and responsible manner in which the outgoing Secretary of the Senate, Stan Kimmitt, has discharged the duties of his office during his tenure.

I have never one time heard a single complaint about the service of Mr. Kimmitt. He discharged his duties efficiently, without favoritism or partisanship. For many years, extending all the way back to the days when Mr. Kimmitt first came to the Senate, he has been helpful to me as well as many other Senators. He has always been available to advise us and to provide us assistance whenever we went to him for help of any sort.

I know that I speak the views of many Senators, perhaps the views of all Senators, when I wish Stan Kimmitt and his wife the very best of everything in their future endeavors.

We Democrats appreciate all that they have done for the Senate and for our country. We want to see them around for years to come. However, we all understand that in elections there are others besides the candidates themselves who are casualties of the political system. Stan Kimmitt certainly understands this, and he will demonstrate as he has that he can take the bitter with the sweet.

RECESS UNTIL 3:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 3:30 p.m. today.

There being no objection, the Senate, at 2:57 p.m., recessed until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PELL).

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOVERY BY U.S. NATIONALS FOR LOSSES INCURRED IN VIETNAM

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. STAFFORD, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1181.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5737) to amend the International Claims Settlement Act of 1949 to allow recovery by United States nationals for losses incurred in Vietnam.

The PRESIDING OFFICER. Is there objection to consideration of the bill?

Without objection, the Senate will proceed to its immediate consideration.

Mr. LEAHY. Mr. President, I rise today in support of legislation which is long overdue. Our colleagues in the House of Representatives, Mr. BINGHAM and Mr. JEFFORDS, introduced similar legislation which was passed by the House earlier this year. Shortly afterward, my senior colleague from Vermont, Senator ROBERT T. STAFFORD, and I introduced this language as an amendment to S. 2727, the State Department supplemental authorization bill. This legislation passed the Senate, but has not passed the House. I want to commend Messrs. BINGHAM and JEFFORDS for their work in this area. This bill, like the House legislation, is designed to amend the International Claims Settlement Act of 1949 to enable the Foreign Claims Settlement Commission to begin registering and processing the losses of the U.S. citizens incurred in Vietnam.

I want to make one fact perfectly clear. This legislation in no way seeks to prejudge or alter the relations of the U.S. Government with the Socialist Republic of Vietnam, nor does it presuppose any development in diplomatic dialog or international formality. The sole purpose of this legislation is to establish the necessary mechanism between the U.S. Government and its citizens to ascertain the number and merit of outstanding claims against Vietnam. It just sets out the manner and means to accomplish this.

These claims must be registered in a timely way for the simple reason that our State Department should know what the extent of American business and private losses are. Since the experience in similar claims settlement has proven to involve a very lengthy process, it is important to commence the registration soon. All too often, U.S. citizens have lost considerable sums because the registration process was begun too late, and many of those who were directly involved passed away, or pertinent records were no longer available. Thus, the likelihood of ever adjudicating the actual claims themselves can become well near impossible unless they are registered and processed.

I have brought this matter to the attention of the Senate Foreign Relations Committee and the Department of State. Both feel that the language of the House bill is sound as well as necessary. I hope that the Senate will act favorably on this legislation today so that the Foreign Claims Settlement Commission can commence its work soon. I know that the Commission is anxious and able to take on this task.

We know the sad legacy of Vietnam. The suffering of countless refugees in Southeast Asia brings it all home once again. I do not pretend to address the role of Vietnam in this new tragedy. Rather, this legislation is merely a necessary step forward on the part of our Government to help our own citizens.

Mr. President, whatever the future holds for United States-Vietnam relations, this legislation is necessary. It will give our representatives information that they will need—however our Government decides to proceed. Without acting prematurely, the bill will enable the United States to weigh an important factor should this ever become necessary. I trust and hope that my colleagues in the Senate will support this endeavor.

Mr. ZORINSKY. Mr. President, many U.S. nationals lost property when the Socialist Republic of Vietnam nationalized all private U.S. property following its military takeover of South Vietnam in 1975. No precise figures are available, but preliminary information indicates that about 1,000 individuals and business firms lost about $110 million as a result of Hanoi's actions. That was over 5 years ago, and it is time that the U.S. Government did what it can to assist those who suffered such losses. It is important that the process of inventorying the property lost begin soon, while appropriate evidence and witnesses remain available.

This requires the addition of a new title to the International Claims Settlement Act of 1949, authorizing the Foreign Claims Settlement Commission to examine and adjudicate the claims of U.S. nationals whose property was nationalized by the Socialist Republic of Vietnam. The Foreign Claims Settlement Commission has performed a valuable service in evaluating claims for losses of private U.S. property incurred because of the nationalization of such property by 12 countries.

Fortunately, the United States controls some $140 million in assets of the Government, firms, and nationals of Vietnam. These assets are currently frozen under the Trading With the Enemy Act and its successor statute, the International Emergency Economic Powers Act. It has been the practice of the U.S. Government to block assets of a foreign government equivalent at least to anticipated claims against that Government until satisfactory settlement of those claims. It is expected that Vietnamese assets will remain frozen pending settlement of U.S. claims against Vietnam. Vesting or liquidation of Vietnamese assets to pay U.S. claims would require specific U.S. legislation. No such authorization is provided or intended in H.R. 5737.

I want to stress one very important point regarding this bill. It does not authorize or even imply U.S. diplomatic recognition of the Socialist Republic of Vietnam, or affect the U.S. economic embargo. It simply allows U.S. nationals to file their claims with the U.S. Government for property lost in Vietnam and have them validated. I believe this will increase their prospects for eventual compensation, and urge the passage of this bill.

The bill (H.R. 5737) was considered, ordered to a third reading, read the third time, and passed.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 4:15 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 4:15 p.m. today.

There being no objection, the Senate, at 3:46 p.m., recessed until 4:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. EXON).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF MARIO E. CAMPIOLI

Mr. PELL. Mr. President, on May 16, 1980, Mario E. Campioli, Assistant Architect of the Capitol since May 1, 1959, retired from his position after 21 years of truly outstanding service to us all. During this period he was the chief advisor of the Architect of the Capitol on all matters involving architectural design in the Capitol and all the other building on Capitol Hill. Especially notable among his many achievements were his work on restoration of the Old Senate and Supreme Court Chambers, partial restoration of the old House Chamber (Statuary Hall), and restoration of the Capitol Rotunda. He is a recognized authority on classical architecture whose advice has been highly regarded over many years.

As chairman of the Committee on Rules and Administration for the last 3 years I have had many opportunities to appreciate Mr. Campioli's unflagging insistence on excellence in all aspects of his work, and I take pleasure in acknowledging our debt to him.

On June 10, 1980, his colleagues and friends, including Members and staff of both Houses of Congress, met together at a luncheon in his honor and with his family in the Senate Caucus Room. I ask unanimous consent that the remarks of George M. White, Architect of the Capitol, on that occasion, and a biographical sketch of Mr. Campioli's career, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Remarks by George M. White, Architect of the Capitol

The term "retirement" is often applied to someone who has spent thirty or forty years working in order to gain the time to play at the hobby that he or she would have liked to have been doing for those thirty or forty years. In the case of Mario Campioli, the situation is quite different. He has had the good fortune to be able to spend all of his professional life working at his hobby! So for him, this is not really retirement, but merely changing from one phase of his hobby to another.

The practice of architecture, like a few other human endeavors, enables you to continue to maintain your involvement in it in some form, virtually forever. For Mario, architecture has been his life's primary interest, outside of his family, of course. He's had a few diversionary interests: he's been a sailor, at times; he's a sports fan; and, there are a few activities that he has made me promise not to say anything about!

So in a sense, this is really more of a testimonial today rather than a retirement occasion, because for Mario, while he is retiring from the Government, he is really not retiring from his lifetime profession, in which he was also engaged before he came to the Government. He's been active in the practice of architecture for over fifty years. He has been associated with a number of prestigious firms, including that of Eggers and Higgins. That was the successor firm to John Russell Pope, who designed the original building for the National Gallery. The firm also designed what is now the Dirksen Senate Office Building. Mario was the chief architect for eleven years for the world renowned restoration at Williamsburg. Of course, as you know, he has spent 21 years in the Office of the Architect of the Capitol. His professional peers have elevated him to Fellowship in the American Institute of Architects, which is a signal honor achieved by only a few within the profession. His son, Carl, is a graduate architect and is now practicing with one of the large firms in Washington; I am sure that it is a great satisfaction to him to have his son follow in his footsteps.

So for Mario, architecture has been his entire life and continues to be. He is basically a classical or traditional architect. Some people have thought that he is, perhaps, too conservative at times, but I believe that's because he has been a protector of the basic attributes that over the centuries man has come to consider beautiful. Everyone is aware of his great love for the Capitol and the other buildings here on the Hill, each of which has its own personality in terms of architecture and therefore needs its own analysis and tender loving care in order to preserve and protect it from mutilation and deterioration.

Many people think of architects as being not very humble. Mario, on the other hand, has a great deal of humility, and is the antithesis of the example told in one of the apocryphal stories about Frank Lloyd Wright, who when testifying in a lawsuit, was asked by the cross-examining attorney whether it was true that he was the world's greatest architect. Frank Lloyd Wright replied that indeed he was. Later after the trial, his wife asked him if he had not been embarrassed to say that he was the world's greatest architect. "Not at all", replied Frank Lloyd Wright. "After all," he said, "I was under oath."

Mario has a great many other wonderful characteristics. He has an impeccable sense of taste, particularly with regard to color and proportion, and so forth. I have consistently deferred to his judgment in matters of that kind. Mario is a prodigious worker as all of you know who have worked with him. He is devoted and loyal. His integrity and honesty pervade his professionalism as well as the rest of his life. He has a wonderful sense of humor. He is meticulous and has a great memory for detail, all of which are characteristics so necessary for the practice of architecture, but are wonderful as well in the benefits that they bring in relationships with others. In that regard, above all, he is very warm and compassionate.

Recently, as many of you know, we have learned a great deal from Mario with regard to the courage and strength that he has exhibited in coping with cancer, which he has fought off. I know that I have personally learned much about calmness and fortitude as a result of watching Mario cope so magnificently with what would have been a very traumatic experience both physically and emotionally for any of us.

Architecture, in a sense, is not simply a profession, it's a way of life, and Mario Campioli certainly exemplifies it. You may have heard it said that architecture is frozen music. If it is, Mario has been a concert violinist.

Speaking in a personal way, he has been a good right hand to me. He has advised and counseled with me and kept me "on the straight and narrow" on numerous occasions. He is meticulous, as I mentioned earlier, particularly with regard to notes on drawings and the wording of specifications. Words can be very important if they are misunderstood, which is exemplified by the story that is told of the music appreciation class. When the teacher asked the little children in the class whether any of them knew anything about Johann Sebastian Bach, one little boy raised his hand and said, "I do." "Tell me about it," said the teacher. The little boy replied, "Well, he was a famous composer and pianist. He had 14 children, and he kept a spinster in the attic that he practiced on every night." So the use of words can be very important, and Mario has continued to point that out.

All of his friends and associates, who have come here to celebrate his friendship today, I am sure, join me in wishing him continued joy as he works at the drafting table, which I understand he has already set up at home. I would like to extend my personal thanks for all those good years since I've been here, and on behalf of others, for all those years that preceded me. Now, on behalf of your friends and associates, I should like to make a presentation of this token of their friendship and celebration; it is an original drawing by Allyn Cox, our marvelous artist who is painting the murals on the walls and ceilings of the halls on the House side and who is here today as well. This original sketch depicts an individual pulling on the rope which lifts into place the cornerstone for the Capitol. The painting exists in final form on the ceiling of the House corridor in the scene showing George Washington laying the original cornerstone. When the East Front of the Capitol was extended, Mario diligently made an effort to try to find that cornerstone, but was unable to locate it. We thought it would be nice to have this artistic reminder of that search. Thank you and, again, we wish you all the best in this new phase of your hobby.

Mario E. Campioli, FAIA

BIOGRAPHY

Title: Assistant Architect of the Capitol and Director of Architecture. Personal Data: Born—Parma, Italy—1910. Arrived United States—1911. Naturalized—1935. Marital Status—Wife—Margaret; Children—3 daughters, 1 son. Address—1136 Basil Road; McLean, Virginia 22101.

Education: Architecture—Columbia University—1930. Degree. New York University—1937. Bachelor of Architecture.

Architectural Research Abroad—England, France, Portugal, Sweden and Italy.

Professional Status: Registered Architect—New York—since 1936; Virginia—since 1949; New Jersey—from 1940—1949.

Fellowship—The American Institute of Architects, May 20, 1974.

Memberships:

Since 1947—Corporate Member of The American Institute of Architects; Since 1949—Member of the Society of Architectural Historians;

From 1957–74—Member of the American Institute of Architects, Washington Metropolitan Chapter;

From 1965–71—Member of the Fine Arts Commission, Board of Consultants for Old Georgetown Act;

Elected March 1966—United States Capitol Historical Society, Board of Consultants;

Since 1968—Honorary Member of the American Registered Architects;

November 1968—Honorary Member of The Producers' Council, Inc., D.C. Chapter;

March 1969-Present—Elected Member Board of Trustees of the United States Capitol Historical Society;

November 1969—Allied Professional Membership—National Sculpture Society; 1974-Present—Member of the American Institute of Architects, Northern Virginia Chapter;

March 1976-Present—Member of the United States Capitol Historical Society, Editorial Advisory Board—Capitol Studies.

Awards:

Samuel F. B. Morse medalist in watercolor—1932;

Special Service Award, American Registered Architects—1968;

Sons of Columbus of America—1970 Michelangelo Award in Architecture;

District of Columbia Council of Engineering and Architectural Societies—1972 National Capital Award for Professional Achievement in Architecture for Architects in the category of "36 Years and Over;"

Architect in Charge, First Design Award, The American Institute of Architects, Washington Metropolitan Chapter—Restoration of the Original Senate & Original Supreme Court Chambers in the United States Capitol—1976.

Experience: 1959 to Date.

Office of the Architect of the Capitol, Washington, D.C.

Assistant Architect of the Capitol & Director of Architecture Serving as Acting Architect of the Capitol during this period in the absence or disability of the Architect (substantially full-time service as Acting Architect, November 1969–70).

As Assistant Architect of the Capitol, in charge of architectural design and technical work of the office, and coordination of other professional services dealing with architecture, engineering, construction, restoration, remodeling, repairs of and additions to Capitol Hill structures. Served as representative of the Architect with consulting architect-engineers for various projects. Developed schematics for new projects such as the Madison Memorial Library of Congress Building. Delegated by Architect of the Capitol in 1959 the primary responsibility for carrying forward to successful completion the extension of the east central front of the Capitol, after the project was authorized.

Shared with the Architect of the Capitol the administration of the office (approximately 2000 employees). Appeared before committees and commissions of Congress in justification of new authorizations and the annual budget requests, in developing and carrying forward programs and projects for the Congress and Supreme Court, and in accounting for day-to-day policies and operations.

Lectured before various Congressional, architectural, historical, professional, collegiate, and other groups on the history and development of the United States Capitol.

1957 to 1959:

DeWitt, Poor & Shelton, Architects, Washington, D.C. Office Manager and Project Director, Extension of the Capitol Project. Developed plans and specifications for project, conducted historical research to develop background information, and lectured before various groups and societies interested in this project. Represented the architects for the project in conferences and discussions with the Architect of the Capitol and his staff, Members of Congress and their staffs, and the advisory group of architects.

1949 to 1957:

Colonial Williamsburg, Virginia, Director of Architecture.

In charge of architectural, engineering and landscape work required to restore many of the historical buildings, as well as new construction such as the New Information Center for visitors. Colonial Williamsburg is considered the most outstanding example in this country of restoration of early American architecture.

During this period, I also directed the restoration of the Van Cortlandt Manor Project at Croton, New York, for Mr. John D. Rockefeller, Jr.

1957:

Architect for plans to restore Tazewell Hall relocated from Williamsburg, Virginia, to Newport News, Virginia.

1940 to 1949:

Eggers and Higgins, Architects, New York, New York, Production Manager (and other positions).

Served as Production Manager (and other positions) in development of plans and specifications for many prominent buildings, including in Washington, the American Red Cross Building, original designs for the New Senate Office Building, and detailing of the National Gallery of Art.

1928 to 1939:

Office of Dwight James Baum, Architects, New York, New York, (President Hoover presented the Gold Medal Award in Architecture to Mr. Baum at the White House in April 1932).

Trained from 1928 and remained to become an associate of the firm with Mr. Baum until his death in 1939. Served as draftsman on residential, institutional and restoration work and on some Federal work such as the Flushing, New York, Post Office. Served as job captain for the Administration Building, the American Institute of Architects, Washington, D.C., and shared in developing other projects in latter years of employment with this firm.

DISTINGUISHED SERVICE AWARD TO RAYMOND NELS NELSON

Mr. PELL. Mr. President, at the annual dinner of the Congressional Staff Club, whose membership includes staff of both the Senate and the other body, my able personal friend and associate, Raymond Nels Nelson, was presented with a Distinguished Service Award "for his long-time service in every facet of Senate life."

In the club's publication that night, under the caption "Distinguished Service—Senate," the following statement was made:

> When you want something done on the Senate side, chances are you'll be referred to Ray Nelson . . . this former Rhode Island newspaperman hasn't stopped working since he arrived in Washington 20-years ago to serve as Administrative Assistant and Press Aide to Senator Claiborne Pell . . . right now he is involved with his regular duties as a professional staff member of the Rules Committee of the Senate, which has the functions of the House Administrative Committee on the House side, as well as Associate Director of the Inaugural and heading up the Combined Federal Campaign . . . all in a day's work for one of the kindest and genuine staff members on Capitol Hill who served ably as Senate Staff Club President in 1976 . . . other Hill organizations have benefitted because of his service . . . we know of many of our fellow staff members who were sent to him looking for job leads and his policy is "anybody who wants to see me, sees me" and because of that attitude and so much genuine service to others, we are proud to recognize him today.

Ray came with me from Rhode Island to the Senate in January, 1961, and served loyally and ably as my administrative assistant for 13 years. Since then he has been the professional staff member of the Senate Rules and Administration Committee responsible for, among other things, the increasingly complex administration of assignment of space to Senators and committees in the two principal office buildings and the five annex buildings. His other duties include legislative oversight of the Smithsonian Institution and such other programs as those of the Folk Life Center in the Library and the African Art Museum. In 1977 and currently he is deeply involved in the work of the Joint Congressional Committee on Inaugural Ceremonies as its Associate Director, working with Executive Director Tom K. Decker under the direction of Chairman MARK O. HATFIELD of the Joint Committee. All along he has served as general administrative trouble shooter for the Rules Committee with respect to policies and operation of the Senate.

Ray has been particularly active in the Senate Staff Club, having served as its president in 1976, and currently and last year as the very successful chairman of the Combined Federal Campaign (United Way) in the Senate.

A veteran of World War II (Navy, 1942–45), he was a reporter and later bureau chief for the Providence (R.I.) Journal-Bulletin from 1945 through 1960.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, at 4:31 p.m., the Senate recessed until 5:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MOYNIHAN).

RECESS UNTIL 5:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 5:30 p.m. today.

There being no objection, the Senate, at 5:02 p.m., recessed until 5:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MOYNIHAN).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STANLEY KIMMITT, SECRETARY OF THE SENATE

Mr. DURKIN. Mr. President, I would like to take this opportunity to offer a word of sincere thanks to the man who keeps the Senate running with cool efficiency in the heat of legislative battles, my good friend, Stanley Kimmitt, Secretary of the Senate.

Stanley Kimmitt began his service to our country while he was still a student at the University of Montana. Drafted into the Army in 1941, Stanley's service record is replete with promotions and awards for heroism. He served three tours of duty as liaison officer for the Secretary of the Army and, in 1961, Stanley was promoted to the rank of colonel in the U.S. Army. He left the Army in October 1966, but his service to his country would continue as he assumed the duties of administrative assistant to Senator Mike Mansfield, a majority leader of the Senate.

This team of Montanans, Mansfield and Kimmitt, served their country and their party well. In 1966, Stanley Kimmitt was elected to the position of secretary for the majority of the U.S. Senate. For the next 11 years he was instrumental to the success of the Democratic Party. He played an instrumental role in formulating and securing enactment of some of the most progressive pieces of legislation in our Nation's history. While Stan Kimmitt's contributions and commitment are most unmistakably impressive, what I have most appreciated about Stan is that he is as personable as he is capable. I am privileged to count Stan Kimmitt as one of my friends.

In his present position as Secretary of the Senate, Stanley Kimmitt has served us all well. His ability to juggle and respond effectively to 100 simultaneous top priority requests never ceases to amaze me. I think I can safely speak for my colleagues on both sides of the aisle, when I say that we have all benefited from the hard work and good friendship of Stanley Kimmitt. I look forward to continuing our friendship in the future.

A PARTING MESSAGE FROM SENATOR JOHN A. DURKIN

Mr. DURKIN. Mr. President, as this, the 96th Congress, draws to an end, my service in the Congress also comes to an end. Only those of us, past, present, and future, who are fortunate enough to serve in this unique institution can come close to appreciating my sentiments as I leave this body.

The voters of New Hampshire have bestowed upon me a singular compliment by affording me the opportunity of this service. You, my colleagues in the Senate, have given me a unique education for which I am most grateful. From the majority leader, Senator BYRD, to my colleagues in the minority, each of you has made a rare contribution in my life. The real and personal relationship which we share as Members of this body is unusual. My most sincere thanks to all of you for assisting me in serving the citizens of New Hampshire and of the United States.

The voters of America have spoken with a clear voice, particularly as to the nature of the political leadership they desire from the next Senate. I would be dishonest if I did not acknowledge to you that it is my fondest hope and sincere belief that the severe judgment of my Democratic Party entered by the voters of America on November 4, 1980, will be substantially reversed in November 1982, and totally corrected in November 1984.

Sentiment aside, I would ask my colleagues, particularly those of the new Senate, and our new President and his administration, to consider these words and comments.

Perhaps the most promising correction in international relations was the historic restoration of diplomatic relations with the People's Republic of China which originated in the Nixon and Ford administrations and which was completed in the Carter administration.

It is, therefore, with deep, deep concern that I view the suggestion expressed in today's press by some of the closest personal foreign policy advisers of the President-elect, that the United States reverse the recognition of the People's Republic of China. This is not only unrealistic, it is unreasonable. It is in our best economic and military interests to maintain and improve our relations with the People's Republic of China.

I pray that these voices challenging our recently revived diplomatic relations with China are not the spokesmen of the Reagan administration. We in the United States, indeed all citizens of the world, must recognize that the present People's Republic of China plays a vital role in maintaining peace in the world. Is there anyone in this body who doubts that Soviet Russia would have been tempted to continue beyond the borders of Afghanistan if it were not for the restraining influence and the powerful presence of the People's Republic of China? Surely Pakistan would be in greater jeopardy. Does anyone seriously doubt that the degree of restraint exercised by Soviet Russia in the current international turmoil in Iran is attributable to any concern other than the restraining influence of the People's Republic of China?

The Chinese Government's contribution to peace is vitally important and we cannot afford to let philosophic differences impede the continued growing improvement of relations between our countries.

There is an additional reason, an economic reason, which should motivate us to resist any efforts to turn back the clock on our relationship with the People's Republic of China. The burgeoning market of the millions upon millions of potential consumers of American goods and services represented by the Chinese people must be opened to the United States. We cannot afford to lose these vital trade opportunities. Misguided trade policies in the past have denied U.S. manufacturers trade opportunities while our allies have moved to expand the trade opportunities of new markets. Now is not the time to limit our trade and economic opportunities.

The vast untapped energy resources of China alone may very well represent the true balance of power of the next generation. It is vital to our interests; it is vital to the interests of world peace; and it is vital to future generations that we preserve, foster, and develop meaningful, realistic relations with the People's Republic of China. I hope that our newly elected leaders recognize these facts and that our foreign policy continues to move forward toward peace and prosperity through strength and wisdom.

Mr. President, I suggest the absence of a quorum.

Mr. LEAHY. Mr. President, will the Senator from New Hampshire withhold on that request?

Mr. DURKIN. Yes.

TRIBUTE TO SENATOR JOHN A. DURKIN

Mr. LEAHY. Mr. President, I cannot help but hear the Senator's last statement without saying that, as one Member of the Senate, his neighbor across the Connecticut River, I, for one, will regret very much his absence in this body next year.

The distinguished senior Senator from New Hampshire and I were classmates in law school in this city a number of years ago. We spent our time together preparing for the law and public life or other endeavors during that time. There is no question that throughout law school the Senator from New Hampshire was a person of great intelligence, a superb mind, and one of the fastest and most enjoyable of Irish humors, and we would hear more from him.

Mr. President, in the years that I have practiced law in Vermont, I would often turn on the television—I picked up news not only from the State of the distinguished Presiding Officer, but also from the State of the distinguished Senator from New Hampshire, Mr. DURKIN—and I would see item after item regarding Mr. DURKIN on that TV program in his capacity as the Commissioner of Insurance in the State of New Hampshire. In that capacity, he fought for the people of New Hampshire, not for a particular special interest, but for the people, all the people, Republicans and Democrats, and especially those people who had nobody else to fight for them.

It was that kind of spirit that brought him into the U.S. Senate. Throughout the 6 years that I have had the distinct honor of serving with my good friend JOHN DURKIN, he carried out that same tradition that he had in New Hampshire, a tradition that any of us who knew him before he went into public life would realize that he would carry out, and that is that he constantly fought for those people who had no one else to fight for them, the people who, after all, we formed a society to protect, the elderly, the disadvantaged, the small businesses, the people who do not have the well-paid lobbyists and well-paid spokesmen for their interest.

So while we have been enriched by his service in the Senate, we stand somewhat poorer by his soon-to-be absence.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair, in his capacity as the junior Senator from New York, wishes to associate himself with the remarks of the Senator from Vermont.

Mr. DURKIN. I thank the Presiding Officer for his comments.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF WILLIAM "RED" McDONOUGH

Mr. DURKIN. Mr. President, a good friend of mine and a fiery spokesman for the working men and women of New Hampshire, William "Red" McDonough, retired last month from his position as executive director of the Association of Federal, State, County and Municipal Employees.

"Red" carried with him into retirement an impressive life of over 30 years of public service. A lifelong resident of my own hometown of Manchester, N.H., "Red" began his involvement with labor organizing when he was an employee of the Manchester Highway Department. He was elected and served as the first president of AFSCME, council 68 and in

1969 became executive director of the council.

"Red," his wife Winifred, and their four children are well respected and well liked citizens of Manchester. As New Hampshire's senior Senator I have had the privilege of working with "Red" on Federal-State programs as "Red" served for four terms in the New Hampshire House of Representatives.

I am proud to count "Red" McDonough among my friends and I wish him the best of luck and a most enjoyable retirement.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAN KIMMITT, SECRETARY OF THE SENATE

Mr. NELSON. Mr. President, at the end of this month Stan Kimmitt will conclude his term as Secretary of the U.S. Senate, the highest administrative office in the Senate. He was elected to this position by the Members of the Senate twice—in the 95th and the 96th Congresses.

Almost his whole adult life has been spent in service to his country and in every assignment and responsibility he has acquitted himself with distinction and honor.

He entered the Army in 1941 at age 23 as a private. He left the Army as a colonel and a highly decorated soldier who led troops in combat in both the Second World War and Korea. He commanded a 155-millimeter howitzer battery of the 78th Infantry Division artillery and fought in campaigns in France, Belgium, and Germany. In Korea he commanded a 105-millimeter howitzer battalion with the 7th Infantry Division.

For his valor and leadership in combat he was awarded the Silver Star Medal, Legion of Merit, Bronze Star Medal with "V" Device and three oak leaf clusters, Order of Mennelik II, awarded by the Ethiopian Government for valor in Korea, and numerous campaign awards and service medals.

In 1955 he was called upon by the Secretary of the Army to serve in the Office of Legislative Liaison and subsequently became Chief of the Senate Branch of Army Liaison.

Because of his effectiveness and efficiency in that role he was asked by Senator Mansfield to become administrative assistant to the majority leader. In 1966 on the recommendation of Senator Mansfield he was elected by the Members of the Democratic majority of the Senate to the position of secretary for the majority.

In his 19 years' association with the Senate as Chief of Army Liaison, administrative assistant to the majority leader, secretary for the majority, and Secretary of the U.S. Senate he established an exceptional reputation for dedication to duty, competence, integrity, and civility. Respect for Stan crosses party lines to a degree and in a depth rarely found in any political institution. Republicans and Democrats alike know him to be a person of uncommon quality who is fair, honorable, and forthright in all of his official responsibilities and personal relationships.

Stan Kimmitt is an institution man. He knows and understands the history and traditions of the Senate as few people do. He is one of those who play such a vital role in making the system work. We need more, not fewer, of his like in all political institutions. He will be missed by this institution in important ways that cannot be measured or quantified.

Mr. MAGNUSON. Mr. President, I join with the Senator from Wisconsin (Mr. NELSON) in his remarks concerning Mr. Kimmitt.

REPRESENTATIVE JOHN RHODES

Mr. BAKER. Mr. President, I would like to take just a few moments today to express my admiration, affection, and appreciation of my counterpart in the House of Representatives of this Congress for the past 4 years, the most distinguished Republican leader in the House (Mr. RHODES of Arizona).

While there is certainly an abundance of honor and an abundance of work, there is not necessarily an abundance of pleasure in the position of minority leader. But I must say that one of the genuine pleasures of my 4-year tenure in that role has been the opportunity it afforded me to come to know, work with, and respect my good friend, JOHN RHODES.

As we all know, Mr. RHODES is relinquishing the duties of minority leadership in the House at the conclusion of this Congress. He does so of his own volition. JOHN RHODES could have held the Republican leadership of the House as long as he desired, so effective has he been, so respected by his colleagues is he. JOHN, however, has chosen to step aside. I regret his decision, but I understand it. He will be succeeded as Republican leader by the most capable Representative from Illinois (Mr. MICHEL). I know the exemplary quality of Republican leadership in the House will continue. But I know also that BOB MICHEL would be the first to agree with me that his task will be much the easier for the 7 years' labors of his predecessor. Indeed, JOHN RHODES has served as Republican leader of the House through the dark days of our party. And it is much his due that we are now returned to the sunshine of success.

So, I thank JOHN RHODES, Mr. President, for all he has done for me and for our Republican Party. And while I am saddened by his decision to step aside as Republican leader of the House, I am gratified he will remain in that body and I look forward to continuing to work with JOHN RHODES for both our party and our Nation.

SENATOR WARNER

Mr. BAKER. Mr. President, as this Senate approaches adjournment sine die, I would like to commend and congratulate my colleague, the distinguished Senator from Virginia (Mr. WARNER), who is completing his first Congress without having missed a single recorded vote or rollcall in this Chamber.

Such is a remarkable achievement, one of which Senator WARNER can be very proud. It indicates much hard work on his part and a deep dedication to the people of Virginia, and all America, as well as his grave concern about the state of public affairs in our Nation.

Those of us who share responsibilities in the Senate know how difficult it is to be present each time the roll is called in this Chamber. The constraints on our time and the duties we are obligated to perform away from this Hall make such attendance a large order often times.

In view of that, I appreciate the performance of Senator WARNER as it reflects positively not only on him, but on the Senate as an institution.

The increased duties Senator WARNER will assume in the 97th Congress make it unlikely that he will be able to continue his perfect voting record. His already heavy burden of service will be increased by his chairmanship of two important subcommittees, which will require he make inspection trips across the Nation and abroad.

Nonetheless, I know of all of us here wish Senator WARNER well as he strives to continue what is a modern record.

JERRY THOMPSON AND THE TENNESSEAN

Mr. BAKER. Mr. President, we are witnessing in this Nation an alarming resurgence of hatred and fear in the form of the Klu Klux Klan's increased activity and claims of increased membership. It is a trend I hoped we had put behind us and would not again see scar our land.

I do not know whether this resurgence is born of frustration by the decline of our ability to direct our own lives or if it is the reflection of a much darker and more menacing quality of this society. However, I suggest to my colleagues that we need to find out just how resurgent the Ku Klux Klan is and why so.

To that end, I am proud to be able to single out a resident of my beloved Tennessee and one of my State's most respected publications as having contributed much in recent days to our national understanding of the activities of the Ku Klux Klan. I refer to Jerry Thompson, a distinguished and courageous reporter for the Tennessean, of Nashville.

As many of my colleagues may know, Mr. Thompson only last week emerged from a dangerous assignment in which he spent 13 months "underground" as a member of the klan. The Tennessean is currently publishing a series of news articles on the klan from the unique perspective of one who spent more than a year within its ranks.

Jerry Thompson's willingness to assume this dangerous assignment speaks well of his professionalism and his dedication to seeking out the truth. The Tennessean's commitment of resources and manpower in this regard is a remarkable achievement for any newspaper, particularly one of its size. However, those familiar with both Jerry Thompson and his newspaper know such is not uncommon. Throughout his career at the Tennessean, Jerry has stood ready to take on the difficult and dangerous assignments so that his readers might know firsthand of an uglier side of life—a violent and deadly side of life. And the Tennessean itself has always stood at the vanguard of journalism, dedicated to the truth and the dissemination of the truth.

Their courageous willingness to proceed with this story is testimony to their high standards. Further, perhaps this story will afford us the insights we need to understand the thoughts and motivations of those who join the Ku Klux Klan. And through that understanding, perhaps we shall, at long last, be able to drain this venom from our land. I commend Jerry Thompson and the Tennessean and I thank them in behalf of all Americans.

STAN KIMMITT—SECRETARY OF THE SENATE

Mr. BAKER. Mr. President, for the past several days of this Congress, we have most correctly paid tribute on the floor of the Senate to many from our ranks who are leaving this body at the conclusion of this 96th session of the Congress.

Such tributes have been rich and each well deserved for lifetimes of dedicated service. I would suggest, however, that no Member of this Senate, past or present, has served this body and our Nation with higher distinction and honor than the secretary of the Senate, Joseph Stanley Kimmitt, who also takes his leave from us upon adjournment sine die.

For the past 4 years, Stan Kimmitt has been the embodiment of dedication and untiring service in his role as the chief administrative officer of the Senate. As each of us know, this Senate is, in itself, a massive operation with more than 7,000 employees and an annual budget of more than $200 million. Virtually every area of activity by each Member and each staff person of each Member ultimately impacts on the responsibilities of the secretary of the Senate. It is an awesome task. But it is one Stan Kimmitt has consistently met with unmatched excellence of performance.

Prior to assuming the role of secretary of the Senate, Stan held for 11 years the post of secretary of the majority of the Senate, a position he served with his customary effectiveness, as those of us on this side of the aisle during that period can rather ruefully attest to.

Prior to that, he also served as the administrative assistant to our most distinguished former majority leader and our Nation's current representative to Japan, the Honorable Mike Mansfield.

Those alone, Mr. President, comprise a lifetime of accomplishment. But even prior to that, Stan Kimmitt had served with high distinction in the U.S. Army for 25 years, rising from the rank of private to that of colonel. He served in both the Second World War and also the Korean conflict and was highly decorated, having received, among other commendations, the Silver Star, the Legion of Merit, and the Bronze Star with three oak leaf clusters. On three occasions during his military service, Stan served as the Secretary of the Army's Liaison Officer to the Senate.

In all, Mr. President, Stan's is a career of high achievement and high distinction. And I know I speak for every Member of this body in thanking him for all he has done for each of us, for the Senate as an institution, and for his Nation.

TENNESSEE MONUMENT AT GETTYSBURG

Mr. BAKER. Mr. President, I would like to take just a few moments today to express my appreciation and best wishes to an organization from my native State known as the Tennessee Monument Commission.

This organization, Mr. President, has for the past dozen or so years sought to recognize and memorialize hundreds of our Tennessee forefathers for the sacrifice they made for a cause they believed in more than 100 years ago.

I speak of the brave men of the 1st, 7th, and 14th Regiments of the Tennessee Infantry who fought and died so gallantly during 3 days of July, in 1863, on a remote hillside near the village of Gettysburg, Pa.

Some 50,000 men were killed or wounded in that fierce battle of the Civil War, or as we in my part of the country refer to it, The War Between the States.

Tennessee, Mr. President, has produced any number of great warriors and great men: David Crockett, Nathan Bedford Forrest, Sam Houston, who, while born in Virginia, was raised in Tennessee, Andrew Jackson, who also immigrated to my State from South Carolina, and of course, Alvin York, the Congressional Medal of Honor recipient of World War I.

None, however, were more noble, more courageous than those who stood, both with the forces of the South, and also some with the North, on those 3 days at Gettysburg.

In all, young men of 29 of our States took part in that epoch struggle on that hallowed ground so many of us have since visited.

Monuments now stand at Gettysburg in behalf of the men of 28 of those States, all excepting my own Tennessee, I sadly report.

The Tennessee Monument Commission, under the direction of Vice Adm. William P. Lawrence is now soliciting funds from the private sector to erect that much deserved memorial. In these difficult economic times, so distant in time and thought from July 1863, the commission's task is not an easy one.

I, however, want them to know of my gratitude. And I am certain that my Tennessee, the Volunteer State, which has indeed volunteered so very many of her young men and women to the service of this Republic, will once again "volunteer" and assure those brave Tennesseans at Gettysburg the memorial which is their due.

CARTER'S ENERGY DEBACLE

Mr. McCLURE. Mr. President, in 1974, the Ford Foundation published an influential study of the energy situation entitled "A Time to Choose." While it is undeniable that the study was influential, I believe that a dispassionate analysis of its effects will reveal that the influence was harmful. That study virtually ignored market forces, as even McGeorge Bundy, president of the Ford Foundation, has admitted. In doing so, the study set the stage, to the extent it was followed, for the political interference on energy markets which have characterized the last decade, preventing the orderly adaptation to a rapidly evolving energy situation.

The architect of that 1974 study, Mr. President, was David Freeman, who went on from there to be Jimmy Carter's principal energy adviser during his presidential campaign, and the drafter of many of the energy proposals sent to the Congress in the early days of the Carter administration. Most of those proposals were as ignorant of the workings of the marketplace as was the 1974 study; most of them received the treatment they merited. They were largely ignored, and Congress, proceeding in its own way, enacted a few pieces of relatively innocuous legislation, and took one or two tentative positive steps. On the whole, our record during the Carter administration has not been a good one, but it has been immeasurably better than it would have been had we taken all of the Carter/Freeman initiatives pushed at us.

Why do I bring all this up, Mr. President? I do it because I have just read a fascinating little article in a recent issue of The Energy Daily. Under the guidance of David Freeman, Jimmy Carter has staunchly opposed the Clinch River Breeder Reactor. The President claimed to favor some form of breeder program, but no one could ever get him to commit to anything definite, and Congress has continued, for 4 years, the Clinch River program over the opposition of the White House. This opposition has been led by David Freeman, most recently from his post as Chairman of the Tennessee Valley Authority.

According to the Energy Daily, Mr. Freeman has now changed his tune. Following a visit to France—and perhaps under the influence of the senior Senator from Tennessee—David Freeman now fervently supports the Clinch River breeder reactor. Far from his earlier position, he now regards Clinch River as the symbol of the American breeder program, a symbol that must be kept and accelerated, along with other aspects of breeder development.

Now, I am happy that Mr. Freeman is a teachable man, Mr. President, but I am struck by the fact that the entire Carter administration has left its energy programs in the hands of energy ignoramuses. It is appalling that the energy agenda of the Nation has been set for 4 years by people as ignorant of economics and energy technology as David Freeman is. It is encouraging that he is able to learn, but I greatly fear that on-the-job training in the rarefied atmosphere of the White House Domestic Council, the Department of Energy, and the Tennessee Valley Authority is too expensive. Who knows what other truths might come to Mr. Freeman, and to his cohorts in energy policy development, as they are exposed to the real world? Unfortunately, while Mr. Freeman gets his OJT, the Nation suffers; the breeder reactor program suffers; our ability to withstand oil cutoffs from abroad suffers; people suffer, unable to get the energy they need.

I am sure there are other educable individuals in the Carter administration. Given enough time, President Carter's people may eventually learn the lessons that thousands of years of economics have tried to teach. We cannot afford the time, and I for one am grateful that Mr. Freeman and the others like him will soon be moving on. I am happy that President Reagan appears unlikely to make mistakes of this kind, that he will be appointing people who will not have to relearn lessons taught so many times by the reality of the world we live in.

Mr. President, so that Senators can see the nature of the Freeman conversion, I ask unanimous consent that the Energy Daily article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

TVA's David Freeman Does Rapide About-Face

(By Ann MacLachlan)

How a trip overseas can change long-held ideas. It did just that for Tennessee Valley Authority chairman David Freeman, who returned last Thursday from a whirlwind tour of French breeder reactor facilities a firm supporter of the Clinch River Breeder Reactor (CRBR). In the past Freeman has steadfastly opposed CRBR, a 350-megawatt breeder being built on the TVA system. In fact, Freeman told The Energy Daily, the U.S. had better pull out all the stops on the breeder if it expects to have a commercial plant by 2010. Whether or not CRBR is a technological "turkey" is not the question, he argues; the plant is the flagship of the U.S. program, and "you can't kill the symbol" and expect the rest to survive.

Freeman has concluded that French breeder technology is "sounder than ours," but that the main strength of their program is utility involvement. He thinks that with a new President and revitalized Congress, U.S. utilities have a unique chance to grab the breeder option and run with it.

Here are some of Freeman's conclusions from the French trip:

"I was impressed with the French program. I had been led to believe that it was more showhorse than workhorse. Well, the fact is that their engineering is sounder than ours. I saw a huge testing facility in Cadarache where they run full-scale tests of breeder components. Their engineering is no slouch. They have excellent operating experience with Phenix [the demonstration 250-MWe plant]; Super-Phenix [1,200 MWe] is within budget, and it will obviously be ready in 1983, only six months behind schedule. The French are now 15 to 20 years ahead of us in breeder development. But with all their momentum, it still takes a long time to go commercial. Only with Super-Phenix 2 will they get to a commercial plant—they're going to order them in '84. So I have concluded that we won't have a commercial breeder in 2010 if we don't get going. We have to start today.

"I suspect that we have the wrong design in CRBR [the French have rejected its loop design in favor of submerging reactor components in a pool of sodium]. But I don't know enough about the technology. The important point is that we need to have a focus to our breeder program, and that means building demonstration plants. I don't think simply building CRBR is a breeder R&D program; if all we do is finish Clinch River, it will be like moving sideways. What is needed is a follow-on program, and utilities have to be involved very deeply as they are in France. I think the presence of the federal government [in the Clinch River Breeder Reactor Project, the industry-government consortium building Clinch River] is very stultifying; it's counter-productive. Basically France has turned the project over to the utility. I think that's the way to go and I'm talking to my colleagues in industry about that.

"Another point is that we have to look at Clinch River as a big power plant. It would kill the breeder program to look at it in terms of its cost. It must be a test bed for components and systems. We need to build into CRBR a whole lot more instrumentation, to think of it as a project from which we will learn—even the wrong [to do things].

"Then we can get together a team to design and build a reactor in the 1000-megawatt range. We've got two steps to do, and it's going to take us the rest of the century to do it. I'm persuaded that with a President who supports the breeder and a new Congress, we can make progress. Clinch River has become the symbol, and you can't kill the symbol if you want the program. But I would hope we would do something stronger than just a conceptual design study [for a bigger breeder] in the DOE. The problem with CRBR is that you had the government in it—it was a shotgun marriage. Of course the government has to have some role if it puts up subsidy money, but at Super-Phenix they have the Germans and the Italians, it's a utility consortium. Maybe this is one place where the Reagan Administration can reach a breakthrough."

Would he buy mature French breeder technology? "My feeling about that is that you can't buy the experience. Going through a succession of plants is the only way to master the technology. I'll be damned if I want TVA at the mercy of French manufacturers—it's bad enough that we're at the mercy of GE and Westinghouse. You can import a piece of hardware, but you can't import experience."

Lee Everett, president of Philadelphia Electric Co., also went to France under the auspices of the Electric Power Research Institute and Electricite de France, as did several other members of EPRI's ad hoc LMFRB committee. Everett says the trip was "a spiritual uplift for an old nuclear warhorse," praising EdF's multiple-reactor siting policy as well as the management structure of the Super-Phenix project. He said EdF offered to share operating experience at Super-Phenix with American companies, but no details were discussed.

NORDY HOFFMANN—SERGEANT AT ARMS

Mr. BAKER. Mr. President, the Senate, upon our adjournment sine die of this 96th Congress, will be bidding farewell to a great many devoted servants and close friends.

None of those who will leave us has been a better servant of the Senate and this Nation, or a better friend of any Member of this body, than the Sergeant at Arms of the Senate, Frank Nordhoff Hoffmann.

"Nordy" Hoffmann has served as our Sergeant at Arms since 1976. He is the executive officer of this Chamber. And during his tenure as executive officer, the demands upon him and his staff have increased dramatically. Throughout that period, however, the Office of the Sergeant at Arms has responded with effectiveness and diligence and has kept pace with the massive workload we have thrust upon it. Indeed, Nordy has anticipated our needs and has begun the process of installing a computerized system which will allow us to better track and control the legislative workload of this body.

Nordy's illustrious career began, as we all know, with his starring role as an All-America football player on the fabled Notre Dame University squads of the legendary Knute Rockne.

Following his service in the Second World War, Nordy distinguished himself as one of the guiding forces in the establishment and development of the United Steelworkers Union and ultimately served as its legislative director.

At the urging of his friend, Senator Ed Muskie of Maine, who now serves so brilliantly as our Secretary of State, Nordy became the executive director of the Democratic Senatorial Campaign Committee in 1967. He served there for 8 years, with exceptional effectiveness as all of us on this side of the aisle were made painfully aware of during that time.

In addition to his duties in the Senate, Nordy has also lent his considerable expertise to other institutions, serving as a member of the State of Maryland's Economic Development Commission and also as the chairman of the board of regents of the center for Congressional and Governmental Affairs of the Catholic University of America.

I know each of us in the Senate commends Nordy Hoffmann for his dedicated service to this body and his Nation; thanks him for his friendship and many kindnesses; and wishes him every success and happiness in the future.

RECESS UNTIL 6:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 6:30 p.m. today.

There being no objection, at 5:41 p.m. the Senate recessed until 6:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Matsunaga).

INTERNATIONAL COFFEE AGREEMENT

The Senate resumed consideration of the bill (H.R. 3637).

IMPLEMENTATION OF THE INTERNATIONAL COFFEE AGREEMENT

Mr. LONG. Mr. President, the House earlier this month considered and passed H.R. 3637, legislation to implement the International Coffee Agreement. The Finance Committee reported the bill favorably without amendment, on December 4, 1980. The International Coffee Agreement, itself, was ratified by the Senate in 1976 by a vote of 75 to 0. It expires by its terms on September 30, 1982, unless the contracting parties agree to extend it. The administration has submitted this legislation and wants it enacted in order to carry out the United States obligations under the agreement. As far as the committee is aware, there is no objection to the bill.

I send to the desk a written description of the bill and ask unanimous consent that it be printed in the RECORD.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

H.R. 3637

The International Coffee Agreement of 1976 (ICA), a treaty of the United States, was "ratified" by the Senate by a vote of 75 to 0 on August 23, 1976. Among other things, the treaty required member importing countries, including the United States, to take specific actions to limit imports of coffee under conditions of low price. The treaty is not self-executing and the President has no authority at present to impose such limitations. It expires on September 30, 1982, unless renewed by the signatories.

H.R. 3637 provides for U.S. implementation of the treaty, including that the President may prohibit entry of coffee exported from non-ICA members or from ICA members when the coffee is not accompanied by appropriate documentation. The President's authority is to be exercised under the House bill in such a way as to protect American consumers against unwarranted price increases as a result of actions by the ICA or by two or more members of the ICA, and the bill also requires reports on the operation of the agreement and on international trade in coffee. Authority under the bill expires September 30, 1982. The Administration supports the bill.

Export quotas are the economic instrument under the ICA used to maintain prices. These quotas are tightened—thus reducing the available world supply of coffee—as prices fall through a "price band." The price band, effective November 1, 1980, is $1.15 to $1.55 per pound. At the lower end of the band, the most restrictive quota is in effect, and if prices exceed the upper end of the band, the quotas are removed. Coffee prices are presently low in comparison to the price band of $1.15 to $1.55.

If invoked, a world quota would be divided among various producers, and would be basically enforced by the importing nations, which are to require that all imported coffee bear a coffee stamp indicating the country of origin. Unlike the International Sugar Agreement, there is no provision in the ICA for accumulation or release of stocks by the international organization to reduce prices. Statistical information on coffee shipments is forwarded to the International Coffee Organization in London, thus providing data on various nations' levels of export.

All members of the ICA are members of the International Coffee Council. Important decisions require a two-thirds (out of 1,000 votes) of the exporting nations and a two-thirds (out of 1,000 votes) of the importing nations. The United States has 323 of the importing groups' votes, and is thus able decisively to influence all major actions of the Organization.

The ICA contains a number of "consumer" provisions that were not in the previous 1962 and 1968 coffee agreements. Notwithstanding these provisions, in the past five years there have been numerous allegations of market manipulation by producer countries. Eight producers (known as the Bogota Group) established a price stabilization (i.e., high price) fund. This group established a company, Pan Cafe, to keep coffee prices high. For over a year, the activities of this group were highly disruptive, distorting and inflating the price of coffee throughout the world. Because of this behavior, the House Ways and Means Committee delayed filing its report and instead simply monitored coffee prices and developments.

In the last several months, however, coffee prices have declined dramatically, the efforts of the Bogota Group to maintain high prices have been unsuccessful, and there were signs that they would be willing to disband. This new evidence concerning the activities of producers prompted the Ways and Means Committee to report H.R. 3637 in September 1980. The House Committee amended H.R. 3637 to provide that if there is coffee price manipulation by two or more members of the International Coffee Organization, the President shall request that the situation be remedied, either through relaxation of coffee export quotas or other actions. If the members involved in price-increasing market manipulation fail "to remedy the situation within a reasonable time after a request for remedy," the President must suspend his authorities provided in the bill to implement the treaty until "effective market manipulation activities have ceased."

The authority provided in H.R. 3637 will expire on September 30, 1982, so that the Congress will have an opportunity to review this matter in the near future.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill (H.R. 3637) was ordered to be read a third time, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CONTINUING RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, the staff has been working on the language for an amendment, probably by way of a substitute, to the continuing resolution that has been sent over from the House on Saturday, and some additional time is needed for the writing of that language.

RECESS UNTIL 7:15 P.M.

Mr. ROBERT C. BYRD. If no Senator seeks recognition at the moment, I move that the Senate stand in recess until 7:15 p.m. today.

The motion was agreed to; and at 6:32 p.m. the Senate recessed until 7:15 p.m; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. PROXMIRE).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DUTY-FREE TREATMENT OF CIGARETTES

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of H.R. 7709 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill will be stated by title:

The legislative clerk read as follows:

A bill (H.R. 7709) to amend the Tariff Schedules of the United States to increase the quantity of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning United States residents.

Mr. MATSUNAGA. Mr. President, H.R. 7709 merely seeks to correct an unintended and severe penalty imposed on the Virgin Islands and other insular possessions by the Customs Procedural Reform Act of 1979. The bill was favorably reported by the Committee on Ways and Means and passed the House of Representatives, November 17, 1980. Specifically, H.R. 7709 allows returning U.S. residents to bring back, duty-free, up to 1,000 cigarettes—that is, five cartons—from U.S. insular possessions. U.S. insular possessions include the U.S. Virgin Islands, Guam, and American Samoa.

Existing law provides a duty-free allowance of $600 for U.S. residents returning from U.S. insular possessions—including up to four liters of alcoholic beverages—if the U.S. resident is returning from anywhere else, the duty-free allowance is only $300—including one liter of alcoholic beverages. With respect to the quantity of cigarettes which may be included in this allowance, however, the quantity is the same for both categories—200 cigarettes (one carton).

This limit was established by the Customs Procedural Reform Act of 1979 to correct abuses which were occurring along the United States-Canadian border, since the old law permitted individuals to bring in an unlimited amount of cigarettes, as long as it was within their duty-free exemption. This customs restriction was never intended to apply to U.S. insular possessions, but by inadvertent omission of appropriate language the unintended restriction came into being.

This limitation of one carton of cigarettes has damaged the Virgin Islands economy. According to data supplied by the Virgin Islands government and the private sector, there has been a drop in both cigarette imports and sales, and in the government revenues derived from this activity, since the current U.S. one-carton limit took effect. According to an analysis by the Virgin Islands Department of Finance, cigarette revenues decreased 38.7 percent between fiscal years 1978 and 1979.

This decrease in sales has created economic difficulties for the Virgin Islands government and businesses. The restriction is clearly unintended and would be rectified by H.R. 7709, according to the Congressional Budget Office in its report filed on September 19, 1980, with the Committee on Ways and Means. The bill does not provide any new budget authority or any new or increased tax expenditures, and it will not significantly reduce budget receipts.

Mr. President, the bill was favorably reported by the Committee on Ways and Means and passed the House of Representatives unanimously on November 17, 1980, and it has been cleared by both the majority and the minority.

Mr. President, I move the passage of H.R. 7709.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 8 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 8 p.m. today.

There being no objection, the Senate, at 7:25 p.m., recessed until 8 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Tsongas).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 8:15 p.m., recessed for 30 minutes; whereupon, at 8:45 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. Tsongas).

TRIBUTE TO SENATOR WARREN G. MAGNUSON

Mr. JACKSON. Mr. President, before the 96th Congress ends, I wish to say a few final words about my friend and colleague from the State of Washington, Senator Warren G. Magnuson.

I am in a rather unique position this evening to be here talking about Senator Magnuson—more so than simply because we represent the same State. No other Member of either House has served longer with Maggie than I—40 of his 44 years in Congress.

"Maggie," as everyone here and at home knows him, has served in this body longer than any other Senator from our State—and fifth longest in the history of the Senate. He also has served in Congress longer than any current Member of either House.

Longevity in Congress aside, Maggie has been one of the dominant political forces in Washington State for half a century.

He will be sorely missed, here and at home.

During those years, I believe Maggie did more than any Member of Congress in history to better the quality of life for his fellow human beings.

In the areas of health care, fisheries, commerce, consumer protection and the environment, Maggie has left a record that will live for many years. I could stand here all night talking about the contributions and good of this one single man.

One of the best commentaries on his career was written by a former member of his staff, Eric Redman, and appeared in the Seattle Weekly soon after the election.

Listen to this excerpt:

> After Maggie had lost, I tried to comfort a teenager, crying inconsolably, too young to have sensed the November 4 disaster coming. This particular teenager was the son of another ex-aide to Maggie.
>
> In 1968 I had dangled him, an infant, on my knee. What I told him, in 1980, was that for many months in 1968 I had not believed that Maggie could be re-elected, but that he had been re-elected, and re-elected again in 1974. That he had, in those 12 years, in that period of the teenager's entire conscious existence, accomplished almost everything a man could conceivably desire, and that in a sense he'd done it all on borrowed time.
>
> What happened in those 12 years is recorded, permanent, understandable, and (as Maggie would say) non-debatable: Poison prevention packaging; the National Health Service Corps; tanker safety; the 18-year-old vote; extension of unemployment compensation; coastal zone management; marine mammal protection; salmon and steelhead enhancement; Mount St. Helens relief; the West Seattle Bridge; Sand Point; the Hood Canal Bridge; Expo 74; Todd Shipyard jobs; housing for the elderly; new powerhouses; new air routes to Japan; and a plethora of Maggie's famous little amendments.

Mr. President, I ask unanimous consent that the full text of Mr. Redman's article be reprinted in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. Mr. President, in the 28 years Maggie and I have represented Washington State in the Senate together, I would venture to guess we have enjoyed the best working relationship of any two Senators from the same State.

We did not always agree. But we could disagree without being disagreeable. When we had a problem—a difference of opinion—we did not have to write letters to each other. Our offices were next door to one another, almost as extensions of each other. And we worked together that way as well.

From my heart, I thank him for everything he has done for me, the State of Washington, and the Nation.

With an enormous sense of loss, I bid him farewell from the Senate.

Exhibit 1

Maggie With Tears

(By Eric Redman)

(Albert Camus was once invited to explain his atheism to a group of French clerics. In his remarks, Camus contended that the existence of God was not so much implausible as immaterial. "You dream of a world in which no children starve," he explained. "I dream of a world in which fewer children starve.")

Election night tears aren't rare; most losing campaigns end with them. If you've never shed them, you haven't worked in many campaigns, and if you've worked in many campaigns, you know that different emotions can prompt them. There are tears of frustration over hard work unrequited. Tears of disillusionment that the forces of darkness prevail. Tears of loss, and loss can take many forms.

All these tears fell at Magnuson headquarters last week, although not from Maggie's eyes. Maggie's eyes merely brimmed. Perhaps after 25 tearless primary and general election nights in succession, over a period of 48 years, one's tear ducts simply aren't prepared for service on the 26th. I'm glad he didn't cry, and equally glad I did.

After mourning a bit, embarrassment and resiliency combine to dry the tears. Yes, the hard work went unrequited, but it was work to be proud of—a vastly larger, more effective, more exuberant volunteer force than any Maggie campaign had previously assembled. Yes, the forces of darkness prevailed, at least from one perspective, and the Senate will be stamped "Made in 1980" for a decade or more. But democracy includes the right to be wrong, and the right of the losers to wait a few days and gloat. Yes, we've lost something irreplaceable, something more complex than just power in the Senate and continuity with our past. But . . . well, there's nothing to follow this particular "but," other than to observe that Washington State won't dry up and blow away without Maggie in the Senate; his work itself helps ensure against that.

So no more tears of this transient sort. There's something else, something to confront on late nights all alone, for which to reserve them. Something a little tougher to dismiss.

"Can you describe," another ex-staffer asked, "why he inspired such loyalty among those who worked for him, why it is they'd lay down their lives for him?" Not easily, I'm afraid.

I met him in Seattle, in a corridor of the federal courthouse, a week after I'd joined his campaign staff in 1968. At 63, he was three times my age. He smoked a cigar; he was overweight; he seemed distracted. An aide introduced us and told him I'd come from working for Bobby Kennedy, who'd been dead two weeks. "Well, it won't be as exciting around here," Maggie warned me. "But you'll have a chance to do a lot of good."

A chance to do a lot of good. It hardly seemed credible. We weren't even confident we'd win the campaign; perhaps Dan Evans would run, perhaps he could beat Maggie. Age was an issue. The senator walked very slowly. He didn't look healthy. The benefits of his seniority were under attack. He was being blamed for inflation, for deficit spending, for a weak national defense. He'd been in Congress too long; he was out of touch with the people; he refused to debate his opponent; it was time for a change. So, at any rate, it was alleged.

Twelve years later, after Maggie had lost, I tried to comfort a teenager, crying inconsolably, too young to have sensed the November 4 disaster coming. This particular teenager was the son of another ex-aide to Maggie. In 1968 I had dangled him, an infant, on my knee. What I told him, in 1980, was that for many months in 1968 I had not believed that Maggie could be re-elected, but that he had been re-elected, and re-elected again in 1974. That he had, in those 12 years, in that period of the teenager's entire conscious existence, accomplished almost everything a man could conceivably desire, and that in a sense he'd done it all on borrowed time. That we could all be proud of those 12 years; that the benefits would continue far beyond the one term that Maggie didn't win. And, having said all this, I realized I'd started crying again myself. Damn it.

Damn it, because that wasn't right either. What happened in those 12 years is recorded, permanent, understandable, and (as Maggie would say) non-debatable. Poison prevention packaging. The National Health Service Corps. Tanker safety. The 18-year-old vote. Extension of unemployment compensation. Coastal zone management. Marine mammal protection. Salmon and steelhead enhancement. Mount St. Helens, the West Seattle Bridge, Sand Point, the Hood Canal Bridge, Expo 74, Todd Shipyards jobs, housing for the elderly, new powerhouses, new air routes to Japan. And a plethora of Maggie's famous little amendments.

But you don't cry for a legislative record, not even when it's truncated in untimely fashion. What matters most is what hasn't been recorded, perhaps what never will be. Somehow exposure to that short, dumpy, slow-walking, cigar-chomping old man simply transformed everyone who shared office space with him. If each of Maggie's laws were repealed, it couldn't change anyone back.

So what is it about Maggie? Well, here's a clinical list of what makes him endearing:

He's shy. Because of this, he is endearing primarily to close associates and large audiences, whose socks he can charm off. At a coffee-hour with strangers he is a disaster.

He has the best sense of humor I've seen in politics. Best not because it's deft, which it is, but because it's warm, never cruel.

He doesn't bear a grudge. This year was not the first during which Republican senators came to Washington State to campaign against him. The staff always wanted to enact retribution. Maggie would have none of it. He claimed vindictiveness interfered with gathering votes on the Senate floor. It took me years to realize that this was an excuse; the truth is that Maggie couldn't bear a grudge if he tried.

He abhors grandstanding, and is a very belated and reluctant convert to headline grabbing, press-release issuing, and radio feeding. This is why, in the Senate, he is a liberal only in terms of votes and legislation, but divorced from the liberal legislative style. If you've worked for him, it's always a jolt to see him described as a liberal, because it's legislative style and not substance that this term in Senate usage naturally connotes.

He is an unwavering New Dealer in terms of whom he thinks government should help. I don't think he's as committed to New Deal methods—that is more programs—as his detractors contend. Workers, the poor, minorities, and women have his very natural sympathies. Mayor Marion Barry of the District of Columbia said Maggie saved that city this year; someday he'll be remembered as the only man who could, and did, get the public accommodations section of the Civil Rights Act of 1964 out of the Commerce Committee and on to the floor.

He is comfortable with the brightest staff that he can find. This quality is more rare on Capitol Hill than most suspect.

He has an extraordinary degree of self-awareness, a rare attribute among politicians. Outsiders find this difficult to believe, but I've come to think it may be his most important quality. He knew, for example, that he could lose the 1980 election; I know he knew, because two years ago I spent an afternoon I will never forget listening to him explain it all to me. Retiring undefeated for the benefit of the history books and his supporters' nerves didn't appeal to him; the chance of coming back in January, 1981, did.

He is a marginalist (or at least taught marginalism to his aides). He never sought to make the world perfect; he sought to make it better. More important, he realized that he could. Marginally, or incrementally, we can do things that really help people, if only marginally and incrementally; pontificating, we can't. The best is often the enemy of the good—that's one way to state the lesson. But Camus stated it better, which is why his dream of fewer children starving captures about Maggie a quality our material, parochial, constituent dreams never did.

This list may not fit the Maggie you think you know. And you, not I, may be right. But consider again the very first point—Maggie's shyness. Think of shy people you know well; think of the defense mechanisms they employ; think of the misleading impressions that others therefore gain and assert with passionate conviction to be true. Then think about Maggie again, carefully, one more time.

A list is easier to compile than to substantiate. Substantiation here would require Maggie anecdotes, and somehow it seems too early for those. The list is important, though, if (as I suspect) personal qualities, not personal achievements, are really all that we can properly envy in another. No election result can diminish Maggie's personal qualities; perhaps time can illuminate them.

The loss at the polls leaves other truths untouched. One is that on balance, the state of Washington has been very good to Maggie. And not just in the sense that Ethiopia was on balance good to Haile Selassie, or Iran, on balance, to the Shah. Maggie has served in Congress for half the years since Washington's statehood. Only two or three other men have ever been popularly elected to six Senate terms. Affection for and appreciation of Maggie has steadily increased throughout his tenure, even though his electoral support has not. (To pollsters, this is not a paradox.) Maggie's popularity grew only because he grew himself. Imagine what could have been written of Maggie had Arthur Langlie ended that election skein in 1956, instead of Slade Gorton ending it in 1980. There might have been tears on election night, but different ones, and fewer.

Another truth: it turned out that Maggie, had he won, would have returned to a Republican Senate. He would have enjoyed no chairmanships. He might have enjoyed almost nothing. Maggie is a creature of the majority, a master at building coalitions, soothing egos, dispelling tension with a funny story, avoiding divisiveness in order to bring a bill from committee to the floor and (more often than not) to pass it on the unanimous consent calendar rather than with a floor fight. These satisfactions would rarely be his in a Republican Senate; the meetings could have started before he got there.

All true, all true. But these are sheltering truths, protecting us from the wintry drafts of other, more basic ones. Basically, we did something a little shameful. We bought the line about Slade Gorton being the next great senator and never asked ourselves "Okay, perhaps, but what's the hurry?" We didn't stop to think that this man had a love affair going with our state, not just with the U.S. Senate; that like any lover, he needed our reassurance. We broke off the affair without telling him why, without taking steps to depersonalize the decision, without really pausing to think about what it meant for him and us. There's something disturbing about it all, something tawdry; a certain indifference and casualness.

Writing this, I have to concede that the ballot is a blunt instrument, ill-adapted to sending diplomatic and gracious messages. Even so, even so. Would it have hurt us to indulge Maggie just this once, after all he's done for us? Does anyone really believe that the rate of inflation depends on whether Maggie or Slade Gorton is in the Senate? The truth is that rejecting Maggie was an act felt far more deeply by him than by us. Under the circumstances, I wonder if, as D. H. Lawrence once wrote, we do not have something to repent; a pettiness.

So it seems to me. But I'm biased. I'm biased because on November 4, I stood, and cried, to see a proud man struggle to maintain his dignity. I watched a man I love be hurt terribly by the people he loved, the people who will never again be served so faithfully by someone whose only desire was to please them. And for what we did to him that night, believe me, we now will face a choice. We can lop off a portion of our hearts, allow Maggie to recede into a sepia-tinted photograph, and have all our nights be calm ones. Or we can expect those damn tears again, not often, but from time to time as the years go by.

Mr. JACKSON. Mr. President, I ask unanimous consent that my remarks I have just made be placed in the book which is being put together involving the statements of other colleagues regarding Senator MAGNUSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Thank you, SCOOP, thank you.

THE COMMUNICATIONS CROSS-OWNERSHIP ACT

Mr. WILLIAMS. Mr. President, before we complete our work here today and see the 96th Congress to a close, I would like to take just a moment to compliment the members of the Senate Commerce Committee on their persistence and diligent hard work on the Communications Crossownership Act of 1980. I know a great many hours were spent fine-tuning what developed into a most controversial measure. And, in the waning days of the session, the simple fact that we were running out of time and were sidetracked by unrelated issues added even greater pressure to their duties. I appreciate the pressure they have been under, because I have been laboring under similar circumstances with the mass transit bill, and I am most distressed that the problems holding back final consideration of the communications measure have not been resolved.

My principal disappointment is that my distinguished colleagues on the Commerce Committee were unable to accept my amendment which would set forth the policy that each State should have at least one VHF station. It would have required that if a VHF station becomes available in a State that already has other VHF stations, the Commission must allocate the available license to a State without a station, if it is technically feasible to do so.

In my opinion, this legislation would have provided the most concise and most effective solution to New Jersey's problem. It would have clearly established a fair and workable solution, and paved the way for early action by the Federal Communications Commission. Until recently there has not been such an auspicious environment for action of this kind. Recently, however, several related events made my hopes for a New Jersey VHF station seem more attainable.

Earlier this year, the FCC decided to

deny the license renewal application of the license of three major television stations, including channel 9 in New York. While New Jersey's needs were not a factor in the decision, it nevertheless presented the Commission with an excellent opportunity to resolve New Jersey's problem.

My colleague from New Jersey (Mr. BRADLEY) and I joined in petitioning the FCC to seize this opportunity to reallocate the channel to our State and I am pleased to note that the formal rulemaking on this petition has begun. I am most hopeful that the FCC will act favorably on that petition so that the very long and complex steps necessary to actually put a station on the air may get underway. I feel compelled to note that Senate action would have eased that arduous task by spelling out the intent of Congress and clearing the path for the Commission.

Since 1971, I have served as a cochairman of the New Jersey Coalition for Fair Broadcasting, a citizen's group which was formed to advocate New Jersey's cause. For many years now I have been working to bring a VHF station to my home State, and for many years the FCC has tried different, somewhat less than satisfying solutions.

In short, many approaches have been tried, and the bottom line is that New Jersey simply needs a VHF television station. No other solution to the problem will come close to filling that void.

I have had the opportunity to testify before the Commerce Committee on this question, and my opinion is a matter of public record, so I will not seek to reiterate the reasons or justifications for such action.

I understand that many members of the committee have been sympathetic to my argument and to the communications needs of New Jersey. I also understand why the committee did not report out the amendment as part of the overall bill. I must also note, with considerable disappointment, that similar legislation introduced by New Jersey Congressman ANDY MAGUIRE will not reach the floor of the House for consideration this Congress. It is most unfortunate that the issue could not have been settled this year, but I take heart in knowing that in a different legislative atmosphere, our amendment would have had more likelihood of success in committee.

Of course, I cannot foresee what the legislative program of the Commerce Committee will be next Congress. Nor can I foretell what priorities will be established by the pace of future events. But I can observe that committee members have shown a definite interest in this important issue. I believe that fact was evident during last hearings on the overall bill and the amendment which I introduced earlier this year. I deeply appreciate the strong sympathy expressed for the problems New Jersey has faced because it does not have a commercial VHF television station.

In light of this, I would hope that when the Commerce Committee considers broadcast issues next year under the able leadership of the Senator from Oregon (Mr. PACKWOOD) that it will again review the advisability of a legislative solution to New Jersey's communication problem. I am looking forward to working with the future chairman on this and other matters during the 97th Congress, and I would again like to express my appreciation for the time he and the distinguished Commerce Committee chairman (Mr. CANNON) and Communications Subcommittee chairman (Mr. HOLLINGS) have given to our concerns in the past.

A SPECIAL YANKEE TAKES HIS LAST BOW

Mr. WILLIAMS. Mr. President, one of our former colleagues, Senator Eugene McCarthy, is fond of saying that baseball is almost like the pursuit of ultimate truth. It is the one team sport which is not confined by time or by artificial boundaries since, in theory, a baseball game can last forever and the foul lines stretch to infinity.

Mr. President, today is a day to wish that human life could be as boundless as baseball. A magnificent star of that sport and a splendid human being, Elston Howard, has returned to his maker. And, Mr. President, though Ellie's life was cut short by a disease of the heart, there is no doubt among those who knew him that a heart like his is filled with a love for humankind that will live for time eternal.

He was a man of rare compassion and uncommon kindness and his spirit and generosity soared even higher than the statistics of his remarkable career. Through 14 brilliant summers, Ellie Howard played with the best and brought happiness to all those who appreciate the grand sport of baseball. From his anchor position at catcher, he directed some of the best teams of the long Yankee dynasty and his extra effort won him nine trips to the all-star game, nine trips to the world's series, and thousands of trips all over America to places where people appreciated his humility, good will, and soft-spoken concern for the less fortunate.

Ellie broke many barriers. He was the first black to play with the Yanks, and the first black to coach in the majors. But if he is to be remembered for anything, it will be his special warmth as a player, a friend, and someone who could always be respected and admired.

Mr. President, in these closing hours of the 96th Congress, it seems strange to be thinking of the crack of a bat and the lusty cheer of a New York crowd watching one of Ellie's hits soaring to centerfield, but that is what I am thinking of at this moment and it makes me proud to have known Elston Howard and happy to remember that we all were blessed by his presence both on and off the field.

Mr. President, I know all my colleagues will join in expressing to Arlene Howard and her children, who reside in my home State, New Jersey, our most heartfelt condolences at his death, and I ask unanimous consent that a fine tribute to Elston Howard, written by Moss Klein of the Star-Ledger of Newark, N.J., be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Star-Ledger, Dec. 15, 1980]

ELLIE HOWARD: MAN OF CLASS

(By Moss Klein)

There was the time in Chicago last April, during the first week of baseball season, when Elston Howard had reason to feel especially proud.

The Yankees would be playing the White Sox at Comiskey Park that night but Elston Howard was more excited about the event at the Shubert Theater, the Wednesday matinee performance of They're Playing Our Song.

Cheryl Howard, Elston's 21-year-old daughter and an aspiring actress, had a significant role in the play. And her father, who had been making road trips to Chicago as a player and coach for 25 years, never enjoyed the city as much as he did that afternoon at the theater, beaming with fatherly pride as Cheryl impressed the audience, which included some Yankee players and several reporters.

At the ballpark before the game, Howard was still beaming as he sat in the dugout and watched the Yankees take batting practice. He had been feeling better after more than a year of problems with a heart condition and he was enjoying his first road trip since the 1978 season.

"Watching my daughter in that play today was really something special," Howard said. "In a way, it made me feel bad about all the time I missed with my family being a baseball player and being on the road so much. But I was able to stay close to the family and I've loved baseball so much. I've been very lucky."

Elston Howard, who lived a full but short life, died yesterday morning of cardiac arrest at the age of 51. He had been in Columbia Presbyterian Hospital since Nov. 26 when the heart problem which began in February of 1979 intensified.

Howard's playing career, which began with the Yankees in 1955 and covered 14 seasons, the last two with the Red Sox, was filled with success. He was the first black player on the Yankees and he was a star on those mighty teams of the '50s and early '60s, a nine-time All-Star, the American League MVP in 1963, a significant player in nine World Series.

He was a big, husky man with exceptional strength in his hands and wrists, a righty hitter whose career home run total of 167 would have been much higher if he hadn't spent so much time hitting in vast Yankee Stadium, which has frustrated so many righty power-hitters.

Howard was primarily a catcher, a proud link in the Yankee chain which went from Bill Dickey to Yogi Berra to Howard to the late Thurmond Munson. But since Berra and Howard were teammates for nine seasons, from 1955 to 1963, Howard also played in the outfield and at first base.

"Elston Howard is my three-way platoon," is the way Casey Stengel, Howard's manager for the first six years of his career, used to describe him. "He's probably the best guy in the league at any of the positions and having him is like having an extra six players around. Six All-Stars, no less."

In those early years of his career, before he settled into being a regular catcher, and Gold Glove winner, under managers Ralph Houk and Berra, Howard disliked the three-way role which Stengel employed. "Sometimes he'd take me out for a pinch-hitter against a righty pitcher and I'd go home all upset and mope around in front of my wife," Howard recalled recently. "But Arlene would say, 'Stay calm, do your best, your time will come.' And she was right."

Arlene Howard knew her husband would succeed, because she knew how much he wanted success. They had been married in December of 1954, after he had completed an outstanding season for Toronto and been named the MVP of the International League.

The Yankees were among the few teams in those days which still didn't have any black players, at a point in time when people noticed those things. The National League rival Dodgers had Jackie Robinson, Roy Campanella and Don Newcombe, the Giants had Willie Mays and Monte Irvin and the Indians, who had won the American League pennant in 1954, had Larry Doby, Al Smith and Bobby Avila. The Yankees, for whatever reason, had been slow in bringing black players into their system and that put additional pressure on rookie Howard in 1955.

But he made the team in spring training, one of three rookies including pitchers Johnny Kucks and Tom Sturdivant. The trio appeared on the Ed Sullivan show along with Stengel the Sunday night before the season opener and Stengel made Howard feel important by praising him in exuberant Stengelese language on national television. And then Elston Howard went out and embarked on a superb career, a career which brought pride to him and to the Yankee tradition of heroes.

The Yankees traded Howard to the Red Sox in August of 1967, when the Yankee decline was in progress and the Red Sox were fighting for a pennant and needed an experienced catcher for the stretch drive.

Howard shifted to the old rivals, contributed as a player and even more as a guy who had been though pennant races and knew how to win. The Red Sox captured the pennant on the final day and Howard participated in his 10th World Series.

His playing days came to an end after the 1968 season and the Yankees immediately hired him as a coach, the first black coach in baseball. They were anxious to bring this man of grace and class, this winner, back into their organization.

Howard was a coach through the 1978 season, until he was hospitalized just before the 1979 spring training camp began. He stayed home that season and in every city the Yankees visited, people would ask how Elston was doing. Fans and scouts and coaches and managers and players all wanted to know about this big man with the warm personality who had been such a fine player and who was an even finer person.

Howard made a few trips early last season, enjoying them but anxious to return to his home in Teaneck, feeling more fortunate than ever to have his two worlds of family and baseball. He is survived by wife Arlene, son Elston, Jr., 24, and daughters Cheryl, 21, and Karen, 20, a family which was fortunate to have the man whose life as a baseball player and as a person added greatly to so many lives.

TRIBUTE TO JOHN LENNON

Mr. CRANSTON. Mr. President, throughout the world people have joined in candlelight processions and moments of silent meditation to mourn the death of John Lennon. These events recall the days of vigil to end the Vietnam war. His murder has stunned an entire generation of Americans whose most formative years were shaped by that war and the music of the Beatles.

Far more than John Lennon's poetry and music touched their hearts, far more than his personal aura of gentleness, intelligence and peace. He symbolized for a generation—he spoke and sang to them—a new and an age-old ideal: "Love Is All"; "Give Peace a Chance"; "Imagine the World Is One"; "Listen to the Colour of Your Dreams."

One man can come, almost magically, at the right moment in history and strike the hearts and minds of a group, symbolizing their collective hopes and dreams, promising a new direction. That was the magical charisma John Lennon possessed, the reason he is so deeply and genuinely mourned. John Lennon meant all this to the many Americans who, like my own sons, grew up in the turbulence and uncertainty of the sixties. He spoke to them of themselves and they listened. For them, his murder brings a searing sense of loss—a loss of a part of themselves and their identities, as our colleague Senator BRADLEY so poignantly remarked.

There is no question but that John Lennon's legacy—musically and symbolically—will long remain with those who identified with him. Whether or not we shared his dream, whether or not we agreed with his social or political values, he is and was, to the generation of Americans who loved him and loved his music, a symbol of something uniquely American, one who, like so many great Americans, came to this country from a foreign shore.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. MITCHELL assumed the chair.)

TRIBUTE TO SENATOR WARREN G. MAGNUSON

Mr. MATHIAS. Mr. President, it is not often that a Member of the Senate achieves a truly nationwide influence and record of achievement, but there is an institution in my State of Maryland which is proof that at least one Member of the Senate has that kind of record of positive performance in the Senate. That institution is the National Fire Academy at Emmitsburg, Md. If that institution can be said to have a father, the father of the National Fire Academy is the President pro tempore of the Senate, the chairman of the Appropriations Committee, the distinguished Senator from Washington (Mr. MAGNUSON).

The National Fire Academy is an enormously useful institution. MAGGIE has recognized that firefighting is the most dangerous occupation in America today. The highest number of injuries and the highest number of fatalities occur among firemen, and that is a tragic fact which we hope can be corrected by the National Fire Academy. So that alone has been a great contribution to this country.

I salute Senator MAGNUSON for his work which has resulted in the creation of the fire academy. Needless to say, I am delighted that it happens to be located in Maryland. But I think that fact tells you something else about Senator MAGNUSON. He is not parochial. He wanted the fire academy. He wanted it to be located where it would be most effective and efficient. That happened to be Emmitsburg, Md. But that is just evidence of his breadth of mind which has characterized his service throughout the many years that he has been a Member of the U.S. Senate.

I take the opportunity this evening of expressing my thanks to him, not just for the fire academy, not just for his many personal kindnesses to me, but for what he has done for the people of the United States of America in an exemplary period of service.

Mr. BELLMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

THE NEED FOR CHANGES IN THE CONGRESSIONAL BUDGET ACT—ADDITIONAL SUPPORTING DATA

Mr. BELLMON. Mr. President, earlier I inserted in the RECORD a statement regarding the key areas in which I saw the need for changes in the Congressional Budget Act. This statement was printed in the RECORD, starting at page 32714. Two memorandums should have been attached to this statement—they deal specifically with: First, functional budgeting and the relationship between the budget and the appropriations process; and second, enforcement provisions of the Congressional Budget Act.

Mr. President, I ask unanimous consent that these memorandums be printed in the RECORD and that they be attached to my earlier statement when the permanent RECORD is printed.

There being no objection, the memorandums were ordered to be printed in the RECORD, as follows:

MEMORANDUM

To: Senator Pete V. Domenici.
From: Bob Fulton.
Date: November 15, 1980.
Subject: Enforcement Provisions of the Congressional Budget Act.

Per your request, the following is a summary of the enforcement provisions of the Budget Act, and a brief discussion of the limitations of these provisions:

1. Point of Order under Second Resolution.—Section 311 of the Act provides for a point of order against legislation which would cause budget authority or outlays to exceed the aggregate levels set in the Second Budget Resolution, or cause revenues to fall below the levels set in the Second Resolution. This is the strongest enforcement tool provided by the Budget Act. It applies only to the aggregate totals in the budget; the functional numbers set forth in a budget resolution are not enforceable by a point of order. Also, the point of order can generally be used only late in a fiscal year, after most of the spending bills have been adopted, since it is only then that the aggregate totals are likely to be exceeded. In the past, the availability of the point-of-order has arisen only in conjunction with supplemental appropriations bills, too late in the fiscal year for Congress to have realistic options to deny the supplementals or effect other spending cuts.

2. Special Provisions.—Section 301(b)(2) provides that the First Budget Resolution may contain "any other procedure which is

considered appropriate to carry out the purposes of this Act." While there is no such general provision in the Act as far as the content of the Second Resolution is concerned, it is clear that since the Second Resolution is conceptually a revision of the first one, special provisions could also be included in it. This provision leaves a great deal of flexibility to the Congress to construct new types of procedures to improve the enforceability of its budget decisions. For example, the innovation in the First Budget Resolution for Fiscal Year 1981 directing Reconciliation against Fiscal Year 1981 spending (see item 7 below) is illustrative of the kind of action that can be taken pursuant to the general authority set forth in Section 301 (b)(2).

3. Crosswalking to Committees.—Section 302(a) of the Act requires that conference reports on all budget resolutions include an allocation to committees of the House and Senate. This process has become known as "crosswalking." It allocates by committees the budget authority and outlay totals in the budget resolution in addition to the breakdown by budget functions (categories) in the resolution itself. Section 302(b) also requires that each committee of the House and Senate divide the allocations it has received among programs or subcommittees and report these subdivisions back to its respective House. (The Appropriations Committees must sub-divide their allocations among their subcommittees; other committees may sub-divide either among subcommittees or among programs.) Section 302(b) requires that these sub-divisions also be further divided between controllable amounts and uncontrollable amounts. This crosswalking process establishes reference points against which the performance of the committees can be measured, and enables the referral procedure in Section 401 to be triggered (see item 6 below).

4. Cost estimates on Bills.—Section 403 requires the Congressional Budget Office to prepare, to the extent practicable, a cost estimate on each reported bill or resolution (other than private bills), setting out the estimate of costs for the first five years under the legislation. This cost estimate is to be included in the report of the committee. This procedure precludes a committee from presenting to the House or Senate its own estimate of the cost of the bill and thus brings into the limelight the cost implications of new legislation. There are some limitations to this requirement. For example, it does not currently apply to conference reports which frequently amend substantially the legislation as it has been dealt with in one or both of the Houses. Likewise, it does not apply to floor amendments.

5. Scorekeeping.—Section 308(b) requires the Congressional Budget Office to issue periodic reports tabulating the progress of Congressional action against the applicable budget resolution. These scorekeeping reports permit the Senate and House Budget Committee to highlight at any given time of the year how Congress is doing against the spending and revenue plans approved in the applicable budget resolution.

6. Referral to Appropriations of Entitlement Legislation exceeding committee crosswalks.—Section 401(b)(2) provides that any Bill or Resolution providing new entitlement spending authority, which will require new budget authority in excess of the reporting committee's crosswalk allocation, shall be referred to the Appropriations Committee with instructions for reporting back to the Floor within fifteen calendar days with the Committee's recommendations and/or proposed amendments. This procedure was established because, in theory at least, excessive spending for entitlements will force the Appropriations Committee to reduce spending for appropriated programs. This procedure has been used a number of times since the Budget Act was enacted, but it is fair to say that the Appropriations Committee has not yet treated it as a major tool of budget enforcement.

7. Reconciliation.—Sections 301 and 310 provide for a reconciliation process under which amounts previously approved by Congress can be reduced. Section 301(b) provides that the First Budget Resolution may contain a provision requiring delay of enrollment of any or all spending bills until the Second Resolution and any reconciliation actions directed by the Second Resolution have been completed. Section 310 provides for a reconciliation procedure which may be initiated by the Second Budget Resolution whether or not a Section 301 provision has been included in the First Budget Resolution. Under reconciliation, responsible committees can be directed to reopen spending or tax legislation already enacted, passed by the Senate, or reported by committees and to report new legislation eliminating or reducing spending. The first major attempted use of reconciliation authorities was made by the Senate Budget Committee in the Second Resolution for Fiscal Year 1980. On that occasion the House balked and the reconciliation powers were not used. In the Budget Resolution for Fiscal Year 1981, however, both Houses agreed on a reconciliation directive aimed at Fiscal Year 1981 spending. This represented some modification of the reconciliation concepts set forth in the Act. Reconciliation bills were reported and passed in both Houses and are now in Conference.

8. Jawboning.—Experience has shown the most effective enforcement opportunity provided by the Budget Act is the leadership of the Chairman, Ranking Minority Member, and other members of the Budget Committee in working on the Senate floor, within committees and otherwise to convince other Senators to support budget discipline as various pieces of legislation proceed. During the past five years, the Budget Committee has taken the lead on many Floor Amendments, motions to recommit, outright rejection of legislation and other moves on the Senate Floor. Budget Committee representatives have also worked intensively within the Appropriations Committee and with other committees of the Senate to discourage actions which would create budget problems if brought to the Senate Floor.

9. Reporting Deadline.—Section 402 provides a point-of-order against authorizing legislation which has not been reported by May 15. This is a companion provision to section 303(a) which precludes action on appropriation bills, revenue bills and other spending legislation until the First Budget Resolution is adopted. (Certain exceptions are created by both of these provisions.) These timetables were intended to assure that all prospective authorizing legislation is unveiled before Congress begins working on tax and spending bills. Section 402 provides a waiver procedure for the May 15 deadline which has been invoked many times. When an authorizing bill is reported late, the responsible committee also reports a waiver resolution which is referred to the Budget Committee which is required by Section 402(c) to report the resolution back to the Senate Floor within ten days with the Budget Committee's recommendations. The Budget Committee has several times filed an unfavorable recommendation on late-filed legislation which raised budget problems. In some cases this caused the proposed legislation to die, although the Senate could have overridden the Budget Committee.

10. Entitlement Legislation Effective Dates.—Section 401(b)(1) provides a point-of-order against entitlement spending legislation which would become effective prior to October 1 of the calendar year in which the legislation is reported. This provision gives the Budget Committee a limited tool to guard against bills which would create entitlement spending on such short notice that it could not be considered in developing a budget resolution.

11. Contract or Borrowing Authority.—Section 401(a) provides for a point-of-order against legislation containing contract or borrowing authority which is not subject to appropriations. (Note that this provision does not apply to loan guarantee authority. Indeed section 3(a)(2) of the Act explicitly excludes loan guarantee authority from the definition of budget authority.)

ANOTHER PERSPECTIVE ON BUDGET ENFORCEMENT

The enforcement provisions of the Budget Act are important tools. It must be recognized, however, that the success of the budget process depends critically on political will to make it work. The following quotation from a recent book on the budget process puts this in perspective:

"A budget's greatest successes are not won through open warfare but through routine obeisance to its dictates. For a budget process to be effective, constrained parties must accede to it much more often than they challenge it. If congressional committees regularly break the budget's rules and limitations, the process could not succeed, no matter how vigilantly the Budget Committees guard against infraction. A Congress bent on circumventing its own budget controls is not likely to be stopped by appeals to uphold the process or by the various points of order implanted in the Budget Act. Voluntary compliance must be the basis of budgetary regularity in Congress.

"The big fights are aberrant cases, deviations from the pattern of compliance that generally prevails within Congress. They are important because of the insight they provide on how Congress copes with budgetary conflict when the controls break down. But the fact is that most committees have tried to work within the budget's rules. For every confrontation, there have been dozens of legislative decisions routinely made with fidelity to the budget process."

(Quoted from page 361, Congress and Money: Budgeting, Spending And Taxing, by Allen Schick of the Congressional Research Service. Published by The Urban Institute, Washington, D.C., 1980.)

MEMORANDUM

Memo to: Steve Bell.
From: Carol Cox/Bob Fulton.
Date: December 3, 1980.
Subject: Functional or Departmental Budgeting, and the Relationship Between the Budget and the Appropriations Process.

The President's Budget and the Congressional budget are divided into nineteen functional spending categories. These functions represent broad groupings of national priorities.

The Appropriations process is divided into thirteen groupings of Federal Departments, independent agencies, the District of Columbia, and the legislative branch. Each grouping is dealt with in a separate appropriation bill, reported by a subcommittee which deals only with that bill.

The possibility of requiring that budget resolutions and appropriation bills contain the same grouping of programs and/or Departments and agencies was considered when the Budget Act was being developed and has been re-opened for discussion from time to time. It is argued that the different division of budgets and appropriation bills creates unnecessary confusion and complicates the task of enforcement of budget resolutions.

There are several reasons for retaining the different groupings in budget and appropriation bills:

1. It is important that the President's budget and the Congressional budget be organized as similarly as possible. This facilitates inter-Branch dialogue on national priorities, and on ways to control Federal spending. The President's budget is divided functionally, and a change should be made in the basic organization of the Congressional budget only if the Executive Branch were persuaded to make the same change. Functional divisions similar to those used in budgets today were used in the President's budget submissions prior to the adoption of the Budget Act. The Budget Act (Section 802) requires the Executive Branch to consult with the Budget and Appropriations Committees before revising budget functions. Congressional Budget Committees have worked closely with the Office of Management and Budget over time to minimize differences in the way various programs and activities are classified in the budgets.

2. Government is not essentially departmental. Priority setting is a functional—not a departmental—process. For example: Food Stamps, Public Housing, and Aid to Families with Dependent Children are all income maintenance programs. We consider all three in function 600 (Income Maintenance) in the Federal Budget; but Food Stamps are funded in the Agriculture Appropriation Bill, Public Housing is in the HUD Bill, and AFDC is in the Labor, Health and Human Services, and Education Bill.

Similarly, some nuclear weapons research is performed by the Department of Energy, and the funding for that research is provided in the Energy and Water Appropriation Bill, but the Budget Committee considers funding for weapons research in Function 050 (National Defense), no matter who performs the research.

The question that must be asked, when Congress chooses among competing priorities is: What is the appropriate level of funding for National Defense, or for Income Maintenance—not what is the appropriate level of funding for the Department of Defense, or Energy, or Agriculture, HUD, or HHS?

This is not to say the Appropriations process should necessarily be divided along functional lines. While government is not essentially departmental, it is organized into Departments. Funds are appropriated to the various Secretaries who head the various Departments. While Congress does not make decisions on national priorities based on the appropriate level of funds for each Federal Department, Federal programs are administered through the Federal Departments—and the present alignment of Appropriation bills may simplify administration.

3. Several Appropriation bills cover a mix of unrelated programs and activities and some Departments receive funding under more than one bill. For example, the Department of HHS receives substantial funding under the Agriculture and Interior Bills and a small amount of funding under the HUD Bill, although the bulk of its funding is provided in the Labor/HHS/Education Appropriation Bill. Any attempt to align Budget and Appropriations groupings would require considerable realignment of subcommittee responsibilities within the Appropriations Committees.

4. Stronger enforcement tools together with improved understanding and greater attention to "Crosswalking" allocations under the Budget Resolution, could dramatically reduce the confusion attributed to the existence of both functional and Departmental divisions of the Budget. The heart of the enforcement problem has two parts: lack of awareness that when a committee exceeds its crosswalk allocation it is really spending money that has been put in the budget (and allocated to another committee or subcommittee) for some other purposes; and an unwillingness, at least so far, to accept the premise that there is a fixed amount to spend—and that that amount must be somehow made to meet whatever pressing needs the government has in a particular year.

One way to re-enforce the importance of crosswalk allocations would be to change the Budget Act (or adopt a Rule) so that the point of order under Section 311 of the Budget Act would be enforced against any bill which would cause a committee's—or subcommittee's—crosswalk allocation to be exceeded. Such a provision, would go a long way in strengthening enforcement. (Such a change should provide that later requirements, as estimated by the Congressional Budget Office, be included in determining when a committee or subcommittee has used up or exceeded its allocation.)

5. The present approach reduces the chances for direct confrontations between the Budget and Appropriations Committees. Allen Schick, in his new book on the budget process states: "The budget and appropriations processes can retain their autonomy because they operate within distinct informational frameworks. The former is anchored in a small number of budget functions; the latter is built on a large number of appropriation accounts. This informational differentiation is a prerequisite for budgetary peace in Congress." (Page 453, Congress and Money, the Urban Institute, 1980).

In conclusion, it is far from clear that adoption of identical groupings for budget and appropriation purposes would be an improvement. Moreover, the confusion and complexity caused by the present differences in the two processes can be largely overcome by more imaginative use of the crosswalking process for budget enforcement purposes.

Mr. BELLMON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS—1981

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 644.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the joint resolution, which was read twice by its title.

UP AMENDMENT NO. 1959

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1959.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the resolving clause and insert: That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:

SEC. 101. (a) (1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriation Acts:

Legislative Branch Appropriation Act, 1981;

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981; and

Treasury, Postal Service, and General Government Appropriation Act 1981.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1980, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1980, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the rate for fiscal year 1980 or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the rate permitted by the action of the House or the rate for fiscal year 1980, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980 except section 201 of title II of the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1980, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Notwithstanding section 10 of Public Law 91–672, and section 15(a) of the Act entitled. "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended. such amounts as may be necessary for continuing projects or activities which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the rate for fiscal year 1980.

(c) Such amounts as may be necessary for continuing the following activities not otherwise provided for, which were conducted in fiscal year 1980, but at a rate for operations not in excess of the rate for fiscal year 1980: *Provided*, That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1980:

activities of the Council on Wage and Price Stability;

activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol;

activities of the National Health Service Corps under section 338(a) of the Public Health Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of health professions education and nurse training under titles VII and VIII of the Public Health Service Act including authority to guarantee new loans under the Health Education Assistance Loans (HEAL) program;

activities under the Community Mental Health Centers Act;

activities of the National Arthritis Advisory Board and the National Diabetes Advisory Board; and

activities under title IV, part A, subparts 2 and 3, and titles VII and VIII of the Comprehensive Employment and Training Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000.

(d) Such amounts as may be necessary to permit payments and assistance mandated by law for the following activities under the terms, conditions and limitations included in the applicable appropriation Act for 1980:

activities under title IV of the Federal Mine Health and Safety Act of 1977;

activities under the Social Security Act;

retirement pay and medical benefits for commissioned officers of the Public Health Service;

activities under title IV, part B, of the Higher Education Act; Notwithstanding paragraph 1393(a) of the Education Amendments of 1980, paragraph 446 of such amendments shall be effective on July 1, 1981;

notwithstanding any other provision of this joint resolution except section 102, activities of the Department of Labor, Employment and Training Administration for "Federal unemployment benefits and allowances" and "Advances to the unemployment trust fund and other funds"; and

activities of the Department of Labor, Employment Standards Administration for "Special benefits" and "Black Lung Disability Trust Fund".

(e) Such amounts as may be necessary for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to continue the breeder reactor demonstration project, or such project alternative as may be approved by Congress in authorizing legislation, at the current rate of operations notwithstanding the provisions of section 102(a) and (b) of this joint resolution.

(f) Activities of the Department of Health and Human Services to process, maintain, return or resettle Cuban and Haitian entrants shall be funded at not to exceed an annual rate provided in the budget estimate.

(g) Notwithstanding any other provision of law, amounts appropriated to the State and Local Government Fiscal Assistance Trust Fund shall be available for payments to units of local government in accordance with the provisions and conditions set forth in the State and Local Fiscal Assistance Act of 1972, as amended and as further amended by H.R. 7112 as enacted by the Congress, for a one-year entitlement period beginning October 1, 1980, but at not to exceed an annual rate for operations of $4,566,700,000.

(h) Notwithstanding any other provision of this joint resolution: There is appropriated an additional amount of $46,700,000, to remain available until expended, for Department of Energy, Operating Expenses, Atomic Energy Defense Activities, and an additional amount of $65,300,000, to remain available until expended, for Department of Energy, Plant and Capital Equipment, Atomic Energy Defense Activities, such amounts to be merged with and subject to the same provisions as amounts previously provided for such Activities in Public Law 96–367, Energy and Water Development Appropriation Act, 1981; section 120(b) of the Water Resources Development Act of 1976 (90 Stat. 2924) is amended by striking out "for the fiscal years ending September 30, 1978, and September 30, 1979,"; and appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

(i) Notwithstanding section 101(a) of this joint resolution, not to exceed $1,850,000,000 shall be available for an annual rate for operations to continue the low-income energy assistance program under the State allocations provided for in H.R. 7998 as passed the House of Representatives August 27, 1980, and in House Report 96–1244, except that the sum of $50,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 per centum of the amount it would have received under the State allocation formula for low-income energy assistance as provided in the regulations published on May 30, 1980, in volume 45, numbered 106, Federal Register, pages 36810–36838, such payments to be, to the maximum extent possible, the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation under such regulations; the energy assistance program shall be continued under the terms and conditions of such regulations and any nonformula amendments thereto, except that an eligible household shall also include any single person household at or below 125 per centum of poverty: *Provided*, That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $750, except this $750 limitation may be waived by the Secretary of Health and Human Services upon request of a State.

(j) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in such Act as enacted by the Congress.

(k) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such Act as enacted by the Congress.

(l) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981 (H.R. 7631), to the extent and in the manner provided for in such Act as enacted by the Congress.

(m) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of the Interior and Related Agencies Appropriation Act, 1981 (H.R. 7724) to the extent and in the manner provided for in such Act as enacted by the Congress.

(n) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), to the extent and in the manner provided for in such Act as enacted by the Congress, except section 606 of such Act.

(o) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Defense Appropriation Act, 1981 (H.R. 8105) to the extent and in the manner provided for in such Act as enacted by the Congress.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 15, 1980, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) June 5, 1981, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 107. No provision in any appropriation Act for the fiscal year 1981 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 108. Notwithstanding any other provision of this joint resolution, the provisions of section 306 (a), (b), and (d) of H.R. 7593, entitled the "Legislative Branch Appropriation Act, 1981", as passed the House of Representatives July 21, 1980 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials), shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through September 30, 1981 by this or any other Act.

Mr. PROXMIRE. Mr. President, what this amendment does—and it does it, I might say, after lengthy discussions with all the Senate conferees and the Republican and Democratic leadership—this version of the House bill strikes all Senate and House add-ons of both bodies.

Also, all legislative provisions are out. It operates most programs not already passed by Congress at the fiscal 1980 level or at the level in the appropriation bill as passed by the House, whichever is lower. Exceptions are made for entitlement programs and programs which have an authorization problem. The Federal pay cap at the current level is continued to the end of fiscal year 1981.

Mr. President, I ask unanimous consent that the Senate further insist upon its amendment to the House amendment to the Senate amendment No. 7 to House Joint Resolution 637.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. Mr. President, that disposes of returning House Joint Resolution 637. It does not dispose of House Joint Resolution 644. I might state we have all been involved in negotiations concerning this bill. It is my understanding that the new resolution would continue the expenditure levels of the Federal Government at the 1980 level or the House level, whichever is lower, and that it would be——

Mr. PROXMIRE. If the Senator will yield, it is only those bills not enacted by the Congress.

Mr. STEVENS. For the four appropriations bills it would be the 1980 level or the House-passed version, whichever is lower. That would be a real—some people call it—barebones bill. It would be my opinion that just the bare necessities of Government would continue until the next Congress if that were adopted. By sending back the other joint resolution, however, we would give the House the option of accepting the actions that the Senate had taken Saturday afternoon if they wished to do so.

Mr. PROXMIRE. That is the understanding of this Senator, yes. All the Senate amendments which we adopted and which the House accepted, in large part, would be set over.

Mr. MAGNUSON. Will the Senator yield?

Mr. PROXMIRE. I am delighted to yield to the chairman.

Mr. MAGNUSON. This version of the House and Senate bill strikes all Senate and House add-on items.

Also, all legislative provisions are left out. This is pleasing to the Senate Appropriations Committee. We have tried for years to keep legislation off an appropriation bill. So we are doing it here now.

It operates most programs at the fiscal 1980 level. Exceptions are made for entitlement programs and programs which have an authorization problem. I heartily recommend its passage.

Mr. PROXMIRE. I thank the chairman.

Mr. WILLIAMS. Mr. President, will the Senator yield for a question?

Mr. MAGNUSON. Yes.

Mr. WILLIAMS. I observe that the version of the continuing resolution the Senator is proposing at this time references rates not exceeding the rate for fiscal year 1980.

For salaries and expenses type accounts, current rate for operations should be construed as the 1980 appropriations plus mandatory increases included in the President's 1981 budget estimate, except where Congress has expressed a contrary intent with respect to specific accounts. Is that understanding correct?

Mr. MAGNUSON. The Senator is correct.

Mr. ARMSTRONG. Will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. ARMSTRONG. It seems to me, Mr. President, that we are moving generally in the right direction. My inquiry is purely for clarification. The effect of our action as we now pass House Resolution 644 will be to send both propositions to the House and leave entirely within the discretion of the House which of the two versions they wish to pass?

Mr. PROXMIRE. That is correct.

Mr. ARMSTRONG. Mr. President, the only other question I would address to the distinguished manager is, could he tell us in dollars what the difference is between the two approaches at this point? It is obviously a substantial amount. I have had difficulty following the exact number of dollars that will be saved by the second version as opposed to the first. Has that been calculated?

Mr. PROXMIRE. I do not think that has been computed. It will take awhile to compute it. We can do it if the Senator wishes to do it. It might take a half hour.

Mr. ARMSTRONG. I would be interested in that. There is no reason, so far as this Senator is concerned, to delay action until that time. When the staff has computed it, I will be glad to have the information.

Mr. PROXMIRE. We will inform the Senate as a whole.

Mr. STEVENS. But it is the lower of the 1980 level or the House-passed version so it would be, by definition, lower than the continuing resolution conference report.

Mr. ARMSTRONG. I think that is clear. For one, I personally hope that is the version the House would accept.

Mr. ZORINSKY. Will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. ZORINSKY. There was an amendment to the barebones version that deleted $500 million from the CETA program. Now that that amendment is gone, does this mean that the earlier resolution would then become $500 million higher than the barebones resolution which no longer reduces the $500 million?

Mr. PROXMIRE. The Senator is correct, unless the 1980 level was lower, or unless the House accepts House Joint Resolution 637.

Mr. ZORINSKY. I thank the Senator.

Mr. WARNER. Mr. President, may I direct a question to the manager?

The other night, Senator PROXMIRE participated in the adding of an amendment to House Joint Resolution 637 which, in effect, was that no funds appropriated under this act shall be expended to provide employment or training to any person who publicly advocates the violent overthrow of the U.S. Government. It was agreed to by both Houses. The question I have is this: Is it appropriate to submit this amendment at this time or what complications might ensue?

Mr. PROXMIRE. I think if we start putting legislative riders on this there will be no end to it. As the Senator knows, I strongly supported that and I certainly would again. I think there will be no difficulty adding that next year. If the House takes House Joint Resolution 637 it will be in, but at this point, if we start adding legislative riders of any kind, even one as clearly acceptable as that, I think we are in trouble.

Mr. WARNER. Mr. President, I defer to the judgment of the manager.

SEVERAL SENATORS Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1960

Mr. HELMS. Mr. President, I have an amendment at the desk which has been checked with all parties interested in it and an agreement has been reached. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1960 to the amendment of the Senator from Wisconsin (Mr. PROXMIRE) numbered 1959:

At the end of the joint resolution, add the following new section:

SEC. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape has within seventy-two hours been reported to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. *Provided, however,* That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

Mr. HELMS. Mr. President, I talked to the distinguished Senator from Connecticut (Mr. WEICKER) and the Senator from Oregon (Mr. PACKWOOD) and others and I see no objection to this amendment. It was passed by both houses before.

Mr. STEVENS. Mr. President, it is my understanding that this would make the two bills identical with regard to this matter?

Mr. HELMS. Yes.

Mr. STEVENS. There is no difference now?

Mr. HELMS. Yes, Mr. President.

Mr. PROXMIRE. Mr. President, I hope we can accept this. This was in the continuing resolution which was accepted by the House, and it will solve our problems with the House. I hope Senators can accept it.

Mr. METZENBAUM. Mr. President, I want to be absolutely clear.

Is the Senator from North Carolina saying to the Members of this body that there is not a comma changed, there is not any change at all from the language that was originally adopted by this body in the other measure?

Mr. HELMS. I am saying exactly that, Mr. President.

Mr. MAGNUSON. He is agreeing with it.

Mr. METZENBAUM. I just wanted to be sure, Mr. President.

Mr. MAGNUSON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1960) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

The question is on agreeing to the amendments of the Senator from Wisconsin, as amended.

Mr. STEVENS. Mr. President, is this the resolution or the amendment?

The PRESIDING OFFICER. It is the amendment of the Senator from Wisconsin, as amended.

The question is on agreeing to the amendment of the Senator from Wisconsin, as amended.

The amendment (UP No. 1959), as amended, was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. PROXMIRE, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 644) was read the third time.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

The joint resolution (H.J. Res. 644) was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Secretary be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, this bill goes back to the House and we are hopeful that they will accept it. If they do not, we are going back to conference. I bade a fond adieu to the Senate last Saturday night. Now the resolution is back before us. I should have said auf wiedersehen, thinking it would come back again.

I hope the House will accept this amendment. The House put us in a position where there is not much else we can do, is there?

This amendment, Mr. President, is an example of what I have said many, many times, over and over, in the Senate, that I do not like legislation on an appropriation bill. This gets down to the bare bottom of everything. I am hopeful that the House will accept this amendment and we can go on with our business.

I lose a lot, Mr. President; every Senator loses a lot. But it is time—it is time.

I hope the next Congress will enact some rules which will prohibit, at least in the Senate, legislation on appropriations bills. This resolution eliminates a lot of that and gets down to being an appropriations bill which is entitled to be a money bill and nothing else.

Mr. President, I appreciate the Senate's accepting this resolution very, very much. Now I shall bid you another adieu.

Mr. ROBERT C. BYRD. Mr. President, on Saturday, the House sent to the Senate a conference report and the Senate, in picking up that conference report on a continuing appropriations resolution, insisted on the pay cap and returned the conference report to the House, insisting on the Senate amendment, requesting a conference with the House, and naming Senate conferees. The House refused to go to conference on that measure because of the amendment which the Senate had attached.

The House, instead of going to conference, sent to the Senate what was said to be a "clean" resolution—just a simple continuing appropriations resolution. In fact, it was a resolution that cut out the Senate amendments, for the most part, accepted the Senate position on the pay cap but left in a good many House amendments.

What the Senate has done for the House now is give the House two options: One, sending back the original conference report with the amendment restoring the pay cap and offering to go to conference. But the Senate has taken up the House "clean" continuing appropriations resolution, stripped out the House amendments, leaving in only some amendments that provide for the continuation of certain entitlement programs and, of course, maintaining the position that there will be a pay cap; so that the House will have the option of either going to conference on the original continuing appropriations resolution, with the only item in conference being the pay cap which the Senate has twice voted to support.

Mr. STEVENS. Will the Senator yield? They could take the bill we have just sent back.

Mr. ROBERT C. BYRD. I say they have two options. They can still go to conference on the first resolution, but the only item in conference will be the pay cap. As I understand it, they are adamantly opposed to going to conference on that one.

But we have given them a second option. We have sent them back their "clean" resolution. We cleaned it up further, taking out the House amendments and providing for the continuation of the entitlement programs. I hope that the House will accept that resolution so that the measure can go to the President, the agencies can continue to work after midnight tonight, and the Senate and House can adjourn sine die.

Several Senators addressed the Chair.

Mr. STEVENS. Mr. President, by taking Resolution 637 and sending it back, we have also given a third option of passing the bill sent over Saturday.

Mr. MAGNUSON. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. The House said they sent us back a clean resolution. It was cleaned up except they knocked out all the Senate amendments and we would have another conference on the House amendments.

That is some conference.

So, we have in this bill cut out some amendments that I do not think belong on a continuing resolution.

I, like the majority leader, hope they will accept this.

Mr. MATHIAS. Will the Senator yield for a question?

Mr. MAGNUSON. Yes.

Mr. MATHIAS. If it was cleaned up when it came here, would the Senator say it has been sanitized now?

Mr. MAGNUSON. Yes.

Mr. LEAHY. If the Senator will yield, it may be cleaned, sanitized, even have an 8-minute gap in the bill.

But, quite frankly, it has gone beyond that. It still violates both the rules of the Senate and the rules of the House. The Senator from North Carolina, in fact, has done that with his amendment on abortion, an amendment I voted on months before when it appeared. But that violates our rules and that violates the House rules. It is legislation on an appropriation matter.

I really do think, before we applaud ourselves too much here on the floor, we should look at the fact of the pay cap, and one or two other relatively minor things, but things that, from one point of view or the other, we each do not want to run on because of the enormous power of a single issue or a selfish issue—selfish issue might be better—or groups from both the right and left that we are afraid to stand up to. Instead, we end up spending, and talking about fiscal conservatism every year, yet every time one of these continuing resolutions come up, we push it over the date, and so on.

We spend tens of millions of dollars of the taxpayers' money by stopping the Government, and a few hours later starting it back up, and so on.

So we can demagog on abortion and pay raises and a number of other issues.

So, let us not talk about it being a totally clean bill. It is not. We put the Christmas trees on from the Senate side and we put the Christmas trees from the House side, and we march up the hill and we march down the hill, when something that should have been done 2 or 3 weeks ago, with any sense of responsibility toward the Government, was not done because a half a dozen different people in both bodies can fill out the kind of already preprinted postcards from single issue groups on the right and left that have to get their amendments in.

Mr. President, that is not a clean bill and let us not pretend for one moment that it is.

Now, I happen to think we are doing a lot more sensible thing tonight by coming back with a bill without 148 amendments from the Senate, and how many numbers there might be from the House. But let us not applaud ourselves by saying it is a clean bill. It is a clean bill only because we are sitting here now 2½ hours from the time the Federal Government might stop, and some of the people who may owe their allegiance to single-issue groups on the right and left are afraid somebody might tally up the cost to the Government if this Congress keeps on going past tonight. That is the reason it is a clean bill, Mr. President.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I need to correct the record.

The House conferees did go to conference, and they were adamant in their position in opposing the Senate position, and the Senate conferees were adamant in their position in upholding the position of the Senate.

Mr. President, I am going to recess the Senate for a while——

Mr. PROXMIRE. Will the Senator yield a few minutes?

The Senator from Colorado asked the fiscal effect of the bill we are sending over to the House, stripped down, the so-called 644 version.

The Senator from Alaska has got the figures from the Budget Committee which estimates this will be a total of $1.150 billion below the conference bill and that is made up of $350 million below in general programs and $800 million below in foreign operation.

Mr. ARMSTRONG. I thank the Senator for this explanation. I appreciate it.

RECESS UNTIL 10 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 10 p.m.

There being no objection, the Senate, at 9:36 p.m., recessed until 10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GLENN).

CONVEYANCE OF CERTAIN NATIONAL FOREST SYSTEM LANDS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. TALMADGE and Mr. JACKSON I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition and Forestry be discharged from further consideration of H.R. 6257, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6257) to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

● Mr. JACKSON. Mr. President, H.R. 6257 passed the House of Representatives on December 1, 1980 and was jointly referred to the Committee on Agriculture, Nutrition and Forestry and Energy and Natural Resources.

H.R. 6257 authorizes the Secretary of Agriculture to convey by quitclaim deed certain small parcels of National Forest System land the sale or exchange of which is not practicable under any other authority of the Secretary. The lands which may be conveyed are first, parcels of 40 acres or less which are interspersed with or adjacent to mineral patents; second, parcels of 5 acres or less which are innocently encroached upon by persons who relied in good faith on an erroneous non-Federal survey or other land description; and third. road rights-of-way no longer needed by the United States. The consideration accepted by the Secretary is to equal the fair market value of the lands sold or exchanged by the Secretary. The bill requires the Secretary to insert in any quitclaim deed provisions necessary to protect the public interest.

These three types of small, irregularly shaped tracts of National Forest System land create problems for both the Federal land manager and adjacent private property owners. The tracts are often isolated and too small to justify the time and expense of land management activities such as timbering or grazing. Tracts are often innocently occupied in trespass and sold by private developers or adjoining owners. Adjacent adjoining owners encounter difficulties when attempting to locate rights-of-way for access and utilities.

Three means are currently available to handle such problems: special use permits, private legislation, or sale and exchange.

Generic conveyance authority would be more satisfactory and less costly than the solutions currently available.●

UP AMENDMENT NO. 1961

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment by Mr. JACKSON and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. JACKSON, proposes an unprinted amendment numbered 1961.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, lines 13 and 14, strike the words "mineral patents" and insert "lands which have been transferred out of Federal ownership under the mining laws".

On page 4, line 10, strike "System." and insert "System, the National Wild and Scenic Rivers System, the National System of Trails, and any national recreation area."

● Mr. JACKSON. Mr. President, this amendment first, makes it clear that the bill applies to small parcels which are adjacent to lands patented under the mining laws, not to "mineral patents" which is a term of art referring to the conveyance document rather than the lands conveyed and second, excludes from the conveyance authority Federal lands within the National Wild and Scenic Rivers System, the National System of Trails, and any national recreation area. I ask that the amendment be adopted and that the bill as amended do pass.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1961) was agreed to.

UP AMENDMENT NO. 1962

(Purpose: To stabilize the rents charged for rental of Alaska Railroad lands)

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1962.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add a new section:

(a) The Secretary of Transportation shall promulgate regulations to determine the equitable rate or rates to be charged for the rental of Alaska Railroad lands.

(b) In promulgating regulations under this Act, the Secretary shall;

(1) provide that the appraisal value of the rental land shall be established at the fair market value of the property, except if such property has above or below-ground improvements constructed, paid for, or bought by the tenants of such property, in which case the fair market value of the property shall be the fair market value of the property established as if such improvements did not exist;

(2) provide that tenants may contract with independent qualified appraisers to appraise improvements made by such tenant if such tenant desires to challenge the appraisal of the Department of Transportation;

(3) provide that any rental rate increase resulting from appraisals conducted under the provisions of this Act shall not exceed 50 per centum per annum of the rate due under the freeze effectuated by Public Law 95-611; and

(4) notwithstanding any other provision of law, provide that credits may be established against rent for tenants who use the Alaska Railroad.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1962) was agreed to.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill (H.R. 6257) was ordered to be read a third time, was read the third time, and, as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, it will take a little while for the message that has been sent to the House to reach that body and for it to be acted upon. I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 10:03 p.m., recessed until 10:33 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GLENN).

EXTENSION OF AUTHORIZATION FOR THE DISASTER RELIEF ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3027.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3027) entitled "An Act to extend authorization for the Disaster Relief Act, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert: That section 606 of the Disaster Relief Act of 1974 (Public Law 93-288) is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

Sec. 2. Section 402(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5172(b)) is amended (1) by inserting "museums, zoos, libraries, and physical fitness centers, and private nonprofit historical," after "private nonprofit"; and (2) by adding at the end thereof the following new sentence: "A grant may only be made with respect to a historical facility under this subsection if, on the date such facility was damaged or destroyed by the major disaster, such facility was listed in the National Register of Historic Places maintained by the Secretary of the Interior under section 101 of the Act of October 15, 1966 (80 Stat. 915; 16 U.S.C. 407a), commonly known as the National Historic Preservation Act of 1966.".

Sec. 3. The amendments made by section 2 of this Act shall take effect September 1, 1979.

Sec. 4. Any privately owned nonprofit library damaged or destroyed by Hurricane Agnes in 1972 in the State of Pennsylvania is hereby declared eligible for assistance under the provisions of the Disaster Relief Act of 1970 as in effect at the time of such disaster.

Amend the title so as to read: "An Act to amend the Disaster Relief Act of 1974 to provide for authorization of appropriations thereunder through fiscal year 1981.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I move that the Senate disagree with the amendments of the House and insist on the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. W. TAYLOR MEMORIAL PARK

Mr. MOYNIHAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4131.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 4131) entitled "An Act to change the name of the China Bluff Access Area being constructed by the Army Corps of Engineers as part of the Tennessee-Tombigbee Waterway near Warsaw in Sumter County, Alabama, to the 'S. W. Taylor Memorial Park,'" with the following amendment:

Page 1, after line 11, insert:

Sec. 3. The project for flood protection on the Sacramento River, California, authorized by the Flood Control Act approved March 1, 1917, as amended, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct bank protection works along the reach of the Sacramento River and its tributaries from Red Bluff to Shasta Dam, and from Chico Landing downstream along each bank to the head of the Sacramento River Flood Control Project levees, subject to the same requirements of non-Federal cooperation applicable to other similar elements of the project, and to include mitigation of fish and widllife losses induced by the project. The evaluation and justification of the project shall be based on the overall benefits and costs of all project elements. In addition to previous authorizations, there is hereby authorized to be appropriated the sum of $25,000,000 to carry out the purposes of this section.

Sec. 4. (a) For the preservation and enhancement of the area known as Bandon Marsh, in the estuary of the Coquille River in the State of Oregon, for the protection of migratory waterfowl numerous species of shorebirds and fish, including Chinook and silver salmon, and to provide opportunity for wildlife-oriented recreation and nature study on the marsh so preserved, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to establish, as herein provided, a national wildlife refuge to be known as the Bandon Marsh National Wildlife Refuge hereinafter referred to as the "refuge").

(b) There shall be included within the boundaries of the refuge those lands, marshes, tidal flats, submerged land, and open water generally depicted on the map entitled "Bandon Marsh National Wildlife Refuge", dated September, 1980, and which comprise approximately 300 acres. Said map shall be on file and available for public inspection in the offices of the U.S. Fish and Wildlife Service, Department of the Interior.

(c) The Secretary may acquire, with available appropriations, lands and waters, or interests therein, subject to the interests of the State of Oregon, including the public trust of the State, within the boundaries of the Refuge by donation, purchase with donated or appropriated funds, or exchange.

(d) The Secretary shall establish the refuge by publication of a notice to that effect in the Federal Register at such time as he determines that lands, waters, and interests therein sufficient to constitute an efficiently administrable refuge have been acquired. The Secretary may make such minor revisions in the boundaries of the Refuge as may be appropriate to carry out the provisions of this section.

(e) Prior to the establishment of the refuge and thereafter, the Secretary shall administer the lands, waters, and interests therein acquired for the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 663dd-ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities compatible with the wildlife resources, and interpretive education as he deems appropriate to carry out the purposes of this section, and should it become necessary acquire said lands subject to the public trust rights of the State, if any.

(f) Beginning October 1, 1981, there are authorized to be appropriated $270,000 to carry out this section.

Sec. 5. (a) The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Energy, the Tennessee Valley Authority, and the State of South Dakota, is authorized and directed to coordinate and conduct a monitoring, engineering assessment and remedial action program for the management of byproduct materials, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at offsite locations in the vicinity of the Edgemont, South Dakota, uranium mill site. Such program shall provide for necessary monitoring and engineering assessments at such locations and the establishment and performance of requirements for the management, including remedial action, of such byproduct materials, consistent with requirements promulgated by the Commission under section 84 of the Atomic Energy Act of 1954 and standards promulgated by the Administrator of the Environmental Protection Agency under section 275 a. of such Act.

(b) In carrying out the monitoring, engineering assessment and remedial action program established by subsection (a)—

(1) the Administrator of the Environmental Protection Agency shall propose, not later than sixty days after the date of enactment of this Act, standards of general application for the protection of the public health, safety and the environment from radiological and nonradiological hazards associated with byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at the locations described in subsection (a). Such proposed standards shall be applicable on an interim basis until finally promulgated;

(2) the Commission shall have lead responsibility for coordinating the monitoring, engineering assessment and remedial action program established by subsection (a) and, in consultation with the State of South Dakota, shall—

(A) establish general objectives and priorities for the program;

(B) review and approve a monitoring, engineering assessment and remedial action program for the locations described in subsection (a);

(C) assure that an approved monitoring, engineering assessment and remedial action program complies with the requirements of section 84 of the Atomic Energy Act of 1954 and conforms with the general standards established under paragraph (1) of this subsection; and

(D) provide funding through contract for an approved monitoring, engineering assessment and remedial action program at the locations described in subsection (a).

(c) As soon as practicable, but not later than one hundred and twenty days after the date of enactment of this section, the Commission shall submit a report to the Congress on the preliminary planning authorized by subsection (a), including a detailed description for each location of any required remedial action and an estimate of the cost of such remedial action.

SEC. 6. (a) The project for the Caesar Creek, Ohio River Basin, Ohio, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1215), is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct a public water supply system in accordance with the document entitled "Southwest Ohio Water Plan", prepared by the Ohio Department of Natural Resources (April 1976), with modifications as the Chief of Engineers deems advisable, at an estimated cost of $66,000,000.

(b) Prior to the construction of the water supply system pursuant to subsection (a) of this section, the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests which provides that (1) such non-Federal interests will provide the Secretary with the lands, easements, and rights-of-way necessary for the Secretary to construct such water supply system, (2) after such construction is completed, all right, title, and interest of the United States in such water supply system shall be conveyed to such non-Federal interests who shall thereafter operate and maintain such water supply system, and (3) the costs of construction shall be repaid to the Federal Government over a period of fifty years after completion of construction of the water supply system. The first annual payment shall be a minimum of 0.1 per centum of the total amount to be repaid. The annual payments shall be increased by 0.1 per centum each year until the tenth year at which time the payment shall be 1 per centum of the total principal amount to be repaid. Subsequent annual payments for the balance of forty years shall be one-fortieth of the balance remaining after the tenth annual payment (including interest over such fifty-year period) at the rate specified in section 301(b) of the Water Supply Act of 1958 (Public Law 85-500).

Mr. MOYNIHAN. Mr. President, I move that the Senate concur in the amendment of the House with a further amendment which I send to the desk.

UP AMENDMENT NO. 1963

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1963.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the House amendment, insert the following:

"SEC. 3. Section 4(a)(2) of the Bank Holding Company Act of 1956 (U.S.C. 1843(a)(2)), as amended, is further amended by striking the period at the end of the paragraph and inserting the following: "*Provided further*, that a company covered in 1970 may, until December 31, 1982, engage in activities in which it has been continuously and lawfully engaged since December 31, 1970 but which would otherwise be prohibited by this paragraph if (I) its bank subsidiary is not one of the 100 largest banks in the United States (based on deposits) or one of the five largest in its state of operations (based on deposits); (II) its banking and nonbanking activities each constitute at least 10 percent of its consolidated assets and of its gross revenues; and (III) it has not filed an irrevocable commitment to divest pursuant to subsection (c)(12) of this section."

"SEC. 4. (a) For the preservation and enhancement of highly significant wildlife habitat of the area known as Bandon Marsh, in the estuary of the Coquille River in the State of Oregon, for the protection of migratory waterfowl, numerous species of shorebirds and fish, including Chinook and silver salmon, and to provide opportunity for wildlife-oriented recreation and nature study on the marsh so preserved, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to establish, as herein provided, a national wildlife refuge to be known as the Bandon Marsh National Wildlife Refuge (hereinafter referred to as the "refuge"):

"(b) There shall be included within the boundaries of the refuge those lands, marshes, tidal flats, submerged land, and open water generally depicted on the map entitled "Bandon Marsh National Wildlife Refuge", dated September, 1980, and which comprise approximately three hundred acres. Said map shall be on file and available for public inspection in the offices of the United States Fish and Wildlife Service, Department of the Interior.

"(c) The Secretary may acquire, with available appropriations, lands and waters, or interests therein, subject to the interests of the State of Oregon, including the public trust of the State, within the boundaries of the refuge by donation, purchase with donated or appropriated funds, or exchange.

"(d) The Secretary shall establish the refuge by publication of a notice to that effect in the Federal Register at such time as he determines that lands, waters, and interests therein sufficient to constitute an efficiently administrable refuge have been acquired. The Secretary may make such minor revisions in the boundaries of the refuge as may be appropriate to carry out the provisions of this section.

"(e) Prior to the establishment of the refuge and thereafter, the Secretary shall administer the lands, waters, and interests therein acquired for the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 663 dd-ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities compatible with the wildlife resources, and interpretive education as he deems appropriate to carry out the purposes of this section, and should it become necessary acquire said lands subject to the public trust rights of the State, if any.

"(f) Beginning October 1, 1981, there are authorized to be appropriated $270,000 to carry out this section.

"SEC. 5. (a) The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Energy, the Tennessee Valley Authority, and the State of South Dakota, is authorized and directed to coordinate and conduct a monitoring, engineering assessment and remedial action program for the management of byproduct materials, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at offsite locations in the vicinity of the Edgemont, South Dakota, uranium mill site. Such program shall provide for necessary monitoring and engineering assessments at such locations and the establishment and performance of requirements for the management, including remedial action, of such byproduct materials, consistent with requirements promulgated by the Commission under section 84 of the Atomic Energy Act of 1954 and standards promulgated by the Administrator of the Environmental Protection Agency under section 275 a. of such Act.

"(b) In carrying out the monitoring, engineering assessment and remedial action program established by subsection (a)—

"(1) the Administrator of the Environmental Protection Agency shall propose, not later than sixty days after the date of enactment of this Act, standards of general application for the protection of the public health, safety and the environment from radiological and nonradiological hazards associated with byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at the locations described in subsection (a). Such proposed standards shall be applicable on an interim basis until finally promulgated;

"(2) the Commission shall have lead responsibility for coordinating the monitoring, engineering assessment and remedial action program established by subsection (a) and, in consultation with the State of South Dakota, shall—

"(A) establish general objectives and priorities for the program;

"(B) review and approve a monitoring, engineering assessment and remedial action program for the locations described in subsection (a);

"(C) assure that an approved monitoring, engineering assessment and remedial action program complies with the requirements of section 84 of the Atomic Energy Act of 1954 and conforms with the general standards established under paragraph (1) of this subsection; and

"(D) provide funding through contract for an approved monitoring, engineering assessment and remedial action program at the locations described in subsection (a).

"(c) As soon as practicable, but not later than one hundred and twenty days after the date of enactment of this section, the Commission shall submit a report to the Congress on the preliminary planning authorized by subsection (a), including a detailed description for each location of any required remedial action and an estimate of the cost of such remedial action.

"(d) The Commission shall provide, as part of its annual report, a report on the progress of the monitoring, engineering assessment and remedial action program established by subsection (a).".

Mr. METZENBAUM. Mr. President, would the Senator from New York be willing to explain the agreement to me?

Mr. PRESSLER. Mr. President, this amendment deals with a unique situation. The Edgemont site was not included within the designations or criteria for remedial action sites under the Uranium Mill Tailings Radiation Control Act. Therefore, there is no requirement that the Department of Energy assist or participate in the cleanup of offsite contamination.

In fact, informal discussions of the Edgemont situation led to the conclusion that the Department was already heavily committed with the remedial action sites, and that prompt remedial action could not be assured if DOE were to be the agency responsible for offsite cleanup at Edgemont. In addition, a clear health and safety problem has been identified at offsite locations near the Edgemont site requiring prompt attention.

Finally, other agencies with the capability to conduct any necessary remedial work have been involved with the Edgement site. NRC, acting under its existing authority and under prior directions from the Congress, has now conducted sufficient monitoring and planning work to permit prompt commencement of remedial efforts at several offsite locations. Funding has been appropriated for this purpose; extensive consultation with the State and local officials and the public has been undertaken; and the way is clear to promptly address this problem. For all of the foregoing reasons, Mr. President, this is really a unique situation.

In order to deal with this unique situation, Mr. President, this amendment would allow NRC to act as a conduit for funding actual remedial action work in this one instance. In future situations, as is the case for the remedial action sites under the Mill Tailings Act, DOE will be the appropriate agency to conduct and fund remedial work. Given the special circumstances of this situation, it is necessary to provide authority and funding through NRC to allow another agency, acting as a contractor, to conduct the work necessary to promptly eliminate this health and safety problem. Thus, in this instance alone, NRC is authorized to serve as a conduit for providing funds for necessary remedial action at the Edgemont site.

Mr. METZENBAUM. Mr. President, will the Senator from New York yield to me?

Mr. MOYNIHAN. I am happy to yield to the Senator from Ohio.

Mr. METZENBAUM. I want to say to the Senator from New York that I am going to suggest the absence of a quorum so I may have a chance to look at his amendment.

Mr. MOYNIHAN. I am happy to do that.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I have an amendment at the desk which I ask to have agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1963) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur.

The motion to concur was agreed to.

Mr. MOYNIHAN. Mr. President, I thank the Chair.

RECESS UNTIL 11:30 P.M.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:30 this evening.

There being no objection, the Senate, at 10:40 p.m., recessed until 11:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GLENN).

The PRESIDING OFFICER. The Senator from West Virginia.

RECESS UNTIL 12 O'CLOCK MIDNIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, while awaiting further action on the part of the House, the Senate stand in recess until the hour of 12 o'clock midnight.

There being no objection, the Senate at 11:30:31 p.m. recessed until 12:01 o'clock midnight; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

30-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 12:02 a.m., recessed until 12:32 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair but not prior to the hour of 1 a.m.

There being no objection, the Senate, at 12:32 a.m., recessed subject to the call of the Chair.

The Senate reassembled at 1:38 a.m. when called to order by the Presiding Officer (Mr. MITCHELL).

AT THE PORT OF PROVIDENCE, CONTAINERIZATION SPURS GROWTH

Mr. CHAFEE. Mr. President, before the 96th Congress comes to an end, I wish to make mention of an important resource in my State of Rhode Island, which is on the verge of being developed into a major economic asset for New England.

The Port of Providence, at the head of Narragansett Bay in Rhode Island, has been in continual use since 1636. Today, through the efforts of city officials and Providence residents, the port is in the midst of a revitalization program, which when completed, will provide the region with a major deep-water container port.

Almost all major ports deal in containerized cargo because it is safer, faster, and more economical. Shipments made in containers reduce damage and pilferage. They can be loaded and unloaded in just hours, while bulk cargo could take days to be transferred to and from ships. This means extra dock costs and lost time to shippers.

Containers can be placed on wheeled chassis and easily hauled by trucks or trains to their ultimate destination.

Containerization at the Port of Providence will have several significant ramifications for New England trade.

First, New England businesses will now be able to save time and expense by utilizing a New England port that has access to every foreign market. The cost of shipping will be greatly reduced for firms located in southern New England, because of the excellent access the port offers to interstate highways and rail and air service.

Second, the use of container shipping is a first for Rhode Island. Currently, a container barge service runs between Boston, Providence, and New York. Established just 1 year ago, this weekly feeder service has been an overnight success for Providence, increasing revenues and employment.

Complete rehabilitation of the docks and wharves and full container terminal operation are the next logical steps for the Port of Providence.

Third, exporting will be made easier and more economical for companies, especially smaller ones, which have previously believed that shipping through New York or Boston presented many obstacles and additional fees.

This is an opportunity that Rhode Island has so desperately needed to help promote trade and create new jobs. Put simply, this kind of port development stimulates exports and encourages business expansion; and Rhode Island, New England, and the Nation all stand to benefit.

To date, the city of Providence has invested approximately $11 million for the deepening of four berths, the construction of a new terminal building, and the installation of a container crane. The port modernization program has been achieved totally with local private financing and city bonds.

Currently, all of the engineering and planning has been completed for dock refurbishment of the entire port—some of which involves the most advanced techniques ever used in port construction anywhere in the world.

As a member of both the Public Works Committee and the International Trade Subcommittee, I am pleased to report that the Economic Development Administration (EDA) has shown considerable interest in helping the Port of Providence develop. My staff has had several fruitful meetings with EDA officials and I am optimistic that this agency will be supportive of Rhode Island's efforts to promote greater trade, attract new industry and create thousands of jobs.

Having sponsored a Providence conference in May 1979 on expanding the Rhode Island export market, I am convinced that there is not a product in my State that cannot be sold abroad, whether it is jewelry, skateboards, looms, or prosciutto ham. But is is unfortunate to think that of Rhode Island's total production of manufactured goods, less than 6 percent are exported.

I want the world to "Discover Rhode Island," as our State motto says, and the work being done at Port of Providence today is a great step in that direction.

Congratulations are in order for the city of Providence, the shipping and business communities, and Mayor Vincent Cianci for their commitment to this endeavor.

I extend a very special note of appreciation to the port director, Mr. Eugene Neary, whose dedicated efforts have helped to turn one of the State's most important dreams into a reality. I commend Mr. Neary for a job well done and wish him and the port much continued success.

Mr. President, I ask unanimous consent that the following article entitled "Containerization Spurs Growth At the Port of Providence" in the October 20, 1980, issue of the Journal of Commerce be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONTAINERIZATION SPURS GROWTH AT THE PORT OF PROVIDENCE

(By Lewis Brigham)

PROVIDENCE.—Just one year ago a McAllister Bros. feeder barge out of New York City tied up alongside the Municipal Wharf here to bring the city-owned Port of Providence into the age of containerized cargo handling.

More important, not only did this provide Providence with a new marine capability, but the local port has been meeting performance goals set last October.

In the intervening 12 months, according to Port Director Gene Neary, his operation has been averaging 100 TEUs (20-foot equivalent units) of cargo a week.

This is the hoped-for target Mr. Neary and McAllister's General Manager Pat Mallally presented to Providence Mayor Vincent A. Cianci Jr. and local entrepreneur-financier David Friedman two years earlier, when the containerization project was first proposed.

And meeting this target has paid off. On Sept. 22 the Industrial National Bank told the City Council it will purchase a $2 million gantry crane needed by the port as a permanent piece of containerization equipment, and transfer it to the city under a 15-year lease-purchase agreement, thus bringing another element of private investment into the port picture.

MOBILE CRANES

For the past year, Mr. Neary and his thinly spread staff have been operating with two mobile cranes to load and discharge container cargoes. Both of these, along with four crane spreaders, will become permanent at three berths once track is laid for them.

During the past year, the two mobile cranes were responsible for the unloading of 460 units in containerized cargo being brought into the Port of Providence, while loading 586 units for export.

These import-export numbers still show exports running ahead of goods being brought into the Port of Providence, although the ratio is much narrower than it has been in recent years, according to Muriel Nass, marketing coordinator for the port.

"Essentially, it's been as high as three-to-one on the export side, a reversal of the normal New England shipment pattern," she said. But this is now being slowly reversed with imported goods playing an increasingly larger role.

Containerization is making the difference in this shift toward more goods coming into the port.

"We were strictly a neobulk operation until a year ago," said Mr. Neary. Scrap shipments dominated the export picture—and still do—while imports centered on petroleum products, cement and chemicals, steel, autos and lumber.

All of these are key slices of the import pie. In fact, Mr. Friedman, who provided land and funds for the development of the port as a containerized facility, is the largest importer of foreign-made autos on the East Coast, along with being a major figure in steel and lumber imports into New England.

But the import mix is becoming more varied, according to Miss Nass. "It now runs from whiskey to window shades, batteries to wire, mopeds to macaroni and a wide variety of other general merchandise."

The Port of Providence hasn't picked up its cargo volume gains cut of thin air. The 100 TEUs a week the port has been averaging for the past year represent containerized cargoes to or from New England businesses which previously had utilized containerized facilities at ports either in Boston or New York.

As to how much, Mr. Neary said "that's a tough question, but obviously most of our increase in business came from those two ports."

Actually, the Port of Providence is admirably located from a geographical standpoint to serve the industry of southern New England. It is only a half-mile from Interstate Highway 95, has rail sidings running directly onto its 27 wharves and docks, has a new multipurpose marine terminal now under construction and, in addition to five acres of storage space, has more than 100 acres of Friedman-owned land directly adjoining the port providing for expansion as needed.

The chances for expansion look very promising to Mr. Neary, a retired Navy tug deck officer who brought his containerization expertise to Providence in late 1975.

The first professional terminal operator to serve as port director, Mr. Neary reports directly to Mayor Cianci.

For years prior to the arrival of Mr. Neary, the operation of the city-owned port was supervised by what has been called a succession of port directors who were appointed to the post as a sort of "political patronage reward."

But all of this began to change under Mayor Cianci who came into office vowing to take patronage out of municipal politics and to enthusiastically develop Rhode Island business. To accomplish the latter, a competently run port was essential, and the mayor apparently found a kindred spirit in Mr. Neary as did David Friedman, a Cianci-backer and a regional businessman who had long wanted to see the local port expanded.

By bringing containerization to the port, Mr. Neary has helped the mayor and Mr. Friedman realize their hopes for a stronger industrial potential in the southern New England area.

What has been happening at the Port of Providence in the past year is distinctly result-oriented. Otherwise, observers are quick to point out, Industrial National Bank, the state's largest, would hardly have decided to finance the $2 million purchase of the giant gantry crane for the port.

A complex arrangement, the bank's proposed deal calls for the bank to lease the crane to David Friedman who already operates the container terminal. Mr. Friedman's payments to the city will cover its obligation to Industrial National, so the two leases will be a "wash" for Providence.

GIVING CREDIT TO WELL-RUN SCHOOLS

Mr. CHAFEE. Mr. President, as a member of the Senate Finance Committee who has long been interested in developing ways for private business to become more involved in solving our Nation's social problems, I was encouraged to read an essay by Mr. Edward A. Wynne in the December 5, 1980, Wall Street Journal entitled "Giving Credit to Well-Run Schools."

I have had a deep concern about the quality of our educational system and have spoken out here in the Senate on this issue frequently. Most recently, I introduced a congressional resolution calling for the creation of a White House Conference on Education in 1981—a national forum for interested individuals from every background and experience to come together to discuss what the country's education agenda should be for the next two decades.

It is my hope that such a conference would provide an opportunity to explore and debate ideas like those expressed by Mr. Wynne.

In his article, Mr. Wynne acknowledges that many businesses and businessmen have worked hard trying to improve our public schools through grants, free consultations, donations of equipment and personnel, and different forms of advice. The private sector has contributed in a similar manner to the arts and cultural and media organization with considerable results worthy of praise.

But in the field of education, the successes have been limited and far from conspicuous.

Mr. Wynne points out that there is one measure, however, that has not been pursued, and which holds hope of fostering long-term benefits. The author writes:

> Business and community agencies should help create committees or other entities to routinely identify and conspicuously publicize well-run schools, their staffs, and the policies that make them effective.

One of Mr. Wynne's findings is that many educators, both teachers and principals, work in environments where they receive little recognition for their work. As an example, I discovered during American Education Week last month, that of all holidays and days of remembrance for this group or that person, there is no national day or week set aside each year in recognition of the contributions of teachers or other school personnel.

This lack of support exists within the educational institutions as well. Through my involvement with the teacher center program, I have become increasingly aware of varied emotional, cultural, intellectual, and social demands placed upon school staff each day, and the absence of professional assistance to help meet these challenges.

It is this institutional and public indifference that Mr. Wynne explains affects school performance.

It is ironic that we as a nation spend billions of dollars on public education each year, yet we tend to acknowledge the service of public employees, like policemen and firemen, much more than we do the labors of teachers.

The article "Giving Credit to Well-Run Schools" raises important and creative ideas. It should serve as a catalyst for action by every citizen who is concerned about our schools and the future of American education. There is much good that goes on in classrooms across the country. We must seek it out, and foster it, so that it can grow.

Through a sharing of knowledge of what is succeeding in schools and what is not, change can occur. This is in fact what the education process is all about. It is with such a goal in mind that I proposed the concept of a White House Conference on Education, and it is the point behind Mr. Wynne's statement:

> People who are bright and gutsy enough to establish sensible and publicized systems of recognition can stimulate valuable change.

By drawing attention to the accomplishments and successes of our schools, we encourage the proliferation of the things that are reasonable for such accomplishments and successes.

Mr. Wynne's article deserves to be read and considered by all of us who desire improved quality in our schools. I urge my colleagues, and especially members of the business community to consider his thesis carefully.

Mr. President, I ask unanimous consent that the following article from the Wall Street Journal of December 5, 1980, by Mr. Edward A. Wynne be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GIVING CREDIT TO WELL-RUN SCHOOLS

(By Edward A. Wynne)

Many businesses and businessmen have worked hard trying to improve our public schools. They have made grants and donations, adopted individual schools, and offered free consultations and other forms of advice.

These efforts are still a long way from conspicuous success. But there is one measure that has not been systematically pursued, and which holds hope of inexpensively fostering significant long-run benefits: Business and community agencies should help create committees or other entities to routinely identify and conspicuously publicize well-run schools, their staffs, and the policies that make them effective.

The proposal would encompass not only public, but also private schools, especially church-related ones. And, in smaller school districts, it might also encompass public schools in neighboring communities. Or, in very large districts—such as New York City—it might cover just a sub-unit of the district. The idea would be to create a mix of competing schools, so the competitors might be stimulated to look beyond their administrative boundaries, and stretch their intellectual horizons.

However, while competition should be enlarged, it must also be balanced, just as in boxing we have world championships for different weight levels. Without such differentiations, the contests lose legitimacy. Many potential contenders have an excuse to opt out.

SCHOOL LEAGUES

The design of such "school leagues" will pose conceptual problems, since we do not have such simple criteria as weight or age. As a sociologist concerned with school administration, I'd recommend that leagues be grouped around schools covering the same grade levels and dealing with pupils from essentially similar family background.

The precise details of such definitions might be significant. Still, one should not expect the sort of competition I propose to appear fully developed. Even in mature sports, such as football, rule changes are routinely made to deal with unexpected developments in the game. When these sports were comparatively new, their rules were much more haphazard than today. And so it will be with our school leagues.

Another awkward problem will be in developing criteria to define "winning." We could define it in terms of schools that produce the pupils with the highest scores on objective tests. But research has demonstrated that the results of these tests are often significantly affected by pupils' home background. Thus, comparisons between suburban and inner-city schools may tell us more about the education levels of the pupils' parents than the quality of their schools. Furthermore, schools in different administrative systems often use different systems of testing.

Even if we made valid interschool test score comparisons, through comparing schools with like pupils, the bare fact that some schools won—or lost—in such a contest would have little informational value. A key motive for the contest is to stimulate educators and laymen to identify the components of excellence. The issue is not simply who won, but what were the winner's practices and policies?

The aim of the contest is to encourage more careful thinking about what is school excellence, and publicize the results of such thinking, through awards, descriptions of winning schools, and the distribution of checklists and explanatory materials.

Laymen may assume that these measures of identifying publicizing are already followed by educational, professional and accrediting associations. This assumption is incorrect. Almost all these agencies focus on minimum criteria—just as bar associations and medical associations do. And 90% or more of operating schools meet these criteria. One can't help remarking on the irony of an educational system hopefully dedicated to generating pupil excellence—and using devices such as honor rolls, certificates of academic excellence and scholarship awards—which cannot identify excellence among its own institutions.

The award process must also free itself from other intellectual restrictions inherent in the current minimum criteria. These criteria have been developed by various professional groups—the associations for English teachers, math teachers, or athletic coaches.

The criteria tend to slice up schools into a medley of segmented activities. But students and parents experience schools as totalities. While one teacher may spend his career in the math department, one student, in four years, will deal with 20 to 30 teachers from eight departments. And so, as in sports, the issue is not so much the capabilities of each element of the schools, but whether they pull together as a team.

This concept of "whole school" evaluation has recently gained increased attention, both in the area of research and among some citizens groups. Thus, the respected Council for Basic Education recently published a whole school evaluation list of 70 items. The list is a tool to identify successful schools and to stimulate other schools to constructive change.

The evolution of such a list is not simple. And its existence does not mean it is "correct," or that it will be accepted. Indeed, Character, a periodical I edit, also publishes and distributes a list—much longer than the Council's—which covers some areas they omit. For instance, their list does not seem to be concerned with schools developing students' character, patriotism or kindness.

However, the more basic issue is not the initial content of the list, but the matter of process. A respectable group of people should be assembled. They should commit themselves to developing, justifying, publishing and refining criteria, looking for winners, rewarding the winners and describing what the winners are doing. And the award group should stay with it, and remember football was not perfected in one year.

Naturally, the question will arise, "Who'll bell the cat?" or designate the winners? There will be local variations, but I'll state some principles. The awarding group will need some money, but the amount should not be huge. The group must be diverse, and composed of competent, dedicated and respected people. It should represent parents, business, academics and educators. The members must have some guts, as well as tact, and a feel for public relations.

The group may need some professional help, but it must make judicious choices of advisers. It can also use some existing resources. Some businessmen's groups and large businesses have staff members concerned with education. And personnel and communication issues are important problems in many schools; perhaps staffers from these business areas might pitch in. And some businessmen are school board members.

Is the proposal naive? Can it have any impact on the ingrained habits of educators? I don't know, but I have some theories. Right now, there are few or no forms of public recognition for the principals and staff of excellent schools. And from my own research in the Chicago area I know such schools exist, in both poor and better-off communities. The desire to attain recognition is innate in most humans, so the increases in availability of recognition should spur staff interest.

ACCESS TO SCHOOLS

A responsible award group should not have great difficulty getting access to schools to make on-site evaluations. Most principals of well-run schools are proud of their operations and willing to welcome scheduled visits and answer reasonable questions. It is usually the poor schools that attempt to avoid scrutiny.

A story told me by one of my graduate students (a school administrator) concludes my proposal. The student, on his job, had to collect and tabulate statistical forms from teachers. The teachers' efficiency ratings were independent of the quality of the forms, and they completed them in lackadaisical fashion. My student devised a large chart, listing the teachers' names, and providing spaces for marking the timely delivery of each set of properly completed forms. He posted the chart conspicuously in the main school office, and gave each teacher a gold star for each proper delivery. In three or four weeks, the rate of delivery of well-completed forms had tripled. He even began to have complaints from teachers who said he had not given them proper credit.

The point of the story is that many educators, both teachers and principals, work in environments where they receive comparatively little recognition for their work. And this institutional and public indifference affects their performance.

When efforts are made to establish recognition systems, they will meet with rebuffs from some defensive educators. But ultimately the drive to attain recognition is a powerful one—even if recognition is not connected with substantial economic rewards. So people who are bright and gutsy enough to establish sensible and publicized systems of recognition can stimulate valuable change.

MESSAGES FROM THE HOUSE

At 1:20 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2849. An act for the relief of Charles Jeffrey Greene.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 935. An act for the relief of Jesse Kuo Tang and Sharon Kuo Tang;

H.R. 936. An act for the relief of Kit Tung;

H.R. 949. An act for the relief of Welita F. Sebastian;

H.R. 1196. An act to revise and improve the laws relating to the documentation of vessels, and for other purposes;

H.R. 1316. An act for the relief of Kuo-Yao Cheng;

H.R. 2145. An act for the relief of Florette I Ivoree Gayle and Keisha Dajaran Karr;

H.R. 2432. An act for the relief of Ronald Regespi Doliente;

H.R. 2433. An act for the relief of Zora Singh Sunga;

H.R. 2533. An act for the relief of Mrs. Kerry Ann Wilson;

H.R. 2872. An act for the relief of Olivia Manaois Abrasaldo;

H.R. 3096. An act for the relief of Raymond M. Gee;

H.R. 3138. An act for the relief of Surip Karmowiredjo;

H.R. 3396. An act for the relief of George David Maxwell, doctor of medicine;

H.R. 3707. An act for the relief of Joy Marsia Dehaney;

H.R. 3869. An act for the relief of Eileen Angella Crosdale;

H.R. 4032. An act for the relief of Mohmud Ali Kahn alias Fazal Dad;

H.R. 4139. An act for the relief of Feeronaih Abbosh;

H.R. 4386. An act for the relief of Mr. and Mrs. Clarence Oveson;

H.R. 4774. An act to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so;

H.R. 4778. An act for the relief of Sada Kim;

H.R. 4793. An act for the relief of Simon Ifergan Meara;

H.R. 4966. An act for the relief of the estate of Philip H. Ward;

H.R. 5016. An act for the relief of David Roland Weaver;

H.R. 5067. An act for the relief of Doctor Toomas Eisler and Carmen Elizabeth Eisler;

H.R. 5157. An act for the relief of Lilla Ester Cantu;

H.R. 5379. An act for the relief of Jaramporn Sermsri and Akharata Sermsri;

H.R. 5745. An act for the relief of Michael Chinwen Ke;

H.R. 6000. An act for the relief of Campanella Construction Corporation Company, Incorporated;

H.R. 6011. An act for the relief of William H. Koss;

H.R. 6030. An act for the relief of Elena Patricia Mattos;

H.R. 6044. An act for the relief of Woo Jung He;

H.R. 6069. An act for the relief of I Wen Wang Chen;

H.R. 6739. An act to confer United States citizenship posthumously upon Leopoldine Marie Schmid;

H.R. 6836. An act for the relief of James A. Schultz;

H.R. 7175. An act for the relief of Woodstock Daily Sentinel;

H.R. 7814. An act to designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness", and for other purposes;

H.R. 8345. An act to name the U.S. Customs House in Ogdensburg, N.Y., the "Robert C. McEwen United States Customs House";

H.J. Res. 601. Joint resolution making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981; and

H.J. Res. 570. Joint resolution to provide for a temporary increase in the public debt limit.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. BURDICK).

At 10:25 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the Speaker appoints Mr. MURTHA, Mr. DICKS, and Mr. MCEWEN as conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 7 to the joint resolution (H.J. Res. 637) making further continuing appropriations for the fiscal year 1981, and for other purposes, vice Mr. ADDABBO, Mr. SMITH of Iowa, and Mr. CONTE, excused.

At 1:10 a.m. (December 16, 1980), a message from the House of Representatives, delivered by Mr. Gregory, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 3212. An act to designate the "Thomas J. McIntyre Federal Building".

The message also announced that the House agrees to the amendment of the Senate to the following joint resolution, with an amendment, in which it requests the concurrence of the Senate:

H.J. Res. 644. Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 120. An act for the relief of Maria Elena Foley and Caritina Ann Foley;

S. 327. An act for the relief of Shavji Purshottam Dursara, his wife, Vasanti Shavju Dusara, and their child, Shreedhar Dusara;

S. 1148. An act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes;

S. 1227. An act for the relief of Munir P. Penjenk;

S. 1374. An act for the relief of Lynn Rufus Pereira;

S. 1624. An act for the relief of Francisco Pang;

S. 1772. An act for the relief of Min-Zen Lin;

S. 1784. An act to provide certain authority for the purchase and sale of electric energy by Federal departments in Alaska, and for other purposes;

S. 1824. An act to designate the "John D. Larkins, Jr., Federal Building";

S. 1847. An act for the relief of Ana Marlene Orantes;

S. 2849. An act for the relief of Charles Jeffrey Greene;

S. 3261. An act to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section;

H.R. 2111. An act to extend the service areas for the Sacramento Valley Canals, Central Valley project, California, and for other purposes;

H.R. 5391. An act to amend the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, and for other purposes;

H.R. 7694. An act to authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment to each of the service academies, and to authorize the establishment of a National Guard of Guam; and

H.R. 8444. An act to authorize appropriations for certain insular areas of the United States, and for other purposes

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. BURDICK).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RANDOLPH:

S. 3265. An act to recognize the importance of ports and harbors to this country's economy and national defense, and the world's economy and energy self-sufficiency, and to authorize construction of harbor improvements to promote domestic commerce and to facilitate the United States export of coal and other commodities; to the Committee on Environment and Public Works.

By Mr. EAGLETON (for Mr. BAUCUS):

S. 3266. A bill for the relief of Charles V. Waldron; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON (for Mr. BAUCUS):

S. 3266. A bill for the relief of Charles V. Waldron; to the Committee on Armed Services.

CHARLES V. WALDRON

● Mr. EAGLETON. Mr. President, at the request of Senator BAUCUS, I am today introducing a bill for the relief of Charles V. Waldron of Montana. Mr. Waldron has been trying for the past 2 years to collect retirement and severance pay owed to him by the U.S. Navy. His claim, however, was recently rejected by the Claims Division of the General Accounting Office because his claim was received by GAO more than 6 years after the date it first accrued. The bill I am introducing would authorize the Secretary of the Navy to accept and consider Mr. Waldron's claim, and pay to him any amount of disability retired pay and any amount of severance pay which he would have received had he made a timely claim.

Mr. Waldron, a chief petty officer in the U.S. Navy, was given a temporary disability retirement from the Navy in 1963 under honorable conditions because during the course of his service in the Navy, he incurred bilateral hearing loss and a nervous condition. Subsequent to his temporary disability retirement, Mr. Waldron moved around the country, and had no contact with the Navy until he learned in 1978, through the Veterans' Administration, that he had been granted an honorable discharge on August 30, 1968. At the time of his honorable discharge, and until April 1978, Mr. Waldron was unaware that the Navy owed him any pay. He was also unaware that he was entitled to receive disability compensation.

In 1978, Mr. Waldron visited the VA Center in Fort Harrison, Mont., in order to see if the VA would pay for a new hearing aid. As a result of his visit to the VA hospital, Mr. Waldron learned for the first time that he was entitled to receive service-connected disability benefits for his bilateral hearing loss. Mr. Waldron learned from the VA that he was entitled to receive retirement pay as well as severance pay. The VA advised Mr. Waldron to contact the Navy Finance Center in Cleveland, Ohio, in order to file his back claim.

Having learned from the VA that he was entitled to these benefits, Mr. Waldron wrote to the Cleveland Navy Finance Center on July 29, 1978, requesting the severance and retired pay due to him. The Navy forwarded the claim as "doubtful" to the Claims Division of the General Accounting Office because of the period of time which had elapsed since the claim first accrued. On December 14, 1978, Mr. Waldron was informed by GAO that his claim was barred by the 6-year statute of limitations. Mr. Waldron then appealed the decision of the Claims Division. Upon review, the rejection of his claim was sustained by the Comptroller General on May 16, 1980.

Mr. President, I believe that notwithstanding the statute of limitations, Mr. Waldron's situation warrants a humanitarian response. It is undisputed that Mr. Waldron had to retire from the Navy because of physical disability. Moreover, he only learned in 1978 that he had been granted an honorable discharge from the Navy on August 30, 1968. And, it was not until some time later in 1978 that Mr. Waldron first learned that he was entitled to receive disability retirement pay and back severance pay from the Navy. Considering these factors, it comes as no surprise that the 6-year statute of limitations had run. With these facts in mind, I urge my colleagues to give full consideration to Mr. Waldron's case and the legislation that would provide him with the military service benefits he is entitled to receive.

I ask unanimous consent that a copy of the bill be reprinted in full in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of the Act entitled "An Act providing for the barring of claims against the United States", approved October 9, 1940 (31 U.S.C. 71a), the Secretary of the Navy is authorized and directed to—

(1) accept and consider any claims filed with the Secretary within one year after the date of enactment of this Act by Charles V. Waldron of Deer Lodge, Montana, for disability retired pay for the period beginning on June 1, 1964, and ending on September 30, 1968, and for severance pay under section 1203 of title 10, United States Code; and

(2) pay to the said Charles V. Waldron any amount of disability retired pay which the said Charles V. Waldron would have been entitled to receive for the period referred to in clause (1) had the Secretary known the address of the said Charles V. Waldron during such period, and any amount of severance pay which the said Charles V. Waldron would have been entitled to receive had he made timely application therefor.

Sec. 2. The Secretary of the Navy is authorized to pay any amount determined by him to be payable under the first section out of funds available for the payment of retired or severance pay, as the case may be. Such payment shall be made in a lump sum within 60 days after the determination that an amount is payable under such section.●

ADDITIONAL COSPONSORS

SENATE RESOLUTION 565

At the request of Mr. Sasser, Mr. Matsunaga was added as a cosponsor of Senate Resolution 565, a resolution concerning the monetary policies of the Board of Governors of the Federal Reserve System.

ADDITIONAL STATEMENTS

THERE'S NO EASY WAY ON ENERGY

● Mr. WARNER. Mr. President, earlier this year, the Washington Star published a thought-provoking guest editorial entitled, "There's No Easy Way on Energy," written by a bright and promising young constituent of mine, Amy Facca, of Annandale, Va. Amy is a graduate of Lake Braddock Secondary School and is now a freshman at Virginia Polytechnic Institute in Blacksburg.

Her comments, reprinted in several of the Nation's daily newspapers, generated hundreds of letters from business and education leaders and other individuals around the country complimenting Amy.

For America to become energy independent and thus energy secure—an effort vital to our national security—I am convinced that we must develop all of our energy resources to the full. Amy's editorial is addressed to one such resource, and I believe that her thoughts are worthy of consideration.

Because of my own substantial interest in and concern for our national energy policy, Mr. President—and because of my great sense of pride over the achievement of this young Virginian—I ask that the full text of her message be printed in the Record so that our colleagues may have the opportunity to read it.

The article follows:

[From the Washington Star, July 21, 1980]

There's No Easy Way on Energy

(By Amy Facca)

Since last summer's long gasoline lines and high fuel bills, it seems that energy conservation has become, more than ever, a hot topic. Everyone seems to be searching for that always-sought-after "easy solution."

Unfortunately, it seems that this time there is no easy way. We must either conserve our resources immeasurably or find an alternative to that now so heavily relied upon and highly priced item, oil.

Among our energy alternatives, we have solar energy, natural gas, coal, electricity and nuclear energy. While the former four are basking in approval, the latter. nuclear energy, has been forced into the closet of throwaways.

In the aftermath of Three Mile Island, it seems that most people consider nuclear energy a threat to our national well-being. The "No Nukes" seem to have infected everyone with an irrevocable fear of nuclear energy and, in my opinion, have done so without considering the overall outlook.

Despite the aura of fear and danger which surrounds nuclear energy, it is one of the best alternatives we have to the energy crisis. If our oil supply was suddenly and without warning cut off, nuclear energy would be ready to help. At the same time, solar energy and fusion, while excellent alternatives themselves, are technologically at least 25 years away.

In addition, the technology of nuclear energy and the effects of any resulting radiation are well understood. In recent reports, it has been said that the TMI accident emitted less radiation than an ordinary chest X-ray (about 50 millirems). Indeed, the annual exposure to radiation of an average U.S. citizen is 100–200 millirems a year.

Most "No Nukes," in their all-knowing wisdom, say that nuclear energy is dangerous: Radiation can kill, and nuclear power operators have no knowledge of what they are doing, or what is going on in the system. It is partially because of "No Nukes" and sensationalism by the news media that so many people are scared of nuclear energy.

The fright also evolves from a general lack of understanding. Most people don't bother to research controversial topics, but rather are content to go along with the opinions of their peers. Even so, nuclear energy has become synonymous with fear because of its use as a weapon of modern warfare, the sense of secrecy which surrounds nuclear technology, the fact that radiation can cause cancer, misunderstanding and too little public education. We are afraid that the use of nuclear power will result in other Hiroshimas and Nagasakis.

It is true that nuclear energy can be dangerous. Nuclear energy is a relatively new field; as such, its operation is sometimes an educated guess. The scientists are careful, in control and know what can happen. They also know what to do in case of an accident. It is true that they are not infallible, and they don't know everything about nuclear energy, but that is not a legitimate argument against nuclear energy. After all, which of us can claim to be all-knowing and perfect?

How many times in our past history have we done something unknown and untried?

Indeed, democracy in 1776 was an almost untried system of government. The development of the automobile and the airplane were not without risk. The difference is that these inventions did not affect that many people—maybe one, two, or three hundred at most—whereas nuclear energy could wipe out great masses, killing many and affecting others long after.

We must keep in mind that there is no such thing as perfect safety. The questions we should ask about nuclear energy are not the questions of condemnation. We need to ask what nuclear energy is safe enough for (or not safe enough for), and if it is safe enough as compared to other aspects of our lives.

Who knows, it may one day be established that nuclear energy is the most dangerous thing we've ever encountered. Even so, we must not be intimidated by danger and fear. It follows that as problems and obstacles increase in difficulty, their solutions will be equally difficult and perhaps of a more dangerous degree. After all, we are playing for higher stakes.

Nuclear energy can be dangerous if we misuse it. But other things are dangerous, too. We must overlook general, oversimplified statements, and open our minds to new ideas. We must not accept any idea completely at face value, but must instead question the source from whence it came.

It has often been said that something is impossible and can't be done; but almost as soon as it has been said, it has been done. Finally, we must learn to accept change, even welcome it, because without change there can be no growth.

If we wish to continue our advancement into the future, we will have to ask questions, seek answers and effect changes for a better nation and, more importantly, a better world.●

FARM CREDIT ACT AMENDMENTS OF 1980

● Mr. SIMPSON. Mr. President, during the past several weeks, I have had the opportunity to carefully review the Farm Credit Act Amendments of 1980 as passed by the House. I do want to indicate my particular concerns with enactment of this bill, S. 1465, at this time.

The voters in Wyoming hired me on to represent them based upon my ability to reason, to try to exercise my good sense and to legislate in a responsible manner. As a Member of this distinguished body, I am guided to act prudently and wisely in what I perceive to be in the best interests of the country.

It is my belief that the House-passed bill, H.R. 7548, will have serious repercussions on the commercial banking industry. Ironically, in the long run the bill could have a potential adverse effect upon the agriculture community. This so-called farm bill does little new for the farmer and rancher—it only expands a quasi-Federal bureaucracy, which I consider as an action which runs contrary to the national mood as evidenced so drastically and dramatically by the November elections.

Regarding the peculiar timing of the bill before us late last Saturday, I am opposed to the Congress enacting any legislation embroiled in such open controversy in the 11th hour of this lame-duck session of Congress. S. 1465 does have vigorous support from the agriculture community but is strongly opposed by segments of the banking industry. In my own State, the Wyoming Bankers Association representing some 90 banks within my State, are opposed. I am sure that every one of my colleagues in both the Senate and the House have heard from members of each of these important sectors over the past few weeks.

It is my firm belief that this bill should have been held over until the next session of Congress in order that the incoming Reagan administration could have the opportunity to carefully examine the merits of the bill—especially since the issues swirling around this legislation address at least one of the main concerns of the new administration—increased government activity encroaching upon the free enterprise system.

S. 1465 was passed by the Senate in July 1980. On November 19, the bill was passed by the House with substitute language for the text of the original Senate bill. The Senate did not need to automatically agree with what the House sent to us—a conference, even at the final hour, might have proved invaluable in approving responsive legislation. It is important to note here, Mr. President, that no existing Cooperative Farm Credit System (CFCS) authority expires at this time. No authorization need be enacted by the Congress.

Aside from my serious and general philosophical reservations about this bill another reason for my apprehension with taciturn acceptance of the House language concerns the restriction of existing Cooperative Farm Credit System (CFCS) authority to offer loan and discount privileges to commercial banks. This is unlike the Senate-passed S. 1465, which essentially maintains the present law.

Eligibility of banks to the discount window of the System is not limited by present law. Access by banks, however, has been and is limited by the Farm Credit Administration (FCA) regulations and CFCS practice. To the extent that S. 1465, as passed by the House, merely enacts present practice and increases the FCA's estimate of banks having access from numbers less than 200 today to 2,500, it indeed repeals eligibility for other banks and affiliates—estimated to be some 12,000—including 10,000 small banks with under $100 million in assets. For example, by criteria proposed by the FCA, based on the language in S. 1465, only 8 of the approximately 98 commercial banks in Wyoming would be eligible for approval to discount their agricultural loans with the CFCS.

The amendment that I had in mind to offer would have expanded—not restricted as does S. 1465—existing CFCS authority to offer loan and discount privileges to banks and other financial institutions (OFI's) making agriculture related loans. Unlike the original Senate text, the legislation before us Saturday may prohibit as many as 12,000 banks—10,000 of which are small banks with $100 million or less in assets—from using FICB discount facilities. Mr. President, I consider that to be a most significant number of small banks that will be disadvantaged by S. 1465. Rejection of the House language would not benefit only the larger banks as some would contend.

The amendment would have also provided safeguards to allow the CFCS to proceed while allowing banks and other financial institutions (OFI's) to have access to the discount facilities of the System. In my mind, it is not the law that needs to be changed—and this is what would happen with the House language acceptance—but only current regulations. In the past, denial of discount facilities has been based on arbitrary and capricious decisions handed down from on high by the components of the System. The matter that I am concerned about, and I dare say that all of my colleagues in the Congress are concerned about, is that banks—especially smaller banks traditionally reliant upon farm and ranch loans—need to have more access to the discount window, especially in inflationary times such as this country is now experiencing, when credit is especially low and the agricultural community is in desperate need of funds.

Few people will disagree with me when I say that farmers and ranchers should have access to money markets when funds are limited. It is similarly important for the banks to have more access so that necessary and emergency credit can be made available to the agricultural community.

Mr. President, there is already broad authority granted within the existing law to issue whatever regulations are necessary to increase the access of small agricultural banks to the discount window. This authority is already there and it can be used by the present administrators. I am concerned that without amendment many potential problems may be created by establishing criteria which may limit the flexibility already in the law.

There are lesser problems with the current situation. The CFCS is supportive of issuing regulations to provide for more access. The Senate and House Agriculture Committees do have "oversight," maintaining that there should be more regulations issued for access to private commercial banks. This is the responsibility of the Congress and the CFCS—Congress must not put inflexibility in the statute, because, then we would just have to come back and change the statute—not the regs. I am one of the firmest supporters of reviewing and drastically reducing Federal regulations, but my concern is that S. 1465 may well provide a "wall of protection" by the FCA should they determine to be more restrictive.

The small community banks throughout this country will be facing tremendous changes imposed upon their industry as a result of the massive financial institutions deregulation legislation enacted by the Congress earlier in this session. To now impose upon these financial institutions another layer of competition—competition with many advantages—at this time, is a major concern to me. For this reason, Mr. President, I do very much consider this to be a banking as well as an agriculture bill. I will fully support any future move which would give the Senate and House Banking Committees joint jurisdiction with the respective Agriculture Committees over the CFCS.

I intend to fully monitor the CFCS issue over the next couple of months. My staff and I will be listening carefully to concerned bankers and lenders in my State and around the Nation to determine if the reprecussions that I fear are being experienced throughout that industry. Should the problems that I foresee become reality, then it is imperative that these concerns be immediately brought to the attention of the Banking Committees within both bodies of Congress and that attempts be made to legislatively correct the system. I will assist in that effort.

Mr. President I want to assure my colleagues that in no way should my comments be taken to indicate opposition to the CFCS. The system has done an excellent job over the past years in providing financial assistance to the agricultural community—an area of particular concern in my home State. Wyoming, like so many other States in the Nation, is "capital short"—the needs of agriculture can at times only be effectively met by seeking services from the CFCS. The credit needs of this sector are constantly changing but I am concerned that these changing financial needs are to be med only to the detriment of another important sector, the commercial banking industry—a sector traditionally reliant upon the agricultural market. Currently, banks hold over $36.8 billion of farm debt—28 percent of the total farm debt. Two-thirds of the Nation's full service banks are in communities of less than 25,000 people. In fact, half of these banks are in towns with fewer than 5,000 residents. Nearly 60 percent of community banks have listed agriculture as the single most important source of income for their communities.

I am certainly heartened with the reassurances that I have heard from the officials of the Farm Credit Administration and from the Senate Agriculture Committee. Continued oversight by that committee is obviously necessary and important as are these reassurances of justification for denying access to any commercial bank seeking to utilize the discount window of the CFCS.

It was not my intent to be the "point man" responsible for the delay of the passage of this legislation. I do consider portions of it to be necessary and essential. I certainly realize the vital necessity to provide continued assistance to the agriculture community in this country. I will always support this move. My concern, however, was that it has not been sufficiently guaranteed, in my own mind, that the legislation before us might not—in the end—actually hinder agriculture at the expense of the free financial market system in terms of promoting unequal competition.

I did withdraw the amendments that I had planned to offer, Mr. President.

I have shared my concerns, Mr. President. It is a bit like standing with your feet on either side of a small creek—if you put too much weight on either side, you are apt to get awful wet. I, along with every one of my colleagues in the Senate, have important constituencies with divergent views on all aspects of this legislation. For this reason, it will be so very important to closely monitor the actual effects that this bill may have on the marketplace—indeed my concern may prove to be unfounded and the act may be implemented smoothly for all interested parties. I hope so. But I think it imperative that strict oversight be continued by the FCA and the Congress with assurances of swift legislative correction should the problems I fear actually occur.●

THE LATEST GENERAL ACCOUNTING OFFICE STUDY ON BEVERAGE CONTAINERS

● **Mr. HATFIELD.** Mr. President, despite the obvious success of deposit legislation in the many States which have enacted it, opponents of the concept have used the arguments that economic conditions have changed and that mandatory deposits would never work in urban States. However, 2 years ago the State of Michigan enacted a deposit law. It has appeared to work, but hard statistics have been unavailable to confirm that notion. Last January, I asked the U.S. General Accounting Office to study the effect of beverage container deposit laws in Michigan. That report is complete. It does not mask the problems of conversion to such a system, but demonstrates compellingly that the benefits of converting to a deposit concept still greatly outweigh the costs.

The report was issued last Thursday. As a convenience to my colleagues, and to demonstrate my intention to raise this issue as soon as the 97th Congress begins, I would like to include the digest of this report in the CONGRESSIONAL RECORD. A copy of the full report, entitled "States' Experience With Beverage Container Deposit Laws Shows Positive Benefits," will be sent to all my colleagues' offices shortly.

The material follows:

STATES' EXPERIENCE WITH BEVERAGE CONTAINER DEPOSIT LAWS SHOWS POSITIVE BENEFITS

(Report by the Comptroller General of the United States)

DIGEST

In the GAO report Potential Effects of a National Mandatory Deposit on Beverage Containers (PAD–78–19, December 7, 1977) GAO estimated the environmental and business effects if the Congress were to pass a law requiring refundable deposits on beer and soft drink containers. At the request of Senators Mark O. Hatfield and Bob Packwood, GAO has brought the 1977 estimates up to date. As requested, we solicited no agency comments.

ESTIMATES IN 1977

In the 1977 report, GAO assumed that a high percentage of beverage containers would be returned to the beverage companies because of a deposit law. This would reduce litter and solid waste. Because the returned containers would probably be reused or recycled, energy and raw materials would also be saved.

Both costs and revenue would increase for the business that would have to develop materials handling systems to redeem and transport the empty containers. Costs would go up because of the extra labor and capital needed to set up such a system. Labor and capital costs would also go up if the beverage companies decided to increase the share of refillable bottles in their container mix. Revenue related directly to a national law would increase because some consumers forgo deposits and empty containers that cannot be refilled are sold as scrap. In 1977, GAO estimated that the increased revenue would offset the increased costs attributable to the beverage container law by about $1.0 to $1.3 billion (in 1974 dollars) in the first 3 years.

ESTIMATES IN 1980

The analysis in 1980 has confirmed the results of the 1977 study in a general way.

Litter and solid waste would decrease because of a national beverage container deposit law. Reusing returned containers by either refilling or recycling would lower energy and raw material use in the beverage industry. Some business costs would rise, and some revenue from recycling and retained deposits would be available to offset cost increases. (pp. 44–45; ch. 7)

The specifics differ somewhat between the two studies. For one, the container mix projected in 1977 in the absence of a national law (the baseline estimate) is incorrect because of the rapid emergence of the plastic soft drink container and the dominance of the aluminum can sooner than was anticipated. This means that the measures related to container types—labor, capital equipment, energy and raw material, and container costs—are also different for the 1977 and 1980 studies in any given year.

In the 1980 study, GAO selected a single container mix to represent conditions under a national law, whereas in the 1977 report GAO used a range of container mixes. This change was possible because of evidence from four States with deposit laws. In the 1980 report, GAO also increased the estimates of the amount of labor needed at the retail sales points to process empty deposit containers. This change was based on the experience in Michigan; it has added about 30,000 jobs to the 1977 employment and about $220 mililon (in 1974 dollars) to the cost and revenue comparisons for industry. (pp. 19, 39, 52–53)

Beverage container deposit laws are effective in returning containers to centralized points—the beverage wholesaler or manufacturer. Several positive effects result. Beverage container litter is reduced at least 80 percent. Post-consumer solid waste is reduced about 5 percent. Energy and raw material use for the beverage industry is reduced; the amount depends on the kind of containers used under a deposit law. (pp. 40–41; ch. 6)

These positive effects are purchased primarily at the expense of the beverage companies. Because a deposit law in effect requires a system to transport the empty containers back to the point where the deposit originated, the companies have to invest in trucks, storage space, and employees to operate the expanded system (about 25 percent of the containers now sold are deposit containers). These costs are borne by the companies. GAO's 1980 estimate of the first-year costs for increased capital stock and wages is $2.1 billion (in 1974 dollars). Not all costs would increase, however. If GAO's estimate of a 50 percent refillable container mix under a national law is accurate, the container purchase expense for all beverage companies would decrease about $1.4 billion (in 1974 dollars). This indicates that the net increase in first-year costs would be $0.7 billion. (ch. 7)

In addition, substantial revenues would arise because of a deposit law that could offset some costs at the wholesaler and production levels. One revenue source would be the income that would derive from the sale of recycled material. GAO's estimate of this revenue is $0.3 billion annually (in 1974 dollars). Another revenue source for the industry would be the income from the deposits that are not claimed by the consumers. GAO estimates that 10 percent of all containers sold would not be returned for refund. With a 5 cent deposit, this means that each year about $0.4 billion (in 1974 dollars) would accrue to the companies. (pp. 50–51)

When the estimated cost and revenue changes are compared for the first year under a national beverage container deposit law, there is no net change: the net change in costs is an increase of $0.7 billion and the increase in revenues is also $0.7 billion (in 1974 dollars). This does not mean that consumer prices would be the same as under the no-law conditions. The revenue that could be used to offset costs attributable to the implementation of a deposit law would not accrue to the businesses at the retail level. If beverage distributors did not lower prices to the retailers, the increased handling costs at that level would put upward pressure on consumer prices. (chs. 7–8) ●

WORDS OF APPRECIATION

● **Mr. GRAVEL.** Mr. President, I would like to say a few brief words as the 96th Congress, as well as my own two terms in the Senate, come to a close.

I want these to be words of appreciation—to my wife Rita, my son Marty, and my daughter Lynne for their support and perseverance during these years—to my staff, here and in Alaska, to the staff of the Senate, and to those who supported my three Senate campaigns for their true dedication to the welfare of Alaska and of the Nation—to Alaskan voters for the confidence they placed in me over 12 years—to my colleagues for the opportunity I have had to work with them, and especially for the hard work and the deeply thoughtful and reflective qualities which I have seen them bring to this body—and to this country, too, where the son of a humble French-Canadian family could aspire to make his own contribution in this great Chamber.

We are a competitive people, and our system of government is one of confrontation. So it is natural that we should hear ourselves talking a great deal about what is wrong in our country. But I can only reflect at this moment, a moment of great change both for the Nation and for me personally, on how much is right here—the opportunity for the individual as well as the essential stability and decency of America and Americans. These are cliches, of course. They are also great truths, simple truths.

I am proud of the role that I have been privileged to play in trying to perpetuate and foster and reward these best and deepest qualities of the United States. I have tried to keep these qualities before me throughout my public life.

I leave the Senate to go back to the life of a private citizen. I can make no secret of the attractiveness to me of that first quality, privacy. Public officials are suffering ever greater intrusions into the realm of what should remain their private lives, and I am looking forward to regaining the privilege of privacy.

And as for that second quality, citizenship, I intend to pursue it vigorously. As citizens, first of the world, then of this fortunate Nation, and finally of our State and communities, it is all of us who are not public officials who ultimately make freedom and democracy work.

I plan to be active as a private citizen—to work as a citizen toward those same two goals, which cannot be separated from one another and which have guided me in public service: Individual freedom and economic well-being. These are the twin pillars on which rest a democratic and productive America as well as the hope that the blessings we enjoy may be extended around this globe.●

TRIBUTE TO SENATOR HENRY BELLMON

● Mr. SIMPSON. Mr. President, all of us will deeply feel the loss of HENRY BELLMON from this place. Frankly, it is tough for me to imagine this arena without his presence. I mean that. He will be deeply missed.

His retirement leaves a special void with me. During my campaign when I was deeply involved in seeking to represent the State of Wyoming in this Chamber I well recall a visit to Washington in May of 1978. I met with various of my present colleagues—both Democrat and Republican—and I recall particularly the invitation from HENRY BELLMON, "Why don't you drop by my office for a minute?" I did. I went to his office and that delightful gentleman unselfishly took nearly an hour of his time for me. I will always remain impressed by that. He was extraordinarily busy—with a crowded schedule for the day—but he sat there in his office and gave me some of his thoughts and philosophies about politics, campaigning, and even winning. Do not think I did not put some of those things to work in my own campaign. It was a time for me when I needed a boost and he surely gave it to me. It was also just the right blend of good counsel, commonsense and reason that I needed and it served to "perk me up" during the long summer and fall campaign that followed. And I have told HENRY that now in the hustle and bustle of this place I seem to have a bit of difficulty in trying to even remind myself sometimes as to why I sought this job.

Now he is voluntarily retiring from the fray—surely the most appropriate and impressive way to bow out of this Chamber. That must be the toughest lesson for us all in politics—determining when to gracefully step down. He has done that with great class—but we will surely miss him. He has been tough, fair, kind, aggressive, thoughtful, concerned—and many more adjectives I could toss in. But to me the very key to the effectiveness of HENRY BELLMON in this place is his authentic sincerity. It is there—it is real—and that is one of the principal things that makes up the person HENRY BELLMON. I must stop. I intend no eulogy here.

I just want to inject these comments into the RECORD as a deeply felt personal observation from one of his colleagues who has richly enjoyed serving for nearly 2 years with him in the U.S. Senate. His thoughtfulness, kindness, and courtesy to me at a most important time of my political life was deeply appreciated. I personally have told him all of that before—but I wish to say it again here.

Thanks to you HENRY—for what you have done for the Nation, the Senate, your State—and for me. I am deeply appreciative.

Ann and I wish you and Shirley Godspeed and many blessings in your new life in your native State of Oklahoma.●

THE FARM CREDIT ACT AMENDMENTS OF 1980

● Mr. BOREN. Mr. President, I would like to express my support for S. 1465, the Farm Credit Amendments of 1980. This legislation will enable the farm credit system institutions to do a better job in serving the financial needs of the farmers and ranchers and is vitally important to the agriculture sector of the economy.

However, the provision of the bill authorizing these farm credit institutions to engage in certain insurance activities is of particular concern to me. I believe it should be made clear that Congress is not necessarily making a policy judgment on the desirability that farm lenders may, or even should, engage in insurance activities indefinitely.

It occurs to me that such a determination must await specific congressional scrutiny into whether the public, competition, and the interests of the borrowers and farm credit institutions are truly served by those which may opt to offer insurance services. I think there is a legitimate question of the appropriateness of these institutions offering lines of insurance, such as title insurance, which require independent underwriting expertise to afford lenders and borrowers sound protection. In fact, Congress at the present time is addressing this very question and is considering legislation which would preclude certain financial institutions from getting involved in the sale of insurance.

Further, it should be understood that Congress is not attempting to preempt State law that enables insurance commissioners to determine the appropriate functions of the insurance business.

Therefore, with respect to section 4.29 of the bill pertaining to insurance activities, it should not be assumed that Congress encourages, from a public policy point of view, these activities.●

SENATOR RICHARD SCHWEIKER

● Mr. SIMPSON. Mr. President, I am very pleased that I waited a day or two to insert my remarks concerning the retirement of our colleague, DICK SCHWEIKER. His retirement will be deeply felt in this body, but his service to the Nation is not lost. He is just entering upon an entirely new era of public service. I am so very pleased at that prospect.

I have come to know DICK SCHWEIKER through our association together with the Senate Prayer Breakfast group and through other groups within this remarkable organization. I also observed the clarity and forcefulness he exhibited during the Three Mile Island nuclear accident in his home State. While serving as the ranking minority member of the Nuclear Regulation Subcommittee I had the firsthand capabilities of noting that.

It is thoroughly heartening to me to know that he will continue to serve his country as Secretary of Health and Social Services. He has many, many more years of service to give to this country. His longtime efforts in the field of healthcare and nutrition will not easily be matched in the Senate but I am pleased that he will be carrying on his work in the Reagan administration within the executive branch.

DICK SCHWEIKER is a person of conviction and intensity—also one with a fine blend of balance and commonsense. He pursues things with great vigor and insight. He and his delightful wife Clair are an inspiration to others. Their fine family is a source of great pride to them—and justifiably so. A remarkable crew indeed—the Schweiker family. It has been my distinct personal privilege to get to know them better.

Now DICK SCHWEIKER will leave this body. With him goes his remarkably fine intellect, a probing curiosity and a deep Christian faith that has sustained him in his previous service here. It is nice for me—and it makes me feel very comfortable—to know that DICK SCHWEIKER will be administering the Department of Health and Social Services. He brings all of his remarkable human attributes with him and he will be a remarkable administrator.

I admire him—I respect him—and I wish him well.

We owe him a tremendous debt of gratitude for his past services to us in this place and we excitedly look forward to his new service to the Nation with the greatest degree of anticipation—and with deep pride.

God bless you DICK as you embark upon this new task.

Ann joins me in these expressions of regard and affection to you and Clair.●

THE MILITARY BALANCE, 1980–81

● Mr. HATFIELD. Mr. President, there are institutions in this country and elsewhere in the world that are largely devoted to the objective analysis of international foreign and strategic policy. Among the most highly respected of these is the International Institute for Strategic Studies in London. Each year the Institute publishes the Military Balance which to many academics, politicians and military planners has become a technical foundation for discussions of the dimensions and capabilities of United States and Soviet military power, along with that of their allies.

Since the Military Balance is so well respected and widely quoted, I believe it is important to point out some apparent mistakes that have been made by the institute in the most recent version of the Balance. These mistakes have been noted by the Center for Defense Information and the center's information has been footnoted. Some erroneous reports in the press have also apparently been based on incorrect IISS data.

To set an important record straight, I ask that corrections to apparent inaccuracies in the Military Balance, 1980-81 be printed in the RECORD.

The material follows:

CENTER FOR DEFENSE INFORMATION,
December 8, 1980.

DR. CHRISTOPHER BERTRAM,
Director, International Institute for Strategic Studies, London WCZE 7NQ.

DEAR DR. BERTRAM: The publications of the International Institute for Strategic Studies are important to all concerned with military issues. In particular, the annual Military Balance has come to occupy a central place in the West as a source of information on the military forces of all countries. This publication is widely used for making comparisons of relative military power, particularly between the United States and the Soviet Union. It has substantial impact on both public opinion and official decision making.

The Center for Defense Information also compiles information on the militaries of the world. Our primary sources of information are probably the sources that IISS relies on for U.S. and Soviet data: materials released by the U.S. Department of Defense, Congressional testimony, and official documents of the Congress and executive branch of the U.S. government. There is a wealth of information available on the American military.

We have carefully examined the U.S. section of The Military Balance 1980–1981. There are numerous discrepancies between accurate official U.S. information and the numbers contained in the IISS publication. In this effort, we have identified over 100 items of dubious accuracy. I have attached to this letter a detailed listing of these items in The Military Balance 1980–1981 together with the official sources for the accurate numbers.

I am sure that you will agree with me that in view of the high reputation of The Military Balance every effort should be made to assure that it is as accurate as possible. Some errors may inevitably creep in but there seems to be a need for special steps to assure the high quality of The Military Balance.

We have noted that IISS asked the editors of Air Force magazine to make certain corrections in the version of The Military Balance published in the December 1980 issue of Air Force. I trust that the media and subscribers to the original Military Balance which was released in September 1980 will also be provided with updated errata sheets.

There is one final matter I would like to bring to your attention. On September 18, 1980, many American newspapers carried an Associated Press story on the publication of The Military Balance 1980–1981 alleging that IISS had concluded "The Soviet Union and its satellites have seized a commanding lead over the United States and its allies in both nuclear and conventional weapons." This alleged assessment of IISS was carried on network television news and was repeated in many newspaper editorials across the country. A number of leading American political and military figures also took up this theme.

In our examination of The Military Balance 1980-1981 and its accompanying press release we can find no such statement by IISS or anything that can reasonably be interpreted in such a fashion. Has IISS been able to ascertain the source of these apparently inaccurate press stories? Does IISS plan to correct the record? I am sure that IISS is not comfortable with the exploitation of the IISS's high reputation for purposes of alarmist propaganda. It would be a service to the membership if the matter were cleared up.

I have high regard for the work of the IISS. IISS is often a major force for sanity in military affairs and I trust that my comments and suggestions will be considered helpful in strengthening the future work of the Institute.

Sincerely,
GENE R. LA ROCQUE,
Rear Admiral USN (Ret.),
Director.

CENTER FOR DEFENSE INFORMATION,
Washington, D.C.

SUGGESTED CORRECTIONS TO THE MILITARY BALANCE, 1980–81

(Published by the International Institute for Strategic Studies, London)

Page 3: American Strategic Forces—

IISS: ". . . the MK–12A warhead, which will reduce the Circular Error of Probability (CEP) from some 900 to about 600 feet."

Correction: It is the NS–20 guidance set already placed on 550 Minuteman IIIICBMs which has improved the accuracy of the MM system; the MK–12A will additionally improve accuracy.[1]

IISS: (Trident) "8 x 100–KT MIRV".

Correction: The Trident C–4 SLBM carries a payload of 7 MIRVs.[2]

IISS: "151 B–52G . . . 90 B–52H"

Correction: The number of B–52Gs to be equipped with ALCMs is 173, not 151; 96 B–52Hs, not 90.[3]

IISS: "The U.S. strategic warhead total is 7,301, 364 below last years figure."

Correction: The strategic warhead total is 9,200 according to the Department of Defense.[4]

Page 5: Strategic Nuclear Forces—

IISS: (Polaris) "6 to convert to SSN by 1981".

Correction: Eight Polaris submarines are involved in the conversion to attack submarines.[5]

IISS: "151 B–52G, 90 B–52H, 75 B–52D".

Correction: The available number of B–52 bombers is 173 B–52G, 96 B–52H, and 79 B–52D.[6]

IISS: "65 FB–111A".

Correction: 66 FB–111A aircraft are reported in the inventory.[7]

IISS: "400 Hound Dog".

Correction: Hound Dog missiles were withdrawn from the Air Force in 1979.[8]

IISS: "10 SR–71A, 10 U–2C/R".

Correction: Eight SR–71A/C and 8 U–2C/R are reported to be in the inventory.[9]

IISS: "34 squadrons with 517 KC–135A".

Correction: There are 33 squadrons of 487 KC–135A/Q in the active Air Force.[10]

IISS: There are KC–10 aircraft on order, not reported by IISS (in their on-order section).

Page 6: Strategic Nuclear Forces (cont.)—

IISS: "Interceptors: 327".

Correction: There are 381 interceptors in the force (297 primary aircraft and 84 backup).[11]

IISS: "6 squadrons".

Correction: There are 7 squadrons in the regular force".[12]

18 F–101 aircraft are still credited to the active interceptor force [13] (IISS omitted).

IISS: "63 F–101B, 76 F–106, 40 F–4D".

Correction: The Air National Guard has 58 F–101, 79 F–106, and 80 F–4.[14]

IISS: "Spacetrack (6 sites in US)".

Correction: There are 7 Spacetrack sites in the US and additional sites overseas.[15]

IISS: "being replaced by PAVE PAWS".

Correction: PAVE PAWS is active on the East and West Coast.

No mention was made by IISS of other warning radars including an FPS–85 at Eglin Air Force Base, Florida and an FSS–7 at Macdill Air Force Base, Florida, both active for SLBM warning.

No mention was made by IISS of the Over-the-Horizon Backscatter (OTH–B) warning radars now in R&D, but active during testing in Maine.

Army—

IISS: "1 airmobile division".

Correction: The 101st airborne division has been redesignated officially as an air assault division.

IISS: "1,824 M–48A5 tanks".

Correction: Some 2,067 M48A5 were converted from previous M–48 models.[16]

IISS: "615 M60A3" and "689 M60A3" tanks (on order).

Correction: Some 2,560 M60A3 are being built or converted in the US tank program.[17]

ISS: "1,400 M–551 Sheridan lt. tks"

Correction: There are 1,488 Sheridan light tanks in storage and 59 tanks in one active Army unit (the armor bn. of the 82nd airborne division).[18]

The M106 and M125 armored personnel carriers are also important mortar carriers in the Army inventory, but are not listed by IISS.

IISS: "22,000 M–577, M–114, M–113 APC" (armored personnel carriers).

Correction: Only some 90 M–114 were reported left in the inventory in 1979, and many of the M–113 had been converted to TOW missile carriers.[19]

IISS: "175mm SP guns" (self-propelled).

Correction: The 175mm guns are being totally phased out of the Army inventory; the guns in Europe have already been withdrawn.

IISS: "105mm SP how." (self-propelled howitzers).

Correction: The 105mm SP how. is a negligible portion of the Army inventory, mostly in storage and in the reserves.

IISS: "90mm and 106mm RCL."

Correction: The recoilless rifles have now been replaced for the most part in the active Army by TOW and Dragon anti-tank missiles,

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Footnotes at end of article.

but IISS has listed the same number from year to year.[20]

IISS: "107,000 TOW, 7000 DRAGON ATGW".

Correction: The number of TOWs is too high to be launchers, but is a bit too low to be missiles; the DRAGON figure matches the approximate number of launchers, there being an additional 90,000+ missiles in the inventory.[21]

The M113 with TOW and the Improved TOW Vehicle are in the U.S inventory, but are only listed by IISS as on order.

IISS: "108 Pershing".

Correction: This number only accounts for the 3 battalions in Europe. An additional training battalion at Fort Sill, Oklahoma has a minimum of 36 additional launchers, although as many as 164 launchers have been reported.[22]

IISS: "Some 600 20mm and 40mm towed and SP AA guns".

Correction: The 20mm and 40mm towed and SP AA guns form a negligible portion of active Army air defense inventory and most are in storage or the reserve components.

IISS: "Some 20,000 Vulcan 20mm AA guns".

Correction: The misplacement of semicolons rather than commas probably accounts for the startling number (20,000) of Vulcan guns in the inventory.

There are still Honest John missiles in the reserve components, omitted by IISS.[23]

IISS: (Aircraft/Hel).

Correction: The aircraft listed do not include many transport and liaison aircraft in the Army inventory. The total number of aircraft is high by some 500.[24] The inventory could also be broken down by component, for instance 8,597 total Army aircraft, 5531 active Army aircraft, 467 Army Reserve aircraft, 2529 Army National Guard aircraft and 70 research and development aircraft.

IISS: (On order.)

Correction: The list of equipment does not include TOW, 60mm mortar, M110A2 203mm SP HOW, or Patriot SAM.

IISS: "M-198. . . SP HOW".

Correction: The M198 is a towed howitzer, not self-propelled as listed by IISS.

IISS: "206,400" (Personnel in Europe).

Correction: There are 223,000 Army personnel in Europe.[25]

IISS: "Germany: 196,000. . . . West Berlin: 4,400".

Correction: There are 213,300 Army personnel in West Germany (including West Berlin).[26]

IISS: "Greece: 800".

Correction: There are 1,700 Army personnel in Greece".[27]

IISS: "Turkey: 1,000".

Correction: There are 1,170 Army personnel in Turkey.[28]

IISS: "less 1 inf bde" (Korea).

Correction: One infantry battalion has been withdrawn from South Korea.

There are a significant number (2,500) of Army Personnel in Japan, omitted by IISS.

IISS: (Army National Guard).

Correction: Other important combat formations include: 4 armored cavalry regiments, 1 air defense brigade, 2 special forces groups, 1 arctic scout group, and some 70 separate combat battalions (infantry, mechanized, airborne, armor and field artillery).[29]

Page 8: Navy—

IISS: "173 major combat surface ships."

Correction: According to the Navy, there the 176 major surface combatants of 30 June 1980.[30] IISS itself lists 177 ships in the breakdown under "other surface ships."

IISS: "81 attack submarines".

Correction: There are 78 attack submarines.

IISS: "12 Los Angeles."

Correction: There were 10 Los Angeles submarines on 30 June 1980.

IISS: "Thresher" (class submarines).

Correction: These are officially "Permit" class submarines.

IISS: "2 Tang".

Correction: These submarines have been decommissioned.

IISS: (Aircraft carriers).

Correction: One "Forrestal" class entered a long range (28 month) overhaul in 1980. The training carrier is officially "Lexington" class, not "Intrepid" as listed by IISS.

IISS: "RA-5c" (aircraft on carriers).

Correction: RA-5c aircraft have been withdrawn from the Navy. Squadrons were decommissioned October 1978 through August 1979, with the Wing being disestablished January 7, 1980.

IISS: "8 Belknap" (cruisers).

Correction: 1 Belknap and 8 "Josephus Daniels" class cruisers.

IISS: "10 coontz, 4 Sherman/Hull" (destroyer).

Correction: Officially 10 "Farragut" class and 4 "Decatur" class.

IISS: (Support Ships) IISS lists 74 support ships ("54 replenishment and 20 depot and repair ships").

Correction: The IISS listing is partial. The actual inventory of Naval support ships is 113: 47 replenishment ships, 26 support ships, 23 fleet support ships, and 17 auxiliaries.

IISS: (On Order).

Correction: As of January 1980 the following additional ships were on order and funded: 1 Trident, 1 attack submarine (SSN), 1 destroyer, 1 Aegis cruiser, 5 Ocean tugs. An additional Trident submarine, nuclear carrier, Aegis cruiser, 2 attack submarines, 6 frigates and 3 ocean surveillance ships were also funded but had not yet been contracted for.[31]

IISS: (Aircraft).

Correction: The number of aircraft in the active Naval inventory is more than 4,000: 4,135 active aircraft and 179 research.[32] The breakdown of aircraft at the end of FY 80 was as follows: fighter: 435; attack: 652; ASW: 144; patrol: 264; warning: 100; transport: 109; training: 753; utility/misc: 44; helicopter: 400; drone aircraft: 8; non-operational (storage): 1,452.[33]

IISS: "10 recce sqns".

Correction: There is one recon squadron with RF-8 aircraft.[34] In addition there are two "Fleet air reconnaissance squadrons" with EA-3 and EP-3 aircraft.

IISS: "13 AEW sqns".

Correction: There are 12 active AEW squadrons.

IISS: "17 misc spt sqns".

Correction: There are 27 misc spt squadrons in the Navy: 2 TACAMO squadrons 3 air test and evaluation squadrons, 2 development squadrons, 8 composite squadrons, 4 helicopter combat support squadrons, 5 logistics support squadrons, 1 aircraft ferry squadron, and 2 helicopter mine countermeasures squadron.

IISS: "19 trg sgns".

Correction: There are 41 training squadrons in naval aviation. Omitted by IISS were 21 operational conversion units/refresher training aquadrons/tactical training squadrons including 1 helicopter mine countermeasures training squadron, 6 fighter training squadrons, 6 attack training squadrons, 3 anti-submarine training squadrons, 1 electronic warfare training squadron, 2 early warning training squadrons, and 2 patrol squadrons. In addition, there are 20 training squadrons for basic and undergraduate aviation training.

IISS: (AAM).

Correction: Excludes Sidewinder missile.

IISS: (ASM).

Correction: Excludes Walleye and Harpoon missiles.

IISS: (On order).

Correction: Other aircraft also on order include EA-6B, F-14, P-3c, and E-2c. The EC-130Q aircraft is for communications, not early warning as listed by IISS. The UC-12B is an airplane, not a helicopter as listed by IISS.

IISS: (Deployment and Bases).

Correction: The listing of bases is arbitrary. Some of the locations listed are not ports or naval aviation airfields. Other major ports and airfields are excluded.

IISS: (Second Fleet) "Philadelphia, Brooklyn . . . Argentia."

Correction: These are not bases, but overhaul facilities and shore installations. Bases not listed in the Second Fleet area include: Jacksonville, Key West, Brunswick, New Orleans, and Bermuda.

IISS: (Third Fleet).

Correction: Bases not listed include: Barbers Point, Bangor, Whidbey Island, and numerous air stations in California.

IISS: (Sixth Fleet).

Correction: Bases not listed include: Sigonella (Italy), La Madalena (Italy) and Souda Bay (Greece).

IISS: (Seventh Fleet).

Correction: Bases not listed include: Atsugi (Japan), Cubi Point (Philippines), Agana (Guam), many installations on Okinawa, and Diego Garcia.

IISS: (Reserves), "Ships . . . include 23 destroyers, 3 amph warfare ships . . . 2 log ships."

Correction: Ships in the Naval Reserve Force as of 30 June 1980 were 18 destroyers, 2 amphibious ships and 6 support/logistic ships.[35]

The number of aircraft in the Naval Reserve are omitted by IISS and are not included in the active Navy totals. There are 375 aircraft in the Naval Reserve broken down as follows: 56 fighters, 88 attack, 117 patrol, 8 warning, 20 transport, 21 training, 6 utility, 19 miscellaneous helicopters, and 40 non-operational (in storage).[36]

IISS: "3 ECM" (squadrons).

Correction: There are 4 tactical electronic warfare squadrons.

Page 8: Marine Corps—

IISS: "189,000" (personnel).

Correction: There are 185,000 personnel in the Marine Corps.

IISS: "3 divs. . . . 1 amph bn".

Correction: The 3 divisions consist of 1 amphibious tractor battalion and 1 tank battalion.

IISS: "416 combat aircraft".

Correction: This is incomplete. There are 1,341 aircraft in the Marine Corps; broken down as follows: 198 fighter, 241 attack, 11 transport, 36 refueling, 57 observation, 25 training, 6 utility, 562 helicopters and 205 non-operational (in storage).[37]

IISS: "78 AV-8A".

Correction: There are 67 AV-8A aircraft left in the Marine Corps inventory.[38]

IISS: "2 ECM sqn".

Correction: There is one tactical electronic warfare squadron in the Marine Corps. The two squadrons were consolidated in 1979.

Air-to-Surface missiles were omitted by IISS including Maverick ASMs.

IISS: (Pacific) "Japan 1 MAF (1 div, 1 air wing)".

Correction: Marines in Japan comprise two-thirds of a MAF; One brigade and air group are in Hawaii.

IISS: "Hawaii 1 bde (from div. in US)".

Correction: The Marine Brigade in Hawaii comes from the division in Japan.

IISS: (Marine Amphibious Units) (footnote).

Correction: A MAU is a composite unit including a Marine bn. plus supporting helicopters, tanks and artillery.

IISS: "I div and 1 Fleet Marine Force." (Marine Corps Reserve).

Correction: The Marine Corps Reserve consists of 1 Fleet Marine Force (which is the higher HQ) consisting of I division, 1 air wing, 1 artillery group and supporting battalions.

IISS: (Marine Aviation).

Footnotes at end of article.

Correction: Total number of aircraft in the Marine aviation reserves were omitted by IISS. There are 231 aircraft including 24 fighter, 72 attack, 1 transport, 6 refuelers, 15 observation, 88 helicopters and 25 non-operational (in storage).[39]

Page 8: Air Force—

IISS: "I defense system evaluation squadron".

Correction: The DSES with EB–57 was deactivated in July, 1979.

IISS: "0–2E"

Correction: The Air Force flies the O–2A, not O–2E.[40]

IISS: "4 with 20 AC–130 ac" (special operations squadrons).

Correction: Three special operations squadrons fly MC–130 aircraft.

IISS: (aggressor trg sqns).

Correction: Aggressor training squadrons also fly T–38 aircraft.

IISS: "1 tac drone sqn".

Correction: The drone squadron was deactivated 31 March 1979.

IISS: (AAM) "Phoenix".

Correction: The Phoenix Missile is only used by the Navy.

IISS: (ASM).

Correction: Maverick missile was omitted by IISS.

IISS: (On order).

Correction: Also on order are E–3A, A–7K, and C–130H aircraft.

IISS: "Tactical Air Command: 82,000."

Correction: Military strength of TAC is 85,976.[41]

IISS: "Military Airlift Command (MAC): 64,500".

Correction: Military strength of MAC is 71,963.[42]

IISS: "U.S. Air Force, Europe (USAFE): 75,400".

Correction: Military strength of USAFE command is 53,737.[43]

IISS: "Pacific Air Forces (PACAF): 31,200".

Correction: There are 24,947 military personnel in PACAF command.[44]

IISS: "9 fighter squadrons".

Correction: A tenth fighter squadron was activated in Korea in 1979 with F–4 aircraft.

IISS: "I special operations sqn with OV–10".

Correction: There is one SOS with MC–130 aircraft and one tactical air support squadron with OV–10 in the Pacific area.

The Alaskan Air Command with 7,488 military personnel was omitted by IISS.

IISS: (Air National Guard).

Correction: The numbers of aircraft listed do not match Air Force records. In addition, the Air National Guard flies 81 0–2, 43 T–33, 6 T–43 and 33 C–131 omitted by IISS.[45]

IISS: "1 with 20 RF–101C" (squadrons).

Correction: The last RF–101C unit was deactivated in 1979.

IISS: (Air Force Reserve).

Correction: Two A–10 squadrons are being added to the Air Force Reserve; F–4 squadrons are being increased by 2; A–37 squadrons are being phased out. Omitted by IISS was 1 special operations squadron flying CH–3 helicopters.[46]

IISS: "4 SAR sqns (2 with 13 HC–130 ac, 2 with 20 HH–3E, HH–1H hel)".

Correction: The 4 SAR sqns include 1 squadron with HH–1/UH–ln, 1 squadron with HC–130, and 2 squadrons with HC–130/HH–3E.[47]

Page 9: Coast Guard—

IISS: "40 destroyer-size vessels".

Correction: There are 42 destroyer-size cutters in the Coast Guard.[48]

IISS: "76 patrol craft".

Correction: There are 79 patrol craft.[49]

In addition, there are 118 other cutters and auxiliaries in the Coast Guard, omitted by IISS.[50]

The Coast Guard has H–65 and HU–25 aircraft on order, omitted by IISS.

FOOTNOTES

[1] U.S. Congress, Senate, Armed Services Committee, *Department of Defense Authorizations for Appropriations, Hearings*, FY78, PT 10, PG 6536 and *Department of Defense Annual Report*, FY78, PG 129. (Hereafter referred to as "SASC, FY ——") and DOD, FY ——"

[2] Joint Chiefs of Staff; *U.S. Military Posture for FY81*, PG 43, (Hereafter referred to as "JCS, FY ——")

[3] U.S. Congress, Senate, Appropriations Committee, *Department of Defense Appropriations*, Hearings, FY81, PG 43. (Hereafter referred to as "SAC, FY ——")

[4] *DOD Annual Report*, Fiscal Year 1981, January 1980, PG 77.

[5] JCS, FY81, PG 43.

[6] SAC, FY81, PT 5, PG 1657.

[7] SAC, FY81, PT 5, PG 1629.

[8] U.S. Congress, House, Appropriations Committee, *Department of Defense Appropriations*, Hearings, FY81, PT 2, PG 275. (Hereafter referred to as "HAC, FY ——")

[9] *Air Force Magazine*, May 1980, PP 140–141.

[10] SAC, FY81, PT 3, PG 294 and *Air Force Magazine*, May 1980, PG 162.

[11] SASC, FY81, PT 2, PG 577.

[12] SAC, FY81, PT 3, PG 17.

[13] Ibid, PG 295.

[14] SAC, FY81, PT 3, PG 407 and SASC, FY81, PT 2, PG 577.

[15] SAC, FY81, PT 3, PG 295.

[16] *Army Magazine*, October 1980, PG 278.

[17] Ibid, PG 272.

[18] SASC, FY81, PT 5, PG 2824.

[19] *Army Magazine*, October 1980, PG 283.

[20] Ibid, PP 243–244.

[21] Ibid, PP 243–244.

[22] Ibid, PG 256, and Collins, PG 473.

[23] Ibid, PG 258.

[24] SASC, FY81, PT 3, PG 78.

[25] (DOD Fact Sheet as of 30 June 80) DOD, "Active Duty Military Personnel Strengths by the Regional Area and By Country", Fact Sheet, as of 30 June 1980.

[26] Ibid.

[27] Ibid.

[28] Ibid.

[29] National Guard Bureau Fact Sheet.

[30] All of the figures for Naval ship inventory is from DN, Program Information Center, "Listing of Active Fleet, NRF and MSC–NFAF Ships by Fleet, as of 30 June 1980".

[31] SASC, FY81, PT 2, PG 1082.

[32] SAC, FY81, PT 3, PG 205

[33] Department of the Navy, *Historical Budget Data*, April 1979. (Hereafter referred to as "DN").

[34] *USNI Proceedings*, May 1980, PG 232.

[35] DN, PIC, "Listing . . ."

[36] DN, *Historical Budget Data*, April 1979.

[37] Ibid.

[38] SAC. FY81. PT 1. PG 728.

[39] DN, *Historical Budget Data*, April 1979.

[40] *Air Force Magazine*, May 1980, PG 140.

[41] Ibid. PG 152.

[42] Ibid.

[43] Ibid.

[44] Ibid.

[45] SAC, FY81, PT 3, PG 407.

[46] SAC, FY81, PT 3, PG 329.

[47] *Air Force Magazine*, May 1980, PG 127.

[48] United States Coast Guard, "Register of Coast Guard Cutters", 1 October 1979 (Annual).

[49] Ibid.

[50] Ibid.●

TRIBUTE TO RICHARD SCHWEIKER

● Mr. DOLE. Mr. President, Dick Schweiker has long been recognized by his colleagues as a man of impressive ability, political instinct and intellectual force. For the last 12 years in this body, and for 8 years before that in the House, he has made major contributions toward a more humane society in which working men and women receive their rightful share of dignity and economic status. He has been a leader in fashioning a new vision of government in partnership with the private sector. I know that my thinking on the critical issue of health care in America has been influenced by his expertise—and so it is with a special sense of anticipation that I look forward to his service in the Department of Health and Human Resources.

For many years Dick Schweiker has been interested in the idea of preventive medicine. He has expounded his belief in self-education as a key to self-preservation. And it will be a welcome development to have at HHS a Secretary who knows first hand both the problems and the potential of our current health care delivery system. It will also be reassuring to know that this Department, historically one of the hardest to administer, will now be in the capable hands of a man who has repeatedly demonstrated a conviction that Government should be truly caring—and should not exclude from its compassion the American taxpayer.

We will miss him on the Hill. But we will know that Dick Schweiker is giving the American people the same kind of thoughtful, decisive leadership that has benefited the people of Pennsylvania these last 12 years. And so, we are not losing a colleague—we are gaining a Cabinet spokesman for commonsense.●

TRIBUTE TO GEORGE McGOVERN

● Mr. DOLE. Mr. President, on the surface, George McGovern and I should be poles apart. After all, he is a liberal Democrat. I am a Republican of the moderate conservative stripe. He ran for President when I was national chairman of my party. I ran for Vice-President against a ticket to which he gave his support. I suspect that our voting records have disagreed more often than they have agreed. Yet, in the most important ways, I regard George McGovern as a friend and a kindred spirit.

He is a decent man, who puts principle before expediency. You may not always go along with George, but you cannot fail to respect his motives. Together, Senator McGovern and I worked out an unusual coalition of conservatives and liberals, Republicans and Democrats, to support the domestic food stamp program and food for peace. Indeed, the advances in the nutrition areas might well stand as George McGovern's legislative monument in this Chamber—and around our Nation and the globe wherever hungry children feed on American foodstuffs, and political instability is quieted like the hunger that promotes it, George McGovern will be remembered and honored as a great American.

George's work on these programs is an excellent example of bipartisanship and cross-party cooperation which is the hallmark of sound legislation.

I am grateful for your friendship, George, and am quite confident when I say that you will be greatly missed by all your colleagues on both sides of the aisle. I wish you and your lovely wife nothing but the best in the challenges which lie ahead for you both. ●

HANDGUN VIOLENCE—STATEMENT BY JACK J. SPITZER, PRESIDENT OF B'NAI B'RITH INTERNATIONAL

● Mr. KENNEDY. Mr. President, in the past week citizens here in the United States and people around the world have expressed their deep sense of sadness over the violent deaths of Michael Halberstam and John Lennon.

I share the grief for these two men who contributed so much to our society. In addition, on the occasion of their tragic deaths, let us also remember that 20,000 other Americans will die as a result of handgun violence this year.

Mr. President, in a statement last week, Jack J. Spitzer, president of B'nai B'rith International, spoke eloquently of these recent tragedies that have touched the entire Nation. I ask that his statement be included in the Record.

The statement follows:

Statement by Jack J. Spitzer, President of B'nai B'rith International, December 10, 1980

The tragic killings of John Lennon in New York and Michael Halberstam in Washington—the latest in a chain of violence by gun that began with John Kennedy's assassination—compel this country to examine itself and the reason it has failed to enact national gun control legislation.

The argument advanced by gun control opponents that "guns don't kill people, people kill people" is true but irrelevant. To make firearms readily available in a society as agitated as ours is to multiply the opportunities for "people to kill people." Guns in contemporary American society are as lethal a combination as matches and gasoline.

We further believe that in the modern world, the right to bear firearms is no longer a realistic deterrent against an invading army or a tyrannical government, and that that right has been overtaken by a far greater right—the right to life, one's own life.

B'nai B'rith has called for comprehensive gun control legislation for many years now. Today we renew that call with special urgency. Now is the time to break the 17-year chain of violence and unchain the majority of Americans for whom guns mean a clear and present danger to themselves and their families, not a cherished constitutional right.●

NOTICE OF DETERMINATIONS BY SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Larry Smith, an employee of Senator Hart, to participate in a program sponsored by a foreign organization, the Konrad Adenauer Foundation, in Bonn, West Germany, on December 12–13, 1980.

The committee has determined that participation by Mr. Smith in the program in Bonn, at the expense of the Adenauer Foundation, to discuss the security issues facing the Atlantic Alliance, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Dr. Stephen R. Sestanovich, an employee under the supervision of Senator Moynihan, Greg Pallas, an employee under the supervision of Senator Exon, John Walton, an employee under the supervision of Senator Johnston, Ed Graves, an employee under the supervision of Senator Huddleston, and Edward Nef, an employee under the supervision of Senator Baucus, to participate in a program sponsored by a foreign educational institution, the Chinese Culture University in Taipai, Taiwan, from December 12 to 19, 1980.

The committee has determined that participation by these employees in the program in Taiwan, at the expense of the Chinese Culture University, to discuss United States-Taiwanese relations and the U.S. political and legislative process and to meet with Taiwanese leaders in various fields, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received requests for determinations under rule 35 which would permit Mr. Ken Ackerman of the Committee on Government Affairs under the supervision of Senator Percy, Mr. Edwin Jayne of the Committee on Government Affairs under the supervision of Senator Pryor, and Mr. Wayne Schley of the Committee on Government Affairs under the supervision of Senator Stevens, to participate in a program in Ottawa on November 6 and 7, 1980 sponsored by a foreign educational organization, the Centre for Legislative Exchange. The purpose of the program is to study performance measurement in public service, and the Centre is a privately supported Canadian organization.

The committee has determined that participation by Messrs. Ackerman, Jayne, and Schley in the program in Ottawa, Canada, at the expense of the Centre, is in the interests of the Senate and the United States.●

THE PAPERWORK REDUCTION ACT OF 1980 (PUBLIC LAW 96–511)

● Mr. KENNEDY. Mr. President, when the Paperwork Reduction Act of 1980 was considered on the floor of the Senate, an amendment which I proposed was adopted as part of the legislation. Although the amendment had several provisions, its main purpose was to establish a procedural framework to govern OMB's review of reporting and recordkeeping requirements specifically contained in agency rules. During the House debate on this legislation, certain questions were raised concerning the meaning of this amendment. Hopefully, this statement will respond to these questions.

The most significant questions have been directed at section 3504(h) which gives OMB the authority to overturn an agency rule which specifically contains collection of information requirements as long as OMB has complied with certain procedures. Although my statement accompanying this amendment—Congressional Record, 30177, November 19, 1980—explains in detail this section, certain comments in the House debate have created some confusion concerning these procedures.

The amendment clearly states that OMB has 60 days to comment on a collection of information requirement included in a proposed rule. If OMB fails to comment on the proposed rule in this time period, it has waived its right, in most circumstances, to overrule that requirement later. Even if it does comment on a particular information requirement, the agency has the opportunity to respond to OMB's comments. OMB can overturn the agency's determination when the Director, in his discretion, determines that the agency's response to his comments was unreasonable.

A statement was made during the House debate on December 1, 1980—Congressional Record, 31288—that:

> No matter what its action may have been with regard to the proposed regulation, OMB may freely approve or reject any specific information request deriving from such a regulation.

This statement needs further clarification. The amendment draws a distinction between an information collection request derived from a rule and one specifically contained in an agency rule. The authority of OMB to review and disapprove the latter is explicitly circumscribed by the provisions of section 3504 (h), as amended.

Furthermore, the standard under which OMB reviews a particular information requirement under section 3504 (h) was tailored very carefully in negotiations on this bill. OMB cannot merely disapprove any collection of information requirement in an agency rule which it finds "unreasonable"; it must find that the agency's response to its comments was "unreasonable." The provision anticipates that the Director will make this determination of "unreasonableness" under the standard set forth in section 3508—that—

> The collection of information by an agency is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

This standard is explained in detail in the section-by-section analysis in the report on the legislation.

Third, section 3504(h)(9) does not ban all judicial review of decisions by OMB on information requirements contained in a rule. The section is quite explicit on this point:

> There shall be no judicial review of any kind of the Director's decision to approve or not to act upon a collection of information requirement contained in any agency rule.

Thus, while no action for judicial review can be brought if OMB approves or fails to act on a rule, there is no bar to judicial review if an information collection requirement in a rule is disapproved by OMB.

Finally, there is some ambiguity about another provision in my amendment dealing with FTC consumer protection investigations conducted under section 13 of the FTC Improvements Act of 1980. Under section 3518 (c) of this legislation, the requirement that an agency submit an information collection request to OMB for approval would not apply in several contexts. One situation in which the requirements are inapplicable involves "the collection of information * * * by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980"—section 3518(c) (1) (C). My amendment added the reference to section 13 of the FTC Improvements Act in order to insure that the provisions of this legislation do not apply to those FTC consumer protection investigations which use compulsory process under section 13 of that act.

In conclusion, Mr. President, I hope that this statement has clarified the meaning and intent of my amendment to the Paperwork Reduction Act of 1980. That legislation, as amended, draws a careful line between the need to cut back the unnecessary paperwork created by some Government agencies and the goal of maintaining fair and open Government procedures.●

OLIVE ANN BEECH

● Mr. DOLE. Mr. President, on Friday, December 12, 1980, I had the distinct pleasure of acting as master of ceremonies at the 1980 Wright Brothers memorial dinner in Washington, D.C.

This 33d annual dinner, hosted by the prestigious Aero Club of Washington, had a special meaning for me, for it honored a fellow Kansan. This year's recipient of the 1980 Wright Brothers trophy was Olive Ann Beech of Wichita. Mrs. Beech is a true giant of the aviation industry. She is also a giant of a person. Her life has been punctuated with success after success.

Mrs. Beech had a bank account at the age of 7, was her family's financial planner at 11, office manager of an electrical company at 18. She flew to New York City in an open cockpit biplane at a time when flying at all was considered risky. And she helped Walter Beech build one of the largest general aviation corporations in the world. Mrs. Beech has earned more awards, more honorary appointments and citations than any woman in aviation history. She serves as trustee, advisor or director for dozens of business, community, education, and aeronautical organizations. She is recognized nationally as a philanthropist, patron of the arts, education and religion. Pehaps most central to her nature, she has been a constant champion of youth movements, progressive causes and our free enterprise system.

On Friday, Mrs. Beech became the first woman in history to receive the Wright Brothers memorial trophy. This distinguished award commemorates the Wright Brothers' first powered flight at Kitty Hawk, N.C., and is given each year to an individual "for significant public service of enduring value to aviation in the United States."

SELECT COMPANY

Mr. President, I believe a listing of past recipients of this award will indicate the select company Mrs. Beech has been included in:

1948, Dr. William F. Durand; 1949, Charles A. Lindbergh; 1950, Grover C. Loening; 1951, Dr. Jerome Hunsaker; 1952, Lt. Gen. James H. Doolittle, USAF; 1953, Honorable Carl Hinshaw; 1954, Dr. Theodore Von Karman; 1955, Dr. Hugh L. Dryden; 1956, Dr. Edward P. Warner; 1957, Senator Stuart Symington; 1958, Dr. John F. Victory; 1959, William P. MacCracken, Jr.; 1960, Frederick C. Crawford; 1961, Senator A. S. Mike Monroney; 1962, John Stack; 1963, Donald W. Douglas, Sr.; 1964, Harry F. Guggenheim; 1965, Jerome Lederer; 1966, Juan Terry Trippe; 1967, Dr. Igor I. Sikorsky; 1968, Senator Warren G. Magnuson; 1969, William M. Allen; 1970, Honorable C. R. Smith; 1971, Senator Howard W. Cannon; 1972, Honorable John H. Shaffer; 1973, Senator Barry M. Goldwater; 1974, Dr. Richard T. Whitcomb; 1975, Clarence L. Johnson; 1976, William A. Patterson; 1977, Lt. Gen. Ira C. Eaker, USAF; 1978, Senator Jennings Randolph; 1979, T. A. Wilson.

SENATOR RANDOLPH'S PRAYER

Mr. President, one of the past winners of the Wright Brothers Award, my distinguished colleague Senator JENNINGS RANDOLPH of West Virginia, read a prayer at the convocation of the dinner. I ask that this prayer be printed in the RECORD at the conclusion of my remarks.

WICHITA TELEGRAM

The Wichita Area Chamber of Commerce asked me to read a telegram Friday evening honoring Mrs. Beech. I ask that the telegram be printed in the RECORD at the conclusion of my remarks.

SENATOR KASSEBAUM'S TOAST

I would also note that my distinguished colleague from the great State of Kansas, Senator NANCY LANDON KASSEBAUM, gave a most gracious and inspiring toast in honor of her fellow Wichitan. Senator KASSEBAUM's presence served to further underscore the achievements of Kansas women.

Mr. President, Mrs. Olive Ann Beech should serve as an inspiration to all Americans. Her accomplishments are living proof that ours is a land of opportunity and freedom. Her intelligence has guided a family, a company, and an industry. We as a nation should be grateful to Mrs. Beech—I know, speaking for her native State, Kansans are extremely thankful for her contributions.

The material requested to be printed in the RECORD follows:

FLIGHT OF LIFE

Our Father Above—

Only for a short time have you loaned us each other. In Warming kinship, we pause to give you thanks:

For a new collection of old memories;

For fresh understandings of world and self;

For lasting friendship given and received.

We thank you, Lord, for Olive Ann Beech, the pilots and the planes. We thank you for the airports and airways that span this earth, and for the restless hopes which sweep us ever outward to the stars.

We lift our hearts in gratitude that you have granted us this gift of flight. Let us not forget the miracle of movement, and the faith of those who dared to soar.

Keep safe all those who build and fly these marvelous machines. Be good to all who use them for good purpose. Steer to safe landings all who stray from your beacon love.

We beseech you to protect the burning fever to explore, to look beyond the horizons of life. Our prayers are winged to set the spirit free, to conquer vast unknowns and make them yours. Companioned by fear and doubt, we freely mark the compass You have set, and climb to heights that passeth understanding. We look to You for guidance on our path, toward Heaven and the endless edge of space.

And finally, we thank you for the privilege to be a part of this exciting world; for the opportunity to share in human understanding and open new skyways to peace.

Though swift the voyage and high the course, we believe that Your love and mercy will guide us. We know we are not alone.

Mrs. OLIVE ANN BEECH,
Chairman of the Board,
Beech Aircraft Corp.

The Wichita Area Chamber of Commerce joins the entire aeronautics industry in congratulating you as recipient of the 1980 Wright Brothers Memorial Trophy recognizing your outstanding contributions to the Nation in the development of general aviation.

Wichita has been a substantial beneficiary of your business accomplishments in aviation, and we have been privileged to receive as well, benefits from your leadership in the civic life of Wichita.

Sincerest best wishes,
ROBERT M. BEREN,
Chairman of the Board,
Wichita Area Chamber of Commerce.●

TRIBUTE TO SENATOR HENRY BELLMON

● Mr. KENNEDY. Mr. President, in the coming years, as Congress and the country struggle with inflation, the Federal budget, and the shape of Federal programs, we will all miss the persuasive voice and skillful leadership of Senator HENRY BELLMON, our distinguished colleague from Oklahoma.

I have had the privilege of working closely with Senator BELLMON on many issues—from cash management of the Federal budget to education to welfare reform. On these matters, I have come to admire him for his insight, his fairness, his dedication to responsible government, and his strong commitment to a genuine bipartisan approach to the critical challenges facing the Nation.

As the ranking minority member of the Budget Committee since its creation in 1974, Senator BELLMON worked closely and effectively with Chairman Muskie. Their constructive cooperative was in large measure responsible for the unusual success of the committee in its task of bringing the Federal budget under control.

Senator BELLMON has also worked hard to improve the budget process—reminding us of the need for fair and effective restraint on Federal expenditures, and of the need for a credit budget.

His pledge to fairness and effectiveness extended throughout the budget. He worked hard for more vigorous enforcement of cigarette tax laws and for withholding of taxes on interest payments. He has worked for better targetting of social programs; as a member of the Labor and Human Resources Committee I know firsthand of his effort to improve the CETA reauthorization in 1978.

In the present Congress, I have worked closely with HENRY BELLMON on reform of student loan legislation. In this effort, we sought to insure the availability of loan funds to all students in financial need, and to do so in a manner which would cut in half the cost of the loan programs over the next 5 years.

I am proud that much of the basic structure we proposed has been incorporated in the Higher Education Act approved this year. Because of Senator Bellmon's important contributions and insights, we have shaped a better education program for the future.

Henry Bellmon's concern for fairness and effectiveness was also evident in his work on agriculture. He was a tireless advocate of strong agricultural research and overseas food development. He fought against programs he considered wasteful, even if it would have been more popular to go along with them.

Senators on both sides of the aisle will miss Senator Bellmon as he and Shirley return to their farm in Billings, Okla. We shall remember him for his lasting contributions to the success of the congressional budget process, and for his many other major contributions to responsive and responsible government. And we shall remember him as well for the affection and respect in which he is held by all the Members of this body.●

FAREWELL TO SENATOR DICK STONE

● Mr. DOLE. Mr. President, Senator Stone never failed to tackle the hard issues that came before the Foreign Relations Committee, whether it was the Panama Canal Treaties, the Taiwan Relations Act, or SALT II. In countless hearings his probing questions to witnesses were respected by his colleagues for the way they struck to the heart of the issues. Sometimes his stands on the issues were not popular or were at odds with his administration, but Dick Stone was not a Senator who believed in equivocation when he believed he was right.

Dick and I have worked together on many issues and his ability to go directly to the heart of every complex problem, especially in the areas of foreign affairs has been of paramount importance in arriving at timely solutions to difficult problems. His dedication to a just settlement of the Middle East problem and his continual efforts to enhance our national security illustrates his commitment to peace and world stability.

Senator Stone's expertise in foreign affairs was also put to good use on the Agriculture Committee, where he served as chairman of the Subcommittee on Foreign Agricultural Policy. His presence on this vitally important committee as well as in the Senate itself will be missed, but Dick's hard work and dedication will stay with us as a hallmark to all who strive for honesty and decency in Government.

In closing, I wish him and his family the very best the future has to offer. I am sure that his keen interest in our country and in the continuation of good Government will keep Dick Stone in the public eye for some time to come.●

TRIBUTE TO DICK STONE

● Mr. KENNEDY. Mr. President, as the 96th Congress ends, I want to take this occasion to say farewell and pay tribute to our distinguished colleague from Florida, Dick Stone. In his 6 years in the Senate, Dick has established himself as an able and effective legislator, as an expert in fields ranging from agriculture to foreign policy, and as an effective advocate of the interests of the people of Florida.

In his term in the Senate, Dick Stone built an impressive record of achievement on agricultural issues. He was a staunch supporter of increased use of gasohol and other fuels derived from agricultural products. His skillful intercession with foreign buyers brought many official trade missions to the United States and resulted in millions of dollars in additional American agricultural exports. He was a prime mover behind the expansion of the Federal crop insurance program, which provides needed coverage to farmers at minimal cost to taxpayers.

As a member of the Senate Foreign Relations Committee, Dick Stone has supported a strong national defense and a consistent and coherent foreign policy, capable of gaining the confidence of our allies and the respect of our adversaries.

As the chairman of the Subcommittee on Near East and South Asian Affairs, Senator Stone has been a strong and tireless defender of the freedom and future of Israel. He has never wavered from his strong belief that the United States must stand firm in its commitment to Israel as our closest friend and most dependable ally in the Middle East. Again and again, he has spoken out on the floor of the Senate in support of U.S. economic and military assistance to Israel. In the months ahead, as the Nation undertakes the important task of carrying out U.S. policy in the Middle East and the Persian Gulf, we will miss Dick Stone's wisdom and leadership. His commitment will not be forgotten.

Senator Stone has also been deeply involved in another critical problem facing the country—the massive influx of refugees fleeing foreign oppression. I was proud to work with him in our successful efforts to gain emergency assistance for communities bearing the heaviest burden of the refugee crisis.

In ways like these, Dick Stone built an impressive record as an effective and hard-working legislator. In paying tribute to him now, I congratulate him for his outstanding record of public service, and I am confident that the Nation will draw on his talents again in the years to come.●

TRIBUTE TO MILTON YOUNG

● Mr. DOLE. Mr. President, I want to take this opportunity to pay tribute to my good friend, my colleague, and my mentor, Senator Milton Young, who has served longer consecutively in the Senate than any other Republican in the history of the Senate.

It is difficult in just a few minutes to summarize Senator Young's accomplishments in the past 35 years. It is clear that those 35 years demonstrate a lifetime commitment to his country, to his State, and to his constituents. They reflect a well earned respect accorded him by those who know him well, and that respect was demonstrated on the 5th of December when Milton was unanimously voted President pro tempore of the Senate.

Before "Milt" came to the U.S. Senate he was actively engaged in the operation of his farm near Berlin, N. Dak. armed with his practical knowledge and understanding of farming, he soon became the champion of American agriculture. As the longest seated member of the Agriculture Committee, Senator Young's leadership and unfailing sense of reason have helped to keep this increasingly neglected segment of our society both productive and properly rewarded. A healthy agriculture is a precondition for a healthy society; thus, we all owe him a great debt of gratitude for his work on behalf of the American farmer.

Milton Young has been good for North Dakota, and good for the country which he served so long and with such distinction and dedication. "What is best for our country?" that was the question Milton Young would first ask no matter what the issue was before him. All other considerations took second place. Senator Milton Young is a rare individual whose rugged adherence to principles and unfailing independence of thought will be sorely missed in this Chamber.

Now as the 96th Congress comes to an end we must say farewell but not goodbye, for you, Milt, and your accomplishments will remain with us. Milt, we all wish you the very best than life can offer. You deserve it.●

TRIBUTE TO ADLAI STEVENSON III

● Mr. KENNEDY. Mr. President, all of us in the Senate regret the decision by our good friend and colleague from Illinois, Adlai Stevenson, to retire at the end of this Congress.

In his 12 years in the Senate, he established a well-deserved reputation as a thoughtful, conscientious, and effective legislator. Time and again, he demonstrated an extraordinary ability to take on and to deal effectively with the most complex and intricate issues of our time. His record is that of a master of detail, a conscientious worker, and a farsighted and courageous leader, and his absence will be strongly felt in the Senate in the years ahead.

There is no finer testimony to Senator Stevenson than the legislation that bears his name. Long before this country's declining competitive position in international trade became widely recognized, Senator Stevenson was investigating the problem and proposing sound answers. Through his efforts, the Export Administration Act became landmark legislation advancing the cause of a coherent trade policy. That measure has improved our export position while helping U.S. workers and industries meet the competitive international challenge.

As chairman of the International Finance Subcommittee, Senator Stevenson was responsible for other major legislation. After years of careful study, he passed legislation to reform and expand the Export-Import Bank—the country's major source for financing the export of American products. He was also responsible for legislation that strengthened U.S. policy against foreign boycotts of Israel. His efforts resulted as well in passage of the National Export Policy Act of 1980, which proposed the first comprehensive export policy for the United States.

Senator STEVENSON's accomplishments extend far beyond the fields of international trade and finance. I worked with Senator STEVENSON to persuade the Nixon administration to suspend the oil import quota system. A year before the first OPEC oil embargo—when the administration was insisting that there would be no shortage of fuel—Senator STEVENSON and I announced our intention of introducing legislation that would mandate a suspension of the quotas. Two days later, the administration announced a temporary suspension.

As a member of the Select Committee on Intelligence since its formation in 1976, Senator STEVENSON has been a leader in the effort to secure effective congressional oversight for our intelligence services, while providing a strong and balanced intelligence capability. He also played an unheralded but critical role in the establishment of the Office of the Watergate Special Prosecutor, which led to the full revelation of the Watergate cover-up.

As chairman of the Subcommittee on Science, Technology, and Space, Senator STEVENSON has also made important contributions to the Nation's economy in the present Congress through his thoughtful studies and recommendations for a comprehensive industrial policy for America's future.

In addition, Senator STEVENSON has been a tireless advocate for reform of congressional procedures.

As chairman of the Select Committee on Ethics, he led the effort to implement the ethics code. And his success in streamlining the Senate's committee structure has paid immediate and continuing dividends in upgrading the Senate's ability to deal with critical issues such as energy, environment, and transportation. With typical STEVENSON modesty, he summed up his unique and indispensable contribution in the critical area of committee reform:

> A certain amount of messiness is inherent in an institution that must reconcile the conflicting interests of our complex and pluralistic society. This resolution will not guarantee sound public policy. It will only make it possible.

As much as any other member of this body, ADLAI STEVENSON made the Senate work. He was a model for all legislators: hardworking in his many challenging duties in the Senate, imaginative in his answers to problems that others had not anticipated, and conscientious in his dedication to the interests of his constituents and the Nation.

I regret his decision not to seek reelection. But I am sure that ADLAI STEVENSON will continue his commitment to public service in the years to come. I commend him for his accomplishments in the past, and I wish him well in all of his endeavors in the future.●

TRIBUTE TO HERMAN TALMADGE

● Mr. DOLE. Mr. President, the Senate is a place of highly individual men and women with a wide array of talents and as much diversity as 100 souls can allow for. We have orators and craftsmen, acknowledged experts on Southeast Asia and men who answer their mail within 24 hours of its receipt. But if there is a single quality admired on Capitol Hill it is the courage and the perseverance of a true fighter and HERMAN TALMADGE is a fighter. For all his adult life he has fought for Georgia, and for a style of political responsiveness endangered by ad agencies and pollsters and the professionals who coach a candidate in what to wear and how to vote. For HERMAN TALMADGE grew up in a different and more intimate tradition and throughout his years on Capitol Hill, Georgians knew that their Senator was no further away than the telephone or the mailbox.

I said that HERMAN TALMADGE is a fighter. I know, because I fought at his side for passage of a catastrophic health insurance plan that would protect poor and middle-class Americans without bankrupting us all. I know, because I fought at his side for passage of an omnibus farm bill that, in our opinion, restored a sense of stability and reliability to our Nation's agriculture policy, I know because I have worked with him throughout a personal ordeal that might have broken lesser men. HERMAN TALMADGE is a fighter and Capitol Hill can always use such a man.

To those of us who have known and worked with HERMAN over the years, his accomplishments and achievements come as no surprise. He has never shied away from his responsibilities, and I would be greatly surprised if HERMAN's public service were not to continue long after he departs from this Chamber.

In closing, I will only say to you, HERMAN, that it has been my personal pleasure to have worked closely with you and your presence will be sorely missed.

I wish my friend and colleague good luck and fortune in whatever challenge may lie ahead for him.●

TRIBUTE TO ROBERT MORGAN

● Mr. KENNEDY. Mr. President, as this Congress ends, I would like to pay tribute to the distinguished Senator from North Carolina, ROBERT MORGAN. Although we have differed on important issues that came to the floor, I respect Senator MORGAN as a man of deep conviction, as an active and able Member of the Senate, and as a hard-working and effective representative of the people of North Carolina.

In his 6 years in the Senate, ROBERT MORGAN has become a recognized leader in major fields. In his influential position as chairman of the Subcommittee on Rural Housing, Senator MORGAN worked with great dedication to reach the goal of a decent home for every American. It was Senator MORGAN who brought the spotlight of national attention to the realities of rural poverty. And it was Senator MORGAN who did something about it. During his 4 years as chairman of the subcommittee, the Farmers Home Administration made more loans than in the past 40 years. And he has also worked diligently to strengthen the savings and loan industry, believing that the Government should not be the sole source of funds for single family housing.

In the field of agriculture, ROBERT MORGAN has been a strong defender of the family farm. As a member of the Congresisonal Family Farm Task Force, he proposed many of the creative solutions that have not been codified into law. In addition, Senator MORGAN was a strong supporter of a vigorous farm export policy. Clearly, in losing BOB MORGAN, the Nation's farmers are losing one of their most effective voices in Washington.

As a member of the Armed Services Committee, Senator MORGAN displayed an equal commitment to the cause of a strong and secure America. He worked hard to improve our military preparedness and to protect the rights of veterans.

As a former attorney general of North Carolina, Senator MORGAN was deeply committed to the effective operation of the antitrust laws. I was proud to work closely with him, as one of the key sponsors of the Illinois Brick legislation, to reverse the effect of an unfortunate decision by the Supreme Court and to give consumers the right to effective redress against the price-fixing activities of giant firms.

Throughout his years of service in the Senate, ROBERT MORGAN has always worked with skill and dedication for the interests of North Carolina and the Nation. I wish him well in the future, and I commend him for his record of achievement in the Senate.●

FAREWELL TO SENATOR JOHN CULVER

● Mr. DOLE. Mr. President, JOHN CULVER will be leaving the Senate at the close of this Congress, but his legislative accomplishments, especially in the area of improving environmental quality, will be a lasting tribute to his public service.

Although JOHN and I were many times, more often than not, on opposite sides of the issues, his presence during consideration of these issues helped raise the quality of debate and improved the final outcome substantially. He is a man of exceptional principle, and perhaps JOHN will be remembered most for that. For, at a time when liberalism seemed to be fading and a more conservative mood setting in, JOHN stuck to what he believed in; he hung in there and hung tough.

I have grown to admire and respect JOHN and to value our friendship. I know I speak for all my colleagues when I say that JOHN's presence, as friend, as colleague, as adversary, or as ally, will be missed.●

HANDGUN CONTROL

● Mr. JAVITS. Mr. President, within a 72-hour period during the last week, this city and my home city of New York lost two vital, creative, productive, and peaceful citizens in senseless acts of violence that prove, once again, that no person and no place is immune to criminal violence. In Washington, Dr. Michael Halberstam, a renowned cardiologist and author, was gunned down by an intruder in his home in the fashionable northwest section. In New York, John Lennon, a former member of the Beatles, was executed in cold blood in the courtyard of the building where he made his home, one of the most exclusive apartment houses in Manhattan. The wives of both men watched helplessly as their husbands were shot.

The similarity which I wish most to point out, however, is that Dr. Halberstam and Mr. Lennon both were murdered with handguns. The tragedy of these deaths is perhaps heightened by the celebrity of the victims; the horror, perhaps, made more apparent to us. But the truly shocking and appalling fact is that the murders of Dr. Halberstam and Mr. Lennon represent only 2 of approximately 9,000 such wanton killings by handguns each year—an average of 24 a day.

Mr. President, I have stood before this body many times before and decried such shootings, not only of the famous, but of police officers and ordinary citizens, including children. And I stand before you again, today, and ask. How many more deaths will be necessary before we in the Congress do something to try to halt this slaughter?

Several States, including my own, already have acted by imposing stiff penalties on persons convicted of illegal possession of handguns. But as long as there are no uniform nationwide standards governing the sale of these deadly weapons these penalties can be applied only after a crime has been committed.

A recent ABC News-Louis Harris poll revealed that 78 percent of all Americans favor a "Federal law requiring that all handguns people own be registered by the Federal authorities." An almost equal majority—76 percent—favor control of the sale of handguns. From these statistics, it is apparent that the people of this Nation have had enough of the other kind of statistics—those that include the murders of Dr. Halberstam and Mr. Lennon. I urge my colleagues to fight for what the people want—and for what is right—Federal handgun control legislation.

Mr. President, it is highly ironic that shortly before his murder, Dr. Halberstam broadcast two commentaries on the subject of handgun control over the Cable News Network. His death makes these commentaries all the more significant, and I ask that they be printed in the Record, together with an editorial that appeared on the subject in the New York Daily News, December 12, 1980.

The material follows:

Doctor's Prophetic Warning

(Michael Halberstam, the 48-year-old physician shot to death Friday when he surprised a burglar at his Northwest Washington home, was a regular commentator for the Cable News Network. His last commentary broadcast Nov. 21.)

"I'm not one of those doctors who's always warning his patients not to take chances. I think one reason for that is I rather like to take chances myself. I'd rather ski downhill than cross-country. I like football rather than Frisbee. I still prefer baseball to softball.

"But I want to take my chances, not someone else's. That's why I'm in favor of handgun control. Not banning handguns, but licensing and registering them, keeping them out of the hands of criminals and psychopaths.

"Each year in this country, 20,000 Americans are killed by handguns. Half of them [are] suicides, but the rest, accidents and murders.

"I don't wanna be the guy shot when I honk at the guy next to me and he reaches in his glove compartment and starts blasting away. I don't want my son shot when some punk holds up the filling station where he works, panics, and starts shooting.

"Handgun control has nothing to do with banning handguns, but altogether; it has to do with keeping them under control and registered. That has nothing to do with hunting. We're gonna keep hunting in this country. It has everything to do with the national epidemic of sudden, violent, foolish deaths.

"It may be true that guns don't kill and people do, but handguns make it a lot easier. Too easy.

"I'm Dr. Michael Halberstam."

[From the New York Daily News, Dec. 10, 1980]

An Act of Madness

The whys and wherefores of John Lennon's murder are still being sketched in. It will be some time before we begin to fathom what impelled his killer to commit this brutal, cold-blooded act—if it is ever possible to understand such madness.

But this much already is clear: The shooting of the ex-Beatle is another horrifying product of the easy availability of handguns in this country.

The fact that the suspect in this case purchased his .38-caliber pistol legally in his hometown of Honolulu in no way diminishes that point. Indeed, it only underlines the fact that Americans are irrationally permissive on the subject of guns.

The statistics on gunslaughter for New York City alone should be enough to shock the conscience of a civilized nation. The homicide rate for 1980 is soaring toward a record-shattering 2,000, and more than half those deaths are caused by guns.

Couple that with the fact that police have arrested some 3,000 illegal-gun toters since the state's tough new gun law went into effect in August, and you get a picture of a city awash with weapons of death and the violence they cause.

But New York is only one part of the national picture. Every jurisdiction has its own horror stories to tell—like Washington, D.C., which is still reeling from the weekend shooting death of cardiologist Michael Halberstam, who, ironically, was an outspoken advocate of gun control.

And then, of course, there is the long, tragic list of assassinated American leaders—Abraham Lincoln, John Kennedy, Robert Kennedy, Martin Luther King Jr. and many more. The gun madness has been going on for a long, long time.

Each new outrage brings with it a renewed outcry for strict national gun control laws. And each time the gun lobbyists beat it back.

Perhaps the vast army of John Lennon's admirers—who number in the tens of millions and make up a true cross-section of America—will rally to the gun control cause now and make it a truly effective political force. Surely there could be no greater tribute that his followers could pay to this gentle, humane man.

[Cable News commentary by Dr. Michael Halberstam on November 21, 1980]

Pete Shields is a national hero. Until 1974 Pete Shields was your average, successful white businessman, a plant manager for Dupont. You can't get more average and more successful than that.

Then in 1974, one of his sons was murdered by one of the racially motivated Zebra killers in San Francisco. Pete Shields didn't become a bigot, he didn't go into a depression, he didn't move to Australia. Instead he became one of the co-founders of a new group called "Handgun Control," a group dedicated to licensing and registering handguns.

Pete Shields knows America and he loves it. He knows the depth of our feeling about hunting and guns, and he has no intention and no desire to ban hunting. But he does know that since Al Capone's time we've registered automatic weapons in this country, tommy guns and BAR's, and hunting hasn't been affected at all. In fact, hunting has prospered since we registered automatic weapons.

Pete Shields needs everybody's support. Each year 20,000 Americans are killed by handguns compared to 100 or 200 who die by highly publicized illnesses like multiple sclerosis and muscular dystrophy.

Let's start to put some of the same energy and urgency into controlling handguns as we put into controlling muscular dystrophy. Start now. Don't wait until someone you love and someone you respect has been murdered by a psychopath with a grudge against society and a .32 special in his pocket.●

TRIBUTE TO HENRY BELLMON

● Mr. DOLE. Mr. President, if Henry Bellmon is feeling just a little like a modern-day Moses, permitted to catch a glimpse of the promised land but not cross into it, he can certainly be forgiven for as much as any other man, it was our colleague from Oklahoma who a few years ago prophesied a rising tide of popular dissatisfaction with Government that spent money as if it were going out of style—and threatened to make it do exactly that.

Henry Bellmon was a forerunner of those who believe that Congress should have its own budget, and what is more, should live within it. The present prospect of Ronald Reagan in the White House and a Republican majority in the Senate is the people's way of telling us that he was right. But Senator Bellmon's talent for prophecy extends beyond the national budget.

When Congress was writing the so-called windfall profit tax, he was an eloquent spokesman on behalf of the small investor, the independent producer, and the royalty owner who make the American economy not a dismal science but a source of individual realization.

At this time, I want to join with all my colleagues in wishing Henry and Shirley Bellmon the very best as they return to their home in Oklahoma.●

TRIBUTE TO SENATOR RICHARD SCHWEIKER

● Mr. KENNEDY. Mr. President, I want to take this opportunity to offer my congratulations to my good friend and colleague, Senator Richard Schweiker, on his selection by President-elect Reagan as the next Secretary of the Department of Health and Human Services.

Two years ago, when Senator Schweiker announced that he would not seek reelection this year, his friends on both sides of the aisle were saddened that our colleague, after 20 years of distinguished service as a legislator, chose to retire. Last week's announcement was welcomed by all of us, because it means that Senator SCHWEIKER will continue his outstanding career in public service as the head of one of the most important Federal Cabinet departments.

Senator SCHWEIKER's record and achievements in Congress make him particularly well suited for the new position that he is assuming. He was first elected to the House of Representatives in 1960. He served for 8 years in the House, and was elected to the Senate in 1968. In this body, he served as the ranking Republican on both the Labor Committee and the Appropriations Subcommittee on Labor, Health, and Human Services. These two Senate committees control the authorizing legislation and the actual funding for many of the Nation's basic social programs.

As ranking Republican on the Health Subcommittee for the past 4 years, it has been my pleasure to work extremely closely with Senator SCHWEIKER. On the critical questions of health care and many other issues, he has approached the challenges before us with skill and compassion and a genuine bipartisan spirit of cooperation that has served the Nation well. Almost every piece of health legislation enacted into law over the past 4 years has had the support of both Senator SCHWEIKER and myself. Many of the principal features of those measures are the result of his extraordinary legislative ability, his wise understanding of the issues, and his firm commitment to improving the quality of health care for the American people.

Senator SCHWEIKER is well known as a leader in the fight against diabetes and the other crippling diseases and disabilities. He is also the principal sponsor of legislation on health maintenance organizations, which are designed to promote competition and reduce costs in the health care system.

I look forward to working closely with Senator SCHWEIKER in the years to come in his role as Secretary of Health and Human Services. I wish him every success in the new administration, and I congratulate him on his appointment and on his outstanding career in the Senate in the service of the people of Pennsylvania and the Nation.●

TRIBUTE TO BIRCH BAYH

● Mr. DOLE. Mr. President, BIRCH BAYH and I have a lot in common. We both come from small towns and agricultural States. We both have been outspoken about the potential of agriculturally based fuels like gasohol to help solve America's energy crises. We both know a little bit about the pitfalls of running for President while serving your constituents in the Senate. We both have grown accustomed to some tough campaigns.

And all of us, through him, shared in the sorrow and the heroism of another battle—the battle for life waged by his Marvella. The medical records may tell us she lost that fight. But, none of us who know Marvella Bayh could agree for a single moment with that overly simple assessment. The fact is, Marvella Bayh won her fight and inspired others to enlist in her battle with cancer. She taught us that life's quality can never be measured in years alone. In his own hour of setback, BIRCH BAYH must be thankful for such a magnificent example to buttress his own Hoosier strength. I am proud to call him my friend.●

TRIBUTE TO JACOB JAVITS

● Mr. DOLE. Mr. President, for a State with an old and justifiably proud tradition of a leadership, JACOB JAVITS has for a quarter of a century fashioned his own legend in the U.S. Senate. Throughout that time, he has elevated the tone of our debates and the quality of our legislative work. His length of service is matched, however, by its caliber, its versatility and its single-minded devotion to the idea that Government must combine concern for the individual with concern for the Nation, compassion for the competence.

The list of bills with his name attached is too long for any accounting in a single edition of a CONGRESSIONAL RECORD. In recent years alone, they run the gamut from CETA and ERISA to the War Powers Act and the national endowment of humanities. That many of our problems in human relations, the rights of women, and the future of America's cities have all moved closer to solution during the last 25 years is in considerable part a measure of his influence and legislative creativity.

At a time when Government itself is questioned—not for its ideals but for its skills at translating ideals into actions—JACOB JAVITS has proven to be a very practical idealist. On December 4 his colleagues voted him chairman of the Foreign Relations Committee for a day but the legacy he bequeaths to us will far outlast any transient power that we might bestow upon him at this time. It is not too much to say, as I believe future generations will say, that JACOB JAVITS in the history of the U.S. Senate is entitled to a place along side the giants—men like Webster and Clay, LaFollette and Norris, Johnson, and Taft. Might history be half as kind to those of us who will continue to walk in his footsteps.

I am certain every Member of the Senate joins me in wishing JACK and his lovely wife Marian all the best which life has to offer. No one has done more to raise the quality of life in our country than JACK and his departure from the Senate will be felt by all—both allies and adversaries.●

TORTURE AND U.S. LAW

● Mr. KENNEDY. Mr. President, torture is a particularly odious practice that has been condemned in a series of international declarations, resolutions, and covenants. Yet, effective legal sanctions against its use do not exist.

In a recent decision by the U.S. Court of Appeals for the Second Circuit, two precedent-shattering rulings offer modest although new legal tools against those who employ torture.

The court, with the aid of an eloquent amicus brief from the Department of State, found that official torture violates the law of nations. It ruled as well that American courts may consider a victim's charges of torture in a civil action based on a 1789 law, the alien tort statute.

The court decision offers victims of torture in other nations at least the knowledge that if those responsible for torture enter the United States they can be brought before the courts and made to answer for their actions.

Mr. President, I ask that the decision of the court and the amicus brief of the Department of State as well as an article in the New York Times Magazine by Judge Irving R. Kaufman, be printed in the RECORD.

The material follows:

[From the New York Times Magazine, Nov. 9, 1980]

A LEGAL REMEDY FOR INTERNATIONAL TORTURE?

(By Irving R. Kaufman)

On the night of March 29, 1976, the court documents charge, Paraguayan police officials awakened Dolly Filartiga, daughter of a political opponent of the military Government of Paraguay, and took her to the home of Américo Norberto Peña-Irala, Asunción's inspector general of police. There she was shown the mutilated corpse of her 17-year-old brother, Joelito. He had been whipped, slashed and tortured with electrical devices. Dolly Filartiga fled from the house, and Peña followed her, allegedly shouting, "Here you have what you have been looking for for so long and what you deserve. Now shut up." The message, she felt, was clearly directed not at her but at her dissident father.

On the morning of June 30, 1980, the United States Court of Appeals for the Second Circuit anounced its decision in a case brought by the Filartiga family against Peña, a decision that breaks new ground in the body of law governing torture. The court's opinion [Editor's note: The author of this article wrote the opinion of the court.] holds that the Filartigas may bring civil suit in the United States against Peña, who entered this country in 1978 on a visitor's visa. In effect, the court held that torture—wherever it is practiced—is a violation of the law of nations and can be redressed in American courts.

The appeals-court decision is the latest development in an unprecedented growth of international concern over the incidence of torture and other human-rights violations. The Organization of African Unity, for example, has set about creating a Pan-African human-rights unit, and an Inter-American Court of Human Rights has been established, with headquarters in Costa Rica. Private organizations, such as Amnesty International, have been accelerating their programs to bring public pressure on offending nations. Meanwhile, in the United States, Congress has linked foreign aid to the human-rights records of would-be recipients. And, particularly in the early years of his Administration, President Carter has made human-rights issues front-page news with his protests against the treatment of Soviet dissidents.

This increase in institutional activity is a step in the right direction, but official torture remains a chillingly widespread abuse. The press is filled with reports: The Argentine Government is accused by the Inter-American Human Rights Commission of the "systematic torture" of "numerous" persons. Amnesty International charges that "political prisoners were systematically tortured by Colombian military personnel." The United States State Department tells of the use of "electrical devices" in Afghanistan. The list seems endless—and it does not even include the sophisticated and undetectable methods of psychological and physical "interrogation" and harassment used by many regimes to deal with political opponents, trade unionists and critics in general.

Yet the significance of the growing indications of international concern is not to be denied, nor can court decisions such as that in the Filartiga case be ignored as politically naïve. The enunciation of humane norms of behavior by the global community and the articulation of evolved norms of international law by the courts form the ethical foundations for a more enlightened social order. Thus, although torture is still far from extinction, there has been important progress.

Torture has been an ever-present component of human existence, practiced at one time or another by virtually every nation. It was regularly employed in Assyria, occasionally employed in ancient Egypt. Many civilizations used a perverse rationale for torture: The victims were seen as less than fully "human," and thus could be treated inhumanely. Courts in ancient Greece, for example, prohibited torture of free citizens—but would trust the testimony of a slave only if it had been secured by torture.

The Roman Republic's rules governing torture followed the Greek model, but under the Roman Empire more democratic procedures were put into effect: Both slaves and free men were subject to torture. In medieval Europe, criminal law was based upon ecclesiastical law, which rejected circumstantial evidence as inherently unreliable. "Full proof" of guilt was required—the direct testimony of two eyewitnesses or a personal confession by the defendant. The approach was inquisitorial—it was the role of the court, not that of a separate prosecutor, to prove guilt—and special tools were developed to secure confessions. They included the rack, the thumbscrew and the strappado, a device for suspending a victim by his wrists, which were tied behind his back.

It was not until the middle of the 18th century that judges on the Continent were given discretionary power to punish suspects on less than "full proof," thereby greatly diminishing the need for forced confessions and the use of torture. The development over the next century of alternatives to capital punishment—incarceration in workhouses, imprisonment, transportation to New World colonies—also eased the pressure. Finally, the rulers of the Continental states began to outlaw torture.

Meanwhile, after the Norman invasion, British law followed a different course. Rather than employing an inquisitorial method, the British common-law courts based prosecutions upon an accusatorial system—the burden of proving guilt fell upon a complainant rather than upon the court. Jurors evaluated the conflicting evidence presented but did not actively investigate the facts. Since they were free to consider circumstantial evidence in reaching their verdicts, the fact-finders gave less weight to confessions, and accordingly there was little need for judicially sanctioned violence.

Torture was not totally absent from the British criminal law, however. A person accused of a crime was required to submit to the authority of the Crown by "pleading" his innocence or guilt. The occasional defendant who refused to plead at all was subject to *peine forte et dure,* punishment strong and hard, until a plea was extracted. *Peine forte et dure* typically entailed a diet of rancid bread and foul water and the placement of increasingly heavy weights on the defendant's chest. It was not until 1827 that Parliament determined that a defendant who refused to plead would be treated as if he had pleaded not guilty.

In the American colonies, torture had a limited role. But the Massachusetts Bay Colony's Body of Liberties did provide that a person already convicted of a capital crime could be tortured to divulge the names of any co-conspirators. And the Puritan elders had few qualms about using torture to obtain confessions of heresy from religious dissidents or alleged witches.

Legally mandated torture faded with the arrival of the great liberal charters of the modern era. In 1689, the English Bill of Rights expressly limited the power of the Crown over its subjects, and nearly a century later the American Bill of Rights prohibited cruel and unusual punishment (the Eighth Amendment) and protected the individual against self-incrimination (the Fifth). The French Declaration of the Rights of Man and of the Citizen proclaimed the "natural and inalienable" right to be free from torture.

The political idealism of the Enlightenment did not abolish torture, but it removed the stamp of legitimacy it had hitherto enjoyed. From that time forth, torture has been a backroom practice with no role to play as a legitimate mode of criminal procedure. In 1936, for example, the Supreme Court in *Brown* v. *Mississippi* reversed the murder convictions of three black men after an angry mob. led by a deputy sheriff, had seized one of the suspects, suspended him by a rope from the limb of a tree and whipped and slashed him to extract a "confession." Chief Justice Charles Evans Hughes, writing for the Court, said that the convictions violated fundamental principles of justice. "The rack and torture chamber," he said, "may not be substituted for the witness stand."

Still, even among governments that abhorred the use of torture, there was a reluctance to attack human-rights violations in other lands. The attitude was well expressed in 1849 by Senator John Parker Hale of New Hampshire. He worried that American condemnation of repressive acts by foreign governments would transform the United States into a "high court of indignation."

This "hands off" attitude with respect to abuses committed by foreign powers was deeply rooted. Only when the unspeakable horrors perpetrated by the Nazis came to light did the world community recognize the common danger posed by a sovereign nation's violation of the basic human rights of its own citizens. The United Nations Charter of 1945 committed its members to the observance of "human rights and fundamental freedoms for all." Three years later, the General Assembly passed the Universal Declaration of Human Rights, stating that "no one shall be subjected to torture."

Within recent years, the pace of international human-rights activities has accelerated. A complex, interlocking set of treaties and organizations has emerged. At the United Nations, the General Assembly in 1975 adopted a resolution stating that no law-enforcement official may "inflict, instigate or tolerate any act of torture." A unit of the United Nations Human Rights Commission has been meeting to draft a treaty that would establish a universal criminal jurisdiction for torturers—a dramatic extension, if it comes to pass, of the United States Appeals Court *Filartiga* decision, which authorizes only civil suits for money damages. The Council of Europe's Commission of Human Rights and Court of Human Rights meet regularly to hear cases that arise under the European Convention on Human Rights. There is also an American Convention on Human Rights. The Inter-American Human Rights Commission has been investigating conditions in various countries and issuing public reports on its findings.

Some of the most vocal—and effective—activists opposing the use of torture are nongovernmental organizations, known as N.G.O.'s. Amnesty International is far and away the largest of them, with chapters in close to 40 countries and a headquarters staff of 140 people in London. Amnesty collects information on the treatment of prisoners, conducts investigations and issues frequent public reports of its findings. Along with the dozens of other N.G.O.'s, most of them representing particular constituencies such as trade unions and religious groups, Amnesty sponsors aggressive letter-writing and publicity campaigns in an effort to force government officials responsible for the imprisonment and torture of dissidents to bow to the international outcry.

Today, the constitutions and laws of more than 55 nations expressly or implicitly prohibit torture. Thus the torturer, even when acting on behalf of a sovereign nation, has come to be regarded as hostes humani generis, an enemy to all mankind.

What role should the United States play in the international response to torture? The President has a broad range of choices in deciding how, if at all, to confront a nation that violates human rights. He can, for example, recommend that Congress terminate all aid; he can arrange meetings and open a line of communications with the leaders of dissident factions in the nation; he can funnel private expressions of concern through diplomatic channels.

Congress, too, has acted in this area. In 1976, for instance, it limited the executive's discretion to provide economic and military assistance to human-rights violators by passing several amendments to the Foreign Assistance Act. The amendments provide that military and economic assistance may not be granted to any country whose government "engages in a consistent pattern of gross violations of internationally recognized human rights." If a country denied military aid has made substantial improvements in its human-rights record, the prohibition may be lifted. To help implement these controls, Congress has also ordered the Secretary of State to submit an annual report on the human-rights practices of all members of the United Nations.

The Jackson-Vanik amendment of 1974 limited the power of the President to offer trade credits or most-favored-nation trade status to nations denying their citizens the right to emigrate. The measure was aimed, specifically, at Soviet treatment of its Jewish population. Moreover, Congress has severely curtailed Presidential power to authorize American participation in loan agreements between international lending agencies and nations violating human rights.

Yet President and Congress must balance America's commitment to the principles of international law against our own military and political interests. Critics point out, for example, that despite the much-publicized commitment to human rights by Congress and the Carter Administration, the United States has maintained cordial diplomatic relations with numerous dictators and totalitarian regimes. We continue to grant military and economic aid to South Korea and the Philippines, both nations run by governments charged with torturing their political enemies. Our strongest human-rights actions seem to be saved for those countries whose friendship is of little economic or strategic significance to us—Paraguay, Uganda and Cambodia, for example.

Other critics claim that President Carter's emphasis on the protection of human rights abroad has contributed significantly to the deterioration of our relations with the Soviet Union and done nothing to improve the lot of Russian dissidents. Advances in human rights in the Soviet Union, they insist, can come only in a time of peace and mutual trust.

The difficulties of evolving a policy as regards the human-rights record of foreign nations are easily seen, and it is unlikely, given the realities of international politics, that American moves in this matter will ever be entirely consistent or popular. What is important, however, is that the worldwide momentum in behalf of human rights be carried forward.

The Federal courts, the third branch of our Government, have not been a part of this process; they do not ordinarily have jurisdiction to hear controversies between aliens concerning wrongs committed in another country. There is an exception, though—the Alien Tort Statute, passed by the first Congress in 1789. It authorizes Federal courts to hear those civil claims by aliens alleging acts committed "in violation of the law of nations or a treaty of the United States" when the alleged wrongdoers can be found in the United States. The target was piracy on the high seas, for in the late 18th century, the "law of nations"—a body of jurisprudence defined by international custom, the practices of individual countries and the works of legal scholars—clearly condemned piracy.

Over the years since then, courts have invoked the "law of nations" only if the countries of the world have demonstrated by means of express international accords that an alleged act is of mutual concern. The United States Supreme Court, for example, held in 1964 that Cuban nationalization of American sugar interests without compensation was not redressable in American courts. Although by American standards it was an unconstitutional deprivation of property rights, the Cuban expropriation of private property did not rise to the level of a violation of universally recognized international law.

It was not until 1979 that a case seeking damages for foreign acts of torture was filed in the Federal Courts. In a complaint filed jointly with his daughter Dolly, Dr. Joel Filartiga, a noted Paraguayan physician and artist and a longstanding opponent of President Alfredo Stroessner's regime, alleged that Inspector General Peña had tortured and murdered his son Joelito.

The Paraguayan Constitution prohibits the use of torture, and the Filartigas brought a criminal action there against Peña and the police for murder. Shortly thereafter, Dr. Filartiga's attorney allegedly was arrested and taken to police headquarters, where, shackled to a wall, he was threatened with death by Peña. Dr. Filartiga claimed that his attorney had been disbarred and that, after four years, the criminal trial in Paraguay had made little progress.

Then it was learned that Peña had entered the United States, and the Filartigas brought suit in the Federal District Court in Brooklyn, claiming that Peña had wrongfully caused Joelito's death by torture and seeking $10 million in damages. And last June, the Court of Appeals for the Second Circuit found that, since an international consensus condemning torture has crystallized, torture violates the "law of nations" for purposes of the Alien Tort Statute. American courts, it was held, therefore have jurisdiction under the statute to hear civil suits by the victims of foreign torture, if the alleged international outlaws are found in this country.

The Court of Appeals did not, however, determine whether Peña was in fact liable to the Filartigas, nor did it decide what nation's law would be applied to determine Peña's liability. These issues will be decided when the case is heard in the lower court. The hearing of such civil suits will raise difficult issues for the courts, and for the plaintiffs, as well. For instance, much of the evidence and many of the witnesses will be overseas. And courts will have to determine whether statutes of limitations will serve as a bar.

Yet the problems will have to be faced and solved as fairly and efficiently as possible. And there are, as indicated, doctrinal limitations as to the numbers and kinds of cases that will be brought after *Filartiga*. The courts will not be transformed into some kind of roaming human-rights commission; the broad response to the phenomenon of torture, of course, is best left to the policy makers in the other branches of government. Nor is the United States, by empowering our courts to hear international claims of torture, engaging in messianic moral imperialism. While Americans feel strongly about freedom of speech and of the press, for instance, we are not required to open our courts to hear complaints alleging denials of these rights by foreign governments. Such rights are not yet universal, and we would be arrogant and self-righteous to apply them to all societies. The right to be free from torture, however, is one of the few absolute standards of international law, a right that exists regardless of the economic or social organization of a society.

The obligation of our courts to identify egregious violations of international law is in many ways analogous to the courts' traditional role in redressing deprivations of civil liberties that occur at home. For the past 25 years, the Federal courts have condemned unconstitutional denials of civil rights—in our schools, mental hospitals and prisons. These judgments have often been condemned as politically naive, even foolhardy. But the courts exist to preserve our freedoms under the rule of law; the courts cannot always resort to politically expedient solutions to difficult social problems.

In many respects, there is a parallel between Filartiga and the Supreme Court decision in *Brown* v. *Mississippi*, which held that state-court murder convictions based on confessions obtained through torture were unconstitutional. Just as our Federal courts traditionally defer to the judicial findings of state courts, Americans are reluctant to interfere in overseas disputes between two foreign nationals. But where torture is involved, on the state or international level, the Federal courts have no choice. The articulation of settled norms of international law by the Federal courts, much like their adherence to constitutional precepts, is an expression of this nation's commitment to the preservation of fundamental elements of human dignity throughout the world.

Despite the emergence of an international consensus condemning torture, the abominable practice remains with us. We watch nations committed to enforcing this norm of international law—our own included—seemingly overlooking the human-rights records of certain allies and rivals in an attempt to maintain the balance of power and to avoid confrontation.

In times of violent terrorism, superpower confrontation and rabid militarism and totalitarianism, our nation's approach toward the problem of torture must be carefully considered. The goal is peace, the prerequisite to meaningful communication between nations. Only then will nations become less defensive about their human-rights records and be open to the influence of other countries.

Meanwhile, the nation and the world will continue to look with hope to the President, the Congress and the courts for an articulation of this nation's principal commitment to enforcing universally accepted norms of international law.

[In the U.S. Court of Appeals for the Second Circuit]

DOCKET No. 79-6090

No. 191—September Term, 1979 (Argued October 16, 1979. Decided June 30, 1980).

Dolly M. E. Filartiga and Joel Filartiga, Plaintiffs-Appellants, v. Americo Norberto Peña-Irala, Defendant.Appellee.

Before: Feinberg, Chief Judge, Kaufman and Kearse*, Circuit Judges.

Appeal from a judgment of the United States District Court for the Eastern District of New York, Eugene H. Nickerson, District Judge, dismissing appellants' complaint for want of subject matter jurisdiction, pursuant to Fed. R. Civ. P. 12(c).

Reversed.

Peter Weiss, Esq., New York, N.Y. (Rhonda Copelon, Esq., John Corwin, Esq., and Jose Antonio Lugo, Esq., Center for Constitutional Rights, and Michael Maggio, Esq., Goren & Maggio, of counsel), for Plaintiffs-Appellants.

Murry D. Brochin, Esq., Newark, New Jersey (Lowenstein, Sandler, Brochin, Kohl, Fisher & Boylan, P.C., of counsel), for Defendant-Appellee.

Irving Gornstein, Attorney, Department of Justice, Washington, D.C. (Drew S. Days, III, Assistant Attorney General, John E. Huerta, Deputy Assistant Attorney General, Robert B. Owen, Legal Advisor, William T. Lake, Deputy Legal Advisor, Stefan A. Riesenfeld, Charles Runyon and Linda A. Baumann, Attorneys, Department of State, Washington, D.C.), for the United States as Amicus Curiae.

Donald L. Doernberg, Esq., New York, N.Y., and David Weissbrodt, Esq., Minneapolis, Minnesota, for Amnesty International-U.S.A., International League for Human Rights, and the Lawyers' Committee for International Human Rights as Amicus Curiae.

Allan Abbot Tuttle, Esq., and Steven M. Schneebaum, Esq., Washington, D.C., for The International Human Rights Law Group, The Council on Hemispheric Affairs and the Washington Office on Latin America as Amicus Curiae.

KAUFMAN, Circuit Judge:

Upon ratification of the Constitution, the thirteen former colonies were fused into a single nation, one which, in its relations with foreign states, is bound both to observe and construe the accepted norms of international law, formerly known as the law of nations. Under the Articles of Confederation, the several states had interpreted and applied this body of doctrine as a part of their common law, but with the founding of the "more perfect Union" of 1789, the law of nations became preeminently a federal concern.

Implementing the constitutional mandate for national control over foreign relations, the First Congress established original district court jurisdiction over "all causes where an alien sues for a tort only [committed] in violation of the law of nations." Judiciary Act of 1789, ch. 20, § 9(b), 1 Stat. 67, 77 (1789), codified at 28 U.S.C. § 1350. Construing this rarely-invoked provision, we hold that deliberate torture perpetrated under color of official authority violates universally accepted norms of the international law of human rights, regardless of the nationality of the parties. Thus, whenever an alleged torturer is found and served with process by an alien within our borders, § 1350 provides federal jurisdiction. Accordingly, we reverse the judgment of the district court dismissing the complaint for want of federal jurisdiction.

I

The appellants, plaintiffs below, are citizens of the Republic of Paraguay. Dr. Joel Filartiga, a physician, describes himself as a longstanding opponent of the government of President Alfredo Stroessner, which has held power in Paraguay since 1954. His daughter, Dolly Filartiga, arrived in the United States in 1978 under a visitor's visa, and has since applied for permanent political asylum. The Filartigas brought this action in the Eastern District of New York against Americo Norberto Peña-Irala (Peña), also a citizen of Paraguay, for wrongfully causing the death of Dr. Filartiga's seventeen-year old son, Joelito. Because the district court dismissed the action for want of subject matter jurisdiction, we must accept as true the allegations contained in the Filartigas' complaint and affidavits for purposes of this appeal.

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*The late Judge Smith was a member of the original panel in this case. After his unfortunate death, Judge Kearse was designated to fill his place pursuant to Local Rule § 0.14(b).

The appellants contend that on March 29, 1976, Joelito Filartiga was kidnapped and tortured to death by Peña, who was then Inspector General of Police in Asuncion, Paraguay. Later that day, the police brought Dolly Filartiga to Peña's home where she was confronted with the body of her brother, which evidenced marks of severe torture. As she fled, horrified, from the house, Peña followed after her shouting, "Here you have what you have been looking for for so long and what you deserve. Now shut up." The Filartigas claim that Joelito was tortured and killed in retaliation for his father's political activities and beliefs.

Shortly thereafter, Dr. Filartiga commenced a criminal action in the Paraguayan courts against Peña and the police for the murder of his son. As a result, Dr. Filartiga's attorney was arrested and brought to police headquarters where, shackled to a wall, Peña threatened him with death. This attorney, it is alleged, has since been disbarred without just cause.

During the course of the Paraguayan criminal proceeding, which is apparently still pending after four years, another man, Hugo Duarte, confessed to the murder. Duarte, who was a member of the Pena household,[1] claimed that he had discovered his wife and Joelito in flagrante delicto, and that the crime was one of passion. The Filartigas have submitted a photograph of Joelito's corpse showing injuries they believe refute this claim. Dolly Filartiga, moreover, has stated that she will offer evidence of three independent autopsies demonstrating that her brother's death "was the result of professional methods of torture." Despite his confession, Duarte, we are told, has never been convicted or sentenced in connection with the crime.

In July of 1978, Pena sold his house in Paraguay and entered the United States under a visitors visa. He was accompanied by Juana Bautista Fernandez Villalba, who had lived with him in Paraguay. The couple remained in the United States beyond the term of their visas, and were living in Brooklyn, New York, when Dolly Filartiga, who was then living in Washington, D.C., learned of their presence. Acting on information provided by Dolly, the Immigration and Naturalization Service arrested Pena and his companion, both of whom were subsequently ordered deported on April 5, 1979 following a hearing. They had then resided in the United States for more than nine months.

Almost immediately, Dolly caused Pena to be served with a summons and civil complaint at the Brooklyn Navy Yard, where he was being held pending deportation. The complaint alleged that Pena had wrongfully caused Joelito's death by torture and sought compensatory and punitive damages of $10,000,000. The Filartigas also sought to enjoin Pena's deportation to ensure his availability for testimony at trial.[2] The cause of action is stated as arising under "wrongful death statutes; the U.N. Charter; the Universal Declaration on Human Rights; the U.N. Declaration Against Torture; the American Declaration of the Rights and Duties of Man; and other pertinent declarations, documents and practices constituting the customary international law of human rights and the law of nations," as well as 28 U.S.C. § 1350, Article II, sec. 2 and the Supremacy Clause of the U.S. Constitution. Jurisdiction is claimed under the general federal question provision, 28 U.S.C. § 1331 and, principally on this appeal, under the Alien Tort Statute, 28 U.S.C. § 1350.[3]

Judge Nickerson stayed the order of deportation, and Pena immediately moved to dismiss the complaint on the grounds that subject matter jurisdiction was absent and for forum non conveniens. On the jurisdictional issue, there has been no suggestion that Pena claims diplomatic immunity from suit. The Filartigas submitted the affidavits of a number of distinguished international legal scholars, who stated unanimously that the law of nations prohibits absolutely the use of torture as alleged in the complaint.[4] Pena, in support of his motion to dismiss on the ground of forum non conveniens, submitted the affidavit of his Paraguayan counsel, Jose Emilio Gorostiaga, who averred that Paraguayan law provides a full and adequate civil remedy for the wrong alleged.[5] Dr. Filartiga has not commenced such an action, however, believing that further resort to the courts of his own country would be futile.

Judge Nickerson heard argument on the motion to dismiss on May 14, 1979, and on May 15 dismissed the complaint on jurisdictional grounds.[6] The district judge recognized the strength of appellants' argument that official torture violates an emerging norm of customary international law. Nonetheless, he felt constrained by dicta contained in two recent opinions of this Court, Dreyfus v. von Finck, 534 F.2d 24 (2d Cir.), cert. denied, 429 U.S. 835 (1976); IIT v. Vencap, Ltd., 519 F.2d 1001 (2d Cir. 1975), to construe narrowly "the law of nations," as employed in § 1350, as excluding that law which governs a state's treatment of its own citizens.

The district court continued the stay of deportation for forty-eight hours while appellants applied for further stays. These applications were denied by a panel of this Court on May 22, 1979, and by the Supreme Court two days later. Shortly thereafter, Pena and his companion returned to Paraguay.

II

Appellants rest their principal argument in support of federal jurisdiction upon the Alien Tort Statute, 28 U.S.C. § 1350, which provides: "The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." Since appellants do not contend that their action arises directly under a treaty of the United States,[7] a threshold question on the jurisdictional issue is whether the conduct alleged violates the law of nations. In light of the universal condemnation of torture in numerous international agreements, and the renunciation of torture as an instrument of official policy by virtually all of the nations of the world (in principle if not in practice), we find that an act of torture committed by a state official against one held in detention violates established norms of the international law of human rights, and hence the law of nations.

The Supreme Court has enumerated the appropriate sources of international law. The law of nations "may be ascertained by consulting the works of jurists, writing professedly in public law; or by the general usage and practice of nations: or by judicial decisions recognising and enforcing that law." United States v. Smith, 18 U.S. (5 Wheat.) 153, 160–61 (1820); Lopes v. Reederei Richard Schroeder, 225 F. Supp. 292, 295 (E.D. Pa. 1963). In Smith, a statute proscribing "the crime of piracy [on the high seas] as defined by the law of nations," 3 Stat. 510(a) (1819), was held sufficiently determinate in meaning to afford the basis for a death sentence. The Smith Court discovered among the works of Lord Bacon, Grotius, Bichard and other commentators a genuine consensus that rendered the crime "sufficiently and constitutionally defined." Smith, supra, 18 U.S. (5 Wheat.) at 162.

The Paquete Habana, 175 U.S. 677 (1900), reaffirmed that

> where there is no treaty, and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations; and, as evidence of these, to the works of jurists and commentators, who by years of labor, research and experience, have made themselves peculiarly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is."

Id. at 700. Modern international sources confirm the propriety of this approach.[8]

Habana is particularly instructive for present purposes, for it held that the traditional prohibition against seizure of an enemy's coastal fishing vessels during wartime, a standard that began as one of comity only, had ripened over the preceding century into "a settled rule of international law" by "the general assent of civilized nations." Id. at 694; accord, id. at 686. Thus it is clear that courts must interpret international law not as it was in 1789, but as it has evolved and exists among the nations of the world today. See Ware v. Hylton, 3 U.S. (3 Dall.) 198 (1796) (distinguishing between "ancient" and "modern" law of nations).

The requirement that a rule command the "general assent of civilized nations" to become binding upon them all is a stringent one. Were this not so, the courts of one nation might feel free to impose idiosyncratic legal rules upon others, in the name of applying international law. Thus, in Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964), the Court declined to pass on the validity of the Cuban government's expropriation of a foreign-owned corporation's assets, noting the sharply conflicting views on the issue propounded by the capital-exporting, capital-importing, socialist and capitalist nations. Id. at 428–30.

The case at bar presents us with a situation diametrically opposed to the conflicted statute or law that confronted the Sabbatino Court. Indeed, to paraphrase that Court's statement, id. at 428, there are few, if any, issues in international law today on which opinion seems to be so united as the limitations on a state's power to torture persons held in its custody.

The United Nations Charter (a treaty of the United States, see 59 Stat. 1033 (1945)) makes it clear that in this modern age a state's treatment of its own citizens is a matter of international concern. It provides:

> "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations . . . the United Nations shall promote . . . universal respect for, and observance of, human rights and fundamental freedoms for all without distinctions as to race, sex, language or religion."

Id. Art. 55 And further:

> "All members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55."

While this broad mandate has been held not to be wholly self-executing, Hitai v. Immigration and Naturalization Service, 343 F.2d 466, 468 (2d Cir. 1965), this observation alone does not end our inquiry.[9] For although there is no universal agreement as to the precise extent of the "human rights and fundamental freedoms" guaranteed to all by the Charter, there is at present no dissent from the view that the guaranties include, at a bare minimum, the right to be free from torture. This prohibition has become part of customary international law, as evidenced and defined by the Universal Declaration of Human Rights, General Assembly Resolution 217 (III)(A) (Dec. 10, 1948) which states, in the plainest of terms, "no one shall be subjected to torture." [10] The General Assembly has declared that the Charter precepts embodied in this Universal Declaration "constitute basic principles of international law." G.A. Res. 2625 (XXV) (Oct. 24, 1970).

Particularly relevant is the Declaration on the Protection of All Persons from Being

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Subjected to Torture, General Assembly Resolution 3452, 30 U.N. GAOR Supp., (n. 34) 91, U.S. Doc. A/1034 (1975), which is set out in full in the margin.[11] The Declaration expressly prohibits any state from permitting the dastardly and totally inhuman act of torture. Torture, in turn, is defined as "any act by which severe pain and suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as . . . intimidating him or other persons." The Declaration goes on to provide that "[w]here it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation, in accordance with national law." This Declaration, like the Declaration of Human Rights before it, was adopted without dissent by the General Assembly. Nayar, "Human Rights: The United Nations and United States Foreign Policy," 19 Harv. Int'l L.J. 813, 816 n.18 (1978).

These U.N. declarations are significant because they specify with great precision the obligations of member nations under the Charter. Since their adoption, "[m]embers can no longer contend that they do not know what human rights they promised in the Charter to promote." Sohn, "A Short History of United Nations Documents on Human Rights," in The United Nations and Human Rights, 18th Report of the Commission (Commission to Study the Organization of Peace ed. 1968). Moreover, a U.N. Declaration is, according to one authoritative definition, "a formal and solemn instrument, suitable for rare occasions when principles of great and lasting importance are being enunciated." 34 U.N. ESCOR, Supp. (No. 8) 15, U.N. Doc. E/cn.4/1/610 (1962) (memorandum of Office of Legal Affairs, U.N. Secretariat). Accordingly, it has been observed that the Universal Declaration of Human Rights "no longer fits into the dichotomy of 'binding treaty' against 'non-binding pronouncement,' but is rather an authoritative statement of the international community." E. Schwelb, Human Rights and the International Community 70 (1964). Thus, a Declaration creates an expectation of adherence, and "insofar as the expectation is gradually justified by State practice, a declaration may by custom become recognized as laying down rules binding upon the States." 34 U.N. ESCOR, supra. Indeed, several commentators have concluded that the Universal Declaration has become, in toto, a part of binding, customary international law. Nayar, supra, at 816–17; Waldlock, "Human Rights in Contemporary International Law and the Significance of the European Convention," Int'l & Comp. L.Q., Supp. Publ. No. 11 at 15 (1965).

Turning to the act of torture, we have little difficulty discerning its universal renunciation in the modern usage and practice of nations. Smith, supra, 18 U.S. (5 Wheat.) at 160–61. The international consensus surrounding torture has found expression in numerous international treaties and accords. E.g., American Convention on Human Rights, Art. 5, OAB Treaty Series No. 36 at 1, OAS Off. Rec. OEA/Ser 4 v/II 23, doc. 21, rev. 2 (English ed., 1975) ("No one shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment"); International Covenant on Civil and Political Rights, U.N. General Assembly Res. 2200 (XXI)A, U.N. Doc. A/6316 (Dec. 16, 1966) (identical language); European Convention for the Protection of Human Rights and Fundamental Freedoms, Art. 3. Council of Europe. European Treaty Series No. 5 (1968). 213 U.N.T.S. 211 (semble). The substance of these international agreements is reflected in modern municipal—i.e. national—law as well. Although torture was once a routine concomitant of criminal interrogations in many nations, during the modern and hopefully more enlightened era it has been universally renounced. According to one survey, torture is prohibited, expressly or implicitly, by the constitutions of over fifty-five nations,[12] including both the United States[13] and Paraguay.[14] Our State Department reports a general recognition of this principle:

"There now exists an international consensus that recognizes basic human rights and obligations owed by all governments to their citizens . . . There is no doubt that these rights are often violated; but virtually all governments acknowledge their validity."

Department of State, Country Reports on Human Rights for 1979, published as Joint Comm. Print, House Comm. on Foreign Affairs, and Senate Comm. on Foreign Relations, 96th Cong. 2d Sess. (Feb. 4, 1980), Introduction at 1. We have been directed to no assertion by any contemporary state of a right to torture its own or another nation's citizens. Indeed, United States diplomatic contacts confirm the universal abhorrence with which torture is viewed:

"In exchanges between United States embassies and all foreign states with which the United States maintains relations, it has been the Department of State's general experience that no government has asserted a right to torture its own nationals. Where reports of torture elicit some credence, a state usually responds by denial or, less frequently, by asserting that the conduct was unauthorized or constituted rough treatment short of torture."[15]

Memorandum of the United States as Amicus Curiae at 16 n.34.

Having examined the sources from which customary international law is derived—the usage of nations, judicial opinions and the works of jurists[16]—we conclude that official torture is now prohibited by the law of nations. The prohibition is clear and unambiguous, and admits of no distinction between treatment of aliens and citizens. Accordingly, we must conclude that the dictum in *Dreyfus* v. *von Finck, supra,* 534 F.2d at 31 to the effect that "violations of international law do not occur when the aggrieved parties are nationals of the acting state," is clearly out of tune with the current usage and practice of international law. The treaties and accords cited above, as well as the express foreign policy of our own government,[17] all make it clear that international law confers fundamental rights upon all people vis-a-vis their own governments. While the ultimate scope of those rights will be a subject for continuing refinement and elaboration, we hold that the right to be free from torture is now among them. We therefore turn to the question whether the other requirements for jurisdiction are met.

III

Appellee submits that even if the tort alleged is a violation of modern international laws, federal jurisdiction may not be exercised consistent with the dictates of Article III of the Constitution. The claim is without merit. Common law courts of general jurisdiction regularly adjudicate transitory tort claims between individuals over whom they exercise personal jurisdiction, wherever the tort occurred. Moreover, as part of an articulated scheme of federal control over external affairs, Congress provided, in the First Judiciary Act, Sec. 9(b), 1 Stat. 73, 77 (1789), for federal jurisdiction over suits by aliens where principles of international law are in issue. The constitutional basis for the Alien Tort Statute is the Law of Nations, which has always been part of the federal common law.

It is not extraordinary for a court to adjudicate a tort claim arising outside of its territorial jurisdiction. A state or nation has a legitimate interest in the orderly resolution of disputes among those within its borders, and where the lex loci delicti commissi is applied, it is an expression of comity to give effect to the laws of the state where the wrong occurred. Thus, Lord Mansfield in *Mostyn* v. *Fabrigas,* 1 Cowp. 161 (1774), quoted in *McKenna* v. *Fisk,* 42 U.S. (1 How.) 241, 248 (1843) said:

"[I]f A becomes indebted to B, or commits a tort upon his person or upon his personal property in Paris, an action in either case may be maintained against A in England, if he is there found. . . . [A]s to transitory actions, there is not a colour of doubt but that any action which is transitory may be laid in any county in England, though the matter arises beyond the seas."

Mostyn came into our law as the original basis for state court jurisdiction over out-of-state torts, McKenna v. Fisk, supra, 42 U.S. (1 How.) 241 (personal injury suits held transitory); Dennick v. Railroad Co., 103 U.S. 11 (1880) (wrongful death action held transitory), and it has not lost its force in suits to recover for a wrongful death occurring upon foreign soil, Slater v. Mexican National Railroad Co., 194 U.S. 120 (1904), as long as the conduct complained of was unlawful where performed. Restatement (Second) of Foreign Relations Law of the United States § 19 (1965). Here, where in personam jurisdiction has been obtained over the defendant, the parties agree that the acts alleged would violate Paraguayan law, and the policies of the forum are consistent with the foreign law,[18] state court jurisdiction would be proper. Indeed, appellees conceded as much at oral argument.

Recalling that Mostyn was freshly decided at the time the Constitution was ratified, we proceed to consider whether the First Congress acted constitutionally in vesting jurisdiction over "foreign suits," Slater, supra, 194 U.S. at 124, alleging torts committed in violation of the law of nations. A case properly "aris[es] under the . . . laws of the United States" for Article III purposes if grounded upon statutes enacted by Congress or upon the common law of the United States. See Illinois v. City of Milwaukee, 406 U.S. 91, 99–100 (1972); Ivy Broadcasting Co., Inc. v. American Tel. & Tel. Co., 391 F.2d 486, 492 (2d Cir. 1968). The law of nations forms an integral part of the common law, and a review of the history surrounding the adoption of the Constitution demonstrates that it became a part of the common law of the United States upon the adoption of the Constitution. Therefore, the enactment of the Alien Tort Statute was authorized by Article III.

During the eighteenth century, it was taken for granted on both sides of the Atlantic that the law of nations forms a part of the common law. 1 Blackstone, Commentaries 263–64 (1st Ed. 1765–69); 4 id. at 67.[19] Under the Articles of Confederation, the Pennsylvania Court of Oyer and Terminer at Philadelphia, per McKean, Chief Justice, applied the law of nations to the criminal prosecution of the Chevalier de Longchamps for his assault upon the person of the French Consul-General to the United States, noting that "[t]his law, in its full extent, is a part of the law of this state. . . ." Respublica v. DeLongchamps, 1 U.S. (1 Dall.) 113, 119 (1784). Thus, a leading commentator has written:

"It is an ancient and a salutary feature of the Anglo-American legal tradition that the Law of Nations is a part of the law of the land to be ascertained and administered, like any other, in the appropriate case. This doctrine was originally conceived and formulated in England in response to the demands of an expanding commerce and under the influence of theories widely accepted in the late sixteenth, the seventeenth and the eighteenth centuries. It was brought to America in the colonial years as part of the legal heritage from England. It was well understood by men of legal learning in America in the eighteenth century when the United Colonies broke away from England to unite

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effectively, a little later, in the United States of America."

Dickenson, "The Law of Nations as Part of the National Law of the United States," 101 U. P. L. Rev. 26, 27 (1952).

Indeed, Dickenson goes on to demonstrate, id. at 34–41, that one of the principal defects of the Confederation that our Constitution was intended to remedy was the central government's inability to "cause infractions of treaties or of the law of nations, to be punished." 1 Farrand, Records of the Federal Convention 19 (Rev. ed. 1937) (Notes of James Madison). And, in Jefferson's words, the very purpose of the proposed Union was "[t]o make us one nation as to foreign concerns, and keep us distinct in domestic ones." Dickenson, supra, at 36 n.28.

As ratified, the judiciary article contained no express reference to cases arising under the law of nations. Indeed, the only express reference to that body of law is contained in Article I, sec. 8, cl. 10, which grants to the Congress the power to "define and punish . . . offenses against the law of nations." Appellees seize upon this circumstance and advance the proposition that the law of nations forms a part of the laws of the United States only to the extent that Congress has acted to define it. This extravagant claim is amply refuted by the numerous decisions applying rules of international law uncodified in any act of Congress. E.g., Ware v. Hylton, 3 U.S. (3 Dall.) 198 (1796); The Paquete Habana, supra, 175 U.S. 677; Sabbatino, supra, 376 U.S. (1964). A similar argument was offered to and rejected by the Supreme Court in United States v. Smith, supra, 18 U.S. (5 Wheat.) 153, 158–60, and we reject it today. As John Jay wrote in The Federalist No. 3, at 22 (1 Bourne ed. 1901), "Under the national government, treaties and articles of treaties, as well as the laws of nations, will always be expounded in one sense and executed in the same manner, whereas adjudications on the same points and questions in the thirteen states will not always accord or be consistent." Federal jurisdiction over cases involving international law is clear.

Thus, it was hardly a radical initiative for Chief Justice Marshall to state in The Nereide, 13 U.S. (9 Cranch), 388, 422 (1815), that in the absence of a congressional enactment,[20] United States courts are "bound by the law of nations, which is a part of the law of the land." These words were echoed in The Paquete Habana, supra, 175 U.S. at 700: "[i]nternational law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction, as often as questions of right depending upon it are duly presented for their determination."

The Filartigas urge that 28 U.S.C. § 1350 be treated as an exercise of Congress's power to define offenses against the law of nations. While such a reading is possible, see Lincoln Mills v. Textile Workers, 353 U.S. 488 (1957) (jurisdictional statute authorizes judicial explication of federal common law), we believe it is sufficient here to construe the Alien Tort Statute, not as granting new rights to aliens, but simply as opening the federal courts for adjudication of the rights already recognized by international law. The statute nonetheless does inform our analysis of Article III, for we recognize that questions of jurisdiction "must be considered part of an organic growth—part of an evolutionary process," and that the history of the judiciary article gives meaning to its pithy phrases. Romero v. International Terminal Operating Co., 358 U.S. 354, 360 (1959). The Framers' overarching concern that control over international affairs be vested in the new national government to safeguard the standing of the United States among the nations of the world therefore reinforces the result we reach today.

Although the Alien Tort Statute has rarely been the basis for jurisdiction during its long history,[21] in light of the foregoing discussion, there can be little doubt that this action is properly brought in federal court.[22] This is undeniably an action by an alien, for a tort only, committed in violation of the law of nations. The paucity of suits successfully maintained under the sevtion is readily attributable to the statute's requirement of alleging a "violation of the law of nations" at the jurisdictional threshold. Courts have, accordingly, engaged in a more searching preliminary review of the merits than is required, for example, under the more flexible "arising under" formulation. Compare *O'Reilly de Camara* v. *Brooke*, 209 U.S. 45, 52 (1907) (question of Alien Tort Statute jurisdiction disposed of "on the merits") (Holmes, J.), with *Bell* v. *Hood*, 327 U.S. 678 (1946) (general federal question jurisdiction not defeated by the possibility that the averments in the complaint may fail to state a cause of action). Thus, the narrowing construction that the Alien Tort Statute has previously received reflects the fact that earlier cases did not involve such well-established, universally recognized norms of international law that are here at issue.

For example, the statute does not confer jurisdiction over an action by a Luxembourgeois international investment trust's suit for fraud, conversion and corporate waste. *ITT* v. *Vencap*, 519 F.2d 1001, 1015 (1975). In ITT, Judge Friendly astutely noted that the mere fact that every nation's municipal law may prohibit theft does not incorporate "the Eighth Commandment, 'Thou Shalt not steal' . . . [into] the law of nations." It is only where the nations of the world have demonstrated that the wrong is of mutual, and not merely several, concern, by means of express international accords, that a wrong generally recognized becomes an international law violation within the meaning of the statute. Other recent § 1350 cases are similarly distinguishable.[23]

ITT, adopted a dictum from Lopes v. Reederei Richard Schroder, 225 F. Supp. 292 (E.D. Pa. 1963) to the effect that "a violation of the law of nations arises only when there has been 'a violation by one or more individuals of those standards, rules or customs (a) affecting the relationship between states or between an individual and a foreign state and (b) used by those states for their common good and/or in dealings inter se.'" ITT supra, 519 F. 2d at 1015, quoting Lopes, supra, 225 F. Supp. at 297. We have no quarrel with this formulation so long as it be understood that the courts are not to prejudge the scope of the issues that the nations of the world may deem important to their interrelationships, and thus to their common good. As one commentator has noted:

"The sphere of domestic jurisdiction is not an irreducible sphere of rights which are somehow inherent, natural, or fundamental. It does not create an inpenetrable barrier to the development of international law. Matters of domestic jurisdiction are not those which are unregulated by international law, but those which are left by international law for regulation by States. There are, therefore, no matters which are domestic by their 'nature.' All are susceptible of international legal regulation and may become the subjects of new rules of customary law of treaty obligations." Preuss, "Article 2, Paragraph 7 of the Charter of the United Nations and Matters of Domestic Jurisdiction," Hague Receuil (Extract, 149) at 8, reprinted in H. Briggs, The Law of Nations 24 (1952). Here the nations have made it their business, both through international accords and unilateral action,[24] to be concerned with domestic human rights violations of this magnitude. The case before us therefore falls within the Lopes/ITT rule.

Since federal jurisdiction may properly be exercised over the Filartigas' claim, the action must be remanded for further proceedings on jurisdiction. Both to emphasize the boundaries of our holding. Appellee Peña however, advances several additional points that lie beyond the scope of our holding, and to clarify some of the issues reserved for the district court on remand, we will address those contentions briefly.

IV

Peña argues that the customary law of nations, as reflected in treaties and declarations that are not self-executing, should not be applied as rules of decision in this case. In doing so, he confuses the question of federal jurisdiction under the Alien Tort Statute which requires consideration of the law of nations, with the issue of the choice of law to be applied, which will be addressed at a later stage in the proceedings. The two issues are distinct. Our holding on subject matter jurisdiction decides only whether Congress intended to confer judicial power, and whether it is authorized to do so by Article III. The choice of law inquiry is a much broader one, primarily concerned with fairness, see Home Insurance Co. v. Dick, 281 U.S. 397 (1930); consequently, it looks to wholly different considerations. See Lauritzen v. Larsen, 345 U.S. 571 (1954). Should the district court decide that the Lauritzen analysis requires it to apply Paraguayan law, our courts will not have occasion to consider what law would govern a suit under the Alien Tort Statute where the challenged conduct is actionable under the law of the forum and the law of nations, but not the law of the jurisdiction in which the tort occurred.[25]

Peña also argues that "[i]f the conduct complained of is alleged to be the act of the Paraguayan government, the suit is barred by the Act of State doctrine." This argument was not advanced below, and is therefore not before us on this appeal. We note in passing, however, that we doubt whether action by a state official in violation of the Constitution and laws of the Republic of Paraguay, and wholly unratified by that nation's government, could properly be characterized as an act of state. See Banco Nacional de Cuba v. Sabbatino, supra, 376 U.S. 398; Underhill v. Hernandez, 168 U.S. 250 (1897). Paraguay's renunciation of torture as a legitimate instrument of state policy, however, does not strip the tort of its character as an international law violation, if it in fact occurred under color of government authority. See Declaration on the Protection of All Persons from Being Subjected to Torture, supra note 11; cf. Ex parte Young, 209 U.S. 123 (1908) state official subject to suit for constitutional violations despite immunity of state.

Finally, we have already stated that we do not reach the critical question of forum non conveniens, since it was not considered below. In closing, however, we note that the foreign relations implications of this and other issues the district court will be required to adjudicate on remand underscores the wisdom of the First Congress in vesting jurisdiction over such claims in the federal district courts through the Alien Tort Statute. Questions of this nature are fraught with implications for the nation as a whole, and therefore should not be left to the potentially varying adjudications of the courts of the fifty states.

In the twentieth century the international community has come to recognize the common danger posed by the flagrant disregard of basic human rights and particularly the right to be free of torture. Spurred first by

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the Great War, and then the Second, civilized nations have banded together to prescribe acceptable norms of international behavior. From the ashes of the Second World War arose the United Nations Organization, amid hopes that an era of peace and cooperation had at last begun. Though many of these aspirations have remained elusive goals, that circumstance cannot diminish the true progress that has been made. In the modern age, humanitarian and practical considerations have combined to lead the nations of the world to recognize that respect for fundamental human rights is in their individual and collective interest. Among the rights universally proclaimed by all nations, as we have noted, is the right to be free of physical torture. Indeed, for purposes of civil liability, the torturer has become—like the pirate and slave trader before him—hostis humani generis, an enemy of all mankind. Our holding today, giving effect to a jurisdiction provision enacted by our First Congress, is a small but important step in the fulfillment of the ageless dream to free all people from brutal violence.

FOOTNOTES

[1] Durate is the son of Peña's companion Juana Bautista Fernandez Villaloa, who later accompanied Peña to the United States.

[2] Several officials of the Immigration and and Naturalization Service were named as defendants in connection with this portion of the action. Because Peña has now been deported, the federal defendants are no longer parties to this suit, and the claims against them are not before us on this appeal.

[3] Jurisdiction was also invoked pursuant to 28 U.S.C. §§ 1651, 2201 & 2202, presumably in connection with appellants' attempt to delay Peña's return to Paraguay.

[4] Richard Falk, the Albert G. Milbank Professor of International Law and Practice at Princeton University, and a former Vice President of the American Society of International Law, avers that, in his judgment, "it is now beyond reasonable doubt that torture of a person held in detention that results in severe harm or death is a violation of the law of nations." Thomas Franck, professor of international law at New York University and Director of the New York University Center for International Studies offers his opinion that torture has now been rejected by virtually all nations, although it was once commonly used to extract confessions. Richard Lillich, the Howard W. Smith Professor of Law at the University of Virginia School of Law, concludes, after a lengthy review of the authorities, that officially perpetrated torture is "a violation of international law (formerly called the law of nations)." Finally, Myres MacDougal, a former Sterling Professor of Law at the Yale Law School, and a past President of the American Society of International Law, states that torture is an offense against the law of nations, and that "it has long been recognized that such offenses virtually affect relations between states."

[5] The Gorostiaga affidavit states that:

A father whose son has been wrongfully killed may in addition to commencing a criminal proceeding bring a civil action for damages against the person responsible. Accordingly, Mr. Filartiga has the right to commence a civil action against Mr. Duarte and Mr. Peña-Irala since he accuses them both of responsibility for his son's death. He may commence such a civil action either simultaneously with the commencement of the criminal proceeding, during the time that the criminal proceeding lasts, or within a year after the criminal proceeding has terminated. In either event, however, the civil action may not proceed to judgment until the criminal proceeding has been disposed of. If the defendant is found not guilty because he was not the author of the case under investigation in the criminal proceeding, no civil action for indemnity for damages based upon the same deed investigated in the criminal proceeding, can prosper or succeed.

[6] The court below accordingly did not consider the motion to discuss on forum non conveniens grounds, which is not before us on this appeal.

[7] Appellants "associate themselves with" the argument of some of the amici curiae that their claim arises directly under a treaty of the United States, Brief for Appellants at 23 n.*, but nonetheless primarily rely upon treaties and other international instruments as evidence of an emerging norm of customary international law, rather than independent sources of law.

[8] The Statute of the International Court of Justice, Art. 38 & 59, June 26, 1945, 59 Stat. 1055, 1060 (1945) provides:

Art. 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply: (a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; (b) international custom, as evidence of a general practice accepted as law; (c) the general principles of law recognized by civilized nations; (d) subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of the rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

Art. 59

The decision of the Court has no binding force except between the parties and in respect of that particular case.

[9] We observe that this Court has previously utilized the U.N. Charter and the Charter of the Organization of American States, another non-self-executing agreement, as evidence of binding principles of international law. *United States* v. *Toscanino*, 500 F.2d 267 (2d Cir. 1974). In that case, our government's duty under international law to refrain from kidnapping a criminal defendant from within the borders of another nation, where formal extradition procedures existed, infringed the personal rights of the defendant, whose international law claims were the upon remanded for a hearing in the district court.

[10] Eighteen nations incorporated the Universal Declaration into their own constitutions. 48 *Revue Internationale de Droit Penal* Nos. 3 & 4, at 211 (1977).

[11] Article 1.—1. For the purpose of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent or incidental to lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.

2. Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.

Article 2.—Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offense to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

Article 3.—No state may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Article 4.—Each state shall, in accordance with the provisions of this Declaration, take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practiced within its jurisdiction.

Article 5.—The training of law enforcement personnel and of other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. This prohibition shall also, where appropriate, be included in such general rules or instructions as are issued in regard to the duties and functions of anyone who may be involved in the custody or treatment of such persons.

Article 6.—Each state shall keep under systematic review interrogation methods and practices as well as arrangements for the custody and treatment of persons deprived of their liberty in its territory, with a view to preventing any cases of torture or other cruel, inhuman or degrading treatment or punishment.

Article 7.—Each state shall ensure that all acts of torture as defined in Article I are offenses under its criminal law. The same shall apply in regard to acts which constitute participation in, complicity in, incitement to or an attempt to commit torture.

Article 8.—Any person who alleges he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain to, and to have his case impartially examined by, the competent authorities of the state concerned.

Article 9.—Wherever there is reasonable ground to believe that an act of torture as defined in Article I has been committed, the competent authorities of the state concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint.

Article 10.—If an investigation under Article 8 or Article 9 establishes that an act of torture as defined in Article I appears to have been committed, criminal proceedings shall be instituted against the alleged offender or offenders in accordance with national law. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, the alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings.

Article 11.—Where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation, in accordance with national law.

Article 12.—Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceeding.

[12] 48 Revue Internationale de Droit Penal Nos. 3 & 4 at 208 (1977).

[13] U.S. Const., amend. VIII ("cruel and unusual punishments" prohibited); id. amend. XIV.

[14] Constitution of Paraguay, Art. 45 (prohibiting torture and other cruel treatment).

[15] The fact that the prohibition of torture is often honored in the breach does not diminish its binding effect as a norm of international law. As one commentator has put it, "The best evidence for the existence of international law is that every actual State recognizes that it does exist and that

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Footnotes at end of article.

it is itself under an obligation to observe it. States often violate international law, just as individuals often violate municipal law; but no more than individuals do States defend their violations by claiming that they are above the law." J. Brierly, The Outlook for International Law 4–5 (Oxford 1944).

[16] See note 4, supra: see also Ireland v. United Kingdom, Judgment of Jan. 18, 1978 (European Court of Human Rights), summarized in [1978] Yearbook, European Convention on Human Rights 602 (Council of Europe) (holding that Britain's subjection of prisoners to sleep deprivation, hooding, exposure to hissing noise, reduced diet and standing against a wall for hours was "inhuman and degrading," but not "torture" within meaning of European Convention on Human Rights).

[17] E.g., 22 U.S.C. § 2304(2) ("Except under circumstances specified in this section, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights."); 22 U.S.C. § 2125(a) ("The Congress finds that fundamental political, economic, and technological changes have resulted in the interdependence of nations. The Congress declares that the individual liberties, economic prosperity, and security of the people of the United States are best sustained and enhanced in a community of nations which respect individual civil and economic rights and freedoms").

[18] Conduct of the type alleged here would be actionable under 42 U.S.C. § 1983 or, undoubtedly, the Constitution, if performed by a government official.

[19] As Lord Stowell said in The Maria, 165 Eng. Rep. 955, 958 (Adm. 1807): "In the first place it is to be recollected, that this is a Court of the Law of Nations, though sitting here under the authority of the King of Great Britain. It belongs to other nations as well as to our own; and what foreigners have a right to demand from it, is the administration of the law of nations, simply, and exclusively of the introduction of principles borrowed from our own municipal jurisprudence, to which it is well known, they have at all times expressed no inconsiderable repugnance."

[20] The plainest evidence that international law has an existence in the federal courts independent of acts of Congress is the long-standing rule of construction first enunciated by Chief Justice Marshall: "an act of congress ought never to be construed to violate the law of nations, if any other possible construction remains. . . ." The Charming Betsy, 6 U.S. (2 Cranch) 132, 143 (1804), quoted in Lauritzen v. Larsen, 345 U.S. 571, 578 (1953).

[21] Section 1350 afforded the basis for jurisdiction over a child custody suit between aliens in Adra v. Chft, 195 F. Supp. 857 (1), Md. 1961), with a falsified passport supplying the requisite international law violation. In Bolchos v. Darrell, 3 Fed. Cas. 810 (D.S.C. 1795), the Alien Tort Statute provided an alternative basis of jurisdiction over a suit to determine title to slaves on board an enemy vessel taken on the high seas.

[22] We recognize that our reasoning might also sustain jurisdiction under the general federal question provision, 28 U.S.C. § 1331. We prefer, however, to rest our decision upon the Alien Tort Statute, in light of that provision's close coincidence with the jurisdictional facts presented in this case. See Romero v. International Terminal Operating Co., 358 U.S. 354 (1959).

[23] Dreyfus v. von Finck, 534 F.2d 24 (2d Cir.), cert. denied, 429 U.S. 835 (1976), concerned a forced sale of property, and thus sought to invoke international law in an area in which no consensus view existed. See Sabbatino, supra, 376 U.S. at 428. Similarly, Benjamins v. British European Airways, 572 F.2d 913 (2d Cir. 1978), cert. denied, 439 U.S. 1114 (1979), held only that an air disaster, even if caused by "willful" negligence, does not constitute a law of nations violation. Id. at 916. In Khedivial Line, S.A.E. v. Seafarers' International Union, 278 F.2d 49 (2d Cir. 1960), we found that the "right" to free access to the ports of a foreign nation was at best a rule of comity, and not a binding rule of international law.

The cases from other circuits are distinguishable in like manner. The court in Huynh Thi Anh v. Levi, 586 F.2d 625 (6th Cir. 1978), was unable to discern from the traditional sources of the law of nations "a universal or generally accepted substantive rule or principle" governing child custody, id. at 629, and therefore held jurisdiction to be lacking. Cf. Nguyen Da Yen v. Kissinger, 528 F.2d 1194, 1201 n.13 (9th Cir. 1975) ("the illegal seizure, removal and detention of an alien against his will in a foreign country would appear to be a tort . . . and it may well be a tort in violation of the 'law of nations' ") (§ 1350 question not reached due to inadequate briefing). Finally, the district court in Lopes v. Reederei Richard Schroder, 225 F. Supp. 292 (F.D. Pa. 1963) simply found that the doctrine of seaworthiness, upon which the plaintiff relied, was a uniquely American concept, and therefore not a part of the law of nations.

[24] As President Carter stated in his address to the United Nations on March 17, 1977:

"All the signatories of the United Nations Charter have pledged themselves to observe and to respect basic human rights. Thus, no member of the United Nations can claim that mistreatment of the citizens is solely its own business. Equally, no member can avoid its responsibilities to review and to speak when torture or unwarranted deprivation occurs in any part of the world."

Reprinted in 78 Department of State Bull. 322 (1977); see note 17, supra.

[25] In taking that broad range of factors into account, the district court may well decide that fairness requires it to apply Paraguayan law to the instant case. See Slater v. Mexican National Railway Co., 194 U.S. 120 (1904). Such decision would not retroactively oust the federal court of subject matter jurisdiction, even though plaintiff's cause of action would no longer properly be "created" by a law of the United States. See American Well Works Co. v. Lane & Bowler Co., 241 U.S. 257, 260 (1916) (Holmes, J.). Once federal jurisdiction is established by a colorable claim under federal law at a preliminary stage of the proceeding, subsequent dismissal of that claim (here, the claim under the general international proscription of torture) does not deprive the court of jurisdiction previously established. See Hagans v. Lavine, 415 U.S. 528 (1974); Romero v. International Terminal Operating Co., 358 U.S. 354 (1959); Bell v. Hood, 327 U.S. 678 (1946). Cf. Huynh Thi Ahn, supra, 586 F.2d at 633 (choice of municipal law ousts § 1350 jurisdiction when no international norms exist).

[In the U.S. Court of Appeals for the Second Circuit, No. 79–6090]

Dolly, M. E. Filartiga and Dr. Joel Filartiga, Plaintiffs-Appellants v. Americo Norberto Pena-Irala, Defendant-Appellee.

(APPEAL FROM THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK)

MEMORANDUM FOR THE UNITED STATES AS AMICUS CURIAE

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INTRODUCTION

The United States files this memorandum in response to the Court's request that "the Department of State submit a memorandum setting forth its position concerning the proper interpretation of 28 U.S.C. § 1350 in light of the facts of this case." [1] The memorandum addresses the following questions:

1. Whether the torture of a foreign citizen by an official of the same country is a violation of the law of nations within the meaning of 28 U.S.C. 1350?

2. If so, whether such a violation gives rise to a judicially enforceable remedy and is therefore a tort within the meaning of that provision?

STATEMENT

This appeal involves the interpretation of 28 U.S.C. 1350, which gives the district courts jurisdiction in all cases where an alien sues for "a tort only, committed in violation of the law of nations or a treaty of the United States." The complaint alleges that defendant, acting under color of his authority as a Paraguayan official, tortured and killed Joel Filartiga, a Paraguayan national, and that this conduct was a tort in violation of the law of nations. The district court nonetheless held that it lacked jurisdiction. The court acknowledged the strength of plaintiffs' argument that torture violates international law, but concluded that dismissal was compelled by two prior decisions of this Court, *ITT* v. *Vencap, Ltd.*, 519 F.2d 1001 (1975), and *Dreyfus* v. *Von Finck*, 534 F.2d 24 (1976), cert. denied, 429 U.S. 835, which it read to establish that (A. 107–108) [2]—

> "conduct, though tortious, is not in violation of 'the Law of Nations', as those words are used in 28 U.S.C. § 1350, unless the conduct is in violation of those standards, rules or customs affecting the relationship between states and between an individual and a foreign state, and used by those states for their common good and/or in dealings *inter se*."

Because the court dismissed the complaint for lack of jurisdiction, it did not reach defendant's alternative argument for dismissal based on *forum non conveniens*. Plaintiffs appealed to this Court.

ARGUMENT I—OFFICIAL TORTURE VIOLATES THE LAW OF NATIONS

The district court dismissed the complaint because it believed that the torture of a foreign citizen by an official of the same country does not violate the law of nations as that term is used in 28 U.S.C. 1350. If Section 1350 reached only those practices that historically have been viewed as violations of international law, the court's decision would very likely be correct. Before the turn of the century and even after, it was generally thought that a nation's treatment of its own citizens was beyond the purview of international law. But as we demonstrate below, Section 1350 encompasses international law as it has evolved over time. And whatever may have been true before the turn of the century, today a nation has an obligation under international law to respect the right of its citizens to be free of official torture.

A. Section 1350 encompasses the law of nations as that body of law may evolve.

Section 1350 originated as Section 9 of the Judiciary Act of 1789 (1 Stat. 76 (1789)) and has not changed significantly since that time. It provides that:

> "The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States."

Footnotes at end of article.

This is one of several provisions in the Judiciary Act "reflecting a concern for uniformity in this country's dealings with foreign nations and indicating a desire to give matters of international significance to the jurisdiction of federal institutions." *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398, 427 n. 25 (1964).

The law of nations in Section 1350 refers to the law of nations as that body of law may evolve. There is no reason to believe that Congress intended to freeze the meaning of the law of nations in this statute as of 1789, any more than it intended the simultaneous grant of jurisdiction over maritime actions to be limited to maritime law as it then existed.[3] Since the law of nations had developed in large measure by reference to evolving customary practice, the framers of the first Judiciary Act surely anticipated that international law would not be static after 1789.

The Paquete Habana, 175 U.S. 677 (1900), illustrates this evolutionary process. There, the question was whether international law protected fishing ships from capture during times of war. Although a 1798 British case had held that the protection of such ships was a rule of comity only, the Court held that (*id.* at 694)—

"The period of a hundred years which has since elapsed is amply sufficient to have enabled what originally may have rested in custom or comity, courtesy or concession, to grow, by the general assent of civilized nations, into a settled rule of international law."

If the application of Section 1350 were limited to the subjects encompassed by the law of nations in 1789, leaving only the state courts competent to administer any rules of international law that might subsequently develop, the result would be to frustrate the statute's central concern for uniformity in this country's dealings with foreign nations. Accordingly, the district court's jurisdiction in this case turns not on whether the conduct alleged in the complaint would have been a violation of the law of nations in 1789, but on whether it is customarily treated as a violation of the law of nations today.

B. International law now embraces the obligation of a state to respect the fundamental human rights of its citizens.

The view that a state's treatment of its own citizens is beyond the purview of international law was once widely held and is reflected in traditional works on the subject.[4]

However, as we have stated, customary international law evolves with the changing customs and standards of behavior in the international community. Early in this century, as a consequence of those changing customs, an international law of human rights began to develop. This evolutionary process has produced wide recognition that certain fundamental human rights are now guaranteed to individuals as a matter of customary international law.

As we demonstrate in Part II, *infra*, this does not mean that all such rights may be judicially enforced. Indeed, it is likely that only a few rights have the degree of specificity and universality to permit private enforcement and that the protection of other asserted rights must be left to the political branches of government. But this distinction between judicially enforceable rights and rights enforceable only by the political branches should not obscure the central point we make here. The district court's assumption that a nation has no obligation under international law to respect the human rights of its citizens is fundamentally incorrect.

The sources of international law are international agreements, international custom, general principles of law recognized by civilized nations, and judicial decisions and the teachings of learned commentators.[5] Developments in each of these areas have had a role in establishing the twentieth century international law of human rights.

The first significant treaty development was the Covenant of the League of Nations in 1919, which declared that the members of the League would attempt to secure and maintain fair and humane conditions of labor, and secure just treatment for the inhabitants of territory under their control.[6] Other early developments were the treaties entered into after World War I guaranteeing the religious, cultural, and political rights of national minorities.[7]

Treaty activity accelerated after World War II. In 1945, the United Nations Charter imposed on U.N. members a general obligation to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.[8] The U.N. Charter represents a clear break with the traditional view that a nation's treatment of its citizens is beyond the concern of international law—a break also evidenced by recognition in the Charter of the Organization of American States of "the fundamental rights of the individual without distinction as to race, nationality, creed, or sex."[9]

More recently, the obligation of states to respect fundamental human rights has been reiterated in a growing number of more specific multilateral treaties. These include The International Covenant on Civil and Political Rights,[10] The American Convention on Human Rights[11] and The European Convention for the Protection of Human Rights and Fundamental Freedoms.[12]

International custom also indicates that nations have accepted as law an obligation to observe fundamental human rights. In 1948, The United Nations General Assembly unanimously adopted the Universal Declaration of Human Rights,[13] which goes beyond the UN Charter in specifying and defining the fundamental rights to which all individuals are entitled. The Universal Declaration has been followed by a growing number of U.N. resolutions clarifying and elaborating on these rights[14] or invoking them in specific cases.[15] In a parallel development, the International Conference on Security and Cooperation in Europe, which met in Helsinki and Geneva between 1973 and 1975, adopted a Final Act declaring that the participating nations would respect the human rights of their nationals.[16] The final Act, like the UN resolutions, does not have the legal effect of a treaty but provides evidence of customary international law.[17]

General principles of law recognized by civilized nations also establish that there are certain fundamental human rights to which all individuals are entitled, regardless of nationality. Although specific practices differ widely among nations, all nations with organized legal systems recognize constraints on the power of the state to invade their citizens' human rights. In the period 1948–1973, the constitutions or other important laws of over 75 states either expressly referred to or clearly borrowed from the Universal Declaration of Human Rights.[18]

In the same period, the Declaration was referred to in at least 16 cases in domestic courts of various nations.[19]

The decisions of the International Court of Justice also reflect and confirm the existence of a customary international law of human rights.[20] And the affidavits of four American experts in international law, filed by plaintiffs below, document the broad recognition among legal scholars that human rights obligations are now part of customary international law.[21]

In sum, as the Department of State said in a recent report to Congress on human rights practices:

"There now exists an international consensus that recognizes basic human rights and obligations owed by all governments to their citizens. * * * There is no doubt that these rights are often violated; but virtually all governments acknowledge their validity."[22]

We recognize that a panel of this Court has said that "violations of international law do not occur when the aggrieved parties are nationals of the acting state." *Dreyfus, supra*, 534 F.2d at 31. As we have shown, however, this statement is incorrect and should not be followed.[23]

C. Freedom from torture is among the fundamental human rights protected by international law.

Every multilateral treaty dealing generally with civil and political human rights proscribes torture. These include The American Convention on Human Rights,[24] The International Covenant on Civil and Political Rights[25] and The European Convention for the Protection of Human Rights and Fundamental Freedoms.[26] In addition, the Geneva Conventions of 1949 forbid torture in international or domestic conflicts and declare it to be a "grave breach" of the conventions.[27] This uniform treaty condemnation of torture provides a strong indication that the proscription of torture has entered into customary international law.[28]

We do not suggest that every provision of these treaties states a binding rule of customary international law. Where reservations have been attached by a significant number of nations to specific provisions or where disagreement with provisions is cited as the ground for a nation's refusal to become a party, the near-unanimity required for the adoption of a rule into customary international law may be lacking.[29] No such disagreement has been expressed about the provisions forbidding torture.

A court also must distinguish between provisions that reflect principles that are considered desirable but incapable of immediate realization and those provisions that codify fundamental human rights. Illustrative of the former category are the declarations in the International Covenant on Economic, Social and Cultural Rights that individuals are entitled to favorable working conditions and to social security.[30] In proposing that the Senate ratify that treaty, the President observed:

"Some of the standards established under these articles may not readily be translated into legally enforceable rights, while others are in accord with United States policy, but have not yet been fully achieved. It is accordingly important to make clear that these provisions are understood to be goals whose realization will be sought rather than obligations requiring immediate implementation." [31]

The President further recommended that the Senate express its understanding that these and like provisions "described goals to be achieved progressively rather than through immediate implementation."[32] The Covenant itself casts these principles in this light.[33] In contrast, because torture is universally condemned and incompatible with accepted concepts of human behavior, the protection against torture must be considered a fundamental human right.

International custom also evidences a universal condemnation of torture. While some nations still practice torture, it appears that no state asserts a right to torture its nationals. Rather, nations accused of torture unanimously deny the accusation and make no attempt to justify its use.[34] That conduct evidences an awareness that torture is universally condemned. This universal condemnation is made explicit in The Universal Declaration of Human Rights, which declares that "No one shall be subjected to torture * * *."[35] That principle has been reiterated in a number of unanimous UN resolutions, including the 1975 Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("UN Declaration on Torture").[36]

Footnotes at end of article.

The UN Declaration on Torture not only confirms that international custom outlaws torture, but also supplies a precise definition of the conduct proscribed. The UN Declaration on Torture defines torture as—

"Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners."[37]

This definition provides guidance to any court that may be required to determine whether particular conduct violates the proscription of torture in customary international law.

Analysis of general principles of law also discloses consistent condemnation of torture in national constitutions and legislation. Torture is specifically forbidden in the constitutions of over 40 nations.[38] The constitutions of over 15 additional nations contain implicit prohibitions against torture.[39] Eighteen states have incorporated the Universal Declaration of Human Rights in their constitutions and therefore have accepted the prohibition against torture contained in Article 5 of the Declaration.[40]

Condemnation of torture is reflected in both constitutional and statutory law in the United States. Conduct falling within the definition of torture in the UN Declaration on Torture would be a criminal offense under 18 U.S.C. 242 and civilly actionable under 42 U.S.C. 1983 or under the United States Constitution. Moreover, with certain exceptions, federal statutes bar assistance "to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights", specifically including "torture." [41] These statutes evidence the United States' acceptance of the international norm condemning torture and reflect the fact that the norm is certain enough to be cognizable by federal courts.

Finally, judicial decisions and the commentary of experts confirm that official torture violates international law. As shown in Part I–B, these authorities recognize the modern emergence of human rights norms in customary international law. Plaintiffs have submitted the affidavits of four American scholars confirming that the proscription of torture is such a norm.[42] And published commentary is to the same effect.[43] In these circumstances, the conclusion that international law prohibits torture is inescapable.

II—OFFICIAL TORTURE IS A TORT AND GIVES RISE TO A JUDICIALLY ENFORCEABLE REMEDY

Not every violation of international law is a tort within the meaning of Section 1350. However, some such violations are judicially cognizable as torts. A corollary to the traditional view that the law of nations dealt primarily with the relationship among nations rather than individuals was the doctrine that generally only states, not individuals, could seek to enforce rules of international law. *Sabbatino, supra*, 376 U.S. at 422–423. Just as the traditional view no longer reflects the state of customary international law, neither does the latter doctrine.

Indeed, it has long been established that in certain situations, individuals may sue to enforce their rights under international law. For example, when a ship is seized on the high seas in violation of international law, the owner of the ship may sue to recover the ship as well as seek damages. *The Paquete Habana, supra*. Similarly, when there has been an assault on a foreign ambassador in violation of international law, domestic courts may properly furnish a remedy. Cf. *Respublica* v. *De Longchamps*, 1 U.S. (1 Dall.) 111 (1784).

The more recently evolved international law of human rights similarly endows individuals with the right to invoke international law, in a competent forum and under appropriate circumstances. The highly respected Constitutional Court of Germany has recognized this right of individuals. The court declared that, although "contemporary generally recognized principles of international law include only a few legal rules that directly create rights and duties of private individuals by virtue of the international law itself," an area in which they do create such rights and duties is "the sphere of the minimum standard for the protection of human rights." [44]

As a result, in nations such as the United States where international law is part of the law of the land, an individual's fundamental human rights are in certain situations directly enforceable in domestic courts. As the Supreme Court said in *The Paquete Habana, supra*, 175 U.S. at 700:

"International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction, as often as questions of right depending upon it are duly presented for their determination."

Because foreign officials are among the prospective defendants in suits alleging violations of fundamental human rights, such suits unquestionably implicate foreign policy considerations. But not every case or controversy which touches foreign relations lies beyond judicial cognizance. *Baker* v. *Carr*, 369 U.S. 186, 211 (1962). Like many other areas affecting international relations, the protection of fundamental human rights is not committed exclusively to the political branches of government. See *Sabbatino, supra*, 376 U.S. at 423, 430 n. 34.

This does not mean that Section 1350 appoints the United States courts as Commissions to evaluate the human rights performance of foreign nations. Cf. *Sabbatino, supra*, 376 U.S. at 423. The courts are properly confined to determining whether an individual has suffered a denial of rights guaranteed him as an individual by customary international law. Accordingly, before entertaining a suit alleging a violation of human rights, a court must first conclude that there is a consensus in the international community that the right is protected and that there is a widely shared understanding of the scope of this protection. *Sabbatino, supra*, 376 U.S. at 428, 430 n. 34. When these conditions have been satisfied, there is little danger that judicial enforcement will impair our foreign policy efforts. To the contrary, a refusal to recognize a private cause of action in these circumstances might seriously damage the credibility of our nation's commitment to the protection of human rights. As we have shown in Part I–C, official torture is both clearly defined and universally condemned. Therefore, private enforcement is entirely appropriate.[45]

From what we have said, it should be clear that a court is not at liberty to enforce its own views of policy under the guise of interpreting the requirements of international law. On the other hand, as the Supreme Court stated in *Sabbatino, supra*, 376 U.S. at 428:

"It should be apparent that the greater the degree of codification or consensus concerning a particular area of international law, the more appropriate it is for the judiciary to render decisions regarding it, since the courts can then focus on the application of an agreed principle to circumstances of fact rather than on the sensitive task of establishing a principle not inconsistent with the national interest or with international justice."

In this case, not only is there a consensus in the international community that official torture is unlawful, but Paraguay's Constitution expressly prohibits official torture[46] and Paraguayan law recognizes a tort action as an appropriate remedy.[47] The compatibility of international law and Paraguayan law significantly reduces the likelihood that court enforcement would cause undesirable international consequences and is therefore an additional reason to permit private enforcement.

Because international law and Paraguayan law both prohibit torture, this Court need not decide whether considerations of comity or a proper construction of Section 1350 might require a different result if, despite the nearly universal condemnation implicit in the existence of a rule of customary international law, the jurisdiction with the most immediate interest in the controversy did not prohibit torture. Similarly, this case does not present any questions concerning whether international law, Paraguayan law or federal common law will govern other aspects of this lawsuit. The only question presented is whether official torture is a "tort * * * committed in violation of the law of nations * * *." [48] Because the district court erred in concluding that it is not, its judgment should be reversed and the case remanded for further proceedings.[49]

CONCLUSION

The judgment of the district court should be reversed and the case remanded for further proceedings.

Respectfuly submitted.

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FOOTNOTES

[1] Letter from A. Daniel Fusaro, Clerk, to Roberts B. Owen, October 29, 1979. Under 28 U.S.C. 516, the conduct of litigation in which the United States or an agency is interested is reserved to the Department of Justice. For that reason, the Department of Justice is filing this memorandum, developed jointly by the Department of Justice and the Department of State.

[2] "A." references are to the joint appendix.

[3] Maritime law has evolved significantly since 1789. See *Moragne* v. *State Marine Lines*, 398 U.S. 375 (1970) (overruling an 1886 decision and holding that maritime law affords a remedy for wrongful death on navigable waters).

[4] *E.g.*, L. Oppenheim, *International Law: A Treatise*, Vol. 1, 362–369 (2d Ed. 1912).

[5] Statute of the International Court of Justice, Article 38, June 26, 1945, 59 Stat. 1055, 1060 (effective October 24, 1945). See also, *The Paquete Habana, supra*, 175 U.S. at 700.

[6] The Covenant of the League of Nations, Articles 22, 23, June 28, 1919, reprinted in *Treaties and Other International Agreements of the United States of America 1776–1949*, 2 Bevans 48, 55–57 (1969).

[7] See, *e.g.*, Treaty Between the Principal Allied and Associated Powers and Poland, signed at Versailles, June 28, 1919, reprinted in *Treaties, Conventions, International Acts, Protocol and Agreements Between the United States of America and Other Powers 1910–1923*, 3 Malloy-Redmond 3714 (1923). In addition, the general treaties of peace concluding the war included provisions aimed at guaranteeing minority rights. See, *e.g.*, Treaty of Peace with Austria, Part 3, Sec. 5, signed at St. Germaine-en-Laye, September 10, 1919, reprinted in 3 Malloy-Redmond 3149.

[8] United Nations Charter, June 26, 1945, Arts. 55, 56, 59 Stat. 1031, 1045–1046, 3 Bevans 1153, 1166–1167 (1969).

[9] Charter of the Organization of American States, Articles 3(j), 16, 43(a) (entered into force December 13, 1951), as amended by the Protocol of Buenos Aires of 1967 (entered into force February 27, 1970), OAS Treaty Series No. 1–C, OAS, OR, OEA/Ser.A/2 (English), Rev. (1970), 21 U.S.T. 607, T.I.A.S. 6847. See also American Declaration of the Rights and Duties of Man, ch. 1 (1948), OAS, OR, OEA/Ser. L/V/E.23, Doc. 21, Rev. 2.

[10] General Assembly Resolution 2200 (XXI) A (December 16, 1966), entered into force March 23, 1976; *Four Treaties Pertaining to Human Rights,* Message from the President of the United States, S. Doc. No. Exec. C, D, E, and F, 95th Cong., 2d Sess. (1978).

[11] Signed at San Jose, Costa Rica, November 22, 1969, entered into force July 18, 1978, OAS Treaty Series No. 36, OAS, OR, OEA/Ser.A/16 (English).

[12] Signed November 4, 1950, entered into force September 3, 1953, Council of Europe, European Treaty Series No. 5 (1968), 213 U.N.T.S. 221.

[13] General Assembly Resolution 217 (III) A (December 10, 1948).

[14] See Addendum.

[15] See *United Nations Action in the Field of Human Rights* (1974), ST/HR/2 (Pub. Sales No. E.74.XIV.2), at 14–15.

[16] *Conference on Security and Cooperation in Europe: Final Act* (Helsinki, 1975), 73 Dep't State Bull. 323, 325 (1975).

[17] As further evidence, see Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, General Assembly Resolution 2625(XXV) (October 24, 1970). The Declaration proclaims that:

"Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter."

It further states:

"The principles of the Charter which are embodied in this Declaration constitute basic principles of international law * * *."

[18] *United Nations Action in the Field of Human Rights, supra,* at 17–18.

[19] *United Nations Action in the Field of Human Rights, supra,* at 19.

[20] *Nuclear Tests* (*Australia* v. *France*), Judgment of December 20, 1974, [1974] I.C.J. 253, 303 (Opinion of Judge Petren; Advisory Opinion on *Legal Consequences for States of the Continued Presence of South Africa in Namibia* (*South West Africa*) *Notwithstanding Security Council Resolution 276* (*1970*), [1971] I.C.J. 16.

[21] See Affidavit of Richard B. Lillich (A. 65–70); Affidavit of Thomas M. Franck (A. 63–64); Affidavit of Myres S. MacDougal (A. 71); Affidavit of Richard Anderson Falk (A. 61–62).

[22] Department of State, *Country Reports on Human Rights Practices for 1979,* published as Joint Committee Print, House Comm. on Foreign Affairs & Senate Comm. on Foreign Relations, 96th Cong., 2d Sess. (February 4, 1980) Introduction at 1.

[23] *Dreyfus* mistakenly relied on Mr. Justice White's dissent in *Sabbatino* for its conclusion. At one point in his opinion Mr. Justice White does distinguish several cases decided long before the turn of the century as cases where violations of international law were not present because the parties were nationals of the acting state. 376 U.S. at 442, n. 2. However, Mr. Justice White makes clear elsewhere in his opinion that this is not the law today. In discussing a case in which an individual brought suit to recover property expropriated by the Nazis, Mr. Justice White specifically explained that "racial and religious expropriations, while involving nationals of the foreign state and therefore customarily not cognizable under international law, had been condemned in multinational agreements and declarations as crimes against humanity." *Id.* at 457 n. 18. Accordingly, Mr. Justice white concluded, "the acts could * * * be measured in local courts against widely held principle rather than judged by the parochial views of the forum." *Ibid.* Mr. Justice White's opinion thus reinforces our view that international law prohibits a nation from violating the fundamental human rights of its citizens.

[24] Article 5 provides in relevant part, that—"No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment." OAS Treaty Series No. 36, *supra,* at 2.

[25] Article 7: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." General Assembly Resolution 2200 (XXI) A, *supra.*

[26] Article 3: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." Council of Europe, European Treaty Series No. 5 (1968), 213 U.N.T.S. 221.

[27] Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949, 6 U.S.T. 3316, T.I.A.S. No. 3364, Articles 3, 13, 129, 130.

[28] These treaty provisions, in conjunction with other evidence, are persuasive of the existence of an international norm that is binding as a matter of customary law on all nations, not merely those that are parties to the treaties. A, D'Amato, *The Concept of Custom in International Law* 103, 124-128 (1971).

The United States has signed both the American Convention on Human Rights and the International Covenant on Civil and Political Rights, and those instruments await the advice and consent of the Senate. See *Four Treaties Pertaining to Human Rights, supra.* Only European countries are entitled to be parties to the third treaty.

[29] For instance, Article 20 of the International Covenant on Civil and Political Rights prohibits "advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence * * *." *Four Treaties Pertaining to Human Rights, supra,* at 29. This provision conflicts with principles of free speech that are central to the political values of many democracies. A number of nations, including the United Kingdom, Sweden, Denmark, Norway, and Finland, expressed reservations to Article 20 upon ratifying the Covenant. *Multilateral Treaties in Respect of Which the Secretary General Performs Depository Functions,* UN Doc. ST/LEG/Ser. D/12 108, 112, 114 (1978). President Carter has proposed a similar reservation in connection with United States ratification. *Four Treaties Pertaining to Human Rights, supra,* at XI–XII.

[30] International Covenant on Economic, Social, and Cultural Rights, Articles 7, 9. *Four Treaties Pertaining to Human Rights, supra,* at 15–16.

[31] *Four Treaties Pertaining to Human Rights, supra,* at X.

[32] *Id.* at IX.

[33] International Covenant on Economic, Social, and Cultural Rights, Article 2(1), *Four Treaties Pertaining to Human Rights, supra,* at 14.

[34] See, *e.g.,* Affidavit of Richard Anderson Falk (A. 62); Affidavit of Thomas M. Franck (A. 64). In exchanges between United States embassies and all foreign states with which the United States maintains relations, it has been the Department of State's general experience that no government has asserted a right to torture its own nationals. Where reports of such torture elicit some credence, a state usually responds by denial or, less frequently, by asserting that the conduct was unauthorized or constituted rough treatment short of torture. The Department's *Country Reports on Human Rights, supra,* reports no assertion by any nation that torture is justified.

[35] General Assembly Resolution 217(III) A (December 10, 1948), Art. 5.

[36] General Assembly Resolution 3452 (XXX) (December 9, 1975). Article 2 of the Declaration provides:

"Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights."

Article 3 provides:

"No State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or dergrading treatment or punishment."

[37] General Assembly Resolution 3452 (XXX) (December 9, 1975), Annex, Art. 1 (1). The United Nations Human Rights Commission is now drafting a Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. That draft Convention would require each party to make torture criminally punishable within its jurisdiction. It contains a very similar definition of torture (E/CN.4/1367, Annex at 1):

"For the purpose of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

[38] 48 Revue Internationale de Droit Penal Nos. 3 and 4, at 208 (1977). Paraguay is one such nation.

[39] *Id.* at 208–209.

[40] *Id.* at 211.

[41] 22 U.S.C. 2304(a)(2), (d); 22 U.S.C. 2151.

[42] Affidavit of Richard Anderson Falk (A. 61–62); Affidavit of Thomas M. Franck (A. 63–64); Affidavit of Richard B. Lillich (A. 65–70); Affidavit of Myers S. MacDougal (A. 71).

[43] O'Boyle, *Torture and Emergency Powers Under the European Convention on Human Rights: Ireland* v. *The United Kingdom,* 71 Am.J. Int'l L. 674, 687–688 (1977).

[44] *In Matter of the Republic of the Philippines,* 46 BVerfGE 342, 362 (2 BvM 1/76, December 13, 1977) (translated from the German by Stefan A. Riesenfeld); see also *Borovsky* v. *Commissioner of Immigration,* Judgment of September 28, 1951 (S.Ct. Philippines), summarized in [1951] United Nations Yearbook on Human Rights 287–288; *Chirskoff* v. *Commissioner of Immigration,* Judgment of October 26, 1951 (S.Ct. Philippines), summarized in *id.* at 288–289; *Judgment of Court of First Instance of Courtrai* (Belgium) of June 10, 1954, summarized in [1954] United Nations Yearbook on Human Rights 21 (courts relied on Universal Declaration of Human Rights in ordering release from detention).

[45] There are few decisions which base judgments against torturers directly on customary international law. But this attests to the longstanding condemnation of torture under municipal law and the more recent

evolution of international human rights law. Courts, have, nonetheless, invoked customary international law along with municipal and treaty law in cases involving torture. *Ireland* v. *United Kingdom*, Judgment of January 18, 1978 (European Ct. of Human Rights) summarized in [1978] Y.B. Eur. Conv. on Human Rights 602 (Council of Europe) (UN Declaration of Torture relied on in interpreting the European Convention of Human Rights); *Auditeur Militaire* v. *Krumkamp*, Pasicrisie Belge, 1950.3.37 (February 8, 1950) (Belgian Counseil de guerre de Barabant), summarized in 46 Am.J. Int'l L. 162–163 (1952) (Article 5 of Universal Declaration of Human Rights, which prohibits torture and cruel treatment, cited as authority that under customary international law the defendant accused of war crimes was not free to use torture).

[46] Article 45 of the Paraguayan Constitution.

[47] A. 51–53, 80.

[48] Because the lower court dismissed for lack of jurisdiction, it did not decide whether the case should be dismissed on the ground of *forum non conveniens*. Although we agree with plaintiffs that this question should be addressed by the district court first, we note that when the parties and the conduct alleged in the complaint have as little contact with the United States as they have here, abstention is generally appropriate. *Romero* v. *International Terminal Operating Co.*, 358 U.S. 354 (1959); *Lauritzen* v. *Larsen*, 345 U.S. 571 (1953). Plaintiffs assert that abstention is inappropriate because a tort suit in Paraguay would be a sham. For reasons of comity among nations, however, such an assertion should not be accepted absent a very clear and persuasive showing. In determining whether abstention is appropriate, the court should also consider the fact that the defendant has been deported. Compare *United States* v. *Castillo*, 615 F.2d 878, 882 (9th Cir. 1980).

[49] Defendant erroneously suggests (Br. 4–16) that Section 1350 is unconstitutional in conferring jurisdiction on federal courts to entertain tort actions under the law of nations. Customary international law is federal law, to be enunciated authoritatively by the federal courts. *Sabbatino, supra*, 376 U.S. at 425; see *The Paquete Habana, supra*, 175 U.S. at 700. An action for tort under international law is therefore a case "arising under * * * the laws of the United States" within Article III of the Constitution. See Note, *Federal Common Law and Article III: A Jurisdictional Approach to Erie*, 74 Yale L.J. 325, 331–336 (1964).

CERTIFICATE OF SERVICE

I certify that on May 29, 1980, I served this memorandum on all counsel by mailing two copies, first-class mail, postage prepaid to:

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ADDENDUM

1. Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 (XXIV) C (July 31, 1957) and 2076 (LXII) (May 13, 1977).

2. Declaration of the Rights of the Child, General Assembly Resolution 1386 (XIV) (November 20, 1959).

3 Declaration on the Granting of Independence to Colonial Countries and Peoples, General Assembly Resolution 1514 (XV) (December 14, 1960).

4. United Nations Declaration on the Elimination of All Forms of Racial Discrimination, General Assembly Resolution 1904 (XVIII) (November 20, 1963).

5. Declaration on the Elimination of Discrimination Against Women, General Assembly Resolution 2263(XXII) (November 7, 1967).

6. Declaration on Territorial Asylum, General Assembly Resolution 2312(XXII) (December 14, 1967).

7. The Proclamation of Tehran, unanimously proclaimed by the International Conference on Human Rights at Tehran, May 13, 1968. (convened pursuant to General Assembly Resolutions 2081(XX) (December 20, 1965), 2217(XXI) C (December 19, 1966) and 2339 (XXII) (December 18, 1967), Final Act of the International Conference on Human Rights, Tehran, Iran, May 13, 1968, *Human Rights: A Compilation of International Instruments of the United Nations* (1973) ST/HR/1 (Pub. Sales No. E.73.XIV.2).

8. Principles of International Cooperation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes and Crimes against Humanity, General Assembly Resolution 3074(XXVIII) (December 3, 1973).

9. Declaration on the Protection of Women and Children in Emergency and Armed Conflict, General Assembly Resolution 3318 (XXIX) (December 14, 1974).

10. Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly Resolution 3452(XXX) (December 9, 1975).

NEW JERSEY CLEANS UP ITS POLLUTION ACT

● Mr. **BRADLEY**. Mr. President, the State of New Jersey has done an excellent job of cleaning up toxic waste. I wish to call to the attention of the Senate an article that was published in the New York Times on November 23, 1980, describing that effort.

The article follows:

NEW JERSEY CLEANS UP ITS POLLUTION ACT

(By Michael H. Brown)

On April 21, 1980, at 10:54 p.m., a scatter-fire volley of explosions in Elizabeth, N.J., interrupted the night on South Front Street, a grimy port area laden with intertwining petroleum distilleries and a carbonic atmosphere. The disruption was nothing unusual for the residents nearby. They were often roused from sleep by the rumblings of trucks hurriedly moving under the cover of dark, vehicles delivering factory wastes slopped into 55-gallon metal barrels and then piled, helter-skelter, in a warehouse yard inaptly known as the Chemical Control Corporation. Occasionally, the mixtures hissed with pressure and popped a lid, but this night was different. The sounds were following one another too closely—like firecrackers in a chain reaction.

Soon enough the cacophony evolved into an ear-splitting boom, and then a constant roar. Billowing into the sky, just across from Staten Island, was a tornado of smoke with a brilliant fireball at its center. As temperatures reached 3,000 degrees, many of Chemical Control's 58,000 drums rocketed skyward and burst, like mortar shells, into cataracts of fire. For 10 hours firemen struggled to control the chemical inferno, watching in amazement as the water from their hoses vanished before their eyes, turning almost instantly into steam. When finally the blaze died down, schools were ordered closed in sections of New Jersey and on Staten Island. No one was quite sure what was contained in an acidic mist descending upon a 15-square-mile area. What was known was that William Carracino, one of the initial owners of the firm, had taken in exotic refuse that ranged from outdated birth-control pills and hospital wastes (including extracted tumors and tapeworms) to carcinogenic solvents, toxic metals, radioactive substances and, it was suspected, dioxin, a synthetic of nearly unmatched toxicity. It was, in short, a veritable witches' brew.

New Jersey's new Hazard Management team—part of its Department of Environmental Protection—began almost immediately to clean away the remains: barrels strewn topsy-turvy across the smoldering ruins of leveled warehouses, metal scorched and fused, soil covered with caustic cinders and purple puddles. Team members, often working 80 to 100 hours a week, set up air-quality monitoring devices and began the delicate job of removing chemical drums and the shells of drums, and running contaminated water through activated carbon filters. Within four months, they had arranged for the carting away of 37,406 drums, 661,000 gallons of toxic liquids and more than 28 million pounds of contaminated ash and soil. Within four months, the deadly contamination had been removed.

As bad as the Elizabeth experience was, it could have been much worse. On Feb. 8, 1979, noticing that Chemical Control was out of hand—its owners had ignored earlier orders to reduce the inventory—the Department of Environmental Protection had gone to court to place the firm in receivership. Then, clad in head-to-foot protective gear, technicians tested the drums in the months that followed, segregated many of the most dangerous ones, and shipped 400,000 gallons of concentrated chemicals off to other sites regarded as safer. Also taken away were phosgene nerve gas and high-grade explosives: 500 pounds of TNT, nitroglycerin and picric acid. Had these chemicals and explosives still been present last spring, they would have touched off a much bigger conflagration, blown up natural-gas tank farms nearby and caused carcinogens to rain down upon an even wider territory, probably reaching the crowded streets of Manhattan, "There would have been a major disaster," says Assemblyman Raymond Lesniak. "If that material was still on the site, I think we'd be missing part of Elizabeth right now."

The quick cleanup last summer and the earlier efforts to defuse Chemical Control are in sharp contrast to the way most states now operate, and, for that matter, to the way New Jersey itself—until recently—dealt with such dangers. "Now we clean up first," says Paul Giardina, director of the Hazard Management team, "and ask questions later." The efforts are the work of a new state program to handle toxics in New Jersey, one that is now regarded as unmatched elsewhere in the nation—just as the contamination itself had been generally regarded as unmatched. New Jersey is the most concentrated center of chemical manufacture in America. Health officials there have for more than a decade compiled unusually high figures for cancer fatalities—and many of these officials believe there is a connection. "The appalling statistics presented," a State Senate Commission has commented "certainly give New Jersey the distinction as Cancer-State U.S.A." But a combination of innovative state legislative action technical crews that have begun cleaning up toxic dump sites and state and Federal law-enforcement strike forces—which are bringing in new indictments nearly every month against illegal polluters—has clearly begun to slow the spiral of chemical poisoning in New Jersey.

Pollution can take a health toll far exceeding that of a natural disaster, according to Commissioner Jerry Fitzgerald English of the New Jersey Environmental Protection Department. She believes the antipollution response must resemble the way government mobilizes for hurricanes or floods." "It requires the paramilitary approach" she says.

To combat "midnight dumpers"—those chemical haulers who illegally discharge on back roads or in sewers—the state has instituted a model interagency unit that spies on polluters with all manner of clandestine technology. Once given free rein to spread wastes in secluded places like the Hackensack Meadowlands, haulers are now watched by hidden videotape machines, aerial cameras, undercover detectives and even by a telescope identical to that used by the Israeli Army in scanning the Sinai. A state-Federal strike force recently staked out Arthur Kill—a channel separating New Jersey and Staten Island—where contraband tank trucks were pulling up and pumping what was later estimated to be 45 million gallons of cyanides and other toxic wastes through a hidden pipe and into the water. Peering through a telescope on Staten Island, investigators watched in astonishment as the pollutants turned the murky kill into a milky blue. They obtained a warrant, stormed into a nearby recycling firm, Iron Oxide, and allegedly caught one of the tankers in the act. Nine individuals, including two corporation presidents accused of dealing with Iron Oxide, were indicted in connection with the case.

The interest of law-enforcement agencies in New Jersey was piqued when they discovered that some portions of the toxic-waste disposal business were being invaded by hoodlums from the garbage trade, which had long been ripe territory for organized crime. At one point, says Edwin Stier, director of the New Jersey Division of Criminal Justice, he was called by Public Utilities Commission inspectors who had been intimidated when they sought to check landfill properties. So widespread was the practice of illicit chemical burials in the state, and so lucrative, that some dumpers went so far as to station helicopters on landfills so that bulldozer operators could make a quick escape if authorities appeared.

"We found drums of an explosive called gun cotton under the Pulaski Skyway and began asking how we could investigate," recounts Stier. "A black market had sprung up overnight. We saw trucks driving along the highways and opening up their valves, especially on rainy nights. At that point we felt we had to open a full-time unit. We have found some people in the toxic-waste industry with organized-crime ties, but it's hard to break it down by families. This is a business involving millions and millions—big potatoes."

The results have been impressive. Overall 18 corporations and 45 individuals have been indicted so far. If convicted, they can be assessed penalties raised a year ago from $3,000 to $25,000 for each day of violation, along with stiff jail sentences. Even before the strike force was formally in effect, the state had successfully prosecuted Chemical Control's William Carracino, who was sentenced to three years in prison for imaginative schemes that included the discharging of tankers into a ditch at the end of a Newark street; trash haulers would then come by and dump household garbage into the pools of chemical waste, sopping it up. Then they would pick up the garbage and drive the toxic waste, in that disguise, off to municipal dumps.

Whatever the influence of organized crime, it became apparent to officials that a close network of bootleggers had developed throughout New Jersey and New England, where contamination by waste chemicals has also become a major crisis. Carracino, for one, had been involved in a controversial dumping incident in Smithfield, R.I. When he left the presidency of Chemical Control, he was replaced by a group that included businessmen Eugene Conlon and John Albert. These two men were also the operators of a problem-plagued site known as A to Z Resource Recovery in New Brunswick, N.J., where 6,000 to 8,000 drums of inflammable solvents and toxic resins were leaking less then a mile from a flowing waterway. In addition, Albert, who has been indicted and is awaiting trial on gambling and drug-trafficking charges, has now also been indicted on charges of conspiring to defraud a chemical company—promising to dispose safely of materials that were instead allowed to pile up at an allegedly unprotected, illegal site.

The fashion in which disposal operations had been conducted in New Jersey was expressed best by Carracino himself when he told a reporter: "You can go out and rent a piece of property. Rent it. Don't buy it—10 acres, 20 acres—get a permit to handle drums. Bring them on the property, and just store them. As soon as the heat gets too great, just go bankrupt, get out of it."

Not all the wrongdoers are fly-by-nights. Nor are all of them by any means connected with organized crime. But some of the larger corporations in the state have created some of the most serious waste problems, keeping their overhead down by cheaply but unsafely disposing of their dregs. A strike-force investigation led to a recent conviction of RFE Industries Inc., a Hudson County metals processor charged with pumping alkalines into the Hudson. That was followed by a $35,000 fine levied against Marisol Inc. for dumping into a ditch leading to the Raritan River. State troopers and local police have been schooled in how to spot the violators, some of whom can now be tracked through a manifest system by which records are kept of wastes from the time they leave factory gates until they enter the ultimate places of disposal. "I would say the 'network' has been broken up, at least on indictments," comments Paul Giardina on the Hazard Management team. "There are still some crumbs out there, but at least they're scared."

Behind the front lines are a number of other state environmental programs whose tactics, while not as dramatic as stakeouts nor perhaps as romantic as fighting the underworld, will nonetheless be felt far into the future. Cancer registries have been signed into law to keep track of where the disease is hitting the hardest, and an "early-warning system" is being devised to gauge the most toxic-plagued vicinities. Technicians are busy testing the state's air and water for carcinogens. And 15,000 industrial concerns are currently being surveyed so that the state has a clear idea of who is handling what. Many of the programs are offshoots of Governor Byrne's Executive Order No. 40, designed, in 1976, to reduce public vulnerability to toxicity. Key among the strategies are means of recycling dangerous materials and replacing pesticides with natural biological controls—initiatives that, to be sure, are still in their infancy. "In the first two-thirds of the decade, the Department of Environmental Protection focused on the classic problems of controlling bacteria and sewage," explains a departmental brochure, part of an ambitious public-relations campaign launched by Commissioner Jerry English. "Today, New Jersey is far beyond that—studying the toxics, how they build up in the food chain, and how this relates to humans."

For air checks, there is now a system of 161 sensors dispersed throughout the state, and while many towns still lay claim to repugnant rubbery odors, progress against air polluters has been seen. By the beginning of 1980, the state had filed 11,000 cease-air-pollution orders and had referred to the state Attorney General 350 of the most serious cases. Settlements came to $2.8 million. "I will no longer sit back and say that companies are taking care of it," comments Commissioner English, who formerly served as Governor Byrne's legislative counsel and has been on the job now for a year. "Tourism is our No. 2 income generator (petrochemicals come first), and whether or not we make Atlantic City the Queen of Visits depends not only on gambling but whether the beaches are clean and the water clear."

But the concern goes beyond the boardwalk of Atlantic City. In 1976, residents of New Jersey were both dismayed and confused to learn that their chances of contracting cancer were the highest in America. That year, a retrospective analysis of medical records from 1950 to 1969 revealed that, in some areas, they were suffering 30 percent more deaths from a variety of malignancies and that, overall, the incidence was a startling 14 percent or more above the national average. Every 12 months, according to the tabulation, 14,000 people in the state were dying from what was ambiguously termed "environmental cancer." Another 24,000 or so were in the earlier stages of developing it.

Many state officials believe there must be some connection between the high environmental concentration of toxic chemicals and the cancer rates, though they are quick to point out that such a connection has not been proved. Most worrisome to them, however, have been the dump sites. In New Jersey there still remain about 300 landfills that are causing significant concern, and every year some 1.3 billion gallons of highly poisonous waste is generated. While toxic troubles in areas like the Love Canal in Niagara Falls, N.Y., have received more national attention, nowhere does the crisis remain more severe than in the section of the urban-industrial corridor between eastern New Jersey and Philadelphia. For not only is New Jersey a leading manufacturing center, but the state's size—the fifth smallest in the nation—packs its people close to its poisons.

For the past year, the environmental department has begun focusing on abandoned dumps that have caused many of the state's water supplies to smell like burned rubber and shoe polish.

On a humid day in late summer, Dave Henderson steered a Jeep over the hardened gravel pits and dunes of sand rolling off back roads 20 miles southeast of Trenton. The rough riding stopped just past long fields of ripe white corn, near a thicket of old oaks and new pine. There were surveyor stakes on the nearest ridge, beyond which Henderson, wearing a gas mask, pointed with a thick finger. "There's some there," he said, indicating a rusting barrel protruding through the sand. "And over there. All along here you'll find them."

This is Plumsted township, on the fringe of the beautiful Pine Barrens in the southeastern section of the state where one can no longer roam free of the fear of serious environmental poisoning. The danger is not rattlers but rubbery green matter oozing from the ground. Before this year, officials had no idea that the lush forest was in reality a bed of industrial poison. Not until Henderson, a former pro football player and now a member of the Hazard Management team, discovered a vast underground dump while investigating a routine report of strewn barrels on the other side of town. Instead of kicking the problem back to bureaucracies, where findings of this nature are standardly shuffled for years, the management team immediately sank monitoring wells, tested samples and, when the contamination was found to be severe, initiated emergency plans for cutting down the thick vegetation and scouring out carcinogens (benzene, xylene) buried 14 feet down. So far, 400,000 gallons of ground water have been cleansed at a cost approaching $2 million. "Plumsted," Henderson said, "could have been another Love Canal."

If, as Commissioner English suggests, the approach is tantamount to a new brand of warfare, Henderson's men are the Marines on the beachhead. Years ago the division, a branch of the Department of Environmental Protection, was known primarily as a spill-response team—two or three inspectors who issued reports on oil and gas escapes. But recently it has been transformed into a full cadre of 100 people (inspectors, chemists, biologists, and even a physician) who, besides rushing to the scene of the latest slick, stake out potentially dangerous chemical dumps and, at emergency pace, work out remedies. The initiative came from new state laws, enacted at the start of 1980, key among which was an amendment sponsored by Democratic Assemblyman Lesniak of Elizabeth, that expanded the use of an existing spill-compensation fund. Expenditures can now be made not only to clean up present spills but also to repair sites that could leak in the future. The amendment also raised the fund from $25 million to $50 million, much of it gathered by taxing oil and chemical companies, and allows the department to move in on hazardous situations if a suspected operator will not clear the mess, and to seek redress in the courts. The negligent party could be sued for three times the actual cost of the cleanup. Under the Lesniak amendment the Plumsted case has been referred to the New Jersey Attorney General to compel the Thiokol Corporation, which makes a range of products from rocket fuel to glue, to help in the remaining cleanup and to sue for damages that may end up in the millions.

While the Federal Government is still tallying the number of nationwide trouble spots, New Jersey is making lists of sites rendered harmless. Since last March, remedial action has been completed at 18 dumps, the leaking drums repacked, soil scraped clean, and contaminated materials vacuumed from abandoned factory cesspools and shipped to approved waste disposers. Another 23 are in the process of neutralization.

"The emphasis is on public health," says Paul Giardina, Hazard Management director. "If we had to wait three years to go through the courts, half of these sites would be a disaster." Giardina's status reports to the commissioner are vivid: 600 drums, 5,000 gallons from an old factory in Middlesex, 7,000 gallons of formaldehyde hurriedly extracted from an abandoned Newark building where children were playing among the carcinogens. The chemicals are hauled to approved landfills where the materials are stored in ways that are considered safer—at least for the immediate future.

Coverage of chemical contamination has gradually come to dominate local Jersey news, with new problems arising and being reported on a weekly basis. Much of the waste finds its way onto road shoulders, into storm sewers, and eventually inside drinking wells. On one occasion, the water supply for 42,000 people had to be closed off for two weeks when waste oil laden with polychlorinated biphenyls (PCB's) was dumped onto the Runyon Watershed. Four years ago, a ground-water survey aimed at determining the origins of the high cancer rates disclosed that 163 wells out of 163 tested contained trace levels of chemicals under suspicion: a variety of toxic metals, chlorinated pesticides and solvents. Three of those wells were so bad that they were immediately condemned. Another test of 250 wells found 20 Federal violations of water-quality standards. To keep up with the findings, Giardina, who has a background in environmental medicine, conducts biweekly staff meetings at his division's headquarters in Yardville—a building equipped with "hot lines." "The sessions are a cross between a technical meeting and a football locker room session—almost charismatic," he says. "The attitude is, 'Why wait?' Without a program like this, I don't know how other states can handle their problems. When Jerry English hired me, she told me she wanted the sites cleaned up. I said there were a lot of them we could hit, and she said, 'Go do it.' "

For all of its significant new strides, New Jersey remains on the environmental critical list. It will for years to come. There will have to be more money to clean the acetone from the air hovering along the New Jersey Turnpike, more fines levied against factory pipelines that belch a brownish dust, and more grants to study the effects of carcinogens like benzene which have been tracked, under the state's new monitoring program, across the entire landscape. Recent analyses have shown the nearly ubiquitous presence of toxic metals in the open atmosphere, and toxic pesticides far exceed danger levels in rivers and streams once thought to be pristine.

The most acute current problem is in Jackson Township, a community of middle-income families who had sought escape from the polluted cities. In 1971, when they learned of a town plan to operate a landfill dump nearby, 319 people signed a petition against it, according to one resident, James McCarthy. The landfill was on a site that had been mined by a pigment manufacturer and consisted of sand and porous stone through which rain-washed trash could readily seep. Despite the townspeople's opposition, the dump was operated for years until the state forced it to close down. "We told them we were opposed because we knew the water supply emanated from the landfill. We feared pollution, odors and rodents, and we got all three." Up and down the neighborhood, there were many complaints of skin rashes, kidney disorders miscarriages and dizziness. McCathy's own 9-year-old daughter suffered the most pain. "The child became paralyzed from the chest down," he said, "and a tumor was found floating in the spinal column; a tumor was located in the brain; evidence of cancer in the lungs and kidneys. The doctors said they had never seen such a violent case of cancer."

The ecological abuses persist in many areas. In a vacant Newark lot, an arson investigator searching through the ruins of a fire watched perplexedly as his shoes began to disintegrate—the result, it turned out, of hidden chemicals that had started the fire in the first place. In swampland near Giants Stadium, extraordinarily high levels of mercury—at least 300 tons—have been found. At the headwaters of Berry's Creek there, the concentrations are comparable to those one would gauge in a mercury mine, on the same order of what was found in the muck of Japan's Minamata bay, where, from 1951 to 1968, mercury-laden fish led to death for at least 68 citizens; young were born with their limbs grotesquely contorted and poisoned cats screeched through the village and ran into the sea to drown themselves. While New Jersey is now readying a protective cover for the swamp, it is ardently hoping that the dregs don't react with bacteria and form methyl mercury, a derivative that more readily makes its way through the food chain. One of the reasons this has not happened is that the creek has been too polluted from other sources to sustain the needed bacteria.

Nor has the state fully come to terms with the origins of its cancer clusters. Though at a pace more in line with the rest of the country, the cancer rate has continued to climb since the 1950–69 survey. During 1976, Vivian Cleffi, a Rutherford housewife, discovered an epidemic of leukemia in her community while her son, Jimmy, 8, was being treated for the disease—unsuccessfully, as it turned out. "At the hospital in New York, I kept running into leukemia cases from New Jersey—one, two, three—I guess seven from our area, or close by, in Carlstadt, Kearny, Wallington," says Mrs. Cleffi, whose story may soon be told in a Jane Fonda movie. "Then our baby sitter got leukemia. That seemed odd to me." As it did to the investigators she called in. The largest cluster, they found, was at Jimmy's school, Pierrepont Elementary, where from 1973 to 1978, five children had been stricken. "The rates were fantastically high," says Dr. Sidney Gray, acting director of the state's new Office of Cancer and Toxic Substances Research. "It is possible that it happened by chance, but that's one in a million or one in a hundred million. We must proceed as if something special hit those kids." Despite months of tests and surveys, however, no single culprit has yet been conclusively identified, and, in other outbreaks, the state has been accused of playing down the illness accounts somewhat and of acting slowly in warning citizens about dangerous workplaces or tainted water.

There are other criticisms as well. Complaints have been raised about the management of certain criminal cases—some of the companies say they have been treated too harshly, and some of the nearby residents say the companies haven't been dealt with harshly or quickly enough. Accordingly, United States Senate investigators are reviewing the state's environmental program, which is one of the first of its type to receive Federal funds.

New Jersey does still have a dire shortage of sophisticated treatment and neutralization plants. Many chemists believe that the severely toxic matter produced in large quantities now in the manufacture of plastics, pesticides, insecticides and other products in the United States will have to be properly treated and rendered innocuous; that these chemicals simply cannot be stored indefinitely in the ground, no matter how "safe" the storage area may seem for the short term, because they will eventually seep out and endanger populations.

Another criticism is that, although New Jersey has been more active than other states or even the Federal Government in cleaning up its dumps, much of its waste—15,000 loads in 1978 alone—is now privately exported to New York, Pennsylvania, Ohio, Maryland and even Alabama, state that are not nearly as strict. So, to some extent, the center of a national problem is simply being split up and moved.

Still, despite the drawbacks, New Jersey seems to be heading in the right direction. "The approach is one crying to be used across the country," says Hugh Kaufman of the United States Environmental Protection Agency. Kaufman, whose expertise is in toxic waste, frequently complains that such initiatives have too low a priority on both national and local levels. "Jersey has demonstrated to the Federal Government that we can clean up hazardous waste sites, get money from companies, and that we can do it rapidly. What it takes is the will." And that, in Washington, has been sorely missing.

Today, at Chemical Control, William Carracino's legacy is but a vacant lot. The last of the cleanup trucks have rumbled across an old green drawbridge leading from the entrance. Some of those involved in fighting the fire and the subsequent removal of drums suffer recurring dizziness and diarrhea, but that has not reduced Hazard Management's efficiency nor lowered the morale. Phones jangle constantly. The optimism is thicker than the Newark air. "It's a sense of satisfaction, of seeing things done," says one unit member, John Vernam. "Fourteen years ago, the knowledge of the problem was not there. I've seen that turned around—to the point where, soon, I believe, they won't be calling New Jersey 'Cancer Alley' anymore." ●

A MATTER OF BAD JUDGMENT

● Mr. JEPSEN. Mr. President, the fragile nature of peace in the Middle East is well known and appreciated by my colleagues. Only 2 weeks ago, the world watched nervously as Jordan and Syria edged to the brink of conflict.

The United States has long sought friendly relations with Jordan. I personally believe the Jordan remains an important key to U.S. policy in the Middle East. It is no secret that Jordan recently asked for stepped-up arms supplies in the face of the Syrian threat.

Yet, at the same time the world is trying to ease tensions in this region, Jordan has resumed a mindless diplomatic assault on Israel at the United Nations. I call the attention of my colleagues to a recent editorial in the New York Times which, I suspect, reflects the attitude of many Americans toward the level of debate found in the U.N. What we do not need now is inflammatory rhetoric. Is it too much to ask of the U.N. that its members act in a civil, dare I say diplomatic, fashion?

Mr. President, I submit the editorial to which I referred for the RECORD.

The editorial follows:

THE SOCIALISM OF FOOLS

Stereotypes are like hand grenades; they often explode on you before they're thrown. Arabs rightly protest terms like "Abscam" and the stereotyping that paints them as rapacious sheiks turning OPEC spigots and banking in Zurich.

Well, maybe that reminder will bring home our disgust with the diplomats who have been resorting to even uglier forms of another anti-Semitism at the U.N. "It is a well-known fact that the Zionists are the richest people in the world and control much of its destiny," said Jordan's ambassador the other day, claiming as evidence that Lord Rothschild secretly controls the price of gold and South Africa's Harry Oppenheimer manipulates diamonds and uranium. (Need one "disprove" this claptrap by noting that Mr. Oppenheimer, recorded in Jewish records at birth, is a member of the Anglican church?)

That such hateful lies should be spoken anywhere is bad enough. That diplomats could speak them in the General Assembly without immediate censure is appalling. And Jordan's anti-Semitic bilge was merely the worst of several recent outbursts there. Having promoted the reckless theory that "Zionism" is the equal of "racism," the members of the U.N. seem ready to tolerate the most explicit racism, provided only that it comes in an anti-Israel context.

Truth may be too much to expect in a world organization that prides itself on hearing every point of view and letting the most extreme kettles vent their steam. But is this the level of argument that Jordanian, or Palestinian, or anti-Israeli policies now generate? The Israelis, even as they finally rose in justified outrage, must have had cause for quiet satisfaction at the paucity of reason among their adversaries.

August Bebel, a German Marxist, observed long ago that anti-Semitism can be the "socialism of fools." He said it lets racist demagogues masquerade as leftists, ensnaring peoples while pretending to oppose power and privilege. That some monarchies can be foolish is hardly news. But when, even falsely, they summon the mobs against power and wealth they only volunteer to become the first victims of their venom.●

LABOR-HEW APPROPRIATIONS—CLARIFICATION OF TYPOGRAPHICAL ERROR

● Mr. BUMPERS. Mr. President, I want to clear up what appears to be a typographical error in H.R. 7998, the House passed Labor-HEW appropriations bill. On page 44, lines 12 and 13 of H.R. 7998, $8,509,000 is appropriated for activities under section 100(b)(3) of the Rehabilitation Act. Instead of specifying section 100(b)(3), however, section 110(b)(3) should have been specified. Section 110(b)(3) authorizes money for those States which receive less than the authorized 80 percent-20 percent match for the State money they are required to spend under the maintenance of effort provision of the Rehabilitation Act. I just wanted to make the record clear that we are aware that a typographical error was inadvertently made and that on page 44 of H.R. 7998, lines 12 and 13, section 110(b)(3) was intended to have been specified. Mr. Chairman, is this your understanding as well?

Mr. MAGNUSON. Yes, that is my understanding, and this should clear up any confusion that might exist.●

PEACETIME REGISTRATION MAKES A DIFFERENCE

● Mr. NUNN. Mr. President, the mobilization capability of this Nation has been significantly improved by peacetime registration of young men under the Military Selective Service Act.

Two years ago, a mobilization exercise entitled "Nifty Nugget" showed that manpower problems in the event of a mobilization were so severe that the military services were not capable of meeting our national emergency requirements in terms of manpower. Moreover, this exercise showed that the Selective Service System could not meet the Department of Defense stated requirements for the delivery of inductees in mobilization.

Two so-called postmobilization registration plans were developed. Under these plans, there would be no peacetime registration. Instead, these plans hoped to develop improved procedures that would enable registration to take place after the declaration of a mobilization and still meet Department of Defense requirements for inductees.

After these plans were developed, testimony was substantial that the plan was so weak that at best it could be characterized as wishful thinking and at worst, a hoax. Another plan was contained in a draft working paper by Selective Service in January 1979 but upon review by the Director of Selective Service and a Presidential study group, it too clearly would not work. That plan was labeled as "an impossibilty" by Army Chief of Staff General Meyer.

Now, a new mobilization exercise called Proud Spirit has been conducted. The results of that exercise will be reviewed over the next several months, but it is already clear that the Selective Service System succeeded in meeting mobilization requirements. In this exercise, the Selective Service conducted a lottery, developed induction legislation, produced induction orders and actually sent these orders out to military reservists acting as individual registrants, and exchanged information with the military enlistment Processing Command. Under the exercise, 55 State headquarters and 435 area offices were established. The results of the Proud Spirit exercise are simply stated in a report by the Selective Service System:

> Selective Service demonstrated that Selective Service can provide DOD the required manpower under the most demanding DOD requirements . . . The ability to meet assigned delivery schedules was made possible by reinstituting registration.

Mr. President, military manpower problems are acute. Peacetime registration is not a cure-all for all the serious mobilization deficiencies that we face. However, peacetime registration now assures that individuals can be assigned to combat units 3 months earlier than could have been done just a short time ago. This significant improvement in our mobilization capability is a major contribution to our national security, which I think all Senators should be aware of. It is also a result of dedicated management by Selective Service Director Bernard Rostker and other Selective Service officials.

Mr. President, I ask that the report by Selective Service on the results of the 1980 registration program be inserted in the RECORD.

The report follows:

SELECTIVE SERVICE PROGRAM OVERVIEW AND RESULTS OF THE 1980 REGISTRATION

> Registration is no more than readiness made obligatory by the sad and shameful remembrance of what lack of preparedness led to in the past.—Los Angeles Times, December 2, 1980.

INTRODUCTION

On the evening of Wednesday, the 23rd of January 1980, President Jimmy Carter stepped before the Congress and, as part of his assessment of the State of the Union, called for a resumption of draft registration and a revitalization of the Selective Service System. Six months later, on July 21, 1980, Selective Service, with the help of several Government agencies, started the first mass Selective Service registration since World War II. This report describes the events leading up to the registration and the results of the 1980 Registration, both in terms of the registration process and improved capability.

BACKGROUND

The Selective Service and the All-Volunteer Force

In 1970, the President's Commission on an All-Volunteer Armed Force (AVF) reported a unanimous belief "that the Nation's interest will be (best) served by an all-volunteer force, supported by an effective standby draft." The Commission also recommended that Selective Service maintain:

1. A register of all males who might be conscripted when essential for national security.
2. A system for selection of inductees.
3. Specific procedures for the notification, examination and induction of those to be conscripted.
4. An organization to maintain the register and administer the procedures for induction.
5. That a standby draft system can be invoked only by resolution of Congress at the request of the President.

Anticipating the advent of the AVF, the Congress, in 1971, amended the Military Selective Service Act (MSSA) to provide that:

> The Selective Service System . . . shall . . . be maintained as an active standby organization with (1) a complete registration and classification structure capable of immediate operations in the event of a national emergency and (2) personnel adequate to reinstate immediately the full operation of the system . . . in the event of a national emergency.

In FY 1973, the AVF became a reality. The last draft calls were issued in December 1972; statutory authority to induct expired in June 1973. On April 1, 1975 President Ford suspended the requirement that those subject to the MSSA register with the Selective Service System. Classification actions were terminated and local boards, State Headquarters and appeal boards were closed in FY 1976.

The standby Selective Service System

Under the AVF concept, the Selective Service is to provide a "standby" system to support a military mobilization. The system must be ready, without notice, to provide the untrained manpower that will be required to staff our Armed Services during a military emergency, while protecting individual rights through a fully developed system of administrative due process. The specific requirements—numbers of people and delivery schedule—are established by the Secretary of Defense.

In the mid 1970's, the Secretary of Defense established an induction requirement which Selective Service believed could be met without difficulty. In October 1977, however, Defense increased the requirement. The requirement was again increased in November 1980. Table 1 contrasts in 1975, 1977 and 1980 induction schedules.

TABLE 1.—DOD INDUCTION SCHEDULE

	1st inductions	100,000 inductions	Totai inducitons in 6 mo
1975	M+110	M+150	
1977	M+30	M+60	650,000
1980	M+13	M+29	

M—Mobilization Day.

Between 1977 and 1979 the ability of the Selective Service to meet the revised schedule was the subject of a number of critical reviews, including a report by the Congressional Budget Office, the General Accounting Office and the President's Reorganization Project. Each study concluded, as did the then Acting Director of Selective Service in a report to the Congress (March 1979), that, Selective Service does "not presently have the capability to meet the Department of Defense wartime manpower requirements from our 'deep standby' status."

In the summer of 1979 President Carter nominated a new Director of Selective Service with the task of building a new System which could meet the mobilization requirements of the Department of Defense, in support of the All-Volunteer Force. This effort had just begun when in late December 1979 the Soviet Union invaded Afghanistan.

The President's decision

The Administration considered the invasion of Afghanistan a serious threat to the peace in an area of the world where we have vital interests. As a result, in his 1980 State of the Union Address President Carter, while reiterating his support of the AVF, said:

"The men and women of America's armed forces are on duty tonight in many parts of the world. I am proud of the job they are doing and I know you share that pride. I believe that our volunteer forces are adequate for current defense needs and I hope that it will not become necessary to impose a draft. However, we must be prepared for that possibility. For this reason, I have determined that the Selective Service System must now be revitalized. I will send legislation and budget proposals to the Congress next month so that we can begin registration and then meet future mobilization needs rapidly if they arise."

While the call for peacetime registration was a shift in Administration policy, the Administration felt that the change was justified since registration would "increase our preparedness, assure our ability to respond and demonstrate our resolve."[1] The President's decision substituted an operating system for a not fully developed and untested contingency plan and in so doing assured Selective Service's ability to respond in an emergency. An independent study by the General Accounting Office confirmed the Administration's contention and stated that, "The President's recent decision to resume peacetime registration will enhance (Selective Service) operations and improve national defense capabilities . . . With an ongoing program of registration, system weaknesses can be identified and corrected before mobilization occurs rather than after mobilization."[2]

Congressional action

On February 11, 1980 the President submitted a report to the Congress conveying his recommendations for Selective Service reform. The report highlighted a number of key elements of the registration, induction and claims processing system which had to be rebuilt if Selective Service was to meet its mission. Specifically, the report called for:

A registration process that is reliable and efficient.

A nationwide public information campaign to publicize the registration.

An automated data processing system that can handle the pre- and post-mobilization data management requirements.

A system for the promulgation and distribution of orders for induction.

A claims process that can quickly insure all registrants' rights to due process are protected.

A field structure that can be quickly reconstituted and provide timely support for the claims process.

A new training and testing program for Selective Service Reserve Officers.

A revitalization of the national headquarters in order to manage the system.

On April 22, 1980, the United States House of Representatives passed House Joint Resolution 521 that transferred $13,295,000 from the Department of Defense to Selective Service to enable the revitalization and registration to go forward. On June 12, 1980, the United States Senate passed a slightly different version of the resolution. On June 25, 1980 the House of Representatives agreed to the Senate version and on June 27, 1980 the President signed House Joint Resolution 521.

REGISTRATION

Who must register

One of the first decisions which had to be made was who would be asked to register. When the draft was suspended in 1973, Selective Service was operating under a series of legal and regulatory reforms designed to correct the inequities of the draft during the Vietnam period. Specifically, the lottery was instituted in 1969, occupational deferments were eliminated in 1970, and student deferments were eliminated in 1971. Regulatory reforms cancelled the "oldest first" policy and replaced it with the policy of prime year of vulnerability/youngest first, thus reducing the years of uncertainty which characterized earlier drafts. It was the President's intent to carry out these reforms, and thus, to register only sufficient year of birth groups to insure that Selective Service can meet the initial emergency needs of our Armed Services.

Presidential Proclamation 4771 of July 2, 1980, sets forth the requirement for persons to register. Basically, young men born in 1960 and 1961 were to register between July 21 and Aug. 2, 1980. Those born in 1962 register during the week of January 5, 1981. Starting in 1981 continuous registration of 18 year olds will be initiated, i.e., young men will register on or about the day they turn eighteen, as was the practice in the past. If it ever becomes necessary to draft anyone, Selective Service would operate under the concept of random selection based on year and date of birth, i.e., the prime age group are those who reach age 20 in the year of the draft. In the unlikely event that it becomes necessary to increase the size of the pool, Selective Service is prepared to undertake supplemental registrations of those born in or before 1959, who are subject to the MSSA. The size of the pool will, however, increase over time as 18 year olds register each year, and Selective Service keeps current the records of those previously registered until each reaches his 26th birthday.

Planning for the 1980 national registration

The President's call to resume peacetime registration did not change the basic mission of the System as a backup to the AVF during a national emergency. Thus, we did not want to build a large and costly bureaucratic structure with almost 2,000 local offices simply to register. Selective Service considered a number of plans to meet the registration requirements. Studies by the Congressional Budget Office, the General Accounting Office, the President's Reorganization Project, and our own analysis pointed up the need for a fast and efficient registration plan. The unique attributes of the United States Postal Service (USPS) made it an ideal choice to accomplish the registration. The USPS has an existing command, communication and transportation network which includes more than 34,500 local post offices. Post offices are located in many convenient locations throughout the United States. Most registrants are well aware of the locations and a short trip to the post office to register is of minimal inconvenience.

The 1980 Registration was an outstanding example of cooperation among Government agencies. Selective Service, the Postal Service and the Government Printing Office jointly developed plans for printing, packing, and distributing registration forms, information brochures, posters and counter cards, and other materials to be used during the registration. In all, more than 18 different items were distributed to 34,500 post offices and 252 embassies and consulates in quantities needed to accommodate the registrants expected at each registration site. In addition, bulk quantities of each item were available as backup supplies at USPS Management Sectional Centers. Selective Service also provided other items for use in registration, including posters and brochures in Spanish, posters for those few post offices not participating in registration, items for use by the State Department overseas, and labels for use in shipping and returning completed forms to the Selective Service.

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[1] "When the issue of peacetime registration was raised last September during the debate on the Defense Authorization Act in the House of Representatives, the Secretary of Defense and the Director of OMB said that registration was not necessary (and I highlight) at that time. There was no crisis that had the potential for an imminent threat to the vital interests of the United States. The situation is different now, and so is our position on the issue of peacetime registration. The Administration's position before this crisis in Southwestern Asia was that the President would not hesitate to use his present authority to require registration at any time he sees it as a necessary step to preserving or enhancing our national security interests. He is convinced that time has come." John P. White, Military Draft Registration, Special Hearing before the Senate Appropriations Committee (Washington: Government Printing Office, 1980), p. 18.

[2] Letter from the Comptroller General to the Director of Selective Service (July 22, 1980) accompanying Actions to Improve Parts of the Military Manpower Mobilization System are Underway. (Washington: General Accounting Office, 1980).

The actual registration process as worked out by Selective Service and the USPS is simple. A registrant fills out a form in the post office. He signs it in front of a postal clerk who acknowledges the registrant's identification and date-stamps the completed registration form. The cards are batched and sent by registered mail to Internal Revenue Service or Social Security Administration data entry facilities. The postal clerks are not required to provide any information to the registrant other than that necessary to complete the registration form. Brochures, prepared by Selective Service, are given to each registrant at the time he registers, and advise him of his rights, provide answers to the most common questions and inform him to contact Selective Service if he has additional questions. The postal clerks were instructed to refer questions from registrants directly to Selective Service.

The Selective Service and USPS planned to register one year of birth group per week so as not to interrupt or place an unusual burden on postal operations, nor to unduly inconvenience postal patrons. This meant that an average of approximately 108 young men would register at each post office between July 21 and August 2. If a majority of the registrants followed publicized schedules and registered on specific days according to their month of birth, the average daily transactions would increase by 9 at each post office during the registration period. This was approximately a 4.6% increase in the number of daily window customers. While certain post offices were expected to experience a higher number of registrants, for example, post offices at popular resorts and college towns, Selective Service worked closely with the USPS to identify potential trouble spots and provided them additional registration materials. Additionally, in a few locations local postmasters were directed to open a dedicated window or staff alternate registration sites, i.e., a Fire or Police Station.

Data management

The face-to-face registration is only half of the registration-to-induction process. The registration, by itself, is of no value until the data is put into a form which allows Selective Service to establish a lawful order of induction. In fact, this process of "managing" the registration data is the most costly and time consuming part of the process. A failure to appreciate the critical need to establish registration files from completed registration forms has led to the erroneous analogy between current Department of Defense mobilization schedules and World War I and II experience. During the First and Second World Wars it was approximately 4 months after registration when the 100,000th person was inducted. Current plans require Selective Service be prepared to deliver the 100,000th inductee in 29 days.

At the beginning of last year, Selective Service owned two obsolete computers which were not capable of supporting a mass registration, or the maintenance of registration files, or an emergency conscription program. While Selective Service developed the long-term (2 year) plan to support an automated registration-to-induction process including claims processing, it was faced with the immediate problem of acquiring the computer hardware and of designing the software necessary to process approximately 4 million registrant records in July of 1980, 2 million in January 1981, and 1.2 million from January 1981 through July 1981. Specifically, data entry and data processing equipment were needed, as well as the programs required to create, correct, and maintain up-to-date error-free registrant files indexed by birthdate. Because the short-term plan had to be implemented long before the permanent computer facility or programs were completed, the following organizations provided temporary ADP support:

The U.S. Internal Revenue Service, for data entry/key punch in July 1980.

The U.S. Social Security Administration for data entry in January 1981.

The U.S. Department of the Interior, for computer capacity.

A private contractor, Science Management Corporation, provided error correction and data management services.

Government Printing Office for printing acknowledgement letters.

In addition, programs and procedures were developed which enabled Selective Service to exert positive controls over registration forms from the time they left the Postal Service until they were microfilmed and safely stored in the Federal Records Centers e.g., completed registration forms were sent from post offices to key punch sites by official and registered mail. At the key punch site, registration forms were batched and numbered to make them identifiable and retrievable. Audit procedures were established to insure complete accountability.

Programs were also written to audit the interface as key punched data were entered onto registration files. Data edit routines and special error correction procedures such as letters to registrants who povide incomplete or inconsistent information, procedures to generate "acknowledgement letters" to all registrants were also developed. In addition, while the automated system, especially the claims processing, is not completed, the induction programs were updated to insure that Selective Service could effectively use the new registration files.

Registration: July 21—August 3, 1980

With the passage of HJR 571 on June 27th and the issuance of Presidential Proclamation 4771 on July 2, 1980, Selective Service undertook an intensive effort to put its registration plans into effect. During the four weeks before the start of registration, Selective Service distributed millions of registration forms, brochures, change of address cards, thousands of posters and other registration material to every post office in the United States. Public service announcements were duplicated and distributed. Postal clerks and their supervisors were trained and final procedures were tested at the IRS data entry sites, the DOI computer center and the contract data management center. It is not an exaggeration to say that even after months of planning with the final registration date known for over a month, Selective Service used every bit of the time available to it to prepare for the registration.

In order to insure that the registration would go smoothly and as planned, National Headquarters monitored daily every aspect of the preparation as well as the registration itself. It was decided well before the registration that we would not tabulate the number of registrations per day by post office, state or region. To do so would be meaningless. We could not project the distribution of potential registrants by post office. Young people are especially mobile in the summer. They could register where they chose—near home, at work, or on vacation. Thus no goal or quota could apply to any individual post office. While individual post offices did forward registration reports (Form 6) to Selective Service, the built-in delay in reporting and the burden of tabulating over 400,000 separate reports during the actual registration would have slowed the process, loosened controls and provided numbers which were meaningless. As a result a quantitative assessment was not planned until the actual registrations and Form 6 reports were keypunched.

Immediately before and during the registration, our concern was how well the system was working. To this end we used Selective Service Headquarters personnel to contact by telephone all 285 MSC Postal Coordinators, nearly 300 local post offices and 40 embassies during the two weeks before registration to determine that all had either received their registration materials or taken the appropriate steps to acquire the necessary items. In some cases clarifying action was taken by USPS and the Department of State. By July 21st all indications were that the system was ready.

During the registration Selective Service monitored progress by on-site visits to 125 post offices and consulates, daily phone calls to MSC coordinators in 13 select cities and reports from Federal Regional Councils and Executive Boards in 25 major cities. By all indications the system worked smoothly.

How many registered?

Subsequent to the two week registration period, public attention centered on two questions: How many were supposed to register and, how many registrations did Selective Service receive?

Subject to final publication of the 1980 Census, Selective Service estimated the registrant population at 3.88 million, as shown in Table 2.

TABLE 2.—ESTIMATED 1980 REGISTRATION POPULATION

Population of males born in 1960 or 1961 (According to "Estimates of the Population of the United States," Bureau of the Census, Jan. 1980)	4,310,000
Institutionalized (Bureau of the Census, April 1978: ratios of institutionalized population by age)	(60,000)
Armed Forces active duty	(370,000)
Total estimated registrant population	3,880,000

As of November 28, 1980, Selective Service had received 3,677,887 registrations, with more arriving each week. We estimate that approximately 3,375,000 registered during the official two week period, with the balance as late registrations. The Presidential Proclamation, Section 1–109 provides that registrants can register after the specified two week period if prevented from on-time registration because of "some condition beyond their control."

Comparison: 1973–1980

The current compliance rate is substantially higher than that for 1973, the only year we have comparable data, as seen in Table 3.

TABLE 3.—COMPARATIVE REGISTRATION RESULTS, 1973–80

[In percent]

	1973	1980
On-time registrations	[1] 77	[2] 87
1st mo late registrations	6	7
Additional late registrations through 4th mo	7	1
Interim total	90	95
Final total	99.5	Pending

[1] Within 30 days of 18th birthday.
[2] During 2-week registration period.

Between August 4 and December 4, approximately 330,800 late registration forms were delivered to Selective Service, adding nearly 8 percent to the number of on-time registrations. If this rate were sustained through the end of 1980, 96.5 percent of the estimated eligible population would have been registered by January, 1981. This is only about 3 percent lower than the historical rate of 99.5 percent registrations in a single age group, but it covers far less time than the historical records, which included late registrations submitted over a period of two years.

Constructing the registration file

As noted, there is a distinction between receiving a registration and processing the information into a Registration File which can be used to initiate a lawful induction. The "raw" registrations were scanned by computer to identify missing or inconsistent information. We initially set aside registrations with incomplete addresses, those for people not born in 1960 or 1961 and the registration of females. As of November 28th over 20 thousand phone calls were made to verify and correct incomplete addresses. We sent out 96 thousand letters asking for clarification of either birth date or sex and as a result are prepared to void 22 thousand registrations with 42 thousand record errors still outstanding. We mailed about 3.65 million confirmation letters with all but 59 thousand delivered to registrants. These letters also act as change of address forms and are part of our program to keep registrations current. As a result of the Registration, Selective Service now has a file which can be used to start a rapid and orderly induction process.

The impact of registration: Proud Spirit 1980

In 1978 the National Mobilization Exercise "Nifty Nugget" reported that the Selective Service System was not able to deliver manpower to the Department of Defense on a timely basis. In November 1980, Selective Service, as part of the 1980 mobilization exercise "Proud Spirit" demonstrated its ability to mobilize the Nation's manpower. The ability to meet assigned delivery schedules was made possible by reinstituting registration. The Organization of the Joint Chiefs of Staff, at their First Impressions Conference for Proud Spirit reported that:

> Selective Service objectives in Rex 80 Bravo/Proud Spirit 80 were to exercise and evaluate Selective Service induction procedures, filed reconstitution and mobilization interfaces with DOD, FEMA, and other civil agencies.
>
> Selective Service succesfully exercised its emergency induction procedures by performing, in real time, required induction functions. This includes conducting a lottery, developing induction legislation, running the computerized induction programs, producing induction orders, transmitting induction orders via Western Union Mailgram to the home addresses of 700 Selective Service reservists who acted as registrants, transmitting computerized induction data to and from MEPCOM, and testing the new Selective Service induction order.
>
> Selective Service field reconstitution was also successfully exercised. . . . With the present registrant data base on hand, the Selective Service computer can start issuing induction orders from a cold start, but the standby field structure must be reconstituted to handle claims. The reconstitution portion of the exercise involved physically reestablishing the 55 Selective Service State Headquarters, 434 Area Officers, and performing AFEES liaison functions. Selective Service reservists performed this activity during their annual two week training period.
>
> Exercise results indicate Selective Service successfully achieved its exercise objectives. Most important, Selective Service demon- DOD the required manpower under the most strated that Selective Service can provide demanding DOD requirements.●

SAFETY FROM SUBVERSION

● Mr. HELMS. Mr. President, last week the distinguished Senior Senator from South Carolina, Mr. THURMOND—who is the incoming Chairman of the Judiciary Committee—announced that he was designating Senator-elect Jeremiah Denton to head up a new Judiciary Subcommittee on Security and Terrorism.

The plan for this new subcommittee is an excellent one. I well remember when I was administrative assistant to the late Senator Willis Smith, of North Carolina, that he regarded his work on the old Internal Security Subcommittee as one of the most important parts of his work. My work with Senator Smith gave me a deep insight into the problems of subversion.

Today, the problem continues to exist, and with the advent of international terrorism—coordinated and financed from secret training centers—the problem is actually greater.

I congratulate both Mr. THURMOND and Mr. Denton on this new proposal, which is getting favorable mention in the editorial columns of the Nation's press. The Richmond, Va., Times-Dispatch, commented last Wednesday on the great need for the new subcommittee, and outlined some of the issues which it is likely to face, showing its usual perspicacity.

Mr. President, I submit for the RECORD the editorial "Safety from Subversion."

The editorial follows:

SAFETY FROM SUBVERSION

Senate Republican leaders and advisers to President-elect Reagan are taking encouraging steps to strengthen the government's ability to defend itself and the American citizenry from subversion and terrorism.

Incoming Senate Judiciary Committee Chairman Strom Thurmond, R-S.C., announced Friday that he was designating Senator-elect Jeremiah Denton, R–Ala., the war hero who spent more than seven years as a prisoner of the North Vietnamese communists, to head a new Judiciary subcommittee on security and terrorism, to take up some of the duties of the old internal security subcommittee, which was abolished by Senate Democrats in 1976. Reagan transition officials and others close to the president-elect meanwhile have offered a number of recommendations for strengthening law enforcement and intelligence agencies' effectiveness against political terrorism and subversion.

The new Senate subcommittee ought to serve a very useful purpose by ascertaining that the internal security and counterintelligence forces of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, and Firearms, the Central Intelligence Agency and other agencies are properly authorized and equipped to be effective in protecting Americans from subversive activity. Senator-elect Denton, a staunch foe of racial bigotry, may be expected to show as much zeal for ending the resurgent terrorist activity of such racist and right-wing groups as the Ku Klux Klan as for the eradication of communist subversion.

President-elect Reagan's transition team for the Central Intelligence Agency, headed by former Navy Secretary J. William Middendorf, has made a number of suggestions for increasing the CIA's effectiveness at home and abroad. One of these is for the establishment of a central records system on internal security cases, for use by the FBI and other domestic law enforcement agencies as well as the CIA. Such a central file would be expected to help give domestic law enforcement officers leads in pursuing domestic terrorists whose activities are first discovered through links with foreign agents.

An unofficial but influential group advising Mr. Reagan, the Heritage Foundation, has included among its many policy recommendations for the new administration several proposals on internal security. In the area of security in the federal hiring procedure, Heritage says, congressional prohibitions on the hiring of subversives are being thwarted by a bureaucratic decision of the Civil Service Commission. Even though Congress expressly has forbidden the federal government from hiring anyone who promotes the overthrow of our constitutional form of government, the Civil Service Commission in 1976 hampered enforcement of this ban by dropping from federal employment questionnaires queries to determine a job applicant's loyalty to the Constitution or his possible involvement with subversive organizations.

The Heritage report also emphatically recommends the substantial revision of the Justice Department's "Levi guidelines" concerning FBI surveillance of subversive and terroristic organizations. The guidelines, promulgated by Ford administration Attorney General Edward Levi, direct that the FBI may not infiltrate or even keep files on organizations that have not been proven to have engaged in violent activities, even though these groups may unabashedly espouse violent overthrow of the government.

The same forces of international terrorism and subversion that have plagued other parts of the world may intensify their activities against the United States if our defenses against them are inadequate. It is encouraging, therefore, that the new Senate leadership is showing its resolve to deal with this threat. A similar resolve is needed, too, in the Reagan administration, which already, happily, is receiving good advice from its transition experts.●

AMENDMENT OF INTERNAL REVENUE CODE PROVISIONS DEALING WITH RESIDENCY REQUIREMENTS

(NOTE. In connection with the passage of H.R. 5973, a bill to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes, which appears in the RECORD of December 13, 1980, beginning at page 33930, the following is the complete colloquy relating thereto, as it will appear in the permanent RECORD:)

Mr. MATSUNAGA. Mr. President, I rise in support of the pending bill.

Mr. President, the foreign convention expense deduction provision in the pending bill, H.R. 5973, is the direct result of hearings held before the Finance Committee's Subcommittee on Tourism and Sugar held on July 20, 1979. It is in fact the culmination of efforts to enact remedial legislation which have been going on for the past 4 years.

This provision is a tax reform measure in the old sense—it curbs tax abuses. It restricts individuals who vacation in London, Paris, Rome, or on board Mediterranean cruise ships from deducting the cost of such vacation as business expenses. The provision is also a tax simplification measure, which eliminates the nuisance of a time card that convention sponsors and participants must retain and file with the Internal Revenue Service under present law.

In my 18 years in the Congress I have learned that it is not easy to enact simplification reform measures. I think that this legislation is made possible by the fact that the exemption is limited to Canada and Mexico. Without the Canadian and Mexican exemption, there would be no industry support for the major reform component. To be sure, there are compelling reasons to provide this special treatment for Canada and Mexico. In seeking to enlist these two countries to act with us in our common economic interest, this convention issue has been of major hindrance. It is time to remove this impediment to our economic cooperation with Canada and Mexico.

A major roadblock for this proposal has been the outstanding difficulty with the Canadian policy on advertising over American television stations. Canada has enacted a tax law denying deductions for advertising expenses on American television. This Canadian law discriminates against American television station operators and has greatly reduced Canadian business on American border television stations.

The affected television station operators, the Treasury Department, and the Trade Representative have all tried to reach a settlement with the Canadian Government on this issue. The lawyers representing the TV operators twice asked this Senator from Hawaii to postpone hearings on the foreign convention bills in the belief that such postponement would facilitate negotiations. After the hearings in July, I was again asked to postpone raising the proposal in an executive session of the finance committee. I complied with the request each time.

But the delays did not succeed in getting the Canadian Government to reverse its policy. The Canadians see a vital national need to encourage bilingual television programing on its native cultures. To support native Canadian programs, Canada has enacted its seemingly discriminatory tax provision.

The current cultural and regional dissensions in Canada prevent that government from changing its policy. As an attempt to make the United States whole, in effect, Canada has agreed in the new tax treaty to reduce its withholding tax on intracorporate remittances to the United States. I am informed that the value of this treaty concession more than makes the United States whole.

I am sympathetic to American television operators facing discriminatory action on the part of Canada. As chairman of the subcommittee, I have sought to accommodate their concerns by imposing conditions on the Canadian exemption or by adding mirror Federal legislation which would deny a tax deduction to American companies for advertising expenses on Canadian television. The revenues Canadian broadcasters will lose would be only a fraction of the loss incurred now by American broadcasters. But Canadian television coverage of the American market will grow significantly in the next 2 years, and Canada cannot ignore the effect of mirror American legislation. However, my efforts have not satisfied the American business concerns.

At this point, let me note that American business investments in Canada have suffered from the curtailment of convention business in Canada. It should be noted also that the United States has greatly benefited from Canadian tourism in our country. In this connection, I ask unanimous consent that a recent Wall Street Journal article on the benefits of Canadian tourists trade be printed in the RECORD immediately following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATSUNAGA. Let me further note that the American travel industry has repeatedly complained about the burden of the recordkeeping requirements and limitations under present law. At the same time the Treasury has continued to inveigh against continued tax-deductible vacations abroad. The pending remedial legislation has been held up for 3 years in the hope of resolving the television advertisers' issue. We are no closer to a resolution of that issue than we were 3 years ago.

By providing the exemption for Canada and Mexico we would be extending a gesture of economic cooperation which hopefully will be reciprocated. I urge the passage of the pending bill.

EXHIBIT 1

BORDER TIES BENEFIT U.S. TOURISM, TV

Despite their country's vast land mass, most Canadians continue to hug the U.S. border area. More than 72 percent of Canada's 23 million people live within 100 miles of the U.S. according to an analysis of the 1976 census. The three biggest metropolitan areas—Toronto, Montreal and Vancouver—are all an hour or less by car from the border. Result: Canadians often have more contact with their U.S. neighbors than with their fellow citizens.

In French-speaking Quebec, this phenomenon is seen in annual summer pilgrimages to the beaches of Maine and New Jersey. George Ouellette, director of the Chamber of Commerce in Old Orchard Beach, Maine, says Canadians account for up to 80 percent of the resort's visitors in the last half of July, when Quebec's construction industry closes down. In the winter, Eastern Canadians flock to Florida while Westerners head to California and Hawaii.

Other beneficiaries of cross-border ties are U.S. public television outlets from Seattle, Wash., to Burlington, Vt. "On an average week, we pull about 175,000 viewers in the U.S., compared to 250,000 in Canada," says Scott Elliott, development director for WNED-TV in Buffalo, N.Y. Almost half the $1.1 million the station raised from viewers last year came from Canadians in southern Ontario. The station, seen on cable TV in the giant Toronto market, went so far as to hold a season preview here this fall, attracting 400 donors of $60 and more to a restaurant reception.

In some border areas, the ties are even closer. Along the Vermont-Quebec border, the Canadian town of Rock Island (Population: 1,230) and the American village of Derby Line (Population: 900) have decided to share their sewage problem. Under an agreement last June, Derby Line will pay for half the cost of Rock Island's existing sewage plant and help expand it to treat waste from both sides of the border. Says Derby Line trustee Roland Roy, "It just seemed very cost-effective to see if we couldn't get together."

● Mr. WALLOP. Mr. President, I have tried repeatedly—with the support of many equally concerned Senators and Representatives—to indicate this Congress' displeasure with Canada's unwillingness to sit down and talk about the broadcast dispute. In particular, I have asked my colleagues several times to defeat Canadian attempts to receive special tax treatment in the United States. The Canadians must recognize that bill C-58 has implications on a broad range of issues affecting our bilateral relations.

You will recall that in 1976 Congress passed Section 602 of the Tax Reform Act. This provision limits the tax deductibility for expenses incurred at business conventions held outside of the United States because Congress felt that foreign conventions often were little more than tax subsidized vacations. The Canadian tourist industry has been badly hurt by section 602, and the Canadian tourist industry has been pushing for adoption of an amendment extending the allowable business deduction to expenses incurred at conventions anywhere in North America.

Efforts to adopt the North American exemption have been mounted annually since 1976. Successive congresses have defeated each proposal, in large part because of a strong belief that, independent of the merits of the North American exception, Congress cannot grant special treatment to the Canadians when Canada refuses to discuss seriously its tax policy which discriminates against American broadcasters. In fact, in 1978 when a North American exemption proposal was made in the House, the Ways and Means Committee adopted an amendment which would have prohibited extending the business deduction to expenses incurred in Canada until there is an agreement to negotiate the border broadcast advertising questions.

I have seriously considered offering a similar amendment which would respond to any country which denies a tax deduction to its citizens for advertisements placed on U.S. broadcast stations and directed primarily toward a market in such country. Such a country would not receive any benefits which may be derived from the 1980 revisions to section 274(h). Instead, expenses attributable to attendance at a convention in such country would qualify for a tax deduction only as allowed by section 274(h) as it presently applies. This would include the limitation on deductibility to two conventions per year and the reporting and substantiation requirements.

Significantly, such a provision would apply only if the President is unable to certify to the Congress that a country with such a discriminatory tax law is willing to negotiate an adjustment of its income tax system with the United States, subject to its own constitutional processes and to the extent consistent with the legitimate interests of both countries. The President would have 6 months before he is required to certify either a willingness to negotiate or that he cannot make such certification. Thus should the Canadian Government decide to enter good faith negotiations within the next 6 months—and I sincerely hope it will—conventions held there would not be subject to any disincentives flowing from this amendment.

Nevertheless, at this time, I am not introducing the amendment. I continue to believe linkage is appropriate, and I expect the Senate to debate fully this issue in the near future. At this point, I simply want to make clear my belief that linkage should not be abandoned as long as Canada remains intransigent on the border broadcast problem.

Mr. President, I intend to urge my colleagues to continue to resist giving Canada convention relief, in whatever form, as long as Canada remains intransigent on the border broadcast problem.●

● Mr. JACKSON. Mr. President, ever since 1972, the U.S. Government, including both Houses of Congress, has voiced concern over Canadian policies discriminating against U.S. border broadcast services. The State Department presented a diplomatic note to the Canadian Government in February 1973, protesting implementation of a policy of deleting commercials from U.S. broadcasts carried by Canadian cable systems. In April 1974, the House Subcommittee on Inter-American Affairs held hearings on the subject.

In January 1976 my colleague from the State of Washington, Senator MAGNUSON, and I sent a telegram to Secretary of State Kissinger, expressing our concern that the State Department had failed to address the entire range of Canadian policies adversely affecting U.S. border broadcast stations. Six months later Mr. MAGNUSON, who has long shared my concern about the need to maintain open, reciprocal relations with the people of Canada, led 17 other Senators from both sides of the aisle, in calling on Secretary Kissinger to press for detailed negotiations with Canada on the entire range of Canadian Government policies adversely affecting U.S. border broadcast stations. As a result of this concern, diplomatic efforts were undertaken. Secretary Kissinger continued to press for modification of the commercial deletion policy, meeting twice with Canadian officials. These meetings, along with American and Canadian expressions of concern about the gross unfairness of the deletion policy, led to a Canadian cabinet declaration in January 1977 of a moratorium on additional implementation of commercial deletion.

However, by the time we resolved, at least temporarily, the commercial deletion problem, Bill C–58 already was in effect. Bill C–58, the elimination of the business tax deduction for the cost of advertising on U.S. stations, was proposed in the Canadian Parliament in late 1975. The U.S. State Department strenuously objected to the bill, but Canadian officials adamantly refused to discuss the matter. The Canadian Government even refused to listen to suggestions volunteered by American border broadcasters, outlining various alternatives to Bill C–58 which would have substantially increased both Canadian control of broadcasting content and Canadian tax revenues derived from television. Our envoy in Ottawa, Ambassador Thomas Enders, took the American case to the Canadian Parliament during the debate on C–58, asking for negotiations to attempt to reconcile the interests of both Canada and the United States. Ambassador Enders' reasonable approach was persuasive, and the Canadian Senate Banking Committee proposed conciliatory amendments to Bill C–58. However, after intense public debate, the Canadian Senate rejected the Banking Committee's recommendations, and on September 22, 1976, Bill C–58 was proclaimed law in its original, discriminatory form.

Thus Canada, in the name of protecting a Canadian industry, now denies Canadian advertisers a business deduction for broadcast time purchased on a U.S. television station when the advertising message is directed primarily at a Canadian audience. This discriminatory treatment constitutes, in effect, a 100-percent tariff on American broadcast signals which are viewed across the border. In contrast, the United States imposes no such discriminatory tariff on Canadian signals received in the United States. The many American businesses which choose to advertise on Canadian radio and television stations are entitled to receive a deduction from their American income tax.

It is difficult to understand how Bill C–58 reduces the U.S. cultural presence in Canada, however desirable the advocates of C–58 might find this goal. Bill C–58 does not affect in any way the ability or predisposition of Canadians to watch American programing of U.S. television stations. Moreover, it is the profits derived from American programs by the Canadian networks which subsidize Canadian-content programs rather than the hoped-for diversion back to Canada of the relatively minuscule portion of total Canadian television advertising revenue that goes to the U.S. border stations.

Mr. President, Canadian Bill C–58 is classic protectionist legislation and constitutes a unilateral reversal of the traditional broadcast relationship between the United States and Canada. It is a threat to the continuation of the open-door, good neighbor policy which I and many of my colleagues in this Congress and in the Canadian Parliament have so vigorously promoted in the best interests of the citizens of our two great nations.●

● Mr. MAGNUSON. Mr. President, during my long career in the Senate I have always tried to encourage warm relations between Canada and the United States, particularly between my State of Washington and our neighbor, British Columbia. I view the current border broadcast dispute as an unfortunate and unfair action on the part of the Canadian Government. It is unfortunate because it needlessly and unreasonably attempts to penalize American broadcasters who provide an advertising and programing service to millions of Canadian viewers. It is unfair because it is a unilateral attempt by Canada to reverse the pattern of trade in these services, ignoring the many years Canadian viewers and listeners have benefited from these services without paying for them in any way except through advertising sales.

Station KVOS–TV of Bellingham in my State of Washington provides a perfect example of this Canadian policy's unfairness. After KVOS first went on the air in 1953 with a small, low-power homemade transmitter, British Columbia viewers and advertisers urged KVOS to move its tower to a location where a clear signal could also be provided to British Columbia viewers. Existing demand for television advertising could not be filled by the province's only television station. KVOS moved its transmitting tower to Orcas Island in the State of Washington between Vancouver and Victoria, British Columbia.

The station then incorporated a Canadian subsidiary in British Columbia to handle its Canadian advertising sales. For the past 25 years KVOS has paid Canadian taxes on all advertising revenues received from Canadian sources. Canadian citizens staff the Canadian subsidiary of KVOS. In addition KVOS injected more than $75 million into the Canadian economy and contributed to the program production industry in Canada by establishing and subsidizing what was, until the end of 1977, Canada's largest full line film production enterprise west of Toronto. KVOS dissolved this production enterprise at the end of December 1977 to economize in the face of the severe adverse financial impact of Bill C–58 on KVOS. C–58 is costing KVOS about $3.7 million in annual revenues. Once a profitable station, KVOS lost money last year.

Mr. President, the plight of KVOS is just one example of the unfairness of Bill C–58. I remain confident that we will be able to maintain warm and friendly relations with our Canadian neighbors. But the Canadian Government must recognize its obligation to take immediate steps toward ending the border broadcasting war which it initiated with the passage of C–58.●

● Mr. MOYNIHAN. Mr. President, I ask my colleagues again to direct their attention toward the so-called "border broadcast war" between the United States and Canada. The dispute was initiated by Canada. It has disrupted bilateral relations for most of the past decade. And it threatens to undermine the unique relationship between our two countries. The Canadian Government has intentionally discriminated against American broadcasting stations whose television and radio shows are enjoyed by Canadian audiences. I will briefly explain the background to the broadcast war so that my colleagues may fully appreciate the serious nature of the dispute.

Canada and the United States have a long history of close, mutually beneficial cooperation on a wide range of matters. This cooperation has extended to the establishment and development of mutually beneficial broadcasting services along the border. There are several specific diplomatic agreements allocating television channel assignments.

Both governments approved the placement of several Canadian and U.S. television stations whose signals could cross the border in either direction and provide very satisfactory viewing in major metropolitan areas of the other country. For example, WKBW–TV, WIVB–TV, and WGR–TV in Buffalo, WPTZ–TV in Plattsburgh, and WWNY–TV in Watertown are television stations which serve the residents of my own State. They have substantial Canadian viewing audiences. Several Canadian radio and television stations, in particular radio station CKLW in Windsor, Ontario, which serves the Detroit metropolitan market and derives over 90 percent of its revenues from U.S. advertising sales, reach substantial American audiences. All-in-all, there are more than 40 major American television stations which are also received in Canada, and 19 major Canadian television stations which are viewed in the United States.

As a result of this long and harmonious cooperation, Canadian citizens have enjoyed high quality, relatively inexpensive American broadcast programing. This is because the U.S. broadcasting industry developed much faster than its Canadian counterpart since the size of the American population justified greater financial investment by program sponsors in U.S. stations. Canadian viewers and Canadian industry benefited greatly from the rapid development of American broadcasting. Canadian viewers received quality U.S. programing at no direct cost. And as Canadians grew increasingly fond of watching American broadcast programs, the Canadian cable television industry developed rapidly to spread U.S. signals throughout Canada.

Today Canada has the most extensive cable television system in the world. The Canadian noncable broadcast industry has also benefited from U.S. program development. It buys the Canadian distribution rights to U.S. programs at a small fraction of the cost of those programs. A Canadian magazine reported that:

> The facts of life are these: All the popular U.S. (television) imports make money for the two Canadian networks; all major Canadian produced shows are heavy money losers.

On the U.S. side, the border broadcast stations received no tangible benefits for the service Canadians were enjoying until Canadian advertisers recognized the popularity of American programing with Canadian audiences. Then they began purchasing advertising time on U.S. stations in order to reach Canadian audiences. The total dollar flow was small compared to the overall Canadian and U.S. television industry revenue base, but it became significant to the U.S. border stations, facilitating the provision of quality service to their American and Canadian audiences.

This is the background of this mutually beneficial arrangement which brings the most popular and sophisticated television and radio fare to citizens all across Canada. Despite this, Canadian governmental officials believe that Canadians should be weaned away from American television. This notion has been spurred in part by a nationalistic fear of cultural absorption by the United States, and, in part, by attention to the economic interests of Canadian broadcasters who view themselves as being unable to compete effectively with American programing in the open market. The Canadian policy seems to assume that Canadian broadcasters will benefit from new sources of revenue as advertisers are attracted to the wider market in Canada or driven away from American stations where advertising is relatively more expensive because of Bill C–58. Although Canada has voiced its nationalistic concern intermittently since 1928, the Canadian public overwhelmingly demands access to U.S. programing.

I can understand Canadian concerns over maintaining a cultural identity separate from their larger neighbor to the south. But we are still neighbors. The United States has done nothing to merit discriminatory trade treatment. The U.S. broadcasters have responded to the Canadian desire to develop their own program production industry by proposing a reasonable compromise to the Bill C–58 tax deduction dispute. But the Canadians have refused to even consider seriously any settlement proposals.

At least two of the leading Canadian newspapers have reached a similar conclusion. The Toronto Globe and Mail published an editorial in its July 24 issue entitled "Heads we win, tails too." In discussing the border broadcast dispute and the U.S. foreign convention tax law, the editorial concluded:

> Canada can bluster all it wants about U.S. pressure tactics, but does so on very shaky moral grounds. Either we recognize that both sides can play at protectionism, and accept the game on those terms, or we should simply stop imposing protective policies.

Similarly, the Hamilton Spectator published an editorial in its August 5, 1980, issue entitled "Television Turnabout." In discussing the retaliatory legislation proposed by President Carter as a result of the section 301 complaint, the newspaper commented:

> The only surprise in the American retaliation is that it's been so long in coming. When Canada moved to stop the flow of advertising dollars into American stations, it should have expected the Americans to discourage their companies from advertising on Canadian channels.
>
> But the folks in Ottawa have an unusual way of looking at things. When they froze out the American stations, it was "cultural policy," according to Mr. MacGuigan.
>
> When the Americans do the very same thing, it's "a trade measure."

The editorial concluded:

> The tears being shed in Ottawa over the American response are of the crocodile variety.

I shall submit copies of both editorials for the Record.

Mr. President, the Canadian Government should not and cannot have it both ways: Taking our programing but keeping the revenues those programs generate. Moreover, as the Globe and Mail recognize, why should we treat Canada as a domestic location for purposes of the convention expense tax deduction when Canada effectively penalizes its citizens and our broadcasters for advertising on U.S. broadcast stations?

The editorials follow:

[From the Globe and Mail, July 24, 1980]

Heads We Win, Tails Too

Canada needs lessons from no one in the far from perfect art of inconsistency.

On the one hand, representatives of Canada's television industry are busily pooh-poohing concerns in the United States about the fairness of certain provisions of our Income Tax Act. Fourteen U.S. television stations located near the Canada-U.S. border are dismayed with a 1976 amendment to the act that prohibits Canadian advertisers from deducting the cost of purchasing time on U.S. broadcast outlets when the advertising is aimed primarily at a Canadian market. They consider the provisions both costly ($100-million in lost revenues) and iniquitous, and are pressing for retaliation against Canada.

Our response? Aggressively unsympathetic. According to Ernie Steele, president of the Canadian Association of Broadcasters, the provisions are at worst a minor irritant for the Americans, whose complaint is "without merit or validity". His view is seconded by Jerry Grasstein, a lawyer representing Rogers Telecommunications Ltd. of Toronto, who dismisses the matter as "a peanut problem".

Meanwhile, the Canadian tourist industry continues to press the United States to suspend a provision of its tax laws that prevents U.S. delegates to Canadian conventions from deducting their expenses for tax purposes. This restriction does not serve Canadian interests and, therefore, Canadian interests consider it unfair.

Inconsistent? Very. And while Canada seems in no hurry to bridge the contradiction, the United States already has done so. A U.S. Senate committee currently considering Canada's request for an exemption from the convention restriction has declared it will proceed no further until the dispute over television advertising is resolved. And why should it do otherwise? Canada can bluster all it wants about U.S. pressure tactics, but it does so on very shaky moral grounds. Either we recognize that both sides can play at protectionism, and accept the game on those terms, or we should simply stop imposing protective policies.

The United States is not about to let us have it both ways—and, more to the point, we don't deserve to.

[From the Hamilton (Ont.) Spectator,
Aug. 5, 1980]

Television Turnabout

Some Canadians, in blissful naivete, seem to believe this country can take a swipe at the United States without any fear that the friendly giant next door will hit back.

External Affairs Minister Mark MacGuigan evidently is among that happy group.

Four years ago, Canada ruled that Canadian businesses couldn't claim the cost of advertising on American television stations as business expenses for tax purposes.

That made it too expensive for many Canadian firms to advertise on the American side of the border market; American stations claimed it cost them millions of dollars.

Now Washington proposes a similar law, which would cut off American advertising dollars now flowing into Canadian border stations—and the Canadian government isn't at all happy. Ottawa doesn't like the taste of its own medicine.

The only surprise in the American retaliation is that it's been so long in coming. When Canada moved to stop the flow of advertising dollars into American stations, it should have expected the Americans to discourage their companies from advertising on Canadian channels.

But the folk in Ottawa have an unusual way of looking at things. When they froze out the American stations, it was "cultural policy", according to Mr. MacGuigan.

When the Americans do the very same thing, it's "a trade measure".

Surely not even the most fanatical cultural nationalists in Ottawa swallow that. The federal government knew from the start that blocking the Canadian side of border television advertising was an economic action and that the Americans would see it that way. The American stations did and they made no secret of their views.

Ottawa also knew the Americans could and, inevitably, would respond in kind. If Canadian business suffers by the American action, the people who lose their jobs know whom to blame.

The tears being shed in Ottawa over the American response are of the crocodile variety.●

CANADIAN BORDER BROADCAST DISPUTE

● Mr. LEAHY. Mr. President, in response to Canadian intransigence on the border broadcast dispute, 15 U.S. border broadcast stations filed a formal complaint on August 29, 1978, with the then special trade representative, Ambassador Strauss, alleging an unfair trade practice and seeking remedies pursuant to section 301 of the Trade Act of 1974. Section 301 authorizes the President to retaliate against unfair trade practices of other nations that restrict imports from the United States and which discriminate against U.S. commerce. The 15 U.S. television licensees alleged in their complaint that Canada's bill C-58 is an unreasonable form of tax discrimination because it denies a deduction for advertising placed with U.S. television and radio stations. The 15 stations requested elimination of the offending foreign trade practice. After representatives of the Canadian Government argued at hearings held by the STR that broadcasting is not a service meant to be protected by the 1974 act, Congress enacted legislation which makes it clear that trade in services, including broadcast services, are protected by section 301.

On July 31 of this year, President Carter, acting on the recommendation of the U.S. trade representative and after reviewing the evidence developed in the section 301 investigation and hearings, found on behalf of the broadcasters. The President announced that he had "determined that the Canadian tax practice with respect to advertising placed with U.S. border broadcasters is unreasonable and burdens and restricts U.S. commerce within the meaning of section 301."

President Carter recommended that the United States respond to the unreasonable Canadian practice by enacting legislation which would mirror the Canadian law—that is deny a tax deduction to U.S. taxpayers for advertisements placed on Canadian broadcast stations and directed primarily toward a U.S. audience. On September 9, 1980, the President sent a message to Congress containing this recommendation. It is my hope that legislation embodying the President's proposal will be introduced early in the next Congress. At that point, both the Senate and the House would be able to conduct full hearings as to the appropriateness and adequacy of the remedy proposed as a result of the section 301 complaint.

Mr. President, the Congress has linked the broadcast dispute with Canada's interest in being granted special treatment for purposes of the foreign convention tax rules. I think it would be inappropriate for Congress to terminate this linkage until we have had an opportunity to review the remedy proposed by the President as a result of the 301 complaint. It would be particularly ill-timed to abandon linkage when Congress expects to review the 301 remedy with just a few months. Moreover, our treatment of the foreign convention issue may encourage Canada to enter negotiations to resolve this dispute before the next Congress reviews the 301 decision. Nevertheless, I am not calling for separate consideration of the Canadian issue at this time. Rather, I simply want to make it clear that linkage remains appropriate.

Hopefully, the continued expressions of concern made by the Congress and the administration about the discriminatory impact of this Canadian policy have created a growing awareness on the part of Canadians that our concerns will not merely wither away. I hope Canada is finally willing to approach the border broadcasting issue in the context of overall bilateral Canadian-United States relations. I firmly believe that both sides have much to gain from serious negotiations aimed at an honorable resolution which respects Canadian sovereignty and cultural integrity and treats U.S. service exports fairly.

But, Mr. President, while I join my colleagues in expressing my hope that this dispute can be resolved by negotiations, I think the Canadians should realize that the Senate in due course will seriously consider the mirror image legislation recommended by the President and further actions of its own.●

FURTHER CONTINUING APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I want to thank my colleagues on both sides of the aisle for their patience and their dedication to duty. They have waited long and they are ready to continue to act on the business of the Senate.

The other body has sent back to the Senate the message on the continuing appropriations resolution. I would like to ask Mr. PROXMIRE, the acting manager of the resolution, a question: Does the resolution as it came back from the House sustain the position of the Senate on the pay cap?

Mr. PROXMIRE. May I say to the majority leader the resolution does exactly that. It keeps the pay cap in place. It does however have a difference in date. The Senate resolution would have kept the pay cap on through the fiscal year ending September 30. The House keeps it on through June 5, but there will be no higher congressional or executive salaries through the period to June 5.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold his suggestion?

Mr. BAKER. I need a little more time.

Mr. ROBERT C. BYRD. We are not going to call it up. The Senator will have whatever time he needs.

Mr. BAKER. Then I withdraw the request, Mr. President.

SENATOR ROBERT C. BYRD THANKS THE DEMOCRATIC MAJORITY

Mr. ROBERT C. BYRD. Mr. President, I want to take this opportunity to thank my colleagues for their splendid cooperation they have given the majority leader during the 4 years that I have been leader of the Democratic majority.

I feel that the record of the Senate during those 4 years is a good record. A great deal of far-reaching, important legislation has been enacted during those 4 years—the Panama Canal Treaty; deregulation of airlines; deregulation of the trucking industry; deregulation of the railroads; deregulation of the banking institutions; landmark environmental legislation; passage of the Alaska lands bill, centerpiece of a national energy policy; the synfuels industry has been established in this country; the windfall profit tax has been enacted; the deregulation of natural gas prices; deregulation of crude oil prices; emergency energy conservation legislation; a standby gasoline rationing plan has received the support of the Senate.

In the field of national defense, the Senate has been supportive of funding for modernization of our Armed Forces; the procurement of aircraft and naval vessels has been accelerated; registration of young men has been reinstituted. One of the most far-reaching, if not the most far-reaching, trade bills has been enacted during these 4 years; normalization of relations with the People's Republic of China has gone forward, the implementing legislation has been enacted; a new Department of Energy has been created; a Department of Education has been created; civil service reform has been enacted.

The litany of important measures could go on and on, but I think I have enumerated enough of these to indicate that the Senate has certainly performed its duty in debating and enacting legislation that is vital to the benefit of our country in many fields.

I have not mentioned the Middle East arms sales or the funding of the Egyptian and Israeli military; an economic package in support of the Camp David accords; the lifting of the Turkish embargo, which has enabled that country to make progress toward rebuilding its defense strength as a very important country in NATO. And I am sure that my colleagues will remember many other extremely important pieces of legislation.

I think that my colleagues can feel that they have done their work well. I am sure that as we go forward into the next Congress, the Democrats, who will be in the minority, will fulfill that minority role, which is a very important role under our constitutional system, and they will fulfill it in an admirable way. They will support the new administration when they can support it and when they cannot support the new administration and the new President, I am sure that they will be constructive in their opposition.

Again, I want to take this opportunity to express my appreciation to the distinguished minority leader (Mr. BAKER), and to the assistant minority leader (Mr. STEVENS), for the cooperation they have given to me during the 4 years. And to all Senators, I express my deepest thanks for the understanding, cooperation, and patience that they have accorded me and the support that I have had in the tasks that we have all joined in completing.

Mr. RANDOLPH. Mr. President, will the leader yield?

Mr. ROBERT C. BYRD. I yield to my senior colleague.

Mr. RANDOLPH. Mr. President, Senator ROBERT C. BYRD and JENNINGS RANDOLPH are colleagues from the State of West Virginia, but I would not want in this instance to speak as one West Virginia Senator praising another. I would like to feel that I speak for all Senators, both Democratic and Republican, in the words I now very carefully and earnestly choose.

I think that our leader has, in a very substantial sense, been the leader for a longer period than the 4 years he has been the majority leader. He was for 6 years the assistant majority leader—we call that position the majority whip. In effect, for 10 years in the U.S. Senate, ROBERT C. BYRD has been both the majority whip for 6 years plus the 4 years our colleague completes tonight or tomorrow as the majority leader.

I repeat that I am speaking not, as I have indicated, as a Senator from West Virginia or as only a Democratic Senator. I express these thoughts.

The 99 Members in this instance of this body feel, as do I, Mr. Majority Leader, you have moved forward to successful passage, ofttimes with the cooperation of the administration, sometimes with difficulties between the Hill and the White House. You have always moved forward in good conscience those measures which have been creative, have been constructive, and have been courageous. Not always have all Senators agreed, but rollcalls in this body have passed legislation of vital importance. The leader has mentioned dozens of valid measures, including the superfund bill in which we cope with toxic dangers or hazardous waste threats to safety and health in this country to individuals and to communities. The superfund was landmark legislation signed last Thursday by President Carter, an effective advocate of such action.

We thank you, Mr. Leader, for your service to the Senate and to the Republic.

Mr. ROBERT C. BYRD. Mr. President, I thank my distinguished colleague for his remarks. I also thank him for the splendid service that he has given to the Senate and to the country as chairman of the Committee on the Environment and Public Works.

I am glad that he mentioned the superfund legislation which I had overlooked. That was a piece of legislation that was not supposed to have passed. But it helped to make the lame duck a pretty lively duck after all. And the senior Senator from West Virginia certainly had a great part in the enactment of that legislation.

Mr. PROXMIRE. If the Senator will yield, it is often said in the Senate when we get to 7 or 8 o'clock that the hour is getting late. Well, the hour is late now. It is 10 minutes to 2 in the morning. As we all know, we are very anxious to wind this up because the Government will close down this morning. It is closing down now I presume because it is after 2 o'clock in the morning. But I cannot resist saying a very brief word, much too brief, about the kind of leadership we have been privileged to have in this body from the distinguished Senator from West Virginia.

He has been a great leader, patient, diligent, knowledgeable. Nobody knows the rules better, but primarily BOB BYRD has given us the kind of forceful, sympathetic, understanding leadership that all of us want, and I cannot resist saying so at this point.

Mr. WARNER. Mr. President, may I direct a question to the distinguished Senator from Wisconsin? He used the phrase the Government will close down. This concerns me greatly. Could the Senator be more specific as to the consequences of this potential closedown, just what agencies would be closed down, and what are likely to be the effects?

Mr. PROXMIRE. All the Departments involved. Health, Education, and Welfare; Commerce, Labor, Justice, Treasury. The Internal Revenue Service, which is in Treasury, of course, will close down; and Post Office.

Mr. WARNER. And Social Security?

Mr. PROXMIRE. The Social Security Office will not only be closed down this morning at 8 o'clock, but nobody, even the public, will be admitted in. So there will be no service provided the public after 8 o'clock this morning unless we act on this continuing resolution. And, of course, the Government as a whole is going to be very, very seriously affected by this.

Mr. WARNER. That poses grave hardships for a lot of innocent people here on the eve of Christmas.

Mr. PROXMIRE. It does indeed, and I think it will be puzzling to people in view of the fact that the principal issue which divided the House and Senate was the pay cap. The pay cap is securely on. The Senate position is on now. The other issues were very important to us as a body, but I think compared to closing down the Government it is very hard to justify our taking the position that we just cannot come to a conclusion somehow, that we are going to go on, that we are going to come in tomorrow. That kind of hardship it seems to me is extremely hard.

CONTINUING APPROPRIATIONS, 1981

Mr. PROXMIRE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 644.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the resolution (H.J. Res. 644) entitled "Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert: "That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:".

SEC. 101. (a)(1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriation Acts:

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981; and

Treasury, Postal Service, and General Government Appropriation Act, 1981.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1980, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1980, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the rate permitted by the action of the House, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980, except section 201 of title II of the Department of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1980, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Notwithstanding section 10 of Public Law 91-672, the amendments made by section 201 and 301 of Public Law 95-118, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, such amounts as are necessary to carry out the rates and terms agreed to in the Conference Report 96-1536 as reported and agreed to December 13, 1980 for section 101(b) of H.J. Res. 637."

(c) Such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 7593, entitled the "Legislative Branch Appropriation Act, 1981", as passed the House of Representatives, July 21, 1980, and the provisions of H.R. 7593 shall be effective as if enacted into law; except that the provisions of section 309 of H.R. 7593 shall not apply to the General Accounting Office, and the last proviso under the heading "Government Printing Office, Office of Superintendent of Documents, Salaries and Expenses" in H.R. 7593 shall not apply, and the provisions of section 306 (a), (b), and (d) of H.R. 7593 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials) shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through June 5, 1981, by this or any other Act. Notwithstanding section 102(c) of this joint resolution, for mileage of Members, as authorized by law, $210,000.

(d) Such amounts as may be necessary for continuing the following activities not otherwise provided for, which were conducted in fiscal year 1980, but at a rate for operations not in excess of the rate for fiscal year 1980: *Provided,* That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1980:

activities of the Council on Wage and Price Stability;

activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol;

activities of the National Health Service Corps under section 338(a) of the Public Health Service Act;

activities for support of nursing research under section 301 of the Public Health Service Act;

activities for support of health professions education and nurse training under titles VII and VIII of the Public Health Service Act including authority to guarantee new loans under the Health Education Assistance Loans (HEAL) program;

activities under the Community Mental Health Centers Act;

activities of the National Arthritis Advisory Board and the National Diabetes Advisory Board; and

activities under title IV, part A, subparts 2 and 3, and titles VII and VIII of the Comprehensive Employment and Training Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000.

(e) Such amounts as may be necessary to permit payments and assistance mandated by law for the following activities under the terms, conditions and limitations included in the applicable appropriation Act for 1980:

activities under title IV of the Federal Mine Health and Safety Act of 1977;

activities under the Social Security Act;

retirement pay and medical benefits for commissioned officers of the Public Health Service;

activities under title IV, part B, of the Higher Education Act; Notwithstanding paragraph 1393(a) of the Education Amendments of 1980, paragraph 446 of such amendments shall be effective on July 1, 1981;

notwithstanding any other provision of this joint resolution except section 102, activities of the Department of Labor, Employment and Training Administration for "Federal unemployment benefits and allowances" and "Advances to the unemployment trust fund and other funds"; and

activities of the Department of Labor, Employment Standards Administration for "Special benefits" and "Black Lung Disability Trust Fund".

(f) Such amounts as may be necessary for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to continue the breeder reactor demonstration project, or such project alternatives as may be approved by Congress in authorizing legislation, at the current rate of operations notwithstanding the provisions of section 102 (a) and (b) of this joint resolution.

(g) Activities of the Department of Health and Human Services to process, maintain, return or resettle Cuban and Haitian entrants shall be funded at not to exceed an annual rate provided in the budget estimate.

(h) Notwithstanding any other provision of law, amounts appropriated to the State and Local Government Fiscal Assistance Trust Fund shall be available for payments to units of local government in accordance with the provisions and conditions set forth in the State and Local Fiscal Assistance Act of 1972, as amended and as further amended by H.R. 7112 as enacted by the Congress, for a one-year entitlement period beginning October 1, 1980, but at not to exceed an annual rate for operations of $4,566,700,000.

(i) Notwithstanding any other provision of this joint resolution: There is appropriated an additional amount of $46,700,000, to remain available until expended, for Department of Energy, Operating Expenses, Atomic Energy Defense Activities, and an additional amount of $65,300,000, to remain available until expended, for Department of Energy, Plant and Capital Equipment, Atomic Energy Defense Activities, such amounts to be merged with and subject to the same provisions as amounts previously provided for such Activities in Public Law 96-367, Energy and Water Development Appropriation Act, 1981; section 120(b) of the Water Resources Development Act of 1976 (90 Stat. 2924) is amended by striking out "for the fiscal years ending September 30, 1978, and September 30, 1979,"; and appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

(j) Notwithstanding section 101(a) of this joint resolution, not to exceed $1,850,000,000 shall be available for an annual rate for operations to continue the low-income energy assistance program under the State allocations provided for in H.R. 7998 as passed the House of Representatives August 27, 1980, and in House Report 96-1244, except that the sum of $50,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 per centum of the amount it would have received under the State allocation formula for low-income energy assistance as provided in the regulations published on May 30, 1980, in volume 45, numbered 106, Federal Register, pages 36810-36838, such payments to be, to the maximum extent possible, the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation under such regulations; the energy assistance program shall be continued under the terms and conditions of such regulations and any nonformula amendments thereto, except that an eligible household shall also include any single person household at or below 125 per centum of poverty: *Provided,* That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $750, except this $750 limitation may be waived by the Secretary of Health and Human Services upon request of a State.

(k) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in such Act as enacted by the Congress.

(l) Notwithstanding section 102(c) of this joint resolution; such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such Act as enacted by the Congress.

(m) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981 (H.R. 7631), to the extent and in the manner provided for in such Act as enacted by the Congress.

(n) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of the Interior and Related Agencies Appropriation Act, 1981 (H.R. 7724) to the extent and in the manner provided for in such Act as enacted by the Congress.

(o) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), to the extent and in the manner provided for in such Act as enacted by the Congress, except section 606 of such Act.

(p) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Defense Appropriation Act, 1981 (H.R. 8105) to the extent and in the manner provided for in such Act as enacted by the Congress.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 15, 1980, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) June 5, 1981, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d) (2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 107. No provision in any appropriation Act for the fiscal year 1981 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 108. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape has been reported within seventy-two hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided, however*, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

SEC. 110. Funds contained in Public Law 95–205 for carrying out section 525 of the Education Amendments of 1976 shall remain available through September 30, 1982.

SEC. 111. Notwithstanding any other provision of this joint resolution, there is appropriated such amounts as are required for allowances and office staff for the former President pursuant to 3 U.S.C. 102 note: *Provided*, That the aggregate amount to be expended for the Allowances and Office Staff for Former Presidents account shall not exceed $823,000: *Provided further*, That such amounts as are necessary may be expended under Operating Expenses, National Archives and Records Service for the provision of a temporary repository and essential archival processing of Presidential materials.

SEC. 112. Notwithstanding any other provision of this joint resolution, there is appropriated for settlement of claims against the Coast Guard pursuant to section 646 of title 14, United States Code, $198,523.41 and for the settlement of claims by the Seneca Nation of Indians pursuant to section 10 of the Act of August 31, 1964 (78 Stat. 738), $19,774.95.

SEC. 113. Notwithstanding the provisions of section 101(a) of this joint resolution, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,000, except station wagons, for which the maximum shall be $6,400: *Provided*, That these limits may be exceeded by not to exceed $1,700 for police-type vehicles, and by not to exceed $3,600 for special heavy duty vehicles: *Provided further*, That preference should be given for the purchase of American made vehicles.

SEC. 114. The Administrator of the Small Business Administration, pursuant to section 4(c)(5)(A) of the Small Business Act, as amended, is authorized to issue notes to the Secretary of the Treasury in an amount not to exceed $600,000,000 for the purpose of providing Disaster Loans in addition to the amount provided for such purpose in H.R. 7584 as adopted by the House of Representatives on November 21, 1980, and to transfer an amount not to exceed $10,000,000 to "Salaries and Expenses".

SEC. 115. Notwithstanding any other provision of this joint resolution, there is hereby appropriated an additional amount for capital outlay, Panama Canal Commission, of $10,210,000 for navigation projects to be derived from the Panama Canal Commission Fund and to remain available until expended: *Provided*, That all such funds be derived solely from tolls and other charges for services provided by the Panama Canal Commission.

SEC. 116. None of the funds appropriated by this joint resolution may be used to disqualify, pursuant to section 411(d)(1)(B) of the Internal Revenue Code of 1954, any plan which has vesting requirements or provides for nonforfeitable rights to benefits, equal to or more stringent than 4/40.

None of the funds appropriated by this joint resolution may be used to issue an unfavorable advance determination letter, pursuant to section 411(d)(1)(B) of the Internal Revenue Code of 1954, with respect to any plan which has vesting requirements or provides for nonforfeitable rights to benefits, equal to or more stringent than 4/40.

SEC. 117. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to adopt or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exist criteria for such services, before June 1, 1981.

SEC. 118. Notwithstanding any other provision of this joint resolution or Public Law 96–369: For temporary employment assistance under title VI of the Comprehensive Employment and Training Act, no more than $729,000,000 of new budget authority shall be available during fiscal year 1981; notwithstanding subpart (4) of part A of title IV of the Comprehensive Employment and Training Act, new budget authority for the youth employment and training program under subpart (3) of part A of title IV of that Act shall be at the annual rate of $746,000,000.

SEC. 119. None of these funds may be used for the purpose of publishing in the Federal Register, implementing or enforcing the proposed Conditions of Participation for Skilled Nursing Facilities (SNF's) or intermediate Care Facilities (ICF's) which were first published as proposed in the Federal Register on July 14, 1980, prior to receipt of revised cost estimates by the Department and the final draft of a General Accounting Office evaluation of the impact of the proposed regulations, and in no case, prior to January 12, 1981.

Mr. PROXMIRE. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate in the joint resolution.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is the motion by the distinguished Senator from Wisconsin debatable?

The PRESIDING OFFICER. The motion is debatable.

Mr. BAKER. Mr. President, there are a number of Senators on the floor. I must report to the Senate there is not absolute uniformity on this side in their attitude toward this subject. I expect that some discussion and debate on this measure will indeed produce more enlightened results. I would say, however, that I do not see the prospect that we can proceed to a vote on that motion immediately. I am not suggesting a filibuster. I am simply saying that I think it is going to take a while to resolve this issue. It is going to take a while for me to notify Members on this side who are interested in this subject that there is a possibility of a vote. So in the meantime I urge all of those who have views on this subject, whether they wish to go forward on this at this time or not, to make their views known.

Mr. MOYNIHAN. Mr. President, I rise in the spirit, I believe, that the distinguished Senator from West Virginia spoke and the response of the distinguished chairman who is now managing the legislation.

May I ask the Senator from Wisconsin, if we do not accept this resolution now before us, do not the law enforcement agencies of the U.S. Government cease to function today?

Mr. PROXMIRE. Well, that is my understanding. The law enforcement agencies certainly include the Justice Department, the FBI, the Internal Revenue Service, the Secret Service. So the effect of our refusing to act could have a very profound and serious effect on law enforcement, and the courts, too, would be affected.

Mr. MOYNIHAN. May I say to my friend that this evening I had the occasion to converse with a young friend who has risen to a very distinguished position as a U.S. attorney in one of our Eastern States. He had just spent the day in the Justice Department coming down from his normal post to conduct department business. He reported to me that it was clearly, explicitly, the judgment within the Department of Justice that if a continuing resolution were not adopted by the Congress this evening, that they would not be functioning tomorrow.

There are many things that matter a great deal to us in this legislation. I should like to return to the question of Thor Power, which I am sorry to say the Senate conferees perhaps too eagerly receded from in their conference, and a great many things. My friend, the dean of the New York delegation, spoke of the pending bankruptcy of the Olympic Committee. Is the U.S. Senate to stand here and say, "As of tomorrow, for the first time since the founding of the Republic, the law enforcement agencies of the United States Government will not be in a position to enforce the law."

Several Senators addressed the Chair.

Mr. PROXMIRE. Before the Senator yields, we are talking about law enforcement agencies. The Senator is absolutely right. In addition to that, our State Department appropriations stop and the instructions are that all they can do is close down. That means our foreign policy would be put in the most embarrassing kind of a situation all over the world.

Several Senators. Will the Senator yield?

Mr. MOYNIHAN. I have the floor and I will yield for a question.

Mr. CHAFEE. From what authority is this disastrous information coming, other than the conversation you had with your young friend who is an assistant district attorney? If this resolution did not pass tonight, the whole Government of the United Staes would stop? What happens to the ships at sea? Do they turn off their diesels and sit there and wait for the radio to give them notice that the Senate has passed this resolution? This is the silliest hogwash I have ever heard. It is being told tonight that the State Department cannot proceed? Is that what is being said here?

Mr. MOYNIHAN. Is the Senator asking a question?

Mr. CHAFEE. I am. I want the source of the Senator's information.

Mr. MOYNIHAN. The source of my information is the Constitution of the United States which says that Congress shall make the laws. The Congress has made the laws which appropriate the funds for the activities of the Federal Government and by date certain, from one date to another date. That date has now expired. It seems to me elemental that if we are a Government of laws, that as of today there are no appropriations available to those activities for which we have not passed appropriation measures, and it is elemental that having no appropriations they cannot perform their function.

Mr. PROXMIRE. Will the Senator yield briefly to me?

Mr. MOYNIHAN. I will yield first to the Senator from Alaska.

Mr. STEVENS. If I might say to my good friend from New York, and in response to the Senator from Rhode Island, this is like a Dr. Seuss cartoon. You can make as many horns on this goblin as you would like to draw. As a practical matter, we do not pay the social security office in pennies every day. We pay their rent in advance. As a matter of fact, as I recall, we build all their buildings. We do not pay their people by the day, we pay them every 2 weeks. Their pay was approved on the 15th. I never heard such a bunch of rot in my life, that the Government is going to come to an end tomorrow.

Since I have been here, this has happened six times. But someone down at the Department of Justice says, "This time, we are going to scare Congress, and this time the place will close down." I would like to act, but I do not believe it at all. I believe those doors will be open and I believe the doors of this building will be open and I think those lights are on right now and it is past midnight.

Mr. METZENBAUM. Mr. President?

The PRESIDING OFFICER. The Senator from New York still has the floor.

Mr. METZENBAUM. Will the Senator yield?

Mr. MOYNIHAN. Not until I respond to my friend, the Senator from Alaska, Mr. President. I do not know why the sudden ire from the other side. One would have thought that a fairly self-evident proposition had been put forth that, in the absence of appropriations, the activities supported by appropriations would not go forward. If this has happened six times in the tenure of the Senator from Alaska, it has happened six times too often. This Congress has to learn to get its work done. We are not doing that. We have let our procedures reach the point where we cannot perform the elemental functions of the Senate, which is to provide the resources for the fundamental functions of Government—as, for example, law enforcement.

I am happy to yield to the Senator from Ohio for a question.

Mr. METZENBAUM. I thank the Senator from New York. I think that there is a difference about the six times in the past. The difference comes about by reason of an opinion of the Attorney General, who, when the FTC was without funds, advised them in no uncertain terms that they had to start closing down. It is a well-known fact that they did indeed do just that.

I think that there is a difference, Mr. President, because, up until that time, no attorney general had said that a governmental agency had to close down once you went past the hour of midnight and there was no funding. We are told that the governmental offices will be closed. I just think that it does not make good sense for us to pretend that it is not going to happen.

As a matter of fact, I do not know how the legislative body can keep going without an appropriation. Although the lights are on tonight and I am sure they would stay on tomorrow night or all through the day if we were here, the fact is that we do not have a legal right to be in business once we do not have the funding and we do not have the right to pay the employees, even though they get their checks every 2 weeks.

Mr. MOYNIHAN. I think the Senator from Ohio makes a very good point, Mr. President. It is with no sense of antagonism that we make this point. I think there are more Senators disappointed on this side than on the other side. It is our last moment to pass amendments. We passed 145 and we shall get two, which is scarcely the negotiating authority we thought we had. On the other hand, the Senators on the opposite side are going to have to govern.

Mr. STEVENS. Will the Senator yield again?

Mr. MOYNIHAN. This Senator will not only yield for a question, he will yield the floor, Mr. President.

Mr. STEVENS. I would like to place in the Record the memorandum for the heads of executive departments and agencies, from the Director of the Office of Management and Budget, which spells out the steps that the administration and executive branch should take. It specifically says in the absence of appropriations, all staff should report to work on Tuesday, December 16, and, beginning December 16, all affected agencies may continue activities otherwise authorized by law, those that protect life and property, those necessary to phase down other activities. It specifically covers the activities of Government. All it says is:

> So long as a continuing resolution is not enacted, new grants, contracts and other new obligations may not be incurred; new employees may not be hired.

It is very plain. I think that ought to be put in the Record. I ask unanimous consent that that be done, Mr. President.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Memorandum for Heads of Executive Departments and Agencies

From: James T. McIntyre, Jr., Director
Subject: Continuing Resolution.

As of 4:00 p.m. today, the Congress had not completed action on a continuing resolution. If the resolution is not enacted by midnight tonight, the determination by the Attorney General applicable to the absence of appropriations will be in effect. That ruling is that no further obligations may be incurred except for the orderly termination of operations or as otherwise authorized by law.

Agencies that have received appropriations are not affected by this memorandum. If the continuing resolution has not been enacted by midnight tonight, the determination will apply to activities covered by the following appropriations:

Foreign assistance and related programs.

Departments of Labor, Health and Human Services, and Education and related agencies.

Legislative Branch.

Departments of State, Justice, and Commerce, the Judiciary, and related agencies.

Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies.

Certain other programs lacking authorization to continue will also be affected.

Each agency must now have in place a contingency plan, as outlined in OMB Bulletin No. 80–14 dated August 28, 1980, and must be prepared to put that plan into effect. Your General Counsels and budget officials have participated in discussion of this subject.

In the absence of appropriations, all staff should report to work on Tuesday, December 16.

Beginning December 16, affected agencies may continue activities otherwise authorized by law, those that protect life and property and those necessary to begin phasedown of other activities. Primary examples of activities agencies may continue are those which may be found under applicable statutes to:

1. Conduct foreign relations essential to the national security or the safety of life and property.

2. Provide for benefit payments and the performance of contract obligations under no-year or multi-year or other funds remaining available for those purposes.

3. Conduct essential activities to the extent that they protect life and property, including:

a. Activities essential to ensure continued public health and safety, including safe use of food and drugs and safe use of hazardous materials;

b. Border and coastal protection and surveillance;

c. Protection of Federal lands, buildings, waterways, equipment and other property owned by the United States;

d. Care of prisoners and other persons in the custody of the United States;

e. Law enforcement and criminal investigations;

f. Energy and disaster assistance;

g. Activities essential to the preservation of the essential elements of the money and banking system of the United States, including borrowing and tax collection activities of the Treasury; and

h. Activities necessary to maintain protection of research property. You should plan to maintain the staff and support services necessary to continue these essential functions.

So long as a continuing resolution is not enacted, new grants, contracts and other new obligations may not be incurred; new employees may not be hired.

Questions concerning these matters will be addressed to the Office of Legal Counsel in the Department of Justice and the Office of Management and Budget.

Mr. WARNER. Will the Senator yield for a question?

Mr. STEVENS. Let me do one other thing, first. The Senator will recall, I warned once before that I am not going to say anything about a salary raise, but I want to talk about one thing that has already happened. As of midnight tonight, the judges of this country got another pay raise. They got one this morning.

This morning, the Supreme Court ruled that they were authorized salary through the cost-of-living allowance provided in October 1979. That led to the district judges receiving $57,500, circuit judges $60,700, Associate Justices $76,000, and the Chief Justice $79,100. As of 12:01 this morning, because our continuing resolution which had the pay cap in it expired, a similar ruling will be forthcoming, I am confident, saying we cannot reduce the salaries of incumbent judges; therefore, they will be entitled now to the full impact of the October 1980 cost-of-living recommendation. They will have received in this period a 23.2-percent increase. District judges will receive $67,100, circuit judges $70,900, Associate Justices $88,700, and the Chief Justice $92,400. So one-third of the branch of the Government received its pay raise tonight.

I see the current occupant of the Chair is a former distinguished and honorable judge. He ought to realize that through the inaction of the Congress, the judiciary once again is the only branch of Government that will get an increase.

I yield the floor, Mr. President.

Mr. WARNER. Mr. President, I shall take the floor. I should like to put a question to the distinguished Senator from Alaska and perhaps he will be joined by the distinguished Senator from Wisconsin. They addressed the question of the energy efficiency action which, to my understanding, would prohibit the comptrollers of the various departments and agencies of the Government affected by this absence of appropriations from spending money.

Mr. STEVENS. This specifically says:

As of 4:00 p.m. today, the Congress had not completed action on a continuing resolution. If the resolution is not enacted by midnight tonight, the determination by the Attorney General applicable to the absence of appropriations will be in effect. That ruling is that no further obligations may be incurred except for the orderly termination of operations or as otherwise authorized by law.

It goes on to point out what is authorized by law, which is the operation of the Government. You just cannot incur new obligations.

Mr. WARNER. Let me frame a clarifying question. We discussed tonight the term "the Government is going to shut down." Under this, the employees can continue to go to work, the heat and lights will go on, but still, the normal functions they are to perform cannot take place. Is that correct? So in that context, the Government is shut down.

Mr. PROXMIRE. Mr. President, only specific and enumerated functions can be performed and they are confined primarily to the protection of safety and health, law enforcement, emergency and disaster assistance. But it is very specific that all other activities cannot be performed. The Senator is correct in that respect.

Mr. STEVENS. Mr. President, there is nothing in there that says the social security office is going to be closed.

Mr. PROXMIRE. They cannot conduct any further business. Furthermore, what was brought out rather clearly in the House debate in a rather limited way, but clearly, and it is correct, is that this costs money. Just the FTC closing down cost $100,000. The closing down of these agencies will cost several million dollars a day and we shall be adding certainly a limited amount to the deficit, but a measurable amount, for no purpose. If there were some reason why we had to delay the activities of the Government, it would make some sense. But I have not heard a single reason as to why we should not accept what the House has offered, rather than delay, at a cost of millions of dollars a day and great inconvenience to the public, the activities of our Government.

Mr. BELLMON. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

The PRESIDING OFFICER (Mr. EXON). The Senator from Oklahoma has the floor.

Mr. PROXMIRE. I did not yield the floor, Mr. President. I yielded for a question.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. I yielded to my distinguished colleague from Wisconsin.

Mr. PROXMIRE. I yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I would like to suggest some reasons the Senate ought to move very carefully here. One is that there were some very desirable Senate initiatives in the resolution which we once sent to the House, which they refused to consider.

The second is that there is a game being played of one-upsmanship, and the House at the moment has the upper hand.

If they succeed in this, I suggest this may become a fairly ordinary system of doing business. The House is getting what it wants. As a matter of fact, as I understand the effect of the resolution before us, the House will have their appropriation increase for the next fiscal year and the Senate will operate at the 1980 levels.

Is that the case?

Mr. PROXMIRE. The answer, of course, is that the House passed the 1981 appropriation for the House. We have not done that. There is no way they can provide that 1981 for the Senate because there is no——

Mr. STEVENS. I beg the Senator's pardon.

We passed it in the continuing resolution that came out of the conference when they sent that version back to the conference, and when it came out, we had provisions for the Senate in there.

Mr. PROXMIRE. That is not the information I have from the staff who studied this very carefully.

As a matter of fact, earlier tonight we had this discussion. I challenged Senators to tell me how the House could have accommodated us on that. They have gone as far as they can in the staff's judgment in accommodating the Senate.

Mr. BELLMON. But the effect is that the House will be operating at a new level and the Senate at the 1980 level.

Mr. PROXMIRE. The fact is that the 1980 level is higher than the 1981. So there is no benefit. It is not as if they will have a much more generous allotment than we have. We cut the 1981 level.

I yield to the Senator from Maine.

Mr. COHEN. If this appropriation passed, is it the judgment of the Senator from Wisconsin that Congress itself would shut down or that we are in the interests of public health and safety and welfare——

Mr. PROXMIRE. I suppose we can continue to work as volunteers.

Mr. COHEN. Under the so-called rule of the Attorney General, we cannot do that as volunteers. Is that legal under that proposition?

Mr. PROXMIRE. I have a copy here. As I indicated, it is perfectly proper and possible for employees of Government, including Senators and Congressmen, to come to work, but they would not be paid, or incur any new obligations of any kind, and that includes Senators.

But we could enter the halls, go to our offices, and our staff could, too. But we would be in a kind of voluntary status.

Mr. COHEN. If we vote against this resolution, that would not insure Congress would shut down?

Mr. PROXMIRE. The Senator is correct.

I yield to the Senator from Colorado.

Mr. ARMSTRONG. I appreciate the Senator yielding.

Mr. President, I am pleased to note that a somewhat more moderate tone of debate has begun to emerge in the last few minutes. At the outset, there was almost a mood of hysteria in the Chamber.

I think it is particularly fitting that the Senator from Alaska has had printed in the RECORD a memorandum which, in its substance and in his discussion, served largely to dispel this idea that some horrible catastrophe will ensue if we do not instantly pass this resolution.

Instinctively, without anything before us at all, I think most agree with the Senator from Rhode Island who described that concept as "hogwash."

Obviously, it makes us look ridiculous if we do not pass a continuing resolution. We already look ridiculous. We are already confirming the worst suspicions our constituents have harbored for a long period of time.

But I do not think we ought to legislate under the misapprehension that some awful catastrophe will befall us if this is not passed.

The public peace, health, and safety will be protected to the same degree tomorrow morning as this morning. Some offices may or may not be opened. But this will not prevent, under the explanation now furnished us, any activities which are necessary for the imminent protection of the national security or internal security, or the exercise of the police function in carrying prisoners, or feeding those dependent on the Government for that, or even under the explanation of my colleague from Maine (Mr. COHEN), even the operation of the Congress itself.

So the question, it seems to me, becomes much less urgent and can be considered in the light of two or three considerations I would propound to my friend from Wisconsin.

One, despite the fact that we have been talking about this latest proposal from the House for more than half an hour, we have not had a comprehensive explanation of what is in it.

So far as I am aware, the only dialog of that subject has taken place in whispered conversation in the well and in the cloakroom which, in my opinion, is not sufficient.

Two, most Members have not had a chance to read this text. I was delivered a text about 30 seconds before this debate began and I got to page 2, then I stopped reading it and tuned in on the debate.

I think it would be well if all Members awaited the opportunity to study it.

I think that is of the utmost importance because having been present in the Chamber of the other body while they considered this legislation, I am satisfied that only a tiny minority, if any, of the Members of the House knew what they were voting on at the time it was passed in the other body.

Those who saw it on TV or were present will learn, or will know as I do, that, first, a quorum was not present in the other body, that they were proceeding under the most irregular of circumstances.

I say that as one who served there and saw on many occasions the most high-handed parliamentary tactics.

But I must report to my colleagues that anyone who may be reading the record of this proceeding, that what happened there tonight, in my judgment reaches an unusual, if not unprecedented, depth for ignoring fundamental parliamentary safeguards.

So it seems to me, Mr. President, we should not proceed in haste.

Second, as we proceed, we should have a detailed, point-by-point explanation of what is actually in the compromise.

Third, I ask my friend from Wisconsin if he could explain about these shutdown and startup costs. I also heard that discussion in the House. I did not understand it. I do not understand why failure to pass this resolution until, say, 2 o'clock this afternoon, will incur $100,000 for the FTC, or any other agency of Government, or the projected millions of dollars Governmentwide.

Last, but not least, I worry about the precedent we are establishing if we pass this legislation under the kind of threat which brings it to the floor under these circumstances.

I state to Senators, as I look around the Chamber, I think none can rise to disagree, we are weary with fatigue, our senses are dulled. We have been in session nearly around the clock. We have been through night after night of that kind of session. Aside from the inconvenience to Senators and staff, we can proceed, but I respectfully submit we are not in physical condition to focus good, critical attention on a multibillion dollar spending bill, a bill which has been amended and reamended and sent back and forth from Chamber to Chamber like a billiard ball, and then on a few minutes' notice, to focus on it when staff cannot explain it and Members have not seen it.

Mr. President, that is a terrible precedent to set.

Finally, it seems to me that for us to act on this measure at this point, under these circumstances, when it is doubtful there is even a quorum of the Senate present, although that is not known at this moment, establishes a relationship between this body and the other body which is most unwholesome and encourages this kind of legislative tactic in the future.

Mr. PROXMIRE. If the Senator will yield, as the Senator from Colorado knows, I greatly admire him. I think he is an extraordinarily intelligent and articulate and an outstandingly fine Senator.

I think that again and again he has warned us about this. This is not the first time I have heard the Senator get up to say that he wants more time to study legislation he does not want to rush through, that we should obey the 3-day rule, and so on, and the Senator is right.

He has made a great contribution in that way. I think all of us owe a great deal to him for that.

However, I think we have to recognize we do have to operate within constraints. We do have to use some judgment in getting competent staff, knowing that staff thoroughly, about their judgment, and following this legislation which, as we all know, did not originate tonight. It is legislation that has been worked over in committee for days and days and days. We are familiar with a great deal of it.

We are not able to go into great detail on every part of this at the present moment, but I am working on it now, and I will be happy, within a few minutes, to provide at least a summary of this and discuss that summary at whatever length the Senator from Colorado wishes to discuss it.

To answer one other part of the Senator's question, as to the effect and the cost of the closedown: The instructions to the departments have to be based on the assumption that Congress will not act. They cannot be based upon the assumption that in a few hours or a few days, we are going to come up with the appropriation. They are under instructions to close down, so they have to start doing that—putting files into boxes and following procedures to finish contracts. They have to start working toward settlement costs. As the Senator knows, that is settlement on contracts that otherwise would be fulfilled. That can be expensive in a huge Government that spends billions of dollars in these departments, especially HEW.

So the effect easily could be not just a few hundred thousand dollars but millions of dollars—not great percentages when you consider the size of the Department, but millions of dollars, nevertheless. It would cost the Government a great deal if we continue this more than a few hours.

The Senator talked about the threat that the Senate seems to be under here. Frankly, I do not feel that at all.

There was one fundamental issue between the House and Senate, in which the Senator from Colorado, the Senator from Wisconsin, and most other Senators joined. The rollcall vote made that clear. The House indicated by their voice vote that they insisted on a pay increase of 16⅔ percent. The Senate said, "No." We maintained that position.

There is no question that that was the big issue, certainly in the minds of many Members and the minds of the country, and the Senate prevailed. We won on that.

The House has come back. They have made some concessions, and I believe that the concessions are important. The Senator from Colorado is one of those who were very anxious, along with this Senator, to reduce the CETA money, and we agreed to that compromise, reducing it by $500 million. There, again, the House made a concession to the Senate. Also, on the small business disaster fund, they yielded to our position, as I understand it.

Furthermore, the House gave up six of the amendments they had. So it is not as if the House gave up nothing and we got everything. They made a fairly reasonable compromise. On the big issue, they gave in; the Senate prevailed.

So I believe that, all in all, this is not a grossly unfair, one-sided kind of situation. If anything, I believe that an objective observer would say that the Senate position prevailed.

Mr. ARMSTRONG. Mr. President, the question I referred to when I talked about legislating under the gun, under a threat, was not the question of the substance of the bill but the fact that the House, having made its decision, then felt it could recess until tomorrow.

In the corresponding situation earlier in the evening, when this body sent them our latest proposal, we felt obligated to remain in session. The House instead, has sent us their final word, thrown us the ball, and I can only conclude that, one, they feel that we will legislate to their specifications under those circumstances.

The Senator from Wisconsin knows that there are some signal shortcomings in this measure. They are saying, "Either take it or leave it or wait until 11 o'clock tomorrow morning." That suggests to me that either they are trying to force us to legislate under a threat or they do not really regard the shutdown we have been hearing about as all that serious.

I do not understand the whole shutdown issue, and I already have confided that my own intellect is somewhat dull at this moment. It is not clear to me that that shutdown process becomes more inevitable at 8 o'clock this morning than it already is. The continuing resolution expired 2 hours and 45 minutes ago. It is not plain to me that there will be any more files of the Federal Trade Commission put in boxes by 8 o'clock.

Mr. PROXMIRE. At 8 o'clock, the principal headquarters of social security, in Baltimore, will not be open to the public. It will not be open on Tuesday. It will not be open on Wednesday. It will not be open until Congress enacts this bill.

The Senator is correct when he says this is a complicated bill. However, before we are through, if the Senator wants to permit it, I believe that within the next relatively few minutes we can summarize the bill and discuss whatever detail the Senator wants.

I do hope, however, that we do not go out and abandon the opportunity of recognizing that we have won a major part of the position that the Senate took and the concessions made by the House, which were significant.

On the other hand, I believe that the position of the Senate was very important to us. We would have liked to have been able to achieve what we had in the original bill and what the conferees agreed to. But, all in all, Heaven knows that it is not onesided; it is not a surrender on our part.

Mr. ARMSTRONG. Mr. President, I have no wish to badger the Senator from Wisconsin. So, having stated my position, I respect our differences of opinion on this issue, and I shall listen with interest as he gives us a point-by-point explanation of the bill.

Mr. PROXMIRE. The bill funds the activities covered by the Labor-HHS-Education-Treasury-Postal Service at the levels provided by the House passed versions of the bill.

It funds the legislative appropriation bill as passed by the House, with the Senate's programs funded at the fiscal year 1980 level.

The activities funded under the foreign operations appropriation would adjust the rate of operations to that provided in the conference agreement on the fiscal 1980 bill, with some modifications.

All entitlement programs would be funded at the level required by law, which is what we sent over. All particular programs which are not now authorized would be funded at the fiscal 1980 level, which seems to me to be reasonable.

Mr. President, a number of Senators have indicated to me that they had particular amendments which are very good amendments, amendments which we originally had adopted, and even amendments that the conference itself had adopted. However, as to those individual amendments, once we start down that path, Senators can see that we will be here a long time, and we will not be able to settle that in a day or 2, because those Senators who cannot get their will may be in a mood to talk at considerable length.

So I hope we can settle this matter based upon the principal substance here—that is, whether or not we should fund the Labor-HHS-Education-Treasury-Postal Service at the levels provided by the House-passed version of the bill. What is wrong with that? After all, that is the major provision. Also, the legislative appropriation bill as passed by the House, with the Senate's programs funded at fiscal 1980.

The Senator from Oklahoma raised the point, and I believe other Senators did, that it seemed that the Senate was put at a disadvantage because the House was funded at the 1981 level and the Senate at the 1980 level. He pointed out that under the circumstances, the 1980 level is higher than the 1981 level.

At any rate, I hope that, under these circumstances, Senators will permit us to move ahead on this. I will try to provide further information as it is made available to me by the staff.

This is not a complicated bill. It is not a long bill. It is not like some of the 300-page bills the Senator from Colorado has protested vigorously, and properly so, in the past. It is relatively simple. It is simply a continuation of the continuing resolution we enacted in October, with reasonable modest, limited, simple modification.

Mr. METZENBAUM. Vote!

Mr. STEVENS. Mr. President, very succinctly, I think we should follow the advice of the majority leader and minority leader and pass the resolution. It is not the resolution that I would wish to see passed, but unfortunately it is the only resolution we can get.

Having turned down the basic resolution that the House of Representatives agreed to, that is the conference-passed resolution, I think we made the mistake there and I am still personally convinced it was a mistake, but I know we could labor all week on this resolution and not make much of a change because we cannot get the Senate to change in the one item that is of greatest concern and that is the question of the pay cap.

Until we can authorize this to negotiate how much on the pay cap it would be foolish to send it back to conference.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield.

Mr. WALLOP. I had the briefest time to look through, but I see nothing of what the Senate did by way of eliminating or deterring a whole series of rather vengeful regulations which have been propagated in the closing months of this administration. Is that absent from this resolution as it stands or is there some place where some of those may still be included? After all, it was a bipartisan judgment that some of those should be postponed in the end rush.

Mr. STEVENS. That was a Senate judgment. It was concurred in by the House of Representatives in the conference report. They approved the conference report, and we did not approve it. Now they have stripped out those provisions.

Mr. WALLOP. Threw out the resolution?

Mr. STEVENS. Yes, all of them, 146 of them.

But again I say we are not going to get them back in unless we can have some authority to negotiate on pay cap, and we have none. I do not expect to get any. We informed the House of Representatives it cannot be done.

Mr. PROXMIRE. Mr. President, if the Senator will yield, what the Senate did was send back to the House of Representatives yesterday a resolution that stripped out all of those Senate amendments and the House amendments.

Mr. STEVENS. No, we did not strip any out. We just left them. We stripped out the House amendments.

Mr. PROXMIRE. That is true.

Mr. STEVENS. They stripped out the Senate amendments.

Mr. PROXMIRE. We simply stripped out the House amendments and the House put some of the amendments back in, but they were not the kind of amendments that individual House Members by and large were interested in. They were amendments that were really fundamentally essential to the continued operation of the Government.

Mr. WALLOP. What we sent back had most prohibitions.

Mr. PROXMIRE. The Senator is right, and I think good prohibition, and I certainly support them. But if we get into that kind of detail, we are likely to be here a very, very long time because the Senator from New Mexico, Senator SCHMITT, the Senator from Idaho, Senator McCLURE, the Senator from Arizona, Senator DECONCINI, and Senators on our side had particular interests in their States which were very important to them. We would have to debate those again and we would be here a long, long time. The Senator is right, though, that those particular provisions were not included.

Mr. WALLOP. When we are talking about wasting time and costing money, one of the things that is going to waste time and cost money is for this Senate and this Congress to have to undo by statute a lot of regulations which are being imposed in haste right now, and it costs a lot of money to undo regulations. As the Senator well knows, they have to be published and new hearings held and one thing and another goes on, and it seems unfortunate that the new administration and new Congress and the old bureaucracy has to spin their wheels for the first quarter of next year trying to undo what is being done in haste now, and if we are talking about expense, that is expense.

Mr. PROXMIRE. If the Senator will yield a little further, I do think that the new Senate, the new House of Representatives, and the new President are going to work hard, quickly, and quite efficiently along the very lines the Senator is suggesting. I think we can expect that. Certainly there is every indication that is going to be the case and move rapidly also.

Mr. WALLOP. True, but not without considerable expense. It does cost a lot to do what the Senator described a little while ago, an enormous Government.

Mr. PROXMIRE. Thirty-six days remain before the inauguration of the new President and only 2 weeks or 3 weeks remain before the new Senate and House of Representatives takes office.

Mr. WALLOP. We should not deceive ourselves that by acting now we are going to save a lot of money that we might not spend in the morning.

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. BELLMON. How soon will we be able to get copies of this document? Are they being prepared? Most of us have not even seen the resolution.

Mr. HAYAKAWA addressed the Chair.

Mr. PROXMIRE. Mr. President, if I may respond to the Senator, we are trying hard to get them duplicated and they will be made available to other Senators within the next few minutes. For those who wish copies, we will dig them up immediately, if the Senator from Oklahoma wishes a copy.

Mr. BELLMON. I have one. It was brought here.

Mr. HAYAKAWA. Mr. President, I simply wish to state that as members and as legislators in a democratic society we know that no law is what each of us desires. Every one of us can find a lot wrong with practically everything we do. We come to compromises so that you are partly pleased with what I have proposed and managed to pass, and I am partly pleased and partly displeased with what you proposed and you managed to pass. It is a balance of discontent that results in the compromise that we arrive at in a legislature as this.

We have compelled the House of Representatives to give up its most cherished desire; namely, to remove the pay cap. It is inevitable, therefore, that many of our cherished amendments should be rejected in the course of the conferences between the House of Representatives and the Senate. I do not think at this late hour it is possible to meet all the objections that all of us can think up, and most especially we know that those of us who desire to remove the cap on Federal pay will never be able to get it this year because that is one of the things we had to give up or that is one of the things on which the House of Representatives took an awful beating.

I agree with my friend and distinguished colleague from Alaska that both the House of Representatives and the Senate are making great sacrifices to arrive at some kind of solution, and it is not as if we are arriving at a solution that is engraved in stone for future centuries to abide by. It is only a year's budget and deciding right away in the new administration we can begin changing things that we do not like.

Mr. President, so I hope that we move on to an early vote on this matter, and I am grateful to Senator PROXMIRE for his patience in meeting all the arguments. I agree with him fundamentally and I think he agrees with me fundamentally that there was a lot wrong with the resolution but, nevertheless, it is the only resolution we have.

I urge my colleagues to join in an early vote on this matter.

I thank the Chair.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. PROXMIRE. I thank the Senator.

Mr. WARNER. Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated February 8, 1980, from Hon. GLADYS SPELLMAN to the Comptroller General and a letter dated March 3, 1980, from the Comptroller General of the United States addressed to the Honorable GLADYS SPELLMAN.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEBRUARY 8, 1980.

Hon. ELMER B. STAATS,
Comptroller General, General Accounting Office, Washington, D.C.

DEAR MR. COMPTROLLER GENERAL: This Subcommittee recently held hearings on H.R. 5995, "Federal Pay Continuity Act" on February 5th and 7th. During the course of those hearings Subcommittee Counsel was asked to give a legal analysis of section 665(a) and (b) of title 31, United States Code (see attachment), as regards employment when an agency's funds have run out. He stated that on the basis of a strict literal reading of section 665(a) that no officer, employee, or agency of the Government could legally allow a federal employee to come to work for an agency whose funds had run out at the end of an appropriations year, without the passage of a continuing resolution, because that would be obligating the agency to pay the employee for a time certain, whether it be one hour, one day or a month.

Our Counsel's literal interpretation of that section of the law was subsequently substantiated by testimony of witnesses from the Treasury Department (see attachment).

Because of the devastating effects of such an interpretation and in order to properly assess what direction this Subcommittee should be taking, I am respectfully requesting your office to submit to this Subcommittee at the earliest possible date, in order that it may be entered into the hearing record on H.R. 5995, a legal interpretation of section 665(a) of title 31, United States Code. Specifically, I would like you to assume that an agency has exhausted all of its funds by or on the last day of a fiscal year, and that the Congress has failed to pass either a new appropriations or a continuing appropriations bill, for that particular agency, and that there is no existing contract or legal obligation mandating funds of that agency to be paid in advance of future appropriations made for any purpose. Query, may that agency under such hypothetical situation legally obligate its employees to come to work?

Because of the urgency of the matter, your immediate attention to this request will be greatly appreciated.

Sincerely,

GLADYS NOON SPELLMAN.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., March 3, 1980.

Hon. GLADYS NOON SPELLMAN,
Chair, Subcommittee on Compensation and Employee Benefits, Committee on Post Office and Civil Service, House of Representatives

DEAR MADAM CHAIR: You have requested our interpretation of section 665(a) of title 31 of the United States Code, part of the so-called "Antideficiency Act." Specifically, you asked whether under this Act, an agency can legally permit its employees to come to work after the expiration of the agency's appropriation for one fiscal year and prior to the enactment of either a regular appropriation or a continuing resolution appropriating funds for the subsequent fiscal year.

For the reasons indicated below, it is our opinion that any supervisory officer or employee, including the head of an agency, who directs or permits agency employees to work during any period for which the Congress has not enacted an appropriation for the pay of these employees violates the Antideficiency Act.

Section 665(a) of title 31 of the United States Code provides:

"No officer or employee of the United States shall make or authorize an expenditure from or create or authorize an obligation under any appropriation or fund in excess of the amount available therein; nor shall any such officer or employee involve the Government in any contract or other obligation, for the payment of money for any purpose, in advance of appropriations made for such purpose, unless such contract or obligation is authorized by law."

As we stated at 42 Comp. Gen. 272, 275 (1962), this and other similar statutes:

"* * * evidence a plain intent on the part of the Congress to prohibit executive officers, unless otherwise authorized by law, from making contracts involving the Government in obligations for expenditures or liabilities beyond those contemplated and authorized for the period of availablity of and within the amount of the appropriation under which they are made; to keep all of the departments of the Government, in the matter of incurring obligations for expenditures, within the limits and purposes of appropriations annually provided for conducting their lawful functions, and to prohibit any officer or employee of the Government from involving the Government in any contract or other obligation for the payment of money for any purpose, in advance of appropriations made for such purpose * * *."

As applicable to your inquiry, section 665(a) prohibits any officer or employee, unless specifically authorized by statute, from incurring any obligation on the part of the United States to pay money for any purpose prior to the enactment of an appropriation for that purpose.

We are aware of no statute which permits Federal agencies to incur obligations for the pay of employees in the absence of an appropriation for that purpose. Therefore, the "unless" clause of section 665(a) is not applicable.

For the purposes of your inquiry, we shall assume that each of the agency's employees has been propertly appointed to an authorized position, has taken the oath of office, has entered on duty, and has executed the affidavits concerning loyalty, striking, and purchase of office required by statute. Under these circumstances, an employee who reports for work under the direction or with the consent of his or her supervisor is entitled to be paid for the time worked, and the United States is legally bound to pay the employee. The entitlement of the employee and the liability of the Government exist independently of any appropriation although, of course, funds may not be disbursed to pay the employee unless an appropriation for that purpose is enacted. *Cf. Strong* v. *United States,* 60 Ct. Cl. 627, 630 (1925); *Collins* v. *United States,* 15 Ct. Cl. 22, 36 (1879).

It follows that in permitting employees to work during a period of expired appropriations, a supervisory officer or employee incurs an obligation on behalf of the Government to pay the salaries of these employees for the period of time worked. Since there are no funds available at the time the obligation was incurred, he has violated the Antideficiency Act.

It makes no difference legally that some or all of the employees involved are willing to work without pay, taking a chance that the Congress will eventually rescue the agency by enacting an appropriation to cover the deficiency obligations incurred. Subsection (b) of section 665 was enacted precisely to cover this kind of situation. It provides:

"No officer or employee of the United States shall accept voluntary service for the United States or employ personal service in excess of that authorized by law, except in cases of emergency involving the safety of human life or the protection of property."

In the absence of express statutory authority to the contrary, we have held that unless there is an agreement in writing that the person rendering the services does so gratuitously (a term not necessarily synonymous with "voluntarily") with no expectation of ever being paid, acceptance of such services is a violation of section 665(b). *See* 26 Comp. Gen. 956 (1947); 7 Comp. Gen. 810, 811 (1928). A violation of either subsection subjects the official committing the violation to the administrative or possibly even criminal penalties of section 665(i)(1).

During a period of expired appropriations, the only way the head of an agency can avoid violating the Antideficiency Act is to suspend the operations of the agency and instruct employees not to report to work until an appropriation is enacted.

However, we do not believe that the Congress intends that federal agencies be closed during periods of expired appropriations. For example, at the start of the period of expired appropriations at the beginning of the current fiscal year, Senator Magnuson, the Chairman of the Senate Committee on Appropriations, cited with approval a memorandum to employees from GAO's Director of General Services and Controller. Senator Magnuson requested that the memorandum be printed in the Congressional Record as a guide to other agencies. The memorandum began as follows:

"Even though Congress has not yet passed an FY 1980 GAO Appropriation or Continuing Resolution, we do not believe that it is the intent of Congress that GAO close down until an appropriate measure has been passed," (125 Cong. Rec. 26974, October 1, 1979).

Further, in enacting a continuing resolution after the start of a fiscal year, the Congress generally makes it effective retroactive to the beginning of the fiscal year, and includes language ratifying obligations incurred prior to the resolution's enactment. For example, the first fiscal year 1980 continuing resolution, Public Law 96-86, provided as follows in section 117:

"All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of the joint resolution."

It thus appears that the Congress expects that the various agencies of the Government will continue to operate and incur obligations during a period of expired appropriations.

Despite what we perceive as the intent of Congress that Federal agencies continue to operate during periods of expired appropriations, such operations legally produce widespread violations of the Antideficiency Act. For this reason, we recently commented favorably on the general intent of both H.R. 5995 and H.R. 5704, in bill reports to the Chairman of your Committee. See B-197584, February 5, 1980; B-197059, February 5, 1980.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Mr. WARNER. Mr. President, I should, however, wish to read one paragraph for the benefit of my colleagues. The letter addresses the very question with which we are faced tonight and it reads as follows:

> For the reasons indicated below, it is our opinion that any supervisory officer or employee, including the head of an agency, who directs or permits agency employees to work during any period for which the Congress has not enacted an appropriation for the pay of these employees violates the Antideficiency Act.

Mr. President, it seems to me that we are putting an intolerable burden upon the employees, particularly the supervisors in the Federal Government in this situation.

We have debated tonight the effects of closing down, but it could well be that we are asking certain employees unfairly to work tomorrow and try and conduct some limited affairs for which they have been assigned and paid.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. I thank the Chair.

Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. No, the yeas and nays have not been ordered.

Mr. ARMSTRONG. Mr. President, upon reflection and with much reluctance, because I know it will serve to inconvenience some Members, I am going to ask for the yeas and nays, and I will take just a moment to explain that the reason I do so is because I simply think this is an issue which is too important to be permitted to go through the Chamber, particularly under these circumstances, on a voice vote.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BAKER. Will the Senator withhold the request for a brief moment?

Mr. ARMSTRONG. Of course, I would be happy to.

Mr. BAKER. Mr. President, I thank the Senator for yielding.

Let me say that for some time there has been a growing concern on this side, and I expect on the other side as well, about disposing of this issue by voice vote. Frankly, I had hoped we could do it without a rollcall, but I am convinced we cannot.

Beginning about 15 minutes ago I asked our cloakroom to start putting our Members on notice that there was a high prospect of a record vote or a quorum. I expect it will take another 20 minutes before those Senators have a reasonable time to arrive.

I have absolutely no objection to the call for the yeas and nays. I hope that when we get to a vote on this issue we will pass it, and I shall vote for it. But, notwithstanding that, I hope my colleagues will cooperate with me even at this late hour and debate this issue for another 15 or 20 minutes until there is a reasonable opportunity for some of our friends and colleagues to arrive in the Senate Chamber.

Now, Mr. President, I thank the Senator for yielding.

Mr. ARMSTRONG. Mr. President, again I extend my apologies in making this request, but I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I gave only a part of the summary description of the bill. Let me just take a minute or two to conclude that.

As I said, the pay cap is extended to June 5, and I think we have made that clear. It is not the September 30 period that the Senate had. It is continued to June 5.

The abortion language contained in the first continuing resolution, which was the language offered in the Senate by Senator HELMS earlier and Senator WEICKER, is continued.

The continuing resolution that we have before us has $1.85 billion for the low-income energy assistance program; no funds to prevent the implementation of a voluntary prayer program, in other words they are continued.

It provides funding for the recently authorized higher education amendment for student loans. It provides funding for the office staff and allowance for former Presidents—this will apply to President Carter.

It pays a claim by the Seneca Indian Nation and increases the maximum for motor vehicle purchases so that the Government can purchase Detroit cars. It provides $600 million for disaster loans. That was one the Senate had and the House put in.

It provides $10.2 million for Panama Canal Commission funds. These are fees that are raised in the Panama Canal but it takes action on our part to enable them to repair the canal and keep it in working order.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. Yes, indeed, I would be happy to yield.

Mr. GLENN. I would just like to ask does the Senator have an overall budget figure here? I know we are totaling up a lot of things here, some things were knocked out of the House—what is the budgetary impact? Do we go up or down? Do we do violence to this thing on the up side?

Mr. PROXMIRE. I will give the Senator the precise figures in a minute. It is my understanding the effect of this is to put it well under the resolution that originally was agreed to by the conferees. In fact, it is $1 billion under.

However, it is higher than the stripped-down version that was sent over to the House by about $300 million, but it is lower than one version of this the Senate has acted on. But I do not have the precise figures, and I will give the Senator those in a few minutes.

Mr. JEPSEN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I will be happy to yield to the Senator from Iowa.

Mr. JEPSEN. Is it possible and in order that this resolution be amended with either a new or similar amendment with regard to the subject specifically of declaring some form of moratorium on regulations?

Mr. PROXMIRE. So far as I know—and I will inquire of the Presiding Officer—the resolution can be amended. It can be amended in the second degree, which is in order. Is my understanding of that correct?

The PRESIDING OFFICER. The motion to concur in the House amendments with an amendment would be in order.

Whether or not the specific amendment would be in order might be something that the Senate itself might have to rule on such as the matter of germaneness if that question is raised on any amendment that is offered under the procedure I have just outlined.

Mr. JEPSEN. I would ask the Chair if that amendment is prepared and offered that would essentially declare the sense of the Senate on a moratorium of any new issuance of any type of regulations from any Government agencies until the next session is in being, would that be in order?

The PRESIDING OFFICER. There are two possible points of order that could be made. One could be made on the question of germaneness, and the other on the question of legislation on an appropriation bill. It would all depend on whether the points were raised.

Mr. JEPSEN. We have on the first point—we do have—an amendment that was taken off that essentially addressed that, is that correct, I ask the Senator from Wyoming? Was there not an amendment on this that specifically declared in effect additional regulations——

Mr. WALLOP. There was more than one. I am not certain whether the conferees at one moment in time—I would ask my friend from Alaska, whether at one moment in time he lumped all those programs that were contained in the resolution as it left the Senate into one, was that ever done by the conferees?

Mr. STEVENS. I might say to my friend I tried to do that, you will recall, and there was objection. I believe it was legitimate at the time because of the scope of it, I mean. It covered the whole Government and our continuing resolution only covered the four subjects of the bills that had not been passed yet, so there was an objection and I did not get that done.

Mr. WALLOP. In order to do what the Senator from Iowa is suggesting it would require either one amendment with the scope of those prohibitions as it left here or a series of amendments which might be attempted; would that be correct?

Mr. STEVENS. It would require a series of amendments and a conference again tomorrow.

Mr. WALLOP. Or one amendment that covered the scope.

Mr. PROXMIRE. If the Senator will yield, if the Senator wants to get a sense-of-the-Senate resolution I think it might be possible, I do not know, it might be possible for the Senator to offer that resolution separately from this bill, and pass that on a voice vote, but without complicating this bill. Once we begin taking amendments to this bill I just do not see any end to it because there are so many Senators who properly want their amendments considered, amendments that were in both bills and amendments that were approved by the conference, but have now been knocked out. There are 140 of those.

So if we now take up an amendment, which is a very sensible amendment, if the Senator from Iowa wants to offer it, it would seem to me we would open the door and I do not know how we would stop the flood.

On the other hand, a resolution would not complicate the bill. It is my understanding—I do not know and, perhaps, the Parliamentarian can enlighten us—you can get unanimous consent to offer such a resolution.

The PRESIDING OFFICER. For the information of the Senator from Iowa, if the issue of germaneness is raised, of course, that is an issue the Senate would have to decide under the rules. But if a sense-of-the-Senate resolution as an amendment were offered, the Chair would rule that since that is not legislation and is not binding, the point of order would not be well-taken in that instance.

Mr. JEPSEN. Do I interpret what the Chair just said as meaning that if a sense-of-the-Senate resolution were offered in the form of an amendment that a point of order would not be in order or would not be ruled as preventing that amendment from being made a part of this resolution in that it would not be binding; is that correct?

The PRESIDING OFFICER. The Senator is correct. The Chair would rule that since it is not binding it is not legislation on an appropriation bill.

Mr. JEPSEN. In other words, the concern that many of us have that there are some agencies that are planning on promulgating new regulations and doing it in a forced or expedited manner or basis for different reasons between now and the 5th or the 20th of January next year, that in order to stop that, the resolution giving a sense of the Senate would not have any impact or would not have any binding direction for them to stop it; it would just be kind of an expression of the Senate and these agencies who had decided that they were doing this and planning to do this would go ahead and do it anyway; is that correct?

The PRESIDING OFFICER. The Chair cannot interpret, but the Chair would say, once again, under the precedents of the Senate a sense of the Senate amendment, since it is not binding as far as legislation is concerned, on an appropriations measure is not considered legislation.

Mr. HAYAKAWA. Mr. President, may I ask a question?

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HAYAKAWA. Will the Senator from Iowa yield for a question?

Mr. JEPSEN. Yes, reserving my right to keep the floor.

Mr. HAYAKAWA. Mr. President, the question is: Would a sense of the Senate resolution, can it properly be called also an amendment as, I think the Senator from Iowa is using the word "amendment" here?

The PRESIDING OFFICER. The Senator from Iowa has propounded a question to the Chair and we answered him. I believe he understands it.

Mr. HAYAKAWA. I thank the Chair.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. JEPSEN. Yes.

Mr. WALLOP. Mr. President, what the Senator is inquiring about is serious business and, in its way, it would be better left unspoken than to posture once again by passing a nonbinding resolution which makes everybody go back home and feel heroic and say, "Look what I said and look what I did. You know it was my idea that you wouldn't be subjected to these regulations, but you are going to be subjected to them anyway."

I suggest what we have been doing since we started this whole idiotic debate is posturing.

There is no reason for this Senate nor Congress to be in session at this time. We are posturing beyond any apprehension. If the leadership and the Congress obeyed the laws of the land and passed the budget resolution when it was required, we would not be here in the lameduck session. We could have shot the thing and it would not have been crippled. It would have been dead. But what the Senator is suggesting by adding on and passing a sense of the Senate amendment is just an additional piece of posturing. And I think we are better off leaving it unsaid. Try it and lose it on an actual amendment, by all means, that is at least a little better than going home and saying, "Gee, we were really brave. We knew you were going to be concerned back home, but we didn't have the courage to take it on head on."

Mr. JEPSEN. Mr. President, I advise my distinguished colleague from Wyoming that this Senator was not suggesting we do that. This Senator was trying to explore to make sure that, in feeding back what the Chair had advised him, he understood properly that, indeed, if a sense of the Senate resolution was added, then there would be no point of order raised and it would not amount to a hill of beans, as the Senator said. It would not make any difference.

Mr. WALLOP. Mr. President, inasmuch as I forgot to put a question mark at the end of it, I did not suggest that it was the Senator's idea.

Mr. JEPSEN. Mr. President, I did not intend to do that, because we are here appropriating unknown amounts of money and cutting out unknown amounts of money. The fact that we have reason to believe that there are some agencies who intend to promulgate new and additional regulations on an expedited basis that will cost untold amounts of money, regulations which, to the economic sector of our society today, estimates, depending on who you talk to, about $150 million a year, nonproductive expense.

We talk about reasons why we do not have productivity and here we are standing in the early morning hours discussing a bill. And I will tell the Senate now that I intend to move an amendment to the House amendment that will add, at the end of the House amendments, the following new section:

> None of the funds appropriated by this resolution shall be obligated or expended to promulgate or enforce any regulation adopted by any department of the executive branch or other agency during the period 15 December, 1980 through 20 January, 1981.

If there are Senators who have some thoughts about this, I would like to visit with them in the next 10 minutes while somebody else is talking about it I intend to add that amendment and I intend to call for a rollcall vote on it.

Mr. SARBANES. Mr. President, will the Senator state the amendment again for our enlightenment? I think it would be helpful.

Mr. JEPSEN. Yes; I will repeat it.

I intend to add at the end of the House amendment the following new section:

> None of the funds appropriated by this resolution shall be obligated or expended to promulgate or enforce any regulation adopted by any department of the executive branch or other agency during the period 15 December 1980 through 20 January 1981.

Mr. SARBANES. I thank the Senator.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. JEPSEN. Yes.

Mr. GLENN. Mr. President, would the Senator extend that time period to 1982 or 1983?

Mr. JEPSEN. Mr. President, I would be glad to extend that time period for the time period 1982–83, or for 10 years, and add some other additional things, if the Senator would like.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator certainly has a right to call up an amendment. I hope that the Senate would not adopt any amendment to this measure.

The Senate has been vindicated in the position that it has taken with respect to a pay cap. I think the best thing the Senate can do is to vote to accept the package that the House has sent to the Senate and go home. Any amendment that the Senate might attach, if it should attempt to change a comma to a semicolon, will cause the measure to have to go back to the House of Representatives. That means that at 11 o'clock tomorrow morning, when the House returns, we continue to play the game of legislative ping-pong.

Senators are prepared to vote up or down on the measure. Not all of us may be satisfied with the House package. But we are going to be back in January and the Senate, having prevailed on the pay cap, I think it is about time for us to wind this thing up. Otherwise, the headlines tomorrow will be that the Senate is still playing a game of one-upmanship, brinksmanship, or whatever one wishes to call it. But the people back home are going to see it as a continual wrangle over a pay raise for Members of Congress.

If the Senate completes action on this measure and accepts it, there will not be any business tomorrow in the Senate except passage of a sine die resolution and if there are some very minor actions to be taken, they will be taken. The Senate will adjourn sine die.

So I urge my colleagues not to add any amendments to this bill. They are merely complicating the procedures for us. Once we start tomorrow again on this resolution we will be here all of tomorrow and tomorrow evening, much to our discredit.

SEVERAL SENATORS. Vote!

Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, I would like to advise the Chair that I have an amendment prepared and I do intend to offer it. It should be here within 2 to 3 minutes.

Mr. BAKER. Mr. President, while we are waiting just a moment, might I be recognized?

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, I understand that if we do in fact dispose of this issue tonight, from the remarks of the majority leader what we would do tomorrow is essentially unanimous consent items, calendar items, messages from the House, or other matters on which we might agree after consultation.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. Could the majority leader give me some idea tomorrow what time he might plan to complete the work of the Senate?

Mr. ROBERT C. BYRD. I would say if the Senate completes this action tonight, we could come at 1 o'clock, as far as I am concerned. As the distinguished minority leader stated, the Senate would not be acting on anything more than unanimous consent items. There would be no point in coming in at 9 or 10 o'clock because we would be coming in just to wind up business.

Mr. BAKER. I thank the majority leader for his statement, with which I agree.

Mr. President, while we have a moment, there are Members who have planes to catch tomorrow who might wish a little earlier time for reconvening.

Mr. ROBERT C. BYRD. Might I say to the distinguished minority leader I do not know of a single reason to have a rollcall tomorrow.

Mr. BAKER. Neither do I. The majority leader will not have a request from me in that respect. I thank the majority leader.

Mr. PROXMIRE. Mr. President, earlier I was summarizing this bill. As I say, it is a simple bill. I have gone through most of the provisions. I would like to point out that I did not get a chance to mention several parts of the bill which restrict regulations, which is already in the bill before us, even without the Jepsen proposal. Let me indicate, for example, that there is a limitation on nursing home regulations, a limitation on restricting application of bilingual education regulations, a limitation on CETA expenditures, which I pointed out before, a limitation on vesting of pensions.

This is as simple a bill as could be put together. It is short, it is brief. As the Senate majority leader has pointed out, and what we should emphasize, the principal provision in the bill which engaged the attention of the people in this country and the Senate and House very deeply was, of course, the pay cap, and on that the Senate has prevailed.

Mr. BELLMON. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

Mr. BELLMON. I wonder if the Senator will tell us whether the cap on railroad retirement prevailed.

Mr. PROXMIRE. No, it did not.

Mr. BELLMON. The House was eager to take that amendment in the conference.

Mr. PROXMIRE. As we pointed out, there were about 140 amendments and they took a number of those. They claimed they took 120 of the amendments of the Senate. Only three, however, survived, CETA, small business, and one other.

Mr. BELLMON. What is strange about the railroad retirement bill is that they took a lower figure than in the Senate bill. We had a $400 million cap and they recommended a $350 million cap.

Mr. CHILES. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

Mr. CHILES. Can the Senator tell me whether the postal savings are affected? That was an agreement we had on both sides.

Mr. PROXMIRE. The Treasury, Post Office bill will be funded at the House-passed level, meaning that the savings that the Senator from Florida fought for and achieved will not be included.

Mr. CHILES. This was not included in the House-passed bill but it was subsequently agreed to in the conference.

Mr. PROXMIRE. That is correct, but that was a consequence of the House action. That was also a consequence of what the Senate did when we stripped down the bill.

This is not a perfect bill by any means but it is the best we can do.

Mr. CHILES. I understand the CETA savings are in it but it seems to me that we are dealing with $340 million and talking about savings that both sides agreed to. It is not really in controversy. That is a lot to leave on the table.

Mr. PROXMIRE. The Senator is right. There were dozens of amendments that both sides had to drop. I agree, the Senator from Florida did a superb job. We saved $340 million on it. We agreed to it and they agreed to it, but they did not put it in. We are in a position that we obviously cannot take it without further delay.

Mr. GLENN. Will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. GLENN. Does the Senator have a final figure on the overall budget before we go to a vote? Are we up or down? Are we saving money on the budget or not?

Mr. PROXMIRE. It is under the budget resolution. Unfortunately, in these situations we do not get the same estimate from various sources. The best I can tell you is it is between $100 and $200 million under the budget estimate.

Mr. BELLMON. I do not believe the RECORD will show that this is below the budget resolution. There is simply no way to know where we are.

Mr. PROXMIRE. If the Senator says

there is no way to know, why not? We have tallied this up as closely as we can.

Mr. BELLMON. Because we cannot tell what supplementals are coming. We are over in many areas. We know that.

Mr. PROXMIRE. The staff of the Senator's committee, the Budget Committee, tells us we are under.

Mr. BELLMON. We are under with this bill, but what about the supplementals?

Mr. PROXMIRE. The Senator is right. We are always in that position. There will always be supplementals.

Mr. BELLMON. We are not always in that position. Sometimes we have a pretty good reading on what the supplementals will be. We simply do not know at this time.

Mr. PROXMIRE. Again, we do not know what the assumptions of the Senator's staff were when they told us this, but they told us it was under the budget resolution.

Mr. BELLMON. Again, so far as this one bill is concerned, it may very well be.

Mr. PROXMIRE. That is correct. It seems to me that was the question of the Senator from Ohio.

Mr. GLENN. I wanted to know the impact of this particular bill, yes, whether we were over or under.

Mr. PROXMIRE. We are under, and the best we can say is we are about $200 million under.

Mr. ARMSTRONG. May I ask, Mr. President, did the amendment by Senator HOLLINGS and Senator DOMENICI survive; the amendment which said that funds would not be permitted to exceed the budget resolution? There was a great deal of discussion about the fact that that amendment in some way would bring us under the budget total. I am not aware that that amendment was preserved in this version.

Mr. PROXMIRE. It is my understanding that was not necessary because the June 5 termination date instead of the end of the fiscal year, the September 30 date, made the difference.

Mr. ARMSTRONG. I am sure the Senator is correct. I appreciate that information.

Mr. CHILES. Mr. President, I know the hour is late and I know everybody here is very tired. I have been home and have been to bed and have now come back. I was lucky. I think we sit here after the House has put on the amendments they wanted. We sent back a stripped bill, and we also sent back the bill with all the amendments saying, "You can take the bill with all the amendments or you can take the stripped bill." Again the House has decided neither of the above is what they will check. They will put on the amendments that they want to put on and send that to the Senate. Now we are facing the proposition of just voting and taking exactly what the House says, saying, "Thank you very, very much. We appreciate so much that you have allowed us to do business with you again on your terms, the way that you want to do it."

We are going to pack up our bags and finally quit.

Well, I got to propose, at least, that we put on this postal amendment, because we are talking about savings of $300 to $350 million. We are talking about something that everybody has agreed to and it is basically not in dispute. We put language in there that this is not to affect Saturday closings, so the political issue of that is not going to be determined. But it is $300-million-some, and it is worth talking about a few minutes and it is worth sending the bill back down to the House. I think if it says anything, it says, "By gosh, we are going to try save one thing on this bill."

It effects some savings, Mr. President. We have spent this long on it, we have spent all of the time that we have spent in conference, the time that we spent on the floor going over the resolution, hacking out all the amendments. All of those are gone and the time that we spent.

There are a lot of things in the bill that I know are sometimes referred to as people's goodies, sometimes referred to as pork. But this one is some savings. It is not pork for anybody, it is not goody for anybody. It is simply saying that we are going to effect some $300 million of savings.

It is part of what we talked about in the reconciliation, part of what we talked about when we were trying to balance the budget; to go away from here with something that is not in controversy, that no one really disputes, and with a resolution now that we are not sure is over the budget or under the budget or how much over the budget, or what.

Mr. BELLMON. If the Senator will yield, if we want to look at the June 5 date and assume the Government is going to stop at this point, no spend another dime until the next quarter, then it is under the budget. If we calculate the Government is going to continue from June 5 to October 1, this is over the budget.

Mr. PROXMIRE. Is the Senator taking into account the rescissions the new President will send up?

Mr. BELLMON. Is the Senator assuming the Congress will rubberstamp everything the new President wants? This resolution cannot really be assumed to be under the budget resolution by any stretch of the imagination.

Mr. PROXMIRE. Mr. President, the Senator is raising a very good point. We are for that amendment of the Senator from Florida; but we can consider it in January. We are not caving in to the House. We prevailed. The big issue between the Senate and the House was the pay cap. The Senate prevailed on the pay cap. On the Senator's CETA amendment, we got that. It was one of only two accepted out of 148. That is a whale of a big concession.

Now, if we say, we have to put in another amendment, it is the same old story: We have to go back to the House they will not be able to act on it until tomorrow, and it may, as the majority leader said earlier, prolong a ping-pong match between the House and the Senate.

There is no sense in prolonging this thing, Mr. President. The Senator from Iowa, the Senator from Florida have amendments. The Senator from Rhode Island has an excellent amendment he would like us to take. I do not think there is a Senator on the floor who does not have an amendment that he would like us to take.

Mr. CHILES. Mr. President, when you are talking about amendments that we would like to take, I have a number of those. The education money that we were attempting to get for the refugees, I would like very much. That is a different kind of amendment. That is something I would like to see, but this is talking about saving money.

Mr. WALLOP. Will the Senator yield for a question?

Mr. CHILES. Yes, Mr. President, I yield.

Mr. WALLOP. Can anybody give me the figure on what the pay cap saves?

Mr. PROXMIRE. It is my understanding that it is around $250 million, because it applies to the executive branch. That is where the big saving is. For the legislative branch, the saving is far less than that.

Mr. STEVENS. The ceiling is $42 million. Thirty-four thousand people affected, $42 million.

Mr. WALLOP. I might say that is quite a saving we have effected for the American people. To get a $300 million saving for the Senator from Florida, and give up $42 million, we can go home and brag about that.

Mr. CHILES. Mr. President, I would like the distinguished Senator from Wisconsin to tell me, why cannot the House act on this tonight?

Mr. PROXMIRE. The House has gone, they are not coming in until 11 o'clock tomorrow morning.

Mr. CHILES. They are coming in at 11 o'clock tomorrow morning?

Mr. PROXMIRE. They are coming in at 11, and at 8 a.m., the various offices of the Government will be closed. It will not be a catastrophe, as was said here, but people will not be given services around the country, and they will have to start closing down their offices.

This may not be finished by 11 o'clock tomorrow morning. The House may or may not accept the amendment of the Senator from Florida.

Mr. President, I hope the Senator will desist.

Mr. CHILES. Mr. President, we are talking about an amendment that they have already accepted. We are talking about something that there has not been any controversy on. We are talking about something that could be on their desks tomorrow morning at 11 o'clock and be a nice present for the American people.

Mr. PROXMIRE. Mr. President, they accepted a number of amendments, as we say, a whole series of amendments. Perhaps not all as good as the proposal of the Senator from Florida, but there are a number of other amendments that Senators sitting right now on the floor, it seems to me, would be persuaded to offer if we accept any amendment.

Mr. CHILES. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

I say to the distinguished Senator from Wisconsin that I have heard him stand on this floor not once but myriad times, and argue about less money than this. I have admired him for that and I think that has been one of his great strengths, because I understood he was trying to save us money.

I think this amendment, as I say, is not one that is somebody's goody. It is just a case of trying to save some money that people have already agreed to save.

UP AMENDMENT NO. 1964

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 1964 to the House amendment:

On page 3, line 15, insert the following: "except that the amount for the Postal Service shall be $1,250,000,000 as provided by section 117 of Public Law 96–369."

Mr. PROXMIRE. Mr. President, the Senator from Florida has very clearly explained the amendment, I think. We know what it is. Unless the Senator wants to explain the amendment further, I shall move to table the amendment and ask for the yeas and nays.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Florida (Mr. CHILES). The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, it has been 25 minutes. Regular order.

The PRESIDING OFFICER. Regular order has been called for. The clerk will present the tally.

Mr. JEPSEN. Regular order, Mr. President.

Mr. ARMSTRONG. Mr. President, let us have the regular order.

Mr. JEPSEN. Mr. President, will the Chair advise the Senate why the regular order request is not being honored?

The PRESIDING OFFICER. The clerk will tally the vote and send the vote.

Mr. DOMENICI. That is a long tally.

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote?

Mr. HART. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator is recorded in the affirmative.

Mr. METZENBAUM. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator from Ohio is recorded in the affirmative.

Mr. DOMENICI. Regular order, Mr. President.

Mr. LONG. Mr. President, aye.

The PRESIDING OFFICER. The Senator from Louisiana votes aye.

Mr. EXON. Mr. President, is the Senator from Nebraska recorded and in what manner?

The PRESIDING OFFICER. The Senator is recorded in the negative.

Mr. JEPSEN. Regular order, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, we have four Senators who are on the way. We hope to get another one. I wish to see if we can produce a quorum rather than see the Senate embarrassed at this moment, and I hope that the minority will not press for the regular order. The minority will be caught in the same position one day, and it may not be too long.

Mr. JEPSEN. Mr. President, regular order. Regular order, Mr. President.

The PRESIDING OFFICER. The regular order has been called for.

Mr. JEPSEN. Mr. President, regular order.

Mr. WARNER. Mr. President, I wish to be recorded no.

Mr. RANDOLPH. Mr. President, how am I recorded?

The PRESIDING OFFICER. The Senator is recorded in the affirmative.

Mr. RANDOLPH. How am I recorded? I cannot hear. I am very sincere in saying I could not hear.

The PRESIDING OFFICER. The Senator is recorded in the affirmative.

Mr. RANDOLPH. That is correct.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry. Is it permissible for me to ask how I voted?

Mr. JEPSEN. Regular order, Mr. President.

Several Senators addressed the Chair.

Mr. DOMENICI. A parliamentary inquiry is not in order. A vote is under way.

The PRESIDING OFFICER. A vote is under way.

Mr. MAGNUSON. Is it permissible for me to ask how I voted?

Mr. JEPSEN. Mr. President, regular order.

Mr. JACKSON addressed the Chair.

Mr. MAGNUSON. Mr. President, I propounded a parliamentary inquiry.

The PRESIDING OFFICER. The parliamentary order is not in order during the tally of the vote.

Mr. MAGNUSON. All right. How am I recorded?

The PRESIDING OFFICER. The Senator from Washington is recorded in the affirmative.

Mr. MAGNUSON. All right.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Am I recorded?

The PRESIDING OFFICER. The Senator is recorded in the affirmative.

Mr. JEPSEN. Mr. President, how am I recorded?

The PRESIDING OFFICER. The Senator is recorded in the negative.

Mr. JEPSEN. Regular order, Mr. President.

Mr. BURDICK addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Am I recorded?

Mr. JEPSEN. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator is recorded—a point of order does not lie.

Mr. JEPSEN. Making a parliamentary procedure a sham, let alone ridicule it.

Mr. JACKSON. How am I recorded?

Mr. BRADLEY. Mr. President, how am I recorded?

The PRESIDING OFFICER. The Senator from New Jersey is recorded in the affirmative.

Mr. BRADLEY. I wish to vote no.

The PRESIDING OFFICER. The Senator from New Jersey votes "no."

Mr. JEPSEN. Regular order, Mr. President.

Mr. MATSUNAGA. Mr. President, how am I recorded?

The PRESIDING OFFICER. The Senator from Ohio——

Mr. MATSUNAGA. From Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii——

Mr. MATSUNAGA. "Ohio" means "good morning."

The PRESIDING OFFICER. The Senator from Hawaii is recorded in the affirmative.

Mr. BRADLEY. Mr. President, how am I recorded?

The PRESIDING OFFICER. The Senator from New Jersey is recorded in the negative.

Mr. BRADLEY. I wish to vote "aye."

Mr. HART. Mr. President, I wish to vote "no."

Mr. JACKSON. Mr. President, I vote vote "no."

Mr. LEAHY. Mr. President, no.

Mr. METZENBAUM. Mr. President, no.

Mr. JACKSON. Mr. President, aye.

Mr. ROBERT C. BYRD. Mr. President, I hope we will stop changing our votes. I realize that debate is not in order but Mr. BAYH, Mr. NELSON, Mr. STEWART, and Mr. STENNIS are on their way. That will make a quorum. I hope that Senators will be patient. We have many times waited 10, 12, 15 minutes for Senators to get here when there was no need for a quorum. I hope that Senators will be patient and allow their fellow Senators the courtesy of coming and casting their votes.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER (Mr. STONE) The Senate will be in order.

Mr. RANDOLPH. Senators will, naturally, take their seats.

The PRESIDING OFFICER. The Senate will be in order.

Mr. JEPSEN. Regular order.

The PRESIDING OFFICER. Regular order is for the clerk to tally the votes, and the Chair instructs the clerk to tally the votes.

Mr. MOYNIHAN. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator from New York is recorded in the affirmative.

Mr. MOYNIHAN. I thank the Chair.

Mr. JEPSEN. Regular order, Mr. President.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Mississippi (Mr. COCHRAN), the Senator from Missouri (Mr. DANFORTH), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the

Senator from Kansas (Mrs. Kassebaum), the Senator from Nevada (Mr. Laxalt), the Senator from Indiana (Mr. Lugar), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from Delaware (Mr. Roth), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Vermont (Mr. Stafford), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from Oklahoma (Mr. Boren), the Senator from Arkansas (Mr. Bumpers), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Arizona (Mr. DeConcini), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from Kentucky (Mr. Ford), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Michigan (Mr. Levin), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher), the Senator from North Carolina (Mr. Morgan), the Senator from Wisconsin (Mr. Nelson), the Senator from Connecticut (Mr. Ribicoff), the Senator from Illinois (Mr. Stevenson), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. Pryor) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 29, nays 22—as follows:

[Rollcall Vote No. 543 Leg.]

YEAS—29

Baker
Bayh
Bradley
Burdick
Byrd, Robert C.
Cranston
Glenn
Hart
Hayakawa
Heinz
Inouye
Jackson
Leahy
Long
Magnuson
Matsunaga
Metzenbaum
Mitchell
Moynihan
Pell
Proxmire
Randolph
Riegle
Sarbanes
Sasser
Stennis
Stewart
Tsongas
Williams

NAYS—22

Armstrong
Bellmon
Chafee
Chiles
Cohen
Dole
Domenici
Exon
Hatch
Heflin
Helms
Humphrey
Jepsen
Nunn
Schmitt
Simpson
Stevens
Stone
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—49

Baucus
Bentsen
Biden
Boren
Boschwitz
Bumpers
Byrd,
Harry F., Jr.
Cannon
Church
Cochran
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Ford
Garn
Goldwater
Gravel
Hatfield
Hollings
Huddleston
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Levin
Lugar
Mathias
McClure
McGovern
Melcher
Morgan
Nelson
Packwood
Percy
Pressler
Pryor
Ribicoff
Roth
Schweiker
Stafford
Stevenson
Talmadge
Tower
Weicker
Young

So the motion to lay on the table UP amendment No. 1964 was agreed to.

UP AMENDMENT NO. 1965

(Purpose: To forbid new regulations during the period December 15, 1980 to March 20, 1981)

Mr. JEPSEN. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Iowa (Mr. Jepsen) proposes an unprinted amendment numbered 1965:
>
> Add at the end of the House amendment the following new section:
>
> "Sec. . None of the funds appropriated by this resolution shall be obligated or expended to promulgate or enforce any regulation promulgated or made effective during the period December 15, 1980, through March 20, 1981, by any department of the executive branch or other agency of the Federal government.".

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, I will be very brief. The amendment is self-explanatory. You have been hearing a lot about a song that has been sung and made popular 8 years ago which says, "All we are saying is give peace a chance." All we are saying here is give our economy a chance.

Someone once said that all they want us to do back here is to defend our country, deliver our mail on time, and keep our hands out of the personal business lives.

We now have a 3-month moratorium in response to the people's wishes of November 4 which were changed, and while this transition is taking place I believe it is in order and proper that we indeed have a 3-month moratorium on any new regulations.

I rest my case.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, this is about as sweeping an amendment as we have had in a long, long time, coming at this late hour. We have no idea what the impact is going to be, what agencies are going to be covered. I guess it covers every agency in the Government. It disenfranchises the President of the United States.

We all recognize what President-elect Ronald Reagan has said, until January 20 President Carter is the President and should be recognized as President. He recognized it and he has been extremely circumspect in that regard.

I hope we do not take this action, which is a repudiation of the President's authority and power in a very important area, and say, "No regulations." That is what the amendment says, "No new regulations after January 20."

Mr. JEPSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I move to table the amendment.

Mr. CHILES. Mr. President, I wonder if the Senator would accept a division where everybody could stand up. He could have a count. Everybody is on the floor. A division in which we could have that count would be recorded just like the yeas and nays and save a few minutes.

Mr. JEPSEN. Mr. President, I think this amendment is so important that I think everyone would like to be recorded.

The PRESIDING OFFICER. The question is on the motion to table the amendment.

Mr. BAKER. Mr. President, were the yeas and nays ordered on the motion to table?

The PRESIDING OFFICER. No, they were not.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the vote be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I cannot do that. I object.

The PRESIDING OFFICER. The objection is heard.

The question is on agreeing to the motion to lay on the table the amendment offered by the Senator from Iowa (Mr. Jepsen). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from Oklahoma (Mr. Boren), the Senator from Arkansas (Mr. Bumpers), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Arizona (Mr. DeConcini), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from Kentucky (Mr. Ford), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Georgia (Mr. Talmadge), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Michigan (Mr. Levin), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher), the Senator from North Carolina (Mr. Morgan), and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

I also announce that the Senator from Arkansas (Mr. Pryor) is absent on official business.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. Boschwitz), the Senator from Mississippi (Mr. Cochran), the Senator from Missouri (Mr. Danforth), the Senator from Minnesota (Mr. Durenberger), the Senator from Utah (Mr. Garn), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from New York (Mr. Javits), the Senator from Kansas (Mrs. Kassebaum), the Senator from Nevada (Mr. Laxalt), the Senator from Indiana (Mr. Lugar), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from Delaware (Mr. Roth), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Vermont (Mr. Stafford), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 19, as follows:

[Rollcall Vote No. 544 Leg.]

YEAS—34

Bayh
Bradley
Burdick
Byrd, Robert C.
Chiles
Cranston
Exon
Glenn
Hart
Hayakawa
Heflin
Inouye
Jackson
Leahy
Long
Magnuson
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Proxmire
Randolph
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Tsongas
Williams

NAYS—19

Armstrong
Baker
Bellmon
Chafee
Cohen
Dole
Domenici
Hatch
Heinz
Helms
Humphrey
Jepsen
Schmitt
Simpson
Stevens
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—47

Baucus
Bentsen
Biden
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Cannon
Church
Cochran
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Ford
Garn
Goldwater
Gravel
Hatfield
Hollings
Huddleston
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Levin
Lugar
Mathias
McClure
McGovern
Melcher
Morgan
Packwood
Percy
Pressler
Pryor
Ribicoff
Roth
Schweiker
Stafford
Talmadge
Tower
Weicker
Young

So the motion to lay on the table Mr. Jepsen's amendment (UP No. 1965) was agreed to.

Several Senators. Vote!

UP AMENDMENT NO. 1966

(Purpose: Cap the Federal "Windfall" subsidy to the Railroad Retirement Account at $350 million in fiscal year 1981)

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon) proposes an unprinted amendment numbered 1966:

At an appropriate place in the resolution insert the following new section:

Sec. . Notwithstanding any other provision of law, for the payment to the Railroad Retirement Account, as provided under sections 15(b) and 15(d) of the Railroad Retirement Act of 1974, the maximum amount reimbursable for the subsidy for fiscal year 1981 costs shall not exceed $350,000,000.

Mr. BELLMON. Mr. President, I will take only a moment. This amendment caps the Federal windfall subsidy to the railroad retirement account at $350 million in fiscal year 1981. The subsidy has doubled since 1974 and it could double again by 1982 unless we begin to put these caps in place. The administration supports the amendment. The House has already agreed to this amendment. As a matter of fact, in conference we had $400 million and the House insisted on $350 million, so we went along with them. It is anticipated this would save about $150 million in fiscal year 1981.

Mr. PROXMIRE. Mr. President, I will be very brief. The House agreed to a cap of $350 million. The Senate version had a cap of $400 million. The conferees agreed to the $350 million cap. What happened, of course, is that this amendment, like the other amendments we agreed to, was lost when we decided to strip the bill down. There is a good reason, however, for not putting a cap on. Both the railroad union and the companies are now in negotiations to offer pensions. These negotiations will be complete in March. We certainly should not prejudice them with a cap before the negotiations are finished. I do hope having rejected a very worthy amendment by the Senator from Florida because we recognize it will delay the bill unduly and close down the Government, unfortunately, I hope that we will also table this. I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay on the table the amendment of the Senator from Oklahoma. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. Baucus), the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from Oklahoma (Mr. Boren), the Senator from Arkansas (Mr. Bumpers), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Arizona (Mr. DeConcini), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from Kentucky (Mr. Ford), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Georgia (Mr. Talmadge), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Michigan (Mr. Levin), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher), the Senator from North Carolina (Mr. Morgan), and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

I also announce that the Senator from Arkansas (Mr. Pryor) is absent on official business.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. Boschwitz), the Senator from Mississippi (Mr. Cochran), the Senator from Missouri (Mr. Danforth), the Senator from Minnesota (Mr. Durenberger), the Senator from Utah (Mr. Garn), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from New York (Mr. Javits), the Senator from Kansas (Mrs. Kassebaum), the Senator from Nevada (Mr. Laxalt), the Senator from Indiana (Mr. Lugar), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from Delaware (Mr. Roth), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Vermont (Mr. Stafford), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 14, as follows:

[Rollcall Vote No. 545 Leg.]

YEAS—39

Bayh
Bradley
Burdick
Byrd, Robert C.
Cranston
Dole
Exon
Glenn
Hart
Hatch
Hayakawa
Heflin
Heinz
Inouye
Jackson
Jepsen
Leahy
Long
Magnuson
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Proxmire
Randolph
Riegle
Sarbanes
Sasser
Stennis
Stevens
Stevenson
Stewart
Stone
Tsongas
Williams
Zorinsky

NAYS—14

Armstrong
Baker
Bellmon
Chafee
Chiles
Cohen
Domenici
Helms
Humphrey
Schmitt
Simpson
Thurmond
Wallop
Warner

NOT VOTING—47

Baucus
Bentsen
Biden
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Cannon
Church
Cochran
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Ford
Garn
Goldwater
Gravel
Hatfield
Hollings
Huddleston
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Levin
Lugar
Mathias
McClure
McGovern
Melcher
Morgan
Packwood
Percy
Pressler
Pryor
Ribicoff
Roth
Schweiker
Stafford
Talmadge
Tower
Weicker
Young

So the motion to lay on the table Mr. Bellmon's amendment (UP No. 1966) was agreed to.

The PRESIDING OFFICER. The question is on the motion of the Senator from Wisconsin to concur in the amendment of the House to the amendment of the Senate——

Several Senators addressed the Chair.

UP AMENDMENT NO. 1967

(Purpose: To prevent Federal funding for training of individuals advocating the violent overthrow of the U.S. Government)

Mr. WARNER. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. Warner) proposes an unprinted amendment numbered 1967:

Add at the end of the House Amendment the following new section:

Sec. . None of the funds appropriated by this Resolution shall be obligated or expended to provide employment to or training for any person who publicly advocates the violent overthrow of the U.S. Government.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, this same amendment, with a minor variation of language, was adopted by both Houses on House Joint Resolution 637.

I regret to bring to the attention of my colleagues that in the State of Virginia there are persons residing, receiving CETA funds today, who were publicly advocating the overthrow of the U.S. Government.

I now quote from the Martinsville Bulletin of November 30, a letter to the editor signed by Dorothy Blitz.

> We stand on our position that the government must be overthrown. The United States government does not serve the interests of the majority of the American people but only the American people will be able to overthrow the government and will do so as it becomes more and more evident that it is in their best interests to do so. CWP is pointing the direction, providing the leadership and leading the fight, but the American people will revolt because they have no other choice.

Mr. MOYNIHAN. Will the Senator from Virginia yield for a question?

Mr. WARNER. I yield for a question.

Mr. MOYNIHAN. Would the Senator from New York be mistaken in the impression that once the Senators take over this chamber, there will not be any more CETA funds, anyway, so why do we need this?

Mr. WARNER. I am sorry. I could not understand the Senator.

Mr. MOYNIHAN. The Senator asks if he is wrong in his impression that once the Senators on the opposite side accept charge of this Chamber, there will not be any more CETA funds, anyway, in which event the question becomes moot and we would be involved in excessive legislation, regulation, and a number of things.

Mr. WARNER. I think the intention of the Members on this side of the aisle in the future will be to provide funds for those Government programs which do contribute to the assistance of worthy people and that the Senator will find in due course that we will support a program, although it may be limited under the CETA program.

Mr. President, I move the adoption of the amendment.

Mr. PROXMIRE. Mr. President, this is the amendment offered by Senator Hollings on behalf of a Congressman.

I said I though it was innocuous and and was an obvious amendment.

We do not want people who are paid by the Government to advocate the violent overthrow of our Government. But I think the Senator realizes, once again, what this does.

The Senator is one of the first Senators on the floor, Democrat or Republican, to say that he thought we ought to act on this bill promptly and not put amendments on it which would force it over to the House, force us to wait until tomorrow some time and delay the final action on the bill.

The Senator, I am sure, will be able to offer this amendment next year on the first legislation that passes, as happened earlier today. It will be accepted readily. We had no trouble with this in conference. So will the Senator not withhold this amendment?

Mr. WARNER. I was, indeed, one of the first Senators to rise in support of the manager of this bill.

But I feel very strongly that we should not let a day pass and allow this type of activity to continue in our Nation.

It is with deep regret I bring to the attention of my colleagues and I ask unanimous consent that these press reports covering these incidents be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Press Accounts

Since the first announcement of C. W. P. activists on CETA payroll (November 10, 1980), the following statements have been quoted in the press:

1. Martinsville Bulletin, November 12: "Yes, we stand on our position that there must be a revolution in the United States," the statement added. She (Mrs. Blitz) said the revolution should be by force of arms if necessary.

2. Martinsville Bulletin, November 13: The statement said, "Yes, we do stand on our position that there must be a revolution in the U.S." Mrs. Blitz told a reporter, "the Revolution should be by force of arms if necessary."

3. Martinsville Bulletin, November 30 (letter to the editor signed by Dorothy Blitz): "We stand on our position that the government must be overthrown. The United States government does not serve the interests of the majority of the American people but only the American people will be able to overthrow the government and will do so as it becomes more and more evident that it is in their best interest to do so. CWP is pointing the direction, providing the leadership and leading the fight, but the American people will revolt because they have no other choice."

Mr. GLENN. Will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. GLENN. Did I understand the Senator to say that this is already on another bill, so it will be law anyway, regardless of what we do?

Mr. WARNER. I regret to inform the Senator it was an another resolution——

Mr. GLENN. I cannot hear the Senator.

Mr. WARNER. It has expired.

Mr. BRADLEY. Will the Senator yield for a question? I am trying to understand the Senator's amendment more clearly.

Mr. WARNER. Yes.

Mr. BRADLEY. Would it be the Senator's intention with this amendment that no funds would flow to any university where a faculty member might take a different view than the Senator's amendment contemplates?

Mr. WARNER. The amendment speaks for itself.

Mr. BRADLEY. What does it say? I have not seen it.

Mr. WARNER. It was read by the clerk. I will read it again. It is very short.

Mr. STEVENS. This is an identical amendment passed by this body unanimously twice.

Mr. WARNER. The amendment reads:

> None of the funds appropriated by this Resolution shall be obligated or expended to provide employment to or training for any person who publicly advocates the violent overthrow of the U.S. Government.

It is doubtful to me that a university professor would be receiving CETA funds.

Mr. BRADLEY. Is it only CETA funds that are involved? I do not think that is what the amendment said.

Mr. WARNER. It would be any funds.

Mr. BRADLEY. So that any educational grant to a university that in part might be used for the salary of a professor would be termed to be in violation of this. Is that correct?

Mr. WARNER. The only way I can answer the question is that the amendment is directed to the resolution, and I do not know all the parts that provide funding under this resolution.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. WARNER. I yield.

Mr. DOMENICI. I think the amendment says "to a person."

Mr. WARNER. That is right.

Mr. DOMENICI. It does not say "to a university."

Mr. BRADLEY. To a person. For example, no one could receive a grant from any agency if they had different views from those that the amendment contemplates. Is that correct?

Mr. WARNER. The amendment says:

> None of the funds appropriated by this resolution shall be obligated or expended to provide employment to or training for any person who publicly advocates the violent overthrow of the U.S. Government.

Mr. BRADLEY. What constitutes a public advocacy? Is it a report in a newspaper, a weekly newspaper, in any place in the country, or is there some other further requirement?

Mr. WARNER. There is a series of court decisions which pretty well characterize those remarks which would be considered advocating the violent overthrow of the U.S. Government.

Mr. BRADLEY. How do we determine whether a person actually made those statements?

Mr. WARNER. A court would have to make that determination.

Mr. BRADLEY. There would be no need for any kind of binding oath or anything that would be required prior?

Mr. WARNER. The amendment calls for no oath.

Mr. RIEGLE. Mr. President, will the Senator yield for a question?

Mr. WARNER. I yield.

Mr. RIEGLE. I was trying to follow what the Senator said earlier. He used the phrase "violent overthrow," which I think is repugnant to all of us. In the letter to the editor which the Senator quoted, was the word "violent" used?

Mr. WARNER. In another remark in the Martinsville Bulletin of November 12:

> Yes, we do stand on our position that there must be a revolution in the United States.

The statement is attributed to a Mrs. Blitz. She said—

> The revolution should be by force of arms if necessary.

I would interpret that as being violent.

Mr. RIEGLE. Was that in the letter to the editor which the Senator read? Does it use the phrase "violent overthrow"?

Mr. WARNER. I judge from the RECORD of December 11, 1980, of this Chamber, that the answer is "Yes."

Mr. RIEGLE. In other words, the quotation that the Senator read earlier did say "violent overthrow"? Will the Senator read the sentences again? He read a letter to the editor.

Mr. WARNER. Let me read from the RECORD of this Chamber on December 11, 1980:

> Since the first announcement of C. W. P. activists on CETA payroll (November 10, 1980), the following statements have been quoted in the press:
>
> 1. Martinsville Bulletin, November 12: "Yes, we stand on our position that there must be a revolution in the United States," the statement added. She (Mrs. Blitz) said the revolution should be by force of arms if necessary.
>
> 2. Martinsville Bulletin, November 13: The statement said, "Yes, we do stand on our position that there must be a revolution in the U.S." Mrs. Blitz told a reporter, "the Revolution should be by force of arms if necessary."

Does that satisfy the Senator?

Mr. RIEGLE. I thought the Senator quoted a letter to the editor. Did the Senator do that, or did I misunderstand him earlier? I thought he quoted a letter to the editor that had been written by the parties in question.

Mr. WARNER. That is correct.

Mr. RIEGLE. Will the Senator read the sentence that addressed the question of overthrow? I am wondering whether it used the term "violent."

Mr. WARNER. The third item in the press accounts:

> 3. Martinsville Bulletin, November 30 (letter to the editor signed by Dorothy Blitz): "We stand on our position that the government must be overthrown. The United States government does not serve the interests of the majority of the American people but only the American people will be able to overthrow the government and will do so as it becomes more and more evident that it is in their best interests to do so. CWP is pointing the direction, providing the leadership and leading the fight, but the American people will revolt because they have no other choice."

Mr. RIEGLE. I thank the Senator.

I want to make it clear that I have absolutely no use for the Communist Workers Party or persons who advocate the violent overthrow of the Government.

The point in this: I was just reading an issue of U.S. News & World Report, and they were referring to the Presidential election results in 1980 as being revolutionary, as in fact constituting an overthrow, if you will, of the Government, but put in a different form, obviously not a violent overthrow.

The point is that many people feel that we already have accomplished, if you will, a kind of revolution in Government. I suppose it remains to be seen whether that will prove to be the case or not. I think it is important that we take great care with the words that are used here, because we are not a court.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. RIEGLE. I will yield in a moment.

We are not in a position here to try someone, especially on the basis of press accounts. I have read press accounts about the Senator from Virginia that I suspect on some occasions have not been totally accurate, and I suppose that has been true in the case of every Senator here, at one time or another.

We all have a very strong feeling about anyone who would advocate the overthrow of our Government, and we would oppose that in all forms. But before we make final judgments in the case of individuals, we should have the entire factual record. Perhaps we do have it here; perhaps we do not. At 10 minutes to 5 in the morning——

Mr. WARNER. Mr. President, I just yielded for a question. I have the floor.

Mr. BAKER. Mr. President, a parliamentary inquiry. Who has the floor?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I yielded for a question. I yield to the Senator from Washington.

Mr. MAGNUSON. Regardless of the merits of the Senator's amendment, would it not send this whole bill back to conference over this one amendment? Of course, it would. It is a matter that can be taken up later.

I think we should agree with the Senator's amendment. But why send this big bill back to conference over one amendment, at this late hour in the morning?

Mr. BELLMON. The House would agree.

Mr. WARNER. The distinguished Senator from Washington is correct. The bill will have to go back. But it is my assumption that the House would accept it. They accepted it once before.

Mr. MAGNUSON. The House is not in session. The Government has stopped now, over this one amendment, which can be discussed later, at any time.

Mr. WARNER. It is my understanding that the House has to sign the bill, anyway.

Mr. MAGNUSON. The amendment would send the whole bill back to conference. The House is not in session. The Government is going to stop working now. I do not understand why the Senator insists upon this, regardless of the merits. I am for the amendment.

Mr. WARNER. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I hope the distinguished Senator will withdraw his amendment. Every Senator here, I should think, would be in favor of the subject matter of the amendment. But to offer it to this resolution would require those who do not want to see this resolution go back to the other body to have to vote against the resolution. Maybe that is what Senators wish to do.

Mr. WARNER. I assure the majority leader it is not my intention to embarrass any of my colleagues. I feel strongly on it. Regrettably the situation exists in my State. I feel duty bound to have it resolved.

Mr. ROBERT C. BYRD. I respect the distinguished Senator for pursuing his duty. But will he not consider the fact that this measure if it is amended at this point by the changing of a single word will necessitate its going back to the other body? Once we amend this and we see it is going back, then there are other Senators here who have amendments that they undoubtedly wish to offer. This would mean that our efforts to complete action on this measure after these many hours would be in vain and the Senate would be in session all of this day and possibly into the evening.

So I implore the Senator to withdraw this amendment and offer it on some measure in the near future. It will receive the support of this Senator and I assume every other Senator on this side, if it is offered to the right measure.

Will the Senator withdraw his amendment?

Mr. WARNER. Mr. President, I yield to the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the Senator for yielding.

I must say that I was prepared to say, in the face of the debate that ensued following the introduction of this amendment by the Senator from Virginia, that I thought the better part of discretion would be to withdraw it. I am tempted not to feel that way now. I feel that under the circumstances he is entitled to his turn at bat. But it is 10 minutes to 5 in the morning and I suppose the better judgment at this moment would be to ask the Senator from Virginia if he would withdraw the amendment in exchange for the opportunity to offer it again and with the pledge of support that the majority leader has given him and which I will now give him that I will support the first opportunity we have to present that matter to the next Senate. I make that suggestion reluctantly because I think the Senator from Virginia has made a great contribution to the Senate and to the country in bringing this matter to our attention and that of the Nation as a whole.

But I do think that in the interests of

trying to resolve the matter that is before us it would be wise to consider withdrawing the amendment if the Senator is willing.

Mr. WARNER. I thank the distinguished minority leader.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. WARNER. I yield to the distinguished Senator from New Mexico.

Mr. DOMENICI. Mr. President, I certainly have no advice to the Senator. If our distinguished minority leader thinks that is best, that certainly seems to this Senator to be advice the Senator from Virginia should consider. But from my standpoint, I simply remind my good friend from Virginia that I do not think it would be too bad if we rejected the resolution tonight. I think everyone should know that the Senate got a raw deal and the people are going to get a very raw deal for $42 million which is the best we can figure that that pay cap would cost the American people. We are here quickly passing a resolution that is going to add between $800 million and $900 million to the stripped down version that we sent to the House of Representatives. I think that is a whopping bad deal—$42 million for $900 million.

So if the Senator from Virginia is offering something that will make it more difficult, then I am with him and that is just one Senator speaking.

Certainly we do not want to be here for a week, but it just seems to me that we took a prudent position. What did we get back? We turned down Senator CHILES' amendment. We turned down Senator BELLMON's amendment. There are others in it. Nine hundred million dollars add-on in exchange for wiping out a pay cap that would have cost between $42 and $50 million is a bad deal as far as I see, not only for the Senate which made a pretty good proposal but I do not think the American people will come out very good. I tell the Senate that, and I thank the Senator for yielding.

Mr. BAKER. Mr. President, will the Senator yield for 1 minute?

Mr. WARNER. I yield.

Mr. BAKER. Mr. President, I agree with every word spoken by the Senator from New Mexico, but I also believe that finally we have to end this issue. We have to pass something before we adjourn.

I hope the distinguished Senator from Virginia will consider, notwithstanding that I support every word that he has said and the proposal that he seeks and will take the next opportunity, but I do hope that he will consider withdrawing the amendment at this time.

Mr. WARNER. Mr. President, it was my privilege to open, I believe, the colloquy on this measure with the distinguished Senator from Wisconsin because I share with him the gravest of concerns with respect to the possible shutdown of portions of our Government beginning as early as in 2 hours I suppose.

Further, I introduced into the RECORD the opinion of the Comptroller General to the effect that such actions as the nonappropriation of funds places an intolerable burden on certain managers within the Government and other employees.

In view of the advice given by both the majority and minority leaders, which I shall now heed, and the assurances that on the very first occasion in the new Congress if I were to introduce this proposed legislation I could expect the support of the minority and the majority leader, and in view of those circumstances, I ask that the amendment be withdrawn.

Mr. ROBERT C. BYRD. Mr. President, the Senator will recall I said I would support it if it were offered to the right measure.

Mr. WARNER. I clearly understood.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CHILES. Mr. President, I am voting against adoption of the new version of the continuing resolution for fiscal year 1981. I understand the feeling of the Senate conferees that they have no other way of passing a resolution to keep the Government operating in the face of the House of Representatives' demand to eliminate the cap on congressional and executive pay. However, this resolution fails to fit within the congressional budget ceilings, and it fails to reflect rearrangements of funding priorities to meet the country's changing needs.

I voted against adopting the original continuing resolution because it was almost $5 billion over the budget ceiling. This version is even worse, because it fails to include two major program cuts which I sponsored and the Senate and the conference accepted. Our version of the Postal Service appropriations including a cut of $530 million which I sponsored; this passed the Senate, but was reduced to a cut of $340 million in conference. We also included the cut of $900 million in CETA title VI public service jobs, which was compromised in conference to a $500 million cut. Both of these savings amendments were excluded from the so-called stripped down version of the resolution. We thus went from a Senate-passed savings of $1.4 billion, to a conference savings of $840 million, to no savings at all.

Mr. President, I am pleased that when the House sent us back their last amendments, they at last agreed to include the $500 million cut in CETA title VI public jobs which the conference reached as a compromise to my $900 million cut which passed the Senate. Considering this bill in the wee hours of the morning reminds me that the first time I offered a CETA title VI cut amendment on the floor was at 3:30 in the morning back in October 1978 when we were considering a continuing resolution for that year. Back then, CETA title VI was still spending $3 billion a year, and many Members were afraid of making the cut for fear of holding up the resolution. After 3 years of moving to cut this program on each year's appropriation, we have gotten it down from $3 billion to $729 million. Hopefully, by the end of the year it will be down to zero.

At the same time, I am disappointed that the Senate tabled my amendment to add a $340 million cut in Postal Service subsidies to the bill. That was already a compromise of the $500 million cut required by the budget resolution reconciliation instruction, and which passed the Senate last October.

I hope that if this version of the resolution is actually enacted, then Congress will act rapidly in the new session to cut back this excess level of spending. I dislike across-the-board cuts, but I voted against tabling the Armstrong 4.7-percent cut in nondefense spending, because I think top priority has to go to cutting the overall level of Federal spending. If Members cannot come up with the major program cuts like the ones I offered on CETA and the Postal Service, then we will just have to fall back on cutting everything the necessary percent.

The reason I prefer specific program cuts, is that it lets us tailor our spending to meet continually changing national needs. In addition to the $1.4 billion of cuts, I offered some small amendments to meet some critical situations. The Nation's population of senior citizens has been growing rapidly, and the original conference agreement included a $30 million increase for community services for older Americans, which I had sponsored. The agreement also contained $21 million to aid local school districts heavily impacted by refugees. A Federal policy to allow a massive influx of 150,000 Cuban and Haitian refugees requires Federal financial assistance to the local governments whose taxpayers get the bill for extra schools, police, fire protection and hospitals. While the Senate amendment to provide relief to school districts was dropped from the stripped-down version, I am pleased that the additional $192 million to offset State and local costs for resettlement, welfare medical and social services is still included. It was kept in because it was provided in both Houses version of the bill. When added to the $100 million we put in the 1980 supplemental appropriation, this $192 million will go a long way toward reducing the financial burden caused by the recent flow of refugees.

Mr. President, if we are ever going to meet the public's demands for a balanced budget and lower taxes, while still meeting the Nation's critical needs for improved defense, energy, resources, and the well-being of the retired population, we are going to have to adopt the approach to budgetmaking which I have pushed for. That is, we are going to have to look for outmoded or inefficient programs and cut them back to make room for new priorities. This version of the continuing resolution exerts restraint by keeping all programs at last year's level whether they are good or bad. I do not believe that is what the people are asking us to do. They want us to change, to expand programs that are working well and eliminate those that are not.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin to concur in the amendment of the House to the amendment of the Senate to House Joint Resolution 644.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I hope that the Senate has the votes to adopt this measure. If Senators are leaving I wish to thank those Senators who came from their homes to help with the quorum.

Mr. CHAFEE. And those who stayed.

Mr. ROBERT C. BYRD. I thank those who stayed all night. I hope Senators will not leave unless we get assurance there will be no motion to reconsider, no rollcall vote on a motion to reconsider.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Oklahoma (Mr. BOREN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Georgia (Mr. TALMADGE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I also announce that the Senator from Arkansas (Mr. PRYOR) is absent on official business.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Mississippi (Mr. COCHRAN), the Senator from Missouri (Mr. DANFORTH), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Indiana (Mr. LUGAR), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware (Mr. ROTH), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber wishing to vote?

The result was announced—yeas 34, nays 20, as follows:

[Rollcall Vote No. 546 Leg.]

YEAS—34

Baker
Bayh
Bradley
Burdick
Byrd, Robert C.
Chafee
Cranston
Glenn
Hart
Hayakawa
Heinz
Inouye
Jackson
Leahy
Long
Magnuson
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Randolph
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Thurmond
Tsongas
Warner
Williams

NAYS—20

Armstrong
Bellmon
Chiles
Cohen
Dole
DeConcini
Exon
Garn
Hatch
Heflin
Helms
Humphrey
Jepsen
Nunn
Proxmire
Schmitt
Simpson
Stevens
Wallop
Zorinsky

NOT VOTING—46

Baucus
Bentsen
Biden
Boren
Boschwitz
Bumpers
Byrd,
 Harry F., Jr.
Cannon
Church
Cochran
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Ford
Goldwater
Gravel
Hatfield
Hollings
Huddleston
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Levin
Lugar
Mathias
McClure
McGovern
Melcher
Morgan
Packwood
Percy
Pressler
Pryor
Ribicoff
Roth
Schweiker
Stafford
Talmadge
Tower
Weicker
Young

So the resolution (H.J. Res. 644) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADJOURNMENT OF THE 96TH CONGRESS

Mr. BAKER. Mr. President, as we are now in what I judge to be the final hours of this 96th Congress and in keeping with a long-standing tradition of the Senate, I would like to take a few moments of our time to express my gratitude to all of my colleagues, some of whom I will refer to individually in a moment, and also to offer my observations on this Senate and the Senate to come.

At the very outset, I wish to thank my very good friend from Alaska, Mr. STEVENS, for his untiring and exemplary labors as assistant Republican leader. I would further congratulate my friend, Mr. STEVENS, for having been unanimously chosen by our Republican Caucus this past Tuesday to continue as assistant Republican leader in the next Senate.

Further, Mr. President, I would commend and express my appreciation to:

The Senator from Oregon (Mr. PACKWOOD), the splendid chairman of the Republican conference, who was also chosen by the Republican membership of the Senate of the 97th Congress to be our Senatorial Campaign Committee chairman;

The Senator from Utah (Mr. GARN), the highly respected secretary of our conference, who will again serve in that capacity in the next Senate;

The Senator from Texas (Mr. TOWER), who has served so brilliantly as the chairman of the Republican Policy Committee, and who will continue that service in the 97th Congress;

And also, Mr. President, the Senator from Pennsylvania (Mr. HEINZ), whose magnificent leadership as chairman of our Senatorial Campaign Committee is more responsible than any other single entity or individual for the great success we enjoyed November 4.

Further, I would certainly commend and thank the ranking members of the Senate's standing committees for their dedicated leadership not only in their respective committees, but also in our weekly meetings in my office which each of them has attended with diligence. I speak of:

The Senator from North Carolina (Mr. HELMS), who will now chair the Committee on Agriculture, Nutrition, and Forestry;

The Senator from North Dakota (Mr. YOUNG), of the Committee on Appropriations, who as we all know and regret, is retiring from the Senate;

The Senator from Texas (Mr. TOWER), who will chair the Committee on Armed Services;

The Senator from Utah (Mr. GARN), who will chair the Committee on Banking, Housing, and Urban Affairs;

The Senator from Oklahoma (Mr. BELLMON), of the Committee on the Budget, who also is regrettably taking his leave of the Senate;

The Senator from Oregon (Mr. PACKWOOD), who will chair the Committee on Commerce, Science, and Transportation;

The Senator from Oregon (Mr. HATFIELD), of the Committee on Energy and Natural Resources, who will now chair the Committee on Appropriations;

The Senator from Vermont (Mr. STAFFORD), who will now chair the Committee on Environment and Public Works;

The Senator from Kansas (Mr. DOLE), who will now chair the Committee on Finance;

The Senator from New York (Mr. JAVITS), of the Committee on Foreign Relations, who also is leaving the Senate after a sterling career of public service;

The Senator from Illinois (Mr. PERCY), of the Committee on Governmental Affairs, who will now chair the Committee on Foreign Relations;

The Senator from South Carolina (Mr. THURMOND), who will become President pro tempore and chair the Committee on the Judiciary;

The Senator from Pennsylvania (Mr. SCHWEIKER), of the Committee on Labor and Human Resources, who also now leaves the Senate with a legacy of unparalleled accomplishment;

The Senator from Oregon (Mr. HATFIELD), of the Committee on Rules and Administration;

And finally, the Senator from Wyoming (Mr. SIMPSON), who will now chair the Committee on Veterans' Affairs.

Furthermore, Mr. President, I would be most remiss not to express my admiration and sincere gratitude to the distinguished majority leader (Mr. BYRD of West Virginia). My colleagues of the

Republican Caucus have honored me as Senator BYRD's successor for the next Congress, an honor I am humbled by and greatly appreciative of. And I pledge to the majority leader that I will endeavor to work with him in his new role with all the cordiality, cooperation, and hopefully stimulation, which he has graciously extended to me during the past 4 years.

In addition, as is his norm, the distinguished assistant majority leader (Mr. CRANSTON of California), has served the Senate nobly. I again say that my friend, TED STEVENS, and I are inheriting large shoes to fill. We will do our best to serve this body with the grace and dignity of our predecessors, BOB BYRD and ALAN CRANSTON.

As I have alluded to thus far, Mr. President, a great wave of discontent and change has swept through the Congress, most notably so in the Senate. Indeed, that wave has swept away a great many from our ranks. More importantly, it has swept from this Hall of the Government those shopworn, ineffective philosophies and policies that long ago outlived whatever usefulness might have been accorded them and which can generally be classified as philosophies and policies toward a larger and more powerful central Government.

Not claiming any singular prescience—as many others have warned of the same—I nonetheless must recall my own words from the minority report upon the conclusion of the 95th Congress in 1978. I concluded that message with the observation that the Democratic Party was "tied to the past, emotionally and philosophically," while the Republican Party stood ready to lead America toward a new republic of citizen sovereignty over Government. Further, if I may request the Senate's indulgence, I offered in that message the admonition that the "time has come in America for a political transition of historic proportion."

Indeed, that time and that transition have now come—and have overtaken the Democratic Party. In the Senate, roles held for some two generations are now to be reversed. The Republican Senate will now work with the Republican President to redefine and recraft the role of the Federal Government, while the Democrats in the Senate will now assume the status of Disraeli's "Formidable Opposition."

In his illustrious work, "Pilgrim's Way," John Buchan, Lord Tweedsmuir, the Scottish historian and Governor General of Canada, wrote of democracy as "primarily an attitude of mind, a spiritual testament, and not an economic structure or a political machine."

He wrote:

> The testament involved certain basic beliefs that the personality was sacrosanct, which was the meaning of liberty; that policy should be settled by free discussion; that normally a minority should be ready to yield to a majority, which in turn should respect a minority's sacred things.
>
> Public life is regarded as the crown of a career, and to young men it is the worthiest ambition. Politics is still the greatest and the most honorable adventure.

I trust and I believe, Mr. President, that we of the Republican minorities—past and Republican majorities to be—have and will continue to comfort ourselves accordingly.

Most certainly, we view our democracy as a "spiritual testament."

Most assuredly, individual liberty is sacrosanct to us. Such has been our philosophy from the days of Abraham Lincoln.

To be certain, politics is the "greatest and most honorable adventure" to the 41 of us in this Chamber now, and also to the 16 who will "crown their careers" in joining this august body in January.

And with all surety, we recognize the ethical responsibility of the minority to yield to the majority on matters where common judgment holds the majority correct. Equally, we know of the responsibility of the majority to hold in respect and counsel those of the minority.

In that regard, we on this side of the aisle have sought to be supportive of the majority during the past 2 years on those occasions where the majority has been in the right. For instance, Republican support in the Senate was singularly instrumental in the adoption of legislation to strip away stifling, counter-productive regulations from many of our industries; a concept of Republican origination which was admirably brought to fruition during a Democratic Presidency.

However, where our "sacred things," such as the security of this Nation and the ultimate peace of all the world, were in the balance, we of the Republican minority have unwaveringly stood our ground and our principles. A second strategic arms limitation treaty, again a worthy Republican initiative, but one subsequently besmirched by a Democratic President, was essentially withdrawn from Senate consideration in the face of our steadfast opposition.

So, we on this side of the aisle have sought to be measured in our actions; to be supportive where we can and should; to be resistant where we must.

A further recounting, however, of specific Republican accomplishments of the past 2 years is unnecessary and would indeed mask our greatest accomplishment. What we of this minority and those of the 12 Republican minorities preceding us have as our greatest collective accomplishment is the election of a Republican majority for the Senate of the 97th Congress.

Admittedly, it has taken us some time, more than a quarter of a century. But finally, we have so definitively established and so convincingly enunciated a new initiative, a new agenda, that the American electorate has entrusted with us the control of this Chamber. That is our finest attainment.

Thus, to assess our accomplishments of the past, we must await our actions of the future. Therein is our crucible. Thereby we will be judged.

And unlike our Democratic counterparts, whose personalities and perspectives are bound to decades past, Republicans shall not be found wanting.

We shall succeed with our new mandate, our new agenda. We shall succeed because we must succeed. As stated in the very theme of Ronald Reagan's campaign, "The time is now—for a new beginning!" So now we begin.

We begin and we shall succeed in working in harmonious concert with a new President and his administration. All too often in recent times, and throughout the Carter Presidency, the Democratic President and the Democratic Congress have been at cross purposes, with the images of both and the good of all suffering in the process.

We begin and we shall succeed in revitalizing a stagnant American economy. We will begin with much-needed tax reductions for the American people. Already levied virtually beyond their means, they now face a Democratic tax increase next year that will be the largest in the country's history. They must have and shall have relief. Concurrently, we will begin and we shall succeed in bridling the Federal budget. The Democratic 96th Congress has approved two annual Federal budgets with a total deficit in excess of $100 billion. Meaningful tax relief, lasting control of inflation, and restoration of the dollar as the linchpin of the world monetary system, must be predicated on reductions in the growth of the Federal budget, indeed on the balancing of that budget.

We begin and we shall succeed in working with President Reagan to restore credibility and consistency to America's foreign policy. The vacillation and hollow threats that have characterized American foreign policy during the present administration have yielded us only troubled allies and emboldened adversaries.

We begin and we shall succeed in reinvigorating and refurbishing America's Armed Forces. Years of Democratic stewardship of our military has left it weakened and demoralized. Peace is maintained by the mutual realization and respect of strength—a basic tenet noted some three centuries ago by philosopher Thomas Hobbes who stated: "Covenants without swords are but words."

We begin and we shall succeed in reshaping the realm of the Federal Government. Four decades of Democratic predominance in the Congress has left as its legacy a central Government which is now the master of its citizens. We shall restore the dominion of the people.

We shall succeed, Mr. President, because, unlike our Democratic counterparts, we of the Republican Party understand our special compact with the American people: Our party can only be best served when we best serve the people.

We shall succeed because we, both party and Nation, have no alternative. We can afford only success.

AS THE CURTAIN FALLS

Mr. ROBERT C. BYRD. Mr. President, in but a short time, the 96th Congress will adjourn. When the Senate reconvenes for the 97th Congress, several of our friends will not be with us. Power and authority will shift in the Senate. New officers will take up the reins of responsibility.

As this Congress closes, we will examine our official record and read the scholarly assessments of the work we have done. Journalists and experts will shift our legislative actions to determine the significance of the laws we have passed. That is to be expected, because our words and deeds are now etched in history.

I have previously placed in the RECORD a list and a summary of our achievements in the 96th Congress. That compilation of our work—in domestic affairs and defense, in energy and international trade and foreign affairs and many other areas—is an impressive reflection of the seriousness of this body. I will not reiterate that extensive document now, but I commend it to my colleagues and to anyone else interested in the enormous volume of the people's business we have labored on these past 2 years.

I might also note that when we began this post-election session, there were doubts regarding how much we might accomplish. The lameduck proved to be a rather healthy duck after all. Contracts with the American people run until January 3, 1981, for those who may be retiring; and we all as Senators, can be proud that we returned to Washington to perform our duty.

I should like to share with my colleagues some personal observations. As this session of Congress comes to an end and as my current tenure as Senate majority leader approaches its close, I feel that it would not be proper to part company without expressing some of my reflections and emotions.

The French author Flaubert wrote, "Our ignorance of history causes us to slander our own times." We have participated together in the creation of history. We live in an age of transition, change, and upheaval. Many of our decisions during the 96th Congress will have a crucial impact on the future shape of our country and our world.

I believe that we can be proud of the work we have done. Throughout the life of this Congress, we have debated some of the great issues of our lifetime on the Senate floor. We have wrestled with questions of energy, the environment, national defense, the economy, and foreign policy, and we have done so candidly. I believe that history will be kind to our efforts.

During the last two Congresses—in which I have been privileged to serve as majority leader—we have passed the Panama Canal treaties; banking, trucking, and railroad and airline deregulation; civil service reform; environmental legislation; and numerous pieces of energy legislation. We have made progress in normalizing relations with the People's Republic of China. We have passed the most far-reaching trade legislation in decades. These are only a few of the major pieces of legislation on which we took stands.

None of these major actions was the work of just the Democratic majority. I thank my good friend Senator BAKER, and my equally good friend Senator STEVENS, for their cooperation throughout my term as majority leader. As members of opposing political parties, we often differ on specifics. But no one can fault us, on either side of the aisle, on our mutual dedication to our country and its future. I have deeply appreciated the cordial and helpful relationship I have enjoyed with Senator BAKER and Senator STEVENS for the last 4 years. I wish them the best as our roles change in January. I assure Mr. BAKER and Mr. STEVENS that, in the next 2 years, I shall strive to mirror the cordial and helpful relationship they rendered to me during the 95th and 96th Congresses and that I shall try to be as fair as I possibly can.

I owe special debts of appreciation to Senator CRANSTON and to Senator INOUYE. I am grateful for the excellent work and the constant, unstinting, and unwavering support that has been given to me by Senator CRANSTON and Senator INOUYE in their positions in the Democratic leadership, and for all the help they have given me in the years we have worked together. I look forward to continuing to work in tandem with these outstanding men and distinguished Senators in the months ahead.

In this regard, I also express my appreciation to the other Members on both sides of the aisle, Democrats and Republicans alike, for the cooperation and the understanding that consistently have been accorded to me.

The close of this Congress carries a special poignancy for many. Several Senators, whose friendship and cooperation I have long enjoyed—Republicans and Democrats alike—will be leaving Capitol Hill. Time does not allow me to reflect on all the warm moments and exciting legislative battles we have shared during our careers. But I shall always cherish our mutual memories and the acts of kindness that each of these Senators has shown me, and I shall never forget them.

Large numbers of Senate staff members will be leaving us. I know I speak for other Senators in expressing my gratitude for the dedication and service that these staff members have given us.

So, as my term as majority leader draws to its conclusion, I wish everyone—those who are leaving and those who will return—the very best of everything: God's blessings, good health, a pleasant holiday, and a prosperous and happy future.

I especially wish to express my appreciation to the officers of the Senate and to the members of the Democratic Policy Committee staff—particularly Mary Jane Checchi, Arthur House, Abigail Reed, Patrick Griffin, and Charles Kinney. They have been outstanding in the performance of their duties on the floor and as members of the Democratic Policy Committee staff.

I also express thanks to the pages, who have been helpful to all of us in carrying out our duties to our constituents, and I hope we will have the opportunity to continue to serve together in the days ahead.

I thank the Official Reporters of Debates for the dedication they bring to bear in their daily work, which makes it possible for us to follow the products of our legislative efforts as we read the CONGRESSIONAL RECORD. They make it possible for us also to follow the debates, part of which we participate in, part of which we do not, and to them we owe a debt of gratitude.

I also express my appreciation to those who sit at the desk—the Parliamentarian, the assistant parliamentarians, the Journal clerk, the reading clerk, and the legislative clerk.

I should not forget my colleagues on this side of the aisle in the work they have done to preside over the Senate. The work of presiding is a chore. There are those who say that is the only way to learn the rules. I will have to say that I never learned much about the rules when I presided, and I suppose I have presided as much as anyone else, having sat in the chair in one sitting for almost 22 hours.

The only way to learn the rules and the precedents is constantly to study them, read the massive volume on the precedents, be on the floor day in and day out, and apply them. So the learning of the rules and the precedents comes in working with them. Having been a part of the leadership for 14 years, I have had the opportunity to do a good bit of that.

As we have called on our Democratic colleagues to sit in the chair daily, we have had their cooperation. It is a thankless task for them, but it is an important one.

I express my appreciation to the Democratic Cloakroom for the fine way in which it has been able to line up the Presiding Officers daily throughout these two Congresses.

My special thanks go to Joe Stewart, the secretary for the majority, and to Patrick Hynes, the assistant secretary for the majority, in this regard.

I also express my personal thanks to the Republican secretary for the minority, Mr. Bill Hildenbrand, and to Howard Green, his assistant, and to Elizabeth Baldwin for her excellent work and her characteristic and unfailing courtesies and graciousness.

It all makes it possible for the Senate to operate and for the Senate to act on the business of people.

So to all of these individuals and the many others who make it possible for the Senate to do its work from day to day, I say thank you, and may I say that not only am I in your debt, but also the Senate, and more than that, the people of our Republic.

As majority leader, it has been a pleasure to work with all of you, and I shall look forward in the days to come to working with you as I continue to be the leader of the Democrats, a minority which will not be small by any means but which will be a sizable one and which will accept its role of the minority in the finest spirit of service. This minority will be responsive to the needs of the country and will cooperate with the majority when it can and when it feels that it cannot go along with the new administration and the new majority it will attempt to be constructive in its opposition and, in that way, perform a vital function under our constitutional system.

So, for all of you I wish these things:

Work for your hands, a straight path for your feet, a coin for your purse, sunshine on your window pane at morning, a song in your tree top at sunset, soft rains for your garden in the spring, the hand of a friend on your latch string, love at your firesides, happiness in your hearts, and God's wonderful blessings always.

ORDER FOR RECESS UNTIL 1 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand recessed until 1 p.m. this afternoon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 1 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand recessed until 1 p.m. this afternoon, Tuesday.

The motion was agreed to; and, at 5:11 a.m., the Senate recessed until Tuesday, December 16, 1980, at 1 p.m.

EXTENSIONS OF REMARKS

AGRICULTURAL COMMODITIES AND U.S. AGRICULTURAL POLICY

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. NOLAN. Mr. Speaker, in November 1979, I prepared the following statement for members of the Presidential Commission on World Hunger. In view of the pending debate over the new farm bill, I wish to make the statement available to my colleagues for their use.

The statement follows:

AGRICULTURAL COMMODITIES AND U.S. AGRICULTURAL POLICY

United States agricultural policies directly influence the productive capability of farmers at home and abroad. Since the 1950's the level of agricultural production in the United States usually has been characterized as excessive, creating burdensome, price-depressing surpluses even as hunger and malnutrition continued to increase throughout the world. The fact that the hungry people around the globe are the world's poor means that they do not have adequate income to purchase food, even when commodity prices, particularly for grains, are comparatively low as they have been for the past five years. Paradoxically, the large volume of low-priced grain and oilseed exports from the United States has contributed to hunger in developing nations by reducing both the incentive to produce food and the purchasing power to buy it. In the United States, low farm commodity prices and other public policies which benefit a minority of large farmers the most, threaten to undermine the productivity and the resilience of domestic agriculture. Public policies are political in origin and politics therefore is the key to resolving the paradox of surpluses amidst continuing worldwide hunger and to assure the economic stability of agriculture in the United States.

U.S. AGRICULTURAL EXPORTS AND IMPORTS

During the past decade, the volume of agricultural exports has increased by about two-thirds and the dollar value more than doubled. For this year's crop, according to projections, 64 percent of the wheat produced domestically will be exported, as will 26 percent of the feed grains, 42 percent of the soybeans and 48 percent of the rice. The U.S. dominates the international grain trade, supplying 40 percent of the wheat, 75 percent of the corn and 80 percent of the soybeans which cross national boundaries. In fiscal 1978, the value of farm exports totaled $27 billion while the non-farm U.S. trade deficit climbed to $48 billion. For the non-farm sector, agricultural exports in 1978 generated $27 billion of economic activity in such areas as transportation, processing and packaging. Roughly two million Americans are employed in activities related to exporting agricultural commodities.

The United States imported $14 billion of agricultural products in 1978. Around half of the imports were complementary products such as coffee, cocoa and bananas, of which there is little or no domestic production. The other $7 billion of agricultural imports were supplementary products which could have been produced domestically. Since the supplementary agricultural products imported by the United States usually are more highly processed, the Department of Agriculture estimates that the loss of processing jobs in the United States costs the economy $1.50 in payroll for each dollar of supplementary imports. In other words, $10.5 billion of lost payroll must be added to the $7 billion cost of supplementary imports, thus offsetting to a large extent the $27 billion of non-farm economic activity generated by agricultural exports.

IMPACT OF U.S. GRAIN EXPORTS ON DEVELOPING NATIONS

Although American farmers produce more than one-half of the entire world's exportable supplies of grains and oilseeds, the prices received by U.S. farmers have been generally depressed for the last 25 years. According to the Department of Agriculture, farmers in the U.S. receive some of the lowest selling or return prices in the world for their wheat and corn. U.S. price support levels for wheat and corn also rank among the lowest in the world. Unfortunately, U.S. agricultural policies have not placed enough emphasis on stimulating demand in order to absorb the production which the United States is able to supply and the result has been price-depressing surpluses.

The availability of cheap grain from the United States has been a double-edged sword for developing nations which have come to rely increasingly on grain imports to feed their populations. As the volume of grain moving in international trade increased, the food security of developing nations decreased. Despite the persistence of hunger, the developing world was largely self-sufficient in food production as recently as the 1950's, but it is now a net importer of food and is expected to have an annual deficit of 85 million metric tons of wheat, rice and coarse grains by 1988. In 1977, 31 percent of U.S. agricultural exports went to developing nations, including 58 percent of the domestically produced wheat and 74 percent of the rice. Most of the grain was exported through commercial channels while around 6 percent was shipped abroad as food assistance under Public Law 480.

Developing nations have increased food production, faster than in developed countries in some cases, but not as fast as population growth. The availability of U.S. grain at low or fluctuating prices added to the problem of food production in developing nations by making them more susceptible to market disruptions, which reduce the purchasing power to buy food, and by undermining price incentives for farmers to increase production. The developing nations now are more dependent on international commodity markets which have been repeatedly wracked by severe commodity supply and price fluctuations—as occurred most recently during the food shortage years of 1972-1974. The consequences have been particularly harmful for developing nations because fluctuating commodity prices undermine their exchange rates, economic stability and rate of development. The low prices of U.S. grain exports—which set "world market" prices because the U.S. dominates the international commodities trade—undercut the market prices and support levels for agricultural commodities in developing nations. Food aid from the United States, for example, often has undermined commodity prices in developing nations, thus creating a disincentive to local production. The domestic price policy of the United States is projected upon the world, severely depressing world trade prices for grains and also impoverishing producers in the other exporting countries.

In the near future, the ability of the United States to expand its grain exports substantially beyond existing levels will be more difficult. Although the United States still has the capacity to expand its cultivated acreage, domestic agriculture has reached, for the time being at least, a point where additional technology will not increase yields at the same rate as that which occurred during the previous three decades. Furthermore, the reliability of the United States as a supplier during periods of poor harvests abroad has been called into question. When grain was scarce in 1972-1974, the United States unilaterally resorted to export embargoes in an attempt to keep domestic food prices down. In any case, the agricultural transportation system in the United States is strained to capacity and is on the verge of breaking down, thus placing limits at around current levels on the amount of grain which the U.S. will be able to export for several years.

Since the United States and other grain exporting nations are not in a position to supply all of the grain needed to make up the anticipated food deficit in developing nations, these countries will have to produce a substantial portion of the additional commodities themselves. By placing primary emphasis on strategies to raise the purchasing power of the poor, the demand for food will increase which, in turn, will raise the market prices of agricultural commodities, thus providing the incentives necessary to expand production. Agricultural and industrial development both play a role in generating the additional demand which will result in increased food production.

In a discussion of the role of agriculture in development, the World Bank's, World Development Report, 1979, recognized that "Increases in agricultural productivity and incomes are particularly important for generating domestic demand for industrial products at the early stage of development when agriculture provides employment for well over half of a country's labor force." Demand for food is stimulated, in part, by increased agricultural income, according to the World Bank, because increases in rural incomes "have powerful multiplier effects, in that they increase the demand for nonagricultural goods and services and hence the incomes of those providing goods and services." In addition, the World Bank found "that the multiplier effects of increases in smallholder incomes are, if anything, greater than those of comparable increments in the incomes of large farms, suggesting that a smallholder-oriented agricultural development strategy would enhance the expansion of a domestic market for industry.

Stimulating demand through agricultural development implies that developing nations will commit a portion of their revenue to maintaining a "smallholder-oriented" price support program for agricultural commodities. Increasing the purchasing power of farmers in such a manner will provide

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

them with income to buy the goods and services necessary to increase their productivity, thus creating jobs and stimulating demand. The ability of developing nations to adequately finance price support pograms is uncertain, however, as is the extent to which the multiplier effects of increased agricultural income and productivity will generate additional demand. Therefore, other methods to increase purchasing power also must be employed.

If adequate price supports are lacking, little or no increase in farm income (and little or no multiplier effect) will occur until a developing nation's rural and urban poor have the money to pay for more food. Attempting to increase agricultural production without adequately raising the purchasing power of either farmers or the poor simply contributes to burdensome price-depressing surpluses in the midst of the hungry poor. Demand also must be increased by expanding the jobs in industry as well as in agricultural-related enterprises in order to generate the income necessary for the poor in urban and rural areas to buy food and other goods. The ability of developing nations to expand employment depends on several economic factors, including tax policies, the amount and type of investment, the availability of credit, marketing and transportation facilities, and international trade. The rate at which developing nations are able to expand employment, both in industry and in agriculture, will be determined to a large extent by U.S. trade policies as well as by U.S. agricultural policies.

Raising agricultural income and productivity in developing nations through a combination of price supports for agricultural commodities and employment policies, both of which are designed to stimulate demand, is an important component of the development process. Unfortunately, attempts by developing nations to increase their grain production are jeopardized by unstable world grain prices which are generally low or fluctuating because of U.S. prices. In the absence of international commodity price stabilization arrangements, developing nations may find it necessary to place restrictions on grain imports and food aid in order to prevent cheaper U.S. agricultural commodities from serving as a disincentive to local production.

Increased agricultural production in developing nations will eventually expand the world's agricultural export market. If the purchasing power of farmers and workers in developing nations is increased through price support programs and expanded employment, demand may rise at a higher rate than the growth in agricultural production. In other words, as demand increases, the small subsistence farmers who are themselves hungry will do well in the next generation if they simply manage to feed their rural neighborhoods, let alone the burgeoning urban population. Any short-run loss in grain export markets because of increased local production in developing nations probably will be recovered quickly as expanded purchasing power within these countries raises the demand for agricultural commodities. During the coming decade, the development process will increase world demand for grain, thus leading the United States and other grain exporting nations to substantially increase their grain acreage and production. The increased demand and expanded production in developing nations will not be sustained, however, if the additional volume of grain exports leads to a new round of severely depressed world market prices for agricultural commodities.

IMPACT OF U.S. AGRICULTURAL IMPORT POLICY ON DEVELOPING NATIONS

The agricultural trade barriers imposed by the United States have caused great concern among developing nations. In a number of instances, farmers and commodity groups in the U.S. have supported successful efforts to restrict either imports or financial assistance for the production of such developing country products as sugar, palm oil and vegetables. Previous efforts to harmonize the interests of developing nations with those of domestic producers have proven difficult because U.S. imports of supplementary agricultural products reduce domestic farm income. Domestic producers are extremely sensitive to suplementary imports which depress U.S. price levels and under such circumstances, a significant expansion in the level of supplementary imports is not likely. In addition, U.S. farmers object to competition from subsidized imports and from imports which do not meet the health or environmental standards required for production in the United States.

Developing nations export primarily raw agricultural commodities to the United States and these products are the most susceptible to fluctuating international commodity prices. The boom and bust nature of the international commodities trade is determined by variations in supply which usually causes prices to rise periodically for a few seasons, making production profitable until prices plunge again for a long period. The United States, which is a major importer of agricultural commodities from developing nations, has not actively pursued a broad program of international commodity arrangements to establish fair and stable prices for agricultural imports and exports.

IMPACT OF U.S. AGRICULTURAL POLICY ON U.S. FARMERS

The expanding volume of cheap grain exports also has been a double-edged sword for farmers in the United States. While only a world market could absorb the volume of grain produced by farmers in the United States, placing domestic agriculture on an export footing by shipping abroad the production from every third acre of American farmland has tied the economic well-being of U.S. farmers to a volatile, unpredictable export market. A recent General Accounting Office (GAO) analysis of grain production, exports, and prices received by farmers reveals that a small change in the quantity produced tends to have a major impact on the average price received by farmers. A shortfall in world production pushes prices up while a year or two of relatively good crops worldwide turn what actually are most accumulations of pipeline stocks for export into price-depressing surpluses. Maintaining price stability becomes much more difficult under such circumstances.

Besides increasing the farmers' susceptibility to price fluctuations, expanding production for the export market during the past several years has occurred at the expense of sound conservation practices. According to the Department of Agriculture, "soil erosion continues to be a resource problem of major proportions." In the Corn Belt, where much of America's row crops are grown, the average soil loss is 8.1 tons per acre per year, about twice the rate which is compatible with sustained productivity. As Agriculture Secretary Bergland has said, we are "on a collision course with disaster" which threatens to destroy the long-range productivity of U.S. Agriculture.

During the past 25 years, the expanding export market for agricultural commodities failed to provide U.S. farmers with adequate income. On the average, 2,000 farmers per week have gone out of business since World War II. There are about 2.7 million farms left today, but the largest 20 percent now have 80 percent of the sales. The loss in farm numbers and the resulting increase in farm size was not merely an inevitable consequence of technology. Rather, low farm income fueled the trend toward fewer and larger farms. As Internal Revenue Service data reveals, national agricultural taxable income was $6 billion in 1947 but had dropped to $2.8 billion in 1977.

According to a recent GAO report entitled, "Changing Character and Structure of American Agriculture: An Overview," farmers had to expand simply to maintain their income which was eroding because of narrowing profit margins. GAO called it a "fight for economic survival" as higher production costs and lower commodity prices trapped farmers in a cost/price squeeze. They were forced to expand in the hope that economies of scale would reduce costs on a per acre and per bushel basis and that increasing the volume of production would help them maintain their margin of profit.

Instead of achieving economic stability, the larger farms also ran into financial difficulty because of low commodity prices and spiraling production costs. GAO reported that the largest farms—the 2 percent raising one-third of our produce—are neither as productive, as efficient nor as resilient as smaller farms. The larger farms, with their reliance on heavy capital expenditures, borrowed capital, hired labor and specialized production, are less able to withstand economic adversity. In fact, GAO's subsequent analysis of Internal Revenue Service data revealed that on farms with annual sales exceeding $200,000 the cost of production, as a percentage of business receipts, is substantially higher than on farms with annual sales of $50,000 or less.

According to GAO, the largest farms are more specialized, more dependent on petroleum-based resources and outside capital, and they have greater relative operating costs. The higher capital requirements and operating costs make it more difficult for new farmers to enter agriculture and specialization makes them more dependent on fewer commodities for their income. The GAO report concluded that "Society has thereby come to depend on the smaller and medium sized farms as an ideal combination of resource control and ability to bounce back from adversity. Although a resilient agriculture does not insure economic stability, it does maintain reasonable food supply stability, which in turn, is closely tied to domestic and international economic policies. Likewise, when comparing the cost of production and return on investments it is these farms that are the most efficient."

The trend toward fewer and larger farms also has undermined the economic base and social fabric of rural America. Rural communities flourished when surrounded by a large number of farmers who patronized local businesses. But when low farm income contributed to the migration of tens of thousands of farmers off the land, the rural economy deteriorated and the declining tax base reduced the quality of health care and other public services in rural areas. In turn, the people who left the countryside went to the cities to compete for jobs, thus increasing the unemployment and welfare rolls in many urban areas.

U.S. POLICIES AFFECTING AGRICULTURE NEED THOROUGH REAPPRAISAL

The trend toward fewer and larger farms in the United States, as the preceding analysis suggests, jeopardizes the stability of domestic agriculture and its ability to sustain existing levels of production. Few people disagree with the national objective of encouraging a family farm system of dispersed, diversified agriculture. Unfortunately, public policies including taxes, energy, credit, agricultural research and commodity programs have encouraged the trend toward fewer and larger farms, thereby concentrating land ownership in fewer hands and reducing diversified production. According to the Department of Agriculture, public policies "have usually encouraged farm growth and consolidation by benefiting larger farms relatively more than the smaller farms." Rising public concern regarding the loss in farm numbers has led Agriculture Secretary Bergland to call for a full-scale national dialogue to evaluate the effects of public policy on farm structure.

A survey of various public policies reveals the legitimacy of Agriculture Secretary Bergland's concern. Tax policy is one of the strongest public measures available to achieve a more equitable distribution of income, yet, in agriculture most of the tax preferments go to the larger farms. Agricultural technology is energy intensive, making the productivity of agriculture more dependent on expensive fossil fuels. An adequate credit program is lacking for those who need it the most: new farmers and those with limited equity who cannot obtain credit from private sources. Agricultural research has been oriented toward large-scale, energy intensive and specialized production at the expense of maintaining systems of small and medium sized family farms which employ smaller scale, less energy intensive technology and diversified production patterns. The price support programs have always been based on production, which reflects existing patterns of landholding. The larger farms with a greater volume of production receive more benefits from commodity programs than the small and medium sized farms. The debate over commodity prices tends to obscure other public policies which, in effect, provide a variety of public subsidies to large farms, thus encouraging their continued growth even beyond economies of scale.

Nevertheless, as the GAO analysis indicates, an inadequate commodity price policy—that is, the lack of price support—has had a major impact on the structure of U.S. agriculture, fueling the trend toward fewer and larger farms. In 1977 Congress authorized a farmer-held grain reserve program designed to stabilize and improve farm income, but the measure was flawed. The intent of the legislation was to provide farmers with incentives to store their grain during times of adequate supply and to release the grain when supplies dwindled, thus providing consumers with a buffer against exhorbitant prices. Unfortunately, the market price level which triggers release of the grain establishes an artificially low ceiling on commodity prices, thus discouraging participation in the program. In addition, the size of the reserve is not large enough to protect consumers. In the event of another period of production shortfalls abroad, as occurred in 1972-1974, the U.S. grain reserve would quickly be absorbed in the marketplace and consumers would have no buffer at all. Even a modest rise in grain prices will trigger the reserve's release mechanism, as occurred during the summer of 1979 when the release trigger resulted in one-third of the reserve wheat being removed and reclaimed by farmers.

The reserve program's failure to significantly improve farm income is reflected by farm debt figures. As of January 1, 1979, farm debt climbed to $137.5 billion—an all-time high and two-and-a-half times the level in 1970. In 1956-58, total farm debt was $1.70 for each dollar of net farm income. Today, total farm debt is $5.00 for each dollar of net farm income and, if current trends continue, farm debt could double in the next four or five years. The situation continues to grow worse as farm liabilities increase faster than farm assets.

Returns to farm equity continue to run much lower than for non-farm segments of the economy. In 1978, returns to equity from farming were 3.6 percent at current farm value and 8.4 percent at original acquisition value, as compared with 14.6 percent for all manufacturers. The current high interest rates make it difficult for many farmers to pay off debts when earnings are only 3.6 percent on investment. According to the House Appropriations Committee, at today's low commodity prices, "it is impossible to earn sufficient income to service farm debt, let alone earn enough to support a farm family, unless a farmer has a large farm operation which was inherited or purchased when land prices were low and, therefore, is largely free of debt. Few producers are this fortunate."

One-half of total farm debt is attributable to the highly inflated cost of farmland. In addition to today's cost of farmland, high interest and taxes make it difficult for farmers to remain solvent or for beginning farmers to enter agriculture. For farmers, however, the rising land values have become the key to survival during times of low commodity prices. Since farm income is not adequate to retire debt, farmers must rely on appreciating land values in order to refinance their operations. In the absence of better commodity prices, any attempts to drive farmland values down would devalue the farmers' collateral, thus leading to loan calls and bankruptcies all across rural America.

Clearly, U.S. agricultural commodity price policy and other public policies are major determinants of the productive capability and structural resilience of farms in other countries and at home. U.S. commodity prices in particular have a direct influence on the ability of developing nations to increase their food production, on the supply and prices of agricultural commodities moving in international trade, and on the structure of agriculture in the United States. When all the secondary economic effects are accounted for, the results of a low-price policy for agricultural commodities have been uniformly negative.

RECOMMENDATIONS

The physical resources and the technological capability are available to expand production in developing nations and to maintain and expand current levels of production in the United States. The productive potential of agriculture in developing nations and the productive capability of U.S. agriculture are threatened primarily by political shortsightedness. Political policies have maintained low commodity prices, thus reducing the ability of developing nations to increase their food production and diminishing the resilience of U.S. agriculture and its capacity to maintain stable food supplies.

Agriculture Secretary Bergland has called for a full-scale national dialogue to evaluate the impact of public policies on farm structure. The policy review, however, lacks a clear purpose and fails to give adequate consideration to the impact which commodity price policy has on agricultural production and farm structure at home and abroad. The purpose of the full-scale national dialogue, therefore, should be to develop an agricultural policy for the United States which will achieve the following objectives:

1. Secure U.S. farm income in the marketplace at a fair level which will enable agriculture to obtain a rate of return on farm labor, management, investment and risk at a level equal to that of the non-farm sector. Placing limits on the amount of price support or payments which any one farmer may receive will stop the loss in farm numbers and, indeed will reverse the trend toward fewer and larger farms. By securing a fair level of farm income and by increasing the number of farmers as well, additional economic activity will be generated because agriculture is the nation's number one industry. One out of every five workers is employed either directly or indirectly in agriculture, which account for 25 percent of the nation's Gross National Product when agricultural support industries are included. Farmers spend 65-85 percent of their gross receipts on production costs and in 1977 they pumped $88 billion back into the economy to pay for their production costs.

2. Redirecting other public policies, including taxes, energy, credit, agricultural research and commodity programs, so that the vast majority of farmers, not the few, receive the primary benefits.

3. Improve the farmer-held grain reserve program by increasing the market-price levels for releasing the grain and by expanding the size of the reserve. These steps will increase farmer participation in the program, will raise and stabilize farm income, will stabilize consumer food prices and will provide consumers with a buffer against exhorbitant prices during times of short supply.

4. Establish sound conservation practices which will sustain the productivity of agriculture.

5. For developing nations, production disincentives and market disruptions caused by the low and fluctuating prices of U.S. grain will be removed by improving and stabilizing the prices of agricultural commodities produced in the United States. Maintaining a fair and stable price support level for agricultural commodities in the U.S. will help to clear the way for developing nations to raise agricultural income and productivity through a combination of "smallholder-oriented" agricultural price support programs and employment policies, both of which are designed to stimulate demand. The United States should offer technical and financial assistance to developing nations to facilitate their implementation of "smallholder-oriented" agricultural programs to increase local production of food.

6. As outlined in the chapter on international trade, negotiate international commodity agreements with producing and consuming countries to establish fair and stable prices for the agricultural products exported by developing nations. Trade restrictions, except for those which require that U.S. health and environmental standards be met, then may be removed as long as the U.S. commodity price levels are not undermined.

7. Totally rehabilitate the domestic agricultural transportation and storage system in order to remove the physical limitations on the ability of the United States to be a reliable supplier of agricultural commodities.●

TRIBUTE TO BIZZ JOHNSON

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. ICHORD. Mr. Speaker, the Congress will deeply miss the wisdom, experience, and legislative know-how of the gentleman from California, BIZZ

JOHNSON—and I shall miss a close and dear friend.

BIZZ JOHNSON'S service to the U.S. Congress encompasses 21 years—but his record of public service stretches over a far greater span of time. He worked hard in matters of local education and local government and served as mayor of his hometown, Roseville, before entering the California State Senate in 1948, and coming to Washington in 1959.

The list of his legislative contributions is long and impressive: He has labored hard in matters of public education, conservation and natural resources, aviation, economic development, mass transit, water and flood control, national parks, public lands, and many, many more.

Since 1977, BIZZ JOHNSON has served as the very skilled and accomplished chairman of the House Committee on Public Works and Transportation. In that capacity, he has played a primary leadership role.

Mr. Speaker, I know that you and all the Members of the House join me in expressing our gratitude for BIZZ JOHNSON'S service here and for the opportunity to know and work with this outstanding legislator. He has made enduring contributions to his State, the Nation, and our personal lives. I shall always cherish his friendship and pray that good fortune will always smile upon him and his family.●

TRIBUTE TO BIZZ JOHNSON

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PEPPER. Mr. Speaker, the last election robbed this House of some of its greatest Members, one of whom was HAROLD (BIZZ) JOHNSON. It is hard to believe that a man of such outstanding ability who has done so much for our country, who has chaired with such distinction one of the great committees of the House, who is so noble in character and dedicated in purpose under any circumstances, could have been defeated. Yet we know that it was the trend in the country and not the deficiencies of BIZZ JOHNSON responsible for the unhappy outcome of that election.

BIZZ JOHNSON has been one of the outstanding Members of this House. He has been one of the most respected of our Members. He has been recognized by his colleagues as a great American, a great legislator, and a great gentleman. As an example of the thoughtfulness which BIZZ JOHNSON showed toward his colleagues, I recall an occasion many years ago when I offered an amendment on the floor and made a brief statement in support of my amendment. The next day I had a note from BIZZ JOHNSON which warmly complimented me upon my presentation of the amendment. That was simply an instance of his characteristic concern for his colleagues and his appreciation of them.

As chairman of the Committee on Public Works and Transportation and chairman of the Water and Power Resources Subcommittee of the Committee on Interior and Insular Affairs, BIZZ JOHNSON has led the House in the enactment of legislation of the greatest national importance. In the many fields within the jurisdiction of those outstanding committees, he has helped to build a greater and better America, to make things better for many of our fellow citizens, and to advance the interest of our whole country. This House will not be the same without BIZZ JOHNSON. We shall never cease to miss his quiet dignity, his knowledgeable handling of any subject when he spoke on the floor, his able leadership of his committee, nor the many, many kindnesses he has shown to his colleagues.

Wherever BIZZ and his lovely wife, Albra, who has been a great helpmate to him in his legislative service and a great and gracious lady, may be, we know they will be among admiring and devoted friends. They will be doing something to make America, which they love so much, greater and better. They will continue to be great Americans. Our affectionate wishes for a long, healthy, and happy life for them and their loved ones will always be with them.●

TRIBUTE TO HON. JOHN J. RHODES OF ARIZONA, MINORITY LEADER

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is a pleasure and an honor for me to pay tribute to a dear friend and the distinguished minority leader, JOHN RHODES. I have been fortunate to have served with him during all my years in the Congress. For 28 years, JOHN has been a loyal representative and a dependable colleague.

My only complaint about JOHN RHODES is that on many occasions, citizens in the Capitol or in the office buildings have come up to me and said, "What a wonderful Congressman you are—Mr. RHODES". Since his chairmanship to the Republican Policy Committee in the 88th Congress, JOHN quietly moved up in the ranks and demonstrated his remarkable leadership qualities which deservedly placed him in the position of minority leader. In these years he has never waivered from his loyalty to his party.

As a leader, he will be greatly missed because he is the voice that has always spoken with moderation and he has spoken with the experience and qualifications that have brought him respect from both sides of the aisle. JOHN, I wish you the best of luck as you continue your duties as the able representative of the First District of Arizona.●

NO RIGHT TURN

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. LAFALCE. Mr. Speaker, the rise of the political right wing of our Nation has been fueled, in great part, by the powerful electronic pulpit. The growing power of the Christian Right, as this loose-knit group of conservative groups is known, is a subject that deserves a great deal of contemplation and investigation.

The recent sermon by Rev. Perry Thomas Fuller, pastor of the First Presbyterian Church in Brockport, N.Y., which I am submitting below is an excellent analysis of this movement's flaws and the dangers it poses to America.

The sermon follows:

NO RIGHT TURN

It is almost inevitable that in a time of such stress and turmoil, when traditional institutions such as government have lost the confidence of the people, that frustration and even desperation would erupt to the surface in a variety of ways. Evidence of unease in the land is the growing alliance between fundamentalist religion and right-wing politics. The tone and character of this alliance is one which I view with enough alarm to have prepared for months to preach this sermon. It is one of those sermons which preachers find, right or wrong, they must preach. It is not something I personally relish because controversy is not something I go out of my way to invite. This sermon has been prepared with great care. I would ask that you listen just as carefully. What I say, I hope, is precisely what I mean without innuendo or code words. What I have to say, I will say straight out.

First, let me make a few general remarks before getting to those things which I believe are serious flaws in the new movement to the political right on the part of fundamentalist religion. There have been some ill-advised liberal voices who, in reaction to some of the positions taken by the new right, have caught themselves in a fallacy and a hypocrisy. The fundamentalist churches have every right to become involved with social and political issues. It is a premise that many of us of different persuasions have been maintaining for years. Those who say the new right is violating the principle of separation of church and state are wrong. The fundamentalists have the right. Whether or not they are on an appropriate track is another matter.

Let me say this about labels as they relate to politics. Conservative is not the same thing as right-wing any more that liberal is the same thing as left-wing. The problem with "wings", right or left, is that they have taken positions which allow no disagreement or differences. To the contrary, it is possible for good people, honest people, Christian people to disagree on important issues of our time. But when you wed religious absolutism and fervor with a single social, political, or economic position, you will soon regard those opposed to you not only as mistaken or misled, but sinful as well. I find that unacceptable, dangerous, and very far from the atmosphere of tolerance and diversity we struggle to maintain in this country.

I now introduce my major source of uneasiness with the new coalition of religion and right wing politics. People who may be called liberal are often accused of being soft on communism. For me, they represent two different problems which I will state as simply as I can. This distinction is important, because agree or disagree with my position, you must understand where I come from to hear my concern.

It is my personal conviction that, while both the left and right wings are serious threats, the left-wing and communism is more of an external threat, and the danger of the right-wing is more an internal threat to this country. Unreliable and unprincipled, the Soviet Union, as an example of the threat from the left, is very dangerous to the survival of this country, largely through external military challenge and general international troublemaking. Further, I believe the Soviets have thought the unthinkable and have considered the calculated risks of nuclear war. I think they can be trusted only to create problems for us wherever they can in the world.

Communism and leftist politics tend to be an internal threat more in less developed countries where there is a small ruling class and a large, generally poor, peasant class. That is certainly not the case with the United States. However, the right-wing flourishes in a country in which there is a large, discontented, disillusioned, and economically disrupted middle- and upper middle-class population. That is our country.

I believe that a communist revolution could probably not happen in this country. They have been trying for years with little success. I do believe there is a possibility for a right-wing revolution. When you look at the conditions of Germany in the Thirties, you find a middle-class country in which inflation was destroying the economy, and there was widespread disillusionment with government just to name two important ingredients that sound familiar in our day.

Anyone who lived through World War II knows what the character of the right-wing can become. I will risk being called an alarmist and unfair, but I believe that a variation of what happened in Germany under Nazism is at least within the realm of possibility in this country.

Just take two straws in the wind. Two familiar marks of the right-wing are racial hatred and anti-Semitism. Last month at a meeting called the National Affairs Briefings, a gathering of fundamentalist clergy associated with right-wing politics, sponsored by "Religious Roundtable", heard a variety of speakers. One of them was the Rev. Bailey Smith, the president of the Southern Baptist Convention. This is what he said, by the way on the eve of the Jewish holiday, Yom Kippur: "With all due respect to those dear people, my friends, God Almighty does not hear the prayer of a Jew." (Times-Union, 10/4/80). The Rev. Mr. Bailey could have spoken those words at a rally in Munich in the 1930's and would have been right at home.

Have you noticed that the Ku Klux Klan is going through a resurgence all over the country, North and South? Have you noticed that anti-Semitism is occurring openly in other industrialized Western countries, such as France, where synagogues have been desecrated and bombed? Have you noticed that the Neo-Nazi party in Germany is becoming troublesome. All these things have given rise in that most careful corner, the Christian Science Monitor, to wondering if there is a coordinated international effort of the right-wing taking place. (CSM, 10-15-80)

Throughout the industrialized world, which is undergoing economic and political stress, remedies on the right are being sought, and I, for one, view it with alarm. I realize that these things said out loud sound rather drastic. However, they would have sounded drastic in Germany forty-five years ago. I have wondered, as I have read much history from that period, what if more people had spoken out instead of remaining silent? What if there had been a hundred Bonhoeffers instead of one? If I am wrong, you can chalk it off to someone who was either paranoid, malicious, or foolish. If I am at all right, whatever else I have to face, I will not, at least, have to answer for my silence.

A major difficulty with the current wedding of religion and right-wing politics is equating a particular set of political and social positions with the will of God. All social, political, and economic solutions are partial, relative, and of mixed benefit, no matter what quarter they come from. Pat Robertson, president of the Christian Broadcasting network, and host of the "700 Club", has this critique of such connection: "God isn't a right-winger or a left-winger", and he warns against the problems of associating specific political activities with religious beliefs. (Newsweek, September 15, 1980, pp. 29 and 36) Dr. David Hubbard of the conservative Fuller Theological Seminary in California, and radio Bible teacher, says, "I would hate for evangelical Christianity to become a spiritual version of the National Rifle Association." (Ibid. p. 36)

Dr. Hubbard also worries out loud about the possibility that religious leaders being caught up in this right-wing movement are in danger of being manipulated and exploited by political types who see, for the first time, the possibility of harnessing a large constituency for their right-wing efforts. For instance, the three main advisors to groups such as the "Moral Majority", "Religious Roundtable", and "Christian Voice" are Paul Weyrich, Howard Phillips, and Edward McAteer. They have been lobbyists for ultra-conservative political issues for some time. Pat Robertson also agrees with Dr. Hubbard that, "the evangelists stand in danger of being used and manipulated." (Ibid. p. 31)

Another problem is the attempt to impose a single standard of morality on the whole country. One must ask, whose morality is it going to be? How do you establish what is moral for a country so widely diverse in religious as well as other backgrounds? Let me be personal. This new religious movement often uses the word "evangelical" to identify themselves. I consider myself to be an evangelical Christian. I have had, as a young person, a significant, personal experience of God in my life, in which Jesus Christ became my personal Lord and Savior. If you heard last week's sermon, you would realize that my understanding of the Bible is one which is solidly within the traditional Reformed position.

However, if you took a list of social and political issues which the new religious right feels strongly about as being coincident with the will of God, you would find me either in sharp disagreement or in some phase of qualification on most of their positions.

Whose position should become the single, dominant morality of the land? Who is more moral? Sidney Hook has written that democracy is moral even to those who do not believe in God, and many believers in God do not believe in democracy. (New York Times, 10/5/80, p. 18E). If religion forces a single doctrine upon our society, the only result will be the suppression of all other doctrines. Thankfully, the Constitution establishes no particular view of God or doctrine. The framers of the Constitution recognized the fatal dangers in doing so. Which God would it be? The majority's God? One generation's majority might be the next generation's minority. In 1628, in Massachusetts, Thomas Morton was arrested for the sin of dancing.

Further, there is often no more immoral group than a majority. The majority of German people accepted the Holocaust of six million Jews. A member of our church who came out of a persecuted minority religious background has very helpfully pointed out to me that a problem in the presbyterian system is its majority rule. Rule by majority can cause great distress for the minority position. He left me with a phrase I will not forget, "the tyranny of the majority".

What standard of morality are we dealing with, when we hear titles like "Moral Majority"? What about the cry that this country needs to get back to a moral foundation? What moral foundation? Is it moral for the Rev. Mr. Smith to say that God "does not hear the prayers of a Jew"? Is it moral for Jerry Falwell, the religious leader of the "Moral Majority" to be a public liar, who told a large rally in Alaska a totally fabricated story about a conversation he had with the President, which never took place in any way, shape or form? (Newsweek, 9/15/80, p. 32). Or what about the morality of Florida Congressman James Kelley who got a 100 percent morality rating from the "Moral Majority" on his voting record in Congress, but who is also on the FBI's ABSCAM tapes?

What shall we say of one of the lay founders of the "Moral Majority's" Congressman Robert Bauman of Maryland, soliciting a 16 year-old boy for sexual purposes? Mr. Bauman said it all happened because he is an alcoholic, a revelation which apparently comes as a surprise to his physician, and which has become the favorite excuse for congressmen in trouble. I do not condemn Mr. Bauman for either problem. He deserves compassion and understanding for them, neither trait, however, others in his situation have gotten from him in his congressional record. Since we are talking about public morality, hypocrisy and mendacity ought not to go unchallenged. Congressman Bauman voted a year ago against a $221 million dollar alcohol abuse program, against legal assistance for homosexuals, against homosexual rights. (Carl Rowan, Democrat & Chronical, 10/18/80). Mr. Bauman has become himself a good argument for public policies with more humaneness and compassion than the right-wing often displays.

Friends, this is a time in history when we need not left-wingers, not right-wingers, but straight-ahead folk, with a steady hand and eye. Jeffrey K. Hadden has written an article in the October 20, 1980 issue of Presbyterian Outlook, the journal of the "southern" Presbyterian Church, called "Born Again Politics". In it, he identifies three underlying assumptions of the new religious right. "First, they believe that America has fallen from greatness. Second, the reason for this is that Americans have turned their backs on God. Third, restoration of this nation's greatness requires that we repent and return to God's will."

If you attended last week's Forum on the Prophet Joel, you will remember that is just about what I said the message of Joel was for our time and country. So apparently there is little disagreement among us in our theological analysis of the problems. However, addressing these assumptions cannot be done, I believe, by narrowing debate, hardening into a radical, inflexible position, or allowing only one option for a very diverse country of people. It seems to me that there has got to be developed once again something like a dynamic, broad, unpolarized middle, in which honest people can disagree honestly, but who will also work to reestablish a consensus of direction and purpose for our country.

You know I plead with you, even scold about it, to vote every election year. You know I believe the faithful Christian, under whatever label she or he falls politically, will also be an active citizen in the affairs of our country and community. The more people into the fray, the better. But we must also work out, somehow, by the grace and leading of God, some path which is positive, inclusive, human and compassionate. Hardliners on either wing will destroy us. A broad spirit of love and acceptance, springing, for those of us who believe, from the Holy Spirit, will save us. Amen.●

TRIBUTE TO ITALIAN EARTHQUAKE RELIEF COMMITTEE

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. McHUGH. Mr. Speaker, throughout our country numerous individuals and organizations have generously undertaken to alleviate the suffering of the Italian earthquake victims. I would like to take just a moment to pay tribute to a group that has been mobilized for this charitable purpose in New York's Broome County, which I am privileged to represent in Congress.

Through the dedication and initiative of Anthony Mosco of Binghamton and his cochairman, William Gargano and Dr. Anthony V. Mincolla, Jr., an Italian Earthquake Relief Committee was formed to raise funds to permit the Sons of Italy to provide assistance to the earthquake victims. I am pleased to be an honorary cochairman of this committee, together with State Senator Warren Anderson, State Assemblymen James McCabe and James Tallon, Binghamton Mayor Al Libous, County Executive Don McManus, and a number of other elected officials.

Numerous local organizations have cooperated with the committee to solicit contributions. One fundraising effort over the airwaves, by Binghamton radio station WNBF, resulted in numerous donations. The formal fundraising effort will continue through December 31, and a dinner dance in January will complete the planned schedule of events.

Mr. Speaker, the participants in this humanitarian effort are to be commended for their dedication and sacrifices, and I am very grateful for this opportunity to have my colleagues join me in paying tribute to their selfless activities.●

A TRIBUTE TO DR. MICHAEL HALBERSTAM

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. SCHEUER. Mr. Speaker, it is with great sadness that we remember the tragic murder of Dr. Michael Halberstam. Dr. Halberstam, a prominent physician, journalist, and novelist, was fatally shot on December 5, 1980, after he surprised a burglar in his Washington home. I knew Dr. Halberstam personally and grieve at the loss of such a fine human being.

Dr. Halberstam always cared about people. I recently met with him over lunch to discuss the drug lag issue, which has concerned me for several years. The long delay in making promising new drug therapies available to the public is a serious problem in this country. Dr. Halberstam and I talked about the needless suffering and death of thousands of persons because FDA regulations are denying them lifesaving and life-enhancing drugs that are often available abroad far sooner than they are here. It is sad that a man who cared so much for others was savagely cut down in the prime of his life—at the height of his productivity and influence.

We in the United States have long encouraged individual rights, but every right implies responsibility, and one such balancing act involves the right of persons to own and use handguns. Thus, as a sport shooter myself, I am not against handguns per se. But what I am against is the lack of licensing the use of such weapons. The analogy is this: If we require those who own motor vehicles, which are potential lethal weapons, to register them, so must we do with handguns.

Let us make a resolution as the new year approaches to remember Dr. Michael Halberstam—and John Lennon, who also was shot down in cold blood. Let us remember how Dr. Halberstam lived, devoting his life to caring for others. Dr. Halberstam—a personal and professional friend to me and to many others in Washington and in the Nation—must not have died in vain.●

A TRIBUTE TO JOSEPH BUZAS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. YATRON. Mr. Speaker, on Saturday, February 7, 1981, there will be a special testimonial dinner in Reading, Pa., to honor Mr. Joseph Buzas. I wish to bring to the attention of my colleagues in the Congress the outstanding achievements of this great sportsman.

This coming baseball season marks Joe's 25th anniversary as a minor league owner-operator. Joe is known throughout baseball as one of the great, if not the greatest, owner and operator in the history of minor league baseball. His record of ownership and his dedication to the efficient operation of all of his teams, is legend. Since 1957, Joe has owned 48 teams in 13 cities. He has had working agreements with seven big league clubs, highlighted by his 25-year association with the Boston Red Sox. Other big league partners include the Philadelphia Phillies, Washington Senators, Cincinnati Reds, Houston Astros, Cleveland Indians and the New York Yankees. Joe has owned 2 AAA teams, 34 AA teams and 12 A teams, working in the International, Eastern, Southern, Carolina, Western Carolina, and New York-Penn Leagues. In 1973 and 1974, Joe owned Red Sox farm teams at all three classifications. Six seasons have seen Joe operate 3 teams and 11 other seasons have seen Joe operate 2 teams a year. In 1967, Joe owned three teams but each team has a different major league affiliation. Four times, Joe has been named Eastern League General Manager of the Year. In my hometown of Reading, Joe is the owner-operator of the Reading Phillies.

Joseph Buzas has devoted his entire life to the game of baseball. As a player he had a 7-year pro career cut short because of an injury, as a manager he spent nine seasons in the Puerto Rican Winter League, and for the last 25 years he has been our Nation's foremost owner-operator of minor league teams.

Joe Buzas has enriched the lives of every American baseball enthusiast. I know that my colleagues will join me in paying tribute to this outstanding individual who has made such an important contribution to one of our Nation's favorite pastimes. May Joe enjoy many more years of success.●

CIVIL RIGHTS LAW AND RACIAL VIOLENCE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. CONYERS. Mr. Speaker, the Judiciary Subcommittee on Crime, that I chair, held its first hearing on December 9, 1980, on racial violence. This and subsequent hearings take place at a time of disturbing trends in the rise of racial and intergroup violence and the mounting activism on the part of hate groups and violence-prone organizations, most notably the Ku Klux Klan.

A major concern raised during the first hearing was whether Federal law enforcement agencies have adequately investigated the activities of such organizations, on the one hand, and employed sufficiently strong legal remedies to counter them, on the other.

One of the witnesses, Mr. Arthur Kinoy, the distinguished civil rights and civil liberties lawyer, and professor of constitutional law at Rutgers University, presented important testimony on the historical basis for Federal legal actions against organizations such as the Ku Klux Klan. A lifelong student of, and activist in, the area of constitutional and criminal law, Mr. Kinoy had argued numerous cases before the Supreme Court during the 1950's and 1960's, that became part of the body of civil rights law in the Nation. His testimony is critical to understanding the role of Federal law enforcement in the context of growing racial violence, and I urge my colleagues to read the excerpts from his testimony, that follow.

STATEMENT OF PROF. ARTHUR KINOY BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY SUBMITTED DECEMBER 9, 1980

The frightening rise in violence against Black and minority peoples and the rapid escalation of activities of organizations openly committed to the incitement and perpetration of this violence has become a country-wide phenomena. Only two weeks ago, on December 1, 1980, the New York Times reported on its front page that there is a "growing perception" among Black people that the "series of violent incidents against Blacks is a result of a national conspiracy to terrorize and kill them". As the Time reported, "in such cities as Atlanta; Buffalo; Cincinnati; Indianapolis; Portland, Ore.; and Salt Lake City, violent and highly publicized attacks on Blacks and increasing activity by the Ku Klux Klan and other white extremist groups have created or heightened the perception of conspiracy."

This exploding pattern of violence directed against Black and other minority peoples unless checked and repudiated, threatens the Nation with the disaster warned against so forcefully over a decade ago in the Kerner Commission Report of 1968. We are on the edge of a national crisis of untold dimension if this spreading pattern of violence is not halted firmly and decisively. The problem posed is as serious and grave as the country has faced in many years. It is a national, country-wide development and requires national, countrywide remedies of a swift and compelling nature.

Such remedies are available for immediate use. They were first fashioned by the Republican Congress in the years immediately following the Civil War to meet the threat of wholesale violence and terror designed to undermine and destroy the solemn commitments of the Nation to freedom and equality for the emancipated Black people. What must be recognized is that the federal statutes shaped first in the Reconstruction period for this very purpose, and then strengthened in the 1960's, offer the opportunity for the immediate development of a powerful two-pronged strategy to avert the disaster which otherwise faces the Nation.

The first prong of such a strategy lies in the immediate full scale and sweeping enforcement of the federal criminal civil rights statutes. These criminal statutes, 18 USC § 241, 242, and 245, were first enacted by the post-Civil War Congress, and then strengthened and amplified in the 1960's to meet precisely the dangers presently being generated by the klan and similar groupings throughout the country. Known historically as the "KKK Statutes", these laws provide an immediate criminal remedy against conspiracies to use violence and threats of violence against citizens exercising their elementary constitutional rights. Federal grand juries should be swiftly used wherever these acts of violence have occurred to hear evidence upon which indictments for violation of the KKK Statutes can be returned. This was precisely the approach which was taken in the early 1960's after the brutal murders of the three civil rights workers, Michael Schwerner, Andrew Goodman, and James Chaney, in Philadelphia, Mississippi in 1964. There were loud and insistent demands from the civil rights movements all over the country, and the institution of private citizen actions seeking court protection for elementary constitutional rights in the absence of effective federal intervention.

Finally, the Department of Justice invoked the federal criminal anti-klan statutes, 18 USC § 241 and 242, and obtained indictments and convictions of the klan murderers. These were ultimately sustained by the Supreme Court of the United States as absolutely proper exercises of the legislative and judicial power to enforce the 13th, 14th, and 15th Amendments to the United States Constitution. *United States* v. *Price (and Rainey)*, 383 U.S. 787 (1966).

There is a pressing urgent need for the immediate sweeping enforcement of these federal criminal anti-klan statutes. As in the Reconstruction days, and in the period of the 1960's, local and state criminal procedures are proving to be utterly useless in punishing or deterring the wave of violence against Black and minority peoples. The recent acquittal of the klansmen and nazis charged with the killings in Greensboro, N.C., as well as the acquittals in Chattanooga and the collapse of the state criminal proceedings in Miami, Florida, are but a few examples of the total failure of local and state attempts at the protection of the elementary civil rights of citizens. This is precisely the situation the federal criminal anti-klan statutes were designed to meet. The Department of Justice has in fact turned to the utilization of these statutes in certain limited situations in the past year but what is now required is full-scale, immediate, and sweeping enforcement of the federal statutes wherever and whenever such violence occurs.

An emergency national task force of the Department of Justice needs to be established immediately.

Such a national plan for immediate federal response to acts of violence and intimidation against Black and minority peoples is essential to meet the national crisis which flows from the almost universal widespread lack of knowledge of even the existence of these federal criminal statutes. Virtually no one knows about these laws making it a federal crime to plan and conspire to use violence and threats of violence to undermine the elementary equal constitutional rights of citizens, Black and White. Even lawyers, judges, and legislators are hardly aware of their existence. This is no accident. Since 1877 when the infamous Hayes-Tilden "compromise" resulted in the abandonment of federal enforcement of the wartime promises of equality and freedom for the supposedly emancipated Black people, there has been a conscious "burial" of the criminal and civil federal anti-klan statutes. This "burial" resulted in a climate which allowed the klan to lynch, murder, castrate, burn, bomb, and terrorize Black people back into virtual slavery. For a brief period in the 1960's, these statutes were momentarily "unburied".

The second prong of the strategy also developed in the early 1960's would be the immediate seeking of national federal injunctions by the federal government itself against the developing conspiracies to violate the civil provisions of the federal anti-klan and civil rights statutes 42 USC § 1971, 1981, 1982, 1983, 1985, 1986, 1988, 1989. (See Appendix A.) These statutes, first passed after the Civil War and then amplified and strengthened in the 1960's, prohibit any action or conspiracy to use violence or intimidation to interfere in any way with the exercise of constitutionally protected rights of citizens. They provide for the issuance of federal injunctions against any activities designed to interfere with the exercise of these constitutional rights. Such an injunction was obtained by the Justice Department in 1965 in an action entitled, "The United States Against the Original Knights of the Ku Klux Klan" *United States* v. *Original Knights of the Ku Klux Klan*, 250 F. Supp. 330 (E.D. La. 1965, 3 judge court). In a historic opinion written by Circuit Judge John Minor Wisdom of the United States Court of Appeals for the Fifth Circuit, the federal court held that the United States government had the power and the duty to seek federal injunctive relief to restrain and stop Ku Klux Klan activities designed to harass and intimidate the black people who were demanding enforcement of their most elementary constitutional rights of equality, as well as white people in the South and throughout the country who were supporting their demands. The opinion of Judge Wisdom, one of the most respected members of the federal judiciary, goes directly to the heart of the grave problem which was then erupting in the early 1960's and which has now re-emerged in such serious dimensions. Judge Wisdom described the action instituted by the Department of Justice in these terms, "This is an action by the Nation against a klan. The United States of America asks for an injunction to protect Negro citizens in Washington Parish, Louisiana, seeking to assert their civil rights. The defendants are the Original Knights of the Ku Klux Klan, an unincorporated association; the "Anti-Communist Christian Association, a Louisiana Corporation; and certain individual klansmen * * *" And then in sweeping terms, Judge Wisdom sets forth the heart of the Court's conclusion as to why the injunction requested by the Department of Justice had to be issued:

"In deciding to grant the injunction prayed for, we rest our conclusions on the findings of fact that, within the meaning of the Civil Rights Acts of 1957 and 1964, the defendants have adopted a pattern and practice of intimidating, threatening, and coercing Negro citizens in Washington Parish for the purpose of interfering with the civil rights of the Negro citizens. *The compulsion within the klan to engage in this unlawful conduct is inherent in the nature of the klan. This is its ineradicable evil.*

"*We find that to attain its ends, the klan exploits the forces of hate, prejudice, and ignorance. We find that the klan relies on systematic economic coercion, varieties of intimidation, and physical violence in attempting to frustrate the national policy expressed in civil rights legislation.* We find that the klansmen, whether cloaked and hooded as members of the Original Knights of the Ku Klux Klan, or sulking in anonymity as members of a sham organization, 'The Anti-Communist Christian Association', or brazenly resorting to violence on the open streets of Bogalusa, are a "fearful conspiracy against society * * * [holding] men silent by the terror of [their acts] and [their] power for evil'." (Wisdom opinion *supra* at p. 334.) (emphasis added)

Based upon these fundamental conclusions, the federal three-judge court composed of Judges Wisdom, Christenberry, and Ainsworth, issued a sweeping injunction against "assaulting, threatening, harassing, interfering with or intimidating, or attempting to assault, threaten, harass, interfere with or intimate . . . Negro citizens from exercising their equal rights under the laws and Constitution of the United States".

Under the powerful principles set down by Judge Wisdom and the other judges of the Fifth Circuit in 1965, injunctive actions should be immediately brought by the Department of Justice nationally, regionally, and locally. No such actions have been instituted by the Department of Justice as of the present time. It is essential to emphasize the lesson of the 1960's as to the central importance of such injunctive actions as a principal deterrent to Klan and other violent activities and threats against Black and minority peoples. Such injunctions dealing with prospective conduct have the potential of performing an invaluable service in the first instance in educating and teaching entire communities about the federal mandate against the perpetration of such violence and harassment. Judge Wisdom's original injunction contained a mandate that a copy of the injunction be posted "conspicuously" at all meeting places of the enjoined organizations. The order was to "be posted at all times and and during all meetings". Such orders are available to be publicly distributed in the hundreds of thousands of copies all over a town, a city, a state. They can become the basis for public meetings in schools, colleges, and every community organization. They will say loudly and clearly what needs to be heard from one end of this land to the other—that the wave of rising violence and intimidation against Black and minority peoples is in total violation of the Constitution and laws of the United States and will be rejected and repudiated by every American committed to the deepest principles and promises of this country.

Moreover, the issuance of these injunctive orders permits an immediate and swift federal legal response to any eruption whatsoever of such violence or harassment. Using the federal contempt power and instituting immediate proceedings enforced by federal marshalls and the federal subpoena power offers a tremendously important opportunity to assert a federal presence into every situation developing anywhere in the country in which such violence or harassment occurs. Once again this would accomplish the desperately needed deterrent impact of a forceful, widespread public recognition of the fact that there will be federal intervention to protect the equal rights of all Americans.●

TRIBUTE TO MORGAN MURPHY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PEPPER. Mr. Speaker, one of the Members of this House leaving us at the end of this session whom we will miss most is Morgan Murphy. Morgan, being an able lawyer, has been an outstanding legislator in the House. He has been diligent, farsighted, and compassionate in the programs and policies which he has initiated or supported. He has been a hard working Member. I have had the especial pleasure of association with Morgan upon two committees; one, the House Select Committee on Crime, which I chaired for almost 4 years; and the other, the Committee on Rules, of which I am the ranking Democrat and he sat next to me. There was no abler member on either of these committees than Morgan, nor was any member more loyal to the objectives and the leadership of his committee than he. I will always be especially grateful to him for the invaluable support and assistance he gave me as chairman of the House Select Committee on Crime. On the Rules Committee he has done an outstanding job as one of the senior majority members, and every member of that committee esteems him to the highest degree.

Morgan has also been a distinguished member of the Committee on Intelligence; a committee of especial importance to our country. He has been knowledgeable, hardworking, and wise in the actions he has taken on that committee.

We shall remember Morgan especially for the warmth of his friendship, for his gracious and gentle manner, for his kindness of spirit, for his concern for his colleagues, and for other people, and for his qualities that make him stand out as a great American. So when this cherished friend leaves this House, it will be much poorer for many of us and, indeed, for the whole House. We shall miss him immeasurably; and yet, since it is his choice that he return home, he knows that our fondest wishes for him and his loved ones will always be with him and we pray the Lord's richest blessings upon them.●

TRIBUTE TO JOHN J. RHODES

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. LENT. Mr. Speaker, it is a distinct honor to join you and my other colleagues in this well-merited tribute to the gentleman from Arizona (Mr. Rhodes), who has served so capably as our minority leader.

From the time of my first election to the Congress in 1970, when John was serving as minority whip, I have counted on my good friend for counsel and assistance. Even to a freshman Member of this body, John Rhodes was unfailingly kind and considerate, always ready to take extra time to offer exceedingly sound advice regarding legislation and legislative procedures.

What has impressed me deeply about John in his 7 years as minority leader has been the fact that despite his high office, and the resulting tremendous demands made upon his time, John Rhodes has never lost that considerate willingness to help others.

We on this side of the aisle have come to depend heavily on John's calm, cool, and positive leadership. John Rhodes became minority leader at a time when our Nation was confronted with what President Ford would later term "our national nightmare." During those difficult months, John Rhodes steered a steady course with dignity, integrity, and honesty, and played an important role in maintaining the stability in our National Government in a time of crisis.

His impressive leadership talents continued to serve our country through the Presidencies of Jerry Ford and Jimmy Carter. His approach as minority leader has always been constructive—offering positive programs for the problems which face our Nation. His straightforward advocacy of responsible, creative conservative government has done much to rebuild the strength of the Republican Party, to increase our representation in the U.S. Congress and to assist in winning the Presidency for Ronald Reagan.

Although John is voluntarily stepping aside as our official minority leader in the House of Representatives, I know that we can continue to count on John Rhodes to afford us the benefit of his wisdom, his experience, and his positive philosophy of government, as leader emeritus in the sessions to come in the 97th Congress.

I look forward to continuing to work with this distinguished gentleman in that Congress, and I know all of his friends in this body join me and my wife Barbara in wishing him and his lovely wife Betty the very best that life has to offer in the coming years.●

DIFFICULTIES OF BUREAUCRATIC OVERREGULATION

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. ANTHONY. Mr. Speaker, I would like to share with my colleagues an interesting letter I have received from a fellow Arkansan. This letter illustrates, in a timely fashion, the difficulties that bureaucratic overregulation can present to even the most persistent and goodhearted individual.

American State Bank,
Charleston, Ark., December 5, 1980.

Hon. Beryl Anthony,
U.S. Congressman,
House Office Building,
Washington, D.C.

Dear Beryl: For almost fifteen years I have been writing my senators and congressmen seeking to temper, discourage or defeat legislation that was unnecessary, punitive or which could not be justified on a cost-benefit basis.

I will not list here all the measures that I have written about because you probably remember them better than I do. Perhaps the reason some of these laws were passed in spite of our objections to them is that we have not been articulate in pointing out the adverse impact they would have.

The following fable illustrates what can happen when the bureaucrats get overly ambitious in the pursuit of their appointed duties:

"We now have confirmation that Santa Claus will not be making his annual rounds this year. He did not keep up with the latest regulatory requirements and as a result, various bureaucracies have cited him for a series of violations.

"EEOC. The Equal Employment Opportunity Commission noted several deficiencies. Among them:

"A. He employs all reindeer on his trip. No elk, moose, or other affected classes. There are far more does than bucks, yet Santa has (judging by their antlers) all bucks in his employment.

"B. The male supervisor, a red-nosed lush named Rudolph, was promoted to that position without the vacancy being properly posted.

"C. The only female in evidence, Mrs. Santa, appears to be in a menial position with limited opportunity for advancement.

"D. Santa continues to use non-job related questions such as "Have you been a good little boy or girl" in his interviews. Feminists object strenuously to the demeaning term "girl", claiming it is sexist. Certainly, the term "boy" could be construed to be racist. Asking someone if they have been good implies a penalty if they have not. Clearly, if they have not been good, it is the fault of society and not the individual.

"*OFCCP.* The Office of Federal Contract Compliance Programs has noted that Santa has failed to file a timely RRR (Reindeer Recruiting Report) and has no goals or time tables designed to redress the underutilization of elks, moose and does. In addition, Santa has historically exploited the handicapped, employing elves and working them long hours without overtime pay.

"These violations were brought to the attention of OFCCP by the Bureau of Unethical Reindeer Practices (BURP).

"*EPA.* The Environmental Protection Agency has determined that the propulsion system known as "reindeer" violates Federal Emission Standards, claiming that reindeer exhaust tends to foul the atmosphere.

"*OSHA.* Santa clearly violates the Occupational Safety and Health Act by climbing up and down chimneys without a ladder or safety belt.

"*FAA.* Santa has consistently failed to file a satisfactory Federal Aviation Agency flight plan and has been known to fly in times of poor visibility and icy conditions, with inadequate instrumentation.

"It was pointed out to these agencies that grounding Santa this year would cause a great many innocent children to suffer through no fault of their own. They checked in regulation 1824-902 Section 1-B (A) 4 and noted triumphantly that innocent children are not a protected class and can be required to suffer.

"When we called Santa to verify all of this, he informed us sadly that even if these deficiencies were corrected in time he would still be unable to make his annual visit. Mrs. Santa had filed for divorce, all of his elves were busy writing Affirmative Action Programs and his reindeer were in court defending their existence. Also, he had spent all the money for toys on attorney fees.

We here at American State Bank are appreciative of your efforts on our behalf in 1980. We thank you for listening to our complaints, for considering our counsel and being patient with us when that is necessary.

Hopefully 1981 will trend away from the regulatory morass we have blundered through these past years and we can again return to the simple, but effective, banking concept of accepting deposits and lending them to deserving, credit worthy customers for the benefit of our community and its citizens.

Have a happy Christmas and a healthy and prosperous new year.

Sincerely,

JOE S. HIATT,
Chairman and President.●

THE TEN COMMANDMENTS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. HUBBARD. Mr. Speaker, the U.S. Supreme Court recently ruled that Kentucky's public schools could not place copies of the Ten Commandments in their classrooms. It mattered little to the Court that private donors purchased these copies of the Ten Commandments and that no one forced Kentucky's schoolchildren to read or study the posted commandments. The Supreme Court seems so determined to wipe away all mention or hint of God in our public schools that it has overlooked the fact that a copy of the Ten Commandments hangs in a prominent place in its own chambers. Furthermore, the Supreme Court fails to recognize that the Ten Commandments serve not only as a good guide for daily living but also as a fundamental basis of Western legal tradition.

I introduce the text of a letter by Mr. and Mrs. Wayne Yandell, of Princeton, Ky., which highlights the detrimental impact of this Supreme Court ruling:

In regard to the Supreme Court's decision banning the posting of the Ten Commandments in Kentucky school classrooms, we feel the need to express our opinion.

As we saw it on TV news, there was one major proponent in favor of the abolishment of displaying the Ten Commandments in the classroom, and her reason was, "I believe in total separation of church and state."

We question the reasoning, as well as the validity of such an argument; can we, in this day and time, afford such a separation?

The United States of America has suffered severe setbacks in economics, world prestige, and internal self-assurance because, as we see it, of such decisions by those who are supposed to be the overseers of our moral and constitutional rights.

We do not advocate the teaching of religion in public schools, but neither do we advocate the abandonment of religion in any part of life.

The Ten Commandments, if adhered to by all, regardless of religion, race, creed, color, or politics, can only result in a better world in which for all to live. It does not matter where we learned them, whether it be in church or in school. The end result is the same.

We do not consider the Supreme Court of the United States to be God, and we resent its acting as such. As the parents of three school age children, we would much rather they got their direction from God rather than the Supreme Court.●

WILL REAGANOMICS EVER SEE THE LIGHT OF DAY?

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. SIMON. Mr. Speaker, on November 21, our colleague Representative STEPHEN SOLARZ appeared on the MacNeil-Lehrer Report on PBS. The title of that session was "Will Reaganomics Ever See the Light of Day?" Although I do not agree completely with my colleague's analyses, I think his comments provide some good insight into the economic shape of things to come. I urge my colleagues to take a few minutes and read these remarks:

WILL REAGANOMICS EVER SEE THE LIGHT OF DAY?

I. PROSPECTS FOR A TAX CUT

I don't think there's any question but that there's going to be a tax cut next year. The American people have spoken out very clearly on this question. The House and Senate both included in the recently adopted budget resolutions provision for a tax cut. The only question is what kind of tax cut it's going to be, and here I think that there will be some real resistance to the implementation of the Kemp-Roth proposal—at least in the House. Because I think that while Democrats do favor a reduction—not only in personal income taxes, but also in corporate and business taxes—there would be some real resistance to a tax cut which would provide a reduction for those earning $10-$15,000 a year, of $146 in their tax bill, but for the people earning in excess of $200,000 a year a cut of $14,000 in taxes. I think that the Democratic majority in the House would probably prefer a reduction in personal income taxes that was rather more progressive than the kind of regressive tax reductions called for in Kemp-Roth.

I'd like to make it very clear that I support tax reductions—not only in business taxes, but also in personal income taxes—but I find it very difficult to support a tax proposal which Business Week, which is hardly the most radical journal in this country, said would "touch off an inflationary explosion that would wreck the country and impoverish everyone on a fixed income." * * * I don't see how you can justify a cut in personal income taxes which enables someone with an income of $200,000 a year to reduce their taxes by $14,000, whereas someone who's earning $15,000 a year gets a cut in taxes of only $146. I think that's regressive and inequitable.

II. ARE DRAMATIC MOVES NECESSARY TO BREAK THE PATTERN OF STAGFLATION?

I think dramatic moves are necessary. I think we do confront a very serious economic crisis in this country. And, I think that there's a tremendous need for a bipartisan consensus—not only in the Congress, but in the country—not only with respect to foreign policy, but domestic policy as well. Where I, perhaps, might disagree with the Republican Party is in its prescription for dealing with the crisis. For example, the advisors who are close to President-elect Reagan have indicated in the course of the last week or two, that they would favor reductions in federal spending in the next two fiscal years of somewhere in the vicinity of $30-$50 billion. And while I'm all in favor of the elimination of fraud, waste, extravagance and abuse—who isn't?—I think that when you're talking about reductions of that magnitude, you're going way beyond the elimination of waste and fraud, and cutting into the real flesh and muscle and bone of essential federal programs. Let me give you an example of what I mean. If you exclude from these cuts—as President-elect Reagan has said he would—defense, interest on the debt, veterans' programs, Social Security and Medicare, you've excluded 80 percent of the federal budget. That leaves approximately $125 billion left to cut. If you take out $30-$50 billion of the remaining $125 billion, you're talking about a cut of the remaining federal programs of somewhere between 30 and 40 percent. And I see no way—even if you eliminate all of the abuse, waste and fraud that exists, that you can cut back on programs like mass transit, food stamps, public works, education, revenue-sharing, without—in reductions of that magnitude—cutting back on programs on which millions of Americans are dependent.

III. DEMOCRATS SUPPORT EFFICIENCY BUT OPPOSE A MEAT-AXE APPROACH TO SPENDING CUTS

There was widespread Democratic support for the budget resolution that was just adopted, which called for a two percent across the board cut in spending of about $17 billion. During the course of his campaign, President-elect Reagan said that he felt that amount could be squeezed out of the federal budget, in the form of waste, extravagance and abuse. But if you go beyond the $17 billion reduction, and you begin to talk about $30-$50 billion reductions, you're talking about cutting back very substantially on mass transportation at a time when we're still importing 40 percent of our oil from overseas, and when everybody acknowledges that mass transit is one very effective response to the energy crisis. You're talking about cutting back on food stamps, at a time when 7½ million people are unemployed in this country. You're talking about cutting back on revenue sharing, at a time when state and local governments—due to the recession—are unable to provide to an inadequate tax base essential services. So, I think at the point at which you begin to talk of reductions of that magnitude, you're going way beyond the elimination of waste. And you're talking about cutting into the heart and soul of government programs which constitute the heritage of the last 30 years. And I think it would be a serious mistake, in terms of the kind of bipartisan consensus we need in this country, if President Reagan were to try to implement some of these rather bizarre suggestions. I think a great majority of the Democrats would resist these efforts.●

MURDERS OF BLACKS BAFFLE U.S. OFFICIALS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. CONYERS. Mr. Speaker, on December 9, 1980, the Subcommittee on Crime, that I chair, held the first in a series of hearings on the nature, causes, and the extent of racial and intergroup violence in the Nation. No aspect of these hearings has greater importance than preventing future violence, that denies the most basic of all human and civil rights—the right to life.

During the last 17 months, 24 black Americans and 2 white women, who were with black men at the time, have been killed in a series of murders in seven cities. Federal and local law enforcement authorities have not yet solved these murders.

These murders have taken place during a period of growing racial and intergroup violence, the rising activism among hate groups and violence-prone organizations, most notably the Ku Klux Klan, and mounting fears among minority groups who feel threatened by these violence-prone organizations. The Washington Post, October 23, 1980, published an article by Herbert Denton, entitled, "Murders of Blacks Baffle U.S. Officials." I urge my colleagues to read the article, that follows.

MURDERS OF BLACKS BAFFLE U.S. OFFICIALS

(By Herbert H. Denton)

What stands out in piercing poignance is the innocent way in which they were going about their daily routines when suddenly, without warning or provocation, they were murdered.

The assistant engineer in a Buffalo plant was grabbing lunch at a Burger King when a man walked up to him and shot him in the head. The two teenaged boys in Cincinnati were heading to a store to buy sodas when they were gunned down. The two black youths in Salt Lake City were jogging with two white girls through Liberty Park when the boys were slain in a sniper's ambush.

They were among 24 black Americans and two white women who were with black men at the time who have been slain in a string of murders in seven cities across the nation over the last 15 months.

Federal and local law enforcement authorities have been bewildered by the apparent random choice of victims. They have met twice in the last month to swap leads and trade information, but FBI Director William H. Webster said investigators have no substantial evidence linking the murders.

A bureau spokesman said, nonetheless, that there are common threads: the tendency for black males to be the victims, the use of high-powered rifles in several of the shootings and the viciousness with which the crimes were carried out.

"This is the first time that we have had this type of thing on this level," said the spokesman, agent Otis Cox. "We're looking for either one person or a group of persons with the same types of things in mind."

Thomas Atkins, general counsel of the NAACP, said his organization wants to know "whether or not there is some secret and organized effort being made to foment racial strife."

Webster told reporters in Atlanta late last week that he understood that many blacks believe a nationwide conspiracy is at work. "I think it's a natural temptation born of legitimate fright that a national conspiracy is under way," he said. But, he said, the evidence does not support such a theory.

Authorities in Buffalo and Atlanta say they believe the waves of killings in their cities are unique.

The 10 victims in Atlanta were all children, nine boys and one girl, ages 8 to 15, from poor families living in rundown neighborhoods, or government housing projects. Four other children—a girl and three boys—are missing.

The children have been disappearing at almost 3½-week intervals over the last 15 months, their bodies found later with marks indicating they were strangled, stabbed or shot. Atlanta authorities say they have no solid evidence on the race or identity of the murderer or murderers.

In Buffalo, the same semi-automatic .22 cal. weapon was used in a bloody 36-hour period to kill a black teen-aged boy and three black men. On successive days, two weeks later, the battered bodies of two other victims, both black and both cab drivers, were found on remote roads in the Buffalo suburbs. Their chests had been crudely opened and their hearts cut out.

The next day a black Attica inmate—in a Buffalo hospital after taking an overdose of barbiturates—got a look at a white man who leaned over his bed, said, "I hate niggers," then tried to choke him with a cord. A nurse walked into the room unexpectedly, and the man rushed past her and disappeared. Her description of the attempted assailant was similar to one given by a witness to one of the .22 cal. shootings, authorities said.

In the five other cities—Cincinnati, Indianapolis, Oklahoma City, Johnstown, Pa., and Salt Lake City, where still unsolved ambush-style shootings of blacks have occurred in the last year authorities are seeking a 30-year-old native of Mobile, Ala., for questioning.

Smooth-faced and six feet tall, the man speaks with a pronounced Southern accent, and wears eyeglasses as thick as the bottom of bottles, with a nearly blind left eye. Authorities have picked up the trail of his travels across the country in fast Camaros and Novas under 20 or more aliases.

He was born James Clayton Vaughn Jr., but had his name legally changed to Joseph Paul Franklin, and that is the way he is carried in police files. He was arrested in the small industrial town of Florence, Ky., across from Cincinnati, and held for a few hours there late last month before managing an easy escape through a narrow crank-out window as officers conferred in the hallway.

A warrant has been issued for Franklin's arrest in connection with the two slayings in Salt Lake City.

The rash of murders has fallen like hot embers on a patchwork of school racial battles, cross-burnings on lawns and other strife in cities from Boston to the suburbs of Portland, Ore., and from Miami to Richmond, Calif.

Civil rights groups and government field officers privately talk of the seven straight years of racial strife over school busing in Boston as being in a special, distressed category. But files kept at the U.S. Civil Rights Commission bulge with clippings from newspapers across the country reporting isolated racial battles. Aides say they believe the numbers of incidents are growing, but have not done any studies to find out.

Minorities have filed 186 complaints with the Justice Department's Civil Rights Division since the start of the year alleging that criminal acts were used to block their access to housing. There is the sense in the division that the numbers are higher than in other years, but Justice is changing over to a new computer record-keeping process, and says there are no figures with which to compare this year.

Police authorities in the West and Midwest have tracked fugitive Franklin in a meandering course that put him, among other places, in Indianapolis in early April, Cincinnati in early June, in Salt Lake City in August and in Florence, Ky., in late September. There have been apparently racially motivated murders in all these cities and in Oklahoma City and Johnstown, Pa.

A saleswoman in Johnstown has told police that a man resembling Franklin made purchases from her in August and September. In several instances, however, the murders have taken place at times other than when the fugitive is now believed to have been in the various cities.

The FBI also wants to question Franklin in connection with the shooting of National Urban League President Vernon Jordan on May 29 in Fort Wayne, Ind. Jordan was shot in the back with a .30-06 rifle in a motel parking lot as he stepped out of the car of a white woman member of the local Urban League board. Jordan survived the attack, and recently made a public appearance at a fashion show in New York City.

Women who encountered Franklin in Salt Lake City have described to local police a man obsessive in his hatred and scorn for blacks. A desk clerk at one motel said Franklin had checked out, complaining that he had found hairs of blacks in the bed. Later, he bragged to a woman he picked up and took to another motel that he belonged to the Ku Klux Klan and had killed blacks, according to testimony she gave police.

She said she remembered seeing a rifle in his room and his asking her to make him a list of black pimps in the town so that he could kill them, too.

Three days later, on the evening of Aug. 20, two black youths, Theodore Fields, 20, and his friend, David Martin, 18, were jogging through Salt Lake City's Liberty Park with Carma Ingersoll, a white girl Fields knew, and her friend, Terry Elrod. They followed a path Fields and Ingersoll had run along the night before, and were jogging out of the park when the two young men fell in a hail of bullets fired from a highpowered rifle.

A neighbor nearby said he had seen a white man pull up earlier and park in a brown Camaro. The neighbor said he rushed outside again when he heard the shots and saw the same man, crouched and running, jump into the car and drive off.

Authorities see similarities in the circumstances of the murders they are investigating in the other cities.

Jesse E. Taylor, 42, a black man, and his companion and coworker at an Oklahoma City nursing home, Marion Bresette, 31, a white woman, were in a crowded supermarket parking lot putting groceries into their car on Oct. 21, 1979, when a volley of shots fired from a high-powered rifle burst from a clump of bushes on the state fairgrounds across the street.

Two bullets hit Taylor, wounding him fatally. As Bresette ran to his aid, another bullet hit her in the torso, killing her. Bresette's three chidren by a former marriage, ages 9, 10 and 12, were in the car, but were not hurt. Oklahoma City police said the suspect is a white man witnesses saw in the area that afternoon.

Lawrence E. Reese, 22 a mildly retarded young black man who did odd jobs for a living, was standing at the counter of Church's Fried Chicken carryout in the heavily black north side of Indianapolis late in the evening last New Year's Day when he was killed by a sniper who sprayed bullets through the plate glass window.

Two weeks later and about two miles away in north Indianapolis, Leo Thomas Watkins, 19, was killed in a nearly identical manner as he helped his father with a pest extermination job at a convenience store.

Late Sunday night, June 8, in Cincinnati, Darrell Lane, 14, and his cousin, Dante Brown, 13, who was visiting the Lane home in the integrated Paddock Hills neighborhood of Tudor homes, both decided to go out to buy soda pop. As they walked to a nearby store, they were fatally wounded by a sniper believed by authorities to have been perched on a railroad trestle over the street. Darrell's father was a paramedic in the first rescue squad that arrived on the scene.

A week later, in Johnstown, Pa., Kathleen Mikula, 16, a white high school freshman, and her black fiancee, Arthur Smothers, 22, a former high school athlete who once ran in the Boston Marathon, were walking from her parents' home on the west side of Johnstown across a bridge to his family's home on the east side when they were both shot and killed.

He was shot in the back, in the groin and, after he fell, in the foot. The sniper, believed by local police to have been firing from wooded hills, shot her in the breast and, as she lay dying, squeezed off another bullet that went down her shoulder and torso, lodging in her hip.

A witness later reported to police seeing a dark Nova racing up hilly roads from the scene of the shootings.●

JOE WYATT—ONE OF THE BEST

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. PICKLE. Mr. Speaker, one of the most talented young Members of this body is Joe Wyatt of the 14th District of Texas. Joe was an experienced legislator in Texas, where he served as chairman of the House Ways and Means Committee. Joe built the reputation as a knowledgeable, practical, and effective chairman.

Joe is leaving us after one term—this is an unfortunate occurrence. In a short 2 years, Joe, has proven himself—he is well liked and he made significant contributions to this body, particularly on the Armed Services Committee. I was impressed by Joe's thoughtfulness when he introduced a bill for the relief of Sgt. Roy Benavidez of El Campo, Tex. His bill grants the Congressional Medal of Honor to this brave man, which eluded him for over 10 years. I know, because I worked on the case several years ago when Roy lived in my district.

Joe did not give up. When he saw proof of Roy's heroism, he pushed the bill through the Armed Services Committee, and the Congress has now acted. This work is an indication of Joe's dedication and persistence. He could have let the situation ride, but Joe determined that this veteran should receive proper recognition.

Joe also distinguished himself as he represented his district after the big gulf coast-Mexican oilspill. Through legislation and agency assistance, Joe made the system work to get relief for the people hurt by the damage, while trying to insure better protection in the future.

As Joe returns to his home district, we wish him Godspeed, and we hope to hear from him again on a State or national basis.●

TRIBUTE TO BOB GIAIMO

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. JONES of Oklahoma. Mr. Speaker, the measure of any person is their willingness to take up the hard, unpopular tasks, and put their whole soul and spirit into accomplishing their goals.

Under this yardstick, Bob Giaimo stands head and shoulders above the crowd. When the definitive history of the congressional budget process is written many years hence, I think that people will call our colleague from Connecticut the "George Washington" of the budget process. He leaves us at the end of this Congress with a clearer picture of the hard road that lies ahead, and with a firm foundation to go forth toward better controls over Federal spending.

Saying "no" to people is never popular nor pleasant, but Bob Giaimo did so with a firmness that made his voice heard, and with a compassion that understood the human dimensions of many programs under consideration for budget cutbacks. Undoubtedly, it would have been easier for Bob to build on his seniority and expertise in an area less volatile than the congressional budget, but his wisdom and foresight will be the legacy that we take forward into the 1980's. Without his firm presence in the center of the budget debates, many people think that the process itself might not have survived the past few years.

To be sure, there are many hard decisions ahead, and many choices that are far from pleasant will confront the House and the Budget Committee in the years to come, but we can all thank Bob Giaimo for getting us this far, and we can all be saddened that he has decided to take a much-earned rest from this thankless job, even though it leaves us with the burden he has shouldered these past few years.

If there is a bright spot for those he leaves behind it is this: He has vowed to remain active as a private citizen in matters affecting public spending. Those of us who have served with Bob on the Budget Committee know full well that Bob Giaimo will never be just another voice on these matters. Rather, he will give us the sound counsel and advice that will be needed to chart the many unknown waters of budget policy that stretch before us.

The people of his congressional district are losing an effective, hardworking Congressman. We in the House are losing much more: we are losing the man who has come to be known as "Mr. Budget" in our Chamber. I join my friends in wishing Bob Giaimo well in his new life.●

TRIBUTE TO HERB HARRIS AND JOE FISHER

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PEPPER. Mr. Speaker, many Members of this House, to support the public interest, have to fight strong currents of opposition. It is characteristic of the greatness of America that there have always been throughout our history men and women who were willing to fight for what they believe is right, to fight to make America the kind of Nation its great forebears dreamed of and worked for; to make it possible for their less fortunate fellow countrymen to walk on higher ground. Many men in our Nation's history have made that kind of fight even when they knew it would jeopardize their own interests; when it might mean a loss of great privilege to them. It is such men in every period of our national life who have made the Nation greater and better. Such men had the courage to work and fight from the very beginning of this country, while others of like character have sustained and promoted its growth and its grandeur. Such men are two men from northern Virginia who have just been defeated, HERB HARRIS and JOE FISHER. If those two colleagues had been willing to forego principles to which they were deeply dedicated, and to flow with the tide of selfish interests, I dare say they not only would be here next session of this Congress, they would be here for a long, long time. But those two men were too great to come to this House only for the privilege of being a Member and for whatever perquisites and power and privilege membership here might confer. They came here to make their districts and their country better. Consequently, they have suffered the fate which too often befalls those of like courage and character. There is an America and there are Americans who appreciate what they have done and who know that their reward lies in better districts which they represented and a better Nation. Both of these men are great in ability, noble in character, admirable in courage, and are most gracious and kind gentlemen. They have endeared themselves to all the Members of this House. I am sure that these two great Americans have not passed permanently off the stage of American public life. They have too much to offer their country for their country to permit them to be silent or inactive. So we express our appreciation to HERB HARRIS and JOE FISHER for the privilege of working with them, of enjoying their company, and especially for the rare privilege of their friendship. We wish for them and their loved ones long, healthy, happy, and meaningful lives.●

1980 AMNESTY INTERNATIONAL REPORT ON HUMAN RIGHTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. BONKER. Mr. Speaker, Amnesty International released its annual report last week. The Nobel Peace Prize winning organization indicates that although gains have been made the worldwide picture of human rights is a gloomy one.

As chairman of the only subcommittee that oversees human rights—international organizations—I find myself in agreement with Jose Zalaquett, chairperson of Amnesty executive committee when he, in the preface of the annual report, notes.

> The death toll from executions and political murders recorded in these pages is a matter of gravest and most urgent concern. In 1979 Amnesty International proposed that the Security Council of the United Nations be called into session to discuss the rise in political killings, a development we believed ought to be regarded as constituting a threat to international peace and security. More than a year later there are almost daily reports of new executions, some involving deliberate, prolonged cruelty. Political abductions, frequently ending in the murder and mutilation of the victims, continue. The term "disappearance," having acquired a new, dark meaning, has entered the vocabulary of journalism and political service.

Furthermore, what continues to be a source of great concern is that opposition political leaders who often were subjected to long imprisonment now risk abduction and execution or murder by government forces in more than 50 countries around the world. These victims of government sanctioned terror can be found in El Salvador and Guatemala, Argentina, and Chile, Iraq, and Ethiopia, Afghanistan, South Korea, Vietnam, Kampuchea, and the Philippines, just to name a few.

In the Soviet Union and other Eastern bloc countries dissenters are punished by the use of restrictive laws, harassment, labor camps, and forced detention in mental hospitals.

An Amnesty International news release announcing the publication of the annual report follows:

POLITICAL DEATH TOLL HIGHLIGHTED BY AMNESTY INTERNATIONAL ANNUAL REPORT

People were murdered by government forces or executed for political reasons in more than 30 countries in the 12 months reviewed by Amnesty International's annual report, published today (Tuesday, December 9, 1980).

The victims included peasant families in El Salvador and Guatemala; members of political, religious and ethnic groups in Iraq, Iran and Ethiopia; and people in all walks of life in countries as far apart as Afghanistan, Chile and the Philippines.

The 408-page Amnesty International Report 1980 also documents the extent of detention without trial, torture and other forms of repression.

Organized on a regional and country-by-country basis, with entries on 110 nations, the report offers a wide-ranging account of challenges to human rights. It shows that the problem cut across national and ideological boundaries, pointing out violations in countries north and south, east and west, industrialized or developing.

It describes the use of restrictive laws, labor camps and psychiatric abuse to punish dissenters in the Soviet Union. It calls attention to police brutality to members of ethnic minorities in the United States, sometimes resulting in deaths.

Examples of the suffering and problems on which it provides facts are: political prisoners held for years without trial in Bangladesh, Singapore and other countries; the damaging effects of the isolation imposed in the Federal Republic of Germany on prisoners held in connection with politically motivated crimes; the jailing of people who try to leave Romania or the German Democratic Republic without permission; the questions raised by the way non-jury courts operate in Northern Ireland.

A major purpose of the report is to provide an account of Amnesty International's work in the period covered, from May 1, 1979 to April 30, 1980.

An independent movement which now numbers more than 250,000 members and supporters in more than 130 countries, Amnesty International works for the release of prisoners of conscience, fair trials for all political prisoners, and an end to torture and the death penalty.

In a preface to the report, José Zalaquett, Chairperson of the organization's International Executive Committee, says: "The death toll from executions and political murders recorded in these pages is a matter of the gravest and most urgent concern." He notes that Amnesty International urged the United Nations Security Council in 1979 to discuss the rise in political killings as "a threat to international peace and security," and that more than a year later there are continual reports of new abductions and deaths.

As well as indicating the depth of the problem, the 1980 report reflects the growth of Amnesty International's efforts against human rights violations. The movement sent 45 missions to 33 countries, more than in any previous year, to gather information, to meet prisoners and officials, and to take part in efforts to protect human rights. Relying on members and supporters for finance, it spent $1,876,467 on its international program and $202,172 on relief to prisoners and their families. It worked on 4,131 individual cases of confined or possible prisoners of conscience, in addition to more general efforts for groups under threat.●

A TRIBUTE TO HON. PHILIP M. KLUTZNICK, SECRETARY OF COMMERCE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PEPPER. Mr. Speaker, there have been many able men who served in the Cabinet of our country over our long history, but one of the ablest and most outstanding of all such men is Philip M. Klutznick, the 25th Secretary of Commerce of our Nation. Mr.

Klutznick has been a long-time friend of mine and I regret exceedingly to see him leave the Cabinet of our country, where he has done such an outstanding job in promoting the economic interest of our Nation. In private life, in various Federal Government posts, under seven Presidents, as a member of several U.S. delegations to the United Nations, under Republican as well as Democratic Presidents, and as Secretary of Commerce, Mr. Klutznick has performed a rare role in the service of our country. An outstanding businessman himself, a student of economics, knowledgeable in economic development, he has immeasurably contributed to the economic growth and progress of our Nation and of the world. Mr. Klutznick has also been a leader in numerous civic enterprises and in movements which were meaningful to the well-being of people here and in the world. Mr. Klutznick has made a great record as a dynamic, farsighted, and dedicated American. I know that, although he will not be in the Cabinet after January 20, Secretary Klutznick will be in the forefront of American leaders working to make this Nation ever more prosperous, more secure, and better.

I join his innumerable friends in wishing for Philip Klutznick and his loved ones many years of health, happiness, and meaningful accomplishments.●

WAIT 3 YEARS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. PICKLE. Mr. Speaker, the Washington Post recently featured an excellent article by Mark Green, an unsuccessful Democratic candidate for Congress and former director of Congress Watch. Mr. Green has a sobering reminder for our Republican friends, who we wish the best in their pledge to balance the budget, increase defense spending and lower inflation all at the same time.

During the campaign, Republicans criticized us for not balancing the budget, cutting spending more and not having a big tax cut. Now that the Republicans have been elected, they say they hope to balance the budget within 3 years, cut spending gradually but not significantly and reduce inflation starting in 1982 or 1983. They had promised to do something immediately, but now they say they are concentrating on meeting the goals by the end of the next term. It will be interesting to watch them struggle to achieve the immediacy demanded last month.

Certainly, Democrats, will be glad to offer our ideas and help. But as Mr. Green points out, the Republicans have already read recent Democratic history—so much so that after reading this article, we might have to conclude that many Republicans sound like "born again Democrats." This article will make thoughtful rereading over the holidays.

THOSE "NEW REPUBLICAN IDEAS" SOUND JUST A BIT FAMILIAR

(By Mark Green)

We go forth to the people with ideas and programs for the future that are as powerful and compelling as they are fresh.—Republican platform, July 1980.

Democratic Senator DANIEL PATRICK MOYNIHAN is saying it, and so is The Wall Street Journal. The Heritage Foundation believes it, as does the Republican platform and even disinterested commentators. The GOP has become the "party of ideas," with a new vision for a new decade.

I hope it does not seem ungracious, as President-elect Reagan, takes his "victory lap" around the capital, to ask what are these new ideas that animated Republican candidates and that presumably will dominate the new government. Along with the rest of the nation, we Democrats who lost—and who surely did not offer many new ideas—have a large stake in discovering the answer.

We might look, then, at seven of the prominent GOP ideas that seemed to recur throughout the presidential campaign. Are they, even discounting the predictable hyperbole of party's platform, "fresh" and "compelling" and "powerful"?

1. Cut Taxes—a Lot. A substantial tax cut was the undisputed centerpiece of the 1980 Republican platform. The now familiar argument is not very complicated: Productivity requires investment; investment requires savings; we save too little because the government takes too much in taxes. The suggested solution, as economist Arthur Laffer sketched it on a napkin in a Washington restaurant, is to have the government tax less and yet generate more federal revenue.

Taxes, of course, have never been very popular; they had something to do with the American Revolution. But, as Laffer's supporters eagerly point out, a tax cut to spur economic growth is surely not a "new idea." President Kennedy successfully pulled off that one. Walter Heller, who was chairman of JFK's Council of Economic Advisers, was supposedly Laffer without the napkin—though Heller disowns paternity for today's version. The Kennedy cuts not only were far slimmer than Laffer's and Reagan's, but they were undertaken when inflation was 1.6 percent (1961-65), not today's 12.7 percent.

This GOP "supply-side" economics of Laffer, Rep. Jack Kemp and others also sounds suspiciously similar to the old Republican "trickle-down" concept: Give more money to the rich and they'll invest it so as to produce jobs and wealth for the non-rich. An early "supply-sider," for example, was Andrew Mellon, who in a more candid era said that "the prosperity of the middle class depends on the good fortune and light taxes of the rich."

Will this notion work today? Laffer himself is not entirely reassuring. "There's more than a reasonable probability that I'm wrong," he told Newsweek, "but . . . why not try something new?" We are likely to find out soon whether this old concept in new clothing and in an inflationary era is an idea whose time has come again economically as well as politically.

2. Balance the Federal Budget. Few refrains are more repeated by President-elect Reagan and other Republicans that that "government deficits cause inflation." The GOP's dedication to the balanced-budget principle today, however, cannot exceed that of Herbert Hoover and Franklin Delano Roosevelt Jr., both of whom advocated it in their 1932 race, and of Jimmy Carter, who preached it in 1976.

Though few doubt that a balanced federal budget is desirable (the combined local, State and Federal budget in this country is already roughly in balance), not many economists other than strict monetarists would argue that it is essential to stop inflation. We have, after all, had deficits with reduced inflation in the past. In 1975-76, for example, the inflation rate fell from 12 percent to 4.8 percent, though the combined deficit for the two years reached $112 billion.

Moreover, as the Congressional Budget Office estimated last year, the substantial budget cuts proposed by the Carter administration for fiscal 1980 would have reduced the inflation rate by a mere tenth of 1 percent. If this idea, then, is not "fresh," it is also hard to see how it is "compelling," to say nothing of how it specifically would be done. The chief Reagan "idea" repeatedly has been to cut "government waste and extravagance," a standard statement of almost everybody who has ever run for political office. We can only wish him well.

3. Reduce Regulation. This idea is to Republican candidates what tanks were to Patton. Ever since the 1906 Pure Food Act was passed following Upton Sinclair's "The Jungle," businessmen and Republicans have been inveighing against government regulation in the marketplace.

Indeed, Ronald Reagan made his political name in the 1950s and 1960s with his colorful attacks on Big Government (always capitalized). In the 1950s this evil was referred to as "creeping socialism." Though the phrase has aged poorly, the concept endures. The Reagan version today is that we must "get the government off our back."

To be sure, much regulation is wasteful, as the departing Congress clearly realized. Already there has been substantial deregulation in such industries as air travel, trucking, banking and communications. Though Reagan also has talked much about "letting the energy companies loose," it has been the Carter administration and a Democratic Congress that already have begun to decontrol energy prices.

At the same time, much health and safety regulation saves lives and dollars. There will long be disputes over which are which, and the question is whose lives and whose dollars the Republicans are willing to put more at risk. But any suggestion that reducing regulation of business or others is a "fresh idea"—giving more program control back to state and local governments is, of course, a well-worn Nixon theme—is not terribly persuasive.

4. Stand Up to the Russians. Republicans repeatedly argued that we've been so weak internationally as to tempt or provoke Soviet aggression. It is difficult to portray this as an "idea," much less an original one.

This country has been preoccupied with being tough with the Russians from the communist regime's year of birth, when Woodrow Wilson sent 7,000 American soldiers to Soviet ports in the Arctic to join British and French troops battling the Bolsheviks.

At the time of the 1948 Berlin airlift, Defense Secretary James Forrestal and Air Force Secretary Stuart Symington spoke privately to other officials about the desirability of preemptive atomic strikes against the Soviet Union. Now that's talking tough.

Clearly, in the end the Reagan administration will have no rational alternative to pursuing "peaceful coexistence" or "detente" or whatever the future phrase is for comity short of war.

5. Dramatically Increase Military Spending. One way to stand up to the Russians, the Republicans have suggested, is to fatten the military budget and even seek "military superiority." If this means a heightened arms race, so be it. It scarcely needs to be said that large military budgets and an arms race are not ideas invented in the 1980 presidential campaign. It must acknowledge, though, that the 13 to 21 percent increase in military spending now under consideration in Congress would * * * be.

6. Freeze Hiring by Washington. This was the first program suggestion in Ronald Reagan's GOP acceptance speech and in his maiden pronouncement as President-elect. Such a move would be decisive, to be sure, but hardly unprecedented. President Carter has instituted three hiring freezes; the last one, in mid-1980, eliminated 20,000 federal jobs by permitting only one new person to be hired for every two who left.

Total federal hiring freezes usually are short-lived, according to civil service head Alan Campbell, because any administration would want to replace retiring air comptrollers or people who disburse Social Security checks, not to mention the person who runs the elevator at the Washington Monument. In any case, federal employment totals have remained essentially unchanged for many a year. On the other hand, the big new hiring has been done by those state and local governments that President-elect Reagan sees as the answer to many problems.

7. Encourage "Enterprise Zones" in the Cities. Under a proposal sponsored by New York Reps. Kemp and Robert Garcia, small businesses would qualify for significant tax breaks if they did business in areas of high unemployment and significant poverty.

This is an attractive idea but certainly not a "new" one. An earlier version appeared in President Kennedy's 1961 Area Redevelopment Act. President Carter's 1978 urban package also proposed tax incentives to encourage industry to locate in depressed areas. This issue has long been settled in Europe, where the nine Common Market countries spend an estimated $17 billion a year on similar incentives. "Taking the work to the workers" is how it is described in some European cities.

These widely discussed ideas are only some of the bigger boulders in a Republican avalanche falling on Washington these days. Prospective chairmen of the nascent Republican Senate have also suggested such "new" ideas as reinstituting the death penalty, allowing prayers in schools, applying antitrust laws to labor and barring Justice Department involvement in cases requiring busing for school desegregation. Indeed, the Heritage Foundation, in its 3,000-page report "to show that conservatives do have new ideas," including a proposal to ressurect the House Un-American Activities Committee.

Taken together, these and other proposals obviously are not new ideas. They are merely old wine in new bottles. The Republicans simply appear determined to return to some status quo ante when there were low taxes, a balanced budget and less regulation. In other words, they may have one great new idea—that the future is the past.

But the past did not have an OPEC, Third World nations with plutonium, multinational corporations larger than nations, severe resource shortages and other complications and frustrations of today. Ronald Reagan and a new generation of Senate Republicans may have been elected advocating old verities. But it is difficult to see how, as some have suggested, this is the basis for a fundamental transformaton in American politics. We will have to see what happens when the ceremonial cheering stops.●

TRIBUTE TO GUNN McKAY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PEPPER. Mr. Speaker, everyone in this House is going to miss Gunn McKay when he leaves us. Gunn has been an exceptionally outstanding and valuable Member of this House. He has been an able legislator; he has been a leader in the Democratic Party; he has been a gracious and kind gentleman. We have admired him for what he has done for our country and our party, and we have cherished and will continue to cherish his warm and valued friendship. He has left a mark in this House which will endure as the kind of a Representative any district should have, the kind of a Representative who means so much to our country.

I do not know what Gunn will be doing, but I know wherever he and his lovely wife, Donna, are, they will be among admiring friends; they will do something meaningful for America; they will remain gracious and noble Americans. I wish long lives, good health, and great happiness for them and their loved ones.●

TRIBUTE TO ANDREW MAGUIRE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. PEPPER. Mr. Speaker, one of the Members who, although not many years a Member of this House, is leaving with one of the most outstanding records is Andy Maguire. Immediately after coming to the House, he won the respect and admiration of his colleagues by the knowledge he exhibited of any subject about which he spoke on the floor, by his hard work in support of legislation, and by his most agreeable relationship with his colleagues. If he had remained here, Andy would have enhanced the great reputation he has already made to become one of the most outstanding Members of the House. The country will suffer a great loss in his leaving. Yet, Andy is young, exceptionally able, and dedicated to high purpose. I know he will continue to render great service to our Nation in whatever area he chooses to work. I extend to him and his loved ones warmest words of commendation and my hearty wishes that he and his loved ones may enjoy long, healthy, and meaningful lives.●

IT IS TIME THAT LARGE BANKS STOP FOOLING THE AMERICAN PUBLIC ABOUT THE PRIME RATE

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. BLANCHARD. Mr. Speaker, it is time that the large banks stop their false advertising of the prime rate, especially as they push it up into the 20-percent range. The attached surveys conducted by the Board of Governors of the Federal Reserve three times during 1980 show that as many as two-thirds of the business loans from large New York City banks were made at discounts off the prime rate to as much as two-thirds of their business customers. Yet the prime rate is still viewed and listed in the media as the lowest rate charged the most creditworthy business customers.

During May of 1980, the large New York City banks gave an average discount of 4.26 percentage points from the prime so that an advertised 18-percent prime rate carried a discount which made it a 13.74-percent rate, on average, for two-thirds of the business loans.

As the automobile industry and the housing industry are squeezed to a halt by skyrocketing interest rates, it is no time to practice price discrimination and to fool the American public about what the lowest rate is on business loans.

I call upon all the bank regulators, Chairman Paul Volcker of the Federal Reserve; John Heimann, the Comptroller of the Currency; and Chairman Irvine Sprague of the Federal Deposit Insurance Corporation to tell the large banks to get their advertising in line with reality so that everyone knows where they can go to get a discount on today's prime rates.

SHORT-TERM BUSINESS LENDING BELOW THE PRIME RATE[1] BY SELECTED CLASSES OF BANKS

Class of bank	Percent of gross loan extensions made at rates below prime					Spread between prime rate and weighted average rate on loans made below prime (basis points)				
	1979		1980			1979		1980		
	August 7 to 12	November 6 to 11	February 4 to 9	May 5 to 10	August 4 to 8	August 7 to 12	November 6 to 11	February 4 to 9	May 5 to 10	August 4 to 8
48 large	37.2	19.8	50.0	53.0	57.9	58	118	123	413	108
13 money center	44.7	25.0	55.2	61.1	59.4	56	114	116	433	107
Large nonmoney center	21.9	9.9	38.7	32.9	54.1	64	138	138	310	110
Large New York City	46.9	28.9	67.0	60.7	61.7	60	118	118	426	99
Large non-New York City	24.3	12.1	29.8	45.1	52.3	51	120	130	392	123
Medium and smaller	21.2	26.6	15.2	26.8	16.3	107	174	211	247	120

[1] Calculations are made on prime rates reported by respondent banks.

Source: "Survey of Terms of Bank Lending." Survey conducted by the Board of Governors of the Federal Reserve.●

THE MADRID REVIEW CONFERENCE ON THE IMPLEMENTATION OF THE HELSINKI FINAL ACT—SOVIET VIOLATIONS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. BONKER. Mr. Speaker, Jerome J. Shestack who ably and brilliantly represented the United States at the 36th session of the Human Rights Commission in Geneva, recently addressed the plenary session of the Madrid Conference.

Underscoring the continuing problems of Soviet human rights violations, Mr. Shestack said:

"* * * human rights and human contacts provisions are to us an indivisible part of the Helsinki process. Violations of them gives us pain; it undercuts detente. Our focus on Basket III and related provisions is not a "fetish," as the Soviet delegate said today. Rather, as the delegate from Ireland put it: for our people the very validity of the Helsinki Final Act depends on these provisions. What is particularly disturbing is that when nation after nation raises matters relating to the human face of detente, the response is that such matters are "internal affairs." The Soviet delegate made that point again this morning. In our view that argument is deficient in logic and is contrary to international law. Consider it logically. If the object of detente is to defuse tensions, and concern over human rights and human contacts causes tension among 20 or 25 nations or more then how can you hope to achieve detente without addressing those concerns? Since human rights violations are clearly a "breeding ground of tension," why not frankly address these tensions, regardless of whether one nation—wrongly, in our view—categorizes them as internal matters, or another as external. Or shall the tension continue and thus undermine detente?

Of course, from an international law viewpoint, the internal affairs argument is so untenable that now it is employed at the U.N. only by the most repressive nations. The reality is that at the U.N. nations are regularly criticized for alleged human rights violations. At the Commission on Human Rights, for example, many of the nations here, including the Soviet Union, joined in a thorough review of human rights violations of some 19 nations—with nary a whisper about internal affairs. Surely world events in recent years have dramatically demonstrated that massive human rights violations are not just internal matters, but affect peace and stability. So let us put aside that scratchy old record called "The Ballad of Internal Affairs" and get down to serious work. * * *."

There are those who have criticized our human rights policy for not being critical enough of the Soviet Union. I would commend to their attention Mr. Shestack's excellent speech.

SOVIET VIOLATIONS OF HUMAN RIGHTS

Following is speech by Jerome J. Shestack, senior advisor, U.S. delegation to the Madrid Conference on morning of November 24, 1980.

Mr. Chairman, for the past months I have sat in the General Assembly of the United Nations and have become quite accustomed to hearing some of my colleagues illustrate a point through parables and folk tales.

Hence, I hope you will indulge me as I begin with a brief tale of two young shepherds, Peter and Ivan, who often grazed their flocks side by side.

One day, Peter said: "Pray, Ivan, do you love me?"

"Of course I do," said Ivan.

Peter went on: "Tell me, Ivan, Do you know what gives me pain?"

"How do I know what gives you pain?" Replied Ivan.

"Well then," Peter said, "if you do not know what gives me pain, how can you say you love me?"

Mr. Chairman, detente is not quite love. Yet is not the lesson of this story that we cannot have detente unless we understand what causes one another pain and tension?

I believe that my country and some likeminded nations here have expressed understanding of what causes the eastern nations pain and tension. We recall painfully the war which bore so heavily on civilian populations and ravaged town and country. We are equally mindful of the tensions caused by an arms race and escalations; we certainly are as passionately committed to peace; we surely share the view espoused by the Soviet delegate that the alternative to detente is unthinkable.

But what we do not comprehend is why there is not reciprocal understanding of what causes us tension and pain. We spoke clearly. Very early in the session Belgium described the human face to detente and others echoed that cry. Very early the Netherlands precisely pointed out that to have the trust that most underlie cooperation on security we must have cooperation on human rights and human contacts. Very early Canada said that the final act is about people. And others have eloquently affirmed those expressions. Those statements were not polemics. Those of us who stress human rights come from nations which went through their own revolutions and struggles for human rights. All the European nations who spoke of the human face of detente know from their own experience how precious liberty is and how fragile.

The eastern nations must appreciate therefore that human rights and human contacts provisions are to us an indivisible part of the Helsinki process. Violations of them gives us pain; it undercuts detente. Our focus on Basket III and related provisions is not a "fetish", as the Soviet delegate said today. Rather, as the delegate from Ireland put it: For our people the very validity of the Helsinki Final Act depends on these provisions. What is particularly disturbing is that when nation after nation raises matters relating to the human face of detente, the response is that such matters are "internal affairs." The Soviet delegate made that point again this morning. In our view that argument is deficient in logic and is contrary to international law.

Consider it logically. If the object of detente is to defuse tensions, and concern over human rights and human contacts causes tension among 20 or 25 nations or more then how can you hope to achieve detente without addressing those concerns? Since human rights violations are clearly a "breeding ground of tension," why not frankly address these tensions, regardless of whether one nation—wrongly, in our view—categorizes them as internal matters, or another as external. Or shall the tension continue and thus undermine detente?

Of course, from an international law viewpoint, the internal affairs argument is so untenable that now it is employed at the UN only by the most repressive nations. The reality is that at the UN nations are regularly criticized for alleged human rights violations. At the commission on human rights, for example, many of the nations here, including the Soviet Union, joined in a thorough review of human rights violations of some 19 nations—with nary a whisper about internal affairs. Surely world events in recent years have dramatically demonstrated that massive human rights violations are not just internal matters, but affect peace and stability. So let us put aside that scratchy old record called "The Ballad of Internal Affairs" and get down to serious work.

Mr. Chairman, it was encouraging to hear the distinguished Soviet delegate say that he wanted to proceed in a "business-like manner." He said that in his opening speech, not once, but twice, and repeated it in his second speech.

Perhaps, then, we can set forth two principles that we regard as businesslike. First, in a businesslike discussion, each party should be entitled to raise issues and engage in discussion on them in a constructive effort to resolve differences. Second, in a businesslike discussion, one should get as specific as possible. Principles advance through specific applications. Therefore, we shall emphasize specifics. Some of the eastern nations consider us too specific because we often recite names. Should an international body take up its time with any particular name? The question deserves an answer. There are, in fact, a number of reasons.

One reason is that names often have great symbolic as well as individual significance. In the case of academician Andrei Sakharov, for example, he is a symbol for all of those who are denied human contacts in his country, and, indeed, for repressed persons everywhere in the world.

A second reason is that the people named often suffer for the very reason that they have sought to carry the banner of Basket III and other provisions and other provisions to which the nations here have committed themselves. Therefore we have a special obligation to them and those they represent. A Vladimir Slepak or Ida Nudel representing those refused the right to emigrate. A Balys Gajauskas representing those jailed because of contacts with families of political prisoners. A Lev Lukyahenko and Ah Arvydas Chekhanavicius representing those incarcerated because of their views on freedom. A Vyacheslav Chornovil and Yuriy Shukevych representing those arrested because of their monitoring activities. These names are often short ways of identifying a group and they signal our interest, concern, and obligations.

Third, reciting names has many precedents in the UN and other international bodies, and the recitation has proved beneficial sufficient times that we need no longer shrink from it. Finally, and by no means least, there is the humanitarian objective. Governments should have compassion; certainly they include many compassionate men and women. The final act is for people, and names are the human face of detente. Humanitarian response to these names can only create confidence and further detente. Every name we mention is said not in hostility but in hope.

Mr. Chairman, I wish now to sketch some of the highlights of our interest in Basket three questions.

While my remarks will cover a number of problem areas, I would emphasize, however, that the record is not unmixed. There has been some progress, as we have already noted in earlier statements. There are also others which merit citation.

For example, in recent months private American citizens, members of the Lutheran Church, have experienced increased opportunities to have contacts with Soviet citizens who share the same religious faith. All such instances of fulfillment of final act pledges are of mutual advantage. They build understanding between private citizens and create a better basis for that cooperation which the final act seeks to foster.

It is also of importance to us that a number of eastern European countries have made substantial efforts to resolve family reunification cases in the past year. And we have been encouraged by the Soviet Government's recent decision to grant writer Lev Kopelev permission to travel for reasons of a professional nature.

These actions come at a time when the political climate between East and West has cooled. Even in such uncertain times, it is reassuring that steps under Basket III continue to be taken, and some of the remarks of the Soviet delegate today had encouraging aspects. Indeed, it is particularly in times of political tension that we need to highlight the final act's objective to build security and cooperation through practical, humanitarian steps of benefit to individuals. The accomplishments under basket three in all 35 participating states should reinforce our resolve to build upon them further.

It is in this spirit, Mr. Chairman, that I also wish to indicate today a number of problem areas which indicate how far we still have to travel. Let us start with the reunification of families.

We are puzzled why some nations have adopted a policy that family reunification is limited to first degree kinship, namely spouses, parents and children. The international covenant on civil and political rights calls for free emigration with only a few exceptions. Is it possible that the final act is being used as a limitation on the covenant? If so, that is wrong. Furthermore, why should reunification ever be limited to first degree kinship when the final act calls for participating states to deal with reunfication in a "positive and humanitarian spirit?" Can we not, as a modest measure and in the spirit of the act, at least follow the broader definition of family? Some say new restrictions came in retaliation against nations who have raised the Afghanistan issue. But I cannot believe any signatory would hold emigres hostage in that way.

We also find that major obstacles are placed in the way of reunifications. Basket III precisely calls for dealing with applications expeditiously, FOI: Reconsideration of refusals at short intervals and FOI: No adverse effect on applicants. Too often, these provisions are not observed. All of us know that whatever the law on the books, Kafka-like procedures can bewilder and frustrate and discourage. Most desperate is the condition of those persons labeled "refuseniks"—persons invited to join their families and who have been refused permission. In the U.S.S.R., for example, these persons, numbering in the thousands, often lose their jobs, are dismissed from universities, and are denied benefits. Such persons are deprived, in effect, of a life in the present.

Why are these people refused permission? Should the reasons not be carefully set forth for each person and regularly reviewed? Sometimes persons are refused because they had access to classified information. Professor Zivs, the Vice President of the Association of Soviet Jurists, has noted that moratoriums on classified information expire relatively early due to the rapid stride of science. Yet, although Alexander Lerner's access to classified information ended 9 years ago, he is still waiting to leave. And Daniel Fradkin, once a mathematician, also waits, although since 1972, his only access to "classified information" has been as an elevator operator, janitor or ticket inspector on public buses.

Often persons are refused permission because they had served in the Army and, therefore, allegedly had access to classified information even though they completed their Army service some 10 years ago. Is that not time enough?

Even more disturbing is the fact that many are incarcerated or internally exiled where it seems to us their only crime was pressing for emigration and protesting refusal.

There are also pathetic cases of long separation from loved ones. Many of those involve American citizens seeking reunification with close relatives from the Soviet Union. Some of these I know personally. Galina Golsman Michaelson of Moscow has been trying to rejoin her husband, Anatol, now in Florida, for over twenty-four years! This couple, by now, are elderly and in poor health. Grigory Gimpelson of Leningrad has been separated from his wife and son in the United States for three years. Uldis Kaps, an Estonian, has been trying since 1968, first, just to visit and later, to rejoin his sister and 80-year-old mother in the United States. A distinguished physicist, Eduard Lozansky, emigrated in 1977 and has been seeking permission ever since for his wife and daughter to join him. Also of particular concern to us are the American citizens living in the USSR who have been repeatedly denied exit permission and, like many of the divided family cases, are subject to harassment by local authorities.

Similarly, in practices in Czechoslovakia, the GDR, Bulgaria and Romania we frequently find the imposition of a maze of procedural obstacles to reunification, numerous whimsical and arbitrary denials and exertion of psychological and material pressures against people requesting exit visas. They surely are contrary to the language and spirit of the final act.

Perhaps, too, in a business-like way, we can discuss the larger issue of free movement of peoples under basket III. Jewish emigration from the Soviet Union had been encouraging after Belgrade but why has it dropped more than 50 percent this year when the number of those who want to leave has risen? The relaxation of emigration of Armenians is encouraging; still many Armenians are not allowed to leave. For a Ukrainian, Lithuanian, Latvian, Estonian or Russian to be reunified with his family is extraordinarily difficult even in cases of first degree kinship. And we would like to know why some 50,000 Pentecostals, Baptists and other Christians currently are not allowed to emigrate from the Soviet Union.

Mr. Chairman, the signing of the final act raised great hopes and expectations among the people of all 35 signatory nations: That they would be able to travel more freely, visit their relatives and rejoin family members abroad; expectations that the participating states would honor their commitments; hopes that human rights and human contacts would be the cornerstones of peace. While we acknowledge that progress has been made, for the most part, those great expectations have not yet been realized. We should address those hopes in this conference. From freedom of movement, it is natural to take up various cultural and social rights of those who remain; these are protected by language in basket three. The United States has a deep interest in these areas also and is working hard to overcome our own remaining deficiencies in treatment of ethnic minorities in our country.

Here the record in some Eastern European nations is dismal. For example, a large group in the Soviet Union that suffers from widespread loss of cultural as well as religious rights are Ukrainians whose language, culture and institutions are being eroded through a steady campaign of harassment by Soviet authorities.

The Soviet state also restricts the rights of Jews to live as members of an ethnic and religious minority. There is a lack of Jewish schools for the study of Jewish culture and the Hebrew language. There is also a great shortage of rabbis, of synagogues and of religious articles to meet the needs of the Jewish population. There are disturbing accounts of discrimination against Jews in education and sciences and of increasing difficulties in gaining admission to universities and graduate studies. But that is not all. There are also most disturbing reports of voluminous anti-Semitic sentiments thinly disguised as anti-Zionism appearing in the Soviet press and media.

Still another deplorable discrimination is that against the 500,000 Crimean Tatars. In 1978, the Soviet authorities issued legal decrees which prevented Crimean Tatar families from returning to their homeland in Crimea after their exile in central Asia. Families in the Crimea were harshly expelled and Tatars who protested such treatment were imprisoned. This is only one example of Soviet discriminatory practices against its Muslim minority.

In a number of other nations in eastern Europe national minorities are discriminated against and deprived of the opportunity to nourish their language, culture, institutions and literature. These discriminations should surely be removed in compliance with the final act. We turn now to the obligations under Basket III, to "facilitate the freer and wider dissemination of information of all kinds." Basket III is closely intertwined with the portion of principle VII which confirms "the right of the individual to know and act upon his rights and duties" in the field of human rights. We believe this was one of the outstanding achievements of the final act. The free flow of information is explicitly treated in Basket III and is certainly a fruitful contribution to the trust and confidence needed for detente to flourish. Unfortunately, much remains to be done to implement these provisions.

We emphasize that unless journalists are protected in their freedoms, the right to know is bound to be affected. Therefore, we view with particular concern developments which have threatened and harassed journalists.

For example, the GDR has recently taken steps to restrict western journalists. All interviews and inquiries into state, government and social matters must now be authorized by the government and the GDR made it a criminal offense for citizens to convey to foreign citizens any information which could be considered detrimental to the state. And there are other needless harassing impediments.

Surely we should address all such concerns. One of the unfortunate aspects of restrictions is that they often can become reciprocal. Would it not be productive for all of us to compile a list of restrictions that each nation places on the flow of printed, filmed and broadcast information and on journalists and to exhibit the will to eliminate them one by one? Hopefully, that will be done.

Mr. Chairman, the Helsinki final act also calls for "the dissemination of information by radio—to meet the interest of mutual understanding among peoples." Nevertheless, the Soviet Union has jammed the broadcasts of radio liberty, and Bulgaria and Czechoslovakia have jammed the broadcasts of

Radio Free Europe ever since the creation of the two stations; this jamming continues.

Moreover, the Voice of America has been jammed intermittently by the Soviet Union since 1948. On September 18, 1973, a month before the opening of the Geneva CSCE meeting, the Soviet Union ceased its jamming of VOA—an action which my government then welcomed publicly. However, on August 20 of this year, three weeks before the opening of the Madrid CSCE preparatory meeting, the Soviet Union reimposed its jamming on VOA—an action which was as negative a prelude to this Madrid meeting as its earlier action had been a positive prelude to the Geneva meeting. The BBC and Deutsche Welle were jammed at the same time. There can be no defense of this action, which is a clear violation of the final act and the universal declaration of human rights and the International Tele-Communication Convention. The Soviet delegate referred to VOA broadcasts as "unrealistic". I would note that Radio Moscow broadcasts in English to the United States—whether we consider them realistic or unrealistic—average 87 hours and 30 minutes per week. It has never been jammed and it never will be.

While expressing our concern, in our view none of these issues is beyond reconciliation. We are glad to hear from the Soviet delegate today that simplifications are in process. We are anxious to effect reconciliation. We hope that one of the outcomes of our sessions will be to evolve specific ways in the spirit of basket three for improving conditions for journalists and for insuring the free flow of information.

Mr. Chairman, on our part we wish to emphasize that the U.S. has sought to address many of the problems which were raised at Belgrade by eastern signatory states. For example, in the cultural and educational area we are pleased by progress that we have made in furthering exchanges with many eastern European states. We have initiated new programs to acquaint our citizens more fully with the culture and language of other signatory states. We have also undertaken studies of defects in our VISA and passport administration. We hope to focus further on these subjects and others.

We have listened carefully to criticisms and suggestions and have made a good-faith effort to respond. And we stand ready to do so again. We ask only that others join with us in a similar spirit.

Mr. chairman, because of prescriptions of time, we have highlighted only a few of our interests under Basket III. In the following weeks, we hope not only to have a more thorough review of implementation but to approach that review with an eye to ultimately evolving remedial measures. Our approach, which we hope will be appealing to others, will be:

(A) To candidly acknowledge the areas where the implementation by any of us falls short;

(B) To match review of shortcomings with practical suggestions later for remedial actions;

(C) To appraise fairly the potential of each suggestion that will be made;

(D) To consider establishing expert groups for specialized areas;

(E) To encourage means to further advances in implementation.

In conclusion, Mr. Chairman, we must continue to work on process and progress. We sincerely hope that the human rights and human contacts provisions of the final act will not be viewed through an adversary prism but as steps to further human dignity, as building blocks to create the structure of detente, and as ways and means to inspire trust and confidence among all of our peoples.

Thank you, Mr. Chairman.●

THE SOUTHWEST HISPANIC CONFERENCE ON AGING

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. FROST. Mr. Speaker, let me pass along some information that will be helpful to any of my colleagues who represent sizable Hispanic constituencies, or who are generally concerned with health and aging issues as they pertain to Hispanics.

On December 12 and 13, the Southwest Hispanic Conference on Aging was held in Albuquerque, N. Mex. About 300 participants attended, representing Texas, New Mexico, Oklahoma, Arizona, Louisiana, and Utah. The conference was a joint effort of ACTION, the region VI Administration on Aging, the New Mexico Lieutenant Governor's Committee on Aging, the National Association for Hispanic Persons, and the National Hispanic Council on Aging.

I have been advised that some very timely and relevant information was brought to light during this conference. Issues of concern to the Hispanic elderly were the focus of the discussions, with special emphasis on economic security, health, social services, transportation, housing and cultural linguistics. Special attention was given to the persistent poverty and underserved conditions of Hispanic elders in the Southwest. Judging from the reputations of those who participated, I believe any one of us could benefit from looking into the material that surfaced during these discussions.

If my colleagues would like additional information on the conference or on the broader issues, they can contact any one of the following persons:

Dr. David Maldonado, Center for Chicano Aging, the University of Texas at Arlington, Arlington, Tex. 76019;

Mr. Trini Garza, region VI ACTION Director, P.O. Box 370, Dallas, Tex. 75221; and

Mr. John Diaz, Regional Director, Region 6 Administration on Aging, Office of Human Development Services, 1200 Main Towers, 1200 Main Street, Suite 2060, Dallas, Tex. 75250.●

JACKSON CARLE

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. COELHO. Mr. Speaker, yesterday afternoon Jackson Carle, who was administrative assistant to former Congressman Bernie Sisk when I arrived on Capitol Hill in 1965, died in a Fresno hospital.

To those of us who knew him and worked with him, he was much more than a fellow worker—he was a genuine friend. He taught me all about congressional work and how to resolve problems in Government. His secret was simple—to work for resolution at the level where the difficulty was taking place. He developed working relationships at all levels of Government agencies, in legislative support organizations and in congressional offices and committees.

His high principles of Government service led him to battle for Mr. Sisk's constituents when they had a problem. It did not matter to him what kind of clout a person had—everyone's problem was equally important. He used to tell me that we, as staffers, had a responsibility to work for the constituents just as an attorney might work for his clients.

On a personal level, Jackson and his wife Eunice made me feel at home from my first days in Washington. They were kind and compassionate and caring, and they knew how to make a young man welcome and at ease 3,000 miles from family and friends as a sort of extended family. I cherish those memories and will remember them always.

When Jackson and Eunice came to Washington, D.C., with Mr. Sisk in 1954, the Congress was a smaller, more intimate place. The staffs were not so large or scattered in far-flung offices, and there was more of a sense of cooperation and willingness to help each other out. By the time Jackson retired and returned to Fresno in 1967, the good old days were already disappearing.

Mr. Speaker, all of us in Congress today would do well to take a look at the work and spirit of Jackson Carle and strive to recreate the kind of productive, cooperative atmosphere he fostered.●

TRIBUTE TO HARLEY STAGGERS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. PEPPER. Mr. Speaker, one of the senior Members of this House, one of the Members occupying a powerful chairmanship, and one of the most respected and beloved Members of this House, has chosen for his own reasons to leave this body and return, after long and distinguished service here, to private life. I speak of our great colleague and friend, the very able chairman of the Committee on Interstate and Foreign Commerce, HARLEY STAGGERS.

HARLEY STAGGERS is a rare man. He is a man of exceptional dedication to duty. He has led his committee for many years in the adoption of some of the major legislation ever enacted by this House, covering almost every phase of our national life. He has been a man of outstanding character and integrity—respected and beloved, not only by his committee but by all of his colleagues and, of course, by his constitutents. He has been a man of great compassion and concern for others. The working man, the ill, the needy, those who needed help never had a greater champion or better friend than HARLEY STAGGERS. He not only loves America, he loves people and he has made it possible for countless millions to walk on higher ground.

HARLEY'S lovely and gracious wife, Mary, deserves warm appreciation in her own right. She has not only been a great wife, but a great helpmate to HARLEY. She has done many things, not only to help her constituency but to help the people of this country. She has always been a lovely, kind, and noble lady. I had the privilege of a trip to China with HARLEY and Mary last summer. Every one of us on that trip was proud of the leadership in a foreign country that HARLEY and Mary gave to our committee and the hard work they put in in learning all they could about that great country which might be helpful to us in this House. They were delightful traveling companions, always considerate of the remainder of us on the trip with them, kind and helpful to us.

So, a great American gentleman and a great American lady in HARLEY and Mary STAGGERS are leaving this House. We are going to be separated from two great friends. We hope, however, that HARLEY and Mary will be coming back from time to time to visit those of us who are here, or that elsewhere our paths will often cross. HARLEY and Mary are the kind of people who enrich one's privilege of membership in this House. They are the kind of people who make life more meaningful as we pass together along life's journey. May the Lord's blessings ever be with HARLEY and Mary and their loved ones.●

MOSCOW SETBACKS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. SIMON. Mr. Speaker, there is a tendency to exaggerate the gains made by the Soviet Union and the various activities they conduct, including the deal with defense.

Recently World Press Review, one of the really significant journals published in this country which gives us insight into the thinking of other countries, published in its brief "Early Warning" section a reference to North Korea slipping away from the Soviet orbit under the heading, "Moscow Setbacks."

I am inserting it in the RECORD at this point because I think it lends some balance to what an imbalanced picture that the American people and I believe my colleagues in Congress are receiving:

MOSCOW SETBACKS

North Korea appears to be slipping further from Moscow's orbit and closer to the Chinese. The latest evidence of the shift—already suggested by Pyongyang's criticism of the Soviet-backed Vietnamese invasion of Kampuchea and its silence on the Afghanistan takeover—came in tributes to "[our] close neighbor and class brother, the Chinese people"—at the Congress of the North Korean Communist Party [The Hindu, Madras]. * * * This is only one item in a lengthening list of woes: Poland, Afghanistan, Ethiopia, China, Iraq, and southern Africa (where Moscow has yet to establish an embassy in Zimbabwe, and Mozambique is only "a polite friend"), plus food shortages and a sluggish economy. The result is an aging leadership "bowed and stooping before a sea of problems as never before" [The Guardian, London].●

ANTI-SEMITISM IN FRANCE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. SOLARZ. Mr. Speaker, I rise today to express my very deep concern over the growing number of anti-Semitic incidents which have recently occurred in France.

It seems to me that the murderous bombing of the Rue Copernic synagogue on October 3 and the brutal slaying of a Jewish travel agent and his wife in Paris in an apparently political attack indicate that the level of anti-Semitic violence in France is dangerously escalating. According to press reports, these cases are only the most recent and well-publicized in a train of events that goes back over 5 years and includes an estimated 120 to 140 anti-Semitic incidents. I deplore what has happened and would urge the officials of the French Government to take prompt action to firmly and decisively end such attacks and provide greater protection for the Jewish community in France.

The growing campaign of anti-Semitism in France has become a source of great concern to Jews everywhere. Immediate action on the part of the French Government to root out and punish the perpetrators of anti-Semitism could once again offer the prospects for a safe and secure existence to Jews in France and generate good will all over the world.

I am convinced that people of good conscience throughout the world must raise their voices against anti-Semitism—wherever it may occur—if we are to prevent, through ignorance or indifference, a repetition of the horrifying events of the holocaust which took place in Germany 40 years ago.

I sincerely hope that the French Government will do everything they possibly can to restore peace and order to the Jewish community in France and halt the anti-Semitic campaign before it is allowed to go any further.●

FEDERAL GOVERNMENT'S ROLE IN EDUCATION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. HUBBARD. Mr. Speaker, as we convene the 97th Congress in January, I believe my colleagues should consider some thoughts about the direction in which the Congress should take with regard to the Federal Government's role in education.

These views come from William A. Bell, assistant superintendent for instruction, Christian County Public Schools, Hopkinsville, Ky., and are worth noting.

Mr. Speaker, I submit the following:

This is to let you know how much I appreciate the newsletter that you send out to your constituency. I would also like to share with you some of my thoughts about the direction I would like to see Congress take after the first of the year.

I am one of the life-long Democrats who had grown dissatisfied with the drastic swing to the left that the party had taken. I hope that this presidential election will open the eyes of Democratic representatives and bring them back to a middle-of-the-road position. I greatly appreciate your position on most of the important issues.

I would now like to speak to you as a public education administrator about the federal government's role in education. President-elect Reagan has promised to try to get the federal government out of the public education business. From my point of view, this would be the best thing that this new administration could accomplish.

From the time that the Johnson Administration passed the Elementary and Secondary Education Act, in 1965, school achievement scores have steadily decreased. Millions and millions of taxpayer dollars have been thrown away on hundreds of government-imposed education programs and we are further away from the goals than when we began—not because of the money that has been spent, not because of the lack of good intention, but rather because every dollar has been so tied up with regulations written by people far removed from the classroom so as to render the funds useless.

Congressman Hubbard, have you examined the regulations that govern ESEA Title I, Public Law 94-142, the Education of All Handicapped law? I work very closely with both of these programs as part of my assignment here as Assistant Superintendent and the regulations have increased so much that presently I spend approximately 85 percent of my time on the programs gathering useless data and completing absurd reports I have very little time to pay attention to my other office duties.

Educationally deprived children and handicapped children need additional help in overcoming their disadvantages but I know that the school people in Christian County, along with the parents here, can plan programs that would better meet the needs of all Christian County children than can bureaucrats in Washington who do not know where Christian County is nor care where it is.

I want to ask you to support the efforts of the new President as he attempts to cut through the maze of regulations. We can do with far less federal funding and do a better job when the strings are cut. In fact, if federal funding were decreased a bit each year, we would adjust to a complete cutoff in a matter of time.

In closing, may I say that as I examine the Constitution of the United States I find no mention of education as a federal responsibility. In fact, I believe that the Tenth Amendment specifically states that powers not designated as federal shall remain the responsibility of the States.

Thank you for taking your time to read my complaints. Keep up the good work!

Sincerely,

WILLIAM A. BELL,
Assistant Superintendent for Instruction.●

JORDANIAN VIEWS ON THE MIDDLE EAST

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. ROSENTHAL. Mr. Speaker, for nearly 1 year I have watched with alarm the Kingdom of Jordan's sharp attacks upon the United States, Israel, and Egypt for pursuing a course of peace and reconciliation in the Middle East.

For a time some of Jordan's friends in the United States explained the Jordanian rhetoric as merely a public exhibition designed to secure the kingdom from the attacks of the radical Arab rejectionists. Yet with each successive speech by King Hussein or one of his ministers, this posture of wishful thinking about Jordan, had become harder and harder to sustain.

Last week Jordan's Ambassador to the United Nations gave a speech at the General Assembly which was filled with the coarsest kind of anti-Jewish abuse. This morning the New York Times quite properly rebuked the Ambassador for this racist outburst, and I share the editorial with this House.

Perhaps we will soon have to conclude that our old friend King Hussein has a view of the world, and an agenda for the Middle East, that is permanently incompatible with our own.

The article follows:

"THE SOCIALISM OF FOOLS"

Stereotypes are like hand grenades; they often explode on you before they're thrown. Arabs rightly protest terms like "Abscam" and the stereotyping that paints them as rapacious sheiks turning OPEC spigots and banking in Zurich.

Well, maybe that reminder will bring home our disgust with the diplomats who have been resorting to even uglier forms of another anti-Semitism at the U.N. "It is a well-known fact that the Zionist are the richest people in the world and control much of its destiny," said Jordan's ambassador the other day, claiming as evidence that Lord Rothschild secretly controls the price of gold and South Africa's Harry Oppenheimer manipulates diamonds and uranium. (Need one "disprove" this claptrap by noting that Mr. Oppenheimer, recorded in Jewish records at birth, is a member of the Anglican church?)

That such hateful lies should be spoken anywhere is bad enough. That diplomats could speak them in the General Assembly without immediate censure is appalling. And Jordan's anti-Semitic bilge was merely the worst of several recent outbursts there. Having promoted the reckless theory that "Zionism" is the equal of "racism," the members of the U.N. seem ready to tolerate the most explicit racism, provided only that it comes in an anti-Israeli context.

Truth may be too much to expect in a world organization that prides itself on hearing every point of view and letting the most extreme kettles vent their steam. But is this the level of argument that Jordanian, or Palestinian, or anti-Israeli policies now generate? The Israelis, even as they finally rose in justified outrage, must have had cause for quiet satisfaction at the paucity of reason among their adversaries.

August Bebel, a German Marxist, observed long ago that anti-Semitism can be the "socialism of fools." He said it lets racist demagogues masquerade as leftists, ensnaring peoples while pretending to oppose power and privilege. That some monarchies can be foolish is hardly news. But when, even falsely, they summon the mobs against power and wealth they only volunteer to become the first victims of their venom.●

ELSTON HOWARD

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. RODINO. Mr. Speaker, a great American who was one of the most talented professional baseball players of our time passed away yesterday. When the players and coaches who new Elston Howard are asked to describe this mainstay of the great New York Yankee teams of the 1950's and 1960's, of course they mention his tremendous ability and dedication. But they also emphasize the gentleness, the humility, the class, and the genuine concern for others that characterized Elston Howard's life.

Mr. Speaker, it is so very sad to lose a person like Elston Howard because he did so much to inspire the finest qualities of sportsmanship and commitment to excellence in our young men and women. Elston Howard epitomized these qualities.

Elston Howard was the first black man to play for the New York Yankees. He played for 14 years in the major leagues and batted .274 with 167 home runs. He was named to the American League all-star team for nine of those years, and in 1963 won the honor as the league's most valuable player. He helped the Yankees into 10 world's series, and played a major role in their winning four world championships. In 1958 he was presented with the Babe Ruth Award as the most outstanding player of that year's world's series.

His record of excellence began in professional baseball when he played for the Kansas City Monarchs of the Negro League in 1953. After the Yankees signed him in 1955, he played outfield and first base before becoming the team's full-time catcher. Throughout his career, he was one of the most loved of all the Yankees, and in 1968 he retired from active playing and became the first black coach in the American League.

Mr. Speaker, the milestones of Elston Howard's successful career are widely admired by his millions of fans. But the true measure of this great American was his pursuit of excellence and his decency toward his fellow man.

Mr. Speaker, I join with my colleagues in mourning the death of Elston Howard.●

THE HISTORY AND POLITICS OF THE KU KLUX KLAN

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. CONYERS. Mr. Speaker, on December 9, 1980, the Subcommittee on Crime, that I chair, held the first in a series of hearings on the nature, causes, and the extent of racial violence in the Nation. The hearings take place in the context of the disturbing trends toward an increase in intergroup violence, mounting apprehension among minority communities, and a growing activism on the part of hate groups and violence-prone organizations, most notably the Ku Klux Klan.

Dr. Ted Robert Gurr was the first witness at the hearing. A professor of political science and former chairman of the department at Northwestern University, Dr. Gurr is an expert in the field of political violence, having authored numerous works, including "Why Men Rebel," "Violence in America," and "The Politics of Urban Crime and Conflict." He served on the staff of the last major national commission on violence—the Eisenhower Commission—during the late 1960's.

The following excerpts from Dr. Gurr's testimony deal with the history of the Ku Klux Klan, the conditions that generated its historical growth, the attitudes, beliefs, and ideas that motivate its activity, and current conditions that explain the dangers it poses today. His testimony is a significant contribution to understanding violence-prone organizations.

The excerpts from Dr. Gurr's testimony follow:

HISTORY OF KU KLUX KLAN

THE KU KLUX KLAN AND NEO-NAZIS AS ANTI-DEMOCRATIC GROUPS

The contemporary Ku Klux Klan, National Socialist Party, and similar extremist groups are distinctively anti-democratic in their political beliefs and practices. They have two characteristics that set them sharply apart from almost all other groups on the right of the American political spectrum.

First, they reject some basic principles of democratic American society:

They are prepared to deny equality of treatment or opportunity to ethnic and religious minorities, and

They oppose the free expression of political and social opinions which contradict their own views.

Second, they are prepared, collectively if not in all individual instances, to use violence and to provoke violent confrontations in order to promote their objectives.

Throughout this testimony I will refer to this distinctive combination of beliefs and tactics as "anti-democratic."

HISTORICAL PRECEDENTS OF CONTEMPORARY RIGHT-WING EXTREMISM

There is an enduring tradition of violent, anti-democratic action in this country. From the Revolutionary War to the present, groups like the vigilantes, the Ku Klux Klan, lynch mobs, and other have repeatedly engaged in illegal violence. in defense of the status quo. These violent episodes have ebbed and flowed and the scene of action has shifted from one part of the country to another, but there have been very few decades in the last two centuries which lacked major outbreaks of anti-democratic group violence. This historical tradition sanctions the use of private violence in the pursuit of social and political ends by contemporary anti-democratic groups.

Let me review some of the historical episodes which contribute to this tradition and draw some conclusions from them which are applicable to the present situation.

We are now entering the fourth wave of Klan activity during the last 115 years. The first Klan was founded in 1867 by white Southerners who used it to resist the Reconstruction policies imposed by Northern authorities. The first Klan used political pressure, coercion, threats, and widespread violence in a ten-year campaign which gradually subsided once blacks were resubjugated and their Northern Republican sympathizers relinquished control of Southern state governments.

The second Klan flourished during and after World War I. It was founded in 1915, nourished by the general climate of antagonism to wartime-induced economic and political change. It flourished especially in the 1920's, capitalizing on a backlash of conservative social views against changing standards of social conduct. Its strength was nationwide, encompassing Eastern, Midwestern, and Pacific states as well as the South. Most of its targets were not the blacks, Catholics, or Jews who were the objects of Klan propaganda, but white Protestants who failed to abide by the Victorian moral code of small-town America.

The third Klan arose in the 1950's among working-class and lower-middle-class Southerners, mainly in towns and rural areas, who feared the effects of improved civil rights for black Americans on their own precarious economic and social positions. Support for this third wave of Klan activity withered in the 1960's in the face of concerted federal and state action, especially by law enforcement and judicial agencies. Some Klan organizations remained intact, though with reduced membership, and have provided inspiration and a nucleus of leaders for the current resurgence of Klan activity.

Another, violent side of anti-democratic political action in America is illustrated by the use of lynch law, "the practice or custom by which persons are punished for real or alleged crimes without due process of law." The Klans and the vigilantes both used lynch law as one of their tactics. So did many other groups, especially after the Civil War, when lynch-mob violence was employed frequently in all sections of the country, against whites as well as blacks. Southern blacks were the most common victims during this period: from 1882 to 1903 a total of 1,985 of them died at the hands of Southern lynch mobs.

These are some observations about the history of anti-democratic violence which may have some bearing on the contemporary situation.

First, the victims of anti-democratic violence have included, but were not limited to, ethnic minorities (blacks, Mexican-Americans) and religious minorities (Catholics, Jews). Whites of Protestant background also were often victimized because of their alleged criminality, immorality, or radical political views. Black Americans are not the only ones who need fear the resurgence of anti-democratic groups.

Second, most anti-democratic violence in the past has occurred in rural and small-town America, distant from major urban and (later) industrial centers. Anti-democratic groups rarely have gotten a toe-hold in or attracted significant followings in larger cities. The homogeneity of small-town and rural life may make it easier for anti-democratic groups to take hold. On the other hand the heterogeneity of American cities tends to make city dwellers tolerant enough of ethnic, religious, and political diversity that they are not prepared to support anti-democratic action. If this interpretation is correct it may help explain why neo-Nazis, attempting to mobilize support in Northern industrial cities, have been successful only in attracting public hostility.

Third, anti-democratic groups usually have thrived in times and places where the general climate of opinion favored their purposes, if not necessarily their beliefs and violent tactics. The vigilantes were active in areas where there was a heartfelt desire for an end to lawlessness; indeed, many vigilantes were among the leaders of their communities. The Southern Klans and lynch mobs were active where attitudes of white supremacy prevailed. The "moral policing" of the Klan of the 1920's and the White Cappers was encouraged by the traditional moral code of small-town America. The private use of violence against political activists peaked during World War I and the Vietnam War when the climate of national opinion and the statements of national leaders emphasized conservative and nationalistic themes.

HISTORICAL EVIDENCE ON THE DECLINE OF ANTI-DEMOCRATIC GROUPS

Historically, anti-democratic groups using violent means have been able to flourish when their causes were supported by public opinion and when local and federal officials followed a policy of "benign neglect" toward them. In these circumstances anti-democrats often achieved their immediate objectives. They lost ground when public sympathies shifted against them and when governments took concerted counter-action. Let me elaborate these points.

First, anti-democratic groups cannot flourish without the tacit support or tolerance of public officials. It has been shown, for example, that reactionary violence in the Reconstruction South flourished in those states, and at those times, where state officials gave it tacit encouragement. Once law enforcement agencies and the courts take strong and consistent action against the illegal acts of these groups, however, they begin to lose their credibility and effectiveness. This happened in parts of the Reconstruction South, for example. It also seems evident that the decline of Klan activities in the 1960's was due in substantial measure to the concerted efforts of federal, state, and local law enforcement agencies, prosecutors, and courts.

Second, the successes of anti-democratic groups usually were won because public officials, especially at the state and local levels, were either supportive or ambivalent. Officials either accepted or were unwilling to oppose public opinion which supported the purposes of the groups. In these instances violent action and its threat often achieved significant local purposes: people who violated the moral code were thrashed, recalcitrant blacks were lynched, robbers hanged, radicals beaten and run out of town, Jews and Catholics intimidated. The success of the first Klan in reversing the effects of Reconstruction probably is the most dramatic single example of the effective use of defensive, anti-democratic violence in American history.

Third, anti-democratic groups sometimes lost the public support upon which they initially depended. This happened when they overstepped the bounds of public acceptibility, something which occur in either of two ways. The use of violence itself sometimes led to public revulsion and loss of support. This happened to many vigilante groups, for example. In other cases anti-democratic groups lost credibility, because they violated some of the standards they were sworn to uphold. The deathknell of the Klan of the 1920's was sounded when some of its most prominent leaders were publically accused of moral and financial wrongdoing.

In general, anti-democratic groups lost ground when public sympathies shifted against them and when governments took concerted counteraction. I maintain that government counteraction is the more important of these two factors. It was, and continues to be, not a necessary but a sufficient cause for the demise of anti-democratic groups. It also helps mobilize local and national opinion against the purposes and tactics of these groups, which ultimately undercuts their attempts to recruit followers.

Four main factors should be taken into account when seeking to explain their contemporary resurgence. These are (1) the persistence of anti-democratic attitudes among a significant minority of American citizens; (2) the effect of economic crisis on these people, many of whom are in precarious circumstances; (3) the general shift of public opinion and policy in a conservative direction, which unintentionally encourages anti-democrats to act on their views; and (4) a pattern of official inaction which makes it possible for them to mobilize and act.

PERSISTENCE OF ANTI-DEMOCRATIC SENTIMENTS

A significant minority of Americans have social and political views which are contradictory to mainstream American values and constitutional principles.

They do not believe in equality of opportunities for minorities, or in government policies which have that objective. On the contrary, they regard non-white minorities as inherently inferior and advocate social policies built on the premise of unequal treatment.

They do not believe that full civil rights should be enjoyed by all social groups. In varying degrees they believe that minorities and Jews have unfair advantages and that their exercise of rights, and enjoyment of benefits or privileges, should be curtailed.

They are prepared to deny the right of open political expression to others, especially to those whose values and interests they regard as inimical to their own.

They believe that it is legitimate to use forceful means, including violence, to protect themselves against other groups and to promote their own values.

These views have been part of the underside of American political culture for a very long time. Historically the evidence for them includes the testimony of the leaders and spokesmen of anti-democratic groups and the actions they have carried out. More recently it includes the results of opinion surveys which have asked samples of Americans about their attitudes about civil liberties, their opinions toward minority rights, and their views about the justifiability of using violence to promote or defend their interests.

People may hold some of these views and not others. They hold them with varying degrees of intensity. There is no social accounting procedure which enables us to say how many people subscribe to all of these views, though they are almost surely less widely held now than 60 years ago, for example. We cannot pinpoint precisely where they are in the social structure, either, though they are (a) more likely to be poor than prosperous, (b) more likely to be found in Southern states than elsewhere, and (c) more likely to live in towns than cities. And we cannot know, except after the fact, which of these people, and how many of them, are ready to act on their beliefs.

The presence of anti-democrats constitutes a potential for violent anti-democratic action. The more immediate question is what socioeconomic and political changes cause them to be translated into collective action, and of what shape and kind.

THE IMPACT OF ECONOMIC CRISIS

Recovery from the current recession is not likely to dispel anti-democratic beliefs, but it would remove one immediate source of grievance that helps mobilize people to action. It takes only a little social insight to recognize that whites in a precarious economic position would be less hostile toward minorities if their own economic prospects were brighter.

Many historical episodes of anti-democratic action occurred in places and among people who suffered from economic dislocation (caused by war, for example). They often suffered, or feared, some combination of loss of their means of livelihood, job competition from minorities, rising prices, shortages of goods, and decline in their economic status. I made the point above that contemporary anti-democrats are more likely than not be economically marginal: wages tend to be lower and economic opportunities fewer in small-town America. Therefore these people are likely to be especially hard-pressed by current inflation, rising unemployment, and static or declining real wages. Their grievances, in this instance, tend to focus on the federal government and on minorities. On the federal government, because of tax policies and because they believe its spending policies have contributed to inflation. On minorities, because they are believed to receive unfair advantages from government programs.

OFFICIAL TOLERATION OF ANTI-DEMOCRATIC ORGANIZATIONS

A vigorous official response, within the framework of law, is essential if the resurgence of anti-democratic activities in the United States is to be checked. Historically, anti-democratic organizations have flourished when tolerated by politicians and officials, but withered away when subjected to investigation, official condemnation, and prosecution for violations of civil and criminal law. Organizations such as the Klan and the National Socialist Party can and do operate largely within the legal boundaries most of the time, which means that officials ordinarily have no warrant for taking action against them. But their chances of attracting public attention and recruiting new members depend to a significant degree on their willingness to take dramatic public actions, some of which are violent or otherwise illegal.

What is problematic, at least for members of anti-democratic organizations, is how much the police, prosecutors, judges, and juries are prepared to let them accomplish without imposing legal sanctions. What the Klans and the neo-Nazis are doing now can be regarded as a kind of testing, both of public opinion and of official response. Official responses which are tolerant, apathetic, or simply ineffective are likely to encourage more extremist action. Such responses also signal potential supporters that it is acceptable to join such groups.●

TRIBUTE TO RAY ROBERTS

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. JONES of Oklahoma. Mr. Speaker, Winston Churchill once remarked, "Politics are almost as exciting as war, and quite as dangerous. In war you can only be killed once, but in politics many times." Ray Roberts is a gentleman who takes exception to Prime Minister Churchill's remark, for he has survived the political wars of the House for the past 18 years. He bears no scars, and he will leave many dear friends and colleagues when he retires from the House.

I have known Ray since my days in the White House during President Johnson's administration, and I found a deep and abiding love for their State and their country in both of these Texans. Like President Johnson, Ray has shown true compassion for the underdog during his years of public service, but he has not ducked the responsibilities and the challenges of our future.

Ray Roberts is a good man. He is honest, he is decent, and he has worked hard for the best interests of our country. I am proud to have worked with him over the past years, and I am proud to call him my friend. I realize these are simple and straightforward statements, but then again, Ray Roberts is a straightforward man. He is the kind of man our Founding Fathers had in mind when they discussed the idea of legislators in a "congress." and he lived up to their expectations. I know I speak for many when I say that we will miss his counsel, his wisdom, his good humor, and his dedication to America.●

JOHN BRADEMAS—EDUCATION'S FRIEND

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PICKLE. Mr. Speaker, the epitome of intelligence and kindness in an iron glove—that is the picture of John Brademas. Everything you say about John can be expressed only in superlatives. Rather than pointing out his many legislative achievements on the Education and Labor Committee, suffice it to say that every education bill over the last 20 years has borne the brand of John Brademas. No man or woman in the House has better education credentials, no one expresses him or herself with more authority than John Brademas.

As our Democratic whip, John kept close touch and urged our party on for more unity and effectiveness.

I have been privileged to have John Brademas come to my district, to speak before education groups and seminars at the LBJ Library. John has a myriad of friends in our community, including Dean Elsbeth Rostow of the LBJ School of Public Affairs and Director Harry Middleton of the LBJ Library. Lady Bird Johnson, herself, holds John in the highest esteem. Our community and State have many reasons to love John Brademas.

John is one of the most able Members to have served in any legislative body. It is sad to know that his services will not be available to the country next year. That is a loss that will have to be shouldered not only by the people of Indiana, but the entire Nation as well.●

TRIBUTE TO DICK ICHORD

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PEPPER. Mr. Speaker, one of those who is leaving, Dick Ichord, creates a great void in the membership of this House. I am deeply sorry to see Dick leave the House. It was my privilege to serve under him as a member of the Internal Security Committee. I saw his able administration of that committee, how he made it serve America with fairness to all. Dick's legislative record in this House in support of the national defense and many pieces of legislation of invaluable meaning to the Nation has been outstanding. No man has been more diligent in his efforts to balance the Federal budget and strengthen our national security than he. We know that the country will long benefit from the dedicated, patriotic work in those areas which Dick has performed.

Besides his legislative accomplishments, Dick has been a delightful colleague, a fine gentleman with a lovely wife who has been an invaluable assistant, as well as a companion to him. They leave here a great circle of warm friends. I have particularly cherished their friendship for many years. I wish Dick, his lovely wife, Millicent, and his loved ones long lives, good health, and great happiness.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 16, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 17

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on the use of violence by organized crime, focusing on the operation and management of the Federal witness security program of the Department of Justice.
3302 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, December 16, 1980*

(Legislative day of Monday, December 15, 1980)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 a.m., Tuesday, December 16, 1980.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

For all good hopes and all true faith, we give thanks to You, O God. We pray for all with special needs—for the needy and suffering, for the lonely and those of low estate. We remember with love and concern the hostages and their families that Your presence and spirit will be with them during these holy days and they will feel surrounded by the prayers of our people. Bless our Nation, and this assembly and grant to all in authority the purpose and vision to lead this Nation in peace and good will. Amen.

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the joint resolution (H.J. Res. 644) entitled "Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes."

PROVIDING FOR ADJOURNMENT SINE DIE ON TUESDAY, DECEMBER 16, 1980

Mr. BRADEMAS. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 459) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 459

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Tuesday, December 16, 1980, and that when they adjourn on said day, they stand adjourned sine die.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF REVISED EDITION OF RULES AND MANUAL OF THE HOUSE OF REPRESENTATIVES

Mr. BRADEMAS. Mr. Speaker, I offer a resolution (H. Res. 832) and ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 832

Resolved, That a revised edition of the Rules and Manual of the House of Representatives for the Ninety-seventh Congress be printed as a House document, and that 2,000 additional copies shall be printed and bound for the use of the House of Representatives, of which 700 copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House for distribution to officers and Members of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF REPORTS OF COMPTROLLER GENERAL MADE TO CONGRESS NOTWITHSTANDING SINE DIE ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I offer a resolution (H. Res. 833) and ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 833

Resolved, That, notwithstanding the sine die adjournment of the House, reports of the Comptroller General of the United States made to the Congress pursuant to the Government Corporation Control Act (31 U.S.C. 841 et seq.) shall be printed during such adjournment as House documents of the second session of the Ninety-sixth Congress.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS, APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOTWITHSTANDING SINE DIE ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the 96th Congress, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AUTHORIZING PRINTING OF REPORTS FILED WITH CLERK FOLLOWING SINE DIE ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that reports filed with the Clerk following the sine die adjournment by committees authorized by the House to conduct investigations may be printed by the Clerk as reports of the 96th Congress.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND AND REVISE REMARKS IN CONGRESSIONAL RECORD UNTIL LAST EDITION IS PUBLISHED

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks; but this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AUTHORIZING CHAIRMAN AND RANKING MINORITY MEMBER OF EACH STANDING COMMITTEE AND SUBCOMMITTEE TO EXTEND REMARKS IN RECORD

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee thereof be permitted to extend their remarks in the RECORD, up to and including the last publication thereof, and to include therewith a summary of the work of that committee or subcommittee.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND SPEAKER OR SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS AFTER SINE DIE ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the House, the Clerk be authorized to receive messages from the Senate and that the Speaker or the Speaker pro tempore be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ELECTION OF THE HONORABLE JOHN BRADEMAS AS SPEAKER PRO TEMPORE DURING ANY ABSENCE OF THE SPEAKER

Mr. BOLLING. Mr. Speaker, I offer a privileged resolution (H. Res. 834) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 834

Resolved, That the Honorable John Brademas, a Representative from the State of Indiana, be, and he is hereby, elected Speaker pro tempore during any absence of the Speaker, such authority to continue not later than December 18, 1980.

Resolved, That the President and the Senate be notified by the Clerk of the election of the Honorable John Brademas as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SWEARING IN OF HONORABLE JOHN BRADEMAS AS SPEAKER PRO TEMPORE DURING ABSENCE OF THE SPEAKER

The SPEAKER. Will the gentleman from Indiana (Mr. Brademas) kindly take the chair?

Mr. BRADEMAS assumed the chair and took the oath of office administered to him by the gentleman from Massachusetts (Mr. O'Neill).

TRIBUTE TO DEPARTING MEMBERS

(Mrs. FENWICK asked and was given permission to address the House for 1 minute.)

Mrs. FENWICK. Mr. Speaker, I rise to express what I think so many of us feel, and maybe a little sentimentally in view of the holiday time, the Christmas season, and the New Year coming.

I think many of us here are going to mourn the loss of some of our colleagues, those who have retired and those who have just left us. I think they know, many of them, what they mean to us and how grateful we have been for their courage when they advocated unpopular measures; how grateful we have been for their true and faithful word, and the knowledge that we could count on them in all exigencies.

□ 1110

I think this is a magnificent institution. We are diverse, and we should celebrate that diversity. We are many people from many places with many deep different histories, and we come together here in the House and try to run this country under the most magnificent Constitution that I think was ever designed for a society of human beings. We are grateful, all of us, that so it is.

Mr. Speaker, looking at one or two of my colleagues who will be leaving, let me say, "Goodby, and all good wishes in the new year."

THANK YOU, MR. SPEAKER, FROM THE MINORITY LEADER

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to thank the Speaker of the House, my good friend, Speaker O'Neill, for all of the courtesies and the consideration which he has shown me and the Members of the minority during this Congress.

We have had our disagreements. We always have, we probably always will, but we have learned that gentle art of being able to disagree without being personally disagreeable.

I think of the Speaker as one of my best friends and one of the few people—I wish there were more—whom I have known in my life whose friendship I truly value. I wish him and Millie a very happy holiday season. I wish them the best not only for the holiday season but for many years to come.

Mr. Speaker, my role in this body will be changed somewhat in the next Congress. Fortunately, for me at least, the people of my district did see fit to reelect me to serve in this body. I will no longer be the minority leader, but I will have responsibilities which I will take as seriously as I have any in the past. They will be responsibilities which I believe will be somewhat less burdensome, however, than those I have had in the past.

As I retire from this position, which I have held with a sense of being honored by it and also with the gratitude that I felt toward my fellow Republicans in entrusting me with it, I do not lessen one whit the great respect that I have for this body and all its Members. I will still have the personal desire to be as helpful to all Members from either side of the aisle as I possibly can be in the future.

This is a great institution. Of course, many of us feel it can be greater, but nevertheless it is great. I am sure that those of us who will be serving in the 97th Congress will be working together to enhance that greatness, not only for the good of the institution but for the good of the country.

This country needs the House. It needs the devotion of the Members of the House. It needs the things which we can do and do best when we work together.

I look forward to serving in the 97th Congress, but pending that, Mr. Speaker, may I wish you and all of the Members of the House, particularly Speaker O'Neill, the very best of everything, not only now but in the times to come. I wish you a very merry Christmas season.

A TRIBUTE TO THE MINORITY LEADER BY THE SPEAKER

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Well, it is not a farewell that we give to the minority leader of the House. To the gentleman from Arizona, I say I had the opportunity of joining with your colleagues the other night in expressing publicly my thoughts and my sentiments toward you.

You are leaving the leadership, and you are going to a higher role, a role of statesman, a role of dean of the Republican Party. I believe, in your length of service, you are the oldest man in your party.

As you leave, you have the respect of everybody on both sides of the aisle. No President, Republican Presidents particularly, could ever have desired more support than you gave them or more ability and faithfulness and loyalty than you have given them. You and Betty are just two beautiful individuals.

May your commencement as the senior statesman within your party bring to you the same satisfaction and the same success that your whole political career has. You have been a credit to this House, a credit to the people of Arizona, and a credit to your family and everybody who knows you.

To you and Betty we wish the best. A merry Christmas. We look forward to seeing you the first of the year.

Mr. Speaker, if I may continue my remarks, to my colleagues who are coming back let me say that I will be looking with anticipation toward the opening day when we take the oath. To my colleagues who are leaving, I can truthfully say that I have never met a person in whom I could not find something good. There have been times when I have been rankled by Members on both sides, particularly on the minority side. At 5 o'clock or 6 o'clock, when the day was over, I never carried that rancor home. I examined the day, and I could say to myself how I admired the ability, the temperament, the knowledge, and the talent of the adversaries on the other side. To those of you who are leaving, may I say that I hate to see you leave because I think you have been good for the institution. To those who are leaving, on my side of the aisle as well as the other side of the aisle, I say, "Don't be an infrequent visitor to Washington." While I am Speaker of the House, the door is always open to you. There will be a glad hand to greet you, whether you are a Democrat or a Republican. You will be welcomed with all my heart.

To all my colleagues, I say, "Merry Christmas and a happy New Year."

John, it has been a delight spending these years with you. You are a great colleague.

A TRIBUTE TO THE HONORABLE JOHN BRADEMAS, SPEAKER PRO TEMPORE

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, I take this time for the purpose of recognizing that after a number of years and a great many efforts to accomplish this, we finally have a Member of the House of Representatives from Indiana in the Speaker's chair. The only regret I have is that it is only temporary. But maybe sometime in the future we can do a better job.

We do appreciate, John, your service in this body, along with all the others.

Sine die is never a very happy occasion. At least I never look forward to a sine die adjournment. It is necesary in a session, but with each succeeding Congress there are more and more Members, good friends from both sides of the aisle, who leave, and it is a sad occasion, I think, when we have sine die. We do have a great many Members today who will not be coming back in the 97th Congress for a variety of reasons, but I think all of us appreciate the service that these Members have given. We wish them well in the future and hope that they will come back and give us help, because as many of us have said this morning, the 97th Congress and succeeding Congresses are going to need a lot of help. Our country needs a lot of help from this body.

So, Mr. Speaker, I am pleased to call you "Mr. Speaker" this morning and wish you much luck and success. To all those who will be coming back and those who are leaving, I wish the best also.

The SPEAKER pro tempore. The Chair wishes to express his appreciation to his colleague and friend, the gentleman from Indiana (Mr. Myers).

A TOAST TO DAVID AND SOLOMON

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, it has been a great honor to serve with the 435 Members of the House for the past several years. I have come to trust the House over this period of time. Actually when a grave decision faces this body, the question is answered correctly by the majority of those voting.

However, I regret to say to my friends that we have some of our people who have had difficulty. But that happens in every walk of life, and no greater percentage of this body is affected adversely than in any other group. My prayers go out to those in trouble.

I am reminded of David who wrote the wonderful Psalms, and yet he had Uriah placed on the battlefront and killed, and then took his wife.

And I am reminded of Solomon and his wise sayings in the Proverbs, as well as the many wives that he had. In fact, I wish to propose a toast today to Solomon and David:

Here's to Solomon and David:
And their merry, merry, lives;
  And their many, many girlfriends;
And their many, many wives;
  'Til old age came a creeping
With its many, many qualms.
  Then Solomon wrote the proverbs,
And David wrote the psalms.

May God give this House the fortitude for what they believe to be right, regardless of public opinion.

I wish to every Member: peace of mind, happiness, and health.

REQUEST FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 645, ECONOMIC DEVELOPMENT ADMINISTRATION APPROPRIATIONS, 1981

Mr. STRATTON. Mr. Speaker, having made myself universally popular in this House last night and taking advantage of the general amnesty extended by the Speaker during the encomiums to our friend, the gentleman from Arizona (Mr. Rhodes), I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 645) making appropriations for the fiscal year 1981, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

□ 1120

Mr. DICKS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from New York, is this a reprograming of funds from the Economic Development Administration or is it an outright appropriations bill?

Mr. STRATTON. It represents the designation of $2.7 million of the $634 million appropriated to the Economic Development Administration under the continuing resolution to the Olympic Organizing Committee for the payment of certain expenses under conditions set down by the Secretary of Commerce and with the additional proviso that this $2.7 million shall come solely from funds designated for projects in the State of New York.

Mr. DICKS. So it comes out of the amount of money that would go to the State of New York under the Economic Development Administration?

Mr. STRATTON. That is correct.

Mr. DICKS. Further reserving the right to object, I would just like to say to the gentleman from New York that many of us, other Members of the House last night, had projects in the continuing resolution that did not get funded. We did not stand up and object to those projects being considered because we felt it was in the best interest of both the House, the Senate and this country to get that bill passed last night.

I must say that I thought the gentleman's actions last night were quite interesting and certainly left a lot of the rest of us wishing that we may have had the same kind of tenacity as the gentleman from New York. However, the bottom line is that our projects did not get funded, our people are going to go without vital projects like the dredging of the Toutle River in the State of Washington, for the Mount St. Helens disaster. That money was lost by our people in our State last night; yet this gentleman did not take the unusual procedure of objecting to the procedure as did the gentleman from New York.

I am not going to object, but I want the gentleman to know that a lot of us, in the spirit of compromise, trying to end this session, gave up on our projects last evening.

Mr. STRATTON. Mr. Speaker, I certainly understand what the gentleman is saying. I think the gentleman has only been in this House for a relatively short time. I think, however, the Members will recognize that in the 22 years that I have had the honor of representing upstate New York in this body, I do not believe I ever did what I did last night. Although there are many Members, and I think we all know who they are, who do not hesitate to rise to a point of personal privilege when it is very inconvenient for many of us.

I felt it was the only way, not to save a project that is in my State, but to represent, first of all, my responsibility as the dean of the New York State delegation, having carried out an understanding between the Governor and the Counsel to the President of the United States, and also to prevent an embarrassment to the United States of America.

The bankruptcy of the Olympic Organizing Committee would not be an embarrassment to New York State or to Lake Placid or to the Member from the 28th District. It would be an embarrassment to the United States of America.

That is why I did what I did, Mr. Speaker, and I recognize, as I pointed out, it did not make me very popular in this House and I do not think I probably have been very popular on other occasions but I do try to do what I think is in the best interests of my country and my State.

I thank the gentleman for not objecting.

Mr. DICKS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. SABO. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. Accordingly, the unanimous consent request is not agreed to.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

ECONOMIC DEVELOPMENT ADMINISTRATION APPROPRIATIONS, 1981

Mr. STRATTON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 645), making appropriations for the fiscal year 1981, and for other purposes.

The Clerk read as follows:

H.J. Res. 645

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:

Notwithstanding any other provision of law, $2,700,000 of the funds available under House Joint Resolution 644 as enacted into public law making appropriations for fiscal year 1981, to the Economic Development Administration for economic development and adjustment assistance under the Public Works and Economic Development Act of 1965, and title II of the Trade Act of 1974, shall be made available to the Lake Placid Olympic Organizing Committee for the payment of costs relating to the 1980 Winter Olympics on such conditions as the Secretary of Commerce may reasonably require:

Provided, That the $2,700,000 made available to the Lake Placid Olympic Organizing Committee is to be derived solely from the allocation of EDA funds for economic development and adjustment assistance projects in the State of New York.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I will demand a second just for the sake of old times.

The SPEAKER pro tempore. Without objection, a second is ordered.

The gentleman from New York (Mr. STRATTON) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I do not think I need to speak at length on the contents of this resolution. It adds no funds to the funds already contained in the continuing resolution. It takes no funds from any other State. It simply provides for making certain funds available to the Lake Placid Olympic Organizing Committee out of the total economic development funds already appropriated by legislation for such development projects for New York State.

Mr. O'NEILL. Will the gentleman yield?

Mr. STRATTON. I will be glad to yield to the distinguished Speaker.

Mr. O'NEILL. If I could have the attention of the Members for just a couple of minutes.

Had we known, when we were putting the package together about this particular plight, we would have put it in. There are other things we probably should have put in also.

Let me say this: I think, with humility, the gentleman from New York has learned the art of timing, something one should learn in politics at the outset, but it took him 22 years to learn it.

I hope we will not hold that against him.

The reason I talk like this is, as SAM was saying last night, there was not much we have to be proud of or that brought happiness and cheer.

BOB, like a good fellow, Mr. GIAIMO, I know that you will want to go out with sweetness and mellowness in your heart and you will leave here with no rancor, even though you did not get the project in Connecticut that you wished was in there.

What happened was, they spent, I think it was, $600 million. Very interestingly, it was about $6 million owed.

We give to New York EDA funds. The State of New York will take one-third. The local community will take one-third and the other third will go out of the EDA funds that would be allocated to New York.

In view of the fact that I look at the Olympics as one of the great achievements and accomplishments in the field of sports that really buoyed the American personality. How we all cheered the day we beat the Russians. How many went to late afternoon Mass so they could stay home and watch them beat Finland in the morning. I think probably more people missed morning services in America that day because if we beat Finland, we were the Olympic champions. There was a feeling in our hearts that we needed a lift to build us at that particular time. Now, they are caught in a bind.

Truly, it does not hurt anyone.

☐ 1130

I know that there was rancor here last night.

I think, in fairness to the project itself, to the winter Olympics, and truly we prevented the Olympics from being paid off by saying that we would not send our own boys to the Russian Olympics. It really stopped the funds.

Only this week I saw advertisements on the television asking one to give to the Olympics.

I am saying, "Why do you have to give to the Olympics? They are all over." I did not realize, nor does anybody when they see it, that there is a $600 million deficit up there in Lake Placid, N.Y.

I think it is just in fairness it would be a good way for us to go out in this season of the year.

I hope the bill is passed. I hope the rules are suspended, and we pass the bill.

Mr. STRATTON. I thank the Speaker very much for his generous remarks.

Mr. Speaker, I have no further requests for time.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

May I ask the gentleman from New York a question? The Speaker referred to a figure of about $600 million in cost to the winter Olympics. It is my recall that in the last 4 or 5 years, we voted on this issue of money to finance the winter Olympics on at least two occasions. How much previous Federal funding for the winter Olympics has been provided?

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. STRATTON. I think the distinguished Speaker misspoke himself on the subject of $600 million. The total amount contributed by the Federal Government and by the State, the total budget, was $178 million.

The overage, as the Speaker has said, is $6 million. This is something on the order of 4 percent. I believe the gentleman from New York (Mr. McEWEN) pointed this out last night.

By comparison, the total cost of winter Olympics in Innsbruck, I think, was something like $400 million, and $700 million in Sapporo, Japan.

So this Lake Placid undertaking was one of the most reasonable winter Olympics in recent history.

Mr. BAUMAN. So the amount of $178 million would now be increased by $2,700,000; is that correct? Does that include the barracks that were converted into prison facilities or whatever it was that had been intended?

Mr. STRATTON. The total costs include that, yes.

Mr. BAUMAN. Mr. Speaker, I make the comment that while this can be judged as worthy or not worthy according to each one's own outlook, we are facing a difficulty here. It was a bit of inspired leadership by the Speaker last night when he suggested this compromise at the end of the debate and called off the gentleman from New York until today. But the difficulty that it presents is that now every one is getting in line.

Just a moment ago, the gentleman from Florida came over and asked whether we would object to $21 million for refugees in Florida. That was left out of the bill last night.

Perhaps there will be a motion to suspend the rules and take that up later today.

There is a request, I understand, for the Kennedy Center to be forgiven all the interest they have failed to pay in the past, $20 million. That is going to be brought up.

Now some want to pass yet another airbag bill. That may be under suspension, and here we are facing the adjournment, and suddenly all of these requests keep coming.

It seems to me perhaps this matter could be accommodated better in January, which is only a few weeks away, at a time when all these things could be considered in a little better light and considered judgments made as to which is worthy and which is not worthy.

These are all coming at the end of a session without notice to most Members. This matter was not worthy enough to be reported to us before this moment by any committee or by the Appropriations Committee, and it was unworthy enough to be dropped out of the bill last night by the leadership of the House.

My only concern is we are opening the legislative floodgate.

The gentleman from Indiana, the Speaker pro tempore, announced votes will be postponed. I do not know if we will be here all day, if we will have a list of suspensions trying to accommodate all Members; but this could go on forever.

It is an inglorious way to end what some believe to be a glorious Congress.

Mr. STRATTON. Mr. Speaker, if the gentleman will yield further, it is my hope we would not go to a record vote and if so we would not face the situation which the gentleman has referred to and could get out more quickly.

Mr. BAUMAN. I understand that on the genleman's side of the aisle they apparently are going to request a vote on this.

Mr. STRATTON. Let me also respond to the gentleman that while there were other projects, there is after all, as the Speaker just pointed out, only one 1980 winter Olympics. That is a little bit different, I am sure the gentleman will agree, from an individual project in somebody's particular district.

Moreover, and I think the gentleman from New York (Mr. McEWEN) may want to expound on this a little bit more, but we do not know how long we can go on without a bankruptcy petition being filed. We are right up against the wire at the present time.

We had an emergency meeting between the Governor of the State of New York and the Counsel to the President, and to suggest that we wait until——

Mr. BAUMAN. If I may reclaim my time, I would only observe the bankruptcy syndrome is one the U.S. Government faces, too, except Lake Placid does not have a printing press and wants to get hold of the Federal printing press. I can understand the need for that. But it just seems to me perhaps it is a question that might be deferred appropriately until next year.

Mr. McEWEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the distinguished gentleman from New York.

Mr. McEWEN. I listened to what the gentleman from Maryland said. May I say there are two features here that I think make this unique from any other items that might have been included in this resolution.

First, as my colleague from New York has pointed out, there are a number of creditors who have held off putting this organizing committee into an involuntary bankruptcy. They have held off believing that an event that served, we believe, the interest of this country so successfully would somehow with a 4-percent overrun in cost, find support in Federal or State or in this case, both Federal and State government.

The feature that is most unique, I would say to the gentleman from Maryland, is the final provision in this, and that is that the funds be derived solely from the allocation of EDA funds for projects in New York State.

I do not think the gentleman will find similar provisions in any of the other circumstances that the gentleman has referred to. What we are saying, no more from the Federal Treasury, and merely direct that this be done out of the funds that would be coming to New York State under the resolution we have already approved.

So those two features, I believe, make this unique.

Finally, let me say to our distinguished Speaker, I appreciate very much his remarks on this. It was a fine hour for America. We all got a great lift out of it. And unfortunately, this is a matter of national and international interest, and should it end up in bankruptcy, it will be headlines not only in this country, it will be front page in Pravda that the great winter Olympics in this country ended up in bankruptcy for such a small amount.

I hope we vote for this.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. The papers this morning talked about the summer Olympics in Russia. I think it cost them $600 million, and because of the boycott, they wound up—that is where I made the mistake on the figures of $600 million—it cost them $600 million in Russia. They lost $200 million according to the morning paper, the press release I read on the wire. Very interesting.

Mr. McEWEN. The Speaker is quite right. Our winter games, Sapporo cost about $700 million 8 years prior, without indexing for inflation. Innsbruck cost 4 years before about $400 million, and these games, as the gentleman from New York pointed out, came in for $170-some million.

Let me say in that figure there is included some work that might not be directly attributed to the Olympics.

The gentleman from Maryland raised the question about the Federal correctional facility, the Northeast Youth Facility, that is $20 million charged up to the Olympics, but it is a facility now operated by the Bureau of Prisons. But that is part of what is charged to the Olympics.

Mr. BAUMAN. I thank my distinguished colleague from New York.

Mr. Speaker, I now yield 2 minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. The gentleman from New York (Mr. McEWEN) has rightly pointed out that the winter Olympics and the victory of the United States was indeed one of the finest hours for our country. However, last night was not one of the finest hours for our country. And holding the U.S. Government, the entire U.S. Government hostage for a purpose of this kind was at the very, very least not very sportsmanlike.

So I believe that a quorum should be present to vote on this matter, and at the appropriate time, I shall make that point of order.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I would like to join in the remarks of my colleague who has just spoken.

Granted, everything that one can say about the beauty of sports and the Olympics and triumphs which do apparently move many people, granted that all that is true, this is not the way to do the people's business.

It seems to me we have to stop taking money that belongs to the people without a recorded vote. If there are not enough people here who care about the public's business, we ought not to be passing on it with a quorum that is not here, with a count that varies from moment to moment. We cannot go on handling the people's business in this lighthearted, extraordinary way.

□ 1140

I do not understand the system that allows for this kind of thing. If we are going to spend the people's money, the least we ought to be willing to do is to stand up and vote and be counted in a recorded vote with a proper quorum that is shown up on the board so that there is no funny business. Let us be straightforward. There is nothing more that the people want than that.

If they could just be sure that we were not playing games and using the parliamentary system in some way to frustrate an honest vote, I think they would be so relieved, in view of everything that has been said and has happened to Congress. I think this is not worthy of the 96th or any other Congress, and I thank my colleague for yielding.

Mr. BAUMAN. Mr. Speaker, I would only reply to the gentlewoman from New Jersey that I disagree with her in only one respect. That is her statement that she says she does not understand the system that works this way. I think she understands it very well. She has described it very carefully and very correctly and I applaud her for that accurate description.

I reserve the balance of my time.

The SPEAKER pro tempore. Does the gentleman from New York wish to speak further?

Mr. STRATTON. No, Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the joint resolution (H.J. Res. 645).

The question was taken; and (two-thirds not having voted in favor thereof) the motion was rejected.

REQUEST FOR CONSIDERATION OF H.R. 8379, AUTHORIZING APPROPRIATIONS FOR NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from the further consideration of the bill (H.R. 8379) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, it seems to me that this is a very late hour in our session to be bringing us a brand new airbag bill. I have resisted the imposition of airbags either by regulation or by law over all of these many years and, nevertheless we have found that the elitists in the Federal Highway Safety Administration have seen fit to impose on consumers delights that the consumers do not want and do not want to pay for.

I do not know what is in this bill. I know the gentleman from Michigan (Mr. DINGELL) is a determined opponent of the airbags, and I know he is looking for a good solution. But it is my feeling that this bill is better objected to just on a procedural basis.

We have fought our battles, we have run up and down the hill a couple of times. Now we are in a situation where we really do not know what is before us. We do not know whether the other body will handle this.

I am really more objecting to the procedure than really to the substance because I am not sure that any of us know what the substance is.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. Further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for yielding. I would like to associate myself with the gentleman's remarks.

I, too, am not sure about the implications of this particular piece of legislation. I think that the timeliness of it in the waning hours of this Congress is unfortunate, and I think an issue of importance like this ought to have at least some opportunity for public debate.

Mr. WYLIE. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR CONSIDERATION OF S. 3234, SATISFYING INDEBTEDNESS OF JOHN F. KENNEDY CENTER

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3234), to establish a plan for satisfying the John F. Kennedy Center's indebtedness.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. HARSHA. Mr. Speaker, I reserve the right to object. I would like to yield to the gentleman from Georgia to explain the bill.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield to me for a question?

Mr. HARSHA. Yes, I yield for a question.

Mr. BAUMAN. Does the gentleman want all of this discussion, because the gentleman from Maryland is going to object?

Mr. HARSHA. Mr. Speaker, I would implore the Members not to object until they have neard the explanation, because this is a matter that has bipartisan support and has support of the new administration-elect as well as the administration leaving.

I would hope the gentleman would listen to the explanation, and at that time make his own judgment.

Mr. BAUMAN. Does the gentleman from Ohio yield at this moment?

Mr. HARSHA. I yield.

Mr. BAUMAN. I thank the gentleman. I would only say to the gentleman the gentleman from Maryland has a copy of the bill, the proposed amendment, and he knows what it does. It forgives $19 million in current indebtedness and sets up certain indebtedness in the future. The gentleman is going to object.

Now, if the gentleman wants to discuss it, that is fine.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. Further reserving the right to object, I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I would first of all like to explain the bill and the amendment which I have offered.

This is a Senate bill and it deals with a matter that has been plaguing the Government for quite a number of years. It is an attempt to resolve this matter now so that it will no longer continue to be an on-going, gnawing tumor at the entire operation.

When the John F. Kennedy Center for the Performing Arts was established, in order to complete the construction the legislation authorized the Kennedy Center to borrow $20.4 million from the Treasury by issuing 21 interest-bearing revenue bonds. The Kennedy Center Act provided that the $20.4 million would be used to finance the Center's garage and would be repaid from the Center's revenue.

The bond states that the interest and principal are to be paid from parking revenues. However, to date the Center has been unable to set aside any funds or make any provisions to pay the interest or amortize the principal of the bonds. Consequently, it has simply been accumulating interest and compounding interest so that today there is approximately $16 million of accrued interest.

Extensive hearings have been held on various legislative proposals regarding the Center debt to the Treasury now through several Congresses. During the present Congress your Committee on Public Works and Transportation requested the General Accounting Office to do an in-depth analysis of the situation and to make recommendations. I would like to call to the attention of my colleagues one of the conclusions the General Accounting Office made, and that is that the Kennedy Center has no reasonable prospect to pay the accrued interest due or the annual interest on the original indebtedness. What has occurred over the last number of years during both Republican and Democratic administrations is that there has been a deferral of the demand because there is nothing for the Government to foreclose on.

☐ 1150

We have a Kennedy Center for the Performing Arts. The money is owed to the Treasury, and this is a method that we are proposing for resolving the Center's existing indebtedness. It would, No. 1, result in a forgiveness of the interest due up to this point. But, going further, there would continue to be the obligation to repay the interest and the principal that is involved.

The legislation would authorize the Center to borrow an additional $1.5 million from the Treasury in order to pay off the remaining balance on the loan from the parking concessionaire. Paying off the outstanding debt to the parking concessionaire increases the Center's revenues from the garage. The additional funds received by the Center would be approximately $550,000 annually which would then be immediately applied to the Treasury loan.

Now, there is one other feature of this proposal, and that has to do with the amendment that I have offered. It relates—and at this point I would say, if I could ask for the attention of the gentleman from Maryland because I know he has been assiduous in pursuing this matter over the years—section 4 of the legislation that was passed in 1968 imposed upon the Kennedy Center for the Performing Arts certain public responsibilities such as the presentation of special musical and dramatic programs which were not financially feasible; to present lectures and other programs; to present and develop programs for children, the elderly, the handicapped, the blind; to provide facilities for civic activities at the Kennedy Center, and to provide the Kennedy Center with a suitable memorial.

I would point out that none of these functions are funded by any moneys appropriated by Congress, even though they are public functions. All of these functions are financed by funds either generated by the Kennedy Center for the Performing Arts or by funds which are raised by the Kennedy Center for the Performing Arts to discharge a public function.

So, therefore, it is the proposal contained in this legislation that the obligations for the repayment of the interest and the principal on these bonds in the future can be discharged in part by crediting the Kennedy Center with the funds that they raise or generate to discharge congressionally mandated public services for which no Federal funds are appropriated. That is the method by which we hope to resolve this issue.

As my good friend from Ohio has pointed out, this legislation not only has had extensive hearings, has been the subject of a GAO report, but it is supported by the present administration; it is supported by the incoming administration. There is no difference, this is not a partisan issue, but is a means of taking a problem which perhaps should never have arisen and dealing with it.

As I said to one of my colleagues earlier, I feel very much like a fireman. I did not set the fire, but I think I have a responsibility—we all have a responsibility—to put the fire out and move forward without this nagging problem that has been there for so many years. That is the purpose of this legislation.

Mr. HARSHA. I would like to point out one thing. A provision in this bill does provide some help and some method to try to retire the bonds by relieving the Kennedy Center down there of the obligation and contract they have got under that parking facility. When we do that, then existing agreement provides that more of those revenues will enure to the benefit of the Center and put it in a better position to retire the Teasury bonds.

Mr. WYLIE. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. HARSHA. Mr. Speaker, may I be recognized under my reservation of objection before another objection is heard?

The SPEAKER pro tempore. When regular order is asked for, the Chair must put the question.

Does the gentleman from Ohio ask unanimous consent to address the House for 1 minute?

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HARSHA. Mr. Speaker, I reserved the right to object and still had control of the floor. Under normal procedure, I would think an objection would not be heard until I waived my right.

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. WYLIE) be kind enough to withhold his objection so that his colleague from Ohio can complete his statement?

Mr. WYLIE. Mr. Speaker, I will withhold my objection so that my colleague can complete his statement. I would like for him to consider revising his remarks for the RECORD, though, if he wants to get a statement in the RECORD for the incoming administration.

Mr. HARSHA. All I want to say is that the administration-elect supports S. 3234 without the amendment. At least, I was trying to modify that and reach some compromise, but apparently it is not available. I did want the record to show that.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I will be happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just like to point out to the gentleman from Ohio, who is going to receive some criticism for even supporting this on the floor, but I would like to point out the magnitude of this whole thing. The gentleman from Ohio has helped to block this bill from coming before this House. The original bill had a fiscal implication of giving away $400 million, according to the Congressional Budget Office report I have here. So, I commend Congressman HARSHA for holding up this bill, but I would just like to point out that by taking this—and I cannot support it—because I know that next year, after we have waived the past interest obligation of $20 million here, we are going to be called on to come back again and again and again.

The Federal Government ought not to be in the entertainment business. We are going to be in the entertainment business if this passes.

Mr. HARSHA. The so-called compromise the gentleman from Georgia and I worked out does not waive future interest on $450 million. That is a matter to be settled later.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield further?

Mr. HARSHA. I yield to the gentleman from Georgia.

Mr. LEVITAS. I just want to address myself to the point made by the gentleman from New York (Mr. SOLOMON), two of the points he made. In the first instance, the compromise which has been proposed by the gentleman from Ohio, and which is part of this amendment, has as its consequence the repayment of the principal and interest which is due on these bonds. That is, I think, the genius of the suggestion that is being made, because there will be a mechanism which does not now presently exist finally to begin to reduce the principal and pay the interest. If we do not do that, we are just going to continue to have that $400 million.

You are talking about an increase with no expectations. You know, if somebody owes you a hundred million dollars and cannot pay it, it does not make any difference if they owe you $400 million and cannot pay it. They cannot pay it. We are now bringing in a mechanism which will repay it.

Second, talking about the Federal Government getting involved in the entertainment business, if the only consequence is to foreclose on the Kennedy Center, then the Federal Government will indeed be in the entertainment business as an owner of that facility and operator of it. It is to avoid that, that we want to offer this as an ongoing solution.

To conclude, throughout the ages, from the early Greeks to our present day, Western and Eastern civilizations, all great nations have paid tribute not only to their native arts but to art as an international form. The John F. Kennedy Center for the Performing Arts where music, drama, ballet and the many other forms of present day art meet epitomizes the finest in our modern culture. It would be tragic indeed if one of the country's great leaders of the world would turn its back on such an operation. I am sure this will never happen.

From the jazz of New Orleans to the arias of the Met; from folk songs to be-bop, what is lasting in America is our spirit as expressed through our arts.

This thought was fittingly expressed for the man by whom this Center has been named, its chief sponsor in life and its guiding figure in death.

May I quote from the late President John F. Kennedy:

> I am certain that after the dust of centuries has passed over our cities we, too, will be remembered not for our victories or defeats in battle or in politics, but for our contribution to the human spirit.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I want to compliment the gentleman from Georgia and the gentleman from Ohio for the work that they have done here. We are late into the session. I am advised by my friend from Maryland that he is going to object. But, I think for the benefit of the record and for the benefit of the Members, we ought to realize the constructive work that has been done by these gentlemen. They have had this issue before their committee for about 8 years. I say to my friend from Ohio finally that the Senate has passed it and we are in a position to enact legislation now.

We keep talking about the Kennedy Center as if it was some foreign object. It happens to be titled in the U.S. Government. I think we ought to realize that for all of its existence, roughly 10 years, it has paid its operation and maintenance expenses out of income. It is probably the only theater in the United States that can make that statement.

But, when the agreement was made way back in the 1960's about the bonds and the interest rate that would accrue, no one foresaw at that time a prime rate that would be, as just announced today, 21 percent for a bank in New York and 20 percent through the year, just about, what impact that kind of interest rate was going to have. So, if we let the theater which we own, and which is managed for the benefit of the people of the United States by a board, which has kept it open, alive, and operating in the black in its own account thanks to the work of the gentleman from Ohio and the gentleman from Georgia, we are now in a position, if we can do this, to let it go out and try to create an endowment that will let them build up their surplus and in fact do the things my friends from Georgia and Ohio want, do the things they are chartered to do; conduct greater educational programs and so forth without anyone saying where that money is going to come from.

They have raised about $10 million last year, so I hope that my friend from Maryland would reconsider. I understand his prerogatives, but I think it is important that we know that for its entire operation, if we just take this item out which no one foresaw in terms of its consequences, this theater, which is owned by us, would operate in the black. It has its own account ever since it opened, and for us to simply foreclose on the Center is to foreclose on an asset of the people of the United States. It is a fruitless act. I think they have done constructive work, and I hope we can see this passed today.

☐ 1200

Mr. BAUMAN. Mr. Speaker, I would just make it plain that the gentleman from Maryland has no objection to the work being done by the Kennedy Center for the Performing Arts. Certainly as we have a great actor coming in as President of the United States, it would be inappropriate to object to something like this rather moderate reform.

I recall well the remarks of our former colleague, the gentleman from Iowa, Mr. Gross, at the time this project was first proposed. We were told that it was not going to cost the American people any money.

The bill, as originally drafted yesterday, would have cost, as has been mentioned, up to $450 million, a half billion dollars in interest sometime in the future. This bill as it is presented today—and it has been amended as I stand here; a new amendment was offered or handed to me—will cost at least $19,774,102 in forgiveness of past interest. It seems to me that we could at least put this over until next year when we can address it in the light of a great performing artist in the White House who will address the performing arts problem and the Kennedy Center.

Mr. Speaker, they have been badly mismanaged over there.

The roof leaks, management has made a great many mistakes, and now they are asking for forgiveness.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I want to compliment my colleague, the gentleman from Ohio (Mr. HARSHA), and I want to compliment the gentleman from Georgia (Mr. LEVITAS), for the work they have done in this matter. We appreciate the work they have done on this.

I objected a little earlier, and then I withdrew my objection so we could discuss the matter further. But I just flat out do not like the procedure we are following here on this bill and other bills that are being brought up at this late hour by unanimous consent. We have waited this long, and this has been going on for almost 2 years. I cannot see how another 30 days is going to make that much difference.

As the gentleman from Maryland (Mr. BAUMAN) has pointed out, the gentleman from Iowa, Mr. H. R. Gross, warned us about this a long time ago, and I think we ought to have more time for debate on the issue.

Therefore, Mr. Speaker, I will object.

The SPEAKER pro tempore. Objection is heard.

THE DANGER OF PRESENTING LAST-MINUTE REQUESTS FOR CONSIDERATION OF BILLS

(Mr. FRENZEL asked and was given permission to address the House for 1 minute.)

Mr. FRENZEL. Mr. Speaker, we have conducted and we have completed most of the business of the House and all of the business of the House that most of the Members want to complete. We are now going through a list of unanimous consent requests, none of which are very well known to the Members, all of them representing a compromise and all of them representing important issues. But I for one do not want to vote on any of these matters because I do not know what is going on.

The procedure of trying to bring up matters about which we have very little information on the last day is exceedingly dangerous to the taxpayers and to the Republic. I would implore the Chair that since it seems obvious that none of these are going to be passed, we go into recess and simply wait for the Senate to adjourn sine die.

MANY THANKS

(Mr. WYATT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WYATT. Mr. Speaker, today, I would like to take this opportunity to say a special word about a group of people who have meant a great deal to me and the citizens of the 14th District of Texas—my staff.

It has been a great privilege to serve the people of Texas; but it could not be done effectively without the help and support of very dedicated people who have worked long hours and often on weekends solving the problems of constituents and providing the necessary research on the problems of our State and Nation.

Mr. Speaker, I have been particularly fortunate to have had the loyalty and support of several members of my staff during the time I have served in public office.

John K. Fisher, of Port Lavaca, Tex., was in senior high school when I first sought public office and worked as an unpaid clerk during my first term in the Texas House of Representatives. Today, he is my administrative assistant. He cares about the people of the gulf coast and without his work many of my successes would have been impossible.

Audrey Geffert of Victoria, Tex., began working for me and the people of the 40th legislative district of Texas the day I was sworn in as a member of the Texas House. She has served loyally and well for the past 10 years. She has always been available to help and has dedicated herself to the people and problems of our State and Nation.

Adrian Acevedo of Austin, Tex., began working with me as general counsel of the Ways and Means Committee of Texas. He came to Washington as my administrative assistant and has provided both good counsel and able guidance. He is a hard worker and dedicated to public service. The citizens of Dallas will be the real winners as he resumes the office of legislative counsel and administrator with the Dallas city attorney.

Mr. Speaker, for 25 years of support and hard work, I want to say for myself and my constituents. "Thank you."

During my service in Congress, Shurley Masur and Olga Gonzales of Corpus Christi, Howard Hartzog of Port Lavaca, and Lucinda Pacini of Victoria have worked tirelessly to selp solve the personal problems of many of the folks in the district. The many letters of thanks from constituents that have been received is certainly the best testimony to their dedication.

Mr. Speaker, many believe work on the Hill is glamorous and filled with excitement. However, for the staff of a freshman Congressman things are not always as they seem. The working space is crowded and noisy and the phones and the letters and the flow of legislation never ceases.

Jim Woodard, Martha Burrell, Michelle Hartzell, Beverly Franklin, Mary Dutko, Rich Hopelain, Gail Leslie, Susana Gutierrez, and Joyce Baines have answered over 13,000 letters and postcards and several hundred phone calls a week. They have done it without complaint because each communication is a citizen who wishes to petition the Government and that is the reason we are here. These fine people have also done the sometimes difficult tasks of obtaining the necessary background information that any Congressman or constituent needs to make an informal decision. Again a well-deserved thank you.

Finally, Mr. Speaker, this Member must mention one group of unpaid and often unrecognized staff—my family. My mother and father, Joe and Mabel Wyatt of Bloomington, Tex., have also served. They often get the late night phone calls and the complaints, but they have always been supportive and have been a source of encouragement. Without them and their dedication this Member could not have endured. I wish to express my love and thanks to them.

Thank you, Mr. Speaker.

COMMUNICATION FROM STAFF DIRECTOR OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER pro tempore laid before the House the following communication from the Staff Director of the Committee on Standards of Official Conduct:

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT,
Washington, D.C., December 10, 1980.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On December 10, 1980, I was served with a subpoena ad testificundum from the United States District Court for the District of Columbia commanding my appearance in said Court on December 15, 1980 at 9:30 a.m. My appearance is ordered so that I might testify in *United States of America* v. *Richard Kelly et al.* The subpoena was issued upon application of Anthony S. Battaglia, Esquire on behalf of the defendant, Richard Kelly. It was signed by the Deputy Clerk of Court.

Pursuant to the provisions of House Resolution 722, adopted on September 17, 1980, this is to notify you of the subpoena.

Sincerely,
JOHN M. SWANNER,
Staff Director.

COMMUNICATION FROM THE HONORABLE HAMILTON FISH, JR., MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable HAMILTON FISH, JR., Member of Congress:

WASHINGTON, D.C.,
December 15, 1980.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: This is to advise you, pursuant to the requirements of Section 2 of H. Res. 722, that have been subpoenaed to testify in the case of *United States of America* v. *Richard Kelly, et al.* A copy of the subpoena is attached for your information.

I have discussed this matter with Mr. Kelly and his attorney, Anthony S. Battaglia. They have advised me that I am being called to testify in my official capacity as the Ranking Republican Member on the Subcommittee on Immigration, Refugees and International Law of the House Judiciary Committee. Specifically, they are interested in obtaining information regarding any conversations I may have had with Representative Kelly between November 1979 and January 1980. They did not request the production or disclosure of any documents or materials. Given the limited nature of the testimony expected, it is my current intention to comply with this subpoena.

Please advise me if, for any reason, you feel that my participation in this court proceeding would be inappropriate.

Sincerely,
HAMILTON FISH, Jr.,
Member of Congress.

CONGRESSMAN RAY ROBERTS A VETERAN'S FRIEND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 10 minutes.

• Mr. HANSEN. Mr. Speaker, our colleague and friend RAY ROBERTS is retiring soon after a long and distinguished career of public service that has spanned almost half a century. He began his public service in 1935 as a director of the National Youth Administration of Texas under Lyndon B. Johnson, and in 1940, he joined the staff of House Speaker Sam Rayburn.

With the beginning of World War II, RAY left the Rayburn office and reported for duty with the U.S. Navy. He served in the Atlantic and Pacific theaters earning seven combat stars. He was recalled during the Korean conflict and retired from the Naval Reserve as captain. A veteran himself, RAY has always been concerned and knowledgeable with the problems of our Nation's veterans.

He served for 7 years in the Texas State Senate before his election, on January 30, 1962, to fill the congressional vacancy created by the death of Speaker Rayburn. He has served continuously since then as U.S. Representative for the Fourth Congressional District.

RAY ROBERTS joined the Veterans' Affairs Committee in 1962, and is now in his third term as chairman. During his years on the committee, he has played a major role in shaping effective legislation to improve veteran's hospitals and programs.

Mr. Speaker, I find it interesting to note that there has been a Texan as chairman of the House Committee on Veterans' Affairs for 22 out of the last 24 years. This record speaks well for the State of Texas. It also does credit to the type of man the citizens of Texas choose to represent them in Washington, D.C.

In 1975 RAY was elected chairman of the committee, where he became a strong champion for the rights of all our veterans and their families.

In the past 18 years in Congress he has played a major part in the phenomenal growth of the veterans affairs system in our country. In 6 years as chairman of the House Committee on Veterans' Affairs he has helped direct more far-reaching and beneficial legislation for the veterans of this country than at any period since the end of World War II. He has shown, not only concern for the plight of the veteran, but an understanding of the many changes in American life today that affect those needs. He is a cautious advocate of change, but a forceful proponent of justice for all those who have served and suffered in defense of this Nation.

In this regard, Congressman RAY ROBERTS has always placed his highest priority on caring for the service-connected disabled veteran. During his career in Congress he has served for many years on the Subcommittee on Compensation, Pension, Insurance and Memorial Affairs where he has been a leading advocate for adequate and realistic compensation for veterans wounded on the battlefield or disabled during military service.

Since 1962, RAY has authorized and supported legislation which has tripled compensation for those with the most severe disabling injuries. There is certainly no coincidence that these increases came at the time when we were bringing home our wounded from Vietnam. Vietnam war veterans suffered some of the most crippling injuries of any war in our history. Over 540,000 are currently receiving compensation for service-connected disabilities; 30,000 are permanently disabled, most of whom will have to spend the rest of their lives either in a wheelchair, blinded, or without the use of two or more limbs. However, changes in compensation rates brought on by increased need and increases in cost of living were also made to affect all veteran beneficiaries.

RAY ROBERTS has always contended that the programs, services, and entitlements designed by the Congress are designated for all veterans regardless of their age, their service, or their disability. He has said:

> By helping one veteran, we assist all veterans. They served; they paid a price; they continue to pay that price.

The Compensation and Pension Subcommittee has also provided Congressman RAY ROBERTS with a deep and sympathetic insight into the plight of certain veterans and their families who are in financial need due to non-service-connected causes. During RAY's years in Congress veterans pension payments have risen over 100 percent. With his leadership, legislation passed by the 95th Congress was designed to keep veterans pensions above the poverty level while at the same time allowing for cost-of-living increases in basic pension assistance regardless of social security increases.

At the same time RAY has resisted expanding the veterans pension program or broadening eligibility requirements. He has been successful in keeping the pension program a meaningful supplemental assistance program for worthy veterans and their dependents, and not just another Government handout. This reflects his desire to keep all veterans entitlements a separate and distinct entity. From compensation and pension to hospital and medical care, the veterans affairs system has been designed over the years for one purpose, which is first and foremost, to honor and provide service to those who have themselves served their country. He is committed to that purpose. He stands as a guardian to keep veterans programs for veterans and veterans alone.

The GI bill was originally designed for returning World War II veterans. It has proved to be a good investment in the future of America. The World War II veterans in Congress designed the educational assistance legislation for returning Korean conflict veterans and, over the years, with RAY ROBERTS as chairman of the House Committee on Veterans' Affairs, the Congress has progressively improved the GI bill to meet the needs of those returning from the Vietnam conflict. Well over 65 percent of Vietnam era veterans have participated in the program which is almost double the total for World War II and nearly 3½ times the percentage rate for Korean conflict GI bill.

RAY continued his support for veterans education programs not only in the field of higher education but by providing alternative education opportunities such as on-the-job training programs for disadvantaged veterans. Under his leadership as chairman of the House Committee on Veterans' Affairs the Congress granted two increases in GI bill benefits in 1977 and 1980. During the 96th Congress he launched the successful drive to expand the vocational rehabilitation program for service-connected disabled veterans and to grant a significant increase in the subsistence allowance for the program. Education and training go hand in hand and Ray Roberts has been a powerful foe of those in Government who would do away with veterans preference in Federal employment.

Since becoming chairman of the full committee in the 94th Congress, Ray has been successful in guiding the expansion of a wide range of programs and services, from extending the home loan program to the construction of regional national veterans cemeteries. However, his greatest effort, and his greatest challenge, has been to maintain the integrity of the VA hospital system and medical services program. The medical program provides the widest range of service, with the most humanitarian results of any within the veterans affairs system.

Under Ray Roberts' watchful eye the VA medical system has grown in size and prestige over the years. VA hospitals lead the Nation in medical training, education, and research. However, the most outstanding contribution of this highly integrated medical care system has been the professional and sympathetic care it provides for the veterans of this country on a daily basis. In 1978 and 1979 Roberts introduced and received unanimous support in the House for budget amendments calling for millions of dollars to increase VA medical personnel at a time of record demand for VA health care services. Ray has fought for the construction of new hospitals and modern medical treatment centers and facilities.

During his tenure as chairman, the committee received the authority to review and approve all major VA construction and renovation projects. This authority will give the committee the ability to play a major role in shaping the future of the entire VA medical system. Ray also knew that a first-rate medical staff was essential to insuring both the quality and quantity of VA medical services.

During the 96th Congress he fought for and won passage of a significant increase in pay for VA doctors and dentists to help the VA both recruit and retain quality medical professionals. In conjunction he was also author of the Veterans' Administration health-care personnel scholarship program contained in Public Law 96-330. As designed, the scholarship program will train thousands of doctors and nurses for VA medical service making a lasting contribution to veterans health care and the state of the health-care delivery system in the Nation as a whole. In tribute the VA has recommended the program be called "The Ray Roberts Scholarship Program."

As perhaps the capstone of Ray's congressional career, in testament to his skill as a legislator, he won passage of this significant VA medical legislation by spearheading the largest veto override vote in the history of the U.S. Congress.

Mr. Speaker, I can think of no other man who has accomplished so much for American veterans. His absence will certainly be noticed next year by a host of his colleagues. I hope that veterans everywhere will join me in wishing Ray Roberts the best of everything in his retirement.●

CRITICISM OF THE EUROPEAN MONETARY SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, about 2 years or more ago, I think I was the only Member of the Congress that was critical of the development of what is known as the European Monetary System and the European Monetary Fund.

I rise today to express further concern about the developments of and association with these two financial institutions in Europe.

Mr. Speaker, as the only Member of Congress to my knowledge who has raised serious critical questions about the so-called EMS (European Monetary System) and the EMF (European Monetary Fund) and the so-called ECU (European currency unit) as being primarily directed against the United States and its dollar, I again speak out. When this plan was accepted by the U.S. at the summit economic meeting a couple of years ago without a question or whimper by our leaders, I spoke out in the House and made serious and critical charges.

I suspected that the three main objectives of this movement though never tacitly admitted, were to knock out the dollar as the main currency unit, strap the United States with the burden of the developing countries financial burdens while enabling the Europeans to slip off and, third, demonetize gold.

I want to remind the House that it was I who called the U.S. pronouncement in 1975 of having demonetized gold unilaterally (by then Secretary of the Treasury Bill Simon) as illusory and a monumental error sacrificing our country—and the world—on the altar of gold of the speculators of London, Zurich and, believe it or not—Moscow.

Of course, all these actions have hardly been reported by the American press, much less discussed.

Behind it all—as in the case of the cold war (war-like peace) the German question remains paramount. The German dream and determination for reunification comes closer to reality, with the United States now being whip-sawed more vulnerably as vis-a-vis Russia.

At future times and on proper occasions I shall enlarge on this.

In the meanwhile, I offer for the Record an article from the New York Times on recent developments:

E.E.C. Leaders Extend Fixed-Rate Money Plan

(By Paul Lewis)

Luxembourg, December 2.—West European leaders agreed today to extend for two more years their fixed-exchange-rate monetary system and announced a plan to encourage the wider commercial use of their new monetary unit, known as the Ecu, on private capital markets.

In a communiqué issued after their two-day meeting here, leaders of the nine Common Market countries praised the so-called European Monetary System, under which all of them except Britain maintain fixed exchange rates between their currencies.

The Government heads said the system had worked "in an exemplary fashion," promoting monetary stability in Europe and throughout the world.

The E.M.S., set up in March 1979 for an initial two-year period, will be extended for a further two years when it expires next March. Under its rules, West Germany, France, Belgium, the Netherlands, Denmark, Ireland and Luxembourg prevent their currencies from fluctuating by more than 2.5 percent against each other, while Italy holds the lira within a wider 6 percent band.

To keep their currencies locked together and to help fight off speculative attacks, the member central banks of the system stand ready to lend each other unlimited short-term funds and almost $30 billion worth of longer-term credits.

These credits, backed by one-quarter of the European Economic Community's total gold and foreign currency reserves, are denominated in the community's new monetary unit, the Ecu, which in reality is a weighted basket of all the members countries' currencies.

In addition to extending their fixed-exchange-rate mechanism for two more years, the Nine have now also agreed to find ways of encouraging European banks and companies to make loans to one another denominated in Ecus rather than in national currencies or dollars.

In this way, they hope to increase the acceptability of this European currency basket as a monetary instrument and pave the way for the second stage of the E.M.S., when they plan to present the Ecu as a real European currency issued by an independent European central bank against its own gold and foreign currency reserves.

"The Ecu will become more and more of a monetary instrument," President Valèry Giscard d'Estaing of France, one of the originators of the E.M.S., said at a news conference after the leaders' meeting today.

The Nine plan to build up the Ecu's monetary role by telling Common Market institutions, such as the Executive Commission in Brussels or the European Investment Bank, to start issuing Ecu-denominated loans on international capital markets for the first time next year, instead of borrowing in dollars, marks, francs and other national currencies as they have in the past.

As yet, there is no official target for the amount of Ecu borrowing the Common Market plans to do. But a senior monetary official said today that it would probably aim for at least $1 billion worth.

Meanwhile, many monetary officials here see the Ecu increasingly developing into a rival both to the United States dollar and to the I.M.F.'s special drawing right as an international currency and store of value.

ELSTON HOWARD OF THE NEW YORK YANKEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Garcia) is recognized for 5 minutes.

● Mr. GARCIA. Mr. Speaker, baseball and especially the New York Yankees lost a friend Sunday morning with the passing of Elston Howard.

Elston Howard replaced Yogi Berra in the line of great Yankee catchers, played 14 years in the big leagues, was the American League's most valuable player in 1963 and became the American League's first black coach in 1969.

Friends use words like, "dear friend, class, dignity and humility" when they describe him. He was a man who had no enemies. As a player he was superb, playing outfield and first base before catcher after Yogi Berra.

As are all baseball fans throughout this country, I am going to miss Elston Howard as both a player and a person.

I submit for the RECORD the following article from the New York Daily News regarding Elston Howard:

The article follows:

ELSTON HOWARD: 1929–1980

(By Phil Pepe)

He was the most gentle of men. He was the most enjoyable of travel companions. He was my friend.

I grieve for the passing of Elston Howard. I share the tears of his wife, Arlene, his children, Elston, Jr., Cheryl and Karen. I share their loss because it is my loss, too, and the loss of anyone who knew him.

Elston Howard had many friends and admirers, and no enemies. His friends paid tribute Sunday to Elston Howard, who died at Presbyterian Hospital at 12:25 a.m. Sunday morning. He was 51 and his enormous heart simply gave out after a two-year fight with a mysterious ailment known as the Coxsackie virus, which attacks and inflames the heart wall tissue. His friends and associates used words like class and dignity and humility and they are all true, but they seem so inadequate for a man who broke the Yankee color line, who replaced Yogi Berra in the line of great Yankee catchers, who played 14 years in the big leagues, who was the American League's Most Valuable Player in 1963, and who became the American League's first black coach in 1969.

Elston Howard rarely talked, and never complained, about segregation in baseball when he was a rookie in the Yankees' St. Petersburg spring training camp in 1955. Others talked about it for him.

"He had to live with a doctor because he couldn't live in the hotel with us," remembered Whitey Ford. "And when we came north, he couldn't eat with us and he couldn't live with us and he handled it so great."

Bill White spent several springs with Elston Howard, White as a member of the St. Louis Cardinals, living in the black section of town because they could not live with their teammates.

"We've known each other a long time," said White, who was the first person Arlene Howard called when her husband passed away, and it was Bill White who called Yogi Berra and Whitey Ford to tell them they had lost their dear friend.

"We went through a lot of things together," said White, "things like being told we were not good enough to live with other people. Ellie didn't complain, but we complained for him. He worked for change in his own quiet way. I was yelling and screaming. He did things quietly and with dignity. He had a great, quiet dignity."

"Class," said Dick Howser. "He epitomized Yankee class, on and off the field. He was very professional in every way. He was always concerned about other people. He had good direction. We were very close. We both became coaches in the same year, 1969, and according to the protocol in baseball, the coaches sat together on the plane. I sat next to Ellie for 10 years. He read a lot, novels and history.

"I always admired his judgment and one of my disappointments was that he couldn't coach the year I managed. But he would come to the clubhouse and come in my office and tell me I was doing a good job. I appreciated that. It meant a lot to me. He was a real friend in every way."

Elston Howard was the last of the great lobby sitters. He was an early riser. On the road, he would awaken at dawn and he and Yogi Berra were together at breakfast almost every morning at seven. They spent a lot of time together, the one catcher who replaced the other, then became coaches together with the Yankees, and close friends. Yogi talked about how much he missed Ellie on the road last season, when Howard was recuperating from his illness and his doctors advised him not to travel.

I missed him, too. He would buy a copy of the Daily News, which isn't easy to get out of town, and after he had finished reading the paper, he would leave it in my box and I would have it to read over breakfast.

When he became ill, George Steinbrenner told Elston not to worry about things, that he would always have a job with the Yankees, and when his doctors told him he could not travel, Howard represented the Yankees at public functions.

"We have lost a dear friend and a vital part of our organization," said Steinbrenner. "If, indeed, humility is a trademark of many great men—with that as a measure, Elston was one of the truly great Yankees. A quiet man with friendship and caring for all . . . all of our lives are richer because he touched them."

As a player, he was superb. He did what had to be done, playing the outfield, playing first base, until Berra was ready to turn the catching tools over to him. And he was a mainstay of the great Yankee teams of the late '50s and early '60s, although he was often overshadowed by his teammates. He batted .345 the year Roger Maris hit 61 home runs and he pinned the nickname "The Chairman of the Board," on his friend Whitey Ford.

"I visited him last week in the hospital," said Roy White. "He was looking forward to getting out of intensive care. He was one of the few people who wrote to me in Japan. It's a great loss. We have hardly recovered from the loss of Thurman, and now I lose another person who was close to me. He was a real fine man. All class."

Elston Howard was a man who enjoyed a joke, who learned to accept the give and take among ballplayers. Billy Martin called him "dago," the term of endearment he used for all people he liked.

Bill White used to kid him about something Casey Stengel said about Elston. "I finally get a black player," Stengel said, "and he can't run."

"But," said Bill White, "the way he could hit, he didn't have to run."

Whitey Ford remembers an oatmeal commercial he and Ellie did with the three Ford children and the three Howard children.

"We did it in a studio in New York, but they made it look like it was done in my home on Long Island," Ford remembered. "After the commercial was shown on television, I told Ellie, "The price of my house went down because people think you live here.' We laughed about that a lot. Whenever I saw him, I told him 'I still can't sell my house.' He was such a good guy. Just Saturday, I was going over some pictures at home and I came across one with me and Ellie and Hank Aaron and I told my wife I wanted to have that one blown up and put on the wall."

Billy Martin was vacationing in Hawaii when he heard the news.

"I cried when I heard it," Martin told Mickey Morabito, Oakland's PR director. "I loved the guy."

So did a lot of people. If you knew him, you couldn't help loving him.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida, (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, due to official business, I was not recorded on rollcall 674. If I had been present, I would have voted "no" on the demand for a second on the motion to suspend the rules and pass H.R. 8379, to authorize appropriations for the National Highway Traffic Safety Administration.●

ACCOMPLISHMENTS OF THE 96TH CONGRESS, REPORT TO THE PEOPLE OF THE FOURTH DISTRICT OF WISCONSIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 15 minutes.

● Mr. ZABLOCKI. Mr. Speaker, at the end of every Congress I traditionally submit for the RECORD a summary of our legislative actions and accomplishments. Once again I am pleased to offer this statement which will be shared with constituents in the Fourth District of Wisconsin which it is my honor to represent in the House of Representatives.

With every Congress comes a renewed challenge to meet the needs of the citizens of the United States and to promote our interests in the world to assure peace and stability. Mr. Speaker, as you know, our citizens are becoming more and more involved in the legislative process in recent years and are demanding greater accountability from their elected officials. That involvement is quite desirable and one which is inherent in our political system.

Mr. Speaker, I doubt that a week goes by without a visit from one of my constituents from Wisconsin in which information is exchanged, ideas shared, and suggestions made. I welcome the input and am proud that this country emphasizes the importance of accessibility and accountability to its citizens.

The 96th Congress responded to the renewed emphasis of its citizens on addressing the economic problems of our Nation and in reducing the adverse impact of the energy crisis. Because of a variety of complex reasons—including a 150-percent increase in the cost of imported petroleum in an 18-month period—we have faced the ever present problem of inflation. In the 96th Congress we do not pretend to have solved the pressing economic problems, but certainly we made inroads.

For the first time since the formation of OPEC, a comprehensive national energy policy is in place. Congress enacted a series of laws to increase domestic production of existing energy, to develop new energy sources and to spur conservation efforts. U.S. imports of oil as a percentage of overall consumption are down from 53 percent in 1977 to 45 percent today.

In addition, we have deregulated trucking, railroads, and banking. The goal of all of these measures is to promote competition among firms and institutions, offer increased services at lower prices for consumers and discourage waste and inefficiency in providing those services.

We have continued to meet our responsibility to our unemployed workers by enacting and extending unemployment compensation measures and additional education and training programs for our youth and young veterans. Further, we extended economic development programs to stimulate private investment and jobs.

The Fourth Congressional District which falls within Milwaukee County benefits directly from actions taken in this Congress, and I am hopeful that the future will bring even greater accomplishments.

ECONOMY

This country has been hard hit by inflation during the past 2 years. The causes are numerous. In 1968 the price of a barrel of imported oil was $2.14. By 1973 the price had risen moderately to about $2.50. In 1975 following the Arab oil embargo, the price jumped to $11.45, and today that figure is well over $30. That represents a 1,200-percent price increase in 7 years.

In addition to the skyrocketing cost of oil, rising food prices and housing costs contributed to inflation.

The 96th Congress placed economic recovery foremost on its agenda. While steps were taken to balance the Federal budget, the realities of the recession which were adversely affecting the low- and middle-income taxpayers prevented its implementation. The Congress, was however, successful in curbing its own spending. We cleared a budget reconciliation bill that may reduce this year's deficit by $8.2 billion.

In addition, the Congress took strong steps to enact legislation that will put our people back to work and encourage productivity for the future. We provided countercyclical aid to State and local governments including Milwaukee County. We extended economic development programs to help distressed areas; we extended unemployment benefits for our workers; we saved almost 100,000 jobs through aid to Chrysler; and, we cleared a meaningful youth jobs program.

Nevertheless, much remains to be done before our country will once again enjoy a healthy economy. Declining productivity must be halted and I am hopeful that in the future we will be able to enact tax changes to make our country internationally competitive again. Fortunately, we did clear the Trade Agreements Act of 1979. This new law approves and implements the trade agreements negotiated in the Toyko round of the mutilateral trade negotiations (MTN). The act will expand markets for U.S. products abroad and help create American jobs.

ENERGY AND THE ENVIRONMENT

The chilling realities of the impact of oil and energy on our Nation became increasingly the concern of the 96th Congress. Developments in the Middle East, including the revolution in Iran, the hostage takeover, the war between Iran and Iraq and most recently the invasion of Afghanistan by the Soviet Union lent a new urgency to our goal of energy self-sufficiency.

Over the last 2 years Congress cooperated with the administration in promoting policies which required tough decisions, but which will ultimately save dollars for the American consumer. The windfall profit tax will generate revenue on the excessive profits that the oil companies received as a result of oil decontrol. The tax levies between 30 and 70 percent of the difference between the controlled price of oil and the selling price after decontrol. It affects most heavily the major oil companies and oil discovered before 1978. Funds from the tax will be used for fuel assistance to low-income families, income tax reductions, and innovative energy and transportation research and programs.

We all remember the angry motorists waiting in gasoline lines. The Congress, recognizing that our Nation must develop its own resources to avoid such reoccurrences approved a major synthetic fuels bill. To expedite the production of synthetic fuels—substitutes for petroleum or natural gas that are produced from coal, shale rock, tar sands, and water—that are necessary for energy independence, the Congress established the U.S. Synthetics Fuels Corporation. The goal is to produce at least 500,000 barrels of crude oil equivalent by 1987, increasing to 2 million barrels a day by 1992.

Naturally, the Congress alone cannot solve the energy crisis, but its effort must be coupled with genuine conservation by all Americans. The Emergency Energy Conservation Act of 1979 was passed which provides the President with new emergency standby gasoline rationing authority and provides for the development of fuel conservation programs. In addition this Congress funded a wind energy research and development program as well as biomass to alcohol and waste to energy programs.

In the area of solar energy, $600 million was provided for the solar energy programs of the Department of Energy in addition to a solar bank to help finance solar installations in homes and commercial buildings. Also cleared were tax credits for new buildings that use solar energy.

A reasonable balance between the development of our natural resources and the protection of the environment was utmost on the minds of legislators during the 96th Congress. I am pleased that we were able to pass the Alaska lands bill after 4 years of wrangling. The bill, which was high on the agenda of President Jimmy Carter, sets aside 104.3 million acres of land into various types of conservation areas. While there is still work to be done on the Alaska lands issue, the bill passed by the 96th Congress is a step in the right direction.

In an effort to prevent the occurrence of another toxic problem like the Love Canal, the Congress approved major legislation establishing an industry-government superfund to finance the cleanup of toxic substances in the environment. This is a vital step to assuring that dangerous chemicals do not threaten the lives of our citizens.

In addition we cleared laws to reform the Clean Water Act; to authorize funds under the Safe Drinking Water Act to include pollution control, abatement activities, and public water supervision programs; and to protect our endangered species and fish and wildlife.

SENIOR CITIZENS AND VETERANS

Mr. Speaker, throughout my years in Congress I have made the needs of the elderly and of veterans two areas of special concern. It is unfortunate that these two groups who can least afford it, often bear the brunt of inflation and unemployment.

At the present time there are more than 24 million people 65 years of age or older in the United States. In 20 years the number will grow by 30 percent. I am pleased to report that the 96th Congress was not oblivious of the needs of this major segment of our society. In the area of housing we have provided additional appropriations for loans to assist in multifamily rental housing for the elderly. In addition, we established a Special Assistant for Elderly Housing within the Federal Housing Administration. Also $10 million was provided for congregate housing services at public housing sites. These services include housekeeping, meals, social and medical services.

The Home Energy Assistance Act also helps eligible older Americans who have difficulties meeting soaring energy costs. In addition, this Congress passed significant measures extending Federal aid targeted to the elderly in social services. We also provided reduced fare programs for the elderly on Amtrak, reaffirmed our intent that social security benefits remain tax exempt and passed legislation encouraging States to follow standards enabling senior citizens to know which of the so-called medigap insurance policies are fair and sound.

In the same vein, our veterans deserve recognition from our Nation for their valiant contributions to our country. Both sessions cleared increases for service connected disabled veterans and their survivors. In addition Congress enacted a law to increase the maximum VA loan guarantee to $27,500 for home loans and to $20,000 for mobile homes. VA health programs were extended and liberalized, emergency funds for veterans' readjustment was approved, and a bill to recruit and retain top quality medical personnel was enacted.

Mr. Speaker, all too often our Vietnam-era veterans are not given the recognition they so rightly deserve. They fought an unpopular war, giving of themselves courageously and selflessly, and I was pleased that the Veterans Rehabilitation and Education Amendments of 1980 was cleared by both houses. Not only does it include a 10 percent increase in the GI bill, but it also improves job counseling and placement procedures and strengthens the Department of Labor's employment activities. We must assure that our veterans become fully employed.

SOCIAL SERVICES, HEALTH AND EDUCATION

In the area of health and social services, the 96th Congress continued meeting its commitment to the less fortunate. We passed a major social service and child welfare bill which focuses on the problems of homeless and neglected children. The bill increases Federal support for adoption and health services to needy children and assist States in providing for handicapped children. The food stamp program was continued with provisions correcting certain abuses and more importantly, passed a new law to provide better work incentives and assistance to disabled persons attempting to move back into the work force.

While unfortunately we still do not have a national health insurance law to provide every American with the opportunity to obtain quality health, we did address the subject of health in several important bills. The Congress expanded Federal mental health services and restructured them to target the bulk of Federal aid to groups that traditionally have been underserved—the elderly, severely disturbed children, and the chronically mentally ill. In addition, we emphasized programs geared toward the prevention of mental illness.

The Congress wisely enacted a law to continue the health agencies which ultimately save the taxpayer money in effective planning, and provided a new authorization for a program on sudden-infant-death syndrome—crib death.

In the area of education, we saw major strides in the field of higher education. We extended student loan assistance, provided aid to needy colleges and schools, and continued adult education programs. Only by continuing to improve the education of our young people will we increase their opportunities to build a better future.

TRANSPORTATION

Mr. Speaker, transportation and commerce are vitally important issues in this country, which have taken on added importance in view of the energy crisis.

The 96th Congress adopted major bills affecting railroads, trucking, and airlines. I was pleased that the Milwaukee Road bill, which I cosponsored, was enacted. That bill provides loan guarantees to keep our railroad running. A new Amtrak law authorized not only the funding of Amtrak through 1982, but also the improvement and revising of routes so that they will be more cost effective.

In the area of deregulation, Congress passed two major bills deregulating the railroads and trucking industries. Both are intended to promote competition and save the taxpayers money.

The Motor Carrier Act of 1980 which gives trucking companies more freedom to raise and lower freight rates, removes restrictions on the items they can carry and opens truck routes to entry by new firms. The Congressional Budget Office has estimated that by making trucking more competitive the new law will save consumers $5 billion a year and reduce the inflation rate by half a percentage point.

In the field of air transportation an important airport development and aviation noise abatement bill and a law to modernize laws governing international aviation were approved. I am pleased that our colleagues were responsive to the need to reform obviously antiquated policies in transportation.

FOREIGN AFFAIRS

Mr. Speaker, as chairman of the House Foreign Affairs Committee, I take special interest in highlighting some of the major accomplishments of this Congress in the important area of foreign affairs. As always, in authorizing funds the committee members sought to uphold the U.S. foreign affairs objectives while containing spending within reasonable budget ceilings.

The committee regularly heard the testimony of expert witnesses with respect to foreign policy questions. We approved some 36 bills and joint resolutions, of which 29 have been sent to the President. This Congress enacted an important military and economic aid bill; a State Department authorization that enables the Government to continue programs in the interests of the U.S. Government; and a Taiwan Relations Act which declares U.S. policy intentions and security interests with regard to the Republic of China in Taiwan. In addition, implementing legislation was approved to protect U.S. interests in Panama following Senate ratification of treaties ultimately transferring ownership and operation of the canal to Panama. We were also successful in amending the Export Administration Act to provide significant improvement in U.S. controls over strategic exports.

In the area of humanitarian assistance, special emergency bills were promptly approved for the relief of victims following the hurricane disaster in the Caribbean, the famine in Cambodia, and the recent earthquake in Italy, as well as special assistance for the Cuban/Haitian refugees.

Under the auspices of the Subcommittee on International Security and Scientific Affairs, which I also have the honor of chairing, legislation reauthorizing and improving the Arms Control and Disarmament Agency was enacted into law. The subcommittee also helped shape U.S. policy in a number of important areas including security assistance, conventional arms transfer, the Middle East, nuclear nonproliferation and others. The testimony of experts and scholars will continue to be heard to obtain all viewpoints on these issues which are relevant to the conduct of U.S. policy throughout the world.

Mr. Speaker, I would like to express my appreciation to you personally for your cooperation during the course of the 96th Congress, and to my colleagues who contributed significantly to its accomplishments. While it has been a difficult 2 years, we have made headway toward solving the Nation's problems. In the areas of energy defense and foreign affairs, we have seen significant progress. Our task for the future includes restoring health to the economy, reducing unemployment, maintaining our position of world leadership, assuring that the health needs of our people are met and protecting the rights of the unborn. Be assured, Mr. Speaker, that I pledge to work toward these goals in the next Congress.●

RECESS

The SPEAKER pro tempore. The Chair will declare a recess subject to the call of the Chair, and bells will be rung 15 minutes before the House reconvenes.

Accordingly (at 12 o'clock and 9 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1350

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. FOLEY) at 2 p.m.

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate passed without amendment a joint resolution and a concurrent resolution of the House of the following titles:

H.J. Res. 642. Joint resolution providing for convening of the first regular session of the 97th Congress on January 5, 1981, and for other purposes; and

H. Con. Res. 459. Concurrent resolution providing for the sine die adjournment of the 96th Congress.

APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION

Mr. BRADEMAS. Mr. Speaker, I offer a privileged resolution (H. Res. 835) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 835

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1400

The SPEAKER pro tempore. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President that the two Houses have completed their business of the session, unless the President has some other communication to make to them, the gentleman from Indiana (Mr. BRADEMAS) and the gentleman from Arizona (Mr. RHODES).

DISASTER RELIEF ACT AMENDMENTS OF 1980

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3027) to extend authorization for the Disaster Relief Act, and for other purposes, with the House amendments thereto, and recede from the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the House amendments, as follows:

Strike out all after the enacting clause, and insert:

That section 606 of the Disaster Relief Act of 1974 (Public Law 93-288) is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

SEC. 2. Section 402(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5172(b)) is amended (1) by inserting "museums, zoos, libraries, and physical fitness centers, and private nonprofit historical," after "private nonprofit"; and (2) by adding at the end thereof the following new sentence: "A grant may only be made with respect to a historical facility under this subsection if, on the date such facility was damaged or destroyed by the major disaster, such facility was listed in the National Register of Historic Places maintained by the Secretary of the Interior under section 101 of the Act of October 15, 1966 (80 Stat. 915; 16 U.S.C. 407a), commonly known as the National Historic Preservation Act of 1966.".

SEC. 3. The amendments made by section 2 of this Act shall take effect September 1, 1979.

SEC. 4. Any privately owned nonprofit library damaged or destroyed by Hurricane Agnes in 1972 in the State of Pennsylvania is hereby declared eligible for assistance under the provisions of the Disaster Relief Act of 1970 as in effect at the time of such disaster.

Amend the title so as to read: "An Act to amend the Disaster Relief Act of 1974 to provide for authorization of appropriations thereunder through fiscal year 1981.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, I do so for the purposes of asking the gentleman from California to offer a brief explanation of what is in the legislation.

Mr. JOHNSON of California. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from California.

Mr. JOHNSON of California. The Senate-passed bill, S. 3027, is a 1-year extension of the authorization for appropriations for fiscal year 1981 for the Federal Emergency Management Agency to carry out disaster relief. This would allow six nonprofit publicly used libraries in the State of Pennsylvania to participate in being reimbursed for damages done by Hurricane Agnes in the State of Pennsylvania.

The gentleman from Pennsylvania (Mr. ERTEL), the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from Pennsylvania (Mr. GOODLING), are all three in support of the bill that came back from the Senate.

If we agree to this, the bill is on its way to the White House, and they would be eligible for reimbursement under FEMA.

Mr. CLAUSEN. Mr. Speaker, further reserving the right to object, S. 3027 is similar to the House passed legislation in all respects, save one. The Senate has deleted the eligibility for disaster assistance approved by the House for nonprofit museums, zoos, physical fitness centers, and historical facilities.

This change in the law was supported by the Federal Emergency Management Agency in testimony before our Subcommittee on Water Resources but unfortunately was deleted by the Senate. In fact, I specifically asked FEMA witnesses about this provision and they responded as follows:

> Mr. MACY. We believe that there is adequate justification for including some of the additional institutions, and that the determination can be governed by regulation, and we would favor the bill that has been introduced on this item.

I know this amendment is a matter of great importance to our colleague from Mississippi (Mr. LOTT), and our colleague from Alabama (Mr. EDWARDS). I for one believe this provision of theirs is justified and should be adopted. But, I recognize that this is not possible at this late hour and therefore urge my colleagues to support the bill as written so we will have authority to respond to disasters in fiscal year 1981 and also clear up a misunderstanding over eligibility for assistance for libraries in Pennsylvania damaged by Hurricane Agnes.

Mr. Speaker, we will have to report a bill by May 15, 1981 for the disaster relief program in order to authorize appropriations for fiscal year 1982. I will commit to my colleagues from Mississippi and Alabama that I will support and work for adoption of their amendment as part of that legislation.

I hope my colleagues will support this bill so it can be cleared for the President.

Mr. Speaker, I am in concurrence with the statement as presented by our chairman. We do not fully accept all that was in the bill, but I believe the Senate version itself will permit us to go forward with this 1-year authorization and to accommodate those unique problems in Pennsylvania.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, I would like to ask a couple of questions. I understand this is a 1-year extension, but it also includes the six libraries in Pennsylvania that were damaged by Hurricane Agnes. It excludes, though, a provision that was in the House version, H.R. 6863, which made eligible for the disaster relief assistance, private nonprofit museums, zoos, facilities such as YMCA's and private, nonprofit historical facilities.

Now, that was an amendment I was very much interested in. These people need help. They need help from past disasters, but they are going to need them in the future. This is an area that should be considered.

Mr. CLAUSEN. As the gentleman knows, we had that amendment in the House version when it passed the House, and because of the lateness of the hour and time it was considered on the Senate side, quite frankly, we had an unsatisfactory explanation from the Senate as to why they deleted that particular provision, but under the constraint of time, we had no alternative but to go forward and move on this.

I, for one, will pledge myself to not only reconsider but hopefully reinstate that particular provision in the legislation next year.

Mr. LOTT. If the gentleman will yield further, based on that assurance, I will not object.

I appreciate that assurance. If the committee will take this up again next year, I think we can deal with it without any problems.

Mr. CLAUSEN. I will discuss this with the leadership. I have discussed it with them informally, and I am convinced it can be considered.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Just for a point of clarification: I appreciate the clarification on both sides. The gentleman assures us that there are no additional projects other than those discussed?

Mr. CLAUSEN. That is correct.

Mr. EDGAR. Thank you.

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. JOHNSON)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REQUESTING PRESIDENT TO RETURN ENROLLED BILL FOR RELIEF OF WOODSTOCK DAILY SENTINEL AND PROVIDING FOR REENROLLMENT WITH A TECHNICAL CORRECTION

Mr. HARRIS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 460) requesting the President to return the enrolled bill (H.R. 7175) for the relief of the Woodstock Daily Sentinel, and providing for its reenrollment with a technical correction and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 460

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is requested to return to the House of Representatives the enrolled bill (H.R. 7175) for the relief of the Woodstock Daily Sentinel. The Clerk of the House is authorized to receive such bill if it is returned when the House is not in session. Upon the return of such bill, the action of the Speaker of the House of Representatives and the Acting President pro tempore of the Senate in signing it shall be deemed rescinded and the Clerk of the House shall reenroll the bill with the following correction: In the first section, strike out "Secretary of Defense" and insert in lieu thereof "Secretary of the Treasury".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF AGRICULTURE TO CONVEY CERTAIN NATIONAL FOREST SYSTEM LANDS

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6257) to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, lines 14 and 15, strike out "mineral patents" and insert "lands which have been transferred out of Federal Ownership under the mining laws".

Page 4, line 10, after "System" insert ", the National Wild and Scenic Rivers System, the National System of Trails, and any national recreation area".

Page 4, after line 20, insert:

SEC. 8. (a) The Secretary of Transportation shall promulgate regulations to determine the equitable rate or rates to be charged for the rental of Alaska Railroad lands.

(b) In promulgating regulations under this Act, the Secretary shall:

(1) provide that the appraisal value of the rental land shall be established at the fair market value of the property, except if such property has above or below-ground improvements constructed, paid for, or bought by the tenants of such property, in which case the fair market value of the property shall be the fair market value of the property established as if such improvements did not exist;

(2) provide that tenants may contract with independent qualified appraisers to appraise improvements made by such tenant if such tenant desires to challenge the appraisal of the Department of Transportation;

(3) provide that any rental rate increase resulting from appraisals conducted under the provisions of this Act shall not exceed 50 per centum per annum of the rate due under the freeze effectuated by Public Law 95–611; and

(4) notwithstanding any other provision of law, provide that credits may be established against rent for tenants who use the Alaska Railroad.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, I do so for purposes of permitting the gentleman from Ohio (Mr. SEIBERLING) to offer an explanation. I have discussed it with the gentleman from Ohio. This relates to Forest Service land exchange, plus an amendment that was offered by the Senator from Alaska which was objected to by the gentleman from Illinois (Mr. MADIGAN).

But it is my understanding that the Senator from Alaska, in fact, discussed it with the gentleman from Illinois (Mr. MADIGAN), who felt it was impinging upon his jurisdiction; and therefore, he is not here to object.

It is my understanding he has cleared it now. Is that correct?

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I talked just a few minutes ago with the Senator from Alaska (Mr. STEVENS), who said that he had discussed this with the gentleman from Illinois (Mr. MADIGAN) and explained it and that the gentleman from Illinois (Mr. MADIGAN) had no longer any objection. Senator STEVENS said he had not had a chance to discuss it with our colleague, the gentleman from Michigan (Mr. DINGELL), but I discussed it last night with the gentleman from Michigan (Mr. DINGELL) on the floor, and he indicated at that time that he did not plan to raise any objection, but was seeking to reserve the right to object, so he could find out what the amendment dealt with. When I explained it, as I understood it, he indicated no objection.

What the amendment does is to provide a formula for determining the proper rental rates for land leased to private individuals and corporations by the Alaska railroad. That is the gist of it.

Mr. Speaker, H.R. 6257 is virtually the same bill which passed the House on December 1, and which authorizes the conveyance of small tracts of national forest lands to individuals without requiring a case-by-case authorization by Congress. This authorization will free Congress from having to resort to "private bills" to resolve minor land adjustment problems, and in so doing will ease the workload of the Interior and Agriculture Committees and afford more timely relief to aggrieved parties in land disputes. The Senate amended the bill by providing that conveyances under the bill could not occur within components of the Wild and Scenic River System or the National Trails System. The House-passed measure already prohibited such conveyances within the National Wilderness Preservation System.

Senator STEVENS tacked on the amendment dealing with the leasing of lands owned by the Alaska railroad.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I am really getting concerned about the procedure here. We have now been informed that two Members by someone else's hearsay, who previously objected to this bill, are not going to object to the bill or for some reasons have had their objections set aside in some way or another.

I am really concerned about legislating in the last minutes here. The gentlemen, of course, have my highest respect. I am going to believe them when they tell me that this bill is in order, and there are not any objections to it, but I guarantee the gentleman that this is the last bill.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. The only person who raised an objection was the gentleman from Illinois (Mr. MADIGAN). The gentleman from Michigan (Mr. DINGELL) did not raise an objection. He started to reserve the right to object, and after the gentleman from Illinois (Mr. MADIGAN) objected, then he withdrew it.

He told me he only reserved the right to object in order to find out what the amendment was.

When I explained it to him, he indicated no objection.

Mr. FRENZEL. Mr. Speaker, if the gentleman will continue to yield, did the House committee pass this bill?

Mr. SEIBERLING. The Committee on Interior and Insular Affairs passed this bill. It was then passed by the House under suspension by voice vote. It deals with an entirely noncontroversial procedure for handling small inholdings that occur in the national forests and providing procedure for disposing of them by purchase or exchange or sale.

Mr. FRENZEL. If the gentleman will yield further, I thank both the gentlemen for their explanations and say that if this is not the last bill, it ought to be.

I want to give notice that I am going to object to further consideration of bills.

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Mr. CLAUSEN. I respect what the gentleman is saying. He has been very diligent on monitoring legislation.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman.

Mr. CARTER. I thank the distinguished gentleman for yielding. I, too, agree with the distinguished gentleman from Minnesota, that it is a poor time to start legislation now by unanimous consent in the last hours. This is when bad legislation comes into being.

But knowing the character of the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from California (Mr. CLAUSEN), and having understood what they have said, I will take that on their word, and certainly I will not object.

But as the distinguished gentleman from Minnesota (Mr. FRENZEL) has said, I do not feel that it is the time or the place for such legislation as this. I thank the distinguished gentleman.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield further under the reservation?

Mr. CLAUSEN. I yield to the gentleman.

Mr. SEIBERLING. Mr. Speaker, I would like to say I share the misgivings of my colleagues about this method of legislating. I do not like it. I only agreed to do this after discussing it with everyone that seemed to have any concern about it, including the Senator from Alaska (Mr. STEVENS) who seemed to feel that this was important from the standpoint of his State.

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection, and I hope that my colleagues will support this legislation.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPORT OF COMMITTEE TO INFORM THE PRESIDENT

The SPEAKER pro tempore. The Chair will receive a report from the committee.

Mr. BRADEMAS. Mr. Speaker, I am pleased to advise the chairman and the Members of the House that the gentleman from Arizona (Mr. RHODES), the distinguished minority leader and I have waited upon the President of the United States and have informed him that the two Houses have completed the business of the session and are ready to adjourn unless he had some other communication to make to us. The President expressed his appreciation to us, congratulated the 96th Congress on what he described as a superb record, and expressed his appreciation to the Members of both the House and the other body, the members of both parties and wished all of us and our families a merry Christmas and a happy new year.

The SPEAKER. The Chair wishes to express our thanks to the committee for its report.

OMINOUS SIGNS FROM THE TRANSITION TEAM

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, as we are about to adjourn and with the last opportunity to comment on the transition and the change in regimes, I would suggest that there are some ominous signs flowing from this transition. Most of us, regardless of our feelings about the change of administration, were looking forward with some optimism and hope to the promised efficiency and economy during the next administration. We want to work cooperatively for the good of our country.

Leaving aside the embarrassing leaks that have occurred of secret and confidential matters from the Reagan transition team, to me the most disturbing signs, according to recent press reports, are the facts that this present transition team is unable to operate within the budget of $2 million provided for by the taxpayers of this country, or are unable to tell the people of this Nation how many individuals are employed in the transition, who they are, what they are getting paid, what expenses are being provided, out of taxpayers' dollars. Busting the budget, with numberless highly paid anonymous workers, is hardly a way to inspire confidence.

I recall that the Carter transition operated within budget, returned funds to the Treasury and within 30 days were able to disclose the members of the transition and their pay. Why cannot the Reagan transition?

I would hope that within the next few days this information would be available to the American people so that they can make some judgments about the efficiency and the economy of the transition, and give us some hope for the new year. It would even be a nice Christmas gift for the American people who are worrying about the future, wondering how their tax money is being spent and looking for some hope.

In that hope, and in that desire, I take this opportunity to wish all of our colleagues best wishes for a fulfilling and rewarding 1981.

THANKS TO STAFF OF APPROPRIATIONS COMMITTEE

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, as the Chair lays down the following enrolled joint resolution, the Speaker has authorized me to state that the House of Representatives, the entire Congress and the American public owe a debt of gratitude to Mr. Keith Mainland, staff director of the Committee on Appropriations and to his staff, for the preparation of the final version of this continuing resolution under the most trying of circumstances.

STATEMENT ON SOVIET JEWRY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

● Mrs. HECKLER. Mr. Speaker, December 10 marked the 31st anniversary of the United Nations Declaration on Human Rights. As our delegates now meet in Madrid on the Helsinki accord, we need to focus on the fact that we have not seen 31 years of human rights in the Soviet Union.

For too many years now reliable reports tell us that Soviet Jewry is and has been held hostage in the Soviet Union. Can we truly celebrate human rights when we see their outrageous denial in the Soviet Union? Thoughtful Americans of all persuasions ask these questions.

I would like to join with them in remembering those Soviet Jews who suffer from the sharp discrepancy between Soviet pledges and Soviet performance in human rights.

We will not forget the courageous Ida Nudel, who after acting as an angel of mercy for other prisoners of conscience, today languishes in her Siberian exile. We will not forget the Inditsky family, who persist in their desire to emigrate, despite repeated refusals. And we will never forget Anatoly Shcharansky, who stauchly labored to monitor Soviet compliance with the Helsinki accord, and who now suffers in a Soviet prison.

And we will not forget the innumerable, unpublished, daily violations of human rights—the countless insults and characters smeared, the housing, job and academic discriminations faced by the Soviet Jews. We will remember the persistent fear endured by those who dare to speak out in behalf of human rights.

Those who dare to stand up for human rights in Russia today must not be forsaken; we must continue to stand with them, yielding before neither Soviet intransigence nor Soviet belligerence.

Delegates from 35 countries are now meeting in Madrid to discuss the Helsinki accord. I urge them to press for a through review of the Soviet Union's implementation of these accords, so that on the occasion of its 31st anniversary, we will address a record of improved human rights.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CHAPPELL (at the request of Mr. BENNETT), on account of business in district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FRENZEL) to revise and extend their remarks and include extraneous material):

Mr. MILLER of Ohio, for 30 minutes, today.

Mr. HANSEN, for 10 minutes, today.

(The following Members (at the request of Mr. ERDAHL), to revise and extend their remarks, and to include extraneous matter to:)

Mrs. HECKLER, for 5 minutes, today.

(The following Members (at the request of Mr. ANTHONY) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 60 minutes, today.

Mr. SCHEUER, for 5 minutes, today.

Mr. GARCIA, for 5 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. ZABLOCKI, for 15 minutes, today.

SENATE ENROLLED BILLS SIGNED

The SPEAKER pro tempore announced his signature to enrolled bills of the Senate of the following titles:

S. 442. An act for the relief of Isaac N. Hulver of Kansas City, Mo.;

S. 1465. An act to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes;

S. 1803. An act to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes;

S. 2027. An act for the relief of James Daniel Bronson;

S. 2189. An act to set forth a Federal policy for the disposal of low-level radioactive wastes, and for other purposes;

S. 2227. An act to grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas;

S. 2261. An act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes; and

S. 2729. An act to authorize certain emergency repairs at the National Visitor center in the District of Columbia.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker pro tempore:

H.R. 3317. An act to amend the Internal Revenue Code of 1954 with respect to excise tax refunds in the case of certain uses of tread rubber, and for other purposes;

H.R. 3637. An act to carry out the obligations of the United States under the International Coffee Agreement 1976, signed at New York on February 27, 1976, and entered into force for the United States on October 1, 1976, and for other purposes;

H.R. 4968. An act to amend the Internal Revenue Code of 1954 with respect to net operating loss carryovers of taxpayers who cease to be real estate investment trusts, to increase interest rates on certain U.S. retirement bonds, and for other purposes;

H.R. 5043. An act to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings and for other purposes;

H.R. 5505. An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes;

H.R. 5737. An act to amend the International Claims Settlement Act of 1949 to allow recovery by U.S. nationals for losses incurred in Vietnam;

H.R. 5973. An act to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes;

H.R. 7112. An act to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes;

H.R. 7709. An act to amend the Tariff Schedules of the United States to increase the quantity of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning U.S. residents;

H.R. 7865. An act to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy; and

H.J. Res. 644. Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

SINE DIE ADJOURNMENT

Mr. HARRIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. BRADEMAS). In accordance with the provisions of House Concurrent Resolution 459, the Chair declares the 2d session of the 96th Congress adjourned sine die.

Thereupon (at 2 o'clock and 17 minutes p.m.), pursuant to House Concurrent Resolution 459, the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

DECEMBER 16 (legislative day, DECEMBER 15), 1980

5837. A letter from the Acting Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) transmitting a report on Selected Reserve recruiting and retention incentives as of September 30, 1980, pursuant to 10 U.S.C. 2134, 37 U.S.C. 308b, and 37 U.S.C. 208c; to the Committee on Armed Services.

5838. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing) transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

5839. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

5840. A letter from the Administrator of General Services, transmitting a followup report on the recommendations contained in the report of the President's Commission on the Accident at Three Mile Island dated October 30, 1979, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

5841. A letter from the Chief, Army and Air Force Exchange Service, Department of Defense, transmitting the annual report of the retirement annuity plan for employees of the Army and Air Force Exchange Service and the supplemental retirement income plan for members of its executive management program, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended; to the Committee on Government Operations.

5842. A letter from the Assistant Secretary for Health and Surgeon General, Department of Health and Human Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5843. A letter from the Director, Federal Emergency Management Agency, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5844. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during October 1980, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

5845. A letter from the Comptroller General of the United States, transmitting a report assessing the role of State legislatures in reviewing and controlling Federal grant funds received by the States (GGD–81–3, December 15, 1980); to the Committee on Government Operations.

5846. A letter from the Comptroller General of the United States, transmitting a report assessing the effective, efficient and economical use of computers in the Federal inventory (AFMD–81–9, December 15, 1980); to the Committee on Government Operations.

5847. A letter from the Secretary of the Interior, transmitting a report on the acquisition of land for the Lowell National Historical Park, Mass., together with a tentative budget for the park and preservation district for fiscal years 1981–85, pursuant to section 201(a) of Public Law 95–290; to the Committee on Interior and Insular Affairs.

5848. A letter from the Director, Office of Hearings and Appeals, Department of Energy, transmitting a quarterly report on private grievances and redress, covering the period July 1 through September 30, 1980, pursuant to section 21(c) of Public Law 93–275; to the Committee on Interstate and Foreign Commerce.

5849. A letter from the Acting Associate Executive Director for Information Management, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission for the months of May, June, and July 1980, pursuant to section 5(e) of the Communications Act of 1934, as amended; to the Committee on Interstate and Foreign Commerce.

5850. A letter from the Chairman, President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, transmitting the Commission's annual report for fiscal year 1980, pursuant to section 1802(d) of the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

5851. A letter from the Attorney General, transmitting notice that the Justice Department will not appeal the judgment of the district court in *Mertz* v. *Harris*, finding that provisions of section 202(f)(1)(A) of the Social Security Act constitute gender-based discrimination in violation of the equal-protection clause of the fifth amendment to the Constitution, pursuant to section 21 of Public Law 96-132; to the Committee on Ways and Means.

5852. A letter from the Comptroller General of the United States, transmitting a report on the need for long-term economic planning in oil- and gas-producing States (PAD-81-09, December 10, 1980); jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, and Public Works and Transportation.

5853. A letter from the Comptroller General of the United States, transmitting a report on oversight of the Government's security classification program (LCD-81-13, December 16, 1980); jointly, to the Committee on Government Operations, and the Permanent Select Committee on Intelligence.

5854. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in Sacramento, Calif.; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BENNETT: Committee of Official Conduct. Report in the matter of Representative John W. Jenrette, Jr. (Rept. No. 96-1537). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

DECEMBER 16 (legislative day, DECEMBER 15), 1980

By Mr. HANSEN:

H.R. 8455. A bill to establish a commission which shall be called the Iran Claims Settlement Commission and to enable the President of the United States to release the assets frozen by Presidential order on November 14, 1979; to the Committee on Foreign Affairs.

By Mr. STRATTON:

H.J. Res. 645. Joint resolution making appropriations for the fiscal year 1981, and for other purposes; to the Committee on Appropriations.

By Mr. HANSEN:

H.J. Res. 646. Joint resolution to establish a select committee for the implementation of interparliamentary relations between the legislatures of the Government of Iran and the Government of the United States; jointly, to the Committees on Foreign Affairs and Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8186: Mr. BRODHEAD, Mr. CONYERS, Mr. YATRON, Mr. DAVIS of Michigan, Mr. MITCHELL of Maryland, Mr. ROE, Ms. OAKAR, and Mr. CONTE.

H.J. Res. 616: Mr. PRITCHARD, Mr. MITCHELL of New York, Mr. STRATTON, and Mr. COTTER.

H.J. Res. 638. Mr. DORNAN and Mr. WOLPE.

H. Con. Res. 454: Mr. LUNGREN, Mr. GOODLING, Mr. DORNAN, Mr. FORSYTHE, and Mr. FORD of Michigan.

H. Res. 831: Mr. SEIBERLING.

PETITIONS, ETC.

Under clause 1 of rule XXII,

660. The SPEAKER presented a petition of the council of the city of New York, N.Y., relative to making the destruction of religious property a Federal crime; which was referred to the Committee on the Judiciary.

SENATE—*Tuesday, December 16, 1980*

(Legislative day of Thursday, November 20, 1980)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, King of Kings and Lord of Lords, we thank Thee for the luminous skies and celestial choirs which herald the festival of the divine gift. We thank Thee for the birth of Him who changed history into His story. May His light continue to guide us. May His spirit be enthroned in all men's hearts, break down the barriers which separate man from man and nation from nation. Then shall the world know that the birth of one so small is the advent of salvation for all. Now rule in our hearts, claim our love, and grant us Thy peace.

We pray in His holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., December 16, 1980.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.
>
> WARREN G. MAGNUSON,
> *President pro tempore.*

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by me appear at this point in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE 96TH CONGRESS: ACCOMPLISHMENTS FOR WEST VIRGINIA

Mr. ROBERT C. BYRD. Mr. President, West Virginia and West Virginians will benefit for years to come from actions taken by the 96th Congress, especially those programs relating to increased coal production and use. In addition, many worthwhile West Virginia projects were initiated or were advanced by congressional action taken over the past 2 years.

Passage of the most extensive energy package in the history of our country has not only put our country on the path toward energy independence, but has turned the spotlight back to our most abundant energy resource—coal. And any program boosting the utilization of this asset, of course, benefits the people of our State.

The centerpiece of this energy program was creation of the independent synthetic fuels corporation, which will boost the use of coal for developing synthetic energy sources. This corporation will start its massive undertaking with a $20 billion appropriation which was provided through an amendment I offered.

In addition, I worked for the siting of the proposed solvent refined coal II plant near Morgantown, which will convert coal into a clean liquid fuel that can replace oil. The planning and construction of this plant will be financed through appropriations of $54 million last year and $175 million this year, which were provided through my amendments.

Other energy-related programs, with which I assisted include: $43 million last year and $62 million this year appropriated for a nationwide energy impact assistance program, of which West Virginia is a prime beneficiary; $5 million each for the past 2 years for a nationwide university coal research program, of which West Virginia University receives a share; $3.1 million this year for the fluidized-bed boiler in Rivesville, Marion County; $2 million for the construction of a national publications center at the Mine Health and Safety Academy in Beckley; and $1.75 million for renovation of the Morgantown Energy Research Center.

Other legislative achievements of the 96th Congress for West Virginia include passage of my amendment authorizing $284 million for flood control measures in the Tug Fork Valley. The measure also appropriated $6 million for design and engineering work on the proposed levees and floodwalls.

Another amendment, which I offered, exempted the Soak Creek watershed project in Lincoln, Boone, and Cabell Counties from mandatory review by the nonfunctioning water resources council.

In addition, I worked for passage of legislation which cleared the way for Volkswagen to undertake an $80 to $100 million expansion at its South Charleston stamping plant, which is to provide 400 to 500 new jobs.

Numerous appropriations benefiting and advancing a variety of worthwhile West Virginia projects also were enacted by the 96th Congress. They include my amendments providing $6.25 million for renovation and construction at the Leetown National Fisheries Center in Jefferson County; more than $1.5 million for equipment, construction, and staffing at the Appalachian Regional Soil, Water, and Air Research Laboratory in Beckley; $2.5 million for New River Gorge land acquisition; $2.5 million for construction of additions to U.S. Army Reserve Centers in Bluefield, Weirton, and Fairmont; $600,000 for an instrument landing system at the Charleston Airport; $250,000 for the purchase of weather radio stations that will provide flood warnings in Logan, McDowell, Mingo, and Wyoming Counties; and $250,000 for the purchase of long-range weather radar in Charleston for improved forecasting by the National Weather Service.

Mr. President, I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I thank the majority leader.

CAMBODIA ILLUSTRATES THE NEED FOR A COMPLETE U.S. POLICY

Mr. PROXMIRE. Mr. President, for some 12 years I have been rising on the floor of the Senate almost every day pleading with the Senate to ratify the Genocide Convention. As the majority leader pointed out the other day, the Senate, at the moment, cannot act on it because the Foreign Relations Committee has not discharged it. They did report the convention four times. I am very hopeful that the new Reagan administration will follow the policies of the Eisenhower, the Nixon, and the Ford administrations and warmly support and enthusiastically work for the passage of the Genocide Convention.

Mr. President, I would like to suggest this morning a series of brief examples as to why.

Mr. President, throughout the years, it has been the policy of the United States to assist suffering people around the world with material aid. The Marshall plan, the Truman doctrine, and recent aid to underdeveloped countries all stand as examples of the unflinching support that the United States has given.

Yet we must make sure that we see our actions through to the end, since in some cases, material aid is not enough. The plight of the Cambodians clearly illustrates this. Last year, newspapers were filled with stories about the Khmer Rouge Communist regime and its refusal to accept further U.S. aid to prevent thousands of Cambodians from dying as a result of famine and disease. However, 1 year later, the sensationalism over the atrocities in Cambodia died down, and the flood of U.S. aid was reduced to a trickle.

One might assume that the crisis in Cambodia is over, but this hardly seems to be the case. The Cambodians are still suffering under a repressive regime that refuses to provide its people the essentials with which to live, and inflicts policies upon them that result in the death of literally hundreds of thousands, and some estimates are millions, of Cambodians in that small country.

The United States must show that it is complete and consistent in its policy. Cases such as Cambodia, where genocide has been alleged, need not only material support, but moral support as well.

I urge my colleagues, to consider the Genocide Treaty, and permit the United States to follow the lead of every other developed country in the world which has ratified this convention, to ratify a convention which was initially recommended to the Senate by President Harry Truman and supported, as I said, by President Eisenhower, by President Kennedy, by President Johnson, by President Nixon, by President Ford, by President Carter, by the American Bar Association, by every religious group in this country, by the labor union movement, by virtually every recognizable national group that has taken a serious position on this convention.

For 30 years this convention has been waiting for ratification. For 30 years we have failed to do it. Only the U.S. Senate has to act. It does not require any agreement by the House of Representatives or by any other group or body.

Ratification of this Convention by the Senate will serve as a warning to other countries that would attempt to destroy, in whole or in part, national, ethnic, racial, or religious groups.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1170, H.R. 6806.

Mr. BAKER. Mr. President, reserving the right to object, I do not have my calendar staff here. Until I have them here, I am not in a position to agree.

I wonder if the majority leader would either withhold his request momentarily or permit me to suggest the absence of a quorum while I try to establish the status of our calendar on this side.

Mr. ROBERT C. BYRD. Mr. President, I withhold the request.

Mr. BAKER. Mr. President, I thank the majority leader.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to exceed 30 minutes, and that Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THANKS TO A DYNAMIC TRIO

Mr. MATHIAS. Mr. President, as the 96th Congress winds down many of us have offered words of tribute in praise of our close friends and colleagues who will not be returning to the Senate next month. It is fitting that we recognize these Members, many of whom are leaving after long and distinguished careers representing both their own constituents and all of the people of the United States. We will miss their collective wisdom and wise counsel. Each has contributed uniquely through this body to the history of the United States.

But as we honor our colleagues, we should not forget other individuals who have made significant contributions as the key operating officers of the U.S. Senate. I am speaking of F. Nordy Hoffmann, the Sergeant at Arms; J. Stanley Kimmitt, the Secretary of the Senate, and Murray Zweben, the Parliamentarian.

Mr. President, I would like to take a few moments to pay tribute to this dynamic trio individually.

FRANK NORDY HOFFMANN

One word describes Nordy best, and that word is strength. For the past 4 years his strength and vigor have suffused the every day life of the Senate. He has carried out his job as executive officer of the Senate with the same kind of energy and intelligence he brought to the gridiron as an All American under Knute Rockne at Notre Dame, and later to his career as legislative director of the United Steelworkers of America.

He has begun the vital task of automating our record system which will ultimately tame our rapidly mounting legislative workload. For that alone, he deserves our thanks. Nordy has worked hard to maintain the decorum in and around the Capitol which is so essential to the serious business of writing and enacting the laws which guide us all.

In short, Nordy Hoffmann has kept the legislative trains running on time.

J. STANLEY KIMMITT

Stan Kimmitt has been the Senate's chief administrative officer in the 95th and 96th Congresses. He signs our checks and keeps track of the legislative flow. He helps arrange our travel in pursuit of our legislative duties and he oversees the printing, recording and preservation of bills and resolutions which contribute directly or indirectly to the body of laws by which we govern ourselves. His writ extends into the very heart of the Senate through supervision of legislative and executive clerks, the official reporters of debate and the parliamentarian. He also oversees publication of the Senate Journal and our daily newspaper, the CONGRESSIONAL RECORD. Without him the machinery of the Senate would grind to a halt.

Stan joined the Senate's official family in 1965 at the request of then Majority Leader Mike Mansfield. He has moved through the ranks and was appointed Secretary of the Senate in 1977.

If Nordy Hoffmann keeps the trains running, it is because Stan Kimmitt pays the crews and publishes the timetables.

MURRAY ZWEBEN

Few jobs on Capitol Hill demand more understanding of Senate history and detailed knowledge of its inner workings than that of Parliamentarian. Since 1974, Murray Zweben has been our counselor and helmsman, keeping the legislative barque on course. His popular pamphlet, Enactment of a Law, which traces a bill through all its parliamentary stages, has become an essential tool for Senators and for the public.

More than anything else, the Senate is a creature of tradition and precedent. Indeed, our modus operandi is buttressed by the more than 10,000 precedents over which Murray Zweben exercises his interpretive skills and knowledge. He has contributed to their development throughout nearly 25 years of association with the Senate. He has been a wise counselor to Senators and their staffs.

Mr. President, I know my colleagues join me in paying tribute to and thanking Nordy Hoffmann, Stan Kimmitt and Murray Zweben for their years of dedicated service to the U.S. Senate. We will miss their support and advice, but wish them well in the days ahead.

REAGAN VS. THE BUREAUCRACIES

Mr. MATHIAS. Mr. President, the distinguished Senator from Tennessee, the prospective majority leader of the U.S. Senate, has spoken very movingly about his hopes for the coming session of Congress, about his desire to see the U.S. Senate attain its fullest potential as an instrument for promoting the peace, safety, and progress of this great Republic.

I think that all of us want to aid and assist the Senator from Tennessee in obtaining this great goal. It is not going to be easy. The Republic is plagued by many problems. Perhaps the first and most necessary ingredient in the program that the Senator from Tennessee has laid before himself and before all of us is to contemplate some of the fundamental problems that plague the Republic. In this connection, Mrs. Mathias and I read with great interest an article which appeared in Newsweek for December 15, 1980, by Meg Greenfield, entitled "Reagan Vs. the Bureaucrats." Meg Greenfield scores the tendency of too many of us "to nest in the little, trivial places of great issues, like starlings in the crevices of a huge building."

I believe that Meg Greenfield's article is of such interest especially if they seek to avoid what she terms the "sophistry that often passes for political thought in this town," that all Senators will want to read it, I ask unanimous consent that it may be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

REAGAN VS. THE BUREAUCRACIES

(By Meg Greenfield)

Personalities and political theology dominate the Washington news as the Reagan Cabinet heaves into view—lots of talk about moderates versus conservatives and supply-siders versus traditionalists and the rest. It matters, but not decisively. What will matter decisively to Ronald Reagan's prospects for success is something else: whether he will be able to take on and, to some extent, defeat that great decadent inertial force that characterizes so much of our governmental (and intellectual) life today.

Do I mean the Washington bureaucracy? Well, yes, in a way—but that is only part of it. I mean as well a collection of impulses—to trivialize, confound, procrastinate, fog over and subvert both thought and action—that are at work in many more bureaucracies than just the one on the Potomac that everyone complains about.

There is a profound and pervasive commitment in this country today to not letting anything happen. It (whatever is the problem at hand) is routinely declared to be *much more complex* than that ("that" being whatever the proposed solution may be). So, instead, it is duly noted that the situation must be studied and made the subject of conferences and reports and hearings and pilot projects and citizens' lobbies and benefit galas and maybe, with a little luck, it will end up getting a Presidential commission or even a Cabinet department of its own. Then everyone can settle back and make the situation, whatever it was, a little worse, and get paid for it.

Trivial Places: Now, all this has traditionally been associated with the Democrats in general and the Federal government in particular, and there is surely ample justification in both cases. Too many liberal Democrats have come, over the years, to worship (of all things) the state and to see it as the natural agent of the Lord's will, even though you can't reach it by telephone much after 4:30 in the afternoon. And many Democrats too, it seems to me, have lately tended to nest in the little, trivial places of great issues, like starlings in the crevices of a huge building. I think, in fact, that this tendency, so different from their grasp of things a generation ago, accounts for a large part of their current political woe.

Read the foundation and study-group reports, very prettily printed, that they have worked on; read the testimony on the Hill; read the departmental policy statements and press releases and other outgushings. Often as not you will find that the premise is vaguely crazy or just plain wrong or outrageous. But you will also find that this is not noticed in the bogged-down, wrong-end-of-the-telesope prose. And the prose itself seems designed—bureaucratese, foundation-talk—to keep everything slightly out of focus, to keep it ultimately inconclusive, complicated without being useful.

Yes, the poor old Democrats and the awful old Feds have certainly staked a claim to this unattractive intellectual turf. And yes, it is also true that both the Republicans in their customary assaults on "the bureaucracy" and the populace in its increasing assaults on Washington. have given notice that they demand something better, or at least something different. But be careful. For surely in the corporations and the businesses and the trade unions of America the same impulses are at work for all to see. Is it really easier, when you get right down to it, to deal with your downtown bank or your local public utility than it is to deal with the social-security office?

There is something else. Add to the banks and the businesses the whole U.S. military establishment if you are looking for spectacular examples of the little-mud-hut-building, bureaucratic instinct in action. The report on the Iranian rescue mission—its terrible details, not just its relatively neutral conclusions and recommendations—would repay the President-elect's attention in this regard: it is all there.

So I think that in some sense, important as they are, the Cabinet appointees of the new President and the policy inclinations and personal strengths they represent are still secondary to the big question. They will not be nearly so crucial as the new Administration's understanding and good faith in confronting the inertial, obfuscating bureaucratic force, both within government and among those private interests and institutions with which government must deal constructively: industries, social-service providers, local governments and so on.

I say "good faith" because there remains a stubborn streak of suspicion around that much of the conservative Republican rhetoric denouncing the handiwork of the Washington bureaucracy is inspired by nothing more than self-serving desires to get the regulators out of places where they really need to be or to make an extra buck at the expense of someone who really needs to be protected.

Good Fight: Actually this kind of privateering, while it would doubtless get its practitioners thrown out of office in good time, would be easier to bring off than a true and general assault on the main enemy. Everyone over the age of 4 in Washington knows that policymaking at the top, all those awesomely burdened choices people talk about, is, relatively speaking, the glamorous, fun part. The ordeal, the setting for failure, is the effort to make any of it happen.

Presidents get lost in the complications, in the webs, in that whole huge, gluey obstacle to sense and clarity and forthright action that the public and private bureaucracies put in their way. It was frequently joked during the campaign that Reagan was given to simplicities. We will see whether he is given to wrongheaded ones. There are others—I insist on it—that are right and are what has been missing in the sophistry that often passes for political thought in this town. It seems as though our government increasingly understands everything in its most tiresome detail about the world we live in except what is obvious, simple and urgent.

If this "simplicity" people talked about is the positive, missing and much-needed kind, and if Reagan not only possesses it but also engages it in the encounter with the vast complex of wheel-spinners and complicators that is waiting for him, then you will have a fight worth watching.

BALTIMORE

Mr. MATHIAS. Mr. President, the name "Baltimore" is a great name. It has a number of connotations in the world. One of those connotations is that fact that the name "Baltimore," has been given to a number of great ships of the U.S. Navy. The history of the several U.S. ships named "*Baltimore*" is a capsule of the history not only of the U.S. Navy but of the United States itself. I ask unanimous consent, Mr. President, to have printed in the Record at this point a very brief history of each of the five ships of the Navy that have borne the name, "*Baltimore*," along with my own remarks at the launching ceremony for the sixth U.S.S. *Baltimore*, which took place in Groton, Conn., on Saturday last.

There being no objection, the material was ordered to be printed in the Record, as follows:

REMARKS BY SENATOR CHARLES McC. MATHIAS, JR.

It is a great honor to participate in the launching of the nuclear attack submarine *Baltimore*. I am grateful to the Secretary of the Navy and to the Officers and Directors of General Dynamics for inviting me to speak today. I am also grateful to the talented men and women of the Electric Boat Company whose industry and skill have given us this magnificent new *Baltimore* to launch.

To prove my gratitude, I will follow my orders to the letter: My talk will be exactly eight minutes long—no more, no less.

I could happily squander all eight minutes describing the exploits of the five ships that bore the proud name *Baltimore* in the past. But, I'm not going to do that.

I will just take a minute or two for a sweeping backward glance and then move on to consider what the future may demand of the ship we launch today.

The first *Baltimore*, built in 1777, served as a packet in the Continental Navy; the second boasted 20 guns, claimed two prizes and recaptured three American ships which had fallen into French hands during the quasi-war with France; the third was a sidewheeler active in the Civil War; the fourth, a cruiser in the Spanish-American War, and the fifth and last, until today, was a heavy cruiser which won nine battle stars in the Pacific during World War II. I feel a special affection for that *Baltimore* because I served on the U.S.S. *Appalachian* in the attacks on Luzon in December 1944 and January 1945 where the *Baltimore* earned two of those battle stars.

So there, in a nutshell—in the skeleton biographies of five ships named for one of America's great seaports—you have the history of a nation whose destiny, from the very beginning, has depended on the sea.

The name "Baltimore" has other nautical connotations as well. It conjures memories of the peerless Baltimore clippers of the early 1800's which made the new nation famous throughout the world for the skill of the men who built them and the daring of the men who sailed them.

This too is part of the legacy and the legend of the ship we launch today.

Obviously, both this *Baltimore*, with its amazing speed and incredibly sophisticated weapons systems, and the dedicated men and women who serve in the United States Navy today, are worthy successors to this proud naval tradition.

Quality is not our problem. Quantity is. As we send this *Baltimore* down the ways, we send it to join a fleet dangerously short of ships and of personnel. And we send it into a world dangerously long on problems.

The days when we could ignore the world's problems are gone forever. Our lifelines are literally stretched to every corner of the globe. Many aspects of our economy—the bedrock of our national security—are not within our control.

The most obvious example, of course, is our dependence on foreign countries for almost half the oil we use. We also import over 90 percent of our chromium, bauxite, cobalt and manganese and all of our mica and columbium—minerals essential to America's industrial and military production.

The health of our economy is increasingly dependent on exports as well. Right now, every third acre of agricultural land in America and one out of every eight manufacturing jobs produce for export. In Maryland, one of every eight jobs depends on the Port of Baltimore.

It doesn't take much imagination to figure out what kind of shape we'd be in if those lifelines were cut. Obviously, today as never before in our history, we depend on the sea for our security and our survival.

In addition, of course, we are confronted by an aggressive, expansionist adversary and by political instability that is sweeping the globe.

To meet the variety of challenges we face worldwide, we need a Navy that is second to none. It is a matter of record that since World War II, America's leaders have turned most often to the Navy when they wanted to use elements of the armed forces in support of political objectives.

As Admiral Moorer puts it: "You can tell these people in the Middle East or Africa that there are eight or 10 men sitting in a silo in Montana. They don't give a damn about that. They can't see anything. They don't know where Montana is. But if you say, 'Look at that big ship out there', it has impact".

But today our Navy is half the size it was 10 years ago. When we wanted to make an impact on Iran after the hostages were taken, we were so short of ships we had to bring the *Nimitz* and the *Coral Sea* into the Persian Gulf from the Far East. This meant that for the first time since the 1950's there was no American carrier off the coast of Korea. That too has an impact—a negative one.

As Admiral Thomas B. Hayward, Chief of Naval Operations, has said time and time again: "We're trying to meet a three ocean requirement with a one-and-a-half ocean Navy".

But even if we had all the ships our hearts desired, we'd still be up the creek. Right now the Navy is short some 20,000 experienced petty officers. And it's no wonder, when a first class petty officer on sea duty, working a 100-hour-week, earns less than a secretary working a 40-hour-week in Washington. That just doesn't make sense.

It doesn't make sense either that the Navy is hobbled by shortages of spare parts and ammunition and inadequate maintenance. What can our allies and our adversaries think when newspaper headlines proclaim: "Navy Reports 6 Out of 13 Carriers Combat-Ready"? Or "Big New Ships of Soviet Navy Surprise U.S."? That too has an impact—and again it's negative.

The perception of weakness is an invitation to adventurism. It is almost as grave a danger as weakness itself.

Ever since President Ford's program for a 600-ship fleet was scuttled, I have been fighting to reverse the downward trend in the Navy's fortunes. Progress has been slow, but there has been progress.

Congress this summer finally began to do something about the serious deficiencies in Navy pay and benefits. Much more needs to be done, of course, but I am confident that come January everything that needs to be done will be done to address the problems that plague the Navy. In fact, for the first time in four years, I am really optimistic about the Navy's prospects.

The late British Statesman Bonar Law maintained that "There is no such thing as an inevitable war. If war comes, it will be from a failure of human wisdom".

As we launch this ship today, these words have special meaning. Let us hope that the *Baltimore* will never have to fire a shot in anger. The very existence of the *Baltimore* and of a stronger Navy will be a powerful deterrent to a failure of human wisdom in our very dangerous world.

Baltimore is a city and port in Maryland.

I

(Packet: no information available)

The first *Baltimore*, a brigantine of 12 guns, was built in 1777 at Baltimore, Md., and fitted out as a dispatch or packet vessel. She was used at times for the protection of the coast along the Delaware and Chesapeake Bays. She was commanded by Captain T. Read of the Continental Navy, 1778–79, and was lost near Cape Henry 29 January 1780.

II

(Ship: T. 422; l. 103'9''; b. 30'8''; cpl. 180; a. 18 9-pdr. S. B., 6 4-pdr. S. B.)

The second *Baltimore* (20), a ship, was built in 1798 by Joseph Caverly, Baltimore, Md., as *Adriana*; purchased by the Navy 23 May 1798; renamed *Baltimore*; and placed under the command of Captain Isaac Phillips.

In August 1798 *Baltimore* was ordered to join *Constellation* and convoy a fleet of merchantmen home from Havana, Cuba. Late in 1798 *Baltimore* and *Constitution* were escorting a large convoy to Havana, when the latter sprung her bowsprit and returned home. *Baltimore* later fell in with two British frigates, 16 November 1798, who impressed 55 of her crew (50 were returned). On his return to the United States, Captain Phillips was dismissed for permitting this outrage to the American flag. The incident also created much anti-British feeling.

During 1799 *Baltimore* took two prizes and the following year three more, as well as recapturing three American vessels which had fallen into French hands. At the close of the Quasi-War with France she carried the ratified peace treaty to France. Upon her return *Baltimore* was sold at Philadelphia in 1801.

III

(SwStr: T. 500; l. 200'; b. 26'8''; dph. 10'; a. 1 32-pdr. S. B.)

The third *Baltimore*, a side-wheel steamer, was built in 1848 at Philadelphia, Pa.; captured on the Potomac River between Aquia Creek and Washington, D. C., by the Army 21 April 1861; turned over to the Navy Department; and commissioned in April 1861, Lieutenant J. H. Russell in command.

During the Civil War *Baltimore* was used as an ordnance vessel between Washington Navy Yard and nearby ammunition depots. She was also used to ferry Army troops across the Potomac River. She saw some service with the North Atlantic Blockading Squadron as a dispatch and supply vessel. On 9 May 1862 she transported President Lincoln, and Secretaries Stanton and Chase, from Fort Monroe to Norfolk in an attempt to get a close view of the destroyed Confederate ironclad *Virginia*.

Baltimore was turned over to Norfolk Navy 22 May 1865 and sold 24 June 1865 at Washington, D. C.

IV

(C–3: dp. 4413; l. 225'; b. 48'8''; dr. 20'6''; s. 20.1 k.; cpl. 386; a. 4'8'', 6'6''; cl. *Baltimore*)

The fourth *Baltimore* (Cruiser No. 3) was launched 6 October 1888 by William Cramp and Sons Ship and Engine Building Co., Philadelphia, Pa.; sponsored by Mrs. Theodore D. Wilson, wife of Chief Constructor Wilson; and commissioned 7 January 1890, Captain W. S. Schley in command.

Baltimore became flagship of the North Atlantic Squadron 24 May 1890 and during 15–23 August conveyed the remains of the late Captain John Ericsson from New York to Stockholm, Sweden. After cruising in European and Mediterranean waters, she arrived at Valparaiso, Chile, 7 April 1891 to join the South Pacific Station. She protected American citizens during the Chilean revolution, landing men at Valparaiso 28 August Arriving at Mare Island Navy Yard 5 January 1892, she cruised on the west coast of the United States until 7 October and then returned to the Atlantic. She took part in the naval rendezvous and review in Hampton Roads during March and April 1893. Proceeding via the Suez Canal, she cruised as flagship of the Asiatic Station, 22 December 1893–3 December 1895, protecting American interests. Returning to Mare Island 21 January 1896, she went out of commission 17 February 1896.

Recommissioned 12 October 1897, *Baltimore* sailed on 20 October for the Hawaiian Islands and remained there between 7 November 1897 and 25 March 1898. She then joined Commodore George Dewey's squadron at Hong Kong, 22 April 1898. The squadron sailed from Mirs Bay, China, 27 April for the Philippines and on the morning of 1 May entered Manila Bay and destroyed the Spanish fleet stationed there. *Baltimore* remained on the Asiatic Station convoying transports and protecting American interests until 23 May 1900, when she sailed for the United States, via the Suez Canal, arriving at New York 8 September 1900.

Between 27 September 1900 and 6 May 1903 *Baltimore* was out of commission at New York Navy Yard. From 5 August to 23 December 1903 she served with the Caribbean Squadron, North Atlantic Fleet, taking part in summer maneuvers off the coast of Maine, in the Presidential Review at Oyster Bay, N.Y. (15–17 August), and in Santo Domingo waters. Between 28 May and 26 August 1904 she was attached to the European Squadron and cruised in the Mediterranean. On 26 September she sailed from Genoa, Italy, for the Asiatic Station and spent the next two years cruising in Asiatic, Philippine, and Australian waters.

Baltimore returned to New York 24 April 1907 and went out of commission at New York Navy Yard 15 May 1907. On 20 January 1911 she was placed in commission in reserve and served as a receiving ship at Charleston Navy Yard (30 January 1911–20 September 1912). During 1913–14 she was converted to a minelayer at Charleston Navy Yard and recommissioned 8 March 1915. During 1915–16 she carried out mining experiments and operations in Chesapeake Bay and along the Atlantic coast.

At American entry into World War I, *Baltimore* was training personnel. Early in 1918 she was detailed to assist in laying a deep mine field off the north coast of Ireland in the North Channel. She arrived at the Clyde on 8 March and between 13 April and 2 May laid approximately 900 mines in the North Channel. On 2 June she joined Mine Squadron 1 at Inverness, Scotland, and for four months participated in laying the Northern Mine Barrage.

On 28 September 1918 *Baltimore* sailed from Scapa Flow, Orkney Islands, for the United States. She carried out mining experiments in the vicinity of the Virgin Islands until the end of the year.

In September 1919 she joined the Pacific Fleet and remained on the west coast until January 1921. She then proceeded to Pearl Harbor, where she was subsequently placed out of commission 15 September 1922 and sold 16 February 1942.

V

(CA–68: dp. 13,600; l. 673'5''; b. 70'10''; dr. 26'10''; s. 33 k.; cpl. 1142; a. 9'8'', 12'5''; cl. *Baltimore*)

The fifth *Baltimore* (CA–68) was launched 28 July 1942 by Bethlehem Steel Co., Fall River, Mass.; sponsored by Mrs. Howard W. Jackson, wife of the Mayor of Baltimore; commissioned 15 April 1943, Captain W. C. Calhoun in command; and reported to the Pacific Fleet.

Between November 1943 and June 1944 *Baltimore* was a unit of the fire support and covering forces at the Makin Islands landings (20 November–4 December 1943); Kwajalein invasion (29 January–8 February 1944); Truk raid (16–17 February); Eniwetok seizure (17 February–2 March); Marianas attacks (21–22 February); Palau-Yap-Ulithi-Woleai raid (30 March–1 April); Hollandia landing (21–24 April); Truk-Satawan-Ponape raid (29 April–1 May); air strikes against Marcus Island (19–20) May) and Wake Island (23 May); Saipan invasion (11–24 June); and the Battle of the Philippine Sea (19–20 June).

Returning to the United States in July 1944, she embarked President Roosevelt and his party and steamed to Pearl Harbor. After meeting with Admiral Nimitz and General MacArthur, the President was carried to Alaska where he departed *Baltimore* 9 August 1944.

Returning to the war zone in November 1944, she was assigned to the 3rd Fleet and participated in the attacks on Luzon (14–16 December 1944; and 6–7 January 1945); Formosa (3–4, 15, and 21 January); the China coast (12 and 16 January); and Okinawa (22 January).

On 26 January she joined the 5th Fleet for her final operations of the war: Honshu Island attacks (16–17 February); Iwo Jima operation (19 February–5 March); and the 5th Fleet raids in support of the Okinawa Operation (18 March–10 June).

After the cessation of hostilities *Baltimore* served as a unit of the "Magic Carpet" fleet and then as a part of the naval occupation force in Japan (29 November 1945–17 February 1946). Departing the Far East 17 February 1946 she returned to the United States and went out of commission in reserve 8 July 1946 at Bremerton, Wash.

Baltimore was recommissioned 28 November 1951 and assigned to the Atlantic Fleet. She was deployed with the 6th Fleet in the Mediterranean during the summers of 1952, 1953, and 1954. In June 1953 she represented the United States Navy in the Coronation Naval Review at Spithead, England. On 5 January 1955 she was transferred to the Pacific Fleet and was deployed with the 7th Fleet in the Far East between February and August 1955.

Baltimore commenced pre-inactivation overhaul upon her return from Far East and went out of commission in reserve at Bremerton, Wash., 31 May 1956.

Baltimore received nine battle stars for her service in the Pacific during World War II.

INAUGURAL TICKET ALLOCATIONS

Mr. HATFIELD. Mr. President, on behalf of the Joint Congressional Committee on Inaugural Ceremonies, I am pleased to announce inaugural ticket allocations for Members of the 97th Congress. The swearing-in ceremony of President-elect Ronald Reagan will commence at 11:30 a.m. on Tuesday, January 20, at the west portico of the U.S. Capitol. Both Chambers will convene at 10:30 a.m., and Members will be escorted to their seats on the Presidential platform as a body. A primary reason the joint committee agreed to move the ceremony to the west front was an increase in available tickets. This year, we are allocating more seats and standing room passes than was possible in 1977. In addition to the larger audience, the new setting is more picturesque, and construction costs are reduced.

Following are the 1981 ticket allocations:

TO EACH SENATOR

One seat for Senator on the Presidential platform.

One seat in section A.

Two seats in section A–2.

Fifteen seats in sections C–1 or C–2.

Nine seats in section B–1.

Total seats—28.

Fifty tickets in the west standing area.

Seventy tickets in the north standing area.

Eighty tickets in the south standing area.

Total standing tickets—200.

TO EACH HOUSE MEMBER

One seat for Member on the Presidential platform.

One seat in section A.

Two seats in section A–2.

Fifteen seats in sections C–1 or C–2.

Two seats in section B–1.

Total seats—21.

Twenty-five tickets in the west standing area.

Forty tickets in the north standing area.

Thirty tickets in the south standing area.

Total standing tickets—95.

Tickets are listed in order of preference, with the best seats and standing tickets listed first. We expect tickets to be available beginning January 12, 1981, but will verify this by letter at a later date. Tickets must be picked up in room S–146 of the Capitol. A letter is going out to all congressional officers today including all pertinent information.

Members should designate one staff person who will be authorized to receive these tickets on their behalf. Each Senator should confirm that person's name by letter to me as soon as possible, and send the information to S–146 in the Capitol.

Mr. President, President-elect Reagan has suggested that participants at the inaugural ceremony, including Members of Congress, wear morning attire to the swearing-in. I am pleased to describe the appropriate dress for men, which is available at numerous formal-wear shops in the Washington area:

Semiformal oxford gray (or black) stroller jacket (club coat), gray striped trousers, gray vest, four-in-hand gray striped tie, white shirt (plain or pleated with studs), black oxford shoes and socks

If your staff has any questions on the inaugural ceremony, please have them contact the Inaugural Committee on extension 4–4878.

BUSINESS OPPORTUNITY FRAUD

Mr. HAYAKAWA. Mr. President, I call to the attention of my colleagues a constructive example of business/Government cooperation in the public interest. As a member of the Senate Select Committee on Small Business, I am particularly interested in this joint project to combat the growing problem of business-opportunity fraud. This problem is one that has caused personal suffering to many thousands of Americans each year and is one which could cause damage to public confidence in legitimate small business opportunities.

The joint project was undertaken by the Direct Selling Association (DSA), the economic crime project of the National District Attorneys Association (NDAA) and the Direct Selling Education Foundation (DSEF).

The consumer pamphlet produced by this joint effort, entitled "Promises, Check 'em Out," was funded by DSEF and drafted by DSA with input from the NDAA, the Federal Trade Commission and other law enforcement agencies. District attorneys associated with the economic crime project will distribute the pamphlet and respond to any consumer problems. This consumer education project has the potential of helping thousands of possible fraud victims. Because of the involvement of a public-spirited industry group, it is also a very efficient use of the resources of the economic crime project and the Federal Law Enforcement Assistance Administration funds which support it. NDAA, DSA and DSEF all deserve our commendations for pioneering in this Government/business cooperation.

DSA is the national trade association representing companies that manufacture or distribute goods and services directly to consumers, serves the public interest in the marketplace. Both organizations support the highest levels of marketplace ethics, consumer knowledge and customer satisfaction.

The pamphlet put out by the National District Attorneys Association points out the dangers of this kind of business opportunity fraud. I ask unanimous consent that the contents of this pamphlet be printed in the RECORD for the interest of my colleagues.

There being no objection, the pamphlet was ordered to be printed in the RECORD, as follows:

PROMISES: CHECK 'EM OUT! BUSINESS OPPORTUNITY FRAUD

If you are considering investing in a business opportunity but have not yet made the initial payment, this pamphlet might help you avoid falling victim to a business opportunity fraud.

DREAMS OF A BUSINESS OPPORTUNITY

(1) A large initial payment which you are required to pay

(2) to a company about which you may know very little

(3) in exchange for:

a. assistance in starting your own business, and

b. promises of assistance and/or inventory which you will need to carry on your business.

In a business opportunity venture your chances of a profit or loss depend not only on your own efforts and normal business risk but also on the ability and willingness of the selling company to fulfill its promises of assistance. Many legitimate companies assist people in starting their own businesses and fulfill their promises. However, experiences of the Economic Crime Project and other law enforcement agencies show that tens of thousands of consumers in the past few years have paid large amounts of money to companies which have neither the ability nor the intention of keeping their promises.

EXAMPLES OF BUSINESS OPPORTUNITY FRAUD

(1) A Colorado couple purchased 60,000 earthworms for $675 after being told that they could grow them in their own home and produce fifteen pounds of bait-size worms per month. The firm guaranteed to buy the worms back, generating $12,000 per month income for the couple. In fact, the worm population decreased, and the couple lost their entire investment.

A biologist later testified that the reproduction rate had been grossly exaggerated, and the growing conditions required were not present in the average home.

Claims that are difficult for the average person to verify are danger signals. Check with an expert in the field.

(2) An Iowa investor paid $5,490 for vending machines and an inventory of small toys. . . . In fact, the machines were scattered 138 miles apart in locations that produced few sales and no profit.

Sellers of vending machines, video games and other rack product opportunities often promise fantastic locations, easy servicing and competitive pricing, all of which should be verified.

(3) A New Jersey man invested $6,000 to become a dealer selling window solar collectors. He was told that the collectors would sell quickly because of their high energy-saving potential, and that he could expect a profit of $4,735 on his initial inventory of fifteen units. However, when he attempted to sell the solar units, consumer agencies requested a basis for the energy-saving claims, which the company could not provide. He was then unable to sell any units without making illegal claims to customers.

This dilemma can occur in business opportunities involving the sale of energy-saving devices or other products which are supposed to "sell themselves".

Claims that you must make to customers in order to sell your product must be accurate. Check with consumer agencies and specialists to see if the company has sufficient basis for such claims.

LAWS WHICH CAN HELP YOU INVESTIGATE BUSINESS OPPORTUNITY

A 1979 federal regulation administered by the Federal Trade Commission requires sellers of certain business opportunities to provide information about the selling company to all potential purchasers.

The following list summarizes the information which a seller of a business opportunity covered by the FTC rule must supply to you in writing before a contract is signed. Approximately a dozen states have similar disclosure requirements. Although many sales are not covered by these laws . . . you should have in writing before making any large investment in a business opportunity venture:

(1) The business background of the principals of the selling company, including any lawsuits or bankruptcies;

(2) An audited financial statement of the company for the past three years which includes operating revenues, source of revenues, and a profit and loss statement;

(3) A complete description of all initial and future charges which you must pay, as well as all other obligations you may incur;

(4) A description of any help the selling company will provide, including training programs, site selection and financial assistance;

(5) A description of the conditions under which the contract may be terminated or modified by either party;

(6) A list of the names and addresses of others who have purchased business opportunities from the company;

(7) Support for any earnings claims, including the percentage of purchasers who have actually achieved the results that are claimed; and

(8) A description of any restrictions, including restrictions on what and where you must buy and sell.

WHERE TO GO FOR HELP

Many people will be willing and able to help you investigate a business opportunity. You may want to try the following resources:

Your local Chamber of Commerce, Better Business Bureau, public library, or consumer affairs office.

A nearby university, testing laboratory, a local business dealing in similar products, or an attorney.

Your attorney general's office, a regional FTC office or the Clearinghouse for Business Opportunity Complaints, 625 South Broadway, Denver, Colorado, 80209.

If you have reason to believe that a company is defrauding business opportunity investors (whether or not you have invested), notify your local district attorney or other law enforcement agencies.

HOW TO INVESTIGATE A BUSINESS OPPORTUNITY

If you are considering paying a substantial sum of money for a business opportunity, take your time. Before you invest, follow these steps:

(1) Ask Questions:

a. About the company, where it is incorporated, whether it has an in-state office, its owners and officers, their backgrounds, and prior business experience.

b. About the product(s) you will be selling, cost to you, selling price of similar products in your area, your source of supply, any performance claims and guarantees, the company's replacement and repair policies and procedures for handling complaints from you or your customers.

c. About the initial fee which you will have to pay, what it is to be used for, whether it will be held in escrow, and if so, where, by whom, until when and under what restrictions.

d. About other individuals who have already invested (get their addresses and phone numbers).

(2) Get Written Copies of the company's business and financial statements and other important documents (see the above list).

(3) Investigate and Verify all information received from the salesperson and check the references and background information of the company and its principals. Do not assume that official-looking documents are either authentic or complete.

(4) Consult with people who know the particular product and business area which you may be entering. Review with them the selling company's claims concerning marketability of the product, pricing, projected profits, etc. You may want to review the contract and other documents with an attorney.

(5) Contact some of the people who have already purchased.

(6) If you decide to purchase, get all promises in writng in the contract signed by an authorized agent of the company.

WARNING SIGNS OF FRAUD

(1) Pressure to sign a contract quickly and agree to pay a large sum of money before sales claims can be investigated or legal advice obtained;

(2) Promises of extraordinarily high or guaranteed profits;

(3) Claims that profits can be achieved easily;

(4) A required initial fee which greatly exceeds the fair market value of any products, kits or training;

(5) A large fee payable before you receive anything in return;

(6) Evasive answers by the salesperson or unwillingness to give disclosure documents required by law.

These are only warning signs of the most obvious frauds. An independent investigation is necessary in any case. A fraudulent salesperson may be prepared with glib assurances and authentic-looking documents. Remember:

If it's worth your money—it's worth your time . . . to investigate.

SCUTTLED MASSES

Mr. HAYAKAWA. Mr. President, there is widespread alarm in this country about the influx of refugees, not only from Southeast Asia but, more recently, from Cuba and Haiti. A number of people are very, very much disturbed as to what economic disruption this flood of refugees may cause. I call attention, therefore, to an article by Mr. Bethell, entitled "Scuttled Masses." Tom Bethell is the Washington editor of a magazine called the "American Spectator." Let me read a few words from the pamphlet to indicate the general thrust of this article.

According to Mr. Warren Brookes in the Boston Herald-American, Bethell points out that the U.S. economy was built by immigrants and he adds:

> Americans would do well to remember that this Nation's greatest economic growth took place from 1880 to 1930, when we took in 37 million immigrants who, with their offspring, accounted for fully 60 percent of our huge population growth in that time.

Brookes argues that the Nation as a whole today may be suffering more from restricting immigration than benefiting from it.

Brookes further points out that Cubans began arriving 20 years ago into Florida and since then, Florida's personal income and jobs "have consistently grown twice as fast as the Nation's," and its unemployment rate fell sharply during the period of highest immigration.

The portion of Florida's population on welfare has declined by 18 percent since 1970, while it has grown by 31 percent in the Nation as a whole.

So, Mr. President, immigration, far from something to be feared, the people who do not speak English, who come here sometimes only with the clothes on their backs, are among our great national resources. The degree to which they are important natural resources is pointed out by the author, Tom Bethell.

I ask unanimous consent that this article be printed in the RECORD. I thank the Chair.

There being no objection, the article was ordered to be printed in the RECORD as follows:

SCUTTLED MASSES

(By Tom Bethell)

The recent influx of refugees from the police state in Cuba has put the topic of immigration back in the news once again. As usual, poor and long-suffering Americans have been subjected to a barrage of ignorant comment from their nominal leaders. The Reverend Theodore Hesburgh, muscular Christian, perennial activist, and president of Notre Dame, was quoted recently as saying: "When you've got 8 million unemployed, I think it's idiotic to take more people in." Hesburgh is chairman of the President's Select Commission on Immigration and Refugee Policy, in case you were wondering who asked his opinion.

More distressing is a recent article by Senator Walter Huddleston of Kentucky. This was rather insultingly posted right where the refugees could see it—on the op-ed page of the Miami Herald. First the huddled masses survive Castro's police state, then they brave the sea in open boats, only to find, nailed to the golden door, some derogatory observations by the senior Senator from Kentucky.

The "massive exodus" from Cuba demonstrates that "the immigration policy of the United States is out of control," Huddleston begins. Not, mind you, that Fidel Castro is out of control, or that the United States thus demonstrates itself to be an attractive place. But that the fault somehow lies with us. One suspects here that Senator Huddleston, not having experienced anything else (like so many native-born heartlanders), does not fully appreciate the attractiveness of a political system that allows most voluntary transactions between individuals to take place.

Huddleston forges ahead with the observation that, as a result of our "lack of policy," taxpaying citizens, "through their federal, state, and local governments, will have to shoulder a growing financial burden." How come? Why "have to"? One reads on, curious. "It would be good if we could invite all the repressed of the world to come to the United States and provide them with a decent standard of living. But it is not possible. . . . Our economy and our political system simply could not stand the strain."

The Senator is thinking paternalistically here. He seems to have in the back of his mind one of those old southern plantations, on which, for all I know, he may have been reared. He seems to think that "we" (the government? the taxpayers? the U.S. Senate?) must provide "them" with a living, as though "they" were unable to help themselves—as though immigrants were mere legless and armless torsos that had to be fed and clothed.

Senators in Washington spend a large and increasing proportion of their time taking money away from some people and distributing it to others. This activity is more likely to seem justifiable to legislators if they believe that the recipients are unable to help themselves. Accordingly, Huddleston and his fellow income-redistributors on Capitol Hill, to assuage their consciences, have long since grown comfortable with the notion that a sizeable portion of the U.S. population is helpless. Naturally, Cuban immigrants are thought of in the same way.

"The HEW inspector general has found that refugees compete for scarce housing in many areas," Huddleston writes. Has it occurred to him, I wonder, that the refugees could help to build new houses? The useful role that Huddleston could perform here would be to stop entangling the construction of new houses in regulatory red tape. There is plenty of land upon which to build new houses, as the Senator would be able to determine for himself by looking out of the airplane window the next time he flies from Washington to Louisville. The notion that the United States is now "full up" is a monstrous lie promulgated by those who are comfortably off and anxious to ward off further competition.

"We as a nation have been extremely generous in our efforts to assist these unfortunate people," Huddleston writes. Although the immigrants certainly do not regard themselves as "unfortunate," this is partly true. Americans are generous, but if the Senator believes that HEW officials waiting at the jetty, eagerly luring immigrants into government programs, are a sign of generosity then he should think again. Nothing handicaps the able-bodied more rapidly than unearned cash. It makes people suspect that they are "victims" of something or other, which sows the seeds of grudge. A year or two of such treatment and they will be not immigrants but "minorities," complete with entitlements and set-asides. Incentives to work will be duly undermined. As far as immigrants are concerned, generosity shouldn't mean giving people things; it should mean allowing them to make things for themselves.

"The taxpayers of this country already have spent billions of dollars for refugee assistance," Huddleston continues. "This welfare assistance will not terminate quickly, but will go on for many years to come." The Senator here seems to forget that he is himself a lawmaker, and so is unusually well placed to change the law. Instead, he adopts a position so common in Washington today: that expenditures are immutable ("uncontrollable" is the word often used).

Instead of trying to reduce the flow of welfare dollars, Huddleston would prefer to reduce the flow of refugees. The attitude revealed here is one that permeates current liberal thought: People are the problem, to which government (albeit hard-pressed by so many people) is the solution. According to this way of looking at the world, America before the Pilgrims was a green and pleasant land because there was no inflation, no unemployment, no profiteering, no pollution . . . no people. Huddleston makes this point unconsciously when he insensitively notes that taking in Cubans can hardly be justified on the grounds that it will hurt Castro. "Castro will be even more securely in power once he is rid of these discontented people who threaten his regime." Once again people—malcontents, you understand—are Castro's problem, their absence his redemption.

Statism is paternalism updated, and Huddleston has been captured by the statists. Immigrants, he believes, "create new burdens" on government. He obediently defers to the zero-sum trend: "If one group of people succeeds in this country at the expense of another, that success is not only empty, it is costly to society as a whole." The idea that people are still capable of working hard and remaining independent of government is one that he does not seem to grasp at all. As for Emma Lazarus's poem on the Statue of Liberty, the Senator shamefully believes that "it must be applied in accordance with the realities of the world today and not in 1885." Huddleston here sounds more like a World Bank bureaucrat than a Senator from Kentucky. It is depressing to consider that there are about 60 others like him in the U.S. Senate.

How refreshing by contrast to read Warren Brookes' recent column in the Boston *Herald-American*. Brookes is surely one of the great unsung columnists in America today. He points out that the U.S. economy was built by immigrants, and adds: "Americans would do well to remember that this nation's greatest economic growth took place from 1880 to 1930, when we took in 37 million immigrants who, with their offspring, accounted for fully 60 percent of our huge population growth in that time." Brookes argues that "the nation as a whole may well be suffering [today] more from restricted immigration than benefiting from it." Less than 30 percent of our population growth today comes from immigration.

Brookes further points out that since the Cubans began arriving 20 years ago, Florida's personal income and jobs "have consistently grown twice as fast as the nation," and its unemployment rate fell sharply during the period of higher immigration. Further, the percentage of Florida's population on welfare has declined by 18 percent since 1970, while it has grown by 31 percent in the nation as a whole. "In other words," says Brookes, "the Cubans have 'brought their wealth with them,' in their energies, ambitions, hopes and qualities of thought, with which they have created their own economic progress, despite the fact that they came here without the English language, and with only the clothes on their backs. It is one more demonstration that, within a context of political and economic freedom, the wealth of a population is limited only by its individual human capacities, and not by its natural environment."

Words worthy of being carved into Walter Huddleston's Senate desk, I should say.

There is no worse slander against the United States than the claim that its material prosperity can historically be attributed to "abundant natural resources." This lie exists as a kind of hidden premise lurking behind many a policy made in Washington. It is triply pernicious because it manages simultaneously to denigrate the hardships and hard work of our forefathers, to deny the crucial role of a wisely constituted government in encouraging national wealth, and to provide a convenient rationale for denying admission to newcomers now knocking at the door: the resources are no longer abundant.

Of course "resources" (the word itself brings to mind an Institute for Policy Studies seminar) have never been anything but scarce, and it is a measure of our deluded state to believe otherwise. When resources are abundant (grains of sand on the beach) they are valueless. When they acquire value, they become scarce by definition. Before the development of an industrial infrastructure, most materials are useless. Of what use was crude oil to the Red Indians? How much use has Zaire made of its material abundance? How much have Japan and Taiwan suffered from a lack of some raw materials?

The truth of the matter is that the only real wealth a nation possesses is its human capital, and by and large the best source of this throughout American history has been immigrants. Unfortunately, material prosperity has a way of softening up those who inherit it. After two or three generations, the well-off grandchildren of hardworking immigrants go to Harvard, some of them, and learn to hate America. Others go to the U.S. Senate.

AUTHORITY TO PROVIDE FUNDS FOR THE OFFICE OF CLASSIFIED NATIONAL SECURITY INFORMATION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk, on behalf of Mr. BAKER and myself, a resolution and I ask it be stated.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 570) providing funds for the Office of Classified National Security Information.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this is a noncontroversial resolution, cleared on both sides.

The effect is to prevent the Office of Classified National Security Information under the jurisdiction of the Secretary of the Senate from going out of business on December 31, 1980, when the initial 5-year authorization expires.

The Congress has already appropriated the funds to continue this activity.

This resolution is required to provide a continuing authorization until the matter can be dealt with in the spring supplemental.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 570) was agreed to, as follows:

Resolved, That there shall be paid from the contingent fund of the Senate such sums as may be necessary, for the period ending September 30, 1981, to carry out the purposes of Section 105(a) of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 72 a note).

HOUSE JOINT RESOLUTION 642—PROVIDING FOR CONVENING OF THE FIRST REGULAR SESSION OF THE 97TH CONGRESS ON JANUARY 5, 1981

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 642.

The ACTING PRESIDENT pro tempore. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 642) providing for convening of the first regular session of the 97th Congress on January 5, 1981, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution which was read twice by title.

The ACTING PRESIDENT pro tempore. The question is on the third reading and passage of the joint resolution.

There being no objection, the joint resolution (H.J. Res. 642) was ordered to a third reading, was read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the Ninety-seventh Congress shall begin at 12 o'clock meridian on Monday, January 5, 1981.

SEC. 2. That (a) notwithstanding the provisions of section 605(a) of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 11(a)), the President shall submit to the Senate and the House of Representatives the estimates required to be submitted by said subsection for the Fiscal Year 1982 not later than the date on which the President transmits to the Congress the budget for the Fiscal Year 1982, and (b) notwithstanding the provisions of section 605(b) of the Congressional Budget and Impoundment Control Act of 1974, the Joint Economic Committee shall submit to the Committees on the Budget of both Houses the evaluation required to be submitted by said subsection for the Fiscal Year 1982 not later than the date on which the report for the Fiscal Year 1982 pursuant to section 5(b)(3) of the Employment Act of 1946 (15 U.S.C. 1024b) is filed with the Senate and House of Representatives.

HOUSE CONCURRENT RESOLUTION 459—PROVIDING FOR THE SINE DIE ADJOURNMENT OF THE 96TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 459.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 459) providing for the sine die adjournment of the 96th Congress.

The concurrent resolution (H. Con. Res. 459) was considered and agreed to, as follows:

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Tuesday, December 16, 1980, and that when they adjourn on said day, they stand adjourned sine die.

Mr. BAKER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

EXPRESSION OF APPRECIATION

Mr. BAKER. Mr. President, I have the feeling that we finally are coming down the home stretch and before long we may dispose of the remaining business before the Senate and adjourn pursuant to the resolution just adopted.

I would not let that occur, however, without rising to express my appreciation to the distinguished majority leader and my personal gratitude to him for his consideration and kindness to me in the course of our service together representing our respective parties on the floor of the Senate.

I have often said that the distinguished Senator from West Virginia and the majority leader is without peer in his knowledge of the rules and precedents and the procedure of the Senate. I reiterate that today.

But I must add, Mr. President, that I have never seen management of a diverse group, management of complex issues, and the consideration of sensitive human concerns, done as effectively and considerately as the majority leader has done in the past years of his service as the majority leader of the U.S. Senate.

I believe he has truly been an historic majority leader, I am sure I speak for every Member on both sides of the aisle when I wish him well in his future duties as the Democratic leader of the Senate, as the minority leader, and I am sure he will understand when I say I wish him well for years to come in that role. [Laughter.]

But I did want to take this brief opportunity to express these personal thoughts, not only to the majority leader of the Senate, a great and distinguished Senator and leader, but to my friend.

Mr. ROBERT C. BYRD. Mr. President, I thank the very distinguished Republican leader.

I prefer to say "Republican leader," hoping that the title of minority leader will be forgotten and that the title "Democratic leader" will come into vogue.

I thank the distinguished Senator for his kind remarks.

May I say that he is my friend, has been my friend, and will continue to be my friend. I will continue to be his.

I hope that the holiday will be a very cheerful and happy one for him and for his charming wife, Joy, and when we come back for the new year we will be amply restored to the strength that we will need to carry on our labors on behalf of the Republic.

Although the time will be short, I am sure, I am equally sure that during the tenure of the distinguished Senator from Tennessee as majority leader of the Senate, the Republic will not fall.

Mr. BAKER. I am grateful, Mr. President, for all of those remarks, except "the time will be short."

Mr. HAYAKAWA addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, I express my personal thanks both to the majority leader and to the minority leader for all I have learned from them about the political process.

I came here 4 years ago, a complete stranger to political office, having reformed from being an educator. Senator BAKER, by his personal precepts and advice, and Senator ROBERT C. BYRD, by his example, have taught me much that I need to know in order to be effective around here. Both have meant a great deal to my life here, and I look forward to continued cooperation with them. I say to them, "Thank you very much, and Merry Christmas."

Mr. BAKER. Mr. President, I thank the Senator from California for his remarks.

It has been one of the great privileges of my life to serve with him in the Senate and to become acquainted with a great intellect and a great public servant. I am grateful for his comments today.

Mr. ROBERT C. BYRD. Mr. President, I share those remarks by the distinguished Republican leader.

I thank the distinguished Senator from California for his overly generous comments on my behalf. It has been a pleaure to work with him, and I look forward to the new year, in which we will continue to work together for our constituencies and the Nation.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on page 7 of the Executive Calendar, beginning with National Oceanic and Atmospheric Administration and going through U.S. Air Force and nominations placed on the Secretary's desk in the Air Force.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the purpose of this reservation is to advise the distinguished majority leader that the items identified by him—that is to say, all those on page 7, beginning after the heading "National Oceanic and Atmospheric Administration" and continuing through the nominations placed on the Secretary's desk—are cleared on our calendar, and we have no objection to their consideration and confirmation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations referred to are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Capt. Kelly E. Taggart, to be Director of the Commissioned Officer Corps, National Oceanic and Atmospheric Administration, with the grade of rear admiral (upper half).

U.S. AIR FORCE

The following named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

Lt. Gen. Robert T. Marsh, to be general.

Gen. Alton D. Slay, U.S. Air Force, to be general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE

Air Force nominations beginning with Harold B. Adams, to be colonel, and ending Richard B. Trumbo, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 3, 1980.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote en bloc by which the nominations were confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRATULATIONS TO SENATOR WARNER ON HIS VOTING RECORD

Mr. BAKER. Mr. President, as Congress approaches adjournment, I take this opportunity to commend and congratulate one of our distinguished colleagues, the Senator from Virginia (Mr. WARNER), who is completing his first 3 years in the Senate without having missed a single recorded vote or rollcall in this Chamber.

That is a remarkable achievement, one of which the junior Senator from Virginia can be justly proud, for it indicates a lot of hard work on his part, deep dedication to the people of the United States and Virginia, and grave concern about the state of public affairs in our Nation.

Those of us who share responsibilities here in the Senate know how difficult it is to be present each time the roll is called in this Chamber. The odds are against it. The constraints on our time and the duties we are obligated to perform make it a large order.

This Senator appreciates the performance of our distinguished colleague from Virginia. It reflects favorably and positively on the Senate as an institution.

A repeat of this record in the next Congress is unlikely, because the Senator from Virginia will take on new and additional responsibilities as chairman of two important subcommittees, and he will be required to make inspection trips across the Nation and abroad.

Nevertheless, Mr. President, we wish the Senator from Virginia well as he strives to continue what is a modern record for a Senate Republican.

Mr. President, I know something of the personal sacrifice that goes into the fulfillment of an unbroken and perfect record for rollcalls in the Senate. I know of the long hours. I know of the tedious times, the broken engagements, the missed social obligations. I know of the personal distress and the investment of time and energy, not only of the Senator from Virginia but also of his wife and family, in making that possible.

I reiterate my admiration for him for having undertaken this difficult task and having completed it without a blemish.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from Virginia, also.

As one who has tried to do the same thing, I know that the real sacrifice comes with respect to your wife. You have to spend too much time away from your wife, and in the case of the distinguished Senator from Virginia, that is a particular sacrifice. [Laughter.]

She is certainly the most beautiful woman in the world—a lovely, attractive, charming woman. And to think that the distinguished Senator from Virginia is so devoted to his duties that he has spent many hours away from the side of that gorgeous creature. [Laughter.]

Mr. BAKER. As we say in Tennessee, the Senator from Wisconsin "got right down to it." [Laughter.]

That is really what it amounts to.

It is true that our wives, not only in the case of a perfect voting record, but also in the case of the demands of the Senate, are the ones who really sacrifice and put up with a great deal.

I join in the remarks of the Senator from Wisconsin and thank him for making them most directly, succinctly, and appropriately.

Mr. WARNER. Mr. President, I thank the Senator from Wisconsin. It is my understanding that he also finishes these 2 years of an unbroken record of rollcall votes. Therefore, he has an extra perception and a knowledge of the sacrifice made by the wives and families.

His comments this morning are particularly poignant, since last night, my wife's latest film opened in New York, and I was notably absent.

Mr. President, I thank the distinguished majority leader, the distinguished minority leader, and all the many people who work in this Chamber who made it possible for me to complete an unbroken record. The last time this was achieved on the Republican side was by the distinguished former Senator from Maine, Margaret Chase Smith, nearly a decade ago.

However, my achievement could not have been made without the indulgence of the Chair and the joint leadership on a number of occasions to prolong the vote. Nor would it have been possible without the assistance of the many persons who provide our security in this Chamber, the clerks who take the rollcall, the subway and elevator operators, the ever-alert cloakroom personnel, the Reporters of Debates, the pages, doorkeepers, and the Capitol Police—all of whom together, over the past 2 years, have managed to get me to the vote on time.

All of these, and others like them, are the unheralded and usually anonymous helpers who make it possible for this great institution to function. In countless ways, large and small, they help the Senate to its job and help each of its Members to do theirs.

To all of them, as well as to my colleagues, I owe a lasting debt of gratitude for playing an indispensable part in helping and allowing me to achieve the record which has been so graciously referred to by the minority leader, the majority leader, and my distinguished colleague from Wisconsin.

So I am indeed grateful to all.

Mr. ROBERT C. BYRD. Mr. President, if I may be pardoned for making a reference to my own voting record, not counting the number of votes I cast as a member of the West Virginia House of Delegates, beginning 34 years ago, and as a member of the West Virginia Senate, this morning, after 4 a.m., I cast my 9,053d rollcall vote while serving on Capitol Hill these 28 years.

I was in the House of Representatives 6 years, where I cast 455 rollcall votes. In those days, the number of rollcall votes in the House were not as multitudinous as they are now. This morning, after 4 o'clock, the Senate conducted its 546th rollcall vote of this year. I have missed five of those rollcall votes, having missed four, I believe, on the occasion of attending the funeral of our late, departed colleague John Slack, a Representative from the State of West Virginia.

My voting record for this year is 99.02 percent, which is not a bad voting record, considering the fact that I have visited 55 of my 55 counties, having made public appearances in them—speaking engagements, parades, and so forth.

So I have 99.02 percent for this year; and for the 22 years I have been in the Senate, I have a voting record of 98 percent—not as good as the voting record of Mr. PROXMIRE but one which indicates that I have been on the job and working on the Nation's business.

I congratulate the Senator from Wisconsin on his record which, in all probability, never will be broken.

I congratulate the Senator from Virginia on the record which he is establishing. I hope he will be able to continue this unbroken, unblemished record as long as he desires.

I think that Mr. PROXMIRE has indicated one of the sacrifices that accompanies such a record.

They are to be truly congratulated and I salute them.

EXPRESSIONS OF THANKS

Mr. BAKER. Mr. President, I ask unanimous consent that a further statement by me with respect to certain Members of the Senate and officers and employees of the Senate may appear at an appropriate space in today's RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I do not think it is proper for us to adjourn without saying a word of profound appreciation to our pages and to our cloakroom staffs, both on the Republican and Democratic side.

So far as the pages are concerned, we often ask them to work very, very late, but last night they worked in here until after 5:30 a.m., thereby breaking every child labor law known to our Government.

I hope that neither the Department of Labor nor the Department of Justice hears about this or we will all be in trouble.

But this is also to say again to the pages, "Thank you very, very much," and to all the staffs, "Thank you again for all you have been doing so patiently and so well."

Mr. STEVENS. Mr. President, in just a short while we will be tendering official thanks to many people here, and I wish the opportunity to make a few remarks before that time.

This has been a very interesting Congress and a very trying one for me because I returned to this Congress after having been hospitalized as a result of the accident that took place in December 1977, and the first part of this Congress was a most difficult period for me and for my family.

I thank all of those who as part of the official Senate family extended to us the type of assistance that we all learn to expect from a family and included in that, of course, are my two great personal friends, the majority leader and the minority leader.

I have the great honor next year to become the assistant to our new majority leader, and it is a position that I look forward to with great expectations, but I think the position that I have been privileged to hold in this Congress would not have been one that would have the memories that it does had it not been for the warm friendship of my good friend from West Virginia and the understanding of the minority leader, the distinguished Senator from Tennessee, also my very good friend.

It is a sad thing for me to see this session come to an end because the lady who I think was the first woman to have a full-time job on the floor of the Senate, at least on our side of the aisle, Susan Alvarado, has taken the opportunity to leave the assistant Republican leader's office and become the assistant to the new Vice President.

She has distinguished herself on the floor of the Senate. I think she has become a personality in her own right on the floor here and certainly her intimate knowledge of the workings of the Senate will contribute greatly to the understanding of the new Vice President and his duties. It is with great reluctance that I see her go, but I do wish to take the time of the Senate to wish her well. I think many of us wish her very well in her new duties.

I also wish to join the Senator from California in thanking all the members of the staff for their courtesy and their kindness to all of us who have the responsibilities of the leadership here in the Senate. They worked long and hard and through the night, and I can never remember anyone telling me off the way I should have been told off at times.

Mr. ROBERT C. BYRD. Mr. President, will the Senater yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I join the Senator in expressing a note of sadness at hearing of Susan's leaving, but also a note of gladness in hearing of what I assume could be considered a promotion.

She will be continuing to work with us. I have found Susan to be a very dedicated and capable young woman, and I like her personally, and perhaps one of the things that indicates to me that she is a true gem is the fact that she is a blue grass fan.

Mr. STEVENS. She likes blue grass music, that is right.

Mr. ROBERT C. BYRD. While I am saying a few kudos to the ladies, I wish to say the same about Elizabeth Baldwin who works for the minority. She is always in attendance at her post of duty. She is charming, gracious, admired, and respected by all Members of the Senate on both sides of the aisle, and I hope that she will continue in this post of service for many years. She also is a blue grass fan or fast becoming one. So my admiration of her grows all the more daily.

Then there are the two ladies on my side of the aisle:

Mary Jane Checchi, who has departed the post of chief counsel and director of the Senate Democratic Policy Committee, did an outstanding job in that position. She is an outstanding woman, and I shall miss her as I know my colleagues will miss her.

Of course, Abby Reed—Abby as we affectionately call her—does an outstanding performance on the floor in her duties in connection with the Senate Calendar, and I commend her and thank her for the assistance that she has given to me as I have attempted to carry out my duties as majority leader.

NATIONAL HIGHWAY AND SAFETY ADMINISTRATION

Mr. WARNER. Mr. President, over the past 6 months, I have aggressively worked to gain congressional approval for a measure which would have had the effect of: First, reducing the number of fatalities and injuries that occur due to automobile accidents; second, effective and efficient use of dollars invested in automobile safety systems; third, relief of cumbersome paperwork for tire dealers; and fourth, giving consumers the freedom to choose the type of automatic occupant protection systems they desire.

As you may know, automobile fatalities accounted for the deaths of more than 50,000 people and more than 4 million injuries last year. In addition, according to a recent report, entitled: "Health: United States, 1980," which was issued by Dr. Julius Richmond, the Surgeon General, and the Public Health Service, deaths from motor vehicle accidents are rapidly increasing. Dr. Richmond theorized that this was because of the introduction of more smaller vehicles, the greater mix of large and small vehicles on the roads and a widespread relaxation of enforcement of the speed limit.

Tragically, the No. 1 cause of death among the children of this Nation is automobile accidents.

The results of a study financed by the insurance institute of highway safety showed that medical bills and lost earnings caused by motor vehicle injuries amount to $14.4 billion a year. Only cancer causes greater economic loss to the American people.

These statistics are frightening.

In an attempt to reduce this unnecessary loss of life and limb, I became deeply involved in the conference on S. 1159, the Motor Vehicle Safety Administration, which was the reauthorization bill for the National Highway Traffic Safety Administration. I worked very hard and was successful in forging a compromise that had the support of many interests—consumers, the automobile industry, the insurance industry, and the Carter administration.

This conference report was fully consistent with both the congressional and administration goal of increasing highway safety; revising the passive restraint standard 208 so that small cars would be equipped with passive restraints or airbags first and large cars following in the next year; delaying the standard implementation date by 1 year so that automobile manufacturers, both domestic and foreign, who because of the reversal would have to meet the standard at the same time as domestics, could have the additional year to begin the research and development as well as tool-up; and also relieving the burden of tire dealers in regards to tire registration.

This conference report had the support of the domestic automobile manufacturers who desperately needed to know, for long-range planning purposes, what would be required of them in the coming years. The conference report also had the support of many insurance interests who believed that the report, if enacted, would result in substantial savings to consumers in insurance rates due to fewer injuries and a reduction in claims.

The report was supported by consumer groups who felt that, finally, consumers would be given a choice in the matter of the type of passive restraint systems to be purchased. The report was also supported by tire dealers who needed relief from the burden of keeping files on tire purchasers. The report would require the dealer to provide the customer with a form which the customer would then forward to the manufacturer.

The conference report was approved by the Senate on September 25 of this year.

The House considered the issue several times. One time it received a majority of votes but failed because it needed a two-thirds majority. Another attempt at passage failed by three votes.

I received the support of Senators PACKWOOD and SCHMITT and Secretary Goldschmidt in another compromise attempt.

The compromise that the Senators intended to offer included:

Airbag availability as an option from a variety of automobile manufacturers in a variety of sizes and across the full price range.

A strengthening of the passive restraint standard in two ways: First, small cars would be equipped with a passive restraint in model year 1983 instead of model year 1984; and second, a statutory standard in place of an administrative rule.

A delaying of the standard for 1 year so that automobiles currently being phased out of production would not be required to go to the expense of tooling up for a passive restraint system.

Unfortunately, in the end, time ran out and everyone lost—consumers, the automobile industry, insurance groups, tire dealers—and we lost the opportunity to help prevent fatal accidents and crippling injuries.

I wish to express my gratitude to the many staff members who worked diligently in this effort. They include: Irene Forde of my staff; Cindy Douglas of the Senate Commerce Committee; Margaret Dubin, Nancy Nord, Robert Howard, and David Finnegan of the House Interstate and Foreign Commerce Committee.

I deeply appreciate the efforts of my colleagues in the House, Congressmen DINGELL, BROYHILL, and SCHEUER.

THOMAS J. McINTYRE FEDERAL BUILDING

Mr. MOYNIHAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3212.

The PRESIDING OFFICER (Mr. PROXMIRE) laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3212) entitled: An act to designate the "Thomas J. McIntyre Federal Building", do pass with the following amendment:

Page 2, after line 13, insert:

SEC. 3. (a) The facility known as the Northeastern Forest Experiment Station in Durham, New Hampshire, shall hereafter be known, called, and designated as the "Louis C. Wyman Forest Experiment Station". Any reference in any law, map, regulation, document, record, or other paper of the United States to such experiment station shall be deemed to be a reference to the "Louis C. Wyman Forest Experiment Station".

(b) This section shall become effective January 3, 1981.

Mr. BAKER. Mr. President, what is the status of the measure at this point?

Mr. MOYNIHAN. I wish to explain it.

The PRESIDING OFFICER. A message from the House of Representatives on the Thomas J. McIntyre Federal Building has been laid before the Senate.

Mr. MOYNIHAN. Does the minority leader have any objection?

Mr. President, I have the floor. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. MOYNIHAN. Mr. President, I wish to explain the bill.

Mr. BAKER. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Tennessee reserves the right to object.

Mr. MOYNIHAN. Mr. President, I wish to explain the bill.

Mr. BAKER. Mr. President, I am happy for the Senator to do it. I simply must say, though, that I have a notation on my calendar that while we can clear this bill for passage we cannot clear it on this side by unanimous consent for passage with an amendment. I am sure the Senator from New York understands that is not my personal wish but that is my responsibility to communicate on behalf of another Senator and unless that has been worked out in the meantime it will not be possible to agree to the unanimous-consent request just stated by the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, would anyone like to know what this bill is about?

The PRESIDING OFFICER. The Senator from Tennessee reserves his right to object. Meanwhile the Senator from New York has the floor.

Mr. MOYNIHAN. Mr. President, unless I am severely misled, sorely misled, with respect to this bill, it has three measures in it. The first names the Federal building in Portsmouth, N.H., after our beloved former colleague, Senator McIntyre.

The second, a matter added in the House, although it came to us from the House, names a forestry experiment station in New Hampshire, the Louis C. Wyman station.

The third, a measure proposed on this floor by the distinguished Senator from Kansas, names the Veterans' Administration hospital in Topeka, Kan., the Colmery-O'Neil Hospital after two former past commanders of the American Legion.

The amendment, I regret to say, was a measure added by me in this Chamber and taken off in that Chamber, and the bill is amended to the degree that it does not contain the measure which the Senator from New York hoped it would.

Mr. BAKER. Mr. President, if the Senator will yield to me, I would be happy to clear this bill for passage on this side by unanimous consent as long as it is clear there will not be an amendment offered, because my notation on this calendar is that I cannot agree to that request. However, I understand the Senator from New York will not offer the amendment.

Mr. MOYNIHAN. Nor did the Senator intend to.

Mr. BAKER. Which he had previously attached in this Chamber, and which I supported.

Mr. MOYNIHAN. Yes, you did.

Mr. BAKER. And which I shall support in the future.

Mr. MOYNIHAN. For which I thank you.

Mr. BAKER. I am assured by the Senator from New York he does not intend to place Lake Placid in this, and I withdraw further reservation.

Mr. MOYNIHAN. I do not want to prolong the proceedings of this fading institution, the 96th Congress. As Swinburne said "Even the weariest river winds somewhere safe to sea."

But the amendment to which I referred simply transferred the abandoned and vacant Federal Archives Building in downtown Manhattan to the Urban Development Corporation of the State of New York, a matter which the bureaucracy was supposed to have done 4 years ago, and finds itself incapable of doing, and I though I might resort to legislation, and I failed, so once again the bureaucracy is trying to thwart us.

But if the distinguished Senator from Tennessee supposes that on the very eve of his ascending to the awesome circumstance of majority leader of the U.S. Senate I would try to slip anything by him, he does not—it is not hard to underestimate my capacities on the floor, but even he would underestimate them in that regard.

Mr. BAKER. Mr. President, I can assure the Senator from New York I do not now and will not in the future run the risk of underestimating his prowess on the floor.

Mr. MOYNIHAN. I say it would be difficult to underestimate me. [Laughter.] But there are, in fact, lower limits which would have been reached if anyone thought I was going to try to do something like that at this hour.

Mr. BAKER. The Senator from New York is a man of style and grace, a man of eloquence, and I can think of no better way to end this session of Congress than with this dialog, as far as I can tell which means absolutely nothing. [Laughter.]

Mr. MOYNIHAN. Mr. President, it means a great deal to Mr. McIntyre, and I fear those two gentlemen from Topeka are deceased, but it no doubt means something to the American Legion, and I am all in favor of that. [Laughter.]

Mr. President, I move that the Senate concur in the amendment of the House. Mr. President, I reluctantly move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER (Mr. SASSER). The question is on agreeing to the motion of the Senator from New York.

The motion was agreed to.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE M, 96TH CONGRESS, 2D SESSION

Mr. MOYNIHAN. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from a Protocol Amending the Income Tax Convention with Israel (executive M, 96th Congress, second session), which was transmitted to the Senate on July 3, 1980, by the President of the United States, and ask that the treaty be considered as having been read the first time, that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, a Protocol Amending the Convention between the Government of the United States of America and the Government of Israel with Respect to Taxes on Income, signed at Washington on November 20, 1975. The Protocol was signed at Washington on May 30, 1980. I also transmit three related exchanges of notes and the report of the Department of State with respect to the Protocol.

Consideration of the Convention by the Senate has been delayed pending the correction of certain technical problems in its text. The Protocol accomplishes this by making certain amendments to the Convention. For example, Article 10 (Grants) is modified to conform more closely to United States and Israeli law with regard to the treatment of Israeli grants to United States investors.

The Protocol also modifies the withholding rates applicable to dividends paid by a subsidiary to a parent corporation and adds a new article dealing with charitable contributions.

It is most desirable that this Protocol, together with the Convention, be considered by the Senate as soon as possible and that the Senate give advice and consent to ratification of both instruments.

Jimmy Carter.

The White House.

TRIBUTE TO SENATOR BAKER

Mr. MOYNIHAN. Mr. President, while I have the floor, if I may take just one last moment, my good friend from Tennessee does now indeed attain to that circumstance which he, perhaps, believed would come later in his career, but it has been an aspect of his career that the distinction has arrived early like a welcome spring, not only to him and his family but to this Republic which is adorned by them all.

As much as I had hoped in my last foreword—I bid him in this last volume and study in which we collaborated, I ended my part by wishing that, he long remain minority leader of the U.S. Senate, my wish was not in that regard to be fulfilled, but he knows with what great anticipation we look forward to his leadership of this body.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. BAKER. Mr. President, I think all of us owe a debt of gratitude to the Senator from New York for bringing a touch of style to this group, the Senate.

I am grateful for his remarks about me. I am especially grateful that he agreed to write the foreword to a book that I recently had published, and it is indeed true that in the final and concluding sentence in that introduction he wished me well for many years into the future as minority leader.

That is the only time I had a wish that the Senator from New York would be wrong on a literary matter.

Mr. MOYNIHAN. I thank my friend.

Mr. BAKER. I am glad that the people of the United States, through indirection, have made it possible now for me to look forward to that ambition to be majority leader of the Senate and to look forward most especially to my continuing service with the Senator from New York for whom I have such high regard and who serves his State and Nation with such ability.

Mr. MOYNIHAN. Mr. President, I thank the Senator.

TRIBUTE TO SENATOR ROBERT C. BYRD

Mr. MOYNIHAN. Mr. President, if I may hold the floor for one more moment, it would be unthinkable that on this side we should close down this Congress without speaking a word, and no more is necessary because he will know with what depth of commitment and conviction they are said, to our beloved majority leader who has led us, not merely presided over us, not merely compromised and negotiated among us, but who has led us, in the service of this Republic in this Chamber under circumstances not always happy, but never fearful, invariably truthful, and not unfrequently successful.

To have had any success at all in public life is unusual. To have had the service and success that the Senator from West Virginia has attained—he is rare in the annals of the Republic, of which there is no equal in these annals.

You have served us well, sir, as you will continue to do, and thank the Lord you will be keeping an eye on that fellow across the way. [Laughter.] I thank the Chair very much.

Mr. ROBERT C. BYRD. Mr. President, I thank my friend, the eloquent and distinguished Senator from New York, whose heart is as stout as the Irish oak and as pure as the lakes of Killarney. I am so grateful for his kind words, and I shall cherish them and carry them through the holidays. I thank him again and again. No one could express them like Patrick Moynihan of New York.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

TRIBUTE TO SENATOR YOUNG

Mr. STEVENS. Mr. President, I will soon mention as part of the honor that I will have here in the closing moment, my good friend, the President pro tempore of the Senate. We have a gentleman on our side also whom we have all eulogized, I believe, the distinguished Senator from North Dakota, Senator Young, who will retire from this body. I wish he could have been with us on these days. Unfortunately, with the schedule for traveling west being like it is, he had firm reservations, and he had the good sense to take them rather than wait to see if we could finish on Saturday evening, which we did not.

TRIBUTE TO THE FAMILIES OF THE HOSTAGES

Mr. STEVENS. Mr. President, I would not want the record of the Senate to close without some mention of the people who are symbolized by the yellow ribbon that I wear. I had the good fortune on Saturday to be asked by our distinguished leader on this side of the aisle to take his place and go to a meeting of the families of the hostages held in Iran. The families were meeting in Alexandria. It was one of the most emotional experiences I have had in a long time to see these families, all of whom represent some member who has been held in Iran for so long; and the way they are giving solace to one another and upholding one another in this very trying period, is a thing that all Americans ought to witness.

I think as we wind up this session of Congress we can only express again the prayer that the Iranian people will carry out the commitments they have had in the past toward the religious holidays that mean so much to them and to us, and that they will indeed free our hostages so that they can be restored to their families by Christmas Day. That is my fervent prayer, and it should be the prayer of every American as we enter this holiday season.

Mr. MOYNIHAN. Mr. President, I know that all Members on this side would wish to associate themselves with the remarks of the Senator from Alaska concerning the Americans held prisoner illegally by the now government of Iran.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

NOTIFICATION TO THE PRESIDENT CONCERNING THE PROPOSED ADJOURNMENT OF THE SESSION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. Res. 571

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 571) was considered and agreed to.

The PRESIDING OFFICER. The Chair appoints the Senator from West Virginia (Mr. Robert C. Byrd) and the Senator from Tennessee (Mr. Baker) as the two Senators to notify the President.

AUTHORIZATION TO TAKE CERTAIN ACTIONS BY OFFICERS OF THE SENATE

Mr. CRANSTON. Mr. President, I ask unanimous consent that, notwithstanding the sine die adjournment of the two

Houses, the President of the Senate, the President pro tempore, or the majority leader of the Senate be, and they are hereby, authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. BAKER. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 572) was read, considered by unanimous consent, and agreed to as follows:

S. Res. 572

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Walter F. Mondale, Vice President of the United States and the President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the second session of the Ninety-sixth Congress.

THE PAY CAP

Mr. PROXMIRE. Mr. President, last night, during the debate on the pay cap, it was alleged by some that the pay cap would only save something in the range of $38 to $42 million.

Mr. President, the calculations that we have are that there are over 30,000 people who would be affected; that the increases would range from somewhat over $1,000 to $10,000; and that there are many people who were concentrated in the $50,000 range now who would go up $10,000.

The calculations are that I was correct last night and it was incorrect when it was stated that this would cost around $42 million. The estimate I made was $200 million. The estimates that I have before me now were worked very carefully on this morning to double check it and they would be between $200 million and $300 million by putting a pay cap on the salaries of the branches.

I am happy to yield to my friend from Alaska.

Mr. STEVENS. Mr. President, since the Senator mentioned the statement I made, I will again state that I went back to the minority staff on the Budget Committee and they again checked with the people who had done the original study and we were told that, for the balance of this fiscal year, the estimate would be that the cost is $42 million and the top would be about $50 million.

That was based on the number of jobs that were vacant, the number of people that would not take the promotion even if offered to them, and the experience that was reported by the executive branch the last time we lifted such a cap.

If you take the average of something like $2,500 per employee, which is excessive, I am told, the maximum——

Mr. PROXMIRE. How much per employee?

Mr. STEVENS. Twenty-five hundred dollars average would be excessive, I am told, because the bulk of the employees are down at the 15 and 16 levels and they get smaller as you come up. So the bulk is at the lower level, not the higher level.

Mr. PROXMIRE. This is a 17-percent increase for all of them.

Mr. STEVENS. It is not a 17-percent increase. It only prevents some people from getting just one step. If they are a grade 15, step 5, they are prevented from getting step 6 and the next one might be prevented from getting step 7.

The maximum obligation that we envisioned was $85 million, being the average of some 34,000 people at $2,500 maximum per person involved.

But they told me that was excessive; that the maximum they envisioned for the balance of this year was $50 million. Based upon the conversations I had at the wee hours this morning, I stand by my assertion. We added $900 million to the continuing resolution. In the pay cap it would have cost us for this year not in excess of $50 million.

I think it is high time we started looking at the finances. To a great extent the problem is the great publicity. I assess those charges to the people in the press gallery of the way they play up the concept of congressional pay versus the amount of money the Congress spends.

We could have saved $900 million if we had passed the resolution we had before us on Saturday. I will stand by that and I will prove it to the Senator any time he wants to have the proof.

Mr. PROXMIRE. I would like to have the proof.

Mr. STEVENS. Because we checked it again.

Mr. PROXMIRE. Our calculation seems to be much sounder. We do not agree at all on the $2,500 average increase.

Furthermore, this goes to what the Senator has said and repeated over and over again that if we do not get the increase this year we will never get it. That means year after year we make the full increase for the full year and for a full year even $2,500, which I think is a very conservative figure, times 34 would be $85 million right there.

In addition to that, the fact is that you have a very large number of people, because we have had this cap on for a while, who are concentrated at a higher level. The calculations we have do not come from me. They come from staff that has worked on this and double-checked it. It seems to me that is a reliable figure.

All I can say, however, is that the Senator from Alaska has his figure and I have mine. I do think the Senator errs in feeling that the American people are concerned over whether it is $40 million or $400 million. What they are concerned about is not the amount. In fact, as the Senator knows, the legislative pay increase is far, far less than this. The legislative pay increase is a fraction of $40 million. That is what they are concerned about. They are concerned about Congress increasing its own pay. That is what concerns the American people, even if it were a million dollars.

It is not the amount, it is the principle. The fact that they think at this time, under conditions of severe inflation, when we are insisting on sacrificing everybody else, when we are cutting programs right and left, when we recognize that the one way we can contribute to hold down inflation personally is to make some sacrifices, that we have proposed a 16⅔ percent increase.

Mr. STEVENS. Mr. President, I said I would not make any more speeches for a pay raise, and I am not going to ever do it again.

But I will say what I have said before. Again, I will be happy to deal with whomever is giving the Senator that advice.

We say the grade 15, step 5, is frozen, but so is grade 16, step 4 and grade 17, step 3. All of those were frozen where they were at the time the pay cap was imposed. If the pay cap is taken off, most of them will just go up one, maybe two steps. That is not $10,000 apiece. That is in the nature of hundreds of dollars apiece for the whole year. I did not remember what a step is. I think it is somewhere around $400 a step. An annual salary increase for one step is about that amount.

When you average that over so many people in the 15's and 16's, and they reduce as you go up to the 18's, you will see why the cost is not the amount that was anticipated.

No Member of this body has ever been defeated because he or she voted for a pay increase if they had done a good job as a Member of the Senate. This is ludicrous to think that we have to have some sort of image that we are saving money by not raising the salaries of those people who deserve it when, at the same time, we throw away $900 million because we do not have the courage to face up to our own voters to tell them we have done a good job and deserve the pay levels that we have agreed to set. We made a big mistake.

Again, I say that next year they will have to find someone else to carry that load, because I do not intend to do it.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

STAN KIMMITT, SECRETARY OF THE SENATE

Mr. STENNIS. Mr. President, I shall certainly not detain the Senate beyond a few minutes.

Mr. President, we have an outgoing officer of the Senate, Mr. Stanley Kimmitt, our valued Secretary of the Senate. I want to note something about this splendid public servant's record. I am not saying that is all of the record, the end of his public service record. I hope it is not.

But I have known Mr. Kimmitt since he was a very young lieutenant colonel in the Army and was assigned to duty here in the Senate Office Building as a part of the Army legislative liaison. Being thrown with him solely by chance, I very quickly saw the very fine qualities there behind that Army uniform that he had so much pride in.

Mr. President, I watched him as he developed and grew, so to speak, filling a wider and wider role, and then went back to field service for the Army.

I remember one assignment he had

later in Germany where he was in command of a military unit there, actually ground forces.

Mr. President, I remember Mr. Kimmitt, Colonel Kimmitt as he was then, was placed in charge of this unit in the Army that contained parachutists. But, nevertheless, he rose to the occasion, which was just a custom, as I understand it, and, in addition to all the other duties, he went out and took the training and became a parachutist himself even though he was far beyond the ordinary age when a person started such training, just to carry forth the tradition that meant a lot to the unit. The commanding officer of a parachutist unit was supposed to be a parachutist himself.

I think we find a good measure of the man there.

Later, I visited with Stan Kimmitt in his home State of Montana where he grew up as a ranch boy—or, as we say, a farm boy in the South but a ranch boy there—and I saw the elements that were instilled into him there in his early youth by fine people.

Frankly, Mr. President, I have never taken any part in trying to get someone made a general or anything like that, but I thought there never was a finer case than could be made for Stan Kimmitt.

Mr. President, it would seem to me that the Army would pick men of his type, of his caliber, of his demeanor. He had the backbone and courage in his heart which was as fine as any of their general officers. That is no reflection on them.

Stan Kimmitt and I have never been on any personal mission of any kind, but the respect that I have had for his qualities made me trust him then and trust him now. Frankly, I have enjoyed seeing him here on the floor of the Senate fulfilling the duties of his office as well as an understanding of the problems of legislation that he learned on the floor while directly connected with former Senator Mansfield.

I salute him and thank him for his fine record and trust. I know that for him and his splendid family their future still holds days and years of fine service for one who exemplifies such true citizenship and Americanism at its best. I wish him well in every way.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, there is one last housekeeping measure.

SEVERANCE PAY TO CERTAIN DISPLACED SENATE COMMITTEE EMPLOYEES AND CERTAIN TERMINATED EMPLOYEES

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 573) to provide for the payment of severance pay to certain displaced Senate committee employees and to authorize payment for accumulated leave to certain terminated employees in offices of Senators who have ceased to serve as Members of the Senate.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, this resolution regarding severance pay for displaced staff members and personal staffs of departing Senators has been modified to meet the objections of certain Members.

Eligible personnel will now be allowed to receive a maximum of 1 month's pay. The original legislation which passed the Senate on a rollcall vote allowed a maximum of 3 months' pay. So this has been scaled down considerably. The payment would be made in a lump sum in identical manner to the lump-sum payments provided to staff of departing Senators.

These payments are intended to help Senate committee staffers to make the transition to new employment as a result of the change in majority and minority parties in the next Congress.

It has been scaled down considerably—from 3 months to 1 month—to meet the objections of certain Members. The amounts payable are lump-sum payments to compensate for accumulated leave and to help in the transition to new employment.

Mr. President, this resolution has been cleared on both sides on a unanimous basis.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 573) was agreed to, as follows:

S. Res. 573

Resolved, That (a) for purposes of this resolution—

(1) the term "committee" means a standing, select, joint, or special committee of the Senate, whose funds are disbursed by the Secretary of the Senate;

(2) the terms "committee chairman" and "ranking minority member" mean the chairman and ranking minority member of any such committee as of the beginning of the Ninety-seventh Congress;

(3) the term "eligible staff member" means an individual who—

(A) was a member of a staff of any such committee, or subcommittee thereof, on January 2, 1981, and had served continuously thereon (except for any period of four days or less) since November 1, 1980, and

(B) has served continuously (except for any period of four days or less) as an employee of the Senate for one year immediately preceding his termination of service; and

(4) the term "displaced staff member" means an eligible staff member whose service as an employee of the Senate is terminated on or after January 2, 1981, solely and directly as a result of the reorganization of the staff of a committee caused by the transition to a Senate in which a majority of Senators are members of the Republican Party, and who is certified as a displaced staff member by the committee chairman and ranking minority member of such committee.

(b) The committee chairman and ranking minority member of each committee shall certify to the Committee on Rules and Administration the name of each displaced staff member of such committee before the later of—

(1) January 12, 1981, or

(2) the tenth day after the date on which the displaced staff member's service is terminated.

(c) Under regulations prescribed by the Committee on Rules and Administration and subject to the succeeding provisions of this resolution, each displaced staff member shall be entitled, upon application to the Committee on Rules and Administration, to be paid severance pay in one lump sum payment in an amount equal to one month's basic pay at the rate received as of November 1, 1980.

(d) Severance pay under this resolution shall be paid from any available funds in the Contingent Fund of the Senate.

(e) In the event of the death of a displaced staff member, any unpaid severance pay to which the displaced staff member is entitled shall be paid to the widow or widower of the displaced staff member or, if no widow or widower, to the heirs at law or next of kin of such deceased displaced staff member.

(f) Severance pay paid under this resolution shall not be treated as compensation for purposes of any provision of title 5, United States Code, or of any other law relating to benefits accruing from employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision or law.

(g) For purposes of this resolution, the Office of the Vice President, the Office of the Secretary of the Senate, and the Office of the Sergeant at Arms and Doorkeeper of the Senate, with respect to funds appropriated under the heading, "Salaries, Officers and Employees", shall be considered a committee.

(h) (1) For purposes of the preceding provisions of this resolution, an individual shall be deemed to be an "eligible staff member" if—

(A) he was a member of the staff of a committee (as defined in subsection (a) (1)) on January 2, 1981, and

(B) during the calendar year 1980, he was an employee of the Senate for at least 183 days (whether or not his service was continuous).

(2) If an individual who is deemed to be an eligible staff member under paragraph (1) of this subsection was not a member of the staff of a committee (as defined in subsection (a) (1)) on November 1, 1980, the provision of subsection (c) of this resolution shall be administered as if the date "November 1, 1980", as contained therein, referred to the most recent day prior thereto that such individual was an employee of the Senate.

(i) For purposes of the preceding provisions of this resolution, the term "displaced staff member" also includes an eligible staff member (as defined in subsection (a) (3) of this section) whose service as an employee of the Senate is terminated on or after January 2, 1981, as a result of reorganizations (or consolidations) of committees of the Senate or of the cessation of service by a Senator who on November 4, 1980, was serving as chairman or ranking minority member of a committee (as defined in subsection (a) (1) (of this section) or a subcommittee thereof, and who is certified as a displaced staff member by the committee chairman and ranking minority member of such committee.

(j) (1) Whenever the service of an individual, who is an employee in a Senator's office or in the President Pro Tempore of the Senate's office, is terminated because the Senator's service as a Member of the Senate ceases or the President Pro Tempore's service ceases (as the case may be), such employee shall be entitled to be paid in a lump sum for such accumulated leave, not in excess of 30 days, as the Senator in whose office he was employed shall certify to the Secretary of the Senate to be due to such individual, or (in the case of an individual who is an employee in the President Pro Tempore's office) as the

President Pro Tempore shall certify to the Secretary of the Senate to be due to such individual.

(2) No employee shall be entitled to a lump-sum payment under this subsection unless he was an employee in a Senator's office or in the President Pro Tempore's office on November 1, 1980, and unless his position in such office was terminated after such date and prior to January 6, 1981.

(3) The amount payable to any individual under this subsection shall be paid from any funds available in the Contingent Fund of the Senate.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Tennessee.

TRIBUTE TO STAN KIMMITT

Mr. SASSER. Mr. President, as this session of Congress draws to a close, let me add a note of tribute to our Secretary of the Senate, Stan Kimmitt.

Stan has been of invaluable service to the Senate since first coming here in 1966, most especially in his nearly 4 years of service as Secretary of the Senate.

But even more importantly he has been a man of character and distinguished service to his country. Stan has seen and weathered many of the momentous events of this century, and as a result has brought a great deal of wisdom and warmth to his Senate service.

Born in Lewiston, Mont., in 1918, Stan has watched the country weather a Great Depression. He has served with honor and valor in our armed services, having been awarded the Silver Star, the Legion of Merit, and the Bronze Star-V with a three oak leaf cluster. Through all these experiences. Stan has fully realized the value of public service and in that light we have been honored to have Stan as Secretary of the Senate in the last several years.

We all know, each in his or her own way, that Stan has been a key individual in the smooth operation of the Senate ever since Stan first came here in 1966. With all his many and varied duties, however, Stan has found time to be a friend to us all. He has understood the daily pressures that we all face in discharging our duties, and he has given us counsel during hectic times when men of lesser stature would not have been able to do so.

We shall all miss Stan's counsel as Secretary of the Senate. But I hope that he realizes that he, by his nearly 14 years of distinguished service in the Senate, is an indelible part of this deliberative body and will always be so.

Stanley Kimmitt's service to this country, in war and in peace, is an inspiration to us all.

I bid fond adieu to Stan, his lovely wife Eunice, and his wonderful children Robert, Kathleen, Joseph, Thomas, Mark, Mary, and Judy.

Many of us hope in the coming years to continue to enjoy the pleasure of Stanley Kimmitt's company.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MURRAY ZWEBEN

Mr. STEVENS. Mr. President, I think that, in my statements, I have been remiss in not mentioning a gentleman who has been a great help to all of us who will be leaving the Senate after, I believe, 21 years of service—Murray Zweben, who has been a friend of us on both sides of the aisle and has been here through the nights that we have been here. Sometimes, I think, he wished we would go home, but he has been one who has joined us in social events as well as worked with us on every issue that I can remember in the 12 years I have been in the Senate that has involved some parliamentary problem.

For myself, I thank him. I think our Alaska lands bill took more time on the floor of the Senate and in committee than any other bill except the Civil Rights Act. I thank him for his long patience in dealing with that measure for 4 long years in the Senate. I wish him well and wish his family well.

I think I speak for all the Members on our side when we tell you, Murray, thank you for being a good friend and doing a good job for the Senate.

AMENDMENT OF INTERNAL REVENUE CODE WITH RESPECT TO TREATMENT OF PUBLIC UTILITY PROPERTY

Mr. ROBERT C. BYRD. Mr. President, I renew my request that the Senate proceed to the consideration of Calendar Order No. 1170.

Mr. HEINZ. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania reserves the right to object.

Mr. HEINZ. Mr. President, it is my understanding that this is the so-called California utility bill. Is that correct?

Mr. ROBERT C. BYRD. Mr. President, will the clerk state the title?

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6806) to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 with respect to the treatment of public utility property.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Pennsylvania reserves the right to object.

Mr. HEINZ. Mr. President, I think I should advise the majority leader that there are two Senators on this side, one being myself, who intend to offer amendments to this measure. It is not my wish to prevent the measure from coming up; I am for the measure. The legislation is from the Committee on Finance. I believe it is a good bill. But there are amendments—at least the one on my behalf—to this bill that I feel very strongly about.

I am informed there is one other Member who feels exactly as I do with respect to another amendment. I do not know what that amendment is about.

Mr. LONG. Mr. President?

The PRESIDING OFFICER. Will the Senator from Pennsylvania yield to the Senator from Louisiana?

Mr. LONG. I would like to seek the floor in my own right.

Mr. HEINZ. The Senator from Pennsylvania reserves the right to object but will not object at this time.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I am informed that the House has adjourned sine die. Under those circumstances, if we amend this bill at all, that means that the bill cannot become law.

If the bill is permitted to come before the Senate, my first motion will be to disagree to the Senate Finance Committee amendments. Why would I do that? The reason I would do it is that although the committee amendments are meritorious amendments and certainly deserve to become law, they cannot become law because the House is not in session to agree to them. The House has adjourned sine die, for the remainder of the Congress, until the next Congress comes in.

Those Senators who sponsored these committee amendments understand. One of them told me this, and I am informed that the other Senator is agreeable—that the amendments be left off the bill, because they realize that to change the House bill at all at this point, even to change a comma to a semicolon, means that the bill cannot become law.

What happened with regard to this California situation is this: We passed a law, with regard to the investment tax credit and with regard to accelerated depreciation, to say that if regulated utilities undertook to pass on the tax credit to their customers in terms of reduced rates, they would not get the investment tax credit or accelerated depreciation. The reason we did that is that we wanted the money to be used to modernize and improve the service and help solve the energy crisis, rather than merely to reduce rates for the consumer. Having done that, the California Public Service Commission ordered the utilities to claim these investment tax credits and accelerated depreciation and then to pass on the benefit in the form of lower rates. So the companies were left in a position that they were required to pay out something that they did not get. When they pass on the tax benefit, the laws says they are not entitled to it; so they are required to pay something that they do not have. It is obviously an inequity and an injustice.

Mr. President, the companies took the matter to court to defend the mandate of Congress and the intent of Congress to the extent that they could, and the California courts ruled against them. It is a very heavy burden and it is a great inequity to make those companies pay something when they do not have it to pay with. We seek to correct that inequity and move toward a situation where we treat all companies alike in the country.

To punish these California utility companies for something that is totally beyond their control is something that this Congress should not do. To seek to amend the bill at this point is something that cannot benefit any individual, cannot benefit any State. All it can do is hurt these particular companies operating in the State of California, who have done nothing to justify the kind of treatment that they are receiving.

Under the circumstances, Mr. President, if we are permitted to do so, we shall pass the bill as the House sent it to us to do justice insofar as we think we can.

That is how the Finance Committee felt about it, Mr. President. There was not a dissenting vote on reporting this matter out of the Finance Committee, and I was not aware of any objection to it until we ran afoul of an objection to another measure we reported with regard to unemployment insurance.

Mr. President, I can appreciate the feeling of the Senator from Pennsylvania. I admire any Senator for doing the best he can to look after the interest of the people who sent him here and to look after the interest of his State in every possible respect.

I hope the Senator will realize that, with the House having adjourned and gone home, there is nothing he can do on this bill to benefit the State of Pennsylvania in the area of unemployment insurance. I hope he will do what the rest of us will have to do about things that we are interested in: Come back next year and do what we can to pass the bills that we think ought to be passed next year.

The Senator from Louisiana had a lot of legislative proposals here and there, most of them in the Finance Committee, that will not become law this year. But he will cheerfully go back to work next year and try to pass them. I think that is true of every other Senator. Mr. President, I suspect that, aside from this particular measure, it is also true of the Senator from Pennsylvania. I am sure he has some other measures he would like to pass that would simply have to be the subject of renewed effort next year.

Now, for the Senator to insist on amending this bill, or to insist on providing a live quorum, or to insist on having a rollcall vote, just means that the bill will die.

Frankly, I have been through these situations for years when in the closing days of a session any one person has it within his power to kill a piece of legislation.

If the Senator wants to kill it that is his prerogative, his right.

But I submit that it does not benefit anybody, and least of all the Senator from Pennsylvania and the people of Pennsylvania, to kill a meritorious measure that benefits someone else and which is right and proper. It certainly does not benefit the State of Louisiana in any way, nor does it benefit most of the States.

But in view of the merits of the bill, I plead with the Senator to permit us to pass it without any amendment, to bring his matter before the committee next year, and we will certainly see that it is considered.

If the Senator makes a good case, as he usually does, the chances are it will be favorably reported and, I hope, agreed to.

But that is the Senator's job, just as it is the job of every Senator to make his case. When we cannot get a measure enacted in one Congress, we have to go back and do the best we can the next time.

Mr. HEINZ. Mr. President, further reserving the right to object——

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, the Senator from Louisiana is correct that I have been seeking to amend this legislation at any time that we thought it might come to the floor.

It was first reported from the Senate Finance Committee on November 5, 1980, as I recollect. Today being December 16, obviously, it was my hope that H.R. 6806 could have come before us at a time when there would have been appropriate opportunity to amend the legislation, that the amendments could be considered carefully, and that the Senate could work its will on those amendments.

The specific amendment that I am interested in offering to H.R. 6806 is an amendment that does not just benefit Pennsylvania. It benefits some 20 States. It has to do with a rescheduling of the repayment of the unemployment compensation debts. I know my good friend, the chairman of the committee, the Senator from Louisiana, is very familiar with the legislation.

Indeed, the so-called unemployment compensation penalty freeze, which freezes it at a relatively high level, that, in effect, in most States affected, doubling, in a doubling of the unemployment compensation, going from 0.7 to 1.3 percent in the affected States, is a measure that has been reported from the Finance Committee. It has been passed by the House. It has been passed by the Senate twice. It is a measure on which numerous hearings have been held both on the House side and on the Senate side. It is a measure where there is almost no objection that I know of. The only objections, in fact, that we have run into at this late date have been from one or two people who do not believe in doing business in the last few days of the session.

As the Senator from Louisiana knows, had it not been for those one or two people, we could have acted. I would have hoped, on this earlier, amended it, sent it to the House.

I have been informed by a number of people in the House that there was an excellent chance of the House accepting the Senate amendment. We can never tell with certainty what the other body is going to do, but at least they would have had it in their power to decide. Since they were the body that sent us the original bill, H.R. 4007, with the freeze, it seems to this Senator, I am sure to many of my colleagues who support this amendment, the Senator from New Jersey (Mr. BRADLEY), the Senator from Delaware (Mr. BIDEN), the Senator from Rhode Island (Mr. CHAFEE), and a number of other Senators, that this was a meritorious measure.

Mr. President, I must say that I am unhappy myself that we are in a situation where the House has left, as of a few minutes ago. That means the Senator from Louisiana is entirely correct when he says that if we amend the bill, the bill is dead.

Mr. President, what I am concerned about is that we have waited to bring up this measure, H.R. 6806, until the House has gone, giving us no option.

It is the equivalent of trying to impose on the Senate in H.R. 6806 a closed rule. It is the equivalent of imposing on all 100 of us a limitation on our rights to amend any piece of legislation.

Under those circumstances, it seems to me that not only myself, but many of the Senators are being penalized, and they need not have been penalized, because it has been within the power of the leadership and those who support H.R. 6806 to have brought it up earlier this morning, early, early this morning, late last night, as early as 11 a.m. yesterday, late on Saturday night, during Saturday. Yet, this did not occur.

I am forced to conclude that the parliamentary situation we find ourselves in has been brought about because of a simple desire not to allow the bill to be treated as the rules of the Senate provide. Therefore, since I understand the unanimous-consent request is to take up this calendar measure, and since I understand that the bill has not laid over the requisite number of legislative days, I object.

Mr. CRANSTON. Will the Senator withhold for a moment so I can address this matter?

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. Mr. President, I beseech the Senator to reconsider that objection.

If the House were still in session and there was any chance that his amendment, if adopted here, could be accepted there and enacted into law, I would totally understand his position. But when they have gone out, when, if he was successful, it would be fruitless, and when his objection means that a bill that has nothing to do with the issue he is involved in goes down, I just wish he would reconsider.

I did my best to talk to the Senator from Ohio, who had no interest in the substance of the measure I am backing, seeking to see if a compromise could be worked out. One compromise was approved by some other Senators here, but the Senator from Ohio objected.

The Senator from Oklahoma was prepared, and is now prepared, to see us drop what has been added by him to the bill, because it cannot be accepted over there and is fruitless.

The Senator's interest in the measure that he presently objects to calling up had nothing to do with the fact that he was frustrated in his efforts, and to penalize utilities and rate payers, and both will be penalized by this action, because of the situation is very unfortunate.

Senator Warner brought up at about 4 a.m. this morning a matter that had some analogy to this. It would have caused considerable difficulty had he persisted. He finally listened to reason and to pleas from others and withdrew his effort.

The Senator from Pennsylvania will have a full opportunity next year. Since he states that the measure has already passed through much of the legislative processes, I would assume, and there is no opportunity for filibusters of this sort, that he could achieve his ends and we could achieve our ends now.

So, I wish he would reconsider.

Mr. HEINZ. Will the Senator yield for a response?

Mr. CRANSTON. Of course.

Mr. HEINZ. I thank the Senator from California for yielding.

I hope the Senator from California understands I am not opposed to H.R. 6806. I understand the need for the enactment of the legislation.

It is legislation that he correctly characterizes as benefiting three companies that do business, particularly, in California. The problem that the legislation addresses arises out of problems that have arisen in California.

So, in a sense, while the corporate health of the companies involved is more of a national problem, indeed, the Senator is quite correct when he says the problem started in California. If we got into that debate and tried to analyze what had happened there, we would be here for a considerable period of time.

However, the Senator from Pennsylvania is forced to observe that if this measure is so important, he has difficulty understanding why we are taking it up after we passed the adjournment resolution, after we have completed every piece of business; and if it were so important we would not wait until, literally, the 11th hour.

Mr. CRANSTON. We tried to take it up before, and we were frustrated at that time, too.

Mr. HEINZ. May I continue?

Mr. CRANSTON. Of course.

Mr. HEINZ. H.R. 6806, in effect, contains provisions that will allow the economy, through the utility ratepayers of the State of California, to benefit substantially. What H.R. 6806 does is to waive a provision of current law that simply says that the State of California Public Utility Commission, which ordered the various telephone utilities to pass through the accelerated depreciation and the investment tax credits—that the decision, in effect, which is contrary to Federal law as it is now written, will be allowed to stand; that since that money has been passed through, contrary to the intent of Congress in enacting accelerated depreciation and contrary to the intent of Congress in enacting the investment tax credit, this legislation, in effect, will excuse the companies from the penalty provisions of the law. If they were not excused, they would have to reimburse the Federal Government, over the period involved, to the tune of almost $2 billion.

I am not objecting to the principle of trying to stabilize the problems that are inherent in the fact that $2 billion of cold cash, apparently, over a several-year period, would have to be paid back to the Federal Government. But because the Public Utility Commission of California has passed that through to California businesses, to California commerical establishments, to California ratepayers, the State of California gets a very substantial economic benefit from all this; and the States that have a serious problem with the unemployment compensation trust funds—up to some 20 in number—have an equally severe problem, being, for the most part, non-Sunbelt States, being Snowbelt States.

Therefore, I believe it is appropriate that the two pieces of legislation have the opportunity to move through together. That is an opportunity which has been denied by the parliamentary situation, and it need not have been.

A moment ago, the Senator from California made reference to the fact that there was an attempt to bring to bring up this matter earlier. In fact, there was no objection to bringing it up earlier. It was simply that when it was brought up earlier, I believe Senator Long tried to bring it up, and he understood that an amendment might be offered; that there would not be unanimous consent just to pass the bill without amendment; and he decided that he would not bring it up for amendment. That is his right. I do criticize him for doing so. However, in doing so, he denied other Senators and me the right to offer our provisions as an amendment.

I intend to insist on my objection, however. What I am equally prepared to do is to work with the Senator from California, both Senators from California, and all people affected by H.R. 6806, so that we can bring it to the floor of the Senate as early as possible next year.

Obviously, we will need the help of the House. The House originates measures of this kind. But I pledge to the Senator from California, who has been kind enough to yield to me, and to any of my colleagues who are interested in this measure, that we will work together to try to bring it up as quickly as possible.

I thank the Senator from California for yielding. I know that this is important to him, just as my measure is important to the people in my State, but I will reluctantly insist on my objection.

Mr. LONG. Mr. President, so that the record can set the facts straight and anyone reading the record can judge what the relative merits of the position are, let me make this clear.

The Senator from Ohio (Mr. Metzenbaum) appointed himself more or less the devil's advocate to challenge the various bills which had been reported by the Finance Committee and which had a favorable Treasury recommendation; and, so far as we knew, this particular bill had no opposition whatever.

The Senator from Ohio certainly had the right to take on that role. Insofar as he objected to something in a bill, he, as any other Senator, had a right to oppose it with all the vigor and determination he possessed. We respected his right to do that, because we did not have any choice about respecting his right to do that. Every Senator has that right.

So, this late in the session, we recognize that if a matter is something a Senator was determined to oppose, it probably could not be passed against the determined opposition of even one Senator. I believe that has been the case for the past 3 days.

This particular bill is one that the Senator from Ohio did not object to passing. He was not an advocate of passing it; he simply did not object to it. He had no reason to oppose it because, having read the committee report and having discussed with Treasury the reasons why Treasury recommended the bill, he had no reason to object. He did object to the amendment of the Senator from Pennsylvania involving unemployment insurance taxes in the State of Pennsylvania and about 19 other States.

Incidentally, I can well understand why he would do that. Any Senator can object to or oppose a bill for whatever reason. It is the point of view of the Senator from Ohio that 30 States would be paying more taxes for the unemployment insurance fund in order to benefit 20 other States, including the State of Pennsylvania. That is the attitude taken by the Senator from Ohio with regard to the measure. He persisted in his opposition; he was determined to oppose that bill and to prevent it from passing. Under the circumstances, we had to respect his opposition.

I can understand why the Senator from Pennsylvania would feel that if we could not pass the bill on which this amendment was attached, he would attach it to some other bill. However, the situation throughout these last several days has been that to put the amendment on another bill would result in that bill not being passed, either.

The Senator from Ohio is not in the Chamber at the moment, but we have a good faith commitment to notify him so that he can be present and oppose the bill if the amendment of the Senator from Pennsylvania is added to it.

We find ourselves in a situation in which the Senator from Pennsylvania does not oppose this bill. This bill is important to many people. California is a big State. The Senator does not oppose the bill. Neither the Senator from California nor any other legislator from California, so far as I know, is fighting the unemployment amendment of the Senator from Pennsylvania. They mean him no ill will. They simply are trying to live and let live, trying to pass a bill that has significance so far as the State of California is concerned.

Those of us on the Finance Committee other than the Senator from Pennsylvania feel that the bill is meritorious and that it should pass.

With respect to amending this bill, the Senator from Oklahoma (Mr. Boren) has an amendment on this bill which is a meritorious amendment to which nobody objects. Not one Senator out of a hundred objects to the Boren amendment. But Mr. Boren realizes that now that the House has adjourned, it is impossible to enact his amendment in this session. So he is willing that his amendment be dropped from the bill, and he will renew his efforts next year.

There is another amendment Mr. Baucus wanted to offer to this measure to which he would take the same attitude, that in view of the fact that the House of Representatives has gone home, it is impossible to enact his proposal in this Congress. He will try again next Congress.

Mr. President, I hope that everyone will take the same attitude. I realize that will not be the view of the Senator from Pennsylvania. I will not renew my request.

I simply say that this is not a good way to do business. In other words, I do not think it is a good way to do business here when one is frustrated in his efforts to pass something that would be of benefit to his State, to go defeat someone else's bill which has no particular reference to him or to his State, simply because he is not able to get agreement to what he is trying to do.

As far as the Senator from Louisiana is concerned, it is no skin off my nose one way or another. I think we should try to legislate matters that are meritorious. When people can make a good case, we should heed it, and we should vote for it.

I regret that the situation is such that there is no way we could pass a bill, if a single Senator is determined to oppose it at this stage in the proceedings, and I respect that.

I will make no further effort in this regard, and I regret that it is not possible to act on this measure.

I say particularly to the two Senators from California that I am sorry we were not able to legislate with regard to this meritorious situation, but if they send their suggestion to us next year, we will try to help them.

Mr. HAYAKAWA. Mr. President, it gives me great pleasure to join Senator Cranston, the senior Senator from California, my friend, to implore Senator Heinz to withdraw his objection to it, and I hope Senator Cranston will also join me in pledging to Senator Heinz that we shall fully support his legislation which we understand and which we have full sympathy with in the next session of Congress.

Meanwhile, I am grateful to Senator Long for pointing out the difficulties in our present legislative situation.

So I simply wish to make this pledge to Senator Heinz and to ask Senator Cranston to join me in this pledge.

Mr. President, I rise in support of the bill, H.R. 6806, which the Senate is now considering. This legislation was passed by the House of Representatives on September 24 of this year, and has been reported by the Senate Finance Committee without objection. It is my hope that it will receive a similar mandate here, and be cleared for action by the President.

This legislation is the result of several years of misinterpretation by, and lack of cooperation from, the Congress, the courts, the California Public Utilities Commission, and the Internal Revenue Service. This squabbling among branches and agencies of Government has placed two regulated utilities in the State of California in a position of flowing through to ratepayers tax benefits which are not being allowed them by the IRS, and owing the Federal Government back taxes for the privilege.

Originally, Congress intended that utilities be allowed to take advantage of the investment tax credit and accelerated depreciation, without immediately flowing through these tax benefits to ratepayers in the form of rate reductions. Rather, the benefits from these tax deferrals should be "normalized" by setting up a reserve, and flowing them through to ratepayers no faster than ratably over the life of the property involved, to encourage capital investment in these capital intensive industries. It is my understanding that this is still the intent of Congress.

The California State Supreme Court, however, decided that ratepayers were entitled to immediate benefit from the tax deferrals, and ordered the California Public Utilities Commission to revise its interpretation of the normalization provisions in the Internal Revenue Code. Pursuant thereto, the California Public Utilities Commission ordered a change in the normalization procedures to flow-through a portion of the tax benefits to ratepayers. The Internal Revenue Service subsequently ruled that the revised flow-through methods embodied in the commission's order did not satisfy the Internal Revenue Code's normalization requirements. Consequently, the two California utilities are required to flow through approximately $520 million to ratepayers, while accruing approximately $1.6 billion in potential back-tax liability.

This legislation restates and clarifies the present normalization rules relating to the investment tax credit and accelerated depreciation, and authorizes the Department of Treasury to promulgate specific regulations detailing conditions under which ratemaking and adjustments are consistent with normalization. In addition, the bill forgives the potential back-tax liability of the two utilities, in an effort to insure uniform treatment of utilities with respect to these tax benefits.

This legislation is essentially remedial in nature, and is not intended to provide special treatment for specific private enterprises. It is necessary because Congress was vague, and the California State Supereme Court, first, interpreted the relevant Code sections differently than the IRS, and second, refused to review the California Public Utilities Commission's order, in light of the IRS ruling. By forgiving the potential tax liability caused by this Government mix-up and clarifying the Code sections which brought it on, we are merely rectifying a potential injustice, and preventing future injustices.

As a legislator concerned with preserving equal treatment under the law, I urge the immediate passage of this legislation.

Mr. HEINZ. Mr. President, if the Senator will yield, I say I understand and appreciate his comments. I appreciate his willingness to work on something I think will be good for his people and good for ours.

It is very difficult, frankly, to be in a situation where you have two good friends, the junior and the senior Senators from California, and take an action that in some sense affects their State. That is not my wish. Were it not for the fact that the action compels the taxpayers of some 49 other States to take in effect a revenue loss aggregating close to $2 billion, I would not so do. If this were something that simply involved the transfer of lands within California from a State to the Federal Government, or vice versa—not that anyone necessarily wishes more of the latter at this point—if it were strictly a California matter that it did not cost the taxpayers anything, I would not be doing this.

Mr. HAYAKAWA. Mr. President, I reiterate my pledge to Senator Heinz and Senator Cranston that I am going to work equally as hard as I can for the passage of the legislation H.R. 6806 that they are interested in, and I thank my colleague from California.

Mr. CRANSTON. Mr. President, as often happens, I find that I cannot join fully with my colleague from California. We work together when we can. We differ frequently, and in this matter I join with him in support of the measure we have been trying to bring up.

I join with him in deploring the actions taken by the Senator from Pennsylvania. I find I cannot join with him in agreeing that I will help on the legislation of the Senator from Pennsylvania next year.

I am becoming rapidly convinced that that legislation deserves very careful scrutiny. I am not sure that it is very sound.

The State of California raised the insurance taxes so that they would not get in a situation as Pennsylvania landed in because they did not raise their taxes, and Pennsylvania now needs a bailout at the expense of the people of California.

I do not think it will benefit the people of California to pass the measure that the Senator from Pennsylvania wishes. I do not think it will benefit the people of a great many other States that have behaved responsibly. Their governments have behaved responsibly. My Governor has behaved responsibly, my legislature has behaved responsibly, and we are not in the position of the State of Pennsylvania.

I do not know it is to our interest to contemplate joining in a bailout. I am more interested in that topic now than I was a little while ago.

As to the measure that I have been seeking to bring up, I simply wish to note two points:

First, it was the supreme court of our

State that issued a ruling that caused the public utilities commission to instruct the utilities to do what they proceeded to do. There has been difficulty in interpreting some seemingly conflicting and ambiguous provisions in the Tax Code and that led to a situation where not these utilities are suffering. It is the ratepayers of my State who will suffer, and I am concerned about that and I am concerned about action that takes that not into account in any way and harms them due to some totally extraneous matter.

I think it is a rather unhappy way for this session to come to a close insofar as legislation affecting my State and the citizens of my State are concerned.

I thank the Senator from Louisiana for his very valiant and steadfast efforts to be of benefit on this matter. He has been very, very helpful. He has not achieved the success that he so often achieves when he sets out to do something.

I also thank the majority leader for his cooperation in giving us an opportunity to have the measure heard.

RENTAL OF ALASKA RAILROAD LANDS

Mr. STEVENS. Mr. President, my amendment is intended to stabilize the rates charged for the rental of Alaska Railroad lands. The Alaska Railroad leases approximately 300 parcels of land. The cost of all improvements including land fill, buildings, roadways, sewers, et cetera, are borne by the leaseholders who also pay rent, generally in annual increments. The Alaska Railroad provides no services. In the past, rental rates were influenced by the amount of rail freight expected from the lease in effort to encourage lessees who utilized the railroad.

For various reasons, the current appraisals, and therefore rents, are low with regard to some of the leases. These leases were reappraised in 1966 at which time the railroad deducted the cost of below-ground improvements such as land fill and sewers which the tenant had paid for personally or bought from a previous tenant. The land was not reappraised until 1977–78 following a GAO report that the rates were not uniform and were unreasonably low. At that time, reappraisals ranged from an increase of 1 percent to 1,325 percent.

The new appraisals included the below-ground improvements even though the lease was delayed by Public Law 95–611 which required the Department of Transportation to conduct a study of the Alaska Railroad rental rates. That study was completed last year, but questions remain as to the proper and fair way to evaluate the rental land in question. My amendment sets up guidelines for the Department of Transportation in determining uniform and reasonable rates for the rental of these lands.

Under my amendment, the Secretary of Transportation shall promulgate regulations to establish the fair market value of the property, except that below-ground improvements constructed, paid for, or bought by the tenants of such property are to be excluded from the appraisal. It further provides that any increase resulting from appraisals under this act shall not exceed a 50-percent increase of the rate under the freeze effectuated by Public Law 95–611.

I believe that this provision is necessary to protect those who have relied on the past practices of the Alaska Railroad. I do believe that the rents should be charged based on the fair market value of the land and, to the extent that the current appraisals are low, they should be reappraised. However, the Alaska Railroad has had a certain pattern and practice on which the leaseholders have relied in the past. Increases of over 1,000 percent at one time are simply too much for the lessees to handle.

Further, my amendment allows the Alaska Railroad to provide for credits to be established against rent for tenants that use the Railroad. This provision is very important as it allows the Railroad to be aggressive in becoming a viable profitmaking enterprise.

UNEMPLOYMENT COMPENSATION AMENDMENT

Mr. HEINZ. Mr. President, I would like for the record, to explain the amendment that I would like to offer. The amendment is cosponsored by my distinguished colleague from Rhode Island, Senator CHAFEE, and my distinguished colleague from New Jersey, Senator BRADLEY. This amendment incorporates provisions of legislation that has already been reported by the Senate Finance Committee unanimously and passed by the Senate as part of H.R. 8146, which has, unfortunately, languished in conference.

This amendment deals with repayment of State loans from the Federal unemployment compensation trust fund.

Let me state at the outset that this is not a bailout of the 16 States and territories with outstanding loans of more than $4.3 billion. Nor is it a bailout of the 18 States anticipated to need to borrow during the next 2 years. Nor is it a permanent solution to the fiscal problems confronting our unemployment compensation system, and the national economic problems that have exacerbated them.

Instead, this amendment provides a method of repaying these outstanding loans that is timely, that is conducive to the long-term solvency of the Federal and State trust funds, and that does not unduly punish those States that have borne a disproportionate impact of recessions and other national economic problems.

Mr. President, what we are talking about here is saving jobs. Without the modifications to current law made by this amendment, current provisions of the Federal unemployment compensation program will have the perverse, unintended effect of increasing unemployment in those States that already have high levels of unemployment.

Let me briefly explain the provisions of this amendment.

Current law requires that States pay off loans from the Federal account within 2 years. Although my State of Pennsylvania has by far the largest outstanding debt—about $1.4 billion—a number of other States—most notably Rhode Island, New Jersey, Delaware, and Illinois—are in similar straits or will be soon. I ask unanimous consent to have printed in the RECORD a table indicating the outstanding loan balance of each State.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

State	Some outstanding debt since —	Amount of debt (millions)	Potential 1980 [1] increase in net Federal tax rate (percent)
Arkansas	1980	$3.0	------------
Connecticut	1972	370.9	0.7
Delaware	1975	43.8	.6
District of Columbia	1975	65.5	.6
Illinois	1975	946.5	.3
Maine	1975	36.4	.3
Massachusetts	1975	231.7	.3
Michigan	[2] 1979	410.0	0
Minnesota	[2] 1979	1.9	0
Montana	1976	7.1	.3
New Jersey	1975	651.9	.3
Pennsylvania	1975	1,388.4	.6
Puerto Rico	1975	88.7	.3
Rhode Island	1975	121.2	.6
Vermont	1974	40.7	.6
Virgin Islands	1975	7.7	.3

[1] Increased tax (over nationally applicable net rate of 0.7 percent) for tax year 1980 (payable at beginning 1981).

[2] State repaid former loan prior to Nov. 10, 1979.

Note: Other States, including New York and West Virginia, are expected to be in need of borrowing in the near future.

Mr. HEINZ. Mr. President, if after 2 years, a State has not repaid the entire amount of its outstanding loan, all employers within that State lose the Federal Unemployment Tax Act (FUTA) tax credit at the rate of 0.3 percent per year. The effect of the loss of this tax credit is to increase the Federal taxes that employers in the State pay. For this reason it is known as the "penalty tax." Whereas employers in most States pay an effective Federal tax of 0.7 percent, the escalating penalty tax means that, after 5 years, employers in that State pay Federal taxes on wages of 3.4 percent. This is almost five times the tax that employers in most States pay—in essence, quintuple taxation of jobs.

There is considerable evidence that a large portion of the States' indebtedness results from factors beyond their control.

But to the extent that the insolvency of State unemployment compensation trust funds results from deficiencies in State systems, States with outstanding loans have made and continue to make changes to their systems—increasing taxes and reducing benefits—to hopefully stay on a pay-as-you-go basis. I will let my distinguished colleagues speak as to the specifics of what their respective States have done to put their houses in order.

In my State of Pennsylvania, in July the legislature passed, and Governor Thornburgh signed, an unemployment compensation reform package that will have the effect of providing over $500 million per year for the State's unemployment compensation system. This package includes $400 million per year in additional taxes for which the State's business community actively lobbied. When is the last time in Washington any one of us has seen business lobbyists beating down our doors asking that we impose additional taxes on them?

Unfortunately, Pennsylvania's efforts—and those of other States in a similar predicament—to bite the bullet may be thwarted unless we make the changes to current law that this amendment allows.

The combination of the $400 million per year in additional State taxes and the escalating Federal penalty tax will prove economically devastating to my State—inducing employers to relocate elsewhere and providing an incentive for employers that are already there to leave or to shelve plans for expansion and modernization.

The potential losses in human terms and lost economic output are staggering. These costs would be borne not only by the taxpayers of my State and other States with outstanding Federal loans, but by every Federal taxpayer.

To avoid losing the jobs and potential contributions of countless American workers, this amendment in effect "freezes" the escalation of the Federal penalty tax at 0.6 percent for States that meet stringent solvency criteria—including a prohibition against changes to the UC system that would reduce its solvency and a prohibition against new borrowing other than for short-term cash flow purposes. States that do not maintain solvent UC systems lose the freeze.

The amendment also contains a provision crafted mainly by Senator BRADLEY that allows States in unusually dire economic straits to borrow for up to 2 years without penalty.

These freeze and antirecession borrowing provisions would be in effect only 2 years, buying the States in trouble some time until November 1983, when taxable year 1982 ends. Because this is just a 2-year freeze, the fiscal impact is minimized. There is none in fiscal year 1981, a loss of $100 million in fiscal year 1982, and a loss of $400 million in fiscal year 1983.

And this revenue loss is offset by savings effected by another provision of the amendment making a permanent change in eligibility criteria for the extended benefits program, effective December 31, 1981. The provision, which has already passed the Senate on three previous occasions, would restrict eligibility for extended benefits—the 13 weeks of federally matched benefits paid to unemployed persons who have already exhausted their regular benefits. To be eligible for extended benefits, after the 26 weeks of regular benefits have expired, an individual would have to have worked at least 20 weeks before becoming unemployed—or to have earned 20 times the average weekly wage in that State.

This change would produce the following savings in outlays: Fiscal year 1981, $200 million; fiscal year 1982, $270 million; fiscal year 1983, $203 million; fiscal year 1984, $50 million; and fiscal year 1985, $20 million.

Thus my amendment would more than pay for itself: The combination of the freeze, antirecession borrowing provisions, and change in extended benefits eligibility would over the next 5 years, save the Treasury an estimated $243 million.

I am sensitive to the concern expressed by some of my House and Senate colleagues that this change to the extended benefits formula would deny benefits to some individuals in States outside the 18 States and the District of Columbia that do not now make extended payments to individuals with less than 20 weeks of employment.

I am concerned about the impact on some individuals in Pennsylvania, where the eligibility requirement is now 18 weeks. But the alternative—allowing the Federal penalty tax to continue to escalate—would lead to permanent job loss, which not even extended benefits can remedy once they have run out. In my State of Pennsylvania, failure to pass the package contained in the amendment I am now offering would necessitate even more drastic benefit reductions than the 20-week requirement. Even with the massive employer tax increase already legislated in the State, the solvency of Pennsylvania's unemployment compensation system could not be maintained unless further reductions in benefits were enacted.

To summarize, Mr. President, adoption of this amendment is critical to the economic climate of my State and many others. But let me emphasize that as important as its adoption is, it does not begin to address the many economic problems manifest in almost all Northeastern and Midwestern States. This amendment will keep a bad situation from getting worse—for 2 years.

But far more legislative action is needed to address the underlying problems common to our States: redressing the inequities in Federal fund distribution between sunbelt and snowbelt, higher energy costs, deteriorating urban areas, a shrinking tax base, an inadequate trade policy, the problems of meeting the needs of large minority or disadvantaged populations, a bias in our tax code against the capital-intensive industries upon which our economic base depends, and other issues of urgency and concern.

Nonetheless, I think passage of this legislation by my colleagues will demonstrate their sense of concern and fairness for our region. In this they will be signifying a more than symbolic commitment to making every region of this Nation a strong and prosperous part of America.

In closing, I urge adoption of this amendment so that we can get on with the task of attaining the goals we all share: maintaining and creating jobs and developing a financially solvent unemployment compensation system for those who are unfortunate enough to lose their jobs.

The text of the amendment is as follows:

At the end of the bill, add the following new sections:

PROVISION RELATING TO EXTENDED UNEMPLOYMENT COMPENSATION

SEC. . (a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by redesignating paragraph (5) thereof as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Notwithstanding the provisions of paragraph (2), payment of extended compensation under this Act shall not be made to any individual for any week of unemployment in his eligibility period unless such individual meets one of the following requirements (as selected by the State)—

"(A) such individual had at least 20 weeks of covered employment during his base period, or

"(B) such individual had earnings in covered employment during his base period equal to or greater than the average weekly wage for covered employment in such State (based upon the most recent data available to the State) multiplied by 20.

A State may select which of such requirements shall apply to individuals in such State, or the State may provide that individuals may meet the provisions of this paragraph by meeting either of such requirements.".

(b) Paragraph (6) of section 202(a) of such Act, as redesignated by subsection (a), is amended by striking out "paragraphs (3) and (4)" and inserting in lieu thereof "paragraphs (3), (4), and (5)".

(c) On October 31 of any taxable year after 1981, the Secretary of Labor shall not certify any State, as provided in section 3304(c) of the Internal Revenue Code of 1954, which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its laws so that it contains the provisions required by reason of the enactment of this section to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.

(d) The amendments made by this section shall be effective with respect to weeks of unemployment beginning after December 31, 1981.

PROVISIONS RELATING TO FUTA CREDIT REDUCTION

SEC. . Section 3302 of the Internal Revenue Code of 1954 (relating to credits against unemployment tax) is amended by adding at the end thereof the following new subsections:

"(f) CREDIT REDUCTION NOT TO APPLY WHEN STATE MAKES CERTAIN REPAYMENTS.—

"(1) IN GENERAL.—In the case of any State which meets the requirements of paragraph (2) with respect to taxable year 1981 or taxable year 1982, subsection (c)(2) shall not apply to such taxable year; except that such taxable year (and January 1 of such taxable year) shall be taken into account for purposes of applying subsection (c)(2) to succeeding taxable years.

"(2) REQUIREMENTS.—The requirements of this paragraph are met by any State with respect to taxable year 1981 or taxable year 1982 if the Secretary of Labor determines that the repayments during the 1-year period ending on November 9 of such taxable year made by such State of advances under title XII of the Social Security Act are not less than the sum of—

"(A) the potential additional taxes for such taxable year, and

"(B) any advances made to such State during such 1-year period under such title XII.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) POTENTIAL ADDITIONAL TAXES.—The term 'potential additional taxes' means, with respect to any State for taxable year 1981 or taxable year 1982, the aggregate amount of the additional tax which would be payable under this chapter (subject to the cap provisions of subsection (g)) for such taxable year by all taxpayers subject to the unemployment compensation law of such State for such taxable year if paragraph (2) of subsection (c) had applied to such taxable year and any preceding taxable year without regard to this subsection.

"(B) TREATMENT OF CERTAIN REDUCTIONS.—Any reduction in the State's balance under section 901(d)(1) of the Social Security Act shall not be treated as a repayment made by such State.

"(4) REPORTS.—The Secretary of Labor may, by regulations, require a State to furnish such information at such time and in such manner as may be necessary for purposes of paragraph (2).

"(g) CAP ON CREDIT REDUCTION.—

"(1) IN GENERAL.—In the case of any State which meets the requirements of paragraph (2) with respect to taxable year 1981 or taxable year 1982, the reduction in credits otherwise applicable to taxpayers subject to the unemployment compensation law of such State under subsection (c)(2) shall not exceed the greater of—

"(A) 20 percent of the tax imposed under section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State; or

"(B) the percentage reduction of such credits which was in effect with respect to such State under subsection (c)(2) for the preceding taxable year.

"(2) SOLVENCY REQUIREMENTS.—The requirements of this paragraph are met by any State with respect to taxable year 1981 or taxable year 1982 if the Secretary of Labor determines on November 10 of such taxable year that—

"(A) the outstanding balance for such State of advances under title XII of the Social Security Act on the preceding September 30 was not greater than the outstanding balance for such State of such advances on the second preceding September 30;

"(B) no State action was taken during the 12-month period ending on the preceding September 30 (excluding any action required under State law as in effect prior to the date of the enactment of this subsection) which has resulted or will result in a reduction in such State's unemployment tax effort (as defined by the Secretary of Labor in regulations); and

"(C) no State action was taken during the 12-month period ending on the preceding September 30 (excluding any action required under State law as in effect prior to the date of the enactment of this subsection) which has resulted or will result in a net decrease in the solvency of such State's unemployment compensation system (as defined by the Secretary of Labor in regulations).

"(3) SECRETARIAL AUTHORITY TO ALTER DETERMINATION.—Any determination by the Secretary of Labor under subparagraph (B) or (C) of paragraph (2) may be altered or reversed by the Secretary of Labor if he determines that such action is warranted on the basis of the failure by such State to make available timely information with respect to State actions.

"(4) CREDIT REDUCTION FOR SUBSEQUENT YEARS.—In making determinations under subsection (c)(2) with respect to taxable years after 1982, any taxable year for which a State was subject to a cap under this subsection, and January 1 of such taxable year, shall be taken into account in determining consecutive taxable years (or January 1 thereof).

"(5) DEFINITIONS AND SPECIAL RULES.—The definitions and special rules set forth in subsection (d) shall apply to this subsection in the same manner as they apply to subsection (c).

"(h) WAIVER OF NEW BORROWING PROVISIONS IN PERIODS OF RECESSION.—

"(1) REPAYMENTS IN LIEU OF CREDIT REDUCTION.—Notwithstanding subsection (f)(2)(B), advances made to a State during a 1-year period under title XII of the Social Security Act shall not be counted in determining eligibility for the State payment in lieu of credit reduction under subsection (f)(2) if such State, during the Federal fiscal year ending on the September 30 falling within such 1-year period, meets the requirements of paragraph (3) of this subsection.

"(2) CAP ON CREDIT REDUCTION.—The requirement of subsection (g)(2)(A) shall not be applicable to a State for taxable year 1981 or taxable year 1982 if such State, during the Federal fiscal year ending on the preceding September 30 referred to in such subsection meets the requirements of paragraph (3) of this subsection.

"(3) REQUIREMENTS.—The requirements of this paragraph are met by a State during the Federal fiscal year ending September 30, 1981 or the Federal fiscal year ending September 30, 1982 if, during any period of 26 consecutive weeks within such fiscal year, the rate of insured unemployment for such State (as defined in section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970 and calculated in the same manner as under section 203(e) of such Act) is—

"(A) equal to or greater than 120 percent of such State's average of such rates for the corresponding 26-week period ending in each of the 2 preceding fiscal years (but not less than 4.8 percent); or

"(B) equal to or greater than 7 percent (seasonally adjusted).".

TRIBUTE TO NORDY HOFFMANN

Mr. SASSER. Mr. President, before we draw this session of the Congress to a close, let me offer a final tribute to F. "Nordy" Hoffmann, Sergeant at Arms for the U.S. Senate.

"Nordy" is known to us all. A literal giant of a man, Nordy has been in the mainstream of Democratic politics ever since his days as legislative director of the United Steelworkers.

Nordy served the steelworkers for nearly 20 years, then served as executive director of the Democratic senatorial campaign committee until 1976 and has served all of us as Sergeant at Arms since 1976.

During his long and varied career, Nordy has worked for the fashioning of a strong Democratic Party, something that has helped people in all regions and in all walks of life in this country.

But Nordy's fame goes far beyond the Democratic politics he loves so well. Nordy is an all-American from Notre Dame and was elected to the National Football Hall of Fame in 1978. His public life, I feel, has derived much from his playing and coaching days at Notre Dame. Nordy is truly one of the genuine breed of "Fighting Irish" that the University of Notre Dame has blessed us with.

All of us on the Democratic side of the aisle having served with Nordy, whether for a few or many years, appreciate his "blocking" talents even though we never played on his team at Notre Dame.

But in the final analysis, Nordy is not just an all-American in the Football Hall of Fame. But because of his long and varied service to his country, the Democratic Party, and the U.S. Senate, I, for one, believe is a true all-American in every sense of the word.

TRIBUTE TO GAYLORD NELSON

Mr. HOLLINGS. Mr. President, Stephen Vincent Benet wrote in 1928: "If the idea is good, it will survive defeat."

Today, those words aptly describe the enlightened ideas and spirit of a beloved friend, GAYLORD NELSON. For while GAYLORD will not be with us when the 97th Congress convenes, his legacy of accomplishment, good will and understanding will remain.

In his 32 years of public service, GAYLORD has accomplished a great deal. But more than being the man who rebuilt the Wisconsin Democratic Party, or the pathfinder for more than two decades of the environmental movement, or the protector of drug and food consumers, or the champion of small business, or the advocate of the family farm as a viable economic resource, or the author of the Senate's Ethics Code, or one of the Senate's premier tax reformers, GAYLORD NELSON is a man from Clear Lake, Wis.

A conscientious man with extraordinary insight and intellectual integrity, GAYLORD'S biggest contribution will not be noted in any legislative record. For perhaps his biggest contributions to the Senate and its Members are his natural leadership and wise counsel and his sense of perspective and proportion. While many of us became embroiled in debate and lived our arguments, he provided us with a laugh and the wit and wisdom to see clearly. He has shown us better than any that the Senate is a place of ideas but a place not to be taken too seriously for fear of missing the point of it all.

GAYLORD, nearly all of us have been touched by your counsel, your achievements, and your friendship. We shall miss you and your energy and genius. Though we will miss you, our friendship will survive—and that is an extremely good idea.

TRIBUTE TO BIRCH BAYH

Mr. SASSER. Mr. President, it is with a great deal of sadness that I take this opportunity to pay tribute to a good friend, BIRCH BAYH. Since 1963, BIRCH BAYH has been an able and active Member of the U.S. Senate: people all over America will feel the Senate's loss.

It has been my great pleasure to work closely with BIRCH on a number of important issues. Throughout, I have been struck by the depth of feeling, the sensitivity shown by BIRCH BAYH for the disadvantaged.

When terminally ill, disabled Americans were forced to wait 5 months before receiving disability benefits, BIRCH BAYH took the offensive and sought to change the law. That was one of the few fights BIRCH ever lost, and I was pleased to join him in that effort.

When handicapped Americans were the subject of gross and blatant acts of discrimination, BIRCH BAYH stood up for them, and fought for the inclusion of handicapped persons under the Civil Rights Act of 1964. When the elderly needed improved housing, BIRCH sponsored legislation providing for congregate housing for senior citizens. These are but a few of the many stands he has taken on behalf of those less fortunate than most.

I have had the privilege and pleasure of serving with BIRCH on the Senate Appropriations Committee. In the long hours we spent together in committee, I have come to respect his sound judgment and his absolute conviction to deal with the job at hand. America will lose a most able proponent for the disadvantaged, disabled, and handicapped American when Senator BAYH leaves office. His dedication serves as an inspiration to us all.

PROPOSED ARMS SALES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CHURCH, I wish to state that section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification I have received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 11, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-06, concerning the Department of the Air Force's proposed Letter of Offer to Greece for defense articles and services estimated to cost $32 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA, Director.

TRANSMITTAL No. 81-06

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act.

(i) Prospective purchaser: Greece.

(ii) Total estimated value: Major defense equipment,* $0 million; other, $32 million; total, $32 million.

(iii) Description of articles or services offered: Two configured AN/GPN-24 landing control centrals to include precision approach radars (AN/GPN-22), airport surveillance radars, (AN/GPN-20), operations controls, government stock items, initial spares, and training.

(iv) Military department: Air Force (DBK).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: December 11, 1980.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

TRIBUTE TO SENATOR MAGNUSON

Mr. SASSER. Mr. President, nearly 44 years ago, on January 20, 1937, Franklin Delano Roosevelt said that he saw "one-third of a nation ill-housed, ill-clad, ill-nourished."

"The test of our progress," he told those assembled, including a 31-year-old, first-term Congressman from Washington, "is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

Ever since then, that young Congressman took seriously this mission—first in the U.S. House of Representatives and 8 years later, in the U.S. Senate.

Long before it became an object of concern in the popular or mass media, WARREN MAGNUSON was pushing for consumer safeguards. Long before medicare, medicaid and health benefit plans were fashionable legislative subjects in either the House or the Senate, WARREN MAGNUSON was shaping important, far-sighted programs that today help to care for the sick, the needy and those in the twilight of their lives. And long before competent, reliable leadership became the national preoccupation it became a decade ago, WARREN MAGNUSON was providing just that kind of leadership in Washington, D.C. and for his home State of Washington.

Historians will be able to look back to that 20th day of January 1937 and in giving full measure to the congressional career of WARREN MAGNUSON, they will say that this man never lost his vision.

I am proud to have served with WARREN MAGNUSON in the U.S. Senate and I am proud to say that I know him.

Surely, when his presence is not evident next year, each day will be diminished because we will not have WARREN MAGNUSON with us.

But the test of time will show that WARREN MAGNUSON will always be with us.

He will be with us in the scores of programs he helped shape, develop and refine. He will be with us every day we witness a life that he helped to make better through his concern and his vision. He will be with us through the standard against which other leaders in the Senate will inevitably be measured.

I trust that MAGGIE will stay around to provide us with the counsel and wisdom we will so dearly need as we confront the problems of the years before us.

For, in shaping the legislative agenda of the years ahead, what better help can there be than the help of him who shaped the legislative history with which we will be working.

So, WARREN MAGNUSON is concluding his career in the Congress of the United States. I want to thank him for touching not only my life, but the life of every American through his unending vision, compassion and leadership.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CHURCH, I wish to state that section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such notifications were received on December 9, and December 10, 1980.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 9, 1980.
Dr. HANS BINNENDIJK,
Deputy Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA, Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 10, 1980.
Dr. HANS BINNENDIJK,
Deputy Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA, Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 10, 1980.
Dr. HANS BINNENDIJK,
Deputy Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security

Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.

THE GREAT PLAINS COAL GASIFICATION PROJECT

Mr. McCLURE. Mr. President, many Members of the Senate, especially those with the assignment of helping increase American energy production, have taken note of a December 8 decision by the U.S. Court of Appeals for the District of Columbia in the case of the Great Plains coal gasification project.

The decision appears to strike a serious blow at the proposed financial structure of the project, which is already under construction near Beulah, N. Dak.

However, it appears that the project might be revived if the original financial plans could be restructured by action of the project partners, the Department of Energy and the Federal Energy Regulatory Commission, and it would be useful, I think, for the Senate to be aware of some of the steps that could be taken.

The Great Plains project would be the first commercial-sized coal gasification plant in the United States and would undoubtedly provide the Nation with a valuable body of technological information—not only on the process that would convert coal to high-Btu synthetic natural gas, but on the conversion to other fuels as well, fuels such as methanol and gasoline.

It is interesting that the court, even though ruling against the financial plan proposed by the parties and approved by FERC, nevertheless recognized the intrinsic worth of the project.

In the last paragraph of its opinion, the court wrote as follows:

> This court fully understands the urgency which underlies our country's strivings to achieve energy self-sufficiency, and we recognize also that promotion of coal gasification may serve that goal. But despite the stress of the energy crisis, federal involvement in synfuel promotion can only proceed pursuant to legal authority conferred by statute. Because FERC in this case acted without statutory authority, its order is set aside and the case remanded to the Commission for further proceedings—if any are necessary—consistent with this opinion.

So the essential worth of the project has been recognized by all of those bodies that have given the project consideration: The Congress, the Department of Energy, the Federal Energy Regulatory Commission, and even the court which ruled in favor of those who had intervened in opposition.

We should now immediately and vigorously explore whether the project might not go forward within the terms of the order.

The Great Plains project would produce natural gas at the rate of 125 million cubic feet per day, the energy equivalent of 22,000 barrels of oil.

However, since its product would necessarily be fed into the Nation's system of regulated natural gas pipelines, the project sponsors applied to the FERC for a certificate of public convenience and necessity.

FERC, on November 21, 1979, granted such a certificate which, in effect, set the terms and conditions under which the synthetic fuel could be sold in interstate commerce.

The order granted two conditions which were disputed by the intervenors.

First, it allowed the pipeline companies who are partners in the project to collect in their rate funds needed to pay interest charges during construction as well as a return on the partners' investment during the period when the plant would be built.

Second, it provided that the debt portion of the plant's capital costs would be, in effect, guaranteed by the customers of the pipeline companies. This provision has the same effect as a loan guarantee. However, Federal synfuel loan guarantees were not available when FERC began its deliberations.

The court ruling negated both of these FERC provisions, and both were considered essential to the success of the Great Plains plan. In view of the late hour in this Congress, there is no opportunity to consider a legislative approach to the issues raised by the court decision. However, I intend in the next Congress to focus early on those issues and initiate necessary legislative action.

In the interim, it seems that the damage could be repaired and, in fact, has already been repaired in part.

The project has been granted a conditional commitment for a $1.5 billion loan guarantee—a commitment issued by DOE under the authority of the Federal Nonnuclear Research, Development and Demonstration Act of 1974, as amended.

This commitment, when executed, would, in effect, substitute for the disreputed consumer backstopping.

Now let us examine the surcharge provision that was negated by the court action.

That surcharge, as I said, was divided into two parts. One part would have provided the partners with a return on investment during construction.

However, that problem would disappear if the Great Plains partners were to agree to postpone the receipt of earnings until the plant was operational. This might mean some diminishment of return if figured on a discounted cash flow basis, but is nevertheless a sacrifice that the partners might prudently consider.

As to the surcharge portion that would be used to pay interest during construction, the project might proceed on a different route.

Instead of paying the interest on a pay-as-you-go basis, the total interest costs could be capitalized and paid once the project is producing.

This, of course, would add considerably to the capital costs of the project and, consequently, to the debt portion of those capital costs. I understand, in fact, that the additional amount would be some $300 million.

However, this problem would be overcome if the DOE chose to utilize the legal authority and available loan guarantee funding under existing law to increase the loan guarantee amount by the $300 million sum.

If these items were to be achieved, then the remaining problem would be for the project managers to get sales authority from FERC that would comport with the provisions of the court order.

Under the court order, this sales authority could be obtained in an FERC order without a surcharge during construction. As we have seen, the surcharge problem is solvable in another fashion.

It would mean an FERC order without a provision providing consumer backstopping. But, as we have seen, the newly available Federal loan guarantee would fill that gap.

It would be unfortunate, I think, for the project to fail now.

It would be my hope that all parties give careful and immediate consideration to a new effort—an effort that might impose additional burdens on each but would result in a major breakthrough in the Nation's efforts to develop a synthetic fuels industry.

Mr. BURDICK. Mr. President, I applaud the Senator from Idaho for the perceptive analysis of the Great Plains situation.

The project, as you know, is located in my State and over the years of its development, has achieved strong support there.

I note that the judges of the circuit court scolded the FERC for embarking on an innovative course toward the establishment of this plant.

The court notes that FERC was never given the job of developing a "comprehensive strategy" for developing a synfuel industry and suggests that Congress intended to leave that job solely to the Synthetic Fuels Corporation.

It is my view, however, that while Congress intended a strong role for the corporation, we did not intend to give it a monopoly on innovativeness and an aggressive pursuit of new fuel sources. In fact, our several recent actions in appropriation acts under the alternative fuels program established by Public Law 96-126 have demonstrated continued and strong congressional support for the Department of Energy's program and the Great Plains project.

The FERC, in seeking to support a commercial-sized synfuels plant, was moving in parallel to Congress, not contrary to it.

It remains clear that if regulated pipelines are to provide the transportation system for a portion of our future synfuels production, the FERC will necessarily have a role. Certainly, FERC should not be discouraged from considering imaginative approaches to the energy situation.

Mr. McCLURE. Mr. President, I concur with the Senator's remarks. I would hope, in fact, that FERC take every appropriate action to promote new supply sources.

Certainly, one such appropriate action would be to give prompt and careful thought to a settlement conference and an order that might, if all the other parties come together, allow the Great Plains project to proceed in compliance with the court order.

I hope the same prompt and careful thought will be evidenced by the Great Plains partners and by the Department of Energy.

Mr. ROBERT C. BYRD. Mr. President, I am relieved to hear that the December 8 court decision did not necessarily sound the death knell for the Great Plains project.

Certainly it is worth saving, and it sounds to me if a number of parties are all going to have to give up a little something in order to compensate for the items the court took away.

It would be tragic if this project were to founder after having found approval in so many quarters.

Certainly it is worthy of one more effort.

I am informed that in the court ruling, the judges, as the Senator knows, struck down the key provisions he mentions on the basis that hi-BTU coal gasification projects, such as the Great Plains facility are not technically jurisdictional to the FERC.

That is a matter that could be readily repaired by Congress if Congress chooses to act, and I was pleased to hear that the Senator from Idaho will consider such legislation in the next Congress.

That, however, would probably come too late to help keep Great Plains as a viable project so we probably should embark now on the alternative solutions he suggests.

Certainly this project has not had an easy time in getting underway.

Each time the sponsors overcome one hurdle, they seem to meet another. Unfortunately as they have discovered, it is not easy to be the first to embark on a major new effort, even when there is consensus that the effort should be undertaken.

I join my colleagues in hoping that DOE, FERC, and the sponsors will jointly exert their maximum efforts to reach a solution.

Mr. McCLURE. I thank the distinguished majority leader for his remarks. His support for any endeavor is important and will continue to be.

The Great Plains project is far too important to be lightly abandoned, and I trust it will not be.

If my remarks today are somehow helpful in achieving a solution, then I will be most grateful.

JOSEPH STANLEY KIMMITT—OUTSTANDING PUBLIC SERVANT

Mr. JACKSON. Mr. President, I want to take this opportunity to pay a brief tribute to an outstanding public servant—Joseph Stanley Kimmitt.

Those of us who have known Stan over the long period of his loyal and distinguished service to Members of the Senate wish he would still be with us in the coming 97th Congress. We are going to miss him profoundly, above all for the honesty and integrity he has invariably demonstrated in dealing with the manifold public issues.

In fact, Stan Kimmitt has had two highly successful careers, enlisted man, and officer in the U.S. Army 1941 to 1966; professional and administrative officer in the U.S. Senate 1966 to the present.

Drafted into the U.S. Army in 1941 while an undergraduate at the University of Montana, as a Captain he led a 155-mm howitzer battery of the 78th Infantry Division Artillery in campaigns in France, Belgium, and Germany, and was among the first American troops to enter Berlin. In the Korean war, he commanded a 105-mm howitzer battalion with the Seventh Infantry Division. Returning as a lieutenant colonel he next saw service abroad in Europe culminating as assistant secretary to the general staff, United States, Europe, in Heidelberg, Germany from the secondary, or outstanding, zone of eligible officers. In the summer of 1962 he was promoted to colonel. At Baumhoulder, Germany, he commanded a division artillery of the Eighth Infantry Division, with some 3,300 officers and men, until 1964 when he became chief of the Senate Branch of the Office of Legislative Liaison.

Stan had had two previous tours of duty as legislative liaison officer for the Secretary of the Army in relations with the Senate, 1955 to 1958, and 1959 to 1960. At that point, many of us first came to know him, work with him, call on him for counsel, and count on his steady, good judgment.

At the request of Senator Mike Mansfield, Stan left the Army in 1965 to become administrative assistant to the majority leader, and to begin his second career as an officer of the U.S. Senate. In 1966 he was elected as secretary for the majority of the Senate, serving as the principal floor assistant to the majority leader, Senator Mike Mansfield, and facilitating the work of the Democratic Members of the Senate through endless hours of thoughtful, dedicated work. In 1977, Senate Members showed their wisdom by electing Stan Secretary of the U.S. Senate, a responsibility he has handled with great style and distinction for the last 12 years.

Over the years, Stan Kimmitt demonstrated that he understood better than so many the critical relationship between the Nation's defense posture and our national security. He was a believer in strategic equivalence with the Soviet Union and strong, effective United States and allied conventional capabilities. Stan always understood that adequate, balanced military strength is the essential foundation for an effective American foreign policy—one which will assure our national safety and the future of freedom. Many people these days are coming around to this conviction: Stan has understood it from the start.

I am very proud of my long association and friendship with Stan. I join with my Senate colleagues in wishing him the very best in the period ahead in whatever challenging responsibilities he undertakes.

MESSAGES FROM THE HOUSE

At 1:03 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 459. Concurrent resolution providing for the sine die adjournment of the 96th Congress.

The message also announced that the House agrees to the following resolution:

H. Res. 834. Resolution electing the Honorable John Brademas as Speaker pro tempore of the House of Representatives until not later than December 18, 1980.

At 2:37 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 460. Concurrent resolution requesting the President to return the enrolled bill (H.R. 4175) for the relief of the Woodstock Daily Sentinel, and providing for its reenrollement with a technical correction.

The message also announced that the House agrees to the following resolution:

H. Res. 835. Resolution appointing a committee to wait upon the President of the United States and inform him that the two Houses have completed their business and are ready to adjourn.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker pro tempore has signed the following enrolled bills and joint resolution:

S. 442. An act for the relief of Issac N. Hulver of Kansas City, Missouri;

S. 1465. An act to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes;

S. 1803. An act to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes;

S. 2027. An act for the relief of James Daniel Bronson;

S. 2189. An act to set forth a Federal policy for the disposal of low-level radioactive wastes, and for other purposes;

S. 2227. An act to grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas;

S. 2261. An act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes;

S. 2729. An act to authorize certain emergency repairs at the National Visitor center in the District of Columbia;

H.R. 3317. An act to amend the Internal Revenue Code of 1954 with respect to excise tax refunds in the case of certain uses of tread rubber, and for other purposes;

H.R. 3637. An act to carry out the obligations of the United States under the International Coffee Agreement 1976, signed at New York on February 27, 1976, and entered into force for the United States on Otcober 1, 1980;

H.R. 4968. An act to amend the Internal Revenue Code of 1954 with respect to net operating loss carryovers of taxpayers who cease to be real estate investment trusts, to increase the interest rates on certain United States retirement bonds, and for other purposes;

H.R. 5043. An act to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes;

H.R. 5505. An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes; and

H.J. Res. 644. Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

At 3:09 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House recedes from its amendments to the following bill:

S. 3027. An act to extend authorization for the Disaster Relief Act, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the following bill:

H.R. 6257. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary reported that on today, December 16, 1980, he had presented to the President of the United States the following enrolled bills:

S. 120. An act for the relief of Maria Elena Foley and Caritina Ann Foley;

S. 327. An act for the relief of Shavji Purshottam Dusara, his wife, Vasanti Shavji Dusara, and their child, Shreedhar Dusara;

S. 1148. An act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes;

S. 1227. An act for the relief of Munir P. Benjenk;

S. 1374. An act for the relief of Lynn Rufus Pereira;

S. 1624. An act for the relief of Francisco Pang;

S. 1772. An act for the relief of Min-Zen Lin;

S. 1784. An act to provide certain authority for the purchase and sale of electric energy by Federal departments in Alaska, and for other purposes;

S. 1824. An act to designate the John D. Larkins, Jr., Federal Building;

S. 1847. An act for the relief of Ana Marlene Orantes;

S. 2849. An act for the relief of Charles Jeffrey Greene; and

S. 3261. An act to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such sections.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and doucuments, which were referred as indicated:

EC-5114. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on construction projects to be undertaken by the Army National Guard; to the Committee on Armed Services.

EC-5115. A communication from the Acting Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, a report concerning the Selected Reserve recruiting and retention incentives; to the Committee on Armed Services.

EC-5116. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of passengers per day and the on-time performance of each train operated by the Corporation for the month of June 1980; to the Committee on Commerce, Science, and Transportation.

EC-5117. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, a copy of the Board's letter appealing the OMB's budget allowance for fiscal year 1982; to the Committee on Commerce, Science, and Transportation.

EC-5118. A communication from the Secretary of the Interior transmitting pursuant to law a report on the implementation of legislation related to Lowell National Historical Park in Massachusetts; to the Committee on Energy and Natural Resources.

EC-5119. A communication from the Director of the Office of Hearings and Appeals of the Department of Energy, transmitting, pursuant to law, the fourth quarter report on private grievances and redress; to the Committee on Energy and Natural Resources.

EC-5120. A communication from the Administrator of the General Services Administration transmitting, pursuant to law, a follow-up report on the report of the President's Commission on the Accident at Three Mile Island; to the Committee on Environment and Public works.

EC-5121. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports transmitted to the Congress by the General Accounting Office during October 1980; to the Committee on Government Affairs.

EC-5122. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Assistance System Should Be Changed To Permit Greater Involvement By State Legislatures"; to the Committee on Governmental Affairs.

EC-5123. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Continued Use Of Costly, Outmoded Computers In Federal Agencies Can Be Avoided"; to the Committee on Governmental Affairs.

EC-5124. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports transmitted by the General Accounting Office for the month of November 1980; to the Committee on Governmental Affairs.

EC-5125. A communication from the Chief of the Army and Air Force Exchange Service, transmitting, pursuant to law, the annual report of the retirement annuity plan for employees of the Army and Air Force Exchange Service and the supplemental retirement income plan for members of its Executive Management Program; to the Committee on Governmental Affairs.

EC-5126. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report on a new system of records under the Privacy Act; to the Committee on Governmental Affairs.

EC-5127. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Oversight of the Government's Security Classification Program—Some Improvement Still Needed"; to the Select Committee on Intelligence.

EC-5128. A communication from the Attorney General of the United States, transmitting a determination by the Solicitor General that the United States will not appeal the judgment of the district court in Mertz v. Harris, which challenged a section of the Social Security Act; to the Committee on the Judiciary.

EC-5129. A communication from the Chairman of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, transmitting, pursuant to law, the Commission's 1980 Annual Report; to the Committee on Labor and Human Resources.

ADDITIONAL STATEMENTS

CLARIFICATION OF CERTAIN TAX PROVISIONS CONTAINED IN H.R. 7020, THE SUPERFUND BILL, AS AMENDED BY THE SENATE

• Mr. LONG. Mr. President, on behalf of Senator DOLE and myself I want to clarify several questions that have been raised with regard to the intent of Congress with respect to the tax provisions of the superfund legislation, H.R. 7020. One issue involves the tax on petroleum and three questions deal with the tax on chemicals. This statement elaborated what we believe to be the intent of Congress with respect to these issues.

The statement follows:

STATEMENT

1. Section 4612 of the Code imposes a tax on natural gasoline derived from natural gas. It has been asked whether it is correct to assume that the tax is, as in the case of crude oil, imposed at the refinery gate and not at the natural gas processing plant where such gasoline is separated from the natural gas.

Generally, the petroleum tax on products other than imports imposed under section 4611(a) is on crude oil (including natural gasoline and crude oil condensates) received at a U.S. refinery, which is defined in the statute as any facility in the United States at which crude oil is refined. The petroleum tax also may be imposed under 4611(b) on the use or exportation of crude oil, if no tax has been imposed on the oil upon its receipt at a refinery. Thus, if crude oil is refined at the natural gas processing plant, then the plant would be treated as a refinery and the natural gasoline produced at such a plant would be taxable when produced. However, if crude oil is not refined at a natural gas processing plant, then the natural gasoline would be subject to a tax only when received at a U.S. refinery, used, or exported.

2. With respect to taxation of petrochemical feedstocks, Section 4661(a) imposes a tax on any listed chemical sold by a manufacturer, producer or importer of the substance. Section 4662(c) makes use of such substance equivalent to sale for taxation purposes. It has been asked whether it is correct to assume that these two sections are to be read together and are intended to provide equivalent tax treatment to firms which manufacture and sell, and those which manufacture and use, such feedstocks.

Section 4651(a) imposes a tax on any taxable chemical sold by the manufacturer, producer, or importer of the chemical. Section 4661(c) states that if a manufacturer, producer or importer uses the chemical, then this person would be liable for the tax in the same manner as if the chemical were sold by the person. Thus, either sale or use of the taxable chemical by the manufacturer, producer, or importer would generate a tax liability.

3. A question has also arisen regarding the application of the excise tax on chemicals to gasoline and other refinery products. As I understand the petroleum industry, oil which is received at a refinery is first distilled to

produce a light hydrocarbon stream which eventually is blended with other products and sold as gasoline. The products from the distillation process may then be further processed in a catalytic cracker or in a reformer. The cracking and reformation processes produce, in part, mixed streams of light hydrocarbons which are blended with distillates and sold as gasoline. The light hydrocarbon streams produced in the distillation, cracking, or reformation processes may contain various amounts of substances, such as benzene, butadiene and xylene, which are listed as taxable chemicals in title II of H.R. 7020. We further understand that before any of these substances can be used for chemical processes such as the production of pesticides, or other hazardous substances they must be isolated from the hydrocarbon stream. The question which has arisen is whether the Ways and Means Committee in drafting the original superfund tax intended to tax specified chemicals present in the gasoline refining process if those chemicals are not isolated for chemical use but remain instead in the gasoline.

The tax in H.R. 7020 is imposed upon the sale or use of any taxable chemical by the manufacturer, producer or importer of that taxable chemical; the relevant language is contained in both the House and Senate versions of the bill. If the process of producing gasoline and of isolating particular substances is as it has been described to us, then we would say that the Ways and Means Committee did not intend to tax named substances present in mixed hydrocarbon streams used to produce gasoline. When a refinery operates a distillation cracking, or reformation process for the purpose of obtaining a light hydrocarbon stream that will be sold as gasoline it cannot be said to be engaged in the manufacture or production of any taxable chemical. In contrast, if that gasoline is not sold but is further processed to isolate one or more taxable chemicals then the refiner is the producer of those chemicals and the excise tax on chemicals would be imposed.

It should also be noted that although an importer of gasoline is not importing a named taxable chemical it is importing a petroleum product and would be subject to the excise tax on petroleum provided for in H.R. 7020.

4. The superfund legislation generally imposes a tax under section 4661 of the Code on the sale or use of certain chemicals. However, section 4662(b)(1) states that methane or butane are treated as a taxable chemical only if "used otherwise than as a fuel." These words appear in both the House and Senate versions of H.R. 7020.

It has been indicated that one important way in which butane is used is as a component of gasoline and other fuels produced in an oil refinery. As we understand it, butane is dissolved (without any change in its chemical composition) into the gasoline to enhance the overall performance of the gasoline, which is, of course, used as a fuel. The specific question which arises is whether, in this case, the butane has been used "otherwise than as a fuel" and thus, whether such use is subject to tax.

If the facts with respect to gasoline production are as represented above—that the chemical composition of the butane does not change and that it is merely dissolved in or mixed with other substances, all of which are used as a fuel, then the Congress did not intend that this butane should be subject to the tax. If, in some other situation, the butane is repeatedly mixed with other substances in an extended sequence of mixtures or its chemical composition is changed, then it is intended that it be "used otherwise than as a fuel," and thus, subject to the tax at that point.●

THE IMPORTANCE OF H.R. 5047 (THE OMNIBUS TARIFF BILL) TO THE U.S. TEXTILE INDUSTRY

● Mr. CHAFEE. Mr. President, as a member of the International Trade Subcommittee of the Senate Finance Committee, I strongly support H.R. 5047, legislation which temporarily suspends duties on a variety of imported products, and am pleased that the Senate has approved this measure in the closing days of the 96th Congress.

While this measure may be noncontroversial, it is indeed important trade legislation. H.R. 5047, like other omnibus tariff suspension or reduction measures, demonstrates our commitment to policies of freer trade, and to the benefits to be derived as a result of such trade for manufacturers and consumers alike.

Of special interest to me in this legislation is section 113, which temporarily suspends the current duty on warp knitting textile machines. The tariff on these products is unnecessary because there has been no domestic production of warp knitting machinery used by the textile industry for the past 5 years. During this time, significant advances have been made by foreign manufacturers of this equipment. The result is a new generation of machinery which will enable warp knit fabric mills to produce a more competitive product for both United States and foreign markets.

The most recent available statistics on U.S. manufacturers shows that there are nearly 250 warm knit fabric plants located in this country, which account for 25,000 employees. I am pleased to note that more than a dozen of these firms are located in my home State of Rhode Island, once the capital of the textile industry, and employ nearly 1,500 of my constituents. These figures may not appear impressive to some larger States, but in Rhode Island, textile manufacturers contribute importantly to the State economy and employment. Today, these manufacturers, especially among warp knit fabric plants, produce goods for export as well as for domestic consumption.

The existing U.S. duty on warp knitting machines of 6.7 percent ad valorem places our domestic knitting mills at a competitive disadvantage with foreign producers. Most of these machines are purchased from producers located in five European countries.

When a manufacturer of warp knit fabric in the United States purchases one of these new, foreign-made machines, many of which sell for over $60,000 per unit, a duty of between $3,000 to $5,000 is reflected in the price.

If, on the other hand, a U.S. textile manufacturer does not purchase this machinery, his products will not benefit from the design and manufacturing flexibility of this advanced equipment.

This problem was noted during the recent multilateral trade negotiations (MTN) and as a result of these discussions the duty on warp knitting machines has begun a phase-in reduction from 7 percent in 1979 to 4.7 percent in 1987. Nonetheless this agreement provides little or no measurable relief for the domestic textile industry at the present time, especially in absence of any domestic manufacturer of the machinery.

Given the current state of the art of textile machine production, the Northern Textile Association predicts that it would take a minimum of 5 years for a U.S. machinery manufacturer to develop equipment which would be competitive with the latest foreign-produced machines. Technology development in this area is cyclical and the new phase now underway in Europe makes it unlikely that a U.S. manufacturer would undertake an expensive long-term commitment necessary to produce a competitive product. Both the House and Senate Trade Subcommittees have recognized this fact, and have recommended a 3-year suspension provided in H.R. 5047.

Such a duty suspension will allow U.S. companies to begin their necessary equipment replacemnt programs in an orderly and extended period. During this time of high interest rates, the 3-year suspension is especially important to textile plans attempting to become more efficient and productive.

Enactment of H.R. 5047 will be beneficial to American manufacturers and consumers. Suspending the duty on these machines will encourage U.S. firms to replace outmoded equipment. Purchasing the new equipment without the penalty of a tariff will mean that a greater variety of products will be available to the consumer, at more competitive prices.

In this way, purchases of these new machines will stimulate both employment and exports.

In fact, the U.S. warp knit fabric industry has worked diligently to expand its share of foreign markets. Between 1977 and 1979, exports of such fabrics made with man-made fibers increased by 90 percent reaching sales of over $6 million.

The warp knit fabrics are in demand by designers, manufacturers, and consumers, U.S. manufacturers must be prepared to meet increased demands and competition, both domestically and abroad. Temporary removal of a tariff which no longer serves the purpose for which it was intended will be an important benefit to the textile industry.

I join with all my colleagues, who are concerned about the preservation of our free trade policies, the economic health of one of our Nation's most important industries, and the creation of new jobs through increased exports, to support H.R. 5047, the omnibus tariff bill.●

REVENUE SHARING

● Mr. MOYNIHAN. Mr. President, during the deliberations on the revenue-sharing bill, the managers of the bill accepted an amendment I introduced to adjust the population element in the revenue-sharing formula for the impact of the census undercount. In accepting my amendment, Senator Dole inserted into the Record certain reservations that he had on the impact of this amendment, and I would like to address those issues.

I ask that Senator Dole's questions be inserted in the Record, to be followed by my response. Senator Dole's reservations:

> Census Adjustment
>
> Under the Moynihan amendment, the committee bill directs the Secretary of Treasury to request the Census Bureau to make an adjustment for possible undercount in the 1980 census. The Committee report disavows any intent to have this adjustment used for purposes other than revenue sharing.
>
> The Committee provision for an undercount adjustment intrudes into an area not within the jurisdiction of the Committee. Basically, this provision directs the Treasury Department to pressure the Census Bureau to make an undercount adjustment: something the Bureau has resisted doing. The accuracy of the census is not a matter that the Committee is in a position to judge.
>
> The census issue is a political hot potato, and it does not seem advisable to bring up such a controversial matter in connection with revenue sharing. It would be simpler to say nothing at all on the question: the odds are that any adjustment made in the census would be taken account of in the revenue sharing allocation.
>
> If something must be said about census adjustment, why not just say that, if an adjustment is made, the adjustment will be used in making the revenue sharing allocations. That way no pressure is being exerted to make an adjustment.
>
> The point is not so much who would win and who would lose under a census adjustment. The point is that there would be winners and losers, and this is not a sensible way to go about choosing sides.
>
> The implications of a census adjustment are enormous. The Census Bureau denies it has the power to make an adjustment for purposes of Congressional reapportionment (reapportionment figures are due by December 31, 1980). An adjustment would affect the distribution of funds for many federal programs in different (and unpredictable) ways. If Congress wants to legislate in this thorny area, it should do so directly, not by exerting this sort of indirect pressure.
>
> The census question is also the subject of pending litigation: Federal judges in New York have ordered the Census Bureau to make an adjustment, but the Bureau is still resisting. While the matter is still in the courts, it would be best for Congress not to intervene unless it intends to resolve the question directly.

I would like to respond.

The revenue sharing formula and all the elements included therein very much fall within the discretion of the Finance Committee. The amendment merely clarifies the formula to ascertain that all residents are included in the population element in the revenue sharing formula. The amendment does not specify the statistical method to be used by the Census Bureau; it merely requires that some undercount adjustment be made. The Census Bureau already calculates this figure with each decennial census.

While the political sensitivity of this issue has been recognized, much about the issue has already been decided. A Federal court in Michigan has found on constitutional grounds, that the census must be adjusted for the undercount and that true population figures must be used for dispensing of Federal dollars in population based formulae.

Senator Dole asserts that there will be winners and losers from this amendment. I do not believe that the issue can be quite so narrowly drawn. The amendment assures that recipient localities will receive their rightful share of revenue based on the number of individuals who reside there. This is really a implementation of existing law rather than a change in the formula for distributing the funds.

The effect of an adjustment on the distribution of general revenue sharing funds will be small. Population is only one of five components that determine the local share of these funds. Moreover, because the undercount is greater in rural areas than in urban, the greatest beneficiaries of my amendment would be southern rural communities.

The undercount is a fact. We know that it exists. We know that in 1950 the Census Bureau estimated it at 3.3 percent, in 1960 at 2.7 percent, in 1970 at 2.5 percent. The Census Bureau does have the ability to adjust. In fact, it has already done so. In 1970 the Census Bureau used a post-enumeration survey to add some 5 million people to the count.

There are two reasons the Census Bureau now says it cannot adjust for reapportionment. The first is that it now interprets section 2a of title II of the U.S. Code to mean that it may not adjust. This is the opposite of its interpretation in 1970, and one which requires clarification. The second is that the Census Bureau believes that it cannot adjust the numbers it collects on April 1, 1980, by January 1, 1981, the legally mandated date for reporting its numbers to the President. Because we are talking here only about numbers for general revenue sharing, the Census Bureau will have the time it needs to complete the adjustment.

Senator Dole is quite correct in saying that this is an issue which Congress should resolve directly. I have introduced two measures, S. 1606 and S. 3603, that would require an adjustment. I have pressed for these measures; I will continue to press for them in the 97th Congress. One of the purposes of my amendment is to bring this fundamental constitutional question to the attention of the Congress.●

JACKIE PRESSER

● Mr. NUNN. Mr. President, yesterday President-elect Reagan announced the appointment of Jackie Presser, president of the Ohio Conference of the Teamsters Union, as a senior adviser to the transition team working on economic affairs, including labor matters and the Labor Department.

Mr. Presser is one of 17 defendants in a civil suit brought on February 1, 1978, by the Labor Department against former trustees and officials of the Teamsters Central States Pension Fund.

As the Labor Department said in its own press release:

> The suit contends that these trustees and officials failed to adequately discharge their fiduciary responsibilities to prudently manage the assets of the Fund. The complaint details a series of questionable loan transactions that illustrates the pattern of imprudent behavior by these trustees and officials.

Mr. Presser also is a defendant in a suit brought by the Labor Department in October 1978 against the Central States Health & Welfare Fund of which he was a trustee. That suit alleges that the health and welfare fund improperly awarded a contract to process its insurance claims to Amalgamated Insurance Agency Services, Inc., a firm which is controlled by Allen Dorfman. Mr. Dorfman has been linked by Federal investigators to organized crime figures, and he was convicted in 1971 in a scheme which involved kickbacks to Teamsters officials.

The Permanent Subcommittee on Investigations, of which I serve as chairman, has been concerned for more than 5 years with the operations of the Teamsters Central States funds as well as the Labor Department's investigation of these funds.

We held extensive hearings last August and October which showed that the Labor Department's investigation of the pension fund leaves much to be desired, and it is my hope that this effort will be diligently and professionally handled by the new administration.

The appointment of Mr. Presser, who is a defendant in two lawsuits brought as a result of the Labor Department and subcommittee investigation, raises several significant questions which should be addressed at the highest levels of the incoming administration.

For example, will Mr. Presser be involved in the selection of senior Labor Department officials?

If so, will he also help to select the men and women who will carry forward the civil suit against him and his associates in the Teamsters Union?

Is he taking part in the shaping of the policies which the Government will follow in future dealings with the Central States Pension Fund and with its present and former trustees?

Is it a violation of the fundamental principles of Government ethics for Mr. Presser to help organize the very Department which has brought suit against him?

Even if Mr. Presser is not participating in these decisions, the appearance of such authority raises serious doubts and questions of conflicts of interest.

I sincerely hope that President-elect Reagan will address these questions and make a speedy resolution of them so that the millions of working men and women of the Nation can have undiluted confidence in the integrity of the Labor Department.●

TRIBUTE TO MILTON YOUNG

● Mr. KENNEDY. Mr. President, in the final hours of the 96th Congress, I would like to pay tribute to an outstanding Republican Senator who is retiring this year—Milton Young. Although we were often on different sides of important issues, he had the respect of all of us as a formidable and generous colleague and an extremely effective representative of the people of North Dakota.

He served 8 years in this Chamber with John Kennedy in the 1950's. They enjoyed a warm personal friendship throughout my brother's service as Senator and President. And when I first came to the Senate in 1962, Jack made a special point of emphasizing to me the high regard in which he held MILTON YOUNG as a leader among the Republican Members of the Senate.

Senator YOUNG's record of dedicated public service spans the incredible record of more than half a century. He has served with distinction at every level of government—as a member of his local school board, as a county commissioner, as a member of the North Dakota House of Representatives, and as majority leader of the North Dakota Senate.

He has served in the Senate for 36 years—the longest period of consecutive service by any Republican Senator in the Nation's history. He is the dean of Senate Republicans. He has never been defeated in any political race. His extraordinary record in this body is a tribute to his integrity, his outstanding legislative ability, and the esteem in which he is held by all his colleagues.

Senator YOUNG's interest in politics began during the depression and drought years of the 1920's. A farmer himself, he felt deeply that much of the distressing poverty suffered by farmers and others in those years could have been averted by wise farm legislation. And in his Senate career, he has played a central role in restoring American agriculture to its role of preeminence in the world.

It was MILTON YOUNG who helped launch the farm price support program. It was MILTON YOUNG who was a leader in the efforts to start the Public Law 480 food for peace program; in that effort, he worked closely with President Kennedy.

It was MILTON YOUNG who sponsored the Rural Telephone Act, which has linked the rural areas of our country with the rest of the world and revolutionized rural life.

It was MILTON YOUNG who inaugurated the target price concept that safeguards the American farmer.

Senator YOUNG has made his mark on every piece of agricultural legislation over the past three decades, and he has rightly earned the gratitude of farmer and consumer alike.

From his seat in the Senate, MILTON YOUNG has seen and helped to shape the history of our time. Now, as he leaves the Senate at the end of this session, he takes with him the respect and affection of his colleagues on both sides of the aisle, and our good wishes for a long and happy retirement.●

GRADUATE ACADEMIC FACILITIES CONTAINED IN THE CONTINUING RESOLUTION

● Mr. EAGLETON. Mr. President, the release of the loan funds for Graduate Academic Facilities as contained in the continuing resolution for special and critical needs will have no impact on the fiscal year 1981 budget. They are released in accordance with the legislative history of H.R. 7998, and are intended to be immediately available.

In view of the need for funds for graduate facilities, two priorities, which are:

First, graduate facilities with unclosed loans, and

Second, research libraries, as reported by the Senate and House conferees in the authorization bill, have prompted our Appropriations Committee to release $25 million from amounts available in the higher education loan fund for graduate facilities. The committee also provided authority to the Secretary of Education to provide funds in excess of campus loan limits to meet special and critical needs within these priorities.

It is expected that the original legislative intention for the project in the Nation's Capital will be fulfilled (Public Law 94–482) as reported in House Report 95–644, and provide for the necessary interassociation of its schools.●

CONTINUING APPROPRIATION RESOLUTION

● Mr. PELL. Mr. President, I am deeply disappointed that the Senate and the House were unable to reach an agreement on the continuing appropriation resolution that would have permitted new and important projects approved by the House and the Senate conferees to be funded by the Federal Government.

For example, the Senate Appropriations Committee added an amendment that would have increased the appropriation available to the National Institute of Neurological and Communicative Disorders and Stroke by $10 million. This would have encouraged more innovative research on motor neuron diseases and related system degeneration, including ALS, and perhaps moved us more quickly toward a cure for these terrible diseases.

In the last 5 years, the scientific knowledge about neurological disease has been greatly expanded. This additional funding would have enabled the National Institutes of Health to sponsor a number of projects in this area and establish an international clearinghouse so that scientists could share information and work more efficiently toward finding a means to prevent and, ultimately, cure diseases such as ALS.

The National Institute of Neurological and Communicative Disorders and Stroke has a very difficult mandate given the relatively low level of funding available to it.

I regret, therefore, that this additional funding approved by the House and Senate conferees could not have been included in the continuing resolution that passed both Houses last night. Unfortunately, this noncontroversial amendment was part of a large package that was pared down in the final hours of debate on this measure.

This action by the Congress should not affect the Institute's current projects in the area of motor neuron disease. In fact, I would hope that the National Institutes of Health, based upon the sense of the conferees, would encourage wherever possible more scientific experimentation that might bring us closer to finding an answer to the number of unanswered questions about neurological diseases, such as ALS.●

HUNGER STRIKE IN NORTHERN IRELAND

● Mr. KENNEDY. Mr. President, the hunger strike currently taking place in Northern Ireland is a source of deep concern to me and to all Americans who care about the cause of peace and human rights in Northern Ireland. At this specially critical time, I want to take this opportunity to emphasize my humanitarian concern for an immediate resolution of the strike. In the spirit of this season, I urge all the parties to intensify their efforts to reach a peaceful solution capable of ending this tragic situation in a fair and reasonable way.●

WOODSTOCK DAILY SENTINEL

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 460.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 460) requesting the President to return the enrolled bill (H.R. 7175) for the relief of the Woodstock Daily Sentinel, and providing for its reenrollment with a technical correction.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution.

There being no objection, the concurrent resolution was considered and agreed to.

FINAL CONGRESSIONAL RECORD FOR THE 96TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, following sine die adjournment, a final RECORD will be published on Monday, December 29. Statements for that RECORD may be submitted in room S–220 of the Capitol, between the hours of 9 a.m. and 3 p.m. on weekdays except December 25 and December 26.

ORDER FOR SENATORS TO HAVE UP TO 10 CALENDAR DAYS TO INSERT STATEMENTS IN THE RECORD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have up to 10 calendar days in which to insert statements in the RECORD following the adjournment sine die of the 96th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE

Mr. STEVENS. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 574) tendering the thanks of the Senate to the President pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

The Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, I have previously expressed my regrets concerning the departure of my good friend and southern neighbor from the State of Washington, our President pro tempore.

Many people have known WARREN MAGNUSON for years. We in the Territory of Alaska knew him as did the occupant of this chair as one of the Senators who was dedicated to assist those of us who were in territorial status to achieve statehood.

I am saddened by his departure, but I made my remarks concerning our warm friendship.

I am delighted that my good friends, the majority and minority leaders, have allowed me to offer this resolution.

I ask for its approval.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 574) was agreed to as follows:

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Warren G. Magnuson, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the second session of the Ninety-sixth Congress.

TRIBUTE TO THE MAJORITY LEADER

Mr. MATHIAS. Mr. President, from the Fairfax Stone where the river rises high in the Appalachian Mountains to Harpers Ferry where it breaks through the Blue Ridge to rush toward Tidewater, the Potomac River is the common boundary of the State of West Virginia and the Free State of Maryland.

Thus for about 200 miles we are neighbors, nextdoor neighbors, and I have a very neighborly feeling toward the people of West Virginia, and toward none of them do I have a more neighborly feeling than toward the distinguished Senator from West Virginia, the majority leader of the U.S. Senate.

Perhaps a part of my neighborly feeling toward the majority leader is the fact that when one of our neighbors achieves great success in the world, it raises the standards of the neighborhood. We all bask in his reflected glory.

But my feeling toward Senator ROBERT C. BYRD is deeper than that. In a way, the majority leader is my own Senator. My grandmother was born in Jefferson County, W. Va., and my family still owns the farm on which she was born. So I look to Senator ROBERT C. BYRD as my Senator, my Senator at least in Jefferson County, W. Va.

The cooperation that the majority leader has extended to me has always been very much appreciated. I think it has been good for our two States. I know it has been good for Maryland, and I believe it has been good for West Virginia.

But his cooperation has extended beyond a mere official relationship. He has always extended to me courtesy and kindness that are deeply appreciated.

I salute him for his great achievements as the majority leader of the U.S. Senate, a position that is unparalleled in any government in the world, and a position he has occupied with distinction to himself and to the people who have sent him so often to the U.S. Senate.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Maryland (Mr. MATHIAS) and I have worked together on the Committee on the Judiciary for many years. We sometimes facetiously refer to our relationship as the Potomac Coalition, and that Potomac Coalition will continue to endure.

I have the utmost admiration and affection for the congenial Senator from Maryland, who is an extremely able Senator, highly respected in this body, and one whom I am grateful to call my friend.

I appreciate his comments today. They are typical, characteristic of him. May I say I wish I had his eloquence so that I might more aptly state my estimation of him?

Mr. MATHIAS. I thank the majority leader.

AUTHORIZATION FOR THE PRESIDENT OF THE SENATE AND PRESIDENT PRO TEMPORE TO MAKE CERTAIN APPOINTMENTS

Mr. CRANSTON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

Senate Resolution 575 authorizing the President of the Senate and the President of the Senate pro tempore to make certain appointments after the sine die adjournment of the present session.

The resolution (S. Res. 575) was agreed to as follows:

Resolved, That notwithstanding the final adjournment of the present session of the Congress, the President of the Senate and the President of the Senate pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader and I have just completed our assignment acting as a committee to call on the President of the United States to say to him that the Senate has completed its work during the 96th Congress and is prepared to adjourn sine die, and asking whether or not he had any further communication to convey to the Senate before its adjournment.

The President thanked the distinguished minority leader and me, and through us our colleagues on both sides of the aisle, for the cooperation which has been shown to him, for the courtesies which have been accorded, and for the work which has been done in working with him on behalf of the Nation.

He expressed his gratitude at the productive work that has been accomplished by the Senate during his 4 years as President.

He at considerable length went through an enumeration of measures which he considered, and which I joined him in considering, to be landmark legislation, at least very important legislation.

He mentioned in particular the energy legislation which, in my judgment, forms a cornerstone of a national energy policy.

He mentioned various deregulation measures having to do with airlines, banking institutions, trucking, and the railroad industry.

He mentioned the Alaska lands bill in particular. He referred to the far-reaching trade regulation that has been enacted. He also referred to and, especially, the windfall profit tax.

He made reference to the legislation in support of foreign policy, and he thanked the Senate for the part it had played in the enactment of these measures.

I thought he was cheerful, upbeat. He was very gracious and wished the Members of the Senate a happy holiday and a very cordial and productive working relationship with the incoming President, Mr. Reagan, as we look forward to the 97th Congress.

I personally felt that Mr. Carter had achieved a good many accomplishments during his Presidency, many of which have been overlooked, but which, all in all, I think contribute to high marks for him. Among those measures that I think have made such contribution are the ones I have indicated that he enumerated during his conversation with Mr. BAKER and with me.

I think it should be pointed out that Congress has enacted about 75 to 80 percent of the legislation which Mr. Carter had recommended, although with modifications in many instances.

In this regard—I shall not speak for Mr. BAKER—the President took occasion to thank Mr. BAKER and the minority for the cooperation that had been shown and for the contributions that had been made by the minority in the enactment of this legislative record.

I yield to the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the Chair. Tradition and practice of notifying the President that the Congress is in session and ready to receive his messages and requests and to notify the President that Congress, the Senate in this case, is preparing now to adjourn sine die, but to take the precaution of asking the Chief Executive if there are other and further messages that he wishes to communicate, it seems to me, symbolize the relationship that does and ought to exist between the branches of Government, because we are a team.

I think to a great extent President Carter and this Congress have been more of a team than is often perceived.

It is true that we have had our conflicts and disagreements. But, on the other hand, we have never had an open hostility and, indeed, my personal relationship with the President has been warm and cordial. He has been unfailingly generous to me.

So my remarks, Mr. President, are to wish the President well, to extend to him and to Mrs. Carter my best wishes and that of my wife and family not only for a happy holiday season but for a happy and fruitful and prosperous future.

I was especially taken with the request by the President that we convey to the Senate his expression of the hope that the cooperation between the President and Congress would continue in the opening days of the next session because, indeed, President Carter will be the President of the United States when the next Congress convenes on January 5.

I welcome that expression of cooperation from President Carter and I reciprocate it there and I reciprocate it here that it is the duty of the departments of Government to cooperate where they can and disagree where they must but to maintain a relationship which is always and invariably in the best interests of the Republic. I believe Jimmy Carter has kept that in mind.

Mr. President, I express my appreciation to the President for his good wishes to this group and I join with the majority leader in conveying to every Member, President and Mrs. Carter's wishes for a happy holiday season.

ORDER THAT THE RECORD BE KEPT OPEN UNTIL 4 P.M. TODAY TO RECEIVE STATEMENTS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Record be kept open today to receive statements only until 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES DURING THE SINE DIE ADJOURNMENT OF THE SENATE

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the House of Representatives during the sine die adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT SINE DIE

Mr. ROBERT C. BYRD. Mr. President, the 96th Congress comes to a close, bringing down the curtain on 192 years of Senate history. It will only be 8 years until 200 years, two centuries of Senate history will have passed the scene of the world's stage.

> The Moving Finger writes; and having writ, Moves on: nor all your Piety nor Wit
> Shall lure it back to cancel half a Line,
> Nor all your Tears wash out a Word of it.

Mr. President, I move, in accordance with the provisions of House Concurrent Resolution 459 that the Senate stand in adjournment sine die until 12 o'clock meridian, January 5, in the year of our Lord 1981.

The motion was agreed to, and, at 3:14 p.m., the Senate adjourned sine die.

CONFIRMATIONS

Executive nominations confirmed by the Senate, December 16, 1980:

National Oceanic and Atmospheric Administration

Capt. Kelly E. Taggart to be Director of the Commissioned Officer Corps, National Oceanic and Atmospheric Administration, with the grade of rear admiral (upper half).

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

In the Air Force

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt Gen. Robert T. Marsh, [redacted] FR, U.S. Air Force.

Gen. Alton D. Slay, U.S. Air Force (age 56), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Air Force nominations beginning Harold B. Adams, to be colonel, and ending Richard B. Trumbo, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on December 3, 1980.

EXTENSIONS OF REMARKS

U.S. STEELMAKING GIANTS SIPHON OFF PROFITS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. SEIBERLING. Mr. Speaker, the steel industry is not only a key sector of the economy of the region of the country from which I come but is vital to the economy of the Nation. It is also essential for our military defense. Several years ago, a number of us Members joined together to form the Congressional Steel Caucus, an action triggered by the closing of the Youngstown Sheet & Tube plants in the Youngstown, Ohio area and the problems the industry as a whole was facing from foreign competition, some fair and some unfair. While the administration's so-called trigger-price mechanism has since helped curb some of the unfair competition, the problems of the industry continue and the steel plants continue to shut down.

The Akron Beacon Journal of December 11, 1980, contained a reprint of an article from the Los Angeles Times by Alan Fisher, which contains some startling and provocative information as to the factors behind the tragic, indeed dangerous, condition of the American steel industry. Mr. Fisher, himself an employee of Bethlehem Steel, is the editor of Steelworkers Local 2609's newsletter.

The article points out that the newest domestic steel plant was built in 1964 in Indiana and that few steel corporations have made any significant capital improvements in the last 25 years. He adds, interestingly enough, "What improvements have been made seem to be a result from pressure from the Government and environmentalists." He notes that Bethlehem was encouraged to build a new blast furnace at the plant where he works by the threat of fines from the State water resources board because of the tremendous pollution caused by its old, obsolete blast furnaces. He states that the newly built blast furnace is the largest, most efficient blast furnace in the Western Hemisphere.

Mr. Fisher goes on to note that a June 1980 congressional study states that American steelworkers are still the most productive in the world but that a lower rate of productivity increase, as compared to foreign plants, is the result of continuing dependence on relatively small, old, and poorly laid-out plants. The congressional report also showed, he notes, that domestic steel profits over the last decade, as a percentage of investment, were greater than those of any other industrial country. Nevertheless, the American steel industry is in trouble.

The problems of the industry, according to Mr. Fisher, are that the large steel corporations have siphoned the money out of steelmaking and have invested it in other more profitable enterprises, such as the chemical, oil-drilling equipment, and plastics industries. In the case of the Youngstown Sheet & Tube Co. and Jones & Laughlin Steel Corp., the steel firms were purchased by conglomerates who used their cash flow for other investments and let the steel plants deteriorate.

Mr. Speaker, this problem is not new. I recall that, as long ago as the 1950's, the studies of a Senate committee chaired by Senator Estes Kefauver brought out that, even at that time, the big American steelmakers were behind the rest of the world in innovation and in the adoption of new technology. Apparently, this is still the case, over 25 years later.

Mr. Speaker, as a result of the electoral success of Ronald Reagan, we are witnessing a temendous drive to eliminate many of the Government regulations and Government incentives that affect American industry and to rely exclusively on the marketplace to regulate the Nation's economy. Undoubtedly, it is a healthy thing to review existing programs to determine whether they are necessary or compatible with the Nation's basic needs. At the same time, the steel industry stands as an example of the fact that not all regulation is undesirable and that the marketplace does not always produce the best results either for the Nation's economy or its defense. Given the importance of a strong steel industry to our well-being and national security, we can be sure that a continued failure of big steel to remain competitive will lead to eventual nationalization of the industry.

The full text of Mr. Fisher's article follows these remarks:

U.S. STEELMAKING GIANTS SIPHON OFF PROFITS

BALTIMORE.—Formerly productive steel mills sit idle, empty of the machinery that forged the I-beams and plate steel to build America. Older Workers who operated the open hearths and annealing pots are relegated to rocking chairs through early retirement, while younger workers search for other jobs in other cities.

Great sections of the Mahoning Valley, long called "America's Ruhr Valley," are now quiet. Twelve thousand steelworkers who once filled the valley with the sounds of steelmaking are gone. Sixty-five thousand other U.S. steelworkers are idled because of plant cutbacks and shutdowns. It has happened throughout Pennsylvania, and in industrial cities such as Chicago, Baltimore and Los Angeles.

Veteran steelworkers say they have never seen things so bad.

The corporate catchword for this crisis is productivity. In the United States productivity is increased mainly by requiring a worker to do two or three jobs and by cutting back the maintenance of equipment rather than improving facilities.

An example of the cutbacks is U.S. Steel's South Works plant in Chicago, where half the 8,000 employees are furloughed. Most of them expect to be back at work by spring, but metallurgical inspector Don Jordan says, "U.S. Steel told us they were going to run the plant permanently with 4,000 workers, and now they're doing it. This is not a temporary cutback."

In fact, rather than developing new facilities, steel corporations profit by dismantling plants and eliminating workers. For example, Bethlehem Steel Corp. closed major sections of its Johnstown, Pa., and Lackawanna, N.Y., plants in late 1977.

Although much of the actual loss did not affect Bethlehem in the third quarter of 1977, it was entered in the books that way. This $477 million paper loss enabled Bethlehem to offset its profits of the previous three years. The corporation got a tax refund of close to $140 million.

The newest domestic steel plant was built in 1964 near Burns Harbor, Ind. Few steel corporations have made any significant capital improvements in the last 25 years. What improvements have been made seem to be a result of pressure from government and environmentalists. Bethlehem Steel was encouraged to build a new blast furnace at its Sparrows Point, Md., plant by the threat of $1,000-a-day fines from the state water resources board. The old, obsolete blast furnaces had caused tremendous pollution. The newly built "L" furnace is the largest, most efficient blast furnace in the Western Hemisphere.

The steel industry's work force was reduced from 544,000 in 1953 to 342,000 last year. Today there are 80,000 fewer workers. In spite of this, steelworkers turned out 25 percent more steel last year than in 1953.

A study of 50 corporations by the consulting firm of Theodore Barry and Associates says that "the blame for lagging productivity rests squarely on the shoulders of management—from chief executive to frontline supervisor." It adds that "the work ethic is alive and well" among the employees of these firms.

It is "alive and well" for Kevin Fahey, who works at a small, relatively new U.S. Steel facility in Mountain Iron, Minn. "In 1968, when our plant started operations, U.S. Steel expected us to produce 3.5 million tons of iron ore pellets in the first year. . . . We gave them 6 million tons."

"We are the best work force in the world," says Fahey. A June 1980 congressional study on technology and steel industry competitiveness agrees, noting that U.S. steelworkers are still the most productive in the world, though their rate of productivity has not increased as rapidly as some others. The study blames the slower increase in domestic productivity on "continuing U.S. dependence on relatively small, old and poorly laid-out plants."

The congressional report also showed that domestic steel profits over the last decade were greater than those of any other industrial country when compared to the assets invested.

These corporations have siphoned this money out of steelmaking. They have diver-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

sified. The giant of the industry, U.S. Steel, has put its capital into more profitable enterprises, such as the chemical industry and oil-drilling equipment.

Bethlehem has bought into the plastics industry. In addition, two major steel corporations, Youngstown Sheet and Tube and Jones and Laughlin Steel, were purchased by conglomerates to make use of their cash flow for other investments.

The underlying issue in the controversy about productivity is the corporations' desire to lower real wages. The congressional study lists the cost of U.S. steelworkers to their employers at $14.70 an hour in 1978, more than a third of which was for benefits, particularly medical insurance.

In comparison, steelworkers in Japan and West Germany cost their employers about $11. Every industrial country except the United States has a national health program. When the medical-insurance costs are deducted from U.S. wages, the difference between the wage scales grows narrower.

An industry white paper, Steel at the Crosslands, places the blame for the present crisis on excessive government intervention.

But, while complaining about government regulations and attacking the Environmental Protection Agency and the Occupational Safety and Health Administration, the industry offers as its solution more government intervention, in the form of higher import tariffs and speedier depreciation allowances.

There must be a program for jobs. Such a program would put tax money to work funding programs that use steel and produce jobs.

The old saw is that war is good for our economy, and it obviously follows that defense spending is, too. In fact, this is not true. A study by Employment Research Associates of Lansing, Mich., reports that almost a million jobs were lost due to federal money being spent for defense between 1970 and 1974. The report, The Empty Pork Barrel, shows that twice as many jobs can be created in the private sector with the same amount of money.

What we need is government control of the development of the steel industry.

(Fisher, an electrician for Bethlehem Steel in Sparrows Point, Md., is the editor of Steelworkers Local 2609's newsletter. He wrote this for the Los Angeles Times.)●

REJECTION OF PAY RAISE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. GILMAN. Mr. Speaker, I urged my colleagues to reject the proposed congressional pay hikes because I do not think that we should be considering raising our own salaries at this time and in this manner. At a time when inflation is eating up the savings and paychecks of Americans at a rate of 12 to 15 percent annually, we should be exercising the same fiscal restraint that we have been urging on our fellow Americans.

I very much object, Mr. Speaker, to the manner in which this pay raise has been proposed. An appropriate debate on a matter of this nature should have been conducted prior to the elections, so that Members wishing to vote for a pay increase could have been judged by their constituents at the polls as to whether or not they deserved it. Making such a decision now, after the elections, when the vast majority of us will be returning in a few weeks to take up the work of the 97th Congress, seems to me to be an inappropriate manner of taking up this issue.

Further, I believe that the action of the conferees in tieing this pay raise to a continuing resolution leaves much to be desired. While we do need to continue the functions of the Government, there is no convincing need to raise our pay at this time. Many of us resented being presented with a huge laundry list of legislative proposals, including a pay raise, in the guise of a continuing resolution. That is why I urged rejection of the conference report in hopes that the conferees would bring back a conference report without any substantive changes in the law.●

A LIBERAL FOCUS ON REAGAN'S PLAN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. DRINAN. Mr. Speaker, I know that my colleagues will be deeply interested in the remarks of Congressman HENRY REUSS as reported in the Sunday Boston Globe for December 14, 1980.

I attach those remarks which deserve the attention of all of the Members of the Congress:

A LIBERAL FOCUS ON REAGAN'S PLAN

HENRY REUSS: BUSINESS TAX CUTS ARE ASININE

(By Donald Lowery)

WASHINGTON.—When the Reagan Administration arrives here next month, all signs indicate that a conservative, business-oriented economic policy will quickly be put into place, with tax cuts and regulatory reform to be given priority.

And, while Republicans and even some Democrats are rejoicing over the prospect of lending a helping hand to the reformation of classical economics on Capitol Hill, one long-time liberal Democrat is readying himself for critical examination of the Reagan economic package.

"As long as supply-side economics involves the recognition that it was a great mistake to ignore the supply side, then I have no problems with it," said U.S. Rep. Henry S. Reuss (D-Wis).

He does have problems with proposals that promote business tax cuts as the primary solution to the nation's economic ills. That rhetoric was prominent in the economic plan Republicans promoted this fall, Reuss said.

"The idea that the American people are so dumb that they believe the Administration will strike a blow against inflation by a tax cut is asinine," Reuss said.

For a man approaching his 69th birthday, Reuss has chosen to get in the middle of what is sure to be a rigorous debate on methods of reviving the nation's economy. Last month he announced he will give up the chairmanship of the high-profile and important House Banking Committee to take the chair of the Joint Economic Committee, a group not directly involved in legislation.

"I can assure you I am in complete control of my faculties in leaving the Banking Committee," Reuss said during a recent inteview. Economic issues facing the country are more important than legislation the Banking Committee will encounter, he said, explaining why he is changing chairmanships.

He believes the committee can analyze various theories and policies on strengthening the economy and even develop its own proposals.

We have excessively high interest rates and it doesn't seem to be doing anything about inflation, notes the Wisconsin Democrat.

Reuss is generally regarded as one of the more intelligent members of Congress. He has been involved with economic policy since entering the House in 1954 and is especially knowledgeable about monetary and financial policies.

His opportunity to head the Joint Economic Committee has come about because chairmanship of the committee rotates between the majority party of the Senate and the House, which remains controlled by Democrats and whose turn it is next year.

For Reuss, the assignment is the finale of a colorful congressional career which he has announced will end in 1983.

A graduate of Cornell University and the Harvard Law School, Reuss served in the Army during World War II. Later, he was the deputy counsel to the Marshall Plan in Paris.

Returning to his native Milwaukee after that assignment, he became a special prosecutor. He entered politics in 1952 when he lost a Senate primary in his bid to unseat a man he made harsh attacks against, US Sen. Joseph McCarthy.

When he did get to Congress, Reuss distinguished himself as an articulate spokesman for civil rights and environmental causes. He gained nationwide attention by being one of the first members of Congress to demand the removal of Richard M. Nixon from the Presidency.

His knowledge of the economy has been gained in large part through his wife, Margaret, the chairman of the department of economics at Federal City College in Washington.

Known for being outspoken thoughout his political career, Reuss has clear opinions about how the nation should move to end its economic malaise.

"We have been living in the past in economics. We have engaged in this unedifying debate about Keynes versus Friedman while instead we should be turning our attention to microeconomic matters and see what is happening in particular factories and industries."

Reuss speaks of several different areas of economic policy he feels the government must address quickly.

"We should look at what's wrong with monetary policy," said the frequent critic of the Federal Reserve Bank. "We have excessively high interest rates and it doesn't seem to be doing anything about inflation."

He also believes government has paid too much attention to how money is created instead of knowing how that money is used. "The Fed sees a lot of money borrowed that is adding nothing to the economy," he said, using for an example Bunker Hunt's near takeover of the silver market earlier this year through the use of borrowed money.

Reindustrialization, the buzzword for a still nebulous notion of rebuilding industrial cities and improving the capital stock of manufacturers, must be better understood, Reuss said.

"The government should make sure that the infrastructure of the country is built up, particularly in the Northeast and Midwest.

"And the government needs to ponder hard and long the problems of cities such as Cleveland, Buffalo and New York," and determine what role it should play in supporting those areas.

His committee will begin work soon after convening to determine the effect on income distribution of the Reagan economic policies, Reuss said particularly tax cuts.

With talk of cuts in business and capital gains taxes, Reuss worries "that if you start taking away from the people at the bottom and start giving to those at the top, you are going to have civil dissatisfaction. By shifting too much income to the top," he said, "you could get the type of situation you had in this country in 1929."

Noting that Democrats have formed and put into law a number of ineffective programs and policies, Reuss said it would be timely to examine every subsidy and tax credit offered by the government to see if they have worked.

Particulary interesting to Reuss is the effect of large-college loan subsidy programs on the quality of the volunteer Army. He hints that by subsidizing loans to millions of students, the government may have been sending to school persons whose talents would improve the nation's military forces.

There is a need also to examine the effect of offering tax deductions on the interest of home-loan payments, Reuss said. "We ought to at least know what we are doing in this field of incentive and disincentives," he said.

A final topic of investigation for the committee will be a study of wage and price policies of other governments.

Reuss said the nation needs to examine the effectiveness of Japanese and German governments which annually get together with labor and management to discuss the national economic outlook and target wage levels for a particular industry.

With 10 members of each party serving on the Joint Economic Committee, Reuss believes "that ought to give it a flavor to set forth a good debate on national economic policy.

As for ability of a broader group of Democrats to accept the policies of President-elect Reagan, Reuss said: "I certainly wouldn't rule out cooperation. Reagan is much more moderate than his image."

There is little time for squabbling about the issues, Reuss believes.

"We are fast becoming a country that produces raw materials and gets its industrial goods from Japan, Korea, Hong Kong and Singapore. This is madness and we should hurry to turn it around."●

TRIBUTE TO BOB CARR

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. WOLPE. Mr. Speaker, I would like to take this opportunity to indicate my deep personal regret at the departure of BOB CARR from this body. I will miss a friend, Michigan will miss a forceful advocate, and the Congress will miss an outstanding Member.

I have been struck by BOB CARR's breadth and perspective on legislative issues. Environmentalist, fighter for the interests of his district and of Michigan, rational voice on the Armed Services Committee—BOB has been all of these. But equally important, he has been an independent thinker, a force for reason and moderation in the face of the conflicting pressures that constantly impinge upon the Congress. BOB has consistently impressed his colleagues as a man who thinks for himself, who challenges his own assumptions as well as those of others.

From Michigan's perspective, of particularly lasting value have been BOB CARR's contributions in the area of environmental legislation. As a member of the House Interior Committee, BOB has worked to protect the interest's of Michigan's environment and natural resources. He has provided solid leadership for the Michigan delegation in this regard, and now, at a time when environmentalists need strong and effective spokesmen as never before, his absence will be a particularly heavy loss.

Thanks to BOB, Michigan's beautiful Pere Marquette River will be preserved as a national wild and scenic river. BOB had also been monitoring the progress of Forest Service studies of the Au Sable and Manistee Rivers for inclusion in the Wild and Scenic Rivers System. He had worked with the Forest Service to secure a sales agreement on over 25,000 acres of consumers power land along both rivers, an important step toward assuring continued protection of that land. I hope this momentum will not falter with BOB's departure.

I am also concerned that BOB's absence will imperil the prospects for legislation to protect Michigan's diminishing wilderness. The legislation he introduced this year to set aside some 90,000 roadless acres for future protection will lose its strongest and best informed spokesman.

Filling BOB's shoes won't be easy. I wish him well, and hope that he will rejoin the Congress in the very near future.●

PERSONAL EXPLANATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. GILMAN. Mr. Speaker, on Friday, December 12, and Saturday, December 13, I was unavoidably absent from Washington on committee business.

Had I been present on December 12 for Roll No. 678—the motion to suspend the rules and pass House Resolution 829, to concur in the nongermane Senate amendment to H.R. 4231—I would have voted "no." This nongermane amendment would have authorized $22.5 million per year for each of 5 years for the construction of educational facilities along the southwest border. While the authorization may be meritorious, it was not subject to the normal congressional committee process.

Had I been present on December 13 for Roll No. 680, I would have voted "no" on the motion by Mr. WHITTEN to recede from the disagreement of the House with the Senate with respect to a provision added to the continuing appropriation resolution. That motion had the effect of giving legislative sanction to a condemnation of certain resource-rich Indian lands for use in a flood control project.●

FINANCING CAMPAIGNS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. DRINAN. Mr. Speaker, the agonizing question of the financing of congressional elections continues to deserve attention.

I enclose an article written by Mark Green, the author of "Who Runs Congress?" from the New York Times of December 14, 1980. This article perceptively points out that the mounting problems related to the campaign financing of congressional elections simply has to be confronted by the Congress.

Mr. Green's article follows.

FINANCING CAMPAIGNS

(By Mark Green)

Commentators have attributed recent Republican gains variously to the economy, to antagonism toward President Carter, to the unpopularity of big government, and to a desire for change. But the growing influence of money as a major or decisive variable in elections has gone unnoticed.

Campaign finances have come far from Abraham Lincoln's 1846 Congressional race, when he raised $200 and returned all of it but 75 cents for cider. Although final financial data won't be tabulated by the Federal Election Commission until spring, existing information indicates an exponential spending pattern that inevitably leads to multimillion-dollar Congressional races.

In 1974, all political-action committees gave $12.5 million to Federal candidates; in 1976, $22.6 million; in 1978, $35.1 million; in 1980, an estimated $50 million to $60 million—perhaps a 400 percent increase in six years.

In 1973-74, there was one campaign where both candidates spent a total of more than $500,000. In 1977-78, nine House candidates each spent more than $500,000. Based on the best available Commission records, at least 20 candidates exceeded this mark in 1980. In a California race, Representative Robert Dornan spent $1.8 million in winning, and the challenger, Gary Peck, $541,000.

In 1974, the average House freshman spent $106,000; in 1976, $141,000; in 1978, $229,000; in 1980, about $275,000.

In 1976, Senate and House candidates on the November ballot spent $99 million; in 1978, the sum rose to $153.5 million, and candidates who lost primaries that year expended another $41.3 million. Compare the $194.8 million total spent in 1978 with the $3 million spent in 1979 by all candidates for Parliament in Britain.

In 1980, the Republican House and Senate campaign committees spent $9.3 million on behalf of Republican Congressional candidates. By contrast, the Democrats' counterparts spent $1.6 million. The National Conservative Political Action Committee spent $1.2 million in "independent expenditures" on five Senate races to defeat liberal incumbents, and four lost.

Federal law limits contributions to $1,000 per election for individuals and $5,000 for political-action committees. But the Supreme Court in Buckley v. Valeo ruled that it is unconstitutional to restrict the amount a candidate can give to his or her campaign. The combination of this law, this decision, and very expensive campaigns predictably provides an enormous electoral advantage to candidates of great personal wealth who can avoid the angst of fundraising by their check-writing skills.

Then does a House of Representatives become a House of Lords, as heirs and businessmen predominantly end up writing the laws that affect the rest of us.

When I talked to district leaders on the East Side of Manhattan about a prospective Congressional race against the wealthy incumbent Republican, Bill Green, nearly all of them asked: "Where will you get your money and how much can you raise?" If you're rich and have never run before a category that includes most aspirants for office, it takes great imagination to pass this test and answer the questions truthfully

Can this evolution to a House of Lords be reversed?

Ideally, if we have public financing of Presidential campaigns, why not Congressional campaigns? Though the public favors this approach—57 percent to 30 percent in a recent Gallup poll—it hasn't gotten far in recent Congresses and presumably won't in the next one.

A more decentralized version of public funding would be to send every citizen a note in the fall of election year informing him that he can obtain a tax credit of $50 by sending that amount to the candidate of his choice. This procedure avoids the charges of "big government" using "taxpayer dollars" because taxpayers decide who receives the money. Indeed, the Republicans could regard the revenue loss as part of their desired tax cut.

Another alternative that could attract bipartisan support would be to combine these elements: a limit on the amount any candidate could receive from all political-action committees to, say, $70,000; an increase in the ceiling on individual contributions to, say, $3,000, and an even higher ceiling if substantial "independent expenditures" are spent on behalf of an opposing candidate.

There should also be free radio and television time for bona fide candidates. Air time is the greatest expenditure for most candidates. What better use of our "public airwaves" can there be than the education of voters in public elections?

Also, candidates who express concern over excessive campaign spending can voluntarily agree to limit their spending. In my Congressional race, the two candidates agreed to spend no more than $236,145 in the general election. We both lived up to the agreement, and everyone benefitted.

But given the composition of the incoming 97th Congress, even Dr. Pangloss would not be upbeat about prospects for reform. Things will probably get worse, until by 1996 democracy's disgrace will be so apparent that even members of Congress will feel the pressure to alter the rules of the game that led to their election.●

AWARD WINNING NEWSMAN GEORGE DIETRICH LEAVES EASTERN SHORE

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. BAUMAN. Mr. Speaker, after more than 20 years of faithful service to the people of Easton, Md., and the Eastern Shore, George Dietrich, is leaving radio station WEMD in order to purchase and operate his own station.

Those of us who have known George and his lovely wife, Eriol, have come to respect these two leading members of the news media and the work they have done.

The Easton Star-Democrat recently wrote about George's career, and I would like to share this story with my colleagues since I am sure it is representative of the lives of many rural and small town journalists and newsmen who serve their communities and fellow men with distinction.

RADIO NEWSMAN TO LEAVE EASTON FOR GLEN BURNIE

(By Sharon Denny)

EASTON.—More than 20 years ago, George Dietrich, a self-proclaimed radical journalist, came to the Eastern Shore from Baltimore to edit the Record-Observer, a weekly newspaper in Queen Anne's County.

Now, after two years on the newspaper and more than 20,000 news broadcasts on WEMD, where he has worked as news director for 18 years, Dietrich plans to return to the Baltimore area.

His career with "News Beat" and the Saturday morning Annie and George Show with the late Anne N.B. Lockhart, has brought him much notoriety in the community.

Dietrich was a flamboyant editor of the Record-Observer, being chastized by townspeople for wearing bermuda shorts and attacking the county commissioners by calling them dishonest in his first edition of the paper.

In his first two years doing news for the then small AM Station on Port Street, Dietrich was told he was not destined for broadcasting stardom because he had a poor radio voice.

"The chief announcer at the station said I had no voice for radio and said I should have all my teeth pulled and then correct it with bridge work," he told members of the Kiwanis Club at the Tidewater Inn Monday night.

He said he consulted a surgeon who said he had a deviated septum that would require painful surgery to correct.

"I didn't go for it and the station renewed my contract for another two years anyway."

Deviated septum and all, during his stint at WEMD, Dietrich has racked up 30 Associated Press awards, two national broadcasting awards, and was named five times as the top newscaster in a nonmetropolitan area in Maryland and Delaware.

Some of his most controversial and memorable broadcasts have been interviews with H. Rap Brown during the race riots in Cambridge, Ronald Reagan, a 13-week series on life with a psychologist, and in-depth interview with a homosexual, a talk with members of the American Nazi Party and other communist groups.

Why does a small town radio announcer delve into such controversial topics with the likes of Rap Brown? For the same reason as the Annie and George show and interviews with area scouts and businessmen, according to Dietrich.

"They had something to say," he said.

"Getting a new program ready every day gets to be a drag. But people are stories. Every person has a story inside of him. It's my job to reach inside, make him feel comfortable and let the story come out. That's why I interview everyone."

Dietrich, who has seen the growth of WEMD into an AM-FM station, has purchased a radio station in Glen Burnie and will leave WEMD some time early next year.

He said he is awaiting a license approval from the Federal Communications Commission, before he begins operation of WJRO, an AM station that will maintain the same classical and easy listening format of WEMD.

In fact, Dietrich will take more than the format of WEMD. He's also taking the staff, which includes his wife, Erald, and Tom Gregory, who will be a part owner, program director and chief engineer. Mrs. Dietrich will serve as assistant chief engineer.

Dietrich, who will be president of the corporation, will retain his role as news director.

He said the Glenn Burnie station will be network affiliated and will feature a news magazine format. Dietrich also will host a late evening talk show.

As for WEMD, Dietrich said he already has selected a staff to take over its operation in much the same manner it is currently operated. He said all of the members of the "transition team" are former station employees.

"I came here a radical and have been left of center during my 18 years on the air and I'm quite sure I'm going to be a radical back in Baltimore."

The Kiwanis Club presented Dietrich with a certificate of appreciation after he spoke at their meeting Monday night.●

TIME FOR A GOOD GUN CONTROL LAW

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. DRINAN. Mr. Speaker, the murder of John Lennon has aroused national and international support for a comprehensive and sensible gun control law.

From a newspaper—the Boston Herald American—which describes its philosophy as "conservative and moderate in tone," it is encouraging to find an editorial which advocates a gun control law now.

The editorial which appeared in the Boston Herald American on December 12, 1980, follows:

TIME FOR A GOOD GUN CONTROL LAW

The time is coming, if indeed it is not already here, when responsible opponents of gun control would do well by themselves and their fellow citizens to support workable curbs on the illicit traffic in handguns.

Gun owners and those who agree with them ought to consider this course, we suggest, for two reasons.

One is their own self-interest, lest the rising national alarm over the insensate slaughter of innocent victims at the trigger finger of thugs or madmen produce a statute that is unwise, unjust, or a drastic infringement on a right they perhaps cherish more than the rest of us.

The other is, quite simply, the survival of people when otherwise be deprived of life like John Lennon was the other night—and with as little reason.

We say this as a voice which in the past has endorsed the arguments of gun control as being sound and reasonable. But the lengthening casualty list of victims—not only the John Lennons of our society but the unsung sacrificial offerings mourned only by their families—has become a far more compelling argument for the other side of the issue.

The slaughter must somehow be checked, and a good national statute that preserves the rights of those who use guns lawfully and responsibly while combatting the illegal sale and movement of handguns to whoever has the money to buy them might accomplish that purpose.

This is not a liberal-vs-conservative difference of opinion, as columnist Patrick Buchanan implies in a column on this page. Whatever other failings the Herald American might have, wild-eyed liberalism is not among them. Our voice is, we like to think, conservative in philosophy and moderate in tone—and we favor the right kind of gun control.

To say, as Buchanan does, that it will never work is no answer at all. That only means the killing will go on, and on * * * and on * * * until an outraged public pressures Congress to pass a law that is poorly drafted that wreaks as much or more harm than it was designed to prevent.

A far better answer, we think, would be for the gun owners and opponents to concede that there is both justice, and flaws, on both sides of the question—to recognize the first and cooperate to eliminate the second so that a workable gun control law can be written.

Right now, every one of us is vulnerable to a fate such as that inflicted on Lennon. An effective gun control statute might not make us completely invulnerable, but it will lessen the danger—and that is worth working for.●

RETIREMENT OF DONNA BESKO

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. ALBOSTA. Mr. Speaker, before adjourning, I wanted to take this opportunity to bring to my colleagues attention the achievements of a constituent of mine who recently retired after 28 years with the U.S. Postal Service.

Donna Besko of Ovid, Mich., was the first woman to carry the mail in the State of Michigan. This was a job that the Postal Service, then U.S. Post Office, initially denied her because her superiors thought the work to be too rigorous for a woman. Fortunately, Mrs. Besko persisted and fought hard for the job she ultimately obtained in 1957. Mrs. Besko started with the USPS as a clerk in 1952, and for the last 14 years she has been postmaster of the Ovid Post Office. As a member of the House Post Office and Civil Service Committee, I keep very close contact with the postmasters, supervisors, clerks, and city-rural carriers in my congressional district. In this effort, I have had the opportunity to come in contact with Mrs. Besko and the work she has done. I can say without hesitation that she will be missed by the people of Ovid.

Mr. Speaker, the Postal Service is made up of real people who care about the job they do for the American public. In fact, in my exposure to postal employees, I have been very impressed by their commitment to serving the public good. I want to stress to my colleagues that even when they do receive a letter later than expected, they should realize that thanks to the hard work and dedication of people like my constituent, Donna Besko, many, many more letters arrive right on time.

I would like to insert an Associated Press article on Mrs. Besko that recently appeared in the Detroit News.

[From the Detroit News, Nov. 28, 1980]

AFTER 28 YEARS, FIRST WOMAN "MAILMAN" HANGS UP HER BAG

OVID, MICH.—The first woman to carry the mail in Michigan is retiring after 28 years with the U.S. Postal Service.

"I loved it," Donna Besko says of her career. "All the dogs were my friends. I got a lot of publicity. But I really liked the job. I just loved being outdoors. And I liked the winter better than summer. I really like colder weather."

Mrs. Besko was hired as a clerk at the Lake Odessa post office in Ionia County in 1952.

Amid considerable publicity, she became Michigan's first woman letter carrier five years later, keeping a route until she was named postmistress of Ovid—the job she has held for the last 14 years.

Mrs. Besko recalls well the day she applied to be a letter carrier and was turned down.

Not one to take such rejection lightly, Mrs. Besko, then in her late 20s, drove to Grand Rapids to find out why she couldn't have the job, surprising her superiors who thought the work too rigorous for women.

"They admitted they couldn't deny me the job but they put me on six months probation to prove myself," she said. "I proved to them that I could do it. And I think they learned that women could do these things."

The U.S. Postal Service hadn't yet come up with uniforms for women carriers so Mrs. Besko wore a man's outfit, hefting 20-pound sacks of mail and walking 10 to 12 miles a day making deliveries.

She later moved to Perry, working as a clerk and rural mail carrier for 2½ years until the Ovid postmaster retired and then-President Lyndon B. Johnson asked her to take the job.

Mrs. Besko, 62, is content now to retire and keep in touch with her old job only by collecting stamps.

"I'm going to miss the post office, but I'm really going to enjoy my retirement, I'm sure," she said.●

GLENN WEAVER—TORRANCE CITY ENGINEER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. ANDERSON of California. Mr. Speaker, on January 2, 1981, the city of Torrance, in my congressional district, will be losing one of its most dedicated public servants—Glenn Weaver. After two decades of continuous public service to the people of Torrance as their city engineer, Glenn has been selected to serve as the public works director for West Valley City, Utah. I can assure the people of West Valley City that they could not have a finer gentleman nor a more competent engineer as their public works director. All those who have had the pleasure of working with Glenn will sorely miss his keen insight and expertise in all areas within the field of municipal engineering.

As you know, in the past 20 years southern Californians have witnessed an enormous increase in population and building. It has been dedicated individuals, such as Glenn, who have met and conquered the many challenges and problems which come hand-in-hand with tremendous population growth and civic expansion.

Besides being highly respected for his work as city engineer, Glenn has been one of the South Bay's most active members in community affairs. He has always been at the forefront to lend a hand to the various civic organizations working for the betterment of the community. His presence will be particularly missed by all those affiliated with the local chapter of the Boys Scouts of America. Glenn also served as the Lomita Stake Bishop for the Mormon Church. His unblemished record of service to both his church and to his community is one that anyone would be proud to have.

My wife, Lee, joins me in congratulating Glenn Weaver for his admirable career as city engineer and his sincere dedication to the people of Torrance. Through his excellent work, the city of Torrance has evolved to be one of California's finest communities. We send our best wishes for continued success in all their future endeavors to Glenn, his wife Madeline, and their five children, Glenna, Becky, Karen, Drew, and Myles.●

BRAVERY OF OUR PEACETIME ARMED FORCES

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1980

● Mr. BAUMAN. Mr. Speaker, one of the saddest commentaries on our world comes in the fact that since the beginning of recorded history, only 8 percent of the time has the world been totally at peace. In other words, in a span crossing some 4,000 years, fewer than 300 have been entirely warless. More than 8,000 treaties have been broken in this time.

Viewed from that perspective, the importance of the peacetime soldier, sailor, and airman becomes even greater. And yet, their role often goes unheralded. Their situation can perhaps be compared to that of our manned bombers of recent years. Many critics, noting that not a single bomber has dropped a single nuclear weapon in combat since World War II, have concluded that the record proves that such bombers are unnecessary. Another possible explanation, however, is that they never dropped a bomb because their presence made it unnecessary. Put another way, why allow ourselves to be lulled into a sense of security in peacetime, allow ourselves to devalue the need for a strong national defense, and yet feel no surprise that no one suggests dismantling the fire department just because there have been no fires to fight recently. As Gen. Omar Bradley put it, "Peace is our goal, but preparedness is the price we must pay."

And indeed, even the peacetime service man and woman may be called on to pay a higher price than that. I am reminded that in January of this year, two young men stationed in my district paid the ultimate price when the airplane they were flying crashed, apparently because of a mechanical malfunction.

The pilot, Maj. Rowland D. Stanley, an Air Force officer stationed at the Patuxent Naval Air Test Center, Lexington Park, Md., was a remarkable young man by any standard. In fact, he had been selected as one of the Outstanding Young Men of America in 1971. He had also been senior class president at the University of California, Berkeley, and even in his midthirties was a nationally ranked competitor in AAU Masters swimming.

But Rowland Stanley wanted to serve his country; his dream was to become an astronaut, a dream he seemed on the way to realizing at the time of his death.

His flight engineer, CPO Mike Lacy, also chose service to country, although there is no doubt he could have made more money in the private sector. A friend said, "Mike just loved to fly." He was a 5-tour veteran of Vietnam with over 150 missions. He had been decorated 17 times.

But these men were not merely military machines. Chief Lacy's friend also noted that, as he put it, "Mike loved and worked with children. Once on a trip to a friend's retirement party in Florida, he heard about a little girl who had a fatal disease. Mike took time out to visit with her. He was that kind of guy."

Major Stanley worked actively with young people. He was a well-loved swimming coach and a member of the board of directors of the Southern Maryland Youth Services.

The point I am making here is that the men and women who are serving in our Armed Forces this holiday season are courageous, dedicated, versatile people who give much to this Nation and much to the communities in which they live. And even in peacetime, they are putting their lives on the line in the service of their country.

Because they are willing to serve without the fanfare that accompanied World Wars I and II, and unfortunately often without thanks from the rest of us, there are thousands of other Americans who are not lost to combat. Indeed, it is because service in our Armed Forces in peacetime is so taken for granted that it is so praiseworthy.

So I ask my colleagues to join me in saying thanks to—and offering a prayer for—our peacetime service men and women. Let us also thank God in this holiday season that there are men and women who realize, as apparently too many do not, that war indeed lays a burden of responsibility on a people, but that peace does nothing to relieve that burden.●

HERITAGE FOUNDATION'S RESPONSE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. DOWNEY. Mr. Speaker, on November 19, I inserted in the RECORD some highly critical remarks regarding a report by the Heritage Foundation. At that time, I invited the Heritage Foundation to submit a response, which arrived in my office yesterday. In the spirit of fair debate, I now insert it, in full and without comment.

THE HERITAGE FOUNDATION,
Washington, D.C., December 16, 1980.

Congressman THOMAS J. DOWNEY,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DOWNEY: We have received your letter of November 21 and your remarks from the CONGRESSIONAL RECORD of November 19 concerning our Mandate for Leadership project and appreciate your offer to hear our side of the issue.

It is unfortunate that you—like other Americans—have been misinformed by an inaccurate and distorted account of this project. This press account, which appeared in the Washington Star on November 16, 1980, is an Associated Press story. While the entire report takes up 20 volumes and is over 3000 pages in length, the AP reporter chose to ignore virtually all but a fifteen-page subsection that deals with internal security. Moreover, the editor of that section was present during the press conference, at which the study was released, and was available for questioning. The AP reporter made no effort to speak with or consult him, however.

The AP correspondent's story is inaccurate and misleading in a number of instances. The Heritage Foundation has sought a retraction or apology from the Associated Press. Your prefatory remarks also are misleading and inaccurate; this is inevitable, since you have admittedly not seen the report itself and your remarks are based entirely on the inaccurate press account. It is therefore important that these impressions of the Heritage report be corrected in the public record.

The report nowhere states that "the security of the state would be given higher priority than the freedom of the individual." Presumably this misstatement is an attempted paraphrase of the following quotation from the report: "It is axiomatic that individual liberties are secondary to the requirements of national security and internal civil order. Without the latter, the former can never be secure." The second quoted sentence was not quoted in the AP story, although the first sentence was quoted. It should be noted that the "security of the state" is not mentioned in the quotation nor anywhere in the report and that the concept of the "security of the state" is a completely different concept. An adequate internal security system, as described in the Heritage report, is not concerned with protecting those in power but with protecting the rights of all citizens from politically motivated violence and subversion and from covert aggression by hostile powers.

The report nowhere advocates that "surveillance including wiretapping, mail covering [sic], and illegal entries be conducted against members of political groups in disagreement with Government policy, even if these individuals or groups are not even suspected of criminal activity."

The report does advocate revision of the Levi Guidelines on investigative techniques in domestic security cases. These Guidelines apply restrictions to the use of mail covers, informants, and other investigative techniques. Many professional policy officials, FBI officials, intelligence officers, and lawyers consider these Guidelines excessively restrictive and harmful to domestic security needs. However, the report does not advocate the surveillance of (or the "cracking down on" or the "taking of a hard line against" as the AP story reports) any particular group or individual.

The report does mention a number of groups of known revolutionary or terrorist orientation that are potential sources of internal security dangers, but the decision to surveil these or any other groups would have to be based on a number of judgments which the Heritage report does not and cannot make—namely, the resources available for surveillance, the need for surveillance with respect to particular groups and with respect to the information sought, the level of surveillance, etc.

The Heritage report also does not advocate surveillance of groups "in disagreement with Government policy, even if . . . not even suspected of criminal activity." "Disagreement with Government policy" has nothing to do with whether a group poses a threat to the public and should be placed under surveillance. In general, a group may be considered an internal security threat if it practices of advocates violence or illegal activities for political ends; or if its seeks to overthrow or weaken the government. To lump groups and individuals in these categories with "radicals," "dissidents," and "groups in disagreement with Government policy," as both you and the AP story do, is not only inaccurate but also is an insult to many radicals and dissidents who are law-abiding and patriotic, though in disagreement with government policy.

Under the present Levi Guidelines, however, "ideological rhetoric" (e.g., advocacy of violence) "cannot be the sole basis of an investigation." Nor, under the same Guidelines, can informants, mail covers, and electronic surveillance be used unless the investigators can affirm "specific and articulable facts" giving reason to believe that violations of the law are being or are about to be perpetrated.

Since these Guidelines were instituted, several notorious instances of lapses in internal security investigations have come to light in connection with terrorist violence.

For example, Washington police informants were withdrawn from the Hanafi Muslim group that in 1977 seized three buildings in downtown Washington, an incident that resulted in the loss of one life and the paralysis of another victim. The informants were withdrawn under a cutback in Washington police intelligence about a year prior to the Hanafi seizure; had informants been in place, it is almost inconceivable that the terrorist incident could have occurred.

An FBI informant in a Maryland Ku Klux Klan group was withdrawn under the Guidelines shortly before this group attempted, in 1978, to bomb the houses of several victims, including a U.S. Congressman. (Maryland state police informants, not affected by the Levi Guidelines, were able to warn of and prevent the attack.)

The alleged asssassin of Ali Tabatabai, murdered in Bethesda in July 1980, was identified by witnesses from photographs of Iranian demonstrations taken by Washington police, although a high police official expressed concern that this kind of intelligence gathering is not permitted under existing guidelines.

Moreover, many terrorist groups or their supporters engage in activities that are not in themselves criminal but may indicate preparations for terrorist actions (e.g., renting apartments as safehouses, stockpiling food, purchasing medical supplies, etc.). To professional investigators such activities on the part of those who advocate or cultivate violence may also be grounds for placing a group under surveillance, although no "specific and articulable facts" can be affirmed to show illegal or violent activities. Well-founded "suspicion," in other words, is no longer adequate grounds for further investigation.

The Heritage report does advocate that at least one congressional committee for oversight and investigation of internal security laws and problems be established. The report is not alone in this recommendation. House Resolution 48 in the 96th Congress calls for the restoration of the House Internal Security Committee and is presently cosponsored by 156 members of Congress; in the previous Congress it collected 170 cosponsors.

Your remarks that the idea that the threat to our internal security is greater today than at any time since World War II "appears incomprehensible," that "anti-government demonstrations or violent political acts are less common than at any time since the Kennedy administration," also are worthy of comment.

Clearly, the measure of an internal security threat is partly a matter of judgment, there being no absolute scale on which it can be measured. However, the seriousness of the internal security threat can be appreciated by consideration of two general factors: (a) the erosion and disappearance of the internal security system that existed from the 1950's to circa 1973-74 and (b) the estimation of the real threat at the present time.

The process by which this erosion has occurred is discussed in the Heritage report, and the last publication of the Senate Internal Security Subcommittee, "The Erosion of Law Enforcement Intelligence and Its Impact on the Public Security" (1978) is an excellent introduction to some aspects of this complex and frightening history.

Virtually no institution or procedure previously used for internal security functions, good or bad, remains intact: the House Internal Security Committee, gone; the Senate Internal Security Subcommittee, gone; the Internal Security Division of the Justice Department, gone; the Security Files and Index of the Civil Service Commission, gone; the Subversive Activities Control Board, gone; the intelligence files of the New York State Police and the Chicago Police Department, impounded; the intelligence files of the New York and Los Angeles Police Departments, purged—the list could go on. There is today in the United States no institution for the provision of internal security on an adequate basis.

At the present time the erosion of law enforcement intelligence gathering capacities have led to the exposure of American citizens—their property, rights, and lives—to dangers from terrorists, pro-terrorists, and other political extremists endorsing violence as a legitimate form of expression. Moreover, the disappearance of legally responsible institutions and procedures for internal security oversight, research, and investigation have emasculated our capacity to make responsible inquiries into real internal security threats and problems.

The restoration of an adequate internal security system, under law and responsible ultimately to the voters, is therefore a desirable—not to say necessary—goal.

You state that the Heritage report—which you admittedly have not seen or read—contains nothing "with which Stalin—or for that matter Hitler—would disagree." I consider this an irresponsible and provocative statement, which indeed represents the very kind of "guilt by association" and "witch-hunting mentality" against which you inveigh. How would you react if you were accused of Communist sympathies because of your liberal political views? Such an accusation would be indeed irresponsible, but it would be on a par with your attempt to associate The Heritage Foundation with Hitler and Stalin.

In fact, Hitler and Lenin (Stalin's predecessor) both came to power through mastery of the very terrorist and subversive techniques the Heritage report discussed as internal security threats. Hitler and Stalin and their followers represent precisely the extremist mentality that an internal security program would investigate and hopefully deter. The absence of an adequate internal security system under both the Kerensky government in pre-Soviet Russia and in the Weimar Republic prior to the Nazi seizure of power was of considerable value to Lenin and Hitler in their revolutionary campaigns and their construction of tyranny.

A sentence that has been entirely ignored by the press accounts of the draft Heritage report and which appears on its first page is the following:

A constitutional government cannot countenance an internal security apparatus that is as monolithic and pervasive as the kind that exists in the Soviet bloc state. Consequently, legitimate and necessary concern for the rule of law, the civil liberties of the individual, the separation of powers and the diffusion of authority demands that internal security functions be distributed among the legislative and executive branches, among a number of agencies within the federal government, and among federal, state, and local institutions.

There are legitimate concerns over the condition of our internal security apparatus in this country. In this report we have attempted to discuss these concerns and to suggest policy changes which should be debated. We hope this debate will be conducted on an informed basis and not governed by "knee-jerk" reactions to code words.

We appreciate your making this response available to the readers of the CONGRESSIONAL RECORD.

Sincerely,

PHIL N. TRULUCK,
Executive Vice President.●

EFFECT OF COST-OF-LIVING INCREASE FOR HELEN AND BRONSON PARRETT

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. LOWRY. Mr. Speaker, I would like to bring to your attention the seriousness of the economic plight of many of our Nation's senior citizens and others who are dependent on Government programs for their income.

Helen and Bronson Parrett, constituents of my Seventh Congressional District in the State of Washington have generously allowed their income to be entered into public record as an example of the difficulties faced by many of our elderly citizens. Mr. Parrett is 69 years old. Mrs. Parrett is 60 years old and is legally blind. They live in a senior citizen high rise complex which is subsidized housing.

The following figures all too clearly demonstrate the consequences of Government programs that give with one hand and take with the other.

June 1980: Total monthly income is $414.64.

July 1980: Received social security cost-of-living increase of $42.90, raising Mr. Parrett's social security from $299.80 per month to $342.70 per month, a 12.5-percent increase.

The ramifications of this increase on other benefits are as follows:

Food stamps: 58.3 percent loss, down from $24 in June to $10 in July, a loss of $14 per month.

SSI: 3.8 percent loss, down from $81.60 for the couple in June to $78.46 in July, a loss of $3.14 per month for Mr. and Mrs. Parrett.

Rent increase, $4.70 per month minimum rent increase per month to become effective after their next rent review.

The real increase is not $42.90 per month, but $21.06 per month. The real percentage increase is not 12.5 percent but 5.1 percent.●

CIVIL SERVICE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. UDALL. Mr. Speaker, civil servants in southern Arizona will be interested in a position paper just released by the U.S. Office of Personnel Management. It outlines changes in Federal employee retirement under the Omnibus Reconciliation Act of 1980, signed into law this month by President Carter. I am submitting the position paper today so that I may pass this information along to my constituents.

Changes in Civil Service Retirement Law

On December 5, 1980, President Carter signed into law the Ominibus Reconciliation Act of 1980, Public Law 96-499. The Reconciliation Act is the product of a combined effort by the Administration and the Congress to restrain public spending by making reductions in existing programs and eliminating growth in discretionary programs. Among the changes made are two technical changes in the way new Civil Service retirees will be compensated for inflation. These changes will eliminate a provision under the Civil Service Retirement System that increased the annuities of new retirees for inflation that occurred before they retired.

The change that has received the most attention is the elimination of the "look-back" provision from the Civil Service Retirement law. The look back guaranteed that an employee who retired after the date of a cost-of-living increase would get an annuity that was not less than the annuity he or she would have received had the retirement occurred before that increase. Under the Reconciliation Act, no employee who retires on or after January 19, 1981, will qualify for the "look-back" provision.

While employees who retire before that date will get the look-back, the advantage in doing so may be less than is usually assumed. The actual difference in an annuity computed with and without the look-back will rarely be the full 7.7 percent that was granted in September, because higher salaries and longer service have increased annuities since September 1, the date used under the look-back formula.

For example, a 30-year employee under the General Schedule at grade 5, step 5, with a current salary of $13,902, would receive a annuity of $581 a month under the look-back computation. The same employee retiring on January 19 when the look-back has been eliminated would receive $564 a month. A 30-year employee retiring at GS-11, step 5, would receive $1,064 with the look-back or $1,034 without, and a 30-year employee retiring at GS-15, step 5, would receive $2,109 with the look-back or $2,047 without it.

The look-back makes a difference of $17 to $62 a month for the employees in these examples. Although this is a real difference, the employee considering retirement needs to weigh it against the other aspects of retirement, including such things as the often significant reduction of income from salary to annuity and the new optional life insurance (up to 5 times salary) that will be available to those on the payroll on April 1, 1981. Employees also need to consider that even if they retire in time to get the look-back, they will still receive only a portion of the next increase due on March 1, 1981, because of a second change made by the new law.

This second change made by the Reconciliation Act concerns the way the first cost-of-living increase after retirement is calculated for new retirees. In the past, each annuity that was payable on the effective date of an increase received the increase in full, whether the annuity had begun six months earlier or only the day before. Beginning with the March 1981 cost-of-living increase, however, the increase will be prorated based on how long the annuity has been payable. For each month or part of a month in which the annuity was payable, one-sixth of the increase will be given.

All employees who have retired since September 29, 1980, will receive a prorated adjustment on March 1, 1981. Because the retirement system is based on a 30-day month, an employee who retires by the 29th day of a month receives an annuity in that month and therefore receives credit for the full month towards the prorated increase. For example, an employee who retires on or before December 29 will receive three-sixths of the March increase because the annuity was payable in each of three months.

Employees will need to consider the full range of effects that follow from retirement in order to put the look-back into perspective, and many will find that other factors outweigh the dollar value of the look-back, especially since working for additional months will all but eliminate the effect of the look-back on the annuity. Because of this, and recognizing that many employees concerned about the look-back retired last August, the Office of Personnel Management does not expect an overwhelming surge of retirements, although there will probably be more than is normal for this time of the year.●

THANKS TO THE HOUSE STAFF

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. KOSTMAYER. Mr. Speaker, as I leave the House after 4 exciting and worthwhile years I would be remiss if I did not express my thanks and gratitude to some very important people here on Capitol Hill.

In the very heady atmosphere of Washington, many times much of the focus is on the individuals elected to office, appointed, or serving in the bureaucracy. I will miss working with people in those categories.

But I will also miss the professional staff of the House who keep this incredible operation moving up here on the Hill. As important as is a lot of what we do here—little of it would get done were we not supported by the Speaker's office, the majority leader's and whip's staffs, the House Administration Committee, the stenographers who compile the Congressional Record, the bill clerks, the pages, and the Capitol physician's staff.

Especially I want to single out some people who have helped me immensely in terms of keeping my personal office functioning.

I am speaking about people like Eugene Servary, superintendent of the House, his deputy, Bob Miley and their staff; Ed Kelleher, the property custodian, his assistant Ed Polen and their staff; Ben Guthrie, the Sergeant at Arms, his deputy Charlie Mallon, Bob Cooksey, and their staff; Jim Holland from the phone company; Sally Crowe, John Corbert, and all the waiters and waitresses in the House dining room and the various cafeterias and carryouts; Tom McCormack from the catering office; Chief James Powell and the Capitol Police; David Ramage, Dave Andrukitis, and the House majority room staff; Ted Henshaw, the Clerk, his deputy Ray Colley, their staff, as well as John Lawler and Bruce Avner who handled my payroll in House finance; Sophie O'Neill and the folding room staff; Mike Preloh and the staff of the House garage, and last but certainly not least, Donn Anderson and the cloakroom staff.

I am sure I have missed someone, but I hope they know it was not intentional. I thank these people and everyone for making my days in the House easier. I shall never forget their courtesies and kindnesses. I trust we will always be friends.●

THE FAKED CASE AGAINST REGULATION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. SEIBERLING. Mr. Speaker, as the new administration begins to take form and as its Members survey the monumental prospect of coping with the inflationary recession, the destructive effects of the Fed's high-interest rates, OPEC price increases, low rates of capital growth and productivity increase, the effect of indexation and recession on the Federal deficit and the inherent inconsistencies in Mr. Reagan's campaign promises, we hear a rising chorus of cries for radical surgery not only against Federal—nonmilitary, of course—spending programs, but against that monster, "Regulation", which is allegedly strangling American industry and sucking away the capital needed for industry growth.

There is no question of the need for a tough, continuing review of Government regulations, as well as carefully targeted tax cuts to insure that the funds made available are invested in ways that add to our basic economy and not merely used by the wealthy few to buy gold, open Swiss bank accounts, or build luxury condominiums. But where the proposed scrapping of regulations would merely shift costs from employers to workers or from producers to consumers or would undermine the public health or destroy irreplacable resources, the effect would be to worsen inflation and to lower productivity, as well as to impair the quality of life of the Nation as a whole.

Mr. Speaker, yesterday, I ran across an article in the Washington Post of January 21, 1979, by Mr. Mark Green, director of Congress Watch, entitled "The Faked Case Against Regulation". Because of its relevance to the issues I have just mentioned, I am offering it for printing in the Record immediately following these remarks.

The Faked Case Against Regulation

I have this recurring nightmare. Jonas Salk has just announced his cure for polio. A bill is introduced in Congress to require mandatory inoculation of school children under HEW direction. Opposition then appears. Ronald Reagan urges "free choice by parents rather than compulsion by government." Mobil runs advertisements with the headline, "From gas tanks to bloodstreams. Where will government go next?" An associate professor of economics does a study for the American Enterprise Institute demonstrating that more lives may be lost by car accidents en route to doctors' offices than will be saved by the Salk vaccine. Abbott Labs argues that its product, "Polioaide," has been effective since thousands of doctors have been prescribing it for two decades. The bill then fails in the House Commerce Committee by one vote—after the wheelchair industry, citing job losses, gives $200,000 in campaign gifts to committee members.

Farfetched? Perhaps. But as one reads the flood of advertisements, speeches, articles and rhetoric denouncing "big government" and the "costs of regulation," reality and caricature seem to merge. Mobil decries a "national orgy of regulation." The Wall Street Journal attributes the decline of American industry to "berserk proceduralism." Time editorializes against "straitjacket rules imposed by a bulging bureaucracy [that] lift unemployment, slow technical progress, reduce U.S. competitiveness, hamper exports . . ."

To be sure, any government that has acted like a cartel in fixing trucking and airlines rates or that mandates the height off the floor for fire extinguishers needs critics who can distinguish between rules that save lives and those that save face. Unfortunately, today's debate over health and safety regulation lacks this sense of discrimination. Instead, it burns incense to supposedly neutral "cost-benefit analysis" and manages to neglect the actual benefits of consumer and environmental regulation.

Given the current state of economic art, mathematical cost-benefit analyses are about as neutral as voter literacy tests in the Old South. They are often ideological documents designed to prove preconceived notions. Or, as a Library of Congress review has said of them, "they tend to support the vested interest of the sponsor of the estimate or to fit the hypothesis of the individual making the estimate."

A CHICKEN LITTLE SYNDROME

Consider environmental regulation. Who controls information about its costs? The regulated industry, of course. The result, not surprisingly, is that we end up with regulatory-cost estimates based on what might be called the Chicken Little School of Economic Analysis.

In the early 1970s, for example, chemical manufacturers announced that a proposed federal standard on vinyl chloride, a proven cause of cancer, could cost 2 million jobs and $65 billion to $90 billion. "The standard is simply beyond the compliance capability of the industry," their trade association declared. The standard was adopted and the industry has flourished—without any job losses and at a cost that is one-twentieth of the original industry estimate.

Similarly, in one of a growing number of regulatory battles within the Carter administration, Energy Secretary James Schlesinger recently suggested that Labor Secretary Ray Marshall block a proposed worker exposure standard for beryllium, another known carcinogen, because of its supposed $150 million cost. Energy officials later conceded that their estimate was derived from "a gross estimate based on rule of thumb"—provided by other than beryllium manufacturers.

For one more of numerous examples, the Securities and Exchange Commission has a curious case pending against U.S. Steel: The company allegedly has established two estimates for the cost of meeting certain pollution standards—a higher estimate issued publicly and a lower one sent to the SEC.

To believe that business-dominated cost-benefit studies should control regulatory decisions is about as sophisticated as arguing that one party to a lawsuit should also be the judge.

Inflated cost-benefit studies and the intensity of business propaganda against consumer and environmental regulation might lead a celestial visitor to wonder why we tolerate such stupidity. We seem to have suffered a kind of collective amnesia about exactly why we have these regulatory agencies.

A few years ago the Cuyahoga River in Ohio caught fire. One thousand Americans a day die of cancer, much of it environmentally caused. Auto crashes took 47,000 lives and caused over 3 million injuries in 1977. One out of every 11 workers in the private economy had a job-related injury or illness in 1976. Women around the Love Canal in upstate New York, one of 638 known sites of hazardous wastes, have experienced unusually high miscarriage and birth defect rates.

So, although the debate over regulation has somehow focused on how OSHA dictates the shape of toilet seats, there are clearly more fundamental issues at stake.

While the competitive marketplace can be an engine of efficiency, it was not designed to tell consumers which car might have a steering defect, which drug has dangerous side effects, what product unduly pollutes. In addition, what each of us buys affects others. My car pollutes your bedroom. The plane I travel in envelops you in jet noise. I am a voluntary consumer; without federal standards, in these instances, you would be an involuntary consumer.

Federal regulation can be viewed as a contract between consumers and business—with the government as mediator—in which consumers agree to a market economy if business avoids unnecessary injury and death. It establishes minimum conditions for humane capitalism. So, while the public may moan about regulation in general, as it moans about paying insurance premiums, both are viewed as necessary protection against possible harm.

Indeed, California voters approved $375 million for pollution controls on the same ballot that contained Proposition 13. Polls by even the business-oriented Opinion Research Corp. have indicated public support for regulation to protect worker health and safety (4 to 1), product safety (3 to 1) and the environment (2 to 1).

This popularity is well rooted in the measurable benefits of health and safety regulation. In many cases, regulation has stimulated innovation in often rigid, unimaginative industries.

Before the Food and Drug Administration banned spray cans using fluorocarbons, the industry said there was no alternative. The day after the ban went into effect, the country had a new pump spray that didn't use fluorocarbons and that was cheaper than aerosol cans. After Washington imposed strict safety standards for car bumpers, auto engineers developed bumpers that are far stronger and lighter—and that save consumers an average $100 in repair costs over the life of their car.

A 1975 study of five industries in five countries by MIT's Center for Policy Alternatives concluded that, in the area of health and safety regulation, "forcing firms to implement product or process changes oftentimes incidentally shocks them out of a rather inflexible production system and thereby provides the catalyst which is necessary for innovation to occur."

Regulation has also produced jobs. Although the Environmental Protection Agency estimates that 20,000 jobs have been lost in plants that could not meet environmental standards, the number of direct jobs created by pollution control expenditures is 600,000. The interior minister of West Germany, one of the world's most productive countries, told a U.S. audience this year: "The expenditures for pollution control contribute decisively to the growth of our economy and create or maintain hundreds of thousands of jobs each year."

Due to product safety standards, there has been a 40 percent drop in infant deaths from crib strangulation and swallowed poisons. An estimated 200,000 Americans alive today would be dead if Washington hadn't been regulating car and highway safety since the late 1960s. By 1985, federal fuel economy standards for cars will be saving 15 billion gallons of gasoline annually, or $640 per car over the life of the vehicle.

Although industrialists almost invariably oppose new government regulations, at times they also grudgingly concede that rules they once denounced make a profound difference. Fletcher Byrom, chairman of the Koppers Co., for example, recently told a business audience that "you and I know that the market system would not give us environmental protection, worker safety and health. These are not economic things * * * they add value, not wealth; the only way to improve the quality of life is through intervention."

IMMEASURABLE BENEFITS

This is to say nothing about the benefits of regulation that involve immeasurable or moral considerations. What is the price tag for lives saved by avoiding future diseases, since asbestos and other substances in our lives today cause cancer in 30 years? How much will you pay for a 6-year-old who is not disfigured from flammable sleepwear? How do we calculate the exact benefits of being able to see across the Grand Canyon, of avoiding needless destruction of recreational areas?

Some social scientists are indeed attempting to put a price on human life. One of their prominent techniques, for instance, tries to peg the value of a life merely by what a person would have earned in the future.

Even when one looks to mathematical pricers of human life, what one finds are wildly varying numbers. The National Highway Traffic Safety Administration prices a life at $270,000, a University of Rochester analysis at $350,000, a Cornell study at $1.5 million and an American Enterprise Institute report at $2.5 million.

Even if these numbers were more precise, regulation often involves noneconomic goals. Society might desire regulation where the calcuable costs exceed the calculable benefits because of the standards' redistributive effect: say the costs are shifted from hard-pressed workers to relatively well-off stockholders.

Moreover, if the cost of, say, saving a worker's arm approximates the economic "benefit" to him, would any sane person doubt that the arm should be saved? Many, if not most, aspects of life can never be, and should never be, decided by the economists' yardstick. The abolition of slavery or child-labor laws certainly would never have passed a cost-benefit test.

THE JAUNDICED EYE

Nor do problems with cost-benefit studies stop with benefits that are ignored or that cannot be measured with numbers. Several prominent studies that try to document the wastefulness of federal regulation inadvertently demonstrate the adage that all looks yellow to the jaundiced eye.

An analysis by Chase Econometrics, for example, asserts that environmental regulation will account for an average 0.3 to 0.4 points of the annual increase in consumer prices in the 1970-1983 period. Unfortunately, the study is based on gross cost, not net costs. As Sen. Gary Hart (D-Colo.) complained of the Chase study, it is "irresponsible to discuss costs of pollution control without comparing them to benefits."

In other words, sulphur oxide and particle emission standards from stationary sources may cost $9.5 billion this year, as Lester Lave and Eugene Seskin estimate in a recent book. But the standards will also save an estimated $16.1 billion just in health outlays, which have been playing a large role in fueling inflation. By their calculations, the anti-pollution standards are deflationary, not inflationary.

Even taking Chase's numbers at face value, a significant 20 percent reduction in regulatory costs would only lower the annual rate of increase in the cost of living index by one-tenth of a percentage point. Any reduction in inflation is not to be disparaged, but the contribution of regulation to the problem is relatively modest—probably less than the contribution of price fixing, trade barriers, natural gas deregulation, the depreciation of the dollar or the latest OPEC price increase.

In another well-known study, Sam Peltzman, an economist at the University of Chicago, has declared that the 1962 drug safety amendments cost consumers $250 million to $350 million due to depressed innovation and delays in getting useful drugs on the market. "It sounds shocking to say that the net effect of having some thalidomides is a gain" Peltzman told a congressional hearing, "but that's unfortunately the way the world works."

Peltzman's case rests on his determination that new drug applications fell 60 percent after the 1962 act, a drop he attributes to the law. But new drug applications are hardly a measure of good drug therapy. Companies seek approval of new drugs that are minor variations of existing drugs in order to extend an old patent under a new name. Dr. Henry Simmons, director of the FDA's Bureau of Drugs, concluded in 1973 that "the rate of development and marketing of truly important, significant, and unique therapeutic entities in this country has remained relatively stable over the last 22 years, numbering five to seven drugs per year."

Undaunted, Peltzman assumes that doctors kept informed of the value or danger of drugs before 1962 via what could be called "learning by experience." Perhaps he has in mind the 107 deaths in 1937 caused by the inadequately tested drug elixir sulfanidamide, after which alert doctors probably stopped prescribing the drug. "By your judgement, a drug is important because it is widely used and misused?" Sen. Gaylord Nelson asked in congressional hearings. Peltzman replied, "Senator, I think you've pointed out some of the problems with this sort of methodology." Indeed.

For these and other reasons, the General Accounting Office, the Council on Environmental Quality, the Congressional Research Service, the Senate Governmental Affairs Committee and the House Oversight and Investigations subcommittee have all disparaged the value of mathematical cost-benefit tests.

In the words of the House subcommittee, "the limitations on the usefulness of benefit-cost analysis in the context of health, safety and environmental regulatory decision are so severe that they militate against its use altogether." In a recent report the Senate committee concluded that "while agencies should be required to project and consider costs, benefits and alternatives, that analysis must not be considered a final determinant of whether an action should be taken. The difficulty of quantifying costs and benefits and the appropriateness of applying economic statistical analysis to health and safety areas must be recognized."

A CRITICAL CHOICE

Despite the obvious benefits of health and safety regulation and the problems of mathematical cost-benefit studies, the business war against regulation is beginning to have a public policy impact.

"People like Strauss, Blumenthal and Kreps go around the country to business groups who yell at them about regulation," said one White House aide. "Then they come back to meetings here and relate their selective experiences. It shapes all the discussions." A leading Carter regulator recently commented that "it's one thing to spend my time fighting with business or public interest groups, but now I also spend a lot of time fighting this administration."

The "fight" is a periodic one pitting the administration's regulators against such powers as chief economic adviser Charles Schultze, Treasury Secretary Michael Blumenthal, Commerce Secretary Juanita Kreps, trade negotiator Robert Strauss and wage-price watcher Barry Bosworth. The arena keeps shifting—from cotton dust standards, to strip-mining regulations, to carcinogen standards at OSHA—but the fundamental issue is the same: Should health and safety regulation be sacrificed to the anti-inflation campaign, based on the false specificity of existing cost-benefit analysis?

Obviously, before implementing any proposed legislation, officials should attempt to estimate or at least specify the desired benefits, to minimize the costs of compliance and to consider alternative routes to the same goal. This general "impact review" is the basis of a "regulatory reform" bill about to be introduced by the chairman and ranking Republican of the Senate Governmental Affairs Committee, Abraham Ribicoff and Charles Percy.

The legislation would require agencies to conduct and publish such a review when introducing and implementing any rule; it would speed up agency decision-making by reforming the Administrative Procedure Act; it would increase public participation as agencies make regulatory decisions; it would strengthen the subpoena power of regulators to understand better the community they are regulating. This approach emphasizes that health and safety regulation should be improved, not abolished.

The Carter administration too is now formulating its own regulatory reform bill. As the Office of Management and Budget drafts this version, it has two possible models in mind. It could be stampeded by the kind of business propaganda that is trying to make citizens hate their government, that objects not when regulation fails but when it works too well. Or it could heed the words of Jimmy Carter who, early in his presidency, announced that "the test of any government is not how popular it is with the powerful, but how honestly and fairly it deals with those who must depend on it."

The choice is between the president as a cost-benefit econometrician or as a tribune for the victims of marketplace abuse. And the next Salk vaccine may depend on the outcome.●

THE ISSUE OF PROTECTIONISM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. DERWINSKI. Mr. Speaker, the Christian Citizen, published in Lansing, Ill., recently expanded its scope to encompass that of a monthly news magazine and to reflect a broader editorial base; a greater perspective on Christian issues on the national, international, as well as local levels; and to provide more information to Christian businessmen.

In their most recent edition of December 5, Steven L. Crabtree discusses the issue of protectionism. This is a matter to which we devoted a great deal of time in this Congress and which I am sure will be an issue of confrontation in the next session. I wish to direct the Members to Mr. Crabtree's very pertinent commentary:

PROTECTIONISM: THE TWO-EDGED SWORD

(By Steven L. Crabtree)

As a case study in commercial success, let us compare the United States and Japan. Productivity in the United States has been steadily declining while the positive growth rate in Japan has been almost 10 percent per year. According to a recent issue of the London Economist, U.S. production rose only 0.1 percent in 1979. Japanese workers appear to have a very positive attitude, heightened by an intense loyalty to the company they work for. American workers are for the most part disgruntled and studies have shown that about 85 percent of us wish we had other jobs. Japan leads in the development and utilization of computer technology while many large factories in the United States are utilizing vintage equipment prone to breakdowns.

All of this obviously gives the Japanese a tremendous advantage. The salient point is, Japan and other countries as well are gaining larger and larger portions of the American market. This process is in fact contributing to the destruction of the American economy. In the areas of shipbuilding, steel production, electronics, optics and automobile production, American manufacturers are being forced out of their own home ground.

Let us consider the latter of these industries as an example since the automobile is such an omni-present part of our economic life. Foreign car sales have been blamed for many of the financial woes experienced by U.S. manufacturers. The excuse that American cars are are not made as well will not hold up. Anyone who has owned a foreign car will tell you it is just as prone to mechanical problems and even minor repairs are usually terribly expensive. Americans do not hold the monopoly on shoddiness. No, the real problem is that so many foreign cars are available at a very competitive price.

This brings us to the subject of protectionism. Protectionism is that process by which a country sets high import duties as well as quotes on imported goods so that domestic producers will have a definite advantage. Japan has one of the most protectivist economies in the world, setting extremely high duties on foreign products entering its ports. The United States, however, has comparatively low tariffs so that foreign goods may enter here without taking a great jump in real value; this excluding, of course, the international rate of exchange between the dollar and foreign currencies. Apparently, this is a one-sided situation favoring the Japanese, but there is more to it than meets the eye.

There are those who would argue for protectionism in order to aid domestic producers; yet others would cite the open competition of the free market as the only way to insure any benefit to the consumer. This is a dilemma, and within that dilemma is a striking paradox. Though some 300,000 American auto workers are unemployed as of this writing, and though foreign car sales are blamed for this, Chrysler, General Motors and Ford have invested heavily in the Japanese auto industry. According to a recent edition of the German news magazine Der Spiegel, GM owns 34 percent of Isuzu, Ford is part owner of Mazda and Chrysler has close associations with Mitsubishi.

Do the American auto manufacturers intend to have their bread buttered on both sides and collect large government subsidies on top of that? It is beyond the comprehension of the ordinary citizen to figure out what is going on. Somewhere, in smoked-filled rooms, there are probably people who know exactly what is going on. One gets the feeling that somewhere in Washington, New York or Detroit, bureaucrats and executives are sipping their martinis and relishing the fact the American public in general and the American worker in particular is so uninformed.

Though we hesitate to do so, we may in the end be forced to broaden our viewpoint. Instead of a national economy, we may have to begin thinking in terms of a world economy in which all the major corporations in all the different countries are closely interrelated and have a common interest. With all the developments in travel and telecommunications, this concept has become a reality. One wonders if all this too has been engineered from a smoked-filled room. Perhaps the economic decline of the United States is part of this plan. It would certainly suit the vague designs of those so-called "Tri-Partists" of which so many of us are suspicious.

The American worker suffers in the meantime. Protectionism may exclude foreign products from the domestic market while at the same time reducing a domestic company's profit margin; and there go the jobs, as if there had been no high tariffs in the first place. In the end, it is the American worker who ends up on the horns of this international dilemma.●

TRIBUTE TO HON. MIKE McCORMACK

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. BONKER. Mr. Speaker, our colleague, Mike McCormack, will make his last appearance on the floor today as a Member of Congress from Washington State's Fourth Congressional District. I know I speak for the entire delegation when I say we will miss Mike as a colleague and friend, but at the same time we value and appreciate the many contributions he has made to the State of Washington.

I first met Mike when he was a State Senator who had tireless working habits and devotion to certain issues. In the time since he has not lost those attributes, instead he has matured into an effective legislator and a resident expert in the Congress on energy matters.

We in the Northwest delegation have a deep affection for Mike and his lovely wife Margaret, and wish them both all the happiness and best wishes in the years ahead.

Mr. Speaker, I insert at this point a recent article on Mike McCormack which appeared in the Washington Teamster by Mary Jean Lord:

Mike McCormack, a Remarkable Man

(By Mary Jean Lord)

A 24-year career in public office, the last 10 in the U.S. Congress, ended abruptly for Mike McCormack with the November election. Anticipating a close vote, McCormack had campaigned hard during the final weeks, getting up long before dawn to shake hands at factory shift changes and moving rapidly from one event to the next event until he fell into bed late at night.

The election was not close. From the first returns, McCormack knew the worst. The grueling schedules had all been in vain, and with rude suddenness, it was over. McCormack retired to his private office to prepare his concession speech.

Remembering the slights he had suffered, perhaps, McCormack asked Jerry Ellis, his district manager, to contact the Morrison camp. He would concede to Sid in person.

Not long after, McCormack, accompanied by a small group of us from his staff and campaign volunteers, strode into the banquet room of the Holiday Inn, and under the hot television lights, faced the crowd of celebrators. There was no voice choked emotion and the struggle to hold back tears. Mike's voice was strong and he smiled broadly as he shook Sid's hand in congratulation.

Now you know how I felt 10 years ago, he told the Morrison partisans, and I know how you felt then. He spoke of the democratic process and the peaceful transfer of office, and he said he felt no bitterness. The people had spoken and he respected their decision. He had been fortunate in having 10 good years in a predominately Republican district, and he hoped Sid's term in office would be as rewarding as his had been, only not so long! When he had finished, the crowd gave him a long, loud ovation that saw him out of the room.

Mike went out with class, without recriminations. His pride carried us along with him, and somehow we made it through the evening and the next couple of days, while Mike sat patiently for interviews with reporters who could think of nothing to ask but what he intended to do next, as if he had been planning for a defeat. He made the painful calls to colleagues and to longtime supporters, many of them devastated, and then flew back to Washington, D.C. to complete his term at the lame duck session and to clear out his office.

As Mike's press secretary for five years, I came to know him better in many ways than I know many of my closest friends. In the years of writing for him, I learned to catch his moods, to follow the nuances of his thinking and to anticipate his reactions. I had to understand, as much as it is possible to do so, how he thought and to try to think like him.

It is a measure of the man that I like what I saw, most of the time. In an age of superficiality, when many political figures seem to have no more depth then their slickly packaged image on the TV screen. Mike is a better, wiser and more compassionate man than he often appears to be.

He can be abrupt, abrasive, impatient, rude, and occasionally arrogant, usually in full view of the public. On the other hand, especially with trusted members of his staff, he can be warm, funny, thoughtful and amazingly kind. There is no one I would rather have on hand in an emergency, and I have never failed to see him come through calm, reassuring and with attention for every detail.

Mike's major work in the Congress was on the leading edges of scientific thought, but in his personal relationships and in his sense of a citizen's responsibility to his country, he is endearingly old-fashioned. He has always been first and foremost the Public Servant, and I never heard from him any of the half-sneering, cynical remarks about public office that have become fashionable among political reporters, voters and even public officials. He has never lost his awe of the work of the founding fathers or his belief that public office is the noblest and most honorable career to which anyone can aspire. It always sounds corny quoting him, but Mike has a way of making it worth believing.

He always knew why he was running for office and what he hoped to accomplish, and for that reason, and because he always did his homework and knew how to use the legislative process to get things done, he was remarkably successful. His concentration on doing things, "making the world a better place to live," in his words, immunized him from most of the temptations of public office, and his honesty was never questioned.

No one in Congress now can replace him as an energy expert and liaison between government and the scientific community, and his loss will be deeply felt. He had a unique grasp of both the legislative process and scientific thinking, and he was able to translate scientific terminology into language the lay person can understand.

For those of us on his personal staff, his most annoying characteristic was his refusal to accept the impossible. It was this stubbornness, however, that served his district best. We also noticed that while he would fight tooth and nail with us, insisting on his own way until every avenue had been exhausted, he listened and would sometimes quote us later.

Many of my acquaintances, who have been reluctant supporters of Mike's, have never understood that I worked for Mike because I supported him, and not the other way around. I disagreed with him frequently, and one way or another I let him know it, but in the important sense, we agreed. At times I have disliked him, but I have learned to respect his intelligence and to admire his integrity, dependability and decency. He was as loyal to his staff as he expected them to be to him.

We agreed, fortunately, on the basic premise of a news release. Mike insisted on accuracy, and nothing offended him more than a sloppily worded statement. He was careful not to promise more than he could reasonably expect to deliver, and we studiously tried to avoid "flak." If Mike claimed credit for doing something for his district, you could be sure he had done just what he said.

A congressman's staff, or at least those who have been around him or her over a period of time, reflect their boss. No one on Mike's staff, particularly his district staff, ever forgot that their primary purpose was to provide service, courteous, professional, as swiftly as possible. If it was a reasonable request and could be done, we did it.

The voter was respected, and that attitude helped get us through the wake after the election. Together, we had been through more crises, both personal and political, than many families, and we were a smoothly functioning team. We were good, and we knew it, and there would never be another job quite like this one. And never another boss as obstinate, as surprising, as difficult, or as fantastic as Mike McCormack.●

TRIBUTE TO BOB GIAIMO

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. McDADE. Mr. Speaker, what I have to say will not come as a surprise to the Members of this distinguished body. After 22 years of selfless service, this House is losing one of its most sincere and caring members. BOB GIAIMO has long been a friend and colleague for whom I have the utmost respect. He has worked effectively and tirelessly for the people of the Third District of Connecticut since first elected to the 86th Congress in 1958. He and I have worked closely together as members of the Appropriations Committee and I have watched him work for fiscal responsibility. As chairman of the Budget Committee he has continually worked for a sensible spending policy. He has been a leader of his colleagues and will be sorely missed. He has been a source of guidance and inspiration for those who have had the good fortune to work with him.

BOB served ably for many years on the Defense Appropriations Subcommittee and came to be known by his distinguished colleagues as one of the real defense experts in the House. His counsel was frequently sought by many and he responded at all times.

I will miss his warm, good-humored, gregarious nature and look forward to seeing him around Washington during his retirement, hopefully for good conversation and a good game of golf. I wish BOB and his lovely wife Marion, health, happiness, and Godspeed.●

HARLAND SANDERS

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. McKAY. Mr. Speaker, it is with great sadness that we note today the passing of Harland Sanders, honorary Kentucky "Colonel," philanthropist, and founder of an admirable and tremendously successful American enterprise.

Presumably, very few Americans by now have not sampled and enjoyed the delicious product which Harland Sanders helped establish across this land and later in more than 20 foreign lands.

We in Utah are pleased with the early and critical role which a Utah businessman and his customers played in popularizing Colonel Sanders' product. In 1952, Harland Sanders entered into partnership with this Utah restaurateur, Pete Harman. Mr. Harman's enormous success in marketing the Colonel's fried chicken, faithfully prepared according to the Colonel's high standards, led eventually to a program of franchises nationwide. Peter Harman's chain of restaurants maintains those same standards and that same success to this day.

To me, Harland Sanders' story is all the more noteworthy and commendable because of the personal attributes of this remarkable man. Many of these personal virtues were impressed upon him by a strong willed mother. "She had a philosophy of life and morals that if you followed them you'd never go too far wrong," he once remarked. He credited his mother with instilling in her children the very important values of self-reliance, a love of hard work, and a distaste for vice. To these and similar values he ascribed his success.

As the Colonel's enterprise developed and continued to grow, he, as its founder, insisted upon the high standards of quality which earned him his first enthusiastic customers. It is likely that the business would have worn out its promise long ago, without Harland Sanders' persistent oversight. The whole business phenomenon was accomplished in the finest tradition of American enterprise and ingenuity.

Harland Sanders turned over the reins of management to another remarkable businessman in 1964, a gentleman who now serves as Governor of the State of Kentucky, John Y. Brown. Since that time, Colonel Sanders has continued his efforts in behalf of his product and in some years had traveled as much as 200,000 miles. He has taken his vitality, his flinty businessman's eye, his founder's pride and his Southern gentlemanliness from coast to coast, and to other shores as well. He without doubt has been one of America's most prominent and best-loved "unretired" septuagenarians and later, octogenarians, and he has left us at the accomplished age of 90 years.

A survey conducted in recent years revealed that Colonel Sanders has had the second most widely known name in the world—second only to Mohammed Ali. Even more significant, the survey disclosed that the Colonel has been the greatest contemporary example of hope and strength to the world's seniors. What an example he was, starting up a successful business at the age at which most people retire. He went on to provide an example of wholesomeness and vitality throughout the world.

Harland Sanders' charitable works are as remarkable as the rest of his accomplishments. All the profits of his Canadian operations, which he retained in ownership, have for years gone to the Harland Sanders Foundation. He has directly aided the Boy Scouts of America, the Salvation Army, hospitals, and other charitable institutions. Along the way he has managed to adopt 78 foreign orphans.

I think the most lasting contributions we make in our lifetimes are likely to be the ones which flow from an inner strength and inner surety derived of honest belief in virtuous principles. Surety, this lesson is part of the rich legacy which Col. Harland Sanders has left to us.●

TRIBUTE TO HON. JOHN RHODES

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. HALL of Texas. Mr. Speaker, as the 2d session of the 96th Congress draws to a close I want to commend the gentleman from Arizona, the distinguished minority leader, JOHN RHODES, for his great contribution to the work of this body. In the finest tradition of the House, JOHN RHODES has earned the respect and admiration of all of us, regardless of party and political persuasion. He is a gentleman's gentleman, and it is very reassuring that despite his decision to step aside as the minority leader, he will be just as active and concerned about the business of the House in the 97th Congress as he has been in the past.

Last month the voters of his congressional district returned JOHN RHODES to the House with some 73 percent of the vote, a great tribute to a great man. Arizona has given this Congress some of its most outstanding leaders, and the people of Arizona are justifiably proud of the critical role JOHN RHODES has played in the Congress for 28 years.

As minority leader, JOHN RHODES is forthright and candid, but he has never allowed partisan politics to interfere with decisions that are in the best interests of our Nation. He is a true patriot and a great friend. He has served the country, the House, and his party with distinction, and I look forward to serving with him in the 97th Congress.●

TRIBUTE TO CONGRESSMAN JOSEPH P. WYATT, JR.

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. STENHOLM. Mr. Speaker, I feel fortunate to have counted JOE WYATT among my friends these past 2 years. Both of us came to Washington for the first time and found many new and interesting challenges before us. Our senior Texas colleagues were most helpful to both of us in learning the procedures of the legislative branch of our Government.

Joe has very ably represented his district, first in the Texas Legislature for 8 years, and now in the U.S. Congress. His tireless efforts on behalf of his constituents leave no doubt that he has served them well. I feel sure that whatever Joe's future work may involve, he will still have the interests of his constituents at heart.

I will miss Joe's friendly smile and warm personality in the 97th Congress. I wish him well as he returns to Texas to pursue new interests.●

THE FEDERAL RETIREMENT SYSTEM

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. GREEN. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues a statement made by my constituent Mr. Harry Zucker before the New York City Labor Council Mini-Conference on Aging. Mr. Zucker is an active member of the American Federation of Government Employees Local 1151. He has outlined the federation's position on the Federal retirement system, and called for some changes which I thought would be of interest to my colleagues:

Statement of Harry H. Zucker

Today, we have met to discuss the problems of the aging. These problems are serious and require exploration. I deeply appreciate the opportunity of appearing before this distinguished assembly to discuss a specific problem of the aging which is inextricably tied in with the area of labor relations and in which the labor movement can contribute towards its resolution.

The concept of pensioning workers for long, diligent and faithful devotion in the civil service has a long history of recognition. It has existed, in various forms, from the early days of this Republic and has been a consistent part of our history. In 1920, the Federal Government converted the retirement system from what had been a unilateral program on the sole part of the Federal Government to one of a participatory and bilateral character. Under the new retirement program, federal employees were called upon to contribute stated percentages of their gross salaries into the disability and retirement trust fund. The Federal Government was required to match employee contributions and, out of the funds so accrued, federal retirees were to receive their retirement annuities.

Analyzing the significance of this change from a program of a unilateral character to one of a participatory and bilateral character, we must conclude that a partnership emerged between the Federal Government and its employees addressed to providing a measure of financial security for federal retirees in the sunset years of their lives. In developing the retirement concept for its employees, the Federal Government expressed a deep and abiding humanistic concern in the welfare of its employees at a time when the retirement concept was new and untried. By bringing its employees into the participatory and contributory phase of its retirement program, the Federal Government, perhaps unintentionally, established a partnership between the Government and its employees, in the retirement process. Also unintentionally but nonetheless clearly manifest was that employee contributions had meaning and significance and that such participation on the part of employees in the financing aspect of their retirement system created a contract implied in fact and, ergo, a vested right in the system, in their annuities, in the computation formula and in all other aspects of retirement.

Regretfully, the Federal Government failed to match employee contributions into the Disability and Retirement Trust Fund for very many years and to this very day refuses to recognize the rights of its employees to vested rights asserting that the Government has sole rights in the premises to the total exclusion of any rights that obtain to employees on the basis of their payments of contributions.

You may properly want to know "Why did federal employees remain silent these many years?" The answer is simplistic. Issues do not arise in a vacuum. They arise only when one of the parties to a situation asserts a position which the other party believes to be unwarranted and detrimental. Such unwarranted and detrimental actions did not significantly arise until about four years ago. Consequently, federal employees did not raise their voices addressed to the problem until the Government, in total disregard to the participatory nature of the retirement system—in total disregard of the "partnership" which arose out of their contributions of given percentages (currently 7 percent) of their gross salaries into the The Disability and Retirement Trust Fund entered into what must be characterized as "a nefarious and destructive" course leading to the dissolution of the Federal retirement system. In recent years, the Federal Government in various administrative decisions that relate to the retirement process asserted its position as "a pension granted by the Federal Government confers no rights which cannot be revised, modified or recalled by subsequent legislation." It would appear that employee contributions into the retirement system were irrelevant, insignificant and of no consequence. It must appear noteworthy that, despite demand at "official administrative hearings" for a definitive description of employee contributions into the retirement fund, none were given in spite of employee allegations that employee contributions were comparable to insurance premiums.

Currently, the Federal Government has modified the cost of living formula to a lower amount. It is considering merger of our retirement system with that of Social Security which could bankrupt our trust fund. It is considering cutting off new federal employees from our retirement system thereby starving our trust fund into bankruptcy. It is considering a new criteria for cost of living which improperly fails to compensate for the loss of purchasing power. The Federal Government threatens the perpetuation of our fund and, ergo our receiving our retirement annuities in the future.

There is but one answer to the problem. Our contributions have created a "partnership" with the Federal Government in our annuities. Our contributions are in the form of premiums. Our contributions have created "a contract implied in fact" and our contributions have conferred on federal employees "vested rights" which are impervious to future legislation except by due process of law and with the payment of just compensation.

We will introduce a resolution calling on the White House Conference on the Aging to urge the Federal Government to reverse its unwarranted denial to federal employees the benefits of vesting in their retirement benefits, in their retirement formula and recognize that employee contributions are significant and are in the nature of payment of a premium in an insurance or private retirement program. We ask these things as a matter of existing right and not a request for a right to be conferred in the future.

We respectfully invite this mini-conference's attention together with that of the New York State Conference and that of the White House Conference on the Aging that the subject matter of this presentation affects 1,250,000 families relying on federal retirement annuities for their livelihood and the 250,000 families families of dependents of diseased federal employees. Your vigorous support to the resolution of these problems will preclude the economic disaster which will obtain in the absence of corrective action, as described.●

TRIBUTE TO RAY MUSTO

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. McDADE. Mr. Speaker, I have had the privilege of working with Ray Musto for only a brief time in the U.S. Congress. He stepped into shoes that were hard to fill and did a fine job. He has carried with him a sense of duty to the district for which the Musto family has long been known. My professional and personal relationship stems back much further than Ray's recent term in the U.S. Congress. He served the people of the 10th and 11th Congressional Districts as an able State representative and has looked out carefully for the needs of a group of people who have largely been ignored. He has been a champion of miners, fighting hard and continually for benefits for those who went into the mines to earn their livelihoods. This sensitivity is the hallmark of the Musto name, as he has come up through the ranks of such distinguished legislators as his father, the late State Representative James Musto. Ray Musto's sense of civic pride and duty will always make him a leader among men. He will continue to serve and to do whatever he can to make life better for those less fortunate than he in northeastern Pennsylvania. I wish Ray good luck and Godspeed in his future endeavors.●

SECRETARY ON HORSEBACK

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. OTTINGER. Mr. Speaker, Senate Majority Leader Robert Byrd recently announced that should Alexander Haig be nominated as Secretary of State, his past record would be subject to great scrutiny by the Senate.

Apparently, General Haig unfortunately remains a key candidate to head the State Department, as he has many supporters on President-elect Reagan's transition team who are urging that he nominate him.

The fact is that General Haig's record does deserve a great deal of scrutiny. I am concerned about a record which includes a highly questionable role in the Watergate affair, including zealous attempts to minimize the evidence against Richard Nixon and justifying the break-in at the office of Daniel Ellsberg's psychiatrist on the basis of national security. I am also distressed about General Haig's principal role in the Vietnam War, particularly his urging of President Nixon to undertake the Christmas 1972 bombing raid of Hanoi.

It is not General Haig's predominantly military background that ought to disqualify him from the position as our Nation's No. 1 diplomat—rather it is his record of saber-rattling in and out of the military that disturbs me.

Anthony Lewis highlighted some disturbing aspects of General Haig's record in the New York Times recently. I commend this article to the attention of my colleagues:

SECRETARY ON HORSEBACK

(By Anthony Lewis)

Haig played a principal role in the Nixon-Kissinger wiretapping of White House and other Government officials and journalists. Seventeen persons were tapped in 1969 and Kissinger sent Haig to the F.B.I. with 14 of those names. Among them were not only members of Kissinger's staff but the military assistant to Secretary of Defense Melvin Laird, Col. Robert Pursley, whose overheard comments might be helpful in bureaucratic warfare with Laird.

(Haig once told colleagues that Laird was "a traitor." That no doubt reflected Nixon's often-expressed suspicion that Laird was leaking to the press. Haig also applied the word "traitor" to Senator J. W. Fulbright, because of his criticism of Vietnam policy.)

In 1970 Haig asked the F.B.I. for four more tapes, among the targets this time was Richard Pedersen, counselor to the State Department and a close personal adviser to Secretary of State William Rogers.

In Watergate, Haig fought zealously for a year to minimize the evidence against Nixon and keep him in office. On one White House tape he is heard conseling Nixon to avoid truthful answers: "You just can't recall. . . ."

His role comes out with particular clarity in the account by Leon Jaworski, who succeeded Cox as Special Prosecutor, Jaworski, a conservative from Texas, began with deep respect for Haig but found that again and again he tried to frustrate the investigation.

After hearing the incriminating tape of March 21, 1973, Jaworski told Haig that it showed "conduct that is not only unethical but unprincipled and wrong, that I think suggests criminal culpability." After a few days Haig telephoned Jaworski and said: "We're convinced there's no criminality involved because there was no overt act * * *"

Haig also told Jaworski that "national security" justified the break-in at the office of Daniel Ellsberg's psychiatrist. His reasoning was that Ellsberg had released the Pentagon Papers, the papers had a bearing on security, and so it was in the interest of national security to get information on Ellsberg—by whatever means.

Jaworksi concluded that one of Haig's jobs as White House Chief of Staff was "to try to placate me while helping Nixon frustrate me * * * in the search for truth."

Haig was a dedicated Nixon loyalist during Watergate. Afterwards, he was a main source of the books that portrayed Nixon as a pathetic figure in those final days, his personality disintegrating. The books painted Alexander Haig, doubtless correctly, as the man who held the Government together at the end.

General Haig is the exemplar of the careerist: a man who will do anything for his master—anything likely, that is, to advance his own career. He evidently has no feeling for American constitutionalism, for restraint in the exercise of power.

Why would President-elect Reagan want such a man to be his senior Cabinet member? If that kind of experience is desired, Henry Kissinger, with all his faults, would be the genuine article. To pick Alexander Haig as Secretary of State would be to define the philosophy of a new conservative Administration as ruthless, manipulative opportunism.●

AMERICAN RESPONSE TO POLISH CRISIS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. RITTER. Mr. Speaker, the National Confederation of American Ethnic Groups released a statement last week in Washington regarding the continuing crisis in Poland. I would like to have the statement reprinted in the RECORD, because I believe it indicates the depth of support for the principle of a prompt congressional statement of support for American sanctions against the Soviet Union in the event of Soviet intervention in Poland.

STATEMENT ON THE POLISH SITUATION

The National Confederation of American Ethnic Groups, Inc., representing 18 different ethnic groups and 32 national and state organizations, expresses its wholehearted support of H. Con. Res. 454, introduced by Representative Don Ritter (R., Pa.) which states that, in the event of Soviet military action against Poland, Congress should consider such action as a serious breach of international peace and the President of the United States should, in conjunction with the leaders of Japan, Australia and the NATO allies, immediately discontinue all credit lines and severely curtail all trade and economic relations with the U.S.S.R.

We also believe that more must be done if peace is to be preserved and the rights and initiatives of the Polish people are not to be lost. We believe in a sound Western European and American economic assistance program to Poland, predicated upon the Government's acceptance to abide continually by the Gdansk agreement with the independent trade unions and to institute the necessary reforms. Such steps should also reensure the U.S.S.R. and its allies that the West is not aiming at the detachment of Poland from the Warsaw Pact thereby undermining Soviet, Czechoslovak and East German arguments for military intervention.

We believe that the United States and the nations of Western Europe should be willing to do more than just engage in rhetoric and threaten retaliation. Useful public and private economic initiatives could at least partially help to improve the lot of the Polish people while the struggle between communism and democracy continues.

Should, however, the U.S.S.R. and its allies take military action against Poland we believe that the President should also take such other diplomatic, political and economic measures which he deems necessary to protect our national interests.●

LOOKING BACK: REFLECTIONS AT CAREER'S END

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. SYMMS. Mr. Speaker, today I wish to share with you and our fellow Members an article which appeared in last month's issue of the Marine Corps professional magazine, the Marine Corps Gazette.

Shortly before retiring from the Marine Corps, Brig. Gen. Vincente T. Blaz addressed the graduating class at the basic school, Quantico, Va. His extemporaneous remarks were captured on tape and later transcribed into a written article entitled "Looking Back: Reflections at Career's End," described by the editor as an alumnus' definition of the character of the true warrior.

What struck me about the article was its appeal to young officers—men and women—to be gentlemen and gentlewomen as they serve our country as officers of the United States. The article also admonishes them to seek to be uncommon in these times of uncommon problems and uncommon challenges. In my view, General Blaz' remarks provide a very profound message to all Americans, particularly at this time of the year.

As a Reserve officer of the Marine Corps, I became acquainted with General Blaz whose last assignment before retiring was as Chief of the Marine Corps 110,000 reservists. In his last position, he appeared before several committees of the Congress to account for his stewardship of the Reserve Force under his responsibility. I am aware that many Members of Congress have complimented him on his testimony.

Finally, I wish to call attention to the fact that as a youngster, General Blaz was on the island of Guam when it was captured by the Japanese in 1941. Following the recapture of Guam by the U.S. Marines in 1944, he devoted 3 years to preparing himself for college and subsequently won an academic scholarship to the University of Notre Dame in 1947. Upon graduation in 1951, he was commissioned in the Marines, becoming the first native of the island to reach commissioned rank in the regular branches of the U.S. Armed Forces. In 1971, as a colonel, he was designated commanding officer of the 9th Marine Regiment, one of the major units involved in his own liberation. This, in itself, is deserving of note because it is quite likely that it was the first time in U.S. military history that an individual eventually commanded the regiment that liberated him, a truly magnificent commentary on the greatness of our American form of government and a classic example of the American dream.

I have a feeling that we will, in time, be hearing again from this distinguished gentleman of the Marines who is now headed back to his native Guam. In the meantime, it is my pleasure to recommend that his memorable remarks be entered verbatim in the CONGRESSIONAL RECORD:

LOOKING BACK: REFLECTIONS AT CAREER'S END

(By Brig. Gen. Vincente T. Blaz, USMC (Ret))

Members of the graduating class, as you reflect on the months that you have spent here, perhaps your loftier thoughts might turn to references in literature and recall Samuel Johnson's critique of John Milton's epic poem, "Paradise Lost." Of it, Johnson said, "No one would wish it to be any longer." I am sure that you would not wish The Basic School to be any longer! I am almost ashamed to say that my particular class at The Basic School was neither scholarly nor charitable, and the allusions we made to the school as we left were similar to barnyard graffiti. My recollection goes something along these lines: "Here lie the bones of Lieutenant Jones, a graduate of this institution. He died like a light in his first firefight, following the school solution."

All jesting aside, let me say to you that I am as sure as I stand here that you will draw abundantly in the future from your association with this magnificent school, unique to the United States Marine Corps, and one specifically designed to bring together officers of our Corps, wherever they come from, so that they may be launched as one, with equal opportunity for all. Not one of you can say in time that you did not have an even chance. You do, but it is up to you to singularly distinguish yourselves.

When I left The Basic School, I soon discovered that I was not as well prepared for life as one might suppose. As a second lieutenant, I found myself in search of raison d'etre. I was somewhat lost in my first assignment, and I was not really quite sure what my destiny in life was. It was at that point that I decided to go on a pilgrimage and went to a very remote island in the North Pacific, the scene of an epic battle about six years earlier for which the United States paid so dearly. Despite the serenity of that day, it still took me two long hours to climb to the top of Mount Suribachi on Iwo Jima. It was a touch of deja vu. I could swear today that it was like hearing the roar of artillery and naval gunfire and smelling the stench of gunpower. On top of Mount Suribachi was a big plaque inscribed with the words of Admiral Chester Nimitz speaking of the fighting men of his day—words that you have heard before: "Among those Americans who fought on Iwo Jima, uncommon valor was a common virtue." I realized upon reading Admiral Nimitz's words that I found my raison d'etre. I decided then that the propellant that would motivate me in life was the word *uncommon*. I vowed that day to seek, as I ask you now to seek, to be uncommon.

If you will permit me one more indulgence—not too long ago, I took another journey to my native Guam. As I was leaving the territory, by plane, the enormous statue of a legendary warrior named Quipuha caught my eye. When I arrived a few hours later in Hawaii, through mere coincidence I was billeted in a hotel called the "Hale Koa." The significance of this tribute paid to a warrior by our overseas Americans on Guam and Hawaii. On Guam, Chief Quipuha towers prominently for all to see. In Hawaii, the "Hale Koa" (which means 'House of Warriors') pays tribute to the warrior. Significantly, today we meet in Reasoner Hall, a House of Warriors itself.

As you depart this House of Warriors, you will be expected to meet the challenges of today and tomorrow. Now, there are many of you who will say that the crises that face us today are no different from the crises of yesterday, and history is replete with references to great crises of the past. However, even a cursory examination of today's international and national climate clearly reveals a startling array of problems that were incomprehensible as recent as a decade ago. Internationally, we are continually on guard world wide as we attempt to protect our interests. We are still engaged in Strategic Arms Limitations Treaty discussions which require the most exquisite effort by both ourselves and the Soviet Union. At stake is not just the security of the United States and the Soviet Union alone, but rather the security of the whole world. On a daily basis, we are abused by the Iranians who continue to hold Americans as hostages. Nationally, we have seen in recent years the demise of a national Administration through scandal; the assassination of a popular President, a religious leader, and a U.S. Senator, And, we have fought a war in Vietnam which we failed to win. We also see the constant battering of the American dollar and fluctuating food and fuel prices. These are difficult times. By any yardstick, uncommon times! These are the times that require the services of uncommon men and uncommon women. As officers of the United States, you are uncommon men and uncommon women. I hasten to add, however, that the path you have chosen is not going to be an easy one.

The nobility of the profession you have embraced escapes many. In my own generation, I recall being swept from the the Command and Staff College to go to Vietnam. And I remember that the song of endearment at that time was the beautiful, "I Left My Heart in San Francisco." Many of us would sing and hum this romantic song during rare moments of leisure in Vietnam, reminiscing and looking forward to going home. When we did go home, there was a startling lack of appreciation for our service; instead, there was hostility everywhere. There were no parades, no speeches, no welcome-back celebrations. Ironically, and quixotically, the popular song was the theme song from "The Man From La Mancha," "The Impossible Dream." We soon realize that it was the soldier who was trying to bear unbearable sorrow. It was the soldier who was dreaming the impossible dream—trying to find acceptance, paradoxically, in his own hometown.

Yes, it is a difficult profession that you have chosen. As recent as two years ago, I attended a function in Washington, D.C., attired in my summer service uniform, distinctly that of a United States Marine. As I entered the meeting hall in our Nation's capital as a guest speaker, I was met by two men, one of whom said, "Hey, we have a Marine today." I thought that was a bit flippant and ignored it. Then his companion added, "Not only do we have a Marine, we have a brigadier." The two men started chuckling a bit, which caught me by surprise. I then inquired what they did. The answer was a quick, "We're in the professions. My friend is a lawyer and I'm a dentist." The implication was quite clear: they were professionals and I was not. Although I was prepared to speak on an entirely different subject that day, I elected to speak along the following vein after I was introduced by the program chairman. I started like this:

"Ladies and gentlemen, it gives me great pleasure to be speaking to you today. For some time now I have been looking for a professional audience. I want to introduce you to a new profession, but I ask that you listen very carefully for it has so many component parts and should you miss a part, you may miss the whole. This profession requires its members to be physically fit, and they are so tested every three months. Every six months it requires that superior officers, in the privacy of their offices, sit down and reduce narratively their opinions of their subordinates. This profession requires its members to undergo a physical and mental examination every 12 months to determine if they are qualified to "continue the march." And every so many years the personal and professional lives of the members of this profession are investigated by a team of security investigators to determine if its members are deserving of being entrusted with security matters. Every so often the members of this profession are sent to school, not merely to attend, but to excel. And every so many years their seniors meet to determine whether or not they should be promoted—not a quantum jump, but one little notch at a time. And, finally if a crisis arises, a "bet" is made by the members of this profession. Unlike their counterparts, the bet is not with stock and bonds, but with lives and limbs."

I went on to state that I was not aware of any profession that undergoes the same fatiguing process of validation and revalidation over a sustained period of times as the profession that I embrace, the Profession of Arms. To this now attentive audience I added:

"While I recognize you, sir, as the president of the local bank, and you sir, as the vice president of the local university—which makes both of you officers—the distinction is that as an officer of the Profession of Arms, I am an officer of the United States."

Members of the graduating class, it is not good enough just to be a Marine officer. You must bear in mind that you are, first of all, officers of the United States of America—an honor that carries with it inherent challenges and unrelenting responsibility.

We are extremely fortunate to have as our leader the epitome of an officer of the United States. Our Commandant has fought in three wars, a fierce fighter on the battlefield and a mentally tough administrator. But, above all, he is a gentleman; a man of supreme compassion and understanding.

To some of you, perhaps gentleness and caring have no place in the Profession of Arms. Let me share with you a quotation from Major General Schofield:

"The discipline which makes the soldiers of a free country reliable in battle is not to be gained by harsh or tyrannical treatment. On the contrary, such treatment is far more likely to destroy than to make an army. It is possible to give commands in such a manner as to inspire an intense desire to obey, while the opposite manner cannot fail to incite strong resentment and intense desire to disobey. The one mode or the other springs from a corresponding spirit in the breast of the commander. He who feels the respect which is due others cannot fail to inspire regard for himself, while he who feels disrespect towards others cannot fail to inspire hatred in himself."

A century has passed since those remarks were made by a general officer of the Army to a corps of cadets at West Point. But their poignant relevancy still exists: be *gentle*men, *gentle*women.

Stated another way, there are those who will tell you that a laborer does things with his hands; a craftsman does things with his hands and his mind; but an artist does things with his hands, his mind, and his heart. I ask you to remember that and to be artistic in all that you do. That is the Marine way.

If our doctrine is unassailable, and I have no reason to challenge it, then the final orders we will receive in our profession will be to report to Marine Barracks, Heaven, for duty. The Commanding Officer of Marine Barracks, Heaven, will tell you that before you are entered on the unit diary, you must answer a question which will determine your relative standing on the lineal list. The question is simply, "While you were on your tour of earth, what did you do?" One person might say, "Life was so-so. I walked through life. I was a mere pedestrian." Another person might venture, "It was a fast-moving time and I had difficulty catching up with it. Consequently, I decided to hitchhike; I was a hitchhiker on the tide of history." Members of the graduating class, the answer I hope you will give when you are asked is: "It was an uncommon time and there were uncommon challenges. God, dear God, I tried to be an uncommon man."

Good luck to all of you.●

FAREWELL TO JIM HANLEY

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. McDADE. Mr. Speaker, I would like to take this occasion to say farewell to my distinguished colleague and longtime friend from New York, Jim Hanley. We in the Congress as well as the good citizens of Syracuse are losing a very able and conscientious Representative, who for the past 16 years has displayed outstanding leadership qualities and possessed the keen foresight to deal with many of the serious problems that confront our Nation.

This body will certainly feel the loss of a man who has almost singlehandedly championed the effort to develop desperately needed railroad service to the Northeastern United States. In addition to his expertise in the area of rail transportation, Jim has served with great distinction as chairman of the Committee on Post Office and Civil Service, chairman of the committee's Subcommittee on Investigations as well as Banking, Veterans' Affairs, and the Committee on Small Business. His work on all these important committees has been marked by a sincere personal commitment to resolving problems and drafting effective legislation that would best serve the public interest.

Jim Hanley will be sorely missed. I wish him the very best in whatever endeavors he undertakes.●

IS IT APRIL FOOL'S DAY IN DECEMBER?

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. PICKLE. Mr. Speaker, when I read the paper and notice who is the head of the Labor Committee for the inauguration, and who is a senior adviser for the President-elect's transition team for economics, I am convinced that we are not truly in the Christmas season, but rather around the time of April fools.

As anyone who is aware of the affairs of the Government's efforts to clean up the Central States Teamsters fund knows, Government investigators have labeled the Teamsters who ran the Central States fund until 1977 as bad fiduciaries, and there is plenty of evidence linking them to known mob figures.

The Fitzsimmons-Presser crowd is responsible for unsavory characters getting no-interest loans, balloon-payment loans, and loans at 3 and 4 percent. These loans went for shady real estate deals and casinos.

Needless to say, I was shocked when I read that these people, who are under investigation by the Department of Labor, the IRS, and probably by the Justice Department, and who are being sued by the Government, are being entrusted to run an inaugural committee, and more importantly, to set policy for the new administration.

I am specifically referring to the appointment of Frank Fitzsimmons to head up the Labor Inaugural Committee, and the appointment of Jackie Presser to be a senior adviser on the economy.

Something is wrong, Mr. Speaker, when men like these, who have thumbed their noses at Government investigators, who have played foot loose and fancy free with the pension laws and billions of dollars of someone else's money, and whose questionable associations have been highlighted in every major newspaper in America, are given positions of power in the new administation.

Then, in another news article, I read that the Teamsters officials who were kicked out of their jobs as pension fund managers by the IRS and the Department of Labor are going to have a veto over who is the new Secretary of Labor. America, wake up—this is the same labor group that is trying to undo even a modest Department of Labor-Internal Revenue Service agreement to clean up the Central States fund.

I know that everyone in the Government tries to treat the Teamsters with kid gloves, and I have been critical of the present administration for not being tough enough in ferreting out wrongdoing. But bringing the wolves into the hen house is ridiculous.

And let me remind people who think I am being partisan on this Teamsters matter that it was a Republican administration that started the ball rolling to clean up the Teamsters. It was a Republican who was head of the IRS when the tax-exempt status of the Teamsters was revoked in 1976. This one action still remains the one thing that got that crowd's attention, and led to the 1977 agreement. And let me further remind people that I have not been kind to the present administation regarding their handling of the Teamsters pension fund cleanup program.

Something is wrong when the targets of investigations and lawsuits are invited into the inner circle. Just think how this demoralizes the career employees in the Department of Labor and the IRS who are trying to change the ways of the Central States pension fund.

I urge those people in the Government who are not playing footsy with this crowd to keep the faith. There will be those of us who will back you up, and who will try to finish the job the Ways and Means Oversight Subcommittee begin in 1975 and has monitored since that time. The road ahead may be rocky, but it is wrong to sit down and assume that it is back to the good old days when the mob got all the money they wanted from the hard-earned dollars of the working people.

Something is wrong with all of this, Mr. Speaker, and I don't want to be quiet about it any longer.

I insert an article from the December 16, 1980, Wall Street Journal by Mr. Jim Drinkall herewith for my colleagues' attention. This article outlines current allegations against Mr. Jackie Presser, and states the Government's actions against the former trustees of the Central States fund. Mr. Fitzsimmons and Mr. Presser both were former trustees.

The article follows:

TEAMSTER AIDE, SUED BY LABOR AGENCY, IS NAMED AN ADVISER BY REAGAN GROUP

A Teamster union official who is a defendant in a pending civil suit by the Labor Department has been named as an adviser on that agency's affairs by the transition team of President-elect Ronald Reagan. He is 54-year-old Jackie Presser, a Teamsters union vice president, who allegedly has links to organized crime.

He has been named to the transition operation's economic affairs group and will advise "on matters involving organized labor and other areas affecting employment and labor-management relations."

The Labor Department's suit alleges that Mr. Presser and other union officials mismanaged union funds.

In the telephone interveiw, Mr. Presser described his new role as a "senior economic adviser" who will have a say in who might be hired at "the Labor Department, Treasury and a few other independent agencies."

Mr. Presser said he doesn't see any conflict between his position and the pending lawsuit because "it's just a civil suit." As to the organized-crime allegations, Mr. Presser angrily said that "none of them are true," and that they're being spread by ——— flesh peddlers."

SUCCEEDED HIS FATHER

Mr. Presser, who succeeded his father, William, in his powerful Cleveland-based union position, began his labor career in 1947 and his combined salaries last year from several positions were almost $270,000, according to Labor Department filings.

In addition, Mr. Presser has been appointed to a number of civic posts by Cleveland's mayor and Ohio's governor.

There is also a less public side of Mr. Presser. Two years ago, for example, a 72-page Federal Bureau of Investigation affidavit filed in a criminal case in federal court in Los Angeles outlined an alleged scheme to bribe public officials to obtain contracts to sell detergent. Quoting unidentified FBI informants, the affidavit charged that Mafia members "controlled" Mr. Presser and that they would use his influence to force Las Vegas gambling casinos to sign contracts with their company. The affidavit added that Mr. Presser was a hidden owner of the detergent company.

Mr. Presser said those allegations were totally false, but does allow that he was notified that "at least one call" he had with Aladena (Jimmy the Weasel) Fratianno, a mob hit man turned informant, was overheard on an FBI wiretap. He said he can't recall what the conversation was about. Mr. Presser was never indicted in the case.

About the same time that Mr. Presser was being overheard by FBI agents, the Labor Department was suing him for allegedly helping to waste union assets by making imprudent loans from the Teamsters' biggest pension fund.

WIDE-RANGING INVESTIGATION

In 1978, as part of a wide-ranging investigation into allegations of corruption and mob influence at the union's Central States, Southeast and Southwest Area's Pension Fund, the Labor Department filed a civil suit against the then trustees, including Mr. Presser, in federal court in Chicago.

The suit accuses the trustees of imprudently lending $120 million to companies that never repaid the loans and to Mafia-connected borrowers. All the trustees have denied wrongdoing and the suit is still in the discovery stage.

Earlier this year, during the embezzlement trial of a Teamsters leader, mobster Fratianno testified that Mr. Presser was controlled by James (Blackie) Licavoli, the Mafia boss in Cleveland.

Mr. Fratianno said under oath that "Jackie Presser, he told me himself that 'I don't do nothing unless Blackie tells me.'" The Teamsters Official was convicted, largely on Mr. Fratianno's testimony.

Mr. Presser is particularly incensed about Mr. Fratianno's accusations. "It's bull up to the top of your head. I've never been indicted or convicted and here's a guy that's killed 16 people making these accusations to sell his goddam book."

Mr. Fratianno's autobiography is scheduled to be published next month.●

NATIONAL HONOR BESTOWED UPON JANET HELLER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. LENT. Mr. Speaker, just last week I called your attention to an exceptional young lady in my district, Janet Heller of Oceanside, N.Y., the New York 4-H Health Award winner for 1980. It is now my happy privilege to inform my colleagues that Janet has once again been honored for her outstanding achievements, and has been named one of eight national winners, selected from over 300,000 4-H'ers around the country. For her achievements, Janet is the recipient of a $1,000 scholarship as well as recognition from her friends and colleagues.

Janet, a 19-year-old sophomore at the State University of New York at Plattsburgh, first learned first aid when she was unable to help a friend who began hyperventilating. Feeling helpless, Janet decided to do something about it, and took basic and advanced first aid courses. As a result of her training, Janet assisted a fellow camper who was choking on a piece of candy at a 4-H camp last summer. Her quick thinking and prompt action helped save the camper's life.

Planning a career in environmental science, Janet has helped out in a hospital emergency room, taught swimming to young children and is interested in good nutrition and good health. I am sure my colleagues join me in congratulating Janet on her distinguished achievements, and wish her the very best for her future.●

THE MEN WHO WILL NOT GIVE UP

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. DIXON. Mr. Speaker, as the 96th Congress draws to a close today, each of us has to make our own assessment of what we have accomplished during the last 2 years. While I am sure that the list of significant accomplishments would vary from Member to Member, a story that appeared in the Christian Science Monitor this morning by Richard Harley should remind us that we did take a major step toward improving the prospects for world food security in November by passing legislation to establish a 4-million metric-ton food security reserve of wheat.

I would like to commend the House for finally taking action on this measure, and I would also like to extend a special word of thanks to Representatives MATT MCHUGH and BEN GILMAN of New York for their leadership in keeping this proposal alive over a period of 3 years. As the story in the Monitor makes clear, this was not an easy task. However, their diligence and persistence in fighting for this legislation has resulted in what I think is one of the major accomplishments of the 96th Congress.

For the benefit of those Members who may not have seen this story, I am inserting a copy into the RECORD at this point:

THE MEN WHO WILL NOT GIVE UP

(By Richard M. Harley)

BOSTON.—It's one thing to believe Congress should establish an emergency grain reserve to rescue starving people abroad.

Quite another to actually make it happen.

For nearly seven years a corps of dogged idealists have been waging a hurry-up-and-wait battle for that elusive prize. They tried, failed and tried again. Time after time congressional action was postponed.

But in mid-November—after a cliffhanging, topsy-turvy political struggle in an emotional election year when no one expected government to take any new initiative—their legislation passed.

Now the president of the United States will have 4 million tons of grain at hand for hunger trouble spots should normal US aid channels run dry. He can release 300,000 tons of it in any given year without bureaucratic delays, a minuteman provision that could literally mean life for thousands of hungry people.

This is not the be-all, end-all in the fight against hunger. But the new reserve takes its place as a significant—some say critical—component. And with United Nations officials predicting a sharp decline in world grain stocks in 1981, the new reserve is very welcome indeed.

The idealists who made it possible are a diverse group of anti-humger activitist, including a half dozen congressmen and senators and their staffs, the citizen hunger lobby group known as Bread for the World (BFW), and the Interreligious Task Force on US Food Policy (a coalition of religious organizations).

Though elated with their victory, they are now asking themselves why it was so difficult for the world's biggest producer of surplus grain to lay aside a tiny portion for international emergencies? Has the American political system become incapable of answering the calls of a changing, fragile world?

The effort needed to launch this modest reserve verged on the Herculean.

Emergency reserves have been a crying need since 1973. Sudden drought had triggered massive starvation in western Africa, and with most of its surplus wheat sold to the Soviet Union, the US couldn't help. The world must never again be caught in that position, the World Food Conference resolved in Rome in 1974.

The same year Sen. Hubert H. Humphrey opened hearings on the subject, titillating his listeners by reading the Joseph story from the Book of Genesis. By 1977 he had framed legislation for a government-held emergency grain reserve as part of sweeping foreign aid reforms.

But though the Senate was sympathetic, the idea bogged down in the House. Farm interests have traditionally opposed any government-held grain reserve for fear that its use could bring down prices, and with 1978 elections in the offing, congressmen were anxious not to offend them. This, along with conflict between committees over how large the reserve should be, blocked passage.

In 1979 Sen. George McGovern of South Dakota and Reps. Matthew F. McHugh (D) and Benjamin A. Gilman (R), both of New York—backed by Bread for the World and the Interreligious Task Force on US Food Policy—tried to keep legislation moving. But after a year of good world harvests, emergency reserves seemed less urgent. A belt-tightening economic climate lessened its chances of passage even further.

But in 1980 a touch of irony, some dogged leadership in Congress, and sheer determination from private humanitarian groups combined to turn the tables.

The irony: When the Soviet Union invaded Afghanistan, prospects for the reserve instantly changed. President Carter embargoed 4 million tons of grain from the Soviets in January 1980, and reserve advocates were back on the offensive, arguing that the grain be used as a reserve. Shrewd planning in the Senate linked the proposal with a larger bill to boost farmers' price supports, and farm organizations withdrew their opposition.

But there were still storms ahead. Sens. Robert Dole and George McGovern had to rescue the reserve legislation by transferring it to yet another bill. Some senators wanted to drop the idea altogether but Rep. Thomas S. Foley (D) of Washington, chairman of the House Agriculture Committee, rallied to its defense. Then with elections on the horizon, Senator Dole came up with a last-minute compromise to answer the objections of Sen. Henry A. Bellmon (R) of Oklahoma, enabling the bill to reach the Senate floor and pass.

Now only House approval was needed. But again nothing was to come easily. Representative Foley tried to have the legislation considered before the election, but was blocked—some say by Republicans eager to deny farm state Democrats credit for a victory.

After the elections Mr. Foley would have one last chance to get the bill considered this year. Now the political atmosphere was even more formidable. Speculation was rife that House Republicans would not agree to new legislation before Ronald Reagan took office.

But political forces for the reserve had begun to gel. Since it was attached to a bill that increased farmers' price supports, the wheatgrowers were urging Republican congressmen to vote for it. The Interreligious Task Force on US Food Policy was pressing House leaders to move the reserve legislation forward. Bread for the World's 40 volunteer workers visited 320 congressional offices to answer any uncertainties arising from the Republican landslide.

On the day of the big vote, Nov. 17, came a last-minute blow: a "Dear Colleague" letter from Rep. John J. Rhodes of Arizona urging House Republicans to oppose the bill. It was too expensive, he said, and besides the new president should set his own farm policy.

Private humanitarian groups sprang back into action. Bread for the World challenged Representative Rhode's figures and a group of seminary students got on the phones to remind congressmen of farmer support for the bill and to counter arguments that the reserve would cost too much. When the bill finally came to a vote, only two congressmen spoke against it, and it passed by voice vote.

After seven long years, the emergency reserve was a reality.

Amazingly enough, despite all the frustration the reserve advocates have not given up on the American political system.

Gene Moos, staff analyst for the House Agriculture Committee explains:

"It's not that our political system itself is defective. You first have to understand the depth of sheer philosophical opposition we faced for this kind of bill. Foreign aid has been progressively losing popular support in recent years. Historically the wheat growers have been philosophically opposed to government-held reserves. The Republican leadership was even more philosophically opposed. We're just gratified that all the puzzle pieces came together, that we could find a home for the 4 million tons of grain and do it in such a way that grain prices are not depressed."

Despite its obvious drawbacks, reserve advocate Gary Bombardier, staffer for Representative McHugh, argues that the long fight was not without its benefits.

"In the Senate only one committee has control over food aid legislation, while in the House there are two—Foreign Affairs and Agriculture. Thus we had to make compromises with farmers' interests represented on the Agriculture Committee. But this could mean that the reserve will have a broader base of support in the long term."

But aren't there quicker ways to convince government to respond to emergency needs? Mr. Bombardier offers one view:

"Other types of action may at first seem quicker," he says. "For example, you can quickly set up commissions to study a problem like hunger. But for all their effort, their reports tend to sit on a shelf gathering dust. Recommendations like those of the Presidential Commission on World Hunger often prove totally impractical—like their suggestion of doubling US foreign aid over the next five years.

"But here in the emergency reserve you've got something really substantive. It took a lot longer to accomplish but its effects will be more lasting. And with the grain situation looking so tough next year, this reserve will come in mighty handy and have a positive impact on the poorer nations."

The American political system could, in fact, respond much more quickly if the public knew how urgent the problem was and what they could do about it politically, argues Nick Mottern of Bread for the World.

"There simply isn't enough grass-roots support yet to move this kind of legislation quickly," he says.

Though the US now has an emergency grain reserve in addition to reserves held by farmers, the world is still insufficiently protected from sudden shortages or from gyrating grain prices, which can spell disaster for the poor countries. Hunger activities also worry that the next administration will be tempted to use the new emergency reserve for political purposes. They vow to monitor the situation.

But some hope that the new US reserve will encourage other nations to follow suit. The Grains Policy Panel of the United Nations Association, for example, recently urged all grain exporting countries to set up reserves and coordinate their use.

Larry Minear of the Interreligious Task Force on US Food Policy labored to ensure that the reserve be used only for humanitarian purposes and that 300,000 tons of it be on instant call.

There is a legacy, he says:

"The new emergency food security reserve lights a horizon that has been darkening amid grim projections of declining world food stocks, growing malnutrition in Africa, and speculation that the new administration will seek to use food aid more and more for short-term political purposes. It will surely stand as a premier food policy accomplishment of the 96th Congress."●

FRENZEL TEAM HILL FOOTBALL CHAMPS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. FRENZEL. Mr. Speaker, I rise with great pride and pleasure to inform my colleagues of the achievements of the victorious Frenzel football team which yesterday won the Capitol Hill Congressional Football Championship of 1980.

In the final playoff game on Sunday, the Frenzel team prevailed against overwhelming odds when it defeated the powerful Red River Basin Bunch. Led by quarterback Lou Cordia and coached by Josie Thorpe, the team leaped to a 6-0 first-half lead, and managed to hold on for a 12-6 victory.

The game, well played throughout, was a suitable climax to another fine year of competition in the Capitol Hill Congressional League. I offer my heartiest congratulations to the champions.

Members of the championship Frenzel team includes Josie Thorpe, Peter Ridder, Dave Rosenauer, Dan McDonald, Kathee McCright, Chip Aubry, Chris Bohner, Bill Loughrey, Phoebe Loughrey, Lou Cordia, Judy Urban, Suzanne Worth, Steve Longacre, Ed O'Hare, Dave Parker, Rosi Harvey, Karen Bauer, Matt Carey, Steve Hein, Frank Myers, Julie Myers, Sheri Marshall, and Paul Cooksey.

Special mention is due to Josie Thorpe, coach, general manager, trainer, and bartender of the Frenzel squad. For 10 years she has coped with as weird a collection of attitudes as ever suited up. Over those years she has taken several softball and football teams into the playoffs, but this year's football championship is her first.

Congratulations, too, to the runners-up, the gallant Red River Basin Bunch, and to all who participated in the league this year.●

EDDIE PATTEN

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 1980

● Mr. McDADE. Mr. Speaker, in my friend, Congressman EDWARD PATTEN, the Congress is losing one of its most distinguished and most dedicated public servants. He is a fine gentleman and a distinguished member of the Appropriations Committee. EDDIE PATTEN has fought long and hard on the Labor-HEW Appropriations Subcommittee for vital programs which have benefited millions of Americans nationwide, as well as those in his district. He has been a good and loyal friend whose counsel and friendship has become very much a part of the lives of many of us in Congress. I wish Eddie and his wife, Ann, all the happiness and blessings that retirement can bring and a long and healthy life.●

TRIBUTE TO JOHN RHODES

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1980

● Mr. CAMPBELL. Mr. Speaker, although John Rhodes is voluntarily giving up his position as minority leader in the 97th Congress, it is with great satisfaction that I predict he will in no way be giving up his leadership role on our side of the aisle. John's political acumen, his legislative expertise, his warm and giving personality, and his just plain good sense will be valued in 1981 and beyond as it has been for so many years.

There is no way to adequately describe John's contributions to this Congress, to his party, or to the individual Members of this body, Mr. Speaker. I know that I have benefited immeasurably from his advice and counsel, both of which he offered freely whenever asked. I, for one, hope that John will continue his open-door policy.

John has given yeoman service to the Republican Party, and has labored long and hard as our Republican leader. While we all regret his decision to step down from that post, I am cheered by the knowledge that we will be working together for our mutual goals and objectives in the 97th Congress and hopefully beyond.

John, I thank you for your past and future contributions.●

TRIBUTE TO THOMAS L. ASHLEY

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1980

● Mr. McDADE. Mr. Speaker, Thomas Ludlow Ashley, known affectionately to his friends and colleagues as Lud, is leaving this distinguised body after 26 years of uncompromising service to the people of the Ninth District of Ohio. I know Lud as a champion of housing and will long remember him for that. He has authored significant legislation providing housing for the elderly, handicapped, and low- to moderate-income persons.

His roots are those of service to this country with a great-grandfather who was a Civil War Congressman and first Governor of the territory of Montana. Serving his country and helping people has been his life, and we, the Members of the Congress, are the richer for having worked with Lud Ashley.

I have been privileged to serve with Lud on the Banking Committee and have developed a close relationship with him in my capacity on the Appropriations Committee. It has been said that Lud Ashley is tenacious and tough. But in point of fact, Lud Ashley is an excellent legislator, one of the best Capitol Hill has ever known. His knowledge of bills he manages is awe inspiring. His mastery over the facts goes unchallenged.

Lud, you will be sorely missed, but my wishes go to you for health and happiness in whatever you undertake in the future. Whatever successes lie in your future, you are most deserving, and we are thankful to have been able to work with you and know you.●

SENATE—*Tuesday, December 30, 1980*

ENROLLED BILLS PRESENTED

The Secretary reported that on Wednesday, December 17, 1980, he had presented to the President of the United States the following enrolled bills:

S. 442. An act for the relief of Isaac N. Hulver of Kansas City, Mo.;

S. 1465. An act to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes;

S. 1803. An act to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes;

S. 2027. An act for the relief of James Daniel Bronson;

S. 2189. An act to set forth a Federal policy for the disposal of low-level radioactive wastes, and for other purposes;

S. 2227. An act to grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas;

S. 2261. An act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes; and

S. 2729. An act to authorize certain emergency repairs at the National Visitor Center in the District of Columbia.

The Secretary reported that on Thursday, December 18, 1980, he had presented to the President of the United States the following enrolled bills:

S. 2363. An act to provide, with respect to the national park system: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes;

S. 3027. An act to extend the authorization for the Disaster Relief Act, and for other purposes;

S. 3212. An act to designate the "Thomas J. McIntyre Federal Building."

MESSAGES FROM THE HOUSE SUBSEQUENT TO SINE DIE ADJOURNMENT

Under the authority of the order of Tuesday, December 16, 1980, the following message was received from the House of Representatives on Tuesday, December 16, 1980:

The Speaker pro tempore has signed the following enrolled bills:

H.R. 5737. An act to amend the International Claims Settlement Act of 1949 to allow recovery by U.S. nationals for losses incurred in Vietnam;

H.R. 5973. An act to amend the Internal Revenue Code of 1954 to waive in certain areas the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes;

H.R. 7112. An act to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes;

H.R. 7709. An act to amend the Tariff Schedules of the United States to increase the quantity of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning United States residents; and

H.R. 7865. An act to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy.

The enrolled bills were signed by the Acting President pro tempore (Mr. ROBERT C. BYRD) on Wednesday, December 17, 1980.

Under the authority of the order of Tuesday, December 16, 1980, the following message was received from the House of Representatives on Thursday, December 18, 1980:

The Speaker pro tempore has signed the following enrolled bills and joint resolution:

S. 2363. An act to provide, with respect to the National Park System: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes;

S. 3027. An act to extend the authorization for the Disaster Relief Act, and for other purposes;

S. 3212. An act to designate the "Thomas J. McIntyre Federal Building";

H.R. 4155. An act to amend the Internal Revenue Code of 1954 to simplify private foundation return and reporting requirements, and for other purposes;

H.R. 5047. An act to provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes;

H.R. 6257. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes;

H.R. 7171. An act to make certain miscellaneous changes in the tax laws;

H.R. 7175. An act for the relief of the Woodstock Daily Sentinel;

H.R. 7956. An act to make various changes in the tax laws;

H.R. 8406. An act to amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration; and

H.J. Res. 642. Joint Resolution providing for convening of the first regular session of the 97th Congress on January 5, 1981, and for other purposes.

The enrolled bills and joint resolution were signed by the Acting President pro tempore (Mr. ROBERT C. BYRD). On Thursday, December 18, 1980.

PRESIDENTIAL APPROVALS—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under the authority of the order of Tuesday, December 16, 1980, the Secretary of the Senate, on December 30, 1980, received a message from the President of the United States stating that he had approved and signed the following bills and joint resolutions:

On December 5, 1980:

S. 885. An act to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

S. 1578. An act for the relief of Doctor Halla Brown.

S. 1828. An act to exempt the existing facilities of the Milner Dam from section 14 of the Federal Power Act, and for other purposes.

On December 8, 1980:

S. 2352. An act to increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes.

S. 2441. An act to amend the Juvenile and Delinquency Prevention Act of 1974 to extend the authorization of appropriations for such act, and for other purposes.

S. 3152. An act to amend the Public Works and Economic Development Act of 1965, and the Appalachian Regional Development Act of 1965 to extend the authorization for such acts for 2 additional years.

On December 12, 1980:

S.J. Res. 213. Joint resolution to designate the Clinical Center of the National Institutes of Health located in Montgomery County, Md., as the "Warren Grant Magnuson Clinical Center of the National Institutes of Health".

S. 568. An act to authorize appropriations for activities for the National Science Foundation for the fiscal year 1981, and to promote the full use of human resources in science and technology through a comprehensive and continuing program to increase substantially the contribution and advancement of women and minorities in scientific, professional, and technical careers, and for other purposes.

S. 1918. An act to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, separation, and mandatory retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the permanent grade of commodore admiral in the Navy, to equalize the treatment of female commissioned officers with that of male commissioned officers, and for other purposes.

On December 15, 1980:

S. 2134. An act to provide for the acquisition of certain property in square 758 in the District of Columbia as an addition to the grounds of the U.S. Supreme Court Building.

On December 16, 1980:

S. 576. An act for the relief of Larry Grathwohl.

S. 1835. An act to extend the Joint Funding Simplification Act of 1974.

On December 17, 1980:

S. 988. An act to amend the Public Health Service Act to revise and extend the authorities under that Act relating to national research institutes, and for other purposes.

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

S. 2728. An act to amend the Indian Health Care Improvement Act and the Public Health Service Act with respect to Indian health care, and for other purposes.

S. 3074. An act to authorize appropriations for the Department of Energy for national defense programs for fiscal year 1981, and for other purposes.

S. 3235. An act to clarify certain effective date provisions of the Customs Courts Act of 1980.

On December 18, 1980:

S. 444. An act for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.

S. 453. An act for the relief of Joe L. Frazier of Elko, Nev.

S. 1307. An act for the relief of Gerald W. Frye.

S. 1391. An act to amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal year 1981, and for other purposes.

S. 1615. An act for the relief of James R. Thornwell.

S. 1972. An act to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from, and creditors of, the Sangre de Cristo Development Company, Incorporated, and for other purposes.

On December 19, 1980:

S. 551. An act for the relief of Fred W. Sloat of Salt Lake City, Utah.

S. 1772. An act for the relief of Min-Zen Lin.

S. 1996. An act to authorize a pilot program to encourage the efficient utilization of wood residues, and for other purposes.

S. 2069. An act to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities.

S. 2318. An act to revise the boundary of Crater Lake National Park in the State of Oregon, and for other purposes.

S. 2849. An act for the relief of Charles Jeffrey Greene.

On December 22, 1980:

S. 120. An act for the relief of Maria Elena Foley and Caritina Ann Foley.

S. 327. An act for the relief of Shavji Purshottam Dusara, his wife, Vasanti Shavji Dusara, and their child, Shreedhar Dusara.

S. 1148. An act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes.

S. 1227. An act for the relief of Munir P. Benjenk.

S. 1374. An act for the relief of Lynn Rufus Pereira.

S. 1624. An act for the relief of Francisco Pang.

S. 1784. An act to provide certain authority for the purchase and sale of electric energy by Federal departments in Alaska, and for other purposes.

S. 1824. An act to designate the "John D. Larkins, Jr., Federal Building".

S. 1847. An act for the relief of Ana Marlene Orantes.

S. 2027. An act for the relief of James Daniel Bronson.

S. 2163. An act to provide for the conservation and enhancement of the salmon and steelhead resources of the United States, assistance to treaty and nontreaty harvesters of those resources, and for other purposes.

S. 2189. An act to set forth a Federal policy for the disposal of low-level radioactive wastes, and for other purposes.

S. 2227. An act to grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas.

S. 2726. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1981, and for other purposes.

S. 3027. An act to extend authorization for the Disaster Relief Act, and for other purposes.

On December 23, 1980:

S. 1142. An act authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.

S. 1985. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, to authorize the Secretary of the Interior to convey certain interests in lands in the State of Arizona, to amend the Act of March 14, 1978 (92 Stat. 154), and for other purposes.

S. 3096. An act to amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wis.

On December 24, 1980:

S. 1465. An act to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes.

S. 3212. An act to designate the "Thomas J. McIntyre Federal Building".

S. 3261. An act to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section.

On December 28, 1980:

S. 1803. An act to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes.

S. 2261. An act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes.

S. 2363. An act to provide with respect to the national park system: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes.

S. 2729. An act to authorize certain emergency repairs at the National Visitor Center in the District of Columbia.

ADDITIONAL STATEMENTS

AUTHORITY FOR ANNUAL RATES OF COMPENSATION OF EMPLOYEES OF THE SENATE UNDER AUTHORITY OF THE FEDERAL PAY COMPARABILITY ACT OF 1970

● Mr. MAGNUSON. Mr. President, for the RECORD. I am submitting the order of the President pro tempore of the Senate, signed by me on October 1, 1980, effecting the authority for annual rates of compensation of employees of the Senate.

The order follows:

ORDER—U.S. SENATE OFFICE OF THE PRESIDENT PRO TEMPORE

By virtue of the authority vested in me by section 4 of the Federal Pay Comparability Act of 1970, it is hereby—

Ordered,

DEFINITIONS

SECTION 1. For purposes of this Order—

(a) "employee" includes an officer (other than a United States Senator); and

(b) "annual rate of compensation" does not include longevity compensation authorized by section 106 of the Legislative Branch Appropriation Act, 1963, as amended, merit compensation authorized by section 109 of the Legislative Branch Appropriation Act, 1979, or any other additional compensation that may hereafter be authorized by law.

RATE INCREASES FOR SPECIFIED POSITIONS

SEC. 2. (a) The annual rates of compensation of the Secretary of the Senate, the Sergeant at Arms and Doorkeeper, and the Legislative Counsel (as such rates were increased by prior orders of the President pro tempore) are further increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of either of the following: (1) the annual rate in effect for positions in level III of the Executive Schedule under section 5314 of title 5, United States Code, or (2) an annual rate of compensation which is $1,000 less than the annual rate of compensation of Senators.

(b) The annual rates of compensation of the Secretary for the Majority and the Secretary of the Minority (as such rates were increased by prior orders of the President pro tempore) are further increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(c) The annual rates of compensation of the five Senior Counsels in the Office of the Legislative Counsel and the maximum annual rates of compensation of the Assistant Secretary of the Senate, the Parliamentarian, the Financial Clerk, the Assistant to the Majority Leader for Floor Operations, and the Assistant to the Minority Leader for Floor Operations (as such rates were increased by prior orders of the President pro tempore) are further increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $1,000 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(d)(1) The maximum annual rate of compensation of the Director of the Office of Classified National Security Information in the Office of the Secretary of the Senate (as such rate was increased by the prior order of the President pro tempore) is further increased by 9.1 percent and, so increased, adjusted to the next higher multiple of $1.00. Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $2,000 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(2) The maximum annual rate of compensation of the Special Deputy to the Federal Elections Commission in the Office of the Secretary of the Senate (as such rate was increased by prior orders of the President pro tempore) is further increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00. Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at

any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $2,500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(3) The maximum annual rates of compensation of the seven Reporters of Debates in the Office of the Secretary of the Senate (as such rates were increased by prior orders of the President pro tempore) are further increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $4,300 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(4) The maximum annual rate of compensation of the Assistant Parliamentarian in the Office of the Secretary of the Senate is increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $5,100 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

CHAPLAIN'S OFFICE

SEC. 3. The annual rate of compensation of the Chaplain and the maximum annual rate of compensation for the position of secretary to the Chaplain are increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00.

OFFICES OF THE SENATE

SEC. 4. (a) The maximum annual rates of compensation for positions or classes of positions (other than those positions referred to in sections 2 (c) and (d) of this Order) under the jurisdiction of the Secretary of the Senate and the Sergeant at Arms and Doorkeeper are increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00.

(b) The following individuals are authorized to increase the annual rates of compensation of the employees specified by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00:

(1) the Vice President, for any employee under this jurisdiction;

(2) the President pro tempore, for any employee under his jurisdiction;

(3) the Majority Leader, the Minority Leader, the Majority Whip, and the Minority Whip, for any employee under their respective jurisdictions;

(4) the Majority Leader and the Minority Leader, for the Assistant to the Majority Leader for Floor Operations and the Assistant to the Minority Leader for Floor Operations, respectively (subject to the provisions of section 2(c) of this Order);

(5) the Secretary of the Conference of the Majority and the Secretary of the Conference of the Minority, for any employee under their respective jurisdictions;

(6) the Secretary of the Senate, for any employee under his jurisdiction (subject to the provisions of sections 2 (c) and (d) of this Order);

(7) the Sergeant at Arms and Doorkeeper, for any employee under his jurisdiction;

(8) the Chaplain, for his secretary;

(9) the Legislative Counsel, subject to the approval of the President pro tempore, for any employee under his jurisdiction (other than the five Senior Counsels);

(10) the Senate Legal Counsel, for any employee under his jurisdiction (subject to the provisions of section 701(b) of the Ethics in Government Act of 1978);

(11) the Secretary for the Majority and the Secretary for the Minority, for any employee under their respective jurisdictions; and

(12) the Capitol Guide Board, for the Chief Guide, the Deputy Chief Guide, the Assistant Chief Guide, and the Guides of the Capitol Guide Service.

(c) The limitation on the rate per hour per person provided by applicable law immediately prior to October 1, 1980, with respect to the folding of speeches and pamphlets for the Senate, is increased by 9.1 percent. The amount of such increase shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

(d) The limitations on the gross compensation which may be paid during a fiscal year to employees in the Offices of the President pro tempore, the Majority Leader, the Minority Leader, the Majority Whip, the Minority Whip, the Secretary of the Conference of the Majority, the Secretary of the Conference of the Minority, the Secretary for the Majority, and the Secretary for the Minority are each increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00.

COMMITTEE STAFFS

SEC. 5. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended, (as modified by this Order) and the other provisions of this Order, the chairman of any standing, special, or select committee of the Senate (including the majority and minority policy committees and the conference majority and conference minority by the Senate), and the chairman of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate, are each authorized to increase the annual rate of compensation of any employee of the committee, or any subcommittee thereof which he is chairman, by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00.

(b) (1) The figures "$23,836" and "$35,956" appearing in section 105(e) of the Legislative Branch Appropriation Act, 1968, as amended, (as provided in section 5 (b) (1) of the Order of the President pro tempore of October 13, 1979) shall be deemed to refer **to the figures "$26,006" and "$39,228"**, respectively.

(2) The maximum annual rates of "$59,792", "$62,216", and "$65,650" appearing in such section 105(e) (as provided in section 5(b) (2) of such Order of October 13, 1979) are each further increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00, and shall be deemed to refer to the figures "$65,234", "$67,878", and "$71,625", respectively.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of a standing committee of the Senate or the majority or minority policy committee of the Senate to which such rate applies shall not be paid at any time at an annual rate in excess of $5,900, $4,600, and $2,000, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

(4) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of any special or select committee of the Senate or the conference majority or conference minority of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of $5,900, $4,600, and $2,500, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

(5) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of $5,900, $4,800, and $2,900, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

SENATORS' OFFICES

SEC. 6. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended, (as modified by this Order) and the other provisions of this Order, each Senator is authorized to increase the annual rate of compensation fo any employee in his office by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00.

(b) The table contained in section 105(d) (1) of such Act shall be deemed to read as follows:

"$592,608 if the population of his State is less than 2,000,000;

"$609,797 if such populations is 2,000,000 but less than 3,000,000;

"$651,229 if such population is 3,000,000 but less than 4,000,000;

"$704,562 if such population is 4,000,000 but less than 5,000,000;

"$748,197 if such population is 5,000,000 but less than 7,000,000;

"$794,037 if such population is 7,000.000 but less than 8,000,000;

"$818,279 if such population is 8,000.000 but less than 9,000,000;

"$843,843 if such population is 9,000,000 but less than 10,000,000;

"$882,190 if such population is 10,000,000 but less than 11,000,000;

"$932,437 if such population is 11,000,000 but less than 12,000,000;

"$970,783 if such population is 12,000,000 but less than 13,000,000;

"$1,019,708 if such population is 13,000,000 but less than 15,000,000;

"$1,068,633 if such population is 15,000,000 but less than 17,000,000;

"$1,117,558 if such population is 17,000,000 but less than 19,000,000;

"$1,154,141 if such population is 19,000,000 but less than 21,000,000;

"$1,190,724 if such population is 21,000,000 or more.".

(c) (1) The second sentence of section 105 (d) (2) of such Act (as modified by prior orders of the President pro tempore) is further modified to read as follows: "The salary of an employee in a Senator's office shall not be fixed under this paragraph at a rate less than $1,102 per annum or in excess of $35,923 per annum except that (i) the salaries of three employees may be fixed at rates of not more than the rate referred to in subsection (e) (1), (ii) the salaries of five employees may be fixed at rates of not more than $63,250 per annum, and (iii) the salary of one employee may be fixed at a rate of not more than $66,115 per annum.".

(2) Notwithstanding the modification made by paragraph (1) of this subsection, any individual occupying a position to which a rate referred to in clause (i), (ii), or (iii) of such modification applies shall not be paid

at any time at an annual rate in excess of $5,900, $5,400, and $2,500, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

(d) The figures "$168,468" and "$56,156" appearing in subsections (a), (b)(1), and (b)(2) of section 111 of the Legislative Branch Appropriation Act, 1978, as amended (as provided in section 6(d) of the Order of the President pro tempore of October 13, 1979) shall be deemed to refer to the figures "$183,801" and "$61,267", respectively.

GENERAL LIMITATION

SEC. 7. (a) The figure "$1,010" appearing in section 105(f) of the Legislative Branch Appropriation Act, 1968, as amended (as provided in section 7(a) of the Order of the President pro tempore of October 13, 1979) shall be deemed to refer to the figure "$1,102".

(b)(1) The maximum annual rate of compensation of "$65,650" appearing in such section (as provided in section 7(b)(1) of such Order of October 13, 1979) is further increased by 9.1 percent and, as so increased, adjusted to the next higher multiple of $1.00, and shall be deemed to refer to the figure "$71,625".

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any individual occupying a position to which such rate applies shall not be paid at any time at an annual rate in excess of $2,500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

NOTIFYING DISBURSING OFFICE OF INCREASES

SEC. 8. In order for an employee to receive the increase in his annual rate of compensation pursuant to section 4, 5, or 6, the individual designated to authorize such increase for that employee shall notify the Disbursing Office of the Senate in writing that he authorizes such increase for that employee and the date on which such increase is to be effective. Such increase shall become effective as provided in section 105(a)(2) of the Legislative Branch Appropriation Act, 1968, except that (1) if the notice required by the preceding sentence is given within five days (not counting Saturdays, Sundays, or holidays) after the date on which this Order is issued, such increase may become effective on or after October 1, 1980, and (2) in the case of an employee holding a position the maximum rate of compensation of which was limited during the fiscal year 1980 by section 101(c) of Public Law 96-86, if the notice required by the preceding sentence is given within five days (not counting Saturdays, Sundays, or holidays) after the date of enactment of a law (enacted on or after October 1, 1980) which limits such maximum rate during the fiscal year 1981, such increase may become effective on and after October 1, 1980.

DUAL COMPENSATION

SEC. 9. The figure "$13,337" contained in section 5533(c)(1) of title 5, United States Code (as provided in section 9 of the Order of the President pro tempore of October 13, 1979) shall be deemed to refer to the figure "$14,551".

LONGEVITY COMPENSATION

SEC. 10. The figure "$404" contained in section 106(b)(1) of the Legislative Appropriations Act, 1963, as amended (2 U.S.C. 60j(b)(1)), shall be deemed to refer to the figure "$441".

OFFICE OF THE SENATE LEGAL COUNSEL

SEC. 11. (a) Notwithstanding any other provision of law—

(1) the Senate Legal Counsel shall not be paid at any time at an annual rate of compensation which is in excess of the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order, and

(2) the Deputy Senate Legal Counsel shall not be paid at any time at an annual rate of compensation which is in excess of $2,500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

(b) The foregoing provisions of this Order, other than subsection (a) of this section, shall not be applicable to the annual rate of compensation of the Senate Legal Counsel or the Deputy Senate Legal Counsel.

EFFECTIVE DATE

SEC. 12. Sections 1 through 11 of this Order are effective October 1, 1980.

SAVINGS PROVISION

SEC. 13. Nothing in this Order does (or shall be construed to) authorize or permit the payment, for any period of time, of compensation to any individual at an annual rate which is in excess of the maximum annual rate that such individual is permitted to be paid for such period of time under section 306(a) of H.R. 7593 as passed by the House of Representatives on July 21, 1980 and incorporated by reference in the joint resolution entitled "A Joint Resolution making appropriations for the fiscal year 1981, and for other purposes" (H.J. Res. 610, 96th Congress).

WARREN G. MAGNUSON,
President pro tempore.

OCTOBER 1, 1980.●

TRIBUTE TO BIRCH BAYH

● Mr. MOYNIHAN. Mr. President, the State of Indiana has been represented in this distinguished body for 18 years by a truly remarkable man, BIRCH BAYH. He came here in 1963 at the age of 35. He came with a vision of a great future for America. And he has worked hard to make that vision a reality.

His finest work was done in the Judiciary Committee. As a junior Senator, he took over the Subcommittee on Constitutional Amendments. In that role, he was instrumental in winning passage of the 25th amendment on Presidential succession and the 26th amendment, which established the 18-year-old voting age. He strongly supported the equal rights amendment.

I have been privileged to serve with him on the Select Committee on Intelligence, which he chairs. He has provided leadership there, chairing the committee skillfully and with seemingly endless energy. The committee is much in his debt.

The people of Indiana have been fortunate to have BIRCH, not only in the Senate, but also for his 8 years in the Indiana House of Representatives. Though he has served Indiana well, he also defended the interests of America's working people, its women, its farmers, and its minorities. Among his strongest supporters have been the labor and civil rights movements. For them, he was a pillar of support, a man they could count on.

He leaves behind a superb record of accomplishment. The Senate should be grateful to him for his years of fine and dedicated service. I give him my best wishes as he leaves us.●

TRIBUTE TO ADLAI E. STEVENSON III

● Mr. MOYNIHAN. Mr. President, the State of Illinois has given this country some of its greatest political leaders. One first thinks of Lincoln, who in many ways was and remains incomparable. But Illinois also produced Everett McKinley Dirksen, Paul Douglas and Adlai E. Stevenson, who proudly carried the Democratic standard in 1952 and again in 1956. More recently, we have had with us ADLAI E. STEVENSON III, the son of a man who is still revered by thousands of Americans.

ADLAI did not disappoint the expectations that we have for Illinois Senators. Like his predecessors, he brought eloquence, refinement of mind, integrity, and legislative skill to the Senate. He also acted on the words that his father spoke at the 1952 Democratic Convention: "Let's talk sense to the American people."

Throughout his political career, ADLAI has talked sense; the people of Illinois richly rewarded that approach. In 1964, he sought election to the Illinois House of Representatives, and won, leading all 236 candidates of the two parties. In 1966, he was elected State treasurer, the only Democrat to win a statewide race that year. Then came his Senate races. He defeated a Republican incumbent in 1970, winning with a plurality of 543,336 votes. His margin of victory in 1974 was even larger—726,612.

It has been a pleasure for me to serve with him on the Senate Select Committee on Intelligence. He has done much good work there, which has been highly valued by his colleagues. His work on the Banking Committee and the Commerce Committee has also been very important, and both committees will, I am sure miss his participation.

He and I have shared an interest in doing something about international terrorism, which threatens the very survival of decent societies. His interest in this springs from his deep commitment to liberal and democratic principles. Now that he leaves us, I hope that he will continue his efforts in this regard.

As ADLAI departs our company, we must thank him. He enriched this body; he brought honor to it. I wish him well and all the best in the future.●

TRIBUTE TO GEORGE McGOVERN

● Mr. MOYNIHAN. Mr. President, GEORGE McGOVERN is a man who has always commanded the respect of his colleagues, though not always their agreement. At times, his voice has been a lonely one, a prescient one. During his 18 years in the Senate, he has spoken eloquently for the poor, the hungry, the farm families of his State, and the common people of America. His voice, I assure you, will be missed not only by his colleagues, but even more by the people about whom he cared so much.

GEORGE has always understood the relationship between sound political organization and the realization of political goals. The first must precede the second.

As such, he set out in 1953 to build a Democratic Party in Republican South Dakota. His efforts were rewarded. In 1956, he was elected to the House of Representatives. In 1962, he won election to the Senate, being reelected in 1968 and 1974. From 1973 until 1979, South Dakota, once thought to be an impenetrable bastion of Republicanism, had two Democratic Senators. And that was largely attributable to the work of GEORGE.

I suppose that he will be remembered best as the 1972 Democratic candidate for President. He lost. But he accomplished much in his campaign, raising issues about war and peace, poverty, and the state of the economy.

He will also be remembered for his excellent work on behalf of the world's hungry. As President Kennedy's director of the food-for-peace program, he administered that program with great success. Likewise, he raised the issues of world hunger and malnutrition as an outspoken member of the Senate Committee on Agriculture.

With equal vigor and determination, GEORGE pressed for a more peaceful world, safe from the threat of nuclear war. He had seen the terrors of war as a pilot of the "Dakota Queen," a B-24 bomber, during World War II. He flew 35 missions in the European theater and was decorated with the Distinguished Flying Cross. His contributions to peace will not be forgotten.

GEORGE has brought much to the Senate. He brought us decency, compassion, integrity, and the fiery spirit of Plains States populism. He has given us 18 years of his life. For that, we thank him. I wish all the very best as he takes his leave.●

TRIBUTE TO ABRAHAM RIBICOFF

● Mr. MOYNIHAN. Mr. President, a good many people in this land of ours have gotten it into their minds that Bismark was right when he said, "Politics ruins character." No one will dispute the fact that government and people who work in government are now regarded with something quite like disdain. But when I hear claims that politics is a dishonorable profession or avocation, I have some rebuttals. I name names; I point to the political leaders whose characters have been enhanced, strengthened, and enriched by political life. First among these, I cite ABRAHAM RIBICOFF of Connecticut, a man of goodness, distinction, intellect, and a profound understanding of what democratic government is all about.

ABE has now decided to leave the Senate, an institution that he has served so well for 18 years. Surely, we will miss him. In our deliberations, he has always been a voice of reason, a man with the rare ability to state his case persuasively and with precision. We listened to him; we learned from him.

In the Senate, he has had the courage of his convictions, advancing causes that have not always been the most popular. I well remember how he held his ground in defending the family assistance program after many of its key supporters had surrendered. He believed in that program; he fought for it to the very end.

During the past 4 years, I have been honored to serve with ABE on the Finance Committee. His contributions to our work there have been invaluable. He has had much to say about the great issues facing us—energy, taxes, welfare reform, trade, social security, and health insurance.

He has been the chairman of the Governmental Affairs Committee and under his leadership we have seen the establishment of the Department of Housing and Urban Development, the Department of Transportation, and the Department of Energy.

As chairman of the Subcommittee on International Trade, he played a key role in the passage of the Trade Agreements Act of 1979, and approval of "Most Favored Nation" trading status for the People's Republic of China.

Before coming to this distinguished body, he had already performed admirable service for the people of Connecticut and the United States. His 6 years as Governor are remembered as ones of great progress. In 1961, he responded to the call of President Kennedy, and accepted the difficult job of running the Department of Health, Education, and Welfare.

I find it difficult to think of the Senate without him. He made a place here for himself. and we will remember him always. I wish him many years of happiness as he takes his leave.●

TRIBUTE TO WARREN MAGNUSON

● Mr. MOYNIHAN. Mr. President, WARREN MAGNUSON is one of the giants of the U.S. Senate. Our beloved President pro tempore is known to all as a man of compassion and if deep commitment to the principles of democracy, social welfare, and justice.

For 44 years, he has been in Congress, 36 of those years in the Senate. He has seen the great ones of his Democratic Party—Roosevelt, Truman, Kennedy, and Johnson. He worked with them all, and I dare say that they valued his support.

As chairman of the Appropriations Committee, he has been a part of the Senate leadership. He chaired that committee with skill, providing steady leadership in times of crisis.

More than anything else, he will be remembered for championing the health of all Americans. He has long believed that our citizens, regardless of their income levels, should have access to decent health care. He has understood the importance of basic medical research, and because of his efforts, he received in 1973 the Albert Lasker Public Service in Health Award, which has been called the American version of the Nobel Prize in medicine.

He has also spoken up for the consumer. Indeed, he has authored more consumer protection legislation than any other Senator. In 1977, the National Consumer League named him consumer of the year.

MAGGIE has also been a leader in discussions about economic policy, trade matters, the environment, America's fishing industry, and foreign affairs. We have accustomed ourselves to turning to him for counsel, and the benefit of wisdom that comes only from experience. He always responded with generosity; he never disappointed.

Saying goodbye to MAGGIE is a sad task. He is a friend who will be fondly remembered, and I am grateful for having served with him for the past 4 years. With him go my best wishes.●

TRIBUTE TO JOHN DURKIN

● Mr. MOYNIHAN. Mr. President, for 6 years the U.S. Senate has been fortunate to have JOHN DURKIN of New Hampshire among its number. He came here, as some will recall, under unusual circumstances. He had to run twice for the same seat.

Though it took him a while to get here, he arrived with great spirit and vigor. He went to work, serving the people of New Hamsphire in much the way he did when he was that State's insurance commissioner in 1968 to 1973.

Coming from New England, which has suffered greatly from the energy crisis, JOHN devoted much of his attention to that issue. On the Senate Energy and Natural Resources Committee, he spoke eloquently for the people of his State and his region. He understood the centrality of the energy crisis to our economy, indeed to our entire society. He sought policies that would be fair, humane, and effective, not only for the people of New Hampshire, but for everyone forced to suffer from OPEC extortion—the poor, the elderly, and the middle-income people of this country.

He served with distinction on the Senate Appropriations Committee and the Veterans Affairs Committee. He contributed much; his insight was highly valued.

JOHN has earned our gratitude. He has given the Senate the benefit of his knowledge, his political wisdom, and his hard work. We stand in his debt. I wish him all the best as he takes leave of us.●

TRIBUTE TO ROBERT MORGAN

● Mr. MOYNIHAN. Mr. President, North Carolina has been ably represented these past 6 years by ROBERT MORGAN. It has been my honor to serve with him on the Select Committee on Intelligence, and I have come to admire and respect his judgment, his broad knowledge, and dedication.

BOB has been a valuable asset to the Banking Committee, the Armed Services Committee, the Select Committee on Ethics, and the Select Committee on Small Business, all of which he has served with great distinction.

Before coming here, he was attorney general of North Carolina, and known as an activist, especially as a consumer advocate. Before that, he spent 9 years in the General Assembly of North Carolina, where he learned much about the legislative process.

We will miss BOB. I wish him all the best.●

TRIBUTE TO DONALD STEWART

● Mr. MOYNIHAN. Mr. President, though serving in the Senate for an all too brief time, DONALD STEWART has won the respect of us all. I daresay that his victory in the 1978 Democratic Senate primary in Alabama was not only surprising, but also a sign of the political times. He represents a segment of what some people have called the New South. He is one of those young, vigorous, forward looking political figures that are emerging here and there in the South. Some would even call him a liberal, though the term realistic populist might suit him better.

Mr. STEWART brought a fresh outlook to the Senate. He spoke well for Alabama and the Southland; people listened to him, and learned from him. We will miss him here. We appreciate the years of distinguished service that he gave to us, to his State, and to the Nation.●

TRIBUTE TO RICHARD SCHWEIKER

● Mr. MOYNIHAN. Mr. President, RICHARD SCHWEIKER of Pennsylvania is well known to us all as something of a rebel, a maverick as they say. In 1960, he did something rather startling. He challenged and beat an incumbent Representative in the Republican primary. He went on to Congress where he represented Philadelphia's main line, that cluster of beautiful communities like Haverford, Bryn Mawr, and Ardmore. Though his constituents were mostly well off, he took an active interest in the poor, and in working people.

In 1968, DICK SCHWEIKER did what feated Senator Joe Clark, a Democrat of considerable stature. What is more, he won in a State that went Democratic that year. He was the only Republican to win statewide. In 1974, he repeated that feat, winning when Democrats swept Pennsylvania. He was doing something right.

DICK's 12 years in the Senate have been productive ones. He has been a critic of some of our ways, but he has also been a builder and a fine legislator. His interests have been varied—pension reform, economics, foreign affairs, manpower policy, labor issues, and others. Though much concerned about policies affecting Pennsylvania's interests, he has always seen the broader picture and understood the needs of the Nation.

We are sad to see him leave us, but we are happy to know that he will continue in public service, now as Secretary of Health and Human Services. He will, no doubt, bring to that department the energy, imagination, and good sense that he brought to the Senate. Our loss will be President Reagan's gain. I wish him success and happiness as he prepares for a task that may be the most difficult he will ever face.●

TRIBUTE TO MILTON YOUNG

● Mr. MOYNIHAN. Mr. President, anyone who manages to win election to the U.S. Senate six times must be doing something right. MILTON YOUNG of North Dakota did just that. He was first elected in 1946, then in 1950, 1956, 1962, 1968, and finally in 1974. In 1968, he won the highest percentage of the vote of any Republican candidate in the country.

Since 1974, he has been the dean of the Senate. Upon completion of his current term, only six Senators in the entire history of this body will have served longer than he.

Several days ago someone passed on to me a copy of MILTON's last newsletter. It was characteristically genuine and down to Earth. He wrote:

> I will aways be grateful to the people of North Dakota for making possible these many years in the Senate, which have been interesting, hectic, exciting and rewarding. It is the kind of career that I sought and enjoyed.

He has always remembered North Dakota and its people. He has spoken well on their behalf. They are blessed to have him.

I regard myself as fortunate for having been able to serve with him these past 4 years. I will long remember him as very much a part of this great institution, which he graced with wisdom, integrity, and a profound understanding of the people whom he served.

As he moves to the warmer climate of Sun City, Ariz., we will think of him often here. His retirement, which I hope will be long and filled with happiness, is well deserved. I wish him all the best.●

TRIBUTE TO FRANK CHURCH

● Mr. MOYNIHAN. Mr. President, when FRANK CHURCH won election to the Senate in 1956, he was but 32, the fourth youngest person ever sent here. Over the 24 years that he has been with us, he has become known as a man of intelligence, integrity, and commitment to the principles that form the very basis of our democratic republic. Since 1959, he has been a member of the Foreign Relations Committee, chairing it since 1979. He has given that prestigious committee a great deal. He has been an advocate of international human rights, a firm supporter of arms control, and a spokesman for foreign assistance programs. He has sought a better, more peaceful world, free of war and want. For that, he will be remembered, not only by his colleagues here, but also by his fellow Americans who share his goal of world peace.

But he did not limit himself to foreign affairs. For 8 years he chaired the Committee on Aging, where he became known as a defender of our senior citizens. He has served on the Committee on Energy and Natural Resources, where he took a special interest in energy research and irrigation projects.

FRANK has brought much distinction to the Senate. We will surely miss him in the years to come. We appreciate his many years of service to his beloved Idaho, to the Nation, and to us.●

TRIBUTE TO MIKE GRAVEL

● Mr. MOYNIHAN. Mr. President, for the past 12 years, Alaska has had an extraordinary advocate in the U.S. Senate. His name, of course, is MIKE GRAVEL.

Since coming here in 1969, he has defended Alaska's interests with immense vigor and dedication. He sought to protect Alaska's great wilderness areas, to prevent the contamination of the North Pacific's fisheries, to promote hydroelectric power in his State, and to insure that the Alaska pipeline would be environmentally safe.

For the past 4 years, I have been honored to serve with him on the Environment and Public Works Committee, where he was forever bringing his insight and knowledge to bear on the difficult issues that we faced. He worked tirelessly there.

Like his State, MIKE was imbued with a pioneering spirit. He had a vision of what the future could hold, and he refused to be confined by the limitations of the present. He fought a good fight for his State, for the environment, and for the Nation. He will be missed here, I am sure. I say farewell to him, and hope that he will meet with success and happiness in the future.●

TRIBUTE TO HERMAN TALMADGE

● Mr. MOYNIHAN. Mr. President, for 32 years HERMAN TALMADGE has been a towering figure in Georgia politics. Elected Governor in 1948, he served in that office until 1957, when he came to the U.S. Senate.

As chairman of the Agriculture Committee, he has done much to advance the interests of America's farmers. On the Finance Committee, too, he has made many contributions. He has always been a voice of reason, moderation and compromise. His long years of experience have been a great asset for all of us.

With his 24 years of service, it will be difficult to think of the Senate without HERMAN. He has made many friends here; he has won the respect of all. We are grateful for what he gave us. We bid him farewell.●

TRIBUTE TO HENRY BELLMON

● Mr. MOYNIHAN. Mr. President, for 4 years I have been privileged to serve on the Senate Budget Committee with HENRY BELLMON of Oklahoma, the ranking member. He has been a forceful proponent of limiting the growth of Federal spending, and his understanding of economic matters has been a great asset to the committee.

Since coming to the Senate in 1969, he has left his mark on much legislation, especially in the fields of mine safety, postal reform, Indian affairs, and tax policy. As a man who understands farming, he made important contributions in writing and winning passage of the Agriculture Act of 1970, the Farm Credit Act of 1971, the Rural Development Act of 1972, the Agricultural Act of 1978, and the Agricultural Credit Assistance Act of 1978.

Oklahoma has benefited greatly from his work. He was instrumental in establishing the Midcontinent Environmental Center Association, developing Oklahoma's water resources, and setting up an energy center in eastern Oklahoma.

His State was also fortunate in having him as Governor from 1963 to 1967.

As Henry leaves us now, we must thank him for his 12 years of distinguished service. He has done well by his great State and by his Nation. I wish him well.●

TRIBUTE TO RICHARD STONE

● Mr. MOYNIHAN. Mr. President, Florida has never thanked my State for Senator Richard Stone, who was born in New York City. He went South some time ago, and did well for a New Yorker, being elected to the Florida State Senate in 1966 and then as Secretary of State in 1970.

Since coming to the Senate in 1975, Dick has distinguished himself as one of our foremost experts on Middle Eastern affairs. He was a key leader in the fight against the sale of F–15's to Saudi Arabia, and he has been an articulate and persuasive defender of Israel, the last bastion of democracy in the Middle East. On the Senate Foreign Relations Committee, he won the respect of his colleagues who came to value his judgment and his knowledge of international affairs.

With the departure of Dick Stone, the Senate is losing a man of reason and compassion. It has been an honor to serve with him. He will be missed.●

TRIBUTE TO J. STANLEY KIMMITT

● Mr. BURDICK. Mr. President, when the 97th Congress convenes in January 1981, the Senate will be without the fine services of Joseph Stanley Kimmitt who has served as secretary of the Senate since April 1977.

I have had the privilege of working with Stan Kimmitt in his various capacities in the Senate since I took office nearly 20 years ago, and I can personally attest to the depth and quality of his administrative talents. We will sorely miss his contributions to the operation of the U.S. Senate, and each of us individually will miss the more personal and thoughtful touches he brought to his job as the secretary of the Senate.

As many of my colleagues are aware, Stan Kimmitt hails from my neighboring State of Montana and for many years was associated with Senator Mike Mansfield. Stan's Senate career began as an Army congressional liaison officer in the 1950's and 1960's, and after a brief stint as administrative assistant to the majority leader, he was promoted to secretary for the majority leader in 1966. Nearly 4 years ago he became secretary of the Senate.

Stan's devotion to his Senate duties is widely recognized and respected among my colleagues and by his fellow Senate staffers. While it is difficult to imagine this Chamber without his presence. I wish only the very best for him and his family as they embark on new professional and personal challenges.●

TRIBUTE TO SENATOR WARREN G. MAGNUSON

● Mr. PRYOR. Mr. President, it is with great admiration that I offer a parting tribute to our colleague, the distinguished Senator from Washington (Mr. Magnuson), who has also become a friend for whom I have the deepest respect. The Senate will be less one of its most outstanding leaders in the days to come.

Senator Magnuson has been at the forefront of the attack on consultant waste and misuse. An issue on which I share his deep commitment. As chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, he initiated cuts in consultant expenditures and proposed more effective controls to curb the duplication and waste found in those agencies. Moreover, as chairman of the Appropriations Committee, his concern over the propriety of consultant spending covered every department and agency. Finding many allies among his colleagues, he pursued more vigorous oversight of, and visibility for, the Government's use of consultant services. His efforts have resulted in millions of the dollars saved in this area and a greater congressional and public awareness about such spending.

The hand of Senator Magnuson's leadership has touched many other vital issues, including health and consumer protection. In 1973, he was the recipient of the Albert Lasker Public Service in Health Award for his extensive work in the field of basic medical research. It was also my privilege to cosponsor the resolution designating the clinical center of the National Institutes of Health as the "Warren Grant Magnuson Clinical Center." This recognition for years of dedication to the health programs of this country is well deserved. In the field of consumer protection, Senator Magnuson was recognized by the National Consumer League as the 1977 Consumer of the Year for his outstanding legislative achievements. He was the author of more consumer protection legislation than any other Member of the Senate.

I join my colleagues in honoring this friend and Member of this body who has dedicated his life to public service and contributed so much. The State of Washington and this country have been richly and justly served.●

STAN KIMMITT—MONTANA'S THIRD SENATOR

● Mr. BAUCUS. Mr. President, I, too, want to add my strong words of praise for the faithful and effective service rendered by our departing colleague, Stan Kimmitt, the secretary of the Senate.

Stan Kimmitt is known around here as a patriot, a solid citizen, and a stout supporter of our Nation's interests.

What some of you may not know is that, whatever Stan is to the United States, he is twice that to the State of Montana. A native of Great Falls, Stan is frequently referred to as Montana's third senator.

All of you know the devoted and effective service Stan gave to the Senate as a secretary to the majority under Senator Mansfield. There is never a more reliable friend and public servant than Stan Kimmitt. We have all learned to lean on him very hard and rely on his services, and it will be difficult for all of us to be weaned from him as he moves on to private life next year. Rather than recount at length the valuable service that Stan has rendered to the country, the U.S. Senate, and the State of Montana, suffice it to say that the void created by his absence will not soon be filled.

On an equally somber note, I want to remind my colleagues that one of the prerogatives of being the secretary of the U.S. Senate is that the seal of the State of which the secretary is a native is painted as a mural on the ceiling of the secretary's office. I look sadly to that day which will occur in the next few weeks when the seal of the great State of Montana is painted over and the seal of another State reemerges.●

FISCAL NOTE LEGISLATION SHOULD BE A PRIORITY OF THE 97TH CONGRESS

● Mr. SASSER. Mr. President, one of the best ways of holding down the cost of Government is to have complete and accurate information about the total costs of the legislation we enact in Congress.

Currently, pursuant to section 403 of the Budget Act, the Congressional Budget Office prepares costs estimates or fiscal notes for all legislation that is reported from congressional committees. These estimates provide the Congress with a basic idea of the Federal appropriations that will be necessary to carry out a program. These estimates are valuable tools for all of us in the Congress as we judge the relative costs of the programs that we are called upon to enact.

However, in my judgment and that of 17 other colleagues that supported that State and Local Government Fiscal Note Act of 1980 (S. 3087), these CBO fiscal notes do not go far enough. They should be expanded to include estimates of the costs that Federal programs might impose on State and local governments. For, in this time of fiscal austerity, we must have full disclosure of the total costs of Federal programs. Only in that way will we enact programs that all three levels of Government can afford. Only in that way will State and local governments be able to gage the relative costs of the Federal programs that they deem essential. Only in that way can the American taxpayer gage the full and complete cost of Federal programs.

Mr. President, S. 3087 follows the example of some 32 State governments, including my own State of Tennessee, which have developed a fiscal note process that estimates the State and local costs of all State legislation. These States are to be commended for this fiscal note process, and the Congress should follow their lead in enacting such progressive legislation.

S. 3087, the State and Local Government Fiscal Note Act of 1980 was pending on the Senate calendar when we adjourned sine die on December 16, 1980. The bill received the unanimous approval of both the Senate Governmental Affairs and Senate Budget Committees, and 18 Senators, including myself, were sponsors of this legislation. Therefore, I am confident that many of my colleagues in the 97th Congress will want to support this progressive piece of legislation.

S. 3087 has received the wholehearted endorsement of all the major State and local government organizations based in Washington. This endorsement was contained in a letter sent to me on December 10, 1980 which I ask to be printed in the RECORD at this point.

STATE, COUNTY, AND CITY
PUBLIC INTEREST GROUPS,
Washington, D.C., December 10, 1980.
Hon. JAMES R. SASSER,
Chairman, Subcommittee on Intergovernmental Relations, U.S. Senate, Washington, D.C.

DEAR JIM: State, county and city officials have been involved in the efforts of this Congress to enact a fiscally responsible budget. At the same time, however, we recognize that it becomes virtually impossible for the federal government to hold down government costs without meaningful consideration of the financial obligations placed on state and local governments by national policy objectives. It is for this reason that our organizations have long sought and long supported a more rational process in which national policy proposals considers the costs of proposed programs to all levels of government.

Our organizations have wholeheartedly supported cost estimate legislation which the 96th Congress has under consideration. This legislation, S. 3087, establishes a process which provides essential information that can assist members of Congress in their decision on important national policies. We endorse this measure, "The State and Local Government Fiscal Note Act of 1980," which has achieved major bi-partisan support. Yet, Congress has failed to act on this important legislation.

We in state and local government believe that the Congressional calendar could still allow this legislation to be considered. We believe the provisions of these measures will bring a more rational and realistic approach to enacting laws and produce cost savings which will eventually offset the initial expenses. We know that the concept of fiscal notes will work. Our organizations urge the Congress to promptly pass this vital legislation. Without cost estimates of proposed programs on all levels of government, all governments will continue to pay the price in waste.

State and local officials are deeply grateful for your personal leadership in bringing before the U.S. Senate the Fiscal Note Bill which is worthy of the full support of every Senator.

Sincerely yours,
BERNARD F. HILLENBRAND,
Chairman.

In conclusion, Mr. President, if we are to know the full costs of Federal programs, it is essential that we take early action on State and local fiscal note legislation in the 97th Congress.●

TRIBUTE TO SENATOR MILTON YOUNG

● Mr. SASSER. Mr. President, when the Senate convenes in January it will do so without MILTON YOUNG for the first time in 36 years. The Senate will miss his composed leadership no less than the State of North Dakota will miss his effective advocacy.

I feel fortunate to have worked with MILTON YOUNG on the Senate Appropriations Committee. For younger Senators, such as myself, he has served as an example of what is best about the U.S. Senate. He is an effective voice for his causes yet he is a man able to bring about reasonable compromise. He carries with him wisdom and insight that can be gained only in long years of service and he treats each of his colleagues with dignity and respect.

Mr. President, I hope that MILT will have many years to enjoy his retirement and many years to take satisfaction in knowing that he has served his State and Nation well. The U.S. Senate will miss him.●

TRIBUTE TO SENATOR JACOB JAVITS

● Mr. SASSER. Mr. President, in the 192-year history of the U.S. Senate, few have made as a strong an impact as our colleague JACOB JAVITS of New York. He has been one of the most forceful, thoughtful, and persuasive men to have served in this body.

If Tacitus was correct when he said, "Reason and judgment are the qualities of a leader," then it will be long before we have a leader who can surpass JACK JAVITS. Certainly the quality of his reasoning and the power of his judgment are rare gifts.

Mr. President, I do not want to detail a list of the accomplishments of JACK JAVITS. It would be too difficult to include them all. But, surely each of us knows that few have done as much to improve the quality of health care in this country. Few have worked more diligently for the poor of this Nation. Few have provided as deep an understanding of the international relations. Few have given as much as JACK JAVITS has given to the United States.

I regret very much that Senator JAVITS will not be with us when the 97th Congress convenes in January. We will miss his grace, his intellect, his ability, and his counsel. Mr. President, I wish JACOB JAVITS all the blessings he so richly deserves.●

TRIBUTE TO SENATOR BELLMON

● Mr. SASSER. Mr. President, today we honor our departing colleagues, special tribute must be paid to our beloved friend from Oklahoma, HENRY BELLMON. For he has served an extraordinary but thankless function for this body during the last 6 years of his distinguished Senate career, one which may well have made the difference in the battle to save our Nation's economy.

During this period, when he served as the ranking minority member of the Budget Committee, HENRY BELLMON was truly a guiding force in the effort to forge a workable budget process for the Congress. These have been difficult and demanding times, throughout which HENRY never wavered in his personal quest for a realistic and disciplined approach to this most difficult of problems. He never sought the easy way out. Often he overlooked his own personal interests in doing what he thought was right for the country. Often he went to the Senate floor to fight for unpopular decisions when few could be found to do the same. It is said that leadership is a lonely business, but we have been fortunate to have had a man of such inner strength to face this unpleasant task.

Having served with HENRY on the committee for 4 of these 6 years, I am proud to be able to say, "Here is a man of conscience, of dedication, and of immense personal strength." Our thoughts will be with you, HENRY, and I am certain there will be many times when we will wish you were still with us to help finish the work you began.●

TRIBUTE TO SENATOR JOHN CULVER

● Mr. SASSER. Mr. President, let me pay tribute today to Senator JOHN CULVER of Idaho.

JOHN is leaving the U.S. Senate after 16 years of distinguished congressional service. He leaves us in his debt for that service, for he has served us wisely and well.

JOHN is a big man in every sense of the word. A record-setting fullback at Harvard University, JOHN could have followed a different route and most definitely achieved fame for his academic prowess. But instead JOHN chose a career of public service for his beloved Iowa ever since he first ran for Congress in 1964.

JOHN's legislative achievements are legend. He has been an outspoken proponent of congressional reform. He has lead the way in reducing paperwork and overregulation of small business, and most recently he was in the forefront of the successful effort in the 96th Congress to pass "superfund" legislation which will help this country face up to the serious problem of toxic waste disposal.

JOHN is a man of courage and conviction. He makes his views known in a pointed and spirited fashion. We will miss JOHN's passion and humor in the years ahead. But he has shown us all that true courage comes from following your convictions honestly and openly. That is a lesson that we should all take to heart.●

TRIBUTE TO SENATOR JOHN DURKIN

● Mr. SASSER. Mr. President, I rise to pay tribute to Senator JOHN DURKIN of New Hampshire.

JOHN DURKIN is truly a man of the people. His remarkable record as New Hampshire insurance commissioner surely presaged his fighting spirit as a U.S. Senator.

While in the U.S. Senate, JOHN has worked hard for the people of New Hampshire. He has championed energy legislation that would halt spiralling energy costs. He worked for American energy independence and urged us to support a wide variety of measures that would turn us away from our dangerous dependence on foreign oil.

I have had the privilege of serving with JOHN DURKIN on the Senate Appropriations Committee. He has discharged his public service obligations in a truly fair and effective manner. JOHN worked for

New Hampshire's interests without putting the Nation in second place. We can ask no higher standard of service.

But I say goodby to John as a friend as well. He is a man who never lost his New England wit. He has treated his colleagues in a warm and hearty manner, and we will all miss his fellowship in the 97th Congress.

To John Durkin, who always in the thick of things and who loved it that way I bid goodby and good luck.●

TRIBUTE TO SENATOR GEORGE McGOVERN

● Mr. SASSER. Mr. President, Robert Kennedy once called George McGovern the most decent man in the U.S. Senate. There are few who know George McGovern that will dispute that judgment. There are few who have worked with George McGovern who could doubt his dedication to making this a better world.

George is a man of conviction and compassion. He has spoken for those who do not always have a chance to be heard. He has spoken his convictions when others would have been still. That is the true measure of George McGovern.

No one has been more eloquent in his opposition to the proliferation of nuclear weapons. No one has done more to end hunger and malnutrition in the United States and in the world. No one has done more to encourage open and honest debate about the aims of American foreign policy in a troubled and strife-torn world.

George McGovern is a courageous man in every sense of the word. He has served his country well without thought to personal gain or glory. His distinguished record of military service, his congressional achievements, his service to the Democratic Party, and his love for his country are a beacon for us all.●

TRIBUTE TO SENATOR FRANK CHURCH

● Mr. SASSER. Mr. President, I rise today in tribute to Senator Frank Church. He stands today, in this age of specialization, as a truly Renaissance man. Few ever manage to accomplish nearly so much in so many fields as he has.

The name Frank Church conjures up for the Nation an image of dedication to the principle of nuclear nonproliferation, and of unswerving dedication to a humane American foreign policy. He is a dreamer well schooled in the art of the possible, and as such a statesman of vision and effect. The Taiwan Relations Act, crafted in a time of great turmoil, is testament to that fact. It is only one example of many during his tenure as chairman of the Foreign Relations Committee.

The deep love that Frank Church has for the great outdoors, the wilderness areas of this country, the heritage of our land, is written into two decades of legislation. The Wilderness Act of 1961, the national wild and scenic rivers bill of 1968, and more recently, the River of No Return Wilderness Act, all are Frank Church's handiwork. This legislation will long help preserve other landmark wilderness areas throughout the country.

Frank Church has devoted his boundless energy to efforts on behalf of the elderly. As past chairman of the Select Committee on Aging, his contributions to the health and security of older Americans are unmatched.

It is with a great deal of sadness that I mark the departure of this man from the U.S. Senate. His compassion, statesmanship, and vision, are legacies we need to carry with us into the troubled world of the eighties.●

TRIBUTE TO SENATOR ROBERT MORGAN

● Mr. SASSER. Mr. President, it is a great pleasure for me to say a few words in recognition of the contribution of Bob Morgan.

Bob has been an untiring servant of the people for some 24 years and has never ceased to display those rare qualities which truly distinguish a public figure. The Senate has been made richer by his example.

When I first arrived in the Senate, the office space that I occupied was across the hall from his office. He and his staff made a special effort to ease our transition and to assist us in formulating the many office procedures that are essential to all Senate offices. I will never forget this very special and timely assistance and also the friendship that developed in these early days.

I have served with Senator Morgan on the Senate Small Business Committee. His distinguished tenure on this committee has resulted in the advancement of many issues of interest to the small business community. He is well known for these efforts as well as his leadership on rural housing and consumer issues, just to name a few.

I wish him well, Mr. President, and regret his leaving. I do take solace, however, in the certainty that Bob Morgan will continue his public service in some other valuable capacity. Bob Morgan's Senate career will serve as a shining example to future Senators of the high ideals of selfless public service.●

TRIBUTES TO THE HONORABLE STANLEY KIMMITT, THE HONORABLE NORDY HOFFMANN, THE REVEREND EDWARD L. R. ELSON, AND MR. MURRAY ZWEBEN

● Mr. EXON. Mr. President, I take this occasion today to pay special tribute to four outstanding gentlemen with whom I have had the privilege and honor to work during my first 2 years in the U.S. Senate. There is no question that these individuals have provided the Members of this body with guidance and untold assistance during this 96th Congress, and I want them to know we appreciate their service.

To Stanley Kimmitt, the distinguished Secretary of the U.S. Senate, I salute your able qualities. Your assistance and calm support to this Senator, and others in this body, have been greatly appreciated. I wish to take special note of your service over the years to the Senate and say it is a better place for having had you as its Secretary. My best to you and yours in the years ahead.

To Nordy Hoffmann, a big man with a heart to match, many thanks. We have appreciated greatly your help and counsel and always your good humor. The U.S. Senate and this Nation are indebted to you for the faithful years of service to this body. I hope for nothing but the best for you in the days ahead.

To the Reverend Edward L. R. Elson, our spiritual conscience in the Senate, I say we will truly miss your words of wisdom when you retire next year. With warmth, understanding, and inspiration you opened the Senate, counseled us continuously, on days when trouble surrounded us, and helped this body go on to face our duties. You brought us, through your wisdom, the words of our Lord and Savior the strength and courage to face each daily task with resolve and for this we owe you much gratitude.

And finally, to Murray Zweben, the Parliamentarian of the Senate, who has provided us with the rules without which this body could not have functioned, a special word of thanks. Murray Zweben, you have served faithfully. You have, through your expertise, kept this body functioning when it appeared an impossibility. Your professional manner superseded partisan lines and enabled all Members fair consideration. It is not an easy task to undertake, but you handled it exceedingly well. My best to you as you leave us and may health and prosperity be yours in the days ahead.

Mr. President, I salute all of these fine and honorable servants of the U.S. Senate. God be with each and every one of you.●

TRIBUTE TO SENATOR BIRCH BAYH

● Mr. HART. Mr. President, all Senators wonder, from time to time, what we will be remembered by when leaving this Chamber. I want to join my colleagues in paying tribute to a man whose diligent, compassionate, and, indeed, monumental work will remain long after he leaves.

The monument of Birch Bayh's 18 years in the U.S. Senate is his foresight and achievement with regard to the U.S. Constitution. Of the four amendments to the Constitution which were approved under his leadership by Congress and sent to the States for ratification, two are now permanent fixtures of our Constitution, and, hopefully, the remaining two will eventually be added as well.

As chairman of the Subcommittee on the Constitution in the Judiciary Committee, his efforts to draft and then pass the 25th amendment providing for Presidential succession helped the Nation move through a time of crisis when the Vice President resigned and then the President resigned. He authored and guided to passage the 26th amendment giving 18- to 20-year-olds the right to vote. Birch Bayh led the fight for the equal rights amendment now pending before State legislatures, as does the proposed amendment granting voting representation in Congress to the people of the District of Columbia.

He has been equally effective in the struggle to protect basic constitutional rights against those who would undermine them. Birch Bayh was constantly vigilant on behalf of all our rights. He sees the Bill of Rights as our Founding Fathers saw it—the ultimate protector of the people from the excesses of those in power.

As chairman of the Intelligence Committee, he was principally responsible for passage of the Nation's first legislation aimed at preventing constitutional abuses by American intelligence agencies through wiretaps and other electronic surveillance. From his position on the Judiciary Committee, he worked tirelessly to insure that appointments to the Supreme Court were carefully scrutinized to guarantee they did not represent a retreat from civil rights gains. He fought for the independence of Federal judges at a time when "accountability" was the popular cry.

He has consistently been at the forefront of efforts to improve the juvenile justice system, to develop means of more effectively handling the growing problem of juvenile delinquency. His efforts, such as securing passage of the Juvenile Justice Act, have been warmly welcomed by all those concerned about American youth. Most recently, Birch Bayh was on the Senate floor long hours during the closing days of this session, urging the Senate to pass legislation which would insure that all Americans can choose their homes without fear of discrimination.

Birch Bayh foresaw the threat to our national and economic security caused by our dangerous dependence on foreign oil. Since then he has worked hard to encourage the development of alternative energy in this country. As chairman of the National Alcohol Fuels Commission, he has been the Senate leader in the promotion of the production, use, and development of alcohol fuels as an alternative energy source. He is the author of several pieces of legislation creating programs encouraging production of alcohol by both small and large producers. Amendments to the Windfall Profit Tax Act and title II of the Energy Security Act which created a major gasohol program, will encourage the use of our excessive agriculture products and particularly byproducts.

As a member of the Appropriations Subcommittee on Agriculture, Senator Bayh has worked for the family farmer—fighting to protect family farms by preventing the takeover of agricultural lands by foreign investors and large nonagricultural corporations.

As chairman of the Appropriations Subcommittee on Transportation, he has worked to upgrade the Nation's highways, bridges, and airports. He has urged that Federal procurement practices on transportation projects be used to foster American industry.

Birch Bayh is responsible for so many changes in law—constitutional and statute—that his works will have an active and very positive influence on American life for a long time to come. The manner in which he has faced some of the most controversial issues of our times is an example to all of us.●

TRIBUTE TO SENATOR GAYLORD NELSON

● Mr. HART. Mr. President, in his 18 years in the U.S. Senate, Gaylord Nelson has brought talents to this Chamber which we need and value. His thoughtful and eloquent insight, his considerable diplomatic skill, and his extraordinary effort and persuasion during debate will be sorely missed in this Chamber.

Many times during his tenure in the Senate, his voice has risen out of the thicket of special interests and concerns to sound a clear and strong note of commonsense, foresight, and the public interest.

In 1965, when the Senate debated appropriations legislation containing the funds to pay for America's growing involvement in the Vietnam war, Gaylord Nelson took a leading role in the struggle over our involvement in Vietnam. His early and persistent opposition to this emerging tragedy—accompanied by barely a handful of colleagues—led to later efforts to assert congressional authority in the area of foreign policy.

Gaylord Nelson's appreciation for the northern woods of Wisconsin portended his warning more than 25 years ago that the most important domestic challenge facing America was the conservation of our natural resources.

In 1970, he coordinated Earth Day, a nationwide celebration and commitment to preserving and cleaning up the environment. Earth Day has since become the conscious beginning of national coordinated environmental efforts. The environmental movement is a reflection of Senator Nelson's love for the mountains, lakes, streams, and prairies of our country.

Gaylord Nelson has been an early leader on one of the great issues of our time—our dangerous dependence on imported oil. In the last 8 years, this dependence has become a costly threat to our economic and national security. Six months before the Arab oil embargo in 1973, however, Gaylord Nelson warned of an impending energy crisis and outlined a comprehensive national energy program consisting of energy conservation, alternative energy development and production, synthetic fuels, solar energy, and fusion energy.

Gaylord Nelson proposed legislation to meet this impending danger. He introduced the first legislation to require automakers to improve the fuel efficiency of cars and trucks. He has been a leader in efforts to expand the national strategic petroleum reserve, which will serve as a cushion against the arbitrary shocks devised by the OPEC countries. He was one of the first advocates of converting the Nation's oil-fired powerplants to coal, one of America's truly abundant resources. Additionally, he has called for the creation of a natural resource information system to monitor the supply and demand situation for all of our critical resources and raw materials.

As chairman of the Senate Select Committee on Small Business since 1975, Gaylord Nelson's quiet determination toward solving the problems of the small business sector of the American economy has shed new light on the need to reduce burdensome Government regulation. His role in organizing the White House Conference on Small Business brought a greater appreciation for the essential contributions of small businesses to our economic welfare. While many began to rally behind the slogans promoting capital formation and business incentives, Gaylord Nelson had taken his experience with small businesses and combined it with a comprehensive knowledge of tax laws from his position on the Senate Finance Committee to write into the tax code some of the most progressive and effective tax proposals for small businesses. He is widely regarded as one of the Senate's finest tax legislators.

Gaylord Nelson's appreciation for business and economy had another side. As a member of the Labor and Human Resources Committee, he guided to passage legislation on job training and placement programs for the unemployed. His care for the needs of the workers upon whom the success of small business and the economy depend led him to weigh different viewpoints and articulate a balanced approach within which the spirit and ingenuity of American enterprise would flourish.

Gaylord Nelson is a warm friend, and I thank him for the advice and counsel he has given me over the last 6 years. He has served the people of Wisconsin and the Nation with wisdom and dignity. His absence will be a loss for all of us.●

TRIBUTE TO SENATOR JOHN DURKIN

● Mr. HART. Mr. President, I am proud to take this opportunity to honor a respected colleague, John Durkin. Since coming to the Senate in 1975, John Durkin has established himself as a determined, independent-minded, and hard-working leader on many crucial issues.

The easy solutions to our energy problems pale before the reality of a complex interaction of many fuel resources, markets, and an array of technologies. To see the "big picture" and understand these relationships is difficult. As a member of the Energy and Natural Resources Committee, John Durkin has been a leading advocate of developing alternative, renewable energy sources while promoting increased energy efficiency in our homes and businesses. As chairman of the Subcommittee on Conservation, he has successfully urged the adoption of a comprehensive and effective national energy policy, realizing the urgent need to reduce America's dangerous dependence on imported oil.

In his pioneering support for energy conservation, John Durkin authored legislation to develop energy sources, such as solar, wood, wind, and small-scale hydroelectric power; many of these initiatives were adopted as part of the Energy Security Act earlier this year. He has championed the interests of his native New England by seeking immediate relief from the soaring cost of heating oil. And he is responsible for a program which will retrofit dams in New

England to small-scale hydroelectric plants.

JOHN DURKIN's concern for New England consumers prompted him to carefully examine price control systems and introduce legislation to investigate the inflationary profits of multinational oil companies.

As a member of the Veterans' Affairs Committee and the Appropriations Subcommittee on Veterans' Programs, JOHN DURKIN's efforts to assure that those who served this country in time of war are not now forgotten have been unfailing. He has often led the fight for adequate funding for disability payments, education assistance, and medical care for veterans. His support for attempts to extend the 10-year period veterans have to utilize GI bill benefits has been passed in some manner by the Senate on several occasions. When so many have forgotten the sacrifice made by Vietnam war veterans, JOHN DURKIN has thoughtfully and consistently fought for legislation which addresses their unique problems and requirements.

I am honored to have entered the Senate with JOHN DURKIN, and respect and admire his record of achievement in this body. He has been a tenacious and compassionate champion for the people of New Hampshire and the Nation. We will miss him.●

TRIBUTE TO SENATOR WARREN G. MAGNUSON

● Mr. HART. Mr. President, I would like to take this brief opportunity to express my admiration for a colleague, WARREN G. MAGNUSON. He has served in the U.S. Senate for six consecutive terms—longer than any other current Member and the sixth longest in the history of this body. WARREN G. MAGNUSON began his service as a Member of Congress—in the House—nearly a year before I was born. He has, indeed, witnessed the most profound changes in our government, this Nation, and the world.

Senator MAGNUSON's unending vision, compassion, and, particularly, leadership on countless legislative items will long be remembered in this Senate. I was proud to coauthor legislation this year which in a small way acknowledges Senator MAGNUSON's foresight and persistence in dramatically improving the health of all Americans. It is most fitting that the Congress voted to name the clinical center of the National Institutes of Health for WARREN GRANT MAGNUSON.

Senator MAGNUSON's unfailing commitment to compassionate national ideals is immortalized in the improved well-being of a great many American citizens who were previously malnourished. This compassion prompted his support and sponsorship of many initiatives protecting the American consumer. Senator MAGNUSON's Subcommittee on Consumer Affairs was responsible for such legislation as the Flammable Fabrics Act, School Bus Safety Act, Safe Drinking Water Act, Truth in Packaging Act, and the list continues.

Senator MAGNUSON's leadership was not limited to specific areas, however; he authored legislation whenever there was a clear and legitimate need. In the early 1960's, he sponsored the public accommodation provisions in the civil rights legislation. He encouraged Congress to pass the Marine Mammal Protection Act so that future generations could enjoy marine mammals along our coastal regions.

Senator MAGNUSON's appreciation for the workings of the Senate should not go unmentioned. His grasp of the subtleties of political compromise—cutting a trail for others to follow and forging a workable bill—is unmatched. There were seldom headlines or sirens of acclaim for this talent; and with his loss, this will be sorely missed.

I am honored and most fortunate to have had the opportunity to serve with and learn from this Senator who has contributed much to the people of the State of Washington and the Nation.●

TRIBUTE TO SENATOR FRANK CHURCH

● Mr. HART. Mr. President, it has been my privilege, during the past 6 years, to learn much from and develop a close friendship with Senator FRANK CHURCH. I am certain many of my colleagues will agree that the wisdom and tenacity that characterizes FRANK CHURCH's 24 years in the U.S. Senate has made him a leader among legislators.

As chairman of the Senate Foreign Relations Committee, FRANK CHURCH never shied away from, nor gave anything less than the most intelligent and rigorous attention to, controversial foreign policy issues.

History will surely remember him as one of the most respected proponents of arms control. The debate he presided over on the SALT II treaty was one of the most thorough and intelligent in the history of arms control, and the report produced by this committee represents an unprecedented effort for the history of the U.S. Senate. The danger of the nuclear arms race and nuclear arms proliferation are better understood by Congress and the American people because of FRANK CHURCH's tireless work. His efforts have helped establish the Senate Foreign Relations Committee as a beacon of congressional guidance in American foreign policy.

His willingness to tackle unpopular issues succeeded in securing passage of the Panama Canal treaties. His leadership in steering these through a recalcitrant Senate—a lingering political liability for him—is an excellent example of his commitment to pursuing the best interests of the United States.

His draftsmanship of the controversial legislation surrounding the recognition of the Government of the People's Republic of China was a major factor in its passage by the Senate. The foresight of his efforts in changing the course of American foreign policy in Asia and globally is truly historic.

FRANK CHURCH was also no less determined in his commitment to work for the people of Idaho. He argued eloquently on behalf of the agricultural community, fought for sensible energy development, and steadfastly defended one of Idaho's—and, indeed, the Nation's—most precious resources: Idaho wilderness.

More than 16 years ago, he managed the Senate bill that created the National Wilderness Preservation System as well as legislation establishing the "Land and Water Conservation Fund." The processes established under this comprehensive law have permitted studied wilderness consideration of many areas throughout the country. In 1968, Senator CHURCH's leadership was instrumental in passage of the National Wild and Scenic Rivers Act. This act established the foundation for legislation which passed this year creating the River of No Return Wilderness in northcentral Idaho; it is the largest wilderness area in the continental United States. This legislation became law because of FRANK CHURCH's skillful handling of the bill, which ultimately drew the support of timber and mining interests. This is one of the many outstanding examples of the superb legislative skill possessed by FRANK CHURCH.

For those of us who have had the opportunity to work with FRANK CHURCH, his presence in the U.S. Senate will be sorely missed. Those he came in contact with have profound respect for him. Like many great American legislators, his contributions and personal style in office will be long remembered.●

TRIBUTE TO SENATOR JOHN CULVER

● Mr. HART. Mr. President, the U.S. Senate lost several of its finest Members in the recent election—principled, dedicated men who embraced public service and whose work honored their offices. They often enjoyed both national acclaim and controversy for the causes they championed, but they tirelessly fought for their principles because they were pressing items on the infinite agenda of human needs.

One of those Senators for whom I have the highest respect and admiration is JOHN CULVER from Iowa. I had the honor of entering the Senate 6 years ago with JOHN CULVER as he completed a distinguished 10-year career in the House from Iowa's 2d Congressional District.

In his 16-year tenure as a Member of Congress, JOHN CULVER has managed to leave his mark on the structure of both the House and the Senate. While in the House, he coauthored a proposal which resulted in timely and major reform of the committee structure by limiting Members to one subcommittee chairmanship. He continued on this course, helping to create a bipartisan committee to study House operations to improve effectiveness. Additionally, he cosponsored the Congressional Budget Act. When he came to the Senate in 1975, he continued his reform efforts and, along with several Senators, succeeded in altering the seniority system, democratizing committee assignments, modifying proxy procedures, and allowing increased public attendance at committee meetings.

In his single term in the Senate, JOHN CULVER has established a comprehensive and responsible legislative record which reflects his studied, compassionate approach to the wide range of challenges facing our country. Strong convictions and determination, coupled with his concern about the kind of country we want to leave for our children, mark his service on the Environment and Public Works, Armed Services, Judiciary, and Small Business Committees.

As a member of the Senate Armed Services Committee, JOHN CULVER led the effort in 1977, to block the sale of highly technical military equipment to Iran, correctly forewarning Congress about the potentially destabilizing effect of U.S. arms sales to the Shah. The most effective and least costly solution for improving our combat readiness prompted him, along with Senator NUNN, to sponsor an amendment in 1977 which promoted the standardization of weapons in NATO. That JOHN CULVER was working hard for a stronger, more cost-effective defense several years before our present soul-searching about our defense capabilities is an example of his foresight.

JOHN CULVER's participation in the SALT II process has helped raise questions and new perspectives on the control of nuclear weapons—one of the most important issues presently facing mankind—that will guide similar efforts in the future.

As a member of the Judiciary Committee, he worked hard to further the cause of civil rights and the improvements of our judicial system. Additionally, his unflagging commitment to small farmers and businessmen led to his active participation in setting an agenda for the future of small business in the American economy.

Without question, though, JOHN CULVER is most esteemed for his efforts to protect and improve the quality of our environment. From his early support for endangered species legislation to his tenacious position on legislation establishing a fund for cleaning up the spills and releases of toxic waste and chemicals into the environment, passion and unyielding commitment have marked his efforts.

Throughout his career in Congress, JOHN CULVER has doggedly pursued the belief that we can live up to the ideals we espouse. This attitude was more evident in his recent campaign for reelection to a second term in the Senate. Without waivering, JOHN CULVER met the simplistic criticism of his opponents, eloquently defending his position on many controversial issues. His loss is misfortune for the Senate, Iowa, and the Nation.●

TRIBUTE TO SENATOR GEORGE McGOVERN

● Mr. HART. Mr. President, I would like to express my sincerest respect and admiration for GEORGE McGOVERN, both as a Senator and as a friend. He has served in the U.S. Senate for 18 years and was a dedicated public servant long before that. I know as his term now ends, his work and commitment to the people of South Dakota and America will not.

GEORGE McGOVERN has always been a passionate, articulate spokesman for basic American ideals. Moreover, he has never shirked from supporting those ideals, although at times it would have been politically prudent to do so. Senator McGOVERN consistently reminds us that no American should be denied the chance to work, to live in decent housing, to feed himself and his family, and to enjoy adequate health care. Throughout his tenure in government he has worked to improve the quality of life for all Americans without losing sight of the constraints and competing demands placed on the Nation.

Future generations may forget that 20 years ago severe malnutrition problems were widespread among infants and children in the poorer sections of our major cities and in rural poverty regions. Thousands of children went to school hungry and many elderly citizens went to bed hungry because they could not afford food on their fixed incomes. Motivated by love of country and deep humanitarian concern, GEORGE McGOVERN brought the needs of the disadvantaged groups who lack political power to the attention of Congress. As a member of the Select Committee on Nutrition and Human Needs, he labored tirelessly to assure an adequate diet for the poor and elderly, and for the improved health of all Americans.

Senator McGOVERN realized early that providing for our own nutrition needs would require close cooperation with American agriculture. From his position on the Senate Agriculture Committee, he championed programs that helped the American farmer, particularly the small farmer, survive in times of high prices and inclement weather. The key to alleviating the hunger of this Nation and the world was to stabilize American food production. That our successful overseas donation program provide many of the poorest people in the poorer countries of the world with food assistance is a testament to his efforts.

GEORGE McGOVERN's early and ardent opposition to the Vietnam war proved prophetic. In 1968, he labeled the war, "the most disastrous political and military blunder in our history." In answer to the growing public uneasiness with the war, he made a brief but symbolic bid for the Democratic Presidential nomination in 1968. Four years later, he won the nomination—after working hard as chairman of the Democratic Party's reform commission—by vowing to follow through on legislation he had coauthored with Senator HATFIELD to end the war.

As America enters the 1980's, it seems at times we have left earlier concerns behind. But, in our present efforts to shore up our military capabilities, balance the Federal budget, and become energy independent, we must take care not to lose our social conscience. Fortunately the legacy of GEORGE McGOVERN's deep commitment to world peace and humanity will be a pillar of hope for underprivileged people, not only at home but throughout the world.

It is sometimes said that high ideals and practical politics do not mix. Having shared his wisdom and leadership, I have the highest respect for his commitment to principle. It has also been said that GEORGE McGOVERN was ahead of his time. If this is so, then the Senate needs more Members like him—dedicated, principled men with the foresight and fortitude to make courageous political judgments and successfully work for human concerns.●

TRIBUTE TO SENATOR GEORGE McGOVERN

● Mr. HART. Mr. President, many tributes to GEORGE McGOVERN's long career have appeared in recent months. His service to the people of this country and of the world is reflected in words of praise and deep respect from voices across the Nation and across the political spectrum.

However, it is perhaps the people from Mr. McGOVERN's hometown of Mitchell, S. Dak., who know him best and will miss him most as a strong voice in the Senate. In this small town where he was brought up, educated, and later worked as a history professor, he has been admired and supported from the beginning of his career when few of us knew him at all. This respect is well reflected in an editorial recently published in the Mitchell Daily Republic:

Mr. President, I ask that this editorial be printed in the RECORD at this point.

The editorial follows:

OUR GLORY WAS WE HAD SUCH A FRIEND

The impact of Senator George McGovern's defeat Tuesday is one that will not be easily realized by most of the people of this state until he is missing from the list of people that you look to when you need help.

The people who lined up to love Senator McGovern and the people who lined up to hate him recognized one basic common agreement. They understood that the man had the ability to do something for you.

If the votes Tuesday were based on the number of people that George McGovern reached out to lend a hand, he would have been a landslide winner.

Yet people forget. They know that the office of senator is one of public service—one that is all receiving and little returning by the recipient.

That became clear in this campaign, for the biggest hurt of all that the senator realized on his campaign trail was the friends who turned away from him on one issue. Oh yes. There were times they needed him. And he delivered. He got the money for the community park. He delivered on a water tower grant. He worked to get sewer and water monies for the smaller communities. He listened to people who had problems with their social security checks. He sympathized with the mother who could not support her children. He tracked down the veteran's concern over his promised benefits.

And he got answers. Oh, they may not have always been the answers that one wanted to hear. But he cared. He built a staff that was dedicated to caring; to listening to understanding; to following through and to producing results. It made him prominent on the list of people who we turn to when we needed an answer.

Maybe George McGovern would have liked to have made a public plea to all of those who he had helped. But in his heart he knew it wasn't appropriate. But for some reason, he shouldn't have had to remind them. And for some reason, they forgot all about what an effective United States Senator means to an individual.

Instead, he found a group of people filled with hatred over the idea that he cared about others like he cared for people of South Dakota. He cared about nations less fortunate. This man from Mitchell cared about tieing our country together with others so that we might benefit from those relations. He cared about becoming an informed senator—one who would be able to deal with senators from other parts of the country so that in return, they might find some way fit to vote our interests.

We are a small minority in Congress. Without that effective voice we dread a silence that will leave us wondering where to go for help. George McGovern stood tall in the U.S. Senate—for our interests and the interests of humanity.

We paraphrase a line from Yeats that George McGovern used in 1972 when he bid farewell to his presidential campaign. Today, we tell Senator McGovern, "Count where man's glory most begins and ends, and say our glory was we had such a friend." ●

SENATOR GEORGE S. McGOVERN

● Mr. LEAHY. Mr. President, I first met the distinguished Senator from South Dakota (Mr. McGovern) at a meeting on a mountainside in the State of Vermont. Senator McGovern was running for the Presidency and his friend and part-time Vermont resident, John Kenneth Galbraith, had invited Democrats from around the State to hear him speak at the Galbraiths' home in Vermont.

It was an idyllic summer afternoon with an enormous number of people ranging from the most conservative to the most liberal members of our party. I might add that there seemed to be a goodly number of Vermont Republicans there also.

Senator McGovern spoke in a quiet and unhurried manner, about his views of the country at the time and his dreams of the future. Not all that he said was entirely comforting, nor was it meant to be.

I think he reminded everyone there that as Americans we cannot be complacent about the greatness of our country nor take for granted the freedoms that it offers to us and to millions and millions around the world. What was most obvious to all of us was that Senator McGovern was not speaking with the intent of seeking agreement from everyone there, but rather was expressing views that he held most dearly and views on which he would not compromise for political gain.

It is this characteristic of Senator McGovern that has made him one of the truly great Americans. From his experience as a bomber pilot to the Halls of Congress, he shared with millions a dream for a better, wiser America.

Others must now continue his thoughts and his views on the floor of the Senate. I hope for the sake of our country that he will continue to make those statements outside of the Senate. His is a voice which must be heard by people of all political persuasions.●

SENATOR FRANK CHURCH

● Mr. LEAHY. Mr. President, shortly after I was elected to the U.S. Senate in 1974, I made my first trip onto the floor of this body. The man who took me onto the floor of the Senate was Senator Frank Church of Idaho. I had been in his office seeking advice as an incoming freshman when the bell sounded for a vote. Senator Church, who had made provisions on a busy day to see me, wanted to continue our conversation and took me along with him to the floor of the Senate.

I must admit to a double thrill on that occasion. I have long admired the distinguished senior Senator from Idaho, and to be with him when I made my first visit to the floor of the U.S. Senate added an enormous amount to the occasion.

Senator Church was one of the voices of sanity throughout the Vietnam debacle, and those who now decry the diminished stature of the United States as a result of Vietnam should realize that our country would be so far better off had we listened to Senator Church at that time.

It is indeed unfortunate that he will be leaving the Senate, not only because a man of his age and with his experience is greatly needed for his own State of Idaho, but also his expertise on national and international matters is desperately needed in the Senate.

I know of no one in the U.S. Senate or in Washington who does not have admiration for Senator Church and his lovely wife Bethine. Certainly, so many of us who have come to the Senate, in both parties, have been helped by their courtesy, compassion, and guiding hands.

Frank Church has been a Senator's Senator. His has been a voice that others could use as a rallying point. I hope for all of us in the Senate that it is a voice that will continue to be heard in our country. We need it.●

SENATOR WARREN G. MAGNUSON

● Mr. LEAHY. Mr. President, I take this occasion to bid a fond farewell to my distinguished chairman, Senator Magnuson. Senator Magnuson has served with distinction in the U.S. Senate throughout most of my lifetime. I have had the distinct honor of serving as a member of his Committee on Appropriations during my past term in the Senate.

The Committee on Appropriations handles matters before our Government ranging from the most mundane to the most important. Whether we were dealing with an intricate health problem, our complex military operation, or the transportation systems of our country, Senator Magnuson showed a grasp of knowledge and ability far surpassing virtually anyone else in the Senate. His was indeed a guiding hand that helped shape the necessary compromises and coalitions that brought the interest of the United States to the fore in that committee.

Throughout all this he showed unfailing courtesy and attention to the most junior of members on that committee. I count among the most interesting and valuable experiences of my service in the Senate those evenings I have spent with Senator Magnuson listening to him speak of the history and philosophy of the body we all love so much. The spontaneous reaction of the Members of both sides of the aisle to Maggie's "fond adieu" the other night is an expression of how much all of us will miss him. I know, Mr. President, that I will miss him greatly in this next Congress.●

SENATOR HERMAN E. TALMADGE

● Mr. LEAHY. Mr. President, Senator Talmadge has served with distinction for so many years in the Senate that we could write volumes about that service. I know that the comment made to me by my distinguished predecessor, Senator Aiken of Vermont, perhaps summed up the feelings of many others.

When I went to serve on the Senate Agriculture Committee, Senator Aiken had served both as chairman of the Senate Agriculture Committee or as a member from the year I was born until the time I came to serve in the Senate. As a result, he had seen many chairmen and many other Senators.

He told me, when I went to serve on the committee, that I would find Herman Talmadge was the best committee chairman in the Senate. He told me that the committee was run on time, the committee was run efficiently, and the issues were heard in the greatest of depth and with the most attention to the details of the matters coming before it.

I saw an example of this when the 4-year farm bill came before that committee. Three or four mornings a week for nearly a month, Senator Talmadge would start committee meetings at 8 in the morning and end them precisely at 10 in the morning. Most other committees could not get a quorum together before 11 a.m. It was a mark of respect to him as chairman and to the way he ran the committee that we were all in our seats by 8 a.m., and that a farm bill which would normally have taken months to write was finished in a matter of weeks.

His encyclopedic knowledge of subjects of both agriculture and finance, and his amazing memory and his legislative skills have long been admired and will be missed in this body. I for one wish him the best.●

F. NORDY HOFFMANN

● Mr. LEAHY. Mr. President, when the new Senate comes into session, we will miss perhaps the most imposing member of this body. I speak, of course, of our Sergeant at Arms, F. Nordy Hoffmann.

Nordy Hoffmann and I first met when I ran for the U.S. Senate and he was the head of the Democratic Senate Campaign Committee. Throughout that time, both in Washington and on the trip he took to Vermont to help in the campaign, I found Nordy Hoffmann to be a wealth of experience, an indefatigable person, and a good friend.

He has certainly made the Sergeant at Arms office one of vitality and service to Members of both parties. Nordy Hoffmann has single-handedly made the Sergeant at Arms' office truly a part of the Senate and has established a tough precedent for anyone else to follow.

There is no pun intended when I say that he casts a large shadow, but it is with all honesty and affection that I say all of us will miss him.●

TRIBUTE TO MURRAY ZWEBEN

● Mr. LEAHY. Mr. President, I have had the distinct honor and pleasure of serving with the distinguished Parliamentarian of the Senate, Murray Zweben.

As one of the newer Senators, and one who had no reluctance to preside, I found that I would often preside on a weekly and even daily basis. Moreover it seemed that every time we had a night session or a particularly contentious debate I would end up in the chair.

This service would have been impossible without the expertise, dedication, brilliance, and knowledge of our Parliamentarian Murray Zweben.

I have seen issues in which tempers were reaching to clash point oftentimes late at night when both the Senate staff and the Senators had been working virtually around the clock. At a time like that, it would be very easy and quite understandable for the Parliamentarian to side with one faction or the other. At no time did Murray ever side with either the Republicans or the Democrats, but instead gave a totally nonpartisan interpretation of the Senate rules. No party guided him, but rather the history, tradition, and rule of the Senate guided him.

When future Senators preside I hope they will be as fortunate as I in having a Parliamentarian who is willing to adhere so strictly to a nonpartisan interpretation of the ruling. Throughout the history of the Senate we have had great Parliamentarians. Murray Zweben certainly ranks with them, and I will miss his service to the Senate.●

TRIBUTE TO SENATOR RICHARD (DICK) STONE

● Mr. LEAHY. Mr. President, Senator Richard (Dick) Stone, the distinguished Senator from Florida, and I entered our Senate service together. Moreover, that service was as seatmates on the floor of the Senate and as seatmates on the Senate Agriculture Committee. At first it may have appeared incongruous to see two lawyers as members of the Senate Agriculture Committee. Both of us, however, shared an abiding concern and affection for our own States and for the agricultural segments of our States knowing they might otherwise have been neglected.

Senator Stone's service on the Agriculture Committee was equal to any member of the committee.

Furthermore, Senator Stone, because of his service on the Senate Foreign Relations Committee, was able to express an international view much needed in the Halls of Congress. His diligence, hard work and concern for the position of America brought him renown both in this country and abroad.

Dick Stone is the kind of Senate colleague most of us hope to have. Both Marcelle and I have enjoyed his and Marlene's company throughout the 6 years. I wish them both the best in the years to come and look forward to a continuing association with them and the ability to enjoy their advice and friendship.●

TRIBUTE TO SENATOR ABRAHAM RIBICOFF

● Mr. LEAHY. Mr. President, there have been numerous testimonies to Senator Abraham Ribicoff, the distinguished senior Senator from Connecticut, given on the floor of this body. Testimonials to him as Governor, Senator, confidant of Presidents, statesman, and so forth. No matter how thorough or filled with praise these testimonials are, they all have to fall short of the mark—simply because of the man they honor.

When I came to the Senate in 1975, I was willing to accept very few heroes on the national scene. One whom I easily accepted was Abraham Ribicoff, my distinguished colleague from Connecticut.

Senator Ribicoff has been a hero of mine for as long as I have been interested in American politics. One of the greatest honors for me has been the ability to serve with him in the Senate, and also for my wife, Marcelle, and me to know him and his lovely wife, Casey.

Over and over again in the cloakroom and committee rooms, when I heard Senators ask each other how they might vote, the refrain was "I want to talk with Abe Ribicoff first." This was indeed an appropriate attitude. All of us in the Senate knew that Senator Ribicoff would make his decision not directed by partisan or political motivation; but first and foremost what was best for the country and his own beloved State of Connecticut.

Connecticut, a State that has given so much to the United States, will now take back one of its most distinguished contributions. All of us from either party and from any of the 50 States, owe him an everlasting debt of gratitude for his service to his State and his Nation. He will always be one of the giants of the Senate.●

TRIBUTE TO SENATOR BIRCH BAYH

● Mr. LEAHY. Mr. President, I have the distinct honor and pleasure of serving as a member of the Senate Intelligence Committee, Senate Judiciary Committee, and the Senate Appropriations Committee with the distinguished senior Senator from Indiana, Senator Birch Bayh. I have watched his careful concern about the expenditure of American tax dollars as a member of the Appropriations Committee, his protection of the rights and liberties of all Americans as a member of the Judiciary Committee, and his attention to America's strengths in his distinguished capacity as chairman of the Senate Select Committee on Intelligence.

Senator Bayh is more than just an extraordinarily competent and able Senator. He is also a wonderful human being. My life has been enriched by knowing him and serving with him, and having him as a friend.

He has always had the time and patience to help new Senators, but also the expertise and experience to make that help worthwhile. I know that time and time again I have gone to him for advice and help, and my State—and I hope the country—had been better for it.

Senator Bayh is one of the most prominent American spokesmen of our times. At his age, he will continue to be so for years and years to come.

Mr. President, I just wish to state my admiration for him, my best wishes for his future years outside the Senate, and my fervent hope that we in the Senate, as well as all other Americans, will hear from him often and in great detail.●

TRIBUTE TO SENATOR JOHN CULVER

● Mr. LEAHY. Mr. President, I can remember one of the first times I ever met Senator John Culver. I was a new member of the Senate Armed Services Committee, sitting at the far end of a table and being properly impressed by an array of four- and three-star generals, as well as high-ranking civilian members of the Department of Defense prepared to testify before our committee. The testimony went on in a carefully choreographed fashion in which members would ask polite questions and the witnesses would respond almost by rote.

Quite frankly, I was finding my mind drifting when it became the turn of the distinguished Senator from Iowa to ask questions. His first question was mild and quiet and to the point. As I recall, he asked something like "You don't really mean what you say, do you, General?" The general assured him that he did. Senator Culver then went through a demonstration of his encyclopedic memory with what has properly been classified as one of the most brilliant minds in the U.S. Senate. I might add that Senator Culver never felt the real need of a microphone and soon everybody in the room was aware of what he was saying. To make a long story short, Mr. President, the final reply from the witness was, "You know, Senator, maybe I didn't really mean what I said before."

Senator Culver is one of the last truly great and well-prepared debaters in this body. He is not that because of an overpowering physical presence, but because of an overpowering and exceedingly well-developed intellect.

He comes to the floor, or committee, always well prepared, always with issues explored in detail, and always with a driving philosophy reflected in everything he says and does. His philosophy has always been to put the interest of the United States first and foremost. He has always put our interests ahead of special interests—irrespective of the political cost to himself. And he has always been truly deserving of the title of U.S. Senator.

As the history of Iowa is written, objective scholars will have to realize that Senator Culver is one of the greatest they have ever sent to this body. Those of us who served with him know that only too well.

I, for one, feel that the Senate is greatly diminished by his leaving, and I know that the clear and open and forceful exchange of ideas among Senators will never be the same without him.

I will miss a good friend, and I wish him and his family the best in the coming years. They can all go through life enormously proud of the service he has given this country.●

TRIBUTE TO SENATOR DONALD STEWART

● Mr. LEAHY. Mr. President, it was in my capacity as chairman of the Rural Development Subcommittee that I first came to know Senator DONALD STEWART of Alabama. Our subcommittee was looking at those problems of rural America that so much of the rest of the country seems to ignore. These are the problems of poor medical care, inadequate housing and sanitation, lack of transportation and jobs, and inadequate or even nonexistent energy supplies. Senator STEWART demonstrated immediately a grasp of the problems of rural America and an ability to work to solve those problems without pitting rural America against urban America.

His own expertise as a State senator, in a State with both significant rural and urban areas, proved invaluable to our committee. His was not a doctrinaire approach, but rather an approach of what was best for the citizens of our country, north or south, east or west. He would approach each problem with one of the best briefed deliveries of the panel and with one of the greatest depths of understanding of the problems.

Senator STEWART carried the same commitment to the work of the Nation whether in committee or on the floor of the Senate. He was the one that would ask the difficult questions. He was the one who stood up to protect not only Alabama's, but all of America's interests, when those interests needed to be protected.

It is truly a tragedy for all parts of our Nation and for the U.S. Senate that he will not be with us in the next Congress. I, for one, hope that it is only a momentary thing, and that we will be able to serve together again in this body. DONALD STEWART is the type of person greatly needed in the Halls of Congress—and that is a need felt by people of all sections of our country and of both political parties.●

TRIBUTE TO J. STANLEY KIMMITT

● Mr. LEAHY. Mr. President, the incoming Congress will miss one of the advantages that those of us who have served here before have had. That is the advantage of serving with the distinguished Secretary of the Senate Stan Kimmitt.

I first met Mr. Kimmitt when I arrived as a new Senator and he was secretary for the majority. He was one of the most useful people to me as I sought to orient myself from serving in the Government in an executive branch position and now moving to a legislative position.

The contact and friendship with Stan Kimmitt has grown throughout my term in the Senate.

He is one of the finest traveling companions anyone could have because of his knowledge of history, politics, government, and how government works. I have been present both here in Washington and in other areas with the Secretary and other Senators of both parties with our discussions ranging from foreign policy to economic policy.

Stan Kimmitt has always been willing to express his views or share his knowledge on a subject when asked. Throughout all this time, however, he never used his position as one to lobby for either a personal or partisan position. A lesser person in that role would have succumbed to the temptation to use it as a lobbyist. Stan Kimmitt is not a lesser person and never did.

All of us in the Senate, on both sides of the aisle, will greatly miss Stan, and we wish him well in the future.●

TRIBUTE TO J. STANLEY KIMMITT

Mr. MELCHER. Mr. President, I certainly concur with other Senators in their well-deserved tributes to the distinguished Secretary of the Senate, J. Stanley Kimmitt. His career as a soldier, a statesman, and an honorable politician have been well noted by others.

I speak as a Montanan.

When the workmen remove the great seal of Montana from the ceiling of the Secretary of the Senate's office, as is the tradition, the spirit of Montana will still remain with all who know Stan.

Rugged as our mountains, hardworking as a miner, sharp as a winter gale, steadfast as our pine trees, Stan embodies the virtues that Montanans hold dear. We who have served in the Senate from Montana may have received a little extra help from Stan on occasion—for which we, and those we represent, are most appreciative.

And to Eunice, Stan's dear wife, we thank her for her unfailing support of Stan—and thus the Senate—for all these years. We apologize for the uneaten dinners, the canceled dates, and all the other inconveniences that Senate wives endure.

Montanans are lucky. We still have the opportunity to enjoy our association with Stan and Eunice, as active members of the Montana State Society, for years to come.

Whatever the future plans of Stan and Eunice may be, all Montanans wish them many more years of health, happiness, and accomplishment.

To emphasize the type of administrator the Secretary is, I am including at this point a summary of the activities of the Office of the Secretary of the Senate for the 95th and 96th Congresses. Stan Kimmitt has been the Secretary during these two Congresses, and the record of his accomplishments will speak for itself.

The summary follows:

ACTIVITIES OF THE OFFICE OF THE SECRETARY OF THE SENATE FOR THE 95TH AND 96TH CONGRESSES

The past four years have been a time of change in the United States Senate. Of the 100 Senators who comprised the 95th Congress when it convened in January 1977, only 62 continue to serve at the beginning of the 97th Congress in 1981. Also during this period, the Senate undertook a significant reorganization of its committee system and made equally important changes in its rules governing official conduct. At the same time, the demands on the Senate as an institution have continued to grow in number and complexity. It is a tribute to the genius of the Constitution that, especially during such a time of change, the Senate remains a vital and responsive forum of representative government.

These four years also have been a time of notable change and improvement in the services rendered to the Senate by the officials and units under the jurisdiction of the Secretary of the Senate. Traditional services have been enhanced, innovative approaches and technologies have promoted both efficiency and economy, and new programs have been initiated successfully. Accompanying this expansion in service has been a continuing emphasis on productivity. Through the dedicated efforts of the officials and employees under the supervision of the Secretary, it has been possible to improve and expand Senate services markedly while keeping their costs to the American people at an absolute minimum.

This report summarizes the activities of the Office of the Secretary of the Senate during the 95th and 96th Congresses. The costs of these activities, in dollars and manpower, are considered first. Special attention then is given to some developments in an area of particular importance: the improvement of the information services available to Senators, committees, and staff. There follows a summary of the duties of each of the primary officials and units under the Secretary's jurisdiction, and the major recent developments that have occurred within the purview of each of them.

PERSONNEL

The improvement and expansion of services provided by the Office of the Secretary during the past four years have been achieved with only a minimal increase in staffing levels. At the end of fiscal year 1977, positions in the Office of the Secretary numbered 159, including the staffs of the recently created offices of the Curator of Art and Antiquities and the Historian of the Senate. For fiscal year 1981, there are 167 such positions—a net increase in personnel of only eight persons during four fiscal years, or a percentage increase of merely 5.0 percent.

Of the eight new positions, five were required to staff the Office of Classified National Security Information, established by S. Res. 252 of the 95th Congress. The remaining three new employees were hired to respond to increasing work load demands on the Disbursing Office and the Stationery Room, under the lump sum authority delegated to the Secretary. This authority permits the supervisors of these two units, under the Secretary's direction, to make appropriate adjustments in job positions and titles to meet changing work load requirements, but within an overall maximum allowance for personnel costs. In fiscal year 1979, this arrangement, under which the Disbursing Office has long operated, was extended to the Stationery Room as well. The flexibility offered by such lump sum authority enables positions to be created, altered, or abolished as necessary, and in this way contributes to the more efficient use of salary funds.

All other significant changes in the personnel structure of the Office of the Secretary between 1977 and 1980 have been accomplished through the shifting of positions from one component office or unit to another, or through the redesignation of positions within a single office. By judicious use of such opportunities, the Secretary has been able to redefine and upgrade a number of positions, in order to provide the more sophisticated and technical services required by new management systems and information technologies, without any net increase in total manpower. For example, a position for the terminal operator for the bill status system was created by a reduction of one in the number of clerks in the Office of Public Records—a reduction in force made possible through increases in productivity despite the increased work load of that office. Similarly, the position of clerk in the office of the Official Reporters of Debates was transformed into that of an assistant in the office of the Daily Digest. In addition, positions have been upgraded within several offices under the Secretary's jurisdiction. These actions have permitted adjustments to changing office requirements, while encouraging and recognizing the development of professional skills.

As a result of these personnel policies, the Office of the Secretary has been able to develop a more highly professionalized job structure that is better able to make use of contemporary methods of delivering services to the Senate Chamber, as well as to Senators' offices and committees. At the same time, the use of these approaches, as well as new equipment and technologies, has made possible increases in productivity that allow the necessary clerical and service functions to be performed with increased efficiency by fewer employees. The consequence has been an increasing level of professional service with only a negligible increase in total manpower.

EXPENDITURES AND SALARIES

The improvement of services provided to the Senate and the upgrading of the personnel structure within the Office of the Secretary during 1977–1980 has been achieved in conjunction with a deliberate and successful program for controlling costs, and particularly expenditures for salaries, which constitute the single largest portion of the budget for the Office of the Secretary and the units under his jurisdiction.

The degree to which necessary operating costs have been maintained within limits appropriate to the current fiscal situation emerges from a comparison of the funding levels for the Office of the Secretary from fiscal year 1978 to fiscal year 1981, a period of time that encompasses most of the 95th and all of the 96th Congresses. The total amount available for obligation by the Secretary during fiscal year 1978, including pertinent supplemental appropriations, was $4,158,625. The corresponding amount for fiscal year 1981, including all anticipated supplementals, is expected to be $5,396,350. Barring any major cost increases during the first session of the 97th Congress, operating costs will have increased 29.8 percent over the period of four fiscal years. This percentage increase compares favorably with the 37.6 percent increase in the consumer price index from October 1977 to October 1980, a period of only three fiscal years.

Accordingly, funding for the Office of the Secretary during fiscal years 1978–1981 rose by 7.8 percentage points less than the rate of inflation during the same period, even without regard to the almost certain prospect of continuing inflation throughout the remainder of fiscal year 1981. Put in other terms, operating costs for the Office of the Secretary actually will have declined by 5.7 percent over the four fiscal years if measured in constant dollars of October 1977. Similar results have been achieved with respect to salaries alone. Total obligations for salaries will have increased from $3,656,000 during fiscal year 1978 to $5,109,000 during fiscal year 1981. Based on the same comparisons, this increase of 30.1 percent is 7.5 percentage points less than that of the consumer price index during the corresponding period, and represents a decline of 5.4 percent in constant dollars.

It has been possible, therefore, to hold increases in the budget and expenditures of the Office of the Secretary below the prevailing national rate of inflation, while at the same time instituting a program of major improvement, modernization, and expansion of the services provided by the Secretary and his staff.

These overall real savings reflect in part the improvements that have been made in personnel management and practices. They also have resulted from the institution of a merit pay system and changes in the longevity pay system for officials and employees that have been proposed and implemented by the Secretary.

The revised longevity pay system now awards longevity pay increases in smaller and more frequent increments, thereby extending benefits from the program to newer employees, making Senate pay scales more nearly comparable to other Federal pay systems, and improving morale and incentives for employees under the Secretary's supervision. At the same time, the schedule is so adjusted as to avoid inflating the overall pay scales that previously had been in effect.

The new merit pay system similarly improves incentives and morale by enabling the Secretary to grant merit increases to a limited number of employees each year when their compensation has reached maximum statutory levels. This system also has promoted efficient personnel management by eliminating the need to request changes in statutory limits in such cases, and has proven economical in that the statutory salary ceiling for a position remains in force for a subsequent incumbent, who must earn a merit increase on the basis of his or her own performance.

These personnel management practices represent a prime means by which staff professionalism, morale, and productivity have been increased without any increase, in real-dollar terms, of the personnel budget of the Office of the Secretary.

INFORMATION SERVICES

One of the major concerns of the Secretary during the past several years has been the improvement and expansion of information services available to Senators, committees, and staff. For example, the Secretary and his staff have worked closely with the Committee on Rules and Administration, the Sergeant at Arms, House officials, and others, in the development of automated information systems. Continuing attention has been given to enhancing the range and accuracy of information that is available through these systems, and to achieving cost savings and increased efficiency through the application of automated techniques to many of the information and record keeping activities under the Secretary's jurisdiction. From processing purchases in the Stationery Room to tracking the status of legislative amendments on the floor, the use of computers has increased productivity and enabled the Office of the Secretary to assume the new duties assigned to it with only minimal increases in manpower.

At the same time, the Secretary has been concerned with expanding information services in other forms. Descriptions have been prepared and distributed of the activities of the offices under the Secretary's jurisdiction to increase awareness of their responsibilities and the assistance they can offer to Senators and staff. A booklet on the stages of legislative action, "Senate Legislative Procedural Flow," also has been prepared to describe the administrative, as well as many of the parliamentary, actions that may occur as a measure progresses from introduction to enactment. In addition, the increased use of micrographics has improved the accessibility of masses of data for legislative research, as well as for internal management and archival purposes.

To complement these approaches, the Office of the Secretary has been intimately involved in developing a series of orientation and briefing programs for Senators-elect and staff. In 1978 and again in 1980, the Secretary worked closely with the Senate's leadership, the Committee on Rules and Administration, and the Sergeant at Arms in developing and conducting an orientation program for newly elected Senators and their staffs. In conjunction with the Sergeant at Arms, the Secretary's Office sponsored a series of seminars for staff on such subjects as crisis management, accounting, micrographics, records management, and the legislative process. During fiscal year 1979 alone, more than 650 Senate staff members participated in this seminar program. The Secretary and the Sergeant at Arms also have joined with the Committee on Rules and Administration, the Committee on House Administration, and the Congressional Research Service to sponsor seminars in Washington for Congressional staff from across the country. To date, 84 Senate staff members representing 41 Senators have participated in six such extended briefing programs.

The increased use of computers and micrographics has proven to be cost-effective, and will become increasingly so as time passes. Some of the orientation and briefing programs have been conducted at no cost to the Senate, and virtually all the costs of the others have been absorbed through reallocation of existing resources. Thus, this expanded range of information services and techniques exemplifies an economical approach to administering and promoting understanding of the Senate and its operations.

LEGISLATIVE CLERK

Summary of duties

The Legislative Clerks conform bills as amended, bills and reports from Senate committees, and measures received from the House requiring Senate action. They also prepare the Senate Calendar of Business for each daily session of the Senate, endorse statements presented by Senators for printing in the Congressional Record, and verify all floor votes.

Major recent developments

As of July 1979, the Legislative Clerk was designated by the Secretary to serve as Principal Clerk, and to coordinate and advise on the legislative services provided by the offices of the Legislative Clerk, Bill Clerk, Daily Digest, Enrolling Clerk, Executive Clerk, Journal Clerk, and Printing Clerk.

In addition to assuming this new responsibility, the Legislative Clerk implemented several improvements in the daily Senate Calendar of Business, involving changes in format and inclusion of more information to make the Calendar even more readable and useful a document. For example, in 1980, a new section was added to the Calendar that now lists budget waiver resolutions in a special place at the end of the General Orders section. A system for numbering unprinted floor amendments has been instituted, as have separate numbering systems for rollcall votes and quorum calls. In consultation with the leadership, the Committee on Rules and Administration, and other Senate officials, the Legislative Clerk was instrumental in developing a new amendment form, suitable for both legislative and executive business, that is more convenient to use and that encourages inclusion of brief Statements of Purpose for the information of Senators and staff. Direct telephone links established between the Legislative Clerk and other Senate clerks have expedited the transmission of information on floor action and the status of legislation.

Under the direction of the Secretary, the Legislative Clerk made a major contribution to promoting understanding of Senate operations by preparing "Senate Legislative Procedural Flow," a 98 page booklet that explains the parliamentary and administrative stages through which a measure progresses from introduction to enactment. This booklet, now in the process of revision, has proven to be an invaluable reference document.

In addition, the former Legislative Clerk has compiled a draft legislative glossary which is projected for publication in 1981 either as an appendix to "Senate Legislative Procedural Flow" or as a separate document.

BILL CLERK

Summary of duties

The Bill Clerks maintain an authoritative historical record of Senate business. They receive and refer all Presidential messages and communications, communications from States, municipalities, and citizens, and communications from executive departments to the appropriate Senate committees. The Bill Clerks supervise the printing of bills, resolutions, amendments, reports, and other documents which are sent to the Government Printing Office. In addition, the Bill Clerks prepare information on the daily legislative activity of the Senate for inclusion in the automated legislative status system and directly enter vote tally information into this system.

Major recent developments

In addition to improvements in practices affecting the printing of the Senate's legislative documents, such as bills, amendments, and reports, the major innovation affecting the Bill Clerk's office has been the development of the Legis automated information system. The Bill Clerk and his staff have assumed the responsibility for entering into the system information on all Senate measures and reports and on all House measures received by the Senate, as well as information on developments affecting the status of measures. The advent and improvement of this system have imposed a significant new responsibility on the office of the Bill Clerk and required changes in its pattern of activity.

Once operational, it has been possible to refine and expand the system in cooperation with the Senate Computer Center and other Senate offices. Changes have been made in the sequence of status steps and additional steps have been added to the system. The system also has been altered to facilitate reordering the list of actions on a measure to clarify the sequence of events. The Legis system has been used to produce an increasing range and number of reports to assist in record keeping and in preparation of the Congressional Record and the Journal. Furthermore, the information available through Legis on measures and their status has meant a dramatic improvement in the immediate accessibility to Senators and staff of vital data on legislative developments.

One position has been added to the staff of the Office of the Secretary to enter and retrieve data through the automated legislative status system. This has been the only recent net addition to the personnel of the offices under the Secretary's jurisdiction that provide direct services to the Senate Chamber.

JOURNAL CLERK

Summary of duties

The office of the Journal Clerk is responsible for the preparation of the official Senate Journal, required by the Constitution. The Journal Clerks record actions taken by the Senate during each of its meetings, from which they prepare the authoritative record of the Senate's legislative proceedings. In addition, the staff prepares the History of Bills and Resolutions, which serves as an index to legislative action.

Major recent developments

Innovations affecting the activities of the Journal Clerks have facilitated preparation of the Journal itself and improved transmittal of information about the status of Senate business.

The development of a system for numbering unprinted amendments considered by the Senate has eliminated a potential source of confusion and made it possible to identify such amendments with greater speed and certainty. The preparation of the Journal has been expedited by eliminating the complete texts of conference reports and amendments disposed of by roll call vote—information readily available in the Congressional Record. As a result, both the size of the Journal and the time and effort required for its preparation have been reduced significantly. The work of the Journal Clerks also has been made more efficient through the use of information prepared for the Congressional Record on the receipt and referral of executive communications, the list of newly introduced bills and resolutions produced through the Legis automated information system, and the daily list of reports of committees prepared by the Assistant Reporter of Debates.

The centralization in one location within the Capitol of almost all activities relating to the Journal has increased efficiency and operational control, as has the installation of a direct telephone line between the Journal Clerk's office and his position at the rostrum on the floor. Similar telephone links have been established between the Journal Clerk on the Senate floor and the offices of the Bill Clerk, the Assistant Reporter, and the Executive Clerk. These improvements in communication have improved significantly the flow of necessary information among these officers and to Senators and staff on the floor.

Changes in the materials included in the Journal have decreased its size substantially, and made it possible, as of September 1980, to not fill the position of Second Assistant Journal Clerk. This development illustrates the economies that have been achieved through re-evaluation of existing practices and application of new technology.

EXECUTIVE CLERK

Summary of duties

The Executive Clerk prepares the Executive Journal, the Executive Calendars, and the necessary papers relating to treaties and nominations during the various stages of their consideration by the Senate. This office is responsible for the initial distribution of treaties and executive reports. It also transmits copies and prints of all executive messages from the President to the appropriate committees of the Senate, and provides information to GPO for the printing of nominations, confirmations, and executive documents for use by the Senate and for inclusion in the Congressional Record.

Major recent developments

In light of the increasing number of nominations and treaties before the Senate, the office of the Executive Clerk has considered a number of better methods for handling the information and papers associated with them. New techniques and equipment have improved the transmittal and retrieval of materials relating to the Senate's executive business. The system for recording amendments proposed to treaties has been changed to avoid possible confusion with legislative amendments. Moreover, means have been developed for including information on executive business in the Legis information system so that it will be more readily available to Senators. Major strides have been taken toward automating the recording and retrieving of information to be included in the Executive Calendar and Executive Journal, as well as nomination messages, reference and report forms, receipts, resolution forms, and Congressional Record entries.

The refinement of a catalog of positions requiring Senate confirmation has been a further step toward assisting the Senate and its committees in exercising their power to advise and consent.

ENROLLING CLERK

Summary of duties

The Enrolling Clerk proofreads and prepares for printing all Senate-passed legislation prior to its transmittal to the House of Representatives, the White House, or other ultimate destination. The Clerk physically transmits all Senate messages to the House of Representatives, and all enrolled bills and joint resolutions to the White House.

Major recent developments

The Enrolling Clerk has continued to meet the demands on his office while improving the efficiency and economy of its operations. Installation of a computer terminal has improved the office's access to legislative information and facilitated the entry of data for inclusion in the Senate Journal Index. Direct telephone lines to other Senate offices also has expedited the flow of information on measures to be enrolled. The Enrolling Clerk has worked closely with the Government Printing Office to promote a smooth transition from GPO's use of "hot metal printing" to the new "electronic printing" technology that is now being used to print all engrossed bills, engrossed amendments, and enrolled bills. At the same time, savings have been achieved by the office in the arrangements made for depositing official Senate papers at the National Archives.

PARLIAMENTARIAN

Summary of duties

The Parliamentarians provide information and advice on Senate procedures and maintain records of the Senate's precedents and practices. They maintain custody of messages from the House of Representatives and conference reports awaiting Senate action, and, in the name of the presiding officer, refer to the appropriate committees all measures, messages, communications, Executive Branch reports, petitions, and memorials. The office prepares certain publications and certified copies of official papers in the custody of the Secretary for use in judicial and quasi-judicial proceedings. In addition, the Parliamentarians prepare daily legislative agendas for the presiding officers, unanimous consent agreements, cloture motions, and other similar papers.

Major recent developments

In addition to continuing improvements in the systems for organizing and maintaining records essential to the conduct of the Senate's legislative and executive business, a number of innovations have enhanced the communication of timely information regarding Senate floor activity. For instance, a new telephone link between the Parliamentarian's position on the floor and the office of the Enrolling Clerk has improved communication of actions taken by the Senate. A similar direct line between the Senate lobby and the Parliamentarian's office has made all the Parliamentarians more readily accessible to Senators and staff for consultation and advice. In the same vein, the direct telephone connection between the floor positions of the House and Senate Parliamentarians has improved the coordination of legislative activity between the two Chambers, especially during the press of business immediately before extended recesses and adjournments.

Throughout this period, the Parliamentarians have continued the tradition of providing expert assistance to the presiding officers of the Senate, as well as to all Senators and Senate staff.

PRINTING CLERK

Summary of duties

The Printing Clerk coordinates and schedules the printing of all bills, resolutions, amendments, hearings, reports, calendars, and other Senate documents and publications. In addition to assigning certain document numbers and filling requests for stationery materials, the office also coordinates the flow of committee transcripts and tapes to GPO, prepares all requisitions for binding, and advises Senate offices, committees, and subcommittees on printing questions. The Printing Clerk is responsible for page count verification of all Senate hearing transcripts.

Major recent developments

The Printing Clerk and his staff have coped successfully with a steady increase in printing requirements while improving their services to the Senate in several respects. The system for determining priorities among the materials to be printed has been improved in cooperation with the Policy Committees, other Senate offices, and the Government Printing Office. The transition at GPO from hot metal to electronic printing is still continuing and has yielded improvements in accuracy. Improvements also have been made in the arrangements for distributing documents for use on the Senate floor and by Senate committees.

With the approval of the Committee on Rules and Administration, the Printing Clerk has worked with the Senate Computer Center to develop a computerized records management systems with two subsystems. The Quota System is designed to calculate and keep track of paper and stationery allowances; the Document Tracking System is to maintain records of printing in process. This system also is to be used for billing verification of Senate hearing transcripts.

For example: In 1978 the Printing Clerk verified 996 hearing transcripts and no magnetic tapes; in 1979 the number of transcripts increased to 1,212 and included 76 tapes; and in 1980 the number of transcripts increased to 1,314 of which 794 were on tape. Also during the last four years, the following has occurred:

Type of work	1977–78	1979	1980 [1]
Committee prints	570	220	90
Committee print bills	820	450	230
Committee print reports	760	280	237
Public bills	3, 631	1, 976	1, 214
Reported bills	1, 410	399	592
Reports	1, 410	399	617
Senate resolutions	598	262	274
Amendments	4, 742	571	2, 046
Senate documents	56	34	31
Senate requisitions	6, 309	6, 150	5, 923

[1] As of Nov. 1.

The printing of materials that are expected to be considered on the Senate floor continues to be the first priority of the Printing Clerk and his staff.

DOCUMENT ROOM

Summary of duties

The Document Room distributes legislative and executive documents to Senators, committees, and other Senate offices, and responds to specific requests from Senate offices, executive agenices, and the public. The Document Room compiles personal files of bills sponsored or cosponsored by each Senator for periodic distribution to Senators along with the compilation of two sets of all versions of every Senate bill and resolution, together with their printed amendments. A cross-index is maintained between Presidential Messages and House Documents.

Major recent developments

However undramatic and unobtrusive its work may be, the Document Room is at the heart of Senate operations. It is responsible for maintaining and distributing the papers—in the form of bills, amendments, and reports, among others—that document the legislative and executive business before the Senate. Every Senate office relies on the dependability and smooth efficiency of the Document Room to provide them with much of the material on which their work depends.

The efficiency of Document Room operations has been increased recently through the recruitment and training of new staff and through the installation of improved equipment. In addition, the hours during which the Document Room is open have been changed to better coincide with the Senate's work schedule. To maintain the quality of its service, the Document Room's staff have regularly reviewed the documents on file—relocating thousands of documents and distributing others to various State libraries and historical societies—to ensure that the most timely documents are readily available. Cross-indexes also have been developed or improved so that closely related documents can be located and delivered as promptly as possible.

OFFICIAL REPORTERS OF DEBATES

Summary of duties

The Official Reporters prepare and edit for publication in the Congressional Record a substantially verbatim report of the proceedings of the Senate, and edit written material submitted by Senators for insertion in the Additional Remarks and Extensions of Remarks sections of the Record. In addition, they serve as liaison for the Senate on matters related to the Record, and coordinate with GPO on the scheduling, printing, and correcting of the daily and permanent Record. The Reporters also transcribe the proceedings in Democratic and Republican Conferences and Steering Committee meetings.

Major recent developments

During the past several years, the office of the Official Reporters of Debates has been directly involved in a continuing re-examination of the Congressional Record. In cooperation with the Office of the Secretary, the Chief Reporter has contributed to the efforts of task forces on improving and automating the Record and prepared reports for use by the Advisory Committee on Automation and Standardization of Congressional Publications. These efforts have been directed toward applying new technologies in the production of the Record in a manner that is well suited to the operations and requirements of the Senate. For example, information on cosponsors and descriptions of bills and joint resolutions introduced now are available from the computer system for preparation of routine morning business in the Record. In addition to increasing efficiency, techniques for automating the Record offer the possibility of making the information it contains more accessible to Senators and staff for research and retrieval.

To improve current activities of the office, new machinery has been installed and better recruitment procedures have been implemented. The Chief Reporter and his staff have assisted Senators in adapting to the use of "bullets" in the Record to indicate statements that were not actually delivered, in whole or in part, on the Senate floor. A statistical information system also has been devised to record data on the Senate sections of the Congressional Record.

DAILY DIGEST

Summary of duties

The Daily Digest was established by the Legislative Reorganization Act of 1946 to provide a concise and convenient account of actions taken by the Senate and its committees and subcommittees. Such a summary appears in the Congressional Record each day either House of Congress is in session. The Digest summarizes Chamber and committee actions during the previous day and activities anticipated during the near future.

Major recent developments

While continuing to compile the information on Senate floor and committee activity that appears in the Digest section of the Congressional Record, the office of the Senate Daily Digest also has assumed the responsibility for preparing a list of prospective committee and subcommittee meetings that now appears in the Extensions of Remarks section of the Record on Monday and Wednesday of each week.

Title IV of Senate Resolution 4 of the 95th Congress, the Committee System Reorganization Amendments of 1977, called for the development of a computerized system for recording and assisting in the scheduling of meetings to be held by Senate, joint, and conference committees and Senate subcommittees. The Daily Digest staff is to be notified of the time, place, and purpose of all such meetings and any changes that occur in committee and subcommittee meeting schedules. The intent of these provisions has been to assist Senators in planning their schedules and to minimize schedule conflicts.

As an interim procedure until the computerized system becomes operational, the Daily Digest office now compiles the meeting information it receives into a biweekly list for publication in the Record. This list of "Senate Committee Meetings" offers advance scheduling information that complements the list in the Digest section of the Record of meetings scheduled for the following day only.

During 1980, the Secretary conducted a comprehensive review of Digest operations. As a result of this review, some duplication of work has been eliminated and the forms and procedures used in preparing the Digest have been reconsidered. Attention also continues to be given to the prospects for increased use of computer technology to compile and retrieve information on Senate and committee activities.

LIBRARY

Summary of duties

The Library staff provides traditional library services—ready reference, research (legislative histories), general reference, book loans, binding, reader assistance, and a Reading Room for Senators, Senate staff, and other authorized personnel. The Library maintains and acquires material for the collection of Congressional documents and material related to the Senate, and provides legislative status information through the Legislative Information Center. In addition, the staff prepares and publishes a series of volumes on a regular basis, including compilations on committee hearings, Presidential vetoes, proposed Constitutional amendments, and Senate election, expulsion and censure cases.

Major recent developments

The Senate Library has responded successfully to increasing demands for its services and resources. Through more extensive and innovative uses of automated information systems, the Library has made a wider variety of information more readily accessible to Senators and staff. New data bases have been added to the Library's files and automated systems have been designed to assist in its ongoing publication program. The Library continues to respond to thousands of requests each year for information on the status of pending legislation. The number of such requests almost doubled between fiscal year 1977 and fiscal year 1980; the 79,072 bill status inquiries handled during fiscal year 1980 represented a 70 percent increase over the number of inquiries received during the previous fiscal year. There has been a similar increase in reference activity. Reference inquiries increased from 6,650 in fiscal year 1977 to 12,614 in fiscal year 1980, and grew 37 percent between fiscal year 1979 and fiscal year 1980 alone.

Increased use of micrographics and relocation of the Micrographics Center, as well as expansion of the Library's operating hours, also have enhanced the availability of its resources and services. Moreover, the Library's collection has been improved through a continuing program of expansion, transfer, disposition, and reorganization of materials. In addition to the Library's regular publication program, a new brochure has been published and distributed to encourage all Senators and staff to make optimal use of the Library and its services.

BOOKBINDER

Summary of duties

Since 1926, a Bookbinder has been detailed from the Government Printing Office to the Senate Library. The Bookbinder is responsible for binding of all miscellaneous items, as well as Senate and House hearings for the Senate Library. In addition, the Bookbinder fabricates protective cases for volumes that cannot be rebound or need improved protection. Other duties include stamping and affixing classification numbers to all current and newly acquired Library material and carrying out a systematic program of cleaning and oiling of leather bound volumes in order to assure their long-term preservation. The Bookbinder accepts miscellaneous binding and other assignments from all other offices under the jurisdiction of the Secretary and, at the behest of the Secretary, carries out various assignments for other offices within the Senate.

Major recent developments

The Bookbinder and his assistants have undertaken a number of new initiatives and special projects while continuing to meet their established responsibilities. Extensive work has been done to ensure the preservation of volumes in the Senate Library, and new equipment allows the office to undertake Mylar Encapsulation of brittle, fragile, and deteriorating documents to preserve them as well. A number of volumes also have been restored, making them suitable for display in the Old Supreme Court Chamber and, in one instance, at the Vice President's residence. To minimize future preservation and restoration work, the Bookbinder has been instrumental in developing a set of binding standards now in force for all material sent for binding from the Library to the Government Printing Office.

In addition, the Bookbinder's office has been responsible for redesigning and remaking two displays for the Old Supreme Court Chamber and preparing displays in connection with the orientation program for newly elected Senators. The office also has worked with the Curator's Office in preparing its special exhibits. In conjunction with the Senate Library, a disaster plan has been drawn up and accepted that will be put into effect in the event of water or fire damage to the Library and its collections. Moreover, a number of special projects have been undertaken, such as the fabrication of protective cases for volumes and other objects that have been presented by the President or Vice President to His Holiness John Paul I, the President of Mexico, and the State of Israel on the occasion of its 30th anniversary.

HISTORICAL OFFICE

Summary of duties

The Historical Office serves as an information clearinghouse for persons interested in the Senate's history and traditions A staff of five advises Senators and committees on the disposition of their non-current office files, assists researchers seeking access to Senate records, and maintains a register of locations of former Senators' papers. Additionally, the office edits for publication committees' older executive session transcripts and conducts oral history interviews with senior Senate staff. The Photohistorian provides limited coverage of current Senate activities of potential historical significance and collects older photographs illustrative of the Senate and its 1,600 former Members. Drawing upon the resources of the Senate Library, the Curator's Office, and its own files, the office responds to questions on the Senate's history from Members of Congress, the public, and the press.

Major recent developments

Although it has been in existence for only five years, the Senate Historical Office already has made impressive contributions to interest in and research on the history of the Senate.

In 1977, the office published "The United States Senate: A Historical Bibliography," including approximately 1,000 references to books, articles, and dissertations on the Senate and its Members. Also in preparation are guides to the locations of the papers of all former Senators in nearly 400 libraries and archives. These efforts are part of a continuing program to compile the most comprehensive catalog possible of sources of information on the membership, development, and activities of the Senate. To complement materials available elsewhere, the office has commenced its own oral history project and acquired and cataloged an extensive archive of more than 30,000 Senate photographs. Another continuing project is the development of a catalog of all unprinted Senate committee hearings held between the 80th and 90th Congresses. The Historian and his staff also have assisted the Committee on Foreign Relations to select and edit for publication its past executive session transcripts. The office currently is assisting the Study Group on the Commemoration of the United States Bicentenary to develop recommendations for appropriate observance of the 1989 commemoration.

A major focus of the Historical Office's activities has been on promoting access to and preservation of Senate papers of historical interest. To this end, the Historian provided staff assistance in the development of S. Res. 474 of the 96th Congress, which establishes general procedures for research use of the Senate's non-current official records. The Historian and his staff also have advised Senators and committees on the management and disposition of their papers, and have served as an intermediary between Senate committees and those seeking access to unpublished committee records. The office assisted the National Study Commission on Records and Documents of Federal Officials in its examination of proposals affecting the ownership and control of Federal papers, and organized a "Conference on Congressional Papers" which contributed to the Commission's final report.

Among the most important contributions the Historical Office has made to the Senate and the scholarly community was the Conference on the Research Use and Disposition of Senators' Papers, held in September 1978. Senators' representatives met at length with historians and archivists to discuss questions of mutual interest, such as procedures and criteria for preserving and discarding papers, arrangements for donations, and problems of access. The conference proceedings have been published in a volume that has been distributed to all Senators and to approximately 500 libraries that have custody of former Senators' papers. The result has been an enhanced appreciation on the part of all concerned for the possibilities and problems associated with the mass of records that document the deliberations of the Senate and the activities of its individual Members.

The activities of the Historical Office and its resources have been described through lectures and conferences and by means of a newsletter on "Senate History," inaugurated in 1978, that is distributed to the Congressional and scholarly communities.

CURATOR OF ART AND ANTIQUITIES

Summary of duties

The Curator carries out the plans and programs of the U.S. Senate Commission on Art and Antiquities, suggests acquisitions, originates exhibits, engages in research, and writes and edits publications. The staff study, identify, arrange, protect, preserve, and keep proper records of the historical collections of the Senate, including those chambers of the Capitol under the jurisdiction and control of the Commission.

Major recent developments

Working under the direction of the Commission, the Curator's Office has engaged in a range of programs to enhance, preserve, and display objects of historic and artistic value that have been associated with the history of the Senate. At present, for example, the office is working closely with the Senate Historical Office to develop proposals for consideration by the Study Group on the Commemoration of the United States Senate Bicentenary.

The Old Senate and Supreme Court Chambers were restored in time for the 1976 bicentennial celebrations and have become two of the most popular and admired attractions to the millions who have visited the Capitol in recent years. The Curator's Office has prepared brochures and offered interpretive guides and lectures to promote appreciation of these rooms and the historic events that occurred in them. The office also has been responsible for selecting and preparing, at minimal cost, a series of exhibits on the history of the Senate; two recent exhibits have focused on views of Presidential inaugurations during the second half of the nineteenth century, and the Senate as seen through the eyes of American political cartoonists. In addition, the Curator and his staff have assisted in arranging short-term exhibits and loans of fine American paintings for display in locations throughout the Senate wing of the Capitol.

The Curator and the Commission are responsible for the Senate's collection of art and historic artifacts. In this context, the Curator's Office has arranged for necessary preservation and restoration work, and has completed a ten year project to compile the first comprehensive catalog of paintings and sculpture in the collection of the Senate. While other catalogs are in preparation, the office has also completed a number of studies on specific aspects of the Senate Chamber and other areas under Senate jurisdiction. At the same time, the Curator and his staff have assisted the Commission in making important additions to the Senate collection and advised the Senators on the management and ultimate disposition of objects in their possession. A closely related activity has been the Curator's assistance to the Commission in its responsibility for disposing of foreign gifts and decorations received by Senators and Senate employees under the provisions of the Foreign Gifts and Decorations Act.

Through its Executive Secretary, the Secretary of the Senate, the Commission is represented on the Federal Council on the Arts and the Humanities. By this means, the Commission and the Curator's Office have kept abreast of the full range of Federal programs that relate to its responsibilities. In addition to useful programs of information exchange, the Curator's Office participated actively in the Council's Graphic Improvement Program, which stimulated the development of new design formats for a number of publications issued by the Office of the Secretary. In 1978, the results were designated one of the 50 best designs of 1975–1977 by the American Institute of Graphic Arts. Through this association and through participation in a variety of public forums, the staff have promoted the aesthetic environment in which the Senate works and the public's appreciation of the Senate as a repository of American art and history.

OFFICE OF PUBLIC RECORDS

Summary of duties

The staff of the Office of Public Records receive, process, and maintain records, reports, and other documents filed with the Secretary of the Senate pursuant to the Standing Rules of the Senate and such statutes as the Federal Election Campaign Act, as amended, and the Federal Regulation of Lobbying Act. The office also provides public services for the review, inspection, and reproduction of these documents.

Major recent developments

The Senate has imposed a series of new reporting requirements on its Members and staff, and has directed that the information submitted shall be available for public inspection under appropriate conditions. Much of the responsibility for implementing and administering these information requirements has been assigned to the Office of Public Records. The result has been a massive increase in the number of forms and amount of data that must be processed, and in the number of public inquiries to which the office responds. For example, between 1977 and 1980, more than 250,000 copies of reports and statements were sold to the press and the public.

Senate Rule XXXIV incorporates the provisions of Title I of the Ethics in Government Act of 1978, and requires the submission of financial statements by Senators, officers, and designated Senate employees, which are made public. Rule XLI limits the number of Senate employees who may engage in political fund activity, and requires that employees engaging in such activity shall be designated in writing and shall file a financial statement in conformity with Rule XXXIV. The designations as well as the financial statements are available for public inspection. Rule XL provides that franked mass mailings shall be registered annually with the Secretary of the Senate, together with a description of the group or groups of persons to whom the mass mailing was sent. This information is publicly available as well. In addition, the Federal Election Campaign Act, as amended, now requires submission of and public access to both quarterly reports of receipts and expenditures and Federal Election Commission Office Account Reports.

In cooperation with the appropriate Senate committees, the Secretary, and other Senate officials, the Office of Public Records has been instrumental in developing the procedures and guidelines necessary to implement these requirements. Liaison also has been maintained with the Federal Election Commission and House officials, among others, to resolve problems and ambiguities that have arisen. At the same time, the office has continued to process the information submitted in accordance with reporting requirements imposed previously by rule or statute, such as reports on foreign travel expenditures and those filed pursuant to the Federal Regulation of Lobbying Act. Both manual and automated systems of information management have been devised or improved to confirm compliance with the reporting requirements and to facilitate retrieval of information for use by the Senate or for inspection by interested citizens.

To assist Senators and their staffs, the Office of Public Records initiated an annual compilation of reports and statements to be filed by Senators, officers, employees, and other individuals. The office also has participated in seminars and consulted extensively with Senators and staff to promote understanding of the reporting requirements with which they are expected to comply.

SPECIAL DEPUTY, FEDERAL ELECTION COMMISSION

Summary of duties

The Federal Election Commission, created under the Federal Election Campaign Act Amendments of 1974 and later reconstituted under a 1976 statute, in effect supervises and regulates the financing and disclosure of campaign finances of campaigns for elections to the Senate, the House of Representatives, and the Presidency. In addition to the six voting members of the Commission, the Secretary of the Senate and the Clerk of the House serve as ex-officio Commissioners. The Special Deputy to the Secretary is authorized to carry out his responsibilities as an ex-officio member.

Major recent developments

The work of the Federal Election Commission has been both complex and controversial. On behalf of the Secretary, the Special Deputy has performed an important liaison function between the Commission and the Senate, keeping the Senate informed of Commission activities and ensuring that the Commission is fully apprised of the potential impact of possible decisions and regulations on the Senate as an institution and on Senators in their individual capacities.

As the representative of the Secretary, the Special Deputy works with the Commission on a daily basis, participating in its open and executive sessions on an equal footing with its voting members. Liaison between the Commission and the Office of Public Records has been particularly important, because of the numerous campaign reports that the latter receives and makes available to the public. In this and in other aspects of the Commission's work, the Secretary and the Special Deputy have been guided by several principles: (1) to ensure that all Senate candidates, and their supporters and contributors, receive equal treatment; (2) to minimize the burden of complying with the record keeping and reporting requirements imposed by law, as interpreted and applied by the Commission; (3) to encourage Commission actions that promote broad public participation in political campaigns; and (4) to identify statutory problems that might require legislative action by the Senate.

OFFICE OF CLASSIFIED NATIONAL SECURITY INFORMATION

Summary of duties

The Office of Classified National Security Information has authority to perform the administrative functions necessary to classify and declassify information relating to the national security considerations of nuclear technology, in accordance with guidelines developed for restricted data by the responsible executive agencies. The office also provides appropriate facilities for hearings of Senate committees at which restricted data or other classified information is to be presented, and operates a central repository in the Capitol for safeguarding restricted data and other classified information for which the office is responsible.

Major recent developments

This office is under the policy direction of the Majority and Minority Leaders and the Chairman of the Committee on Rules and Administration, and under the administrative direction and supervision of the Secretary of the Senate. Created by S. Res. 252 of the 95th Congress, the office began operation on September 20, 1977, and, since that time, has provided assistance on a regular basis to Senators, the leadership, and committees.

The office has maintained a storage facility for classified and sensitive documents within the custody of the Senate and for the records of the proceedings of the Senate in closed sessions. Its staff also have worked with appropriate executive agency officials to prepare unclassified versions of closed session transcripts for publication in the Congressional Record. In cooperation with other Senate offices, new procedures were instituted to control the initial receipt and management of classified documents sent to the President of the Senate by various agencies of the Government. A further responsibility of the office has been to provide a secure room for committee hearings and meetings involving information to which access must be restricted. This room has been used frequently by Senators and committees, including the Committees on Appropriations, Armed Services, Environment and Public Works, Energy and Natural Resources, Foreign Relations, and Judiciary, and the Select Committees on Ethics and Intelligence.

At a time of great Senate interest in such international policy issues as arms control and sales, energy costs and supplies, and the Panama Canal, the office has assisted the Senate in protecting the secrecy of information vital to its deliberations.

DISBURSING OFFICE

Summary of duties

The Disbursing Office functions primarily as the budget, payroll, and accounting office of the Senate, but also serves as the office which maintains Senators' and employees' personal appointment and payroll records. The audit function, which is part of the accounting process, serves to verify all expense vouchers prior to payment and establishes the acceptance of expenses of Senators, committees, and other offices of the Senate.

Major recent developments

The Financial Clerk and the staff of the Disbursing Office have been confronted with a number of recent developments that increased their work load, imposed new responsibilities, and required adjustments in established operating procedures. The necessary changes have been made smoothly and successfully, and without any diminution in the efficiency which the Senate has come to expect from these officials.

Significant changes in the membership of the Senate and the organization of its committee system, with the many consequent terminations, appointments, and transfers of staff, have combined to increase the number of personnel actions taken by the Disbursing Office. Changes in salary rates for Senators and staff have required payroll adjustments as well. Further innovations affecting office operations have included the authorization of the savings allotment program, initiation of shared employee arrangements, changes in procedures affecting official expenses, legislation providing for payment of certain expenses of Senators-elect, and the development of new reports for the Committee on Appropriations and the Office of Personnel Management.

At the same time that these developments have been absorbed by the office, the efficiency of its operations has been enhanced through a program for microfilming employee records, through increasing the capability and flexibility of its computer system, and through improvements in the management of data to be included in the Report of the Secretary. The office also has conducted seminars and briefings for both Washington and state office staff, and has prepared an accounting handbook to assist Senators and staff in managing their expenses and accounts. Looking to the future, a requirements analysis has been developed for a new financial management system that will better serve the growing needs of the Senate.

STATIONERY ROOM

Summary of duties

The Stationery Room provides for the sale of stationery items for the use of Senate employees and others authorized to use the service. The staff maintains individual stationery accounts for Senators, committees, officers, etc., issues bills and statements, receives reimbursement for all purchases, and delivers merchandise to Senate offices.

Major recent developments

The operation of the Stationery Room has been transformed to improve service and to increase the efficiency and economy of its operations. In May 1979, a minicomputer was installed to assist in accounting and record keeping, after extensive consultations with the Committee on Rules and Administration and the Office of the Secretary. At the beginning of 1980, the Stationery Room was converted to a self-service system. Both of these developments have made more effective use of personnel and facilities. In addition, the accuracy of transaction records has been improved, and the time required for customers to make their purchases has been reduced. A program for microfilming past and current sales records also has been instituted to facilitate reference to these records and to minimize storage requirements and problems.

The Bid Schedules and Contracts for Goods and Supplies used by the Stationery Room were revised and clarified in cooperation with the Financial Clerk and the Office of Legislative Counsel. In addition, an increase in authorized capital has permitted a gradual expansion of inventory and improvements in purchasing and payment arrangements. The result has been an increase in the efficiency with which goods can be provided and transactions completed.

A 1980 survey of customers indicated overwhelming satisfaction with the overall service offered by the Stationery Room to Senators, committees, and staff.

TRIBUTE TO SENATOR RICHARD S. SCHWEIKER

● Mr. MITCHELL. Mr. President, I would like to take this opportunity to honor my colleague from Pennsylvania, Senator Richard S. Schweiker.

Senator Schweiker has served the people of Pennsylvania and this country with distinction. Through his work as ranking minority member of the Labor-HEW Appropriations Subcommittee and the Health and Scientific Research Subcommittee of the Labor and Human Resources Committee, Senator Schweiker has been a leader in improving health care in this country.

Senator Schweiker's efforts have laid the foundation for increased support and understanding of health care and disease control. My colleagues in the Senate and the American people are very grateful for his work in this very important area.

I have only known Senator Schweiker a few months. During that time, however, I have come to admire and respect him greatly. The Senate will miss Senator Schweiker.●

TRIBUTE TO SENATOR GAYLORD NELSON

● Mr. MITCHELL. Mr. President, I want to take this opportunity to say farewell to Senator Gaylord Nelson. Gaylord has effectively served the people of Wisconsin for 18 years. I feel privileged to have served with him, even in the short time I have been here.

Gaylord will long be remembered for his work on the Environment and Public Works Committee. His many contributions there have helped to shape the foundation of many of our present environmental policies.

As chairman of the Senate Small Business Committee, Gaylord has led the fight to protect the small entrepreneurs in our country. He has championed legislation to encourage and support the legislation which has enabled many Americans to realize their dream of opening and successfully running a small business.

Gaylord's presence in the Senate will be dearly missed. I wish him the best for the future.●

TRIBUTE TO SENATOR JACOB JAVITS

● Mr. MITCHELL. Mr. President, today, I regretfully say goodbye to the distinguished senior Senator from New York, Jacob Javits.

In the few months I have been a Member of this body I have come to greatly respect my colleague on the other side of the aisle. Jack will long be remembered for his work on the Foreign Relations Committee. Through his efforts on this committee, especially in the area of human rights, persons all over the world have benefited.

Jack has also distinguished himself with by his work on the Labor and Human Resources Committee. The legislation he has fought for has brought meaningful and constructive changes to many of our valuable social programs. His work in this area will be dearly missed in the Senate.

In closing I would like to recall the words of the ancient Romans, "This man truly was a Senator." I bid Jack Javits a fond farewell.●

TRIBUTE TO SENATOR HENRY BELLMON

● Mr. MITCHELL. Mr. President, after 12 years of distinguished service, Senator Bellmon is returning to his home State, which he represented so well during his years in the Senate.

Henry Bellmon will be remembered for his contribution to the Budget Committee as a ranking member, and the great team effort he and my predecessor, Ed Muskie, displayed while serving on the Budget Committee together. It is due to their ability to work together effectively, that we can attribute the success of the budget process. Senator Bellmon made us realize that we must live up to our responsibilities when dealing with fiscal restraint. Although I have served on the Budget Committee for only a short time, Senator Bellmon has been an example of dedication and integrity which will be valuable to me as I continue my service in the Senate.

I wish Senator Bellmon the very best in his future endeavors to serve the country.●

TRIBUTE TO SENATOR JOHN DURKIN

● Mr. MITCHELL. Mr. President, it is with regret that I say goodby to Senator John Durkin, a good friend from the neighboring State of New Hampshire.

Our colleague has been a tireless fighter for the people of his State. His efforts have also benefited the rest of New England as well. For this we owe him thanks.

John Durkin has been an active participant in the development of our energy policy, as a member of the Energy and Natural Resources Committee. He was an effective spokesman for the energy needs of the Northeast. He has spoken out even when his views did not represent the conventional wisdom. He is a man of courage. We will miss him.●

TRIBUTE TO SENATOR MIKE GRAVEL

● MR. MITCHELL. Mr. President, at the close of the 96th Congress, Mike Gravel will be leaving the Senate after 12 years of distinguished service to this body. Mike Gravel served on the Energy and Natural Resources Committee and the Environment and Public Works Committee, both of which are vital to the protection of our country's natural resources. I served with Mike on the Environment and Public Works Committee and want to thank him for his contribution and dedication to the environmental issues which we dealt with.

Perhaps the most important contribution of all, was his successful attempt to provide this country with an environmentally safe pipeline, which delivers crude oil from his home State, Alaska, to the rest of the 48 States. The Alaska pipeline is a valuable means of making our country more energy independent.

I commend Senator Gravel for his hard work and for representing Alaska in an effective manner.

I extend my best wishes for the future to Senator Gravel and to his family.●

TRIBUTE TO DONALD W. STEWART

● Mr. MITCHELL. Mr. President, as a newcomer to the Senate I am well aware of the expectation that the freshman Senator, much like the freshman in an academic setting, will spend most of his time simply scrambling to keep up. Of course, we freshmen like to think that we can participate fully in the affairs of the Senate, and, when the occasion arises, take a leadership role. In this respect, we have an outstanding role model in Senator Donald W. Stewart of Alabama.

Senator Stewart, though he was able to serve only 2 years in the Senate, was an active Member from the day of his arrival in 1978. He was selected as an assistant majority whip, an unusual honor and responsibility for a freshman.

He also served on the Committee on Agriculture, Nutrition and Forestry, where he chaired two subcommittees and was a forceful supporter of programs to aid rural areas. His interests are broad: He sponsored the Rural Energy Independence Act, helped shape the alcohol fuels section of the national energy bill, and was cochairman of the Congressional Family Farm Task Force, a bipartisan group addressing the needs of America's small farmers. He also served on an advisory committee to the President's Commission on an "Agenda for the Eighties."

Senator Stewart, who served 8 years in Alabama's legislature before coming to Washington, did not lose touch with "the folks back home," despite his many responsibilities here. Among other things, he was instrumental in establishing a State office of rural health in Alabama, and in backing legislation to give relief to communities plagued by forest fires.

Senator STEWART has shown himself to be a man of ability and character. The people of Alabama have every reason to be proud of him.●

TRIBUTE TO MILTON YOUNG

● Mr. MITCHELL. Mr. President, it is ironic that in 1981—the year in which Republicans will have a majority in the Senate for the first time in 26 years—the Republican Party will lose its most senior Senator, MILTON YOUNG of North Dakota.

Senator YOUNG's retirement after 35 years in the Senate is a loss not only to his party, but also to the people of North Dakota and the Nation. He leaves for all of us, however, an example of what a legislator should be: A tireless worker for his constituents, a man of honesty and integrity, one who is unafraid to stand firm for what he believes, but who never seeks the bright lights of publicity.

As a member of the Committee on Agriculture, Nutrition, and Forestry, Senator YOUNG has devoted countless hours to the cause of American agriculture, during a period when the farm, especially the small family farm, has been threatened as never before by worldwide economic, political and social forces. Senator YOUNG is acutely aware of these problems. About one-fourth of North Dakota's citizens—more than in any other State—live on farms and ranches.

Senator YOUNG also has served on the Appropriations Committee, where he has been a strong but low-key voice for fiscal restraint.

His service to his party has been exemplary. He was secretary to the Senate Republican Conference for 25 years, the longest anyone has served in a Senate leadership post in this century.

It is hard to imagine the Senate without MILTON YOUNG. I join my colleagues in wishing him many years of happy retirement; if anyone has ever earned them, it is he.●

TRIBUTE TO SENATOR MAGNUSON

● Mr. MITCHELL. Mr. President, when the 96th Congress adjourns, the Senate will lose the remarkable services of Senator WARREN MAGNUSON. Since coming to the Senate only 6 months ago, I have observed firsthand his dedication to his myriad duties in the Senate. His leadership has been essential to the workings of this body.

Senator MAGNUSON has served in the Congress with distinction for the last 44 years. During these years, he has been a dedicated servant of the Nation as well as his State of Washington. He has been a prime architect of legislation to protect the country against oil spills. He has demonstrated his concern for our sea resources by sponsoring numerous laws to protect marine resources. And due to Senator MAGNUSON's tireless efforts, Public Law 94-265 was enacted to save our commercial fisheries from extinction. The people of Maine owe him a debt of gratitude for that accomplishment.

Senator MAGNUSON has also been a leader in the area of health care. As chairman of the Appropriations Committee, he has demonstrated a longstanding concern for providing adequate resources for health programs to serve the American people.

Mr. President, the list of Senator MAGNUSON's accomplishments is far too long to enumerate here. He has made all of our lives richer through his tenure in the Congress and has touched the lives of all Americans, through his dedicated service. We will miss him.●

TRIBUTE TO SENATOR GEORGE McGOVERN

● Mr. MITCHELL. Mr. President, in the brief time that I have served in the Senate, it has been my great privilege to know and serve with my friend and colleague from South Dakota, Senator GEORGE McGOVERN.

In this short while, I have come to realize the truth in Robert Kennedy's words describing GEORGE McGOVERN as "the most decent man in the U.S. Senate."

In these months I have found in GEORGE McGOVERN an exemplary force to all the Members of this body: He has shown us that the politics of principles need not be ameliorated or lessened by the political pragmatism of the moment; he has exemplified that rare energy and spirit, seen in only a few of America's greatest leaders, which has enabled him to be effective through the years both as a thoughtful leader for his State and as an incisive and imaginative spokesman for his Nation.

GEORGE McGOVERN will be a man long remembered in the U.S. Senate and indeed all across this land. His perceptive statesmanship and his clear voice of courage for the humane goals for which he stood will not fade in the passage of the years. As time moves on there will be no doubt that GEORGE McGOVERN achieved; history has already shown us this much. The people of this country are grateful for his work on behalf of the American farm and the American railroad, and for his substantial studies on the American diet; and we in the Senate are grateful for his friendship.

Of lasting importance to the memory we shall keep of GEORGE McGOVERN is his clear and forthright vision. His is a vision which excluded no lives nor the dreams of those lives, and which cogently forced us and all of America to make the hard choices—and to step forward to meet the great challenges of the past two decades.

As set forth in his valiant campaign to bring America home and to cease our involvement in Vietnam, GEORGE McGOVERN is a man dedicated to the work of hope and to the principles of peace. I will long admire his commitment to these lasting goals.

It is no irony that the new right's politics of resentment, fear and paranoia placed GEORGE McGOVERN in the No. 1 position on their 1980 hit-list. For GEORGE McGOVERN was in the forefront of the politics of discussion and debate, of civility and gentlemanliness, of ideas and real issues, of hope and positive action. It is little wonder that they sought to defeat him in his bid for reelection.

Like so many other Americans, I do not believe that this will defeat GEORGE McGOVERN. I know that his valiant work will continue, knowing at the same time that his ideas will endure.●

TRIBUTE TO SENATOR HERMAN TALMADGE

● Mr. MITCHELL. Mr. President, it is with a deep sense of regret that I say goodby to Senator HERMAN TALMADGE today. Senator TALMADGE has served tirelessly and with great enthusiasm in the U.S. Senate for more than two decades.

Senator TALMADGE will be especially remembered for his deep dedication to the American farmer. As chairman of the Senate Agriculture Committee for 10 years, Senator TALMADGE has been instrumental in introducing and fighting for legislation to protect the small family farm. His efforts in this area will have many long-lasting benefits not only for the farm industry but for all Americans.

The people of Georgia will always remember HERMAN's concern for their problems, whether it was a lost social security check or a family in need, the Senator's office was always quick to respond. He will be dearly missed here in the Senate and in the State of Georgia. I bid Senator TALMADGE farewell and wish him the best of luck in the future.●

TRIBUTE TO SENATOR ADLAI E. STEVENSON III

● Mr. MITCHELL. Mr. President, I am pleased to take this opportunity to pay tribute to a man who I have admired for many years and who I have come to admire and respect even more since coming to the Senate, the distinguished Senator from the State of Illinois, ADLAI E. STEVENSON III.

All of us in the Senate are grateful to Senator STEVENSON for his work as chairman of the select committee to study the Senate committee system. The committee's recommendations resulted in the most extensive reorganization of the Senate's committee system since the 19th century. Although I was not yet a Senator when these changes were made, I recognize the importance of these reforms for improving the operations of the Senate and am grateful for Senator STEVENSON's work in making the job of all Senators more rewarding.

I enjoyed serving with Senator STEVENSON on the Senate Committee on Banking, Housing, and Urban Affairs. Senator STEVENSON is widely respected for his work as chairman of the International Finance Subcommittee, particularly his work in strengthening international monetary policy.

I will miss Senator STEVENSON. I hope, however, that Senator STEVENSON will continue to play a leadership role and I look forward to his contributions.●

TRIBUTE TO SENATOR ROBERT MORGAN

● Mr. MITCHELL. Mr. President, it is with regret that I say farewell to Senator ROBERT MORGAN. Senator MORGAN served 6 years in the Senate, representing the State of North Carolina effectively.

Senator MORGAN served on the Banking Committee, on which I too served, and he was a strong voice in the protection of consumers in banking policy. He also believes in the traditional role of the State in banking regulations. ROBERT MORGAN contributed to this body by being a strong man, and a believable voice.

I am sure that he will continue to contribute to the State of North Carolina and the country as he has in the past.●

TRIBUTE TO SENATOR ABRAHAM RIBICOFF

● Mr. MITCHELL. Mr. President, I would like to say a few words in honor of my distinguished colleague from Connecticut, Senator ABRAHAM A. RIBICOFF.

Few individuals in this country have served with such distinction in so many different capacities as Senator RIBICOFF. Senator RIBICOFF has been in public service for over 42 years, serving as State legislator, municipal judge, Congressman, Governor, Secretary of Health, Education, and Welfare and Senator.

Senator RIBICOFF has brought to each of these offices not only his intelligence and responsibility, but also his deep sense of caring for all the people of this country.

I have come to admire and respect Senator RIBICOFF as a person and as a leader over the years. I feel privileged to have had the opportunity to serve with Senator RIBICOFF in the Senate.

Senator RIBICOFF will be missed bv his colleagues in the Senate, the people of Connecticut, and the citizens of this country. I trust that Senator RIBICOFF will continue to play a leadership role after he leaves the Senate and I look forward to his contributions.●

TRIBUTE TO SENATOR RICHARD STONE

● Mr. MITCHELL. Mr. President, in the brief period that I have had the privilege of representing Maine in the U.S. Senate, I have come to know Senator STONE as a leader of great perception, compassion, and dedication. It has been a privilege to work with him.

In the months I have served with Senator STONE, he has been a singularly effective leader in the areas of foreign policy and national security. His service on the Agriculture, Foreign Relations and Veterans' Committees has reflected his deep commitment to serving the Nation and the people of Florida.

The Senate will miss the articulate leadership offered by the Senator from Florida but his mark has been made on the institution and on this Member. His example and advice will be guides for me for years to come.

I wish Senator STONE and his family the best.●

TRIBUTE TO BIRCH BAYH

● Mr. MITCHELL. Mr. President, It is with a deep sense of regret that I say farewell to my friend and colleague, Senator BIRCH BAYH. In the short time that I have been a Member of this body I have grown to admire and respect the senior Senator from Indiana a great deal.

BIRCH has distinguished himself in so many areas it would be difficult to do justice to all of them. He will long be remembered for his dedication to the equal rights amendment. BIRCH is a man who has fought diligently in the Senate, as I am sure he will continue to do in the future, for justice and fairness for all Americans.

His work on the Judiciary Committee has been an inspiration to all Members of the Senate.

BIRCH, of course, will be especially remembered for his devotion and support for his wife Marvella during her losing battle against cancer.

I am sure many of my colleagues share my sentiment when I say we will miss you BIRCH. I wish him the best of everything in the future.●

TRIBUTE TO SENATOR JOHN C. CULVER

● Mr. MITCHELL. Mr. President, the Senate will not be the same without the presence of JOHN CULVER next year. Although I have only served in this body for 7 months, I have come to greatly admire and respect JOHN. We served together on the Environment and Public Works Committee, where I saw firsthand his dedication to principle and his tenacity in fighting for what he thought was right. He sponsored the original superfund legislation, one of the most far-reaching pieces of legislation considered in the 96th Congress. He persevered against all odds when the bill appeared to be dead. It is because of his belief that toxic wastes were a serious problem that we now have a superfund law on the books.

With this same tenacity, JOHN CULVER ran for reelection. His campaign is but one more indication of his honesty and his dedication to his beliefs. Although he will not be with us in the 97th Congress, the Senate is a better place for having known JOHN CULVER.●

TRIBUTE TO SENATOR CHURCH

● Mr. CANNON. Mr. President, it is with a great deal of regret I must bid farewell to the distinguished Senator from Idaho, FRANK CHURCH. I will miss him as a colleague from the West, and I will miss him also as a member of my party from the West. I was privileged to work with the Senator on a number of uniquely western problems and valued his wise counsel.

The State of Idaho has graced this body with a number of truly dynamic and creative Senators. Senator CHURCH continues that tradition of this remarkable State, assuming as he has the chairmanship of the prestigious Foreign Affairs Committee. He has handled that delicate and important assignment with a firm and steady hand. Never was this body or the Government of the United States embarrassed by an action or statement from that committee while Senator CHURCH was its chairman. The Senator was a master of diplomacy and tact.

Senator CHURCH began his career at an early age. I have heard told that the Senator was from time to time mistaken for a page during his first months in this body, so young looking was he. I envy him that he has retained his boyish good looks over his more than 20 years of service. Seriously, this institution will not be the same without Senator CHURCH, and I personally will miss his friendship and good counsel. I wish him the best of everything and hope to have him join us again, perhaps in the future.●

TRIBUTE TO JOHN DURKIN

● Mr. CANNON. Mr. President, I have a special feeling toward JOHN DURKIN as he leaves the Senate because of the tumultious way in which he entered. As you will recall, his election was one of the closest in the history of this country and caused a full-scale review by the Senate Rules Committee, which I chaired at the time. After studying every aspect of this hotly disputed Senate contest, we determined that only the full Senate could fairly resolve the question of who won. The ultimate decision was to have another vote between Senator DURKIN and his opponent, Mr. Wyman. As history records, Senator DURKIN was triumphant and we have profited from his fierce Yankee independence over the past 6 years.

As a fellow member of the Senate Commerce Committee and in other venues, I grew to respect JOHN for his no-nonsense approach to problems and his outspokenness. I wish him and his family well in their future endeavors.●

TRIBUTE TO BIRCH BAYH

● Mr. CANNON. Mr. President, those of us who served for many years with BIRCH BAYH, knew him as a conscientious, fair minded Senator. I had the pleasure during my tenure as chairman of the Senate Committee on Commerce, Science and Transportation to work closely with Senator BAYH on many issues affecting our Nation's transportation systems. As chairman of the Transportation Appropriations Subcommittee, he was a tough but fair voice on issues ranging from Amtrak to Conrail.

Senator BAYH is leaving us after a truly outstanding career during which he became a national leader on such issues as constitutional reform of our electoral system. He was a forthright and effective champion of the causes he believed in and we shall miss his voice in the years to come.●

TRIBUTE TO SENATOR YOUNG

● Mr. CANNON. Mr. President, I want to pay tribute to my good friend and colleague MILTON YOUNG.

It is sad to anticipate the 97th Congress without the good counsel of Senator YOUNG. The Senator has become an institution in this body, giving it continuity. The Senate I have known has always been graced with his presence.

Milt Young has been a steady, creative force on the Senate Appropriations Committee and the Senate Agriculture Committee. His expertise in these areas of jurisdiction will be missed and his absence from policy role in American agriculture, in particular, will be difficult to replace.

Mr. President, I join my many colleagues in wishing Milt Young many years of contented and productive retirement. He certainly deserves the very best life has to offer.●

TRIBUTE TO GEORGE McGOVERN

● Mr. CANNON. Mr. President, the U.S. Senate is losing many distinguished Members at the end of this Congress and one of the most distinguished and hard working is George McGovern of South Dakota.

During his 22 years in the Congress, of which 4 were spent in the House, he earned the respect of his colleagues through hard work and a dedication to serving people. In addition to his service on the Hill, he served as the Special Assistant to President Kennedy as Director of Food for Peace. In all his dealings he has exhibited a special concern for the elderly, the disenfranchised, the downtrodden. In fact, in 1968 when he ran for President the New York Times summed up his interests as being agriculture, food, farmers and his fellow man. That is a testimonial from a prestigious newspaper that is hard to top.

In my 22 years in the Senate I can honestly say I have never seen any Senator work harder or be more effective. As a friend and colleague we shall all miss him, and I hope we have not seen the last of him.●

TRIBUTE TO JOHN CULVER

● Mr. CANNON. Mr. President, the U.S. Senate is losing many distinguished Members at the end of this Congress and one of the most distinguished and hard working is John C. Culver of Iowa.

During his 16 years in the Congress, 6 of which were spent in the Senate, he earned a respected reputation as a formidable debater and champion of the elderly, the poor and the downtrodden. In short, he championed people—a rather commendable attribute.

It was my privilege to observe him at close range in the Senate Armed Services Committee where he chaired the Research and Development Subcommittee. He has the rare ability to cut through issues with cold logic. The most complex problems became commonplace after his detailed questioning of a witness.

In my 22 years in the Senate I can honestly say I have never seen any Senator as vigorous, as effective, or as dedicated. As a friend and a colleague we shall all miss his quick wit, his enthusiasm and his competence. I hope we have not seen the last of him.●

TRIBUTE TO HENRY BELLMON

● Mr. CANNON. Mr. President, I wish to take this opportunity to add my tribute to the many paid to our colleague Senator Henry Bellmon. It has been one of the most gratifying experiences of my service in the Senate to work with Senator Bellmon and to claim him as a friend.

The Senate will lose a true champion of fiscal responsibility when Henry retires. More important, however, the Senate will lose a voice of reason, moderation, and persuasion without equal. No one can accomplish more with a quieter voice than Henry Bellmon. His has always been a voice of quiet logic and persuasion. Henry Bellmon's vision has always been clear and his homework always completed.

The budget process, upon which desperately needed fiscal reform and responsibility rests, is in large measure the product of Senator Bellmon's tireless efforts. Long after we are all departed to other pursuits, the budget process will remain as a tribute to the Senator from Oklahoma.

I will miss Senator Bellmon's gentle voice, his wit, his wisdom and his friendship. He has served his State and Nation well. His contributions to the legislative process will be missed but the Senator has surely earned the retirement he now begins.●

TRIBUTE TO WARREN MAGNUSON

● Mr. CANNON. Mr. President, I ask myself what I might add in tribute to the stature and legend of Warren Magnuson. When Maggie first came to this body in 1944 I was a major in the Army Air Force just returning to my unit after escaping from behind enemy lines in Holland. It was another 15 years before I joined this distinguished body. And now after serving with Maggie for 22 years it is indeed a sad time to bid adieu to my friend and colleague.

Warren Magnuson must be remembered for much more than his tenure. He has served with distinction and wisdom. Further, he has brought panache and a becoming forthrightness to his position and has worn his awesome influence lightly. Perhaps, as a Senator who has "seen it all" through the administrations of eight Presidents, the need for trappings of office became less significant, but Maggie has always been approachable.

Maggie has been the champion of this Nation's health research program and strongly supported protection of equal opportunity, the environment, and consumers. The National Institutes of Health have made great strides in health protection and Senator Magnuson has been their indefatigable champion. It is fitting, indeed, that the NIH Clinical Center will be named for the Senator.

In addition, the people of the State of Washington have benefited in direct and dramatic ways from the long service of Senator Magnuson. He has been alert to provide for growth and development of his State which has greatly benefited its citizens and the economy of the whole region.

I count it a high honor to have worked with Senator Magnuson over the years we have served together and am privileged to call him a friend. His many achievements will remain as a tribute as Maggie enjoys his well-earned retirement.●

TRIBUTE TO ROBERT MORGAN

● Mr. CANNON. Mr. President, Robert Morgan was a hard working, conscientious Senator who served his State and the Nation well. I had the pleasure of working with Senator Morgan on the Armed Services Committee and was always impressed by his diligence and preparation. He displayed a keen mind and a firm grasp of our Nation's defense needs. There was never a more staunch advocate of national security than Bob Morgan and his support on the difficult defense issues we face in the future will be missed.●

TRIBUTE TO JACOB JAVITS

● Mr. CANNON. Mr. President, of the many things I found hard to believe about the 1980 Senate elections, one of the strangest was the decision of the people of New York to end the career of Jake Javits. Surely there has been no more effective representative of his State and Nation in this body than Senator Javits. His intelligence, diligence, and integrity were beacons that guided all of us through a multitude of issues over many years.

That familiar blue Mustang parked outside the Senate wing of the Capitol was a symbol of Senator Javits' unquenching love for this body. He seemed to be always here, offering his insight on issues ranging from health policy to foreign affairs. He was criticized as one of the more frequent globetrotters in the Senate, but those narrowminded critics should have known that his great energy and thirst for knowledge could never be satisfied by staying at home.

I am sorry that ill health played a role in Senator Javits' defeat, but I have more confidence in his strength and endurance than the voters of New York apparently do. I look for him to assume a position of prestige and leadership in the national arena and know the country will be better off when he does.●

TRIBUTE TO GAYLORD NELSON

● Mr. CANNON. Mr. President, it is with sadness that I add these few words to the many already uttered in tribute of Gaylord Nelson. It has been noted that election results do not always reflect whether or not a person has served well in office and that is demonstrably true in the case of Senator Nelson. Intelligent, loyal, persevering, hard working, honest—these are all his characteristics and are attributes that any public servant would be proud to claim. Yet, the fortunes of political life find him leaving the Senate after 18 years of exemplary service.

One does not worry about the future of a person like Gaylord Nelson, because his qualities will always make him stand out. But the future of the Senate without him is not so encouraging.●

TRIBUTE TO DICK STONE

● Mr. CANNON. Mr. President, it is not an easy thing to build a notable record in this body in just one term, but in many ways DICK STONE, the distinguished Senator from Florida, did just that.

We all know him as a staunch defender of Israel as a bulwark of democracy in the Middle East. He and I were allies in that cause and it is no exaggeration to describe him as a Senate leader on pro-Israeli issues.

But his expertise extended beyond the Middle East, to foreign agricultural policy, to gasohol development, and to refugee settlement. In each of these areas he impressed his colleageus with his knowledge and judgment. He was a hard-working and effective legislator and I congratulate him on his fine record as a Member of this body.●

TRIBUTE TO HERMAN TALMADGE

● Mr. CANNON. Mr. President, traditions are being shattered almost daily in these tumultuous times, so I guess it is no shock that the tradition represented by HERMAN TALMADGE's Senate service should likewise be broken. But let no one mistake the fact that he was an individual, a singular character who made his mark on this body as distinctly as any of his colorful counterparts from the South.

As much as I admired Senator TALMADGE for his work on behalf of American agriculture, my admiration was increased during his last years as he fought against a sea of enemies. He never gave in to the many personal and professional misfortunes which befell him and went down fighting to the last. That his fight was unsuccessful was due to no fault of his own and the record of his courage and tenacity will outlive the election results.

I wish him well in the future and make no revelation by saying the Senate will be diminished without his presence.●

TRIBUTE TO DONALD STEWART

● Mr. CANNON. Mr. President, in the 2 years he served as a successor to the departed Jim Allen, I did not have the opportunity to know DONALD STEWART well. It is unfortunate that the conditions under which he assumed office, which forced him into a reelection effort less than 2 years later, prevented him from serving longer. For in my brief acquaintanceship, I found him to be an outstanding individual with many qualities to offer the people of Alabama and the Nation. I wish him well as he leaves the Senate and feel confident that he will continue the fine record of public service he had compiled before coming here in 1978.●

TRIBUTE TO ADLAI STEVENSON

● Mr. CANNON. Mr. President, it is a difficult task to say goodbye to ADLAI STEVENSON, both because of his individual qualities and because of what his name represents to the Democratic Party. I was a city attorney in Las Vegas during one of his father's Presidential campaigns and have spent my entire political career imbued with the legacy of Stevensonian politics.

Senator STEVENSON was that rare Member of this body who was not known for the amount of verbiage he contributed to the public record. But when he spoke, others listened and his was a voice always accorded respect by his colleagues. I will never forget his staunch support of the difficult issue of truck deregulation when it was before the Senate Commerce Committee. All of us were under severe pressure during consideration of that measure, but I never doubted Senator STEVENSON's position for a moment and he never failed to speak forcefully at key moments.

On another difficult issue that brought us together, reorganization of Senate committees, he was similarly unwavering. It seemed to be his lot to draw the difficult assignments that no one else wanted—such as chairmanship of the Senate Ethics Committee—but it is to his credit that no one ever complained about his handling of these matters when they fell to him.

Senator STEVENSON accomplished much on the Commerce Committee and in his other Senate endeavors and it is an understatement to say he would have accomplished much more had he chosen to stay here longer. I can only hope that we have not heard the last of ADLAI STEVENSON as the Democratic Party begins a search for renewed national unity.●

TRIBUTE TO ABE RIBICOFF

● Mr. CANNON. Mr. President, it will not seem like the same Senate without the wisdom and counsel of ABE RIBICOFF to call upon. As a former Congressman, Governor, and Cabinet Secretary before he came to the Senate, ABE brought a wealth of experience and judgment with him.

Although we did not work together as committee members, I looked to him for leadership on many issues. His insight and integrity were obvious to all of us who had the pleasure to serve with him, and his position will not easily be filled.●

TRIBUTE TO MIKE GRAVEL

● Mr. CANNON. Mr. President, in MIKE GRAVEL the Senate had a true maverick. Although not a breed appreciated by everyone, it is one I, as a resident of a State where mavericks are respected, had a fondness for.

This would be an awfully dull place if it were not for the MIKE GRAVELS who are not afraid to ruffle a few feathers to get things done as they see fit. It may be that his disinclination to go along with the pack was the trait that cost him reelection, but at least he can say he never changed his ways to suit the passions of the moment. That is a greater testimonial to his character than many of the platitudes that will be said about departing colleagues. He will be missed.●

J. STANLEY KIMMITT

● Mr. HARRY F. BYRD, JR. Mr. President, as this Congress draws to a close, I want to pay tribute to the splendid work which has been done over the years by the outgoing Secretary of the Senate, Stanley Kimmitt.

When Stan Kimmitt first came to the Senate in 1966, he already had completed a distinguished career in the U.S. Army, reaching the rank of colonel. Since that time, he has served the Senate with the diligence and dedication which are part of his character, and the Senate has been the better for it.

Born and raised in the ranch country of Montana, he entered the Army as a young man and quickly rose to distinction. During his career, which included several significant commands, he was awarded the Silver Star, the Legion of Merit and the Bronze Star-V with a three-oak-leaf cluster.

At the conclusion of his years in uniform, he determined to continue his public service here in the Senate, working closely with his fellow Montanan, the distinguished former majority leader, Senator Mike Mansfield.

Four years ago he assumed the duties of Secretary of the Senate, and in that post he has consistently displayed an unfailing courtesy, a great talent for organization and a total dedication to duty.

As Stan Kimmitt prepares to turn over the duties of his office, I want to take this occasion to join my colleagues in saluting him and wishing Stan and his fine family all of the best in life in the years ahead.●

REMEMBERING JAMES C. KELLOGG III

● Mr. BRADLEY. Mr. President, all of New Jersey mourns the sudden passing of one of its finest citizens and I am saddened at the loss of someone I am proud to have known as a friend.

James C. Kellogg III was a leader in the business community as a senior partner of Spear, Leeds, & Kellogg. Jim became, at age 21, the youngest member of the New York Stock Exchange and rose to chairman of its board of governors in 1956. He also served as president of the Association of Stock Exchange Firms, the forerunner of the Securities Industry Association.

As active as he was in the business community, he will be even more remembered for his devotion to public service. For 25 years Jim served on the board of the Port Authority of New York and New Jersey, including a term as its chairman from 1968 to 1974. Most recently he chaired the Port Authority's port planning committee where his vision of New Jersey's future guided innovative port development plans. He also served on the board of PATH.

Jim Kellogg's special insights also guided the operations of City Federal Savings and Loan Association of Elizabeth and City Financial Corp. of Somerset in New Jersey as a member of their boards of directors and he served the latter as chairman. He also served on the board of New York City's East River Savings Bank.

Health care held a special interest for Jim. He established the J. C. Kellogg Foundation which has provided many deserving students with financing for their medical education. He also served as a trustee of Point Pleasant Hospital, an honorary trustee of New Jersey's Childrens Specialized Hospital and New York's Hospital for Special Surgery.

He will be missed by his wife, Elizabeth, his outstanding four sons, Jim, Peter, Richard, and Morris, and by the many whose lives were touched by his.●

TRIBUTE TO FRANK NORDY HOFFMANN

● Mr. BRADLEY. Mr. President, during my first 2 years in the Senate, Nordy Hoffmann has provided me with invaluable assistance in carrying out my responsibilities as a U.S. Senator. I know my colleagues have equally benefited from his dedication to the tradition of the Senate and his diligent approach to its efficient operation. His innovative ideas and gracious manner have enhanced the administration of the support activities of this institution.

His constant availability and willingness to offer advice has been a great source of strength to me and my staff. Nordy has increased my understanding of the legislative and administrative aspects of the Senate and made my first years in the Senate memorable and pleasant ones.

As Nordy Hoffmann embarks on a new career in the private sector, I am sure his accomplishments will be as significant as they were here in the Senate. I would like to wish him every success in this endeavor. He will be sadly missed.●

TRIBUTE TO MURRAY ZWEBEN

● Mr. BRADLEY. Mr. President, while there are many staff members who are important to each of us as individual Members, there are few who are as important to the body collectively as our Parliamentarian, Murray Zweben.

He has served this body diligently since 1956 and has risen from Second Assistant Parliamentarian in 1963 to Parliamentarian in 1975.

As a freshman Senator who has filled a substantial number of hours in the last 2 years presiding over this body, Murray has offered special help and guidance. Both he and his predecessor, Dr. Floyd Riddick, have also given generously of their time to me to explain the intricacies of the Senate rules and procedures.

As the 96th Congress comes to a close I would like to express my personal thanks to him for his patience and generous assistance during the past 2 years.●

TRIBUTE TO J. STANLEY KIMMITT

● Mr. BRADLEY. Mr. President, I wish to offer my sincere thanks and appreciation to Stan Kimmitt, not only for the professional and efficient manner in which he has served the Senate as its chief administrative officer, but for his assistance to me as a junior Senator.

Stan has served this body with distinction since 1965, first as administrative assistant to majority leader Mike Mansfield, then as secretary for the majority of the Senate, and for the last two Congresses as Secretary of the Senate.

Prior to his service to the Senate, Stan had an outstanding career in the U.S. Army where he was decorated with both the Silver and Bronze Stars.

The administration of the Senate floor and all of its support services is a major undertaking. Stan Kimmitt has truly "managed" that system efficiently and with great consideration for each of the Members of the Senate. For his assistance to me—and to all of us—I thank him.●

THE JOB OF BATH IRON WORKS

● Mr. COHEN. Mr. President, development of a strong national defense posture requires a sound working relationship among the various components of the military community. We need quality personnel, good planning, and the best possible equipment.

The services need to know that they will be supplied with the material they need, when they need it. And they need to know that the equipment being delivered by defense contractors will do the job it is being relied on to accomplish.

One contractor stands out above the rest in meeting these criteria. That contractor is, I am proud to say, a Maine firm, Bath Iron Works.

The Christian Science Monitor, in its December 9 edition, had an article about Bath Iron Works. The article, "Bringing a Ship to Life," captured the qualities of competence, enthusiasm, and hard work which have made BIW a paragon in its field. One paragraph, in particular, tells the impressive Bath story:

> Pride of shipbuilding has been Maine's heritage for 300 years. It accounts for the storied quality built into the ships Bath Iron Works produces. Combined with expert management, it explains why this yard, which dates back to 1833, is turning out these FFGs—"fast frigate guided"—3 months in advance of schedule, below the agreed-upon price even with inflation, and without one financial claim against the United States government. So far, the savings to the U.S. Navy from these early deliveries are big enough to buy a good portion of another FFG. Shipbuilders from all over the free world keep coming here to find out how Bath does it.

So that my colleagues have a better understanding of "how Bath does it," I ask that the full article be printed following this statement.

The article reads as follows:

[From the Christian Science Monitor, Dec. 9, 1980]

Bringing a Ship to Life

(By Emilie Tavel Livezey)

Bath, Maine.—On any day that the famous Bath Iron Works sends a new warship down to the sea for trials, the air in this shipyard on the Kennebec River is electric with excitement. It's the acid test of every wire and weld, every bolt and bulkhead that has gone into her.

But on a cold, crystal morning following the season's especially beautiful first snowfall, standing at sunup on the still unshoveled deck of a guided missile frigate as she slips her moorings and sweeps downstream, the feeling on board among the several hundred men and a few women who helped build her is sheer exhilaration.

Pride of shipbuilding has been Maine's heritage for 300 years. It accounts for the storied quality built into the ships Bath Iron Works produces. Combined with expert management, it explains why this yard, which dates back to 1833, is turning out these FFGs—"fast frigate guided"—three months in advance of schedule, below the agreed-upon price even with inflation, and without one financial claim against the United States government. So far, the savings to the US Navy from these early deliveries are big enough to buy a good portion of another FFG. Shipbuilders from all over the free world keep coming here to find out how Bath does it.

The USS *Clifton Sprague* is one of a completely new class of 54 ships being built for the Navy here in Bath and at Todd Shipyards' two yards on the West Coast to replace with something far better the redoubtable old destroyers from World War II that are now being phased out of service.

The sophisticated *Sprague,* computerized and bristling with automated weaponry, is the sixth of the new breed to be completed by Bath, with a dozen more to be built here under the present contract. On this brilliant winter day when she is to be put through her paces, the view from her fantail is spectacular.

As sunshine breaks over the high hills that hedge this river, the freshly fallen snow glints from every rock and evergreen. As we run the 12 miles down to the mouth of the Kennebec, the twisting channel snakes us past plateaus crowned with handsome farmhouses. It squeaks us through passages so tight we could knock off a front porch if we aren't careful. It carries us past white spired churches and old frame lighthouses, until at the mouth we pass Fort Popham, a deserted granite landmark. Nearby, the Popham Colony built the first merchant ship in North America 13 years before the Pilgrims landed on Plymouth Rock. Then they sailed right back to England. One Maine winter was quite enough.

All this is more than just history and striking scenery. It's Maine's magnet that draws even overqualified college professors, schoolteachers, and other highly educated people to become well-paid welders, pipefitters, and such for BIW.

As a huge flock of black eiderdown ducks flutters across our bow, our land legs feel the first long ocean swells and we enter the open sea.

Incredible as it sounds, a watch has been set on the bridge of this 445-foot, 3,700-ton man-of-war to look out for lobster pot markers. Port Captain William L. Rich, a reserve naval officer in command of the ship today, explains with a grin that you can get into a mess of legal snarls if you tangle with lobster pot lines.

So we're heading 20 miles out, clear of fishermen's boats and floats, where we'll run up and down the coast all day and half the night pushing the *Sprague* to her limits, testing her seaworthiness and ability to perform to Navy specifications.

These are called shipbuilder's trials. At considerable expense, Bath Iron Works conducts its own dress rehearsal tests to prove to itself and Navy representatives on board that all the complex mechanism and electronic wizardry on what has been called "the Stradivarius of destroyers" works correctly on command. Before taking custody of the ship, the Navy will conduct independent ("preliminary acceptance") sea trials of its own to make sure taxpayers are getting their money's worth.

In today's tests, the *Sprague* is firing only dummy weapons from the completely unmanned missile launcher on its bow and antiaircraft gun on top of the ship's superstructure. The Navy's own climactic test, reserved alone for the lead ship of this class, the USS *Oliver Hazard Perry*, also Bath built, was a baptism by real fire to simulate a near miss. Called an "underwater shock test," it was a series of remotely detonated large explosions with live ammunition which came closer and closer until the final bang occurred right alongside the *Perry*, which had her full crew on board.

The ship's ability to wage war after these explosions was not seriously impaired. Navy spokesmen termed the test "immensely successful," especially when compared to that of other ships of different classes.

The game plan for today is for a BIW-hired plane and helicopter to rendezvous with the *Sprague* at sea so that its radar can track them, and its gunnery personnel in the ship's combat information center can test the accuracy of the weapons systems.

The empty missile launcher stands bolt upright, as rigid as a tin soldier. The helicopter comes into view. Before you can bat an eyelash, a blue missile shoots up into place in the launcher and points skyward. "If it's blue," I'm assured, "it's not real." Suddenly the launcher gives the missile a jerk, yanks it into firing position and aims it to starboard, over the bow to port, then, oooh! straight over us in the pilothouse. Blue or not, at that moment it looked very real indeed.

Then just as instantly as it had appeared, it vanished, dropping down into one of the two revolving circular magazines where 40 missiles are stored, standing on end with their pointed warheads upright like sharpened pencils in a box.

"The best thing about the fire power on this ship is not how much there is of it, but the speed with which it can react to an incoming threat," US Navy Commander Andrew J. Combe observes He is scheduled to take command of the next FFG to come down the BIW skids.

"That's all tied up in the fire-control system which can detect a target, track it, generate the proper fire-control solution, and determine the right direction in which to shoot the gun or missile in order to intercept the target at the weapon's maximum range, that is, as far away as possible from the ship. That's a very advanced system. Fast reaction is the name of the game. We can react in a hurry to any threat. We have a lot of electronics to aid us in that process." He says the *Sprague* is "much more responsive than any other ship I've ever seen."

The control console on the bridge of an FFG is at least as complex as that of a Boeing 747 jet. As gunnery and missile practice continues, Captain Rich explains what the amazing array of dials, switches, knobs, and lights mean.

"Push that button," he orders this reporter.

With a mental, "Aye aye, sir," this writer becomes the first woman in US naval history ever to activate all 12 of an FFG's windshield wipers. (Women are not permitted by law to serve on the Navy's combat ships). The place goes crazy with flip-flopping blades and shooting sprays of water until the knife edge of the 180-degree far horizon springs back into view.

"You're combat ready now," one wisecracker quips.

Unlike the grueling sailing vessels of the past, where sailors hung onto yardarms with their eyelashes, this is a ship for which men of iron need not apply. Fingertip steering has gone to sea.

Conspicuously absent from this late 20th-century pilot-house is the traditional 36-inch mahogany helm. Replacing it is an absurd little three-inch-diameter wheel on the console that any four-year-old could easily twist. The helmsman on duty today is guiding this powerful vessel with the thumb and third finger of his right hand.

And do our eyes deceive us or do we really see seat belts on the two bolted-to-the-floor swivel chairs before the console? They're there, all right. And when the *Sprague* begins going through her handsprings—quick reversal astern from full speed ahead, quick reversal ahead from full speed astern, each in less than a minute—we can see and feel why.

When the Sprague is at full power ahead, it can come silently to a rapid halt within three of its own lengths. Though hardly a fair comparison, it takes an aircraft carrier three miles to stop dead in the water. The Sprague and her sister ships can circle so sharply they can turn within their own length.

What gives an FFG its incredible speed of response and ease of operation compared with the old destroyers are its aviation-type engines. Replacing the steam boilers, turbines, and miles of hot piping that turned engine rooms into an inferno are two General Electric LM 2500 gas turbine engines, similar to those in Boeing 747 and McDonnell Douglas DC-10 jets, that have been adapted to marine use and consume a refined distillate of diesel oil similar to that used for heating homes.

The old destroyers were remarkably maneuverable, as much so as these new ships. But they took forever to get under way. If a captain wanted to shove off at 8 in the morning, the boiler crew had to start warming up the pipes at 4 a.m. These new engines are ready to roll in 10 minutes—a giant advantage in case of emergencies.

The new engines, which produce about 20,000 horsepower each, can be operated singly or in tandem. If one fails, the other can carry on. If either needs to be repaired, it can be disconnected and plucked from the bowels of the ship by a tender's crane and another engine slipped into its place. This can be done in 24 hours. Overhauls on the old steam-driven destroyers put the ships out of commission for weeks on end.

Gas turbine engines also occupy much less space than steam engines, thus saving on cost of ship construction.

With each engine enveloped in its own soundproofed module, they purr along with such relative quiet that what used to be the noisy boiler rooms of the old destroyers, which had two propeller shafts and two boilers manned by 20 men, have disappeared. In their place is a cool, quiet, immaculate, livable central control station (CCS) that looks more like an office than a ship's engine room, and which can be operated with no more than two to four people. This model comes with mint green walls, daffodil-yellow light fixtures, and mouse-gray floors.

And why not, asks William Lowell, also a reserve naval officer, a graduate of the Maine Maritime Academy, and chief engineer of BIW's shipyard in charge of the CCS for these trials.

"This is the new Navy!" he exclaims. "Do you realize that 365 days of the year for probably the next 25 to 30 years this space is going to be manned? Good surroundings are conducive to good performance."

There are no windows in this small room aft of the engines and one level below the main deck. But it's loaded with consoles that give an exact mental picture at any given moment of everything that is happening on board pertaining to operation of this self-sufficient floating community.

One console regulates the speed of the engines on command from the bridge. Another controls generation of the ship's electrical power. A third governs distillation of the seawater to make it potable, maintains water pressure for fighting fires, and operates the ship's nonpolluting sewage system.

"Picture this as an information center," Mr. Lowell suggests. "Thousands of pieces of information from sensors all over the ship are being constantly fed to us, and we are monitoring that information.

"I'm getting temperatures, pressures, speeds. If a tank of oil begins to get empty or a tank of water begins to fill up, I know about it instantly. We know what our consumption of fuel and electricity is.

"If any of that information shows there is an abnormal condition, we get audible alarms. A siren or bells give us warning. And a flashing red light shows us where the problem is."

For example, he says, "We have a room for keeping food frozen. I want to know how cold it is in there. I don't want to thaw the meat. What if that broke down and I wasn't there watching it? I'd starve the whole ship. I can dial 830 on our digital computer and it tells me that we have 3 degrees F. in the freeze box. I'm pretty happy with that. But I don't really have to do that. If the temperature started going up, this light would flash on and tell me I was in trouble. Then I'd take a man here and say, 'Go take a look at the meat box.' "

On one side of the central control station is a computer printer. "Every hour, whether we want it or not," Mr. Lowell says, "it churns out about 1,000 pieces of information, a printed record of everything the ship is doing."

It's the centralization of all these vital functions that makes the FFGs more efficient than the old destroyers. The latter had gauges and warning signals, too, but they were scattered around the ship at the site of each individual piece of equipment. Hence many more men were needed to monitor the large number of systems such a warship includes.

For the helicopter and weapons tests, we needed 25 knots. Now that they are completed, what we are doing is slowly building up our engine power to 40,000 hp. "This becomes very important to us," Chief Engineer Lowell explains, "because we are really bringing the ship alive for the very first time, and it is a very difficult task. There are a lot of things to watch. A lot of gremlins can sneak into different systems. And we've got to get up to more than 30 knots." How much more is the Navy's secret.

In addition to her aviation-style engines, what gives the *Sprague* her great responsiveness is her variable pitch propeller. The old destroyers had fixed propeller blades attached to their drive shafts. To go forward, the propeller was turned in one direction. To thrust the ship astern, the turbines and shafts had to come to a full stop. Then the shafts had to be turned in the reverse direction.

The new FFGs have only one drive shaft, but it is the largest on any single propeller ship in the Navy. It's about 160 feet long and 14 inches in diameter and has blades that turn separately from the hub so that whether the ship is moving forward or backward, its propeller shaft continues to turn in the same direction. To change the ship's direction, all the central control station has to do is reverse the pitch of the blades.

"Up to 15 knots," explains Captain Rich, "to increase the speed of the ship, we change the angle of the blade. The blade cuts deeper into the water just like cutting into a piece of wood with a bit and screw. You just change the angle of the blade. It digs deeper and the ship goes faster. From 15 knots and up, the engines' rpms [revolutions per minute] have to be increased to make the ship go faster."

Standing today at the propulsion console, I wonder if the small black handle on the throttle would fit neatly into the hand of, say, a Wellesley, Mass., housewife. So I stretch forth my right hand, grasp it, and sure enough, it does. To say that reaction to this move is panic might to too strong a term. Still, there is much sucking in of breath in the crowded CCS, and Mr. Lowell blurts out: "No, no! Don't touch! You'll slow the ship down!"

He swiftly regains his composure—as I remove my hand from the controls—and continues: "Right now we are commanding 15 knots and we are getting 15 knots. But we don't even need oral communications from the captain. When he flips the black needle on a dial on the bridge, the corresponding dial down here shows that. We acknowledge the signal by flipping the red needle under the black one to show him we are in agreement. There's an awful lot of interplay of electronics here. Now you wait a minute," he adds, "and I'll let you move that throttle."

For a few towering moments, this reporter is in supreme control of the Sprague's propulsion, effortlessly edging her speed up and down at Mr. Lowell's bidding. It is more fun than driving a car, even if I can't see where we're going, and a lot easier.

We have a light sea going today. And as the ship moves faster through the water, we begin hitting four- and five-foot waves. The ship wants to work a little, and even here in our cocoon we can feel the motion of the accelerated speed.

"We are looking at a marvelous collection of shipbuilders here," Mr. Lowell remarks, looking around him at the BIW personnel on board. "My job is easy because of all the talent that stands behind us in the shipyard. We are blessed with good people. They have good attitudes, real positive-type thinking, and pride of workmanship. It is very refreshing to see people who care, who try hard."

BIW is cranking out these guided missile frigates at the rate of one every three months, or four a year. Together with another four coming out of Todd's two yards every 12 months, that's about half the number of all ships being built this year.

Until recently, Bath's proclivity for finishing ahead of schedule meant it was turning out vessels faster than the Navy could provide the highly skilled crews required to man them. But Washington has learned to live with this problem, a far more welcome one than the trouble it is having with the first of its Trident missile submarines at Groton, Conn., which is two years behind schedule and $200 million over original estimates.

By eliminating nonessential elements of its 19-month training program, the Navy is managing to keep crew arrivals in step with frigate deliveries. The cream of its officers as well as its new recruits are being assigned to these fast ships.

"The crews who report for duty aboard these ships are of the highest quality," reports US Navy Capt. Charles L. Mull, supervisor of shipbuilding, conversion, and repair at Bath Iron Works. "They are extremely interested in what they are doing, are motivated and anxious to learn everything possible about their jobs."

Captain Mull's staff of nearly 200 civil service personnel are resident at the BIW. They keep a constant watch over the shoulders of Bath builders to assure that quality remains high. A spirit of mutual respect and teamwork between bath and Navy personnel aids in solving engineering problems as they arise.

The first FFG ship cost $92 million. Aside from the fact that this price included many nonrecurring costs, including design costs, the speed with which Bath turned out the first "flight of ships" in this new class cut the cost to $52 million each in 1975 dollars. Even with inflation about 10 percent a year, the price Bath is now asking for these warships is about $70 million. But by the time the Navy finishes fitting out an FFG with electronic and weaponry systems, the overall cost climbs to $200 million.

THE GREAT TECHNOLOGY GIVEAWAY

● Mr. COHEN. Mr. President, the lack of adequate controls on the sale of high technology to the Soviet Union is of great concern to me. In September of this year, Senator JACKSON and I held hearings on S. 2606, legislation that would establish an Office of Strategic Trade. The objective of this bill is to remove the authority for export licensing from the Commerce Department, where there is a conflict between the goals of trade promotion and the restriction of trade that is detrimental to our national security.

I was disturbed to hear that the Carter administration, which suspended high-technology sales to the Soviet Union as a result of the invasion of Afghanistan, plans to resume previous levels of sales if the Soviets withdraw.

I encourage the new administration to recognize the seriousness of this problem, and I look forward to examining appropriate solutions during the coming year.

Mr. President, I would like to call to the attention of my colleagues a recent article which appeared in the Washington Star, entitled "The Great Technology Giveaway," by Arnaud de Borchgrave and Michael Ledeen, and ask that it be printed in full in the RECORD.

The article reads as follows:

THE GREAT TECHNOLOGY GIVEAWAY

(By Arnaud de Borchgrave and Michael Ledeen)

For nearly two decades, the West has been financing two separate defense budgets—its own, and a steadily increasing part of the Soviet bloc's.

Some of President-elect Ronald Reagan's closest advisers insist that the new administration take the lead in establishing more stringent controls on the flow of information and advanced technology to the Soviet Union and other Warsaw Pact countries. But even though Reagan's counterparts throughout NATO and Japan agree with the diagnosis, they will be reluctant to reduce high-technology trading with the communist nations.

In one of his most oft-quoted remarks, Lenin predicted that the capitalist countries would some day provide the Soviet Union the rope with which it would hang the West. And today, in the words of Senator Henry Jackson, "Our export control system is a shambles. The United States and its allies have been selling the rope to the Soviets. What we haven't sold, we have been giving away in educational, governmental, and technical exchange programs. What we haven't sold or given away, they have been stealing."

In the last 10 years alone, Western countries have sold the Soviets $50 billion worth of goods, including machine tools, power lines, sophisticated technology that has gone into missiles and tanks; command, control and communications systems; spy satellites and radar. The Russians have also been able to purchase "turnkey" factories, designed and built by Western companies and financed with Western credits, that produce part of their military stockpile.

Restraints on Western shipments to the Soviets have weakened markedly in recent years. In part, this is because the persons and institutions that are supposed to regulate this traffic are generally ill-equipped to judge the possible impact of technology transfer, in part, because of a blind faith in the virtues of East-West trade.

Last year, for example, Datasaab of Sweden sold the Soviet Union an air traffic control system that is able to detect any kind of airborne object (even if there is no radio signal), and can determine if the object is a hostile aircraft or missile. The Datasaab system can calculate the flight path of the object, and predict its location at a specific moment in the future. In short, the "air traffic control system" sold to the Soviet Union has characteristics uniquely suited to military purposes. This Swedish system—destined for Moscow airport—contains American integrated circuitry and was sent to Moscow with American approval; though some Pentagon officials expressed concern.

In 1972 the U.S. government approved the sale of 164 Bryant Centalign-B grinders to the Soviet Union. These machines manufacture tiny ball bearings to remarkably precise specifications—one 25-millionth of an inch. Such ball bearings are indispensable for advanced missile guidance systems. The Russians had first requested the Bryant system in 1960, and the Eienhower administration approved the sale. President Kennedy's experts concurred the following year, but Kennedy cancelled the sale after a congressional investigation highlighted the enormous military potential of the technology. One expert told the Senate that, "Our manufacture of these small devices is no secret—but the capability to do it well and economically has taken years to develop and should not be sold to a potential adversary . . . The situation is not one of selling our adversary a club, but machines which help to produce better clubs faster and cheaper."

Then years later, the Russians finally obtained approval from the Nixon administration, on grounds that the Bryant technology could allegedly be duplicated by other countries, such as Switzerland. (This crucial decision was arrived at following a 24-hour round trip to Switzerland by American technicians.)

The $20 mililon deal was a bonanza for the Soviets, for it enabled them to produce a new generation of highly accurate ICBMs. The United States now faces the possibility of having to spend tens of billions of dollars to defend its own land-base missiles against this new Soviet threat. "It is hard to believe," Lawrence Brady (former deputy director of the Office of Export Administration) told a Senate committee, "that machines comparable in quality and scale of production could have been acquired elsewhere, when the Soviets waited 11 years for Bryant to obtain an export license."

TRUCKS FOR AFGHANISTAN

In both of these cases, it might have been argued that American officials simply failed to see the military potential of the sales to the Soviets. But even when the military implications have been all too clear, the American government—like those of other Western countries—has failed to move. In 1977, for example, the Americans learned that many missile launchers were being produced at the Zil truck factory in Moscow, and that thousands of Zil trucks were being sent to military camps. Earlier, the Zil-131 truck was used in Vietnam to move material down the Ho Chi Minh trail. Yet the United States continued to license sales of computers, computer parts and even a laser system for use by Zil at both its truck factory and its laboratory in Moscow. At the same time, American experts were able to establish that trucks from the massive American-built Kama River project were being used for military purposes, and here again there was no action to stop licenses for further support. American participation in the Kama River project was suspended when Kama trucks were found involved in the Soviet invasion of Afghanistan.

A BRAIN-DAMAGED SPIDER

The Kama and Zil cases showed the failures of one of the major theories of detente—that the Soviet Union would become enmeshed in a network of agreements and interlocking interests with the West. Instead, in Senator Jackson's words, the Carter administration "behaved like a brain-damaged spider caught in its own web, unable to extricate itself."

Other Western countries have behaved with similar lack of sensitivity. The West Germans exported computer-controlled, multiple performance machines to treat titanium—thus facilitating the development of the most modern generation of Soviet missiles and the new monster submarine that is almost twice the size of the American Trident. And when the United States tightened export controls after the Soviet invasion of Afghanistan, the French announced plans to have their leading steel manufacturer, Creusot-Loire, build a $350 million electric steel plant in the Soviet Union. This so enraged the Americans that Creusot-Loire steel alloys with more than 2.5 per cent nickel have been banned in the United States (on the grounds that the nickel comes from Cuba, still subject to a general American embargo).

WHO BENEFITS MORE?

The rationale for the Western contribution to Soviet technology has been explained by Fiat's chief, Giovanni Agnelli: "It is impossible to prove—with the exclusion of a few high-technology areas—that East-West trade adds more to Soviet power than it contributes to the well-being of the Western economies." Officials in most European ministries of foreign trade, and the U.S. Commerce Department, seem to agree. But many military experts tell quite a different story.

Dr. Miles Costick, president of the Washington-based Institute on Strategic Trade, testified that, "seldom, if ever, has a country been able, as the Soviet Union has, to persuade the countries against which most of its military buildup is directed to finance so much of such a buildup."

And a striking number of emigres and defectors from the Soviet bloc report that Western technology is crucial to the growth of Soviet power, to the long-term detriment of the West. Dr. Igor S. Glagolev, a senior research member of the Soviet Academy of Science until October 1976, when he was granted asylum in the United States, has said that, "Soviet society would be confronted with intolerable strains without all the assistance they have received from Western countries."

OPENNESS EXPLOITED

First of all, the Soviets exploit the notorious openness of the West—particularly in the detente period—to obtain the secrets of Western industry. For example, roughly 80 per cent of all requests to the American government under the Freedom of Information Act regard industrial and scientific information. Some of these requests come from the Soviet bloc. Various federal departments are deluged with requests regarding patents, manufacturing methods, and engineering designs, and they often have no way to check the true source of the requests. "When I think of the hundreds of bits of information I release each year," a top Pentagon official remarked, "I shudder to think about the overall picture the Russians are able to obtain of our activities."

Soviet experts attend Western scientific conferences, take highly specialized courses in Western universities, and have access to advanced research projects in Western laboratories. But Western researchers have no such opportunities in the Soviet Union. Indeed, a comparison of the research projects of the 45 graduate students and "young faculty" from the Soviet Union and the United States studying in each others' country in 1980 tells volumes about the advantages to the Soviets. Almost all the Soviet projects are highly technical in nature (including such subjects as "interaction of ions and plasma with solid surfaces," "automatic control as applied to space ships," and "principles of analog computer design," along with such interesting topics as "research on the U.S.-Middle East policymaking process using official U.S. and Israeli government documents"), while the American scholars in Russia are working on almost exclusively humanistic subjects like "Soviet Tort Law," "A Comparative Semantic Analysis of Verbal Aspect in Russian and Serbo-Croatian," and "Musical Genres in Russian Music."

"POTEMKIN COMPUTER"

In addition, of course, the Soviets use a panoply of techniques to stir up enthuciasm for East-West technology transfer. For example, in mid-1972 the Russians put on an exhibition of their latest computer hardware—the so-called RYAD series—in Moscow. According to Eugene Douglas, a top executive of the Memorex Corporation: "Much of the equipment was not operation ready. Some models were no more than empty shells, dummy machines displayed for effect." These "Potemkin computers" were intended to serve two purposes. First, they were meant to convince Western companies that there was—in the Soviets' own slogan—an "enormous untapped Soviet computer market." Second, they were meant to suggest that the Russians had made such great advances in computer technology that there no longer were national security grounds to deny them our own computer technology.

BUYING UP COMPANIES

The Russians have even begun to buy controlling interests in Western companies in such sensitive areas as electronics. One of these is Unitronex, located in Des Plaines, Illinois. Unitronex is partially owned by a Polish computer-electronics complex known as Unitra, and deals with some of the most advanced computer technology available in America today. According to sources in the Pentagon, companies like Unitronex can gain access to advanced technology that might well be denied for export.

There are now over 25 of these companies in the United States, a development that reportedly prompted a paper on the subject by the National Security Council this summer. When the NSC study was subjected to an inter-agency review, the Pentagon urged that the names of these companies be published so that everyone would know who they were. But the State Department suggested that the U.S. government refrain from interference, and stressed the importance of good overall relations with the Soviet Union. There is, of course, nothing illegal about this device of the Soviet bloc: American companies with foreign communist shareholders are permitted to do business just like any other American firm.

THE ENERGY-AID DEBATE

One of the basic themes of Soviet propaganda in favor of access to Western high technology is that such access could help the Russians develop their own energy supplies, thereby lessening the temptation to launch a military strike in the Persian Gulf. This has been one of the central themes in the debate over the so-called "Dresser deal."

In 1978 Dresser Industries of Dallas, a leading manufacturer of oil drilling equipment, obtained export licenses for a $144 million "turnkey" project for a plant to manufacture oil drilling rock bits, and for a computer-controlled electron beam welder that could be used in manufacturing the bits. The licenses were approved by both the Commerce and Defense Departments, but Senator Jackson's Permanent Subcommittee on Investigations challenged the Carter administration decision. In testimony before Jackson's Subcommittee in October 1978, Dr. J. Fred Bucy, chief executive officer of Texas Instruments, identified the central question: "There is no policy as to whether the United States considers it to be a good thing or a bad thing to help the Soviets develop their energy resources. Until that decision is made, it seems to me that we need to preserve the option, either to help them or not help. It is my personal feeling that if this drill bit factory goes through, we have, in essence, given that option away."

The Carter administration postponed final approval of the Dresser deal for two years, and the matter was apparently resolved shortly after the presidential elections when National Security Adviser Brzezinski—speaking for the president—announced that the Dresser factory should not be built for the Soviets.

Carter's decision leaves the basic issue unresolved; President-elect Reagan will have to address the broader question of whether the West wishes to assist the Soviet energy program.

U.S. PLEADS "SPECIAL CASES"

There is an international organization for controlling exports to the Soviet bloc, known as COCOM—the Coordinating Committee—that includes Japan and all NATO countries except Iceland. COCOM lists certain technologies that cannot be sent to the Soviet bloc without the granting of an exemption. Prior to the Carter administration most of the exemptions were granted to West European countries. In recent years, however, the United States has accounted for more than 60 percent of the special cases, thus making it difficult for the United States to demand a tougher stand from the allies. While exports to the East account for only a small percentage of American foreign trade, they are far more significant to the Europeans.

A current issue is presented by West Germany's swap of technology for Soviet natural gas. The Soviets are attempting to involve most of Western Europe as part of the package which amounts to some $12 billion. A group of Belgian banks is now negotiating with the Soviets for a $1 billion line of credit, and the country's largest bank—the *Societe Generale*—has asked the Belgian government to guarantee the credit. The Soviets would use these credits to buy pipe and pipe-laying tractors of extraordinary size (currently under negotiation with the Caterpillar Corporation in Washington), and other equipment. Repayment would be in the form of Soviet natural gas.

If this package goes through, West Germany will eventually come to depend upon the Soviet Union for 30 percent of its natural gas, while the Soviets will have all the technology necessary to develop their own resources, and even to build a pipeline into the Persian Gulf area. This will make it more difficult for the new Reagan administration to convince America's allies of the urgency of strict controls over future technology transfers, for the Russians will have acquired considerable leverage over Western energy supplies.

The president-elect is known to favor a policy of linkage with the Soviets, and technology transfer is slated to play a major role in this policy. Reagan hopes to be able to reduce Soviet adventurism in the Third World by withholding sophisticated technology unless the Kremlin behaves acceptably.

But there can be no linkage without full cooperation by all members of COCOM; so technology transfer must be rated a potentially divisive issue for the new president.●

TRIBUTE TO J. STANLEY KIMMITT

● Mr. WALLOP. Mr. President. Stan Kimmitt, our departing Secretary of the Senate, is a fine man. We in the Senate were fortunate to have his services. The office he ran was efficient and courteous, and Stan Kimmitt himself led by his example those who made it so. It was a trademark of the Secretary of the Senate's office that all Senators were treated alike without partisan bias.●

THE "LAMEDUCK" SESSION

• Mr. WALLOP. Mr. President, the Senate of the United States has a great reputation as a classic debating arena and a responsible deliberative body. For the most part, that reputation has been earned and sustained by giants of American political intellect and by great historical issues settled in the peaceful combat of ideas and words.

Alas, Mr. President, the closing battle of the 96th Congress—the lameduck battle—while not perhaps destroying our reputation, surely took an enormous pillar from under it. It totters, and it should.

I refer to the Senate "victory" over the House and the restoration of the pay cap. Oh yes, Mr. President, I opposed a congressional pay raise at this time too, but not at the expense of three quarters of a billion dollars or more. How grown men can posture so is incomprehensible. In order to look heroic in the eyes of Americans, some gave forth in stern and self-sacrificing speeches with high principle oozing from every line. "The Senate prevailed. We won a great victory! The House capitulated!"

How shallow and how fraudulent. We won no victory, Mr. President. We bought affection and admiration we did not deserve with the tax dollars of Americans, indeed, those very same Americans deceived by the high-minded speeches.

How were they deceived? Quite simply, Mr. President. The Senate put up the pay raise as the only visible argument in contention. They captured the imagination of the press and the public alike. We were willing to risk bringing the Government to a halt to fend off those dastardly numbers in the House who sought to increase their compensation; and, in the 11th hour, we won.

For its noble victory the Senate gave up between 700 million and a billion dollars worth of savings contained in the resolution, and yes, we also gave up the postponement of certain vengeful regulations due to be implemented by the outgoing administration. Among these were new grazing regulations and relief for sand and gravel operators from the ill-advised mass application of MSHA's rules. These regulations and others will consume not only the time of the new Congress—time which should be spent dealing with the new programs of the incoming administration in rescuing an ailing economy and a defense machine in disarray—but will cost additional millions of dollars to hold hearings and publish revisions.

Mr. President, if the country wants relief from the mad dogs of Congress who seek to raise their own compensation, should they be asked to pay such a price? Nine hundred million dollars for us to appear brave and responsible is a price most citizens would deem too high.

Consider what the pay raise would have cost. Forty-two million dollars out of a budget in excess of $630 billion. Consider too, that responsibly we are going to have to make adjustments, if not for ourselves, at least for the senior levels of Government service. If Government cannot attract and retain highly qualified men and women, it will only get worse. How can anyone ask these people to leave civilian life in America's private sector and shoulder even for a short time the task of aiding a sick America if they are to be asked to make major financial sacrifices? The answer is obvious. We expect no such thing.

Thus, have we not only given up the savings of nearly a billion dollars for this momentary victory, but we have postponed the inevitable decision that will restore the $42 million at least in civil service. So the Senate's victory so proudly proclaimed was a political fraud, and the public should hold the 96th Congress and its leadership accountable for it. To look noble they squandered the reputation of the Senate, but worse still, the public purse.

The lame duck lies dead. It died in shame professing glory. How typical of the era just past that a Congress felt free to buy public approval with that public's own dollars. In its last gasp that procedure was only more subtle but no less disagreeable.

Perhaps in the 97th Congress the Senate can find a way to deal with these difficult issues directly, and with a sense of honest need, honestly met. To be sure, the tombstone of the dead-duck 96th can bear no reference to honor.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM FOREIGN ORGANIZATIONS

• Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of Senate employees who propose to participate in programs, the principal objectives of which are educational, where the programs are sponsored by foreign governments or foreign educational or charitable organizations, and where the programs involve travel to a foreign country paid for by foreign governments or organizations.

The committee has received the following requests for determinations:

Senator HATCH has requested that Mr. John M. Haddow of his staff, and Senator HEFLIN has requested that Mr. Arthur B. Briskman of the Judiciary Committee staff, be permitted to accept the necessary expenses of travel to Israel from the Van Leer Jerusalem Foundation in order to attend a program in Israel on Middle East issues sponsored by the foundation from January 4 to 18, 1981; and

Senator EAGLETON has requested that Mrs. Judith Ann Ferrera of his staff, and Senator TOWER has requested that Mr. Edward B. Kenney of the Armed Services Committee staff, Senator TSONGAS has requested that Mr. Dennis Kanin of his staff, and Senator CRANSTON has requested that Ms. Susan Pitts of his staff, be permitted to accept the necessary expense of travel to Taiwan from the Tamkang College of Arts and Sciences in order to attend a program at Tamkang College on Trade, economics, and cultural issues sponsored by the college from December 28, 1980 to January 4, 1981.

The select committee has determined that participation by Mrs. Ferrera, Ms. Pitts, and Messrs. Haddow, Briskman, Kenney and Kanin in these programs, at the expense of these foreign organizations, is in the interests of the Senate and the United States.•

TRIBUTE TO F. NORDY HOFFMANN

• Mr. WALLOP. Mr. President. If ever there was the personification of a Senate Sergeant at Arms, it was Nordy Hoffmann. Compelling in stature, obviously, but compelling too in personality and efficiency. During my entire acquaintance with Nordy Hoffmann I never saw a flicker of partisan bias. He and his office were helpful, creative, and always courteous.

On top of everything else I consider Nordy Hoffmann a good friend. He was a credit to the Senate and to those who asked him to serve. I salute him as he leaves his post and look forward to a continued friendship in the years ahead.•

GEORGETOWN UNIVERSITY CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

• Mr. McCLURE. Mr. President, the Georgetown University Center for Strategic and International Studies has been at the forefront of the strategic and national security debate in the United States since its founding in 1962. Under the initial leadership of its co-founder Adm. Arleigh Burke, the Center's work has incorporated that of America's leading strategic analysts.

The Center's chairman, Dr. David Abshire, who is currently directing the National Security Group for the Transition, and Richard V. Allen, the President-elect's National Security Adviser, organized the Center's first major program entitled "National Security." It brought together an extremely wide range of thinking on the key strategic issues of the day. For example, in the lead presentation to the CSIS conference on "National Security," the distinguished scholar Dr. Robert Strausz-Hupe, stressing that "the Communists seek to attain decisive military superiority over the Western Powers", warned against overestimating the long-term impact of the success of the 1962 U.S. confrontation with the Soviets in Cuba.

In that same early 1963 conference, the noted economist Prof. Murray Weidenbaum warned vigorously of the inflationary impact of a limited war which could run "in the order of $18–$20 billion for 1967," in addition to ongoing military expenditures of over $50 billion.

Dr. W. Glenn Campbell of the Hoover Institution argued at that same conference that the U.S. Government should stick to the "primacy" of national security at the Federal level and leave domestic public services largely to the State and local officials.

This wide-ranging and indeed seminal conference was but the first of many at CSIS that anticipated critical international policy issues of vital national security interest to the United States.

A similar and equally important CSIS conference was convened on NATO in early 1964. Again Dr. Abshire, Richard Allen, and a number of well-known international figures reviewed the state of NATO's cohesion and the distinguished political scientist, Hans Morgenthau, admonished: "The Western Alliance has ceased to be an instrument for policies to be pursued in common by its members." This increasingly worrisome theme has been sounded in several subsequent CSIS studies and at conferences organized by the Georgetown Center, including a high-level study mission to Europe in early 1969, following the brutal 1968 Soviet invasion of Czechoslovakia, and a widely reported Brussels conference on NATO in September 1979. (A followup meeting of the key leaders of that conference was convened this week in Washington.)

In addition to focusing on the central European front, the Center has examined repeatedly the Soviet challenge throughout the world, particularly in the sealanes. Its 1972 work by James Theberge on Soviet Sea Power in the Caribbean, along with several subsequent studies on the same subject, were bellwethers of an issue only now reaching the top of the public agenda.

At the same time, the Center has frequently taken a hard look at the U.S.-Soviet naval balance. It published a very important study on Soviet sea power in 1969, and another one on Soviet-U.S. naval balance in 1975. Both warned strongly about the rate and quality of the Soviet naval buildup.

On the proscriptive side of this national security agenda, the Center has called for redress of the loss of momentum in U.S. military research and development and taken a leading position in arguing for compatibility among NATO armaments. Its analysis shows that NATO-wide weapons interoperability within the Alliance could realize as much as $10 billion additional defense without any spending increase. It also reissued in 1980 its basic analysis of the need for a new manned bomber (Slow To Take Offense) and its 1978 Washington Paper on aircraft carriers by John Lehman remains a key document on that topic.

The Center, as it has done in these critical areas of the past, is today focused on the cutting edge issues of America's national security. Currently its single most important studies are concentrating on "Energy and National Security," especially as they relate to the Middle East, the Caribbean, and nuclear matters.

I wish to commend the Georgetown Center on the extraordinary leadership it has demonstrated in the area of vital U.S. national security and defense.

A select list follows:

CSIS NATIONAL SECURITY RESEARCH RECORD

Ever since the Center's initial monumental 1963 study, "National Security," CSIS has had a deep and fundamental commitment to high-quality studies of U.S. defense and national security.

Its most important works in the field include early studies on:

Military Posture, eds. James McBride and John Eales, 1965

The Test Ban Treaty, James McBride, 1967

NATO In Quest of Cohesion, ed. Karl Cerny (with a forward by General Lauris Norstadt), 1965

Soviet Seapower in the Caribbean, ed. James D. Theberge, 1972

The Indian Ocean: Its Political, Economic, and Military Importance, ed. Alvin J. Cottrell, 1972

The Economics of Peacetime Defense, Murray L. Weidenbaum, 1974

World Power Assessment, Ray Cline, 1975

American and Soviet Military Trends Since the Cuban Missile Crisis, John M. Collins, 1978

World Power Trends, Ray S. Cline, 1980

NATO: The Next Thirty Years, ed. Kenneth Myers, 1980

CSIS has produced a variety of high-impact shorter works including:

Soviet Seapower, 1969; Economic Impact of the Vietnam War, 1967; Russia in the Caribbean, 1973; U.S. R&D Management, 1973.

More than a dozen Washington Papers ranging from:

The Strategic Balance, Edward Luttwak, 1972, to

Aircraft Carriers: The Real Choices, John Lehman, 1978, and

U.S. Oveaseas Bases, Alvin Cottrell and Admiral Thomas Moorer, 1977.

Numerous monographs starting with:

Soviet Nuclear Strategy, ed. Robert Crane, 1965

The Vietnam War: Its Conduct in Higher Direction, ed. General Gordon Gayle and others

The Soviet-U.S. Naval Balance, Robert Kilmarx, 1975

Slow to Take Offense, Francis Hoeber, 1977

Allied Partnership in Armaments: Transatlantic Seminar, co-chaired by Senator Sam Nunn

U.S.-European Economic Cooperation in Military and Civil Technology, 1975, and

The Allied Interoperability Newsletter (1978–present), Thomas Callaghan.●

TRIBUTE TO J. STANLEY KIMMITT

● Mr. CRANSTON. Mr. President, like so many of my colleagues, I greatly regret that the adjournment of the 96th Congress also means a close to Stan Kimmitt's career in the U.S. Senate.

Stan has been an able, loyal and dedicated officer of the Senate. During his years as secretary for the majority and then as Secretary of the Senate, he earned the respect and friendship of this entire body, on both sides of the aisle. For all of us, Stan Kimmitt has been the person to call on when we need help with the knotty administrative problems that go into the daily life of the Senate. We have all benefited from his positive, no-nonsense approach to issues and his quick, efficient answers to our needs.

Joseph Stanley Kimmitt came to the Senate in 1965, following a long and distinguished career in the U.S. Army which won him top honors and responsibilities. From being an Army liaison officer to the Senate, in 1965 Stan became administrative assistant to Senate Majority Leader Mike Mansfield—a fellow Montanan—and then secretary for the majority. In 1977, he was named Secretary of the Senate. His second career of public service in the Senate has been as distinguished and commendable as his first in the armed services had been.

Over these past 15 years, Stan has learned and mastered the workings of the Senate. He has done the hefty part of keeping the Senate running smoothly and efficiently. For this he deserves our fondest gratitude and praise. With his fortitude and ability, Stan will—I have no question of it—do well wherever his path leads next. I join my fellow Senators in wishing Stan Kimmitt the very best in the times ahead.●

F. NORDY HOFFMANN

● Mr. CRANSTON. Mr. President, in a season of tributes, Nordy Hoffmann is an easy subject. The Notre Dame All-American Senate Sergeant at Arms looks and sounds like a man to pay tribute to.

But easy targets can be deceptive. In thinking about Nordy, I am convinced that the conventional accolades may miss the bulls-eye. To me Nordy's most notable virtue is his unassuming, unaffected honesty. He is one of those rare individuals on whom the adjective "genuine" fits like a glove.

He is outspoken, candid and strong in his beliefs, yet he could never be accused of taking himself too seriously. Indeed, his humor seems constantly to break through in whatever he's doing.

I hate to see Nordy leave. As a human being, he sets a standard all of us should live by—particularly in this body where the distractions of ego and other focus of self-deceit are constant threats to sound and realistic thinking and decisionmaking. Nordy would have been a first-rate Senator if fate had so decreed—and we would all have been better Senators for serving with him.

As it is, he leaves us enriched by his demonstration that a big man can indeed be a big man.●

MURRAY ZWEBEN, SENATE PARLIAMENTARIAN

● Mr. CRANSTON. Mr. President, on December 13, 1980, the Senate adopted a resolution of commendation for Murray Zweben, the Parliamentarian of the Senate for the last 6 years. Few honors bestowed by this body are so well-deserved.

For over 20 years, Murray Zweben has served the Senate. He began as secretary to Parliamentarian Charles L. Watkins in 1956, and secured his law degree at George Washington University Law School during this employment. After a judicial clerkship and private practice he returned to the Senate in 1963 and has served continuously in the Parliamentarian's office since then.

He worked his way up through every job in that office until he was appointed Senate Parliamentarian in 1974 upon the retirement of Dr. Floyd Riddick. His legal training and extensive parliamentary experience have served him and the Senate very well throughout numerous very complicated and extended matters coming before the Senate in recent years. He earned the respect of all Members as an impartial, knowledgeable, an unflappable guide through the volumes of Senate precedents. His wise counsel has been of special value to me and my staff on numerous occasions, and we shall miss his skill, his wit, his intelligence, and his good humor. He was and is a friend as well as trusted counsellor.

That we will carry on well without him, I believe, is a true test of how effectively he has done his job. For he has left a legacy of well-trained assistants, and I have every confidence that Bob Dove, as Parliamentarian, and Alan Frumin, as Assistant Parliamentarian, will carry on in the outstanding tradition of Senate Parliamentarians—a tradition confirmed and enhanced by Murray Zweben's service to the Senate in four decades.

I know that all Senators join me in wishing Murray great success in his future pursuits in the law and academe.●

STATEMENT ON S. 3261

● Mr. HOLLINGS. Mr. President, both the Senate and the House of Representatives recently passed S. 3261, amending section 222 of the Communications Act of 1934 to include Hawaii in the same category as other States for purposes of such section. Since the bill was not referred to any committee, the only explanations of it were provided by relatively brief statements made on the floors of the Senate and House. In order to more fully understand the intent of this legislation, one should look at the report on S. 1866—a bill identical to S. 3261—which passed the Senate in the 95th Congress. The report number for S. 1866 is No. 95-389. One should also look at the Senate report (No. 96-1055) accompanying H.R. 6228, since that bill, as reported by the Senate Commerce, Science and Transportation Committee, contained a provision amending section 222 of the Communications Act of 1934 to make Hawaii a domestic point.●

J. STANLEY KIMMITT

● Mr. HOLLINGS. Mr. President, when I began my Senate service in November of 1966 our distinguished secretary, J. Stanley Kimmitt, was beginning his tenure as secretary to the Democratic majority. Stan had already completed one successful 25 year career as a highly decorated officer in the U.S. Army.

In the ensuing 14 years I, like the rest of this body, have enjoyed a wonderful working relationship with Stan Kimmitt; but more importantly, Stan has become my good friend. Most of us are familiar with Stan's professional background as a combat soldier in World War II and in Korea, and as an exceptional soldier in the post of army legislative liaison to the United States Senate. We have worked with him day by day and we are familiar with his contributions to this body.

Stan Kimmitt is a man of many dimensions and I would like to speak briefly about some of his other facets. One description easily applied to Stan is that of a devoted man. He is devoted to his wonderful wife and family. He is the proud father of seven children, three fine sons who are graduates of the U.S. Military Academy and one son who is a practicing physician here in the Washington area. He is doubly blessed in that he is the father of three lovely girls.

Stan is devoted to his church and on the occasions that we have traveled together, I have never known Stan to miss Sunday mass whether it was inconvenient or downright difficult. He is devoted not only to his beloved Army, but to all the services that make up this great Nation's defenses and he has always been ready and willing to put in an oar in aid of our national security when the opportunity arose.

Stan is also a man to whom loyalty has become a tenet of life. Since I have known him he has always had prominently displayed in his office a quote from Elbert Hubbard which reads in part, "If you work for a man, in heaven's name work for him, speak well of him and stand by the institution he represents." I know of no one who can say that Stan Kimmitt ever failed to live up to that charge.

I do not know what course he shall now choose to pursue. After two highly successful careers, one might think that he would go back to his beautiful Montana, to the mountains, rolling hills, streams and rivers for a leisurely life of hunting and fishing, pursuits, I might add, at which he is quite adept. However, that is not in Stan's nature. He will be here in this city among us, giving of his time and of himself and contributing—and he will be successful. He knows no other way.●

TRIBUTE TO F. NORDY HOFFMANN

● Mr. HOLLINGS. Mr. President, for the last 5 years the U.S. Senate has run more efficiently and more effectively primarily due to the diligent efforts of one man, our distinguished and dedicated Sergeant at Arms, F. Nordy Hoffmann.

Nordy has brought greater professionalism to the Senate's operations as the executive officer of this Chamber. He has done yeoman's work not only responding to our growing needs, but anticipating them and developing systems and programs to meet them. He has improved our computer systems for legislative tracking and enhanced our ability to communicate with our constituents. He has structured a series of seminars for incoming freshmen to familiarize them with the workings and services of this body. He has promoted fair, competent management and upgraded a number of our services.

But more than being the Senate's ox working endlessly to meet our every demand, Nordy is a warm, friendly, and admirable person. His good humor, kind words, courtesy and "can-do" spirit make him a very special person. His open door policy for Senators, staff, tourists and people in general attests to his willingness to accommodate the people of this Nation he has so ably served.

Football fans will remember him for his exploits on the gridiron and his play under the immortal Knute Rockne. Labor union researchers will remember him for his work in establishing the United Steelworkers Union. Democrats will remember him as one of their most able executive directors of the Democratic Senatorial Campaign Committee. Those of us who have benefited from his efforts in this body will remember him as an effective manager. And I, like nearly everyone he has come in contact with during his lifetime, will remember him as a loyal friend.

Nordy, we will miss you.●

THE HONORABLE JACOB JAVITS

● Mr. BUMPERS. Mr. President, JACOB JAVITS is one of the most intelligent and hard working Members of this Chamber and I consider it a distinct honor to have served with him and worked for the enactment of his many bipartisan initiatives.

His long and distinguished career as a Senator from New York State merits our highest praise. His legislative achievements in both foreign and domestic matters are legion, and I sincerely hope that his influence on the national scene will continue. What better consultant could we have than the Senator who sponsored such wide-ranging accomplishments as ERISA, the War Powers Act, the future of American cities, and so many other complex issues? What better source of expertise could we draw upon than a man who has served with sagacity and devotion our Nation and our Senate for over a quarter of a century?

There are very few who have had such a lasting impact on our domestic well-being and our national security than JACOB JAVITS, and his departure from the Senate is a distinct loss for all of us. I wish him every success in whatever field of endeavor he chooses. I am sure his qualities of tenacity and brilliance will soon bring him back into his traditional position of leadership.●

THE HONORABLE FRANK CHURCH

● Mr. BUMPERS. Mr. President, FRANK CHURCH has served with great distinction in this body for the past quarter of a century. I had the privilege to serve with him on the Energy and Natural Resources Committee where, as chairman of the Subcommittee on Energy Research and Development, he was in the forefront of encouraging the development of alternative energy sources. He was a champion of the environment as well, and managed the Senate bill that created the National Wilderness System in 1964.

His record in the area of foreign relations is outstanding. He has served on the Senate Foreign Relations Committee since 1959. His expertise and tireless work contributed to the end of America's tragic involvement in the Vietnam war. FRANK will long be remembered for his lasting contribution to international peace.

As chairman of the Senate Committee on Aging, FRANK tirelessly worked to improve the life of the senior citizens in our Nation. His legislative achievements in this area have helped restore confidence and dignity to our senior citizens.

FRANK'S personal courage and commitment will be missed. His tenacity and intellect have made him one of the most distinguished individuals to have ever served in the U.S. Senate.●

THE HONORABLE ROBERT MORGAN

● Mr. BUMPERS. Mr. President, Robert Morgan has been a public servant since he was 24 years old when he was elected clerk of the superior court in a small town in North Carolina. He went on to serve for 5 terms in the State senate, where he was elected president pro tempore in 1965. He gained national distinction for his work as North Carolina's attorney general. In the Senate he led the fight for rural homeownership programs for low-income families and for better housing for migrant workers. He has been constantly mindful of the proper relationship between State and Federal government.

Robert Morgan is a man of conviction. Whether protecting the interests of his own constituents or promoting legislation that had national scope, he could be counted on to vote his principles and stand by his work. He has been a most effective legislator and he spoke for all rural Americans. He will not be with us next year, but his many legislative achievements will be, and for that we can be thankful.●

THE HONORABLE HERMAN TALMADGE

● Mr. BUMPERS. Mr. President, it was my pleasure to work closely with my distinguished colleague from Georgia, Herman Talmadge, during my first 2 years in the Senate when we were considering the National Forest Management Act. Senator Talmadge chaired the joint hearings and markup of this bill with the Energy Committee on which I served. He directed these sessions on this landmark legislation with skill and fairness. Through this association with Herman Talmadge, I was impressed with his expertise on forestry legislation and his parliamentary skill.

Herman Talmadge demonstrated these skills repeatedly during his 24 years of service in the Senate. As chairman of the Senate Agriculture Committee, he has stood up for the farmer and American agriculture. As others have pointed out, almost every major agricultural and forestry bill has been authored by him or bears his imprint. This is a remarkable record of achievement without mentioning energy and gasohol legislation which he has authored.

As chairman of the Health Subcommittee of the Senate Finance Committee, Herman Talmadge has worked tirelessly to improve health care in America. This task remains unfinished, and the Senate will miss his expertise and skill when it reconvenes in January.●

THE HONORABLE DONALD STEWART

● Mr. BUMPERS. Mr. President, my friend and colleague, Don Stewart, came to this body only 2 years ago but in that short time has distinguished himself as a U.S. Senator. Don represents a rural State, as I do, and we have had much in common. From his position on the Agriculture Committee, Don used this forum to discuss the problems of farmers and the importance of carrying out rural development programs. He was also interested in rural health. He worked to get Federal grants that would bring vital health care to medically underserved areas of his State of Alabama and thereby cut down on a high infant mortality rate. He was a sponsor of the Rural Energy Independence Act, legislation which served as the basis for the Senate version of the alcohol fuels program.

The people of Alabama could not have had a more effective representative in the Senate. We were fortunate to have had his services in the Senate, and we owe him a deep debt of gratitude.●

THE HONORABLE JOHN DURKIN

● Mr. BUMPERS. Mr. President, I had the privilege of serving on the Energy and Natural Resources Committee and the Appropriations Committee with John Durkin. John was a resourceful chairman of the Subcommittee on Conservation and in that capacity led us through many of the complexities surrounding the important issue of conservation of energy. He has been one of the Senate's leading advocates in developing alternative, renewable sources of energy, such as wind, solar, wood, small-scale hydroelectric—most of which were incorporated into the Omnibus Energy Act. He has promoted home energy conservation by working on behalf of legislation to provide tax credits for home heating oil users, the purchase of wood burning stoves and for the installation of solar equipment.

I would also like to commend John for his interest in supporting legislation designed to improve the quality of life for the elderly and to protect the interests of the working man.

Before being elected to the Senate, John served with distinction as insurance commissioner of New Hampshire and the reforms he instituted on behalf of the consumer remain progressive steps in State insurance regulation.●

THE HONORABLE GEORGE McGOVERN

● Mr. BUMPERS. Mr. President, one of the Senators in this body who has most ably demonstrated great intellectual honesty and a deep conviction to speak out for what he thinks is right is the Senator from South Dakota, George McGovern. As one of the first Senators to speak out against the Vietnam war, Senator McGovern showed himself to be a brave and committed figure, unafraid of taking what was then the unpopular way. We will always need men in the Senate with this level of courage, particularly when it is combined with the commonsense that George has always demonstrated.

More than anyone else in the Senate, he saw to it that the Government did what it could to promote an adequate diet and adequate health care for all our citizens. His concern with the problems of disease and hunger was limited not only to the residents of this Nation. As director of the food and peace program he represented the best in America's involvement overseas. Senator McGovern is a man who always stood on principle and those who say that the principles for which he stood are now outmoded I believe will be proved wrong in the very near future. I trust that his contributions to this body and to this Nation will be remembered for generations to come.●

THE HONORABLE ADLAI STEVENSON

● Mr. BUMPERS. Mr. President, Adlai Stevenson came to the Senate in 1970 to fill the unexpired term of the late Senator Everett M. Dirksen and was reelected in 1974. He was always studious and diligent in his work on the Banking, Housing, and Urban Affairs Committee and on the Commerce, Science, and Transportation Committee. He also served with distinction on the Select Committee on Ethics. As chairman of the Subcommittee on International Finance, he became a leading spokesman on international trade.

It was on the Subcommittee on International Finance, as a member of the Commerce Committee, that he showed his admirable willingness to take on difficult and not always rewarding tasks. He demonstrated his legislative acumen on that committee, and on the bipartisan select committee which reviewed the Senate committee system. On the latter, he served as an outstanding and hardworking member, and he should be applauded for the many long hours he devoted to that task.

The phrase "a gentleman and a scholar" seems almost to have been invented in anticipation of this Senator from Illinois. We will never have enough like him.●

THE HONORABLE GAYLORD NELSON

● Mr. BUMPERS. Mr. President, Gaylord Nelson has served the people of Wisconsin and the people of the Nation with great dignity and courage, and he has been a close personal friend to me here in the Senate. Gaylord has been active in a wide variety of areas during his 18 years here. Early in his career he saw the need for environmental safeguards that would curb pollution and return the land to a condition we could be proud of. He initiated the fight to cut drug prices and to require the use of generic drugs in place of the more expensive brand names. He will long be remembered as a spokesman for small businessmen, and has been among the leaders in pushing for a reduction in government regulation. He also succeeded in including some sorely needed reforms into the tax code.

The list could go on much longer. It should be noted that among his accomplishments was the courage he showed in being among the first to speak out against the Vietnam war. It should also be said of Gaylord that he exhibited that quality that so often distinguished the great from the near-great, a sense of humor that not only could get quarreling Senators over a tense situation but do so with an insight that made us see the problem more clearly. And it should also be said that GAYLORD never left any doubt about his convictions on an issue. He never succumbed to grandstanding, but you always knew that if he voted in a certain way it was only from heartfelt conviction. I consider it a great privilege and a great inspiration to have served in the same chamber with GAYLORD these past 6 years, and I will miss him greatly.●

THE HONORABLE BIRCH BAYH

● Mr. BUMPERS. Mr. President, BIRCH BAYH's many achievements of the last 18 years are known to us all.

Many of his successful efforts will have a lasting impact on our form of Government, in particular his accomplishments in the complicated area of constitutional law. As chairman of the Constitutional Amendments Subcommittee of the Senate Judiciary Committee, BIRCH BAYH vigorously worked for passage of the 25th amendment on Presidential succession—an amendment which served our Nation well during 1974 when both a U.S. Vice President and a U.S. President resigned. BIRCH BAYH also tirelessly worked for approval of the 26th amendment to allow 18-year-olds to vote in Presidential elections. In these and other proposals to strengthen our Constitution, BIRCH BAYH has consistently been fair and responsive and has always displayed his strong sense of loyalty toward the principles underlying our basic law.

In addition to the field of constitutional law, BIRCH BAYH has been in the forefront on important legislative initiatives concerning minorities, the elderly, and working men and women. He has worked long and hard for a responsible gasohol program.

He is a man of great courage and conviction, and I am sure he will continue to contribute to the public good from whatever position in private life he chooses to occupy.●

THE HONORABLE RICHARD SCHWEIKER

● Mr. BUMPERS. Mr. President, RICHARD SCHWEIKER is retiring from the Senate after a distinguished career, but we know that he will bring his dedication, knowledge and commitment to his new position as Secretary of Health and Human Services.

RICHARD SCHWEIKER is well prepared to address with intelligence and fairness the many critical matters under the responsibility of this important department. For the last several years, he has been the ranking minority member of the Health Subcommittee and it has been my pleasure to lend support to the vast majority of the bipartisan health legislation that has been reported out of that subcommittee for the consideration of the full Senate.

I am certain every Member of the Senate joins me in wishing him continued successes as Secretary of HHS, and I personally look forward to working with him and the new administration on the many vital matters addressed by this department.●

THE HONORABLE MILTON YOUNG

● Mr. BUMPERS. Mr. President, it is not possible to list the legislative achievements of Senator MILTON YOUNG in this space. He has served longer consecutively in the Senate than any other Republican in the history of the Senate and is retiring after 35 years of service to his State and the Nation.

It has been my pleasure to serve with MILTON YOUNG on the Senate Appropriations Committee. As the ranking minority member of that committee, he has been a source of wisdom and judgment for all members of the committee.

His dedication to American agriculture began when he was actively engaged in farming near Berlin, N. Dak., before he came to the Senate. He is the longest seated member of the Senate Agriculture Committee. His work on agricultural issues is legend, and his legislative accomplishments in this area are the hallmark of his Senate career.

He has served the Senate and the Nation well and we will miss him.●

THE HONORABLE RICHARD (DICK) STONE

● Mr. BUMPERS. Mr. President, DICK STONE and I entered this Chamber at the same time. During these 6 years I have admired his intelligence, and his devotion to the hard work of the Senate. It was my pleasure to serve with him on the Energy and Natural Resources Committee during our first 2 years in the Senate.

One of his major legislative accomplishments—the "sunshine law"—has had a very beneficial impact on our way of doing business in the Senate. By assuring that the bulk of our legislative markups will be open to the public, this law has done a great deal to restore our constituents' confidence in the manner in which our laws are really made. DICK STONE has also secured advantageous legislation boosting our export of goods, in particular agricultural commodities which are produced for export in abundance in his State and my own State of Arkansas.

DICK STONE was a very effective representative for his State and Nation, and I am sure he will continue to contribute his many talents and long experience to the improvement of our way of life.●

TRIBUTE TO SENATOR JACOB K. JAVITS

● Mr. SIMPSON. Mr. President, one of the persons whose presence will be sorely missed in the 97th Congress is the distinguished senior Senator from New York, JACK JAVITS. He is a man whose heart and intellect is likely to be unmatched in the U.S. Senate.

I have noted before that my father, Milward L. Simpson, served in the Senate with JACK JAVITS and it has been my very distinct honor to share that rare dual privilege. He has shown me great kindness and wise counsel in these, my early days, in this body. I respect him greatly. He has brought a real touch of substance and class to this great institution.

Surely he will go down in history as one of the most highly respected persons ever to have held membership here. He has compiled a remarkable record, indeed—with more than 23 years of unstinting service to the people of his beloved State of New York.

Mr. President, it is impossible for me to be objective about JACK JAVITS. That just cannot be. He is a fine person in every single respect—with a facile and nimble mind. He has brought maturity and wisdom to the U.S. Senate. He has been there to counsel with us—the newer Members of this body—and was always available to us as we sought information from him.

And let me say, Mr. President, that I have indeed learned that he was nigh on unbeatable in debate on the floor. Stand back if you had not done your homework.

As for work—he patented the "work ethic." That is JACK JAVITS.

As to preparation—he was always prepared. And that is why he was always so devastating and so effective.

He has been a truly remarkable Senator and we have always looked to him for outstanding leadership—and will continue to do so in the future.

The U.S. Senate has been graced by the presence of JACK JAVITS.●

A TRIBUTE TO SENATOR HERMAN E. TALMADGE

● Mr. STENNIS. Mr. President, for the past 23 years it has been my pleasure to serve as a fellow Senator to HERMAN E. TALMADGE of Georgia. Senator TALMADGE and I share many of the same ideas about our Nation and especially our region of the Nation. One of the areas in which Mr. TALMADGE has done so much for the people of this country is in agriculture. As chairman of the Agriculture, Nutrition, and Forestry Committee, he has displayed much leadership which has benefited not only the farmers of the Southeast, but the farmers in all regions of America.

He has been one of the most effective committee members that I have ever known. He knows the problems of agriculture from the ground up and always has very useful suggestions.

In addition to being such a fine leader in agriculture, Senator TALMADGE has been a dedicated servant in other areas such as finance and veteran's affairs.

I will always consider him as a close friend and an able colleague. I wish him well in all he seeks to endeavor in the future.●

A TRIBUTE TO SENATOR JACOB K. JAVITS

● Mr. STENNIS. Mr. President, I have always regarded Senator JACOB JAVITS as a highly intelligent man and very capable in all phases of his work in the U.S. Senate. He is aways well informed, is effective and certainly has a great capacity for work. I often sought his counsel even though our philosophies sometimes differed.

He has served the State of New York and the United States well through his leadership in all areas of the Senate. I hesitate to recognize him for any one area of specialization because he is so capable in all areas.

I extend my best wishes to him and his wife for the years ahead and again thank him for his valuable help and service in the Senate.●

TRIBUTE TO SENATOR MILTON R. YOUNG

● Mr. STENNIS. Mr. President, it is with mixed emotions that I speak on behalf of my friend and colleague, Senator Milton R. Young of the Red River country in North Dakota. I speak with great pride and happiness that I have been fortunate enough to serve with Milton Young for 33 of his 35 years in the U.S. Senate. However, it is with sadness that I realize that he is retiring from this body at the end of this Congress. We shall miss him and his wise counsel, advice, and his model attention to duty.

To me, Milton Young has been more than just a fellow Senator; he has been a solid friend. He has been a great supporter and a great leader, and I have especially enjoyed and benefited from our years of work on the same subcommittees of the Appropriations Committee, including our services together for many years on matters involving national defense and items of the highest degree of national security.

There are certain qualities a person has to have to attain his best as a Member of this body. Senator Young has displayed the highest level of intelligence. He has been so trustworthy that his colleagues take his dependability and reliability for granted. He has been genuine as a whole and has a desire to be useful. All of these qualities epitomize Milton Young.

May God sustain and bless Milton Young and his wonderful wife and helpmate, Pat, in future years of usefulness which can include some relaxation.●

TRIBUTE TO SENATOR MIKE GRAVEL

● Mr. STENNIS. Mr. President, in his years as a U.S. Senator from Alaska, it has been obvious that Senator Mike Gravel has recognized the need for our most important water resources. Through his efforts, this Nation has a more secure energy and economic future through our water resources and related matters to which he has given attention. It has been a privilege of mine to work with him on many of these projects, to consider and support many of his proposals.

He has been a tribute to the State of Alaska and this Nation, and I thank him for his dedicated service. I hope that he and his wife will have a very successful future which will include many more fruitful years of service. His vivid imagination and tireless energy will find constructive things to do, and I commend him as he plans and carries out these future years.●

A TRIBUTE TO SENATOR JOHN A. DURKIN

● Mr. STENNIS. Mr. President, I want to extend my best wishes to Senator John A. Durkin of New Hampshire as he leaves the Senate on January 3. During his 6 years in the Senate, Senator Durkin has established himself as a man who worked hard for the people of his State through his committee work and his involvement in many pieces of legislation.

John Durkin was a fine colleague and a very able Senator. I am sure he will have a very successful future, and I wish him many fruitful years ahead. His sense of humor, his enduring energy and his interest in people will continue to sustain him and bring him happiness.●

TRIBUTE TO SENATOR FRANK CHURCH

● Mr. STENNIS. Mr. President, there are not many Senators here today who have been coming to these Chambers longer than Senator Frank Church. For 24 years he has been working diligently for the people of Idaho and for the Nation. He has been an outstanding Senator.

Although he is known for his work on the Foreign Relations Committee, of which he is chairman, his work in other areas has not gone unnoticed. Senator Church has been very effective on the Energy and Natural Resources Committee, the Legislative Review Committee, and the Special Committee on Aging. It will take more than one Senator to fill the void left by Senator Church when he leaves the Senate on January 3.

Not all Members of the Senate have a chance to fully appreciate and evaluate the problems that confront the chairman of the Senate Foreign Relations Committee because so much of the work is classified. Further, almost without exception, the position is a political liability as has been the case with several during my tenure. Nevertheless, Frank Church met these responsibilities with his best skills and never buckled or ran away. We are thankful for this quality and for his services.

I am sure that Senator Church will have a very successful future, and I wish him and his family much happiness.●

TRIBUTE TO SENATOR BIRCH BAYH

● Mr. STENNIS. Mr. President, since his election in 1962, Senator Birch Bayh has been working hard to serve the people of Indiana. In doing this, he has also served the people of the rest of the Nation. I am very glad to have served along with Senator Bayh for these years.

I have been able to view Senator Bayh's hard work firsthand since we have served together on the Appropriations Committee. I also know of his outstanding work on the Judiciary Committee and as chairman of the Select Committee on Intelligence where he served effectively and well.

On the Judiciary Committee, his work was outstanding in working up proposals for constitutional amendments. Whether you supported each proposal or not, all agreed that his work was constructive, that he was diligent and entitled to credit.

I certainly wish him well as he goes.●

TRIBUTE TO SENATOR GEORGE McGOVERN

● Mr. STENNIS. Mr. President, on January 3, 1981, George McGovern will complete 18 years of service to the citizens of South Dakota and the other citizens of the Nation as a U.S. Senator.

Because agriculture and forestry are so important to my home State of Mississippi, I have watched carefully the actions of the Agriculture, Nutrition, and Forestry Committee. I have observed Senator McGovern as a valuable member of that committee. He has made many fine contributions to the work of the committee and to legislation which has been important to my constituents.

He has always been a fine example of hard work and tireless application in his Senate duties and made himself felt in many ways throughout the Nation. In the face of differences of opinions or conclusions, I always gave him credit for good faith and reliability. In this way he was an asset to the Nation, and much of his earnest work will live.

I trust that the years ahead will be fruitful and happy ones for him and his family.●

TRIBUTE TO SENATOR RICHARD B. STONE

● Mr. STENNIS. Mr. President, although Senator Richard B. Stone has only been in the Senate for 6 years, he has established himself as a truly fine Senator and a dedicated worker for the people of Florida and the United States.

During his time here, Senator Stone has become an effective member of the Agriculture, Nutrition, and Forestry Committee and has played an important role on several other committees and with several important pieces of legislation.

I thank Senator Stone for his unselfish service to this Senate, the people of Florida, and the entire United States of America. I hope and believe that he has a very successful and happy future, and I wish him well in every way.●

TRIBUTE TO SENATOR DONALD W. STEWART

● Mr. STENNIS. Mr. President, although my time in the Senate with Senator Donald W. Stewart of Alabama has been short, I have come to respect him as a fine Senator and a tribute to the citizens of one of Mississippi's sister States. Since he came to the Senate in 1978 to fill the unexpired term of the late Senator James B. Allen, Senator Stewart has shown a great amount of dedication and capability. He was a fast learner and capable in many fields.

I commend this fine man for his performance in the Senate the last 2 years, and I thank him for his cooperation on the projects on which we worked together.

It is my wish that he has a future of success and happiness in all that he is involved in.●

TRIBUTE TO SENATOR RICHARD S. SCHWEIKER

● Mr. STENNIS. Mr. President, it has truly been a privilege to serve the past 12 years in the Senate with Senator Richard S. Schweiker of Pennsylvania. I have especially enjoyed serving along with Senator Schweiker as a comember of the Senate Appropriations Committee. I have been able to see him at work and I can say, without reservation, that he has done much for his State and this country through his efforts in the Senate.

Although Senator Schweiker will be leaving this legislative body in January, I believe we will be fortunate to continue working with him in his new role in the executive branch. His appointment to the position of Secretary of the Department of Health and Human Services, in itself, speaks well of the kind of reputation Senator Schweiker enjoys. I approve this appointment with pleasure and satisfaction, and believe he will be a successful administrator.

I certainly wish him well in his new position, and I look forward to working with him in the future.●

TRIBUTE TO SENATOR WARREN G. MAGNUSON

● Mr. STENNIS. Mr. President, when the 96th Congress comes to an end, the U.S. Senate will say goodby to one of its most distinguished colleagues and leaders. For 36 years, Senator Warren G. Magnuson has served his home State of Washington and the United States as a fine Senator.

Senator Magnuson and Senator Milton Young—who is also leaving at the end of this Congress—are the only Senators who were in the Senate when I began my own Senate career 33 years ago. Since that time, I have enjoyed serving with such a fine national leader, dedicated servant, and close friend as Senator Magnuson.

Senator Magnuson was once the youngest Member of the Senate. He was soon a marked and respected man because of his ability and his energy. A well-established and wise senior Senator said to me in my first year:

> Always recognize the fine mind of the young Senator from Washington and take seriously his advice and counsel.

I benefited greatly by this counsel, followed it over the years to my advantage, and saw the fruits and benefits of Senator Magnuson's services to his State and Nation grow as the years came and went. His contribution to his area in the field of electricity—water power—and other natural resources development have already served two generations and will serve for many decades to come.

I commend him highly for his useful services to his area and to the entire Nation and hope that he will continue to be active in a constructive way.●

TRIBUTE TO SENATOR JOHN C. CULVER

● Mr. STENNIS. Mr. President, I want to thank a colleague of mine, Senator John C. Culver of Iowa, for his service in the U.S. Senate. I especially appreciate his fine work as a member of the Armed Services Committee and as chairman of its Subcommittee on Research and Development. Of course, these are not the only areas in which Senator Culver has been a dedicated worker, but I am most familiar with his hard work on this committee because of my association as chairman.

I depended on him in a large way to do the indepth work on many phases of our weapons systems and to then come up with a clearcut analysis of the facts and with recommendations. He never failed to do his duty. We had great confidence in him even when we might have disagreed with his conclusions.

Then in the full committee he was firm and often convincing, as was true on the Senate floor, in conferences with the House, and again in the consideration of appropriations bills.

As I have understood, he was full and forthright in his campaign. Thus he represented the finest traditions of the Senate, and his work will live. He makes me pleased with the fact that he and I worked together in the committee and that I chose him for chairman of the subcommittee.

I wish for him and his fine family many happy days.●

TRIBUTE TO SENATOR GAYLORD NELSON

● Mr. STENNIS. Mr. President, after 18 years of service to the people of Wisconsin in the U.S. Senate, Senator Gaylord Nelson will be leaving at the end of this Congress. Prior to his service in this body, Senator Nelson served in the Wisconsin Legislature and as Governor of Wisconsin. Throughout these years of public service he has shown capable leadership and dedication, and his work, by and large, has stood the test of time. I feel fortunate to have had the opportunity to serve with him.

Because of the efforts of Senator Nelson, our Nation is in much better shape environmentally. He has devoted much of his time in trying to improve poor environmental conditions and he has been highly successful.

Even though some of his work was controversial, his colleagues who differed always respected his views and the man behind them. Regardless of errors and extremism in the application by others of certain environmental rules and regulations, I think the work of Senator Nelson has been timely and helpful.

He has also been a valuable member of the Finance and Labor and Human Resources Committees, and has been a worthy chairman of the Select Committee on Small Business.

Senator Nelson will be missed in the Senate where we have found him wise and useful. Mrs. Nelson is a charming lady indeed, always helpful to her husband and to her many friends, and Mrs. Stennis and I trust that they will find much usefulness and happiness in the years ahead.●

TRIBUTE TO SENATOR HENRY BELLMON

● Mr. STENNIS. Mr. President, for the past 12 years, I have had the great pleasure of serving as a colleague of Senator Henry Bellmon of Oklahoma. He has been a dedicated servant to his State and his country throughout his tenure in office.

I have a personal knowledge of Senator Bellmon's activities to better this Nation because, among other things, I have been able to serve with him on the Senate Appropriations Committee. Just this past spring, I joined Senator Bellmon and a group of other Senators and officials in a series of continuous meetings designed to find a way to do something about our failing economy and begin our track back to a balanced budget. During these meetings, which lasted no less than 8 full days plus several night sessions, I was able to see this Senator at his best. He, along with the rest of us, had to take some unpopular stands in order to take a stab at balancing the budget. As everyone knows, the 96th Congress was not completely successful in balancing the budget but, due to the hard work of Senators like Henry Bellmon, we made some advances and laid the foundations that will help us reach our goal in the future.

Henry Bellmon was always fully frank in every way, quick with his analysis of a given situation, and made conclusions that were based on logic and commonsense. These are the elements of sound judgment which are what our country needs and must have. I liked his rugged honesty, his sincerity, and judgment which were always forthcoming. This was all capped by a great capacity for work. We could use more such men as Henry Bellmon, a Senator of the first degree, useful, dependable, and capable.

It is my wish that Senator Bellmon and his wife will continue to have the kind of constructive and successful life that they have had during his tenure in the U.S. Senate.●

TRIBUTE TO SENATOR ADLAI E. STEVENSON

● Mr. STENNIS. Mr. President, when Senator Adlai Stevenson retires at the end of this Congress, both the State of Illinois and the United States will be losing a fine Senator. Senator Stevenson was a trusted leader in the Senate as is obvious by his selection to be chairman of the Select Committee on Ethics, a position he held for several years. This was indeed a difficult role, but he was sincere, patient, and impartial. He served well.

Senator STEVENSON has been a diligent, quiet, and useful worker in many areas of the Senate and will be missed by us all.

I trust and believe he has many years ahead and feel that they will be useful, and I hope happy years.●

TRIBUTE TO SENATOR ROBERT MORGAN

● Mr. STENNIS. Mr. President, for the past 6 years, ROBERT MORGAN of North Carolina has been an outstanding member of the Armed Services Committee. His work there as a committee member and chairman of the Subcommittee on Procurement Policy and Reprogramming has been highly rewarding to me and to other committee members.

He has been a fine Senator and a highly effective representative of the people of North Carolina. He fought hard for the causes he believed in, which largely reflected the views of the fine people of his great State. I always had full confidence in him, assigned him highly responsible work on the Senate Armed Services Committee where he always came through in a splendid way. This included extensive work he did for the committee and the Senate on involved and complicated legal questions. I admired and respected him highly as an all around capable lawyer of the first order.

I predict for him useful and productive years ahead and wish him well.●

A TRIBUTE TO SENATOR ABRAHAM A. RIBICOFF

● Mr. STENNIS. Mr. President, there are few men who can claim to have given as much to their State and their Nation as my very good friend and colleague from Connecticut, Senator ABRAHAM RIBICOFF. For more than 40 years, he has served as State representative, judge, Congressman, Governor, Presidential Cabinet member, and U.S. Senator.

During his 18 years as Senator, he has done an outstanding job in all areas, but I am especially mindful of the fine work he has done as chairman of the Governmental Affairs Committee. He has also rendered splendid service on the Finance Committee and the Joint Economic Committee.

Mr. President, if my count is correct, I have served with a total of 343 Senators since I was first sworn in here in November 1947. This group includes some of the finest Members to ever serve in the U.S. Senate. No one can say which Senator was the greatest, and few persons are truly great. But, if I were called on to name the five most useful persons, with major evidence of greatness, I would have to include Senator ABRAHAM RIBICOFF.

Such a tribute cannot be earned from mere publicity, boastfulness, ordinary and the usual service here. Such a tribute has to be gradually earned on the floor of the Senate, in the committee rooms and council chamber, in day-to-day activities here on duty and in his home State. Such a tribute comes only when the Member has earned a place with his colleagues that causes them to think of him as being reliable in his representations, dependable in his thoroughness, and genuine in his purposes. These are the qualities we uniformly found in ABRAHAM RIBICOFF, and these qualities were the source of his strength and formidable influence. The Nation owes him a debt of gratitude for his truly splendid services. But all he wants is the respect of the people, and that he has in great abundance.

I add one word further. The Senate as an institution must be sustained. It must have position, prestige, strength, influence, and Members with an abundance of ability and experience. ABE RIBICOFF held virtually every type of office in our system—State representative, judge, Congressman, Governor, Presidential Cabinet member, and U.S. Senator. I believe he cherished and actually loved his service in the Senate beyond all the rest. This is one reason why he was a Senator's Senator. I am thankful for his services, and may God continue to serve and bless him and his charming wife in further usefulness.●

HOUSE OF REPRESENTATIVES—*Tuesday, December 30, 1980*

ENROLLED BILLS AND JOINT RESOLUTION SIGNED AFTER SINE DIE ADJOURNMENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee on the following dates had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker pro tempore:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., December 18, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit a sealed envelope received from The White House at 12:55 p.m. on Thursday, December 18, 1980, and said to contain H.R. 7175, "An Act for the relief of the Woodstock Daily Sentinel", which is being returned to the House of Representatives by the President in response to a request by House Concurrent Resolution 460.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk.
By: W. RAYMOND COLLEY,
Deputy Clerk.

To the House of Representatives:

Pursuant to House Concurrent Resolution 460, I am hereby returning the enrolled bill H. R. 7175, "An Act for the relief of the Woodstock Daily Sentinel," to the House of Representatives for the purpose of making a necessary technical correction.

JIMMY CARTER.

THE WHITE HOUSE, *December 18, 1980.*

On December 17, 1980:

H.R. 5047. An act to provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes;

H.R. 6257. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes; and

H.R. 7171. An act to make certain miscellaneous changes in the tax laws.

On December 18, 1980:

H.R. 4155. An act to amend the Internal Revenue Code of 1954 to simplify private foundation return and reporting requirements, and for other purposes.

H.R. 7175. An act for the relief of the Woodstock Daily Sentinel;

H.R. 7956. An act to make various changes in the tax laws;

H.R. 8406. An act to amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration; and

H.J. Res. 642. Joint resolution providing for convening of the first regular session of the 97th Congress on January 5, 1981, and for other purposes.

SENATE ENROLLED BILLS SIGNED AFTER SINE DIE ADJOURNMENT

The SPEAKER pro tempore announced on the following date his signature to enrolled bills of the Senate of the following titles:

On December 17, 1980:

S. 2363. An act to provide, with respect to the National Park System: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes;

S. 3027. An act to extend authorization for the Disaster Relief Act, and for other purposes; and

S. 3212. An act to designate the "Thomas J. McIntyre Federal Building."

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT AFTER SINE DIE ADJOURNMENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On December 16, 1980:

H.R. 2111. An act to extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes;

H.R. 3317. An act to amend the Internal Revenue Code of 1954 with respect to excise tax refunds in the case of certain uses of tread rubber, and for other purposes;

H.R. 3637. An act to carry out the obligations of the United States under the International Coffee Agreement 1976, signed at New York on February 27, 1976, and entered into force for the United States on October 1, 1976, and for other purposes;

H.R. 4968. An act to amend the Internal Revenue Code of 1954 with respect to net operating loss carryovers of taxpayers who cease to be real estate investment trusts, to increase interest rates on certain U.S. retirement bonds, and for other purposes;

H.R. 5043. An act to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes;

H.R. 5391. An act to amend the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, and for other purposes;

H.R. 5505. An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes;

H.R. 5737. An act to amend the International Claims Settlement Act of 1949 to allow recovery by U.S. nationals for losses incurred in Vietnam;

H.R. 5973. An act to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes;

H.R. 7112. An act to authorize an extension and amendment of the revenue sharing program to provide general purposes fiscal assistance to local governments, and for other purposes;

H.R. 7694. An act to authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress for Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam;

H.R. 7709. An act to amend the Tariff Schedules of the United States to increase the quantity of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning U.S. residents;

H.R. 7865. An act to provide for an accelerated and coordinated program of light-water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy;

H.R. 8444. An act to authorize appropriations for certain insular areas of the United States, and for other purposes; and

H.J. Res. 644. Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes.

On December 18, 1980:

H.R. 4155. An act to amend the Internal Revenue Code of 1954 to simplify private foundation return and reporting requirements, and for other purposes;

H.R. 5047. An act to provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes;

H.R. 6257. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes;

H.R. 7171. An act to make certain miscellaneous changes in the tax laws;

H.R. 7175. An act for the relief of the Woodstock Daily Sentinel;

H.R. 7956. An act to make various changes in the tax laws;

H.R. 8406. An act to amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration; and

H.J. Res. 642. Joint resolution providing for convening of the first regular session of the 97th Congress on January 5, 1981, and for other purposes.

BILLS AND JOINT RESOLUTIONS APPROVED AFTER SINE DIE ADJOURNMENT

The President, subsequent to the sine die adjournment of the Congress, notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the House of the following titles:

On December 5, 1980:

H.J. Res. 634. Joint resolution to authorize the United States Secret Service to continue to furnish protection to the former Vice President or his spouse;

H.R. 2510. An act to amend title 5, United States Code, to permit Federal Employees to obtain review of certain disability determinations made by the Office of Personnel Management under the civil service retirement and disability system;

H.R. 2583. An act to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes;

H.R. 5108. An act to provide for the removal of the names of certain Alaska Natives from the Alaska Native Roll and to allow their enrollment with the Metlakatla Indian Community;

H.R. 7698. An act for the relief of two mining claimants.

H.R. 7765. An act to provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981;

H.R. 7960. An act to provide for the setting aside in special trust lands and interests within the Winema National Forest to Edison Chiloquin and for the transfer of moneys otherwise available to Mr. Chiloquin from the Klamath Indian Settlement to the Secretary of Agriculture for the acquisition of replacement lands or interests; and

H.R. 8117. An act to amend the Safe Drinking Water Act, and for other purposes.

On December 8, 1980:

H.R. 4892. An act to repeal section 506 of the Communications Act of 1934.

On December 11, 1980:

H.R. 6410. An act to reduce paperwork and enhance the economy and efficiency of the Government and the private sector by improving Federal information policymaking, and for other purposes; and

H.R. 7020. An act to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

On December 12, 1980:

H.R. 5496. An act to amend the National Historic Preservation Act of 1966, and for other purposes;

H.R. 6086. An act to provide for the settlement and payment of claims of United States civilian and military personnel against the United States for losses resulting from acts of violence directed against the United States Government or its representatives in a foreign country or from an authorized evacuation of personnel from a foreign country;

H.R. 6211. An act to authorize the Secretary of the Interior to issue certain patents under the Color of Title Act;

H.R. 6258. An act providing for reinstatement and validation of United States oil and gas leases numbered C-9496, C-9711, C-11600, C-11621, C-11622, C-11630, C-11631, C-11597, C-11599, C-13774, C-14197, C-17049, C-18262, C-26048, C-13532, C-11581, C-11585, S-11590, C-11591, and C-11595;

H.R. 6889. An act entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980";

H.R. 6933. An act to amend the patent and trademark laws;

H.R. 7466. An act to amend section 3102 of title 5, United States Code, and section 7 of the Federal Advisory Committee Act to permit the employment of personal assistants for handicapped Federal employees both at their regular duty station and while on travel status;

H.R. 7724. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 7805. An act to authorize appropriations for the American Folklife Center for fiscal years 1982, 1983, and 1984;

H.R. 7815. An act to recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes;

H.R. 8228. An act to provide that a certain portion of Lake Erie shall be declared nonnavigable; and

H.R. 8388. An act to amend the Foreign Assistance Act of 1961 to authorize appropriations for international disaster assistance for the victims of the recent earthquakes in southern Italy.

On December 15, 1980:

H.J. Res. 205. Joint resolution authorizing appropriation of funds for acquisition of a monument to Dr. Ralph J. Bunche, and installation of such monument in Ralph J. Bunche Park in New York City;

H.R. 927. An act for the relief of Dr. Ka Chun Wong, and his wife, Marilyn Wong;

H.R. 6243. An act to provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattahoochee River, Ga., shall hereafter be known and designated as the "R. Shaefer Heard Park;"

H.R. 7591. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 7631. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes;

H.R. 8061. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1981, and for other purposes; and

H.R. 8105. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.

On December 16, 1980:

H.J. Res. 644. Joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes;

H.R. 58[illegible]6. An act to amend title 32, United States Code, to allow Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the grade of colonel; and

H.R. 6942. An act to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes.

On December 17, 1980:

H.J. Res. 601. Joint resolution making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981;

H.R. 6975. An act to extend temporary tax provisions, and for other purposes.

H.R. 7018. An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes; and

H.R. 7385. An act to authorize the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes.

On December 18, 1980:

H.R. 1298. An act to designate the United States Post Office and Federal Building in Huntington, W. Va., as the "Sidney L. Christie Federal Building";

H.R. 4522. An act for the relief of Annette Jutta Wohrle;

H.R. 5687. An act for the relief of Michael G. Macdonald;

H.R. 5788. An act for the relief of Jun Ae Hee;

H.R. 8173. An act to provide for distribution in the United States of certain International Communication Agency films relating to President Lyndon Baines Johnson;

H.R. 8386. An act for the relief of Roy P. Benavidez; and

H.R. 8404. An act to designate the Federal Building-United States Courthouse in Sacramento, Calif., the "John E. Moss Federal Building-United States Courthouse."

On December 19, 1980:

H.J. Res. 570. Joint resolution to provide for a temporary increase in the public debt limit;

H.R. 935. An act for the relief of Jesse Kuo Tang and Sharon Kuo Tang;

H.R. 936. An act for the relief of Kit Tung;

H.R. 1316. An act for the relief of Kuo-Yao Cheng;

H.R. 2433. An act for the relief of Zora Singh Sunga;

H.R. 2872. An act for the relief of Oliva Manaois Abrasaldo;

H.R. 3096. An act for the relief of Raymond M. Gee;

H.R. 3138. An act for the relief of Surip Karmowiredjo;

H.R. 3351. An act to amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certain surgery performed on an outpatient basis;

H.R. 3707. An act for the relief of Joy Marsia Dehaney;

H.R. 3869. An act for the relief of Eileen Angella Crosdale;

H.R. 4139. An act for the relief of Feeronaih Abbosh;

H.R. 4778. An act for the relief of Sada Kim;

H.R. 5067. An act for the relief of Dr. Toomas Eisler and Carmen Elizabeth Eisler;

H.R. 5157. An act for the relief of Lilia Ester Cantu;

H.R. 5182. An act to amend the Chesapeake and Ohio Canal Development Act to change the Termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date 10 years after the effective date of such Act to the date 20 years after such effective date;

H.R. 5379. An act for the relief of Jaramporn Sermsri and Akharata Sermsri;

H.R. 5745. An act for the relief of Michael Chinwen Ke;

H.R. 6030. An act for the relief of Elena Patricia Mattos;

H.R. 7147. An act to provide that certain land of the United States shall be held in trust for certain communities of the Kdewakanton Sioux in Minnesota;

H.R. 8235. An act to grant the consent of the Congress to the Tahoe Regional Planning Compact, and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created; and

H.R. 8298. An act to designate certain National Forest System lands in the State of New Mexico for inclusion in the National Wilderness Preservation System, and for other purposes.

On December 22, 1980:

H.J. Res. 337. Joint resolution designating February 11, 1981, "National Inventors' Day";

H.J. Res. 615. Joint resolution providing for appointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution;

H.J. Res. 642. Joint resolution providing for convening of the first session of the first regular session of the 97th Congress on January 5, 1981, and for other purposes;

H.R. 949. An act for the relief of Welita F. Sebastian;

H.R. 999. An act to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes;

H.R. 2111. An act to extend the service area for the Sacramento Valley Canals, Central Valley project, Calif., and for other purposes;

H.R. 2145. An act for the relief of Florette Ivoree Gayle and Keisha Dajaran Karr;

H.R. 2170. An act to provide for the reimbursement of legal expenses incurred by the city of Fairfax with respect to a 1971 entry and search by employees of the Federal Government;

H.R. 2432. An act for the relief of Ronald Regespi Doliente;

H.R. 2533. An act for the relief of Mrs. Kerry Ann Wilson;

H.R. 3396. An act for the relief of George David Maxwell, doctor of medicine;

H.R. 4032. An act for the relief of Mahumud Ali Khan Fazal Dad;

H.R. 4793. An act for the relief of Simon Ifergan Mears;

H.R. 4941. An act to name a dam and reservoir on the San Gabriel River, Tex., as the "North San Gabriel Dam" and "Lake Georgetown," respectively;

H.R. 4966. An act for the relief of the estate Philip H. Ward;

H.R. 5016. An act for the relief of David Roland Weaver;

H.R. 5487. An act to designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes;

H.R. 6000. An act for the relief of Campanella Construction Co., Inc.;

H.R. 6011. An act for the relief of William H. Koss;

H.R. 6044. An act for the relief of Woo Jung He;

H.R. 6069. An act for the relief of I Wen Chen;

H.R. 6739. An act to confer U.S. citizenship posthumously upon Leopoldine Marie Schmid;

H.R. 6836. An act for the relief of James A. Schultz;

H.R. 7175. An act for the relief of the Woodstock Daily Sentinel;

H.R. 7217. An act to establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes;

H.R. 7865. An act to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy; and

H.R. 8345. An act to name the U.S. Customs House in Ogensburg, N.Y., the "Robert C. McEwen United States Customs House."

On December 23, 1980:

H.R. 6796. An act to amend and extend title VII of the Comprehensive Employment and Training Act;

H.R. 7306. An act to provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes;

H.R. 7626. An act to amend title 37, United States Code, to improve certain special pay and allowance benefits for members of the uniformed services, and for other purposes;

H.R. 7682. An act to amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes;

H.R. 7709. An act to amend the Tariff Schedules of the United States to increase the quality of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning U.S. residents;

H.R. 7814. An act to designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness," and for other purposes; and

H.R. 8195. An act to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases.

On December 24, 1980:

H.R. 1196. An act to revise and improve the laws relating to the documentation of vessels, and for other purposes;

H.R. 3317. An act to amend the Internal Revenue Code of 1954 with respect to excise tax refunds in the case of certain uses of tread rubber, and for other purposes;

H.R. 3637. An act to carry out the obligations of the United States under the International Coffee Agreement 1976, signed at New York on February 27, 1976, and entered into force for the United States on October 1, 1976, and for other purposes;

H.R. 4698. An act to amend the Internal Revenue Code of 1954 with respect to net operating loss carryovers of taxpayers who cease to be real estate investment trusts, to increase interest rates on certain United States retirement bonds, and for other purposes;

H.R. 4774. An act to amend the National Labor Relations Act to provide that any employee who is a member of a religious sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so;

H.R. 5043. An act to amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes;

H.R. 5391. An act to amend the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, and for other purposes;

H.R. 5505. An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes;

H.R. 6671. An act to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes;

H.R. 7694. An act to authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam; and

H.R. 8444. An act to authorize appropriations for certain insular areas of the United States, and for other purposes.

On December 28, 1980:

H.R. 4155. An act to amend the Internal Revenue Code of 1954 to simplify private foundation return and reporting requirements, and for other purposes;

H.R. 5047. An act to provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes;

H.R. 5737. An act to amend the International Claims Settlement Act of 1949 to allow recovery by U.S. nationals for losses incurred in Vietnam;

H.R. 5973. An act to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes;

H.R. 7112. An act to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes;

H.R. 7171. An act to make certain miscellaneous changes in the tax laws;

H.R. 7956. An act to make various changes in the tax laws; and

H.R. 8406. An act to amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration.

BILLS DISAPPROVED AFTER SINE DIE ADJOURNMENT

The President announced his disapproval of the following bills with memorandums of disapproval as follows:

H.R. 5888

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 5888, a bill that provides for payment of a $50,000 lump-sum death benefit to survivors of Federal law enforcement officers, firefighters, and certain other employees killed in the line of duty. This benefit would be paid in addition to the regular death benefits available to all Federal employees, and would be retroactive to September 26, 1976.

I am not approving H.R. 5888 because the special benefits it would provide are preferential and unwarranted, and because the bill would become a precedent for extension of similar benefits to other Federal employees.

My disapproval of this bill in no way reflects on the bravery and dedication of Federal employees in law enforcement and firefighting occupations. Nor does it in any way diminish the gratitude that I and this Nation feel for those who sacrifice their lives in the performance of their duty.

H.R. 5888 is objectionable because it would single out certain groups of employees for preferential treatment under the Federal employee workers' compensation law (FECA). Survivor benefits provided by the Federal Government should be adequate in all instances to ease the financial burden resulting from an employee's death, regardless of occupation. Moreover, there are many civilian employees outside the areas of law enforcement and firefighting who are also exposed to special hazards in their work. It is inequitable and unfair to provide a greater benefit to a select group of Federal employees based only on the nature of their employment. Such preferred treatment is directly contrary to the evenhandedness that must be basic to a workers' compensation system.

Under the existing FECA program, the Federal Government already pays generous death benefits to survivors of employees who die on the job. These benefits are tax-free and are adjusted annually for increases in the cost of living. Depending on family size, such benefits can be as high as 75 percent of the employee's salary while alive, and are limited in total amount and duration only by changed family circumstances. The Government's Group Life Insurance Program, which was recently liberalized for younger employees, also provides substantial protection in the event of an employee's death.

The proponents of H.R. 5888 argue that this legislation is needed to assure parity with State and local police and firefighters, who receive a $50,000 death benefit under a law passed in 1976. However, one of the main reasons for enactment of that law was that States and localities' compensation systems were inadequate or nonexistent and that life insurance coverage was often unavailable. The Congress at that time expressly decided against granting the

$50,000 death benefit to Federal firefighters and law enforcement officers because the benefits provided under FECA are comparatively generous and would in many cases exceed the $50,000 payment authorized for State-local public safety officers.

Although the costs entailed in H.R. 5888 are not large, the special treatment provided by the bill would inevitably set a precedent for extension of its benefits to other, if not all, Federal employees who die in the line of duty. This would result in an unwarranted and costly added burden on the taxpayers of this Nation.

Finally, the retroactive provision in the bill is objectionable by arbitrarily excluding employees whose deaths occurred before the effective date.

For all of these reasons, I cannot approve H.R. 5888.

JIMMY CARTER.

THE WHITE HOUSE, *December 23, 1980.*

H.R. 4386

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 4386, a bill "For the relief of Mr. and Mrs. Clarence Oveson."

H.R. 4386 would direct the Secretary of the Treasury to pay $50,000 to Mr. and Mrs. Clarence Oveson of Saint Louis and Koochiching Counties, Minnesota. The payment would be for full settlement of the Oveson's claims arising from the assumption of management by the United States of certain real property owned by the United States but occupied by the Ovesons. The payment would not affect any claims that the Ovesons might have arising from the loss of any structures affixed to the land. The Ovesons apparently purchased the land in question from another individual in good faith though title to the land actually rests with the U.S. Government as part of the Voyageurs National Park.

I am withholding my approval from H.R. 4386 because it would provide compensation to individuals who have occupied Federal lands without authority. Approval of this legislation would set a precedent of rewarding unauthorized users of Federal lands. It would not only undermine ongoing efforts by all Federal land management agencies to eliminate such uses but could also invite additional unauthorized use.

While I sympathize with the plight of the Ovesons, I cannot support the payment of taxpayers' funds to them to remedy a problem they have with other private individuals in a situation in which the United States Government was in no way at fault. I understand that there may be legal remedies available to the Ovesons against the person who improperly sold them land to which he did not have clear title.

JIMMY CARTER.

THE WHITE HOUSE, *December 24, 1980.*

H.R. 6257

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 6257, a bill to authorize the Secretary of Agriculture to convey certain National Forest System lands and for other purposes. As originally introduced in Congress, this was a noncontroversial bill providing a simplified procedure for conveying small parcels of land within the National Forest System. Sections one through seven of the bill would accomplish this purpose. However, during the closing hours of the 96th Congress, a new section 8 was added that would adversely affect the Alaska Railroad, an agency of the Department of Transportation.

Section 8 would require the Secretary of Transportation to issue regulations for the rental of Alaska Railroad lands under terms that would result in a loss of revenue to the Railroad, provide for inequitable treatment of different tenants, and create a complicated method for determining rents that would be extremely difficult to administer. It would further delay the Railroad's effort to raise its lease land rents to fair market value, and it would lock into statute past practices that have been criticized by the General Accounting Office and the Department of Transportation. It would also inhibit the Railroad's ability to establish a modern lease land development program consistent with normal commercial practice.

The Railroad is operated as a self-sustaining business by the Federal Government, to the benefit of the State of Alaska and its citizens. Rental income from rail lands is used to pay part of its operating costs. The loss of revenue resulting from this bill may force the Railroad to curtail service or require a new federal operating subsidy to make up the difference. A curtailment of service would injure those shippers and residents of Alaska who use the Railroad, and an increase in federal funds for the Railroad is unacceptable.

For these reasons, I am vetoing H.R. 6257. However, I support those provisions in the bill that would give the Secretary of Agriculture authority to dispose of small tracts of National Forest lands that have become difficult to administer efficiently. This authority, which the Department of Agriculture has been seeking for several years, would greatly facilitate the disposal of approximately 200,000 acres of National Forest lands that present special management problems and would eliminate the need for a case-by-case authorization from the Congress before such lands can be sold or exchanged. Therefore, I urge the 97th Congress to enact similar authority early next year.

JIMMY CARTER.

THE WHITE HOUSE, *December 28, 1980.*

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER received the following resignation from the House of Representatives:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. December 18, 1980.
The Honorable BRENDAN T. BYRNE,
Office of the Governor,
Executive State House,
Trenton, N.J.

DEAR GOVERNOR BYRNE: In accordance with the law, I hereby resign as the Representative of the Fourth District of New Jersey effective midnight, December 29, 1980.

Sincerely yours,

FRANK THOMPSON, Jr.

Copies: Hon. Edmund L. Henshaw, Jr., Clerk of the U.S. House of Representatives; Hon. Benjamin J. Guthrie, Sergeant at Arms; Hon. Thomas P. O'Neill, Jr., Speaker of the House.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Dec. 4, 1980, the following report was filed on Dec. 19, 1980*]

Mr. BROOKS: Committee on Government Operations. Report on Veterans Administration pays scant thought to medicaid computer needs (Rept. No. 96–1538). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. Activities and summary report of the Commmittee on the District of Columbia (Rept. No. 96–1539). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on Dec. 16, 1980, the following report was filed on Dec. 22, 1980*]

Mr. BROOKS: Committee on Government Operations. Report on the Government's classification of private ideas (Rept. No. 96–1540). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on Dec. 4, 1980, the following report was filed on Dec. 22, 1980*]

Mr. BROOKS: Committee on Government Operations. Report on allocation of budget totals by program (Rept. No. 96–1541). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Small Business. Report on summary of activities of the Committee on Small Business, 96th Congress (Rept. No. 96–1542). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on Dec. 4, 1980, the following report was filed on Dec. 29, 1980*]

Mr. HANLEY: Committee on Post Office and Civil Service. Report pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96–1544). Referred to the Committee of the Whole House on the State of the Union.

Mr. GIAIMO: Committee on the Budget. Report on activities of the Committee on the Budget, 96th Congress (Rept. No. 96–1545). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. Report on the activities of the Committee on Education and Labor during the 96th Congress (Rept. No. 96–1546). Referred to the Committee of the Whole House on the State of the Union.

Mr. WOLFF: Select Committee on Narcotics Abuse and Control. Annual report for the year 1980 of the Select Committee on Narcotics Abuse and Control (Rept. No. 96–1547). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Standards of Official Conduct. Report on activities of the Committee on Standards of Official Conduct during the 96th Congress (Rept. No. 96–1548). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. Report on legislative review activity during the 96th Congress of the Committee on Ways and Means (Rept. No. 96–1549). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. Report on summary of activities of the Committee on Banking, Finance and Urban Affairs, 96th Congress, 2d session (Rept. No. 96–1550). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on Dec. 4, 1980, the following reports were filed on Dec. 30, 1980]

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Report of the Committee on Interstate and Foreign Commerce pursuant to section 302(b)(2) of the Congressional Budget Act of 1974 (Rept. No. 96–1551). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on activities of the Committee on Government Operations during the 96th Congress (Rept. No. 96–1552). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. Report on legislation review activities of the Committee on Foreign Affairs during the 96th Congress (Rept. No. 96–1553). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. Report of the Committee on Banking, Finance and Urban Affairs pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96–1554). Referred to the Committee of the Whole House on the State of the Union.

EXTENSIONS OF REMARKS

SEPARATION OF PERSONAL PAPERS FROM GOVERNMENT RECORDS

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. PREYER. Mr. Speaker, every 4 or so years, as an administration's term is ending, the Archivist of the United States issues a GSA bulletin on the disposition of personal papers and official records.

The bulletin is based on the rules of ownership fashioned by the Congress and codified in title 44 of the United States Code. The guidance points out that agency heads are responsible for insuring against the loss of official Government records, which are those created or received by a Government official in the discharge of his official duties.

Although it has long been held that the concept of what constitutes an official Government record applies to even the most senior of officials, the admonition of Justice Stevens in the Supreme Court's decision on access to former Secretary of State Henry Kissinger's telephone transcripts last spring renders the most recent guidance of heightened importance.

The Court's decision in Kissinger turned on the issue of whether a private right of action exists under title 44 for retrieval of records and whether the Freedom of Information Act carries with it an implied requirement for an agency to retrieve documents no longer under its control. The Court, deciding in the negative on both of these issues, specifically avoided the questions of ownership and wrongful removal. Justice Stevens noted, however, that the decision may be viewed by some as "an incentive for outgoing agency officials to remove potentially embarrassing documents from their files in order to frustrate future FOIA requests."

While I share this concern with Justice Stevens, I suspect an even greater danger exists—as we change the guard—from those either leaving or staying who would be encouraged to achieve anonymity and avoid accountability by shifting records outside the control of their agency. Strict adherence to the GSA bulletin sent to all assistant secretaries for administration—or their equivalents—on November 26, 1980, would do much to avoid such occurrences. A modicum of vigilance by the Congress, would, I suspect, help agency heads appreciate more fully the need to maintain the integrity of agency records.

The text of the GSA bulletin follows:

GSA BULLETIN FPMR B-106—ARCHIVES AND RECORDS

To: Heads of Federal agencies.

Subject: Disposition of personal papers and official records.

1. PURPOSE

This bulletin summarizes the requirements of Federal law and related regulations and reminds heads of all Federal agencies of their legal responsibilities to (a) inform agency officials and personnel about established procedures for maintaining personal papers and (b) ensure the security and integrity of Federal records.

2. EXPIRATION DATE

This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. ACTION TO BE TAKEN BY AGENCY HEADS

a. Heads of all Federal agencies are responsible for ensuring that agency officials and employees are fully informed of requirements of Federal law concerning official records held by their agencies. Agency heads should review agency records management programs and determine whether adequate safeguards exist against the loss of Federal records. To ensure adequate safeguards:

(1) Employees must be acquainted with Federal law governing disposition of official records. Removal or destruction of Federal records should occur only with authorization of NARS-approved records control schedules or general records schedules.

(2) Employees must be aware of the criminal penalties that are attached to unlawful removal or destruction of Federal records. Employees also must be aware of their legal responsibility to inform responsible officials of any actual or threatened unlawful loss or removal of official records.

(3) Employees must be aware of the requirement for identifying and maintaining personal papers separately from official records. Responsible officials should regularly monitor compliance with this requirement.

b. Effective methods to bring these legal requirements to the attention of agency employees include issuance of circular memorandums containing written instructions and discussions held during orientation and debriefing sessions, especially those held for senior executives.

c. Requirements of Federal law governing removal or destruction of Federal records should be incorporated into agency files maintenance manuals and records control schedules. Adequate and proper separation and control of personal papers is essential to ensure the security and integrity of Federal records.

4. BACKGROUND

a. 44 U.S.C. 3301 legally defines "Federal records" to include: . . . all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included.

b. FPMR 101-11.202-2(d) provides a legal definition of personal papers and prescribes standards for their maintenance: Papers of private or nonofficial character which pertain only to an individual's personal affairs that are kept in the office of a Federal official will be clearly designated by him as nonofficial and will at all times be filed separately from the official records of his office. In cases where matters requiring the transaction of official business are received in private personal correspondence, the portion of such correspondence that pertains to official business will be extracted and made a part of the official files. . . .

c. The definition of official records involves materials made or received either under Federal law or in connection with the transaction of public business. The definition of personal papers covers material pertaining solely to an individual's private affairs. For example, correspondence designated "personal," "confidential," or "private," etc., but relevant to the conduct of public business, is an official record subject to the provisions of Federal law pertinent to the maintenance and disposal of these records. Official records are public records and belong to the office rather than to the officer.

d. The legal definition of records (44 U.S.C. 3301) specifically excludes "extra copies of documents preserved only for convenience of reference." These extra copies of documents are commonly regarded as nonrecord materials and are disposable without reference to the requirements of chapter 33, title 44, U.S. Code. Although these materials cannot be considered as personal papers, a Government official may accumulate for convenience of reference extra copies of papers and other materials which he or she has drafted, reviewed, or otherwise acted upon. When deposited in a research institution, extra copies can serve the needs of historical scholarship. Government officials may be permitted to retain these extra copies, provided that retention would not (1) diminish the official records of the agency; (2) violate confidentiality required by national security, privacy, or other interests protected by law; or (3) exceed normal administrative economies.

e. Federal law (44 U.S.C. 3105) requires heads of Federal agencies to establish safeguards against the removal or loss of Federal records. These safeguards include notifying agency officials that (1) the alienation and destruction of records in agency custody is governed by specific provisions of chapter 33, title 44, U.S. Code, and (2) criminal penalties are provided for the unlawful removal or destruction of Federal records (18 U.S.C. 2071) and for the unlawful disclosure of certain information pertaining to national security (18 U.S.C. 793, 794, and 798).

f. Federal law (44 U.S.C. 3106) requires heads of Federal agencies to notify the Administrator of General Services of any actual or threatened unlawful removal or destruction of records in their custody. The Archivist of the United States has been delegated authority to assist agency heads in initiating action through the Attorney General of the United States for the recovery of records unlawfully removed.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

5. ASSISTANCE TO AGENCIES

The National Archives and Records Service will assist agencies in appraising a body of materials and determining whether it comprises personal papers or official records. Oral requests for assistance should be directed to the Records Disposition Division, Office of Federal Records Centers (202-724-1625). Written requests should be forwarded to the General Services Administration (NC), Washington, DC 20408.

6. CANCELLATION

GSA Bulletins FPMR B-65, and B-99 are canceled.

ROBERT M. WARNER,
Archivist of the United States.●

TRIBUTE TO HON. BOB GIAIMO

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PEPPER. Mr. Speaker, to most of us BOB GIAIMO is the symbol of the Budget Committee of this House. The Budget Committee to most of us signifies fiscal responsibility on the part of a nation's government. BOB GIAIMO has made the Budget Committee work. He has been able to thread his way through the jungle of innumerable problems facing the Government and the country and come out at an acceptable end. Above all, BOB GIAIMO's greatest achievement has been to keep the Budget Committee alive—to save it from the crushing forces of fiscal irresponsibility.

BOB GIAIMO has been one of the great leaders of this House, a man of outstanding ability, of great personal charm, of immense capacity to persuade with unshakable dedication to his duty—BOB GIAIMO has left an enormous impact upon this House, the Congress, and the country. It would be difficult for anyone to walk in the seven-league boots with which BOB GIAIMO has led the Budget Committee. We shall immeasurably miss him as a Budget Committee chairman, as an outstanding leader in the House, as a great American, and a cherished friend. We are sorry that BOB GIAIMO has chosen voluntarily to leave the House, but we all hope that he shall continue to employ his magnetic talents somehow to further the public interest, and we extend to him and his lovely wife, Marion, our affectionate good wishes for long, healthy, meaningful, and happy lives.●

TRIBUTE TO JEROME AMBRO

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. RODINO. Mr. Speaker, in a short 6 years JERRY AMBRO has become a valued and respected Member of the House.

Before coming to Congress JERRY served as supervisor of the town of Huntington, N.Y., where he managed the affairs of a municipality of 215,000. This background of experience in local government served to enhance the thoughtful, enthusiastic, and capable efforts he undertook on Federal programs and policies coming under the jurisdiction of the Public Works and Transportation and the Science and Technology Committees on which he served.

JERRY was chairman of the freshman caucus for the first half of 1976 and was vice chairman of the House Environmental Study Conference in the 95th Congress. He was also cochairman of the House Task Force on Industrial Innovation. With these responsibilities JERRY had a fine vantage point to focus on the complex and related problems of the environment and economic development which confront our Nation, and we will greatly miss his participation in our efforts to deal with these issues.

Those of us who worked with JERRY on matters of special interest and concern to members of Italian heritage will long remember the talent, judgment, and energy he brought to our deliberations.

I have no doubt of JERRY's success in the future, for I am confident his talents and abilities will be recognized and effectively utilized in any future challenges he may undertake.●

STATEMENT ON CUBA'S EFFECT ON UNITED STATES-LATIN AMERICAN RELATIONS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. WEISS. Mr. Speaker, it is vital that the Cuban role in Latin American affairs is not used by the United States as an excuse for increased military intervention in present and future Latin American civil conflicts. Cuba's Government is not necessarily a threat to U.S. interests in this hemisphere, and to use it as such to justify sending military aid to unstable governments is dangerous and irresponsible.

We must be prepared to respond in a peaceful way to Latin American conflicts. It is likely that the current fighting in El Salvador will not be the last civil strife in the Americas. The allocation of military aid to Latin American governments based on the claim of defending against a Cuban threat can be expected to increase the political and social problems of this restless region.

A column which appeared recently in the New York Times argues convincingly that what is seen by some as the Cuban threat of communism is not presently a real danger. As the column "Avoiding a Hard Line on the Cubans" explains, Cuba has played a minor role in recent Latin American unrest.

I am including a copy of the column for my colleagues' consideration:

AVOIDING A HARD LINE ON THE CUBANS

(By Carla Anne Robbins and Pamela S. Falk)

WASHINGTON.—The growing Cuban influence in Central America has become a matter of grave concern in Washington. Fears of a wave of Cuban-backed Communist takeovers were raised by the Nicaraguan revolution in 1979. Since then, increasing violence in El Salvador and Guatemala have reinforced these fears, and have become the basis for a new hard-line policy for the region. The incoming Reagan administration has already made clear its intention to abandon President Carter's concern with human rights, and, instead, plans to back the Latin-American right wing's attempts to contain the Communist threat.

There is more than a little sense of deja vu in these events. During the 1960's, the Cuban threat was the primary focus of United States policy toward Latin America. Washington spent millions of dollars arming and training Latin-American militaries in sophisticated counterinsurgency and domestic-pacification techniques.

There was irony in this response, for despite United States allegations (and Cuban claims) of a hemisphere-wide Cuban threat, there were never more than a few hundred Cubans fighting in all of Latin American in the 60's. But the effects of Washington's over-reaction were less ironic than tragic. Our efforts to protect the struggling Latin-American democracies actually hastened their demise in many cases. The Communist threat became the justification for military coups in many countries. Today's persistent repression under the military dictatorships of Chile, Argentina, Brazil, and Uruguay make the cure seem deadlier than the disease.

We are now in danger of repeating this mistake. Such hard-line policies will be even harder to resist, for today there really is a substantial Cuban presence in the region—several thousand advisers in Nicaragua, Granada, St. Lucia and, until recently, Jamaica.

Cuba is no longer interested in exporting revolution to the region. It has refused to commit itself militarily. During the revolution in Nicaragua, it sent no troops and only limited arms—two planeloads of light weapons, according to Central Intelligency Agency reports.

While there are Cuban military advisers in Nicaragua now, the majority are teaching school and building health clinics. The Cubans seem more interested in providing technical and political advice than proxy military support. Even more surprising is the advice the Cubans are offering their revolutionary clients. They are not instructing the Nicaraguans to nationalize all foreign industry, cut ties to the West, and follow Cuba into the socialist bloc. Instead of anarchy and revolution, they are suggesting that the Nicaraguans adopt a moderate course—a nonaligned position abroad and a mixed economy at home. As one member of the United States Embassy in Nicaragua put it: "The Cubans are telling the Nicaraguans not to repeat their mistakes."

This is not to suggest that the Cubans have suddenly become pro-United States. They have not. It is just that their own economic failures at home and the painful reality of their complete dependence on the Soviet Union have made them realistic about alternatives open to small states. These countries, they are saying, cannot afford to reject Western business, investments, aid, and political ties—particularly because Cuba's own patron cannot be expected to foot the bills. In Peru, Chile, and Nicaragua, the Russians have made it clear that they will not take on the financial burdens of another Cuba.

The United States can afford a tempered response. There is no need to overreact to the Cuban presence. Indeed, the costs would be high. Much of the current instability in the region is the result of our similar decision 15 years ago to side with the Latin-American right. These regimes used the Cuban threat as an excuse to avoid making the economic and social reforms that would have guaranteed human rights and stability based on governmental legitimacy rather than military might.

There may be more opportunities for the United States in the region if the new administration adopts a course of active competition rather than reactive return to military containment. Our technical know-how, investment, and trade may be more effective in winning allies and undercutting the power of enemies.

Such measures would not be easy for the Reagan administration. The temptation to overreact will be great. Nevertheless, this would be a mistake. For while the Cuban presence in the region is clear, it is not necessarily a present danger to the United States. The real danger to both democracy and long-range peace may well lie in choosing military strength over the strength of democracy, both at home and in Central America.●

TRIBUTE TO HON. AL ULLMAN

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PEPPER. Mr. Speaker, it was almost impossible for the Members of this House to believe that Al Ullman, the distinguished chairman of the powerful Ways and Means Committee who had done so much for his district, his State, and his country, will not return to this House for as long as he chooses to be here. We know it was extraordinary circumstances, attributable in no way to him, that that unhappy event occurred. While we have to accept the verdict of the people and no one would be more strongly committed to that than Al Ullman, we cannot suppress our strong feeling that the loss of Al Ullman to the House was an enormous deprivation for the House and for our country.

Al Ullman has long been a tower of strength as a member of the Ways and Means Committee, and as a Member of this House, he is a man of outstanding ability, of dedication to his duty, hard working and cooperative with his colleagues. With those attributes, he has been able to lead his powerful committee in the enactment of outstanding legislation for the Nation. He has believed in a tax system fair to all the people without privilege to any. He has believed in a wise and frugal government and striven to spare the people of all burdens from which they could be saved by taxation. Yet, he has been keenly aware as a man of noble compassion of the needs of the people of the country and he has been willing to make hard decisions to help those people. So many Americans are better off, healthier, and happier today because of the outstanding work of Al Ullman.

He came to the chairmanship of the Ways and Means Committee following in the footsteps of one of its greatest chairmen, Wilbur Mills. But, he soon had won the confidence of his committee, the House, the Senate, and the country, and now his leadership is respected and supported by the committee, the House, and the country.

Besides being a great legislator, Al Ullman is a great American. He has a keen mind, cultivated by good education, a deep dedication to duty, strong determination, and the enviable quality of leadership. Besides he is a charming gentleman, a cherished friend, and a noble man.

I do not know to what endeavors Al Ullman will direct his great talents in the years ahead. I hope they shall still be contributing to his country's strength and security and to the betterment of his fellow citizens. He has left a permanent mark upon this House, upon Washington, and upon America. He has left an imperishable friendship in the hearts of his colleagues.

We extend to Al and his lovely wife, Audrey, who has been such a valued helpmate to him here, our affectionate good wishes for many years of life, health, happiness, and abiding satisfaction.●

BRAD BURNS' EXEMPLARY LEGACY

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mrs. HECKLER. Mr. Speaker, I rise to call to the attention of my colleagues in the House of Representatives the most untimely passing of Mr. Bradford Burns, aged 29, who already had become one of the most prominent leaders of the veteran community in my State.

Brad passed away unexpectedly Sunday night, December 14, at his home in Brockton, Mass. He had been employed by the Veterans' Administration as public education and outreach officer at the Vietnam veteran counseling center in that city.

I extend my deepest personal condolences to his widow, Lena, his son, Jamie, age 4 and to his mother, Mrs. Marian Burns, who resides in Stoughton, Mass. I share the sorrow and grief felt by all of Brad's family and friends.

Brad leaves a legacy as one of the most human and caring persons any of us shall ever know. He pursued his mission in life—of helping and assisting others—with such intense purpose and zeal that he rarely had time to himself. And Brad was a doer.

Two years ago, Brad founded and became first president of the Massachusetts Vietnam-Era Veteran Association (VEVA). His commitment to the veteran began immediately after his honorable discharge from the Marine Corps in 1973 following service as a lance corporal mortarman with the 9th Marine Division in Vietnam. He was awarded the Vietnam Service Medal and the Marine Combat Medal.

Upon enrolling at Southeastern Massachusetts University in 1974 on the GI bill, Brad founded and became first president of the campus Veterans' Club. He organized and directed campus veterans in many civic projects and efforts, ranging from toys for tots to a crisis hotline for troubled veterans. He led successful efforts to commemorate the university's amphitheater as the "Vietnam Veteran Amphitheater." Its inscription—"We are all Vietnam Veterans"—is particularly poignant.

Brad also established a crisis hotline for troubled youths in the community. Brad's first involvement in such counseling came while he was in the Marine Corps and served as a peer counselor in the corps Pacific command.

Brad's commitment to helping others was total. His able vet center team leader, Bob Gillis, and personal friend and associate at the center, Frank Penacho, often stood in amazement at how—more than once—Brad would spent an entire night counseling a troubled friend and then report directly to work in the morning to perform his outreach duties. Brad always was really accessible and available to anyone in need of help and assistance.

It was upon graduation from Southeastern Massachusetts University in 1978 that Brad founded VEVA. As its president, he was the driving force behind the proclamation by the Governor that March 29 of each year shall be Vietnam Veterans Day in Massachusetts. This annual observance by the Commonwealth's 6 million citizens and residents commemorates the day the last American GI left Vietnam.

Last year I introduced House Joint Resolution 420, to declare that date as a national day of observance in honor specifically of our 8.5 million Vietnam veterans. I am pleased to have worked very closely with Brad in developing this proposed resolution. Its enactment by Congress would be a stirring tribute to Brad Burns and his exemplary legacy. Toward that goal, I shall introduce this resolution in the 97th Congress early next year and pursue its enactment.

Brad Burns' legacy—literally—is the countless number of lives he saved, and the many more he touched. Brad will be rendered full military honors by a Marine Corps honor guard Thursday, December 18, at Knollwood

Cemetery in Canton, Mass. We can best honor and enhance his legacy by carrying on his fine and selfless work. Brad's life has been an inspiration to each of us. It has been an example to all of us.●

TRIBUTE TO HON. JIM CORMAN

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

● Mr. PEPPER. Mr. Speaker, one of the most grievous losses this House has sustained in the last election was JIM CORMAN. JIM CORMAN had exemplified the best there was in the philosophy and the programs of the Democratic Party. He has been a great leader in the Democratic Party in the House and in the country. He has been outstanding in his accomplishments as chairman of the Democratic fund raising dinners held every year. Those dinners have been an outstanding success because of JIM CORMAN. In the legislative field, JIM CORMAN's great work has been on the Ways and Means Committee of which he is a senior member. He has been the champion of social security, medicare, medicaid, and every program that was meaningful for the masses of the people in this country. In tax matters, he has always fought for a fair tax system which would not bear unjustly upon the backs of those already overburdened by adverse circumstances. JIM CORMAN would always be found fighting on the side of the people for what was best for the country and what made America stronger and a happier land for its people.

JIM CORMAN, as everyone knows, is a charming gentleman, a great American, and a treasured friend. He and his lovely wife, Nancy, have been an important part of Washington and the Congress for a long time. They will be sorely missed. Their loss is a tragedy for the country.

We all are confident that with his great ability, his high purpose, his noble character, and his outstanding attributes, JIM CORMAN and his lovely wife, Nancy, will continue to serve this Nation which they so ably served for so long.

But since we must part, we send with Nancy and JIM CORMAN our affectionate best wishes for long, healthy, happy, and meaningful lives.●

ENERGY CRISIS

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. HARSHA. Mr. Speaker, on December 16 of this year Mr. John A. Creedy, president, Water Transport Association, made a very cogent speech relative to our energy situation and the ability of our transportation system to help meet the energy crises.

I commend his remarks to my colleagues:

MAXIMIZING COMPETITION FOR EXPORT OF APPALACHIAN COAL

It is a pleasure to come back again to the Energy Bureau's education mill on coal. It's been only two months since our last session and, if anything, the export picture is worse. Instead of 50 ships waiting off Norfolk, there are upwards of 100 ships.

It's probably not nearly as bad as it looks. I heard last week that if you have an unemployed ship anywhere in the world you get in line at Hampton Roads. As the weeks go by, your place in line is worth money and when you get near the head of the line you have a contract.

Nevertheless, the armada of waiting shipping, which is reminding everyone of the invasion of Normandy, is certainly telling us something.

The coal industry has capacity to produce at least 100 million more tons of coal than it is producing. Coal mines are closed; miners are out of work.

It's not that the coal can't be sold. Europe and Asia are much more determined and much further along in their programs than we are to free themselves from the OPEC monopoly by switching their electric utilities to coal.

The coal industry's capacity is ample for the market. And the reserves that can be developed are staggering. The customers are clamoring to buy. The problem is with the transport infrastructure. The bottom line is that the coal industry can sell it, but they can't transport it.

To be sure, capacity to ship is slowly expanding, but the market is far ahead of the transport capacity.

The difference is in how the future is viewed. The coal exporters say too many of us are thinking in terms of 70 or, even at the outside, 125 million tons a year when the potential may well be 400 million tons a year.

It is interesting to read the recently published reports of our French, Dutch, and Japanese customers assessing priorities for improving export of U.S. coal.

What they say amounts to this: We need to get our transportation act together. The French are specific.

For the U.S. to be competitive, they say, three essential actions are required:

Deepening the entrance pass to the Mississippi River to 50 feet minimum, 55 feet if possible within the next three years. This is the first priority.

Deepening to 55 feet the access channel to Hampton Roads within the shortest time allowed.

At the same time, reorganizing and improving railroad transportation and shiploading systems on the east coast.

They say they like the unit train system of transport with ground storage at the ports so that the ships don't have to wait for the trains or the trains for the ships. This has been successful particularly in the west and they want to see its efficiencies applied to the Appalachian coal movements.

Our foreign customers point out that what's needed is improved efficiency of the U.S. transport infrastructure—not blue-sky drawing-board type of potential efficiencies. But the nitty-gritty everyday efficiencies already proven over much of the rail system like the unit train.

And the Dutch, who are world experts in dredging, tell us cheerfully that if we can't dig out our ports expeditiously, they would be happy to lend a hand.

They are all saying politely that what the U.S. transport system needs is a good shaking up.

This seems to be a situation in which a little leadership would help. On the crucial port issue, Senators John W. Warner of Virginia and Bennett Johnston of Louisiana have introduced legislation to try to streamline the port improvement process.

The basic approach to navigation projects up to now is to make haste very slowly. It boils down to never doing in three years what can be strung out for 10 or 15 years. The Warner-Johnston legislation is designed to find a way to give everyone, particularly the environmentalists, his day in court and yet produce the desired result before the Australians get their act together.

The Corps of Engineers can certainly work fast—as any World War II veteran can testify—but shaking up the process to permit them to work at their most efficient speed is the basic objective of Senators Warner and Johnston, who have been joined by many other Senators on both sides of the aisle.

When it comes to shaking up the private enterprise rail-barge-truck infrastructure, we may have at hand in the Staggers Rail Act just the medicine the doctor ordered.

At the annual NIT League meeting last month, Darius Gaskins, Chairman of the ICC, said the Act was intended to "foster an open competitive transportation marketplace."

Nothing shakes up a private enterprise like vigorous competition. Water carriers, no less than shippers, have had long experience in listening to the many excuses a railroad can give for failing to provide his "best efficiencies" where there is no competitive spur. And we always marvel, as shippers do, how quickly all those excuses which prevent rail-water coordination melt away when a new market is at stake or some valued traffic is threatened with diversion.

As you know, the barge lines live in a free market place. A shipper or a connecting railroad has a choice of dozens of competing barge lines. And if the shipper doesn't like the barge rate or the service, he can go into the barge business for himself.

The number one fact of life in barging is that a railroad or another barge line is forever on the verge of stealing the business. So the number one investment is always aimed at preventing that—in improving productivity, in innovation, in labor saving, in fuel efficiency and the like. Managers of businesses may not always like to give first priority to such heavy investment of capital funds in improved productivity, but in barging, if you don't give priority to improved efficiency, in the long run, you're out of business.

So that's why you see ever more powerful towboats pushing bigger tows, bigger individual barges, more fuel efficient engines, ever better design of hulls and propeller systems to reduce drag and increase propulsive efficiency, innovative ocean barging systems, to name a few examples.

This is why barging is more resistant to the effects of inflation than any other mode and is likely to be more stable in its pricing, and more reliable in its efficiency and performance in the future than any other mode.

And it's also why you see capacity keeping up with demand. If one barge line doesn't invest in barges, someone else will.

What meaning does all this have for Appalachian coal? Traditionally this coal has been wholly captive of the railroads, at least in terms of metallurgical coal for export. It has been a somewhat cozy arrangement and a highly profitable one for the railroads dominating the trade. There is none of the competitive strain, excitement, and challenge which is the daily fare of the barge lines on the Mississippi-Ohio system.

There is none of the challenge felt by the western railroads which compete with the Mississippi River. Out there, when grain shippers, for example, offer heavy trainload volumes, they expect to share in the efficiencies of volume movement. A typical reduction is about one-third of the 10-car rate.

If railroads didn't offer their best efficiencies and pass the efficiencies through to the shipper, the traffic would disappear into the barges. There's constant intermodal interaction and constant pressure to improve rail and to improve barge efficiency.

True, the railroads don't like it. They tried to place a lid on Mississippi River capacity by opposing the reconstruction of Locks and Dam 26 at Alton, Illinois. They have indeed caused two and three-day delays at the lock, delayed the rebuilding schedule, and forced up barge costs. But they have made very few friends among their shippers in the process.

There's a possible new ball game for Appalachian coal.

The major coal reserves in the east—West Virginia, Kentucky, Tennessee, Ohio, Indiana, and Illinois—are normally within less than 200 miles of the Ohio River. With efficiency of both rail and eastern ports under severe attack, an alternative transport route is opening up via the Ohio-Mississippi system and the Port of New Orleans.

The Hampton Roads market outlet is normally served all-rail. The New Orleans market outlet for Appalachian coal is best served truck-barge and rail-barge. Truck-barge coal is already moving in substantial volumes. The trucks are like the barges. Dozens of companies compete and the "best efficiencies" are always available on demand.

Not so where the railroads have a monopoly as they do on Appalachian coal beyond the truck range.

As our foreign customers have observed, the typical unit train rate is not available for Appalachian coal. The shippers offer trainload volumes, the railroads usually ship the coal in trainloads, but they charge single car rates and put in their own pockets the proceeds of the trainload efficiencies.

This is a little like taking candy from a baby. They couldn't do it unless they had a monopoly.

In the manufacturing economy, where a situation like this occurs, the government would break up the monopoly. It isn't practicable to break up the rail monopolies. Indeed, it is likely that there will be fewer railroads and therefore more opportunities for the exercise of monopoly power in the future than in the past.

Recognizing this, the Congress has given the ICC the task of stimulating competition. The new Staggers Rail Act spells it out clearly as follows: "In regulating the railroad industry, it is the policy of the United States . . . to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail and water carriers."

The policy is even-handed. It seeks to free up railroads to compete with barge lines and to ensure that opportunities of barge lines to compete are not undermined.

In the past, railroads have used various devices to kill off the water competition. Sometimes they simply refuse to connect with a water carrier. An interested Federal judge, some years ago, walked along the railroad tracks on a dock in Buffalo trying to figure out why a connection with a water carrier was not possible, as the railroad claimed, and, of course, couldn't.

Then, to use a hypothetical example, when the all-rail rate for 300 miles is $10 a ton, we sometimes find that the rail rate for 150 miles to the port for connection with the water carrier is also $10 a ton so that even if the water carrier rate is zero, the competition is precluded, stifled, undermined—whatever.

Another effective device is for the railroad to withhold its "best efficiencies" when connecting with a water carrier. A unit train is available all-rail, but only a single car rate is available to connect with the water carrier.

For coal over long distances, of course, the water carrier is the only practical alternative. The railroads have so far succeeded in suppressing slurry pipelines. So the Congress singled out water competition for special attention in Section 707 of the Act and warned the ICC to prohibit practices which undermine water-rail competition.

There may be a combination of these practices and perhaps others at work to build what is in effect a "Chinese Wall" to undermine and preclude the competition of the rail-water competitive alternative via New Orleans with the all-rail route via Hampton Roads.

If the Commission were to take its Congressional mandate to promote competition seriously, it would ask the necessary questions to determine whether these railroads are being protected from the pressures of competition.

For example, a major current defect at the Atlantic ports is the absence of ground storage for steam coal. The trains have to wait for the ships and the ships have to wait for the trains—for weeks. Western railroads and barge lines have long since developed efficient rail-water transfer facilities to expedite transfer. Trains dump coal on the ground and shuttle back for another load. Barges pick up directly from trains or off the ground. They do not wait for trains. Cost savings are enormous. The same system is available at the Port of New Orleans. There is ground storage. Ships and barges do not wait for each other.

Efficient rail-to-water transfer facilities exist along the Ohio River, some of the newest with ground storage. Why then are not unit train shuttle-type rates, which are so profitable in the west, available to the shippers of Appalachian coal?

We note that on a typical movement from the C&O's Big Sandy District in West Virginia only single car service is available and the rate is $13.50 a net ton for 608 miles to Newport News.

To Ceredo, West Virginia, from the same C&O district, although trainload volumes are offered and efficient rail-water transfer is available, only single car service is provided. For 108 miles to Ceredo, the rate is $5.92 a net ton. The distance to Ceredo is only 15 per cent of the distance to Newport News, but the rate is 44 per cent of the rate for 608 miles. What is the economic justification, other than killing off the competition of the rail-water routing via New Orleans, for the failure to provide a comparable rate, costs considered. There would appear, on its face, to be a serious question as to whether such a rate disparity, in view of the comparative distance, is at all reasonable. In the interest of helping to solve a major transport problem, the ICC should inquire into the facts and determine what the proper rate relationship should be.

Regulatory commissions have never won any oscars for promoting competition, but now in the Staggers Rail Act the ICC has been challenged to do just that.

An early test of the Commission's intentions in this field will be in the handling of rail contract rates. With a contract of course competition is concentrated in the period before the contract is signed. At the time of bidding or negotiating the contract, unlawful behavior which undermines competition has to be caught and dealt with.

In the rule-making on contract rates so far, concern for promoting competition of rail and water services is conspicuous by its absence—so much so that the Commission is now in court to answer why it gave no notice of its contract rate rule-making and why it ignored the clear mandate of the Staggers Act to make certain that rail-water competition is not undermined.

We have often thought the procedures of the antitrust laws far preferable to those of the Commission. Under those laws, competition is taken much more seriously. Undermining competition is prohibited, court injunctions are available and treble damages are provided as a deterrent for anticompetitive behavior.

The engine of competition is too important an influence on improved efficiency to be treated as lightly as it usually is by the Commission. It deserves a much higher priority than it has received in the past—as the plight of Appalachian coal demonstrates.

The rail monopoly is all too clear. The competitive spur to improved efficiency is absent, the resistance to providing service at unit train rates, for example, on export of eastern steam coal seems highly successful so far.

Finding a way to remove artificial barriers to the competition of the rail-water route via New Orleans to the all-rail route via Hampton Roads would pay massive dividends in stimulating coal exports, improving our balance of payments, helping liberate our allies from the OPEC monopoly, relieving unemployment in the coal industry and above all permanently applying pressure to improve both rail and barge efficiency.

The water carriers support the Warner-Johnston initiative to expedite the deepening of channels at Hampton Roads, Mobile, and New Orleans. Unlike rail opposition to navigation improvements on the rivers, the water carriers have not opposed Federal aids to railroads, although such aids typically strengthen or improve the competitive position of the railroads. Our position is that we support anything that makes for a better and more efficient national transportation system.

As to who gets the traffic, water carriers believe that efficiency, rather than leverage stemming from monopoly-type manipulation of rail rates and services, should be the only criterion.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. McDONALD. Mr. Speaker, due to a commitment which was impossible to cancel, I regrettably missed four votes. I was paired on each vote but failed to receive a live pair on all four. If I had been present I would have voted as follows:

"No" to rollcall 676.

"No" to rollcall 677.

"No" to rollcall 678.

"No" to rollcall 680.●

TRIBUTE TO BOB ECKHARDT

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 5, 1980

● Mr. PEPPER. Mr. Speaker, one of the rare Members of this House has been Bob Eckhardt. Bob Eckhardt is a Representative almost out of a story book. He would have adorned this House at any age in our history but especially in the days when the gentlemen scholars were the leaders of this House. He would have been an equal with any of our past great, as a constitutional scholar, as a Member learned in the law, as a philosopher, as a political scientist, as a mellow man with distinctive dress, an especially gracious manner and charm, and great dedication to the public interest.

He saw the role of a Representative in this House as the role of the statesman, deeply concerned about this country and vastly knowledgeable about our Nation's institutions and character. He always had the larger view of what was good for America, what would help free enterprise to function more perfectly for the profit of the entrepreneur and the good of the public. He knew the weight of the burden of responsibility which the Constitution placed upon the Members of this House. He appreciated the necessity of the Members thinking of the Nation's interest first and the interest of our respective districts second. He thought it was a form of disloyalty to America for a Member to put his personal interest ahead of the interest of this country. So, when the good of America was jeopardized by his service to his State or district, or to his own political interests, he opted for America. Every Member of this House knew when an issue arose on the floor which was of vital interest to our country, that Bob Eckhardt, in his scholarly, persuasive, distinguished way, would be fighting for America.

Unhappily, that is not always the view of Members of this House, either now or as it has been in the past. It was that primary loyalty that he paid to America that eventually lost Bob Eckhardt his seat in this House. So, an opponent's gain was the Nation's and this House's loss.

Unless another Bob Eckhardt shall emerge from the many able Members elected to this House in the last election, I know of no one in this House to take Bob Eckhardt's place—to speak so ably, so persuasively, so courageously for what is good for this great America. And so we of this House pay our tribute to Bob Eckhardt, and as colleagues and fellow countrymen thank him for what he has done for our country, thank him for being the great and gracious colleague he has been, and thank him for the warmth of his friendship. It will be long before the glow of Bob Eckhardt's brilliant mind shall fade from this House; it will be longer before our vivid memories of that rare man Bob Eckhardt fade. Bob has left his mark and it will endure upon this House, upon the Congress, and upon the country.

We all extend our affectionate good wishes to Bob and his lovely wife, Celia. We hope they will continue to serve their country, that they will have a continued and meaningful impact upon the national interest, and that they may find for themselves the satisfaction of long and meaningful lives, good health, and great happiness.●

RETIRING MEMBERS

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. CLAUSEN. Mr. Speaker, during the final days of the 96th Congress I have taken a few moments to reflect on the events of the last 2 years as well as the experience and privilege I have had to serve with so many fine, committed, and concerned Members of the House of Representatives.

Many of us will not be returning to serve in the 97th Congress, and while I have had the opportunity to pay tribute to a number of my colleagues, I wanted to take this opportunity to share my remembrances of a number of special friends.

Thomas "Lud" Ashley and I have had a special relationship with our mutual interest in flying. Lud will long be remembered as a champion of the housing program and his efforts will stand as a tribute to his leadership. He has stood out among Members in his honest and objective approach to the assessment of legislative proposals. He did his best to extract the best from both sides of the political aisle. He is a good friend and he will be sorely missed.

David Satterfield has chosen to leave the House and we will be losing a very constructive and creative conservative. I often found myself voting with Dave's voting patterns. He has held rigidly to Jeffersonian principles—especially that government which governs least governs best. We have shared a mutual interest in aviation, both of us having served as Navy pilots during World War II. I will remember Dave as a staunch supporter of traditions—truly a Virginia gentleman and Jeffersonian Democrat. He will long be admired and recognized for his dedication to upholding the principles of our Constitution.

Lionel Van Deerlin—Mr. Communications—will be sorely missed, not only for his professional qualifications and special insights into the broadcast industry but also for his genuine down-to-earth attitudes. It was my privilege to work with Van in a number of water-related public works projects in the San Diego area. He can take great pride in those legislative initiatives which have resulted in the putting into place of a number of projects and programs of lasting value to the citizens of San Diego. Van and I shared a special relationship as members of the class of 88, and he will long be remembered for his outstanding renditions of "Casey at the Bat" at our annual gatherings.

I consider Bob McEwen one of my closest friends. We go back a long way together and I shall always be appreciative of his hiring my daughter Beverly as a member of his staff when my son-in-law was in Vietnam. His action both provided my daughter with additional security and gave her a better understanding of the congressional process. My administrative assistant also comes from Bob's hometown, Ogdensburg, N.Y., where his father is one of Bob's most enthusiastic supporters.

I understand that the International Joint Commission—United States, Canada—operates in the Great Lakes area. I can think of no one more eminently qualified to serve as a member of this Commission than Bob McEwen. I am sure he would bring to this body the same leadership which resulted in the conduct of the 1980 winter Olympic games at Lake Placid, N.Y., and the expanded use of facilities at Fort Drum by the U.S. Army. We in the 97th Congress will sorely miss Bob McEwen's dedication, insight, leadership, and commonsense, but wish him and his wife Pat great happiness in their northern New York home.

I am pleased and proud to have had the opportunity to work with Harley Staggers—the longtime champion of railroad and communications legislation. On numerous occasions I have had the privilege of visiting both with Harley and with the people of his West Virginia district. These privileges have afforded me the pleasure of becoming well acquainted with the people of the Second District of West Virginia and allowed me the honor of serving and being associated with Staggers and the distinguished Senator Jennings Randolph.

Harley Staggers' presence in these legislative halls will be missed immensely. His record of service for his district, West Virginia, and the Nation leaves a legacy of accomplishment in the fields of transportation, trade, and communications which will be hard to duplicate.

Harley Staggers has set an example of legislative genius here but more importantly is the example of human kindness and gentility he has set. As busy as Harley was, he always took the time to stop and talk. This is a gentleman in the most literal sense of the word—a gentleman who will not soon be forgotten.

Harley Staggers, let me just say, as strongly as you have believed in America, we believe in you and wish you much happiness and success in the years ahead.

All my colleagues will, I know, want to join with me in expressing great sorrow in seeing Jim Corman leave this body.

Jim was one of California's finest representatives on the Ways and Means Committee and I greatly enjoyed working with him in that capacity.

While I feel a great sadness at his leaving, I also feel great pride and a sense of fulfillment because I have been honored to call Jim my friend.

Although we differed on philosophy, I could always count on him to be forthright in his views. We always had a frank, open, and productive congressional dialog. Jim was an honest liberal.

For many years, he has brought to the House a special blend of statesmanlike qualities which have made him among the most valued of colleagues. His knowledge of government, his special skill as the champion of the people of his district, and his vigorous pursuit of his goals has placed him in the forefront of this body.

Jim has never hesitated to take on difficult tasks and he has demonstrated his ability as a legislator both in his committee and on the House floor. We can all appreciate how hard it is to get results, but Jim has shown us that the way to succeed is to put in long hours, have patience, and keep on trying.

In my personal committee assignment on the Public Works and Transportation Committee, I frequently had the pleasure of working with Jim when he came to present the water needs of the Los Angeles area to us.

It is with great affection, and with great appreciation for his long service, that we say farewell to Jim Corman and wish him all the best during all the years to come.

Mr. Speaker, it is with great regret that we observe the retirement of one of the most competent, dedicated, and respected legislators in the House—Jim Johnson.

During our joint service on the Committee on Interior and Insular Affairs, I came to know and respect his outstanding ability, particularly on public lands issues. All of us on the committee relied on him for his talent and willingness to work hard.

As one of the leading champions of State water rights in the House, Jim fought hard to protect those in his home State of Colorado. On not just this subject, but in all fields, he consistently maintained a constructive and balanced approach to conservation matters pending before the House. His peers on Capitol Hill will always remember him for his attitude.

Jim Johnson chose to pursue his law career by leaving Congress, and I know that if I were in his area of Colorado and needed the best legal talent available, he is the man I would seek out as my lawyer.

In choosing words to describe Jim Johnson, honesty, impeccable integrity, and man of unwavering principle come immediately to my mind.

Jim's level of intelligence would place him at the top of any list of the brightest people in Congress. I have observed him negotiate—both with executive branch agencies and with the Senate as a conferee—and any objective observer would say: "Here is truly an honorable Member of Congress."

If a motion picture company were to do a movie on Congress, my choice for the starring role would be Jim Johnson. He has all the attributes of a successful Congressman. Jim also has all the attributes for holding a high executive branch office.

With his retirement, he will have more opportunity for greater access to his family at a time when it will be more meaningful for both them and him.

I personally will miss his judgment, which I relied on very much. Jim Johnson will always stand tall in the forest of great men. He is one of the best men I have ever known and one of the greatest friends I have ever had.

All my colleagues will, I am sure, want to join me in wishing Jim and his family a long, happy and successful future.

Al Ullman, chairman of the Ways and Means Committee, had one of the most demanding and challenging responsibilities of the entire Congress. It has been my privilege to work with him on a number of Public Works and Interior matters which have had an impact on Oregon and his constituency. I will always remember our special working relationship with the western forestry delegation that monitored and advanced legislation relating to all important forest products in the United States. Al was particularly helpful in educating colleagues in Congress of proper capital gains treatment for timberlands, which is important to sustaining a private sector reforestation conservation effort. Literally, Al carried this important legislation matter for tree-growing States in the United States.

The very genial and warm personalities of Al and his wife have been significant assets to the Congress. We will miss them, but I am convinced we will see them in and around the activities in Washington in the future, as they are very much in the Capital scene.●

RECOLLECTIONS OF 16 YEARS ON THE HEALTH AND ENVIRONMENT SUBCOMMITTEE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. CARTER. Mr. Speaker, as the 96th Congress draws to a close and my own retirement approaches, I cannot help but feel nostalgic about all the wonderful experiences I have had during my 16 years in Congress as Representative of the Fifth District of Kentucky. In particular, my membership on the Health and Environment Subcommittee and the opportunity to serve as its ranking minority member for the last 6 years have been especially rewarding. Moreover, as a physician who has practiced medicine in medically underserved rural areas and who has treated youngsters with whooping cough and otitis media as well as people suffering from diabetes, arthritis, and cancer, I cannot help but be sensitive to the health care needs of our people.

Over the years, I've tried to approach the consideration of health policy and the development of health legislation with several guiding principles in mind. These include:

A belief in the importance of a Federal commitment to biomedical research;

A recognition of the tremendous benefits of a preventive approach to health care;

An appreciation of the association between poverty and health problems—and a strong conviction that all Americans, especially the poor, should have access to needed health care regardless of ability to pay;

A belief in the importance of a pluralistic health care system and the need for close cooperation between public and private sectors to improve health care for our citizens; and

A strong concern for preserving the natural environment and protecting the American people from environmental health hazards which appear in our air, water, food, and workplaces.

Now, I would like to highlight a few examples of legislation I have worked on over the past 16 years which reflect these principles.

My belief in the importance of a Federal commitment to biomedical research has been an overriding one which has led me to support a variety of disease-related programs and initiatives. For example, I am proud to have cosponsored the 1971 National Cancer Act, which expanded the authorities of the National Cancer Institute in order to advance the national effort against cancer. In my view, it was necessary to give the NCI independent status within the National Institutes of Health so that efforts to combat cancer could receive priority.

More recently, I was pleased to join Congressman Pepper, a good friend and distinguished public servant who now chairs the House Select Committee on Aging, to increase the appropriations for interferon research within the National Cancer Institute. As you may know, interferon is a natural virus-fighting substance, discovered in 1957 and manufactured in the white blood cells of humans, which holds tremendous promise for preventing and treating a range of viral maladies, including forms of cancer.

Although cancer research has been a particular interest of mine, over the years I have also been pleased to sponsor legislation to enhance our Nation's efforts in fighting other major diseases, such as diabetes, arthritis, heart and blood conditions, and various digestive diseases. For example, I was pleased to sponsor legislation which led to the establishment of diabetes and arthritis training centers and to the creation of national advisory boards for arthritis, diabetes, and most recently, digestive diseases. By coordinating Federal efforts in these areas through the work of these advisory boards and the dedicated people who serve on them, I believe we can continue to achieve the progress that is needed to reduce, and eventually eliminate, the burden of these conditions on millions of Americans.

But, as you know, our ability to make progress in combating these and other diseases depends upon the dedication and perseverance of our Nation's physicians, scientists, engineers, and other researchers whose work holds the key to so many exciting achievements. We are indeed fortunate to have individuals like Dr. Emil Frei, a renowned cancer specialist at Sidney Farber, and Dr. William Beck, an outstanding hematologist at Harvard Medical School, working in the private sector as well as Federal officials who have made distinguished careers of public service in the biomedical research field. For example, Dr. Donald S. Fredrickson, Director of the National Institutes of Health, Dr. Robert I. Levy, Director of the Heart, Lung, and Blood Institute, Dr. Vincent T. De Vita, Director of the National Cancer Institute, and Dr. G. Donald Whedon, Director of the newly renamed Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, have contributed significantly to the advances that have been achieved in so many fields of biomedical research.

Another major principle which has guided my work on the Health Subcommittee has been the importance of a preventive approach to health care. That principle, combined with my personal knowledge of the need for family planning services, led to my sponsorship of the original family planning legislation in 1970. Known as the Carter-Tydings bill, this legislation, which became Public Law 91-572, expanded and coordinated the family planning and population research activities of the Federal Government. Currently, this program provides family planning services to more than 4 million women. Moreover, it has been shown to be cost effective as well. For every $1 invested in the program, it is estimated that $1.80 is yielded in Government savings the following year in prevented health and social welfare expenditures.

Yet family planning is just one aspect of what should be a comprehensive preventive approach to health care. So recognizing the need for a more visible and coordinated Federal focus for prevention, I introduced legislation in 1975, which became Public Law 94-317, that provided for the establishment of the Office of Health Information and Health Promotion in the then Department of Health, Education, and Welfare. As a result of this legislation and strong leadership in the administration, prevention has been established as a Federal priority, and there has been a growing recognition of its tremendous potential for reducing the risks of disease, disability, and untimely death.

Several impressive initiatives in this area have illustrated the Federal commitment to prevention. For example, the Surgeon General's 1979 report, entitled "Healthy People," sets broad goals for measurably reducing the burden of avoidable illness and early death during the current decade. Specific opportunities for achieving these broad goals are delineated in a recently issued report, "Promoting Health/Preventing Disease—Objectives for the Nation," which was developed by many knowledgeable professionals and lay persons. This document sets forth detailed prevention opportunities in 15 areas, including high blood pressure control, nutrition, occupational safety and health, and control of infectious diseases. In my view, achievement of these objectives is indeed possible and most desirable, and I would urge that increased efforts within both public and private sectors be devoted to the task so that we can achieve the goals even before the target year of 1990.

There have been other legislative proposals relating to prevention. For instance, I included a preventive services package as part of a comprehensive national health insurance bill which I sponsored in 1976. As proposed, those preventive benefits included periodic health exams at specific stages of life beginning with prenatal care for the young mother and continuing through adolescence, young adulthood, and older age. At each stage, appropriate preventive services were to be available, and no copayments or deductibles were to be required. Although Congress has yet to enact any comprehensive form of national health insurance—and in fact, my own thinking has changed such that I feel adoption of a catastrophic health insurance program is the most needed and realistic approach at this time—I would hope that any expanded program of health insurance would include recognition of the value of proven preventive health services. In that regard, I find it encouraging that Congress has just adopted an amendment to provide medicare coverage of pneumococcal vaccine—a policy change that should help prevent development of a major preventable form of pneumonia in millions of Americans and which is expected to be cost effective by the fourth year of the program. I was pleased to cosponsor this amendment in subcommittee with several of my distinguished colleagues. In view of the many dividends which result from effective preventive initiatives, I would expect both Federal and private sectors to continue seeking ways to incorporate prevention into our health care system.

Mr. Speaker, as you know, I have also helped develop programs to improve the delivery of health care to people throughout the country. My efforts in this regard have been founded on my belief that the Federal Government does have a responsibility to help those who cannot help themselves or whose problems cannot be adequately addressed through private means. In particular, I have continued to support a variety of community-based service delivery programs including: emergency medical services, community health centers, migrant health centers, community mental health centers, health in underserved rural areas projects, and various public health programs. In my view, these programs have greatly increased access to health care needed by millions of Americans.

Yet despite the existence of these programs and medicare and medicaid, we know that there are millions of Americans who still lack access to health services. Coming from a rural area as I do, I have seen firsthand what a health manpower shortage area is. As a result, I have felt the justification for Federal involvement in this area, and that is why I have been a strong supporter of the National Health Service Corps program over the years. Also, more than a decade ago, when concern about a national shortage of health manpower was most acute, I was glad to support Federal funding to our health professions schools to increase the numbers of health care personnel in the country.

In subsequent years, I have continued to believe that a Federal contribution to the training of health professionals is important because of the close link between the quality of training and the quality of health care delivered by such professionals to people throughout the country. While I continue to see the value of Federal support directed at improved training, I recognize that the time for Federal incentives to increase enrollment has ended. In fact, largely because of Government involvement, the aggregate numbers of professionals in many health fields have increased significantly and, in medicine, recent reports indicate we may well have a surplus of nearly 70,000 physicians by 1990. Yet, the existence of a surplus in the aggregate will not guarantee that all those in need of health care will receive it. Indeed, the problem of access to care remains unsolved and will not necessarily disappear with a national surplus of doctors. Now, the main problem is a maldistribution of personnel, rather than an actual shortage; and I submit that until this problem is solved, the Federal Government still has a responsibility to seek solutions in cooperation with the private sector so that all who need care can receive it.

One such solution—which I deeply regret was not adopted by the 96th Congress although it passed the House—is the Child Health Assurance Act. This bill, known as CHAP, proposed to amend medicaid to provide needed preventive health services and medical care to millions of needy youngsters who do not have access to such basic medical care today. In addition, the House bill would have provided essential prenatal and medical care to low-income women.

From my perspective as a physician and as a legislator, I strongly supported this legislation. In fact, I feel it was the most necessary piece of legislation I have ever cosponsored, and I deeply regret that it was not enacted. We know that the children of today and tomorrow hold the key to our Nations future. Yet far too often we find that children—particularly poor children—are the forgotten citizens of this Nation. I submit there is no greater potential benefit for our society than an effective preventive health care program for children and pregnant women. That is what CHAP was all about, and I would hope that the 97th Congress will see the wisdom of adopting it as soon as possible.

Mr. Speaker, as you know, health legislation such as CHAP constitutes only part of our panel's jurisdiction. Our responsibilities in the environmental area are just as critical and often require consideration of long-range as well as more immediate environmental health concerns. In that regard, I am proud to have sponsored the two major pieces of environmental legislation developed by our subcommittee, the Clean Air Act and the Safe Drinking Water Act. Both laws reflect my belief that the Federal Government has a responsibility to protect and enhance the quality of our Nation's air and water so as to promote public health and welfare. Yet this mission is not solely a Federal responsibility—and both laws emphasize the importance of Federal, State, regional, and local cooperation to achieve these objectives. Generally, with regard to such legislation, I have tried to follow a balanced approach, one that seeks to protect the public from environmental health hazards and which does not impose unreasonable requirements. Yet there is no doubt in my mind that noxious fumes from gasoline, emissions from smokestacks, and certain substances in our drinking water can and do cause serious health problems for our people. In such cases, I believe we must not compromise in providing adequate safeguards to protect public health and safety. With enactment of the Clean Air and Safe Drinking Water Acts, I believe we have established an effective basis for controlling and preventing public exposure to environmental health hazards.

Finally, Mr. Speaker, since time and space are running short, I wish to say that I have been most fortunate to have worked with three very special individuals from the other side of the aisle who have made my work on the Health Subcommittee so enjoyable and so rewarding: Hon. HARLEY O. STAGGERS, chairman of the Interstate and Foreign Commerce Committee; Hon. Paul G. Rogers, former chairman of the Health and Environment Subcommittee; and Hon. HENRY A. WAXMAN, my current subcommittee chairman. These men have a unique, heartfelt commitment to the improvement of health care for all Americans, coupled with tremendous patience and the political skill that is necessary to achieve enactment of responsible health policies.

In addition, I am especially grateful to Paul Rogers for the opportunity to join him in holding a series of investigative hearings during the 95th Congress on the health effects of radiation, with particular attention to the Government's atomic testing programs of the late 1950's and 1960's. As a result of those hearings and the epidemiological study conducted by the Government's Center for Disease Control—which found almost three times the number of cases of leukemia among soldiers at one atomic blast than would have been expected—we were able to provide considerable evidence for establishing a causal link between participation in the nuclear testing program and subsequent development of leukemia. In particular, I am grateful that my constituent, Donald Coe, who is still living but afflicted with leukemia, was finally able to receive the veteran's service-connected compensation he deserved, though only after an extended process of documentation and appeal. I am hopeful that others like him will be able to receive the support which is due them, particularly in light of the tremendous sacrifices they have made in service to their country.

And in closing, I will try to be an optimist who, as Winston Churchill once said, "sees an opportunity in every calamity."

I consider it a calamity that I will no longer benefit directly from the collective wisdom of my distinguished colleagues of this body after January 2, but I see an opportunity to return to my home, where—according to James H. Mulligan:

"Friendship is the strongest,
"Love's light glows the longest,

* * * * *

"The song birds are the sweetest . . .
"The thoroughbreds are fleetest . . .
"Mountains tower proudest,
"Thunder peals the loudest,
"The landscape is the grandest,
"And politics—the damnedest in Kentucky."●

GOODS THINGS ARE HAPPENING

HON. IKE ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. ANDREWS of North Carolina. Mr. Speaker, One of the consequences of serving in Congress is that there are many times when, ideally, we should be in two or more places at the same time.

This happened to me on Tuesday, December 9. I had made a commitment several months ago to address the annual meeting of the North Carolina Farm Bureau Federation on that date, which turned out to be the day that Democrats in the House were voting on various committee chairmanships for the 97th Congress. In keeping my commitment to speak to the Farm Bureau membership in Raleigh, I was forced to miss some of the votes in caucus that day.

We hear a great deal these days about all that is wrong in our society. We hear too little about the things that are right with America. My speech to the Farm Bureau was based on some good things happening in agriculture, and I insert it at this point in the RECORD.

GOOD THINGS ARE HAPPENING

When I accepted John Sledge's invitation some three months or so ago, I assumed, first of all, that there was a fairly good chance we would not have to have a post-election session, and secondly, if we did, that it would have ended well before December 9. I was wrong, of course. We have not adjourned, and I have to return to Washington later today and re-join my House colleagues in hoping that the Senate will get on the stick so that we can get the essential legislation passed and then adjourn.

There are, I understand, more than 400 bills which have been passed by the House and which are pending before the Senate. A great many of them, I'm afraid, won't see the light of day during this session.

While we're waiting not too patiently on the Senate, the Democrats in the House yesterday began to organize for the 97th Congress.

You know, of course, that the Republicans will be in control of the Senate, while the Democrats will retain control of the House. This is the first time such a split has occurred in nearly 50 years—since Herbert Hoover was President.

Naturally you ask, "What is going to happen? What about the future?"

The only honest answer, of course, is, "I don't know." But, using the recent past as a guide to the future, I frankly look for a lot of good things to continue happening in agriculture and in our rural areas.

Good things have, indeed, been happening on Capitol Hill. Here are some examples:

The $4 billion economic emergency loan program was increased this year to $6 billion. It has saved tens of thousands of farmers from certain bankruptcy.

President Carter a few days ago signed legislation raising loan rates on some commodities and creating a special wheat reserve for emergency food aid.

The Senate voted to cut funding for tobacco research in the agriculture appropriations bill, but last week House conferees fought successfully to keep those funds in the bill.

The storage facility loan program, which helps farmers own their on-farm storage bins, has recently been improved by raising the loan amount to $100,000 and including facilities for high-moisture silage.

A new crop insurance program takes effect with the 1981 crop. It allows you to make business-like management decisions on protecting yourself against natural disasters. It will provide a 30 percent premium subsidy for farmers who choose to enter this all-risk crop insurance program.

Then there is the farmer-owned grain reserve program, which results in more orderly marketing and more stable prices. It keeps grain out of the hands of the government, and it keeps you, the farmer, in control.

The 1981 farm bill is important to all of you, but if any of you are concerned about any major changes being made, let me reassure you. Committee work on the bill must be completed by May 15 of next year. With that deadline, and with a new party in power in the White House and Senate, it is highly unlikely that there will be any significant change in direction.

You can look for one of two alternatives. One is for a four-year bill patterned after the existing program with a few up-dating amendments in the areas of loan rates, Farmers Home loans, conservation and research. The second is for a fairly simple one-year extension of the present program with perhaps a few minor changes. This would give everyone time to contemplate whether major changes are in order. I suggest that you give serious consideration to the alternatives, and, if you decide that one is preferable, let us all know. I assume that the one-year approach is the best offense and four years the best defense.

To say that the tobacco program is of vital importance to North Carolina is an understatement. This is something that we in Congress from tobacco-producing areas continually emphasize to our colleagues, and our efforts have paid off. In the eight years I have been in Congress, no significant change has been made in the price support, export, research and related federal programs affecting tobacco.

We've had a few close calls, and we may have some more. But, with a generally more conservative membership in Congress, I don't think any of the anti-tobacco bills that have been introduced have any chance of passage any time in the foreseeable future.

Good things for agriculture are happening not only on Capitol Hill. They're happening in Farm Bureau. Here is Farm Bureau News dated yesterday, December 8. It proclaims that your membership is at a new high—nearly 3.3 million families.

Those of you here today had a big hand in that. Farm Bureau in North Carolina grew by almost 11,000 families and recorded gains in all 100 counties last year. You have had continuous growth in membership for 22 straight years, and only two states have topped that. I congratulate you.

As farm population decreases, organizations of the agricultural community—concerted, unified, group lobbying—become increasingly valuable—even essential.

Good things are happening in exports. Agricultural exports in 1980 are expected to reach $40 billion, up 25 percent from 1979. This will be the eleventh consecutive sales record in farm exports.

Despite the drought, despite blue mold, and despite black shank, good things are happening in tobacco.

This year's flue-cured crop is expected to gross more than $1 billion, up 10 percent or so from last year. Losses from disease, while amounting to some $72 million, were only one-fifth what they were in 1979.

Exports of tobacco and tobacco products are expected to be worth $2.35 billion, up about 10 percent from last year. Tobacco's trade surplus is expected to total approximately $1.85 billion.

In the past two weeks, it was announced that trade concessions by Japan could result in a doubling of our sales of tobacco products to Japan within the next year.

You can look for price support levels to increase by about 11 percent in 1981.

Good things are happening in terms of agricultural productivity. It has increased at an annual rate of approximately 1.8 percent for the past 20 years, a record matched by no other major industry.

Ten years ago, the average farmer produced enough to feed 47 people. Today, he produces enough to feed 68.

Rising production efficiency has made it possible for Americans to spend a declining share of their disposable personal income on food—20.2 percent in 1960 compared with 16.5 percent in 1978.

Good things are happening throughout rural North Carolina. On this map, 37 counties are shaded in red. All of them lost population between 1960 and 1970.

But, the tide has turned. Only five counties lost population during the Seventies, and their combined loss amounted to less than 4,400 people.

North Carolina's population grew 15 percent in the past decade, proving that this is, indeed, a great state in which to live, work and play.

Despite our energy problems, some good things are happening in that area, and many of them should benefit farmers.

A steady increase in the sale of wood-burning stoves and heating systems can only mean a steady increase in the demand for firewood to be cut from your woodlands.

A steady increase in the production and use of gasohol can only mean a steady increase in the demand for such products as corn and sweet potatoes, which many of you grow.

Two years from now, a fellow I know hopes that he and his partners will begin operation of a $130 million plant in Johnston County which will produce 50 million gallons of ethanol a year and require 20 million bushels of corn.

In addition to the obvious advantage of helping to reduce our reliance on foreign oil, an ethanol plant can use corn infected with aflatoxin, and the distillers' dried grain byproduct can be used in animal feed.

Two promising developments in Virginia were recently publicized. A few days ago Southeast Farm Press had a story about a farmer near Franklin who has been working with VPI specialists on solar drying of corn and peanuts. He has greatly reduced his use of propane gas.

The Washington Star last Friday told about a dairy farm in Northern Virginia which will use matching funds from the Energy Department to conduct a four-year test on such things as deriving methane from cow manure for conversion into heat and electricity, manufacturing ethanol from corn, and recovering waste heat from milk chillers to heat water.

The ethanol by-products will go into feed supplements, while the by-products of methane production will be converted into fertilizer.

If all goes well, this farm should become as energy self-sufficient as possible, and I predict that these and other experiments will, in a few short years, become established practices on most farms.

In my opinion, the answers to our complex energy problems rest as much with farmers as with government agencies or oil sheiks or the heads of our major oil companies. I say this not only because of the natural resources you control—wood, grain, animal wastes, but also because of your ingenuity and your willingness to try new ways of doing things.

Let me mention just one more good thing, and I will close. You and I have the good fortune to live freely in a democracy. We're lucky. Only 35 percent of the world's population lives in freedom. The blessings of liberty were not earned cheaply, and we must never take them for granted.

A number of our problems are mammoth in scope, and they won't be easily solved. But, let us keep our perspective. Many good things are happening and will continue to happen, and life in the United States is better than anywhere else in the world.

Thank you.●

TESTIMONY FOR HON. BILL HARSHA

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. PEPPER. Mr. Speaker, the relationship between Members of this House of different political parties is a great compliment to our political system. We are divided by the middle aisle into two bodies in this House for general seating. Usually, Republican speakers addressing the House speak from a microphone on the Republican side while Democratic speakers address the House from a microphone on the Democratic side. We have separate cloakrooms. In our main dining room there is a table set apart for the Republicans and their exclusive use. We often engage in animated controversy, and the Members on each side of the aisle cherish their own party affiliation and stalwartly defend the principles of their respective parties. Yet, across that middle aisle, across the barrier of parties, there are many warm friendships—many who are greatly admired by Members on both sides of the aisle. One of the outstanding men in that category has been Bill Harsha. I have especially appreciated and valued the friendship of Bill Harsha. He has been an outstanding Member of the House. He has been able, hard working, and dedicated to the public interest. He has worked agreeably and always considerately with his colleagues. He has been respected because of his character and his competence. It is exceedingly regrettable to me that Bill Harsha is voluntarily retiring from the House. We shall immeasurably miss Bill in the next Congress. But he has left in the hearts of his colleagues an enduring affection. He has left in the record of this House a lasting legacy of his good and great work.

I extend to BILL and his loved ones my warmest wishes for long, healthy, meaningful, and happy lives.●

WOMEN'S RIGHTS

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Ms. HOLTZMAN. Mr. Speaker, as a Member of Congress for the last 8 years, one of my primary concerns has been women's rights. In looking back over the effort I have joined in over these years, I realize how the nature of this effort has changed, how far we have come, and unfortunately, how far we still have to go.

In the last 8 years alone, our society has changed dramatically. The dreams, plans, and expectations of women—and men too—have changed.

Eight years ago most women were still confined to traditional roles. The preponderance of women worked in the home or at low-pay, low-prestige clerical jobs. Today women are enrolled in professional schools in unprecedented numbers—25 percent of medical school enrollment, 33 percent of law school. Women are cops on the beat, construction workers, and firefighters.

The portrayal of women in the media and educational materials is changing too. Movies and TV programs have begun to deal with the problems of working women. Women are no longer portrayed as only sex objects, scatterbrained secretaries, or devoted mothers, and wives. Some schoolbooks our children read now discuss women in history, and make an effort to portray women as having broader options than just whom to marry.

Women have also broken into the sports world. Eight years ago most women participated in intercollegiate or high school sporting events as cheerleaders or members of the band. It is different today. Women's sports have become big business. Women now participate in sports in record numbers—and their events draw large crowds.

Eight years ago, no women were Governors, or Lieutenant Governors. No women had yet been elected in her own right to the U.S. Senate. Since then, 2 women Governors and 6 Lieutenant Governors have been elected, as well as 6 State treasurers and 10 women secretaries of state; women are participating in much greater numbers at every level of government than they did 8 years ago.

In part, these changes reflect changes in the law over the last 17 years. In this regard we have made substantial progress. In 1963, the Equal Pay Act, which mandates equal pay for equal work, was passed; in 1964, the Civil Rights Act, prohibiting discrimination on the basis of sex in any condition of employment was enacted. The Equal Opportunity Act of 1972 extended the protection of the Civil Rights Act to Government employees and employees of nonreligious educational institutions. Title IX of the 1972 Education Amendments prohibited federally funded educational institutions from discriminating against women in employment and prohibited segregation of any educational program—including sports—on the basis of sex. In 1974, the Fair Labor Standards Act amendments increased the minimum wage and extended its coverage to domestic workers. The same year, ERISA—Employee Retirement Income Security Act—was adopted and insured private pension coverage to many more women by covering part-time work, lowering the vesting age, and providing that breaks in employment do not lead automatically to loss of vesting. In 1975, Congress opened up the country's military academies to women, and then enacted the Equal Credit Opportunity Act forbidding discrimination on the basis of sex or marital status in any aspect of a credit transaction.

These were all important accomplishments—providing the necessary foundation for full equality—but they have not solved all our problems. We have far to go.

Our largest piece of unfinished business is the equal rights amendment, which was submitted to the States over 8 years ago but is still unratified. Its ratification must be accomplished. Women must no longer be treated like second-class citizens; they must no longer be excluded from the Constitution, the fundamental law of the land. This country holds out the promise of human rights and equal opportunity but so far has denied them to more than 50 percent of its population.

The equality of treatment for women must be a matter of right, not dependent on the sporadic good will of courts and legislatures. The Supreme Court has proved itself unreliable. It was not until 1971 that the Court extended the protection of the 14th amendment to women. And since then, the Court has consistently refused to rule that a classification based on sex is as invidious as a classification based on race. Indeed, it has allowed blatant discrimination to continue. For example, the Court permitted a special college-preparatory high school in Philadelphia to exclude girls. We need ERA and its mandate of equality to insure that this will not continue. Many people argue that ERA should be abandoned—that it cannot be ratified. But I cannot forget that the same objections were made during the successful fight to extend the ratification deadline.

There is no better proof of the need for ERA than the economic plight of women. Women now make up a staggering 42 percent of the work force; the number of working women has more than doubled in the past 25 years. These women work because they need to in order to support themselves and their families. Well over half of them are single, widowed, divorced, or married to men earning under $10,000. They need to make as much as men, but they do not. Today women earn on the average only 59 percent of what men do. And despite the well-publicized breakthroughs, things are getting worse: Ten years ago a woman working full time earned 53 cents for every dollar a man earned. This is not simply because men are better educated. The average woman college graduate earns less than a male high school dropout. America has failed to give women the same opportunities for economic self-sufficiency and advancement it has given men. Women simply have not had equal access to jobs, salaries, or promotions.

How has this happened in spite of all of our laws? Partially, it is the result of historical job segregation, which is not only continuing but actually increasing. Women are 77 percent of clerical workers, 98 percent of private household workers, but only 4 percent of lawyers and 10 percent of scientists; and women hold only 5 percent of positions in management and administration. The Equal Pay Act will only help women earn the same as men when they are in the same jobs as men. When they are segregated into different jobs, it provides virtually no help. One of the biggest challenges facing the Government and the women's movement now is finding a solution to this problem of comparable worth, that is, insuring that even if women are partially segregated into certain job categories, they receive as much money as men in another job category when the jobs are of equal value.

There are also exemptions to the Equal Pay Act's provisions, for example, for manufacturers, retailers, or service establishments with sales under $200,000. As a result, the act covers 84 percent of the jobs in this country—and women are clustered in the jobs not covered. Title VII of the Civil Rights Act has similar inadequacies. For example, it does not cover enterprises with fewer than 15 employees, or State and local elected officials and their staffs. Courts have carved out further exemptions to these acts. Such problems are compounded by the fact that the laws are inadequately enforced. Resources have not been sufficient; the backlog of cases is large enough for employers to believe they can violate the law with impunity. This must be changed. These are important laws: The Government must show that it means what it says by providing funds necessary for enforcement.

There are other barriers to full equality in employment. One is the practice of protective discrimination followed by many companies whose workers are exposed to lead or to other toxic substances. In order to minimize or eliminate liability, many such companies routinely remove all women of child-bearing age from jobs where they would be exposed to toxics, or refuse to hire them for such jobs, rather than cleaning up the workplace. This clearly discriminates against women: They either must forgo some of the most lucrative jobs in the company or undergo sterilization. But it also discriminates against men, treating their economic role as paramount, ignoring their health and their right to healthy children. This is clearly the wrong approach—making the workplace safe for all employees is the only acceptable answer to this problem.

There are still other barriers to the equal employment of women. Even though women have entered the job market in unprecedented numbers and in nontraditional jobs, many face a problem most men never face: Juggling their jobs with their child care responsibilities.

We must begin to address the question this raises: How can we structure work so that women who are mothers can compete effectively for jobs and pay without sacrificing their children's needs? The problem of the working mother has not been properly addressed—but it must be. First is the issue of child care. We have simply failed to provide the child-care services necessary. Over 50 percent of all mothers with children under 18 work outside the home; in total, 28 million children have working mothers. Staying at home to take care of their children is not an option for many because they cannot afford it. Yet there are spaces in day care centers for only a fraction of these children. According to a recent survey, only 19 percent of those who seek day care can find it.

The tax credit for child care mostly helps upper income families. Title XX of the Social Security Act includes child care services for families below the poverty line but provides no help for those above it who need affordable child care. As a result, according to the census, over 2 million children between 7 and 13 are left alone before or after school and during vacations. We must explore all options for solving this problem, including Federal tax relief, programs that subsidize startup costs, and universally available child care with sliding-scale fees based on income.

A second problem is that traditional work schedules are too rigid and too long for the parent with the primary child care responsibility—almost always the mother. We need to encourage more part-time jobs and more flexible-hour jobs.

A third problem arises from the fact that most women leave their jobs when they have a child. Depending on their financial circumstances and their wishes, they may stay away from work for varying periods of time. But a woman who leaves work to give birth or to rear the child has no right to keep her job—she can be fired plain and simple—and will usually lose out on seniority even if she can come back. Clearly, this situation needs to be changed.

Many European nations have managed to treat working mothers with greater sympathy, respect, and understanding than we do in the United States. That means we can and should do much better.

Another factor in the employment of women is access to education and training, both of which can be critical in securing a good job and advancement. They must be available to young women, to those returning to the work force after years away, and to those struggling to support a family. Title XI prohibits sex discrimination at educational institutions, but the Federal Government has never imposed any sanctions for violations of it. Women are also often denied access to those vocational education programs that train for the better paying jobs. Of the students enrolled in such programs, 98 percent are men. This must be changed. The Women's Education Equity Act ought to be fully funded to insure that women are no longer excluded from fields like science and engineering. And resources must be devoted to programs that are designed to change traditional work patterns and overcome occupational stereotyping by sex. Federal employment training programs are also inadequate, largely intended for men. Women are over 80 percent of the adult unemployed but are only a little over 40 percent of the participants in job training programs.

The plight of older women in this country is tragic evidence of the discrimination women face. The median income of women over 65 is less than $3,000 a year; 40 percent of all older women live in poverty. Why did this happen? Some were prevented from working and gaining economic security because of barriers against women or stereotypes against women working. Others were forced into low-paying menial work with no retirement security.

Women fare badly under social security. Because of their low salaries, they get minimal benefits. On the average, a woman getting social security on her own record gets only $230 per month. A widow who has been supported by her husband fares no better; under social security her average monthly payment is $228. These statistics reflect the biases of this plan. Social security reflects 1930's assumption that women will not work outside the home—and that only work outside the home is worthwhile. Homemakers receive no independent credit for their contribution to the family under social security. Most married women who work receive the same benefits they would receive if they had never worked; this demeans a woman's contribution. Families where both spouses work receive lower benefits than do families where one worker earns a comparable amount.

Another victory of the past few years could be the first step in changing this. The Congresswomen's caucus, which I helped found and of which I was cochair, persuaded the Social Security Administration to conduct two studies. The first was of the inequities women face in the system; the second was to develop solutions to these problems. The SSA has proposed two possible solutions. Although these proposals need further study and work, they are an important beginning.

Private pension plans have been no better for women. Few women have worked in jobs that are covered; those who have received less than $2,000 a year. Women married to workers with private pension coverage have been almost completely unprotected. The very few who receive any benefits get an average of only $50 a month.

Despite recent reforms, private pension systems still do not adequately protect women. Half of working women work for employers who do not have pension plans. Others, who work for employers with plans, are excluded because of too many breaks in service—usually to care for their children—or because they do not meet the part-time rules. Women married to employees covered by a private plan still fare badly. They have no right to benefits if their husbands die before mandatory retirement age. Even those whose husbands live until retirement age will be ineligible for benefits after their husbands die unless their husbands agree to receive a lower benefit so that their wives can get a survivor's benefit.

In the last two Congresses I have introduced legislation to address some of these problems: To insure that women are not denied benefits when their husbands die before retirement age; to guarantee that men may not decide unilaterally to deny their wives survivors' benefits, and to insure that benefit levels for a woman who survives her husband are adequate. I hope that such legislation will be enacted.

The problem of poverty among elderly women is not one that will vanish by itself. Predictions are that 25 percent of all women who are working today will live in poverty when they grow old.

We can put an end to this tragic phenomenon if we start now.

Women face other inequities. Although they are the major consumers of health care, their needs have not been met by the health care system. There are major exclusions and waiting periods in insurance coverage. Women usually must contribute to a health insurance plan for 10 months before getting maternity benefits. Most plans reimburse for only one general doctor visit a year—not for a gynecologist as well as an internist. Many women lose benefits upon divorce or widowhood because their health plan covers them only as dependents. Married women who work often get lower benefits than the wives of their male coworkers. Still, women pay up to 50 percent more for health insurance than their male coworkers. This is not surprising considering the fact that there is no Federal law forbidding discrimination in insurance. I have introduced legislation to cure this; I hope that in the future such legislation will be a high priority.

The Government's policy on pregnancy is also inadequate. It adds up to saying to women: "We'll spend little for family planning and little to help you avoid becoming pregnant if you do not wish to. Once you are pregnant, if you are poor we will not provide resources for you to obtain a safe, legal abortion; we will not guarantee that you will be able to receive disability payments to support you if you are unable to work, and if it is your first child, we will not pay for the cost of prenatal care nor will we provide financial support for subsistence." It is not surprising that although we spend more on medical services than any other country, the United States ranks 20th in maternal/infant mortality rates—the highest of any Western industrialized country.

Despite the Equal Credit Opportunity Act, discrimination also continued in the field of credit. Women of childbearing age sometimes are permitted to count only a portion of their salary. In other instances, the fact that a woman's income comes from multiple sources, such as alimony and a job, is counted against her. This must change. An education program is needed to inform women of their rights. And resources are needed to step up the enforcement program; in the first 5 years after its enactment, not one cease-and-desist order was issued under the Equal Credit Opportunity Act.

The act also exempts from its coverage many small business loans. This causes a special hardship for women, who are disproportionately involved in smaller businesses.

Women are also inadequately protected against violence—at the hands of strangers and at the hands of their husbands. Rape continues to be unreported, underprosecuted, and uncontrolled. And now that the subject of battered wives can be mentioned in polite company, we have learned that wife beating is epidemic. This is a problem that we have tried to combat for a number of years in Congress. Unfortunately, we have faced growing opposition from the forces of the right who seem to believe that it is undue interference to stop a husband from beating his wife.

Clearly, the agenda for improving the status of women in the United States is long. But I am optimistic that we can make significant changes if we are determined to do so and are willing to fight for them.

I am proud that as a Member of Congress over the past 8 years I was able to contribute to the struggle for women's equality. I authored legislation that was enacted to extend the ratification deadline for the ERA, to protect the privacy of rape victims in Federal trials, to allow the recovery of attorney's fees in title IX discrimination cases, to make it a crime to discriminate against women in Federal public works projects, to prohibit the State Department from aiding foreign governments or businesses to enter into contracts with U.S. concerns that discriminate against women, and to prevent sex discrimination in refugee resettlement programs.

The fight for full equality for women is one I plan to continue.●

HONORING LESTER WOLFF

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 1980

● Mr. PEPPER. Mr. Speaker, one of the most valuable Members of this House who will not be with us in the next Congress is LESTER WOLFF of New York. He has not only been an outstanding and untiring member of the Foreign Affairs Committee and contributed immeasurably to the accomplishments of that committee, but he has done outstanding work as chairman of the Select Committee on Drugs. His contribution toward the control of dangerous drugs into this country has been immeasurable. He has traveled to the areas of the world which are critical to the drug traffic. He has been in constant contact, not only with our own enforcement authorities in the drug field, but with the enforcement authorities of the nations where the drug traffic either originates or through which it moves. He has been deeply dedicated to our country drastically reducing the dangerous drugs that are flowing into this country from various parts of the world. The Nation owes LESTER WOLFF a great debt for what he has accomplished in this critical field. It will be very difficult for anyone to follow in his illustrious footsteps in this area which holds such danger to the people of our country.

Besides, LESTER has been highly regarded by all of our colleagues in the House. He is an able, compassionate, dedicated Member. He is a fine gentleman of gracious manner and kind thoughtfulness for his colleagues.

I want to express my own great appreciation of LESTER WOLFF and to record the loss I shall feel that he will not be in this House in the next Congress. I shall always cherish his friendship.

I extend to LESTER and his loved ones warmest wishes for long, healthy, and happy lives.●

VOTING RECORD OF CONGRESSMAN CLEMENT J. ZABLOCKI

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. ZABLOCKI. Mr. Speaker, the following is a summary of my attendance record, position, and voting record on the major issues considered during the 96th Congress:

CUMULATIVE ROLLCALL RECORD, 96th CONG., 2d SESS.

	Yeas/nays	Quorum calls	Recorded votes	Grand total
Present responses (yea, nay, present, present—paired for or against)	412	74	184	670
Absences (absent, not voting, not voting—paired for or against)	5	3	3	11
Number of calls or votes	417	77	187	681
Voting percentage (presence)	98.8	96.1	98.3	98.3

VOTING RECORD, 96TH CONG., 2D SESS.

Major issues	Vote	Disposition
NATIONAL ECONOMY		
Resolution to trim nearly $3 billion from the administration's budget request.	For	Adopted.
Federal loan guarantees to Chrysler to save 100,000 jobs.	For	Became law.
Extension of the Council on Wage and Price Stability.	For	Do.
Reconciliation bill to save over $8 billion in Federal spending.	For	Do.
Substitute to weaken rail deregulation bill and jeopardize economic health of railroads.	Against	Defeated.
Amendment to allow Department of Defense to target contracts to high unemployment areas.	For	Adopted.
Bill to stimulate private investment and jobs in distressed communities.	For	Became law.
Banking and credit union reform	[1]	Do.
Reduction of trade restrictions and phased tariff reductions.	For	Do.
ENERGY, ENVIRONMENT, AND NATURAL RESOURCES		
Bill to authorize a synthetic fuels program, encourage solar investment and promote conservation.	For	Do.
Stocking our stategic petroleum reserves.	For	Do.
Measure to exempt certain oil companies from windfall profits tax.	Against	Defeated.
Recommittal to conference of conference report to expedite licensing of critical energy projects.	do	Passed.
National parks and wildlife refuges in Alaska.	For	Became law.
Ice Age National Scenic Trail in Wisconsin designation.	[1]	Do.
Sewerage treatment abatement funds.	[1]	Passed House.
Superfund to finance the cleanup of toxic substances in the environment.	For	Enacted.
Bill to promote the orderly development of mineral resources in the deep seabeds.	[1]	Pending.
Airport noise abatement	For	Became law.
ELDERLY, HEALTH, SOCIAL SERVICES		
Reduced fare programs for the elderly and handicapped.	For	Do.
Additional elderly housing programs.	For	Do.
Resolution expressing the sense of Congress that social security payments remain tax exempt.	For	Passed.
Legislation to provide alternatives to institutionalization for senior citizens.	[1]	Pending.

VOTING RECORD, 96TH CONG., 2D SESS.—Continued

Major issues	Vote	Disposition
Substitute bill which only provided for voluntary cost containment.	Against	Passed House.
Amendment to allow Federal funding of abortions.	do	Pending.
Constitutional amendment to protect the life of the unborn.	(2)	Do.
Welfare reform package	For	Passed House.
Low-income fuel assistance	For	Became law.
VETERANS AND NATIONAL DEFENSE		
Legislation to increase benefits for Vietnam-era veterans.	For	Do.
Extension of veterans' health care programs.	For	Do.
Legislation to increase disability benefits for veterans and survivors.	For	Do.
Increased training to promote gainful employment among veterans.	For	Do.
Resolution recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II.	(2)	Cleared.
Effort to weaken our national defense by deleting funds for MX missile.	Against	Defeated.
Strong national defense	For	Became law.
Amendment to establish draft registration.	For	Do.
Amendment to make draft registration voluntary.	Against	Defeated.
Amendment to prohibit funds for nerve gas weapons.	For	Do.
TRANSPORTATION, COMMERCE, HOUSING		
Legislation to allow the continuation of the Milwaukee Road.	(1)	Became law.
Railroad deregulation to allow flexibility in setting rates and promoting competition.	For	Do.
Motor Carrier Act to promote competition in trucking industry.	For	Do.
Amtrak reorganization and reform.	For	Do.
Consumer Checking Account Equity Act.	(2)	Do.
Bill to authorize Secretary of Transportation to require public notices of tire defects.	For	Passed House.
Reform and reauthorization of Federal Trade Commission.	For	Became law.
Extension of housing and community development programs.	For	Do.
Fair Housing Act	For	Passed House.
EDUCATION AND LABOR		
Identification and control of asbestos fibers affecting schoolchildren.	For	Do.
Legislation extending higher education programs and student assistance.	For	Became law.
Bill to provide alternatives to school busing.	(1)	Pending.
Amendment to prohibit use of Federal funds by Justice Department for busing schoolchildren.	For	Vetoed.
Bill to provide assistance to workers dislocated because of foreign imports.	For	Passed House.
Legislation to implement the multilateral trade negotiations.	For	Became law.
Legislation requiring protection to plant employees when firms move or close.	(1)	Pending.
Multiemployer pension plan reform.	For	Became law.
GENERAL GOVERNMENT		
Bill to provide for the issuance of a commemorative stamp in honor of Gen. Casimir Pulaski.	(2)	Pending.
Resolution welcoming Pope John Paul II on his visit to the United States.	(1)	Adopted.
Legislation to strengthen the General Accounting Office in carrying out investigative and auditing duties.	For	Became law.
Resolution to disapprove President's plan to reorganize U.S. foreign aid programs.	Against	Defeated.
Bill to provide regulatory flexibility to small businesses.	(1)	Pending.
Financial disclosure for members of three branches of government and public officials.	For	Became law.
National Family Week resolution	(1)	Adopted.
Legislation to improve regulatory issuances.	(1)	Pending.
FOREIGN AFFAIRS		
Legislation providing food and economic assistance to help poor countries help themselves.	(2)	Became law.
Bill to set spending ceiling on certain Department of State programs.	(1)	Do.
Legislation to promote continued extensive and friendly relations between the U.S. and Taiwan.	(2)	Do.
Resolution calling for the peaceful settlement of the Polish workers' demands without outside interference.	(2)	Passed House.
Implementation of Middle East Treaty to promote world peace.	For	Became law.
Major export control bill	(2)	Do.
Resolution in support of a full accounting of Americans missing-in-action in Southeast Asia.	(1)	Adopted.
Emergency relief for victims of Italian earthquake.	(2)	Became law.

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[1] Cosponsored.

[2] Introduced. ●

PROBLEMS AROUND SOUTH WEST AFRICA/NAMIBIA

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. FINDLEY. Mr. Speaker, I have long been concerned with constantly increasing efforts of the Soviets to penetrate the lesser developed countries of Africa. We have seen constant failures of U.S. foreign policy in this part of the world and each foreign policy failure of the Carter administration has been reflected in a gain for the Communist bloc.

The vast mineral resources and the strategic military advantages in Africa are a natural target for the historical thrust of Russia toward its ultimate goal of world domination.

The national security of the United States is inextricably intertwined in Africa, first because it is the theory and practice of our Government to encourage self-determination, freedom, independence, and to do whatever we can among the developing countries of Africa to achieve and maintain full independence and sovereign recognition by other nations.

A second important consideration is to deny to the Soviet bloc the opportunity to seize and exploit the people and resources of developing countries in Africa. We all know the problem that has developed around South West Africa/Namibia. However, the American public is being fed a lot of false information by the Soviets. The Communist propaganda technique is to point a finger and loudly and brazenly criticize someone else, all the while obscuring the fact that they are using force and violence as an instrument of foreign policy to gain control of the governments, people, territory, and resources of other countries.

I have recently received a letter from the Honorable Kuaima Riruako, an elected member of the National Assembly and leading member of the Ministers' Council of Namibia. Its content is of sufficient importance that I hereby include it in the CONGRESSIONAL RECORD so that my colleagues in Congress and other persons who may read it will be better informed and in a better position to make judgments respecting where lies the national security and the best interests of the United States.

COUNCIL OF MINISTERS
OF SOUTH WEST AFRICA/NAMIBIA
Windhoek, December 15, 1980.

Hon. PAUL FINDLEY,
Member of Congress,
Washington, D.C.

DEAR CONGRESSMAN FINDLEY: In your capacity as a senior member of the Committee on Foreign Affairs of the U.S. House of Representatives, we respectfully request that you make known to your colleagues in the U.S. Congress and to other Americans the continuing misuse of U.S. tax dollars by the United Nations General Assembly to finance terrorist activities of the South West Africa Peoples Organization (SWAPO) against the people of Namibia.

Our country is small—twice the size of California, with a population of about 900,000 persons. Our history is not a happy one. We were first colonized by Germany in the 1880's, conquered by the British in 1915 in World War I, then in 1920 mandated as a trust territory by the League of Nations to Great Britain, which permitted its colony, the Union of South Africa, to exercise the mandate.

However, South Africa has agreed to our independence, and we now have a duly elected interim government consisting of a 50-member National Assembly which has abolished all racial discrimination. We enjoy majority rule on the basis of one man, one vote and universal adult suffrage.

At our election in December 1978 the overall poll was 77.84 percent of the registered voters, who in turn were 93 percent of the estimated number of eligible voters. These results were achieved despite SWAPO calls on their supporters to boycott the election and SWAPO threats that it would physically disrupt the election, attack polling stations, and wreak vengence on anyone voting. Three hundred foreign observers attended the elections, 65 of whom were the guests of the Administrator General, while the remaining 235 were journalists representing newspapers, magazines, radio and television stations from all over the world. Of the Administrator General's 65 guests, about half were journalists, while the remainder comprised distinguished businessmen, politicians, academics and lawyers, all well known in their various countries.

According to the reports in leading newspapers in the Western World, the general consensus of foreign journalists was that the Namibian election had been fair and free, probably more so than any ever held in black Africa, and more so even than many held in the West. These reports agreed that no effort had been spared to achieve this standard despite the problems of distance, terrain and an electorate by and large unversed in elections.

When it is considered that our country has 11 major population groups who speak 8 languages and 29 dialects, and who range in cultural development literally from the stone age to the most sophisticated of people, we consider our election is a significant demonstration of democracy at work. To gain maximum participation, we established some 375 voting bureaus of which some were mobile units, covering a total of about 1,094 voting points and manned by approximately 1,500 voting officials and vote recorders.

I emphasize these matters because we are often falsely accused of being "puppets" of South Africa or "tools" of an oppressive regime in Pretoria. Nothing could be further from the truth. We claim the same God-given and inalienable right of self-determination as that enjoyed by Americans and all other free people. The population of our country is almost 90 percent non-white. Thus we have a non-white majority government. However, it must be emphasized that our ultimate goal is full independence and sovereign recognition by the international community of nations. South Africa and the major Western powers have all agreed to our independence and the only stumbling block at the moment is the United Nations General Assembly, which has consistently demonstrated its partiality for SWAPO.

A distinguished Washington Post editorialist has recently described the United Nations General Assembly as ". . . an institutional outrage, a moral swamp. It operates much of the time by the mob rule of a Third World majority in close alliance with its Communist bloc." For a number of years the General Assembly has contended that SWAPO is the "sole and authentic" representative of the people of Namibia—a proposition that is absurd on its face. SWAPO is a Soviet-bloc terrorist force, armed with Russian land mines, submachine guns and military vehicles. SWAPO has received millions of dollars of financial aid from the United Nations General Assembly, which under its Charter establishes and defines the budget.

It is a matter of great concern to us that U.S. tax dollars provide 25 percent of the total U.N. budget—U.S. taxpayers are being asked by the U.N. this year for over $600 million in combined voluntary and assessed contributions.

To the great credit of the U.S. Congress, there has been provided in recent continuing resolutions respecting U.S. foreign assistance legislation a specific provision, "That none of the funds appropriated * * * shall be made available for the U.S. proportionate share for any programs for * * * South West Africa Peoples Organization * * *." (See House Report 96-787.) We would hope that this prohibition against use of U.S. taxpayer money to finance SWAPO would become a permanent part of both the authorization and appropriation bills relating to United Nation's financing.

The terrorist activities and Soviet sponsored campaign of murder and abduction by SWAPO guerrillas from their secret bases in Marxist Angola across our Northern border are well documented in the world press and in the official records of the U.S. Government. The leaders of SWAPO are self-appointed and have never been elected to any office by the people of Namibia. Indeed, SWAPO leaders have not set foot in Namibia for at least 20 years. SWAPO commenced many years ago as a legitimate liberation movement with the goals of self government and independence. Now that we have achieved self government and our independence has been agreed to, SWAPO activities not only have become senseless, but criminal by any international standard of decency. It can only be said that SWAPO is a hired-gun of the Soviet-bloc, employed to try and take over Namibia by force and violence. Why, one might ask? Probably because Namibia has some of the largest uranium, gold, diamond, copper and zinc resources in all the world. Moreover, the deep water port on our West coast could be a base for Russian nuclear submarines to bisect the oil lifeline from the Persian Gulf to the United States and the NATO countries.

We have chosen freedom. Our structure of government is based on individual self-reliance, free enterprise, personal responsibility, individual merit, equal opportunity, and a fair chance for all. We welcome any official or private investigators or visitors to examine and inquire into every phase of our Government. It is a matter of great concern to us that Soviet propaganda continues to describe us as "puppets" of South Africa, at the very time the Soviet-bloc is providing lethal weapons and funds to SWAPO to carry on a cowardly and wretched guerrilla warfare against our civilian population. We are anxious in every way to make these facts known in the Western World, as we need the friendship and advice of our American friends so that we may gain full independence on the basis of self-determination at the earliest practicable time.

Sincerely yours,

By Kuaima Riruako; D. F. Mudge, Chairman; Benjamin J. Africa; E. Christy; T. Imbili; J. Julius; P. Limbo; D. Luipert; W. Neef; R. Ngondo; G. Kasche; G. Tibinyane.●

HOUSE COMMITTEE ON AGRICULTURE—RECORD IN THE 96TH CONGRESS

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. FOLEY. Mr. Speaker, American agriculture faced a series of difficult and serious problems during the 2 years of the 96th Congress. In 1979 and again this year, our Nation's farmers were squeezed between rapid increases in costs and market prices which fell short of levels needed to produce a fair return. While prices for many commodities improved later this year, the gains were due in some cases to natural disasters which reduced harvests in parts of the country. In this period, the House Agriculture Committee and later the House responded with a series of significant new bills designed to alleviate current problems and to lay the groundwork for improved conditions in the future.

We took some useful steps in 1979 and 1980 toward improving our farm income programs, providing timely and broader access to credit which has become a vital tool in the farm economy, and promoting development of the biomass energy sources which must become part of our national effort to reduce dependence on foreign oil. We authorized the launching of a more effective nationwide crop insurance program for farmers, and we acted to insure congressional authority to veto future pesticide control regulations, among other important steps.

Mr. Speaker, we did not solve all of the problems of American agriculture in this Congress, but I am proud of the manner in which the Committee on Agriculture performed—first as a forum in which farm and allied problems were heard and thoroughly explored, and then in the legislation it produced, making long strides toward helping farmers solve their problems.

Looking ahead to the next Congress, the committee will be under the able leadership of the distinguished gentleman from Texas, the Honorable E (KIKA) DE LA GARZA, who has served in the 96th Congress as vice chairman. Under his leadership the committee must prepare to work on extending and perhaps revising the basic farm and food stamp programs which expire next year. After three terms as chairman, I will assume another responsibility in the House, but I intend to remain a member of the Agriculture Committee, and I look forward to active involvement in the committee's activities on issues confronting the farmers of my district and the Nation.

Mr. Speaker, I want to take this opportunity to sincerely thank all of my colleagues of both parties on the Agriculture Committee, and in the House, for the constant cooperation, counsel, and support which made it possible for me to carry out my duties as chairman during the past 6 years. I am also deeply grateful to the leadership, to you, Mr. Speaker, to our majority leader, JIM WRIGHT, and to JOHN BRADEMAS, who served as majority whip, for your constant support and assistance.

I must acknowledge also in this final report as chairman my appreciation of the help I and the committee received from Agriculture Secretary Bob Bergland, and from his predecessors as Secretary during my terms as chairman—Earl L. Butz and John F. Knebel. I have taken pleasure in the spirit of mutual good will and cooperation which marked our relations with all of these Secretaries, and with the leaders of the agricultural and other related organizations which regularly work closely with members of our committee.

Again, Mr. Speaker, I am proud of the record made by the Committee on Agriculture in the 96th Congress and in years past, and I know that the committee, under its new leader Congressman DE LA GARZA, will continue to work cooperatively for the interests of American agriculture.

The major committee actions of the 96th Congress included:

An act (Public Law 96-494) which (1) increased price support loan rates for 1980 and 1981 grains which farmers deposit in the producer-owned reserve program to not less than $3.30 per bushel for wheat and $2.40 for corn, and will waive interest on loans for these grains. The act also gives the Secretary of Agriculture full flexibility in setting "release" and "call" prices governing movement of grain out of the reserve, and raises the minimum resale price for USDA-owned grain to 105 percent of the "call" level; (2) earmarks 4 million tons of wheat, which is currently owned by the government as an International Food Security Reserve for use only in meeting emergency needs abroad when other U.S. stocks are low; (3) sets basic loan rates for 1981 grains (other than those placed in the farmer-owned reserve) at not less than $3 a bushel for wheat and $2.25 for corn, the same rates used in 1980; (4) sets the 1981 soybean support at not less than $5.02 a bushel; (5) directs the Secretary of Agriculture to set up between two and seven domestic demonstration projects in which the USDA would donate food stocks to community food banks for the needy; (6) provides that in any future restriction of exports for national security or foreign policy reasons, the Secretary would have discretionary power to set up additional reserves for use as gasohol feedstocks or emergency food use abroad; (7) authorizes broadened producer promotion programs under marketing orders for walnuts and olives.

An act (Public Law 96-365) authorizing an expanded Government crop insurance program for farmers. The new program authorized by the law will take effect beginning with the 1981 crop year and will eventually make all-risk crop insurance—with a portion of the premiums paid by the government—available to all parts of the country on all crops. The law stressed opportunities for the private insurance industry to participate in the program.

An act (Public Law 96-220) extending until September 30, 1981, an economic emergency loan program for farmers which had been scheduled to expire May 15, 1980. The new law made $2 billion in additional credit available at a time of year when farmers were in a credit crunch.

An act (Public Law 96-294) the Energy Security Act, which includes among its provisions a major section designed to encourage development of energy including motor fuels from farm and forestry products and from agricultural, forest and municipal wastes. The portion of the act devoted to these biomass energy sources authorized $1.45 billion for insured and guaranteed loans, purchase agreements and price guarantees to spur production of energy—including fuel alcohol—from biomass over a two-year period. The law also increased authorization for USDA research and extension work in producing fuels from farm products, and provided for biomass energy demonstration facilities. The biomass portion of the law was based on a separate gasohol bill initially designed in the House Agriculture Committee and is the result of the joint efforts in the House of this Committee and the House Committees on Interstate and Foreign Commerce; Banking, Finance and Urban Affairs; and Science and Technology.

Legislation (S. 1465) to expand the lending authorities of the farmer-owned cooperative farm credit system. Among other provisions, the bill would authorize the System to take part in financing exports by farmer cooperatives, to broaden lending for financing basic processing and marketing enterprises operated by farmers and fishermen, and to make mortgage loans up to 97 percent of the value of real estate where the loans are guaranteed by government agencies.

An act (Public Law 96-539) extending authority for funding Federal pesticide control programs for one year, through September 30, 1981. The bill includes authority for a two-house congressional veto of future Environmental Protection Agency regulations dealing with pesticides. Also, it would require EPA to set up formal procedures for "peer review" by independent scientists of major scientific studies used as the basis for regulatory action.

Other legislation affecting farm and rural affairs included:

GRAIN

An act (Public Law 96-213) which raised target prices for 1980 crops by 7 percent and authorized the Administration to approve further increases for 1981. The Secretary of Agriculture was authorized to require farmer compliance with Normal Crop Acreage regulations as a condition of eligibility for program benefits. (However, in an amendment to the fiscal 1981 agricultural appropriation bill, Congress later suspended the NCA requirement for 1981 crops.) The target price bill also extended authority for disaster compensation payments through 1980 for grains, cotton and rice, and set a $100,000 per year ceiling on these payments for both 1980 and 1981. Authority for making the payments in 1981 was included in the crop insurance bill which became law during 1980.

An act (Public Law 96-234) which authorized entry into the farmer-owned reserve of 1979-crop feed grain from farms which did not comply with the 1979 set-aside program.

CREDIT

An act (Public Law 96-438) setting ceilings within which Congress sets annual lending totals for Farmers Home Administration farm and rural development programs through fiscal 1982. The bill allows Congress to authorize up to $1.6 billion a year in farm real estate loans and up to $1.2 billion a year in farm operating loans. The bill also puts a ceiling of $1.5 million in fiscal 1981, phasing down to $500,000 by fiscal 1983, on farm disaster loans to individual producers.

An act (Public Law 96-302) making terms of loans for actual disaster losses on farms the same for the Small Business Administration and the Farmers Home Administration; restricting SBA farm disaster loans to cases declined by FmHA at similar interest rates; and permitting FmHA to make loans at rates above its usual level to farmers who qualify for credit elsewhere. This act is the result of the joint efforts in the House of the Small Business Committee and the Agriculture Committee.

An act (Public Law 96-234) which raised the previous $50,000 ceiling on farm storage facility loans made by USDA to a new limit of $100,000 per producer. This was included in the law dealing with reserve privileges for 1979 grain.

ANIMAL HEALTH, RESEARCH AND PLANT PROTECTION

An act (Public Law 96-468) drafted to protect the nation's hog industry from a possible invasion of African Swine Fever. This law requires that garbage fed to hogs must be treated to kill disease organisms.

An act (Public Law 96-469) authorizing an expanded program of research into forms of cancer which attack livestock and poultry.

A bill (H.R. 999) adding six vegetables to the long list of those previously eligible for patent-like protection for new varieties under the Plant Variety Protection Act. The vegetables newly covered by the bill, which is designed to spur breeding of more productive varieties, are okra, celery, peppers, tomatoes, carrots and cucumbers.

ENERGY

Legislation authorizing the sale of USDA-owned corn for use in producing motor fuel at prices which would not be less than: (a) the release level for corn in the farmer-owned reserve, or (b) a fuel-conversion value equal to the value of unleaded gasoline. The provision was included in Public Law 96-234 and later modified in other legislation.

TRANSPORTATION AND GRAIN WEIGHING

An act (Public Law 96-437) eliminating mandatory Federal weighing of grain moved into export elevators by rail or truck, grain shipped from export elevators to internal U.S. points, and any grain reaching such an elevator in an intra-company shipment. Mandatory Federal weighing of barge grain arriving at export elevators and all grain leaving such elevators for overseas would be continued. The bill was designed to cut grain marketing costs without weakening basic protection for buyers and sellers.

An act (Public Law 96-358) authorizing assistance to States and regions in making plans for improved marketing and transportation facilities for farm commodities. The law is designed to help develop plans for subterminal storage and transport facilities.

DAIRY

An act (Public Law 96-127) passed in 1979, extending into 1981 an 80 percent of parity floor under milk supports. The law remains in effect until next September 30.

CONSERVATION

An act (Public Law 96-263) which extended the Great Plains program, previously scheduled to expire in 1981, until September 30, 1991. The program operates in 469 counties of 10 Great Plains States.

RURAL DEVELOPMENT

An act (Public Law 96-355) to improve government efforts to cooperate with State and local authorities in rural development programs. Under the law, the Secretary of Agriculture is directed to coordinate all Federal efforts in this field, and to send Congress a comprehensive blueprint for potential future efforts. Also, the Agriculture Department is given broader authority to help local officials identify and apply for available aid under existing Federal programs.

COTTON

An act (Public Law 96-176) revising the support program for extra-long staple cotton. The law increases the minimum government support loan rate for the crop but simultaneously reduces the minimum overall government support guarantee. These steps are expected to avoid the need for direct Federal support payments to ELS cotton growers.

PEANUTS

An act (Public Law 96-31) which authorized the Agriculture Department to reduce or waive marketing quota penalties for several hundred peanut farmers and handlers who exceeded 1978 quotas because of unintentional errors following a major change in the peanut program.

TRADE AGREEMENTS

An act (Public Law 96-39), providing for U.S. participation in an international trade agreement, included several sections affecting agriculture. These included provisions revising the rules on countervailing and anti-dumping duties, a standards code forbidding use of discriminatory standards on U.S. imports and on our exports shipped abroad, and new cheese import quota provisions. This act is primarily the result of a major effort in the House by the Ways and Means Committee to which this Committee provided cooperation and assistance.

FORESTRY

An act (S. 1996) authorizing a five-year program of pilot projects to test and demonstrate new techniques for salvaging wood residues which currently are going to waste.

Legislation, including H.R. 5487 and H.R. 8298, including so-called "release language" dealing with National Forest lands which have been reviewed by the Agriculture Department and have not been either recommended for Congressional designation as wilderness or reserved for further planning. Such lands, under the legislation, are to be managed for other multiple-use purposes in initial plans under the National Forest Management Act. This language is the result of cooperative efforts by the Interior and Insular Affairs Committee, the Agriculture Committee, and industry and environmental groups.

An act (H.R. 6257) giving the Secretary of Agriculture authority to make more efficient sales or exchanges of small tracts of land between the U.S. Forest Service and non-Federal parties.

A resolution (H. Con. Res. 393) honoring the 75th anniversary of the Forest Service.

EGG RESEARCH

An act (Public Law 96-276) allowing commercial egg producers to decide in a referendum whether they want to increase the rate of existing voluntary checkoff program which finances egg promotion and research.

FUTURES STUDY

As a rider on the egg research bill, Congress adopted a provision directing government agencies to report on the causes for problems in silver markets in 1979-80 and on any need they may find for changes in the law dealing with regulation of commodity futures trading to prevent a recurrence of similar events.

FOOD STAMPS

An act (Public Law 96-58) which restored cuts in food stamp benefits for households containing elderly, blind and disabled persons with high shelter and medical costs, averted a potential cut in benefits for all stamp recipients late in fiscal 1979, and adopted several anti-abuse provisions.

An act (Public Law 96-249) which authorized continued food stamp funding for fiscal 1980 and 1981 when funds were running short in mid-1980, and which also adopted strong new anti-fraud, error-control and cost-cutting measures.

AQUACULTURE

Public Law 96-362 directed the government to develop a coordinated national aquaculture program for promoting commercial production of fish and shellfish. This bill is the result of the joint efforts in the House of this Committee and the Committee on Merchant Marine and Fisheries.

The bills included in the above summary were handled by the House Agriculture Committee and by its subcommittees. These include: Department investigations, oversight and research, Chairman Kika de la Garza, D-Tex., and Ranking Minority Member William C. Wampler, R-Va.; Conservation and Credit, Chairman Ed Jones, D-Tenn., and Ranking Minority Member Edward R. Madigan, R-Ill.; Domestic Marketing, Consumer Relations and Nutrition, Chairman Fred Richmond, D-N.Y., and Ranking Minority Member Steven D. Symms, R-Idaho (through October 2, 1980); Family Farms, Rural Development and Special Studies, Chairman Richard Nolan, D-Minn., and Ranking Minority Member Charles E. Grassley, R-Iowa; Cotton, Chairman David R. Bowen, D-Miss., and Ranking Minority Member Margaret M. Heckler, R-Mass.; Dairy and Poultry, Chairman Alvin Baldus, D-Wis., and Ranking Minority Member James M. Jeffords, R-Vt.; Forests, Chairman Jim Weaver, D-Ore., and Ranking Minority Member James P. Johnson, R-Colo.; Livestock and Grains, Chairman Charles Rose, D-N.C., and Ranking Minority Member Keith G. Sebelius, R-Kans.; Oilseeds and Rice, Chairman Dawson Mathis, D-Ga., and Ranking Minority Member Paul Findley, R-Ill.; and Tobacco, Chairman Walter B. Jones, D-N.C., and Ranking Minority Member Richard Kelly, R-Fla.●

TRIP TO ITALY—A NATION DEVASTATED BUT WITH STRONG AND COURAGEOUS PEOPLE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. BIAGGI. Mr. Speaker, prior to the adjournment sine die of the 2d session of the 96th Congress, I commenced a trip to Italy where a major earthquake struck on November 23.

It was my distinct honor and privilege to have been named by President Carter to serve on the official delegation sent to Italy to survey the damage and report back directly to the President. The official delegation was headed by the renowned Italian American industrialist, Jeno Paulucci of Duluth, Minn. My distinguished colleagues, Mr. CONTE and Mrs. FERRARO also were part of the delegation as were New York Lieutenant Governor Mario Cuomo, Robert Georgine, president of the Building and Construction Trades Department, AFL-CIO, Mr. Benjamin Palumbo, director of Federal Government relations, Philip Morris Corp., and Mrs. Nancy Pelosi, chairperson Northern California Democratic Party, San Francisco.

Our trip included informative meetings with Prime Minister Arnaldo Forlani of the Republic of Italy as well as President Alessandro Pertini. In addition, the official delegation met with the distinguished President of the Senate Amintore Fanfani and his gracious wife Maria Pia, a noted humanitarian who has worked on behalf of earthquake relief missions in Algeria and Rumania among other nations. Of course, our American Ambassador, Richard Gardner was of invaluable assistance to us throughout our stay. On December 16, the official delegation helicoptered to the earthquake provinces of southern Italy including the town of Balvano perhaps the most devastated of all towns. We saw incredible damage caused by the 23-second earthquake, the strongest to hit Italy in more than 75 years.

On the same day we surveyed the earthquake sites, the official delegation had the distinct pleasure of being briefed by the Commissioner for Earthquake Relief, On. Zamberletti. He provided us with a detailed assessment of the major problems affecting the regions as well as an analysis of current relief operations. It was evident from speaking to the Commissioner, that the most pressing problem affecting the Italian Government is how to cope with the estimated 300,000 persons made homeless by the killer quake. It was further evident to me that the Italian Government was in complete control of the situation.

Later in the week of December 14, I was joined by a private delegation of distinguished Italian Americans for a somewhat different mission. This delegation included the former Ambassador to Italy, the Honorable John Volpe, Bishop Anthony Bevilaqua of the diocese of Brooklyn, N.Y., Rev. Joseph Cogo of the Italian American Migration Committee, two leading New York Italian-American business executives who had spearheaded efforts to raise more than $50,000 for earthquake victims, Mr. Charles Gargano and Mr. Richard Naclerio, Mr. George Luciano, secretary of public safety for the State of Massachusetts, Mr. Gilbert DeLucia, a New York City lawyer and my legislative director, Mr. Robert Blancato. Our mission was different in the sense that our purpose was to actually distribute funds raised by the generosity of private citizens directly to towns and villages.

We began the private delegation trip with a strategy meeting with the guiding light and inspiration for our mission, the aforementioned Mrs. Maria Pia Fanfani. At this initial meeting was her distinguished husband, the President of the Senate, Amintore Fanfani, and the Foreign Minister the Honorable Giulio Columbo. We discussed our intentions and received some valuable information and assistance. Later that same day we again met with our always cooperative and helpful Ambassador Gardner.

The private delegation also met with Commissioner Zamberletti and his staff for over 1 hour and during the meeting we were honored by a surprise visit from Prime Minister Forlani. This meeting strengthened my earlier belief that the Italian Government was in full control of the situation and was working with all deliberate speed to dispatch critical relief aid to victims while evaluating long-term needs.

Following our meetings with Italian Government officials, our delegation set off on a 2-day—seven town inspection. The delegation actually made an unexpected eighth stop, the town of Calabritto, where our helicopter was forced to make an emergency landing. By bus we traveled from Calabritto to the town of Caletri. En route we traveled through the town of Materdonni where we saw our first real closeup look at a heavily damaged town. The site was astounding—entire homes, churches, and other buildings completely reduced to rubble. In this town we noted the presence of the German Army and although the population was forced to live in tents and trailers, it was slowly rebounding.

We arrived in Caletri several hours behind schedule. It was here that one of our delegation members, Bishop Bevilaqua had family members. The bishop with the assistance of Father Cogo said an open air mass in the center of town for the earthquake victims. A crowd of several hundred attended the service and were moved by the experience. It was in Caletri where we spotted a sign which perhaps typified the incredible spirit of the Italian people—the sign read "La Vita Continua"—translated means life continues. This sign was in an area where buildings had been destroyed, roads washed out—deaths and injuries had occurred by the scores—yet these people refused to concede their fate to this disaster. It buoyed our spirits and renewed our interest in raising more funds.

The delegation next traveled to the small mountain village of St Angelo de Lombardi. Here again one of the delegation members had a special relationship with the town. Mr. Charles Gargano, an Italian American business executive from Long Island was born in this town and a number of his family members remained. He had raised considerable sums of money solely for distribution in Saint Angelo and he had pledged to those contributing that the funds would go directly to the townspeople. We arrived in the town and were met by a dense fog which made the scene ever eerier than it already was. Here again damage was intensive—Saint Angelo is a town of some 5,000 persons yet this earthquake in its savagry took the lives of some 500 residents including the mayor. In Saint Angelo we met with the acting mayor and other town officials and citizens to discuss their needs. A continuing commitment of funds was promised at the meeting including funds to permit the construction of a new school.

While in Saint Angelo we embarked on an especially meaningful mission—to distribute toys for the children in advance of Christmas. It was truly a memorable sight—watching these children smile—probably for the first time since the shock of the earthquake—and enjoy the small tokens we had given them.

Our second day of travel brought us to the following towns: La Viana—Coliano, Colianello, Valva, and Balvano. In La Viana, our helicopter landed in the midst of a tent/trailer village. We again met with the various town officials as well as the Italian Army personnel stationed prominently through the town. We inspected the tents and trailers and felt comforted by the fact that they did provide the homeless with adequate shelter.

The group then flew by helicopter and landed in a central area which permitted us to visit the towns of Coliano and Colianello. Here again we found widespread destruction but a returning sense of order. We visited a hospital facility and met with various nurses who staffed the facility. Later that same day some members of our delegation traveled to the town of Valva where we inspected some temporary prefabricated housing. The housing had sleeping accommodations for four to five persons, full kitchen facilities as well as complete bath facilities.

By helicopter we observed the town of Balvano which was almost entirely leveled by the force of the earthquake. While on route back to the airport, we saw several other small mountain towns and villages which had sustained considerable damage. We noted the relative geographic remoteness of many of the affected localities, a factor which made the relief efforts underway thus far that much more remarkable.

The highlight of our private delegation trip had to be our private audience with Pope John Paul II. This magnificent world leader took time from his extraordinarily busy schedule to meet with us at 7:30 on a Saturday evening. He thanked us for the work we had done in the various towns and villages and thanked the American people for their generosity in providing aid to the earthquake victims. The Pope while greeting each delegation member recalled with a smile his trip to the United States and especially New York and Boston where most of our delegation resides. It was an unforgettable experience for us all.

The delegation issued a statement at the conclusion of the mission in which we described our visit as "sobering but rewarding."

> We will now return to the United States and intensify our appeals for additional private donations to help the victims of this horrible tragedy. Our work will be done in full consultation with our Government to insure that the funds we raise will not duplicate the $50 million appropriated by Congress. Our committee feels confident that the Italian Government is in full control of the situation, the Italian Army is to be especially commended for their work in the various towns and villages. They have brought order under the most difficult conditions.
>
> The relationship between America and Italy is special. It is manifested in good times and in bad. As American citizens of Italian descent we are grateful to all of the people of all denominations who have opened their hearts in response to this devastating tragedy and we pledge our continuing efforts.

The American response both in terms of private fundraising and the $50 million provided by Congress and approved by President Carter is deeply appreciated by the Italian Government and people. Throughout my work on this issue I have kept in close touch with officials from the Disaster Assistance Office in the Agency for International Development. I am in full agreement with their intentions to spend approximately $45 million of the $50 million on long-term reconstruction activities. This is likely to include the construction of new schools and hospitals. Our Government has already committed nearly $5 million for immediate relief activities. It is entirely consistent with our Nation's history of assuming the prominent role of helping people in need. This is especially true with respect to Italy for in 1976 when a major earthquake struck the Friuli region of Italy our Nation responded immediately with more than $25 million in aid.

Let me also pay tribute to Ambassador Cedrenio for all the help he provided me during the planning and execution of this trip. In addition, I must extend a word of gratitude and appreciation to Consul-General Alessando Cortese deBosis who has been a constant source of help to me.

I am grateful to have had the opportunity to personally visit the earthquake regions and provide some small form of assistance to victims. My main conclusion is that much important work has been done but much more is yet to be done. We of the 96th Congress and President Carter should be proud of our immediate response in providing $50 million in emergency aid to Italy. Our continued help combined with the continued generosity of the American people will help make that memorable Caletri sign "La Vita Continua" (life continues) a reality.●

A SALUTE TO NEW PRODUCTIONS OF CHERRY HILL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. FLORIO. Mr. Speaker, I would like to call your attention to the recent honor which has been bestowed upon a New Jersey theater group, New Productions of Cherry Hill. I am proud that New Productions is the only civic theater group in the United States which has been chosen to represent our country in Ireland's Maytime Festival, an international theater competition.

The 18 members of the cast and crew of New Productions will travel to Ireland for the competition in May. The group will perform "The Apple Tree" and another play which has not yet been selected.

I am pleased to share with you the following excerpts from an article which appeared in the Camden Courier-Post on December 5, 1980:

> "If you happen to be in Dundalk, Ireland next May 23, you can see a performance of "The Apple Tree" by New Productions of Cherry Hill. The production that has swept awards in theatre festivals in New Jersey and New York will carry the American banner in Ireland's Maytime festival, an international theatre competition * * *
>
> "The story of how New Productions came into existence rivals the plot of a Broadway musical. The first act opens with a talented group of performers who meet each other in a beauty parlor.
>
> "In the second act, they pool their talents and start rehearsing in a basement while costumes are sewn and sets hammered out. The musical ends as the young troupe wows critics and leaves audiences cheering for its triumphant debut.
>
> "That is the script more or less followed by New Productions. The group was formed last year by Bruce Curless, his wife Karmae Cipriotti and Ginna and Peter Higgins.
>
> " 'The four of us felt we had something to offer,' explains Curless. 'We had worked in local theatre groups and decided to do our own thing.'
>
> "That turned out to be the right thing. The company's first production was the second act of 'The Apple Tree.'
>
> "Entered in the New Jersey Theatre League competition April of this year, the production was voted the best production and swept first place awards for Curless's di-

rection and set design and for Grace D'Angelo's costumes.

"Buoyed by that success, the company entered a similar competition in New York. Once again New Productions won prizes for best production and costumes.

"As a result of those awards, Mort Clark, president of American Theatre Associates, invited the troupe to represent the U.S. in the Irish theatre festival * * *"•

TRIBUTE TO JOHN McCORMACK, A GREAT AMERICAN LEADER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 3, 1980

• Mr. BIAGGI. Mr. Speaker, on November 22, 1980, this Nation lost one of its finest citizens when John W. McCormack, the beloved former Speaker of the House, passed away in his native Boston. His passing brings with it a profound sense of mourning by many of the Members of this Congress.

It was John McCormack who administered my initial oath of office in 1969. It is a day I will never forget for the rest of my life. From 1962 until 1972, John McCormack served as one of the mose effective of all Speakers of the House of Representatives. He served through one of the most legislatively active periods in American history. During the McCormack years, landmark civil rights and voting rights laws were enacted, as were the laws establishing medicare and medicaid and the Older Americans Act—also the major elementary, secondary, and higher education programs had their legislative origins in the McCormack era.

No man who has ever served in this body had more integrity than did John McCormack. He was a man who commanded respect because he was of such strong moral fiber. He was a man of unchallenged authority who wielded his power with equity and style. He gave each Member individual attention whenever they needed it. His advice was sought; his counsel was coveted.

John McCormack was a remarkably uncomplicated man. He was a devout Catholic—a man of compassion for the poor and needy—he was a fighter for causes of justice and basic rights. He was for all who served with him an inspiration.

As we reflect on the exemplary career of John McCormack, we do so in the spirit of emulation. John McCormack set standards by which Speakers and Members will be evaluated today and in the future. It is a challenge which we should all seek to live up to as a lasting tribute to John McCormack.•

THE UDALL RECORD—NOVEMBER 13, 1980 TO DECEMBER 11, 1980

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

• Mr. UDALL. Mr. Speaker, it has become my practice toward the end of each session of Congress to list my votes in the House of Representatives here in the CONGRESSIONAL RECORD.

Listed below are the last votes taken during the 96th Congress.

I strongly believe that the people of southern Arizona have the right to know where I stand on the issues decided by the House, and I have found that printing my voting record here is the best way to provide that information.

This is not an all-inclusive list. I have omitted noncontroversial votes such as quorum calls, motions to resolve into the Committee of the Whole House, and motions to approve the Journal of the previous day.

The descriptions are necessarily somewhat short, and I am sure that some of my constituents will have additional questions about the issues described here. So I invite them to write me for specifics, or to visit my district office at 300 North Main, Tucson.

The list is arranged as follows:

KEY

1. Official rollcall number;
2. Number of the bill or resolution;
3. Title of the bill or resolution;
4. A description of the issue being voted on;
5. The date of the action;
6. My vote in the form Y=yes, N=no, and NV=not voting;
7. The vote of the entire Arizona delegation, in the form (Yes-No-Not voting);
8. An indication whether the motion or amendment was passed or rejected; and
9. The total vote.

623. HR 7112. Revenue Sharing. Substitute amendment to extend the revenue sharing program for one year without change. Nov. 13 Y(3-0-1), rejected 65-306.

624. HR 7112. Revenue Sharing. Substitute amendment to delete the revenue sharing authorization for state governments. Nov. 13, Y(2-1-1), rejected 158-215.

625. HR 7112. Revenue Sharing. Substitute amendment to exclude from the tax effort measure in revenue sharing formula all state severance taxes levied on oil, natural gas or coal that are paid by non-state residents. Nov. 13. N(0-4-0), rejected 159-205.

626. HR 7112. Revenue Sharing. Substitute to extend the revenue sharing program for three years, provide an entitlement of $4.6 billion annually for local governments and authorize appropriations of $2.3 billion annually in fiscal 1982-83 for state governments. Nov. 13. N(0-4-0), adopted 255-118.

627. HR 7112. Revenue Sharing. Passage of bill to extend revenue sharing program for three years, fiscal 1981-83. Nov. 13. N(2-2-0), passed 345-23.

628. S. 885. Pacific Northwest Power Planning. Amendment to prohibit the Bonneville Power Administration from guaranteeing to utilities that it will buy the electric power of plants the utilities build. Nov. 13. (0-4-0), rejected 93-245.

629. S 885. Pacific Northwest Power Planning. Pass the bill to create a regional planning council for electric power generation and conservation in the Pacific Northwest. Nov. 17. Y(4-0-0), agreed to 284-77.

630. H Con Res 376. Japan-U.S. Trade. Adopt the resolution stating sense of Congress that Japan should make additional efforts to help correct its trade imbalance with the U.S. Nov. 17. Y(4-0-0), Agreed 363-2.

631. H Res 693. Age of Judicial Candidates. Resolution expressing the sense of the House that a special American Bar Association committee should cease its policy of reluctance to recommend judicial nominees who are over the age of 60. Nov. 17. Y(4-0-0), agreed to 341-19.

632. H Con Res 448. Second Budget Resolution, Fiscal 1981. Amendment to express sense of Congress that appropriate House and Senate committees make in order on an appropriate measure language (1) providing for enactment of a ceiling on 1981 spending at levels established by the resolution and (2) directing the President to reserve funds if necessary to remain within the ceiling, while retaining the important spending priorities adopted by Congress. Nov. 18. N(3-1-0), rejected 154-232.

633. H Con Res 448. Second Budget Resolution, Fiscal 1981. Resolution to set binding budget levels for fiscal year ending Sept. 30, 1981, as follows: budget authority, $689.5 billion; outlays, $631.75 billion; revenues, $606.7 billion; and deficit, $25.05 billion. Y(1-3-0), adopted 203-191.

634. HR 5888. Federal Police and Firefighters Death Benefits. Motion to suspend rules and pass bill to provide a $50,000 lump-sum payment to the survivors of federal law enforcement officers or firefighters "killed in the line of duty because of some outside force." Y(2-2-0), agreed to 313-56.

635. HR 6704. Juvenile Justice. Amendment to allow juvenile court judges to jail certain youthful offenders who violated valid court orders regulating their behavior. Nov. 19. NV(2-0-2), adopted 239-123.

636. HR 7548 Farm Credit Act. Amendment to delete from the bill new authority for farm credit system to finance agricultural exports. Nov. 19. N(0-4-0), rejected 47-328.

637. HR 7548. Farm Credit Act. Amendment to delete criteria for commercial banks to use the "discount" facility of the farm credit system. Nov. 19. N(2-2-0), rejected 132-231.

638. HR 7265. Energy Department Military Programs. Passage of bill to authorize fiscal 1981 spending of $3.5 billion by the Department of Energy for research, development and production of nuclear warheads and other items used by Department of Defense. Nov. 20. Y(4-0-0), passed 333-39.

639. HR 7584. State, Justice, Commerce, Judiciary Appropriations, Fiscal 1981. Adoption of conference report on the bill to appropriate $9,131,056,000 in fiscal 1981 for the State, Justice and Commerce departments, the federal judiciary and 20 related agencies and to prohibit the Justice Department from engaging in lawsuits to promote busing for desegregation purposes. Nov. 21. Y(3-1-0), adopted 240-59.

640. HR 5935. Medical Records Privacy Act. Suspend the rules and pass the bill to authorize patient access to medical records and to establish certain limitations on access to the records by third parties. Dec. 1. Y(1-2-1), rejected 97-259.

641. HR 7745. Black Lung Benefits. Motion to suspend rules and pass the bill to make coal tax-supported black lung disability trust fund responsible for payment of benefits to disabled miners who retired be-

tween Jan. 1, 1970, and June 30, 1973. Dec. 1. Y(1-2-1), agreed 237-118.

642. HR 1280. Community and State Energy Planning Assistance. Suspend rules and pass the bill to provide $720 million over three years to state and local governments for energy planning and conservation. Dec. 1. Y(1-2-1), rejected 164-192.

643. HJ Res. 598. Auto Import Limitation. Motion to suspend rules and pass bill to give the President authority, for three years, to negotiate auto import restrictions with foreign countries. Dec. 2. Y(3-1-0), agreed to 317-57.

644. HR 6417. Mass Transit. Substitute amendment to restore original House Public Works Committee provisions to mass transit bill, excepting for new reduced funding authorizations. Dec. 2. Y(1-2-1), rejected 109-226.

645. HR 6417. Mass Transit. Substitute amendment to revise the provision allowing transit operators some flexibility in meeting federal regulations requiring buses and rail stations be accessible to disabled and handicapped persons. Dec. 2. N(2-1-1), rejected 181-183.

646. HR 7765 Budget Reconciliation. To make fiscal 1981 budget cuts of $4.6 billion in outlays ($3.09 billion in budget authority) and raise $3.6 billion in additional revenues. Dec. 3. Y(3-0-1), adopted 334-45.

647. HJ Res 637. Continuing Appropriations, Fiscal 1981. Appropriations committee amendment to require that any congressional reapportionment using the 1980 census be based solely on the number of U.S. citizens in each state. Dec. 3 N(1-2-1), rejected 164-208.

648. HJ Res 637. Continuing Appropriations, Fiscal 1981. To continue funding through June 5, 1981 for government agencies whose regular appropriations had not been enacted. Dec. 3. Y(1-2-1), passed 272-106.

649. H Res 821. Expedited Consideration of Legislation. To waive certain House rules in order to allow, for the remainder of the session, expedited consideration of conference reports, motions to dispose of legislation under the suspension of the rules procedure and House recesses declared by the Speaker. Dec. 3. Y(2-1-1), adopted 227-140.

650. H Res 822. Expedited Consideration of Legislation. Waiving a House rule in order to allow the House, for the remainder of the session, to consider legislation approved by the Rules Committee on the same day as reported by the committee without first having to obtain a two-thirds vote of the House. Dec. 3. Y(2-1-1), Adopted 222-144.

651. HR 8378. Nuclear Waste Policy Act. To permit states to veto federally selected nuclear waste sites within their borders unless both Houses of Congress voted to override the veto. Dec. 3. N(0-3-1), rejected 161-218.

652. HR 7020. Hazardous Waste Disposal. To suspend the rules and pass the bill to establish a $1.6 billion superfund to clean up chemicals spilled or dumped into the environment, and to establish liability for parties responsible for damages resulting from such accidents. Dec. 3. Y(1-2-1), agreed to 274-94.

653. HR 6417. Mass Transit. Substitute to provide that urban areas not receive less funds under the new formula than their apportionments for fiscal funds under the new formula than their apportionments for fiscal 1981. Dec. 4. N(0-3-1), rejected 86-286.

654. HR 6417. Mass Transit. Substitute to require projects with contracts of over $500,000 to sue U.S. produced articles and supplies. Dec. Y(1-2-1), adopted 250-107.

655. HR 6417. Mass Transit. Substitute to require alternative transportation for the elderly and handicapped to be comparable in time to public transit. Dec. 4. N(0-3-1), rejected 94-253.

656. HR 6417. Mass Transit. Passage of bill to authorize $29,345,000,000 for highway and mass transit programs in fiscal 1981-85. Dec. 4. Y(3-0-1), passed 346-33.

657. HR 7591. Agriculture Appropriations, Fiscal 1981. To appropriate $21,696,661,000 in fiscal 1981 for the Agriculture Department and related agencies. Dec. 4. Y(1-2-1), adopted 325-25.

658. HR 7018. Federal Insecticide, Fungicide and rodenticide. Adoption of the conference report on the bill to authorize $77.5 million for operation of the federal pesticide control program through fiscal 1981. Dec. 4 Y(3-0-1), adopted 334-13.

659. S 1615. Relief of James R. Thornwell. Motion to recommit the conference report on bill to provide $625,000 for settlement of claims of James Thornwell for damages sustained from an Army drug experimentation project and to instruct conferees to reduce the settlement of $435.000. Dec. Y(4-0-0), rejected 172-191.

660. S 1615. Relief of James R. Thornwell. Adoption of conference report on the private bill to provide $625,000 for settlement of claims of James Thornwell for damages sustained from Army drug experimentation project. Dec. 5. Y(2-2-0), adopted 249-98.

661. HR 8105. Defense Appropriations, Fiscal 1981. Adoption of conference report to appropriate $159,738,836,000 for military programs of the Department of Defense in fiscal 1981. Dec. 5. Y(4-0-0), adopted 321-36.

662. HR 8379. Motor Vehicle Safety. Motion to suspend the rules and pass bill to authorize appropriations for National Highway Traffic Safety Administration and revise the regulations for implementing federal automobile passive restraint standards. Dec. 5. N(2-2-0), second ordered 221-86.

663. HR 8379. Motor Vehicle Safety. Motion to suspend the rules and pass the bill to authorize appropriations for the National Highway Traffic Safety Administration, delay implementation of federal automobile passive restraint standards by one year and make those standards first applicable to smaller cars. Dec. 5. N(3-1-0), motion rejected 205-126.

664. HR 7112. Revenue Sharing. Motion to suspend rules and adopt the resolution (H Res 826) to agree with certain Senate amendments to the revenue sharing reauthorization bill (HR 7112) and disagree with others. Dec. 10. Y(3-1-0), agreed to 337-19.

665. S 1097. National Tourism Policy. Motion to suspend the rules and adopt the conference report on bill to provide for creation of an independent agency to develop a tourism promotional plan for congressional approval. Dec. 11. Y(2-0-2), agreed to 218-84.●

TRIBUTE TO PRESIDENT JIMMY CARTER—FOR AN ERA OF COURAGEOUS AND MORAL LEADERSHIP

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. BIAGGI. Mr. Speaker, on this, one of my final CONGRESSIONAL RECORD statements of the 96th Congress, I consider it an honor and privilege to pay tribute to President Jimmy Carter—a man to whom this Nation owes an enormous debt of gratitude for the high caliber, courageous, and moral leadership he has provided over the past 4 years.

In a November 19 conversation which I had with the President, I told him that history would treat him better than the American voters of 1980 did. I believe that sincerely, having followed his outstanding work and achievements very closely.

President Jimmy Carter inherited the most important job in the world from another good and decent man—Gerald R. Ford. He rose to the occasion most admirably displaying his unique style of leadership, as each of our Nation's 38 Presidents before him have. Jimmy Carter led this Nation with a sense of deep moral strength—vision—compassion and above all courage. Jimmy Carter established more policy precedents than any President in recent memory. He trailblazed where others feared to even tread. He was motivated by a profound love of country influenced by a strong belief in the ideals which make this Nation great.

President Carter took on the tough issues and did what he felt was right for our Nation. No man can be faulted for this method of leadership. The Carter administration has been governed by goals. These include the work to insure economic strength and independence; a restoration and reaffirmation of basic American values; a philosophy that government should adapt to the needs of people. Finally, Jimmy Carter believed that the maintenance of peace was the most important national and international priority that we had.

Let me review some of the specific highlights of the Carter administration. The President best exhibited his courageous leadership by being a forceful advocate of reduced Federal spending. In his first 3 years, working in close cooperation with the Congress, he reduced Federal spending by some $36 billion. He cut the Federal deficit in half until unexpected economic conditions this year cut into that decrease. Under his administration, Federal spending as a percentage of the gross national product was reduced from 22.6 to 21.5 percent. Yet economic growth was also registered under his administration including a 27 month consecutive real growth in the gross national product and increases in corporate profits and business investments.

The President, in his passion for economy, did not economize on compassion for human needs. Consider that in his administration more than 8.3 million jobs were created, giving us our largest labor force in history. His leadership averted the imminent collapse of the social security system and its 34.7 million recipients. Under him, the food stamp program was expanded to 2.2 million eligible low-income Americans. In the past 4 years, there has been a 60-percent increase in funding for education programs—including an estimated 1.2 million additional college students eligible for college aid. In a legislative initiative that I have worked especially close with the President—funding for the various programs of the Older Americans Act has more than doubled from $495 million to over $1 billion during the past 4 years. Today, we have a special national home delivered meals programs for our homebound elderly— which we did not have before President Carter. We have eliminated the mandatory retirement age of 65, which existed before President Carter.

President Carter has shown sensitive leadership for all areas of the Nation. In 1978, his ardent support led to the passage of the New York City loan guarantee bill. Without it, my great city would have collapsed. His administration initiated the highly successful urban development grant program, which has provided new economic stimulus for hard pressed urban areas. President Carter has worked to keep all the important revenue-sharing programs alive and working for all units of local government. The President did not forget the rural areas of our Nation where he has a very special personal interest. Under the administration, first-time rural health clinics were established providing 1.5 million rural Americans unique access to primary health care. Further, under his leadership a new rural transportation program was established with the title 18 program.

The President has been deeply committed to preserving our environment and natural resources. On December 10, I was proud to be in attendance as the President signed into law the so-called superfund bill providing for the cleanup of lethal hazardous chemical dumpsites around the Nation. His initiative preserved some 115 million acres in Alaska while providing first-time meaningful Federal standards against land destruction caused by strip mining. Under his administration, 15 new national parks were designated, including new urban based parks.

Jimmy Carter's most courageous and visionary leadership was provided in the area of energy. Jimmy Carter was the first American President to commit himself so completely to the area of energy. He was the first American President to propose a national energy policy. The centerpiece of his policy was the windfall profit tax, which protects consumers from being gouged by oil companies and allows excess profits to be plowed back into the development of domestic energy sources. Further, President Carter proposed, and the Congress enacted, a bill to establish a critically important synthetic fuels program, committing $20 billion in new funds for the development of purely domestic sources of energy. The President has also spearheaded efforts to increase funds for solar, and geothermal energy, as well as gasohol. Energy was a politically unpopular issue on occasion, but Jimmy Carter recognized its importance to U.S. economic and national security. Fortunately for all Americans, President Carter's perseverance paid off.

The Carter record is replete with accomplishments and initiatives. Deregulation of the airline, rail, and trucking industry have occurred in the past 4 years. Paperwork has been reduced by 15 percent. The first overhaul in the civil service system since its inception in the 1880's occurred during the Carter Presidency.

In the area of foreign affairs, one can review the Carter administration and find similar accomplishments of note. President Carter's most remarkable foreign policy achievement was the Camp David accords—establishing the framework for peace between Israel and Egypt. Up until the ill-fated effort to rescue the American hostages, a mission whose failure was beyond the control of the President, no American soldier has been killed in combat during the Carter administration for the first time in 40 years. President Carter successfully completed negotiations on SALT II, thus demonstrating his commitment to disarmament. The President, reflecting the sound philosophy of peace through strength, has provided a 3-percent real growth in national defense spending—an increase which had not been evident in previous administrations.

Yet when history records the Carter Presidency in the area of foreign affairs—what will stand out, is that Jimmy Carter was the apostle of human rights in foreign policy. President Carter made human rights the cornerstone of our foreign policy. It meant taking strong and courageous stands against foes and friends to insure the principles were applied equitably. Examples of the application of this policy includes—negotiations which led to prisoner exchanges between the United States and the Soviet Union—the commitment of $60 million to assist Cambodian refugees—the opening of our shores to Cuban refugees who were seeking freedom from Communist tyranny. Under the Carter administration, the first Assistant Secretary for Human Rights was designated and under her leadership, the State Department issued an annual human rights report which proved invaluable in our efforts to highlight areas of the world where human rights were not respected. We have suspended aid to nations where human rights violations were prevalent. This includes Chile and most recently El Salvador for the murders of American nuns.

Let me digress to one area of special importance to me in foreign policy that being the problem of Northern Ireland. President Jimmy Carter did more than any other President in history in terms of addressing and recognizing the problem in Northern Ireland. He issued a major statement in 1977 during which he pledged to provide with other nations economic assistance to Northern Ireland once peace was achieved. Yet perhaps his most important application of his human rights policy to Northern Ireland came with his support of a congressional effort, which I led suspending U.S. arms to the Northern Ireland police force which had been cited by numerous international organizations for human rights violations, an embargo initiated in August 1979 and continuing today.

The imprint of Jimmy Carter in the area of international human rights which we demanded as part of our dealings with other nations has brought a new sense of integrity and morality to foreign policy. It is a policy which should not be abandoned by future administrations.

A tribute to Jimmy Carter would be incomplete without acknowledging the constant contributions made by his beloved wife Rosalynn. The Carters worked as an effective team each motivated by a strong desire to make this Nation a better place to live.

It was my personal pleasure to know Jimmy Carter. Truly, my life has been enriched by our association. I will treasure the friendship that has developed over the past 4 years. I found Jimmy Carter to be a man of unique moral strength and courage. He was committed to pursuing the right policies for America, not just those which were polticially expedient. He took on the tough issues.

Jimmy Carter was President of all the people. His policies reflected compassion and common sense. He abhorred discrimination of any type and during his administration waged an aggressive fight against racial, sexual, and for the first time, age discrimination. I repeat history will treat Jimmy Carter better than the American electorate. I feel the Nation is indebted to Jimmy Carter for 4 years of tireless and dedicated service as the President of the United States. A void develops with his leaving office which will be hard to fill.●

THE INDIANA DUNES NATIONAL LAKESHORE PARK

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. FITHIAN. Mr. Speaker, after nearly 4 years of debate and discussion, the 96th Congress approved a substantially modified Indiana Dunes expansion bill on Friday, December 12. Although this legislation resolved some important difficulties and added some essential acreage to the park, it did not contain either the Beverly Shores Island or the highway strip along Route 12.

I am deeply disappointed that the Senate deleted these areas in the closing moments of the 96th Congress.

The Beverly Shores Island is absolutely necessary for the long-range development of the park and for proper Park Service management of the area. During the last 6 years, the House has passed legislation including the island on five different occasions, but the Senate has not yet seen fit to support its inclusion. I look forward to working with the other body and its Committee on Energy and Natural Resources to resolve some of the remaining difficulties about the island during the 97th Congress, and I hope that within the next 2 years we can finalize the boundaries of the Indiana Dunes National Lakeshore Park. I am disappointed that the final compromise did not include an exemption from condemnation for the homeowners in the park area. The bill does, however, provide some significant improvement in homeowner rights, including first, a life estate, second, a leaseback increased from 10 to 20 years, and third, the option for an existing leaseback holder to extend the lease for up to 9 years. These important improvements in the homeowner provisions reverse many of the problems in the 1976 legislation and go a long way toward restoring the 1966 privileges.

There is, Mr. Speaker, a need to clarify one important aspect of the dunes upon which the bill is silent. I note that this legislation does not provide authority for any acquisition of property within the town of Dune Acres. That we were able to avoid this costly acquisition is a credit to the people and town of Dune Acres.

In December 1979, the town offered an easement over certain of its property to the National Park Service for the purpose of accommodating a small parking facility, interpretive station, and trail head. Recently, the town board and the Park Service, through Mr. James R. Whitehouse, the superintendent of the National Lakeshore, concluded negotiations and reached agreement on the easement. This cooperative effort will allow access to portions of the lakeshore while saving both the town of Dune Acres and the Federal Government unnecessary hardship and expense.

I am pleased that this agreement has been reached in lieu of authorizing the taking of some 64 acres of residential land, as had previously been the case when the House originally considered H.R. 2742. The access granted in this cooperative undertaking eliminates the necessity for future acquisitions of land in the Dune Acres community. We have struck a balance with regard to the goals of the Park Service in providing access to portions of the lakeshore, while preserving the future peaceful enjoyment of the citizens of Dune Acres, all at great cost savings to the Government.

I am pleased that the acquisition of five parcels of land—three in Lake County, and one each in Porter and La Porte Counties—totaling about 488 acres, could be achieved for about $3.1 million. These parcels will improve access to the park, especially on the west end, stimulate development of the Mount Baldy area, and provide a 182-acre campground which the park badly needs. The bill also settles a longstanding dispute over naming the park for Senator Paul Douglas. Under these provisions, the park would be dedicated to Douglas, rather than named for him, and appropriate facilities would be named in his honor. Last, the bill authorized a study of transportation access to the park.

The efforts of the 96th Congress add but another chapter in the continuing saga of preserving the Indiana Dunes. By resolving numerous problems and adding some much-needed acreage, the Congress has taken another forward step in conserving one of the Nation's most important treasures.●

TRIBUTE TO THE HONORABLE WALTER F. MONDALE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1980

● Mr. BIAGGI. Mr. Speaker, for the past 4 years our great Nation has been secure in the knowledge that should anything happen to our beloved President, Fritz Mondale was only a heartbeat away.

Chosen by President Carter for his high level of integrity, tremendous intellect, and unblemished record of public service, Fritz Mondale has proven to be one of our Nation's most active and effective Vice Presidents.

I first came to know Fritz through our work together in Congress on many issues of mutual concern, including problems confronting the youth and elderly of our Nation. It was indeed a special honor to have shared a hand with Fritz in successfully working for the passage of two landmark laws that will always be of special significance, the Child Abuse Prevention and Treatment Act and the Education for All Handicapped Children Act.

I am very proud to say that our close working relationship in the Congress has continued throughout the past 4 years, and I have greatly appreciated the Vice President's wise counsel and his willingness to lend an attentive ear. I am truly privileged to be included among Fritz's working partners and personal friends.

Certainly, any tribute to Fritz must include mention of the model role he has provided for future Vice Presidents to follow. Having been chosen for a top leadership position that has traditionally been considered more ceremonial than meaningful, Fritz perceived his role as senior adviser to the President and firmly established such a position for himself from the beginning of his 4-year term. Even more importantly, while many administrations have begun with high aspirations for the Vice-Presidency, only to have them deteriorate, Fritz Mondale has prospered and enhanced his standing as key adviser to President Carter.

Not one to become involved in operational trappings of the office, Fritz has concentrated on substantial participation in important policymaking decisions. He has greatly impacted on many crucial issues, including SALT, energy, foreign policy, and the Chrysler loan guarantee package, which he was essentially responsible for selling to the United Auto Workers.

In addition, Fritz has played a major advisory role in cabinet appointees and other key personnel decisions; he represents the administration in many dealings with minorities, ethnics, organized labor, and Democratic Party regulars, with whom he has developed close ties over the years; and he has traveled throughout the world as our Nation's second highest ranking dignitary.

Perhaps the greatest tribute to Fritz Mondale's special abilities came from President Carter, himself, when he made the difficult and courageous decision to stay at the White House and directly monitor the Iranian hostage situation, while entrusting the major 1980 campaign responsibilities to his Vice President. In addition to Fritz making the majority of campaign appearances around the country, there were other clear indications that President Carter has a tremendous amount of respect for his running mate, including the fact that he used the Vice President's name on the reelection committee's title—Carter-Mondale Presidential Campaign Committee.

While perhaps taken for granted by some, it is no small coincidence that Fritz Mondale's office is only a matter of yards from President Carter's Oval Office, despite the fact that traditionally Vice Presidents are housed in the old Executive Office Building.

Always one to know how to effectively blend leadership with cooperation, Fritz Mondale has used his extraordinary talents to the fullest as our Nation's 41st Vice President. He has created a very important and active role not only for himself, but his entire staff, proving that a team player is far from a passive participant.

Mr. Speaker, whether serving as a Member of the Senate from 1964-77, U.S. Vice President and Senate President from 1977-81, or eulogizing his close friend and protege from his home State of Minnesota, Hubert H. Humphrey, Fritz Mondale has served the Congress and the Nation with great honor and distinction. Certainly, his major contributions and those of his lovely wife, Joan—especially to the arts—will be dearly missed, no matter for how short a time FRITZ remains out of public office.

For most with FRITZ MONDALE'S record of accomplishment it would be appropriate at this time to wish them a richly deserved retirement from public life, but I am all too aware of his high level of energy and deep sense of commitment to express that sentiment to FRITZ. Instead, for the good of my constituency and the Nation, I wish him a speedy return to the high leadership role that his special abilities demand.●